TITLE: FEDERAL REGISTER.

REEL NO: 2 of 11

VOLUME: 50

Issues: 136-147
Pages: 28,757-31,150

DATE: July 16 - 31, 1985

PUBLICATION NO: 2575

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UNIVERSITY MICROFILMS INTERNATIONAL, ANN ARBOR, MICHIGAN

VOL
50
ISS
136
JL
16
1985
UMI

7-16-85
Vol. 50 No. 136

federal register

Tuesday
July 16, 1985

**********5-DIGIT 48106
A FR SERIA300S NOV 85 R
SERIALS PROCESSING
UNIV MICROFILMS INTL
300 N ZEEB RD
ANN ARBOR MI 48106

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
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SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

VOL
50
ISS
136
JL
16
1985
UMI

7-16-85
Vol. 50 No. 136

federal register

Tuesday
July 16, 1985

VOL
50
ISS
136
JL
16
1985
UMI

7-16-85
Vol. 50 No. 136
Pages 28757-28894

federal register

Tuesday
July 16, 1985

Selected Subjects

Animal Drugs
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Census Data
Census Bureau
Endangered and Threatened Species
Fish and Wildlife Service
Grant Programs—Agriculture
Agriculture Department
Grant Programs—Housing and Community Development
Farmers Home Administration
Hazardous Materials Transportation
Research and Special Programs Administration
Loan Programs—Housing and Community Development
Farmers Home Administration
Occupational Safety and Health
Occupational Safety and Health Administration
Organization and Functions (Government Agencies)
Drug Enforcement Administration
Security Measures
Federal Aviation Administration
Space Transportation and Exploration
National Oceanic and Atmospheric Administration

Contents

Federal Register

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Contents

Federal Register
Vol. 50, No. 136
Tuesday, July 16, 1985

The President
EXECUTIVE ORDERS
28757 Export controls, termination of emergency authority (EO 12525)

Executive Agencies

Agriculture Department
See also Farmers Home Administration; Forest Service.
RULES
Federal assistance regulations, uniform:
28759 Audits; interim

Arts and Humanities, National Foundation
NOTICES
Meetings:
28855 Humanities Panel

Census Bureau
RULES
28767 Population and income estimates, publication; challenge procedures

Commerce Department
See Census Bureau; International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
28835 Chicago Mercantile Exchange; Standard and Poor's OTC Industrial Stock Price Index

Consumer Product Safety Commission
NOTICES
28835 Agency information collection activities under OMB review
28868 Meetings; Sunshine Act

Delaware River Basin Commission
NOTICES
28836 Hearings

Drug Enforcement Administration
RULES
Organization, functions, and authority delegations:
28769 Controller; employee claims
NOTICES
Schedules of controlled substances; production quotas:
28851 Schedule II; 1985 aggregate (2 documents)

Employment and Training Administration
NOTICES
Adjustment assistance:
28854 Tenneford Weaving Co. et al.

Energy Department
See Federal Energy Regulatory Commission.

Environmental Protection Agency
PROPOSED RULES
Air pollution control; new motor vehicles and engines:
28818 Trap-based particulate standards test procedures and fuel additives regeneration systems; workshop
Air quality implementation plans; approval and promulgation; various States:
28818 Wisconsin; withdrawn
NOTICES
28839 Agency information collection activities under OMB review
Air pollutants, hazardous; national emission standards:
28840 Authority delegation; Kentucky
Toxic and hazardous substances control:
28840 Chemicals designation for priority attention; guidelines availability notice
28840 Premanufacture notices review period extension

Farmers Home Administration
PROPOSED RULES
Loan and grant programs:
28782 Multiple family housing borrowers and grant recipients; management and supervision

Federal Aviation Administration
RULES
Air traffic operating and flight rules:
28892 Aviation security; coordination and training
Airworthiness directives:
28766 Israel Aircraft Industries, Ltd.
PROPOSED RULES
28816 Airport radar services areas; correction
Airworthiness directives:
28815 Boeing
28816 VOR Federal airways; correction

Federal Emergency Management Agency
NOTICES
Radiological emergency; State plans:
28841 Missouri

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
28837 Hall, Melvin R., et al.
Hearings, etc.:
28837 Consolidated Gas Transmission Corp.
28838 MIGC, Inc., et al.
28838 Northern Natural Gas Co.
28839 Northwest Pipeline Corp.
28839 South Georgia Natural Gas Co.

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
28841 Citizens Dimension Bancorp, Inc., et al.
28842 Grupo Financiero Popular, S.A.

Fish and Wildlife Service
PROPOSED RULES

Land Management Bureau
NOTICES

Personnel Management Office
NOTICES

Veterans Employment and Training, Office of Assistant Secretary

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
28821 Dismal Swamp southeastern shrew
28878 Dwarf naupaka
28873 Kauai hau kuahiwi
28876 Ko'oloa 'ula
28870 Palmate-bracted bird's-beak

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
28768 Diethylcarbamazine citrate and oxibendazole chewable tablets
28768 Tylosin

Forest Service
NOTICES
Environmental statements; availability, etc.:
28826 Coronado National Forest, AZ

Health and Human Services Department
See Food and Drug Administration; Public Health Service.

Housing and Urban Development Department
NOTICES
Grants; availability, etc.:
28884 Project self-sufficiency, eligible communities
Mortgage and loan insurance programs:
28842 Debenture interest rates

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service.

International Trade Administration
NOTICES
Antidumping:
28826 Low-fuming brazing copper rod and wire from South Africa
28828 Photo albums and filler pages from Hong Kong
28826 Photo albums and filler pages from Korea

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
28850 Grand Trunk Western Railroad Co.
Railroad services abandonment:
28850 Carolina & Northwestern Railway Co.

Justice Department
See also Drug Enforcement Administration.
NOTICES
Pollution control; consent judgments:
28850 Conoco, Inc., et al.

Labor Department
See also Employment and Training Administration; Occupational Safety and Health Administration; Veterans Employment and Training, Office of Assistant Secretary.
NOTICES
28852 Agency information collection activities under OMB review
Organization, functions, and authority delegations:
28853 Employment and Training, Assistant Secretary; Job Training Partnership Act programs

Land Management Bureau
NOTICES
Alaska native claims selection:
28843 Paug-Vik, Inc.
Environmental statements; availability, etc.:
28847 Western Oregon program management of competing vegetation; supplement
Exchange of lands:
28843, 28844 Montana (2 documents)
Sale of public lands:
28845 Oregon (2 documents)
28847 Utah

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
28847 ARCO Oil & Gas Co.

National Oceanic and Atmospheric Administration
PROPOSED RULES
28816 Geostationary operational environmental satellite data collection system; excess capacity utilization

National Park Service
NOTICES
Environmental statements; availability, etc.:
28849 Upper Delaware National Scenic and Recreational River, DE, PA, & NY
Historic Places National Register; pending nominations:
28848 Arizona et al.
Meetings:
28849 Upper Delaware Citizens Advisory Council
28848 National Historic Landmark science and constitutional history theme studies; inquiry

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities, domestic licensing:
28815 Postulated pipe ruptures, protection against dynamics effects, requirements; general design criterion 4 modification; correction
NOTICES
Applications, etc.:
28857 Carolina Power & Light Co.
28860 Omaha Public Power District
28859 Yankee Atomic Electric Co.
Environmental statements; availability, etc.:
28858 Florida Power Corp. et al.
Meetings:
28856, 28857 Reactor Safeguards Advisory Committee (3 documents)
28868 Meetings; Sunshine Act

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
28770 Utah

Peace Corps
NOTICES
28861 Agency information collection activities under OMB review

Personnel Management Office
NOTICES
28861 Agency information collection activities under OMB review

Postal Rate Commission
NOTICES
Post office closings; petitions for appeal:
28861 Little Norway, CA

Postal Service
NOTICES
28862 Privacy Act; systems of records

Public Health Service
NOTICES
Organization, functions, and authority delegations:
28842 Alcohol, Drug Abuse, and Mental Health Administration

Research and Special Programs Administration
PROPOSED RULES
Hazardous materials:
28820 Aircraft and motor vehicle transportation; International Civil Aviation Organization technical instructions

Synthetic Fuels Corporation
NOTICES
Synthetic fuels projects, competitive solicitations; availability, etc.:
28865 Mining and surface processing tar sands

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
28833 China
28833 Colombia; correction
28831 Egypt
28831 Korea
28832 Portugal
28830 Taiwan
Textile consultation; review of trade:
28834 Japan
28833 Turkey

Trade Representative, Office of United States
NOTICES
Unfair trade practices, petitions, etc.:
28866 Semiconductor Industry Association

Transportation Department
See Federal Aviation Administration; Research and Special Programs Administration

United States Information Agency
NOTICES
Grants; availability, etc.:
28866 International educational and cultural activities

Veterans Administration
NOTICES
28867 Privacy Act; systems of records

Veterans Employment and Training, Office of Assistant Secretary
NOTICES
Grants; availability, etc.:
28853 Job Training Partnership Act; employment and training programs in various States

Separate Parts in this Issue

Part II
28870 Department of the Interior, Fish and Wildlife Service

Part III
28884 Department of Housing and Urban Development, Office of the Secretary

Part IV
28892 Department of Transportation, Federal Aviation Administration

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in

Federal Register
Vol. 50, No. 138

Presidential Documents

VOL
50
ISS
136
JL
16
1985
UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12470 (Revoked by EO 12525)..... 28757
12525..... 28757

7 CFR
3015..... 28759
Proposed Rules:
1930..... 28782
1944..... 28782
1965..... 28782

10 CFR
Proposed Rules:
50..... 28815

14 CFR
39..... 28766
108..... 28884
Proposed Rules:
39..... 28815
71 (2 documents)..... 28816

15 CFR
90..... 28767
Proposed Rules:
911..... 28816

21 CFR
520..... 28768
558..... 28768

28 CFR
0..... 28769

29 CFR
1952..... 28770

40 CFR
Proposed Rules:
52..... 28818
86..... 28818

49 CFR
Proposed Rules:
171..... 28820
175..... 28820

50 CFR
Proposed Rules:
17 (5 documents)..... 28821, 28870–28878

Federal Register
Vol. 50, No. 136
Tuesday, July 16, 1985

Presidential Documents

Title 3—

The President

Executive Order 12525 of July 12, 1985

Termination of Emergency Authority for Export Controls

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) (hereinafter referred to as "IEEPA"), 22 U.S.C. 287c, and the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*) (hereinafter referred to as "the Act"), it is hereby ordered as follows:

Section 1. In view of the extension by Public Law 99–64 (July 12, 1985) of the authorities contained in the Act, Executive Order No. 12470 of March 30, 1984, which continued in effect export control regulations under IEEPA, is revoked, and the declaration of economic emergency is rescinded.

Sec. 2. The revocation of Executive Order No. 12470 shall not affect any violation of any rules, regulations, orders, licenses, and other forms of administrative action under that Order that occurred during the period that Order was in effect. All rules and regulations issued or continued in effect under the authority of the IEEPA and that Order, including those published in Title 15, Chapter III, Subchapter C, of the Code of Federal Regulations, Parts 368 to 399 inclusive, and all orders, regulations, licenses, and other forms of administrative action issued, taken or continued in effect pursuant thereto, shall remain in full force and effect, as if issued, taken or continued in effect pursuant to and as authorized by the Act or by other appropriate authority until amended or revoked by the proper authority. Nothing in this Order shall affect the continued applicability of the provision for the administration of the Act and delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, and Executive Order No. 12214 of May 2, 1980.

Sec. 3. All rules, regulations, orders, licenses, and other forms of administrative action issued, taken or continued in effect pursuant to the authority of the IEEPA and Executive Order No. 12470 relating to the administration of Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) shall remain in full force and effect until amended or revoked under proper authority.

Sec. 4. This Order shall take effect immediately.

Ronald Reagan

THE WHITE HOUSE,
July 12, 1985.

[FR Doc. 85–16856
Filed 7–12–85; 2:29 pm]
Billing code 3195–01–M

Rules and Regulations

VOL
50
ISS
136
JL
16
1985
UMI

Rules and Regulations

Federal Register
Vol. 50, No. 136
Tuesday, July 16, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3015

Uniform Federal Assistance Regulations; Subpart I—Audits

AGENCY: Department of Agriculture (USDA).

ACTION: Interim rulemaking, with comments invited.

SUMMARY: This Interim final rule amends 7 CFR Part 3015, Subpart I, Audits, to implement the Office of Management and Budget (OMB) Circular A–128 "Audits of State and Local Governments," dated April 12, 1985, and issued pursuant to the Single Audit Act of 1984, (Pub. L. 98–502). It establishes audit requirements for State, local, and Indian Tribal governments that receive USDA Federal assistance and defines USDA responsibilities for implementing and monitoring those requirements.

EFFECTIVE DATE: July 16, 1985.

DATE: Comments must be received on or before September 16, 1985.

ADDRESS: Interested persons should submit comments to Ms. Lyn Zimmerman, Office of Finance and Management, USDA, Room 2117, Auditors Building, 201 14th Street, SW., Washington, D.C. 20250. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Lyn Zimmerman, Office of Finance and Management, Financial Management Division, 201 14th Street, SW., Room 2117, Auditors Building, Washington, D.C. 20250, on (202) 382–1553.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This rule has been reviewed under Executive Order 12291 and Departmental Regulation No. 1512–1 and it is determined that this rule is "not major." The rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This rule has also been reviewed with regard to the requirements of Pub. L. 96–354, and John E. Carson, Director, Office of Finance and Management, has certified that it will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), any applicable reporting and recordkeeping provisions required by this rule will be submitted to OMB and will not be effective until OMB has approved them.

Proposed rulemaking

It is determined that the Administrative Procedure Act public participation requirements are not applicable to this rulemaking because: (i) That portion of the rule that embodies OMB Circular No. 128 has been subject to notice and comment and thus further notice and comment is unnecessary in view of the fact that the USDA is obliged pursuant to section 7505 of the Single Audit Act of 1984, Pub. L. 98–502, to follow the Circular, and (ii) to the extent that the rule does not embody the Circular, the rule is a matter of internal agency management. Nevertheless, to assure uniformity with the approach adopted by other Departments and agencies with respect to rules to be issued under the Single Audit Act of 1984, the USDA has decided to promulgate this rule as an interim rule and seeks public comment.

Background

Over $100 billion in Federal financial assistance is provided to State and local governments each year and the Federal Government relies on auditing as one of the principal means of assuring accountability for its use. Traditionally, recipients were required to obtain financial and compliance audits of funds on a grant-by-grant basis. Studies showed that such grant-by-grant auditing was uncoordinative, inefficient, and ineffective, often producing duplicative and overlapping results.

In response to this criticism, there arose the concept of a single, organizationwide audit that would be acceptable to all funding organizations. Such an audit would assure that a recipient's financial records and controls were adequate and would check for compliance with important terms of grants received. The audits would be made periodically and funding organizations would be free to perform additional audits of economy and efficiency and program results, as deemed necessary.

To accommodate this concept, OMB issued Attachment P to Circular A–102, which required each State, local and Indian Tribal government receiving Federal financial assistance to obtain an organizationwide financial and compliance audit of its operations at least once every two years. The audits were to be conducted in accordance with guidelines and standards established by the General Accounting Office (GAO), OMB, and the American Institute of Certified Public Accountant. To this effect, GAO issued the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," which was a Governmentwide audit guide intended to replace about 80 individual audit guides previously used by Federal agencies. Additionally, to assist auditors in testing Federal programs for compliance, OMB issued a listing of the major compliance requirements of 60 Federal assistance programs. These programs represented approximately 90 percent of total Federal assistance to State and local governments. Attachment P also prescribed a cognizant audit agency system to administer the single audit process. This role is currently being performed by the Office of Inspector General.

A GAO evaluation report on implementation of Attachment P

Subpart I—Audits

statutes, regulations, and agreements

§ 3015.72 Definitions.

audit firms owned and controlled by

(5) *Subrecipients.* Each State, local, or

VOL 50 ISS 136 JL 16 1985 UMI

A GAO evaluation report on implementation of Attachment P indicated that the transition to a single audit had met with slow progress. The report concluded that the principal problems hampering implementation of Attachment P were disagreement among Federal, State, and local officials on the scope and purpose of the single audit; diffusion of responsibility in the current cognizant agency system; and conflicts between the provisions of Attachment P and existing statutory grant audit requirements. At that time, GAO recommended the adoption of single audit legislation to correct these problems.

Purpose

The Single Audit Act of 1984 (Pub. L. 98–502) builds upon earlier efforts to improve audits of Federal programs. The Act requires State or local governments and Indian tribes that receive more than $100,000 a year in Federal funds to have an audit made for that year. Circular A–128 was issued pursuant to section 7505 of the Act, which requires OMB to issue implementing guidelines. This rule amends 7 CFR Part 3015, Subpart I, to implement OMB Circular A–128. It is intended to improve the financial management of Federal assistance programs; promote the efficient use of audit resources; relieve State, local and Indian Tribal governments of cost and paperwork burdens due to conflicting, redundant, and unreasonable audit requirements of Federal assistance; and provide for the establishment of consistent and uniform requirements for financial audits of State, local and Indian Tribal governments, and other recipients of Federal assistance.

List of Subjects in 7 CFR Part 3015

Grant programs (agriculture), Intergovernmental relations.

Issued at Washington, D.C. July 10, 1985.

Approved: July 10, 1985.

John J. Franke, Jr.,

Assistant Secretary for Administration.

John R. Block,

Secretary of Agriculture.

* * * * *

PART 3015—[AMENDED]

Accordingly, USDA amends 7 CFR Part 3015 as follows:

1. The authority citation for Part 3015 is revised to read as follows:

Authority: 5 U.S.C. 301 Subpart I, 31 U.S.C. 7505.

2. Subpart I is revised to read as follows:

Subpart I—Audits

Sec.

3015.70 Audits of State, local, and Indian Tribal governments.
3015.71 Policy.
3015.72 Definitions.
3015.73 Audits arrangements and requirements.
3015.74 Cognizant agencies.
3015.75 Reporting requirements.
3015.76 Audit costs.
3015.77 Audits of institutions of higher education, hospitals and other nonprofit organizations.
Appendix B–OMB Circular A–128, "Audits of State and Local Governments".

Authority: Single Audit Act of 1984, Pub. L. 98–502.

* * * * *

§ 3015.70 Audits of State, local and Indian Tribal governments.

(a) This subpart establishes audit requirements for State, local and Indian Tribal governments that receive Federal assistance and defines Federal responsibilities for implementing and monitoring those requirements. Additionally, this subpart implements the audit requirements and policies for government organizations contained in the following documents, which are incorporated into this subpart by reference and/or as an appendix:

(1) Single Audit Act of 1984, (Pub. L. 98–502);

(2) The Office of Management and Budget (OMB) Circular A–128, and any subsequent revisions;

(3) Standards for Audit of Governmental Organizations, Programs, Activities and Functions issued by the Comptroller General of the United States in 1981 (GAO Standards), and any subsequent revisions;

(4) Generally Accepted Auditing Standards issued by the American Institute of Certified Public Accountants (AICPA);

(5) AICPA Industry Audit Guide, Audits of State and Local Governmental Units, Federally Assisted Programs;

(6) Compliance Supplements for Single Audits of State and Local Governments issued by OMB in April 1985, and any subsequent revisions; and

(7) Federal cognizant agency assignments issued by OMB on October 6, 1980, and any subsequent revisions.

(b) All of the requirements contained in paragraphs (a) (1) through (5) must be met by a recipient before an audit can be accepted as a Federal audit by the respective cognizant agencies referenced in paragraph (a)(7). The auditor may use the Compliance Supplement for Single Audits of State and Local Governments, published by OMB, or ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual Federal programs.

§ 3015.71 Policy

(a) Under OMB Circular A–128, included herein as Appendix B, OMB has established uniform audit requirements for State, local and Indian Tribal governments, or their subdivisions, that receive Federal financial assistance. The Circular requires recipients and subrecipients of Federal financial assistance to arrange for independent audits of financial operations, including compliance with certain provisions of Federal laws and regulations, and to assure that single audits are made in accordance with Circular A–128.

(b) A State, local, or Indian Tribal government which receives less than $25,000 in Federal assistance is exempt from the requirements contained herein, but shall have an audit made in accordance with State or local law or regulations for any fiscal year in which it receives less than $25,000 in Federal financial assistance.

(c) A single audit in accordance with Circular A–128 and this subpart shall be in lieu of any audit required under individual USDA Federal assistance programs. A single audit should provide USDA agencies with the information they need to carry out their responsibilities and they shall rely upon and use that information. Any additional audits needed by USDA shall be conducted or arranged by the Office of Inspector General in such a way as to avoid duplication of effort. Audit requirements in USDA individual agency regulations and directives for assistance programs administered in cooperation with State, local, and Indian Tribal governments shall be limited to requiring compliance with OMB Circular A–128 and this subpart.

(d) State, local and Indian Tribal governments for which OMB has assigned USDA as the "cognizant agency" shall apply the audit requirements set forth in Circular A–128 and this subpart.

(e) State, local and Indian Tribal governments that receive financial assistance from USDA, and have been assigned a cognizant agency other than USDA, shall follow the audit requirements established by the respective cognizant agency. If the designated cognizant agency has not established Circular A–128 audit requirements, or if OMB has not designated a cognizant agency, those units of government shall follow the audit requirements contained in Circular A–128, and this subpart.

§ 3015.72 Definitions.

(a) "Cognizant agency" means the Federal agency assigned by OMB to carry out the responsibilities described in OMB Circular A–128. Within USDA the Secretary has designated the Office of Finance and Management (OFM) as the "cognizant agency." OFM further has the responsibility to delegate cognizant agency responsibilities to those USDA awarding agencies that provided the major portion of Federal funds or services to the recipient and monitoring the agencies implementation of the Single Audit Act of 1984 and OMB Circular A–128. In those instances where USDA is designated as the cognizant agency, the USDA Office of Inspector General (OIG) shall act for the Department in accordance with § 3015.74 of this subpart.

(b) "OIG" means the Office of Inspector General, United States Department of Agriculture.

(c) "Regional Inspector General" means the OIG official in the United States Department of Agriculture who is responsible for audit-related matters in one of the designated regions covered by a Regional Audit Office.

(d) Other definitions applicable to this subpart are set forth in Appendix B.

§ 3015.73 Audit arrangements and requirements.

(a) *Arrangements.* (1) State, local and Indian Tribal governments shall use their own procedures to arrange for and prescribe the scope of independent audits, provided that such audits comply with the requirements set forth in this subpart and Circular A–128.

Note.—It is not intended that audits required by this subpart be separate and apart from audits performed in accordance with State and local laws. To the extent feasible, the audit work required by this subpart should be done in conjunction with those audits.

(2) In arranging for audits, USDA awarding agencies and recipients shall coordinate proposed audit plans and related documents with the appropriate USDA Regional Inspector General prior to initiating the audit. The purpose of coordinating the proposed audit plans and related documents is to enable the Regional Inspectors General to provide timely technical assistance and assure that satisfactory audit coverage is planned.

(3) Provisions shall be included in audit contracts requiring the audit organization to retain audit working papers and reports in accordance with § 3015.75(b).

(b) *Use of small and minority audit firms.* As set forth in Circular A–128, paragraph 19 small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of Circular A–128 and this subpart.

(c) *Requirements.* (1) *Scope of audit.* (i) Each audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives over $25,000 in General Revenue Sharing funds in a fiscal year, it shall have an audit of the entire organization. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

(ii) The single audit may exclude public hospitals and public colleges and universities. Such audits, if excluded from the scope of the single audit, shall be made in accordance with § 3015.77.

(iii) The audit shall determine and report in accordance with OMB Circular A–128 and § 3015.75.

(2) *Frequency of audit.* Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, USDA shall permit biennial audits, if the government so requests. USDA shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning prior to January 1, 1987.

(3) *Internal control and compliance reviews.* Internal control and compliance reviews shall be conducted in accordance with OMB Circular A–128, paragraph 8.

(4) *Other testing.* The recipient's independent auditor is responsible for:

(i) Reviewing the recipient's system for monitoring subrecipients and obtaining and acting on subrecipient audit reports;

(ii) Testing to determine whether these systems are functioning in accordance with prescribed procedures;

(iii) Commenting on the recipient's monitoring procedures, if warranted by the circumstances; and

(iv) Considering whether subrecipient audits require adjustment of the recipient's financial statements, footnote disclosure, or modification of the auditor's report.

(5) *Subrecipients.* Each State, local, or Indian Tribal government that receives Federal financial assistance and provides $25,000 or more of it in a fiscal year to a subrecipient shall follow the requirements set forth in Circular A–128, paragraph 9.

(6) *Relation to other audit requirements.*

(i) Audits made in accordance with Circular A–128 and this subpart shall be in lieu of any audit required under individual USDA Federal assistance programs. This paragraph applies to State, local, or Indian Tribal governments that make audits in accordance with Circular A–128 and this subpart, even though not required to do so.

(ii) USDA or its designee shall arrange for or make any additional audits that are necessary to carry out its responsibilities under Federal law or regulation. The provisions of Circular A–128 and this subpart do not authorize any State, local, or Indian Tribal government (or subrecipient thereof) to constrain, in any manner, USDA or its designee from carrying out such additional audits.

(iii) When the Office of Inspector General or USDA agencies make or contract for audits or evaluations in addition to the audits made by recipients pursuant to OMB Circular A–128 and this subpart, consistent with other applicable laws and regulations, the cost of such additional reviews shall be paid by USDA "unless applicable laws and regulations provide for payment by the recipient". Such additional reviews include economy and efficiency audits, program results audits, and program evaluations.

§ 3015.74 Cognizant agencies.

(a) *Cognizant agency assignments.* In accordance with Circular A–128, OMB assigns cognizant agencies for State and larger local governments. In order to fulfill the cognizant responsibilities, other Federal agencies may participate with an assigned cognizant agency. Smaller governments not assigned a cognizant agency should contact the Federal agency that provides them the most funds to work out a cognizant agency agreement.

(b) *USDA responsibilities.* When USDA is assigned as the cognizant agency, the OIG shall have the following responsibilities:

(1) Work with USDA awarding agencies to ensure that audits are made in a timely manner and in accordance with the requirements of Circular A–128 and this subpart;

(2) Provide the liaison between the Federal audit organizations, USDA awarding agencies and the recipient

programs of a single Federal agency shall be the responsibility of the

USDA Federal assistance shall comply with the requirements for non-Federal

higher education are performed periodically by the Federal agencies

c. State or local governments that receive less than $25,000 a year shall be exempt from

special district, school district, intrastate district, council of governments, and any

VOL
50
ISS
136
JL
16
1985
UMI

(2) Provide the liaison between the Federal audit organizations, USDA awarding agencies and the recipient entities and independent auditors;

(3) Provide technical advice to State, local, and Indian Tribal governments, USDA awarding agencies, and independent auditors;

(4) Obtain or make quality control reviews of individual audits made by non-Federal audit organizations, and provide the results to other interested organizations, when appropriate;

(5) Inform other affected Federal organizations of any reported illegal acts or irregularities. The Federal organizations, in turn, shall inform appropriate Federal law enforcement officials. State or local government law enforcement and prosecuting authorities, if not advised by the recipient, may also be informed of any violation of law within their jurisdiction by the OIG;

(6) Advise the USDA awarding agency and the recipient of any audit reports that do not meet the audit standards and requirements set forth in Circular A–128 and this subpart. In such instances, the recipient shall work with the auditors to take corrective action. If corrective action is not taken, OIG, as the cognizant agency, shall notify the Federal awarding agencies and the recipient of the facts and make recommendations, if appropriate. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action;

(7) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to Circular A–128 and this subpart, and ensure that any additional audits build upon such audits; and

(8) Assure that all recipient audit reports affecting Federal assistance programs are received, reviewed, and distributed to the proper Federal cognizant agencies. These agencies (including USDA OIG) are responsible for distributing audit reports to their respective program officials.

(9) Assure that necessary audits are performed of indirect cost proposals submitted by governmental units for which USDA is cognizant under the provisions of OMB Circular A–87.

(c) *Audit resolution.* OIG shall be responsible for overseeing and assigning responsibility to the appropriate USDA awarding agency for the resolution of crosscutting audit findings that affect the programs of more than one USDA or non-USDA awarding agency. Resolution of findings that relate solely to the programs of a single Federal agency shall be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement between the agencies concerned. Resolution shall be made within six months after issuance of the report by the departments and agencies that provide Federal assistance funds to State and local governments. Corrective action should proceed as rapidly as possible.

§ 3015.75 Reporting requirements.

(a) *Audit reports.* Audit reports must be prepared at the completion of the audit and shall be in accordance with the provisions of Circular A–128, paragraph 13.

(b) *Audit workpapers and reports.* Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by OIG to extend the retention period. Audit workpapers shall be made available upon request to OIG, or its designee, or the General Accounting Office, at the completion of the audit.

(c) *Illegal acts or irregularities.* If the auditor becomes aware of illegal acts or other irregularities, *prompt* notice shall be given to recipient management officials above the level of involvement. The recipient, in turn, shall promptly notify OIG of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.

§ 3015.76 Audit costs.

(a) The costs of audits made in accordance with the provisions of Circular A–128, paragraph 16, are allowable charges to USDA Federal assistance programs.

(b) If the recipients or subrecipients fail to arrange for the required audits set forth in OMB Circular A–128, or fail to assure that an acceptable audit is performed, the USDA awarding agency may arrange for the performance of the required audits. If USDA arranges for the required audits because of these circumstances, the recipients and/or subrecipients shall reimburse USDA for the cost of these single audits.

§ 3015.77 Audits of institutions of higher education, hospitals and other non-profit organizations.

(a) *Non-Federal audits.* If not included within the scope of a single audit as set forth in § 3015.73(c)(1), institutions of higher education, hospitals and other nonprofit organizations that receive USDA Federal assistance shall comply with the requirements for non-Federal audits set forth in OMB Circular A–110, including any amendments to those requirements published in the **Federal Register** by OMB.

(1) Each recipient must arrange for a financial and compliance audit annually, but not less frequently than every two years.

(2) The recipient's audits must comply with the GAO "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," including the standards for auditor independence and any subsequent revisions to the standards.

(3) The audit shall be conducted on an organizationwide basis to test the fiscal integrity of financial transactions, as well as compliance with the terms and conditions of the Federal grants and other agreements. Such tests shall include an appropriate sampling of Federal agreements. USDA awarding agencies may not impose grant-by-grant (or subgrant-by-subgrant) audit requirements except as may be prescribed by law.

(4) Recipients must establish a system for:

(i) Assuring that subrecipients meet the requirements of these regulations;

(ii) Evaluating acceptability of subrecipient audits;

(iii) Following up on results of subrecipient audits.

(5) Subrecipient audit reports shall be transmitted by the subrecipient to the applicable primary recipient. These reports shall not be routinely transmitted to OIG. Instead the recipient shall retain all subrecipient audit reports on file and make them available to OIG and GAO officials, or their designees, upon request.

(6) The recipient is responsible for taking appropriate action on subrecipient audits and incorporating the results of these audits into their financial records and related reports. The recipient's auditors shall state in the audit report the amount of funds at the subrecipient level that were audited by the subrecipient's auditors and make any pertinent comments concerning those audits. Questioned costs at the subrecipient level may be contingent liabilities as far as the recipient is concerned and should be reported as such, when appropriate.

(7) Each recipient shall establish a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(b) *Federal audit responsibilities.* (1) Audits of Federal contracts and assistance programs at institutions of higher education are performed periodically by the Federal agencies designated as cognizant agencies in OMB Circular A–88. In addition, OIG may perform audits of USDA programs at Land Grant Institutions from time to time. Such audits shall be coordinated in advance with the cognizant agency and shall, to the extent possible, not duplicate work done by the Federal cognizant agency, or by independent auditors in accordance with OMB Circular A–110.

(2) OIG reserves the right to perform audits of USDA assistance programs and other nonprofit organizations as determined by OIG to be necessary. In performing such audits, OIG shall rely to the extent feasible on audit work performed by other Federal and non-Federal auditors.

Executive Office of the President

Office of Management and Budget

Appendix B

Circular No. A–128

April 12, 1984

To the Heads of Executive Departments and Establishments.

Subject: Audits of State and Local Governments.

1. *Purpose.* This Circular is issued pursuant to the Single Audit Act of 1984, Pub. L. 98–502. It establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

2. *Supersession.* The Circular supersedes Attachment P, "Audit Requirements," of Circular A–102, "Uniform requirements for grants to State and local governments."

3. *Background.* The Single Audit Act builds upon earlier efforts to improve audits of Federal aid programs. The Act requires State or local governments that receive $100,000 or more a year in Federal funds to have an audit made for that year. Section 7505 of the Act requires the Director of the Office of Management and Budget to prescribe policies, procedures and guidelines to implement the Act. It specifies that the Director shall designate "cognizant" Federal agencies, determine criteria for making appropriate charges to Federal programs for the cost of audits, and provide procedures to assure that small firms or firms owned and controlled by disadvantaged individuals have the opportunity to participate in contracts for single audits.

4. *Policy.* The Single Audit Act requires the following:

a. State or local governments that receive $100,000 or more a year in Federal financial assistance shall have an audit made in accordance with this Circular.

b. State or local governments that receive between $25,000 and $100,000 a year shall have an audit made in accordance with this Circular, or in accordance with Federal laws and regulations governing the programs they participate in.

c. State or local governments that receive less than $25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.

d. Nothing in this paragraph exempts State or local governments from maintaining records of Federal financial assistance or from providing access to such records to Federal agencies, as provided for in Federal law or in Circular A–102, "Uniform requirements for grants to State or local governments."

5. *Definitions.* For the purposes of this Circular the following definitions from the Single Audit Act apply:

a. "Cognizant agency" means the Federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in paragraph 11 of this Circular.

b. "Federal financial assistance" means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals. It includes awards received directly from Federal agencies, or indirectly through other units of State and local governments.

c. "Federal agency" has the same meaning as the term 'agency' in section 551(1) of Title 5, United States Code.

d. "Generally accepted accounting principles" has the meaning specified in the generally accepted government auditing standards.

e. "Generally accepted government auditing standards" means the *Standards For Audit of Government Organizations, Programs, Activities, and Functions,* developed by the Comptroller General, dated February 27, 1981.

f. "Independent auditor" means:

(1) A State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or

(2) A public accountant who meets such independence standards.

g. "Internal controls" means the plan of organization and methods and procedures adopted by management to ensure that:

(1) Resource use is consistent with laws, regulations, and policies;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data are obtained, maintained, and fairly disclosed in reports.

h. "Indian tribe" means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

i. "Local government" means any unit of local government within a State, including a county, a borough, municipalitity, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

j. "Major Federal Assistance Program," as defined by Pub. L 98–502, is described in the Attachment to this Circular.

k. "Public accountants" means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

l. "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-State, regional, or interstate entity that has governmental functions and any Indian tribe.

m. "Subrecipient" means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of Federal financial assistance.

6. *Scope of audit.* The Single Audit Act provides that:

a. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

b. The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives $25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

c. Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this Circular. However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of Circular A–110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

d. The auditor shall determine whether:

(1) The financial statements of the government, department, agency or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(3) The organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program. To the extent that a single audit provides Federal agencies with information and assurances they need to

—The amounts reported as expenditures were for allowable services, and

—The records show that those who received

awarding agencies of the facts and make recommendations for followup action. Major

b. The three parts of the audit report may be bound into a single report, or presented at

Circular are allowable charges to Federal

VOL
50
ISS
136
JL
16
1985
UMI

(3) The organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program.

7. *Frequency of audit.* Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987.

8. *Internal control and compliance reviews.* The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations.

a. *Internal control review.* In order to provide this assurance the auditor must make a study and evaluation of internal control systems used in administering Federal assistance programs. The study and evaluation must be made whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the recipient's system for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

b. *Compliance review.* The law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major Federal assistance program.

(1) In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.

(2) The review must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews of other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(a) In making the test of transactions, the auditor shall determine whether:

—The amounts reported as expenditures were for allowable services, and

—The records show that those who received services or benefits were eligible to receive them.

(b) In addition to transaction testing, the auditor shall determine whether:

—Matching requirements, levels of effort and earmarking limitations were met,

—Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and

—Amounts claimed or used for matching were determined in accordance with OMB Circular A–87, "Cost principles for State and local governments," and Attachment F of Circular A–102, "Uniform requirements for grants to State and local governments."

(c) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the *Compliance Supplement for Single Audits of State and Local Governments*, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

9. *Subrecipients.* State or local governments that receive Federal financial assistance and provide $25,000 or more of it in a fiscal year to a subrecipient shall:

a. Determine whether State or local subrecipients have met the audit requirements of this Circular and whether subrecipients covered by Circular A–110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations," have met that requirement;

b. Determine whether the subrecipient spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with this Circular, Circular A–110, or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

c. Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

d. Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

e. Require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this Circular.

10. *Relation to other audit requirements.* The Single Audit Act provides that an audit made in accordance with this Circular shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication.

a. The provisions of this Circular do not limit the authority of Federal agencies to make, or contract for audits and evaluations of Federal financial assistance programs, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.

b. The provisions of this Circular do not authorize any State or local government or subrecipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits.

c. A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to this Circular shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

11. *Cognizant agency responsibilities.* The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this Circular.

a. The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local governments and their subdivisions. Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

b. A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this Circular.

(2) Provide technical advice and liaison to State and local governments and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to this Circular; so that the additional audits build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

12. *Illegal acts or irregularities.* If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also paragraph 13(a)(3) below for the auditor's reporting responsibilities.) The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

13. *Audit Reports.* Audit reports must be prepared at the completion of the audit. Reports serve many needs of State and local governments as well as meeting the requirements of the Single Audit Act.

a. The audit report shall state that the audit was made in accordance with the provisions of this Circular. The report shall be made up of at least:

(1) The auditor's report on financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance, showing the total expenditures for each Federal assistance program as identified in the *Catalog of Federal Domestic Assistance*. Federal programs or grants that have not been assigned a catalog number shall be identified under the caption "other Federal assistance."

(2) The auditor's report on the study and evaluation of internal control systems must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) The auditor's report on compliance containing:

—A statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

—Negative assurance on those items not tested;

—A summary of all instances of noncompliance; and

—An identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

b. The three parts of the audit report may be bound into a single report, or presented at the same time as separate documents.

c. All fraud abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with paragraph 13f.

d. In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

e. The reports shall be made available by the State or local government for public inspection within 30 days after the completion of the audit.

f. In accordance with generally accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Subrecipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period unless a longer period is agreed to with the cognizant agency.

g. Recipients of more than $100,000 in Federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.

h. Recipients shall keep audit reports on file for three years from their issuance.

14. *Audit Resolution.* As provided in paragraph 11, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on case-by-case basis by a case-by-case basis by agreement among the agenices concerned.

Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

15. *Audit workpapers and reports.* Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

16. *Audit Costs.* The cost of audits made in accordance with the provisions of this Circular are allowable charges to Federal assistance programs.

a. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provision of Circular A–87, "Cost principles for State and local governments."

b. Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost.

17. *Sanctions.* The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with this Circular. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropropriate sanctions including:

—Withholding a percentage of assistance payments until the audit is completed satisfactorily,

—Withholding or disallowing overhead costs, and

—Suspending the Federal assistance agreement until the audit is made.

18. *Auditor Selection.* In arranging for audit services State and local governments shall follow the procurement standards prescribed by Attachment O of Circular A–102, "Uniform requirements for grants to State and local governments." The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence.

19. *Small and Minority Audit Firms.* Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Circular. Recipients of Federal assistance shall take the following steps to further this goal:

a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

b. Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

c. Consider in the contract process whether firms competing for large audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

d. Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited

government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit

Total expenditures of Federal financial assistance for all programs	Major federal assistance

1124, and 1124A airplanes. The AD requires installation of placards

the Federal Aviation Administration amends Section 39.13 of Part 39 of the

EFFECTIVE DATE: July 16, 1985. The regulation is being made effective upon

availability of new estimates. The

government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

e. Encourage contracting with consortiums of small audit firms as described in paragraph (a) above when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

f. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

20. *Reporting.* Each Federal agency will report to the Director of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments in carrying out the provisions of this Circular. The report must identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with the Circular.

21. *Regulations.* Each Federal agency shall include the provisions of this Circular in its regulations implementing the Single Audit Act.

22. *Effective date.* This Circular is effective upon publication and shall apply to fiscal years of State and local governments that begin after December 31, 1984. Earlier implementation is encouraged. However, until it is implemented, the audit provisions of Attachment P to Circular A–102 shall continue to be observed.

23. *Inquiries.* All questions or inquiries should be addressed to Financial Management Division, Office of Management and Budget, telephone number 202/395–3993.

24. *Sunset review date.* This Circular shall have an independent policy review to ascertain its effectiveness three years from the date of issuance.

David A. Stockman,

Director.

Definition of Major Program as Provided in Pub. L. 98–502

"Major Federal Assistance Program," for State and local governments having Federal assistance expenditures between $100,000 and $100,000,000, means any program for which Federal expenditures during the applicable year exceed the larger of $300,000, or 3 percent of such total expenditures.

Where total expenditures of Federal assistance exceed $100,000,000, the following criteria apply:

Total expenditures of Federal financial assistance for all programs		Major federal assistance program means any program that exceeds
More than	But less than	
$100 million	$1 billion	$3 million
1 billion	2 billion	4 million
2 billion	3 billion	7 million
3 billion	4 billion	10 million
4 billion	5 billion	13 million
5 billion	6 billion	16 million
6 billion	7 billion	19 million
Over 7 billion		20 million

[FR Doc. 85–16760 Field 7–15–85; 8:45 am]

BILLING CODE 3410–23–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84–NM–127–AD; Amdt. 39–5102]

Airworthiness Directives; Israel Aircraft Industries, Ltd. Westwind Models 1123, 1124, and 1124A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On March 20, 1981, the FAA issued an airworthiness directive (AD), effective upon receipt, by air mail letter to all known operators of Israel Aircraft Industries, Ltd. Westwind Models 1123, 1124, and 1124A airplanes, which requires modification of the intercom system. That action was prompted by an incident in which a resistor in the intercom system overheated and caused a fire. This action publishes that AD in the **Federal Register** and makes it effective to all persons.

EFFECTIVE DATE: August 5, 1985. This AD was effective earlier to all recipients of airmail letter AD 81–07–07 issued March 20, 1981.

ADDRESSES: The applicable service information may be obtained from Israel Aircraft Industries International, Inc., 50 West 23rd Street, New York, New York 10010, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Standardization Branch, ANM–113; telephone (206) 431–2909. Mailing address: FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On March 20, 1981, the FAA issued by air mail letter Airworthiness Directive (AD) 81–07–07, applicable to Israel Aircraft Industries, Ltd. Westwind Models 1123, 1124, and 1124A airplanes. The AD requires installation of placards prohibiting the use of the intercom system and setting procedures for microphone switches until a resistor in the intercom system is replaced. An operator of a Westwind 1124 airplane had reported an incident in which a resistor in the intercom system overheated and caused a fire on the ground. During subsequent investigation of another Westwind airplane, deformation of shielding as a result of the resistor overheating was detected.

This final rule is revised from the air mail letter only in that the interim procedure of installing a placard has been deleted. The interim procedure would not be required for modification of airplanes being imported.

This airplane model is manufactured in Israel and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued March 20, 1981, to all known U.S. owners and operators.

Since this condition may still exist on airplanes of this model registered in the United States, this action publishes the AD in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 16, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.89; and 49 CFR 1.47.

2. By adding the following new airworthiness directive:

Israel Aircraft: Applies to Israel Aircraft Industries Ltd. Westwind Models 1123, 1124, and 1124A (S/N 151 thru 315 except S/N 294, 196, 197, 309, 310, and 314) airplanes, certificated in any category. Compliance is required within the next 100 flight hours after the effective date of this amendment, unless previously accomplished.

A. To prevent fire due to overheating of the intercom system, replace the intercom system audio load R–61 resistor with an RH–25 resistor in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, or in accordance with IAI Service Bulletin WW–25 for the Model 1123 and IAI Service Bulletin WW–24–23 for the Models 1124 and 1124A.

B. Airplanes may be flown in accordance with FAR 21.197 and 21.199 to a maintenance base for accomplishment of the modification required by this AD.

It was effective earlier to all recipients of air mail letter AD 81–07–07, issued March 20, 1981, which contained this amendment.

Issued in Seattle, Washington, on July 9, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–16828 Filed 7–15–85; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 90

[Docket No. 50221–5088]

Release of Estimates; Amendment to Challenge Procedure for Certain Population and Per Capita Income Estimates

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This action modifies the procedure to be followed in releasing certain population and per capita income estimates. The estimates affected are the figures for subcounty areas covered in 15 CFR Part 90. That regulation stipulates a challenge procedure for use by local officials. The only provision of the original rule that is altered by this action is the way in which the estimates are released.

EFFECTIVE DATE: July 16, 1985. The regulation is being made effective upon publication.

FOR FURTHER INFORMATION CONTACT: Roger A. Herriot, Chief, Population Division, Bureau of the Census, (301) 763–7646.

SUPPLEMENTARY INFORMATION: Rulings were made in 1979 that established standard procedures by which localities could challenge the population and income estimates made by the Bureau of the Census. The regulations: (1) Require that an informal challenge be filed no more than 180 days after the release of the estimates by the Bureau of the Census, (2) require a locality to complete an informal review jointly with the Census Bureau before a formal challenge may be filed, (3) specify the appointment of a qualified hearing officer during the formal challenge stage to receive both written and oral evidence under oath, (4) provide for a formal hearing, and (5) provide for a final decision by the Director of the Census Bureau. These rules require that the Census Bureau release the estimates by sending individual mailings of the figures to each local government and simultaneous publication of release notification in the **Federal Register.**

On March 25, 1985, a Notice of Proposed Rule Making was published in the **Federal Register** (50 FR 11708) that proposed to revise the procedure used by the Bureau of the Census to release the estimates. It was proposed that the estimates be released through the standard Census Bureau publication and release procedures used for all other Census Bureau data, with simultaneous notification of the release published in the **Federal Register**, rather than by sending individual mailings of the figures to each of the 39,000 local governments.

Two letters were received commenting on the proposed rule, both opposing the change. One letter was sent by a county planning agency and the other by a state agency.

Discussion of Comments

The two letters did not overlap in their objections to the change. One letter raised the concern that the release of the estimates might be lost in the large number of publications issued by the Federal Government. However, the estimates are published in a separate Census Bureau report series (*Current Population Reports*, Series P–28) that is devoted solely to the release of figures for local areas. The separate series of reports sets these estimates apart from other Bureau of the Census releases and can be monitored easily for the availability of new estimates. The regularly scheduled release of the new estimates in the summer of odd-numbered years makes it relatively easy to find the new figures when they are published. Notification of the release also is carried in the **Federal Register**, the Census Bureau news releases, the Census Bureau's newsletters such as Data User News, the Census Bureau's nationwide electronic publishing service, and two Census Bureau electronic bulletin boards. Localities also are often notified about new estimates by the Federal agencies using the figures in their programs.

The other letter was concerned that intergovernmental cooperation would be damaged by the change, and that local governments would not have the same opportunity that they have now to challenge the Census Bureau's estimates. However, no provisions of the challenge procedure other than the release process are affected by the change. Even if local governments learn of the population or income estimates through their use by another Federal agency, the other Federal agencies, without exception, refer all challenges of the estimates to the Bureau of the Census to be processed through the standard challenge procedure. Federal programs also often allow for later adjustments to their payments when the timing of a challenge and the initial allotments under the program are a problem.

Under Executive Order 12291 the Department must judge whether a regulation is major within the meaning of section 1 of the Order and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. This rule is not a major rule because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, a Regulatory Impact Analysis will not be prepared.

This rule does not contain a collection of information for purposes of the Paper Work Reduction Act.

The General Counsel has certified to the Small Business Administration that pursuant to the provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) the change in the regulation will retain all of the provisions in the

current challenge process and would alter only the way in which the data are

SUMMARY: The Food and Drug Administration (FDA) is amending the

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use

animal drug regulations to reflect approval of a supplemental new animal

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

settle and pay not more than $25,000 for a claim against the Government made

current challenge process and would alter only the way in which the data are released and, therefore, will not have a significant economic effect on a substantial number of small entities.

The Director of the Census Bureau, pursuant to section 553(d)(3) of the Administrative Procedure Act, finds that because of the time constraints in implementing a number of Federal programs that rely on these data, good cause exists for making the rule immediately effective.

List of Subjects in 15 CFR Part 90

Administrative practice and procedure, Census data.

PART 90—[AMENDED]

1. The Authority Citation for 15 CFR Part 90, continues to read as follows:

Authority: 13 U.S.C. 4, unless otherwise noted.

2. 15 CFR Part 90, is amended by revising § 90.5 to read as follows:

§ 90.5 When an informal challenge may be filed.

An informal challenge to the population or per capita income estimates may be filed any time up to 180 days after the release of the estimates by the Bureau of the Census. Publication by the Bureau of the Census and simultaneous publication of a release notification in the **Federal Register** shall constitute release. A challenge to any estimate may also be filed any time up to 180 days from the date the Census Bureau, on its own initiative, revises that estimate.

If, however, a state or unit of local government has sufficiently meritorious reason for not filing in a timely manner, the Census Bureau has the discretion to accept the challenge.

Dated: June 4, 1985.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 85–16837 Filed 7–15–85; 8:45 am]

BILLING CODE 3510–07–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate and Oxibendazole Chewable Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Norden Laboratories, Inc., providing for use of chewable tablets containing diethylcarbamazine citrate and oxibendazole for prevention of heartworm disease (*Dirofilaria immitis*) and hookworm infection (*Ancylostoma caninum*) in dogs.

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., Lincoln, NE 68521, filed NADA 136–483 providing for use of Filaribits Plus Chewable Tablets (diethylcarbamazine citrate/oxibendazole, 60/45 milligrams (mg) per tablet or 180/136 mg per tablet) for prevention of heartworm disease (*Diorfilaria immitis*) and hookworm infection (*Ancylostoma caninum*) in dogs. The NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and §514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The Agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(4).

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Part 520 is amended by adding new §520.623 to read as follows:

§ 520.623 Diethylcarbamazine citrate, oxibendazole chewable tablets.

(a) *Specifications.* Each tablet contains 60 milligrams of diethylcarbamazine citrate with 45 milligrams of oxibendazole or 180 milligrams of diethylcarbamazine citrate with 136 milligrams of oxibendazole.

(b) *Sponsor.* See 011519 in §510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally to dogs at a dosage level of 6.6 milligrams of diethylcarbamazine citrate per kilogram of body weight (3 milligrams per pound of body weight) and 5.0 milligrams of oxibendazole per kilogram of body weight (2.27 milligrams per pound of body weight).

(2) *Indications for use.* For prevention of heartworm disease (*Dirofilaria immitis*) and hookworm infection (*Ancylostoma caninum*) in dogs.

(3) *Limitations.* Orally administer daily during heartworm season. For free-choice feeding or broken and placed on or mixed with feed. Do not use in dogs that may harbor adult heartworms. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: July 5, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85–16800 Filed 7–15–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

New Animal Drugs for use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Custom Feed Blenders Corp., providing for the manufacture of 5-, 10-, and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Custom Feed Blenders Corp., 540 Hawkeye Ave., Fort Dodge, IA 50501, is the sponsor of a supplement to NADA 106–507 submitted on its behalf by Elanco Products Co. The supplement provides for the manufacture of new 5- and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The use of the currently approved 10-gram-per-pound premix is revised to include additional uses in swine, and use in beef cattle and chickens. The supplement is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b; 21 CFR 5.10 and 5.83).

2. Section 558.625 is amended by revising paragraph (b)(63) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(63) To 046987: 5, 10, 20, and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Dated: July 10, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–16799 Filed 7–15–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

28 CFR Part 0

Appendix to Subpart R, Redelegation of Functions; Section 5, Legal Functions; Delegation of Authority to DEA Officials

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration [DEA], U.S. Department of Justice, is amending its regulations relating to the redelegation of legal functions. The Chief Counsel is currently authorized to settle any employee claims filed under the Military Personnel and Civilian Employee's Claims Act in an amount not to exceed $15,000. This final rule vests this function in the Controller of DEA. This final rule also changes the maximum amount for which such a claim may be settled to $25,000 in conformity with the 1983 amendments to that Act, Pub. L. 97–452.

EFFECTIVE DATE: July 8, 1985.

FOR FURTHER INFORMATION CONTACT: James J. Hogan, Controller, Drug Enforcement Administration, U.S. Department of Justice, 1405 I St., NW., Washington, D.C., 20537, (202) 633–1477.

SUPPLEMENTARY INFORMATION: The Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 3721 et seq., authorizes the head of an agency to settle and pay not more than $25,000 for a claim against the Government made by an officer or employee of the agency for damage to, or loss of, personal property incident to service. The head of the U.S. Department of Justice is the Attorney General. 28 CFR Subpart R vests this function of the Attorney General in the Administrator of DEA. The Administrator of DEA is authorized by 28 CFR 0.104 to redelegate to his subordinates any of the powers vested in him by 28 CFR Subpart R.

By virtue of the authority vested in me as the Administrator of DEA by 28 CFR 0.100 and 0.104, the following amendment is made to Title 28, Appendix to Subpart R, Redelegation of Functions, of the Code of Federal Regulations:

List of Subjects in 28 CFR Part 0

Organization and functions (Government agencies).

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for 28 CFR Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, unless otherwise noted.

Subpart R—Drug Enforcement Administration

Appendix to Subpart R, Redelegation of Functions [Amended]

2. Section 5, Legal functions, of the Appendix to Subpart R, Part 0, is amended by deleting from the first sentence of the section, which authorizes the Chief Counsel of DEA to perform certain functions, the following clause: "to settle any employee claims filed under the Military Personnel and Civilian Employees' Claims Act in an amount not to exceed $15,000."

3. The following section is added to the Appendix to Subpart R: "Section 8. *Financial functions.* The Controller of the DEA is authorized to settle any employee claims filed under the Military Personnel and Civilian Employees' Claims Act in an amount not to exceed $25,000."

Dated: July 5, 1985.

John C. Lawn,

Acting Administrator.

[FR Doc. 85–16840 Filed 7–15–85; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health

made, but the Assistant Secretary retains discretionary Federal

calculate for each State plan State the number of enforcement personnel

likely to cause death or physical harm and to comply with the standards

the criteria of section 18 of the Act and

State revision of the benchmarks, Utah

VOL 50 ISS 136 JL 16 1985 UMI

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T-013]

Utah State Plan; Approval of Revised Compliance Staffing Benchmarks and Final Approval Determination

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Approval of revised compliance staffing benchmarks and final state plan approval.

SUMMARY: This document amends Subpart E of 29 CFR Part 1952 to reflect the Assistant Secretary's decision approving revised compliance staffing benchmarks and granting final approval to the Utah State plan. As a result of this affirmative determination under section 18(e) of the Occupational Safety and Health Act of 1970, Federal OSHA standards and enforcement authority no longer apply to occupational safety and health issues covered by the Utah plan, and authority for Federal concurrent jurisdiction is relinquished. Federal enforcement jurisdiction is retained over maritime employment in the private sector and on the Hill Air Force Base. Federal jurisdiction remains in effect with respect to Federal government employers and employees.

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Introduction

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting, and obtaining Federal approval of a State plan. Procedures for State plan submission and approval are set forth in regulations at 29 CFR Part 1902. If the Assistant Secretary, applying the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3 and 1902.4, finds that the plan provides or will provide for State standards and enforcement which are "at least as effective" as Federal standards and enforcement, initial approval is granted.

A State may commence operations under its plan after this determination is made, but the Assistant Secretary retains discretionary Federal enforcement authority during the initial approval period as provided by section 18(e) of the Act. A State plan may receive Initial approval even though, upon submission, it does not fully meet the criteria set forth in 29 CFR 1902.3 and 4 if it includes satisfactory assurances by the State that it will take the necessary "developmental steps" to meet the criteria within a 3-year period. 29 CFR 1902.2(b). The Assistant Secretary publishes a notice of "certification of completion of developmental steps" when all of a State's developmental commitments have been satisfactorily met. 29 CFR 1902.34.

When a State plan that has been granted initial approval is developed sufficiently to warrant a suspension of concurrent Federal enforcement activity, it becomes eligible to enter into an "operational status agreement" with OSHA. 29 CFR 1954.3(f). A State must have enacted its enabling legislation, promulgated State standards, achieved an adequate level of qualified personnel, and established a system for review of contested enforcement actions. Under these voluntary agreements, concurrent Federal enforcement will not be initiated with regard to Federal occupational safety and health standards in those issues covered by the State plan, where the State program is providing an acceptable level of protection.

Following the initial approval of a complete plan, or the certification of a developmental plan, the Assistant Secretary must monitor and evaluate actual operations under the plan for a period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3, 1902.4 and 1902.37 are being applied. An affirmative determination under section 18(e) of the Act (usually referred to as "final approval" of the State plan) results in the relinquishment of authority for Federal concurrent jurisdiction in the State with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e).

An additional requirement for final approval consideration is that a State must meet the compliance staffing levels, or benchmarks, for safety and health compliance officers established by OSHA for that State. This requirement stems from a 1978 Court Order by the U.S. District Court for the District of Columbia (*AFL-CIO* v. *Marshall*, C.A. No. 74-406), pursuant to a U.S. Court of Appeals decision, that directed the Assistant Secretary to calculate for each State plan State the number of enforcement personnel needed to assure a "fully effective" enforcement program.

History of the Utah Plan and its Compliance Staffing Benchmarks

Utah Plan

On September 20, 1972, Utah submitted an occupational safety and health plan in accordance with section 18(b) of the Act and 29 CFR Part 1902, Subpart C, and on October 21, 1972, a notice was published in the **Federal Register** (37 FR 22781) concerning submission of the plan, announcing that initial Federal approval was at issue and offering interested persons an opportunity to submit data, views and arguments concerning the plan. Comments were received from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), Utah Manufacturers Association, United States Steel Corporation, Associated General Contractors of America, and the Horne Construction Corporation. No requests for a hearing were received. In response to these comments as well as to OSHA's review of the plan submission, the State made changes in its plan, which were discussed in the notice of initial approval (38 FR 1178). On January 10, 1973, the Assistant Secretary published a notice granting initial approval of the Utah plan as a developmental plan under Section 18(b) of the Act (38 FR 1178). The plan provides for program patterned in most respects after that of the Federal Occupational Safety and Health Administration. The plan covers all issues except safety and health in private sector maritime employment and the State does not enforce its standards on the Hill Air Force Base.

The Utah Industrial Commission is designated as having responsibility for administering the plan throughout the State. The day-to-day administration of the plan is directed by the Utah Division of Occupational Safety and Health within the Industrial Commission. The plan provides for the adoption by Utah of occupational safety and health standards which are generally identical to the Federal standards including emergency temporary standards. Utah also has promulgated under its plan independent State standards for oil, gas, geothermal and related services, lock-out and tag-out procedures, industrial railroads and explosive masterials.

The plan requires employers to furnish employees employment and a place of employment free from recognized hazards that are causing or likely to cause death or physical harm and to comply with the standards promulgated under the Utah Act. Employees are likewise required to comply with the standards, orders, rules, and regulations promulgated under the Utah Act applicable to their conduct.

The plan contains provisions similar to Federal procedures for, among others, imminent danger proceedings, employee discrimination protection, variances, safeguards to protect trade secrets, and employer and employee rights to participate in inspection and review proceedings. Appeals of citations and penalties are heard by the Occupational Safety and Health Review Commission. Decisions of the Review Commission may be appealed to the State District Court.

The notice of initial approval noted a few distinctions between the Federal and Utah programs. The State plan does not cover safety and health in private sector maritime employment nor employment on Hill Air Force Base. Utah's time period for contesting enforcement actions is 30 calendar days compared to 15 working days under the Federal law. Unlike the Federal program, the Utah Industrial Commission rather than the courts may initially restrain employee discrimination and afford the employee any appropriate relief through the issuance of an order.

The Assistant Secretary's initial approval of the developmental plan for Utah, a general description of the plan, a schedule of required developmental steps, and a provision for discretionary concurrent Federal enforcement during the period of initial approval were codified in the Code of Federal Regulations (29 CFR Part 1952, Subpart E; 38 FR 1178 (January 10, 1973)).

In accordance with the State's developmental schedule, all major structural components of the plan were put in place and appropriate documentation submitted for OSHA approval during the three-year period ending January 3, 1978. These "developmental steps" included enactment of enabling legislation; promulgation of State occupational safety and health standards; adoption of Federal standards and revocation of existing State standards; adoption of program regulations equivalent to 29 CFR Parts 1903, 1904, and 1905; and the development of a management information system.

These submissions were carefully reviewed by OSHA; after oportunity for public comment and modification of State submissions where appropriate, the major plan elements were approved by the Assistant Secretary as meeting the criteria of section 18 of the Act and 29 CFR 1902.3 and 1902.4. The Utah subpart of 29 CFR 1952 was amended to reflect each of these approval determinations (see 29 CFR 12952.114).

During 1974, OSHA entered into an operational status agreement with the State of Utah. A **Federal Register** notice was published on October 10, 1974 (39 FR 36474), announcing the signing of the agreement. Under the terms of that agreement, OSHA voluntarily suspended the application of concurrent Federal enforcement authority with regard to Federal occupational safety and health standards in all issues covered by the Utah plan.

On November 19, 1978, in accordance with procedures at 29 CFR 1902.34 and 1902.35, the Assistant Secretary certified that Utah had satisfactorily completed all developmental steps (41 FR 51014). In certifying the plan, the Assistant Secretary found the structural features of the program—the statute, standards, regulations, and written procedures for administering the plan—to be at least as effective as corresponding Federal provisions. Certification does not, however, entail findings or conclusions by OSHA concerning adequacy of actual plan performance. As has already been noted, OSHA regulations provide that certification initiates a period of evaluation and monitoring of State activity to determine, in accordance with section 18(e) of the Act, whether the statutory and regulatory criteria for State plans are being applied in actual operations under the plan and whether final approval should be granted.

Utah Benchmorks

In 1978, the Assistant Secretary was directed by the U.S. District Court for the District of Columbia (*AFL-CIO* v. *Marshall*, C.A. No. 74-406), pursuant to a U.S. Court of Appeals decision, to calculate for each State plan State the number of enforcement personnel (compliance staffing benchmarks) needed to assure a "fully effective" enforcement program. In 1980, OSHA submitted a *Report to the Court* containing the benchmarks and requiring Utah to allocate 15 safety compliance officers and 23 industrial hygienists to conduct inspections under the plan.

In September 1984 the Utah State designee in conjunction with OSHA completed a review of the components and requirements of the 1980 compliance staffing benchmarks established for Utah. Pursuant to an initiative begun in August 1983 by the State plan designees as group with OSHA and in accord with the formulas and general principles established by that group for individual State revision of the benchmarks, Utah reassessed the staffing necessary for a "fully effective" occupational safety and health program in the State. This reassessment resulted in a proposal to OSHA contained in comprehensive documents of revised compliance staffing benchmarks of 10 safety and 9 health compliance officers.

History of the Present Proceedings

Procedures for final approval of State plans are set forth at 29 CFR Part 1902, Subpart D. On January 16, 1985, the Occupational Safety and Health Administration published notice of its proposal to approve revised compliance staffing benchmarks for Utah and the resultant eligibility of the Utah State plan for determination under section 18(e) of the Act as to whether final approval of the plan should be granted (50 FR 2483). The determination of eligibility was based on monitoring of State operations for at least one year following certification, State participation in the Federal-State Unified Management Information System, and staffing which meets the proposed revised State staffing benchmarks.

The January 16 **Federal Register** notice set forth a general description of the Utah plan and summarized the results of Federal OSHA monitoring of State operations during the period from October 1982 through March 1984. In addition to the information set forth in the notice itself, OSHA submitted, as part of the record in this rulemaking proceeding, extensive and detailed exhibits documenting the plan, including copies of the State legislation, administrative regulations and procedural manuals under which Utah operates its plan, and copies of all previous **Federal Register** notices regarding the plan.

A copy of the October 1982-March 1984 Evaluation Report of the Utah plan ("18(e) Evaluation Report"), which was extensively summarized in the January 16 proposal and which provided the principal factual basis for the proposed 18(e) determination, was included in the record (Ex. 4-12). Copies of all OSHA evaluation reports on the plan since its certification as having completed all developmental steps were made part of the record.

The January 16 **Federal Register** also contained notice of the Occupational Safety and Health Administration's proposal to approve revised compliance staffing benchmarks for Utah. A detailed description of the methodology and State-specific information used to develop the revised compliance staffing

benchmarks for Utah was included in the notice. In addition, OSHA submitted

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State performance on a number of

Federal Register notice of June 13, 1985,

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benchmarks for Utah was included in the notice. In addition, OSHA submitted, as a part of the record (Docket No. T-013). Utah's detailed submission containing both a narrative explanation and supporting data. A summary of the benchmark revision process was likewise set forth in a separate Federal Register notice on January 16, 1985, concerning the Wyoming State plan (50 FR 2491). An informational record was established in a separate docket (No. T-018) and contained background information relevant to the benchmark issue in general and the current benchmark revision process.

To assist and encourage public participation in the benchmark revision process and 18(e) determination, copies of the complete record were maintained in the OSHA Docket Office in Washington, D.C., the OSHA Region VIII Office in Denver, Colorado, and the office of the Utah Industrial Commission in Salt Lake City. Summaries of the January 16 proposal, with an invitation for public comments were published in Utah on February 1, 1985. (Ex. 5).

The January 16 proposal invited interested persons to submit, by February 20 (subsequently extended to March 22, 1985, 50 FR 6956, in response to a request from James N. Ellenberger, Department of Occupational Safety, Health and Social Security, AFL-CIO), written comments and views regarding the Utah plan, whether the proposed revised compliance staffing benchmarks should be approved, and whether final approval should be granted. Opportunity to request an informal public hearing on the issue of final approval was likewise provided. Five comments from organized labor were received in response to these notices. No requests for an informal hearing were received.

Summary and Evaluation of Comments Received

During this proposed rulemaking OSHA has encouraged interested members of the public to provide information and views regarding operations under the Utah plan, to supplement the information already gathered during OSHA monitoring and evaluation of plan administration and regarding the proposed revised compliance staffing benchmarks for Utah.

In response to the January 16 Federal Register notice, OSHA received comments from the Utah State American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), Ed Mayne, President, Secretary-Treasurer (Ex. 2-2); United Steelworkers of America, Geneva Local Union No. 2701, Kay Mitani, Safety-Health Director (Ex. 2-2a); Utah Building and Construction Trades Council (AFL-CIO), Franklin L. Fry, Safety Director (Ex. 2-2b); American Federation of Labor and Congress of Industrial Organizations, Department of Occupational Safety, Health and Social Security, Margaret Seminario, Associate Director (Ex. 2-3); United Steelworkers of America, Mary Win O'Brien, Assistant General Counsel (Ex. 2-4). Mr. Douglas McVey, Administrator of the Utah plan, responded to the public comments (Ex. 2-5).

The Utah State AFL-CIO objected to Utah's proposed revised benchmarks and final approval and submitted comments it had solicited from United States Steelworkers' Local Union No. 2701 and the Utah Building and Construction Trades Council.

Although the Utah State Building and Construction Trades Council and the United Steelworkers of America Local No. 2701 commented that they believe State plan enforcement activities have not been effective because the staff benchmark is "low," both commented positively on several aspects of the Utah program as discussed in the relevant portions of the Findings and Conclusions section of this notice.

The Utah State AFL-CIO suggests in its comments that OSHA should delay Utah's final approval for one year to ensure that there is a "continual demonstration of conscientious effort toward worker safety and health." However, neither OSHA's evaluation findings nor any of the comments received provide evidence that the effectiveness of State performance will diminish in the future; and, OSHA's decision on granting final approval of the Utah plan must be based on the record established in this proceeding, as described in the Findings and Conclusions section of this notice. Furthermore, the State AFL-CIO's concern is addressed by the fact that if Utah in the future fails to maintain a level of performance at least as effective as the Federal OSHA program, the final approval determination can be revoked.

The national AFL-CIO also indicated opposition to the approval of the proposed revised benchmarks for Utah and therefore opposed the granting of State plan final approval. Some of the comments of the AFL-CIO were directed toward OSHA's system for monitoring and evaluating State plans and the requirements that a State must meet to be eligible for final approval.

The evaluation of the Utah plan was conducted in accordance with OSHA's new State plan monitoring and evaluation system. This system uses statistical data to compare Federal and State performance on a number of criteria, or measures. Significant differences between the two are evaluated to determine whether these differences, viewed within the framework of overall State plan administration, detract from the State's effectiveness and potentially render it less effective than the Federal program.

The AFL-CIO expressed concern that Federal OSHA's monitoring system with its reliance on statistical indicators fails to accurately reflect the overall conduct of the State program and tries to limit those areas of State performance which exceed OSHA's enforcement efforts in several areas. However, OSHA never intended that superior performance would result in any negative conclusion. Statistical outliers display differences, not necessarily deficiencies. If further review related to an outlier determines stronger State performance, clearly no negative determination will be made.

The AFL-CIO also commented on specific State performance issues as did the Utah State AFL-CIO, Utah Building and Construction Trades Council, and USWA Local 2701. These comments are addressed in the appropriate sections of the Findings and Conclusions portion of this notice. Mr. Douglas McVey, Administrator of the Utah State plan, responded to the concerns expressed on both the benchmarks and State specific performance issues.

The United Steelworkers of America (USWA) commented on the benchmark revision process in general with particular reference to Utah's benchmarks. The USWA indicated that Utah's benchmark submission appears better in comparison to some of the other States; however, the union opposes approval of the revised benchmarks for Utah and final approval of the State plan, although the union indicates that its members are not "unhappy" with the plan.

Comments by the unions addressing the proposed revised benchmarks for Utah reflected for the most part the commenters' concerns regarding the benchmark revision process generally. Thus, the comments question whether the benchmarks formula as applied in Utah should have assumed a need for routine, general schedule inspections at all covered workplaces; whether the proposed staffing levels will be sufficient to respond to new hazards or future standards; and question the appropriateness of the inclusion or exclusion of various industry groups in Utah's general inspection universe unless corresponding industries are treated identically in other States. As was specifically discussed in the

Federal Register notice of June 13, 1985, dealing with approval of revised benchmarks for the Kentucky State plan (50 FR 24884), the concept of general schedule coverage has been replaced by more sophisticated targeting systems which deploy enforcement resources where they are most needed, and universal coverage is as inappropriate a concept for benchmarks formulation as it is for inspection scheduling. The possible effect of new hazards or future standards cannot be ascertained with any precision, and in any case both OSHA and the States have generally been able to effectively enforce new standards with no additions to staff for that purpose. As to the need for "uniformity," OSHA believes that the greatest strength of the current formula is that it takes into account actual State program needs as shown by State data and experience. OSHA has found that the formula used to derive benchmarks for Utah and other States involved in the 1984 revision process employs the best information and techniques currently available; properly takes into account each of the factors set forth in the District Court Order in *AFL-CIO* v. *Marshall;* and is an appropriate means of establishing fully effective benchmarks which provide proper program coverage in the context of each State's specific program needs. A more detailed discussion of the general concerns raised by the AFL-CIO and the Steelworkers can be found in the June 13, 1985, Federal Register notice approving revised benchmarks and granting final approval of the Kentucky State plan (50 FR 24884).

Comments filed by the unions also addressed issues relating more specifically to the calculation of benchmarks for Utah. The AFL-CIO objected to the fact that some but not all non-manufacturing industries with lost workday case rates above the State average had been added to the initial safety inspection universe. Utah's response pointed out that establishment-specific workers' compensation data were utilized in the selection of non-manufacturing firms for inclusion in the State's general schedule inspection universe for safety. The State's analysis of site-specific information resulted in the addition of 519 non-manufacturing firms, whose lost workday case rates based on Workers' Compensation injury reports exceeded the overall State rate, to the safety inspection universe. It should also be noted that assumptions made in determining a State's theoretical workload for benchmark purposes are not binding on the State in terms of scheduling specific employers for enforcement visits. A State's general schedule inspection universe is not in itself a targeting system but rather a method for determining a reasonable estimate of workplaces with industrial exposures likely to produce hazards.

The AFL-CIO made a similar comment with regard to the State health inspection universe, asserting that Utah has improperly excluded "many industries with serious health hazards." As was true in safety, the State used a detailed establishment-specific approach enabling it to identify the specific firms, as opposed to industries, which are likely to present enforcement-preventable health hazards, and excluded those which are less likely to present such hazards. Thus, the State added almost 450 establishments to its initial health inspection universe based upon establishment-level inspection histories which indicated repeated health violations requiring continued program surveillance. Establishments not included in the initial inspection universe continue, of course, to be subject to complaint inspections.

With regard to the construction industry, the AFL-CIO objected that not enough resources were projected for coverage of health hazards, stating a belief that asbestos and other hazards had not been "adequately covered" by Utah in the past. The union's comments on the Utah plan and revised benchmarks do not provide any data in support of this conclusion. The results of OSHA monitoring of State plan enforcement, set forth elsewhere in this notice, do not support the assumption and, indeed, generally show that State inspections effectively identify and require the correction of health hazards. As is noted in Administrator McVey's response, Utah's safety compliance specialists in construction are well trained to identify asbestos and other health hazards. Safety inspections in construction account for 40% of all general schedule inspections in the State. The 1.1% of total health inspections projected as necessary for construction and other mobile industry are the State's best estimate, based on experience, of the resources needed to respond to requests by construction specialists for more sophisticated industrial hygiene studies. OSHA believes the State's calculation of the resources necessary for health enforcement is adequate to provide proper program coverage in construction. In related comments, the Building and Construction Trades Council stated that Utah's revised staffing levels for construction safety (as opposed to health) were inadequate, supporting this conclusion by stating an opinion that two construction specialists, as presently provided by the plan, were an insufficient number for construction industry coverage. However, as Administrator McVey indicated, these two specialists are devoted primarily to "high rise" heavy construction. All of Utah's safety inspectors are qualified to perform trenching, excavation, and other routine construction inspections, and thus the supposition that the needs of the State's entire construction industry must be met by only two specialists is not correct. With regard to the AFL-CIO's criticisms regarding Utah's health coverage of the public sector, the State responded that the public sector is afforded the same protections and coverage as the private sector. The State added 53 public sector establishments to its health inspection universe. In addition, health hazards in the public sector are frequently cited as the result of referral or health complaint inspections.

The Building Trades Council also mention slow response time to complaints as a possible indicator of inadequate staffing.

The suggestion that certain complaints have been handled in an untimely manner seems to be based exclusively on informal conversations with an unknown number of unidentified construction workers, and OSHA is reluctant to draw conclusions about enforcement resource needs based on this information. A better and more reliable basis for evaluation is OSHA's monitoring data, discussed elsewhere in this notice, which generally show the State to be responding to complaints in an effective manner within acceptable time limits. Data supplied by the State in its response show that since April 1, 1983, all formal complaints concerning construction sites have been investigated within four working days, and telephone complaints alleging serious hazards are addressed on the same day if possible, but in all cases within one to two days. Finally, the Building Trades Council submits that injury rates in the State require a greater enforcement emphasis in construction than contemplated by the revised benchmarks. In Utah, as in the nation as a whole, injury rates in construction are high compared with most other industries. As shown in data discussed elsewhere in this notice, the downward trend of injury rates in Utah indicates effective action by the State under its plan, particularly in heavy construction where Administrator McVey indicates the State injury rate was reduced by 17% during the period covered by the

evaluation. In the construction industry

by the Court of Appeals decision and

occupational safety and health

geothermal and related services; lock

granted (Evaluation Report, p. 4);

enforcement tool. The State also uses

VOL 50 ISS 136 JL 16 1985 UMI

evaluation. In the construction industry overall, the State further asserts that in 1983 the rate decreased 10%. The State's calculations for benchmarks provide sufficient staff for a proper emphasis on this high hazard industry. OSHA finds that the resources devoted to construction under the revised benchmarks are sufficient to provide for proper program coverage in that industry.

The United Steelworkers commented that although Utah's safety and health inspection universes (in terms of number of establishments) are somewhat similar in size to those in Maryland and Kentucky, the revised benchmark staffing levels for Utah are lower than those for the other two States. The Steelworkers' comment assumes a drastically different and more simplistic methodology for calculating benchmarks than was used, one which merely establishes a ratio between covered worksites in the universe and the number of compliance staff. Such a methodology would perpetuate one of the principal shortcomings of the 1980 benchmarks, which was the failure to take into account not only the differences among the States in industrial mix, geography, etc., but in the resultant differences in program structure and methodology. The State-specific input into the benchmark formula will differ significantly between a Western State with a less concentrated and/or complex industrial base and a highly industrialized Eastern State. The requirements for proper program coverage will also necessarily vary as a result.

Finally, both the AFL–CIO and the Steelworkers allege that the number of enforcement personnel now found appropriate for a fully effective program in Utah and other States is lower than the staffing levels allocated by the States in 1980 or projected in the benchmarks issued by OSHA during its first effort to implement the *AFL–CIO* v. *Marshall* Court Order in 1980.

However, the District Court Order on which the revision process has been based does not assume or require that revised benchmarks must provide a comparative increase over past levels. The adequacy of the revised benchmarks cannot be determined by whether they are greater or smaller than the 1980 benchmarks or earlier enforcement levels. Such direct numerical comparison of staffing levels is no more valid than was the direct comparison of State to Federal staffing levels under the "at least as effective" test rejected by the Court of Appeals in 1978. The objective assigned to OSHA by the Court of Appeals decision and District Court order was, in sum, to measure the workload assumed by each State under its plan and to determine, using the best available information and techniques, but avoiding direct numerical comparisons, the staffing levels needed for fully effective coverage. This is precisely what has been done in the present revision process. The review of each State's illness and injury data, industrial mix, demographics and enforcement history has been far more detailed than was the case when benchmarks were first issued in 1980. As discussed above, the concept of universal routine inspections has been replaced by far more sophisticated targeting, devoting resources to the relative minority of industries where enforcement-preventable injuries occur. These factors have resulted in the more realistic enforcement staffing requirements embodied in the revised benchmarks for Utah.

For these reasons OSHA believes application of the current benchmark formula for Utah has resulted in staffing levels which result in fully effective enforcement in the State of Utah.

Findings and Conclusions

Utah Benchmarks

As provided in the 1978 Court Order in *AFL–CIO* v. *Marshall*, Utah, in conjunction with OSHA, has undertaken to revise the compliance staffing benchmarks originally established in 1980 for Utah. OSHA has reviewed the State's proposed revised benchmarks and supporting documentation and carefully considered the public comments received with regard to this proposal, and determined that compliance staffing levels of 10 safety and 9 health compliance officers meet the requirements of the Court and provide staff sufficient to ensure a fully effective enforcement program.

Utah Final Approval

As required by 29 CFR 1902.41, in considering the granting of final approval to a State plan, OSHA has carefully and thoroughly reviewed all information available to it on the actual operation of the Utah State plan. This information has included all previous evaluation findings since certification of completion of the State plan's developmental steps, especially data for the period of October 1982 through March 1984, and information presented in written submissions. Findings and conclusions in each of the areas of performance are as follows:

(1) *Standards.* Section 18(c)(2) of the Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. Such standards where not identical to the Federal must be promulgated through a procedure allowing for consideration of all pertinent factual information and participation of all interested persons (29 CFR 1902.4(b)(2)(iii)); must, where dealing with toxic materials or harmful physical agents, assure employee protection throughout his or her working life (29 CFR 1902.4(b)(2)(i)); must provide for furnishing employees appropriate information regarding hazards in the workplace through labels, posting, medical examinations, etc. (29 CFR 1902.4(b)(2)(vi)); must require suitable protective equipment, technological control, monitoring, etc. (29 CFR 1902.4(b)(2)(vii)); and where applicable to a product must be required by compelling local conditions and not pose an undue burden on interstate commerce (29 CFR 1902.3(c)(2)).

As documented in the approved Utah State plan and OSHA's evaluation findings made a part of the record in this 18(e) determination proceeding, and as discussed in the January 16 notice, the Utah plan provides for the adoption of standards and amendments thereto which are generally identical to Federal standards. The State's law and regulations, previously approved by OSHA and made a part of the record in this proceeding (Exs. 3–2 and 3–3), include provisions addressing all of the structural requirements for State standards set out in 29 CFR Part 1902.

In order to qualify for final State plan approval, a State program must be found to have adhered to its approved procedures (29 CFR 1902.37(b)(2)); to have timely adopted identical or at least as effective standards, including emergency temporary standards and standards amendments (29 CFR 1902.37(b)(3)); to have interpreted its standards in a manner consistent with Federal interpretations and thus to demonstrate that in actual operation State standards are at least as effective as the Federal (29 CFR 1902.37(b)(4)); and, to correct any deficiencies resulting from administrative or judicial challenge of State standards (29 CFR 1902.37(b)(5)).

As noted in the "18(e) Evaluation Report" and summarized in the January 16, 1985 **Federal Register** notice, Utah adopts standards that are generally identical to Federal standards. Utah has adopted a Hazard Communication Standard identical to the Federal. In addition, Utah has adopted State standards for conditions not covered by Federal standards such as oil, gas, geothermal and related services; lock out and tag out procedures; industrial railroads; and, explosive materials.

Utah's response to adoption of Federal standards is timely; during the period covered by the 18(e) Evaluation Report, Utah adopted all applicable standards within the six-month time frame (Evaluation Report, p. 3). Local No. 2701, USWA, and the Utah Building and the Construction Trades Council, in their written comments, have stated that Utah has adopted standards in a timely fashion and in some cases has gone beyond that which the Federal OSHA standards have required (Exs. 2–2a; 2–2b). No challenges to standards have occurred in Utah.

When a State adopts Federal standards, the State's interpretation and application of such standards must ensure consistency with Federal interpretation and application. As noted above, the Utah plan provides for the adoption of standards which are generally identical to the Federal standards. The State likewise adopts standards interpretations which are also identical to the Federal. OSHA's monitoring has found that the State's application of its standards is comparable to Federal standards application.

Therefore, in accordance with section 18(c)(2) of the Act and the pertinent provisions of 29 CFR 1902.3, 1902.4 and 1902.37, OSHA finds the Utah program in actual operation to provide for standards adoption, correction when found deficient, interpretation and application, in a manner at least as effective as the Federal program.

(2) *Variances.* A State plan is expected to have the authority and procedures for the granting of variances comparable to those in the Federal program (29 CFR 1902.4(b)(2)(iv)). The Utah State plan contains such provisions in both law and regulations which have been previously approved by OSHA. In order to qualify for final State plan approval, permanent variances granted must assure employment equally as safe and healthful as would be provided by compliance with the standard (29 CFR 1902.37(b)(6)); temporary variances granted must assure compliance as early as possible and provide appropriate interim employee protection (29 CFR 1902.37(b)(7)). As noted in the 18(e) Evaluation Report and the January 16 notice, Utah granted two permanent variances during the evaluation period. The report notes that equivalent protection for affected employees is assured in both cases (Evaluation Report, p. 4). During the evaluation period, no temporary variances were granted (Evaluation Report, p. 4); however, past years' experience indicates that the State's procedures were properly applied when granting temporary variances.

Accordingly, OSHA finds that the Utah program effectively grants variances from its occupational safety and health standards.

(3) *Enforcement.* Section 18(c)(2) of the Act and 29 CFR 1902.3(d)(1) require a State program to provide a program for enforcement of State standards which is and will continue to be at least as effective in providing safe and healthful employment and places of employment as the Federal program. The State must require employer and employee compliance with all applicable standards, rules and orders (29 CFR 1902.3(d)(2)) and must have the legal authority for standards enforcement including compulsory process (29 CFR 1902.4(c)(2)).

The Utah law (Utah Statutes 35–9–1 through 35–9–21, UCA) and implementing regulations previously approved by OSHA establish employer and employee compliance responsibility and contain legal authority for standards enforcement in terms substantially identical to those in the Federal Act. In order to be qualified for final approval, the State must have adhered to all approved procedures adopted to ensure an at least as effective compliance program (29 CFR 1902.37(b)(2)). The "18(e) Evaluation Report" shows no lack of adherence to such procedures.

(a) *Inspections.* A plan must provide for inspection of covered workplaces, including in response to complaints, where there are reasonable grounds to believe a hazard exists (29 CFR 1902.4(c)(2)(i)).

Although the National AFL–CIO commented favorably on Utah's record in responding to complaints (Ex. 2–3), the State AFL–CIO in its written comments (Ex. 2–2) asserted that the major problem with the State plan is that there are few inspections at their plants or construction sites because Utah spends more time responding to complaints than to general schedule inspections and developing preventative programs. The 18(e) Evaluation Report shows that for both safety and health, Utah does exceed the Federal experience in the percentage of complaints resulting in inspections (Utah: Safety—52.6%; Health—50%). However, this is a result of State policy to respond to complaints with inspections rather than by letter. Letters are used only for de minimis type violations. Utah believes complaint inspections are an important enforcement tool. The State also uses health complaints as a means to get their health staff into a wider variety of establishments than general schedule inspections (Evaluation Report, p. 11). Further, as Utah State plan Administrator McVey points out in his response to the public comments (Ex. 2–5), complaints actually make up only a small percentage, about 5% to total inspections. The written comments of the Utah Building and Construction Trades Council assert that in response to complaints from workers in the construction trades, Utah's response time is too slow; the only time that the response time is faster is when there has been a serious accident on a project (Ex. 2–2b). Utah State plan Administrator McVey responds that since April 1, 1983, the State received five formal complaints on construction sites, none of which were of serious problems, yet all were investigated within four working days (Ex. 2–5). Local No. 2701, USWA, in its written comments indicates that Utah has responded to complaints from workers in a timely fashion during the last year (Ex. 2–2a). OSHA's monitoring has found that Utah is effective in handling and responding to employee complaints (Evaluation Report, p. 12) and that State policy in this regard has not diminished its coverage of other high-hazard workplaces.

In order to qualify for final approval, the State program, as implemented, must allocate sufficient resources toward high-hazard workplaces while providing adequate attention to other covered workplaces (29 CFR 1902.37(b)(8)).

Utah's scheduling system for safety and health inspections is generally the same as OSHA's except that it uses workers' compensation data to supplement the safety scheduling. The State does not conduct records inspections, a policy with which the National AFL–CIO expresses agreement in its written comments. Ninety-eight percent (98.0%) of Utah's programmed safety inspections and 98.9% of programmed health inspections are conducted in high hazard industries. The 18(e) Evaluation Report indicates that the percent of total inspections that were general schedule for safety and health is 76.7% and 57.1%, respectively. The percent is slightly lower than the Federal and is due to Utah's practice of conducting more follow-ups (15.6% safety and 10.8% health) (Evaluation Report, p. 9).

(b) *Employee Notice and Participation in Inspections.* In conducting inspections the State plan must provide an opportunity for employees and their

representatives to point out possible violations through such means as exercising their rights under the State's to elapse between denial of entry and

Report, pp. 15 and 16). The AFL–CIO in its written comments [illegible] procedures. Appeals of citations, to 1983, and that the increase from 1981

representatives to point out possible violations through such means as employee accompaniment or interviews with employees (29 CFR 1902.4(c)(2)(ii)). The AFL–CIO comments that there is a very low percentage of worker participation in walk-around inspections in the state (Ex. 2–3). The evaluation report acknowledges that the percentage of inspections where an employer actually accompanied the walk-around is low. However, employees were interviewed in all inspections conducted. In sum, employee representatives either accompanied inspectors or employees were interviewed on 100% of inspections during the evaluation period (Evaluation Report, p. 15). The 18(e) Evaluation Report concludes that the State's overall performance in this area is satisfactory. Local No. 2701, USWA, and the Utah Building and Construction Trades Council affirm in their written comments that workers and unions have been given the opportunity to participate in inspections (Ex. 2–2a; 2–2b).

In addition, the State plan must provide that employees be informed of their protections and obligations under the Act by such means as the posting of notices (29 CFR 1902.4(c)(2)(iv)) and provide that employees have access to information on their exposure to regulated agents and access to records of the monitoring of their exposure to such agents (29 CFR 1902.4(c)(vi)).

To inform employees and employers of their protections and obligations, Utah requires that a poster, which was previously approved by OSHA (41 FR 1904), be displayed in all covered workplaces. Requirements for the posting of the poster and other notices such as citations, contests, hearings and variance applications, are set forth in the previously approved State law and regulations which are substantially identical to Federal requirements. Information on employee exposure to regulated agents and access to medical and monitoring records is provided through State standards, including the Access to Employee Exposure and Medical Records standard. The 18(e) Evaluation Report indicates posting violations were cited in 200 inspections. Written comments from Local No. 2701, USWA, and the Utah Building and Construction Trades Council, affirm that workers and unions have been given complete access to information (Exs. 2–2a; 2–2b). Federal OSHA concludes that the State's performance is satisfactory.

(c) *Nondiscrimination.* A State is expected to provide appropriate protection to employees against discharge or discrimination for exercising their rights under the State's program including provision for employer sanctions and employee confidentiality (29 CFR 1902.4(c)(2)(v)). As discussed earlier in this notice, the Utah State plan provides authority to protect employees from being discriminated against for exercising their rights thereunder in terms similar to section 11(c) of the Federal Act, except that the Utah Industrial Commission rather than the courts may initially restrain employee discrimination and afford the employee appropriate relief through the issuance of an order. Past monitoring of Utah's plan has disclosed effective application of the State's approved discrimination protection provisions (Evaluation Report, p. 24).

(d) *Restraint of Imminent Danger; Protection of Trade Secrets.* A State plan is required to provide for the prompt restraint of imminent danger situations (29 CFR 1902.4(c)(2)(vii)), and to provide adequate safeguards for the protection of trade secrets (29 CFR 1902.4(c)(2)(viii)). The State has provisions concerning imminent danger and protection of trade secrets in its law, regulations and field operations manual which are similar to the Federal. The 18(e) Evaluation Report indicates that there were no imminent danger situations identified nor any Complaints About State Program Administration (CASPA's) received concerning trade secrets during the reporting period.

(e) *Right of Entry; Advance Notice.* A State program is expected to have authority for right of entry to inspect and compulsory process to enforce such right equivalent to the Federal program (section 18(c)(3) of the Act and 29 CFR 1902.3(e)). Likewise, a State is expected to prohibit advance notice of inspection, allowing exception thereto no broader than in the Federal program (29 CFR 1902.3(f)). Under the Utah plan, the Industrial Commission is authorized to petition for a court order to permit entry into places of employment that have refused entry for the purpose of inspection or investigation. In order to be found qualified for final approval, a State is excepted to take action to enforce its right of entry when denied (29 CFR 1902.37(b)(9)) and to adhere to its advance notice procedures. During this evaluation period, Utah had 10 denials of entry and obtained warrants in all cases where warrants were necessary. Utah's average time from date of denial to date of warrant application is 7.1 days (Evaluation Report, p. 14).

The AFL–CIO asserts in its written comments that the average time allowed to elapse between denial of entry and application for warrant is significantly higher then the Federal average. However, in measuring State performance from date of denial to date of entry, Utah has an average of 11.7 days which is significantly shorter than the Federal average. This shows that the State does respond in a very prompt and effective manner when refused entry (Evaluation Report, p. 14).

Utah's procedures for advance notice generally parallel OSHA's during the evaluation period, Utah issued no advance notice of inspection (Evaluation Report, p. 15).

(f) *Citations, Penalties, and Abatement.* A State plan is expected to have authority and procedures for promptly notifying employers and employees of violations identified during inspection, for the proposal of effective first-instance sanctions against employers found in violation of standards and for prompt employer notification of such penalties (29 CFR 1902.4(c)(2) (x) and (xi)). The Utah plan through its law, regulations and field operations manual, which have all been previously approved by OSHA, has established a system similar to the Federal for promptly issuing citations to employers delineating violations and establishing reasonable abatement periods, requiring posting of such citations for employee information and proposing penalties.

In order to be qualified for final approval, the State, in actual operation, must be found to conduct competent inspections in accordance with approved procedures and to obtain adequate information to support resulting citations (29 CFR 1902.37(b)(10)), to issue citations, proposed penalties and failure-to-abate notifications in a timely manner (29 CFR 1902.37(b)(11)), to propose penalties for first instance violations that are at least as effective as those under the Federal program (29 CFR 1902.37(b)(12)), and to ensure abatement of hazards including issuance of failure to abate notices and appropriate penalties (29 CFR 1902.37(b)(13)).

Utah has adopted a Compliance Operation Manual and also follows established inspection procedures, including documentation procedures, which are generally identical to Federal procedures. The 18(e) Evaluation Report indicates that the State adheres to these approved procedures. Utah's lapse time from inspection to issuance of citations has averaged 9 days for safety and 7 for health. The State percent of serious violations for safety and health is 5.1% and 12.7%, respectively (Evaluation Report, pp. 15 and 16). The AFL–CIO in its written comments expresses concern that Utah issues fewer citations for serious violations resulting from scheduled inspections in both safety and health than the federal average (Ex. 2–3). The 18(e) Report, however, indicates that Utah historically has had a serious citation rate below Federal levels, primarily due to the lack of large, complex, and heavy industry in the State. In addition, although there was a smaller percentage of violations classified as serious, Utah cites a higher number of total violations per initial inspection (2.2) than does OSHA. Past monitoring efforts have always shown that few violations were found to be improperly classified (Evaluation Report: p. 17; Appendix A, p. 14). Neither the data nor comments demonstrate that the State has any problem in adequately identifying and citing violations or documenting inspections to support citations. Utah's procedures for penalty calculation and adjustment are generally identical to the Federal. The average proposed penalties for serious safety ($320.00) and serious health ($346.00) are somewhat higher than OSHA's (Evaluation Report, pp. 20–21).

Utah conducted more follow-up inspections to assure abatement of violations (15.6% safety and 10.8% health) than the Federal average, because the State has a policy which generally provides for reinspection on all citations for serious, willful or repeated violations. Utah's percent of open inspections (safety) 30 days after the last abatement is 22.5%. Since Utah has corrected a procedural error in coding case closing data, a later review indicates that virtually no safety cases are open 30 days after the last abatement date (Evaluation Report, p. 18).

(g) *Contested Cases.* In order to be considered for initial approval and certification, a State plan must have authority and procedures for employer contest of citations, penalties and abatement requirements at full administrative or judicial hearings. Employees must also have the right to contest abatement periods and the opportunity to participate as parties in all proceedings resulting from an employer's contest (29 CFR 1902.4(c)(2)(xii)). Utah's procedures for employer contest of citations, penalties and abatement requirements and for ensuring employee rights are contained in the law, regulations and field operations manual made a part of the record in this proceeding and are substantially identical to the Federal procedures. Appeals of citations, penalties and abatement periods are heard by the Occupational Safety and Health Review Commission and may be further appealed to the State District Court. Fifteen cases during October 1982 through March 1984 resulted in contests. OSHA evaluation of these cases supports the conclusion that the State's enforcement actions are adequately supported (Evaluation Report, p. 23). Local No. 2701, USWA, and the Utah Building and Construction Trades Council both commented that workers and unions have been kept informed of and participate in settlements of contested cases between employers and the State (Exs. 2–2a; 2–2b).

To qualify for final approval, the State must seek review of any adverse adjudications and take action to correct any enforcement program deficiencies resulting from adverse administrative or judicial determinations (29 CFR 1902.37(b)(14)). There were no such adverse adjudications in Utah during the evaluation period. However, past monitoring has shown that the Utah plan effectively reviews contested cases.

(h) *Enforcement Conclusion.* In summary, the Assistant Secretary finds that enforcement operations provided under the Utah plan are competently planned and conducted, and are overall at least as effective as Federal OSHA enforcement.

(4) *Public Employee Program.* Section 18(c)(6) of the Act requires that a State which has an approved plan must maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program must be as effective as the standards contained in an approved plan. 29 CFR 1902.3(j) requires that a State's program for public employees be as effective as the State's program for private employees covered by the plan.

The Utah plan provides a program for the public sector which is identical to its private sector program, except the State does not assess monetary penalties. The AFL–CIO in its written comments (Ex. 2–3) notes that there was an increase in lost work day case rates from 1981 to 1982 in the public sector. However, the 18(e) Evaluation Report (p. 8) indicates that the public sector rates in Utah are very low in absolute terms and still well below the private sector rates. Further, in his April 22, 1985 response (Ex. 2–5) to the AFL–CIO comments, Utah State Plan Administrator Douglas McVey indicates that there was no change in the public sector lost workday case rate from 1982 to 1983, and that the increase from 1981 to 1982 was likely due to reporting errors by a major public employer in 1981, as postulated in the 18(e) Evaluation Report. Utah conducted 5.5% of its total inspections in the public sector during the evaluation period (104 inspections) and cited 286 violations. The proportion of inspections dedicated to the public sector was considered appropriate to the needs of public employees (Evaluation Report, p. 8).

Because the State treats the public sector in the same manner as the private sector, with the exception of assessing monetary penalties, as evidenced by its written procedures, which are applicable to all covered employees, public or private, and since monitoring indicates similar performance in the public and private sectors, OSHA concludes that the Utah program meets the criterion in 29 CFR 1902.3(j).

(5) *Staffing and Resources.* Section 18(c)(4) of the Act requires State plans to provide the qualified personnel necessary for the enforcement of standards. In accordance with 29 CFR 1902.37(b)(1), one factor which OSHA must consider in evaluating a plan for final approval is whether the State has a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan.

Utah has committed itself to funding the State share of salaries for 10 safety inspectors and 9 health enforcement officers as evidenced by the amended FY 1984 Application for Federal Assistance (Ex. 3–6) as well as its subsequent FY 1985 application. These compliance staffing levels meet the revised benchmarks proposed for Utah.

As noted in the **Federal Register** notice announcing certification of the completion of developmental steps for Utah (39 FR 28154), all personnel under the plan meet civil service requirements under the State merit system, which was found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission.

The 18(e) Evaluation Report indicates that Utah recognizes the importance of training its staff and sets up sessions when a need surfaces for training in a particular area. Federal OSHA personnel have taught several of the training courses given to all Utah compliance personnel. Utah also makes good use of the OSHA Training Institute and EPA courses (Evaluation Report, p. 7). The United Steelworkers of America, in its written comments (Ex. 2–4), expressed concern that "approximately 4 of the Utah health inspectors are cross-trained safety inspectors." This

assertion is misleading, however, because while these health inspectors have a background in safety inspection, they are not assigned safety inspections. Rather, they are assigned health inspections and are trained to recognize safety hazards while conducting health inspections. Utah has committed itself to providing reports on its activities to OSHA.

Comparison of Utah's occupational injury and illness data with Federal data indicates that the Utah program is at least as effective as the Federal program. The Utah lost workday injury and illness rate (8.9) was slightly higher than in Federal States and the all industry lost workday

the Federal program and meets the statutory criteria for State plans in

propose civil penalties or initiate criminal proceedings for violations of

Section 18(f) and regulations at 29 CFR

VOL 50 ISS 136 JL 16 1985 UMI

assertion is misleading, however, because while these health inspectors have a background in safety inspection, all have received the same basic training at the OSHA Training Institute as OSHA industrial hygienists and also have received extensive on-the-job training and follow-up courses. Utah State Plan Administrator Douglas McVey, in responding to the public comments (Ex. 2–5), points out that the selection of these former safety inspectors was based on the quality of their education and experience. Furthermore, the Utah Building and Construction Trades Council and Local 2701, USWA, point out that all of the State compliance personnel have been properly trained and are competent in their field of assignment (Exs. 2–2a; 2–2b).

Because Utah has allocated sufficient enforcement staff to meet the revised benchmarks for that State, and personnel are trained and competent, the requirements for final approval set forth in 29 CFR 1902.37(b)(1), and in the 1978 Court Order and in *AFL–CIO* v. *Marshall, supra*, are being met by the Utah plan.

Section 18(c)(5) of the Act requires that the State devote adequate funds to administration and enforcement of its standards. The Utah plan was funded at $1,588,488 in FY 1984. (50% of the funds were provided by Federal OSHA and 50% were provided by the State.)

As noted in the Evaluation Report, Utah's funding appears sufficient. Moreover, the State compares favorably to Federal OSHA with respect to expenditures per covered employee (Evaluation Report, p. 26). On this basis, OSHA finds that Utah has provided sufficient funding for the various activities carried out under the plan.

(6) *Records and Reports.* State plans must assure that employers in the State submit reports to the Secretary in the same manner as if the plan were not in effect (section 18(c)(7) of the Act and 29 CFR 1902.3(k)). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require (section 18(c)(8) of the Act and 29 CFR 1902.3(1)).

Utah's employer recordkeeping requirements are substantially identical to those of Federal OSHA, and the State participates in the BLS Annual Survey of Occupational Illnesses and Injuries. As noted in the January 16 proposal, the State participates and has assured its continuing participation with OSHA in the Federal-State Unified Management Information System as a means of providing reports on its activities to OSHA.

For the foregoing reasons, OSHA finds that Utah has met the requirements of sections 18(c) (7) and (8) of the Act on employer and State reports to the Secretary.

(7) *Voluntary Compliance Program.* A State play is required to undertake programs to encourage voluntary compliance by employers by such means as conducting training and consultation with employers and employees (29 CFR 1902.4(c)(2)(xiii)).

During the 18(e) evaluation period, Utah provided training to 2,824 employers and supervisors and 18,156 employees. Of the employees trained, 25.5% were in high hazard industries (Evaluation Report, p. 6). Written comments from Local 2701, USWA, and the Utah Building and Construction Trades Council indicate that full and appropriate health and safety training and education for covered workers has been accomplished, although the Building and Construction Trades Council believes that more should be done for construction. Utah State plan Administrator McVey's April 22, 1985 response to the public comments indicates that the State annually trains about 2,000 workers within construction or about 10% of the total trained, and about 10% of the total construction workforce, despite seldom receiving requests for assistance from the Utah Building and Construction Trades Council, which conducts training under its own grant from OSHA. Utah's Job Safety and Health Consultation Service (JSHCS) operates a private-sector consultation program in the State under a 7(c)(1) contract with OSHA. While the JSHCS is a part of the Utah Industrial Commission, it is entirely separate from the Division of Occupational Safety and Health although the working relationship and interaction between them complements both of these programs. Utah's State plan does not include an onsite consultation program in the public sector because this type of activity is not authorized by the Utah enabling legislation (Evaluation Report, p. 5).

OSHA finds that Utah has established and is administering an effective voluntary compliance program.

(8) *Injury and Illness Statistics.* As a factor in its 18(e) determination, OSHA must consider the Bureau of Labor Statistics Annual Occupational Safety and Health Survey and other available Federal and State measurements of program impact on worker safety and health (29 CFR 1902.37(b)(15)). As noted in the 18(e) Evaluation Report, in 1982 the all industry all case rate for Utah (8.9) was slightly higher than in Federal States and the all industry lost workday case rate for the year was the same (3.4). However, from 1981 to 1982, the percent of reduction in the all industry lost workday case rate in Utah (–10.5%) was greater than the reduction for that rate in Federal States.

The National and State AFL–CIO's comments, as well as comments from the Utah Building and Construction Trades Council, expressed concern that the rates in construction are particularly high in Utah. Specifically, the Trades Council stated that the injury and illness rate for Utah in heavy construction has remained at a high level, above the national average, from 1975 through 1983.

As noted in Utah State plan Administrator McVey's April 22, 1985 response to the public comments, the rates the union presents appear to apply only to heavy construction or SIC Code 1600; and, in this category, Utah improved from 28.5 in 1982 to 17.0 in 1983, a 17.1% reduction. Further, the overall incidence rate in Utah for construction in 1983 was 16.7, down 10% from 18.4 in 1982. Moreover, Utah's rate for construction lost work days of 6.4 in 1983 is only slightly higher than the Federal average; and, the overall construction rate in Utah dropped by 4.6% during this period. Thus while the Utah rate is slightly above the Federal rate, Utah is showing greater improvement.

Considering the overall decline in Utah's injury and illness rates since initiation of the State plan, OSHA finds a favorable comparison between Utah's trends in injury and illness statistics and those in States with Federal enforcement.

Decision

OSHA has carefuly reviewed the record developed during the above described proceedings, including all comments received thereon. The present **Federal Register** document sets forth the findings and conclusions resulting from this review.

In light of all the facts presented on the record, the Assistant Secretary has determined that (1) the revised compliance staffing levels proposed for Utah meet the requirements of the 1978 Court Order in *AFL–CIO* v. *Marshall* in providing the number of safety and health compliance officers necessary for a "fully effective" enforcement program, and (2) the Utah State plan for occupational safety and health in actual operation, which has been monitored for at least one year subsequent to certification, is at least as effective as the Federal program and meets the statutory criteria for State plans in section 18(e) of the Act and implementing regulations at 29 CFR 1902. Therefore, the revised compliance staffing benchmarks of 10 safety and 9 health are approved and the Utah State plan is hereby granted final approval under section 18(e) of the Act and implementing regulations at 29 CFR Part 1902, effective July 16, 1985.

Under this 18(e) determination, Utah will be expected to maintain a State program which will continue to be at least as effective as operations under the Federal program in protecting employee safety and health at covered workplaces. This requirement includes submitting all required reports to the Assistant Secretary as well as submitting plan supplements documenting State initiated program changes, changes required in response to adverse evaluation findings, and responses to mandatory Federal program changes. In addition, Utah must continue to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the Department of Labor, or any revision to those benchmarks.

Effect of Decision

The determination that the criteria set forth in section 18(c) of the Act and 29 CFR Part 1902 are being applied in actual operations under the Utah plan terminates OSHA authority for Federal enforcement of its standards in Utah, in accordance with section 18(e) of the Act, in those issues covered under the State plan. Section 18(e) provides that upon making this determination "the provisions of sections 5(a)(2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination."

Accordingly, Federal authority to issue citations for violation of OSHA standards (sections 5(a) (2) and (9)); to conduct inspections (except those necessary to conduct evaluations of the plan under section 18(f), and other inspections, investigations or proceedings necessary to carry out Federal responsibilities which are not specifically preempted by section 18(e)) (section 8); to conduct enforcement proceedings in contested cases (section 10); to institute proceedings to correct imminent dangers (section 13); and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act (section 17) is relinquished as of the effective date of this determination. (Because of the effectiveness of the Utah plan, there has been no exercise of concurrent Federal enforcement authority in issues covered by the plan since the signing of the Operational Status Agreement in November 1974.)

Federal authority under provisions of the Act not listed in section 18(e) are unaffected by this determination. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act although such complaints may be initially referred to the State for investigation. Jurisdiction over any proceeding initiated by OSHA under sections 9 and 10 of the Act prior to the date of this final determination remains a Federal responsibility. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination. In the event that a State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in the State.

In accordance with section 18(e), this determination relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Utah plan, and OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, for example, Federal OSHA retains its authority to enforce all provisions of the Act, and all Federal standards, rules or orders which relate to safety or health in private-sector maritime employment and on Hill Air Force Base, since these issues are excluded from coverage under the Utah plan. In addition, Federal OSHA may subsequently initiate the exercise of jurisdiction over any issue (hazard, industry, geographical area, operation or facility) for which the State is unable to provide effective coverage for reasons not related to the required performance or structure of the State plan.

As provided by section 18(f) of the Act, the Assistant Secretary will continue to evaluate the manner in which the State is carrying out its plan. Section 18(f) and regulations at 29 CFR Part 1955 provide procedures for the withdrawal of Federal approval should the Assistant Secretary find that the State has substantially failed to comply with any provision or assurance contained in the plan. Additionally, the Assistant Secretary is required to initiate proceedings to revoke an 18(e) determination and reinstate concurrent Federal authority under procedures set forth in 29 CFR 1902.47. *et seq.*, if his evaluations show that the State has substantially failed to maintain a program which is at least as effective as operations under the Federal program, or if the State does not submit program change supplements to the Assistant Secretary as required by 29 CFR Part 1953.

Explanation of Changes to 29 CFR Part 1952

29 CFR Part 1952 contains, for each State having an approved plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. 29 CFR 1902.43(a)(3) requires that notices of affirmative 18(e) determination be accompanied by changes to Part 1952 reflecting the final approval decision. This notice makes several changes to Subpart E of Part 1952 to reflect the final approval of the Utah plan.

A new paragraph § 1952.113, Compliance staffing benchmarks, has been added to reflect the approval of the 1984 revised benchmarks for Utah.

A new paragraph § 1952.114, Final approval determination, has been added to reflect the determination granting final approval of the plan. The new paragraph contains a more accurate description of the scope of the plan than the one contained in the initial approval decision.

A newly redesignated paragraph § 1952.115, Level of Federal enforcement, has been revised to reflect the State's 18(e) status. The new paragraph replaces former § 1952.112, which described the relationship of State and Federal enforcement under an Operational Status Agreement which was entered into on October 4, 1974. Federal concurrent enforcement authority has been relinquished as part of the present 18(e) determination for Utah, and the Operational Status Agreement is no longer in effect. § 1952.115 describes the issues where Federal authority has been terminated and the issues where it has been retained in accordance with the discussion of the effects of the 18(e) determination set forth earlier in the present **Federal Register** notice.

While most of the existing Subpart E has been retained, paragraphs within §§ 1952.111, 1952.112, 1952.113, and 1952.114 [Redesignated as 1952.116, certification of completion of

criminal proceedings for violations of the Federal Act under section 17. The covered by the finally approved plan, and shall be subject to Federal promulgated or modified during the 18(e) period, would be Federally enforceable

VOL
50
ISS
136
JL
16
1985
UMI

While most of the existing Subpart E has been retained, paragraphs within the subpart have been rearranged and renumbered so that the major steps in the development of the plan (initial approval, developmental steps, certification of completion of developmental steps and final plan approval) are set forth in chronological order. Related editorial changes to the subpart include modification of the heading of § 1952.110, to clearly identify the 1973 initial plan approval decision to which it relates, and deletion of former § 1952.115, which pertains to approval of miscellaneous, unrelated plan changes. The addresses of locations where State plan documents may be inspected have been updated and are found in § 1952.116.

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, *et seq.*) that this rulemaking will not have a significant economic impact on a substantial number of small entities. Final approval will not place small employers in Utah under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan. A certification to this effect previously was forwarded to the Chief Counsel for Advocacy, Small Business Administration.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Signed at Washington, D.C. this 16th day of July 1985.

Patrick R. Tyson,

Acting Assistant Secretary.

PART 1952—[AMENDED]

Accordingly, Subpart E of 29 CFR Part 1952 is hereby amended as follows:

1. The authority citation for Part 1952 continues to read:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736).

§ 1952.115 [Removed]

2. Section 1952.115, Changes to approved plans, is removed.

3. Section 1952.110 is amended by revising the heading to read:

§ 1952.110 Description of the plan as initially approved.

* * * * *

§§ 1952.111, 1952.112, 1952.113, and 1952.114 [Redesignated as 1952.116, 1952.115, 1952.111, and 1952.112, respectively]

4. Section 1952.111 redesignated as § 1952.116.

5. Section 1952.112 redesignated as § 1952.115.

6. Section 1952.113 redesignated as § 1952.111.

7. Section 1952.114 redesignated as § 1952.112 and amended by revising the heading to read:

§ 1952.112 Completion of developmental steps and certification.

* * * * *

8. The Table of contents for Part 1952, Subpart E, is revised to read as follows:

Subpart E—Utah

Sec.

1952.110 Description of the plan as initially approved.
1952.111 Developmental schedule.
1952.112 Completion of developmental steps and certification.
1952.113 Compliance staffing benchmarks.
1952.114 Final approval determination.
1952.115 Level of Federal enforcement.
1952.116 Where the plan may be inspected.

9. New §§ 1952.113 and 1952.114 are added to read as follows:

§ 1952.113 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall*, compliance staffing levels (benchmarks) necessary for a "fully effective" enforcement program were required to be established for each State operating an approved State plan. In September 1984, Utah, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 10 safety and 9 health compliance officers. After opportunity for public comments and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements effective July 16, 1985.

§ 1952.114 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR Part 1902, and after determination that the State met the "fully effective" compliance staffing benchmarks as revised in 1984 in response to a Court Order in *AFL–CIO* v. *Marshall* (CA 74–406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Utah State plan for a period of at least one year following certification of completion of developmental steps (41 FR 51014). Based on the 18(e) Evaluation Report for the period of October 1, 1982 through March 31, 1984, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Utah's occupational safety health program is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final State plan approval in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. Accordingly, the Utah plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective July 16, 1985.

(b) The plan which has received final approval covers all activities of employers and all places of employment in Utah except safety and health coverage in private-sector maritime employment and on Hill Air Force Base.

(c) Utah is required to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR Part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

10. Newly designated §§ 1952.115 and 1952.116 are revised to read as follows:

§ 1952.115 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval of the Utah plan under section 18(e) of the Act, effective July 16, 1985, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Utah plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violations of such standards under sections 5(a) (2) and (9) of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(f) and other inspections, investigations, or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or initiate

criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary retains jurisdiction under the above provisions in any proceeding commenced under sections 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Utah plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to private-sector maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification; as well as provisions of general industry standards (29 CFR Part 1910) appropriate to hazards found in these employments). Federal jurisdiction is also retained on the Hill Air Force Base, and with respect to all Federal government employers and employees. In addition, any hazard, industry, geographical area, operation or facility over which the State is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the finally approved plan, and shall be subject to Federal enforcement. Where enforcement jurisdiction is shared between Federal and State authorities for a particular area, project, or facility, in the interest of administrative practicability, Federal jurisdiction may be assumed over the entire project or facility. In either of the two aforementioned circumstances, Federal enforcement may be exercised immediately upon agreement between Federal and State OSHA.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Utah State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under section 18(e), resumption of Federal enforcement and/or proceedings for withdrawal of plan approval.

§ 1952.116 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3476, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 1961 Stout Street, Room 1554, Denver, Colorado 80294; and, the Office of the Utah Industrial Commission, Utah Occupational Safety and Health, 160 East Third South, Salt Lake City, Utah 84110–5800.

[FR Doc. 85–16791 Filed 7–15–85; 8:45 am]
BILLING CODE 4510–26–M

Proposed Rules

Federal Register
Vol. 50, No. 136

HUD Related Changes

Definitions

Assistance and Bill of Rights Act"; Pub. L. 95–602. Thus, the term elderly

HH of Exhibit B is described as the basic and/or market rent plus any utility

Proposed Rules

Federal Register
Vol. 50, No. 136
Tuesday, July 16, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1930, 1944 and 1965

Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations governing the management and supervision of FmHA Multiple Family Housing loan and grant recipients. This action is taken to incorporate changes required by the Housing and Urban Rural Recovery Act of 1983 (83–Act). The changes closely align FmHA's methodology governing tenant income calculation and tenant contribution with the Department of Housing and Urban Development's (HUD) methodology and make administrative revisions and clarifications.

The intended effect of this action is to establish: new priority rules for rental assistance; rules requiring management policy that permit persons in housing for the elderly to keep a pet; rules that establish priority levels for very low-income tenants; and rules affecting rent increases, management fees, and rental assistance for manufactured housing.

DATE: Comments must be received by September 16, 1985.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th and Independence Avenue SW, Washington, DC 20250

All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James D. Tucker, Branch Chief, Multiple Family Housing Servicing and Property Management Division, FmHA, USDA, Room 5321, South Agriculture Building, 14th Street and Independence Avenue SW, Washington, DC 20250, telephone (202) 382–1618.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined "nonmajor." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed according to 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and according to the National Environmental Policy Act of 1969, Pub. L. 91–190, and Environmental Impact Statement is not required.

Intergovernmental Review

This instruction does not directly affect any FmHA programs or projects which are subject to intergovernmental consultation.

The Administrator, Farmers Home Administration, USDA, has determined that this action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements.

The following Catalog of Federal Domestic Assistance Programs are affected: 10.405, Farm Labor Housing Loans and Grants; 10.411, Rural Housing Site Loans; 10.415, Rural Rental Housing Loans; and 10.427, Rural Assistance Payments.

General Information

Background and Statutory Authority

On November 18, 1983, the Ninety-Eighth Congress passed legislation known as the Housing and Urban-Rural Recovery Act of 1983, hereinafter referred to as the "83–Act." The legislation was enacted November 30, 1983, upon signature by the President. Only the language of the 83–Act is available; there are no known congressional committee minutes available to provide a background discussion to the provisions of the 83–Act. Due to the imminent need to promulgate regulations to implement the 83–Act, FmHA has developed these proposed regulations internally except for occasional contracts, primarily with the Department of Housing and Urban Development (HUD) concerning HUD's regulations. A major thrust of the 83–Act is to require alignment of the FmHA definitions of low-income families or persons and very low-income families or persons with those established by HUD in implementing the provisions of the United States Housing Act of 1937. Closely related is the requirement that FmHA's definitions of income and adjusted income be consistent with those established by Congress under sections 3(b)(4) and 3(b)(5) respectively of the United States Housing Act of 1937, which are described in this rulemaking. Another requirement of the 83–Act is the establishment of rules prohibiting denial of common household pets in federally financed housing for the elderly.

Other proposed changes are corrective and clarifying in nature in response to questions raised by the public and FmHA staff after the December 19, 1983, issuance of 7 CFR Part 1930–C.

HUD Related Changes

Definitions

The proposed definition changes are discussed hereafter in generally alphabetical order as found in Exhibit B to Subpart C of Part 1930.

Adjustments to annual income are changed in paragraph II A of Exhibit B. Previously, they were 5 percent of annual income and $300 for each minor person. The deduction will become $480 for each person under 18 years of age or who is 18 years of age or older and is disabled, handicapped, or a full-time student. This deduction will not be available for foster children or unborn children. Other permissible deductions to annual income will be $400 for any elderly family plus medical expenses in excess of 3 percent of annual household income for any elderly family, and the amount paid by a family for the care of minors under 13 years of age, or for the care of disabled or handicapped persons when such care enables a household member to be gainfully employed or to further their education.

The definition of annual income in paragraph II C of Exhibit B, previously included the planned income of all residing household members for an ensuing 12 month period. The proposed definition includes anticipated income for all adult members who will reside during the 12 months following the effective date of proposed Form FmHA 1944–8, "Tenant Certification." The discussions about exempted income and income deductions to determine annual income are restated and include substantially the same provisions as the previous regulations. The major changes are removing the $400 per month limits on child and nursing type care deductions and permitting total medical expense deductions in excess of 3 percent of annual elderly family income and the total cost of care of minors to permit a family member to be gainfully employed or to facilitate further education.

By adopting the same definition as HUD of annual income and adjusted annual income, several other definitions or factors affecting the calculation of eligibility determination and subsidy qualification need to be adopted by FmHA. The proposed definition of elderly in paragraph II I of Exhibit B replaces the previous definition of senior citizen. Wherever the term senior citizen appears in FmHA regulations, it shall mean elderly. The proposed definition restates the definition for senior citizen and now includes a definition for handicap and also adds inclusively a definition of disability as defined in the "Development Disabilities Assistance and Bill of Rights Act"; Pub. L. 95–602. Thus, the term elderly includes persons 62 years of age and older, handicapped and disabled persons.

The term elderly family in paragraph II J of Exhibit B, is found in HUD regulations and is proposed in FmHA regulations for the first time. An elderly family may include a tenant household where the tenant or co-tenant is 62 years of age or older, or handicapped or disabled. It may also include a tenant household where a person(s) younger than 62 is a member who is essential to the elderly, handicapped, or disabled person's care and well-being.

Eligibility income in paragraph II K of Exhibit B, is another proposed term in FmHA regulations for multiple family housing (MFH). This is the calculated adjusted gross income that is compared to an established income limit to determine if a tenant applicant is eligible for occupancy or continued occupancy.

The definition of minor in paragraph II U of Exhibit B, is proposed to make FmHA and HUD regulations compatible. The term minor includes persons under 18 years of age who are not the tenant or co-tenant. The term minor does, however, include persons aged 18 or older who are full-time students.

The term net family assets in paragraph II W of Exhibit B, is a proposed addition to the list of definitions. New family assets include household savings and checking accounts market value of stocks and bonds, equity in real property, and other capital investments. Explanation that any income derived from such assets is treated as annual income is included in the definition. Further explanation describes that when such assets exceed $5,000, the value of the net family assets will be used in determining the eligibility income described above. The calculation takes an applicant's net family assets into consideration, commonly known as an "assets test." If net family assets are less than or equal to $5,000, eligibility income is the equivalent of annual income. If net family assets are greater than $5,000, eligibility income will be the greater of: (1) Annual income or (2) annual income less income from assets plus an amount equal to bank passbook savings rates on net family assets.

In the discussion of rent that a tenant pays, especially when rents are subsidized, HUD distinguishes between project rent and the portion of project rent paid by a tenant as shelter cost and tenant contribution respectively. Definitions are proposed for each of these terms. Shelter cost in paragraph II HH of Exhibit B is described as the basic and/or market rent plus any utility allowances, when required. Tenant contribution in paragraph II KK of Exhibit B, is described as the portion of approved shelter cost paid by the tenant. To complete this discussion, a definition for rental assistance (RA) in paragraph II CC of Exhibit B is added. Rental assistance is the portion paid by FmHA to compensate for the difference between the approved shelter cost and tenant contribution.

Increase in Tenant Contribution

Section 517 of the Act stipulates that when RA is provided, the rent contibution for tenants receiving RA shall not exceed the highest of (1) 30 percent of monthly *adjusted*, (2) 10 percent of gross monthly income, or (3) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designed by such agency to meet the person's or family's housing costs. Section 517 of the 83–Act further stiplulates that when interest credits are provided, a tenant's rent contribution shall not exceed the highest of (1) 30 percent of monthly *adjusted* income, (2) 10 percent of gross monthly income, or (3) if the person or family is receiving payments for welfare assistance from a public agency, the portion of such payments which is specifically designated by such agency to meet the person's or family's housing costs, or, where no RA authority is available, the rent level established on a basis of a 1 percent interest rate on debt service. (FmHA interprets this requirement to also apply to Plan I projects with a 3 percent interest rate when RA is not available.) These stipulations replace the previous requirements that tenants pay no more than 25 percent of monthly adjusted income as rent contribution including utilities when RA is available. FmHA proposes to implement the change of tenant contribution in paragraph IV A 2 c of Exhibit B to Subpart C to Part 1930 from 25 percent to 30 percent with this rulemaking subject to a provision of the 83–Act which limits the increase of tenant contribution as a result of this 83–Act or by other revision of Federal law or Federal regulation to no more than 10 percent during any twelve-month period unless the income above 10 percent is attributable to an increase in income. The details of tenant contribution calculation are contained in the revised Form FmHA 1944–8, "Tenant Certification" and the associated Forms Manual Insert.

Section 530 of Title V of the Housing Act of 1949 is amended by the 83–Act to replace 25 percent with 30 percent of

by reason of ownership of such pets by, or the presence of such pets in the

highest percentage of adjusted annual income for approved shelter cost and

amendments are described in paragraph VI C of Exhibit C to Subpart C to Part

District Offices while still meeting regulatory requirements.

This Administrative Notice provided clarification of Agency policy of when

VOL
50
ISS
136
JL
16
1985
UMI

Section 530 of Title V of the Housing Act of 1949 is amended by the 83–Act to replace 25 percent with 30 percent of monthly adjusted income for the purpose of requiring application for RA as a result of a rent increase. Accordingly, FmHA proposes this change in paragraph III C of Exhibit C to Subpart C to Part 1930.

By electing to adopt HUD's income and eligibility determination criteria, there is some impact on FmHA's occupancy standard. The HUD criteria refer to unborn children and foster children, where FmHA regulations have not. FmHA is also cognizant that HUD has eliminated its numerical occupancy standard and has adopted a narrative type of occupancy policy. With this rulemaking, in paragraph VI B 2 of Exhibit B to Subpart C to Part 1930, FmHA is proposing to adopt much of HUD's occupancy policy. Borrowers will be required to establish their own occupancy policies following the FmHA occupancy policy guideline and with FmHA approval. FmHA is retaining the numerical occupancy standard as a desired goal and guideline rather than as a mandatory standard. The numerical occupancy standard will remain, however, until borrowers have adopted their own occupancy policy.

Other Related Changes

Other changes in 7 CFR Parts 1930 and 1944 are proposed to correlate with the changes proposed to definitions, tenant contribution, and occupancy policy. These changes are generally confined to changed reference and a change or addition of termonology. For example, the term "very low-income" is proposed in numerous places where income levels are discussed. This change is found in 7 CFR Part 1930 topic areas of tenant eligibility, maintenance of waiting list, notification of eligibility or rejection, tenant selection, form of lease, required lease clauses, other lease provisions, occupancy rules, security deposits, and in Exhibits B–1, B–3, C, C–2, and E; and in 7 CFR Part 1944, Subpart D and E.

Pet Policy

Section 227 of the 83–Act stipulates that no owner or manager of any federally assisted rental housing for the elderly or handicapped may: (1) As a condition of tenancy or otherwise prohibit or prevent any tenant in such housing from owning common household pets or keeping common household pets in the dwelling accommodations of such tenants or (2) restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of ownership of such pets by, or the presence of such pets in the dwelling accommodation of such person. This rulemaking contains proposed regulations in paragraph VIII F 6 establishing guidelines under which an owner or manager of FmHA financed rental housing for the elderly or handicapped may prescribe reasonable rules for the keeping of pets by tenants in such housing. The regulations require borrowers (owners) to establish project rules pertaining to the keeping of commonly accepted pets by tenants in projects designed for the elderly, handicapped or disabled within 12 months of the effective date of this rulemaking. Borrowers with operational projects must consult with the tenants of each project when establishing the pet rules and document for FmHA how the consultation process was conducted. Borrowers with new projects must establish pet rules prior to occupancy, but may revise those rules based on tenant comments and suggestions after occupancy occurs. The definition of Pet is proposed in paragraph II Z of Exhibit B to Subpart C to Part 1930 to mean a commonly accepted domesticated animal such as a dog, cat, bird, etc. Security deposits for animal maintenance are allowed in paragraph VIII G 1 of Subpart C to Part 1930 for all pets except seeing eye and hearing ear animals. These animals are not considered pets. The Pet Food Institute in Washington, D.C., the National Center for Law and the Deaf, and FmHA National Office staff were consulted in developing the proposed definition.

Rental Assistance (RA)

Priorities

Sections 512, 516 and 517 of the 83-Act include changes or additions that affect the administration of RA by FmHA. Only those RA provisions involving actual allocation of RA are addressed in this proposed rulemaking.

In Section 512, Congress mandated that when RA is available as described in paragraph XI C of Exhibit E to Subpart C to Part 1930, at least 75 percent of RA vacancy shall be filled by very low-income tenants in projects made operational before November 30, 1983. For projects made operational on or after November 30, 1983, Congress mandated that when RA is available, at least 95 percent of the RA will be assigned to very low-income tenants. To achieve this mandate, FmHA is proposing rules in paragraph XI B of Exhibit E to Subpart C to Part 1930, governing priority in assigning RA to tenants. First, RA will be assigned to very low-income tenants paying the highest percentage of adjusted annual income for approved shelter cost and then to very low-income applicants on the waiting list selected on a first come, first served basis. Second priority will go to eligible low-income tenants in residence paying the highest percentage of adjusted annual income for approved shelter cost and then to low-income applicants on the waiting list selected on a first come, first served basis.

Section 517 of the 83-Act establishes a new priority system for allocating RA to projects. Under the previous regulations, RA priority was extended to projects which limited RA usage to no more than 40 percent of the units contained in the project, although RA could be used in up to 70 percent of the project units, except for rental housing financed for the elderly or handicapped where 100 percent of the units could benefit from RA.

FmHA received in FY 1984 a split RA appropriation; part for servicing and another for new construction. The new priority system stipulates that projects with expiring RA contracts shall receive first priority. Regulations addressing the first priority were in effect when the 83-Act was enacted. The second priority is to serve new construction with RA funded through the new construction RA appropriation. The third priority of the Act is for servicing operations projects to the extent any RA funds remain after meeting the first priority. Proposed revisions are made to paragraph IV A 2 and 3 of Exhibit E to Subpart C of Part 1930 to identify the priorities.

RA for Manufactured Housing

Section 517 of the 83-Act added a provision where RA may be used where manufactured housing has been purchased. Paragraph II B 4 of Exhibit E to Subpart C to Part 1930 is proposed to clarify when borrowers may provide RA under this provision.

Other Provisions

Rent Increases

Section 512 of the 83-Act amended section 515 of the Housing Act of 1949 to limit rent increases in certain situations. Rent changes to cover project operating and maintenance costs occurring in newly constructed or substantially rehabilitated rental housing projects approved on or after November 30, 1983, may be approved provided, (1) the cost changes are actual costs, and (2) the amount of cost change incurred is comparable to costs incurred in comparable projects in the project's maket area or to the best available cost information. These proposed

amendments are described in paragraph VI C of Exhibit C to Subpart C to Part 1930. The Agency is particularly interested in the public's comment concerning the impact of this proposed change in rent increase requirements.

Management Fees

Section 512 of the Act amended section 515 of the Housing Act of 1949 by adding (j) forbidding excessive management fees in rental housing projects managed by a developer or an affiliate of the developer. Regulations published on December 19, 1983, in the **Federal Register** address this concern.

Administrative Changes

Annual Reports

Annual reports, including audit reports, are presently due from borrowers within 45 days following close of the borrower's project fiscal year. In response to comment from the public, since issuance of this regulation on December 19, 1983, especially from project accountants and FmHA staff, the Agency proposes changing the requirement to 60 days. The Agency considered a longer submission period. The Agency believes, however, that project annual reports and audits are vital sources of compliance and performance information that warrant review as early in the following operational year as possible to make any needed changes effective without delay. These proposed changes are found as follows:

1. Section 1930.124 (b).
2. Exhibit A–1, IV B 1 c; Evaluation Checklist for Audit Reports, item no. 5; Example Audit Review Letter, item no. 3.
3. Exhibit b. XIII C 2.
4. Exhibit B–7, "Due Date" column 6 of the 7 listed report items.

Changing Project Designation

A new § 1930.125 is proposed to describe conditions and requirements that will permit the redesignation of use of a multiple family housing project. This will permit administrative flexibility for FmHA and borrowers to respond to changing rental market conditions.

Delegation of Authority

FmHA proposes to expand its administrative delegation authority in § 1930.143 by permitting the Administrator to authorize State Directors on an individual State basis to contract out selected multiple family housing loan servicing actions. The Agency is investigating the possibility of contracting selected loan servicing actions to reduce the workload on District Offices while still meeting regulatory requirements.

Site Manager's Compensation

FmHA proposes clarification of paragraph V E 1 of Exhibit B to Subpart C of Part 1930. Correct calculation of the site manager's compensation where the site manager's apartment unit is provided at no cost or at a reduced cost has been confusing to FmHA staff and borrowers. The discussion has been expanded to describe calculation scenarios of no rent or reduced rent. The discussion emphasizes that costs associated with providing a rent-free or reduced rent apartment are reflected in the expenses of the project budget while income from the same unit is either reduced or is zero.

Tenant Eligibility

FmHA proposes clarification of paragraph VI B 1 by stating that tenant households are eligible for occupancy when a household member is disabled if adequate care and assistance is provided by the tenant household for the safety and well-being of the disabled household member.

Tenant Recertification

FmHA proposes paragraph VII F 4 to Exhibit B to Subpart C of Part 1930 to clarify that "mid-year" recertification of tenant income and/or household size is permitted.

Tenant Income Verification

FmHA proposes paragraph VII F 5 to Exhibit B to Subpart C of Part 1930 to permit the borrower to provide a tenant's social security number to the District Director to verify the tenant's incomes on record with the appropriate state employment agency. This proposed change is included in response to recommendations to the Agency by the USDA Office of Inspector General based on their findings of incorrect reporting and verification of tenant income.

Tenant Guest Policy

FmHA proposes paragraph VIII F 9 to Exhibit B to Subpart C of Part 1930 to establish a policy for tenant guests. This policy is entered in response to recurring questions raised by FmHA field staff. The specific number of 14 days and nights in a 45-day period are taken from a 1983 consent decree in the State of Texas.

Advance of Funds to Cover Project Operating Shortfalls

On March 24, 1983, FmHA issued FmHA Administrative Notice No. 824 (1930) to its State Directors, Rural Housing Chiefs and District Directors. This Administrative Notice provided clarification of Agency policy of when payback of funds provided from outside a MFH project could or could not be permitted to cover shortfalls in project operations. This policy statement is now proposed in paragraph XII C of Exhibit B to Subpart C of Part 1930. Advances for operational shortfalls are discouraged but may be permitted conditionally with prior written approval by an FmHA District Director.

Separate Maintenance of Project Funds

FmHA currently requires borrowers to maintain separation of a project's funds from funds of another project owned by the borrower or managed by the borrower's management agent. This requirement is cited in paragraph XIII B 1 d of Exhibit B to Subpart C of Part 1930. The Agency adopted this policy for fiscal control of project funds. Some borrowers, management agents, and FmHA staff maintain that fiscal control can be maintained through proper bookkeeping and auditing procedures while permitting the commingling of different project funds. They further maintain that commingling of funds simplifies bookkeeping and permits better investment yield on deposits of reserve and surplus funds. The Agency invites the public to express its viewpoint and to provide reasons for and against maintaining the current policy.

Notice of Tenancy Termination

FmHA proposes revision of paragraph XIV B 3 of Exhibit B to Subpart C of Part 1930. The present regulation refer the District Director to Subpart L of Part 1944 of 7 CFR for guidance in reviewing a notice of tenancy termination. Reference to Subpart C of Part 1944 of 7 CFR is incorrect. The revised language directs the District Director to review paragraph XIV of Exhibit B to Subpart C of Part 1930 for guidance in reviewing a notice of tenancy termination.

Fidelity Bonds

Paragraph XV A of Exhibit B to Subpart C of Part 1930 contains a proposed revision to clarify borrower and management agent fidelity bond requirements. The present requirements result in duplicate coverage in situations where there is a management agent in addition to borrower officials. The proposed revision to the regulation will require fidelity bond coverage of the person, persons, or firm with exclusive access to project assets.

Paragraph XV A 12 of Exhibit B to Subpart C of Part 1930 contains a proposed revision to clarify fidelity bond deductible requirements. The

phrase "initial to clarify investment" is changed to "initial project contribution for operating capital." Some confusion

The Department of Agriculture through Farmers Home Administration (FmHA) finds it is necessary and desirable to minimize

Subpart C—Management and Supervision of Multiple Family Housing

person" between the words "person" and "will."

State Office" between the words "referred" and "to."

tenants, rent subsidy needs, and the community as a whole.

VOL
50
ISS
136
JL
16
1985
UMI

phrase "initial to clarify investment" is changed to "initial project contribution for operating capital." Some confusion has emerged from the present language. Some people think of "initial project investment" as the value of total project development cost. The correct meaning is the amount of contribution made by the borrower "up-front" as an initial investment into the project.

Rent Change Meeting with FmHA District Director

FmHA proposes to change its requirement in Exhibit C to Subpart C of Part 1930 that all borrowers desiring an increase of project rents must first meet with the District Director. Paragraph IV A is revised to permit the District Director to use discretion in exercising this requirement. The District Director may allow rent change information to be submitted in lieu of a meeting not needed. The borrower will be permitted to post a notice of rent change 15 days after submitting the rent change information to the District Office.

Notice of Approved Rent Change

Revision of Exhibit C–2 to Subpart C of Part 1930, "NOTICE OF APPROVED RENT CHANGE," is proposed to remove confusion in its use. References to 30-day notice have been removed and a fill-in date has been inserted. This change will permit compatibility with use of Exhibit C–1 to Subpart C of Part 1930, "NOTICE TO TENANTS OF PROPOSED RENT CHANGE." The Exhibit C–1 provides notice to tenants of pending rent increase at least 60 days prior to effective date of increase. FmHA approval/rejection of a rent increase must be given to a borrower by the 45th day of the 60-day period. Hence there is only 15 days remaining. The revised Exhibit C–2, as proposed, will confirm the effective date and fact of rent increase stated in the Exhibit C–1 issued 45 days earlier. In paragraph V B 1 a of Exhibit C to Subpart C of Part 1930, proposed discussion is added to clarify that the Exhibit C–2 notice will be mailed or it can be hand-delivered to each tenant. It must also be posted in a conspicuous place for all tenants to view.

In addition, Farmers Home Administration (FmHA) has determined it necessary to consider including in Exhibit C, "Rent Changes" of Part 1930, Subpart C of this chapter, a rent preemption regulation and invites comments. The added paragraph is proposed as follows, but final language would be developed and published as a final rule.

The Department of Agriculture through Farmers Home Administration (FmHA) finds it is necessary and desirable to minimize defaults by the mortgagor in its financial obligations with regard to projects covered by this subpart, and to assist mortgagors to preserve the continued viability of those projects as a housing resource for low- and moderate-income families. The Department also finds that it is necessary and desirable to protect the substantial economic interest of the Federal Government in those projects. Therefore, the Department concludes that it is in the national interest to preempt, and it does hereby preempt, the entire field of rent regulation by local rent control boards (hereinafter referred to as board), or other authority acting pursuant to State or local law as it affects projects covered by this subpart.

Furthermore, we invite comments on a proposal that Farmers Home Administration (FmHA) permit computerization of data gathering forms which are used by Multiple Family Housing Borrowers on a regular basis. Regulations would be amended to allow computerization of FmHA data gathering forms as long as the content was neither increased or decreased.

List of Subjects

7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant programs—Housing and community development, Loan programs—Housing and community development, Low and moderate income housing—Rental, Reporting requirements.

7 CFR Part 1944

Administrative practice and procedure, Aged, Farm labor housing, Grant programs—Housing and community development, Handicapped, Loan programs—Housing and community development, Low and moderate income housing—Rental, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent subsidiaries, Rural housing.

7 CFR Part 1965

Administrative practice and procedure, low and moderate income housing—Rental, Mortgages.

Accordingly, FmHA proposes to amend Part 1930, Subpart C; Part 1944, Subparts D and E; and Part 1965, Subpart B, Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1930—GENERAL

1. The authority citation for Part 1930 is revised to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

§ 1930.101 [Amended]

2. Section 1930.101(d)(1) is amended by changing the reference "Form FmHA 444–8" to read "Form FmHA 1944–8."

§ 1930.102 [Amended]

3. Section 1930.102(h) is amended in the first sentence by removing the words "located on the same or contiguous site(s) and" and inserting the words "in one community such as a densely settled area, town or village" and by adding the words "under § 1965.68 of Subpart B of Part 1965 of this chapter" at the end of the last sentence.

§ 1930.109 [Amended]

4. Section 1930.109 is amended in the last sentence by inserting the word "actions" beteen the words "servicing" and "will" and by placing a period after the word "chapter" and removing the remainder of the sentence.

§ 1930.110 [Amended]

5. Section 1930.110 introductory text is amended by inserting the words "Periodic group meetings with borrower;" between the words "meetings;" and "analysis."

6. Section 1930.110(a)(4) is amended in the first sentence by inserting the word "and" between the words "plan" and "to."

7. Section 1930.110(a)(5) is amended by changing the spelling of "personal" to "personnel."

§ 1930.117 [Amended]

8. Section 1930.117(b)(3) is amended by inserting the words "and conduct" between "Develop" and "training" and by adding the letter "s" to the word borrower.

9. Section 1930.117(b)(5) is amended in the second sentence by changing the spelling of "benefitting" to "benefiting" and by replacing the words "made available to" with the words "offered to or accessible by."

10. Section 1930.117(b)(6) is amended by replacing the words "to assure" with the word "for."

11. Section 1930.117(c) introductory text is amended in the first sentence by replacing the word "officers" with "chiefs."

12. Section 1930.119(a) introductory text is amended in the first sentence by inserting the words "or other FmHA authorized persons" between the words "officials" and "will."

13. Section 1930.119(b)(1) is amended in the second sentence by adding the words "or other FmHA authorized

person" between the words "person" and "will."

14. Section 1930.119(b)(2) is amended in the first sentence by inserting the words "or other FmHA authorized person" between the words "Director" and "will" and by removing the words "a biennial" and inserting "an" in that place and inserting words "at least once every three years" between the words "Project" and "with."

15. Section 1930.119, paragraphs (d) and (e) are redesignated as (e) and (f), paragraph (c) is revised and a new paragraph (d) is added to read as follows:

§ 1930.119 Supervisory visits and inspections.

* * * * *

(c) *Preparation.* The person planning to make the visit and inspection will review the most recent monthly or annual reports, the running records, correspondence and other District Office records to be fully aware of the supervisory needs of the project. This awareness should be developed into an informal visit plan and include, but not be limited to such things as; payment status, subsidy status, due dates of taxes and insurance, adequacy of fidelity bond, and any known maintenance problems.

(d) *Conducting visit or inspection.* The person making the visit or inspection should spend sufficient time at the project to accomplish the visit plan and any additional needs that are observed or brought out by the tenants or management staff.

* * * * *

16. In Section 1930.119 paragraph (f) is amended in the first sentence by adding the words "or other FmHA authorized person" between the words "member" and "will."

§ 1930.124 [Amended]

17. Section 1930.124 introductory text is amended at the end of the last sentence by removing the period (.) and inserting a colon (:) in its place.

18. Section 1930.124(a)(3) is amended in the first sentence by removing the words "full fiscal year of" and inserting in their place the words "six months of successful."

19. Section 1930.124(b) introductory text is amended in the first sentence by deleting the words "and will consist of" and inserting the punctuation and words ", or any extension authorized in writing by the District Director. The report will consist of:".

20. Section 1930.124(c) introductory text is amended in the fourth sentence by inserting the words "through the State Office" between the words "referred" and "to."

21. Section 1930.124(c)(1) is amended in the first sentence by placing a period (.) after "1970" and by deleting the remainder of the sentence and by removing the word "closely" from the second sentence.

22. Section 1930.124(d)(1)(iii) is amended by changing the reference "§ 1930.119 (b)" to read "§ 1930.119(b)(2)."

23. Section 1930.124(f)(1) is amended by deleting the last sentence and replacing it with the sentence "In cases where the Dirtrict Director does not have delegated authority, the State Director or state staff delegate will approve Form FmHA 1930–7."

24. Section 1930.125 is added to read as follows:

§ 1930.125 Changing project designation.

Generally projects designated for families, elderly or handicapped persons will be used for the original purpose throughout the life of the FmHA loan. However, if it becomes necessary to change the designation of a project due to housing market changes which inhibit the borrower's ability to maintain occupancy levels sufficient to sustain the project, the State Director may change the designation with the prior written concurrence of the National Office. No change in the plan of operation (limited profit, nonprofit or full profit) will be authorized in conjunction with the change in project designation. Project design must meet elderly housing requirements when changing the designation to elderly. The National Office will only consider such requests on a case by case basis when all of the following information has been provided:

(a) The complete borrower case files have been submitted together with the State Director's specific recommendations and analysis of the present and long term situation.

(b) A market needs survey which substantiates the rationale for the change has been provided by the borrower. (The market survey must clearly indicate the long term marketability of the project and include the appropriate demographic information which reflects the population trends in the area.)

(c) A summary of all servicing actions taken by FmHA to aid the borrower in maintaining the present designation.

(d) A summary of all actions taken by the borrower to effectively market the units to potential eligible tenants.

(e) A summary of the impact the change will have on any existing tenants, rent subsidy needs, and the community as a whole.

§ 1930.141 [Amended]

25. Section 1930.141 (i)(6) is amended by changing the reference "Form FmHA 444–8" to read "Form FmHA 1944–8."

26. Section 1930.143 is amended by redesignating the text as paragraph (b) and by adding a new paragraph (a) to read as follows:

§ 1930.143 Delegation of responsibility and authority.

(a) The Administrator may on an individual state basis, authoize the State Director to contract out selective fact gathering, non-decision making servicing actions in this Subpart.

* * * * *

27. Exhibit A is amended in paragraph III D by adding the prefix "ex" to "penditures."

28. Exhibit A is amended in the last paragraph entitled "Summary" by placing "VIII" before the word "Summary."

29. Exhibit B is revised to read as follows:

Exhibit B—Multiple Housing Management Handbook

Table of Contents

I. Purpose
II. Definitions
A. Adjusted Annual Income
B. Adjusted Monthly Income
C. Annual Income
D. Borrowers
E. Caretaker
F. Chore Service Worker
G. Congregate Housing
H. Domestic Farm Laborers
I. Elderly (Senior Citizen)
J. Elderly Family
K. Eligibility Income
L. Forms Manual Insert (FMI)
M. Household
N. LH
O. Low-Income Household
P. Management Agent
Q. Management Agreement
R. Management Fee
S. Management Plan
T. Migrant
U. Minor
V. Moderate-Income Household
W. Net Family Assets
X. New Housing
Y. Operational Housing
Z. Pet
AA. Project
BB. Rental Agent
CC. Rental Assistance (RA)
DD. Resident Assistant
EE. RCH
FF. RHS
GG. RRH
HH. Shelter Cost
II. Site Manager
JJ. Tenant
KK. Tenant Contribution

LL. Very Low-Income Household
III. Borrower Responsibilities
A. General
B. Borrower Eligibility
C. Borrower Reporting Requirements
D. Financial and Management Analysis

required on accumulated major medical bills including that portion of the spouse's or

amount of depreciation actually claimed for these items for Federal income tax purposes.

or spouse of either may never be considered minors.)

grant from FmHA for LH, RRH, RCH, or RHS

LL. Very Low-Income Household
III. Borrower Responsibilities
A. General
B. Borrowers Without a Loan Agreement
C. Borrowers With a Loan and/or Grant Agreement
D. Borrowers With Governing Bodies
E. Borrowers With a Membership
F. Delegation of Responsibility and Authority
IV. Rent Subsidy Opportunities
A. FmHA Interest Credit—RRH and RCH Loans
B. Rental Assistance (RA) Program—FmHA
C. Department of Housing and Urban Development (HUD)—Section 8 Housing Assistance Payments Program
V. Management Operations
A. Management Plan
B. Management Agreement
C. Responsibility
D. Compensation
E. Site Manager and/or Caretaker
F. Projects Without a Site Manager and/or Caretaker
VI. Renting Procedure
A. Affirmative Fair Housing Marketing Plan
B. Tenant Eligibility
C. Maintenance of Inquiry and Waiting Lists
D. Notification of Eligibility or Rejection
E. Tenant Selection
F. Tenant Record File
VII. Verification and Certification of Tenant Income and or Employment
A. Verification of Income from Employment
B. Verification of Income from Other Sources
C. Verification of Income and/or Employment for LH Tenants
D. Random Sample of Tenant Income and/or Employment Verifications
E. Use of HUD Certification Form for Section 8 Recipients
F. Certification of Tenant Income
VIII. Lease Agreements
A. Form of Lease
B. Required Lease Clauses
C. Other Lease Provisions
D. Prohibited Lease Clauses
E. Modification of Lease—Notification to Tenants
F. Occupancy Rules
G. Security Deposits
H. Special Lease Supplement
IX. Rent Collection
A. Rental Receipts
B. Delinquent Rents
C. Recapture of Improperly Advanced Rental Assistance and Interest Credit
X. Maintenance
A. Routine Maintenance
B. Responsive Maintenance
C. Preventive Maintenance
D. Long-Term Maintenance
E. Inspection Maintenance
XI. Rent Changes
XII. Borrower Project Budgets
A. Budget Development and Preparation
B. Return on Investment as Authorized by Borrower's Loan Agreement/Resolution
XIII. Accounting and Reporting Requirements and Financial Management Analysis
A. General
B. Accounting System
C. Borrower Reporting Requirements
D. Financial and Management Analysis
XIV. Termination of Tenancy and Eviction
A. Tenant's Entitlement to Continued Occupancy
B. Notice of Termination
XV. Security Servicing
A. Fidelity Bond
B. Insurance
C. Real Estate and Personal Property Taxes

EXHIBITS

Title	Exhibit
Management Plan Requirements for FmHA Multiple Family Housing Projects	B-1
Requirements for Management Agreements	B-2
Management Agreement for FmHA Multiple Family Housing Projects	B-3
Questionnaire for Prospective Management Agent of a Multiple Family Housing Project	B-4
Questionnaire for Owner Who Proposes Owner-Management of a Multiple Family Housing Project	B-5
Monthly Reports (Chart)	B-6
Annual Reports (Chart)	B-7
Miscellaneous Reports or Submittals (Chart)	B-8
Employment Inquiry	B-9
Objective Guides to assist Management in Determining the Ability of Tenants to Sustain Relative Independence	B-10
Type of Living Environment Needed in Relation to Nature and Degree of Disability	B-10A

Multiple Housing Management Handbook

I. Purpose

This management handbook prescribes the Farmers Home Administration (FmHA) regulations, policies and procedures for management of RRH and LH projects to be used by multiple housing borrowers (owners) and applicants and their management agents and site managers. Several exhibits are included to provide clarification and guidance. These regulations are intended to assist borrowers in the successful operation of FmHA-financed rental projects.

II. Definitions

A. *Adjusted Annual Income.* This is the income of the household members who live or propose to live in the rental unit for the next 12 months (including spouse or children of an elderly family in nursing homes or hospitals who would otherwise live in the unit), excluding:

1. $480 for each member of the family residing in the household (other than the tenant or co-tenant or spouse of either) who is under 18 years of age or who is 18 years of age or older and is disabled, handicapped or a full-time student.

2. $400 for any elderly family;

3. Total medical expenses in excess of 3 percent of annual family income may be deducted for any elderly family.

a. The term "total medical expenses" includes:

(1) Medical expenses the tenant anticipates incurring over the 12 months following the effective date of the certification;

(2) Medical expenses not covered by insurance; and

b. Examples of medical expenses are dental expenses, prescription medicines, medical insurance premiums, eyeglasses, hearing aids and batteries, the cost of a live-in resident assistant, monthly payments required on accumulated major medical bills including that portion of the spouse's or children's nursing home care paid from tenant family income(s).

4. Reasonable attendant care and auxiliary apparatus expenses for each handicapped member of any family to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

5. The amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped household members may be deducted. Deductions for these expenses are permitted only when such care is necessary to enable a family member to further his or her education or to be gainfully employed, including the gainful employment of the disabled or handicapped family member. When the deduction is to enable gainful employment the amount may not exceed the amount of income received from such employment. When the deduction is to facilitate further education the amount must not exceed a sum reasonably expected to cover class time and travel time to and from classes. (Child support payments made on behalf of a minor child who does not reside in the unit may not be deducted as a child care expenses.)

B. *Adjusted Monthly Income.* This is the amount obtained by dividing the adjusted annual income by 12.

C. *Annual Income.* Annual income is the gross amount of income to be received by all members of the household to be in residence during 12 months following the effective date of Form FmHA 1944-8, "Tenant Certification."

1. *INCOME INCLUDED.* The following are included when determining annual income:

a. The gross amount (before any payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips, and bonuses of all members of the household. A deduction from the gross amount may be made in the same manner as outlined in IRS regulations for necessary work-related expenses actually paid by the employee in excess of the amount reimbursed by the employer. Deductions, however, are not permitted for the following:

(1) Transportation to and from work.

(2) Educational expenses except for those incurred to meet the minimum requirements for the employee's present position.

(3) Fines and penalties for violation of laws.

(4) Any other deduction not permitted by IRS.

b. The *net* income from operations of a business or profession or from rental or real or personal property. Expenditures for business expansion or amortization of indebtedness are not considered in the computation of net income. Net losses will be computed as zero. Deductions from gross business, professional, or rental income to arrive at net income may be made in the same manner as outlined in IRS regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the trade or business of the adult household members. An itemized schedule must be provided showing the depreciation claimed. The schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purposes.

c. Interest, dividends, and other income from net family assets as defined in paragraph II W of this Exhibit. On contracts for sale of real estate, deeds of trust or mortgages held by the applicant or tenant, only the interest portion of the monthly or annual payments received by the applicant or tenant is included as income.

d. The full amount of periodic payments received from Social Security (including Social Security payment received by adults on behalf of minors or by minors intended for their own support), annuities, insurance policies, retirement funds, pensions, disability or death benefits (except lump sum settlements) and other similar types of periodic receipts. Include any payments that will begin during the next 12 months.

e. Payments in lieu of earnings, such as unemployment and disability compensation, worker compensation and severance pay.

f. Periodic and determinable allowances, such as alimony and child support payments, which the applicant or tenant can reasonably expect to receive.

g. Regularly recurring contributions or gifts received from persons not residing in the dwelling.

h. Any amount of education grants or scholarships or Veterans Administration benefits on behalf of tenant, co-tenant or applicant available for subsistence after deducting expenses for tuition, fees, books and equipment.

i. All regular pay, special pay (except for persons exposed to hostile fire), and allowances of a member of the armed forces who is head of the family or spouse, whether or not that family member lives in the unit.

j. Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities and that amount is subject to adjustments by the Public Assistance Agency according to the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:

(1) The total amount of the public assistance, minus the amount specifically designated for shelter and utilities; plus

(2) The maximum amount which the Public Assistance Agency could in fact allow the family for shelter and utilities.

EXAMPLE:

Total grant	$300
Amount specifically designated for shelter and utilities	−150
Amount of grant excluding shelter and utility allowance	150
The maximum the agency could provide for this family for shelter and utility allowance	+180
Amount per month to be included in annual income	330

2. *EXEMPTED INCOME.* The following are not included in annual income:

a. Income of dependent minors under 18 years of age except as specified in paragraph II C 1 d of this Exhibit. (Tenant or co-tenant or spouse of either may never be considered minors.)

b. In the case of contracts for sale of real estate, mortgages or deeds of trust held by the tenant or co-tenant, the principal portion of the payments received by the tenant or co-tenant.

c. The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible household.

d. Foster child care payments.

e. Casual, sporadic or irregular gifts.

f. Lump-sum additions to household assets such as inheritances, capital gains, insurance payments included under health, accident, hazard or worker compensation policies, and settlements for personal or property losses.

g. Amounts which are granted specifically for, or in reimbursement of, the cost of medical expenses. Medical expenses may include those expenses incurred by disabled or handicapped residents so that they may live independently (e.g., attendant care).

h. Amounts of education scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran for use in meeting the costs of tuition, fees, books, and equipment. Any amounts of such scholarships or veterans payments, which are not used for above purposes and are available for subsistence, are considered to be income of tenant, co-tenant or applicant.

i. Student loans.

j. The special military pay to a service person head of a household or spouse away from home and exposed to hostile fire.

k. Payments received pursuant to participation in the following programs:

(1) Older Americans Volunteer Programs (OAVP) of the Federal Action Agency.

(i) Retired Senior Volunteer Program (RSVP).

(ii) Foster Grandparent Program (FGP).

(iii) Senior Companion Program (SCP).

(2) National Volunteer Programs such as VISTA and Service Learning Program.

(3) Small Business Administration Programs such as the National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE), and

(4) Title V—Community Service Employment for Older Americans which include:

(i) Senior Community Service Employment Program

(ii) National Caucus Center on Black Aged

(iii) National Urban League

(iv) Association National Pro Personas Mayores

(v) National Council on Aging

(vi) American Association of Retired Persons

(vii) National Council of Senior Citizens

(viii) Green Thumb.

l. Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

D. *Borrowers.* "Borrowers" means owners who may be individuals, partnerships, cooperatives, trusts, public agencies, private or public corporations and other organizations and have received a loan or grant from FmHA for LH, RRH, RCH, or RHS purposes.

E. *Caretaker.* The individual(s) employed by the borrower or the management agent as specified in the management plan to handle normal maintenance and upkeep of the project.

F. *Chore Service Worker.* An individual who provides intermittent assistance essential to the well being of a tenant whose services are compensated by a Federal, State, or local assistance program. A chore service worker will not be a resident of the tenant's living unit.

G. *Congregate Housing.* Housing that affords an assisted independent living environment that offers the elderly, disabled or handicapped person who may be functionally impaired or socially deprived, but in good health (not acutely physically ill), the residential accommodations, central dining facilities, related facilities, and supporting service(s) required to achieve, maintain, or return to a semi-independent life style and prevent prmature or unnecessary institutionalization as they grow older. Congregate housing also includes:

1. Housing which has complete kitchen facilities in each unit. However, some or all of the units may have limited kitchen facilities such as a cooktop with a small oven and a refrigerator. In the case of group living arrangements, each single family dwelling is considered a unit.

2. A group living arrangement where one or more elderly, disabled or handicapped persons may share living space within a rental unit and in which a resident assistant is required. Such housing may be one or more single family dwellings or a multi-unit structure.

H. *Domestic Farm Laborers.* Persons who receive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and may include the immediate families or such persons, and as further defined in Subpart D of Part 1944 of this chapter.

I. *Elderly (Senior Citizen).* A person who is 62 years of age or older. The term elderly (senior citizen) also means persons with the following handicaps or disabilities, regardless of age:

1. *Handicapped.*

a. Inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which:

(1) Can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months;

(2) Substantially impedes the ability to live independently; and

(3) Is of such a nature that such ability could be improved by more suitable housing conditions.

b. In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as determined in section 223 of the Social Security Act),

inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to

reasonable management activities of the project such as: (1) Developing and modifying operation budgets, (2) renting the units, (3)

BB. *Rental Agent.* The individual responsible for the leasing of the units. If other than the borrower, this individual may

vary according to the type of subsidy provided to the household.

agreements. FmHA will hold the borrower ultimately responsible for management of the

When they are presently a full profit operation they must convert to Plan II by

inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time.

2. *Disobled.* In the case of developmental disability, a person with a severe, chronic disability which:

a. Is attributable to a mental or physical impairment or combination of mental or physical impairment;

b. Is manifested before the person attains age 22;

c. Is likely to continue indefinitely;

d. Results in substantial functional limitations in three (3) or more of the following areas of major life activity:

(1) Self care,

(2) Receptive and expressive language,

(3) Learning,

(4) Mobility,

(5) Self-direction,

(6) Capacity for individual living,

(7) Economic self-sufficiency; and

e. Reflects the person's need for a continuation and sequence of special, interdisciplinary or generic care, or treatment, or for other services which are of lifelong or extended duration and are individually planned and coordinated.

J. *Elderly Family.* A household where the tenant or co-tenant is 62 years of age or older, disabled or handicapped as defined in paragraph III of this Exhibit. An elderly family may include a person(s) younger than 62 years of age who is essential to the elderly, handicapped or disabled person's care and well-being. (To receive an elderly family deduction the elderly, disabled or handicapped person must be the tenant or co-tenant.)

K. *Eligibility Income.* The calculated adjusted gross income which is compared to the income limits in Exhibit C to Subpart A of Part 1944 of this chapter.

L. *Forms Manuol Insert (FMI).* A type of directive which includes a sample of the form and complete instructions for its preparation, use and distribution.

M. *Household.* One or more persons who maintain or will maintain residency in one rental unit, but not including a resident assistant or chore service worker.

N. *LH* means Farm Labor Housing loans and/or grants.

O. *Low-Income Household.* A household having an adjusted annual income within the maximum low-income limit stated in Exhibit C of Subpart A of Part 1944 of this chapter.

P. *Management Agent.* The firm or individual engaged by the borrower to manage the project in accordance with a written agreement.

Q. *Management Agreement.* The written agreement between the borrower and management agent setting forth the management agent's responsibilities and fees for management services.

R. *Management Fee.* The compensation for providing overall management services for a MFH project. The fee is compensation for the time, expertise and knowledge required to direct and oversee the present and future operation of the project. Project management fees may include the cost of day to day reasonable management activities of the project such as: (1) Developing and modifying operation budgets, (2) renting the units, (3) collecting the rent, (4) preparing reports to FmHA, (5) normal bookkeeping, (6) maintaining tenant records, (7) arranging for the proper maintenance of the project, and (8) making inspections, etc. A management fee does not include the compensation paid to a site manager.

S. *Management Plon.* The primary management charter, constituting a comprehensive description of the detailed policies and procedures to be followed in managing a project.

T. *Migrant.* A domestic farm laborer who works in any given local area on a seasonal basis and relocates his or her place of residence as farm work is obtained in other areas during the year.

U. *Minor.* The term *minor* includes persons under 18 years of age other than the tenant or co-tenant. Persons aged 18 and over who are full-time students are treated as minors. The tenant or co-tenant may never be counted as a minor.

V. *Moderate-Income Household.* A household having an adjusted annual income within the maximum moderate-income limit stated in Exhibit C of Subpart A of Part 1944.

W. *Net Family Assets.* Net Family Assets is the sum of the household's savings and checking accounts, market value of stocks and bonds, equity in real property and other capital investments excluding farm and non-farm business assets. Equity is the difference between the estimated market value of the property and the total of any loans secured by the property. The value of personal property such as furniture or automobiles, and vehicles specially equipped for the handicapped, is excluded. Income from Net Family Assets which is included in Annual Income is determined as follows:

1. If Net Family Assets equal $5,000 or less Annual Income includes the actual income derived from the Net Family Assets.

2. If Net Family Assets exceed $5,000 Annual Income includes the greater of:

a. Actual income derived from all Net Family Assets, or

b. A percentage of the value of such assets based on the Bank Passbook annual savings rate.

X. *New Housing.* Newly constructed or substantially rehabilitated RRH, RCH or LH project financed by FmHA. For Rental Assistance purposes, it further means before any units are occupied.

Y. *Operational Housing.* A completed RRH, RCH or LH Project financed by FmHA which has been opened for occupancy and has at least been partially occupied by tenants.

Z. *Pet.* A commonly accepted domesticated household animal (such as a dog, cat, bird, etc.) owned or kept by a Tenant.

AA. *Project.* A project is the total number of rental housing units in one community such as a densely settled area, town or village operated under one management plan with one loan agreement/resolution. The rental units may have been developed originally with separate initial loans and separate loan agreements/resolutions, now consolidated into one operational project according to § 1965.68 of Subpart B of Part 1965 of this chapter.

BB. *Rental Agent.* The individual responsible for the leasing of the units. If other than the borrower, this individual may be hired by the borrower, or the management agent as specified in the management plan.

CC. *Rental Assistance (RA).* RA, as used in this Exhibit, is the portion of the approved shelter cost paid by FmHA to compensate for the difference between the approved shelter cost and the monthly tenant contribution as calculated according to paragraph IV of this Exhibit. When the monthly gross tenant contribution is less than the approved utility allowance which is billed directly to and paid by the tenant, the owner will pay the tenant that difference according to paragraph IX A 2 of Exhibit E to his Subpart.

DD. *Resident Assistant.* A person(s) residing in a housing unit who is essential to the well-being and care of the elderly, disabled or handicapped person(s) residing in the unit and who is not related by blood, marriage or operation of the law to these tenants. The resident assistant is not considered to be part of the household and is not subject to the eligibility requirements of a tenant. The resident assistant receives compensation from sources other than FmHA. A resident assistant is not a chore service worker.

EE. *RCH* means Rural Cooperative Housing Loans.

FF. *RHS* means Rural Housing Site Loans.

GG. *RRH* means Rural Rental Housing Loans.

HH. *Shelter Cost.* The approved shelter cost consists of basic and/or market rent plus any utility allowance, when required. Basis and/or market rent must be shown on the project budget for the year and approved according to § 1930.124 of this Subpart. Utility allowances, when required, are determined and approved according to Exhibit A–5 to Subpart E of Part 1944 of this Subpart. Any change in rental rates or utility allowances must be processed according to Exhibit C of this Subpart.

II. *Site Manager.* The individual employed by the borrower or the managment agent who lives at or near the project site and is responsible for the day-to-day operations of the project. A site manager residing at the project site may also be referred to as a resident manager.

JJ. *Tenant.* A tenant also includes a co-tenant and is a person(s) who has signed a lease and will be, or is an occupant of a unit in an RRH, RCH or LH project. A person who has ceased to be an occupant, but whose personal property remains in the rental unit will be considered a tenant until such personal property is removed voluntarily or by legal court proceedings.

KK. *Tencnt Contribution.* The portion of the approved shelter cost paid by the tenant household (tenant rent). For tenants not receiving HUD Section 8, this amount will be calculated according to Form FmHA 1944–8, "Tenant Certification." For tenants receiving HUD Section 8, this will be the amount referred to on HUD Form 50059 (or other HUD approved Form), as family contribution. The proportion of tenant income and adjusted income paid as the tenant contribution will vary according to the type of subsidy provided to the household.

LL. *Very Low-Income Household.* A household having an adjusted annual income within the maximum very low-income limit stated in Exhibit C of Subpart A of Part 1944 of this chapter.

III. Borrower Responsibilities

A. *General.* All borrowers are responsible for:

1. Understanding the distinction between FmHA supervised credit and the credit provided by other Federal, State, or conventional sources.

2. Meeting the objectives for which the loan and/or grant was made and complying with the respective program requirements.

3. Understanding the unique characteristics and function of their particular type of borrower entity as provided by charter, articles of incorporation, by-laws, and/or statute.

4. Assuring that a site manager or contact person is in close proximity to their MFH project.

5. Complying with the provisions of their security instruments and any directive issued by FmHA.

B. *Borrowers Without a Loan Agreement.* Unless otherwise specified, these borrowers are exempt from the requirements of this Subpart, except for Exhibit C (Rent Changes), as long as the borrower is not in default of any program requirement, security instrument, payment, or any other agreement with FmHA. However, these borrowers must provide evidence of tenant income eligibility by properly completing a Form FmHA 1944–8 for each tenant as required by the FMI.

C. *Borrowers With a Loan and/or Grant Agreement.* These borrowers are responsible for meeting the requirements and conditions of their agreement/resolution and the requirements of this Subpart.

D. *Borrowers With Government Bodies.* The elected or appointed officials comprising the governing body of the borrower are responsible for:

1. Maintaining records of all current members and maintaining membership at the required level.

2. Holding meetings as required by the organizational documents, and as otherwise necessary, to provide proper control and mangement of its operations, and to keep the membership informed.

E. *Borrowers With a Membership.* Members of a membership type borrower are responsible for full support of the project and operation by:

1. Promptly paying any dues, fees and other required charges.

2. Electing responsible officials.

3. Complying with organization rules and regulations.

4. Participating in annual and special meetings.

F. *Delegation of Responsibility and Authority.* The borrower may delegate or assign management responsibilities to a property manager such as a management agent, a site manager, or as appropriate, a caretaker. Delegations or assignments of duties and responsibility will be included in written documents such as management agreements. FmHA will hold the borrower ultimately responsible for management of the project. FmHA may require a borrower to change the plan of project management and/or make appropriate redelegations of project management responsibility to achieve program objectives.

IV. Rent Subsidy Opportunities

The available subsidy programs should be considered at the time of developing a project proposal and during project operation as they may be available to meet the tenant's needs. These subsidy programs are as follows:

A. *FmHA Interest Credit—RRH and RCH Loans.* Regulations are contained in Exhibit B to Subpart E of Part 1944 of this chapter and include:

1. Plan I—Only those borrowers who received this type of interest subsidy prior to October 27, 1980, may continue to utilize this Interest Credit Plan. Those broadly-based nonprofit corporations and consumer cooperatives may continue operating under this plan provided:

a. Occupancy is limited to very low- or low-income non-elderly; very low-, low- and moderate-income elderly, disabled or handicapped persons.

b. Budgets and rental rates are based on a 3 percent loan amortization. The rent schedule consists only of "market" rental rates.

2. Plan II—This interest subsidy is available to broadly-based nonprofit corporations, consumer cooperatives, State or local public agencies, or to other organizations and individuals operating on a limited profit basis.

a. Occupancy is limited to very low, low- and moderate-income persons except as noted in paragraph VI B 2 c (8) of this Exhibit.

b. Budgets are prepared for two rental rates, basic and market. The minimum (basic) rental rate for tenants not receiving rental assistance is based on a 1 percent loan amortization. The maximum (market) rental rate is based on the loan amortized at the interest rate shown in the promissory note.

c. Tenant's contribution for shelter cost, calculated according to the FMI for Form FmHA 1944–8, may not exceed the *highest* of:

(1) Thirty (30) percent of monthly *adjusted* income, or

(2) Ten (10) percent of gross monthly income, or

(3) If the household is receiving payments for public assistance from a public agency, the portion of such payments which is specifically designated by that agency to meet the household's shelter costs (Example in paragraph II C 1 j (2) of this Exhibit), or

(4) The basic rent where no rental assistance is available.

d. Any tenant contribution increase caused by the change from 25 percent of the household adjusted income to the greater of c (1), (2), or (3) or by other provision of Federal Law or Federal regulation is restricted to not more than 10 per centum in any 12 month period unless the increase above 10 per centum is attributable to an increase in income.

e. Rural rental housing borrowers whose loans were approved on or after August 1, 1968, may convert from Plan I to Plan II. When they are presently a full profit operation they must convert to Plan II by executing a new or amended loan resolution or loan agreement and an interest credit and rental assistance agreement according to Exhibit B of Subpart E of Part 1944 of this Chapter.

B. *Rental Assistance (RA) Program—FmHA.* This is a subsidy program available to RRH, RCH and LH borrowers to assist very low- and low-income tenants in paying their shelter cost. RA is not authorizd for tenants whose adjusted income is above the low-income level. RA is not available to LH borrowers who are individual farmowners, partnerships, family corporations, or association of farmers. RRH borrowers with loans approved on or after August 1, 1968, must be operating under, or change to, Interest Credit Plan II to receive RA. Full Profit borrowers may utilize rental assistance by converting to a Limited Profit operation. The provisions of the RA program are covered in detail in Exhibit E of this Subpart.

C. *Department of Housing and Urban Development (HUD)—Section 8 Housing Assistance Payments Program.* This subsidy program is administered by HUD or the local public housing agency. Projects operating under the Memorandum of Understanding between FmHA and HUD (Exhibit H to Subpart E of Part 1944 of this Chapter) will also be subject to the requirements of the Housing Assistance Payments (HAP) Contract executed by the borrower. Projects accepting tenants utilizing Section 8 assistance assigned by a local public housing agency will also comply with any requirements imposed by such agency. However, in all cases tenants receiving Section 8 assistance must meet the eligibility requirements specified in paragraph VI B of this Exhibit. Requirements that conflict with FmHA requirements should be referred to the District Director for guidance. (Generally, the most restrictive HUD or FmHA requirements or limitations will apply.) Additional information on the HUD Section 8 program is contained in Exhibits G and H to Subpart E of Part 1944 of this Chapter.

V. Management Operations

A. *Management Plan.* A comprehensive management program is essential to the successful operation of a project. A written plan is the primary ingredient which should describe the detailed policies and procedures in managing the project. *Unless progrom regulations specifically permit an exception, a management plan is required for:* (1) All proposed multiple housing projects; (2) existing projects in which the loan, transfer, or reamortization, was approved after October 27, 1980; and (3) any other multiple housing projects where the State Director determines a management plan is needed because of loan delinquency or default, neglected maintenance, or known landlord-tenant problems. The plan should be developed in detail commensurate to project size and complexity and should be reviewed annually and updated by the borrower at least biennially. Exhibit B–1 of this Subpart outlines the requirements of the plan. The

following items, as a minimum, should be addressed in the plan.

between the owner and the management agent. The amount of compensation must be

owner (either as the individual borrower or

project's management plan. The rental rate will then be determined as follows:

Housing loan programs. With the prior approval of the State Director, owners may

a. SIGNS, BROCHURES, ETC. Any radio, TV or newspaper advertisement, signs,

VOL 50 ISS 136 JL 16 1985 UMI

following items, as a minimum, should be addressed in the plan.

1. The relationship between owner and management agent (when applicable).
2. Personnel policy and staffing arrangements.
3. Publicizing and achieving early occupancy and affirmative marketing.
4. Tenant certification and verification of income.
5. Tenant admissions policies and leasing policies.
6. Rent collection.
7. Rent changes.
8. Maintenance.
9. Records Maintenance and reports.
10. Energy conservation measures.
11. Tenant participation in project operations and tenants' relationship with management.
12. Termination of leases and evictions.
13. Management of Support Services to congregate and/or group home projects.
14. Management Background and/or Experience.
15. Management agreement (when applicable).
16. Management compensation.
17. Occupancy policy.

B. *Management Agreement.* The management agreement is the primary document by which the management agent is guided, evaluated, and compensated. It bears a close relationship to the management plan. A management agreement is required except in cases where the borrower (owner) fills the role of manager. Requirements of a management agreement are listed in Exhibit B–2 of this Subpart. Exhibit B–3 of this Subpart is a suggested management agreement. The two types of agreements acceptable to FmHA, are described as follows:

1. The owner hires a professional management agent to oversee and operate the project. The management agent may provide a site manager for onsite management and/or caretaker when justified by the size of the project. A qualifications statement by the management agent is required by the borrower and FmHA. Exhibit B–4 of this subpart provides a guideline for preparing the statement.

2. The owner maintains all or a part of the management role. The owner may use the services of a site manager in providing onsite management and/or services of a caretaker when justified by the size of the project. FmHA requires a qualifications statement by the owner who proposes to personally provide the management to determine management capability. Exhibit B–5 of this Subpart provides a guideline for preparing the statement.

C. *Responsibility.* The management plan and management agreement must be based on applicable provisions of local, State, and Federal statues and the regulatory requirements of the loan used to finance the project, regardless of the management system used. The owner remains totally responsible to FmHA for the project, regardless of the authority delegated by the owner to the management agent.

D. *Compensation.*

1. *Projects with management agent.* The amount of compensation is to be negotiated between the owner and the management agent. The amount of compensation must be reasonable, typical when compared with similar services available in the area, and earned. The amount of compensation or "fee" should generally be stated on a monthly per occupied unit or as a percentage of rents collected for each occupied unit. Rents collected could include any rental assistance and/or interest credit subsidy. The fee should vary from project to project depending upon size, complexity, services to be provided, type of project, age of loan and other relevent factors, such as comparable fees for similar projects in the area in which the project is located. The State and District Offices shall assemble data on comparable management fees in the District and State to be used as a basis for determining the fairness of fees negotiated between borrowers and management agents.

a. The management agreement must specifically define any project services to be provided that are to be paid directly from the Owner's Operating and Maintenance Account by the management agent; but not included in the agent's management fee. These costs may include the following budget line items:

(1) Cost of salary and wages of the project's site manager and/or caretaker. (These persons will be hired and/or dismissed by the management agent.) The management plan must specify the duties of the site manager.

(2) Legal fees for the project.

(3) Auditing fees for the project.

(4) Repair and maintenance costs for the project.

b. The management agreement must also define costs that accure to the management agent, but not directly to the project. The management fee will include cost such as:

(1) Monitoring project operations, training and supervision of on-site staff.

(2) Establishing a system to keep project books, reports, records, and accounts.

(3) Preparation and distribution of monthly reports.

(4) Preparation and distribution of annual reports of operations and maintenance.

(5) Preparation of requests for reserve withdrawal, rent adjustment, rehibilitation and energy conservation proposals, plans and specification.

(6) Review of tenant certifications and submission of monthly RA requests. Assure protection of project receipts and make project invoice and payment disbursements.

(7) Management agent's office overhead including office space and utilities, clerical staff and training, agent's office bookeeping, office supplies and equipment, transportation and telephone calls to projects, office data processing systems and postage.

(8) Supervision by management agent (time, knowledge, and expertise) of overall operations and capital improvements.

(9) Meeting with owners, investors, and/or lending agency.

(10) Development, preparation, and revision of management plans and/or agreements.

2. *Owner monaged projects.* The owner will be authorized to manage the project only when FmHA detemines in writing that the owner (either as the individual borrower or as a part of an organizational/borrower) has the necessary management capabilities.

Projects with owners having identity-of-interest relationships to the management agent will *not* be considered as an owner managed project. A typical management fee may be charged as an expense to the project. The compensation must be according to the provisions of paragraph V D of this Exhibit and be reasonable, earned, and not exceed the normal cost of similar services, had such services been provided by an independent management agent.

3. *Initial Rent-Up Fees.* Payment of fees for a one-time effort to achieve initial rent-up of a newly constructed project is permitted when it is determined necessary and documented by the FmHA loan approval official and the loan applicant. Rent-up fees should be paid on a per-unit basis only after each unit has been occupied by the initial tenant. Payment of the rent-up fee and other project management start-up expenses should generally be made from the 2 percent initial operation and maintenance fund as follows:

a. In owner managed projects or when there is an identity of interest as defined in § 1924.4(h) of Subpart A of Part 1924 of this Chapter between the management agent and the borrower, such as the owner or the owner's principals or family members owning an interest in the management firm (or vice versa), initial rent-up fees may be allowed but only up to reasonable actual cash expenditures.

b. When there is not an identify of interest, a person or firm, preferably the management agency, may be compensated at a rate negotiated with the applicant/borrower that represents reasonable compensation for the incurred marketing cost and project management start-up expenses.

E. *Site Manager and/or Caretaker Services.* The onsite services of a site manager and/or caretaker may be used when jusitifed by the size, composition and location of a project, whether the project is managed by a management agent or by the owner. There should be a written agreement between the owner or the management agent and the site manager to define the role and duties of the site manager and to provide a basis for evaluating the site manager. FmHA may require an onsite resident manager and/or caretaker to assure that the loan objectives are met and/or to protect the tenant's or government's interests. It is desirable but not mandatory the site manager and/or caretaker meet the tenant eligibility requirements for occupancy in the project.

1. *Calculation of rental rate for site manager or caretaker.* The associated cost of the unit occupied by the site manager or caretaker will always be reflected in the project budget the same as the cost for other non-revenue producing portions of the project. When a unit for the site manager or caretaker was authorized by the State Director according to the requirements of § 1944.212(g) of Subpart E of Part 1944, the unit may or may not be designated as part of the non-revenue producing facilities. This determination will be reflected in the project's management plan. The rental rate will then be determined as follows:

a. If the unit is planned or designated as a revenue producing unit, the compensation paid to the site manager and/or caretaker will be reflected in the operation and maintenance expenses of the project and will be included in the annual income of the site manager and/or caretaker. The site manager and/or caretaker's rent contribution will be based on their total income from all sources.

b. When a living unit is provided at a reduced cost to the site manager and/or caretaker in a Plan II project, the rental value of the unit will be considered to be basic rent. The portion of rent furnished by the project in the form of rent reduction below the basic rent will be reflected in the operation and maintenance expenses of the project. Debt payment will be as if the unit were rented at basic rent.

c. When a living unit was planned as a revenue producing unit but is provided at no cost to the site manager and/or caretaker in a Plan II project, the rental value of the unit will be considered to be basic rent. The associated cost of the unit will be treated the same as those of other non-revenue producing portions of the project. Project rental rates will be established as if the unit did not exist as living quarters. Debt payment will be as if the unit were rented at basic rent.

d. When a living unit is provided at no cost or reduced cost to the site manager and/or caretaker in a Plan I or profit type operations project, the rental value of the unit will be considered to be the FmHA approved "market" rental rate.

e. When the site manager and/or caretaker resides in a living unit and pays rent, the rental rate will be calculated as follows:

(1) If the site manager and/or caretaker meets the tenant eligibility requirements for the type of project being occupied, the appropriate rental rate will be the rate established for an eligible tenant in accordance with paragraph VI B of this Exhibit.

(2) If the site manager and/or caretaker does not meet the tenant eligibility requirements for the type of project being occupied because the site manager's and/or caretaker's adjusted annual income exceeds the maximum income limits, the site manager's and/or caretaker's appropriate rental rate for all projects except those operating under interest credit Plan I will be the FmHA approved market rental rate for the size of unit occupied. For interest credit Plan I projects, the appropriate rental rate will be the FmHA approved market rental rate for the size of unit occupied, plus 25 percent.

f. If the unit was planned and designated as a non-revenue producing unit, it will be treated as any other essential facility for which loan funds were authorized so long as it is used according to the approved management plan. The operating costs, reserve payment and debt service for the manager or caretaker's unit will be budgeted as a part of the overall cost of operation.

2. *Owner Occupancy.* Homeownership is not an objective of the FmHA Mulitple Housing loan programs. With the prior approval of the State Director, owners may occupy a unit in the project when the owner will manage the project rather than hiring a management agent or a site manager. The size, composition, and location of the project must justify the services of a site manager or caretaker, and the State Director must determine the owner is capable of performing these services. The rental rate will be included as described in paragraph V E 1 of this Exhibit.

F. *Projects Without a Site Manager and/or Caretaker.* Projects without a site manager and/or caretaker must have, at a minimum, a tenant who will serve as a contact person or have a person who is easily accessible to the project who is able to represent the project manager or owner on maintenance and management matters.

VI. Renting Procedure

Preparations for initial rent-up, occupancy and maintenance will begin 90–120 days ahead of the projected completion date of the project. This procedure will include a prerent-up conference between the FmHA District Director, the borrower, and the person(s) responsible for project management. Decisions to be made concern the advertisement of available units, affirmative marketing practices, tenant eligibility, and tenant selection criteria.

A. *Affirmative Fair Housing Marketing Plan.* All borrowers with *five* or more rental units must meet the requirements of § 1901.203(c) of Subpart E of Part 1901 of this Chapter by preparing and submitting an Affirmative Fair Housing Marketing Plan on HUD Form 935.2. Records must be maintained by the borrower reflecting efforts to fulfill the plan and will be subject to review by FmHA during compliance reviews for Title VI of the Civil Rights Act of 1964. *The approved plan will be made available by the borrower for public inspection upon request at the borrower's place of business, rental office, or at any other location where tenant applications are received for the project.* In developing the plan, the following items should be considered:

1. *Direction of Marketing Activity.* The plan should be designed to attract applications for occupancy from all potentially eligible groups of people in the housing marketing area regardless of race, color, religion, sex, age, marital status, national origin, or physical or mental handicap (must possess capacity to enter into legal contract). The plan must show that efforts will be made to reach very low-income, low-income and minority persons who traditionally would not be expected to apply for such housing without special outreach efforts.

2. *Marketing Program.* The applicant or borrower should determine which methods of marketing such as radio, newspaper, TV, signs, etc. are best suited to reach those very low-income, low-income and minority persons who otherwise might not apply for occupancy in the project. The aging network such as the State and Area Agencies on Aging should be contacted to assist in reaching elderly persons.

a. SIGNS, BROCHURES, ETC. Any radio, TV or newspaper advertisement, signs, pamphlets, or brochures used must contain appropriate equal opportunity statements. A copy of this proposed material should be submitted along with the HUD Form 935.2 for approval. The nondiscrimination poster entitled, "And Justice For All" and/or the "Fair Housing" poster must be displayed in the rental office. If the rental office is not on site, the posters must be displayed in a common conspicuous place on the site.

b. COMMUNITY CONTACT. Special interest groups such as social and religious organizations should be contacted in small communities without formal communication media aimed at minorities. Community contacts should also be used in reaching specific elements of the community such as the elderly or particular ethnic groups.

c. RENTAL STAFF. All staff persons responsible for renting the units will be instructed in the procedures and requirements of the Affirmative Fair Housing Marketing Plan and in those actions necessary to carry out the plan promoting equal housing opportunity.

3. *Marketing Records.* The borrower will be required to provide data according to Subpart E of Part 1901 of this Chapter, pertaining to compliance reviews, to indicate to what extent minority groups are being benefited.

B. *Tenant Eligibility.* The rental agent of the project must be knowledgeable about the FmHA tenant eligibility requirements as they relate to a particular project. FmHA loans require occupany of the units by eligible tenants. Except for migrant farm worker tenants, tenant/applicants must certify on their application that the housing they will occupy is/will be their permanent residence. They will further certify that they do/will not maintain a separate subsidized rental unit in a different location.

1. ELIGIBLE TENANTS. The following tenant eligibility criteria will apply where appropriate, unless otherwise authorized:

a. To determine eligibility for occupancy the applicant's income must be a defined in paragraph II K and include net family assets as defined in paragraph II W of this Exhibit.

b. The adjusted annual income must meet the defintion of very low-, low- or moderate-income as defined in this Exhibit as required for that specific project for applicant selection, tenant contribution and continued occupancy.

c. To determine eligibility for continued occupancy, the tenant's Adjusted Annual Income must be determined at least once every 12 months. When the tenant's Adjusted Annual Income exceeds the moderate-income limit established for the area in which the project is located, the tenant is no longer eligible and will be required to vacate the project according to the terms of the lease and paragraph VI B 5 of this Exhibit.

d. In RRH projects operating on a Plan I basis, tenants will:

(1) Be a very low-, low-, or moderate-income elderly, disabled or handicapped person.

(2) Be a very low or low-income non-elderly, non-disabled or non-handicapped

k. For LH projects and units in RRH projects specifically designed and designated

policy and obtaining Farmers Home Administration written approval.

area. This eligibility determination made by management must be included in the tenant's

including utilities, may be eligible for some form of rent subsidy described in paragraph

been redelegated the authority, according to § 1930.143 of this Subpart, a copy of the

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(2) Be a very low or low-income non-elderly, non-disabled or non-handicapped person.

e. In RRH project operating on a non-profit or limited profit Plan II basis, tenants will be a very low-, low-, or moderate-income persons regardless of age, disability or handicapped condition.

f. In RRH projects operating on a full-profit basis, tenants will:

(1) Be an elderly, disabled or handicapped person of any income.

(2) Be a very low-, low-, or moderate-income non-elderly, non-disabled or non-handicapped person.

g. In labor housing (LH) projcets designed and operated either for year-round or seasonal occupancy, tenants will be domestic farm laborers.

h. Occupancy in RRH projects or those portions of RRG projects designated by FmHA as:

(1) Family housing may be by any combination of elderly, disabled or handicapped, and/or non-elderly, non-disabled or non-handicapped tenants.

(2) Elderly housing must be by elderly, disabled and/or handicapped tenants but not restricted exclusively for us by disabled and/or handicapped tenants.

i. Tenant households must generally be capable of caring for themselves and must meet the following criteria:

(1) Not be totally dependent on others to be able to vacate the unit for their own safety in emergency situations. Tenant households are eligible for occupancy when a member of the household is disabled if adequate care and assistance is provided by the tenant household for the safety and well-being of the disabled household member.

(2) Possess the legal capacity to enter into a lease agreement, except in the case of tenants residing in a congregate housing project who have a legal guardian.

(3) Persons meeting the definition of elderly in paragraph II I of this Exhibit may be considered an eligible tenant or co-tenant if more suitable housing will improve their ability to live independently. The disability or handicap must be supported by a doctor's certificate and must meet one of the definitions in paragraph II I of this Exhibit. Receipt of veterans benefits for disability, whether service-oriented or otherwise, does not automatically establish disability. The owner-manager must make the determination based upon evaluation of the applicant's condition and the documentation presented.

j. In congregate housing projects, eligible tenants will include elderly, disabled or handicapped persons who require some supervision and central services, but are otherwise able to care for themselves. They must be able to provide for their own sustenance in projects that provide less than a full meal program. The borrower will regularly assess the level of function and degree of competence of the tenant and/or co-tenant's ability in performing daily living activities. This assessment should enable the borrower to determine whether or not the tenant can maintain relatively independent occupany given the supportive services in the project (see Exhibit B–10 to this Subpart). The tenants must also meet the criteria found in paragraph VI B 1 h above.

k. For LH projects and units in RRH projects specifically designed and designated for the elderly, disabled and/or handicapped as defined by FmHA, occupancy is limited solely to those meeting the eligibility requirements for the specific type of project (i.e., domestic farm laborers, elderly, disabled and/or handicapped). Eligible occupants in these projects may also include other persons who are usually household members of the domestic farm laborer, elderly, disabled or handicapped persons. Resident assistants or chore workers will not be considered to be members of the tanant household.

l. In a group home situation, a Resident Assistant may occupy separate living space of appropriate size without regard to income.

m. A student or other seemingly temporary resident of the community who is otherwise eligible and seeks occupancy in a RRH project may be considered an eligible tenant when all of the following conditions are met:

(1) Is either of legal age in accordance with applicable State law or is otherwise legally able to enter into a binding contract under State law.

(2) The person seeking occupancy has established a household separate and distinct from the person's parents or legal guardians.

(3) The person seeking occupancy is no longer claimed as a dependent by the person's parents or legal guardians pursuant to Internal Revenue Service regulations, and evidence is provided to this effect.

(4) The persons seeking occupancy signs a written statment indicating whether or not the person's parents, legal guardians, or others provide any financial assistance and such financial assistance is considered as part of current annual income and is verified in writing by the borrower.

n. A former domestic farm laborer may continue occupancy of a LH project after retirement or after becoming disabled if the farm laborer was an eligible tenant living in the project prior to the event.

o. A tenant who does not personally reside in a unit for a period exceeding 60 days, for reasons other than health or emergency, shall be required to pay market rent in Plan II projects or 125 perecnt of rent in Plan I projects for the period of absence exceeding 60 days.

(1) If the tenant continues to be absent from the unit, the borrower must notify the tenant by certified mail at least 30 days prior to the end of the leasing period, to occupy the living unit by the end of the lease period or the borrower will start eviction proceedings.

(2) In those cases existing before the issuance of this Subpart on *December 19, 1983*, where the tenant's lease does not contain the lease clause in paragraph VIII B 3c of this Exhibit, the tenant will be advised that the lease will not be renewed.

2. OCCUPANCY POLICY: Occupancy policy in FmHA financed projects shall have the objective of effective utilization of space without overcrowding or providing more space than is needed by the number of people in the household.

a. Each borrower must develop an occupancy policy tailored to the design, location and intended occupants for each specific project by adopting the following guidelines or by developing a more detailed policy and obtaining Farmers Home Administration written approval.

b. The following should be considered when adopting the policy outlined in paragraph c of this section or in developing a detailed project occupancy policy:

(1) The size of each bedroom and common living area in each unit.

(2) the amount of open space and/or recreation area in the project and the number of tenants who could reasonably use this area without overcrowding or underoccupying the units.

c. Management shall assign units based upon the number of persons in the household and the relationship and sex of those persons. In matching unit size with household need, management must balance the need to avoid overcrowding with the objective of maximizing use of space and avoiding unnecessary tenant subsidy cost.

(1) Every member of the household, regardless of age, shall be counted as a person. An unborn child may, at the discretion of management, be counted for purposes of determining the appropriate size unit for an eligible household.

(2) Foster children may be counted *only* for determining the appropriate size unit.

(3) It is expected that two children of the same sex will share a bedroom and that usually, only two children will be assigned to a bedroom. However, in projects with more spacious bedrooms, management may permit three children to occupy one bedroom if units with more bedrooms are not available in the project or if the tenant wishes to put three children in one bedroom to avoid the additional rent associated with a larger unit. (Consideration must always be given to the amount of common living area available to accommodate a larger family.)

(4) Units should be assigned so that it will not be necessary for persons of the opposite sex, other than tenant and co-tenant, to occupy the same bedroom. However, if the tenant requests that children of the opposite sex or a parent and a young child be permitted to occupy the same bedroom, management may honor the request.

(5) Without FmHA approval, management may assign a larger or smaller unit than the household needs if all the following conditions are met:

(i) No household, otherwise eligible and having the number of members appropriate to the unit, is available to occupy the unit and management has made a diligent effort to reach tenants who qualify for the larger or smaller size unit;

(ii) The tenant agrees to transfer to the first correctly-sized unit if and when it becomes available in the project;

(iii) The tenant agrees to pay all costs associated with the subsequent move; and

(iv) The agreements in (ii) and (iii) above are included in the tenant's lease.

(6) Borrowers with RRH projects specifically built for the elderly prior to October 27, 1980, with only a few or no one-bedroom units, may permit occupancy of two bedroom units by single eligible tenants if this provision is included in the project occupancy policy. The occupancy policy should reflect the needs of the local market area. This eligibility determination made by management must be included in the tenant's lease and will entitle such tenant to all benefits without need for further FmHA approval.

(7) When a unit cannot be rented under the provisions in paragraphs (5) and (6) above, the State Director may authorize an exception according to paragraph VI B 6 of this Exhibit.

(8) A tenant who was determined eligible and allowed to occupy under regulations in effect prior to (*effective date of this regulation*) who does not meet eligibility requirements regarding income or borrower occupancy policy as prescribed in these regulations may be permitted continued occupancy in the same unit.

(9) The following table represents the occupancy standards that were required prior to the issuance of this regulation on (*dote of final rule*) and will continue in effect for projects approved before that date until the owner meets the requirements of paragraph A of this section. Further, it will serve as the desirable occupancy level for all Multiple Family Housing projects:

	Occupants	
	Min	Max
No. bedrooms:		
0	1	2
1	1	2
2	2	4
3	4	6
4	6	8
5	8	10

(10) Owner of migrant farm labor housing will comply with local or State design requirements and occupancy standards.

d. For each RRH project specifically built for the elderly, the borrower or management may not:

(1) Prohibit, prevent, restrict or discriminate against any tenant who owns or keeps a pet in their apartment unit, with respect to continued occupancy in the project unless the approved project pet rules are violated.

(2) Prohibit, prevent, restrict or discriminate against any applicant who owns a pet with respect to obtaining occupancy to the project.

3. OTHER ITEMS THE RENTAL AGENT SHOULD CONSIDER IN DETERMINING ELIGIBILITY OF APPLICANTS FOR ADMISSION TO THE PROJECT.

a. Credit reports to reflect the applicant's past record of meeting obligations.

b. Prior landlord references to determine if the tenant was responsive to meeting rent payment obligations, care, and maintenance of the unit.

c. Verification of income and/or employment according to paragraph VII of this Exhibit. This item is a requirement in all cases.

d. The applicant's financial capability to meet other basic living expenses and the rental charge, taking into consideration any subsidy assistance that could be made available to the tenant. Where rental assistance is not available, any very-low or low-income household that would be required but unable to pay the approved rent, including utilities, may be eligible for some form of rent subsidy described in paragraph IV of this Subpart if it is available in the area.

4. SURVIVING MEMBERS OF ELIGIBLE TENANT HOUSEHOLD.

a. Surviving members of an elderly, disabled and/or handicapped tenant's household may continue occupancy of the unit even though they may not meet the definition of an elderly, disabled or handicapped person stated in paragraph II of this Exhibit, provided:

(1) They are eligible occupants in all other respects,

(2) They occupied the unit at the time that the original tenant ceased to occupy the unit, and

(3) The District Director determines on a yearly review basis that their continued occupancy will not be detrimental to the integrity of the project in the community.

b. Surviving members of a domestic farm laborer household may continue to occupy when they meet the definition of a domestic farm laborer as defined in paragraph II of this Exhibit. When they do not meet the definition, the provisions for formerly eligible tenants in paragraph VI B 5 of this Exhibit will apply.

5. FORMERLY ELIGIBLE TENANTS. Unless authorized by paragraph VI B 2 c (8), formerly eligible tenants will be required to vacate their unit within 30 days (7 days for migrant farm labor tenants with week-to-week lease agreements) or the end of the term of their lease agreement, whichever is longer, when an eligible applicant is on the waiting list and is available for occupancy. If vacating the unit in the time period described creates an undue hardship on the family, the District Director may permit continued occupancy for a reasonable period of time. The following "formerly eligible" situations apply to this paragraph:

a. Tenants who no longer meet FmHA income eligibility requirements. (This includes tenants receiving Rental Assistance or Section 8 assistance.)

b. Tenants in LH projects who no longer meet the farm labor occupation requirement, except retired or disabled domestic farm laborers who are eligible tenants at the time of their retirement or becoming disabled may continue to occupy a project that they initially occupied as an eligible domestic farm laborer.

c. Tenants who no longer meet the occupancy policy for the project. These tenants must either move to a unit of appropriate size in the project, or when none is available, vacate the project at the termination of their lease.

6. STATE DIRECTOR AUTHORITY TO PERMIT AN RRH OR LH BORROWER TO RENT TO INELIGIBLE TENANTS.

a. The State Director may authorize the borrower in writing, upon receiving the borrower's written request with the necessary documentation, to rent *units* to ineligible persons for temporary periods to protect the financial interest of the Government. This authority will be for periods not to exceed one year. Within the period of the lease the tenant may not be required to move for any reasons of ineligibility. When the District Director has been redelegated the authority, according to § 1930.143 of this Subpart, a copy of the authorization to rent to ineligibles will be forwarded to the State Office. The following determinations must be made by the authorizing FmHA Official.

(1) There are no eligible persons on a waiting list.

(2) The borrower provided evidence that a diligent but unsuccessful effort to rent any vacant unit(s) to an eligible tenant household has been made. Such evidence may consist of advertisements in appropriate publications, posting notices in several public places, and other places where persons seeking rental housing would likely make contact; holding open houses, making appropriate contacts with public housing agencies and authorities (where they exist), State and local agencies and organizations, Chamber of Commerce, and real estate agencies.

(3) The borrower will continue with aggressive efforts to locate eligible tenants and submt to the District Office, along with Form FmHA 1944–29, "Project Worksheet for Interest Credit and Rental Assistance," a report of efforts made. The required followup should be posted in the District Office on Form FmHA 1905–6, "Management System Card—Multifamily Housing."

(4) To protect the security interest of the Government the units may be rented for no more than a year after which the lease must convert to a monthly lease. The monthly lease must require that the unit be vacated when an eligible prospective tenant is available. The ineligible tenant will then be given 30 days to vacate.

(5) Tenants who are ineligible, because their household income exceeds the maximum for the project, will be charged the FmHA approved market rental rate for the size of unit occupied in a Plan II RRH project. In projects operated under Plan I, ineligible tenants will be charged rental surcharge of 25 percent of the approved market rental rate.

(6) Tenants who are ineligible for reasons other than income may benefit from rental assistance and/or intereet credit if they are otherwise eligible in the same manner as an eligible tenant.

b. Examples of situations where the State Director may consider authorizing a borrower to rent units to ineligible persons when units cannot be returned to eligible persons are:

(1) Permitting occupancy by other eligible families in a project designed for, designated as, and limited to occupancy by eligible elderly, disabled, and/or handicapped persons.

(2) A household that does not meet eligibility requirements regarding income, i.e., an above moderate-income household.

c. When the State Director or District Director determines that a borrower may rent to an ineligible tenant, the written authorization must contain the appropriate clauses which must be inserted into the ineligible tenant's lease. At a minimum it should include:

(1) The reason for ineligibility.

(2) The term of ineligible occupancy.

(3) Any conditions under which the tenant will be required to vacate the unit.

(4) The length of notice the tenant will be given to vacate.

C. *Maintenance of Inquiry and Waiting*

application process and the dates of project operation.

5. A Letter of Priority Entitlement (LOPE)

"The following information is requested by the apartment owner in order to assure the Federal Government, acting through its

1. Applicants determined eligible will be selected on a first come first-served basis

contain a clause "subject to verification of income."

E. *Use of HUD Certification Form for Section 8 Recipients.* HUD Form 50059,

(4) The length of notice the tenant will be given to vacate.

C. *Maintenance of Inquiry and Waiting Lists.*

1. When a prospective tenant inquires (by telephone, letter or visit) concerning the availability of a rental unit, the borrower or rental agent will place the prospect's name chronologically on an inquiry list. The list should contain enough information for future contact by mail or telephone. THIS LIST DOES NOT ESTABLISH ANY PRIORITY.

2. When a prospective tenant files an application for occupancy the borrower or rental agent will place the prospect's name chronologically on the appropriate written waiting list. An application is a written document(s) prescribed by the management providing sufficient information for the rental agent to complete the steps necessary to determine eligibility. the action determination of eligibility will be conducted according to the application process described in paragraph VI D of this Exhibit.

3. Separate waiting lists by categories and/or a master waiting list with income levels identified (very low, low and moderate), and categories or priorities indicated will be maintained for rural rental and year-round occupancy farm labor housing. Each list must be maintained in chronological order. When there are separate lists, they must be cross-referenced for prospective tenants who fit more than one category or priority.

a. Separate lists may be maintained for:

(1) Income levels (very low, low, moderate, ineligible).

(2) Various size units.

(3) Units for elderly, disabled or handicapped persons, families, or any other combination as planned for the project according to the borrower's loan agreement or resolution.

(4) Persons who require the special design features of the handicapped units in the project such as persons confined to a wheelchair. Persons on this list have priority for these units.

(5) Displacees, such as victims of natural disasters and eminent domain, to whom priority consideration may be given.

(6) In congregate housing projects, priority will be given to the frail or impaired eligible applicants to sustain an occupancy level of 25% to 35% of the project units. After this occupancy level is attained, priority will be given to non-frail or non-impaired applicants.

b. Separate waiting lists will be maintained for very low-income households who *are* eligible for rental assistance. This list may be compiled from the filed applications or extracted from the master list.

4. For seasonal farm labor housing a waiting list should be chronologically compiled as in paragraphs VI C 1, VI C 2 and VI C 3 of this exhibit. these lists should be maintained for the season in which the project will be operating. Prospective tenants should be advised that the waiting list will terminate on the closing date of the project in any given season.

a. Seasonal LH management plans should identify a date when applications will be accepted for a new operating season and a waiting list compiled.

b. A process should be specified in the plan for advising prospective tenants of the application process and the dates of project operation.

5. A Letter of Priority Entitlement (LOPE) issued by FmHA according to § 1965.90 of Subpart B of Part 1965 of this Chapter entitles prospective tenants to move to the top of any waiting list for that appropriate unit size for which the applicant qualifies.

6. Each list by category will be available for inspection by prospective tenants on the waiting list. When prospective tenants are first assigned to the waiting list, they will be notified of the category(s) to be assigned to their application.

7. Borrowers may establish a procedure for purging the inquiry and waiting list(s) periodically of prospective tenants who are no longer interested in occupancy. The borrower must inform each prospective tenant of this procedure and any actions they must take to maintain their priority position on the waiting list. When a name is removed from the waiting list the prospective tenant must be informed in writing at their last known address. The letter must include appeal rights under Subpart L of Part 1944 of this Chapter.

D. *Notification of Eligibility or Rejection.*

1. *Application Status for Determining Eligibility.* All persons desiring to apply for occupancy will be provided the opportunity to submit a complete application. The borrower or rental agent will provide prospective tenants with a written list of all information required for a complete application.

a. After the potential tenant has submitted all required forms and information but additional information is required, the borrower or rental agent must notify the applicant within 10 days of the items needed to complete a review of eligibility. The application file will be documented on the action taken.

b. When an operational project has few or no vacancies, and there are sufficient active applications from households determined eligible to fill expected vacancies, the borrower may postpone verification of eligibility for new applicants.

c. While application fees are discouraged, any fee charged to a prospective tenant must be reasonable and limited to actual costs for obtaining necessary information.

2. *Application Requirements.* At a minimum to be considered complete, applications must include the following information for each prospective tenant household:

a. Name and present address.

b. Household income and eligibility income information, verified and certified according to paragraph VII of this Exhibit.

c. Age and number of household members.

d. Handicap status, if applicable.

e. Race or ethnic group and sex designation.

(1) The borrower or management agent will request that each prospective tenant provide this information on a voluntary basis for statistical purposes only. When the applicant does not provide this information, the rental agent will complete this item based on personal observation or surname.

(2) The following disclosure notice shall appear on the tenant application form or on an amendment to the application:

"The following information is requested by the apartment owner in order to assure the Federal Government, acting through its Farmers Home administration, that Federal Laws prohibiting discrimination against tenant applicants on the basis of race, national origin, and sex are complied with. You are not required to furnish this information, but are encouraged to do so. This information will not be used in evaluating your application or to discriminate against you in any way. However, if you choose not to furnish it, the owner is required to note the race/national origin and sex of individual applicants on the basis of visual observation or surname."

3. *Notification to Applicant.* The applicant who has submitted a *completed* application will be notified in writing that he or she has been selected, rejected, or placed on a waiting list.

4. *Applicants Determined Ineligible.* Applicants determined ineligible will be notified in writing of the specific reasons for rejection.

a. The rejection letter must also outline the applicant's rights under the FmHA tenant Grievance and Appeals Procedures in Subpart L of Part 1944 of this chapter.

b. When the rejection is based on information from a Credit Bureau, the source of the Credit Bureau report must be revealed to the applicant in accordance with the Fair Credit Reporting Act.

c. Applicants may be rejected due to:

(1) A history of unjustified and chronic nonpayment of rent and financial obligations.

(2) A history of violence and harassment of neighbors.

(3) A history of disturbing the quiet enjoyment of neighbors.

(4) A history of violations of the terms of previous rental agreement such as the destruction of a unit or failure to maintain a unit in a sanitary condition.

d. Rejection of applicants on an arbitrary basis is prohibited. Examples of such arbitrary rejections are:

(1) Race, color, religion, sex, age, marital status, national origin, physical or mental handicap (except in those projects or portions of projects designated for elderly, disabled and/or handicapped, where occupancy by non-elderly, non-disabled or non-handicapped can be prohibited).

(2) Receiving income from public assistance.

(3) Familes with children of undetermined parentage.

(4) Participation in tenant organizations.

e. In the case of Labor Housing projects, no organization borrower other than an association of farmers or family farm corporation or partnership will be permitted to require that an occupant work on any particular farm or for any particular owner or interest as a condition of occupancy of the housing.

f. Rejected applications must be kept on file by the borrower or management agent until a compliance review has been conducted by FmHA in accordance with Subpart E of Part 1901 of this Chapter.

E. *Tenant Selection.*

1. Applicants determined eligible will be selected on a first come first-served basis according to the chronological order of each categorized waiting list or by chronological order of each income group identified on a master waiting list in the following priority:

a. Very low-income.

b. Low-income.

c. Moderate-income.

d. Ineligible.

2. When RA is available:

a. Very low-income applicants eligible for RA have a priority over all other applicants on each type of waiting list maintained by the borrower in accordance with paragraph XI of Exhibit E to this Subpart.

b. Low-income applicants may be selected provided no very low-income applicants remain on the waiting list.

c. Moderate-income applicants may not be selected where the number of unassigned RA units equals or exceeds the number of vacant units. (Borrowers unable to use RA may consider requesting a transfer of RA authority according to paragraph XV of Exhibit E.)

3. Selections will be made from the waiting list maintained for the particular unit size and/or unit type in which a vacancy exists. If the applicant cannot accept the unit at that time, the reason for not accepting the living unit will be documented. The applicant's name will then be removed from the waiting list unless the rental agent determines that hardship exists for reasons such as health problems or high cost of rent without rental assistance in which case the applicant's name will remian on the list in chronological order. An applicant whose name has been removed from the waiting list may reapply. Applicants who give *written* reasons why they cannot accept the living unit at the time it is offered forfeit their right to appeal the borrowers decision to remove their name from the waiting list.

4. When there is no applicant named on the waiting list for the size and/or type of vacant living unit, a name may be selected from the waiting list of another size and/or type of living unit according to the date order of the application on the master waiting list. The selected tenant will be subject to the provisions for ineligible tenants found in paragraph VI B 6 of this exhibit.

F. *Tenant Record File.* A separate file must be maintained for each tenant. This file will include items such as application, income verification forms, lease agreement and attachments, inspection reports for moving in and moving out, correspondence and notices to the tenant, and any other necessary information. The income verification, tenant eligibility certification and recertification information must be retained for a least 3 years while the tenant is living in the unit and for 3 years after the tenant has moved out.

VII Verification and Certification of Tenant Income and/or Employment

The incomes reported by the tenants (and employment in the case of LH tenants) selected for occupancy must be verified by the borrower or rental agent before the tenant is determined eligible. If in unusual circumstances a tenant is allowed to move in before income is verified, the lease should contain a clause "subject to verification of income."

A. *Verification of Income from Employment.* Verification of income from employment, authorized by the tenant/applicant, must be obtained from the employer in writing and filed in the "Tenant Record File." A suggested Employment Inquiry form is attached as Exhibit B-9.

B. *Verification of Income from Other Sources.* Any income from other than employment (e.g., social security, Veterans Administration, public assistance) must be verified in writing by the income source. Verification of income must be documented and filed in the "Tenant Record File." When it is not immediately possible to obtain the written verification from the income source, the income may be temporarily verified by actually examining the income checks, check stubs, or other reliable data the tenant possesses which indicates the tenant's gross income. Temporary verification may also be obtained through contacts with individuals who may be knowledgeable of the tenant's income. When no other verifiable source is available, a notarized affidavit from the tenant attesting to his/her gross annual income may be accepted.

C. *Verification of Income and/or Employment for LH Tenants.*

1. Verification of income is required for those domestic farm laborers, including migrants, who will receive the benefits of rental assistance. When the tenants do not have easily verifiable income, the borrower may project monthly income expected to be received by the tenant during occupancy for determining eligibility and subsidy assistance.

2. Verification that all LH tenants have sufficient income from farm labor employment, that meets the definition of domestic farm labor, is required for all domestic farm laborers, including migrants. Employment verification is an addition to income verification for those tenants described in paragraph VII C 1 above. Verification must be documented and filed in the "Tenant Record File."

D. *Random Sample of Tenant Income and/or Employment Verification.* District Directors are required to make a random sample of tenant income verifications; in the case of LH tenants, employment verifications. The random sample can be derived from information on the tenant certification forms that will be submitted to the District Office in accordance with paragraph VI F of this Exhibit. The random sample should be representative of very low-, low-and moderate-income persons in the project, including those receiving subsidy assistance, those paying in excess of the contribution level cited in paragraph IV A 2c (1) or (2) or: (3) of this exhibit for the costs of rent and utilities, and those paying the market rent. The District Director will conduct the random sample in the borrower's office during supervisory visits and at any time he/she may be knowledgeable of discrepancies in income and/or employment verifications. If the random sample discloses discrepancies, the District Director will be required to investigate further or report to the State Director to obtain the assistance of the Office of Audit or the Office of Investigations.

E. *Use of HUD Certification Form for Section 8 Recipients.* HUD Form 50059, "Certification and Recertification of Tenant Eligibiity," or another HUD form approved by HUD for this purpose, may be used in lieu of Form FmHA 1944-8 for the tenants receiving Section 8 assistance. However, the tenant's income cannot exceed FmHA limits for the type of housing project involved if it has been calculated according to the formula contained in Form FmHA 1944-8.

F. *Certification of Tenant Income.*

1. The borrower must initially submit Form FmHA 1944-8, or for tenants receiving Section 8 assistance the acceptable Department of Housing and Urban Development (HUD) tenant cetification form to the District Office for each tenant. The initial tenant certification must be submitted to the FmHA District Office on or before the day the tenant occupies the unit. The District Office will review the tenant certification and verify that the information contained on the form is complete and correctly computed based on information contained on the form.

2. Each tenant must be recertified within twelve months of the previous certification. Tenants receiving Section 8 assistance will be recertified according to HUD regulations.

a. Ninety (90) days prior to the required recertification, the District Office will notify the borrower in writing that a tenant recertification is required and specify the due date. The due date will be the first day of the month following the expiration date of the tenant certification. Failure to receive the notification does not relieve the borrower of responsibility to provide the recertification under the requirements of this regulation and Covenant 3 of Form FmHA 1944-7, "Multiple Family Housing Interest Credit and Rental Assistance Agreement."

b. The borrower must:

(1) Notify the tenant that a current tenant certification and income verification is required before the due date and explain the procedure necessary to accomplish recertification;

(2) Process the appropriate tenant certification and verification of income; and

(3) Submit the signed recertification to the District Office by the due date.

c. The borrower must provide a second written notice to the tenant 30 days prior to the due date if the tenant has not responded. The second notice must advise the tenant that without a current tenant certification, the tenant will be required to pay market rent and that eviction proceedings may be started as of the due date since an annual recertification is required for continued occupancy. If the tenant has rental assistance (RA), the tenant must be advised that without a current certification, the tenant's RA will be cancelled and may not be immediately available for reinstatement should a proper tenant certification be provided at a later date.

3. The borrower must submit Form FmHA 1944-29, "Project Worksheet for Interest Credit and Rental Assistance," to the District Office with each payment, report of overage or request for RA as required in paragraph XIII C 1 b of this Exhibit. The calculations on Part II of the form must be for tenants in

residence on the first day of the month for which the payment or request is submitted. All calculations will be made as if the tenant

Director. When submitting a lease form for FmHA approval, it must be accompanied by

amount of benefits to which I was not entitled."

amount of benefit to which I was not entitled. I also understand and agree that my monthly

shall be determined and redetermined including:

notice required for the tenant to exercise the right to terminate.

residence on the first day of the month for which the payment or request is submitted. All calculations will be made as if the tenant will be in residence for the full month. ADJUSTMENTS WILL NOT BE MADE TO THE BORROWER'S SUBSIDY PAYMENT OR CHARGES FOR OVERAGE FOR TENANTS MOVING IN OR OUT AFTER THE FIRST OF THE MONTH.

4. Paragraph VIII B 3 b of this exhibit is a required lease provision requiring tenants to notify the management of any permanent change in adjusted monthly income or size of household. Upon receipt of such notice, the borrower must obtain a new tenant certification and income verification. The new tenant certification will be submitted to the District Ofiice with the next payment transmittal reflecting the revised tenant contribution, if applicable.

5. When a borrower/agent believes that an applicant/tenant certification and income verification is inaccurate, they may provide the information including the tenant's social security number to the District Office requesting a further verification through the appropriate state employment agency. The District Office will forward the request to the State Director for submission to the state agency that keeps records on the incomes of wage earners. The State Director will develop a method of obtaining the information from the state agency.

VIII. Lease Agreements

A Lease Agreement is a written contract between the tenant and landlord assuring the tenant quiet, peaceful enjoyment and exlcusive possession of a specific dwelling unit in return for payment of rent and reasonable use and protection of the property.

A. *Form of Lease.* Each State Director is encouraged to prepare a sample lease form complying with individual State laws and FmHA requirements. The State Director may incorporate clauses which meet a specific need in compliance with State law. Any sample lease must be reviewed and approved by the OGC before being provided to borrowers as a guide for preparing an acceptable project lease.

1. All leases will be in writing and must cover a period of at least 30 days but not more than 1 year, except that leases for labor housing may be weekly where occupancy is typically seasonal. In areas where there is a concentration of non-English-speaking individuals, leases and the established rules and regulations for the project written in both plain English and the non-English concentration language must be available to the tenants. The tenant should have the opportunity to examine and execute either form of lease.

2. Annual leases should contain an appropriate escalation clause permitting changes in basic and/or market rents prior to the expiration of the lease. Rent changes would normally be necessary due to changing utility and other operating costs. Any changes must be approved by FmHA according to Exhibit C of this Subpart.

3. The form of lease to be used by the borrower and any modifications of the lease form must be approved by the FmHA District Director. When submitting a lease form for FmHA approval, it must be accompanied by a letter from the borrower's attorney regarding its legal sufficiency and compliance with State law and FmHA regulations.

4. A copy of a properly completed and approved Exhibit A–5, "Housing Allowances for Utilities and Other Public Services," of Subpart E of Part 1944 (when the tenant will pay utilities) and a copy of the established rules and regulations for the project will be provided to the tenant as attachments to the lease.

5. A copy of a properly completed and signed Form FmHA 1944–8, "Tenant Certification," or HUD 50059, "Certification and Recertification of Tenant Eligibility," for those tenants receiving HUD Section 8 tenant subsidy, will be used to calculate each tenant's contribution and will be provided to the tenant as an attachment to the lease.

B. *Required Lease Clauses.* The following clauses will be required in leases used in connection with FmHA financed housing projects.

1. All lease agreements must include a statement indicating that the project is financed by the Farmers Home Administration and is subject to the Title VI nondiscrimination provisions, and that all complaints are to be directed to the Secretary of Agriculture or to the Office of Equal Opportunity, USDA.

2. All lease agreements must also specify that should the tenant no longer meet the eligibility requirements of the project during the term of the lease agreement, he/she will be required to vacate the unit unless an exception is authorized by the State Director.

3. All leases used in FmHA financed RRH projects must include the following clauses except for elderly, disabled and handicapped persons in a full profit plan project:

a. "I understand that I will no longer be eligible for occupancy in this project if my income exceeds the maximum allowable adjusted income as defined periodically by the Farmers Home Administration for the (State/Territory)."

b. "I agree to immediately notify the lessor of any permanent change in the adjusted monthly income or change in the number of persons living in the household."

c. "I understand that if I do not personally reside in the unit for a period exceeding 60 days, for reasons other than health or emergency, my net monthly tenant contribution shall be raised to $ ——— per month (market rent for Plan II projects or 125 percent of rent in Plan I projects) for the period of my absence exceeding 60 days. I also understand that should any rental assistance be suspended or reassigned to other eligible tenants, I am not assured that it will still be available to me upon my return. I also understand that if my absence continues, that as landlord you may take the appropriate steps to terminate my tenancy at the end of the lease period."

d. "I understand that should I receive rental benefits to which I an not entitled due to my/our failure to provide information or due to incorrect information provided by me or on my behalf by others, or for any other household member, I may be required to make restitution and I agree to pay any amount of benefits to which I was not entitled."

e. "I agree to promptly provide any certifications and income verifications required by the owner to permit determination of eligibility and, when applicable, the monthly tenant contribution to be charged."

4. Leases used by borrowers participating in the FmHA rental assistance program will contain the following clauses. (These clauses can be made an addendum to the lease and they must be signed by the lessor and lessee):

"I understand and agree that as long as I receive rental assistance, my gross monthly tenant contribution (as determined on the latest Form FmHA 1944–8, which must be attached to this lease) for rent and utilities will be $———. If I pay any or all utilities directly (not including telephone or cable TV), a utility allowance of $——— will be deducted from my gross monthly tenant contribution will be $———. If my net monthly tenant contribution would be less than zero, the lessor will pay me $———.

"I also understand and agree that my monthly tenant contribution under this lease may be raised or lowered, based on changes in the household income, changes in the number and age of persons living in the household, and on the escalation clause in this lease. Should I no longer receive rental assistance as a result of these changes, or the rental assistance agreement executed by the owner and FmHA expires, I understand and agree that my monthly tenant contribution may be adjusted to no less than $——— (Basic Rental) nor more than $——— (Market Rental) during the remaining term of this lease, except that based on the escalation clause in this lease these rental rates may be changed by a Farmers Home Administration approved rent change."

[Note: Eligible borrowers with LH loans and grants, direct RRH loans, or insured RRH loans approved before August 1, 1968, may omit the words "no less than $——— (Basic Rental) nor more than" from the last sentence of the above statement.]

"I understand that every effort will be made to provide rental assistance so long as I remain eligible and the rental assistance agreement between the owner and FmHA remains in effect. However, should this assistance be terminated I may arrange to terminate this lease, giving proper notice as set forth elsewhere in this lease."

5. For leases with borrowers operating under Plan II Interest Credit Only:

"I understand and agree that my gross monthly tenant contribution as determined on the latest Form FmHA 1944–8, which must be attached to this lease, for rent and utilities will be $———.

"If I pay any or all utilities directly (not including telephone or cable TV), a utility allowance of $——— will be deducted from my gross monthly tenant contribution except that I will pay not less than the basic rent nor more than the market rent stated below. My net monthly tenant contribution will be $———. I understand that should I receive rental subsidy benefits (interest credit) to which I am not entitled, I may be required to make restitution and I agree to pay any amount of benefit to which I was not entitled. I also understand and agree that my monthly tenant contribution under this lease may be raised or lowered based on changes in the household income, changes in the number and age of persons living in the household, and on the escalation clause in this lease. My tenant contribution will not, however, be less than $——— (Basic Rental) nor more than $——— (Market Rental) during the term of this lease, except that based on the escalation clause in this lease, these rental rates may be changed by a Farmers Home Administration approved rent change."

6. Leases used by borrowers with farm labor housing loans and/or grants will use the following additional clauses:

a. "I understand that the project is operated and maintained for the purpose of providing housing for domestic farm laborers and their immediate families. I do hereby certify that a substantial portion of my immediate family income is and will be derived from farm labor. I further understand that domestic farm labor means persons who receive a substantial portion of their income as laborers on farms in the United States and either: (1) Are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands, after being legally admitted for permanent residence therein, and may include the immediate families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while in the unprocessed stage, provided the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. It also includes labor for the production of aquatic organisms under a controlled or selected environment."

b. "I agree that if my household income ceases to be substantially from farm labor for reasons other than disability or retirement, I will promptly vacate my dwelling after proper notification by the owner."

7. The lease agreement in congregate housing cases must include the following statement: "I understand that my ability to live independently in the project with the support services available will be evaluated on a periodic basis. I may be requested to vacate if a determination is made that I am no longer able to live in the project without additional assistance." This involves cases where the tenant has progressed or regressed to a state of health that requires, in the opinion of the management, a level of care not available in the congregate housing facility.

C. Other Lease Provisions. All leases must contain provisions covering:

1. Names of the parties to the lease and all individuals to reside in the unit and the identification of the premises leased.

2. The amount and due date of monthly tenant contributions.

3. Any penalty for late payment of monthly tenant contribution according to paragraph IX B of this Exhibit.

4. The utilities and quantities thereof and the services and equipment to be furnished to the tenant by the management and the tenant's responsibility to pay utility charges promptly when due.

5. The process by which tenant contribution and eligibility for occupancy shall be determined and redetermined including:

a. The frequency of such tenant contribution and eligibility determinations.

b. The information which the tenant shall supply to permit such determinations: usually, income verification; names and ages of household members; and, in congregate facilities, information that permit management to determine the tenant's or co-tenant's level of function and degree of competence in performing daily living activities.

c. The standards by which rents, eligibility, and appropriate dwelling unit size shall be determined.

d. Tenant's household agreement to move to a unit of appropriate size if the household size changes.

e. The circumstances under which a tenant may request a redetermination of tenant contribution.

f. The effect of misrepresentation by the tenant of the facts upon which tenant contributions or eligibility determinations are based.

g. The time at which shelter cost changes, tenant contribution changes, or notice of ineligibility shall become effective.

6. The limitation upon the tenant of the right to the use and occupancy of the dwellings.

7. The responsibilities of the tenant in the maintenance of the dwelling and the obligation for intentional or negligent failure to do so.

8. Agreement of management to accept a tenant contribution without regard to any other charges owed by tenant to management and to seek separate legal remedy for the collection of any other charges which may accrue to management from tenant(s).

9. The responsibility of management to maintain the buildings and any common areas in a decent, safe, and sanitary condition in asccordance with local housing codes and FmHA regulations, and its liabilities for failure to do so.

10. The responsibility of management to provide the tenant with a written statement of the condition of the dwelling unit (when the tenant initially enters into occupancy and when vacating the dwelling unit), and the conditions under which the tenant may participate in the inspection of the premises which is the basis for such statement.

11. The circumstances under which management may enter the premises during the tenant's possesion thereof, including a periodic inspection of the dwelling unit as a part of a preventive maintenance program.

12. Responsibility of tenant to advise management of any planned absence for an extended period, usually 2 weeks or more.

13. Agreement that tenant may not let or sublet all or any part of the premises.

14. Understanding that should the project be sold to a buyer approved by FmHA, the lease will be transferred to the new owner.

15. The formalities that shall be observed by management and the tenant in giving notice one to the other as may be called for under the terms of the lease.

16. The circumstances under which management may terminate the lease, all limited to good cause, and the length of notice required for the tenant to exercise the right to terminate.

17. The procedure for handling tenant's abandoned property as provided by State law.

18. Disposition of lease if building becomes untenantable because of fire or other disaster. Right of owner to repair or rehabilitate the building within a certain period or terminate the lease.

19. The agreement that any tenant grievance or appeal from management's decision shall be resolved in accordance with procedures consistent with FmHA regulations covering such procedures which are posted in the rental office.

20. The usual signature clause attesting that the lease has been executed by the parties.

D. Prohibited Lease Clauses. Lease clauses in the classifications listed below shall not be included in any lease.

1. CONFESSION OF JUDGEMENT. Prior consent by tenant to any lawsuit the landlord may bring against the tenant in connection with the lease and to a judgment in favor of the landlord.

2. DISTRAINT FOR RENTAL OR OTHER CHARGES. Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

3. EXCULPATORY CLAUSE. Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

4. WAIVER OF LEGAL NOTICE BY TENANT PRIOR TO ACTIONS FOR EVICTION OR MONEY JUDGMENTS. Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

5. WAIVER OF LEGAL PROCEEDINGS. Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred.

6. WAIVER OF JURY TRAIL. Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to trial by jury.

7. WAIVER OF RIGHT TO APPEAL JUDICIAL ERROR IN LEGAL PROCEEDINGS. Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

8. TENANT CHARGEABLE WITH COSTS OR LEGAL ACTIONS REGARDLESS OF OUTCOME. Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of this clause does not mean that the tenant, as part to a lawsuit, may not be obligated to pay attorney's fees or other costs if the tenant loses the suit.)

E. *Modificotion of Lease—Notification to Tenants.* The landlord may modify the terms and conditions of the lease, effective at the end of the initial term or a successive term,

by serving an appropriate notice on the tenant, together with the tender of a revised lease or an addendum revising the existing

6. For each RRH project specifically built for the *elderly*, the borrower must establish

h. Map showing location of community facilities including schools, health care,

4. Borrowers may assess fair and reasonable charges to the security deposit for

the tenant's rent to recoup the improper rental subsidy. The borrower will inform the

availability and property characteristics. Also included are janitorial tasks performed

VOL 50 ISS 136 JL 16 1985 UMI

by serving an appropriate notice on the tenant, together with the tender of a revised lease or an addendum revising the existing lease. This notice and tender shall be delivered to the tenant either by first-class mail, properly stamped and addressed or hand delivered to the premises to an adult member of the household.

The date on which the notice shall be deemed to be received by the tenant shall be the date on which the first-class letter is mailed or the date on which the copy of the notice is delivered to the premises. The notice must be received at least 30 days prior to the last date on which the tenant has the right to terminate the tenancy without executing the revised lease. The notice must advise the tenants that they may appeal modifications to the lease in accordance with the FmHA tenant grievance and appeals procedure (Subpart L of Part 1944 of this Chapter) if the modification will result in a denial, substantial reduction, or termination of benefits being received.

The same notification will be applicable to any changes in the rules and regulations for the project.

F. *Occupancy Rules.* Occupancy rules establish the basis for the management-tenant relationship. Occupancy rules and regulations must be provided and explained by the project management to enable the tenant to understand the purposes, objectives, and standards of the project. The rules will be approved by the FmHA State Director or designee, generally together with the project management plan, management agreement, and lease form.

1. All rules for occupancy and rent structures will be in writing posted conspicuously in the borrower's and/or manager's offices and provided to each tenant with the lease agreement.

2. Proposed changes of any rules for occupancy must be made available to each tenant at least 30 days in advance of implementation, and tenants must be advised that they may appeal changes in accordance with the FmHA tenant grievance and appeals procedure (Subpart L of Part 1944 of this Chapter).

3. No rule may infringe on the rights of the tenants to organize an association of tenants. Such associations may be organized to bargain with management, as well as to act socially and/or provide for the welfare of its members. The project management person or organization should be available and willing to work with a tenant organization.

4. Rules may be promulgated that prohibit activities which are detrimental to management and tenants. Such activities include threats to the health or safety of other tenants or the employees of the borrower, interference with the quiet enjoyment of the premises by other tenants, or damage to the physical structure of the project.

5. The borrower may choose to provide rules for *non-elderly* projects that either permit or exclude pets *except* that no rules may be promulgated that would prohibit the tenancy of a tenant household member who requires the services of a trained and certified seeing eye or hearing ear animal to achieve the normal function of that household member.

6. For each RRH project specifically built for the *elderly*, the borrower must establish project rules by (*12 months after effective date of this revision*) permitting elderly, handicapped or disabled tenants to keep commonly accepted household pets. These pet rules are to be established according to the following:

a. Pet rules *must not:*

(1) Prohibit, prevent, restrict or discriminate against any tenant who owns or keeps a pet in their apartment unit, with respect to continued occupancy in the project unless the approved project pet rules are violated.

(2) Prohibit, prevent, restrict or discriminate against any applicant who owns a pet with respect to obtaining occupancy to the project.

b. Borrowers with operational projects must consult with the tenants of the project when establishing pet rules and document to the District Director how the consultation process was conducted.

c. Borrowers with new projects will establish pet rules prior to occupancy, but may revise those rules based on tenant comments and suggestions received after rent-up begins.

d. Pet rules will be approved by FmHA as part of, or an amendment to, the project lease. FmHA approval will be granted when the rules meet the provisions and intent of this subparagraph.

e. Pet rules will be reasonable and will be written to consider at least the following factors:

(1) Density of project units.
(2) Pet Size.
(3) Type of pet.
(4) Potential financial obligations of tenants who own or keep pets.
(5) Standards of pet care.
(6) Pet Exercise Areas.
(7) State and Local animal laws or ordinances.

f. Pet rules must allow the borrower or project manager authorization to remove from the project any pet whose conduct or condition is duly determined to constitute a nuisance or threat to the health or safety of other tenants in the project or persons in the surrounding community.

7. Initial rules will be attached to the lease agreement. Approval by FmHA for changes and additions may be requested annually with submission of annual reports or more frequently only in the case of an emergency situation.

8. The following items illustrate areas that should be addressed in rules developed by management and provided to all tenants prior to move-in:

a. Explanation of rights and responsibilities under the lease. Where a non-English language is common to a project area, a lease written in that language should also be provided.

b. Rent payment policies and procedures should be fully explained.

c. Policy on periodic inspection of units.

d. Responding to tenant complaints.

e. Maintenance request procedure.

f. Project services and facilities available to tenants.

g. Office location, hours, and emergency telephone numbers.

h. Map showing location of community facilities including schools, health care, libraries, parks, etc.

i. Restrictions on storage and prohibition against abandoning vehicles in the project area.

j. A project newsletter, if desired.

k. Community and public transportation schedules.

9. Tenant may be permitted to have a guest(s) visit their household. However, an adult person(s) making reoccurring visits or one continuous visit of 14 days and nights in a 45 day period *without consent* of the management will be counted as a household member(s).

G. *Security Deposits.*

1. Security deposits are encouraged and they should be used when it is reasonable and customary for the area. The amount of security deposits must be reflected in the borrower's management plan and may not be changed without the written consent of the FmHA District Director. When security deposits are used, they should be an amount equal to the tenant contribution for one month or basic rent, whichever is greater. Families receiving a HUD rental subsidy will pay security deposits according to HUD requirements. In an elderly project, the amount of additional security deposit for pets must be reasonable and not designed to prohibit or discourage tenancy. Where a seeing eye or hearing ear animal is necessary for the normal function of a household member, an additional security deposit for the animal may not be charged.

2. Security deposits for persons eligible for Rental Assistance or Section 8 assistance shall be administered in a manner to prevent hardship on the household. If such tenants cannot pay the full amount initially, they may be given terms that should ordinarily:

a. For RRH projects, not exceed a down payment of 25 percent of adjusted monthly income plus $15 per month or that amount needed monthly to complete the security deposit within twelve months, whichever is greater.

b. For low-income farmworkers in a LH project, not exceed $25 down payment and $15 per month until an equivalent of one month's project rent is reached. In the case of migrants who will occupy the units for a short period of time, exception to this policy by FmHA may be made upon written request from the borrower when it is shown that such deposits need to be raised to protect the security interest of the government and it will not create a hardship on the tenants.

3. Security deposits shall be handled in accordance with any State or local laws governing tenant security deposits. Tenant security deposits shall be deposited in a separate account at a Federally insured institution, and shall be handled in accordance with any State or local laws governing tenant security deposits. Funds in the Security Deposit Account shall only be used for authorized purposes as intended and represented by the project management in the management plan, and until so used, shall be held by the borrower in trust for the respective tenants.

4. Borrowers may assess fair and reasonable charges to the security deposit for damage and loss caused or allowed by the tenant. An itemized accounting for such charges must be presented to the tenant after the move-out inspection provided for in paragraph X E 2 of this Exhibit, unless the tenant has abandoned the property and his/her whereabouts are unknown and cannot be ascertained after reasonable inquiry.

H. *Special Lease Supplement.* Borrowers are encouraged to supplement lease agreements, particularly of elderly, disabled and handicapped tenants, to:

1. Permit the borrower, with competent medical or clergical advice, to contact a predetermined sponsor(s) or guardian(s) to effect the transfer of the tenant to other appropriate housing when the tenant is (a) no longer able to functionally make self-determinations or (b) to adequately provide self-care within the facilities and services provided by the project. A sponsor or guardian would be a person(s) designated by the tenant, generally a family member, friend, doctor, or member of the clergy.

2. Provide instruction to the borrower of a person(s) to contact in the event of death of the tenant.

When a lease has been supplemented, the borrower should also obtain an agreement from the designated sponsor(s) or guardian(s) to assume responsibility for the tenant in the event of need as identified in subparagraphs 1 and 2 above.

IX. Rent Collection

A pre-established day of the month should be the designated rental collection day. The time and place of onsite collection and/or the correct address for payment by mail should be well publicized and consideration should be given to an after-hours' depository if needed.

A. *Rental Receipts.* A form of serially-numbered rental receipts should be selected for use and the collection agent held accountable for every receipt. Optional collection services may be considered when they are available.

B. *Delinquent Rents.* A system to identify and detect unpaid rents should be instituted within the project. A penalty of up to $10.00 for late payment of rent after a 10-day grace period, or the grace period prescribed by State law, may be permitted. The borrower should consider the circumstances causing the late payment before assessing any penalty. True hardship cases should not be assessed penalties; however, maintaining a firm and fair policy on rent collection encourages tenants to meet their rental obligations.

C. *Recapture of Improperly Advanced Rental Assistance and Interest Credit.*

1. In cases where a tenant has received rental assistance and/or interest credit benefits to which he/she may not be entitled, because of the tenant's failure to properly report income or changes in the size of the household, the borrower will provide the tenant with a notice of intent to recoup improperly advanced rental subsidy benefits. Such a notice must inform the tenant of the amount improperly advanced and the lump sum or monthly amount that will be added to the tenant's rent to recoup the improper rental subsidy. The borrower will inform the District Office of the agreement made by the tenant for repayment. In the event that collection from the tenant is not achieved by active collection effort, including legal remedy, the borrower will report the facts to the Disctrict Director. The District Director will report the facts to the State Director who will obtain the advice of OGC on further actions.

2. If it appears that the tenant has willingly and knowingly misrepresented his/her income, the borrower will demand restitution of the improper rental subsidy. The case will also be reported to the FmHA District Director who will monitor the borrower's actions. If the tenant fails to make restitution, the District Director will refer the matter to the OGC for further advice.

3. Recapture of rental assistance assigned to the wrong tenant household will be handled according to paragraph XII of Exhibit E of this Subpart.

4. If improper interest credit or rental assistance is paid due to the negligence or ineffectiveness of the borrower or its designee, the borrower is required to make restitution to FmHA without making claim against the tenant. This restitution will not be charged to the project as any part of the budget or operating expense. In the case of a non-profit or public body borrower, when funds from non-project sources are not available, the State Director exclusively, may make an exception if the funds were used for appropriate and justified project expenses and allow project income not required for approved operating budget items to cover the cost of restitution. Restitution may be made by remittance of the excessive payment amount to FmHA, and applied to the project account as an overage in the case of interest credit or the rental assistance account.

5. Or unauthorized rental assistance and/or interest credits derived through inaccurate calculation, the unauthorized amount of subsidy will be determined by the Director. The borrower will be requested to correct the error by remitting the excess subsidy. If it is not repaid, the excess subsidy amount will be deducted by FmHA from subsequent credits or payments.

X. Maintenance

Maintenance is the process by which a project is kept up in all respects and includes land, buildings, and equipment. Maintenance responsibilities will be included in the management plan. Proper maintenance will help to keep a good image for the project, help to minimize vacancies, and help to preserve the project. Plans and policies for inspections, effective maintenance and repair are to be established at the outset and modified periodically as needed. The following types of maintenance are necessary:

A. *Routine Maintenance.* Routine or short-term type maintenance and repairs will be those cost items and services included in the annual budgets to be paid out of the operations and maintenance expense account. It includes regular maintenance tasks of the project that can be prescheduled or planned for, based on equipment availability and property characteristics. Also included are janitorial tasks performed on a regular basis to maintain the appearance of the project and to prevent an accumulation of debris and subsequent deterioration.

B. *Responsive Maintenance.* This includes all maintenance tasks performed in response to either requests for service from tenants or unplanned breakdowns. An essential part of any maintenance system is to plan for requests coming from the dwelling units and for emergencies occurring in the systems serving the apartments. The project manager should develop a plan to focus on: who receives the requests, how they are handled, how specific employees are assigned to the tasks and what kind of records are kept. The capacity of the project manager to respond to requests and emergencies is one of the true tests of a successful maintenance program.

C. *Preventive Maintenance.* This is similar to inspection type maintenance. Regular checking and servicing of equipment and systems is done as required by service information. Preventive maintenance of mechanical systems, building exteriors, elevators, and heating systems in rental projects require specially trained personnel. The project manager should establish biweekly or monthly schedules in which the routine oiling, adjusting, replacing of filters, and the like is done based on manufacturer's manuals and specifications.

D. *Long Term Maintenance.* These are major expense items which normally do not occur on an annual basis. The borrower may request permission to use reserve funds to pay for these expenses when they occur. However, use of funds out of the reserve account must be preapproved by FmHA.

E. *Inspection Maintenance.* These are maintenance inspections performed periodically to discover problems before crisis situations develop. The following inspections of each tenant's apartment should be made at appropriate times:

1. MOVE-IN INSPECTION. Before move-in occurs, the management and the applicant accepted for tenancy should together inspect the unit to be occupied and agree upon any repairs needed. A written inspection report shall be prepared and a copy retained in the tenant's file. Any of the identified deficiencies not corrected prior to occupancy should be noted on the lease or inspection move-in report and signed by the tenant and borrower's representative.

2. MOVE-OUT INSPECTION. An inspection should be scheduled with the tenant when the management becomes aware that the tenant is moving out or has vacated the unit. Whenever possible, the inspection should be performed after the furniture has been moved out and before any portion of the security deposit is returned to the tenant. Any repairs or costs to be charged to the tenant will be according to the terms of the lease, local law, and regulations governing security deposits in paragraph VIII G of this Exhibit.

3. PERIODIC INSPECTION. An inspection of this type should be made at least annually. The borrower should make provisions in the lease for periodic inspection of the units as a part of a preventive maintenance program.

XI. Rent Changes

It may be necessary as operating costs

a. A review of the documented circumstances and the project operating

may require the borrower to establish a system capable of accounting for project

(1) *Initial Operating Capital.* The borrower

of Part 1951 of this chapter, may not be paid

(ii) To pay costs of repairs or replacements

XI. Rent Changes

It may be necessary as operating costs and/or revenues fluctuate to consider a change of rental rates to keep the project viable. Before any change of rental rates may occur, *prior written consent* of FmHA *is required.* The procedure to request and implement a rent change is specifically covered in Exhibit C of this Subpart.

XII. Borrower Project Budgets

A. *Budget Development and Preparation.*

1. Borrowers are required to develop an annual budget of project income and expense.

2. Separate budgets will be developed for each project when the borrower owns more than one MFH project.

3. Budgets will cover a 12 month period selected by the borrower to be the project fiscal year of operation.

4. Budgets will be prepared according to the instructions contained in Form FmHA 1930–7, "Statement of Budget and Cash Flow."

B. *Return on Investment as Authorized by Borrower's Loan Agreement/Resolution.*

1. Limited profit borrowers may take the return authorized for the current budget year without further FmHA approval under the following conditions:

a. Payment may be made only once a year at the end of the project fiscal year.

b. Payment must have been approved as part of the borrower's annual budget on Form FmHA 1930–7.

c. The project must have produced adequate income during that year to cover all expenditures in accordance with the approved budget.

d. The balance in the reserve account must be current less any authorized withdrawals.

e. Payment of the return may not produce a year end deficit.

2. If income is not adequate in any given fiscal year to cover payment of the return to owner, FmHA may authorize the return to be paid from:

a. Excess funds available at the end of the following fiscal year of operation provided it does not result in a rent increase and the reserve account is current less authorized withdrawals. (Non-profit losses of the borrower entity do not qualify to be recouped in following years.) This option is authorized only for the year immediately following the year in which the return was not paid.

b. Release of reserve funds with District Director approval, provided:

(1) The Reserve Account will not be reduced below the amount required to be accumulated by that time considering adjustments for any previously authorized withdrawals; and,

(2) During the next 12 months the amount in the Reserve Account will not likely fall below that required to be accumulated by the end of such 12 month period.

C. *Advancement (Loan) of Funds to a Project by the Owner, Member of the Organization, or Agent of the Owner.*

1. Such advances are discouraged but may be allowed when justified, provided the prior written approval of the District Director has been obtained. Justification will be based on the following:

a. A review of the documented circumstances and the project operating budget before any funds are advanced (loaned).

b. Funds are not immediately available from any of the following sources:

(1) Reserve funds.

(2) Initial operating capital.

(3) An imminent rent increase.

2. The funds will be applied to ordinary project operating and maintenance expenses.

3. No interest will be charged or paid on the loan from project income.

4. No lien in connection with the loan will be filed against the property securing the FmHA loan or against project income.

5. The pay-back of the advance (loan) may be permitted by the District Director provided the terms and conditions were mutually agreed to by the borrower and FmHA at the time of the advance and the financial position of the project will not be jeopardized. payback should only be permitted on the advance when the FmHA debt is current and the reserve requirements are being maintained at the required levels.

XIII. Accounting and Reporting Requirements and Financial Management Analysis

A. *General.* RRH, RCH, and LH borrowers are expected to account for all project income and expenses through a bookkeeping or accounting system appropriately reflecting the complexity of project operations.

The degree of sophistication will also reflect such factors as the type of borrower; the size, location and type of project; and the type of finanical management information needed to provide adequate guidance and supervision to assure program objectives are being met.

1. Borrowers with loan agreements or resolutions are subject to the following conditions:

a. All RRH and LH projects with loan agreements or resolutions approved on or after October 27, 1980, are required to comply with the provisions of this paragraph XIII.

b. All RRH and LH projects with loan agreements or resolutions approved prior to October 27, 1980, will be guided by the recordkeeping and reporting requirements of their respective loan agreement or resolution.

(1) They are encouraged, however, to adopt the provisions of this section by amending their existing loan agreement or resolution.

(2) The State Director may require adoption of these provisions when deemed necessary as a loan servicing action.

c. Any amendment to an existing loan agreement, or resolution, requires concurrence of all parties and written approval by the State Director with advice from the OGC prior to enactment of the amendment.

d. Individual farm borrowers with LH units will be considered in general compliance with this paragraph by virtue of completing the recordkeeping and reporting requirements of their farm and home planning with FmHA.

2. Borrowers without loan agreements or resolutions are required to maintain information in sufficient detail to provide the necessary assurance that program objectives are being met. As necessary to protect the integrity of the program, the State Director may require the borrower to establish a system capable of accounting for project operations and reporting.

B. *Accounting System.* A bookkeeping and accounting system provides the financial information needed to effectively plan, control and evaluate project activity. The type of system should be determined prior to loan closing, but it may be revised with FmHA approval to meet program objectives. FmHA may also prescribe the system to be used. Form FmHA 1930–5, "Bookkeeping System—Small Borrower," can be adapted to the bookkeeping needs of small RRH projects. Bookkeeping for MFH projects may be maintained using a cash, modified cash, or accrual type accounting system.

1. *Type of accounts.* As used in this paragraph, the term account is used in interchangeably to mean either a ledger (or bookkeeping account) or an actual banking account. Depending upon the complexity of the accounting system being used, these accounts may be further subdivided into subsidiary ledgers or accounts to assist the borrower in providing the information needed for project financial analysis or reporting requirements. Regardless of the number or types of accounts established, all bookkeeping and accounting systems must meet the following:

a. All project funds shall be held only in accounts insured by an agency of the Federal Government, unless otherwise specifically authorized by the borrower's loan agreement, loan resolution and this paragraph.

b. All funds in any account shall be used only for authorized purposes as described in their loan agreement or resolution and this paragraph.

c. All funds received and held in any account, except the tenant security deposit shall be held in trust by the borrower for the loan obligation until used.

d. All project funds will be maintained separately and distinct from any other project or enterprise of the borrower and/or his/her management agent. Under no circumstances will project funds be commingled with those of another project.

e. Each project will maintain at least one demand deposit or checking account. However, it is not necessary for each bookkeeping account within one project to be maintained as a checking account.

2. *Required Accounts.* All RRH, RCH, and LH borrowers will maintain, as a minimum, the accounts required by their loan agreement or resolution. The following accounts are required for all RRH and RCH loans approved after October 27, 1980, or those who have amended their loan agreements or resolutions to adopt these accounts:

a. *General Operating Account.* This account records all project income and disbursements. Excess project cash held in this account may be combined with other project funds described in this paragraph in temporary (immediate call) interest bearing accounts when separate bookkeeping records are maintained for the individual project accounts. This account may be further subdivided as follows:

(1) *Initial Operating Capital.* The borrower will have deposited the required initial operating capital into this temporary bookkeeping account by the time of the FmHA loan closing or when interim financing funds are obtained, whichever occurs first. The initial operating capital will be deposited in the General Operating Account. After two, but before five full budget years of project operation, the State Director may authorize the borrower to make a onetime withdrawal from project funds, an amount not to exceed the borrower's beginning cash contribution to the Initial Operating Capital as described in the loan agreement or resolution, provided that:

(i) The loan was closed on or after October 27, 1980,

(ii) The loan agreement or resolution signed by the borrower is Form FmHA 1944–33 "Loan Agreement," 1944–34 "Loan Agreement," or 1944–35 "Loan Resolution,"

(iii) The project has achieved at least a 95% occupancy level at time of the withdrawal request,

(iv) The withdrawal will not affect the financial integrity of the project. The borrower must demonstrate that all prudent maintenance is being planned and performed, and payment of necessary project expenses are not being deferred,

(v) The State Director determines that the withdrawal will not necessitate a rent increase during the year of withdrawal or during the next year of operation,

(vi) The State Director has reviewed and approved any required borrower reports before the Initial Operating Capital is withdrawn.

(2) *Deposits.* All income and revenue from the housing project shall, upon receipt, be immediately deposited in the General Operating Account. This will include rent receipts, housing subsidy payments (including HUD Section 8 and FmHA Rental Assitance payments), laundry revenue, or any other project income. The borrower may also deposit other funds at any time which are to be used for purposes authorized by this section including transfers from the Reserve Account.

(3) *Disbursements.* Not later than the 15th of each month, out of the General Operating Account, the borrower shall pay or fund the actual, reasonable and necessary monthly project expenses. Current expenses may include the initial purchase and installation of furnishings and equipment with any other funds deposited in the General Operating Account which are not proceeds of the loan or income or revenue from the project. (However, non-profit borrowers are permitted to use loan funds specified for initial operating capital purposes as authorized in FmHA Instruction 1944–E.) Other authorized disbursements are FmHA approved installments of debt service, real estate tax and insurance escrow, reserve, and return on investment as provided in Section 2 c below. Any balance remaining in the General Operating Account except as authorized above, may be retained in this account or transferred to the Reserve Account.

(4) *Unauthorized Disbursements.* Late fees charged the borrower according to Subpart K of Part 1951 of this chapter, may not be paid from project income. When late fees are deducted by FmHA from payments made from project income, the project General Operating Account must be reimbursed from nonproject income of the owner or mangement agent or deducted from the owner's return on investment. (Added.)

b. *Real Estate Tax and Insurance Escrow Account.* Funds recorded in this account may be deposited in an interest bearing project account. Each month after the payment of actual, reasonable, and necessary current operating and maintenance expenses there shall be transferred from the General Operating Account to the Real Estate Tax and Insurance Escrow Account an amount equal to one-twelfth of the total anticipated real estate tax and insurance payments for the year. Any interest earned shall be prorated based on the amount held in the escrow account at the time the interest is earned and shall accrue and be part of the account.

c. *Reserve Account.* Funds recorded in this account should be held in an interest bearing project account.

(1) Immediately after paying each installment for the orderly retirement of the FmHA loan, as provided in the borrower's promissory note, required reserve installments shall be transferred to the Reserve Account at the monthly rate stipulated by the borrower's loan agreement or resolution. Monthly transfers will continue until the account reaches the total amount specified in the loan agreement or resolution. Monthly transfers shall be resumed the next month following disbursement from the Reserve Account until it is restored to the specified total minimum sum.

(2) Reserve Account funds not immediately needed for authorized purposes may be invested in saving certificates insured by a Federal institution, or invested in readily marketable obligation of the United States Treasury Department, the earings on which shall accrue to the the Reserve Account.

(3) Interest earnings may be used to meet the monthly installments to the Reserve Account and/or to meet a modified and higher reserve level established periodically by an FmHA approved amendment to the borrower's loan agreement or resolution. Such amendment may be made to build reserve for scheduled replacement of depreciable property items in addition to general reserve requirements.

(4) Any amount in the Reserve Account which exceeds the total sum specified in the loan agreement or resolution may be transferred to the General Operating Account for the authorized purposes *only when* it is agreed between the borrower and the FmHA to be in excess of the requirement. However, the FmHA District Director may direct the excess sum to be retained in the Reserve Account when determined necessary to protect the Government's security interest.

(5) With prior written consent of the District Director, funds in the Reserve Account may be used by the borrower or its designee for the following purposes:

(i) To meet payments due on the loan obligations in the event the amount for debt service is not sufficient for that purpose.

(ii) To pay costs of repairs or replacements to the housing, furnishings or equipment caused by catastrophe or long-range depreciation which are not current expenses. Withdrawal for authorized purposes should be approved in advance during the annual budget approval process.

(iii) To make improvements to the housing project without creating new living units.

(iv) For other purposes desired by the borrower, which in the judgment of the Government will promote the loan purposes, strengthen the security, or facilitate, improve, or maintain the orderly collectibility of the loan without jeopardizing the loan or impairing the adequacy of the security.

(v) To pay a return on investment at the end of the borrower's project operating year, provided that after such disbursements the amount in the Reserve Account will not be less than that required by the loan agreement or resolution to be accumulated by that time and the amount in the Reserve Account will likely not fall below that required to be accumulated during the next 12 months.

(A) In the case of borrowers operating on a limited profit basis, to pay a return on the borrower's initial investment as identified in the loan agreement or resolution.

(B) In the case of borrowers operating on a full profit basis, to pay an annual return as specified in the borrower's loan agreement or resolution.

d. *Tenant Security Deposit Account (when applicable).* Upon receipt, all tenant security deposit funds collected shall be recorded in a bookkeeping account that is kept separate from the project bookkeeping accounts. These funds shall be deposited in an account that is kept separate from any project funds and will be handled according to any State or local laws governing tenant security deposits. Funds in the Tenant Security Deposit Account shall be used only for authorized purposes as intended and represented by the project management plan. They shall be held by the borrower in trust for the respective tenants until so used. Any amount of the Tenant Security Deposit Account which is retained by the borrower as a result of lease violations shall be transferred to the General Operating Account and treated as income of the housing.

(1) The owner will follow all state and local requirements governing the handling and disposition of tenant security deposits.

(2) In no case, will interest earned on security deposits accrue to project management or the owner. Any interest earned but not returned to the tenants will accrue to the project's general operating account for disposition as outlined in the management plan.

C. *Borrower Reporting Requirements.* Certain reports are necessary to verify compliance with FmHA requirements and to aid the borrower in carrying out the objectives of the loan. Some reports must be submitted with the FmHA payments and others submitted to FmHA either monthly or annually. Exhibits B–6, B–7, and B–8 of this Exhibit (Management Handbook), are to be used as a guide for determining when reports are due and the number of copies required. (Also see § 1930.124 of this Subpart.) The

following reports will be prepared and submitted by the borrower:

1. MONTHLY REPORTS:

tenants. FmHA will look to the borrower to fulfill its obligation according to the

10. The borrower's fidelity bond premiums

31. Exhibit B–3 is amended by

following reports will be prepared and submitted by the borrower:

1. MONTHLY REPORTS:

a. Submit Form FmHA 1930–8, by the tenth of each month to the District Office to reflect the project operations for the preceding month. Monthly reports will generally be completed on a cash basis, but may also be completed on a modified cash or accrual basis with appropriate modifications made on the form.

b. Submit Form FmHA 1944–29, with the payment to the District Office. This form *must* be submitted each month to report overage and/or request rental assistance, even if a loan payment is not submitted. This form reflects occupancy in the project as of the first day of each month.

c. For LH projects, Form FmHA 1944–29 will be submitted monthly for the LH tenants who receive rental assistance. Otherwise, the Form FmHA 1944–29 covering all LH tenants will be submitted to FmHA at least once annually with the annual reports.

2. ANNUAL REPORTS: Annual reports may be completed on a cash, modified cash, or an accrual basis. Within 60 days following the close of the borrower's fiscal year, the borrower will submit the following reports to the FmHA District Office:

a. Form FmHA 1930–7, showing all planned project income and expenses for the next year as well as actual project income and expense for the past year.

b. Form FmHA 1930–8, "Year End Report and Analysis For Fiscal Year Ending ——.

c. Audit report or verification. All audit reports will be completed according to the booklet, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits for FmHA Borrowers and Grantees." For projects with 25 or more units the audit will be prepared by a LPA licensed on or before December 31, 1970, or a CPA. Borrowers with 24 units or less will need to provide a verification by an individual who is qualified by education and/or experience and who is independent of the borrower or by a committee of the membership not including any officer, director, or employee of the borrower; however, the State Director may also require audits by a CPA or LPA for any project.

d. Copy of the minutes of the annual meeting, when applicable.

e. Energy audit for review according to the provisions of Exhibit D of this Subpart.

f. Any other related material that may be requested by the District Director.

D. *Financial and Monogement Anolysis.* Financial and management analysis provides information on the status of the project's operation. Regular analysis can help identify strengths and weaknesses so that appropriate corrective actions can be taken. Some methods of analysis are:

1. Budget Analysis: Using monthly and annual reports, the borrower or project manager compares actual income and expenses with the budgeted amounts. Any differences between the budget and actual figures indicate areas of the project operation where the manager may need to focus added attention and/or take corrective action.

2. Ratio Analysis: Ratios are an effective tool for financial analysis. They prescribe various measures of actual operating performance. FmHA and borrowers should develop a data base of recorded ratios for comparative analysis. Some useful ratio are:

a. Vacancy Rate equals Total vacancy days for the month divided by Total unit days for the month

b. Resident Turnover Ratio equals Total units becoming vacant during the period divided by Average units occupied for the period

c. Expense Ratio equals Total Expense divided by Total Income

d. Cost Per Unit equals Total Expense (By category) divided by Total No. of Units

e. Working Capital Ratio equals Current Assets divided by Current Liabilities

f. Collection Ratio equals Total Collections divided by Total Rent Rool

g. Percent of revenue from Government sources equals FmHA Rental Assistance or HUD Section 8 Payments divided by Total Market Rent

XIV. Termination of Tenancy and Eviction

Borrowers and project managers should actively develop ways and means to avoid forced terminations of lease and the eviction of tenants by considering the following:

A. *Tenant's Entitlement to Continued Occupancy.*

1. *General.* The borrower or project manager may terminate or refuse to renew any tenancy only for material noncompliance with the lease or other good cause such as:

a. Noneligibility for tenancy.

b. Action or conduct of the tenant which disrupts the liveability of the project by adversely affecting the health or safety of any tenant, or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities, or that has an adverse financial effect on the project.

c. Expiration of the lease period is not sufficient grounds for eviction of a tenant.

2. *Material Noncompliance.* Material noncompliance with the lease includes:

a. One or more substantial violations of the lease; or

b. Repeated nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period constitutes a substantial violation; or

c. Repeated minor violations of the lease which disrupt the liveability and harmony of the project by adversely affecting the health or safety of any person, or the right of any tenant to the quiet enjoyment of the leased premises and the related project, or that have an adverse financial effect on the project.

3. *Other Good Cause.* Conduct cannot be considered as other good cause unless the borrower or project manager has given the tenant *prior notice* that the conduct will constitute a basis for termination of tenancy.

4. *Rent Overburden.* Any tenant household (except those receiving Section 8 benefits) paying more than the contribution levels cited in paragraphs IV A C (1) or (2) or (3) of this exhibit toward rent, including utilities, is considered to be experiencing rent overburden. Whenever a tenant is experiencing rent overburden, borrowers are encouraged to utilize any available and compatible governmental rental subsidies including FmHA rental assistance and/or interest credit; or to assist tenants in applying for Section 8 housing assistance to minimize termination of tenancy.

B. *Notice of Termination.* Any notice to terminate tenancy must be based on material violation of the lease terms or for other good cause as determined by the borrower or the project manager.

1. The notice of intent to terminate the tenancy will be handled according to the terms of the lease. Tenants will be given prior notice of eviction according to State or local law. The notice must:

a. Refer to relevant provisions in the lease.

b. State the reasons for the termination with enough specificity to enable the tenant to prepare a response. In those cases where the proposed termination of the tenancy is due to the tenant's failure to pay rent, a notice stating the dollar amount of the balance due on the rent account and the date of such computation shall satisfy the requirement of specificity.

c. State that the tenancy is terminated on a date specified.

d. Advise the tenant that if he or she remains in the leased unit on the date specified for termination, the borrower may seek to enforce the termination only by bringing a judicial action, at which time the tenant may present a defense.

2. The notice shall be accomplished by: (a) sending a letter by first class mail, properly stamped and addressed, to the tenant at his or her address at the project, with a proper return address; *and* (b) serving a copy of the notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. Service shall not be deemed effective until both notices provided for herein have been accomplished. The date on which the notice shall be deemed to be received by the tenant shall be the date on which the first class letter provided for in this paragraph is mailed, or the date on which the notice provided for in this paragraph is properly given, whichever is later.

3. A copy of any eviction notice will be forwarded to the FmHA District Office. The District Director will review the notice for compliance with this paragraph XIV and any State Supplements that have been issued covering tenant evictions with respect to the proper preparation and handling of the notice. If the notice is found to be properly prepared, no further action is needed. If the notice is found to be improperly prepared, the District Director will notify the borrower to cease the action and will then inform the borrower how the notice is improperly prepared. The District Director will not indicate any opinion on the merits of the eviction to the borrower or project manager at this time.

XV. Security Servicing

Security servicing, as referenced in this Exhibit, concerns the borrower's general responsibilities in relation to the loan agreement or resolution, mortgage, and other loan documents. It does not deal with security items between the borrower and the tenants. FmHA will look to the borrower to fulfill its obligation according to the requirements of the loan agreement or resolution, note, mortgage, and other legal or closing documents. Some items of special emphasis are:

A. *Fidelity Bond.* All projects will be required to obtain Fidelity bond coverage for the borrower officials and all employees entrusted with the receipt, custody, and disbursement of any project funds or negotiable or readily saleable personal property. Fidelity bond coverage should be obtained as soon as there are assets within the organization and must be obtained before any loan funds or interim financing funds are made available to the borrower. Fidelity bonds will be obtained according to the following guidelines:

1. Individual or organizational borrowers will provide a fidelity bond when they have employees with access to project assets as cited in paragraph XV A, other than when a management firm has exclusive access to such assets.

2. Borrowers who use a management firm/individual with exclusive access to project assets as cited in Paragraph XV A will require the firm/individual to provide a fidelity bond. In addition, if the borrower takes possession of or gains access to the cited project assets, the borrower must be covered as stated in paragraph XV A(1).

3. Fidelity bond coverage is not required when a loan is made to an individual (natural person) and that individual will be responsible for such activities.

4. In the case of a Land Trust where the bencficiary is responsible for management, the beneficiary will be treated as an individual.

5. A General partnership will not be required to provide fidelity bond coverage where the partners are responsible for the receipt, custody and disbursement of its funds or any other negotiable or readily saleable personal property.

6. The amount of the bond will at least equal the potential gross project income for two months rental collection or the maximum amount of money the project is expected to have on hand at any one time, including cash on hand, money in reserve and other special accounts, etc., whichever is greater.

7. The United States acting through the Farmers Home Adminstration will be named as co-obligee in the bond when not prohibited by State Law.

8. Form FmHA 440–24, "Position Fidelity Schedule Bond," may be used when permitted by State Law. In those cases where other forms are used, the form of bond must be approved by the State Director only after its is found not to be inconsistent with the intent and general requirements of Form 440–24 and is determined legally acceptable by the OGC.

9. A blanket bond may be accepted from a borrower or management agent when blanket coverage is more advantageous cost-wise for each project on a pro-rata basis, the coverage limit for each project is identified *or* the total coverage limit is at least equal to the sum of all projects and coverage is restricted exclusively to FmHA financed MFH projects.

10. The borrower's fidelity bond premiums may be a project expense when coverage is obtained and paid by the borrower.

11. Fidelity bond premiums for a management agent(s) will be included in the management fee.

12. A fidelity bond may have a deductible figure in an amount equivalent to 2 percent of the initial project contribution for operating capital but not in excess of $2,000.

B. *Insurance.* The minimum amounts and types of insurance required of the borrower will be determined by FmHA in accordance with Subpart A of Part 1806 (FmHA Instruction 426.1) and Subpart B of Part 1806 (FmHA instruction 426.2). All references to County Supervisor shall be construed to mean District Director when applied to the Multiple Housing Program. The borrower or its agent shall obtain:

1. Adequate fire, extended coverage, and earthquake insurance as needed will be required on all buildings including as security for the loan or grant. The amount of coverage will be not less than the amount specified on Form FmHA 426–1, "Valuation of Buildings."

2. Suitable Worker's Compensation Insurance on all its employees. (Worker's Compensation Insurance for employees of a management agent shall be paid out of the agent's management fee.)

3. Adequate liability insurance.

4. Flood insurance when the project is located in designated flood hazard area.

C. *Real Estate and Personal Property Taxes.* All borrowers will be required to pay their taxes before they become delinquent and provide FmHA with proof of payment. An exception to the above may be made if the borrower has formally contested the amount of the property assessment and has escrowed the amount of taxes in question in a manner acceptable to the District Director.

30. Exhibit B–1 is amended by redesignating paragraphs 4d and 4e as 4e and 4f respectively and adding paragraph 4d and revising new paragraph 4e, revising the title to paragraph 11, redesignating paragraphs 17 to 18 and adding a new paragraph 17 to read as follows:

Exhibit B–1—Management Plan Requirements for FmHA Multiple Family Housing Projects

* * * * *

4. * * *

d. What is the occupancy policy for the project?

* * * * *

e. Is the responsible person aware of FmHA guidelines covering family size and needs as they relate to unit size?

* * * * *

11. *Plans for tenant participation in project operations and tenant's relationship with management.*

* * * * *

17. *Occupancy policy.* Attach a copy of the project occupancy policy. See paragraph VI B2 of Exhibit B of this subpart for guidelines in establishing an occupancy policy.

* * * * *

31. Exhibit B–3 is amended by changing the reference in paragraph IV E from "Form FmHA 444–8" to "Form FmHA 1944–8" and in the first sentences of paragraph VB and Paragraph VC by removing the words "a separate" and inserting in their place in word "an."

32. Exhibit B–9 is amended in the heading information by inserting a line between the lines "Employee" and "Address" to read "SSN (optional) ——."

33. Exhibit C is revised to read as follows:

Exhibit C—Rent Changes

I. Objectives

This Exhibit prescribes the method of processing changes in the monthly rental rates for tenants in Farmers Home Administration (FmHA) Rural Rental Hosing (RRH) and Labor Housing (LH) projects. This Exhibit covers all RRH and LH loans, including those approved before the date of this Subpart.

II. Definitions

A. Approval Official. State Director or designated State and District Office staff with delegated authority according to § 1930.143 of this Subpart.

B. Utility. Sewer, water, trash collection, electricity, natural gas, and any other fuel used specifically for cooking, heating, and/or cooling.

III. Initial understanding with borrower

A. All RRH and LH applicants will be informed at the application stage of the agency's rent change procedure. All borrowers will be advised that all proposed rent changes must comply with this Exhibit. This Exhibit will also apply to rent changes resulting from Housing and Urban Development's (HUD) Automatic Annual Adjustment Factors for units receiving Section 8, assistance.

1. Projects approved *prior* to November 30, 1983, may submit a rent change request based on a realistic projected budget for the interim year or the ensuing full year.

2. Projects approved on or *after* November 30, 1983, may submit a rent change request only after cost(s) incurred demonstrate a need.

B. Rental rates in projects financed in whole or in part by an RRH or LH loan may not be raised without FmHA written consent according to requirements in loan agreements, loan resolutions, and other instruments executed in connection with RRH and LH loans. Changes requiring only prior FmHA review are those which are beyond the borrowers' control to cover changes in taxes or utilities, and rent changes which do not result in an increase in the tenants' total shelter cost. Borrowers are encouraged to have the effective date of needed rent changes coincide with the start of their fiscal year or with the start of the season in the case of LH projects occupied on a seasonal basis. Rental change requests normally should be made at least 60 days prior to the end of the borrower's fiscal year.

It is anticipated that rent changes would not be necessary more than once a year.

5. Any other information the borrower believes necessary to justify the proposed

Audit, the District Director shall determine the cost effectiveness and financial impact of

or rental assistance agreement, promissory note, or mortgage.

a. Include in the notice an explanation of the increased costs which necessitated the

area. When no comparable dwelling units exist in the project's market area, the FmHA

It is anticipated that rent changes would not be necessary more than once a year.

C. All borrowers are encouraged to participate in the FmHA Rental Assistance Program. However, unless the Administrator notifies State and District Offices otherwise, all borrowers with projects meeting the eligibility requirements of paragraph II B of Exhibit E of this Subpart, except full profit borrowers, will be *required* according to Section 530 of Title V of the Housing Act of 1949, as amended, to apply for and accept Rental Assistance when it appears that a rent change will cause the very low-and low-income tenants to pay in excess of 30 percent of adjusted monthly income for costs for rent and utilities. If FmHA does not have RA available for this purpose, the borrower is encouraged to use other sources of governmental rent subsidies. The availability or nonavailability of governmental rent subsidies will not preclude FmHA from processing a rent change request.

D. Even though rental assistance is not available, borrowers are encouraged to convert to Interest Credit Plan II to give tenants the most favorable rents possible.

IV. Borrower's Responsibility in Processing Rent Changes Which Increase Housing Costs to Tenants and Require FmHA Approval

A. When a RRH or LH borrower determines that a rental change is needed for reasons other than those specified in paragraph VI, the borrower should meet with the District Director to review the following information before the "Notice of Proposed Rent Change" is posted and delivered to the tenants. In lieu of meeting with the borrower, the District Director may allow the information to be submitted to the District Office for prior review before being posted. The borrower may proceed to post the notice 15 days after the submission or upon receipt of the District Office's response whichever is earlier.

1. Facts demonstrating the need and justification for a rent change in accordance with paragraphs III A 1 or 2 of this Exhibit.

2. A new operating budget for borrower fiscal year showing:

a. Currently approved budget at old rents.

b. Actual income and expenses to date.

c. Proposed budget at proposed new basic rents.

d. Proposed budget at proposed new market rents (when applicable.)

3. An application for Rental Assistance on Form FmHA 1944–25, "Request For Rental Assistance," if the borrower's project is an eligible project and the proposed rent change will cause 20 percent of the very low- and low-income tenants to pay in excess of 30 percent of adjusted monthly income for the costs of rent and utilities. If the low-income tenants are receiving some other form of rent subsidy, such as HUD's existing Section 8, an exception may be made to this requirement.

4. A new energy audit or a listing of deferring improvements identified in a previous energy audit that was performed within the past five-year period according to the requirements of Exhibit D of this Subpart or regulations then extant.

5. Any other information the borrower believes necessary to justify the proposed rent change.

B. Current tenant certifications on Form FmHA 1944–8 "Tenant Certification," or other form approved by FmHA must be on file in the District Office.

C. After the borrower and District Director have reviewed the rent change application, the borrower will notify all affected tenants of any proposed rent change using the format of Exhibit C–1 of this Exhibit. The "Notice to Tenants of Proposed Rent Change" will advise tenants that during a 20-day comment period identified in the posted Notice, they have an opportunity to inspect, copy, and make written comments or objections to all materials which will be made available to them justifying the proposed rental increase. Tenants will be advised that they may also review any subsequent material submitted by the borrower to FmHA to support the rent change. If subsequent material is submitted, the borrower will be required to post a new notice. The Notice will advise the tenants that all written comments or objections should be submitted directly to the FmHA District Director by the end of the 20 day comment period. Tenants must be notified by the following methods:

1. The owner or management agent must mail or hand deliver copies of the Notice to all *affected* tenants and the District Director at least 60 days prior to the anticipated effective date of the rent change. By the end of the 20 day comment period, which is included within the 60 day period, the borrower may submit to the District Director any other information to be considered.

2. The management must also post prominently in common areas around the project (laundry rooms, parking areas, recreation rooms, etc.) copies of the Notice. In addition to plain English, all notices will be published in the other primary languages of the tenants.

D. Notification to the tenant of proposed rent changes will not be required when a change in the utility allowance only is proposed on Exhibit A–5 of Subpart E of Part 1944 of this Chapter, and the utilities are paid directly by the tenants. This does not preclude posting of the FmHA Letter of Approval as provided for in paragraph V B 1 of this Exhibit.

V. Determination by FmHA

A. *Actions by District Director.* The District Director will not consider a rent change application complete and acceptable until the borrower has complied with all terms listed in paragraph IV of this Exhibit. When the application and all attachments for the proposed rent change have been received (including the tenant comments when notification is required), the District Director will:

1. Review all the material submitted.

2. Provide a copy of the borrower's latest Form FmHA 1944–29, "Project Worksheet for Interstate Credit and Rental Assistance."

3. Determine if Rental Assistance is available for an eligible project on behalf of the low-income tenants.

4. When the change is requested for energy savings improvements identified in an Energy Audit, the District Director shall determine the cost effectiveness and financial impact of the proposed improvements from information contained in the energy audit. The District Director's determination will be made according to paragraph VI of Exhibit D of this Subpart.

5. When State Office approval is required, the District Office will submit to the State Director:

a. Appropriate recommendations on the request,

b. An indication of the number of tenants who will need rental assistance as a result of the rent changes,

c. All the material received from the borrower, including tenant comments or objections, at the end of the 20 day comment period.

d. A short narrative describing the general tone of tenant comments and concerns.

6. When a member of the District Office staff is the approval official, the documentation required by V A 5 above, will be attached to the rent change request.

7. When the borrrower has requested rental assistance, complete Form FmHA 1944–25 and forward it to the State Director.

B. *Actions by the Approval Official.* When the application, attachments and comments are received, the approval official will review the material to determine if the rent change is justified. The borrower will be notified by the approval official of the determination within 45 days from the date the "Notice to Tenants of Proposed Rent Change" is posted.

1. *Approval Actions.*

a. When a rent change is approved, the approval official will notify the borrower by using Exhibit C–2 of this subpart. The Notice letter will be prepared using the required and/or optional paragraphs as applicable. The reasons for the approved rent change should be concise. The Notice Letter will be mailed or hand delivered to each tenant *and* posted in a conspicuous place(s).

b. When the borrower's project is operated on a profit basis as defined in § 1944.205(s) of Subpart E to Part 1944, and the purpose of the rent change is for: justified operating and maintenance expense; funding the reserve account; other project expenses; providing or maintaining a profit, the change may be allowed as long as eligible tenants can afford the new rental rate.

2. *Disapproval Actions.* When the approval official determines an application for a proposed rent change is not justified on the basis of the information submitted, the approval official will notify the borrower in writing of the reasons(s) why the rent change is not approved. The borrower will be advised of the right to file an appeal regarding the rent change disapproval according to § 1900.56 of Subpart B of Part 1900 of this Chapter. Rent changes may not be approved when any of the following circumstances exist:

a. The borrower is able but unwilling: to comply with applicable tenant eligibility requirements; the audit and reporting requirements of this Subpart; or, the conditions set forth in the borrower's loan agreement or resolution, interest credit and/or rental assistance agreement, promissory note, or mortgage.

b. The budget for the project reflects sufficient income at the present rent structure to meet operation and maintenance expenses which are appropriate and reasonable in amount, meet the FmHA debt service requirements, meet the required reserve account deposit, and provide a return to the borrower, when appropriate.

c. The borrower's project is operated on a profit basis as defined in § 1944.205(s) of Subpart E to Part 1944 and the proposed rent change is for purposes other than meeting operation and maintenance expenses and debt service; i.e., the purpose is to allow excessive profits and the proposed rent change will result in rental rates in excess of what eligible tenants can afford.

d. The State Director is able to provide rental assistance to the project and the borrower's project is operated on either a nonprofit basis or limited profit basis as defined in § 1944.205(r) of Subpart E of Part 1944; but the borrower has not applied for rental assistance within the most recent period of 180 days prior to the rent change request.

VI. Rent Changes Requiring FmHA Prior Review Only

A. Rent changes caused by increases in operating costs for taxes and utilities, which are beyond the borrower's control, may be implemented with only prior FmHA review. The changes may not be greater than the amount necessary to cover the specific tax or utility increases.

1. Prior to notifying tenants, the borrower must meet or consult with the District Director to review:

a. A new operating budget for borrower fiscal year showing;

(1) Currently approved budget.

(2) Actual income and expenses to date.

(3) Budget at new basic rents.

(4) Budget at new market rents (when applicable).

(5) Proposed Notice of Rent Change (Exb. C–3).

b. A copy of the notification to the borrower from the taxing body or vendor showing that taxes or utilities are being increased. The amount of the change or the basis on which the increased cost can be computed, must be shown in the notice.

c. Detailed calculations showing how the increased operating cost was determined.

d. An updated Exhibit A–5 to Subpart E of Part 1944 when the tenants pay their own utilities and the rent change involves increased utility costs.

e. A new energy audit or listing of deferred improvements identified in a previous energy audit that was performed within the past five-year period according to the requirements of Exhibit D of this Subpart or regulations then extant.

2. The District Director shall review the budget and supporting documentation and when found to be acceptable, notify the borrower in writing that the budget is approved. A copy of the approved budget will be forwarded to the State Director.

3. In addition to notifying each tenant of the new rents as required by State law. The borrower will:

a. Include in the notice an explanation of the increased costs which necessitated the rent change.

b. Mail a copy of the notice to the tenant at least 30 days prior to the effective date of the rent change.

c. Offer the tenants an opportunity to meet with management, discuss the rent change and review all material necessitating the change.

d. Inform the tenants of their right to request a review of the rent change approval decision within 45 days of the date of the notice by writing to the next higher FmHA approval official. Until the request is resolved, the tenants are required to pay the changed amount of rent as indicated in the Notice of Approval.

B. Rent changes decreasing or not increasing tenant's total shelter cost (rent plus utilities), may be implemented with only prior FmHA review provided:

1. Prior to notifying tenants, the borrower must meet with the District Director to review:

a. A new borrower fiscal year operating budget showing:

(1) Currently approved budget.

(2) Actual income and expenses to date.

(3) Budget at new basic rents.

(4) Budget at new market rents (when applicable).

b. Any material contributing to the change and justification for the change.

c. An updated Exhibit A–5 to Subpart E of Part 1944 when the change involves the tenant's utility allowance.

2. The District Director shall review the budget and supporting documentation, and when found to be acceptable, notify the borrower in writing that the budget is approved. A copy of the approved budget will be forwarded to the State Director.

3. In addition to any State requirements, the borrower notifies each tenant of the new rents and/or utility allowance as required by State law, and:

a. Include in the Notice an explanation of the changes and events which necessitated the change. Also, the explanation must specify any adverse and/or positive effect the change may have on the tenants.

b. Mail a copy of the Notice to the tenant at least 30 days prior to the effective date of the rent change.

c. Offer the tenants an opportunity to meet with management to discuss the change and review any material contributing to the change.

d. Inform the tenant of their right to request a review of the rent change approval decision according to paragraph VI A 3 d of this Exhibit.

C. Rent changes to cover project operating and maintenance costs occurring in newly constructed or substantially rehabilitated RRH projects approved after November 30, 1983, may be approved with prior FmHA review only, provided:

1. The limit of rent change shall be the lesser of:

a. The actual operating cost change incurred.

b. The amount of operating cost change incurred with respect to comparable rental dwelling units serving the project's market area. When no comparable dwelling units exist in the project's market area, the FmHA approval official may approve a rent change according to the best available data regarding operating cost changes in rental units.

2. The same requirements of paragraph VI B 1 and 2 above are met.

D. When the budget and supporting documentation for any rent changes authorized by this paragraph are not acceptable to the District Director, and the District Director and the borrower cannot jointly agree on a budget based on acceptable rents, the borrower will be notified in writing to reduce or rescind the proposed rent change. The borrower will be given appeal rights as specified in Subpart B of Part 1900 of this Chapter.

VII. Unauthorized Rent Increases

When a borrower implements a rent change that does not meet the requirements of this Exhibit, the borrower will be notified in writing that: (1) The rent change has not been authorized, and (2) the rents must be rolled back to the last FmHA authorized level. Tenants affected by the unauthorized rent change will be given a rebate or credit for the unauthorized amount retroactive to the date of the unauthorized change. Those borrowers that fail to comply with the provisions of this paragraph will be handled according to § 1965.85(d) of Subpart B of Part 1965 of this Chapter.

VIII. Automatic Annual Adjustment Factors for Section 8 Units

If the approval official disapproves a rental rate change requested as a result of HUD's automatic annual adjustment factors for units receiving Section 8 assistance, or approves a rent change for a lesser amount than the change permitted by HUD, the approval official must require the borrower to deposit any excess funds into the Reserve Account. If this results in an accumulation of funds in the Reserve Account beyond the sum shown in the Loan Agreement or Loan Resolution, the interest reduction on a Section 8/515 project should be adjusted or canceled by memorandum to the Finance Office. The borrower will still be required to operate on a limited profit basis.

IX. Special Problem Cases

Problem cases which cannot be handled under this Subpart should be submitted to the National Office for review with the State Director's recommended plan of action.

34. Exhibit C–2 is revised to read as follows:

Exhibit C–2—Notice of Approved Rent Change

Dear:

You are hereby notified that the Farmers Home Administration (FmHA) has approved a rent change for the XXXXX project(s). The rental changes for all rental units will become effective on XXX, 19X. (Insert effective date shown in Exhibit C–1 or later effective date in accordance with last paragraph of Exhibit C–1.)

(Insert Reasons for Approval)

The approved rent changes are as follows:

Project Name	Unit	Present Rent		Requested Rent		Approved Rent	
		Basic	Market	Basic	Market	Basic	Market

as defined in § 1944.205(r) or Subpart E to Part 1944 of this chapter, or

IV. Priority of Rental Assistance Applications

A. *Operational Projects.*

1. A borrower with an eligible project in

Assistance Agreement," will not be executed or amended until the obligation or transfer is

Project Name	Unit	Present Rent		Requested Rent		Approved Rent	
		Basic	Market	Basic	Market	Basic	Market

(Use the following required and/or optional paragraphs where applicable)

*You must notify the tenants of FmHA's approval of the rent changes by posting this letter in the same manner as the "Notice to Tenants of Proposed Rent Change." This notification must be posted in a conspicuous place and cannot be substituted for the usual written notice to each individual tenant.

*This rent change approval does not authorize you to violate the terms of any lease you currently have with your tenants.

**For those tenants receiving rental assistance (RA), their costs for rent and utilities will continue to be based on the higher of their adjusted monthly income or 10 percent of gross monthly income or if the household is receiving payments for public assistance from a public agency, the portion of such payments which is specifically designated by that agency to meet the households shelter cost. If tenants are receiving Housing and Urban Development (HUD) Section 8 subsidy assistance, their costs for rent and utilities will be determined by the current HUD formula.

**Since RA units are not available, the approved rent change is subject to your acceptance of the units should they become available. Your application for RA units on behalf of eligible tenants has been received.

**This rent change is conditioned on the requirement that you carry out energy conservation measures as detemined necessary by the project energy audit. You will be allowed xx days for completion of the work. FmHA assistance may be available to finance any needed improvements.

*You may file an appeal regarding the rent change as approved within 45 days of the date of this notice. An appeal by you must be in writing to the appropriate hearing officer as specified in Subpart B of Part 1900 of this Chapter.

*You must inform the tenants of their right to request a review of the rent change approval decision within 45 days of the date of this notice by writing to (*insert nome and address of next higher FmHA approval official*). Until the request is resolved, the tenants are required to pay the changed amount or rent as indicated in the Notice of Approval.

*Any tenant who does not wish to pay the FmHA approved rent changes may give the owner 30-days notice that they will vacate. The tenant will suffer no penalty as a result of this decision to vacate, and will not be required to pay the changed rent. However, if the tenant later decides to remain in the unit, the tenant will be required to pay the changed rent from the effective date of the changed rent.

Sincerely,

FmHA Approval Official

*Required

**Optional, as applicable

35. Exhibit D is amended in the first sentence of paragraph V by removing the words "as appropriate" after the fifth comma.

36. Exhibit E is revised to read as follows:

Exhibit E.—Rental Assistance Program

I General

The objective of the rental assistance program is to reduce rents paid by low-income households. This Exhibit sets forth the policies and procedures and delegates authority under which rental assistance (RA) will be extended to eligible tenants occupying eligible Rural Rental Housing (RRH) and Rural Cooperative Housing (RCH) projects financed by FmHA. This Exhibit also applies to Farm Labor Housing (LH) projects when the borrower is a broadly-based nonprofit organization, nonprofit organization of farmworkers, or a State or local public Agency. Rental assistance will supplement the benefits available to tenants under the interest credit program outlined in Exhibit B to Subpart E of Part 1944 of this chapter.

II Definitions

A. *Eligible Tenants.* Any very low-income, or low-income household, elderly, disabled or handicapped person, meeting the following requirements:

1. The household adjusted annual income must not exceed the very low- or low-income limit established for the area as indicated in Exhibit C to Subpart A of Part 1944 of this chapter.

2. The household must be unable to meet the approved rental rate plus utility allowance within a portion of their income described as follows:

(a) 30 percent of their adjusted monthly income; or

(b) 10 percent of gross monthly income, or

(c) If the household is receiving payments for public assistance from a public agency, the portion of such payments which is specifically designated by the agency to meet the household's shelter cost.

3. The household must meet the occupancy policy established for the project and approved by FmHA according to paragraph VI B 2 of Exhibit B of this subpart.

B. *Eligible Project.*

1. All projects must operate under Interest Credit Plan II RA to be eligible to receive RA, except LH loans, direct RRH, and insured RRH loans approved prior to August 1, 1968, which must operate under Plan RA. To be eligible for RA the project must have a:

a. RRH insured or direct loan made to a broadly-based nonprofit organization, or State or local agency, including Senior Citizen Housing (SCH), or

b. RRH insured loan to an individual or organization who has or will execute a Loan Resolution or Loan Agreement agreeing to operate the housing on a limited profit basis as defined in § 1944.205(r) or Subpart E to Part 1944 of this chapter, or

c. RCH insured or direct loan, or

d. LH loan, or an LH loan and grant combination, made to a broadly-based nonprofit organization or nonprofit organization of farmworkers or a State or local public Agency.

2. Borrowers may utilize HUD's Section 8 Housing Assistance Payments Program for existing housing and FmHA RA for other eligible households in the same project.

3. Projects with all or a part of the rental units under contract with the Department of Housing and Urban Development (HUD) developed under the Section 8 program for new construction or rehabilitation, by either the dual or single track processing procedures will not be considered an eligible project for RA.

4. Borrowers may provide RA to only those eligible tenants occupying rental housing units financed by FmHA LH, RCH, or RRH funds.

C. *Operational Project.* A completed RRH, RCH, or LH project financed by FmHA which has been opened for occupancy and has at least been partially occupied by tenants.

D. *New Projects.* Newly constructed or substantially rehabilitated RRH, RCH or LH project financed by FmHA. For Rental Assistance purposes, it further means before any units are occupied.

E. *Rental Assistance (RA).* RA, as used in this Exhibit, is the portion of the approved shelter cost paid by FmHA to compensate for the difference between the approved shelter cost and the monthly tenant contribution as calculated according to paragraph IV A 2 C of Exhibit B to this Subpart. When the monthly net tenant contribution is less than the approved utility allowance which is billed directly to and paid by the tenant, the owner will pay the tenant that difference according to paragraph IX A 2 or this Exhibit.

F. *Shelter Cost.* The approved shelter cost consists of basic or market rent plus utility allowance, when required. Basic and/or market rent must be shown on the project budget for the year and approved according to § 1930.124 of this Subpart. Utility allowances, when required, are determined and approved according to Exhibit A–5 to Subpart E of Part 1944 of this chapter. Any change in rental rates or utility allowances must be processed according to Exhibit C to this Subpart.

G. *Utility Allowonces.* The allowance approved by FmHA according to Exhibit A–5 to Subpart E of Part 1944 of this chapter, to cover the cost of utilities which are payable directly by the households.

H. *Replacement Units.* RA units which replace RA units in RA agreements expiring because obligated funds have been fully disbursed.

III Utilization of Rental Assistance

All borrowers with eligible projects as defined in paragraph II B of this Exhibit are encouraged to utilize the RA program and receive RA payments on behalf of eligible tenants. Generally, the borrower, or the borrower's approved management agent, will initiate the processing of a RA application.

IV Priority of Rental Assistance Applications

A. The National Office may establish a State quota on the number of RA units that may be approved and obligated in any fiscal year. The State Director will limit the approval of RA to no more than the number of units allocated to the State. Unless otherwise stated by the National Office, the State allocation will indicate the number of RA units for operational projects and the number of RA units to be used for new construction. Priority in allocating RA units will be as follows:

B. *Allocation to Projects Within a State.* The State Director will distribute any RA units allocated to the State according to any specific guidance established by the National Office. When no specific guidance is established by the National Office the State Director will approve requests for RA to projects according to the provisions of this Exhibit.

1. *Replacement Units.* The State Director will distribute or reserve RA units and give priority to projects needing replacement units before any initial or additional units are allocated to other new or operational projects. The State Director should ascertain how many RA units are expected to expire in each District Office during the current fiscal year and the first quarter of the following fiscal year.

2. *New Housing.* Any RA units allocated to the State for new construction will be distributed on a priority basis in the following order:

a. Applications for RRH and RCH loans where the market survey information indicates that a large percentage of the prospective tenants need RA. When the number of RA units available is inadequate to cover all such applications, the units will be distributed giving priority to those projects located in areas identified as having the greatest housing needs and selected for funding in accordance with § 1944.231(c) of Subpart E of Part 1944 of this chapter.

b. For LH projects, RA units will be allocated by the National Office from the National Office reserve on a case-by-case basis at the time the projects are considered for funding at the National Office level.

3. *Operational Housing:* When the National Office provides an allocation for servicing RA units, the State Director will distribute them to operational RRH, RCH, and LH projects based on Forms FmHA 1944–25, "Request for Rental Assistance," that have been submitted by eligible borrowers. Priority will be given to projects based on this exhibit and administrative directives issued by the National Office under the annual rental assistance appropriations or other authorizations or guidelines established through the budget process. The National Office will notify the State Director each year of any specific date by which all requests for RA must be submitted to FmHA for consideration.

V Processing of Rental Assistance Applications

All requests for RA will be processed according to this paragraph and may be approved by the State Director.

A. *Operational Projects.*

1. A borrower with an eligible project in which there are tenants paying in excess of 30 percent of their adjusted income for rent is encouraged to file Form FmHA 1944–25 with the District Director. A separate Form FmHA 1944–25 will be submitted for each project. The borrower should include the following with each request.

a. Form FmHA 1944–29, "Project Worksheet for Interest Credit and Rental Assistance," with all columns completed for each tenant in the project. (All Forms FmHA 1944–8, "Tenant Certification," must be current.)

b. Approved or proposed budget for the year on Form FmHA 1930–7, "Statement of Budget and Cash Flow," with Exhibit A–5 to Subpart E of Part 1944 of this chapter attached, when applicable.

2. Prior to the full disbursement of obligated funds on any agreement, a borrower or approved management agent may submit a request for replacement RA units. This request should contain all the material requested in paragarph V A 1 of this Exhibit and should be submitted no later than three (3) months prior to the expected full disbursement of obligated funds, to allow time for processing the request. The number of replacement units may not exceed the number of units that are expiring. Once replacement units have been requested, additional units may not be requested until Form FmHA 1944–51, "Multiple Family Housing Obligation—Fund Analysis", is received obligating the replacement units. Form FmHA 1944–51 requesting the additional units must be coded sequentially as required by paragraph V C 5.

3. The District Director will review the budget, Exhibit A–5, Form FmHA 1944–29, and Form FmHA 1944–25 submitted by the borrower to assure that the items are complete and accurate. The District Director will complete Form FmHA 1944–25 and submit all data provided by the borrower to the State Director with appropriate comments and recommendations.

B. *Projects to be Funded.*

1. Applicants requesting funding for new projects who are planning to utilize the RA program, should submit a completed Form FmHA 1944–25 to the County Supervisor or District Director, as appropriate, when submitting a preapplication or application for funding.

2. The number of units of RA requested should be based on the market data for the area, the proposed rental rates as reflected in a budget for the project, and the income levels of the prospective tenants.

C. *State Director Action on Requests for Rental Assistance.* Only the State Director or delegated members of the State Office staff may approve or disapprove rental assistance requests.

1. *Approval Actions.* When the State Director determines that RA can be obligated or transferred, Part III of Form FmHA 1944–51, "Multiple Family Housing Obligation-Fund Analysis," for obligation, or Form FmHA 1944–55, "Multiple Family Housing Transfer of Rental Assistance," for transfers, will be prepared and distributed according to the FMI. Form FmHA 1944–27, "Rental Assistance Agreement," will not be executed or amended until the obligation or transfer is verified by the Finance Office. The State Office will verify the obligation or transfer via the computer terminal, on the day following the request.

2. *Completing Agreements.* When the State Director verifies that RA units have been obligated or transferred by the Finance Office, the State Director will forward a copy of either Form FmHA 1944–51 or Form FmHA 1944–55 to the District Director. The District Director will complete Form FmHA 1944–27, and attach the appropriate copies of Form FmHA 1944–51 or Form FmHA 1944–55 according to the FMI.

a. *Initial Agreements.* The District Director will prepare an original and two copies of Form FmHA 1944–27. When the project does not have a Form FmHA 1944–7, "Multiple Family Housing Interest Credit and Rental Assistance Agreement" in effect, the District Director will prepare an original and three copies. The District Director and the borrower will then execute the originals and all copies of Form FmHA 1944–27 and Form FmHA 1944–7. The forms will be distributed according to their FMIs.

b. *Replacement or Modified Agreements.* When an RA agreement initiated prior to, is replaced or modified, a new Form FmHA 1944–27 will be prepared and distributed according to the FMI. For every replacement or modification after , the original and all copies of the affected RA agreement will be notated, assembled and distributed by the District Director according to the FMI.

3. *Modification of an Existing Agreement.* After any request for a change in the amount of RA has been obligated by the Finance Office, a copy of Form FmHA 1944–51 or Form FmHA 1944–55 will be attached to Form FmHA 1944–27 and distributed according to the FMI. A new Form FmHA 1944–7 is not required.

4. *Denial of Rental Assistance Request.* If RA cannot be provided, the State Director will inform the borrower, in writing, of the reasons. The borrower will be given appeal rights according to Subpart B of Part 1900 of this chapter in all cases except when RA is not available from the State's allocation or the National Reserve.

5. *Rental Assistance Agreement Numbers.*

a. Each RA agreement will be assigned a six digit Rental Assistance Agreement Number by the Finance Office as follows:

(1) First two digits—Fiscal Year (FY in which the funds were obligated, i.e., 85, 86, etc.

(2) Second two digits—Initial obligation for the project will be coded 01. Rental obligations will be coded sequentially starting with 02.

(3) Third two digits—Initial obligation will be coded 00. Each modification where units are added to the agreement by obligation will be coded sequentially starting with 01.

b. RA agreements with units obligated before FY 1985 will be coded as follows:

(1) First two digits—FY initial obligation was made on the project, i.e., 78, 79, 80, etc.

(2) Second two digits—Will always be "00."

(3) Third two digits—Indicate the number of modifications plus 1. (RA agreement with

Section 9, "Term of the Agreement," may be modified by the use of Form FmHA 444–27A

A. RA payments will not be made directly

basis if necessary when the owner submits a

prorata basis for eligible tenants occupying

occupancy requirements of paragraph VI B 2

(3) Third two digits—Indicate the number of modifications plus 1. (RA agreement with two modifications on September 30, 1984, will be designated "03.")

c. The Finance Office will assign RA agreement number when RA is obligated on Form FmHA 1944–55. The Finance Office will also track RA agreements by number and notify the District Office on Form FmHA 1951–53, "Multiple Family Housing Transaction Record."

VI Terms of the Rental Assistance Agreement

A. *Effective Date.* Each "Rental Assistance Agreement" will be effective the first day of the month in which it is executed. If assistance is granted to a project under an appeal according to paragraph XVI of this Exhibit, the effective date will be retroactive to the first day of the month in which the assistance was denied, provided the borrower agrees to make any appropriate refunds to tenants who would have been entitled to RA during the retroactive period.

B. Term.

1. *Twenty (20) Year Agreement.* Twenty (20 year agreements when authorized are restricted to new projects or modifications of existing twenty (20) year agreements. The agreement shall be effective for twenty (20) years from the effective date of the agreement. This agreement may be modified or terminated in accordance with the terms of the RA agreement. The agreement will expire when the funds obligated for the RA units described in Section 1 of the agreement are fully disbursed. This can be any time before or after the end of the 20-year term. Upon expiration of the agreement, a replacement agreement may be executed. If a replacement agreement is considered, it will be for a five (5) year period.

2. *Five (5) Year Agreement.* Five (5) year agreements may be used for operational projects, or for new projects when twenty (20) year units are not available. The agreement shall be effective for five (5) years from the effective date of the agreement. This five (5) year agreement may be modified or terminated in accordance with the terms of the RA agreement. The agreement will expire when the funds obligated for the RA units described in section 1 of the agreement are fully disbursed. This can be any time before or after the end of the five (5) year period.

3. *Modification of Agreements.* RA agreements may be modified:

a. To add or subtract RA units assigned to the project through obligation or through transfer from another rental assistance agreement;

b. To reinstate a suspended RA agreement to a new borrower in the same project after a voluntary conveyance or a foreclosure and a credit sale within the Multi-Family Housing program; or

c. To transfer a suspended RA agreement to a new borrower and a different project after liquidation of the project assets or after the loan is paid in full.

4. *Amendment of Agreement.*

a. Any existing RA agreement executed prior to February 15, 1983, which will have a remaining obligation balance at the end of the 5-year or 20-year expiration date stated in Section 9, "Term of the Agreement," may be modified by the use of Form FmHA 444–27A, "Amendment to Rental Assistance Agreement." The amended agreement will expire when the obligated funds are fully disbursed.

b. Any existing RA agreement containing an occupancy standard may be amended by mutual consent of the borrower and FmHA when a new occupancy policy for the project is approved according to paragraph VI B 2 of Exhibit B of this Subpart. To amend the agreement:

(1) Delete Section 5 of the original agreement and the borrower's copy and have the deletion dated and initialed by the appropriate FmHA offical and the person(s) authorized to sign for the borrower.

(2) Type the following statement on the reverse of the original agreement and the borrower's copy and have the statement dated initialed by the appropriate FmHA official and the person(s) authorized to sign for the borrower.

"Amended (date) by authority of paragraphs VI B 4 of Exhibit E and VI B 2 a of Exhibit B to Subpart C of part 1930, Chapter XVIII, Title 7, Code of Federal Regulations."

5. *Replacement Agreements.* Replacement RA agreements for either 5-year or 20-year agreements will be for a five (5) year period. All requirements in paragraph VI B 2 and 3 of this Exhibit apply. Expiring RA agreements and replacement RA agreements may run concurrently for one month so any undisbursed obligation balance on the expiring RA agreement can be liquidated.

VII Recordkeeping Responsibilities

A. the State Director will maintain Form FmHA 444–28, "Record of Rental Assistance Agreements." Any changes which are made in the number of rental units assisted will be recorded on Form FmHA 444–28.

B. The Finance Office (FO) will track the use of RA and ensure that RA is not disbursed or credited to a borrower's account in excess of the RA obligation. Quarterly and annually, the FO will provide the District Director with an RA payment and obligation status report for each project. The annual version of this report will be filed in Position 2 or the project case file and maintained indefinitely.

C. The District Director will notify the borrower to apply for replacement RA units when the RA Undisbursed Balance reaches a level sufficient to cover approximately 6 months of RA requests. This figure will be based on the project's average monthly request for RA.

D. Information on FmHA Rental Assistance on Form FmHA 2033–42, "Multi-Family Housing Information Status Tracking and Retrieval System," (MISTR) regarding balance of RA funds must be updated annually at the end of each fiscal year by the District Director and State Director.

VIII Responsibilities of Borrower in Administering the Rental Assistance Program

The borrower and management agent for each project receiving RA should fully understand the responsibilities and requirements of carrying out the program. The following guidelines will be followed:

A. RA payments will not be made directly to eligible tenants receiving RA except as specified in paragraph IX A. The borrower will maintain an accurate accounting of each tenant's utility allowance and payments made to tenants. All other RA payments will be recorded as a credit to the tenant's monthly rental payment.

B. The borrower must submit Form FmHA 1944–8 "Tenant Certification," for each tenant as required in paragraph VII F of Exhibit B to this Subpart (Management Handbook)

C. The incomes reported by the tenants must be verified by the borrower in accordance with paragraph VII of Exhibit B to this Subpart (Management Handbook).

D. Borrowers utilizing RA must comply with § 1930.124 of this Subpart. RA will not be approved for a project until the operating budget has been approved by the FmHA State Office or the District Director. District Directors, with assistance from the State Office, must closely supervise and assist borrowers in complying with all accounting and management requirements.

E. A borrower participating in the RA program must have an FmHA approved lease with the assisted household. All leases must comply with the provisions of paragraph VIII of Exhibit B to this Subpart (Management Handbook).

F. The borrower will be responsible to FmHA for any errors made in the administration of the RA program which are made by the borrower or the borrower's authorized management agent. Errors in computation or other unauthorized use of RA will require, at a minimum, the repayment of any incorrectly advanced RA funds. If the error or unauthorized use of RA appears to be deliberate or intentional, the State Director will refer the case to the Office of Inspector General according to Subpart B of Part 2012 (available in any FmHA Office).

IX Handling Utility allowonces

A. *Payment of Utilities.*

1. When the tenant is billed directly for utilities, rent paid by the tenant receiving RA will be the difference between the established utility allowance and the portion of income cited in paragraph II A 2 (a) or (b) or (c) of this exhibit.

2. When utilities are paid by the household receiving RA and the portion of income cited in paragraph II A 2 or (b) or (c) of this exhibit is less than the allowance for utilities, the borrower will pay the household the difference between the utility allowance and one of those limits of the household's adjusted monthly income.

3. In a project where the owner pays all utilities, the tenant rent will be the portion of income cited in Paragraph II A 2 (a) or (b) or (c) of this exhibit up to the approved rent for the rental unit being occupied.

B. *Determining the Allowance.* The utility allowance will be determined and recorded by the use of Exhibit A–5 to Subpart E of Part 1944 of this chapter.

C. *Changes in Allowances.* The utility allowance should be reviewed annually and adjusted if there are substantial changes in utility and public service rates. Normally, allowances will be adjusted on an annual basis if necessary when the owner submits a new budget for approval. Changes in utility allowance which will result in changed rent paid by tenants will be processed according to Exhibit C to this Subpart.

X Method of Payment of Rental Assistance to Borrower

A. Regular monthly rental assistance payments.

1. *Borrower Responsibilities.*

a. Any RA due the borrower will be deducted from the balance of scheduled loan payments, any delinquent payments, and other charges due on Form FmHA 1944–29, "Project Worksheet for Interest Credit and Rental Assistance," and the remaining balance must be submitted to the District Office. If the RA due the borrower exceeds the balance of scheduled loan payments, delinquent payments and other charges, an RA check for the excess will be issued by the Finance Office.

b. Each month the borrower must forward to the District Director a separate Form FmHA 1944–29 and any new Form FmHA 1944–8, for each project according to the instruction attached to the form.

2. *District Director Responsibilities.*

a. When a Form FmHA 1944–29 and new Form FmHA 1944–8 are received, the District Director will:

(1) Review Form FmHA 1944–8 and verify that the information contained on the form is complete and correctly computed based on information contained in the form.

(2) Review Form FmHA 1944–29 and ensure that entries are supported by the current Form FmHA 1944–8.

(3) Submit the borrower's payment and payment data to the Finance Office using Form FmHA 1944–9, "Multiple Family Housing Certification and Payment Transmittal."

b. The District Director should verify the accuracy of the borrower's servicing address shown on the Finance Office record. When the address shown is incorrect, Form FmHA 1944–50, "Multiple Family Housing Borrower/Project Characteristics" will be prepared and the Finance Office record corrected via a field computer terminal. File Form FmHA 1944–50 in the borrower casefile.

B. When a project loan account is delinquent, the District Director should counsel with the borrower and develop a servicing plan in accordance with § 1965.85(b) of Subpart B of Part 1965 of this chapter. This plan should incorporate detailed provisions for continuing operation of the project and paying the account current.

1. As part of the servicing plan, the District Director may agree to releasing a portion of the monthly RA for project operation. This amount will be shown in the "Amount of Rental Assistance Check" block on Form FmHA 1944–9. The check will be delivered to the District Director.

2. The RA Check may be released to the borrower according to the servicing plan.

C. An RA payment request must be based on actual occupancy as of the first day of the month, except for the initial month of rent-up in a new project. During the initial month of participation by a new project in the RA program, the borrower must collect RA on a prorata basis for eligible tenants occupying the project. This initial RA request may be submitted with the borrower's first payment and subtracted from the payment due.

XI Assigning Rental Assistance to Tenants

A. *New Project.* Applications for occupancy should be accepted during the construction phase of the project and placed on a waiting list. During initial rent-up period the following priorities will apply:

1. Until all the RA units have been assigned, a number of apartment units in the project equal to the number of RA units will be initially reserved for applicant households who qualify for RA as defined in paragraph II A of this Exhibit. Applicants qualifying for RA will be considered according to the priority established by paragraph XI B, by-passing those applicants on the waiting list whose income is above the low-income limits for the area. The balance of the apartment units will be rented simultaneously to other applicants on a first come, first served basis.

2. If a substantial number of apartment units reserved to be used with RA units remain vacant after initial rent-up and the borrower could rent those units to applicants not eligible for RA, the borrower may consider requesting a transfer of unused RA units in accordance with Paragraph XV B 5 of this chapter. Applicants not eligible for RA cannot be selected to occupy units initially reserved to be used with RA until unused RA units are transferred.

3. If there are still vacant units, those applicants by-passed because they did not qualify for RA will be considered for occupancy on a first-come first-served basis.

B. *Operational Project.* To determine priority for assigning an available RA unit in an operational project, the latest Form FmHA 1944–29 must be updated as of the date the unit is available, assuring that columns 3 through 9 are current and accurate.

1. First priority for assigning RA must always be given to eligible very low-income households in the following order:

a. *Eligible very low-income tenants* paying the highest percentage of adjusted annual income for approved shelter costs.

b. *Eligible very low-income applicants from waiting list.* Very low-income applicants will be selected from the waiting list on a first come, first served basis as provided in paragraph VI E of Exhibit B to this Subpart. No eligible tenant household in the project may be required to move from the project to allow an applicant on the waiting list who is eligible for RA, to move in.

2. Second priority for assigning RA will be given to eligible households with *low-income* in the following order.

a. *Eligible low-income tenants* paying the highest percentage of adjusted annual income for approved shelter cost.

b. *Eligible low-income applicants from waiting list.* Low-income applicants will be selected on a first come, first served basis according to paragraph VI E of Exhibit B of this Subpart, provided the borrower has satisfied the requirements of paragraph XI C of this Exhibit.

3. Third priority for RA will be given, with State Director approval, to occupancy ineligible tenants living in the project. The occupancy requirements of paragraph VI B 2 of Exhibit B of this subpart must be met.

4. When the project has vacancies and RA is not available, an applicant who is eligible for RA may elect to accept occupancy without the benefit of RA. After occupancy, the household will be considered for RA according to paragraph XI B of this Exhibit. If the applicant elects not to accept occupancy because RA is not available, their application will retain its priority date on the waiting list if the rental agent determines that a hardship to the applicant will exist according to paragraph VI E 2 of Exhibit B to this Subpart.

5. Eligible tenants receiving the benefits of RA may continue receiving such benefits as long as they remain eligible for rental assistance and there is a RA agreement in effect.

C. *Limits on Low-Income Applicants Which May Receive Occupancy and RA.*

1. When no more very low-income applicants are on the waiting list *and RA is available,* eligible low-income applicants may obtain occupancy and receive RA, provided that:

a. For projects available for initial occupancy prior to November 30, 1983, no more than 25 percent of the vacant units receiving RA may become occupied by low-income tenants other than very low-income tenants.

b. For projects available for initial occupancy on or after November 30, 1983, no more than 5 percent of the vacant units receiving RA may become occupied by low-income tenants other than very low-income tenants.

2. The borrower may rent units and provide RA to other than very low income applicants/tenants in excess of the percentages in XI C 1 a and b above, respectively, when no more very low-income applicants/tenants are in the market area. The borrower must have in its file and available to FmHA or its representative documentation that shows the efforts made, and the facts used to determine that there are no more very low-income applicants in the market area.

D. *Assigning Rental Assistance Other Than The First of The Month:*

1. When a tenant receiving RA vacates before the end of the month, the RA unit should be immediately reassigned to another tenant or an applicant using the priorities given in paragraph XI B of this exhibit.

2. When RA is assigned to an applicant and the applicant initially enters the project on a day other than the first of the month, the applicant's tenant contribution for housing costs will be prorated for the remaining portion of the month the same as if the tenant was receiving RA. [Example: Basic rent of $200 and the tenants monthly contribution with RA would be $120, the pro rata amount for ½ month would be $60.]

3. When RA is assigned to a tenant other than the first of the month, no adjustment to their tenant contribution on Form FmHA 1944–29 for that month will be made. The tenant will begin to receive the benefits of RA as of the first day of the next month.

4. No adjustment will be made on Form FmHA 1944–29 to request additional RA

payment or to refund any excess RA payment or overage when RA is reassigned other than the first of the month.

XII Terminating Existing Rental Assistance Agreements Obligated in Prior and/or Current Fiscal Years

1965 of this chapter and the account is accelerated, the RA will be suspended and

provided under the conditions of § 1944.235(b) of this chapter. However, if this

Subpart E—Rural Rental Housing Loan

VOL 50 ISS 136 JL 16 1985 UMI

payment or to refund any excess RA payment or overage when RA is reassigned other than the first of the month.

XII Rental Assistance Assigned to Wrong Household

When the tenant has correctly reported income and household size, but RA was assigned to a household in error, that tenant's RA benefit should be cancelled and reassigned. Incidents involving incorrect reporting are addressed in paragraph IX C of Exhibit B to this subpart (Management Handbook).

A. Before the borrower notifies the tenant, the borrower or management agent shall review the case with the District Director. If the District Director verifies that an error has been made based on information available at the time the unit was assigned, the tenant will be given 30 days written notice that the unit was assigned in error and that the RA benefit will be cancelled effective on the next monthly rental payment due date after the end of the 30 day notice period. The tenant will also be notified in writing that:

1. The tenant has the right to cancel the lease based on the error made by the borrower and the loss of benefit to the tenant.

2. The RA granted in error will not be recaptured.

3. The tenant may meet with management to discuss the cancellation and the facts on which the decision was based. If the facts are accurate and the tenant cannot produce further evidence proving eligibility for RA, there will be no appeal from the decision. If the tenant feels there is justification for further review the borrower must give the tenant appeal rights under Subpart L of Part 1944 of this chapter.

B. Reassigning rental assistance:

1. The RA unit will be reassigned to the household which was erroneously denied the RA unit. The assignment will be based on the Form FmHA 1944–29 from which the original priority was established, when the unit was erroneously assigned. The RA will not be retroactive unless the reassignment was based on an appeal by the tenant. Retroactive RA may not exceed the project's remaining RA obligation balance.

2. If the originally denied household now has RA, or is no longer a resident, the RA will be assigned based on a current Form FmHA 1944–29 and the priorities in paragraph XI of this Exhibit.

XIII Rental Assistance Payment Cancellation

When a RA check must be cancelled, the following procedure will be followed:

A. *Return of the original rental assistance Treasury Check:* The District Office will prepare Form FmHA 1944–53, as specified in the FMI and mail it to the MFH Unit in the Finance Office.

B. *Return of all or a portion of the monthly rental assistance payment or refund of rental assistance previously advanced:* A check from the borrower made payable to Farmers Home Administration (FmHA) will be submitted to the MFH Unit in the Finance Office on Form FmHA Form 1944–53, completed according to the FMI.

XIV Terminating Existing Rental Assistance Agreements Obligated in Prior and/or Current Fiscal Years

A. When a project's obligated funds are fully disbursed under any given RA agreement number, RA will be automatically terminated by the Finance Office. The Finance Office will notify the District Office on Form FmHA 1951–51, "Multiple Family Housing Transaction Record." The District Office will notate Form FmHA 1944–27 according to the FMI to indicate that a termination has occurred. The District Director will notify the borrower in writing that the obligation under the RA agreement number has expired and the RA agreement number must be stricken from the agreement.

1. *For all RA obligations before FY 1985.* RA is considered fully disbursed by the Finance Office when all RA funds obligated before FY 1985 are disbursed.

2. *For all RA obligations after FY 1984.* RA is considered fully disbursed by the Finance Office when all RA funds obligated in a particular FY are disbursed. This includes RA transferred from a different MFH project.

3. When an RA agreement (Form FmHA 1944–27) consists of several different obligations (Form FmHA 1944–51, Part III, or Form FmHA 1944–55) identified by different RA agreement numbers, and the obligations will not be fully disbursed at the same time, only those RA agreement numbers with fully disbursed obligations will be terminated.

B. Prior to Full Disbursement of Obligated Funds:

1. *Prior Fiscal Year Obligations.* Prior fiscal year (FY) obligations *will not* be terminated. They will be suspended by the State Director using procedures in paragraph XV of this exhibit.

2. *Current Fiscal Year Obligations.* The State Director is authorized to terminate RA agreements prior to the disbursement of obligated funds if the funds were obligated during the current FY. The undisbursed funds for the RA obligation will be returned to the current FY obligation authority.

XV Suspending or Transferring Existing Rental Assistance Agreements

A. RA may be suspended or transferred according to the requirements for each situation described in Paragraph XV B and the following:

1. *Suspension.*

a. The State Director may approve a suspension of a project's RA agreement and obligation as a result of the servicing actions described in Paragraph XV B 2, 3, and 4 of this exhibit. The State Director will maintain records and control of this suspended RA.

b. The District Director will notify the borrower in writing and the Finance Office by memorandum.

c. After notification, the Finance Office will suspend all RA payments to the affected project.

d. The State Director may reinstate the RA to the same borrower in the same project, by memorandum to this Finance Office.

2. *Transfer.*

a. Only the State Director may approve a RA transfer.

b. RA may be transferred to any borrower with an RA eligible project according to the priorities established by this Exhibit or the National Office.

c. The amount of RA which may be transferred must be:

(1) A specific unit and dollar amount. The dollar value of each RA unit to be transferred will be determined by dividing the transferring project's total remaining RA obligation(s) balance in the transferring RA agreement by the total number of obligated RA units in the RA agreement.

(2) A unit and dollar value equal to or less than those shown on the current RA agreement for the transferring project. For example, a portion of an RA agreement unit and remaining obligation dollar value may be transferred.

d. RA units identified by different RA agreement numbers must be transferred with separate RA agreement numbers on Form FmHA 1944–55.

e. When the State Director approves an RA transfer, Form FmHA 1944–55 completed according to the FMI, will be used to notify the Finance Office except as noted in Paragraph XV B 1 below.

f. Form FmHA 1044–27, with Form FmHA 1944–55, attached will be completed according to the FMI for each transferee. The transferors' RA agreement will be modified by attaching a copy of Form FmHA 1944–55 according to the FMI to indicate that a portion of the agreement has been transferred. When all the RA units on a RA agreement have been transferred, the transferor's present agreement will be so documented.

B. RA may be suspended and/or transferred in the following situations according to the following directions:

1. *RA transfer accompanying a loan transfer.* When a loan is transferred to an eligible borrower, the transferee may assume the transferor's RA agreement. The RA will be transferred using Form FmHA 1944–55 which will be forwarded to the Finance Office with Form FmHA 1965–9, "Multiple Family Housing Assumption Agreement" as required in § 1965.65(c)(11) of Subpart B of Part 1965 of this chapter.

2. *Suspension and transfer after a voluntary conveyance.* When a project with RA is voluntarily conveyed to the Government, the RA will be suspended rather than cancelled. When Form FmHA 1965–19, "Multiple Family Housing Advice of Mortgage Real Estate Acquired" is sent to the Finance Office, Form FmHA 1944–55 must be attached indicating the Code 4 status of the suspended RA units according to the FMI. If the project is sold through a credit sale within the program, the suspended RA may be transferred to the project's new borrower, or a different project if it is not needed.

3. *Suspension and transfer after a liquidation.* When a project with RA is liquidated through sale outside of the program or the loan is paid in full, the RA will be suspended and, subsequently, transferred to a different FmHA financed project.

4. *Suspension and transfer or reinstatement due to a servicing action.*

a. When servicing a project's account according to § 1965.85 of Subpart B of Part 1965 of this chapter and the account is accelerated, the RA will be suspended and either:

(1) Transferred with the project to a new borrower when all appeals and redemption periods of the defaulting borrower have expired and a credit sale is to be completed, or

(2) Transferred to a different project if the defaulting project is subsequently sold outside the program, or

(3) Reinstated to the same project when the defaults are corrected and the State Director reinstates the borrower's account.

b. The borrower will be apprised of the appeal rights available under subpart B of Part 1900 of this chapter upon notification of the pending suspension. The suspension will not be effective until these appeal rights have been exhausted.

5. *Transfer of unused RA.* When RA is unused after initial rent-up and not needed because of a lack of eligible potential tenants in the area, all or a portion of it may be transferred when the State Director determines that the following conditions have been met:

a. The borrower demonstrates that:

(1) The original market survey completed according to Exhibit A–6, Subpart E of Part 1944 of this chapter clearly indicates no significant need for rental housing by households in the market area that would require RA for occupancy, and that there are no eligible tenants in the project not receiving RA or there are no eligible applicants on the waiting list who could use RA when obtaining occupancy. The State Director may require a new market survey for the project to make this determination if the original market survey does not adequately address potential very low-income tenants in the area, or does not reflect current market conditions.

(2) When the market survey indicates that there is a significant need for rental housing by households in the market area that would have required RA for occupancy but all or a substantial portion of the RA units available remain unused after a two year period since initial availability, the borrower must demonstrate that:

(i) A good faith effort was made to market the project to RA eligible applicants;

(ii) The waiting list does not contain RA eligible applicants and the project is not occupied by RA eligible tenants who do not receive RA; and

(iii) Project management has not used a policy of discouraging RA eligible households from applying for or obtaining tenancy in the project.

(3) Rent increases anticipated for the following two years will not prompt a request for RA according to the provision of Exhibit C of this subpart.

b. The District Director recommends the RA transfer after reviewing documentation submitted by the borrower and finding that the applicable conditions of Paragraph XV B 5 of this exhibit have been met.

b. *Transfer due to an uncloseable loan.* When RA will be unused because the loan to which it was obligated will not be closed, or the RA agreement is not signed, the RA obligation may be transferred except as provided under the conditions of § 1944.235(b) of this chapter. However, if this situation occurs during the same FY of obligation, the obligation should be cancelled and reobligated immediately using current authorities. Obligations from prior fiscal year must be cancelled and will be lost *unless* the conditions of § 1944.235(b) of Subpart E of Part 1944 of this chapter exist.

XVI. Rights for Appeal if Rental Assistance is not Granted or is Cancelled by Farmers Home Administration

A. Borrowers who have requested RA in writing and are denied such assistance (whether in whole or in part) by Farmers Home Administration, or when RA is cancelled, will be notified in writing of the specific reasons why they have been denied RA as specified in subpart B or Part 1900 of this chapter.

B. If at any time a borrower or a household is granted RA under an appeal, the borrower or household will receive the next available RA unit.

C. Borrower denial of RA to tenants will be handled according to Subpart L of Part 1944 of this chapter.

XVII. Forms and Exhibits

Exhibit A–5 to Supbart E of Part 1944 of this chapter and Form FmHA 1944–7 are to be used in determining the amount of rental assistance to be provided.

37. In addition to the amendments set forth above, 7 CFR Part 1930 is amended by removing the words "45 days" and inserting the words "60 days" in the following places:

(a) Section 1930.124 (b) introductory text;

(b) Exhibit A–1, paragraph IV B 1 c; item 5. of the Evaluation Checklist for Audit Reports, and item 3. of the Example Audit Review Letter;

(c) Exhibit B–7, wherever it appears under the column entitled "Due dates."

PART 1944—HOUSING

38. The authority citation for Part 1944 is revised to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

§ 1944.182 [Amended]

39. Section 1944.182 is amended in the fifth sentence by changing "Form FmHA 444–8" to "Form FmHA 1944–8."

§ 1944.200 [Amended]

40. Section 1944.200 is amended in the first sentences of paragraphs (a)(1) and (a)(2) by adding the words "very low-," before the words "low- and moderate-income . . ."

41. Exhibit A is amended in the first sentence of the second paragraph by adding the words "very low- and" before "low-income farmworkers."

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

42. Section 1944.205 is amended by revising paragraphs (b), (c), the title of paragraph (d), the introductory paragraph of paragraph (f), paragraphs (f)(2), (f)(3), (f)(4), (f)(5), (i) and (j), and by adding paragraph (cc) to read as follows:

§ 1944.205 Definitions.

* * * * *

(b) *Elderly (Senior Citizen).* A person who is 62 years of age or older. The term elderly, or senior citizen, also means persons with the following handicap or disabilities, regardless of age:

(1) *Handicapped.*

(i) Inability to engage in any substantially gainful activity by reason of any medically determinable physical or mental impairment which;

(A) can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months, and

(B) substantially impedes his or her ability to live independently, and

(C) is of such a nature that such ability could be impaired by more suitable housing conditions.

(ii) In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as determined in Section 223 of the Social Secuity Act), inability by reason of such blindness to engage in substantially gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time.

(2) *Disabled.* In the case of developmental disability, a person with a severe, chronic disability which:

(i) is attributable to a mental or physical impairment or combination of mental or physical impairment;

(ii) is manifested before the person attains age 22;

(iii) is likely to continue indefinitely;

(iv) results in substantial functional limitations in three (3) or more of the following areas of major life activity:

(A) self-care,

(B) receptive and expressive language,

(C) learning,

(D) mobility,

(E) self-direction,

(F) capacity for individual living,

(G) economic self-sufficiency, and

(v) reflects the person's need for a continuation and sequence of special, interdisciplinary or generic care or treatment, or for other services which are of lifelong or extended duration and

are individually planned and coordinated.

(c) *Resident assistant.* A person(s) congregate housing project or a project housing handicapped tenants, space may be provided for cafeteria, dining must be granted by the respective loan approval official. The District Director

Exhibit B, paragraphs II B, VI D, VII A, and VII C.

DEPARTMENT OF TRANSPORTATION

the proposed rule. The proposals contained in this notice may be changed

are individually planned and coordinated.

(c) *Resident assistant.* A person(s) residing in a housing unit who is essential to the well-being and care of the elderly, disabled or handicapped person(s) residing in the unit and who is not related by blood, marriage, or operation of the law to these tenants. The resident assistant is not considered to be part of the household and is not subject to the eligibility requirements of a tenant. The resident assistant receives compensation from sources other than FmHA.

(d) *Very low, low or moderate income household.* * * *

* * * * *

(f) *Eligible occupants.* Eligible occupants in a project may be either the elderly, disabled, handicapped, or very low-, low- and moderate-income households, or any combination thereof, as planned for the project and shown on the applicant's loan resolution or loan agreement, and who comply with the occupancy policy of the borrower as governed by the provisions of paragraph VI B 2 of Exhibit B to Subpart C of Part 1930.

* * * * *

(2) For a direct loan or a loan developed under Plan I, be:

(i) an elderly, handicapped or disabled person with a very low-, low- or moderate-income, or

(ii) Any household with a very low- or low-income.

(3) for loans developed under Plan II, be persons with a very low-, low- or moderate-income.

(4) For all other loans be persons with a very low-, low- or moderate-income or elderly, handicapped or disabled without regard to income.

(5) In the case of cooperative housing projects all members (tenants) must be very low-, low- or moderate-income; however, any tenant who is admitted as an eligible tenant of the cooperative may not subsequently be deprived of her/his membership or tenancy by reason of no longer meeting the income eligibility requirements as outlined in Exhibit C of Subpart A of Part 1944 of this chapter.

* * * * *

(i) *Related facilities.* Related facilities may consist of community rooms or buildings, site manager's apartment unit, cafeterias, dining halls, appropriate recreation facilities, and other essential service facilities such as central heat and cooling, sewerage, light systems, ranges and refrigerators, clothes washing machines and clothes dryers, and a safe domestic water supply. Under special conditions, such as a congregate housing project or a project housing handicapped tenants, space may be provided for cafeterias, dining areas, an infirmary, therapy room, special bathing room, and other special areas needed by the elderly and the handicapped tenants when determined to be economically feasible. The cost of kitchen equipment such as stoves, ovens, steam tables and other such items may be included in the loan. However, the cost of specialized equipment such as that used for training and therapy will not be included in the RRH loan to equip these facilities. When ranges, refrigerators, dish washing machines, dish dryers and other kitchen equipment are included, they will be attached to the real estate in a manner to prevent easy removal.

(j) *Project.* A project is the total number of rental housing units in one community such as a densely settled area, town or village, operated under one management plan with one loan agreement or resolution.

* * * * *

(cc) *Elderly family.* A household where the tenant or co-tenant is 62 years of age or older, handicapped or disabled as defined in § 1944.205(b). An elderly family may include a person(s) younger than 62 years of age who is essential to the elderly handicapped or disabled person's care and well-being. (To be eligible to receive an elderly family deduction the elderly, handicapped or disabled person must be the tenant or co-tenant.)

43. Section 1944.211 is amended by adding paragraph (c) to read as follows:

§ 1944.211 Eligibility requirements.

* * * * *

(c) *Eligibility of tenants.* Eligibility requirements for tenants are specified in Exhibit B to Subpart C of Part 1930 of this chapter.

§ 1944.215 [Amended]

44. Section 1944.215(i)(4) is amended by inserting "very low-" between the words "eligible" and "low- and moderate-income."

45. Section 1944.235 is amended by revising paragraph (i)(1) to read as follows:

§ 1944.235 Actions subsequent to loan approval.

* * * * *

(i) * * *

(1) The District Director will review the applicant's marketing plan to determine that it is complete with all supplemental information provided. If it is determined that the plan should be modified before marketing activity begins, approval of the modification must be granted by the respective loan approval official. The District Director will review the approved project operating budget to determine if it is still adequate for the initial operating period. If it is not adequate, a rent change will be made according to paragraph VI C of Exhibit C of Subpart C of Part 1930 of this chapter.

* * * * *

46. Exhibit B is amended by revising paragraphs IV A 1, IV B 1, IV F and VIII to read as follows:

Exhibit B—Interest Credits on Insured RRH and RCH Loans

* * * * *

IV. * * *

A. * * *

1. Borrowers operating under this plan must agree to limit occupancy of the housing to very low- or low-income nonelderly and very low-, low- and moderate-income elderly, disabled or handicapped persons.

* * * * *

B. * * *

1. Borrowers operating under this plan must agree to limit occupancy of the housing to households, persons, and elderly, disabled and handicapped persons of very low-, low- and moderate-incomes. Under Plan II, interest credits are based on the cost of operating the project and the size and income of the household.

* * * * *

VI. * * *

F. *Understanding Eligibility.* The borrower should understand the eligibility requirements for occupancy of the housing. Instructions for tenant's eligibility may be found in paragraph VI B of Exhibit B to Subpart C to Part 1930 of this chapter (Multiple Housing Management Handbook).

* * * * *

VIII. *TENANT CERTIFICATION*

Tenant certification and recertification for interest credit borrowers will be performed according to paragraph VII of Exhibit B to Subpart C to Part 1930 of this chapter.

* * * * *

47. In addition to the amendments set forth above, 7 CFR Part 1944, Subpart E is amended by changing the references from "Form FmHA 444–8" to "Form FmHA 1944–8" in the following places:

(a) Exhibit B, paragraph IV B 2 c;

(b) Exhibit H, paragraph VII.

48. In addition to the amendments set forth above, 7 CFR Part 1944, Subpart E is amended by changing the references from "Form FmHA 444–29" to "Form FmHA 1944–29" in the following places:

Exhibit B, paragraphs IV B 2 d, the introductory paragraph of paragraph IX and paragraph IX A 2.

49. In addition to the amendments set forth above, 7 CFR Part 1944, Subpart E is amended by changing the references from "Form FmHA 444–7" to "Form FmHA 1944–7" in the following places:

Exhibit B, paragraphs II B, VI D, VII A, and VII C.

50. In addition to the amendments set forth above, 7 CFR Part 1944, Subpart E is amended by changing the references from "Form FmHA 444–9" to "Form FmHA 1944–9" in the following places:

Exhibit B, the introductory paragraph of paragraph IX and paragraph IX A 2.

PART 1965—REAL PROPERTY

51. The authority citation for Part 1965 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Security Servicing for Multiple Housing Loans

52. Section 1965.85(c)(6) is amended by changing the reference from "Form FmHA 444–8" to "Form FmHA 1944–8."

Dated: April 30, 1985.

F.W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 85–16700 Filed 7–15–85; 8:45 am]

BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Modification of General Design Criterion 4 Requirements for Protection Against Dynamic Effects of Postulated Pipe Ruptures

Correction

In FR Doc. 15756, beginning on page 27006, in the issue of Monday, July 1, 1985, make the following corrections:

1. On page 27006, in the third column, first complete paragraph, twelfth line, "flows" should read "flaws".

2. On page 27007, in the first column, second paragraph, third line, "appled" should read "applied".

3. On page 27007, in the first column, third paragraph, seventh line, "fast" should read "last".

4. On page 27007, in the second column, first complete paragraph, the colon at the end of the last line should be replaced with a period.

5. On page 27008, in the second column, fifth complete paragraph, sixth line, "he" should read "the".

6. On page 27008, in the third column, under the heading

Availability of Documents:

a. In the first line of paragraph 1, "CR–106" should read "CR–1061".

b. In the first line of paragraph 5, "CR–21189" should read "CR–2189".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–NM–66–AD]

Airworthiness Directives; Boeing Model 747 Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) that requires inspection of trailing edge flap tracks for corrosion and cracking on certain Boeing Model 747 airplanes. This amendment would incorporate increased inspection intervals on the condition the maximum operational flap setting is reduced to 25 degrees. Investigations have shown that this may be accomplished without adversely impacting safety.

DATES: Comments must be received on or before September 9, 1985.

ADDRESS: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–66–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM–120S; telephone (206) 431–2923. Mailing Address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–66–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Amendment 39–4745 (48 FR 48220; October 18, 1983), AD 83–21–02, requires repetitive inspection of trailing edge flap tracks for corrosion and cracking. The corrosion is caused by the accumulation of water in the aft end of the flap track cavity. Extensive cracking that originates from the corrosion could result in separation of the flap under some conditions, and the resultant trajectory of the flap could cause it to damage the horizontal stabilizer, jeopardizing continued safe flight.

The manufacturer has since conducted tests and analyses and has determined that operation of airplanes with flaps not exceeding 25 degrees reduces the loads on the flap tracks and reduces crack growth rate. Boeing issued a revision to the service bulletin that describes an alternate operating procedure and corresponding inspection programs.

This proposed amendment would incorporate the manufacturer's alternative increased external visual inspection intervals on the condition that the maximum operational flap setting is reduced to 25 degrees. These inspection intervals could be further increased if a magnetic particle or penetrant inspection method is used in conjunction with the maximum flap setting of 25 degrees. Also, the X-ray inspection interval may be increased by accomplishing additional visual inspections and/or by determining if corrosion progression has been arrested.

These new inspection intervals and procedures are defined in Boeing Service Bulletin 747–57A2225, Revision 2, dated April 12, 1985. The existing inspection intervals specified in Amendment 39–4745 (48 FR 48220; October 18, 1983), AD 83–21–02, remain

in effect until this proposed amendment becomes a Final Rule.

The Proposed Amendment

Accordingly, pursuant to the authority

On page 27534 in the second column, under "Anchorage International Airport,

DATE: Comments must be received by August 15, 1985.

Also, as ground system saturation nears, the agency sponsoring a new GOES DCS

allocation of frequency resources for a limited period and to ensure against

in effect until this proposed amendment becomes a Final Rule.

Inasmuch as this Amendment would merely offer alternative inspection intervals and inspection techniques, it will not impose any additional regulatory or economic burden on any person.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.85; and 49 CFR 1.47.

2. By amending AD 83-21-02, Amendment 39-4745 (48 FR 48220; October 18, 1983) by revising paragraphs E. and F. to read as follows:

E. Concurrent with the modification of paragraph D., above, perform an internal borescope inspection of the flaptrack in accordance with procedures defined in Boeing Alert Service Bulletin 747-57A225, Revision 1, or later FAA approved revision, to determine if corrosion exists. If corrosion or pitting is found, determine its extent by accomplishing the track web X-ray inspection specified in the service bulletin.

1. Perform repeat external inspections for cracks or corrosion penetration through track webs at the intervals shown in the following Table II:

TABLE II

Maximum flap setting used for landings	Internal corrosion classification	Maximum external inspection intervals (landings)	
		Visual inspection	Magnetic particle or penetrant inspection
25° (a)	Heavy	200	250
	Moderate	400	450
	Light	800	850
30°	Heavy	50	65
	Moderate	100	115
	Light	250	265

(a) Quadrant and alternate extension system must be modified to block off selection of flaps 30°.

F. Repeat the X-ray inspection specified in paragraph E. in accordance with Boeing Alert Service Bulletin 747-57A2225, Revision 1, or later FAA approved revision, on tracks indicating medium or light internal web corrosion at intervals not exceeding one year or until heavy web corrosion is indicated, whichever occurs first. This twelve month inspection interval may be extended to fifteen months, provided a monthly repeat visual inspection is initiated at the twelfth month and continued until the X-ray inspection is accomplished. When the classification of the internal corrosion changes then the inspection interval changes as indicated in paragraph E(1), above. If the previous two X-ray inspections show that corrosion progression has been arrested, the X-ray reinspection internal may be increased from 12 to 24 months until subsequent X-ray inspections indicate noticeable corrosion progression. At that time, the interval for X-ray inspection shall revert to 12 months.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 9, 1985.

Thomas J. Howard,

Acting Director, Northwest Mountain Region.

FR Doc. 85-16829 Filed 7-15-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AWA-1]

Proposed Establishment of Airport Radar Service Areas

Correction

In FR. Doc 85-15668 beginning on page 27528 in the issue of Wednesday, July 3, 1985, make the following corrections:

On page 27534 in the second column, under "Anchorage International Airport, AK [New]" in the fourth line from the bottom "MXL" should read "MSL".

On page 27535 in third column, under Harrisburg International Airport, in the fourth line "D.P." should read "C.P.".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 85-ASO-8]

Proposed Alteration of VOR Federal Airways

Correction

In FR Doc. 85-15660 beginning on page 27013 in the issue of Monday, July 1, 1985, on page 27014, third column, tenth line down now reading "V-578—[Amended]" should read "V-578—[New]".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 911

[Docket No. 50584-5084]

United States Geostationary Operational Evironmental Statellites (GOES) Data Collection System (DCS)

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Geostationary Operational Environmental Satellites (GOES) Data Collection System (DCS) has extra capacity which has been made available to non-NOAA users for the collection from remote locations of environmental data provided that NOAA, another Federal agency, or a state or local government has an interest in or requirement for obtaining these data and that no adequate alternative commercial service exists. This revision of NOAA's regulations for utilizing this excess capacity of the GOES DCS is necessary because the GOES DCS ground system is approaching saturation and more careful use must be made of it. Also, the revision clarifies that use of the GOES DCS may be allowed when an alterantive commercial service exists but involves significant additional cost to the government. Finally, the revision updates organizational references.

DATE: Comments must be received by August 15, 1985.

ADDRESS: Written comments should be sent to Douglas MacCallum, Chief, Data Collection and Direct Broadcast Branch (E/SP21), National Environmental Satellite, Data and Information Services, National Oceanic and Atmospheric Administration, Room 806, World Weather Building, Washington, D.C. 20233. Telephone Number (301) 763-8325.

FOR FURTHER INFORMATION CONTACT: Douglas MacCallum (301)-763-8325 at address given above.

SUPPLEMENTARY INFORMATION: The GOES DCS is a communications system for collecting and transmitting data from remote data collection platforms (DCP's) via a government-owned geostationary statellite, the primary purpose of which is the collection of environmental data, in particular meteorological, hydrological, and oceanic data.

I. Use of Channel Resources

NOAA has published regulations on the administration and operation of the GOES DCS at 15 CFR Part 911. These regulations establish the NOAA policy that the GOES DCS will be made available to non-NOAA users who own or operate DCP's for the collection of environmental data useful to federal agencies or state or local governments. All users have to agree to permit NOAA and other federal agencies free and open use of data collected except under certain specified conditions where private users can agree with NOAA to have data treated in a proprietary manner.

The NOAA GOES DCS ground system (but not the space system) is nearing saturation and no expansion of the ground system is planned for several years. Of the eighty available channels, 73 are in active use and 4 others already have been allocated. In order for NOAA to properly monitor the GOES DCS to ensure system integrity, all data relayed through the system must be received by the NOAA GOES DCS ground system. Once ground system saturation is reached, users wanting to enlarge their DCP networks will have to delay this enlargement until the NOAA ground system is expanded.

In order to more fairly distribute the impact of ground system saturation on the user community, federal agencies or a state or local government sponsoring new private GOES DCS users must share their existing channel resources with the new user they are sponsoring. Also, as ground system saturation nears, the agency sponsoring a new GOES DCS user must realize that channel resources not previously assigned may be allocated to that user and thus not be available for their future use.

II. Use of Alternative Private Carriers

Section 911.2(a) which precludes the use of the GOES DCS when "adequate" private common carrier communications exist, does not discuss cost as a factor. Of course the use of a commercial system will involve some cost to the user, but may also involve additional cost to a federal agency which needs the data, i.e. to tap into the common carrier. Where a federal agency has an urgent need for certain data, it seems inappropriate to preclude the collector from using the government system. The Government built and paid for the DCS and should not have to pay more for data the system is built to collect. NOAA never intended to preclude users under these conditions and this interpretation is clarified in this amendment. It allows use of the DCS unless a carrier arranges to make relevant data available to NOAA at no additional cost, e.g. by relaying these data.

III. Organizational References

The National Environmental Satellite, Data, and Information Service now is the NOAA element responsible for its environmental satellites and for the GOES DCS. The present revision reflects this change, particularly in new § 911.1(b)(3) which also explicitly authorizes redelegation of some functions.

IV. Other Actions Associated with the Rulemaking

(A) Classification Under Executive Order 12291

NOAA has concluded that these regulations are not major because they will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

The proposed regulations revise existing regulations to ensure fair allocation of frequency resources for a limited period and to ensure against subsidization of private industry at taxpayer expense. The regulations will not result in any direct economic or environmental effect nor will they lead to any major indirect economic or environmental impacts.

(B) Administrative Procedure Act and Regulatory Flexibility Act Analysis (5 U.S.C. 553 and 601 et seq.)

This proposed rule is a matter relating to contracts because it determines who may enter into agreements with Federal agencies for use of channel resources in the GCOS DCS. Thus, it is not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2). Therefore, the Regulatory Flexibility Act does not apply since the rule is not required to be published as a proposed rule. An initial Regulatory Flexibility Analysis was not prepared.

(C) Paper Work Reduction Act of 1980 (Pub. L. 96-511)

The existing regulations at 15 CFR Part 911 contain certain information requirements which have not been reviewed by the Office of Management and Budget. These information requirements are being reviewed at this time and comments on them should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Department of Commerce, The National Oceanic and Atmospheric Administration. The amendments do not impose any additional information requirements and do not require any increase in reporting on the part of any affected party.

(D) National Environmental Policy Act

Publication of the proposed regulations does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

V. Final Rules

NOAA will issue final rules after the comments received in response to the Notice have been evaluated.

List of Subjects in 15 CFR Part 911

Scientific equipment, Space transportation and exploration.

Dated: May 17, 1985.

John H. McElroy,

Assistant Administrator.

Accordingly, 15 CFR Part 911 is amended as follows:

PART 911—[AMENDED]

1. The authority cite for Part 911

used and EPA's policy towards their use. Information is solicited from those

issues with interested parties prior to

(a) A detailed plan would be spelled out by EPA, specifying how the testing is

PART 911—[AMENDED]

1. The authority cite for Part 911 continues to read as follows:

Authority: 15 U.S.C. 313; 49 U.S.C. 1463; 15 U.S.C. 1525; 7 U.S.C. 450b; 5 U.S.C. 552.

§ 911.1 [Amended]

2. Adding a new § 911.1(b)(3) to read:

* * * * *

(b) * * *

(3) For purposes of this part, "Assistant Administrator" means the Assistant Administrator for Environmental Satellite, Data, and Information Services or his/her designee.

§ 911.2 [Amended]

3. Revising §§ 911.2 (b) and (c) to read:

* * * * *

(b)(1) Except as provided in paragraph (b)(2) of this section, the GOES DCS is not to be used for data collection where adequate private common carrier communications exist to provide the service. (Adequate is defined in terms of capacity, speed and reliability with respect to the particular use envisioned.) A user must document, with a request for use of the GOES DCS, why private common carrier communications are not adequate.

(2) NOAA may authorize the use of the GOES DCS for environmental data collection critical to a federal program where adequate common carrier communications exist when use of the common carrier would substantially increase the cost to the federal program of collecting these data.

(c) A user must identify the Federal agency or State or local government which will benefit from the proposed collection of data. NOAA will confirm with the identifed sponsor that these data are required by it and that the sponsor is willing to share with the user any frequency channel resource allocated to it.

* * * * *

§ 911.3 [Amended]

4. Deleting the words "for Satellites" wherever they follow "Assistant Administrator" in §§ 911.3 (c)(1), (d)(1), (e)(g)(2) and 911.5(c).

§ 911.5 [Amended]

5. Substituting "Director, Office of Satellite Data Processing and Distribution" for "Director of Data Services for the National Earth Satellite Service" in § 911.5(c).

[FR Doc. 85-16713 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2864-9]

Federal Assistance Limitations and Construction Moratorium; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of withdrawal of proposed rulemaking.

SUMMARY: USEPA is withdrawing a notice of proposed rulemaking that was published in the August 3, 1983, Federal Register (48 FR 35327), and that proposed sanctions for nonimplementation of Inspection and Maintenance (I/M) in southeastern Wisconsin. USEPA proposed to impose Federal funding and construction restrictions, as authorized by sections 176(b) and 173(4) of the Clean Air Act, because Wisconsin had failed to implement an I/M program by the required date of January 1, 1983. However, on April 2, 1984, the Wisconsin I/M program became fully operational in southeastern Wisconsin. USEPA published a notice of final rulemaking approving the program on February 25, 1985 (50 FR 7593). Therefore, USEPA's August 3, 1983 (48 FR 35327), finding of nonimplementation is no longer valid, and USEPA is withdrawing its proposal to impose sanctions.

DATE: This action will be effective on August 15, 1985.

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6034.

SUPPLEMENTARY INFORMATION: The Wisconsin SIP contains a commitment, and the legal authority, to implement a contractor-operated, centralized motor vehicle inspection and maintenance (I/M) program in the Milwaukee extension area by January 1, 1983 (May 6, 1981; 46 FR 25297-25298). Because the State failed to implement an I/M program by that date, USEPA published a Federal Register notice on August 3, 1983 (48 FR 35327), proposing to find that Wisconsin was no longer implementing the Ozone/Carbon Monoxide (CO) SIP for this area. USEPA also stated in that notice that, if the Agency took final action confirming this finding, then funding limitations and a construction moratorium would apply. These restrictions are authorized by sections 176(b) and 173(4) of the Clean Air Act, and are imposed when a State fails to carry out an approved SIP.

However, USEPA also noted in the August 3, 1983 (48 FR 35327), notice that Wisconsin had made progress toward implementation of an I/M program. On December 10, 1982, the Wisconsin Department of Transportation (WDOT) signed a contract with Hamilton Test Systems for the operation of a centralized I/M program in southeastern Wisconsin. The contract called for an April 2, 1984, program start-up date.

Wisconsin's I/M program did, in fact, begin operation on April 2, 1984. On June 11, 1984, the Wisconsin Department of Natural Resources (WDNR) requested that USEPA finally approve the I/M element of the 1982 Ozone/CO SIP revision. On February 25, 1985 (50 FR 7593), USEPA published a notice of final rulemaking approving Wisconsin's I/M program. USEPA has determined that the program meets all Federal I/M program requirements. In addition, since Wisconsin's I/M program is now fully operational, USEPA's proposed finding of nonimplementation (August 3, 1983; 48 FR 35327) is no longer valid. Therefore, USEPA withdraws the August 3, 1983, notice of proposed rulemaking.

Dated: June 11, 1985.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 85-16848 Filed 7-15-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 86

[AMS-FRL-2864-7]

Public Workshop on Test Procedures for Trap-Based Particulate Standards and the Use of Fuel Additives for Particulate Trap Regeneration Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public workshop.

SUMMARY: This notice announces a public workshop on: (1) The need for modifications to the current test procedures for light- and heavy-duty diesels resulting from the promulgation of trap-based particulate standards and (2) the use of diesel fuel additives as a means of particulate control. In particular, the workshop will examine the treatment of emissions during trap regeneration and the measurement of particulate at low emission levels. In addition to these test procedure related issues, the workshop will also examine the types of fuel additive projected to be used and EPA's policy towards their use. Information is solicited from those parties possessing technical information or data on the topics identified in this notice. Comments on other subjects related to potential test procedure modifications associated with the trap-based standards are also requested.

DATE: The Workshop will be held on July 29, 1985, at 10:00 a.m. at the U.S. Environmental Protection Agency in Ann Arbor.

ADDRESS: The Workshop will be held in the conference room of the Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan.

FOR FURTHER INFORMATION CONTACT: Rebecca Kanner (SDSB-12), U.S. Environmental Protection Agency, Emission Control Technology Division, Ann Arbor, Michigan, 48105, (313) 668-4361.

SUPPLEMENTARY INFORMATION: Federal standards for particulate emissions from light-duty diesel vehicles decrease to 0.20 g/mi for 1987 and later model year passenger cars and to 0.26 g/mi for 1987 and later year light-duty trucks; heavy-duty diesel engine particulate standards decrease to 0.10 g/BHP-hr for urban buses and 0.25 g/BHP-hr for all other heavy-duty diesel engines in 1991. In order to meet these standards diesel manufacturers have indicated that they will use particulate traps in their control strategies. Some manufacturers have also expressed their intent to use fuel additives, typically organometallic compounds, in conjunction with the traps.

The impending trap-based standards have raised concerns that revisions to the present test procedure may be required. One concern is the treatment of exhaust emissions during trap regeneration; this is not specifically addressed in the existing test procedures. In addition, the low emission levels required to meet the particulate standards have raised concerns on the part of diesel manufacturers that the present test procedures may not be sufficiently accurate for measuring particulate at these levels. Concern has been expressed regarding what fuel additive compounds may be approved or prohibited by EPA and what other restrictions EPA may place on their use. The purpose of the workshop on this issue is to allow EPA to develop its overall policy towards fuel additive use, following manufacturer input at the workshop.

Because the existing regulations do not specifically address these issues, EPA had decided to hold a workshop to gather information and discuss these issues with interested parties prior to implementing any changes. Because certification testing for some 1987 models will begin this fall, resolution of these issues is necessary soon. EPA believes that this can be best accomplished if all parties are involved early in the process and have an opportunity to informally comment on all potential solutions. Following is a further identification of the issues.

Trap Regeneration

Particulate traps are basically filters which remove the particulate, which is primarily carbon, from the diesel exhaust. Eventually the trapped particulate will clog the filter and restrict exhaust flow. Therefore the particulate must be burned to clean or regenerate the trap. The combustion of the particulate results in some exhaust emissions.

In some trap systems the regeneration process occurs continuously or nearly continuously. Other systems may regenerate in periodic fashion, often by injecting excess fuel in the engine or exhaust to provide sufficient thermal energy to initiate the regeneration. Some systems require the injection of fuel additives to promote regeneration.

EPA is concerned that the present test procedure may not be adequate for trap-equipped vehicles or engines since it does not specifically consider the vehicle emissions during trap regeneration. Particularly for a periodically regenerating trap, the trap may or may not regenerate during the emissions test cycle. If the trap does not regenerate then a vehicle might be certified which, under some conditions, may have very high emissions. If the trap does regenerate during the emission test, then a vehicle might not be certified even though the vehicle might, on the average, comply with the emission standards. High emissions during infrequent trap regenerations may be an even greater problem for durability test vehicles because a single test point could have a major effect on the deterioration factor and the projected emissions at high mileage.

In preparing for the workshop, EPA requests that participants consider the following options for addressing emissions during regeneration:

(1) Require that the vehicle/engine meet the standards both under regeneration and non-regeneration conditions.

(2) Consider regeneration emissions and require that a weighted average of regeneration and non-regeneration emissions meet the standards. Within this option EPA could take two possible approaches:

(a) A detailed plan would be spelled out by EPA, specifying how the testing is to be done and the averaging administered.

(b) The manufacturer would develop the specific test procedures for its system that would comply with a general framework developed by EPA.

(3) Ignore regeneration emissions based upon the presumption that they are too infrequent or insignificant to be a problem.

In addition to comments on the above options, EPA also requests information from manufacturers on the following aspects of their trap programs:

- Trap types, including trapping system, regeneration mechanism, fuel additives.
- How regeneration is initiated.
- How often regeneration occurs.
- Regeneration emission levels.
- Non-regeneration emission levels.
- Regeneration emissions as a function of mileage.

Particulate Emissions Measurement

Other test procedure modifications may also be required as a result of the trap-based particulate standards. At low particulate emission levels, particulate measurement as presently specified may not be sufficiently accurate or precise. The reduced emission levels mean that the test-to-test variability will become a greater percentage of the measured emission values. This may make repeatable measurement of particulate emissions more difficult. Several manufacturers have stated that an improvement to measurement precision is a condition to meeting these reduced particulate emission levels.

In particular, manufacturers have expressed concern that the recommended minimum loading of the sample filters specified in the present test procedures may not be achieved with the lower particulate emission levels. This has led to further concern regarding the measuring error as a result of the required balance accuracy and the reduced filter loading. Another area of concern is the impact of sulfate-absorbed water on the measurement of particulate emissions. As the particulate standard becomes more stringent, the sulfate with its water comprises a larger percentage of the allowable emissions. EPA requests additional information from the manufacturing industry on these subjects.

Fuel Additives

The use of fuel additives to promote trap regeneration raises the question of the possible hazardous nature of these compounds or their combustion

products. Under section 202(a)(4) of the Clean Air Act, the use of an emission control system that will cause or

The issues described in this notice are those planned to be discussed at the

Dockets Branch is located in Room 8428,

purpose of this rulemaking action is to propose these necessary amendments to

Administrative Notices

words "carry-on baggage" and paragraph (a)(2) would be revised to

VOL 50 ISS 136 JL 16 1985 UMI

products. Under section 202(a)(4) of the Clean Air Act, the use of an emission control system that will cause or contribute to an unreasonable risk is prohibited. The Clean Air Act also specifies (section 206(a)(3)) that it is the manufacturers' responsibility to ascertain that no such unreasonable risk is associated with the use of a fuel additive.

In addition to commenting on the general criteria that EPA should use to evaluate applications for the use of additives, EPA requests that workshop participants who are developing fuel additive trap regeneration systems submit information related to their current plans in this area. Confidential submissions will be accepted from manufacturers who believe their work in these areas should be proprietary. The following areas of additive use should be covered.

- The type of additive and its specific chemical form.
- The amount of additive used.
- The total amount of additive stored in the vehicle.
- How the additive is stored and added to the fuel or exhaust.
- The chemical characterization of the additive in the exhaust.
- The tailpipe emissions of the additive during regeneration and otherwise.
- Available health effects data on the additive.

Participation

The workshop is open to all interested parties. EPA requests that all persons planning to attend contact Ms. Rebecca Kanner, the Agency contact, at the above address. Those persons desiring to make specific presentations are requested to so advise the Agency contact, identifying the topics to be covered, the appropriate amount of time needed, and any audio visual equipment needed. The workshop will be informal and no official transcript shall be made of the proceedings.

The format of the workshop will be structured by the three identified issues: (1) The measurement of emissions during trap regeneration, (2) particulate emissions measurement at the trap-based standards, and (3) fuel additives. For each issue, EPA will present its current analysis, followed by any presentations from other participants and then the floor will be opened for discussion on that particular issue. In order to facilitate the procedure, EPA requests that parties making a presentation on more than one of the identified issues be prepared to discuss each issue separately.

The issues described in this notice are those planned to be discussed at the workshop; however, participants are not restricted to these issues. Time will be provided for presentations and discussions by any participant on additional procedural or measurement issues associated with the use of trap-oxidizers.

Dated: July 8, 1985.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 85-16847 Filed 7-15-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 175

[Docket No. HM-184C; Notice No. 85-3]

Implementation of the ICAO Technical Instructions

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate the continued transport of hazardous materials in international commerce by aircraft when the 1986 edition of the ICAO Technical Instructions becomes effective on January 1, 1986, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation.

DATE: Comments must be received by October 4, 1985.

ADDRESS: Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Branch is located in Room 8426, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-0656.

SUPPLEMENTARY INFORMATION: On November 20, 1984, the Materials Transportation Bureau (MTB) published amendments to the Hazardous Materials Regulations (49 FR 45750) which authorize under certain conditions, and with certain limitations, hazardous materials packaged, marked, labeled, classified and described and certified on shipping papers as provided in the 1985 edition of the ICAO Technical Instructions to be offered, accepted and transported by aircraft within the United States and aboard aircraft of United States registry anywhere in air commerce. In addition, amendments were published to Part 175 of the HMR to align the requirements for the loading and handling of hazardous materials aboard aircraft with those in the 1985 edition of the ICAO Technical Instructions. It was necessary that these amendments be published in order to provide consistency between the Hazardous Materials Regulations and the ICAO Technical Instructions because the ICAO Technical Instructions have become the basic standard applied to the transport of hazardous materials by aircraft worldwide. A more detailed explanation of the reasons for this action was provided in the Notice of Proposed Rulemaking published under Docket No. HM-184 on August 2, 1982 [47 FR 33295].

Since publication of the final rule under Docket No. HM-184B, ICAO has developed a number of amendments to the Technical Instructions. These amendments have been incorporated in the 1986 edition of the ICAO Technical Instructions which will become effective on January 1, 1986. In order to continue to fulfill the intent of the amendments published under Docket Nos. HM-184, HM-184A and HM-184B (i.e., to facilitate the international transportation of hazardous materials by aircraft by insuring a basic consistency between the HMR and the ICAO Technical Instructions), the MTB believes it necessary to amend certain provisions of the HMR to reflect changes introduced in the 1986 edition of the ICAO Technical Instructions. The purpose of this rulemaking action is to propose these necessary amendments to the HMR.

The following is an analysis of this proposal, by section, which provides the background behind the proposed changes:

Section 171.7. The reference to the 1985 edition of the ICAO Technical Instructions in the matter incorporated by reference would be updated to refer to the 1986 edition. A copy of the Report of the Ninth Meeting of the ICAO Dangerous Goods Panel, indicating all changes introduced into the 1986 edition of the Technical Instructions, is on file in the public dockets.

Section 175.10. The exception for aircraft parts and supplies in subparagraph (a)(2), which is currently aligned with the corresponding text of the 1984 edition of the Technical Instructions, would be amended to reflect the wording introduced in the 1986 edition of the Technical Instructions. ICAO changed the exceptions for aircraft parts and supplies in the Technical Instructions in order to achieve consistency with paragraph 2.4.2 of Annex 18 of the Convention. An amendment was proposed to this paragraph under Docket No. HM-184B, but on the basis of several comments and because it was anticipated that ICAO would introduce further changes to the corresponding provisions upon publication of the 1986 edition, the amendment was withdrawn. The text now proposed provides that replacements for aircraft parts and supplies that would be classed as hazardous materials must be transported in accordance with the HMR except that aircraft batteries would not be subject to a gross weight limitation and, in place of the packaging normally required, containers specially designed for the transport of aircraft spares and supplies may be used. In addition, subparagraph (a)(17) would be amended to provide that packagings containing dry ice used to pack perishables in carry-on baggage be designed to permit the release of carbon dioxide gas in order to eliminate the risk of unacceptable pressure increase in the packagings.

Section 175.33. Paragraph (a)(6) of this section would be revised to provide that when radioactive materials are transported in freight containers or overpacks, the information required to be supplied to the pilot-in-command may be provided for an overpack or freight container rather than for the individual packages contained within the overpack or freight container.

Administrative Notices

A. Executive Order 12291

The MTB has determined that the effect of this regulatory proposal would not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures (44 FR 11034) and requires neither a Regulatory Impact Analysis, nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. et seq.). A regulatory evaluation is available for review in the Docket.

B. Impact on Small Entities

Based on limited information concerning the size and nature of entities likely affected, I certify that this notice will not, as promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Incorporated by reference.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

In consideration of the foregoing, 49 CFR Parts 171 and 175 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808, 49 CFR 1.53(e).

2. In § 171.7, paragraph (d)(27) would be revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(27) International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284-AN/905 (ICAO Technical Instructions), 1986 edition.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

3. The authority citation for Part 175 would be revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808, 49 CFR 1.53(e).

4. In § 175.10, paragraph (a)(19) would be amended by inserting the words "provided the package permits the release of carbon dioxide gas." after the words "carry-on baggage" and paragraph (a)(2) would be revised to read as follows:

§ 175.10 Exceptions.

(a) * * *

(2) Hazardous materials required aboard an aircraft in accordance with the applicable airworthiness requirements and operating regulations. Unless otherwise approved by the Associate Director for HMR, items of replacement for such hazardous materials must be transported in accordance with this subchapter except that—

(i) In place of the required packagings, packagings specially designed for the transport of aircraft spares and supplies may be used, provided such packagings afford equivalent safety to those that would be required by this subchapter; and,

(ii) Aircraft batteries are not subject to a gross weight quantity limitation.

* * * * *

§ 175.33 [Amended]

5. In § 175.33(a)(6), the words "overpacks or freight containers," would be added preceding the words "their category."

Issued in Washington, D.C. on July 10, 1985.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-16835 Filed 7-15-85; 9:13 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Dismal Swamp Southeastern Shrew

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine threatened status for the Dismal Swamp southeastern shrew, a small mammal restricted primarily to the Dismal Swamp of southeastern Virginia and adjacent North Carolina. This swamp has undergone extensive environmental changes in the recent past, as a result of human activities. In addition to causing direct adverse effects on the shrew, these habitat changes apparently are also enabling a neighboring upland subspecies of

southeastern shrew to invade the swamp. The Dismal Swamp southeastern shrew may be vulnerable

B. *Overutilization for commercial, recreational, scientific, or educational*

allowed the coyote to invade its range. The latter species then began to

species, or (ii) Such designation of critical habitat would not be beneficial

VOL
50
ISS
136
JL
16
1985
UMI

southeastern shrew to invade the swamp. The Dismal Swamp southeastern shrew may be vulnerable to genetic extinction through continued interbreeding with the more widespread upland subspecies. This proposal, if made final, would implement protection provided by the Endangered Species Act of 1973, as amended, for the Dismal Swamp southeastern shrew. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by September 16, 1985. Public hearing requests must be received by August 30, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Annapolis Field Office, U.S. Fish and Wildlife Service, 1825 Virignia Street, Annapolis, Maryland 21401. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Jacobs or Mr. G. Andrew Moser at the above address (301/269–6324 or FTS 922–4197).

SUPPLEMENTARY INFORMATION:

Background

The Dismal Swamp southeastern shrew (*Sorex longirostris fisheri)* is a small, long-tailed shrew with a brown back, slightly paler underparts, buffy feet, and a relatively short, broad nose (Handley 1980). It was first described as a species, *Sorex fisheri*, by C.H. Merriam in 1895, based on four specimens trapped that same year in the Dismal Swamp by A.K. Fisher. Jackson (1928) reduced *S. fisheri* to a subspecies of the species *Sorex longirostris*, which is found over much of the southeastern United States, and now the former is usually referred to as *Sorex longirostris fisheri*. There is, however, still some question as to whether *fisheri* is a full species, because originally there was not evidence of intergradation between *fisheri* and *longirostris* (Judge and Hoffman 1981). A lack of intergradation in physical characters is generally considered an indication that two wild populations represent species, rather than subspecies. *Fisheri* is 15 to 25 percent larger than its upland relative *S. l. longirostris* and is generally duller in color. Most *S. l. fisheri* measure 95–100 millimeters in greatest length, while most *S. l. longirostris* measure 75–80 millimeters (Rose 1983).

The Dismal Swamp southeastern shrew is essentially restricted to the Great Dismal Swamp National Wildlife Refuge in southeastern Virginia (cities of Suffolk and Chesapeake, formerly Nansemond and Norfolk counties) and adjacent portions of the swamp in North Carolina (Camden, Gates, Pasquotank, and Perquimans counties) (Handley 1980, Hall 1981, Rose 1983). Prior to 1980, the subspecies was known from only 19 specimens collected within the Dismal Swamp (Handley 1979). Since 1980, at least 39 additional specimens have been collected in and adjacent to the Dismal Swamp, which can be identified as *Sorex longirostris fisheri* on the basis of body length (Rose 1983). The subspecies is found in a variety of habitats from lowland old fields to mature pine and deciduous forest areas, but is most abundant in mesic successional habitats such as cane stands, regenerating clearcuts, and 10- to 15-year-old forested plots (Rose 1983).

The Dismal Swamp southeastern shrew is considered threatened due to its very limited distribution and to recent human-induced habitat changes in the swamp. In addition to affecting this lowland shrew directly, these changes may be allowing its restricted habitat to be overrun by the more plentiful upland subspecies, *Sorex longirostris longirostris* (Handley 1980, Rose 1983).

In order to understand this situation more clearly, it is necessary to consider the dynamics of the evolutionary process within the swamp. The Dismal Swamp has apparently acted like an island for several subspecies of small mammals, including *Sorex longirostris*. These subspecies show a feature typical of small mammals on islands, that is, individuals are larger than those from the nearby "mainland," in this case, members of upland subspecies. In the process of subspeciation, individuals in the swamp must have been at a competitive disadvantage when living outside the swamp, and the upland race must have been equally handicapped in the swamp. It follows that any action which detracts from the distinctive nature of the Swamp (e.g., draining) will favor the upland race, in this case *S. l. longirostris*, over the swamp subspecies, *S. l. fisheri*.

In its Review of Vertebrate Wildlife in the **Federal Register** of December 30, 1982 (48 FR 58454–58460), the U.S. Fish and Wildlife Service placed *S. l. fisheri* in category 2, meaning that a proposal to list as endangered or threatened was possibly appropriate, but that substantial data were not then available to biologically support such a proposal. Subsequently, the Service received a report from Dr. Robert K. Rose (1983), who had been contracted to investigate the status of the shrew. The data in Dr. Rose's report, along with other new information assembled by the Service, show that a proposal to list the shrew as threatened is now warranted.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisons of the Act (50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Dismal Swamp southeastern shrew, *Sorex longirostris fisheri*, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Handley (1980) noted that the Dismal Swamp southeastern shrew is essentially confined to the Dismal Swamp. Around the turn of the century, this swamp was estimated to have occupied some 2,000 to 2,200 square miles (Oakes and Whitehead 1979). Even at that time, its size had been reduced by clearing and draining for agriculture. Today, approximately 328 square miles of the original swamp remain intact (U.S. Fish and Wildlife Service 1982), there having been a reduction of roughly 85 percent. According to Rose (1983), ditching has lowered the water table within the remaining swamp. Other human activities such as burning, grazing, and logging, which once maintained portions of the swamp in various stages of succession, were curtailed or eliminated with the establishment of the Great Dismal Swamp National Wildlife Refuge in 1973. As a consequence, the former Dismal Swamp, a heterogeneous mosaic of large tracts of bald cypress, Atlantic white cedar, and cane, has been replaced by a more homogeneous, mesic swamp dominated by a rapidly maturing red maple and black gum forest. This progression toward homogeneous mature forest is likely detrimental to the Dismal Swamp southeastern shrew. Rose's trapping data revealed that, of all habitats evaluated in the swamp, densities of *Sorex* were lowest in mature forests. Rose found the shrew to be abundant in cane stands and regenerating clearcuts, with the highest densities (=healthier populations) in 10- to 15-year-old, mid-successional forested areas with grassy or shrubby understories. These habitats are now rare within the Dismal Swamp, and will essentially disappear if present trends continue.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be a problem.

C. *Disease or predation.* Not known to be a problem.

D. *The inadequacy of existing regulatory mechanisms.* As a faunal component of the Great Dismal Swamp National Wildlife Refuge, the subspecies is protected within refuge boundaries from direct disturbance violations (to kill, possess, disturb, injure, damage, etc., without special permit) by 50 CFR 27.51. The main problem of the shrew, however, is not direct disturbance or taking, but alteration of habitat (see "A"), and consequent vulnerability to genetic swamping (see "E").

E. *Other natural or manmade factors affecting its continued existence.* The Dismal Swamp southeastern shrew probably developed its large size and coloration while geographically or ecologically isolated from its smaller upland relative, *Sorex longirostris longirostris*, during the late Pleistocene (Handley 1980, Rose 1983). Changes in the Dismal Swamp (as described in "A" above) may have converted the swamp environment into habitat more suitable for the latter subspecies, causing an ingress of the latter into the swamp (Handley 1980, Rose 1983). The Dismal Swamp southeastern shrew is threatened primarily through contact and interbreeding with this smaller upland subspecies (Handley 1980, Rose 1983). Rose (1983) found evidence of interbreeding between the two subspecies along the east and west periphery of the swamp. Evidence of contact and interbreeding is further reinforced by Rose's observation of a clear trend in size, from large to small shrews, as one moves peripherally from the Dismal Swamp. Because of the restricted distribution of the larger Dismal Swamp shrew, it is probable that the continued interbreeding of the two subspecies will eventually result in an infusion of genes of *Sorex longirostris longirostris* into the entire Dismal Swamp shrew population. This would constitute extinction from the Dismal Swamp southeastern shrew.

The hybridization process now jeopardizing the Dismal Swamp southeastern shrew is comparable to that which has nearly destroyed another mammal, the red wolf *(Canis rufus)*, which is federally classified as endangered. According to Nowak (1979), the red wolf originally occupied a range and habitat in the forested southeastern United States, largely separate from that occupied by its smaller relative, the coyote *(Canis latrans)* of the western prairies. Human activities reduced red wolf numbers, disrupted its habitat, and allowed the coyote to invade its range. The latter species then began to interbreed with surviving red wolf populations. As a result, by the early 20th century zones of hybridization were evident in central Texas and the Ozark region. At that time there was a clear progression in size, ranging from the small coyote in the north and west, through intermediate-sized *Canis* in central Texas and the Ozarks, to the large red wolf in eastern Texas, Louisiana, and some adjacent areas. This situation was much the same as we see today in the *Sorex* of the Dismal Swamp region. No conservation measures were initiated for the red wolf until the 1960's, and by then the hybridization process had engulfed almost all of the range of the species. The red wolf, in the pure form, has now nearly or entirely disappeared from the wild. By catching the same process at an earlier stage, however, it may now be possible to save the Dismal Swamp southeastern shrew.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Dismal Swamp southeastern shrew as threatened. The Act defines a threatened species as one which "is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." This status seems most appropriate for *Sorex longirostris fisheri* at this time. As stated above, the subspecies is currently protected from taking or injury and is jeopardized primarily by its limited distribution and the possibility of genetic swamping if present trends continue. These trends have not yet progressed so far that extinction appears imminent, and may yet be reversed by proper conservation measures. For the reasons given below, no critical habitat is being designated.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threathened. Implementing regulations at 50 CFR 424.12(a)(1) state: "A designation of critical habitat is not prudent when one or both of the following situations exist: (i) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (ii) Such designation of critical habitat would not be beneficial to the species." In the case of the Dismal Swamp southeastern shrew, the Service finds that a determination of critical habitat is not prudent. Such a determination would result in no known benefit to the species. Nearly all of the known habitat of this species lies within the Great Dismal Swamp National Wildlife Refuge, which is managed by the Service. The refuge managers and all other involved parties are already aware of the occupied range of this species. The species is not migratory and continuously occupies its known range. Moreover, a final determination of threatened status would be followed by continued development of Refuge management strategies designed to benefit the Dismal Swamp southeastern shrew. Thus, no benefits would accrue from designation of critical habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiate by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species. If a species is listed subsequently, section 7(a)(2) requires agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultaion with the Service.

An overall management plan is currently being developed for the Great Dismal Swamp National Wildlife

(1) Biological, commercial trade, or other relevant data concerning any

the American long-tailed shrews. North American Fauna, no. 51. 238 pp.
Junge, J.A., and R.S. Hoffmann. 1981. An

Species		Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name	Historic range				

An overall management plan is currently being developed for the Great Dismal Swamp National Wildlife Refuge. This plan will be designed, in part, to consider the needs of *Sorex longirostris fisheri*. Land use practices likely to benefit this shrew would include: (a) Selective burning and other logging practices that maintain a mosaic of forested plots of differing ages, and (b) increasing the height of the water table (Rose 1983).

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity,or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that was illegally taken. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the Dismal Swamp southeastern shrew;

(2) The locations of any additional populations of the Dismal Swamp southeastern shrew and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range or distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on the Dismal Swamp southeastern shrew.

Final promulgation of the regulation on the Dismal Swamp southeastern shrew will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Annapolis Field Office as shown in the above ADDRESSES section.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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U.S. Fish and Wildlife Service. 1982. Synopsis of planning needs and issues: Dismal Swamp National Wildlife Refuge Master Plan. Manuscript.

Author

The primary author of this proposed rule is Ms. Martha Tacha, U.S. Fish and Wildlife Service, 1825 Virginia Street, Annapolis, Maryland 21401 (301/269–6324 or FTS 922–4197).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 375; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order, under "MAMMALS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species			Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name		Scientific name						
MAMMALS								
Shrew, Dismal southeastern.	Swamp	*Sorex longirostris fisheri.*	U.S.A. (VA, NC).	Entire	T		NA	NA

Dated: June 27, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–16793 Filed 7–15–85; 8:45 am]

BILLING CODE 4310–55–M

Notices

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United

selecting third countries for comparison purposes, we used sales to the United Kingdom, the Federal Republic of

VOL 50 ISS 136 JL 16 1985 UMI

Notices

Federal Register
Vol. 50, No. 136
Tuesday, July 16, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Mt. Graham Astrophysical Area; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for a proposed astrophysical area on the Safford Ranger District, Coronado National Forest, Graham County, Arizona.

A range of alternatives for this site will be considered. One of these will be non-development of the site. Other alternatives will consider different levels of observatory development and location of support facilities.

Federal, State and local agencies, Indian Tribes, individuals and organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include identification of those issues to be addressed and analyzed in depth and elimination of insignificant issues or those which have been covered by a previous environmental document.

The Forest Supervisor will hold public meetings at the following locations in Southeast Arizona.

Location, Date, and Time

Old Armory, Safford, AZ, August 1, 1985, 5:00–9:00 PM
Sierra Vista Ranger District Office, Sierra Vista, AZ, July 22 and 25, 1985, 5:00–9:00 PM
Elks Lodge, Willcox, AZ, August 7, 1985, 6:30–9:00 PM
Wilmont Branch Library, Tucson, AZ, August 15, 1985, 5:00–9:00 PM

James C. Overbay, Acting Regional Forester of the Southwest Region in Albuquerque, New Mexico is the responsible official.

A draft environmental impact statement should be available for public review by October, 1985. The final environmental impact statement should be available by Janaury, 1986.

Written comments and suggestions concerning the analysis should be sent to Robert Tippeconnic, Forest Supervisor, Coronado National Forest, Tucson, Arizona 85701 by August 15, 1985.

Date: July 8, 1985.

James C. Overbay
Acting Regional Forester.

[FR Doc. 85–16861 Filed 7–15–85; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–502]

Low-Fuming Brazing Copper Rod and Wire From South Africa; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The preliminary antidumping determination involving low-fuming brazing copper rod and wire from South Africa is being postponed until not later than September 17, 1985.

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–2613.

SUPPLEMENTARY INFORMATION: On March 11, 1985, we announced the initiation of an antidumping investigation to determine whether low-fuming brazing copper rod and wire from South Africa is being, or is likely to be, sold in the United States at less than fair value (50 FR 10524). The notice stated that we would issue preliminary determination by July 29, 1985.

As detailed in that notice, the petition alleged that imports from South Africa of low-fuming brazing copper rod and wire are being, or are likely to be, sold in the United States at less than fair value.

On July 3, 1985, counsel for petitioners, American Brass, Century Brass, and Cerro Metal Products, requested that the Department extend the period for the preliminary determination until 210 days after the date of receipt of the petition in accordance with section 733(c)(1(A) of the Tariff Act of 1930, as amended (the Act). Accordingly, the period for determination in the case is hereby extended. We intend to issue a preliminary determination not later than September 17, 1985.

This notice is published pursuant to section 733(c)(2) of the Act.

Gilbert B Kaplan,
Acting Deputy Assistant Secretary for Import Administration.

July 9, 1985.

[FR Doc. 85–16878 Filed 7–15–85; 8:45 am]
BILLING CODE 3510–DS–M

[A–580–501]

Photo Albums and Filler Pages From Korea; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that photo albums and filler pages from Korea are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of photo albums and filler pages from Korea that are entered, or withdrawn from warehouse, for consumption, on or after the date ninety days before the date of publication of this notice, and to require a cash deposit or bond for each entry in any amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by September 23, 1985.

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Ken Stanhagen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–1777.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that photo albums and filler pages from Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The weighted-average margins are listed in the "Suspension of Liquidation" section of this notice.

Case History

On January 30, 1985, we received a petition filed in proper form from Esselte Pandaflex, Inc., the Holson Company, Klee-Vu Plastics Corporation, and SPM Manufacturing Corporation, on behalf of the U.S. industry producing photo albums and filler pages. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We initiated the investigation on February 19, 1985 (50 FR 7625), and notified the ITC of our action.

On March 16, 1985, the ITC found that there is a reasonable indication that imports of photo albums and filler pages from Korea are materially injuring, or threatening material injury to, a U.S. industry (U.S.I.T.C. Pub. No. 1660, March 1985).

We investigated six Korean producers, Dong In Industrial Co. Ltd. (Dong In), Dong Won Industrial Co. (Dong Won), Donam Industrial Co., Ltd. (Donam), Chinsung Industry Co., Ltd. (Chinsung), Keywon, Inc. (Keywon), and Eunjin Industrial Co., Ltd. (Eunjin). These companies account for 64 percent of all exports of photo albums and filler pages from Korea to the United States.

Scope of Investigation

The merchandise under investigation is photo albums and photo album filler pages. Photo albums are currently provided for in item 256.60 of the Tariff Schedules of the United States (TSUS). Photo album filler pages are currently provided for in items 256.87, 256.90 and 774.55 of the TSUS.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Dong Won, Dong In, Donam, Chinsung, and Keywon and for certain sales for Eunjin because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We used the exporter's sales price for other sales by Eunjin to represent the United States Price because the merchandise was sold to unrelated purchasers after importation into the United States.

We calculated the purchase price based on the FOB or CIF packed price to unrelated customers in the United States. We made deductions, where appropriate, the foreign inland freight, brokerage, drayage, loading, inspection charges, wharfarge, banking charges, export recommendation fees, ocean freight, and marine insurance. We calculated exporter's sales price by making additional deductions for U.S. brokerage, U.S. inland freight, and U.S. duty and other selling expenses incurred in the United States. We increased the United States price by the amount of import duties imposed by Korea which have been rebated by reason of the exportation of the merchandise, pursuant to section 772(d)(1)(B) of the Act (19 U.S.C. 1677a(b)(1)(B)).

Foreign Market Value

In accordance with section 773(a) of the Act, we have preliminarily determined that none of the producers being investigated had sales of photo albums and filler pages in Korea during the period of investigation. The petitioners alleged that sales to third countries were at prices below the cost of producing the merchandise. We examined production costs which included all appropriate costs for materials, fabrication and general expenses. We found sufficient sales in some third countries above the cost of production to allow us to use third country prices in accordance with section 773(a)(1)(B) of the Act to determine foreign market value. We used constructed value as our basis of comparison where there were insufficient sales of such or similar merchandise in third country markets, or where there were insufficient sales above the cost of production. In selecting third countries for comparison purposes, we used sales to the United Kingdom, the Federal Republic of Germany, and Australia, since merchandise sold to these countries were most similar to that sold in the United States or because quantities sold to these countries were most comparable to quantities sold in the United States.

We calculated the third country prices for each product on the basis of FOB or CIF prices to unrelated purchasers. From these prices, we deducted, where appropriate, foreign inland freight, ocean freight, marine insurance, foreign brokerage, loading, wharfage, banking charges, export recommendation fees and drayage. We made adjustments, where appropriate, for differences in the physical characteristics of the merchandise, pursuant to § 353.16 of our regulations, and for differences in circumstances of sale related to commissions and credit expenses pursuant to § 353.15 of our regulations. We also adjusted for differences in packing costs. We also made additions, where appropriate, for import duties which were rebated by reason of the exportation of the merchandise. Where we used exporter's sales price for sales by Eunjin, we deducted third country indirect selling expenses to offset U.S. selling expenses. We used third country prices for all sales by Dong In and some sales by Keywon, Dong Won, Donam and Eunjin. We used constructed value for other sales by Keywon, Dong Won, Donam and Eunjin and for all sales by Chinsung.

We calculated the cost of production for third country sales by totaling the costs of materials, fabrication, general expenses, and packing. We calculated constructed value by totaling the costs of materials, fabrication used in producing such or similar merchandise, general expenses, profit, and the cost of the packing on the U.S. shipments. Where the amount for general expenses was less than ten percent of the cost of materials and fabrication, we used the statutory minimum of ten percent. The amount added for profit in all instances was the statutory minimum of eight percent of the sum of materials, fabrication costs, and general expenses because the companies had no home market sales of merchandise of the same class or kind and we are unable to determine how much of the company's overall profit was related to sales to countries other than the U.S.

The investigation of whether sales were made at prices below the cost of production was initiated on May 30, 1985. Thus, additional information from

respondents and comments by petitioners regarding cost of production and constructed value information were

find that imports of photo albums and filler pages form Korea during the period

after we make our final affirmative determination.

dumping margin as described in the "Suspension of Liquidation" section of

Scope of Investigation

Kingdom, the Republic of South Africa, France, and Australia since

VOL 50 ISS 136 JL 16 1985 UMI

respondents and comments by petitioners regarding cost of production and constructed value information were received too late for consideration in this preliminary determination. These submissions will be considered in our final determination.

Critical Circumstances

The petitioners alleged that imports of photo albums and filler pages from Korea present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist if we determine (1) there is a history of dumping in the United States or elsewhere of the class of kind or the merchandise which is the subject of the investigation or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of photo albums and filler pages from Korea in the United States or elsewhere, we reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping orders. We also reviewed the antidumping actions of other countries. On March 26, 1985, in the finding of the Antidumping Tribunal in Review No. R-3-84, Canada imposed antidumping duties on photo albums and filler pages from Korea. Thus, we preliminarily find a history of dumping for this merchandise.

Since there is a history of dumping in the United States or elsewhere, we do not need to consider whether there is reason to believe or suspect that importers of this product knew or should have known that it was being sold at less than fair value.

We generally consider the following concerning massive imports: (1) Recent trends in import penetration levels; (2) whether imports have surged recently; (3) whether recent imports are significantly above the average calculated over the last three years; and (4) whether the pattern of imports over that three year period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on import levels, import penetration ratios for photo albums and filler pages from Korea for equal periods immediately preceding and following the filing of the petition, and seasonal factors. Based on our analysis of recent trade data, we find that imports of photo albums and filler pages form Korea during the period subsequent to receipt of the petition have been massive when compared to recent import levels and import penetration ratios. Therefore, we determine that critical circumstances exist with respect to imports of photo albums and filler pages from Korea.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of photo albums and filler pages from Korea that are entered, or withdrawn from warehouse, for consumption, on or after the date ninety days before the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin (Percentage)
Dong In	3.13
Dong Won	13.71
Doriam	3.20
Chinsung	3.11
Keywon	0.99
Eunjin	10.71
All others	4.04

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on August 8, 1985, at the United States Department of Commerce, Room B-841, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by August 1, 1985. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 9, 1985.

[FR Doc. 85-16879 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-582-501]

Photo Albums and Filler Pages From Hong Kong; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that photo albums and filler pages from Hong Kong are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of photo albums and filler pages from Hong Kong that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by September 23, 1985.

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Ken Stanhagen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1777.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that photo albums and filler pages from Hong Kong are being, or are like to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The weighted-average margin is listed in the "Suspension of Liquidation" section of this notice.

Case History

On January 30, 1985, we received a petition filed in proper form from Esselte Pendaflex, Inc., the Holson Company, Kleer-Vu Plastics Corporation, and SPM Manufacturing Corporation, on behalf of the U.S. industry producing photo albums and filler pages. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Hong Kong are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports are materially injuring, or are threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We initiated the investigation on February 19, 1985 (50 FR 7624), and notified the ITC of our action.

On March 18, 1985, the ITC found that there is a reasonable indication that imports of photo albums and filler pages from Hong Kong are materially injuring, or threatening material injury to, a U.S. industry (U.S.I.T.C. Pub. No. 1660, March 1985).

We investigated one producer, Climax Paper Converters, Ltd. This company accounts for approximately 85 percent of all exports of photo albums and filler pages from Hong Kong to the United States.

Scope of Investigation

The merchandise under investigation is photo albums and photo album filler pages. Photo albums are currently provided for in item 256.60 of the Tariff Schedules of the United States (TSUS). Photo album filler pages are currently provided for in items 256.87, 256.90 and 774.55 of the TSUS.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for some sales by Climax because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We used the exporter's sales price for other sales by Climax to represent the United States price because the merchandise was sold to unrelated purchasers after importation into the United States.

We calculated the purchase price based on the FOB or CIF packed price to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, loading, ocean freight, marine insurance, U.S. brokerage and U.S. inland freight. We calculated exporter's sales price by making additional deductions for U.S. brokerage, U.S. inland freight, U.S. duty and other selling expenses incurred in the United States.

Foreign Market Value

In accordance with section 773(a) of the Act, we have preliminary determined that Climax had no sales of photo albums and filler pages in Hong Kong during the period of investigation. The petitioners alleged that sales to third countries were at prices below the cost of producing the merchandise. We examined production costs which included all appropriate costs for materials, fabrication and general expenses. We found sufficient sales in some third countries above the cost of production to allow us to use third country prices in accordance with section 773(a)(1)(B) of the Act to determine foreign market value. We used constructed value as our basis of comparison where there were insufficient sales of such or similar merchandise in third country markets, or where there were insufficient sales above the cost of production. In selecting third countries for comparison purposes, we used sales to the United Kingdom, the Republic of South Africa, France, and Australia since merchandise sold to these countries were most similar to that sold in the United States or because quantities sold to these countries were most comparable to quantities sold in the United States.

We calculated the third country prices for each product on the basis of FOB or CIF prices to unrelated purchasers. From these prices, we deducted, where appropriate, foreign inland freight, foreign handling, ocean freight, and marine insurance. We made adjustments, where appropriate, for differences in the physical characteristics of the merchandise, pursuant to § 353.16 of our regulations, and for differences in circumstances of sale related to commissions and credit expenses pursuant to § 353.15 of our regulations. We also adjusted for differences in packing costs.

We calculated the cost of production for third country sales by totaling the costs of materials, fabrication, general expenses, and packing. We calculated constructed value by totaling the cost of materials, fabrication used in producing such or similar merchandise, general expenses, profit, and the cost of the packing on the U.S. shipments. Because the amount for general expenses was less than ten percent of the cost of materials and fabrication, we used the statutory minimum of ten percent. The amount added for profit was the statutory minimum of 8 percent of the sum of materials, fabrication costs, and general expenses because the company had no home market sales of merchandise of the same class or kind and we are unable to determine how much of the company's overall profit was related to sales to countries other than the U.S. We expect to receive additional information from respondent regarding the caculation of fabrication costs for use in the final determination. Comments were received from petitioners too late for consideration in the preliminary determination. These comments will be considered in our final determination.

Preliminary Negative Determination of Critical Circumstances

The petitioners alleged that imports of photo albums and filler pages from Hong Kong present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist if we determine (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation or the person by whom, or

for whose account, the merchandise was imported knew or should have known that the exporter was selling the

the Act, we are directing the United States Customs Service to suspend liquidation of all entries of photo albums

notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants;

to account for swing/shift applied to the other Categories.

Adjusting the Import Limit for Certain Man-Made Fiber Textile Products

Department of the Treasury, Washington, D.C. 20229

for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of photo albums and filler pages from Hong Kong in the United States or elsewhere, we reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping orders. We also reviewed the antidumping actions of other countries. On March 26, 1985, in the finding of the Antidumping Tribunal in Review No. R-3-84, Canada imposed antidumping duties on photo albums and filler pages from Hong Kong. This constitutes a history of dumping for this product. Since there is a history of dumping in the United States or elsewhere, we do not need to consider whether there is reason to believe or suspect that importers of this product knew or should have known that this product was being sold at less than fair value.

We generally consider the following concerning massive imports: (1) recent trends in import penetration levels; (2) whether imports have surged recently; (3) whether recent imports are significantly above the average calculated over the last three years; and (4) whether the pattern of imports over that three year period may be explained by seasonal swings.

In considering this quesion, we analyzed recent trade statistics on import levels, import penetration ratios for photo albums and filler pages from Hong Kong for equal periods immediately preceding and following the filing of the petition, and seasonal factors. Based on our analysis of recent trade data, we find that imports of photo albums and filler pages from Hong Kong during the period subsequent to receipt of the petition have not been massive when compared to recent import levels and import penetration ratios. Therefore, we determine that critical circumstances do not exist with respect to imports of photo albums and filler pages from Hong Kong.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of photo albums and filler pages from Hong Kong that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturing/producer/exporter	Weighted-average margin (percentage)
Climax	6.12
All others	6.12

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on August 8, 1985, at the United States Department of Commerce, Room B-841, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by August 1, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publicaton, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 9, 1985.

[FR Doc. 85-16880 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products From Taiwan

July 11, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 17, 1985. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The bilateral agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan provides, among other things, for percentage increases in certain categories during an agreement year for swing and shift, provided corresponding reductions in equivalent square yards are made on other specific limits or sublimits during the same year. Pursuant to terms of the agreement, as amended, the import restraint limits established for Categories 338/339, 340, 631pt. (work gloves), 638 and 670pt. (luggage), exported during the twelve-month period which began on January 1, 1985 are being increased. The limits for Categories 353/354/653/654, 639, 640 and 670pt (handbags) are being reduced to account for swing/shift applied to the other Categories.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 11, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: On December 21, 1984, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of goods exported during the twelve-month period beginning on January 1, 1985 and extending through December 31, 1985 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Taiwan, in excess of designated restraint limits. The Chairman further advised you that the restraint limits are subject to adjustment.[1]

Effective on July 17, 1985, the directive of December 21, 1984 is hereby futher amended to include adjusted restraint limits for the following categories:

Category	Adjusted 12-mo restraint limit [2]
338/339	633,951 dozen.
340	716,110 dozen.
353/354/653/654	224,821 dozen.
631 pt [3]	219,350 dozen pairs.
638	2,119,848 dozen.
639	4,305,790 dozen.
640	3,221,809 dozen.
670 pt.[4]	70,950,000 pounds.
670 pt.[4]	31,550,000 pounds.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1984.
[2] In Category 631, only T.S.U.S.A. numbers 704.3215, 704.8525 and 704.9000.
[3] In Category 670, only T.S.U.S.A. numbers 706.4144 and 706.4152.
[4] In Category 670, only T.S.U.S.A. number 706.4140.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-16812 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement of November 18, 1982, as amended, concerning cotton, wool, and man-made fiber textile products from Taiwan provides that (1) specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement year; (2) certain specific limits or sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equal amount in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Adjusting the Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

July 11, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 17, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea established, among other things, a specific limit of 1,407,963 dozen for man-made fiber textile products in Category 633/634/635, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985. The agreement provides, among other things, for the borrowing of yardage from the succeeding year's limit (carryforward) with the amount used to be deducted from the category limit in the succeeding year. The letter to the Commissioner of Customs which follows this notice amends the directive of December 21, 1984 to reduce the limit for Category 633/634/635 by 13,996 dozen to account for carryforward used during the agreement period which began on January 1, 1984. The adjusted level will be 1,393,967 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 11, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: On December 21, 1984, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of certain cotton, wool and man-made textile products exported during the twelve-month period beginning on January 1, 1985 and extending through December 31, 1985, produced or manufactured in Korea, in excess of designated restraint limits. The Chairman further advised you that the restraint limits are subject to adjustment.[1]

Effective on July 17, 1985, paragraph 1 of the directive of December 21, 1984 is hereby amended to include an adjusted restraint limit of 1,393,967 dozen[2] for Category 633/634/635.

The Committee for the Implementation of Textile Agreements has determined that this actions falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-16813 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting the Import Restraint Limits for Certain Cotton Textile Products Produced or Manufactured in the Arab Republic of Egypt

July 11, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 17, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Cotton Textile Agreement, effected by exchange of

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea, which provides, in part, that: (1) During any agreement year specific limits and sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in square yards equivalent is made in one or more other specific limits; (2) under specific conditions specific limits and sublimits may be adjusted for carryover and carry forward not to exceed ten percent; and (3) administrative arrangements or may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limits have not been adjusted to reflect an imports exported after December 31, 1984.

notes dated December 7 and December 28, 1977, as amended, between the Governments of the United States and

Effective on July 17, 1985, paragraph 1 of the directive of December 21, 1984 is hereby amended to include the following adjusted

the twelve-month period which began on March 29, 1985 at levels of 1,626,063

14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28,

Background

China and exported during the twelve-month period which began on April 23, 1985 and

notes dated December 7 and December 28, 1977, as amended, between the Governments of the United States and the Arab Republic of Egypt established, among other things, a specific limit 8,500,000 pounds for cotton textile products in Category 300/301 produced or manufactured in Egypt and exported during the period which began on January 1, 1985 and extends through December 31, 1985 (49 FR 50235). The agreement provides for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used to be deducted from the category level in the succeeding year. The letter to the Commissioner of Customs which follows this notice amends the directive of December 21, 1984 to reduce the limit for Category 300/301 to 8,030,352 pounds to account for carryforward used during the agreement period which began on January 1, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementotion of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 11, 1985.

Commissioner of Customs,
Department of the Treosury, Woshington, D.C. 20229

Dear Mr. Commissioner: On December 21, 1984 the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of certain cotton textile products exported during the twelve month period beginning on January 1, 1985 and extending through December 31, 1985, produced or manufactured in the Arab Republic of Egypt in excess of designated restraint limits. The Chairman further advised you that the limits are subject to adjustment. [1]

Effective on July 17, 1985, paragraph 1 of the directive of December 21, 1984 is hereby amended to include the following adjusted restraint limits:

Category	Adjusted 12-mo limit
300/301	8,030,352 pounds of which not more than 6,974,752 pounds shall be in Category 300 and not more than 1,122,900 pounds shall be in Category 301.

[1] The limits have not been adjusted to reflect any imported exported after December 31, 1984

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemakinng provisions of U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-16874 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-DR-M

Establishing an Import Limit for Certain Cotton Textile Products Produced or Manufactered in Portugal

July 11, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive below to the Commission of Customs to be effective July 17, 1985. For further information contact Ann Fields, International Trade Specialist Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On April 11, 1985, a notice was published in the **Federal Register** (50 FR 14277) which announced that, on March 29, 1985 the Government of the United States had requested the Government of Portugal to enter into consultations concerning exports to the United States of cotton pillowcases in category 360 and cotton sheets in Category 361, produced or manufactured in Portugal and exported during the twelve-month period which began on March 29, 1985 and extends through March 28, 1986. Inasmuch as no solution has been reached in consultations on mutally satisfactory limits for these categories, the United States Government has decided to control imports of cotton pillowcases in Category 360, and cotton sheets in Category 361, exported during the twelve-month period which began on March 29, 1985 at levels of 1,626,083 numbers and 2,980,444 numbers, respectively.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of Portugal, further notice will be published in the **Federal Register**.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 11, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 17, 1985, entry for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 360 and 361, produced or manufactured in Portugal and exported during the twelve-month period beginning on March 29 1985 and extending through March 28, 1986, in excess of the following levels:

Category	12-mo restraint level [1]
360	1,626,083 numbers.
361	2,980,444 numbers.

[1] The level has not been adjusted to reflect any imports exported after March 28, 1985.

Textile products in Categories 360 and 361 which have been exported to the United States prior to March 29, 1985 shall not be subject to this directive.

Textile products in Categories 360 and 361 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementotion of Textile Agreements.

[FR Doc. 85-16875 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limit on Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

July 11, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 17, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On May 8, 1984, a notice was published in the **Federal Register** (49 FR 19570) establishing a twelve-month limit of 435,649 dozen for knit shirts of man-made fibers in Category 638, among other categories, produced or manufactured in China and exported during the twelve-month period, which began on April 23, 1984, pending agreement on a mutually satisfactory solution concerning this category between the Governments of the United States and the People's Republic of China. To avoid the continued risk of market disruption, the Government of the United States has decided, in the absence of agreement on this category, pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) and the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, to continue the import restraint limit for an additional twelve-month period beginning on April 23, 1985 and extending through April 22, 1986 at a level of 461,788 dozen. This level reflects a six percent increase over the previous level.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee For the Implementation of Textile Agreements

July 11, 1985.

Commissioner of Customs,
Department of the Treasury, Woshington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on July 17, 1985, to permit entry into the United States for consumption of man-made fiber textile products in Category 638, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on April 23, 1984 and extends through April 22, 1986 in excess of 461,788 dozen.[1]

In carrying out this directive, entries of man-made fiber textile products in Category 638, produced or manufactured in China, which have been exported to the United States on and after April 23, 1984 and extending through April 22, 1985, shall, to the extent of any unfilled balance, be charged against the level established for such goods during that twelve-month period. In the event the level established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

Textile products in Category 638 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

FR Doc. 85-16814 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Textile Consultations With the Government of Turkey on Category 339; Women's, Girls' and Infants' Cotton Knit Shirts)

July 11, 1985.

On June 27, 1985, the United States Government, under Article 3 of the Arrangement Act of 1956 (7 U.S.C. 1854), requested the Government of Turkey to enter into consultations concerning exports to the United States of women's, girls' and infants' cotton knit shirts in Category 339, produced or manufactured in Turkey.

[1] The level has not been adjusted to reflect any imports exported after April 22, 1985.

[1] The term "adjustment refers to those provisions of the Bilateral Cotton Terxtile Agreement, effected by exchange of notes dated December 7 and 28, 1977, as amended and extended, between the Governments of the United States and the Arab Republic of Egypt, which provide, in part, that: (1) The specific limit for Categorias 300, 301, and 300/301 may be adjusted for carryover and carryforward; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations between the two

U.S. Production

Production of Category 339 in 1983 was 8.1 million dozens, down 3.5 percent from the 8.4

Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Japan, or on any other

U.S. Imports and Import Penetration

U.S. imports of Category 350 increased

Industrial Stock Price Index futures contract.

above address or by phone at (202) 254-6314.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of cotton textile products in Category 339, produced or manufactured in Turkey and exported to the United States during the twelve-month period which began on June 27, 1985 and extends through June 26, 1986 may be restrained at 320,972 dozen.

A summary market statement follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 339 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textile and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public with the Committee for the Implementation of Textile Agreements consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553 (a)(1) relating to matters which constitute "an affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Turkey—Market Statement

Category 338—Women's, Girls' and Infants' Cotton Knit Blouses

June 1985.

Summary and Conclusions

U.S. imports of Category 339 from Turkey were 376,365 dozens during the year ending April 1985, nearly three times the imports of 126,705 dozens a year earlier. Imports for the first four months of 1985 were 230,150 dozens, an annual rate of 690,450 dozens. Turkey is the largest uncontrolled supplier of these garments and was the fourth largest supplier during the first four months of 1985.

These imports from Turkey are entering a market already disrupted by imports. The rapid growth and substantial volume of imports from Turkey are disrupting the market and continuation of the growth would further disrupt the market.

U.S. Production

Production of Category 339 in 1983 was 8.1 million dozens, down 3.5 percent from the 8.4 million in 1982. Production in 1984 is estimated to have been between 8.0 million and 8.4 million dozens. Cuttings of women's knit blouses during the first quarter declined by 29.1 percent from the first quarter of 1984.

U.S. Imports

Imports of Category 339 from all sources increased from 7.4 million dozens in 1983 to 10.0 million in 1984. Imports during the first four months of 1985 were at an annual rate of 12.8 million dozens.

Import Penetration

The ratio of imports to production in 1984 was at a record level with imports at 10.0 million dozens exceeding production which is estimated to have been between 8.0 and 8.2 million dozen. The ratio for a number of years has been around 100 percent.

Duty-Paid Values and U.S. Producer Prices

Most of the imports of Category 339 from Turkey are entered under TSUSA Numbers 383.2706—women's tank tops; 383.2724—women's girls' and infants' T-shirts; and 383.2730—women's, other shirts. These garments are being imported at duty-paid values below the U.S. producer prices for comparable garments.

[FR Doc. 85-16810 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultation With the Government of Japan To Review Trade in Category 350 (Cotton Dressing Gowns)

July 11, 1985.

On June 27, 1985, the Government of the United States requested consultations with the Government of Japan with respect to Category 350. This request was made on the basis of the Agreement effected by exchange of notes dated August 17, 1979, as amended and extended, between the Governments of the United States and Japan relating to trade in cotton, wool and man-made fiber textiles and textile products and on the basis of section 204 of the Agricultural Act 1956 (7 U.S.C. 1854).

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may request the Government of Japan to limit exports in Category 350, produced or manufactured in Japan and exported to the United States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985 at a level of 16,919 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of this category under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Japan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultation is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textile and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon request.

Further comments may be invited regarding particular comments of information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan

Chairman, Committee for the Implementation of Textile Agreements.

Japan—Market Statement

Category 350—Cotton Robes

July 1985.

Summary and Conclusions

U.S. imports of Category 350 from Japan were 14,677 dozens during the year ending April 1985. This was 35 percent above the level imported a year earlier. Japan was the ninth largest supplier and accounted for 2.7 percent of the total imports.

The market for Category 350 has been disrupted by imports and imports from Japan are contributing to the disruption. A continuation of the growth creates a real risk of more intensive disruption.

U.S. Production and Market Share

U.S. production of Category 350 followed a downward trend from 1979 through 1982. It partially recovered in 1983 and 1984 but remained below the levels maintained during 1979–1981.

The domestic producers share of the market for domestically produced and imported Category 350 declined from 80 percent in 1979 to 55 percent in 1983. It is estimated that the share ranged from 51 to 54 percent in 1984.

U.S. Imports and Import Penetration

U.S. imports of Category 350 increased sharply from 173,000 dozens in 1979 to 531,000 dozens in 1984. Based on the first four months of 1985 data, imports are estimated to reach 656,000 dozen in 1985.

The ratio of imports to domestic production more than tripled from 25.4 percent in 1979 to 80.7 percent in 1983. The ratio is estimated to have ranged between 85.0 and 92.3 percent in 1984.

Duty-Paid Values and U.S. Producer Prices

About 70 percent of the Category 350 imports entered under TSUSA No. 383.3770—women's, girls' and infants' woven robes. These imports are valued well below the U.S. producer prices for comparable robes.

[FR Doc. 85-16811 Filed 7-15-85; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Standard and Poor's Over-the-Counter Industrial Stock Price Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for public comment on amended terms and conditions of proposed commodity futures contract.

SUMMARY: On March 19, 1985 the Commodity Futures Trading Commission ("Commission"), in accordance with sections 2(a)(1)(B)(iii) and 2(a)(B)(iv)(II) of the Commodity Exchange Act ("Act"), 7 U.S.C. 2a(iii), 2a(iv)(II)(1983), published in the Federal Register a notice of availability of the contract terms and conditions contained in an application by the Chicago Mercantile Exchange ("CME") for designation as a contract market in an over-the-counter stock index (50 FR 11007). The notice provided for a sixty-day comment period which ended on May 20, 1985. Subsequently, the CME notified the Commission that it intended to propose a change to the terms of the contract. The CME requested that the Commission give notice of, and seek public comment on, this change. In light of this request, the Commission has concluded that, in this instance, an additional period for public comment is warranted.

DATE: Comments must be received on or before July 31, 1985.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CME—Standards and Poor's Over-the-Counter Industrial Stock Price Index futures contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–6990.

SUPPLEMENTARY INFORMATION: By letter dated July 3, 1985, the CME notified the Commission that it wished to amend the terms of the CME's proposed futures contract in the Standard and Poor's Over-the-Counter Industrial Stock Price Index. This modification would clarify the standards to be employed by Standard and Poor's in its selection of stocks included in the index. The Commission previously published in the Federal Register a notice of availability of the contract terms and conditions of the proposed contract and provided a sixty-day comment period which ended on May 20, 1985 (50 FR 11007, March 19, 1985).

The CME requested by letter dated July 5, 1985, that the Commission "publish . . . notification in the Federal Register of the selection standard that we submitted to you on July 3, 1985. We intend to afford commentators an additional opportunity to comment on our contract in light of this submission." The Commission agrees that an additional comment period to enable the public to consider the intended modification and to express their views on it is in the public interest and is consistent with the objectives of the Commodity Exchange Act.

The contemplated change to the terms of the proposed Standard and Poor's Over-the-Counter Stock Price Index futures contract modifies the description of the Index. This amendment provides that "the index is a price weighted index of 250 larger, actively traded domestic NASDAQ National Market System industrial stocks." The Commission is requesting comment on the potential effects of this change to the design of the contract. The Commission would appreciate commentors' addressing, in particular, the possible effects of restricting the index of stocks to those which are National Market System industrial stocks.

Copies of the CME's letters of July 5, 1985, and July 3, 1985, which contain the amendment to the terms and conditions of its proposed over-the-counter stock index contract, together with the other terms and conditions of that contract, are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Copies of these documents can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Any person interested in submitting written data, views or arguments on the above identified issues should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581 by the specified date.

Issued in Washington, D.C. on July 11, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-16900 Filed 7-15-85; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Approval of Survey of Persons Reporting Childhood Ingestion of Prescription Medicines to Poison Control Centers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3601 *et seq.*) the Consumer Product Safety Commission has submited to the Office of Managment and Budget a request for approval of a survey of persons reporting ingestions of prescription medicines by children to poison control centers. Such persons will be asked for information about the person whose medicine was ingested and about the circumstances of the ingestion.

From this information, the Commission will be able to develop effective poison prevention programs and target them at the populations whose medicines pose the greatest risk to children.

Additional Details About the Requested Approval for Collection of Information

Agency Address: Consumer Product Safety Commission, 1111 18th street, Washington, D.C. 20207.

Title of Informotion Collection: American Association of Poison Control Centers Prescription Drug Ingestion Survey.

Type of Request: Approval of new plan.

Frequency of Collection: One time.

General Description of Respondents: Persons reporting childhood ingestions of prescription drugs to selected poison control centers.

Estimated Number of Respondents: 200.

Estimoted Number of Hours for All Respondents: 240.

Comments: Comments on this request

eliminate the use of chlorination facilities at the existing sewage treatment plant in the Town of

interconnections with the City of Wilmington and one interconnection with Wilmington Suburban Water

10. *City of Bridgeton D–85–47 CP.* A ground water withdrawal project to

DEPARTMENT OF ENERGY

Consolidated represents that Statement P will be filed within fifteen

VOL 50 ISS 136 JL 16 1985 UMI

Estimated Number of Hours for All Respondents: 240.

Comments: Comments on this request for approval for collection of information should be addresed to Andy Velez-Rivera, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; telephone (202) 395–7513. Copies of the request for approval of collection of information are available from Francine Schacter, Office of Budget, Program Planning, and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: July 11, 1985.

Sadye E. Dunn,

Consumer Product Safety Commission

[FR Doc. 85–16834 Filed 7–15–85; 8:45 am]

BILLING CODE 6355-01-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, July 24, 1985, beginning at 1:30 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be a part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:30 a.m. at the same location.

Applications for Approval of the Following Projects Under Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Holdover Project—County of Montgomery D–85–22 CP.* A sewage treatment project to serve the new Montgomery County Prison in Lower Providence Township, Montgomery County, Pennsylvania. The new treatment facility will be designed to provide tertiary treatment to an average waste flow of 0.053 million gallons per day (mgd). Treated effluent will discharge to an unnamed tributary of Skippack Creek in Lower Providence Township. This hearing continues that of June 27, 1985.

2. *Holdover Project—Town of Rockland—Livingston Manor Sewer District D–85–28 CP.* An application to eliminate the use of chlorination facilities at the existing sewage treatment plant in the Town of Rockland, Sullivan County, New York. The applicant has requested a waiver of the current DRBC disinfection requirement. The Livingston Manor wastewater discharge was approved with a design capacity of 1,050,000 gallons per day (gpd) to be discharged to Willowemoc Creek as described in Docket D–67–29 CP on April 26, 1967. The receiving waters are classified hy the New York Department of Environmental Conservation as C(T) trout waters and as such do not require any disinfection. The New York State Health Department has stated that there is no demonstrated need for disinfection at this facility. This hearing continues that of May 29, 1985.

3. *Borough of Doylestown D–79–18 CP (Renewal).* Renewal of an approved ground water withdrawal from Well No. 13 which supplies water to the applicant's distribution system in Doylestown Borough, Bucks County, Pennsylvania. The original 1980 Commission approval was limited to five years and will expire unless renewed. The proposed 30-day limit remains at 8.7 million gallons (mg) from Well No. 13 and 50 mg from all wells. The project is located in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Borough of Quakertown D–82–4 CP (Revised).* A revised application to increase total ground water withdrawals from the applicant's five existing wells (Nos. 11, 12, 13, 14, and 15) in the Beaver Run Watershed from an average of 0.94 mgd to an average of 1.06 mgd. The wells are located in or near the Borough of Quakertown, Bucks County, and are in the Southeastern Pennsylvania Ground Water Protected Area.

5. *City of Newark D–83–35 CP.* A proposed new interconnection between the City of Newark and the Artesian Water Company water supply systems in New Castle County, Delaware. The interconnection will be located at the intersection of Kirkwood Highway and Polly Drummond Road, approximately two miles northeast of the City of Newark, and will provide for transfer of water of up to 300 gallons per minute (gpm) to Artesian or up to 600 gpm to Newark during emergency conditions. The City of Newark obtains its water supply from 10 wells and two interconnections with the Wilmington Suburban Water Company. Artesian Water Company obtains its water supplies from 41 wells and four interconnections with the City of Wilmington and one interconnection with Wilmington Suburban Water Company.

6. *Citizens Utilities Water Company of Pennsylvania D–84–60 CP.* A ground water withdrawal project to supply approximately 0.25 mgd of water from the applicant's Well No. 23 serving the south side of Gring's Hill. The total withdrawal from all wells in the applicant's distribution system will be 4.24 mgd. The project is located in Spring Township, Berks County, Pennsylvania.

7. *Whitehall Township Authority D–85–37 CP.* A ground water withdrawal project to supply approximately 0.433 mgd of water from the applicant's Mickley Gardens Well No. 2. The total withdrawal from all wells in the applicant's distribution system will be 0.72 mgd. The project is located in Whitehall Township, Lehigh County, Pennsylvania.

8. *Monsanto Polymer Products Company D–85–45.* A project to initiate remedial action towards the removal of PCBs and benzyl compounds from ground water in an isolated area of the existing Monsanto Polymer Products Facility near Bridgeport in Logan Township, Gloucester County, New Jersey. Approximately 50,000 gpd will be withdrawn from 33 wells special 50 feet apart, pretreated in proposed facilities and then processed in the existing wastewater treatment plant prior to discharge into the Delaware River. Clean Water will be reinjected in 33 new injection wells to help flush out the contamination.

9. *Exeter Township, Berks County, Authority D–85–46 CP.* An application for rerating of the Exeter Township, Berks County, Authority sewage treatment plant which serves Exeter Township, St. Lawrence Borough, and a portion of Lower Alsace Township in Berks County, Pennsylvania. The applicant requests that the allowable average waste flow through the existing plant be increased from 2.4 mgd to 3.6 mgd. The existing flow limit of 2.4 mgd has been exceeded because of excessive infiltration and inflow to the collection system. The rerating will allow the plant to accept the seasonal high flows, without permit violation, while the infiltration and inflow problem is being corrected. The plant is designed for secondary treatment at the higher flow rate, and treated effluent will continue to discharge to the Schuylkill River at River Mile 92.47–65.2.

10. *City of Bridgeton D–85–47 CP.* A ground water withdrawal project to replace water from Well No. 4 which collapsed and has been sealed. A proposed withdrawal from new Well No. 16 will be limited to 0.58 mgd. The proposed withdrawal in the applicant's system will be limited to 8.5 mgd. The project is located in the City of Bridgeton, Cumberland County, New Jersey.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

July 9, 1985.

Public Information Notice

Water Quality Program

The Commission is preparing its water quality program for the fiscal year, ending September 30, 1986. Notice of this action is given in accordance with the requirements of the Federal Clean Water Act, as amended. The proposed program will involve a variety of activities in the areas of planning, surveillance, compliance monitoring, regional coordination, use attainability assessment, wasteload allocations and public participation. While the proposed program is not subject to public hearing by the Commission, it may be examined by interested individuals at the Commission's offices upon request. The public review and comment period will begin July 15, 1985 and extend for 30 days. Contact Seymour P. Gross at the Commission.

[FR Doc. 85–16831 Filed 7–15–85; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP85-169-000]

Consolidated Gas Transmission Corp.; Proposed Changes in Rates and Charges

July 5, 1985.

Take notice that on July 1, 1985, Consolidated Gas Transmission Corporation (Consolidated), pursuant to section 4 of the Natural Gas Act and § 154.63 of the Commission's regulations, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1 to become effective on August 1, 1985. Consolidated requests that the rates become effective, after five-month suspension, on January 1, 1986, in accordance with a rate moratorium agreed to in a rate settlement agreement in Docket No. RP82–115.

The proposed rate changes would increase Consolidated's revenues from jurisdictional sales and services by $82.9 million based on the twelve months ended March 31, 1985, adjusted for known and measurable changes through December 31, 1985.

Consolidated states that increased rates are necessary to reflect decreased sales and other billing determinants and to recover increased operation and maintenance expenses, increased taxes, and the increased cost of money. The rate of return is based on the capital structure agreed to for filing purposes in Docket No. RP82–115 with an equity return of 17%.

Consolidated states that the cost of gas, including pipeline production, was computed using the base costs of gas per unit of sales reflected on Consolidated's Substitute Second Revised Sheet No. 31.

Consolidated represents that Statement P will be filed within fifteen days of ts filing. It states that it served copies of its filing upon its jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–16816 Filed 7–15–85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8402-000 et al.]

Melvin R. Hall et al.; Availability of Environmental Assessment and Finding of No Significant Impact

July 9, 1985.

In accordance with the National Environmental Poicy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

EXEMPTIONS

Project No.	Project name	State	Water body	Nearest town	Applicant
8402-000	Rapidan Mill	VA	Rapidan River	Rapidan	Melvin R. Hall.
8875-000	Armstrong-Keta	AK	Betty and Jetty Lake	Port Armstrong	Armstrong-Keta, Inc.
8937-000	Ione Pipeline	CA	Ione Canal	Ione	Amador County Water Agency.
9007-000	Dominguez Gap	CA	Dominguez Gap Barrier	Carson	Los Angeles County, Flood Control, District.
9008-000	Alamitos Barrier Project	CA	Alamitos Barrier Pipeline	Long Beach	Do

LICENSES

Project No.	Project name	State	Water body	Nearest town	Applicant
3451-002	Townsend Dam Transmission Line	PA	N/A	New Brighton	Beaver Falls Municipal Authority.
6632-000	Wiswall Dam	NH	Lamprey River	Durham	John R. Webster.
7449-000	......do	NH	......do	......do	Town of Durham, NH.
7174-000	Cottrell Project	WA	McCloskey Creek	Skamania	Truman Price.
8615-000	Fiske Mill	NH	Ashuelot River	Hinsdale	Fiske Hydro, Inc.
3757-002	Lost Creek	UT	Lost Creek	Croydon	City of Bountiful, UT.
5089-003	Felt	ID	Teton River	Felt	Fall River Electric Cooperative, Inc., and Hydro Valley Development, Inc.

LICENSES—Continued

According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR

Any person desiring to be heard or protest said filing should file a motion to

1985. Protests will be considered by the Commission in determining the

LICENSES—Continued

Project No.	Project name	State	Water body	Nearest town	Applicant
7371-001	Little Butte Creek	CA	Little Butte Creek	Paradise	Dayton K. and Francis S. Butler.
8047-001	Willimantic No. 2	CT	Willimantic River	Willimantic	Summit Hydropower.
8366-000	Sumner Dam	NM	Pecos River	Fort Sumner	PRODEK, Inc.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-16817 Filed 7-15-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-137-001 et al.]

MIGC, Inc., et al.; Filing of Pipeline Refund Reports and Refund Plans

July 9, 1985.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 19, 1985. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
6/14/85	MIGC, Inc.	RP85-137-001	Report.[1]
6/14/85	Williston Basin Interstate Pipeline Co	RP85-97-001	Report.[1]
6/14/85	Colorado Interstate Gas Co	RP85-85-002	Report.[1]
6/14/85	Colorado Interstate Gas Co	RP85-85-003	Report.[1]
6/17/85	United Gas Pipeline Co	RP85-90-001	Report.[1]
6/17/85	Trunkline Gas Company	RP85-77-002	Report.[1]
6/17/85	Panhandle Eastern Pipe Line Co	RP85-96-003	Report.[1]
6/17/85	Northwest Pipeline Corp	RP85-83-001	Report.[1]
6/17/85	Sea Robin Pipeline Co	RP85-89-001	Report.[1]
6/17/85	Mid Louisiana Gas Co	RP85-82-001	Report.[1]
6/17/85	Mountain Fuel Resources, Inc	RP85-73-001	Report.[1]
6/17/85	Columbia Gas Transmission Corp	RP85-91-002	Report.[1]
6/17/85	Arkla Energy Resources	RP85-119-001	Report.[1]
6/17/85	Texas Gas Pipe Line Corp	RP85-79-001	Report.[1]
6/17/85	National Fuel Gas Supply Corp	RP85-93-001	Report.[1]
6/17/85	Valley Gas Transmission, Inc	RP85-104-001	Report.[1]
6/17/85	Texas Gas Transmission Corp	RP85-84-001	Report.[1]
6/17/85	Tennessee Gas Pipeline Co	RP85-94-001	Report.[1]
6/17/85	El Paso Natural Gas Co	RP85-92-001	Report.[1]
6/18/85	Lone Star Gas Co	RP85-76-002	Report.[1]
6/18/85	KN Energy, Inc	RP85-98-001	Report.[1]
6/18/85	Mississippi River Transmission Corp	RP85-80-001	Report.[1]
6/18/85	Natural Gas Pipeline Co. of America	RP85-99-002	Report.[1]
6/18/85	ANR Pipeline Co	RP85-88-001	Report.[1]
6/18/85	Consolidated Gas Supply Corp	RP85-87-001	Report.[1]
6/18/85	Transwestern Pipeline Co	RP85-86-002	Report.[1]
6/18/85	Florida Gas Transmission Co	RP85-75-001	Report.[1]
6/18/85	Transcontinental Gas Pipe Line Corp	RP85-78-001	Report.[1]
6/18/85	Valero Interstate Transmission Co	RP85-86-001	Report.[1]
6/27/85	Southern Natural Gas Company	RP85-153-001	Report.[1]
6/27/85	Southern Georgia Natural Gas Co	RP77-32-017	Report.[1]
7/01/85	Natural Gas Pipe Line Co. of America	RP80-11-016	Report.[1]

[1] Refunds resulting from Btu Measurement Adjustments. Each company will retain its basic docket number and future related filings receive new sub-docket numbers.

[FR Doc. 85-16818 Filed 7-15-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-59-004]

Northern Natural Gas Company Division of InterNorth, Inc.; Filing

July 10, 1985.

Take notice that on June 26, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) tendered for filing to become a part of its FERC Gas Tariff, Third Revised Volume No. 1:

Substitute Third Revised Sheet No. 4e.1
Substitute Fourth Revised Sheet No. 4e.1
Substitute Fifth Revised Sheet No. 4e
Substitute Forty-Third Revised Sheet No. 4e
Substitute Forty-Fourth Revised Sheet No. 4e
Substitute Forty-Fifth Sheet No. 4e
First Substitute Forty-Sixth Sheet No. 4e
First Substitute Forty-Seventh Revised Sheet No. 4e
First Substitute Forty-Eighth Revised Sheet No. 4e
First Substitute Forty-Ninth Revised Sheet No. 4e
First Substitute Fiftieth Revised Sheet No. 4e
Substitute Sixth Revised Sheet No. 4e.1
Substitute Fifty-First Revised Sheet No. 4e
Substitute Seventh Revised Sheet No. 4e.1
Substitute Fifty-Second Revised Sheet No. 4e
Substitute Eighth Revised Sheet No. 4e.1
Substitute Fifty-Third Revised Sheet No. 4e
Substitute Ninth Revised Sheet No. 4e.1
Substitute Fifty-Fourth Revised Sheet No. 4e
Substitute Tenth Revised Sheet No. 4e.1
Substitute Fifty-Fifth Revised Sheet No. 4e
Substitute Eleventh Revised Sheet No. 4e.1
Substitute Fifty-Sixth Revised Sheet No. 4e
Substitute Twelfth Revised Sheet No. 4e.1
Substitute Fifty-Seventh Revised Sheet No. 4e
Substitute Thirteenth Revised Sheet No. 4e.1
Substitute Fifty-Eighth Revised Sheet No. 4e
Substitute Fourteenth Revised Sheet No. 4e.1
Substitute Fifty-Ninth Revised Sheet No. 4e
Substitute Fifteenth Revised Sheet No. 4e.1
Substitute Sixtieth Revised Sheet No. 4e
Substitute Sixteenth Revised Sheet No. 4e.1
Substitute Sixty-First Revised Sheet No. 4e
Substitute Seventeenth Revised Sheet No. 4e.1
Substitute Sixty-Second Revised Sheet No. 4e
Substitute Eighteenth Revised Sheet No. 4e.1
Substitute Sixty-Third Revised Sheet No. 4e
Substitute Nineteenth Revised Sheet No. 4e.1
Substitute Sixty-Fourth Revised Sheet No. 4e
Substitute Twentieth Revised Sheet No. 4e.1
Substitute Sixty-Fifth Revised Sheet No. 4e
Substitute Twenty-First Revised Sheet No. 4e.1
Fifth Revised Sheet No. 4e

According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until July 3, 1985.

The substitute sheets are being filed to effectuate the PGA rates approved in Docket Nos. TA85-3-59-000, TA85-3-59-001, TA85-2-59-000 and TA85-2-59-001 pursuant to Northern's Flexible Pricing—Larage Volume Contract Service Rate Schedule.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rule of Practice (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-16820 Filed 7-15-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-5-37-000, 001]

Northwest Pipeline Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

July 10, 1985.

Take notice that on July 3, 1985 Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Twentieth Revised Sheet No. 10
Second Amended Substitute Nineteenth Revised Sheet No. 10

The tendered tariff sheets reflect a reduction of $56,915,093 in Northwest's projected cost of purchased gas resulting from substantial decreases in the cost of Canadian supplies as well as a decline in the price being paid under Northwest's "Market-Out" provisions of its domestic contracts.

Northwest has requested an effective date of July 1, 1985 for the above-referenced tariff sheets.

A copy of this filing has been mailed to all parties of record in Docket No. TA85-3-37-000 and on all jurisdictional customers and affected state agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 17, 1985. Protests will be considered by the Commission in determining the appropriate action, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 85-16819 Filed 7-15-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-2-8-002]

South Georgia Natural Gas Co.; Compliance Filing

July 10, 1985

Take notice that on July 2, 1985, South Georgia Natural Gas Company (South Georgia) tendered for filing the following revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1:

Substitute Thirty-First Revised Sheet No. 4
Substitute Thirty-Second Revised Sheet No. 4
Thirty-Third Revised Sheet No. 4

South Georgia states that these sheets are filed in accordance with Ordering Paragraph (C) of the Commission's June 21, 1985 order issued in Docket No. TA85-2-8-000. South Georgia requests that the proposed tariff sheets be accepted effective, May 1, 1985, June 1, 1985 and July 1, 1985, respectively. If approved as requests, these three tariff sheets will effect a 21.44¢ per Mcf reduction in South Georgia's Current Adjustment effective May 1, 1985, an additional 7.10¢ per Mcf reduction in South Georgia's Current Adjustment effective June 1; 1985, and a 2.53¢ reduction in South Georgia's Surcharge Adjustment effective July 1, 1985.

Copies of the filing were served on all purchasers, state commissions and interested parties shown on the list attached to the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 85-16821 Filed 7-15-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2865-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solication and the expected impact, and where appropriate includes the actual data collection instrument. For the ICR listed below OMB has waived the public comment period and given approval (OMB #2070-0074; expires 7/31/88). This ICR is available for review.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman (PM-223); Office of Standards and Regulations; Regulation and Information Management Division; U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, DC 20460; telephone (202) 382-2742) or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

- *Title:* Recordkeeping Requirements for Certified Applicators Using 1080 Collars for Livestock Protection (EPA #1249). (This is a new collection.)

Abstract: Sodium Monofluoroacetate (1080), a previously banned pesticide, has been re-approved for use in a new delivery mechanism, the toxic collar. This recordkeeping requirements will monitor the use effectiveness, and any hazards resulting from the use of the toxic collars. Records will be kept by users of the collars.

Respondents: Certified Pesticide Applicators using 1080 toxic collars for livestock protection.

unreasonable or must initiate appropriate action to reduce or control the risk.

5. P85-547: 2-Propenoic acid, 3,3,5-trimethylcyclohexylester.

under the jurisdiction of the State rather than EPA.

SS—Industrial Surface Coating: Large Appliances

aspects of the State and local plans around the Callaway Nuclear Power

Respondents: Certified Pesticide Applicators using 1080 toxic collars for livestock protection.

Dated: July 11, 1985.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 85-16842 Filed 7-15-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-40010; FRL 2604-2]

Designation of Certain Chemicals for Priority Attention; Notice of Availability of Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is making a working document available to the public on section 4(f) of the Toxic Substances Control Act (TSCA). This document contains guidelines on how EPA interprets the requirements of this section.

ADDRESS: Communications to the Agency about his notice should be sent to: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Room E-108, 401 M Street, SW., Washington, D.C. 20460.

Communications should include the document control number OPTS-40010. Communications received on this notice will be available for review and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays, in Room. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Edwrd A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M Street SW., Washington, D.C. 20460. Toll-free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: The document being made available today contains EPA's working interpretation of the requirements of section 4(f) of TSCA. This section requires that EPA designate certain chemicals for priority attention. Under section 4(f), when information indicates that there may be a reasonable basis to conclude that a chemical presents or will present a significant risk of serious or widespread harm to humans from cancer, birth defects, or gene nutations, the chemical must be reviewed on a priority basis. EPA must decide within 180 days of receipt of the information which indicates a section 4(f) priority either that the risk identified is not unreasonable or must initiate appropriate action to reduce or control the risk.

EPA's working interpretation of the section, and criteria for applying it, are contained in the document now available. Persons wishing to have copies of the document should call or write their requests to the telephone number or address listed above, under "FOR FURTHER INFORMATION CONTACT." Persons wishing to comment on the document should send their comments to the address given above. The comments will be considered along with public comments received in response to particular section 4(f) designations in the future. Future revisions to the guidance document will reflect both EPA's experience in applying section 4(f) and its considerations of comments received.

Dated: July 2, 1985.

A. James Barnes,

Acting Administrator.

[FR Doc. 85-16844 Filed 7-15-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51560A/51562B; FRL-2864-8]

Premanufacture Notices; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notices (PMNs) P85-543, P85-544, P85-545, P85-546, and P85-547 under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on October 2, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Jones, Chemical Control Division (TS-794), Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, D.C. 20460 (202-382-3395).

SUPPLEMENTARY INFORMATION: On February 20, 1985, EPA received PMNs P85-543, P85-544, P85-545, P85-546, and P85-547 for the following new chemical substances:

1. P85-543: 2-Butenedioic acid (z)-, mono[2-[(1-oxo-2-propenyl)-oxy]ethyl]ester.

2. P85-544: 2-Propenoic acid, 2-methyl-, 7,7,9-trimethyl-4, 13-dioxo-3, 14-dioxa-5 12-diazo hexandecane-1, 16-diylester.

3. P85-545: 2-Propenoic acid-3-(dimenthylamino)-2,2-dimethyl-propylester.

4. P85-546: 2-Propenoic acid, 2-methyl-, 3,3,5-trimethylcyclohexylester.

5. P85-547: 2-Propenoic acid, 3,3,5-trimethylcyclohexylester.

The submitter claimed the production volume to be confidential business information. Notice of receipt for P85-543, P85-546 and P85-547, was published in the **Federal Register** of March 1, 1985 (50 FR 8390). Notice of receipt for P85-544 and P85-545 was published in the **Federal Register** of March 15, 1985 (50 FR 10536). The original 90-day review period was sheduled to expire on July 4, 1985.

Based on its analysis, EPA finds that there is a possibility that the substances submitted for reveiw in these PMNs may be regulated under TSCA. The Agency requires an extension of the review period, as authorized by section 5(c) of TSCA, to investigate further potential risk, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to October 2, 1985.

PMNs are available for public inspection in Rm. E-107, at the EPA headquarters, address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Dated: July 3, 1985.

Edwin F. Tinsworth,

Acting Director, Office of Toxic Substances.

[FR Doc. 85-16849 Filed 7-15-85; 8:45 am]

BILLING CODE 6560-50-M

[A-4-FRL-2864-6]

Standards of Performance for New Stationary Sources; National Emission Standards for Hazardous Air Pollutants Delegation of Additional Standards to Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Informational notice.

SUMMARY: On January 23, 1985, the Kentucky Natural Resources and Environmental Protection Cabinet requested that EPA delegate to the State the authority to implement and enforce EPA's new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAP) for additional categories of air pollution sources (listed below under "Supplementary Information"). Since EPA's review of pertinent Kentucky laws, rules, and regulations showed them to be adequate to implement and enforce these Federal standards, the Agency has delegated authority for them to Kentucky. Affected sources are now under the jurisdiction of the State rather than EPA.

EFFECTIVE DATE: April 17, 1985.

ADDRESSES: Copies of the State's request and EPA's letter of delegation are available for public inspection at EPA's Region IV office, 345 Courtland Street, NE., Atlanta, Georgia 30365. All reports required pursuant to the newly delegated standards (listed below) should be submitted to the Kentucky Division of Air Pollution Control, Ft. Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, rather than to EPA Region IV.

FOR FURTHER INFORMATION CONTACT: Melvin Russell of the EPA Region IV Air Management Branch at the above address, telephone 404/881-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 101, 110, 111, and 112 of the Clean Air Act, authorizes EPA to delegate authority to implement and enforce the Standards of Performance for New Stationary Sources (NSPS)—Section 111, and National Emission Standards for Hazardous Air Pollutants (NESHAP)—section 112, to any state which had adequate implementation and enforcement procedures.

On April 12, 1977, EPA delegated to Kentucky authority to implement and enforce NSPS and NESHAP in existence at that time. As additional categories have been promulgated, the State has requested authority for them; EPA has responded by making supplemental delegations of authority for NSPS on December 5, 1980, March 26, 1981, January 1, 1982 and July 6, 1982; and for NESHAP on December 5, 1980. On January 23, 1985, the Kentucky Natural Resources and Environmental Protection Cabinet requested a delegation of authority for the following recently promulgated NSPS contained in 40 CFR Part 60, and NESHAP contained in 40 CFR Part 61.

NSPS

Subpart—Source Category

H (Revised)—Sulfuric Acid Manufacturing Plants
T (Revised)—Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants
U (Revised)—Phosphate Fertilizer Industry: Superphosphoric Acid Plants
V (Revised)—Phosphate Fertilizer Industry: Diammonium Phosphate Plants
W (Revised)—Phosphate Fertilizer Industry: Triple Superphosphate Plants
EE—Surface Coating of Metal Furniture
HH—Lime Manufacturing Plants
QQ—Graphic Art Industry: Publication Rotogravure Printing
RR—Pressure Sensitive Tape & Label Surface Coating Operations
SS—Industrial Surface Coating: Large Appliances
TT—Metal Coil Surface Coating
VV—Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry
WW—Beverage Can Surface Coating Industry
XX—Bulk Gasoline Terminals
GGG—Petroleum Refinery Equipment
HHH—Synthetic Fiber Production Facilities

NESHAP

Subpart—Source Category

J—Equipment Leaks of Benzene
M (Revised)—Asbestos Standard
V—Equipment Leaks

Note.—The word "*revised*" following the subpart indicates the standard was previously delegated to the State, and this delegation action is in recognition of the State's adoption of EPA's revision to the standard.

After a thorough review of the request, the Regional Administrator determined that such delegation was appropriate with the conditions set forth in the original delegation letter of April 12, 1977, and granted the State's request in a letter dated April 17, 1985. Kentucky sources subject to the NSPS listed above are not under the jurisdiction of the State of Kentucky.

(Secs. 101, 110, 111, and 301 of the Clean Air Act (42 U.S.C. 7401, 7410, 7411, and 7601))

Dated: July 5, 1985.

Jack E. Ravan,

Regional Administrator.

[FR Doc. 85-16846 Filed 7-15-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-7-MO-1]

The Missouri Emergency Management Plan Site-Specific for the Callaway Nuclear Power Plant; Certification of FEMA Findings and Determinations.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Missouri submitted its plans relating to the Callaway Nuclear Power Plant to the Director of FEMA Region VII on May 21, 1984, for FEMA review and approval. On August 31, 1984, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Callaway Nuclear Power Plant, an evaluation of the joint exercise conducted on March 21, 1984, and the April 19, 1984, remedial exercise, in accordance with § 350.9 of the FEMA rule, and a public meeting held on July 25, 1984 to discuss the site-specific aspects of the State and local plans around the Callaway Nuclear Power Plant in accordance with § 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Callaway Nuclear Power Plant are adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA criteria of NUREG-0654/FEMA REP-1, Rev. 1, and the Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants (FEMA-43).

FEMA will continue to review the status of offsite plans and preparedness associated with the Callaway Nuclear Power Plant in accordance with section 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-7-MO-1 maintained by the Regional Director, FEMA Region VII, 911 Walnut Street, Room 300, Kansas City, MO 64106.

Dated: July 10, 1985.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85-16808 Filed 7-15-85; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

Citizens Dimension Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of

acquire a bank or bank holding company. The factors that are

Alcohol, Drug Abuse, and Mental Health Administration. The following

percent. The interest rate for debentures issued under any other provision of the

For convenience of reference, HUD is publishing the following chart of

DEPARTMENT OF THE INTERIOR

application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 7, 1985.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citizens Dimension Bancorp, Inc.*, Muskogee, Oklahoma; to acquire 13.4 percent of the voting shares of Charter Bancshares, Inc., Oklahoma City, Oklahoma, thereby indirectly acquiring Charter National Bank, Oklahoma City, Oklahoma.

2. *Missouri Banc-Management, Inc.*, Kansas City, Missouri; to acquire 91 percent of the voting shares of Union National Bank, Kansas City, Missouri.

3. *Pembroke Bancshares, Inc.*, Kansas City, Missouri; to acquire 100 percent of the voting shares of Missouri Banc-Management, Inc., Kansas City, Missouri, thereby indirectly acquiring Stadium Bank, Kansas City, Missouri.

B. **Federal Reserve Bank of Dallas** (Anthony J. Monterlaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Dalhart Bancshares, Inc.*, Dalhart, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Dalhart, Dalhart, Texas.

Board of Governors of the Federal Reserve System, July 10, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-16865 Filed 7-15-85; 8:45 am]

BILLING CODE 6210-01-M

Grupo Financiero Popular, S.A.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 2, 1985.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Grupo Financiero Popular, S.A.*, Santo Domingo, Dominican Republic; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Dominican Bank, New York, New York.

Board of Governors of the Federal Reserve System, July 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-16866 Filed 7-15-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Saint Elizabeths Hospital and District of Columbia Mental Health Services Act; Delegation of Authority

Notice is hereby given that in furtherance of the delegation by the Secretary of Health and Human Services on May 13, 1985, to the Assistant Secretary for Health, the Acting Assistant Secretary for Health has delegated to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, with authority to redelegate, the authorities delegated to the Assistant Secretary for Health, under Pub. L. 98-621, 98 Stat. 3369, as amended, insofar as those authorities pertain to the functions assigned to the Alcohol, Drug Abuse, and Mental Health Administration. The following authorities were excluded from this delegation:

Section 4(f)(2)(A)—authority to initiate and complete certain repairs and renovations to the physical plant and facility support systems of the Saint Elizabeths Hospital.

Section 8(a)(1)—except as provided in section 8(a)(2), authority to transfer to the District, without compensation, certain real property at the Saint Elizabeths Hospital, together with buildings, improvements, and personal property, as identified pursuant to section 4(c)(7).

Section 8(c)—authority to transfer to the District, without compensation, the J.B. Johnson buildings and grounds.

Section 9(d)—subject to section 4(f)(2), authority for capital improvements to facilities at the Saint Elizabeths Hospital authorized during the service coordination period in accordance with Pub. L. 83-472.

The delegation to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, became effective on July 1, 1985.

Dated: July 1, 1985.

James O. Mason,

Acting Assistant Secretary for Health.

[FR Doc. 85-16836 Filed 7-15-85; 8:45 am]

BILLING CODE 4160-20-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary of Housing—Federal Housing Commissioner

[Docket No. N-85-1543]

Mortgage and Loan Insurance Programs under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistance Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of change in debenture interest rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act (the "Act"). The interest rate for debentures issued under section 221(g)(4) of the Act during the six-month period beginning July 1, 1985, is 10-1/8 percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the six-month period beginning July 1, 1985, is 11-1/8 percent.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Financial Policy Division, Room 9132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 426-4325 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6) and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice each year as a notice in the Federal Register.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the interest rate determined by the Secretary of the Treasury pursuant to a formula set out in the statute.

The Secretary of the Treasury: (1) Has determined, in accordance with the provisions of section 224, that the statutory maximum interest rate for the period beginning July 1, 1985, is 11-1/8 percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 11-1/8 percent of the six-month period beginning July 1, 1985. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the last six months of 1985.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since July 1, 1976:

	On or after	Prior to
Effective rate (percent):		
7	July 1, 1976	Jan. 1, 1977.
6¾	Jan. 1, 1977	July 1, 1977.
7¼	July 1, 1977	Jan. 1, 1978.
7½	Jan. 1, 1978	July 1, 1978.
7¾	July 1, 1978	Jan. 1, 1979.
8	Jan. 1, 1979	July 1, 1979.
8¼	July 1, 1979	Jan. 1, 1980.
9½	Jan. 1, 1980	July 1, 1980.
9¼	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅝	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11½	July 1, 1985	

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the "going Federal rate" in effect at the time the debentures are issued. The term "going Federal rate", as used in that paragraph, is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a formula set out in the statute, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to section 221(g)(4) during the six-month period beginning July 1, 1985, is 10-1/8 percent.

HUD expects to publish its next notice of change in debenture interest rates in January 1986.

The subject matter of this notice falls within the categorical exclusion from HUD's evnironmental clearance procedures set forth in 24 CFR 50.21(a)(15). For that reason, no environmental finding has been prepared for this notice.

(Secs. 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 17151, 1715o; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: July 3, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 85-16805 Filed 7-15-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6680-A2]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Paug-Vik Incorporated, Limited for approximately 3,657 acres. The lands involved are in the vicinity of Naknek.

Seward Meridian, Alaska

T. 17 S., R. 44 W. (Surveyed)
T. 14 S., R. 45 W. (Unsurveyed)
T. 17 S., R. 45 W. (Partially Surveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 15, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-16857 Filed 7-15-85; 8:45 am]

BILLING CODE 4310-JA-M

[M-59763]

Montana; Realty Action—Exchange

AGENCY: Bureau of Land Management—Lewistown District Office, Interior.

ACTION: Notice of realty action M-59763—Exchange of public and private lands, in Meagher and Teton Counties, Montana.

SUMMARY: This exchange will be between the United States of America and The Nature Conservancy. The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

incorporated in the patent document is available for review at this BLM Office.

3. All valid existing rights (e.g. rights-

Sec. 1, SW¼NW¼.
T. 27 N., R. 31 E.,
Sec. 4, SE¼SW¼.

and issue a final determination. In the absence of any action by the State

Dated: July 9, 1985.

required to render a minimum deposit of

Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian Montana

T. 8 N., R. 7 E.,
Sec. 20, W½NW¼NW¼;
Sec. 28, W½SW¼, and SE¼SW¼.
T. 8 N., R. 7 E.,
Sec. 20, E½NW¼NW¼, and NE¼SE¼.
T. 10 N., R. 11 E.,
Sec. 21, Lots 2, 4, 5, 9, 10, and 11;
Sec. 27, Lot 6;
Sec. 28, Lot 4.
T. 9 N., R. 9 E.,
Sec. 14, SW¼NE¼.
T. 9 N., R. 10 E.,
Sec. 17, NW¼SE¼.
Aggregating 321.49 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described land:

Principal Meridian Montana

T. 24 N., R. 8 W.,
Sec. 6, Lots 6, and 7, NW¼NE¼NE¼SW¼, and W½NE¼SW¼.
Aggregating 96.98 acres.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, at the address below. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document is available for review at this BLM Office.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

4. A $690.00 value equalization by cash payment will be paid by the United States of America to The Nature Conservancy.

5 The exchange must meet the requirements of 43 CFR 4110.4–2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with local officials. The public interest will be served by completion of this exchange as we are acquiring key grizzly bear habitat, essential gray wolf habitat, and wintering areas for deer and bighorn sheep.

Dated: July 9, 1985.
David E. Little,
Acting District Manager.
[FR Doc. 85–16859 Filed 7–15–85; 8:45 am]
BILLING CODE 4310–DN–M

[M–60998]

Montana; Realty Action—Exchange

AGENCY: Bureau of Land Management—Lewistown District Office, Interior.

ACTION: Notice of Realty Action M–60998—Exchange of Public and private lands, in Phillips and Blaine Counties, Montana.

SUMMARY: This exchange will be between the United States of America and Larry Matthews. The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian Montana

T. 29 N., R. 27 E.,
Sec. 8, W½NE¼.
T. 29 N., R. 30 E.,
Sec. 20, S½SW¼.
T. 30 N., R. 27 E.,
Sec. 26, SW¼;
Sec. 35, NW¼.
T. 32 N., R. 26 E.,
Sec. 3, S½NW¼.
T. 32 N., R. 27 E.,
Sec. 20, NE¼.
T. 37 N., R. 32 E.,
Sec. 7, E½E½;
Sec. 22, SW¼ and W½SE¼;
Sec. 27, W½NE¼.
T. 31 N., R. 27 E.,
Sec. 28, SW¼SE¼;
Sec. 33, NW¼NE¼.
T. 36 N., R. 24 E.,
Sec. 21, N½.
T. 27 N., R. 31 E.,
Sec. 18, Lots 1 and 2, W½NE¼, and E½NW¼.
T. 27 N., R. 30 E.,
Sec. 1, SW¼NW¼.
T. 27 N., R. 31 E.,
Sec. 4, SE¼SW¼.
T. 26 N., R. 28 E.,
Sec. 11, E½SE¼;
Sec. 12, S½.
T. 28 N., R. 29 E.,
Sec. 19, Lots 3 and 4, S½NE¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 20, W½SW¼.
T. 37 N., R. 32 E.,
Sec. 28, E½SE¼;
Sec. 29, SW¼.
T. 36 N., R. 32 E.,
Sec. 15, S½SW¼;
Sec. 22, S½NW¼, and SW¼.
T. 32 N., R. 29 E.,
Sec. 6, Lots 3, 4, 5, 6, and 7, SE¼NW¼, and E½SW¼.
T. 33 N., R. 28 E.,
Sec. 25, SE¼SE¼.
T. 35 N., R. 28 E.,
Sec. 14, S½NE¼, E½SW¼, and SE¼.
T. 26 N., R. 30 E.,
Sec. 4, Lots 3 and 4, and SE¼NW¼.
T. 37 N., R. 32 E.,
Sec. 27, SW¼ and W½SE¼.
T. 30 N., R. 28 E.,
Sec. 4, Lots 3 and4;
Sec. 5, Lots 1, 2, and 3, S½NE¼, and SE¼NW¼.
T. 31 N., R. 28 E.,
Sec. 32, Lot 4;
Sec. 33, Lot 1 and NW¼SW¼.
T. 29 N., R. 27 E.,
Sec. 12, E½, N½NW¼, S½N½SW¼, and S½SW¼.
Aggregating 5,279.55 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described land:

Principal Meridian Montana

T. 30 N., R. 32 E.,
Sec. 33, E½E½;
Sec. 34, NE¼SE¼;
Sec. 35, N½SW¼.
T. 29 N., R. 32 E.,
Sec. 2, S½NW¼ and SW¼;
Sec. 3, S½NE¼ and SE¼;
Sec. 8, E½E½;
Sec. 9, All;
Sec. 10, All;
Sec. 11, W½NW¼, NW¼SW¼ and S½S½;
Sec. 13, SW¼SW¼;
Sec. 14, All;
Sec. 15, E½NE¼, NW¼NE¼, NE¼NW¼ and E½SW¼;
Sec. 20, N½NE¼;
Sec. 21, N½, NE¼SW¼ and NW¼SE¼;
Sec. 22, NE¼NW¼ and S½N½;
Sec. 23, N½, N½SW¼ and NW¼SE¼;
Sec. 24, NW¼NW¼.
Aggregating 4,560 acres.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, at the address below. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. A reservation to the United States of all minerals in the lands being transferred out of Federal ownership. All minerals shall be reserved to the United States together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

3. All valid existing rights (e.g. rights-or-way, easements, and leases of record).

4. There will be a $700 value equalization by cash payment from Larry Matthews to the United States of America.

5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

6. The following right-of-way will be reserved to the United States of America—M–58703, Western Area Power Administration.

7. The exchange of these lands will be subject to all valid existing rights and reservations of record including the following rights-of-way: Public roads to Phillips County; Triangle Telephone M–2864, M–42511, M–39347; Big Flat Electric M–57527, M–1614.

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with local officials. The public interest will be served by completion of this exchange as we are acquiring wildlife values associated with riparian habitat and sagebrush and recreational uses of the land.

Dated: July 9, 1985.
David E. Little,
Acting District Manager.
[FR Doc. 85–16860 Filed 7–15–85; 8:45 am]
BILLING CODE 4310–DN–M

[OR 38477]

Realty Action; Direct Sale of Public Land in Crook County, OR

The following lands are suitable for sale under section 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719, at no less than the appraised fair market value.

Legal description	Acreage
T. 16 S., R. 16 E., Willamette Meridian:	
Sec. 13: Tract 37	.37
Sec. 24: Tract 38	15.52
Sec. 25: Tract 39	4.64
T. 16 S., R. 17 E., Willamette Meridian:	
Sec. 19: Tract 37	0.86
Total	21.39

The above described lands are hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statute.

These (isolated) parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another Federal agency. No significant resource values will be affected by this disposal. The sale is consistent with BLM's planning for the land involved and the public interest will be served by offering this land for sale.

The tracts were established as a result of a dependent resurvey conducted by BLM Prineville District Office. The survey revealed discrepancies between section corners used in surveying the Prineville Lake Acres Unit I subdivision, and the original established corners.

By selling the four tracts directly to the developer, Central Oregon Sun Country, Inc., the property would automatically be incorporated into each of the affected individual lots.

Direct sale procedures are being used since a competitive sale is not appropriate. The public interest would best be served by direct sale because the four tracts are included within lots which have been sold by the developer.

The parcel identified by Serial No. OR 38477 is being offered to Central Oregon Sun Country, Inc., using direct sale procedures authorized under 43 CFR 2711.3–3. The land will be sold at fair market value to Central Oregon Sun Country, Inc., without competitive bidding. The prospective purchaser is required to render a minimum deposit of 20% of the purchase price by October 1, 1985, and the balance within 180 days of the sale date.

Terms and Conditions of the Sale

The terms, conditions, and reservations applicable to the sale are as follows:

(1) All minerals in the lands will be reserved to the United States in accordance with section 209 of the Federal Land Policy and Management Act of 1976.

(2) Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

(3) The patent will be issued subject to all valid existing rights and reservations of record.

(4) The sale parcels will be subject to:

(a) The rights of prior permittees or lessees to use so much of the surface of said land as is required for oil and gas operations, without compensation to the patentee for damages resulting from proper oil and gas operations for the duration of oil and gas lease OR–22582, OR–024157, OR–36405 and any authorized extension of that lease. Section 29 of the Act of February 25, 1920, 41 Stat. 449, 30 U.S.C. 186 and the Act of March 4, 1933, 47 Stat. 1570, 30 U.S.C. 124.

Further information concerning the sale including the environmental analysis and land report, is available for review at the Prineville District Office.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Prineville District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional delegation will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. (In the absence of adverse comments this realty action will become a final determination of the Department of the Interior.)

Dated: July 3, 1985.
Gerald E. Magnuson,
District Manager.
[FR Doc. 85–16863 Filed 7–15–85; 8:45 am]
BILLING CODE 4310–33–M

[OR. 38277, 38796 thru 38803]

Realty Action; Modified Competitive Sale of Public Land in Wheeler and Gilliam Counties, OR

The following lands are suitable for sale under section 203 (and 209) of the Federal Land Policy and Management

Act of 1976, 43 U.S.C. 1713 (and 1719), at no less than the appraised market value.

the first Wednesday of each month,

during regular business hours (Monday-

SUMMARY: The purpose of the sale is to

VOL 50 ISS 136 JL 16 1985 UMI

Act of 1976, 43 U.S.C. 1713 (and 1719), at no less than the appraised market value.

Serial No. and parcel No.	Legal description	Acreage	Value	Minimum bid deposit	Bidding procedure
OR. 38277, Parcel No. 1.	T. 9 S., R. 23 E., Sec. 13: E½SE¼, Sec. 24: NE¼NE¼. T. 9 S., R. 24 E., Sec. 18: Lot 3	159.95	$11,000	30	Modified, competitive.
OR. 38796, Parcel No. 2.	T. 9 S., R. 24 E., Sec. 8: SE¼SE¼	40	3,000	30	Do.
OR. 38797, Parcel No. 3.	T. 9 S., R. 24 E., Sec. 17: NW¼NE¼	40	3,000	30	Do.
OR. 38798, Parcel No. 4.	T. 11 S., R. 24 E., Sec. 10: NW¼NW¼	40	4,000	30	Do.
OR. 38799, Parcel No. 5.	T. 12 S., R. 21 E., Sec. 10: SW¼NE¼	40	2,800	30	Do.
OR. 38800, Parcel No. 6.	T. 12 S., R. 21 E., Sec. 3: SE¼SE¼	40	2,800	30	Do.
OR. 38801, Parcel No. 7.	T. 6 S., R. 23 E., Sec. 12: NE¼NW¼	40	2,400	30	Do.
OR. 38802, Parcel No. 8.	T. 4 S., R. 22 E., Sec. 3: NE¼SE¼	40	3,000	30	Do.
OR. 38803, Parcel No. 9.	T. 5 S., R. 22 E., Sec. 34: SE¼NE¼	40	3,200	30	Do.

The above described lands are hereby segregated from appropriation under the public land laws, but not from sale under the above cited statute.

The sale will be held on September 18, 1985, at the Bureau of Land Management, Prineville District Office, 185 East 4th Street, Prineville, Oregon. These isolated parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another Federal agency. No significant resource values will be affected by this disposal. The sale is consistent with the BLM's planning for the land involved and the public interest will be served by offering this land for sale.

Sale brochures containing pertinent data on the land offered for sale are available upon request from the District Manager at the above address.

Bidder Qualifications

Bidders must be U.S. Citizens, 18 years of age or more; a state or state instrumentality authorized to hold property; or a corporation authorized to own real estate in the state in which the land is located.

Modified Bidding Procedures

Modified bidding procedures are being used to recognize the needs and historical use of the adjoining landowners. Preference to meet the high selling bid is authorized under 43 CFR 2711.3–2.

Each parcel is being offered for sale through modified competitive bidding and the following adjoining landowners have a preference right to meet the high bid:

No.	Serial No.	Parcel
Don Johnson, OR. 38277	1	
Don Johnson, OR. 38796	2	
Don Johnson, OR. 38797	3	
Fran Cherry, OR. 38798	4	
Cole Bros., Inc., OR. 38799	5	
Cole Bros., Inc., OR. 38800	6	
Brooks Resources Corp., OR. 38800	6	
Mr. R. L. Harrison, OR. 38801	7	
Mr. Peter O. Campbell, OR. 38801	7	
Campbell Livestock Co., OR. 38801	7	
J.S. Boyer Estate, OR. 38801	7	
Mr. Dobert Edwards, OR. 38802	8	
Ms. Nancy L. Hardie, et. al., OR. 38803	9	
Mr. Earl E. Hardie, OR. 38803	9	

Sale bidding will be limited to sealed bids and must be for at least the appraised fair market value. Sealed written bids, mailed or delivered, must be received by the Bureau of Land Management, at the aforementioned address prior to 10:00 a.m., Wednesday, September 18, 1985.

A separate written bid must be submitted for each parcel. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashier's check made payable to Department of the Interior—BLM, for not less than 30 percent of the amount of the bid. The sealed envelope must be marked in the lower left hand corner "Bid for Public Land Sale," Sale Parcel Number——, September 18, 1985.

Bids will be opened and publicly declared at the sale. If two or more envelopes containing valid high bids of the same amount are received, the tied high bidders will be notified through certified mail to submit supplemental sealed bids within 20 days.

The designated bidders will be notified through certified mail that they have 20 days to meet the high bid. Failure to meet the high bid within the 20 days following the sale shall constitute a waiver of their preference rights. The balance of the purchase price will be due within 180 days of the sale date. Failure to pay the balance will result in forfeiture of the bid deposit and the parcel will be offered to the second highest designated bidder. If there is no other designated bidder, the parcel will be reoffered.

If the designated bidders fail to submit a bid, the sale parcel will be awarded to the party submitting the high bid.

Terms and Conditions of the Sale

1. The mineral interests being offered for conveyance have no known mineral value. A bid will also constitute an application for conveyance of the mineral estate, (with the exception of the oil, gas and coal resources which will be reserved to the United States) in accordance with Section 209 of the Federal Land Policy and Management Act 43 U.S.C. 1719. All qualified bidders must include with their bid deposit a non-refundable $50.00 filing fee for the conveyance of the mineral estate. This filing fee will be reimbursed to unsuccessful bidders.

2. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

3. Patents will be issued subject to all valid existing rights and reservations of record.

4. The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale, if in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

5. The Sale parcels will be subject to the rights of prior permittees or lessees to use so much of the surface of said land as is required for oil and gas operations, without compensation to the patentee for damages resulting from proper oil and gas operations for the duration of oil and gas leases OR.26540, 37625, 25006 and 25010 on tracts No. 3, 5, 8 and 9 respectively and any authorized extension of that lease, Section 29 of the Act of February 25, 1920, 41 Stat. 449, 30 U.S.C. 186 and the Act of March 4, 1933, 47 Stat. 1750, 30 U.S.C. 124.

Unsold Parcels

If any of the parcels identified in the notice are not sold on September 18, 1985, the parcels will be offered to the public, using competitive sale procedures 43 CFR 2711.3–1, until sold or withdrawn from the market. Sealed bids will be solicited at the BLM, Prineville District Office, during regular business hours. All bids received will be opened

the first Wednesday of each month, beginning on October 2nd, 1985. To be considered, bids must be received by 10:00 a.m. on the day of the bid opening.

Comments

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Prineville District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional delegation will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. (In the absence of adverse comments this realty action will become a final determination of the Department of the Interior.) Interested parties should continue to check with the District Office to keep themselves advised of changes.

Dated: July 8, 1985.

Gerald E. Magnuson,

District Manager.

[FR Doc. 85–16882 Filed 7–15–85; 8:45 am]

BILLING CODE 4310–33–M

Intent To Prepare a Supplement to the Draft Western Oregon Program-Management of Competing Vegetation Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a Supplement to a Draft Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Bureau of Land Mangagement (BLM) in coordination with the U.S. Forest Service, Pacific Northwest Region, will prepare a Supplement to the BLM Draft Western Oregon Program Management of Competing Vegetation Environmental Impact Statement (EIS). The purpose of this supplement is to provide the decisionmaker with more refined information on the possible effects of managing competing vegetation, particularly herbcide use, on human health. The public is invited to submit comments on the scope of the study, including suggestions as to what factors ought to be considered in the supplement.

DATE: Comments should be submitted by August 16, 1985.

ADDRESS: Comments should be sent to: State Director (935) Bureau of Land Mangagement, 825 N.E. Multnomah St. (Box 2965), Portland, Oregon 97208. Comments from the public are available for inspection at the above address during regular business hours (Monday-Friday 7:30 a.m.–4:15 p.m.).

FOR FURTHER INFORMATION CONTACT: Gregg Simmons, (503) 231–6272.

SUPPLEMENTARY INFORMATION: Several U.S. District Court judges have ruled that, in their opinion, enough scientific uncertainity about herbicides and human health exists to require a worst-case analysis (40 CFR 1502.22) be prepared. An injunction halting application of herbicides has been ordered by the Court until preparation and public review of a worst-case analysis as required by the National Environmental Policy Act Implementing Regulations.

There will be no formal public scoping meetings conducted. The Environmental Protection Agency is invited to participate in the analysis.

The worst-case analysis, as part of the programmatic Environmental Impact Statement, will be used for ascertaining risks to human health from methods of managing competing vegetation.

Dated: July 10, 1985.

Paul M. Veletrick,

Acting Oregon State Director.

[FR Doc. 85–16841 Filed 7–15–85; 8:45 am]

BILLING CODE 4310–33–M

[U–52893]

Realty Action; Sale of Public Lands in Iron County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) public land described as NW¼NE¼NE¼SE¼, N½NW¼NE¼SE¼,SW¼NW¼NE¼SE¼, N½NW¼SE¼,N½SW¼NW¼SE¼, SW¼SW¼NW¼SE¼, and the NW¼SE¼NW¼SE¼ of Sec. 23, T. 33 S., R. 16 W., SLB&M., Utah containing 40 acres, is proposed for direct sale to Lehi Wood at the appraised fair market value of $3,200.00. It is further proposed that public land described as the NE¼NE¼NE¼SE¼, S½NE¼NE¼SE¼, SE¼NW¼SE¼, S½NE¼SE¼, SE¼SW¼NW¼SE¼, NE¼SE¼NW¼SE¼, NE¼SE¼NW¼SE¼, S½SE¼NW¼SE¼, and the S½SE¼ of sec. 23, T. 33 S., 16W., SLB&M, Utah, containing 120 acres, be sold by competitive bidding at not less than the appraised fair market value of $9,600.00. The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

DATES: Comments should be submitted to the address listed below by September 9, 1985. The sale will be held on September 24, 1985 at 10: a.m.

ADDRESS: Detailed information concerning the sale, including bidding procedures, is available at the Beaver River Resource Area Office, 444 South Main, Cedar City, Utah 84720 (801) 586–2458. The sale will be held at the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.

2. There is reserved to the United States, a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

3. Title transfer will be subject to valid existing rights including Oil and Gas Lease U–32832 and Railroad Right-of-Way Number SL–016921.

4. If the tracts of public land are not sold pursuant to this notice, they will remain available for sale without preference on a continuing basis until sold until withdrawn from the market.

Any comments or objection received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Dated: July 5, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85–16824 Filed 7–15–85; 8:45 am]

BILLING CODE 4310–DQ–M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 1608 and 2943, Blocks 60 and 59, respectively, South Pass Area.

offshore Louisiana. Proposed plans for the above area provide for the development and production of

the studies is required by the National Historic Landmarks Program

evaluation may be forwarded to the National Register, National Park

MISSISSIPPI

Harrison County

Upper Delaware National Scenic and Recreational River; Meeting

ACTION: Notice of intent to perpare an environmental impact statement for a

VOL
50
ISS
136
JL
16
1985
UMI

offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on July 8, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is availabe for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executive of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 9, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-16864 Filed 7-15-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Initation of National Historic Landmark Theme Studies—Science and Constitution History

AGENCY: National Park Service; Washington Office, Interior.

ACTION: Notice of National Historic Landmark Theme Studies—Sceince and Constitutional History.

SUMMARY: This notice announces the initiation of National Historic Landmark theme studies of the history of American science and constitutional history and solicits comments on them. The purpose of the studies is to identify nationally significant properites that illustrate and commemorate these subjects. Notice of the studies is required by the National Historic Landmarks Program regulations. The History Division of the National Park Service will conduct the studies.

DATE: To be fully considered, comments should be received by the History Division on or before December 1, 1985.

ADDRESS: Written comments should be addressed to the Chief Historian, History Division, National Park Service, P.O. Box 37127, Department of the Interior, Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Levy, Senior Historian, History Division, National Park Service, United States Department of the Interior, Washington, DC 20013-7127 (202-343-8164).

SUPPLEMENTARY INFORMATION: The science and invention theme study will survey a wide range of historic properties incuding public and private structures that have had a major impact on American science and invention. Examples of the types of historic resources to be examined include research facilities, laboratories, observatories, and other sites and buildings associated with this theme. Subjects to be studied may include, but are not limited to, astronomy, physics, chemistry, mathematics, geology, paleontology, and biology.

The constitutional history theme study will include a similarly wide range of historic properties, such as court buildings where significant cases were decided and the homes of jurists and litigants whose activities have been crucial in the evolution of the Constitution. The study will also consider sites that commemorate the ratification of the Constitution and the adoption of its Amendments.

The History Division welcomes comments concerning the theme studies and suggestions of properties to be included.

Dated: June 28, 1985.

Bennie C. Keel,

Acting Associate Director, Cultural Resources.

[FR Doc. 85-16802 Filed 7-15-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 6, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 31, 1985.

Carol D. Shull,

Chief of Registration, Notionol Register.

ARIZONA

Maricopa County

Tempe, *Ellingson Warehouse (Tempe MRA)*, 24 W. 7th St.

CALIFORNIA

Calaveras County

Angels Camp; *Calaveras County Bank*, 1239 Main St.

Los Angeles County

Pasadena, *Old Fellows Temple*, 175 N. Los Robles Ave.

GEORGIA

Banks County (Also in Hall County)

Gillsville, *Gillsville Historic District*, GA 52

Cherokee County

Ball Ground, *Roberts, Alfred W., House*, GA 372

Franklin County

Canon, *Canon Commercial Historic District*, Depot St. between Bond Ave. & Broad St.

Canon, *Historic Churches of Conon*, Broad St. at Canon Ave.

Hall County

Flowery Branch, *Flowery Branch Commercial Historic District*, Main St. & Railroad Ave.

Gainesville, *Jackson Building*, 112 Washington ST. NE

Lulu, *Lulu Residential Historic*, Cobb, Carter, Chattahoochee and Toombs Sts.

KENTUCKY

Bath County

Owingsville, *Owingsville Commercial District and Courthouse Square (Boundary Increase)*, 122 E. Main St.

Campbell County

Newport, *Mansion Hill Historic District (Boundary Increase)*, Roughly bounded by Washington Ave., Sixth, Saratoga and 3d Sts.

Scott County

Georgetown, *West Moin Street Historic District*, 217—600 W. Main St.

MAINE

Androscoggin County

Lewiston, *Cowan Mill*, Island Mill St.

MICHIGAN

Oakland County

Pontiac, *Eastern Michigan Asylum Historic District (Boundary Decrease)*, 140 Elizabeth Lake Rd.

MISSISSIPPI

Harrison County

Gulfport, *Harbor Square Historic District*, Roughly bounded by L & N Railroad, 23rd Ave., 13th St. and 27th Ave.

Pearl River County

Tiger Hammock Site 22 PR 594

MISSOURI

St. Louis (Independent City)

St. Louis, *Tiffany Neighborhood Historic District (Boundary Increase)*, West side 39th St. between Park and Lafayette Aves.

OKLAHOMA

Pontotoc County

Ada vicinity, *Bebee Field Round House*, Off OK 13

Seminole County

Seminole vicinity, *Sinclair Loading Rack*, US 270

Wewoka, *Brown, Silas L., House*, 107 S. Seminole

Wewoka, *Johnsan, J. Coody, Building*, 124 N. Wewoka St.

Wagoner County

Tullahassee, *Mason, A. J., Building*, Lincoln St.

TENNESSEE

Summer County

Gallatin, *Gallatin Commercial Historic District*, College, Franklin & E. Main Sts., Public Square & Water St.

VIRGINIA

Charles City County

Holdcroft vicinity, *Piney Grove*, VA 615

Isle of Wight County

Fort Boykin Archaeological Site (44IW20)

WISCONSIN

Oconto County

Oconto, *St. Mark's Episcopal Church, Guild Hall and Vicarage*, 408 Park Ave.

Rock County

Clinton, *Citizens Bank (Clinton MRA)*, Front & Allen Sts.

Clinton, *Clinton Village Hall (Clinton MRA)*, 301 Cross St.

Clinton, *Crosby Block (Clinton MRA)*, 102 Allen St.

Clinton, *DeLong, Homer B., House (Clinton MRA)*, 500 Milwaukee Rd.

Clinton, *Pangborn, J.L., House (Clinton MRA)*, 300 Allen St.

Clinton, *Smith, John, House (Clinton MRA)*, 312 Pleasant St.

Clinton, *Taylor, A.E., House (Clinton MRA)*, 318 Durand St.

[FR Doc. 85-16872 Filed 7-15-85; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: July 26, 1985, 7:00 p.m.

ADDRESS: Town of Tusten, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159, (717) 729-7135.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include items regarding continuance of discussion of requirements for a river management plan. The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C. Narrowsburg, N.Y. 12764-0159. Minutes of meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: July 8, 1985.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 85-16803 Filed 7-15-85; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River; Preparation of a River Management Plan and Draft Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to perpare an environmental impact statement for a proposed river management plan which has been prepared by the Conference of Upper Delaware Townships, in cooperation with the States of New York and Pennsylvania, the Delaware River Basin Commission, county governments and the National Park Service; and to request public comments.

SUMMARY: An environmental impact statement (EIS) is to be prepared for a proposed River Management Plan for the Upper Delaware National Scenic and Recreational River (UPDE), Mid-Atlantic Region, National Park Service. The proposed RMP/draft EIS will be released for a 90-day public comment period with two public hearings in each affected state.

FOR FURTHER INFORMATION CONTACT: Joseph DiBello, Project Leader, or J. Glenn Eugster, Chief, Division of Park and Resource Planning, Mid-Atlantic Regional Office, National Park Service, 600 Arch Street, Room 9428, Philadephia, PA 19106, (215) 597-7386.

SUPPLEMENTARY INFORMATION: The RMP/EIS will be prepared pursuant to the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500 et al.); the Wild and Scenic Rivers Act (Pub. L. 90-542 as amended), and the Upper Delaware Special Provisions of the Wild and Scenic Rivers Act, section 704(b); the Final Revised Guidelines for Eligibility, Classification and Management of River Areas (Federal Register Vol. 47, No. 173/Tuesday, September 7, 1982/Notices); and Department of the Interior and National Park Service guidelines.

The Upper Delaware River was one of twenty-seven rivers designated for study under the Wild and Scenic Rivers Act and included in the National Wild and Scenic Rivers System by the National Parks and Recreation Act of 1978 (Pub. L. 95-625). Special provisions specify that the RMP include (a) a map showing detailed final landward boundaries and upper and lower termini; (b) a program for management of existing and future land and water use including the application of available management techniques; (c) an analysis of the economic and environmental costs and benefits of implementing the RMP; (d) a program providing for coordinated implementation and administration of the plan; and (e) other such recommendations or provisions as appropriate.

A previous Draft EIS/RMP was completed in October 1982 (DES 82-64)

INTERSTATE COMMERCE COMMISSION

rights to Grand Trunk Western Railroad Company between Detroit and Ecorse,

atmosphere. All three of the complaints sought civil penalties against Conoco,

costs) payable to the Treasurer of the United States.

phencyclidine, expressed in grams of anhydrous base;

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A previous Draft EIS/RMP was completed in October 1982 (DES 82–64) and a Revised Draft River Management Plan was issued in October 1983. Considerable controversy upon release of the documents led to a decision by the National Park Service that a new RMP was needed for this project, to be prepared by the Conference of Upper Delaware Townships in cooperation with the riparian landowners, the State of New York, the Commonwealth of Pennsylvania, the Delaware River Basin Commission, county governments, NPS, and citizen's groups. Because of this, the 1983 RMP and the Draft EIS (DES 82–64) of October 1982 will be superceded by this planning effort.

A new draft EIS will be prepared by NPS. The draft EIS will address the proposed RMP as well as other reasonable alternatives developed through the scoping process described below. Alternatives in the draft EIS are likely to deal with river corridor resources, recreational use, public recreation facility development, and the overall management responsibilities for the river corridor.

This notice is intended to inform the public of the planning effort, and to solicit participation and input on the scope of issues and alternatives to be covered in the EIS. NPS invites participation and consultation by federal and state agencies, local governments, riparian landowners, individuals and private groups that have special expertise, legal jurisdiction, or interest in the preparation of the EIS. Meetings will be scheduled with the Council of Upper Delaware Townships, the Citizen Advisory Council, and others to discuss the scope of the issues and alternatives to be addressed in the draft EIS. The times and locations of these meetings will be announced in area newspapers. Notice will also be mailed to any person requesting to be placed on a mailing list currently being prepared (contact Joseph DiBello, (215) 597–7386). All members of the Conference of Upper Delaware Townships, Citizens Advisory Council, the Plan Oversight Committee and the Land and Water Use Guidelines Committees will automatically be placed on the mailing list.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 85–16801 Filed 7–15–85; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–125 (Sub-7X)]

Rail Carriers; Carolina and Northwestern Railway Co.—Abandonment Exemption at Belhaven, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempt from the requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Carolina and Northwestern Railway Company of approximately 0.03 miles of railroad at Belhaven, NC, subject to employee protective conditions.

DATES: This exemption will be effective on August 15, 1985. Petitions to stay must be filed by July 26, 1985, and petitions for reconsideration must be filed by August 5, 1985.

ADDRESSES: Send pleadings referring to Docket No. AB–125 (Sub-No. 7X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Nancy S. Fleischman, Norfolk Southern Corporation, 1050 Connecticut Avenue, NW, Suite 740, Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: July 8, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85–16876 Filed 7–15–85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30692]

Rail Carriers; Grand Trunk Western Railroad Co.; Trackage Rights; Consolidated Rail Corp.

Consolidated Rail Corporation has agreed to grant and to renew its prior grant of bridge ("overhead") trackage rights to Grand Trunk Western Railroad Company between Detroit and Ecorse, Michigan, on the one hand, and on the other, a point on the International Boundary line between the United States and Canada, at or near the middle of the Detroit River. The trackage rights became effective April 29, 1985.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: July 9, 1985.

By the Commission, Heber P. Hardy, Director Office of Proceedings.

James H. Bayne,

Secretary.

FR Doc. 85–16877 Filed 7–15–85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decrees Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that three proposed consent decrees with Conoco, Inc., Vista Chemical Company and Vista Polymers, Inc., were lodged in the respective United States District Courts. A proposed consent decree in *United States* v. *Conoco, Inc.*, Civil Action No. 83–1918 was lodged on July 9, 1985, with the United States District Court for the Western District of Oklahoma; a proposed Consent Decree in *United States* v. *Conoco, Inc.*, Civil Action No. 83–2518 was lodged on July 3, 1985, with the United States District Court for the Western District of Louisiana; and a third consent decree in *United States* v. *Conoco, Inc.*, Civil Action No. EC–37–LS–P was lodged on July 3, 1985, with the United States District Court for the Northern District of Mississippi. The three complaints filed by the United States alleged that Conoco, Inc., violated the National Emission Standard ("NESHAP") for Vinyl Chloride at its polyvinyl chloride plants in Aberdeen, Mississippi, and Oklahoma City, Oklahoma and its ethylene dichloride/vinyl chloride plant in Westlake, Louisiana. The complaints against the Louisiana and Mississippi facilities sought injunctive relief requiring Conoco, Vista Chemical Company and Vista Polymers, Inc., to comply with the NESHAP for Vinyl Chloride and to implement a program to prevent discharges of vinyl chloride to the atmosphere. All three of the complaints sought civil penalties against Conoco, Inc. for past violations. The proposed Consent Decrees require compliance with the NESHAP for Vinyl Chloride, Submission of a compliance plan, stipulated penalties, and civil penalties for past violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Conoco, Inc.*, with the applicable D.J. Reference No. 90–5–2–1–309 (N.D. Miss.); 90–5–2–1–622 (W.D. La.); and 90–5–2–1–614 (W.D. Okla.).

The proposed Consent Decree in *United States* v. *Conoco*, (W.D. Okla.) may be examined at the Office of United States Attorney, Room 4434, U.S. Courthouse and Federal Office Building, Oklahoma City, Oklahoma 73102. The proposed Consent Decree in *United States* v. *Conoco*, (W.D. La.) may be examined at the Office of the United States Attorney, Room 3B12, Federal Building, 500 Fannin Street, Shreveport, Louisiana 71101. Both of these proposed Consent Decrees may also be examined at the Region VI Office of the Environmental Protection Agency, Office of Regional Counsel, interfirst Two Building, 1201 Elm Street, Dallas, Texas 75270. The proposed consent decree in *United States* v. *Conoco*, (N.D. Miss.) may be examined at the Office of United States Attorney, Room 255, Federal Building, 911 West Jackson Avenue, Oxford, Mississippi 38655, and at the Region IV Office of the Environmental Protection Agency, Office of Regional Counsel, 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the three Consent Decrees may be examined at the Department of Justice, Land and Natural Resources Division, Environmental Enforcement Section, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of each proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.30 for the Western District of Oklahoma Decree; $1.60 for the Western District of Louisisna; and $1.80 for the Northern District of Mississippi Decree (ten cents per page reproduction costs) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

FR Doc. 85–16856 Filed 7–15–85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Controlled Substances; Proposed Revised 1985 Aggregate Production Quota for Phencyclidine

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of a proposed revised 1985 aggregate production quota for phencyclidine.

SUMMARY: This notice proposes a revision in the aggregate production quota for phencyclidine, a Schedule II controlled substance, which will be used to produce a diagnostic product for drug screening.

DATE: Comments or objections should be received on or before August 15, 1985.

ADDRESS: Send comments or objections in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537, Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

Recently, an application for a manufacturing quota for phencyclidine was received by the Drug Enforcement Administration. The amount of substance requested is to be used to produce a diagnostic product for use in drug screening.

The Acting Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Acting Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes the following change in the aggregate production quota for phencyclidine, expressed in grams of anhydrous base:

Basic class	Previously established 1985 aggregate production quota	Proposed revised 1985 aggregate production quota
Phencyclidine	100	120

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by August 15, 1985. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Acting Administrator finds warrant a hearing, the Acting Administrator shall order a public hearing by a notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Pursuant to sections (3)(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantly upon major manfuacturers of the affected controlled substances.

Dated: June 17, 1985.

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85–16838 Filed 7–15–85; 8:45 am]

BILLING CODE 4410-09-M

Controlled Substances; Proposed 1985 Aggregate Production Quota for 1-Piperidinocyclohexanecarbonitrile

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of a proposed 1985 aggregate production quota.

Representative, and must be received by August 15, 1985. If a person believes that any particular revision they are interested in.

Signed at Washington, D.C., this 11th day of July 1985.

the Assistant Secretary for Veterans' Employment and Training

Special Solicitation for Grant

ACTION: Notice of a proposed 1985 aggregate production quota.

SUMMARY: This notice proposes a 1985 aggregate production quota for 1-piperidinocyclohexanecarbonitrile, a Schedule II controlled substance and an immediate precursor to phencyclidine.

DATE: Comments or objections should be received on or before August 15, 1985.

ADDRESS: Send comments or objections in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537, Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations.

Recently, application has been made for a manufacturing quota for 1-piperidinocyclohexanecarbonitrile, a Schedule II substance. This substance is to be manufactured for use as a precursor in the synthesis of phencyclidine.

The Acting Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Acting Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes the 1985 aggregate production quota for 1-piperidinocyclohexanecarbonitrile, expressed in grams of anhydrous base.

Basic class	Proposed 1985 aggregate production quota (grams)
1-piperidinocyclohexanecarbonitrile	32

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Acting Admininstrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative, and must be received by August 15, 1985. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Acting Administrator finds warrant a hearing, the Acting Administrator shall order a public hearing by a notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Pursuant to sections (3)(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Ofice of Management and Budget has been consulted with respect to these proceedings.

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regultory Flexibility Act, 5 U.S.C. 601, et seq. The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Dated: June 17, 1985.

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85–16839 Filed 7–15–85; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

REVISION

Bureau of Labor Statistics

Employee Benefits Survey

1220–0064; BLS 3111

Annually

Businesses or other for-profit; Non-profit institutions

1,500 responses; 2,250 hours; 1 form

The Employee Benefits Survey is the only statistically valid source of information on detailed provisions of employee benefits. It is used to determine policy affecting benefits of all workers; also by private sector in benefits administration, union negotiations, and research.

Signed at Washington, D.C., this 11th day of July 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85–16873 Filed 7–15–85; 8:45 am]

BILLING CODE 4510–24–M

[Secretary of Labor's Order 2–85]

Delegation of Authority and Assignment of Responsibility to the Assistant Secretary for Employment and Training for the Job Training Partnership Act

June 18, 1985.

1. Purpose

This Order amplifies the delegation of authority vested in the Secretary of Labor to the Assistant Secretary for Employment and Training for organizing and conducting programs under the Job Training Partnership Act (Pub. L. 97–300) and assigns commensurate responsibilities to other officials in the Department.

2. Directives Affected

Section 4a. of Secretary's Order (S.O.) 4–75, which remains in effect and is amplified and supplemented by this Order, is the general delegation and assignment of responsibility to the Assistant Secretary for Employment and Training for carrying out the employment and training policies, programs, and activities of the Secretary of Labor. S.O. 4–75 will be updated to reflect the provisions of this Order.

3. Background

This Order consolidates into one Order authority and responsibilities under the Job Training Partnership Act. Except as provided herein, general authority and responsibilities for programs under the Job Training Partnership Act are delegated and assigned to the Assistant Secretary for Employment and Training.

4. Delegation of Authority and Assignment of Responsibilities

a. *The Assistant Secretary for Employment and Training* is hereby delegated authority and assigned responsibility, vested in the Secretary of Labor, for carrying out the policies, programs, and activities under the Job Training Partnership Act, except:

(1) Section 436(b) (29 U.S.C. 1706(b)), relating to claims for damages to persons resulting from the operation of the Job Corps, which is the responsibility of the Solicitor of Labor.

(2) Part C of Title IV (29 U.S.C. 1721 et seq.), relating to veterans' employment programs, which is the responsibility of the Assistant Secretary for Veterans' Employment and Training.

(3) Sections 461 and 462 (20 U.S.C. 1751 and 1752), relating to the comprehensive system of labor market information and the cooperative labor market information program, respectively, to the extent that those duties are delegated to the Commissioner of Labor Statistics.

(4) Sections 463 and 464 (U.S.C. 1753 and 1754), relating to special Federal responsibilities and to duties of the National Occupational Information Coordinating Committee, respectively, (however the Assistant Secretary for Employment and Training retains authority as a member of the National Occupational Information Coordinating Committee, pursuant to the Vocational Education Act of 1963 (20 U.S.C. 2391), as amended by the Carl D. Perkins Vocational Education Act of 1984.

(5) Part F of Title IV (29 U.S.C. 1771 et seq.), relating to the National Commission for Employment Policy.

(8) Part G of Title IV (29 U.S.C. 1781), relating to training programs to assist Federal contractors in meeting affirmative action obligations, which is the responsibility of the Deputy Under Secretary for Employment Standards.

(7) Section 167 (29 U.S.C. 1577), relating to enforcement of equal opportunity and nondiscrimination requirements in programs and activities undertaken pursuant to the Job Training Partnership Act, which is the responsibility of the Assistant Secretary for Administration and Management working through the Director, Office of Civil Rights, as delegated in Secretary's Order 2–81 and provided for at 20 CFR (626.2).

(8) The adjudicatory authority contained in section 166 (29 U.S.C. 1576) is reserved to the Secretary.

b. *The Solicitor of Labor,* in addition to 4a.(1) above, shall have responsibility for providing legal advice and assistance to all officers of the Department relating to the delegation of authority and assignment of responsibilities referenced, and applicable laws, Executive orders, and regulations pertaining thereto.

5. Redelegation of Authority

The authority delegated and responsibilities herein assigned may be further redelegated and reassigned.

6. Effective Date

This Order is effective immediately.

William E. Block,

Secretary of Labor.

[FR Doc. 85–16870 Filed 7–15–85; 8:45 am]

BILLING CODE 4510–23–M

Special Solicitation for Grant Application; Job Training Partnership Act, Title IV, Part C, Program Year 1985

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training, Labor.

ACTION: Notice.

SUMMARY: This notice sets forth the procedures and schedule for the special Solicitation for Grant Application (SGA) for the operation of veterans' employment and training programs in the State of Alaska in accordance with Title IV, Part C of the Job Training Partnership Act (JTPA). The regulations at 20 CFR Part 635 provide guidance for the development and administration of programs authorized under this part.

DATE: The SGA is available for issuance as of the date of this notice.

The closing date for receipt of grant applications in response to the SGA is August 16, 1985.

ADDRESS: A copy of the SGA may be obtained by written request only, including two self-addressed mail labels, to the following address: U.S. Department of Labor, Office of Procurement Service, Frances Perkins Building, Room S–5526, 200 Constitution Avenue NW., Washington, D.C. 20210, RE. SGA-VI-C.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Juarez, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue NW., Room S1316, Washington, D.C. 20210, Telephone (202) 523–9110, or the State Director for Veterans' Employment and Training Service.

SUPPLEMENTARY INFORMATION: On March 1, 1985, the Office of the Assistant Secretary for Veterans' Employment and Training, U.S. Department of Labor, issued SGA #4 for the Job Training Partnership Act Title IV, Part C, Program Year 1985. This part provides for programs to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service. Notice of the issuance was published in the **Federal Register** on March 12, 1985.

The March 1, 1985 SGA limited eligible applicants to (1) State Governors utilizing the JTPA administrative entity in each State and (2) service delivery area administrative entities as described in section 101 and 103 of JTPA including single statewide service delivery areas. The SGA also stated that if in any State no eligible

applicant applied for funds, the

Dated: July 9, 1985.

Program: This meeting will review

16. Date: August 15, 1985.

VOL 50 ISS 136 JL 16 1985 UMI

applicant applied for funds, the difinition of eligible applicant would be broadened in those states and a special solicitation would be issued to provide service to targeted veterans in those states.

On May 10, 1985, a notice was published in the **Federal Register** soliciting applications in five states in which no eligible applicant applied for funds. A June 21, 1985 due date for applications was established. In response to that notice, applications were received from of the five States. No application was received from the state of Alaska.

Accordingly, the Assistant Secretary for Veterans' Employment and Training announces the availability of funds to implement programs as follows:

State	Amount available
Alaska	$55,000

Applications for funds based on the SGA will be accepted from public agencies; community-based organizations; units of local and State government; Indian tribes, bands, or groups on Federal or State reservations; Alaskan Native entities; educational institutions; and private for profit and nonprofit organizations. Each applicant, as of the date of this notice and at the time of application, must be geographically located in the State of Alaska. Further, each applicant must demonstrate that it possesses the requisite understanding and capabilities to conduct an effective program for targeted veterans.

Applications for funds must be received by the State Director for Veterans' Employment and Training Service (SDVETS) not later than 4:30 p.m., at the SDVETS' address cited below on August 16, 1985: SDVETS Burton Finley, Veterans' Employment and Training Service, U.S. Department of Labor, P.O. Box 3–7000, Juneau, Alaska 99802, (907) 465–2723.

It is anticipated that grant awards will be made by November 30, 1985.

Consultation and technical assistance relative to the development of an application under the SGA is available upon request from the State Director for Veterans' Employment and Training.

Signed at Washington, D.C., this 10th day of July 1985.

Donald E. Shasteen,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 85–16871 Filed 7–15–85; 8:45 am]

BILLING CODE 4510-79-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period July 1, 1985–July 5, 1985.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–15,924; Tennford Weaving Co., Wartburg, TN

TA–W–15,880; Avondale Mills, Lafayette, AL

TA–W–15,870; Thomaston Mills, Griffin Div., Griffin, GA

TA–W–15,871; Thomaston Mills, Thomaston, GA

TA–W–15,874; Century Brass Products, Inc., Waterbury, CT

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–15,798; Hoffmann-LaRoche, Inc., Nutley, NJ

Aggregate U.S. imports of pharmaceuticals and vitamins are negligible.

TA–W–15,799; Hoffmann-La Roche, Inc., Belvedere, NJ

Aggregate U.S. imports of pharmaceuticals and vitamins are negligible.

Affirmative Determinations

TA–W–15,930; Arno Moccasin, Lewiston, ME

A certification was issued covering all workers of the firm separated on or after May 1, 1984 and before April 15, 1985.

TA–W–15,923; Stride Rite, Presque Isle, ME

A certification was issued covering all workers of the firm separated on or after April 5, 1984 and before September 1, 1984.

TA–W–15,894; General Electric, Cathode Roy Tube, Syracuse, NY

A certification was issued covering all workers of the firm separated on or after March 25, 1984.

TA–W–15,888; Snappy Garment, East Newark, NJ

A certification was issued covering all workers of the firm separated on or after March 6, 1984 and before December 19, 1984.

TA–W–15,873; Albion Cooperative, Albion, NY

A certification was issued covering all workers of the firm separated on or after August 15, 1984 and before February 24, 1985.

TA–W–15,875; Cotter Corporation, Uranium Mill, Canon City, CO

A certification was issued covering all workers of the firm separated on or after February 21, 1984.

TA–W–15,879; Cotter Corporation Schwartz Walder Mine, Golden, CO

A certification was issued covering all workers of the firm separated on or after February 21, 1984.

TA–W–15,805; SKF Industries, Inc., Altoona, PA

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–15,802; Jumping-Jacks Shoes, Inc., Monett #2, Monett, MO

A certification was issued covering all workers of the firm separated on or after June 15, 1984 and before June 19, 1985.

TA–W–15,817; Margaret Fashions, Act II Div. of Jonathan Logan, Inc., Panama City, FL

A certification was issued covering all workers of the firm separated on or after January 1, 1985 and before April 30, 1985.

I hereby certify that the aforementioned determinations were issued during the period July 1, 1985–July 5, 1985. Copies these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Streets, NW., Washington, D.C. during normal business hours or will be mailed to persons who write to the above address.

Dated: July 9, 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85–16869 Filed 7–15–85; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

1. Date: August 1, 1985.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted for the "Constitutional Fellowship (Independent Study & Research)" program, for projects beginning after January 1, 1986.

2. Date: August 2, 1985.
Time: 9:00 a.m. to 5:00 p.m.
Room: 316–2.
Program: This meeting will review applications submitted for the "Constitutional Fellowship (College Teachers)" program, for projects beginning after January 1, 1986.

3. Date: August 1–2, 1985.
Time: 8:30 a.m. to 5:00 p.m.
Room: M–14.
Program: This meeting will review applications submitted for the "Humanities Instruction in Elementary and Secondary Schools" programs, for projects beginning after January 1, 1986.

4. Date: August 5–6, 1985.
Time: 8:30 a.m. to 5:00 p.m.
Room: M–14
Program: This meeting will review applications submitted for the "Humanities Instruction in Elementary and Secondary Schools" programs, for projects beginning after January 1, 1986.

5. Date: August 2, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

6. Date: August 4, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

7. Date: August 5, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers applications in Art and Music, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

8. Date: August 5, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in Music, Dance, and Theatre, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

9. Date: August 6, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in American Literature and American studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

10. Date: August 7, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

11. Date: August 11, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers applications in Foreign Languages and Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

12. Date: August 12, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in American History I and History of Education, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

13. Date: August 13, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers applications in American History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

14. Date: August 13, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in American History II and Film History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

15. Date: August 14, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

16. Date: August 15, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers applications in Political Science, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

17. Date: August 15, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in Social Sciences, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

18. Date: August 16, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in Romance and Classical Languages and Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

19. Date: August 18, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers applications in World History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

20. Date: August 19, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in Latin American and Non-Western History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

21. Date: August 20, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

22. Date: August 20, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

23. Date: August 21, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for Independent Study and Research applications in Germanic, Oriental, and Slavic Languages and Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.

24. Date: August 22, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.

Program: This meeting will review Fellowships for Independent Study and Research applications in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.
25. Date: August 23, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.

Program: This meeting will review Fellowships for Independent Study and Research applications in Political Sciences and Related Areas, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.
26. Date: August 25, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.

Program: This meeting will review Fellowships for College Teachers applications in American Literature and Studies, Film, TV, and Theater, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.
27. Date: August 26, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.

Program: This meeting will review Fellowships for College Teachers applications in British Literature; Literary Criticism; Composition and Rhetoric, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.
28. Date: August 26, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.

Program: This meeting will review Fellowships for Independent Study and Research applications in Composition Literature; Literature Criticism and Theory; and Linguistics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.
29. Date: August 28, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.

Program: This meeting will review Fellowships for College Teachers applications In Anthropology, Sociology, Education, and Psychology, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1986.
30. Date: August 1–2, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 430.

Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations program, Division of General Programs, for projects beginning after January 1, 1986.
31. Date: August 12–13, 1985.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.

Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations program, Division of General Programs, for projects beginning after January 1, 1986.
32. Date: August 1–2, 1985.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.

Program: This meeting will review applications submitted for the Youth Projects Program, Division of General Programs, for projects beginning after January 1, 1986.
33. Date: August 5–6, 1985.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.

Program: This meeting will review applications submitted for the Youth Projects Program, Division of General Programs, for projects beginning after January 1, 1986.
34. Date: August 5–6, 1985.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.

Program: This meeting will review Challenge Grants applications from Large Colleges, for projects beginning December 1, 1985.
35. Date: August 12–13, 1985.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.

Program: This meeting will review Challenge Grants applications from MA/PhD. Universities, for projects beginning after December 1, 1985.
36. Date: August 15–16, 1985.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.

Program: This meeting will review Challenge Grants applications from Large Museums, for projects beginning December 1, 1985.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 85–16882 Filed 7–15–85; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on July 31, 1985, Room 1046, at 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, July 31, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will: continue the review of the proposed revision to Appendix K of 10 CFR 50.46; discuss implementation of the GE Appendix K analysis effort; discuss RCP trip issue resolution; and discuss NRR's ECCS-related issues of ongoing concern.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 10, 1985.
Morton W. Libarkin,
Assistant Executive Director for Project Review.

[FR Doc. 85–16887 Filed 7–15–85; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Class 9 Accidents; Meeting

The ACRS Subcommittee on Class 9 Accidents will hold a meeting on August 1, 1985, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, August 1, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will continue its discussion of the draft NUREG–0956, "Source Term Reassessment" with the NRC Staff.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 10, 1985.
Morton W. Libarkin,
Assistant Executive Director for Project Review.

[FR Doc. 85–16888 Filed 7–15–85; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Class 9 Accidents; Meeting

The ACRS Subcommittee on Class 9 Accidents will hold a meeting on August 2, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to the public attendance.

The agenda for the subject meeting shall be as follows:

Friday, August 2, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will discuss with the NRC and IDCOR the status of programs related to extending the results of the reference plants and how this relates to the ACRS recommended search for outliers program.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 10, 1985.
Morton W. Libarkin,
Assistant Executive Director for Project Review.

[FR Doc. 85–16889 Filed 7–15–85; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–261]

Carolina Power and Light Co., (H. B. Robinson Steam Electric Plant Unit No. 2); Order Modifying License Confirming Additional Licensee Commitments on Emergency Response Capability

I

Carolina Power and Light Company (CP&L), (the licensee) is the holder of Facility Operating License No. DPR–23 which authorizes the operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) at steady-state power levels not in excess of 2300 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Darlington County, South Carolina.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter operating reactor licensees

and holders of construction permits were requested to furnish the following

The attached Table summarizing CP&L's schedular commitments for the

submittals noted in section IV herein no later than the dates in the Attachment.

of 10 CFR Part 50, Appendix R, Section III.G, fire protection of the equipment

defined in 10 CFR Part 20. It does not affect nonradiological plant effluents

II

and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phase implemenatation and integration of emergency response activities including training.

III

CP&L responded to Generic Letter 82–33 by letter dated April 15, 1983. By letter dated August 24, 1983, CP&L modified several dates as a result of negotiations with the NRC staff. CP&L made commitments to supply schedules and plans (items (1) and (2) of Section II above) by December 1984. On February 21, 1984, the NRC issued "Order Confirming Licensee's Commitments on Emergency Response Capability" which confirmed CP&L's Commitments. By letter dated December 31, 1984, CP&L made commitments to complete the basic requirements. CP&L commitments include (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements.

IV

The February 21, 1984, Order stated that for those requirements for which CP&L committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the February 21, 1984 Order, as implemented by CP&L letter dated December 31, 1984, CP&L provided completion schedules for the following requirements:

1. Safety Parameter Display System (SPDS).

1b. SPDS fully operational and operators trained.

2. Detailed Control Room Design Review (DCRDR).

2b. Submit a summary report to the NRC including a proposed schedule for implementation.

3. Regulatory Guide 1.97 Application to Emergency Response Facility.

3b. Implement (installation or upgrade) requirements.

5. Emergency Response Facilities.

5a. Technical Support Center fully functional.

5b. Operational Support Center fully functional.

5c. Emergency Operations Facility fully functional.

The attached Table summarizing CP&L's schedular commitments for the above items was developed by the NRC staff from the information provided by CP&L. The staff reviewed CP&L's August 24, 1984 and December 31, 1984 letters and discussed the dates with the licensee.

The NRC staff finds that these dates are reasonable and achievable dates for meeting the Commission requirements. the NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of CP&L's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

V

Accordingly, pursuant to sections 103, 161i, 161p and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, effectively immediately, that license DPR–20 is modified to provide that the licensee shall:

Implement the specific items described in the Attachment to this order in the manner described in CP&L's submittals noted in section IV herein no later than the dates in the Attachment.

Extension of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

The licensee or any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section V of this Order.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated in Bethesda, Maryland, this 9th day of July, 1985.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

LICENSEE'S ADDITIONAL COMMENTS ON SUPPLEMENT 1 TO NUREG–0737

LICENSEE'S ADDITIONAL COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirements	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS).	1b. SPDS fully operational and operators trained.	Scheduled to be fully operational 12 months after RO #10.
2. Detailed Control Room Design Review (DCRDR).	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Summary report and proposed implementation schedule—scheduled for 6 months after RO #10.
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3b. Implement (installation or upgrade) requirements.	Full compliance to RG 1.97 scheduled from 3 months after RO #11.
4. Upgrade Emergency Operating Procedures (EOPs).	4a. Submit a Procedures Generation Package to the NRC.	Complete.
	4b. Implement the upgraded EOPs	Complete.
5. Emergency Response Facilities	5a. Technical Support Center fully functional.	Fully functional scheduled for 12 months after RO #10.
	5b. Operational Support Center fully functional.	Complete.
	5c. Emergency Operations Facility fully functional.	Fully functional schedule for 12 months after RO #10.

[FR Doc. 85–16885 Filed 7–15–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.48(c) to the Florida Power Corporation (the licensee) for the Crystal River Unit No. 3 Nuclear Generating Plant (CR–3) located in Citrus County, Florida.

Environmental Assessment

Identification of Proposed Action: The exemption would grant the licensee a schedular deferment from the provisions of 10 CFR Part 50, Appendix R, Section III.G, fire protection of the equipment used for safe shutdown capability, from the end of Refuel V (July 1985) to the first quarter of 1986 (March 31, 1986) for CR–3. The exemption is responsive to the licensee's application for exemption dated October 5, 1984, as superseded March 1, 1985..

The Need for the Proposed Action: 10 CFR Part 50, Appendix R, Section III, identifies specific fire protection required to be provided by a licensee authorized to operate a nuclear power reactor. 10 CFR 50.48(c) identifies the schedules for the completion of fire protection modifications for which a plant shutdown is required. The deadline for those modifications at CR–3 requiring plant shutdown was startup following the refueling outage scheduled to commence in the Spring of 1985.

In a submittal dated October 5, 1984, as superseded March 1, 1985, the licensee requested that the implementation schedules for the proposed fire protection modification in certain areas at CR–3 requiring plant shutdown for installation, be extended to the first quarter of 1986 (March 31, 1986).

The magnitude of the program associated with the fire protection modifications and with an equipment qualification program and other improvement programs with which the fire protection work must interface does not allow the present schedule requirements to be met. As an alternative to implementation of the required modifications before startup following the refueling outage discussed above, the licensee has proposed interim compensatory fire protection measures to be instituted until the modifications have been completed. These measures are being evaluated by the Commission's staff.

Environmental Impacts of the Proposed Action: By using reasonable interim compensatory measures, the proposed exemption will provide a degree of fire protection such that there is no significant increase in the risk of fire at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources: This action does not involve the use of resources not considered previously in connection with the Final Environmental Statement (construction and operating license) for the Crystal River Unit No 3. Nuclear Generating Plant.

Agencies and Persons Consulted: The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated October 5, 1984, as superseded March 1, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 3rd day of July 1985.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 85–16886 Filed 7–15–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–29]

Yankee Atomic Electric Co., (Yankee Nuclear Power Station); Order Modifying License Confirming Additional Licensee Commitments on Emergency Response Capability

I

Yankee Atomic Electric Company (YAEC) (the licensee) is the holder of Facility Operating License No. DPR–3 which authorizes the operation of the Yankee Nuclear Power Station (the facility) at steady-state power levels not in excess of 600 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Franklin County, Massachusetts.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

YAEC responded to Generic Letter 82–33 by letter dated April 19, 1983. By letters dated August 1, September 1, October 21, December 16, 1983, March 28 and April 3, 1984, YAEC modified some of the dates as a result of schedular changes. In these submittals, YAEC made commitments to complete the basic requirements. YAEC commitments included (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. The staff found that these dates were reasonable and

achievable dates for meeting the Commission requirements and

noted in section IV herein no later than the date in the Attachment.

Hearing Shall not stay the Immediate Effectiveness of this Order.

Commission's Public Document Room, 1717 H Street, NW., Washington, DC

U.S. Office of Personnel Management.
Loretta Cornelius

(202) 254–8326. This notice is issued in Washington, DC on July 10, 1985.

achievable dates for meeting the Commission requirements and concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On June 12, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed YAEC's Commitments. By letter dated January 7, 1985, YAEC requested that the completion date for submission of the Detailed Control Room Design Review Summary Report (Item 2b. of the table attached to the June 12, 1984, Order) be extended. By letter dated January 11, 1985, the NRC granted this extension.

IV

The June 12, 1984, Order stated that for those requirements for which YAEC committed to a schedule for providing implementation dates, those dates woud be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the June 12, 1984 Order, as modified by NRC letter dated August 23, 1984, YAEC's letters dated July 27, 1984 provided a completion schedule for the following requirement:

4. Upgrade Emergency Operating Procedurs (EOPs) 4b. Implement the upgraded EOPs.

The attached Table summarizing YAEC's schedular commitment for the above item was developed by the NRC staff from the information provided by YAEC. The staff reviewed YAEC's July 27, 1984 letter and discussed the date with the licensee.

The NRC staff finds that this date is a reasonable and achievable date for meeting the Commission requirement. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of YAEC commitment is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

V

Accordingly, pursuant to sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, effective immediately, That license DPR–3 is modified to provide that the licensee shall:

Implement the specific item described in the Attachment to this order in the manner described in YAEC's submittals noted in section IV herein no later than the date in the Attachment.

Extension of time from completing this item may be granted by the Director, Division of Licensing, for good cause shown.

The licensee or any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same address. A Request for Hearing Shall not stay the Immediate Effectiveness of this Order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section V of this Order.

This Order is effective upon issuance.

Dated in Bethesda, Maryland this, 5th day of July 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

YANKEE NUCLEAR POWER STATION LICENSEE'S ADDITIONAL COMMITMENT ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirements	Licensee's completion schedule (or status)
4. Upgrade Emergency Operating Procedures (EOPs).	4b. Implement the upgraded EPOs.....	Prior to startup for Cycle 19 operation.

[FR Doc. 85–16884 Filed 7–15–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–285]

Omaha Public Power District; Granting of Exemption From Appendix R to 10 CFR Part 50; Fire Protection Program

The U.S. Nuclear Regulatory Commission (the Commission) has granted an Exemption from certain requirements of Appendix R to 10 CFR Part 50 to Omaha Public Power Company (the licensee). The Exemption relates to the fire protection program for the Fort Calhoun Station, Unit No. 1 (the facility) located in Washington County, Nebraska. The Exemption is effective as of July 3, 1985.

The Exemption waives certain requirements of Subsection III.G of Appendix R to 10 CFR Part 50 as follows: Certain cables in containment beneath the pressurizer need not have 20-foot separation and other cables in containment having at least 20-foot separation may have some intervening combustibles between them. An area-wide automatic fire suppression system will not be required for the intake structure and fire detectors around the pull boxes near the intake structures will not be required. Regarding the air compressor room, cables and components of redundant shutdown divisions need not be separated by a continuous 1-hour fire-rated barrier. A complete fixed fire suppression system will not be required in the electrical penetration room. In regard to the switchgear room, redundant shutdown divisions need not be separated by a complete 3-hour fire-rated barrier.

Lastly, an area-wide fixed fire suppression system will not be required for the control room. The Exemption is granted mainly on the basis that the existing fire protection, coupled with proposed modifications at Fort Calhoun, is the most practical method for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability. Details are provided in the Exemption.

The requests for the Exemption comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations which are set forth in the Exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the Exemption will have no significant impact on the environment (50 FR 20156).

For further details with respect to this action, see (1) the applications for exemptions dated August 30, 1983, December 3, 1984, and January 9 and March 8, 1985, (2) the Commission's letter dated and (3) the Exemption dated July 3, 1985. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this July 3, 1985.

For the Nuclear Regulatory Commission.

Edward J. Butcher,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85–16822 Filed 7–15–85; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Information Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed information collection, SF 2809, "Health Benefits Registration Form."

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S.C., Chapter 35), this notice announces a proposed form that collects information from the public. SF 2809, "Health Benefits Registration Form," will be used by former spouses of employees who elect to enroll in the Federal Employees Health Benefits (FEHB) Program, under the authority of the Spouse Equity Act of 1984 (Pub. L. 98–615). This form will be used by former spouses that are eligible for the FEHB Program so they can enroll or change enrollment. For copies of this proposal call John P. Weld, Agency Clearance Officer, on (202) 632–7720.

ADDRESSES: Send or deliver comments within 10 working days from the date of publication to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW, Room 6410, Washington, D.C. 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW., Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632–5472).

U.S. Office of Personnel Management.

Loretta Cornelius

Acting Director.

[FR Doc. 85–16804 Filed 7–15–85; 8:45 am]

BILLING CODE 6325–01–M

PEACE CORPS

Agency Information Collection Activities Under OMB Revew; Submission of Public Use Form

AGENCY: Peace Corps.

ACTION: Notice of Submission of public use form review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request to approve an extension to use the HOTLINE Employer Follow-up Questionnaire through September 30, 1988. This form is completed voluntarily by employers who have placed announcements in the HOTLINE job bulletin and provides information on number of returned Peace Corps Volunteers who applied, were interviewed and/or were hired. The information is necessary for Peace Corps to determine the effectiveness of HOTLINE. No revisions have been made to the questionnaire.

Information About the Questionnaire

Agency Address: Peace Corps, 806 Connecticut Avenue, NW., Washington, DC 20526.
Title and Agency Number: HOTLINE Employer Follow-up Questionnaire, Form Number PC–1510.
Type of request: Form extension approval.
Frequency of collection: On occasion.
General description of respondents: Employers who have placed announcements in HOTLINE.
Estimated number of respondents: 1,080 annually.
Estimated hours for respondents to furnish information: 0.20 hours each.
Respondents obligation to reply: Voluntary.
Comments: Comments on this form should be directed to Francine Picoult, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20523.

Comments should be received on or before August 15, 1985. A copy of the form may be obtained from Leslie Wexler, Office of Special Services, Peace Corps, 806 Connecticut Avenue, NW., Washington, DC 20526; telephone (202) 254–8328. This notice is issued in Washington, DC on July 10, 1985.

Linda Rae Gregory,

Associate Director for Management.

[FR Doc. 85–16815 Filed 7–15–85; 8:45 am]

BILLING CODE 6051–01–M

POSTAL RATE COMMISSION

[Order No. 616; Docket No. A85–20]

Little Norway, California 95721 (Mr. and Mrs. Dingwell, petitioners); Order Accepting Appeal and Establishing Procedural Schedule

Issued: July 9, 1985.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; James H. Duffy; Bonnie Guiton.

Docket No.: A85–20.

Name of affected Post Office: Little Norway, California 95721.

Name(s) of petitioner(s): Mr. and Mrs. Dingwell.

Type of determination: Consolidation.

Date of filing of appeal papers: July 3, 1985.[1]

Categories of issues apparently raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

2. Economic savings [39 U.S.C. 404(b)(2)(D)].

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule (39 U.S.C. 404(b)(5)) the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(a) The record in this appeal shall be filed on or before July 18, 1985.

(b) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

[1] Petitioners request an extension of time to permit other patrons to express their views regarding the Postal Service's Determination. No extension of time is necessary because patrons have until July 29, 1985 to intervene in this case. The procedural schedule provides ample time for interested persons to present their views for the Commission's consideration.

VOL 50 ISS 136 JL 16 1985 UMI

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

July 3, 1985, Filing of Petition
July 9, 1985, Notice and Order of Filing of Appeal
July 29, 1985, Last day for filing petitions to intervene [*see* 39 CFR 3001.111(b)].
August 7, 1985, Petitioners' Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].
August 27, 1985, Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
September 11, 1985, (1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(d)].
September 18, 1985, (2) Dendline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116].
October 31, 1985, Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 85-16853 Filed 7-15-85; 8:45 am]
BILLING CODE 7715-01-M

POSTAL SERVICE

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Advance and final notices of records systems changes.

SUMMARY: The purpose of this document is to publish final notice of a previously published proposed routine use and the deletion of a routine use to one system of records, and also to publish advance notice of several systems of records descriptions changes.

DATE: Part 1 is effective July 16, 1985. Comments on the proposed routine uses in Part 2 and the modifications to several systems in Part 3 must be received on or before August 15, 1985.

ADDRESS: Comments may be mailed to the Records Officer, U.S Postal Service, 475 L'Enfant Plaza, SW, Washington, DC 20260-5010 or delivered to room 8121 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected during the above hours in room 1821.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, Records Office (202) 245-5568.

SUPPLEMENTARY INFORMATION: In accordance with provisions of the Privacy Act Implementation Guidelines issued by the Office of Management and Budget (40 FR 28961), the Postal Service has determined it necessary to: (1) Publish final notice of a proposed routine use and the deletion of a routine use; (2) provide advance notice of two proposed routine uses; and (3) make modifications to several systems of records descriptions in order that they more accurately reflect the way in which the systems operate. Postal Service regulations concerning the privacy of information appear in 39 CFR Part 266. The Postal Service systems of records which are exempt from certain provisions of the Privacy Act are listed in 39 CFR 266.9(b).

Part 1—Final Notice—Routine Uses

a. On May 1, 1985, the Postal Service published for comment in the **Federal Register** (50 FR 18589) advance notice of its intention, in connection with the direction set by the President's Council on Integrity and Efficiency (PCIE) Long Range Computer Matching Group, to disclose certain Postal Service employee information in connection with computer matching operations conducted either by the Postal Service or by requesting Federal agencies or non-Federal entities, through written agreements. No comments were received regarding this proposal. Accordingly, this constitutes the final notice of routine use No. 28 to system USPS 050.020, Finance Records—Payroll System, as follows:

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System.

ROUTINE USES OF RECORDS MAINTAINED IN THIS SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

28. Disclosure of information about particular current or former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts, limited to only those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Postal Service; to improve program integrity; and to collect debts and overpayments owed under those program.

* * * * *

b. In accordance with the above mentioned final notice regarding routine use No. 28 to system USPS 050.020, two computer matching programs were announced on May 1, 1985 in 50 FR 18591, between the Postal Service and the U.S. Department of Agriculture, and the State of Indiana Employment Security Division. These matching program notices called for comments by May 31, 1985. No comments were received and this constitutes final notice of these computer matching programs.

c. Temporary routine use number 29 to system 050.020 was published in 49 FR 24835, June 15, 1984, to be in effect for a period of one year from date of publication. While in effect, this routine use allowed for the disclosure to the City of New Orleans, Louisiana, of information about particular postal employees for comparison with the New Orleans' Department of City Civil Service time/attendance payment files. The effective period of one year elapsed June 15, 1985, and the routine use is being deleted.

Part 2—Proposed Modifications to Routine Uses to Two Systems of Records

(a) The Postal Service proposes to modify routine use No. 1 to system USPS 010.010, Collection and Delivery Records—Address Change and Mail Forwarding Records, and routine use No. 4 to system USPS 010.020, Collection and Delivery Records—Boxholder Records, for the following reasons:

The Postal Service recently revised Form 3575, Change of Address Order, allowing for the entry of family member names on the form. However, public requests for permanent change of address information are received and processed on a specific individual basis only. Therefore, in order that only information that is relevant to a request is released, copies of permanent change of address orders (Forms 3575) will no longer be disclosed to the public; rather, address information will be extracted from them. Furthermore, it has been the longstanding practice of the Postal Service not to disclose to the public temporary change of address orders (Forms 3575) since such orders are filed for brief periods of time such as when an individual or family is vacationing, and disclosure of the temporary order would not fully meet the purpose for which change of address records are maintained, and conceivably could be construed as being an invasion of the filer's privacy. System 010.010 was last published at 48 FR 10963, March 15, 1983. Accordingly, it is proposed that routine use No. 1 to system 010.010 be changed to read as follows:

USPS 010.010

SYSTEM NAME:

Collection and Delivery Records—Address Change and Mail Forwarding Records, 010.010.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

1. Disclosure of the address of any named individual may be made from a permanent address change record to the public, upon request. Note: Temporary changes of address will not be furnished except by the postmaster upon a showing of a compelling emergency situation, or to a Federal, State, or local government agency showing proper identification and providing proper certification that the information is required in the course of a criminal investigation.

* * * * *

(b) In regard to the disclosure of Form 1093, Application for Post Office Box or Caller Number, it has been the longstanding practice and the intent of Postal Service regulations to disclose to the public, upon request, the name, address, and telephone number from Form 1093 in cases where the box is used for the purpose of doing or soliciting business with the public. The intent of this regulation never has been that copies of the form itself would be disclosed since other information of a more personal nature is collected on the form for use in verification of the applicant's identity. System 010.020 was last published at 48 FR 31128; July 6, 1983. Accordingly, it is proposed that routine use No. 4 to system 010.020 be modified to clarify its original intent, as follows:

USPS 010.020

SYSTEM NAME:

Collection and Delivery Records—Boxholder Records, 010.020.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

4. Disclosure of the name, address, and telephone number may be made from the post office box application form, to the public, upon request, when the box is being used for the purpose of doing or soliciting business with the public.

* * * * *

Part 3—Proposed Modifications to Several Systems of Records

The purpose of this document is to modify the descriptions of several systems of records for which fuller descriptive information is needed. For comparison purposes, Systems 050.005 was last published in 47 FR 1199, January 11, 1982; Systems 120.151, 120.152 and 140.020 were last published in 48 FR 10966, March 15, 1983; and System 120.035 was last published in 48 FR 31128, July 6, 1983. A review of the operations of these systems has indicated that the previously published notices of their existence and character do not present an adequate description of their functions. Accordingly, the Postal Service presents in this document proposed revisions to systems 050.005, 120.035, 120.151, 120.152 and 140.020 for the purpose of clarity, as follows:

USPS 050.005

SYSTEM NAME:

Finance Records—Accounts Receivable File Maintenance 050.005.

RETRIEVABILITY:

Change to read: "Records are normally retrieved by social security number. When necessary, they may be retrieved by invoice number or by name of employee, contractor, vendor, or other indebted individuals."

USPS 120.035

SYSTEM NAME:

Personnel Records—Employee Accident Records, 120.035.

CATEGORIES OF RECORDS IN THE SYSTEM:

Change to read: "Occupational accident injury and illness logs, forms, reports, and summaries. Name, address, sex, age, and type of accident."

PURPOSE:

Change to read: "To assist postal managers in meeting the requirement to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. To provide for the uniform collection and compilation of occupational safety and health data, for proper evaluation and necessary corrective action."

USPS 120.151

SYSTEM NAME:

Personnel Records—Recruiting, Examining and Appointment Records, 120.151

CATEGORIES OF RECORDS IN THE SYSTEM:

Change to read: "Personal and professional resumes, personal applications, test scores, medical assessment, academic transcripts, letters of recommendation, employment certifications, medical records, and registers of eligibles. Restricted medical records are accumulated and temporarily maintained by personnel offices prior to transmittal to medical facilities."

USPS 120.152

SYSTEM NAME:

Personnel Records—Career Development, Training, and Training Evaluation Records, 120.152

CATEGORIES OF RECORDS IN THE SYSTEM:

Change to read: "Career development records, applications for and record of postal and non-postal training, and records containing student and manager evaluations of training received. Also contains examination and skills bank records, including records of special qualifications, skills or knowledge, career goals, education, and work histories or summaries."

PURPOSE:

Change to read: "To provide managers, supervisors, and training and development professionals with decision-making information for employee career development, training, and assignment."

USPS 140.020

SYSTEM NAME:

Postage—Postage Meter Records, 140.020.

CATEGORIES OF RECORDS IN THE SYSTEM:

Change to read: "Customer name and address, license application, and transaction documents."

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees and postmaster relief/replacement employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding, allowances, FICA taxes, salary, name, social security number, payments to

VOL
50
ISS
136
JL
16
1985
UMI

financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003.5 U.S.C. 8339.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of the managerial duties.

2. To provide information to USPS management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection Committee and Regional Postmasters General.

3. To compile various lists and mailing list, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 U.S.C. 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W–2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate in the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that contributions to the Medicare program be deducted from all employees' earnings. (These statutes do not apply to employees in the Trust Territories who are not U.S. citizens.) Accordingly, records of earnings (i.e., W–2 information) must be disclosed to the Social Security Administration in order that it may account for funds received and determine individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state, and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other information as reported on an individual's W–2 form.

7. Determine eligibility for coverage and payments of benefits under the Civil Service Retirement System, the Federal Employees Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees, Group Life Insurance Program and the Federal Employees Health Benefits program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Ages Survivors and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies, may also be utilized to respond to general requests for statistical information (without personal identification of Individuals) under the Freedom of Information Act or to locate specific individual for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system, and FEGLI status) for use by OPM's Compensation Group collected are not for the purpose of making determinations about specific individuals but are used only as a means of ensuring the integrity of the active employee/annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

24. Records in this system ae subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93–647.

26. Disclosure of information about particular postal employees may be made to requesting states in connection with approval computer matching programs, limited to only those data elements considered relevant to making a determination of eligibility under unemployment insurance programs administered by the states (and by those states to local governments); to improve program integrity; and to collect debts and overpayments owed to those governments and their components.

27. To union-sponsored insurance carriers for the purposes of determining eligibility for coverage and payments of benefits under union-sponsored non-Federal insurance plans and transferring related records as appropriate.

28. Disclosure of information about particular current or former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts, limited to only those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Postal Service; to improve program integrity; and to collect debts and overpayments owned under those programs.

29. (Temp.) Disclosure of information about particular postal employees who work in the District of Columbia and in the States of Maryland and Virginia may be made to the Government of the District of Columbia, Department of Human Service (DC–DHS) for comparison with the DC–DHS welfare program files.

Note.—This routine use will be in effect for a period of one year ending September 24, 1985.

30. (Temp.) To provide the Department of Housing and Urban Development the names, social security account numbers and home addresses of postal employees for the purpose of notifying those individuals of their indebtedness to the United States under programs administered by the Secretary of Housing and Urban Development and for taking subsequent actions to collect those debts.

Note.—This routine use will be in effect for a period of five years ending September 24, 1989.

31. To provide to the Department of Defense (DOD) upon request, on a semiannual basis, the names, social security account numbers and home addresses of current postal employees for the purposes of identifying those employees who are indebted to the United States under programs administered by the Secretary, DOD, and for taking subsequent actions to collect those debts.

32. To provide to the Department of Defense (DOD), upon request, on an annual basis, the names, social security account numbers, and salaries of current postal employees for the purposes of updating DOD's listings of Ready Reservists and reporting reserve status information to the Postal Service and the Congress.

33. (Temp.) Disclosure of information about postal employees on the employment rolls of the Philadelphia, Pennsylvania School District (PSD) and on the employment rolls of the City of Philadelphia (CP) may be made to the PSD and CP for a one-time comparison with the PSD'S and CP's time/attendance/payment files.

Note.—This routine use will be in effect for a period of one year ending February 13, 1986.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

See USPS Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Department of the Controller and APMG, Employee Relations Department at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed, giving full name and social security number. Headquarters employees should submit requests to the System Manager.

RECORD ACCESS PROCEDURE:

See Notification above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

[FR Doc. 85–16722 Filed 7–15–85; 8:45 am]
BILLING CODE 7710–12–M

SYNTHETIC FUELS CORPORATION

Solication for Projects To Produce Synthetic Fuels by Mining and Surface Processing Tar Sands

AGENCY: United States Synthetic Fuels Corporation.

ACTION: Issuance of Solicitation for Projects to Produce Synthetic Fuels by Mining and Surface Processing Tar Sands.

SUMMARY: Notice is hereby given that effective on June 24, 1985 the United States Synthetic Fuels Corporation issued a Solicitation for Projects to Produce Synthetic Fuels by Mining and Surface Processing Tar Sands soliciting proposals for synthetic fuel projects to

be assisted under Title I, Part B, of the Energy Security Act of 1980 (Pub. L. 96–294).

Japanese consumption, virtually the same share which they held in 1973 when the market was formally

Organizations", expiration date January 31, 1987.

Private sector organizations interested

will have a lasting impact on their participants. In your response, you may

added to provide for the release of information stored in the Research and

Volume V" and 49 FR 36188 is revised as follows:

VOL 50 ISS 136 JL 16 1985 UMI

be assisted under Title I, Part B, of the Energy Security Act of 1980 (Pub. L. 96–294).

EFFECTIVE DATE: June 24, 1985.

FOR FURTHER INFORMATION CONTACT: Richard Shanklin, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822–6463.

For Copies of the Solicitation Contact: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822–6460.

United States Synthetic Fuels Corporation.

March Coleman,

Assistant General Counsel—Corporate & Litigation.

July 11, 1985.

[FR Doc. 85–16830 Filed 7–15–85; 8:45 am]

BILLING CODE 6000-60-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–48]

Initiation of Investigation Under Section 301; Semiconductor Industry Association

On June 14, 1985 the Semiconductor Industry Association (SIA) filed a petition under section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411 et seq.) seeking relief from the effects of certain policies and practices of the Government of Japan and its instrumentalities. SIA alleges that through a series of policies which existed until 1974–75 the Government of Japan created a market structure in which the semiconductor industry is dominated by as small number of major semiconductor consuming companies that have strong, interlocking ties with respect to research and development, production and sales, and that this market structure constitutes a major barrier to the sale of foreign semiconductors in Japan. The practices which allegedly created this market structure included: (1) Restrictions on entry into the semiconductor industry by all but large, established electronic producers; (2) concentration of semiconductor subsidies and research and development aid to the largest electronic producers; (3) pressure on semiconductor consumers to "buy Japanese"; and (4) formal restrictions on foreign imports and investment.

SIA maintains that even with the phasing out of the Japanese government's official restrictions, the market barriers have persisted. The U.S. share of the Japanese market has shown virtually no improvements. In 1984, U.S. firms accounted for 11.4 percent of Japanese consumption, virtually the same share which they held in 1973 when the market was formally protected.

SIA claims that Japan's market structure not only causes lost export sales to Japan, resulting in diminished revenues for research and development and capital investment, but also contributes to capacity expansion races—surges of low-priced semiconductor exports from Japan during recessionary periods. Finally, SIA alleges that the import restricting effect of Japan's market structure is in violation of its GATT agreements, inconsistent with the Semiconductor Recommendations and the commitments made when Japan adopted the 1983 Recommendations on High Technology, and an unreasonable burden on U.S. commerce.

On July 11, 1985, the United States Trade Representative decided to initiate an investigation based on the petition filed by SIA in accordance with the provisions of 19 U.S.C. 2412(b).

Interested parties are invited to submit written comments with respect to issues raised in the petition. Such comments should be filed in accordance with the procedures set forth in 15 CFR 2006.8 and should be submitted to the Chairman, Section 301 Committee, Office of the U.S. Trade Representative, Room 223 600 17th Street NW., Washington, D.C. 20506 no later than August 26, 1985. Copies of the Petition are available at the above address.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 85–16881, Filed 7–15–85; 8:45]

BILLING CODE 3190-0-M

UNITED STATES INFORMATION AGENCY

Grants Program for Private Not-for-Profit Organizations; In Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The primary purpose of the program is to enhance the achievement of the Agency's international public diplomacy goals and objectives by stimulating and encouraging increased private sector commitment, activity, and resources. The information collection involved in this solicitation is covered by OMB Clearance Number 3116–0175, entitled "A Grants Program for Private Organizations", expiration date January 31, 1987.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate:

East Asia Security Tour (EAST): An International Affairs Study Program: The United States Information Agency is interested in supporting a two to three week study program which will introduce approximately 10 Asian parliamentarians, scholars and journalists to US military facilities in East Asia and the Pacific. This pilot project will expose younger East Asian leaders to America's defense commitment, regional policies and sensitivities. In addition to installation briefings, participants will receive background presentations by accompanying American scholars and local experts on U.S. policies, bilateral relations, and on each country's military, economic, social and strategic concerns. They will also witness the extent of America's preparedness and defense commitment. For the initial pilot project, Southeast Asian participants will visit U.S. installations in Northeast Asia and the Pacific. A reciprocal follow-on program for Northeast Asian participants visiting Australia and the South Pacific is envisioned. The initial program will begin in the Philippines with subsequent visits to Korea, Japan, Hawaii and possibly the West Coast of the U.S. The final stop will include a two or three day summary seminar/workshop. USIA posts in East Asia will cover intra-regional transportation and per diem costs for Asian participants, and the Office of Private Sector Programs will fund subsequent international travel, per diem and administration costs.

Your submission of a letter indicating interest in the above project concept begins the consultative process. This letter should further explain why your organization has the substantive expertise and logistical capability to successfully design, develop and conduct the above proejct.

Emphasis during the preliminary consultative process will be on identifying organizations whose goals and objectives clearly complement or coincide with those of USIA. Futhermore, USIA is most interested in working with organizations that show promise for innovative and cost effective programming; and with organizations that have potential for obtaining third party private sector funding in addition to USIA support. Organizations must also demonstrate a potential for designing programs which will have a lasting impact on their participants. In your response, you may also wish to include other pertinent background information. To be eligible for consideration, organizations *must* postmark their general letter of interest within 20 days of the date of this notice.

This is not a solicitation for grant proposals. After consultation, selected organizations will be invited to prepare proposals for the financial assistance available.

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (ATTN: Initiative Programs), United States Information Agency, 301 4th Street, SW. Washington, DC 20547.

Dated: July 11, 1985.

Albert Ball,

Deputy Director, Office of Private Sector Programs.

[FR Doc. 85–16855 Filed 7–15–85; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Proposed Amendment of Systems Notice; Addition of New Routine Use Statements

Notice is hereby given that the Veterans Administration is adding two new routine use statements in the system of records entitled: Veteran, Patient, Employee, and Volunteer Research and Development Project Records—VA (34VA11) as set forth on page 1156 of the **Federal Record** publication, "Privacy Act Issuances, 1982–1983 Compilation, Volume V" and on page 36188 of the **Federal Register** of September 14, 1984. Routine use statements numbered 7 and 8 are being added to provide for the release of information stored in the Research and Development Information System (RDIS) related to research being conducted within the VA Research and Development program. These data are released in response to inquiries from the general public including governmental and non-governmental agencies and commercial organizations.

Interested persons are inivited to submit written comments, suggestions, or objections regarding the proposed system of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Ave., NW Washington, D.C. 20420. All relevant meterial received before August 14, 1985 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until August 28, 1985.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the proposed routine use statement is effective August 14, 1985.

Approved: July 8, 1985.

By direction of the Administrator.

Everett Aviarez, Jr.,

Deputy Administrator.

Notice of System of Records

The system of records identified as 34VA11, "Veteran, Patient, Employee, and Volunteer Research and Development Project Records—VA", appearing on page 1156 of the **Federal Register** publication "Privacy Act Issuances, 1982–1983 Compilation, Volume V" and 49 FR 36188 is revised as follows:

34VA11

SYSTEM NAME:

Veteran, Patient, Employee, and Volunteer Research and Development Project Records—VA

* * * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATAGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * * *

7. Upon request for research project data, the following information will be released to the general public including governmental and non-governmental agencies and commercial organizations: Project title and number, name and educational degree of principal investigator, Veterans Administration medical center location, type (initial, progress, or final) and date of last report, name and educational degree of associate investigators and project summary. In addition, upon specific request, keywords and indexing codes will be included for each project.

8. Upon request for information regarding VA employees conducting research, the following information will be released to the general public including governmental and non-governmental agencies and commercial organizations: Name and educational degree of investigator, Veterans Administration title, academic affiliation and title, hospital service, primary and secondary program areas, primary and secondary specialty areas, and subspecialty.

* * * * * *

[FR Doc. 16823 Filed 7–15–85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 136
Tuesday, July 16, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1
Nuclear Regulatory Commission	2

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, July 17, 1985.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Part Open/Part Closed.

MATTERS TO BE CONSIDERED:

Open to the Public

1. FY 87 Priorities

The Commission will consider Fiscal Year 1987 Priorities.

Closed to the Public

2. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda Md. 20207 301-492-6800.

Sheldon D. Butts,
Deputy Secretary
[FR Doc. 85-16868 Filed 7-11-85; 4:31 pm]
BILLING CODE 6355-01-M

2

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of July 15, 22, 29, and August 5, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTER TO BE CONSIDERED:

Week of July 15

Wednesday, July 17

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of July 22—Tentative

Tuesday, July 23

2:30 p.m.
Discussion on Threat Level and Physical Security (Closed—Ex. 1)

Wednesday, July 24

10:00 a.m.
Briefing on Accident Source Term Reassessment (Public Meeting)
1:30 p.m.
Briefing on Davis-Besse (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, July 26

10:00 a.m.
Briefing by Georgia Power (Vogtle) on Operational Readiness Review Pilot Program (Public Meeting)
2:00 p.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)

Week of July 29—Tentative

Monday, July 29

2:00 p.m.
Discussion of DOE High Level Waste Management Program (Public Meeting)

Tuesday, July 30

10:00 a.m.
Continuation of 5/15 Briefing on Proposed Revision of Part 20 (Public Meeting)
2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Diablo Canyon-2 (Public Meeting)

Wednesday, July 31

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6) (if needed)
2:00 p.m.
Discussion of Proposed Station Blackout Rule (Public Meeting)

Thursday, August 1

10:00 a.m.
Briefing on Safety Goal Evaluation Plan (Public Meeting)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of August 5—Tentative

Thursday, August 8

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Briefing by Executive Branch (Closed—Ex. 1) was held on July 10. Affirmation of "Denial of Request for Rulemaking" (Public Meeting) was held on July 11.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

Julia Corrado,
Office of the Secretary.
July 11, 1985.

[FR Doc. 85-16986 Filed 7-12-85; 4:00 pm]
BILLING CODE 7590-01-M

federal register

Tuesday
July 16, 1985

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17
Endangered and Threatened Wildlife and Plants; Proposed Endangered Status

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17

Portland, Oregon 97232 (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

accordance with section 4(b)(3)(A) of the Act as amended in 1982. On October 13, 1983, and again on October 12, 1984, [illegible] of California, Berkeley, telephone comm.). In 1983 between 20 and 30 plants were observed by Peggy Smith, a

site is less than one mile from the now extirpated donor site. At present, three populations are known, two are on

property must notify the Department of Fish and Game ". . . at least 10 days in advance of changing the land use to

VOL
50
ISS
136
JL
16
1985
UMI

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Cordylanthus Palmatus (Palmate-Bracted Bird's-Beak)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list a plant, *Cordylanthus palmatus* (palmate-bracted bird's beak), as an endangered species. This action is being taken because population numbers have declined in historic times, and the range of the palmate-bracted bird's beak has been reduced as a result of conversion of land to agricultural use, intensive livestock grazing, urban development, and other land use activities that have altered the natural plant communities that once supported the species. Historically, the species is known from scattered locations in Fresno and Madera Counties in the San Joaquin Valley, north into the Sacramento Valley from San Joaquin to Colusa Counties, and in the Livermore Valley, Alameda County. *Cordylanthus palmatus* presently is known from only three small populations. Habitat modification from urban and agricultural development and ncontrolled off-road vehicle (ORV) use of one area pose the most serious and immediate threats facing the species. Low population numbers may also threaten this annual plant through genetic depletion and reduced reproductive potential. Federal listing would provide the protection of the Endangered Species Act of 1973, as amended, for the three remaining populations of this species. The Service seeks comments and data related to this proposal.

DATES: Comments from all interested parties must be received by September 16, 1985. Public hearing requests must be received by August 30, 1985.

ADDRESS: Comments and material concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE, Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE, Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

Cordylanthus palmatus, an annual herb of the snapdragon family (Scrophulariaceae), was originally collected by Ferris in 1916 and described by her in 1918 under the name *Adenostegia palmata*. Macbride (1919) recognized the species under the genus *Cordylanthus* (a conserved name).

Plants of *C. palmatus* are from 4 to 12 inches tall with several to many ascending-spreading branches from the base of the stem or above. The stems are sparsely to densely hairy with some of the shorter hairs glandular. The leaves and stems are grayish green. The small pale whitish flowers, ½-inch to 1-inch long, are arranged in dense spikes. Each flower is surrounded by a small lobed floral bract.

Little is known of the ecology of *Cordylanthus palmatus* aside from its occurrence in and possible confinement to a particular soil type named saline-alkali (black alkaline) of lowland flats and plains. This habitat was historically rare in much of cis-montane California and is now much reduced in extent. Like other members of the genus and related genera in the family, *C. palmatus* is hemiparasitic on the roots of various seed plants (Chuang and Heckard 1971).

Historically the species was collected from seven scattered locations in Fresno, Madera, San Joaquin, Yolo, and Colusa Counties, California. A recent collection (1982) extended the known range into the Livermore Valley in Alameda County, California. The range of this species coincides with a region of California that has been intensively developed for agriculture, livestock grazing, and urbanization. These activities are the principal factors responsible for the destruction of much of California's pristine valley habitats (Heady 1977), and they undoubtedly contributed to the decline of *Cordylanthus palmatus*. The extirpation of five previously known populations of this plant in Colusa, San Joaquin, Yolo, Madera, and Fresno Counties has been attributed largely to soil reclamation and conversion of lands for agricultural use (Heckard 1977). Prior to destruction of one population, five and one-half air miles east-southeast of Mendota in Fresno County, seed was collected by Dr. L.R. Heckard (University of California, Berkeley). Ten cultivated seedlings from greenhouse stock established from the Mendota site were transplanted to the Mendota State Wildlife Management Area. The new site is less than one mile from the now extirpated donor site. At present, three populations are known, two are on private and city-owned lands near the cities of Livermore, Alameda County, and Woodland, Yolo County; and the third, the transplanted colony, exists within the Mendota State Wildlife Management Area near Mendota, Fresno County.

In the late 1970's and early 1980's searches of likely habitats within the range of the species by local botanists, personnel from the California Department of Fish and Game, and the U.S. Fish and Wildlife Service failed to locate any additional colonies of this species. The rarity of the saline-alkaline soils occupied by this species and the intensive agricultural and urban development within its range make the likelihood of finding additional colonies remote.

The Secretary of the Smithsonian Institution, as directed by section 12 of the Endangered Species Act of 1973, prepared a report on those native U.S. plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94–51), which included the palmate-bracted bird's-beak, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) accepting the report as a petition within the context of section 4(c)(2) of the Act (petition acceptance provisions are now contained in section 4(b)(3)(A)), and giving notice of its intention to review the status of the plant taxa named therein, including the palmate-bracted bird's-beak. As a result of this review, on June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine approximately 1,700 vascular plant species, including the palmate-bracted bird's-beak, to be endangered species pursuant to Section 4 of the Act. In 1978, amendments to the Endangered Species Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice (44 FR 70796) of the withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired.

The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Cordylanthus palmatus* as a candidate plant. On February 15, 1983, the Service published a notice (48 FR 6752) of its prior finding that the listing of this species may be warranted in

accordance with section 4(b)(3)(A) of the Act as amended in 1982. On October 13, 1983, and again on October 12, 1984, further findings were made that the listing of *Cordylanthus palmatus* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of the 1983 finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The present proposal constitutes a finding that the listing is warranted. The Service proposes to implement the petitioned action, in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; revised in 49 FR 38900, October 1, 1984) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cordylanthus palmatus* (Ferris) Macbride (palmate-bracted bird's-beak) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Specimens of *Cordylanthus palmatus* have been collected from eight sites in six counties in California. Only two of these sites, and one site where a transplanted population is found, presently support the species. Habitat loss resulting from soil reclamation and urban and agricultural developments are responsible for the extirpation of populations at the six sites no longer supporting *Cordylanthus palmatus*. The remaining three populations have declined in the past and face present and potential threats of further habitat loss.

At the transplant site near Mendota, plants are so few in numbers that any disturbance to the habitat could threaten the population with extirpation. Population numbers have fluctuated probably due to the annual nature of the plant and destruction by off-road vehicles (ORV's). Of the ten transplanted specimens, five were destroyed in 1973 by ORV's even though the plants were protected by wire coverings. In 1981 only one plant was observed on the preserve, but in 1982 the population had grown to about 20 to 30 plants (Dr. L.R. Heckard, University of California, Berkeley, telephone comm.). In 1983 between 20 and 30 plants were observed by Peggy Smith, a local botanist (John Stebbins, California State University, Fresno, telephone comm.). The manager of the wildlife area is aware of the population and is attempting to protect the site from encroachment by ORV's (Bob Huddleston, California Department of Fish and Game, telephone and written communication). It is likely that without active protection and management the population will decline and disappear. Active management such as seed dispersal in likely habitats and fencing will be necessary to prevent additional population declines.

The population near Woodland, California, originally occupied about 10 acres, but a large portion (approximately 8 acres) was plowed in 1982 (Rick York, California Native Plant Society, telephone communication) and has been plowed in subsequent years. Plowing eliminated the largest portion of the colony (probably 75 percent or more). The remaining population consists of about 100–200 plants along a nearby drainage ditch and open field. This site is being considered for use as a sewage treatment facility by the City of Woodland.

The Livermore Valley population consists of about 2,000 to 5,000 plants scattered over approximately 180–200 acres within an area zoned for residential and/or agricultural development. Several developments have been proposed for the entire area. In January of 1983 approximately 40 acres of the Livermore site (about 20 percent of the area) was bulldozed and a portion of associated wetlands illegally filled (U.S. Army Corps of Engineers, letter, 1983).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Historically, cattle grazing affected many of the areas once supporting this species. In some areas the plant species composition was undoubtedly altered significantly by grazing animals. At present, however, grazing does not appear to be a threat in those areas still supporting *Cordylanthus palmatus*.

D. *The inadequacy of existing regulatory mechanisms.* Although the State of California lists the palmate-bracted bird's-beak as endangered, State law does not provide adequate protection for this species in its natural habitat. The law provides that a land owner who has been notified by the State Fish and Game Commission that a State listed plant is growing on his/her property must notify the Department of Fish and Game ". . . at least 10 days in advance of changing the land use to allow salvage of such plant." Although State law also provides for such measures as research and land acquisition, provisions of the Endangered Species Act would offer additional protection for this species and its habitat.

E. *Other natural or manmade factors affecting its continued existence.* Population numbers, especially at the Mendota site, are low for an annual plant. Genetic depletion and reduced reproductive potential may further threaten the palmate-bracted bird's-beak.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Cordylanthus palmatus* as endangered. Endangered status appears most appropriate considering the past and present declines in the species' range and populations, and the current threats faced by the species. Only three populations are known to exist and all three have suffered recent damage. Plants on private and municipally owned lands are imminently threatened by proposed developments. The depauperate transplanted population on the Mendota State Wildlife Area will likely disappear without active management. The designation of critical habitat is discussed in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor A in the preceding section, *Cordylanthus palmatus* is threatened by taking in the form of destruction due to ORV activity and agricultural conversion. Taking is not regulated by the Act with respect to plants except for a prohibition against removal and reduction to possession of endangered plants on land under Federal jurisdiction. Because of a substantial possibility of vandalism, publication of critical habitat descriptions could make this species more vulnerable.

Available Conservation Measures

Conservation measures provided to species listed as endangered or

person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign

(4) Current or planned activities in the subject area and their possible impacts on *Cordylanthus palmatus*

Proposed Regulations Promulgation

3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–

Melia azedarach. The ground cover is

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service. No Federal activities are known which may affect *Cordylanthus palmatus;* however, the Army Corps of Engineers has permit jurisdiction over some wetlands where the species occurs and developments proposed for these areas may require section 7 consultation to ensure protection for the species and its habitat.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Cordylanthus palmatus* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This prohibition would apply to the palmate-bracted bird's-beak. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. Because this species is not known to occur on Federal land, it is anticipated that few collecting permits for the species will ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning the following:

(1) Biological, commercial trade, or other relevant data concerning any threat (or the lack thereof) to *Cordylanthus palmatus;*

(2) The location of any additional populations of *Cordylanthus palmatus;* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and their possible impacts on *Cordylanthus palmatus.*

Final promulgation of the regulations on *Cordylanthus palmatus* will take into consideration the comments and any additional information received by the Service, and such communications may lead to final regulations that differ from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References

Chuang, T.I., and L.R. Heckard. 1971. Observations on root parasitism in *Cordylanthus* (Scrophulariaceae). Amer. J. Bot. 58:218–228.

Ferris, R.S. 1918. Taxonomy and distribution of *Adenostegia.* Bull. Torrey Bot. Club 45:399–423.

Heady, H.F. 1977. Valley grassland. *In* M.G. Barbour and J. Major (eds.). Terrestrial Vegetation of California, pp. 491–514. John Wiley and Sons, New York.

Heckard, L.R. 1977. Rare Plant Status Report for *Cordylanthus palmatus.* California Native Plant Society, Berkeley, California. Unpubl. report. 4 pp.

Macbride, J.F. 1919. Reclassified or new spermatophytes, chiefly North American. Contrib. Gray Herb. 59:28–39.

Author

The primary author of this proposed rule is Monty Knudsen, U.S. Fish and Wildlife Service, Sacramento Endangered Species Office, 2800 Cottage Way, Room E–1823, Sacramento, California 95825.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Scrophulariaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Scrophulariaceae—Snapdragon family:						
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Cordylanthus palmatus	Palmate-bracted bird's-beak	U.S.A. (CA)	E		NA	NA
* * *	* * *	* * *	* * *	* * *	* * *	* * *

Dated: April 25, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–16794 Filed 7–15–85; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Rule to Determine Endangered Status for Hibiscadelphus Distans (Kauai hau kuahiwi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for *Hibiscadelphus distans* (Kauai hau kuahiwi). Only 10 individuals of this endemic tree remain in the wild, occurring in the State-owned Pu'u Ka Pele Forest Reserve, on the island of Kauai, Hawaii. Imminent threats to this species and its habitat exist from feral goat grazing, fire, competition with exotic species, and human disturbance. Protective measures are needed to ensure the plant's continued existence and to provide for its recovery. Determination of *Hibiscadelphus distans* as endangered would implement the protection provided under the Endangered Species Act of 1973, as amended. The Service seeks relevant data and comments.

DATES: Comments from all interested parties must be received by September 16, 1985. Public hearing requests must be received by August 30, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232 (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The plant species *Hibiscadelphus distans* was discovered by L. Earl Bishop and Derral Herbst in 1972 and later described by them (Bishop and Herbst, 1973). It likely was at one time more abundant and more widely distributed, but only 10 individuals are presently known to exist. It occurs on State-owned land within the Pu'u Ka Pele Forest Preserve, Koai'e Valley, Waimea Canyon, Island of Kauai, Hawaii.

This species is a small tree, up to 5.45 meters (18 feet) tall, with green heart-shaped leaves and smooth bark. Its flowers are approximately 2.5 centimeters (1 inch) long and are greenish yellow, turning darkish red with age. The plants live within an area of approximately 0.018 hectare (2,000 square feet) on a steep rock bluff at an elevation of about 300 meters (1,000 feet). This area is a remnant of a native, open, dryland forest and receives approximately 150 centimeters (60 inches) of rain annually. The area's yearly mean temperature ranges from 18.5 to 25.7 degrees Centigrade (65 to 78 degrees Fahrenheit). Associated species include *Sapindus oahuensis, Erythrina sandwicensis, Diospyros ferrea,* and *Melia azedarach.* The ground cover is sparse and consists chiefly of exotic grasses and forbs (Herbst, 1978).

Although goats are not known to browse on the present plant population, browsing by an existing large feral goat population was probably responsible for the species' decline and could threaten the continued existence of the remaining plants. Other threats come from fire, competition with exotic species, and human disturbance. A cooperative effort between Federal and State agencies is needed to protect the remaining plants and to provide for the species' recovery.

The Secretary of the Smithsonian Institution, as directed by section 12 of the Endangered Species Act of 1973, prepared a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94–51) was presented to Congress on January 9, 1975. On July 1, 1975, the Fish and Wildlife Service published a notice in the Federal Register (40 FR 27823) accepting the report as a petition within the context of section 4(c)(2) of the Endangered Species Act (petition acceptance provisions are now contained in section 4(b)(3)(A)), and giving notice of its intention to review the status of the plant taxa named therein, including *Hibiscadelphus distans.* As a result of this review, on June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine approximately 1,700 vascular plant species, including *Hibiscadelphus distans,* to be endangered pursuant to section 4 of the Act. In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the Federal Register (44 FR 70796) of the withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480), including *Hibiscadelphus distans.* On October 13, 1983, a further finding was made that listing of *Hibiscadelphus distans* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. This proposed rule constitutes the finding that the petitioned action is warranted and proposes to implement the action in

accordance with section 4(b)(3)(B)(ii) of the Act.

Removal of or damage to any of the few remaining individuals of *Hibiscadelphus*

is not prudent for this species at this time. As discussed under Factor "B" in

Federal agencies to ensure that activities they authorize, fund, or carry

section 10(a) of the Act, until revised regulations are promulgated to

requests must be made in writing to the Service's Regional Director (see

accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (to be codified at 50 CFR Part 424; see 49 FR 38900, October 1, 1984) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Hibiscadelphus distans* Bishop and Herbst (Kauai hau kuahiwi) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitat of *Hibiscadelphus distans* is subject to disturbance from several sources. Large herds of feral goats graze within the canyon and have destroyed surrounding vegetation. Goats may also dislodge stones from the ledges above the species, potentially damaging the trees and destroying the seedlings (Herbst, 1978). The large goat herds result from specific game management practices aimed at maintaining high goat population levels for hunting.

Human disturbance also presents a serious threat to the species. A hiking trail passes below the ledge where *Hibiscadelphus distans* is found, and activity by hikers straying off this path may impact the species by dislodging stones and increasing erosion of the friable soil. Trees may suffer additional damage by being used as "hand-holds" by hikers scaling the steep embankment.

The habitat disturbances created by people and feral goats have favored the introduction and spread of exotic vegetation. Today, small pockets of native plants can be found, but much of the canyon has been taken over by exotic species. Competition with exotic species and environmental changes brought about by changes in the vegetation have had a serious impact on many of the area's native species of plants and animals.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The area where *Hibiscadelphus distans* exists is easily accessible to people and has already experienced incidents of unauthorized taking and vandalism. When the Hawaii State Department of Forestry and Game labeled plants along the trail system adjacent to the species' habitat, many of the labeled plants were dug up or damaged by people using the trail. Removal of or damage to any of the few remaining individuals of *Hibiscadelphus distans* could seriously jeopardize the chances of the species' survival.

C. *Disease or Predation.* Browsing by feral goats upon *Hibiscadelphus distans* probably responsible for the species' currently depleted status. Although the remaining plants are apparently free from grazing pressure, the situation is still precarious. Should this grazing pressure increase, through either environmental changes or game management practices, goats may be driven into areas they usually avoid, imperiling the few remaining trees.

D. *The inadequacy of existing regulatory mechanisms. Hibiscadelphus distans* of found in an area within the State-owned Pu'u Ka Pele Forest Reserve. State regulations prohibit the removal, destruction, or damage of plants found on State forest land. However, these regulations are difficult to enforce due to limited personnel. The Endangered Species Act will offer additional protection to this species.

E. *Other natural or manmade factors affecting its continued existence.* The small, extant population (10 individuals) remaining makes *Hibiscadelphus distans* vulnerable to any catastrophe, natural or man-caused, that may impact the area. Reduction of the gene pool and genetic variability, resulting from a small population size, could have detrimental effects on the continued existence of the species. The presence of a trail rest shelter with a small fire pit near this lone population adds a potential threat of destruction by fire during the dry season.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Hibiscadelphus distans* as endangered. Only 10 individuals remain in the wild, and these face threats from feral goats, fire, competition with exotic species, and human disturbance. Given these circumstances, the determination of endangered status seems warranted. See the following "Critical Habitat" section for a discussion of why critical habitat is not being proposed.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor "B" in the "Summary of Factors Affecting the Species," *Hibiscadelphus distans* is subject to taking and vandalism. Plants along a trail near the area where the species occurs have already experienced incidents of unauthorized taking and vandalism. Publication of a critical habitat description in the **Federal Register** would subject those few remaining individuals to an increased risk of taking and vandalism. In addition, since the plant only occurs on State land, and the State of Hawaii is aware of its status, no net benefit would accrue to the species from the designation of critical habitat. Therefore it would not be prudent to designate critical habitat for *Hibiscadelphus distans* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. Since *Hibiscadelphus distans* is known only to occur on State land, cooperation between Federal and State agencies is necessary to ensure its continued existence and provide for its recovery. The protection required of Federal agencies and the prohibitions against trade and collecting are discussed, in part, below:

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed habitat. If a species is listed subsequently, section7 (a)(2) requires

Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No Federal involvement is known or anticipated to affect *Hibiscadelphus distans* at this time.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63, set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Hibiscadelphus distans*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Due to the numerous threats experienced and its depleted state in the wild, it may be necessary to propagate this species in nurseries. Several specimens are presently found in cultivation and seeds have been sent to Dr. P. Fryxell at Texas A&M University. Requests for trade permits for scientific purposes and enhancing the propagation of the species, allowed under § 17.62, may result if an artificial propagation plan is pursued. Otherwise it is anticipated that few, if any, trade permits would ever be sought or issued, since the species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. The new provision would apply to *Hibiscadelphus distans* should it be found on land under Federal jurisdiction. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417) and it is anticipated that these will be made final following public comment. Currently, the species is known only to occur on State land not under Federal jurisdiction. It is anticipated that few, if any, permits for collecting this species will ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particulary are sought concerning the following:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Hibiscadelphus distans*;

(2) The location of any additional populations of *Hibiscadelphus distans* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and the possible impacts on *Hibiscadelphus distans*.

Final promulgation of the regulation on *Hibiscadelphus distans* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing to the Service's Regional Director (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Bishop, L.E., and D. Herbst. 1973. A new *Hibiscadelphus distans* (Malvaceae) from Kauai. Brittonia 25:290–293.

Herbst, D. 1978. Unpublished status survey of *Hibiscadelphus distans* Bishop and Herbst (Kauai hau kuahiwi). U.S. Fish and Wildlife Service. 21 pp.

Author

The primary author of this proposed rule is Mr. Derral Herbst, Office of Endangered Species, U.S. Fish and Wildlife Service, Pacific Islands, 300 Ala Moana Boulevard, Room 5302, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546–7530).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Malvaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rule
Scientific name	Common name					
Malvaceae—Mallow family:						
Hibiscadelphus distans	Kauai hau kuahiwi	U.S.A. (HI)	E		NA	NA

comments on the 1976 proposal were summarized in an April 26, 1978, Federal

least six different localities. Only two plants are found on Maui, and the Oahu

E. *Other natural or manmade factors affecting its continued existence.* The

States, and requires that recovery actions be carried out for all listed

Species		Historic range	Status	When listed	Critical habitat	Special rule
Scientific name	Common name					
Malvaceae-Mallow family:						
Hibiscadelphus distans	Kauai hau kuahiwi	U.S.A. (HI)	E		NA	NA

Dated: June 13, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-16795 Filed 7-15-85; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Abutilon Menziesii (Ko'oloa 'ula)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list *Abutilon menziesii* (ko'oloa 'ula) as an endangered species. This plant is known from only three small populations located on the islands of Lanai, Maui, and Oahu, in the State of Hawaii. These populations are vulnerable to any substantial habitat alteration and face the potential threats of fire, flood, overgrazing by feral animals, and predation by the Chinese rose beetle. A determination that *Abutilon menziesii* is an endangered species would implement the protection provided by the Endangered Species Act of 1973, as amended. Comments and related materials on this proposal are solicited.

DATES: Comments from all interested parties must be received by September 6, 1985. Public hearing requests must be received by August 30, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232 (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

Abutilon menziesii was first collected by Dr. Archibald Menzies while in Hawaii with Capt. George Vancouver aboard the "Discovery" in 1790-1794. In 1865, B.C. Seemann found Menzies' collection in the British Museum of Natural History, London. Seemann described the plant and named it for Dr. Menzies. The exact locality of Menzies' collection is unknown. The collection site was listed simply as "The Sandwich Islands." The plant is a shrub, 6-8 feet (2-2.5 m) tall, with coarsely-toothed, silvery, heart-shaped leaves 1-3 inches (2-8 cm) long. The flowers are dark red, about 0.8 inch (2 cm) across. The capsules are hairy, five- to eight-parted, with about three seeds per cell.

The species formerly grew on the islands of Hawaii, Maui, and Lanai; today there are fewer than 25 plants growing naturally in the wild. The principal population is on Lanai. There is a very small remnant population on Maui, and one plant on Oahu is probably an escape from cultivation. The extant populations are threatened by exotic animals (e.g., axis deer, Chinese rose beetle), soil erosion, fire, flood, and commercial development.

Federal actions involving *Abutilon menziesii* began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2), now section 4(b)(3)(A) of the Act, and of its intention to review the status of the plant taxa named therein. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to Section 4 of the Act. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, **Federal Register** publication. *Abutilon menziesii* was included in the July 1, 1975, notice and the June 16, 1976, proposal. General comments on the 1976 proposal were summarized in an April 26, 1978, Federal Register publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was allowed for proposals already over 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the pending portion of the June 16, 1976, proposal, along with four other proposals that had expired. *Abutilon menziesii* was included as a category 1 species in a revised list of plants under review for threatened or endangered classification published in the December 15, 1980, **Federal Register** (45 FR 82480). Category 1 comprises taxa for which the Service has sufficient biological information on hand to support their being proposed for listing as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. Findings were made on October 13, 1983, and again on October 12, 1984, that listing *Abutilon menziesii* was warranted, but precluded by pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. This proposed rule indicates that the petitioned action is warranted, and constitutes the additional required petition finding in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Abutilon menziesii* Seemann (ko'oloa 'ula) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Abutilon menziesii* has been described by collectors from several localities. A recorded population of this species on the island of Hawaii has disappeared completely. The species is now reduced to fewer than 25 individuals on the islands of Lanai, Maui, and Oahu. The Lanai population is now found only at one very small peripheral site, whereas it previously had been recorded from at least six different localities. Only two plants are found on Maui, and the Oahu population consists of a single individual, thought to have escaped from cultivation.

Much of the land where *Abutilon menziesii* had occurred has been cleared for cultivation (pineapple and sugar cane) or pasture, with the land often abandoned in later years. Erosion has been and continues to be a major threat to *Abutilon menziesii*. The Lanai population is in an area that is quite heavily eroded and the Maui population maintains a tenuous existence in a gulch subject to erosion and grazing. All known populations are frequently exposed to severe drought and periodic flooding. Flooding increases the erosion and threatens the existing populations. Also, the drought conditions often lead to wildfires that could destroy any of the existing populations. Overgrazing by axis deer, cattle, and goats also aggravates the erosion problems. Development for housing and commercial use is a continuing threat. The site where the Oahu population grows will almost certainly be developed in the future.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although *Abutilon menziesii* is not greatly sought after by collectors, the species is occasionally used in ornamental plantings. Since the population has been reduced to fewer than 25 individuals, any collecting for commercial or scientific use would be significant.

C. *Disease or predation.* Browsing by cattle, goats, and axis deer is primarily responsible for decline of *Abutilon menziesii* and may prevent reestablishment of the species. Cattle browsing has been the major problem and is evidently responsible for the disappearance of the plant from the island of Hawaii. Axis deer and feral goats apparently pose the major threat to the plants currently existing on Lanai.

The Chinese rose beetle (*Adoretus sinicus*) has also been documented to defoliate the plants. Since the plants produce new leaves only during a flush growth period in the wet season, such defoliation has a significant negative impact on the survival of the species.

D. *The inadequacy of existing regulatory mechanisms.* There are no State laws or existing regulatory mechanisms at the present time to protect *Abutilon menziesii* or prevent its further decline. Federal listing would automatically invoke listing under State law, which prohibits taking and encourages conservation by the State government.

E. *Other natural or manmade factors affecting its continued existence.* The small number of surviving plants in such small areas makes this species very susceptible to extinction because small fluctuations in any of several environmental factors could have a devastating effect. A single fire or flood on Lanai could wipe out the principal population of *Abutilon menziesii*. Loss of genetic variability is likely in a population of such low numbers. The decline of many native insect pollinators, especially *Nesoprosopis* bees, probably poses an additional threat.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Abutilon menziesii* as endangered. Its decline in numbers to approximately 25 individuals and reduction in range to 3 sites indicate the appropriateness of listing this species as endangered.

It is not prudent to proposed critical habitat because doing so would increase risk for the species, as detailed in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. *Abutilon menziesii* has been reduced to three populations and fewer than 25 individuals in a limited geographical range. Any publication of critical habitat descriptions giving the localities of these populations could result in collecting or vandalizing at the sites. All populations are on private land and minimal benefit to the species would result from designating critical habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. There is no known Federal involvement affecting *Abutilon menziesii*, since all populations occur on private land. Voluntary or mandatory protection of this species and its habitat will require cooperation among private landowners, the State of Hawaii, the County of Maui, and the U.S. Fish and Wildlife Service.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Abutilon menziesii*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits involving the species

would ever be sought or issued since the species is not common in cultivation or

addressed to the Regional Director (see **ADDRESSES** section).

Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546-7530).

The State-owned land is under the jurisdiction of the County of Maui. The

on or before October 13, 1985; this proposed rule constitutes the finding

VOL 50 ISS 136 JL 16 1985 UMI

would ever be sought or issued since the species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. The new prohibition will apply in *Abutilon menziesii*. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. *Abutilon menziesii* occurs solely on private lands, so requests for taking permits are not anticipated. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of each endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Abutilon menziesii*;

(2) The location of any additional populations of *Abutilon menziesii* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the areas mentioned and their possible impacts on *Abutilon menziesii*.

Final promulgation of the regulations on *Abutilon menziesii* will take into consideration any comments and any additional information received by the Service, and such communications may lead to adoption of a final rule that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References

Chan, W., and N. Balakrishnan. 1979. 'Ewa Plains botanical survey. Dept. of Botany, Univ. of Hawaii at Manoa. 119 pp. + appendices and maps.

Funk, E., and C.W. Smith. 1982. Status report on *Abutilon menziesii*. U.S. Fish and Wildlife Service contract 14–16–0001–79096. 30 pp.

Hillebrand, W. 1965. Flora of the Hawaiian Islands (Facsimile of the Edition of 1888). Hafner Publishing, New York. xcvi + 673 pp. frontispiece + 4 maps.

Seeman, B.C. 1865–1873. Flora Vitiensis: A description of the plants of the Viti or Fiji Islands, with an account of their history, uses, and properties. London: L. Reeve and Co. xxxiii + 453 pp., 100 color plates.

Author

The primary author of this proposed rule is Dr. Derral Herbst, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546–7530). This rule is largely based upon a status report and other research by Ms. Evangeline J. Funk and Dr. Clifford W. Smith, University of Hawaii. Mr. Richard P. Ingram and Dr. George Drewry served as editors.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Malvaceae, to the List of Endangered and Theatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Malvaceae—Mallow family:						
Abutilon menziesii	Ko'oloa 'ula	U.S.A. (HI)	E		N/A	N/A

Dated: June 20, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–16796 Filed 7–15–85; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Rule To Determine Endangered Status for Scaevola Coriacea (Dwarf Naupaka)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for *Scaevola coriacea*(dwarf naupaka). Populations, once prevalent throughout the major Hawaiian Islands, are now limited to four small areas of State and privately owned land in Maui County, Hawaii. The only significant population, near Waiehu Point, is threatened by imminent residential development. Approximately two-thirds of the plant's remaining habitat will be impacted by this action. Protective measures for the remaining plants are needed. Determination of *Scaevola coriacea* as endangered would implement the protection provided under the Endangered Species Act of 1973, as amended. The Service seeks relevant data and comments.

DATES: Comments from all interested parties must be received by September 16, 1985. Public hearing requests must be received by August 30, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Division Chief, Endangered Species, U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Portland, Oregon 97232 (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

Scaevola coriacea is a sparsely branched, prostrate shrub found in close proximity to the ocean. It was first collected by David Nelson in 1779, and later described by T. Nuttall (1843), based on specimens collected on "Atooi" (Kauai) in 1835. Its leaves are thick and succulent, light green, and about 2.5 centimeters (1 inch) in length. Cream-colored flowers, 1.9 centimeters (0.75 inch) long, may open at any time during the year. The flower is typical of the genus *Scaevola*, with a corolla split down the upper side so that it resembles half of a radially symmetrical flower that has been divided longitudinally. This is sometimes referred to as a "half-flower." The fruit is purplish black and approximately 1.3 centimeters (0.5 inch) in length, and contains 2 seed cells (Carr, 1981). Single plants may cover up to 10 square meters (108 square feet) of surface area.

Sites occupied by *Scaevola coriacea* are mostly on low, consolidated sand dunes near the ocean. The habitat is relatively dry and hot, averaging arounf 79 centimeters (31.5 inches) of precipitation per year (Carr, 1981). The sites receive high insolation and most of the vegetation is at or near ground level. Associated species include *Scaevola taccada* (a common, shrubby member of the same genus), *Bidens mauiensis*, *Nama sandwicensis*, *Boerhavia diffusa*, and *Lipochaeta integrifolia* (Herbst, 1972).

Historically, populations of *Scaevola coriacea* were present on all the major Hawaiian islands, with Maui supporting the most extensive populations. Presently, only four small populations remain in Maui County, Hawaii: At Waiehu Point, West Maui; at Kaupo, East Maui; on the islet of Moke'ehia, off West Maui; and on the islet of Mokuho'oniki, east of Molokai. The islets are part of the Hawaiian State Seabird Sanctuary and are under the jurisdiction of the State Department of Land and Natural Resources. The Waiehu Point population is split between State and private ownership. The State-owned land is under the jurisdiction of the County of Maui. The Kaupo population is entirely on private land. Lose of current and suitable habitat to development represents the major threat to the species. Protection of the remaining habitat from degradation, through a cooperative State, Federal, and County effort, is needed to ensure the species' continued existence.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report (House Document No. 94–51) was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice of review in the **Federal Register** (40 FR 27823) accepting this report as a petition within the context of section 4(c)(2) of the Act (petition acceptance is now governed by section 4(b)(3) of the Act, as amended). On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to section 4 of the Act. *Scaevola coriacea* was included in the Smithsonian report, the notice of review of July 1, 1975, and the proposal of June 16, 1976.

The Endangered Species Act, as amended in 1978, required that all proposals over 2 years old be withdrawn, except that a 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired (44 FR 70796). In the **Federal Register** of December 15, 1980 (45 FR 82480), the Service published a revised notice of review. *Scaevola coriacea* was included in this notice as a category–1 species, indicating that existing data warranted proposal to list as endangered or threatened.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. *Scaevola coriacea* was subject to this provision, so that a finding was required within one year as to whether its listing was warranted. On October 13, 1983, and again on October 12, 1984, the petition finding was made that listing *Scaevola coriacea* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires a recycling of the petition, pursuant to section 4(b)(3)(C)(i) of the Act. Therefore, a new finding must be made on or before October 13, 1985; this proposed rule constitutes the finding that the petitioned action is warranted and proposes to implement the action in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; 49 FR 38900, October 1, 1984) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Scaevola coriacea* (dwarf naupaka) Nutt. are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, *Scaevola coriacea* was present on all the major Hawaiian islands, with Maui supporting the largest populations. Presently, the species only exists in four small areas of Maui County, Hawaii: Waiehu Point, West Maui; Kaupo, East Maui; the islet of Moke'ehia off West Maui; and Mokuho'oniki, east of Molokai. The entire known population consists of approximately 350 individuals, 300 of which are found at Waiehu Point (Carr, 1981).

The Waiehu Point pouplation occurs on four sand dunes, both on State land, as part of Waiehu Golf Course, and on private land, owned by a realty company. The latter is scheduled for development in the near future. Loss of nearly two-thirds of the species' remaining habitat will result from this action. Habitat degradation of the remaining fraction of public land by the activity of golfers off the fairway is a potential, but probably minimal, threat to the plant.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Scaevola coriacea* is subject to taking and vandalism due to the accessiblity of its habitat and current unprotected status. The flowering plant is attractive and has been noted as being ". . . a worthwhile plant for homes by the beach" (Degener and Greenwell, 1950).

C. *Disease or Predation.* No such threats to *Scaevola coriacea* are known to occur at this time.

D. *The inadequacy of existing regulatory mechanisms.* A special permit is required to land on Mokuho'oniki islet. No additional

VOL 50 ISS 136 JL 16 1985 UMI

protection is now provided to *Scaevola coriacea*.

E. *Other natural or manmade factors affecting its continued existence.* Further reductions of the breeding population may have adverse effects on the reproductive capacity and survival ability of this species (Carr, 1981).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Scaevola coriacea* as endangered. The low number of individuals in the wild and the imminent loss of two-thirds of its remaining habitat warrant this decision. Critical habitat is not being designated because of the reasons described below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requries that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered to threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor "B" in the "Summary of Factors Affecting the Species," *Scaevola coriacea* is potentially subject to collecting, an activity difficult to control and not regulated by the Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants from lands under Federal jurisdiction. The plant currently occurs on State and private land outside Federal jurisdiction. Publication of critical habitat descriptions would make this species more vulnerable to taking and vandalism. In addition, there would be no net benefit to this species from such a designation. Therefore, it is not prudent to designate critical habitat for *Scaevola coriacea* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. Section 6 of the Endangered Species Act of 1973, as amended, details conditions for cooperative action between the Service and State agencies. Such actions as the establishment of conservation programs, acquisition of land, scientific research, and funding are provided for under section 6(b), management, and 6(c), cooperative agreements. The State of Hawaii has entered into a cooperative agreement with the Service. Since much of the remaining habitat of *Scaevola coriacea* occurs on State land, cooperation among Federal, State, and County officials will be necessary to ensure the continued survival of the species. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below:

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to areas proposed or designated as critical habitat. Regulations implementing this interagency cooperation provisions of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or destroy or adversely modify proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No Federal activities are known or expected to affect *Scaevola coriacea*.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Scaevola coriacea*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Cultivated specimens of *Scaevola coriacea* can be found at several sites in Hawaii, including the Maui Zoo and Botanical Garden and the courtyard of the Plant Science Building at the University of Hawaii. However, it is anticipated that few trade permits would ever be sought or issued since the species is not otherwise common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This provision would apply to *Scaevola coriacea* should it be found on Federal land. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 6, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. *Scaevola coriacea* is known only to occur on State and privately owned land. It is anticipated that few, if any, collecting permits would ever be requested for the species. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning the following:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Scaevola coriacea;*

(2) The location of any additional populations of *Scaevola coriacea* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Scaevola coriacea.*

Final promulgation of the regulation on *Scaevola coriacea* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if one is requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director (see **"ADDRESSES"** section, above).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Carr, G.D. 1981. Unpublished status survey of *Scaevola coriacea.* U.S. Fish and Wildlife Service. Honolulu, Hawaii, 40 pp.

Degener, O., and A. Greenwell. 1950. *Scaevola coriacea* Nutt. *In: Flora Hawaiiensis,* Honolulu, Hawaii.

Herbst, D.R. 1972. Botanical survey of the Waiehu sand dunes. The Bulletin, Pacific Tropical Botanical Garden 2:6–7.

Nuttall, T. 1843. Descriptions and notices of new or rare plants. Transactions of the American Philosophical Society, N.S. 8:251–272.

Author

The primary author of this proposed rule is Dr. John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975 or FTS 235–1975). Preliminary documentation was prepared under contract by Dr. Gerald D. Carr and Laurence Torok.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Goodeniaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Goodeniaceae—Goodenia family:						
Scaevola coriacea	Dwarf naupaka	U.S.A. (HI)	E		NA	NA

Dated: June 10, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–16797 Filed 7–15–85; 8:45 am]

BILLING CODE 4310–55–M

VOL
50

ISS
136

JL
16

1985

UMI

federal register

Tuesday
July 16, 1985

Part III

Department of Housing and Urban Development

Office of the Secretary

Fund Availability and Solicitation of Proposals for Project Self-Sufficiency; Notice

VOL
50
ISS
136
JL
16
1985
UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-85-1536; FR-2122]

Fund Availability and Solicitation of Proposals for Project Self-Sufficiency

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of fund availability and solicitation of proposals from eligible communities to participate in project self-sufficiency.

SUMMARY: HUD is soliciting proposals from units of general local government including county governments to participate in Project Self-Sufficiency. The Department is interested in encouraging local governments to develop and implement programs to enable unemployed or underemployed very low-income single parents with young children to become economically self-sufficient through the cooperative efforts of the public and private sectors. This demonstration, which involves the resources of several offices within the Department of Housing and Urban Development, will be coordinated by the Office of the Assistant Secretary for Policy Development and Research.

DATES: Application Deadline: Proposals for participation must be received by HUD at the address for application no later than 5:15 p.m. Eastern Daylight Savings Time on August 21, 1985. Letters of Intent will not be accepted. Please refer to § 4.4(b) for the deadline for submission of the section 8 Existing Housing application for this demonstration.

ADDRESS: There is *no application form.* Application is by written proposal only. An original and 5 copies of the proposal should be sent to: Dr. June Q. Koch, Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, Attention: Project Self-Sufficiency, Room 8128, 451 Seventh Street SW., Washington, D.C. 20410.

The proposal must contain the typed or printed name, mailing address, including zip code and telephone number of the local government's chief exeuctive officer, and the Director of the local Public Housing Agency (PHA), and the person to be contacted locally regarding the contents of the proposal.

FOR FURTHER INFORMATION CONTACT: Regarding Project Self-Sufficiency and proposal matters, contact: Francetta J. White, Telephone: (202) 755-5561. Regarding section 8 Existing Housing Program matters, contact Gwen Carter, Telephone: (202) 755-6887. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

1. General

"Project Self-Sufficiency" is designed to aid unemployed or underemployed very low-income single parents with young children make the transition from public assistance to productive employment and economic self-sufficiency. Activities to be carried out by local governments selected to participate in this demonstration will include, but are not limited to, housing assistance, child care, adult basic education where necessary, personal and career counseling, transportation, and job training and placement.

Any unit of general local government (e.g. city, county, or town) may apply for Project Self-Sufficiency. Joint applications by units of general local government are permitted.

Project Self-Sufficiency is an effort to encourage communities to develop effective mechanisms for integrating the various support services—both public and private—that exist in the community into a personal development program for single parents to enable them to make the transition from welfare dependency to productive employment. Communities are expected to coordinate and commit the use of all the necessary local public resources, which may include Community Development Block Grant funds (CDBG), to support the components of the self-sufficiency program. In addition, communities are expected to secure commitments from the local private sector to provide additional resources and opportunities for employment for Project Self-Sufficiency participants.

Under Project Self-Sufficiency, communities will be able to use a special allocation of section 8 Existing Housing Certificates to help single parent participants obtain decent, safe, sanitary and affordable housing as a part of a comprehensive and coordinated program. Communities may also encourage single parents to obtain housing in areas close to support services if doing so would facilitate the coordination of the other support services. Decent and affordable housing is a first step in creating the stable environment necessary to allow these single parents to develop their capabilities to become self-sufficient members of the community.

Accordingly, the Department will provide the Public Housing Agency (PHA) administering a section 8 Existing Housing Program in a community selected for participation in this demonstration with a special allocation of section 8 Existing Housing Certificates to be used in conjunction with the local Self-Sufficiency project. Up to 5000 section 8 Certificates will be made available nationwide for this demonstration. Certificates will be awarded according to the criteria set forth in this Notice. The Department reserves the right to reallocate, subject to applicable law, the section 8 allocation to other participating communities if the requirements of sections 4.3 and 5.4 of this Notice are not fulfilled.

For currently approved PS-S demonstration sites, the Department will consider the progress achieved, as described in section 6.9 of this Notice, in implementing Project Self-Sufficiency and the community's capacity to carry out this demonstration. No more than 50 percent of the Section 8 authority to be allocated in this demonstration may be awarded to communities currently participating in Project Self-Sufficiency.

HUD will also provide, to the maximum extent possible, technical assistance by HUD staff or by private consultants to assist participating communities in implementing effective Self-Sufficiency Programs. No separate funds will be provided to local governments for the implementation of Project Self-Sufficiency.

Each participating community will have the flexibility to design a Self-Sufficiency Program to meet its local needs, priorities and government structures within the guidelines established in this Notice.

Communities are invited to apply for participation in this program in accordance with the requirements established in this Notice. The application, in the form of a written proposal, must be signed and submitted by the chief executive officer. The chief executive officer is defined as the chief elected official, or the legally designated official who has the primary responsibility for the conduct of that unit's governmental affairs. Examples of the "chief executive officer" of a unit of local government are: The elected mayor of a municipality; the elected county executive of a county; the chairman of a county commission or board in a county that has no elected county executive; the official designated pursuant to law by the governing body of the unit of general local government; or the chairman, governor, chief, or president (as the case may be) of and Indian tribe or Alaskan native village.

2. Background

In 1982, almost 11 percent of the more than 61 million families in the United States were single parent families, according to data available from the U.S. Census Bureau. These families inlcuded 6.8 million children under the age of twelve or approximately six percent of all children under twelve in the country. More than one-half of those families with at least two children had incomes below the poverty level.

Single parent families with very low incomes face many difficult problems. Many single parents are unemployed or underemployed and lack resources such as adequate child care services, transportation or a stable housing environment necessary to enable them to acquire skills to obtain employment.

The Department of Housing and Urban Development has determined that the widespread and multifaceted problems of very low-income families require that the Department test new and innovative techniques to assist those who live below the poverty level to become parf of the economic mainstream. To further this objective, the Department of Housing and Urban Development has developed a number of demonstrations which are collectively known as the Quality of life Initiatives. These initiatives share the following features:

- They emphasize the coordination of resources already available from Federal, State, and local sources rather than the funding of new programs.
- They stress local autonomy in design and implementation. Broad program objectives must be met but communities tailor individual programs to meet their own unique needs.
- They require the commitment of all major local sectors; private business, local elected officials, the Public Housing Agency, educational, philanthropic and community organizations, and the residents themselves.

Project Self-Sufficiency is a demonstration developed and implemented within these broad guidelines to improve the quality of life of single parent families.

Over the years a variety of local, State and Federal programs, including welfare, housing assistance and job training, have been established to deal wth specific needs of lower-income families. However, these programs are generally administered separately by different agencies at varying levels of government. Additionally, charitable organizations that can and do provide assistance to needy families exist in every community but rarely are these private efforts coordinated with that of the public sector. Thus, even though their clientele may be the same, there is often no effective mechanism established within the community to integrate these services and programs.

On May 21, 1984, the Department published in the **Federal Register** (49 FR 21433) a Notice of Fund Availability to initiate the Project Self-Sufficiency Demonstration.

A comment period was provided. Listed below is a summary of the comments received:

Two comments recommended that organizations other than PHAs administer the Section 8 certificates. This recommendation is contrary to HUD regulations and could not be implemented.

One comment requested increases in rent allowance. Rental assistance limits are reviewed on a regular basis and adjusted in accordance with HUD regulations.

One comment recommended allowing a longer response time. The Department attempted to allow a greater response period; however, budgetary and time restrictions do not allow for a longer response period.

One comment recommended that HUD provide additional funds for staffing and coordination. Project Self-Sufficiency is designed to emphasize the coordination of existing services rather than funding of new programs, to build private-public partnerships and to determine the capability of leveraging private resources with Section 8 assistance. To provide additional funds for administering Project Self-Sufficiency would undermine the purposes of the demonstration.

Two comments dealt with combining all PS-S activities into one facility or building a new facility to house all PS-S activities. There are no restrictions to providing all service activities at one facility provided it can be accomplished within the time frame of the demonstration. Housing may be offered in one facility, but housing choice may not be restricted to that facility.

As a result of the original announcement of Project Self-Sufficiency in 1984, the Department received over 220 proposals from communities. Seventy-eight (78) of these communities were selected for participation. The Demonstration sites have successfully established task forces, developed Action Plans, and leveraged private resources using the Section 8 housing assistance provided by HUD. Single-parent participant selection and job-training programs are underway, and in some cases employment has begun.

In view of these experiences and the continuing interest of local governments in Project Self-Sufficiency as exhibited by inquiries from individuals and communities not participating in the current demonstration, the Department is, with this Notice, reaffirming its continuing commitment to improving the quality of life for single parents by announcing an additional allocation of section 8 Existing Housing authority for Project Self-Sufficiency. The Department has determined that it would be particularly useful in the Demonstration to emphasize assistance to single parents who are motivated but have long-standing problems, such as lack of adequate, basic education, long-term unemployment, and other special problems that severely limit their ability to become self-sufficient. In an effort to better serve the "hard to serve" segment of the very low-income single parent population, the guidelines for communities selected in Fiscal Year 1985 to receive section 8 Authority for the Project Self-Sufficiency Demonstration are being clarified to encourage communities to target the local demonstration to single parents with special long-standing needs. For example, this Notice adds adult basic education to the list of service needs that should be addressed in the mutually agreed upon plan for the delivery of a coordinated program of housing, counseling, child care, transportation, job training and placement assistance to single parent participants.

Other major refinements to the demonstration which are being implemented in this Notice for communities selected in Fiscal Year 1985 to receive section 8 units under Project Self-Sufficiency are:

- The active and continued involvement of the local chief executive officer in the operation of the demonstration is being given added emphasis. Preliminary experience from the current demonstration indicates that the involvement of the CEO throughout the demonstration is a key factor in generating effective public/private partnerships.
- Appointment/confirmation of the task force, as discussed in section 4.3 below, must be completed within 60 days of date of the official announcement of demonstration awards.
- An acceptable Action Plan must be submitted to HUD no later than 60 days following the local approval of the task force.
- The Department reserves the right to reallocate, subject to applicable law, the section 8 allocation to other participating communities if the requirements of sections 4.3 and 5.4 are not fulfilled.

VOL
50
ISS
136
JL
16
1985
UMI

• A program completion date for the local demonstration must be specified and must be within 30 months from the date of public announcement of demonstration awards, unless prior approval for a longer period is given by HUD. This change is being made to allow consideration of adult basic education, and training courses that might extend beyond the usual 12 to 18 months; e.g., trades or other non-traditional occupations, and training programs for certain career-ladder positions that require more extensive training. However, all section 8 Certificates must be issued within 12 months of the execution of the ACC.

• If *prior to the issuance* of the section 8 Certificate the single-parent participant fails to actively participate in stated activities in the mutually agreed upon Individual Action Plan, the task force may reconsider his/her candidacy and allocate the Certificate to another candidate, in accordance with requirements discussed in section 4.1 below.

No more than 50 percent of the PS–S Fiscal Year 1985 section 8 authority provided under this Notice will be made available to currently approved Demonstration sites.

3. Goals of the Program

The overall goal of Project Self-Sufficiency is to enable very low-income single parents to become economically self-sufficient. Specific objectives of the program are:

(a) To create an awareness in local communities of the problems faced by single parent, very low-income families and to mobilize community support for an effort to help them become self-sufficient and productive members of the community;

(b) To demonstrate the capacity of local communities to assist very low-income single parents to become self-sufficient by the efficient and innovative use of existing public and private resources;

(c) To develop a range of effective strategies for generating private sector involvement and integrating these private sector resources with public assistance programs; and

(d) To document the experiences of implementation of successful Self-Sufficiency Programs that can be adopted in other communities.

4. Resources to be Committed by HUD and Other Participants

4.1 *HUD.*

4.1 (a). HUD will provide a special allocation of section 8 Existing Housing Certificates for use in communities selected for participation in this demonstration. These Certificates will be provided to the local Public Housing Agency by HUD. The PHA shall be responsible for the administration of the Certificates in the community in accordance with the Annual Contributions Contract (ACC) and with the local Self-Sufficiency Program approved by HUD as incorporated into the Administrative Plan. The Certificates are to be made available to very low-income single parents selected for participation in the community's Self-Sufficiency Program to enable them to locate decent safe and affordable housing of their choice. Use of the Certificates may not be restricted to particular housing units, although as discussed in section 5.7, some communities may find it feasible to encourage single parent participants to obtain housing in a single building or area if doing so would facilitate the coordination of the other support services. Up to 5000 Certificates will be made available for this demonstration. The number of Certificates to be provided by HUD to each PHA in a participating community will be within the limits of overall availability and will be based, among other things, on the PHA's performance in running the section 8 Existing Housing program and its capacity to handle an additional allocation, and the number of Certificates requested in relation to the number of very low income single parent families currently on the section 8 waiting list. The Assistant Secretary for Housing-Federal Housing Commissioner will issue a waiver of 24 CFR 882.207 as necessary to permit implementation of Project Self-Sufficiency. A single parent selected for participation must be on the PHA's section 8 waiting list at the time the Certificate is issued. The Task Force (discussed in 4.3 below) may determine at what stage of the program the section 8 Certificate will be given. The PS–S program shall indicate the general criteria which the Task Force will consider with respect to the timing of the issuance of the section 8 Certificate. These criteria shall be reasonably related to the accomplishment of the goals of the PS–S program and must be incorporated into the PHA's Administrative Plan. The timing of the section 8 assistance for each participant in the program must be reflected in the participant's Individual Action Plan (discussed in 5.6 below) and must be related to the specific needs of the participant. However, all PS–S section 8 Certificates must be issued within 12 months of the date of the execution of the Annual Contributions Contract.

If, *prior to the issuance* of the section 8 Certificate, a single parent selected for Project Self-Sufficiency fails to actively participate in one of the stated activities in the mutually agreed upon Individual Action Plan, the Task Force may reconsider his or her candidacy and terminate the single parent from Project Self-Sufficiency. The Task Force must establish a policy for termination of participants from PS–S. The policy must include reasonable and specific criteria for assessing the progress and participation of participants in PS–S, and must be contained in the community's Action Plan and the Administrative Plan of the PHA.

Upon termination of a participant from Project Self-Sufficiency prior to the issuance of a section 8 Certificate, the Task Force may consider another single parent for Project Self-Sufficiency and section 8 assistance. The termination of a single parent from Project Self-Sufficiency prior to the issuance of the section 8 Certificate, will not affect his or her eligibility for regular section 8 assistance and his or her place on the existing waiting list.

Once a Certificate has been issued to a Project Self-Sufficiency participant it cannot be withdrawn (except as provided in 24 CFR 882.210), and any turnover of the Certificate becomes a part of the PHA's regular section 8 Existing Housing Program.

4.1 (b). To the extent possible, HUD will provide technical assistance to communities selected for participation in the demonstration.

4.2 *Local Governments.*

4.2 (a). The chief executive officer is expected to provide the necessary support of the local government for the Self-Sufficiency Program. In addition, the chief executive officer must commit him or herself to continued involvement in and leadership of Project Self-Sufficiency for the duration of the demonstration as specified in the community's Action Plan.

4.2 (b). Each participating community must commit its local service agencies to provide the necessary resources as may be appropriate for the program. Such resources may include, but are not limited to, local government staff, labor and equipment, and general revenues; block grant funds; transportation; and the use of publicly-owned buildings and property.

4.2 (c). Each participating local government must also commit itself to generating private sector commitments for the program. Evidence of private sector commitments will be the willingness of such businesses and private organizations to provide the local Self-Sufficiency program with such assistance as:

—Volunteers or loaned executives
—Donations of equipment, supplies or space
—Monetary contributions
—Employment skills training
—On-the-job training
—Child care support services
—Counseling—personal and career
—Employment opportunities and placement
—Employment information/referrals

4.3 *The Task Force*

The chief executive officer of the participating community shall appoint a Task Force of representatives from the local public and private sectors to oversee the planning and implementation of the local Self-Sufficiency Program. The chief executive officer is strongly urged to chair the Task Force. Current experience has demonstrated that the sustained involvement of the local chief executive officer is a key factor in generating effective private-public partnerships. Although the Task Force may identify a Project Director or administrator to administer the day-to-day activities of the project, the Task Force shall be the over-seeing body and shall be responsible for pulling together the various public and private resources necessary for program implementation. The Task Force must include representatives from the Public Housing Agency, local public and private agencies that have resources or programs available to assist unemployed single parents, local businesses, private employers, the Private Industry Council (where it exists), educational institutions and the single parent population. Communities are encouraged to involve members of the medical, religious, and financial communities in the Task Force. The final approval of the Task Force by the local legislative body, if required, must be completed within 60 days of the date of the official announcement of the demonstration awards.

4.4 *PHA.*

4.4 (a). The PHA must agree in writing, as part of the proposal submitted by the community, to administer the section 8 Certificates on behalf of the local Self-Sufficiency Program and to serve as a member of the local Task Force.

4.4 (b). The cooperating PHA must submit the necessary section 8 Existing Housing application to the HUD Field Office by August 7, 1985. HUD is required by section 213(a) of the Housing and Community Development Act of 1974 to provide the unit of general local government an opportunity to object to HUD's approval of an application for housing assistance on the grounds that the application is inconsistent with the local Housing Assistance Plan. Accordingly, the Chief Executive Officer is encouraged to submit a section 213 letter with the PHA's Application. To avoid any delay in HUD's approval of the PHA's Application, the section 213 letter must indicate that approval of the Application for the section 8 Existing Housing Program is consistent with the community's Housing Assistance Plan, that the letter can be considered the final comments, and that no additional comments will be submitted by the unit of local government. The section 213 letter must be received by the HUD Field Office no later than August 29, 1985.

4.4 (c). Once communities have been selected for participation in this demonstration, the participating PHAs will be required to submit a revised Administrative Plan and Equal Opportunity Housing Plan to the appropriate HUD Field Office before execution of the Annual Contributions Contract (ACC). The Administrative Plan and the Equal Opportunity Housing Plan must include the following: The participant selection process; the criteria to be used to select participants for the demonstration; the policy on the timing of the issuance of section 8 Certificates; and the policy, including the criteria, for removal of participants from PS–S prior to the issuance of a section 8 Certificate. If the section 8 waiting list is to be opened for Project Self-Sufficiency, the criteria and process to be used in opening the waiting list must be included in the revised Administrative Plan.

5. Local Self-Sufficiency Program Design

Each participating community should design a Self-Sufficiency Program that reflects local needs and priorities, available resources, and the existing local government structure. Activities that are required to be undertaken in all local Self-Sufficiency Programs are described in the following paragraphs:

5.1 *Establishment of a Local Task Force.* Each program should begin with the establishment of a local Task Force as described in section 4.3 above. A strong local Task Force will be the motivating force to help the community plan, develop and implement its Self-Sufficiency Program. The Task Force will be responsible for updating and expanding, if necessary, the Needs Assessment (described below), developing community objectives for the program and an Action Plan to meet those objectives, identifying and securing commitments of local public and private resources, developing the selection process and the criteria to be used to select the single parent participants for the program, and overseeing the administration and final evaluation of the program. The single most important role of the local Task Force must be that of identifying and harnessing overall community resources into commitments for specific program support activities.

5.2 *Generating Private Sector Resources.* The Task Force must identify and recruit an active group of local private businesses, employers, and organizations willing to commit funds, staff, equipment, use of buildings and property, training assistance, housing, employment opportunities, and other services to the program. These may include private:

—Employers;
—Businesses;
—Financial institutions;
—Employee organizations;
—Religious organizations;
—Neighborhood organizations;
—Schools and colleges;
—Medical institutions;
—Cultural and civil organizations;
—Voluntary and non-profit service groups;
—Foundations and corporate philanthropies; and
—Individual givers.

5.3 *Needs Assessment.* The purpose of the local Needs Assessment is to identify the particular problems faced by local single parents and the activities and services needed to remove obstacles to their economic independence. The Need Assessment should identify both specific needs of the single-parent population, and availability of specific resources within the community to meet these needs. It should identify areas of potential employment in the community, including non-traditional occupations and occupations having career ladder potential, and the resources, training and other activities that will be needed to help single parents obtain jobs in these areas. Subjects to be covered in addition to employment opportunities and job training shall include, but need not be limited to, housing, child care, basic education where necessary, personal and career counseling, and transportation.

5.4 *Action Plan.* Each community, through its local Task Force, must develop an Action Plan outlining the program services and activities necessary to meet the needs of program

VOL
50
ISS
136
JL
16
1985
UMI

participants as determined by the Needs Assessment.

The preparation of the local Action Plan should begin with review and updating, as necessary, of the Needs Assessment. Any revisions and updating of the Needs Assessment must be submitted with the Action Plan. An acceptable Action Plan must be completed and received by HUD no later than 60 days following the local approval of the Task Force.

The plan must describe specific steps that will be taken to deliver all program services and activities, including, among other things, job placement, participant follow-up after placement and program evaluation; specify a time schedule for each step; indicate the procedures to be used to assure that public and private resources will be integrated to implement the program, and indicate the organization responsible for each activity and for program service implementation. The Action Plan must specify a program completion date when the entire HUD sponsored self-sufficiency demonstration will be completed, including participant follow-up and local program evaluation. This date may not extend beyond 30 months after the date of official announcement of demonstration award without previous approval by HUD.

Although the Self-Sufficiency Action Plan developed by the Task Force in each community should be tailored to meet program participant needs and to make full use of community resources unique to the community as identified by the Needs Assessment, each Action Plan shall include, at a minimum, the following program services and activities:

—A selection process and selection criteria to be used;
—The policy for timing the issuance of the section 8 Certificates;
—The policy for termination of participants from PS–S including the criteria for assessing the progress and participation of participants.
—Provision of adequate case management including: the development of Personal Needs Assessments and Individual Action Plans for program participants; and monitoring of individual progress so problems can be identified early enough to make adjustments to reduce the potential for drop-outs.
—Housing assistance;
—Child care;
—Personal and career counseling;
—Basic education, where necessary, such as general education (GED) training, literacy training and English as a second language;
—Transportation access;
—Development of job skills including on-the-job training where appropriate;
—Job placement through private sector job commitments;
—Follow up after job placement;
—Program evaluation.

Other suggested, though not required, program elements include:

—Support group discussions;
—Medical care;
—Preventive health care training; and
—Home maintenance training.

5.5 *Selection of Program Participants.* The local Task Force, in consultation with the PHA, local service agencies and others as may be designated by the Task Force, will select program participants who are motivated to become self-sufficient. Those selected for participation must be very low-income single parent families as defined in section 3(b)(2) of the United States Housing Act of 1937, and must be on the section 8 waiting list at the time their Certificates are issued.

5.6 *Personal Needs Assessment and Individual Action Plan.* A Personal Needs Assessment must be prepared for each participant. This assessment should identify the specific needs of the participant and any special problems, including the lack of basic educational skills, that could inhibit the participant from achieving self-sufficiency. A recent GAO evaluation of job training programs confirmed that a significant relationship exists between participant education level completed, employment, and Aid for Families with Dependent Children (AFDC) status. The study indicated that the proportion of participants who obtained and kept jobs which enabled them to provide for their families without AFDC benefits was significantly higher for those having completed 12th grade as compared with those having an 8th grade education. Consequently, the Task Force should consider giving primary consideration to assisting those participants who lack a high school diploma to obtain one or to obtain a general education development (GED) equivalent. An Individual Action Plan, mutually agreed upon by the participant and the Task Force, also must be prepared for each participant. It must be based on the information developed in the Personal Needs Assessment and must identify specific activities and services which will help the program participant to become self-sufficient.

The Personal Needs Assessment and the Individual Action Plan are developed in cooperation with the participant, and should clearly specify the resources to be made available to the participant as well as the responsibilities of the participant.

5.7 *Housing Assistance.* The local Public Housing Agency shall be responsible for issuing section 8 Certificates to single parents selected and actively participating in this program. Housing assistance must be assimilated into the larger purpose of helping to create a stable environment for these single parents to allow them to participate in job training programs without undue concern for the welfare and safety of their families. The issuance of the section 8 Certificate should be coordinated with the provisions of the Individual Action Plan. Within these parameters, and in accordance with the Administrative Plan of the PHA, the Task Force has the authority to determine at what stage of the program the section 8 Certificates will be issued. However, all PS–S section 8 Certificates must be issued within 12 months of the execution of the ACC.

To the extent possible, the PHA should assist program participants in locating suitable housing by providing them with a list of available units that facilitate participation in the Self-Sufficiency Program, such as easy access to public transportation and/or job training sites, or place of employment. The community may find it feasible to encourage program participants to utilize their section 8 Certificates to obtain housing in a particular area if doing so would facilitate the coordination of other support services. However, a community may not mandate that utilization of the Certificates be restricted to any particular building or area. All housing must meet the program requirements for the section 8 Existing House Program (See 24 CFR Part 882). Once a Certificate has been issued to a Project Self-Sufficiency participant, it cannot be withdrawn unless termination is consistent with grounds identified in 24 CFR Part 882. Any turnover of the Certificate becomes a part of the PHA's regular section 8 Existing Housing Program.

5.8 *Child care.* The availability of quality child care services is considered an essential element of a successful Self-Sufficiency Program. Single parents must feel assured that their children are in an adequate child care environment. Lack of quality child care or unreliable child care services can contribute to the failure of participants to take full advantage of the range of support services which have been identified for them and may result in absenteeism rates that preclude satisfactory completion of job training programs. Single parent participants should receive guidance in the selection of appropriate child care services. Communities may wish to consider establishing, with the help of the private sector, a centralized child care facility for the children of Project Self-Sufficiency participants if doing so would facilitate access by participants to other elements of the self-sufficiency program such as evening support group meetings.

5.9 *Basic Education.* Where necessary, as determined by the Personal Needs Assessment and Individual Action Plan, participants who lack a high school diploma should be encouraged to enroll in classes to obtain a high school diploma or a general education development (GED) equivalent. Those participants lacking basic English language skills should be considered for additional assistance such as literacy training and English as a second language course to improve their ability to communicate in the work place and to carry out the responsibilities of their jobs.

5.10 *Transportation.* Attention should be paid to the transportation needs of program participants since experience indicates a high correlation between the availability of transportation and the degree to which program participants avail themselves of the full range of other support services, such as evening education classes and support group meetings.

5.11 *Personal and Career Counseling.* Counseling can be a critical element in the package of services provided under Project Self-Sufficiency, and it is likely that may PS–S participants will need extensive counseling in order to achieve the goal of self-sufficiency. With proper counseling, participants will be encouraged and trained to assume responsibility for their own needs and to learn how to make basic life decisions—a major part of becoming self-sufficient; and to identify career areas and to set short and long term career goals.

5.12 *Job Development and Placement.* It is important to identify potential employers early in the planning process, so that the job training programs can be tailored to the needs of the job providers. The involvement of private sector members of the Task Force is especially critical at this stage or program implementation. A placement officer must be thoroughly familiar with the program participant's skills and personality so that an appropriate match can be made to match individual program participants with employment opportunities. Job placement must be the cornerstone and expected outcome of any training program that is undertaken.

5.13 *Program Requirements.* Communities participating in Project Self-Sufficiency must comply with all applicable section 8 Existing Housing regulations. If funds are used for the local Self-Sufficiency Program from any other source of Federal assistance, the regulations and requirements of those programs also must be followed. Communities participating in Project Self-Sufficiency must comply with all requirements of this Notice.

6. Application Requirements

A proposal submitted must contain the following:

6.1 A narrative on why a Self-Sufficiency Program is needed in the community.

6.2 A Needs Assessment which identifies the particular problems faced by the target population and the program services, employment opportunities, and activities and resources needed to address these problems.

6.3 A statement of the number of section 8 Existing Housing Certificates requested to support the local Self-Sufficiency Program, and a statement of justification for the request which, at a minimum, provides information on the number of single parents with young children currently on the section 8 waiting list relative to the number of Certificates requested and other documentation of need.

6.4 An explanation of how the community will provide for housing, employment training and employment opportunities, transportation, counseling, and child care for the number of participants for which the community is requesting section 8 Certificates.

6.5 A specification of the local public and private resources which would be needed to support the number of participants anticipated; and the amount of resources which will be made available to this demonstration. This section of the proposal will receive particular consideration in the selection process.

6.6 A letter from the chief executive officer specifying his or her involvement and commitment to the local Project Self-Sufficiency Program. This section of the proposal will receive particular consideration in the selection process.

6.7 A description of the local Task Force (if established by the date of proposal submission, include the names, titles, and organizations they represent) and the types of commitments they could contribute to perform the functions outlined in section 5. It is encouraged that letters from Task Force members or prospective members agreeing to serve be submitted with the proposal. Since the Task Force shall be responsible for marshalling resource commitments from local public agencies, private organizations and individuals to support the program, this section of the proposal will also receive particular consideration in the selection process.

6.8 A letter from the Public Housing Agency authorized to administer a section 8 Existing Housing Program in the community agreeing to participate in the demonstration and stating its willingness to administer the Certificates being requested for that community's Self-Sufficiency Program under the conditions set forth in this Notice. The letter should also indicate the PHA's willingness to cooperate as a member of the local Task Force in the overall planning and implementation of the project. PHAs not currently administering a section 8 Existing Housing Program will not be considered.

6.9 In addition to the above, a community currently participating in the PS–S demonstration, must provide an up-to-date status report on the community's progress in implementing the first demonstration including, among other things, the date when the Task Force was established, the Action Plan was submitted, participants were selected; the status of job training or job placement of current participants, and the status of the issuance of section 8 Certificates.

6.10 Please note that the proposal process does not require that the community have a completed Action Plan, described in section 5.4, at the time of the proposal.

7. Selection and Approval Procedures

7.1 Proposals will be reviewed by HUD Headquarters. HUD Field office comments will be solicited concerning the PHA's past performance in administering the section 8 Existing Housing Program, and the capacity of the PHA to absorb this additional section 8 allocation. There is no requirement that a Task Force be selected, and public and private resources be committed to the PS–S program, prior to submission of the PS–S application. However, particular consideration will be given to applications which indicate that a PS–S program is further along in development. In this regard note 6.5 and 6.7 above. Key factors to be taken into consideration in assessing each application will include:

—Extent of the CEO's involvement in and commitment to the local Project Self-Sufficiency Program;

community's capacity to carry out an additional allocation.

information for purposes of program evaluation to HUD or HUD's designee.

Tuesday
July 16, 1985

VOL
50
ISS
136
JL
16
1985
UMI

—Extent of the CEO's involvement in and commitment to the local Project Self-Sufficiency Program;
—Extent to which the composition of the Task Force represents a broad spectrum of the community capable of marshalling the necessary public and private sector resources;
—Extent of local public sector resources committed to the program;
—Extent of local private sector resources committed to the program;
—Extent to which the application reflects an understanding of the Project Self-Sufficiency concept;
—Capacity of the local private employment sector to provide employment opportunities for Project Self-Sufficiency participants; and
—Ability of the applicant to implement the program within the deadlines established in this Notice.
—For currently approved Project Self-Sufficiency demonstration sites, progress achieved in implementing Project Self-Sufficiency and the community's capacity to carry out an additional allocation.

The Department will also seek diversity in its selection of participating communities according to geographical location, population and type of government (city, county, or other locality).

7.2 Preliminary selection of communities will be made by the Assistant Secretary for Policy Development and Research in consultation with the Assistant Secretary for Housing-Federal Housing Commissioner. Final selection will be by the Secretary.

8. Other Matters

8.1 This Notice affects the following Federal program listed in the Catalog of Federal Domestic Assistance at the specified number: Low-Income Housing Assistance Programs, section 8 (14.156);

8.2 Periodically, communities selected for participation in this demonstration will be asked to provide information for purposes of program evaluation to HUD or HUD's designee.

8.3 The information collection requirements contained in this Notice has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, and has been assigned OMB control number 2528–0112.

8.4 An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary since the Certificate Program is part of the section 8 Existing Housing Program, which is categorically excluded under HUD regulations at 24 CFR 50.20(d).

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d), and Title V, United States Housing Act of 1970 (12 U.S.C. 1701z–1).

Dated: July 5, 1985.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 85–16858 Filed 7–15–85; 8:45 am]
BILLING CODE 4210–32–M

federal register

Tuesday
July 16, 1985

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 108
Aviation Security; Coordination and Training; Final Rule

VOL
50
ISS
136
JL
16
1985
UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 108

[Docket No. 24719; Amdt. No. 108-3]

Aviation Security; Coordination and Training

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: Because of the current level of threat, this emergency regulation requires each certificate holder to whom the airplane operator security rules apply to have employees identified and trained as Security Coordinators for international and domestic flights, in accordance with its approved security program. It also requires certificate holders to provide security training for all crewmembers to the extent necessary to prepare each crewmember to respond adequately to various levels and types of threats. This regulation is needed to respond to recent terrorist attacks against U.S. civil aviation. It is intended to protect U.S. civil aviation against international terrorism.

DATES: Effective date of this amendment is July 11, 1985. Section 108.27 does not become effective until notice of approval of the reporting requirement therein by the Office of Management and Budget is published in the **Federal Register.** Comments must be received on or before August 30, 1985.

ADDRESSES: Send comments on this amendment in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 24719, 800 Independence Avenue SW., Washington, D.C. 20591; or deliver comments in duplicate to: Federal Aviation Administration, Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. Comments may be examined in the Rules Docket on weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Donnie Blazer, Aviation Security Division (ACS-100), Office of Civil Aviation Security, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone: (202) 426-8798.

SUPPLEMENTARY INFORMATION:

Comments Invited

Because of the emergency need for this amendment, it is being adopted without notice and public comment. However, the Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) provide that, to the maximum extent possible, DOT operating administrations should provide notice and an opportunity for the public to comment on such emergency regulations after their issuance. Accordingly, interested persons are invited to comment on this final rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-204, Docket No. 24719, 800 Independence Ave. SW., Washington, DC 20591. All comments submitted will be available in the Rules Docket for examination by interested persons. This amendment may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24719." The postcard will be date and time stamped and returned to the commenter.

Background

The June 14, 1985, hijacking of Trans World Airlines Flight 847 resulting in the murder, torture, and kidnapping of U.S. citizens is the latest in a continuing series of terrorist attacks against U.S. aviation and U.S. interests, Government officials, and tourists in Europe, the Middle East, and throughout the world during the 1980's. Accordingly, it has become necessary to undertake certain actions to protect U.S. aviation in addition to those already mandated by Part 108 of the Federal Aviation Regulations. To that end, it is necessary that the FAA immediately undertake certain actions to protect U.S. civil aviation and U.S. citizens in high-risk areas and throughout the world.

Security Coordination

One action effected by this amendment is to enhance the coordination and supervision of the security provided for domestic and international flights. In view of the current level of threat, this amendment requires each certificate holder to whom the airplane operator security rules apply to provide a ground and an inflight Security Coordinator for each international and domestic flight, in accordance with its approved security program. This amendment further requires that the pilot in command (PIC) be designated as the inflight Security Coordinator.

The function of the Security Coordinators will be to ensure that all necessary security requirements are met prior to departure and while in flight. The duties of the ground Security Coordinator will be specified in the certificate holder's approved security program and will include monitoring the security requirements in effect for the following: (1) Screening for the flight; (2) access to the airplane; (3) airplane servicing (including fueling and catering); (4) ground support for inflight emergency response; (5) air operations area security; and (6) baggage and cargo acceptance and loading. The duties of the inflight Security Coordinator will also be specified in the security program and will include: (1) Reviewing, with the ground Security Coordinator, pertinent security information for the specific flight; (2) prior to beginning a flight or a series of flights with a particular crew, briefing the crew on the specific manner in which the PIC wants inflight incidents to be managed; (3) prior to each flight segment, briefing the crew on any significant irregularities or occurrences that may affect the security of the flight; and (4) on completion of a flight or series of flights, briefing the certificate holder on any significant incidents or occurrences, in accordance with the procedures established by the certificate holder.

New § 108.23(a) requires that each designated Security Coordinator satisfactorily complete the training as specified in the certificate holder's approved security program, within the preceding 12 calendar months. New § 108.7(b)(7) requires the curriculum for all required security training for ground and inflight Security Coordinators to be specified in the certificate holder's approved security program which is approved by the Principal Security Inspector. Based on the present level of threat, the air carrier's security program will require a maximum of 40 hours of initial training, as well as a minimum of 8 hours of annual recurrent training, for the ground Security Coordinator.

Pilots in command designated as inflight Security Coordinators will receive substantial training on inflight Security Coordinator duties during initial and recurrent training. As with other crewmembers, the pilot in command will be required to receive a minimum of 8 hours of initial training, including training directed at the functions and responsibilities of the inflight Security Coordinator, as well as annual recurrent training.

Crewmember Security Training

The second action considered essential is to provide all crewmembers with expanded security training. In particular, this amendment will result in all air carrier crewmembers having a significantly increased capability of responding to hijack attempts and other criminal acts. To that end, significantly enhanced initial and recurrent training is being required for crewmembers.

New § 108.23(b) prohibits the use by a certificate holder of any person as a crewmember unless, within the preceding 12 calendar months, that person has satisfactorily completed the training as specified in the certificate holder's approved security program. All required security training for crewmembers must be specified in the certificate holder's approved security program and integrated in the certificate holder's approved training program which is approved by the Principal Operations Inspector in coordination with the Principal Security Inspector. For the crew member training provisions of an air carrier security program to be approved by the FAA, the training program must provide 8 hours of initial security training, as well as annual recurrent training. Where the trainee is to act as pilot in command, this training will include significant emphasis on Security Coordinator duties and responsibilities. Each certificate holder is required to submit a separate curriculum for each type of training.

Evidence of Compliance

In order to ensure effective compliance with these amendments and other provisions, new § 108.27 provides that, on request of the Administrator, each certificate holder shall provide evidence of compliance with this part and its approved security program. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), this new reporting provision will be submitted for approval to the Office of Management and Budget (OMB). New § 108.27 will not become effective until OMB approval has been received and notice of that approval is published in the **Federal Register.** Comments on this provision should be submitted to the Office of Information and Regulatory Affairs (OMB), New Executive Office Building, Room 3001, Washington, D.C. 20503; Attention: FAA Desk Officer (Telephone: 202-395-7313). A copy should be submitted to the FAA Docket.

Need for Immediate Adoption

Because of the need to respond immediately to the heightened threat to civil aviation from terrorist hijackings and sabotage, I find that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this amendment effective in less than 30 days.

Economic Assessment

Because of the emergency need for this regulation, no regulatory evaluation has been prepared. In accordance with section 11(a) of the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), a regulatory evaluation will be prepared and placed in the public docket, unless an exception is granted by the Secretary of Transportation. For this same reason and in accordance with section 8(a)(1) of Executive Order 12291, I find that following the procedures of that Executive Order is impracticable.

Conclusion

In accordance with section 8(a)(1) of Executive Order 12291, because of the emergency need for this regulation, the procedures in that Executive Order have not been followed. In view of the substantial public interest in the matter of aviation security as a result of the current threat situation, this regulation is considered significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation to be prepared for this project will be placed in the public docket, unless an exception is granted by the Secretary of Transportation.

List of Subjects in 14 CFR Part 108

Transportation, Air safety, Safety, Aviation safety, Air transportation, Air carriers, Airports, Airplanes, Airlines, Law enforcement officers, Police, Security measures, Training.

The Amendment

PART 108—[AMENDED]

Accordingly, Part 108 of the Federal Aviation Regulations (14 CFR Part 108) is amended as follows, effective July 11, 1985:

1. The authority citation for Part 108 is revised to read as follows:

Authority: 49 U.S.C. 1354, 1356, 1357, 1358, 1421, and 1424; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983).

2. By amending § 108.7 by adding new paragraphs (b)(6) and (b)(7) to read as follows:

§ 108.7 Security program: Form, content, and availability.

* * * * *

(b) * * *

(6) The procedures used to comply with the applicable requirements of § 108.10.

(7) The curriculum used to accomplish the training required by § 108.23.

* * * * *

3. By adding a new § 108.10 to read as follows:

§ 108.10 Prevention and management of hijackings and sabotage attempts

(a) Each certificate holder shall—

(1) Provide and use a Security Coordinator on the ground and in flight for each international and domestic flight, as required by its approved security program; and

(2) Designate the pilot in command as the inflight Security Coordinator for each flight, as required by its approved security program.

(b) *Ground Security Coordinator.* Each ground Security Coordinator shall carry out the ground Security Coordinator duties specified in the certificate holder's approved security program.

(c) *Inflight Security Coordinator.* The pilot in command of each flight shall carry out the inflight Security Coordinator duties specified in the Certificate holder's approved security program.

4. By revising § 108.23 to read as follows:

§ 108.23 Training.

(a) No certificate holder may use any person as a Security Coordinator unless, within the preceding 12 calendar months, that person has satisfactorily completed the security training as specified in the certificate holder's approved security program

VOL
50
ISS
136
JL
16
1985
UMI

(b) No certificate holder may use any person as a crewmember on any domestic or international flight unless within the preceding 12 calendar months that person has satisfactorily completed the security training required by § 121.417(b)(3)(v) or § 135.331(b)(3)(v) of this chapter and as specified in the certificate holder's approved security program

4. By adding a new § 108.27 to read as follows:

§ 108.27 Evidence of Compliance.

On request of the Administration, each certificate holder shall provide evidence of compliance with this part and its approved security program.

Issued in Washington, D.C., on July 11, 1985.

Donald D. Engen,

Administrator.

[FR Doc. 85-16867 Filed 7-11-85; 4:44 pm]

BILLING CODE 4910-13-M

Reader Aids

Federal Register
Vol. 50, No. 136
Tuesday, July 16, 1985

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212	1
27213-27408	2
27409-27570	3
27571-27812	5
27813-27926	8
27927-28092	9
28093-28190	10
28191-28362	11
28363-28554	12
28555-28756	15
28757-28894	16

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
305 ... 28363

3 CFR
Executive Orders:
11888 (Amended by EO 12524) ... 27409
12470 (Revoked by EO12525) ... 28757
12523 ... 26963
12524 ... 27409
12525 ... 28757
Proclamations:
5356 ... 26961

5 CFR
771 ... 26965
Proposed Rules:
532 ... 28583, 28584

7 CFR
Ch. IV ... 27927
52 ... 26965
54 ... 27571
226 ... 26972
301 ... 28366
400 ... 26976
402 ... 28367
908 ... 27411, 27928
910 ... 27813, 28372, 28555
911 ... 28373
915 ... 28373, 28556
916 ... 27813, 28373
917 ... 27813, 28373
918 ... 28373
921 ... 27411, 28373
922 ... 28373
923 ... 28373
924 ... 28373
930 ... 27213, 28373
944 ... 28556
967 ... 28373
979 ... 26978
985 ... 28373
991 ... 26977, 27814
1040 ... 27412
1427 ... 26978
1435 ... 27413
1941 ... 27414
1944 ... 27415
1945 ... 27414, 27416
3015 ... 28759
Proposed Rules:
Ch. IV ... 27971
Ch. X ... 27003
29 ... 27288
51 ... 27004
417 ... 27601
800 ... 28104
910 ... 28105
920 ... 27288
967 ... 28210
999 ... 28585
1124 ... 27972
1240 ... 28404
1930 ... 28782
1944 ... 28782
1965 ... 28782

8 CFR
316a ... 27818
Proposed Rules:
103 ... 27289
341 ... 28586
343a ... 28587

9 CFR
91 ... 27929
92 ... 27928, 28557
94 ... 28560
318 ... 27573, 28374
Proposed Rules:
94 ... 27973

10 CFR
9 ... 27214
Proposed Rules:
50 ... 27006, 28815

12 CFR
403 ... 27215
611 ... 27930
617 ... 27931
723 ... 27417
Proposed Rules:
561 ... 27290, 28588
563 ... 27290, 28588
571 ... 27290, 28588

13 CFR
121 ... 27418
302 ... 27419
Proposed Rules:
108 ... 27754

14 CFR
39 ... 26979, 27575, 27576, 27931-27933, 28093, 28094, 28561-28563, 28766
71 ... 26980, 27934, 28564, 28565
97 ... 27934
108 ... 27924, 28884
Proposed Rules:
39 ... 27009, 27012, 27601, 27602, 28815
71 ... 27013, 27014, 27528, 28588-28591, 28816
75 ... 27014

15 CFR
19 ... 27577
90 ... 28767

376 ... 27420
399 ... 27420
Proposed Rules:
559 ... 27018
561 ... 27452
610 ... 28595
500 ... 27435
505 ... 27435
515 ... 27435
285 ... 28702
266 ... 28702
270 ... 28702

Proposed Rules:
67 ... 27322
302 ... 27627

LIST OF PUBLIC LAWS

Last List July 12, 1985

376.....27420
399.....27420
Proposed Rules:
911.....28816

16 CFR
3.....28095
4.....28095
13.....26981, 27578, 28374
453.....28062, 28081
703.....27936
Proposed Rules:
13.....28592

17 CFR
200.....28385
239.....27937
240.....27937, 27940, 28385
249.....27937
270.....27937
274.....27937
288.....26981, 27947
Proposed Rules:
210.....27973
230.....28404
240.....27829, 27976, 27981, 28106, 28210, 28219, 28404
250.....27981
259.....27981
270.....27982

18 CFR
157.....27816
389.....27816
Proposed Rules:
35.....27604
271.....28221
290.....27604

19 CFR
4.....26981
12.....27947
142.....27816
178.....27947
Proposed Rules
162.....27829
177.....27831

20 CFR
200.....27222
401.....28565
422.....28565
626.....27818
627.....27818
628.....27818
629.....27818
630.....27818
Proposed Rules:
404.....27615
416.....27615

21 CFR
101.....26984
510.....28395
520.....27818, 28768
558.....27421, 27422, 28768
1308.....28098, 28395
Proposal Rules:
Ch. 1, Subchapter C.....28594
170.....27294
201.....27016
211.....27018
357.....27552, 28595
514.....27016
559.....27018
561.....27452
610.....28595
660.....28595
1002.....27024

22 CFR
501.....27422

23 CFR
1325.....28191

24 CFR
200.....28197
203.....28197
885.....28197
3282.....28396

25 CFR
Proposed Rules:
61.....27456

26 CFR
1.....27222, 27231, 27427
602.....27222, 27231
Proposed Rules:
1.....27297, 27456, 27457, 28409
51.....27621

27 CFR
4.....27819
170.....28572
Proposed Rules:
9.....28409

28 CFR
0.....28769
2.....28101
18.....28199
32.....27428

29 CFR
70.....28306
1952.....27233, 28770
Proposed Rules:
33.....27298
1910.....27307

30 CFR
700.....28186
701.....28186
785.....28186
827.....28186
902.....28592
943.....28186
948.....28316, 28324
Proposed Rules:
56.....27566
57.....27566
700.....28180
701.....28180
785.....28180
817.....27910
827.....28180
913.....27025
917.....28222
936.....27461
944.....28107
948.....28343
950.....28595

31 CFR
51.....26987
103.....27821
500.....27435
505.....27435
515.....27435
520.....27435
535.....27435
540.....27435

32 CFR
Parts 1–39.....26987
199.....26988
642.....28573
657.....28573
706.....28398–28400
726.....28401

33 CFR
100.....27579, 28573
110.....26988, 27580
117.....26989, 27582
150.....26989
165.....27583
166.....26989
Proposed Rules:
110.....27622, 27623, 28596
117.....27026, 27029, 27624, 27832, 27990, 27991

34 CFR
19.....28101
Proposed Rules:
369.....28412
376.....28412

35 CFR
101.....26990
103.....26990
121.....26990

36 CFR
1200.....27196
1202.....27196
1228.....27951
1250.....27196

37 CFR
Proposed Rules:
1.....27030, 28596

38 CFR
3.....27584
21.....27825
Proposed Rules:
3.....28224
36.....27833

39 CFR
10.....27827
3001.....28144
Proposed Rules:
111.....27992
3001.....27308

40 CFR
51.....27892
52.....26991, 27244–27247, 28544
60.....27248
61.....27248
81.....28574
86.....27250
123.....28202
260.....28702
261.....28702
262.....28702
264.....28702
265.....28702
266.....28702
270.....28702
271.....28702
280.....28702
419.....28516
600.....27172
763.....28530
Proposed Rules:
52.....27030, 27462, 28224, 28415, 28596, 28598, 28818
86.....28818
180.....27483, 28108
202.....27321
205.....27321
600.....27188

41 CFR
Chs. 1–49.....26987
101–4.....28402
101–17.....28577
101–40.....27951
101–47.....28402
105–54.....28203
105–63.....26992
201–1.....27142
201–2.....27142, 28208
201–8.....27142
201–11.....27142
201–16.....27142
201–20.....27142
201–21.....27142
201–22.....28208
201–23.....27142
201–24.....27142
201–26.....27142
201–30.....27142, 28208
201–31.....27142, 28208
201–32.....27142, 28208
201–38.....27142
201–39.....27142, 28208
201–40.....27142, 28208
201–45.....28208
Proposed Rules:
101–41.....27625, 27626

42 CFR
400.....28577
405.....27722
412.....27208, 27722
416.....28577
435.....28577
Proposed Rules:
23.....27465
405.....27469
412.....27469

43 CFR
Public Land Orders:
5150 (Revoked in part by PLO 6607).....27827
5179 (Revoked in part by PLO 6607).....27827
5180 (Revoked in part by PLO 6607).....27827
5188 (Revoked in part by PLO 6607).....27827
6389 (Corrected by PLO 6608).....28208
6607.....27827
6608.....28208
Proposed Rules:
2800.....27322

44 CFR
64.....26993, 26994

Proposed Rules:
67.....27322
302.....27627

45 CFR
1180.....27584, 27586
Proposed Rules:
405.....27406
412.....27406
1620.....27326

46 CFR
153.....26996
Proposed Rules:
160.....27628

47 CFR
0.....27952
22.....27953
68.....27250
73.....27287, 27438, 27954
76.....27438
81.....27968
83.....27968
Proposed Rules:
Ch. I.....28418
73.....27629

48 CFR
7.....27560
12.....27969
15.....27560, 28103
19.....27560
33.....27969
34.....27560
52.....27560, 27969
209.....28209
504.....26996
515.....28578
522.....28578
533.....26998
552.....27589
553.....27589
570.....27589
6101.....27969
Proposed Rules:
208.....28227
252.....28227

49 CFR
571.....27451
Proposed Rules:
Ch. X.....27031
171.....28820
175.....28820
571.....27032, 27632, 27633, 28426, 28599
1132.....27834

50 CFR
17.....26999
215.....27914
658.....28103
672.....28580, 28581
674.....28103
Proposed Rules:
17.....27637, 27992, 28821, 28870–28878
20.....27638
630.....27470
655.....28109
662.....27470

LIST OF PUBLIC LAWS

Last List July 12, 1985

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.R. 2800/Pub. L. 99–62
To provide authorization of appropriations for activities under the Land Remote-Sensing Commercialization Act of 1984. (July 11, 1985; 99 Stat. 118) Price $1.00

S. 822/Pub. L. 99–63
To extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986. (July 11, 1985; 99 Stat. 119) Price: $1.00

S. 883/Pub. Law 99–64
To reauthorize the Export Administration Act of 1979, and for other purposes. (July 12, 1985; 99 Stat. 120) Price: $1.00

S. 1141/Pub. Law 99–65
Relating to certain telephone services for Senators: (July 12, 1985; 99 Stat. 163) Price: $1.00

VOL
50

ISS
136

JL
16

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VOL
50

ISS
136

JL
16

1985

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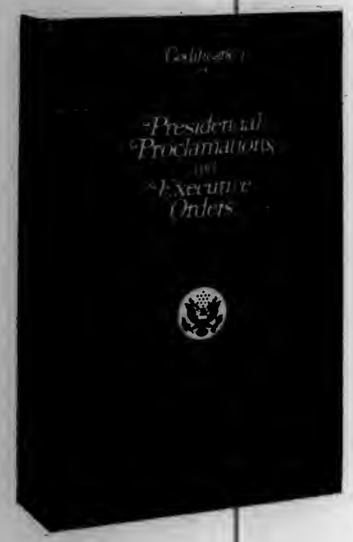

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VOL
50

ISS
136

JL
16

1985

UMI

VOL
50

ISS
137

JL
17

1985

UMI

7-17-85
Vol. 50 No. 137

federal register

Wednesday
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VOL
50

ISS
137

JL
17

1985

UMI

7-17-85
Vol. 50 No. 137

Wednesday
July 17, 1985

VOL
50

ISS
137

JL
17

1985

UMI

7-17-85
Vol. 50 No. 137
Pages 28895-29202

federal register

Wednesday
July 17, 1985

Selected Subjects

Accounting
Securities and Exchange Commission
Administrative Practice and Procedure
Merit Systems Protection Board
Animal Drugs
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Conflict of Interests
African Development Foundation
Endangered and Threatened Species
Fish and Wildlife Service
Fisheries
National Oceanic and Atmospheric Administration
Flood Insurance
Federal Emergency Management Agency
Freedom of Information
African Development Foundation
Government Procurement
Postal Service
Imports
Animal and Plant Health Inspection Service
Investment Companies
Securities and Exchange Commission

CONTINUED INSIDE

VOL
50
ISS
137
JL
17
1985
UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Selected Subjects

Marketing Agreements
Agricultural Marketing Service
Pesticides and Pests
Environmental Protection Agency
Polychlorinated Biphenyls
Environmental Protection Agency
Quarantine
Animal and Plant Health Inspection Service
Trade Practices
Federal Trade Commission
Water Pollution Control
Environmental Protection Agency
Water Supply
Environmental Protection Agency

Contents

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

African Development Foundation
RULES
28934 Conflict of interests
28932 Freedom of Information Act; implementation

Agricultural Marketing Service
RULES
28898 Oranges (Valencia) grown in Arizona and California

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Soil Conservation Service.
NOTICES
28962 Agency information collection activities under OMB review

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
28900 African swine fever; disease status change for Belgium; interim rule affirmed
Interstate transporation of animals and animal products (quarantine):
28899 Brucellosis; State and area classifications; interim rule affirmed (2 documents)

Army Department
NOTICES
Meetings:
28970 Army Science Board (3 documents)
Senior Executive Service:
28969 Performance Review Board; membership

Arts and Humanities, National Foundation
NOTICES
Meetings:
29004 Arts National Council

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
28963 Illinois
28963 Mississippi
28962 New Mexico

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
RULES
Registration:
28907 Associated person or floor broker (Form 8-R), etc.; registration forms revision
NOTICES
Contract market proposals:
28967 Chicago Rice and Cotton Exchange; rough rice

Defense Department
See Army Department.

Education Department
NOTICES
28970 Agency information collection activities under OMB review
Grants; availability, etc.:
28971 Handicapped research; spinal cord injuries special projects and demonstrations

Energy Department
See also Federal Energy Regulatory Commission.
NOTICES
Nuclear waste management:
28972 Radioactive waste management system; draft project schedule; availability

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
28945 Chlorpyrifos
28946 Flucythrinate
28944 Linoleic diethanolamide
28944 Sodium metasilicate and sodium propionate
Pesticide programs:
28943 Vertebrate control products, performance requirements; notification to Secretary of Agriculture
Toxic substances:
29170 Polychlorinated biphenyls (PCBs); manufacturing and processing, etc.; use in electrical transformers
Water pollution control; State underground injection control programs:
28941 Missouri
28942 Northern Mariana Islands
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
28956 Mineral oil
28957 Octyl epoxtallate, stearic acid, 4,4'-isopropylidene-diphenol alkyl (C_{12}-C_{15}) phosphites, carbon black, chlorinated polyethylene, and epoxidized soybean oil
Water pollution; effluent guidelines for point source categories:
29068 Organic chemicals, and plastics and synthetic fibers; data availability, etc.
NOTICES
Committees; establishment, renewals, terminations, etc.:
28986 FIFRA Science Advisory Panel; appointments
Pesticide programs:
28986 Sodium monofluoroacetate (Compound 1080); registration application data
Water pollution; discharge of pollutants (NPDES):
28974 Alaska OCS operations

Federal Aviation Administration
RULES
28901 Control zones; correction
28900 Control zones and transition areas
28902 Transition areas; correction
PROPOSED RULES
28950 Rulemaking petitions; summary and disposition (terminal control areas, minimum upper limit); comment period reopened
NOTICES
29037 Exemption petitions; summary and disposition

Federal Deposit Insurance Corporation
NOTICES
29041 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
28947 New York et al.; suspension
PROPOSED RULES
Preparedness:
28959 Civil defense; State and local emergency management assistance; emergency operations plans; correction

Federal Energy Regulatory Commission
PROPOSED RULES
Natural Gas Policy Act:
28954 Pipelines; interstate transportation of gas for others; implications of partial wellhead decontrol; conference date rescheduled
NOTICES
Hearings, etc.:
28972 Bookhart, William B., Jr.
28973 Duffett, John C.
28973 Keating, Joseph M.
28973 Mountain Fuel Resources, Inc.
28973 Ohio Gas Marketing Corp.
28974 Shell Western E & P Inc.

Federal Home Loan Bank Board
NOTICES
29041 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
28987 Agreements filed, etc.

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
28987 Canebrake Bancshares, Inc., et al.
28987 Centennial Beneficial Corp.
29041 Meetings; Sunshine Act (2 documents)

Federal Trade Commission
RULES
Prohibited trade practices:
28902 Echlin Manufacturing Co. et al.
28902 Tristate Household Goods Tariff Conference, Inc.
PROPOSED RULES
Prohibited trade practices:
28951 Trans-Continental Industries

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
29038 Ideal Mutual Insurance Co.

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
28959 Achyranthes rotundata; comment period reopened, etc.
NOTICES
Meetings:
28995 Migratory Bird Regulations Committee, and waterfowl status

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
28931, 28932 Tylosin (2 documents)
Medical devices:
28932 Investigational device exemptions; conforming amendments; correction
NOTICES
Meetings:
28988 Advisory committees, panels, etc.; cancellation

General Services Administration
RULES
Acquisition regulations (GSAR):
28948 Construction contracts; payment due dates; temporary
NOTICES
28988 Privacy Act; systems of records

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration.

Health Care Financing Administration
NOTICES
Medicare and Medicaid:
28988 Deficit Reduction Act of 1984; amendments (eligibility, benefits, reimbursements, and administration)

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
28993 Norton-Tesuque transmission line and substation, NM
Indian tribes, acknowledgment of existence determinations, etc.:
28993 Chukchansi Yokotch Tribe
Irrigation projects; operation and maintenance charges:
28993 Flathead Irrigation Project, MT

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; National Park Service.

International Trade Administration
NOTICES
Meetings:
28966 Semiconductor Technical Advisory Committee; cancelled
Scientific articles; duty free entry:
28963 Carnegie Institution of Washington

28963, 28964 Cornell University (2 documents)
28964 Emory University
28964 Interior Department
28964 National Oceanic and Atmospheric Administration
28965 Stanford University
28965 Texas A&M Research Foundation
28965 University of Illinois
28965 University of Texas

International Trade Commission
NOTICES
Import investigations:
28999 Apparatus for disintegration of urinary calculi
28999 Ceramic drainage foils
28999, 29000 Electrical connectors (2 documents)
29000 Fluidized bed combustion systems (2 documents)
29001 Sugar content of articles from Australia
29000 Tobacco
29002 Trade-related employment
29001 Tubular steel framed stacking chairs from Italy
29002 Welded carbon steel pipes and tubes from Venezuela

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
29003 Seaboard System Railroad, Inc.

Justice Department
PROPOSED RULES
28955 Intergovernmental review of agency programs and activities

Labor Department
PROPOSED RULES
28956 Nondiscrimination on the basis of handicap in Federally conducted programs and activities; correction
NOTICES
29101 Occupational injuries and illnesses; recordkeeping guidelines; inquiry

Land Management Bureau
RULES
Forest management:
28947 Federal timber contracts; modification; correction
NOTICES
Exchange of lands:
28995 California
Meetings:
28994 Winnemucca District Grazing Advisory Board
Recreation management restrictions, etc.:
28994 Squaw Lake Area, AZ
Sale of public lands:
28995 Utah
Survey plat filings:
28994 New Mexico
Withdrawal and reservation of lands:
28995 Arizona; correction

Merit Systems Protection Board
RULES
Practice and procedure:
28895 Filing of petitions for review, etc.

NOTICES
29004 Agency information collection activities under OMB review
29003 Privacy Act; systems of records

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
28997 Alaska OCS; mineral prelease and exploration proposals
Outer Continental Shelf; development operations coordination:
28996 ODECO Oil & Gas Co.
28996 Seagull Energy E&P Inc.
28997 Shell Offshore Inc.

National Bureau of Standards
NOTICES
Laboratory Accreditation Program, National Voluntary:
28966 Directory of accredited laboratories supplement

National Mediation Board
NOTICES
29041 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
28960 Pacific Coast groundfish

National Park Service
NOTICES
Oil and gas plans of operation; availability, etc.:
28998 Padre Island National Seashore, TX (2 documents)

National Transportation Safety Board
NOTICES
29004 Accident reports, safety recommendations, and responses, etc.; availability

Nuclear Regulatory Commission
NOTICES
29006 Agency information collection activities under OMB review
Applications, etc.:
29006 Cintichem, Inc.; correction
Environmental statements; availability, etc.:
29005 California Polytechnic State University
29005 Florida Power Corp. et al.
Operating licenses, amendments; no significant hazards considerations:
29006 Bi-weekly notices
Safety analysis and evaluation reports; availability, etc.:
29006 Georgia Power Co. et al.

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
29042 Meetings; Sunshine Act

Postal Service
RULES
Procurement of property and services:
28941 Postal Contracting Manual; amendments

NOTICES
29042 Meetings; Sunshine Act

Part III
29101 Department of Labor, Office of the Secretary:

CFR PARTS AFFECTED IN THIS ISSUE

NOTICES
29042 Meetings; Sunshine Act
29030 Postal rates, fees, and mail classifications; changes

Railroad Retirement Board
NOTICES
29042 Meetings; Sunshine Act

Research and Special Programs Administrations
NOTICES
29037 High pressure composite hoop wrapped cylinders (fire-fighting equipment, etc.)

Securities and Exchange Commission
RULES
Investment companies:
28930 Separate accounts funding flexible premium variable life insurance contracts
PROPOSED RULES
Financial statements (Regulation S–X):
28953 Accounting for distribution expenses
NOTICES
29035 Agency information collection activities under OMB review
Applications, etc.:
29030 Narragansett Capital Corp. et al.
29031 Union Tank Car Co.
Self-regulatory organizations; proposed rule changes:
29032 Chicago Board Options Exchange, Inc. (2 documents)
29034 Midwest Stock Exchange, Inc.
29036 Philadelphia Stock Exchange, Inc.
Self-regulatory organizations; unlisted trading privileges:
29033 Cincinnati Stock Exchange, Inc. (2 documents)
29035 Pacific Stock Exchange, Inc.
29035, 29036 Philadelphia Stock Exchange, Inc. (2 documents)

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
28962 Beardsley Watershed, CA

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
28966 Bangladesh

Transportation Department
See also Federal Aviation Administration; Research and Special Programs Administration.
PROPOSED RULES
Time zone boundaries, standard:
28959 Indiana; hearing

Treasury Department
See also Fiscal Service.
NOTICES
Senior Executive Service:
28938 Performance Review Board; membership

Separate Parts in This Issue

Part II
29068 Environmental Protection Agency

Part III
29101 Department of Labor, Office of the Secretary

Part IV
29170 Environmental Protection Agency

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
1201 28895

7 CFR
908 28898

9 CFR
78 (2 documents) 28899
94 28900

14 CFR
71 (3 documents) 28900–28902
Proposed Rules:
71 28950
91 28950

16 CFR
13 (2 documents) 28902
Proposed Rules:
13 28951

17 CFR
3 28907
270 28930
Proposed Rules:
210 28953

18 CFR
Proposed Rules:
2 28954
154 28954
157 28954
161 28954
284 28954

21 CFR
558 (2 documents) 28931, 28932
812 28932

22 CFR
1502 28932
1504 28934

28 CFR
Proposed Rules:
30 28955

29 CFR
Proposed Rules:
33 28956

39 CFR
601 28941

40 CFR
147 (2 documents) 28941, 28942
158 28943
162 28943
180 (4 documents) 28944–28946
761 29170
Proposed Rules:
180 (2 documents) 28956, 28957
414 29068
416 29068

43 CFR
5470 28947

44 CFR
64 28947
Proposed Rules:
302 28959

48 CFR
552 28948

49 CFR
Proposed Rules:
71 28959

50 CFR
Proposed Rules:
17 28959
611 28960
663 28960

Rules and Regulations

VOL
50
ISS
137
JL
17
1985
UMI

Rules and Regulations

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: On August 10, 1984, (49 FR 32072), the Board published proposed regulations to amplify and clarify the procedures governing the filing of petitions for review of initial decisions issued by presiding officials. The purposes of the proposed revisions were to deal more comprehensively with pleadings related to petitions for review, to change service requirements, and to explain more fully procedures regarding timeliness. Comments on those proposed regulations have now been received and considered and the Board adopts the following as the new § 1201.114 of Title 5, Code of Federal Regulations.

EFFECTIVE DATE: August 1, 1985.

ADDRESS: Send written inquiries to Joseph Ellis, Deputy Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Joseph Ellis, Deputy Clerk of the Board, Merit Systems Protection Board, (202) 653–7282.

SUPPLEMENTARY INFORMATION: A small number of comments were received on the Board's proposed regulations. Most commenters expressed agreement with the proposal, and particularly with the provision for the filing of cross petitions for review. Most of the comments received addressed the issues of extensions of time and late filed petitions, as well as intervention and service requirements. Analysis of the specific comments received is set forth in the following paragraph by paragraph analysis of comments and changes.

1. Section 1201.114(a) *Who May File.* No comments were received on this paragraph in which changes had been proposed to clarify (1) that the Special Counsel may file a petition for review independently of a party or the Director of OPM, by changing the conjunction "and" to "or", and (2) that pleadings must contain an original signature. No further changes have been made.

2. Section 1201.114(b) *Cross Petitions For Review.* A number of comments were received agreeing with the proposal to specify that challenges to the initial decision must appear in either a timely petition or cross petition for review. No further changes have been made.

3. Section 1201.114(c) *Place for Filing.* The proposed change here made this paragraph compatible with proposed § 1201.114(b) with respect to cross petitions, adding clarifying language concerning related motions and pleadings, and clarified methods of service. No comments were received concerning these proposed changes. The only change made to the proposed regulation has been to reflect the Board reorganization redesignating the Office of Secretary as the Office of the Clerk of the Board.

4. Section 1201.114(d) *Time For Filing.* One commenter advocated that service of the initial decision and all subsequent pleadings and motions should be considered complete on the date of receipt, rather than date of issuance of the initial decision or service completion pursuant to § 1201.114(h). This suggestion was rejected as impractical in view of the difficulty of determining date of receipt in any contested circumstances. The proposal was changed in three respects. The first two changes were to reflect the designation of Clerk of the Board, and to insert "to a" prior to the phrase "cross petition for review", for purposes of clarity. The third change was the substitution of "must" for "may" in two places. This change does not make a petition or response obligatory. Rather, the intent is to clarify that submissions must be timely.

5. Section 1201.114(e) *Extensions of Time to File.* This paragraph sets out the procedure for obtaining an extension of time to file a pleading prior to its due date.

As originally proposed, this paragraph set out examples of types of circumstances that might be deemed to warrant extensions. Those examples have been deleted as unnecessary.

In their place, the following was inserted: "Such affidavit or declaration must make a specific and detailed showing of the circumstances alleged to constitute good cause and must be accompanied by documentation or other evidence to support the matters asserted."

One comment was received suggesting that it not be necessary to accompany the good cause showing with an affidavit. It was suggested instead that a signature should be adequate in light of the Federal False Statements Act. Pursuant to 28 U.S.C. 1746, an unsworn statement signed and dated by its author under penalty of perjury may be substituted for an affidavit. The Board agrees with the commenter that such a statement is sufficient and has amended the regulation accordingly.

6. Section 1201.114(f) *Late Filings.* This paragraph sets out circumstances under which late filings will be accepted. A number of comments were received. One suggestion was that response to the merits of a petition for review should be tolled pending a Board ruling on the request for leave to file late. The Board recognizes that in some cases, the proposed procedure puts an ultimately unnecessary obligation on one of the parties.

The Board's appellate practice is designed around a "one step" appellate consideration, in keeping with the Board's interpretation of its enabling legislation. The most expeditious procedure for the Board, and therefore the parties, is to consider most motions at the same time any merits determination is made. Moreover, at the petition for review level, most arguments are directly related to arguments previously made at the petition for appeal stage. Therefore, the Board believes that the advantages of the suggestion do not outweigh the advantage of the proposal, which remains unchanged.

Another commenter suggested that this paragraph appears internally inconsistent in requiring that late filings "must be accompanied by a motion for waiver and affidavit" but also providing for a Board determination of whether good cause exists in the absence of a motion for waiver and affidavit. No

change has been made in this respect

permissive intervention at the Board

right as OPM to file an intervention after

However, two comments did relate to its

Authority: 5 U.S.C. et seq., unless otherwise

accompanied by an affidavit showing

VOL 50 ISS 137 JL 17 1985 UMI

change has been made in this respect because it is the Board's intention that the required submission "must" be made. However, the provision for Board consideration of a late filed petition in the absence of those submissions simply recognizes the existence of 5 CFR 1201.12, which provides that the Board may in an individual case, waive any of its regulations not required by statute.

A third suggestion on this paragraph was that there is no purpose to requiring a statement of the reasons a timely request for extension was not made. However, as the commenter recognized, such reasons are a factor for consideration in determining whether due diligence was exercised. Therefore, the Board believes that it is appropriate to adopt this requirement as proposed.

A final suggestion with respect to this paragraph was to clarify that the filing of a motion for waiver does not extend the time limit for filing a cross petition for review. This suggestion has been adopted and the change made.

The Board has also made two changes from the version originally proposed. A reference to examples of reasons for late filing set out in paragraph (e) was excluded for the reasons given in the comment to that paragraph. In addition, the eight day period for parties to respond to motions for waiver of late filings is eliminated, and the remaining language changed in order to clarify that the response to the motion for waiver may be included in the response to the late-filing pleading. This is consistent with current Board practice under which there is no separate preliminary determination on timeliness. Instead, the Board will issue only one order on a case, including disposition of the motion for waiver, and, if appropriate, the merits. As noted above, this means that a responding party should address its pleading to all the pending issues of a case because there will be no further opportunity for response.

Finally, the words "to file a cross petition for review or" were added to clarify that a response to the motion for waiver does not act to delay the filing of a cross petition, and the word "subsection" was changed to "paragraph . . . of this section."

7. Section 1201.114(g) *Intervention.* A comment was received which suggested that proposed paragraph (g)(3) will preclude permissive intervention at the petition for appeal level. The commenter argues that allowing permissive intervention at the petition for review level, but not at the petition for appeal level, would produce certain inequities. The comment misconstrues in the intent of the proposal, which was to clarify the Board's intent to have the same rights of permissive intervention at the Board level as at the regional level. The intent was not to limit or expand rights of intervention at the petition for review level. Accordingly, no change has been made to reflect the commenter's specific concerns because this represents only a statement in the regulations directly concerning petitions for review of the board's parallel practice at the petition for appeal stage, and not a change in that practice. The only change made was in the organization of the last sentence of this paragraph, in order to clarify its meaning.

The Director of PPM suggested that his brief on intervention become due 20 days after receipt of the file rather than 20 days after service of the response to the petition or the due date of the response. The Board feels that this is unnecessary for two reasons. First, it is unlikely that the issues raised in the response will be sufficiently different from the petition for review and the initial decision as to warrant further time. Second, the regulation contemplates that the Board may allow additional time for filing a brief, recognizing that there might be unusual circumstances to warrant an extension.

The Director further recommends that the proposal be amended to permit interventions, not only after the petition for review and response, but also after a cross petition or the response to a possible cross petition. The regulations contemplate that a cross petition for review be filed within the same 25-day period as the response to a petition for review. Therefore, the calculations of OPM intervention time with respect to cross petitions for review would normally be subsumed into the requirement that the intervention be made within 20 days of the response. However, because the filing of a response to a petition for review does not have to be done simultaneously with a possible cross petition, the regulation has been amended by insertion of the words "cross petition or" between "date of service of the" and "response to petition".

With respect to extending the time further for responses to cross petitions, the Board is of the view that the issues of a given case should be sufficiently apparent in the numerous pleadings or orders which predate the response to a cross petition, that a further opportunity to intervene would appear to be unnecessary.

The words "cross petition or" have been inserted in paragraph (g)(2) of this section prior to "response to the petition for review", in order to make it plain that the Special Counsel has the same right as OPM to file an intervention after a cross petition for review.

Finally, the word "section" was changed to "paragraph" in (g)(1) and (g)(2).

8. Section 1201.114(h) *Service.* Certain commenters suggested that this paragraph be amended to require service by the Clerk of the Board rather than by the parties, as had previously been the practice with respect to the first filing with the Board, *i.e.*, the petition for review. The Board believes that service by the parties, which is the practice as to responses to the petition for review and any subsequent submissions at the Board level, and throughout the proceedings at the regional office level after the filing of the initial petition for appeal, has proven both practicable and effective in almost all cases. Because initial decisions are issued with a certificate of service attached, the parties are made aware at that time of the names and addresses of the other parties. Should there be a change in the representative of one of the parties, that party would have the obligation of informing the Board and the other parties, as well as of assuring that the new representative acted in a timely manner in prosecuting or responding to the petition for review. This is consistent with present practices since the Board has long held both that an appellant is personally responsible for his/her own case, whether or not he or she is represented, and that an agency's internal delays in assuring that it acts in a timely manner when it changes representatives at the petition for review stage do not constitute good cause for waiving the regulatory time limit. Thus, the Board has made no change in its decision to require service by the parties.

Another suggestion as to this paragraph was to require service to be made by certified mail or personal delivery. When the Board originally adopted its filing requirement for petitions for appeal at 5 CFR 1201.22(c), service was required to be made in that manner. The Board believes that these still constitute the preferred methods of service, but that the parties should, as the more recent version of § 1201.22(c) allows, have the option of completing service by regular mail. Any party attempting to accomplish service in a manner other than through personal delivery or certified mail, of course, retains the burden of assuring and proving that timely service is made.

9. Section 1201.114(i) *Closing the Record.* None of the comments received on this paragraph of the regulations disagreed with its major thrust. However, two comments did relate to its application. First, it was suggested that the Board allow the filing of a reply to the response to the petition for review within 15 days of its service. While this suggestion would comport with the Federal Rules of Appellate Procedure, the Board believes that the benefits to be derived would not compensate for the delays this procedure would engender since, under the Board's rules, a response to a petition for review may properly address only those matters which were already addressed in the petition. If a new issue is to be raised, it would likely be in the context of a cross petition for review. Any such cross petition would, of course, be a proper subject for response pursuant to the new § 1201.114(d); conversely, there would be no need to respond to a matter not properly raised to the Board. Thus, this suggestion has not been incorporated into the regulation.

The final comment received on this paragraph suggests that the Board allow the filing of material to update the petition for review, specifically the citation and discussion of authority issued subsequent to the filing of the petition.

The Board believes that there is no need to modify this paragraph further because as written it provides that where new and material evidence has become available, the record may be reopened for its consideration. If material such as that mentioned by this commenter were shown to be new and material, it would be accepted into the record under the present regulation.

Regulatory Flexibility Act

The Chairman, Merit Systems Protection Board, certifies that the Board is not required to prepare initial or final regulatory analysis of this rule, pursuant to section 603 or 604 of the Regulatory Flexibility Act, because of his determination that this rule would not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

List of Subjects in 5 CFR Part 1201

Government employees; Administrative Practices and Procedures

Accordingly, the Merit Systems Protection Board revises 5 CFR 1201.114 as set forth below:

PART 1201—PRACTICES AND PROCEDURES

1. The authority for Part 1201 continues to read as follows:

Authority: 5 U.S.C. et seq., unless otherwise noted.

Subpart B—Hearing Procedures for Appellate Cases.

2. Section 1201.114 is revised to read as follows:

§ 1201.114 Filing of petition and cross petition for review.

(a) *Who may file.* Any party to the proceeding, the Director of OPM, or the Special Counsel may file a petition for review. The Director of OPM may request review only if he/she is of the opinion that the decision is erroneous and will have a substantial impact on any civil service law, rule, or regulation under the jurisdiction of the Office (5 U.S.C. 7701 (e)(2)). All submissions to the Board must contain an original signature of the appellant or the party's designated representative.

(b) *Cross petition for review.* If a timely petition for review is filed by a party, the Director of OPM or the Special Counsel, a cross petition for review may be filed by any other party, the Director of OPM or the Special Counsel within 25 days of the date of service of the petition for review. Issues not raised in the petition for review will not normally be considered by the Board unless raised in a timely filed cross petition for review.

(c) *Place for filing.* A petition for review, cross petition for review, responses thereto and all motions and pleadings associated therewith shall be filed with the Clerk of the Merit Systems Protection Board, Washington, D.C. 20419, either by personal delivery during normal business hours or by mail addressed to the Clerk of the Board.

(d) *Time for filing.* Any petition for review must be filed within 35 days of issuance of the initial decision. Any response to a petition for review or to a cross petition for review must be filed within 25 days after service of the petition or cross petition. The date of filing shall be determined by the date of mailing indicated by the postmark date. If no postmark date is evident on the mailing, it shall be presumed to have been mailed five days prior to receipt. If the filing is by personal delivery, it shall be considered filed on the date it is received by the Clerk of the Board.

(e) *Extension of time to file.* Motions for extensions of time to file a petition for review, cross petition or response shall be granted only upon a showing of good cause. Such motions must be filed in advance of the date on which the petition or other pleading is due. Motions for extension of time may be granted or denied without providing other parties the opportunity to comment, in the Board's discretion. Motions for extensions shall be accompanied by an affidavit showing good cause for the request, or shall be submitted pursuant to 28 U.S.C. 1746, which requires a signed and dated declaration or statement subscribed as true under penalty of perjury. Such affidavit or declaration must make a specific and detailed showing of the circumstances alleged to constitute good cause and must be accompanied by documentation or other evidence to support the matters asserted.

(f) *Late filings.* Unless an extension of time has been specifically granted by the Board pursuant to paragraph (e) of this section or is pending before the Board, any petition for review, cross petition for review, or response which is filed after time limits must be accompanied by a motion for waiver, and either an affidavit, or signed and dated declaration or statement subscribed as true under penalty of perjury, pursuant to 28 U.S.C. 1746 showing good cause for the untimely filing. Such showing must include:

(1) The reasons for failure to request an extension in advance of the filing date; and

(2) The reasons necessitating the late filing.

Any response filed to the motion for waiver may be included in the response to the petition for review, cross petition for review or response to the cross petition for review. Such response will not extend the period of time required by § 1201.114(d) to file a cross petition for review or to respond to the petition or cross petition. In the absence of a motion for waiver, the Board may, in its discretion, determine on the basis of the existing record whether there was good cause for the untimely filing or provide the proponent of the submission opportunity to show cause why it should not be dismissed or excluded as untimely.

(g) *Intervention.* (1) *By Director of OPM.* Pursuant to 5 U.S.C. 7701(d), the Director of OPM may intervene in a case before the Board under the standards set forth in that section, provided that right is exercised as early in the proceeding as practicable. For purposes of this paragraph, if the Director did not intervene in the case before the regional office, such intervention will be considered timely if it is filed within 20 days of the date of service of the cross petition or response to the petition for review, or if no response is filed, within 20 days of the date on which it is due. The Board may, in its discretion, at the Director's request, allow an additional period for the filing of the brief on intervention. A party may respond to the Director's brief within 15 days of the

VOL 50 ISS 137 JL 17 1985 UMI

date of service. The Director shall serve his notice of intervention and brief on all parties.

(2) *By Special Counsel.* Pursuant to 5 U.S.C. 1206(i), the Special Counsel may intervene as a matter of right. For purposes of this paragraph, if the Special Counsel did not intervene in the case before the regional office, such intervention will be considered timely if it is filed within 20 days of the date of service of the cross petition or response to the petition for review, or if no response is filed, within 20 days of the date on which it is due. The Board may, in its discretion, at the Special Counsel's request, allow an additional period for the filing of the brief on intervention. A party may respond to the Special Counsel's brief within 15 days of the date of service. The Special Counsel shall serve his notice of intervention and brief on all parties.

(3) *Permissive intervenors.* Any person may, by motion, request the Board to grant permission to intervene. The motion shall state in detail the reasons why the person should be permitted to intervene. A motion for permission to intervene will be granted where the requester, including any person alleged to have committed a prohibited personnel practice under 5 U.S.C. 2302(b), will be affected directly by the outcome of the proceeding.

(h) *Service.* Copies of the petition for review, cross petition for review, response, and all other motions and pleadings in connection therewith must be served by the party submitting the pleading upon all parties to the proceeding and their designated representatives. Service may be made by mailing or delivering personally a copy of the submission to each party and representative on the service list for the initial decision. The submission must be accompanied by a certificate specifying how and when such service was made. It is the duty of all parties and representatives to notify the Board and each other in writing of any changes in the names and addresses on the service list.

(i) *Closing the record.* The record shall close upon expiration of the period for filing the response to the petition for review, or to the cross petition for review, or to the brief on intervention, if any, or on such other date as set by the Board. Once the record is closed, no additional evidence or argument shall be considered except upon a showing that new and material evidence has become available which was not available prior to the closing of the record.

Dated: July 12, 1985.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 85-16955 Filed 7-16-85; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 352, Amdt. 1; Valencia Orange Reg. 353]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Amendment 1 of Regulation 352 increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 12–18, 1985. Regulation 353 establishes the quantity of such fruit that may be shipped to market during the period July 19–25, 1985. The amendment and regulation are needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATE: Regulation 352, Amendment 1 (§ 908.652) is effective for the period July 12–July 18, 1985. Regulation 353 (§ 908.653) is effective for the period July 19–25, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* These rules have been reviewed under USDA procedures and Executive Order 12291 and have been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

The amendment and the regulation are issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions are based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

The amendment and the regulation are consistent with the marketing policy for 1984–85. The committee met publicly on July 9, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges for the specified weeks. The committee reports the demand for Valencia oranges has improved slightly.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which these regulations are based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment and the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the amendment and regulation and their effective dates.

List of Subjects in 7 CFR Part 908

Marketing Agreements and Orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. The authority citation for 7 CFR Part 908 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

2. Section 908.652 is added to read as follows:

§ 908.652 Valencia Orange Regulation 352.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 12, 1985, through July 18, 1985, are established as follows:

(a) District 1: 240,000 cartons;

(b) District 2: 360,000 cartons;

(c) District 3: Unlimited cartons.

3. Section 908.653 is added to read as follows:

§ 908.653 Valencia Orange Regulation 353.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 19, 1985, through July 25, 1985, are established as follows:

(a) District 1: 240,000 cartons;

(b) District 2: 360,000 cartons;

(c) District 3: Unlimited cartons.

Dated: July 12, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85-16981 Filed 7-16-85; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 85-066]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the State of Georgia from Class B to Class A. This rule meets the standards for Class A status. The rule relieves certain restrictions on the interstate movement of cattle from the State of Georgia.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8711.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on April 5, 1985 (50 FR 13546–13547), amended the brucellosis regulations in 9 CFR Part 78 by changing the classification of the State of Georgia from Class B to Class A. The amendment, which was made effective April 5, 1985, relieves certain restrictions on the interstate movement of cattle from Georgia.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation was set forth in the document of April 5, 1985, still provides a basis for the amendment.

Executive Order and Regulatory Flexibility Act

This rule has been reviewed in accordance with Executive Order 12291 and has been determined not to be a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of the State of Georgia reduces certain testing and other requirements on the interstate movement of these cattle. Cattle from Certified Brucellosis-Free Herds moving interstate are not affected by the change in status. It has been determined that the change in brucellosis status made by this rule will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78— BRUCELLOSIS

Accordingly, the interim rule amending 9 CFR Part 78 which was published at 50 FR 13546–13547 on April 5, 1985, is adopted as a final rule without change.

Authority: 21 U.S.C. 111–113, 114a–1, 115, 120, 121, 125, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 11th day of July 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85-16928 Filed 7-16-85; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 78

[Docket No. 85-067]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of the State of Tennessee from Class B to Class A. This rule is necessary because it has been determined that this State meets the standards for Class A status. The rule relieves certain restrictions on the interstate movement of cattle from the State of Tennessee.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8711.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on April 18, 1985 (50 FR 15410–15411), amended the brucellosis regulations in 9 CFR Part 78 by changing the classification of the State of Tennessee from Class B to Class A. The amendment, which was made effective April 18, 1985, relieves certain restrictions on the interstate movement of cattle from Tennessee.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of April 18, 1985, still provides a basis for the amendment.

Executive Order and Regulatory Flexibility Act

This rule has been reviewed in accordance with Executive Order 12291 and has been determined not to be a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or

VOL 50 ISS 137 JL 17 1985 UMI

for feeding. Changing the status of the State of Tennessee reduces certain testing and other requirements on the interstate movement of these cattle. Cattle from Certified Brucellosis-Free Herds moving interstate are not affected by the change in status. It has been determined that the change in brucellosis status made by this rule will not affect marketing patterns and will not have significant economic impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, the interim rule amending 9 CFR Part 78 which was published at 50 FR 15410–15411 on April 18, 1985, is adopted as a final rule without change.

(Authority: 21 U.S.C. 111–113, 114a–1, 115, 120, 121, 125, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 11th day of July 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85–16929 Filed 7–16–85; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 94

[Docket No. 85–063]

Change in Disease Status of Belgium Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations concerning the importation into the United States of pork and pork products by adding Belgium to the list of countries where African swine fever (ASF) exists or where there is reason to believe that ASF exists. The effect of the amendment is to add certain restrictions on the importation of pork and pork products from Belgium. This is necessary in order to help prevent the introduction of ASF into the United States.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8499.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 1985, an interim rule was published in the **Federal Register** (50 FR 10752–10753) which amended the regulations in 9 CFR Part 94 by adding Belgium to the list of countries where ASF exists or where there is reason to believe ASF exists. The interim rule became effective on the date it was signed, March 12, 1985. Comments were solicited for 60 days following publication. No comments were received. The factual situation which was set forth in the interim rule still provides a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will not have a significant annual effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The amount of swine, pork, or pork products imported into the United States from Belgium prior to the effective date of the interim rule was less than one percent of the amount of these items imported into the United States annually. Further, the importation of any of these items from Belgium was not the primary business activity of any business in the United States.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, African Swine Fever, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Rinderpest, Swine Vesicular Disease.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, the interim rule amending 9 CFR 94.8 which was published at 50 FR 10752–10753 on March 18, 1985, is adopted as a final rule.

(Authority: 21 U.S.C. 111; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., on this 11th day of July 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85–16927 Filed 7–16–85; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AWP–12]

Alteration of Control Zone and Transition Area; Elko, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the control zone and 700′ transition area at Elko, Nevada. The additional controlled airspace will accommodate aircraft executing the recently published LDA/DME Runway 23 instrument approach procedure to Elko Municipal-J.C. Harris Field. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 G.m.t., November 21, 1985.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Federal Aviation Administration, Air Traffic Division, Airspace and Procedures Branch, 15000 Aviation Boulevard, Hawthorne, California 90261; telephone number (213) 536–6649.

SUPPLEMENTARY INFORMATION:

History

On May 9, 1985, the Federal Aviation Administration proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone and 700′ transition area at Elko, Nevada. The additional controlled airspace will accommodate aircraft executing the recently published LDA/DME Runway 23 instrument approach procedure to Elko Municipal-J.C. Harris Field. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. These amendments are the same as those proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were published in Handbook 7400.6A dated January 2, 1985.

The Rule

These amendments to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) will provide additional controlled airspace to accommodate aircraft executing the recently published LDA/DME Runway 23 instrument approach procedures to Elko Municipal-J.C. Harris Field.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

(Authority: 49 U.S.C. 1348(a) and 1354(a); 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69

2. Section 71.171 is amended as follows:

Elko, Nevada, Control Zone—[Revised]

Within a 5-mile radius of the Elko Municipal Airport [40°49′20.5″ N./115°47′38.1″ W.); and within 2 miles each side to the 247° bearing from the Elko Airport extending from the 5-mile radius area to 6 miles southwest of the airport; and within 1.5 miles each side of the 075° bearing from the Elko Airport extending from the 5-mile radius area to 9.5 miles northwest of the airport.

3. Section 71.181 is amended as follows:

Elko, Nevada, Transitions Areas—[Revised]

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Elko Municipal Airport (lat. 40°49′20.5″ N., long. 115°47′38.1″ W.) and within 4.5 miles east and 9 miles west of the 161° bearing from the Elko Municipal Airport, extending from the 9.5-mile radius area to 25 miles south of Elko Municipal Airport, and within 5 miles each side of the 075° bearing from the Elko Municipal Airport, extending from the 9.5-miles radius to 20.5 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 21.5-mile radius of Elko Municipal Airport.

Issued in Los Angeles, California on July 5, 1985.

H.C. McClure,

Director, Western-Pacific Region.

[FR Doc 85–16890 Filed 7–16–85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80–ANE–17]

Establishment of Control Zone at Quonset State Airport, North Kingstown, RI; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects **Federal Register** Document 85–11648 published on May 15, 1985 (50 FR 20200) that established a new control zone at Quonset State Airport, North Kingstown, Rhode Island. The control zone will provide controlled airspace protection for aircraft operating at the airport. This correction provides that the control zone will be effective during the specific dates and times established in advance by a Notice to Airmen.

EFFECTIVE DATE: 0901 G.m.t., July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Stanley E. Matthews, Manager, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone (617) 273–7139.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 85–11458 was published on May 15, 1985 (50 FR 20200) that established a new control zone at Quonset State Airport, North Kingstown, Rhode Island. The control zone will provide controlled airspace protection for aircraft operating at the airport. The correction provides that this control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be continuously published in the Airport/Facility Directory.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Control zones.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the **Federal Register**, Document 85–11648, as published in the **Federal Register** on May 15, 1985 (50 FR 20200) is corrected as follows:

1. The authority citation for Part 71 continues to read as follows:

(Authority: 49 U.S.C. 1348(a), 1354(a), 1510 Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); [14 CFR 11.69].

2. By amending § 71.171 as follows:

Quonset State Airport, North Kingstown, Rhode Island—[New]

Within a 5 mile radius of the center, Lat. 41°35′45″N., Long. 71°24′35″W., of the Quonset State Airport, North Kingstown, Rhode Island; within 2 miles each side of the Providence, Rhode Island VORTAC 171°T(185°M), extending from the 5 mile radius zone to 15.5 miles south of the VORTAC excluding that airspace within the Providence, Rhode Island Control Zone. This control zone will be effective during the specific dates and times established in advance by a Notice to Airmen. The effective

VOL 50 ISS 137 JL 17 1985 UMI

date and time thereafter will be continuously published in the Airport/Facility Directory.

Issued in Burlington, Massachusetts, on July 8, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-16691 Filed 7-16-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ANE-05]

Chester, CT, 700 Foot Transition Area; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects Federal Register Document 85-13708 published on June 7, 1985, (50 FR 23941) that amended the description of the Chester, Connecticut 700 Foot Transition Area so as to provide airspace for aircraft executing a new RNAV Standard Instrument Approach Procedure (SIAP) to Runway 17 at the Chester Airport, Chester, Connecticut. The latitude shown in that amended description is incorrect and is being corrected to reflect the correct latitude.

EFFECTIVE DATE: 0901 G.m.t., July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Stanley E. Matthews, Manager, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone (617) 273-7139.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 85-13708 was published on June 7, 1985, (50 FR 23941) that amended the description of the Chester, Connecticut 700 Foot Transition Area so as to provide airspace for aircraft executing a new RNAV Standard Instrument Approach Procedure (SIAP) to Runway 17 at the Chester Airport, Chester, Connecticut. The latitude as shown in the amended description is incorrect. This correction will make the appropriate change in the latitude.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the **Federal Register** Document 85-13708, as published in the **Federal Register** on June 7, 1985 (50 FR 23941) is corrected as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510 Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (14 CFR 11.69).

2. By amending § 71.181 as follows:

Chester, Connecticut Transition Area—[Amended]

After "VOR" line five insert:

"; and within that airspace bounded by a line to the northwest beginning at Lat. 41°25'30" N, Long. 72°35'10" W; to Lat. 41°27'20" N, Long. 72°38'30" W; and a line to the northeast beginning at Lat. 41°26'25" N, Long. 72°26'35" W; to Lat. 41°32'50" N, Long. 72°26'45" W."

Issued in Burlington, Massachusetts, on July 8, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-16892 Filed 7-16-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9184]

Tristate Household Goods Tariff Conference, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal Order.

SUMMARY: The Federal Trade Commission has dismissed the complaint in this matter since the collective ratemaking activities of respondent are immunized by the state action doctrine. The Commission has found that "further prosecution of this matter does not appear to be in the public interest."

DATES: Complaint issued Sept. 18, 1984. Order Dismissing Complaint issued July 5, 1985.*

FOR FURTHER INFORMATION CONTACT: Barry E. Barnes, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, MA 02114, (617) 223-6621.

SUPPLEMENTARY INFORMATION: In the Matter of Tristate Household Goods Tariff Conference, Inc., a corporation.

List of Subjects in 16 CFR Part 13

Intrastate carriers, Collective ratemaking, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

[Docket No. 9184]

Order Dismissing Complaint

The Commission has considered this matter on complaint counsel's unopposed motion that the complaint be withdrawn.

In this case respondent has argued that its collective ratemaking activities are immunized by the state action doctrine. Complaint counsel now represents that all the elements of a state action defense as articulated by the Supreme Court in *Southern Motor Carriers Rate Conference* v. *United States*, 105 S. Ct. 1721 (1985), are available to the respondent. Accordingly, further prosecution of this matter does not appear to be in the public interest. The complaint is therefore dismissed.

By direction of the Commission.

Issued: July 5, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 85-16898 Filed 7-16-85; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. 9157]

The Echlin Manufacturing Co. et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal Order.

SUMMARY: The Federal Trade Commission has dismissed its antitrust challenge to the Echlin Mfg. Co.'s acquisition of Borg-Warner Corp.'s automotive-aftermarket operations. The Commission ruled that since there are no barriers to entry into the market for the assembly and sale of carburetor kits, "there can be no anticompetitive effect from the acquisition, and no violation of the antitrust laws."

DATES: Complaint issued July 23, 1981. Final Order issued June 28, 1985.*

FOR FURTHER INFORMATION CONTACT: Ann B. Malester, FTC/L-501, Washington, D.C. 20580. (202) 254-8644.

SUPPLEMENTARY INFORMATION: In the Matter of The Echlin Manufacturing Company, a corporation, and Borg-Warner Corporation, a corporation.

List of Subjects in 16 CFR Part 13

Automotive parts, Corporate acquisitions, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

[Docket No. 9157]

Final Order

This matter has been heard by the Commission upon the appeals of complaint counsel and respondent The Echlin Manufacturing Company from the initial decision and upon briefs and oral argument in support of and in opposition to the appeals. For the reasons stated in the accompanying Opinion, the Commission has determined to affirm the initial decision. Accordingly,

It is Ordered that the complaint is dismissed.

By the Commission, Commissioner Bailey dissenting.

Issued: June 28, 1985.

Emily H. Rock,

Secretary.

Dissenting Opinion of Commissioner Patricia P. Bailey

Echlin Manufacturing Co., Docket No. 9157, June 28, 1985

This is a merger between competing firms with 36% and 10% of a small and declining market so highly concentrated that six firms account for 95% of sales. The Herfindahl-Hirschman index as a result of this acquisition rises by over 750 points to just under 3000. These figures would suggest that this market is susceptible to collusion. There are few sellers in the market for assembly and sale of carburetor kits, and their market shares have remained stable over the past 15 years. There are large numbers of buyers most of which make relatively small purchases, limiting the ability of buyers to disrupt collusion. Because of the similarity of these buyers' businesses in reselling what are fairly standardized, noncustomized products, there are relatively few issues over which sellers need collude. Substitute products (new and rebuilt carburetors) are considerably more expensive, and demand is alleged to be inelastic, since car repairs create necessity. Industry members use price lists, which facilitates price policing, and discounts off these lists are uncommon. There has been relatively little price competition, according to the ALJ, although he found that non-price competition did exist. There is evidence that the largest respondent exercised price leadership. The question of supracompetitive profits is disputed (the ALJ considered the evidence "fragmentary" and the Commission rejects it without discussion), but industry leaders testified that their operations were profitable.

Under the 1984 Justice Department Merger Guidelines—the most recent government pronouncement on merger analysis—a merger that looks like this one is so likely to be anticompetitive and therefore unlawful that only the "extraordinary" case will avoid legal sanction. The Commission has dismissed this case on the sole ground that it finds no barriers to entry into the market, holding that this conclusion renders the otherwise strong structural case for illegality irrelevant.[1]

I have three primary concerns about the Commission's decision and its implications for future FTC merger policy. First, I believe the Commission has embraced a particularly narrow definition of barriers to entry that may be ill-suited to merger analysis, and which is, moreover, a source of much dispute among industrial economists. Second, I disagree with the conclusion drawn by the Commission, that entry into this market is "extraordinarily easy and can be quite rapid." Finally, as matter of legal policy, I am concerned over the Commission's single-minded focus on the hotly disputed barriers to entry issue as dispositive of legal liability in a horizontal merger case where the prima facie case for antitrust concern about collusion is as strong as it is here.

I

Barriers to entry are clearly of increasing importance to antitrust analysis. From a conceptional point of view, this is not hard to understand. Former Director of the FTC's Bureau of Economics, F.M. Scherer, has stated that "significant entry barriers are the *sine qua non* of monopoly and oligopoly, for . . . sellers have little or no enduring power over price when entry barriers are nonexistent."[2] The Commission has recognized the role of barriers as a supplement to consideration of quantitative factors such as market shares and concentration. "The issue of entry barriers is perhaps the most important qualitative factor, for if entry barriers are very low it is unlikely that market power, whether individually or collectively exercised will persist for long."[3] The Department of Justice has gone even further in stating, "If entry into a market is so easy that existing competitors could not succeed in raising price for any significant period of time, the Department is unlikely to challenge mergers in that market."[4] Two recent federal court decisions have hoisted the Justice Department on its own petard by denying government merger challenges on the basis of low barriers to entry.[5]

But to say that barriers to entry are important in antitrust thinking does not lead me to the necessary conclusion that barriers analysis has yet reached the point where it should resolve antitrust disputes as easily as it is being used to do in this and in possible future cases.[6] For one, there is such lack of clear consensus about the nature or effect of barriers to entry[7] that some suggest this issue is elusive, and can confound the resolution of complex antitrust questions.[8] One scholar has observed that barriers to entry is "the single most misunderstood topic in the analysis of competition and monopoly," exceeding

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*Copies of the Complaint, Initial Decision and Option of the Commission are filed with the original document.

[1] In fact, acknowledgment of complaint counsel's prima facie case is relegated to a footnote in the majority opinion.

[2] Scherer, Industrial Market Structure and Economic Performance 11 (2d ed. 1980).

[3] Statement of Federal Trade Commission Concerning Horizontal Mergers, section III A(1), p. 5 (1982) (hereafter, "FTC Merger Statement").

[4] U.S. Department of Justice Merger Guidelines, Section 3.3 (1984) (hereafter, "DOJ Guides").

[5] U.S. v. Waste Management, Inc., 743 F.2d 976 (2d Cir. 1984); U.S. v. Calmar, 1985-1 Trade Cas. (CCH) ¶ 66,566 (D.N.J. 1985).

[6] No matter how appropriate it may be to take entry barriers into account in determining whether or not it is worthwhile to bring divestiture actions against dominant firms in concentrated industries, the case for moderating presumptive merger rules where entry barriers are low is much more tenuous IV Areeda and Turner, Antitrust Law ¶ 917(b) at 86 (1980).

[7] Demsetz, "Barriers to Entry" 72 Am. Econ. Rev. 47 (1982).

[8] "Determining the existence, 'height,' and effects of entry barriers is beset with some theoretical difficulties and with empirical problems of seemingly formidable proportions." IV Areeda and Turner, supra, ¶ 917(b) at 87. *See also:* Rowe, "The Decline of Antitrust and the Delusions of Models: The Faustian Pact of Law and Economics," 72 Geo. L. J. 1511 (1984). (Barriers to entry an "elusive" concept.) "Wherever the market, some enterprising rivals, unless kept out by legal fiat, can in time climb in. So, barriers to entry stand only as high as time waxes long and rivals grow tall." *Id.* at 1543.

even the issue of market definition in this regard.[9]

yet not attract new entry. The Bain view, while subject to almost thirty

supracompetitive pricing within an industry and yet prevent for a

profitable, but shielded by barriers that deter entry at a significant scale.

assessment standpoint, there are alleged to be four factors that complaint counsel

case, the need to achieve scale economies deters entry.

even the issue of market definition in this regard.[9]

The majority cements its agreement with respondent's definition of entry barriers ("additional long run costs that may be incurred by an entrant relative to the long-run costs faced by incumbent firms"), by a citation to Professor George Stigler, among others. The majority declares this position is "now widely accepted in the legal and economic communities." Stigler's formulation (1968) defines barriers to entry "as a cost of producing (at some or every rate of output) which must be borne by a firm which seeks to enter an industry but is not borne by firms already in the industry." [10] This view, as carried forward in the majority's analysis, is that entry barriers block new competition from the market; access to the market is closed to outsiders on account of the barrier. Examples of such barriers given by the majority are governmental entry restrictions and patents. Other examples might be control of scarce resources, such as essential raw materials, or unique management or labor resources. Conversely, under a "Stiglerian" approach, if some factor simply imposes risks and costs on new entrants resulting in possible delay or deferral of entry, that factor is not really a barrier to entry, because access to the market imposes or has already imposed the same costs or risks on all firms, at one time or another. All firms have equal access to the market, even given the need to undertake certain prescribed steps to accomplish entry.

Perhaps at the other end of the scale from Stigler's view is the "neo-classical" view of Joe S. Bain (1956), which would measure the prospect of entry by the "extent to which, in the long run, established firms can elevate their selling prices above the minimal average costs of production and distribution (those costs associated with operation at optimal scales) without inducing potential entrants to enter the industry." [11] The condition of entry is thus defined "as the 'disadvantage' of potential entrant firms as compared to established firms or conversely, the 'advantage' of established over potential entrant firms." [12] In essence, an entry barrier is whatever allows incumbent firms to charge supra-competitive prices yet not attract new entry. The Bain view, while subject to almost thirty years of criticism by its opponents and revisionism by its friends, remains an alternative approach which provides a different perspective on entry questions.

The Commission distinguishes between "absolute" barriers to entry—which are barriers touched by the Commission's Stiglerian Philosopher's Stone—and mere "impediments" to entry, evidence of which are taken up by the record in this case. (Some of these resemble Bain's barriers to entry sent to the back of the classroom). The Commission finds no absolute barriers to entry in this case at all, but it insists on an extended treatment of the subject, perhaps to accomplish the result of fixing in the caselaw its particular entry barrier definition. As to entry-delaying "impediments," the Commission rules that none of these would permit any exercise of market power by incumbent firms because of the ease with which the impediments could be kicked aside.

The Commission, then, in this opinion embraces the current "Chicago School" economic "State Religion" approach to barriers to entry, a view which simply is *not* generally "accepted [13] in the legal and economic communities." In both communities, though this view has gained some ground recently in a few cases,[14] the battle rages fiercely, and is as empirically unresolved as ever.[15]

II

But is this point important, or do I belabor an all-too technical issue? It seems to me the point is important if barriers to entry, so particularly defined, become the easy way to resolve complex antitrust cases. Section 7 of the Clayton Act makes illegal mergers that have the probability of substantially lessening competition. The statute does not add the word "forever". A merger can lessen competition and therefore violate the statute, in my view, if market conditions, structural features, or behavioral patterns make entry an unattractive investment risk for a significant period of time. If such a situation exists so as to permit supracompetitive pricing within an industry and yet prevent for a substantial period new entry or the expansion of marginal fringe competitors, then it is possible that a barrier to entry exists. The defect in the Stiglerian alternative is that it does not account for the time, scale and cost necessary for a successful entry that is a meaningful threat to incumbent firms.

This situation, as I understand it, is essentially what complaint counsel is arguing. They do not claim that there are any of Stigler's barriers to entry into this market, but rather they assert that entry is unlikely due to the fundamental unattractiveness of the market. New entrants are deterred from making investments in entry because they cannot expect to make acceptable profits. At the very minimum, the argument seems to be, entry would be delayed for a significant period of time during which there would be injury to competition, constituting a violation of section 7.

The majority admits complaint counsel's pragmatic point about conditions that delay or impede entry. The Commission states: "There may be little practical difference between an absolute barrier to entry and conditions of entry that delay the restoration of competitive prices for decades." Delayed entry "for decades" fits an almost-Stiglerian scenario of an industry where potential entrants must await the expiration of patents or overcome similar dramatic entry problems. However, decade-long delays should not be and are not, the only circumstance of concern under the antitrust law.[16] Most temporal measures of new entry speak of difficulty of entry in terms of two to five years.

In the end, the majority concludes that where entry is not blocked (by its analysis), it is easy and can also be rapid—with citation to the entry over the past ten years of about five firms at the fringe of the market. The majority assumes that any of these firms could expand its operations virtually at will.

Complaint counsel buttress their statistical case by descriptions of market conditions that permit the exercise of market power without resulting in the expansion of fringe entrants or the entry of new competitors. They view the market as conducive to collusion and highly

[9] Fisher, "Diagnosing Monopoly," Q. Rev. Econ. & Bus. 23 (Summer, 1979).

[10] Stigler, The Organization of Industry 67 (1968).

[11] Bain, Industrial Organization 252 (2d ed. 1968).

[12] *Id.*

[13] The Commission uses the term "widely accepted." Alas, that may be so, depending however on the circles in which one travels.

[14] Those cases include the Commission's decision in General Foods Corp., 103 FTC 204, 354 n. 54 (1984), where I expressly disassociated myself from the Commission's notational embrace of this Stiglerian view. (103 FTC at 372).

[15] See for example, Demsetz, supra.; Waterson, "On the Definition and Meaning of Barriers to Entry," 26 Antitrust Bulletin 521 (1981), and Wentz, "Mobility Factors in Antitrust Cases: Assessing Market Power in Light of Conditions Affecting Entry and Fringe Expansion," 80 Mich. L. Rev. 1545 (1982).

[16] FTC Merger Statement section III(A)(1) (1982). ("To be sure, merger analysis properly focuses primarily on long-term competitive implications, but short term effects should not be ignored, particularly if they are substantial.")

profitable, but shielded by barriers that deter entry at a significant scale.

The murky issue of profits cannot be finally resolved on this record. While complaint counsel argue that this market enjoys supracompetitive profits and therefore is attractive to entrants, neither the ALJ nor the Commission accepted this analysis.[17] The Commission considers it possible that the industry may be unattractive to entrants because prices are competitive or simply because the market is declining.[18] It is noteworthy that the ALJ, while finding some non-price competition, concluded that "the record as a whole does not reflect vigorous price competition."[19] And, if the declining market simply does not interest outsiders in and of itself, there would seem to be at least modest room for collusion, which this merger might facilitate.

Accepting for the moment that the market is at least somewhat attractive for entry from the initial profitability assessment standpoint, there are alleged to be four factors that complaint counsel say mitigate against entry, but which the Commission rejects even as "impediments."

First, complaint counsel assert there are sunk costs associated with entry that cannot be recovered if a firm decides to exit the market. These sunk costs are not large in terms of dollars, but they are large relative to the expected return in this small ($53 million) and declining market, thereby increasing the risk and decreasing the likelihood of entry given alternative investment opportunities.

Second, complaint counsel contend that entry is deterred by the need to achieve an economy of scale that is quite high. Like the arguments surrounding supracompetitive profits in this record, arguments about economies of scale are a subject of bitter dispute. Complaint counsel's expert witness, using exhibits prepared by respondents, estimated that about 10% of the market represented minimum efficient scale.[20] The ALJ rejected the 10% calculation; he agreed that there were some scale economies in this industry but considered them insignificant. However, if new entrants were faced with economies of scale of 10%, achievement of this reduction of unit costs would give a decided cost advantage to the larger incumbent firms, and saddle entrants with a major competitive burden to attain these same advantages without prospect of doing so simply from capture of any market growth. Incumbent firms capable of output at these scales could also deliberately flood the market to deter entry with lower prices. Because potential entrants perceive this to be the case, the need to achieve scale economies deters entry.

Third and fourth, complaint counsel also argue that the recent record of new entrants is especially poor in this industry, and that the record shows at least one case of targeted market retaliation by the market leader against a new firm.

Areeda and Turner endorse a shorthand test for barriers to entry by assessing the historical record of entry over the past few years in the market.[21] The 1984 DOJ Guidelines propose a two-year period in which to assess new entry in response to a "small but significant non-transitory increase in price" (about 5% lasting one year).[22] The 1982 FTC statement emphasizes the importance of the historical record on entry.[23] So does the body of traditional caselaw. I believe that judging the historical record on entry has always been, and remains today, the simplest and most practical way to deal with most barrier to entry analysis situations.

While these historical tests emphasize the importance of the traditional study of the simple record of entry, they also emphasize the importance of the size and scope of such entry. The 1984 DOJ Guides would take into account the "magnitude" of entry.[24] The 1982 FTC Statement declares: "Evidence of *substantial* expansion by firms already in an industry, especially non-dominant firms, may persuasively indicate that barriers to larger scale are not high. Conversely, evidence of frequent entry by fringe firms on a small scale *without significant expansion*, may also suggest the existence of barriers to larger scale".[25] (Emphasis added).

The record in this case shows that over more than a decade only fringe competitors have entered and only to the extent of a total *combined* market share of about 2%. Moreover, expansion or increased profitability has not occurred over a ten-year period for some of these firms, and three years or more for others. The majority conclusion that expansion is "easy and rapid," is not supported by the historical record.[26]

There are serious questions in my mind that these struggling fringe competitors represent any disciplining threat on the prices of the market

[17] The administrative law judge found that the evidence on profitability was fragmentary and hypothetical, since no actual long run profitability data on carburetor kits was available for individual firms. In addition to testimony by witnesses for four of the leading members of this industry that their companies were profitable, and planning documents of respondent stating its operations are profitable, complaint counsel made use of two *in camera* exhibits prepared by respondents' employees and economic expert. These exhibits are based on data from Echlin's own books and records, originally prepared to establish an economic model of relative costs of production at three different hypothetical levels of output. Complaint counsel, over the vigorous objection of respondents, asserted that this model enabled complaint counsel to establish the profitability of a firm that operated at about 10% of the market, or sales of 1.5 million kits. Comparing these data with 1978–1982 Census Bureau Quarterly Financial Reports (QFR) five-year averages for 1) return on assets for all manufacturing, 2] average return on stockholder's equity, and even 3) return on assets for wholesaling, complaint counsel argues that all of these QFR "benchmarks" are very substantially exceeded by the profit data derived from respondents' economic exhibits. The degree to which these calculated "profits" exceeded the benchmarks (50%) was well above the level agreed by both sides' economic experts to indicate supracompetitive profitability. [Complaint counsel's profit calculations yielded "accounting" rates of return. Such accounting profits are potentially unreliable because they do not take into account certain of a firm's costs; however, complaint counsel explain that in this industry, accounting rates of return closely approximate economic rates of return, considered more reliable evidence of profitability by some economists). In addition, although inferences to be drawn are limited, there is evidence that respondent was able to retaliate against one new market entrant by offering discounts on selected kits ranging from 5–30%. The Commission expressly rules that these sales were not below variable cost. There is the suggestion that respondents' usual prices are normally above a competitive level.

[18] I should note here that the DOJ guides and caselaw do not provide for *per se* legality for mergers in declining industries.

[19] I.D F. 286, p. 81.

[20] To assess the level of scale economies, complaint counsel again relied on CX 563 and 544, an analysis of the market at three hypothetical levels of output, prepared by respondent's employees from respondents' books and records. These *in camera* exhibits explain certain characteristics of three different sized firms—a firm that produces 1.5 million carburetor kits annually, representing just over 10% of the market, a firm producing 300,000 kits annually or about 2% of the market, and a firm with about 4% of the market, or about 100,000 kits. The data showed, according to complaint counsel, substantially different unit costs associated with each size of output. The larger the "firm" the more decided the cost advantage. There is additional evidence that this upper range of output may approximate the optimum in the business expansion plans of another competitor (Holley), allowing it the cost benefits of automated packaging. Respondent is scornful of the economies of scale argument on methodological grounds, on the grounds that the numbers are purely hypothetical, on the fact that only two of the six market incumbents would meet the 10% criteria (although the smaller firms have the existing capability to expand production to 10%, according to complaint counsel's industry expert), and on the fact that the numerous smaller firms appear to be profitable.

[21] IV Areeda and Turner, *supra*, ¶917c, at 88 (1980).

[22] DOJ Merger Guides, section 3.3 (1984).

[23] FTC Merger Statement section IIIA (1) (1982).

[24] DOJ Merger Guides section 3.3 (1984).

[25] FTC Merger Statement section III A(1) (1982).

[26] In contrast, in the recent Calmar case, the judge found numerous entrants, some of which had amassed substantial market shares. U.S. v. Calmar, supra, at 65,927–28 (D.N.J. 1985).

leaders, and unless they do, their entry is not "significant," quite apart from the

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which are essentially technical and non-

leaders, and unless they do, their entry is not "significant," quite apart from the question of their size. The ALJ acknowledged only one firm, Sherman, to be a "significant" competitive entry. The record shows that Sherman's 1981 efforts at assembly and sale of a line of 120-kits at low prices continued for two years with little success. Sherman's survival, with about one-third of one percent of the market may be owed mostly to an agreement to supply kits to another firm for resale, after that firm (Carter) gave up on the assembly and sale of kits on its own (for corporate reasons apparently not related to the kit market). Sherman obtained this account in 1983 by underbidding Borg-Warner's carburetor kits subsidiary. About the time that the Carter/Sherman agreement was implemented, respondent targeted Sherman with special and unusal discounts on 19 lines of fast-moving kits. The Commission's observation about the targeted response to Sherman's entry and Sherman's capture of the lifesaving Carter business after two years of struggle, is that "A price war is evidence of competition, not the absence of competition." That is, Sherman's presence tempered the market leader's prices overall. This is simply not consistent with the selectivity of the response, or the fact that two years passed before it even began. A prospective entrant might take the following view: that a recent entrant, Sherman, was targeted for selective price cuts by a leading firm that almost certainly possessed a cost advantage in calculating the degree of its retaliatory discounting (5–30% off list price, according to the record).[28] How might such a prospect affect the next firm's decision to enter the market? To me, this is a relevant question bearing on the likelihood of any further new entry, even at the margin. Of course, it can be said that Borg-Warner's superior efficiency (scale economies) is the risk worth taking in terms of anticipated post-entry return?

The most obvious pool of potential new entrants are the numerous firms that are private label resellers of kits assembled by the few firms that populate the assembly market. Some of these were formerly assemblers, and all prosses some access to distribution systems and the advantage of some name recognition and familiarity with customers. However, the same factors that operate to discourage new entrants, or expansion by fringe entrants, operate to deter resellers, particularly since resellers may be even more knowledgeable and alert than others about the dismal record of entry in this market. Most kit resellers handle small percentages of kit resales, and all but one (Ford) have 3% of such resales or less. Therefore, even firms with established distribution will be forced to capture "changeover" customers if they are to achieve scale economies. But the most significant factor about potential reseller entry is that no reseller has ever successfully entered into kit assembly. The market is clearly unattractive to the new entrants best poised to make the effort, and some factor must account for this fact.

In these circumstances one could predict that further entry is likely to be judged very risky indeed, and given the unlikelihood of any market growth, doomed. With such a poor record on *significant* new entry, the presumption of market power that attends high market shares, high concentration and Herfindahl levels should remain standing, somewhat battered to be sure, but unbowed. If expansion is not occurring, the Commission opines, it simply must be attributable to some factor other than incumbent firm's market power—power normally inferred from the enormous "numbers" in complaint counsel's prima facie case. To suggest that the failure to expand can be based on the invisible evidence of some invisible hand is such a spectral conclusion that it is less credible to me than the anticompetitive inferences to be drawn from the traditional market tests so recently confirmed in the 1982 FTC and 1982 *and* 1984 Justice Department merger frameworks. There are no additional arguments to add to this balance, since there are no credible arguments that this merger enhances efficiency, or that it is likely to promote competition in some other fashion.[29]

In summary, the likelihood of any firm entering this market does not depend simply on the existence or absence of Stigler's entry barriers. The presence of supracompetitive prices may normally be an inducement to entry, but, depending on the record on entry, it may also suggest the historical lesson that entry is risky, and therefore deterred.[30]

A firm's decision to take the investment risk depends on its anticipated post-entry rate of return. Initially, a small market that is stable or declining and promises no new growth for an entrant to capture may not be attractive for entry.[31] It might, however, be the sort of market conducive to collusion. Unrecoverable sunk costs are not lightly to be regarded when the ten-year record of entry shows five firms holding two percent, and two of the three largest firms recently merged into a single firm with almost half the market. The few incumbent firms may have the scale economy advantage of lower unit costs, which may permit selective retaliatory pricing that is not, strictly speaking, predatory, but is, generally speaking, entry deterring. And, if there is excess capacity, as there is alleged to be in the two or three incumbent firms that operate at 5–7% of the market, expansion of product "runs" on individual lines of kits could deter entry by easily increasing supply and flooding the market with cheaper kits.[32] Finally, assessing once again the historical record of entry, the potential entrant/expander may well be aware that it faces no Stiglerian barriers, and no necessarily enormous capital investment costs in getting a toehold in the market, yet it may anticipate a post entry rate of return that does justify the effort, given other investment alternatives.[33]

III

Unlike the majority I regard this as a close case, and, on balance, I come out the other way. The major weaknesses arguing against this outcome are the absence of stronger evidence as to

[28] That fact that the Commission found none of these retaliatory discounts to be predatory suggests that pre-entry price levels were higher than in a competitive environment.

[29] A claim that social costs of a merger would be small is a much weaker defense than a claim, as in an economies defense, that a merger would yield social gains. The social interest in attempting to isolate and immunize the former is plainly less than the social interest in protecting the latter. It may be sensible to absolve the low-loss cases, but whether it is or not depends heavily on the facility with which they can be identified. IV Areeda and Turner, *supra*, ¶917b at 87.

[30] Stonebreaker, "Corporate Profits and the Risk of Entry," 58 Rev. of Econ. and Stats. 33, 39 (1976).

(High profit rates associated with high risks of entry, deter entry, and enable established firms to earn supranormal profits. Records of small firms at the edge of the market an important factor in assessing risk).

[31] DOJ Merger Guides, section 3.3 n. 21 (1984); Webbink, Entry, Price-Cost Margins and Barriers to Entry in 280 4-Digit Industries, 1967–1972, Federal Trade Commission Bureau of Economics Working Paper No. 19, 5, 14 (1979).

[32] Spence, "Entry, Capacity, Investment and Oligopolistic Pricing," 8 Bell J. Econ. 534 (1976); Dixit, "A Model of Duopoly Suggesting a Theory of Entry Barriers," 10 Bell J. Econ. 20, 21 (1979) ("The threat of a large enough post-entry output will make entry seem unprofitable, and then it need never be implemented"); Wenders, "Excess Capacity as a Barrier to Entry," 20 J. of Ind. Econ. 14 (1971).

[33] The entrant should ignore preentry price and profit levels, but attempt to infer the postentry equilibrium price and profit levels. If the entrant's expected profits are negative, he is deterred; the no-entry profits accrue to the already established firm rather than the equally efficient entrant. Even a more efficient entrant may be deterred by an established firm who has sunk sufficient costs to make his own exit uneconomical, and hence, entry mutually destructive. Salop, "Strategic Entry Deterrence," 69 Am. Econ. Rev. 335 (1979).

supracompetitive profits of incumbent firms, and on economies of scale that may operate to create disadvantages. But it is precisely because of the typical—perhaps inherent—difficulty and potential ambiguity of such evidence in merger cases that the history of merger law shows a struggle to find simplifying assumptions that can proxy for economic proof positive. Examples of these assumptions to which I am willing to give credence, based on my reading of the law, the 1982 and 1984 DOJ Guides, and the 1982 FTC Statement on Horizontal Mergers, are that high market shares and Herfindahls indicate the prospect for collusion and that a long record of failed or marginal entry raises an inference of high entry barriers.

The sun has probably set on the rule of presumptive illegality in horizontal merger cases, such as outlined in *U.S. v. Philadelphia National Bank*, 374 U.S. 321, 364–66 (1963).[34] Yet have we not gone all the way in the other direction if we say that the *only* relevant question is whether particularly defined barriers to entry are high or low, irrespective of the traditional indicia of antitrust concerns about enhanced potential for collusion? I seriously question, based on the facts of this case, whether any true advance in our knowledge of how this market really works is promoted by a rigid economic theory of "absolute" barriers to entry, or a notion of "delayed" entry in terms of decades. Certainly such an economic theory is outcome determinative, just as was the old rule of presumptive illegality. The analysis contained in this opinion of the Commission denies us the latitude to consider whether market structure, performance or conduct in a given case leads rational potential entrants to walk away, on the basis of their assessment of risks they face and the sorry record of the firms the Commission here would call "new entrants." One wonders why the FTC and the Department of Justice have spilled so much ink over how to analyze mergers, if it is all as easy as this. The clear implication of the writing and then rewriting of the DOJ Guides was that merger analysis was complicated stuff, and that fair enforcers should take into account relatively sophisticated analysis of all aspects of the market. I suggest that the majority has turned the old section 7 "numbers" game on its head in favor of a "quick look" approach for Stigler's barriers to entry, the new *primus inter pores* of merger law. One result of such an approach would be to sanction any and all mergers in this market, right up to the point where a pure monopoly results. If there are no barriers to entry, after all, what would be wrong with that?[35] The entry barriers "quick look" test leads to a rule of *per se* legality for many mergers.

It is, of course, always possible that the distinguished and expert majority is dead right with their election of the economic theory to drive the result in this case. But my own brief assessment of the literature on this issue shows it long on words and short on empirical findings. There is no surfeit of discussions of the issues, but no agreement on them, either.

What is emerging in Commission merger decisions is by and large the rule that, according to the "new" economic learning, a merger is almost always legal. The Commission has charted a new course away from the great body of the traditional caselaw, and indeed abandoned the assumptions that have attended merger enforcement policy of both old and recent vintage, substituting a well-nigh theological—and surely theoretical—economic *deus ex machina*.

[FR Doc. 85–16899 Filed 7–16–85; 8:45 am]

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[34] However, Judge Winter in Waste Management observed that the Supreme Court has never expressly stated that ease of entry is one of the circumstances that fits the Court's approving assessment of market conditions to supplement the statistical market share and concentration data of the prima facie case, such as occurred in U.S. v. General Dynamics Corp., 415 U.S. 486 (1974); 743 F. 2d at 982 (1984).

[35] Or, as the Commission opinion puts it, "In the absence of barriers to entry, incumbent firms cannot exercise market power, regardless of the concentration in the nominal 'market,' and even if that 'market' has been 'monopolized' by a single firm."

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Adoption of Revised Registration Forms

AGENCY: Commodity Futures Trading Commission.

ACTION: Adoption of revised registration forms.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has revised its Form 8–R, the application for registration as an associated person or floor broker and supplement to application on Form 7–R. In connection therewith, the Commission has also made certain revisions to the Form 8–S, special registration for certain associated persons, and the Form 8–T, notice of termination. These revisions, which are essentially technical and non-substantive in nature, have been adopted to assist the National Futures Association ("NFA") in the performance of the registration functions which the Commission has authorized NFA to perform and in the implementation and operation of NFA's program to register and regulate directly the associated persons sponsored by members of NFA.

EFFECTIVE DATE: August 1, 1985.

FOR MORE INFORMATION CONTACT: Robert P. Shiner, Assistant Director, and Linda Kurjan, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–9703 and (202) 254–8955, respectively.

SUPPLEMENTARY INFORMATION: Section 17 of the Commodity Exchange Act ("Act"), 7 U.S.C. 21 (1982), sets forth the requirements for registration of, and the authority which may be exercised by, a registered futures association. In this connection, section 17(b)(4) of the Act specifically requires the rules of such association to provide that:

> no person shall become a member and no natural person shall become a person associated with a member unless such person is qualified to become a member or a person associated with a member in conformity with specified and appropriate standards with respect to the training, experience and such other qualifications of such person as the association finds necessary or desirable . . .

Elsewhere, section 17(b)(8) of the Act requires that "the rules of the association provide that its members and persons associated with its members shall be appropriately disciplined, by explusion, suspension, fine, censure or being suspended or barred from being associated with all members, or any other fitting penalty, for any violation of its rules" and section 17(p)(3) requires that the association "establish minimum standards governing the sales practices of its members and persons associated therewith for transactions subject to the provisions of the Act."

Thus, section 17 of the Act clearly requires a registered futures association to register and regulate directly individuals associated with a member of the association as well as the member itself. To effect its obligations under the Act with respect to "persons associated with a member," NFA, the only futures association registered by the Commission, has adopted bylaw 301(b), which provides:

> No person may be associated with a Member of NFA unless the person is

registered with NFA as an Associate or is an NFA Member. As used in these bylaws, the

which a significant number of associated person applicants would

immediate registration in the event of a

The Commission adopted the Form

Commission does not object if a sponsor

Effective Date

VOL
50
ISS
137
JL
17
1985
UMI

registered with NFA as an Associate or is an NFA Member. As used in these bylaws, the term "associated with a Member" means any person who is associated with a Member of NFA within the meaning of the term "associated person" as used in Section 4k of the Act and who is required to be registered as such with the Commission. Registration with NFA as an Associate is not registration as an associated person under the Act.

To date, NFA has not implemented this bylaw in order to focus its resources on matters which NFA, with the concurrence of the Commission, has considered more important in its development as a self-regulatory organization. By letter dated July 3, 1985, however, NFA has advised the Commission that, effective August 1, 1985, NFA will implement and enforce bylaw 301(b). Thus, all individuals required to be registered with the Commission as an associated person who are sponsored by a registrant which is a member of NFA will, in turn, be required to be registered with NFA as an Associate.

The Commission has previously authorized NFA to process and, where appropriate, grant applications for registration as an associated person. In order to reduce the burden on NFA members and their associated persons, NFA has requested the Commission to approve certain revisions to the Form 8–R, application for registration as an associated person or floor broker and supplement to application on Form 7–R, which, when adopted, will permit the same form to be used to apply for registration both as an associated person with the Commission and as an Associate with NFA.[1] Conforming amendments to the Form 8–S, special registration for certain associated persons, and the Form 8–T, notice of termination, have also been proposed.

NFA has also advised the Commission that the Chicago Board of Trade, the Chicago Mercantile Exchange, the New York Futures Exchange and the Minneapolis Grain Exchange, the four designated contract markets which have rules requiring any associated person sponsored by a member of such contract market to be registered with that contract market as a registered commodity representative, have agreed to authorize NFA to process the applications for such registration. Thus, the revisions requested by NFA will permit these forms to be used to register with the appropriate contract market as a registered commodity representative as well, and the number of applications which a significant number of associated person applicants would otherwise be required to complete and file will be reduced from six to one.

The Commission has carefully considered the revisions requested by NFA and has concluded that they are essentially technical and non-sustantive in nature and, as such, they will impose no additional burden on Commission registrants. To the contrary, as noted above, adoption of these revisions will relieve such registrants, both associated persons and their sponsors, of a substantial administrative burden by reducing from six to one the potential number of applications an applicant must file. Therefore, the Commission has determined to adopt these revised forms effective August 1, 1985.

The most significant changes in the forms have been made to the Form 8–R. In addition to changes in the instructions to reflect the transfer of registration processing from the Commission to NFA and changes in format, the following three questions have been added to the disciplinary history section of the form, Section G:

Has a bonding or surety company denied, paid out on, or revoked coverage for you?

Do you have any unsatisfied judgments or liens against you?

Were you discharged or permitted to resign from any employment due to a complaint or legal proceeding by a customer, an investigation or any disciplinary action?

Similar questions are presently found in the applications of the Chicago Board of Trade and Chicago Mercantile Exchange for registration as a registered commodity representative and NFA has concluded that the responses to these questions are relevant in determining fitness for registration as an Associate. To the extent those questions are not already set forth in the Form 8–S and the Form 8–T, those forms have been revised accordingly.

The second addition to the Form 8–R is the Applicant Agreement, which follows the applicant's certification of the accuracy of the responses in the application. Pursuant to the Applicant Agreement, the applicant applies for registration as an Associate with NFA and agrees to be bound by all NFA requirements. In addition, if the applicant's sponsor or, in the event the applicant's sponsor is a guaranteed introducing broker under Commission rule 1.10(j), the guarantor of the applicant's sponsor, is a member of a contract market which has rules applicable to associated persons of members, the applicant agrees to abide by those rules as well.

Finally, the Form 8–R has been revised to permit its use to obtain immediate registration in the event of a transfer from one sponsor to another or in the event an associated person of a commodity pool operator or commodity trading advisor wants to become associated concurrently with an introducing broker or a futures commission merchant. Under the Commission's registration rules, an individual who terminates his association with one sponsor may become registered immediately with another sponsor if, within sixty days of the date of such termination, the new sponsor mails to NFA or the Commission, as appropriate, certain required certifications followed within sixty days thereafter by a Form 8–R and the fingerprint card of such person.[2] The Commission's Form 8–S is currently used to make these required certifications. Similarly, the Form 8–S is used when an associated person of a commodity pool operator and commodity trading advisor applies for concurrent registration with an introducing broker or futures commission merchant.

In order to improve the efficiency of registration processing, NFA has requested that the Form 8–R be revised to permit it to be used alone in such circumstances, without requiring the use of the intervening Form 8–S.[3] The necessary revisions include the addition of a section on the first page of the application, wherein the applicant may indicate that he qualifies for special registration, and the addition of the special certifications required under the rules.

The Commission adopted these latter revisions because it believes they have merit beyond simple efficiency. In particular, the Commission notes that by using the Form 8–R only, the new sponsor will have available the answers to each of the disciplinary history questions and will have completed the sponsor's certification at the time the associated person first becomes associated with the sponsor, rather than sixty days thereafter. The Commission understands that many sponsors already require the Form 8–R and the sponsor's certification to be completed as a matter of good business practice, and the Commission believes it should encourage more registrants to adopt this practice. At the same time, however, the Commission must emphasize that sponsors are free to continue to use the Form 8–S procedure if they so choose.

[1] Of course, this same Form 8–R will continue to be used by applicants for registration as a floor broker or as an associated person of a leverage transaction merchant.

[2] See Commission rules 3.12(d), 3.16(d) and 3.18, 17 CFR 3.12(d), 3.16(d) and 3.18(d) (1984).

[3] Commission regulations do not require the use of the Form 8–R, *per se*.

The Commission adopted the Form 8–S procedure essentially to afford a new sponsor sufficient time to verify the past employment and educational history of the associated person without interfering with that person's ability to work. In this connection, NFA has asked the Commission whether, in these circumstances, a new sponsor may certify the past employment and educational history of an associated person by contacting the person's previous sponsoring employer rather than separately confirming the associated person's history. The Commission has never prescribed the manner in which a sponsor must verify an applicant's employment and educational history. Therefore, the Commission does not object if a sponsor wishes to verify these matters through the previous employer. The Commission must emphasize, however, that is the obligation of each sponsor to verify the employment and educational history of its associated persons, and the sponsor cannot avoid this obligation by relying upon the previous sponsor.

Related Matters

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35 (1982), the Commission previously submitted these forms to the Office of Management and Budget. The control number provided for these forms is 3038–0023.

Effective Date

The Form 8–R, Form 8–S and Form 8–T, as revised, shall be effective August 1, 1985. As the Commission has noted the amendments to the forms are predominantly technical and non-substantive in nature. Moreover, these amendments relieve burdens on the affected public by combining and, thus, eliminating repetitive questions. The Commission, therefore, finds that the notice and public comment procedures of 5 U.S.C. 553 are not required.

Issued by the Commission on July 9, 1985, in Washington, D.C.

Jean A. Webb,

Secretary of the Commission.

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

INDEX

VOL
50
ISS
137
JL
17
1985
UMI

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

FORM 8-R

APPLICATION FOR REGISTRATION AS ASSOCIATED PERSON AND NFA ASSOCIATE OR FLOOR BROKER
AND
SUPPLEMENT TO APPLICATION ON FORM 7-R
AND
SPECIAL REGISTRATION FOR CERTAIN ASSOCIATED PERSONS

FORM 8-T

NOTICE OF TERMINATION

FORM 3-R

SUPPLEMENTAL STATEMENT TO APPLICATION FOR REGISTRATION
AND
REPORTING BY ADDITIONAL SPONSORING FIRM OF MULTIPLE ASSOCIATIONS OF AP's OF CTA's AND CPO's (FORM 3-R - PART II)

FORM 8-S

July 1985

NFA

INDEX

Form 8-R

Instructions

Form

Definitions and Abbreviations

Testing Section

Form 8-T

Form 3-R (Parts I and II)

Form 8-S

Privacy Act Notice

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

APPLICATION FOR REGISTRATION AS ASSOCIATED PERSON AND NFA ASSOCIATE OR FLOOR BROKER AND BIOGRAPHICAL SUPPLEMENT TO APPLICATION ON CFTC FORM 7-R AND SPECIAL REGISTRATION FOR CERTAIN ASSOCIATED PERSONS

WHO MUST FILE FORM 8-R

(See definitions on page 7 of Form 8-R)

Associated Persons
Generally each time you apply for registration as an associated person ("AP") your sponsor must submit a Form 8-R for you. To be registered, you must be associated with a futures commission merchant ("FCM"), introducing broker ("IB"), commodity trading advisor ("CTA"), commodity pool operator ("CPO") or leverage transaction merchant ("LTM").

Principals
Any **initial Application** for registration as an FCM, IB, CTA, CPO or LTM must be accompanied by a Form 8-R for each principal except for principals who are already individually a registrant or a principal of a registrant. An individual seeking to become a principal of an existing registrant should consult CFTC Rule 3.32 to determine whether the filing of a Form 8-R for such individual is required. (A Branch Manager or Designated Supervisor must be registered as an AP.)

Special Registration (Transfers and Multiple Associations)
If you have either left your prior employment as an AP within the last 60 days or you want to be registered as an AP of an FCM or IB while currently registered as an AP of a CPO or CTA, you are eligible to use the Form 8-R to obtain immediate registration (effective on filing the properly completed Form 8-R.) You may also use Form 8-S to obtain immediate registration in these circumstances. If filing Form 8-S, a Form 8-R must be filed within 60 days of mailing the Form 8-S.

Floor Brokers
If you are applying for registration as a floor broker you must file Form 8-R. If you are applying for renewal of registration as a floor broker you must file Form 8-R but may answer "No Change" to any question which asks for information that has previously been furnished to the Commission on a Form 8-R or supplement thereto if such information remains accurate and unchanged. If the information has not changed but additional information is needed as an update, you may insert the words "Information Since Previous Filing" and then give the new information.

You must have been granted trading privileges by a board of trade which has been designated as a contract market by the Commission in order to be registered as a floor broker or to have your registration as a floor broker renewed.

WHAT TO FILE

Associated Persons
To apply for a temporary license and for registration as an AP your sponsor must file all of the following for you at the same time:
1. The appropriate fee;
2. A Form 8-R completed in accordance with the instructions thereto;
3. Your fingerprints on a fingerprint card provided by NFA, or if you are an AP of an LTM, on a fingerprint card provided by the Commission*, and
4. Satisfactory evidence that you passed the National Commodity Futures Examination ("NCFE" or "Series 3".) (Does not apply to APs of LTMs.)

Applications should be assembled in the order listed above.

Principals
Principals must file all of the following at the same time:
1. A Form 8-R completed in accordance with the instructions thereto;
2. Your fingerprints on a fingerprint card provided by NFA, or if you are a principal of an LTM, on a fingerprint card provided by the Commission*. (You need not file a fingerprint card if you have a current Form 8-R or Form 94 on file or you are exempt under Section 3.32 of the Commission's regulations);
3. Satisfactory evidence of passage of the National Commodity Futures Examination ("NCFE" or "Series 3") if you are acting in the capacity of an associated person, or supervise, or have the authority to supervise (generally includes Chief Executive Officers, Chief Operating Officers, Presidents and General Partners as well as others) a person acting as an associated person.

Applications should be assembled in the order listed above.

Special Registration (Transfers and Multiple Associations)
To obtain immediate registration as an AP your sponsor must file the following for you:
1. The appropriate fee;
2. A Form 8-R completed in accordance with the instructions thereto;

Within 60 days:
3. Your fingerprints on a fingerprint card provided by NFA, or if you are applying for special registration as an AP of an LTM, on a fingerprint card provided by the Commission.

OR

1. A Form 8-S completed in accordance with the instructions thereto;

Within 60 days:
2. The appropriate fee;
3. A Form 8-R completed in accordance with the instructions thereto;
4. Your fingerprints on a fingerprint card provided by NFA, or if you are applying for special registration as an AP of an LTM, on a fingerprint card provided by the Commission.

Floor Brokers
To apply for registration as a floor broker you must file all of the following at the same time:
1. The appropriate fee;
2. A Form 8-R completed in accordance with the instructions thereto;
3. Your fingerprints on a fingerprint card provided by the Commission*. (You need not file a fingerprint card if you have a current Form 8-R or Form 94 on file.)

Applications should be assembled in the order listed above.

WHERE TO FILE

All Applicants
Send all registration applications to National Futures Association, Office of the Secretary, P.O. Box 96383, Chicago, Illinois 60693, except those for APs and principals of LTMs as well as floor broker applications which should be sent with separate remittance to the Commodity Futures Trading Commission, P.O. Box 70685, Chicago, Illinois 60673.

If you must file a Form 8-R, a fingerprint card or other document with both the Commission and NFA, you may submit the original Form 8-R, fingerprint card or other document to either the Commission or NFA and simultaneously submit a legible, accurate and complete photocopy of the Form 8-R, fingerprint card or document with an original signature and date in each place where required on the original form, card or document, to NFA or the Commission. All photocopies should note at the bottom of the copy that "Original was sent to NFA" or "Original was sent to the CFTC" as appropriate.

*Fingerprint Cards — In lieu of a fingerprint card you may submit (1) a legible, accurate and complete photocopy of a fingerprint card which has been submitted to the FBI for processing and identification if such processing was completed satisfactorily by the FBI not more than 90 days prior to the filing with the Commission or NFA of the photocopy (You must include any report, record or notation made available by the FBI with respect to the fingerprint card.) Photocopies must be validated on the reverse side with the signature of an officer, a general partner or the sole proprietor. Floor broker applicants using this alternative must sign for themselves; or (2) a statement that your application for initial registration in any capacity was granted within the preceding 90 days, PROVIDED that you were required to file a fingerprint card in connection with such application for initial registration.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

REGISTRATION FEES

All fees must be remitted by money order, bank draft or check. Registration fees are nonrefundable.

APs of FCMs, IBs, CTAs and CPOs
Each Form 8-R filed to obtain registration or special registration as an AP of an FCM, IB, CPO or CTA must be accompanied by a fee of $30 payable to National Futures Association.

APs of LTMs
Each Form 8-R filed to obtain registration or special registration as an AP of an LTM must be accompanied by a fee of $35 payable to the Commodity Futures Trading Commission.

Floor Brokers
Each application for registration or for renewal of registration as a floor broker must be accompanied by a fee of $25 payable to the Commodity Futures Trading Commission.

TESTING REQUIREMENTS

(Not applicable to Floor Brokers and APs of LTMs)

All individuals applying for registration as a sole proprietor FCM, IB, CPO, CTA or as an AP of any of the foregoing must provide proof of passage of the National Commodity Futures Examination ("NCFE" or "Series 3".) A copy of the testing application can be found in this booklet.

No exemptions or waivers of the testing requirement will be granted. However, certain individuals may not be required to take the NCFE (Series 3) because they meet conditions established by NFA. These are:

If Applicant is applying as:	Then NCFE not required if:
AP of FCM, CPO or CTA, or sole proprietor FCM, CPO or CTA	Applicant has been continuously registered or pending as an FCM, IB, CPO, CTA or AP or principal of any of the foregoing, since on or before March 1, 1984, without a lapse in registration.
AP of an IB, or sole proprietor IB	Applicant has been continuously registered or pending as an FCM, IB, CPO, CTA, or AP or principal of any of the foregoing, since on or before August 1, 1983, without a lapse in registration.
Any of the above, and is currently registered as a floor broker	Floor Broker registration is current (pending or inactive floor brokers not applicable.)
Any of the above, and is registered with NASD as General Securities Representative and limits futures activities to soliciting or accepting orders for stock index products or supervision of persons whose activities are so limited, and passed the NYFE Registered Commodity Representative (Series 20) exam before December 31, 1984	Applicant continues to limit futures activities to soliciting or accepting orders for stock index products or supervising persons whose activities are so limited.
Any of the above, and is registered with NASD as General Securities Representative and limits futures activities to solicitation of commodity pool participants or supervision of persons whose activities are so limited.	Applicant submits Alternate Testing Certification (Certification available from NFA) and proof of NASD registration.

TEMPORARY LICENSES

If the Form 8-R is being filed in connection with an initial application for registration as an AP, you may receive a temporary license pending completion of your fitness check and prior to being granted registration. If you receive a temporary license, you may act in the capacity of an AP as if such registration had been granted. In that case, you will be subject to all of the obligations and liabilities imposed on a registrant under the Commodity Exchange Act and the rules, regulations and orders thereunder. In particular you will be subject to reparation and arbitration proceedings. A temporary license, however, does not confer any right to registration at a later date.

An applicant will not qualify for a temporary license if he answers "Yes" to any questions in items 14-18 of the Disciplinary History section.

While acting pursuant to a temporary license, an applicant for registration as an AP may not be sponsored by any registrant other than that registrant which filed the sponsor's certification.

If you receive a temporary license, it will terminate immediately: (1) upon notice that you are subject to a statutory disqualification under Section 8a(2) through Section 8a(4) of the Act; (2) upon termination of your association with the sponsoring registrant; or (3) at the end of six months. Unless action is taken to deny your application for registration within six months of the date the license is granted, the license will convert automatically to a registration.

ASSOCIATE MEMBERSHIP IN NFA

If your sponsor is a Member of NFA you will be granted Associate membership in NFA for the duration of the temporary license, and you will become an Associate if and when you are granted registration as an AP.

DURATION OF REGISTRATION AS AN AP

The duration of your registration as an AP will be until (1) you cease association with your sponsor for whatever reason or (2) you or your sponsor's registration lapses or is revoked, suspended, or withdrawn.

TERMINATIONS AND FAILURES TO BECOME ASSOCIATED

An FCM, IB, CPO or CTA must file a properly completed Notice of Termination (Form 8-T) with NFA within twenty days after the occurence of any of the following: (1) the failure of an individual to become associated with the sponsoring registrant after the filing of a Form 8-R on his behalf; or (2) the termination of the association of an individual with the sponsoring registrant; or (3) the termination of the affiliation of a principal with the firm. Form 8-T's for LTM personnel should be filed with the Commission.

Notice of termination as described above may be given on a Uniform Termination Notice for Securities Industry Registration (Form U-5) in lieu of a Form 8-T.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

Form 8-R (7/85)
Previous Editions Obsolete

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NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

FORM 8-R

GENERAL INSTRUCTIONS FOR PREPARING FORM 8-R

1. All information must be typed or neatly printed in black ink.
2. All required signatures must be original; mechanical reproduction of signatures will not be accepted.
3. All questions on Form 8-R must be answered unless specifically directed otherwise. If you are not required to answer a question, enter "Not Applicable."
4. You must use all space provided on Form 8-R before using a supplemental sheet. Be certain that the name of the applicant, the appropriate signatory and the number corresponding to the number on the Form 8-R appear on every attachment sheet.
5. Each AP, Floor Broker or principal of a registrant must keep accurate and current the information supplied on the Form 8-R or any supplements thereto. A change of any such information must be promptly reported on a Form 3-R. A Form 3-R is provided in this booklet. Tear it out and keep it for future use.
6. If you have an inquiry or question about a pending application and you are filing as an associated person or principal, you should contact the sponsor with which you are going to be affiliated.
7. You should retain a copy of all applications and test results for your files.
8. If an application is incomplete or otherwise improperly submitted its processing will be delayed. If an application is seriously deficient it may be returned. Filing fees are not refundable.
9. Acceptance of any form does not constitute a finding that the information contained therein is accurate, current or complete or that it has otherwise been filed as required.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

FORM 8-R

APPLICATION FOR REGISTRATION AS ASSOCIATED PERSON AND NFA ASSOCIATE OR FLOOR BROKER AND SUPPLEMENT TO APPLICATION ON CFTC FORM 7-R AND SPECIAL REGISTRATION FOR CERTAIN ASSOCIATED PERSONS

BE CERTAIN TO ANSWER ALL QUESTIONS AS DIRECTED

A. REGISTRATION INFORMATION

1 THIS FORM IS BEING FILED TO REGISTER AS THE FOLLOWING (Staple Application Fee to Left Side of This Page)

(FILE WITH NFA)		(FILE WITH CFTC)	
☐ Associated Person of FCM	($30)	☐ Associated Person of LTM	($35)
☐ Associated Person of IB	($30)	☐ Floor Broker	($25)
☐ Associated Person of CTA	($30)		
☐ Associated Person of CPO	($30)		

1A THIS FORM IS BEING FILED AS A BIOGRAPHICAL SUPPLEMENT TO APPLICATION FOR REGISTRATION (No Additional Fee Required.) A principal who is also registering as an AP must check the appropriate boxes
(LTM's File with CFTC. All others file with NFA)

☐ Principal ☐ Branch Office Manager or Designated Supervisor

2 **SPECIAL REGISTRATION.** If you meet the requirements of 2A or B below you are eligible to apply for Special Registration. If you are using this form to apply for special registration do NOT file Form 8-S
NOTE: If the new sponsoring firm is a CTA or CPO and the Applicant continues to be registered as an AP of another CTA or CPO or as an AP of an FCM or IB, the new sponsoring CTA or CPO must file Form 3-R (Part II) instead of this form (Check applicable boxes and complete as indicated.)

The New Sponsoring Firm is:

A An ☐ FCM ☐ IB ☐ CTA ☐ CPO ☐ LTM Applicant's prior AP registration has expired within the preceeding 60 days

Name of Prior Firm

Firm NFA ID No	Firm CFTC ID No	Date AP Terminated

B An ☐ FCM or ☐ IB and the Applicant continues to be registered as an AP of a CTA and/or CPO firm

Name of CTA and/or CPO Firm continuing to Sponsor AP

Firm NFA ID No	Firm CFTC ID No	Check Categories
		☐ CTA ☐ CPO

Effective Date of Special Registration is date this Form 8-R is mailed. Date mailed: _____ Mo/Day/Yr

B. PERSONAL HISTORY

3 NAME (Last, First, Middle, Suffix)¹

PERSONAL ID No (If Assigned)	
4a NFA ID	4b CFTC ID

5 HAVE YOU EVER BEEN KNOWN BY ANY OTHER NAME(S) (Including Maiden Name)?¹
☐ YES If "yes," give name(s) ☐ No

6 RESIDENCE ADDRESS (Street, City, State, Zip Code, Post Office Box No. Not Acceptable)¹ ²

7 DATE OF BIRTH (Mo/Day/Yr)³	8 PLACE OF BIRTH (City and State)³	9 SOC. SEC. NO.²³

C. EMPLOYMENT HISTORY: Present and past employment for the past 10 years starting with the sponsoring firm and working back. (All time must be accounted for, including self-employment, part-time employment, unemployment and military service. Attach a continuation sheet if necessary.) IF IN SCHOOL — PLEASE INDICATE.
START WITH THE FIRM THAT IS SUBMITTING THIS APPLICATION ON YOUR BEHALF. IF YOU ARE ONLY APPLYING AS A FLOOR BROKER, LEAVE FIRST BOX BLANK.

FROM Mo/Yr	TO Mo/Yr	10. NAME AND COMPLETE ADDRESS OF SPONSOR (Street, City, State, Zip Code)	11a. NFA ID	11b. CFTC ID	POSITION HELD

(Continued on reverse side)

¹ If answers to items 3, 5 and 6 should change in the future, update on Form 3-R.
² Responses to items 6, 7, 8 and 9 may be submitted on a supplemental sheet.
³ Voluntary submission. Inclusion assists in proper identification and expedites processing.

FOR STAFF USE ONLY

TEST _____	SIG _____	SDDI _____	OTHER _____
REG CHECK _____	EMP/HIST/INFO _____	VER _____	_____
FBI _____	RES _____	CERT _____	_____
	EDUC. _____		_____

Form 8-R (7/85)
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NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

Form 8-R (7/85)
Previous Editions Obsolete

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OMB No. 3038-0023

VOL 50 ISS 137 JL 17 1985 UMI

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

(Continued from previous page)

FROM Mo/Yr	TO Mo/Yr	ADDITIONAL EMPLOYERS (Floor Brokers start here) NAME AND COMPLETE ADDRESS OF EMPLOYER (Street, City, State, Zip Code)	POSITION HELD	REASON FOR LEAVING
		NAME		
Address				
		NAME		
Address				
		NAME		
Address				

(Attach a Continuation Sheet if Necessary)

D. RESIDENTIAL HISTORY: List all home addresses for the past 10 years. Start with your current residence and work back. Attach a continuation sheet if necessary

FROM Mo/Yr	TO Mo/Yr	COMPLETE ADDRESS (Post Office Box No. Not Acceptable) Street	City	State	Zip Code

E. EDUCATIONAL HISTORY: List each college or university attended. If none, list last high school attended

FROM Mo/Yr	TO Mo/Yr	NAME AND COMPLETE ADDRESS OF INSTITUTION (Street, City, State and Zip Code)	MAJOR	DEGREE E
		NAME		
Address				
		NAME		
Address				
		NAME		
Address				

TEST: Have you passed the National Commodity Futures Examination (Series 3)? Yes ☐ No ☐ **IF YES, SUBMIT A COPY OF THE TEST RESULTS WITH THIS APPLICATION.** (Proof of passage of the NCFE is necessary if a temporary license is to be issued or if you are to be registered.)

F. BUSINESS INFORMATION — TO BE COMPLETED BY FLOOR BROKERS ONLY

12. BUSINESS ADDRESS. (Street, City, State, Zip Code. Post Office Box No. Not Acceptable)*

13. Check all U.S. commodity exchanges on which you have been granted membership or trading privileges or have an application pending.*

Granted	Pending		Granted	Pending		Granted	Pending	
☐	☐	ACC	☐	☐	CEI	☐	☐	NYFE
☐	☐	CBOT	☐	☐	KCBT	☐	☐	NYME
☐	☐	CME	☐	☐	MACE	☐	☐	PBOT
☐	☐	CRCE	☐	☐	MGE	☐	☐	Other_____
☐	☐	CSCE	☐	☐	NYCE & A			

* If answers to items 12 and 13 should change in the future, update on Form 3-R.

Form 8-R (7/85)
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COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

G. DISCIPLINARY HISTORY

INSTRUCTIONS: Carefully read the following instructions before you answer items 14 through 21.

A. For each question answered "YES," supply the following information:

1. What the circumstances were, in your own words;
2. Who was involved (e.g. the parties to any proceeding);
3. When the event or conduct requiring a "YES" answer happened;
4. What the final determination was, if any, and the date on which that determination was made.
5. A certified copy of any applicable documents, such as any complaint, plea, order, agreement of settlement, verdict or other findings made, and sanctions or sentences imposed. (Court orders should be certified.) If documents are not attached, an explanation stating why documents are not obtainable must be furnished.

B. With respect to item 14B and item 15, a "YES" answer is required regardless of whether: the record was expunged, set aside or sealed; there was a conditional discharge or post-conviction dismissal; a state certificate or relief from disabilities or similar document was issued which relieves the holder of forfeitures, disabilities or bars that result from a conviction; or a pardon was granted. You must also include information as to the foregoing matters. You may, however, answer "NO" if the case was adjudicated in a juvenile court or under a youth offender law.

Note: If you answer "YES" to more than one question and the details and documents you must supply with respect to each are identical, you need only supply such information once. Be sure, however, to indicate for which questions such information is being supplied. No details or documents need be furnished if the details have been reported in writing to the Commission or NFA on a previous registration application or supplemental statement or if the action was brought by the Commission or NFA or was a reparations proceeding. **You must, however, write the words "previous filing," if applicable, give the name and docket or case number of the action or proceeding next to your "YES" response and indicate the year of the action or proceeding.**

C. You are deemed to control a firm, corporation or other organization if you:

1. Have the right to vote, or are the beneficial owner of, ten percent or more of the voting securities;
2. Are entitled to receive ten percent or more of the net profits;
3. Have contributed ten percent or more of the capital;
4. Are the chief executive officer;
5. Are a director;
6. Are a sole proprietor, if organized as a sole proprietorship; or
7. Are a general partner, if organized as a partnership.

14. Have you or any firm, corporation or other organization which you control or have controlled ever:

A. Been subject to an expulsion, bar, fine or civil monetary penalty, censure, denial (including withdrawal of an application for cause), suspension or revocation of membership or registration, permanent or temporary injunction, cease and desist order, denial of trading privileges or other sanction or disciplinary action through an adverse determination, voluntary settlement or otherwise in an action or proceeding brought by or before:

(i) The Commodity Futures Trading Commission, the Securities and Exchange Commission or the attorney general, securities commissioner or a similar regulatory authority of any state, territory, possession, the District of Columbia or foreign country:
☐ YES ☐ NO

(ii) Any commodity, option or securities exchange, clearing organization, contract market, National Futures Association or other association registered with the Commission under section 17 of the Commodity Exchange Act, or the National Association of Securities Dealers, Inc.; or:
☐ YES ☐ NO

(iii) A professional association in any of the following fields: accounting, banking, commodities, finance, insurance, law, real estate or securities?
☐ YES ☐ NO

B. Been charged with, been convicted or found guilty of, or pleaded guilty or nolo contendere to, any felony in a federal, state or foreign court?
☐ YES ☐ NO

C. Been found by any court or by the Commission or any federal or state agency or other governmental body, or by agreement of settlement to which the Commission or any federal or state agency or other governmental body is a party:

(i) To have violated any provision of the Commodity Exchange Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investor Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a state or foreign jurisdiction, or any rule, regulation or order under any such statute, or the rules of the Municipal Securities Rulemaking Board:
☐ YES ☐ NO

(ii) To have violated any statute or any rule, regulation or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery or gambling; or
☐ YES ☐ NO

(iii) To have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person?
☐ YES ☐ NO

D. Been debarred by any agency of the United States from contracting with the United States?
☐ YES ☐ NO

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION

OMB No. 3038-0023

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

FORM 8-R

15. Within the last ten years, have you or any firm, corporation or other organization which you control or have controlled, been convicted or found guilty of, or pleaded guilty or nolo contendere to, a misdemeanor which:

(i) Involves any transaction or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 4c (options) or 19 (leverage transactions) of the Commodity Exchange Act or concerning a security;

☐ YES ☐ NO

(ii) Arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, associated person of any registrant under the Commodity Exchange Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing;

☐ YES ☐ NO

(iii) Involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery or gambling; or

☐ YES ☐ NO

(iv) Involves the violation of section 152 (concealment of assets, making of false oaths or claims, or bribery in connection with a bankruptcy), 1341, 1342, or 1343 (mail fraud) or chapter 25 (counterfeiting and forgery), 47 (fraud or false statements in a matter within the jurisdiction of a United States department or agency), 95 (racketeering) or 96 (racketeering activity) of title 18 of the United States Code?

☐ YES ☐ NO

16. Are you or any firm, corporation or other organization which you control or have controlled, a party to any action, or is there any charge pending, or have you been informed of any action or charge, the resolution of which could result in a "YES" answer to any of the above questions (items 14 and 15)?

☐ YES ☐ NO

17 Within the past ten years, has any firm, corporation or other organization which you control or have controlled been adjudicated bankrupt under any bankruptcy code or act, had a trustee appointed pursuant to the Securities Investor Protection Act of 1970 or been in federal or state receivership?

☐ YES ☐ NO

18. Have you ever:

A. Made or caused to be made any statement which was found to be at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or omitted to state any material fact, which was required to be stated:

(i) In any application for registration with, or for membership, associate membership or participation in;

☐ YES ☐ NO

(ii) In any report required to be filed with; or

☐ YES ☐ NO

(iii) In any proceeding before;

any self-regulatory organization described in item 14A(ii) above, the Commission or the Securities and Exchange Commission?

☐ YES ☐ NO

B. Been discharged, or requested or permitted to resign for cause as a result of allegations or charges of embezzlement, theft, fraud, fraudulent conversion, misappropriation of funds, securities or property, or failure to supervise another person in the conduct of such person's activities as a registrant of the Commission, Securities and Exchange Commission, National Futures Association, National Association of Securities Dealers, Inc. or other self-regulatory organization?

☐ YES ☐ NO

19. Has a bonding or surety company ever denied, paid out on, or revoked coverage for you?

☐ YES ☐ NO

20. Do you now have any unsatisfied judgments or liens against you?

☐ YES ☐ NO

21. Were you discharged or permitted to resign from any employment due to a complaint or legal proceeding by a customer, an investigation, or any disciplinary action?

☐ YES ☐ NO

NOTE: IF ANSWERS TO ITEMS 14-21 SHOULD CHANGE IN THE FUTURE, UPDATE ON FORM 3-R.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

FORM 8-R

H. **Applicant's Certification** (The following should be read very carefully and signed by the applicant, registrant, branch office manager or other principals)

I understand that I am subject to the imposition of criminal penalties under section 9(b) of the Commodity Exchange Act and 18 U.S.C. 1001 for any false statements or omissions made in this application. I further certify that I will at all times keep accurate and current the answers to the items required to be updated by filing written notice of changes with National Futures Association, 200 W. Madison Street, Chicago, Illinois 60606, or, in the case of an associated person or principal of a leverage transaction merchant or floor broker, with the Commission's Registration Unit, 233 South Wacker Drive, Suite 4600, Chicago, Illinois 60606.

I certify that my answers and statements in this Form 8-R are true and that in light of the circumstances under which I have given them, my answers and statements in this Form 8-R are not misleading in any material respect. If I am applying for Special Registration, I further certify that my registration as an associated person is not suspended or revoked and if I have answered "Yes" to item 14 or item 18 the sponsor listed in item C-10 has been given a copy of the complaint or notice issued by the CFTC or NFA.

I understand that my address as submitted on Form 8-R may be deemed to be the address for delivery to me of any communications from the Commission and National Futures Association, including any notice of intent to deny, revoke or otherwise affect my registration, any summons, complaint, reparation claim, arbitration claim, order, subpoena, request for information, or any other written communication, unless I specify another address for this purpose. I further understand that I must keep current the address on this Form 8-R

I understand that I am not registered and may not act as an associated person or floor broker until a notice has been issued that registration has been granted unless (1) I am applying for and am eligible to receive Special Registration as an associated person; (2) this Form 8-R has been timely filed as an application for renewal of registration as a floor broker, or (3) a temporary license has been issued.

APPLICANT AGREEMENT. Does not apply to floor brokers and AP's of LTM's. If I am submitting this application to obtain registration as an associated person, I hereby also apply for registration with NFA as an Associate if my sponsor is or becomes a member of NFA and I understand that under NFA Bylaw (301)(f), execution and delivery of this application shall constitute (A) a representation that the information supplied in the application is complete and accurate, and (B) an express agreement by me that, if registered as an Associate, I shall become and remain bound by all NFA requirements as then and thereafter in effect. I also understand that if I am submitting this application in order to obtain registration as an associated person or as a supplement to my application for registration individually in another capacity (other than as a floor broker) that I may be subject to proficiency testing requirements under NFA rules, satisfaction of which is a prerequisite to obtaining a temporary license or such registration. I agree that the decision of NFA as to the results of any examinations that I may be required to pass under such rules will be accepted by me as final.

In consideration of NFA receiving and considering this application (if submitted to obtain registration as an Associate), I also submit to the jurisdiction of any contract market, of which my sponsor or any current or future guarantor (under CFTC Rule 1.10(j)) of my sponsor is or may become a member, which has or may adopt rules which apply to me as an associated person and I further agree to abide by all such rules and to comply with, be subject to, and abide by all requirements, rulings, orders, directives and decisions of and any penalties, prohibitions and limitations imposed by any such contract market.

I hereby authorize NFA and any contract market of which my sponsor or any current or future guarantor (under CFTC Rule 1.10(j)) of my sponsor is or may become a member ("self-regulatory organizations") to conduct investigations to determine my fitness for registration as an Associate and for association with my sponsor as an associated person and I agree to cooperate promptly and fully in such investigation, including submitting such documents and information to any self-regulatory organization which such self-regulatory organization, in its discretion, may require in connection with determining such fitness. I hereby authorize and request any person having such information to furnish it to any self-regulatory organization (or any agent acting on its behalf) upon its request and any person furnishing information to a self-regulatory organization in connection with the investigation authorized hereby, and any self-regulatory organization (or any agent acting in its behalf) hereby is released from any and all liability of whatever nature by reason of furnishing such information to a self-regulatory organization (or its agent) or by reason of conducting such investigation.

SIGNATURE _____ DATE _____

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

Form 8-R (7/85)
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VOL 50 ISS 137 JL 17 1985 UMI

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No 3038-0023

FORM 8-R

SPONSOR'S CERTIFICATION

(To be completed by Sponsor for Associated Person Registration Only)

APPLICANT'S NAME (Last, First, Middle, Suffix)	NFA ID No.	CFTC ID No.

I. VERIFICATION OF EMPLOYMENT AND EDUCATION (Periods of unemployment must be verified)

Sponsor must verify applicant's education and employment history during the preceding five years by contacting the relevant sources. If applicant left a previous employment as an AP within the last 60 days, the sponsor may indicate verification by noting below that it has contacted the applicant's last previous employer. The sponsor remains responsible in all cases for verification of the applicant's employment and education history for the past five years.

EMPLOYED OR ATTENDED (Mo/Yr)		EMPLOYER OR SCHOOL	NAME OF PERSON CONTACTED	POSITION OF PERSON CONTACTED	HOW CONTACTED		
From	To				Tel	Ltr	Intv

J. SPONSOR'S CERTIFICATION STATEMENT

I hereby certify that the information supplied by the applicant in response to questions contained in Form 8-R which relate to the applicant's employment and education history for the past five years has been verified. I certify that this application is accurate and complete to the best of my knowledge, information and belief. I further certify: 1) that the applicant has been hired or is employed by the sponsoring firm; OR 2) it is the intention of the sponsor to hire or otherwise employ the applicant as an associated person within thirty days after receipt of notification that the applicant has received a temporary license or has been so registered (contingent upon the sponsor hiring or otherwise employing the applicant as an associated person within thirty days), and that further, the applicant will not be permitted to act as an associated person until the applicant has received a temporary license or has been registered as such pursuant to this application.

I understand it is the duty and obligation of the firm not to employ a person with a statutory disqualification under section 8a(2) of the Act, to notify the Commission when any person associated with the firm is subject to a statutory disqualification under section 8a(2) of the Act and to supervise the sponsored person named herein, once he or she is employed, with a view toward preventing him or her from committing violations of the Commodity Exchange Act and the rules, regulations, and orders thereunder. I further certify that if the applicant answered "Yes" to item 14 or 16 the firm has received a copy of the complaint or letter issued by the Commission.

I understand that information contained in the Form 8-R has been supplied to this firm for the sole purpose of allowing it to verify the information contained in Form 8-R in connection with the registration of the person named herein as an associated person. I further represent that I have taken, and will take, such measures as are necessary to prevent the unwarranted dissemination of any of the information contained in Form 8-R and the records and documents retained in support of Form 8-R.

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

PRINT NAME OF SPONSOR	FIRM ID No. (If Assigned)	
	NFA ID	CFTC ID

PRINT NAME AND TITLE OF APPROPRIATE SIGNATORY
(Must be signed by an officer, a general partner, or sole proprietor) SIGNATURE DATE

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-R

DEFINITIONS

1. **Associated Persons**
This term means any natural person who is associated in any of the following capacities with:

(1) A futures commission merchant or introducing broker as a partner, officer or employee (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) the solicitation or acceptance of customers' or option customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged;

(2) A commodity pool operator as a partner, officer, employee, consultant or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) the solicitation of funds, securities or property for participation in a commodity pool or (ii) the supervision of any person or persons so engaged;

(3) A commodity trading advisor as a partner, officer, employee, consultant or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged; or

(4) A leverage transaction merchant as a partner, officer, employee, consultant or agent (or any natural person occupying a similar status or performing similar functions), in any capacity which involves: (i) the solicitation or acceptance of leverage customers' orders (other than in a clerical capacity) for leverage transactions as defined in Section 31.4(x) of the Commission's regulations or (ii) the supervision of any person or persons so engaged.

2. **Floor Brokers**
This term means any person who, in or surrounding any pit, ring, post or other place provided by a contract market for the meeting of persons similarly engaged, purchases or sells for any person any commodity for future delivery on or subject to the rules of any contract market and includes any person required to register as a floor broker by the Commission's regulations relating to commodity options. An applicant for registration as a floor broker (or for renewal thereof) must have been granted membership or trading privileges by a commodity exchange which has been designated by the Commission as a contract market.
An exchange member who executes only his own trades by being personally present in a pit or place for futures trading is a floor trader, and, as such, is not required to be registered.

3. **Principals**
This term means, with respect to an applicant for registration, a registrant or a person required to be registered under the Commodity Exchange Act or regulations thereunder: (1) any person, including but not limited to, a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of that person which are subject to regulation by the Commission; (2) any holder or beneficial owner of ten percent or more of the outstanding shares of any class of stock; or (3) any person who has contributed ten percent or more of the capital.

Note: Any principal who acts in the capacity of an associated person must be registered as such with the Commission.

4. **National Futures Association Associate**
This term means a person who is associated with a Member of NFA within the meaning of the term "associated person" as used in Section 4k of the Commodity Exchange Act and who is required to be registered as an "associated person" with the Commodity Futures Trading Commission.

ABBREVIATIONS

Exchanges

ACC	Amex Commodities Corporation
CBOT	Chicago Board of Trade
CME	Chicago Mercantile Exchange
CRCE	Chicago Rice & Cotton Exchange
CSCE	Coffee, Sugar & Cocoa Exchange
CEI	Commodity Exchange, Inc.
KCBT	Kansas City Board of Trade
MACE	MidAmerica Commodity Exchange
MGE	Minneapolis Grain Exchange
NYCE & A	New York Cotton Exchange & Associates
NYFE	New York Futures Exchange
NYME	New York Mercantile Exchange
PBOT	Philadelphia Board of Trade

REQUEST FOR QUALIFICATION EXAMINATIONS

U-10
1/85

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
1735 K Street, N.W., Washington, D.C. 20006

(For use by broker-dealers not members of the NASD and/or NASD members requesting examinations administered but not required by the NASD).

1. Applicant's Name _____
Last First Middle (if none, so specify)

2. ☐☐☐
Social Security Number

3.* ☐☐☐☐☐☐
Firm ID

*CRD Number _____

*Completion of the NASD Firm "ID" and the "CRD Number" will expedite the processing of your application. If you do not know these numbers, please leave these spaces blank.

Firm Name _____

4. Firm Address _____
Street City and State Zip

— NOTE —

A PASSING GRADE ON ANY EXAMINATION DOES NOT CONSTITUTE REGISTRATION WITH THE NASD OR ANY OTHER SELF-REGULATORY ORGANIZATION.
REQUIREMENTS FOR STATE REGISTRATION VARY AMONG JURISDICTIONS. CANDIDATES ARE RESPONSIBLE FOR CONSULTING WITH THE APPLICABLE STATE JURISDICTION TO DETERMINE THE EXAMINATION REQUIREMENTS FOR THE LICENSE THEY SEEK TO OBTAIN.
THE NASD CANNOT ASSUME RESPONSIBILITY FOR A CANDIDATE'S CHOICE OF EXAMINATION.

5. Please place a checkmark in the box beside each examination requested. More than one box may be checked. Be sure to enclose $40.00 for each examination desired. (The fee for the Series 8 Examination is $80.00.)

- ☐ General Securities Representative (Non-Member) (Series 2)
- ☐ National Commodity Futures (Series 3)
- ☐ Registered Options Principal (Series 4)
- ☐ Interest Rate Options (Series 5)
- ☐ Investment Company and Variable Contracts Products Representative (Series 6)
- ☐ General Securities Sales Supervisor (Series 8)
- ☐ Foreign Currency Options (Series 15)
- ☐ Direct Participation Programs Representative (Series 22)
- ☐ General Securities Principal (Series 24)
- ☐ Investment Company and Variable Contracts Products Principal (Series 26)
- ☐ Financial and Operations Principal (Series 27)
- ☐ Direct Participation Programs Principal (Series 39)
- ☐ Municipal Securities Representative (Series 52)
- ☐ Municipal Securities Principal (Series 53)
- ☐ Municipal Securities Financial and Operations Principal (Series 54)
- ☐ Uniform Securities Agent State Law Examination (Series 63)
- ☐ Other (please specify) _____
- ☐ Other (please specify) _____
- ☐ Other (please specify) _____

6. Examination results should be reported to the following:
Self-regulatory organizations

- ☐ (ASE) American Stock Exchange
- ☐ (BSE) Boston Stock Exchange
- ☐ (C-A) California — Advisors
- ☐ (CBO) Chicago Board of Options Exchange
- ☐ (CBT) Chicago Board of Trade
- ☐ (CME) Chicago Mercantile Exchange
- ☐ (CMX) Commodity Exchange, Inc.
- ☐ (COC) Comptroller of the Currency
- ☐ (CSC) New York Coffee, Sugar & Cocoa Exchange
- ☐ (CSDA) Canadian Securities Dealers Association
- ☐ (CSE) Cincinnati Stock Exchange
- ☐ (CTN) New York Cotton Exchange
- ☐ (FDIC) Federal Deposit Insurance Corporation
- ☐ (FRB) Federal Reserve Board
- ☐ (KCB) Kansas City Board of Trade
- ☐ (MCE) MidAmerica Commodity Exchange
- ☐ (MSE) Midwest Stock Exchange
- ☐ (NFA) National Futures Association
- ☐ (NOCE) New Orleans Commodity Exchange
- ☐ (NYFE) New York Futures Exchange
- ☐ (NYM) New York Mercantile Exchange
- ☐ (NYSE) New York Stock Exchange
- ☐ (PHLX) Philadelphia Stock Exchange
- ☐ (PSE) Pacific Stock Exchange
- ☐ Other (please specify) _____
- ☐ Other (please specify) _____

DO NOT DETACH

NASD QUALIFICATION EXAMINATIONS U-10

Applicant's Name _____
Firm Name _____
Firm Address _____
Indicate amount of payment enclosed $_____

(Instructions on Reverse Side)

INSTRUCTIONS

1. Send completed form and $40.00 ($80.00 for Series 8) for each examination requested to:
The National Association of Securities Dealers, Inc.
1735 K Street, N.W.
Washington, D.C. 20006
2. Examination fees are NOT REFUNDABLE.
3. Re-examination: Resubmit this form and the appropriate examination fee.
4. The certificate of admission is valid for 90 calendar days only.
5. Expired certificate of admission: Resubmit this form and the appropriate examination fee.
6. A cancellation fee will be charged if a candidate fails to appear for an appointment. If a scheduled appointment for a PLATO examination is not cancelled by noon of the second business day preceding an appointment or if the candidate arrives at the PLATO center after the appointment time.

PLATO TEST CENTER LOCATIONS

BIRMINGHAM, ALABAMA
PHOENIX, ARIZONA
EL CAJON, CALIFORNIA
IRVINE, CALIFORNIA
LOS ANGELES, CALIFORNIA
SACRAMENTO, CALIFORNIA
SAN FRANCISCO, CALIFORNIA
SUNNYVALE, CALIFORNIA
DENVER, COLORADO
FARMINGTON, CONNECTICUT
WASHINGTON, D.C.
CLEARWATER, FLORIDA
CORAL GABLES, FLORIDA
ORLANDO, FLORIDA
ATLANTA, GEORGIA
BENSONVILLE, ILLINOIS
CHICAGO, ILLINOIS
INDIANAPOLIS, INDIANA
KANSAS CITY, KANSAS
LOUISVILLE, KENTUCKY
NEW ORLEANS, LOUISIANA
BALTIMORE, MARYLAND
BOSTON, MASSACHUSETTS
SOUTHFIELD, MICHIGAN
EDINA, MINNESOTA
MINNEAPOLIS, MINNESOTA
ST. PAUL, MINNESOTA
JACKSON, MISSISSIPPI
ST. LOUIS, MISSOURI
LINCOLN, NEBRASKA
OMAHA, NEBRASKA
WEST ORANGE, NEW JERSEY
ALBUQUERQUE, NEW MEXICO
BUFFALO, NEW YORK
GARDEN CITY, NEW YORK
NEW YORK, NEW YORK
ROCHESTER, NEW YORK
CHARLOTTE, NORTH CAROLINA
CINCINNATI, OHIO
INDEPENDENCE, OHIO
COLUMBUS, OHIO
DAYTON, OHIO
TOLEDO, OHIO
OKLAHOMA CITY, OKLAHOMA
PORTLAND, OREGON
PHILADELPHIA, PENNSYLVANIA
PITTSBURGH, PENNSYLVANIA
CHARLESTON, SOUTH CAROLINA
MEMPHIS, TENNESSEE
NASHVILLE, TENNESSEE
DALLAS, TEXAS
HOUSTON, TEXAS
SAN ANTONIO, TEXAS
SALT LAKE CITY, UTAH
RICHMOND, VIRGINIA
SEATTLE, WASHINGTON
CHARLESTON, WEST VIRGINIA
MILWAUKEE, WISCONSIN

WRITTEN EXAMINATIONS — A candidate who is required to take a PLATO administered examination and wishes to do so in a location serviced by a Control Data learning center must sit for the examination on the PLATO System. The NASD will make printed examinations available at its traditional test centers which are located in the following cities not serviced by Control Data learning centers:

ANCHORAGE, ALASKA
LITTLE ROCK, ARKANSAS
HONOLULU, HAWAII
BOISE, IDAHO
DES MOINES, IOWA
GREAT FALLS, MONTANA
LAS VEGAS, NEVADA
LOUDONVILLE, NEW YORK
BISMARCK, NORTH DAKOTA
RIO PIEDRAS, PUERTO RICO
SIOUX FALLS, SOUTH DAKOTA
AMARILLO, TEXAS
EL PASO, TEXAS
SPOKANE, WASHINGTON
CASPER, WYOMING

All examinations at the above locations will be given on the first (1st) Saturday of the month. Appointments for these locations are necessary and must be made by telephoning the NASD Qualification/Examination Department in Washington, D.C. (202) 728-8800 at least eight (8) full business days prior to the examination session desired.

VOL 50 ISS 137 JL 17 1985 UMI

Form 8-T (7-85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION
FORM 8-T
NOTICE OF TERMINATION

OMB No 3038-0023

(To be Completed By Futures Commission Merchant, Introducing Broker, Commodity Trading Advisor, Commodity Pool Operator, or Leverage Transaction Merchant For Associated Person, NFA Associate, Branch Officer Manager, Designated Supervisor or Other Principal)

Instructions: A sponsoring registrant must file this Form (or the Form U-5, Uniform Termination Notice for Securities Industry Registration) within twenty days after the occurrence of any of the following: (1) the failure of an individual to become associated with the sponsoring registrant after the filing of a Form 8-R on his behalf; (2) the termination of the association of an individual with the sponsoring registrant; or (3) the termination of the affiliation of a principal with the firm. Send all 8-T's to National Futures Association, Office of the Secretary, P.O. Box 98383, Chicago, Illinois 60693, except those for LTM personnel which should be sent to the Commodity Futures Trading Commission, P.O. Box 70685, Chicago, Illinois 60673.

1. NAME (Last, First, Middle, Suffix) | PERSONAL ID No: 2a. NFA ID | 2b. CFTC ID

3. DATE OF BIRTH (Mo/Day/Yr)* | 4. PLACE OF BIRTH (City & State)* | 5. SOCIAL SECURITY NUMBER*

* Provide responses to questions 3, 4 and 5 on a supplemental sheet if the registrant, branch office manager or principal originally provided such information on a supplemental attachment to Form 8-R. While submission of Social Security Number is voluntary, inclusion assists in proper identification and expedites processing.

6. FIRM NAME | FIRM ID No: 7a. NFA ID | 7b. CFTC ID

INSTRUCTIONS: Answer each question below by placing a check in the appropriate box. Furnish full details on supplemental sheet for boxes marked by a double asterisk (**).

8. DATE TERMINATED / /

8A. Terminated As: ☐ AP ☐ PRINCIPAL ☐ BRANCH MANAGER ☐ NFA ASSOCIATE

9. REASON FOR TERMINATION (Check One): ☐ VOLUNTARY ☐ DECEASED ☐ PERMITTED TO RESIGN** ☐ DISCHARGED** ☐ OTHER** _____

10. While employed by or associated or affiliated with your firm, was the individual the subject of:

(a) Any investigation or proceeding conducted by any governmental agency or self-regulatory body which has jurisdiction over the banking, commodities, insurance, real estate, or securities industry? ☐ YES** ☐ NO

(b) A refusal of registration, censure, suspension, expulsion, fine or any disciplinary action by any governmental agency or self-regulatory body, having jurisdiction over the banking, commodities, insurance, real estate or securities industry? ☐ YES** ☐ NO

(c) Any material complaint or any legal proceeding by a customer or any internal investigation or disciplinary proceeding? ☐ YES** ☐ NO

(d) Any conviction of a felony? ☐ YES** ☐ NO

(e) Any conviction of a misdemeanor involving any transaction subject to regulation under the Commodity Exchange Act or the securities act or arising out of the individual's misconduct as a registrant with the Commission, National Futures Association or National Association of Securities Dealers Inc.? ☐ YES** ☐ NO

(f) A denial or revocation of coverage provided by a bonding or surety company or a payout by a bonding or surety company? ☐ YES** ☐ NO

(g) Any unsatisfied judgments or liens? ☐ YES** ☐ NO

11. Is there any reason to believe that the individual while employed by or associated with your firm, may have violated any provision of any commodities or securities law or regulation or any agreement with or rule of any governmental agency or self-regulatory body or engaged in conduct which may be inconsistent with just and equitable principles of trade under the rules or regulations of any governmental or self-regulatory body? ☐ YES** ☐ NO

PRINT NAME AND TITLE OF APPROPRIATE SIGNATORY (Corporate Officer, General Partner or Sole Proprietor)

ORIGINAL SIGNATURE OF APPROPRIATE SIGNATORY DATE

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

OFFICE USE ONLY

Form 3-R (7-85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 3-R
SUPPLEMENTAL STATEMENT TO APPLICATION FOR REGISTRATION

INSTRUCTIONS

1. The prompt filing of Part I of this form is required by section 3.31 of the regulations under the Commodity Exchange Act if the information reported in any of the items specified in the Instructions to Form 7-R or Form 8-R, or on any schedule or supplemental statement thereto, is found to be incorrect or incomplete or if changes occur which render that information no longer accurate and current. If you are reporting changes to disciplinary history, be sure to provide certified copies of applicable documents.
2. Whenever there is an addition of a natural person as a principal or branch office manager or designated supervisor in items 9 or 10 of Form 7-R, that person must complete a Form 8-R and a fingerprint card which should be attached to this form unless that individual is exempt from filing under the provisions of section 3.32 of the Commission's regulations. Section 3.32 also should be reviewed carefully to determine whether a new registration is required. In general, a new registration will be required whenever there is a change in the control or the form of organization of the registrant. The FCM, IB, CTA, CPO or LTM should note in Part I, item 4, the reason for not attaching a Form 8-R and fingerprint card for these individuals and, if the individual is a registered associated person, also furnish his or her CFTC or NFA ID number.

(CONTINUED ON REVERSE SIDE)

PART I — CHANGES AND CORRECTIONS IN REGISTRATION INFORMATION (Check where applicable)

1. ☐ Futures Commission Merchant ☐ Commodity Pool Operator ☐ Associated Person
☐ Introducing Broker ☐ Leverage Transaction Merchant ☐ Principal
☐ Commodity Trading Advisor ☐ Floor Broker ☐ Branch Office Manager or Designated Supervisor

2. NAME OF APPLICANT OR REGISTRANT / | ID NUMBER (Or Date and Place of Birth): 3a. NFA ID | 3b. CFTC ID

4 APPLICATION FORM AND SCHEDULE	ITEM NO.	CHANGES AND CORRECTIONS OF INFORMATION CONTAINED IN APPLICATION FOR REGISTRATION OR SUPPLEMENTAL STATEMENT (Attach a continuation sheet if necessary)	EFFECTIVE DATE

5 CERTIFICATION

"I hereby certify that all changes and corrections contained or incorporated herein are true to the best of my knowledge and belief.

PRINT NAME AND TITLE OF APPROPRIATE SIGNATORY (Must be signed by AP, FB or Corporate Officer, General Partner or Sole Proprietor)

SIGNATURE OF APPROPRIATE SIGNATORY DATE

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

VOL 50 ISS 137 JL 17 1985 UMI

Form 3-R (7-85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION
FORM 3-R

OMB No. 3038-0023

PART II — REPORTING BY ADDITIONAL SPONSORING FIRM OF MULTIPLE ASSOCIATIONS OF APs OF CTAs AND CPOs

1. NAME OF AP. (Last, First, Middle, Suffix)		AP's ID No. (If None, Give Date and Place of Birth)	
		2a. NFA ID	2b. CFTC ID

3. NAME OF CURRENT SPONSOR: (Must be registered as an FCM, IB, CTA, CPO or LTM)	Check Registration Categories	FIRM ID No.	
	☐ FCM ☐ CTA ☐ LTM ☐ IB ☐ CPO	4a. NFA ID	4b. CFTC ID

5. NAME OF ADDITIONAL SPONSOR: (Must be registered as a CTA or CPO)	Check Registration Categories	FIRM ID No.	
	☐ CTA ☐ CPO	6a. NFA ID	6b. CFTC ID

7. SPONSOR'S CERTIFICATION

I hereby certify that: (a) the above individual registered as an AP has been hired by our firm which is the additional sponsor; (b) the current sponsor has been contacted and the individual's continued AP registration with the current sponsor has been confirmed; (c) the above individual registered as an AP is not subject to a statutory disqualification as set forth in section 8a(2) of the Commodity Exchange Act [7 U.S.C. §12a(2)]; and (d) in addition to its responsibility to supervise that AP, our firm, registered as a CTA and/or a CPO, acknowledges that it hereby is jointly and severally responsible for the conduct of the AP with respect to the solicitation of any client's or prospective client's discretionary account or the solicitation of funds, securities or property for participation in a commodity pool, with respect to any customers or option customers common to our firm and any other CTAs or CPOs with which the AP is associated.

PRINT NAME AND TITLE OF APPROPRIATE SIGNATORY (Corporate Officer, General Partner or Sole Proprietor) | SIGNATURE OF APPROPRIATE SIGNATORY | DATE

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

INSTRUCTIONS CONTINUED

3. Use Part I of this form to promptly amend an application from the time the application is filed, while the application is pending and after registration has been granted, unless instructed otherwise.
4. Where to file. Send all registration forms to National Futures Association, Office of the Secretary, P.O. Box 98383, Chicago, Illinois 60693, except those for associated persons and principals of leverage transaction merchants as well as floor broker forms, which should be sent with separate remittances to the Commodity Futures Trading Commission, P.O. Box 70685, Chicago, Illinois 60673. If you must file with both the Commission and NFA, you may submit the original to either the Commission or NFA and simultaneously submit a legible, accurate and complete photocopy (with an original signature and date where required) to NFA or the Commission. All photocopies should note at the bottom of the copy that "Original was sent to NFA" or "Original was sent to the CFTC" as appropriate.
5. Report terminations and failures to become associated on Form 8-T, Notice of Termination, or on Form U-5, Uniform Termination Notice for Securities Industry Registration.
6. Use Part II of this form to report the multiple association that occurs if your firm is registered as a CTA and/or CPO and employs any individual who is already registered as an AP of an FCM, IB, CTA, CPO or LTM.

NOTE: Use Form 8-R, fingerprint card and fee for a multiple association that occurs if your firm is registered as an FCM or IB and you are employing an individual who will continue to be registered as an AP of a CTA or CPO. Also use Form 8-R, fingerprint card and fee to add an AP who has recently terminated as an AP of an FCM, IB, CTA, CPO or LTM.

Form 8-S (7-85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-S
CERTIFICATE OF SPECIAL REGISTRATION FOR CERTAIN ASSOCIATED PERSONS

1. NAME OF AP (Last, First, Middle, Suffix)	PERSONAL ID No	
	2a. NFA ID	2b. CFTC ID
	3. SOC. SEC. No.[1]	

4. NAME OF SPONSORING NEW FIRM	FIRM ID No.	
	5a. NFA ID	5b. CFTC ID

6. BASIS OF ELIGIBILITY FOR SPECIAL REGISTRATION. (Check applicable boxes and complete as indicated)

The New Sponsoring Firm is:

A. An ☐ FCM ☐ IB ☐ CTA ☐ CPO or ☐ LTM Applicant's prior AP registration has expired within the preceding 60 days.

Name of Prior Firm		
Firm NFA ID No	Firm CFTC ID No.	Date AP Terminated

B. An ☐ FCM or ☐ IB and the Applicant continues to be registered as an AP of a CTA and/or CPO Firm.*

Name of CTA and/or CPO Firm Continuing to Sponsor the AP		
Firm NFA ID No	Firm CFTC ID No	Check Categories
		☐ CTA ☐ CPO

*NOTE: If the new sponsoring firm is a CTA or CPO and the applicant continues to be registered as an AP of another CTA or CPO, or as an AP of an FCM or IB, the new sponsoring CTA or CPO must file Form 3-R instead of this Form 8-S.

7A. CFTC PROCEEDINGS (Check applicable box)

Is there a proceeding pending to deny, suspend or revoke your registration in any capacity with the Commodity Futures Trading Commission or has the Commodity Futures Trading Commission within the past twelve months given you a denial or withdrawal notice under its regulations? ☐ YES ☐ NO

7B. Were you discharged or permitted to resign from any employer due to a complaint or legal proceeding by a customer, investigation, or any disciplinary action? If yes, furnish full details on supplemental sheet. ☐ YES ☐ NO

8. APPLICANT'S CERTIFICATION

I hereby certify that my registration as an associated person is not suspended or revoked and that the answers and statements in this Form 8-S are accurate and complete. I further certify that if I have answered item 7A "YES," the sponsor listed in item 4 has been given a copy of the complaint or notice issued by the Commodity Futures Trading Commission.

SIGNATURE | DATE

9. SPONSOR'S CERTIFICATION

EFFECTIVE DATE OF REGISTRATION IS DATE THIS FORM 8-S IS MAILED: _____ DATE CFTC FORM MAILED (Mo/Day/Yr)

I hereby certify that the above individual has been hired or otherwise employed by the sponsoring firm of which I am an officer, general partner or sole proprietor. I further certify that if that individual has answered "YES" to item 7A, the sponsor has received a copy of the complaint or letter issued by the CFTC.

PRINT NAME AND TITLE OF APPROPRIATE SIGNATORY (Corporate Officer, General Partner or Sole Proprietor) | SIGNATURE OF APPROPRIATE SIGNATORY | DATE

[1] Voluntary Submission. Inclusion assists in proper identification and expedites processing. May be submitted on a separate sheet

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

VOL 50 ISS 137 JL 17 1985 UMI

Form 8-S (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

FORM 8-S

INSTRUCTIONS FOR FORM 8-S

WHEN TO USE FORM 8-S: Form 8-S may be used to obtain immediate AP registration as of the date the Form 8-S is mailed when the individual meets either of the criteria in item 6.

Item 6A— Use when the AP leaves the prior firm and goes to the new sponsoring firm within 60 days. The new sponsoring firm may be an FCM, IB, CTA, CPO or LTM; however, an AP or an FCM or IB may not be simultaneously associated with a CTA or CPO which clears or introduces its trades through the FCM or IB.

Item 6B— Use when the AP stays with the prior firm (which is registered as a CTA and/or CPO) and adds a new sponsoring FCM or IB. (See Note below if the new sponsoring firm is a CTA and/or CPO.)

NOTE: Form 3-R, Part II (Reporting by Additional Sponsoring Firm of Multiple Association of APs of CTAs and CPOs) should be used when the AP stays with the prior firm (which is registered as an FCM, IB, CTA, or CPO) and adds a new sponsoring firm which is registered as a CTA or CPO.

WHAT TO FILE: If the AP meets the eligibility requirements specified in Item 6:

(a) The AP and sponsoring firm must complete and sign Form 8-S. The AP is registered as of the date Form 8-S is mailed. See item 9.

(b) Within 60 days, the AP and sponsoring firm then must file a Form 8-R with the Sponsor's Certification, a legible fingerprint card and the registration fee. NOTE: Do not send the registration fee with the Form 8-S.

WHERE TO FILE:

Send all Form 8-S's to National Futures Association, Office of the Secretary, P.O. Box 96383, Chicago, Illinois 60693 except those for LTM personnel which should be sent to the Commodity Futures Trading Commission, P.O. Box 70685, Chicago, Illinois 60673

If you must file with both the Commission and NFA, you may submit the original to either the Commission or NFA and simultaneously submit a legible, accurate and complete photocopy (with an original signature and date where required) to NFA or the Commission. All photocopies should note at the bottom that "Original was sent to NFA" or "Original was sent to the CFTC" as appropriate.

Form 8-R (7/85)
Previous Editions Obsolete

COMMODITY FUTURES TRADING COMMISSION
NATIONAL FUTURES ASSOCIATION

OMB No. 3038-0023

PRIVACY ACT NOTICE

This information in CFTC Forms 8-R, 8-S, 8-T and on the fingerprint card is being collected pursuant to authority granted in sections 4f, 4k, 4n, 8a and 19 of the Commodity Exchange Act [7 U.S.C. 6f, 6k, 6n, 12a and 23].

The information requested in Form 8-R and on the fingerprint card will be used by the Commodity Futures Trading Commission or National Futures Association, as appropriate, as a basis for initiating an inquiry into the individual's fitness to be an associated person or floor broker or to be a principal of a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant. The information requested in Form 8-S and portions of the information requested in Form 8-R will be used by the Commission and, in appropriate cases, by National Futures Association, to confirm the registration of certain associated persons. The information requested in Form 8-T will be used by the Commission, and, in appropriate cases, by National Futures Association, to record the registration status of the individual and, in appropriate cases, as a basis for a further inquiry into the individual's fitness to remain in business subject to the Commission's jurisdiction.

With the exception of the social security number, all information in Forms 8-R, 8-S and 8-T must be furnished before the forms will be processed. The furnishing of a social security number, however, assists the Commission and NFA in identifying individuals and therefore expedites the processing of those forms.

Failure by an applicant, registrant or principal to timely file or cause to be filed a properly completed Form 8-R, 8-S, 8-T or a fingerprint card may result in the lapse, denial, suspension, or revocation of registration or other enforcement action by the Commission.

With the exception of the fingerprint card and any supplementary information contained in attachments to Items 6-9 and 14-21 on Form 8-R or in attachments to Item 3 on Form 8-S or Items 3-5 and 9-11 on Form 8-T, these forms are considered by the Commission to be public records and will be available for inspection by any person. Copies will be maintained by National Futures Association, Registration Department, Suite 1400, 200 W. Madison Street, Chicago, IL 60606 (except those for floor brokers and associated persons of leverage transaction merchants, which will be maintained at the Commission's Central Regional Office at Sears Tower, Suite 4600, 233 S. Wacker Drive, Chicago, IL 60606). Further, the Commission or National Futures Association may disclose the fingerprint card and any such supplementary information to third parties pursuant to routine uses which the Commission has published in the Federal Register or as otherwise authorized under the Privacy Act, 5 U.S.C. 552a, and the Commodity Exchange Act. Disclosure of such information may be made by the Commission as follows: (1) in connection with administrative proceedings or matters in litigation; (2) in connection with Commission investigations; (3) where the information is furnished to regulatory, self-regulatory and law enforcement or other governmental agencies to assist them in meeting responsibilities assigned to them by law; (4) where disclosure is required under the Freedom of Information Act [5 U.S.C. 552]; (5) in connection with an employer's hiring or retention of an employee; (6) in connection with the verification of information submitted for sponsorship purposes; (7) in other circumstances in which the withholding of such information appears unwarranted; and (8) in connection with legally required or authorized reports. Disclosure may be made by National Futures Association in accordance with rules approved by the Commission.

If an individual believes that the placing in the Commission's or National Futures Association's public files of any of the information contained in the attachments to Items 6-9 and 14-21 on Form 8-R, Item 3 on Form 8-S, or Items 3-5 and 9-11 on Form 8-T, or on the fingerprint card would constitute an unwarranted invasion of his personal privacy, the individual may petition the Commission, pursuant to 17 CFR 145.9, to treat such information as non-public in response to requests under the Freedom of Information Act.

This notice is provided in accordance with the requirements of the Privacy Act, 5 U.S.C. 552a(e) (3) and summarizes some of an individual's rights under the Privacy Act 5 U.S.C. 552a, and the Freedom of Information Act 5 U.S.C. 552. Individuals desiring further information should consult the Commission's regulations under the Privacy Act, 17 CFR Part 146, and under the Freedom of Information Act, 17 CFR Part 145, and the Commission's annual notice, published in the Federal Register, pursuant to the Privacy Act, of the existence and character of each system of records maintained by the Commission.

[FR Doc. 85-16684 Filed 7-16-85; 8:45 am]
BILLING CODE 6351-01-C

SECURITIES AND EXCHANGE COMMISSION

values of (1) the cost of incidental insurance benefits ("incidental

A. Paragraph (b)(13)(iii)(E)—Deductions from Cash Value

flexible contracts, it is necessary to

Text of Amendments to Rule 6e-3(T)

Paperwork Reduction Act

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-14625; S7-35-84]

Separate Accounts Funding Flexible Premium Variable Life Insurance Contracts

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule amendments.

SUMMARY: The Commission is adopting amendments to two paragraphs of rule 6e–3(T) under the Investment Company Act of 1940. The amendments revise conditions under which insurance company separate accounts are permitted to offer flexible premium variable life insurance contracts ("flexible life") by permitting insurance companies to offer incidental insurance benefits and cover substandard underwriting risks in a manner consonant with the design of flexible life. The Commission is not at this time adopting a permanent rule.

EFFECTIVE DATE: The rule amendments will become effective July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Brian M. Kaplowitz, Special Counsel, (202) 272–2061, or Robert E. Plaze, Attorney, (202) 272–2622, Office of Insurance Products and Legal Compliance, Division of Investment Management, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is adopting amendments to rule 6e–3(T) (17 CFR 270.6e–3(T)) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) ("Act"). Rule 6e–3(T) provides extensive exemptive relief from various provisions of the Act for insurance company separate accounts offering flexible premium variable life insurance contracts ("flexible life" or "flexible contracts").[1] These amendments are designed to reconcile rule 6e–3(T) with the offering of certain "riders"[2] and the covering of certain risks in connection with flexible contracts. Specifically, the amendments grant additional exemptive relief to permit the deduction from cash values of (1) the cost of incidental insurance benefits ("incidental insurance charges")[3] and (2) charges imposed because the insured does not meet standard underwriting requirements ("substandard risk charges"). In addition, the amendments revise the definition of "payment" for the purpose of measuring compliance with various sales load limitation and refund provisions by including within the term "payment" amounts attributable to incidental insurance and substandard risk charges in flexible contracts in which these amounts are deducted from cash values.

Background and Discussion

On November 14, 1984, the Commission issued a release adopting on a temporary basis rule 6e–3(T) as a comprehensive exemptive rule for separate accounts proposing to offer flexible life. The adopting release also solicited comments on the rule.[4]

The Commission received thirteen letters of comment on rule 6e–3(T).[5] Six of these letters addressed the need to revise the rule in order that incidental insurance and substandard risk charges be treated under the Act's sales load provisions in a manner that would allow the charges for these items to be deducted from cash value.[6] While the Commission is not yet prepared to adopt the rule on a permanent basis, it believes that amendment of rule 6e–3(T) along the aforesaid lines should facilitate the life insurance industry designing flexible contracts which are consistent with the policies of the Act.[7]

A. Paragraph (b)(13)(iii)(E)—Deductions from Cash Value

Paragraph (b)(13)(iii)(E) provides relief from sections 27(c)(2) (15 U.S.C. 80a–27(c)(2)) and 26(a)(2) (15 U.S.C. 80a–26(a)(2)) to permit certain specified fees and charges to be deducted from account assets. However, that paragraph does not provide relief to deduct incidental insurance or substandard risk charges.

Flexible life is designed so that virtually all charges, including incidental insurance and substandard risk charges, may be collected by deductions from a flexible contract's cash value.[8] Moreover, deducting these charges from premium payments prior to allocation of the net premium to the separate account may not be feasible because the insured is not obligated, under flexible life, to make periodic payments.[9] In order to permit a flexible contract containing a rider for incidental benefits or covering substandard risks to operate as designed, the Commission has determined to revise paragraph (b)(13)(iii)(E).

B. Paragraph (c)(7)—Definition of Payment

The term "payment" is defined by paragraph (c)(7) in two ways depending on where it is used in the rule. Generally, "payment" means gross premiums paid. For purposes of calculating sales load and any refund of sales load, however, paragraph (c)(7) defines "payment" as the gross premium paid less certain charges for incidental insurance benefits or substandard risks. This bifurcated approach was intended to assure that the sales load and refund provisions apply only to the amount of sales load charged for the variable benefits.[10]

In this respect, paragraph (c)(7) is identical to paragraph (c)(7) of rule 6e–2, which regulates scheduled premium variable life insurance contracts ("scheduled life" or "scheduled contracts"). Scheduled contracts are characterized generally by the deduction of charges from each premium payment with the net premium then allocated to the separate account. When computing sales load and any required refund, these charges are simply subtracted from the annual scheduled premium payment and the relevant percentage limitations are applied to the remainder. However, in the case of

[1] For a description of flexible life, *see* Investment Company Act Release 13632 (Nov. 23, 1983) (48 FR 54043 (Nov. 30, 1983); 29 SEC Docket 365 (Dec. 6, 1983)) and Investment Company Act Release 14234 (Nov. 14, 1984) (48 FR 47208 (Dec. 3, 1984); 31 SEC Docket 1113 (Nov. 27, 1984)).

[2] "Riders" to insurance contracts are supplements used to modify or add to coverages the contract otherwise provides.

[3] "Incidental Insurance Benefits" are defined in paragraph (c)(2) of Rule 6e–3(T).

[4] Investment Company Act Release 14234 ("Release 14234"). *See supra* note 1. Shortly thereafter the Commission proposed conforming amendments to rule 6e–2 under the Act (17 CFR 270.6e–2), a companion rule to rule 6e–3(T), that grants separate accounts offering scheduled premium variable life insurance contacts exemptive relief from the Act. Investment Company Act Release 14421 (March 15, 1985) (50 FR 11709 (March 25, 1985); 32 SEC Docket 1295 (April 2, 1985)).

[5] The comment letters included two extensive comments, one from an industry trade group, and the other from a law firm on behalf of an insurance company.

[6] One applicant has been granted exemptive relief in order to offer flexible contracts in the manner described above. *See* Investment Company Act Releases 14428 (Mar. 19, 1985) (notice), and 14475 (Apr. 17, 1985) (order). The modifications to rule 6e–3(T) the Commission is today adopting codify this relief insofar as it relates to paragraphs (b)(13)(iii)(E) and (c)(7) of the rule.

[7] This release should be considered the operative interpretive document insofar as it may conflict with the discussion of rule 6e–3(T) in sections II.B.12.c of II.C.7 of Release 14234.

[8] Some charges, such as sales load, certain administrative fees, and premium taxes, may be deducted from payments.

[9] *See* discussion *infra*.

[10] Release 14234 at section II.C.7.

flexible contracts, it is necessary to deduct incidental insurance and substandard risk charges from cash value because the need for charges to support them is constant while the timing and amount of payments are unpredictable.

The lack of relationship between premium payments and deductions of incidental insurance and substandard risk charges precludes application of a bifurcated sales load computation without use of a set of artificial assumptions. According to an industry commentator, there appears to be no practical means to attribute these charges to payments prospectively since it cannot be known in advance how the frequency or amount of payments will relate to these periodic deductions from cash value.

The inclusion of these charges within the definition of "payment" in one sense will result in a greater amount of permissible sales load because the base against which sales load is measured, *i.e.*, "payments" during a contract period, will expand to the extent a portion of a payment is attributable to incidental insurance or substandard risk charges. However, the deduction of incidental insurance and substandard risk charges periodically from cash value, rather than from payments, results in insureds having larger amounts of their premium payments allocated to the separate account and added to their cash values. Larger cash value benefits the insured by reducing the basic insurance charge and giving the insured the opportunity for greater investment return. Based on these considerations, the Commission has determined to amend paragraph (c)(7).

Paragraph (c)(7), as amended, excludes from the definition of "payment" incidental insurance and substandard risk charges only when those charges are deducted from premium payments in the same manner as scheduled contracts subject to rule 6e–2.[11] To the extent those charges are deducted from cash values, however, they are to be included within the definition of "payment."

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

[11] If either of those charges is deducted from premium payments before allocation of the net premium to the separate account, it must be excluded from the definition of "payment" for purposes of measuring sales load and refund rights, *i.e.*, each charge is treated independently.

Text of Amendments to Rule 6e–3(T)

In accordance with the foregoing Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 270—[AMENDED]

1. The authority citation of Part 270 continues to read in part as follows:

Authority: Sections 6(e) and 38(a) of the Investment Company Act of 1940, as amended, 15 U.S.C. 80a–6(e) and 37(a). * * *

2. By revising paragraphs (b)(13)(iii)(E) and (c)(7) of § 270.6e–3(T) to read as follows:

§ 270.6e–3(T) Temporary exemptions for flexible premium variable life insurance separate accounts.

* * * * *

(b) * * *

(13) * * *

(iii) * * *

(E) The deduction of premium taxes imposed by any state or other governmental entity, the cost of insurance, charges assessed for incidental insurance benefits or if the insured does not meet standard underwriting requirements, and, if the separate account is organized as a management investment company, an investment advisory fee;

* * * * *

(c) * * *

(7) "Payment," as used in paragraphs (b)(13)(i), (b)(13)(ii), and (b)(13)(v)(A) of this Rule and in sections 27(a)(2) and 27(h)(2) solely with respect to flexible contracts, means for a contract period the gross premiums paid less any portion of such gross premiums deducted for the item specified in paragraph (c)(4)(viii) and, if deducted prior to the allocation of net premiums to the separate account, for the items specified in paragraphs (c)(4)(vi) and (c)(4)(vii) of this Rule. "Payment," as used in any other section of this Rule, means the gross premiums paid or payable for the flexible contract, *Except*, that "Payment" shall not include any amount deducted by the life insurer to recover excess sales loading previously applied to keep the contract in force pursuant to paragraph (b)(13)(iv)(B)(*2*) of this Rule.

* * * * *

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission previously certified that rule 6e–3(T) will not have a significant economic impact on a substantial number of small entities. No comments were received on that certification. The amendments do not alter the basis for this determination.

Paperwork Reduction Act

These amendments to rule 6e–3(T) are not subject to the Act because they do not impose an information collection requirement.

Administrative Procedure Act

Because this rulemaking is exemptive in nature, the Commission finds, pursuant to section 553(d)(1) of the Administrative Procedure Act (5 U.S.C. 553(d)(1)), that the 30 day delay in effectiveness is not required, and, accordingly, the rule amendments will become effective immediately upon publication in the **Federal Register**. The Commission has determined, pursuant to section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), that there is no need to republish rule 6e–3(T) to obtain additional comment on its decision to amend this rule since the issues were raised by both Investment Company Act Releases 1362 (Nov. 23, 1983) (48 FR 54043 (Nov. 30, 1983); 29 SEC Docket 365 (Dec. 6, 1983)) and 14234 and in fact were commented upon.

By the Commission.

John Wheeler,

Secretary.

July 10, 1985.

[FR Doc. 85–16948 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Feed Service Co., Inc., providing for the manufacture of 5- and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Feed Service Co., Inc., 303 Lundin Blvd., P.O. Box 698, Mankato, MN 56001, is the sponsor of a supplement to NADA 111–837 submitted on its behalf by Elanco Products Co. The supplement provides

requesting documents and for processing such requests, and information and identifiable records consistent with the provisions of the Act Foundation, 1724 Massachusetts

for the manufacture of 5- and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The supplement is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, RM. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has detemined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.625 is amended by revising paragraph (b)(54) to read as follows:

§ 558.625 Tylosin

* * * * *

(b) * * *

(54) To 030841: 5, 10, 20, and 40 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Dated: July 11, 1985

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-16896 Filed 7-16-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Ag-Mark, Inc., providing for the manufacture of 5-, 10-, and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Ag-Mark, Inc., P.O. Box 127, Teachey, NC 28464, is the sponsor of a supplement to NADA 121-147 submitted on its behalf by Elanco Products Co. The supplement provides for the manufacture of 5-, 10-, and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The supplement is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat: 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.625 is amended by revising paragraph (b)(66) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(66) To 024174: 5, 10, 20, and 40 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Dated: July 11, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-16894 Filed 7-16-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 812

[Docket No. 76N-0324]

Investigational Device Exemptions; Conforming Amendments

Correction

In FR Doc. 85-15069, beginning on page 25908 in the issue of Monday, June 24, 1985, make the following corrections:

1. On page 25908, third column, seventh line from the bottom of the page, add "of" after "consideration".

2. In § 812.35(b), on page 25910, first column, sixth line, "will-being" should read "well-being".

BILLING CODE 1505-01-M

AFRICAN DEVELOPMENT FOUNDATION

22 CFR Part 1502

Availability of Records

AGENCY: African Development Foundation.

ACTION: Final rule.

SUMMARY: This action establishes the policies and procedures the African Development Foundation is adopting to permit the inspection and copying of documents of the Foundation in accordance with the requirements of the Freedom of Information Act. The regulations include procedures for

requesting documents and for processing such requests, and establishes the fees which shall be charged by the Foundation for costs associated with responding to requests.

EFFECTIVE DATE: August 17, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Magid, General Counsel, Ann Richardson, Director, Administration and Finance, (202) 634-9853.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 18678-18680 of the Federal Register of May 2, 1985, and invited comments for 60 days ending July 1, 1985. No comments were received.

Executive Order 12291

The African Development Foundation has determined that this rule is not a major rule for the purpose of E.O. 12291 because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This rule imposes no obligatory information requirements on the public.

Regulatory Flexibility Act of 1980

The President of the Foundation certifies that this rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 22 CFR Part 1502

Administrative practice and procedures, Freedom of Information, Records.

Accordingly, Part 1502 is added to 22 CFR Chapter XV to read as follows:

PART 1502—AVAILABILITY OF RECORDS

Sec.

1502.1 Introduction.
1502.2 Definitions.
1502.3 Access to Foundation records.
1502.4 Written requests.
1502.5 Records available at the Foundation.
1502.6 Records of other Departments and Agencies.
1502.7 Fees.
1502.8 Exemptions.
1502.9 Processing of requests.
1502.10 Judicial review.

Authority: 5 U.S.C. 552, and 22 U.S.C. 290h-4.

§ 1502.1 Introduction.

(a) It is the policy of the African Development Foundation that information about its operations, procedures, and records be freely available to the public in accordance with the provisions of the Freedom of Information Act.

(b) The Foundation will make the fullest possible disclosure of its information and identifiable records consistent with the provisions of the Act and the regulations in this Part.

(c) The Director of Administration and Finance (A&F) shall be responsible for the Foundation's compliance with the processing requirements of the Freedom of Information Act.

§ 1502.2 Definitions.

As used in this Part, the following words have the meanings set forth below:

(a) "Act" means the act of June 5, 1967, sometimes referred to as the "Freedom of Information Act" or the Public Information Section of the Administrative Procedure Act, as amended, Pub. L. 90-23, 81 Stat. 54, codified at 5 U.S.C. 552.

(b) "Foundation" means the African Development Foundation.

(c) "President" means the President of the Foundation.

(d) "Record(s)" includes all books, papers, or other documentary materials made or received by the Foundation in connection with the transaction of its business which have been preserved or are appropriate for preservation by the Foundation as evidence of its organization, functions, policies, decisions, procedures, operations, or other activities, or because of the informational value of the data contained therein. Library or other material acquired and preserved solely for reference or exhibition purposes, and stocks of publications and other documents provided by the Foundation to the public in the normal course of doing business are not included within the definition of the word "records." The latter will continue to be made available to the public without charge.

§ 1502.3 Access to Foundation records.

Any person desiring to have access to Foundation records may call or apply in person between the hours of 10 a.m. and 4 p.m. on weekdays (holidays excluded) at the Foundation offices at 1724 Massachusetts Avenue, NW., Suite 200, Washington, D.C. 20036. Requests for access should be made to the Director of A&F, at the Foundation offices. If request is made for copies of any record, the Office of A&F will assist the person making such request in seeing that such copies are provided according to the rules in this Part.

§ 1502.4 Written requests.

In order to facilitate the processing of written requests, every petitioner should:

(a) Address his or her request to: Director, Administration and Finance Division, African Development Foundation, 1724 Massachusetts Avenue, NW., Suite 200, Washington, D.C. 20036.

Both the envelope and the request itself should be clearly marked: "Freedom of Information Act Request."

(b) Identify the desired record by name, title, author, a brief description, or number, and date, as applicable. The identification should be specific enough so that a record can be identified and found without unreasonably burdening or disrupting the operations of the Foundation. Blanket requests or requests for "the entire file of" or "all matters relating to" a specified subject will not be accepted. If the Foundation determines that a request does not reasonably describe the records sought, the requestor shall be advised what additional information is needed or informed why the request is insufficient.

(c) Include a check or money order to the order of the "African Development Foundation" covering the appropriate search and copying fees, or a request for determination of the fee and a promise to pay any amount over $3.00 in connection with the FOIA request.

§ 1502.5 Records available at the Foundation.

The Administration and Finance Division will make available for public inspection and copying, to the extent not authorized to be withheld, the following works or classes of information:

(a) A copy of Foundation regulations, including those published in Title 22 of the Code of Federal Regulations or of any other title of the Code.

(b) Statements of policy and interpretations which have been adopted by the Foundation and which are not published in the **Federal Register.**

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Any indexes providing identifying information regarding any record described in paragraphs (b) and (c) of this section.

(e) Brochures and other printed materials describing the Foundation's activities.

§ 1502.6 Records of other Departments and Agencies.

Requests for records which have been originated by, or are primarily the concerns of, another U.S. Department or Agency will be forwarded to the particular Department or Agency involved, and the petitioner so notified. In response to requests for records or publications published by the Government Printing Office or other

Government printing activity, the Foundation will refer the petitioner to

Foundation, may be exempted from disclosure under 5 U.S.C. 552(b):

(c) *Extension of time.* Where it is reasonably necessary to the proper

Executive Order 12291

The African Development Foundation

Authority: E.O. 11222, 3 CFR 1964-1965 Comp., 5 CFR 735.104.

corporations, associations, partnerships, trusts, sole proprietorships, foundations

Government printing activity, the Foundation will refer the petitioner to the appropriate sales office and refund any fee payments which accompanied the request.

§ 1502.7 Fees.

(a) *When charged.* Fees shall be charged in accordance with the schedules contained in paragraph (b) of this section for services rendered in responding to requests for Foundation records under this sub-part unless the Director of A&F determines that such charges, or a portion thereof, are not in the public interest because furnishing the information primarily benefits the general public. Fees shall also not be charged where they would amount, in the aggregate, for a request or series of related requests, to less than $3. Ordinarily, fees shall not be charged if the records requested are not found, or if located, are withheld as exempt.

(b) *Services charged for and amount charged.* For the services listed below expended in locating or making available records or copies thereof, the following charges shall be assessed:

(1) *Copies.* For copies $.10 per copy of each page.

(2) *Clerical searches.* For each one quarter hour spent by clerical personnel in excess of the first quarter hour in searching for and producing requested records, $2.30.

(3) *Non-routine, non-clerical searches.* Where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel, and where the time required is substantial, for each one quarter hour spent in excess of the first quarter hour, $5.40. No charge shall be made for the time spent in resolving legal or policy issues affecting access to records of known contents.

(4) *Other charges.* When a response to a request requires services or materials other than those described in paragraphs (b)(1) through (b)(3) of this section, the direct cost of such services to the Foundation may be charged, providing the requestor has been given an estimate of such cost before it is incurred.

(c) *Revision of Schedule.* The fee schedule will be revised from time to time, without notice, to assure recovery of actual costs of rendering information services to any person. The revised schedule will be available without charge.

§ 1502.8 Exemptions

The following categories are examples of records which, if maintained by the Foundation, may be exempted from disclosure under 5 U.S.C. 552(b):

(a) Records specifically required by Executive Order to be exempt from disclosure in the interest of the national defense or foreign policy which properly classified pursuant to such Executive Order;

(b) Records related solely to the internal personnel rules and practices of the Foundation;

(c) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), providing that such statute (1) requires that the matter be withheld from the public in such a manner as to leave no discretion, or (2) establishes criteria for withholding or refers to particular types of matters to be withheld;

(d) Trade secrets and commercial or financial information obtained from any person which is privileged or confidential;

(e) Interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the Foundation;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(g) Investigatory files (including security investigation files and files concerning the conduct of employees) compiled for law enforcement purposes, except to the extent available by law to a private party.

The Foundation will not honor requests for exempt records or information.

§ 1502.9 Processing of requests.

(a) *Processing.* A person who has made a written request for records which meets the requirements of § 1502.4 shall be informed by the Director of A&F within ten working days of receipt of the Foundation's decision whether to deny or grant access to the records.

(b) *Denials.* If the Director of A&F, with the concurrence of the General Counsel, denies a request for records, the requestor will be informed of the name and title of the official responsible for the denial, the reasons for it, and the right to appeal the decision to the President of the Foundation within 15 working days of receipt of the denial. The President shall determine any appeal within 20 days of receipt and notify the requestor within the time period of the decision. If the decision is to uphold the denial, the requestor will be informed of the reasons for the decision and of the right to a judicial review of the decision in the federal courts.

(c) *Extension of time.* Where it is reasonably necessary to the proper processing of requests, the time required to respond to an FOIA request or an appeal may be extended for an additional 10 working days upon written notification to the requestor providing the reasons for the extension.

§ 1502.10 Judicial review.

On complaint, the district court of the United States in the district in which the complainant resides, or has his/her principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the Foundation from withholding Foundation records, and to order the production of any agency records improperly withheld from the complainant (5 U.S.C. 552(a)(4)(B))

Dated: July 8, 1985.

Leonard H. Robinson, Jr.,

President, African Development Foundation.

[FR Doc. 85-16921 Filed 7-16-85; 8:45 am]

BILLING CODE 6117-01-M

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22 CFR Part 1504

Employee Responsibilities and Conduct

AGENCY: African Development Foundation.

ACTION: Final rule.

SUMMARY: This rule is intended to implement and interpret E.O. 1222 (3 CFR 1964–1965 Comp.; 5 CFR 735.104); Title 18, U.S.C. 203, 205, 207, 208, 209; and Title II of the Ethics in Government Act of 1978, as amended (5 U.S.C.). The African Development Foundation finds and determines that publication of these regulations in the Code of Federal Regulations is necessary for the effective discharge of its functions and activities.

EFFECTIVE DATE: August 17, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Magid, General Counsel, (202) 634–9853.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 18878–18884 of the Federal Register of May 3, 1985, and invited comments for 60 days ending July 2, 1985. No comments were received.

Regulatory Flexibility Act of 1980

Generally, these regulations do not contain substantive new material. It is, therefore, certified that they will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

Executive Order 12291

The African Development Foundation has determined that this rule is not a major rule for purposes of E.O. 12291 because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This rule imposes no obligatory information requirements on the general public.

List of Subjects in 22 CFR Part 1504

Conflicts of interest.

Accordingly, Part 1502 is added to 22 CFR Chapter XV to read as follows:

PART 1504—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General Provisions

Sec.
1504.101 Purpose.
1504.102 Definitions.

Subpart B—Standards of Conduct

1504.201 General.
1504.202 Statutes, rules, and regulations governing conduct of employees.
1504.203 Outside employment and other activities.
1504.204 Speeches and participation in conferences.
1504.205 Gifts, entertainment, and favors.
1504.206 Financial interests.
1504.207 Use of Government property.
1504.208 Misuse of information.
1504.209 Indebtedness.
1504.210 Gambling, betting, and lotteries.
1504.211 Association with potential contractor prior to employment.
1504.212 Association with Foundation contractor or potential contractor while an employee.
1504.213 Economic and financial activities of employees abroad.
1504.214 Discrimination.
1504.215 General conduct prejudicial to the Government.

Subpart C—Procedures

1504.301 Responsibility of employees.
1504.302 Sources of information and advice.
1504.303 Executive personnel financial disclosure.
1504.304 Statements of employment and financial interests.
1504.305 Employees not required to submit statements.
1504.306 Employees' complaint filing requirement.
1504.307 Time and place of submission.
1504.308 Information required and forms.
1504.309 Supplementary statements.
1504.310 Review of statements and determinations as to conflicts of interest.
1504.311 Penalties for violation.
1504.312 Administrative enforcement proceedings.
1504.313 Confidentiality of employees' statements.
1504.314 Effect of employees' statements on other requirements.

Authority: E.O. 11222, 3 CFR 1964–1965 Comp., 5 CFR 735.104.

Subpart A—General Provisions

§ 1504.101 Purpose.

The maintenance of the highest standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the African Development Foundation's business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interests on the part of employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this Part sets forth the Foundation's regulations prescribing standards of conduct and responsibilities for its employees, and requires statements reporting employment and financial interests.

§ 1504.102 Definitions.

As used in this Part:

(a) "Foundation" or "Agency" means the African Development Foundation.

(b) "Employee" includes anyone serving in the Foundation as:

(1) A person appointed by the President and confirmed by the Senate to a position in the Foundation;

(2) A person appointed by the Board of Directors;

(3) A person appointed by the President of the Foundation or by his/her designee to a position in the Foundation; or

(4) A special Government employee.

(c) "Regular office or employee" means an employee as defined in paragraph (b) (1), (2), or (3) of this section.

(d) "Special Government employee" means a person who is retained, designated, appointed, or employed to perform temporary duties for the Foundation, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis.

(e) "Member of an employee's family" means a spouse, minor child, or other individual related to the employee by blood, marriage or adoption who are resident in the employee's household.

(f) "Counselor" means the Foundation's Counselor on Ethical Conduct and Conflicts of Interest. The Counselor for the Foundation will be the General Counsel of the Foundation. The Director of Administration and Finance will serve as Deputy Counselor.

(g) "Organization" as used herein includes profit and non-profit corporations, associations, partnerships, trusts, sole proprietorships, foundations, and foreign, State and local government units.

(h) "Potential Contractor" means any organization or individual that has submitted a proposal, application, or otherwise indicated in writing its intent to apply for or seek from the Foundation a specific contract or other agreement, including a grant, loan or loan guarantee.

(i) "is associated with" as used in §§ 1504.211 and 1504.212, means:

(1) Is a director of an organization or is a member of a board or committee which exercises a recommending or supervisory function in an organization; or.

(2) Serves as an employee, officer, owner, trustee, partner, consultant, or paid advisor in an organization; or

(3) Owns (or his or her spouse, minor child, or other member of his or her immediate household owns) individually or collectively, 1 percent or more of the voting shares of an organization; or

(4) Owns (or his or her spouse, minor child, or other member of his or her immediate household owns) individually or collectively, either beneficially or as trustee, a direct financial interest in an organization through stock, stock options, bonds, or other securities, or obligations, valued at $50,000 or more; or

(5) As a continuing financial interest in an organization, such as participation in or entitlement under a bona fide pension plan, valued at $5,000 or more, through an arrangement resulting from prior employment or business or professional association.

Subpart B—Standards of Conduct

§ 1504.201 General.

(a) All employees of the Foundation are required to conduct themselves in such a manner as to create and maintain respect for the Foundation and the U.S. Government; to avoid situations which require or appear to require a balancing of private interests or obligations against official duties; to be mindful of the high standards of integrity expected of them in all their activities, both personal and official; and to conform with the applicable statutes, rules, and regulations governing their activities. Particularly, an employee shall avoid any action, whether or not specifically prohibited, which might result in or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any organization or person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality of action;

(5) The provision relating to the habitual use of intoxicants to excess (5

employment. Incompatible activities include but are not limited to:

§ 1504.204 Speeches and participation in conferences.

(1) Has or is seeking to obtain, contractual or other business or

personal living expenses, gifts, entertainment, or other personal

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(4) Losing complete independence or impartiality of action;

(5) Making a Government decision outside official channels;

(6) Affecting adversely the confidence of the public in the integrity of the Government; or

(7) Using Government employment to coerce, or give the appearance of coercing, a person in order to gain financial benefit for him or herself or for another person, particularly one with whom the employee has family, business or financial ties.

(b) An officer or employee of another Federal agency who is assigned or detailed to the Foundation shall adhere to the standards of conduct applicable to employees as set forth in this Part.

§ 1504.202 Statutes, rules, and regulations governing conduct of employees.

(a) The "Code of Ethics of Government Services" set forth by the Legislative Branch in House Concurrent Resolution 175, passed in 1958; the "Standards of Ethical Conduct for Government Officers and Employees" set forth by the President of the United States in Executive Order 11222, dated May 8, 1965, and the regulations issued by the Office of Personnel Management pursuant to this Executive Order (5 CFR Part 735); and other statutes, rules, and regulations governing conduct of employees, including Foundation regulations, shall govern Foundation employees in their service to the Government.

(b) Conflict of interest statutes: The provisions of 18 U.S.C. 203, 205, 207, 208, and 209 prohibiting conflicts of interests between an employee's Government duties and outside activities are summarized in specific sections of this Part.

(c) Miscellaneous statutory provisions: In addition to the various provisions referred to above, Foundation employees must observe the following:

(1) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interests, as appropriate to the employees concerned.

(2) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(3) The prohibition against striking against the Government (5 U.S.C. 7311; 18 U.S.C. 1981).

(4) The prohibitions against: (i) The disclosure of classified information (18 U.S.C. 798; 50 U.S.C. 783); (ii) the disclosure of confidential information (18 U.S.C. 1905); and (iii) the disclosure of privileged information withheld under the exemptions of the Public Information Section of the Administrative Procedure Act (5 U.S.C. 552).

(5) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(6) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(7) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(8) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(9) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(10) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(11) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(12) The prohibitions against (i): Embezzlement of Government money or property (18 U.S.C. 464); (ii) failing to account for public money (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of his/her employment (18 U.S.C. 654).

(13) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(14) The prohibitions against political activities in Subchapter III of Chapter 73 of Title 5, United States Code, and 18 U.S.C. 602, 603, 607, and 608.

(15) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(16) The prohibition against the employment of an individual convicted of a felonious rioting related offense (5 U.S.C. 7313).

(17) The prohibition against a public official's appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(18) The prohibition against self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined at 26 U.S.C. 4941(d) to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses, or sale to or purchase of property from a private foundation.

§ 1504.203 Outside employment and other activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform Government duties and responsibilities in an acceptable manner.

(b) A regular employee shall not receive any salary or anything of monetary value from a private source as compensation for services to the Government (18 U.S.C. 209). This section does not apply to special Government employees. Nor does it prevent a regular officer or employee from: (1) Continuing participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer, or (2) receiving payments or accepting contributions, awards, or other expenses in accordance with Chapter 41 or Title 5, United States Code, relating to employee training.

(c) Employees are encouraged to engage in teaching, lecturing, and writing which is not prohibited by law or regulations. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing (including teaching, lecturing, or writing for the purpose of the special preparation of person or class of persons for an examination of the Office of Personnel Management or The Board of Examiners for the Foreign Service) that depends on information obtained as a result of Government employment, except when the information has been made available to the general public or will be made available on request, or when the Chairman of the Board or the President of the Foundation gives written authorization for use of nonpublic information on the basis that the use is in public interest.

(d) This section does not perclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law;

(2) Participation in the affairs of, or acceptance of an award for, a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational, recreational, public service, or civic organization; or

(3) Outside employment otherwise permitted under these regulations.

§ 1504.204 Speeches and participation in conferences.

(a) *Fees and expenses.* An employee may not accept a fee for his or her own use or benefit for making a speech, delivering a lecture, or participating in a discussion if the subject is the Foundation or Foundation programs or if such services are part of the employee's official Foundation duties. However, the employee may suggest that the amount otherwise payable as a fee or honorarium be contributed to a not-for-profit organization concerned with African development.

(b) When a meeting, discussion, or other gathering to which paragraph (a) of this section refers takes place at a substantial distance from the employee's home, he or she may accept such reimbursement, subject to the approval of the counselor, for the actual cost of transportation and necessary subsistence or expenses, as is compatible with this part and for which no Government payment or reimbursement is made. If an employee receives accommodations, goods, or services in kind from a non-Government source while on official travel, such items will be treated as a donation to the Foundation and an appropriate reduction will be made in per diem or other travel expenses payable.

(c) An employee may accept fees for speeches, etc., dealing with subjects other than Foundation programs when no official funds have been used in connection with his or her appearance and such activities do not interfere with the efficient performance of his or her duties, and for which leave of absence, where necessary, is obtained.

(d) No employee may participate for the Foundation in a conference or speak for the Foundation before audiences when he or she has reason to believe that any racial group has been segregated or excluded from the meeting, from any of the facilities or conferences, or from membership in the organization sponsoring the conference or meeting.

§ 1504.205 Gifts, entertainment, and favors.

(a) An employee shall not receive or solicit, directly or indirectly, for personal benefit or for persons with whom there exist family, business, or financial ties, anything of economic value as a gift, gratuity, loan, entertainment, or favor which might reasonably be interpreted by others as affecting the employee's independence or impartiality, from any person, corporation, or group, if the employee has reason to believe that the entity:

(1) Has or is seeking to obtain, contractual or other business or financial relationships with the Foundation;

(2) Conducts operations or activities which are regulated by the Foundation; or

(3) Has interests which may be substantially affected by the employee's performance or nonperformance of his or her official duty.

(b) Paragraph (a) of this section does not prohibit:

(1) Acceptance of things of economic value arising from obvious family or personal relationships (such as those between the employee and the parents, children, or spouse of the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on a project tour where an employee may properly be in attendance;

(3) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as, home mortgage loans; and

(4) Acceptance of unsolicited advertising or promotional material, such as, pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, or accept a gift from an employee receiving less pay than himself/herself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or a donation in a nominal amount made on a special occasion, such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, nor any other thing from a foreign government unless authorized by Congress as provided by the Constitution, 5 U.S.C. 7342, and the regulations in Part 3 of Chapter 1 of Title 22 ("Acceptance of Gifts and Decorations from Foreign Governments").

(e) Neither this section nor § 1504.203 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this Part and for which no Government payment or reimbursement has been made. However, this paragraph does not allow reimbursement, or payment to be made on the employee's behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.

§ 1504.206 Financial interests.

(a) Neither a regular nor a special Government employee may participate in a governmental capacity in any matter in which that employee, the employee's spouse, minor child, associate or organization with whom there exists a business relationship, or person or organization with whom there exists negotiation for employment, has a financial interest (18 U.S.C. 208). Such an employee shall not: (1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his/her Government duties and responsibilities; or (2) directly or indirectly, engage in any financial transaction as a result of, or primarily relying on, information obtained through his/her Government employment.

(b) An employee may be granted exemption from these restrictions provided: (1) The President of the Foundation for staff, or the Chairman of the Board for members of the Board, is first advised of the nature and circumstances of the particular matter, and the employees makes full disclosure of the financial interest, and (2) he/she receives in advance a written determination by the President or Chairman, as appropriate, that the outside financial interest is deemed not substantial enough to have an effect on the integrity of his/her services.

(c) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive Order 11222, this section, or these Foundation regulations.

§ 1504.207 Use of Government Property.

An employee shall not directly or indirectly, use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him/her.

§ 1504.208 Misuse of information.

(a) For the purpose of furthering a private interest, an employee shall not, except as provided in § 1504.203, directly or indirectly, use, or allow the use of, official information obtained

through or in connection with Government employment which has not been made available to the general public.

(b) This section is not intended to discourage disclosure through proper channels of information which has been or should be made available to the public by law.

§ 1504.209 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law, such as, Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee, reduced to judgment by a court, or imposed by law, such as Federal, State, or local taxes. "In a proper and timely manner" means in a manner which the Foundation determines does not, under the circumstances, reflect adversely on the Government as the individual's employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 1504.210 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 1504.211 Association with potential contractor prior to employment.

(a) No employee, or any person subject to his or her supervision, may participate in the decision to award a contract to any organization with which that employee has been associated in the past 2 years. When an employee becomes aware that such an organization is under consideration for or has applied for a contract with the Foundation, the employee shall notify his or her immediate supervisor in writing. The supervisor shall take whatever steps are necessary to exclude the employee from all aspects of the decision process regarding the contract or agreement.

(b) When an employee becomes aware that an organization with which he or she has been associated in the past 2 years is under consideration for or has applied for a contract with the Foundation, he or she shall refrain from participating in the decision process.

§ 1504.212 Association with Foundation contractor or potential contractor while an employee.

(a) No regular employee may be associated with any Foundation contractor or potential contractor. Any organization that is associated with a regular employee shall be suspended from consideration as a contractor.

(b) No regular or special employee, except in his or her official capacity as a Foundation employee, shall participate in any way on behalf of any organization in the preparation or development of a contract proposal involving the Foundation, or represent any other organization in a matter pending before the Foundation when such participation or representation would result in or create the appearance of the use of public office for private gain. In such cases, if a regular or special employee participates, while an employee of the Foundation, in any aspect of the development of a contract or agreement proposal on behalf of an organization, or represents another organization in a matter pending before the Foundation, that organization shall be suspended from consideration for the contract or other agreement.

(c) No regular or special employee who, prior to his or her employment at the Foundation, participated in the development of a contract or other agreement proposal on behalf of another organization, shall participate in any aspect of the decision process regarding that contract or other agreement, or, if the contract or other agreement is awarded, in any oversight or management capacity in relation to that contract or other agreement. In the event a regular or special employee who participated in the development of the contract or other agreement proposal prior to being employed at the Foundation does participate as a Foundation employee in the decision process for such contract or other agreement, the organization shall be suspended from consideration.

§ 1504.213 Economic and financial activities of employees abroad.

(a) Foundation employees are specifically prohibited from engaging in the activities listed below in any foreign country:

(1) Speculation in currency exchange;

(2) Transactions at exchange rates differing from local legally allowable rates, unless such transactions are duly authorized in advance by the Foundation;

(3) Sales to unauthorized persons, whether at cost or for profit, of currency acquired at preferential rates through diplomatic or other restricted arrangements;

(4) Transactions which entail the use, without official sanction, of the diplomatic pouch;

(5) Transfers of funds on behalf of blocked nationals, or otherwise in violation of U.S. foreign funds and assets control;

(6) Independent and unsanctioned private transactions which involve an employee as an individual in violation of applicable control regulations of foreign governments;

(7) Acting as an intermediary in the transfer of private funds for persons in one country to persons in another country, including the United States; and

(8) Permitting use of his or her official title in any private business transactions or in advertisements for business purposes.

(b) U.S. citizen-Foundation employees on official travel or assignment abroad are prohibited from engaging in the activities listed below:

(1) Transacting or having an interest in any business or engaging for profit in any profession or undertaking or other gainful employment in any country or countries in which he or she is on official travel assignment in his or her own name or through the agency of any other person.

(2) Investing in real estate or mortgages on properties located in his or her country of assignment. (The purchase of a house and land for personal occupancy is not considered a violation of this subparagraph); and

(3) Investing money in bonds, shares, or stocks of commercial concerns headquartered in his or her country of assignment or conducting a substantial portion of business in such country. (Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail); and

(4) Selling or disposing of personal property, including automobiles, at prices producing profits which result primarily from import privileges derived from his or her official status as an employee for the U.S. Government.

§ 1504.214 Discrimination.

No employee may make inquiry concerning the race, political affiliation, or religious beliefs of any employee or applicant in connection with any personnel action, and may not practice, threaten, or promise any action against or in favor of any employee or applicant for employment because of race, color, religion, sex, age, or national origin, and in the competitive service, on the basis of politics, marital status, or physical handicap.

§ 1504.215 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

Subpart C—Procedures

§ 1504.301 Responsibility of employees.

It is the responsibility of each employee: (a) To become familiar with the full text of applicable statutes, rules, and regulations before engaging in outside employment and financial activity which might involve a conflict of interest, or other activity which might involve a violation of standards of ethical conduct or of statutory or regulatory restrictions; and (b) to secure the advice or approval of his or her supervisor and the Counselor before engaging in the contemplated activity.

§ 1504.302 Sources of information and advice.

General information on statutes, rules, and regulations governing the conduct of employees may be obtained from the General Counsel. Specific information may be obtained from the United States Code, from the Federal Personnel Manual, and from Foundation regulations, all of which are available through the General Counsel. A copy (or a summary) of the Foundation regulations will be furnished to each employee in accordance with Office of Personnel Management Regulations (5 CFR Part 735). Clarification of standards of conduct and related laws, rules, and regulations, and advice on their applicability to individual situations, may be obtained from the General Counsel.

§ 1504.303 Executive personnel financial disclosure.

(a) The following employees of the Foundation shall submit completed Executive Personnel Financial Disclosure Reports (SF278) containing information required in accordance with 5 CFR Part 734, Subpart C:

(1) Within 5 days after transmittal by the President to the Senate of their nomination, each member of the Board of Directors of the Foundation.

(2) Within 30 days, after assuming the position, any newly appointed employee of the Foundation whose position is classified at GS–16 or above of the General Schedule, or whose basic rate of pay (excluding "step" increases) under other pay schedules is equal to or greater than the rate for GS–16 (Step 1).

(3) Within 30 days after designation, the designated Foundation Counselor on Ethical Conduct and Conflicts of Interest.

(b) Employees, who perform the duties of a position or office described in this section in excess of sixty days in any calender year, must submit annual statements as of May 15 of each year containing the information described in 5 CFR Part 734, Subpart C.

(c) Executive Personnel Financial Disclosure-statements filed pursuant to this section shall be made available to the public in accordance with the provisions of 5 CFR Part 734.603.

§ 1504.304 Statements of employment and financial interests.

The following employees of the Foundation shall submit statements of employment and financial interests:

(a) Employees classified at GS–13 or above under section 5332 of Title 5, United States Code, or at a comparable pay level under another authority, including employees promoted into positions whose incumbents were required to file, as well as, new employees hired who are in positions, the basic duties of which, impose upon the incumbent the responsibility for making a Government decision or taking Government action with regards to:

(1) Contracting or procurement;

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprises; or

(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise; and

(b) Other employees, including those classified at GS–12 and below whose submission of statements of financial interest has been approved by the Office of Government Ethics, whose duties and responsibilities require them to report employment and financial interests in order to avoid involvement in a possible conflict of interest situation and to carry out the purpose of the law, Executive Order 11222, and the Foundation's regulations.

§ 1504.305 Employees not required to submit statements.

(a) Employees in positions that meet the criteria in paragraph (c) of § 1504.303 may be excluded from the reporting requirement when the President of the Foundation determines that:

(1) The duties of the positions are such that the likelihood of the incumbent's involvement in a conflict of interest situation is remote; or

(2) The duties of the position are at such level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent, or the inconsequential effect on the integrity of the Government.

(b) A statement of employment and financial interests is not required by these regulations from members of the Board of Directors and employees of GS–16 and above, who file Financial Disclosure Reports required by § 1504.303.

(c) The President of the Foundation may waive the requirement of this Subpart for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or an expert when he/she finds that the duties of the position held by the special Government employee are of a nature and at such levels of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual.

§ 1504.306 Employees' complaint filing requirement.

Each employee shall have the opportunity for review of a complaint that his/her position has been improperly included in § 1504.303 as one requiring the submission of a statement of employment and financial interests. Employees are reminded that they may obtain counseling pursuant to § 1504.302 prior to filing a complaint.

§ 1504.307 Time and place of submission.

(a) An employee shall submit his/her statement of employment and financial interests to the Counselor no later than:

(1) Ninety days after the effective date of these regulations, if the person has entered on duty on or before that effective date; or

(2) Five days after entrance on duty, if the employee enters on duty after that effective date.

(b) Only the original of the statement, or supplement thereto, required by this Part shall be submitted. The individual submitting a statement should retain a copy for his or her personal records.

§ 1504.308 Information required, and forms.

(a) *Employees.* The employee's statement of employment and financial interests required by these regulations shall be submitted on the form, "Confidential Statement of Employment and Financial Interests", and shall

VOL 50 ISS 137 JL 17 1985 UMI

contain all the information therein required.

(b) *Interests of employees' relatives.* The interest of a member of an employee's family is considered to be an interest of the employee. The term "member of the employee's family" is defined in § 1504.102(e).

(c) *Information not known by employees.* If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his/her behalf.

(d) *Information not required to be reported.* The regulations in this Part do not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to:

(1) The employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization, or similar organization, not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants or money from, or contracts with, the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests; (2) an indirect interest, such as ownership of shares in a mutual fund, which in turn owns an interest in other organizations, unless such mutual fund is substantially involved in African ventures. Such an "indirect" interest is hereby determined pursuant to 18 U.S.C. 208(b)(2), to be too remote to affect the integrity of employees' services.

§ 1504.309 Supplementary statements.

(a) Employees, other than those occupying positions requiring the filing of Executive Personnel Financial Disclosure statements, who perform the duties of a position or office for a period in excess of sixty days in any calendar year, including special Government employees, must submit annual statements as of June 30 of each year containing the information described in § 1504.308.

(b) Notwithstanding the filing of reports required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts of interest provisions of section 208 of Title 18, United States Code, or these regulations.

§ 1504.310 Review of statements and determinations as to conflicts of interest.

(a) On the basis of the statement of employment and financial interests submitted by each employee, or on the basis of information received from other sources, the Counselor shall determine in the light of the duties which that employee is or will be performing whether any conflicts of interest, real or apparent, are indicated. The Counselor shall make the determination based on the applicable statutes, Executive Order 11222, and the applicable regulations of the Office of Personnel Management and the Foundation.

(b) Where the Counselor's determination in a particular case is that a conflict of interest, real or apparent, is indicated, informal discussions with the employee concerned shall be initiated. The discussions shall have as their objectives:

(1) Providing the individual with a full opportunity to explain the conflict or appearance of conflict; and

(2) Arriving at an agreement (acceptable to the Counselor, the individual, and the individual's immediate superior) whereby the conflict of interest may be removed or avoided.

(c) Where an acceptable agreement cannot be obtained pursuant to paragraph (b) of this section, the Counselor shall present his/her findings and recommendations to the President for decision. The President shall decide what remedy is most appropriate to remove or correct that conflict or apparent conflict. Remedial action under this paragraph may include disciplinary action or any of the actions enumerated in § 1504.310.

(d) Written summaries of all agreements and decisions arrived at pursuant to this section and § 1504.310 shall be placed in the Counselor's files. Copies shall also be made available to the regular or special Government employee concerned.

§ 1504.311 Penalties for violation.

(a) Violations of these regulations subject employees to remedial or disciplinary action by the Foundation which may be in addition to any penalty prescribed by law.

(b) When, after consideration of the explanation of the employee and the findings and recommendations of the Counselor, the President decides that remedial action is required, immediate action to end the conflict or appearance of a conflict of interest, shall be taken. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the regular or special Government employee of the conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations.

§ 1504.312 Administrative enforcement proceedings.

In the event that the Foundation receives information that there has been a possible violation involving the Foundation of the restrictions against post employment activities contained in section 207 (a), (b), or (c) of title 18 U.S.C., the President or his designee shall follow the procedures set forth in 5 CFR 737.27 with respect to the initiation and conduct of an administrative disciplinary hearing.

§ 1504.313 Confidentiality of employees' statements.

The Foundation shall hold each statement of employment and financial interests, and each supplementary statement, in confidence. To insure this confidentiality only the Counselor and Deputy Counselor are authorized to review and retain the statements.

The Counselor is responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this Part. The Foundation may not disclose information from a statement except as the Office of Personnel Management or the President of the Foundation may determine for good cause shown.

§ 1504.314 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required for employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit participation in a matter in which such participation is prohibited by law, order, or regulation.

Dated: July 8, 1985.

Leonard H. Robinson, Jr.,

President, African Development Foundation.

[FR Doc. 85-16922, Filed 7-16-85; 8:45 am]

BILLING CODE 6117-01-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is amending the Postal Contracting Manual to establish a 6 year records retention period for contract case files (excluding those relating to real property), but that unsuccessful offers may be destroyed after final payment of the contract or after 1 year from date of award, whichever is later. Several other minor changes and corrections of errors are also made.

EFFECTIVE DATE: July 10, 1985.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245-4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 601.100), has been amended by the issue of PCM Circular 85-2, dated July 10, 1985.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

PART 601—[AMENDED]

The authority citation for Part 601 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411, 2008, 5001-5605.

Explanation of Changes

1-307, Documentation of Procurement Actions; Maintenance and Disposition of files, is expanded to set forth a 6 year records retention period for contract case files (excluding those relating to real property), except that unsuccessful offers may be destroyed either after final payment under the contract, or after 1 year from date of award of the contract, whichever occurs later.

1-323.2(a), Reporting Noncompetitive Practices, is revised to correct the title of the manager to whom reports are to be sent and to include notification of the Postal Inspection Service.

1-323.2(d) is revised to insert three words omitted by TL35.

1-323.3 is revised to insert a sentence omitted by TL35.

2-403, Recording Bids, is revised to delete the last sentence pertaining to keeping records, because records retention is specifically addressed in 1-307, as explained above.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-16951 Filed 7-16-85; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[OW-7-FRL-2862-1]

Missouri Department of Natural Resources Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Missouri has submitted an application under section 1422 of the Safe Drinking Water Act (SDWA) for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV and V injection wells. After careful review of the application, the Agency has determined that the State's injection well program for Classes I, III, IV and V injection wells meets the requirements of Section 1422 of the Act. Therefore, this application is approved.

EFFECTIVE DATE: This approval shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on July 31, 1985, and shall become effective on July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Theodore Fritz, Ground Water Section, U.S. Environmental Protection Agency, Region VII, 726 Minnesota, Kansas City, Kansas 66101, at phone number (913) 236-2815.

SUPPLEMENTAL INFORMATION: Part C of the SDWA provides for a UIC program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which, in his judgment, a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Missouri was listed as needing a UIC program on June 19, 1979 (40 FR 35288). The State submitted an application under section 1422 on September 28, 1984, for a UIC program to be administered by the Missouri Department of Natural Resources (MDNR). On November 2, 1984, EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the MDNR (49 FR 44111). A public hearing was held on December 12, 1984, in Kansas City, Missouri.

After careful review of the application, I have determined that the Missouri UIC program submitted by the MDNR to regulate Class I, III, IV and V injection wells on all State lands other than Indian lands meets the requirements established by the Federal regulations pursuant to section 1422 of the SDWA and, hereby, approve it. However, since there are no Class I and IV wells and the State elected to prohibit such injection, Class I and IV injection will be banned. The effect of this approval is to establish this program under the SDWA for non-Indian lands in the State of Missouri. Missouri's program for Class II wells under section 1425 was approved December 2, 1983.

This program replaces the existing EPA-administered program. EPA promulgated the EPA-administered program, published May 11, 1984, (49 FR 20209), in order to comply with the requirement of the SDWA to promulgate a Federally-administered program if a State-administered program cannot be approved within a certain time. Now that EPA has determined that the State-administered program meets all applicable Federal requirements, the Agency is withdrawing the EPA-administered program and establishing the State-administered program as the applicable UIC program in the State, because of the preference in the SDWA

VOL 50 ISS 137 JL 17 1985 UMI

for State administration of UIC programs.

This approval will be codified in 40 CFR Section 147.1301. State statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators are incorporated by reference. These provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, are enforceable by EPA pursuant to section 1423 of the SDWA.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 147, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 147

Indian—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply, Incorporation by reference.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1422 of the Safe Drinking Water Act of the application by the Missouri Department of Natural Resources will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: July 3, 1985.

A. James Barnes,

Acting Administrator.

As set forth in the preamble, Part 147 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 147—STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Subpart AA—Missouri

1. The authority for Part 147 continues to read as follows:

Authority: Sections 1421 and 1422 Pub. L. 93–523, 88 Stat. 1674 (300 U.S.C. 300h, 300h–1).

2. Section 147.1301 is revised to read as follows:

§ 147.1301 State-administered program—Class I, III, IV, and V wells.

The UIC program for Class I, III, IV, and V wells in the State of Missouri, other than those on Indian lands, is the program administered by the Missouri Department of Natural Resources, approved by EPA pursuant to section 1422 of the SDWA. Notice of this approval was published in the **Federal Register** on November 2, 1984; the effective date of this program is July 31, 1985. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Missouri. This incorporation by reference was approved by the Director of the Federal Register effective July 31, 1985.

(1) Revised Statutes of the State of Missouri, Volume 2, sections 204.016, 204.026, 204.051, 204.056 and Volume V, section 577.155 (1978 and Cumm. Supp. 1984);

(2) Missouri Code of State Regulations, title 10, division 20, Chapter 6, sections 20–6.010, 20–6.020, 20–6.070, 20–6.080, 20–6.090, and title 10, division 20, Chapter 7, section 20–7.031 (1977, amended 1984).

(b) *Other laws.* The following statutes and regulations, although not incorporated by reference except for select sections identified in paragraph (a) of this section, are also part of the approved State-administered program.

(1) Revised Statutes of the State of Missouri, chapters 204, 260, 536, 557, 558 and 560; sections 640.130.1 and 1.020 (1978 and Cumm. Supp. 1984);

(2) Rule 52.12 Vernon's Annotated Missouri Rules (1978);

(3) Missouri Code of State Regulations, title 10, division 20, Chapters 1 through 7 (1977, amended 1984).

(c) The Memorandum of Agreement between EPA Region VII and the Missouri Department of Natural Resources, signed by the EPA Regional Administrator on October 10, 1984.

(d) *Statement of Legal Authority.* Opinion No. 123–84, signed by Attorney General of Missouri, September 24, 1984. Amended April 2, 1985.

(e) The Program Description and any other materials submitted as part of the application or as supplements thereto.

[FR Doc. 85–16381 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 147

[OW–9–FRL–2861–9]

Commonwealth of the Northern Mariana Islands Division of Environmental Quality Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The Commonwealth of the Northern Mariana Islands has submitted an application under section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, II, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the Commonwealth's injection well program meets the requirements of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on July 31, 1985. This approval shall become effective on August 30, 1985.

FOR FURTHER INFORMATION CONTACT: Meiling Odom or Nathan Lau, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105; PH: (415) 974–7766, (FTS) 454–7766.

SUPPLEMENTAL INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which, in his judgment, a State UIC program may be necessary. The definition of State in this case also includes territories such as the Commonwealth of the Northern Mariana Islands. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The Commonwealth of the Northern Mariana Islands was listed as needing a UIC program on March 19, 1980 (45 FR 17632). The State submitted an application under section 1422 on October 26, 1984, for a UIC program to regulate Class I, II, III, IV, and V injection wells to be administered by the Commonwealth of the Northern Mariana Islands Division of Environmental Quality (CNMIDEQ).

On January 18, 1985, EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the CNMIDEQ. No hearing requests nor comments were received.

After careful review of the application, I have determined that the portion of the Commonwealth of the Northern Mariana Islands program submitted by the CNMIDEQ applicable on all State lands other than Indian lands meets the requirements established by the Federal regulations pursuant to section 1422 of the SDWA and, hereby, approve it. The effect of this approval is to establish this program as the applicable underground injection control program under the SDWA for non-Indian lands in the Commonwealth of the Northern Mariana Islands.

This program replaces the existing EPA-administered program. EPA promulgated an UIC program for the CNMI published May 11, 1984 (49 FR 20220). in order to comply with the requirement of SDWA to promulgate a Federally-administered program if a State-administered program cannot be approved within a certain time. Now that EPA has determined that the State-administered program meets all applicable Federal requirements, the Agency is withdrawing the EPA-administered program and establishing the State-administered program as the applicable UIC program in the State, because of the preference in the SDWA for State administration of UIC programs.

This approval will be codified in 40 CFR 147.2800. State statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators are incorporated by reference. These provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, are enforceable by EPA pursuant to section 1423 of the SDWA.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 147, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 147

Indian—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply, Incorporation by reference.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under section 1422 of the Safe Drinking Water Act of the application by the Commonwealth of the Northern Mariana Islands Division of Environmental Quality will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: July 3, 1985.

A. James Barnes,

Acting Administrator.

As set forth in the preamble, Part 147 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 147—STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Subpart EEE—Commonwealth of the Northern Mariana Islands

1. The authority for Part 147 continues to read as follows:

Authority: Pub. L. 93–523, 88 Stat. 1674 (300 U.S.C. 300h, 300h–1).

2. Section 147.2800 is added to read as follows:

§ 147.2800 State-administered program—Class I, II, III, IV, and V wells.

The UIC program for Class I, II, III, IV, and V wells in the Commonwealth of the Northern Mariana Islands, other than those on Indian lands, is the program administered by the Commonwealth of the Northern Mariana Islands Division of Environmental Quality approved by EPA pursuant to Section 1422 of the SDWA. Notice of this approval was published in the **Federal Register** on January 18, 1985; the effective date of this program is August 30, 1985. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the Commonwealth of the Northern Mariana Islands. This incorporation by reference was approved by the Director of the Federal Register effective July 31, 1985.

(1) CNMI Environmental Protection Act, 2 CMC sections 3101, *et seq.* (1984);

(2) CNMI Coastal Resources Management Act, 2 CMC sections 1501, *et seq.* (1984);

(3) CNMI Drinking Water Regulations, Commonwealth Register, Volume 4, Number 4 (August 15, 1982);

(4) CNMI Underground Injection Control Regulations, Commonwealth Register, Volume 6, Number 5 (May 15, 1984, amended November 15, 1984, January 15, 1985);

(5) CNMI Coastal Resources Management Regulations, Commonwealth Register, Volume 6, Number 12, December 17, 1984.

(b)(1) The Memorandum of Agreement between EPA Region IX and the Commonwealth of the Northern Mariana Islands Division of Environmental Quality, signed by the EPA Regional Administrator on May 3, 1985;

(c) *Statement of Legal Authority.* Statement from Attorney General Commonwealth of the Northern Mariana Islands, "Underground Injection Control Program—Attorney General's Statement," signed on October 10, 1984.

(d) The Program Description and any other materials submitted as part of the original application or as supplements thereto.

[FR Doc. 85–16382 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 158 and 162

[OPP–250059; FRL 2863–3]

Notification to the Secretary of Agriculture of a Final Regulation on Product Performance Requirements for Vertebrate Control Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a final regulation that amends pesticide registration data

requirements to reinstate a requirement for the submission of efficacy data for

SUMMARY: This rule exempts linoleic

tolerance will protect the public health

use as a plant desiccant in the pesticide chemicals listed as generally recognized

List of Subjects in 40 CFR Part 180

submitted by the Interregional Research

requirements to reinstate a requirement for the submission of efficacy data for certain vertebrate control products. At the same time, EPA is revising its conditional registration regulations to rescind an efficacy data waiver that would be inconsistent with the new requirement. This action is required by section 25(a)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Jean Frane, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–0592).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days prior to signing it for publication in the Federal Register. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the Federal Register, with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the Federal Register anytime after the 15-day period.

As required by FIFRA section 25 (a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Authority: 7 U.S.C. 136.

Dated: June 19, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85–16480 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[OPP–300127A; FRL 2863S]

Linoleic Diethanolamide; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts linoleic diethanolamide from the requirement of a tolerance when used as an inert ingredient as a surfactant in pesticide formulations applied to growing crops only. This regulation was requested by Finetex, Inc.

EFFECTIVE DATE: July 17, 1985.

ADDRESS: Written objections may be submitted to the:

Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of April 17, 1985 (50 FR 15188), which announced that Finetex, Inc., Elmwood Park, NJ 07470, had requested that 40 CFR 180.1001(d) be amended by establishing an exemption from the requirement of a tolerance for linoleic diethanolamide when used as an inert ingredient as a surfactant in pesticide formulations applied to growing crops only.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 1, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 160 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Linoleic diethanolamide (CAS Reg. No. 56863–02–6).	.....	Surfactant.
* * *	* * *	* * *

* * * * *

[FR Doc. 85–16478 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 00000/R761; FRL 2863–4]

Sodium Metasilicate and Sodium Propionate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds sodium metasilicate and expands the exemption for sodium propionate for the additional use as a plant desiccant in the pesticide chemicals listed as generally recognized as safe (GRAS) when used as plant desiccants for the purpose of section 408(a) of the Federal Food, Drug, and Cosmetic Act. This rule was requested by the PQ Corp.

EFFECTIVE DATE: July 17, 1985.

ADDRESS: Written objections, identified by the document control number [PP 00000/R761], may be submitted to the:

Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of April 17, 1985 (50 FR 15189), which announced that the PQ Corp. sought this rule in conjunction with the expected use of a a mixture of sodium metasilicate, sodium propionate, and sodium carbonate for the purpose of accelerating the field drying (desiccation) of freshly cut hay.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted and other relevant material have been evaluated and discussed in the proposed rulemaking. The pesticide chemicals are considered useful for the purposes sought. It is concluded that the uses will protect the public health, and they are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 1, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

Therefore, Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for 40 CFR Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.2(a) is revised by adding alphabetically an entry for sodium metasilicate and expanding the use for sodium propionate to include its use as a plant desiccant. As revised, paragraph (a) reads as follows:

§ 180.2 Pesticide chemicals considered safe.

(a) As a general rule, pesticide chemicals other than benzaldehyde (when used as a bee repellent in the harvesting of honey), ferrous sulfate, lime, lime-sulfur, potassium carbonate, potassium polysulfide, potassium sorbate, sodium carbonate, sodium chloride, sodium hypochlorite, sodium polysulfide, sodium sesquicarbonate, sorbic acid, sulfur, and, when used as plant desiccants, sodium metasilicate (not to exceed 4 percent by weight in aqueous solution) and sodium propionate, and when used as postharvest fungicides, citric acid, fumaric acid, oil of lemon, oil of orange, sodium benzoate, and sodium propionate are not for the purposes of section 408(a) of the Act generally recognized as safe.

* * * * *

[FR Doc–85–16479 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 3E2819/R773; FRL–2865–1]

Pesticide Tolerance for Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural crop group *Brassica* (cole) leafy vegetables. This regulation to establish a maximum permissible level for residues of the insecticide in or on the crop group was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on July 17, 1985.

ADDRESS: Written objections, identified by the document control number, [PP 3E2819/R773], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking, published in the Federal Register of May 29, 1985 (50 FR 21876), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 3E2819 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Stations of Hawaii, Idaho, Michigan, New Jersey, Washington, Wisconsin, and the U.S. Department of Agriculture proposing the establishment of a tolerance for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity crop group *Brassica* (cole) leafy vegetables, as defined in 40 CFR 180.34(f) at 2 parts per million (ppm), of which no more than 1 ppm is chlorpyrifos.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the data and information submitted, the Agency has determined that the establishment of the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation

deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the

for the objections. A hearing will be granted if the objections are supported

1985, the Circular No. in the heading should read as set forth above.

insurance is no longer available in the community. However, those

deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the gounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 9, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.342 is amended by deleting the commodities broccoli, Brussels sprouts, cabbage, Chinese cabbage, and cauliflower and adding and alphabetically inserting the raw agricultural commodity crop group *Brassica* (cole) leafy vegetables, to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
Broccoli [Removed]	2 [Removed].
Brussels sprouts [Removed]	2 [Removed].
Cabbage [Removed]	2 [Removed].
Cabbage, Chinese [Removed]	2 [Removed].
Cauliflower [Removed]	2 [Removed].
Vegetables, leafy, *Brassica* (cole)	2 (of which, no more than 1 ppm is chlorpyrifos).

[FR Doc. 85-16845 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4F2969/R772; FRL 2865-2]

Flucythrinate; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide flucythrinate in or on the raw agricultural commodity cabbage. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested pursuant to a petition by the American Cyanamid Co.

EFFECTIVE DATE: Effective on July 17, 1985.

ADDRESS: Written objections, identified by the document control number [PP 4F2969/R772], may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Environmental Protection Agency, 401 M. St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of November 30, 1983 (48 FR 54116), which announced that the American Cyanamid Co., PO Box 400, Princeton, NJ 08540, had submitted a pesticide petition (PP 4F2969) to EPA proposing to amend 40 CFR 180.400 by establishing a tolerance for residues of the insecticide flucythrinate ((±)cyano(3-phenoxyphenyl)methyl(±)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate)) in or on the raw agricultural commodity cabbage at 1.5 parts per million (ppm).

The petition was subsequently amended by increasing the proposed tolerance for cabbage to 2.0 ppm (49 FR 30789; August 1, 1984).

No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerance include an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 81 milligrams (mg)/kilogram (kg) for male rats and 67 mg/kg for female rats; a 21-day delayed neurotoxicity hen study with a no-observed-effect level (NOEL) of 5,000 mg/kg, the highest dose tested (HDT); teratology studies (in rats and rabbits), with a NOEL of 6.0 mg/kg/day (HDT) for rats and a NOEL of 60 mg/kg/day (HDT) for rabbits; a 3-generation rat reproduction study with a NOEL of 30 ppm; 90-day subchronic rat and dog feeding studies with a NOEL of 60 ppm (HDT) for rats and 150 ppm (HDT) for dogs; a 24-month rat chronic-feeding/oncogenicity study that resulted in a systemic NOEL of 60 ppm in which no oncogenic effects were noted at dosage levels of 30, 50, and 120 ppm (120 ppm (mg/kg) being the highest dosage level tested) under the conditions of the study; an 18-month mouse oncogenic study in which no oncogenic effects were noted at dosage levels of 30, 60, and 120 ppm (120 ppm (mg/kg) being the highest dosage level tested) under the conditions of the study; and the following mutagenicity studies: an Ames test at 1,000 micrograms (μg)/Plate (HDT) and a rat dominant-lethal test at 10.0 mg/kg/ (HDT), both negative.

A 1-year dog feeding study previously identified as desirable has been submitted and is being reviewed by the Agency.

The acceptable daily intake (ADI) is calculated to be 0.015 mg/kg/day based on the 3-generation rat reproduction study and its NOEL of 30 ppm (1.50 mg/kg/day) using a 100-fold safety factor. The maximum permissible intake (MPI) is calculated to be 0.900 mg/day for a 60-kg person. Published and pending tolerances result in a theoretical maximum residue contribution (TMRC) of 0.1561 mg/day based on a 1.5-kg diet and use 17.35 percent of the ADI. The establishment of these tolerances will increase the TMRC to 0.1617, resulting in the total use of 17.96 percent of the ADI.

The nature of the residues is adequately understood for this tolerance. An adequate analytical method, gas chromatography, is available for enforcement purposes. Any secondary residue resulting in milk and meat, fat and meat byproducts of cattle, goats, horses, and sheep from this use will not exceed the established tolerances for these commodities. There are currently no regulatory actions pending against continued registration of this pesticide, and there are no other relevant considerations in establishing this tolerance.

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information cited above, the Agency has determined that the establishment of the tolerance for residues of the insecticide flucythrinate in or on the commodity will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 9, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.400 is amended by adding, and alphabetically inserting, the raw agricultural commodity, to read as follows:

§ 180.400 Flucythrinate; tolerances for residues.

* * * * *

Commodities	Parts per million
Cabbage	2.0

[FR Doc 85-16843 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5470

[Circular No. 2564]

Forest Management; Modification of Federal Timber Contracts

Correction

In FR Doc. 85-15434 beginning on page 26676 in the issue of Thursday, June 27, 1985, the Circular No. in the heading should read as set forth above.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Flood Insurance Administration

44 CFR Part 64

[Docket No. FEMA 6667]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the 4th column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, 500 C Street, Southwest, FEMA—Room 416, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR part 59 et. seq.). Accordingly, the communities are suspended on the effective date in the 4th column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the 5th column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole.

This rule in and of itself does not have a significant economic impact. Any

required for community participation. In each entry, a complete chronology of

Paperwork Reduction Act (44 U.D.C. 3501 et seq.).

General Services Administration Acquisition Regulation; Acquisition Circular AC-85-1;

1. *The authority citation for Part 64* continues to read as follows:

2. *Effective.* July 23, 1985.

3. *Expiration date.* The General Services

This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subject in 44 CFR Part 64

Flood insurance, Floodplains.

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and County	Location	Community	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Region II					
New York:					
Delaware	Delhi, town of	360193B	Aug. 5, 1975, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	July 26, 1974 and Jan. 7, 1977.	July 18, 1985.
Ulster	Lloyd, town of	361012C	Aug. 19, 1985, Emerg.; Sept. 17, 1982, Reg.; July 18, 1985, Susp.	Sept. 6, 1974, July 9, 1976 and Sept. 17, 1982.	Do.
Livingston	West Sparta, town of	360391B	Apr. 19, 1976, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Oct. 29, 1976	Do.
Region IV					
Florida: Lake	Leesburg, city of	120136B	July 23, 1975, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Sept. 13, 1974 and Jan. 28, 1977.	Do.
Georgia: Glynn	Brunswick, city of	130093B	Mar. 6, 1974, Emerg.; June 19, 1985, Reg.; July 18, 1985, Susp.	May 24, 1974, Jan. 9, 1976 and June 19, 1985.	Do.
Region V					
Illinois: Grundy	Unincorporated areas	170256C	June 11, 1974, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Dec. 20, 1974, Feb. 3, 1978 and June 15, 1979.	Do.
Michigan: Ottawa	Georgetown, charter township of	260569A	Dec. 18, 1975, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Sept. 26, 1975	Do.
Ohio: Franklin	Whitehall, city of	390180B	Oct. 7, 1974, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Feb. 15, 1974 and June 4, 1976.	Do.
Region X					
California: San Luis Obispo	Unincorporated areas	060304C	June 26, 1974, Emerg.; July 5, 1982, Reg.; July 18, 1985, Susp.	Jan. 3, 1975, Nov. 22, 1977 and July 5, 1982.	Do.
Region II					
Minimal Conversions					
New York: Fulton	Caroga, town of	361129B	Mar. 29, 1978, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Nov. 18, 1974 and June 25, 1976.	Do.
Region VII					
Missouri:					
Saline	Sweet Springs, city of	290407B	May 27, 1975, Emerg.; Oct. 5, 1984, Reg.; July 18, 1985, Susp.	June 7, 1974, Jan. 9, 1976 and Oct. 5, 1984.	Do.
St. Louis	Charlack, city of	290743A	July 2, 1975, Emerg.; Nov. 24, 1984, Reg.; July 18, 1985, Susp.	Feb. 14, 1975 and Nov. 24, 1984.	Do.
Kansas: Saline	Brookville, city of	200394B	Aug. 17, 1976, Emerg.; Jan. 4, 1985, Reg.; July 18, 1985, Susp.	Sept. 19, 1975 and Dec. 24, 1976.	Do.
Region IX					
Arizona: Greenlee	Unincorporated areas	040110B	Dec. 29, 1978, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Oct. 25, 1977	Do.
California: Plumas	Portola, city of	060456	Apr. 14, 1975, Emerg.; July 18, 1985, Reg.; July 18, 1985, Susp.	Oct. 24, 1975	Do.

[1] Certain Federal assistance no longer available in special flood hazard areas.
Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: July 11, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-16908 Filed 7-16-85; 8:45 am]

BILLING CODE 6718-03-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[GSAR AC-85-1, Supplement 1]

Payment Due Date—Construction Contracts

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation Acquisition Circular AC-85-1 extends the expiration date to January 23, 1986. The intended effect is to extend the policies and procedures as established in AC-85-1, which revised the Payment Due Date clause for construction contracts at GSAR 552.232-70(f).

DATES: Effective date: July 23, 1985.

Expiration date: This circular expires January 23, 1986, unless extended or canceled.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-4754.

Regulatory Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from Executive Order 12291. The exemption applies to this rule. When AC-85-1 was originally issued, the General Services Administration certified under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that the document would not have a significant economic effect on a substantial number of small entities. Therefore, no regulatory analysis was prepared. The rule does not contain information collection requirements that require the approval of OMB under the

Paperwork Reduction Act (44 U.D.C. 3501 et seq.).

List of Subjects in 48 CFR Part 552

Government procurement.

Authority: 40 U.S.C. 486(c).

48 CFR Part 552 is amended by the following supplement to Acquisition Circular AC-85-1.

General Services Administration Acquisition Regulation; Acquisition Circular AC-85-1; Supplement 1

July 8, 1985.

To: All GSA contracting activities.

Subject: Payment Due Date—Construction Contracts.

1. *Purpose.* This supplement extends the expiration date of General Services Administration Acquisition Regulation Acquisition Circular AC-85-1.

2. *Effective.* July 23, 1985.

3. *Expiration date.* The General Services Administration Acquisition Regulation Acquisition Circular AC-85-1 and this supplement will expire on January 23, 1986, unless canceled earlier.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 85-16926 Filed 7-16-85; 8:45 am]

BILLING CODE 6820-61-M

Proposed Rules

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 91

[85-PR-5A; Docket No. 24496]

Minimum Upper Limit for Terminal Control Areas (TCA); Lower Altitude for Requiring Mode C

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Reopening of Comment Period on Petition for Rulemaking.

SUMMARY: This notice reopens the period for comments on a petition for rulemaking submitted by the Air Line Pilots Association. The petition for rulemaking seeks to amend the Federal Aviation Regulations (FAR) by raising to 10,000 feet mean sea level (MSL) the upper altitude limit of any TCA, Category I or II, that is not currently at 10,000 feet MSL or higher, and by lowering the minimum altitude at which automatic altitude reporting Mode C transponders are required from 12,500 feet MSL to 10,000 feet MSL. The petitioner proposes these changes to improve safety by providing air traffic controllers with more precise information.

DATE: Comments must be received on or before September 6, 1985.

ADDRESSES: Comments on this petition for rulemaking may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24496, 800 Independence Avenue, SW., Washington, D.C. 20591. The official docket may be examined in the Rules Docket, Room 916, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Paul C. Smith, Airspace and Air Traffic Rules Branch, ATO-230, Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Office of the Associate Administrator for Air Traffic, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8626.

SUPPLEMENTARY INFORMATION

Comments Invited

This petition was published in summary form in the Federal Register on May 3, 1985 (50 FR 18869), with a comment period closing date of July 8, 1985. This notice reopens the closing date for comments to September 6, and sets forth the petition verbatim for clarity.

The FAA has not analyzed the value or the effect that this petition would have on operations, either in TCA locations or nationally, on the aircraft owner/pilot community in general or on air traffic control. The FAA, in publishing substantive parts of the petition for rulemaking, is inviting the public to comment and assist the FAA in determining the need, if any, for raising the upper altitude limit of all TCA's to a minimum of 10,000 feet MSL and for lowering the altitude above which the use of Mode C automatic altitude reporting equipment is required to 10,000 feet MSL. Interested persons are requested to participate by reviewing the information provided by the petitioner and submitting such data, views, and arguments as they may desire in writing. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in developng reasoned regulatory decisions. Comments should identify the docket number and be submitted in duplicate to the address listed above. It should be noted that this summary does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedure of FAR Part 11 and reach a conclusion on the merits of the petition after it has had an opportunity to evaluate it carefully in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking action on the petition, appropriate rulemaking action, including an evaluation of the proposal, will be published.

Background/Supporting Information

TCA Minimum Ceiling 10,000 feet MSL. FAR § 71.12 (14 CFR 71.12) defines the upper altitude limit of TCA's as extending" . . . to specified altitudes . . . ." The upper limits of each TCA are specified in the individual airspace description of the TCA. These limits are presently based upon site specific operational requirements and are not standardized. The following summary is set forth verbatim from the petition.

At the present time, there is no standardized top altitude for the existing TCAs. Some terminate at 7,000 ft., others higher, based on local airspace configurations and TRACON/ARTCC letters of agreement. This is another example of the nonstandard airspace configurations within the National Airspace System. If FAR 91.24 were revised to require Mode C transponders for all operations at 10,000 ft. and above, and the top of all TCAs were raised to that level, air traffic controllers would be provided the opportunity to have precise information on all traffic that could affect the safety of air carrier/commuter arrival and departure flights at TCA-designated airports and thus affort a majority of the traveling public a higher degree of safety. This concept would also serve to standardize airspace configurations throughout the NAS and thus help remove any misunderstanding by general aviation pilots about the configuration of TCAs.

Note.—Each of the following TCA's has an upper limit as indicated and would be affected by the requested rule. 7,000 feet MSL: Logan International Airport; Chicago O'Hare International Airport; Los Angeles International Airport; Miami International Airport; John F. Kennedy International Airport; LaGuardia Airport; Newark International Airport; Washington National Airport; Houston Intercontinental Airport; New Orleans International Airport; Philadelphia International Airport; and Seattle-Tacoma International Airport. 8,000 feet MSL: Dallas-Ft. Worth Airport; San Francisco International Airport; Cleveland-Hopkins International Airport; Kansas City International Airport, Minneapolis-St. Paul International Airport; Greater Pittsburg Airport; and St. Louis International Airport. 9,000 feet MSL: Honolulu International Airport and McCarran International Airport. Some areas within the TCA at San Diego, CA, have an upper limit of 6,000 feet MSL.

Mode C Transponders Above 10,000 feet MSL. Existing FAR § 91.24(b)(4) requires that all aircraft operating above 12,500 feet MSL in controlled airspace, except gliders under certain conditions, have an operable transponder with automatic altitude reporting capability.

The following summary is set forth verbatim from the petition:

At the present time, FAR 91.24 requires Mode C equipped transponders only above 12,500 ft. FAR § 91.70 authorizes speeds above 250 knots when operating at 10,000 ft. or above. In that 2,500 ft. altitude structure, operations can be conducted at high speeds that reduce a pilot's ability to 'see and avoid.' Air traffic controllers are deprived of essential altitude information from VFR aircraft that could be used to provide traffic advisories to aircraft operating within the ATC system. Revising FAR § 91.24 to require Mode C at 10,000 ft. and above would provide compatibility with FAR § 91.70, enable controllers to assist pilots in meeting their 'see and avoid' responsibilities, and at the same time elevate the level of safety provided the traveling public.

Issued in Washington, D.C., on July 12, 1985.

John H. Cassady,
Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 85-16970 Filed 7-16-85; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 822-3101]

John Treadwell, d.b.a. Trans-Continental Industries; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require John Treadwell, doing business as Trans-Continental Industries, to cease, among other things, making any performance claims for any gasoline additive without competent and reliable evidence; claiming that tests support its performance claims without proper substantiation; and misrepresenting the results of conclusions of any tests pertaining to gasoline additives or the potential profits or marketing assistance that will be provided for distributors of its products. Further, respondent would be required to maintain records of substantiation for three years; file a compliance report with the Commission within 60 days; and notify the Commission of the discontinuace of his present employment and any future employment in similar areas for five years.

DATE: Comments must be received on or before September 16, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, CA 90024. (213) 209-7575.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Fuel efficiency claims, Gasoline additives, Trade practices.

Before the Federal Trade Commission

[File No. 822-3101]

Agreement Containing Consent Order to Cease and Desist

In the matter of John Treadwell, and individual doing business as Trans-Continental Industries.

The Federal Trade Commission having initiated an investigation of certain acts and practices of John Treadwell, an individual doing business as Trans-Continental Industries, hereinafter some times referred to as "proposed respondent," and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between John Treadewll and counsel for the Federal Trade Commission that:

1. Proposed respondent John Treadwell is an individual doing business as Trans-Continental Industries, a sole proprietorship, with its office and principal place of business located at 2489 Burlingham Place, Simi Valley, California 93063.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement

may be used to vary or contradict the terms of the order.

the resale of respondent's products, or misrepresenting, directly or by

product, each such notice to include the

the agreement and proposed order or to modify in any way their terms.

any amounts retained by or paid to the

These funds recover from shareholders

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may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. He understands that once the order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the order. Proposed respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent John Treadwell, an individual doing business as Trans-Continental Industries or under any other name or names, his successors and assigns, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, labeling, offering for sale, sale or distribution of the gasoline additive known as 20% Plus Organic Fuel Catalyst ("20% Plus") or any other gasoline, oil, or fuel-saving product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

a. Representing, directly or by implication, that any such product will or may result in fuel economy improvement when used in an automobile, truck, recreational vehicle or other motor vehicle unless, at the time of making such representation, respondent possesses and relies upon written results of competent and reliable testing that isolates the effects of the product and substantiates the representation. Respondent may use such tests as the then current urban dynamometer driving schedule (40 CFR Part 86, Appendix I) or the then current highway fuel economy driving schedule (40 CFR Part 600, Appendix I) established by the Environmental Protection Agency or other tests of an equivalent competency and reliability;

b. Representing, directly or by implication, that any performance claim about any such product is based upon any competent and reliable test(s) or survey(s), unless such representation is true;

c. Misrepresenting, directly or by implication, the purpose, content, or conclusion of any test or survey pertaining to any such product;

d. Misrepresenting, directly or by implication, the past, present or future sales, profits or earnings available from the resale of respondent's products, or misrepresenting, directly or by implication, the past or present sales, profits or earnings of respondent's sales agents;

e. Misrepresenting, directly or by implication, the advertising or promotional efforts to be undertaken by respondent to assist distributors in the resale of respondent's products.

For the purposes of Part I, a competent and reliable test means one in which persons qualified to do so conduct the test and evaluate its results in an objective manner using procedures that ensure accurate and reliable results.

II

It is further ordered that respondent, his successors and assigns, in connection with the manufacturing, advertising, labeling, offering for sale, sale or distribution of any gasoline, oil, or fuel-saving product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall for at least three years after the last date of dissemination by respondent either directly or through any business entity of any representation about any such product maintain and upon request make available to the Federal Trade Commission for inspection and copying, copies of, and dissemination schedules for, all advertisements, labels, sales promotional materials and post-purchase materials for such product and copies of all test materials and results upon which such representation is based.

III

It is further ordered that respondent forthwith distribute a copy of this order to all present or future personnel, agents or representatives or respondent having sales, advertising, or policy responsibilities with respect to the subject matter of this order, and that respondent secure from each such person a signed statement acknowledging receipt of said order and maintain that statement in its files for at least three years.

IV

It is further ordered that respondent shall promptly notify the Commission of the discontinuance of his present business or employment and that for a period of five (5) years from the date of service of this order respondent shall promptly notify the Commission of each affiliation with a new business or employment in telephone sales, or in connection with the manufacturing, advertising, labeling, offering sale, sale or distribution of any gasoline additive or any other gasoline, oil, or fuel-saving product, each such notice to include the new business address of respondent and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of the respondent's duties and responsibilities in connection with the new business or employment.

V

It is further ordered that respondent shall within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from John Treadwell, an individual doing business as Trans-Continental Industries.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint charges that John Treadwell and Trans-Continental Industries made false and misleading claims that their gasoline additive product, "20% Plus," was proven by laboratory and road tests to reduce fuel costs 20 to 25%. The Complaint also charges that the respondent falsely represented that most distributors of "20% Plus" have made substantial profits via resales and that the respondent would assist distributors in the advertising and resale of "20% Plus."

The order prohibits the respondent from making fuel savings claims about any gasoline additive product unless the claim is true and supported by competent and reliable testing. The order also prohibits misrepresentations regarding the profitability of distributors and the extent of assistance to distributors by the respondent. Mr. Treadwell is further required to notify the Commission of any endeavor involving telephone sales over the next five (5) years.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 85-16897 Filed 7-16-85; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6598; 34-22219; IC-14623; File No. S7-36-85]

Accounting for Distribution Expenses

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment.

SUMMARY: The Commission is proposing to amend Regulation S-X to require that registered investment companies account for net costs incurred as a result of a 12b-1 plan as expenses. The amendment would achieve consistent accounting for 12b-1 expenditures thereby ensuring greater uniformity in the accounting practices of investment companies and allowing investors to more accurately compare investment results among investment companies.

DATE: Comments must be received by September 30, 1985.

ADDRESS: Three copies of all comments should be submitted to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-36-85. All comments received will be available for public inspection in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: John W. Albert, Office of Chief Accountant (202) 272-2130, Jay Gould, Attorney, Office of Disclosure and Adviser Regulation, (202) 272-2107, or Lawrence A. Friend, Senior Accountant, Office of Disclosure Policy and Review, (202) 272-2106, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for comment a proposed amendment to Rule 6-07 of Regulation S-X [17 CFR 210.6-07]. The amendment to Rule 6-07 would require an investment company filing financial statements to include as an expense in its Statement of Operations all costs incurred under a rule 12b-1 plan net of any amounts retained by or paid to the fund in connection with the plan. The Commission is proposing the amendment to require consistent accounting treatment of rule 12b-1 expenses.

Background

Rule 12b-1 under the Investment Company Act of 1940 (the "Act")[1] prescribes the circumstances under which a registered open-end investment company may finance any activity primarily intended to result in the sale of fund shares including, but not limited to, advertising, compensation of underwriters, dealers and sales personnel, the printing and mailing of prospectuses to other than current shareholders, and the printing and mailing of sales literature. Among other things, the rule requires that payments by the fund associated with distribution of fund shares be made under a written plan (hereafter, referred to as a "12b-1 plan") approved by fund shareholders and directors. Since the adoption of rule 12b-1 in 1980, an increasing number of investment companies have adopted 12b-1 plans.[2]

Typically, rule 12b-1 plans provide for an amount (usually a percentage of the fund's net asset value) to be paid annually by the fund for expenses incurred in selling the fund's securities irrespective of the actual amount of these sales. In preparing required financial statements, these funds account for the amounts spent on the plans as expenses.

A few investment companies have adopted 12b-1 plans which differ in certain respects from the typical plans. In these funds, fund shares are offered to investors at net asset value without any initial sales charge. When shares are sold, the fund pays its principal underwriter a percentage of the price paid to the fund on each sale. This amount is paid to the underwriter from fund assets (not from investor proceeds). The principal underwriter retains a portion of this amount and reallows the remainder to dealers for making sales.

[1] Rule 12b-1 was adopted in 1980 under section 12(b) of the Act which makes it unlawful for any registered open-end management investment company (other than a company complying with section 10(d) of the Act) to act as distributor of securities of which it is the issuer, except through an underwriter, contrary to such rules as the commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

[2] While in 1982, 104 funds had 12b-1 plans, as of March 31, 1985, 435 funds had 12b-1 plans. *Lipper-Directors' Analytical Data*, June 1985, Special Study of 12b-1 plans.

These funds recover from shareholders all or some of these distribution expenses by imposing a contingent deferred sales charge applicable to redemptions within a specified period of time after purchase. The amounts collected under the contingent deferred sales charge are paid to or retained by the fund, not the underwriter. In the required financial statements of these funds, the amounts paid to underwriters have been accounted for as charges against capital, and the contingent deferred sales loads have been treated as credits to capital.

The rationale for this accounting treatment appears to be that the payments to the underwriters under these plans are paid only upon sales and, as costs directly related to the sale and issuance of additional fund shares, are properly treated as adjustments to capital rather than operating expenses. Supporters assert that this approach is consistent with the treatment given underwriting costs incurred by industrial companies when raising capital.

Proposed Amendment to Rule 6-07

Article 6 of Regulation S-X governs the contents of financial statements filed by registered investment companies. Rule 6-07 of Regulation S-X sets forth the requirements for investment company Statements of Operations. The instructions to Rule 6-07 do not currently specify a particular accounting treatment for distribution expenses resulting from a 12b-1 plan. The proposed amendment to rule 6-07 of Regulation S-X would require all costs incurred by an investment company under a rule 12b-1 plan to be (1) reflected as an expense in the calculation of net investment income, and (2) reduced by any amounts retained by or paid to the fund with respect to the plan.

The Commission believes that a uniform accounting treatment for 12b-1 expenditures is necessary and appropriate for several reasons. In the Commission's view, transactions by investment companies which are essentially the same should be accounted for in the same manner. Distribution expenses under 12b-1 plans are incurred for the same purpose by all funds—selling fund shares. That funds differ in how fees incurred because of sales are paid should not cause a difference in the accounting treatment of the expenses associated with sales. The proposed amendment to Rule 6-07, if adopted, would achieve consistent

accounting treatment for 12b-1 plan

rely heavily on fund yield calculations

DEPARTMENT OF ENERGY

requests to participate in the conference.

and set forth in the Department

Office of Juvenile Justice and

accounting treatment for 12b–1 plan expenditures without regard to whether the fund is operating under a typical 12b–1 plan and paying a percentage of its assets for the sale of fund shares (whether sold or not), or operating under a different arrangement and paying a percentage of its assets for the sale of shares only if such shares are sold.

In addition, the Commission is not persuaded that the treatment by industrial companies of underwriting and stock issuance expenses as charges to capital necessarily should permit similar treatment of these kinds of expenses by investment companies. Unlike industrial companies, open-end investment companies are in the business of continuously offering their securities to investors. The costs of underwriting and stock issuance (distribution) are not incurred on an occasional basis but continuously as a part of a fund's normal operating expenses. Hence, treatment of these costs as expenses rather than capital charges is appropriate.[3]

Finally, the Commission believes the proposal is necessary to eliminate a discrepancy in fund yield calculations which can result from the inconsistent treatment of 12b–1 plan expenses. Yield for investment companies is based on comparing dividends from net investment income to net asset value. Because funds distribute all their net investment income in the form of dividends, the fund which charges 12b–1 plan costs to expenses will have higher expenses, distribute smaller dividends and thereby report a lower yield than a fund which is identical in every respect, including increases in net asset value, except that it charges capital for the same 12b–1 expenditures and thus has lower expenses and higher dividends.[4] The Commission believes that eliminating this unnecessary discrepancy will aid investors who often rely heavily on fund yield calculations in choosing in which fund to invest.

[3] It is also appropriate that the contingent deferred sales load, which represents a recovery of distribution expenses, be offset against the 12b–1 expenditures, and the proposed amendment to Rule 6–07 contains specific language to this effect.

[4] The accounting and tax effects of the difference are that the shareholders of the fund capitalizing such expenses receive these amounts as current income at ordinary tax rates. The shareholders of funds expensing these expenditures receive the same amount as part of the redemption proceeds and are taxed at capital gain rates.

The difference is accounting treatment of 12b–1 expenses described above does not affect the calculation of "total return," which compares net asset value at the beginning of a period with net asset value at the end of that period. As a general matter, yield appears to be the more significant factor in investor decision making.

List of Subjects in 17 CFR Part 210

Accounting, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule Amendment

Part 210 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as shown.

1. The authority citation for Part 210 continues to read in part as follows:

Authority: Secs. 6, 7, 8, 10, 12, 13, 15, 19, 23, 48 Stat. 78, 79 as amended, 81, as amended, 85, as amended, 892, as amended, 894, 895, as amended, 901, as ameded, secs. 5, 14, 20, 49 Stat., 812, 827, 833, secs. 8, 30, 31, 38, 54 Stat., 803, 836, 838, 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 781, 78m, 78o, 78w, 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, * * *.

2. Paragraph 2(f) is added to § 210.6–07 to read as follows:

§ 210.6–07 Statements of Operations.

* * * * *

2 *Expenses.* * * *

* * * * *

(f) State separately all amounts paid in accordance with a plan adopted under Rule 12b–1 under the Investment Company Act of 1940. These amounts shall be reduced by any amounts retained by, or paid to, the fund with respect to such a plan. State, in a note or otherwise, the gross amount paid in accordance with the plan and the gross amount retained by, or paid to, the fund with respect to the plan.

* * * * *

By the Commission.

John Wheeler,

Secretary.

July 10, 1985.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendment to Rule 6–07 under Regulation S–X set forth in Release Nos. 33–6598; 34–22219; IC–14623; if promulgated will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that the amendment will affect approximately 12 investment companies out of 435 that have adopted 12b–1 plans and only four of these would be classified as small entities under the Regulatory Flexibility Act.

Dated: July 10, 1985.

John S.R. Shad,

Chairman.

[FR Doc. 85–16946 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 157, 161 and 284

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Rescheduling of Conference Date

Issued: July 10, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; rescheduling of conference date.

SUMMARY: The Commission is rescheduling the conference to be held on its notice of proposed rulemaking concerning regulations applicable to the transportation of natural gas by interstate pipelines and intrastate pipelines on behalf of other shippers.

DATES: The conference will be held on Thursday, August 1, 1985 at 10:00 a.m., instead of Tuesday, July 30, 1985. The last date for filing written requests to participate at the conference is July 22, 1985, and remains unchanged.

ADDRESS: The public conference will be held at the Commission's offices at 825 North Capitol St., N.E., Washington, D.C. 20426 in Hearing Room A. Requests to participate should be filed with the Secretary at the same street address.

SUPPLEMENTARY INFORMATION: On May 30, 1985, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking, 50 FR 24,130 (June 7, 1985), to amend its current regulations and adopt new regulations applicable to the transportation of natural gas by interstate pipelines and intrastate pipelines on behalf of other shippers.

The May 30, 1985, Notice scheduled a public conference for Tuesday, July 30, 1985. Recently, however, the Commission's Chairman has been invited by the Chairman of the Subcommittee on Energy Conservation and Power of the Committee on Energy and Commerce of the U.S. House of Representatives to testify on July 30, 1985, in a hearing to address proposed hydroelectric relicensing legislation. Because of this scheduling conflict, the public conference on the Commission's May 30, 1985, Notice is being rescheduled.

Notice is hereby given that the public conference on the Notice of Proposed Rulemaking is rescheduled for Thursday, August 1, 1985, at 10:00 a.m. The last day for the filing of written requests to participate in the conference, namely, July 22, 1985, is not changed.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–16933 Filed 7–16–85; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 30

[Order No. 1102–85]

Department of Justice Programs and Activities Covered by Executive Order 12372

AGENCY: Office of the Attorney General, Justice.

ACTION: Notice of Covered Programs and Request for Comments on Proposed Excluded Programs.

SUMMARY: The primary purposes of this notice are to list the Department of Justice programs and activities that are covered by Executive Order 12372, "Intergovernmental Review of Federal Programs," and to invite public comment on the proposed exclusion of certain programs and activities from coverage under the Order. The notice also advises that section 304 of the Demonstration Cities and Metropolitan Development Act of 1966 does not apply to the U.S. Marshals Service's Cooperative Agreement Program.

DATES: All interested persons are invited to submit written comments on the proposed exclusion of certain programs and activities on or before September 3, 1985.

ADDRESS: Comments should be sent to the Office of Legal Policy, Room 4234, Department of Justice, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Paul P. Colborn, Office of Legal Policy, Room 4248, Department of Justice, Washington, D.C. 20530 (202/633–4582).

SUPPLEMENTARY INFORMATION:

Covered Programs

Section 30.3 of the Department of Justice regulations implementing E.O. 12372 (28 CFR Part 30; published at 48 FR 29238, June 24, 1983) requires the Department to publish a list of those federal financial assistance and direct federal development programs and activities for which each state may choose to avail itself of the intergovernmental consultation procedures established by the Order and set forth in the Department regulations.

To reflect recent changes in Justice Department programs and activities, the Department is publishing the following revision to the list of "covered" programs and activities that we published on June 24, 1983 (48 FR 29248) (the parenthetical numbers are Catalog of Federal Domestic Assistance references):

Drug Enforcement Administration—Suppression of Diversion of Controlled Substances Program (16.006) (funds not yet appropriated).

Community Relations Service—Cuban and Haitian Entrant Resettlement Program (16.201).

Office of Juvenile Justice and Delinquency Prevention—Formula Grant Program (16.540)

Office of Juvenile Justice and Delinquency Prevention—Special Emphasis and Technical Assistance Grants, except grants which are national in scope (16.541).

Bureau of Justice Statistics—Criminal Justice Statistics Development Grants (16.550).

Bureau of Justice Assistance—Criminal Justice Block Grants (16.573).

Bureau of Justice Assistance—Criminal Justice Discretionary Grants, except grants to non-governmental entities for national scope purposes (16.574).

National Institute of Corrections—Technical Assistance Grants, except contracts to individuals for specialized assistance (16.603).

Bureau of Justice Assistance—Transfer of Surplus Real Property for Correctional Purposes (no CFDA Number).

Bureau of Justice Assistance—Regional Information Sharing Systems (no CFDA Number).

Bureau of Prisons—Construction projects such as correctional institutions and detention centers (no CFDA number)

Immigration and Naturalization Service—Construction projects such as border patrol stations (no CFDA number)

U.S. Marshals Service—Cooperative Agreement Program (no CFDA number).

Proposed Exclusions

The Department is committed to seeking public comment on any proposed exclusion of a financial assistance or direct development program or activity from coverage under E.O. 12372. We are therefore requesting public comment on the following proposed exclusions. After identifying each program or activity that we propose to exclude, we justify the exclusion either by referring to exclusion criteria listed in the White House Fact Sheet that accompanied E.O. 12372 or by explaining why the program or activity does not directly affect the state and local governments.

We welcome comments on the following proposed exclusions:

Office of Juvenile Justice and Delinquency Prevention—Special Emphasis and Technical Assistance Grants (16.541). Excluded under the White House Fact Sheet category of "Research and development national in scope" would be those grants which have as their primary purpose national scope research, development, training of technical assistance; assistance to particular states or local governments would remain covered.

National Institute for Juvenile Justice and Delinquency Prevention Grants (16.542)—Excluded under the White House Fact Sheet category of "Research and development national in scope."

Office of Juvenile Justice and Delinquency Prevention—Missing Children's Assistance (16.543). Excluded under the White House Fact Sheet category of "Research and development national in scope." Most of the funds for this program are for research (national incidence study, national study of police practices and other research studies). A small amount for purposes other than research will be awarded to a national organization, which will allocate funds or services to other groups. The award will not identify particular states or local governments to receive sub-grants and thus will not directly affect state and local governments.

National Institute of Justice—Research and Development Project Grants (16.560). Excluded under the White House Fact Sheet category of "Research and development national in scope."

National Institute of Justice—Visiting Fellowships (16.561). Excluded under the White House Fact Sheet category of "Research and development national in scope."

National Institute of Justice—Research Development Graduate Research Fellowships (16.562). Excluded under the White House Fact Sheet category of "Research and development national in scope."

Bureau of Justice Assistance—Public Safety Officers Benefit Program (16.571). Excluded under White House Fact Sheet category of "Direct payments to individuals."

Bureau of Justice Assistance—Mariel Cubans (16.572). Budget authority appropriated in FY 1985; terminated April 1, 1985. Excluded due to termination of program.

Bureau of Justice Assistance—Criminal Justice Discretionary Grants (16.574). Only grants under this program to non-governmental entities for national scope purposes would be excluded. These activities do not directly affect any specific state or local

government and probably would not be performed by state and local

fourteenth line, "Department of" should read "Department for"

Agency, Room 716 CM #2, 1921 Jefferson Davis Highway, Arlington, VA

ingredient may or may not be

The Office of Management and Budget

ACTION: Proposed rule.

government and probably would not be performed by state and local governments on their own.

Office for Victims of Crime—Crime Victim Assistance (16.575). Excluded under the White House Fact Sheet category of "Financial transfer for which Federal agencies have no funding discretion or direct authority to approve specific sites or projects." Each state is given $100,000 plus a portion determined by population. States determine individual awards.

Office for Victims of Crime—Crime Victim Compensation (16.576). Excluded under the White House Fact Sheet category of "Financial transfer for which Federal agencies have no funding discretion or direct authority to approve specific sites or projects." Funds awarded to a state are based on a percentage of the state's awards during the preceding fiscal year for victims compensation. The state determines where the funds go.

Section 204

Finally, we wish to retract the statement, which we made in our June 24, 1983 **Federal Register** notice of programs and activities covered by E.O. 12372 (48 FR 29248), that the U.S. Marshals Service's Cooperative Agreement Program is subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334). The Department has now determined, in consultation with the Office of Management and Budget, that section 204 does *not* apply to that program.

Dated: July 5, 1985.

Edwin Meese III,

Attorney General.

[FR Doc. 85-16932 Filed 7-16-85; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 33

Enforcement of Nondiscrimination on the Basis of Handicap in Department of Labor Programs

Correction

In FR Doc. 85-15655 beginning on page 27298 in the issue of Tuesday, July 2, 1985, make the following corrections:

1. On page 27299, in the second column, in the seventh paragraph, in the eighteenth line, "they conducted" should read "they are conducted".

2. On page 27301, in the first column, in the fourth complete paragraph, in the fourteenth line, "Department of" should read "Department for".

3. On page 27302, in the third column, in the sixth line, "The" should read "They".

4. On page 27302, in the third column, in the first complete paragraph, in the twenty-fourth line, "providing" should read "proving"; also, in the twenty-eighth line, "under" should read "undue".

5. On page 27305, in the third column, in § 33.9(a)(2), in the second line, "is" should read "it".

6. On page 27306, in the first column, in § 33.9(c) in the second line, "of" should read "or".

7. On page 27306, in the first column, in § 33.9(e), in the sixth line, "strucual" should read "structural".

8. On page 27306, in the second column, in § 33.11(b), in the second line, "persons"should read "persons".

9. On page 27306, in the third column, in § 33.11(d), in the eighteenth line, "publication" should read "publications".

10. On page 27306, in the third column, in § 33.11(e)(1), in the fourth line, "activities" should read "activity".

11. On page 27307, in the third column, in § 33.12(n), in the tenth line, "19" should read "29".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300135; FRL-2863-2]

Mineral Oil; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to expand the exemption from the requirement of a tolerance for mineral oil when used as an inert ingredient diluent, carrier, and solvent in pesticide formulations. This proposed regulation was requested by Malcolm Nicol and Co.

DATE: Written comments, identified by the document control number [OPP-300135], must be received on or before August 16, 1985.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Room 716 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential, by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-7700.

SUPPLEMENTARY INFORMATION: At the request of Malcolm Nicol and Co., the Administrator proposes to amend 40 CFR 180.1001(c) by expanding the existing exemption from the requirement of a tolerance for mineral oil (U.S.P.). The ingredient is listed for use a diluent, solvent in pesticide formulations. The exemption would expand the entry to read "Mineral oil, U.S.P., or conforming to 21 CFR 172.878 or 178.3620(a), (b)" and the additional use as a carrier in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. A separate entry is not necessary to reflect this change.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Mineral oil, U.S.P, or conforming to 21 CFR 172.878 or 178.3620 (a), (b).

Name and address of requestor. Malcolm Nicol and Co., Lyndhurst, NJ 07071.

Bases for approval. 1. Petroleum oils are cleared under 40 CFR 180.1001(b)(3) for use on growing crops.

2. Mineral oil (U.S.P.) is cleared under 40 CFR 180.1001(c) for use as a diluent of solvent.

3. Mineral oil, U.S.P., or conforming to Title 21, § 172.878 or § 178.3620 (a), (b) is cleared under 40 CFR 180.1001(e) for use as a solvent or diluent.

4. White Mineral oil is cleared under 21 CFR 172.878 for use in foods.

5. Mineral oil is cleared under 21 CFR 178.3620 (a) and (b) for use as a component of nonfood articles intended for use in contact with food.

Based on the above information, and review of its use, it has been found that when use in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP-300135]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 2, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for 40 CFR Part 180 continues to read as set forth below:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(c) is amended by revising the entry mineral oil (U.S.P.), to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Mineral oil, U.S.P., or conforming to 21 CFR 172.878 or 178.3620(a), (b) (CAS Reg. No. 8012-95-1).	.....	Diluent, carrier, and solvent.
* * * * *		

* * * * *

[FR Doc. 85-16477 Filed 7-16-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300133; FRL-2864-8]

Octyl Epoxytallate, Stearic Acid, 4,4'-Isopropylidene-Diphenol Alkyl (C_{12}-C_{15}) Phosphites, Carbon Black, Chlorinated Polyethylene, and Epoxidized Soybean Oil; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl (C_{12}-C_{15}) phosphites, carbon black, chlorinated polyethylene, and epoxidized soybean oil be exempted from the requirement of a tolerance when used as inert ingredients in pesticide formulations in animal ear tags. These proposed regulations were requested by Zoecon Industries.

DATE: Written comments, identified by the document control number [OPP-300133], must be received on or before August 16, 1985.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: At the request of Zoecon Industries, the Administrator proposes to amend 40 CFR 180.1001(e) by establishing exemptions from the requirement of a tolerance for octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl

(C_{12}–C_{15}) phosphites, carbon black, and chlorinated polyethylene when used as inert ingredients in pesticide formulations in animal ear tags, and amending the existing exemption from the requirement of a tolerance for epoxidized soybean oil for the additional use as a plasticizer in pesticide formulations for animal ear tags.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrangeenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredients. Octyl epoxytallate, stearic acid, 4,4'-isopropylidenediphenol alkyl (C_{12}-C_{15}) C_{15}) phosphites, carbon black, chlorinated polyethylene, and epoxidized soybean oil.

Name and address of requestor. Zoecon Industries, Dallas, TX 75234.

Bases for approval. The ear tags are to be used as controlled-release pesticide-dispensing devices, the active ingredient being incorporated into the plastic matrix in the same manner as flea and tick collars that are made for domestic pets.

1. Octyl epoxytallate is the epoxidized octyl ester of tall oil. Tall oil contains predominantly oleic and linoleic acids and minor amounts of rosin acids. Soybean oil contains predominantly the triglycerides of oleic, limoleic and linolenic acids. Therefore, tall oil is similar to soybean oil regarding its fatty acid content. Tall oil is cleared under 40 CFR 180.1001(c) for use as a surfactant, related adjuvants of surfactants, in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Epoxidized soybean oil is cleared under 40 CFR 180.1001(e) for use as a stabilizer in pesticide formulations applied to animals. When used as proposed, octyl epoxytallate is considered to be toxicologically equivalent to epoxidized soybean oil.

2. Stearic acid is cleared under 40 CFR 180.1001(c) for use as a diluent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

3. 4,4'-Isopropylidenediphenol alkyl (C_{12}–C_{15}) phosphites are cleared under 21 CFR 178.2010 as antioxidants and stabilizers used in polymers in contact with food at levels not to exceed 1.0 percent by weight in the rigid polymer.

4. Carbon black is cleared under 21 CFR 175.300 as a pigment/colorant for resinous and polymeric coatings in contact with foods.

5. Chlorinated polyethylene is cleared under 21 CFR 177.1610 for use as a component of food-contact articles or as a food-contact article.

6. Epoxidized soybean oil is cleared under 21 CFR 181.27 as a plasticizer; under 40 CFR 180.1001(c) for use as a surfactant, related adjuvant of surfactant in pesticide formulations applied to grownig crops or to raw agricultural commodities after harvest; and under 40 CFR 180.1001(e) for use as a stabilizer in pesticide formulations applied to animals. The present clearance under 40 CFR 180.1001(e) can be amended to include the additional use as a plasticizer in animal ear tags.

Based on the above information, and review of their uses, it has been found that, when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendments to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of these inert ingredients, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP–300133]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated July 5, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as set forth below:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by revising the entry for epoxidized soybean oil and by adding and alphabetically inserting the inert ingredients as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
• • • • •		
Carbon black (CAS Reg. No. 1333–86–4).		Colorant/ pigment in animal tag.
• • • • •		
Chlorinated polyethylene (CAS Reg. No. 64754–90–1).		Resin, component animal tag.
• • • • •		
Epoxidized soybean oil (CAS Reg. No. 8013–07–8).		Stabilizer, plasticizer component animal tag.
• • • • •		
4,4'-Isopropylidenediphenol alkyl (C_{12}–C_{15}) phosphites (CAS Reg. No. 92906–32–2).	Not to exceed 1 percent of polymer.	Stabilizer, component animal tag.
• • • • •		
Octyl epoxytallate (CAS Reg. 61788–72–5).		Plasticizer, component animal tag.

Inert ingredients	Limits	Uses
• • • • •		
Stearic acid (CAS Reg. 57–11–4).		Lubricant, component animal tag.
• • • • •		

[FR Doc. 85–16850 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 302

Civil Defense; State and Local Emergency Management Assistance Program (EMA)

Correction

In FR Doc. 85–15869 beginning on page 27627 in the issue of Friday, July 5, 1985, make the following corrections:

§ 302.2 [Corrected]

1. On page 27628, first column, amendatory language instruction 2, third line, "CPG 1–3;" should appear after "of".

2. On the same page, first column, amendatory language instruction 3, fourth line, "; CPG 1–32" should appear between "CPG 1–3" and "*Financial*".

§ 302.3 [Corrected]

3. On the same page, first column, § 302.3 (b), sixth line, "in CPG 1–8," should appear between "1–3," and "'Guide".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 6; Notice 85–9A]

Standard Time Zone Boundary in the State of Indiana; Schedule of Public Hearings

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: In the **Federal Register** of Friday, June 21, 1985 (50 FR 25856), DOT published a proposal to relocate a portion of the State of Indiana from the central to the eastern time zone. The schedule of public hearings was not finalized at the time that proposal was published; it is now, and the schedule is set forth below. The public hearings will be chaired by a representative of DOT. The hearings will be informal and will be tape recorded for inclusion in the docket. Persons who desire to speak at the hearings—either to express opinions or ask questions—need not reserve in advance the opportunity to do so. To the greatest extent practicable, the DOT representative will provide an opportunity to speak for all those wishing to do so. Priority will be accorded those who have not previously spoken. The deadline date and address for written comments was inadvertently omitted from the proposal and are stated below.

DATES: Written comments must be received by Tuesday, August 20, 1985, to be assured of consideration. Comments received after that date will be considered to the extent practical. The dates of the hearings are listed below.

ADDRESS: Comments should be sent to Documentary Services Division, Attention: OST Docket No. 6, Department of Transportation, C–55, Room 4107, Washington, DC 20590. Persons who wish acknowledgment that their comments have been received should include a self-addressed stamped postcard, on which the Docket Clerk will note the date and time of receipt.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, C–50, Department of Transportation, Washington, DC 20590, (202) 472–5577.

SUPPLEMENTARY INFORMATION:

Schedule of Public Hearings

Monday, July 22, 1985

10 a.m.—Municipal Building, 222 First Street, Henderson, Kentucky 42420

6:30 p.m.—University of Evansville, Hyde Hall, Room 126, Evansville, Indiana 47702

Tuesday, July 23, 1985

11 a.m.—Heritage Hills High School, Highway 162, Lincoln City, Indiana 47552

7 p.m.—Owensboro City Hall, 4th and Allen Street, Owensboro, Kentucky 42301

Wednesday, July 24, 1985

11 a.m.—Mount Vernon City Hall, Corner of Sixth and Main Street, Mount Vernon, Indiana 47620

6:30 p.m.—Municipal Building, Council Room, 225 East Main Street, Carmi, Illinois 62821

Thursday, July 25, 1985

10 a.m.—City Hall, 219 Market Street, Mount Carmel, Illinois 62863

6:30 p.m.—Princeton Community High School, Old Highway 41 North, Princeton, Indiana 47670

Friday, July 26, 1985

11 a.m.—Knights of Columbus Hall, Main Street, Jasper, Indiana 47546

6:30 p.m.—City Council Chambers, 17 South Fourth Street, Vincennes, Indiana 47591.

The authority citation for this document is: Act of March 19, 1918, as amended by the Uniform Time Act of 1966 and Public Law 97–449, 15 U.S.C. 260–64; 15 CFR 1.57(a).

Issued in Washington, DC, on July 15, 1985.

Rosalind A. Knapp,

Deputy General Counsel

[FR Doc. 85–17057 Filed 7–16–85; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status for "Achyranthes Rotundata"

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that a public hearing will be held on the proposed determination of endangered status for *Achyranthes rotundata* and that the comment period on the proposal is reopened. The proposal was published in the **Federal Register** on April 22, 1985 (50 FR 15764). This plant is known from only two populations, one located at Ka'ena Point and the second at Barbers Point, island of Oahu, Hawaii. The Ka'ena Point population consists of only two individuals and is believed to be near extirpation. The Barbers Point population is vulnerable to any substantial habitat alteration and faces the potential threat of complete habitat destruction during conversion of existing sites to industrial use. This hearing and the reopening of the comment period will allow comments on this proposal to be submitted from all interested parties.

DATES: The comment period on the proposal is reopened July 17, 1985. The public hearing will be held from 7:00 to 9:00 p.m., on Monday, August 5, 1985, in Ewa Beach, Hawaii. The comment period, which originally closed on June 21, 1985, now closes August 26, 1985.

ADDRESSES: The public hearing will be held at the Ewa Beach Community

199, 93 Stat. 1225; Pub. L. 97–304, 96 Stat.

for Pacific whiting. Regulations at

the most recent data available. The action is taken under authority of 50

on the proposed release of the Pacific

50 CFR Part 663

ADDRESSES: The public hearing will be held at the Ewa Beach Community School Library, Humanities Room, 91–950 N. Road, Ewa Beach, Hawaii. Written comments and material should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Regional Endangered Species Division at the above Regional Office address.

FOR FURTHER INFORMATION CONTACT: For information on the public hearing, contact Mr. Ernest Kosaka, Project Leader, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., Room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546–7530).

SUPPLEMENTARY INFORMATION:

Background

Achyranthes rotundata was first recorded in 1819 by C. Gaudichaud during the voyage of the Uranie. It was later formally described by W. Hillerbrand in 1888 as a variety of *Achyranthes splendens*. The species is a low shrub, 1½ to 8½ feet in height and is covered with short, silvery hairs. Small inconspicuous flowers are borne in terminal spikes with prominent floral and rachis bracts. H. St. John (1976) first recognized this taxon as a species endemic to the island of Oahu, and described it as abundant on the seaward portions of the 'Ewa Coral Plain. He concluded that it may have once been distributed all along the arid and semi-arid coastal lowlands of the island, from Barbers Point to Ka'ena Point. *Achyranthes rotundata* is now unknown except for two populations.

The comment period on the proposal originally closed on June 21, 1985. In order to accommodate the hearing, the Service reopens the public comment period. Written comments may now be submitted until August 26, 1985, to the Service office in the Addresses section.

Author

The primary author of this notice is Mr. Wayne White, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231–6131).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: July 11, 1985.

Joseph R. Blum,

Acting Regional Director.

[FR Doc. 85–17049 Filed 7–16–85; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

[Docket No. 41155–4175]

Foreign Fishing and Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed inseason adjustment and request for comments.

SUMMARY: NMFS issues a preliminary reassessment of domestic annual harvest (DAH) and domestic annual processing (DAP) for Pacific whiting and announces its intent to increase the total allowable level of foreign fishing (TALFF) of Pacific whiting in the fishery conservation zone (FCZ) off Washington, Oregon, and California. The TALFF would be increased by releasing a 35,000 metric ton (mt) reserve which is surplus to domestic needs. The action would not affect the amount of fish harvested and processed by the domestic industry, but would provide the flexibility to allow additional allocations of Pacific whiting to foreign countries, if appropriate.

DATE: Comments must be submitted on or before August 1, 1985.

ADDRESS: Send comments to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150.

SUPPLEMENTARY INFORMATION:

Background

The fishery management plan (FMP) for the Pacific Coast groundfish fishery was implemented on October 5, 1982 (47 FR 43964, October 5, 1982). Under § 611.70 and Part 663, the Secretary of Commerce (Secretary) annually specifies a numerical optimum yield (OY), DAH, DAP, joint venture processing (JVP), TALFF, and a reserve for Pacific whiting. Regulations at § 611.70(d)(2) also establish procedures to reassess DAH, DAP and JVP on or about July 1 each year, and to increase TALFF during the fishing year by any part of the reserve that the Secretary determines will not be harveted by U.S. fishermen.

The following table lists the 1985 fishing year initial specifications for Pacific whiting (50 FR 471, January 4, 1985) and the proposed revised specification of TALFF.

REVISED SPECIFICATIONS FOR FISHING YEAR JANUARY 1, 1985 THROUGH DECEMBER 31, 1985

[In metric tons (mt)]

Terms	Pacific whiting	
	Initial specifications	Revised specifications
OY	175,000	
DAH	95,000	
DAP	10,000	
JVP	85,000	
TALFF	45,000	80,000
Reserve	35,000	0

The initial DAP and JVP for 1985 were based on the projected needs of the U.S. industry, as surveyed by the NMFS Northwest Region in December 1984. The industry was surveyed again in June 1985 to determine whether there was any change in the domestic intent and capacity to harvest and process Pacific whiting, and U.S. catch, effort, and processing performance were projected to the end of the season. The results of the June survey indicate that the initial DAP, JVP, and DAH are adequate to meet domestic needs during the remainder of 1985. There is no current information to indicate any biological problem with the stock nor any need to reassess OY. The Secretary has determined that no part of the reserve will be harvested by U.S. fishermen during the remainder of 1985 and thus is available for release to TALFF.

The purpose of releasing the Pacific whiting reserve, which is surplus to domestic needs, is to provide the flexibility to allow additional allocation to foreign countries, if appropriate. There is no certainty that all of the additional TALFF will be allocated to foreign countries during 1985. Poland was allocated 50,000 mt of Pacific whiting for directed fishing at the beginning of the year. The Soviet Union was allocated 5,000 mt.

Classification

The preliminary reassessment of DAH and DAP and the proposal to release the Pacific whiting reserve are based upon the most recent data available. The action is taken under authority of 50 CFR Parts 611 and 663, is in compliance with Executive Order 12291, and is covered by the regulatory flexibility analysis and environmental impact statement prepared for the authorizing regulations. The action contains no collection of information requirement for purposes of the Paperwork Reduction Act.

The public has had opportunity to comment on the preliminary reassessment of DAP, JVP and DAH, and will be able to discuss and comment on the proposed release of the Pacific whiting reserve during the July 1985 meeting of the Pacific Fishery Management Council. Written public comments also will be accepted for 15 days after publication of this notice in the Federal Register.

(16 U.S.C. 1801 *et seq.*)

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 663

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: July 11, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85–16942 Filed 7–16–85; 8:45 am]

BILLING CODE 3510–22–M

Notices

purpose of the meeting is to hold a briefing session on civil rights issues in

Capitol Street, the Wheeler Room, Jackson, Mississippi. The purpose of the

apparatus of equivalent scientific value to the foreign instrument which is being

Notices

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 12, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (220) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Office of International Cooperation and Development

Automated Skills Inventory System (ASIST)
OICD–73, Qualifications Summary
On occasion
Individuals or households; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 1,500 responses; 1,500 hours; not applicable under 3504(h)
Charles H. Cook, (202) 475–5246

New

- Food and Nutrition Service

Semi-Annual Report of WIC Enrollment
Semi-annually
State or local governments; 172 responses; 2,912 hours; not applicable under 3504(h)
Chris Lipsey, (703) 756–3710

Revision

- Forest Service

Application for Temporary Employment
FS 6100–23
Annually
Individuals or households; 25,000 responses; 12,500 hours; not applicable under 3504(h)
Eric L. Hodnett, (703) 235–2045

Larry K. Roberson,
Acting Departmental Clearance Officer.
[FR Doc. 85–16982 Filed 7–16–85; 8:45 am]
BILLING CODE 3410–01–M

Soil Conservation Service

Beardsley Watershed, California; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Beardsley Watershed, Ventura County, California.

FOR FURTHER INFORMATION CONTACT: Eugene E. Andreuccetti, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California, 95616, telephone (916) 449–2848.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Eugene E. Andreuccetti, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns construction of a grade stabilization structure in Beardsley Wash with associated bank stabilization.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Eugene E. Andreuccetti.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Executive Order 12372 regarding intergovernmental review Federal and federally assisted programs and projects is applicable)

Darwyn H. Briggs,
Assistant State Conservationist.
July 8, 1985.
[FR Doc. 85–16917 Filed 7–16–85; 8:45 am]
BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 3:00 p.m. on August 8, 1985, at the Clasic Hotel, 6815 Menual, N.E., the Crown Room, Albuquerque, New Mexico. The purpose of the meeting is to hold a briefing session on civil rights issues in the State and to elect vice-chair for the advisory committee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Vincent J. Montoya or J. Richard Avena director of the Southwestern Regional Office at (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C. July 11, 1985.

Bert Silver,
Assistant Staff Director for Regional Programs.
[FR Doc. 85–16904 Filed 7–16–85; 8:45 am]
BILLING CODE 6335–01–M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m and adjourn at 3:00 p.m. on August 9, 1985, at the U.S. Commission on Civil Rights, Midwestern Regional Office, 230 S. Dearborn Street, Chicago, Illinois. The purpose of the meeting is to discuss future project plans and make subcommittee assignments connected with those plans.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Hugh J. Schwartzberg or Clark Roberts, director of the Midwestern Regional Office at (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 9, 1985.

Bert Silver,
Assistant Staff Director for Regional Programs.
[FR Doc. 85–16902 Filed 7–16–85; 8:45 am]
BILLING CODE 6335–01–M

Mississippi Advisory Committee; Agenda for Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Mississippi Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on August 5, 1985, at the Walthall Hotel, 225 East Capitol Street, the Wheeler Room, Jackson, Mississippi. The purpose of the meeting is to report on the National Chairpersons' Conference.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Louis Westerfield or Bobby Doctor, Director of the Southern Regional Office at (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 11, 1985.

Bert Silver,
Assistant Staff Director for Regional Programs.
[FR Doc. 85–16903 Filed 7–16–85; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Carnegie Institution of Washington; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84–236. Applicant: Carnegie Institution of Washington, Washington, DC 20015. Instrument: Mass Spectrometer, Model VG MM354 with Accessories. Manufacturer: VG Isotopes Ltd., United Kingdom. Intended Use: See notice at 49 FR 35167.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific vaule to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a variable space, multiple (5) collector system capable of simultaneous detection of several ion beams. The National Bureau of Standards advises in its memorandum dated May 20, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,
Director, Statutory Import Programs Staff.
[FR Doc. 85–16984 Filed 7–16–85; 8:45 am]
BILLING CODE 3510–DS–M

Cornell University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–028. Applicant: Cornell University, Ithaca, NY 14853. Instrument: Oscillator-Amplifier Excimer Laser, Model EMG 150ES–C, FL 2002E. Manufacturer: Lambda Physik, West Germany. Intended use: See notice at 49 FR 47647.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high power, diffraction limited and tunable laser radiation at 157, 193, 222, 249, 308 and 351 nanometers for Raman shifting. The National Bureau of Standards advises in its memorandum dated April 13, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,
Director, Statutory Import Programs Staff.
[FR Doc. 85–16962 Filed 7–16–85; 8:45 am]
BILLING CODE 3510–DS–M

Cornell University; Decision on Application for Duty-Free Entry of

a.m. and 5:00 p.m. in Room 1523, U.S.

separate it from the ion HD^+. The National Bureau of Standards advises in

(Catalog of Federal Domestic Assistance

Constitution Avenue NW., Washington,

Comments: None received.

VOL 50 ISS 137 JL 17 1985 UMI

Cornell University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L 98–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83–345R. Applicant: Cornell University, Ithaca, NY 14853. Instrument: Electrophoresis Apparatus and Rotating Prism. Original notice of this resubmitted application was published in the Federal Register of November 21, 1983.

This application is a resubmission of Docket Number 83–345 which was denied without prejudice to resubmission for informational deficiencies.

Comments: None received.

Decision: Approved No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a cylindrical cell immersed in a thermostatted tank to reduce convective circulation and to control temperature accurately up to 80 degrees centigrade. The National Bureau of Standards advises in its memorandum dated May 2, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16967 Filed 7–16–85; 8:45 am]

BILLING CODE 3510-DS-M

Emory University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decison is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–118. Applicant: Emory University, Atlantic, GA 30322. Instrument: Fluorescence Lifetime Instrumentation. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use: See notice at 50 FR 13843.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument operates in the nanosecond to millisecond range, with a pulse light mode providing time-correlated single photon counting. The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16960 Filed 7–16–85; 8:45 am]

BILLING CODE 3510-DS-M

Department of Interior; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–057. Applicant: U.S. Department of Interior, Reston, VA 22092. Instrument: Mass Spectrometer, Model MAT 251 With Accessories. Manufacturer: Finnigan MAT, West Germany. Intended use: See notice at 50 FR 987.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument will be used to measure the effect of H^+_3 ion contributions on the measurement of hydrogen/deuterium ratios in natural water samples at a resolution of 1830, to separate it from the ion HD^+. The National Bureau of Standards advises in its memorandum dated April 8, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument of the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16966 Filed 7–16–85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No.. 85–126. Applicant: National Oceanic & Atmospheric Administration, Boulder, CO 80303. Instrument: Ionosonde Data Recorder, Model KEL–46 & Analyzer. Manufacturer: KEL Aerospace, Australia. Intended use: See notice at 50 FR 13844.

Comments: None received.

Decision: Approved. No instrument or equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is an ancillary device compatible with existing instrument utilized in ionospheric research. The article provides the capability for interactively scaling data from ionogram images and tabulating the results in a systematic machine readable format. The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16958 Filed 7–16–85; 8:45 am]

BILLING CODE 3510-DS-M

Stanford University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No.. 85–120. Applicant: Stanford Universtiy, Stanford, CA 94305. Instrument: Streak Camera, Model C 1587 with Accessories. Manufacturer: Hamamastsu, Japan. Intended use: See notice at 50 FR 13844.

Comments: None received.

Decision: Approved. No instrument or equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can measure phenomena with a time resolution of less than 3.0 picoseconds. The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16961 Filed 7–16–85; 8:45 am]

BILLING CODE 3510-DS-M

Texas A&M Research Foundation; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–083. Applicant: Texas A&M Research Foundation, College Station, TX 77843. Instrument: Gas Isotope Ratio Mass Spectrometer System, Model 251 PM. Manufacturer: Finnigan Corporation, West Germany. Intended use: See notice at 50 FR 7944.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) a major iron beam current of 2.0×10^{-7} amperes for analysis of carbon dioxide and (2) precise analysis of very small sample volumes (internal precision is 0.008 percent for samples down to 0.001 milliliters). The National Bureau of Standards advises in its memorandum dated April 23, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or appartus of equivalent scientific value to the foreign iunstrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16959 Filed 7–16–85; 8:45 am]

BILLING COD 3510-DS-M

University of Illinois/Urbana-Champaign Campus; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84–321R. Applicant: University of Illinois/Urbana-Champaign Campus, Urbana, IL 61801. Instrument: Pulsed Dye Laser, Model FL 2002E. Original notice of this resubmitted application was published in the Federal Register of October 24, 1984.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a high energy/pulse (>500 mJ for XeCl) at a reputition rate >25 hertz, a broad tuning range (330–860 mm) and a ASE background $<10^{-2}$. The National Bureau of Standards advises in its memorandum dated March 1, 1985 that (1) the capability of the foreign instrument described above is pertinent to the application's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–16963 Filed 7–16–85; 8:45 am]

BILLING CODE 3510-DS-M

The University of Texas at Austin; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85–141. Applicant: The University of Texas at Austin, Austin, TX 78713. Instrument: CP/Mass Spectrometer. MANUFACTURER: VG Instruments, United Kingdom. Intended use: See notice at 50 FR 18898.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value of the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides an inductively coupled plasma source interfaced with a quadrupole mass spectrometer system capable of both positive and negative ion detection in aqueous samples. The capability of

the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Program Staff.

[FR Doc. 85-16965 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-DS-M

Semiconductor Technical Advisory Committee; Meeting

AGENCY: International Trade Administration, Commerce.

Federal Register Citation of Previous Announcement: 50 FR 26598 June 27, 1985.

Previously Announced Time and Date of the Meeting: 9:30 a.m.,

Changes in the Meeting: Cancelled.

Milton M. Baltas,

Director, Technical Programs Staff Office of Export Administration.

July 12, 1985.

[FR Doc. 85-16957 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-DT-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program: Publication of Directory Supplement

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of NVLAP Directory Supplement

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions taken during the seond quarter of 1985..

FOR FURTHER INFORMATION CONTACT: Dr. Stanley I. Warshaw, Manager, Laboratory Accreditation, ADMIN A603, National Bureau of Standards, Gaithersburg, MD 20899 (301) 921-3751.

SUPPLEMENTARY INFORMATION: This supplement to the 1984 NVLAP Director of Accredited Laboratories (NBS Special Publication 687 issued February 1985) is published pursuant to section 7.6(b) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR 7.6(b)).

The following table summarizes NVLAP accreditation actions for the period April 1, 1985, through June 30, 1985.

	TIM	CON	CAR	STO	ACO	CPL	DOS	Totals
Initial accreditations	1	1				1	2	5
Suspensions						-1		-1
Balance	36	31	24	10	9	2	25	139

TIM—Insulation LAP.
CON—Concrete LAP.
CAR—Carpet LAP.
ACO—Acoustical Testing Services LAP.
STO—Stove LAP.
CPL—Commercial Products LAP (Paint, Paper, Mattresses).
DOS—Dosimetry LAP.

The laboratories awarded initial accreditations are:

Insulation LAP—Celotex Tracy Plant, Tracy, CA

Concrete LAP—GAI Consultants, Monroeville, PA

Commercial Products LAP—MacMillan Bloedel, Pine Hill, AL

Dosimetry LAP—Texas Utilities, Glen Rose, TX; Gulf States Utilities, St. Francisville, LA

The laboratory whose accreditation has been suspended due to temporary inoperation is:

Commercial Products LAP—Chemray, Middlesex, NJ

Dated: July 11, 1985.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 85-16907 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Limits for Certain Cotton Textile Products Produced or Manufactured in Bangladesh Under New Bilateral Agreement

July 12, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 18, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On June 28, 1985, the Governments of the United States and Bangladesh exchanged letters on a new Bilateral Cotton Textile Agreement. The agreement establishes specific limits of 55,000 dozen and 330,000 dozen, respectively, for men's and boys' other cotton coats in category 334 and men's and boys' woven cotton shirts in Category 340, produced or manufactured in Bangladesh and exported, in the case of Category 334, during the twelve-month period which began on Junuary 29, 1985 and extends through Jaunary 28, 1986; and, in the case of Category 340, during the twelve-month period which began on March 1, 1985 and extends through February 28, 1986.

The import charges to the limit for Category 340 are being adjusted to account for imports in the amount of 199,120 dozen charged to the level for the restraint period established prior to negotiation of the new agreement. This prior level was filled.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1983 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

July 12, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directives of April 15, and April 25, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements concerning cotton textile products in Categories 334 and 340, produced or manufactured in Bangladesh and exported during specified twelve-month periods.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement effected by exchange of notes dated June 28, 1985, between the Governments of the United States and Bangladesh; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 18, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 334 produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 29, 1985 and extends through January 28, 1986, in excess of 55,000 dozen.[1]

Also effective on July 18, 1985, you are directed to prohibit entry and withdrawal from warehouse for consumption in the United States of cotton textile products in Category 340, produced or manufactured in Bangladesh and exported during the twelve-month period which began on March 1, 1985 and extends through February 28, 1986 in excess of 330,000 dozen.[1]

Textile products in Category 334 and 340 which have been exported to the United States prior to the first days of the restraint periods established in this directive shall not be subject to this directive.

Textile products in Category 334 and 340 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The foregoing limits are subject to adjustment in the future according to the provisions of the bilateral agreement which provide, in part, that: (1) specific limits may be exceeded by not more than six percent for swing during an agreement year; (2) carryforward of six percent is available during the initial twelve-month period; and (3) carryover may be available up to 11 percent during the subsequent agreement period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annoted (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-16968 Filed 7-16-85; 8:45 am]

BILLING CODE 3510-DR-M

[1] The restraint limits have not been adjusted to reflect any imports exported after January 28, 1985 (Cat 334) or February 28, 1985 (Cat 340). Charges in the amount of 199,120 dozen should be made to the limit for Category 340 to account for imports exported during the previous restraint period.

COMMODITY FUTURES TRADING COMMISSION

Chicago Rice and Cotton Exchange; Proposed Amendments Relating to the Rough Rice Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Rice and Cotton Exchange ("CRCE" or "Exchange") has submitted a proposal which would amend the terms and conditions of its rough rice futures contract. The principal amendments being proposed by the CRCE would redefine the delivery area from the four-state delivery area of Arkansas, Louisiana, Mississippi and Texas currently specified in the contract to an area encompassing twelve Arkansas counties; revise the contract's procedures for establishing locational price differentials; reduce the position limit for the May delivery month and require that rice hedge exemptions from the contract's position limits be subject to prior CRCE approval under the hedge definitions and exemptions contained in CRCE Chapter X; extend the last trading day of the September delivery month to the last business day of September and extend the last delivery day for the September delivery month to the tenth business day of October; and delete July as a delivery month. In addition, the proposal would modify the quality differentials applicable to the delivery of rough rice with different percentages of head rice. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before August 16, 1985.

SUPPLEMENTARY INFORMATION: The current terms and conditions of the rough rice contract specify that delivery of rough rice on the contract may occur in regular warehouses located in the states of Louisiana, Taxas, Mississippi and Arkansas. Under the CRCE proposal, the contract's current four-state delivery area would be reduced to an area encompassing twelve counties in Arkansas.

The Exchange believes that the proposed twelve county Arkansas delivery area would increase the pricing and hedging utility of the rough rice contract. The Exchange indicates that the proposed delivery area accounts for over 60 percent of Arkansas' total long grain rice production, serves as the concentration and processing point for additional long grain rice, includes over 28 warehouses accounting for most of Arkansas' public warehouse rice storage capacity, and includes all 13 of Arkansas' commercial rice processing mills that in aggregate account for over 40 percent of the total U.S. long grain mill production.

Under the current CRCE rough rice contract, the only par delivery location is the milling center of Stuttgart, Arkansas. Locational price differentials (premiums or discounts) for delivery of rough rice at warehouses at any other milling center are establishd quarterly and reflect the cost of shipping milled rice by rail from each milling center to Gulf ports, including placement free alongside ship (F.A.S.), relative to the costs of such shipment from Stuttgart. Warehouse not located at a milling center are currently assigned an additional differential (discount) based on the cost of truck movement of rough rice to the nearest milling center. The existing rules in effect provide a transportation credit for deliveries of rough rice at local warehouses or regional milling centers which are closer than Stuttgart to the major Gulf export centers of Lake Charles and Houston, because the value of rough rice increases as its location is nearer the Gulf ports.

Under the CRCE proposal, rough rice stored at all mill-site warehouses located within the proposed twelve county delivery area would be deliverable at par. Delivery of rough rice in regular warehouses not located at mill sites would be subject to a schedule of fixed discounts, which are based on the prevailing costs of moving rough rice by truck to the mill site warehouse nearest to each such regular warehouse, according to the Exchange. The CRCE maintains that the majority of rough rice is transported by truck within the

proposed delivery area and, therefore,

satisfaction of the rough rice futures contract at rice mill warehouses at the

constitute the locational differentials applied on a quarterly basis to

Other materials submitted by the CRCE in support of the proposed

proposed delivery area and, therefore, truck rates would be the most applicable. The Exchange further maintains that the proposed locational differentials would be consistent with cash market practices.

The CRCE proposal also includes amendments to the terms and conditions of the rough rice contract which the Exchange is adopting to avoid possible problems with respect to deliverable supplies of rough rice during specific delivery months. These include: (1) The deletion of July as a delivery month, (2) a reduced position limit for the May delivery month: (3) an extension of the last trading day in the September delivery month to the last business day of September; and (4) an extension of the last delivery day in the September delivery month to the tenth business day of October. In addition, the Exchange proposes to amend Chapter X of its rule book to require rough rice hedgers who desire to hold positions in excess of the contract's position limits to obtain prior approval by the Exchange before establishing such positions.

In addition, the rough rice contract currently specifies a premium or discount of 1.0 percent of the contract price for each percent of head rice milling yield above or below 55 percent, the contract's par requirement for head rice milling yield. Under the proposed amendments, the premium and discount schedule for head rice milling yield would be revised to 1.75 percent of the contract price.

The Exchange indicates that the current 1.0 percent premium and discount schedule for head rice milling yields is not reflective of actual cash market values. The Exchange maintains that the existing 1.0 percent premium and discount schedule penalizes the delivery of higher quality rice on the contract while rewarding the delivery of lower quality rice. The Exchange believes the proposed 1.75 percent premium and discount schedule is more reflective of actual cash market prices, which would allow producers, merchandisers and processors of rough rice to better utilize the rough rice futures contract for price basing and hedging.

The proposed amendments would be implemented within ten days after Commission approval for all currently listed contract months as well as all contract months subsequently listed by the Exchange for trading.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: In accordance with section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposal submitted by the CRCE concerning its rough rice futures contract is of major economic significance. Accordingly, the principal amendments being proposed by the CRCE are printed below, using bracketing to indicate deletions and Italics to indicate additions:

* * * * *

1101.01 Contract Specifications

* * * * *

To be deliverable, rough rice shall have a milling yield of not less than 65%, including not less than 48% head rice. Each precent of head rice over or below 55% shall receive a [one] *1.75* percent premium or discount, respectively, toward the settlement price for long grain rough rice and each percent of broken rice over or below 15% shall receive a .5% premium or discount, respectively. All rough rice shall be of a Southern origin or such other origin as the Exchange may approve.

1101.02 *Trading Months and Hours*—Futures contracts shall be traded initially for delivery during the months of September, November, January, March, *and* May [, and July] of each year. Thereafter, trading shall commence in each contract, for delivery during the twelfth eighteenth month hence, on the first business day immediately following the current delivery month of the same contract. Trading shall be conducted from 8:45 a.m. to 1:45 p.m. except in the expiring contract on the last day of trading when trading shall cease at 12:00 Noon.

* * * * *

1101.06 *Termination of Trading*—No trades shall be made during the last seven business days of the trading month. Any trades remaining open during this period shall be settled by delivery or a bona fide exchange of futures for the cash commodity. *Provided however, that for the September delivery month no trade shall be made following the last business day of September.*

* * * * *

1101.08 *Position Limits and Trading Limits*—The limit on the maximum net long or net short position in long grain rough rice on or subject to the Rules of the Exchange which any person may hold or control is 250 contracts in any one future month and 500 contracts in all future months combined. *On or after the first trading day preceding the first notice day of the expiring futures month of May the limit will be reduced to 150 contracts.* The foregoing limits do not apply to bona fide heding [operations as defined in the regulations of the CFTC.] *positions in accordance with rules 1001 and 1002.*

In determining whether any person has exceeded the limits established under this rule, all positions in accounts for which such person by power of attorney or otherwise directly or indirectly controls trading shall be included with the positions held by such person.

Such limits upon positions shall apply to positions held by 2 or more persons, acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by a single person.

A position of 50 or more contracts representing a long or short position in any one futures month shall be a reportable position. Every member, or partner or corporation for which a membership is registered under rule 202, shall report each and every such reportable position to the Department of Surveillance, Audits and Investigations at such times, and in such form and manner as shall be prescribed by the Business Conduct Committee.

* * * * *

1102.03 *Delivery Dates*—Delivery may be made by the seller upon any business day of the delivery month the seller may select. Delivery must be made no later than the last business day of the delivery month. *Provided however, that delivery for the September delivery month may be made through the 10th business day of October.*

* * * * *

1102.06 *Par Delivery Point*—The par delivery [point for delivery of rough rice shall be Stuttgart, Arkansas. When delivering a warehouse receipt for long-grain rough rice issued by a warehouse located other than in Stuttgart, Arkansas, the rice shall be priced at a premium or discount to rice located in Stuttgart, Arkansas, in accordance with a schedule of such premiums or discounts, established and published by the Exchange pursuant to paragraph 1102.07 for each such warehouse.] *points for rough rice shall be mill site warehouses within the boundaries of the Arkansas counties of Craighead, Jackson, Poinsett, Woodruff, Cross, St. Francis, Lonoke, Prairie, Monroe, Jefferson, Arkansas and DeSho. A mill site warehouse shall be defined as a warehouse which is attached or directly adjacent (within 200 yards) to a rice mill regardless of municipal boundaries. Rough rice may be delivered in satisfaction of the rough rice futures contract at rice mill warehouses at the contract price. Rough rice may be delivered at regular warehouses within the twelve-county area which are not at mill sites in accordance with a schedule of discounts established and published by the Exchange pursuant to rule 1102.07. No warehouse regular for delivery of rough rice shall be located outside the twelve Arkonsas counties listed above.*

1102.07 *Location Differentials*—[The Exchange shall establish location differentials for each regular warehouse for the immediately following calendar quarter.

Exchange officials shall not collect on a routine basis for each warehouse not located within the municipal boundaries of a regional milling center information for the preceding calendar quarter as to all quantities of rough rice shipped, and actual truck rates paid for shipment thereof, to the following regional milling center: Greenville, Mississippi; Crowley, Louisiana; Houston, Texas; Jonesboro, Arkansas; or Stuttgart Arkansas. Exchange Officials shall collect the same information for the same period with respect to milled rice shipped by rail from Stuttgart, Arkansas; Jonesboro, Arkansas; Crowley, Louisiana; and Greenville, Mississippi to Lake Charles, Louisiana and for milled rice moved from warehouse to port within the Houston switching district.

Exchange officials shall establish a regional differential for each regional milling center in the following manner. The cost of shipping a single fully loaded boxcar of milled rice (bagged) from said regional milling center to its respective Gulf port shall be added to the port charge (unloading charges, wharfage, and other costs incidental to placing milled rice "free alongside ship") for rice. The result shall be known as the "F.A.S. differential." The F.A.S. differential for each regional milling center shall be subtracted from the corresponding figure for the par delivery location, Stuttgart, Arkansas and multiplied by the rough to milled rice conversion factor of .55. The result shall be the inter-regional milling center location differential.

Exchange officials shall establish a local differential for each regular warehouse not located within the municipal boundaries of a regional milling center based on a combination of the rates paid for shipment of rough rice from such warehouse to its nearest regional milling center and the regional differential established for said regional milling center.

The regional and local differentials established as provided above shall constitute the locational differentials applied on a quarterly basis to deliveries on the rough rice contract.

In establishing the location differentials for both the regional milling centers and their tributary warehouses, Exchange officials shall use rates within the range of such rates actually paid during the preceding calendar quarter. If no actual shipments have been made during such a period by any warehouse, Exchange officials may establish a differential for such warehouse on the basis of the percentage change in actual rates gathered with respect to the next nearest warehouse from the preceding quarter to the quarter for which such differential is being established.

In accordance with this rule, Exchange officials will propose to the Rice Committee specific F.A.S. differentials and local differentials for each regular warehouse. If the Rice Committee disagrees with any particular F.A.S. or local differentials, it may alter that differential to more accurately reflect true costs of transportation or charges for placing rice F.A.S. and shall record in detail its reasons for making any changes. The Exchange shall publish a schedule of location differentials no later than the last business day of the calendar quarter preceding the calendar quarter for which they shall be effective.] *Delivery of rough rice in satisfaction of the rough rice futures contract at regular warehouses other than regular mill site warehouses shall be subject to discounts based on the costs of moving rough rice by truck to the mill site warehouse nearest to such regular warehouses. The nearest mill site warehouse to a warehouse not located at a mill site shall be determined on the basis of the minimum number of miles on roads suitable for conveyance of rough rice by truck to the nearest mill site warehouse.*

The discounts which are applicable to delivery at regular warehouses other than regular mill site warehouses shall be as follows:

Miles to Nearest Mill Site/Differential

[Cents per cwt]

	Cents
Less than 5 miles	−5
5 but less than 15 miles	−10
15 but less than 30 miles	−15
30 but no more than 40 miles	−20

Pursuant to the provisions of this rule the Exchange shall publish for each regular warehouse its applicable discount.

* * * * *

Other materials submitted by the CRCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by August 16, 1985.

Issued in Washington, DC on July 11, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85–16901 Filed 7–16–85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards; Names of Additional Members

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of additional members of the Performance Review Boards for the Department of Army for 1985.

EFFECTIVE DATE: July 15, 1985.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310–0300, (202) 697–2204.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executive's performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Publication of this notice corrects the notice published in 50 FR, No. 133, dated 11 July 1985, pages 28244, to account for additions to the

membership of those boards previously published.

Name of the Committee: Army Science Board (ASB).

Title: Annual Survey of Children in Institutions for Neglected or

the name, address, telephone number and type of institution, as well as tuition

Room 5673, Regional Office Building #3, 7th and D Streets SW., Washington, D.C.

membership of those boards previously published.

The additional members of the Performance Review Board for the U.S. Army Corps of Engineers are:

1. Brigadier General James W. van Loben Sels, Commander, U.S. Army Engineer Division, Europe.

2. Brigadier General Thomas A. Sands, Commander, U.S. Army Engineer Division, Lower Mississippi Valley.

3. Mr. Herbert H. Kennon, Chief, Engineer Division, U.S. Army Engineer Division, U.S. Army.

4. Brigadier General Paul F. Kavanaugh, Commander, U.S. Army Engineer Division, North Pacific.

5. Mr. Kenneth H. Murdock, Chief, Planning Division, U.S. Army Engineer Division, North Central.

The additional members of the Performance Review Board for the U.S. Army Materiel Command are:

1. Mr. Alan M. Moss, Technical Director, U.S. Army Armament Research and Development Center.

2. Dr. Richard G. Rhoades, Associate Director for Technology, U.S. Army Missile Laboratory.

3. Mr. Richard Vitali, Deputy Chief of Staff for Technology, Planning, and Management, Headquarters, U.S. Army Materiel Command.

4. Mr. Colin F. MacDonnell, Jr., Director of Engineering, U.S. Army Communications-Electronics Command.

Carol D. Smith,

Chief, Senior Executive Service Office.

[FR Doc. 85-16980 Filed 7-16-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Meeting Change

The following meeting of the Army Science Board 1985 Summer Study on Manpower Implications of Logistics Support for AirLand Battle (Chair and Three subpanel Chairs—Active/U.S. Army Reserve, Army National Guard, and Mobilization Base/Industrial Perspective), which was originally scheduled for 30 July 1985 (50 FR 27481, July 8, 1985), has been changed to 9 August 1985.

Place: The Pentagon, Washington, DC.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-16943 Filed 7-16-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday, 31, July-1 August 1985.

Place: St. Louis, MO.

Time: 31 July-0900-1500 hours; 1 August-0900-1500 hours:

Agenda: The Training Technology Subpanel of the Army Science Board 1985 Summer Study on Training and Training Technology-Applications for AirLand Battle and Future Concepts will meet for planning and consolidation of information for a preliminary report writing session, and discussions involving advance simulations and display systems. This meeting will be closed to the public in accordance with section 552(c) of Title 5, U.S.C. specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-16945 Filed 7-16-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Friday, 9 August 1985.

Times of Meeting: 0800-1700 hours.

Place: Hay Group, Inc., Washington, DC.

Agenda: The Army Science Board 1985 Summer Study on Manpower Implications of Logistic Support for AirLand Battle—Chair and three subpanel Chairs (Active/U.S. Army Reserve, Army National Guard, and Mobilization Base/Industrial Perspective)—will meet to draft a final report. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-16944 Filed 7-16-85; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before August 16, 1985.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public and early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Department Under Secretary for Management publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: July 12, 1985.

Linda M. Combs,

Deputy Under Secretary for Management.

Office of Elementary and Secondary Education

Type of Review Requested: Extension

Title: Annual Survey of Children in Institutions for Neglected or Delinquent Children or in Adult Correctional Institutions under Chapter 1 of the Education Consolidation and Improvement Act of 1981

Agency Form Number: ED 4376

Frequency: Annually

Affected Public: State or local governments

Reporting Burden—Responses: 52; Burden Hours: 2,000

Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0

Abstract: An annual survey is conducted to collect data on (1) the average daily attendance of children in State-operated or supported institutions for neglected or delinquent children or in adult correctional institutions and (2) the October caseload of children in local institutions for neglected or delinquent children. These data are used in the statutory formula for computing entitlements under Chapter 1 of the Education Consolidation and Improvement Act of 1981.

Office of Management

Type of Review Requested: New

Title: Authorization of Automatic Preauthorized Debits

Agency Form Number: R80-4P

Frequency: One-time

Affected Public: Individuals or households; Businesses or other for-profit; Non-profit institutions

Reporting Burden—Responses: 10,000; Burden Hours: 1,700

Recordkeeping Burden—Recordkeepers: 10,000; Burden Hours: 300

Abstract: This report relates to the collection of recurring payments, such as loan repayments, fees, premiums and other payments. A signed authorization to collect these funds via debit (charge) to a payor's bank account is required.

Office of Educational Research and Improvement

Type of Review Requested: New

Title: Institutional Characteristics of Postsecondary Institutions, 1985-86

Agency Form Number: G50-12P

Frequency: Annually

Affected Public: State or local governments; Non-profit institutions; Small businesses or organizations

Reporting Burden—Responses: 12,000; Burden Hours: 6,000

Recordkeeping Burden—Recordkeepers: 0; Burden Hours: 0

Abstract: This survey collects characteristics of institutions of postsecondary education in order to develop and maintain the Integrated Postsecondary Education Data System control file. The data requested includes the name, address, telephone number and type of institution, as well as tuition and fees information. Institutional accreditation is also verified.

[FR Doc. 85-16976 Filed 7-16-85; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

National Institute of Handicapped Research; Application Notice for Special Projects and Demonstrations for Spinal Cord Injuries

Applications are invited for new projects for the Special Projects and Demonstrations for Spinal Cord Injuries program for Fiscal Year 1985 under the National Institute of Handicapped Research.

Authority for this program is contained in section 311 (a) and (b) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 and Pub. L. 98-221 (29 U.S.C. 777a (a) and (b)).

Closing Date for Transmittal of Applications: Applications for new awards must be mailed or hand delivered on or before August 16, 1985.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133N, 400 Maryland Avenue SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets SW., Washington, D.C. 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: NIHR has approximately $1,300,000 remaining for this program for Fiscal Year 1985. The Secretary expects to fund up to 4 projects, through either grants or cooperative agreements, at approximately $325,000 per project per year.

However, these estimates do not bind the Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulation.

Program Information: In Pub. L. 98-221, the 1984 amendments to the Rehabilitation Act, Congress transferred a program of model spinal cord injury (SCI) demonstration projects from the Rehabilitation Services Administration to NIHR. While projects have been funded under the Model Spinal Cord Injury Systems program since 1970, the program has evolved on the basis of experience and Congressional interest. In Fiscal Year 1984, seventeen projects were funded under this program.

This is a program of research as well as a demonstration effort, as evidenced by the Congressionally-mandated objectives of research and evaluation of new clinical methods and techniques, collection of data related to cost effectiveness, and evaluation of new and innovative methods of service delivery.

The preliminary results and benefits of the model system have been widely disseminated, and new clinical research results are disseminated through the medical and scientific literature and professional conferences. Criteria used in evaluating these programs have been adopted by the Commission on Accreditation of Rehabilitation Facilities (CARF) and the American Spinal Injury Association (ASIA) for establishing national standards for all accredited spinal cord injury rehabilitation programs.

The regulations for this program emphasize a new scope of work. This scope of work emphasizes collaborative research and investigator-initiated clinical research to solve the medical management and rehabilitation problems of spinal cord injury. The

concept of a Model System will be retained to facilitate continued study of service delivery issues. The Special Projects and Demonstrations also coordinate work with the NIHR spinal cord injury Research and Training Centers and focus on research efforts of mutual and complementary interest.

NIHR intends to fund SCI projects this year which will be more comprehensive in scope and will include the added emphasis on collaborative clinical research and evaluation. These projects are for the purpose of providing model rehabilitation services to SCI patients in a mulitdisciplinary setting, demonstrating and evaluating the benefits of a service system, conducting research and demonstrations concerning new and innovative treatment methods, and contributing to a national analysis of data on system results.

Application Forms: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Mailstop 3070–2305, Switzer Office Building, 400 Maryland Avenue SW., Washington, D.C. 20202 (Attention: Peer Review Unit), Telephone (202) 732–1207. Deaf and hearing impaired individuals may call (202) 732–1198 for TTY services. Requests should refer to applications for Spinal Cord Injury Systems grants, 84.133N.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

(Approved by the Office of Management and Budget under Control Number 1820–0027)

Applicable Regulations: The following regulations are applicable to these programs:

(a) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350 and 359, published in the **Federal Register** on April 26, 1985 at 50 FR 16672).

For Further Information Contact: Betty Jo Berland, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3070, 330 C Street SW., Washington, D.C. 20202. Telephone (202) 732–1139; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

(29 U.S.C. 760–762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: July 12, 1985.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 85–16977 Filed 7–16–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Radioactive Waste Management System Draft; Project Decision Schedule

AGENCY: Office of Civilian Radioactive Waste Management, DOE.

ACTION: Notice of availability of the radioactive waste management system draft project decision schedule.

SUMMARY: Section 114(e) of the Nuclear Waste Policy Act (NWPA) of 1982 (Pub. L. 97–425), requires the Secretary of Energy, in cooperation with all affected Federal agencies, to prepare a Project Decision Schedule that portrays the optimum way to attain the operation of a geologic repository by 1998 and that identifies the key activities, decision points, and deadlines for Federal agency action that are integal to such initiation of operations.

A preliminary draft Project Decision Schedule was issued on January 4, 1985 (50 FR 1616) and comments were sought from Federal agencies regarding the completeness, accuracy, and clarity of the agency actions identified therein.

Comments received have been incorporated in a Draft Project Decision Schedule (DOE/RW–0018; July 1985), which is being provided at this time to all affected Federal agencies for review and comment and is being made available for information to the public.

The Project Decision Schedule will be issued subsequent to the consideration of comments received from Federal agencies. At such time as the Project Decision Schedule is formally issued, the provisions of section 114(e)(2) of the NWPA will take effect that requires affected Federal agencies to report to the Secretary of Energy and Congress that they cannot comply or have failed to comply with a deadline established by the Project Decision Schedule for taking action.

Copies of the Draft Project Decision Schedule may be obtained by writing: Office of Scientific and Technical Information, Technical Information Center, P.O. Box 62, Oak Ridge, Tennessee 37831.

Request for the Draft Project Decision Schedule should also make reference to the Department of Energy Document Identification Number—DOE/RW–0018; July 1985.

Copies of the document will also be available for public review at the following address: Office of Public Affairs, Room 1E–206, 1000 Independence Avenue SW., Washington, D.C. 20585.

Issued in Washington, D.C., July 11, 1985.

Ben C. Rusche,

Director, Office of Civilian Radiooctive Waste Management.

[FR Doc. 85–17001 Filed 7–16–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ID–2182–000]

William B. Bookhart, Jr.; Application

July 11, 1985.

Take notice that on May 17, 1985, William B. Bookhart, Jr. (applicant) file an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—South Carolina Electric and Gas Company

Director—South Carolina Generating Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 22, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–16939 Filed 7–16–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID–2203–000]

John C. Duffett; Application

July 11, 1985.

Take notice that on May 24, 1985, John C. Duffett (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President and Director—Public Service Company of New Hampshire

Director—Connecticut Yankee Atomic Power Company

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 22, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–16938 Filed 7–16–85; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3189–005]

Joseph M. Keating; Application for Transfer of Major License

July 12, 1985.

Public notice is hereby given that an application was filed on May 17, 1985, under the Federal Power Act, 16 U.S.C. 791(a)—825(r), by Mr. Joseph M. Keating, Licensee, and Rock Creek Limited Partnership, Transferee, for transfer of major license for the Rock Creek Project No. 3189. The project is located on South Fork American River in El Dorado County, California. Correspondence should be directed to William Kriegel, 1801 Avenue of the Star, Suite 815, Los Angeles, California 90067, and Mr. David T. Mercer, Jones, Day, Reavis & Pogue, One Century Plaza—Suite 3600, 2029 Century Park East, Los Angeles, California 90067.

Transferee states that it will comply with all applicable laws of the State of California as required by section 9(b) of the Federal Power Act.

Anyone desiring to be heard or to make any protest about this application should file a motion to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. Comments not in the nature of a protest may also be submitted by conforming to the procedures specified for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protests, or motions to intervene must be received on or before August 19, 1985. The Commission's address is: 825 North Capitol Street, N.E., Washington, DC 20426. the application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–16934 Filed 7–16–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT85–18–000]

Mountain Fuel Resources, Inc., Proposed Change in FERC Gas Tariff

July 11, 1985.

Take notice that Mountain Fuel Resources, Inc. (MFR) on July 2, 1985, tendered for filing and acceptance the following tariff sheets to its FERC Gas Tariff:

First Revised Volume No. 1

First Revised Sheet No. 2

Original Volume No. 3

First Revised Sheet No. 1
First Revised Sheet No. 12

MFR's filing is made pursuant to Commission Order No. 319–B in Docket No. RM81–29–000, which provided that the Additional Incentive Charge program (AIC) as set forth in § 157.209(f) of the Regulations would expire on January 31, 1985. First Revised Sheet No. 12 of Original Volume No. 3 reflects the expiraon of MFR's AIC rate schedule. First Revised Sheet No. 1, Original Volume No. 3, and First Revised Sheet No. 2, First Revised Volume No.1, reflect this expiration in the Table of Contents.

MFR has requested an effective date of January 31, 1985, to allow its FERC Gas Tariff to remain consistent with the termination date of the Additional Incentive Charge program and has requested waiver of § 154.22 of the Commission's Regulations to establish January 31, 1985, as the effective date of its tendered tariff sheets.

A copy of this filing was served upon MFR's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 85–16935 Filed 7–16–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI85–529–000]

Ohio Gas Marketing Corp.; Application for Blanket Limited-Term Certificate of Public Convenience and Necessity, Limited Partial Abandonment Authorization and Declaration of Limited Jurisdiction

July 12, 1985.

Take notice that on June 28, 1985, Ohio Gas Marketing Corporation ("OGMC") 3933 Price Road, Newark, Ohio 43055, filed an application pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717c, 717f, and the provisions of 18 CFR Part 157, for a blanket limited-term certificate of public convenience and necessity authorizing OGMC to conduct a short-term spot sales marketing program, hereinafter referred to as Ohio Gas Marketing Program ("OGMP"), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Approval would (1) authorize the sale of natural gas for resale in interstate commerce; (2) permit limited-term, partial abandonment of certain natural gas sales, (3) confer pre-granted abandonment authorization for sales of natural gas made pursuant to the requested certificate; (4) authorize transportation of natural gas by interstate pipeline companies able and willing to participate in OGMP; and (5) confer pre-granted abandonment

authorization for the transportation service allowed under the requested

However, the information required by Part I.A.3. of the permit must be

excluded from coverage under the

discharges are given in Part II. A. of the

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authorization for the transportation service allowed under the requested certificate. OGMC also requests the Commission to declare that, with respect to OGMC and its activities, the Commission will only assert Natural Gas Act jurisdiction over sales for resale and transportation not otherwise exempt from the NGA.

Under OGMP, OGMC proposes to sell natural gas qualifying for the section 102, 103, 107 and 108 rates under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432. Only contractually committed gas will be sold. OGMC and participating producers will seek temporary releases of gas from the purchasers in order to meet market demand for natural gas sales. Releasing purchasers will be absolved from take-or-pay liability for any volumes of gas released and sold under the program. Arrangements for transporting the released gas will be made on a case-by-case basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under this procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc–85–16936 Filed 7–16–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI85–516–000]

Shell Western E&P Inc.; Petition for Waiver of Condition

July 12, 1985

On June 7, 1985, Shell Western E&P Inc. ("SWEPI") filed with the Federal Energy Reulatory Commission a petition for waiver of condition pursuant to section 502(c) of the Natural Gas Policy Act, 15 U.S.C. 3412(c) and Rule 207 of the Commission's Rules of Practice and Procedure. In its petition, SWEPI seeks a waiver of Ordering Paragraph (B) of the Commission's "Order Denying Rehearing And Modifying Settlement' issued in *Montana-Dakota Utilities Co.*, 9 FERC ¶ 61,012 (October 2, 1984), *reh. denied and clarified*, 30 FERC ¶ 61,018 (January 14, 1985), as to natural gas production from the Pavillion Field, Fremont County, Wyoming.

The procedures applicable to the conduct of this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Co. 85–16937 Filed 7–16–85; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OW–10–FRL–2865–4]

Draft General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf and in State Waters of Alaska; Cook Inlet/Gulf of Alaska

AGENCY: Environmental Protection Agency.

ACTION: Notice of Draft General NPDES Permit.

SUMMARY: The Regional Administrator, Region 10, is proposing to issue a draft general National Pollutant Discharge Elimination System (NPDES) permit for oil and gas stratigraphic test and exploration wells on the Alaskan Outer Continental Shelf (OCS) and in offshore and coastal waters of the State of Alaska. The proposed permit would authorize exploratory discharge in all areas offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) in Federal Lease Sales 55 (Gulf of Alaska) and 60 (Cook Inlet). Additionally, the authorized exploratory discharge sites include all Cook Inlet blocks previously offered for lease by the State of Alaska or offered under State lease sales held during the effective period of this permit.

The proposed Cook Inlet/Gulf of Alaska general permit will also cover discharges from oil and gas development and production operations in coastal waters of the State of Alaska located in Upper Cook Inlet (i.e., north of the Forelands) (Figure 1).

When issued, the proposed permit will establish effluent limitations, standards, prohibitions, and other conditions on discharges from facilities in these areas. These conditions are based on existing national effluent limitations guidelines and material contained in the administrative record. A brief description of the basis for the conditions and requirements of the proposed general permit is given in the fact sheet published below.

Issuance of the final general permit will constitute Agency action under the Administrative Procedure Act (5 U.S.C. 558(c)) and will render null and void all individual permits in the area covered by this general permit which have been continued under 40 CFR 122.6 and the Administrative Procedure Act. There are twenty facilities (listed in Table 1) with individual NPDES permits in this category. Each of these individual permittees have complied with reissuance application procedures and has indicated a preference to be covered under this general permit. Therefore, Region 10 hereby announces its intention to cover these facilities under this general permit. If any individual objects to this automatic coverage, the objection should be submitted in writing during the public comment period.

Public Comment Period

Interested persons may submit comments on the draft general permit to EPA, Region 10, at the address below. Comments must be received in the Regional Office by 4 p.m. on August 19, 1985.

Public Hearing

A public hearing on the proposed general permit is tentatively scheduled to be held at the Federal Building, Room C109, 701 "C" Street, Anchorage, Alaska on August 19, 1985, from 9 a.m. until all persons have been heard. Persons interested in making a statement at the hearing must contact Kerrie Schurr at the address listed below or at (206) 442–1774 by 4 p.m. on August 13, 1985. The hearing will be cancelled if insufficient interest is expressed in it. Interested persons can contact Kerrie Schurr between the hours of 8:30 a.m. and 4 p.m. on August 14, 15, or 16 to confirm that the hearing will take place. At the hearing, interested persons may submit oral or written statements concerning the draft general permits.

Request For Coverage

Facilities receiving automatic coverage under the general permit need not submit a formal request for coverage prior to commencement of discharges.

However, the information required by Part I.A.3. of the permit must be submitted within 14 days of the effective date of the permit. Specific permit numbers under the general permit will be assigned to each permittee of this type at the time of final permit issuance.

For all other facilities, written request for coverage and authorization to discharge under the general permit shall be provided to EPA, Region 10, at least 60 days prior to intitiation of discharges, as described in Part I.A. of the draft permit. The 60-day notification requirement may be waived for those permittees who notify EPA during the public comment period for the draft permit. Authorization to discharge requires written notification from EPA that coverage has been granted and that a specific permit number has been assigned to operations at the discharge site. The permit also requires permittees to notify EPA within 7 days prior to the initiation of discharges at the site, and prior to the initiation of discharges from each new well at a given site.

Administrative Record

The administrative record for the draft permit is available for public review at EPA, Region 10, Room 10D, at the address listed below.

ADDRESS: Public comments and requests for coverage should be sent to: Environmental Protection Agency, Region 10, Attn: Ocean Programs Section M/S 430, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Kerrie Schurr, Region 10, at the address listed above or telephone (206) 442–1774. Copies of the draft general permit and todays notice will be provided upon request.

SUPPLEMENTARY INFORMATION:

Fact Sheet

I. General Permits and Requests for Individual NPDES Permit.

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with the terms of an NPDES permits.

The Regional Administrator has determined that oil and gas facilities operating in the areas described in the proposed general NPDES permit are more appropriately controlled by a general permit than by individual permits. This decision is based on 40 CFR 122.28, 40 CFR Part 125 (Subpart M) and the Agency's recent permit decisions in other Alaskan OCS areas.

Any owner and/or operator authorized to discharged under a general permit may request to be excluded from coverage under the general permit by applying for an individual permit as provided by 40 CFR 122.28(b). The operator shall submit an application together with the reasons supporting the request to the Director, Water Division, EPA, Region 10 ("Director").

A source located within the general permit area, excluded from coverage under the general permit solely because it already has an individual permit (i.e., a permit that has not been continued under the Administrative Procedures Act), may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply. Procedures for modification, revocation, termination, and processing of NPDES permits are provided by 40 CFR 122.62–122.64. As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act that is enforceable under section 309 of the Act.

II. Covered Facilities and Nature of Discharges

A. Nature of Discharges

The proposed permit will authorized discharges from exploratory operations in all areas, and from development and production operations only in state waters of Upper Cook Inlet, north of the Forelands (see Parts II. B. and C., below).

Exploratory operations involve drilling to determine the nature of potential hydrocarbon reserves. Under the permit, exploratory operations would be limited to a maximum of five wells per site. Development operations are engaged in the drilling and completion of production wells. Those operations may occur prior to or simultaneously with production operations, which are engaged in active recovery of hydrocarbons from producing formations.

The proposed general permit will authorize the following discharges: Drilling mud; drill cuttings and washwater; deck drainage; sanitary wastes; domestic wastes; desalination unit wastes; blowout preventer fluid; boiler blowdown; fire control system test water; non-contact cooling water; uncontaminated ballast water; uncontaminated bilge water; excess cement slurry; and mud, cuttings, and cement at the seafloor. Waterflooding discharges, produced water discharges, and well treatment fluids (other than tests fluids) will also be authorized for Upper Cook Inlet development and production operations. Descriptions of discharges are given in Part II. A. of the draft permit.

The discharge of produced solids as defined in Part II. A. of the draft permit is not authorized.

Operators of existing facilities are strongly encouraged to consider whether the above categories will cover all discharges at their facilities. If additional categories are necessary, notification should be given to EPA, Region 10, during the public comment period.

Drilling muds and cuttings are the major pollutant sources discharged from exploratory and development drilling operations. The major production operation pollutant sources are produced water and well treatment fluids.

The Agency considers it appropriate to include exploration discharges with development and production discharges in this proposed permit. First, although some development and production discharges vary from those of exploration, all exploratory discharges are a subset of those occurring in development and production. Second, the vast majority of development and production operations to be covered under this permit are the existing Cook Inlet production facilities. The only other development operation expected in the near-term will be located in the same area as the existing facilities. The existing facilities have been discharging to the high energy, low productivity environment of Upper Cook Inlet for more than 15 years. The locations and types of discharges from these facilities are known. Thus, the Cook Inlet region differs from other offshore regions of Alaska, where development and production are either nonexistent or in the early stages of planning. Additionally, the discharge environments in other regions are generally of lower energy, or of greater biological productivity.

B. Facilities and Areas of Coverage in Federal Waters

The proposed general permit will authorized discharges in all areas offered for lease by MMS in Federal Lease Sales 55 (Gulf of Alaska) and 60 (Cook Inlet). At this time, proposed Sale 88 (Gulf of Alaska/Cook Inlet) has been postponed idefinitely. Because it remains unknown when operations and thus discharges would occur in this area, Region 10 will not include the Sale 88 area in this proposed general permit.

Federal waters are located at least three miles from the ordinary low tide mark along the shoreline (i.e., at least three miles from the inner boundary of

the territorial seas). Operations in these areas are included in the Offshore

Inlet (Figure 1), where the existing

mg/l as possible in discharges from

The types of equipment and processes employed in exploratory development

determinations of BPT. Therefore, no incremental cost will be incurred

has included several monitoring requirements in this permit, as listed in

the territorial seas). Operations in these areas are included in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A). The Offshore Subcategory includes discharges to all waters located seaward of the inner boundary of the territorial seas (Figure 1).

At the present time, specific development and production operations are not planned (and do not presently exist) in the above Federal waters. The permit will therefore cover only exploratory operations in Federal waters, including those operating under existing exploratory permits which expired on June 30, 1984, and were continued under 40 CFR 122.6 and the Administrative Procedures Act (5 U.S.C. 558(c)). Continued permits which will be replaced by the final general permit for exploratory operations in Federal waters include Chevron—Lower Cook Inlet (Permit No. AK–003778–8), and Chevron—Shelikof Strait (Permit No. AK–003731–1).

C. Facilities and Areas of Coverage in State Waters

The proposed general permit will authorize discharges from all Cook Inlet blocks previously offered for lease by the State of Alaska, or offered under state lease sales held during the effective period of this permit. For the purposes of the permit, the southern boundary of Cook Inlet is defined to be the line between Cape Douglas on the west and Port Chatham on the east.

Discharges from new exploratory operations would be allowed in all state waters in Cook Inlet. These include operations in both the Coastal and Offshore Subcategories (40 CFR Part 435, Subparts A and D). Operations in the Offshore Subcategory in state waters would be located within three miles of the ordinary low tide mark along the shoreline, or of closure lines. Closure lines determine the inner boundary of the territorial seas at the mouth of certain embayments. These lines also form the boundary between the Offshore and Coastal Subcategories (Figure 1). Operations in the Coastal Subcategory would be located inside the closure lines. The only existing exploratory permit for operations in state waters which Region 10 intends to replace with the final general permit is the continued exploratory permit for ARCO—Fire Island (Permit No. AK–004054–1).

Discharges from development and production operations would be allowed only for Coastal Subcategory operations north of the Forelands in Upper Cook Inlet (Figure 1), where the existing production platforms are located.

The permit is intended to replace existing continued individual permits (listed in Table 1) for fourteen production platforms, as well as three shore-based facilities which discharge produced water extracted at several of the platforms. The permit would also cover discharges from future platforms such as one planned to be built near platforms in the Trading Bay area in 1986.

EPA, Region 10, has excluded potential development and production in other areas from this permit because (1) the number and precise nature of such future operations is poorly known, in contrast to existing operations in Upper Cook Inlet; and (2) other areas are generally richer in biota and more sensitive to discharges than Upper Cook Inlet.

The proposed permit will not authorize discharges into any wetlands adjacent to the territorial waters of the State of Alaska, or from facilities in the Onshore Subcategory as defined in 40 CFR part 435, Subpart C.

III. Statutory Basis for Permit Conditions

Sections 301(b), 304, 308, 401, 402, and 403 of the Act provide the basis for the permit conditions contained in the draft permit. The general requirements of these sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in Part IV.

A. Technology-Based Effluent Limitations

1. *BPT Effluent Limitations.* The Act requires particular classes of industrial dischargers to meet effluent limitations established by EPA. EPA promulgated effluent limitations guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore and the Coastal Subcategories of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subparts A and D) on April 13, 1979.

BPT effluent limitations guidelines required "no discharge of free oil" for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation required that a discharge shall not cause a film or sheen upon or discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (40 CFR 435.11(d)). The BPT effluent limitation guideline for sanitary waste required that the concentration of chlorine be maintained as close to 1/ mg/l as possible in discharges from facilities housing ten or more persons. No floating solids were allowed as a result of sanitary waste discharges from facilities continuously manned by nine or fewer persons or intermittently manned by any number, or as a result of domestic waste discharges. BPT limitations on oil and grease in produced water allowed a daily maximum of 72 mg/l and a monthly average of 48 mg/l.

2. *BAT and BCT Effluent Limitations.* All permits issued after July 1, 1984, are required by section 301(b)(2) of the Act to contain effluent limitations for all categories and classes of point sources which: (1) control toxic pollutants (40 CFR 401.15) through the use of Best Available Technology Economically Achievable (BAT), and (2) represent Best Conventional Pollutant Control Technology (BCT). BCT effluent limitations apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). In no case may BCT or BAT be less stringent than BPT. Permits must impose effluent limitations which control nonconventional pollutants by means of BAT no later than July 1, 1987.

BAT and BCT effluent limitations guidelines and New Source Performance Standards (NSPS) are currently under development and will be proposed in the near future for the Offshore Subcategory. Guidelines and NSPS are not yet under development for the Coastal Subcategory. In the absence of effluent limitations guidelines for both the Offshore and Coastal Subcategories, permit conditions must be established using Best Professional Judgment (BPJ) procedures (40 CFR 122.43, 122.44, and 125.3). This proposed permit incorporates BAT and BCT effluent limitations based on the Agency's Best Professional Judgment. Previous BPJ determinations for oil and gas exploratory operations in the Offshore Subcategory were incorporated into the general permits for the Bering and Beaufort Seas (49 FR 23734, June 7, 1984), and for Norton Sound (50 FR 23578, June 4, 1984).

As required by section 304(b)(2)(B) of the Act, in developing the BPJ/BAT permit conditions, the Agency considered the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Director deemed appropriate.

The types of equipment and processes employed in exploratory, development, and production operations are well known to the Agency. Region 10 has issued numerous individual permits for such operations, as well as several general permits for exploratory operations. The records for this permit and those earlier permits thoroughly discuss the types of equipment, facilities and processes employed in exploratory, development, and production operations. With regard to the engineering aspects of the application of various types of control techniques, there are no BAT permit limitations based on installation of control equipment. All proposed BAT permit limitations can be achieved through product substitution. Any costs of achieving the effluent limitations and any non-water quality environmental impacts were also evaluated. A discussion of such evaluations is presented below with respect to any limitation where applicable.

As required by section 304(b)(4)(B) of the Act, the Agency considered the same factors in determining BPJ/BCT permit conditions, but with one exception. Rather than considering "the cost of achieving such effluent reduction," any BCT determination includes "consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived and the comparison of the cost and level of reduction of such pollutants from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources." BCT effluent limitations cannot be less stringent than BPT; therefore, if the candidate industrial technology fails the BCT "cost test," BCT effluent limitations are set equal to BPT.

The Agency's evaluation of the BAT factors, as discussed above, is also applicable to BCT, as well as to the Agency's best professional judgment determinations of BPT in cases where there is no BPT effluent limitation guideline for a particular waste stream. Unlike the BAT permit limitations, there are two BCT limitations based on installation of control equipment. There is a 10% limit on the oil content of cuttings, based on the use of cuttings washers. In addition, the oil and grease limits for produced water are based on the use of oil-water separators. With respect to the BCT "cost test," all BCT limitations are equal to the BPT effluent limitations guidelines or to the Region's best professional judgment determinations of BPT. Therefore, no incremental cost will be incurred.

B. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas (i.e., state and federal offshore waters) be issued in accordance with guidelines for determining the degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), and Section 403 are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal" (45 FR 65942, October 3, 1980).

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a determination of unreasonable degradation cannot be made because of a lack of sufficient information, EPA must then determine whether a discharge will cause irreparable harm to the marine environment and whether there are reasonable alternatives to on-site disposal. To assess the probability of irreparable harm, EPA is required to make a determination that the discharger, operating under appropriate permit conditions, will not cause permanent and significant harm to the environment during a monitoring period in which additional information is gathered. If data gathered through monitoring indicate that continued discharge may cause unreasonable degradation, the discharge must be halted or additional permit limitations established.

Preliminary Ocean Discharge Criteria Evaluations for Sales 55 and 60, and a Revised Preliminary Ocean Discharge Criteria Evaluation for Sale 88 and state lease sales located in Cook Inlet, have been completed for discharges from operations in these lease sale areas.

C. State of Alaska Standards and Limitations

All discharges to state waters, either offshore or coastal, must comply with water quality standards and with limitations imposed by the State as part of its certification of NPDES permits under section 401 of the Act.

D. Section 308 of the Clean Water Act

Under Section 308 of the Act and 40 CFR 122.44(i), the Director must require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. EPA has included several monitoring requirements in this permit, as listed in the table below.

IV. Specific Permit Conditions

A. Approach

The determination of appropriate conditions for each discharge was accomplished through:

(1) Consideration of technology-based effluent limitations to control conventional pollutants under BCT;

(2) Consideration of technology-based effluent limitations to control toxic pollutants under BAT;

(3) Evaluation of the Ocean Discharge Criteria for discharges in the Offshore Subcategory, assuming conditions in parts (1) and (2) were in place; and

(4) For state waters, inclusion of permit terms necessary to ensure compliance with state water quality standards and stipulations of state lease sales.

Discussions of the specific effluent limitations and monitoring requirements derived from (1) through (4) appear below in Sections B. through E., respectively. Additional monitoring requirements based on the determinations in (1) and (2) are discussed in Section F. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in the following table:

Discharge and permit condition	Statutory basis
Drilling muds and cuttings:	
Authorized muds and additives only.	BAT.
No free oil	BCT.
No oil-based muds	BCT.
No diesel	BAT.
10% max. oil limitation on cuttings.	BCT
50 mg/l oil & grease—elutriate test.	State Water Quality Standards (WQS).
3 mg/kg cadmium and 1 mg/kg mercury in barite.	BAT.
Monitoring of metals and toxicity.	Section 308.
Inventory of added substances.	Section 308.
Monitor volume discharged	Section 308.
Flow rate limitations	Section 403(c).
Depth related limits	Section 403(c).
Environmental monitoring requirement.	Section 403(c).
Deck drainage:	
No free oil	BCT.
Monitor flow rate	Section 308.
Sanitary wastes:	
No floating solids	BCT.
Chlorine 1.0 mg/l (facilities with more than 10 people).	BCT.
Monitor flow rate	Section 308.
BOD and suspended solids	State WQS.
Domestic wastes:	
No floating solids	BCT.
Monitor flow rate	Section 308.
Miscellaneous discharges (008–015 as defined in permit):	
No free oil	BCT.
Monitor flow rate in cooling water.	Section 308.

Discharge and permit condition	Statutory basis
Produced water:	
Oil & grease limitations	BAT.
Monitor flow rate	Section 308.
Treatment chemicals	Section 308.
Well treatment fluids:	
No free oil	BCT.
No diesel	BAT.
Monitor flow rate	Section 308.
Well completion fluids:	
No free oil	BCT.
No diesel	BAT.
Monitor flow rate	Section 308.
Well test fluids:	
No free oil	BCT.
No diesel	BAT.
Monitor flow rate	Section 308.
Well workover fluids:	
No free oil	BCT.
No diesel	BAT.
Monitor flow rate	Section 308.
Miscellaneous fluids:	
No free oil	BCT.
No diesel	BAT.
Monitor flow rate	Section 308.
Treatment chemicals	Section 308.
Domestic wastes:	
No floating solids	BCT.
Monitor flow rate	Section 308.
Sanitary wastes:	
No floating solids	BCT.
Chlorine 1.0 mg/l (facilities with more than 10 people).	BCT.
Monitor flow rate	Section 308.
BOD and suspended solids	State WQS.
Deck drainage:	
No free oil	BCT.
Monitor flow rate	Section 308.
Desalination unit discharge:	
Monitor flow rate	Section 308.
Treatment chemicals	Section 308.
Blowout preventer fluid:	
No free oil	BCT.
No diesel	BAT.
Monitor flow rate	Section 308.
Uncontaminated ballast water:	
No free oil	BCT.
No diesel	BAT.
Monitor flow rate	Section 308.
Excess cement slurry:	
No free oil	BCT.
No diesel	BAT.
Monitor flow rate	Section 308.
Mud/cuttings cement:	
No free oil	BCT.
No diesel	BAT.
Monitor flow rate	Section 308.
Cooling water:	
Monitor flow rate	Section 308.
Treatment chemicals	Section 308.
Uncontaminated freshwater:	
Monitor flow rate	Section 308.
Uncontaminated seawater:	
Monitor flow rate	Section 308.
Treatment chemicals	Section 308.

previous BPT permits. Thus, for test fluids, the requirement will incur no cost

pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants

additives used, and on the unquantified changes in toxic pollutant

Discharge and permit condition	Statutory basis
Produced water:	
Oil & grease limits	BCT, State WQS, and Marine Water Quality Criteria (MWQC).
pH 6.5–8.5	BCT
Monitor flow rate	Section 308.
Environmental monitoring requirements.	Section 403(c).
Well treatment fluids:	
No free oil	BCT.
No oil-based fluids	BCT.
ph 6.5–8.5	BCT, State WQS, and MWQC.
Monitor volume	Section 308.
Monitor oil and grease	Section 308.
All discharge:	
No halogenated phenol compounds, diesel oil, trisodium nitrilotriacetic acid, sodium chromate, or sodium dichromate.	BAT.
No biocides not FIFRA registered.	BAT.
No floating solids, or visible foam.	BCT.
No oily wastes	State WQS.
Area and depth related requirements.	Section 403(c), State WQS.
Discharge monitoring study	Section 308.

B. BCT Requirements

1. *Oil and grease in produced water:* Oil and grease concentrations in discharges of produced water from all facilities except Phillips Platform A will be limited to a 48 mg/l monthly average and a 72 mg/l daily maximum based on oil/water separation technologies. These limits are the same as the BPT effluent limitation guidelines. Oil and grease limitations from Phillips Platform A, a gas platform, will be set as 15 mg/l monthly average and 20 mg/l daily maximum. The limitations for Phillips Platform A are equal to those in the most recent BPT permit for that facility, limitations with which Phillips is currently in compliance. More stringent limits than 48/72 and 15/20 were considered for all of the oil and gas facilities covered by the permit, but the Region does not have sufficient technology performance data available at this time on which to base more stringent limitations. As these BCT limitations are equal to the BPT level of control, there is no incremental cost involved.

2. *Free oil and oil-based muds.* No discharge of free oil is permitted from the discharges of drilling mud, drill cuttings and washwater, deck drainage, and well treatment fluids. Region 10 has determined that the BPT effluent limitations guideline of no discharge of free oil should also apply to all miscellaneous discharges, including uncontaminated bilge water, uncontaminated ballast water, desalination unit wastes, boiler blowdown, non-contact cooling water, excess cement slurry, blowout preventer fluid, fire control system test water; mud, cuttings and cement at the seafloor; and waterflooding discharges. Thus, the no free oil limitation is Region 10's best professional judgment determination of BPT controls for these discharges. All of these discharges except waterflooding discharges have been subject to a no free oil limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation. Region 10's best professional judgment of BPT controls on free oil also extends to waterflooding discharges, which generally have no free oil.

Under the draft permit, the discharge of oil-based drilling fluids and well treatment fluids (with oil as the continuous phase and water as the dispersed phase) is prohibited since oil-based fluids would violate the BCT effluent limitations of no discharge of free oil.

No technology performance data available to Region 10 indicate that more stringent standards are appropriate at this time. Region 10 has, therefore, set BCT limitations equal to the BPT level of control. As such, these limitations impose no incremental costs.

Compliance with the free oil limitation for deck drainage and miscellaneous discharges will be by visual observation for sheen on the receiving water, except for deck drainage and bilge water under the conditions described below.

Compliance with the free oil limitation will be monitored by year-round use of Static Sheen Test for mud, cuttings, and well treatment fluids. The Static Sheen Test will also be required for monitoring of deck drainage and bilge water during unstable or broken ice and stable ice conditions. The Static Sheen Test is being required for well treatment fluids because these represent a significant discharge from production operations and are likely to be contaminated with oil. Use of the Static Sheen Test will prevent a violation of the free oil limitation due to those discharges most likely to be contaminated with oil. This would not be possible with an after-the-fact visual observation of a sheen on the receiving water.

3. *Oil content of cuttings.* The draft general permit restricts the discharge of oil-contaminated cuttings by prohibiting the discharge of free oil (see Part IV.B.2.) and by limiting the maximum mineral oil content of cuttings. The limitation of 10% by weight on oil content is based on the efficiency of currently available cuttings washers in removing mineral oil from drill cuttings. Region 10 expects that if mineral oil-based drilling muds or water-based muds with high concentrations of mineral oil additives are used, drill cuttings would have to be washed by cuttings washers to meet the free oil limitation. The limitation on the maximum oil content content of drill cuttings has been imposed as an additional means of effectively controlling the discharge of oil from cuttings associated with these muds.

Region 10 expects that cuttings washers will routinely be required only for drilling operations which use mineral oil-based drilling muds or water-based muds with high concentrations of mineral oil additives, and not for all drilling operations. Due to the rare usage of such muds by exploratory drilling operations, very few, if any, exploratory facilities will require the installation of cuttings washers. Such muds may be used more frequently by development or production facilities. However, any facility requiring a cuttings washer to meet the 10% oil limit would already require a cuttings washer to meet the BPT effluent limitation of no free oil. Therefore, there is no incremental cost involved beyond the cost of monitoring compliance, and the 10% oil limitation passes the BCT cost test.

The permit requires an analysis of cuttings for oil content daily when oil-based drilling fluids or oil additives are used. Analysis is also required daily when drilling fluids could be contaminated with hydrocarbons from the formation. In addition, analysis is required immediately on any sample that has failed the daily Static Sheen Test if a discharge has occurred. Two alternative analytical methods for determining the oil content of drill cuttings are specified in the permit: (1) The soxhlet extraction procedure for oil and grease (as specified in 40 CFR Part 136), and (2) the American Petroleum Institute retort distillation procedure for oil.

4. *pH.* The pH of discharged well treatment fluids (which may have a substantially different pH from that of the ambient receiving water) has been limited to a range of 6.5–8.5 at the point of discharge. In the Agency's best professional judgment, this limitation appropriately equals a BPT level of control. No more stringent standard has been identified by the Agency at this time. Therefore, the Agency is setting a BCT effluent limitation for the pH of well treatment fluids equal to that of BPT. This limitation will ensure that pH changes greater than 0.1 pH unit for state waters and 0.2 pH unit for federal waters will not occur beyond the edge of the 100-meter mixing zone (40 CFR 125.121(c)). This requirement for test fluids, a subset of well treatment fluids, has been and is routinely complied with by exploratory operations under

previous BPT permits. Thus, for test fluids, the requirement will incur no cost incremental to BPT. The cost to comply with this limitation for other types of well treatment fluids is expected to be minimal, particularly since well treatment fluids commingled with produced water have been subject to pH limits of 6–9 in all existing BPT permits for Cook Inlet production facilities.

The pH produced water has been limited to a range of 6.5–8.5 at the point of discharge. Previous BPT permits for production facilities in Cook Inlet contained a limitation of pH 6–9. There is thus a minimal cost incremental to BPT.

5. *Floating soilds.* The BCT prohibition of floating solids is equal to the BPT level of control for sanitary and domestic wastes. Region 10 has determined that the BPT effluent limitations guideline of no discharge of floating solids from the discharge of sanitary wastes should apply to all other discharges as well. They have been subject to this limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation. No technology performance data available to Region 10 indicate that a more stringent standard is appropriate at this time. Therefore, Region 10 has determined that BCT effluent limitation on floating solids from these discharges is equal to the BPT level of control. As such, the extension of this limitation to all discharges will involve no incremental cost.

6. *Chlorine.* Chlorine is being regulated as a BCT pollutant because its purpose is to control the conventional pollutant fecal coliform. The requirement of maintaining residual chlorine levels as close as possible to, but no less than 1 mg/l in sanitary discharges for facilities manned by 10 or more people is a BCT determination equal to BPT. There is therefore no incremental cost to the industry.

C. BAT Requirements

1. *Diesel oil.* The discharge of muds which have been contaminated by diesel oil (i.e., those drilling muds which have contained diesel) or drill cuttings associated with these muds is prohibited. Diesel, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hyerocarbons, known to be highly toxic to marine organisms and to contain numerous toxic and nonconventional pollutants. While this limitation thereby controls the toxic as well as nonconventional pollutants present in diesel, the Agency's primary concern is to control the toxic pollutants. The pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants present in diesel oil which are controlled through compliance with the effluent limitation (i.e., no discharge). The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

The Agency selected "diesel" as an "indicator" as an alternative to establishing limitations on each of the specific toxic and nonconventional pollutants present in the diesel-contaminated waste streams. The listed toxic pollutants found in various diesel oils include napthalene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. Diesel oil may contain from 20 to 60 percent by volume aromatic hydrocarbons. The light aromatic hydrocarbons, such as benzenes, napthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products. Mineral oils, with their lower aromatic hydrocarbon content and lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. Diesel oil also contains a number of nonconventional pollutants, including polynuclear aromatic hydrocarbons such as methylnaphthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

The Region has determined that eliminating the discharge of drilling fluids contaminated with diesel oil will reduce the levels of toxic pollutants present in discharged fluids. Studies show that when the amount of diesel is reduced in drilling muds, the concentrations of toxic pollutants and the overall toxicity of the fluid generally is reduced. Available data clearly establish that diesel oils as a class contain significantly higher levels of toxic pollutants than do mineral oils as a class. It is reasonable and appropriate to conclude that BAT-level control of toxic pollutants (i.e., reduction in concentrations through substitution of mineral oil for diesel oil) will be achieved by regulating diesel oil as an indicator pollutant.

Region 10 has concluded that establishing effluent limitations for each of the seven toxic pollutants present in diesel oil is not economically or technically feasible at this time. The level achievable by BAT controls on the specific toxics can be calculated using available data on the three mineral oils which have been extensively characterized. However, the limited data on the many diesel and mineral oils, mud formulations, and the various additives used, and on the unquantified changes in toxic pollutant concentrations during drilling, all frustrate an attempt to develop specific toxic pollutant effluent limitations at this time.

Not only is it infeasible to establish limitations on the specific toxic pollutants, but to comply with specific limitations on each of the toxic pollutants would be costly and technically complex. The analytical costs for specific pollutant analyses would be much greater than the cost of analyzing for diesel by gas chromatography alone. The high cost of compliance monitoring, which may include awaiting results of analyses, which must be conducted onshore, possibly outside the State of Alaska, also would be unwarranted. Either operators would have to delay discharge until monitoring results confirmed compliance or they would discharge and risk permit noncompliance. A permit limitation that prohibits the discharge of diesel oil is economically and technologically feasible and allows a determination of permit compliance prior to discharge.

The prohibition on the discharge of diesel is a technology-based BAT limitation based on product substitution. Low toxicity mineral oils are available as product substitutes for diesel oil, and do not impose unreasonable additional costs on industry. The Agency has relied primarily on the increased cost of mineral oil over diesel oil as a basis for this determination. For example, mineral oil costs Alaskan operators approximately $2.60 per gallon more than does diesel oil. The increased costs associated with using mineral oil rather than diesel oil for 50 barrels (2,100 gallons) of oil (the maximum amount generally expected in a concentrated spotting or "pill" formulation used to free stuck drill pipe) would therefore be equal to approximately $5,500. Since the frequency of differential sticking of drill pipe requiring the use of oil-based spotting formulations is low for most drilling operations (less than once per well on an average), this cost would not be incurred for each operation. The Agency has evaluated other costs associated with either diesel or mineral use in response to comments on the draft Norton Sound permit (50 FR 28589, Response to Comment 10). Both analyses show that the cost associated with the prohibition on the discharge of diesel oil clearly is economically achievable.

Region 10 has considered limiting "free oil," "oil-based drilling fluids," and "oil content of cuttings" as indicators of

toxic pollutants. While the Agency has determined that such effluent limitations

the limitations. The Agency solicits comments and supporting data from

preliminary bioassay data are submitted and EPA determines that additional

used to verify that mercury and cadmium limits on barite are adequately

(Figure 2): From latitute 60°04'06" N, longitide 152°34'12" W to the southern

is not as great in shallow waters as in deeper waters. However, at any

toxic pollutants. While the Agency has determined that such effluent limitations will control the discharge of toxic pollutants in these oils, it is unnecessary to designate these pollutants as indicators since the same levels of control have been established under BCT, which are equal to levels of control required by the BPT effluent limitations guidelines. Therefore, redundant limitations under BAT have not been imposed for these pollutant parameters.

2. *Mercury and cadmium in barite:* The proposed permit contains limits of 1 mg/kg/ mercury and 3 mg/kg cadmium on barite, a major constitutent of drilling muds. These restrictions are designed to limit the discharge of mercury, cadmium, and other potentially toxic metals which can occur as contaminants in some sources of barite. An identical limitation is included in the Bering and Beaufort Seas and Norton Sound general permits.

As discussed in the fact sheets for the above permits, the justification for the limitation under BAT is product substitution, i.e., Alaskan operators can substitute "clean" barite which meets the above limitations for contaminated barite which does not meet the limitations. Numerous offshore exploratory wells have been drilled in Alaska over the past year, and chemical analyses have shown that the barite used has not exceeded the limitations. Given that "clean" barite is available and that operators in the Bering and Beaufort Seas have been complying with an identical limitation, Region 10 believes that this limitation is both technologically feasible and economically achievable.

Region 10 has determined that it is impractical at this time to place the limitations on drilling mud until additional data are collected. Furthermore, if the limitation were placed on the drilling mud rather than on the barite, it would not be feasible for an Alaskan operator to determine in advance if the discharge complied with the permit requirements since metals analyses must be conducted at commercial laboratories onshore.

EPA does recognize the possibility of changes in the available supply of "clean" barite. The draft permit contains a provision which would allow the Director the discretion to grant a waiver from the limitations on a case-by-case basis if the permittee (1) satisfactorily demonstrates that barite which meets the limitations is not available, and (2) provides results of analyses of the substitute barite. In determining the availability of "clean" barite under this provision, Region 10 will reasonably consider all relevant factors, including the cost of obtaining barite which meets the limitations. The Agency solicits comments and supporting data from those individuals who do not believe they can meet the above limitations. The Agency also solicits data indicating any increased costs that a permittee has incurred in meeting the barite limitations contained in the general permits for offshore drilling in the Beaufort and Bering Seas (49 FR 23734, June 7, 1984).

3. *Generic muds and authorized additives.* The draft permit limits the discharge of toxic substances in drilling fluids by allowing only the discharge of generic drilling muds (listed in Table 1 of the draft permit) and additives for which acceptable bioassay or chemical data are available. Permittees are required to certify in advance of discharge that only generic drilling muds and authorized additives will be discharged.

Permittees may discharge additives listed in Table 2 of the draft permit up to the specified concentrations without special permission. This table is the same as Table 2 in the Norton Sound general permit (50 FR 23578, June 4, 1985). The permit contains a provision (Table 2) which will allow the discharge of additives which are listed in Table 2 of subsequent Region 10 general permits, unless otherwise stated in the new permits. For operations under this permit, any additive receiving authorization in this manner will be evaluated according to the regional criteria used for this permit.

Any discharge of a generic mud which has been modified other than by addition of an additive listed in Table 2 requires submission of information demonstrating that it passes the critieria in Part II.C.1.e of the permit or prior authorization by EPA, Region 10. Permittees may request authorization to discharge additives (including mineral oils) not listed in Table 2 by submitting appropriate information and bioassay data in advance of discharge. Region 10 will determine whether the use of the requested additives is likely to cause the mud system to be more toxic than Generic Mud No. 1, which is the base mud formulation the Agency uses to determine acceptable toxicity levels for discharge of fluids. Other criteria (e.g., persistence and degradation), as appropriate, are also considered in the evaluation process. The propsed permit furthermore contains a provision (Part II.C.1.g. of the permit) which allows an exception for the discharge of mineral oil-containing muds which exceed the toxicity of Mud No. 1 if the least toxic available alternative is discharged.

In some cases, interim discharge authorizations may be granted if preliminary bioassay data are submitted and EPA determines that additional bioassay testing is required. Such testing may be required, for example, to examine possible cumulative or synergistic effects if the additive is to be used in combination with a number of other additives. Because the additional testing may take a considerable amount of time to conduct, interim authorization to discharge may be granted so that operations are not impaired for an unreasonable amount of time. Interim authorizations may also require testing a used drilling mud from a rig.

This approach to limiting toxicity is expected to control the discharge of listed toxic as well as nonconventional pollutants in drilling muds. For example, the toxicity of muds containing lubricants, including mineral oil products, may vary widely, and such additives may greatly increase the toxicity of the mud. Studies on diesel-contaminated drilling muds have shown toxicity to be strongly correlated with content of aromatic hydrocarbons, which include listed toxic pollutants. Some mineral oils also contain aromatic hydrocarbons which are listed toxics, such as fluorene, naphthalene, and phenanthrene. The toxicity of muds containing these oils is assumed to be caused, in part, by the listed toxic pollutants as well as by the noconventional pollutants. Region 10 has determined that it is technically and economically infeasible to directly limit the toxic pollutants in drilling muds, as discussed in Part IV.C.1. Therefore, the Region has determined that the toxicity limitations (e.g., generic muds and approved additives) constitute a reasonable approach which is expected to control not only listed toxic pollutants, but other toxic substances (i.e., toxic nonconventional pollutants) as well.

The technology basis for this permit condition is product substitution; i.e., mud additives and components which would cause the toxicity of mud system to exceed that of Generic Mud No. 1 can be replaced by less toxic mud additives and components.

Under section 308 of the Act, compliance with this proposed permit condition will be monitored in two ways: first, by requiring that permittees certify that only generic muds and authorized additives will be discharged; and second, by requiring that permittees submit an end-of-well inventory listing all chemicals and the amounts of each added to each mud system. In addition, permittees must analyze one or more mud samples per well for metals content and toxicity. The metals data will be used to verify that mercury and cadmium limits on barite are adequately controlling metal concentrations in discharged muds. The Drilling Fluids Toxicity Test, performed on the end-of-well mud system, will provide a comparison between the toxicity of used muds containing mixtures of additives and the bioassay data submitted on individual additives prior to discharge.

4. *Other toxic and nonconventional compounds.* Under the permit, discharges of the followng pollutants are prohibited: halogenated phenol compounds, trisodium nitrilotriacetic acid, sodium chromate, and sodium dichromate. The class of halogenated phenol compounds includes toxic pollutants, and sodium chromate and dichromate contain chromium, also a toxic pollutant. Trisodium nitrilotriacetic acid is a nonconventional pollutant. The discharge of these compounds was previously prohibited in the BPT general permits for the Beaufort Sea and Norton Sound (48 FR 54881, December 7, 1983) as well as in the BAT/BCT general permits for the Bering and Beaufort Seas and Norton Sound. These compounds are therefore subject to BAT limitations. Because operators complied with this provision in the BPT permits, there is no additional cost to the industry.

The proposed permit contains an additional restriction on all discharges under BAT. Discharges of biocides are limited to those biocides registered with EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for the use(s) in which they are intended (e.g., noncontact cooling water, or waterflooding operations). Discharges shall be in accordance with product registration labeling. The discharge of all other biocide is prohibited.

D. Requirements Based on the Ocean Discharge Criteria Evaluation

1. *Prohibited areas for all dischorges from Offshore Subcategory operations.* The proposed general permit prohibits discharges from Offshore Subcategory exploratory operations in the following areas:

(1) Water depths less than 5 m (as measured from mean lower low water).

(2) Within 1,000 m of a coastal marsh, river delta, river mouth, designated Area Meriting Special Attention (AMSA), game refuge, game sanctuary, or critical habital area.

(3) In Kamishak Bay west of a line from Cape Douglas to Chinitna Point.

(4) In Chinitna Bay inside a line (see Figure 2) from latitude 59°52'45" N, longitude 152°48'18" W to latitude 59°46'12" N, longitude 153°00'24" W; in Tuxedni Bay inside of the following lines on either side of Chisik Island (Figure 2): From latitute 60°04'06" N, longitide 152°34'12" W to the southern tip of Chisik Island (latitude 60°04'06" N, longitude 152°33'30" W) and from latitude 60°13'45" N, longitude 152°32'42" W to the point on the north side of Snug Harbor on Chisik Island (latitude 60°06'36" N, longitude 152°32'54" W).

These restrictions are necessary to ensure that unreasonable degradation of these areas will not occur.

Discharges are prohibited in waters shallower than 5 m because shallow nearshore waters in Lower Cook Inlet are an important habitat for many species. In addition, dilution and dispersion of drilling mud discharges in waters less than 5 m deep is uncertain given that the field data are limited and that the available models of mud dilution and dispersion are not field-verified for shallow depths. A similar condition on drilling muds and cuttings was included in an individual BAT/BCT permit (No. AK-004155-6) for Champlin Petroleum's operations near Kalgin Island.

The condition restricting discharges within 1,000 m of coastal marshes, river deltas, and other areas is necessary to comply with local and state Coastal Management Plan prohibitions on discharges of silt materials in these areas, or on activities that may alter the protected biological resources of these areas.

Chinitna, Tuxedni, and Kamishak Bays are, or are contiguous with, areas of high resource value. In addition, Kamishak Bay is a known net depositional environment where accumulation of drilling mud solids and other pollutants would be likely to occur if allowed to be discharged in this area.

Development and production facilities to be covered by the permit are restricted to Upper Cook Inlet north of the Forelands. They are in the Coastal Subcategory and are not subject to a 403(c) evaluation.

2. *Muds and cuttings.* Several additional restrictions on these discharges are necessary to ensure no unreasonable degradation of the marine environment. The discharge rate limitation of 1,000 bbl/hr on total muds and cuttings into waters greater than 40 m in depth was established through the Ocean Discharge Criteria Evaluation process in order to allow adequate dispersion of the discharges. In addition, the muds and cuttings discharge rate is restricted to 750 bbl/hr in water depths greater than 20 m but not more than 40 m, and to 500 bbl/hr in 5 to 20 m of water. These limits are necessary because for any given discharge rate, the dilution of drilling muds and cuttings is not as great in shallow waters as in deeper waters. However, at any particular water depth, greater dilution close to the discharge point will be achieved with a lower discharge rate. These maximum rates will ensure that acceptable toxicity limits will not be exceeded at the edge of the 100 m mixing zone (Tetra Tech, 1984).

3. *Deck drainage, sanitary and domestic wastes, and miscelloneous discharges.* These discharges are adequately controlled by the technology-based limitations above to ensure no unreasonable degradation of the maine environment.

E. Requirements to Ensure Compliance with State Quality Standards

1. *Elutriate test.* As part of its certification under section 401 of the Act, the State of Alaska will require that muds and cuttings not be discharged to state waters if they contain more than 50 mg/l of oil and grease as measured by the elutriate test.

2. *pH.* The pH of well treatment fluids and produced water will be limited to a pH of 6.5–8.5 at the point of discharge. The pH of these fluids must be within 0.1 pH unit of the ambient condition at the edge of a 100-m mixing zone.

3. *Prohibited areas for all discharges in state waters.* State waters covered by the general permit are located in Cook Inlet, and include both Offshore and Coastal Subcategory operations. Prohibited discharge areas for Offshore Subcategory operations, as determined through the Ocean Discharge Criteria Evaluation process (described in Part IV.D.1. above), are sufficient to ensure that Alaska Water Quality Standards will be met.

Prohibited discharge areas for Coastal Subcategory operations were determined as discussed below:

First, all discharges will be prohibited within 1000 m of a coastal marsh, river delta, river mouth, designated Areas Meriting Special Attention (AMSA), game refuge, game sanctuary, or critical habitat area. This is consistent with the discharge restriction on these areas for Offshore Subcategory operations.

Second, all discharges are prohibited to intertidal areas and to waters shoreward of the 5 m isobath (as measured from mean lower low water). Where terms of state lease sales prohibit discharges shoreward of isobaths deeper than 5 m, the deeper isobath shall be the boundary instead. The 5 m restriction will have a significant effect on the three shore-based facilities which discharge produced water well above the mean lower low water mark. The Marathon

Granite Point facility presently discharges approximately 0.2 MGD of

as part of the Ocean Discharge Criteria Evaluation process. Preliminary

Cook Inlet will likely carry discharged materials from the development and

platforms for 1 year, under a variety of operational and ambient weather

trimethylnaphthalenes;
tetramethylnaphthalenes; xylenes;

B. Endangered Species Act

VOL 50 ISS 137 JL 17 1985 UMI

Granite Point facility presently discharges approximately 0.2 MGD of produced water. The water is piped from the facility down a cliff, whereupon it flows through a ditch in a saltwater slough and through a culvert under a road, before discharging to the beach above the high tide line. At Marathon's Trading Bay facility, a monthly average discharge of approximately 2.8 MGD is piped to 1.7 m below the mean high tide mark, whereupon it flows over the mud flats. Finally, Shell's East Foreland facility discharges a monthly average of 0.2 MGD. The produced water is piped down a cliff, and presently discharges to the base of the cliff before flowing over the beach.

EPA often defines a mixing zone as extending 100 m laterally in all directions from a discharge point (40 CFR 125.21(c)). If a 100 m miximg zone is assumed, discharges from these shore-based facilities will violate the state water quality standards for total hydrocarbons (15 μg/l) and total aromatic hydrocarbons (10 μg/l) at the edge of the mixing zone, based on computer modeling results. This finding is based on computer modeling of plume dispersion using the PLUME model for nearfield dilution and a two-dimensional advection/diffusion model (EPA's MPN model) for farfield dilution. Based on discharge data available from the facilities, which indicates a total aromatic hydrocarbon concentration of 5 to 20 mg/l, a dilution of 2000:1 would be necessary for the discharges to meet the state water quality standard of 10 μg/l. Dilutions based on the computer modeling for a depth of 5 m would range from 3:1 to 33:1 for the Trading Bay facility depending on current speed, and from 17:1 to 100:1 for the East Foreland and Granite Point facilities. Although modeling for depths greater than 5 m showed only slightly greater dilutions, EPA believes that removal of the three facilities' discharges to this depth (and possible use of outfall diffusers) will be a significant improvement over the current situation, where discharges run out over the beach at low tide. The discharges would be submerged at all times including extreme low tides, and during the vast majority of the tidal cycle would have 5–11 m of water overlying the outfall.

Region 10 has assumed a 100 m miximg zone for each of the three facilities in the absence of proposed mixing zone determinations by ADEC under 18 AAC 70.032. This size is consistent with that used to evaluate discharge dilution and dispersion in offshore waters (both federal and state) as part of the Ocean Discharge Criteria Evaluation process. Preliminary discussions with ADEC staff members indicate that ADEC may propose mixing zones of as much as several kilometers for determining compliance with State Water Quality Standards. Such mixing zones would be likely to allow the companies to continue discharging well above the mean lower low water mark. ADEC's proposal will be based in part on computer modeling data presently being compiled by Marathon and Shell. Region 10 and ADEC request that Marathon and Shell provide this data during the public comment period. The agencies also request any other information and comments relevant to the mixing zone determinations.

A prohibition on discharges to waters shoreward of the 5 m isobath and to intertidal areas would be consistent with a lease term in State of Alaska leases for oil and gas operations in Cook Inlet. Any new operator wishing to locate in areas leased in State Sales 32, 33, 35, 40 and 46A would not be allowed to discharge produced water or muds and cuttings to an intertidal area. In addition, under the same lease term, the discharge of muds and cuttings to waters 5.5 m (3 fathoms) or less would be allowed only during the period from 2 hours before to 2 hours after each high tide. This lease term is intended to "protect shallow areas," "help maintain the sale area as a pollution-free environment," "mitigate disturbance to marine mammals," "help maintain the integrity of avian habitats and prevent disturbances to avian wildlife," and "protect anadromous fish and their habitat."

EPA believes that the protection of marine mammal, avian, and anadromous fish resource from potential adverse effects of new operations should extend to potential effects from existing facilities. Each of the existing facilities is, in fact, located in an area covered by a past lease sale, or to be covered in the near future by a lease sale.

4. *Environmental monitoring of muds and cuttings discharges from new development and production facilities.* New development and production facilities which discharge drilling muds or drill cuttings within 1500 m of an area of biological significance, such as a coastal marsh, river delta, river mouth, designated Area Meriting Special Attention, game refuge, game sanctuary, or critical habitat area, will be required to undertake environmental monitoring of the fate and effects of the discharges. The monitoring is needed because the active natural transport processes in Cook Inlet will likely carry discharged materials from the development and production operations into these sensitive areas. Region 10 has identified a need for further information on the fate and effects of muds and cuttings discharges from long-term production and development operations.

The specifics of each monitoring program, including survey design, analytical techniques, participants, and reporting requirements, will be determined by EPA, Region 10, in consultation with the South Central Regional Office of ADEC and the permittee. Monitoring shall include, but not be limited to, relevant hydrographic, sediment hydrocarbon, and heavy metal data from surveys conducted before and during drilling mud disposal operations and for at least one year after drilling operations cease.

Region 10, in consultation with ADEC, will consider granting exemptions from this monitoring requirement if the permittee can satisfactorily demonstrate that information on the fate and effects of the discharge is available and/or the discharge will have insignificant impacts on the area of biological significance.

5. *BOD and suspended solids.* As part of its certification under Section 401 of the Act, the State of Alaska will require that sanitary waste discharge to state waters comply with the following limits on BOD and suspended solids:

For 30 consecutive day, 30 mg/l mean.
For 7 consecutive days, 45 mg/l mean.
For a 24 hour period, 60 mg/l mean.

F. Discharge Monitoring Study

Region 10 has limited data on discharges from development and production facilities. In order to extend the data base for these discharges, a discharge monitoring study has been proposed in Part VI of the general permit. Development and production operators will have the choice of (1) participating in the proposed joint study, which would not examine discharges at every facility in detail, or (2) being subject to similar monitoring requirements on each of the operators' individual facilities. The advantage of the larger study is that operators would have a single contractor undertake sampling, analyses, and compilation of data at the various facilities. This would ensure uniformity of work procedures, and better data as an end result. It would also be less expensive for the operators than having to arrange that the work be done for each of their facilities.

1. *Deck drainage.* Samples of deck drainage shall be collected from two platforms for 1 year, under a variety of operational and ambient weather conditions. Samples will be analyzed for oil and grease, and for total phenols. In addition, operators must report information on products present in significant amounts in deck drainage. Region 10 has discharge data which indicate that oil and grease may be as high as 450 mg/l, and phenols as high as 60 mg/l, in discharges from production platforms. The monitoring requirements would increase whether such concentrations occur on a routine basis, and the relationship of operational and weather factors to those concentrations.

2. *Non-contact cooling water and desalination wastes.* Samples of both wastes shall be collected bimonthly at all platforms for 1 year. Samples will be analyzed for BOD, COD, and biocides which may be present in the discharges. BOD and COD were high in some production discharges. Region 10 wishes to investigate how widespread biocide usage and high BOD and COD levels are in these discharges from production facilities. Additionally, operators will be asked to monitor flow rate of these discharges, and to provide chemical inventories of products added to these discharges.

3. *Blowout preventer fluid, boiler blowdown, fire control system test water, uncontaiminated ballast water, uncontaminated bilgewater, and waterflooding discharges.* Flow rates shall be measured and chemical inventories reported for a period of 6 months for all platforms.

4. *Excess cement slurry, and mud, cuttings, cement at seafloor.* The total volumes shall be estimated and chemical inventories reported for the first five development or production wells drilled and completed under the general permit.

5. *Produced water.* In order to get a broader spectrum of data on produced water in Alaska, sampling will be undertaken once each summer and in winter from the three shore-based facilities and three of the five platforms which discharge directly into Cook Inlet. The three flatforms shall include two oil platforms located on different fields, and the sole existing gas platform in Cook Inlet. Additionally, one of the oil platforms to be sampled in summer and winter shall be sampled in fall and spring of the same year.

Flow rates and chemical inventories shall be estimated for each sample. In addition, chemical analyses shall be performed on each sample as follows: ph; oil and grease; dissolved oxygen; BOD; COD; TOC; NH_3; salinity; total aromatic hydrocarbons; total naphthalenes; dimethylnaphthalenes; trimethylnaphthalenes; tetramethylnaphthalenes; xylene; benzene; ethylbenzene; naphthalene; toluene; phenol; 2,4-dimethylphenol; bis (2-ethylhexy) phthalate; anthracene; phenanthrene; zinc.

All of the pollutants including benzene and listed after benzene are priority pollutants which were found in at least 50% of produced water samples analyzed by EPA as part of a 30-platform survey in the Gulf of Mexico. These pollutants, along with xylene, have also been reported in Cook Inlet produced water discharges.

There are very few toxicity data available on produced water in general, and for Cook Inlet operations in particular. Toxicity testing would, therefore, also be required with adult and juvenile stages of the dock shrimp, *Pandalus danae*, which is an Alaskan species, and with the juvenile stage of the mysid, *Mysidopsis bahia*, which is a non-Alaskan standard test species.

6. *Well treatment fluids.* These fluids are among the most poorly characterized of production discharges. To increase the available information on them, the following requirements are included in the study.

First, the total volumes of fluid collected and discharged, the job type, and composition of the fluid shall be reported for the first ten discharged jobs or for each job for a period of 1 year, whichever is more. The first ten jobs to be discharged must be sampled and analyzed for pH, oil and grease, dissolved oxygen, BOD, COD, TOC, and salinity.

Second, there is a special concern that highly acidic well treatment fluids may leach greater amounts of metals from the formation. To investigate this concern, well treatment fluids for the first three acidizing jobs (with an initial pH of 4 or less) will be sampled and analyzed for cadmium, chromium, copper, mercury, zinc, and lead.

V. Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permit are excluded from the provisions of Section 311. However, this permit does not preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil and hazardous materials which are covered by Section 311 of the Act.

B. Endangered Species Act

Based on information in the Preliminary Ocean Discharge Criteria Evaluation (PODCEs) for OCS Sales 55 and 60, and the Revised PODCE for Sale 88 and state lease sales in Cook Inlet, and on formation in the Environmental Impact Statements prepared for the federal lease sale areas, EPA has concluded that the discharges authorized by this general permit will neither jeopardize the continued existence of any endangered or threatened species nor adversely affect their criteria habitat. EPA is requesting comments from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and will consider their comments in making the final permit decision. EPA will initiate consultation should new information reveal impacts not previously considered, should the activities be modified in a manner beyond the scope of the original opinion, or should the activities affect a newly listed species.

C. Coastal Zone Management Act

EPA has determined that the activities authorized by this general permit are consistent with local and state Coastal Management Plans. The proposed permit and consistency determination will be submitted to the State of Alaska for state interagency review at the time of public notice. The requirements for State Coastal Zone Management Review and approval must be satisfied before the general permit may be issued.

D. Marine Protection, Research, and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit area.

E. State Water Quality Standards and State Certification

Since state waters are involved in the proposed general permit, the provisions of section 401 of the Act will apply. The portion of Cook Inlet receiving waters located within the territorial seas of the State of Alaska and shoreward of the inner boundary of the territorial seas are classified by the State Water Quality Standards as Class II A(i)(ii)(iii), B(i)(ii), C, and D for use in aquaculture; seafood processing and industrial water supply; water contact and secondary recreation; growth and propagation of fish, shellfish, aquatic life and witdlife; and harvesting for consumption of raw mollusks or other raw aquatic life.

F. Executive Order 12291

The Office of Management and Budget has exempted this action from the

review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Most of the information collection requirements of the permit have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Act. In addition, the environmental monitoring requirements pursuant to section 403(c) of the Act in Part II.B. of this permit are similar to the monitoring requirements that were approved by OMB for the recently issued Beaufort Sea general NPDES permit (June 7, 1984; 49 FR 23734) and the Norton Sound general permit (50 FR 23578, June 4, 1985). The final general permit will explain how the information collection requirements respond to any OMB or public comments.

H. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 et seq. (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: July 11, 1985.

L. Edwin Coate,

Acting Regional Administrator, Region 10.

References

Tetra Tech, Inc. 1984. Technical support document for regulating dilution and deposition of drilling muds on the Outer Continental Shelf. Report to U.S. Environmental Protection Agency, Region 10, November 1984.

TABLE 1.—FACILITIES WITH CONTINUED INDIVIDUAL PERMITS AS OF JUNE 1985

Facility	Individual NPDES permit No.
ARCO—Fire Island	AK-004054-1
Chevron—Shelikof Strait	AK-003731-1
Chevron—Lower Cook Inlet	AK-003778-8
Amoco Platform Anna	AK-000078-7
Amoco Platform Baker	AK-000077-9
Amoco Platform Bruce	AK-000076-1
Amoco Platform Dillon	AK-000075-2
ARCO Platform King Salmon	AK-000020-5
Marathon Platform Dolly Varden	AK-000041-8
Marathon Platform Spark	AK-000019-1
Phillips Platform A	AK-000116-3
Shell Platform A	AK-000044-2
Shell Platform C	AK-000045-1
Texaco-Superior Platform A	AK-000143-1
Union Platform Granite Point	AK-000061-7
Union Platform Grayling	AK-000048-5
Union Platform Monopod	AK-000047-7
Marathon Granite Point Treatment Facility	AK-000018-3
Marathon Trading Bay Treatment Facility	AK-000141-4
Shell East Foreland Treatment Facility	AK-000046-9

BILLING CODE 6560-50-M

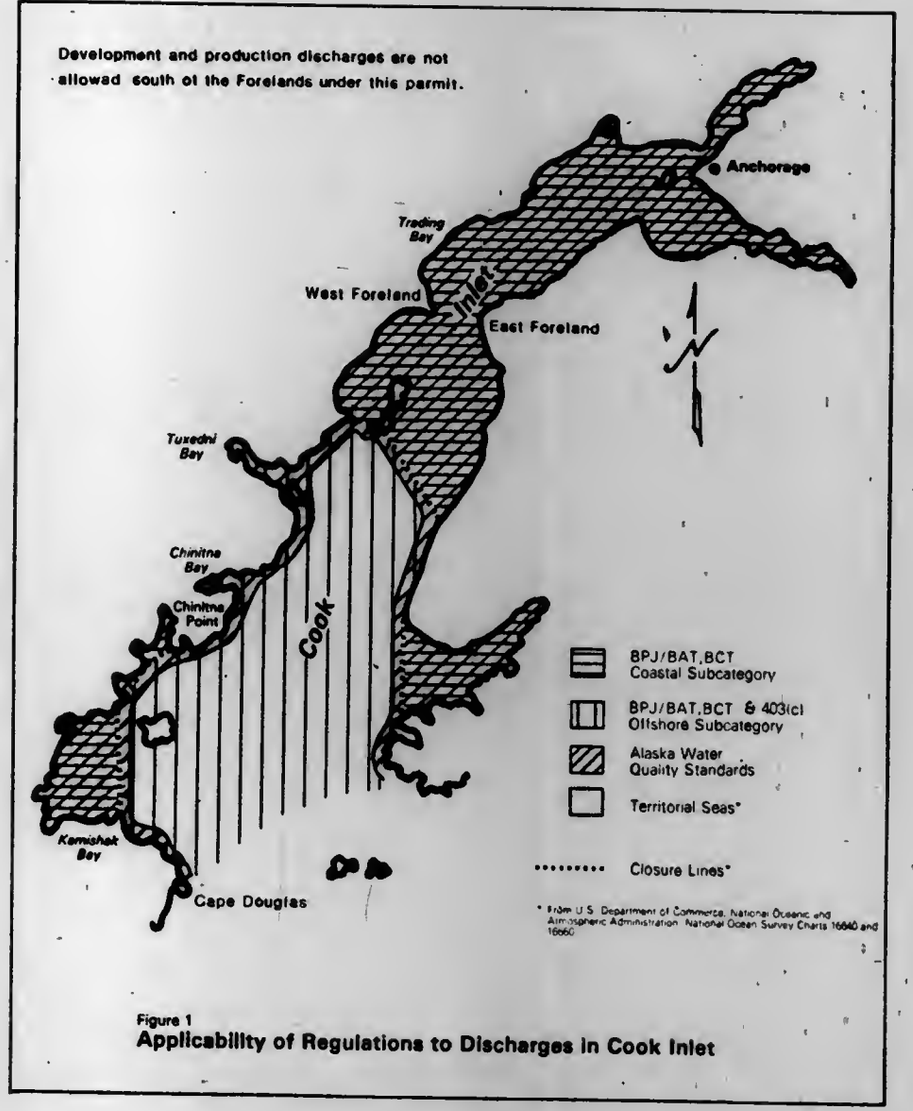
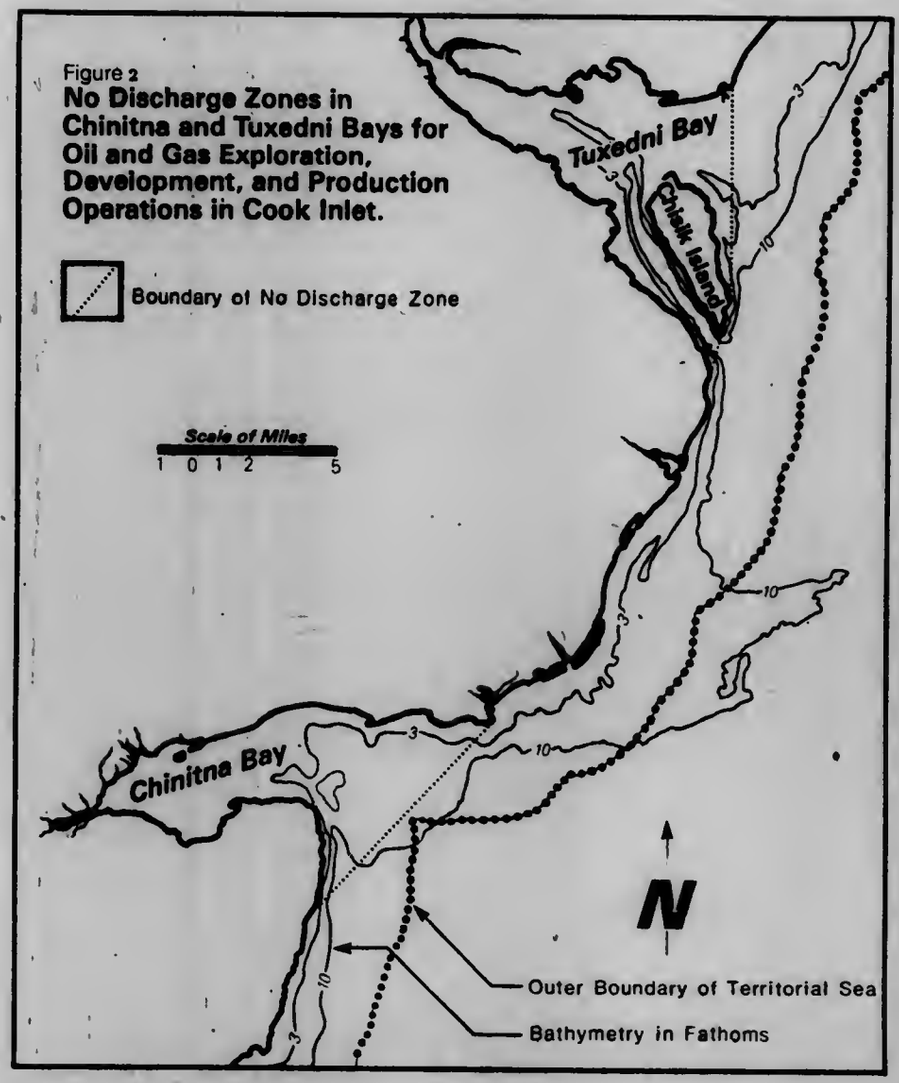


Figure 1
Applicability of Regulations to Discharges in Cook Inlet



[OPP-30100; FRL-2866-3]

Registration of Compound 1080

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's issuance of a conditional registration for sodium monofluoroacetate (Compound 1080) for use as livestock protection collar under EPA Registration Number 6704–85.

EFFECTIVE DATE: The Agency anticipates that judicial challenge of this action may be likely. For the purpose of assuring orderly judicial review, the EPA action herein shall become final and effective at 1 p.m., Eastern Daylight Time, on July 18, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William H. Miller, Product Manager 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 211, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency issued a conditional reistration on July 11, 1985 for sodium monofluoroacetate (Compound 1080) Livestock Collar, to the U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. 20240, under EPA Registration Number 6704–85.

Dated: July 12, 1985.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85–17081 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–250066A; FRL #2864–3]

FIFRA Scientific Advisory Panel; Appointments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is given of the appointment of three members to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel established pursuant to section 25(d) of FIFRA, as amended (86 Stat. 973 and 89 Stat. 751; 7 U.S.C. 136 et seq.). Public notice of nominees along with a request for public comments appeared in the **Federal Register** of April 11, 1985 (50 FR 14286).

FOR FURTHER INFORMATION CONTACT:

By mail: Philip H. Gray, Jr., Executive Secretary, FIFRA Scientific Advisory Panel (TS–766C), Office of Pesticide Programs,

Office location and telephone number: Rm. 1115, Crystal Mall Building No. 2, Arlington, VA (703–557–7096).

SUPPLEMENTARY INFORMATION: Congress mandated that the Scientific Advisory Panel would consist of seven members, selected from candidates nominated by the National Science Foundation (NSF and the National Institutes of Health (NIH). Congress also mandated that the terms of appointment would be staggered. Accordingly, seven members were appointed in March 24, 1983, to the Panel (which, at the time, was constituted under the Federal Advisory Committee Act rather than FIFRA), with the terms of two members scheduled to expire on September 30, 1984, the terms of three members scheduled to expire on September 30, 1985, and the terms of the remaining two members scheduled to expire on September 30, 1986.

One panel member, Dr. Robert Menzer, whose term was scheduled to end September 30, 1985, resigned in July 1984 due to his impending prolonged absence from the country. As a result, EPA appointed three new Panel members on November 15, 1984.

One of those new members, Dr. Richard Griesemer, resigend in May 1985 as a result of his appointment to chair a subcommittee of EPA's Science Advisory Board. Thus EPA was again faced with the need for appointing three new Panel members. In accordance with the statutory requirement, lists of nominees were obtained from NIH and NSF, and a public notice of nominees, including biographical data, appeared in the **Federal Register** of April 11, 1985 (50 FR 142686). No comments were received in response to this Notice.

My decision to appoint the following three nominees to serve as members of the Scientific Advisory Panel is based upon several factors including the need for a disciplinary mix, depth of scientific experience and the need for wide geographic representation:

Thomas W. Clarkson, professor, radiation biology, biophysics, pharmacology and toxicology, University of Rochester. Expertise: toxicology. Born: August 1, 1932. Education: University of Manchester, BS, 1953; PhD (biochemistry) 1956. Professional experience: Medical Research Council fellow, University of Rochester, 1957–1961; science officer, Medical Research Council, United Kingdom, 1962–1964; senior fellow, Weizmann Institute, 1964–1965; associate professor, biophysics, pharmacology and radiation biology, 1965–1967; professor, radiation biology, biophysics, pharmacology and toxicology, University of Rochester, 1971-present; director, Environmental Health Science Center, 1975-present. Concurrent position: Member, Committee for Food Protection, National Academy of Science-National Academy of England, 1973–1976; Subcommittee on Toxicology, 1972–1976; member Toxicology Advisory Board, Food and Drug Administration, 1975–1977; member, Toxicology Study Section, NIH, 1976–1977. Societies: AAAS; Health Physics Society; British Pharmacology Society; Society of Toxicology; Chemical Society. Research: cellular physiology; reabsorption mechanisms in intestine and kidney; heavy metal toxicology; action of metals on cellular level in intestine, kidney and red blood cells.

John James Lech, professor of pharmacology, Medical College of Wisconsin, Milwaukee. Expertise: pharmacology. Born: June 21, 1940. Education: Rutgers University, Newark, BS 1962; Marquette University, PhD (pharmacology) 1967. Professional experience: from instructor to assistant professor, 1967–1974; associate professor, pharmacology, 1974–1980; professor, pharmocology and toxicolgy, Medical College of Wisconsin, 1980-present. Concurrent position: American Heart Association grant, Medical College of Wisconsin, 1972–1975. Societies: AAAS; Society of Toxicology; American Fisheries Society; American Society of Pharmacology and Experimental Therapeutics. Research: cardiac triglyceride metabolism; metabolism of foreign compounds by fish.

James Arthur Swenberg, head, biochemical, toxicology and pathology department, Chemical Industry Institute of Toxicology. Expertise: Veterinary pathology. Born: January 15, 1942. Education: University of Minnesota, DVM, 1966; Ohio State University, MS, 1968; PhD (veterinary pathology), 1970. Professional experience: NIH trainee in pathology, Ohio State University, 1966–1970; research associate, 1970; assistant professor, 1970–1972; associate professor, 1972; research scientist in pathology, UpJohn Company, 1972–1977; head, biochemical, toxicology, and pathology, Chemical Industrial Institute of Toxicology 1978-present. Concurrent position: consultant, Battelle Memorial Institute, 1971–1972. Societies: American Association of Cancer Research; AAAS; American Association of Neuropathologists; American College of Veterinary Pathologists. Research:

cancer research, including chemical carcinogenesis, neurooncogenesis and chemotherapy, and short-term test for carcinogens; DNA damage/mutagenesis; improved toxicology and data handling methods.

Meetings of the Scientific Advisory Panel are always announced in the **Federal Register** at least 15 days prior to each meeting. It is expected that the next meeting will take place on July 8 and 9, 1985.

Dated: July 3, 1985.

A. James Barnes,

Deputy Administrator.

[FR Doc. 85–16731 Filed 7–16–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–002827–003.
Title: Alameda Terminal Agreement.
Parties:
Encinal Terminals (Encinal)
Crescent Wharf and Warehouse Company (Crescent)

Synopsis: Agreement No. 224–002827–003 modifies the parties' basic agreement providing for Crescent's lease of certain property at Alameda, California, to be operated as a public marine terminal. The amended agreement restates the basic agreement, and extends the term of the lease to September 30, 1987, and thereafter on a year to year basis. The amount of rent paid by Crescent to Encinal will be altered, and changes will also be made in the alteration and improvements clause of the agreement. Various other minor changes will be made in the clauses of the agreement.

Agreement No.: 224–010780.
Title: Seattle Terminal Agreement.
Parties:
Port of Seattle (Port)
Matson Terminals, Inc. (Matson)

Synopsis: The agreement provides that the Port will lease to Matson 15 acres of marine container yard with improvements, including 800 feet of vessel berth, and the preferential use of one container crane at the Port's Terminal 18. The term of the lease is for 2 years. Up to 2 acres can be added to the premises without amending the lease. Matson shall use the premises for the loading and discharging of vessels of Matson Navigation Company and other ocean carriers who are its customers. This lease shall terminate the current lease covered by Agreement No. T–4049, as amended.

Dated: July 12, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–16969 Filed 7–16–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Canebrake Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 8, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Canebrake Bancshares, Inc.*, Uniontown, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Canebrake Bank, Uniontown, Alabama.

2. *The Nashville Holding Company*, Nashville, Georgia; to acquire 80.42 percent of the voting shares of Adel Banking Company, Adel, Georgia.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vic President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mid-South Bancorp, Inc.*, Franlin, Kentucky; to acquire 100 percent of the voting shares of Adairville Banking Company, Adairville, Kentucky.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Arlington Commonwealth Corporation*, Arlington, Texas; to acquire 100 percent of the voting shares of Mercantile National Bank of Arlington, Arlington, Texas.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Commerce Bancorp, Inc.*, Phoenix, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of First Commerce National Bank, Phoenix, Arizona (in organization).

Board of Governors of the Federal Reserve System, July 11, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–16906 Filed 7–16–85; 8:45 am]

BILLING CODE 6201–01–M

Centennial Beneficial Corp.; Notice of Application To Engage de Novo in Permissible Nonbanking Activities.

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted througout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for

inspection at the offices of the Board of Governors. Interested persons may

No additional information or routine uses are created. As no new information

DEPARTMENT OF HEALTH AND

policy interpretations or amendments to regulations, we are not providing a

Congress, 2nd session, June 23, 1984) for

schedule for Part B laboratory services

inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 6, 1985.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Centennial Beneficial Corp.*, Orange, California; to engage *de novo* through its subsidiary, Centennial Mortgage Income Fund II, Orange, California, in acting as general partner in a limited partnership organized to engage *de novo* in real estate lending.

Board of Governors of the Federal Reserve System, July 11, 1985

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-16905 Filed 7-16-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report on Revised System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of revised system of records.

SUMMARY: The purpose of this document is to give notice, under the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to revise a system of records being maintained by GSA. The system of records, Contracted Travel Services Program, GSA/GOVT-4, is revised to change the retention and disposal requirements of travel agencies' records. No additional information or routine uses are created. As no new information is being collected by GSA, the proposed revision is not considered as being within the purview of the provisions of 5 U.S.C. 552a(o) which would require submission of an altered report to Congress and the Office of Management and Budget.

DATES: Any interested party may submit written comments about this revised system. Comments must be received on or before the 30th day following publication of this notice. The routine use will become effective without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary decision.

ADDRESS: Address comments to General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 535-7647.

Background

The system of records, Contracted Travel Services Program, GSA/GOVT-4, is being revised to change the retention and disposal requirements for travel agencies' records from according to their needs to not longer than 3 years. This system of records notice was published in the **Federal Register** on May 15, 1985, 50 FR 20294.

The amended system of records is as follows:

GSA/GOVT-4

SYSTEM NAME:

Contracted Travel Services.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Records kept by the Federal agency are held for 3 years and then destroyed. Records kept by the travel agency are held and destroyed no longer than 3 years.

* * * * *

Dated: July 9, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-16925 Filed 7-16-85; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee Meeting; Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the meeting of the Science Advisory Board to the National Center for Toxicological Research scheduled for July 23 and 24, 1985. The meeting was announced by notice in the **Federal Register** of June 20, 1985 (50 FR 25628).

FOR FURTHER INFORMATION CONTACT: Ronald F. Coene, National Center for Toxicological Research (HFT-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3155.

Dated: July 11, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-16895 Filed 7-16-85; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BERC-298-GN]

Medicare and Medicaid Programs; Deficit Reduction Act of 1984; Information Notice on Medicare and Medicaid Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: This notice describes briefly some of the provisions of Title III of Division B of the Deficit Reduction Act of 1984 (Pub. L. 98-369, enacted July 18, 1984). These provisions, referred to as the Medicare and Medicaid Budget Reconciliation Amendments of 1984, affect eligibility benefits, reimbursement, and administration of the Medicare and Medicaid programs. The provisions in this notice are, in whole or in large part, self-explanatory and are now or will soon be effective. These provisions are so clear and explicit that regulations are not required for their implementation.

DATES: *Effective date:* The effective date of each statutory provision is given in the "Supplementary Information" section of this document.

Comment period: since this notice merely contains a brief description of statutory changes and does not contain policy interpretations or amendments to regulations, we are not providing a specified period for receipt of comments. However, we will consider all comments received in our review of the need for regulations, administrative action, or departmental legislative initiatives.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-298-GN, P.O. Box 26676, Baltimore, Maryland 21207.

In commenting, please refer to file code BERC-298-GN.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION, CONTACT: Matt M. Plonski, (301) 594-9710.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 1984, the Deficit Reduction Act of 1984, Pub. L. 98-369, was enacted. Title III of Division B of this Act (the Medicare and Medicaid Budget Reconciliation Amendments of 1984) added a number of new provisions that affect beneficiaries and providers of services, as well as State agencies and fiscal intermediaries involved in the operation of the Medicare and Medicaid programs.

This notice describes briefly some of the provisions of the new legislation relating to the Medicare and Medicaid programs that are sufficiently complete and clear that we believe they can take effect without issuance of regulations. This notice is not intended to be an exhaustive listing of new provisions that are self-implementing, nor is it intended to represent the complete text of the provisions. We are providing a summary of these provisions, along with budget estimates that reflect the impact of the provisions, to give notice to program administrators, providers of services, beneficaries, and the general public that they are being implemented. Readers are encouraged to review the Act itself and accompanying reports (e.g., see the Conference Report to accompany H.R. 4170, H.R. Report No. 98-861, 98th Congress, 2nd session, June 23, 1984) for information of interest to them. We are also incorporating many of these provisions in conforming regulations and program issuances.

There are provisions in the new law that conflict with current regulations, or portions of current regulations. To the extent that the new statutory provisions conflict with our existing regulations, the provisions of the new law supersede those portions of the regulations. Other portions of the same regulations and all other existing regulations remain in effect.

We note that with respect to all Medicaid provisions that are self-implementing, States may adopt their own lawful interpretation of these new provisions, unless and until regulations offering a contrary interpretation are adopted on those subjects or different interpretations are otherwise issued by the Department. This document describes the provisions as enacted. Readers should be aware that legislation is pending which could further modify several of these provisions.

Summary of Specific Provisions

(The section numbers cited before each item refer to the provisions of the Deficit Reduction Act of 1984.)

1. *Section 2302—Medicare Part B premium set at 25 percent of progrom costs for two calendar years (1986 and 1987).* This provision extends the existing temporary provision, which sets the monthly premium paid by enrollees at an amdunt equal to 25 percent of the Supplementary Medical Insurance program costs for aged beneficiaries through calendar years 1986 and 1987. However, this section also provides that if there is no social security cost-of-living adjustment (COLA), an individual's monthly Part B premium would not be increased for that year above the amount for the prior December. If there is a social security COLA, a January increase in premium for a beneficiary who is entitled to Social Security benefits for the prior November and December may not reduce the beneficiary's social security monthly payment received in January below the level of the payment received in December. This provision applies to calendar years 1986 and 1987.

Amends: Section 1839(e) of the Social Security Act (the Act).

Adds: Section 1839(f) to the Act.

Effective: For premiums for months beginning January 1986.

Budget Impact: $0 (FY 85); Savings of $439 million (FY 86).

2. *Section 2303—Payment for clinical diagnostic laboratory services.* This provision requires establishment of a fee schedule for Part B laboratory services furnished on or after July 1, 1984, except for services furnished by a hospital or performed by a skilled nursing facility for its inpatients. The fee schedule for independent clinical laboratories, and for laboratory services conducted in physicians' offices is to be established at 60 percent of the prevailing charge for the 12-month period beginning July 1, 1984. For hospital-based laboratory services furnished to hospital outpatients, the fee schedule is set at 62 percent of the prevailing charges. Any additional adjustments, such as those due to medical emergencies, low volume high-cost tests, and wage variations will be addressed in the rulemaking process.

Assignment is mandatory for independent laboratories in order to have payment made for their services under Part B of Medicare. When assignment is accepted, or when the service is furnished by a Medicare "provider," the payment will be 100 percent of the lesser of the billed charge or the fee schedule amount. When assignment is not accepted by a physician, the usual coinsurance and deductible provisions of Medicare apply.

The amendments made by this section also provide that, in the case of assigned claims, and in the case of claims for services furnished by a "provider of services" on an outpatient basis, payment may be made only to the person or entity which performed or supervised the performance of the test with two exceptions:

- Payment may be made to another physician who shares his or her medical practice with the physician who performed or supervised the performance of the test.
- Payment for a clinical diagnostic laboratory test performed at the request of a laboratory by another laboratory may be made to the referring laboratory.

In the case of unassigned claims, payment may be made to the beneficiary on the basis of an itemized bill from the person or entity which performed or supervised the performance of the test.

In addition, when hospitals are operating under a waiver granted under section 602(k) of the Social Security Amendments of 1983, Pub. L. 98-21, payment will continue to be made to the outside supplier under Part B reasonable charge methodology, rather than in accordance with fee schedules. Under this waiver, payment will continue on the basis of reasonable charges, except that when the laboratory accepts assignment, payment will be 100 percent of the reasonable charge, and

coinsurance and deductibles do not

economic index adjustment for

Act, which reschedule the annual

Budget Impact: $ Undetermined (FY

Budget Impact: $ Negligible (FY 84-

Amends: Sections 1816(c), (e)(4), and

VOL 50 ISS 137 JL 17 1985 UMI

coinsurance and deductibles do not apply.

The provision is also applicable to the Medicaid program. For calendar quarters beginning October 1, 1984, Federal matching funds will not be available to the extent a State paid more for laboratory test than would be paid under the Medicare fee schedule.

Amends: Sections 1833(a)(1)(D); 1833(a)(2); 1833(b); 1833(h); 1842(h); 1866(a)(2)(A); 1902(a)(42), (43), and (44); 1903(i)(6) and (7) of the Act.

Effective: July 1, 1984, for Medicare provisions; October 1, 1984, for Medicaid provisions.

Budget Impact: Savings of $30 million (FY 84); $135 million (FY 85).

3. *Section 2305—Elimination of special payment provisions for preadmission diagnostic testing.* These amendments repeal certain provisions of sections 932 and 942 of the Omnibus Budget Reconciliation Act of 1980 (Pub. L. 96-499). These sections authorized 100 percent Medicare Part B reimbursement, subject to the applicable Part B deductible, on a reasonable cost or charge basis for preadmission diagnostic testing, either in a hospital's outpatient department or in a physician's office within seven days before a hospital admission.

These amendments do not prohibit payment under Medicare Part B, subject to applicable copayments, for preadmission diagnostic testing performed in a physician's office or in a hospital's outpatient department, to the extent that testing is otherwise reimbursable under current regulations.

Repeals: Amendments enacted by section 932 and, in part, section 942 of Pub. L. 96-499, The Omnibus Budget Reconciliation Act of 1980.

Amends: Section 1833(a)(1), (a)(2), (a)(3), (a)(4), (a)(5), 1833(b), and 1833(i)(3) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Negligible (less than $1 million) (FY 84-85).

4. *Section 2306—Limitation of physician fee prevailing and customary charge levels; Participating physicians and suppliers.* Section 2306, in part, limits Medicare customary and prevailing charges for physicians' services for a 15-month period beginning on July 1, 1984, and ending on September 30, 1985, to the level in effect for the period July 1983-June 1984. Future updates of customary and prevailing charges will take effect October 1 instead of July 1 of each year beginning after 1984. The data to be used for any such updates will be charges for services in the period April 1 to March 31 preceding the update. When prevailing charges are increased by the economic index adjustment for physicians' services furnished after September 1985, there will be no "catch-up" for the economic index adjustments that are not made during the limitation period.

We have issued instructions relating to the process for physician enrollment as Medicare "participating physicians"—that is, physicians who voluntarily enter into an agreement with the Secretary to accept assignment for all Medicare claims during 12-month periods beginning October 1, 1984. Section 2306(c) enacted sections 1842 (h), (i), and (j) of the Social Security Act, which contains provisions governing "participating physicians." Under these amendments, participating physicians will be allowed to increase their actual charges during the 15 month period and have these recognized in the calculation of their customary charges effective with the October 1, 1985, and October 1, 1986 updates. Nonparticipating physicians are prohibited under the new provision from charging Medicare beneficiaries more for services during the period July 1, 1984, through September 30, 1985, than they charged for services in the period April 1, 1984, through June 30, 1984. Any increases in their actual charges for services furnished during the period July 1, 1984, through September 30, 1985, will be excluded from the computation of the physician's customary charges in the October 1, 1985, and October 1, 1986 updates. In addition, a nonparticipating physician who knowingly and willfully increases his charges in violation of this charge limitation is potentially subject to civil money penalties (up to $2,000 per violation); assessments of up to double the amount of each improper charge; as well as exclusion from the Medicare program for up to 5 years under the provisions of section 1862(d) of the Act. A participating physician who violates his participation agreement is potentially liable to criminal penalties under section 1877(d) of the Act. A participating physician is also subject to assessments of up to double each improper charge, and civil money penalties up to $2,000 per violation under section 1128A(a)(2) of the Act.

This section also establishes the concept of participating suppliers—suppliers who agree to enter into an agreement to accept assignment for all their Medicare claims during 12 month periods, beginning October 1 of each year.

Amends: Sections 1128A(a)(2), 1842(b); and 1877(d) of the Act.

Adds: New section 1842(b)(4), (h), (i), and (j).

Effective: July 1, 1984, except for provisions of section 1842(b)(3) of the Act, which reschedule the annual update, and apply to services furnished beginning October 1, 1985.

Budget Impact: Savings of $75 million (FY 84); $350 million (FY 85).

5. *Section 2314—Revaluation of assets.* The amendments made by this section limit the increase in capital-related cost reimbursement to a new owner that would result from the revaluation of hospital or skilled nursing facility (SNF) assets acquired on or after July 18, 1984, unless an enforceable agreement to acquire the assets was entered into before that date. The capital-related cost to the new owner will be based on the lesser of: (a) Historical cost (the allowable acquisition cost to the owner of record as of July 18, 1984, or, in the case of an asset not in existence as of that date, the first owner of record of the asset after that date), or (b) the acquisition cost of the asset to the new owner. The amendments also prohibit payment for the costs (including legal fees, accounting and administrative costs, travel costs and the costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset, by acquisition or merger, for which any payment has previously been made under Medicare. The Secretary is required to continue recapture of depreciation as under current policy. This provision applies to both hospitals and SNFs participating in Medicare.

The amendments also limit State Medicaid payments resulting from a change of ownership of a hospital, SNF or intermediate care facility (ICF). States are required to assure the Secretary that the methodologies used to establish payments to hospitals, SNFs or ICFs can reasonably be expected not to increase those payments more than they would increase under Medicare policy as a result of change of ownership of a facility.

Amends: Section 1902(a)(13) of the Act.

Adds: Section 1861(v)(1)(O) to the Act.

Effective date for Medicare: Changes in ownership occurring on or after July 18, 1984.

Effective date for Medicaid: Effective with medical assistance furnished on or after October 1, 1984, with respect to changes in ownership occurring on or after July 18, 1984. When State legislation is necessary, the State will not be considered out of compliance with Title XIX solely on the basis of section 1902(a)(13)(B) until the first day of the first calendar quarter after the close of the first regular State legislative session that begins after July 18, 1984.

Budget Impact: $ Undetermined (FY 84-85).

6. *Section 2318—Emergency room services.* This provision establishes a statutory definition of "bona fide emergency services" under Medicare for purposes of the exemption from special limits on hospital outpatient services and associated physicians' services. "Emergency services" are defined as "services provided in a hospital emergency room after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—(I) placing the patient's health in serious jeopardy; (II) serious impairment to bodily functions; or (III) serious dysfunction of any bodily organ or part."

Amends: Section 1861(v)(1)(K) of the Act.

Effective date: July 18, 1984.

Budget Impact: $ Negligible (FY 84-85).

7. *Section 2321—Cost sharing for durable medical equipment as a home health benefit.* This provision substitutes coverage of durable medical equipment for coverage of the use of medical appliances as a home health benefit and makes Medicare payment for this equipment consistent with existing payment rules that require Medicare enrollees to pay a 20 percent coinsurance on durable medical equipment furnished by medical equipment suppliers other than home health agencies.

Amends: Sections 1814(b); 1833(a)(2)(A); 1833(a)(2)(B); 1866(a)(2)(A)(ii); 1833(f)(1), (f)(2), (f)(3); 1861(m)(5); 1861(s)(8); 1861(cc)(1)(G); and 1814(j)(2).

Adds: Sections 1814(k), 1861(n).

Redesignates: Revised section 1833(f) as section 1889.

Effective date: July 18, 1984.

Budget Impact: $ Negligible (FY 84), savings of $6 million (FY 85).

8. *Section 2324—Coverage of hemophilia clotting factor.* This provision makes an exception to the exclusion of drugs and biologicals under Medicare to permit coverage for blood clotting factors, and the supplies necessary for administration of the clotting factors for hemophilia patients competent to use these factors to control bleeding without medical or other supervision. This expansion of coverage is subject to utilization controls that the Secretary may develop as deemed necessary.

Amends: Section 1861(s)(2) of the Act.

Adds: Section 1861(s)(2)(I) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Negligible (FY 84-85).

9. *Section 2325—Payment for debridement of mycotic toenails.* This section places a restriction on payments under Part B of Medicare for a physician's care of toenails with a fungal infection (i.e., debridement of mycotic toenails). Payment may not be made for services furnished more frequently than once every 60 days, unless the medical necessity for more frequent treatment is documented by the billing physician.

Effective: July 18, 1984.

Budget Impact: $0 (FY 84-85).

10. *Section 2326—Contracts for Medicare claims processing.* This section includes the following self-explanatory provisions.

A. *Provider nomination* (section 2326(a), in part). Section 2326 included provisions whereby the Secretary may use competitive bidding to replace a contractor that over a period of time has been in the lowest 20th percentile as measured by the Secretary's cost and performance criteria (section 2326(a)). In FY 85 and again in FY 86, the Secretary may enter into two intermediary and two carrier agreements based on competitive bidding.

The Secretary may waive the right of a provider to nominate an intermediary of its choice when a contract for fiscal intermediary services is competitively bid, and for the duration of the competitively-bid contract. This new authority is in addition to existing authority to assign and reassign a provider where the Secretary determines that it would result in more effective administration of the program. The new authority may be applied to not more than two fiscal intermediary agreements during each of the Federal fiscal years 1985 and 1986.

B. *Cost reimbursement* (section 2326(d)). This section provides that, in determining an intermediary's or carrier's necessary and proper cost of administration, the Secretary will take into account the amount that is reasonable and adequate to meet the costs that must be incurred by an efficiently and economically-operated intermediary or carrier in carrying out the terms of its agreement.

C. *Other provisions.* In addition, section 2326(b) requires that the Secretary reduce the number of designated regional intermediaries for home health agencies to no more than 10, to be completed within 3 years.

Section 2326(c) provides that performance standards and criteria for fiscal intermediaries and carriers shall be published in the Federal Register for public comment prior to implementation.

Amends: Sections 1816(c), (e)(4), and (f); 1842(b)(2) and (c) of the Act.

Effective: July 18, 1984, except that the amendments made by section 2326(d) apply to agreements and contracts entered into or renewed after September 30, 1984.

Budget Impact: $0 (FY 84); Savings of $12 million (FY 85).

11. *Section 2331—Repeal of exclusion of for-profit organizations from research and demonstration projects.* This provision removes a restriction so that the Secretary may enter into research and demonstration projects with organizations that are operated for profit. Certain provisions of prior law permitted the Secretary to award the research and demonstration projects they authorized only to States, public or other non-profit organizations.

Amends: Section 1110(a)(1) of the Act, and section 402(a)(1) of Pub. L. 90-248, as amended.

Effective: July 18, 1984.

Budget Impact: $0.

12. *Section 2335—Repeal of special tuberculosis treatment requirements under Medicare and Medicaid.* This amendment repeals special conditions and requirements applicable to coverage of services provided to Medicare and Medicaid patients by institutions which primarily provide diagnosis and treatment of tuberculosis. These special conditions were originally intended to assure that the services provided by such institutions were not custodial and could reasonably be expected to improve the patient's condition or result in the condition being noncommunicable. The amendment also eliminates the special provider category for tuberculosis hospitals.

Amends: Sections 1814(a); 1861(e); 1861(j); 1863; 1866(b)(3); 1866(d); 1902(a)(28); and 1905(a)(1), (a)(4), (a)(14), (a)(15) and (a)(18).

Repeals: Section 1861(d) and (g).

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

13. *Section 2338—Enrollment and Premium Penalty with Respect to Working Aged Provision.* This section provides for a special Medicare Part B enrollment period for those workers and spouses age 65 through 69 who elect an employer group health plan as primary payer for medical care. In these cases, the 7-month enrollment period will begin with the third month before the month an individual reaches age 70, or with the first month in which the individual is no longer enrolled in the employer group health plan (whichever results in earlier coverage). In calculating the premium surcharge (penalty) for late enrollment, months beginning with January 1983 in

which an individual was covered under Medicare Part A and an employer health

16. *Section 2342—Establishment by physical therapists of plans for physical*

second amendment specifies that when the PRRB determines that it is without

Budget Impact: Costs of $20 million (FY 84) and $20 million (FY 85)

immediately contact the above named individual's

redelgated by the Assistant Secretary—

which an individual was covered under Medicare Part A and an employer health plan are excluded. This exclusion applies to the surcharge on premiums due September 1984. The amendment also specifies when Part B coverage begins under various circumstances.

Amends: Section 1839(b) of the Act.

Adds: Sections 1837(i) and 1838(e) to the Act.

Effective: September 1, 1984, for the premium surcharge; November 1, 1984, for the special enrollment provision.

Budget Impact: $Negligible.

14. *Section 2340—Qualifications of psychiatric hospitals.* This section repeals the statutory requirements that psychiatric hospitals be accredited by the Joint Commission on the Accreditation of Hospitals (JCAH) in order to participate in Medicare and Medicaid, and that psychiatric units which are distinct parts meet equivalent requirements. This section does not repeal existing requirements in section 1861(f)(2) of the Act that psychiatric hospitals meet the requirements applicable to hospitals in section 1861(e)(3)–(9) of the Act.

Amends: Sections 1861(f); and 1905(h)(1)(A).

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

15. *Section 2341—Including podiatrists in definition of "physician" for outpatient physical therapy services and including podiatrists and dentists in the definition of "physician" for outpatient surgery performed in a physician's office.*

A. *Definition of "physician" for outpatient physical therapy services.* This provision includes podiatrists (when acting within the scope of their practice as defined by State law) in the Medicare definition of "physician" for the purpose of the requirement that outpatient physical therapy services are covered by Medicare only when the beneficiary is under the care of a "physician." The amendment also has the effect of permitting a podiatrist to establish and review a plan of care for physical therapy.

B. *Definition of "physician" for outpatient surgery performed in a physician's office.* This Medicare provision includes dentists and podiatrists in the definition of "physician" for purposes of qualifying for payment of facility services in connection with outpatient surgery performed under certain conditions in a physician's office.

Amends: Sections 1861(p)(1); 1832(a)(2)(F)(ii), and 1861(r)(3) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

16. *Section 2342—Establishment by physical therapists of plans for physical therapy.* This amendment provides that Medicare payment for outpatient physical therapy services (which includes services furnished by a physical therapist in independent practice) furnished to a beneficiary may be made if either a physician or a qualified physical therapist providing the services establishes a plan of care. A physician would still be required to review periodically all plans of care.

Amends: Sections 1861(p)(2); 1835(a)(2)(C)(ii).

Effective: For plans of care established on or after July 18, 1984.

Budget Impact: $ Undetermined.

17. *Section 2344—Medicare recovery against certain third parties.* This provision makes explicit the Federal Government's right to recover Medicare payment directly from third parties where Medicare is the secondary payer.

The amendment states that the Government (1) is subrogated to the right of any individual or other entity to receive payment from a third party payer to the extent of the Medicare payment; (2) may join or intervene in an action related to the events that gave rise to the need for items and services for which Medicare has paid; and (3) can recover Medicare payments from:

Any entity responsible for payment (such as an employer or insurance carrier responsible for paying workers' compensation; an automobile, medical or no-fault insurer; any liability insurer; or an employer group health plan which is primary to Medicare); and

Any entity (such as a beneficiary, physician or provider) which has received payment from a third party which is primary to Medicare.

Amends: Section 1862(b) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

18. *Section 2345—Confidentiality of accreditation surveys.* This provision extends the prohibition against disclosure by the Medicare program of accreditation survey information furnished by the JCAH, to similar survey information provided by the American Osteopathic Association or any other national accreditation association.

Amends: Section 1865(a) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

19. *Section 2351—Judicial review of provider reimbursement review board decisions (PRRB).* One amendment made by this section specifies that those Medicare providers that brought a group appeal before the PRRB because of a common question of fact, or interpretation of law or regulation, must bring any judicial appeal as a group. A second amendment specifies that when the PRRB determines that it is without authority to decide a question of law or regulations, the provider's request for judicial review must be brought within 60 days after receipt of notification of the PRRB decision, rather than within 60 days of the decision.

Amends: Section 1878(f)(1) of the Act.

Effective: July 18, 1984.

Budget Impact: $ Undetermined.

20. *Section 2361—Medicaid coverage for pregnant women and young children.* This provision requires that States provide Medicaid coverage to the following groups: (1) Qualified pregnant women, defined to include a woman whose pregnancy has been medically-verified and who (a) would be eligible for AFDC (or would be eligible for AFDC if coverage under the State's AFDC plan included an unemployed parents program) if the child had been born to her and was living with her in the month of payment; or (b) is a member of a family that would be eligible for AFDC if the State's AFDC plan included an unemployed parents program; and (2) Qualified children, defined as those who are under 5 years of age, who were born after September 30, 1983, and who meet the income and resource requirements under the State's approved AFDC plan.

Amends: Section 1902(a)(10)(A)(i); and 406(g).

Adds: Section 1905(n).

Effective: October 1, 1984, except that when State legislation is necessary, the State will not be considered out of compliance with Title XIX solely on the basis of sections 1902(a)(10)(A)(i)(III) and 1905(n) until the first day of the first calendar quarter after the close of the first regular State legislative session that begins after July 18, 1984.

Budget Impact: Costs of $40 million (FY 85) and $105 million (FY 86).

21. *Section 2365—Increase in Medicaid ceiling amount for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.* This amendment raises the annual ceiling on the amount of Federal matching payments for Medicaid services to the following jurisdictions:

Jurisdiction	Federal ceiling
Puerto Rico	$63.4 million.
Virgin Islands	$2.1 million.
Guam	$2.0 million.
Northern Mariana Islands	$550,000.
American Samoa	$1.15 million.

Amends: Section 1108(c) of the Act.

Effective: for fiscal years beginning on or after October 1, 1983.

Budget Impact: Costs of $20 million (FY 84) and $20 million (FY 85).

Authority: Sec. 2302, 2303, 2305, 2306, 2314, 2318, 2321, 2324, 2325, 2326, 2331, 2335, 2336, 2340, 2341, 2342, 2344, 2345, 2351, 2361, and 2365 of Title III of Division B of the Deficit Reduction Act of 1984, Pub. L. 98–369.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance; Program No. 13.773, Medicare-Hospital Insurance Program; and Program No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: April 29, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85–16975 Filed 7–16–85; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Availability of Final Environmental Impact Statement on the Proposed Norton-Tesuque 115 kV Transmission Line and Substation in Santa Fe County, NM

July 2, 1985.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Environmental Impact Statement (FEIS) on the proposed Norton-Tesuque 115 kV Overhead Transmission Line and Substation in Santa Fe County, New Mexico is available for public review. The Public Service Company of New Mexico is proposing to be granted a right-of-way from the existing Norton Station for approximately 9.1 miles east of a new substation site, in order to construct a 115 kV overhead transmission line. The project area is located approximately three miles north of Santa Fe, New Mexico.

DATES: Written comments are due 30 days from the date of this notice.

ADDRESSES: Comments should be addressed to Mr. Vincent Little, Area Director, Albuquerque Area Office, P.O. Box 8327, Albuquerque, New Mexico 87198.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Allan, Area Environmental Quality Specialist, Albuquerque Area Office, Bureau of Indian Affairs, P.O. Box 8327, Albuquerque, New Mexico 97198, telephone (505) 766–3374. Individual wishing copies of this Final Environmental Impact Statement should immediately contact the above named individual.

SUPPLEMENTAL INFORMATION: The Bureau of Indian Affairs (BIA), Department of the Interior, has prepared a FEIS on its proposal to approve a right-of-way for the Public Service Company of New Mexico on lands belonging to the Pueblo of Tesuque.

This action is designed to provide reliable electrical service to an area of increasing development and will also result in impacts to the visual character of the area, effects upon wildlife, vegetative cover, erosion, lifestyles, property values and sales.

The principal alternatives under consideration that were analyzed and evaluated during planning are: A. No action, B. Approval of proposed rights-of-way and necessary construction for eight alternative routes, and C. Construction alternatives including: (1) Underground transmission lines and, (2) construction of overhead transmission lines with various materials and design alternatives.

Other Government agencies and members of the public contributed to the planning and evaluation of the proposal and the preparation of this Environmental Impact Statement (EIS). The Notice of Intent was published in the Federal Register on September 21, 1983. Three scoping meetings were held; one on September 15, 1983, (at Tesuque Pueblo, and two in Santa Fe on September 20, 1983, and October 25, 1983.) The October 25 meeting was announced in the Federal Register, while the September 20 meetings were announced in the Santa Fe New Mexican. Cooperating Agencies include the Bureau of Land Management, the U.S. Fish and Wildlife Service and the County of Santa Fe.

A public meeting was held for the purpose of receiving oral comments on March 27, 1985, in Santa Fe, New Mexico.

Dated: July 2, 1985.

Hazel E. Elbert,

Acting Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 85–16940 Filed 7–16–85; 8:45 am]

BILLING CODE 4310–20–M

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Flathead Irrigation Project, MT

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelgated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Flathead Irrigation Project for Calendar Year 1985 and subsequent years.

This notice sets forth changes to the operations and maintenance charges and related information applicable to the Flathead Irrigation Project, St. Ignatius, Montana. These charges were proposed pursuant to the authority contained in the Acts of August 1, 1914 and March 7, 1928, (38 Stat. 583, 25 U.S.C. 382; 45 Stat. 21025 U.S.C. 387).

In compliance with the above, the operation and maintenance charges for the lands under the Flathead Irrigation Project, Montana, for the season of 1985 and 1986 and subsequent years until further notice, are hereby fixed as follows:

For the season of 1985 for lands not included in an Irrigation District but including land held in trust for Indians, the rate per acre for the various divisions are as follows:

Jocko	$11.26/acre
Mission Valley	$10.94/acre
Camas	$10.46/acre

For the season of 1986 for lands included in an Irrigation District, the Project charge per acre is as follows:

Jocko Valley Irrigation District	$6.49/acre
Mission Irrigation District	$8.65/acre
Flathead Irrigation District	$10.00/acre

Payments

The water charges become due on April 1 each year or as biannually billed. To all assessments on lands in non-Indian ownership, remaining unpaid 60 days after the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

Wilford W. Bewker,

Acting Area Director.

[FR Doc. 85–16931 Filed 7–16–85; 8:45 am]

BILLING CODE 4310–02–M

Receipt of Petition for Federal Acknowledgement of Existence as an Indian Tribe

This is published in the exercise of authority delegated by the Secretary of

the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Land Managmenet, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the

[A-19365]

Lands to be transferred from the

forms of appropriation under the public

the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a)(formerly 25 CFR 54.8(a)) notice is hereby given that the Chukchansi Yokotch Tribe, c/o Ms. Karen Tex Morris, P.O. Box 277, Coarsegold, California 93614, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on May 9, 1985. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Branch of Acknowledgement and Research, Code 440B, Bureau of Indian Affairs, Interior South Building Room 32, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

Sidney L. Mills,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85–16930 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

New Mexico; Filing of Plat of Survey

July 8, 1985.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on July 2, 1985.

The dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of section 21 and the subdivision of section 20, Township 17 South, Range 30 East, New Mexico Principal Meridian, under Group 783, New Mexico.

This survey was requested by the Roswell District Manager, Bureau of Land Management.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Managmenet, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85–16920 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-F-M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–163 that a meeting of the Winnemucca District Grazing Board will be held on September 5, 1985. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include:

1. Review Proposed Range Improvement Projects (8100) and Set Priorities for FY 1986.
2. Update on current (FY85) Range Improvement Projects.
3. BLM response time for Range Improvement Requests.
4. Grazing permittee's responsibility for Range Improvement Maintenance Requirements.
5. Public Comments.

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by August 22, 1985. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board Meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: July 9, 1985.

Frank C. Shields,

District Manager.

[FR Doc. 85–16919 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-HC-M

Rules of Conduct and Supplementary Rules Of Yuma District, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of developed recreation area and establishment of supplementary rules.

SUMMARY: The following area is designated a developed recreation site for the purposes of applying the rules of conduct contained in 43 CFR 8365.2.

Area	Type	Location
1. Squaw Lake...	Campground.....	T. 15 S., R. 24 E., S. 5, (G&SRM).

In addition to the regulations contained in 43 CFR 8365.2, the following suplementary rules will apply to the developed recreation site listed above:

a. Reserving camping space is prohibited. Camping space will be allocated on a first come first served basis. Checkout time is 12 noon for overnight campers.

b. Campground speed limit is 10 miles per hour. Only street legal vehicles driven by licensed drivers may be operated on the site. Motorized vehicle free play is prohibited. Motorized vehicles will be used for access to and from the campsite only.

c. Permit receipts must be displayed so that they are plainly visible from the street side of trailers, campers, or other primary vehicle.

d. Trash must be deposited in bins. Dishes or clothes must not be washed in the restrooms. Water must not be dumped on the ground.

e. Cutting or damaging trees or plants is prohibited. No wood collecting is permitted.

f. Boats are prohibited in the swimming area and must be operated in a safe manner in the launching area. Squaw Lake is a no-wake zone. A maximum speed of 5 miles per hour is required.

EFFECTIVE DATE: August 23, 1985.

FOR FURTHER INFORMATION CONTACT: Hal Hallett, Outdoor Recreation Planner, Yuma District, Yuma Arizona 85364, (602) 726–6300.

SUPPLEMENTARY INFORMATION: The authority for establishing supplementary rules is contained in 43 CFR 8365.1–6. These rules will be available in each local office having jurisdiction over the lands, sites, or facilities affected. These rules will also be posted near and/or within the lands, sites, or facilities affected.

Dated: July 5, 1985.

J. Darwin Snell,

District Manager.

[FR Doc. 85–16915 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-32-M

[A–19365]

Proposed Withdrawal and Reservation of Public Lands; Arizona; Correction

The notice published June 14, 1984 (50 FR 24947) is corrected to delete lands listed in T 21N R 21W, GSR Meridian.

Marsha Luke,

Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc. 85–16913 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-32-M

[CA 16173]

Land Exchange; Shasta/Trinity Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Exchange of Public Lands, Shasta County, California, CA 161673.

SUMMARY: The following described public land has been determined to be suitable for disposal by exchange under the provisions of Sec. 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716):

T. 33 N., R. 5 W., M.D.B. & M.
Sec. 35, SW¼NW¼SE¼
(containing 10 acres)

In exchange for these lands, the United States will acquire the following described lands from Robert F. Snell and Ila M. Snell, P.O. Box 84, Douglas City, California 96024:

T 33 N., R. 9 W., M.D.B. & M.
Sec. 13, SE¼NW4¼SW¼
(containing approximately 10 acres) and
Sec. 28, A parcel of land containing approximately 10.00 acre described by metes and bounds, lying within the NE¼

The purpose of this exchange is to acquire these private lands which have high public values for preservation and control of cultural significance, and recreation purposes. The subject private land lying in section 13 contains significant cultural values. The parcel in Section 28 lies along the Trinity River, a designated "recreation river" under the Wild and Scenic Rivers Act (P.L. 95–625). Acquisition is consistent with the approved Trinity River Recreation Area Management Plan (which provides for land tenure adjustments through exchange), and Redding Resource Area Land Use Plans.

The values of the lands to be exchanged are approximately equal; full equalization of values will be in accordance with regulations cited in 43 CFR 2201.3. Appraisal values will be available prior to consummation of the exchange at the BLM Area Office, Redding, California.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

Publication of this notice in the Federal Register segregates the public land described herein from all forms of appropriation under the public land laws, including the mining laws, for a period of two years from the date of first publication.

Evidence of title acceptable to the Department of Justice is required on private lands conveyed to the United States.

Detailed information concerning the exchange, including the Land Report, environmental assessment, and the report of non-federal participation, is available for review at the Redding Resource Area Office, 355 Hemsted Drive, Redding, California 96002.

DATE: For a period of 45 days from the date of first publication, interested parties may submit comments to Robert J. Bainbridge, Area Manager, Redding Resource Area.

ADDRESS: Comments should be sent to: Area Manager, Redding Resource Area, Bureau of Land Management, 355 Hemsted Drive, Redding, California 96002.

Objections will be reviewed by the California State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Robert J. Bainbridge, (916) 246–5325.

Dated: July 5, 1985.

Robert J. Bainbridge,

Redding Area Manager.

[FR Doc. 85–16914 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-DQ-M

[U–55635]

Realty Action; Sale of Public Lands in Kane County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) public land described as Lot 5, Sec. 26, T. 40 S., R. 7 W., SLB&M, Utah, containing .69 acres, is proposed for direct noncompetitive sale to Keith and Ramona Walker at no less than fair market value. The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

DATES: Comments will be accepted until September 5, 1985. The land would be offered for sale on September 25, 1985.

ADDRESS: Detailed information concerning the sale is available at the Kanab Area Office, 320 North First East, Kanab, Utah 84741, (801) 644–2672. Comments should also be sent to the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.
2. There is reserved to the United States a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.
3. Title transfer will be subject to valid existing rights.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Dated: July 9, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85–16912 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-DQ-M

Fish and Wildlife Service

Annual Waterfowl Status Meeting and Meetings of FWS Migratory Bird Regulations Committee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The U.S. Fish and Wildlife Service, Office of Migratory Bird Management will conduct an open meeting to review the status of waterfowl populations and the 1985 fall flight forecast for ducks. The Service Regulations Committee will meet to develop 1985–86 waterfowl hunting regulations recommendations for presentation at the August 1 public hearing to be held in Washington, DC (as announced in the March 14, 1985, **Federal Register** at 50 FR 10277), and will meet immediately after the public

hearing to review the public comments presented at the hearing and develop

attended by persons outside the Department, the meetings of July 31 and

procedures are set out in revised § 250.34 of Title 30 of the CFR

Dated: July 9, 1985.

Minerals Management Service is

LEASE AND BLOCK NUMBERS

hearing to review the public comments presented at the hearing and develop proposed 1985–86 waterfowl hunting regulations frameworks.

DATES: Waterfowl Status Meeting, July 25, 1985; Service Regulations Committee Meetings, July 31, 1985 and August 1, 1985.

ADDRESS: The Waterfowl Status Meeting will be held at the Sheraton-Denver Airport Hotel in Denver, Colorado. The Service Regulations Committee Meetings will be held in Room 7000 A/B, Main Interior Building, 18th and C Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, Room 536 Matomic U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, telephone (202) 254–3207.

SUPPLEMENTARY INFORMATION: On July 25 at 8:30 a.m. at the Sheraton-Denver Airport Hotel in Denver, Colorado, the U.S. Fish and Wildlife Service, Office of Migratory Bird Management will review for State and Federal officials and any other interested parties or individuals results of the various field investigations and data analyses that are used annually to determine the status of waterfowl populations and the fall flight forecast for ducks. The information presented will have a bearing on regulations and the regulatory proposals; however, the meeting is not a regulations meeting. Public comment will be limited to that which supplements the status information presented.

The U.S. Fish and Wildlife Service Migratory Bird Regulations Committee, including Flyway Council Consultants to the Committee, will meet in Washington, DC on July 31 at 8:30 a.m. and August 1 at 1:00 p.m. in Room 7000 A/B, Main Interior Building. The meeting on July 31 is to review discussions that occurred at the flyway council meetings and to discuss and develop recommendations for 1985–86 waterfowl hunting regulations to be presented at the public hearing to be held in Washington, DC on August 1 at 9:00 a.m. The August 1 meeting of the Service Regulations Committee is to review the public comments presented at the hearing and to determine on the basis of those comments whether any modifications need to be recommended to the Director in regard to the regulations recommendations presented at the hearing.

In accordance with Departmental policy regarding meetings of the Service Regulations Committee that are attended by persons outside the Department, the meetings of July 31 and August 1 will be open to public observation. Members of the public may submit to the Director written comments on the matters discussed.

Dated: July 12, 1985.

F. Eugene Hester,

Acting Director.

[FR Doc. 85–16952 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

ODECO Oil and Gas Co.; Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposed to conduct on Lease OCS 073, Block 19, South Pelto Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on July 8, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region: Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCD available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 9, 1985

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–16910 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-MR-M

Seagull Energy E & P Inc; Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Seagull Energy E & P Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3991, Block 45, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on July 8, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 9, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–16916 Filed 7–16–85; 8:45 am]

BILLING CODE 4310-MR-M

Shell Offshore Inc., Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 5889, 5900, and 7005, Blocks 65, 109, and 64, respectively, Green Canyon Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on July 2, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 8, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–16911 Filed 7–11–85; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf

ACTION: Notice of availability of environmental documents prepared for Outer Continental Shelf (OCS) mineral prelease and exploration proposals on the Alaska OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and findings of no significant impact (FONSI's) prepared by the MMS for the following oil and gas prelease and exploration activities proposed on the Alaska OCS. The listing includes all proposals for which environmental documents were prepared by the Alaska OCS Region in the 3-month period preceding this notice.

Activity/Operator.—Exploration Drilling Program for Beaufort Sea, Diapir Field (Sale 87) Union Oil Company, as operator for itself and others.

Location.—Union is proposing to drill up to 7 exploratory wells. Subsequent wells will depend upon the results of drilling, testing, and evaluation of the initial well. The location of Union's leases is described as follows:

LEASE AND BLOCK NUMBERS

Lease	Protraction No.	Block
Y0841	NR6–4	551
0843	NR6–4	580
0846	NR6–4	594
0847	NR6–4	595
0898	NR6–4	598
0848	NR6–4	623
0849	NR6–4	624
0850	NR6–4	625
0854	NR6–4	631
0855	NR6–4	632
0863	NR6–4	667
0871	NR6–4	678
Y0872	NR6–4	679
0882	NR6–4	723
0886	NR6–4	728
0889	NR6–4	769
0892	NR6–4	772
0893	NR6–4	813
0894	NR6–4	814
0898	NR7–3	573
0908	NR7–3	574
0910	NR7–3	662
0912	NR7–3	705
0913	NR7–3	706

Environmental Assessment.—No. AK 85–04.

FONSI Date.—April 12, 1985.

Activity/Operator.—Exploration Drilling Program for Beaufort Sea, Diapir Field (Sale 87) Shell Western Exploration and Production Company, as operator for itself and others.

Location.—Shell is proposing to drill up to six exploratory wells. Subsequent wells will depend upon the results of drilling, testing, and evaluation of the initial well. The location of Shell's leases is described as follows:

LEASE AND BLOCK NUMBERS

Lease	Protraction No.	Block
Y0841	NR6–4	551
0843	NR6–4	580
0846	NR6–4	594
0847	NR6–4	595
0898	NR6–4	598
0848	NR6–4	623
0849	NR6–4	624
0850	NR6–4	625
0854	NR6–4	631
0855	NR6–4	632
0863	NR6–4	667
0871	NR6–4	678
Y0872	NR6–4	679
0882	NR6–4	723
0886	NR6–4	728
0889	NR6–4	769
0892	NR6–4	772
0893	NR6–4	813
0894	NR6–4	814
0898	NR7–3	573
0908	NR7–3	574
0910	NR7–3	662
0912	NR7–3	705
0913	NR7–3	706

Environmental Assessment.—No. AK 85–05.

FONSI Date.—April 12, 1985.

Activity/Operator.—Exploration Drilling Program for Norton Basin; Exxon Company USA, as operator for itself and ELF Aquitaine, Inc.

Location.—Exxon Company USA proposes to drill up to 16 exploratory wells from a jackup drilling rig at

locations 45 to 83 miles south of Nome. Depending upon the results of drilling,

Location.—Amoco is proposing to drill from two to a maximum of seven

National Park Service

from Padre Island National Seashore and will be sent upon request. An

On June 6, 1985, an ID amending the

ACTION: Termination of two respondents

locations 45 to 83 miles south of Nome. Depending upon the results of drilling, testing, and evaluation of the initial well, subsequent wells may be drilled at other locations. Potential sites are described as follows:

Lease	Location	Latitude and longitude
OCS-Y0404	2423' FWL	63.81018 N
	1556' FSL	164.98494 W
0406	4621' FWL	63.79395 N
	4435' FNL	164.97136 W
0414	2170' FEL	63.71188 N
	2816' NSL	164.72198 W
0414	5548' FEL	63.69314 N
	6066' FSL	164.74299 W
0415	5245' FWL	63.69782 N
	7826' FSL	164.67641 W
0415	1208' FWL	63.67945 N
	1078' FSL	164.70143 W
0433	1975' FEL	63.47346 N
	4975' FSL	164.33781 W
0434	1193' FWL	63.49097 N
	4334' FNL	164.31796 W
0430	5259' FWL	63.50293 N
	75' FSL	164.29283 W
0430	4504' FEL	63.51214 N
	6859' FSL	164.25564 W
0430	6849' FWL	63.53430 N
	4186' FNL	164.28231 W
0398	5123' FWL	63.90462 N
	5615' FSL	164.06800 W
0396	2936' FEL	63.90943 N
	7484' FSL	164.04005 W
0399	2645' FWL	63.92233 N
	3485' FNL	164.00503 W
0399	7655' FEL	63.92971 N
	638' FNL	163.97073 W
0393	1111' FEL	63.93876 N
	2735' FSL	163.92978 W

Environmental Assessment.—No. AK 83–05 and supplemental Section 810, Evaluation and Finding.

FONSI Date.—April 18, 1985.

Activity/Operator.—Exploration Drilling Program for Norton Basin; ARCO Alaska, Inc.

Location.—ARCO Alaska, Inc., proposes to drill up to 10 exploratory wells from a jackup drilling rig at locations 28 or more miles offshore Norton Sound. Depending upon the results of drilling, testing, and evaluation of the initial well, subsequent wells may be drilled at other locations. Potential sites are described as follows:

Lease	Location
OCS-Y0402	SE Quarter
0403	SW Quarter
0412	NE Quarter
0417	SW Quarter
0423	NE Quarter
0435	NW Quarter
0436	NE Quarter
0436, No. 1	SE Quarter
0438	NE Quarter
0439	SE Quarter

Environmental Assessment.—No. AK 84–02 and supplemental Section 810, Evaluation and Finding.

FONSI Date.—April 18, 1985.

Activity/Operator.—Exploration Drilling Program for the Navarin Basin (Sale 83) Amoco Production Company, as operator for itself and others.

Location.—Amoco is proposing to drill from two to a maximum of seven exploratory wells. Subsequent wells will depend upon the results of drilling, testing and evaluation of the initial well. The location of Amoco's leases is described as follows:

LEASE AND BLOCK NUMBERS

Lease	Block
Y0707	1–2 0414
0639	1–8 0227
0673	1–1 0197
0719	1–2 0723
0615	1–8 0099
0694	1–2 0321
0598	1–7 0692

Environmental Assessment.—No. AK–85–06.

FONSI Date.—April 19, 1985.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Alaska OCS.

The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA's are used as a basis for determining whether approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense the NEPA section 102(2)(C). A FONSI is prepared in the instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis of that finding and includes a summary of copy of the EA.

The FONSI and associated EA for the activity listed above are available for public inspection between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region Library, 949 East 36th Avenue, Room 502, Anchorage, Alaska 99508. Phone: (907) 261–4435.

Persons interested in reviewing specific environmental documents, or obtaining information about EA's and FONSI's prepared for activities on the Alaska OCS, are encouraged to contact the above listed MMS office.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Alan D. Powers,

Regional Director.

[FR Doc. 85–16924 Filed 7–16–85; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Purpose of Conducting Subsurface Geophysical Exploration; CGG Land Seismic, Padre Island National Seashore, TX

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from CGG Land Seismic a Plan of Operations for the purpose of conducting subsurface geophysical exploration along six lines, located in Kenedy and Kleberg Counties, Texas, and which extend across the Laguna Madre, through Padre Island National Seashore, and terminate in the Gulf of Mexico offshre of Padre Island.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418. Copies of the document are available from Padre Island National Seashore and will be sent, upon request, to individuals or groups at a charge of $14.50 per copy. The document is 145 pages in length.

Dated: July 10, 1985.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 85–16974 Filed 7–16–85; 8:45 am]

BILLING CODE 4310–70–M

Availability of Plan of Operations and Environmental Analysis for the Purpose of Drilling Exploratory Directional Well No. 1; Union Oil Company of California, Padre Island National Seashore, TX

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Union Oil Company of California a Plan of Operations of the purpose of drilling the Exploratory Directional Well No. 1 within Padre Island National Seashore, Kenedy County, Texas, into the Gulf of Mexico, State Tract 1009.

The Plan of Operations and Environmental Analysis are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418. Copies of the document are available from Padre Island National Seashore and will be sent, upon request, to individuals or groups at a charge of $7.30 per copy. The document is 73 pages in length.

Dated: July 10, 1985.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 85–16973 Filed 7–16–85; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–221]

Certain Apparatus for the Disintegration of Urinary Calculi; Review and Partial Reversal of Initial Determination Amending Notice of Investigation to Name Additional Respondents

AGENCY: International Trade Commission.

ACTION: The Commission has determined to review and partially reverse an initial determination (ID) (Order No. 3) of the administrative law judge (ALJ) amending the notice of investigation to add as parties to the above-captioned investigation two involuntary respondents.

SUMMARY: The Commission has reversed that portion of the ID adding Med Inventio, A.G. (Med Inventio), and Karl Storz GmbH Co. (Karl Storz) as involuntary respondents and affirmed those portions of the ID denying joinder of Blackstone Ultrasonics, Inc. (Blackstone Ultrasonics) as an involuntary party and denying a request to dismiss the complaint for failure to include indispensable parties.

FOR ADDITIONAL INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of General Counsel, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202–523–1627.

SUPPLEMENTARY INFORMATION: On May 2, 1985, respondent Richard Wolf Medical Instruments Corp. (Wolf Medical), filed a motion (Motion No. 221–1) seeking the dismissal of the complaint on the grounds that the Commission had failed to include three indispensable parties to the investigation and, in the alternative, a motion (Motion No. 221–2) seeking the addition of those three firms as "involuntary complainants" in the investigation. Wolf Medical alleged that (1) Blackstone Ultrasonics, the wholly-owned subsidiary of complainant Blackstone Corp., (2) Med Inventio, a Swiss licensee of complainant, and (3) Karl Storz, the West German manufacturer of a component of the product at issue, were indispensable parties to the investigation.

On June 6, 1985, an ID amending the notice of investigation was issued by the ALJ. The ID denied the motion to dismiss and granted, in part, the motion to add parties to the investigation. The ALJ added Med Inventio and Karl Storz as "respondents" in the investigation on the grounds that Med Inventio and Karl Storz may have some interest in the patent at issue and respondent Wolf Medical therefore should have the protection of having those companies named as parties. Complainant filed a petition for review.

Notice of this investigation was published in the **Federal Register** on April 24, 1985 (50 FR 16169).

Copies of the Commission's Action and Order, the Memorandum Opinion to be issued in connection therewith, the ID, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0161.

Issued: July 11, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–16996 Filed 7–16–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–216]

Certain Ceramic Drainage Foils; Prehearing Conference

Notice is hereby given that the prehearing conference in this matter will commence at 9:00 a.m. on August 19, 1985, Hearing Room 6311 at the Interstate Commerce Commission Building at 12th Street and Constitution Avenue NW., Washington, D.C., and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: July 11, 1985.

Janet D. Saxon,

Administrative Law Judge.

[FR 85–16993 Filed 7–16–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–211]

Certain Electrical Connectors; Review and Affirm Initial Determination Terminating Two Respondents on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Termination of two respondents on the basis of a settlement agreement.

SUMMARY: The U.S. International Trade Commission has determined to review an initial determination (ID) terminating the above-captioned investigation as to respondents ODU-Kontakt GmbH & Co. KG (ODU-Kontakt) and Otto Dunkel GmbH. (Otto Dunkel) on the basis of a settlement agreement. The Commission has further determined to affirm the initial determination with a correction.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0359.

SUPPLEMENTARY INFORMATION: On May 21, 1985, complainant Thomas & Betts Corporation and respondents ODU-Kontakt GmbH & Co. KG and Otto Dunkel GmbH filed a joint motion to terminate the investigation as to ODU-Kontakt GmbH & Co. KG and Otto Dunkel GmbH on the basis of a settlement agreement. The Commission investigative attorney filled a response supporting the joint motion.

On June 5, 1985, the presiding administrative law judge issued an initial determination (ID) granting the first motion and terminating the investigation as to ODU-Kontakt and Otto Dunkel on the basis of the settlement agreement. On review the ID was corrected so as to describe the settlement agreement as pertaining to both patents in issue, rather than to only one such patent. Notice of the ID was published in the **Federal Register** of June 12, 1985. 50 FR 24713. No petitions for review were filed, nor were any agency or public comments received, with regard to the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rules 210.53, 210.55, and 210.56 (49 FR 46,123 (November 23, 1984), to be codified at 19 CFR 210.53, 210.55, and 210.56).

Copies of the public versions of the ID and the settlement agreement and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Issued: July 9, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–16995 Filed 7–16–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–213]

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VOL 50 ISS 137 JL 17 1985 UMI

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16997 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-211]

Certain Electrical Connectors; Determination Not To Review Initial Determination Terminating Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) terminating the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0359.

SUPPLEMENTARY INFORMATION: On May 21, 1985, complainant Thomas & Betts Corporation filed a motion to terminate the investigation. The Commission investigative attorney filed a response supporting the motion.

On June 6, 1985, the presiding administrative law judge issued an initial determination (ID) granting the motion and terminating the investigation. No petitions for review were filed, nor were any agency comments received, with regard to the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (49 FR 46,123 (November 23, 1984), to be codified at 19 CFR 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Issued: July 9, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16998 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-213]

Certain Fluidized Bed Combustion Systems; Prehearing Conference and Hearing; Cancellation

Notice is hereby given that the prehearing conference in this proceeding scheduled for July 15, 1985, and the hearing scheduled to commence immediately thereafter (50 FR 25474) are cancelled.

The prehearing conference is rescheduled to commence at 9:00 a.m. on July 22, 1985, in Room 6311 at the Interstate Commerce Commision Building at 12th Street and Constitution Avenue NW., Washington, D.C., and the hearing will commence immediately thereafter.

The secretary shall publish this notice in the **Federal Register.**

Issued: July 11, 1985.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 85-16992 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-213]

Certain Fluidized Bed Combustion Systems; Extend by 30 Days the Deadline for Determining Whether To Review an Initial Determination Designating the Investigation More Complicated

AGENCY: International Trade Commission.

ACTION: Extension of deadline for determining whether to review an initial determination (ID) designating the above-captioned investigation "more complicated."

SUMMARY: The Commission has determined to extend by 30 days, *i.e.*, until August 9, 1985, the deadline by which it must decide whether to review an ID designating the investigation more complicated.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, telephone 202-523-0161.

SUPPLEMENTARY INFORMATION: On January 10, 1985, the Commission voted to institute the investigation to determine whether there was a violation of section 337 in the unlawful importation into the United States of certain fluidized bed combustion systems, or in their sale, by reason of alleged: (1) infringement of claims 1, 4, 5, or 8 of U.S. Letters Patent 4,279,205; (2) infringement of claims 1, 2, 4, or 5 of U.S. Letters Patent 4,303,023; (3) misappropriation of trade secrets; and (4) fraudulent inducement to enter into a license agreement, the effect or tendency of which is to destroy or substantially injure an efficiently and economically operated industry in the United States and/or prevent the establishment of such an industry.

On June 4, 1984, complainant Wormser Engineering, Inc. (Wormser) filed a motion to designate the investigation more complicated within the meaning of § 210.59 of the Commission's rules. The motion was supported by the Commission investigative attorney (IA) and opposed by respondents ASEA STAL Inc., and ASEA STAL AB (collectively referred to as Stal Laval). On June 7, 1985, the ALJ issued an ID (Order No. 12) granting complainant Wormser's motion and designating the investigation more complicated.

On June 14, 1985, Stal Laval filed a petition for review of the ID. Wormser and the IA opposed Stal Laval's petition.

The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Issued: July 11, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16995 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 22-47]

Import Investigations; Certain Tobacco

February 15, 1985.

Findings and recommendations

On the basis of the information developed in the course of the investigation, the Commission [1] finds that flue-, fire-, and dark air-cured tobacco and burley tobacco, in unmanufactured form, provided for in items 170.20, 170.25, 170.32, 170.35, 170.40, 170.45, 170.50, 170.60, and 170.80 of the Tariff Schedules of the United States (TSUS), are not being or are not practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support and production adjustment assistance programs for tobacco of the U.S. Department of Agriculture (USDA).

Background

On September 10, 1984, the Commission received a letter from the President directing it to make an investigation under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) to determine whether flue-, fire-, and dark air-cured tobacco and burley tobacco, in unmanufactured form, wherever classified in the TSUS, are practically certain to be imported under such conditions and in such quantities as to materially interfere with the tobacco price support and production adjustment programs now conducted by the USDA.

Notice of the Commission's investigation was published in the **Federal Register** on October 11, 1984 (49 FR 39926). A public hearing was held in Washington, DC on January 3-4, 1985. All interested parties were afforded an opportunity to appear and to present information for consideration by the Commission.

This report is being frunished to the President in accordance with section 22(a) of the Agricultural Adjustment Act. The information in the report was obtained from responses to Commission questionnaires, from information presentd at the public hearing, from interviews by members of the Commission's staff, from information provided by other Federal agencies, and from the Commission's files, submissions by the interested parties, and other sources.

The Commission transmitted its report on the investigation to the President on February 15, 1985. A public version of the Commission's report, *Certain Tobacco* (investigation No. 22-47, USITC Publication 1644, 1985), contains the statements of the Commission and information developed during the investigation.

Issued: July 9, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16999 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[1] Commissioner Eckes dissents in part. Commissioner Eckes finds that flue-cured and burley tobacco, in unmenufactured form, provided for in items 170.20, 170.25, 170.32, 170.35, 170.40, 170.45, 170.50, 170.60, and 170.80 of the TSUS are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support and production adjustment programs for tobacco of the U.S. Department of Agriculture (USDA). Commissioner Eckes recommends that the President proclaim a quota on imports of flue-cured tobacco of 64.4 million pounds per crop year (July 1-June 30, farm-sales weight) and a quota on imports of burley tobacco of 99.9 million pounds per crop year (October 1-September 30, farm-sales weight).

Continued

[Investigation No. 104-TAA-26]

Termination of Portions of the Investigation Regarding the Sugar Content of Certain Articles From Australia

AGENCY: International Trade Commission.

ACTION: Termination of portions of a review investigation under section 104(b) of the Trade Agreements Act of 1979, concerning the *Sugar Content of Certain Articles from Australia.*

EFFECTIVE DATE: July 12, 1985.

FOR FURTHER INFORMATION CONTACT: Stephen McLaughlin, Esq., (202-523-0421) Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: On September 9, 1982, the International Trade Commission received a request from the Government of Australia under section 104(b) of the Trade Agreements Act of 1979 seeking a review of the outstanding countervailing duty order on the sugar content of certain articles from Australia. On May 30, 1985, the Commission published a notice in the **Federal Register** instituting a review investigation (Inv. No. 104-TAA-26) of that outstanding countervailing duty order (50 FR 23006). On June 4, 1985, the Commission published a notice in the **Federal Register** requesting public comment on the proposed termination of all or part of investigation No. 104-TAA-26 (50 FR 23533). That notice stated that, in the absence of an expression of interest by interested parties representing an industry producing all or some of the subject products, the Commission may terminate the investigation as to those products.

During the public comment period, expressions of interest were filed by interested parties representing industries producing canned pears, canned peaches, canned fruit mixtures, and semi-processed confectionery containing chocolate or cocoa as provided for in TSUSA item numbers 156.25, 156.3045, 156.3050, 156.3065, and 156.47. An expression of interest was also filed by the Apricot Producers of California, but it was subsequently withdrawn. No other comments were received. Accordingly, the Commission has determined to continue its review investigation, but to narrow the scope of that investigation to canned pears, canned peaches, canned fruit mixtures, and semi-processed confectionery containing chocolate or cocoa as provided for in the TSUSA items listed above. The investigation has, therefore, been terminated as to all other products covered by the outstanding countervailing duty order with a finding that no domestic industry would be materially injured or threatened with material injury, nor would the establishment of a domestic industry be materially retarded, by reason of the revocation of the countervailing duty order. Accordingly the Commission is requesting that the Department of Commerce revoke the countervailing duty order as to those products.

Issued: July 12, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-16989 Filed 7-16-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-202 (Final)]

Tubular Steel Framed Stacking Chairs From Italy

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Italy of tubular steel framed stacking chairs, provided for in item 727.70 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective March 14, 1985, following a preliminary determination by the Department of Commerce that imports of tubular steel framed stacking chairs from Italy were being sold at LTFV within the meaning of section 731

[1] The record is defined in § 207.2(i) of the Commission's rules of practice and procedure (19 CFR 207.2(i)).

of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and issue a report by March 3, 1986.

as amended by 49 FR 32569, Aug. 15, 1984)).

and milepost F-262.6 near McKenzie, in

Protection Board's (MSPB) proposal to

of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 10, 1985 (50 FR 14169). The hearing was held in Washington, DC, on June 3, 1985, and all persons who requested the opportunities were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 11, 1985. The views of the Commission are contained in USITC Publication 1722 (July 1985), entitled "Tubular Steel Framed Stacking Chairs from Italy: Determination of the Commission in Investigation No. 731–TA–202 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Issued: July 11, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–16991 Filed 7–16–85; 8:45 am]

BILLING CODE 7020–02–M

[332–217]

U.S. Trade-Related Employment; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) for the purpose of estimating U.S. trade-related employment.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Donald Rousslang, Chief, Research Division, Office of Economics, U.S. International Trade Commission, Washington, D.C. 20436 (Phone 202–523–0075).

Background: The Commission instituted this investigation, No. 332–217, on its own motion. The study will provide estimates of the labor content of U.S. trade with all countries combined and of U.S. trade with particular partners, including Japan, the European Community, the newly industrializing countries, the less developed countries, and the nonmarket economies. These labor content estimates will be made for disaggregate industries. The study will update the results of investigation 332–154 which was issued in October 1983. The Commission plans to complete this investigation and issue a report by March 3, 1986.

Written submissions: Interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than October 15, 1985. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on, (202) 724–0002.

By order of the Commission.

Issued July 11, 1985.

Kenneth R. Mason,

Secretary.

[FR 85–16994 Filed 7–16–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–212 (Final)]

Certain Welded Carbon Steel Pipes and Tubes From Venezuela

AGENCY: International Trade Commission.

ACTION: Rescheduling of the hearing to be held in connection with the subject investigation.

SUMMARY: The Commission hereby announces the rescheduling of the hearing to be held in connection with the subject investigation from 10:00 a.m. on August 22, 1985, to 10:00 a.m. on October 29, 1985.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: July 18, 1985.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–523–4612), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background.—On June 3, 1985, the Commission instituted the subject investigation and scheduled as hearing to be held in connection therewith for August 22, 1985 (50 FR 26638, June 27, 1985). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from Augest 12, 1985, to October 16, 1985. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule. As provided in section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must make its final determination in antidumping investigations within 45 days of Commerce's final determination, or in this case by November 29, 1985.

Staff report.—A public version of the prehearing staff report in this investigation will be placed in the public record on October 8, 1985, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on October 29, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 21, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on October 18, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 22, 1985.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)

as amended by 49 FR 32569, Aug. 15, 1984)).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 5, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 5, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

By order of the Commission.

Issued: July 12, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–16990 Filed 7–16–85; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 150X)]

Seaboard System Railroad, Inc.; Abandonment in Henry and Carroll Counties, TN; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 6.6-mile line of railroad between milepost F–256.0 near Henry and milepost F–262.6 near McKenzie, in Henry and Carroll Counties, TN.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective August 16, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by July 29, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by August 6, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: R. Lyle Key, Jr., General Attorney, 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: July 15, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85–17071 Filed 7–16–85; 8:45 am]

BILLING CODE 7035–01–M

MERIT SYSTEMS PROTECTION BOARD

Privacy Act of 1974; Systems of Records

AGENCY: Merit Systems Protection Board.

ACTION: Notice of proposed routine use for existing system of records.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Merit Systems Protection Board's (MSPB) proposal to add a routine use to system MSPB/GOVT–1, Appeal and case records.

DATE: Any interested party may submit written comments regarding the proposed new routine use. Comments on this notice must be received on or before August 16, 1985.

ADDRESS: Comments may be mailed to Robert E. Taylor, Clerk of the Board, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Stephanie M. Conley, (202) 653–8902.

SUPPLEMENTARY INFORMATION: The MSPB is required by statute to conduct special studies relating to the civil service system and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the civil service is adequately protected. 5 U.S.C. 1205(a)(3). In order to carry out this function, the MSPB may find it necessary, on occasion, to provide individuals in the Office of Personnel Management (OPM) and other Federal and State agencies certain identifying information about individuals who have filed appeals with the Board. This identifying information will be used to obtain from the appropriate agencies or individuals the information necessary to support MSPB's statutorily mandated research projects. The information provided by these sources will not be used in a personally identifiable manner in the resulting projects. The information will be used only as a basis for developing aggregate statistics. Further, the information obtained will not be used to make decisions about the rights, benefits or privileges of specific individuals. Upon completion of the project for which information was obtained, the MSPB will ensure that any personal identifying information is destroyed.

For example, in order to obtain current location information on federal employees for the purpose of developing an address listing for use in mailing out questionnaires, the Board may provide social security numbers from its appeal files to OPM. The information will be matched with OPM's listing of the servicing personnel offices for those federal employees whom the Board wishes to contact for study participation. The Board will then obtain the employee's address from information provided by the servicing personnel office. Questionnaires will be mailed to the survey population. Data from the returned questionnaires will only be reported in the aggregate.

Personally identifiable information, such as the employee's address, will not be

Protection Board, Room 852, 1120 Vermont Avenue, NW., Washington, DC

Register of February 13, 1980, these sessions will be closed to the public

NUCLEAR REGULATORY COMMISSION

Finding of No Significant Impact

These exemptions are responsive to

Personally identifiable information, such as the employee's address, will not be included in the MSPB's final report.

MSPB/GOVT–1 last appeared in 47 FR 57803 dated December 28, 1982. The MSPB is proposing to add one new routine use of MSPB/GOVT–1, Appeal and Case Records, as follows:

MSPB/GOVT–1

SYSTEM NAME:

MSPB/GOVT–1, Appeal and Case Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from the record may be disclosed:

1. To federal and State agencies for the purpose of providing the MSPB with information concerning MSPB appellants, which information will be used, absent personal identifiers, in the MSPB's research projects mandated by 5 U.S.C. 1205(a)(3).

* * * * *

Dated: July 11, 1985.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 85–16954 Filed 7–16–85; 8:45 am]

BILLING CODE 7400–01–M

Information Collection To Evaluate the Attractiveness of Federal Employment for College Students

AGENCY: Merit Systems Protection Board.

ACTION: Information collection request submitted to Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, Pub. L. 96–511, 5 U.S.C. Chapter 35, for review.

SUMMARY: The Merit Systems Protection Board (MSPB) is requesting OMB review under 5 CFR 1320.12 of a questionnaire to be used to survey officials of selected colleges and universities concerning (1) the attitudes of graduating students towards the Federal Government as an employer and (2) the outlook for the Federal Government to meet its entry-level professional and administrative hiring needs in career fields most frequently filled by college graduates.

DATE: Comments concerning this information collection request must be submitted on or before August 16, 1985.

Contacts

Copies of the submission to OMB may be obtained from Dennis L. Little, Director, Office of Merit Systems Review and Studies, Merit Systems Protection Board, Room 852, 1120 Vermont Avenue, NW., Washington, DC 20419; (202) 653–7208. Comments on the submission should be addressed to Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503. Attention: Katie Lewin, Desk Officer for MSPB; (202) 395–7321.

FOR FURTHER INFORMATION CONTACT: Harry C. Redd III, Office of Merit Systems Review and Studies, Merit Systems Protection Board, Room 852, 1120 Vermont Avenue, NW., Washington, DC 20419; (202) 653–8877.

Dated: July 11, 1985.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 85–16953 Filed 7–16–85; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on August 2–3, 1985, from 9:00 a.m.–5:30 p.m. and on August 4, 1985, from 9:00 a.m.–1:00 p.m. in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on Friday, August 2, from 9:00 a.m.–4:00 p.m. and on Saturday, August 3, from 9:00 a.m.–11:30 a.m. The topics for discussion will include Program Review and Guidelines for Music Fellowships, Theater, Museums and Challenge Grant Programs; Policy discussions about Art Education, Musical Theater and Rural Arts Activity.

The remaining sessions of the meeting on Friday, August 2, from 4:00 p.m.–5:30 p.m.; on August 3, from 11:30 a.m.–5:30 p.m.; and on August 4, from 9:00 a.m.–1:00 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of confidential budgetary projections and related plans to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: July 12, 1985.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–16978 Filed 7–16–85; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Availability of Reports Issued

Railroad Accident Report: Denver and Rio Grande Western Railroad Company, Train Yard Accident Involving Punctured Tank Car, Nitric Acid and Vapor Cloud, and Evacuation; Denver, Colorado, April 3, 1983. (NTSB/RAR–85/10) (NTIS Order No. PB85–916310.)

Railroad Accident Report: Derailment of New York City Transit Authority Subway Train in Joralemon Street Tunnel; New York, New York, March 17, 1984. (NTSB/RAR–85/07) (NTIS Order No. PB85–916307).

Railroad Accident Report: Seaboard System Railroad Freight Train FERHL Derailment and Fire; Marshville, North Carolina, April 10, 1984. (NTSB/RAR–85/05) (NTIS Order No. PB85–916305).

Special Investigation Report: Railroad Yard Safety-Hazardous Materials and Emergency Preparedness. (NTSB/SIR–85/02) (NTIS Order No. PB85–917005).

Highway Accident Report: Schoolbus Loss of Control; Accidents in Miami, Florida, September 28, 1983, and Birmingham, Alabama, April 12, 1984. (NTSB/HAR–85/03) (NTIS Order No. PB85–916204).

Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Catherine T. Kaputa,

Federal Register Liaison Officer.

July 11, 1985.

[FR Doc. 85–16909 Filed 7–16–85; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–394]

Environmental Assessment and Finding of No Significant Environmental Impact Regarding Proposed Termination of Facility Operating License No. R–121, California Polytechnic State University

The Nuclear Regulatory Commission (the Commission) is considering issuance of an Order terminating Facility Operating License No. R–121 for the California Polytechnic State University, San Luis Obisbo, California.

The Order will terminate the Operating License in accordance with the licensee's request dated April 30, 1981, as supplemented.

Environmental Assessment

Identification of Proposed Action

The Order would terminate Operating License No. R–121, issued for the California Polytechnic State University AGN 201 Training Reactor in San Luis Obisbo, California.

Need for the Proposed Action

The California Polytechnic State University Training Reactor has been dismantled and component parts disposed of. The final inspection and termination approval have been completed and show that all relevant regulatory requirements have been satisfied. Therefore, there is no longer any need for the Operating License to be in effect.

Environmental Impacts of the Proposed Action

Since the reactor is completely dismantled and residual contamination has been decreased to acceptable levels, termination of the license is the next appropriate administrative action. This action will have no environmental impact.

Alternative Use of Resources

This action does not involve the use of resources beyond those needed for its administrative processing.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's dismantling plan and conducted the final inspection of the site. The State of California Radiological Health Branch was consulted with respect to termination of this license. (Letter F. A. Wenslawski, USNRC to D. Honey, State of California Radiological Health Branch, dated April 4, 1985).

Finding of No Significant Impact

On the basis of the Environmental Assessment, the Commission has concluded that termination of the license will have no significant environmental impact on the quality of the human environment. The Commission has determined not to prepare an Environmental Impact Statement for the proposed action.

For further details with respect to this action see the licensee's request for authorization to dismantle the facility and terminate operating license No. R–121 dated April 30, 1981, as supplemented September 8, 1981 and January 30, 1985, and the Commission's Order Authorizing Dismantlement of the Facility and Disposition of Component Parts dated October 6, 1981, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 10th of July, 1985.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Assistant Director Division of Licensing.

[FR Doc. 85–16985 Filed 7–16–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp. et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of 10 CFR Part 50 to the Florida Power Corporation (the licensee) for the Crystal River Unit No. 3 Nuclear Generating Plant (CR–3) located in Citrus County, Florida.

Environmental Assessment

Identification of Proposed Action

The exemptions are related to section III.G of Appendix R to 10 CFR Part 50. Section III.G calls for fire protection features to protect structures, systems, and components important to safe shutdown. This protection can be obtained by separation, utilization of fire barriers, installation of fire detection and suppression systems, enclosure of cable and equipment, and alternative or dedicated shutdown capability. The licensee requested exemptions for Crystal River Unit 3 in the areas of separation of redundant safe shutdown trains by 3-hour fire rated barriers, and alternative or dedicated shutdown capability with fire detection and suppression systems.

These exemptions are responsive to the licensee's letters requesting exemptions dated September 24, October 5, 1984 and December 11, 1984.

The Need for the Proposed Action: The proposed exemptions are needed because the features described in the licensee's request regarding the existing fire protection at their plant for these items are the most practical method for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability.

Environmental Impacts of the Proposed Action

The proposed exemptions will provide a degree of fire protection that is equivalent to that required by Appendix R for other areas of the plant such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor do the proposed exemptions otherwise affect radiological plant effluents. Therefore, the commission concludes that there are no significant radiological environmental impacts associated with the proposed exemptions.

With regard to potential non-radiological impacts, the proposed exemptions involve features located entirely within the restricted areas as defined in 10 CFR Part 20. They do not affect non-radiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemptions.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for Crystal River Unit 3.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Findings of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the letters requesting the

[Docket No. 50–54]

directed to the OMB reviewer Jefferson B. Hill, (202) 396–7340.

The Commission is seeking public comments on this proposed

petition must satisfy the specificity requirements described above.

A request for a hearing or a petition for leave to intervene must be filed with

For further details with respect to this action, see the letters requesting the exemptions dated September 24, 1984, October 5, 1984, and December 11, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 11th day of July, 1985.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 85-16963 Filed 7-16-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-424 and 50-425]

Georgia Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia, City of Dalton, GA; Availability of Safety Evaluation Report for Vogtle Electric Generating Plant, Units 1 and 2

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operation of the Vogtle Electric Generating Plant, Units 1 and 2, located in Burke County, Georgia. Notice of receipt of Georgia Power Company, et al., application to construct and operate the Vogtle Electric Generating Plant, Units 1 and 2, was published in the **Federal Register** on December 28, 1983 (48 FR 57183).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Burke County Library, 4th Street, Waynesboro, Georgia 30830 for inspection and copying for a fee. The report (Document No. NUREG-1137) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, D.C. 20013.

Dated at Bethesda, Maryland, this 8th day of July 1985.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 85-16984 Filed 7-16-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-54]

Issuance of Amendment To Transfer Facility Operating License From Union Carbide Subsidiary B, Inc., to Cintichem, Inc.

Correction

In FR Doc. 85-16407 appearing on page 28129 in the issue of Wednesday, July 10, 1985, make the following correction: In the heading, the docket number should read as it appears above.

BILLING CODE 1505-01-M

NRC Form 398, Personal Qualifications Statement—Licensee; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, revision, or extension: Extension
2. The title of the information collection: Personal Qualifications Statement—Licensee
3. The form number if applicable: NRC 398
4. How often the collection is required: On occasion and biennially
5. Who will be required or asked to report: Individual requiring a license to operate the controls at a nuclear facility.
6. An estimate of the number of responses: 2800 annually
7. An estimate of the total number of hours needed to complete the requirement or request: 5300
8. Section 3504(h), Pub. L 96-511 does not apply.
9. Abstract: NRC Form 398 requests detailed information that should be submitted by a licensing candidate when applying for a new or renewal license to operate the controls at a nuclear facility. This information, once collected, would be used for licensing actions and for providing statistical analyses on the Operator Licensing Program.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 396-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 11th day of July 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 85-16967 Filed 7-16-85; 8:45 am]

BILLING CODE 7590-01-M

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on July 3, 1985 (50 FR 27502), through July 8, 1985.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By August 16, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the local public document room for the particular facility involved.

Carolina Power and Light Company, Docket No. 50-261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: May 15, 1985.

Description of amendment request: The proposed amendment would change the Technical Specifications to add requirements for: (1) Shift manning overtime limits and (2) reporting of challenges and failures of the safety and relief valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance

concerning the application of its standards set forth in 10 CFR 50.92 for

margin of safety. The staff, therefore,

Attorney for licensee: Mr. Robert G.

included in the technical specifications.

be operable and allows any one of the

Duke Power Company, Dockets, Nos.

concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards considerations by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14864). One of the examples of an amendment which will likely be found to involve no significant hazards considerations is a change that constitutes the additional limitation, restriction, or control not presently included in the TS; for example, a more stringent surveillance requirement. The proposed changes fall within the Commission's example (ii) of changes not likely to involve a significant hazards consideration because the change adds limitation and restrictions. Therefore, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Commonwealth Edison Company, Docket No. 50-249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of amendment request: May 30, 1985.

Description of amendment request: The amendment would delete License Condition 3.F from the Dresden Unit 3 license and change section 4.6.2 of the Technical Specification (TS) to indicate the removal of the equalizer line between the two recirculation loops and its two valves during a plant modification to be done during the refueling and maintenance outage scheduled to start in Fall, 1985. License Condition 3.F and section 4.6.2 reflect the requirement set out in Amendment 5 to the Dresden 3 license and TS that the valves in the equalizer line remain closed at all times during plant operation. Since there is never any flow in the line during plant operation, comlete removal of the line and valves does not effect operation of the unit.

Basis for proposed no significant hazards consideration determination: Operation of the unit in accordance with the changes proposed by the amendment is unchanged and, therefore, such operation does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The staff, therefore, proposes to determine that this revision does not involve a significant hazards consideration.

Local Public Document Room Location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Attorney for licensee: Robert G. Fitzgibbons, Jr., Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Branch Chief: John A. Zwolinski.

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment:T1: April 22, 1985.

Description of amendment request: The proposed amendments will put into place new Technical Specification requirements for the newly-installed sump pumps and double check valves in the residual heat removal (RHR) service water vault drain system. This new system replaces the old floor and equipment drains in the six RHR service water vault spaces and provides improved ability to drain these spaces.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for determining whether a license amendment is likely to involve a significant hazards consideration by providing examples (48 FR 14870, April 6, 1983). One example of an action not likely to involve a significant hazards consideration is (ii) a change that constitutes additional restrictions or controls not presently included in the Technical Specifications.

The residual heat removal service water vault drain system previously required that floor drains in the vault spaces be manually uncapped before the spaces could be drained. Automatic sump pumps have been installed in each of the six RHR service water vaults, with double check valves between the discharge side of each pump and its return to the service water system. With installation of the new drainage system, appropriate Technical Specifications are proposed to ensure continued operability of the system even under potential flooding conditions. The new system and the Technical Specifications for the system constitute an additional control over the potential for flooding of the vault spaces, so the change is similar to example (ii) of the Commission guidance. Therefore, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room location: Moline Public Library, 504—17th Street, Moline, Illinois 61265.

Attorney for licensee: Mr. Robert G. Fitzgibbons, Jr., Isham, Lincoln, and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Branch Chief: Domenic B. Vassallo.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 29, 1985, superseding January 18, 1979 submittal.

Description of amendment request: This amendment request was originally noticed on July 20, 1983 (48 FR 33078). The proposed amendment would approve technical specifications for radiological effluent monitoring (RETS) which incorporate the requirements of Appendix I 10 CFR Part 50 into Appendix A, "Technical Specifications," and would delete Appendix B, "Environmental Technical Specifications."

Basis for proposed no significant hazards consideration determination: This amendment would incorporate Radiological Effluent Technical Specifications to meet the requirements of Appendix I of 10 CFR Part 50 into Appendix A Technical Specifications. The amendment would approve new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring, for effluent concentrations and for treatment of liquid, gaseous and solid wastes. This action would also incorporate into the technical specifications the bases that support the operation and surveillance requirements.

The Commission, in a revision to Appendix I, 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the technical specifications to assure compliance. This cause the proposed addition of the technical specifications described above.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870) of actions not likely to involve a significant hazards consideration. Example (ii) relates to changes that constitute additional restrictions or controls not presently included in the technical specifications. The staff has reviewed the licensee's application and concludes that the proposed addition of the above technical specifications falls within the envelope of example (ii).

With regard to the deletion of Appendix B, the original submittal dated January 18, 1979, did not request that the effluent technical specifications be incyded in Appendix A but chose to add them to the existing appendix for effluent technical specifications, Appendix B. With the latest submittal, the licensee has proposed to incorporate the effluent technical specifications currently located in Appendix B into Appendix A, thus eliminating the need for a separate Appendix B to the license. This is purely an administrative change because it merely relocates existing technical specifications into Appendix A.

Example (i) (48 FR 14870) relates to purely administrative changes to technical specifications. The licensee's request to incorporate all radiological effluent technical specifications into Appendix A and to delete Appendix B falls within the envelope of example(i).

Therefore, the staff proposes to determine that the application does not involve a significant hazards consideration since the changes include both administrative changes and additional restrictions and controls that are not currently included in the technical specifications in order to meet the requirements of 10 CFR 50.34a and 50.36a that radioactive material in effluents released to unrestricted areas be kept as low as is reasonably achievable.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Branch Chief: John A. Zwolinski.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: April 1, 1985.

Description of amendment request: The proposed amendments would revise Technical Specification 3.7.10.1, "Fire Suppression System" and its associated bases to require that either fire suppression pumps A and C or pumps B and C be operable at all times, and to no longer permit an indefinite inoperability of fire suppression pump C. The existing specification requires at least two of the fire suppression pumps (pump A, B or C) be operable and allows any one of the three pumps to be indefinitely inoperable.

Basis for proposed no significant hazards consideration determination: Appendix R to 10 CFR Part 50 requires that a plant be able to recover from the effects of a fire and achieve cold shutdown with a loss of offsite power.

The proposed amendments would eliminate a concern under the present Technical Specification 3.7.10.1 that a fire could cause the loss of offsite power to pumps A and B simultaneously with an inoperable pump C, and therefore, the total loss of the fire suppression water system. The concern exists because fire suppression pumps A, B, and C are powered, respectively, by the Unit 2 switchgear in the main switchyard, the Unit 1 switchgear in the main switchyard, and the dedicated 44 kilowatt substation (which is independent of the McGuire Station Auxiliary Power System).

The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards consideration by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of an amendment likely to involve no significant hazards consideration relates to changes (ii) that constitute additional limitations, restrictions, or controls not presently included in the Technical Specifications. The proposed amendments of the Technical Specifications match the example because they would impose more restrictive conditions for operation with an inoperable fire pump than the current Specification 3.7.10.1. The proposed changes require the operability of either the A or B fire suppression pumps as well as the C pump at all times to eliminate the possibility of total loss of Fire Suppression Water System during a concurrent loss of offsite power with a plant fire. Therefore, the Commission proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte, (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Branch Chief: Elinor G. Adensam.

Duke Power Company, Dockets, Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: May 31, 1985.

Description of amendment request: The proposed amendments would revise the Station's common Technical Specifications (TSs) to support the operation of Oconee Unit 3 at full rated power during the upcoming Cycle 9. The proposed amendment request changes the following areas:

1. Core Protection Safety Limits (TS 2.1);
2. Protective System Maximum Allowable Setpoints (TS 2.3);
3. Rod Position Limits (TS 3.5.2); and
4. Power Imbalance Limits (TS 3.5.2).

To support the license amendment request for operation of Oconee Unit 3, Cycle 9, the licensee submitted, as an attachment to the application, a Duke Power Company (DPC) Report, DPC-RD-2005, "Oconee Unit 3, Cycle 9 Reload Report." A summary of the Cycle 9 operating parameters is included in the report, along with safety analyses.

During the refueling outage, 146 fuel assemblies will be reinserted, similar to those previously used, and 31 fuel assemblies will be discharged and replaced by new but substantially similar assemblies of the Mark BZ type. Additionally, Cycle 9 will incorporate gray (less-absorbing) axial power shaping rods (APSRs) instead of the previously used black (highly-absorbing) APSRs.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). Example (iii) of the types of amendments not likely to involve significant hazards considerations is an amendment to reflect a core reload where:

(1) No fuel assemblies significantly different from those found previously acceptable to the Commission for a previous core at the facility in question are involved;

(2) No significant changes are made to the acceptance criteria for the Technical Specifications;

(3) The analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed; and

(4) The NRC has previously found such methods acceptable.

This particular reload involves the reinsertion of 146 fuel assemblies of a type previously approved and used and

the insertion of 31 fuel assemblies of the Mark BZ type. The Mark BZ fuel

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station,

Technical Specifications (TSs) related to the High Pressure Injection (HPI) Flow

Basis for proposed no significant hazards consideration determination:

Requirements provides for a more extensive inspection of steam generator

Basis for proposed no significant hazards consideration determination:

the insertion of 31 fuel assemblies of the Mark BZ type. The Mark BZ fuel assemblies are the same as previously approved assemblies in terms of fuel rods, end grid, end fittings, and guide tubes and differ only slightly in the use of Zircaloy spacer grids rather than Inconel intermediate spacer grids. The use of the Mark BZ fuel assembly had been previously reviewed and approved by the Commission.

The Cycle 9 control rods differ from those of Cycle 8 in that gray APSRs are to be utilized instead of the previously used black APRSs. The gray APSRs have a greater absorber length than the APRSs used in previous reloads and utilize and Inconel absorber instead of the Ag-In-Cd alloy. According to the analyses described in DPC–RD–2005, "Oconee Unit 3, Cycle 9 Reload Report," the gray APSRs will not adversely affect Cycle 9 operation. The Commission has previously approved the use of gray APSRs.

Thus, this core reload involves the use of fuel assemblies and control rods that are not significantly different from those found previously acceptable to the Commission for previous core at this facility. The request for amendment changes the TSs to reflect new operating limits based on the fuel and control rods to be inserted into the core. These parameters are based on the new physics of the core and fall within the acceptance criteria.

In the analyses supporting this reload, there have been no significant changes in acceptance criteria for the Technical Specifications, the analytical methods used to demonstrate conformance with the Technical Specifications and the regulations were not significantly changed, and those analytical methods have been previously found acceptable. Thus, this reload and the proposed license amendments reflecting it appear to be encompassed by example (iii) of amendments not likely to involve significant hazards considerations. On this basis, the Commission proposes to determine that these amendments do not involve significant hazards considerations.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina

Attorney for licensee: J. Michael McGarry, III, Bishop, Liberman, Cook, Purcell, and Reynolds, 1200 17th Street, NW., Washington, D.C. 20036

NRC Branch Chief: John F. Stolz.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: June 17, 1985.

Description of amendment request: The proposed amendment would remove specifications for the iodine sampler cartridge from Tables 3.3–13 and 4.3–13, both referring to radioactive gaseous effluent monitoring instrumentation.

The monitors specified in Tables 3.3–13 and 4.3–13 were incorporated into the technical specifications to reflect the guidelines contained in the NRC standard Radiological Effluent Technical Specifications (RETS). After the RETS were incorporated by Amendment 66, additional iodine sampling and analysis equipment has been installed. Therefore, the iodine sampler cartridge specifications are being removed from Tables 3.3–13 and 4.3–13 since charcoal filter sampling and analysis is performed by the effluent pathway monitors in accordance with Table 4.11–2, "Radioactive Gaseous Waste Sampling and Analysis Program".

Basis for proposed no significant hazards consideration determination: Based on the above discussion, there is no relaxation of effluent monitoring. While the iodine sampler cartridge requirements would be removed, their functions would be transferred to newly installed equipment. We conclude that the proposed amendment would not involve any significant increase in the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident from any accident previously analyzed, and would involve no reduction in the margin of safety. We, therefore, propose to characterize the proposed amendment as involving no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Steven A. Varga.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus, County, Florida

Date of amendment request: May 1, 1985, as revised June 14, 1985.

Brief description of amendment: The proposed amendment would modify the Technical Specifications (TSs) related to the High Pressure Injection (HPI) Flow Balance Testing, HPI Pump and Valve Test, and the Emergency Diesel Generator (EDG) Load Test to allow testing during appropriate operating modes. Specifically, the proposed amendment is needed to provide clarification and resolve conflicts between current TSs and commitments made to the Commission involving low temperature over-pressurization protection, as follows:

1. TS 4.5.2.g currently requires HPI flow balance testing of pump and discharge lines during shutdown. However, pressure-temperature considerations prevent testing during Modes 4, 5, or 6. Thus, Mode 3 is the most appropriate time to perform the test.

2. TS 4.5.2.f currently requires that the HPI valve manual actuation be performed during shutdown (Modes 4 and 5), which conflicts with low temperature overpressure commitments which require "racking out" of these valves in these modes. The TS amendment would allow actuation of valves during Mode 6.

3. TS 4.8.1.1.2.c. presently requires that tests be performed during shutdown (Modes 4 or 5) which, for TS 4.8.1.1.2.c.3 and 5, conflict with low temperature over-pressurization protection commitments. The amendment would permit those tests to be performed in Mode 3. In addition, the 18-month frequency requirement would be changed for this cycle only to permit performance of these tests during the startup for Cycle 6. The specification would also be changed to permit other tests in this section to be performed in Mode 6.

Date of publication of individual notice in **Federal Register:** June 21, 1985 (50 FR 25802).

Expiration date of individual notice: July 22, 1985.

Local Public Document Room location: Crystal River Public Library, 66 NW First Avenue, Crystal River, Florida.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: May 31, 1985, supplemented by letter dated June 7, 1985.

Brief of amendment request: The proposed amendment would revise the Technical Specifications by deleting the program and records retention requirements pertaining to environmental qualification of equipment.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve no significant hazards consideration by providing certain examples (48 FR 14870, April 6, 1983). One of these examples (vii) is a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The proposed change is directly related to this example in that 10 CFR 50.49 "Environmental Qualification of Electrical Equipment Important To Safety For Nuclear Power Plants" (48 FR 2733, January 21, 1983, as amended at 49 FR 45576, November 19, 1984) now contains the regulatory requirements for the environmental qualification program and retention of related records. The proposed change removes the duplicative and limited requirements from the license. On this basis, the Commission proposes to determine that the amendments involve no significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Branch Chief: Steven A. Varga.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: March 5, 1985, as supplemented June 11, 1985 and modified June 20, 1985.

Description of amendment request: The proposed amendment would change the Technical Specifications to require more extensive inspection of steam generator tubes in critical areas. Critical areas are defined as areas of the steam generator where degraded and/or defective tubes exist due to a steam generator physical and/or operating characteristic which would promote tube degeneration in that area. The remainder of the steam generator tubes would be subjected to normal sampling inspection before being determined operable. The March 5, 1985 application was previously noticed on May 21, 1985 (50 FR 20969 at 20983).

Basis for proposed no significant hazards consideration determination: This proposed change to the Technical Specifications concerning Steam Generator Tube Surveillance Requirements provides for a more extensive inspection of steam generator tubes where degradation is expected with normal sampling of the remainder of the tubes. This meets example (ii) (48 FR 14870) of the Commission's examples of amendments considered not likely to involve a significant hazards consideration, because this change constitutes an additional limitation not presently in the Technical Specifications.

Therefore, the Commission proposes that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: J. A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Branch Chief: Edward J. Butcher, Acting.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 22, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications to (1) consolidate requirements for refueling operations in one location and (2) clarify existing requirements and add new rquirements for conducting special plant tests.

(1) *Refueling Requirements.* The proposed change would consolidate in one section all the requirements relating to plant refueling operations. This change involves the verbatim transfer, into one section, limiting conditions of operation (LCOs) for the standby gas treatment system, diesel generators, core standby cooling systems and the control room air treatment system during refueling. At present, these requirements are located in the sections related to the individual systems. In addition, the proposed amendment would change references to Low Pressure Coolant Injection (LPCI) to read "LPCI mode of Residual Heat Removal System" to achieve consistency with plant usage. The two types of nomenclature are identical.

(2) *Special Tests.* The proposed amendment would change the location of existing requirements in the Technical Specifications and add new requirements for the performance of special tests where plant conditions are not in the normal modes of startup or shutdown. The existing and additional requirements would be grouped together in a new section 3/4.22 "SPECIAL TESTS/EXCEPTIONS".

Basis for proposed no significant hazards consideration determination:

(1) *Refueling Requirements.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations is example (i) which relates to purely administrative changes to the Technical Specifications, for example to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. The changes proposed for refueling requirements involve a change in format in the Technical Specifications and the substitution of one type of nomenclature for another where both types have the identical meaning. These changes are purely administrative in nature and, as such, fall within the scope of example (i). On this basis, the Commission proposes to determine that these changes involve no significant hazards considerations.

(2) *Special Tests.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). Examples of actions not likely to involve significant hazards considerations include actions specified as (i) purely administrative changes to the Technical Specifications, and (ii) changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications. Part of the changes related to Special Tests involve relocating existing requirements into a new section to clarify the requirements for the operator. This change would not result in a change to existing requirements and as such is administrative in nature and falls within the scope of example (i) above. The other part of the proposed change would add new LCOs and surveillance requirements not presently covered in the Cooper Technical Specifications. The addition of these controls and requirements is therefore similar to example (ii) above. On this basis, the Commission proposes to determine that these changes involve no significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

surveillance testing, (2) increase the load to be applied to the diesel

diesel generator reliability. The licensee proposed to modify the surveillance

(2) Create the possibility of a new or different kind of accident from any

encompassed by example (i) cited above. On this basis, the Commission

Technical Specification count rate on the source range monitors (SRMs)

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 26, 1985.

Description of amendment request: The proposed amendment to the Technical Specifications would revise the surveillance requirements and bases for the station batteries to improve the demonstration of battery system operability. The existing battery system surveillance requirements lack sufficient detail to ensure full operability and verification that the batteries fully satisfy their design function. The proposed change would provide separate surveillance requirements for the 125 VDC unit batteries and 250 VDC unit batteries which would be more detailed than the single set of requirements for both types of batteries. The proposed surveillance requirements incorporate guidance from NRC Regulatory Guides, NRC-endorsed industry standards and battery manufacturer's recommendation and are more stringent than the current Technical Specifications.

Basis for proposed no significant hazards consideration determination:

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e. example (ii), relates to a change that constitutes an additional limitation, restriction or control not presently in the Technical Specifications. The proposed change would result in more stringent requirements for station battery surveillance and is, therefore, similar to this example. The Commission therefore proposes to determine that this action involves no significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Waston Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Nebraska Public Power District , Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 15, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to (1) reduce the frequency of diesel generator surveillance testing, (2) increase the load to be applied to the diesel generators during monthly operability testing, and (3) achieve consistency in the nomenclature applied to the standby gas treatment system (SGTS).

(1) *Diesel Generator Surveillance Test Frequency.* This proposed change was submitted in response to NRC Generic Letter (GL) 84-15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability," dated July 2, 1984. In this Generic Letter, the NRC staff identified cold fast starts of diesel-generator sets as contributing to premature diesel engine degradation due to unnecessary wear. The NRC has concluded that the frequency of diesel generator fast start tests from ambient conditions should be reduced. Specifically, GL 84-15 states the NRC position that requirements for testing diesel generators while emergency core cooling equipment is inoperable be deleted from Technical Specifications. Accordingly, the license proposed to deleted from Cooper Nuclear Station TS requirements for diesel generator testing when it is determined that a core spray subsystem, residual heat removal (RHR) pump, low pressure coolant injection (LPCI) subsystem, or containment cooling subsystem is inoperable. The Bases sections for the core spray and containment spray system would also be modified to reflect the above proposed TS changes.

In addition, the licensee has proposed other TS modifications that would reduce the frequency of diesel generator testing in accordance with the findings of GL 84-15. That is, the licensee proposed to modify the surveillance requirements for the standby gas treatment system (SGTS) to make it clear that the diesel generator associated with an operable SGTS need not be demonstrated operable when the other SGTS is determined to be inoperable. The licensee also proposed to reduce the number of required diesel generator tests when a diesel generator is determined to be inoperable. At present, the Technical Specifications require a diesel generator to be tested immediately and daily thereafter when the other diesel generator is determined to be inoperable. The licensee proposes to retain the requirement for an immediate test but delete the requirement for subsequent daily test starts.

(2) *Diesel Generator Test Load.* The proposed change would increase the minimum percent of rated load that must be carried to show operational readiness during the monthly diesel generator surveillance test. The purpose of the proposed change is to enhance diesel generator reliability. The licensee proposed to modify the surveillance requirements of section 4.9.A.2.a to increase the diesel generator test load from 35 percent to rated load to 50 percent of rated load. The Bases on section for the diesel generators would be modified accordingly.

(3) *SGTS Nomenclature.* The licensee proposed to change section 4.7.B.4.c of the TS to make this section consistent with the rest of the TS with regard to nomenclature of the SGTS. This change involves changing the word "circuit" to "standby gas treatment system" when referring to each of the redundant standby gas treatment equipment safety divisions.

Basis for proposed no significant hazards consideration determination:

(1) *Diesel Generator Surveillance Test Frequency.* The licensee submittal of May 15, 1985 provided an evaluation of the proposed change and a basis for a proposed no significant hazards consideration determination. The licensee has stated that the proposed change does not delete diesel generator operability requirements when components of an emergency core cooling system, emergency containment cooling system, SGTS or one diesel generator is determined to be inoperable. Diesel generator fast start operability is still present to mitigate the consequences of a large loss of coolant accident coincident with a loss of offsite power. Diesel generator operability will still be demonstrated by monthly routine tests and immediately after one diesel generator is determined to be inoperable. The NRC staff has determined that excessive diesel generator testing contributes to premature engine degradation and that an overall improvement in reliability and availability can be gained by eliminating excessive fast starts. The licensee has stated that the proposed change that reduces the frequency of diesel generator testing is consistent with the objectives expressed in GL 84-15 and may therefore result in enhanced reliability.

Based on the above, the staff concludes that the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because, although some diesel generator tests would be eliminated, operability is still demonstrated by other required surveillance tests. The reduced number of fast starts may, in fact, increase the probability of a diesel generator availability in the event of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation and no physical modifications are required to be performed to the plant.

(3) Involve a significant reduction in the margin of safety. It is anticipated that any reduction in the margin of safety would be insignificant since the purpose of the proposed change is to conform to the NRC guidelines of GL 85-15. The recommendations in GL 84-15 were promulgated to increase diesel generator reliability and thereby cause an increase in the overall margin of safety in the plant.

Based on the above evaluation, the staff finds that the criteria for a no significant hazards consideration determination, as set forth in 10 CFR 50.92(c), are met. The staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

(2) *Diesel Generator Test Load.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (ii), relates to a change that constitutes an additional limitation, restriction or control not presently in the Technical Specifications. The proposed change, by increasing the load that must be applied during diesel generator testing, results in more stringent requirements for the test. The proposed change is, therefore, encompassed by example (ii) cited above. The Commission therefore proposes to determine that this action involves no significant hazards considerations.

(3) *SGTS Nomenclature.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (i), relates to purely adminstrative changes to the Technical Specifications, for example to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. The proposed substitution of "standby gas treatment system" for "circuit" in the SGTS surveillance requirements does not change the meaning or intent of the TS. In this case the two terms are interchangeable and the proposed term will result in greater consistency in the TS. The proposed change is, therefore, purely administrative in nature and is encompassed by example (i) cited above. On this basis, the Commission proposes to determine that this change involves no significant hazards considerations.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: June 11, 1985.

Description of amendment request: the amendment would change the testing frequency of the auxiliary feedwater pumps from quarterly to monthly.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples, (ii), of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the technical specifications. The proposal to increase the testing frequency of the auxiliary feedwater pumps comes under this example. On this basis, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attoney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C., 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Pennsylvania Power & Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amenment request: April 9, 1985.

Description of amendment request: The proposed amendment change to the Technical Specification would permit Susquehanna SES refueling operations (fuel loading and unloading) to take place without using Fuel Loading Chambers (FLCs). This change would allow up to eight fuel assemblies to be loaded in order to attain the required Technical Specification count rate on the source range monitors (SRMs) without creating any safety concern.

During the Susquehanna SES Unit 1 end-of-cycle defueling, the FLCs, which were being used to provide neutron monitoring, produced anomalous readings which were attributed to a detector saturation condition caused by the high gamma flux from the irradiated fuel. The need to revise the Unit 2 Technical Specifications is based on the fact that for the Unit 2 first refueling outage the licensee will again need to off load the entire core and as a result experience the same problems experienced during the Unit 1 first refueling outage. The FLCs are B-10 lined proportional detectors which are connected to the SRM circuitry, while the SRMs are miniature fission chambers. The B-10 lined detectors are prone to degraded and unpredictable response in a high gamma flux, whereas the SRMs are not as susceptible to the same phenomena. Furthermore, although the energy deposited by a gamma in a B-10 detector is less than that deposited by a neutron, in a large gamma flux a pulse "pile-up" condition occurs which results in several gammas being counted together thereby producing about the same signal as a neutron; and if the detector electronics are set to reduce the pulse pile-up effect, a reduction in neutron detection efficiency occurs. In comparison the energy deposited by a neutron in a fission chamber is much greater than that of a gamma, thus making the neutron counts easily distinguished from the gammas. Therefore the SRM circuitry can more easily discriminate the gamma flux and thus the SRMs provide a more reliable, well characterized signal than the FLCs in a high gamma environment (i.e., in the presence of irradiated nuclear fuel).

The licensee has stated that based on previous SRM response calculations one irradiated fuel assembly adjacent to a SRM should provide at least 0.7 cps, and two assemblies around a SRM would assure at least 0.7 cps. Therefore although the proposed Technical Specification changes will allow loading of up to eight fuel assemblies before requiring the necessary SRM counts, no loss of neutron monitoring capability is expected to occur.

In order to assure a safe subcritical condition during the loading of the first eight fuel assemblies the licensee performed calculations assuming maximum reactivity conditions (i.e., cold, clustered, uncontrolled, peak reactivity) which concluded that eight fuel assemblies, as analyzed, would remain subcritical. These calculations

were bounding for all the fuel to be used during Susquehanna SES Unit 2 Cycle 2.

The licensee has stated that during a typical core reloading, two irradiated fuel assemblies will be loaded around each SRM to produce greater than the minimum required count rate. In addition the loading schemes will be selected to provide for a continuous multiplying medium to be established between the required operable SRMs and the location of the core alteration to enhance the ability of the SRMs to respond to the loading of each fuel assembly. During a core unloading, the last fuel to be removed is that fuel adjacent to the SRMs.

Basis for Proposed No Significant Hazards Consideration Determination: A review of the licensee's submittal dated April 9, 1985 in accordance with the standard of 10 CFR 50.92 provides sufficient information to conclude that the proposed amendment to allow up to eight fuel assemblies to be loaded to attain the required Technical Specification count rate on the SRMs does not involve a significant hazards consideration. Based on the above safety assessment the Commission agrees with the licensee that the proposed Technical Specification change will result in improved safety because: The SRMs are more reliable in detecting neutrons than the FLCs in the presence of irradiated nuclear fuel; conservative analyses have shown that criticality is not a problem during the loading of the first eight fuel assemblies; and the risk of dropping loose objects into the reactor is reduced by eliminating the use of the FLCs. The proposed change does not involve a significant increase in the probability or consequences of a previously analyzed accident, does not create the possibility of a new or different kind of accident from any accident previously evaluated, and does not significantly reduce a safety margin. Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for Licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Butler.

Public Service Co. of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: June 10, 1985.

Description of amendment request: The proposed changes to the Administrative Controls Technical Specifications reflect recent organizational changes within the Public Service Company of Colorado. The proposed changes involve further revision of a position title which was proposed in the January 14, 1985 application which was noticed on February 27, 1985 (50 FR 8004) and propose an additional requirement for a Fuel Surveillance Program.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14970). The examples of actions that are considered not likely to involve significant hazards considerations include a purely administrative change to Technical Specifications (TS): For example, a change to achieve consistency throughout the TS, correction of an error, or a change in nomenclature; and changes that constitute an additional limitation, restriction or control not presently included in the TS. Based on an initial review of the application, the staff considers the proposed changes to be administrative changes and additional limitations of the types referred to above.

Therefore, we propose to determine that this is an action which would involve no significant hazards considerations.

Local Public Document Room Location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service company of Colorado, P.O. Box 840, Denver, Colorado 80201.

NRC Branch Chief: Eric H. Johnson.

Public Service Electric and Gas Company, Docket No. 50-272, Salem Nuclear Generating Station, Unit No. 1, Salem County, New Jersey

Date of amendment request: October 15, 1985.

Description of amendment request: The proposed amendment would add Mode 2 to APPLICABLE MODES column on Table 3.3-3 for Item 8e, Emergency Trip of Steam Generator Feed Pumps—start Motor Driven (Auxiliary Feedwater) Pumps. This Applicability requirement was inadvertently listed as MODE 1 for Unit No. 1.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include administrative changes to the technical specification (Example i); for example changes that achieve consistency or correct errors. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket No. 50-311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of amendment request: October 15, 1985.

Description of amendment request: The proposed amendment would correct a referenced specification in LCO 3.1.2.1a and 3.1.2.1b. These limiting conditions for operation reference LCO 3.1.2.7a and 3.1.2.7b which do not exist. The correct LCOs to be referenced are 3.1.2.5a and 3.1.2.5b, respectively.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include administrative changes to the technical specification (Example i); for example changes that achieve consistency or correct errors. the requested change corrects and error. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747

Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket No. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: September 21, 1985.

Description of amendment request: The amendments request would modify the existing fire protection systems technical specifications pages and add new pages for both units. The proposed changes would:

(1) Unify the requirements and language of surveillance testing and action statements for both units.

(2) Provide technical specifications which reflect completion and implementation of the fire protection requirements as given in Amendment 21.

(3) Eliminate those portions of the existing technical specifications that are not applicable to the Salem Units, such as references to motor driven fire pumps and water system automatic valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain example (48 FR 14870). The examples of actions which involve no significant hazards consideration include administrative changes to the technical specification (Example i); for example changes to achieve consistency or correct errors; and changes that constitute additional limitations and controls not presently included in the technical specifications (Example ii). All the proposed actions in the amendments request either (1) achieve consistency between the two basically indentical units, (2) constitute additional limitations and controls not presently included in the technical specifications, or (3) correct several errors where equipment reference in the technical specifications do not exist in the Salem Units. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: October 15, 1985.

Description of amendment request: The proposed amendments request would: (1) Change limitng condition for operation 3.4.1.2b to read as follows:

b. At least one of the above coolant loops shall be in operation* when the rod control system is de-energized**.

(2) Add limiting condition for operation 3.4.1.2C as follows:

c. At least two of the above coolant loops shall be in operation when the rod control system is energized**.

(3) Change the note with the single asterisk (*) to read as follows: *All reactor coolant pumps may be de-energized for up to 1 hour provided: (1) No operations are permitted that would cause dilution of the reactor coolant system boron concentration (2) core outlet temperature is maintained at least 10°F below saturation temperature, and (3) the rod control system is de-energized**.

(4) Add the following note with a double asterisk (**): (**)The rod control system shall be considered de-energized when one or more of the following conditions exist:

(1) Both Rod Drive MG set motor breakers are open.

(2) Both Rod Drive MG set generator breakers are open.

(3) A combination of at least three of the Reactor Trip and/or Reactor Trip Bypass Breakers are open.

If none of the above conditions for de-energizing the rod control system are met; the system shall be considered energized.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include changes that constitute additional limitations and controls not presently included in the technical specifications (Example ii). Since the amendments request would add new limitations and controls, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendments request: December 7, 1984.

Description of amendments request: The proposed amendments would add Section 6.8.4(e) to existing Salem Unit 1 and 2 Technical Specifications to incorporate Post Accident Sampling Program requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include changes that constitute an additional limitation, restriction, or control not presently included in the technical specification (Example ii). The requested change adds requirements regarding the Post Accident Sampling System. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: April 9 and May 20, 1985.

Description of amendment request: The amendment would delete Technical Specification 3/4.5.4, "Boron Injection System," modify bases section B 3/4.5.5, "Refueling Water Storage Tank," and incorporate the necessary administrative changes to the index and page numbering that result from the Technical Specification deletion. These changes will allow for the removal of the boron injection (BIT) and other piping and components related to BIT operation.

Basis for proposed no significant

new piping, sufficient negative reactivity

stress on engine parts. This will

simplify the table, (3) delete references

locking these valves closed in Modes 1,

10 CFR 50.92(c) for determining whether

Basis for proposed no significant hazards consideration determination: The boron injection system ensured that sufficient negative reactivity was injected into the core to counteract any positive increase in reactivity caused by reactor coolant system (RCS) cooldown. RCS cooldown can be caused by inadvertant depressurization, a loss-of-coolant accident or a steam line break.

Of these three accidents, the steam line break is the only one in which the analysis depends on boron to terminate a return to power. The other accident scenarios produce boiling in the core, which introduces negative reactivity and assures the reactor will not become critical and return to power. The re-evaluation of the steam line break demonstrates that sufficient negative reactivity exists in the system without the BIT to prevent an inadvertent return to power in the event of this accident.

Removal of the BIT was determined not to decrease the departure from nucleate boiling ratio (DNBR) below the limit of 1.3 for the steam line break scenario. Removal of the BIT does not affect the other accident scenario conclusions involving DNBR and fuel damage because the presence of the BIT is not a factor in those resulting accident conditions.

The containment mass and energy releases for postulated main steam line breaks with the BIT removed do not vary significantly from the original release data. This new containment analysis based on BIT removal indicates energy release rates have in fact decreased. The mass and energy release calculations for outside containment are not significantly affected by the presence or absence of the BIT

To remove the BIT requires piping changes which introduce new pipe fittings and alter the calculated loads of present piping and supports. Therefore new pipe break and pipe whip analyses were performed as required of all high energy piping systems. These new analyses demonstrated that surrounding equipment required to safely shut down the plant is not compromised by the addition of the new piping.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and has determined that should this request be implmented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the pipe break and whip analyses are acceptable for the new piping, sufficient negative reactivity exists to prevent return to power, DNBR remains above 1.3, and containment mass and energy releases are not increased. Also, it will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the pipe break and whip analyses show that the new pipe does not compromise the surrounding equipment required to safely shut down the plant, or (3) involve a significant reduction in a margin of safety because DNBR remains above 1.3 and pressure/temperature response is less severe than the original analysis results. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: June 10, 1985.

Description of amendment request: The amendment would revise Technical Specification 3/4.8.1, "A.C. Sources," and its bases. This proposed revision is based on NRC Generic Letter 84–15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Realiability." The proposed revision will reduce the number of severity of diesel generator starts, thereby decreasing engine wear and increasing reliability. The proposed revision also restructures the action and surveillance statements for clarity and useability.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the change is a reduction in frequency and severity of diesel generator test starts which will result in less wear and stress on engine parts. This will decrease the probability of an accident due to failure of engine parts, and the consequences of an accident will not change. Also, it will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the design and function of the diesel generators is not changed. Finally, it will not (3) involve a significant reduction in a margin of safety because there will be no change in diesel generator automatic response times or emergency loads assumed from that used in the accident analyses. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for Licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

Southern California Edison Company, Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: May 9, 1985.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.6.2, Containment Isolation Valves, and Table 3.6.2–1, Power Operated or Automatic Containment Isolation Valve Summary. The proposed change to TS 3.6.2 consist of four parts; (1) a revision to the page format, (2) clarification of the applicability of required actions under Action A in the event of inoperability of a closed system containment penetration that is open and is provided with only one isolation valve, (3) the addition of a specific exception to TS 3.0.4 that would allow operational mode changes with inoperable containment isolation valves under certain specific conditions, and (4) an addition that would permit temporary reactivation of a power-operated valve, that is secured closed under the Action statements, in order to perform valve position verification and testing. The proposed changes to Table 3.6.2–1 would (1) change the title of the table to reflect the fact that certain valves have remote manual controls and modify how the remote manual valves are identified on the table, (2) delete the references to the source of electrical control and operating power in order to simplify the table, (3) delete references to solenoid valves that control the compressed air to pneumatically operated containment valves which were included on the table for informational purposes only, (4) delete containment isolation valves CV–948 and CV–949 which are no longer needed to provide a containment isolation function because the Pressurizer Relief Tank Gas Sample pentration has been removed from service by the installation of pipe caps inside and outside of containment, (5) add automatic containment isolation valves SV–3004 and SV–2004 which provide isolation to a new hydrogen calibration gas pentration, (6) add an outboard containment isolation valve (SV–3302) to the reactor coolant loop sample penetration, (7) remove the objective portion of the footnote regarding manual valves CVS–301 and CVS–313 because the objective is covered in the Basis, and (8) add a new item 29 which adds an automatic check valve outside of containment (SV–3303) and a check valve inside containment to provide isolation for a new reactor coolant sample return penetration.

Basis for proposed no significant hazards consideration determination: Item (1) of the proposed change to TS 3.6.2 and Items 1, 2, 3 and 7 of the proposed changes to Table 3.6.2–1, discussed above, are administrative changes. Change (1) of TS 3.6.2 reformats this TS to be consistent with the format of other TS; there is no substantive change involved. Change (1) to Table 3.6.2–1 modifies the title of the table to reflect the fact that some of the valves listed have remote manual controls. In addition, the double asterisk footnote indicating remote manual valves is deleted and replaced with an RM indication for the applicable valves. Change (2) to the Table would delete all references to the source of electrical control and operating power ("alignment"). The references to valve "alignment" have no bearing on the operability of the isolation valves. Consistent with these changes, the single asterisk footnote describing the logic nest alignment would also be deleted. Change (3) to the table would delete the references to the solenoid valves that control the compressed air to pneumatically operated containment valves. These solenoid valve references were included for informational purposes only and their deletion from the table has no safety impact. Change (7) to Table 3.6.2–1 discussed above, would remove the objective portion of the footnote regarding manual valves CVS–301 and CVS–313. The objective of locking these valves closed in Modes 1, 2, 3, and 4 is discussed in the Basis Section and there is no reason to include it on the table. The Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983) of amendments not likely to involve significant hazards considerations. One of the examples (i) is a purely administrative change to TS such as a change in nomenclature. Because these proposed changes involve changes of the types specified in example (i) of the Commission guidance, the staff proposes to determine that these changes would not involve a significant hazards consideration.

Another example (ii) in the Commission guidance is a change that constitutes an addtional limitation, restriction or control not presently included in the TS. Proposed changes 5, 6, and 6 to Table 3.6.2–1, discussed above, would add valves to this table which are not currently included. Therefore, these changes are added restrictions of the type in example (ii) of the Commission's guidance and the staff proposes to determine that these proposed changes would not involve a significant hazards consideration.

Proposed change (2) to TS 3.6.2, discussed above, would clarify the required actions under Action A for closed systems. General Design Criterion 57 states that each line that penetrates primary reactor containment and is neither part of the reactor coolant pressure boundary nor connected directly to the containment atmosphere shall have at least one containment insolation valve which shall be either automatic, locked closed, or capable of remote manual operation. For these closd systems, the system pressure boundary provides an insolation boundary. The current TS requires that with one or more insolation valves specified in Table 3.6.2–1 inoperable, at least one insolation valve be maintained operable in each penetration that is open. For these closed systems for which only one isolation valve is required, this requirement of the current specification cannot be satisfied. Application of TS 3.0.3 in such cases would require that either the inoperable valve be closed or shutdown be initiated within 1 hour. The licensee has proposed a clarification of Action A of the TS that would allow a 4 hour time limit to complete the required actions for such closed systems that have only one isolation valve. This time limit is consistent with the time limit where two isolation valves are required. The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Each of the three criteria is met in relation to the proposed change as follows: (1) The clarification of Action A regarding closed systems with a single isolation value would not involve a significant increase in the probability or consequences of an accident previously evaluated because the pressure boundary of the closed system provides an isolation boundary in addition to the isolation provided by the valve and the 4 hour limit for entering the Action statement is consistent with the time limit where two isolation values are required; (2) The operation of the facility in accordance with the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated because the plant would be operated in essentially the same manner and this proposal change would not result in any change to the plant components or configuration; (3) The proposed change would not cause a significant reduction in a margin of safety. As previously stated, the closed system pressure boundaries provide as isolation boundary. This boundary assures that there would not be a significant reduction in a margin of safety should the single isolation value become inoperable and entry into the Action statement became necessary (4–hour limit).

Proposed change (3) to TS 3.6.2 would add a specific exception to TS 3.0.4 which would allow operational mode changes with inoperable containment isolation values under certain specific conditions. Without this exception, the current TS do not permit operational mode changes when an Action statement is entered because of an inoperable isolation value. The licensee has proposed that the TS be modified to permit mode changes with an inoperable containment isolation value under the conditions that (1) within 4 hours, the affected penetration is isolated by a secured closed automatic isolation value, closed manual valve, or blind flange, and (2) the system with an

inoperable containment isolation valve be declared inoperable and the

accident previously evaluated because the temporary reactivation of

above, the caps on the penetration provide the containment isolation

with respect to the system or component specified in the Standard Review Plan

Visual inspections will continue to be performed at five-year intervals

deficiency. T.S. 4.6.1.6a also currently provides specific criteria for

inoperable containment isolation valve be declared inoperable and the applicable Action statements for that system be satisfied. Each of the three criteria for determining that the proposed change involves no significant hazards consideration is met as follows: (1) The operation of the facility in accordance with the proposed change would not involve a significant increase in the probability or consequences of an accident previously evaluated because a secured closed automatic isolation valve, closed manual valve, or blind flange would proved at least an equivalent degree of containment isolation as an operable containment isolation value.

In addition, the system containing the inoperable isolation value would be declared inoperable and the appropriate Action statement would be entered for this system; (2) the operation of the facility in accordance with the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated because, as stated earlier, the required isolation of the penetration affected by the inoperable isolation valve would provide at least an equivalent degree of containment isolation as an operable isolation valve. In addition, the system containing the inoperable isolation valve would be declared inoperable; (3) the proposed change would not involve a significant reduction in a margin of safety because the requirement to have a secured closed automatic isolation value, closed manual valve, or blind flange will provide at least an equivalent margin of safety with regard to containment isolation as an operable isolation valve.

Proposed change (4) to TS 3.6.2 would add a provision that would permit the temporary reactivation of deactivated power operated valves to conduct (1) surveillance which may be essential for verification of valve position, and (2) valve testing which would be prerequisite to returning the valve to operable status. Because the addition to the TS would also require that Action statement A.1 be applied during this temporary reactivation, the valve would have to be declared operable within 4 hours or the affected penetration would have to be isolated or plant shutdown commenced as indicated by Action statements A.2, A.3, or A.4. Each of the three criteria for determining that the proposed change involves no significant hazards consideration is met as follows: (1) The operation of the facility in accordance with the proposed change would not involve a significant increase in the probablity or consequences of accident previously evaluated because the temporary reactivation of deactivated power valves would (a) verify that the valve position is correct, and (b) permit testing of the valve prior to returning the value to operable status. Both of these surveillance items will verify that the valves are either positioned properly or are in an operable condition; (2) the operation of the facility in accordance with the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated because the verification of valve position would provide confirmation that the appropriate Action statements have been satisfied for the valve and would permit testing of a valve as a prerequisite to returning the valve to operable status. These surveillance tasks would not create the possibility of a new or different kind of accident from any accident previously evaluated; (3) the proposed change would not involve a significant reduction in a margin of safety because the change would permit surveillance tasks to verify correct valve position and testing prior to declaring a valve operable.

Finally, proposed change (4) to Table 3.6.2-1 would delete valves CV-948 and CV-949 which currently are listed as performing the isolation function for the Pressurizer Relief Tank Gas Sample penetration. The licensee has indicated that this penetration has been removed from service by the installation of a pipe cap inside the penetration and also outside of containment. Accordingly, valves CV-948 and CV-949 no longer provide a containment isolation function. Each of the three criteria for determining that the proposed change involves no significant hazards consideration is met as follows: (1) The operation of the facility with the penetration capped and the isolation valves removed would not involve a significant increase in the probability or consequences of an accident previously evaluated because the caps on the penetration would provide the containment isolation function; (2) the operation of the facility in accordance with the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated because the plant would be operated in essentially the same manner and this change would result in the containment isolation function for the penetration being performed by the installed caps; (3) the proposed change would not involve a significant reduction in a margin of safety because, as stated above, the caps on the penetration provide the containment isolation function.

Based on the licensee's submittal and the above discussion which demonstrate that the three criteria specified in 10 CFR 50.92 have been met, the staff proposes to determine that the proposed change would not involve a significant hazards consideration.

Local Public Document Room location: San Clemente Public Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles, R. Kocher, Assistant General Counsil, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.

NRC Branch Chief: John A. Zwolinski.

Southern California Edison Company, et al, Docket Nos. 50-361 and 50-362 San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of Amendment Request: April 28, 1984, January 29, 1985, (Reference PCN-114 and 130).

Introduction: The proposed changes would revise Technical Specification ¾.6.1.6, "Containment Structural Integrity," and License Condition 2.C (4), "Containment Tendon Surveillance," as follows: (1) PCN-114 would clarify the containment tendon surveillance requirements to be consistent with the current surveillance program and to reduce surveillance requirements based on tendon anchorage accessibility. (2) PCN-130 would delete License Condition 2.C (4), since submittal of the currently implemented containment tendon surveillance program meets the intent of the license condition.

Basis for Proposed No Significant Hazards Determination: The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (i) relates to a purely administrative change to the technical specifications; for example, a change to achieve consistency throughout the technical specifications, a change in nomenclature, or correction of an error. Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptance criteria

with respect to the system or component specified in the Standard Review Plan (SRP). Each of the specific proposed changes included in PCN-114 and PCN-130 is similar to one of these examples from 48 FR 14870. Therefore it is proposed that these changes do not involve significant hazards considerations. A description of each proposed change to the technical specifications ad a discussion of how each change is similar to these examples from 48 FR 14870 follows.

Specific Changes Requested and Basis for Proposed No Significant Hazards Determination: (1) *PCN-114*— The proposed change would revise Surveillance Requirement 4.6.1.6, "Containment Tendons," of Technical Specification 3/4.6.1.6, "Containment Structural Integrity," for both Units 2 and 3. The purpose of this technical specification is to ensure that containment structural integrity will be maintained for the life of the facility. T.S. 4.6.1.6. specifically concerns the steel containment tendons which reinforce the containment structure by maintaining it in compression. There are two types of containment tendons: hoop tendons, which extend horizontally around the circumference of the cylindrical part of the containment structure, and U tendons, which extend vertically through the cylindrical part of the containment structure and arc through the containment structure hemispherical dome. T.S. 4.6.1.6. defines specific tests which must be performed at reagular intervals in orfer to ensure the structural integrity of the tendons and, therefore, of the containment structure. The proposed change to T.S. 3/4.6.1.6. consists of the following four parts:

(a) T.S. 4.6.1.6 for both Units 2 and 3 currently states, as part of the requirement for demonstrating containment structural integrity, that tendon lift-off force and tendon detensioning tests and material tests and inspections must be performed at the end of one, five, and ten years following the initial structural integrity test (ISIT) and every ten years thereafter. These tests assure that tendons are properly tensioned and free of damage (i.e., corrosion, cracks, etc.). The proposed Unit 3 change will correct the wording in T.S. 4.6.1.6 to be consistent with the existing Table 4.6-1 to state that test intervals are at the end of one and five years following the ISIT and every ten years thereafter. The specified tests will be performed at one, five, fifteen, twenty-five, etc. years following the ISIT, rather than at one, five ten, twenty, thirty, etc. years. Visual inspections will continue to be performed at five-year intervals.

The proposed change described above will revise the statement of when tendon lift-off force and tendon detensioning tests and material tests must be performed for Unit 3. For Unit 3 this proposed change will bring the wording in T.S. 4.6.1.6. into compliance with Table 4.6-1, "Tendon Surveillance," of T.S. 3/4.6.1.6, which currently sets the intervals for performance of these tests at one, five, fifteen, twenty-five, etc. years following the ISIT. Because the proposed change will achieve consistency within the technical specifications, it is administrative and, therefore, is similar to Example (i).

(b) T.S. 4.6.1.6a assures that tendons are properly tensioned by requiring that the lift-off force of tendons specified in this T.S. be determined periodically. The tendons specified in Table 4.6-1 were chosen generally at random during the development of this T.S. The tendons chosen for detensioning and material tests were chosen at random from those with long tails and shims which provide for retensioning. The proposed change to T.S. 4.6.1.6a consists of the following three parts:

(i) T.S. 4.6.1.6a currently implies that the tendon lift off force must be maintained between the maximum and minimum values specified in Table 4.6-2, "Tendon Lift-off Force," The proposed change clarifies that the values specified in Table 4.6-2 are not limits to be strictly adhered to, but are upper and lower tolerance band values which reflect the normal range of variability in long term stress loss predictions and are provided only for comparison with tendon lift-off forces determined by test. This proposed change will more appropriately reflect the intent of the maximum and minimum values listed in Table 4.6-2, which is to provide a normal range of variability for long term stress loss predictions. Because the proposed change provides a change in nomenclature which clarifies T.S. 4.6.1.6a, it is administrative and is similar to Example (i) of 48 FR 14870.

(ii) T.S. 4.6.1.6a states that if the lift-off force for any tendon is found to lie between the prescribed lower limit and 90% of the prescribed lower limit, the tendons on either side of the unacceptable tendon must be detensioned to determine that they have acceptable lift-off forces. If each adjacent tendon is found acceptable, the technical specification currently states that the adjacent tendons must then be restored to the required level of integrity (i.e., retensioned) and that the unacceptable tendon may be considered a single unique and acceptable deficiency. T.S. 4.6.1.6a also currently provides specific criteria for retensioning tendons: If a tendon is tested and found acceptable, it must be retensioned to obtain a lift-off force equal to +0, −5% of the prescribed maximum tendon lift-off force. The proposed change will replace the ambiguous wording which requires acceptable tendons to be restored to the required level of integrity with the previously stated, specific requirement that acceptable tendons be retensioned such that the lift-off force is equal to +0, −5% of the prescribed upper tolerance band value.

The proposed change described above will provide the specific retensioning requirements for tendons which are tested and found acceptable to replace the current general and vague statement of restoring these tendons to "the required integrity." Because the proposed change clarifies T.S. 4.6.1.6a, it is administrative and, therefore, is similar to Example (i) of 48 FR 14870.

(iii) T.S. 4.6.1.6a currently specifies that abnormal tendon degradation is exhibited when more than one tendon in the original sample population is found to have a lift-off force below the prescribed minimum lift-off force or when any selected tendon is found to have a lift-off force below 90% of the prescribed lift-off force lower limit. The proposed change will clarify that the sample population of tendons are those which were previously randomly selected for testing and are specified in Table 4.6-2. Because the proposed change is administrative, it is similar to Example (i) of 48 FR 14870.

(c) T.S. 4.6.1.6c requires that visual inspections of the containment structure be performed periodically. T.S. 4.6.1.6.c.3 relates specifically to the inspection of concrete surfaces. It currently requires that the concrete surfaces adjacent to the end anchorages of tendons specified by T.S. 4.6.1.6a be demonstrated by visual examination of the crack patterns to exhibit no abnormal material behavior. The proposed change will revise T.S. 4.6.1.6.c.3 to state that only the exposed concrete surfaces adjacent to the end anchorages of hoop tendons specified by T.S. 4.6.1.6a must be visually inspected.

This proposed change will require visual inspection of only the exposed concrete surfaces adjacent to the end anchorages of hoop tendons specified by T.S. 4.6.1.6a rather than all concrete surfaces adjacent to both the hoop and U-tendon end anchorages. The concrete surfaces adjacent to the U-tendon end anchorages cannot be visually inspected, because they are covered by

3/8-inch thick plates which are welded to the end anchorages and to steel

and 3. License Condition 2.C(4) states that the Southern California Edison

program has been submitted and implemented, the intent of License

refueling and maintenance activities, the RCS is drained below the nozzle, the

coolant system is refilled and the chloride and fluoride inventory was

safety hazards. Surveillance is used to ensure containment integrity by

3/8-inch thick plates which are welded to the end anchorages and to steel channels embedded in the concrete. Removal of the plates by such methods as grinding and flame cutting is not desirable, because these methods are likely to damage the concrete surfaces underneath the plates. It is not necessary to visually inspect the concrete surfaces near the U-tendon end anchorages because these prestress loads result only in compressing stresses on the adjacent concrete.

For acceptance criteria for inservice testing and surveillance of containment tendons, SRP Section 3.8.1 "Concrete Containments" references Regulatory Guide 1.35, "Inservice Testing of Ungrouted Tendons in Prestressed Concrete Containment Structures." Regulatory Guide 1.35 recommends visual inspection of concrete adjacent to tendon anchorages where practical without dismantling the load-bearing components of the anchorage. It is impractical to remove the plates welded to the end anchores of the U-tendons because this removal method may result in damage to the concrete surface under the plates. This would be counter to the intended purpose of the surveillance. Although this change reduces the existing visual inspection requirements which may result in some decrease in a margin of safety, it meets the visual inspection requirements of R.G. 1.35 and the SRP acceptance criteria. Therefore the propsed change is similar to Example (vi) of 48 FR 14870.

(d) Table 4.6–1 "Tendon surveillance," lists the containment tendons specified to be inspected and tested at the required intervals. The proposed change would correct the designation of one U-tendon in Table 4.6–1 in the Technical specifications of each unit.

The U-tendons are listed in Table 4.6–1 using a two number designation to indicate the tendon end cap numbers for that tendon. In the Unit 2 Table 4.6–1 during the 30 year inspection the designation 69–178 is corrected to 64–178, and in the Unit 3 Table 4.6–1 during the 3 year inspection, the designation 23–139 is corrected to 23–129. Because the propsed change corrects typographical errors, it is administrative and, therefore, is similar to Example (i) of 48 FR 14870.

(2) *PCN/130*—The proposed change would delete License Condition 2.C(4), "Containment Tendon Surveillance," from the San Onofre Nuclear Generating Station Units 2 and 3 Facility Operating Licenses NPF–10 and NPF–15, respectively. The purpose of this license condition is to ensure the implementation of an acceptable tendon surveillance program for both Units 2 and 3. License Condition 2.C(4) states that the Southern California Edison Company (SCE) must provide for Nuclear Regulatory Comission (NRC) approval and implement a tendon surveillance test program which will ensure full conformance with the provisions of Regulatory Guide 1.35, "Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments," which provides an NRC accepted basis for developing a tendon surveillance program, and Regulatory Guide 1.35.1, "Determining Prestressing Forces for Inspection of Prestressed Concrete Containments" which provides additional guidance concerning the NRC position in determining tendon prestressing forces. The tendon surveillance test program is required to include a specific program and commitments for tendon retensioning, such that the predicted prestressing force of each tendon will be greater than the required design prestressing force of each tendon for the entire plant life. In accordance with License Condition 2.C(4), SCE has submitted a tendon surveillance test program, "Tendon Surveillance Requirements for the San Onofre Nuclear Generating Station, Units 2 and 3," dated February, 1984, which was implemented in January, 1982, for Unit 2 and in February, 1983, for Unit 3. SCE has submitted Reference 5 to the tendon surveillance test program, "Experimental Determination of the Influence of Individual Tendon Stressing Upon Containment Post-Tensioning Strain, San Onofre Nuclear Generating Station, Units 2 and 3." In addition, the tendon surveillance test program required by License condition 2.C(4) has been incorporated into the Final Safety Analysis Report, Section 3.8.1.7.2 "(Concrete Containment Testing and Inservice Inspection Requirements) Long-Term Surveillance," and into Technical Specification 3/4.6.1.6, "Containment Structural Integrity." The licensee's program does not include retensioning tendons to maintain the prestressing force of each tendon greater than the required design prestressing force for the entire plant life. However, this program satisfies all regulatory requirements including full conformance with the requirements of Regulatory Guide 1.35, Revisioin 2 and Draft Revision 3, and the April 1979 draft of Regulatory Guide 1.35.1, and maintains the average prestress at all locations within the containment above the minimum design prestress.

Therefore, the need for retensioning of tendons, unless required by failure to satisfy program requirements during the life of the plant, is eliminated. Because an acceptable tendon surveillance program has been submitted and implemented, the intent of License Condition 2.C(4) has been met. Therefore, the proposed change would delete License Condition 2.C(4) from Facility Operating Licenses NPF–10 and NPF–15.

This proposed change (PCN–130) is similar to Example (vi) of 48 FR 14870 in that it may in some way reduce a margin of safety but where the results are clearly within the acceptance criteria specified in the Standard Review Plan. In this case, the acceptance criteria are specified in SRP section 3.8.1 "Concrete Containments." SRP section 3.8.1 states that the testing and inservice surveillance program is acceptable if it meets the requirements of Regulatory Guide 1.35. The proposed change will require that the average prestress at all locations within the containment be maintained above the minimum design prestress requirements rather than maintaining the prestressing force of individual tendons greater than the required design prestressing force as is required by the existing license condition. Although this may in some way reduce a margin of safety, the tendon surveillance program is in conformance with Regulatory Guide 1.35. Therefore the proposed change satisifes the SRP acceptance criteria and is similar to Example (vi) of 48 FR 14870.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorneys for licensee: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attention: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NCR Branch Chief: George W. Knighton.

Virginia Electric and Power Company, Docket No. 50–339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of omendment request: February 11, 1985.

Description of amendment request: The proposed change would revise the NA–2 Technical Specification 3/4.4.7, Table 4.4–3 by eliminating the requirement for sampling chlorides and fluorides when the Reactor Coolant System (RCS) is drained below the reactor pressure vessel nozzles and the reactor internals and/or head are in place. Currently, chlorides and fluorides in the NA–2 RCS require surveillance at least once per 72 hours. To perform refueling and maintenance activities, the RCS is drained below the nozzle, the Reactor Heat Removal System (RHRS) is drained and the upper internals are in place. To obtain the required chloride and fluoride samples on a continuing frequency of 72 hours would require personnel ingress to the area of the upper core internals. Entry into this area, which currently has a radiation field of 10 roentgens per hour, would result in excessive radiation exposure. Prior to fully draining the RCS, the required sampling of chlorides and fluorides would be conducted in accordance with specified sampling procedures. Also, when the RCS and the RHRs are in a drained condition, the inventory of chlorides and fluorides will not change. When the RCS is refilled, the chloride and fluoride sampling will recommence in accordance with the specified sampling requirements. Finally, it is noted that the proposed change was previously reviewed and approved by the NRC for NA–1 as stated in Amendment No. 41 dated August 4, 1982.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The probability of occurrence or the consequences of a malfunction of equipment important to safety and previously evaluated in the FSAR is not increased because the chloride and fluoride inventory in the reactor coolant system will not change since the reactor coolant system and the RHR System are drained and the inventory was known at the last sample. Also, the possibility of a different type of accident or malfunction than was previously evaluated in the FSAR has not been created because the sampling of chlorides and fluorides will resume when the reactor coolant system is refilled to show that the samples are below their required limits. In addition, the margin of safety as described in the BASES section of any part of the Technical Specifications is not reduced because sampling of chlorides and fluorides will resume when the reactor coolant system is refilled and the chloride and fluoride inventory was within specifications at the time of drain down. Additional makeup could be detected.

Finally, the proposed change has been previously reviewed and approved by the NRC as stated in Amendment No. 41 dated August 4, 1982.

Therefore, based on the above, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously considered, will not create the possibility of a new or different accident from any evaluated previously, and will not significantly reduce a safety margin. Therefore, the NRC staff proposes to determine that the standards for determining that a license amendment involves no significant hazards consideration are met, and that operation of the facility in accordance with the proposed amendment would not involve a significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P. O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Washington Public Power Supply System, Docket No. 50–397, WNP–2 Richland Washington

Date of amendment request: April 25, 1985.

Description of amendment request: The proposed amendment to Operating License NPF–21 would revise the WNP–2 Technical Specifications to change the Surveillance Requirement 4.6.1.1. The change, if approved, will allow certain containment isolation valves to be excluded from routine surveillance requirements while the plant is at power. The purpose of the proposed change is to avoid unnecessary personnel hazards from both a safety and ALARA standpoint.

During normal operations there are areas within the plant that are subject to high radiation levels and/or very high temperatures either of which make personnel access hazardous. Some of the containment isolation valves are located in these areas or require personnel to pass through these areas in order to perform the 31 day surveillance, currently required by the Technical Specifications, thus creating personnel safety hazards. Surveillance is used to ensure containment integrity by verification of penetration closures.

The amended Technical Specifications would eliminate the requirement to expose personnel to high radiation and temperature hazards while continuing to ensure containment integrity by administratively controlling access to the areas which house the closed valves and blind flanges. The area in which the closures are located will be locked and posted as high radiation areas which require Radiation Work Permits (RWP) for access. An RWP is granted only on an "as need basis." In addition, the valves themselves are locked or otherwise secured in the closed position and sealed. Appropriate authorization is required to break the seal. The integrity of the containment is thus assured.

The Supply System has reviewed this change per 10 CFR 50.59 and determined that no unreviewed safety questions will result from this amendment.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.82(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Supply System has reviewed this change per 10 CFR 50.59 and determined that it does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because there is no change to the valves or their positions. This change reflects only access restrictions which prevent position verification while at power; or

(2) Create the possibility of a new or different kind of accident than previously evaluated because this is an administrative change only and does not impact system operation; or

(3) Involve a significant reduction in a margin of safety because it does not change any leakage paths or rates.

The licensee has determined and the NRC staff agrees that these changes have little safety significance and that the proposed amendment will not alter any of the accident analyses.

Based on staff review of the proposed modification, we find that there is

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin

Baltimore Gas & Electric Company,

Commonwealth Edison Company,

the Commission's March 14, 1983

Date of initial notice in **Federal**

VOL 50 ISS 137 JL 17 1985 UMI

Based on staff review of the proposed modification, we find that there is reasonable assurance that the proposed exclusion of the containment isolation valves from the 31 day routine surveillance requirements will have little or no impact on the public health and safety.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Street, Richland, Washington 99352.

Attorney for licensee: Nicholas Reynolds, Esquire, Bishop, Cook, Liberman, Purcell & Reynolds, 1200 Seventeenth Street NW., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Butler.

Yankee Atomic Electric Company, Docket No. 50–29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: May 7, 1985.

Description of amendment request: The proposed change would add Technical Specifications (TS) to define limiting conditions for operation and surveillance requirements for emergency core cooling (ECC) subsystem leakage.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). Example (ii) of actions involving no significant hazards consideration involves a change that constitutes an additional limitation, restriction, or control not presently included in the TS. As a result of staff review of SEP Toxic XV–19, "Loss-of-Coolant Accidents Resulting from Spectrum of Postulated Piping Breaks within the Reactor Coolant Pressure Boundary," the licensee proposed TS to limit leakage from ECC subsystems outside containment to ensure offsite dose remained within the limits of 10 CFR Part 100. The proposed change adds limitations and controls on ECCS subsystem leakage not currently provided in TS.

Based on this discusson, the staff proposes to determine that the requested action would not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: John A. Zwolinski.

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Documents Room, 1717 H Street NW., Washington, D.C., and at the local pubic document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Baltimore Gas & Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: October 11, 1984.

Brief description of amendments: The amendments provide Radiological Effluent Technical Specifications (TS), administrative TS, and changes to the environmental monitoring programs TS. In addition, the remainder of the Appendix B TS are deleted.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment Nos.: 105 and 86.

Facility Operating License Nos. DPR–53 and DPR–69. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 31, 1984 (49 FR 50794 at 50799).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 22, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Carolina Power & Light Company, Docket No. 50–325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina.

Date of application for amendment: February 13, 1985, as supplemented April 4, 1985.

Brief description of amendment: The amendment changes the Technical Specifications to permit postponement of a flow test of the core spray system until within 48 hours after restoration of the suppression chamber to operable status but, in any case, no later than October 30, 1985.

Date of issuance: June 21, 1985.

Effective date:

Amendment No.: 84.

Facility Operating License Nos. DPR–71. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register. April 23, 1985 (50 FR 15999) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 21, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Commonwealth Edison Company, Docket Nos. 50–237/249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of application for amendments: October 10, 1984.

Brief description of amendments: They add limiting conditions for operation and surveillance requirements to the Technical Specifications for certain plant modifications required for TMI Action Plan Items included in Generic Letter 83–36. They are Containment High Range Radiation Monitor (II.F.1.3), Containment Pressure Monitor (II.F.1.4), Containment Water Level Monitor (II.F.1.5) and Containment Hydrogen Monitor. Of the five others mentioned in GL 83–36, one, Reactor Coolant System Vents (II.B.1) does not require TS and two, Noble Gas Effluent Monitors (II.F.1.1) and Sampling and Analysis of Plant Effluents (II.F.1.2) have suitable TS. However, two more, Post-Accident Sampling (II.B.3) and Control Room Habitability (III.D.3.4), require further staff review.

Date of issuance: June 24, 1985.

Effective date: June 24, 1985.

Amendment Nos. 90 and 83.

Provisional Operating License No. DPR–19 and Facility Operating License No. DPR–25. The amendments revise the Technical Specifications.

Date of initial notice in Federal Register: May 21, 1985 (50 FR 20972). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: November 7, 1984.

Brief description of amendment: The amendment revises the completion date for Item III.D.3.4, Control Room Habitability, specified in the Commission's March 14, 1983 Confirmatory Order, to (1) remove the required completion date of December 1984, (2) replace the completion date with "To Be Determined," and (3) indicate that Item III.D.3.4 is no longer considered part of the Confirmatory Order.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No. 63.

Facility Operating License No. DPR–61. Amendment revised the license and the Commission's March 14, 1983 Confirmatory Order.

Date of initial notice in Federal Register: December 4, 1984 (49 FR 47463). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: January 30, 1985, as revised February 1, 1985 and June 7, 1985.

Brief description of amendment: This amendment changes the Big Rock Point Administrative Controls Technical Specifications to reflect offsite corporate reorganizations of the Consumers Power Company Quality Assurance Organization and the Nuclear Activities Plant Organization.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No. 76.

Facility Operating License No. DPR–6. This amendment revised the license and the Technical Specifications.

Date of initial notice in Federal Register: May 21, 1985 (50 FR 20974). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Duke Power Company, Dockets Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units Nos. 1, 2, and 3, Oconee County, South Carolina

Date of application for amendments: April 30, 1984.

Brief description of amendments: These amendments revise the TSs to incorporate monitoring and control limits of hydrogen concentration in the Waste Gas Holdup Tanks. Other changes requested in the April 30, 1984 submittal have been addressed by a separate Safety Evaluation and approved by license Amendment Nos. 133, 133 and 130 dated January 9, 1985.

Date of issuance: June 24, 1985.

Effective date: June 24, 1985.

Amendments Nos.: 140, 140 and 137.

Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 22, 1984 (49 FR 33363) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 24, 1985

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: March 21, 1985.

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 to clarify the reactor plant component cooling pump and river water pump surveillance requirements. The new surveillance requirements specify that each pump develops the required differential pressure and flow rate when tested in accordance with Specification 4.0.5, which in turn requires that certain pumps and valves be tested in accordance with ASME Code Section XI.

Date of issuance: July 5, 1985.

Effective date: July 5, 1985.

Amendment No. 94.

Facility Operating License No. DPR–66. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 21, 1985 (50 FR 20976) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 5, 1985.

No significant hazards consideration comments received: No

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: May 31, 1984.

Brief description of amendment: This amendment changes the Technical Specifications such that the restriction to mode changes is no longer applicable to the Containment Purge and Exhaust Isolation System and the Spent Fuel Storage Pool. The remaining request contained in the May 31, 1984, application pertaining to the Reactor Coolant Vent System will be addressed by separate action.

Date of issuance: June 26, 1985.

Effective date: June 27, 1985.

Amendment No.: 74.

Facility Operating License No. DPR–

Brief description of amendments: These amendments revise the Technical

No significant hazards consideration

The Commission's related evaluation of the amendment is contained in a

Amendment No.: 69.

Facility Operating License No. DPR–

shift requirements, (6) deletion of

Amendment No.: 74.

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 21, 1984 (49 FR 45949) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: January 28 and March 28, 1985, as supplemented on May 31 and June 11, 1985.

Brief description of amendments: These amendments will modify the current Technical Specifications to allow breaching of the containment integrity of an operating unit to allow surveillance testing of The Post Accident Sampling System valves during plant operation under required administrative controls. The amendments also include changes in format and definitions to be consistent with the licensee's overall program for conversion to the format and content of the Standard Technical Specifications for Westinghouse Pressurized Water Reactors (NUREG-0452). The proposed changes reflect the current Turkey Point Plant design and analytical basis.

Date of issuance: June 27, 1985.

Effective date: June 27, 1985.

Amendment Nos. 114 and 108.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20977) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50-250 and 5-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: February 15, 1985 and supplemented on April 17 and May 8, 1985.

Brief description of amendments: These amendments revise the Technical Specifications (TS) relating to the Moderator Temperature Coefficient (MTC). The current TS allow operation with a positive MTC of $+5 \times 10^{-5}$ delta k/k/°F (change in reactivity per degree Fahrenheit) from zero to 70 percent of rated power and requires a step change at 70 percent of rated power to an MTC of 0 delta k/k/°F. The TS change allows a required linear rampdown from the allowable MTC of $+5 \times 10^{-5}$ delta k/k/°F to zero between 70 percent and 100 percent of rated power in place of the current requirement for a step change at 70 percent of rated power. The change will remove the restrictive requirement for a step change by requiring the linear rampdown.

Date of issuance: June 27, 1985.

Effective date: June 27, 1985.

Amendment Nos. 115 and 109.

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20978) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County Georgia

Date of application for amendments: December 21, 1978, as supplemented October 30, 1979, August 1, 1984, and October 1, 1984.

Brief description of amendments: The amendments revise the Technical Specifications for both Hatch Unit 1 and Hatch Unit 2 to add new radiological effluent Technical Specifications to Appendix A to the license and to delete the radiological Technical Specifications for Appendix B to the license.

Date of issuance: June 28, 1985.

Effective date: June 28, 1985.

Amendments Nos.: 110 and 48.

Facility Operating Licenses Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49585) and December 31, 1984 (49 FR 50804).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 28, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County Georgia

Date of amendment request: July 9, 1982, October 24 and December 20, 1983, and April 24, 1984.

Brief description of amendments: The amendments revise the Technical Specifications to reflect corporate and plant staff reorganization to change the composition of the Plant Review Board, to delete the Senior Reactor Operator license requirement for the Plant Manager, to change the level of approval for plant procedures, and to clarify procedures for review by the Plant Review Board.

Date of issuance: June 27, 1985.

Effective date: June 27, 1985.

Amendments Nos.: 109 and 47.

Facility Operating Licenses Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3347); and February 27, 1985 (50 FR 7987).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

GPU Nuclear Corporation, Docket No. 50-219 Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: October 24, 1984.

Brief description of amendments: Authorizes Appendix A Technical Specifications changes pertaining to Fire Protection and Quality Assurance which will decrease the frequency of required audits on the plant Fire Protection Program and Operational Quality Assurance Plan, consistent with NRC Generic Letter 82-21.

Date of issuance: July 2, 1985.

Effective date: July 2, 1985.

Amendments No.: 89.

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 7990).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 2, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

GPU Nuclear Corporation, Docket No. 50-219 Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: March 21, 1985.

Brief description of amendments: The proposed amendment authorizes changes to the Appendix A Technical Specifications (TS) pertaining primarily to the drywell-suppression chamber differential pressure. The changes are to sections 3.5 and 4.5, Containment, of the TS to (1) correct two typographical errors on TS page 3.5-2, (2) delete the existing requirements on the drywell-suppression chamber differential pressure in TS 3.5.A.9, page 3.5-3/3a, and Figures 3.5-1 (3) revise the Bases for TS Section 3.5 to add references to the Mark I Containment Long Term Program and delete the section and references to the Mark I Containment Short Term Program and (4) delete the requirements on the drywell-suppression chamber differential pressure in TS 4.5.P.5, page 4.5-6a.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No.: 87.

Provisional Operating License No. DPR-16. Amendment revised the Amendment A Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 10980).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Indiana and Michigan Electric Company, Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan

Date of application for amendment: February 14, 1985.

Brief description of amendment: The amendment revises the Technical Specifications by updating the plant heatup and cooldown curves to reflect the recent reactor vessel material surveillance capsule examination and analysis.

Date of issuance: June 27, 1985.

Effective date: June 27, 1985.

Amendment No.: 69.

Facility Operating License No. DPR-74. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12146).

The Commission's related evaluation of the amendment is contained in a Safey Evaluation dated June 27, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Northeast Nuclear Energy Company (NNECO), Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: November 7, 1984.

Brief description of amendment: The amendment revises the completion date for Item III.D.3.4, Control Room Habitability, specified in the Commission's March 14, 1983 Confirmatory Order, to (1) remove the required completion date of December 1984, (2) replace the completion date with "To be Determined," and (3) indicate that item III.D.3.4 is no longer considered part of the Confirmatory Order.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No. 93.

Provisional Operating License No. DPR-21. Amendment revised the license and the Commission's March 14, 1983 Confirmatory Order.

Date of initial notice in **Federal Register:** December 4, 1984 (49 FR 47462).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: July 11, 1984, supplemented April 26, 1985.

Brief description of amendments: The amendments revised the Technical Specifications in the areas of (1) reporting requirements, (2) Table of Contents, (3) Refueling Boron Concentration, (4) radioactive source leakage tests, (5) senior reactor operator shift requirements, (6) deletion of snubber table, (7) spray additive tank requirements, (8) discharge canal flow monitoring, (9) radioactive effluent monitoring instrumentation surveillance requirements, (10) radiation environmental monitoring program sample collection and analysis, and (11) changes in management titles. By letter dated January 21, 1985, the licensee withdrew the request associated with the peaking factor limit functions.

Date of issuance: June 25, 1985.

Effective date: June 25, 1985.

Amendment Nos.: 73 and 66.

Facility Operating License Nos. DPR-42 and DPR-60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 24, 1984 (49 FR 42814 at 42827). The licensee's proposed change dealing with the refueling boron concentration was modified in order that it would be consistent with the requirements specified in the Standard Technical Specifications. Specifically, the modification merely expressed the terms of the reactor shutdown margin in the same manner as shown in the Standard Technical Specifications. The modification in no way alters the previous determination regarding the no significant hazards consideration. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 25, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: December 21, 1984 as revised March 14, 1985.

Brief description of amendments: The amendments changed Technical Specifications 3.8.B.1 and 5.6.A, B, and C to permit the use of the spent fuel shipping cask over spent fuel pool No. 1.

Date of issuance: June 26, 1985.

Effective date: June 26, 1985.

Amendment Nos.: 74 and 67.

Facility Operating License Nos. DPR-42 and DPR-60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1985 (50 FR 15997 at 16007).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 26, 1985.

No significant hazards consideration comments received: No.

Facility Operating License Nos. NPF-14 and NPF-22: Amendments revised

certain valves to add automatic isolation features.

footnote from the Unit 2 Technical Specification

Facility Operating License No. NPF-

The Commission's related evaluation

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Pennsylvania Power and Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: February 7, 1985.

Brief description of amendment: This amendment to the Technical Specifications (TSs) revises the trip setpoint for isolation of the Reactor Core Isolation Cooling (RCIC) system on high steam line differential pressure. The current value for this trip setpoint was initially based on engineering judgement and operating experience. The proposed revised trip setpoint value is based on actual test data obtained using the startup test program. Technical Specification Table 3.3.2-2 trip function 5a has been revised to reflect the Startup Test data.

Date of issuance: July 2, 1985.

Effective date: Upon issuance.

Amendment No. 13.

Facility Operating License No. NPF-22: Amendment revised the Technical Specifications.

Dates of initial notices in **Federal Register:** March 27, 1985 (50 FR 12156).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 2, 1985.

No comments on the proposed no significant hazards consideration determination were received.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendments: October 1, 1984.

Brief description of amendments: The proposed amendments would incorporate controls in the form of limiting condition for operation (LCO) into the Technical Specifications on equipment needed to insure proper functioning of the isolated 480 volt swing busses. The NRC staff has reviewed the Technical Specification changes proposed by the licensee and determined that they are acceptable.

Date of issuance: July 2, 1985.

Effective date: July 2, 1985.

Amendment Nos.: 48 and 14.

Facility Operating License Nos. NPF-14 and NPF-22: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12156).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated July 2, 1985.

No comments on the proposed no significant hazards consideration determination were received.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: June 4, 1982, March 8, 1983, May 3, 1983, June 1, 1983 and April 3, 1984.

Brief description of amendments: The amendment revises the Administrative Controls Section (Chapter 6) of the Technical Specifications to allow organizational changes, both on-site and off-site, to include notification specifications required by NUREG-0737, to amend reporting requirements to be consistent with 10 CFR Parts 50.72 and 50.73, and to include editorial changes.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment Nos.: 59.

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Dates of initial notice in **Federal Register:** August 23, 1983 (48 FR 38419), November 22, 1983 (48 FR 52823), June 20, 1984 (49 FR 25371).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: May 3, 1983.

Brief description of amendment: The amendment will revise and update Table 3.6-1 and Table 4.4-1 of the Technical Specifications to reflect installation of containment isolation valves, deletion of containment isolation valves due to supersession by the installation of other containment isolation valves, and modifications to certain valves to add automatic isolation features.

Date of issuance: June 24, 1985.

Effective date: July 24, 1985.

Amendment No.: 58.

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12158).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: September 15, 1983.

Brief description of amendment: The amendment incorporates provisions that would require inservice inspections to be performed in accordance with the requirements for ASME Code Class 1, 2 and 3 components contained in section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda as required by 10 CFR 50.55a(g), except where relief had been granted by the NRC.

Date of issuance: June 24, 1985.

Effective date: June 24, 1985.

Amendment No.: 57.

Facilities Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 10, 1985 (50 FR 1286).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: December 7, 1984.

Brief description of amendments: The amendments add a surveillance requirement for the Containment Pressure-Vacuum Relief Isolation valves on Salem Units 1 and 2 and removes a

footnote from the Unit 2 Technical Specification.

Date of issuance: June 25, 1985.

Effective date: June 25, 1985.

Amendment Nos.: 65 and 39.

Facility Operating License Nos. DPR-70 and DPR-75: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 8003).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated June 25, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: December 3, 1984.

Brief description of amendment: The amendment changes the Technical Specifications by relaxing the restriction on the auxiliary building crane travel when a non-heavy load is being transported.

Date of issuance: June 25, 1985.

Effective date: June 25, 1985.

Amendment No. 6.

Facility Operating License No. DPR-18. Amendment revised the Technical Specifications.

Date of intitial notice in **Federal Register:** May 21, 1985 (50 FR 20987).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 25, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of applcation for amendment: April 9, 1985.

Brief description of amendment: The amendment modifies Technical Specification 3/4.1.3, "Movable Control Assemblies," and its bases to permit 72 hours for evaluation and repair when more than one full length rod is inoperable due to a rod control urgent failure alarm or obvious electrical problem in the rod control system before requiring orderly shutdown.

Date of issuance: June 24, 1985.

Effective date: July 1, 1985.

Amendment No. 43.

Facility Operating License No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20989).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Dates of applications for amendments: (1) August 19 and October 24, 1983 (2) December 10, 1981 (3) February 22, 1985.

Brief description of amendments: The amendments change the Technical Specifications related to subcooling margin monitors, fire hose hydrostatic testing requirements and Bases statements for operational limits associated with the pressurizer spray nozzles.

Date of issuance: June 25, 1985.

Effective date: June 25, 1985.

Amendment Nos. 40 and 32.

Facility Operating License Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3357); September 28, 1984 (49 FR 38410); December 31, 1984 (49 FR 50826).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 25, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendment: October 24, 1983.

Brief description of amendments: The amendments change the Technical Specifications to delete tables related to hydraulic snubbers.

Date of issuance: June 20, 1985.

Effective date: June 20, 1985.

Amendment Nos. 39 and 31.

Facility Operating License Nos. DPR-77 and DPR-79. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 26, 1984 (49 FR 3357).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 20, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: June 13, 1984, and March 27, 1985.

Brief description of amendments: The amendments change license conditions related to the Physical Security Plan.

Date of issuance: June 11, 1985.

Effective date: June 11, 1985.

Amendment Nos. 38 and 30.

Facility Operating License Nos. DPR-77 and DPR-79. Amendments revised the licenses.

Date of initial notice in **Federal Register:** September 10, 1984 (49 FR 36947) and April 26, 1985 (50 FR 16574).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 11, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: June 3, as supplemented June 9, 1983.

Brief description of amendments: The amendments revised the NA-1&2 TS in response to NRC Generic Letter 83-37 which provided guidance on the scope of TS for NUREG-0737. The amendments specifically address the following TMI action items: (1) Reactor Coolant System Vents (II.B.1); (2) Noble Gas Effluent Monitors (II.F.1.1); (3) Containment High-Range Radiation Monitor (II.F.1.3); (4) Containment Pressure Monitor (II.F.1.4); (5) Containment Water Level Monitor (II.F.1.5); (6) Containment Hydrogen Monitor (II.F.1.6); and (7) Instrumentation for Detection of Inadequate Core Cooling (II.F.2).

Date of issuance: June 28, 1985.

Effective date: Within 7 days from the date of issuance.

Amendment Nos. 64 and 49.

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 333076 at 33089)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 28, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: August 24, 1983 (as supplemented June 29, 1984), March 30, 1984 and March 19, 1985.

Brief description of amendment: Miscellaneous Technical Specification changes including definition of Operable and decay heat removal.

Date of issuance: July 5, 1985.

Effective date: 60 days after date of issuance.

Amendment No. 63.

Facility Operating License No. DPR-43: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49598), reissued November 21, 1984 (49 FR 45981) and May 23, 1984 (49 FR 21850).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 5, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin, Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Yankee Atomic Electric Company, Docket No. 50-29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: May 26, 1981, as revised January 23, 1984 and February 26, 1985.

Brief description of amendment: The amendment changes the facility technical specifications (TS) to incorporate NUREG-0737 requirements, Integrated Plant Safety Assessment items, Radiological Effluent TS changes; to remove reference to 3-loop operation, to incorporate various other individual TS changes, corrections, and clarifications. Additional proposed requests contained in these submittals will be addressed in separate correspondence.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No. 83.

Facility Operating License No. DPR-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12168).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 910301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before, issuance, its usual 30-day Notice of consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By August 16, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic

Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Commonwealth Edison Company, Docket No. 50-374, La Salle County Station, Unit No. 2 La Salle County, Illinois

Date of application for amendment: June 14, 1985.

Brief description of amendment request: This amendment revised the La Salle Unit 2 Technical Specifications, Table 3.3.2-2, to change the response time for the Main Steam Line Low Pressure isloation switches from 1 to 2 seconds.

Date of Issuance: June 20, 1985.

Amendment No.: 12.

Effective Date: June 20, 1985.

Facility Operating License No. NPF-18: Amendment revised the Technical Specifications.

Press release issued requesting comments as to proposed no significant hazards consideration: No.

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated July 1, 1985.

Local Public Document Room location: Pubic Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue N.W., Washington, D.C. 20036.

NRC Branch Chief: Walter R. Butler.

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: June 28, 1985.

Brief description of amendment: This amendment authorizes changes to Tables 3.13-1 and 4.13-1, Accident Monitoring Insutrumentation, to the Appendix A Techical Specifications to allow thermocouples on the relief values' common discharge headers to be substituted for an inoperable backup relief value position indicator thermocouple.

Date of issuance: July 1, 1985.

Effective date: July 1, 1985.

Amendment No: 88.

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

Comments received: No.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated July 1, 1985.

No significant hazards consideration comments received: No.

Attorney for licensee: G. F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

NRC Branch Chief: John A. Zwolinski.

Dated at Bethesda, Maryland, this 11th day of July 1985.

For the Nuclear Regulatory Commission.

Edward J. Butcher,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85-16988 Filed 7-16-85; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

rate changes listed below as Appendix

Description	Dollars

Partners, a Rhode Island limited

It is ordered, pursuant to section 40(a)

(3) Whether the offer of interests in

POSTAL SERVICE

Deletion of E-COM Provisions From the Domestic Mail Classification Schedule and Rate Schedules

AGENCY: Postal Service.

ACTION: Deletion of E-COM provisions from the domestic mail classification schedule and rate schedules.

SUMMARY: Pursuant to its authority under 39 U.S.C. 3625, the Postal Service is deleting the E-COM provisions from the Domestic Mail Classification Schedule and Rate Schedules.

EFFECTIVE DATE: September 3, 1985.

FOR FURTHER INFORMATION CONTACT: Edward W. Senft, (202) 245–5780.

SUPPLEMENTARY INFORMATION: On July 6, 1984, the Postal Service filed, pursuant to Chapter 36, Title 39, United States Code, a request with the Postal Rate Commission for a recommended decision on changes to the Domestic Mail Classification Schedule and the Rate Schedules to delete all provisions concerning E-COM service. An explanation of the Postal Service's proposals and an invitation to participate in Commission Docket No. MC84–2 was published in the **Federal** Register by the Postal Rate Commission on July 17, 1984 (49 FR 28953).

On December 21, 1984, the Postal Rate Commission issued its Opinion and Recommended Decision in Docket No. MC84–2. The Commission recommended that the E-COM provisions be deleted from the Domestic Mail Classification Schedule and the Rate Schedules.

On July 10, 1985, pursuant to 39 U.S.C. 3625, the Governors of the Postal Service decided to approve the Commission's recommended decision and order it into effect. The Board of Governors concurrently determined that the changes would become effective at 12:01 a.m. on September 3, 1985. (The Governors' decision, the Record of the Commission's hearings, and the Commission's Recommended Decision may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20002–4231. The Governors' decision and the Commission's Recommended Decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West SW., 20260–1641.)

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the classification and rate changes listed below as Appendix A become effective at 12:01 a.m. on September 3, 1985.

(39 U.S.C. 3625)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

Appendix A.—Amendments to the Domestic Mail Classification Schedule and the Rate Schedules

1. Sections 100.024, 100.045, 100.046, 100.051, 100.052, 100.0521, 100.0522, and 100.101 of the DMCS are deleted.

2. Sections 100.020, 100.080 and 100.090 of the DMCS are amended to read as follows:

100.020 REGULAR MAIL

Regular First-Class Mail consists of mailable matter posted at First Class regular rates, weighing 12 ounces or less, and not mailed or eligible for mailing under sections 100.0201, 100.021, 100.0211, 100.022, 100.0221, or 100.023.

* * * * *

100.08 ANCILLARY SERVICES

100.080 First-Class Mail, except as otherwise noted, will receive the following additional services upon payment of appropriate fees:

	Classification schedule
a. Address correction	SS–1
b. Business reply mail (except ZIP + 4 rate category mail).	SS–2
c. Certificates of mailing	SS–4
d. Certified mail	SS–5
e. C.O.D.	SS–6
f. Insured mail	SS–9
g. Registered mail (except ZIP + 4 rate category mail).	SS–14
h. Special delivery	SS–17
i. Merchandise return	SS–20

* * * * *

100.09 RATES AND FEES

100.090 The rates and fees for First-Class Mail are set forth in the following rate schedules:

	Rate schedule
a. Regular	100
b. Postal and post cards	101
c. Presorted	102
d. Zone rated (priority)	103
e. Fees	1000

3. Rate Schedule 104 is deleted.

4. Rate Schedule 1000 is amended to read as follows:

Description	Dollars
First-Class Presorted Mailing Fee	$50
Second-Class Mailing Fees:	
A. Original Entry	220
B. Additional Entry (all zones)	60
Second-Class Reentry Fee	35
Second-Class Registration for News Agents	35
Third-Class Bulk Mailing Fee	50
Fourth-Class Special Mail Presorted Mailing Fee	50
Authorization to Use Permit Imprint	50
Merchandise Return (per facility receiving merchandise return labels)	50

[FR Doc. 85–17002 Filed 7–16–85; 8:45 am]

BILLING CODE 7710–12

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–14624; (812–5833) Administrative Proceeding File No. 3–6539]

Narragansett Capital Corp. et al.; Notice of and Order for Hearing on Application

July 10, 1985.

On February 15, 1985, the Commission issued a notice (Investment Company Release No. 14380) of an application filed by Narragansett Capital Corporation ("Narragansett") and Narragansett Venture Corporation ("NVC") (both registered under the Investment Company Act of 1940 ("Act") as closed-end non-diversified management investment companies, and jointly referred to hereinafter as the "Corporate Applicants"), Arthur D. Little, Robert D. Manchester, William P. Lane, Gregory P. Barber, Roger A. Vandenberg, and Paul A. Giusti (collectively, the "Individual Applicants"), Narragansett Capital Associates, Narragansett Capital Partners ("Partners"), Narragansett Acquisition Corporation, Inc., Narragansett General Partners, Narragansett Venture Partners ("Venture"), and Narragansett Management Company (collectively referred to as the "Management Partners' Companies"), Narragansett Administration Corporation, Narragansett Management Partners, Narragansett First Fund, NFF Investments, Inc., and Cable Investments, Inc. (the "Other Applicants") (the Corporate Applicants, Individual Applicants, Management Partners' Companies, and the Other Applicants are hereinafter collectively referred to as the "Applicants"), all of 40 Westminster Street, Providence, RI 02903, requesting an order of the Commission (1) pursuant to sections 17(b) and 57(c) of the Act and Rule 17b–1 thereunder exempting from Sections 17(a) and 57(a) and permitting under sections 17(d) and 57(a)(4) and Rule 17d–1 thereunder transactions by which the Individual Applicants, Narragansett's senior management, would take over Narragansett in a leveraged buyout (the "Purchase") that ultimately would result in a privately-held firm not subject to the Act; (2) pursuant to section 6(c) exempting

Partners, a Rhode Island limited partnership, from all of the provisions of the Act except sections 9, 17, 30, 31, 36(a), 37, 42 and 44; (3) pursuant to sections 6(c) and 17(b) and Rule 17d–1 exempting certain transactions from sections 17(a) and 17(e) and permitting certain transactions under Rule 17d–1; and (4) pursuant to section 6(c) exempting Venture from all provisions of the Act in the event Venture assumes certain obligations of NVC. That notice, which is incorporated herein by reference, gave interested persons until March 11, 1985, to file a request in writing for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for the request, and the issues of fact or law proposed to be controverted.

On March 5 and 6, 1985, requests for a hearing were filed with the Commission by Messrs. Benjamin Stein and Richard Lessler (the "Objectors"), both shareholders of Narragansett. Those requests were supplemented by letters dated March 11, and March 22. Counsel to Narragansett on April 19, 1985, filed a letter responding to the contentions made by the Objectors in their hearing requests, to which Mr. Stein filed a response dated May 1, 1985. The Objectors contend that the terms of the Purchase are unfair to Narragansett's shareholders in regard to the adequacy of the consideration to be paid, the difference in treatment between the Individual Applicants and the shareholders of Narragansett, and the failure to afford Narragansett shareholders who qualify as "accredited investors" under Regulation D the opportunity to invest in Partners. The Objectors contend that the Purchase, therefore, does not meet the standards for exemptive reflief set forth in sections 17(b), 17(d), 57(a)(4) and 57(c), and Rule 17d–1.[1]

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the application. Accordingly,

It is ordered, pursuant to section 40(a) of the Act, that a hearing on the application under the applicable provisions of the Act and Rules of the Commission thereunder be held at a time and place to be fixed by further order as provided by Rule 6 of the Commission's Rules of Practice (17 CFR 201.6), and that an Administrative Law Judge to be designated by further order preside at said hearing. Any person, other than the Applicants, desiring to be heard or otherwise wishing to participate in this proceeding is directed to file with the Secretary of the Commission, on or before August 5, 1985, an application as provided by Rule 9(c) of the Commission's Rules of Practice (17 CFR 201.9(c), setting forth the nature and extent of his interest in the proceeding and any issues of fact or law which he desires to controvert, or any additional issues which he deems raised by this Notice and Order or by said application. A copy of that request shall be served personally upon the Applicants at the address noted above, and proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of the date and place of the hearing, and any adjournments thereof, as well as other actions of the Commission involving the subject matter of this proceeding.

The Division of Investment Management has advised the Commission that it has made an examination of the application, the request for hearing, and the response to such request by counsel to Applicant and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the Purchase, including the consideration to be paid for the assets of Narragansett, is fair and reasonable and free and overreaching on the part of any person concerned, consistent with the policies of Narragansett and NVC as stated in their registration statements, and consistent with the provisions, policies and purposes of the Act;

(2) Whether the Individual Applicants are participating in the Purchase on a basis more advantageous than that on which the shareholders of Narragansett are participating, and, if so, whether that difference is fair and reasonable; and

(3) Whether the offer of interests in Partners only to some Narragansett shareholders is fair.[2]

It is further ordered that at the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered that the Division of Investment Management shall be a party to the proceeding.

It is further ordered that the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to the Applicants at the address noted above and to the Objectors and various other persons who have written to the Commission expressing their views on this matter; that notice to all other persons be given by publication of this Notice and Order in the **Federal Register**; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest".

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85–17007 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

[1] The Objectors also raise a number of other questions. For example, Mr. Stein's hearing request questions the underlying rationale for the Purchase as set out in the application: Narragansett's difficulties in operating as a regulated investment company under the Internal Revenue Code. Mr. Stein also questions whether the negotiations between the Individual Applicants and the Special Committee over the terms of the Purchase were in fact conducted, insofar as possible, in a truly arm's length fashion. The Applicants point to the arm's length nature of the negotiations as supporting the fairness of the Purchase. The Objectors' letters also raise questions concerning possible breaches of fiduciary duty by Narragansett's officers and directors.

[2] As noted in footnote 1, above, the Objectors also raise a number of other questions. The Administrative Law Judge assigned to the hearing will have discretion to allow any of those issues that he deems relevant to be considered.

[File No. 22–13902]

Application and Opportunity for Hearing; Union Tank Car Co.

July 10, 1985.

Notice is hereby given that Union Tank Car Company (the "Applicant") has filed an application under Clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of The First National Bank of Chicago under five existing indentures, two of which were qualified under the Act, and the proposed trusteeship of The First National Bank of Chicago under a new indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the First National Bank of Chicago from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such Section), it shall within ninety days after ascertaining that it has

such conflicting interest either eliminate such conflicting interest or resign.

(4) Such differences as exist between the Series P–4 indenture and the existing

Standard and Poors 100 Index ("OEX") become effective when either a

on July 5, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of

available at the principal office of the CBOE.

Alaska Air Group Inc. (Delaware)
Common Stock, $1.00 Par Value (File

VOL 50 ISS 137 JL 17 1985 UMI

such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such Section provides that, with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which other securities of the same obligor are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same obligor are outstanding, if the obligor shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The applicant alleges that:

(1) The First National Bank of Chicago is presently acting as trustee under the Company's Series 4 Equipment Trust Agreement dated as of April 1, 1969, Series 16 Equipment Trust Agreement dated as of June 1, 1979, Series C–1 Deed of Trust and Mortgage dated as of September 15, 1974, Series P–1 Equipment Trust Agreement dated as of April 1, 1974 and Series P–2 Equipment Trust Agreement dated as of December 1, 1978. The aggregate principal amount outstanding as of February 28, 1985, was as follows:

Series and Principal Amount
4—$4,990,000
16—$48,935,000
C–1—$13,938,000
P–1—$2,967,052
P–2—$49,410,000

(2) The Equipment Trust Certificates (or, in the case of Series C–1, the First Mortgage Sinking Fund Equipment Notes) issued under the Series 4, Series 16, Series C–1, Series P–1 and Series P–2 Trust Agreements are each secured by a separate lot of identified railraod cars as will be the Equipment Trust Certificates issued under the proposed Series P–4 Agreement, so that, should The First National Bank of Chicago have the occasion to proceed against the security of any of these Equipment Trusts, such action would not affect the security, or the use of any security, under the other Equipment Trusts. Thus, the existence of the other trusteeships should in no way inhibit or discourage the trustee's action.

(3) The Applicant is not in default under any of its Equipment Trust obligations.

(4) Such differences as exist between the Series P–4 indenture and the existing indentures for which The First National Bank of Chicago is presently acting as trustee are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify The First National Bank of Chicago from acting as trustee under any of said indentures.

The Applicant has waived hearing, notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission with respect to the application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Office of the Commission at 450–5th Street, NW., Judiciary Plaza, Washington, D.C. 20549

Notice is further given that any interested person may, not later than August 5, 1985, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, 450–5th Street, N.W., Judiciary Plaza, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17008 Filed 7–16–85; 8:45am]

BILLING CODE 8010–01–M

[Release No. 22223; File No. SR–CBOE–85–10]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc. ("CBOE"); Order Approving Proposed Rule Change

The Chicago Board Options Exchange, Inc. ("CBOE") submitted on March 22, 1985, copies of proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to provide that stop and stop limit orders in the Standard and Poors 100 Index ("OEX") become effective when either a transaction has occurred at the stop price or the market quotation on the same side of the market equals the price on the order.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Release No. 21926, April 8, 1985) and by publication in the **Federal Register** (50 FR 14482, April 12, 1985). No comments were received with respect to the proposed rule filing.

The CBOE states that the proposed rule change is intended to make the handling of stop and stop limit orders in OEX options more manageable than they are under the current rule. Due to the noise level and size of the OEX trading pit, it may not be possible for a floor broker to hear a trade causing a stop or stop limit order to become effective. Because current market quotations are displayed on screens, however, a floor broker can see the relationship of the current market quoatation with stop and stop limit orders in his desk. Therefore, in order to permit the use of stop and stop limit orders in OEX on a workable basis, the proposed rule change would cause stop and stop limit orders to become effective based upon relationships with transactions or quotations.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to as self-regulatory organization and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(1) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 11, 1985.

John Wheeler,

Secretary.

[Fr Doc. 85–17005 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22228; SR–CBOE–85–29]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

The Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted

on July 5, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to amend CBOE Rule 21.25, Interpretation .02 regarding margin requirements for Treasury note ("T-note") options. The rule as amended provides that CBOE approved T-notes, other than T-notes which underlie the T-note option, may collateralize a Treasury security escrow receipt, provided that the notes have a maturity date in excess of one year but less than five years, three months.

The CBOE submitted the proposal in connection with its proposal to trade options on five-year Treasury notes.[1] The Exchange anticipates that options writing programs on T-note contracts will be affected on a covered basis through the use of escrow receipts issued by a bank. The CBOE believes that institutions will use options strategies to hedge portfolios composed of various T-notes, not all of which specifically underlie the T-note options. Under the proposal, notes of a single coupon/maturity could be held in escrow against one specific T-note option contract. The CBOE believes that this approach will provide institutional investors flexibility in managing their investments as well as provide for liquidity in the note options market.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Reference should be made to File No. SR–CBOE–85–29.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Commission recently approved the CBOE's proposal to trade a five-year T-note option contract, and trading in the contract commenced on the CBOE on July 8, 1985. In addition, the Commiasion previously has approved the use of escrow receipts collateralized by Treasury bonds in connection with the CBOE's Treasury bond option contract [2] and no comments were directly received by the Commission regarding that proposal.[3]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 11, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–17004 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

July 11, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Ahmanson (H.F.) & Co. (Delaware)
No Par Value Common (File No. 7–8481)
Alaska Air Group Inc. (Delaware)
Common Stock, $1.00 Par Value (File No. 7–8482)
American Water Works Co., Inc.
Common Stock, $2.50 Par Value (File No. 7–8483)
AZP Group Inc.
Common Stock, $2.50 Par Value (File No. 7–8484)
Crane Co. (Delaware)
Common Stock, $6.25 Par Value (File No. 7–8485)
Holiday Corp. (Delaware)
Common Stock, $1.50 Par Value (File No. 7–8486)
Staley Continental Inc.
Common Stock, $0.01 Par Value (File No. 7–8487)
Texscan Corp. (Delaware)
No Par Value Common (File No. 7–8488)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17010 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

July 11, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

[1] The CBOE's T-note contract recently was approved by the Commission in Securities Exchange Act Release No. 22215 (July 5, 1985).

[2] Securities Exchange Act Release No. 21886 (March 25, 1985), 50 FR 12671 (March 29, 1985).

[3] The CBOE did, however, forward to the Commission a letter from the staff of the Board of Governors of the Federal Reserve Systems indicating that they did not object to the proposal. *See* letter from Laura Homer, Securities Credit Officer, Board of Governors of the Federal Reserve System, to Mary Bender, Assistant Vice President, CBOE, dated November 16, 1984.

SunTrust Banks, Inc.
Common Stock, $1.00 Par Value (File

equitable principles of trade and will

For the Commission, by the Division of Market Regulation, pursuant to delegated

Rule 12f–1 thereunder, for unlisted

SunTrust Banks, Inc.
Common Stock, $1.00 Par Value (File No. 7–8489)
Castle & Cooke, Inc.
$.90 Convertible Preferred Stock, No Par Value (File No. 7–8490)
British Telecommunications PLC
Secondary Interim American Depository Receipts (File No. 7–8491)
M.D.C. Holdings, Inc. (Delaware)
Common Stock, $.01 Par Value (File No. 7–8492)
CNW Corporation (Holding Company)
Common Stock, $.028 Par Value (File No. 7–8493)
Green Tree Acceptance Inc.
Common Stock, $.01 Par Value (File No. 7–8494)
Lorimar
Common Stock, No Par Value (File No. 7–8495)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17012 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22218; File No. SR–MSE–85–6]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Incorporated Relating to the MSE Trading Floor Manual (Rules and Procedures for Trading on the MSE Floor)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 21, 1985, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A are proposed amendments to MSE's Trading Floor Manual (Rules and Procedures for Trading on the Midwest Stock Exchange, Incorporated Floor, "Blue Book") and Article XXX, Rule 6 and Article XXXIV, Rule 9 of the Rules of the Midwest Stock Exchange, Inc.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

Proposed Amendments to MSE Trading Floor Manual Blue Book Section C, Rule 1—Quoting the Market Before the Opening of an Issue—The current Blue Book rule states that if quotations were given on the MSE Floor before the opening of an issue in the primary market, such quotations would be approximate quotations. Pursuant to the Firm Quote Rule, any quote disseminated must be a firm quote. The Blue Book change will adopt new language which would allow a MSE Specialist to disseminate a quote prior to the opening of an issue as long as such quote is firm and available to any order seeking execution at the disseminated price.

Blue Book Section C, Rule 2—Independent Dual Issue Openings—The proposed rule change will make it a requirement for a MSE Specialist to display a continuous two-sided after-market when such MSE Specialist independently opens a dually listed issue, even if a floor firm fails to provide subsequent orders as may have been previously negotiated.

Blue Book Section C, Rule 10—Limit Orders at the Opening—The intent of the current Blue Book rule is that the MSE Specialist should not be required to fill a limit order only on the basis that the issue opened in the primary market at the same price of the limit order in the MSE Book, but would require price or quote penetration of the price of the order. The proposed change codifies this interpretation and explicitly provides that the Specialists will not have to execute a limit order unless the bid or offer at the limit price is exhausted in the primary market.

Blue Book Section C, Rule 18—Business Hours—The proposed change is designed to insure that the Specialist's Book is properly represented by the Specialist, Co-Specialist or Relief Specialist during the trading session. The proposed rule change also provides that the Post should be adequately staffed during the designated non-trading hours by personnel authorized to check, adjust and correct trades. The change also authorizes the Committee on Floor Procedure to adjust the time requirements in unusual trading periods.

Cabinet Procedures—The Midwest Stock Exchange has reviewed the procedures and practices followed on the MSE Floor with regard to trading in issues designated in the Cabinet Post. The proposed procedures will be incorporated into the MSE Trading Floor Manual when approved.

Proposed Amendments to MSE Rules

Article XXX, Rule 6—Opening the Market Where Unusual Conditions Exist—The proposed change will provide for two members of the Committee on Floor Procedure to be called to rule on the opening of an issue on the MSE Floor where unusual conditions exist. The rule also includes a procedure to break a possible impass by the two members originally called to rule on the matter. This proposed amendment will be incorporated into the proposed Blue Book amendment to Section C, Rule 2, when approved.

Article XXXIV, Rule 9—Openings—The proposed change will codify the current interpretation that Market Makers may participate in the net Midwest Stock Exchange imbalance of purchase and sales orders on the Exchange.

Basis

The proposed rule change is consistent with section 6(b) of the Securities Exchange Act of 1934 in that it is designed to promote just and

equitable principles of trade and will foster cooperation among persons engaged in regulating and facilitating transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed changes were developed by a subcommittee of the Floor Procedure Committee and subsequently endorsed by the full Committee.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of the filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the caption above and should be submitted by August 7, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17013 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

July 11, 1985.

The above named national securities exchange has filed application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stock:

Hasbro, Inc.
Common Stock, $0.50 Par Value (File No. 7–8467)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17009 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 11, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Prime Motor Inns, Inc.
Common Stock, $0.05 Par Value (File No. 7–8476)
Telerate, Inc.
Common Stock, $0.01 Par Value (File No. 7–8477)
Torchmark Corporation
Common Stock, $2 Par Value (File No. 7–8478)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17006 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Revision

Rule 15Ba2–1, Form MSD
No. 270–88

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for OMB approval revised Rule 15Ba2–1 (17 CFR 240.15Ba2–1) and Form MSD, 17 CFR 249.1100 under the Securities and Exchange Act of 1934 (15 U.S.C. 78 et seq.), which require that an application in the form of Form MSD be filed by bank municipal securities dealers with the Commission. The

potential affected persons are approximately 24 bank municipal

[Release No. 34–22220; File No. SR–PHLX 85–21]

Statutory Basis for the Proposed Rule Change

publishes its reasons for so finding or (ii) as to which the self-regulatory

number in the caption above and should

public's awareness of, and participation

potential affected persons are approximately 24 bank municipal securities dealers per year.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

John Wheeler,

Secretary.

July 10, 1985.

[FR Doc. 85–16950 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 10, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities and Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following security: Pulte Home Corporation.

Common Stock, $.01 par value, per share, (File No. 7–8466) This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 31, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–16947 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22220; File No. SR–PHLX 85–21]

Self-Regulatory Organization; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Deletion of ROT Attendance Requirement

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 27, 1985 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Exchange" or "PHLX") proposes to amend its Rule 1014, Commentary .14, as follows:

[Brackets] indicate material proposed to be deleted:

Within each quarter an ROT [shall spend 50% of the business days on the trading floor of the Exchange and] shall trade as principal a specified number of contracts, such number to be determined from time to time by the Committee on Options. [To meet the percentage requirement of this provision, a member registered as an ROT must spend, for each business day that such member is present, a substantial portion of that business day on the PHLX option floor.]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to delete what the Exchange now considers an outdated and unnecessary attendance requirement from an Exchange market-maker's various obligations. It should be noted that this provision was not a requirement under Exchange Rule 1014 as originally adopted. Rather, it was made a part of such rule in 1978 in an attempt to make Exchange options markets deeper, more liquid and more competitive. The Exchange established this attendance requirement to serve as an impetus to market-makers for spending substantial amounts of their time present and trading on the options floor.

Since then, fortunately, the liquidity and activity on the options floor has so grown that this attendance requirement is now believed to be entirely unnecessary.

Moreover, staff have found it difficult to monitor compliance with, and enforce, this requirement daily. Staff, recently, have monitored compliance by having market surveillance department personnel take daily attendance, which has proved to be cumbersome. The benefits of implementing a more effective system of monitoring compliance, such as automated ticket-punching, are believed to be outweighed by the costs of perpetuating a requirement unsuited to present business circumstances.

B. Self-Regulatory Organizations Statement on Burden on Competition

The Exchange believes the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received from the Exchange membership.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and

publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 7, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

July 10, 1985.

[FR Doc. 85–16949 Filed 7–16–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–85–17]

Petition for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: July 29, 1985.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 10, 1985.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23994–1	Atlantic Richfield	14 CFR § 91.303	To allow petitioner to operate one Stage 1 B707–123B aircraft until hush kits are installed.
24032–1	Aerolineas Nacionales Del Ecuador, S.A.	14 CFR § 91.303	To allow petitioner to operate one Stage 1 DC–8–33F unitl a replacement aircraft is available.

[FR Doc. 85–16893 Filed 7–16–85; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administrations

High Pressure Composite Hoop Wrapped Cylinders 4500 p.s.i.g. Marked Service; Cylinders–85–3

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: DOT–E 7235, Exemption related notice.

SUMMARY: On August 11, 1983 (48 FR 36559), the MTB published a notice that Luxfer USA Limited (Luxfer) had initiated a recall of cylinders manufactured in 1982 under exemption DOT–E 7235 and bearing serial numbers WA43160 through WA50178 and WF 20321 through WF21548. A number of cylinders remain in service and may present a serious safety problem.

FOR FURTHER INFORMATION CONTACT: Arthur J. Mallen, Office of Hazardous Materials Regulation, Materials Transportation Bureau (DMT–22), 400 Seventh Street, SW., Washington, D.C. 20590, (202) 755–4906. Office hours are: 8:30 a.m. to 5:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: It was the opinion of Luxfer that cylinder failures which prompted the recall were probably caused by a higher than normal composition of lead and bismuth in one cast of material. The **Federal Register** notice (48 FR 36559) required all such cylinders to be removed from service and recommended that they be returned for replacement to the company or distributor from whom they were purchased.

A June 11, 1985 status report from Luxfer indicates that 176 affected cylinders are still unaccounted for and are assumed to be still in service. It is imperative that these remaining cylinders be located and removed from service. The 176 unaccounted for cylinders bear the following serial numbers:

WA43189	WA43252
WA43191	WA43280
WA43208	WA43276
WA43216	WA43291
WA43242	WA43294

WA43330	WA44650	
WA43349	WA44707	
WA43368	WA44717	

Users of these cylinders should be advised that serious personal injury,

Questions concerning claims against

Questions concerning this notice may

claims will be distributed by this office

WA43330	WA44650
WA43349	WA44707
WA43368	WA44717
WA43372	WA44763
WA43375	WA44765
WA43376	WA44788
WA43380	WA44951
WA43381	WA45108
WA43382	WA45152
WA43383	WA45168
WA43385	WA45182
WA43388	WA45195
WA43391	WA45438
WA43392	WA45454
WA43398	WA45514
WA43410	WA45558
WA43417	WA45581
WA43451	WA45840
WA43456	WA45854
WA43476	WA45906
WA43507	WA45952
WA43520	WA46049
WA43549	WA46069
WA43550	WA46168
WA43556	WA46240
WA43571	WA46357
WA43573	WA46359
WA43598	WA46504
WA43622	WA46597
WA43625	WA46724
WA43627	WA46747
WA43628	WA46772
WA43629	WA46812
WA43634	WA47241
WA43644	WA47424
WA43657	WA47608
WA43668	WA47784
WA43718	WA47109
WA43724	WA47321
WA43725	WF20322
WA43732	WF20334
WA42758	WF20438
WA43759	WF20497
WA42763	WF20500
WA43784	WF20545
WA43785	WF20556
WA43796	WF20573
WA43807	WF20614
WA43887	WF20620
WA43894	WF20631
WA43928	WF20644
WA43984	WF20647
WA44113	WF20654
WA44147	WF20659
WA44150	WF20662
WA44158	WF20663
WA44171	WF20743
WA44190	WF20744
WA44193	WF20751
WA44195	WF20765
WA44219	WF20758
WA44230	WF20756
WA44249	WF20768
WA44255	WF20769
WA44256	WF20776
WA44259	WF20788
WA44278	WF20799
WA44292	WF20877
WA44293	WF20891
WA44302	WF20927
WA44317	WF21383
WA44337	WF21410
WA44351	WF21421
WA44373	WF21423
WA44399	WF21439
WA44405	WF21445
WA44417	WF21458
WA44428	WF21470
WA44433	WF21491
WA44457	WF21513
WA44464	WF21528
WA44540	WF21546
WA44590	

Users of these cylinders should be advised that serious personal injury, death or property damage could result from the rupture of a cylinder. Accordingly, all persons owning, using or having access to the cylinders subject to the recall should immedaitely take the following precautions:

1. If a cylinder has been filled, its entire contents should be vented in order to relieve internal pressure.

2. The vented cylinders should be segregated from all other cylinders by being placed in a secure place and marked conspicuously with a tag bearing the notation "Do Not Use" or similar warning.

3. Under no circumstances should any of the cylinders in question be sold or otherwise transferred, filled, refilled or used for any purpose.

Once the above procedures have been implemented, all cylinders bearing the serial numbers indicated should be returned for replacement to the company or distributor from whom they were purchased.

(49 U.S.C. 1804(c), 1805(a) and 1808(d)(3))

Issued in Washington, D.C. on July 12, 1985, under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-16972 Filed 7-16-85; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

[General Counsel Order No. 21 (Rev. 5)]

Appointment of Members of the Legal Division to the Performance Review Board

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 301 and 26 U.S.C. 7801, Treasury Department Order No. 101-5 (Revised), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board:

(1) For the General Panel—
- Chairperson, Margery Waxman
- Richard V. Fitzgerald
- Selig S. Merber
- Walter T. Eccard
- Richard A. Abbey
- Marvin J. Dessler

(2) For the IRS Panel—
- Chairperson, the Deputy Chief Counsel, Internal Revenue Service
- Deputy General Counsel
- An Associate Chief Counsel for the Internal Revenue Service
- A rotating Regional Counsel
- A rotating Division Director of the Internal Revenue Service and such other SES officials as designated by the Chief Counsel

I hereby delegate to the Chief Counsel for the Internal Revenue Service the authority to make the appointments specified in this Order to the IRS Panel and to make the publication required by section 4314(c)(4) of 5 U.S. Code of the members of the IRS Panel.

Effective Date: July 11, 1985.

Robert M. Kimmitt,

General Counsel.

[FR Doc. 85-16923 Filed 7-16-85; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

Ideal Mutual Insurance Co.; Surety Companies Acceptable on Federal Bonds: Liquidation

Ideal Mutual Insurance Company, a New York corporation, formerly held a Certificate of Authority as an acceptable surety on Federal bonds and was last listed as such at 48 FR 30535, July 1, 1983. The company's authority was terminated by the Department of the Treasury effective July 20, 1984. Notice of the termination was published in the **Federal Register** of August 3, 1984, on page 31190.

There is printed below a copy of a notice dated February 7, 1985, issued by the New York Insurance Department, indicating the company is now being liquidated. Please note the notice stipulates liabilities are fixed as of February 7, 1985 and that all claims against the company must be filed on or before February 7, 1986.

Government agencies involved in Federal surety bonding operations where third parties such as subcontractors, materialmen, and suppliers may have a claim against the company are requested to use their best efforts to notify such third parties of the liquidation, assist them in filing claims, inform them of their priority status based on section 3713 of the United States Code and provide them with copies of the Notice of Liquidation. if priority status is not being granted, please notify the Department of the Treasury at the address indicated below.

Government agencies should be aware that, where reinsurance was obtained on a bond, the reinsuring company may be liable to the United States Government for the full amount of the reinsurance or the full amount of the default, whichever is less.

Questions concerning claims against the company may be directed to Joseph A. La Monte, Special Deputy Superintendent of Insurance at the address given in the Liquidation Notice. Copies of the Proof of Claim form may be obtained from the same office.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634-2319. An information notice containing additional information concerning the filing of claims will be distributed by this office to Federal agencies.

Dated: July 2, 1985.

W. E. Douglas,

Commissioner, Financial Management Service.

BILLING CODE 4810-35-M

NOTICE OF LIQUIDATION

Sunshine Act Meetings

NOTICE OF LIQUIDATION

STATE OF NEW YORK
INSURANCE DEPARTMENT
LIQUIDATION BUREAU
116 JOHN STREET, NEW YORK, NEW YORK 10038 (212) 285-0500

To the Debtors, Creditors, Policyholders
Stockholders, Persons having claims
against Policyholders, and all other Persons
Interested in the affairs of
IDEAL MUTUAL INSURANCE COMPANY

Notice Is Hereby Given:

I. JAMES P. CORCORAN, Superintendent of Insurance of the State of New York has been directed by an Order of the Supreme Court, New York County, entered on February 7, 1985 to take possession of the property of IDEAL MUTUAL INSURANCE COMPANY and to liquidate its business pursuant to Article 74 of the Insurance Law of the State of New York. The undersigned has, pursuant to said Article, appointed JOSEPH A. LA MONTE, Special Deputy Superintendent of Insurance, as his agent to liquidate the business of said company at the office of the said Deputy, 116 John Street, Borough of Manhattan, City and State of New York, 10038.

II. JAMES P. CORCORAN, Superintendent of Insurance of the State of New York has been directed by an Order of the Supreme Court, New York County, entered on December 26, 1984 to rehabilitate IDEAL MUTUAL INSURANCE COMPANY pursuant to Article 74 of the Insurance Law of the State of New York. Pursuant to this Order the rights and liabilities of said Company and of all persons under insurance obligations of said Company will cease and are fixed as of January 26, 1985, 12:01 A.M. Eastern Standard Time. To have continuing coverage, all persons whose policies are now in force are required to replace such policies in another Company before January 26, 1985.

III. The Liquidation Order further provides that all other subsisting contracts and other obligations of the Company terminate and all other liability thereunder cease and be fixed as of February 7, 1985.

IV. All persons indebted to or having any property of said Company in their possession are hereby required forthwith to render an account of said indebtedness and to pay the same and deliver such property to the Liquidator at his office above stated.

V. All creditors of IDEAL MUTUAL INSURANCE COMPANY and all persons having any unsatisfied claims or demands against it or its policyholders are hereby required to present the same in writing duly subscribed and affirmed by him as true to JOSEPH A. LA MONTE at his office above stated ON OR BEFORE FEBRUARY 7, 1986 WHICH IS THE LAST DAY SET BY THE COURT ORDER FOR THE FILING OF CLAIMS IN THE LIQUIDATION PROCEEDING. A form of proof of claims is furnished herewith.

VI. ALL POLICYHOLDERS ARE REQUIRED TO FILE A CLAIM FOR THEIR POLICY PROTECTION WHETHER OR NOT A CLAIM HAS BEEN FILED AGAINST THE POLICYHOLDER IN THE SAME FORM AS SET FORTH IN PARAGRAPH V OF THIS NOTICE.

VII. All persons and policyholders against whom actions are now pending who do not come within the provisions of Sections 7601, 7603, 7604 of the New York Insurance Law, concerning which the Company may be liable on its policies or contracts and which have been defended up to the date of the order of liquidation by an attorney employed or retained by the Company, are advised that the employment or retention of said attorney has been terminated by the entry of the Order of Liquidation. EACH SUCH PERSON IS THERLFORE ADVISED TO CONTACT THE INSURANCE DEPARTMENT, GUARANTY FUND OR ASSOCIATION IN YOUR STATE. RETAIN THE SAID ATTORNEY AS YOUR ATTORNEY TO CONTINUE TO REPRESENT YOU IN THE ACTION, OR SUBSTITUTE AN ATTORNEY OF YOUR CHOICE, AT YOUR OWN EXPENSE. Reasonable and necessary expenses in relation thereto may be included and be the part of the subject matter of your claim in the liquidation proceeding, if not provided by a State Guaranty Fund or Association.

VIII. Liabilities will be determined as to all claims duly presented and all assets will be distributed in accordance with the Insurance Law of the State of New York without further notice to persons failing to present claims within the aforesaid time.

IX. All communications and transactions relating to the Company and to the liquidation thereof should be addressed to said JOSEPH A. LA MONTE at his office above stated.

Dated: New York, New York, February 7, 1985.

JAMES P. CORCORAN
Superintendent of Insurance
of the State of New York, as Liquidator

JOSEPH A. LA MONTE
Special Deputy Superintendent of Insurance,
as Agent for the Superintendent, as Liquidator

[FR Doc. 85-16918 Filed 7-16-85; 8:45 am]
BILLING CODE 4810-35-C

Sunshine Act Meetings

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
Federal Home Loan Bank Board	2
Federal Reserve System	3, 4
National Mediation Board	5
Pacific Northwest Electric Power and Conservation	6
Postal Service (Board of Governors)	7
Railroad Retirement Board	8

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:18 p.m. on Friday, July 12, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution making funds available for the payment of insured deposits made in The Crossroads State Bank, Oklahoma City, Oklahoma, which was closed by the Bank Commissioner for the State of Oklahoma on Thursday, July 11, 1985.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to the public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 12, 1985.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 85-17056 Filed 7-15-85; 1:38 pm]
BILLING CODE 6714-01-M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 50, Page No.—None at this time. Date Published—Thursday, July 11, 1985.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6679).

CHANGES IN THE MEETING: The meetings scheduled for Thursday, July 18th, at 10:00 a.m. and Friday, July 19th, at 10:30 a.m. have been canceled.

Jeff Sconyers
Secretary.
No. 16, July 12, 1985.
[FR Doc. 85-17014 Filed 7-12-85; 5:13 pm]
BILLING CODE 6720-01-M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 11:00 a.m., Monday, July 22, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computers within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202)452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 12, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85-17000 Filed 7-12-85; 4:53 pm]
BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 28060, July 9, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Monday, July 15, 1985.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: Implementation of the Board's Program Improvement Project. (This item was originally announced for a closed meeting on July 1, 1985.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 15, 1985.
James McAfee,
Associate Secretary of the Board.
[FR. Doc. 85-17099 Filed 7-15-85; 3:57 p.m.]
BILLING CODE 6210-01-M

5

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, August 7, 1985.

PLACE: Board Hearing Room, 8th Floor, 1425 K. Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of July 1985.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATON: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523-5920.

DATE OF NOTICE: July 11, 1985.
Rowland K. Quinn, Jr.

7

POSTAL SERVICE

certified that in his opinion the meeting to be closed may properly be closed to

DATE OF NOTICE: July 11, 1985.

Rowland K. Quinn, Jr.

Executive Secretary, National Mediation Board.

[FR Doc. 85-17098 Filed 7-15-85; 3:57pm]

BILLING CODE 7550-01-M

6

PACFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Notice of Cancellation of Previously-Announced Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 28303, July 11, 1985.

PREVIOUSLY ANNOUNCED TIME, DATE AND PLACE OF THE MEETING: 9:00 a.m., July 17-18, 1985, Council Offices, 850 SW. Broadway, Suite 1100, Portland, Oregon.

CHANGE IN THE MEETING: The Northwest Power Planning Council has cancelled the July 17-18 meeting it has previously announced. Public notice of this cancellation is being issued at the earliest practicable time. The possibility of such cancellation was indicated in the **Federal Register** notice published on July 11, and further notice of the cancellation is being provided to interested parties throughout the region by other means as well. The Council's next meeting will be held August 7-8 at the Council's office in Portland, Oregon.

FOR FORTHER INFORMATION CONTRACT: Ms. Bess Atkins, (503) 222-5161, or toll-free 1-800-222-3355 (Montana, Idaho or Washington) or 1-800-452-2324.

William R. Cook,

Associate Counsel.

[FR Doc. 85-17015 Filed 7-15-85; 9:44 am]

BILLING CODE 0000-00-M

7

POSTAL SERVICE

(Board of Governors)

Notice of Vote To Close Meeting

At its meeting on July 8, 1985, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for August 5, 1985, in Anchorage, Alaska. The meeting will involve a discussion of personnel matters.

The meeting is expected to be attended by the following persons: Governors Camp, Griesemer, McKean, Peters, Ryan, Sullivan and Voss; Postmaster General Carlin; Deputy Postmaster General Strange; Secretary to the Board Harris; General Counsel Cox; and Counsel to the Governors Califano.

The Board of Governors has determined that, pursuant to section 552b(c)(6) of Title 5, United States, Code and § 7.3(f) of Title 39, Code of Federal Regulations, the discussion of personnel matters is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board also determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c)(6) of Title 5 United States Code, and § 7.3(f) of Title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

[FR Doc. 85-7003 Filed 7-15-85; 8:56 am]

BILLING CODE 7710-12-M

8

RAILROAD RETIREMENT BOARD

Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on July 23, 1985, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Proposed Changes in the RUIA Regulations
(2) Canadian Service
(3) Part 261 of the Board's Regulations—Reopening Final Decisions Under the Railroad Retirement Act

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 387-4920.

Dated: July 12, 1985.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 85-17055 Filed 7-15-85; 1:38 pm]

BILLING CODE 7905-01-M

federal register

Wednesday
July 17, 1985

Part II

Environmental Protection Agency

40 CFR Parts 414 and 416

Organic Chemicals and Plastics and Synthetic Fibers; Point Source Category Effluent Limitations Guidelines Pretreatment Standards; and Standards of Performance for New Sources; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

ADDRESS: Comments may be mailed to E.H. Forsht, Industrial Technology

G. Technology Basis and Standards for

The preamble to the proposed

actually achieved at various OCPSF

place. The report assesses the impact of

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 414 and 416

[OW-FRL-2863-6]

Organic Chemicals and Plastics and Synthetic Fibers; Point Source Category Effluent Limitations Guidelines Pretreatment Standards; and Standards of Performance for New Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Request for Comments.

SUMMARY: The EPA proposed regulations on March 21, 1983, to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from organic chemicals, plastics and synthetic fibers (OCPSF) manufacturing facilities (48 FR 11828). The comment period on the proposed regulations, originally scheduled to close on June 19, 1983, was extended to August 3, 1983, by the Agency to allow increased participation by interested parties (48 FR 24138). EPA announces today the availability for public review and comment of technical and economic data and related documentation received after proposal of the regulations. Pertinent portions of the public record include: (1) Definition and Subcategorization of the Organic Chemicals, Plastics and Synthetic Fibers Point Source Category, (2) Technology Basis for BPT Regulatory Options and Derivation of Effluent Limitations, (3) Technology Basis for BAT Regulatory Options and Derivation of Effluent Limitations, (4) Technology Basis for PSES Regulatory Options and Derivation of Effluent Standards, (5) Costing Documentation and Notice of New Information Report, (6) Evaluation of the Validity of Using Form 2C Data to Characterize Process Wastewater, and (7) Calculation of Priority Pollutant Waste Loads.

Based upon this new information, EPA has conducted new analyses and presents the results of these analyses and several sets of regulatory options. The final regulations may incorporate any of these options, any of the options previously set forth in the notice of proposed regulations, or any combination of these options. EPA solicits comments on these regulatory options.

DATES: Comments must be submitted on or before October 15, 1985.

ADDRESS: Comments may be mailed to E.H. Forsht, Industrial Technology Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention: ITD Docket Clerk, Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) Rules; or delivered to the Docket Clerk, Room 911, East Tower, Waterside Mall, between the hours of 9:00 a.m. and 4:00 p.m. The Agency requests that commenters submit their comments and supporting documentation in triplicate. The supplementary information and data received and the revised technical and economic data evaluation summaries will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear), Waterside Mall, 401 M Street, SW., Washington, DC 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: E.H. Forsht (202) 382-7124 for information regarding the technical data, and Renee Rico (202) 382-5386 for information regarding the economic data. Copies of the draft economic analysis may be obtained by writing or calling Ms. Renee Rico, Analysis and Evaluation Division (WH-586), U.S. EPA, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

I. Summary of Proposed Regulations
- A. BPT
- B. BCT
- C. BAT
- D. NSPS
- E. PSES
- F. PSNS
- G. Pollutants Excluded from Regulation
- H. Cost and Economic Impacts
- I. Non-Water Quality Impacts and Other Aspects of Proposed Regulations
- J. Solicitation of Comments

II. Major Issues Raised in Comments
- A. Adequacy of the Existing Data Base
- B. Subcategorization
- C. Treatment Effectiveness Data Base and Editing Rules
- D. Compliance Costs
- E. Economic Impact Methodology

III. Data Gathering Efforts
- A. Technical
- B. Economic and Financial

IV. Preliminary Data Analysis—Technical
- A. Industry Profile
- B. Subcategorization
- C. Technology Basis for BPT Options and Effluent Limitations
- D. Technology Basis for BAT Options and Effluent Limitations
- E. Technology Basis for NSPS Options and Effluent Standards
- F. Technology Basis and Standards for PSES
- G. Technology Basis and Standards for PSNS
- H. Engineering Costing Methodology
- I. Conventional Pollutant Loadings
- J. Toxic Pollutant Loadings
- K. Applicability and Definition of the Regulated OCPSF Industry
- L. Options for Identifying Plant-Specific BAT and PSES Toxic Pollutant Monitoring Requirements

V. Preliminary Data Analysis—Economic
- A. The Revised Economic Impact Methodology
- B. BPT
- C. BAT
- D. PSES
- E. PSNS and NSPS
- F. Regulatory Flexibility Analysis
- G. RCRA Baseline Analysis
- H. Cost Effectiveness Analysis

VI. Executive Order 12291

VII. Solicitation of Comments

I. Summary of Proposed Regulations

On March 21, 1983, EPA proposed regulations to control the discharge of wastewater pollutants from organic chemicals, plastics and synthetic fibers manufacturing operations to navigable waters and to publicly owned treatment works (POTWs) (48 FR 11828). The proposed regulations included effluent limitations based upon the best practicable control technology currently available (BPT), the best conventional pollutant control technology (BCT), the best available technology economically achievable (BAT), new source performance standards (NSPS), pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS).

The notice of proposed rulemaking and the supporting technical development document explain the proposal fully. Below is a brief summary of key aspects of the proposal.

The proposed regulation separated the OCPSF industry into four subcategories for BPT, based predominately on the types of product/processes contributing to a plant's wastewater discharge. For BAT, proposed regulations were developed for two categories: one for the discharges from the manufacture of plastics and synthetic fibers (corresponding to the BPT Plastics Only subcategory) and the second for discharges from the manufacture of organic chemicals (corresponding to the other three BPT subcategories). The factors considered for subcategorization included raw materials used; products manufactured; production processes employed; wastewater characteristics and treatability; plant size, location and age; and treatment cost. Further discussion of the subcategorization scheme is presented in section IV(B) of this notice. Subcategorization.

The preamble to the proposed regulation and the development document presented a number of available control and treatment technologies which were generally practiced in the industry and considered in developing the proposed regulations. These technologies include in-process and end-of-pipe physical/chemical treatment systems and end-of-pipe biological treatment systems, as well as post-biological polishing ponds and physical/chemical treatment.

A. BPT

EPA based the proposed limitations on two technologies. The predominant technology used in the OCPSF industry, and thus the primary technology used as a basis for the proposed limitations, was biological treatment preceded by the necessary controls to protect the biota and otherwise assure that the biological system functions effectively and consistently. Activated sludge and aerated lagoons are the primary examples of such biological treatment. Other biological systems, such as aerobic lagoons, rotating biological contractors, and trickling filters, are also used effectively at a few plants and data from such plants were also used to develop the proposed BPT limitations.

The second BPT technology option considered in the proposed BPT regulations for the OCPSF industry was a biological system followed by a polishing pond or filter. This biological/polishing combination achieves effective treatment of BOD and TSS. In some cases, plants originally installed biological systems that had inadequate retention times or were otherwise not designed and operated to optimally treat conventional pollutants. When these plants were required in the late 1970s to upgrade to meet BPT permit limits (established by permit writers in the absence of guidelines on a case-by-case basis, using their best professional judgment), some chose to add polishing ponds or filters rather than to enlarge or otherwise improve their existing biological systems. EPA concluded that the biological/polishing combination thus constitutes an alternative method to meet the proposed BPT limitations.

B. BCT

The proposed BCT limitations are equivalent to BPT.

C. BAT

EPA refrained from specifying a particular set of controls as the basis for the BAT concentration-based limitations. Instead, the proposed BAT limitations were based on the levels of priority pollutant control that were actually achieved at various OCPSF plants using differing treatment configurations.

It was thus infeasible to specify that any particular technology is or is not a "BAT" technology or a "priority pollutant control" technology in the OCPSF industry. Rather, each plant wishing to control its priority pollutant discharges would employ a combination of controls and technologies that result in the desired reduction (see Section IV(D) of this notice for additional details).

D. NSPS

The proposed NSPS are equivalent to BPT for conventional pollutants and BAT for toxic pollutants.

E. PSES

EPA concluded for the OCPSF industry that the toxic metals and organic pollutants that would be regulated under the proposed PSES pass through publicly owned treatment works (POTWs). The proposed PSES are equivalent to BAT for these pollutants.

F. PSNS

The proposed PSNS are equivalent to PSES.

G. Pollutants Excluded From Regulation

Eighteen toxic pollutants were proposed for exclusion from these regulations (see 48 FR 11853, March 21, 1983, Appendix C) because they are pesticides which are not produced as products or co-products and are unlikely to appear as raw contaminants in OCPSF product/processes. Therefore, they are unlikely to be present in OCPSF process wastewater discharges.

Twenty-eight additional toxic pollutants were excluded from the PSES and PSNS regulations because they were determined not to pass through or interfere with, and are not otherwise incompatible with the operation of POTWs (see 48 FR 11853, March 21, 1983, Appendix D).

H. Cost and Economic Impacts

The methodology used to perform the economic assessment for the proposed regulation is presented in the document entitled *Economic Analysis of Proposed Effluent Standards and Limitations for the Organic Chemicals and Plastics, Synthetics, and Fibers Industry*, EPA 440/2-83-004. This report details the investment and annual costs for the industry as a whole and for typical plants covered by the proposed regulation. Compliance costs are based on engineering estimates of incremental capital requirements above the water pollution control equipment already in place. The report assesses the impact of effluent control costs in terms of plant closures, employment effects, balance of trade effects and impacts on small businesses. These impacts are discussed for each of the regulatory levels examined by the Agency.

The economic analysis projected total capital costs, needed for about 1500 existing plants to comply with the proposed regulation, to be about $1.7 billion with annual costs of approximately $750 million, including depreciation and interest (1982 dollars). Twenty-one product/process closures were projected to occur as a result of the compliance cost projections. EPA estimated that eight plants may close. These shut-downs and closures were expected to cause a decrease of 493 jobs, less than 0.2 percent of a total employment of 295,000.

I. Non-Water Quality Impacts and Other Aspects of Proposed Regulations

Discussion of factual and policy findings supporting the proposal are presented at 48 FR 11847-50 and in the development document, and will not be repeated here.

J. Solicitation of Comments

The Agency also solicited additional comments and information on 30 specific issues as part of the notice of proposed rulemaking (refer to Section XIX, 38 FR 11850-51, March 21, 1983). These specific issues related to several general topics, including: (1) the generic process chemistry/unit operation basis for the subcategorization scheme, (2) the use of post-biological polishing ponds and filters as the technology basis for the BPT total suspended solids limitations, (3) the difficulty of meeting BPT limitations due to high or low ambient temperatures, (4) the methodology devised to determine which priority pollutants are likely to be discharged from particular product/processes (5) the technical and economic achievability of meeting the proposed BAT limitations for individual plants, (6) the suitability of not regulating all priority pollutants, (7) the methodology for excluding selected priority pollutants from PSES standards, (8) the unit costs and costing models used for developing BPT and BAT engineering compliance costs, (9) the analytical methods utilized to develop the priority pollutant data base, and (10) the economic impact analysis methodology.

II. Major Issues Raised in Comments

The Agency received numerous comments on the proposed regulation.

These comments criticized data and analyses that were fundamental to the regulation and prompted the Agency to

scheme is based on highly complex process chemistry and that minor

D. Compliance Costs

Many commenters criticized the

percent cost-to-sales benchmark for plant closure.

Commenters also stated that the

Disposal Techniques, and Analytical Data Summaries).

Some plants that received the

however, requested data for 1980—a more representative production year.

These comments criticized data and analyses that were fundamental to the regulation and prompted the Agency to reassess its data based and to reconsider many aspects of the regulation. Interested persons are advised to review the rulemaking record for a complete understanding of the many issues raised in comments. Listed below are those issues that appeared to be of greatest concern to commenters and that warranted further study by the Agency.

A. Adequacy of the Existing Data Base

Many comments disagreed with the Agency's conclusion that the existing data at the time of proposal could be considered representative of the entire industry for the purposes of establishing regulations, assessing costs of treatment required and resulting economic impacts or for assessing the scope of priority pollutant discharges. Some industry representatives questioned the validity of Agency models and assumptions used to extrapolate priority pollutant discharges, costs of additional treatment, and economic impacts from the existing data to the rest of the industry.

A few industry representatives asserted that the data were too old. Although some information was more current, the existing survey data generally characterized the industry in 1976 to 1977. Industry argued that significant advances in wastewater treatment practices have occurred since 1977. Most plants were issued NPDES permits during the period 1976–1977. Since national guidelines were not promulgated, these permits were based on State or EPA regional staffs exercising best professional judgment of limitations required by the Act. Any treatment installed to come into compliance with these permits was not reflected in the existing survey data. Industry argued that, if that treatment were considered, regulation of priority pollutants would not be necessary. However, commenters were also concerned that too much of the BPT data base was post-1977 and suggested that the more current data reflects better treatment than BPT.

B. Subcategorization

The proposed four-subcategory scheme was based on OCPSF generic process chemistry/chemical engineering unit operations and their potential to generate BOD_5 loadings. Industry commented that the proposed scheme is unworkable and arbitrarily groups chemical processes into non-homogeneous groups with respect to effluent treatability. They noted that the scheme is based on highly complex process chemistry and that minor changes in production or product mix could shift the applicable discharge subcategory. Industry commented that the within-subcategory variability was just as large as the between-subcategory variability. Many specific comments questioned whether specific product/processess or product groups were properly placed within the subcategorization scheme.

C. Treatment Effectiveness Data Base and Editing Rules

Many commenters disagreed with the Agency's technology and performance basis for BPT. They claimed that Congress intended BPT limitations to be developed ten to twelve years ago and implemented before 1977. Therefore, they argued that the current BPT data base should not include performance data from treatment systems that were installed or upgraded to meet NPDES permit requirements based upon best professional judgment of BPT technology and water quality considerations. Since many companies utilized various combinations of in-plant waste reduction techniques, water conservation programs, sewer segregation programs, and end-of-pipe biological treatment to meet "BPT" permit requirements, they claim the Agency penalized the OCPSF industry by continuing to use the "average of the best" treatment methodology. Many commenters believe that EPA unreasonably screened the data base for establishing "average of the best" by retaining only plants with 95 percent or better BOD_5 removal or plants with effluent BOD_5 of 50 mg/l or less. They suggested that the Agency should establish a more liberal indicator of BPT performance and should base BPT on biological treatment only.

Many commenters also disagreed with the Agency's technology and performance basis for toxic pollutant control. They suggested that the Agency relied on limited, unrepresentative, and inadequate data; did not accommodate the complexity and diversity of the OCPSF industry; ignored the toxic pollutant reduction progress made to date by treatment systems installed to meet best professional judgment BPT permit limitations; did not adequately accommodate the toxic pollutant analytical uncertainty inherent in part per billion measurements; and proposed too stringent limitations in many cases given available wastewater treatment technology.

D. Compliance Costs

Many commenters criticized the Agency's use of the CAPDET computer model for costing biological treatment systems. They suggested that since the CAPDET model is based on historic costs for municipal sewage treatment facilities, it should not be utilized for costing industrial wastewater treatment systems. They stated that the CAPDET default values and constants were not adequately modified to reflect OCPSF process wastewater characteristics and design parameters. Industry comments also criticized the Agency's methodology for extrapolating BPT costs for 169 individual plants to the entire industry.

Many commenters also criticized the Agency's use of the "55 generalized plant configurations" (GPCs) to model and characterize the industry as a whole for developing engineering costs for toxic pollutant control. Industry comments claim that few primary manufacturing facilities were characterized adequately by the 55 GPCs and they disagreed with the Agency's methodology of extrapolating GPC costs based on relationships among costs, flow and sales.

E. Economic Impact Methodology

EPA received numerous comments on the data base, methodology, and analysis used to estimate the economic impacts resulting from the proposed rules. The comments focused on the following major areas: quality of the plant data used to estimate plant effects, the method used to estimate plant closures, and the methods used in the small business analysis.

EPA received substantial comments that the economic data base used at proposal was inadequate and incomplete. Many dischargers who requested EPA's economic profile data told EPA that the data used were in error. Furthermore, commenters insisted that secondary producers of organics and plastics products also must be included in the analysis to properly evaluate the effect of these rules.

At proposal, EPA based its plant impact analysis on a treatment-cost-to-sales ratio to indicate whether a plant would close as a result of the proposed requirements. A plant's sales value was used to estimate wastewater flow (based on an algorithm developed from a subset of plants), and flow was used to estimate treatment costs (also based on an algorithm). Commenters properly noted that this analysis inevitably underestimated plant closures overall. Commenters also criticized EPA's four

percent cost-to-sales benchmark for plant closure.

Commenters also stated that the Small Business Analysis at proposal was inadequate in capturing the relative economic effects of the regulation among small and large manufacturers.

III. Data Gathering Efforts

A. Technical

In the preamble to the proposed regulation, the Agency recognized the need to gather additional data to assure that the regulation is based upon information that represents the entire industry and to assess wastewater treatment installed since 1977. Therefore, the Agency has conducted an extensive data gathering program to improve the coverage of all types of OCPSF manufacturers. This effort included mailing Section 308 surveys to all manufacturers of OCPSF products and conducting toxic pollutant sampling at 12 additional OCPSF facilities.

For the purposes of the survey, the OCPSF industry was defined generally as all establishments that manufacture: (1) Organic chemical products included within the U.S. Department of Commerce Bureau of the Census Standard Industrial Classification (SIC) major groups 2865 and 2869 and/or (2) plastics and synthetic fibers products included in SIC major groups 2821, 2823, and 2824. However, organic chemical compounds that are produced solely by extraction from natural materials, such as parts of plants and animals, or by fermentation processes are not included in this definition of the OCPSF industry even if classified in one of the OCPSF SIC classifications. Thus, any such products were considered non-OCPSF products for the purposes of the survey.

The questionnaire mailing list was compiled from many references that identify manufacturers of OCPSF products. These sources included the Economic Information Service, SRI Directory, Dun and Bradstreet, Moody's Industrial Manual, Standard and Poor's Index, Thomas Register, and Plastics Red Book as well as internal Agency sources such as the NPDES Permit Compliance System and the TSCA Inventory.

In October 1983, the Agency sent the General Questionnaire to 2,829 facilities to obtain information regarding individual plant characteristics, wastewater treatment efficiency, and the statutory factors expected to vary from plant to plant. The General Questionnaire consisted of three parts: Part I (General Profile), Part II (Detailed Production Information), and Part III (Wastewater Treatment Technology, Disposal Techniques, and Analytical Data Summaries).

Some plants that received the questionnaire had OCPSF operations that were a minor portion of their principal production activities and related wastewater streams. The data collected from these facilities allows the Agency to characterize properly the impacts of ancillary (secondary) OCPSF production. Generally, if a plant's 1982 OCPSF production was less than 50 percent of the total facility production (secondary manufacturer), then only Part I of the questionnaire was completed.

Part I identified the plant, determined whether the plant conducted activities relevant to the survey, and solicited general data (plant age, ownership, operating status, permit numbers, etc.). General OCPSF and non-OCPSF production and flow information was collected for all plant manufacturing activities. This part also requested economic information including data on shipments and sales by product groups, as well as data on plant employment and capital expenditures.

Part I determined whether a respondent needed to complete Parts II and III (i.e. whether the plant is a primary or secondary producer of OCPSF products, whether the plant discharges wastewater, and, for secondary producers, whether the plant segregates OCPSF process wastewaters). For those plants returning only the General Profile, Part I identified the amounts of process wastewater generated, in-place wastewater treatment technology, wastewater characteristics, and disposal techniques. Part II requested detailed 1980 production information for 249 specific OCPSF products, 99 specific OCPSF product groups, and any OCPSF product that constituted more than one percent of total plant production. Less detailed information was requested for the facility's remaining OCPSF and non-OCPSF production. Part II also requested information on the use or known presence of the priority pollutants for each OCPSF product/process or product group. Part III requested detailed information on plant wastewater sources and flows, treatment technology installed, treatment system performance and disposal techniques.

Responses to economic and sales items in Part I pertain to calendar year 1982, which were readily available since the plants were required to submit detailed 1982 information to the Bureau of the Census. This reduced the paperwork burden for responding plants. The rest of the questionnaire, however, requested data for 1980—a more representative production year. The Agency believed that treatment peformance in 1982 would be unrepresentative of treatment during more typical production periods. This is because decreased production normally results in decreased wastewater generation. With lower volumes of wastwater being treated, plants in the industry might be achieving levels of effluent quality that they could not attain during periods of higher production. The year 1980 was selected in consultation with industry as representative of operations during more normal production periods but recent enough to identify most new treatment installed by the industry since 1977. The industry representatives did not assert that significant new treatment had been installed since 1980.

The 2,829 section 308 questionnaires were mailed in October 1983. In February 1984, section 308 follow-up letters were sent to 914 nonrespondents.

A total of 981 OCPSF manufacturers were used in the analysis; 1,529 responses were from facilities not covered by the regulation (sales offices, warehouses, chemical formulators, etc.); 162 were returned by the Post Office; and 159 did not respond. A follow-up telephone survey of 52 nonrespondents concluded that less than 10 percent would be covered by the OCPSF regulations.

In addition, a Supplemental Questionnaire was sent to 84 facilities known to have installed selected wastewater treatment unit operations. Detailed design and cost information was requested for four major treatment components commonly used to treat OCPSF wastewaters (biological treatment, steam stripping, solvent extraction, and granular activated carbon) and summary design and cost information for other wastewater and sludge treatment components. The questionnaires also collected available treatment system performance data for in-plant wastewater control or treatment unit operations, influent to the main wastewater treatment system, intermediate wastestream sampling locations, and final effluent from the main wastewater treatment system. Unlike the General Questionnaire, it asked for individual daily data rather than summary data. Sixty-four plants responded with useful data and information.

The Agency conducted toxic pollutant field sampling activities at 12 OCPSF manufacturing plants between March 1983 and May 1984. Eight plants were sampled between 15 to 20 days each;

three plants, between 10 to 12 days; and one plant for one day. The analytical protocols used to measure the organic

IV. Preliminary Data Analysis—Technical

A. Industry Profile

number of nonconventional pollutants (including the organic compounds produced by the industry for sale). EPA

and/or waste loadings while improving process efficiency. Replacement of

subcategory approach for the conventional pollutant parameters

subcategories. Eleven percent cannot be so classified because their

VOL
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three plants, between 10 to 12 days; and one plant for one day. The analytical protocols used to measure the organic priority pollutants were Method 1624 for volatile organic compounds by purge and trap isotope dilution GC–MS and Method 1625 for semivolatile organic compounds by isotope dilution GC–MS. The field sampling program expands the coverage of priority pollutants, provides an additional basis for estimating wastewater treatment system variability, and increases the candidate toxic pollutant wastewater treatment technologies. In-plant controls sampled included steam stripping, coagulation/flocculation, metals precipitation, activated carbon and extended aeration biological systems; end-of-pipe controls sampled included activated sludge, extended aeration, pure oxygen, and powdered activated carbon (PAC) biological systems; and polishing ponds, filtration and activated carbon units.

B. Economic and Financial

In addition to the economic and financial data collected in the Section 308 questionnaires, EPA also gathered data on the industry from a number of public and private sources. The major efforts are described below. (See *Economic Impact for Notice of Data Availability for the Organic Chemicals, Plastics and Synthetic Fibers Industry* for full citing of sources.)

Macroeconomic and chemical industry profiles were obtained from Data Resources, Inc. Information from 1982 was collected to compare with survey responses received from the industry. Forecasts for 1988 were also obtained from Data Resources, Inc. These forecasts come from the Trendlong macro forecast, linked to the linear programming model for the chemicals and plastics industry. Other macroeconomic and industry profile data were obtained from the International Trade Commission, the Federal Trade Commission, and the Bureau of the Census. Further profile data on the chemical industry were obtained from the *Kline Guide*.

EPA also developed a corporate financial database by purchasing selected data from SEC 10k financial reports for the survey population from Compustat Services, by examining State Industrial Guides and the Moody Corporate Directory. Financial data from Robert Morris Associates and the FINSTAT database developed by the Small Business Administration were used to model plant financial characteristics.

IV. Preliminary Data Analysis—Technical

A. Industry Profile

The OCPSF Industry is large and diverse, and many plants in the industry are highly complex. The industry includes approximately 1000 facilities which generally manufacture products under the OCPSF SIC Groups—SICs 2821, 2823, 2824, 2865, and 2869.

Some plants produce chemicals in large volumes, while others produce only small volumes of "specialty" chemicals. Large-volume production tends toward continuous processes, while small volume production tends toward batch processes. Continuous processes are generally more efficient than batch processes in minimizing water use and optimizing the consumption of raw materials in the process.

Different products are made by varying the raw materials, chemical reaction conditions, and the chemical engineering unit processes. The products being manufactured at a single large chemical plant can vary on a weekly or even daily basis. Thus, a single plant may simultaneously produce many different products in a variety of continuous and batch operations, and the product mix may change frequently.

For the 981 facilities in the OCPSF industry data base, approximately 76 percent of the facilities are designated as primary OCPSF manufacturers (over 50 percent of their total plant production includes OCPSF products) and approximately 24 percent of the facilities are secondary OCPSF manufacturers. Approximately 32 percent of the plants are direct dischargers, approximately 42 percent are indirect dischargers (plants that discharge to a publicly owned treatment works) and the remaining facilities use zero or alternative discharge methods. The estimated average daily process wastewater flow per plant is 1.22 MGD (millions of gallons per day) for direct dischargers and 0.24 MGD for indirect dischargers. The remainder use dry processes, reuse their wastewater, or dispose of their wastewater by deep well injection, incineration, contract hauling, or evaporation or percolation ponds.

As a result of the wide variety and complexity of raw materials and processes used and of products manufactured in the OCPSF industry, an exceptionally wide variety of pollutants are found in the wastewaters of this industry. This includes conventional pollutants (pH BOD, TSS and oil and grease); toxic pollutants (both metals and organic compounds); and a large number of nonconventional pollutants (including the organic compounds produced by the industry for sale). EPA focused its attention on the conventional pollutants and on the 65 toxic pollutants and classes of pollutants required to be addressed in accordance with the court order in *NRDC* v. *Ruckelshaus*.

To control the wide variety of pollutants discharged by the OCPSF industry, OCPSF plants use a broad range of in-plant controls, process modifications and end-of-pipe treatment techniques. Most plants have implemented programs that combine elements of both inplant control and end-of-pipe wastewater treatment. The configuration of controls and technologies differs from plant to plant, corresponding to the differing mixes of products manufactured by different facilities. In general, direct dischargers treat their waste more extensively than indirect dischargers.

The predominant end-of-pipe control technology for direct dischargers in the OCPSF industry is biological treatment. The chief forms of biological treatment are activated sludge and aerated lagoons. Other systems, such as extended aeration and trickling filters, are also used, but less extensively. All of these systems reduce BOD and TSS loadings, and, in many instances, incidentally remove toxic and nonconventional pollutants. Biological systems biodegrade some of the organic pollutants, remove bio-refractory organics and metals by sorption into the sludge, and strip some volatile organic compounds into the air.

Other end-of-pipe treatment technologies used in the OCPSF industry include neutralization, equalization, polishing ponds, filtration and carbon adsorption. While most direct dischargers use these physical/chemical technologies in conjunction with end-of-pipe biological treatment, some direct dischargers use only physical/chemical treatment.

In-plant control measures employed at OCPSF plants include water reduction and reuse techniques, chemical substitution and process changes. Techniques to reduce water use include the elimination of water use where practicable and the reuse and recycling of certain streams, such as reactor and floor washwater, surface runoff, scrubber effluent and vaccum seal discharges. Chemical substitution is utilized to replace process chemicals possessing highly toxic or refractory properties by others that are less toxic or more amenable to treatment. Process change include various measures that reduce water use, waste discharges,

and/or waste loadings while improving process efficiency. Replacement of barometric condensers with surface condensers; replacement of steam jet ejectors with vacuum pumps; recovery of product or by-product by steam stripping, distillation, solvent extraction or recycle, oil-water separation and carbon adsorption; and the addition of spill control systems are examples of process changes that have been successfully employed in the OCPSF industry to reduce pollutant loadings while improving process efficiencies.

Another type of control widely used in the OCPSF industry is physical/chemical in-plant control. This treatment technology is generally used selectively on certain process wastewaters to recover products or process solvents, to reduce loadings that may impair the operation of the biological system or to remove certain pollutants that are not removed sufficiently by the biological system. In-plant technologies widely used in the OCPSF industry include sedimentation/clarification, coagulation, flocculation, equalization, neutralization, oil/water separation, steam stripping, distillation, and dissolved air flotation.

Many OCPSF plants also use physical/chemical treatment after biological treatment. Such treatment is used in the majority of situations to reduce solids loadings that are discharged from biological treatment systems. The most common post-biological treatment systems are polishing ponds and multimedia filtration.

At approximately 9 percent of the direct discharging plants surveyed, either no treatment or no treatment beyond equalization and neutralization is provided. At another 14 percent, only physical/chemical treatment is provided. The remaining 77 percent utilize biological treatment. Approximately 42 percent of biologically treated effluents are further treated by additional controls such as polishing ponds, filtration, or activated carbon.

At approximately 39 percent of the indirect discharging plants surveyed, either no treatment or no treatment beyond equalization and neutralization is provided. At another 47 percent, some physical/chemical treatment is provided. The remaining 14 percent utilize biological treatment.

B. Subcategorization

1. Summary

The Agency has developed revised subcategories based on the new Section 308 Questionnaire responses and field sampling data. The proposed four-subcategory approach for the conventional pollutant parameters regulated at BPT, BOD_5 and TSS, has been replaced by a new approach with eight subcategories. Also, the proposed two-subcategory scheme for toxic pollutants regulated at BAT has not been retained. Rather than establish subcategories for toxic pollutants, the Agency is establishing one subcategory together with a monitoring approach for identifying the toxic pollutants that are discharged by each plant and thus warrant the most rigorous set of controls at the plant. (see Section IV(L)).

Under the revised subcategorization scheme, a plant is classified in accordance with that fraction of its total annual OCPSF production volume (pounds) that is associated with particular types of OCPSF products. The eight subcategories are as follows:

i. *Rayon Fibers*—includes plants in which rayon fibers by the viscose-rayon process constitute at least 95% of total OCPSF production.

ii. *Other Man-Made Fibers*—includes plants in which other man-made fiber products constitute at least 95% of total OCPSF production and plants in which other man-made fiber products plus organic chemicals constitute at least 95% of total OCPSF production.

iii. *Thermosets*—includes plants in which thermosetting resins constitute at least 95% of total OCPSF production and plants in which thermosetting resins plus organic chemicals constitute at least 95% of total OCPSF production.

iv. *Thermoplastics*—includes plants in which thermoplastic materials constitute at least 95% of total OCPSF production.

v. *Thermoplastics and Organics*—includes plants in which thermoplastic materials and organic chemicals constitute at least 95% of total OCPSF production.

vi. *Commodity Organics*—includes plants in which organic commodity chemicals (those produced nationally at a level exceeding one billion pounds per year) constitute at least 75% of organic chemical production and in which plastics production is less than 5% of total OCPSF production.

vii. *Bulk Organics*—includes plants whose production is not classified as either commodity or specialty organics (those produced nationally at a level below 40 million pounds per year) but does include at least 95% organics.

viii. *Specialty Organics*—includes plants in which specialty organic chemicals production constitutes at least 75% of total organic chemicals and in which plastics production is less than 5% of total OCPSF production.

Eighty-nine percent of OCPSF plants can be uniquely assigned to these eight subcategories. Eleven percent cannot be so classified because their manufacturing operations include a variety of major product types, none of which predominate to the extent called for by the subcategory definitions (e.g., a plant with 80% thermoplastics and 20% thermosets). In such cases, the control authority will use a building-block approach (based on flow-proportioning) to derive a plant's limitation from those established in the regulation for two or more relevant subcategories.

2. Relationship of New Subcategorization Scheme to Proposed Subcategorization

At proposal, the Agency established OCPSF effluent guidelines in which industry was divided into four subcategories based on products produced and generic process chemistry/chemical engineering unit operations.

Industry provided comments on this subcategory scheme which, besides stating industry's general displeasure with the subcategories, also discussed the complexity and confusing nature of the subcategories, the relative size of between and within-subcategory variability, and the advantage of focusing attention on effluent BOD.

The revised subcategorization scheme is intended to address these concerns. The Agency decided to focus its attention on OCPSF products rather than the chemical processes used to produce those products. It is clear, however, that the chemical processes found at a plant are closely related to the products produced by the facility. By focusing on products produced, the Agency hopes to conform the subcategorization to the inherent economic structure of the industry as well as the basic wastewater similarities of plants with similar products.

Industry comments on the proposal also objected to the statistical technique used to analyze the data for subcategorization. In particular, these comments emphasized that the proposed subcategories had greater variability within a subcategory than between subcategories. The Agency has subjected the new subcategorization scheme to an analysis of variance to assure that the new subcategories are well-defined and exhibit less within-subcategory variability than between-subcategory variability.

Finally, the new subcategorization gives appropriate consideration to BOD effluent values, which industry comments correctly noted is a relevant

factor in determining suitable OCPSF subcategories.

Generally, specialty chemicals are more complex structurally than either

Therefore, each plant's overall raw wastewater characteristics are affected

treatment technology design, and operating practices. Examples of these

revised subcategorization scheme. Plants are assigned to subcategories

and operated to optimally treat conventional pollutants. When these

factor in determining suitable OCPSF subcategories.

3. Detailed Explanation

Using raw materials provided by organic chemical plants, plastic plants employ only a small subset of the chemistry practiced by the OCPSF industry to produce a limited number of products (approximately 200). Plants producing organic chemicals, on the other hand, utilize a much larger set of process chemistry and engineering unit operations to produce approximately twenty-five (25) thousand products.

Further divisions are appropriate within the two broad groupings of plastics and organic chemicals. Within the plastics group, Plastic Materials and Synthetic Resins (SIC 2821) manufacturers can be subdivided into Thermoplastic Materials (SIC 28213) producers and Thermosetting Resin (28214) producers. Rayon manufacturers (SIC 2823) and other Synthetic Organic Fiber (SIC 2824) manufacturers are also both unique. Process chemistry and engineering are consistent with these groupings.

The Organic Chemicals industry (SIC 2865 and 2869) produces many more products than does the Plastic/Synthetic Fibers industry and is correspondingly more complex. While it is possible to separate the organic chemicals industry into product groups, the number of such product groups is large. Moreover, with few exceptions, plants produce organic chemicals from several product groups and thus limit the utility of such a scheme.

For organic chemical production, an alternative to a product-based scheme is a scheme based on the type of manufacturing conducted at a plant. Large plants producing primarily high-volume commodity chemicals (the basic chemicals of the industry, e.g., ethylene, propylene, benzene) comprise the first group of plants. A second tier of plants comprises plants that produce high volume intermediates (bulk chemicals). Plants within this tier typically utilize the products of the commodity chemical plants (first tier plants) to produce more structurally complex chemicals. Bulk chemical plants are generally smaller than those in the first group but still may produce several hundred million pounds of chemicals per year (e.g., aniline, methylene dianiline, toluene diisocyanate). The third group comprises those plants that are devoted primarily to the manufacture of specialty chemicals—chemicals intended for a particular end use (e.g., dyes and pigments). Specialty chemical plants use the products of the Commodity and Bulk chemical plants as raw materials. Generally, specialty chemicals are more complex structurally than either commodity or bulk chemicals. Plants within this group tend to be much smaller, producing tens of millions of pounds of chemicals per year.

Based upon the above, EPA has defined the three organics-based subcategories—commodity, bulk, and specialty—on the basis of total industry production. Commodity chemicals are those chemicals produced by the industry in amounts greater than one-billion lbs./yr. Bulk chemicals are defined to be those chemicals produced in amounts less than one-billion lbs./yr. but more than 40-million lbs./yr. Specialty chemicals are those chemicals produced in amounts less than 40-million lbs./yr. Using these definitions, there are 37 commodity chemicals or commodity chemical groups and 221 bulk chemicals or bulk chemical groups. The remaining organic chemicals are classified as specialty chemicals.

The products and product groups classified under Rayon, Other Fibers, Thermosets, Thermoplastics, Commodity Organics, and Bulk Organics are listed in Tables K–1 through K–6 respectively, of Section IV(K)—Applicability and Definition of the Regulated OCPSF industry. The Specialty Organics are the remaining organic chemicals not listed as commodity or bulk chemicals.

The BPT subcategorization factors (manufacturing product/processes, raw materials, wastewater characteristics, facility size, geographic location, age of facility and equipment, treatability, and nonwater quality environmental impacts) were examined for significance in the development of the revised subcategorization scheme. In general, the revised subcategorization is based primarily on significant differences in wastewater characteristics. Variations in waste characteristics have been utilized to evaluate the appropriateness of using any of the other eight factors as a basis for subcategorization.

The ideal data base for evaluating the need for subcategorization and the development of individual subcategories would include raw wastewater and final effluent pollutant data for facilities which employ only one manufacturing process or multiple product plants which segregate and treat each process raw waste stream separately. In this manner, each factor could be evaluated independently. However, the OCPSF industry is primarily comprised of multi-product/process, integrated facilities. Wastewaters generated from each product/process are usually collected in combined plant sewer systems and treated in one main treatment facility. Therefore, each plant's overall raw wastewater characteristics are affected by all of the production processes occurring at the site at one time. The effects of each production operation on the raw wastewater characteristics cannot be isolated from all of the other site specific factors. Therefore, a combination of both technical and statistical methodologies were used to evaluate the significance of each of the subcategorization factors. The results of the technical analysis were compared to the results of the statistical efforts to determine the usefulness of each factor as a basis for subcategorization. Two major statistical techniques were used to determine an appropriate subcategorization scheme for the OCPSF industry: Analysis of Variance and the Spearman Rank Correlation. The details of the analysis are available in the EPA Public Information Reference Unit.

The analysis concludes that the revised subcategorization scheme is very effective when OCPSF process wasewater flow is the variable of interest. Flow relates to the size and construction costs of a plant's wastewater treatment system.

The analysis also shows that the revised subcategories effectively group plants by production volume (measured as annual pounds of all OCPSF products produced at a plant) homogeneously relative to the inherent variability of production throughout the industry. This indicates that size of plants has been successfully addressed in the subcategorization. Thus plants of similar economic viability are grouped together.

Geographic location (including ambient temperature) and age of facility and equipment were determined not to be appropriate bases for subcategorization of the OCPSF industry.

The analysis shows that the revised scheme is very effective in establishing homogeneous groups based on effluent BOD concentrations, but not as rigorous in establishing groups based on raw waste BOD concentration. As described below, all plants can use some combination of well-designed and operated treatment technology to meet lower effluent BOD targets. The predominant issue relates to the cost of the required treatment technology.

The effluent BOD concentration or treatability of a given wastewater is affected by the presence of inhibitory materials (toxics); availability of alternative disposal methods; and pollutant concentrations in, and variability of, the raw waste load. However, all of these factors can be mitigated by sound waste management,

treatment technology design, and operating practices. Examples of these are:

- The presence of toxic materials in the wastewater can be controlled by in-plant treatment methods. Technologies such as steam stripping, metals precipitation, activated carbon, reverse osmosis, etc., can eliminate the presence of materials in a plant's wastewater which may inhibit or upset biological treatment systems.
- Although plants may utilize deep well injection for disposal of highly toxic wastes to avoid treatment system upsets, other alternative disposal techniques such as contract hauling and incineration are available to facilities which cannot utilize deep well disposal. In addition, stricter groundwater regulations may eliminate the option of deep well disposal for some plants or make it uneconomical for others, forcing facilities to look more closely at these other options.
- Raw waste load variability can be controlled easily by the use of equalization basins. In some plants, "at process" storage and equalization is used to meter specific process wastewaters, on a controlled basis, into the plant's wastewater treatment system.
- Raw waste concentrations can be reduced with roughing biological filters or with the use of two-stage biological treatment systems.

OCPSF wastewaters can be treated by either physical-chemical or biological methods, depending on the pollutant to be removed. Also, depending on the specific composition of the wastewater, any pollutant may be removed to greater or lesser degree by a technology not designed for removal of this pollutant. For example, a physical-chemical treatment system designed to remove suspended solids will also remove a portion of the BOD of a wasewater if the solids removed are organic and biodegradable. It is common in the OCPSF industry to use a combination of technologies adapted to the individual wastewater stream to achieve desired results.

In general, the precent removals of BOD and TSS are consistent across all revised subcategories. It is also possible for plants in all revised subcategories to achieve high percent removals (greater than 95%) for both BOD and TSS. Therefore, based on the consistency of these removal data and the ability of plants in all revised subcategories to achieve high removals of pollutants, it is concluded that subcategorization based on treatability is not justified.

The Agency believes that there are several advantages associated with the revised subcategorization scheme. Plants are assigned to subcategories based on the relative production of OCPSF products using data that must be generated for the Bureau of Census. The procedure is relatively simple to apply to individual plants. Finally, most are uniquely covered by a single subcategory, leaving relatively few plants that need to be addressed by a "building block" approach using two or more subcategories. The Agency solicits comments and additional data related to the revised subcategorization scheme.

C. Technology Basis for BPT Options and Effluent Limitations

The Agency is considering three BPT technology options. EPA may promulgate BPT effluent limitations based on any of these three options. Therefore, we specifically invite comment on each of these.

These options focus again on the primary end-of-pipe technologies used in the industry. These technologies are widely used in the industry to control conventional pollutants. To varying extents, these technologies also remove toxic and nonconventional pollutants. However, it is not possible to calculate consistent removals of specific toxic and nonconventional pollutants across the industry without carefully considering a variety of process controls and in-plant treatment technologies that are more appropriately considered to be BAT controls and technologies. Therefore, the selected BPT technologies are end-of-pipe technologies that are designed primarily to address the conventional pollutants BOD and TSS, supplemented by those in-plant controls and technologies that are commonly used to assure the proper and efficient operation of the end-of-pipe technologies.

Option I: EPA bases the first BPT technology option on biological treatment preceded by the necessary controls to protect the biota and otherwise assure that the biological system functions effectively and consistently. Activated sludge and aerated lagoons are the primary examples of such biological treatment. Other biological systems, such as aerobic lagoons, rotating biological contactors, and trickling filters, are also used effectively at a few plants and data from such plants were also used to develop BPT limitations based on this option.

Option II: The second BPT technology option includes, in addition to Option I technology, biological systems followed by polishing ponds. In some cases, plants originally installed biological systems that had inadequate retention times or were otherwise not designed and operated to optimally treat conventional pollutants. When these plants were required in the late 1970s to upgrade to meet BPT permit limits (established by permit writers in the absence of guidelines on a case-by-case basis, using their best engineering judgment), some chose to add polishing ponds rather than to enlarge or otherwise improve their existing biological systems.

Option III: EPA bases the third BPT technology option on multimedia filtration as a basis for additional TSS control after biological treatment.

After selecting the BPT technology options, EPA proceeded to develop limitations that are associated with those technologies. To do this, EPA first needed to identify the "average-of-the-best" plants that use these technologies.

EPA developed a statistical criterion to segregate the better designed and operated plants from the poorer performers. This was done to assure that the plant data relied upon to develop BPT limitations reflected the average of the best existing performers. Since the data base includes many plants which are poor performers, it is necessary to develop appropriate criteria for differentiating poor plant performance from good plant performance. The criterion selected was to include in the data base any plant with a biological treatment system that, on the average (1) discharged 50 mg/l or less BOD after treatment, or (2) removed 95% or more of the BOD that entered the end-of-pipe treatment system. (Dilution of process wastewater by other wastewater was noted and effluent concentrations were adjusted accordingly.) This criterion reflects the performance level that is generally achieved by well-operated plants in the OCPSF industry that use the recommended BPT technologies.

These are the same performance criteria utilized at proposal. Many industry comments suggested that EPA unreasonably screened the data base for establishing "Average of the Best" BPT technology and suggested that a more liberal indicator of performance, such as 85 percent removal, should be used.

To assess this recomendation, the Agency evaluated the BOD_5 data from the 163 section 308 questionnaire full response plants in the direct discharge data base with biological treatment systems. After adjusting the data for nonprocess wastewater dilution, the median BOD_5 percent removal for all facilities is 95.4 percent and the median effluent concentration is 28 mg/l.

The more liberal editing rule suggested by industry was considered

for excluding plants with poorly operated or inadequate biological

associated with treatment systems with serial unit operations (e.g., combined

assertions, there has not been a substantial overall improvement of

TABLE C–1.—OPTION I BPT LIMITATIONS BASED ON BIOLOGICAL TREATMENT WITHOUT POST-BIOLOGICAL CONTROLS

some subcategories would be pooled. The maximum 30-day average and daily

for excluding plants with poorly operated or inadequate biological treatment systems. Using the industry's suggestion, plants would be retained for analysis if at least biological treatment was in-place and if, on the average, the treatment system removed 85 percent or more of the BOD_5 or discharged 100 mg/l or less BOD_5 after treatment. These criteria would retain 87 percent of all the biological treatment systems reporting BOD_5 data.

The "95 percent or more BOD_5 removal or 50 mg/l or less BOD_5 concentration after treatment" performance editing criteria retains 76 percent of all the biological treatment systems reporting BOD_5 data. The Agency calculated the subcategory BOD and TSS median values for both performance editing rules. Using the 95%/50 mg/l performance edit reduces the average subcategory BOD and TSS median values for Option I treatment technology approximately 10 and 16 percent, respectively, below those obtained using the 85%/100 mg/l edit. Similarly, the average median values for Option II treatment technology are reduced approximately 11 and 4 percent, respectively. The median BOD_5 percent removal for all facilities is 95.4 percent and the median effluent BOD_5 concentration is 28 mg/l. Based upon all these facts, the Agency believes that this "95%/50 mg/l BOD_5" performance editing criteria provides a reasonable determination of "average of the best" BPT performance.

The long-term BOD_5 and TSS averages for each subcategory, shown in Tables C–1 and C–2 for technology Options I and II, are based on the "95% removal/50 mg/l BOD_5" performance edit.

To establish maximum 30-day average and daily maximum BOD_5 and TSS effluent limitations for each technology option, the Agency determined variability factors for biological treatment systems. Daily data for BOD_5 and TSS were available from 69 facilities. Plant data were retained for variability factor analysis based on the following factors: (1) Non-process wastewater dilution was 25 percent or less at the effluent sampling point; (2) The sampling frequency was once or more per week for at least one year; (3) The NPDES permit contained only one set of limits applicable to both summer and winter operating periods; (4) The treatment system did not change during the period of record; and (5) The reported effluent data was uniquely associated with treatment systems with serial unit operations (e.g., combined sampling data from parallel activated sludge and activated carbon treatment systems were deleted). After these edits, data from 23 biological treatment systems were retained to calculate variability factors. The average BOD_5 maximum 30-day average and daily maximum variability factors are 1.41 and 3.91, respectively. The average TSS maximum 30-day average and daily maximum variability factors are 1.46 and 4.74, respectively.

Some plants rely exclusively upon end-of-pipe physical/chemical treatment. Some of these plants have low BOD and thus find physical/chemical treatment more effective in reducing TSS loadings. (Biological systems cannot function unless influent BOD is high enough to sustain their biota) Other plants have determined, based on an assessment of the types and volumes of pollutants that they discharge, that physical/chemical treatment is more economical, easier to operate, or otherwise more appropriate. Many of these plants can control conventional pollutants effectively without using the BPT biological treatment alternatives discussed above. Some plants do not have any end-of-pipe treatment in place at all. For plants that have not already achieved the long-term average BOD and/or TSS costing targets, compliance can be achieved by the installation of the recommended end-of-pipe BPT technologies listed in the costing documentation for plants without in-place biological treatment. In some cases, especially where only TSS noncompliance exists, solids control by physical/chemical means may suffice. For plants that comply with BOD but not with TSS targets, and presently have no biological treatment in place, EPA costed chemically assisted clarifiers, multimedia filters, or polishing ponds depending on existing in-place technology and geographic location.

Some industry commenters objected to the Agency's collection and use of post-1977 data to develop BPT limitations. Contrary to the assertions of some commenters, Congress did not intend that BPT performance would remain static based on performance levels attained before 1977. Congress intended for periodic review of BPT technology and performance. Thus, updated information on the effectiveness of BPT-level technologies may be used by the Agency. Furthermore, contrary to industry assertions, there has not been a substantial overall improvement of conventional pollutant wastewater treatment technology performance between the 1976/1977 and the 1983 Section 308 data collection efforts. A comparison of the BOD_5 performance data for plants within both data sets reveals the BOD_5 treatment improved for approximately 37 percent of the plants, remained about the same (±1 percent removal) for approximately 27 percent of the plants, and deteriorated for the remaining 36 percent of the plants.

Many commenters suggested that the Agency should establish alternative cold weather limitations to accommodate the effects of cold weather conditions on biological treatment removal efficiencies. However, the Agency's assessment of this issue for subcategorization found that effluent BOD quality is statistically independent of location using degree-days as a surrogate for temperature. Furthermore, temperature is only one of several characteristics which affect the operation of the system. Changes in temperature (both seasonal and short term), raw waste load, product mix, flow, food to microorganism ratio, and dissolved and suspended solids, will all have some impact on treatment. Moreover, raw waste loads in the OCPSF industry are variable due to batch operations, product mix changes, and raw materials variations. It is thus difficult to isolate temperature effects from changes caused by variables other than temperature.

Technologies and operating techniques exist which, if properly applied, can overcome temperature effects. Specific means of mitigating temperature effects were discussed in the March 1983 Development Document.

The Agency accounted for any potential ambient temperature effects on biological treatment processes by adjusting engineering costs to accommodate cold weather conditions. These factors adjust biological treatment costs for cold weather design conditions. The Agency also accounted for potential warm ambient temperature effects which may interfere with solids control (e.g., algae blooms) from holding ponds and polishing ponds. Plants in states with average monthly temperature, over 25 °C, had filtration systems costed for solids control rather than polishing ponds.

The BPT effluent limitations for Options I and II are presented in Tables C–1 and C–2, respectively.

TABLE C–1.—OPTION I BPT LIMITATIONS BASED ON BIOLOGICAL TREATMENT WITHOUT POST-BIOLOGICAL CONTROLS

Subcategory	BOD_5 (mg/l)			TSS (mg/l)		
	Long-term average	30-day averages	Daily maximum	Long-term average	30-day average	Daily maximum
Rayon	19	27	74	40	58	190
Other fibers	11	16	43	25	37	119
Thermosets	14	20	55	48	67	218
Thermoplastics only	18	25	70	34	50	161
Thermoplastics and organics	28	39	109	52	76	248
Commodity organics	28	39	109	99	145	469
Bulk organics	25	35	98	40	58	190
Specialty organics	35	49	137	62	91	294

TABLE C–2.—OPTION II BPT LIMITATIONS BASED ON BIOLOGICAL TREATMENT WITH AND WITHOUT POST POLISHING PONDS

Subcategory	BOD_5 (mg/l)			TSS (mg/l)		
	Long-term average	30-day average	Daily maximum	Long-term average	30-day average	Daily maximum
Rayon	19	27	74	40	58	190
Other fibers	10	14	39	25	37	119
Thermosets	24	34	94	46	67	218
Thermoplastics only	18	25	70	28	42	137
Thermoplastics and organics	25	35	98	40	58	190
Commodity organics	28	39	109	99	145	469
Bulk organics	27	38	106	46	67	218
Specialty organics	35	49	137	62	91	294

An assessment of the long-term BOD and TSS averages in Tables C–1 and C–2, indicates that subcategory effluent quality does not necessarily improve when plants with biological treatment and polishing ponds are included in the subcategory averages. As noted above, these plants may have merely added polishing ponds to an inadequately designed or operated biological treatment system rather than enlarge or otherwise improve their existing biological treatment systems. The performance edits utilized to segregate the better designed and operated plants from the poorer performers was based on BOD performance only. The Agency has not yet conducted a performance edit based on TSS control, but intends to assess TSS performance for all plants prior to promulgation.

For example, in the case of the commodity organic chemicals subcategory, the long-term TSS values are 99 mg/l in both Tables C–1 and C–2. The eleven commodity organic chemical plants that utilize biological treatment (9 without polishing ponds and 2 with polishing) and that reported effluent data are located in North Carolina, Louisiana, and Texas. Application of the performance edit deletes the North Carolina plant and one Texas plant. Therefore, nine Louisiana and Texas facilities (7 without polishing and 2 with polishing) provide the basis for the subcategory averages. The Agency believes that many of these high TSS plant averages are due to periods of high ambient temperatures that may cause algae blooms in holding or polishing ponds. Many industry comments discuss this TSS control problem.

The Agency believes that a well operated biological treatment system even with polishing ponds does not necessarily ensure adequate solids control. In these cases where biological treatment provides inadequate TSS control, additional treatment such as filtration systems should provide the basis for effluent TSS limitations. Filtration has been a well-established technology for many years in both the OCPSF industry and many other industries.

Approximately 11 percent of the plants in the direct discharge data base utilize filtration in combination with either biological treatment or biological treatment and polishing ponds. If EPA decides to use this technology as the basis for final TSS standards, it would do so by deleting from the data base, for TSS purposes, those biological systems that are not followed by adequate physical/chemical solids control systems. Based upon the present data base on the performance of such biological/tertiary solids control systems, this approach would result in the TSS long-term averages and limitations shown in Table C–3. Since the BOD performance edit (95 percent/50 mg/l) retains only 16 facilities with tertiary solids control, TSS data for some subcategories would be pooled. The maximum 30-day average and daily maximum standards were calculated using the TSS variability factors established for BPT Options I and II.

EPA pooled the TSS filtration data for the plastics subcategories—rayon, other fibers, thermosets, and thermoplastics-only. EPA separately pooled the TSS filtration data for the three organic chemical subcategories. (EPA did not pool the data for the thermoplastics and organics subcategory because it has TSS filtration data from five plants in that subcategory.) EPA believes that the pre-filtration (i.e., Option II) TSS levels for plants within each of these broad groupings are within a sufficiently similar range to support pooling the filtration effluent data. EPA requests comments on this pooling approach and suggestions for any alternative approach to using the filtration data.

TABLE C–3.—OPTION III TSS LIMITATIONS (MG/L) BASED ON BIOLOGICAL TREATMENT WITH FILTRATION AND BIOLOGICAL TREATMENT WITH POLISHING AND FILTRATION

Subcategory	Long-term average	30-day average	Daily maximum
Rayon	27	39	128
Other fibers	27	39	128
Thermosets	27	39	128
Thermoplastics only	27	39	128
Thermoplastics and organics	37	54	175
Commodity organics	40	58	190
Bulk organics	40	58	190
Specialty organics	40	58	190

As noted in the engineering costing methodology in section IV(H) of this notice, plant-by-plant model BPT costs were developed based on reported effluent BOD_5 and TSS effluent concentrations and selected costing targets (i.e., predicted effluent limitations used for costing proposes). These costing targets were selected before the actual limits set forth in this notice were set and therefore were designed to encompass a broad range of potential subcategory long-term averages for BOD_5 and TSS. EPA selected three sets of costing targets for plastics and four sets of targets for organics. In fact, the calculated long-term averages for each of the three options discussed above span a much narrower range. (The chief difference among the options is a significant improvement in TSS control for the three organics subcategories by adding filtration in Option III.) The subcategory long-term BOD/TSS averages and the closest corresponding BPT costing BOD/TSS targets are listed in Table C–4.

TABLE C–4.—BPT SUBCATEGORY AVERAGES AND COSTING TARGETS (MG/L)

	Option I—biological treatment		Options II and III—biological only and biological		
	Long-term average	Costing target	Long-term average	Costing target	
Rayon	19/40	20/40	19/40	20/40	
Other fibers	11/25	10/25	10/25	10/25	
Thermosets	14/48	15/50	24/46	25/50	
Thermoplastics only	18/34	20/35	18/28	20/30	
Thermoplastics and organics	28/52	30/55	25/40	25/40	
Commodity organics	28/99	30/100	28/99	30/100	
Bulk organics	25/40	25/40	27/46	25/40	
Specialty organics	35/62	35/60	35/62	35/60	

evaluation of the treatability of individual product/process streams by in-plant process control technologies. Such evaluations would be necessary to be able to achieve BAT Option I without additional technology at additional cost. 5-plant study plants, and recent sampling study plants; the data has been

VOL 50 ISS 137 JL 17 1985 UMI

TABLE C-4.—BPT SUBCATEGORY AVERAGES AND COSTING TARGETS (MG/L)

Subcategory	Option I—biological treatment only		Options II and III—biological only and biological with polishing ponds, and filters		
	Subcategory long-term BOD_5 TSS averages	Closest costing BOD_5 TSS targets	Subcategory long-term BOD_5 TSS averages		Closest costing BOD_5 TSS targets
			Option II	Option III	
Rayon	19/40	15/30	19/40	19/27	15/30
Other fibers	11/25	10/15	10/25	10/27	10/15
Thermosets	14/46	10/15	24/46	24/27	15/30
Thermoplastics only	18/34	15/30	18/29	18/27	10/15
Thermoplastics and organics	18/52	20/20	25/40	25/37	20/20
Commodity Organic	28/99	20/20	28/99	28/40	20/20
Bulk organic	25/40	20/20	27/46	27/40	20/20
Specialty organics	35/62	20/20	35/62	35/40	20/20

The Agency has overestimated BPT compliance costs because it used effluent targets for costing purposes that differed from those subsequently presented in the three options. On average, the closest BOD and TSS costing targets for Options I and II were 27 percent and 60 percent below (i.e., more stringent than) the subcategory long-term averages, respectively. Similarly, the Options I and II TSS costing targets are, on average, 36 percent below the Option III subcategory TSS medians.

The BOD_5 and TSS pollutant loadings were calculated in a similar manner to costs. The loadings calculations also correspond to the predicted BOD_5/TSS targets listed in Table C-4; thus the technology options appear to have nearly identical pollutant loadings. For the same reason, the annual incremental BOD and TSS removals were overestimated. The Agency will correct the engineering cost and pollutant loading calculations before promulgations.

The similarity of estimated loadings and costs based upon target levels yields a correspondingly artificial similarity among total annual loadings and costs for the selected Options. For example, EPA estimates that the BPT limitations would result in annual incremental removals (beyond that achieved by current treatment) of 28.1 million pounds of BOD and 74.2 million pounds of TSS for the Option I loading targets and 28.2 million pounds of BOD and 74.4 million pounds of TSS for the Options II and III loadings targets. The corresponding costs of removal are summarized in section V(B) of this notice. The Agency anticipates that actual removals and costs will be lower than these estimates and that refined calculations based upon the actually developed limitations will reveal more substantial differences among the three options. The preliminary economic impact analysis for BPT based upon these cost estimates is summarized also in section V(B) of this notice.

D. Technology Basis for BAT Options and Effluent Limitations

Based on the analyses which are discussed in the following sections, EPA is considering three technology options as the basis of end-of-pipe BAT effluent limitations. In addition, as discussed below, EPA is considering setting prebiological limits for certain volatile and semi-volatile pollutants that are primarily air-stripped rather than degraded in biological treatment systems. EPA may promulgate BAT effluent limitations based on any of these options. Therefore, we specifically invite comment on each of them.

Due to the diversity of priority pollutants in the OCPSF industry, a variety of treatment technologies are employed by OCPSF plants to control priority pollutants as well as nonconventional pollutant discharges. Consequently, the selection of a particular set of BAT treatment technologies is plant-specific since the OCPSF industry is not amenable to any single BAT technology.

The range of technologies used to control priority pollutant discharges encompasses virtually the entire range of industrial wastewater treatment technology. Generally, this technology consists of a combination of in-plant control or treatment of specific wastestreams (sometimes from several different product/processes) by any of a variety of physical/chemical methods, biological treatment of combined wastestreams, and post-biological treatment.

In-plant controls frequently used by OCPSF plants for treatment of individual wastestreams include steam stripping (or distillation), carbon adsorption, chemical precipitation, solvent extraction and chemical oxidation. Biological treatment generally consists of some form of activated sludge (i.e., extended aeration, complete mix, pure oxygen) individually or in combination with other types of biological treatment, such as aerated lagoons, trickling filters, and aerobic and anerobic lagoons. Post-biological treatment for priority pollutants (and nonconventionals) is generally limited to granular activated carbon and multimedia filtration.

It should be noted that although some of the controls or technologies preceding the biological segment of the treatment system are installed for product recovery or to reduce priority pollutants, others are expressly designed into the treatment system to assure compliance with BPT effluent limitations by protecting the biological segment of the system from shock loadings and other forms of interference. Sampling results show that some plants remove certain toxic pollutants very effectively from the wastewater through in-plant control technologies. In these cases, the end-of-pipe systems are designed primarily for BOD_5 and TSS removal. However, other complete treatment systems have integrated both biological and post-biological components with in-plant components to control priority pollutants by utilizing the in-plant technologies as "roughing" controls to reduce toxic pollutant loadings to levels which can be handled by biological and post-biological technologies. It is thus inappropriate to specify any particular technology as a BAT technology in the OCPSF industry. Rather, each plant required to control priority pollutant discharges will employ a combination of in-plant controls and end-of-pipe treatment technologies that result in the desired effluent quality with respect to a wide variety of pollutant parameters of interest.

Based upon these considerations, EPA has refrained from specifying a particular set of controls as the basis for BAT. Rather, priority pollutant control will be based on removals achieved at OCPSF plants using differing treatment configurations. Unlike the BAT editing rules used in the proposed rulemaking, EPA is considering a technology-based editing rule for retaining plant data in calculating BAT limitations rather than a performance editing rule utilizing BPT effluent parameters. These rules are discussed in detail in the BAT effluent limitations portion of this section.

EPA has considered two general approaches for developing BAT effluent limitations. The first approach is concentration-based limitations (with appropriate requirements to prevent the substitution of dilution for treatment) based on end-of-pipe data (supported by performance data for selected in-plant control technologies) that reflect total treatment system performance. The second approach would set mass-based limitations based primarily on an

evaluation of the treatability of individual product/process streams by in-plant process controls, physical/chemical treatment and biological treatment. For the reasons discussed in the preamble to the proposed regulation and in section II of this Notice, EPA has selected the first approach. However, EPA will specify in the regulation that permitting authorities must establish mass-based permit limitations by multiplying the concentration limit by the plan's actual process wastewater flow.

Based on the considerations discussed above, EPA is considering these three end-of-pipe BAT technology options:

Option I—Concentration-based BAT effluent limitations based on the performance of only the biological treatment component, which is equal to the priority pollutant limitations attained when in compliance with BPT effluent limitations.

Option II—Concentration-based BAT effluent limitations based on the performance of the biological treatment component plus in-plant control technologies which remove priority pollutants prior to discharge to the end-of-pipe treatment system. These in-plant technologies include steam stripping to remove volatile and semi-volatile priority polluants, activated carbon for various base/neutral priority pollutants, chemical precipitation for metals and cyanide and possibly multi-stage biological treatment for removal of polynuclear aromatic (PNA) priority pollutants.

Option III—Concentration-based BAT effluent limitations based on the performance of biological treatment, in-plant controls and post-biological activated carbon adsorption for the remaining toxic pollutants.

There are both advantages and disadvantages to each of the technology options. Option I is a low cost option which reduces some toxic pollutants utilizing the technology installed for BTP—biological treatment. (However, some OCPSF facilities can comply with the BPT limitations for BOD_5 and TSS without the installation of biological treatment. These facilities can comply with Option I BAT effluent limitations only by installing the in-plant controls recommended in Option II, thereby incurring greater costs to meet Option I limitations than other discharges would incur.) However, this technology in some cases includes in-plant controls which have been installed to remove toxic pollutants which would interfere with or inhibit the biological treatment system's removal of BOD_5 and TSS. The need for such controls for BPT purposes is likely to vary; thus some BPT plants may not be able to achieve BAT Option I without additional technology at additional cost.

Option II controls reduce large amounts of toxic pollutants from wastewater prior to discharge to surface waters. Furthermore, the installation of in-plant controls under Option II would be particularly effective in reducing the levels of volatile and semi-volatile organic toxic pollutants in all environmental media. A large portion of volatile and semi-volatile organic toxic pollutants are emitted by biological systems into the surrounding air. Thus, while removing them from the wastewater, the typical biological system does not remove these pollutants from the environment but rather transfers a large portion of them to another environmental medium. The in-plant treatment of such pollutants by methods such as steam stripping reduces or eliminates the air emissions that otherwise would occur by the air stripping of the organic toxic pollutants in the biological system. Moreover, the installation of in-plant controls would also reduce the levels of certain priority pollutants which are not air stripped or otherwise removed from OCPSF wastewaters using only biological treatment. For example, the Agency's data base shows that bis(2-chloroisopropyl)ether, 2,4,6-trichlorophenol, and pentachlorophenol are not adequately removed by biological treatment systems. However, bis(2-chloroisopropyl)ether, a base/neutral compound, may be controlled through in-plant steam stripping. Similarly, 2,4,6-trichlorophenol and pentachlorophenol, acid compounds, may be controlled through in-plant carbon absorption systems.

Although more efficient in terms of toxic pollutant removal from all media (water and air) than Option I, Option II has higher costs associated with its implementation. This is also the case for Option III which provides slightly higher removals at even higher costs for some organic toxic pollutants such as 2,4-dimethyl phenol, napthalene, and phenol.

Calculation of Concentration-Based BAT End-of-Pipe Effluent Limitations

For all options, EPA has decided to develop end-of-pipe concentration-based BAT limitations for the entire industry based upon end-of-pipe data that reflect the best available technology. Depending on the option selected, the BAT technology used as the basis for limitations includes combinations of process controls, in-plant physical/chemical treatment and end-of-pipe treatment. The data base includes verification plants, CMA/EPA 5-plant study plants, and recent sampling study plants; the data has been edited both technically and analytically.

Prior to calculating concentration-based limitations, EPA considered whether the industry should be subcategorized for BAT purposes by evaluating the same subcategorization factors which were considered for BPT. EPA has decided to promulgate a single set of BAT limitations which would be applicable to all OCPSF facilities. (However, permits would tailor these requirements somewhat to account for the fact that most OCPSF plants routinely discharge only a subset of the pollutants covered by the BAT regulation—see Section IV(L) of this notice.) The available data for BAT show that plants in differing BPT subcategories can achieve similar low toxic pollutant effluent concentrations by installing the best available treatment components. Since all plants can achieve compliance with the same BAT limitations through some combination of demonstrated technology, the predominant issue relates to the cost of the required treatment technology. EPA has analyzed these costs and their associated impacts, as discussed in section V(C) of this notice. Therefore, the Agency believes that BAT subcategories do not appear to be necessary for effective, equitable regulation. However, EPA will continue to explore the possibility of subcategorizing the industry for BAT purposes and invites comments and supporting data on appropriate approaches.

Although EPA is not subcategorizing the industry for BAT, EPA is considering separate BAT effluent limitations for total zinc (but not other pollutants) for rayon manufacturers. During the comment period on the proposed regulations, raw waste and treated effluent data were submitted which showed elevated raw waste loadings of zinc as much as 100 times higher than other OCPSF facilities' loadings with correspondingly higher effluent levels. However, the Agency believes that in-plant chemical precipitation will significantly lower effluent levels of zinc down to levels comparable to other OCPSF facilities; EPA solicits performance data from rayon plants that employ in-plant chemical precipitation as well as additional comments and information on this issue.

Having concluded that in general only one set of BAT limitations for all OCPSF facilities should be developed, EPA then calculated the BAT effluent limitations for each technology option using data collected from different combinations of

BAT treatment systems during the verification, CMA/EPA 5 plant study, and current sampling program efforts as

verification and CMA sampling programs for a particular pollutant at a

the 99th and 95th percentiles by the respective means of daily and 4-day

multiplying its long-term median value by each of its two corresponding

monitoring costs that would be incurred to comply and demonstrate compliance

For example, in considering the current annual volatile pollutant

BAT treatment systems during the verification, CMA/EPA 5 plant study, and current sampling program efforts as follows:

Option I—BAT effluent limitations will be calculated using sampling data from plants that have been determined to have well-operated biological treatment for the priority pollutants to be regulated. These plants may include in-plant toxic pollutant controls which were installed to ensure the performance of the biological treatment system.

Option II—BAT effluent limitations will be calculated using sampling data from plants included in Option I for certain priority pollutants. For pollutants not adequately controlled by BPT technology, limitations will be based on data from plants that have biological treatment plus in-plant controls and plants that have physical/chemical control technology applied at the end-of-pipe for the remaining priority pollutants to be regulated.

Option III—BAT effluent limitations will be calculated using sampling data from plants included in Options I and II for some pollutants plus, for certain other pollutants, plants that have been identified as have biological treatment, in-plant controls and post-biological activated carbon adsorption polishing.

The following sections discuss the procedures used to calculate the components necessary for the development of BAT effluent limitations.

BAT Data Base Editing—Certain editing rules were utilized in preparing the data base prior to calculation of individual plant long-term averages (LTA) and industry long-term medians (LTM). First, analytically suspect data were returned to the analytical laboratories for confirmation or correction. Next, influent and effluent data were matched by sample date and all non-matching data points were excluded from this analysis. These data points will be included in the analysis prior to promulgation if they can be paired with data that the analytical laboratories confirm or correct. Then, each matched influent-effluent data pair was examined and all pairs which produced a negative percent removal were excluded from the analysis.

It should be noted that certain plants have been sampled in more than one of the BAT sampling programs previously mentioned. For the purposes of calculation plant LTAs and industry LTMs, each sampling program at a particular plant was treated separately and had individual LTAs which are included in the calculation of the LTM for each pollutant (i.e., it is possible that LTAs have been calculated for both the verification and CMA sampling programs for a particular pollutant at a certain plant). This decision was made due to difference in time periods of each sampling program, the different analytical procedures employed, the possibility of changes in product mix and processes utilized during each time period and the fact that different sets of priority pollutants may have been analyzed for the same plant during different sampling program efforts.

Calculation of the Median of Long-Term Means—For each pollutant at each plant in each of the sampling efforts mentioned above, a long-term weighted average (LTA) effluent concentration was calculated using only effluent data points whose corresponding end-of-pipe influent data were greater than or equal to 20 ppb or to 100 ppb depending on the type of technology used to remove a pollutant at a particular plant. For plants using in-plant controls prior to discharge to the end-of-pipe treatment system, the 20 ppb level was selected for the treated pollutant; for other plants, the 100 ppb level was used. These edits were designed to retain in the calculation of the limit for that pollutant only those plants that had treatable levels of a pollutant in the raw waste. The nondetected values at the plant were assigned a nominal detection limit value (using detection limits associated with EPA analytical methods 1624 and 1625. See 49 FR 43234; October 26, 1984). The long-term weighted average was computed by a weighting scheme, which assumed that nondetected values should be weighted in accordance with the frequency with which nondetected values for the pollutant generally were found in the daily-data plants. Then, the pollutant median of the plants' long-term weighted averages was calculated for each pollutant. The amount of data was limited for certain pollutants. Pollutant medians were retained for further analysis only if at least one plant-pollutant combination had three or more influent/effluent data pairs.

Calculation of Daily Maximum and Four Day Variability Factors—After developing long-term medians for each pollutant, EPA proceeded to develop two variability factors for each pollutant—a daily maximum variability factor (VF1) and a four-day variability factor (VF4). These were developed by fitting a statistical distribution to the daily data for each pollutant at each plant; deriving a 99th percentile and a mean of the daily data distributions for each pollutant at each plant; deriving a 95th percentile and a mean of the distribution of the 4-day averages for each pollutant at each plant; dividing the 99th and 95th percentiles by the respective means of daily and 4-day average distributions to derive plant-specific variability factors for each pollutant; and averaging these plant-specific variability factors across all plants to derive VF1 and VF4 for each pollutant.

For certain pollutants, the amount of daily data was limited. For such pollutants, variability factors were interpolated from the variability factors for groups of pollutants expected to exhibit comparable treatment variability based upon a comparison of chemical structure and characteristics. Each pollutant in each chemical group was then assigned a VF1 and VF4 equal to the average of the VF1s and VF4s of any pollutants in the same group.

In response to comments on the statistical aspects of the proposed limitations development, EPA examined several statistical techniques for deriving limitations. The Agency found that a modification of the delta-lognormal procedures provides a reasonable approximation of the underlying empirical toxic pollutant data. The delta-lognormal distribution assumes that the data are a mixture of positive lognormally distributed values and zero values that occur with a definite probability. Consequently, zero concentration values are modeled by a point distribution, positive concentration values follow a lognormal distribution, and the mixture of these values forms the delta-lognormal distribution.

This method provides a reasonable approach for combining quantitative concentration values with information expressed only as a nondetect, which is more qualitative in nature. For the determination of variability factors, the delta-lognormal procedure was modified by placing the point distribution at the nominal detection limit. This approach is somewhat conservative since values reported as nondetect may actually be any value between zero and the detection limit. The detection limit used for each pollutant was the nominal detection limit published by the Agency for analytical methods 1624 and 1625. Assigning the detection limit to non-detected values in calculating both variability factors and long-term medians for this data base tends to result in slightly higher limitations than would be derived if lower values were assumed.

Calculation of BAT Effluent Limitations—Daily maximum and monthly averages based on four observations BAT effluent limitations were calculated for each pollutant by

multiplying its long-term median value by each of its two corresponding variability factors. If a pollutant had its own pair of variability factors, these were utilized rather than the pollutant group variability factors. With the exception of mercury, all priority pollutant four-day monthly average and daily maximum limitations were rounded up to the nearest 5 parts per billion. Mercury was rounded up to the nearest one-half part per billion. After rounding, if the four-day monthly average equaled the daily maximum value, then only the daily maximum limitation was listed.

In the case of nitrobenzene for Option II and III, the Agency deleted one of three plants from the calculation because its treatment system for nitrobenzene was considered to be out of control due to chemical spills. For bis(2-chloroisopropyl)ether, data were not available for an appropriate Option II and III treatment system. Therefore, the Agency has selected a treatability level for bis(2-chloroisopropyl)ether of 10 ppb based on the performance of steam stripping. The treatability level was determined using the methodology described later in this section for establishing in-plant, pre-biological limitations.

Since insufficient data were available to determine BAT Option I Halogenated Methane and Chlorinated C2 and C4 pollutant variability factors, the Chloroalkyl Ether variability factor was applied to these pollutants. (The term chlorinated C2 refers to a priority pollutant class of compounds with two carbon atoms. Likewise, C3 and C4 refers to pollutant classes with 3 and 4 carbon atoms respectively.) For BAT Option II, the average of the Halogenated Methane and Chlorinated C2 pollutant groups was applied to the Chlorinated C3 and C4 and Chloroalkyl Ether pollutants. For BAT Option III, the average of the Halogenated Methane and Chlorinated C2, and C3 pollutant groups was applied to Chlorinated C4 and Chloroalkyl Ether groups as well. Since insufficient data were available to determined variability factors for acrylonitrile (miscellaneous pollutant group) the average of the organic pollutant groups was applied to acrylonitrile.

EPA intends to promulgate daily maximum and monthly average limitations for the OCPSF industry. 40 CFR 122.45(d) provides that effluent limitations and standards in permits shall, unless impracticable, be expressed as maximum daily and average monthly discharge limitations. For purposes of estimating compliance monitoring costs that would be incurred to comply and demonstrate compliance with these regulations, EPA has assumed that, on average, small plants would monitor twice monthly and large plants would monitor four times monthly.

Sampling and analyzing for metals is considerably less expensive than for organics. Consequently, it is reasonable to monitor for metals more frequently than for organics. Accordingly, EPA has established 10-day monthly averages for metals in many recently promulgated effluent guidelines. Although the metals limitations set forth in this notice are based on a daily maximum and a monthly average based on four observations per month, EPA is considering setting monthly average limitations based on 10 observations per month for metals in the final regulation. If the Agency establishes 10-day monthly averages, it would utilize the modified delta-lognormal distribution, described earlier, to conduct on analogous assessment of 10-day averages rather than 4-day averages. EPA solicits comments on this approach.

The BAT effluent limitations for Options I, II, and III are presented in Tables D–1 through D–3, respectively. (Since different plant-pollutant combinations are assigned to each technology option, some pollutants are not regulated under every option.) EPA estimates that BAT limitations will result in annual incremental removals (beyond that acheived by BPT) of negligible amounts of priority pollutants for Option I, 260,00 pounds of toxic organics and 524,000 pounds of toxic metals for Option II, and 281,000 pounds of toxic organics and 526,000 pounds of toxic metals for Option III.

As noted earlier, a large portion of volatile and semivolatile organic toxic pollutants are emitted by biological treatment systems into the surrounding air. This transfer of pollutants from water to air takes place at some current treatment systems and at BAT Option I but would be greatly reduced by the use of appropriate in-plant technology as contemplated by Options II and III. Thus, the wastewater organic toxic pollutant removals presented above are somewhat misleading since they present only the removals of the pollutants from the wastewater and do not account for the transfer of these pollutants into the air in the current and BAT Option I loadings. Similarly, the removal estimates do not include the reduction of air emissions of volatile and semivolatile pollutants by using Option II in-plant steam stripping technology.

For example, in considering the current annual volatile pollutant loadings for direct dischargers, the Agency estimates that 33.7 of the 82.7 million pounds generated in the raw waste actually enter biological treatment systems. (This assumes that the volatile pollutants are evenly distributed among direct dischargers and that in-plant steam stripping and solvent recovery treatment systems currently being used totally remove the volatile pollutants. Therefore, 40.8 percent of the raw waste enters the biological treatment systems.) If only one-quarter of the volatile pollutants are stripped into the surrounding air from the aeration basins of biological treatment systems, then about 8.4 million pounds of volatile compounds enter the environment as air pollutants through current in-place treatment and through BPT treatment. The actual stripping rates through open biological treatment systems are pollutant specific and range from approximately zero percent stripped for highly water-soluble, chemically-reactive compounds such as acrylonitrile, up to over 50 percent stripped for compounds such as 1,2-dichloroethane, 1,1,1-trichloroethane, tetrachloroethylene, and 1,2-dichloropropane. Likewise, the prevalent removal mechanism in open biological treatment systems for benzene, carbon tetrachloride, and toluene is air stripping.

With these considerations in mind, the Agency has calculated the full benefits afforded by Option II in removing toxic pollutants from all environmental media. The BAT Option II limitations are estimated to result in annual incremental removals from air and water media (beyond that achieved by BPT) of 8.7 million pounds of toxic organic pollutants rather than 260,000 pounds. The Agency is conducting a volatile and semivolatile pollutant-by-pollutant assessment to establish more accurate estimates of the volatilization rates in open biological treatment systems and solicits additional data and information regarding air emissions of toxic pollutants from open wastewater treatment systems. As discussed later in this section, the Agency is considering establishing in-plant, pre-biological limitations to ensure control of these compounds.

The estimated capital and operation and maintenance costs and the preliminary economic impact analysis for BAT are summarized in section V(C) of this Notice.

As mentioned previously in this section, although Option I is based on the performance of the technology

installed to comply with BPT effluent limitations and therefore, had no

TABLE D–1.—OPTION I BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)—Continued

TABLE D–2.—OPTION II BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)—Continued

TABLE D–3.—OPTION III BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)—Continued

pre-biological limitations for a set of 20 volatile and semi-volatile organic

EPA is concerned that the in-plant

installed to comply with BPT effluent limitations and therefore, had no incremental BAT costs developed for its implementation, the Agency believes that some nonbiological plants currently achieving BPT effluent limitations will incur costs to comply with BAT effluent limitations for Option I.

TABLE D-1.—OPTION I BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)			
6. Carbon tetrachloride	10	20	50
23. Chloroform	10	20	50
44. Methylene chloride	11.1	25	55
47 Bromoform	10	20	50
Chlorinated C2's			
10. 1,2-Dichloroethane	10.3	25	50
12. Hexachloroethane	10	20	50
16. Chloroethane	50	100	245
30. 1,2-trans-Dichloroethylene	77.5	155	375
85. Tetrachloroethylene	118.9	235	575
Chlorinated C4's			
52. Hexachlorobutadiene	10	20	50
Chloroalkyl Ethers			
42. bis(2-chloroisopropyl)ether	1,463	2,860	7,035
Metals			
114. Antimony	65	85	125
115. Arsenic	17	30	80
119. Chromium	86.7	120	195
120. Copper	21.3	35	75
122. Lead	329	860	2,585
123. Mercury	0.2		0.5
124. Nickel	145	235	495
125. Selenium	12	20	45
128. Zinc	52.5	90	190
Miscellaneous			
3. Acrylonitrile	50	105	270
121. Cyanide	64.9	120	275
Aromatics			
4. Benzene	27.1	80	245
38. Ethylbenzene	10	35	125
86. Toluene	10	40	155
Polyaromatics			
1. Acenaphthene	10	35	105
39. Fluoranthene	13.2	45	140
55. Naphthalene	10	35	105
72. Benzo(a)anthracene	10	35	105
73. Benzo(a)pyrene	10	35	105
74. 3,4-Benzofluoranthene	10	35	105
76. Chrysene	10	35	105
77. Acenaphthylene	10	35	105
78. Anthracene	10	35	105
80. Fluorene	10	35	105
81. Phenanthrene	10	35	105
84. Pyrene	12.6	40	135
Chloroaromatics			
7. Chlorobenzene	23.1	65	185
8. 1,2,4-Trichlorobenzene	42.8	70	140
9. Hexachlorobenzene	10	20	40
25. o-Dichlorobenzene	23.9	40	75
26. m-Dichlorobenzene	21.3	25	35
27. p-Dichlorobenzene	10	20	40
Phthalate Esters			
66. bis(2-Ethylhexyl)phthalate	19.6	45	130
68. Di-n-butyl phthalate	22.2	40	80
70. Diethyl phthalate	44.4	90	215
71. Dimethyl phthalate	10	20	50
Nitroaromatics			
35. 2,4-Dinitrotoluene	952	1,360	2,450
36. 2,6-Dinitrotoluene	327	445	730
56. Nitrobenzene	351	950	2,965

TABLE D-1.—OPTION I BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)—Continued

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Benzidines			
28. 3,3'-Dichlorobenzidene	262	320	450
Phenols			
34. 2,4-Dimethylphenol	10	20	35
65. Phenol	10	20	35
Nitrophenols			
57. 2-Nitrophenol	40.7	60	95
58. 4-Nitrophenol	50	75	125
59. 2,4-dinitrophenol	102	150	260
Chlorophenols			
21. 2,4,6-Trichlorophenol	65.9	115	260
24. 2-chlorophenol	10	35	125
31. 2,4-Dichlorophenol	16.9	45	130
64. Pentachlorophenol	50	65	100

TABLE D-2.—OPTION II BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any one day
Halogenated Methanes (C1's)			
6. Carbon tetrachloride	10	15	30
23. Chloroform	10	20	40
44. Methylene chloride	10	15	20
45. Methyl chloride	50	75	130
47. Bromoform	10	15	30
48. Bromodichloromethane	10	15	30
Chlorinated C2's			
10. 1,2-Dichloroethane	13.4	30	65
11. 1,1,1-Trichloroethane	10	25	65
12. Hexachloroethane	10	25	65
14. 1,1,2-Trichloroethane	10	25	65
16. Chloroethane	50	115	315
29. 1,1-Dichloroethylene	10	25	65
30. 1,2-trans-Dichloroethylene	10	25	65
85. Tetrachloroethylene	10.7	25	70
87. Trichloroethylene	10	25	65
88. Vinyl chloride	10	25	65
Chlorinated C3's			
32. 1,2-Dichloropropane	59.4	110	265
33. 1,3-Dichloropropylene	36.9	70	165
Chlorinated C4's			
52. Hexachlorobutadiene	10	20	45
Chloroalkyl Ethers			
42. bis(2-chloroisopropyl)ether	10	20	45
Metals			
114. Antimony	158	200	305
115. Arsenic	25.1	50	115
119. Chromium	64.5	90	150
120. Copper	27.7	45	90
122. Lead	100	265	765
123. Mercury	2.03	2.5	3.0
124. Nickel	166	195	255
125. Selenium	12	20	40
128. Zinc	69.5	105	190
Miscellaneous			
3. Acrylonitrile	50	95	240
121. Cyanide	64.9	120	275
Aromatics			
4. Benzene	10	30	85
38. Ethylbenzene	10	30	100
86. Toluene	10	35	115
Polyaromatics			
1. Acenaphthene	10	35	105
39. Fluoranthene	13.2	45	140
55. Naphthalene	10	35	105

TABLE D-2.—OPTION II BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)—Continued

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any one day
72. Benzo(a)anthracene	10	35	105
73. Benzo(a)pyrene	10	35	105
74. 3,4-Benzofluoranthene	10	35	105
76. Chrysene	10	35	105
77. Acenaphthylene	10	35	105
78. Anthracene	10	35	105
80. Fluorene	10	35	105
81. Phenanthrene	10	35	105
84. Pyrene	12.6	40	135
Chloroaromatics			
7. Chlorobenzene	15.9	40	115
8. 1,2,4-Trichlorobenzene	26.4	45	90
9. Hexachlorobenzene	10	20	40
25. o-Dichlorobenzene	52.3	80	145
26. m-Dichlorobenzene	21.3	25	35
27. p-Dichlorobenzene	10	20	40
Phthalate Esters			
66. bis(2-Ethylhexyl)phthalate	19.6	45	130
68. Di-n-butyl phthalate	22.2	40	80
70. Diethyl phthalate	44.4	90	215
71. Dimethyl phthalate	10	20	50
Nitroaromatics			
35. 2,4-Dinitrotoluene	219	310	540
36. 2,6-Dinitrotoluene	255	340	555
56. Nitrobenzene	206	285	480
Benzidines			
28. 3,3'-Dichlorobenzidine	262	320	450
Phenols			
34. 2,4-Dimethylphenol	10.8	20	35
65. Phenol	10	20	35
Nitrophenols			
57. 2-Nitrophenol	24.0	35	55
58. 4-Nitrophenol	50	70	120
59. 2,4-dinitrophenol	50	75	130
60. 4,6-Dinitro-o-cresol	20	30	50
Chlorophenols			
21. 2,4,6-Trichlorophenol	65.9	115	260
24. 2-chlorophenol	10	35	125
31. 2,4-Dichlorophenol	16.9	45	130
64. Pentachlorophenol	50	65	100

TABLE D-3.—OPTION III BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)			
6. Carbon tetrachloride	10	15	30
23. Chloroform	10	20	40
44. Methylene chloride	10	15	20
45. Methyl chloride	50	75	130
47. Bromoform	10	15	30
48. Bromodichloromethane	10	15	30
Chlorinated C2's			
10. 1,2-Dichloroethane	13	30	85
11. 1,1,1-Trichloroethane	10	25	65
12. Hexachloroethane	10	25	65
14. 1,1,2-Trichloroethane	10	25	65
16. Chloroethane	50	115	315
29. 1,1-Dichloroethylene	10	25	65
30. 1,2-trans-Dichloroethylene	10	25	65
85. Tetrachloroethylene	10.2	25	65
87. Trichloroethylene	10	25	65
88. Vinyl chloride	10	25	65
Chlorinated C3's			
32. 1,2-Dichloropropane	36.1	50	70
33. 1,3-Dichloropropylene	36.9	50	70

TABLE D-3.—OPTION III BAT EFFLUENT LIMITATIONS (PARTS PER BILLION)—Continued

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Chlorinated C4's			
52. Hexachlorobutadiene	10	20	40
Chloroalkyl Ethers			
42. bis(2-chloroisopropyl)ether	10	20	40
Metals			
114. Antimony	158	200	305
115. Arsenic	25	40	80
119. Chromum	57.6	80	130
120. Copper	27.7	45	90
122. Lead	86.7	230	680
123. Mercury	2.03	2.5	3.0
124. Nickel	145	170	225
125. Selenium	12	20	40
128. Zinc	86.1	100	190
Miscellaneous			
3. Acrylonitrile	50	95	225
121. Cyanide	64.9	120	275
Aromatics			
4. Benzene	10	25	80
38. Ethylbenzene	10	30	90
86. Toluene	10	30	100
Polyaromatics			
1. Acenaphthene	10	35	105
39. Fluoranthene	13.2	45	140
55. Naphthalene	10	35	105
72. Benzo(a)anthracene	10	35	105
73. Benzo(a)pyrene	10	35	105
74. 3,4-Benzofluoranthene	10	35	105
76. Chrysene	10	35	105
77. Acenaphthylene	10	35	105
78. Anthracene	10	35	105
80. Fluorene	10	35	105
81. Phenanthrene	10	35	105
84. Pyrene	12.8	40	135
Chloroaromatics			
7. Chlorobenzene	11.3	25	70
8. 1,2,4-Trichlorobenzene	26.4	45	90
9. Hexachlorobenzene	10	20	35
25. o-Dichlorobenzene	23.8	40	70
26. m-Dichlorobenzene	21.3	25	35
27. p-Dichlorobenzene	10	20	35
Phthalate Esters			
66. bis(2-Ethylhexyl)phthalate	19.6	45	130
68. Di-n-butyl phthalate	22.2	40	80
70. Diethyl phthalate	44.4	90	215
71. Dimethyl phthalate	10	20	50
Nitroaromatics			
35. 2,4-Dinitrotoluene	106	150	255
36. 2,6-Dinitrotoluene	217	285	455
56. Nitrobenzene	206	285	480
Benzidines			
28. 3,3'-Dichlorobenzidine	262	320	450
Phenols			
34. 2,4-Dimethylphenol	11.1	20	40
65. Phenol	10	20	35
Nitrophenols			
57. 2-Nitrophenol	22.6	30	50
58. 4-Nitrophenol	50	70	120
59. 2,4-dinitrophenol	50	75	130
60. 4,6-Dinitro-o-cresol	20	30	50
Chlorophenols			
21. 2,4,6-Trichlorophenol	65.9	115	260
24. 2-chlorophenol	10	35	125
31. 2,4-Dichlorophenol	16.9	45	130
64. Pentachlorophenol	50	85	100

In-Plant, Pre-Biological Limitations

EPA is seriously considering promulgating in addition to the end-of-pipe limitations set forth above, in-plant, pre-biological limitations for a set of 20 volatile and semi-volatile organic pollutants. The purpose of these supplementary limitations would be to assure that these pollutants are not simply transferred to the air rather than treated by the wastewater treatment system.

As noted above, available information strongly indicates that biological treatment systems fail to treat substantial portions of volatile and semi-volatile pollutants but rather transfer them to the air. Section 304(b) of the Act requires EPA to consider non-water quality environmental impacts in establishing BAT limitations. Clearly, Congress was concerned that wastewater not be cleaned up at the expense of other environmental media. Therefore, it is appropriate to address in these regulations the substantial impacts that may result from volatile air emissions at OCPSF biological treatment plants.

In Options II and III, EPA has established a technological basis for controlling volatile and semi-volatile pollutants in a manner that also minimizes adverse impacts on air quality. In estimating compliance costs for Options II and III, EPA assumed that in-plant controls such as steam stripping would be used to treat volatile and semi-volatile pollutants, leaving only the residual levels after in-plant controls to be further removed from the wastewater by the end-of-pipe system. If plants install such in-plant controls, then the contemplated air-emission-reduction would be achieved.

However, as indicated by the data used to generate the Option I limitations, open biological treatment systems remove some volatile and semi-volatile pollutants from wasterwater without substantial in-plant controls. It may thus be possible for example, for some plants to achieve Option II limitations without using the contemplated Option II in-plant controls. Air emissions could potentially be substantial, then, even if EPA promulgates end-of-pipe limitations under Option II or III.

For this reason, EPA believes that, to promulgate effluent limitations that reflect the best available technology for removing pollutants from wastewater while minimizing adverse impacts to the air, it may be necessary to establish in-plant limitations. In this case, EPA would establish limitations to be achieved prior to any biological treatment system and would require that control authorities require compliance monitoring prior to the biological system.

EPA is concerned that the in-plant limitations may not result in a significant reduction of air emissions. This may occur if sources choose to use in-plant control techniques other than steam stripping which meet the BAT limitations but do not result in any significant reduction of air emissions. Should this be the case and the level of air emissions warrant, EPA has other authority such as the Clean Air Act with which to address any problems.

Under the Clean Air Act EPA would be concerned about wastewater systems as sources of air toxic compounds as well as sources of volatile organic compounds which contribute to ozone formation. EPA Clean Air Act (CAA) authority to deal with air emissions problems includes: new source performance standards (CAA section 111); hazardous air pollutant emissions standards (CAA section 112); and provisions requiring attainment and maintenance of national ambient air quality standards (CAA sections 109, 110).

Comment is invited on the issue of whether sources will choose to use in-plant controls other than steam stripping, including the critical factors which may affect such a choice, e.g., control costs, product recovery credits, waste disposal, and potential air pollution controls.

EPA would establish such in-plant limitations based upon the available in-plant steam stripping performance data. For the steam stripping assessment, the organic priority pollutants were divided into three groups (high, medium, and low) based on their Henry's Law Constants. For aqueous mixtures, the distribution of a pollutant between the vapor phase and water can be expressed by Henry's Law. Compounds with high vapor pressures (high Henry's Law Constants) are easily stripped. By assuming that compounds in each group behave similarly, group median effluent values were calculated—a median of nondetect represents the high stripping group; 11.7 ppb, for the medium stripping group; and 1418 ppb, for the low stripping group.

The BAT in-plant limitations for Options II and III are listed in Table D-4. Based upon available information, the Agency believes that at least 20 percent of the influent mass of these compounds are air-stripped to the atmosphere in open biological systems. The Agency is conducting a volatile and semivolatile pollutant-by-pollutant assessment to establish more accurate determinations of which compounds are significantly stripped from wastewater treatment systems. The Agency solicits comments,

data, and information related to this issue.

Section IV(C), Tables C-1 to C-3 and section VI(D), Tables D-1 to D-4.

The technologies used to control

Similarly, EPA considered whether the industry should be subcategorized

the same general reasons as used to justify the 5 percent approach.

stripping rather than treatment. Thus,

pollutants, four toxic pollutant heavy metals and cyanide. For 5 of the 30

data, and information related to this issue.

TABLE D–4.—BAT IN-PLANT LIMITATIONS FOR OPTIONS II AND III (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Median of long-term weighted means	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)			
6. Carbon tetrachloride	11.7	25	55
23. Chloroform	11.7	25	55
44. Methylene chloride	10	20	45
Chlorinated C2's			
10. 1,2-Dichloroethane	10	20	45
11. 1,1,1-Trichloroethane	11.7	25	55
12. Hexachloroethane	10	20	45
14. 1,1,2-Trichloroethane	10	20	45
29. 1,1-Dichloroethylene	11.7	25	55
30. 1,2-trans-Dichloroethylene	11.7	25	55
85. Tetrachloroethylene	11.7	25	55
87. Trichloroethylene	11.7	25	55
88. Vinyl chloride	11.7	25	55
Chlorinated C3's			
32. 1,2-Dichloropropane	10	20	45
Aromatics			
4. Benzene	11.7	25	50
86. Toluene	11.7	25	50
Chloroaromatics			
7. Chlorobenzene	11.7	25	50
9. Hexachlorobenzene	10	20	40
25. o-Dichlorobenzene	10	20	40
26. m-Dichlorobenzene	11.7	25	50
27. p-Dichlorobenzene	11.7	25	50

EPA assigns no incremental pollutant removals or costs to this regulatory approach. The approach is designed simply to assure that the technologies contemplated by Options II and III are applied to minimize adverse air impacts as well as remove toxic pollutants from the wastewater. Consequently, the removals and costs calculated for Options II and III already account for this regulatory approach. EPA welcomes comments on the above analysis.

E. Technology Basis for NSPS Options and Effluent Standards

The best available demonstrated technology provides the basis of NSPS. At new manufacturing plants, the opportunity exists to design the best and most efficient processes and wastewater treatment facilities. Therefore, EPA considers the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies that reduce pollution to the maximum extent feasible.

The Agency is considering all three BPT and all three BAT technology options as the basis for NSPS. Priority pollutants considered for control by NSPS include those listed for each BAT option. BOD and TSS which are controlled by the BPT technology options, are considered for control by NSPS. The reader is therefore referred to Section IV(C), Tables C–1 to C–3 and section VI(D), Tables D–1 to D–4.

The technologies used to control conventional and priority pollutants at existing plants are fully applicable to new plants. EPA has not identified any technologies or combinations of technologies that are demonstrated for new sources that are different from those being considered to establish BPT and BAT limitations for existing sources.

F. Technology Basis and Standards for PSES

As discussed in section IV(D) for the BAT effluent limitations, the selection of a particular set for PSES treatment technologies is also plant-specific for indirect dischargers in the OCPSF industry. As with the direct dischargers subject to BAT effluent limitations, treatment technologies applicable to indirect dischargers subject to PSES can consist of in-plant control or treatment of specific (or combined) wastestreams by a number of physical/chemical methods sometimes in combination with biological treatment of combined wastestreams where effluent levels from in-plant control technologies still pass through, interfere with or inhibit publicly-owned treatment works. In-plant control and biological treatment technologies utilized by indirect dischargers are the same as those employed by direct dischargers as discussed in section IV(D) of this Notice.

Prior to proposal, sufficient priority pollutant removal data for in-plant control technologies which could be utilized to calculate PSES limitations for indirect discharges were not available since previous sampling efforts focused on complete end-of-pipe treatment systems rather than on individual technology components. However, as discussed in section III of this Notice, EPA initiated a new sampling program after proposal at 12 OCPSF facilities to collect toxic pollutant removal data for selected in-plant control technologies as well as end-of-pipe technologies which could be applied to indirect discharges. Data are available for certain in-plant controls as well as applicable end-of-pipe technologies for EPA to establish PSES limitations for certain toxic pollutants which pass through the POTW or interfere with the POTW operation.

As in the case for the BAT effluent limitations (see section IV(D) of this notice), EPA considered both concentration-based and mass-based PSES effluent limitations and for the same reasons mentioned previously, decided to establish concentration-based PSES effluent limitations.

Similarly, EPA considered whether the industry should be subcategorized for PSES purposes and, for the same reasons described above for BAT, decided to establish one set of PSES limitations which are applicable to all plants.

As in the proposal, EPA is continuing to consider setting PSES equal to BAT. Therefore, the PSES options span the entire range of BAT Options I–III. Similarly, EPA is considering establishing in-plant, prebiological PSES where necessary to avoid adverse air impacts.

As in the proposal, PSES will differ from BAT only with respect to the set of pollutants regulated. EPA is considering two major options for selecting pollutants to be regulated:

PSES Option I—Establish PSES limitations for pollutants failing EPA's standard pass-through analysis.

PSES Option II—Add to Option I a set of volatile and semi-volatile organic toxic pollutants based on POTW interference as well as pass-through.

EPA's general pass-through analysis for pretreatment standard setting purposes is to compare, on a pollutant-by-pollutant basis, the percentage of a pollutant removed by well-operated POTWs (those meeting secondary treatment requirements) with the percentage removed by direct dischargers complying with BAT. If BAT removes more of a pollutant than POTWs remove, the pollutant is deemed to pass through POTWs and a PSES limitation is established for the pollutant.

In the proposal, EPA slightly modified its procedure for assessing pass through. Cognizant of the analytical variability typical of organic toxic pollutants in POTWs and OCPSF plants, EPA determined that pass through occurs only if BAT removes at least 5 percent more than a well-operated POTW removes. This approach is additionally supported by the fact that POTW influent organic toxic pollutant concentrations are typically much lower than industry treatment system influent concentrations; many POTW effluent samples are below detection, precluding a complete accounting of all pollutants removed by the POTW. The Agency has therefore retained this approach in this notice. Table E–1 lists all pollutants that pass through using the 5 percent criterion. For illustrative purposes only, Table E–1 sets forth the limitations that would apply if EPA adopts BAT Option II. If a different BAT option is selected, PSES will be revised accordingly.

EPA is considering modifying the 5 percent approach to be 10 percent, using

the same general reasons as used to justify the 5 percent approach. Pollutants that would not be regulated at PSES Option I if this approach were adopted are highlighted (#) in Table E–1. The majority of these pollutants would be recaptured for regulation if EPA adopts PSES Option II. (See pollutants marked by asterisks in Table E–2.) The PSES Option II standards are also based on BAT Option II for illustrative purposes only. EPA requests comments on this approach.

EPA also solicits comments on its approach for determining pass through in the absence of adequate POTW data to compare POTW removals to BAT removals. In the proposal and in this notice, EPA has determined that pollutants pass through in such situations. The pollutants without adequate POTW removal data are highlighted (*) in Table E–1. However, the Agency believes that some of these pollutants may not warrant pretreatment standards based on pass through considerations. For example, EPA may not establish PSES for acrylonitrile, a chemically-reactive, unstable compound which may not pass through POTWs. Furthermore, the Agency believes that decisions, related to whether these pollutants actually pass through POTWs, can be made regarding some of these compounds based on POTW and/or direct discharge biological treatment removal data for chemically similar compounds. The Agency solicits comments and data regarding the efficacy of this approach.

Under PSES Option II, EPA would additionally regulate some volatile and semivolatile organic toxic pollutants (see Table E–2). These pollutants interfere with the normal operation of POTWs by presenting safety hazards due to volatilization of toxic organics in POTW's headworks. While the severity of such hazards may depend on a variety of factors, the potential for harm is considerable. For example, one State that has a large number of OCPSF plants submitted a comment on the proposal that attributed POTW employee deaths to the volatilization in POTW sewers of organic pollutants discharged by industrial contributors.

In addition to interference problems, EPA believes that the pollutants added in PSES Option II pass through POTWs. These pollutants, as discussed with respect to BAT in section IV(D) of this notice, volatilize to the atmosphere from biological treatment systems. Since POTWs are biological systems, large proportions of volatile and semi-volatile pollutants are removed from wastewaters entering POTWs by air stripping rather than treatment. Thus, the standard pass-through analysis comparing POTW and BAT removals is inappropriate here. For the same reason that EPA is considering establishing in-plant BAT limitations, EPA is also considering adopting PSES Option II to ensure that pollutants not adequately treated by biological treatment are properly pretreated. Thus PSES Option II is supported by considerations of pass through as well as interference.

If priority pollutant PSES are established on the basis of interference alone, the Agency would consider adopting a provision similar to that established for sulfides in the Leather Tanning and Finishing Industry Regulation (47 FR 52848; November 23, 1982). Such a provision would allow a POTW not to set pretreatment standards for volatile compounds if the POTW certifies that the discharge of these compounds do not interfere with POTW operation.

In its initial cost estimation activities for PSES for this notice, the Agency had based PSES costs on the installation of only in-plant control technologies such as steam stripping, activated carbon, and chemical precipitation. This was done based on the receipt of preliminary sampling data which indicated that pollutant removals for in-plant controls approximated pollutant removals obtained by BAT treatment systems. However, upon receipt of the entire toxic pollutant data base, it became apparent that for 13 of the 58 PSES Option II priority pollutants, demonstrated physical/chemical effluent concentrations were essentially higher than BAT treatment effluent concentrations. Additional treatment would be necessary to achieve BAT-level PSES for these 13 pollutants.

In an attempt to estimate the actual costs which will be incurred for compliance with the PSES effluent limitations and the associated economic impacts, the Agency has selected a random sample of 30 indirect dischargers. Each plant's estimated raw waste toxic pollutant loading was examined to determine the pollutants which would require additional treatment because the plant's effluent levels were greater than the PSES Option II effluent limitations. Since PSES II regulates more pollutants than PSES I, the use of PSES Option II provides the most conservative approach which would yield the highest potential costs and impacts. The costing scenario included in-plant treatment costs as well as costs for certain additional treatment technologies for the 13 pollutants—eight organic toxic pollutants, four toxic pollutant heavy metals and cyanide. For 5 of the 30 plants, biological treatment (activated sludge) was costed in addition to the appropriate in-plant controls because at least one of the eight organic toxic pollutants or cyanide appeared in the plant's effluent at greater than BAT effluent levels. Multi-media filtration was costed in addition to chemical precipitation for 19 plants because at least one of the four toxic pollutant heavy metals appeared above the BAT effluent levels. The average cost increases in adding the technologies for the 13 pollutants across the 30 plant sample are 226 percent for land costs, 56 percent for capital equipment, and 11 percent for operation and maintenance costs. Sludge costs are not projected to increase. These increases were applied for all plants. The estimated PSES costs and the preliminary economic impact analyses are presented in section V(D) of this notice.

For the organic toxic pollutants and cyanide, biological treatment plus in-plant controls forms the principal technology basis for BAT Option II and therefore, should accurately reflect the costs necessary to attain PSES. The addition of multi-media filtration after chemical precipitation is a proven method of reducing heavy metals concentrations in the metal finishing, inorganic chemicals and other industries which generate heavy metals in their raw wastewaters. Data from the metal finishing industry show incremental percent removals with the addition of filtration of 44 percent for total chromium, 55 percent for total copper, 32 percent for total lead, 42 percent for total nickel and 55 percent for total zinc. Therefore, the Agency feels that the costing of filtration is an adequate cost estimation technology which can lower the in-plant control effluent values for chemical precipitation to within an acceptable range of the BAT effluent levels.

For all other pollutants, as noted, EPA's costing procedures assumed that in-plant treatment would be sufficient to achieve compliance with PSES limitations. The treatment capability of steam stripping has already been discussed with respect to BAT in section IV(D) of this notice. For the activated carbon assessment, the organic priority pollutants were divided into three groups (high, medium, and low) based on their in-plant carbon usage rates—pounds of pollutant adsorbed per pound of carbon. By assuming that compounds in each group behave similarly, group median effluent values were calculated for costing purposes—a median of

nondetect represents both the high and medium adsorption groups since data

additional PSES Option III might be to

TABLE E–1.—OPTION I PSES STANDARDS (PARTS PER BILLION)—Continued

TABLE E–2.—OPTION II PSES STANDARDS (PARTS PER BILLION)—Continued

TABLE E–3. PSES STANDARDS (PARTS PER

H. Engineering Costing Methodology

nondetect represents both the high and medium adsorption groups since data was available for the medium group only and a median of 175 ppb represents the low adsorption group.

For the 52 organic toxic pollutants regulated at PSES Option II, the steam stripping and activated carbon assessment demonstrates that these controls alone can achieve the same or lower long-term concentrations for 33 organics, essentially the same concentrations (within 2 ppb) for 11 others (benzene, carbon tetrachloride, 1,1,1-trichloroethane, chloroform, 1,1-dichloroethylene, 1,2-trans-dichloroethylene, dichlorobromomethane, tetrachloroethylene, toluene, trichloroethylene, and vinyl chloride), and higher concentrations (ranging from 125 to 1,418 ppb) for the remaining 8 organics (2,4-dimethylphenol, 2-chlorophenol, 2,4-dinitrophenol, and 5 polyaromatics—benzo(a)anthracene, benzo(a)pyrene, 3,4-benzofluoranthene, chrysene, and pyrene). In the case of the polyaromatics, biological treatment may provide more cost-effective control than steam stripping or activated carbon (depending on the specific compound or combination of compounds in the wastewater)—at least one indirect discharge facility for which EPA has toxic pollutant data has installed biological treatment to achieve long-term effluent concentrations at or near the analytical method detection levels.

For cyanide and the 5 toxic pollutant metals regulated at PSES Option II, OCPSF physical/chemical performance data is available only for arsenic and zinc. Data for chemical precipitation demonstrates that physical/chemical treatment alone can achieve lower concentrations for arsenic than BAT control; however, for zinc, chemical precipitation performance is 39 ppb higher than the BAT long-term average.

EPA has not separately costed PSES Option I. Because fewer pollutants are regulated at Option I, EPA anticipates that Option I would result in the removal of fewer pollutants but cost less than Option II.

PSES Option II (assuming that BAT Option II is selected as the appropriate technology level), is anticipated to result in annual incremental removals (beyond current removals) of 100 million pounds of toxic organics and 5.7 million pounds of toxic metals.

Although the Agency is giving its most serious consideration to PSES Options I and II (each of which sets PSES equal to BAT for all pollutants regulated), an additional PSES Option III might be to set PSES at levels achievable by physical/chemical treatment alone. Under this option, PSES would equal BAT for most pollutants but would be higher (less stringent) for the 13 priority pollutants discussed above. Table E-3 sets forth the standards that would apply to these 13 pollutants. Estimated costs for PSES Option III are presented below in section V(E) of this notice. EPA solicits comments on this option.

The long-term averages for benzo(a) anthracene, chrysene and pyrene in Table E-3 are based on the steam stripping median value for the low Henry's Law constant pollutant group. For benzo(a)pyrene, 3,4-benzofluoranthene, 2,4-dimethylphenol, 2,4-dinitrophenol and 2-chlorophenol, the long-term averages are based on the in-plant carbon adsorption median value of the low carbon usage rate pollutant group. The zinc long-term average is based on the OCPSF industry chemical precipitation data. The long-term averages for lead, mercury, selenium and cyanide are based on chemical precipitation performance information from the inorganic chemicals, paint and ink, and steam electric power generating industries. The corresponding variability factors for the low Henry's Law Constant steam stripping systems are OCPSF industry averages transfered from 2,4,6-trichlorophenol and pentachlorophenol. The carbon adsorption variability factors for the low carbon usage group are transferred from nitrobenzene. The OCPSF industry zinc chemical precipitation variability factors were used for zinc, whereas averages for arsenic, chromium, copper and zinc were transferred to lead, mercury, selenium and cyanide.

TABLE E-1.—OPTION I PSES STANDARDS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)		
6. Carbon tetrachloride	15	30
23. Chloroform	20	40
44. Methylene chloride	#15	20
48. Bromodichloromethane	15	30
Chlorinated C2's		
10. 1,2-Dichloroethane	30	95
12. Hexachloroethane	*25	65
18. Chloroethane	*116	315
85. Tetrachloroethylene	#25	70
88. Vinyl chloride	25	85
Chlorinated C4's		
52. Hexachlorobutadiene	*20	45
Chloroalkyl Ethers		
42. bis(2-chloroisopropyl)ether	*20	45
Metals		
115. Arsenic	50	115
122. Lead	265	785
123. Mercury	2.5	3.0
125. Selenium	*20	40
128. Zinc	105	190
Miscellaneous		
3. Acrylonitrile	*95	240
121. Cyanide	120	275
Polyaromatics		
39. Fluoranthene	45	140
55. Naphthalene	#35	105
72. Benzo(a)anthracene	*35	105
73. Benzo(a)	*35	105
74. 3,4-Benzofluoranthene	*35	105
76. Chrysene	*35	105
77. Acenaphthylene	*35	105
78. Anthracene	#35	105
80. Fluorene	*35	105
81. Phenanthrene	*35	105
84. Pyrene	40	135
Chloroaromatics		
9. Hexachlorobenzene	*20	40
27. p-Dichlorobenzene	#20	40
Phthalate Esters		
66. bis(2-Ethylhexyl)phthalate	45	130
68. Di-n-butyl phathalate	#40	80
70. Diethyl phthalate	#90	215
71. Dimethyl-phthalate	20	50
Nitroaromatics		
35. 2,4-Dinitrotoluene	*310	540
36. 2,6-Dinitrotoluene	*340	555
56. Nitrobenzene	*285	480
Benzidines		
28. 3,3'-Dichlorobenzidine	*320	450
Phenols		
34. 2,4-Dimethylphenol	20	35
Nitrophenols		
57. 2-Nitrophenol	*35	55
58. 4-Nitrophenol	*70	120
59. 2,4-dinitrophenol	*75	130
60. 4,6,-Dinitro-o-cresol	*30	50
Chlorophenols		
21. 2,4,6-Trichlorophenol	*115	260
24. 2-chlorophenol	*35	125
31. 2,4-Dichlorophenol	45	130
64. Pentachlorophenol	65	100

# Denotes organic pollutants where the differences between industrial and POTW removals range between 5 and 10 percent.
* Denotes pollutants without POTW removal data.

TABLE E-2.—OPTION II PSES STANDARDS (PARTS PER BILLION)

Pollutant or pollutant property by priority pollutant classes	Monthly average shall not exceed	Maximum for any 1 day
Halogenated Methanes (C1's)		
6. Carbon tetrachloride	*15	30
23. Chloroform	*20	40
44. Methylene chloride	*15	20
48. Bromodichloromethane	15	30
Chlorinated C2's		
10. 1,2-Dichloroethane	*30	95
11. 1,1,1-Trichloroethane	*25	65
12. Hexachloroethane	25	65
14. 1,1,2-Trichloroethane	*25	65
29. 1,1-Dichloroethylene	*25	65
30. 1,2-trans-Dichloroethylene	25	65
85. Tetrachloroethylene	*25	70
87. Trichloroethylene	*25	65
88. Vinyl chloride	*25	85
Chlorinated C3's		
32. 1,2-Dichloropropane	*110	265
Chlorinated C4's		
52. Hexachlorobutadiene	20	45
Chloroalkyl Ethers		
42. bis(2-chloroisopropyl)ether	20	45
Metals		
115. Arsenic	50	115
122. Lead	265	785
123. Mercury	2.5	3.0
125. Selenium	20	40
128. Zinc	105	190
Miscellaneous		
3. Acrylonitrile	95	240
121. Cyanide	120	275
Aromatics		
4. Benzene	*30	85
86. Toluene	*35	115
Polyaromatics		
39. Fluoranthene	45	140
55. Naphthalene	35	105
72. Benzo(a)anthracene	35	105
73. Benzo(a)pyrene	35	105
74. 3,4-Benzofluoranthene	35	105
76. Chrysene	35	105
77. Acenaphthylene	35	105
78. Anthracene	35	105
80. Fluorene	35	105
81. Phenanthrene	35	105
84. Pyrene	40	135
Chloroaromatics		
7. Chlorobenzene	*40	115
9. Hexachlorobenzene	*20	40
25. o-Dichlorobenzene	*80	145
26. m-Dichlorobenzene	*25	36
27. m-Dichlorobenzene	*20	40
Phthalate Esters		
66. bis(2-Ethylhexyl)phthalate	45	130
68. Di-n-butyl phthalate	40	80
70. Diethyl phthalate	90	215
71. Dimethyl phthalate	20	50
Nitroaromatics		
35. 2,4-Dinitrotoluene	310	540
36. 2,6-Dinitrotoluene	340	555
56. Nitrobenzene	285	480
Benzidines		
28. 3,3'-Dichlorobenzidine	320	450
Phenols		
34. 2,4-Dimethylphenol	20	35
Nitrophenols		
57. 2-Nitrophenol	35	55
58. 4-Nitrophenol	70	120
59. 2,4-Dinitrophenol	75	130
60. 4,6-Dinitro-o-cresol	30	50
Chlorophenols		
21. 2,4,6-Trichlorophenol	115	260
24. 2-Chlorophenol	35	125
31. 2,4-Dichlorophenol	45	130
64. Pentachlorophenol	65	100

* Denotes pollutants determined to interfere with POTW operations.

TABLE E-3. PSES STANDARDS (PARTS PER BILLION) BASED ON PHYSICAL/CHEMICAL CONTROLS FOR POLLUTANTS WITH HIGHER CONCENTRATION THAN BAT OR WITH TRANSFER PHYSICAL/CHEMICAL PERFORMANCE

Pollutant or pollutant property by priority pollutant classes	Long-term average	Monthly average shall not exceed	Maximum for any one day
Polyaromatics			
72. Benzo(a)anthracene	1,418	1,795	2,710
73. Benzo(a)pyrene	175	300	570
74. 3,4-Benzofluoranthene	175	300	570
76. Chrysene	1,418	1,795	2,710
84. Pyrene	1,418	1,795	2,710
Phenols			
34. 2,4-Dimethylphenol	175	300	570
Nitrophenols			
58. 2,4-Dinitrophenol	175	300	570
Chlorophenols			
24. 2-Chlorophenol	175	300	570
Metals			
122. Lead	122	215	495
123. Mercury	1	2	4.5
125. Selenium	162	285	660
128. Zinc	107	160	380
Miscellaneous			
121. Cyanide	48	85	190

G. Technology Basis and Standards for PSNS

The Agency is required to establish pretreatment standards for new sources (PSNS). These standards are intended to prevent the discharges of pollutants which pass through, interfere with or are otherwise incompatible with POTWs. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant control measures, and end-of-pipe treatment, and to use plant site selection to ensure adequate treatment system installation.

Both PSES regulatory options are being considered for the basis of PSNS. The priority pollutants selected for regulation by PSNS will be the same as those selected for PSES. For the reasons discussed in the previous section, EPA has determined that these pollutants may pass through, interfere with or otherwise be incompatible with the POTW. The pretreatment standards selected as the basis for PSNS are also the same as those selected for PSES because EPA has not identified any technologies or combination of technologies that are demonstrated for new sources that are different from those being considered to establish PSES. These standards are the same as NSPS except that pollutants regulated by NSPS that do not pass through or interfere with POTWs are not regulated by PSNS.

H. Engineering Costing Methodology

The development of effluent limitations guidelines includes the identification of technologies available for the reduction of pollutant loadings in the OCPSF industry, quantifying the reduction of pollutants by a technology or group of technologies, and identifying the costs associated with the application of each technology or group of technologies. The results of these analyses are then used to determine the options that can be considered for regulation.

The engineering costing methodology has been revised since proposal. The Catalytic Costing Model was abandoned because the Agency's reassessment identified numerous technical deficiencies and problems related to several design modules, including activated sludge, chemical precipitation and activated carbon. The current OCPSF regulatory approach involves concentration-based effluent limitations. This approach reduced the value of the Catalytic Model in that it eliminated the need to determine treatment costs on an individual product/process basis. In addition, the Catalytic Model estimates the cost of building entirely new treatment systems. Actually, most in-place systems will simply be upgraded or expanded to achieve lower concentration limits. CAPDET, when modified to reflect industrial wastewater characteristics, is a better costing tool to estimate the cost of system upgrades. The use of a computer based design and costing model, such as the Catalytic Model, was determined to be unnecessary. Since current effluent quality is known for many of the plants to be costed and the technologies to upgrade the plant have been identified, a simpler approach can be used.

In order to assist in developing these cost methodologies, actual industry cost data were required to calibrate predictive cost models and benchmark the resulting cost algorithms. This information was obtained from the OCPSF industry using the statutory authority provided by Section 308 of the Clean Water Act. The Section 308 data collection effort included a Supplemental Questionnaire which was sent to 84 selected OCPSF manufacturers. This supplemental questionnaire requested detailed cost information regarding capital and operating costs for specific treatment unit operations. A total of 67 questionnaires were completed and returned. Some cost information was obtained for 48 biological treatment systems, 23 steam strippers, 13 metals

removal systems, 2 ion exchange units, 5 solvent extraction systems, 6 activated

*C had filtration systems rather than polishing ponds costed for solids

and 73 percent lower than industry supplied cost information. However, the

Organics, Commodity Organics, Bulk Organics and Speciality Organics.

processes not specifically covered by the Master Process File, but

A. All plants in the industry were

removal systems, 2 ion exchange units, 5 solvent extraction systems, 6 activated carbon systems, 4 polishing ponds and 1 filtration system. In order to derive costs associated with selected technology options, cost curves were developed for steam stripping, in-plant and end-of-pipe carbon adsorption, coagulation/flocculation, chemically assisted clarification, filtration, polishing ponds, contract hauling, sludge disposal (incineration), and monitoring. In addition, a cost model was developed for biological treatment upgrades, and CAPDET was used to cost activated sludge systems. The detailed development of the costs for each of these technologies is available in the public reading room.

Several general principles characterize the derivation of the cost curves. All costs are derived in 1982 dollars. Where data were collected for other years, they were corrected to 1982 dollars using the ENR index. Actual plant cost data were used, where possible, to derive the cost curves. Where they were not sufficient, the data that was available was used to benchmark the cost curves derived. CAPDET was used to derive costs or cost curves for biological treatment, biological treatment upgrades, activated carbon and filtration. The resultant cost curves were benchmarked with actual plant data. The design bases for filtration were based upon industry practice. The design bases for activated carbon were based on industry practice, and included priority pollutant removal data. Polishing ponds, coagulation/flocculation, chemically assisted clarification, contract hauling, sludge disposal (incineration) and monitoring costs were based on manufacturer quotations. Steam stripping costs are based on plant data.

Temperature Effects

In order to accommodate the ambient temperature effects on biological treatment processes, temperature correction factors were established for each state. These values are based upon the states actual minimum monthly average ambient temperature as reported by the National Ocean and Atmospheric Administration. A temperature correction factor was used to adjust the biological treatment system upgrade costs. In addition, minimum wastewater temperatrues were established on a state-by-state basis for use in the CAPDET Model.

Warm ambient temperatures can cause solids control problems due to algae blooms in polishing ponds. Therefore, plants in states with average maximum monthly temperatures over 25°C had filtration systems rather than polishing ponds costed for solids control.

Low Flow Facilities

For plants with total OCPSF process wastewater flows of 500 gallons per day or less, contract hauling disposal costs were estimated in lieu of process wastewater treatments costs. For the purposes of estimating the contract hauling costs on a national basis, the process wastewater was assumed to be hazardous and the hauling distance was assumed to be 500 miles in radius from the plant site to the hazardous waste treatment/disposal facility.

Land Costs

The cost of land is a key element in establishing total costs of alternative effluent guidelines and standards. Therefore, each technology assessed has been assigned land requirements. Since land costs may vary widely from place to place, it is difficult to obtain a nationwide average figure. However, based on an industrial real estate market survey report (prepared by the Society of Industrial Realtors in 1983), the average land costs for suburban sites of each state were obtained. Average state land costs were utilized in developing wastewater treatment land costs.

Benchmark Assessment

Wherever sufficient industry engineering cost data were available, benchmark analyses were prepared for the treatment techology alternatives utilized in the engineering design and costing analysis for the OCPSF industry. Some individual plant comparisons were significantly different than the Agency's estimates due to site specific design factors which may relate to such items as selected materials of construction or planned excess design capacity. However in most cases, the Agency's estimates were, on average, similar to industry supplied costs information. For example, the Agency's steam stripping capital and operation and maintenance costs were on average, only 6 and 2 percent lower, respectively, than industry-supplied cost data. For chemical precipitation/clarification systems, the Agency's capital cost estimates were, on average, 102 percent higher than industry data. The Agency's chemically assisted clarification and tertiary filtration capital costs were, on average, 36 percent higher and 17 percent lower, respectively, than industrys' costs.

In the case of the activated sludge biological treatment capital and operation and maintenance costs, the Agency's estimates were, on average, 10 and 73 percent lower than industry supplied cost information. However, the Agency questions the accuracy and validity of O&M cost data provided by several of the 11 plants that submitted O&M cost information. For example, three 1.5 million-gallon-per-day activated sludge treatment systems reported requirements for 2, 8 and 31 operating labor personnel. The Agency believes that no more than 3 to 4 people should be required to operate this size system. By comparing industry's reported labor costs to the reported labor hours, industry's labor rates ranged from $10.39 to $69.52 with an average of $25.46 per hour. The Agency used an Operator Class II hourly rate of $9.94 for estimating operation costs and $17.76 per hour for maintenance labor. Other differences may be traced to variations in local power costs or for cases where capital improvements may be reported as O&M maintenance materials and labor costs.

Sufficient industry data were not available to conduct capital and O&M benchmark analyses for activated carbon or to conduct O&M assessments for chemical precipitation/clarification, chemically assisted clarification, and tertiary filtration systems. The Agency solicits detailed design descriptions, capital and O&M costs, and performance data for activated sludge, biological system up-grades, chemically assisted clarification, polishing ponds, tertiary filtration, steam stripping, in-plant and end-of-pipe activated carbon, chemical precipitation/clarification and in-plant filtration wastewater treatment systems.

Costing Procedures

The engineering costing methodology developed costs on a plant-by-plant model basis for selected BPT options for BOD_5 and TSS, and developed costs on a wastewater stream basis for selected BAT and PSES options for priority pollutants.

BPT Costing: Plant-by-plant BPT costs were developed based on reported BOD_5 and TSS effluent concentrations and selected costing targets. The three sets of BOD/TSS long-term average targets for "plastics" plants are 10/15, 15/30, and 20/50 mg/l. These apply to facilities classified under the first four subcategories—Rayon Fibers, Other Man-Made Fibers, Thermosets, and Thermoplastics. The BOD_5/TSS long-term average targets for "organics" plants are 20/20, 45/45, 70/70, and 100/100 mg/l. These apply to facilities classified under the remaining subcategories—Thermoplastics and Organics, Commodity Organics, Bulk Organics and Speciality Organics.

Plants not having effluent BOD_5 or TSS data were costed using the median effluent values for all direct discharge plants in each cost group. These median effluent values were calculated for each cost group using data obtained from the 308 questionnaires.

The actual treatment system unit operations that were costed for each plant depended on the difference between the plant's reported current BOD_5 and TSS discharge data and the corresponding effluent costing targets. If the current discharge exceeded the target levels used for costing purposes, the Agency determined the treatment units that would be needed to achieve the target levels and calculated the cost of the treatment. The detailed procedure used for selecting technologies for costing are in the cost documentation report, which is located in the EPA public reading room.

For systems requiring full scale activated sludge treatment and/or second stage activated sludge, the CAPDET computer program was utilized. CAPDET default values were adjusted to reflect OCPSF wastewater characteristics. For example, average K-rates (biokinetic rate constants) and mixed liquor volatile suspended solids (MLVSS) for the plastics and organics groups were calculated using actual data taken from the 308 questionnaires and were used for those plastics and organics plants requiring full scale or second stage activated sludge treatment. For the organics plants' activated sludge systems, the K-rates ranged from 0.042 to 10.15 with an average of 3.200 inverse days; MLVSS ranged from 450 to 5,500 with an average of 3,700 mg/l. For the plastics plants' activated sludge systems, the K-rates ranged from 0.214 to 9.969 with an average of 2.301 inverse days; MLVSS ranged from 2,400 to 4,500 with an average of 3105 mg/l.

BAT Costing: The technology options considered for BAT include: (1) no additional treatment beyond BPT, (2) BPT plus appropriate in-plant physical chemical treatment for the removal of individual toxic pollutants, and (3) BPT plus in-plant controls and end-of-pipe activated carbon treatment.

EPA verification and EPA/CMA field sampling data, as well as Section 308 questionnaire data, were used where available for determining the toxics present in the plant's process wastewater. For plants with no current toxic pollutant data, estimates were obtained by matching each plant's product/processes with those contained in the verification sampling Master Process File. For those product/processes not specifically covered by the Master Process File, two approaches were followed: (1) Average toxic pollutant data from the Master Process File for a product, were used where applicable; or (2) Where product specific toxic pollutant data were unavailable, plants were assigned toxic pollutant data based on subcategory or costing group averages.

Based on the toxic pollutants present, the appropriate in-plant treatment technology was selected. Each pollutant had to be above a preselected trigger value before in-plant treatment would be required. No in-plant treatment technology was costed if it was already in-place. Steam stripping was costed for the removal of volatile organic pollutants. Activated carbon was used for semi-volatile organic pollutants. Both of these technologies are demonstrated technologies and have proven records in terms of removing priority pollutants from wastewaters in the OCPSF industry. Chemical precipitation was costed for metals removal.

For plants with product/process flows less than 500 gallons per day, only contract hauling was costed. Zero discharge wastestreams such as wastestreams which are disposed of by deep well disposal, incineration, land disposal, surface impoundment, were not included in the BAT analysis.

NSPS Costing: EPA used its BPT costing methods to cost entirely new treatment systems for new sources based on model flow sizes for each subcategory. BAT costs are used to estimate costs for new sources to control priority pollutant discharges.

PSES Costing: The procedures used to cost each plant were generally similar to the BAT method for costing appropriate treatment technologies. Section IV(F) of this notice discussed the PSES costing procedure in detail.

RCRA Baseline Costs for Surface Impoundments: In November 1984, Congress enacted the Hazardous and Solid Waste Act (Pub. L. 98–616) which among other things imposed new requirements on surface impoundments that treat, store and dispose of hazardous wastes. As a result of this new legislation, OCPSF manufacturing facilities were reviewed to determine what RCRA costs would be incurred. Plants without "Aggressive Biological Treatment" as described in the RCRA amendments (which exempts surface impoundments with such treatment from certain requirements) were included in the study.

EPA established the following criteria for the selection and inclusion of OCPSF facilities in the RCRA baseline costing analysis:

A. All plants in the industry were assigned a one-time site inspection cost which has an annual cost of less than $3,000.

B. All plants having aerobic and/or anaerobic lagoons were evaluated and assigned costs for installation of liners (high density polyethylene) and monitoring wells.

C. For facilities with primary clarification and/or equalization, EPA:

1. Randomly selected one-third of all direct and indirect discharge OCPSF facilities (which approximates the number of plants which have primary clarifiers and equalization basins which are not concrete structures or already double-lined) and determined monitoring costs, and

2. Randomly selected 15 percent of the above facilities (which approximates the number of plants which installed monitoring wells and determined that possible groundwater contamination is or could occur) and determined liner costs.

EPA's evaluation and subsequent costing analysis of the OCPSF facilities incurring liner costs were based on the assumption that that these facilities had detention times and depths similar to that of aerobic lagoons. The cost and preliminary economic impacts are discussed in section V(G) of this notice.

I. Conventional Pollutant Loadings

Conventional polluant loadings for BOD_5 and TSS were calculated on a plant-by-plant model basis for each of the BPT effluent targets which were costed (see section IV(C)) and for each plant's current BOD_5 and TSS effluent quality. BPT target loadings were calculated for each plant, depending on whether that plant was costed for that particular target (i.e., if a plant is already achieving a particular effluent target, a loading was not calculated for that target) by multiplying the BOD_5 and TSS effluent targets by the plant's process wastewater flow and a conversion factor. Current BOD_5 and TSS effluent loadings were calculated using actual BOD_5 and TSS concentration values for direct dischargers and multiplying these numbers by each plant's process wastewater flow and a conversion factor. For plants without either BOD_5 and TSS effluent values, median effluent concentrations for each plant's assigned subcategory were substituted for actual BOD_5 and TSS effluent data and current loadings were calculated as above.

The current in-place treatment BOD and TSS annual loadings are 49.9 and 103.8 million pounds per year, respectively. The annual BOD and TSS

BPT loadings, based on the Option I costing targets listed in Table C–4 of section IV(C), are 21.8 and 20.6 million

concentration of the pollutant in the process wastewater was actually 300

overestimate metal toxic pollutant loadings.

BPT, BAT and Current Waste Load Calculation

and operating rate data by product/process. The Agency has calculated

and Organic Pigments (Lakes and Toners); SIC 2869, Industrial Organic

BPT loadings, based on the Option I costing targets listed in Table C–4 of section IV(C), are 21.8 and 29.6 million pounds per year, respectively. The annual BOD and TSS BPT loadings, based on the Option II costing targets, are 21.7 and 29.4 million pounds per year, respectively. As noted in section IV(C), the Option III loadings are bracketed by Options I and II. Refined calculations based upon the actually developed limitations will reveal more substantial differences among the three options.

J. Toxic Pollutant Loadings

At the time of proposal, the Agency overstimated the annual discharges of toxic pollutants. Industry comments objected to these overestimates, argued that toxic pollutant discharges by the OCPSF industry are low, and questioned the need to establish BAT limitations on a wide range of toxic pollutants. These commenters suggested that the Agency rely on the NPDES permit application Form 2C toxic pollutant data for determining toxic pollutant loadings. They maintained that available NPDES permit application Form 2C data constitute the most appropriate and extensive data base for predicting the extent of occurrence of priority pollutants in the OCPSF industry. They argued that the Form 2C data submitted by trade association member companies indicate that only a few priority pollutants are detected in treated discharges and concluded that existing treatment systems, installed principally for the control of conventional pollutants, do an excellent job of controlling priority pollutant discharges. The Agency disagrees with these comments and, for the reasons discussed below, believes that OCPSF industries currently discharge significant amounts of toxic pollutants for which regulation beyond BPT is warranted.

Since the OCPSF regulations apply to process wastewater only, the Agency determined the relative contributions of process and nonprocess wastewater at the effluent sample sites. These data were used to calculate plant-by-plant "dilution factors" for use in adjusting or assessing analytical data at effluent sampling locations. This information was used to determine if reported section 308 and Form 2C final effluent concentration data could be used to adequately characterize actual process wastewater pollutant parameter concentrations. For example, if a pollutant was reported as 30 ppb at the final effluent sampling location with 1 MGD of process wastewater flow and 9 MGD of noncontaminated nonprocess cooling water flow, then the concentration of the pollutant in the process wastewater was actually 300 ppb. Similarly, if the same plant reported that another pollutant was not detected at the same sampling location and the analytical method detection limit was 10 ppb, then the other pollutant concentration in the process wastewater could be as high as 90 ppb without being detected in the diluted final effluent.

One-hundred-six plants reported Form 2C toxic pollutant data in the 1983 Section 308 Questionnaire. Of these, 70 plants diluted the process wastewater before the effluent Form 2C sampling point. The following table relates the number of plants with Form 2C data to the range of dilution at the effluent sampling point.

TABLE J–1.—RANGE OF PERCENT DILUTION FOR PLANTS WITH FORM 2C DATA

Range of dilution in percent	Number of plants with form 2C data (percent)
0	36(34)
>0 to 25	20(19)
>25 to 100	20(19)
>100 to 500	17(16)
>500 to 6,054	13(12)
Total	106(100)

The Agency was able to identify 13 facilities that reported measured toxic pollutant concentrations of treated process wastewater both before and after dilution with nonprocess wasterwater. In general, analyzing the diluted effluents yielded underestimated or undetected values for organic toxic pollutants that were measured in the undiluted process wastewater. However, this was not generally the case for cyanide and toxic pollutant metals such as cadmium, chromium, and lead. These compounds are commonly found in cooling water additives that may be utilized to inhibit biological growth or the formation of rust and scale in cooling equipment. The presence of a portion of these metals in the diluted effluent seems to be caused by the nonprocess cooling water. Therefore, the assumption that the nonprocess dilution wastewater is relatively clean seems to apply to the organic toxic pollutants but not necessarily to all of the toxic metal parameters.

Therefore, use of unqualified Form 2C data does not provide an adequate assessment of process wastewater toxic pollutant constituents and concentrations. Use of Form 2C data tends to underestimate organic toxic pollutant loadings in process wastewater and may actually overestimate metal toxic pollutant loadings.

The Agency developed a methodology to estimate industry toxic pollutant loadings which incorporates Form 2C data where appropriate as well as other available toxic pollutant analytical data.

The Agency has estimated raw and current effluent as well as projected BPT, BAT, and PSES effluent priority pollutant waste loadings for the OCPSF industries. These loadings have been calculated on a plant-by-plant model basis using both industry generated data (i.e. 1983 "308" Questionnaires data) as well as analytical data acquired by the Agency in various sampling studies. These loadings demonstrate that significant discharges of conventional and toxic pollutants currently occur and that the options for treating these discharges remove successively larger amounts of these pollutants.

Raw Waste Loads

The Agency used multiple sources of data and modeling techniques to determine, for the purpose of calculating loadings, which toxic pollutants are likely to be present at individual facilities as well as the corresponding raw waste loads as follows:

1. Where 308 toxic pollutant data were available, these data were used to calculate raw waste loads for those toxic pollutants.

2. Where the combined raw wastewaters of a plant had been sampled in either Phase I or Phase II Screening Studies, those toxic pollutant concentration data were used to calculate the raw waste loads from these plants after editing for analytical false positive values.

3. Raw waste loads were calculated using Master Process File toxic pollutant concentration data for product/process covered by the MPF. Where a product/process waste load could not be calculated at a plant, product specific waste loads were calculated using the "Product Averaged Master Process File."

4. For plants producing products that could not be calculated by the above methods, generic process raw waste loads were calculated using the "generic Process Average Master Process File."

Because the generic process method necessarily generated extraneous pollutants, raw waste loads from these plants were extensively reviewed; those pollutants that the Agency believes to be inconsistent with process chemistry practiced at a plant were deleted from the raw waste load file. The edited file was used for purposes of calculating loadings and costs.

BPT, BAT and Current Waste Load Calculation

BPT, BAT, and current waste load of individual plants were calculated for those toxic pollutants found in the raw waste load as follows:

1. Average toxic pollutant concentrations were calculated using the sampling data base (i.e., verification data, CMA 5-Plant, and new sampling data). Separate toxic pollutant concentrations were calculated by subcategory for both BPT and BAT plants (i.e. those plants currently meeting proposed BPT and BAT criteria, respectively).

2. For plants not in compliance with the toxic pollutant costing targets or BPT costing targets, it was assumed that the installation of BPT would treat a proportion of the toxic pollutants. This allowed EPA to project toxic pollutant loadings at BPT and then at BAT, in accordance with the extent to which additional BPT treatment would be required to meet BOD and TSS limits. Pollutant concentrations were adjusted for those plants which incurred BPT costs by the ratio of actual BOD to the target BOD for that subcategory (20 mg/l for rayon, other fibers, thermosets, and thermoplastics only: 45 mg/l for thermoplastics and organics, commodity organics, bulk organics, and specialty organics). Plants that did not incur BPT costs were assigned BPT toxic pollutant concentrations by subcategory. Plants that did not incur either BPT or BAT costs were assigned BAT toxic pollutant concentrations.

3. Effluent concentrations of toxic pollutants as derived above were multiplied by total process flow to calculate current waste load.

PSES, Waste Load Calculations

PSES waste loads were calculated in a manner analogous to current waste loads. If a plant was costed for PSES treatment, then toxic pollutant concentrations were considered to be equal to raw waste toxic pollutant concentrations. If a plant was not costed for PSES, then toxic pollutant concentrations were assumed to be equal to "current" toxic pollutant concentrations. Effluent concentrations of toxic pollutants as derived above were multiplied by total process flow to calculate PSES load.

Annualized Waste Load

Product/process flow data provided by the OCPSF industries in the 1983 "308" questionnaire are reported in millions of gallons per day when operating. The industry has also provided total annual production data and operating rate data by product/process. The Agency has calculated operating days for each product/process at each plant by dividing the annual product/process production by the product/process operating rate. Multiplication of daily product/process waste load by product/process operating days yields annualized product/process waste loads. Toxic pollutant waste loads from individual product/processes at a plant are than summed to yield total waste load for individual plants.

The projected direct and indirect discharge annual priority pollutant waste loadings are presented in Tables J–2 and J–3, respectively. As noted before, the BPT toxic pollutant loadings are based on one set of composite BOD targets rather than on each BPT option. Furthermore, the Agency believes that there would be negligible differences between the projected BPT composite and the BAT Option I priority pollutant loadings. The PSES loadings most closely correspond to PSES Option II, however, the estimates include incidental removals of pollutants which were determined not to pass through or interfere with POTW operations.

TABLE J–2.—DIRECT DISCHARGE—ANNUAL PRIORITY POLLUTANT LOADINGS

[1,000 lb per year]

	Volatiles	Semivolatiles	Metals and CN	Total
Raw waste	92,746	39,079	35,491	157,316
Current	248	208	730	1,186
BPT/BAT-I	218	180	628	1,026
BAT-II	59	80	104	243
BAT-III	56	62	102	220

TABLE J–3.—INDIRECT DISCHARGE—ANNUAL PRIORITY POLLUTANT LOADINGS

[1,000 lb per year]

	Volatiles	Semivolatiles	Metals and CN	Total
Raw waste	12,655	192,316	28,796	233,767
Current	4,313	96,180	6,309	106,802
PSES-II	133	44	588	765

K. Applicability and Definition of the Regulated OCPSF Industry

The Agency has received many requests for information on which facilities are covered by the OCPSF category regulations. The discussion below addresses this issue. EPA intends to include the essential points of this discussion in the Applicability Section of the final regulations.

The Agency has defined the Organic Chemicals Manufacturing industries to include all facilities within specific SIC codes: SIC 2865, Cyclic (Coal Tar) Crudes, and Cyclic Intermediates, Dyes, and Organic Pigments (Lakes and Toners); SIC 2869, Industrial Organic Chemicals Not Elsewhere Classified and SIC 2911, Liquified Refinery Gasses (including other aliphatics) made from purchased refinery products and other Finished Petroleum Products (aromatics) made from purchased refinery products. Likewise, the Agency has defined the Plastics/Synthetic Fibers industry to include all facilities within specific SIC codes: SIC 2821, Plastics Materials, Synthetic Resins, and Nonvulcanizable Elastomers; SIC 2823, Cellulosic Man-Made Fibers; and SIC 2824, Synthetic Organic Fibers, Except Cellulosic.

For some petroleum refineries and pharmaceutical manufacturers, process wastewater from some synthetic organic chemical products are specifically regulated under the Petrochemical and Integrated Subcategories of the Petroleum Refining Point Source Category (40 CFR 419, Subparts C and E) or the Chemical Synthesis Products Subcategory of the Pharmaceuticals Manufacturing Point Source Category (40 CFR 439, Subpart C). The petroleum refineries and pharmaceutical manufacturers that produce organic chemical products that generate process wastewaters treated in combination with petroleum refinery or pharmaceutical manufacturing wastewaters, respectively, should consider any such organic chemical products as non-OCPSF products. However, if petroleum refineries or pharmaceutical manufacturers produce organic chemical products that generate process wastewaters that are treated in a separate wastewater treatment system, then these facilities should consider any such organic chemical product as an OCPSF product.

The Agency has grouped the OCPSF industries into categories based on the products or product groups produced at a plant. These product groups are:

- Thermoplastic resins (Census product code 28213);
- Thermosetting resins (Census product code 28214);
- Rayon fibers (Census product code 2823);
- Other fibers (Census product code 2823 and 2824); and
- Organic chemicals (Census product code 2865, 2869, and 2911).

The organic chemicals group has been further divided into three groups of chemicals or chemical groups depending upon the total 1980 production volume of a chemical. These subgroups are:

- Commodity Chemicals—organic chemicals produced in amounts greater than one billion pounds per year. This

list includes 37 products or product groups.

- Bulk Chemicals—organic chemicals

It should be emphasized that the placement of products and product groups shown in Tables K–1 through K–6

Cellulose Sponge
*Ethylene-Methacrylic Acid Copolymers
*Ethylene-Vinyl Acetate Copolymers

Styrene Polymeric Residue
*Styrene-Acrylic Copolymer Resins
*Styrene-Acrylonitrile-Acrylates Copolymers
*Alkylates
*Alpha-Olefins
Butane (all forms)*
Pine Oil
Polyoxybutylene Glycol

list includes 37 products or product groups.

• Bulk Chemicals—organic chemicals produced in amounts less than one billion pounds per year but more than 40 million pounds per year. This list comprises 221 products or product groups.

• Specialty Chemicals—all organic chemicals not defined as Commodity or Bulk Chemicals.

Organic chemical compounds that are produced solely by extraction from natural materials (e.g., plant and animal sources) or by fermentation processes are *not* considered to be OCPSF products. Thus, ethanol derived from natural sources (SIC 28095112) is *not* considered to be an OCPSF industry product; ethanol produced synthetically (hydration of ethene) *is* an OCPSF industry product. Similarly, cellophane (SIC 3079) which is produced by extrusion of viscose (chemically derived from the natural polymer cellulose) is being considered by the Agency to be an OCPSF industry product. (Both rayon and cellophane are manufactured by similar process, differing only in the extruded form. Therefore, cellophane manufacture will be included in the rayon subcategory for BPT.) The Agency solicits comments on this issue.

Certain products of SIC groups other than 2865, 2969, 2821, 2823, and 2824 are considered to be OCPSF products. Benzene, toluene, and mixed xylenes manufactured from purchased refinery products in SIC 29110582 (in contrast to benzene, toluene, and mixed xylenes manufactured in refineries—SIC 29110558) are considered to be OCPSF products. Similar considerations apply to aliphatic hydrocarbons manufactured from purchased refinery products—SIC 29116324.

Based on the information submitted to EPA as a result of the 1983 "308" Questionnaire, the Agency has compiled lists of chemicals and chemical groups by the industry segments discussed above. These industrial segments are integral parts of establishing and defining subcategories. Table K–1 lists rayon products. Table K–2 lists other fiber products and product groups. Thermosetting resin products and product groups are listed in Table K–3. Thermoplastic resin products and product groups are listed in Table K–4. Table K–5 lists commodity organic chemicals and chemical groups. Bulk organic chemicals and chemical groups are listed in Table K–6. The remaining organic chemicals and chemical groups not listed in Tables K–5 and K–6 are defined as specialty organic chemicals.

It should be emphasized that the placement of products and product groups shown in Tables K–1 through K–6 is not expected to be static: as production methods and processes change over time, specific chemicals and chemical groups may (and are expected to) also change. Furthermore, closely related chemical products may in some cases be in different subcategories because of production volume. For example, at present, benzene, toluene, and xylene are defined as commodity chemicals; BTX (a product which is a mixture of benzene, toluene, and xylene) is defined as a bulk chemical product. Therefore, Tables K–1 through K–6 should be seen as guidance. The formal definitions of the BPT subcategories should be referred to for precise determination of a plant's subcategory.

Table K–1.—Rayon Products

Rayon (Viscose Process)

Table K–2.—Other Fibers and Fiber Groups(*)

*Acrylic Fibers (85% Polyacrylonitrile)
*Cellulose Acetate Fibers
*Fluorocarbon (Teflon) Fibers
*Modacrylic Fibers
*Nylon 6 Fibers
Nylon 6 Monofilament
*Nylon 66 Fibers
Nylon 66 Monofilament
*Polyamide Fibers (Quiana)
*Polyaramid (Kevlar) Resin-Fibers
*Polyaramid (Nomex) Resin-Fibers
*Polyester Fibers
*Polyethylene Fibers
*Polypropylene Fibers
*Polyurethane Fibers (Spandex)

Table K–3.—Thermosetting Resins and Thermosetting Resin Groups(*)

*Alkyd Resins
Dicyanodiamide Resin
*Epoxy Resins
*Fumaric Acid Polyesters
*Furan Resins
Glyoxal-Urea Formaldehyde Textile Resin
*Keton-Formaldehyde Resins
*Melamine Resins
*Phenolic Resins
*Polyacetal Resins
Polyacrylamide
*Polyurethane Prepolymers
*Polyurethane Resins
*Urea Formaldehyde Resins
*Urea Resins

Table K–4.—Thermoplastic Resins and Thermoplastic Resin Groups(*)

*Abietic Acid—Derivatives
*ABS Resins
*ABS–SAN Resins
*Acrylate-Methacrylate Latexes
*Acrylic Latex
*Acrylic Resins
*Cellulose Acetate Butyrates
Cellulose Acetate Resin
*Cellulose Acetates
*Cellulose Acetates Propionates
Cellulose Nitrate
Cellulose Sponge
*Ethylene-Methacrylic Acid Copolymers
*Ethylene-Vinyl Acetate Copolymers
*Fatty Acid Resins
*Fluorocarbon Polymers
Nylon 11 Resin
*Nylon 6—66 Copolymers
*Nylon 6—Nylon 11 Blends
Nylon 6 Resin
Nylon 612 Resin
Nylon 66 Resin
*Nylons
*Petroleum Hydrocarbon Resins
*Polyvinyl Pyrrolidone—Copolymers
*Poly (Alpha) Olefins
Polyacrylic Acid
*Polyamides
*Polyarylamides
Polybutadiene
*Polybutenes
Polybutenyl Succinic Anhydride
*Polycarbonates
Polyester Film
*Polyester Resins
*Polyester Resins, Polybutylene Terephthalate
*Polyester Resins, Polyoxybenzoate
Polyethylene
*Polyethylene—Ethyl Acrylate Resins
*Polyethylene—Polyvinyl Acetate Copolymers
Polyethylene Resin (HDPE)
Polyethylene Resin (LPDE)
Polyethylene Resin, Scrap
Polyethylene Resin, Wax (Low M.W.)
Polyethylene Resin, Latex
Polyethylene Resins
*Polyethylene Resins, Compounded
*Polyethylene, Chlorinated
*Polyimides
*Polypropylene Resins
Polystyrene (Crystal)
Polystyrene (Crystal) Modified
*Polystyrene—Copolymers
*Polystyrene—Acrylic Latexes
Polystyrene Impact Resins
Polystyrene Latex
Polystyrene, Expandable
Polystyrene, Expanded
*Polysulfone Resins
Polyvinyl Acetate
*Polyvinyl Acetate—PVC Copolymers
*Polyvinyl Acetate Copolymers
*Polyvinyl Acetate Resins
Polyvinyl Alcohol Resin
Polyvinyl Chloride
Polyvinyl Chloride, Chlorinated
*Polyvinyl Ether-Maleic Anhydride
*Polyvinyl Formal Resins
*Polyvinylacetate—Methacrylic Copolymers
*Polyvinylacetate Acrylic Copolymers
*Polyvinylacetate-2-Ethylhexylacrylate Copolymers
Polyvinylidene Chloride
*Polyvinylidene Chloride Copolymers
*Polyvinylidene-Vinyl Chloride Resins
*PVC Copolymers, Acrylates (Latex)
*PVC Copolymers, Ethylene-Vinyl Choloride
*Rosin Derivative Resins
*Rosin Modified Resins
*Rosin Resins
*SAN Resins
*Silicones: Silicone Resins
*Silicones: Silicone Rubbers
*Styrene Maleic Anhydride Resins

Styrene Polymeric Residue
*Styrene-Acrylic Copolymer Resins
*Styrene-Acrylonitrile-Acrylates Copolymers
*Styrene-Butadiene Resins
*Styrene-Butadiene Resins (<50% Butadiene)
*Styrene-Butadiene Resins (Latex)
*Styrene-Divinyl Benzene Resins (Ion Exchange)
*Styrene-Methacrylate Terpolymer Resins
*Styrene-Methyl Methacrylate Copolymers
*Styrene, Butadiene, Vinyl Toluene Terpolymers
*Sulfonated Styrene-Maleic Anhydride Resins
*Unsaturated Polyester Resins
*Vinyl Toluene Resins
*Vinyl Toluene-Acrylate Resins
*Vinyl Toluene-Butadiene Resins
*Vinyl Toluene-Methacrylate Resins
*Vinylacetate-N-Butylacrylate Copolymers

Table K–5.—Commodity Organic Chemicals and Chemical Groups(*)

a. Aliphatic Organic Chemicals

Acetaldehyde
Acetic Acid
Acetic Anhydride
Acetone
Acrylonitrile
Adipic Acid
*Butylenes (Butenes)
Cyclohexane
Ethanol
Ethylene
Ethylene Glycol
Ethylene Oxide
Formaldehyde
Isopropanol
Methanol
Polyoxypropylene Glycol
Propylene
Propylene Oxide
Urea
Vinyl Acetate
1,2-Dichloroethane
1,3-Butadiene

b. Aromatic Organic Chemicals

Benzene
Cumene
Dimethyl Terephthalate
Ethylbenzene
m-Xylene (impure)
p-Xylene
Phenol
*Pitch Tar Residues
*Pyrolysis Gasolines
Styrene
Terephthalic Acid
Toluene
*Xylenes, Mixed
o-Xylene

c. Halogenated Organic Chemicals

Vinyl Chloride

Table K–6.—Bulk Organic Chemicals and Chemical groups(*)

a. Aliphatic Organic Chemicals

*Acetic Acid Esters
*Acetic Acid Salts
Acetone Cyanohydrin
Acetylene
Acrylic Acid
*Acrylic Acid Esters
*Alkoxy Alkanols
*Alkylates
*Alpha-Olefins
Butane (all forms)
*C-4 Hydrocarbons (Unsaturated)
Calcium Stearate
Caprolactam
Carboxymethyl Cellulose
Cellulose Acetate Butyrates
*Cellulose Ethers
Chlorinated Paraffins, 35–64 PCT, Chlorine
Citric Acid
Cumene Hydroperoxide
Cyclohexanol
Cyclohexanol, Cyclohexanone (Mixed)
Cyclohexanone
Cyclohexene
*C12-C18 Primary Alcohols
*C5 Concentrates
*C9 Concentrates
Decanol
Diacetone Alcohol
*Dicarboxylic Acids—Salts
Diethyl Ether
Diethylene Glycol
Diethylene Glycol Diethyl Ether
Diethylene Glycol Dimethyl Ether
Diethylene Glycol Monoethyl Ether
Diethylene Glycol Monomethyl Ether
*Dimer Acids
Dioxane
Ethane
Ethylene Glycol Monophenyl Ether
*Ethoxylates, Misc.
Ethylene Glycol Dimethyl Ether
Ethylene Glycol Monbutyl Ether
Ethylene Glycol Monoethyl Ether
Ethylene Glycol Monomethyl Ether
*Fatty Acids
Glycerine (Synthetic)
Glyoxal
Hexane
*Hexanes and Other C6 Hydrocarbons
Hydrogen Cyanide
Isobutanol
Isobutylene
Isobutyraldehyde
Isophorone
Isophthalic Acid
Isoprene
Isopropyl Acetate
Ligninsulfonic Acid, Calcium Salt
Maleic Anhydride
Methacrylic Acid
*Methacrylic Acid Esters
Methane
Methyl Ethyl Ketone
Methyl Methacrylate
Methyl Tert-Butyl Ether
Methylisobutyl Ketone
*N-Alkanes
N-Butyl Alcohol
N-Butylacetate
N-Butyraldehyde
N-Butyric Acid
N-Butyric Anhydride
*N-Paraffins
N-Propyl Acetate
N-Propyl Alcohol
Nitrilotriacetic Acid
Nylon Salt
Oxalic Acid
*Oxo Aldehydes—Alcohols
Pentaerythritol
Pentane
*Pentenes
*Petroleum Sulfonates
Pine Oil
Polyoxybutylene Glycol
Polyoxyethylene Glycol
Propane
Propionaldehyde
Propionic Acid
Propylene Glycol
Sec-Butyl Alcohol
Sodium Formate
Sorbitol
Stearic Acid, Calcium Salt (Wax)
Tert-Butyl Alcohol
1-Butene
1-Pentene
1,4-Butanediol
Isobutyl Acetate
2-Butene (Cis and Trans)
2-Ethyl Hexanol
2-Ethylbutyraldehyde
2,2,4-Trimethyl-1,3-Pentanediol

b. Amine and Amide Orgonic Chemicals

2,4-Diaminotoluene
*Alkyl Amines
Aniline
Caprolactam, Aqueous Concentrate
Diethanolamine
Diphenylamine
*Ethanolamines
Ethylamine
Ethylenediamine
Ethylenediaminetetracetic Acid
*Fatty Amines
Hexamethylene Diamine
Isopropylamine
M-Toluidine
Melamine
Melamine Crystal
*Methylamines
Methylene Dianiline
N-Butylamine
N,N-Diethylaniline
N,N-Dimethylformamide
*Nitroanilines
Polymeric Methylene Dianiline
Sec-Butylamine
Tert-Butylamine
Toluenediamine (Mixture)
*Toluidines
O-Phenylenediamine
2,6-Dimethylaniline
4-(N-Hydroxyethylethylamino)-2-Hydroxyethyl Analine
4,4'-Methylenebis(N,N'-dimethyl)-aniline
4,4'-Methylenedianiline

c. Aromatic Organic Chemicals

2-Chloro-5-Methylphenol (6-Chloro-m-cresol)
A-Methylstyrene
*Alkyl Benzenes
*Alkyl Phenols
*Alkylbenzene Sulfonic Acids, Salts
Aminobenzoic Acid (Meta and Para)
Aspirin
B-Napthalene Sulfonic Acid
Benzenedisulfonic Acid
Benzoic Acid
Bis(2-Ethylhexyl) Phthalate
Bisphenol A
BTX-Benzene,Toluene, Xylene (Mixed)
Butyl Octyl Phthalate
Coal Tar
*Coal Tar Products (Misc)
Creosote
*Cresols, Mixed
Cyanuric Acid

*Cyclic Aromatic Sulfonates
Dibutyl Phthalate
Diisobutyl Phthalate

permits or control requirements instead of national regulations (effluent

stormwater, other nonprocess wastewater, and process wastewater

$1,695 per sample based on using isotope dilution GC–MS methods 1624

Table L–3.—Thermosetting Resins Subcategory—Potential Toxic Pollutants in

Table L–5.—Thermoplastics and Organics Subcategory—Potential Toxic Pollutants in

*Cyclic Aromatic Sulfonates
Dibutyl Phthalate
Diisobutyl Phthalate
Diisodecyl Phthalate
Diisooctyl Phthalate
Dimethyl Phthalate
Dinitrotoluene (Mixed)
Ditridecyl Phthalate
M-Cresol
Metanilic Acid
Methylenediphenyldiisocyanate
Naphthalene
*Naphthas, Solvent
Nitrobenzene
Nitrotoluene
Nonylphenol
P-Cresol
Phthalic Acid
Phthalic Anhydride
*Tars-Pitches
Tert—Butylphenol
*Toluene Diisocyanates (Mixture)
Trimellitic Acid
O-Cresol
1-Tetralol, 1-Tetralone Mix
2,4-Dinitrotoluene
2,6-Dinitrotoluene

d. Halogenated Organic Chemicals

1,4-Phenylenediamine Dihydrochloride
Allyl Chloride
Benzyl Chloride
Carbon Tetrachloride
Chlorobenzene
*Chlorobenzenes (Mixed)
Chlorodifluoroethane
Chloroform
*Chloromethanes
*Chlorophenols
Chloroprene
Cyanogen Chloride
Cyanuric Chloride
Dichloropropane
Epichlorohydrin
Ethyl Chloride
*Fluorocarbons (Freons)
Methyl Chloride
Methylene Chloride
Pentachlorophenol
Phosgene
Tetrachloroethylene
Trichloroethylene
Trichlorofluoromethane
Vinylidene Chloride
1,1-Dichloroethane
1,1,1-Trichloroethane
2,4-Dichlorophenol

e. Other Organic Chemicals

Adiponitrile
Carbon Disulfide
Dithiophosphates, Sodium Salt
Fatty Nitriles
*Organic-Tin Compounds
*Phosphate Esters
Tetraethyl Lead
Tetramethyl Lead
*Urethane Prepolymers
*Waxes, Emulsionis—Dispersions

L. Options for Identifying Plant-Specific BAT and PSES Toxic Pollutant Monitoring Requirements

Industry has for many years discussed the complexity of the OCPSF industry and the desirability of plant-specific permits or control requirements instead of national regulations (effluent limitations and standards). What follows is a preliminary monitoring program which would provide permitting and control authorities with accurate information on the toxic pollutants generated at an OCPSF plant. This information could then be used in one of several ways to develop tailored permitting requirements, as will be discussed further below.

Based on the efficacy of BPT systems for removal of residual toxic organics and the present utilization of Part 2–C data from NPDES permit applications for the Organic Chemicals Industry, the Agency believes that as much attention should be focused on reducing influent levels of toxic organic pollutants to biological treatment systems as on reducing the effluent levels. Based on economic and treatability considerations, focusing on influent to biological systems is an optimal approach. This method promotes in-plant controls and modifications which are typically far less costly than increasing the capacity of a biological system and, in the case of the OCPSF industry, highly effective in the control of toxic organics. As has become apparent from the data collected, with the exception of a few polluants such as the chlorophenols and chloroalkyl ethers, a BPT biological system will remove organic pollutants from wastewaters as long as the influent level is beneath a specific threshold and the influent levels have been stabilized through equalization.

Although treatment efficiencies are uniform throughout the industry, the specific toxics generated vary greatly among OCPSF plants. In order to properly implement the OCPSF effluent guidelines and mitigate the cost of regulating toxics, the following monitoring procedure has been developed.

For each BPT subcategory, EPA has developed a list of toxic pollutants that are likely to be present in the process wastewater (see Tables L–1 through L–8). These lists are based on the site-specific data collected for the OCPSF regulation, other industry data, and process chemistry. Thus for any OCPSF plant, an initial list of potential priority pollutants of concern can be generated based on the plants OCPSF subcategory and product mix.

To better define the pollutants of concern at a particular plant, EPA is considering requiring the collection, analysis, and reporting of six monthly samples at the influent to biological treatment (free of dilution by noncontact cooling water, scrubber blowdown, stormwater, other nonprocess wastewater, and process wastewater that are not derived from OCPSF production and are substantially free of BOD). The toxic pollutants to be analyzed are those listed in Tables L–1 through L–8 for the various subcategories of the OCPSF industry. If a pollutant appeared one or more times above 100 μ/l in the influent or was reported with a detection limit over 100 μ/l, it would be a pollutant of concern.

In addition, a one-time scan of all regulated pollutants would be conducted, again at the biological influent free of dilution. Any pollutant appearing above 100 μ/l or reported with a detection limit over 100 μ/l would be a pollutant of concern.

EPA is considering, and solicits comments on, several regulatory options for using the list of pollutants of concern to minimize unnecessary monitoring and reporting burdens on industry. The Agency may promulgate any of these options, or a variation or combination of them.

These include:

(1) Limiting all pollutants covered by the regulation in the permit and as a pretreatment standard, but requiring frequent monitoring only for pollutants of concern. Other pollutants would be monitored for compliance only occassionally (e.g., once or twice per year).

(2) Limiting only pollutants of concern in the permit and as a pretreatment standard and monitoring only for those pollutants. (New discharges of other pollutants for direct dischargers would be identified only as required by the notification requirements of 40 CFR 122.41(1) and 122.42(a)).

(3) Limiting only pollutants of concern in the permit and as a pretreatment standard but monitoring occasionally (e.g., once or twice per year) for other pollutants covered by the BAT regulation to detect process or other changes that result in the discharge of different pollutants. (Such pollutants could then be addressed by a direct discharge permit modification setting limits for the pollutants. See 40 CFR 122.44(e).)

The Agency solicits comments on these options and other possible options, including different approaches for plants falling into more than one OCPSF subcategory. Commenters should specifically comment on whether a specific option is more appropriate for existing or new sources or direct or indirect discharges.

The Agency estimates that $10,170 is the upper bound cost for conducting the analyses discussed above. This assumes

$1,695 per sample based on using isotope dilution GC–MS methods 1624 and 1625 for volatile and semivolatile organic priority pollutants and assuming an average need for six dilutions for one or more fractions, as well as provide methods for the priority pollutant metals and cyanide. No costs were assumed for the 16 pesticide and 7 PCB priority pollutants, asbestos, and dioxin since these pollutants likely will be excluded from national regulation under the terms of Paragraph 8 of the NRDC Settlement Agreement. The total application cost is calculated by multiplying the once-per-month sample cost by 6 months.

A review of the lists of potential toxic pollutants for each subcategory in Tables L–1 through L–8 indicates that the rayon, other man-made fibers, thermosetting resins, and thermoplastics-only facilities are likely to have much lower application monitoring costs than plants within other subcategories.

If the Agency selects the six month monitoring approach for establishing control requirements, the application information collection requirements will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* These requirements would not be effective without OMB's approval. If OMB's approval is not obtained until after promulgation, then a technical amendment to that effect would be published in the **Federal Register**.

Table L–1.—Rayon Subcategory—Potential Toxic Pollutants Present in the Process Wastewater

Acid Compounds

Phenol

Metals

Chromium
Lead
Zinc

Table L–2.—Other Man-Made Fibers Subcategory, Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrylonitrile
Benzene
1,1,1-Trichloroethane
Ethylbenzene Cyanide
Toluene

Acid Compounds

Phenol

Metals and Cyanide

Chromium
Copper
Cyanide
Zinc

Table L–3.—Thermosetting Resins Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrolein
Acrylonitrile
Benzene
Chlorobenzene
1,2-dichloropropane
Chloroform
1,2-dichloropropane
Methylene chloride
Toluene
Vinyl chloride

Acid Compounds

Phenol

Base/Neutral Compounds

1,2-dichlorobenzene
2,4-dinitrotoluene
Nitrobenzene
Bis(2-ethylhexyl)phthalate

Metals and Cyanide

Antimony
Arsenic
Cadmium
Chromium
Copper
Cyanide
Lead
Mercury
Nickel
Selenium
Silver
Zinc

Table L–4.—Thermoplastics Only Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrolein
Acrylonitrile
Benzene
Ethylbenzene
Methylene chloride
Toluene
Vinyl chloride

Acid Compounds

2-chlorophenol
Phenol

Base/Neutral Compounds

Naphthalene
Bis(2-ethylhexyl)phthalate
Di-n-butyl phthalate
Di-n-octyl phthalate
Dimethyl phthalate

Metals

Antimony
Arsenic
Cadmium
Chromium
Copper
Lead
Mercury
Nickel
Selenium
Silver
Zinc

Table L–5.—Thermoplastics and Organics Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrolein
Acrylonitrile
Benzene
Carbon tetrachloride
1,2-dichloroethane
1,1,1-trichloroethane
1,1-dichloroethane
1,1,2-trichloroethane
Chloroethane
Chloroform
1,1-dichloroethylene
1,2-trans-dichloroethylene
1,2-dichloropropane
Ethylbenzene
Methylene chloride
Methyl chloride
Toluene
Trichloroethylene
Vinyl chloride

Metals and Cyanide

Antimony
Arsenic
Cadmium
Chromium
Copper
Cyanide
Lead
Mercury
Nickel
Selenium
Silver
Zinc

Acid Compounds

2,4-dichlorophenol
2,4-dimethylphenol
Phenol

Base/Neutral Compounds

1,3-dichlorobenzene
Isophorone
Naphthalene
Bis(2-ethylhexy) phthalate
Acenaphthylene
Anthracene
Fluorene
Phenanthrene
Pyrene

Table L–6—Commodity Organic Chemicals Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acroleine
Acrylonitrile
Benzene
Carbon Tetrachloride
Chlorobenzene
1,2-dichloroethane
1,1-dichloroethane
1,1,2-trichloroethane
Chloroethane
1,1-dichloroethylene
1,2-trans-dichloroethylene
1,2-dichloropropane
1,3-dichloropropylene
Ethylbenzene
Methylene chloride
Methyl chloride

Toluene

Acid Compounds

4-nitrophenol
2,4-dinitrophenol
4,6-dinitro-o-cresol

Naphthalene
Nitrobenzene
Di-n-butyl phthalate

projected macroeconomic conditions, 1988 is projected to be a more

to meet BPT limitations (for conventional pollutants) are not

costs, $166 million. These capital and annual costs are 61 percent and 23

Toluene

Acid Compounds

2,4,6-trichlorophenol
p-chloro-m-cresol
2,4-dichlorophenol
2,4-dimethylphenol
2-nitrophenol
2,4-dinitrophenol
Phenol

Base/Neutral Compounds

Acenaphthene
Hexachlorobenzene
Hexachloroethane
1,2-dichlorobenzene
1,4-dichlorobenzene
2,4-dinitrotoluene
Fluoranthene
Isophorone
Naphthalene
Nitrobenzene
Bis(2-ethylhexyl) phthalate
Di-n-butyl phthalate
Dimethyl phthalate
3,4-benzofluoranthene
Benzo (k) fluoranthene
Chrysene
Acenaphthylene
Anthracene
Fluorene
Phenanthrene
Pyrene

Metals and Cyanide

Cadmium
Chromium
Copper
Cyanide
Lead
Mercury
Nickel
Selenium
Zinc

Table L-7.—Bulk Organic Chemicals Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Arcolein
Acrylonitrile
Benzene
Carbon tetrachloride
Chlorobenzene
1,2-dichloroethane
1,1,1-trichloroethane
1,1-dichloroethane
1,1,2-trichloroethane
Chloroethane
Chloroform
1,1-dichloroethylene
1,2-trans-dichloroethylene
1,2-dichloropropane
Ethylbenzene
Methylene Chloride
Methyl chloride
Tetrachloroethylene
Toluene
Trichloroethylene

Acid Compounds

2,4,6-trichlorophenol
2-chlorophenol
2,4-dichlorophenol
2,4-dimethylphenol
2-nitrophenol
4-nitrophenol
2,4-dinitrophenol
4,6-dinitro-o-cresol
Phenol

Base/Neutral Compounds

Acenaphthene
1,2,3-trichlorobenzene
Hexachlorobenzene
1,2-dichlorobenzene
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3'-dichlorobenzidine
2,4-dinitrotoluene
2,6-dinitrotoluene
Naphthalene
Nitrobenzene
N-nitroso-di-n-propylamine
Butyl benzyl phthalate
Di-n-butyl phthalate
Benzo(a) Pyrene
Chrysene
Acenaphthylene
Anthracene
Fluorene
Phenanthrene
Pyrene

Metals and Cyanide

Antimony
Arsenic
Cadmium
Chromium
Copper
Cyanide
Lead
Mercury
Nickel
Selenium
Zinc

Table L-8.—Specialty Organic Chemicals Subcategory—Potential Toxic Pollutants in the Process Wastewater

Volatile Compounds

Acrolein
Acrylonitrile
Benzene
Carbon tetrachloride
Chlorobenzene
1,2-dichloroethane
1,1,1-trichloroethane
1,1-dichloroethane
1,1,2-trichloroethane
Chloroethane
Chloroform
1,1-dichloroethylene
1,2-trans-dichloroethylene
1,2-dichloropropane
Ethylbenzene
Methylene chloride
Methyl chloride
Tetrachloroethylene
Toluene
Trichloroethylene
Vinyl chloride

Acid Compounds

2,4,6-trichlorophenol
2-chlorophenol
Phenol

Base/Neutral Compounds

1,2,3-trichlorobenzene
1,2-dichlorobenzene
1,4-dichlorobenzene
Naphthalene
Nitrobenzene
Di-n-butyl phthalate
Di-n-octyl phthalate
Diethyl phthalate
Dimethyl phthalate

Metals and Cyanide

Antimony
Arsenic
Cadmium
Chromium
Copper
Cyanide

V. Preliminary Data Analysis—Economic

This notice also makes available for comment the results of additional economic analysis. These results are summarized below and are discussed in detail in the *Economic Impact Analysis of Effluent Limitations and Standards for Notice of Data Availability for the Organic Chemicals, Plastics, and Synthetic Fibers Industry.* This report incorporates EPA's consideration of public comments, the collection efforts for economic and financial data, and the preliminary revisions to the estimated compliance costs based on the technical reanalysis discussed in Section IV, and the preliminary economic impacts.

A. The Revised Economic Impact Methadology

Based on comments received at proposal and the survey collection efforts, EPA has substantially revised the economic impact methodology. The economic analysis at proposal was driven by a product/process supply-demand analysis. This analysis fit well into the proposed subcategorization scheme based on generic product/processes. EPA now plans to use a plant-by-plant analysis as the prime analysis to estimate economic impacts. Three factors have led to this change: the substantial adverse public comments on the plant closure analysis at proposal, the availability of new plant-specific economic and financial data from the new survey, and the newly revised subcategorization scheme presented in this notice.

The revised economic analysis also reflects a change in the baseline year from 1985 to 1988. Three factors influenced this change. First, promulgation of these rules is expected in 1988, making a compliance date of 1988 realistic. Second, while the economic data collected from plants are based on 1982, this year was bad economically for the industry and not representative of likely future conditions. Based on the cyclical pattern of economic activity in this industry and projected macroeconomic conditions, 1988 is projected to be a more representative year for the industry than 1982. Third, the compliance costs are estimated based on production and wastewater flows from 1980, a better year for the industry. Using 1982 data would overestimate the economic impact of these rules; using 1988 mitigates the potential of this happening.

The primary economic analysis is a discounted cash flow (DCF) analysis for estimating plant closures. Employment and production impacts are estimated from the DCF analysis. A DCF analysis compares expected net revenues over a ten year period to the value of liquidating plant assets today and investing the proceeds elsewhere. Numerous other analyses are also conducted: changes in plant profitability, increases to costs of production, liquidity analysis, firm-level analysis and a foreign trade assessment of production at risk. The product/process supply-demand analysis is used to profile industry conditions for the baseline.

EPA is also revising its analysis of the relative impacts among small and large businesses. No substantial economic impacts were projected at proposal; however, EPA is evaluating small business impacts by examining the relative impact between small and large facilities.

B. BPT

For BPT Option 1 (Biological Only), the Agency estimates that capital investment costs will total $277 million and total annualized costs $131 million for 304 affected direct dischargers (1982 dollars). Four plants are expected to close. Additionally, organics and plastics production lines at six other facilities are expected to shut down. The total expected employment loss at the ten affected plants equals 251 jobs, or 0.1 percent of industry employment.

For BPT Option II (Biological Treatment With and Without Polishing Ponds), EPA estimates that capital investment costs will total $294 million and total annualized costs, $139 million. Four plants are expected to close and the organics and plastics production lines at six additional facilities are expected to shut down. The total expected employment loss equals 251 jobs. (0.1 percent of industry employment). Separate impacts for Option III have not been estimated for this notice but are expected to be the same as those estimated for Option II.

C. BAT

Those direct dischargers that are required to install biological treatment to meet BPT limitations (for conventional pollutants) are not expected to incur any incremental costs under BAT Option I. A small number of direct dischargers will be able to meet the conventional pollutant limitations without installing biological or post-biological treatment. Less than 20 percent of the direct dischargers would need to install in-process treatment controls in order to meet priority pollutant limitations based on BPT/BAT Option I technology. The costs for these plants to meet BAT Option I limitations are now included under BAT Option II. Thus, the estimated costs of compliance and resulting economic impacts for BAT Option I are expected to be between those estimated for BPT Option II and BAT Option III.

The incremental compliance costs beyond BPT for BAT Option II are expected to equal $607 million in capital investment and $415 million in total annualized costs. Eleven additional plants are projected to close under BAT. In addition, the organics and plastics production lines at eleven other facilities are expected to shut down. The expected employment loss (incremental to BPT losses) is 3,966 jobs at the 22 affected plants, or 2.1 percent of industry employment.

For BAT Option III, the incremental capital investment costs beyond BPT Option II are expected to equal $1,437 million and total annualized costs, $677 million. Twenty plants beyond those closing at BPT are expected to close and the organics and plastics production lines at 19 other facilities are expected to shut down. The employment loss (incremental to BPT losses) at the 39 affected plants is estimated at 9,906 jobs, or 5.3 percent of industry employment.

D. PSES

The costs and impacts for PSES Option I are expected to be lower than for PSES Option II.

For PSES Option III, capital investment costs are expected to total $189 million and total annualized costs $135 million for 404 affected indirect dischargers. Sixteen plants are projected to close. In addition, organics and plastics production lines at 28 other facilities would be expected to shut down. The total expected employment loss at the 44 affected plants would equal 1,073 jobs, or 0.6 percent of industry employment.

For PSES II (which includes in-process treatment and either biological treatment or filtration for additional control of specific pollutants) EPA estimates that capital investment costs will total $304 million and total annual costs, $166 million. These capital and annual costs are 61 percent and 23 percent higher, respectively than the costs estimated for physical/chemical treatment alone (i.e., for PSES Option III). Nineteen plants are expected to close and the organic chemicals and plastics production lines at 37 other facilities are expected to shut down. The projected total employment loss at the 56 affected indirect dischargers equals 1,595 jobs, or 0.8 percent of industry employment.

E. PSNS and NSPS

For control of priority and nonconventional pollutants, the treatment options for direct and indirect new sources are identical to those being considered for existing sources. EPA anticipates that a more stringent requirement for new sources may be selected and, therefore, some incremental costs will be incurred above the costs existing sources are expected to face.

For the control of conventional pollutants in NSPS, EPA is considering the same three technology bases as for the BPT regulations; however BPT Option III (Biological Treatment Plus Filtration) is likely to be selected for NSPS, and thus require more stringent controls than for existing dischargers.

For all subcategories except Other Man-Made Fibers, EPA expects that limitations for Biological Treatment Plus Filtration will be more than those for BPT options I and II. The Agency has evaluated the impact of incremental costs of compliance with this NSPS option for model plants in each subcategory. The incremental costs to the model plants' estimated sales are very small, ranging from 0.07 to 0.5 percent of sales. The expected reductions in profitability range from 1.6 to 16.0 percent. The largest reductions would be incurred by producers in the Rayon Subcategory, followed by producers in the Specialty Organics subcategory.

For the control of priority pollutants in NSPS, EPA is considering the same technology bases as for existing sources; however, BAT Option III is more likely to be chosen for NSPS. The Agency have evaluated the impact of incremental costs of compliance with this NSPS option (assuming that existing direct dischargers will meet BAT Option II). (If NSPS equals BAT, significant barriers to entry would not be likely. Therefore, this analysis focuses on the case where NSPS is more stringent than BAT.) Because of the wide variety of products and processes in the industry, the

analysis is based on the incremental effects on existing dischargers.

EPA has evaluated the impacts of without significant production of organic chemicals.

some plants now close in the baseline analysis of RCRA instead of closing as a

The methodology used in this analysis, unlike cost-effectiveness

proposed regulations are currently in progress. The results reported in the

this notice. EPA solicits comments on the following economic issues.

VOL
50
ISS
137
JL
17
1985
UMI

analysis is based on the incremental effects on existing dischargers.

EPA has evaluated the range of incremental profitability and liquidity reductions associated with going from BAT Option II to BAT Option III for direct dischargers. This analysis can describe the range of differential impacts that would be caused if the final selected new source option is based on BAT Option III.

The additional costs associated with BAT Option III have a wide range of effects on plant profitability. The additional cost of BAT Option III over expenditures for BAT Option II causes a median plant profit reduction of 15 percent. However, the range of profit reduction is zero to 79 percent for the tenth and ninetieth percentiles, respectively.

The results of the liquidity reduction analysis are somewhat similar. The incremental liquidity reductions in going from BAT Option II to BAT Option III range from a low of zero percent (10th percentile) to a high of 58 percent (90th percentile). The median liquidity reduction is nine percent. The range of values for the incremental liquidity measure does not appear to be correlated with the liquidity impacts at BAT Option II.

F. Regulatory Flexibility Analysis

Pub. L. 96–354 requires that a Regulatory Flexibility Analysis be prepared for regulations that are proposed after January 1, 1981 that have a significant impact on a substantial number of small entities. The analysis may be done in conjunction with, or as a part of, any other analysis conducted by the Agency. A preliminary small business analysis is included in the draft economic impact analysis accompanying this notice.

The Agency is redefining its definition of small businesses for this regulation. At proposal, the Agency set a definition of facilities with less than 50 employees. The new definition identifies as small those plants with annual OCPSF sales of less than $5 million. The Agency invites comment on the revised small business definition and the analytical approach used to derive it. (This approach is detailed in the draft report).

The analysis of the relative impacts between small and large plants shows that small plants may be significantly affected by the BPT and PSES regulations. The groups of plants most severely affected are the small organic chemical manufacturers except those falling under the Commodity Organics subcategory, and manufacturers of thermoplastic and thermosetting resins without significant production of organic chemicals.

Therefore, the Agency is considering alternative regulatory approaches for small businesses, primarily within these groups. The alternatives include either less stringent effluent limitations or exemptions entirely from the effluent limitations for small business.

In determining size cutoffs for either alternative, the Agency is examining different measures for small plants. First, the Agency believes that the small business definition of less than $5 million in OCPSF sales currently identifies the sector of small businesses that could be affected. However, in practice, this measure would not be appropriate in the long-term because the value of sales will increase over time because of inflation. Thus, fewer and fewer plants would fall into this category over time, rendering the exemption obsolete. Second, the Agency is considering using tons of OCPSF products manufactured annually as a measure. If this measure were to be used, the Agency would likely define different levels of production for cutoffs among segments of the industry with different unit values of production to ensure that the correct portion of the industry is being protected. A single production cutoff across the whole industry is unlikely. Third, the Agency is considering a wastewater flow size cutoff. The advantages of a flow cutoff are that the information needed by the permit writer to determine the size is readily available. However, as the Agency's work on attempting to set mass-based limitations in the past has shown, there is a generally weak correlation between production and wasterwater flow in this industry. Therefore, the exemption may not affect the particular segment of the industry in need of relief.

The Agency requests comments on the small business definition and whether the Agency should consider alternative regulatory levels for small businesses.

G. RCRA Baseline Analysis

Shortly before publication of this Notice, the economic impact analysis was run including all of the baseline RCRA costs described in section IV(H). (The impacts previously described included only the one time site inspection costs.) Because these costs are included in the baseline—the costs will be incurred regardless of the requirements of this regulation—the incremental closures associated with this effluent guideline have been reanalyzed. The impacts are lower for the effluent guideline when all the baseline costs are included because some plants now close in the baseline analysis of RCRA instead of closing as a result of the regulation.

The total RCRA baseline costs for this industry are projected to be $31 million in capital investment, and $13.8 million in total annualized costs.

At BPT, the six plants projected to close their organics and plastics production lines are the same. At BPT Option I, one plant less is projected to close at this option (three versus the four plants discussed above). At BPT Option II, one additional plant is expected to close, for a total of five plants. The employment impacts including all the RCRA baseline costs are 198 and 397 for BPT Option I and II respectively, compared to the 251 job losses described above.

For the BAT Options, the plant closure estimates are slightly smaller. Under BAT Option II, plant closures drop from 11 to 10, while under BAT Option III, plant closures drop from 20 to 18. Production line closures remain the same at either option. Because the set of plants closing under Options II with the RCRA costs included in the baseline are somewhat larger, the employment losses rise from 3,996 to 4,527 jobs even though one less plant closes. Under BAT Option III, the reduction in plant closures causes a drop in employment losses from 9,906 to 9,707 jobs.

For the PSES Options, the plant closures and employment losses increase slightly with the inclusion of the remaining RCRA baseline costs. Under PSES Option III, one additional plant is expected to close its organics and plastics production lines (29 versus 28) for an incremental employment loss of three jobs (1,076 versus 1,073). Under PSES Option II, the one additional production line closure (38 versus 37) is expected to cause an incremental employment loss of five jobs (1,600 versus 1,595). Plant closures are projected to remain at 16 and 19 plants for PSES Options III and II, respectively.

H. Cost-effectiveness Analysis

EPA has conducted an analysis of the incremental cost per pound-equivalent removed for the technology-based options. A pound-equivalent is calculated by multiplying the number of pounds of pollutants discharged by toxic weighting factor for that pollutant. The weighting factors give relatively more weight to removal of more highly toxic pollutants. Thus, for a given expenditure and pounds removed, the cost per pound-equivalent removed would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed.

The methodology used in this analysis, unlike cost-effectiveness analyses for previous effluent guidelines, incorporates into the computations consideration of air emissions of volatile organic chemicals from process wastewaters. Removal of these pollutants is counted towards the cost-effectiveness of the regulation since the treatment technologies remove the substances from wastewaters. Furthermore, the toxic weighting factors (which are generally based solely on aquatic life criteria) also include proxy criteria for toxicity and carcinogenicity effects to humans through inhalation of volatile organic chemicals.

The cost-effectiveness analysis is included in the record of this rulemaking. The Agency invites comments on the analysis, particularly the inclusion of inhalation effeots associated with the volatile organic chemicals.

IV. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules impose an annual cost to the economy of $100 million or more or meet other criteria. Implementation of the proposed regulation for the Organic Chemicals, Plastics and Synthetic Fibers Industry has been projected to cost over $100 million annually and thus is a major rule.

Water quality impacts have been analyzed (using treatment levels in this notice) for 81 direct discharge OCPSF facilities. EPA's published water quality criteria for priority pollutants are used to assess water quality impacts. The analyses project that under existing conditions, over 60 percent of the 81 OCPSF facilities exceed water quality criteria (depending on the criteria used). However, the projected exceedances of Water quality criteria will be reduced by as much as 50 percent (depending on criteria used) by implementing the BAT levels in this notice.

In addition to the water-quality impact analyses at 81 OCPSF facilities, three site-specific assessments of the specific health and environmental benefits that may result from the proposed regulations are currently in progress. The results reported in the March 21, 1983 **Federal Register** for the Kanawha River (West Virginia) and Houston Ship Channel (Texas) case studies will be reexamined to incorporate the new 308 data, the new BPT and BAT options, and ozone reduction benefits from controlling the volatilization of volatile organic chemicals (VOCs) that photochemically react in the troposphere to form ozone (smog). Currently, a third case study on the Delaware River is being conducted. This case study will include recreational and other non-health benefits, health benefits, and potential ozone reduction benefits.

An analysis of the national magnitude and nature of the VOC intermedia transfer problem (removal of VOCs from the receiving water body through biological treatment may result in volatilization into the air from treatment ponds) will be conducted prior to promulgation.

VII. Solicitation of Comments

This notice announces the availability of a substantial body of new data gathered by EPA. EPA has expended considerable resources to collect this data to respond to comments that the data base used at proposal was not adequate to support the proposed regulations. EPA believes that its expanded data set provides an adequate basis for the regulations decribed in this notice. However, EPA continues to solicit data relevant to all aspects of this rulemaking. Such data, is submitted, should be accompanied by sufficiently detailed information to indicate its nature, origin, and quality.

This notice also presents many new analyses and regulatory options. EPA solicits comments on all of these analyses and options. Commenters should be aware that EPA may promulgate regulations that incorporate any of these options, variations on the options, or combinations of the options. Comments should be made with these possibilities in mind.

In addition to the solicitation of comments on technical data and regulatory options discussed throughout this notice, EPA solicits comments on the following economic issues.

(1) The economic impact analysis for this notice does not include baseline effects of CERCLA requirements in evaluating the economic achievability of these rules. EPA invites comments on the effect of the CERCLA taxes on the ability of this industry to afford the effluent guideline rules.

(2) The Agency requests comments on the economic impact analysis methodology. In particular, EPA requests comments on the plant closure analysis.

(3) EPA solicits comments on the financial data used to model the industry. Where the questionnaire data were unavailable, EPA used industry averages to estimate economic impacts. The Agency invites comments, supported by appropriate data.

(4) The Agency also requests comments on the plan to define small businesses as facilities with less than $5 million in annual shipments of OCPSF products—i.e., whether alternative levels or criteria more appropriately define small business in this industry.

(5) EPA asks for comments on the cost-effectiveness analysis for this industry, which incorporates consideration of air emission of volatile organic chemicals.

(6) EPA solicits comments on the foreign trade analysis performed for this analysis. In particular, commenters are requested to provide data on those products which would become less competitive as a result of these rules.

List of Subjects

40 CFR Part 414

Chemicals, Water pollution control, Waste treatment and disposal.

40 CFR Part 416

Plastics materials and synthetics, Water pollution control, Waste treatment and disposal.

Dated: July 1, 1985.

Edwin L. Johnson,

Acting Assistant Administrator for Water.

[FR Doc. 85–16589 Filed 7–16–85; 8:45 am]
BILLING CODE 6560–50–M

VOL

Wednesday
July 17, 1985

VOL
50

ISS
137

JL
17

1985

UMI

federal register

Wednesday
July 17, 1985

Part III

Department of Labor

Office of the Secretary

Recordkeeping Guidelines for Occupational Injuries and Illnesses Under the Occupational Safety and Health Act of 1970 and 29 CFR Part 1904; Request for Comment

DEPARTMENT OF LABOR

Office of the Secretary

Recordkeeping Guidelines for Occupational Injuries and Illnesses Under the Occupational Safety and Health Act of 1970 and 29 CFR Part 1904; Request for Comment

Comments and Questions:

To facilitate public review both the

instructions and guidelines to assist employers in fulfilling their

Contents

Chapter I. Employers Subject to the

B. Employers Who Infrequently Must Keep OSHA Records

accident which results in one or more fatalities or the hospitalization of five of

VOL 50 ISS 137 JL 17 1985 UMI

DEPARTMENT OF LABOR

Office of the Secretary

Recordkeeping Guidelines for Occupational Injuries and Illnesses Under the Occupational Safety and Health Act of 1970 and 29 CFR Part 1904; Request for Comment

Background

On July 20, 1984 (49 FR 29484), the Bureau of Labor Statistics (BLS), U.S. Department of Labor, announced in the **Federal Register** in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35) that it was proposing a revision in its recordkeeping package for the Log and Summary of Occupational Injuries and Illnesses (OSHA No. 200) and Supplementary Record of Occupational Injuries and Illnesses (OSHA No. 101). The proposal consisted of revised recordkeeping guidelines, Recordkeeping Guidelines for Occupational Injuries and Illnesses, which BLS made available to the public for comment. After reviewing the public comments, the BLS felt that further modifications were needed, and decided to substitute the guidelines which had been in effect since 1978, Report 412–3, "What Every Employer Needs to Know About OSHA Recordkeeping," as interim guidelines for the recordkeeping package. The Office of Management and Budget (OMB) subsequently approved the continued use of the existing log and summary (OSHA No. 200), supplementary record (OSHA No. 101), and Report 412–3, assigning approval number 1220–0029 to each of the forms, and to Report 412–3.

Subsequent Review Completed

BLS evaluated the comments received on the initial draft, and modified the document to address many of the expressed concerns. BLS also utilized input from: the Occupational Safety and Health Administration (OSHA); the Labor Department's Office of the Solicitor (SOL); the National Institute for Occupational Safety and Health, Department of Health and Human Services (NIOSH); and the BLS Business Research Advisory Council and Labor Research Advisory Council Committees on Occupational Safety and Health Statistics. In addition to modifying the detailed recordkeeping guidelines published previously, BLS developed an abbreviated version of the guidelines as a ready reference, and to assist employers with small-sized establishments or firms in low hazard industries.

Comments and Questions:

To facilitate public review both the long and short versions of the BLS recordkeeping guidelines are presented in their entirety in the sections that follow. Written comments or questions concerning either of these documents should be directed to William M. Eisenberg, Office of Occupational Safety and Health Statistics, U.S. Department of Labor, 601 D Street, N.W., Room 4014, Washington, D.C. 20212, telephone (202) 272–3467.

Dates:

Written comments must be submitted no later than October 15, 1985.

Signed at Washington, D.C. this 8th day of July, 1985.

Paul E. Larson,

Departmental Clearance Office.

SECTION I

Recordkeeping Guidelines for Occupation Injuries and Illnesses: Ready Reference

The Occupational Safety and Health Act of 1970 and 29 CFR 1904

U.S. Department of Labor, Bureau of Labor Statistics, 1985

Preface

The information in this pamphlet briefly explains the requirements of the Occupational Safety and Health Act of 1970 and 29 CFR Part 1904 for recording and reporting occupational injuries and illnesses. The Occupational Safety and Health Act of 1970 requires employers to prepare and maintain records of occupational injuries and illnesses. The Act made the Secretary of Labor responsible for the collection, compilation, and analysis of statistics of work-related injuries and illnesses. The Bureau of Labor Statistics (BLS) administers this recordkeeping and reporting system. In most States, a State agency cooperates with BLS in administering these programs.

Records of injuries and illnesses are necessary for carrying out the purposes of the Act. They provide a basis for a statistical program which produces reliable injury and illness data which are used by OSHA in directing the agency's efforts. The records are also helpful to employers and employees in identifying many of the factors which cause injuries or illnesses in the workplace. In addition, OSHA records are designed to assist safety and health compliance officers in making OSHA inspections.

This pamphlet summarizes the OSHA recordkeeping requirements of 29 CFR Part 1904, and provides basic instructions and guidelines to assist employers in fulfilling their recordkeeping and reporting obligations. Many specific standards and regulations of the Occupational Safety and Health Administration (OSHA) have additional requirements for the maintenance and retention of records of medical surveillance, exposure monitoring, inspections, accidents and other activities and incidents relevant to occupational safety and health, and for the reporting of certain information to employees and to OSHA. These additional requirements are not covered in this pamphlet. For information on these requirements, employers should refer directly to the OSHA standards or regulations or contact their OSHA Area Office.

Further information on the requirements outlined in this pamphlet is available in the free detailed report, Recordkeeping Guidelines for Occupational Injuries and Illnesses, which may be obtained by using the order form on the inside of the back cover. Assistance can also be obtained by contacting the BLS regional office for your area. These are also listed on the inside of the back cover.

The following government agencies are involved in OSHA recordkeeping:

A. *The Occupational Safety and Health Administration, U.S. Department of Labor.* The Occupational Safety and Health Administration is responsible for developing, implementing, and enforcing safety and health standards and regulations. OSHA works with employers and employees to foster effective safety and health programs which reduce workplace hazards.

B. *Bureau of Labor Statistics, U.S. Department of Labor.* The Bureau of Labor Statistics is responsible for administering and maintaining the OSHA recordkeeping system, and for collecting, compiling, and analyzing work injury and illness statistics. A list of BLS Regional Offices is provided inside the back cover of this pamphlet.

C. *State Agencies.* Many States cooperate with BLS in administering the OSHA recordkeeping and reporting programs. Some States have their own safety and health laws which may impose different or additional obligations. Employers should consult their State safety and health laws concerning these requirements.

These guidelines were prepared in the Office of Occupational Safety and Health Statistics, by Stephen Newell, under the general direction of William M. Eisenberg, Acting Associate Commissioner.

Contents

Chapter I. Employers Subject to the Recordkeeping Requirements of the Occupational Safety and Health Act of 1970
Chapter II. OSHA Recordkeeping Forms
Chapter III. Location, Retention, and Maintenance of Records
Chapter IV. Deciding Whether a Case Should be Recorded and How to Classify It
Chapter V. Categories for Evaluating the Extent or Outcome of Recordable Cases
Chapter VI. Employer Obligations for Reporting Occupational Injuries and Illnesses
Chapter VII. Access to OSHA Records and Penalties for Failure to Comply with Recordkeeping Obligations
Glossary of Terms

I. Employers Subject to the Recordkeeping Requirements of the Occupational Safety and Health Act of 1970

The recordkeeping requirements of the Occupational Safety and Health Act of 1970 apply to almost all private sector employers in all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territories of the Pacific Islands.

A. Employers Who Must Keep OSHA Records

Employers with 11 or more employees in the following industries must keep OSHA records. The industries are identified by name and by the appropriate Standard Industrial Classification (SIC) code.

- Agriculture, forestry, and fishing (SIC's 07–09);
- Oil and gas extraction (SIC 13);
- Construction (SIC's 15–17);
- Manufacturing (SIC's 20–39);
- Transportation and public utilities (SIC's 40–49);
- Wholesale trade (SIC's 50–51);
- Building materials and garden supplies (SIC 52);
- General merchandise and food stores (SIC's 53 and 54);
- Hotels and other lodging places (SIC 70);
- Repair services (SIC's 75 and 76);
- Amusement and recreation services (SIC 79); and
- Health services (SIC 80).

If employers in agriculture, forestry, and fishing; oil and gas extraction; construction; manufacturing; transportation and public utilities; and wholesale trade have more than one establishment with combined employment of 11 or more employees, records must be kept for *each* individual establishment.

B. Employers Who Infrequently Must Keep OSHA Records

Employers in the industries listed below are normally exempt from OSHA recordkeeping. However, each year a small rotating sample of these employers is required to keep records and participate in a mandatory statistical survey of occupational injuries and illnesses. Their participation is necessary to produce national estimates of occupational injuries and illnesses for *all* employers (both exempt and nonexempt) in the private sector. If an employer who is regularly exempt is selected to maintain records and participate in the Annual Survey of Occupational Injuries and Illnesses, he will be notified in advance and supplied with the necessary forms and instructions. Employers who normally do not have to keep OSHA records include:

1. All employers with no more than 10 full- or part-time employers *at any one time* in the previous calendar year.

2. Employers in the following retail trade, finance, insurance and real estate, and services industries (identified by SIC codes):

- Automotive dealers and gasoline service stations (SIC 55);
- Apparel and accessory stores (SIC 56);
- Furniture, home furnishings, and equipment stores (SIC 57);
- Eating and drinking places (SIC 58);
- Miscellaneous retail (SIC 59);
- Banking (SIC 60);
- Credit agencies other than banks (SIC 61);
- Security, commodity brokers, and services (SIC 62);
- Insurance (SIC 63);
- Insurance agents, brokers, and services (SIC 64);
- Real estate (SIC 65);
- Combined real estate, insurance, etc. (SIC 66);
- Holding and other investment offices (SIC 67);
- Personal services (SIC 72);
- Business services (SIC 73);
- Motion pictures (SIC 78);
- Legal services (SIC 81);
- Educational services (SIC 82);
- Social services (SIC 83);
- Museums, botanical, zoological gardens (SIC 84);
- Membership organizations (SIC 86);
- Private households (SIC 88); and
- Miscellaneous services (SIC 89).

Even though recordkeeping requirements are reduced for employers in these industries, they, like nonexempt employers, must comply with OSHA standards, display the OSHA poster, and report to OSHA within 48 hours any accident which results in one or more fatalities or the hospitalization of five of more employees. Also, some State safety and health laws may require regularly exempt employers to keep injury and illness records.

C. Employers and Individuals Who Never Keep OSHA Records

The following employers and individuals do not have to keep OSHA injury and illness records:

- *Self employed individuals;*
- *Partners with no employees;*
- *Employers of domestics* in the employers' private residence for the purposes of housekeeping or child care, or both; and
- *Employers engaged in religious activities* concerning the conduct of religious services or rites. Employees engaged in such activities; include clergy, choir members, organists and other musicians, ushers, and the like. However, records of injuries and illnesses occurring to employees while performing secular activities must be kept. Recordkeeping is also required for employees of private hospitals and certain commercial establishments owned or operated by religious organizations.

State and Local Government Agencies are usually exempt from OSHA recordkeeping. However, in certain States, agencies of State and local governments are required to keep injury and illness records in accordance with State regulations.

D. Employers Subject to Other Federal Safety and Health Regulations

Employers subject to injury and illness recordkeeping requirements of other Federal safety and health regulations are not exempt from OSHA recordkeeping. However, records used to comply with other Federal recordkeeping obligations may also be used to satisfy the OSHA recordkeeping requirements. The forms used must be equivalent to the log and summary (OSHA No. 200) and the supplementary record (OSHA No. 101).

II. OSHA Recordkeeping Forms

Only two forms are used for OSHA recordkeeping. One form, the OSHA No. 200, serves as both the Log of Occupational Injuries and Illnesses, on which the occurrence and extent of cases are recorded during the year; and as the Summary of Occupational Injuries and Illnesses, which is used to summarize the log at the end of the year to satisfy employer posting obligations. The other form, the Supplementary Record of Occupational Injuries and

Illnesses, OSHA No. 101, provides additional information on each of the cases that have been recorded on the

occurred, lists the objects or substances involved, and indicates the nature of the

fixed and nonfixed establishments generally rests on the nature and

or by means of data processing equipment, or both. Two requirements

previously unrecorded cases that are discovered or for cases that initially

whether a case is recordable an employment relationship needs to be

Illnesses, OSHA No. 101, provides additional information on each of the cases that have been recorded on the log.

A. The Log and Summary of Occupational Injuries and Illnesses. OSHA No. 200

The log is used for recording and classifying occupational injuries and illnesses, and for noting the extent of each case. The log shows when the occupational injury or illness occurred, to whom, the regular job of the injured or ill person at the time of the injury or illness exposure, the department in which the person was employed, the kind of injury or illness, how much time was lost, and the final determination of the case. The log consists of three parts: A descriptive section which identifies the employee and briefly describes the injury or illness; a section covering the extent of the injuries recorded: and a section on the type and extent of illnesses.

Usually, the OSHA No. 200 form is used by employers as their record of occupational injuries and illnesses. However, a private form equivalent to the log, such as a computer printout, may be used if it contains as much detail as the OSHA No. 200 and is as readable and comprehensible as the OSHA No. 200 to a person not familiar with the equivalent form. It is important that the columns of the equivalent form have the same identifying number as the corresponding columns of the OSHA No. 200 because the instructions for completing the survey of occupational injuries and illnesses refer to log columns by number. It is advisable that employers have private equivalents of the log form reviewed by BLS to insure compliance with the regulations.

The portion of the OSHA No. 200 to the right of the dotted vertical line is used to summarize injuries and illnesses in an establishment for the calendar year. Every nonexempt employer who is required to keep OSHA records must prepare an annual summary for each establishment based on the information contained in the log for each establishment. The summary is prepared by totaling the column entries on the log (or its equivalent) and signing and dating the certification portion of the form at the bottom of the page.

B. The Supplementary Record of Occupational Injuries and Illnesses. OSHA No. 101

For every injury or illness entered on the log, it is necessary to record additional information on the supplementary record, OSHA No. 101. The supplementary record describes how the accident or illness exposure occurred, lists the objects or substances involved, and indicates the nature of the injury or illness and the part(s) of the body affected.

The OSHA No. 101 is not the only form that can be used to satisfy this requirement. To eliminate duplicate recording, workers' compensation, insurance, or other reports may be used as supplementary records if they contain all of the items on OSHA No. 101. If they do not, the missing items must be added to the substitute or included on a separate attachment.

Completed supplementary records must be present in the establishment within six workdays after the employer has received information that an injury or illness has occurred.

III. Location, Retention, and Maintenance of Records

Ordinarily, injury and illness records must be kept by employers for *each* of their establishments. This chapter describes what is considered to be an establishment for recordkeeping purposes, where the records must be located, how long they must be kept, and how they should be updated.

A. Establishments

If an employer has more than one establishment, a separate set of records must be maintained for each one. The recordkeeping regulations define an establishment as "a single physical location where business is conducted or where services or industrial operations are performed." Examples include a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.

The regulations specify that distinctly separate activities performed at the same physical location (for example, contract construction activities operated from the same physical location as a lumber yard) shall each be treated as a separate establishment for recordkeeping purposes. Production of dissimilar products; different kinds of operational procedures; different facilities; and separate management, personnel, payroll, or support staff are all indicative of separate activities and separate establishments.

B. Location of Records

Injury and illness records (the log, OSHA No. 200, and the supplementary record, OSHA No. 101) must be kept for every physical location where operations are performed. Under the regulations, the location of these records depends upon whether or not the employees are associated with fixed establishment. The distinction between fixed and nonfixed establishments generally rests on the nature and duration of the operation and not on the type of structure in which the business is located. A nonfixed establishment usually operates at a single location for a relatively short period of time. A fixed establishment remains at a given location on a long-term or permanent basis. Also, fixed establishments are generally places where clerical, administrative, or other business records are kept.

1. *Employees associated with fixed establishments.* Records for these employees should be located as follows:

a. Records for employees working at fixed locations, such as factories, stores, restaurants, warehouses, etc., should be kept at the work location.

b. Records for employees who report to a fixed location but work elsewhere should be kept at the place where the employees report each day. These employees are generally engaged in activities such as agriculture, construction, transportation, etc.

c. Records for employees whose payroll or personnel records are maintained at a fixed location, but who do not report or work at a single establishment, should be maintained at the base from which they are paid or the base of their firm's personnel operations. This category includes generally unsupervised employees such as traveling salespeople, technicians, or engineers.

2. *Employees not associated with fixed establishments.* Some employees are subject to common supervision, but do not report or work at a fixed establishment on a regular basis. These employees are engaged in physically dispersed activities that occur in construction, installation, repair, or service operations. Records for these employees should be located as follows:

a. Records may be kept at the field office or mobile base of operations.

b. Records may also be kept at an established central location. If the records are maintained centrally: (1) The address and telephone number of the place where records are kept must be available at the worksite; and (2) there must be someone available at the central location during normal business hours to provide information from the records.

C. Location Exception for the Log (OSHA No. 200)

Although the supplementary record and the annual summary must be located as outlined in the previous section, it is possible to prepare and maintain the *log* at an alternate location

or by means of data processing equipment, or both. Two requirements must be met: (1) Sufficient information must be available at the alternate location to complete the log within 6 workdays after receipt of information that a recordable case has occurred: and (2) a copy of the log updated to within 45 calendar days must be present at all times in the establishment. This location exception applies only to the log, and not to the other OSHA records. Also, it does not affect the employer's posting obligations.

D. Retention of OSHA Records

The log and summary, OSHA No. 200, and the supplementary record, OSHA No. 101, must be retained in each establishment for 5 calendar years following the end of the year to which they relate. If an establishment changes ownership, the new employer must preserve the records for the remainder of the 5-year period. However, the new employer is not responsible for updating the records of the former owner.

E. Maintenance of the Log (OSHA No. 200)

In addition to keeping the log on a calendar year basis, employers are required to update this form to include newly discovered cases and to reflect changes which occur in recorded cases after the end of the calendar year Maintenance or updating of the log is different from the retention of records discussed in the previous section. Although all OSHA injury and illness records must be retained, only the log must be maintained by the employer.

If during the 5-year retention period, there is a change in the extent or outcome of an injury or illness which affects an entry on a previous year's log, then the first entry should be lined out and a corrected entry made on that log. Also, new entries should be made for previously unrecorded cases that are discovered or for cases that initially weren't recorded but were found to be recordable after the end of the year in which the case occurred. The entire entry should be lined out for recorded cases that are later found nonrecordable.

IV. Deciding Whether a Case Should Be Recorded and How To Classify It

This chapter presents guidelines for determining whether a case must be recorded under the OSHA recordkeeping requirements. These requirements should not be confused with recordkeeping requirements of various workers' compensation systems, internal industrial safety and health monitoring systems, the ANSI Z.16 standards for recording and measuring work injury and illness experience, and private insurance company rating systems. Reporting a case on the OSHA records should not affect recordkeeping determinations under these or other systems. Also,

Recording an injury or illness under the OSHA system does not necessarily imply that management was at fault, that the worker was at fault, that a violation of an OSHA standard has occurred, or that the injury or illness is compensable under workers' compensation or other systems.

A. Employees vs. Other Workers On Site

Employers must mantain injury and illness records for their own employees at each of their establishments, but they are *not* responsible for maintaining records for employees of other firms or for independent contractors, even though these individuals may be working temporarily in their establishment or on one of their jobsites at the time an injury or illness exposure occurs. Therefore, before deciding whether a case is recordable an employment relationship needs to be determined.

Employee status generally exists when the employer supervises not only the output, product, or result to be accomplished by the person's work, but also the details, means, methods, and processes by which the work is accomplished. Independent contractors are not considered employees; they are primarily subject to supervision by the using firm only in regard to the result to be accomplished or end product to be delivered.

Other Factors which should be considered in determining employee status are: (1) Whom the worker considers to be his or her employer; (2) who pays the worker's wages; (3) who withholds the worker's Social Security taxes; (4) who hired the worker; and (5) who has the authority to terminate the worker's employment.

B. Method Used for Case Anolysis

The decisionmaking process consists of five steps:

1. Determine whether a case occurred; that is, whether there was a death, illness, or an injury;

2. Establish that the case was work related; that it resulted from an event or exposure in the work environment;

3. Decide whether the case is an injury or an illness;

4. If the case is an illness, record it and check the appropriate illness category on the log;

5. If the case is an injury, decide if it is recordable based on a finding of medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

Chart 1 presents this methodology in graphic form.

BILLING CODE 4510-24-M

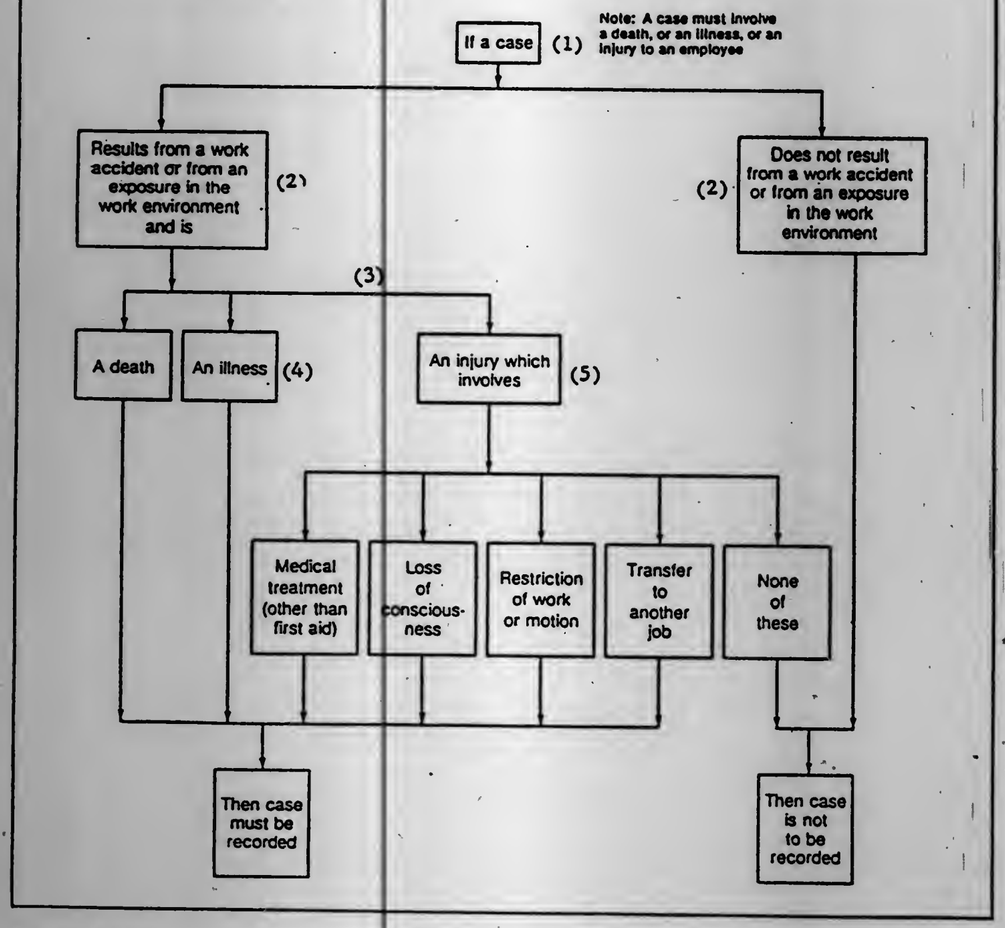
Chart 1. Guide to Recordability of Cases Under the Occupational Safety and Health Act

C. Determining Whether a Case Occurred

Act of 1970 requires employers to record only those injuries and illnesses that are

recreational facilities which are *basically apart from the workplace and*

Chart 1. Guide to Recordability of Cases Under the Occupational Safety and Health Act



BILLING CODE 4510-24-C

C. Determining Whether a Case Occurred

The first step in the decisionmaking process is the determination of whether or not an injury or illness has occurred. Employees have nothing to record unless an employee has experienced a work-related injury or illness. In most instances, recognition of these injuries and illnesses is a fairly simple matter. However, some situations have troubled employers over the years. Two of these are:

1. *Hospitalization for observation.* If an employee goes to or is sent to a hospital for a brief period of time for observation, it is not recordable, assuming no medical treatment was given, or no illness was recognized. The determining factor is not that the employee went to the hospital or the length of the stay, but whether the incident is recordable as a work-related illness or as an injury requiring medical treatment or involving loss of consciousness, restriction of work or motion, or transfer to another job.

2. *Differentiating a new case from the recurrence of a previous injury or illness.* Employers are required to make new entries on their OSHA forms for each new recordable injury or illness. However, new entries should not be made for the recurrence of symptoms from previous cases, and it is sometimes difficult to decide whether or not a situation is a new case or a recurrence. The following guidelines address this problem.

a. *Injuries.* The aggravation of a preexisting injury almost always results from some movement by the employee. Consequently, when work related, these new incidents should be recorded as new cases.

b. *Illnesses.* Generally, each occupational illness should be recorded with a separate entry on the OSHA No. 200. However, certain illnesses, such as silicosis, may have prolonged effects which recur over time. The recurrence of these symptoms should not be recorded as new cases on the OSHA forms. The recurrence of symptoms of previous illnesses may require adjustment of entries on the log for previously recorded illnesses to reflect possible changes in the extent or outcome of the particular case.

D. Establishing Work Relationship

The Occupational Safety and Health Act of 1970 requires employers to record only those injuries and illnesses that are work related. *Work relationship is established under the OSHA recordkeeping system when the injury or illness results from an event or exposure in the work environment. The work environment is primarily composed of: (1) The employer's premises, and (2) other locations where employees are engaged in work-related activities or are present as a condition of their employment.* When an employee is off the employer's premises, work relationship must be established; when on the premises, this relationship is presumed. The employer's premises encompass the total establishment, including not only the primary work facility, but also such areas as company storage facilities and restricted company parking lots. In addition to physical locations, equipment or materials used in the course of an employee's work are also considered part of the employee's work environment.

1. *Injuries and illnesses resulting from events or exposures on the employer's premises.* Injuries and illnesses that result from an event or exposure on the employer's premises are generally considered work related. The employer's premises consist of the total establishment. They include the primary work facilities and other areas which are considered part of the employer's general work area.

However, the presumption of work relationship for activities on the employer's premises is rebuttable. Situations where the presumption would not apply include: (1) When a worker is on the employer's premises as a member of the general public and not as an employee, and (2) when employees have symptoms that merely surface on the employer's premises, but are the result of a nonwork-related event or exposure off the premises.

The following subjects warrant special mention:

a. Company restrooms, hallways, and cafeterias are all considered to be *part* of the employer's premises and constitute part of the work environment. Therefore, injuries occurring in these places are generally considered work related.

b. For OSHA recordkeeping purposes, the definition of work premises *excludes* employer controlled ball fields, tennis courts, golf courses, parks, swimming pools, gyms, and other similar recreational facilities which are *basically apart from the workplace and used primarily by employees during off-work hours.* However, recreational facilities located within the work environment are included as part of the work premises. These may include company controlled gymnasiums, handball courts, racketball courts, etc. *that are located within the work facility.*

c. Parking facilities that are generally accessible to both employees and members of the general public are *not* considered part of the employer's work premises. Therefore, injuries to employees on these public parking lots are not recordable unless the employee was engaged in some work-related activity. However, injuries to employees on parking lots restricted to employee and visitor use only would be considered on-premises and hence presumed work related.

2. *Injuries and illnesses resulting from events or exposures off the employers premises.* When an employee is off the employer's premises and suffers an injury or an illness exposure, work relationship must be established; it is not presumed. Injuries and illness exposures off premises are considered work related if the employee is engaged in a work activity or if they occur in the work environment. The work environment in these instances includes locations where employees are engaged in job tasks or work-related activities, or places where employees are present due to the nature of their job or as a condition of their employment.

Employees in travel status are treated somewhat differently than other employees working off premises. An employee in travel status is considered to be in the work environment 24 hours a day. All of the employee's activities required by the trip are considered to be work related. These include such necessary travel-related functions as working, eating, sleeping, and traveling. However, activities unrelated to the normal scope of the trip and solely for the employee's own personal use or enjoyment should not be recorded. Examples of these non-recordable events would be injuries on excursions, such as ski trips, or injuries which occur in public places when the employee is there only for recreational purposes.

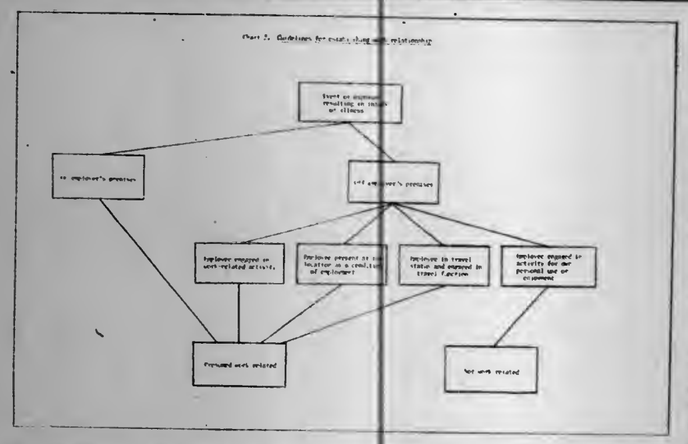
Chart 2 provides a guide for establishing the work relationship of cases.

Recording and classifying occupational illnesses is difficult for

exposure is easy to recognize. In other cases, where the occupational cause is

and follow-up visit for the purpose of observation, is considered first aid even

—Application of hot or cold COMPRESS(ES) during second or



E. Distinguishing Between Injuries and Illnesses

Under the OSH Act, all work-related illnesses must be recorded, while injuries are recordable only when they require medical treatment (other than first aid), or involve loss of consciousness, restriction of work or motion, or transfer to another job. The distinction between injuries and illnesses, therefore, has significant recordkeeping implications.

Whether a case involves an injury or illness is determined by the nature of the original event or exposure which caused the case, not by the resulting condition of the affected employee. Injuries are caused by instantaneous exposures in the work environment. Cases resulting from anything other than instantaneous events are considered illnesses. This concept of illnesses includes acute illnesses which result from exposures of relatively short duration.

Some conditions may be classified as either an injury or an illness (but not both), depending upon the nature of the event that produced the condition. For example, a loss of hearing resulting from an explosion (an instantaneous event) is classified as an injury; the same condition arising from exposure to industrial noise over a period of time would be classified as an occupational illness.

F. Recording Occupational Illnesses

Employers are required to record the occurrence of all occupational illnesses, which are defined in the instructions of the log and summary as:

"Any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact."

The instructions also refer to recording illnesses which were "diagnosed or recognized." Illness exposures ultimately result in conditions of a chemical, physical, biological, or psychological nature.

Occupational illnesses must be diagnosed to be recordable. However, they do not necessarily have to be diagnosed by a physician or other medical personnel. Diagnosis may be by a physician, registered nurse, or a person who by training or experience is qualified to make such a determination. Employers, employees, and others may be able to detect some illnesses such as skin diseases or disorders without the benefit of specialized medical training. However, a case more difficult to diagnose, such as silicosis, would require evaluation by properly trained medical personnel.

In addition to recording the occurrence of occupational illnesses, employers are required to record each illness case in 1 of the 7 categories on the front of the log. The back of the log form contains a listing of types of illnesses or disorders and gives examples for each illness category. These are only examples, however, and should not be considered as a complete list of types of illnesses under each category.

Recording and classifying occupational illnesses is difficult for employers, especially the chronic and long term latent illnesses. Many illnesses are not easily detected; and once detected, it is often difficult to determine whether an illness is work-related. Also, employees may not report illnesses because the symptoms may not be readily apparent, or because they do not think their illness is serious or work related.

The following material is provided to assist in detecting occupational illnesses and in establishing their work relationship.

1. *Detection and diagnosis of occupational illnesses.* An occupational illness is defined as any work-related abnormal condition or disorder (other than an occupational injury). Detection of these abnormal conditions or disorders, the first step in recording illnesses, is often difficult. When an occupational illness is suspected, employers may want to consider the following:

a. A routine medical examination of the employee's physiological systems:

- Head and neck;
- Eyes, ears, nose, and throat;
- Endocrine;
- Genitourinary;
- Musculoskeletal;
- Neurological;
- Respiratory;
- Cardiovascular;
- Gastrointestinal.

b. Observation and evaluation of behavior related to emotional status;

c. Specific examination for health effects of suspected or possible disease agents by competent medical personnel;

d. Comparison of date of onset of symptoms with occupational history;

e. Evaluation of results of any past biological or medical monitoring (blood, urine, other sample analysis) and previous physical examinations; and

f. Evaluation of laboratory tests: Routine (complete blood count, blood chemistry profile, urinalysis) and specific tests for suspected disease agents (e.g., blood and urine tests for specific agents, chest or other X-rays, liver function tests, pulmonary function tests.)

2. *Determining whether the illness is occupationally related.* The instructions on the back of the log define occupational illnesses as those "caused by environmental factors associated with employment." In some cases, such as contact dermatitis, the relationship between an illness and work-related exposure is easy to recognize. In other cases, where the occupational cause is not direct and apparent, it may be difficult to determine accurately whether an employee's illness is occupational in nature. In these situations, it may help employers to ask the following questions:

a. Has an illness condition clearly been established?

b. Does it appear that the illness resulted from, or was aggravated by, suspected agents or other conditions in the work environment?

c. Are these suspected agents present (or have they been present) in the work environment?

d. Was the ill employee exposed to these agents in the work environment?

e. Was the exposure to a sufficient degree and/or duration to result in the illness condition?

f. Is the illness attributable to a nonoccupational exposure?

G. Deciding if Work-Related Injuries Are Recordable

Although the OSH Act requires that all work-related deaths and illnesses be recorded, the recording of injuries is limited to certain specific types of cases: Those which require medical treatment or involve loss of consciousness; restriction of work or motion; or transfer to another job. Minor injuries requiring only first aid treatment are *not* recordable.

1. *Medical treatment.* It is important to understand the distinction between medical treatment and first aid treatment since many work-related injuries are recordable only because medical treatment was given.

The regulations and the instructions on the back of the log and summary, OSHA No. 200, define medical treatment as any treatment, other than first aid treatment, administered to injured employees. Essentially, medical treatment involves the provision of medical or surgical care for injuries that are not minor through the application of procedures or systematic therapeutic measures.

The act also specifically states that work-related injuries which involve only first aid treatment need not be recorded. First aid is commonly thought to mean emergency treatment of injuries before regular medical care is available. However, first aid treatment has a different meaning for OSHA recordkeeping purposes. The regulations define first aid treatment as: "any one-time treatment, and any follow-up visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and follow-up visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel."

The distinction between medical treatment and first aid depends not only on the treatment provided, but also on the severity of the injury being treated. First aid is: (1) Limited to one-time treatment and subsequent observation; *and* (2) involves treatment of only minor injuries, *not* emergency treatment of serious injuries. Injuries are *not* minor if:

a. They can be treated only by a physician or licensed medical personnel;

b. They impair bodily function (i.e., normal use of senses, limbs, etc.)

c. They result in damage or harm to the physical structure of a nonsuperficial nature (e.g., hairline fractures); or

d. They involve complications requiring follow-up medical treatment.

Physicians or registered medical professionals, working under the standing orders of a physician, routinely treat minor injuries. Such treatment may constitute first aid. Also, some visits to a doctor do not involve treatment at all. For example, a visit to a doctor for an examination or other diagnostic procedure to determine whether the employee has an injury does not constitute medical treatment. Conversely, medical treatment can be provided to employees by someone other than a physician or registered medical personnel.

The following classifications list certain procedures as either medical treatment or first aid treatment.

Medical Treatment

The following are generally considered medical treatment. Work-related injuries for which the type of treatment was provided or should have been provided are almost always recordable.

—Treatment of INFECTION
—Application of ANTISPETICS during second or subsequent visits to medical personnel
—Treatment of SECOND OR THIRD DEGREE BURN(S)
—Application of BUTTERFLY ADHESIVE DRESSING(S)
—Application of SUTURES (stitches)
—Removal of FOREIGN BODIES EMBEDDED IN EYE
—Removal of FOREIGN BODIES from wound; if procedure is COMPLICATED because of depth of embedment, size, or location
—Use of PRESCRIPTION MEDICATIONS
—Use of hot or cold SOAKING THERAPY during second or subsequent visit to medical personnel
—Application of hot or cold COMPRESS(ES) during second or subsequent visit to medical personnel
—CUTTING AWAY DEAD SKIN (surgical debridement)
—Application of HEAT THERAPY during second or subsequent visit of medical personnel
—Use of WHIRPOOL BATH THERAPY during second or subsequent visit of medical personnel
—POSITIVE X-RAY DIAGNOSIS (fractures, broken bones, etc.)
—ADMISSION TO A HOSPITAL or equivalent medical facility for treatment or prolonged observation

First Aid Treatment

The following are generally considered first aid treatment (e.g., one-time treatment and subsequent observation of minor injuries) and need not be recorded if the work-related injury does not involve loss of consciousness, restriction of work or mortion, or transfer to another job.

—Application of ANTISEPTICS during first visit to medical personnel
—Treatment of FIRST DEGREE BURN(S)
—Application of BANDAGE(S) during first visit to medical personnel
—Use of ELASTIC BANDAGE(S) during first visit to medical personnel
—Removal of FOREIGN BODIES NOT EMBEDDED IN EYE if only irrigation is required
—Removal of FOREIGN BODIES from wound, if procedure is UNCOMPLICATED, and is, for example, by tweezers or other simple technique
—Use of NONPRESCRIPTION MEDICATIONS
—SOAKING THERAPY ON INITIAL VISIT to medical personnel or removal of bandages by SOAKING
—Application of hot or cold COMPRESS(ES) during first visit to medical personnel
—Application of OINTMENTS to abrasions to prevent drying or cracking
—Application of HEAT THERAPY during first visit to medical personnel
—Use of WHIRLPOOL BATH THERAPY during first visit to medical personnel
—NEGATIVE X-RAY DIAGNOSIS
—BRIEF OBSERVATION of injury during visit to medical personnel

Note.—The administration of a TETANUS SHOT or BOOSTER, by itself, is not considered medical treatment. However, these shots are often given in conjunction with the more serious injuries. Therefore, injuries requiring tetanus shots may be recordable for other reasons.

2. *Loss of consciousness.* If an employee loses consciousness as the result of a work-related injury or illness, the employer must record the case. The focus of these cases is on the employee's inability, need not file a report of its injury and illness experience. Employers should

have been contacted in December 1983). At the time of notification, they are include Department of Labor officials inspecting a workplace or gathering occupational injury and illness statistics

VOL 50 ISS 137 JL 17 1985 UMI

2. *Loss of consciousness.* If an employee loses consciousness as the result of a work-related injury, the case must be recorded no matter what type of treatment was provided. The rationale behind this recording requirement is that loss of consciousness is generally associated with the more serious injuries.

3. *Transfer to another job.* Injuries requiring transfer of the employee to another job are also considered serious enough to be recordable regardless of the type of treatment provided. Transfers are seldom the sole criterion for recordability because injury cases are almost always recordable on other grounds, primarily medical treatment or restriction of work or motion.

4. *Restriction of work or motion.* Restricted work activity occurs when the employee, because of the impact of a job-related injury, is physically or mentally unable to perform all or any part of his or her normal assignment during all or any part of the workday or shift. The emphasis is on the employee's ability to perform normal job duties. Restriction of work or motion may result in either a lost worktime injury or a non-lost worktime injury, depending upon whether the restriction extended beyond the day of injury.

V. Categories For Evaluating the Extent of Recordable Cases

Once the employer decides that a recordable injury or illness has occurred, the case must be evaluated to determine its extent or outcome. There are three categories of recordable cases: Fatalities, lost workday cases, and cases without lost workdays. Every recordable case must be placed in only one of these categories.

A. Fatalities

All work-related fatalities must be recorded, regardless of the time between the injury and the death, or the length of the illness.

B. Lost Workday Cases

Lost workday cases occur when the injured or ill employee experiences either days away from work, days of restricted work activity, or both. In these situations, the injured or ill employee is affected to such an extent that: (1) Days must be taken off from the job for medical treatment or recuperation; or (2) the employee is unable to perform his or her normal job duties over a normal work shift, even though employee may be able to continue working.

1. Lost workday cases involving days away from work are cases resulting in days the employee would have worked but could not because of the job-related injury or illness. The focus of these cases is on the employee's inability, because of injury or illness, to be present in the work environment during his or her normal work shift.

2. Lost workday cases involving days of restricted work activity are those cases where, because of injury or illness, (1) the employee was assigned to another job on a temporary basis, or (2) the employee worked at a permanent job less than full time, or (3) the employee worked at his or her permanently assigned job but could not perform all the duties normally connected with it. Restricted work activity occurs when the employee, because of the job-related injury or illness, is physically or mentally unable to perform all or any part of his or her normal workday or shift. The emphasis is on the employee's inability to perform normal job duties over a normal work shift.

Injuries and illnesses are not considered lost workday cases unless they affect the employee beyond the day of injury or onset of illness. When counting the number of days away from work or days of restricted work activity, do not include the initial day of injury or onset of illness, or any days on which the employee would not have worked even though able to work.

C. Cases Not Resulting in Death or Lost Workdays

These cases consist of the relatively less serious injuries and illnesses which satisfy the criteria for recordability but which do not result in death or require the affected employee to have days away from work or days of restricted work activity beyond the date of injury or onset of illness.

VI. Employer Obligations for Reporting Occupational Injuries and Illnesses

This chapter focuses on the requirements of Section 8(c)(2) of the Occupational Safety and Health Act of 1970 and Title 29, Part 1904, of the Code of Federal Regulations for employers to make reports of occupational injuries and illnesses. It does not include the reporting requirements of other standards or regulations of the Occupational Safety and Health Administration (OSHA) or of any other State or Federal agency.

A. The Annual Survey of Occupational Injuries and Illnesses

The survey is conducted on a sample basis, and firms required to submit reports of their injury and illness experience are contacted by BLS or a participating State agency. A firm not contacted by its State agency or BLS need not file a report of its injury and illness experience. Employers should note, however, that even if they are not selected to participate in the annual survey for a given year, they must still comply with the recordkeeping requirements listed in the preceding chapters as well as with the requirements for reporting fatalities and multiple hospitalization cases provided in the next section of this chapter.

Participants in the annual survey consist of two categories of employers: (1) Employers who maintain OHSA records on a regular basis; and (2) a small, rotating sample of employers who are regularly exempt from OSHA recordkeeping. The survey procedure is different for these two groups of employers.

1. *Participation of firms regularly maintaining OSHA records.* When employers regularly maintaining OSHA records are selected to participate in the Annual Survey of Occupational Injuries and Illnesses, they are mailed the survey questionnaire in February of the year following the reference calendar year of the survey. (A firm selected to participate in the 1984 survey would have been contacted in February of 1985.) The survey form, the Occupational Injuries and Illnesses Survey Questionnaire, OSHA No. 200–S, requests information about the establishment(s) included in the report and the injuries and illnesses experienced during the previous year. Information for the injury and illness portion of the report form usually can be copied directly from the totals on the log and summary, OSHA No. 200, which the employer should have completed and posted in the establishment by the time the questionnaire arrives. The survey form also requests summary information about the type of business activity and number of employees and hours worked at the reporting unit during the reference year.

2. *Participation of normally exempt small employers and employers in low-hazard industries.* A few regularly exempt employers (those with fewer than 11 employees in the previous calendar year and those in designated low-hazard industries) are also required to participate in the annual survey. Their participation is necessary for the production of injury and illness statistics that are comparable in coverage to the statistics published in years prior to the exemptions. These employers are notified prior to the reference calendar year of the survey that they must maintain injury and illness records for the coming year. (A firm selected to participate in the 1984 survey would

have been contacted in December 1983). At the time of notification, they are supplied with the necessary forms and instructions. During the reference calendar year, prenotified employers make entries on the log, OSHA No. 200, but are not required to complete a Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101, or post the summary of the OSHA No. 200 the following February (like the regularly participating employers).

B. Reporting Fatalities and Multiple Hospitalizations

All employers are required to report accidents resulting in one or more fatalities or the hospitalization of five or more employees.

The report is made to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor, unless the State in which the accident occurred is administering an approved State plan under Section 18(B) of the OSH Act. Those 18(B) States designate a State agency to which the report must be made.

The report must contain three pieces of information: (1) Circumstances surrounding the accident(s), (2) number of fatalities, and/or (3) the number of hospitalized injuries. If necessary, the OSHA Area Director may require additional information on the accident.

VII. Access to OSHA Records and Penalties for Failure To Comply With Recordkeeping Obligations

The preceding chapters describe recordkeeping and reporting requirements. This chapter covers subjects related to insuring the integrity of the OSH recordkeeping process—access to OSHA records and penalties for recordkeeping violations.

A. Access to OSHA Records

All OSHA records, which are being kept by employers for the 5-year retention period, should be available for inspection and copying by authorized Federal and State government officials. Employees, former employees, and their representatives are provided access to only the log, OSHA No. 200.

Government officials with access to the OSHA records include: Representatives of the Department of Labor, including OSHA safety and health compilance officers and BLS representatives; representatives of the Department of Health and Human Services while carrying out that department's research responsibilities; and representatives of States accorded jurisdiction for inspections or statistical compliations. "Representatives" may include Department of Labor officials inspecting a workplace or gathering information, officials of the Department of Health and Human Services, or contractors working for the agencies mentioned above, depending on the provisions of the contract under which they work.

Employee access to the log is limited to the records of the establishment in which the employee currently works or formerly worked. All current logs and those being maintained for the 5-year retention period must be made available for inspection and copying by employees, former employees, and their representatives. An employee representative can be a member of a union representing the employee, or any person designated by the employee or former employee. Access to the log is to be provided in a reasonable manner and at a reasonable time. Redress for failure to comply with the access provisions of the regulations can be obtained through a complaint to OSHA.

B. Penalties for Failure To Comply With Recordkeeping Obligations

Employers committing recordkeeping and reporting violations are subject to the same sanctions as employers violating other OSHA requirements such as safety and health standards and regulations.

Glossary of Terms

Annual summary.—Consists of a copy of the occupational injury and illness totals for the year from the OSHA No. 200, and the following information: The calendar year covered; company name; establishment address; certification signature, title, and date.

Annual survey.—Each year, BLS conducts an annual survey of occupational injuries and illnesses to produce national statistics. The OSHA injury and illness records maintained by employers in their establishments serve as the basis for this survey.

Bureau of Labor Statistics (BLS).—The Bureau of Labor Statistics is the agency responsible for administering and maintaining the OSHA recordkeeping system, and for collecting, compiling, and analyzing work injury and illness statistics.

Certification.—The person who supervises the preparation of the Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200, certifies that it is true and complete by signing the last page of, or by appending a statement to that effect to, the annual summary.

Cooperative program.—A program jointly conducted by the States and the Federal Government to collect occupational injury and illness statistics.

Employee.—One who is employed in the business of his or her employer affecting commerce.

Employee representative.—Anyone designated by the employee for the purpose of gaining access to the employer's log of occupational injuries and illnesses.

Employer.—Any person engaged in a business affecting commerce who has employees; this does not include the United States Government or any State or political subdivision of a State.

Establishment.—A single physical location where business is conducted or where services or industrial operations are performed; the place where the employees report for work, operate from, or from which they are paid.

First aid.—Any one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such treatment and observation is considered first aid even though provided by a physician or registered professional personnel.

First report of injury.—A workers' compensation form which may qualify as a substitute for the supplementary record, OSHA No. 101.

Incidence rate.—The number of injuries, illnesses, or lost workdays related to a common exposure base of 100 full-time workers. The common exposure base enables one to make accurate interindustry comparisons, trend analysis over time, or comparisons among firms regardless of size. This rate is calculated as:

$$\frac{N}{EH} \times 200{,}000$$

where:
N=number of injuries and illnesses or lost workdays
EH=total hours worked by all employees during calendar year
200,000=base for 100 full-time equivalent workers (working 40 hours per week 50 weeks per year).

Low-hazard industries.—Selected industries in retail trade; finance, insurance, and real estate; and services which are regularly exempt from OSHA recordkeeping. To be included in this exemption, an industry must fall within an SIC not targeted for general schedule inspections and must have an average lost workday case injury rate for a designated 3-year measurement period at or below 75 percent of the private sector average rate.

Log and Summary (OSHA No. 200).—The OSHA recordkeeping form used to [list injuries and illnesses and to note the

[illegible] ulcers; chemical burns or inflammations; etc.

Column 7b. Dust diseases of the lungs

(2) Lost workday cases, other than fatalities, that result in lost workdays; or

Restriction of work or motion.—Occurs when the employee, because of

Connecticut
Maine

North Dakota
South Dakota

Log and Summary (OSHA No. 200).—The OSHA recordkeeping form used to list injuries and illnesses and to note the extent of each case.

Lost workday cases.—Cases which involve days away from work or days of restricted work activity, or both.

Lost workdays.—The number of workdays (consecutive or not), beyond the day of injury or onset of illness, the employee was away from work or limited to restricted work activity because of an occupational injury or illness.

(1) Lost workdays—away from work.

The number of workdays (consecutive or not) on which the employee would have worked but could not because of occupational injury or illness.

(2) Lost workdays—restricted work activity.

The number of workdays (consecutive or not) on which, because of injury or illness: (1) The employee was assigned to another job on a temporary basis; or (2) the employee worked at a permanent job less than full time; or (3) the employee worked at a permanently assigned job but could not perform all duties normally connected with it.

The number of days away from work or days of restricted work activity does not include the day of injury or onset of illness or any days on which the employee would not have worked even though able to work.

Medical treatment.—Includes treatment of injuries administered by physicians, registered professional personnel, or lay persons. Medical treatment does not include first aid treatment (one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care) even though provided by a physician or registered professional personnel.

Occupational illness.—Any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact, and which can be included in the categories listed below. The following categories should be used by employers to classify recordable occupational illnesses on the log in the columns indicated:

Column 7a. Occupational skin diseases or disorders.

Examples: Contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants; oil acne; chrome ulcers; chemical burns or inflammations; etc.

Column 7b. Dust diseases of the lungs (pneumoconioses).

Examples: Silicosis, asbestosis, coal worker's pneumoconiosis, byssinosis, and other pneumoconioses.

Column 7c. Respiratory conditions due to toxic agents.

Examples: Pneumonitis, pharyngitis, rhinitis or acute congestion due to chemicals, dusts, gases, or fumes, farmer's lung, etc.

Column 7d. Poisoning (systemic effects of toxic materials).

Examples: Poisoning by lead, mercury, cadmium, arsenic, or other metals; poisoning by carbon monoxide, hydrogen sulfide, or other gases; poisoning by benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays such as parathion, lead arsenate; poisoning by other chemicals such as formaldehyde, plastics, and resins; etc.

Column 7e. Disorders due to physical agents (other than toxic materials).

Examples: Heatstroke, sunstroke, heat exhaustion, and other effects of environmental heat; freezing, frostbite, and effects of exposure to low temperatures; caisson disease; effects of ionizing radiation (isotopes, X-rays, radium); effects of nonionizing radiation (welding flash, ultra-violet rays, microwaves, sunburn); etc.

Column 7f. Disorders associated with repeated trauma.

Examples: Noise-induced hearing loss; synovitis, tenosynovitis, and bursitis; Raynaud's phenomena; and other conditions due to repeated motion, vibration, or pressure.

Column 7g. All other occupational illnesses.

Examples: Anthrax, brucellosis, infectious hepatitis, malignant and benign tumors, food poisoning, histoplasmosis, coccidioidomycosis, etc.

Occupational injury.—Any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from a single instantaneous exposure in the work environment.

Note.—Conditions resulting from bites, such as insect or snake bites, and from one-time exposure to chemicals are considered to be injuries.

Occupational injuries and illnesses; extent and outcome.—All occupational injuries or illnesses result in either:

(1) Fatalities, regardless of the time between the injury and death, or the length of illness; or

(2) Lost workday cases, other than fatalities, that result in lost workdays; or

(3) Nonfatal cases without lost workdays.

Occupational Safety and Health Administration (OSHA).—OSHA is the Federal agency within the Department of Labor responsible for developing, implementing, and enforcing safety and health standards and regulations. OSHA works with employers and employees to foster effective safety and health programs which reduce workplace hazards.

Premises, employer's.—Consist of the employer's total establishment; they include the primary work facility and other areas in the employer's domain such as company storage facilities, cafeterias, restrooms, and restricted company parking lots.

Posting.—The annual summary of occupational injuries and illnesses must be posted at each establishment by February 1 and remain in place until March 1 to provide employees with the record of their establishment's injury and illness experience for the previous calendar year.

Recordable cases.—All work-related deaths and illnesses, and those work-related injuries which result in: Loss of consciousness, restriction of work or motion, transfer to another job, or require medical treatment beyond first aid.

Recordkeeping system.—Refers to the nationwide system for recording and reporting occupational injuries and illnesses mandated by the Occupational Safety and Health Act of 1970 and implemented by Title 29, Code of Federal Regulations, Part 1904. This system is the only source of reliable national statistics on job-related injuries and illnesses occurring in the private sector.

Regularly exempt employers.—Employers regularly exempt from OSHA recordkeeping include: (A) All employers with no more than 10 full- or part-time employees at any one time in the previous calendar year; and (B) all employers in retail trade; finance, insurance, and real estate; and services industries; i.e., SIC's 52–89 (except building materials and garden supplies, SIC 52, general merchandise and food stores, SIC's 53 and 54; hotels and other lodging places, SIC 70; repair services, SIC's 75 and 76; amusement and recreation services, SIC 79; and health services, SIC 80).

Report form.—Refers to survey form OSHA No. 200–S which is completed and returned by the surveyed reporting unit.

Restriction of work or motion.—Occurs when the employee, because of the result of a job-related injury or illness, is physically or mentally unable to perform all or any part of his or her normal assignment during all or any part of the workday or shift.

Small employers.—Employers with no more than 10 employees among all the establishments of their firm at any one time during the previous calendar year.

Standard Industrial Classification (SIC).—A classification system developed by the Office of Management and Budget, Executive Office of the President, for use in the classification of establishments by type of activity in which engaged. Each establishment is assigned an industry code for its major activity which is determined by the product or services rendered. Establishments may be classified in 2–, 3–, or 4-digit industries according to the degree of information available.

State (when mentioned alone).—Refers to a State of the United States, the District of Columbia, and U.S. territories and jurisdictions.

State agency.—State agency administering the OSHA recordkeeping and reporting system. Many States cooperate directly with BLS in administering the OSHA recordkeeping and reporting programs. Some States have their own safety and health laws which may impose different or additional obligations.

Supplementary Record (OSHA No. 101).—The form (or equivalent) on which additional information is recorded for each injury and illness entered on the log.

Title 29 of the Code of Federal Regulations, Parts 1900–1999.—The parts of the Code of Federal Regulations which contain OSHA regulations.

Workers' compensation systems.—State systems that provide medical benefits and/or indemnity compensation to victims of work-related injuries and illnesses.

Work environment.—Consists of the employer's premises and other locations where employees are engaged in work-related activities or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work.

U.S. Department of Labor

Bureau of Labor Statistics Regional Offices

Region I—Boston

John F. Kennedy Federal Bldg., Boston, Mass. 02203, Phone: 617–223–4533
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Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region II—New York

1515 Broadway, Suite 3400, New York, N.Y. 10036, Phone: 212–944–3114
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New York
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Order Form

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City, State, Zip Code _____

	Quantity
*Recordkeeping pamphlet—Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970	
*OSHA No. 200 Forms	
*OSHA No. 101 Forms	
*Recordkeeping Guidelines for Occupational Injuries and Illnesses	
*Recordkeeping Guidelines for Occupational Injuries and Illnesses: Ready Reference	

Please complete this form and mail it to the appropriate BLS regional office.

SECTION II

Recordkeeping Guidelines for Occupational Injuries and Illnesses

The Occupational Safety and Health Act of 1970 and 29 CFR 1904

U.S. Department of Labor, Bureau of Labor Statistics, 1985

The Occupational Safety and Health (OSH) Act of 1970 requires covered employers to prepare and maintain records of occupational injuries and illnesses. The Bureau of Labor Statistics of the U.S. Department of Labor is responsible for administering the recordkeeping system established by the act. The recordkeeping regulations in 29 CFR 1904 provide specific recording and reporting requirements which comprise the framework of the OSH recording system.

Under this system it is essential that data recorded by employers be uniform

to assure the validity of the statistical data. To assure uniformity, BLS has issued guidelines which provide official

sections of the act or regulations and provides basic concepts of recordability;

Finally, included at the back of this publication is a detailed index which

A. Access to OSHA Records
B. Penalties for Failure To Comply With

refer to "places of employment" and the provision of safe and healthful "working

The term "employee" has been

to assure the validity of the statistical data. To assure uniformity, BLS has issued guidelines which provide official agency interpretations, answers and explanations to questions employers most frequently ask about recordkeeping and reporting of accupational injuries and illnesses. On reviewing the guidelines, the Office of Management and Budget (OMB) has indicated that the guidelines are not regulations, but rather supplemental instructions to the OSHA recordkeeping forms (OSHA Nos. 200, 101, and 200–S). This document replaces all previous editions of the BLS recordkeeping guidelines.

For recordkeeping and reporting questions not covered in this publication, employers may contact the BLS regional office or the participating State agency serving their area. Addresses and telephone numbers for the regional offices are listed on the back cover; those for the State agencies are in appendix D. Recordkeeping forms can be obtained by completing the order form on page 94 and mailing it to the appropriate BLS regional office.

The information included here deals only with the requirements of the Occupational Safety and Health Act of 1970 and Part 1904 of Title 29, Code of Federal Regulations, for recording and reporting occupational injuries and illnesses. Some employers may be subject to additional recordkeeping and reporting requirements not covered in this report. Many specific standards and regulations of the Occupational Safety and Health Administration (OSHA) have additional requirements for the maintenance and retention of records for medical surveillance, exposure monitoring, inspections, and other activities and incidents relevant to occupational safety and health, and for the reporting of certain information to employees and to OSHA. For information on these requirements, which are not covered in this report, employers should refer directly to the OSHA standards or regulations or contact their OSHA regional office.

These guidelines were prepared in the Office of Occupational Safety and Health Statistics, by Stephen Newell, under the general direction of William M. Eisenberg, Acting Associate Commissioner.

User's Guide

This document is formatted to make the information on OSHA recordkeeping easy to access and comprehend. Recordkeeping requirements have been categorized into several major subject areas. Each subject area is divided into two parts: The first reviews relevant sections of the act or regulations and provides basic concepts of recordability; the second provides answers to questions most frequently asked about recording and reporting occupational injuries and illnesses. These questions and answers elaborate on the basic recordkeeping concepts and further define the subject matter in each section.

Chapter I. Provides information which should enable you to determine whether or not your establishment must keep OSHA records.

Chapter II. Describes which forms should be used and how the forms should be completed.

Chapter III. Outlines where the OSHA records must be located, how they should be updated, and the length of time they must be kept.

Chapter IV. Provides a brief description of the types of decisions employers make in the recordkeeping process. Also, this chapter shows how to distinguish between employees, whose injuries employers must record, and other workers at the establishment (such as independent contractors).

Chapter V. If you have any questions concerning whether or not a particular case should be recorded on the log, turn to Chapter V. This chapter provides guidelines for determining the key issues of recordability: which cases are work-related; what constitutes an occupational injury; how to distinguish medical treatment from first aid; criteria for detecting occupational illnesses; etc.

Chapter VI. Provides guidelines for determining the extent or outcome of recordable cases, and for making appropriate entries in columns 1–6 or 8–13 on the OSHA log.

Chapter VII. Describes employer obligations for reporting occupational injuries and illnesses. This reporting may be through the BLS annual survey, or in the case of a fatality or multiple hospitalization, it may be directly to an OSHA area office.

Chapter VIII. Discusses some of the checks and balances built into the system to ensure accurate recording and reporting of occupational injuries and illnesses.

The appendices provide a glossary of terms and sample recordkeeping and reporting forms. Appendix C lists illness conditions that have been associated with exposure in the workplace. Addresses and telephone numbers of participating State agencies and OSHA Regional Offices are listed in appendixes D and E. Appendix F provides capsule guidelines for distinguishing medical treatment from first aid.

Finally, included at the back of this publication is a detailed index which lists particular subjects in alphabetical order along with the page numbers where each topic may be referenced.

Contents

Chapter I. Employers Subject to OSHA Recordkeeping Requirements
- A. Coverage of the Occupational Safety and Health Act
- B. Employers Required to Keep OSHA Records
- C. Employers Regularly Exempt From OSHA Recordkeeping
- D. Exceptions to Exemptions for Small Employers and Employers in Low-Hazard Industries
- E. State and Local Government
- F. Applicability of OSHA Recordkeeping Requirements to Employers Subject to Other Federal Safety and Health Regulations

Chapter II. The Mechanics of OSHA Recordkeeping
- A. The Log of Occupational Injuries and Illnesses, OSHA No. 200
- B. The Summary of Occupational Injuries and Illnesses, OSHA No. 200
- C. The Supplementary Record of Occupational Injuries and Illnesses, OSHA, No. 101

Chapter III. Location, Retention, and Maintenance of Records
- A. Establishments Required to Keep and Maintain Records
- B. Location of Records
- C. Location Exception for the Log (OSHA No. 200)
- D. Retention of OSHA Records
- E. Maintenance of the Log (OSHA No. 200)

Chapter IV. Employer Decisionmaking
- A. Types of Decisions Employers Make in the Recordkeeping Process
- B. Decisionmaking Authority for Recordkeeping Determinations

Chapter V. Analysis of Recordability of Cases
- A. Method Used for Case Analysis
- B. Determining Whether or Not a Case Occurred
- C. Establishing Work Relationship
- D. Distinguishing Between Injuries and Illnesses
- E. Recording Occupational Illnesses
- F. Deciding If Work-Related Injuries Are Recordable
- G. Relationship of OSHA Recordkeeping Requirements to Those of State Workers' Compensation Systems

Chapter VI. Evaluating the Extent of Recordable Cases
- A. Fatalities
- B. Lost Workday Cases
- C. Cases Not Involving Lost Workdays

Chapter VII. Employer Obligations for Reporting Occupational Injuries and Illnesses
- A. The Annual Survey of Occupational Injuries and Illnesses
- B. Reporting Fatalities and Multiple Hospitalizations

Chapter VIII. Access to OSHA Records and Penalties for Failure To Comply With Recordkeeping Obligations
- A. Access to OSHA Records
- B. Penalties for Failure To Comply With Recordkeeping Obligations

Appendixes:
- A. Glossary of Terms
- B. OSHA Recordkeeping Forms
  1. The Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200
  2. The Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101
  3. The Annual Occupational Injuries and Illnesses Survey Covering Calendar Year 1983, OSHA No. 200–S
- C. Selected Illnesses Which May Result From Exposure in the Work Environment
- D. Participating State Agencies
- E. United States Department of Labor, Occupational Safety and Health Administration-Regional Offices
- F. Recordkeeping Summary

Index

Order Form

Chapter I. Employers Subject to OSHA Recordkeeping Requirements

The coverage of the Occupational Safety and Health Act of 1970 is very extensive. However, the requirements under the act for recording and reporting occupational injuries and illnesses have been modified by regulation to reduce the burden on employers and permit the focusing of safety and health efforts on high-risk industries and establishments. This chapter describes which industries and employers are subject to OSHA recordkeeping and reporting requirements.

A. Coverage of the Occupational Safety and Health Act

The OSHA Act covers nearly all employers in the private sector. Section 2(b) of the act describes its purpose as providing safe and healthful working conditions for "every working man and woman in the Nation." Section 4(a) defines the scope of the act's coverage:

> This Act shall apply with respect to employment performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, Wake Island, Outer Continental Shelf Lands, defined in the Outer Continental Shelf Lands Act, Johnson Island, and the Canal Zone.

The act's coverage is defined in terms of two criteria: Work activities and geographic areas. The activities covered relate to "employment performed in a workplace." The boundaries of geographic coverage are limited to the United States and its territories.

The employment described in Section 4(a) is not limited to the execution of specific work assignments. Section 2 of the act addresses injuries and illnesses arising out of "work situations." Sections 2(b) (1), (2), and (4) of the act refer to "places of employment" and the provision of safe and healthful "working conditions." Section 2(b)(7) of the act deals with preventing employee illness as a result of their "work experience." These and other references in the act indicate that its coverage is intended to go beyond specific job tasks to encompass the total work environment. Also, the scope of employments covered is extensive. The act defines an employer in Section 3(5):

> The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

(See section E of this chapter for a special discussion of State and local government coverage.)

It should be noted the term "employer" applied to persons engaged in "a business affecting commerce," not just "interstate commerce." Therefore, the coverage of the act is extensive since there are few employers who do not affect commerce.

Part 1975.3(d) of the regulations also interprets the term "business" as:

> . . . any commercial or noncommercial activity affecting commerce and involving the employment of one or more employees. . . .

Part 1975.4(a) states:

> Any employer employing one or more employees would be an "employer engaged in a business affecting commerce who has employees" and, therefore, he is covered by the Act as such.

However, despite the broad coverage afforded by the act, the regulations have excluded the following groups of employers:

1. *Religious establishments.* The performance of, or participation in, religious services does not constitute employment under the act according to Part 1975.4(c) of the regulations. However, churches are considered employers when they employ one or more persons in secular activities.

2. *Employers of household workers.* Those who employ persons for ordinary domestic household tasks are not considered to be employers under Part 1975.6 of the regulations.

A–1. Q. Who is considered to be an employee under the OSH Act?

A. Section 3(6) of the act defines an employee as one who is employed in the business of his employer.

The traditional common law definition of an employer is one who has the right to control and direct his employees, not only regarding the result to be accomplished by the work, but also as to the details and means by which the work objective is accomplished.

The term "employee" has been broadly interpreted under the OSH Act.

Employee status involves a current employment relationship. Under the act, this status is generally limited to situations where the employee receives some sort of compensation (not necessarily money) from the employer for services rendered.

A–2. Q. Are volunteer workers considered employees under the Occupational Safety and Health Act?

A. Volunteer workers may or may not be considered employees under the act; their status would depend upon the facts of the particular situation.

Volunteers are generally not considered employees for recordkeeping purposes if they serve of their own free will and do not receive compensation. Compensation in this context may be wages or salaries, or it may consist solely of nonmoney benefits. The fact that paid workers may normally perform the same duties or functions has no bearing on this determination. Under these criteria, hospital volunteers are usually not considered to be employees for the purposes of the act; volunteer firemen are usually considered to be employees.

A–3. Q. Are people working in sheltered workshops considered employees? What about persons in job training programs?

A. If these workers receive some form of compensation and satisfy the criteria listed in question A–1, they are considered employees under the act.

A–1. Q. Are stockholders in a corporation considered employers?

A. No. The corporation is the employer. On the other hand, stockholders employed by the corporation are employees; these include managers and corporate officers.

A–5. Q. Two partners operate a small electrical contracting firm. They have no employees. Are they covered by the OSH Act?

A. No. Partners are not considered employees. A firm with no employees is not covered by the act and does not have to maintain OSHA records.

A–6. Q. Are activities of self-employed individuals covered by the Occupational Safety and Health Act?

A. No. These activities are not covered because self-employed individuals are not considered employers under the act. Part 1975.4(a) of the regulations limits employer status to those individuals employing one or more employees.

A–7. Q. Does the act cover persons employed by charitable and nonprofit organizations?

A. Yes. Whether or not an

official air space of the United States

and Health Act of 1970. The scope of the

An employer whose establishment is classified in SIC's 52–89 (excluding 52–54, 70

at or below 75 percent of the comparable

inspections and had a lost workday case

A. Yes. Whether or not an organization is operated at a profit is not important since Part 1975.4(b)(4) provides that ". . . any charitable or nonprofit organization which employs one or more employees is covered under the . . . Act. . . ."

A–8. Q. Since the OSH Act governs all establishments engaged in interstate commerce, how are such establishments identified? For example, would a local grain elevator or farm feed and seed retail store be covered?

A. Yes. These operations would be covered. Coverage of the OSH Act is *not* limited to establishments engaged in interstate commerce. The law says "affecting commerce," which is far broader than "engaged in interstate commerce." Section 3(3) of the act broadly defines the term "commerce" as meaning "trade, traffic, commerce, transportation, or communications. . . ." Use of equipment made out-of-State has been deemed sufficient.

A–9. Q. Are farmers covered under the OSH Act?

A. A very broad interpretation has been given to the coverage of the act. Farmers are included, according to Part 1975.4(b)(2) of the regulations, because they affect commerce. However, small farmers (those with fewer than 11 employees) have been exempt from recordkeeping requirements since 1976.

A–10. Q. Are the working family members of farmers or ranchers considered employees? Must the farmer maintain records to cover them?

A. No. Immediate family members of farm employers are not regarded as employees under Part 1975.4(b)(2) of the regulations, even though they may receive compensation. Consequently, OSHA records need not be maintained for them.

A–11. Q. How does the act apply to migrant labor camps? Is it the same as for other areas of the economy?

A. Yes. Migrant labor camps are covered the same as any other segment of the economy. (See question A–5 of chapter IV for an explanation of who must keep the OSHA records for migrant laborers.)

A–12. Q. Do records have to be maintained for employees traveling overseas on business?

A. No. Records need not be kept for these employees when they are outside the geographic scope of coverage prescribed by Section 4(a) of the act—the United States and its territories.

A–13. Q. What about airline employees working aboard airplanes? When are these activities covered?

A. These activities are covered under the act while the airplane is in the official air space of the United States and its territories.

A–14. Q. Are employers required to keep records of injuries and illnesses occurring to employees aboard ships? When are the employees engaged in these activities covered by the OSH Act?

A. The coverage of the Occupational Safety and Health Act is limited to the United States and its territories. Therefore, work activities would be covered aboard ships on inland and intercoastal waterways and up to the boundary of State jurisdiction, which is usually the 3-mile limit. (In Louisiana and Texas, the State boundaries extend 12 miles into the Gulf of Mexico.)

A–15. Q. Are churches or religious organizations required to keep records under the act if they employ persons in secular activities?

A. Yes. The act covers hospitals, schools, commercial establishments, and administrative or office personnel employed by religious organizations. Excluded from coverage are clergy and other participants in religious services.

A–16. Q. Do injury and illness records have to be kept for domestics?

A. No. According to Part 1975.6 of the regulations, employers of domestics in the employers' private residence for the usual purposes of housekeeping or child care, or both, are not required to keep records.

B. Employers Required To Keep OSHA Records

The recordkeeping requirements of the Occupational Safety and Health Act of 1970 apply to most private sector employers. Part 1904.1 of the regulations covers the purpose and scope of the recordkeeping regulations:

These sections provide for recordkeeping and reporting by employers covered under the Act, as necessary or appropriate for enforcement of the Act, for developing information regarding causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics.

Initially, the regulations for employer recordkeeping mirrored the broad coverage of the act as described in the preceding section. However, the regulations have been modified to exempt certain employers with historically low rates of injuries and illnesses.

B–1. Q. Must employers keep OSHA injury and illness records if they are not covered by the Occupational Safety and Health Act?

A. No. Employers must maintain OSHA records only if they are within the coverage of the Occupational Safety and Health Act of 1970. The scope of the OSHA recordkeeping regulations presently does not exceed the scope of the OSH Act.

C. Employers Regularly Exempt From OSHA Recordkeeping

Federal regulations have made the following employers regularly exempt from OSHA recordkeeping, i.e., from keeping the log of injuries and illnesses, completing a supplementary record, and filling our and posting an annual summary:

1. *Small employers.* Although subject to the overall coverage of the Occupational Safety and Health Act of 1970, most small employers are not required to keep injury and illness records because of their exemption in 29 CFR 1904.15. (A few States still require all small employers to maintain OSHA records. Check with your State.) This section of the regulations was promulgated to reduce the burden on employers after findings of relatively low levels of hazard in small establishments. Part 1904.15 states:

An employer who had no more than ten (10) employees at any time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this part except the following:

(a) Obligation to report under Part 1904.8 concerning fatalities or multiple hospitalization accidents; and

(b) Obligation to maintain a log of occupational injuries and illnesses under Part 1904.2 and to make reports under Section 1904.21 upon being notified in writing by the Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

For the purposes of the small employer exemption, the employment figure refers to the calendar year immediately *preceding* the year for which records will be kept. Also, the test for the small employer exemption is the number of employees in the entire *firm*, not the number in an individual establishment. Therefore, a firm with two establishments, each of which had six employees during the previous calendar year, has to keep OSHA injury and illness records during the current year because the total employment of the firm was greater than 10. Partners, self-employed, and family members on a farm are not considered employees.

2. *Employers in low-hazard industries.* In most States, employers in low-hazard industries in retail trade: finance, insurance, and real estate; and services are exempt from OSHA recordkeeping under Part 1904.16 of the regulations:

An employer whose establishment is classified in SIC's 52–89, (excluding 52–54, 70, 75, 76, 79, and 80) need not comply, for such establishment, with any of the requirements of this part except the following:

(a) Obligation to report under Section 1904.8 concerning fatalities or multiple hospitalization accidents; and

(b) Obligation to maintain a log of occupational injuries and illnesses under Section 1904.2 and make reports under Section 1904.21 upon being notified in writing by the Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.

The Federal exemption applies to all employers in low-hazard industries in States under exclusive Federal jurisdiction. States with approved State plans under Section 18(b) of the act may continue to require employers in these industries to maintain records. The following States and territories currently operate their own OSHA programs under Section 18(b): Alaska, Arizona, California, Connecticut, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, the Virgin Islands, Washington, and Wyoming. In these areas, employers should contact their respective State agency to determine if the low-hazard industry exemption has been adopted. State agency addresses and telephone numbers are listed in appendix D.

The exempt industries are identified and categorized according to the *Standard Industrial Classification Manual (SIC).* They include:

Some retail trade industries (SIC's 55–59) which include establishments engaged in selling merchandise to the general public for personal or household consumption. Some of these retail trades are: automotive dealers, apparel and accessory stores, furniture and home furnishings stores, and eating and drinking places.

All finance, insurance, and real estate industries (SIC's 60–67) including establishments engaged in banking, credit other than banking, security dealings, insurance, and real estate.

Some service industries (SIC's 70–89, except 70, 75, 76, 79, and 80) including establishments with a variety of services for individuals, businesses, government agencies, and other organizations. Some of these service industries are: personal and business services in addition to legal, educational, social, and cultural services, and membership organizations.

In order to be included in this exemption, the major industry group has to meet two criteria: (1) The industry must fall within SIC's not now targeted for general schedule inspections; and (2) for a designated 3-year measurement period, the industry must have had an average lost workday case injury rate at or below 75 percent of the comparable private sector average.

Therefore, building materials and garden supplies (SIC 52); general merchandise and food stores (SIC's 53, 54); hotels and other lodging places (SIC 70); repair services (SIC's 75, 76); amusement and recreation services (SIC 79); and health services (SIC 80) were not included among the industries initially proposed for exemption. These industries, although not targeted for general schedule inspections, have lost workday case injury rate averages above 75 percent of the private sector average for the 3-year period.

C–1. Q. Is the small employer exemption determined by the number of employees currently working in the establishment?

A. No. The small employer exemption focuses on the number of employees working for the entire *firm* at any time during the *previous* calendar year.

C–2. Q. For the purposes of the small employer exemption, how do you distinguish between an establishment and a firm?

A. The distinction between an establishment and a firm refers to the structure of the business. An establishment is a single physical location where business is conducted or where services or industrial operations are performed. A firm consists of the entire business enterprise (the corporation, company, partnership, etc.) and may include one or more establishments.

C–3. Q. How is the number of employees determined for the small employer exemption? Do employers qualify if they had an average of no more than 10 employees during the previous calendar year?

A. No. The average number of employees is not the determining factor. To qualify, employers *must not have had more than 10 employees at any one time* in the previous calendar year.

C–4. Q. Two partners operate an automobile repair shop with nine employees. Does the small employer exemption apply to them?

A. Yes. The partners themselves are employers; therefore, the auto repair shop has only nine employees. As long as the firm has no more than 10 employees at any one time during the previous calendar year, it qualifies for the small employer exemption.

C–5. Q. How were the industries selected for the low-hazard industry exemption?

A. Safety statistics were examined for major industry groups. An industry group was exempted if it was not currently targeted for routine safety inspections and had a lost workday case rate for injuries at or below 75 percent of the private sector average for a designated 3-year period.

C–6. Q. How do employers determine the appropriate SIC code for their establishment to see if they qualify for the exemption of low-hazard industries?

A. First, employers should determine the principal activity of the establishment. If an establishment does more than one kind of business, it is classified in the category that generates the greatest dollar volume. Employers may then refer to the 1972 edition of the *Standard Industrial Classification Manual* (SIC) prepared by the Executive Office of the President, Office of Management and Budget. This publication is usually available in most corporate or public libraries or can be purchased from the Government Printing Office. Employers may also contact their State or BLS regional offices for assistance in making the proper SIC determination. Addresses and telephone numbers for the BLS regional offices are listed on the back cover; those for the State agencies are in appendix D.

C–7. Q. Must employers in the exempted low-hazard industries have written certification from BLS or OSHA that their firm is exempt from OSHA recordkeeping?

A. No. Written certification is not necessary since public notification was made in the **Federal Register**, news releases, etc.

C–8. Q. Does the exemption for low-hazard industries supply to all low-hazard establishments?

A. No. Only establishments in the specified major industry groups are exempt. The fact that an establishment in a high-risk industry has an excellent safety record or that its workers have jobs that seem as safe as those in the exempted industries does not mean that it is exempt.

C–9. Q. How do large employers with multiple establishments handle the exemption of low-hazard activities?

A. Large employers with multiple establishments may find that some of their establishments qualify for exemption while others do not. For exemple, an automobile manufacturer may have assembly plants and retail sales offices. The manufacturing establishments would not be exempt from OSHA recordkeeping; the sales offices would.

C–10. Q. Do recordkeeping exemptions apply uniformly in all States and territories?

A. The exemption for small employers is in effect in all States and territories except Wyoming and the Virgin Islands.

The recordkeeping exemption for low-hazard industries applies to all eligible establishments in the specified industry groups. However, establishments in these industries may be selected to participate each year so that their injury and illness experience can be

government agencies in OSHA recordkeeping and reporting?

A. No. A recordkeeping and reporting system has been developed by the Mine

Part 1904.2 of the *Code of Federal Regulations* (CFR) provides the basic

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The recordkeeping exemption for low-hazard industries applies to all eligible workplaces under the jurisdiction of Federal OSHA and to establishments in many States with approved State plans under Section 18(b) of the act. However, some States with approved State plans have not adopted the low-hazard exemption. Employers in States with approved plans should contact their State agency to determine if it has adopted the exemptions. State agency addresses and telephone numbers are listed in appendix D, which also indicates those States with approved plans.

D. Exceptions to Exemption for Small Employers and Employers in Low-Hazard Industries

There are two exceptions to the exemption from OSHA recordkeeping for small employers and employers in low-hazard industries:

1. Although OSHA recordkeeping requirements are normally eliminated for small employers and employers in low-hazard industries, they must still comply with OSHA standards, display the OSHA poster, and report to OSHA within 48 hours any work-related accident which results in a fatality or the hospitalization of five or more employees. (Some States have more stringent catastrophic reporting requirements.)

2. A small percentage of the regularly exempt employers have to maintain records for 1 year if they are selected to participate in the Annual Survey of Occupational Injuries and Illnesses. As stated in Parts 1904.15(b) and 1904.16(b) of the regulations, each year BLS selects a rotating sample of small employers and employers in low-hazard industries to participate in the annual survey. These employers, required by law to participate, are notified prior to the beginning of the reference calendar year that they have been selected. They are required to maintain a log and summary (OSHA No. 200), but do not have to prepare any other OSHA injury and illness records. At the end of the calendar year, they must report their injury and illness experience on the survey questionnaire, the OSHA No. 200–S. They are not required to post a summary of their injury and illness experience at the end of the reference year.

D–1. Q. Why are some regularly exempt small employers and employers in low-hazard industries selected each year to keep records and participate in the Annual Survey of Occupational Injuries and Illnesses?

A. A small sample of these regularly exempt employers is required to participate each year so that their injury and illness experience can be incorporated in the BLS survey data. This is necessary to produce estimates which are comparable in coverage to estimates for pre-exemption years.

D–2. Q. How is the survey sample selected for the regularly exempt firms that will be required to keep records? If a regulary exempt firm is selected to participate 1 year, will it be required to participate every year thereafter?

A. The regularly exempt firms notified in advance that they must participate in the annual survey are selected on a random sample basis. Usually, other firms will be selected to participate in subsequent surveys. In some situations, however, a firm may be asked to participate more than once; i.e., when there are not enough firms in a particular industry or employment-size group to insure adequate coverage from a rotating sample.

E. State and Local Government

All States that operate their own safety and health plans require all employers, including State and local government agencies, to maintain records of injuries and illnesses. Part 1952.4(a) of the regulations provides:

> States must adopt recordkeeping and reporting regulations which are identical to 29 CFR Part 1904 "Recording and Reporting Occupational Injuries and Illnesses" except for Part 1904.13 of this chapter, which provides for variances.

Part 1956.10(i) requires these State and local government employers to maintain records and make reports in conformance with the standards and procedures required of private sector employers under the act. State and local government agencies are usually exempt in States which do not operate their own State plans.

E–1. Q. What is the legal basis for the requirement that certain State and local government agencies are required to participate in the recordkeeping and reporting provisions of the act?

A. Section 18(c)(6) of the Federal OSH Act requires States with approved State plans to have State and local government agencies participate in recordkeeping and reporting activities to the extent permitted by State law. Also, nonplan States may require recordkeeping under their own laws and regulations. Participating States, like private sector employers, may use their own recordkeeping forms as long as they are substantially the same as the Federal forms.

E–2. Q. Which States have plans requiring participation of State and local government agencies in OSHA recordkeeping and reporting?

A. The States and territories listed in section C of this chapter have approved plans requiring State and local government participation. These States are identified in appendix D.

E–3. Q. Must private universities and colleges keep records?

A. Although covered by the act, these institutions normally do not have to keep OSHA records because of the recordkeeping exemption discussed in section D above. However, as with other normally exempt industries, a small sample will have to keep records for 1 year if asked to participate. When this occurs, these private universities and colleges must keep records of injuries and illnesses for their employees; students are not included unless they are employed on a full- or part-time basis. Graduate students with paid teaching and research assignments are covered.

State and local government colleges and universities must keep OSHA records if their State has a plan approved for implementing the provisions of the act.

E–4. Q. Are employees of local school districts covered by the act?

A. These employees are covered only in States which have an approved State plan for implementing the provisions of the act.

F. Applicability of OSHA Recordkeeping Requirements to Employers Subject to Other Federal Safety and Health Regulations

Many employers subject to injury and illness recordkeeping requirements of other Federal safety and health regulations are not exempt from OSHA recordkeeping. However, records used to comply with other Federal recordkeeping obligations may also be used to satisfy the OHSA recordkeeping requirements. The forms and definitions used must be equivalent to the OSHA forms and definitions.

F–1. Q. To what extent are motor carriers covered by OSHA recordkeeping regulations since they are under Department of Transportation safety regulations?

A. Motor carriers must maintain injury and illness records in conformance with or equivalent to the OSHA records required by 29 CFR 1904.

F–2. Q. Is the mining industry, which generally comes under the inspection jurisdiction of the Mine Safety and Health Administration, required to participate in the OSHA recordkeeping program?

A. No. A recordkeeping and reporting system has been developed by the Mine Safety and Health Administration (in cooperation with the Bureau of Labor Statistics) whcih provides information on mining activities equivalent to the OSHA injury and illness statistics.

However, the injury and illness experience of some mining company employees working in establishments not related to mining will be maintained on OSHA records. For example, if a mining company has a company store, and the Mine Safety and Health Administration does not require that injury and illness records be kept for the store, it would fall under OSHA jurisdiction.

F–3. Q. Are railroad employers required to keep records of injuries and illnesses of their employees?

A. Yes. In recent years, the Federal Railroad Administration has adopted the definitions of the OSHA recordkeeping system. Railroad employers report occupational injury and illness data annually to the Federal Railroad Administration, which in turn provides the data to BLS for statistical purposes.

Chapter II. The Mechanics of OSHA Recordkeeping

Only two forms are used for OSHA recordkeeping. One form, the OSHA No. 200, serves two purposes: (1) As the Log of Occupational Injuries and Illnesses on which the occurrence, extent, and outcome of cases are recorded during the year; and (2) as the Summary of Occupational Injuries and Illnesses which is used to summarize the log at the end of the year to satisfy employer posting obligations. The other form, the Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101, provides additional information on each of the cases that have been recorded on the log. (These forms are provided in appendix B.)

A. The Log of Occupational Injuries and Illnesses, OSHA No. 200

The log is used for recording and classifying recordable occupational injuries and illnesses, and for noting the extent and outcome of each case. The log shows when the occupational injury or illness occurred, to whom, what the injured or ill person's regular job was at the time of the injury or illness exposure, the department in which the person was employed, the kind of injury or illness, how much time was lost, and the final determination of the case.

Part 1904.2 of the *Code of Federal Regulations* (CFR) provides the basic requirements for the Log and Summary of Occupational Injuries and Illnesses:

> (a) Each employer shall except as provided in paragraph (b) of this section. (1) maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; and (2) enter each recordable injury and illness on the log and summary as early as practicable but no later than 6 working days after receiving information that a recordable injury or illness has occurred. For this purpose, form OSHA No. 200 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used. The log and summary shall be completed in the detail provided in the form and instructions on form OSHA No. 200.
>
> (b) Any employer may maintain the log of occupational injuries and illnesses at a place other than the establishment or by means of data-processing equipment, or both. Under the following circumstances:
>
> (1) There is available at the place where the log is maintained sufficient information to complete the log to date within 6 working days after receiving information that a recordable case has occurred as required by paragraph (a) of this section.
>
> (2) At each of the employer's establishments, there is available a copy of the log which reflects separately the injury and illness experience of that establishment complete and current to a date within 45 calendar days.

The log consists of three parts: A descripitve section which identifies the employee and briefly describes the injury or illness; a section covering the extent of the injuries recorded; and a section on the type and extent of illnesses. A complete OSHA No. 200 log form is shown in appendix B.

While most of the columns seem self-explanatory, there are some important requirements to be considered when completing the log. The following information pertains to the descriptive section of the log shown on the following page.

Column A. Enter a number that is unique for each case. This is very important because each case must be identified and examined "separately. The simplest method of numbering may be the best; i.e. 1, 2, 3. Employers may also number cases by month, for example, 7–15 would indicate the 15th case occurring during July.

Column B. For occupational injuries, enter the date of the work accident which resulted in injury. For occupational illnesses, enter date of initial diagnosis of illness, or, if absence from work occurred before diagnosis, enter the first day of absence attributable to the illness which was later diagnosed or recognized. Cases do not necessarily fall consecutively by date, because injuries and illnesses are recorded as an employer learns that a case has occurred.

Column C. Insert 1 of 2 entries: (1) First name, middle initial, and last name; or (2) first initial, middle initial, and last name.

Column D. Specify the injured or ill employee's regular job title even if the employee was working outside his or her regularly assigned occupation at the time of the injury or illness exposure.

Column E. State the department in which the injured or ill person *is regularly employed.* Enter the department in which the injury or illness exposure occurred only if it is the regularly assigned station. If an employee is regularly assigned in the maintenance department, but was injured while working in the shipping department, the correct entry would be "maintenance."

Column F. Briefly describe the nature of the injury or illness and part(s) of the body affected. For example, amputation—finger, is not sufficiently detailed. A correct entry would be amputation—second joint, forefinger, left hand. This tells which hand, which finger, and to what degree. The examples listed in the heading for column *F* on the log form are good indications of how entries should be made.

The injury portion of the log is reproduced on the following page. The following instructions concern entries made in this section.

Column 1. The date of death must be entered if an occupational injury results in a fatality. In some cases, an employee may be injured, but not die until several weeks or months later. It does not matter how much time has elapsed; if the injury was work-related, the entry on the log must be changed to reflect a fatality; the entries in columns 2 through 6 must be lined out, and the date of death entered in column 1.

Column 2. If a case involves lost workdays due to an injury, check this column. Lost workdays include both days away from work and days of restricted work activity, or both. The number of lost workdays should *not* include the day of injury or any days on which the employee would not have worked even though able to work (i.e., weekends, paid holidays, etc.).

BILLING CODE 4510-24-M

BILLING CODE 4510-24-C

Bureau of Labor Statistics
Log and Summary of Occupational
Injuries and Illnesses

U.S. Department of Labor

For Calendar Year 19 ______ Page ___ of ___

Form Approved
O.M.B. No. 1220-0029

NOTE: This form is required by Public Law 91-596 and must be kept in the establishment for 5 years. Failure to maintain and post can result in the issuance of citations and assessment of penalties. *(See posting requirements on the other side of form.)*

RECORDABLE CASES: You are required to record information about every occupational death; every nonfatal occupational illness; and those nonfatal occupational injuries which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid). *(See definitions on the other side of form.)*

Company Name

Establishment Name

Establishment Address

Case or File Number	Date of Injury or Onset of Illness	Employee's Name	Occupation	Department	Description of Injury or Illness	Extent of and Outcome of INJURY: Fatalities — Injury Related	Nonfatal Injuries — Injuries With Lost Workdays				Injuries Without Lost Workdays	Type, Extent of, and Outcome of ILLNESS: Type of Illness — CHECK Only One Column for Each Illness (See other side of form for terminations or permanent transfers.)							Fatalities — Illness Related	Nonfatal Illnesses — Illnesses With Lost Workdays				Illnesses Without Lost Workdays
Enter a nonduplicating number which will facilitate comparisons with supplementary records.	Enter Mo./day.	Enter first name or initial, middle initial, last name.	Enter regular job title, not activity employee was performing when injured or at onset of illness. In the absence of a formal title, enter a brief description of the employee's duties.	Enter department in which the employee is regularly employed or a description of normal workplace to which employee is assigned, even though temporarily working in another department at the time of injury or illness.	Enter a brief description of the injury or illness and indicate the part or parts of body affected. Typical entries for this column might be: Amputation of 1st joint right forefinger; Strain of lower back; Contact dermatitis on both hands; Electrocution—body.	Enter DATE of death. Mo./day/yr.	Enter a CHECK if injury involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if injury involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 1 or 2 but the injury is recordable as defined above.	Occupational skin diseases or disorders	Dust diseases of the lungs	Respiratory conditions due to toxic agents	Poisoning (systemic effects of toxic materials)	Disorders due to physical agents	Disorders associated with repeated trauma	All other occupational illnesses	Enter DATE of death. Mo./day/yr.	Enter a CHECK if illness involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if illness involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 8 or 9.
(A)	(B)	(C)	(D)	(E)	(F)	(1)	(2)	(3)	(4)	(5)	(6)	(7)(a)	(b)	(c)	(d)	(e)	(f)	(g)	(8)	(9)	(10)	(11)	(12)	(13)
					PREVIOUS PAGE TOTALS																			
					TOTALS																			

INJURIES

ILLNESSES

OSHA No. 200

FOLD

Certification of Annual Summary Totals By ______________ Title ______________ Date ______________

OSHA No. 200

POST ONLY THIS PORTION OF THE LAST PAGE NO LATER THAN FEBRUARY 1.

Column 3. Check if the injury involves days away from work.

Column 4. Enter the actual number of days away from work.

Column 5. Enter the actual number of days of restricted work activity.

Column 6. If no entry was made in columns 1 or 2, but the injury is recordable according to the guidelines in this report or the instructions on the OSHA No. 200, a check must be entered to indicate that it was an injury without lost workdays.

Extent of and Outcome of INJURY					
Fatalities	Nonfatal Injuries				
Injury Related	Injuries With Lost Workdays				Injuries Without Lost Workdays
Enter DATE of death. Mo./day/yr.	Enter a CHECK if injury involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if injury involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 1 or 2 but the injury is recordable as defined above.
(1)	(2)	(3)	(4)	(5)	(6)

The illness portion of the log follows on the next page with instructions relating to the columns in this section.

Column 7. For occupational illnesses, an entry should be placed in one of the columns 7a through 7g, depending upon which column is applicable. It is important to keep in mind that illnesses must be evaluated individually. For example, a sunstroke would require a check in column 7e; eczema or rash would require a check in column 7a, etc. The reserve side of the log form gives examples of cases under each illness category.

Column 8. The date of death must be entered if an occupational illness results in a fatality.

Column 9. Check if the illness involves days away from work or days of restricted work activity, or both.

Column 10. Enter a check if the illness involves days away from work.

Column 11. Enter the actual number of days away from work resulting from the illness.

Column 12. Enter the number of days of restricted work activity resulting from the illness.

Column 13. Enter a check if no entry was made in columns 8 or 9 since the illness did not involve lost workdays.

For illnesses only, when a termination or permanent transfer is involved, place an asterisk (*) to the right of the entry in columns 7a through 7g (type of illness).

A–1. Q. Who must maintain the log?

A. Every employer who is subject to the recordkeeping requirements of the OSH Act must maintain at each establishment a log of all recordable occupational injuries and illnesses which occur at the establishment.

A–2. Q. How must the log be maintained and retained?

A. The log must be maintained on a calendar (not fiscal) year basis. Logs must be kept current and retained for 5 years following the end of the calendar year to which they relate. If there is a change in the extent or outcome of a case entered on the log, the first entry should be lined out and a corrected entry made. An entry may be lined out if a case is later found to be nonrecordable. Entries should be made for previously unrecorded cases that are discovered or found to be recordable after the end of the year in which the case occurred. The new entry should be made on a log for the year in which the case occurred.

A–3. Q. When must an employer make an entry on the log?

A. Normally, an employer must make an entry on the log no later than 6 working days after receiving information that a recordable case has occurred.

However, an exception to this rule exists for those situations where the log is maintained at a place other than the establishment or where it is maintained by means of data processing equipment. These situations require: (1) Sufficient information available at the alternative location to complete the log within 6 working days after receipt of information that a recordable case has occurred: and (2) a copy of the log updated within 45 calendar days to be present at all times in the establishment.

A–4. Q. What form must be used?

A. Usually, the OSHA No. 200 form is used by employers as their record of occupational injuries and illnesses.

Also, a private equivalent to the log, such as a computer printout, may be used if it contains as much detail as the OSHA No. 200 and if it is as readable and comprehensible as the OSHA No. 200 to a person not familiar with the equivalent. It is important that the columns of the equivalent form have the same identifying numbers as the corresponding columns of the OSHA No. 200 because the instructions for completing the survey of occupational injuries and illnesses refer to log columns by number.

It is advisable that employers have private equivalents of the log form reviewed by BLS to insure compliance with the regulation requiring comparability with the OSHA No 200.

Type, Extent of, and Outcome of ILLNESS

Type of Illness							Fatalities	Nonfatal Illnesses				
CHECK Only One Column for Each Illness (See other side of form for terminations or permanent transfers.)							Illness Related	Illnesses With Lost Workdays				Illnesses Without Lost Workdays
Occupational skin diseases or disorders	Dust diseases of the lungs	Respiratory conditions due to toxic agents	Poisoning (systemic effects of toxic materials)	Disorders due to physical agents	Disorders associated with repeated trauma	All other occupational illnesses	Enter DATE of death. Mo./day/yr.	Enter a CHECK if illness involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if illness involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 8 or 9.
(7)							(8)	(9)	(10)	(11)	(12)	(13)
(a)	(b)	(c)	(d)	(e)	(f)	(g)						

ILLNESSES

A–5. Q. Can additional information be included on private equivalents to the log?

A. Yes. Equivalents to the log may contain additional information if they retain the same identifying column numbers as the OSHA No. 200 and are as readable and comprehensible as the OSHA No. 200 to a person not familiar with the equivalent form.

A–6. Q. Is an employer required to have a log for any year in which there were no recordable cases?

A. No. An employer is not required to have a log for any year during which there were no recordable cases. However, the summary portion of the OSHA No. 200 should be completed with zero entries and retained for the 5-year period.

A–7. Q. Can OSHA records be kept on microfiche or magnetic tape?

A. Yes. If the information is always available during working hours and is retrievable upon demand, and if the format used to store the information is equivalent to the format of the OSHA forms.

B. The Summary of Occupational Injuries and Illnesses, OSHA No. 200

The portion of the OSHA No. 200 to the right of the dotted vertical line is used to summarize injuries and illnesses in an establishment for the previous calendar year. Every nonexempt employer who is required to keep OSHA records must prepare an annual summary for each establishment, based on the information contained in the log for each establishment. The summary is prepared by totaling the column entries on the log (or its equivalent) and signing and dating the certification portion of the form at the bottom of the page.

Part 1904.5 of the Code of Federal Regulations states the requirements for the annual summary of occupational injuries and illnesses:

(a) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year's totals from the form OSHA No. 200 and the following information from that form: calendar year covered, company name, establishment address, certification signature, title, and date. . . . If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted.

(b) The summary shall be completed by February 1, beginning with calendar year 1979.

(c) Each employer, or the officer or employee of the employer who supervises the preparation of the log and summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete.

(d)(1) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under Section 1903.2(a)(1) of this chapter. The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. . . .

(2) A failure to post a copy of the establishment's annual summary may result in the issuance of citations and assessment of penalties pursuant to Sections 9 and 17 of the Act.

Part 1903.2(a) of the regulations governs employer posting obligations. The following requirements pertain to posting the summary:

(a) Such notice or notices shall be posted by the employer in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each employer shall take steps to insure that such notices are not altered, defaced, or covered by other material.

Before preparing the summary which is shown on the next page, the employer should review the log to be sure the entries are correct and current. Each case should be checked to make sure that it is in only one of the "extent" categories on the log (fatalities, lost workday cases, nonfatal cases without lost workdays). Any open case involving a loss of workdays which is continuing at the time the summary is prepared should be completed by estimating the number of future workdays the employee will lose. The estimated number of future lost workdays should be added to the number of workdays already lost, and the combined total entered on the log and included in the summary. (The log should be revised at a later date to reflect the number of days that were actually lost.)

The yearly totals on the log are all that is needed for posting. Employers may prepare the summary in 1 of 2 ways: (1) They can use the last page of the log they have been maintaining during the year by folding the log so that the portion to the left of the dotted line is turned under to conceal the names of the injured or ill employees; or (2) they can use a photocopy or separate form, such as a blank OSHA No. 200.

Completing the summary is a relatively simple procedure. The right hand portion of the log (to the right of the dotted fold line) is used for this purpose. Employers complete the top portion of the page by entering the year to which the records relate, the company name (and the establishment name, if different from the company), and the address. Then the entries in columns 1 through 13 are added vertically and totaled on the bottom line. Note that, although all the column entries for cases and lost workdays must be totaled, employers need not total the asterisks on the log signifying illnesses resulting in termination of employment or permanent transfer, since these are primarily for the information of authorized Federal or State officials. The summary is completed with the signature of the person responsible for the summary information and the date of that person's signature at the bottom of the page.

B–1. Q. What is supposed to be accomplished by posting an annual summary in the workplace?

A. Posting the annual summary: (1) Provides employees with their establishment's record of injuries and illnesses; (2) makes employers and employees more safety conscious; and (3) promotes joint labor-management safety and health efforts.

B–2. Q. What form must be used for the summary?

A. The OSHA No. 200 or a private equivalent may be used. Employers are allowed to use private equivalents if they are readable and comprehensible to persons not familiar with the equivalents. A blank copy of the OSHA No. 200 is often posted beside the equivalent for clear understanding by employees. Copies of the OSHA No. 200 can be obtained from BLS regional offices or from the BLS national office. (See back cover for BLS regional office addresses and telephone numbers.)

B–3. Q. How long must the summary be posted at each establishment?

A. The annual summary is to be posted by February 1 of each year and is to remain in place until March 1. It must be posted at each establishment in a conspicuous place where notices to employees are customarily posted.

B–4. Q. Who is responsible for the preparation of the annual summary?

A. The employer is ultimately responsible for preparation of the annual summary. However, in many instances an employee actually prepares and certifies the annual summary.

BILLING CODE 4510-24-M

U.S. Department of Labor

B–5. Q. What is meant by certification of the summary?

In addition to the log of occupational injuries and illnesses provided for under

U.S. Department of Labor

For Calendar Year 19 ____ Page ____ of ____

Company Name

Establishment Name

Establishment Address

Form Approved
O.M.B. No. 1220-0029

Extent of and Outcome of INJURY

Fatalities	Nonfatal Injuries				
	Injuries With Lost Workdays				Injuries Without Lost Workdays
Injury Related	Enter a CHECK if injury involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if injury involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 1 or 2 but the injury is recordable as defined above.
Enter DATE of death. Mo./day/yr.					
(1)	(2)	(3)	(4)	(5)	(6)

Type, Extent of, and Outcome of ILLNESS

Type of Illness								Fatalities	Nonfatal Illnesses				
CHECK Only One Column for Each Illness (See other side of form for terminations or permanent transfers.)									Illnesses With Lost Workdays				Illnesses Without Lost Workdays
Occupational skin diseases or disorders	Dust diseases of the lungs	Respiratory conditions due to toxic agents	Poisoning (systemic effects of toxic materials)	Disorders due to physical agents	Disorders associated with repeated trauma	All other occupational illnesses		Illness Related					
			(7)					Enter DATE of death. Mo./day/yr.	Enter a CHECK if illness involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if illness involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 8 or 9.
(a)	(b)	(c)	(d)	(e)	(f)	(g)		(8)	(9)	(10)	(11)	(12)	(13)

INJURIES

ILLNESSES

Certification of Annual Summary Totals By _____ Title _____ Date _____

OSHA No. 200

POST ONLY THIS PORTION OF THE LAST PAGE NO LATER THAN FEBRUARY 1.

BILLING CODE 4510-24-C

B–5. Q. What is meant by certification of the summary?

A. The summary must be signed and dated by the employer, or whoever is delegated responsibility for completing it, to certify that it is true and complete to the best of that person's knowledge.

B–6. Q. If no recordable cases occurred during a reporting period, must a summary be prepared?

A. Yes. Even though there were no recordable cases during the previous year, the summary portion of the OSHA No. 200 must be completed and posted in each establishment no later than February 1 and remain in place until March 1. Zeros should be entered in all categories on the "totals" line. All summaries must be retained for 5 years following the end of the year to which they relate.

B–7. Q. Can the summary at the end of the year be on a total company basis, or does it have to be completed for each establishment?

A. A summary must be prepared for each establishment and posted in each establishment.

B–8. Q. Must a copy of the annual summary be posted on evey bulletin board, or will the posting of only one copy comply with the requirements of the law?

A. It depends upon the particular establishment. The regulations state that the annual summary is to be posted "at each establishment in a conspicuous place where notices to its employees are posted customarily." In some circumstances, this may require more than one posting.

B–9. Q. How do workers review the annual summary when they don't work at a fixed worksite?

A. During the posting period, employers are required to present or mail a copy of the annual summary to employees with no fixed worksite.

B–10. Q. Is it necessary to post the annual summary if an establishment closes?

A. It is not necessary to post a summary in an establishment which has closed by the time the summary is prepared. The primary purpose of posting is to inform employees of the past year's injury and illness record.

B–11. Q. Must the employer post the annual summary at the jobsite of a seasonal operation if the site is shut down during the posting period?

A. Posting informs the employees of the past year's injury and illness experience for that establishment. Since posting in a vacated establishment would not accomplish this purpose, posting is not required. However, employers in these situations shall present or mail a copy of the annual summary to their permanent employees.

B–12. Q. When will an establishment have to send its annual summary to the Bureau of Labor Statistics?

A. Never. The employer must retain the recordkeeping forms, the log and summary, OSHA No. 200, and the supplementary record, No. 101, in the establishment for 5 years after the reference year of the records. Establishments selected to participate in the statistical survey will receive a survey reporting form in the mail. If an establishment does not receive a form, the employer need only maintain and retain the records according to the regulations.

B–13. Q. How is a lost workday case handled on the summary if it carries over into the next year? What if, for example, an employee is injured in December 1983 and is still out on January 31, 1984?

A. Two important considerations are involved: (1) The same case should not appear in the records for 2 years; and (2) it is important not to lose the count of the actual number of lost workdays, which is a measure of the severity of the case.

The original entry for this case should be on the 1983 log. At the end of calendar year 1983, the employer should estimate the number of workdays the employee is expected to lose in 1984 and add that to the count of workdays lost up to the time of making that estimate. That number should be entered in column 4 or column 11 of the 1983 log, depending on the type of case. When the employee returns to work and is able to perform all the duties of his or her regular job or the count of lost workdays is otherwise ended, the employer should verify the actual count of lost workdays (days away from work and any days of restricted activity) and correct the entry on the 1983 log as necessary. No entries should be made for this case on the 1984 log. Also, the summary for 1983 does not have to be corrected.

C. The Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101

For every injury or illness entered on the log, it is necessary to record additional information on the supplementary record, OSHA No. 101. The supplementary record describes how the accident or illness exposure occurred, lists the objects or substances involved, and indicates the nature of the injury or illness and the part(s) of the body affected.

Part 1904.4 of the *Code of Federal Regulations* provides the requirements for the supplementary record:

In addition to the log of occupational injuries and illnesses provided for under Section 1904.2, each employer shall have available for inspection at each establishment within 6 working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration Form OSHA No. 101. Workmen's compensation insurance or other reports are acceptable alternative records if they contain the information required by Form OSHA No. 101. If no acceptable alternative record is maintained for other purposes, Form OSHA No. 101 shall be used or the necessary information shall be otherwise maintained.

Most items in the supplementary record shown on the next page are self-explanatory. However, the following items are highlighted:

The OSHA case or file number must be the same number used to identify the case or file number in column *A* of the log, OSHA No. 200.

Occupation (item 8) refers to the employee's *regular* job title. If an employee is working in a capacity other than the regular occupation at the time of an injury or illness exposure, item 8 must show the regular job title. This is the same title used in column *D* of the log.

Department (item 9) refers to the department or division in which the employee is *regularly* employed, even if an employee should be temporarily working in another department at the time of the injury or illness exposure. This is the same department named in column *E* of the log.

Premises (item 11) refers to whether the accident or exposure occurred on the employer's premises.

Injury or illness and part(s) of body affected (item 14) should be in agreement with the information entered in column *F* of the log.

C–1. Q. When must a supplementary record be prepared?

A. A supplementary record must be prepared for each case within the same time frame required for entering a case on the log—within 6 workdays after receipt of information that a recordable case has occurred.

C–2. Q. Must all employers complete the OSHA No. 101 or equivalent for any case entered on the log of occupational injuries and illnesses?

A. Yes, all employers regularly keeping OSHA records must complete a supplementary record for each entry on the log, OSHA No. 200.

However, there is one exception to this rule. As noted in section D, chapter

II, a small percentage of firms regularly exempt from OSHA recordkeeping is selected each year to participate in the

they presently use a State workers' compensation form?

injuries. How can we use this in place of OSHA No. 101?

Bureau of Labor Statistics
Supplementary Record of

U.S. Department of Labor

VOL
50
ISS
137
JL
17
1985
UMI

II, a small percentage of firms regularly exempt from OSHA recordkeeping is selected each year to participate in the Annual Survey of Occupational Injuries and Illnesses. Those selected are required to maintain a log of occupational injuries and illnesses but are not required to complete any other OSHA records.

C–3. Q. What form must be used as the supplementary record?

A. Either the OSHA No. 101 or any other form which contains the same information may be used. Employers are not required to prepare an OSHA No. 101 if they complete any other form which contains identical information. Many State workers' compensation first report of injury forms contain all the OSHA No. 101 items. In addition, many large employers prepare internal accident report forms which contain all the necessary items.

C–4. Q. Does this mean employers don't need to complete OSHA No. 101 if they presently use a State workers' compensation form?

A. It depends upon the particular workers' compensation form used. Workers' compensation first report of injury forms are acceptable if they contain all the items on the OSHA No. 101 or are supplemented to do so. Employers should be sure that all OSHA No. 101 items are on the first report forms; otherwise, missing items may be entered on a separate attachment. Many States have modified their first report forms to include this information. Employers should consult the State agency which is cooperating in the program with the Bureau of Labor Statistics or the BLS regional or national office to determine whether any items are missing from their State's form. The addresses and telephone numbers of these agencies and offices are listed in the appendix D and on the back cover of this report.

C–5. Q. Our State workers' compensation form lists only disabling injuries. How can we use this in place of OSHA No. 101?

A. If a State requires reports of disabling injuries only, the employer will have to complete additional forms to comply with the OSHA requirements. The OSHA No. 101 or some acceptable substitute such as an insurance form or internal accident report form may be used to record the nondisabling injuries.

C–6. Q. Who evaluates a State's first report of injury form to insure that it satisfies the requirements of the OSHA No. 101?

A. The Bureau of Labor Statistics is available to evaluate State first report of injury forms upon request.

C–7. Q. If a company's injury form, which is generally similar to OSHA No. 101, does not include information such as social security number, sex, etc., must the company apply to BLS for a variance?

BILLING CODE 4510-24-M

Bureau of Labor Statistics
Supplementary Record of
Occupational Injuries and Illnesses

U.S. Department of Labor

This form is required by Public Law 91-596 and must be kept in the establishment for 5 years. Failure to maintain can result in the issuance of citations and assessment of penalties.

Case or File No.

Form Approved
O.M.B. No. 1220-0029

Employer

1. Name
2. Mail address *(No. and street, city or town, State, and zip code)*
3. Location, if different from mail address

Injured or Ill Employee

4. Name *(First, middle, and last)* — Social Security No.
5. Home address *(No. and street, city or town, State, and zip code)*
6. Age — 7. Sex: *(Check one)* Male ☐ Female ☐
8. Occupation *(Enter regular job title, not the specific activity he was performing at time of injury.)*
9. Department *(Enter name of department or division in which the injured person is regularly employed, even though he may have been temporarily working in another department at the time of injury.)*

The Accident or Exposure to Occupational Illness

If accident or exposure occurred on employer's premises, give address of plant or establishment in which it occurred. Do not indicate department or division within the plant or establishment. If accident occurred outside employer's premises at an identifiable address, give that address. If it occurred on a public highway or at any other place which cannot be identified by number and street, please provide place references locating the place of injury as accurately as possible.

10. Place of accident or exposure *(No. and street, city or town, State, and zip code)*
11. Was place of accident or exposure on employer's premises? Yes ☐ No ☐
12. What was the employee doing when injured? *(Be specific. If he was using tools or equipment or handling material, name them and tell what he was doing with them.)*
13. How did the accident occur? *(Describe fully the events which resulted in the injury or occupational illness. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident. Use separate sheet for additional space.)*

Occupational Injury or Occupational Illness

14. Describe the injury or illness in detail and indicate the part of body affected. *(E.g., amputation of right index finger at second joint; fracture of ribs; lead poisoning; dermatitis of left hand, etc.)*
15. Name the object or substance which directly injured the employee. *(For example, the machine or thing he struck against or which struck him; the vapor or poison he inhaled or swallowed; the chemical or radiation which irritated his skin; or in cases of strains, hernias, etc., the thing he was lifting, pulling, etc.)*
16. Date of injury or initial diagnosis of occupational illness
17. Did employee die? *(Check one)* Yes ☐ No ☐

Other

18. Name and address of physician
19. If hospitalized, name and address of hospital

Date of report	Prepared by	Official position

OSHA No. 101 (Feb. 1981)

A. No. Also, it is not mandatory that the OSHA form be used as the supplementary record; any other form which contains the same information may be used.

The regulations specify that distinctly separate activities performed at a single physical location be recorded separately. For example, if a manufacturing establishment operates a machine shop, a foundry, and an assembly operation in the same building, the employer must keep separate records for employees working in each of these operations. Similarly, if a lumber company operates a sawmill and a logging operation, separate records must be kept for employees working in each operation. Employees working in distinctly separate activities at a single physical location, such as a maintenance department, must be recorded separately from employees in the operations they support. However, if a number of distinctly separate activities are performed at one location and it is impossible or impractical to keep records for each activity separately, the records should be kept in the manner which most accurately reflects the distribution of injuries and illnesses among the employees. Factors to be considered in this situation include the relative size of the various activities, the degree of employee exposure to hazards in each activity, and the similarity of the hazards in the various activities. Activities which are functionally related and integrated are not indicative of separate activities and separate establishments.

A–10. Q. How are records kept for a

records are kept must be available at the

determining where OSA records should

VOL
50
ISS
137
JL
17
1985
UMI

A. No. Also, it is not mandatory that the OSHA form be used as the supplementary record; any other form may be used if it contains all of the OSHA No. 101 items or is supplemented to do so. In this case, a longhand entry concerning the individual's sex, social security number, and other missing information would satisfy the need. An alternative record which does not contain all of the OSHA No. 101 items can be supplemented by adding the missing items.

C–8. Q. Does information on the supplementary record (OSHA No. 101) need to be on one form? What if a company wants to split this information between the mailing department, safety department, and workers' compensation department?

A. Yes. This information must be on one form, either the OSHA No. 101 or a satisfactory substitute. Therefore, the information should not be split between different departments.

Chapter III. Location, Retention, and Maintenance of Records

Ordinarily, injury and illness records must be kept for each establishment covered by the Occupational Safety and Health Act. The regulations require that records be located and maintained at this level to assist government agencies in administering and enforcing the act, to increase employer-employee awareness, and to promote injury and illness prevention. This chapter describes requirements for location of records and employer responsibilities for records retention and maintenance.

A. Establishments Required To Keep and Maintain Records

The establishment is the basic organizational unit in the private sector among different firms and operations in different industries. It is the focus of the requirements for records location and maintenance, since the regulations require that records be kept at the establishment level. Therefore, it is imperative that everyone involved in the recordkeeping process have a clear understanding of what constitutes an establishment for recordkeeping purposes.

Part 1904.12(g)(1) of the regulations provides a concise definition of the term "establishment." An establishment is defined as a single physical location where business is conducted or where services or industrial operations are performed. The examples provided include a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.

The regulations specify that distinctly separate activities performed at a single physical location (for example, where contract construction activities are operated from the same physical location, as a lumber yard), shall each be treated as a separate establishment for recordkeeping purposes.

A–1. Q. What is the definition of a "single physical location?"

A. While the regulations do not require that worksites be contiguous to comprise a single physical location, these sites should at least be in proximity to one another. This relationship is a matter of degree—depending upon the size and nature of the operations of the unit under consideration.

A–2. Q. Our company has several different operations at several different locations. For unemployment insurance purposes, these units have always been considered one establishment. In addition, we are mailed only one survey form for all these operations when we are selected to participate in the BLS Annual Survey of Occupational Injuries and Illnesses. Must we keep more than one set of injury and illness records for these operations?

A. Yes. The regulations require that injury and illness records be maintained for each establishment, which is defined as a single physical location where business is conducted or where operations are performed. The fact that employers may consolidate records for survey reporting and other purposes does not affect this requirement.

A–3. Q. Even though individual establishments must maintain individual records, may a company file a consolidated report of these operations to the Bureau of Labor Statistics in Washington or to the regional offices? If so, how do employers know which operations to include?

A. Reports of injuries and illnesses need not be filed with BLS unless the company is selected to participate in the BLS annual survey. If a company is selected to participate, it will be mailed a survey form on which to report its occupational injuries and illnesses. The form will identify which establishments are to be included in the report. Sometimes all establishments in a specified area, such as a county, are included; sometimes they are not.

A–4. Q. What is meant by the term, "a distinctly separate activity?"

A. There is no clear-cut definition of what constitutes a "distinctly separate activity." Production of dissimilar products; different kinds of operational procedures; different facilities; and separate management, personnel, payroll, or support staff are all indicative of separate activities and separate establishments.

A–5. Q. How many sets of records must be kept in the following case? At one location, workers in Division A make metal tools, while workers in Division B make wooden chairs.

A. If Divisions A and B are managed independently of each other, then they would be considered separate establishments and each division would keep its own records.

A–6. Q. What about auxiliary operations, such as personnel offices or medical facilities?

A. These may be either separate establishments or subunits, departments, or divisions within an establishment, depending on the nature of operations and degree of autonomy the particular unit has in relation to the main organization. (See question A–4 above.)

A–7. Q. Would a manufacturing operation with a warehouse attached need to keep separate records for the warehouse?

A. Only if the warehouse is a distinctly separate activity. Factors to consider include whether the warehouse is an integral part of the manufacturing operation and whether it stores materials for any operation other than the manufacturing facility. Other factors to evaluate are listed in question A–4.

A–8. Q. Do separate OSHA records have to be kept for trucking operations associated with manufacturing facilities?

A. If a trucking fleet is a distinctly separate activity, it requires separate OSHA records. There are, of course, situations where separate OSHA records for truckdrivers would not be kept. These involve operations with a limited number of trucks under the same supervision as the rest of the facility. In these situations, it is usually difficult to differentiate between truckdrivers and other employees in the employment records. Question A–4 of this section lists other considerations.

A–9. Q. A firm has several operational facilities at several locations, each having its own management. However, all facilities utilize one medical department and one personnel office. Are separate records required for each of these facilities or can one set of records be kept for all the facilities?

A. These facilities constitute separate establishments, and hence require separate records. The regulations require that records be maintained at the establishment level so that both management and employees have information on their injury and illness experience.

A–10. Q. How are records kept for a firm that rotates its employees among several different fixed establishments?

A. Separate records shall be kept for each separate establishment. Each establishment's records should reflect the injuries and illnesses which occurred in that particular establishment. (See chapter VI, question B–21, for recording lost workdays in these situations.)

A–11. Q. Must employers maintain separate records for exposure hours for each establishment in situations where the employees are rotated among the firm's different establishments?

A. Separate records for exposure hours do not necessarily have to be maintained. However, employers should at least be able to provide an estimate of the exposure hours worked at each establishment.

B. Location of Records

Injury and illness records (the log and summary, OSHA No. 200, and the supplementary record, OSHA No. 101) must be kept for every physical location where operations are performed. Under the regulations, the location of the records depends upon whether or not the employees are associated with fixed establishments.

1. *Employees associated with fixed establishments.* Records for these employees should be located as follows:

a. Records for employees working at fixed locations, such as factories, stores, restaurants, warehouses, etc., should be kept at the work location.

b. Records for employees who report to a fixed location but work elsewhere should be kept at the place to which the employees report each day. These employees are generally engaged in activities such as agriculture, construction, transportation, etc.

c. Records for employees whose payroll or personnel records are maintained at a fixed location, but who do not report or work at a single establishment, should be maintained at the base from which they are paid or the base of their firm's personnel operations. This category includes generally unsupervised employees such as traveling salespeople, technicians, or engineers.

2. *Employees not associated with fixed establishments.* Some employees are subject to common supervision, but do not report or work at a fixed establishment on a regular basis. These employees are engaged in physically dispersed activities that occur in construction, installation, repair, or service operations. Records for these employees should be located as follows:

a. Records may be kept at the field office or mobile base of operations.

b. Records may also be kept at an established central location. If the records are kept centrally: (1) The address and telephone number of the place where the records are kept must be available at the worksite; and (2) there must be someone available at the central location during normal business hours to provide information from the records.

B–1. Q. I manage a grocery store that is part of a supermarket chain. May we keep the OSHA records for our employees at our company's central administrative office?

A. No. The OSHA records for these employees should be maintained at the work location to satisfy the requirements of the regulations and to insure maximum effectiveness of the records in injury and illness prevention. However, even though the summary and supplementary records must be kept at the establishment, see the next section for the location exception for the log, OSHA No. 200.

B–2. Q. Our company employs several salesmen who operate within a limited geographic area on a commission basis. Where should the records for these people be located?

A. If these employees do not ordinarily report to a single location and are generally unsupervised in their daily work, the records should be kept at the location from which they are paid or the base of their firm's personnel operations.

If these employees report to a given location each day before beginning their sales activities, the records should be kept at the place to which they report.

B–3 Q. Do construction subcontractors and construction contractors have to keep OSHA records at each individual jobsite, or can the records be located at their regional or central office?

A. Location of the records depends upon the nature of the operation. If the employees report to a given place each day but work elsewhere, OSHA records should be kept at the location where they report. For example, if an employer is a plumbing contractor with trucks going from the shop to different sites each day, the establishment is the shop. This is the location where records must be kept. However, if the employees of a plumbing firm report directly to transient jobsites each day, the firm has discretion regarding where the rocords are kept. Records for employees subject to common supervision who do not report or work at a fixed establishment on a regular basis may be kept at either: (1) The field office or mobile base of operations; or (2) at an established central location, provided the employer satisfies the two requirements listed above for employees not associated with fixed establishments.

B–4. Q. How do you distinguish between fixed and nonfixed establishments for the purpose of determining where OSA records should be kept?

A. The distinction between these two types of establishments generally rests on the nature and duration of the operation and not on the type of structure in which the business is located.

A nonfixed establishment usually operates at a single location for a relatively short period of time. A fixed establishment remains at a given location on a long-term or permanent basis and often involves repetitious activities. Also, fixed establishments are generally places where clerical, administrative, or other business records are kept. For examle, a construction crew repairing a bridge for 2 months is considered working in a nonfixed establishment, while a crew repairing a bridge for a year and half is considered working at a fixed establishment.

C. Location Exception for the Log (OSHA No. 200)

Although the supplementary record and the annual summary must be located as outlined in the previous section, it is possible to prepare and maintain the *log* at an alternate location or by means of data processing equipment, or both. Two requirements must be met: (1) Sufficient information must be available at the alternative location to complete the log within 6 workdays after receipt of information that a recordable case has occurred; and (2) a copy of the log updated to within 45 calendar days must be present at all times in the establishment. This location exception applies only to the log, and not to the other OSHA records. Also, it does not affect the employer's posting obligations.

C–1. Q. Can we maintain the logs for our different facilities in one central administrative office rather than in each individual establishment?

A. Yes. For centralized recordkeeping, the log, OSHA No. 200, may be maintained in some place other than the establishment, such as the central office. If that is done, the requirements listed above must be followed. Note, however, that separate records must be maintained for each establishment.

C–2. Q. To qualify for the location exception for the log, must I use a computer to maintain the records at the alternative location?

A. A computer may be used for this purpose, but it is not mandatory.

D. Retention of OSHA Records

The regulations require that the log and summary, OSHA No. 200, and the

supplementary record, OSHA 101, must be retained in each establishment for 5 calendar years following the end of the

the firm's operations are basically ongoing in nature, the employer is still

responsible for maintaining the previous owner's log.

2. *Deciding if injuries and illnesses occurring to employees are recordable.*

keep the records for the personnel supplied by the service.

regarding his activities relating to this Act as the Secretary, in cooperation with the

supplementary record, OSHA 101, must be retained in each establishment for 5 calendar years following the end of the year to which they relate. This requirement pertains to the log and summary, OSHA No. 200, and to the supplementary record, OSHA No. 101.

D–1. Q. Must a new owner retain the OSHA records of an existing establishment he or she just purchased?

A. When a change in ownership of an establishment occurs, the new owner must retain OSHA injury and illness records of the previous owner for 5 years following the end of the year to which they relate. However, the new owner does not have to update these records.

D–2. Q. Must a construction company retain OSHA records for completed projects, such as completed buildings, bridges, etc., if the company's business continues at another location after the completion?

A. Yes. In these situations, the OSHA records must be retained by the company for the 5-year retention period.

D–3. Q. When a firm goes out of business, does the employer still have to retain the OSHA records?

A. In this situation, the firm ceases to exist at the time the employer closes down operations. The employer no longer has to retain the OSHA records once the firm ceases to exist.

D–4. Q. Must records still be retained if a firm undergoes a fundamental change in business structure, such as changing from a privately owned enterprise to a corporation?

A. Yes. The OSHA records must still be retained since the existence of the establishment remains unchanged.

D–5. Q. What is the employer's responsibility for retention of OSHA records if the establishment goes bankrupt?

A. The employer's responsibility in this situation depends upon the nature of the proceeding in bankruptcy. If the firm undergoes a reorganization in bankruptcy, the employer must retain the OSHA records. If a firm undergoes a bankruptcy that results in liquidation, the employer's responsibility terminates upon liquidation. The difference between these two situations is that, in the former, the establishment continues to exist as an organization entity; in the latter, it does not.

D–6. Q. Does an establishment cease to exist for recordkeeping purposes when it seasonally closes down operations? Do these employers have to retain their OSHA records?

A. Just because a firm temporarily closes down operations on a seasonal or cyclical basis does not mean that it ceases to exist as an establishment. If the firm's operations are basically ongoing in nature, the employer is still required to retain the OSHA records. The retention requirement ceases only when the establishment permanently goes out of business.

D–7. Q. An employer with a number of establishments is dissolving her business. Some establishments are being transferred to another firm; some are being closed. What should be done with the OSHA records?

A. For those establishments in which there is a change of ownership, the occupational injury and illness records should be transferred to the new owner. The new owner must preserve those records for 5 years following the end of the year to which they relate; however, the new owner is not responsible for updating log entries. The new owner will, of course, be responsible for work injury and illness records subsequent to the takeover date.

For those establishments which are discontinued as part of a general dissolution, the obligation to preserve or maintain the injury and illness records is ended. If the employer's business were continuing, the injury and illness records for the discontinued establishments should be transferred to a central office (or another establishment if there is no central office) and maintained for the 5-year retention period.

E. Maintenance of the Log (OSHA No. 200)

In addition to keeping the log on a calendar year basis, employers are required to update this form to reflect changes which occur in recorded cases after the end of the calendar year. Maintenance or updating of the log is different from the retention of records discussed in the previous section. Although all OSHA injury and illness records must be retained, only the log must be maintained by the employer.

If, during the 5-year retention period, there is a change in the extent or outcome of an injury or illness which affects an entry on a previous year's log, then the first entry should be lined out and a corrected entry made on that log. Also, new entries should be made for previously unrecorded cases that are discovered or for cases that initially weren't recorded but were found to be recordable after the end of the year in which the case occurred.

E–1. Q. If a change in the ownership of an establishment occurs, does the new owner have to maintain the previous owner's log?

A. No. Although the new owner must retain the previous owner's OSHA records for 5 years, he or she is not responsible for maintaining the previous owner's log.

E–2. Q. Must the new owner maintain the previous owner's log when a change of ownership occurs during mid-year?

A. No. The new owner should retain the previous owner's records, but he doesn't have to maintain them. Instead he should prepare and maintain OSHA injury and illness records which begin with his assumption of ownership and go through the end of the calendar year.

E–3. Q. If an employer reorganizes the structure of his or her business from a private owned enterprise to a corporation, must he or she still maintain logs for the establishment prior to the reorganization?

A. It depends upon the degree of reorganization and the amount of control the original owner still exercises over the operation. New owners need not maintain a previous employer's records. However, records must still be maintained where a firm merely reorganizes its business structure while continuing under the direction and control of the original owner.

E–4. Q. When a firm goes out of business, does the employer have to maintain the OSHA log?

A. No. Employers no longer have to retain their OSHA records or maintain the OSHA log once the establishment goes out of business.

Chapter IV. Employer Decisionmaking

This chapter covers questions which often arise regarding recordkeeping decisions which must be made at the establishment level. It focuses on the legislative and regulatory assignment of decisionmaking authority to employers, and describes the safeguards built into the system to insure the integrity of the records and the validity of the statistics that the records provide.

A. Types of Decisions Employers Make in the Recordkeeping Process

1. *Distinguishing between employees and other workers on site.* The Occupational Safety and Health Act of 1970 and Part 1904 of the *Code of Federal Regulations* require employers to maintain injury and illness records for their own employees at each of their establishments. Employers are not responsible for maintaining records for employees of other firms or for independent contractors, even though these individuals may be temporarily at work in their establishment or on one of their jobsites at the time an injury or illness exposure occurs. Therefore, before deciding whether a case is recordable, an employment relationship needs to be determined.

2. *Deciding if injuries and illnesses occurring to employees are recordable. Employers decide which cases are to be entered on the OSHA records.* This decision must be made in good faith, according to the requirements of the act and Part 1904 of the regulations. Chapter V of this report provides a detailed description of these recordkeeping requirements and furnishes criteria for determining recordability. It presents an overview of the Department of Labor recordkeeping interpretations and guidelines which have been followed by most employers in making recordkeeping determinations since their original issuance in 1972.

3. *Determining the extent or outcome of recordable cases.* Employers must also determine the extent and outcome of the recordable cases. Part 1904.12(c) of the regulations provides the categories in which recordable cases must be classified. These categories are discussed at length in chapter VI.

A–1. Q. How do you differentiate between employees and independent contractors for recordkeeping purposes?

A. This should be evaluated on a case-by-case basis. Employee status generally exists when the employer supervises not only the output, product, or result to be accomplished by the person's work, but also the details, means, methods, and processes by which the work objective is accomplished.

Independent contractors are primarily subject to supervision by the using firm only in regard to the result to be accomplished or end product to be delivered.

Other factors which should be considered in determining employee status are: (1) Whom the worker considers to be his or her employer; (2) who pays the worker's wages; (3) who withholds the worker's Social Security taxes, (4) who hired the worker; and (5) who has the authority to terminate the worker's employment.

People considered independent contractors for other reasons may be considered employees for OSHA recordkeeping purposes.

A–2. Q. Sometimes, businesses use workers from temporary help supply services on a contract basis. Should the using firm record the injuries and illnesses of these temporary workers, or should the service?

A. If the temporary workers are being supplied for indefinite periods of time, or if they are subject to the supervision of the using firm, the temporary help supply service contractor is acting merely as a personnel department for the using firm, and the using firm must keep the records for the personnel supplied by the service.

If the temporary workers are supplied for short periods, and remain subject primarily to the supervision of the supply service, the records must be kept by the service. (See question A–1 above for other considerations.)

A–3. Q. If an employee working in a plant on a contract basis is injured, is the injury recorded on the plant's records or on the records of the contractor?

A. In most situations, the contractor supervises the employee's general work activities and is responsible for maintaining the employee's injury and illness records.

There are exceptional situations, however, where the contractor has no responsibility for supervision of the employee's day-to-day work activities. In these cases, the using firm assumes responsibility for recording his or her injury and illness experience on its records; hours worked for this group of employees should also be obtained.

A–4. Q. Are independent truckdrivers operating on a contract basis considered employees of the company for which they are hauling?

A. Generally, these workers are not considered employees of the using firm. However, see the preceding questions for other factors to be considered in making this evaluation.

A–5. Q. Who is responsible for maintaining records in migrant labor camps?

A. Employing farmers are responsible for maintaining these records if they exercise supervision over the day-to-day work activities of the migrant laborers.

However, if the migrant workers are supplied to the farmers on a purely contractual basis, the farm labor contractors should maintain OSHA records for the migrant laborers. (See question A–1 above for the other considerations in making this determination.)

B. Decisionmaking Authority for Recordkeeping Determinations

1. *Delegation of authority by the Occupational Safety and Health Act of 1970 and Part 1904 of the Code of Federal Regulations.* Both the recordkeeping portion of the act and Part 1904 of the regulations are explicit in assigning recordkeeping responsibilities to employers. Section 8(c)(1) of the act requires employers to complete and preserve records of occupational injuries and illnesses:

> Each employer shall make, keep and preserve, and make available to the Secretary or the Secretary of Health, Education, and Welfare, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses.

In addition, Part 1904.2(a) of the regulations carefully states employer recordkeeping obligations:

> Each employer shall, except as provided in paragraph (b) of this section, (1) maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; and (2) enter each recordable injury and illness on the log and summary as early as practicable. . . .

Parts 1904.4 and 1904.5 of the regulations describe employer responsibilities concerning the supplementary record and the annual summary.

2. Requirement of good faith. Although employers ultimately decide if and how a particular case should be recorded, their decision must not be an arbitrary one, but should be made in accordance with the requirements of the act, regulations, the instructions on the forms, and the guidelines in this report. Information from medical, hospital, or supervisors' records should be reviewed along with other pertinent information, and the employee should be interviewed to determine his or her medical condition and ability to perform normal job duties.

3. Checks and balances within the recordkeeping system. The validity of the records is enhanced by the involvement of all participants in the recordkeeping and reporting system. Employers need accurate and meaningful injury and illness information so that they can focus safety and health efforts on high-risk areas and activities to eliminate workplace hazards. Consequently, they should make every effort to accurately record their firm's injury and illness experience. In addition, OSHA periodically reviews workplace records to verify their accuracy. Further, the posting and access provisions in Part 1904 of the regulations allow employees to review the records to insure the validity of recordkeeping determinations. Chapter II of this report discusses the posting requirements; employee access is covered in chapter VIII.

4. Penalties for recordkeeping violations. Part 1904.9(a) provides the penalties for falsification of records or reports. This part incorporates the language of Section 17(g) of the act:

> Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall be punished by a fine of not more than $10,000 or by imprisonment for not more than six months, or by both.

Does this cover both the employer and the employee if either knowingly supplies false information?

criteria must be sufficient to meet the needs of safety and health professional

injuries and illnesses are classified as deaths, lost-time cases, or non-lost-time

illness statistics produced by such a system would not accurately reflect

Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment, for not more than 6 months, or both.

Additional information is available on penalties for recordkeeping violations in chapter VIII.

B–1. Q. What entries, if any, need to be made in instances of employer-employee disputes involving State workers' compensation measures to determine the facts related to alleged injuries, illnesses, or deaths?

A. Workers' compensation determinations should not impact the OSHA recordability of cases under OSHA. Some cases may be covered by workers' compensation but are not recordable; others may be OSHA recordable but are not covered by workers' compensation. Cases should be evaluated solely on the basis of OSHA requirements.

B–2. Q. Who decides if an injured employee is capable of working?

A. This decision must be the employer's. There will be a few cases in which the employer and the employer's physician feel certain that an employee is perfectly able to work, but the employee disagrees. If the employer is absolutely certain about the case, it should not be entered on the log, OSHA No. 200. However, if the employer has any doubt about the case, it should be entered on the log and lined out later if it turns out that, in fact, the employee was able to perform his or her job. The employee may file a complaint if he disagrees with the employer's decision.

B–3 Q. Why does the employer always decide what is recordable? Why can't it be the company doctor since the doctor or the medical department usually decides whether an employee is capable of working after an injury?

A. The act says that the employer is responsible for keeping the records. The employer may delegate the responsibility to someone else, or may rely on the determination of a doctor. However, the decision is ultimately the employer's.

B–4. Q. Who has the legal liability for making recordkeeping determinations—the person who signs the forms, the local manager, or the company executive officer?

A. The liability belongs to the employer who is ultimately responsible for recording and reporting. Each of the aforementioned persons is a representative of the employer.

B–5. Q. The act states that whoever supplies false information is subject to penalty. Does this cover both the employer and the employee if either knowingly supplies false information?

A. Most of the penalty provisions in Section 17 of the act apply to "any employer," but the penalty for false statements applies to "whoever knowingly makes any false statement. . . ." This has been interpreted by the Occupational Safety and Health Review Commission to include both employers and employees.

B–6. Q. How are disagreements on recordability or the extent of a case resolved when a dispute arises between an employer and an employee, or between an employer and an OSHA compliance officer?

A. Employers have the final responsibility for making bona fide recordkeeping determinations. However, employers' decisions may be challenged. Persons challenging these decisions may contact OSHA, who, in turn, will contact the employer. If no resolution can be obtained through discussions, the following steps are involved: (1) After examining the records and investigating the work situation, an OSHA compliance officer may request that the employer make changes in his OSHA records; (2) if the employer refuses, the compliance officer may recommend to the OSHA Area Director that a citation be issued; (3) if a citation is issued, the employer has an opportunity for an informal conference with the OSHA Area Director to present his viewpoint (the OSHA Area Director may uphold or reduce the proposed penalty as a result of this conference); (4) if the dispute remains unresolved, the employer can still contest the citation; (5) contested cases are litigated before an administrative law judge of the Occupational Safety and Health Review Commission; and (6) thereafter are subject to the statutory appeals process.

Employers and other parties interested in the enforcement process should contact their closest OSHA area office or their OSHA regional office. This process is described in detail in the OSHA pamphlet, *Employer Rights and Responsibilities Following on OSHA Safety Inspection.* Addresses and telephone numbers for OSHA regional offices are listed in appendix E of this report.

Chapter V. Analysis of Recordability of Cases

This chapter presents guidelines for determining whether a case must be recorded under the recordkeeping requirements of the Occupational Safety and Health Act of 1970, as well as how to classify recorded cases. These requirements should not be confused with recordkeeping requirements of various workers' compensation systems, internal industrial safety and health monitoring systems, the ANSI Z.16 standards for recording and measuring work injury and illness experience, and private insurance company rating systems. Reporting a case on the OSHA records should not affect recordkeeping determinations under these or other systems. Also:

Recording an injury or illness under the OSHA system does not necessarily imply that management was at fault, that the worker was at fault, that a violation of an OSHA standard has occurred, or that the injury or illness is compensable under worker's compensation or other systems.

At the outset, it should be noted that the scope of recordability of the OSHA system detailed in this chapter is broader and more inclusive than that of most other recordkeeping systems. Some injuries and illnesses are included that may not be "compensable" in the workers' compensation context, or "recordable" under individual company safety and health recordkeeping systems. These cases were included in order to make the system as simple and equitable as possible. The alternative of developing a detailed list of exceptions for not recording specific injuries and illnesses was felt to impose far greater administrative and reporting burdens on most employers than requiring that a relatively small number of borderline cases be recorded. The relatively simple OSHA recording boundaries assure a valid, consistent, and uniform recordkeeping system that is capable of producing reliable statistical information.

The OSH Act provides a basic description of which cases are to be recorded. The recordkeeping regulations in 29 CFR Part 1904 provide specific recording and reporting requirements which comprise the framework of the OSH recordkeeping system. The regulations also expand upon the basic definition of recordability in the act.

In a few situations, the criteria of the act, regulations, or the guidelines listed in this report may seem inappropriate. However, it would be virtually impossible to enact legislation, draft regulations, or issue guidelines that address every possible recordkeeping situation. The recordkeeping system currently encompasses over 5 million workplaces throughout the United States. Wide variations exist in the training of individuals making recordkeeping determinations and the resources firms can allocate to the recordkeeping process. Recordkeeping

criteria must be sufficient to meet the needs of safety and health professional maintaining complex programs, while also remaining comprehensible to those maintaining records without the benefit of specialized safety and health training (such as some employers with small-sized establishments) and the approximately 75 million employees involved in the recordkeeping process through the posting and access provisions of the regulations.

Although generally well intentioned, employers or trade associations are discouraged from formulating their own guidelines for recordability which differ in substance from these guidelines or deviate from the OSHA regulations. If employers follow different guidelines, differences in interpretation might be injected into the system which could jeopardize the uniformity of the records and the validity of the statistical data. The BLS guidelines represent official agency interpretations of employer recordkeeping requirements. They provide recordkeeping principles that were developed through a cooperative effort between government, business, and labor prior to and following the implementation of the act, and have been followed by most employers in making recordkeeping determinations since their issuance in 1972. The guidelines provide the Department of Labor's interpretation of the requirements of the OSH Act and regulations, and are considered supplemental instructions to the recordkeeping forms.

Employers with questions on OSHA recordkeeping and reporting not specifically addressed in this report should contact the State agency cooperating with BLS in administering the recordkeeping program or the BLS regional or National offices.

A. Method Used for Case Analysis

Sections 8(c)(2) and 24(a) of the Occupational Safety and Health Act provide the basic definition of the types of cases to be recorded:

> . . . work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

Part 1904.12(c) of the *Code of Federal Regulations* contains a definition of recordable injuries and illnesses which follows this language and incorporates criteria for determining the extent or outcome of these cases. Under this part, injuries and illnesses are classified as deaths, lost-time cases, or non-lost-time cases.

The definition of a recordable case in the heading of the log (OSHA No. 200) reflects the language of the act and regulations:

> RECORDABLE CASES: You are required to record information about every occupational *death;* every nonfatal occupational *illness;* and those nonfatal occupational *injuries* which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid).

This definition provides sufficient guidance for the analysis of the vast majority of cases under the OSHA recordkeeping system. Chart I presents this methodology in graphic form and outlines the line of thought employers should apply in deciding whether or not to record a particular case. Only a very small proportion of the cases require additional criteria to determine recordability.

The decisionmaking process consists of five steps:

1. Determine whether a case occurred: that is, whether there was a death, illness, or an injury;
2. Establish that the case was work related; that it resulted from an event or exposure in the work environment;
3. Decide whether the case is an injury or an illness;
4. If the case is an illness, record it and check the appropriate illness category on the log;
5. If the case is an injury, decide if it is recordable based on a finding of medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

B. Determining Whether or Not a Case Occurred

The first step in the decisionmaking process is the determination of whether or not an injury or illness occurred. Employers have nothing to record unless an employee has experienced a work-related injury or unless a work-related illness is recognized. In most instances, recognition of these injuries and illnesses is a fairly simple matter. However, some of the following situations have troubled employers over the years.

B–1. Q. If an injury or illness occurs, does it matter for the purposes of recordability who was at fault in causing the accident or illness exposure?

A. No. Fault plays no role in the OSHA recordkeeping system. Injury and illness statistics produced by such a system would not accurately reflect overall worker experience (i.e., it would be missing those cases reported for which employers are not at fault) and consequently would not satisfy the coverage requirements of the Occupational Safety and Health Act of 1970. Section 2(b)(12) of the act states that one of its purposes is to provide for appropriate reporting procedures ". . . which will accurately describe the nature of the occupational safety and health problem." Sections 8(c)(2) and 24(a) of the act specifically define what is a recordable injury. They make no distinction between incidents that are compensable under State workers' compensation laws, incidents caused by employer neglect, incidents that are preventable, or the random incidents that seem to happen when no one is at fault.

In addition, there are serious practical limitations. Recording cases on the basis of fault would necessitate the introduction of extremely complex recording criteria to be evaluated by both employers and employees. And whose judgment would prevail as to who was at fault in causing the injury or illness? Such determinations would almost certainly result in employers and employees contesting a significant number of recordkeeping decisions.

The concept of fault has never been a consideration in any recordkeeping system of the Department of Labor, nor has it been incorporated into various State workers' compensation systems or statistical systems of other agencies such as the American National Standards Institute.

B–2. Q. Does it matter for OSHA recordkeeping purposes whether or not the injuries and illnesses are preventable?

A. No. Recording only those injuries and illnesses that are preventable would not produce sufficient information to meet the coverage requirements of the OSH Act and 29 CFR Part 1904, nor would it satisfy the needs of the Occupational Safety and Health Administration for comprehensive injury and illness information. Focusing on whether or not the injuries and illnesses experienced were preventable would result in employers and employees contesting a significant number of recordkeeping decisions, and would unduly complicate many recordkeeping determinations.

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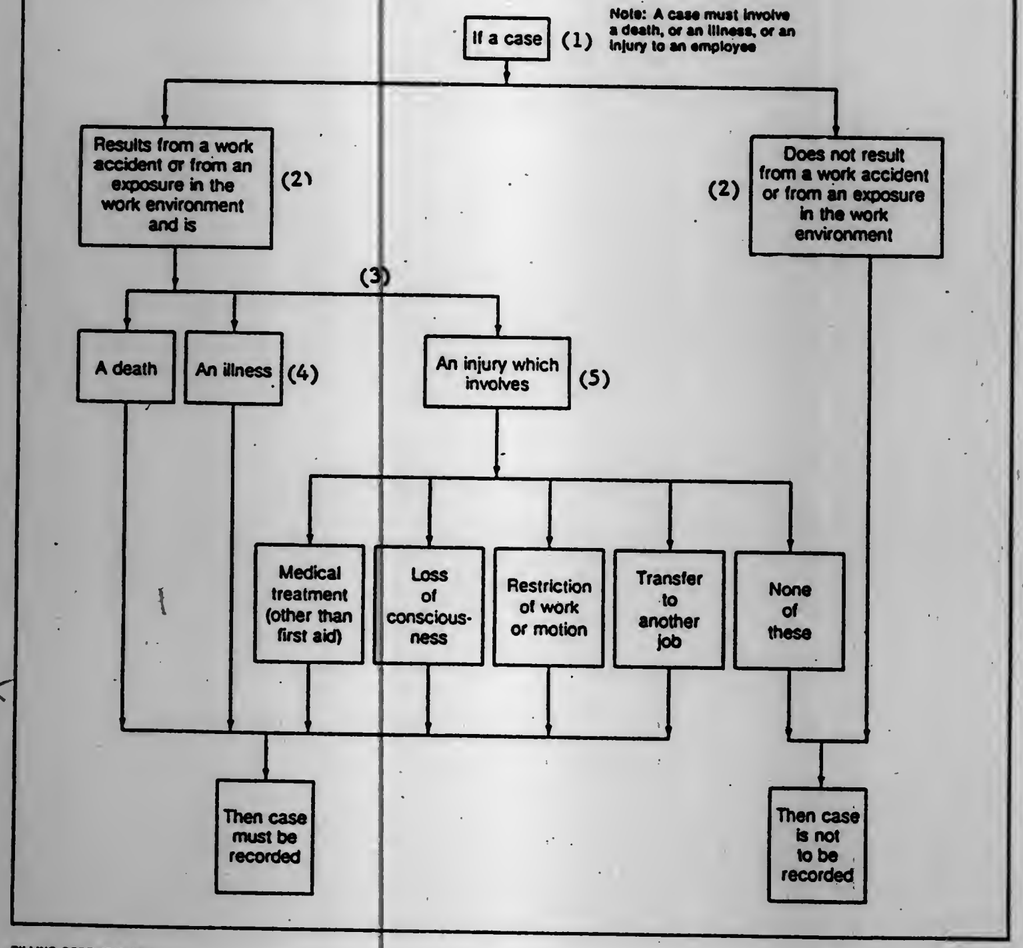
Chart 1. Guide to Recordability of Cases Under the

B–3. Q. Must an employee be involved in a specific job task for an injury or illness to be recordable?

However, in addition to the general recording requirements in Part 1904, some specific OSHA standards or State

the stay, but on whether medical treatment was provided or whether the

Chart 1. Guide to Recordability of Cases Under the Occupational Safety and Health Act



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B–3. Q. Must an employee be involved in a specific job task for an injury or illness to be recordable?

A. No. For a case to be recordable, the worker must have been an employee of the firm at the time of the injury or illness exposure. Workers are considered employees while in pay status. In this context, pay status refers to the overall employment relationship whereby the worker is receiving wages or some other form of compensation for the employer for services rendered. It does not mean that the worker must be involved in some specific job task at the time of the injury or illness exposure for the case to be recordable, or that cases are recordable only if they occur during hours for which wages are paid. (See section C of this chapter for a discussion of work relationship.)

B–4. Q. Are cases recordable if they are discovered after the injured or ill employee has been terminated or has retired?

A. These cases are recordable throughout the 5-year record retention period (see chapter III), so long as the employee was on active duty or in pay status when the injury or illness exposure occurred. The worker does not need to be an active employee or in pay status at the time the case is recorded. Such cases should be recorded on the log of the year of the injury or illness exposure.

B–5. Q. Are there time limits in recording cases. Suppose a worker says he hurt his back 2 weeks ago, but there was no record or report of it at that time. Is it subsequently recordable on this OSHA No. 200?

A. Yes. If it is established that a recordable back injury did occur, it must be included on the OSHA No. 200, even though the determination was made several weeks after the injury occurred. The actual date of injury should be entered in column *B* of the log.

Employers are required to make entries on the OSHA logs for all recordable injuries and illnesses experienced by their employees. This obligation exists not only during the year that the injury or illness exposure took place, but also throughout the 5-year maintenance and retention period. (See chapter III, sections D and E.)

B–6. Q. Are exposures to harmful substances recordable?

A. These exposures, in and of themselves, are not recordable under Part 1904 of the regulations. Entries on the log, OSHA No. 200, and on the supplementary record, OSHA No. 101, need be made only when the exposure results in a recordable work injury or illness.

However, in addition to the general recording requirements in Part 1904, some specific OSHA standards or State regulations may require the recording of exposures to particular substances. These requirements are not addressed in this report. Employers should consult the appropriate OSHA standards or State regulations to ascertain their additional recordkeeping obligations.

B–7. Q. Are permanent or temporary transfers to another job to remove employees from further exposure to hazards considered recordable cases for the purposes of OSHA recordkeeping?

A. If these transfers are preventive in nature, and if no work-related illness has occurred, they are not considered recordable events.

Employers usually make such transfers either: (1) To control the amount of employee exposure during a specific period of time, or (2) to remove an employee from an area to control adverse health effects.

B–8. Q. If a driver involved in an auto accident is sent for a physical examination without any specific injury, should the case be recorded?

A. This would be in the nature of preventive medicine and would not be recorded unless the examination reveals that a recordable injury resulted from the accident.

B–9. Q. If a hospital employee contracts an illness from a patient and all employees in the hospital unit are inoculated to prevent spread of the illness, is each person so treated considered a recordable case?

A. No. Such cases would not be recordable because the employees are receiving preventive care and are not injured or ill. Of course, the case of the hospital employee who contracted the illness should be recorded.

B–10. Q. Is hospitalization for observation recordable?

A. If an employee goes to or is sent to a hospital for a brief period of time for observation, it is not recordable, provided that no medical treatment was given, or no illness was recognized. While hospitalization for observation under these circumstances is not recordable on the OSHA 200 form, if 5 or more such hospitalizations occurs as the result of a single incident at a worksite, the incident shall be reported to OSHA within 48 hours. (See 29 CFR 1904.8, chapter VII, section B of these guidelines, or the OSHA Field Operation Manual instructions.)

B–11. Q. What if the employee is admitted to the hospital or stays in the hospital for observation for several hours? Is this still not recordable?

A. These cases are recordable. The focus, however, is not on the length of the stay, but on whether medical treatment was provided or whether the incident is recordable on one of the other grounds. Prolonged hospital stays are usually associated with the more serious cases and often involve some form of medical treatment, even though they may be initiated for primarily diagnostic purposes.

B–12. Q. How do you differentiate between a new incident and the recurrence or further complication of a previous injury or illness? What is the difference between these two situations for OSHA recordkeeping purposes?

A. Employers are required to make new entries on their OSHA forms for each new recordable injury or illness. New entries should not be made for the recurrence of symptoms from previous cases.

Injuries. The aggravation of a preexisting injury almost always results from some movement by the employee. Consequently, when work-related, these new incidents should be recorded as new cases on the OSHA forms, assuming they meet the criteria for recordability described in sections C, D, and E of this chapter.

Illnesses. Deciding whether the emergence of illness symptoms constitutes a new event or the recurrence of a previous illness is more complex. Generally, each occupational illness should be recorded with a separate entry on the OSHA No. 200. However, certain illnesses, such as silicosis, may have prolonged effects which recur over time. The recurrence of these symptoms should not be recorded as a new case on the OSHA forms.

The recurrence of symptoms of previous illnesses may require adjustment of entries on the log for previously recorded illnesses to reflect possible changes in the extent or outcome of the particular case.

B–13. Q. Should an employee's pre-existing condition be taken into account in making OSHA recordkeeping determinations?

A. Pre-existing conditions are not considered relevant in making determinations of recordability under the OSH Act except for the recurrence of symptoms of work-related illnesses discussed in B–12 above. Employers should record each case resulting from an event (such as a slip, trip, fall, or overexertion) and each exposure that results in a recordable work injury or illness regardless of the employee's pre-existing condition. This is essential to the maintenance of a workable system that produces statistics that accurately reflect the incidence (and not

prevalence) of work injuries and illnesses.

B–14. Q. Does this mean that when an

B–17. Q. Must there be an identifiable event or exposure in the work

A. Within 6 workdays after receiving information that an injury or illness has

1. *Injuries and illnesses resulting from events or exposures on the employer's*

considered part of the employer's

horseplay; and, an employee injured while playing basketball in the company

VOL 50 ISS 137 JL 17 1985 UMI

prevalence) of work injuries and illnesses.

B–14. Q. Does this mean that when an employee is hired with a known physical defect, such as a trick knee, a work accident partially attributable to this defect would result in a recordable case?

A. Yes. An employee's physical defect or pre-existing physical condition does not affect the determination of recordability. If such a case results from an event or exposure in the work environment and meets the other criteria for recordability, the employer must enter it on the OSHA forms without regard to the employee's pre-existing physical condition. If injury results *solely* from a physical defect (i.e., employee falls while walking when trick knee gives way AND there is no environmental factor), it is *not* occupational. However, if the work environment or a work event contributes (i.e., employee steps on stone or slips, trick knee gives way, and he falls), any resulting injury is occupational.

B–15. Q. Are there specific requirements for evaluating the occurrence of back or hernia cases?

A. No. Back and hernia cases should be evaluated in the same manner as any other case. Questions concerning the recordability of these cases usually revolve around: (1) The impact of a previous back or hernia condition on the recordability of the case, or (2) whether or not the back injury or hernia was work related.

Pre-existing conditions generally do not impact the recordability of cases under the OSHA system. (See preceding questions 13 and 14.)

For a back or hernia case to be considered work related, it must have resulted from a work-related event or exposure in the work environment. Employers may sometimes be able to distinguish between back injuries that *result* from an event in the work environment, and back injuries that are caused elsewhere and merely *surface* in the work environment. The former are recordable; the latter are not. (See section C of this chapter for a discussion of work relationship.)

B–16. Q. An employee's back goes out while performing routine activity at work. Assuming the employee was not involved in any stressful activity, such as lifting a heavy object, is the case recordable?

A. Particularly stressful activity is not required. If an event occurred in the work environment that caused or contributed to the injury, the case would be recordable, assuming it meets the other requirements for recordability.

B–17. Q. Must there be an identifiable event or exposure in the work environment for there to be a recordable case? What if someone experiences a backache, but cannot identify the particular movement which caused the injury?

A. Usually, there will be an identifiable event or exposure to which the employer or employee can attribute the injury or illness. However, this is not necessary for recordkeeping purposes. If it seems likely that an event or exposure in the work environment either caused or contributed to the case, the case is recordable, even though the exact time or location of the particular event or exposure cannot be identified.

If the backache is known to result from some nonwork-related activity outside the work environment and merely surfaces at work, then the employer need not record the case. In these situations, employers may want to document the reaons they feel the case is not work related.

B–18. Q. What about cases where the employee alleges that an injury or illness has occurred? Must employers record these cases without any medical verification?

A. Medical verification is not required for recordability. However, employers have ultimate responsibility for making good-faith recordkeeping determinations. If an employer doubts the validity of an employees' alleged injury or illness and there is no substantive or medical evidence supporting the allegation, the employer need not record the case.

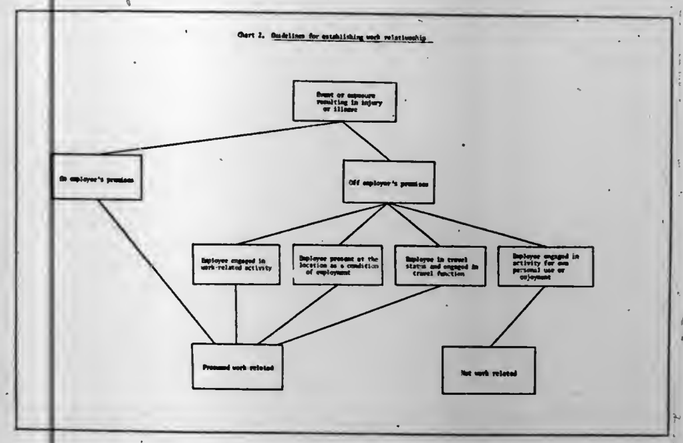
B–19. Q. Must occupational injuries and illnesses that are disputed be recorded?

A. Within 6 workdays after receiving information that an injury or illness has occurred, the employer must determine whether the case is recordable. Questionable cases should be entered on the log, OSHA No. 200, and lined out at a later date if they are found not recordable.

C. Establishing Work Relationship

Work relationship is the next requirement for recordability. The Occupational Safety and Health Act of 1970 requires employers to record injuries and illnesses that are work related. *Work relationship is established under the OSHA recordkeeping system when the injury or illness results from an event or exposure in the work environment. The work environment is primarily composed of: (1) The employer's premises, and (2) other locations where employees are engaged in work-related activities or are present as a condition of their employment.* When an employee is off the employer's premises, work relationship must be established; when on the premises, this relationship is presumed. The employer's premises encompass the total establishment. This includes not only the primary facility, but also such areas as company storage facilities and restricted company parking lots. In addition to physical locations, equipment, or materials used in the course of an employee's work are also considered part of the employee's work environment.

Chart 2 provides a guide for establishing the work relationship of cases.



1. *Injuries and illnesses resulting from events or exposures on the employer's premises.* Generally, injuries and illnesses that result from an event or exposure on the employer's premises are considered work related. The employer's premises consist of the total establishment. They include the primary work facility and other areas which are considered part of the employer's general work area.

C–1. Q. Are injuries of employees in company restrooms, hallways, or cafeterias considered to be work related?

A. Yes. These areas are generally all considered to be part of the employer's premises and constitute part of the work environment. Injuries occurring in the work environment are considered work related. The specific activity the employee was engaged in at the time of the injury is not the controlling factor.

C–2. Q. Do the employer's premises include employer controlled recreational facilities such as company ball fields, golf courses, etc.?

A. For OSHA recordkeeping purposes, the definition of work premises excludes employer controlled ball fields, tennis courts, golf courses, parks, swimming pools, and other similar recreational facilities which are *basically apart from the workplace and dedicated primarily to employee use during off-work hours.* However, recreational facilities located within the work environment are included as part of the work premises. These may include company controlled gymnasiums, handball courts, racketball courts, etc. *that are located within the work facility.*

C–3. Q. Are company parking lots considered part of the employer's work premises?

A. Parking facilities that are generally accessible to both employees and members of the general public are not considered part of the employer's work premises. Therefore, injuries to employees on these public parking lots are not recordable unless the employee was engaged in some specific work activity. However, injuries to employees on parking lots restricted to employee and visitor use only would be considered on premises and hence presumed work related.

Visitor parking spaces are distinguished from parking for general public by the firm's ability to limit or revoke driver access.

C–4. Q. An employer neither owns nor leases the property on which he conducts his business operations. Under the regulations, would the property be considered part of the employer's premises?

A. The determination of whether a particular location constitutes part of the employer's premises depends upon whether the location is considered part of the employer's domain, not whether he owns or leases it. As a general rule, if the site is part of an establishment of the employer, it is considered part of his premises.

An establishment is a single physical location where business is conducted or where services or industrial operations are performed.

C–5. Q. Is a right-of-way used by a utility company considered to be part of the utility company's premises?

A. Yes. A utility company has a sufficient relationship to these rights-of-way to have them considered part of its premises. Injuries and illnesses occurring to utility workers in these areas are presumably work related.

C–6. Q. What about cases that occur on the premises during nonduty hours? If a case occurs either before or after normal work hours, or on the weekends and holidays when work is not scheduled, is it recordable?

A. Presence on the employer's premises is normally sufficient to establish work relationship. It does not matter whether or not the incident occurs during regular working hours if the worker is present to perform some job task or receive some employment benefit, or if his presence is in some way *related to his status as an employee.* (For further clarification, see the answers to questions C–9 and C–10.)

C–7. Q. Is every case resulting from an event or exposure on the employer's premises considered work related?

A. No. The general rule is that all injuries and illnesses which result from events or exposures occurring to employees on the employer's premises are presumed to be work related. Under the recordkeeping system, the premises include the total establishment. The nature of activity which the employee is engaged in at the time of the event or exposure, the degree of employer control over the employee's activity, the preventability of the incident, or the concept of fault do not affect the determination.

There are cases which occur on the employer's premises and which do not seem to have anything to do with the work but which must still be recorded to maintain the simplicity of the recording criteria and the integrity of the statistics. Some examples are: employee chokes while eating lunch in company cafeteria; injuries resulting from employee horseplay; and, an employee injured while playing basketball in the company gymnasium during lunch break. These are included to keep relatively simple recording boundaries necessary for maintaining a workable system which can be used by the 5 million employers and 75 million employees subject to the recordkeeping regulations.

C–8. Q. Under the OSHA recordkeeping system, work relationship is presumed when the employee is on the employer's premises. Is this presumption rebuttable? If so, describe some situations where the employee's presence on the premises would not be sufficient, by itself, to establish work relationship.

A. The presumption is rebuttable. One situation where the presumption would not apply would be where a worker is on the employer's premises as a member of the general public and not as an employee. (See question C–9, for a further description of these situations.) Another example would be a case, with symptoms that merely surface on the employer's premises, where the symptoms are the result of a nonwork-related event or exposure off premises. (See questions B–15 and B–17 for the application of this type of analysis to back cases.)

C–9. Q. How do you determine those situations where a worker is off duty and is on the employer's premises as a member of the general public and not as an employee? For example, a department store employee returns to the store during off-duty hours solely to shop and is injured. Is this case work related?

A. No. The case is not work related. For cases such as this to be recordable, there must be some relationship between the persons's presence on the premises and his or her status as an employee. Employers should ask themselves: Would the person have been on the premises but for the fact that he or she was an employee? It is important to note that the focus is on the *status* of the person as an employee, not on the activity the person was engaged in at the time of the event or exposure.

The example provided above is not recordable because the worker was present on the premises solely to shop; his presence on the premises had no relationship whatsoever to his status as an employee. Any member of the general public could come into the store to shop. This exclusion applies even if the employee is receiving some employment benefit such as an employee discount in a department store, or using public restrooms while on the employer's work facilities for

personal reasons, e.g., filling station employee working on his or her own car. Identical cases which occur when an

C–12. Q. Do employers have to record an injury on the employer's premises that occurs to an employee as a result of

related activities. Public places are generally not part of the work

An employee's work-related activities on a business trip include such

event or exposure which caused the case, not by the resulting condition of

D–1. Q. Should an adverse reaction to

personal reasons, e.g., filling station employee working on his or her own car. Identical cases which occur when an employee is in work status would, however, be considered work related and hence recordable. The following situations illustrate cases where there is sufficient connection between an off-duty employee and the job to establish work relationship:

1. The employee is injured on the premises while going to or from a work shift.

2. The employee is injured on the premises while picking up a pay check during off-duty hours.

3. An employee is injured on the premises during lunch or coffee breaks.

C–10. Q. Please define "premises" for the trucking industry. Is the cab of the truck the premises? What about loading and unloading? Is the area around the truck used for loading and unloading considered part of the premises?

A. A truck on the road or loading and unloading away from its home base would be off the employer's premises. However, injury or illness exposures experienced during these activities would still be work related because the employees are engaged in work-related activities. The truck and its surroundings are considered part of the work environment even though they are not part of the employer's premises.

C–11. Q. Why record injuries and illnesses other than those that occur during the execution of a specific work assignment undertaken at the direction of management?

A. The stated purpose of the Occupational Safety and Health Act of 1970 requires a broader scope of coverage than "the execution of specific work assignments." Section 2 of the act addresses injuries and illnesses arising out of "work situations." Sections 2(b)(1), (2), and (4) of the act refer to "place of employment" and the provisions of safe and healthful "working conditions." Section 2(b)(7) of the act deals with preventing employee ill health as a result of the "work experience." Section 2(b)(12) states that one of the purposes of the act is to provide for appropriate reporting procedures ". . . which will accurately describe the nature of the occupational safety and health problem." These and other references throughout the act indicate that its coverage is intended to go beyond specific job tasks to encompass the total work environment.

In addition, the inclusion of these cases is necessary for the maintenance of a simple and equitable recordkeeping system capable of furnishing statistically reliable information.

C–12. Q. Do employers have to record an injury on the employer's premises that occurs to an employee as a result of horseplay? Would they have to record a case if it resulted from a robbery?

A. Yes. Both would be recordable. Activities on the employer's premises are presumed to be work related. The basis for determining work relationship for OSHA recordkeeping purposes is that the event occurred in the work environment.

Sections 8(c)(2) and 24(a) of the OSH Act specifically define recordable injuries and illnesses. They make no distinction between incidents that are compensable under State workers' compensation laws, incidents that are caused by worker negligence, incidents caused by employer neglect, incidents that are preventable, or the random incidents that seem to happen when no one is at fault.

2. *Injuries and illnesses resulting from events or exposures off premises.* When an employee is off the employer's premises and suffers an injury or an illness exposure, work relationship must be established; it is not presumed. Injuries and illness exposures off premises are considered work related if the employee is engaged in a work activity or if they occur in the work environment. The work environment in these instances includes locations where employees are engaged in job tasks or work-related activities, or places where employees are present due to the nature of their job or as a condition of their employment.

C–13. Q. Our employees participate in many off premises activities such as picnics, impromptu softball games at noon, bowling leagues at night, and a football team which plays its games on weekends. If any of our employees are injured in these activities and require medical treatment, should the injuries be recorded?

A. They need only be recorded if they are connected with the injured person's job. If the employees are paid for sports activities or are required by their employer to participate, any resulting injuries are work related and should be recorded. If not, the injuries which occur are not recordable, even though the employer may be providing uniforms and equipment.

C–14. Q. Is a case recordable if an employee is injured while walking to work on a public sidewalk from a public parking lot? What if an employee gets into a fight or is attacked in this situation?

A. These cases do not appear to be work related since the injuries did not occur in the work environment, and the employees were not engaged in work-related activities. Public places are generally not part of the work environment unless the employee has begun work and is performing a work-related activity, or is present at the public location as a condition of his or her employment. For example, the work environment for a route salesperson may include public streets, highways, sidewalks, etc.

C–15. Q. Would an injury which took place after a person checked into work, but occured while he or she was off the company permises on an errand be recordable?

A. This case is recordable if the employee was engaged in a work-related activity or if the person's presence at the location of the injury was required by his or her job. If the errand was personal in nature, the injury should not be recorded.

C–16. Q. Are the employee's activities off the employer's premises all deemed work related once the employee's work shift has begun?

A. No. Work relationship must be established for employee activities off premises—it is not presumed. To be engaged in a work-related activity off premises, the employee must have been performing some job, task, or sevice for the employer, or must have been present at the off-premises location in connection with his or her employment. If the employee is off the employer's premises, and leaves the normal area of operations entirely for his or her own purpose, then these activities would not be considered work related.

C–17. Q. Is an injury occuring during the lunch of an employee working off the employer's premises in nontravel status considered work related?

A. This case would be work related if it occurred in the off-premises work environment or if it was a work-related luncheon.

C–18. Q. Are injuries considered work related when they occur to employees who work on the employer's premises, but leave the premises for lunch and are injured?

A. No. Injuries occurring to employees while they are off the employer's premises and out of the work environment on lunch are not recordable unless the luncheon is in some way required by their job.

C–19. Q. How are employees in travel status handled differently?

A. All of the employee's activities required by the trip are considered to be work related. The rationale is that the traveling employee would not be exposed at this location but for the travel requirement of his or her job.

An employee's work-related activities on a business trip include such necessary travel-related functions as eating, sleeping and traveling. However, extraneous activities unrelated to the normal scope of the trip and solely for the employee's own personal use or enjoyment should not be recorded. Examples of these non-recordable events would be injuries on excursions, such as ski trips, or injuries which occur in public places when the employee is there for recreational purposes only.

C–20. Q. Are there any time limitations imposed on the work relationship designation for employees in travel status?

A. An employee in travel status is considered to be in the work environment 24 hours a day. However, see question C–19 above for the substantive limitations.

C–21. Q. When is work relationship first established for an employee in travel status? When he or she leaves home? At the airport, train station, etc.?

A. For recordkeeping purposes, work-related activities begin when the employee leaves home, assuming the employee did not intend to report to his or her office prior to beginning the trip. If the employee first reports to the office, travel status begins when the employee leaves the office to begin the trip. Travel status ends once the employee returns to the point of origin of the trip. (Employers should refer to questions A–12–14 in chapter I for a discussion of the geographic coverage limitations on travel status.)

C–22. Q. How do you differentiate between employees working off premises in nontravel status and employees in travel status?

A. Employees off premises in nontravel status still work within their normally scheduled hours and normal geographic area of operation. Employees in travel status must either be: (1) Outside their normal area of operation, or (2) working off premises for more than a normal workday (such as staying overnight).

D. Distinguishing Between Injuries and Illnesses

Under the OSH Act, all work-related illnesses must be recorded, while only those injuries which required medical treatment (other than first aid), or involve loss or consciousness, restriction of work or motion, or transfer to another job are recordable. The distinction between injuries and illnesses, therefore, has significant recordkeeping implications.

The determination of whether a case involves an injury or illness is determined by the nature of the original event or exposure which caused the case, not by the resulting condition of the affected employee. Injuries are caused by *instantaneous* exposures in the work environment. Cases resulting from anything other than instantaneous events are considered illnesses. This concept of illnesses includes acute illnesses which result from exposures of relatively short duration.

An occupational injury is defined on the back of the log and summary form, OSHA No. 200, as follows:

Occupational Injury is any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from an exposure involving a single incident in the work environment.

Note.—Conditions resulting from animal bites, such as insect or snake bites, or from one-time exposure to chemicals are considered to be injuries.

A single incident involving a *one-time instantaneous* exposure to chemicals is classified as an injury. Occupational injuries are analyzed in detail in the following section of this chapter.

An occupational illness is defined on the back of the log and summary form, OSHA No. 200:

Occupational Illness of an employee is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

Some conditions may be classified as either an injury or an illness (but not both), depending upon the nature of the event that produced the condition. For example, a loss of hearing resulting from an explosion (an instantaneous event) is classified as an injury; the same condition arising from exposure to industrial noise over a period of time would be classified as an occupational illness. Similarly, irritation of the throat from exposure to chlorine gas fumes could be classified as either an injury or an illness. If the exposure was instantaneous and occurred when a cyclinder of gas ruptured, the case would be considered an injury. The case would be an illness if the employee was exposed to the agent over time, such as working in an area where chlorine fumes from a bleaching process were present.

This seeming inconsistency in recording certain types of cases has its foundation in industrial safety practice. The safety measures rquired to avoid instantaneous events are considered fundamentally different from those required to prevent exposures over a period of time which result in conditions of ill health. The classification of a case as an injury or an illness is intended to reflect this distinction.

D–1. Q. Should an adverse reaction to a tetanus shot given for a laceration be classified as an injury or an illness?

A. This should be classified as an injury because the classification is based on the original event—the laceration—not on the subsequent developments.

D–2. Q. Should the following two cases be recorded differently; if so, what is the rationale behind the differentiation?

a. Lacerations resulting from a chemical explosion.

b. A respiratory ailment resulting from a chemical explosion.

A. Both of these cases would be classified as injuries because of the nature of the original event, a chemical explosion.

D–3. Q. How do you distinguish an injury from an illness? For example, it appears that a burn can be one or the other.

A. The basic definition of an occupational injury includes those cases which result from a work accident or from an exposure involving a *single instantaneous incident* in the work environment. Contact with a hot surface or a caustic chemical which produces a burn in a single instantaneous moment of contact is an injury. Sunburn or welding flash burns which result from prolonged exposure to sunrays or welding flashes are considered illnesses. Similarly, a one-time blow which damages the tendons of the hand is considered an injury; while repeated trauma or repetitious movement which produces tenosynovitis is considered an illness.

The basic determinant is the single-incident concept. If the case resulted from something that happened in one instant, it is classified as an injury. If the case resulted from something that was not instantaneous, such as prolonged exposure to hazardous substances or other environmental factors, it is considered an illness.

D–4. Q. How should back cases be classified—as injuries or illnesses? What about a situation where an employee complains of his back hurting, but is unable to associate it with a single instantaneous event?

A. Back cases should be classified as injuries because they are usually triggered by an instantaneous event.

Classifying back cases as injuries is appropriate not only for cases resulting from identifiable events, but also for cases where the specific event cannot be pinpointed, since back cases are usually triggered by some specific movement. Such generalizations are necessary to keep recordkeeping

determinations as simple and equitable as possible.

D–5. Q. Should carpal tunnel

Therefore, for OSHA recordkeeping purposes occupational illnesses include

(other than an occupational injury). Detection of these abnormal conditions

occupation where each condition is likely to occur, symptoms associated

A. No. Any diagnosed occupational illness reported to the employer is

levels are not recordable in and of themselves. See question E–10 below.

VOL 50 ISS 137 JL 17 1985 UMI

determinations as simple and equitable as possible.

D–5. Q. Should carpal tunnel syndrome be classified as an injury or an illness?

A. Carpal tunnel syndrome is a condition involving compression of the median nerve in the wrist which results in tingling, discomfort, and numbness in the thumb, index, and long fingers. Because carpal tunnel syndrome cases almost always result from repetitious movement, they should be classified as occupational illnesses. The entry for these cases should be in column 7(f) of the log for disorders associated with repeated trauma.

D–6. Q. Is the following case recordable? A chemical worker contracted a mild case of dermatitis on both hands while working in a solution for several hours. The employee was sent to the doctor, who recommended application of a topical lotion (a commercial, nonprescription remedy). The employee bought a bottle of the lotion and treated the rash for a few days until it disappeared. There were no subsequent visits to the doctor. The rash did not prevent the employee from performing all the duties of the job.

A. The case is a recordable occupational illness. The answer to this question is based on the distinction between an injury and an illness. If considered an injury, the case would not be recordable since no medical treatment was provided. However, since the case almost certainly did not involve a single instantaneous exposure, it should be classified as an occupational illness. Consequently, the kind of treatment given by the doctor (none in this case) is immaterial, since all occupational illnesses are recordable.

E. Recording Occupational Illnesses

The Occupational Safety and Health Act of 1970 and the recordkeeping regulations in 29 CFR Part 1904 require employers to record the occurrence of all occupational illnesses. However, neither the act nor the regulations provide a precise definition of what constitutes an occupational illness.

An occupational illness is defined in the instructions on the back of the log and summary form, OSHA No. 200:

> Occupational illness of an employee is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

The instructions also refer to recording illnesses which were "diagnosed or recognized."

Therefore, for OSHA recordkeeping purposes occupational illnesses include any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. Illness exposures ultimately result in conditions of a chemical, physical, biological, or psychological nature.

Occupational illnesses must be diagnosed to be recordable. However, they do not necessarily have to be diagnosed by a physician or other medical personnel. Diagnosis may be by a physician, registered nurse, or a person who by training or experience is qualified to make such a determination. Employers, employees, and others may be able to detect some illnesses, such as skin diseases or disorders, without the benefit of specialized medical training. However, a case more difficult to diagnose, such as silicosis, would require evaluation by properly trained medical personnel.

In addition to recording the occurrence of occupational illnesses, employers are required to record each illness case in 1 of the 7 categories on the front of the log.

The back of the log form contains a listing of types of illness or disorders and gives examples for each illnesses category. These are only examples, however, and should not be considered as a complete list of types of illnesses under each category. See Appendix A—Glossary of Terms for a list of these illness categories.

Recording and classifying occupational illnesses is difficult for employers, especially the chronic and long term latent illnesses. Many illnesses are not easily detected; and it is often difficult to determine whether an illness is work related. Also, employees may not report illnesses because the symptoms may not be readily apparent, or because they do not think their illness is serious or work related.

Lack of expertise in occupational medicine is not limited to employers and employees. Few doctors in private practice have adequate training in occupational medicine. Even physicians in the workplace have difficulty determining the influence of a job on a worker's health.

The following material is provided to *assist* in detecting occupational illnesses and in determining their work relationship.

1. Detection and diagnosis of occupational illnesses.

An occupational illness is defined in the instructions on the log as any work-related abnormal condition or disorder (other than an occupational injury). Detection of these abnormal conditions or disorders, the first step in recording illnesses, is often difficult. When an occupational illness is suspected, employers may want to consider the following:

a. A routine medical examination of the employee's physiological systems; e.g.,

- Head and neck;
- Eyes, ears, nose and throat;
- Endocrine;
- Genitourinary
- Musculoskeletal;
- Neurological;
- Respiratory;
- Cardiovascular; and
- Gastrointestinal.

b. Observation and evaluation of behavior related to emotional status;

c. Specific examination for health effects of suspected or possible disease agents by competent medical personnel;

d. Comparison of date of onset of symptoms with occupational history;

e. Evaluation of results of any past biological or medical monitoring (blood, urine, other sample analysis) and previous physical examinations; and

f. Evaluation of laboratory tests: routine (complete blood count, blood chemistry profile, urinalysis) and specific tests for suspected disease agents (e.g., blood or urine tests for specific agents, chest or other X-rays, liver function tests, pulmonary function tests).

In addition the National Institute for Occupational Safety and Health (NIOSH) has prepared a Sentinal Health Event (Occupational) List (SHEO) which encompasses disease conditions potentially linked to the workplace. A Sentinal Health Event is defined by NIOSH as a disease, disability, or untimely death which is occupationally related and whose occurrence may: 1) provide the impetus for epidemiologic or industrial hygiene studies; or 2) serve as a warning signal that materials substitution, engineering control, personal protection, or medical care may be required. The list includes only those conditions for which NIOSH found "objective documentation of an associated agent, industry, and occupation . . . in the scientific literature." NIOSH has indicated that the list will be expanded in the future.

Appendix C of this report contains a table of work-related illnesses based upon the NIOSH Sentinal Health Event List. The table is provided for information purposes only to *assist* employers in recognizing certain illnesses and diseases. The table lists illness conditions, the industry and/or occupation where each condition is likely to occur, symptoms associated with each condition, the agent likely to cause the condition, and the appropriate illness column to be checked on the log, OSHA No. 200. *IT DOES NOT INCLUDE EVERY CONDITION, ILLNESS, OR DISEASE THAT MAY RESULT FROM AN EXPOSURE IN THE WORK ENVIRONMENT. FURTHER, IT SHOULD NOT BE INTERPRETED TO MEAN THAT A SPECIFIC CONDITION CAN ONLY BE CONTRACTED IN THE INDUSTRIES OR OCCUPATIONS LISTED. IT ALSO DOES NOT MEAN THAT EVERY CONDITION LISTED IS RECORDABLE IF EXPERIENCED BY EMPLOYEES IN THESE INDUSTRIES AND/OR OCCUPATIONS. FOR THE CASE TO BE OSHA RECORDABLE, EMPLOYERS MUST STILL ESTABLISH THAT THE CONDITION IS A RESULT OF AN EXPOSURE IN THEIR WORK ENVIRONMENT.*

2. Determining whether the illness is occupationally related.

The instructions on the back of the log define occupational illnesses as those "caused by environmental factors associated with employment". In some cases, such as contact dermatitis, the relationship between an illness and work-related exposure is easy to recognize. In other cases, where the occupational cause is not direct and apparent, it may be difficult to accurately determine whether an employee's illness is occupational in nature. In these situations it may help employers to ask the following questions:

a. Has an illness condition clearly been established?

b. Does it appear that the illness resulted from, or was aggravated by, suspected agents or other conditions in the work environment?

c. Are these suspected agents present (or have they been present) in the work environment?

d. Was the ill employee exposed to these agents in the work environment?

e. Was the exposure to a sufficient degree and/or duration to result in the iliness condition?

f. Was the illness attributable to a non-occupational exposure?

Employers may want to check the "material data sheet" for those substances suspected of causing employee illnesses to verify the relationship between the exposure and the resulting symptoms.

E–1. Q. Should employers record only those occupational illnesses which require treatment beyond the initial day of onset of illness?

A. No. Any diagnosed occupational illness reported to the employer is recordable, whether or not medical treatment is given or lost workdays are involved.

E–2. Q. Do occupational illnesses have to be diagnosed by a physician to be recordable?

A. No. "Diagnosis" is commonly defined as the act or process of deciding the nature of a diseased condition by examination of the symptoms. Diagnosis may be by a physician, registered nurse, or a person who by training or experience is qualified to make such a determination.

E–3. Q. Does this mean that employers are capable of diagnosing occupational illnesses?

A. Yes. However, their ability to properly diagnose cases depends upon their training and experience and the nature of the particular illness in question. Employers, employees, and others may be able to detect various illnesses, such as skin diseases or disorders, without the benefit of specialized medical training. However, a case more difficult to diagnose, such as silicosis, would require evaluation by properly trained medical personnel.

E–4. Q. What is meant by an "abnormal condition or disorder"?

A. An "abnormal condition or disorder" is an atypical condition of the employee which may be of either a chemical, physical, biological, or psychological nature. These conditions are recordable when they result from exposure in the work environment.

E–5. Q. Are the illnesses listed in appendix C the only illnesses that need be recorded on the log, OSHA No. 200?

A. No. These are a listing of disease conditions of which NIOSH found objective documentation of association between occupation/industry/agent in the scientific literature. In addition to the Sentinel Health Event (Occupational) List, many other abnormal conditions or diseases may be OSHA recordable.

E–6. Q. Do employers record only those illnesses directly caused by work-related exposures, or is it sufficient for the work exposure to be a contributing factor to an illness or to aggravate a pre-existing illness condition?

A. Yes, it is sufficient for the exposure to be a contributing and/or aggravating factor to the illness.

E–7. Q. What are the reporting requirements for test results which indicate an elevated blood-lead level?

A. Employers are required to conduct surveillance and monitoring tests for employees working with hazardous substances, such as lead. However, test results showing elevated blood-lead levels are not recordable in and of themselves. See question E–10 below.

On the other hand, employers are still required to record cases where the worker: (1) Has symptoms of lead poisoning, such as colic, nerve, or renal damage, anemia, and gum problems; or (2) receives medical treatment for lead poisoning or to lower blood-lead levels. Usually, elevated blood-lead levels above 50 micrograms per 100 grams of whole blood are accompanied by some of the recordable symptoms of lead poisoning mentioned above.

Employers may want to reference the OSHA lead standard 29 CFR 1910.1025 for additional information.

E–8. Q. The chest X-ray of an employee is found to have an abnormality due to a prolonged exposure at work. However, the abnormality does not impair his lung function or cause him to lose workdays. Is this a recordable occupational illness?

A. Yes. An occupational illness is defined as any abnormal condition or disorder, other than one resulting from an injury, caused by exposure to environmental factors associated with employment. Any such abnormality reported to the employer is recordable, whether or not functional impairment is present or lost workdays are involved.

E–9. Q. Is fibrosis the only asbestos-related disorder that must be recorded on the OSHA No. 200?

A. No. Asbestos-related disease encompasses not only fibrosis, but also various cancers of the lung, stomach, and pleural lining and asbestos-induced pleural abnormalities (e.g., pleural plaques and calcifications).

E–10. Q. What is the basis for the distinction between the recordability of asbestos-related disorders and the nonrecognition of elevated blood-lead levels for recordkeeping purposes?

A. Identifiable asbestos-related abnormalities constitute abnormal conditions or disorders of the affected employee. Elevated blood-lead levels are considered a precursor to the illness, and are recordable if accompanied by any other conditions which are indicative of lead poisoning. The overall biological effect—lead toxicity—constitutes the illness that is recordable. (See question E–7 for other recordable symptoms of lead poisoning.)

E–11. Q. Is hearing loss recordable? If so, how should it be recorded?

A. Hearing loss should be evaluated solely on the existing criteria for recordability contained in the Occupational Safety and Health Act and 29 CFR Part 1904. Once work-related hearing loss is established, it may be classified as either an injury or an

illness, depending upon the type of event or exposure which caused the loss. If the hearing loss resulted from or

exposure in the work environment. Cases of high blood pressure should be

Such one-time treatment, and followup visit for the purpose of observation is considered first aid even though provided by a physician

—Use of hot or cold SOAKING

requiring tetanus shots may be

the abstract. In this situation, the case

VOL 50 ISS 137 JL 17 1985 UMI

illness, depending upon the type of event or exposure which caused the loss. If the hearing loss resulted from or was aggravated by an instantaneous exposure, it is considered an injury, and is recordable only if it involves medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job. If the hearing loss resulted from or was aggravated by anything other than an instantaneous exposure it should be classified as an occupational illness. All job-related illnesses are recordable.

E–12. Q. Is this case recordable? An employee goes to a doctor who informs her that prescription glasses must be worn as a result of work-related eye deterioration caused by the nature of her job.

A. Assuming that work relationship could be established, this case would be recordable as an occupational illness since it involves the recognition of an abnormal condition or disorder. However, employers should distinguish work-related eye problems from those due to aging or heredity factors unrelated to the job.

E–13. Q. How should a massive heart attack be classified?

A. Work-related heart attacks are classified as illnesses because they normally do not result from work accidents or single instantaneous incidents in the work environment. When they occur, an entry should be made in column 7(g) of the log under "All other occupational illnesses"

E–14. Q. Must a heart attack occur in the work environment to be recordable?

A. Heart attacks must satisfy the same requirements for work relationship as any other type of illness before they are recordable on the OSHA No. 200. Under the OSHA system, this does not mean that heart attacks are recordable if they occur in the work environment, but rather that they must result from an exposure in the work environment. (See section C of this chapter for an analysis of work relationship.)

E–15. Q. How should a work-related illness, diagnosed as stress, be classified? Is this a disorder associated with repeated trauma?

A. "Disorders associated with repeated trauma," column 7(f) of the log, OSHA No. 200, involve conditions caused by repeated contact or repetitious movement. Cases involving work-related stress should be classified as "All other occupational illnesses" in column 7(g) of the log.

E–16. Q. Is high blood pressure recordable?

A. High blood pressure is an abnormal condition or disorder. Consequently, it is recordable *if* it can be attributed to exposure in the work environment. Cases of high blood pressure should be classified as "All other occupational illnesses" in column 7(g) of the log.

E–17. Q. Does the difference in individual tolerances to specific substances affect decisions on recordability?

A. No. Variations in the characteristics of particular employees or their susceptibility to various illnesses should not affect decisions of recordability. If a recordable illness occurs, employers should enter it on the OSHA No. 200.

F. Deciding if Work-Related Injuries Are Recordable

Although the act requires that all work-related deaths and illnesses be recorded, it limits the recording of injuries to certain specific types of cases. Sections 8(c)(2) and 24(a) of the act refer to maintaining records for work injuries ". . . other than minor injuries requiring only first aid treatment, and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job." Consequently, a work-related injury must involve at least 1 of these 4 conditions before it is deemed recordable. Minor injuries requiring only first aid treatment are not recordable.

1. *Medical treatment.* It is important to understand the distinction between medical treatment and first aid treatment since may work-related injuries are recordable only because medical treatment was given.

Part 1904.12(d) of the regulations and the instructions on the back of the log and summary, OSHA No. 200, define medical treatment as any treatment, other than first aid treatment, administered to injured employees. Essentially, medical treatment involves the provision of medical or surgical care for injuries that are not minor through the application of procedures or systematic therapeutic measures.

The act also specifically states that work-related injuries which involve only first aid treatment must *not* be recorded. Therefore, the definition of first aid treatment has important implications for evaluating potential medical treatment cases. First aid is commonly thought to mean emergency treatment of injuries before regular medical care is available. However, first aid treatment has a different meaning for OSHA recordkeeping purposes. Part 1940.12(e) of the regulations defines first aid treatment as:

any one-time treatment, and any followup visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and followup visit for the purpose of observation is considered first aid even though provided by a physician or registered professional personnel.

The distinction between a medical treatment and first aid depends not only on the treatment provided, but also on the severity of the injury being treated. First aid is: (1) Limited to *one-time treatment* and subsequent observation; *and* (2) involves treatment of only *minor* injuries, *not* emergency treatment of serious injuries. Injuries are *not* minor if:

(a) They can be treated *only* by a physician or licensed medical personnel;

(b) They impair bodily function (i.e., normal use of senses, limbs, etc.);

(c) They result in damage or harm to the physical structure of a nonsuperficial nature (e.g., hairline fractures); or

(d) They involve complications requiring follow up medical treatment.

Physicians or registered medical professionals, working under the standing orders of a physician, routinely treat minor injuries. Such treatment constitutes first aid. Also, some visits to a doctor do not involve treatment at all. For example, a visit to a doctor for an examination or other diagnostic procedure to determine whether the employee has an injury does not constitute medical treatment. Conversely, medical treatment can be provided to employees by someone other than a physician or registered medical personnel.

The following classifications list certain procedures as either medical treatment of first aid treatment. These criteria are also listed in the one-page Recordkeeping Summary provided in appendix F.

The following are generally considered medical treatment. Work-related injuries for which this type of treatment was provided or should have been provided are almost always recordable.

—Treatment of INFECTION
—Application of ANTISEPTICS during second or subsequent visits to medical personnel
—Treatment of SECOND OR THIRD DEGREE BURN(S)
—Application of BUTTERFLY ADHESIVE DRESSING(S)
—Applications of SUTURES (stitches)
—Removal of FOREIGN BODIES EMBEDDED IN EYE
—Removal of FOREIGN BODIES from wound; if procedure is COMPLICATED because of depth of embedment, size, or location
—Use of PRESCRIPTION MEDICATIONS

—Use of hot or cold SOAKING THERAPY during second or subsequent visit to medical personnel
—Application of hot or cold COMPRESS(ES) during second or subsequent visit to medical personnel
—CUTTING AWAY DEAD SKIN (surgical debridgement)
—Application of HEAT THERAPY during second or subsequent visit to medical personnel
—Use of WHIRLPOOL BATH THERAPY during second or subsequent visit to medical personnel
—POSITIVE X-RAY DIAGNOSIS (fractures, broken bones, etc.)
—ADMISSION TO A HOSPITAL or equivalent medical facility for treatment or prolonged observation.

The following are generally considered first aid treatment (e.g., one-time treatment and subsequent observation of minor injuries) and need not be recorded if the work-related injury does not involve loss of consciousness, restriction of work or motion, or transfer to another job:

—Application of ANTISEPTICS during first visit to medical personnel
—Treatment of FIRST DEGREE BURN(S)
—Application of BANDAGE(S) during any visit to medical personnel
—Use of ELASTIC BANDAGE(S) during first visit to medical personnel
—Removal of FOREIGN BODIES NOT EMBEDDED IN EYE if only irrigation is required
—Removal of FOREIGN BODIES from wound, if procedure is UNCOMPLICATED, and is, for example, by tweezers or other simple technique
—Use of NONPRESCRIPTION MEDICATIONS
—SOAKING THERAPY ON INITIAL VISIT to medical personnel or removal of bandages by SOAKING
—Application of hot or cold COMPRESS(ES) during first visit to medical personnel
—Application of OINTMENTS to abrasions to prevent drying or cracking
—Application of HEAT THERAPY during first visit to medical personnel
—Use of WHIRLPOOL BATH THERAPY during the first visit to medical personnel
—NEGATIVE X–RAY DIAGNOSIS
—BRIEF OBSERVATION of injury during visit to medical personnel

The following procedure, by itself, is considered medical treatment:

—Administration of TETANUS SHOT(S or BOOSTER(S. However, these shots are often given in conjunction with the more serious injuries; injuries requiring tetanus shots may be recordable for other reasons.

2. *Loss of consciousness.* If an employee loses consciousness as the result of a work-related injury, the act requires that the case be recorded no matter what type of treatment was provided. The rationale behind this requirement is that loss of consciousness is generally associated with the more serious injuries.

3. *Transfer to another job.* Injuries requiring transfer of the employee to another job are also considered serious enough to be recordable regardless of the type of treatment provided. Transfers are seldom the sole criterion for recordability because injury cases are almost always recordable on other grounds, primarily medical treatment or restriction of work or motion.

4. *Restriction of work or motion.* Restriction of work or motion is the fourth criterion specified by the act for determining whether an injury is serious enough to be recorded. The decision that a case involves restricted work activity should be made solely on the rules set forth in Part 1904.12(f) of the *Code of Federal Regulations* and in the instructions to the Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200. The central concept established in these sections is that restricted work activity occurs when the employee, because of the impact of a job-related injury or illness, is physically or mentally unable to perform *all* or *any part* of his or her normal assignment during *all* or *any part* of the workday or shift. The emphasis is on the employee's *ability* to perform normal job duties. Restriction of work or motion may result in either a lost worktime injury or a nonlost worktime injury, depending upon whether the restriction extended beyond the date of injury. This distinction is discussed at length in chater VI.

Restriction of work or motion sometimes is the sole reason for recording a case. For example, if an employee suffers a cut on a joint of the first finger and the wound requires only a small bandage, the bandage may prevent bending the finger. This case involves a work-related injury, but is it recordable? The employer can reasonably conclude that no medical treatment was involved nor was there any loss of consciousness or transfer to another job. The case would be recordable only if it involves restriction of work motion; that is if the motion that was limited affected the employee's ability to perform his or her normal job duties. It is important to differentiate that concept from limitation of motion in the abstract. In this situation, the case would be recordable if it involved a typist who was unable to type, but probably not if it involved an executive.

F–1. Q. Are all first aid injury cases nonrecordable?

A. Medical treatment is only one criterion for determining whether or not injuries are recordable. Injuries which require only first aid treatment are recordable if they involve loss of consciousness, restriction of work or motion, or transfer to another job.

F–2. Q. Our plant does not have a nurse available on the second and third shifts. Injuries on these shifts are sent to the hospital. If this is the only time the injury is treated, does it have to be recorded?

A. If medical treatment is administered, the case is recordable. If only first aid treatment is administered, then the case is not recordable. (See the definitions in the preceding narrative section.) The *kind of treatment* which is, or should have been, provided is the determining factor, not the place or person providing the treatment.

F–3. Q. Can medical treatment be provided by anyone other than a physician or trained medical personnel?

A. The regulations have been interpreted to mean that medical treatment may be administered by medical or nonmedical personnel. The treatment is the main factor to consider in distinguishing medical treatment from first aid, not the person who is administering it.

In distinguishing between medical treatment and first aid, Congress intended to foucs on the seriousness of the injury. Doctors or medical personnel often provide first aid treatment for minor injuries; nonmedical personnel often provide medical treatment for certain injuries that are relatively serious in nature.

F–4. Q. If an employee is treated in the medical department for an injury such as a cut, burn, etc., but does not need a doctor's care, does a report need to be made of the injury?

A. If the case comes under the definition of "medical treatment" rather than "first aid," a record would have to be maintained. On the other hand, first aid treatment would not be recorded, even if given by a doctor. Again, the key factor to be considered is the type of treatment which was, or should have been, provided, not the person administering it.

F–5. Q. Does the requirement for recording medical-treatment injuries encompass only those injuries where the treatment was actually provided to the individual?

A. This requirement focuses on whether the injury was serious enough

F–12. Q. If an employee has a minor scratch but the doctor gives him a

was not recordable because the provision of a nonprescription

differences in recordkeeping definitions.

G–5. Q. Won't recording a case on the

A. Yes. Part 1904.8 of the regulations

VOL
50
ISS
137
JL
17
1985
UMI

A. This requirement focuses on whether the injury was serious enough that medical treatment was actually provided or should have been provided. Cases should be recorded where medical treatment was *clearly* required, but for one reason or another, was not actually provided.

F–6. Q. When are bruises experienced by employees considered recordable?

A. When they are serious enough to involve 1 of the 4 criteria for recording injuries—medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

F–7. Q. How are fractures classified? What about a hairline fracture that is given no treatment and does not interfere with the employee's work activities?

A. Injuries resulting in fractures should be recorded because they are not minor in nature and ordinarily require medical treatment or involve restriction of work or motion. This is in keeping with the mandate of the Occupational Safety and Health Act of 1970 to record all injuries that are not minor.

F–8. Q. Are injuries that result in chipped or broken teeth recordable?

A. These injuries would normally be recordable due to their relative severity and the fact that they ordinarily require medical treatment.

F–9. Q. What about situations where an employee damages a prosthetic device, such as an artificial arm or leg? Is this recordable?

A. Generally, situations such as this are recordable if they involve either some form of medical treatment or restriction of work or motion.

F–10. Q. If there is more than one followup visit to a doctor for minor cuts or burns, is such an injury recordable?

A. If the second visit is simply for observation or to change an adhesive or small bandage, the injury would not be recorded. It would be recorded, however, if any medical treatment was provided.

F–11. Q. What if an employee is injured and loses worktime in traveling to or from a doctor's office for a medical examination? Does this loss of worktime constitute restriction of work or motion, and make the case recordable for OSHA purposes?

A. Injuries should be evaluated on the extent of medical treatment required, not on the amount of time spent seeking treatment. If the examination revealed that no medical treatment was required, the case would not be recordable. Restriction of work or motion concerns the employee's ability to perform normal job duties; it does not include loss of worktime for travel to or from a doctor's office.

F–12. Q. If an employee has a minor scratch but the doctor gives him a tetanus shot anyway, does this constitute medical treatment and make it a recordable case?

A. Such tetanus shots should not be regarded as medical treatment. Consequently, the case would not be recordable unless other treatment was provided.

F–13. Q. Do rabies vaccinations constitute medical treatment?

A. Yes. Rabies vaccinations constitute medical treatment since they are considered absolutely necessary and involve a series of injections far more extensive than the concept of first aid contemplated in the act and defined in the regulations.

F–14. Q. Is treatment given by chiropractors considered medical treatment?

A. Yes. This is considered medical treatment since it involves considerably more extensive treatment than first aid as defined in Part 1904.12(e) of the regulations.

F–15. Q. Is it considered medical treatment when prescription medications are given solely as prevention measures for minor injuries or for patient comfort?

A. The use of prescription medications is considered medical treatment. This is because prescription medications are normally used in connection with the more serious injuries. The use of nonprescription medications for minor injuries or solely preventive purposes doe not constitute medical treatment.

There may be a few situations where this distinction may seem inappropriate. However, the generalization is necessary to provide reasonable guidance while keeping the recording criteria as simple as possible.

F–16. Q. What about prescription drugs provided to employees soley for psychological care? Should this be considered medical treatment?

A. If the prescription medications are being provided in connection with job-related stress, the medical treatment issue would be irrelevant since the stress case would be considered an occupational illness. All occupational illnesses are recordable.

F–17. Q. Suppose a nonprescription medication is dispensed to an employee with a minor injury, who then suffers an adverse reaction. Is this recordable? If so, is it an injury or an illness?

A. This case should be considered an injury since the case determination must relate back to the original event. This is because the affected employee would not have suffered the adverse reaction to the medication *but for* the occupational injury. Initially, the case was not recordable because the provision of a nonprescription medication does not constitute medical treatment. *THE CASE MAY NOW BE RECORDABLE.* To be recordable, the adverse reaction must have been serious enough to require additional medical treatment or involve loss of consciousness, restriction of work or motion, or transfer to another job.

G: Relationship of OSHA Recordkeeping Requirements to Those of State Workers' Compensation Systems

OSHA recordkeeping and reporting requirements differ from those established under various State workers' compensation laws. Differences exist in both the mechanics of the recordkeeping process and in the criteria used for evaluating the recordability of individual cases. Section 4(b)(4) of the act states:

Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of or in the course of employment.

Consequently, recordkeeping determinations under the OSH Act should not affect the employer obligations under State workers' compensation systems. Also, workers' compensation criteria should not be substituted for OSHA definitions in determining whether or not a case should be recorded under the OSHA system. Although the OSHA system is fundamentally different from various compensation systems, qualifying workers' compensation first report forms may be substituted for the OSHA No. 101, the Supplementary Record of Occupational Injuries and Illnesses. To qualify for this purpose, the workers' compensation form must contain all of the items on the OSHA No. 101 or be supplemented to do so. This is permitted to eliminate duplicate recording whenever possible. Chapter III, section C of this report provides a detailed discussion of the requirements for potential substitutes for the supplementary record.

It should be stressed that allowance of the substitution of forms is in no way indicative of any comparability in the recordkeeping criteria between the two systems. In instances where State workers' compensation forms are being used in lieu of the OSHA No. 101, employers must still adhere to the

differences in recordkeeping definitions. There may be instances where the employer will have to prepare a form for an OSHA recordable case even though the State workers' compensation law does not require that a report be prepared or vice versa.

G–1. Q. Does a workers' compensation insurance carrier have any responsibility or liability under the OSH Act other than to its own employees?

A. No. Aside from recordkeeping obligations pertaining to its own employees, a workers' compensation insurance carrier has no responsibility for the OSHA recordkeeping of its clients.

G–2. Q. Is there any connection between OSHA records and reports and the reporting requirements of State workers' compensation acts?

A. No. The only relationship between the systems pertains to the forms used. To eliminate duplicate recordkeeping, most State workers' compensation agencies have revised their first report forms to make them acceptable as substitutes for the OSHA No. 101, the Supplementary Record of Occupational Injuries and Illnesses. See chapter II, section C for a discussion of the requirements for the supplementary record.

G–3. Q. What entries, if any, need to be made on the OSHA records in instances of employer-employee disputes involving contested cases under State workers' compensation systems?

A. Workers' compensation determinations have no direct bearing on the recordability of cases under OSHA. Some cases are covered by workers' compensation but are not OSHA-recordable; others are recordable under OSHA but are not covered by workers' compensation.

For example, many cases that do not involve lost worktime may be OSHA-recordable, but may not be recordable under State workers' compensation systems. Each case should be evaluated and recorded solely on the basis of OSHA recordkeeping criteria.

G–4. Q. Should employers wait to record cases on the OSHA forms if the cases are being contested under workers' compensation?

A. No. Employers are required to record cases on the OSHA forms no later than 6 working days after receipt of information that a recordable injury or illness has occurred. If a case is recordable under the OSHA system, an entry must be made on the OSHA records without any regard to the status of the case under workers' compensation.

G–5. Q. Won't recording a case on the OSHA records bias the outcome of contested workers' compensation cases?

A. No. Because of the significant differences between the two systems, recording injuries and illnesses on the OSHA forms should have no effect on cases litigated under workers' compensation. Section 4(b)(4) of the OSH Act provides that the provisions of the act will not affect workers' compensation liability.

Chapter VI. Evaluating of the Extent of Recordable Cases

Once the employer decides that a recordable injury or illness has occurred, the case must be evlauated to determine its extent or outcome. Part 1904.12(c) of the regulations provides the three categories of recordable cases: Fatalities, lost workday cases, and cases without lost workdays. Every recordable case must be placed in only one of these categories.

A. Fatalities

The Occupational Safety and Health Act of 1970 and part 1904 of the regulations require the recording of all work-related fatalities. Part 1904.12(c)(1) states that recordable occupational injuries and illnesses include fatalities, regardless of the time between the injury and the death, or the length of the illness.

A–1. Q. An employee has an occupational illness which keeps him away from work for 6 months. At the end of that time, he dies as a result of the illness. How should the case be recorded on the log?

A. Any entries in the lost workday illness columns 9 through 12 of the log should be lined out, and the date of death should be entered in column 8.

Injury-related fatalities that were initially recorded as lost worktime should be treated in a similar manner. Entries in the lost workday injury columns 2 through 5 should be lined out, and the date of death entered in column 7.

A–2. Q. Must an employee's death occur in the work environment for the case to be recorded as a work-related fatality?

A. No. Cases are recordable as work-related fatalities when the death results from an *event or exposure* that occurs in the work environment. The employee need not actually die in the work environment.

A–3. Q. Do employers have any recording or reporting obligations for fatalities other than making the appropriate entries on the OSHA No. 200?

A. Yes. Part 1904.8 of the regulations requires that employers report within 48 hours the occurrence of job-related fatalities to their OSHA area office. This subject is discussed in chapter VII.

A–4. Q. What constitutes death for OSHA recordkeeping purposes? What if a person suffers "brain death," but is maintained on life support systems?

A. For OSHA recordkeeping purposes, death occurs when the injured or ill employee's condition is such that a death certificate is issuable by the State or territory which has jurisdiction. In some States, a death certificate would be issued for cases involving "brain death," in others it would not.

A–5. Q. What is the appropriate date of death to be entered in these cases?

A. The date entered in column 1 or column 8 of the log should be the date of death entered on the death certificate.

B. Lost workday cases

Parts 1904.12(c)(2) and 1904.12(f) of the regulations provided the definition of lost workday cases. These cases are generally the most serious nonfatal injuries and illnesses. They occur when the injured or ill employee experiences either days away from work, days of restricted work activity, or both. In these situations, the injured or ill employee is affected to such an extent that: (1) Days must be taken off from the job for medical treatment or recuperation; or (2) the employee is unable to perform his or her normal job duties over a normal work shift, even though the employee may be able to continue working.

Injuries and illnesses are not considered lost workday cases unless they affect the employee *beyond* the day of injury or onset of illness. When counting the number of days away from work or days of restricted work activity, do not include: (1) The initial day of injury or onset of illness, or (2) any days on which the employee would not have worked even though able to work.

1. *Lost workday cases involving days away from work* are cases resulting in days the employees would have worked but could not because of the job-related injury or illness. The focus of these cases is on the employee's inability, because of injury or illness, to be present in the work environment during his or her normal work shift.

2. *Lost workday cases involving days of restricted work activity* are those cases where, because of injury or illness, (1) the employee was assigned to another job on a temporary basis, or (2) the employee worked at a permanent job less than full time, (3) the employee worked at his or her permanently assigned job but could not perform all the duties normally connected with it.

Restricted work activity occurs when the employee, because of the job-related

number of lost workdays, which is a measure of the severity of the case

when they result in termination or

B–13. Q. An employee experiences a bona fide lost-time injury on a

should be classified as a lost workday case involving days of restricted work

case *would* be recorded as a lost workday case involving restricted work

VOL 50 ISS 137 JL 17 1985 UMI

Restricted work activity occurs when the employee, because of the job-related injury or illness, is physically or mentally unable to perform *all* or *any part* of his or her normal assignment during *all or any part* of the normal workday or shift. The emphasis is on the employee's *inability* to perform normal job duties over a normal work shift.

B–1. Q. An employee is injured at the beginning of the normal work shift and misses the remainder of the workday. Is this a lost workday case?

A. This would not constitute a lost workday case unless the employee was unable to perform his or her normal work duties on a subsequent workday or work shift. Injuries and illnesses are not considered lost workday cases unless they affect the employee *beyond* the day of injury or onset of illness.

B–2. Q. Suppose an employee is injured on Thursday and is unable to return to work until the following Wednesday. How would the lost workdays be counted?

A. The count of lost workdays should not include the day of injury or onset of illness, or any days on which the employee would not have worked even though able to work. Therefore, assuming the employee normally worked Monday through Friday, this case would involve 3 lost workdays. Thursday would not be counted since it was the day of injury. Saturday and Sunday would not be counted because the employee does not normally work on the weekend. Friday, Monday, and Tuesday *would* be counted because they are normally scheduled workdays.

B–3. Q. If normal work schedules encompass overtime (6 days), are the overtime days counted as lost workdays?

A. Yes. If the employee would have worked the overtime days had he or she not been injured, then the days should be counted.

B–4. Q. How does the employer count lost workdays for employees who are off the job due to a work stoppage or strike?

A. Lost workdays include only those days in which the injured or ill employee would have worked but could not. Thus, no lost workdays are counted if he or she would not have worked because of a work stoppage.

B–5. Q. How is a lost workday case that carries over into the next year recorded? For instance, how should a case be recorded where an employee is injured in December 1984 and is still out on January 31, 1985?

A. Two important points are involved: (1) One case should not appear in the records for 2 different years; and (2) it is important not to lose the count of the number of lost workdays, which is a measure of the severity of the case.

On the 1984 log, the employer should estimate the number of workdays the employee is expected to lose in 1985 and add them to the count of workdays lost in 1984. When the employee returns to work and is able to perform all the duties of his or regular job or the count of lost workdays is otherwise ended, the actual count of lost workdays (days away from work and any days of restricted activity) should be verified, and the entry on the 1984 log should be corrected as necessary.

B–6. Q. An employee is injured on Wednesday and, due to the injury, is unable to work on Thursday and Friday of that week. The plant is closed for the next 2 weeks and all employees are on vacation. The employee is still injured and would not have been able to work if the plant had been in operation. Should the paid vacation time be counted as lost workdays for this employee?

A. No. In this case, the lost workdays consist of the 2 days beyond the day of injury or onset of illness during which the employee would normally have worked but could not do so. The employee was not scheduled to work during the period that the plant closed down for vacation. Any workdays lost due to the injury after the 2-week vacation period ended should also be counted as lost workdays.

B–7. Q. An employee suffers a work-related injury which renders him temporarily unable to work. If the employee elects to reschedule his vacation for time off to recuperate, in lieu of using sick leave, should the days away from work still be counted as lost workday?

A. Yes. These days should be counted as lost workdays if the vacation was not scheduled prior to the injury. The substitution of vacation leave for sick leave does not alter the fact that the employee was unable to work as a result of the injury.

B–8. Q. When do lost workdays cease to accumulate for injured employees who have long-term medical restrictions (i.e., such as no lifting over 30 pounds) but have returned to work?

A. If such restrictions prevent them from performing any of their normally assigned duties, then each day that they cannot perform all of their regular duties should be counted as a day of restricted work activity. However, if long-term restrictions result in permanent assignments to modified jobs, the count of days of restricted work activity ceases once the transfer or modification is made permanent.

B–9. Q. Should occupational illnesses be recorded differently than injuries when they result in termination or permanent transfer?

A. Yes. If workdays were lost, the case would be recorded as a lost workday illness case and identified as a termination or permanent transfer by placing an asterisk next to the check in the appropriate illness column. If no workdays were lost, the illness would still be identifed with an asterisk and be recorded as an illness without lost workdays. Terminations and permanent transfers are identified only for occupational illnesses.

B–10. Q. How are lost workday cases affected by termination of employment?

A. Termination of employment may stop the count of lost workdays if unrelated to the employee's injury or illness. However, if a termination results from an employee's injury or illness, the case would come within the definition of a lost workday case. (Days away from work are those days the employee would have worked but could not because of the injury or illness. Days of restricted work activity occur when the injury or illness renders the employee unable to perform all or any part of his or her normal assignment during all or any part of the workday or shift.) If an employee's unjury or illness results in his being terminated, the case should be recorded as a lost workday case and an estimate should be made of the total number of workdays that would have been lost had the employee not been terminated. This is necessary to provide an accurate measure of the severity of the case.

B–11. Q. How are lost workdays counted in cases where the injured or ill employee retires before resuming all of his or her normal duties?

A. These cases should be treated in the same manner as other termination cases. If the retirement was unrelated to the injury or illness, the count of lost workdays would normally stop upon the employee's scheduled retirement. If the retirement was a result of the injury or illness, the case should be recorded as a lost workday case and an estimate should be made of the total number of days that would have been lost had the employee not retired. This is necessary to provide an accurate measure of the severity of the case.

B–12. Q. How are lost workdays counted for cases that end in total disability?

A. Practical considerations govern the count of lost workdays in total disability cases. Lost workdays should be counted for these cases until a final determination is made that the injured or ill employee is totally disabled.

B–13. Q. An employee experiences a bona fide lost-time injury on a construction job. Before the employee is able to return to work, the project is completed and the construction firm moves on to another job. How is this recorded on the OSHA No. 200?

A. The case is recorded and the count of lost workdays continues until the employee is able to resume his normal job duties. The firm's movement to another construction site does not affect the employer's obligation.

B–14. Q. How should a case be recorded when the injured employee does not report back to work even though the company doctor and/or his doctor has given him permission to do so?

A. The concept of lost worktime focuses on the employee's *ability* to perform all of his or her normal duties for all of the normal work shift. Therefore, employers need not record lost workdays when an injured employee is able to resume work, but simply refuses to do so.

B–15. Q. How are lost workdays recorded in situations where the injured employees do not return to work or contact their employer after the day of injury?

A. If the injury was work-related, then lost workdays should be estimated and counted.

B–16. Q. In some areas, State or local health laws require employees to take time off from work when injured or once they are exposed to toxic substances. When this occurs, should this be recorded as lost worktime for the purposes of OSHA recordkeeping?

A. Whether or not a case is recordable as involving days away from work or days of restricted work activity centers on the employee's *ability* to perform all of his or her normal job duties. In some of these situations, the employee's inability to work is a result of the injury or illness. These cases *should* be recorded as lost time cases either involving days away from work or days of restricted work activity. In others, the lost time may be due solely to adherence to State and local health codes. These cases would clearly *not be* recordable as involving lost worktime. Each of these cases should be evaluated separately on its own merits.

B–17. Q. Suppose that an employee experiences a minor injury—requiring first aid only—but the injury is such that the person cannot perform normal duties for 2 or 3 days. Is the case recordable? If so, how should the case be recorded?

A. Such a case would be recordable because it meets 1 of the 4 requirements for recording injuries: *Restriction of work or motion.* Once recorded, the case should be classified as a lost workday case involving days of restricted work activity.

B–18. Q. Should time away from the job for visits to a doctor on days following the day of injury be recorded as lost worktime involving restricted work activity?

A. Restricted work activity occurs when the employee, because of a job-related injury or illness, is physically or mentally unable to perform *all or any part* of his or her normal assignment during *all or any part* of the normal workday or shift. Since the emphasis is on the employee's *ability* to perform, time off to obtain medical attention is not considered to be restricted work activity. If an employee is able to perform all normal work duties during all normal workdays or shifts following the day of injury or onset of illness, then absence from work for visits to doctors' offices or clinics to receive medical attention should *not* be recorded as a lost workday case involving restricted work activity.

The following hypothetical situations illustrate restricted work activity concepts. Assume that all cases are work related.

1. On Monday, an employee severely cuts his hand while on the job. He receives medical treatment on the date of injury. Tuesday morning, the employee goes to a doctor's office, is examined, and is released to return to work. He arrives at work 3 hours after his normal starting time and is able to complete the remainder of his shift. This case would be recorded as a nonfatal case without lost workdays. It would *not* be recorded as a restricted work activity case, even though the employee missed a portion of his normal work shift on Tuesday, because the employee's *ability* to perform his normal work duties on Tuesday was not impaired.

2. Assume another injury occurs with exactly the same facts as stated in number 1, except that the injury is such that the employee cannot perform *all* of his normal job functions on Tuesday. This case *would* be recorded as a lost time case involving restricted work activity. The employee's *inability* to perform at work was the key factor, not the time spent at the doctor's office.

3. Another injury occurs in the plant on Monday, with an employee severely straining her wrist. She receives medical treatment on the date of injury. Despite the injury, the employee can perform all her normal work duties on Monday. The employee reports to work on Tuesday, performs all her duties until her wrist begins to ache, then reports to the doctor's office in the afternoon where she is examined and sent home. This case *would* be recorded as a lost workday case involving restricted work activity. The employee was able to perform all her duties, but was unable to complete a full workday due to the effect of the injury. Her inability to perform all her duties over the subsequent *normal work shift* constitutes restricted work activity.

4. An employee working in a remote location was involved in an accident and was sent by the employer to get medical attention. The doctor exsmined and treated the employee. The employee spent the entire day following the accident traveling to and from the doctor's office. At all times, the employee was able to perform all the duties of his job. This is *not* a lost workday case since the loss of worktime was a function of the location of the worksite, not of the injury.

5. Assume facts identical to those in number 2 where the employee was unable to perform all of his normal job duties. However, in this case the employer directed the employee to report to the plant clinic on the day following the injury. He did not record the case as a lost workday case because he had heard that "time away from work to receive medical attention does not have to be recorded as restricted work activity." This case *should* be recorded as a lost workday case involving restricted work activity. Although time spent receiving medical attention is not considered lost worktime, the determining factor is the employee's inability *to perform his normal duties.* Employers may not avoid recording restricted work activity cases by sending employees to a health unit or doctor's office. Again, the focus of the analysis should center on the effect of the injury or illness on the employee's *ability* to perform his *normal job duties* for a *full work shift.*

B–19. Q. Why must lost workdays be recorded for an injured worker on light duty, when the employer still gets a day's work from the employee?

A. The workdays that are counted are those on which the employee was unable to contribute a full day's work on all parts of his or her permanent job. The definition was chosen to be simple and uniform, and to preclude concealment of significant injuries or illnesses by temporary assignment to nonproductive jobs. To evaluate the seriousness of lost workdays, they are separated into two classes—days away from work and days of restricted work activity.

B–20. Q. How are partial lost workdays recorded?

A. Cases involving the loss of less than a full workday or shift (beyond the

Chapter VII. Employer Obligations for Reporting Occupational Injuries and

The survey is conducted on a sample basis, and firms required to submit

exemptions. These employers are notified *prior* to the reference calendar

basis of scheduled hours, or on the basis of the average hours normally worked

A–8. Q. Are the regularly exempt

VOL
50
ISS
137
JL
17
1985
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A. Cases involving the loss of less than a full workday or shift (beyond the day of injury or onset of illness) should be recorded as lost workday cases invoiving restricted work activity. Restricted work activity cases occur when the employee, because of the impact of a job-related injury or illness, is physically or menatally unable to perform all or any part of his or her normal work assignment *during all or any or any part of the normal workday or shift.*

For OSHA recordkeeping purposes, each partial workday lost is counted as one full day of restricted work activity. Fractions are not used.

B–21. Q. Where are lost workdays recorded for employees who normally rotate among several different establishments? For example, if an employee is injured in establishment A and as a result cannot report to his next scheduled shift in establishment B, which establishment records the lost workdays?

A. All lost workdays resulting from the injury in establishment A should be entered on the log for establishment A since injuries, illnesses, and lost workdays must be reflected in the records of the establishment in which the exposure occurs.

C. Cases not involving lost workdays

These cases consist of the relatively less serious injuries and illnesses which satisfy the criteria for recordability listed in chapter V, but which do not result in death or require the affected employee to have days away from work or days of restricted work activity beyond the date of injury or onset of illness.

C–1. Q. If nonfatal cases without lost workdays are not considered to be serious injuries or illnesses, why record them at all?

A. Although generally not considered the most serious injuries and illnesses, recognition and elimination of these cases were considered important by Congress when it initially promulgated the Occupational Safety and Health Act of 1970. Identification of these frequently occurring cases still has important safety and health implications, and is often linked to the prevention of more serious injuries.

C–2. Q. Is it possible for an employee to experience restricted work activity and have the case recorded only as a nonfatal case without lost workdays?

A. Yes, if the restriction does not go beyond the day of injury or onset of illness.

Chapter VII. Employer Obligations for Reporting Occupational Injuries and Illnesses

This chapter focuses on the requirements of Section 8(c)(2) of the Occupational Safety and Health Act of 1970 and Title 29, Part 1904, of the *Code of Federal Regulations* for employers to make reports of occupational injuries and illnesses. It does not include the reporting requirements of other standards or regulations of the Occupational Safety and Health Administration (OSHA) or of any other State or Federal agency.

A. The Annual Survey of Occupational Injuries and Illnesses

Section 8(c)(2) of the act requires employers to make periodic reports of deaths, injuries, and illnesses which have been recorded on the OSHA injury and illness records. This periodic reporting is accomplished through the Annual Survey of Occupational Injuries and Illnesses of the Bureau of Labor Statistics.

The annual survey provides measures of the occurrence and the extent of recordable occupational injuries and illnesses. Injuries and illnesses are reported as either fatalities, lost workday cases, or nonfatal cases without lost workdays. The survey produces national occupational injury and illness estimates at the 4-digit Standard Industrial Classification (SIC) level in most manufacturing industries and at the 2-digit SIC level in most nonmanufacturing industries. Estimates are produced at the 3-digit level for some high-risk nonmanufacturing industries such as construction. Equivalent data are provided for most States.

The measures produced by the system include incidence rates and numbers of occupational injuries and illnesses. Incidence rates relate the numbers of injuries, illnesses, or lost workdays to a common base of exposure. They show the equivalent number of injuries and illnesses or lost workdays per 100 full-time workers. This common base enables accurate interindustry comparisons, trend analyses over time, and comparisons among firms regardless of size.

Employer reporting obligations for the annual survey are provided in Part 1904.21 of the regulations:

Upon receipt of an Occupational Injuries and Illnesses Survey Form, the employer shall promptly complete the form in accordance with the instructions contained therein, and return it in accordance with the aforesaid instructions.

The survey is conducted on a sample basis, and firms required to submit reports of their injury and illness experience are contacted by BLS or a participating State agency. A firm not contacted by its State agency or BLS need not file a report of its injury and illness experience. Employers should note, however, that even if they are not selected to participate in the annual survey for a given year, they must still comply with the recordkeeping requirements listed in the preceding chapters of these guidelines as well as with the requirements for reporting fatalities and multiple hospitalization cases provided in the next section of this chapter.

Participants in the annual survey consist of two categories of employers: (1) Employers who maintain OSHA records on a regular basis; and (2) a small, rotating sample of employers who are regularly exempt from OSHA recordkeeping. The survey procedure is different for these two groups of employers.

1. *Participation of firms regularly maintaining OSHA records.* When employers regularly maintaining OSHA records are selected to participate in the Annual Survey of Occupational Injuries and Illnesses, they are mailed the survey questionnaire in February of the year following the reference calendar year of the survey. (A firm selected to participate in the 1984 Survey would be contacted in February of 1985.) The survey form, the Occupational Injuries and Illnesses Survey Questionnaire, OSHA No. 200–S, requests information about the establishment(s) included in the report and the injuries and illnesses experienced during the previous year. Information for the injury and illness portion of the report from usually can be copied directly from the totals on the log and summary, OSHA No. 200, which the employer should have completed and posted in the establishment by the time the questionnaire arrives. The survey form also requests summary information about the type of business activity and number of employees and hours worked at the reporting unit during the reference year.

2. *Participation of normally exempt small employers and employers in low-hazard industries.* A few regularly exempt employers (those with fewer than 11 employees in the previous calendar year and those in designated low-hazard industries) are also required to participate in the annual survey. Their participation is necessary for the production of injury and illness statistics that are comparable in coverage to the statistics published in years prior to the

exemptions. These employers are notified *prior* to the reference calendar year of the survey that they must maintain injury and illness records for the coming year. (A firm selected to participate in the 1984 Survey would be contacted in December 1983.) At the time of notification, they are supplied with the necessary forms and instructions. During the reference calendar year, prenotified employers make entries on the log, OHSA No. 200.

Participating, regularly exempt firms are not required to complete a Supplementary Record of Occupational Injuries and Illnesses, OHSA No. 101, for each log entry. Also, they are *not* required to post the summary of the OSHA No. 200 in February following the year for which they kept records.

A–1. Q. Why must the Department of Labor conduct a survey of occupational injuries and illnesses? Can't it utilize workers' compensation data or information already available from other sources?

A. National work injury and illness statistics cannot be produced from workers' compensation records because workers' compensation systems are not uniform among States and do not cover some OSHA recordable cases. Injury and illness statistics produced by the BLS annual survey are not obtainable from any other data source.

A–2. Q. After receiving the OSHA No. 200–S survey package, how long do employers have to complete and return the survey questionnaire?

A. Employers should complete and return the questionnaire within 3 weeks after they receive the survey package.

A–3. Q. Why does the Department of Labor request information concerning the number of employee hours worked?

A. Information on the number of hours worked is needed to produce injury and illness incidence rates which relate the data to a common base of exposure, and thus enable interindustry comparisons, trend analysis, or comparisons among firms regardless of size.

A–4. Q. If information on employee hours worked is not readily available from payroll or other time records, how can it be estimated?

A. The hours-worked figure should be obtained from payroll or other time records whenever possible, and should exclude paid nonworktime such as vacations, sick leave, holidays, etc. If hours worked are not maintained separately from hours paid, employers should record their best estimate of the hours actually worked. If actual hours worked are unobtainable for certain types of employees (such as those paid on commission, salary, by the mile, etc.), hours worked may be estimated on the basis of scheduled hours, or on the basis of the average hours normally worked.

A–5. Q. Should the figure for hours worked include hours for situations where the employee's activities are deemed work related, even though the employee is not engaged in a specific job task or is outside a normal 8 hour work shift? For example, should hours worked include time for employees using on-premises exercise facilities or on travel status?

A. The figure for hours worked should reflect the actual hours of work-related exposure for all employees. If injuries and illnesses experienced during a particular activity are recordable, then the employee's time spent in the activity should be included in the hours estimate. Work-related exposures include most of the employers' activities on the employees' premises as well as situations off premises where the employees are engaged in job tasks or are there as a condition of employment.

Time spent using on-premises exercise facilities would be included in hours worked, because this is considered a work-related activity for OSHA recordkeeping purposes. (See chapter V, section C for a discussion of work relationship.)

For employees in travel status, the figure for hours worked should include all the empoyees' work-related activities and such necessary travel functions as eating, sleeping, and traveling. The figure for hours worked should *not* include hours spent on extraneous activities unrelated to the normal scope of the trip and solely for the employee's own personal use or enjoyment. (See question C–19 of chapter V for activities covered in travel status.)

A–6. Q. For the purposes of the Annual Survey of Occupational Injuries and Illnesses, how do employers report cases that are not yet resolved by the end of the calendar year?

A. Employers should report these cases based on their best estimate of the final case determination. The injury and illness portion of the OSHA No. 200–S survey form is completed by merely copying information from the summary lines of the log and summary, OSHA No. 200. In summarizing the log and summary, employers will have already made interim determinations on unresolved cases. (A sample survey form is provided in appendix B.)

A–7. Q. Will the information for a particular company reported on the OSHA No. 200–S survey form remain confidential?

A. Yes. Information for individual establishments and reporting units is kept strictly confidential.

A–8. Q. Are the regularly exempt employers who participate in the annual survey required to maintain their OSHA injury and illness records for 5 years like the participating employers regularly maintaining OSHA records?

A. No. Regularly exempt employers are not subject to the maintenance or retention requirements of Part 1904 of the regulations. However, these employers should keep their OSHA records for 3 months after they have completed the OSHA 200–S survey questionnaire since they may be needed for survey verification purposes.

B. Reporting Fatalities and Multiple Hospitalizations

All employers are required to report accidents resulting in one or more fatalities or the hospitalization of five or more employees by Part 1904.8 of the record-keeping regulations:

Within 48 hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor. The reporting may be by telephone or telegraph. The report shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The Area Director may require such additional reports in writing or otherwise as he deems necessary, concerning the accident.

Employers with questions on these reporting requirements should contact their nearest OSHA area office. Additional guidelines are available in the OSHA Field Operations Manual.

B–1. Q. Do all States have the same reporting requirements under Part 1904.8 of the regulations?

A. No. All States under Federal jurisdiction must comply with the requirements of Part 1904.8. However, States with approved State plans under Section 18(b) of the act may have more strigent reporting requirements. Employers in these States should contact their State agency for specific reporting requirements. Addresses and telephone numbers for States with approved plans are provided in appendix D of this report.

B–2. Q. Part 1904.8 of the regulations requires that a report be made of a fatality or a multiple hospitalization case. To whom is the report made?

A. The report is made to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor, *unless* the State in which the accident occurred is administering an

approved State plan under Section 18(b) of the act. Those States designate a

Chapter VIII. Access to OSHA Records and Penalties for Failure To Comply

Services (formerly the Department of Health, Education and Welfare) while

provides for access to only those

Labor representatives are also subject to

are performed; the place where the

approved State plan under Section 18(b) of the act. Those States designate a State agency to which the report must be made. (See appendix D for States with approved State Plans.)

B–3. Q. When are accidents reportable under Part 1904.8 of the regulation?

A. Part 1904.8 is quite specific: Immediate reports must be made of accidents which result in a fatality or the hospitalization of five or more employees.

B–4 Q. What information must be reported?

A. The report must contain three pieces of information: (1) Circumstances surrounding the accident, (2) number of fatalities, and (3) number of hospitalized injuries. If necessary, the OSHA Area Director may require additional information on the accident.

B–5 Q. What is the purpose of the special reporting requirements for fatalities and multiple hospitalization cases in Part 1904.8?

A. The 48-hour reporting requirement of Part 1904.8 provides OSHA with sufficient notice to conduct immediate investigations of the accident scene to determine the causes of cases resulting in death or multiple hospitalizations.

B–6 Q. How can fatalities resulting from heart attacks or similar causes be reported within 48 hours when in most cases the employer cannot determine in that period whether or not it is occupationally related?

A. Heart attacks will generally not be reported under Part 1904.8 since the application of this portion of the regulations is limited to "accidents." When in doubt of the occupational origin of a fatal accident, employers should report it. OSHA will not investigate if it is determined that the case was not occupational in origin.

B–7 Q. Must all fatalities be reported to OSHA in accordance with the requirements of Part 1904.8?

A. Yes. All work-related accidents which result in death or the hospitalization of 5 or more employees must be reported in conformance with the 48-hour reporting requirement of Part 1904.8. The 48-hour reporting requirement has been interpreted to mean that employers must make their report within 48 hours after the occurrence of the accident or fatality. After receiving information that a fatality or multiple hospitalization has occurred, OSHA will evaluate the case to determine whether or not an inspection is warranted.

Chapter VIII. Access to OSHA Records and Penalties for Failure To Comply With Recordkeeping Obligations

The preceding chapters describe the recordkeeping and reporting requirements of the Occupational Safety and Health Act of 1970 and 29 CFR Part 1904. This chapter covers subjects related to insuring the integrity of the OSH recordkeeping process—access to OSHA records and penalties for recordkeeping violations.

A. Access to OSHA Records

Availability of the OSHA records for viewing, inspection, and copying is the focus of Part 1904.7 of the regulations:

(a) Each employer shall provide, upon request, records, provided for in sections 1904.2, 1904.4, and 1904.5 for inspection and copying by any representative of the Secretary of Labor for the purpose of carrying out the provisions of the Act, and by representatives of the Secretary of Health, Education, and Welfare during any investigation under section 20(b) of the Act or by any representative of a State accorded jurisdiction for occupational safety and health inspections or for statistical compilation under sections 18 and 24 of the act.

(b) (1) The log and summary of all recordable occupational injuries and illnesses (OSHA No. 200) (the log) provided for in section 1904.2 shall, upon request, be made available by the employer to any employee, former employee, and to their representatives for examination and copying in a reasonable manner and at reasonable times. The employee, former employee, and their representatives shall have access to the log for any establishment in which the employee is or has been employed.

(2) Nothing in this section shall be deemed to preclude employees and employee representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.

(3) Access to the log provided under this section shall pertain to all logs retained under the requirements of section 1904.6.

This part of the regulations concerns only access to OSHA injury and illness records. It provides that all OSHA records, which are being kept for the 5-year retention period, be available for inspection and copying by authorized Federal and State government officials. Employees, former employees, and their representatives are provided access to only the log and summary, OSHA No. 200.

Government officials with access to the OSHA record include: Representatives of the Department of Labor including OSHA safety and health compliance officers and BLS representatives; representatives of the Department of Health, and Human Services (formerly the Department of Health, Education and Welfare) while carrying out the Department's research responsibilities; and representatives of States accorded jurisdiction for inspections or statistical compilations. "Representatives" may include Department of Labor officials inspecting a workplace or gathering information, officials of the Department of Health and Human Services, or contractors working for the agencies mentioned above, depending on the provisions of the contract under which they work.

Employees access to the log is limited to the records of the establishment in which the employee currently works or formerly worked. All current logs and those being maintained for the 5-year retention period must be made available for inspection and copying by employees, former employees, and their representatives.

An employee representative can be a member of a union representing the employee, or any person designated by the employee or former employee.

Access to the log is to be provided to employees, former employees, and employee representatives in a reasonable manner and at a reasonable time. Redress for failure to comply with the access provisions of the regulations can be obtained through a complaint to OSHA.

A–1. Q. Which OSHA records are subject to the access provisions of Part 1904.7 of the regulations?

A. Government representatives have access to all the OSHA forms—the Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200; and the Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101.

Employees, former employees, and their representatives have access to only the log, and summary, OSHA No. 200.

A–2. Q. What is meant by the term "access" in Part 1904.7?

A. "Access" is the examination and copying of the relevant OSHA records at reasonable times and in a reasonable manner.

A–3. Q. Can employees gain access to any injury and illness records other than those specifically designated in Part 1904.7?

A. Yes. Employees can gain access to medical records through OSHA's standard on Access to Employee Exposure and Medical Records. For information on these provisions, refer directly to the standard or contact an OSHA area office. Also, employees can gain access to other injury and illness information through collective bargaining or other agreements made with employers. However, Part 1904.7 provides for access to only those records that are specified.

A–4. Q. Do the access provisions of the regulations allow employees to see the entire log, or only that portion containing an entry that specifically relates to them?

A. Employees or their representatives have access to the entire log and summary.

B. Penalties for Failure To Comply With Recordkeeping Obligations

Part 1904.9 of the regulations prescribes penalties for the falsification of OSHA records or the failure to keep the OSHA records or make OSHA reports. Part 1904.9(b) incorporates, by reference, Sections 9, 10, and 17 of the OSH Act pertaining to the issuance of citations, the procedures for enforcement, and the assessment of penalties. In doing so, it subjects employers committing recordkeeping and reporting violations to the same sanctions as employers violating other OSHA requirements such as safety and health standards and regulations. Part 1904.9 concerning falsification or failure to keep records or reports states:

(a) Section 17(g) of the Act provides that "Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment, for not more than 6 months or both."

(b) Failure to maintain records or file reports required by this part, or in the details required by forms and instructions issued under this part, may result in the issuance of citations and assessment of penalties as provided for in sections 9, 10, and 17 of the Act.

The OSHA records are an important source of information for all groups and individuals interested in promoting job safety and health. In addition, OSHA relies upon the information in these records to direct its resources to those industries and establishments where they are most needed. Consequently, the agency intends to vigorously pursue recordkeeping and rperoting violations to insure the continued integrity of the records and validity of the data produced.

B–1. Q. Does this mean that employers will be penalized under Part 1904.9(a) for every mistake they make in OSHA recordkeeping?

A. No. Part 1904.9(a) refers only to those who *knowingly* make false statements, representations, or certifications. However, employers notified of incorrect recordkeeping determinations by the Department of Labor representatives are also subject to these provisions.

B–2. Q. Can employers be penalized for failing to maintain OSHA records?

A. Yes. Part 1904.9(b) provides that the failure to maintain records as required by the regulations may result in the assessment of penalties as provided in Sections 9, 10, and 17 of the act.

B–3. Q. Are employers subject to any penalty for failing to respond to the BLS survey questionnaire on occupational injuries and illnesses, OSHA No. 200–S?

A. Yes. Part 1904.9(b) provides that failure to file reports may result in the penalties provided in Sections S9, 10, and 17 of the act.

Appendix A. Glossary of Terms

Annual summary.—Consists of a copy of the occupational injury and illness totals for the year from the OSHA No. 200, and the following information: The calendar year covered; company name; establishment address; certification signature, title, and date.

Annual survey.—Each year, BLS conducts an annual survey of occupational injuries and illnesses to produce national statistics. The OSHA injury and illness records maintained by employers in their establishments serve as the basis for this survey.

Bureau of Labor Statistics (BLS).—The Bureau of Labor Statistics is the agency responsible for administering and maintaining the OSHA recordkeeping system, and for collecting, compiling, and analyzing work injury and illness statistics.

Certification.—The person who supervises the preparation of the Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200, certifies that it is true and complete by signing the last page of, or by appending a statement to that effect to, the annual summary.

Cooperative program.—A program jointly conducted by the States and the Federal Government to collect occupational injury and illness statistics.

Employee.—One who is employed in the business of his or her employer affecting commerce.

Employee representative.—Anyone designated by the employee for the purpose of gaining access to the employer's log of occupational injuries and illnesses.

Employer.—Any person engaged in a business affecting commerce who has employees; this does not include the United States Government or any State or political subdivision of a State.

Establishment.—A single physical location where business is conducted or where services or industrial operations are performed; the place where the employees report for work, operate from, or from which they are paid.

Federal Register.—The official source of information and public notification on OSHA's proposed rulemaking, standards, regulations, and other official matters, including amendments, corrections, insertions or deletions.

First aid.—Any *one-time* treatment and subsequent observation of *minor* scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such treatment and observation is considered first aid even though provided by a physician or registered professional personnel.

First report of injury.—A workers' compensation form which may qualify as a substitute for the supplementary record, OSHA No. 101.

Incidence rate.—The number of injuries, illnesses, or lost workdays related to a common exposure base of 100 full-time workers. The common exposure base enables one to make accurate interindustry comparisons, trend analysis over time, or comparisons among firms regardless of size. This rate is calculated as:

$$\frac{N}{EH} \times 200{,}000$$

where:
N=number of injuries and illnesses or lost workdays
EH=total hours worked by all employees during calendar year
200,000=base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).

Low-hazard industries.—Selected industries in retail trade; finance, insurance, and real estate; and services which are regularly exempt from OSHA recordkeeping. To be included in this exemption, an industry must fall within and SIC not targeted for general schedule inspections and must have an average lost workday case injury rate for a designated 3-year measurement period at or below 75 percent of the private sector average rate.

Log and summary (OSHA No. 200).—The OSHA recordkeeping form used to list injuries and illnesses and to note the extent of each case.

Lost workday cases.—Cases which involve days away from work or days of restricted work activity, or both.

Lost workdays.—The number of workdays (consecutive or not), beyond the day of injury or onset of illness, the employee was away from work or limited to restricted work activity

because of an occupational injury or illness.

(1) *Lost workdays—away from work.*

chemicals, dusts, gases, or fumes; farmer's lung; etc.

programs which reduce workplace hazards.

President, for use in the classification of establishments by type of activity in

Supplementary Record (OSHA No. 101).—The form (or equivalent) on

condition of their employment. The work environment includes not only

because of an occupational injury or illness.

(1) *Lost workdays—away from work* The number of workdays (consecutive or not) on which the employee would have worked but could not because of occupational injury or illness.

(2) *Lost workdays—restricted work activity*

The number of workdays (consecutive or not) on which, because of injury or illness: (1) The employee was assigned to another job on a temporary basis; or (2) the employee worked at a permanent job less than full time; or (3) the employee worked at a permanently assigned job but could not perform all duties normally connected with it.

The number of days away from work or days of restricted work activity does not include the day of injury or onset of illness or any days on which the employee would not have worked even though able to work.

Medical treatment.—Includes Treatment of injuries administered by physicians, registered professional personnel, or lay persons. Medical treatment does not include first aid treatment (one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care) even though provided by a physician or registered professional personnel.

Occupational illness.—Any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact, and which can be included in the categories listed below. The following categories should be used by employers to classify recordable occupational illnesses on the log in the columns indicated:

Column 7a. Occupational skin diseases or disorders.
Examples: Contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants; oil acne; chrome ulcers; chemical burns of inflammations; etc.

Column 7b. Dust disease of the lung (pneumoconioses).
Examples: Silicosis, asbestosis, coal worker's pneumoconiosis, byssinosis, and other peneumoconioses.

Column 7c. Respiratory conditions due to toxic agents.
Examples: Pneumonitis, pharyngitis, rhinitis or acute congestion due to chemicals, dusts, gases, or fumes; farmer's lung; etc.

Column 7d. Poisoning (systemic effects of toxic materials).
Examples: Poisoning by lead, mercury, cadmium, arsenic, or other metals; poisoning by carbon monoxide, hydrogen sulfide, or other gases; poisoning by benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays such as parathion, lead arsenate; poisoning by other chemicals such as formaldehyde, plastics, and resins, etc.

Column 7e. Disorders due to physical agents (other than toxic materials).
Examples: Heatstroke, sunstroke, heat exhaustion, and other effects of environmental heat; freezing frostbite, and effects of exposure to low temperatures; caisson disease; effects of ionizing radiation (isotopes, X-rays, radium); effects of nonionizing radiation (welding flash, ultra-violet rays, microwaves, sunburn); etc.

Column 7f. Disorders associated with repeated trauma.
Examples: Noise-induced hearing loss; synovitis, tenosynovitis, and bursitis; Raynaud's phenomena; and other conditions due to repeated motion vibration, or pressure.

Column 7g. All other occupational illnesses.
Examples: Anthrax, brucellosis, infectious hepatitis, malignant and benign tumors, food poisoning, histoplasmosis, coccidiodomycosis, etc.

Occupational injury.—Any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from a single instantaneous exposure in the work environment.

Note.—Conditions resulting from bites, such as insect or snake bites, or from one-time exposure to chemicals are considered to be injuries.

Occupational injuries and illnesses; extent and outcome.—All occupational injuries or illnesses result in either:

(1) Fatalities, regardless of the time between the injury and death, or the length of illness; or

(2) Lost workday cases, other than fatalities, that result in lost workdays; or

(3) Nonfatal cases without lost workdays.

Occupational Safety and Health Administration (OSHA).—OSHA is the Federal agency within the Department of Labor responsible for developing, implementing, and enforcing safety and health standards and regulations. OSHA works with employers and employees to foster effective safety and health programs which reduce workplace hazards.

Premises.—Consist of the employer's total establishment; they include the primary work facility and other areas in the employer's domain such as company storage facilities, cafeterias, restrooms, and restricted company parking lots.

Posting.—The annual summary of occupational injuries and illnesses must be posted at each establishment by February 1 and remain in place until March 1 to provide employees with the record of their establishment's injury and illness experience for the previous calendar year.

Recordable cases.—All work-related deaths, and illnesses, and those work-related injuries which result in: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment beyond first aid.

Recordkeeping system.—Refers to the nationwide system for recording and reporting occupational injuries and illnesses mandated by the Occupational Safety and Health Act of 1970 and implemented by Title 29, Code of Federal Regulations, Part 1904. This system is the only source of reliable national statistics on job-related injuries and illnesses occurring in the private sector.

Regularly exempt employers.—Employers regularly exempt from OSHA recordkeeping include: (a) All employers with no more than 10 full- or part-time employees at any one time in the previous calendar year; and (b) all employers in retail trade; finance, insurance, and real estate; and services industries—i.e., SIC's 52–89 (except building materials and garden supplies, SIC 52; general merchandise and food stores, SIC's 53 and 54; hotels and other lodging places, SIC 70; repair services, SIC's 75 and 76; amusement and recreation services, SIC 79; and health services, SIC 80).

Report form.—Refers to survey form OSHA No. 200–S which is completed and returned by the surveyed reporting unit.

Restriction of work or motion.—Occurs when the employee, because of the result of a job-related injury or illness, is physically or mentally unable to perform *all* or *any part* of his or her normal assignment during *all* or *any part* of the workday or shift.

Small employers.—Employers with no more than 10 employees among all the establishments of their firm at any one time during the previous calendar year.

Standard Industrial Classification (SIC).—A classification system developed by the Office of Management and Budget, Executive Office of the President, for use in the classification of establishments by type of activity in which engaged. Each establishment is assigned an industry code for its major activity which is determined by the product or services rendered. Establishments may be classified in 2-, 3-, or 4-digit industries according to the degree of information available.

State (when mentioned alone).—Refers to a State of the United States, the District of Columbia, and U.S. territories and jurisdictions.

State agency.—State agency administering the OSHA recordkeeping and reporting system. Many States cooperate directly with BLS in administering the OSHA recordkeeping and reporting programs. Some States have their own safety and health laws which may impose different or additional obligations.

Supplementary Record (OSHA No. 101).—The form (or equivalent) on which additional information is recorded for each injury and illness entered on the log.

Title 29 of the Code of Federal Regulations. Part 1900–1999.—The parts of the *Code of Federal Regulations* which contain OSHA regulations.

Volunteers.—Workers who are not considered to be employees under the act when they serve of their own free will without compensation.

Workers' compensation systems.—State systems that provide medical benefits and/or indemnity compensation to victims of work-related injuries and illnesses.

Work environment.—Consists of the employer's premises and other locations where employees are engaged in work-related activities or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work.

Appendix B. OSHA Recordkeeping Forms

1. The Log and Summary of Occupational Injuries and Illnesses, OSHA No. 200.

2. The Supplementary Record of Occupational Injuries and Illnesses, OSHA No. 101.

3. The Annual Occupational Injuries and Illnesses Survey Covering Calendar Year 1983, OSHA No. 200–S.

BILLING CODE 4510-24-M

Bureau of Labor Statistics
Log and Summary of Occupational Injuries and Illnesses

U.S. Department of Labor

For Calender Year 19 ____ Page ___ of ___

Form Approved O.M.B. No. 1220-0029

NOTE: This form is required by Public Law 91-596 and must be kept in the establishment for 5 years. Failure to maintain and post can result in the issuance of citations and assessment of penalties. *(See posting requirements on the other side of form.)*

RECORDABLE CASES: You are required to record information about every occupational death; every nonfatal occupational illness; and those nonfatal occupational injuries which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid). *(See definitions on the other side of form.)*

Company Name

Establishment Name

Establishment Address

Case or File Number	Date of Injury or Onset of Illness	Employee's Name	Occupation	Department	Description of Injury or Illness	Extent of and Outcome of INJURY: Fatalities — Injury Related	Nonfatal Injuries — Injuries With Lost Workdays				Injuries Without Lost Workdays	Type, Extent of, and Outcome of ILLNESS: Type of Illness — CHECK Only One Column for Each Illness *(See other side of form for combinations or permanent transfers.)*							Fatalities — Illness Related	Nonfatal Illnesses — Illnesses With Lost Workdays				Illnesses Without Lost Workdays
Enter a nonduplicating number which will relate this entry to supplementary records.	Enter Mo./Day.	Enter first name or initial, middle initial, last name.	Enter regular job title, not activity employee was performing when injured or at onset of illness. In the absence of a formal title, enter a brief description of the employee's duties.	Enter department in which the employee is regularly employed or a description of normal workplace at which employee is assigned, even though temporarily working in another department at the time of injury or illness.	Enter a brief description of the injury or illness and indicate the part or parts of body affected. Typical entries for this column might be: Amputation of 1st joint right forefinger; Strain of lower back; Contact dermatitis on both hands; Electrocution—body	Enter DAYS of death.	Enter a CHECK if injury involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if injury involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 1 or 2 but the injury is recordable as defined above.	Occupational skin diseases or disorders	Dust diseases of the lungs	Respiratory conditions due to toxic agents	Poisoning (systemic effects of toxic materials)	Disorders due to physical agents	Disorders associated with repeated trauma	All other occupational illnesses	Enter DAYS of death.	Enter a CHECK if illness involves days away from work, or days of restricted work activity, or both.	Enter a CHECK if illness involves days away from work.	Enter number of DAYS away from work.	Enter number of DAYS of restricted work activity.	Enter a CHECK if no entry was made in columns 8 or 9.
(A)	(B)	(C)	(D)	(E)	(F)	(1)	(2)	(3)	(4)	(5)	(6)	(7) (a)	(b)	(c)	(d)	(e)	(f)	(g)	(8)	(9)	(10)	(11)	(12)	(13)
					TOTALS →																			

INJURIES

OSHA No. 200

Certification of Annual Summary Totals By _____ Title _____ Date _____

FOLD

OSHA No. 200

POST ONLY THIS PORTION OF THE LAST PAGE NO LATER THAN FEBRUARY 1.

Instructions for OSHA No. 200

I. Log and Summary of Occupational Injuries and Illnesses

Each employer who is subject to the recordkeeping requirements of the Occupational Safety and Health Act of 1970 must maintain for each establishment a log of all recordable occupational injuries and illnesses. This form (OSHA No. 200) may be used for that purpose. A substitute for the OSHA No. 200 is acceptable if it is as detailed, easily readable, and understandable as the OSHA No. 200.

Enter each recordable case on the log within six (6) workdays after learning of its occurrence. Although other records must be maintained at the establishment to which they refer, it is possible to prepare and maintain the log at another location using data processing equipment if desired. If the log is prepared elsewhere, a copy updated to within 45 calendar days must be present at all times in the establishment.

Logs must be maintained and retained for five (5) years following the end of the calendar year to which they relate. Logs must be available (normally at the establishment) for inspection and copying by representatives of the Department of Labor, or the Department of Health and Human Services, or States accorded jurisdiction under the Act. Access to the log is also provided to employees, former employees and their representatives.

II. Changes in Extent of or Outcome of Injury or Illness

If, during the 5-year period the log must be retained, there is a change in an extent and outcome of an injury or illness which affects entries in columns 1, 2, 6, 8, 9, or 13, the first entry should be lined out and a new entry made. For example, if an injured employee at first required only medical treatment but later lost workdays away from work, the check in column 6 should be lined out, and checks entered in columns 2 and 3 and the number of lost workdays entered in column 4.

In another example, if an employee with an occupational illness lost work days, returned to work, and then died of the illness, any entries in columns 9 through 12 should be lined out and the date of death entered in column 8.

The entire entry for an injury or illness should be lined out if later found to be nonrecordable. For example, an injury which is later determined not to be work related, or which was initially thought to involve medical treatment but later was determined to have involved only first aid.

III. Posting Requirements

A copy of the totals and information following the fold line of the last page for the year must be posted at each establishment in the place or places where notices to employees are customarily posted. This copy must be posted no later than ***February 1 and must remain in place until March 1.***

Even though there were no injuries or illnesses during the year, zeros must be entered on the totals line, and the form posted.

The person responsible for the ***annual summary totals*** shall certify that the totals are true and complete by signing at the bottom of the form.

IV. Instructions for Completing Log and Summary of Occupational Injuries and Illnesses

Column A – CASE OR FILE NUMBER. Self-explanatory.

Column B – DATE OF INJURY OR ONSET OF ILLNESS.
For occupational injuries, enter the date of the work accident which resulted in injury. For occupational illnesses, enter the date of initial diagnosis of illness, or, if absence from work occurred before diagnosis, enter the first day of the absence attributable to the illness which was later diagnosed or recognized.

Columns C through F – Self-explanatory.

Columns 1 and 8 – INJURY OR ILLNESS-RELATED DEATHS.
Self-explanatory.

Columns 2 and 9 – INJURIES OR ILLNESSES WITH LOST WORKDAYS.
Self-explanatory.

Any injury which involves days away from work, or days of restricted work activity, or both must be recorded since it always involves one or more of the criteria for recordability.

Columns 3 and 10 – INJURIES OR ILLNESSES INVOLVING DAYS AWAY FROM WORK. Self-explanatory.

Columns 4 and 11 – LOST WORKDAYS—DAYS AWAY FROM WORK.
Enter the number of workdays (consecutive or not) on which the employee would have worked but could not because of occupational injury or illness. The number of lost workdays should not include the day of injury or onset of illness or any days on which the employee would not have worked even though able to work.

NOTE: For employees not having a regularly scheduled shift, such as certain truck drivers, construction workers, farm labor, casual labor, part-time employees, etc. it may be necessary to estimate the number of lost workdays. Estimates of lost workdays shall be based on prior work history of the employee AND days worked by employees, not ill or injured, working in the department and/or occupation of the ill or injured employee.

Columns 6 and 12 – LOST WORKDAYS—DAYS OF RESTRICTED WORK ACTIVITY.
Enter the number of workdays (consecutive or not) on which because of injury or illness:

(1) the employee was assigned to another job on a temporary basis, or
(2) the employee worked at a permanent job less than full time, or
(3) the employee worked at a permanently assigned job but could not perform all duties normally connected with it.

The number of lost workdays should not include the day of injury or onset of illness or any days on which the employee would not have worked even though able to work.

Columns 6 and 13 – INJURIES OR ILLNESSES WITHOUT LOST WORKDAYS. Self-explanatory.

Columns 7a through 7g – TYPE OF ILLNESS.
Enter a check in only one column for each illness.

TERMINATION OR PERMANENT TRANSFER—Place an asterisk to the right of the entry in columns 7a through 7g (type of illness) which represented a termination of employment or permanent transfer.

V. Totals

Add number of entries in columns 1 and 8.
Add number of checks in columns 2, 3, 6, 7, 8, 10, and 13.
Add number of days in columns 4, 5, 11, and 12.
Yearly totals for each column (1-13) are required for posting. Running or page totals may be generated at the discretion of the employer.

If an employee's loss of workdays is continuing at the time the totals are summarized, estimate the number of future workdays the employee will lose and add that estimate to the workdays already lost and include this figure in the annual totals. No further entries are to be made with respect to such cases in the next year's log.

VI. Definitions

OCCUPATIONAL INJURY is any injury such as a cut, fracture, sprain, amputation, etc., which results from a work accident or from an exposure involving a single incident in the work environment.

NOTE: Conditions resulting from animal bites, such as insect or snake bites or from one-time exposure to chemicals, are considered to be injuries.

OCCUPATIONAL ILLNESS of an employee is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

The following listing gives the categories of occupational illnesses and disorders that will be utilized for the purpose of classifying recordable illnesses. For purposes of information, examples of each category are given. These are typical examples, however, and are not to be considered the complete listing of the types of illnesses and disorders that are to be counted under such category.

7a. **Occupational Skin Diseases or Disorders**
Examples: Contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants, oil acne, chrome ulcers, chemical burns or inflammations, etc.

7b. **Dust Diseases of the Lungs (Pneumoconioses)**
Examples: Silicosis, asbestosis and other asbestos-related diseases, coal worker's pneumoconiosis, byssinosis, siderosis, and other pneumoconioses.

7c. **Respiratory Conditions Due to Toxic Agents**
Examples: Pneumonitis, pharyngitis, rhinitis or acute congestion due to chemicals, dusts, gases, or fumes, farmer's lung, etc.

7d. **Poisoning (Systemic Effect of Toxic Materials)**
Examples: Poisoning by lead, mercury, cadmium, arsenic, or other metals, poisoning by carbon monoxide, hydrogen sulfide, or other gases, poisoning by benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays such as parathion, lead arsenate, poisoning by other chemicals such as formaldehyde, plastics, and resins, etc.

7e. **Disorders Due to Physical Agents (Other than Toxic Materials)**
Examples: Heatstroke, sunstroke, heat exhaustion, and other effects of environmental heat, freezing, frostbite, and effects of exposure to low temperatures; caisson disease, effects of ionizing radiation (isotopes, X-rays, radium); effects of nonionizing radiation (welding flash, ultraviolet rays, microwaves, sunburn); etc.

7f. **Disorders Associated With Repeated Trauma**
Examples: Noise-induced hearing loss; synovitis, tenosynovitis, and bursitis; Raynaud's phenomena, and other conditions due to repeated motion, vibration, or pressure.

7g. **All Other Occupational Illnesses**
Examples: Anthrax, brucellosis, infectious hepatitis, malignant and benign tumors, food poisoning, histoplasmosis, coccidioidomycosis, etc.

MEDICAL TREATMENT includes treatment (other than first aid) administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does NOT include first-aid treatment (one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care) even though provided by a physician or registered professional personnel.

ESTABLISHMENT: A single physical location where business is conducted or where services or industrial operations are performed (for example: a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office). Where distinctly separate activities are performed at a single physical location, such as construction activities operated from the same physical location as a lumber yard, each activity shall be treated as a separate establishment.

For firms engaged in activities which may be physically dispersed, such as agriculture, construction, transportation, communications, and electric, gas, and sanitary services, records may be maintained at a place to which employees report each day.

Records for personnel who do not primarily report or work at a single establishment, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

WORK ENVIRONMENT is comprised of the physical location, equipment, materials processed or used, and the kinds of operations performed in the course of an employee's work, whether on or off the employer's premises.

Bureau of Labor Statistics
Supplementary Record of
Occupational Injuries and Illnesses

U.S. Department of Labor

This form is required by Public Law 91-596 and must be kept in the establishment for 5 years. Failure to maintain can result in the issuance of citations and assessment of penalties.

Case or File No.

Form Approved
O.M.B. No. 1220-0029

Employer

1. Name

2. Mail address *(No. and street, city or town, State, and zip code)*

3. Location, if different from mail address

Injured or Ill Employee

4. Name *(First, middle, and last)* | Social Security No.

5. Home address *(No. and street, city or town, State, and zip code)*

6. Age | 7. Sex *(Check one)* Male ☐ Female ☐

8. Occupation *(Enter regular job title, not the specific activity he was performing at time of injury.)*

9. Department *(Enter name of department or division in which the injured person is regularly employed, even though he may have been temporarily working in another department at the time of injury.)*

The Accident or Exposure to Occupational Illness

If accident or exposure occurred on employer's premises, give address of plant or establishment in which it occurred. Do not indicate department or division within the plant or establishment. If accident occurred outside employer's premises at an identifiable address, give that address. If it occurred on a public highway or at any other place which cannot be identified by number and street, please provide place references locating the place of injury as accurately as possible.

10. Place of accident or exposure *(No. and street, city or town, State, and zip code)*

11. Was place of accident or exposure on employer's premises? Yes ☐ No ☐

12. What was the employee doing when injured? *(Be specific. If he was using tools or equipment or handling material, name them and tell what he was doing with them.)*

13. How did the accident occur? *(Describe fully the events which resulted in the injury or occupational illness. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident. Use separate sheet for additional space.)*

Occupational Injury or Occupational Illness

14. Describe the injury or illness in detail and indicate the part of body affected. *(E.g., amputation of right index finger at second joint; fracture of ribs; lead poisoning; dermatitis of left hand, etc.)*

15. Name the object or substance which directly injured the employee. *(For example, the machine or thing he struck against or which struck him; the vapor or poison he inhaled or swallowed; the chemical or radiation which irritated his skin; or in cases of strains, hernias, etc., the thing he was lifting, pulling, etc.)*

16. Date of injury or initial diagnosis of occupational illness | 17. Did employee die? *(Check one)* Yes ☐ No ☐

Other

18. Name and address of physician

19. If hospitalized, name and address of hospital

Date of report | Prepared by | Official position

OSHA No. 101 (Feb. 1981)

SUPPLEMENTARY RECORD OF OCCUPATIONAL INJURIES AND ILLNESSES

To supplement the Log and Summary of Occupational Injuries and Illnesses (OSHA No. 200), each establishment must maintain a record of each recordable occupational injury or illness. Worker's compensation, insurance, or other reports are acceptable as records if they contain all facts listed below or are supplemented to do so. If no suitable report is made for other purposes, this form (OSHA No. 101) may be used or the necessary facts can be listed on a separate plain sheet of paper. These records must also be available in the establishment without delay and at reasonable times for examination by representatives of the Department of Labor and the Department of Health and Human Services, and States accorded jurisdiction under the Act. The records must be maintained for a period of not less than five years following the end of the calendar year to which they relate.

Such records must contain at least the following facts:

1) *About the employer*—name, mail address, and location if different from mail address.

2) *About the injured or ill employee*—name, social security number, home address, age, sex, occupation, and department.

3) *About the accident or exposure to occupational illness*—place of accident or exposure, whether it was on employer's premises, what the employee was doing when injured, and how the accident occurred.

4) *About the occupational injury or illness*—description of the injury or illness, including part of body affected; name of the object or substance which directly injured the employee; and date of injury or diagnosis of illness.

5) *Other*—name and address of physician; if hospitalized, name and address of hospital; date of report; and name and position of person preparing the report.

SEE *DEFINITIONS* ON THE BACK OF OSHA FORM 200.

• U.S. GOVERNMENT PRINTING OFFICE 1985 • 461-271/2385

1983 OSHA No. 200-S
Annual Occupational Injuries and Illnesses Survey Covering Calendar Year 1983

U.S. Department of Labor
Bureau of Labor Statistics for the Occupational Safety and Health Administration

The information collected on this form will be used for statistical purposes only by the BLS, OSHA, and the cooperating State Agencies.

THIS REPORT IS MANDATORY UNDER PUBLIC LAW 91-596. FAILURE TO REPORT CAN RESULT IN THE ISSUANCE OF CITATIONS AND ASSESSMENT OF PENALTIES.

O.M.B. No. 1220-0045
Approval Exp. 12/31/84

St. Sch. No. Ck. Suf.

SIC
EDIT

Complete this report whether or not there were recordable occupational injuries or illnesses.

PLEASE READ THE ENCLOSED INSTRUCTIONS

Complete and return ONLY THIS FORM within 3 weeks

I. ANNUAL AVERAGE EMPLOYMENT IN 1983

Enter the average number of employees who worked during calendar year 1983 in the establishment(s) covered by this report. Include all classes of employees, full-time, part-time, seasonal, temporary, etc. See the instructions for an example of an annual average employment calculation. *(Round to the nearest whole number.)*

II. TOTAL HOURS WORKED IN 1983

Enter the total number of hours actually worked during 1983 by all employees covered by this report. DO NOT include any non-work time even though paid such as vacations, sick leave, etc. If employees worked low hours in 1983 due to layoffs, strikes, fires, etc., explain under Comments (section VII). *(Round to the nearest whole number.)*

III. NATURE OF BUSINESS IN 1983

A. Check the box which best describes the general type of activity performed by the establishment(s) included in this report.

- ☐ Agriculture
- ☐ Forestry
- ☐ Fishing
- ☐ Mining
- ☐ Construction
- ☐ Manufacturing
- ☐ Transportation
- ☐ Communication
- ☐ Public Utilities
- ☐ Wholesale Trade
- ☐ Retail Trade
- ☐ Finance
- ☐ Insurance
- ☐ Real Estate
- ☐ Services
- ☐ Public Administration

B. Enter in order of importance the principal products, lines of trade, services or other activities. For each entry also include the approximate percent of total 1983 annual value of production, sales or receipts.

_____ %
_____ %
_____ %

C. If this report includes any establishment(s) which perform services for other units of your company, indicate the primary type of service or support provided. *(Check as many as apply.)*

1. ☐ Central administration
2. ☐ Research, development and testing
3. ☐ Storage (warehouse)
4. ☐ Other (specify)

IV. MONTH OF OSHA INSPECTION

If the establishment(s) covered by this report had either a Federal or State OSHA compliance inspection during calendar year 1983, please enter the name of the month in which the *first* inspection occurred.

(Leave this box blank.)

V. RECORDABLE INJURIES AND ILLNESSES

Did the establishment(s) have any recordable injuries or illnesses during calendar year 1983?

1. ☐ No (Please complete section VII)
2. ☐ Yes (Please complete sections VI and VII)

SEE REVERSE

REPORT LOCATION AND IDENTIFICATION

Complete this report for the establishment(s) covered by the description below

Please indicate any address changes below.

RETURN REPORT TO:

For Information Call:

OSHA No. 200-S (Rev. April 1983)

VI. OCCUPATIONAL INJURY AND ILLNESS SUMMARY (Covering Calendar Year 1983)

- *Complete this section by copying totals from the annual summary of your 1983 OSHA No. 200.*
- Remember to reverse the carbon insert before completing this side.
- Leave section VI blank if there were no OSHA recordable injuries or illnesses during 1983.
- *Note: First aid even when administered by a doctor or nurse is not recordable.*
- Please check your figures to be certain that the sum of entries in columns (7a) + (7b) + (7c) + (7d) + (7e) + (7f) + (7g) = the sum of entries in columns (8) + (9) + (13).
- If you listed fatalities in columns (1) and/or (8), please give a brief description of the object or event which caused each fatality in the "Comments" section.

OCCUPATIONAL INJURY CASES

INJURY RELATED FATALITIES** (DEATHS)	INJURIES WITH LOST WORKDAYS				INJURIES WITHOUT LOST WORKDAYS*
	Injury cases with days away from work and/or restricted workdays	Injury cases with days away from work	Total days away from work	Total days of restricted activity	
Number of DEATHS in col. 1 of the log (OSHA No. 200)	Number of CHECKS in col. 2 of the log (OSHA No. 200)	Number of CHECKS in col. 3 of the log (OSHA No. 200)	Sum of the DAYS in col. 4 of the log (OSHA No. 200)	Sum of the DAYS in col. 5 of the log (OSHA No. 200)	Number of CHECKS in col. 6 of the log (OSHA No. 200)
(1)	(2)	(3)	(4)	(5)	(6)
DEATHS					

OCCUPATIONAL ILLNESS CASES

TYPE OF ILLNESS Enter the number of checks from the appropriate columns of the log (OSHA No. 200).							
Occupational skin diseases or disorders	Dust diseases of the lungs	Respiratory conditions due to toxic agents	Poisoning (systemic effects of toxic materials)	Disorders due to physical agents	Disorders associated with repeated trauma	All other occupational illnesses	
(7)							
(a)	(b)	(c)	(d)	(e)	(f)	(g)	

ILLNESS RELATED FATALITIES** (DEATHS)	ILLNESSES WITH LOST WORKDAYS				ILLNESSES WITHOUT LOST WORKDAYS*
	Illness cases with days away from work and/or restricted workdays	Illness cases with days away from work	Total days away from work	Total days of restricted activity	
Number of DEATHS in col. 8 of the log (OSHA No. 200)	Number of CHECKS in col. 9 of the log (OSHA No. 200)	Number of CHECKS in col. 10 of the log (OSHA No. 200)	Sum of the DAYS in col. 11 of the log (OSHA No. 200)	Sum of the DAYS in col. 12 of the log (OSHA No. 200)	Number of CHECKS in col. 13 of the log (OSHA No. 200)
(8)	(9)	(10)	(11)	(12)	(13)
DEATHS					

VII. REPORT PREPARED BY (Please type or print)

NAME _____

TITLE _____

SIGNATURE _____

AREA CODE _____ PHONE _____

DATE _____

COMMENTS _____

SURVEY REPORTING REGULATIONS

Title 29, Part 1904.20-22 of the Code of Federal Regulations requires that each employer shall return the completed survey form, OSHA No. 200-S, within 3 weeks of receipt in accordance with the instructions shown below.

INSTRUCTIONS FOR COMPLETING THE OSHA NO. 200-S FORM 1983 OCCUPATIONAL INJURIES AND ILLNESSES SURVEY (Covering Calendar Year 1983)

Change of Ownership—When there has been a change of ownership during the report period, only the records of the current owner are to be entered in the report. Explain fully under Comments (Section VII), and include the date of the ownership change and the time period this report covers.

Partial-Year Reporting—For any establishment(s) which was not in existence for the entire report year, the report should cover the portion of the period during which the establishment(s) was in existence. Explain fully under Comments (Section VII), including the time period this report covers.

ESTABLISHMENTS INCLUDED IN THE REPORT

This report should include only those establishments located in, or identified by, the Report Location and Identification designation which appears next to your mailing address. This designation may be a geographical area, usually a county or city, or it could be a brief description of your operation within a geographical area. If you have any questions concerning the coverage of this report, please contact the agency identified on the OSHA No. 200-S report form.

DEFINITION OF ESTABLISHMENT

An **ESTABLISHMENT** is defined as a single physical location where business is conducted or where services or industrial operations are performed. (For example: a factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, or central administrative office.)

For firms engaged in activities such as construction, transportation, communication, or electric, gas and sanitary services, which may be physically dispersed, reports should cover the place to which employees normally report each day.

Reports for personnel who do not primarily report or work at a single establishment, such as traveling salespersons, technicians, engineers, etc., should cover the location from which they are paid or the base from which personnel operate to carry out their activities.

NOTE: If more than one establishment is included, information in Section III should reflect the combined activities of all such establishments. One code will be assigned which best indicates the nature of business of the group of establishments as a whole.

SECTION IV. MONTH OF OSHA INSPECTION

Enter the name of the first month in 1983 during which your establishment(s) had an OSHA compliance inspection. Include inspections under the Federal or State equivalents of the Occupational Safety and Health Act by Federal or State inspectors and other inspections which may result in penalties for violations of safety and health standards. Do not include inspections limited to elevators, boilers, fire safety or those which are consultative in nature.

SECTION V. RECORDABLE INJURIES OR ILLNESSES

Check the appropriate box. If you checked "Yes," complete Sections VI and VII on the back of the form. If you checked "No," complete only Section VII.

SECTION VI. OCCUPATIONAL INJURY AND ILLNESS SUMMARY

This section can be completed easily by copying the totals from the annual summary of your 1983 OSHA No. 200 form (Log and Summary of Occupational Injuries and Illnesses). Please note that if this report covers more than one establishment, the final totals on the "Log" for each must be added and the sums entered in Section VI.

Leave Section VI blank if the employees covered in this report experienced no recordable injuries or illnesses during 1983.

If there were recordable injuries or illnesses during the year, please review your OSHA No. 200 form for each establishment to be included in this report to make sure that all entries are correct and complete before completing Section VI. Each recordable case should be included on the "Log" in only one of the six main categories of injuries or illnesses:

1. INJURY—related deaths (Log column 1)
2. INJURIES with days away from work and/or restricted days (Log column 2)
3. INJURIES without lost workdays (Log column 6)
4. ILLNESS—related deaths (Log column 8)
5. ILLNESSES with days away from work and/or restricted days (Log column 9)
6. ILLNESSES without lost workdays (Log column 13)

SECTION I. ANNUAL AVERAGE EMPLOYMENT IN 1983

Enter in Section I the **average** (not the total) number of full and part-time employees who worked during calendar year 1983 in the establishment(s) included in this report. If more than one establishment is included in this report, add together the annual average employment for each establishment and enter the sum. Include all classes of employees—seasonal, temporary, administrative, supervisory, clerical, professional, technical, sales, delivery, installation, construction and service personnel, as well as operators and related workers.

Annual Average employment should be computed by summing the employment from all pay periods during 1983 and then dividing that sum by the total number of such pay periods throughout the entire year, including periods with no employment. For example, if you had the following monthly employment—Jan.-10, Feb.-10, Mar.-10, Apr.-5, May-5, June 5, July-5, Aug.-0, Sept.-0, Oct.-0, Nov.-5, Dec.-5—you would sum the number of employees for each monthly pay period (in this case, 60) and then divide that total by 12 (the number of pay periods during the year) to derive an annual average employment of 5.

SECTION II. TOTAL HOURS WORKED IN 1983

Enter in Section II the **total** number of hours actually **worked** by all classes of employees during **1983.** Be sure to include **ONLY** time on duty **DO NOT include any non-work time** even though paid, such as vacations, sick leave, holidays, etc. The hours worked figure should be obtained from payroll or other time records wherever possible, if **hours worked** are not maintained separately from **hours paid**, please enter your best estimate. If actual hours worked are not available for employees paid on commission, salary, by the mile, etc. hours worked may be estimated on the basis of scheduled hours or 8 hours per workday.

For example, if a group of 10 salaried employees worked an average of 8 hours per day, 5 days a week, for 50 weeks of the report period, the total hours worked for this group would be 10 x 8 x 5 x 50 = 20,000 hours for the report period.

SECTION III. NATURE OF BUSINESS IN 1983

In order to verify the nature of business code, we must have information about the specific economic activity carried on by the establishment(s) included in your report during calendar year 1983.

Complete Parts A, B and C as indicated in Section III on the OSHA No. 200-S form. Complete Part C **only** if supporting services are provided to other establishments of your company. Leave Part C blank if a) supporting services are not the primary function of any establishment(s) included in this report or b) supporting services are provided but only on a **contract or fee basis** for the general public or for other business firms. **(Instructions continued on page 2.)**

2

[redacted]

Also review each case to ensure that the appropriate entries have been made for the other columns if applicable. For example, if the case is an Injury with Lost Workdays, be sure that the check for an injury involving days away from work (Log column 3) is entered if necessary. Also verify that the correct number of days away from work (Log column 4) and/or days of restricted work activity (Log column 5) are recorded. A similar review should be made for a case which is an Illness with Lost Workdays (including Log columns 10, 11 and 12). Please remember that if your employees' loss of workdays is still continuing at the time the annual summary for the year is completed, you should estimate the number of future workdays they will lose and add this estimate to the actual workdays already lost. Each partial day away from work, other than the day of the occurrence of the injury or onset of illness, should be entered as one full restricted workday.

Also, for each case which is an Illness, make sure that the appropriate column indicating Type of Illness (Log columns 7a-7g) is checked.

After completing your review of the individual case entries on the "Log," please make sure that the "Totals" line has been completed by summarizing Columns 1 through 13 according to the instructions on the back of the "Log" form. Then, copy these "Totals" onto Section VI of the OSHA No. 200-S form. If you entered fatalities in columns (1) and/or (8), please include in the "Comments" section a brief description of the object or event which caused each fatality.

FIRST AID

Finally, please remember that all injuries which, in your judgement, required **only First Aid Treatment**, even when administered by a doctor or nurse, should not be included in this report. First Aid Treatment is defined as one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, etc., which do not ordinarily require medical care.

SECTION VII. COMMENTS AND IDENTIFICATION

Please complete all parts including your area code and telephone number. Then return the OSHA No. 200-S form in the pre-addressed envelope. **KEEP** your file copy.

Dear Employer:

The Occupational Safety and Health Act of 1970 requires the Secretary of Labor to collect, compile, and analyze statistics on occupational injuries and illnesses. This is accomplished through a joint Federal/State survey program with States that have received Federal grants for collecting and compiling statistics. Establishments are selected for this survey on a sample basis with varying probabilities depending upon size. Certain establishments may be included in each year's sample because of their importance to the statistics for their industry.

You have been selected to participate in the nationwide Occupational Injuries and Illnesses Survey for 1983. Under the Occupational Safety and Health Act, your report is mandatory.

The following items are enclosed for your use: (1) Instructions for completing the form; (2) The OSHA No. 200-S form and a copy for your files; and (3) An addressed return envelope. Please complete the OSHA No. 200-S form and return it within three weeks in the envelope provided.

If you have any questions about this survey, contact the survey collection agency indicated on the OSHA No. 200-S form.

Thank you for your cooperation with this important survey.

Sincerely,

THORNE G. AUCHTER
Assistant Secretary for
Occupational Safety and Health

BILLING CODE 4510-24-C

Appendix C.—Selected Illnesses Which May Result From Exposure in the Work Environment

whose occurrence may: 1) provide the impetus for epidemiologic or industrial hygiene studies; or 2) serve as a warning

Recording illnesses has historically been a problem for employers,

Condition	Industry and/or occupation	Symptoms	Agent	Log col.

Appendix C.—Selected Illnesses Which May Result From Exposure in the Work Environment

The following table is included *for information purposes only, to assist* employers in recognizing certain occupational illnesses and diseases. It does not include every condition, illness, or disease that may result from an exposure in the work environment.

The table is based upon a Sentinel Health Event List (Occupational) (SHEO), initially prepared by the National Institute for Occupational Safety and Health (NIOSH), which encompassed 50 disease conditions linked to the workplace. A Sentinal Health Event is defined by NIOSH as a disease, disability, or untimely death which is occupationally related and whose occurrence may: 1) provide the impetus for epidemiologic or industrial hygiene studies; or 2) serve as a warning signal that materials substitution, engineering control, personal protection, or medical care may be required. The list included only those conditions for which NIOSH found "objective documentation of an associated agent, industry, and occupation. . . . in the scientific literature." NIOSH has indicated that the list will be expanded in the future.

The following table lists illness conditions, the industry and/or occupation where each condition is likely to occur, symptoms associated with each condition, the agent likely to cause the condition, and the appropriate illness column to be checked on the log, OSHA No. 200.

Recording illnesses has historically been a problem for employers, especially chronic or long term latent illnesses. This table is furnished to assist employers in making accurate illness determinations. *The table should not be interpreted to mean that a specific condition can only be contracted in the industries or occupations listed. It also does not mean that every condition listed is recordable if experienced by employees in these industries and/or occupations.* For the case to be OSHA recordable, employers must still establish that the condition is a result of an exposure in *their* work environment. For guidelines for determining work relationship, see Chapter V, Section C.

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Pulmonary tuberculosis	Physicians, medical personnel, medical laboratory workers.	Tuberculous lesion; chest pain; coughing; bloody and pus-like sputum; hectic fever; weight loss; or night sweats.	Mycobacterium tuberculosis	7c
Silico-tuberculosis	Quarrymen, sandblasters, silica, processors, mining, metal foundries, ceramic industry.	Decrease in maximum breathing capacity; massive fibrosis; pronounced, energetic or labored respiration with low oxygen content in arteries producing bluish skin and mucous membrane discolorations; bloodstained sputum; attacks of bronchopneumonia; malaise; disturbed sleep; anorexia; chest pains; or hoarseness.	S:02, Mycobacterium tuberculosis	7b
Plague	Shepherds, farmers, ranchers, hunters, field geologists, medical laboratory workers.	Acutely inflamed and painful lymph nodes; pulmonary lesions; cough; chills; 103°–106 °F temperature; rapid and thready pulse, hypertension; restlessness; delirium; confusion; incoordination; headache; vomiting; or diarrhea.	Yersinia pestis via bite of infected flea, wild rodents, or inhalation.	7g
Tularemia	Hunters, fur handlers, sheep industry workers, cooks, veterinarians, ranchers, veterinary pathologists, forestry workers, farmers, butchers, laboratory workers.	Ulcer at bite site followed by inflammation of regional lymph nodes; a nonspecific rash; headache; muscle pains; chills; nausea; vomiting and rapid rise in temperature to 103°–104 °F with severe prostration; extreme weakness; and drenching sweats—all symptomatic of a typhoid-like state; bacteremia; and atypical pneumonia.	Francisella tularensis via bite of flies, fleas, ticks, and lice or handling infected animals.	7g
Anthrax (diagnosis often hinges upon determination of occupation).	Shepherds, farmers, butchers, handlers of imported hides or fibers, veterinarians, veterinary pathologists, weavers.	*Cutaneous Form:* Red-brown papule skin eruption which enlarges with red patches of variable size and shape; pus-like pimples; and hardening of tissue. Progressive ulceration follows with blood and pus bursting from the pimples and dead tissue forming. Local lymph node enlargement is accompanied by general feeling of illness; muscle pain; headache; fever; nausea; and vomiting. *Pulmonary Form:* Symptoms are insidious, suggesting an influenza-like illness. Increased fever is followed in 1–3 days by severe respiratory distress with bluish-purplish discoloration of mucous membranes and skin; shock; and coma.	Bacillus anthracis	7g
Brucellosis	Farmers, shepherds, veterinarians, laboratory workers, slaughterhouse workers.	Remittant undulatory evening fever for 1–5 weeks; headaches and back-of-neckaches; morning sweats with lowered fever; weakness and aching without localizing findings. Is repetitive with remissions over months or years. Cervical pain; constipation; occasional diarrhea; anorexia; weight loss; irritability; insomnia; mental depression; emotional instability. Enlarged spleen and lymph nodes may occur.	Brucella abortus, suis	7g
Tetanus	Farmers, ranchers	Lockjaw; spasms, primarily of masseter and neck muscles and secondarily of the back muscles; stiffness of the jaw; restlessness; irritability; constipation; stiff neck; difficulty in swallowing; stiff arms or legs; headache; fever; sore throat; chilliness; painful convulsions.	Clostridium tetani	7g
Rubella	Medical personnel, intensive care personnel.	Pale pink rash or measles-like eruptions following slight fever and inflammation of mucous membranes of head, nose, throat; sore throat; pains in limbs; cough; intense intolerance of light.	Rubella virus	7g
Hepatitis A (infectious)	Day care center staff, orphanage staff, mental retardation institution staff, medical personnel.	Anorexia; fever; liver enlargement and tenderness; generalized debilitation; drowsiness; nausea; headache; occasionally jaundice.	Hepatitis A virus	7g
Hepatitis B (serum)	Nurses and aides, anesthesiologists, orphanage and mental institution staff, medical laboratory personnel, general dentists, oral surgeons, physicians.	Flu-like feeling; weakness; drowsiness; anorexia; nausea; abdominal discomfort; fever; headache; definite jaundice.	Hepatitis B virus	7g
Non-A, non-B hepatitis (toxic)	As above for hepatitis A & B	Nausea; vomiting; jaundice; stupor; coma; toxic effects on kidney, brain, or bone marrow may be more conspicuous.	Unknown; suspected drugs and chemicals include: carbon tetrachloride, insecticides, industrial solvents, and various metallic compounds (arsenic, gold, mercury iron).	7g

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Rabies	Veterinarians, animal and game wardens, lab researchers, farmers, ranchers, trappers, cave explorers, delivery personnel.	Malaise or general feeling of illness or discomfort; depression of spirits; swelling of lymphatics around wound; choking; spasmodic catching of breath, succeeded by increasing spasms, especially of the muscles of respiration and swallowing, which are increased by attempts to drink water or even by sight of water. Also, fever; headache; mental derangement; nausea; vomiting; profuse secretion of a sticky saliva; and albumin in the urine. Usually fatal within 2–5 days.	Rabies virus	7g
Ornithosis	Psittacine bird (parrot and parakeet) breeders, pet shop staff, poultry producers, veterinarians, zoo employees, taxidermists, laboratory and hospital personnel.	Chills; headache; dry cough; feverish with slow pulse; lethargy; insomnia; abnormal fear of light; sore throat; nausea; vomiting; diarrhea; protein in urine; anorexia; abnormal white blood cell count; enlarged but non-tender liver; and commonly, inflammation of lungs. Severe cases include muscle pain with stiffness and spasms; delirium and stupor.	Chlamydia psittaci	7g
Hemangiosar-coma of the liver	Vinyl chloride polymerization industry, vintners (winemaker).	A malignant tumor composed of cancerous thin and flat scale-like cells forming vessel-like spaces in some instances.	Vinyl Chloride Monomer; arsenical pesticides.	7g
Malignant neoplasm of nasal cavities.	Woodworkers, cabinet and furniture makers, boot and shoe industry, radium chemists and processors, dial painters, chromium producers, processors, users, nickel-smelting and refining.	Malignant tumor; headache; pain; paralysis of the lateral rectus muscle of the eye.	Hardwood dusts; unknown; radium; chromates; nickel.	7g
Malignant neoplasm of larynx	Asbestos industries and utilizers	Hoarseness; acute laryngitis; polyp of a vocal cord; dropped voice pitch which becomes monotone; voicelessness; difficult or labored breathing.	Asbestos	7g
Malignant neoplasm of trachea, bronchus, and lung.	Asbestos industry and utilizers, topside coke oven workers, uranium fluorsper miners, chromium producers and processors, users, nickel smelters, processors, users, smelters, mustard gas formulators, ion- exchange resin makers, chemists.	Chronic cough; localized wheeze; collapsed portion of lung with shrinkage of chest wall and diminution of chest movement and breath sounds; scanty and mucoid sputum unless an infection away from bronchial obstruction occurs; occasional spitting of blood or bloody sputum; severe, constant, nonpleuritic, unilateral pain; sometimes a remote metastasis, especially in the brain, occurs; advanced state-weight loss, anorexia, weakness, hoarseness; bone pain.	Asbestos; coke oven emissions; radon daughters; chromates; nickel; arsenic; mustard gas; bis(chloromethyl) ether chloromethyl methyl ether.	7g
Mesothelioma (MN of peritoneum) (MN of pleura).	Asbestos industries and utilizers	Primary tumor composed of cells similar to those forming lining of the peritoneum, pericardium, or pleura.	Asbestos	7g
Malignant neoplasm of bone	Dail painters, radium chemists, and processors.	Fracture may be first clue to bone cyst, pain swelling	Radium	7g
Malignant neoplasm of scrotum	Automatic lathe operators; metalworkers; coke oven workers; petroleum refiners, tar distillers, chimney sweeps.	Scrotal mass progressively increasing in size; sometimes associated with pain; minor trauma; hemorrhaging may produce extreme local pain and tenderness.	Mineral/Cutting Oils; soots and tars, tar distillates.	7g
Malignant neoplasm of bladder	Rubber and dye workers	Discharge of blood or pus-filled urine; pain or burning while urinating; colicky pain accompanying obstruction; frequent urination.	Benzidine, alpha and beta naphthylamine, auramine, magenta, aminobiphenyl, 4-Nitrophenyl.	7g
Malignant neoplasm of kidney, other, and unspecified urinary organs.	Coke oven workers	Pain; malignant mass or tumor of the connective tissues, muscles, urogenital system, vascular system, and epithelial lining of the coelom; discharge of bloody urine; fever; anorexia; nausea; vomiting; hypertension.	Coke oven emissions	7g
Lymphoid leukemia, acute	Rubber industry, radiologists	Abrupt onset of fever with secondary infection of mouth, throat, or lungs; joint pains; thrombocytopenia (decrease in absolute number of platelets below normal) may cause minute rounded spots of hemorrhage on skin, mucous membrane, or organ, and discoloration of skin due to blood vessel rupture, plus bleeding from mouth, nose, kidneys, and bowel. Moderate enlargement of liver, spleen, and lymph nodes and progressive weakness and pallor.	Unknow; ionizing radiation	7g
Myeloid leukemia, acute	Occupations with exposure to benzene; radiologists.	Fatigue; weakness; anorexia; weight loss; moderately enlarged spleen causing epigastric stress or a heavy feeling; sternal tenderness reflects hypercellularity of the marrow; minor lymph node enlargement; thrombocytopenia (decrease in absolute number of blood platelets below normal) followed by hemostasis (arrest of a flow of blood or hemorrhage).	Benzene; inotzing radiation	7g
Erythroleukemia	Occupations with exposure to benzene	Rare form of leukemia in which multiple hemorrhages, especially fore the base of the tongue and gums occur; plus an uninterrupted fall of both the white and red blood cell count of the blood; fever; aplastic anemia.	Benzene	7g
Hemolytic Anemia, nonautoimmune.	Whitewashing and leather industry; electrolytic processes, arsenical ore smelting; plastics industry; dye, celluloid, resin industry.	Weakness; vertigo; headache; tinnitus; spots before the eyes; easy fatigability; drowsiness; irritability; euphoria; psychotic behavior; occasionally amenorrhea (absence of menstruation); loss of libido; or low-grade fever; gastrointestinal complaints and congestive heart failure. Characterized by jaundice; enlargement of the spleen; and evidence of accelerated blood destruction. Hemolytic crises are accompanied by malaise, chills, and fever; aching in the extremities, back, and abdomen; and the presence of hemoglobin and methoglobin in the urine which is diminished in the amount excreted over 24 hrs. If the blood destruction is intravascular. In chronic hemolytic anemia, liver enlargement and pigment gallstones as well as chronic leg ulcers are often seen.	Copper sulfate; arsine; trimellitic anhydride; Naphthalene.	7d
Aplastic anemia	Explosives manufacturer, occupations with exposure to benzene, radiologists, radium chemists and dial painters.	Usually insidious, but can be explosive in development. Waxy pallor of skin and mucous membranes. Chronic cases show brown skin pigmentation. If decrease in absolute number of platelets is below normal (thrombocytopenia), blood may rupture into mucous membrances and skin. Hemorrhages into ocular fundi are frequent. Severe sore throat associated with sharp reduction in number of granulocytes (agranulocitic angina) may occur. Spleen enlargement is absent.	TNT: Benzene; ionizing radation	7d 7e

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Lymphoid leukemia, chronic	Rubber industry, radiologists	Fever; anorexia; weight loss; moderately enlarged spleen causing epigastric stress or a heavy feeling; sternal tenderness reflects hypercellularity of the marrow; minor lymph node enlargement; thrombocytopenia (decrease in absolute number of blood platelets below normal) followed by hemostasis (arrest of a flow of blood or hemorrhage).	Unknow; ionizing radiation	7g
Myeloid leukemia, chronic	Occupations with exposure to benzene; radiologists.	Fever; anorexia; weight loss; moderately enlarged spleen causing epigastric stress or a heavy feeling; sternal tenderness reflects hypercellularity of the marrow; minor lymph node enlargement; thrombocytopenia (decrease in absolute number of blood platelets below normal) followed by hemostasis (arrest of a flow of blood or hemorrhage).	Benzene; inotzing radiation	7g
Multiple myeloma	Rubber industry, radiologists	Bone pain; pathological fractures; anemia; hypercalcemia; renal failure; infections; hemorrhagic diathesis; amyloidosis; hyperuricemia; hyperviscosity syndrome; and neurologic manifestations.	Unknow; ionizing radiation	7g
Parkinsonism	Manganese processing industry, welders, miners, longshoremen, dockworkers.	Tremor; rigidity; bradykinesia; gait disturbance; mask-like facies; monotonous speech; dementia; depression; and hallucinations.	Manganese	7g
Peripheral neuropathy	Acrylamide industry, tunnel workers, rubber industry, pesticide applicators, lead workers.	Numbness; tingling; pain; and weakness in the hands and feet; loss of deep tendon reflexes; and decreased motor nerve conduction velocity.	Acrylamide; carbon disulfide; n-hexane; methyl n-butyl ketone; pyridine; lead; arsenic; pesticides.	7g
Polycythemia	Rubber industry, radiologists	Headache; dizziness; tinnitus; blurred vision; lassitude; dyspnea; pruritus; weakness; and sweating. Plethoric appearance of skin and mucous membranes. Hypertension; cardiomegaly; congestive heart failure; and thrombosis may occur. Splenomegaly and hepatomegaly may be present.	Unknow; ionizing radiation	7g
Primary carcinoma of the liver	Vinyl chloride polymerization industry, vintners (winemaker).	Malignant tumor composed of cancerous cells resembling liver cells; pain; weakness; anorexia; weight loss; and jaundice.	Vinyl Chloride Monomer; arsenical pesticides.	7g
Primary carcinoma of the lung	Asbestos industry and utilizers, topside coke oven workers, uranium fluorsper miners, chromium producers and processors, users, nickel smelters, processors, users, smelters, mustard gas formulators, ion- exchange resin makers, chemists.	Chronic cough; localized wheeze; collapsed portion of lung with shrinkage of chest wall and diminution of chest movement and breath sounds; scanty and mucoid sputum unless an infection away from bronchial obstruction occurs; occasional spitting of blood or bloody sputum; severe, constant, nonpleuritic, unilateral pain; sometimes a remote metastasis, especially in the brain, occurs; advanced state-weight loss, anorexia, weakness, hoarseness; bone pain.	Asbestos; coke oven emissions; radon daughters; chromates; nickel; arsenic; mustard gas; bis(chloromethyl) ether chloromethyl methyl ether.	7g
Primary carcinoma of the skin	Arsenic industry, coal tar distillers, shale oil workers, paraffin workers, roofers, tarmac workers.	Malignant tumor composed of cancerous cells resembling skin cells; pain; weakness; anorexia; weight loss; and jaundice.	Arsenic; coal tars; coal tar pitch volatiles; soots; mineral oils.	7g
Primary carcinoma of the urinary bladder	Rubber and dye workers	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	Benzidine, alpha and beta naphthylamine, auramine, magenta, aminobiphenyl, 4-Nitrophenyl.	7g
Primary carcinoma of the urinary bladder	Coke oven workers	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	Coke oven emissions	7g

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Primary carcinoma of the urinary bladder	Rubber industry, radiologists	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	Unknow; ionizing radiation	7g
Primary carcinoma of the urinary bladder	Occupations with exposure to benzene; radiologists.	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	Benzene; inotzing radiation	7g
Primary carcinoma of the urinary bladder	Occupations with exposure to benzene	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	Benzene	7g
Primary carcinoma of the urinary bladder	Explosives manufacturer, occupations with exposure to benzene, radiologists, radium chemists and dial painters.	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	TNT: Benzene; ionizing radation	7d 7e
Primary carcinoma of the urinary bladder	Whitewashing and leather industry; electrolytic processes, arsenical ore smelting; plastics industry; dye, celluloid, resin industry.	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	Copper sulfate; arsine; trimellitic anhydride; Naphthalene.	7d
Primary carcinoma of the urinary bladder	Asbestos industries and utilizers	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	Asbestos	7g
Primary carcinoma of the urinary bladder	Asbestos industry and utilizers, topside coke oven workers, uranium fluorsper miners, chromium producers and processors, users, nickel smelters, processors, users, smelters, mustard gas formulators, ion- exchange resin makers, chemists.	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	Asbestos; coke oven emissions; radon daughters; chromates; nickel; arsenic; mustard gas; bis(chloromethyl) ether chloromethyl methyl ether.	7g
Primary carcinoma of the urinary bladder	Arsenic industry, coal tar distillers, shale oil workers, paraffin workers, roofers, tarmac workers.	Malignant tumor composed of cancerous cells resembling bladder cells; pain; weakness; anorexia; weight loss; and jaundice.	Arsenic; coal tars; coal tar pitch volatiles; soots; mineral oils.	7g

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Agranulocytosis or neutropenia	Occupations with exposure to benzene, explosives and pesticide industries, pesticides, pigments, pharmaceuticals.	Acute disease characterized by marked leukopenia and neutropenia (below normal number of leukocytes and neutrophils per unit volume of peripheral blood) and with ulcerative lesions of the throat and other mucous membranes, of the gastrointestinal tract and of the skin. Two or three days of fatigue or overpowering weakness is followed by general ill feeling, chills, high fever, rapid weak pulse, sore throat, difficulty in swallowing, ulcers of the oral mucosa, and ulcerations of the pharyngeal and buccal mucosae. Prostration is extreme. Regional lymph diease but no enlargement of nodes, liver, or spleen. Fatal.	Benzene; phosphorus; inorganic arsenic.	7d
Methemoglobinemia (attacks usually develop some hours after employee has left plant and rarely during work.).	Explosives and dye industries	The oxidized form of hemoglobin, in which the iron atom is trivalent, and which is not able to combine reversibly with oxygen. Formation of large amounts of methemoglobin prevents the normal function of hemoglobin, that of transporting oxygen in the body thus causing asphyxia of the tissues. When large amounts are present, the blood becomes chocolate-brown in color. The skin takes on a bluish-gray color varying in intensity from lilac to a deep leaden hue, and quite different from the bluish-purple color of cyanosis due to a lack of oxygen. This distinctive tint is most noticeable on the cheeks, ears, tip of the nose, and fingernails. Sensation of weakness in the knees and a staggering gait follow. If destruction of the red blood cells is severe, anemia occurs and there may also be injuries to the kidney and liver. Jaundice and enlargement of the spleen may occur.	Aromatic amino and nitro compounds (aniline, TNT, nitroglycerin).	7d
Toxic encephalitis (noninfectious)	Battery, smelter, and foundry workers, electrolytic chlorine production, battery makers, fungicide formulators.	Rapid onset of fever; depression; loss of consciousness or coma; seizures; meningeal symptoms and signs may be accompanied by cerebral disorder, including alterations of consciosness, personality change, convulsions, tremor, muscle weakness of one side of the body (hemiparesis), and cranial nerve abnormalities, progressing within a few days to coma and death.	Lead; inorganic and organic mercury	7d
Parkinson's Disease (secondary)	Manganese processing, battery makers, welders, internal combustion engine industries.	Listlessness and sleepiness by day but insomnia by night; muscular pains, including cramps in the calves; unsteady gait; weakness and stiffness of the limbs; involuntary movements of the arms, legs, trunk, jaw, and head which may be severe enough to shake the bed; occasionally uncontrollable laughter or crying; impulsive acts such as running, dancing, singing, and uncontrolled talking; or forced movements such as falling without being able to catch oneself. Also, absentmindedness; mental confusion; hallucinations; and attacks of aggressiveness; irritability and euphoria; handwriting is tremulous, letters and words cramped, and micrographia is common; speech disturbances include run-on words and sentences, monotone voice, loss of speech (aphonia); impaired swallowing; masklike face; excessive salivation and sweating.	Manganese; carbon monoxide	7g
Cerebellar ataxia	Chemical industry using toluene, electrolytic chlorine production, battery makers, fungicide formulators.	Unsteadiness in walking; arm tremors; pyramidal tract involvement or posterior column disorder may be present; the motor neurons or peripheral nerves may be affected; sometimes optic atrophy, retinitis pigmentosa, paralysis of the eye muscles (ophthalmoplegia), nerve deafness, or mental deterioration. Skeletal changes (scoliosis or spinal curvature and pedal or foot abnormalities) are common.	Toluene; organic mercury	7g
Inflammatory and toxic neuropethy.	Pesticides, pigments, pharmaceuticals, furniture refinishers, degreasing operations, plastic-coated-fabric workers, explosives industry, rayon manufacturing, plastics, hydraulics, coke industries, battery, smelter, and foundary workers, dentists, chloralkali workers, chloralkali plants, fungicide makers, battery makers, plastics industry, paper manufacturing.	Numbness, tingling, and burning of feet and hands, followed by muscular weakness. There may also be a decrease in touch, pain, and temperature sensation in the feet and hands, and tendon reflexes may be diminished or absent.	Arsenic and arsenic compounds; hexane; methyl N-butyl ketone; TNT; CS2; tri-o-cresyl phosphates; inorganic lead; inorganic mercury; organic mercury; acrylamide.	7g
Cataract	Microwave and radar technicians; explosives industries; radiologists; blacksmiths, glass blowers, bakers; moth repellant formulators, fumigators; explosives, dyes, herbicide and pesticide industries.	Progressive, painless loss of vision unless the cataract swells and produces secondary glaucoma. Well-advanced cataracts appear as gray opacities in the lens. Small ones stand out as dark defects in the red reflex.	Microwaves; Ionizing radiation; Infrared radiation; Napthalene, Dinitrophenol, dinitro-o-cre sol	7e 7e 7e 7g 7g
Noise effects on inner ear	Any industry and/or occupation involving exposure to excessive noise.	Tinnitus—hissing, ringing, buzzing, humming, thumping, whistling, or roaring in the ear—may be constant or intermittent and often accompanied by hearing loss. Clicking; cracking; or ticking sounds or abnormal or pathological sounds, originating within the patient's body (by a muscle contraction, etc.) in region of the ear and audible to others as well as to the patient.	Excessive noise	7i
Raynaud's phenomenon (secondary).	Lumberjacks, chain sawyers, grinders, chippers, vinyl chloride polymerization industry.	Intermittent pellor and sometimes bluish-purplish discoloration (cyanosis) of the skin precipitated by exposure to cold, without clinical evidence of blockage of the large peripheral vessels and with nutritional lesions (if present at all, limited to the skin). Blanching and numbing when exposed to chilling weather or emotional upsets with probable loss of muscular control and reduction of sensitivity to heat, cold, and pain are main symptoms. Cyanosis and pain are rare. Gangrene and serious complications are very rare if, indeed, they occur at all.	Whole body or segmental vibration; vinyl chloride monomer.	7i
Extrinsic allergic alveolitis	Farmer's lung, baggassosis, bird fancier's lung, suberosis, malt worker's lung, mushroom worker's lung, maple bark disease, cheese washer's lung, coffee worker's lung, fish-meal worker's lung, furrier's lung, sequoiosis, wood worker's lung, miller's lung.	Difficult or labored breathing (dyspnea); fever; and oxygen deficiency (hypoxia) during acute phase lasting several weeks. Cough with scanty, black, stringy, occasionally bloody sputum; bluish-purple discoloration of mucous membranes (cyanosis); patchy infiltrates in the lung can also occur.	Various agents (usually a fungus or mold and dusty substances).	7g

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Extrinsic asthma or allergic asthma.	Jewelry, alloy and catalyst makers, polyurethane, adhesive, paint workers, alloy, catalyst, refinery workers, solderers, plastic, dye, insecticide makers, foam workers, latex makers, biologists; printing industry, nickel plasters, bakers, plastics industry, woodworkers, furniture makers, detergent formulators.	Sudden onset after exposure to an allegen. Sense of tightness in the chest due to spasmodic contraction of the bronchi; difficult or labored breathing (dyspnea); wheezing. Symptoms may subside in one hour or less, continue for several hours, or persist as status asthmaticus for many days. End of attack is marked by pronounced coughing with expectoration of thick, tenacious sputum, immediately followed by a sensation of relief and "clearing" of the air passages. Physical signs consist of prolongation of expiration and the presence of sonorous and sibilant rales throughout the chest; normal but labored respiration; markedly distended chest; bluish-purplish discoloration of skin and mucous membranes (cyanosis). Between attacks breathing may be quiet, but forced expiration will produce sonorous or sibilant rales. Frequency and severity of attacks may be greatly influenced by secondary factors (e.g., changes in temperature and humidity); by exposure to noxious fumes; by fatigue; by endocrine changes (puberty, menstruation, pregnancy, menopaused); by emotional stress. Since these secondary factors may perpetuate attacks, attention should be directed to their control.	Platinum; isocyanates; chromium and cobalt; aluminum soldering flux; phthalic anhydride; formaldehyde; gum arabic; NiSO4; flour; trimellitic anhydride; red cedar and other wood dusts; bacillus-derived Excenzymes.	7e
Coalworkers pneumoconiosis	Coal miners	Black spit increasing in quantity as disease advances; jet-black nodules and cavities of the lung; chest becomes barrel-shaped and there may be clubbing of the fingers; right heart failure or silico-tuberculosis may supervene to cause death; disease is visualized by X-ray as fine, discrete pinhead mottling or nodulation or dense conglomerate shadows resembling angel's wings; eventually large fibrotic masses develop and difficult or labored breathing with cough may ensue.	Coal dust	7b
Asbestosis	Asbestos industries and utilizers	Progressive difficult or labored breathing (dyspnea); non-productive cough (little or no sputum), unless pulmonary TB is present yielding bloodstained sputum; slight pain between shoulders, under shoulder blades, or sternum; visualized by X-ray as fine pulmonary fibrosis enmeshed with asbestos bodies giving a ground glass appearance; increased susceptibility to lung cancer; pleural plaques and calcifications are often present in the fibrous tissues and emphysema is extensive, but localized to lower and apical parts of the lungs.	Asbestos	7b
Silicosis	Quarrymen, sandblasters, silica processors, mining, metal and ceramic industries.	Discrete nodulation in the absence of emphysema is usually asymptomatic. It is the massive conglomerate fibrosis resulting from the coalescence of nodules that yields symptoms: difficult or labored breathing (dyspnea) which is progressively deeper and faster; dry cough; malaise; disturbed sleep; anorexia; chest pains; hoarseness; bluish discoloration of skin and mucous membranes (cyanosis); and bloodstained sputum with bronchopneumonia and subsequent bronchiectasis developing. TB often develops. Fever is rare. Physical signs (end loud pulmonic valve component of S2 heer sound, decreased chest expansion and excursion of diaphragm, breath sounds) are few or absent. Right heart failure or pus-producing bronchopneumonia will result in death.	Silica	7b
Talcosis	Talc processors	Difficult or labored breathing (dyspnea), X-ray yields nodular shadows distributed over both lungs; nodules show whorling different from silicosis and contain fiber-like structures arranged singly and in clumps.	Talc	7b
Chronic beryllium disease of the lung.	Beryllium alloy workers; ceramic and cathode ray tube makers, nuclear reactor workers (onset may be 5 years after exposure).	Morbid condition of the lungs, more rarely of the skin (conjunctivitis and dermatitis), subcutaneous tissue, lymph nodes liver, and other structures, characterized by formation of granulomas (tumors). Chronic granulomatous pneumoconiosis with thickening of alveoler walls. An acute transient inflammation of respiratory tract (nasal passages and pharynx) yielding nosebleeds, bronchitis or pneumonitis. Symptoms of respiratory insufficiency with diffusion difficulty (weakness, anorexia, weight loss, malaise, dyspnea or difficult or labored breathing, hyperpnea or deeper and faster breathing, cyanosis or bluish discoloration of skin or mucous membranes, and cough) are most prominent and out of proportion to physical or X-ray signs. Resembles miliary TB or pulmonary sarcoidosis.	Beryllium	7b
Byssinosis (develops over 10-year period working with raw or waste cotton.).	Cotton industry workers	Periodic bronchoconstriction or Monday morning fever with wheezing and difficult or labored breathing upon return to work after 2-day absence. Later develops into severe airway obstruction and impaired elastic recoil due to chronic bronchitis, and emphysema. Patient has overdistended lungs but no characteristic X-ray pattern or recognizable lung fibrosis or infiltration are seen. Diagnosis is established by measuring the patient's ventilatory capacity before he starts work on Monday and again no more than 1 hour after his work shift.	Cotton, flax, hemp, cotton-synthetic dusts.	7b
Acute, bronchitis, pneumonitis, and pulmonary edema due to fumes and vapors.	Refrigeration, fertilizer, oil refining industries, alkali and bleach industries, silo fillers, arc welders, nitric acid industry, paper and refrigeration industry, oil refining, cadmium smelters, processors, plastics industry.	Acute inflammation of the tracheo bronchial tree. Symptoms are those of acute URI: inflammation of the mucous membranes of the nose, usually marked by sneezing, nasal airway congestion, and discharge of watery mucous (coryza); malaise; chilliness; slight fever; back and muscle pain; sore throat. Dry nonproductive cough signals bronchitis, later yielding a glutinous and mucous with pus-filled sputum. Fever to 101 or 102 F occurs for 3–5 days. Persistent occasional sibilant or crackling pulmonary sounds may suggest complications. Pulmonary edema: asthmatic wheezing; difficultry breathing except in upright position (orthopnea); pallor; sweating, bluish discoloration of skin and mucous membranes (cyanosis); frothy or pinkish sputum.	Ammonia; chlorine; nitrogen oxides; sulfur dioxides; cadmium; trimellitic anhydride.	7c

Condition	Industry and/or occupation	Symptoms	Agent	Log column

Helena, Montana 59601, Phone: 406–444–6515

Street, Austin, Texas 78756, Phone:

Region IV: Alabama, Florida, Georgia,

Condition	Industry and/or occupation	Symptoms	Agent	Log column
Toxic hepatitis	Solvent utilizers, dry cleaners, plastics industry, explosives and dye industries, fire and waterproofing additive formulators, plastics formulators, fumigators, gasoline, fire extinguisher formulators, disinfectant, fumigant, synthetic resin formulators.	Nausea; vomiting; jaundice; stupor; and coma may follow exposure. Toxic effects on kidney, brain, or bone marrow may be more conspicuous than the hepatic involvement.	Carbon tet- rachloride, chloroform, tetrachloroethane, trichloroethylene; phosphorus TNT; chloronaphthalenes; methylene-dianiline; ethylene dibromide; cresol.	7d
Acute or chronic renal failure	Battery makers, plumbers, solderers, electrolytic processes, arsenical ore smelting, battery makers, jewelers, dentists, fluorocarbon formulators, fire extinguisher makers, antifreeze manufacture.	Failure to void; lumber pain and tenderness; and analysis of urinary volume and the character of the urinary sediment is extremely valuable in differential diagnosis of acute renal failure. In *obstruction*, urinary sediment is scanty, with only occasional red and white blood cells or hyaline and granuline casts. Proteinuria is minimal or absent. In *prerenal failure*, occasional hyaline and granular casts are found and proteinuria is minimal. Urinary sp. gr. is usually >1.020 and urinary sodium concentration <15 m Eq/L. In *acute tubuler necrosis* numerous renal epithelial cells, cell casts, and coarsely granular casts are present. Hb and RBC casts are seen occasionally. Proteinuria is minimal or moderate. Urinary sp. gr. is usually <1.018 and sodium concentration >20 m Eq/L. In *acute glomerulonephritis and collagen diseases*, hematuria and RBC casts are characteristic and protein excretion is usually moderate or heavy.	Inorganic lead; arsine; inorganic, mercury; carbon tetrachloride; ethylene glycol.	7d
Infertility, male	Formulators, DBCP producers, formulators, and applicators.	Physical examination and semen analysis are necessary to diagnosis and should include work history.	Kepone; dibromochloropropane	7d
Contact and allergic dermatitis	Leather tanning, poultry dressing plants, fish packing, adhesives and sealents industry, boat building and repair.	Transient redness to severe swelling and blister (bulla) formation; itching and vesiculation are practically always present. Vesicles and bullas rupture, ooze, and crust; followed by scaling and some temporary thickening of skin. Secondary infection, excoriation (skin abrasions), and reaction to treatment may complicate and induce a chronic eczematous dermatitis.	Irritants (e.g. cutting oils, solvents, phenol acids, alkalis, detergents); allergens (e.g., nickel, chromates, formaldehyde, dyes, rubber products).	7a

Rutstein DD, Mullan RJ, Frazier TM, Halperin, WE, Melius JM, Sestito JP. Sentinel health events (occupational): a basis for physician recognition and public health surveillance. Amer J. Public Health 1983; 73(9):1054–1062.

Appendix D. Participating State Agencies

Agencies preceded by an asterisk (*) are those in which, as of January 1, 1978, a State safety and health plan under section 18(b) of the act was in operation. This agency may be contacted directly for specific information regarding regulations in the State.

Alabama Department of Labor, 600 Administrative Building, Montgomery, Alabama 36130, Phone: 205–261–3460

*Alaska Department of Labor, Research and Analysis Section, Post Office Box 1149, Juneau, Alaska 99802, Phone: 907–465–4520

Territory of American Samoa, Department of Manpower Resources, Government of American Samoa, Pago Pago, American Samoa 96799, Phone: 633–5849

*Industrial Commission of Arizona, Division of Administration/Research and Statistics Section, 1601 W. Jefferson St., Post Office Box 19070, Phoenix, Arizona 85005, Phone: 602–255–3739

Arkansas Department of Labor, OSH Statistics, Room 502, 1022 High St., Little Rock, Arkansas 72202, Phone: 501–371–2770

*California Department of Industrial Relations, Labor Statistics and Research, Post Office Box 603, San Francisco, California 94901, Phone: 415–557–1466

*Colorado Department of Labor and Employment, Division of Labor, 1313 Sherman St., Room 323, Denver, Colorado 80203, Phone: 303–866–3746

*Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, Phone: 203–566–4380

Delaware Department of Labor, Division of Industrial Affairs, 820 N. French Street, 6th Floor, Wilmington, Delaware 19801, Phone: 302–571–2888

Florida Department of Labor and Employment Security, Division of Workers' Compensation, 2551 Executive Center Circle West, Tallahassee, Florida 32301–5014, Phone: 904–488–3044

Guam Department of Labor, Bureau of Labor Statistics, Post Office Box 23548, Guam Main Facility, Agana, Guam 96921, Phone: 477:9241

*State of Hawaii, Department of Labor and Industrial Relations, Research and Statistics Office, Post Office Box 3680, Honolulu, Hawaii 96811, Phone: 808–548–7638

*Indiana Division of Labor, Department of Statistics, State Office Building—Room 1013, 100 N. Senate Avenue, Indianapolis, Indiana 46204, Phone: 317–232–2665

*Iowa Bureau of Labor, 307 East 7th Street, Des Moines, Iowa 50319, Phone: 515–281–5151

Kansas Department of Health and Environment, Division of Policy and Planning, Occupational Safety and Health, Topeka, Kansas 66620, Phone: 913–862–9360 Ext. 280

*Kentucky Labor Cabinet, Occupational Safety and Health Program, U.S. 127 South Building, Frankfort, Kentucky 40601, Phone: 502–564–3100

Louisiana Department of Labor, Office of Employment Security—OSH, 1001 North 23rd and Fuqua, Baton Rouge, Louisiana 70804, Phone: 504–342–3126

Maine Department of Labor, Bureau of Labor Standards, Division of Research and Statistics, State Office Building, Augusta, Maine 04330, Phone: 207–289–3331

*Maryland Department of Licensing and Regulation, Division of Labor and Industry, 501 St. Paul Pl., Baltimore, Maryland 21202, Phone: 301–659–4202

Massachusetts Department of Labor and Industries, Division of Industrial Safety, 100 Cambridge Street, Boston, Massachusetts 02202, Phone: 617–727–3593

*Michigan Department of Labor, 7150 Harris Drive, Secondary Complex, Post Office Box 30015, Lansing, Michigan 48909, Phone: 517–322–1848

*Minnesota Department of Labor and Industry IMSD, 444 Lafayette Road, 5th Floor, Saint Paul, Minnesota 55101, Phone: 612–296–4893

Mississippi State Department of Health, Division of Public Health Statistics, Post Office Box 1700, Jackson, Mississippi 39205, Phone: 601–354–7233

Missouri Department of Labor and Industrial Relations, Division of Workers' Compensation, Post Office Box 58, Jefferson City, Missouri 65102, Phone: 314–751–4231

Montana Department of Labor and Industry, Workers' Compensation Division, 5 South Last Chance Gulch, Helena, Montana 59601, Phone: 406–444–6515

Nebraska Workers' Compensation Court, State Capitol, 12th Floor, Lincoln, Nebraska 68509–4967, Phone: 402–471–3547

*Nevada Department of Industrial Relations, Division of Occupational Safety and Health, 1370 South Curry St., Carson City, Nevada 89710, Phone: 702–885–5240

New Jersey Department of Labor and Industry, Division of Planning and Research, C N 056, Trenton, New Jersey 08625, Phone: 609–292–8997

*New Mexico Health and Environment Department, Environmental Improvement Division, Occupational Health and Safety, Post Office Box 968—Crown Building, Sante Fe, New Mexico 87504–0968, Phone: 505–827–5271 Ext. 230

New York Department of Labor, Division of Research and Statistics, 2 World Trade Center, New York, New York 10047, Phone: 212–488–4661

*North Carolina Department of Labor, Division of Statistics, 4 West Edenton Street, Raleigh, North Carolina 27601, Phone: 919–733–4940

Ohio Department of Industrial Relations, OSHA Survey Office, Post Office Box 12355, Columbus, Ohio 43212, Phone: 614–466–7520

Oklahoma Department of Labor, Supplemental Data Division, 118 State Capitol Building, Oklahoma City, Oklahoma 73105, Phone: 405–521–2461

*Oregon Workers' Compensation Department, Research and Statistical Section, Labor and Industries Building, Salem, Oregon 97310, Phone: 503–378–8254

Pennsylvania Department of Labor and Industry, Office of Employment Security, 7th and Forster Sts., Labor and Industry Building, Harrisburg, Pennsylvania 17121, Phone: 717–787–1918

*Puerto Rico Department of Labor and Human Resources, Bureau of Labor Statistics, 505 Munoz Rivera Avenue, San Juan, Puerto Rico 00918, Phone: 809–754–5339

Rhode Island Department of Labor, Division of Workers' Compensation, 220 Elmwood Avenue, Providence, Rhode Island 02907, Phone: 401–277–2731

*South Carolina Department of Labor, Division of Technical Support, Post Office Box 11329, Columbia, South Carolina 29211, Phone: 803–758–8507

*Tennessee Department of Labor, Research and Statistics, 501 Union Building, 2nd Floor, Nashville, Tennessee 37219, Phone: 615–741–1748

Texas Department of Health, Division of Occupational Safety, 1100 West 49th Street, Austin, Texas 78756, Phone: 512–458–7287

*Utah Industrial Commission, OSH Statistical Section, 160 East 300 South, Salt Lake City, Utah 84110–5800, Phone: 801–530–6827

*Vermont Department of Labor and Industry, State Office Building, Montpelier, Vermont 05602, Phone: 802–828–2765

*Virgin Islands Department of Labor, Post Office Box 818, St. Thomas, Virgin Islands 00801, Phone: 809–776–3700

*Virginia Department of Labor and Industry, Research and Statistics, 205 North 4th Street, Post Office Box 12064, Richmond, Virginia 23241, Phone: 804–786–2384

*State of Washington, Department of Labor and Industries, Division of Industrial Safety and Health, Post Office Box 2589, Olympia, Washington 98504, Phone: 206–753–4013

West Virginia Department of Labor, Division of Labor Statistics, Room B437, Building Six, Capitol Complex, 1900 Washington Street East, Charleston, West Virginia 25305, Phone: 304–348–7890

Wisconsin Department of Industry, Labor, and Human Relations, Workers' Compensation Division/Research Section, 201 E. Washington Avenue, Post Office Box 7901, Madison, Wisconsin 53707, Phone: 608–266–7850

*Wyoming Department of Labor and Statistics, Herschler Building, Cheyenne, Wyoming 82002, Phone: 307–777–6370

Appendix E. United States Department of Labor, Occupational Safety and Health Administration—Regional Offices

The list below gives addresses and telephone numbers for OSHA Regional Offices. Complete information on field locations may be obtained from any OSHA Regional Office.

Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
1 Dock Square Building, 4th Floor, 16–18 North Street, Boston, Massachusetts 02109, Phone: 617–223–6710

Region II: New Jersey, New York, Puerto Rico, Virgin Islands
1515 Broadway, Room 3445, New York, New York 10036, Phone: 212–944–3432

Region III: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia
Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104, Phone: 215–596–1201

Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee
1375 Peachtree Street, N.E., Suite 587, Atlanta, Georgia 30367, Phone: 404–881–3573

Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
230 South Dearborn Street, Room 3244, Chicago, Illinois 60604, Phone: 312–353–2220

Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, Texas
555 Griffin Square Building, Room 602, Dallas, Texas 75202, Phone: 214–767–4731

Region VII: Iowa, Kansas, Missouri, Nebraska
911 Walnut Street, Room 406, Kansas City, Missouri 64106, Phone: 816–374–5861

Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Federal Building, Room 1554, 1961 Stout Street, Denver, Colorado 80294, Phone: 303–837–3061

Region IX: Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territory of the Pacific Islands
450 Golden Gate Avenue, Box 36017, San Francisco, California 94102, Phone: 415–556–7260

Region X: Alaska, Idaho, Oregon, Washington
Federal Office Building, Room 6003, 909 First Avenue, Seattle, Washington 98174, Phone: 206–442–5930

Recordkeeping Summary

Basic recordkeeping concepts and guidelines are included with instructions on the back of form OSHA No. 200. The following summarizes the major recordkeeping concepts and provides additional information to aid in keeping records accurately.

General Concepts of Recordability

1. An injury or illness is considered work related if it results from an event of exposure in the work environment. The work environment is primarily composed of: (1) The employer's premises, and (2) other locations where employees are engaged in work-related activities or are present as a condition of their employment. *When an employee is off the employer's premises, work relationship must be established; when on the premises, this relationship is presumed.* The employer's premises encompass the total establishment. This includes not only the primary facility, but also such areas as company storage facilities and company parking lots. In addition to physical locations, equipment or materials used in the

course of an employee's work are also considered part of the employee's work

—Admission TO HOSPITAL FOR OBSERVATION or equivalent
Motor carriers
New owner
Nonprofit organization
Occupational Safety and Health (OSH) Standards
Access to OSHA records
Agriculture
1975
Reporting of a fatality or multiple

course of an employee's work are also considered part of the employee's work environment.

2. All work-related fatalities are recordable.

3. All recognized or diagnosed work-related illnesses are recordable.

4. All work-related injuries requiring medical treatment or involving loss of consciousness, restriction or work or motion, or transfer to another job are recordable.

Analysis of Injuries

Recordable and nonrecordable injuries. Each case is distinguished by the treatment provided; i.e., if the injury was such that *medical treatment* was provided or should have been provided, it is recordable; if only first aid was required, it not recordable. *However, medical treatment is only one of several criteria for determining recordability.* Regardless of treatment, if the injury involved loss of consciousness, restriction of work or motion, transfer to another job, or termination of employment, the injury is recordable. (See chart 1 on p. 28.)

Medical treatment. The following procedures are generally considered medical treatment. Injuries for which this type of treatment was provided or should have been provided are almost always recordable if the injury is work related.

—Treatment of infection.
—Application of antiseptics during SECOND OR SUBSEQUENT VISITS to medical personnel.
—Treatment of second or third degree burn(s).
—Application of butterfly adhesive dressing(s).
—Application of sutures (stitches).
—Removal of foreign bodies embedded in eye.
—Removal of foreign bodies from wound; if procedure is complicated because of depth of embedment, size, or location.
—Use of prescription medications.
—Use of hot or cold soaking therapy during SECOND OR SUBSEQUENT VISIT to medical personnel.
—Application of hot or cold compress(es) during SECOND OR SUBSEQUENT VISIT to medical personnel.
—Cutting away dead skin (surgical debridement).
—Application of HEAT THERAPY during second or subsequent visit to medical personnel.
—Use of WHIRLPOOL BATH THERAPY during second or subsequent visit to medical personnel.
—Positive x-ray diagnosis.
—Admission TO HOSPITAL FOR OBSERVATION or equivalent medical facility for treatment or prolonged observation.

First aid treatment. The following procedures are generally considered first aid treatment (e.g., one-time treatment and subsequent observation of minor injuries) and need not be recorded if the work-related injury does not involve loss of consciousness, restriction of work or motion or transfer to another job.

—Application of antiseptics during FIRST VISIT to medical personnel.
—Treatment of FIRST DEGREE burn(s).
—Application of bandage(s) during any visit to medical personnel.
—Use of elastic bandage(s) during first visit to medical personnel.
—Removal of foreign bodies not embedded in eye if only irrigation is required.

Removal of foreign bodies from wound if procedure is UNCOMPLICATED, and is, for example, by tweezers or other simple technique.

—Use of nonprescription medications.
—Soaking therapy on initial visit to medical personnel or removal of bandages by soaking.
—Application of hot or cold compress(es) during FIRST VISIT to medical personnel.
—Application of ointments to abrasions to prevent drying or cracking.
—Application of HEAT THERAPY during first visit to medical personnel.
—Use of WHIRLPOOL BATH THERAPY during first visit to medical personnel.
—Negative X-ray diagnosis.
—Brief observation of injury during visit to medical personnel.

The following procedure, by itself, is not considered medical treatment:

—Administration of tetanus shot(s) or booster(s). However, employers should note that these shots are often given in conjunction with the more serious injuries. Consequently, injuries requiring tetanus shots may be recordable for other reasons.

Reminder: Work-related injuries requiring only first aid treatment and that do not involve any of the conditions in item 4 above, are not recordable.

The following is a list of subjects that will constitute the index when this document is published in final form. The list has been included to allow for comment on the substantive issues listed. Page numbers have not been included because this version has been formatted for inclusion in the **Federal Register**. However, page numbers will appear in the final version of this document.

Access to OSHA records
Agriculture
Annual Survey of Occupational Injuries and Illnesses:
ANSI Z.16
Asbestos
Athletic events
Bankruptcy
Bureau of Labor Statistics, Authority over OSHA recordkeeping system
Business, Definition of
  Dissolution
  Restructuring
Centralized recordkeeping
Certification
Change of ownership
Confidentiality
Coverage of the OSH Act of 1970
  Airplanes
  Commerce, Establishments affecting
  Employers of household workers
  Employment
  Farms
  Geographic boundaries
  Migrant labor camps
  Mines
  Nonprofit organizations
  Private residences
  Railroads
  Religious establishments
  Sheltered workshops
  Ships
  State and local government agencies
  Workplace
Decisionmaking authority
  Legal liability of
  Disagreement with
Decision making criteria for recordability
18–B States
Employees:
  Airline personnel
  Associated with fixed establishments
  Associated with nonfixed establishments
Charitable organizations, employees of
Clergy
Definition of
Domestic workers
  Farmers
  Farmhands
  Household workers
  Independent contractors, Employees of
Migrant workers
Nonprofit organizations, Employees of
Public school employees
Railroad workers
Ranchhands
Secular employees of religious organizations
Sheltered workshop workers
Ship's crew
State and local government employees
Students
Teachers
Temporary help supply services
Travel status, Workers on
Volunteer workers
Employers:
Charitable organizations
Definition of
Educational institutions
Employers required to maintain OSHA records
Exempted small employers, etc.
Farmers
Low hazard industries
Motor carriers
New owner
Nonprofit organization
Partners
Private sector
Public sector
Railroads
Ranchers
Self-employed
Small
Stockholders
Establishment:
Definition of
Discontinued, dissolved, reorganized
Fixed
Nonfixed
Exemptions to recordkeeping requirements
Geographic coverage
Low-hazard industries
Small employers
Survey selection
Farm labor
Fatalities
Federal Register
Firm
First aid treatment
First report of injury or illness
Forms
Government access
Hours worked
Illnesses
Diagnosis
Recognition
Incident rates
Injuries
Injuries vs. illnesses
Interstate commerce
Location of records
Log and Summary of Occupational Injuries and Illnesses (OSHA No. 200):
Certification
Equivalents to log and summary
Instructions for completing log
Instructions for completing summary
Lining out entries
Location exception for
Microfiche and magnetic tape
Posting requirements (summary)
Recording requirements (log)
Recording requirements (summary)
Lost workday cases
Disability
Longterm medical restrictions
Overtime
Retirement
State health laws
Strike
Substituting vacation time
Work stoppage
Low-hazard industries
Maintenance of OSHA records
Medical treatment
Mine Safety and Health Act (MSHA)
Multiple establishments
Multiple hospitalizations
National Institute of Occupational Safety and Health (NIOSH)
Nonfatal cases without lost workdays
Occupational Safety and Health (OSHA) Act of 1970
Occupational Safety and Health Administration (OSHA):
Compliance officers
Relationship to recordkeeping system
Occupational Safety and Health (OSH) Review Commission
Occupational Safety and Health (OSH) Standards
Office of Management and Budget (OMB)
Penalties for recordkeeping violations
Posting an annual summary
Premises
Leased
Right-of-way
Preventability of injuries and illnesses
Recordable case
Recordability:
Adverse reaction
Asbestos-related disorders
Backaches
Back injuries
Bruises
Burns
Carpal tunnel syndrome
Chiropractor, Treatment by
Decisionmaking criteria for
Discovery after termination of retirement
Disputed cases
Dog bites
Exposures to harmful substances
Eye deterioration
Fatalities
Fault, Based on who was at
Fibrosis
First aid treatment
Follow-up visits to doctor
Fractures
Hearing loss
Heart attacks
Hernia
High blood pressure
Horseplay
Hospitalization for observation
Hospitalization of 5 or more employees
Identifiable event
Injuries and illnesses occurring outside of normal work duties
Injuries and illnesses occurring while off duty
Inoculations
Lead, Elevated blood-lead level
Loss of consciousness
Lost worktime for travel to doctor's office
Medical treatment
Nonprescription medications
Observation of injury
Poison ivy
Pre-existing physical condition
Prescription medications
Preventive medicine
Preventive transfer
Prosthetic devices, Damage to
Rabies vaccinations
Recurrence of previous injury or illness
Repeated trauma
Restriction of work or motion
Sentinal Health Event (SHE)
Stress, Work related
Teeth, Chipped or broken
Tetanus shot
Time limits on recording cases
Transfer to another job
Vaccinations
Work relationship
X-ray
Records, Consolidation of
Reference Year
Regulations (29 CFR)
1903
1904
1952
1956
1975
Reporting of a fatality or multiple hospitalization
Restricted work activity
Retention of OSHA records
Seasonal employment
Sentinal Health Event (SHE)
Small employers
Standard Industrial Classification (SIC) Manual
State plan-18(b)
Statistics, Availability of
Summary, Annual
Supplementary record—OSHA No. 101:
Equivalents to
Instructions for completing Recordkeeping requirements
Survey, Annual
Survey form—OSHA No. 200S
Survey selection
Temporary employees
Termination of employment
Transfer to another job
Travel status
Volunteer workers
Warehouse facilities
Work environment
Work relationship:
On premises
Off premises
Travel status
Workers' compensation
Worksite

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VOL
50
ISS
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JL
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FR Doc. 85–16664 Filed 7–16–85; 8:45 am]
BILLING CODE 4510–24–M

federal register

Wednesday
July 17, 1985

Part IV

Environmental Protection Agency

40 CFR Part 761
Polychlorinated Biphenyls in Electrical Transformers; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070–0073.

containing greater than 500 ppm PCBs) in facilities involved in handling of food

Transformer was involved in a fire in

exterior to the building itself (in a

consideration following the issuance of

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS 62035D; TSH FRL 2835-6]

Polychlorinated Biphenyls in Electrical Transformers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule amends portions of an existing EPA rule concerning the use of polychlorinated biphenyls (PCBs) by placing additional restrictions and conditions on the use of PCB Transformers (Electrical transformers containing 500 parts per million or greater PCBs). This rule: (1) Prohibits the use of higher secondary voltage (480 volts and above) network PCB Transformers in or near commercial buildings after October 1, 1990, (2) requires, by October 1, 1990, the installation of enhanced electrical protection on lower secondary voltage network PCB Transformers and higher secondary voltage radial PCB Transformers in use in or near commercial buildings, (3) prohibits further installation of PCB Transformers in or near commercial buildings after October 1, 1985, (4) requires the registration, by December 1, 1985, of all PCB Transformers with fire response personnel and building owners, (5) requires the marking, by December 1, 1985, of the exterior of all PCB Transformer locations, and (6) requires the removal, by December 1, 1985, of stored combustibles located near PCB Transformers.

EPA is also requiring that owners of PCB Transformers involved in fire-related incidents immediately notify the National Response Center, and, take measures as soon as practically and safely possible to contain any potential releases of PCBs or incomplete combustion products to water.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Daylight Time on July 24, 1985. These amendments shall be effective on August 16, 1985.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070-0073.

I. Background

Section 6(e) of the Toxic Substances Control Act (TSCA) generally prohibits the use of PCBs after January 1, 1978. The statute does, however, set forth two exceptions under which EPA may, by rule, allow a particular use of PCBs to continue. Under section 6(e)(2) of TSCA, EPA may allow PCBs to be used in a "totally enclosed manner." A "totally enclosed manner" is defined by TSCA to be "any manner which will ensure that any exposure of human beings or the environment to a polychlorinated biphenyl will be insignificant, as determined by the Administrator by rule." TSCA also allows EPA to authorize the use of PCBs in a manner other than a totally enclosed manner if the Agency finds that the use "will not present an unreasonable risk of injury to health or the environment."

EPA promulgated a rule, which was published in the **Federal Register** of May 31, 1979 (44 FR 31514), to implement section 6(e) (2) and (3) of TSCA. This rule is listed in the Code of Federal Regulations under 40 CFR Part 761. The rule, among other provisions, designated all intact, nonleaking capacitors, electromagnets, and transformers, other than railroad transformers, as "totally enclosed," thus permitting their use without specific authorizations or conditions. The Environmental Defense Fund (EDF) petitioned the U.S. Court of Appeals for the District of Columbia Circuit to review a number of provisions of the rule, including the portion of the rule that designated all intact and nonleaking capacitors, electromagnets, and transformers as "totally enclosed" (*Environmental Defense Fund, Inc.* v. *Environmental Protection Agency*, 636 F.2d 1267).

On October 30, 1980, the court, among other things, decided that there was insufficient evidence in the record to support the Agency's classification of transformers, capacitors, and electromagnets as totally enclosed. The court invalidated this portion of the rule, as well as other provisions, and remanded the rule to EPA for further action.

As a consequence of the October 1980 decision, EPA undertook a number of rulemaking actions. The rule relevant to the subject of today's final rule was published in the **Federal Register** of August 25, 1982 (47 FR 37342) (hereafter, PCB Electrical Use Rule). This rule amended the May 1979 rule by authorizing the continued use of PCB Transformers (electrical transformers containing greater than 500 ppm PCBs) in facilities involved in handling of food or feed items until October 1, 1985, and by authorizing the use of all other categories of non-railroad electrical transformers containing or contaminated with PCBs for the remainder of their useful lives. In its August 1982 decision, EPA made a determination that authorizing the use of these tranformers for the remainder of their useful lives did not present an unreasonable risk to public health or the environment for the following reasons:

1. EPA determined that if it did not authorize the use of PCBs in transformers, the costs to the public and United States industry would be billions of dollars, primarily as a result of the disruption of electrical service. EPA determined that the resulting reduction in risk would not outweigh these substantial costs.

2. EPA determined that the inspection and maintenance programs required under the rule reasonably reduced the exposure risks associated with the use of PCBs in PCB Transformers, and the servicing conditions prevented further PCB contamination of transformers.

3. EPA determined that releases of PCBs to the environment and exposure to humans and biological organisms from mineral oil transformers are minimal. EPA estimated that these transformers contain less than 0.15 percent of all the PCBs used in tranformers and release less than one half of a percent of these PCBs on annual basis.

4. EPA determined that the costs associated with other risk reduction measures such as accelerated phase-out, reducing the PCB concentration in the dielectric fluid, or providing containment for tranformers were not reasonable when compared to the potential reduction in release of PCBs achieved.

In evaluating the risks posed by the continued use of electrical transformers containing PCBs for the August 1982 PCB Electrical Use Rule, EPA considered exposures resulting from leaks and spills of PCB-containing dielectric fluid as constituting the principal route of release of PCBs to the environment from this equipment.

However, EPA has learned that fires involving transformers also can be responsible for the release of PCBs, and, that PCBs released from transformers in fire situations can be volatilized and converted into materials which are orders of magnitude more toxic than PCBs. For example, on February 5, 1981, in the Binghamton State Office Building in Binghamtom, New York, a PCB

Transformer was involved in a fire in the basement of the building. PCBs and oxidation products were distributed throughout the 18-story office building via two vertical ventilation shafts that ran the length of the building and opened into the transformer vault in the basement. Monitoring, completed after the fire, indicated that PCBs, polychlorinated dibenzofurans (PCDFs) (including the toxic congener 2,3,7,8-tetrachlorodibenzofuran (2,3,7,8-TCDF)), and polychlorinated dibenzodioxins (PCDDs) (including the toxic congener 2,3,7,8,-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)) were distributed throughout the interior of the building. From laboratory studies, it appears that PCDFs are formed from both the oxidation of PCBs and the oxidation of chlorinated benzenes in combustion situations. PCDDs, however, appear to be formed only from the oxidation of chlorinated benzenes. (Tri- and Tetra-chlorinated benzenes often make up 30-35 percent of PCB askarel dielectic fluid, and can be present at low levels as contaminants in other fluids.)

At the time of promulgation of the August 25, 1982 PCB Electical Use Rule, EPA believed that PCB Transformer fires were very rare, isolated events. Thus, although EPA made determinations that the use of electrical transformers containing PCBs did not pose unreasonable risks to public health or the environment, EPA did not directly consider the public health and environmental risks posed by fire-related events. EPA also did not evaluate the cost of implementing risk reduction measures to mitigate the risks posed by fires involving this equipment or factor into its economic assessment certain now-identified costs associated with the continued use of these transformers, principally, the very high costs of cleanup following more serious incidents. These costs reduce the benefits associated with the continued use of these transformers.

After the promulgation of the PCB Electical Use Rule, additional information came to EPA's attention that indicated that PCB Transformer fires may occur more frequently than previously expected, and that transformer fire-related hazards are not restricted solely to transformers located inside buildings. On May 15, 1983, in the One Market Plaza complex in San Francisco, California, a PCB Transformer was involved in a smoky transformer vault fire. Monitoring completed after the fire indicated the presence of PCBs, PCDFs, and PCDDs, in soot from this fire. Although the vault housing the transformer was located exterior to the building itself (in a sidewalk vault), unsealed conduits from the vault to the basement and outside air intake vents drew contaminated smoke into the building.

The San Francisco incident, and four more recent incidents, in the First National Bank Building in Chicago, Illinois, in September 1983; in Tulsa, Oklahoma, in December 1983 and May 1984; and in Miami, Florida, in May 1984, have prompted EPA to reassess its earlier position on the expected frequency of fire-related incidents involving transformers that contain PCBs.

EPA issued an Advance Notice of Proposed Rulemaking (ANPR), which was published in the **Federal Register** of March 23, 1984 (49 FR 11070), to solicit additional information on the risks posed by fires involving transformers containing PCBs, their frequency of occurrence, the costs of cleanup following these incidents, and the effectiveness and costs associated with regulatory control measures. At that time, EPA indicated that it would use the new information to reconsider the use authorization issued in the August 1982 PCB Electrical Use Rule for the continued use of most electrical transformers containing PCBs.

In the ANPR, EPA solicited comments on a wide range of potential regulatory control measures, including the phaseout of PCB Transformers, increased electrical protection, fire and smoke control technologies, and fire hazard inspection programs. EPA also solicited comments on the relative risks posed by PCB Transformer fires in commercial buildings such as office buildings, versus the risks posed by fires in industrial facilities and outdoor electrical substations. EPA suggested in the ANPR that the risks posed by PCB Transformer fires in commercial buildings may be greater than those posed by transformer fires in industrial facilities and outdoor electrical substations.

EPA received over 50 comments on the ANPR during the public comment period, which closed on May 22, 1984. EPA received information from a number of different sources, including the insurance industry, fire departments, building owners, industrial transformer users, and utilities. (The comments on the ANPR are summarized in: "PCB Transformer Fires: Comments on the Advance Notice of Proposed Rulemaking" (September 1984).) Several comments were received following the close of the comment period, and EPA reserved these comments for consideration following the issuance of the Proposed Rules.

After considering the comments received in response to the ANPR, and after completing further analyses of available data, EPA issued a Proposed Rule, which was published in the **Federal Register** of October 11, 1984 (49 FR 39966), to address the risks posed by fires involving transformers that contain PCBs. The Proposed Rule presented EPA's determination that additional regulatory control measures were warranted on the use of PCB Transformers. At the same time, EPA reaffirmed its August 1982 determination that the indefinite use of PCB-Contaminated transformers does not present unreasonable risks to public health or the environment. EPA's determinations were based on analyses of the risks posed by fires involving electrical transformers containing PCBs, the benefits of PCBs and the availability of substitutes, and the costs and benefits of control measures designed to mitigate or eliminate the fire-associated risks posed by the equipment.

EPA received over 130 comments on the Proposed Rule during the public comment period, which closed on February 11, 1985. On January 14, 15, and 16, 1985, EPA held a public hearing in Washington, D.C., where 15 parties provided testimony on various provisions of the Proposed Rule.

EPA has considered all the comments received in response to the Proposed Rule (as well as the comments received after the close of the ANPR comment period), and has modified the rule where appropriate. Further, EPA has prepared a support document for this rulemaking which addresses all substantive comments on the Proposed Rule and includes EPA's responses to comments which did not result in the actual modification of the rule. This document, entitled: "Response to Comments on the PCB Transformer Fires Proposed Rule (July 1985)," is available by contacting the Toxic Substances Control Act Assistancce Office (see **FOR FURTHER INFORMATION CONTACT**).

II. Summary of the Final Rule

Under section 6(e)(2)(B) of TSCA, EPA can authorize a use of PCBs provided that the use "will not present an unreasonable risk of injury to health or the environment." EPA's August 1982 decision to allow the continued use of electrical transformers containing PCBs was based on the reported low frequency of leaks and spills of PCBs from this equipment compared to the high costs associated with replacing this equipment with substitute transformers

or requiring secondary containment to limit the spread of spilled materials,

proposed that PCB Transformer owners maintain records of their efforts in

installations should be the subject of more stringent control measures. In

the blocking of floor drains, the containment of water runoff, and the

once the information required to be submitted to the fire departments under

typically accessible to other than workers. Industrial buildings include

VOL
50
ISS
137
JL
17
1985
UMI

or requiring secondary containment to limit the spread of spilled materials.

EPA subsequently undertook an evaluation of the fire-related risks posed by the continued use of PCB Transformers, and the costs and benefits of measures designed to reduce those risks. On October 11, 1984, EPA issued a Proposed Rule which contained EPA's determination that PCB Transformer fires (fires involving transformers containing greater than 500 ppm PCBs), particularly fires which occur in or near buildings, do present risks to human health and the environment. EPA reached this determination after considering the extreme toxicity of materials which can be formed and released during fires involving this equipment, as well as the potential for human and environmental exposures to these compounds from a single incident, and the expected frequency of incidents over the remaining useful life of this equipment.

EPA further determined that the continued use of PCB Transformers without additional restrictions does present an unreasonable risk of injury to health and the environment. EPA reached this determination after considering the risks posed, the costs of cleanup following these incidents, the availability of adequate substitute materials, and the costs and benefits associated with risk reduction measures. EPA did, therefore, propose additional regulatory controls on the use of this equipment.

EPA proposed to require: (1) The immediate registration of all PCB Transformers with appropriate fire department jurisdictions, and the immediate registration with building owners of all PCB Transformers located in or near buildings, (2) the immediate marking of the exterior of the vault door, machinery room door, means of egress, or grate(s) accessing a PCB Transformers with PCB identification labels, (3) the immediate removal of stored combustibles from PCB Transformers locations, (4) the installation, by July 1, 1988, of additional electrical protective devices on PCB Transformers in or near buildings in high secondary voltage systems (480/277 volt systems), and (5) the isolation, by July 1, 1988, of all PCB Transformers in or near buildings from building ventilation systems, building ductwork, and openings in construction to reduce the widespread contamination of structures and the environment by smoke and soot in the event of a PCB Transformer fire. In addition, to facilitate monitoring compliance with the isolation requirements, EPA proposed that PCB Transformer owners maintain records of their efforts in isolating transformers through the completion of PCB Smoke Spread Reduction Plans (PCB–SSRPs).

Finally, in the event of a PCB Transformer fire, EPA proposed to require PCB Transformer owners to take immediate measures to contain potential water discharges, and to report all PCB Transformer fire-related incidents to the National Response Center (NRC) prior to the initiation of cleanup efforts.

This final rule modifies and clarifies some of the requirements presented in the Proposed Rule as a result of information and comments provided to the Agency during public comment periods and at the public hearing. In developing the Proposed Rule, EPA evaluated the risks posed by PCB Transformer fires in or near buildings by using an office building setting to evaluate generically the nature of an potential for human and environmental exposures to PCBs and incomplete combustion products. EPA determined that additional control measures, principally the isolation of PCB Transformers from building ventilation equipment and ductwork, were necessary to reduce the risks posed by the continued use of this equipment.

During the public comment period for the Proposed Rule, EPA received extensive comments in three specific areas, and has modified the final rule accordingly. First, many comments received in response to the Proposed Rule suggested that EPA consider evaluating separately the fire-related risks posed by the continued use of PCB Transformers in industrial locations versus the fire-related risks posed by the use of PCB Transformers in or near buildings such as office buildings, stores, hospitals and schools (hereafter, all non-industrial, non-substation buildings will be referred to as "commercial buildings"). This final rule adopts this suggestion and addresses the use of PCB Transformers in or near industrial buildings separately from the use of PCB Transformers in or near commercial buildings.

Second, many comments on the Proposed Rule discussed the probability of PCB Transformer failures and fires, and suggested that certain types of PCB Transformer installations, network installations with higher secondary voltages (secondary voltages of 480 volts and above, including 480/277 volt secondaries), may be particularly likely to be involved in fire-related incidents. These comments suggest that if EPA were to pursue additional restrictions on the use of PCB Transformers, these installations should be the subject of more stringent control measures. In response to these comments, this final rule considers factors such as the relative probabilities of failures and fires in different types of PCB Transformer installations and places more stringent controls on those transformers which EPA believes pose higher risks of failures and fires.

Finally, in response to comments on the Proposed Rule, in this final rule, EPA has increased its emphasis of the prevention of PCB Transformer fires through increased electrical protection, and decreased its emphasis on the use of isolation measures to minimize the spread of already formed and/or released contaminants.

This final rule prohibits:

1. The continued use of higher secondary voltage network PCB Transformers (network PCB Transformers with secondary voltages at or above 480 volts, including 480/277 volt systems) in or near commercial buildings beyond October 1, 1990.

2. The further installation of PCB Transformers (which have been placed into storage for reuse) in or near commercial buildings.

This final rule also requires:

1. The installation, by October 1, 1990, of enhanced electrical protection on lower secondary voltage network PCB Transformers and on higher secondary voltage radial PCB Transformers (radial PCB Transformers with secondary voltages at or above 480 volts, including 480/277 volt systems) used in or near commercial buildings.

2. The registration, by December 1, 1985 of all PCB Transformers with fire departments or fire brigades with primary response function, and the registration, by December 1, 1985, of all PCB Transformers located in or near buildings with building owners.

3. The marking, by December 1, 1985, of the exterior of all PCB Transformer locations (excluding grates and manhole covers).

4. The removal, by December 1, 1985, of combustible materials stored within a PCB Transformer enclosure, within 5 meters of a PCB Transformer enclosure, or within 5 meters of an unenclosed PCB Transformer.

This rule also requires the immediate notification of the National Response Center in the event of a PCB Transformer fire-related incident; and, that PCB Transformer owners take measures as soon as practically and safely possible to contain any potential water releases associated with a PCB Transformer fire-related incident. These measures include, but are not limited to, the blocking of floor drains, the containment of water runoff, and the control and treatment of cleanup water prior to discharge.

Fire events involving the rupture of PCB Transformers can lead to contamination of sewers, sewage treatment systems, sewage sludges and bodies of water. Liquid PCBs and incomplete combustion products such as dioxins or furans may be conveyed through drains into storm or sanitary sewer systems. This process is facilitated when water is used in firefighting operations or is present as a result of the rupture of water pipes. Disruption of sewage treatment processes can also be caused, and eventually contaminants may be discharged into receiving waters poorly treated or not treated at all.

Contamination of receiving waters presents a risk of long lasting adverse effects on aquatic life and bottom sediment, as well as threats to public health through contamination of drinking water supplies and direct public contact with contaminated water.

The cost of cleaning up contaminated sewer systems and associated treatment facilities may be very high. Sludge contaminated with PCBs, dioxins and furans may be required to be handled and disposed of as hazardous waste under the resource Conservation and Recovery Act (RCRA) and pursuant to the PCB regulations under the Toxic Substances Control Act (TSCA). Clean up of water bodies and bottom sediments, if possible, would also be very expensive. Data indicating water and sewer treatment system contamination following the Binghamton fire confirm that water treatment facility sludge can become contaminated with PCBs as a result of releases during PCB Transformer fires.

For these reasons, it is important that sewer systems and treatment plant operators have as much notice as possible of a PCB Transformer fire event. The sooner this information is available, the sooner action can be taken to isolate or contain contaminants (if possible), to limit their spread and to assure proper handling.

Fire departments are required to be notified pursuant to § 761.30(a)(1)(vi) of this regulations as to the location of PCB Transformers. Fire departments generally maintain good information for response to emergencies and have plans and a coordinating capacity for dealing with fires involving hazardous materials. EPA therefore strongly urges fire departments, on a voluntary basis, to contact storm and sanitary sewer system and treatment plant operators in the areas served by the fire department, once the information required to be submitted to the fire departments under § 761.30(a)(1)(vi) is available. EPA also urges the fire department to work wih sewer system and treatment plant operators to develop contingency plans for handling contamination entering the sewers as a result of PCB Transformer fire events.

EPA also urges owners of PCB Transformers and owners of buildings in which those transformers are located to plan ahead for a fire event. Building owners, working with other parties, should plan their best course of action to prevent or limit release of PCBs and other contaminants in the event of a fire. These plans should give special consideration to the location of individual PCB Transformers, the location of drains near these transformers, and methods for closing the drains in the event of a PCB Transformer fire.

To support this voluntary cooperative effort, EPA will develop guidance for use by owners and operators of sanitary sewer systems and treatment facilities, pointing out the availability at local fire departments of information on the location of transformers and the potential impact of the release of PCBs and other contaminants into the sewer system in the event of a fire. EPA will also evaluate the possible roles of organizations such as the Water Pollution Control Federation, the Association of State and Interstate Water Pollution Control Authorities, the American Public Works Association, and the National Fire Protection Association in distributing information, and may request their cooperation in this effort.

For purposes of this rule, commercial building is defined as a non-industrial (non-substation) building which is typically accessible to both members of the general public and employees. Commercial buildings include: (1) Public assembly properties, (2) educational properties, (3) institutional properties, (4) residential properties, (5) stores, (6) office buildings, and (7) transportation centers (i.e., airport terminal buildings, subway stations, bus stations, and train stations). For purposes of this rule, "in or near" a commercial building is defined as: (1) Within the interior of a commercial building, (2) on the roof of a commercial building or attached to the exterior wall of a commercial building, (3) in the parking area of a commercial building, or (4) located within 30 meters of a commercial building.

An industrial building is defined as a building directly used in manufacturing or technically productive enterprises. Industrial buildings are not generally or typically accessible to other than workers. Industrial buildings include buildings used directly in the production of power, the manufacture of products, the mining of raw materials, and the storage of textiles, petroleum products, wood and paper products, chemicals or plastics, and metals.

EPA has determined that requiring the removal of particularly high risk PCB Transformers from use and adding conditions and restrictions on the use of the remaining PCB Transformers (including enhanced electrical protection, registration, and labeling) will significantly reduce the fire-related risks posed by the use of PCB Transformers. EPA has determined that the continued use of PCBs in PCB Transformers which comply with the conditions and requirements described above do not present unreasonable risks to public health or the environment. Further, after considering the risks posed by fires involving transformers containing less than 500 ppm PCBs, and the costs of regulatory control measures, EPA is reaffirming its August 1982 determination that the continued use of PCB-Contaminated transformers and non-PCB transformers (transformers containing 50–500 ppm PCBs, and less than 50 ppm PCBs respectively) do not present unreasonable risks to public health and the environment.

The enhanced electrical protection requirements for higher secondary voltage radial PCB Transformers consist of the installation of protection against transformer failures from sustained low current faults. EPA has determined that the enhanced protection of these PCB Transformers is necessary to reduce the fire-related risks posed by the continued use of these transformers in commercial locations. This protection will reduce the frequency of PCB Transformer fires in these types of transformers by allowing for rapid deenergization in the event of a sustained low current fault.

While EPA is aware of at least five basic types of radial installations (simple radial systems, expanded radial systems, primary selective systems, primary loop systems, and secondary selective systems), existing data do not indicate that the probability of low current fault-related failures would be significantly different among these five types of radial installations. Thus, EPA has required enhanced electrical protection on all commercial higher secondary voltage radial PCB Transformers.

EPA recognizes, however, that additional experience and further research into the causes of PCB Transformer failures and fires may

result in the development of data by industry which would indicate that there

IV. Transformer Fire-Related Risks

to man. It exhibits delayed biological

micrograms per kg bw (as compared with the acute oral LD50 for 2,3,7,8-

in acute studies in guinea pigs using PCDFs and PCDDs. In addition, the

from 550 °C to 600 °C, but drop off to tenths of a percent at temperatures

result in the development of data by industry which would indicate that there are significant differences in the probabilities of fault-related failures among the different types of radial systems. If these data are developed, they should be submitted to EPA for consideration. Based on the timely submission of new information, that is, within 2 years of the date of promulgation of this final rule, EPA may choose to revisit this particular requirement.

The remainder of this preamble describes the basis for the determinations reached in this final rule.

III. Use Authorizations Under Section 6(e)

In order to authorize a use of PCBs under section 6(e)(2)(B) of TSCA, EPA must find that such use "will not present an unreasonable risk of injury to health or the environment." To determine whether a risk is unreasonable, EPA must balance the probability that harm will occur from the use against the benefits to society of allowing the continued use. In completing this assessment for the use of PCB containing electrical transformers, EPA has considered the following factors for each of four categories of electrical transformers containing PCBs (PCB Transformers located in or near commercial buildings, PCB Transformers located in or near industrial facilities, PCB Transformers located outdoors (away from commercial buildings), and PCB Contaminated transformers):

1. The effects of PCBs and their incomplete combustion products on human health and the environment.

2. The magnitude of human and environmental exposure to PCBs and their incomplete combustion products.

3. The benefits of using PCBs and the availability of substitutes.

4. The economic impact resulting from the rule upon the national economy, small business, technological innovation, the environment, and public health.

These are the same types of considerations listed in section 6(c) of TSCA, which describes factors EPA must consider in deciding whether a chemical presents an unreasonable risk under section 6(a) of TSCA.

The remaining units of this preamble will discuss these key factors in the unreasonable risk determinations made in this rule, and the basis for EPA's determination to allow the continued use of PCB-containing transformers with certain additional conditions and restrictions.

IV. Transformer Fire-Related Risks

A. Toxicity of PCBs and Incomplete Combustion Products

In earlier rulemakings, EPA has already concluded that, based upon available information persons exposed to PCBs can develop chloracne; and, that based on animal data, there is a potential for reproductive effects and developmental toxicity as well as oncogenicity in humans exposed to PCBs. While fires involving PCB-containing transformers have resulted in the release of large quantities of PCBs, these incidents have also resulted in the formation of toxic products of incomplete combustion.

Many other compounds of potential toxicological significance, including PCDFs, PCDDs, and polychlorinated biphenylenes, were measured in soot samples following fires involving PCB Transformers. However, the bulk of toxicity testing of PCDF and PCDD congeners has been completed on what are anticipated to be the most toxic species, the 2,3,7,8 substituted PCDFs and PCDDs. EPA has evaluated the risks posed by PCB Transformer fires through an evaluation of: (1) The toxicities of PCBs, 2,3,7,8-TCDF, and 2,3,7,8-TCDD; (2) the toxicities and potential toxicities of other PCDF and PCDD congeners; and (3) the potential for exposure to these materials as a result of a fire.

While the majority of toxicological testing has been completed on PCBs, 2,3,7,8-TCDF and 2,3,7,8-TCDD, this does not mean that human and environmental exposures to other congeners of PCDFs and PCDDs as well as polychlorinated biphenylenes pose little risk of toxic effects. For example, limited testing of 1,2,3,7,8-pentachlorodibenzo-p-dioxin (1,2,3,7,8-PeCDD), 1,2,3,6,7,8-hexachlorodibenzo-p-dioxin (1,2,3,6,7,8-HxCDD), and 1,2,3,7,8,9-hexachlorodibenzo-p-dioxin (1,2,3,7,8,9-HxCDD) suggest that these congeners are qualitatively similar in their toxic action to 2,3,7,8-TCDD for observed effects. However, they are less toxic for the observed effects than the 2,3,7,8-TCDD congener. EPA expects that similar structure-activity relationships would exist between 2,3,7,8-TCDF and 1,2,3,7,8-PeCDF, 1,2,3,7,8,9-HxCDF, and 1,2,3,6,7,8-HxCDF. However, EPA also believes that reducing exposures to the extremely toxic congeners, 2,3,7,8-TCDD and 2,3,7,8-TCDF, will also reduce exposures to these other compounds of potential toxicological significance.

According to EPA's February 1984 Ambient Water Quality Criteria (AWQC) for 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD), 2,3,7,8-TCDD is one of the most toxic substances known to man. It exhibits delayed biological response in many species and is highly lethal, at low doses, to aquatic organisms, birds, and mammals. It has been shown to be acnegenic, fetotoxic, teratogenic, mutagenic (limited evidence), carcinogenic, and adversely affects the immune response in mammals.

The AWQC lists the acute LD50 for 2,3,7,8-TCDD for several species. The oral LD50 values ranges from 0.6 microgram per kilogram (kg) body weight (bw) for guinea pigs to 5,051 micrograms per kilogram body weight for hamsters. The AWQC presents the acceptable daily intake (ADI) value for a 70 kg man as 2.2×10^{-7} micromoles 2,3,7,8-TCDD per day. This ADI is based on the lowest-observed-adverse-effect levels (LOAEL) in rats, and has been calculated in accordance with the National Academy of Science's guidelines for calculating an ADI based on a LOAEL.

Although the ADI value presented above is very low, it still may not be sufficiently protective of human health. This ADI level does not take into account the demonstrated carcinogenic effects of 2,3,7,8-TCDD in laboratory animals. The AWQC concludes that 2,3,7,8-TCDD is an animal carcinogen and that the epidemiological findings are consistent with the conclusions drawn from animal studies that 2,3,7,8-TCDD is a probable human carcinogen.

The carcinogenic potency of 2,3,7,8-TCDD using the linearized multistage model has been estimated relative to 53 other chemicals which EPA's Cancer Assessment Group (CAG) has evaluated as suspect carcinogens. This relative potency index is 5×10^{7} per millimole (mmol) per kg per day (137 per ug per kg per day), making 2,3,7,8-TCDD the most potent carcinogen that the CAG has evaluated. CAG ranks 2,3,7,8-TCDD as a 2–A carcinogen, which means that there are sufficient laboratory animal data indicating its carcinogenicity as well as suggestive human evidence.

The limited data on other PCDD congeners indicate that they are qualitatively similar in their toxic action to 2,3,7,8-TCDD when comparisons are made in a single species. This is illustrated in mice, where 2,3,7,8-TCDD has an LD50 value of 0.88 micromoles (umol) per kg and 1,2,3,7,8-peCDD; 1,2,3,6,7,8-HxCDD and 1,2,3,7,8,9-HxCDD have LD50 values of 0.94, 3.19, and 3.67 umol/kg, respectively.

Toxicological testing of PCDFs, specifically, 2,3,7,8-TCDF, has been more limited than testing of 2,3,7,8-TCDD. The acute oral LD50 in the guinea pig is reported to be 5

micrograms per kg bw (as compared with the acute oral LD50 for 2,3,7,8-TCDD in this species which is reported to be 0.6 microgram per kg bw). Subchronic testing of 2,3,7,8-TCDF in rhesus macaques indicated that this compound is extraordinarily toxic. Based upon EPA's review of this study, the No Observed Effect Level (NOEL) for 2,3,7,8-TCDF is expected to be below 5.0 parts per billion (ppb). The author of this study concluded that continued daily oral intake of small amounts of 2,3,7,8-TCDF gave monkeys a disease which is clinically and morphologically similar to acute or chronic ingestion of 2,3,7,8-TCDD. The clinical course is marked chiefly by weight loss, swelling of the eyelids, dryness and granularity of the skin, hair loss and reduced physical activity. For most of the observed biological effects, the potency of the two compounds are within an order of magnitude of each other, with 2,3,7,8-TCDF being somewhat less toxic than 2,3,7,8-TCDD. Some scientists have estimated that in laboratory animals, 2,3,7,8-TCDF is 2 to 33 percent less toxic than 2,3,7,8-TCDD, depending upon the particular endpoint in question. Further, the toxicity of 2,3,7,8-TCDF in rhesus macaques has been estimated to be about 20 times that of 3,4,4',5'-tetrachlorobiphenyl and 1,000 times more toxic than PCB Aroclor 1248.

Based on its assessment of available literature on the toxicity of 2,3,7,8-TCDF and the structural similarity of 2,3,7,8-TCDF to 2,3,7,8-TCDD, EPA has concluded that it is prudent to assume that exposures to 2,3,7,8-TCDF would pose risks of similar toxic effects as exposures to 2,3,7,8-TCDD. Further, based on structure-activity relationships and limited in-vitro studies, EPA assumes that other PCDF congeners, particularly 1,2,3,7,8-PeCDF, 2,3,4,7,8-PeCDF, 1,2,3,4,7,8-HxCDF, 1,2,3,6,7,8-HxCDF, and 1,2,3,7,8,9-HxCDF may also pose risks of similar toxic effects as exposures to 2,3,7,8-TCDF (and 2,3,7,8-TCDD).

Following the Binghamton fire, several researchers completed toxicological testing of soot samples in guinea pigs. Based on these studies, using Binghamton State Office Building (BSOB) soot, EPA has concluded that exposures to soot from PCB Transformer fires have the potential to produce toxicity in the thymus, the hematopoietic system, the salivary gland duct epithelium and, possibly, the liver.

It is worth noting that thymic atrophy, bone marrow depletion, and diminished body weight gain, all effects of the subchronic administration of the BSOB soot, have been routinely demonstrated in acute studies in guinea pigs using PCDFs and PCDDs. In addition, the group of guinea pigs dosed with 231.1 ppm BSOB soot (in feed) in the subchronic study exhibited symptoms characteristic of acute exposure to 2,3,7,8-TCDD and 2,3,7,8-TCDF, which include skeletal muscle degeneration, fatty changes in hepatocytes, and degeneration of gastrointestinal tract epithelium.

One paper stated that the oral LD50 of the BSOB soot in guinea pigs is 410 milligrams per kilogram body weight, which would classify this material as very toxic.

For more in-depth analyses of the toxicities of PCBs, PCDFs, and PCDDs see documents 2, 3, 4, 5, 6, 8, and 13 in Unit X.B.

B. The Formation of Oxidation Products From PCBs

There is direct evidence of the formation of PCDFs and PCDDs from heating and burning commercial mixtures of PCBs and diluents from: (1) Chemical analyses of materials at the sites where fires were known to involve transformers that contained PCBs and chlorinated benzenes, and (2) laboratory experiments published in chemical and other literature. PCBs, PCDFs, and PCDDs were found in some soot specimens from both the Binghamton and San Francisco fires. Data submitted to EPA following the issuance of the Proposed Rule indicate that PCDFs and PCDDs were also measured in samples taken following the Miami and Chicago fires.

Laboratory studies provide the best available information on the conversion of pure PCBs to PCDFs. In these studies, a number of different PCB congeners and mixtures of congeners have been heated and the resulting materials analyzed for PCDFs and PCDDs. A specific PCB compound reacts to form a limited number of PCDFs. The formation of PCDFs involves intramolecular elimination of three kinds of diatomic molecules, with or without some rearrangement of chlorine atoms on the phenyl rings in the product dibenzofuran. From the products obtained in the PCB reactions, the diatomic molecules, hydrogen, hydrogen chloride, and chlorine, are formed from hydrogen and chlorine atoms in ortho positions on each of the two phenyl rings in the original polychlorinated biphenyl molecule. The optimum temperature range for the published laboratory experiments was 600 °C. Yields of PCDFs have been reported in the literature to be as high as 10 percent (calculated on the amount of PCB decomposed) for reaction temperatures from 550 °C to 600 °C, but drop off to tenths of a percent at temperatures below 500 °C and above 650 °C.

EPA-sponsored studies of the formation of PCDFs and PCDDs indicate that the optimum conditions for the formation of PCDFs from (neat) PCBs are 675 °C for 0.8 second or longer, with 8 percent excess oxygen. Under these conditions, a 3 percent conversion efficiency (PCBs to PCDFs) was observed for askarel fluid. Under the same conditions, PCDFs were also formed from PCBs present at concentrations of 5, 50, and 500 ppm in mineral oil and silicone oil. The EPA study of the formation of PCDFs PCDDs from PCB-containing mineral oil and silicone oil indicates a 4 percent conversion efficiency of PCBs to PCDFs when PCBs are present in these materials at concentrations of 5, 50, and 500 ppm. Statistical analysis showed a linear relationship between the amount of PCB present and the amount of PCDFs formed.

PCB dielectric fluid may also contain chlorinated benzenes as diluents or contaminants, as a result of past servicing activities. Laboratory experiments in the published literature have shown the formation of PCDDs in addition to PCDFs from the pyrolysis of mixtures of chlorobenzenes. Amounts of PCDFs ranged as high as several tenths of a percent for mixtures of trichlorobenzenes. Tetrachlorobenzene and pentachlorobenzene mixtures formed amounts of PCDFs and PCDDs which were two orders of magnitude smaller than the amounts of these compounds formed by trichlorobenzene. These reactions are bimolecular and the experimental concentrations of chlorobenzenes were high.

EPA-sponsored studies of the incomplete combustion of chlorinated benezenes indicate that PCDFs, and to a lesser extent PCDDs, are formed from the incomplete combustion of trichlorobenzene dielectric fluid containing no detectable PCBs. EPA also studied the incomplete combustion of tetrachloroethylene (perchloroethylene) and high temperature hydrocarbons (both of which are potential PCB substitutes) to determine whether PCDFs and PCDDS would be formed from these materials in fire situations. EPA's preliminary study indicates that PCDFs and PCDDs are formed from the incomplete combustion of tetrachloroethylene fluid. The two high temperature hydrocarbon fluids did not produce PCDFs or PCDDs under the experimental conditions.

The presence of low concentrations of chlorobenzenes as contaminants in

dielectric fluids that also contain PCBs, are not expected to lead to substantial

transformer in associated electrical equipment), and fires near transformers,

rather than self-extinguishing when the secondary or load side voltage is higher.

being self-sustained rather than self-

Functionally, there are two types of

transformer deenergization in the event

dielectric fluids that also contain PCBs, are not expected to lead to substantial increases in the amounts of PCDFs formed from burning or heating the PCBs, but, may result in the formation of some PCDDs. EPA believes that the PCDD levels found in the Binghamton soot samples resulted from the pyrolysis or incomplete combustion of chlorobenzenes. The low level PCDDs found following the San Francisco fire could have been associated with the presence of chlorobenzenes in that fluid as well.

For further discussions of the formation of incomplete combustion products from PCBs and other potential substitute fluids, see the EPA-sponsored studies completed by the Midwest Research Institute, documents 10 and 11 in Unit X.R.

The description and characterization of the chemical reactions occurring in a fire in which aroclors (or any other commercial mixtures of many PCB compounds) are burned are far more complex than the laboratory experiments. However, EPA believes that reactions observed in the laboratory should also occur in fire situations where the reactants and reactions conditions are similar to laboratory reaction conditions. Data from actual PCB Transformer fires confirm the relatively high rates of conversion of PCBs to PCDFs in actual PCB Transformer fires.

PCDFs and PCDDs have also been detected following high temperature incineration. High temperatures incineration is required by EPA regulations to dispose of PCBs in oil. However, the levels of PCDFs and PCDDs measured following high temperature incineration have been substantially less than those measured following the above described laboratory experiments. This is because of high temperature incineration requires a 1200 °C temperature, a 2-second residence time, and sufficient oxygen to sustain complete combustion. As explained above, laboratory experiments indicate that the reaction temperature for the formation of PCDFs is optimized at around 600 °C. It is probable that yields of PCDFs from PCBs are reduced at higher temperatures because of increased destruction efficiency and ease of combustion.

C. Causes of PCB Transformer Fire-Related Failures

PCB Transformer fire-related incidents can occur from many causes, including overloading, overheating, electrical faults (overcurrent conditions or low current faults either in the transformer itself or external to the transformer in associated electrical equipment), and fires near transformers, involving building components or stored materials. PCB Transformer fires can also occur as a result of mechanical failures which can lead to electrical faults, and then, to fires. Of the well-documented PCB Transformer fires, many have reportedly occurred as a result of electrical faults, which led to transformer failures and fires. Electrical faults are of two basic categories: faults characterized by high current or excessive current flow (high current faults), and faults characterized by low current flow (low current faults).

Electrical faults can occur in transformers themselves or in associated electrical equipment. Faults in associated electrical equipment are of equal concern to faults inside transformers, first, because these faults can ultimately cause transformer failure, and second, because most faults occur external to the transformers themselves, in associated electrical equipment. Thus, as a general rule, the more associated electrical equipment present, the higher the probability of a fault occurring. Further, electrical faults are more likely to be self-sustained rather than self-extinguishing when voltages are higher.

1. *Mechanisms of failure*—a. *Excessive current flow.* The first failure mechanism is excessive current flow of the transformer. This is termed an overcurrent condition or simply, "overcurrent". Prolonged overcurrent conditions can lead to fires inside a transformer. If the overcurrent condition is due to a fault in the transformer itself, then there is a high energy arc in the transformer's insulating fluid. Failure to extinguish quickly high current arcs in a transformer will result in rapid transformer failure, involving the rupture of the transformer casing and loss of dielectric fluid. If the overcurrent condition is due to a fault in the associated electrical equipment, then there is high energy fault in the associated electrical equipment. Faults are more likely to occur externally, in associated electrical equipment, than in the transformer itself. However a high current fault in associated electrical equipment can draw excessive current from the transformer, heat the solid insulation, increase the discharge activity in the transformer and cause transformer failure (rupture and release of dielectric fluid).

According to comments on the Proposed Rule, electrical faults which occur on the load side or secondary side of a transformer (in the low voltage winding, low voltage leads, or in other associated switchgear and equipment) are more likely to be self-sustaining rather than self-extinguishing when the secondary or load side voltage is higher. That is, self-sustained high current faults in the secondary (the low voltage side) are more likely in higher voltage secondaries (i.e., 480 volt secondaries) than in lower voltage secondaries (i.e., 208 volt secondaries).

Current-limiting fuses or energy-limiting devices and overcurrent protective relays are the types of electrical protective devices which can be used to quickly extinguish high current arcs inside the transformer casing, as well as high current faults which occur external to the transformer in associated electrical equipment. PCB Transformer fires which occur as a result of overcurrent conditions occur when overcurrent electrical protective devices (fuses and/or circuit breakers) are not present; when overcurrent protection is not set sensitive enough to deenergize the transformer before high temperatures or pressures are reached; and when overcurrent protection simply fails to operate when called upon.

b. *Low current faults.* The second failure mechanism is the widely recognized (in written comments on the Proposed Rule and in testimony at the public hearing) possibility that low current faults may occur in a transformer itself, or external to a transformer, in its associated electrical equipment, and not activate conventional overcurrent protective devices (the fuses and circuit breakers discussed earlier). For a low current fault in a transformer to release sufficient energy to lead to tank rupture, the fault must first produce a pressure rise in the transformer tank. In contrast to the short time involved from the occurrence of a sustained high energy (high current) arc to the reputure of a transformer, low current faults may take some time to release sufficient energy to cause tank rupture.

Low current faults can also occur external to a transformer, in associated electrical equipment such as network protectors (circuit breakers which are typically installed on the secondary side of network transformers) and network collector buswork. Sustained or prolonged low current faults external to a transformer can ultimately involve the transformer itself, causing rupture and release of PCBs.

As was the case for high current faults, comments on the Proposed Rule indicate that when the secondary voltage of a transformer is higher, low current faults which occur in the secondary (in the low voltage winding, low voltage leads, or associated equipment) have a greater likelihood of being self-sustained rather than self-extinguishing. That is, low current faults in 480 volt secondaries have a greater likelihood of being sustained than low current faults in 208 volt secondaries.

Protecting against sustained low current arcing faults in a transformer involves the use of appropriate sensors and disconnect equipment. The sensors are designed to detect a pressure rise in the transformer tank and/or a temperature rise in the lower voltage transformer winding. Protection against sustained low current arching faults in external associated electrical equipment (which can ultimately involve the transformer) involves placing heat or ultraviolet sensors in this equipment. When the sensors detect an abnormal condition, (i.e., a rise in pressure or temperature) the transformer is rapidly deenergized, either automatically or manually (following the receipt of an audio or visual signal at a control center).

2. *Protection currently provided against common mechanisms of fault-related failures.* Comments submitted in response to the Proposed Rule and testimony supplied at the public hearing indicate that PCB Transformers are currently equipped with electrical protection to reduce the frequency of transformer failure; but, that the level and type of electrical protection provided varies depending upon the nature of the transformer installation. Certain transformers and installations are better protected against fault-related failures than other types of transformers and installations. For purposes of this section, it is sufficient to divide the applications into two types.

The first application includes all arrangements in which the PCB Transformer can be energized only from the primary winding. These transformers are termed radial PCB Transformers. (There are, however, five basic types of radial installations, simple radial systems, expanded radial systems, primary selective systems, primary loop systems, and secondary selective systems.)

The second application includes those arrangements in which the PCB Transformer can be energized from either the primary winding or the secondary winding. The secondary winding is the winding from which energy flows during normal operation. In these systems, the primary winding can be energized from the secondary winding under abnormal conditions. These transformers are termed network PCB Transformers. There are two basic types of network installations, grid networks and spot networks.

Functionally, there are two types of electrical protection devices. One type interrupts the flow of current by vaporizing a segment of the conductor if the current exceeds a predetermined level. Fuses and distribution cutouts operate in this manner. The second type of electrical protection device operates by opening a switch. A circuit breaker opens a switch in response to a temperature rise in the device due to the current flowing in the circuit. A ground fault interrupter opens switch contacts in response to an unbalanced current flow. A network protector opens switch contacts in response to a reversal of the current flow.

"Non electrical" protection devices are also available. Devices such as pressure sensors open (or close) relay contacts to switches when the pressure (or rate of rise of pressure) exceeds a predetermined level. Temperature sensors and fluid level sensors operate in a similar manner.

a. *Radial PCB Transformers.* According to comments submitted in response to the Proposed Rule, radial PCB Transformers are typically equipped with overcurrent protection (on the high voltage side) in the form of either a current-limiting fuse or circuit breaker, and, often, with fuses and/or circuit breakers on the low voltage side or the load side. The overcurrent protection on the primary is set at a predetermined level to clear high current faults on the primary and is typically set sensitive enough to clear downstream high current faults in the secondary as well. These fuses/circuit breakers are set to operate quickly enough to avoid transformer failure in the event of high current faults in the primary or secondary.

Radial transformers are not, however, typically protected against low current arcing faults; these faults do not activate conventional overcurrent protective devices. Low current arcing faults can occur in areas such as the secondary winding and low voltage leads of radial transformers and can progress unseen by existing overcurrent protection, leading to transformer failure. Radial transformers with higher secondary voltages are more likely to experience a low current arcing fault on the secondary which is self-sustained than radial transformers with lower secondary voltages.

According to comments on the Proposed Rule, many radial PCB Transformers used in industrial applications are equipped with temperature and pressure relays and circuit breakers on-site which can be manually operated to actuate transformer deenergization in the event of a sustained fault. However, if on-site control of a radial transformer is not possible (through the use of a manually operable circuit breaker), which is more likely the case in commercial installations, deenergization would involve contacting the utility substation to deenergize the substation primary feeder. Comments on the Proposed Rule indicate that this is a difficult thing for a utility to do, because deenergizing the primary feeder results in the deenergization of all transformers served from that primary feeder. This results in the loss of electric power to many buildings served by this same primary feeder.

b. *Network PCB Transformers.* According to comments on the Proposed Rule, network transformers are typically equipped with the least sensitive overcurrent protection of all utility distribution transformers. While radial transformers are typically equipped with overcurrent protection on the primary (which is set sensitive enough to clear high current faults on the primary as well as downstream high current faults in the secondary), network transformers are not typically equipped with current-limiting or energy-limiting devices on the primary circuit. Electrical protection for high current faults on the primary (in the primary feeder, the high voltage leads, and switchgear) is typically provided by relays to a primary feeder circuit breaker at the utility substation. The relays to the primary feeder breaker cannot detect downstream sustained high current faults in the secondary.

Further, while the relays to the substation primary feeder breaker on network transformers will operate for sustained high current faults in the primary (allowing for deenergization), deenergization may not occur quickly enough to avoid switchgear and/or transformer rupture. Thus, switchgear rupture and transformer failure can occur in network transformers from high current faults on the primary.

Unlike radial transformers, network transformers are equipped with network protectors, which are circuit breakers located on the secondary side of network transformers. The network protector is set to operate when it senses a reverse power flow. Thus, it operates to prevent power being fed back into the transformer in the event that the primary feeder breaker has been activated. The network protector operates in a coordinated fashion with the substation breaker relays to isolate a faulted network transformer. By isolating the faulted network transformer, service continues to be

supplied to the load by other transformers in the network.

provided against these faults in different types of transformer installations, and

Deenergization of commercial PCB Transformers (when disconnect

fire are values which are representative of situations in which combustion

fire; (5) persons returning to the building following cleanup; and, (6) persons

estimated 7,600 480 volt network PCB

supplied to the load by other transformers in the network.

According to comments on the Proposed Rule, current-limiting fuses are used in the secondary of higher secondary voltage network transformers (in the services and in the network protector). These fuses operate when high current faults occur downstream from these areas. However, the presence of these fuses does not mean that the entire secondary is protected against high current faults. There is a zone in the secondary in network transformers which is currently "unprotected," where high current faults can occur and not be seen by the relays to the primary feeder breaker or by these fuses in the services and the network protector. High current faults in this area can result in transformer failures and fires. Network transformers with higher secondary voltages are more likely to experience high current faults in the secondary which are self-sustaining, than network transformers with lower secondary voltages.

Like radial transformers, network transformers are not typically protected against low current arcing faults. Further, in network transformers, there is typically more associated electrical equipment where these faults can occur. Low current arcing faults in network transformers can occur in the network protector and (for spot network transformers) in the network collector bus as well as in the secondary winding and low voltage leads. Again, these faults are more likely to be self-sustaining rather than self-clearing when the secondary voltage is higher.

Unlike industrial transformers, commercial transformers, particularly network transformers are not typically equipped with primary circuit breakers on site. The deenergization of a commercial network transformer after failure from a sustained (undetected) low current or high current fault would typically require the manual opening of the utility substation primary feeder breaker, after the utility has been contacted about a malfunction in the equipment. As indicated earlier, utilities are generally hesitant to open primary feeder breakers because of their desire for continuity of service to their customers.

3. *Conclusions.* Comments on the Proposed Rule suggest that there are ways in which both radial and network PCB Transformer installations could be better protected to minimize the likelihood of fault-related failures and fires. Several comments on the Proposed Rule discussed the role of high current faults in PCB Transformer failures and fires, the level of protection currently provided against these faults in different types of transformer installations, and ways in which PCB Transformers could be better protected to minimize the chance of failure from these types of faults. Network PCB Transformers are currently the least well-protected against high current faults of all distribution class PCB Transformers in use. According to comments submitted in response to the Proposed Rule, the Tulsa PCB Transformer fire was associated with this type of fault in the high voltage switchgear of a 208/120 volt network PCB Transformer.

Many comments on the Proposed Rule, however, focused on sustained low current arcing faults in PCB Transformers as the culprit in the number of documented PCB Transformer fires. These comments discussed the level of protection currently provided against these faults in PCB Transformer installations and ways in which PCB Transformers could be better protected to avoid low current fault-associated failures and fires. The San Francisco fire, the Chicago fire, and the Miami fire have been associated with these types of faults in 480/277 volt network PCB Transformers.

Simply stated, sustained low current arcing faults can occur in PCB Transformers and associated electrical equipment, and with existing levels of conventional protection, progress undetected and unseen, resulting in transformer failure and fire. According to comments submitted in response to the Proposed Rule, low current arcing faults can occur in the secondaries of all types of transformer installations, radial transformers, lower secondary voltage network transformers, and higher secondary voltage network transformers. They are, however, more likely to occur in installations with more, as opposed to less, associated electrical equipment and are more likely to be sustained in transformer secondaries when the secondary voltage is higher. This is because faults are more likely to "restrike" or be sustained at higher voltages than be self-extinguishing or self-clearing.

All types of PCB Transformers typically lack the sensors (pressure and/or temperature sensors) necessary for the early detection of low current arcing faults. Further, many commercial PCB Transformers are typically unequipped with on-site primary circuit breakers to actuate transformer deenergization. This means that low current arcing faults can progress unseen in these transformers, and that these transformers cannot be easily deenergized, even after transformer rupture has occurred.

Deenergization of commercial PCB Transformers (when disconnect equipment is not present on site) typically requires the opening of the primary feeder breaker at the electric utility substation, which is often miles away from a transformer installation. According to testimony at the public hearing, the opening of a primary feeder breaker at an electrical substation is a very difficult thing for a utility to do, because opening the primary feeder breaker for a malfunction in a single PCB Transformer will also result in other (well-functioning) transformers in the distribution system being deenergized.

D. Potential for Exposure

Toxicity and exposure are the two basic components of risk. In Unit IV.A, EPA addressed the toxicity of PCBs, PCDFs, and PCDDs. The following summarizes EPA's evaluation of the potential for human and environmental exposures to PCBs, PCDFs, and PCDDs from transformer fires.

As discussed in Unit IV.C, high current faults and low current faults in electrical transformers and/or associated equipment, as well as the ignition of combustible or flammable materials in a transformer location, can all lead to the rupturing of a transformer, the volatilization of PCBs, and the formation of incomplete combustion products. Sustained high temperatures in the area of a ruptured transformer increase the potential for the formation of toxic products of incomplete combustion, including PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD. These high temperatures can either occur as a result of the initial malfunction or as a result of prolonged arcing associated with an inability to deenergize the transformer completely. Smoke and soot from a high temperature fire involving a PCB Transformer can contain high concentrations of volatilized PCBs and oxidation products.

The most extensive monitoring data on PCB, 2,3,7,8-TCDF and 2,3,7,8-TCDD levels in buildings following PCB-Transformer fires were obtained from the Binghamton State Office Building site. A composite soot sample from this fire indicated the presence of 7,200 ppm PCBs, 231 ppm 2,3,7,8-TCDF, and 2.9 ppm 2,3,7,8-TCDD. For a full description of PCB, PCDF, and PCDD levels measured following transformer fires, see the quantitative exposure assessment completed for this final rule, support document 1 in Unit X.B.

EPA believes that the levels of PCBs and oxidation products measured in soot samples following the Binghamton

fire are values which are representative of situations in which combustion conditions are conducive to the formation and/or release of PCBs and oxidation products. Therefore, in this rule, EPA has used these values to estimate human and environmental exposures to PCBs, PCDFs, and PCDDs from PCB Transformer fires and fires involving PCB Contaminated transformers.

In the Proposed Rule, EPA evaluated the likelihood and nature of human and environmental exposures from transformer fires in or near buildings by analyzing likely exposures from a PCB Transformer fire in or near an office building. A number of comments received in response to the Proposed Rule suggested that EPA evaluate separately the expected exposures from transformer fires in or near industrial facilities and the costs of control measures for these transformers. Comments suggested that the use of PCB Transformers in industrial facilities pose lower fire-related risks than the use of PCB Transformers in commercial buildings and that the costs of the proposed transformer isolation requirement would be substantially greater for industrial facilities than for commercial buildings.

EPA agrees that industrial facilities should be evaluated separately from commercial buildings. Accordingly, EPA has evaluated the potential for human and environmental exposures for the following categories of PCB Transformer fires: (1) A PCB Transformer fire in or near a commercial building (both before the implementation of risk reduction measures and after the implementation of risk reduction measures); (2) a PCB Transformer fire in an industrial facility; (3) a PCB Transformer fire in an outdoor electrical substation; and (4) a PCB Contaminated transformer fire in or near a commercial building.

The first step in evaluating the potential for human exposures to PCBs and oxidation products is to determine the populations that are likely to experience these exposures. EPA has identified six populations that may be at risk of exposure to PCBs and oxidation products in the event of a fire involving a transformer containing PCBs. These are: (1) Persons present in a building or possibly in an adjacent building at the time of a fire in or near a building; (2) firemen and other emergency response personnel responding to a fire; (3) onlookers present during the extinguishing of a fire and members of the general public in the vicinity of the fire; (4) persons involved in sampling and cleanup operations following the fire; (5) persons returning to the building following cleanup; and, (6) persons exposed to equipment, automobiles, etc. that may have been contaminated during or after the fire. Human exposures to PCBs and oxidation products from transformer fires would be expected to occur principally through the inhalation and dermal routes.

1. *PCB Transformer fires in or near commercial buildings*—a. *Nature of installations and operation.* PCB Transformers serving commercial buildings are typically located in basements, in machinery rooms on the first few floors of buildings, or in sidewalk or underground vaults adjacent to buildings. Commercial PCB Transformers may also be located on roof-tops or near buildings in outside locations such as parking areas or loading docks. Electrical transformers used in or near commercial buildings are most typically located in areas which are not easily accessible or visible to building occupants. Based on the results of the Equitable Life Assurance survey of commercial transformer locations, EPA estimates that 69 percent of commercial transformers located on lower floors of buildings are vaulted, and that transformers located on interior upper floors are generally located in separate mechanical rooms. The majority of transformers located exterior to commercial buildings are also vaulted. According to utility representatives, in many cases, more than one PCB Transformer is located in a vault. Typically, two to four PCB Transformers are located within a single vault.

While commercial buildings may have janitorial crews on duty for building maintenance, electrical equipment operations are not typically closely supervised or monitored by trained electrical engineers or technicians. Maintenance and testing of these transformers would, in general, be expected to be less than that provided for utility substation equipment or industrial transformers. Further, disconnect equipment (i.e., circuit breakers) is generally not present in commercial installations, and there is typically no one present on site who is trained in disconnecting the equipment, even if such equipment were provided.

Comments on the Proposed Rule and EPA's analysis of available information indicates that there are approximately 77,568 PCB Transformers used in or near commercial buildings. Of these 77,568 PCB Transformers, EPA estimates that approximately 29 percent are network PCB Transformers and 71 percent are radial PCB Transformers. Further, of the estimated 7,600 480 volt network PCB Transformers in use (those transformers with a particularly high probability of fault-failure), EPA believes that over 97 percent of these transformers are used in or near commercial buildings.

b. *Frequency of PCB Transformer fires.* In the Proposed Rule, EPA estimated that 0.003 to 0.004 percent of nonsubstation PCB Transformers are involved in "serious" PCB Transformer fires (PCB Transformer fires involving smoke spread into buildings) each year. Within the category of "serious" fires are fires with moderate smoke distribution and fires with extensive smoke distribution. EPA used data from the National Fire Incident Reporting System (NFIRS) for 1982 on the frequency of structure-related electrical transformer fires, data from the NFIRS on the frequency of structure-related transformer fires with smoke spread beyond the room of origin of the fire, limited data from the NFIRS on the make, model, and year of transformers involved in these fires, and data supplied by various sources in response to the ANPR to develop this estimate. While EPA received several comments on this estimate (some indicating that EPA had severely underestimated the frequency of occurrence and other indicating that EPA had significantly overestimated the frequency of occurrence), little additional quantitative data were submitted to support modifying EPA's estimate of the frequency of occurrence of serious PCB Transformer fires. Thus, EPA believes that its estimate of 50 serious PCB Transformer fires over the remaining useful life of PCB Transformers is a reasonable estimate of the future frequency of serious PCB Transformer fires.

Since many comments on the Proposed Rule suggested that EPA evaluate separately the risks posed by PCB Transformers in or near industrial facilities, EPA has developed estimates of the frequency of PCB Transformer fires in industrial facilities and in commercial buildings.

As discussed in Unit IV.C, EPA believes that the probability of PCB Transformer fault-related failure varies depending upon the type of PCB Transformer installation (and includes such considerations as the amount of associated electrical equipment present, the secondary voltage of the transformers, and the current level of protection provided against sustained high current faults and sustained low current faults). Based on this analysis, and available empirical data on installation types in documented PCB

Transformer fires, EPA has developed estimates of the relative probabilities of

the volatilization of PCBs, and the widespread distribution of PCBs and

to 8 minutes, building occupants will be

additional exposures when emergency response personnel (the principal

of materials which are commonly stored

days in a year. EPA also expects that

Transformer fires, EPA has developed estimates of the relative probabilities of failure for different types of PCB Transformer installations (high and low secondary voltage network transformers versus high and low secondary voltage radial transformers). EPA has used these estimates and available data on the distribution of these installation types in commercial locations and industrial locations to estimate the frequency of serious PCB Transformer fires both in commercial buildings and in industrial facilities.

EPA believes that 480 volt network PCB Transformers would have a particularly high probability of failure; that lower secondary voltage network PCB Transformers and 480 volt radial PCB Transformers would have a lower probability of failure (compared to 480 volt network transformers); and that lower secondary voltage radial PCB Transformers would have the lowest probability of fault-related failures.

EPA estimates that 44 of the 50 structure-related serious PCB Transformer fires which will occur over the remaining useful life of PCB Transformers will occur in or near commercial buildings. This estimate is supported by electrical engineering theory concerning the mechanisms of PCB Transformer fault-related failures and the likelihood of failures in different types of installations as well as by available empirical data. The PCB Transformer fires in Binghamton, San Francisco, Chicago, Miami, and Tulsa all occurred in or near commercial buildings; specifically, in office buildings.

Further, the San Francisco fire, the Chicago fire, and the Miami fire all reportedly occurred in 480 volt network PCB Transformers. Three other fire-related incidents in commercial buildings in the Boston area also reportedly involved 480 volt network PCB Transformers. A total of 6 out of 10 known PCB Transformer fires have occurred in higher secondary voltage network PCB Transformers (in 480 volt network installations). This is particularly dramatic when one considers that there are only an estimated 7,600 480 volt network PCB Transformers in use.

c. *Exposure assessment.* EPA has evaluated likely exposures from a serious PCB Transformer fire in or near a commercial building by using reasonable yet environmentally conservative assumptions. EPA assumes that a PCB Transformer fire in a commercial building would involve sustained high temperatures in the transformer location, the rupture of the transformer casing, the release of PCBs, the volatilization of PCBs, and the widespread distribution of PCBs and oxidation products throughout the interior of a densely populated building (i.e., an office building), into the ambient air, and into waterways. EPA assumes that smoke and soot containing PCBs and oxidation products are spread throughout a large office building during peak use hours, that emergency response personnel are unaware that certain precautions should be taken to minimize exposures, and, that reoccupancy occurs only after the removal of visible traces of soot by cleanup crews.

EPA assumes that a PCB Transformer fire in or near a commercial building would involve the rupture of the transformer and sustained high temperatures in the transformer location for up to 4 hours. EPA has assumed this because transformers located in or near commercial buildings are more likely to be located in inaccessible, low visibility areas, where malfunctions would not be readily identified. Further, EPA has assumed that the transformer will not be deenergized automatically and that the transformer will not have the capability to be deenergized manually from an on-site location. EPA made these assumptions because many PCB Transformers located in or near commercial buildings are network transformers, which are currently less well-protected electrically, and, are less likely to be able to be deenergized manually from an on-site location.

EPA's assessment of the potential for human exposures to PCBs and oxidation products from a PCB Transformer fire in a commercial building serves as the baseline for subsequent assessments of the expected effectiveness of fire hazard risk reduction measures in these locations. This assessment is also used in assessing likely human exposures from PCB Transformer fires in industrial settings and in outdoor locations (away from commercial and residential areas), and for estimating likely human exposures from PCB-Contaminated transformer fires in or near commercial buildings.

A PCB Transformer fire which occurs in or near a commercial building during a period of peak use may expose hundreds to thousands of building occupants to smoke and soot from the fire during the evacuation of the building. The potential for exposures of large numbers of building occupants to this smoke and soot is increased if the transformer involved in a fire is located near building ventilation equipment and ductwork. EPA estimates that evacuation times will be on the order of 6 to 8 minutes, and, that during these 6 to 8 minutes, building occupants will be exposed to smoke and soot, primarily through inhalation.

Emergency response personnel, unaware that the smoke and soot from the fire may contain PCBs and toxic products of incomplete combustion, may be exposed to these materials through inhalation, and may incur some dermal exposure to facial areas. EPA estimates that 30 to 60 emergency response personnel may be exposed for up to 4 hours during the extinguishing of a PCB Transformer fire. Dermal and inhalation exposures of firefighters and other emergency response personnel may continue during the completion of equipment maintenance procedures and during the cleaning of personal clothing and firefighting equipment after the fire.

EPA has developed quantitative estimates of exposures by cleanup crews, firefighters, building occupants, and members of the general public to PCBs, PCDFs, and PCDDs. EPA developed these estimates primarily to evaluate relative exposures among these populations for different types of PCB Transformer fires and not to define in an absolute sense expected human exposures. In developing quantitative exposure estimates, EPA must make assumptions about parameters such as the concentration of PCBs, PCDFs, and PCDDs present in soot, the amount of soot generated, the distribution of soot in the interior of a building, the duration of exposure, the frequency of exposure, and the expected routes of exposure. As would be expected, the assumptions selected for use in quantitative exposure assessments can strongly influence the final exposure estimates. Recognizing this, EPA tends to routinely adopt more environmentally conservative assumptions for the different parameters of the exposure assessment.

EPA's quantitative estimates of potential firefighter exposures (assuming that respiratory protection is not worn during a PCB Transformer fire of 4 hours duration, as well as other assumptions detailed in support document 1 in Unit X.B.) in terms of estimated lifetime average daily doses (LADD) is 8,006 picograms per kilogram per day (pg/kg/day) PCBs, 98 pg/kg/day 2,3,7,8-TCDF, 56 pg/kg/day other TCDFs, 319 pg/kg/day other PCDFs, 5.1 pg/kg/day 2,3,7,8-TCDD, 0.98 pg/kg/day other TCDDs, and 45 pg/kg/day other PCDDs.

Building occupants also may incur additional exposures (above those which may occur during building evacuation), if these parties remain nearby, as onlookers during the extinguishing of the fire. Further, there is an increased potential for these additional exposures when emergency response personnel (the principal authority figures at the scene of a fire) are unaware of the nature of risks posed by exposures to smoke and soot from these fires.

The rupture of a PCB Transformer and the release of potentially hundreds of gallons of PCBs (and potentially PCDFs and PCDDs) into floor drains in transformer locations could result in the contamination of waterways. Further, if water is used to extinguish the fire, or if water pipes rupture due to high temperatures caused by the fire, water runoff could ultimately result in contamination of surface waters and drinking water. Members of the general public, in addition to fish and wildlife, in the vicinity of a PCB Transformer fire may be exposed to PCBs and oxidation products through the ingestion of residues. While comments on the ANPR suggest that water is not frequently used in extinguishing an electrical transformer fire, EPA believes that there is a potential for contamination of water from the rupture of the transformer, burst water pipes, the extinguishing of ignited materials in the area (other than electrical equipment) and from cleanup efforts.

The presence of a floor drain leading to a storm sewer in a transformer location provides a readily accessible pathway for the contamination of surface waters, and potentially, drinking water supplies. Water contaminated with soot containing PCBs, PCDFs, and PCDDs can enter these drains as a result of firefighting operations, burst water pipes, and cleanup operations. Very large amounts of water can be used in the cleanup process. For example, during the first year of cleanup at the Binghamton site, over 160,000 gallons of water were used, treated by charcoal filtration and secondary treatment, and discharged to surface waters. The nearest drinking water intake downstream is 45 miles away and serves 16,500 persons.

Atmospheric transport of PCBs and oxidation products in an urban area could also be responsible for exposing many members of the general population who live or work in the vicinity of a fire. In the Binghamton, New York incident, 2,585 people lived within 3 to 4 kilometers of the building. While inhalation exposures by the general public as a direct result of a PCB Transformer fire would be unlikely to occur for an extended period of time, soot fallout from a PCB Transformer fire may contaminate surface soil and surface water, in addition to outdoor furniture, automobiles, and other types of materials which are commonly stored outside. Contamination of surface soil and surface water may result in exposures to fish and wildlife as well. Thus, dermal, inhalation, and even oral exposures to the general population in the vicinity of a fire may occur on a continuing basis long after the initial incident.

Exposures at the site of a fire to soot containing PCBs and oxidation products may also continue long after the extinguishing of the fire. Cleanup crews, dispatched to the scene by a building owner who is unaware of the nature of risks posed by a PCB Transformer fire, may not be initially equipped with respiratory protection or protective clothing. Inhalation and dermal exposures would be expected to occur as these crews work to remove soot from surfaces inside the building. Soot particles are likely to become airborne as a result of cleanup efforts, and would be expected to be inhaled by workers. In addition, because of the strenuous nature of cleanup work, these workers would be expected to have a high respiration rate, further increasing exposures to PCBs and oxidation products through inhalation.

EPA's quantitative estimates of potential exposures to cleanup crews (assuming a 4-hour fire, the lack of protective clothing, and the superficial cleanup of a building, as well as other assumptions detailed in support document 1 in Unit X.B.) is 13,784 pg/kg/day PCBs, 34 pg/kg/day 2,3,7,8-TCDF, 19.9 pg/kg/day other TCDFs, 109 pg/kg/day other PCDFs, 1.8 pg/kg/day 2,3,7,8-TCDD , 0.33 pg/kg/day other TCDDs, and 15.7 pg/kg/day other PCDDs.

Even if respiratory protection and protective clothing are utilized by cleanup crews, EPA expects that some level of exposure to these materials may occur both dermally and through inhalation because of the expected prolonged period of exposure. Cleanup crews may work long hours for extended periods of time. For example, in the Binghamton incident, 40 to 70 workers were involved in cleanup operations for 7 hours a day for over 250 days.

Finally, depending upon the level of knowledge of the building owner, emergency response personnel, the utility, and local public health authorities about the nature of risks posed by PCB Transformer fires, building occupants may be allowed to return prematurely to a building following the removal of only visible traces of soot. Exposures may occur to faces, hands, and lower arms for 8 hours a day over the course of 250 working days in a year. EPA also expects that inhalation exposures would occur as a result of the circulation of airborne contaminants by the building's ventilation system. Further, these exposures may continue for an indefinite period of time because these materials are expected to the quite persistent, and resistant to degradation. Residual concentrations may remain on interior building surfaces for several years. EPA's quantitative estimates of potential building occupant exposures (assuming that the fire burns for 4 hours, that the building is occupied at the time of the fire, and that reoccupancy occurs following cleanup to visible traces of soot in the buildings, as well as other assumptions detailed in support document 1 in Unit X.B.) is 39,583 pg/kg/day PCBs, 65 pg/kg/day 2,3,7,8-TCDF, 65 pg/kg/day other TCDFs, 277 pg/kg/day other PCDFs, 1.2 pg/kg/day 2,3,7,8-TCDD, 0.76 pg/kg/day other TCDDs, and 35 pg/kg/day other PCDDs.

EPA has prepared additional quantitative estimates of potential human exposures to PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD from a reasonable worst-case PCB Transformer fire in a commercial building. These estimates are presented in support document 1 in Unit X.B.

2. *PCB Transformer fires in or near commercial buildings with risk reduction measures in ploce.* In order to evaluate the effectiveness of risk reduction measures in reducing exposures to PCBs and oxidation products, EPA has assessed expected exposures to these materials from a PCB Transformer fire in a commercial building, assuming the implementation of certain risk reduction measures.

In the Proposed Rule, EPA evaluated the expected exposures associated with a PCB Transformer fire in or near a commercial building with certain risk reduction measures in place. The risk reduction measures addressed in the Proposed Rule were transformer isolation from building ventilation equipment and ductwork, the control of potential water releases, the reporting of the fire to the National Response Center, the registration of the transformer with the responding fire department and the building owner, and the labeling of the exterior of the transformer location. EPA assumed that most PCB Transformers could be deenergized within 15 minutes of failure (without the installation of additional protection), and, for those transformers that EPA believed could not be deenergized completely, EPA proposed requiring additional electrical protection on the secondary side of the transformers.

Thus, in evaluating the effectiveness of transformer isolation, registration, assessed expected exposures to PCBs and oxidation products in the event that

b. *Exposure assessment.* The potential for the volatilization of large amounts of

in particular would also function to

the potential for the release of PCBs and

remaining useful life of PCB

VOL 50 ISS 137 JL 17 1985 UMI

Thus, in evaluating the effectiveness of transformer isolation, registration, labeling, and reporting of PCB Transformers fires, EPA assumed that all but a subset of PCB Transformers could be easily deenergized within 15 minutes of failure. For that subset, EPA required increased electrical protection on the secondary side of the transformers.

Comments on the Proposed Rule, however, indicate that: (1) Many PCB Transformers in commercial buildings are not capable of being easily deenergized after failures; (2) PCB Transformers in commercial buildings could be equipped with enhanced electrical protection which would reduce the probability of transformer failures from electrical faults; and, (3) while the proposed additional electrical protective measures (for a subset of the PCB Transformer population) would have avoided some failures in this equipment, failures in these transformers from other common mechanisms of failure could still occur.

Many comments on the Proposed Rule suggested that EPA increase its emphasis on the reduction of risk through the prevention of PCB Transformer fault-related failures and decrease its emphasis on the use of isolation measures to reduce structure and environmental contamination. These comments indicate that while transformer isolation can reduce exposures in the event of a PCB Transformer fire (by reducing widespread structure and environmental contamination), if a transformer cannot be easily deenergized after failure occurs, then substantial quantities of smoke and soot can be generated. The longer a transformer remains energized, the less likely it is that isolation will be an effective risk reduction measure.

EPA agrees that measures designed to prevent PCB Transformer failures are preferred over measures designed to contain and control already released and/or formed incomplete combustion products. Further, EPA's evaluation of mechanisms of transformer failure, commercial installation characteristics and operations, and the current levels of electrical protection in commercial PCB Transformer installations indicates that many of these PCB Transformers could be better protected electrically to reduce the frequency of fault-related failures and fires. Thus, in this final rule, EPA has focused on increased electrical protection rather than transformer isolation as the preferred measure for reducing the frequency of serious PCB Transformer fires.

Since electrical protective devices are subject to malfunction, EPA has also assessed expected exposures to PCBs and oxidation products in the event that transformer failure occurs despite the presence of increased electrical protection; but, has assumed that measures are taken to control water releases; that the incident is reported to the National Response Center; and, that the transformer is registered with both the responding fire department and the building owner. In addition, EPA assumes that the exterior of the transformer location is marked with PCB identification labels.

a. *Frequency of serious PCB Transformer fires with risk reduction measures in place.* EPA has used data from transformer and electrical equipment reliability studies to evaluate the probability of electrical protective device malfunction; and thereby, to estimate the effectiveness of electrical protection in avoiding serious PCB Transformer fires. For purposes of this rule, EPA defines electrical protective device malfunction as the failure of a device to operate when called upon to operate. It is difficult to develop a precise estimate of the expected rate of failure of specific combinations of electrical protective devices such as those which appear in this final rule. However, based upon available information on the failure rate of circuit breakers, current-limiting fuses, and heat and fluid level sensors, EPA expects the failure rate to be low, below 3 percent. Further, according to data on the failure modes of circuit breakers, only 9 percent of circuit breaker failures are failures to operate when called upon to open. The majority of circuit breaker failures are characterized by the operation of a circuit breaker when it should not have operated or opened. That is, circuit breaker failure typically involves deenergization without cause rather than failure to deenergize when called upon to open.

EPA has assumed that enhanced electrical protective systems will function to avoid between 97 and 99 percent of the serious PCB Transformer fires (about 43 fires) which would be expected to occur in commercial buildings over the remaining useful life of this equipment (this assumes that electrical protection can be implemented immediately). Electrical protection for commercial transformers phased in over a 5-year period is expected to avoid about 36 serious PCB Transformer fires. EPA expects that one to two serious PCB Transformer fires will occur over the remaining useful life of this equipment as a result of the failure of the enhanced electrical protective systems to operate.

b. *Exposure assessment.* The potential for the volatilization of large amounts of PCBs, and the formation of products of incomplete combustion from PCB Transformer fires is reduced if efforts are made to control combustion conditions in the transformer location. EPA believes that the removal of stored combustibles from a PCB Transformer location will reduce the likelihood of a fire occurring external to a PCB Transformer resulting in transformer failure. More importantly, the installation of enhanced electrical protection on commercial PCB Transformers is expected to reduce substantially the frequency of PCB Transformer fault-related failures in this equipment.

Comparing the circumstances surrounding well-documented PCB Transformer fires indicates that the sooner a faulted transformer is deenergized, the less likely it is that significant quantities of PCDFs and PCDDs will be formed. Experience from actual incidents indicates that EPA is correct in its belief that there are practical means available for successfully controlling combustion conditions in PCB Transformer locations. Certain measures, once implemented, would reduce the likelihood of fault-related failures and sustained high temperatures. These measures are expected to reduce significantly the fire-related risks posed by the continued use of these transformers.

Analyses of the levels of electrical protection currently provided for many commercial PCB Transformer locations indicate that these PCB Transformers could be better protected electrically to reduce the frequency of transformer failures from electrical faults. Comments on the Proposed Rule suggest that many of the well-documented PCB Transformer fires could have been avoided if transformer failure had been avoided through the use of enhanced electrical protection, such as current-limiting devices, sensors, and disconnect equipment.

Enhanced electrical protection, that is, the installation of overcurrent protection on transformers which lack such protection, and sensors and disconnect equipment to avoid sustained low current faults will reduce the likelihood of PCB Transformer fault-related failures. These systems are intended to actuate complete deenergization of transformers when abnormal conditions are sensed. While abnormal conditions are expected to be typically caused by sustained high and low current faults, the low current fault protection system

in particular would also function to avoid sustained high temperatures and changes in internal pressure from other causes as well. Finally, the final rule requires the removal of stored combustibles near PCB Transformers to reduce the likelihood of a PCB Transformer fire occurring from an external source of combustion.

If transformer failure and fire occurs despite the presence of the required electrical protection system and the removal of stored combustibles, the nature and magnitude exposures to PCBs and oxidation products by building occupants, firefighters, cleanup crews, and members of the general population could be equivalent to that described above, in Unit IV.C.1.c. However, the presence of disconnect equipment on site (which can be manually operated) for many PCB Transformers will provide for more rapid deenergization than is currently the case.

Registration, labeling, containment of potential water releases, and notification of the National Response Center would also be expected to reduce exposures to these populations in the event that transformer failure occurred despite the presence of increased electrical protection. Advance knowledge on the part of fire departments and building owners about the contents of a transformer and the notification of EPA in the event of a fire would be expected to reduce exposures to building occupants, in addition to reducing exposures to firefighters and other emergency response personnel. EPA expects that firefighters, aware of the nature of risks posed by a transformer fire, would be more likely to wear respiratory protection and protective clothing and would be more protective of bystanders and onlookers. Building owners who are aware that a transformer fire involves a PCB Transformer would be less likely to dispatch unprotected cleanup crews to the site, and would be less likely to allow building occupants to return unprotected to an involved building.

If PCB Transformer owners take measures as soon as practically and safely possible to contain any spilled PCBs and or PCDFs/PCDDs (released as a result of a fire-related incident) and water potentially contaminated with PCBs, PCDFs, and PCDDs, EPA expects that potential releases to waterways will be substantially reduced. The blocking of floor drains in a transformer location as soon as practically and safely possible, and the containment of all water associated with the incident (including cleanup water) should reduce the potential for the release of PCBs and untreated water into surface waters. Finally, by requiring the reporting of all PCB Transformer fire-related incidents to the National Response Center (NRC), EPA will be able to monitor cleanup efforts and the treatment and discharge of water, to insure that safe levels are not exceeded.

3. *Industrial PCB Transformer fires*—a. *Nature of installations and operations.* PCB Transformers used in industrial applications may be located indoors or outdoors, depending upon variables such as the service being supplied by the unit, the size of the unit, and the geographic location of the facility. According to comments submitted in response to the Proposed Rule, many (but not all) industrial transformers are located in production areas, near motors, machinery, and other equipment. These transformers are typically unvaulted and readily visible to facility workers during the routine conduct of their work. This is in contrast to the typical commercial PCB Transformer installation, which is generally inaccessible and less visible to employees.

Comments on the Proposed Rule indicate that in many industrial facilities, the performance of transformers in monitored during production shifts by engineers, electricians, or other similarly trained personnel. Further, comments indicate that industrial transformer owners reportedly utilize visual inspections, monitoring, and electrical testing of transformer function on a routine basis. Electrical equipment failure and fire in an industrial facility means loss of production time, which can have severe economic impacts. Thus, industrial transformer owners have this incentive to provide for transformer maintenance and testing on a routine basis to avoid fault-related failures and for providing disconnect equipment on site to provide for rapid deenergization in the event of a fault-related failure.

EPA's analysis indicates that there are approximately 26,700 PCB Transformers used in or near industrial facilities. Of these 26,700 PCB Transformers, EPA estimates that 98 percent are radial PCB Transformers, and, that 2 percent are network PCB Transformers. Of the estimated 7,600 480 volt network PCB Transformers in use, EPA estimates that only 3 percent (or 179 PCB Transformers) are used in or near industrial facilities.

b. *Frequency of PCB Transformer fires.* EPA estimates that 6 out of the expected 50 serious PCB Transformer fires which will occur over the remaining useful life of PCB Transformers will occur in or near industrial facilities. Four of these fires are expected to occur after October 1, 1990. This estimate was derived by considering available information on the number and type of PCB Transformers used in or near industrial facilities and available information on the probability of PCB Transformer fault-related failure for each type of transformer installation.

EPA has very little data on PCB Transformer fires which have actually occurred in industrial facilities. Limited data were submitted by the American Paper Institute (API) regarding two PCB Transformer fire-related incidents in forest industry facilities. According to the results of an API survey, during an 8.5 year period, between January 1976 and March 1984, there were two PCB Transformer fires (which involved smoke spread into buildings) out of an estimated 3,509 PCB Transformers used by the surveyed companies. API indicates that none of these incidents approached "Binghamton" proportions, and could be classified as moderate incidents on the spectrum of PCB Transformers fires.

c. *Exposure assessment.* EPA has little data on the circumstances surrounding actual PCB Transformer fires in industrial facilities. However, EPA has used environmentally conservative yet reasonable assumptions in evaluating likely human and environmental exposures from a PCB Transformer fire in a typical industrial facility. EPA recognizes that PCB Transformer fires may occur in atypical industrial facilities, where the exposures may be somewhat greater than those described here. However, based on comments on the Proposed Rule, EPA believes that there are fundamental differences between the potential for human exposures to PCBs, PCDFs and PCDDs from the use of PCB Transformers in industrial facilities versus their use in commercial buildings.

EPA assumes that a PCB Transformer fire in an industrial facility would involve an indoor PCB Transformer, sustained high temperatures in the transformer location, the rupture of the transformer, the release of PCBs, the volatilization of PCBs, and the distribution of PCBs and oxidation products into the interior of an industrial facility, into the ambient air, and into waterways. EPA assumes that smoke and soot containing PCBs and oxidation products are spread throughout the interior of an industrial facility during peak use hours, worker evacuation occurs during the early stages of the fire, an on-site fire brigade makes the initial

response, and, that reoccupancy of the facility by workers occurs after the

2,3,7,8-TCDD, 0.06 pg/kg/day other TCDDs, and 3.1 pg/kg/day other PCDDs.

Cleanup following an industrial PCB Transformer fire could be as time-

installations and operations. PCB

from releases to air from an outdoor fire

would be linearly related to the amount

response, and, that reoccupancy of the facility by workers occurs after the removal of visible traces of soot.

EPA assumes that a PCB Transformer fire in an industrial facility will involve the rupture of the transformer and sustained high temperatures in the transformer location for up to 0.5 hour (in contrast to a 4-hour burn time assumed for commercial buildings). EPA has assumed this reduced burn time because comments on the Proposed Rule and available data indicate that transformers used in or near industrial facilities are more likely to be located in higher visibility areas, where malfunctions would be more rapidly identified. This is in contrast to the typical commercial PCB Transformer installation, which is not readily accessible or visible to employees. Further, EPA has assumed that once a malfunction has been identified, the transformer can be more easily deenergized in industrial facilities by on-site trained personnel. EPA made this assumption because comments indicate that industrial use PCB Transformers are typically equipped with primary disconnect equipment on site. Further, comments indicate that many industrial facilities employ electrical engineers or technicians during duty hours to monitor electrical equipment operations. This too is in contrast to the typical commercial installation, which is not equipped with primary disconnect equipment on site. Further, commercial PCB Transformer operations are not typically monitored.

An industrial PCB Transformer fire which occurs during a period of peak use may expose hundreds of workers to smoke and soot from the fire during the evacuation of the facility. However, EPA expects that worker evacuation times may be quicker than those assumed for commercial buildings. First, industrial facilities are not typically high-rise buildings. Second, there are typically fewer people to be evacuated. Finally, industrial workers would be expected to be more educated about the potential risks posed by any type of fire in an industrial location, and about proper evacuation procedures. EPA has assumed that exposures by workers to residual levels of PCBs and oxidation products would, however, continue following reoccupancy. EPA's estimate of potential exposures to industrial workers (assuming a 0.5 hour burn time and cleanup to visible traces of soot, as well as other assumptions detailed in support document 1 in Unit X.B.) is 2,888 pg/kg/day PCBs, 6.7 pg/kg/day 2,3,7,8-TCDF, 3.8 pg/kg/day other TCDFs, 22 pg/kg/day other PCDFs, 0.38 pg/kg/day 2,3,7,8-TCDD, 0.06 pg/kg/day other TCDDs, and 3.1 pg/kg/day other PCDDs.

Many industrial facilities have fire brigades on site to handle initial emergency response situations. According to comments on the Proposed Rule, these fire brigades are typically well-trained and well-equipped to handle industrial accidents and fires, including PCB Transformer fires. A PCB Transformer located in an industrial facility would likely be less confined than in a commercial building, and, therefore, would provide easier access to firefighters than a commercial location. Firefighting time may be reduced by the accessibility of the transformer, the capability to deenergize the equipment on site, and the level of site-specific training of industrial fire brigades.

EPA assumes that a 10-man fire brigade would respond to a PCB Transformer fire in an industrial facility, and that brigade members would be more likely to wear appropriate protective clothing and respirators. (Other assumptions are detailed in support document 1 in Unit X.B.) EPA's estimate of potential exposures to these firefighters is 45 pg/kg/day PCBs, 0.11 pg/kg/day 2,3,7,8-TCDF, 0.068 pg/kg/day other TCDFs, 0.37 pg/kg/day other PCDFs, 0.006 pg/kg/day 2,3,7,8-TCDD, 0.001 pg/kg/day other TCDDs, and 0.05 pg/kg/day other PCDDs. Additional exposures following the fire may, however, occur during the cleanup of turnout gear and firefighting equipment. EPA expects that industrial fire brigade personnel would take appropriate precautions to limit further exposures.

If water is used to extinguish the fire, or if water pipes rupture due to high temperatures, water runoff could ultimately result in contamination of surface waters and drinking water supplies. Industrial facilities typically have many floor drains, which are readily accessible pathways for the release of PCBs and oxidation products to waterways.

Atmospheric transport of PCBs and oxidation products in a metropolitan area could also be responsible for exposing many people who live or work in the vicinity of an industrial plant to PCBs and oxidation products. Higher ventilation rates in industrial facilities may lead to more rapid distribution of PCBs and oxidation products into the ambient air than would be the case for a fire in a commercial building. However, the shorter burn time for the fire would decrease the total amount of PCBs volatilized and incomplete combustion products formed and released.

Cleanup following an industrial PCB Transformer fire could be as time-consuming as an indoor commercial PCB Transformer fire. The cleaning and decontamination of valuable machinery and equipment would be very time-consuming. The cleanup of the structure itself may be less involved than for a high-rise office building. Industrial facilities are more open and building surfaces are generally more accessible to cleaning and decontamination. In addition, higher ventilation rates in industrial facilities would encourage the distribution of smoke and soot into the ambient air outside the facility. Further, the ability to deenergize the transformer from an on-site location would reduce both the amount of PCBs volatilized and the amount of incomplete combustion products formed and released.

In facilities which operate around the clock (24 hours per day operations), electrical equipment operations would be expected to be monitored during the entire operating time. However, smaller industrial facilities may operate only 8 hours per day, leaving electrical equipment operations unmonitored for 16 hours per day.

A PCB Transformer fire in an industrial facility after normal hours of operation could, therefore, burn longer than the assumed 0.5 hour. Electrical equipment operations are not typically monitored by operating personnel during off-shift hours. While occasional security patrols would inspect the area, a PCG Transformer fire could progress in much the same manner as a PCB Transformer fire in a commercial building. Deenergization of the transformer, even when on-site disconnect equipment is available, would take longer in these cases, because personnel trained in disconnecting the equipment would most likely not be on site during off-shift hours.

An industrial PCB Transformer fire during off-hours would be more likely to expose volunteer and municipal salaried firefighters than fires during normal operating hours, when company fire brigades would have primary responsibility for initial emergency response. Exposures to members of the general population in the vicinity of the fire would be expected to be higher for fires during off-hours, as would exposures to cleanup crews. Exposures to workers, however, would only be expected to occur following reoccupancy of the building, from contact with residual materials on building surfaces and in the air.

4. *Outdoor fires involving PCB Transformers*—a. *Nature of installations and operations.* PCB Transformers which are used in outdoor applications may be located on the tops of utility poles, pad-mounted in urban, metropolitan, and rural areas, or in electric utility substations. The operation of these transformers is not typically monitored by on-site personnel. Electric utility substation PCB Transformers are typically fenced off to restrict access to authorized personnel, and their operation may be monitored by personnel in control rooms at utility transmission stations and/or generating stations.

EPA estimates that there are about 17,000 PCB Transformers used in outdoor applications. EPA expects that the majority of these transformers are in radial installations.

b. *Frequency of PCB Transformer fires.* Based on estimates of the frequency of "serious" PCB Transformer fires in radial transformer installations, and the estimated number of PCB Transformers located in outdoor electrical substations, EPA estimates that outdoor PCB Transformer fires with smoke generation will occur at a frequency of about 0.0014 percent per year, or, about 3 incidents over the remaining useful life of this equipment.

c. *Exposure assessment.* Fires involving PCB Transformers located in outdoor locations, away from commercial buildings, are expected to result in lower human exposures to PCBs and oxidation products in fire situations than transformer fires in or near buildings. First, because combustion conditions in an outdoor PCB Transformer fire are not expected to be as conducive to the volatilization of spilled PCBs and the formation of large quantities of PCDFs, 2,3,7,8-TCDF, PCDDs, or 2,3,7,8-TCDD as would be the case with transformers located in machinery rooms or vaults. Generally, combustible materials are not present near outdoor PCB Transformers and some of the heat generated from arcing or fires would be expected to dissipate in the environment.

Further, outdoor utility substations in particular are generally fenced to restrict access to authorized personnel only, thus limiting the number of people at immediate risk of exposure in the event of a fire. In contrast to the smoke and soot produced from transformer fires in or near buildings, any smoke or soot produced in an outdoor transformer fire, away from commercial buildings, is expected to be more widely dispersed in the environment. EPA has developed a model for the release of PCBs and the formation of PCDFs and/or PCDDs from an outdoor PCB Transformer fire. EPA has estimated the expected exposures from releases to air from an outdoor fire and has found that exposures decrease with increasing distance, and that at a distance of 200 meters from a fire, inhalation exposures from a typical fire would be expected to be relatively low.

While there is a potential that emergency response personnel and cleanup crews responding to such fires may be exposed to some PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD, exposures to PCBs would be more likely to occur. Firefighting equipment and protective clothing may become contaminated with PCBs, and may result in exposures to firefighters during equipment cleanup and maintenance.

Fires involving outdoor PCB Transformers near commercial buildings (i.e., within 30 meters of commercial buildings) could result in more people being exposed to higher levels of PCBs and any oxidation products produced. For this reason, EPA has included outdoor PCB Transformers located within 30 meters of commercial buildings within the definition of PCB Transformers located in or near commercial buildings.

5. *Fires involving transformers containing less than 500 ppm PCBs*—a. *Nature of installations and operations.* EPA estimates that there are over 20 million mineral oil transformers in the electric utility industry and about 5 million in all other applications. These mineral oil transformers may contain low levels of PCBs (less than 500 ppm PCBs) as a result of contamination from past servicing activities. EPA estimates that approximately 16 million of these mineral oil transformers are used in nonsubstation applications, in or near commercial buildings, industrial facilities and outdoors on utility poles. These transformers are installed in both radial and network configurations.

b. *Exposure assessment.* PCB Transformers typically contain 65 percent PCBs, or about 1,600 times the maximum amount of PCBs present in PCB Contaminated transformers (and 13,000 times the amount of PCBs present in transformers containing 50 ppm PCBs). EPA has assessed the potential for exposures to PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, 2,3,7,8-TCDD from fires involving PCB-Contaminated equipment by assuming that the transformer present in the Binghamton State Office Building was a PCB-Contaminated transformer, and, by assuming reasonable worst-case values for other parameters. Based on the results of EPA's study of the incomplete combustion of PCB-Contaminated transformer fluids, EPA has assumed that the formation of PCDFs and PCDDs in a PCB-Contaminated transformer would be linearly related to the amount of PCBs present in the transformer. Given this situation, PCB, PCDF, 2,3,7,8-TCDF, PCDD, and 2,3,7,8-TCDD levels in the soot from such a fire would be expected to be reduced by a factor of 1,300, compared to levels actually measured in Binghamton. Similarly, human exposures to these materials are assumed to be reduced by the same factor.

6. *Conclusions—Risks posed by fires involving transformers that contain PCBs.* Toxicity and exposure are the two basic components of risk. In earlier units of this preamble, EPA evaluated the toxicity of PCBs, PCDFs, 2,3,7,8-TCDF, PCDDs, and 2,3,7,8-TCDD and presented assessments of the potential for human exposure to these materials from transformer fires. EPA concluded that both 2,3,7,8-TCDD and PCBs are probable human carcinogens, based upon studies in laboratory animals. Further, since 2,3,7,8-TCDF is structurally and chemically similar to 2,3,7,8-TCDD, EPA has concluded that it is prudent to assume that an oncogenic potential exists in 2,3,7,8-TCDF and perhaps in other PCDD and PCDF congeners as well.

EPA has determined that relatively large quantities of these compounds can be formed and released during a PCB Transformer fire, particularly a fire which occurs in or near a commercial building. Sustained high temperatures in these transformer locations are more likely than in industrial or outdoor locations because of the nature of commercial PCB Transformer installations. Many commercial transformers are network transformers (which are the least well protected distribution (transformers). Further, malfunctions in commerical PCB Transformers are more likely to progress into more serious incidents because these transformers are typically located in low visibility areas, and because these locations typically lack on-site electrical technicians and necessary disconnect equipment to insure complete deenergization in the event of a sustained fault or failure.

Finally, there are many routes through which commercial building occupants, emergency response personnel, cleanup crews, onlookers, and the general public can be exposed to these materials, once generated. Building evacuation times for large commercial buildings can be relatively long, reoccupancy may occur before adequate cleanup has been completed, emergency response personnel may lack necessary protective equipment, cleanup crews may be dispatched without proper protection,

onlookers may be unaware of the risks posed, and members of the general

decrease the likelihood of fire-related failures in this equipment.

PCB Transformer fires is 6 fires over the remaining useful life of industrial PCB

A. Benefits of PCBs

fire-related risks posed by the use of a dielectric fluid which can be

even though the coefficient of expansion

onlookers may be unaware of the risks posed, and members of the general population in the vicinity of the fire may incur inhalation exposures and dermal exposures during the fire, and for extended periods after the fire from contamination of waterways, drinking water supplies and outdoor materials with PCBs, PCDFs, and PCDDs.

EPA has concluded that fires involving PCB Transformers in or near commercial buildings can pose significant risks of human and environmental exposures to PCBs and oxidation products. EPA believes that 44 of the estimated 50 structure-related serious incidents over the remaining useful life of PCBs Transformers will occur in or near these buildings. Further, based on its analysis of the relative probabilities of PCB Transformer failures and fires, EPA has concluded that many of these fires will involve 480 volt network PCB Transformers.

Given that a single serious PCB Transformer fire in or near a commercial building can potentially expose thousands of people to PCBs and oxidation products in soot in air, water, or on surfaces, EPA has concluded that PCB Transformer fires in or near commercial buildings can pose significant risks to human health and the environment. However, EPA also believes that reducing the potential for the release of PCBs and the potential for the formation and release of PCB oxidation products from PCB Transformers substantially reduce the fire-related risks posed by the continued use of this equipment.

EPA has determined that sustained high temperatures in industrial PCB Transformer locations and in outdoor substation PCB Transformers are less likely than for commercial PCB Transformers because of the nature of these installations. Many of these transformers are radial transformers (which are typically better protected against sustained faults and failures than network transformers). Further, malfunctions in industrial PCB Transformers which go undetected by existing electrical protection are less likely to progress into more serious incidents because of the location of these transformers in higher visibility areas, and because industrial facilities reportedly have on-site electrical engineers and technicians and necessary disconnect equipment to provide for complete deenergization. Finally, the suggested higher frequency of maintenance, inspection, and testing of industrial transformers and utility substation transformers would further decrease the likelihood of fire-related failures in this equipment.

EPA estimates that up to 6 out of the expected 50 serious PCB Transformer fires over the remaining useful life of PCB Transformers will occur in or near industrial facilities, and that less than 3 PCB Transformer fires with smoke distribution will occur in outdoor PCB Transformer locations.

While exposures to workers, emergency response personnel, cleanup crews and the general population may occur from an industrial PCB Transformer fire, the magnitude of exposure associated with a PCB Transformer fire in a typical industrial facility would be anticipated to be greatly reduced (when compared to a commercial PCB Transformer fire) as a result of several factors. First, EPA expects that the duration of industrial PCB Transformer fire-related incidents would be significantly less than the duration of commercial PCB Transformer fires, because of the presence of trained personnel and disconnect equipment on site. The reduced duration would reduce exposures to all populations potentially at risk of exposures. Second, there are generally fewer workers present in industrial facilities than in commercial buildings, and worker evacuation times would be expected to be less for industrial facilities than for commercial buildings. This is because of the single-story nature of many industrial facilities, and the expected increased level of education of industrial workers about workplace hazards. Third, according to comments on the Proposed Rule, industrial facilities often utilize well-trained, well-equipped fire brigades for initial emergency response, rather than local volunteer or salaried municipal firefighters. Emergency response personnel as a group, then, would be expected to incur lower exposures in responding to industrial PCB Transformer fires than would be the case for commercial PCB Transformer fires.

A comparison of estimated exposures from a commercial PCB Transformer fire to an industrial PCB Transformer fire indicates that exposures by building occupants to PCRs, 2,3,7,8-TCDF, other TCDFs, other PCDFs, 2,3,7,8-TCDD, other TCDDs, and other PCDDs could be as much as an order of magnitude higher for commercial building fires than for industrial building fires.

EPA recognizes that exposures from PCB Transformer fires in atypical industrial facilities could be higher than described earlier. However, EPA's estimate of the frequency of industrial PCB Transformer fires is 6 fires over the remaining useful life of industrial PCB Transformers. Even if EPA were to assume that all 6 of these fires resulted in individual exposures of the same order of magnitude suggested for commercial PCB Transformer fires, there are fewer people at risk of these exposures in industrial locations when compared to commercial buildings.

One could consider the overall fire-related risk posed by the continued use of PCB Transformers and compare the different frequencies of occurrence of fires in commercial buildings versus industrial facilities (assuming as a worst-case, that the risks posed by commercial PCB Transformer fires and industrial PCB Transformer fires are equivalent). This analysis indicates that 88 percent of the fire-related risk posed by the continued use of PCB Transformers (in locations in or near buildings) are associated with their use in or near commercial buildings and 12 percent of the total risks are associated with their use in industrial locations.

EPA has further determined that outdoor PCB Transformer fires, (away from commercial buildings) and fires involving PCB-Contaminated transformers pose lower risks than PCB Transformer fires in or near commercial buildings. While EPA expects that outdoor PCB Transformer fires may result in the release of PCBs, EPA expects that outdoor PCB Transformer fires would be less likely to result in the volatilization of large amounts of PCBs and less likely to lead to the formation and release of large amounts of PCDFs and PCDDs. Further, PCBs and oxidation products released from outdoor PCB Transformer fires would be expected to be more widely dispersed in the environment. Although PCBs may be released and oxidation products may be formed during the PCB-Contaminated transformer fires, the amounts of these materials formed and released are expected to be significantly reduced compared to the amounts formed and released from PCB Transformers.

IV. Benefits of PCB-Transformers and the Availability of Substitutes

As part of the unreasonable risk determination, EPA must consider both the benefits of PCBs and the availability of substitute materials. The unreasonable risk determination requires EPA to balance the risks posed by the use of PCBs against the availability of adequate substitute materials and the costs associated with regulatory control measures.

A. Benefits of PCBs

PCBs were originally used as dielectric fluid in electrical transformers primarily because of their fire-resistance properties. Generally, PCB Transformers were placed in locations where concerns for fire safety were paramount. Other dielectric fluids, such as mineral oil, have superior electrical properties to PCBs, but their fire resistance properties are not as good as PCBs.

Monsanto Company has had in progress for over a year a study assessing and comparing fire risks of PCBs and of mineral oil. The Monsanto-sponsored study indicates that the average frequency of a fire spreading beyond the transformer room is 300 times greater for a mineral oil transformer than for a PCB Transformer containing 50 percent PCBs and 50 percent chlorinated benzenes. The report further indicates that there is a significant decrease in the risk of fatalities when a mineral oil transformer is replaced by a PCB Transformer containing 50 percent PCBs and 50 percent chlorinated benzenes.

B. Substitute Transformers

In its August 1982 PCB Electrical Use Rule, EPA concluded that adequate substitutes exist for PCBs in indoor transformer locations. There are two basic categories of transformers, fluid-filled and dry. There are six general types of fluid-filled substitutes for PCBs in transformers: Silicones; high-temperature hydrocarbon (HTH); chlorinated hydrocarbons; non-PCB askarels; fluorocarbons; and mineral oil. EPA summarized available data on these substitute fluids in the Proposed Rule and concluded that adequate substitutes exist for PCBs for indoor transformer locations, including silicone-filled transformers and dry transformers.

As discussed earlier, EPA-sponsored studies indicate that PCDFs and PCDDs can be formed from the incomplete combustion of chlorinated benzenes. Similarly, an EPA-sponsored study indicates that PCDFs can be formed from the incomplete combustion of tetrachloroethylene (perchloroethylene).

The replacement of PCB dielectric fluid with substitute fluids which in fire situations may also lead to the formation of PCDFs and PCDDs should be carefully considered in light of the Agency's decision in this rule to place additional conditions and restrictions on the use of PCB Transformers. EPA's evaluation of the risks posed by the incomplete combustion of PCB dielectric fluid and the frequency of occurrence of PCB Transformer fires indicate that the fire-related risks posed by the use of a dielectric fluid which can be transformed into PCDFs and/or PCDDs can be significant. EPA will study this issue further and evaluate the need for additional EPA action.

C. Retrofilling PCB Transformers

1. *Introduction.* Two general types of substitutes for PCBs in transformers stand out as the best retrofill candidates. These fluids are silicones and high temperature hydrocarbons (HTH). The principal questions to be considered are the cost of retrofill versus the value of the remaining life of the transformer and the qualification of the fluid as "less flammable" for insurance purposes. A related question is the potential for the formation of toxic products of incomplete combustion from the retrofill fluid and remaining residual concentration of PCBs. Other fluids, such as chlorinated hydrocarbons, fluorocarbon, and mineral oil, are used in new transformers but are inappropriate for retrofilling because the design of the PCB Transformers does not fit the properties of the fluids.

Experience with retrofilling to date indicates that reclassification of askarel PCB Transformers to non PCB status is often not cost-effective. Reclassification to PCB Contaminated status, however, has been accomplished in a cost-effective manner for a number of askarel PCB Transformer units. Testimony at the public hearing, however, indicates that retrofill technology continues to evolve, and, that cost-effective reclassification of askarel PCB Transformers to non PCB status may be on the horizon.

2. *Silicones.* There are six silicone fluids sold by six different companies for use as dielectric fluid. Four of the six fluids have been approved by Factory Mutual Research Corporation (FMRC) as "less flammable" fluids. Silicones have a higher viscosity than PCBs and are therefore not quite comparable to PCBs as a coolant. For this reason, it is possible that transformers retrofilled with silicone would have to be derated. According to one silicone fluid manufacturer, if the transformer were fully loaded, a derating not exceeding 5 percent could be necessary. (Derating means lowering the maximum level of electrical load that the transformer can handle.)

It has been mentioned in the literature that a leaking problem could be created because silicone fluids are not compatible with silicone rubber gaskets and the coefficient of expansion of silicone fluids is 50 percent greater than that of PCBs. In actual practice, however, the silicone gaskets are replaced during retrofilling. (Further, even though the coefficient of expansion is greater than that for PCBs, the greater solubility of the filler gas (nitrogen) in silicone eliminates the expected increase in pressure.)

3. *HTHs.* There are six HTH fluids sold by five companies that may be used as transformer dielectric fluids. There are also two products sold by two other companies that when mixed with other products may be used as HTH transformer fluids. Three of the six fluids are paraffinic based oils and three are esters. As mentioned earlier, the three esters are more specialized for use in railroad transformers.

The other three fluids are more viscous than the silicones at lower temperatures, but thin more rapidly at higher temperatures. According to an HTH manufacturer, this property allows the transformers to be retrofilled with HTH without any derating. At lower normal load temperatures, however, the transformers do run hotter. These fluids are completely compatible with the materials that make up PCB Transformers, and they are soluble in PCBs. Two of these fluids are approved by FMRC as "less flammable transformer fluids," and the fire point of the third is over 300 °C.

Because the paraffinic HTHs have high convective and radiant heat release rates, the owner's insurance company may recommend more stringent installation requirements.

V. Benefits and Costs of Regulatory Options

A. Introduction

This unit presents an analysis of the effectiveness and economic impact of various regulatory options for reducing the fire-related risks posed by the continued use of PCB Transformers. For a full analysis of the expected economic impacts see the regulatory analysis for this final rule, support document 7 in Unit X.B. The analysis considers separately, the effectiveness and costs of five major regulatory control options for four categories of PCB Transformers: (1) PCB Transformers in or near commercial buildings, (2) PCB Transformers in or near industrial locations, (3) PCB Transformers in outdoor electrical substations, and (4) PCB Contaminated Transformers. The regulatory control measures considered are: (1) Placing no additional conditions or restrictions on the use of PCB Transformers; (2) requiring the registration and additional labeling of PCB Transformers, the removal of stored combustibles, the containment of potential water releases and the

reporting of PCB Transformer fires to the National Response Center; (3) requiring PCB Transformer failures and fires and the level of protection currently

TABLE 1.—COSTS AND BENEFITS OF CONTROL MEASURES FOR COMMERCIAL PCB TRANS-

with fire departments, the labeling of the exterior of transformer locations is

or simply limiting the contamination

reporting of PCB Transformer fires to the National Response Center; (3) requiring the isolation of PCB Transformers to reduce widespread structure and environmental contamination with PCBs and products of incomplete combustion; (4) requiring the installation of increased electrical protection on PCB Transformers to avoid PCB Transformer failures; and, (5) requiring the removal or retrofill of PCB Transformers. The analysis includes a consideration of the expected savings in cleanup costs as a result of implementing these measures.

Given the well-established toxicity of PCBs, and the presence of materials that are much more toxic than PCBs in the soot from a fire involving a PCB Transformer, owners of PCB Transformers involved in PCB Transformer fires have invested more than $20 million dollars each to ensure the safety of persons returning to occupy these buildings. These costs, for sampling, cleanup and removal of contaminated materials containing PCBs, PCDFs, and PCDDs can be factored into the economic analysis of the benefits of the continued use of PCB Transformers. Earlier analyses of the benefits of the continued use of these transformers, completed in support of the August 1982 PCB Electrical Use Rule, did not take into consideration the costs of cleanup in the event of PCB Transformer fires.

B. Summary of Benefits and Costs

The removal or retrofill of PCB Transformers is both the most effective, and, the most costly measure for reducing the frequency of serious PCB Transformer fires. This measure, once implemented, gives the greatest assurance that PCB Transformer fires will be avoided, regardless of initiating cause. However, it is also the measure which, as a practical matter, would require the longest time for implementation. Concerns such as the availability of PCB disposal capacity, transformer manufacturing capacity, and avoiding the disruption of electrical service make phaseout and/or retrofill more difficult to implement quickly than other risk reduction measures. Based upon EPA's analysis of the frequency of PCB Transformer fires, it is likely that serious PCB Transformer fires will occur in the interim, between the date of promulgation of any phaseout requirement and the actual date of the removal of PCB Transformers from use.

Providing enhanced electrical protection is anticipated to be very effective in avoiding serious PCB Transformer fires, through the prevention of PCB Transformer fault-related failures. Studies of the causes of PCB Transformer failures and fires and the level of protection currently provided indicate that many PCB Transformers could be better protected to avoid fires caused by more common mechanisms of failure, electrical faults. The effectiveness of increased electrical protection is expected to approach that of phaseout/retrofill, although EPA recognizes that electrical protective devices are subject to some (low) rate of malfunction, and, that PCB Transformer fires can also result from less common mechanisms of failure. Requiring a certain level of redundancy in the type of sensors used and the placement of sensors provide increased assurance of a higher level of effectiveness. Further, as a practical matter, this control measure could be implemented more quickly than phaseout/retrofill, because availability of PCB disposal capacity and transformer manufacturing capacity are not primary concerns. Further, this measure would be less disruptive to electrical service than phaseout/retrofill.

Increased electrical protection can be costly, however, compared to other risk reduction measures (other than phaseout/retrofill). Further, while electrical protection systems are expected to have a high degree of reliability in avoiding failures, there is the potential for false outages. These are circumstances in which a transformer is mistakenly deenergized when a sustained fault condition does not in fact exist. While EPA acknowledges the potential economic impact of false outages, EPA has not attempted to quantify this impact.

The isolation of PCB Transformers is expected to be effective in avoiding serious PCB Transformer fires by avoiding widespread structure and environmental contamination. The effectiveness of isolation in actually avoiding more serious PCB Transformer fires depends, however, to a great degree on the capability of a failed transformer to be deenergized within 15 minutes of failure. Isolation is not expected to be very effective for transformers which cannot be easily deenergized after failure occurs. Isolation is expected to be effective in mininizing the distribution of PCBs and incomplete combustion products in circumstances where a transformer has the capability to be deenergized within 15 minutes of failure.

As was the case for the installation of increased electrical protection, isolation measures can be implemented more quickly than PCB Transformer phaseout/retrofill, because availability of PCB disposal capacity and transformer manufacturing capacity are not primary concerns. However, implementation of transformer isolation requirements would be, in general, more complex than providing enhanced electrical protection in a transformer installation. This is because the isolation of transformers would typically require negotiation between building owners and transformer owners for necessary structural changes to buildings. While transformer isolation is costly, it would be in many cases less expensive than either phaseout/retrofill or increased electrical protection.

The registration of PCB Transformers with building owners and fire departments, the labeling of the exterior of PCB Transformer locations, the containment of potential water releases, and the reporting of PCB Transformer fires to the NRC are measures which are expected to reduce exposures in the event of a serious PCB Transformer fire. However, these measures will not be effective in avoiding any of projected 50 serious building fires, or the estimated 3 outdoor PCB Transformer fires from occurring. The effectiveness of these risk reduction measures depends, to a large extent, on the implementation of voluntary measures based on knowledge about the contents of a transformer involved in a fire-related incident. These measures are the least costly control measures that EPA considered.

C. Regulatory Options and Economic Impacts

1. *PCB Transformers in or near commercial buildings—a. Summary table.* The following table (Table 1) summarizes the real costs, benefits, and net costs (after a consideration of savings in cleanup costs from avoided fires) of the major regulatory control measures considered for commercial PCB Transformers. For a full discussion of the assumptions made for this analysis, see support document 7 in Unit X.B.

TABLE 1.—COSTS AND BENEFITS OF CONTROL MEASURES FOR COMMERCIAL PCB TRANSFORMERS

Option	Real cost (millions)	Expected fires	Avoided fires	Net cost (millions)
No action	N/A	44	0	[1] $399
Labeling and registration	$7.3	44	[2] 0	7.3
Enhanced E. protection, 5-years	590	9	35	343
Removal:				
5-years	953	8	38	704
10-years	640	15	29	470
Removal of 480 network 5-years	168	19	25	[3] −4.7

TABLE 1.—COSTS AND BENEFITS OF CONTROL MEASURES FOR COMMERCIAL PCB TRANSFORMERS—Continued

Option	Real cost (millions)	Expected fires	Avoided fires	Net cost (millions)
Removal of 480 network & E. protection of remaining (5-years)	628	9	35	390

[1] Fire-related cleanup expense over, remaining useful life.
[2] Would be expected to reduce exposures.
[3] Avoided cleanup costs exceed real cost of measure.

b. *Take no additional action.* The first regulatory option that EPA considered for PCB Transformers located in or near commercial buildings was to take no further regulatory action at this time to restrict the use of these transformers. This would allow the continued use of PCBs in or near buildings such as office buildings, shopping centers, apartment buildings, and hospitals without additional restrictions above the requirements of the August 1982 PCB Electrical Use Rule. That rule authorized the continued use of transformers containing PCBs (that pose no exposure risk to human food or animal feed) for the remainder of their useful lives subject to certain recordkeeping and inspection requirements, based on the concentration of PCBs in the equipment.

There are no costs to transformer owners associated with EPA's allowing the continued use of these transformers, other than the potential future costs associated with cleanup and liability suits following fires involving this equipment. If the use of PCB Transformers in or near commercial buildings were authorized indefinitely, without additional restrictions, EPA expects that 44 additional incidents will occur over the remaining useful life of this equipment.

For purposes of this analysis, these 44 incidents would be expected to require cleanup efforts whose cost would approach $20 million each (1985 dollars) or an estimated $399 million over the remaining useful life of this equipment.

c. *Labeling and registration programs.* The registration of PCB Transformers located in or near commercial buildings with fire departments and building owners, in combination with the labeling of the exterior of transformer locations with PCB identification labels may be effective in reducing exposures to firemen, building occupants, and bystanders. Compared to the other regulatory alternatives under consideration (other than the alternative of taking no additional action), the cost of this option is relatively low. EPA believes that in addition to registration with fire departments, the labeling of the exterior of transformer locations is necessary to insure that emergency response personnel arriving at the scene of a fire know that the fire involves a transformer that contains PCBs. EPA expects that the costs of labeling the exterior of PCB Transformer locations will be about $76.00 per location. EPA estimates that the total cost of labeling the exterior of commercial PCB Transformer installations will be about $3.5 million.

The costs of registering commercial PCB Transformers are also expected to be minimal, since the location of all PCB Transformers should already be known by the owners of this equipment. The costs to transformer owners of forwarding this information to all building owners and to fire departments with primary jurisdiction is expected to be minimal, on the order of $50.00 per transformer. EPA estimates that total costs of this registration program for commercial PCB Transformers would be approximately $3.8 million. The total real costs of registration and labeling of commercial PCB Transformers would be on the order of $7 million.

While transformer registration and labeling programs would be expected to reduce human and environmental exposures to PCBs, and oxidation products, they will not reduce the frequency of serious PCB Transformer fires.

d. *Smoke control technologies.* Certain design techniques or changes in commercial PCB Transformer locations may be effective in reducing the likelihood of widespread structure and environmental contamination from a failed PCB Transformer. The effectiveness of transformer isolation as a control measure depends to a large extent, however, on the type of PCB Transformer installation and the ease of actuating deenergization.

Unlike the ventilation systems for other oil-filled transformers, the ventilation systems for PCB Transformers were not designed for the purpose of fire isolation but rather were designed only to keep the ambient temperature at or below 30° Centigrade (C). However, the removal or alteration of existing ventilation systems could result in higher operating temperatures which shorten transformer operating lives and may increase the likelihood of equipment failure.

Thus, the design of alternative ventilation or cooling systems may be necessary to reduce the potential for building contamination. Ventilation alternatives include air conditioners, redirected venting, and heat exchangers, or simply limiting the contamination potential of the existing system by reducing the ventilation cooling effectiveness.

The objective of isolation is to reduce the widespread contamination of structures and the environment by smoke and soot from a transformer fire. These techniques often include the modification of the ventilation system serving the transformer location and/or sealing cracks or openings which would permit smoke to escape freely into occupied areas and the environment. In the more serious transformer incidents, the presence of building ventilation systems, building ductwork, and openings in construction in transformer locations have been responsible for the dispersion of toxic contaminants into buildings.

While transformer isolation can reduce exposures in the event of a failure and fire involving a PCB Transformer (by reducing the spread of contaminants), if a transformer cannot be easily deenergized within 15 minutes after a sustained fault occurs, then substantial quantities of smoke and soot can be generated. The longer a transformer remains energized after a serious fault occurs, the less likely it is that isolation will be effective in reducing exposures to PCBs and incomplete combustion products.

Although specific design changes and costs of isolation techniques are dependent on the individual transformer location, EPA has developed some general cost estimates. A firm involved in survey and design projects for PCB Transformers estimates that in 85 to 90 percent of all cases where isolation is the desired alternative, the costs are about $8,000 per transformer location.

For purposes of the cost-effectiveness analysis, an average cost of $8,000 per location is assumed for all locations where some form of suitable transformer enclosure is already present. For nonenclosed transformers, an estimated cost of $15,000 is assumed for retrofit of an enclosure that provides for smoke containment.

In order to facilitate compliance monitoring efforts, EPA would require the development of written PCB Smoke Spread Reduction Plans (PCB–SSRPs). The development of PCB–SSRPs involves documenting measures taken to isolate PCB Transformers from building ventilation equipment, ductwork, and openings in construction. EPA expects that maintaining these records would create a minimal additional burden on PCB Transformer owners (above the burden created by requiring transformer isolation procedures).

The total real costs of isolation procedures for commercial PCB

use have disconnect equipment (in the form of a primary circuit breaker or

Transformers depends both on the form of protection selected, and, whether the

network PCB Transformers, fault sensors would also be needed in the

protection and that there are constraints

PCB Transformers, as well as estimates

The total real costs of isolation procedures for commercial PCB Transformers implemented over a 5-year period are $318 million. Avoidance of cleanup costs through transformer isolation depends to a great extent on the ability to deenergize a transformer rapidly. EPA has limited data on the number of commercial transformers which can be rapidly deenergized (i.e., which currently have the capability to be deenergized within 15 minutes of a sustained fault); these transformers would be the group most likely to derive benefits from isolation in the event of PCB Transformer failure. Available data suggest that most commercial PCB Transformers are not capable of being rapidly deenergized in the event of a sustained fault. This severely reduces the effectiveness of PCB Transformer isolation alone, without increased electrical protection, as a mechanism for avoiding serious PCB Transformer fires in or near commercial buildings.

e. *Increased electrical protection.* Avoidance of serious PCB Transformer fires in commercial buildings through increased electrical protection involves the installation of appropriate sensors and disconnect equipment to detect common causes of transformer failures and to allow for deenergization. The disconnect equipment would either be automatically activated in response to sensed abnormal conditions (with a provision for manual deenergization), or, manually opened following the receipt of an audio or visual signal (indicating abnormal conditions) at an on-site manned control center. Devices which respond to overcurrent conditions and sensors which respond to low current faults would protect against failures from two basic mechanisms of fault-related transformer failures. Low current fault protection in the form of heat and pressure sensors and associated disconnect equipment would also provide deenergization following high temperatures and changes in pressure from other causes, such as mechanical failures or external fires.

As discussed in Unit IV.C, transformer failures can occur as a result of excessive current flow of a transformer. Of the 77,568 PCB Transformers used in or near commercial buildings, approximately 21,000 PCB Transformers (the network transformers) are currently without overcurrent protection on the primary side (the high voltage side) of the transformers. Second, virtually none of the 77,568 PCB Transformers in or near commercial buildings are currently equipped with sensors to detect low current faults. Finally, virtually none of the 21,000 network PCB Transformers in use have disconnect equipment (in the form of a primary circuit breaker or equivalent technology) on site to allow for rapid deenergization, and, EPA expects that many of the 55,000 commercial radial PCB Transformers do not utilize primary circuit breakers for high current fault protection.

The installation of certain safety equipment to detect sustained high current and low current faults on PCB Transformers which currently lack such protection would reduce the probability of failures, fires, and explosions in commercial PCB Transformers, particularly events resulting from electrical malfunctions. Electrical malfunctions, specifically electrical faults, have been implicated in many known PCB Transformer fires.

The highest reduction in the probability of PCB Transformer fault-related failure is attained when protection is provided against both basic mechanisms of transformer fault-related failures. Installation of overcurrent protection without protection against low current faults will avoid only those PCB Transformer fires which occur as a result of overcurrent conditions.

Electrical faults in general are more likely in network transformers than radial transformers because network transformers have more associated electrical equipment (on the secondary side of transformers); network transformers have network protectors and network buswork for faults to occur in. This does not mean that faults will not occur in radial transformers; it simply means that when radial installations are compared to network installations, one would expect more electrical faults in general to occur in network installations.

When the secondary voltage of a transformer is higher, any faults which occur in the secondary are more likely to be sustained rather than self-clearing or self-extinguishing. Sustained faults cause PCB Transformer failures and fires. Thus, higher secondary voltage network PCB Transformers would have the highest probability of failure from faults. Using the same logic, low secondary voltage radial PCB Transformers would have the lowest probability of failure from faults.

According to comments on the Proposed Rule, historically, utilities have installed high current fault protection on the primaries and secondaries of radial transformer installations. Network installations, however, have been less well protected against high current faults.

The cost of installing increased protection on commercial PCB Transformers depends both on the form of protection selected, and, whether the device involves a retrofit of the transformer. High current fault protection is much less costly than low current fault protection. Low current fault protection involves the installation of disconnect equipment as well as the installation of appropriate sensors. High current fault protection involves the installation of current-limiting or energy limiting fuses.

Since comments on the Proposed Rule and EPA's analysis indicate that the probability of a transformer failure from electrical faults is influenced by the type of transformer installation, not all of the above protection would be warranted on a cost/benefit basis for all types of commercial PCB Transformer installations.

Under the option of increased electrical protection, EPA would require that all commercial PCB Transformers be equipped with overcurrent protection to avoid transformer failures as a result of high current faults. Current-limiting fuses are relatively inexpensive, and would avoid failures from high current faults in the primary and secondary areas of transformers. The cost of installing current-limiting fuses (on the estimated 22,191 commercial network PCB Transformers which currently lack such protection) is estimated at $53 million. The installation of these devices on the approximately 15,072 lower secondary voltage network transformers is estimated at $35 million.

EPA would also require that all commercial PCB Transformers with higher secondary voltages be equipped with protection against sustained low current faults. This is because transformers with higher secondary voltages are more likely to experience sustained rather than self-clearing faults. While 480 volt network PCB Transformers may have a particularly high probability of sustained low current faults (because of the high secondary voltage and the presence of more associated electrical equipment), when a low current fault occurs in a higher secondary voltage radial PCB Transformer (in the voltage winding, low voltage leads, or other equipment), it too will be sustained and can result in transformer failure.

For the majority of these higher secondary voltage commercial PCB Transformers, protection against failures from low current faults would mean the installation of a primary circuit breaker on site as well as the installation of non-electrical sensors, such as pressure sensors and temperature sensors in the transformer. For high secondary voltage network PCB Transformers, fault sensors would also be needed in the network protector and the network bus as well. Requiring the installation of both pressure and temperature sensors in the transformer tank and fault sensors in the network protector and network bus of high secondary voltage network PCB Transformers provides a level of redundancy in the protection system; this increases the reliability of electrical protection, and provides increased assurance that increased electrical protection would actually avoid PCB Transformer failures and fires.

The cost of protection against low current faults is principally the cost associated with the installation of disconnect equipment such as circuit breakers on site. The cost of the indicated sensors is a fraction of the cost of the installation of a primary circuit breaker.

The total real costs associated with requiring the installation of high current fault protection on all commercial PCB Transformers and low current fault protection on higher secondary voltage commercial PCB Transformers over a 5-year period is estimated at $590 million. EPA expects that the installation of these electrical protection systems will avoid about 97 percent of serious PCB Transformer fires in commercial buildings which would have otherwise occurred, or, 35 serious PCB Transformer fires over the remaining useful life of this equipment. The net cost of this control measure, after adjusting for avoided cleanup costs is estimated at $343 million.

The increased electrical protection requirement which appeared in the Proposed Rule required installation in 3 years, by October 1, 1988. Based on comments submitted in response to the Proposed Rule concerning the type of electrical protection needed, the higher costs of this protection (compared to the proposed electrical protection requirement and the proposed isolation requirement), and the larger number of PCB Transformers which require additional electrical protection, EPA believes that it is reasonable to allow a longer phasein period for this control measure than was proposed. Further, EPA recognizes that many PCB Transformer owners may choose PCB Transformer removal in lieu of enhanced electrical protection, and that this will place additional burdens on PCB disposal capacity. Requiring the installation of enhanced electrical protection on a schedule which recognizes both the fact that many PCB Transformer owners have chosen or will choose removal rather than electrical protection and that there are constraints on PCB disposal capacity will encourage PCB Transformer owners who have voluntary 5-year phaseout programs in place to continue and may stimulate other owners to initiate such programs. Thus, EPA has allowed 5 years for the implementation of the requirement for enhanced electrical protection.

f. *Retrofilling.* Retrofilling of commercial PCB Transformers to reduce the PCB concentration to below 500 ppm would be expected to reduce human and environmental exposures to PCBs and their oxidation products in the event of a fire. This would be accomplished through a substantial reduction in the amount of PCBs present in the transformers. EPA has completed an analysis of the costs of retrofilling commercial PCB Transformers to reduce PCB concentrations to below 500 ppm. EPA estimates that retrofill costs will range from $15,505 for a 50 KVA transformer to $32,034 for a 3,000 KVA transformer. These estimates include the costs of disposal of PCB fluid, but do not include any consideration of a loss of efficiency or derating as a result of the retrofill.

An estimate of the total resource costs of retrofilling all commercial PCB Transformers (77,568 at end of 1984) to below 500 ppm is about $1.2 billion. Although the retrofilling of PCB Transformers reduces the risks to humans posed by the transformer in the event of a fire (by reducing the amount of PCBs present, the amount of PCBs released, and the amount of PCDF formed and released), it is difficult to estimate the effectiveness of this option in avoiding cleanup costs from fire incidents, since PCDFs and PCDDs may still be formed.

g. *Phaseout of commerical PCB Transformers.* The removal of all PCB Transformers from locations in or near commercial buildings or the removal of particularly high risk PCB Transformers from locations in or near commercial buildings would give increased assurance that future serious PCB Transformer fires from all causes will be avoided. The following table uses a population of 77,568 units (EPA's estimate of the number of PCB Transformers in or near commercial buildings that will be in use at the end of 1984) and a population of 7,420 units (EPS's estimate of the number of high secondary network PCB Transformers in use). EPA uses an estimate of equipment life of 30 years, and presents total real costs of phase-out over 5- and 10-year periods of all commercial PCB Transformers, and phaseout over a 5-year period of higher secondary network PCB Transformers, as well as estimates of the number of PCB Transformer fires avoided, and the net costs, after a consideration of avoided cleanup costs. (EPA did not evaluate an immediate ban because comments indicated that manufacturing capacity was insufficient to allow for this option.) For a full description of the assumptions used in the following analysis, and for a more detailed analysis of phaseout costs versus cleanup costs avoided, see the regulatory analysis for the final rule, support document 7 in Unit X.B.

TABLE 2—PHASEOUT COST COMPARISON

Group	Regular option	Cost ($ millions)	PCB fires avoided	Net cost ($ millions)
All commercial	10-year phaseout	640	29	470
All commercial	5-year phaseout	953	36	704
Commercial 480 Network	5-year phaseout	168	25	−4.7

2. *PCB Transformers in or near industrial facilities*—a. *Summary table.* The following table (Table 3) summarizes the real costs, the benefits, and the net costs (after deducting avoided cleanup costs) of the major regulatory options for industrial PCB Transformers.

TABLE 3—COSTS AND BENEFITS OF CONTROL MEASURES FOR INDUSTRIAL PCB TRANSFORMERS

Option	Real cost (millions)	Expected fires	Avoided fires	Net cost (millions)
No action	N/A	6	0	364
Labeling & Registration	$2.5	6	0	2.5
Enhanced E. protection 5-years	170	2	4	136
Removal 5-years	319	2	4	285

b. *Take no additional action.* This option would allow the continued use of PCB Transformers in or near facilities such as chemical manufacturing plants, electric power generating plants, forest products processing plants, and warehouses without additional restrictions above the requirements of the August 1982 PCB Electrical Use Rule. There are no costs associated with EPA's allowing the continued use of these transformers, other than the potential future costs associated with cleanup and liability suits following fires involving this equipment. If the use of PCB Transformers in or near industrial facilities were authorized indefinitely, without additional restrictions, EPA expects that up to six PCB Transformer fires with smoke

spread will occur over the remaining useful life of this equipment.

deenergized from an on-site location, the costs of increased electrical protection

cleanup costs, the total net cost would

The cost of the installation of low

Transformers that are able to be

capacity, transformer manufacturing

VOL 50 ISS 137 JL 17 1985 UMI

spread will occur over the remaining useful life of this equipment.

c. *Labeling and registration programs.* The registration of PCB Transformers located in or near industrial facilities with fire departments or fire brigades and the registration with building owners (when the PCB Transformer is not owned by the building owner), in combination with the labeling of the exterior of PCB Transformer locations would cost approximately $2.5 million, assuming that there are about 26,700 industrial PCB Transformers.

While labeling and registration programs would be expected to reduce exposures in the event of a PCB Transformer fire, they will not reduce the frequency of occurrence of these fires.

d. *Smoke control technologies.* Since many industrial PCB Transformers are currently unenclosed, the costs associated with industrial PCB Transformer isolation would be, on the average, higher than for PCB Transformers located in or near commercial buildings. For purposes of the cost-effectiveness analysis, EPA assumes that the cost of the isolation of industrial PCB Transformers will approach $30,000 per transformer location. Assuming that there are 26,700 industrial PCB Transformers, and that there are, on average, 2 PCB Transformers per location, the total cost of the isolation of industrial PCB Transformers over a 5-year period is estimated at $109 million.

The isolation of industrial PCB Transformers (which are typically capable of being more rapidly deenergized than commercial PCB Transformers) would be effective in reducing the relatively low fire-related risks posed by the use of PCB Transformers in industrial facilities even further. Since the majority of PCB Transformers located in or near industrial facilities are capable of being deenergized from an on-site location, isolation of these transformers would be expected to be effective in reducing the spread of any volatilized PCBs or oxidation products released before deenergization could occur.

e. *Increased electrical protection.* For industrial PCB Transformers, increased electrical protection would (typically) involve the installation of appropriate heat and pressure level sensors to detect low current faults and the connection of these sensors to existing primary circuit breakers to allow for automatic deenergization in the event of abnormal conditions. Since industrial PCB Transformers reportedly have primary circuit breakers which provide these transformers with the capability to be deenergized from an on-site location, the costs of increased electrical protection of these transformers would be the costs of installing heat sensors in the secondary winding, and pressure sensors in the transformer tank and connecting these sensors to provide automatic or rapid manual deenergization of the equipment.

For some industrial PCB Transformers, new circuit breakers would have to be installed to allow for the use of these sensors and automatic deenergization.

During plant operating hours, these sensors would reduce the time between the occurrence of a low current fault (or mechanical failure) and the deenergization of the transformer, and, during plant off-hours/non-operational periods, would reduce the probability of a serious incident occurring. Increased electrical protection of industrial transformers (phased-in over a 5-year period) would be expected to avoid four serious PCB Transformer fires which would otherwise occur in these facilities.

The costs associated with the installation of this protection on industrial PCB Transformers would be approximately $170 million for the estimated 26,700 industrial PCB Transformers (phased in over a 5-year period). After adjusting for avoided cleanup costs, the net costs would be estimated at $136 million.

f. *Retrofilling of industrial PCB Transformers.* Retrofilling of industrial PCB Transformers would be expected to reduce even further the fire-related risks posed by the continued use of PCB Transformers in industrial facilities, by reducing the amount of PCBs present for potential release and for conversion to oxidation products. The costs associated with immediately retrofilling the 26,700 industrial PCB Transformers for purposes of reclassification to PCB Contaminated status is estimated at $489 million.

g. *Phaseout of industrial PCB Transformers.* The removal of PCB Transformers from industrial facilities would eliminate the relatively low fire-related risks posed by the continued use of these transformers. Phaseout of industrial PCB Transformers over a 5-year period would avoid up to four industrial PCB Transformer fires with smoke spread at a total cost of $319 million. After adjusting for avoided cleanup costs, the total net cost would be $286 million. Phaseout of industrial PCB Transformers over a 10-year period would avoid about three serious PCB Transformer fires at a total cost of $215 million. After adjusting for avoided cleanup costs, the total net cost would be $192 million.

3. *PCB Transformers in outdoor electrical substations*—a. *Take no additional action.* EPA has few data on PCB Transformer fires which have occurred in outdoor electrical substations. However, EPA has evaluated the potential risks posed by such fires and has developed an estimate of the frequency of these fires. This estimate is based on available information on the probability of serious PCB Transformer fires in or near buildings, and the probability of failures in different types of installations. EPA estimates that up to three outdoor electrical substation fires (with some PCB volatilization and smoke distribution) will occur over the remaining useful life of this equipment.

Since EPA believes that an outdoor PCB Transformer fire will not typically result in the formation of large amounts of incomplete combustion products which would require cleanup, EPA has assumed that cleanup from these incidents will involve primarily the cleanup of spilled PCBs. This type of cleanup operation is significantly less costly than cleanup following a PCB Transformer fire in or near a building.

b. *Labeling and registration programs.* The labeling of the exterior of outdoor PCB Transformer locations, and the registration of these transformers with appropriate fire department jurisdictions is expected to reduce exposures to firefighters and cleanup crews. The cost associated with this registration and labeling program for 17,000 outdoor PCB Transformers is approximately $1.6 million.

c. *Isolation of outdoor PCB Transformers.* Outdoor PCB Transformers could be enclosed to reduce the spread of PCBs and any incomplete combustion products formed. However, enclosing these transformers could create conditions more conducive to the formation of incomplete combustion products. Heat is more likely to be retained rather than dissipated when transformers are enclosed. Thus, while enclosing these transformers would decrease the spread of PCBs following fire-related failures, it could increase the amount of PCBs converted into dibenzofurans from outdoor PCB Transformer fires.

The costs associated with enclosing 17,000 outdoor PCB Transformers over a 5-year period would be on the order of $69 million.

d. *Increased electrical protection.* Outdoor PCB Transformers are typically radial installations, which are already equipped with current-limiting fuses. The cost of the installation of low current fault protection on the higher secondary voltage outdoor PCB Transformers (over a 5-year period) would be on the order of $108 million. Increased electrical protection would be expected to avoid up to three outdoor PCB Transformer fires.

e. *Retrofilling.* EPA has estimated the costs associated with requiring the immediate retrofilling of the approximately 17,000 outdoor PCB Transformers. These costs are estimated to be $270 million.

f. *Phaseout.* EPA has estimated the costs associated with requiring the removal of an estimated 17,000 PCB Transformers in outdoor locations, over 5- and 10-year periods. A 5-year phaseout is estimated to cost $203 million, and a 10-year phaseout is estimated to cost $137 million.

4. *PCB Contaminated transformers.* EPA has also estimated the costs associated with requiring additional controls on the use of PCB Contaminated transformers. The costs range from over $8 billion for the testing of transformer fluids for PCB concentration and the registration and labeling of PCB Contaminated transformers, to over $263 billion for removal within 5 years. Registration and labeling of PCB Contaminated transformers would reduce the low PCB fire-related risks posed by the use of this equipment; and, removal would eliminate these risks.

VI. Risk/Benefit Assessment

1. *Use of PCB Transformers in or near commercial buildings.* PCBs can be released in fires involving PCB Transformers, and, (depending upon the contents of the transformer and the combustion conditions), 2,3,7,8-TCDF, PCDFs, 2,3,7,8-TCDD, and PCDDs can be formed. Laboratory studies on the formation of PCDFs from PCBs, and PCDDs from chlorinated benzenes, as well as sampling data from actual PCB Transformer fire sites confirm that PCBs can be released and 2,3,7,8-TCDF and 2,3,7,8-TCDD (as well as other PCDF and PCDD congeners) can be formed and released from fires involving PCB Transformers.

EPA believes that PCBs are both toxic and persistent, and, that PCDFs and PCDDs are orders of magnitude more toxic than PCBs. PCB Transformers that remain energized after sustained faults or following failures as a result of fires from external sources are more likely to result in the volatilization of large amounts of PCBs and the formation of large amounts of PSDFs, 2,3,7,8-TCDF, PCDDs and 2,3,7,8-TCDD through incomplete combustion than PCB Transformers that are able to be deenergized rapidly and completely when an arc or fault occurs.

PCB Transformers can become involved in fires from many causes including sustained low current faults, sustained high current faults, and fires external to transformers involving stored combustibles or building materials followed by an inability to deenergize the transformer. The fire-related risks posed by the continued use of PCB Transformers in or near commercial buildings are much higher than the fire-related risks posed by the continued use of PCB Transformers in outdoor locations and industrial facilities. The overall probability of PCB Transformer fault-related failure is higher in commercial buildings than in other PCB Transformer locations and the risks posed are also higher in the event of a PCB Transformer fire.

The fire-related risks posed by the continued use of higher secondary voltage network PCB Transformers in commercial buildings are particularly high, because these transformers have the highest probability of failure from both high and low current faults, and, they are typically used in more densely populated commercial buildings, specifically, in locations such as high-rise office buildings.

The benefit of removing commercial PCB Transformers from use is the complete assurance that PCB Transformer fires will no longer occur in or near commercial buildings. Serious PCB Transformer fires which would have otherwise occurred will definitely be avoided. PCB Transformer fires in or near commercial buildings pose particularly high risks to human health, because sustained high temperatures are more likely in these locations (leading to the volatilization of large amounts of PCBs and the formation of large amounts of incomplete combustion products), and building occupants, cleanup crews, and fire response personnel are more likely to incur these higher exposures. In addition, the lack of knowledge on the part of commercial building occupants, firefighters, and cleanup crews about the potential risks posed make exposures even more likely.

There are an estimated 77,568 PCB Transformers located in or near commercial buildings, and 7,420 of these transformers are expected to be higher secondary voltage network PCB Transformers. The 77,568 PCB Transformers used in commercial buildings represent 64 percent of all PCB Transformers in use. The immediate removal of these transformers from use is not possible because of considerations such as PCB disposal capacity, transformer manufacturing capability, and disruption of electrical service. The cost of removing all of these PCB Transformers from use over the next 5 years is estimated at $953 million. Five years may not be an adequate amount of time for the removal and disposal of this many transformers. There are currently only four EPA-approved commercial PCB incinerators. According to comments on the Proposed Rule, PCB disposal capacity is such that the cost of PCB disposal has significantly jumped (almost doubled) over the last year. Disposal capacity will continue to be of concern over the next few years, since existing EPA regulations require the removal of PCB Transformers in use in food and feed processing facilities by October 1, 1985 and a limited phaseout of PCB Capacitors by October 1, 1988.

The removal of all commercial PCB Transformers by 1990 would, however, avoid an estimated 36 serious PCB Transformer fires in commercial locations. The removal of all commercial PCB Transformers by 1995 is estimated to cost on the order of $640 million for the avoidance of an expected 29 serious PCB Transformer fires.

The costs of removing the particularly high risk 7,420 commercial higher secondary voltage network PCB Transformers from use over the next 5 years is estimated at $168 million. The removal of these particularly high risk PCB Transformers from use by 1990 would be expected to avoid an estimated 25 serious PCB Transformer fires, or about 70 percent of all PCB Transformer fires in commercial buildings which EPA expects would otherwise occur. The removal of higher secondary voltage network PCB Transformers from use by October 1, 1990 will avoid an estimated 70 percent of serious commercial PCB Transformer fires for about 17 percent of the cost associated with the removal of all commercial PCB Transformers from use by this same date.

EPA believes that it is prudent to require the removal of commercial higher secondary voltage network PCB Transformers from use as soon as possible, taking into consideration factors such as PCB disposal capacity and continuity of electrical service. EPA believes that the soonest practical date for requiring the removal of this equipment is by October 1, 1990. Testimony at the public hearing, comments on the Proposed Rule, and EPA's analysis overwhelmingly support a determination that these transformers are of particularly high risk. EPA expects that 25 serious commercial PCB

Transformer fires will be avoided by the removal of these PCB Transformers expected to avoid sustained high temperatures in commercial PCB

EPA has selected increased electrical protection for many commercial PCB

PCB Transformer fires could be avoided by requiring the removal or enhanced

practically and safely possible to

the level of risk posed is considerably

Transformer fires will be avoided by the removal of these PCB Transformers (over a 5-year period) for a total real cost of less than $7 million per avoided incident. Cleanup costs alone for a single incident in a commercial building would be expected to exceed this $7 million figure substantially.

While EPA has decided to require the removal of these particularly high risk PCB Transformers from use, it believes that less costly yet highly effective measures can be implemented to reduce the remaining fire-related risks posed by the continued use of other commercial PCB Transformers. Namely, EPA has determined that enhanced electrical protection systems will be effective in avoiding many fires in these remaining commercial installations. Electrical protection can be very effective in avoiding PCB Transformer failures and fires through the early detection of common mechanisms of failure and the rapid deenergization of transformers.

EPA is requiring all commercial PCB Transformers to be protected against failures from sustained high current faults in the primary and secondary areas of the transformers. Further, EPA is requiring that all commercial higher secondary voltage radial PCB Transformers be equipped with protection against sustained low current faults as well.

EPA has determined that all commercial PCB Transformers should be registered with fire departments and building owners and that commercial PCB Transformer locations should be labeled on the exterior. Finally, EPA has determined that stored combustible materials should be removed from all commercial PCB Transformer locations, that all fire-related incidents should be reported to the National Response Center, and that measures be taken to contain all potential releases to water associated with a fire-related incident.

The real cost of requiring registration, labeling, and removal of stored combustibles for all commercial PCB Transformers and enhanced electrical protection for 56,605 commercial PCB Transformers (over a 5-year period) is estimated at $459 million. The expected incremental benefit of these measures (for other than higher secondary voltage network PCB Transformers) is the avoidance of an additional 10 serious PCB Transformer fires which would have otherwise occurred, or about 30 percent of all commercial PCB Transformer fires which EPA expects would otherwise occur over the remaining useful life of these transformers.

Increased electrical protection and the removal of stored combustibles is expected to avoid sustained high temperatures in commercial PCB Transformer locations; thus, significantly reducing the likelihood of PCB volatilization and the formation of large amounts of incomplete combustion products. Reducing the likelihood of PCB Transformer failures in commercial locations reduces potential exposures to building occupants, cleanup crews, and emergency response personnel. PCB Transformer fires may occur through less likely mechanisms and electrical protection systems are subject to some (low) rate of malfunction. The requirement for the registration and labeling of commercial PCB Transformers will reduce exposures in the event that sustained high temperatures occur despite the presence of increased electrical protection.

EPA has selected the option of the removal of commercial higher secondary voltage network PCB Transformers from use by October 1, 1990, the immediate registration, labeling, and removal of stored combustibles for all commercial PCB Transformers, and enhanced electrical protection (by October 1, 1990) for a large majority of the remaining 70,000 commercial PCB Transformers currently in use. EPA is also requiring the reporting of all PCB Transformer fire-related incidents to the National Response Center, and, that measures be taken as soon as practically (and safely) possible to contain any potential releases to water in the event of a PCB Transformer fire-related incident. The total real cost of this program to reduce the fire-related risks posed by the continued use of PCB Transformers in commercial locations is estimated at $635 million and is expected to avoid 35 serious PCB Transformer fires which would have otherwise occurred over the remaining useful life of commercial PCB Transformers, or about $17 million per serious PCB Transformer fire avoided. The net cost, after deducting for avoided cleanup costs, is estimated at $390 million,or about $10 million per serious PCB Transformer fire avoided.

EPA has also banned the further installation of PCB Transformers in locations in or near commercial buildings. EPA recognizes that the costs associated with PCB Transformer removal include the costs of physically removing PCB Transformers as well as providing replacement transformers. The costs associated with not installing a PCB Transformer (which has been placed into storage for reuse) in a commercial building are minimal. Further, even with increased electrical protection, there is some level of risk posed by the use of PCB Transformers in or near commercial buildings. While EPA has selected increased electrical protection for many commercial PCB Transformers, it has determined that the installation of PCB Transformers (which have been placed into storage for reuse) in or near commercial buildings presents an unreasonable risk. Thus, EPA has banned the new installation of PCB Transformers in or near commercial buildings.

2. *Use of PCB Transformers in or near industrial focilities.* PCBs can be released in fires involving industrial PCB Transformers, and, depending upon combustion conditions, incomplete combustion products can be formed. PCB Transformers that remain energized for prolonged periods after sustained faults occur or following failures as a result of fires external to the PCB Transformers are more likely to result in the volatilization of PCBs and the formation of incomplete combustion products than PCB Transformers that are able to be deenergized rapidly and completely when a fault or failure occurs.

Based on comments on the Proposed Rule, EPA believes that PCB Transformers located in or near industrial facilities are less likely to be involved in fires involving sustained high temperatures than PCB Transformers located in or near commercial buildings. This is because these transformers, as a group, are typically equipped with more protection from failures than commercial PCB Transformers, and, are typically able to be deenergized from an on-site location. Thus, the probability of industrial PCB Transformer fault-related failure and fire is lower in industrial facilities than in commercial buildings, and the risks posed in the event of a fault-related failure and fire are also expected to be less.

EPA recognizes that exposures from PCB Transformer fires in atypical industrial facilities (where deenergization does not occur as rapidly) could be higher than the exposure previously described. However, EPA's estimate of the frequency of industrial PCB Transformer fires indicates that up to 6 PCB Transformer fires (with smoke spread into industrial facilities) are expected to occur over the remaining useful life of this equipment. Four industrial PCB Transformer fires would be expected to occur after October 1, 1990. Even if EPA were to assume as a worst-case that the risks posed by PCB Transformer fires in industrial facilities were equivalent to the risks posed by PCB Transformer fires in commercial buildings, EPA expects that only 4 serious industrial PCB Transformer fires could be avoided by requiring the removal or enhanced electrical protection of industrial PCB Transformers by 1990.

The costs, however, of the removal of these industrial PCB Transformers from use by 1990 is estimated at $319 million. The removal of industrial PCB Transformers from use by 1990 would avoid about four PCB Transformer fires involving smoke spread into buildings. The real cost per avoided serious fire is almost $80 million. Enhanced electrical protection of these transformers by 1990 would be expected to avoid about the same number of incidents at a total real cost of $170 million, or, $43 million per avoided incident. Isolation of these transformers by 1990 would be expected to reduce building contamination; thereby, reducing potential exposures to workers, cleanup crews, and fire response personnel at a total cost of $109 million, or, $27 million per incident.

The benefit of removing these transformers or protecting these transformers by 1990 is the avoidance of up to four industrial PCB Transformer fires. PCB Transformer fires involving the formation of large amounts of incomplete combustion products are less likely in industrial facilities than in or near commercial buildings. Sustained high temperatures are less likely in these locations due to equipment visibility and deenergization capability, and, as a result, building occupants (workers), cleanup crews, fire response personnel, and members of the general population are less likely to incur high exposures. Further, there are generally fewer people at risk of incurring these exposures from fires in industrial facilities than from fires in commercial buildings.

The cost of requiring the registration, increased labeling, and removal of stored combustibles from industrial PCB Transformer locations is estimated at $1.9 million. While these measures will not reduce the frequency of serious industrial PCB Transformer fires, they should reduce any exposures to workers, cleanup crews, and fire response personnel.

EPA has selected the option of the registration, external labeling, and removal of stored combustibles from industrial PCB Transformer locations for the estimated 26,700 industrial PCB Transformers in use or in storage for reuse in industrial locations. This is a relatively inexpensive measure which will reduce exposures in the event of a PCB Transformer fire. EPA is also requiring the reporting of all PCB Transformer fire-related incidents to the National Response Center, and, that measures be taken as soon as practically and safely possible to contain any potential release to waterways. These requirements are not burdensome, and will reduce further any human and environmental exposures following industrial PCB Transformer fires.

3. *Use of PCB Transformers in outdoor locations.* EPA's evaluation of the risks posed by PCB Transformer fires indicates that the use of PCB Transformers in outdoor locations away from commercial areas poses less risk to public health and the environment than the use of this equipment in or near buildings. First, combustion conditions in outdoor locations may not be so conducive to the volatilization of PCBs and the formation of incomplete combustion products as combustion conditions in enclosed areas such as sidewalk vaults and machinery rooms.

Second, EPA believes that fewer people are generally present near outdoor PCB Transformer locations, and, that many of these areas are fenced in to restrict access to authorized personnel. Further, if PCBs were volatilized and dispersed into the environment, individual human exposures to PCBs and potential oxidation products from such a fire are expected to be much lower than from fires in or near buildings. EPA expects fewer than three outdoor PCB Transformer fires (with smoke spread) over the remaining useful life of this equipment.

There are an estimated 17,000 PCB Transformers in outdoor locations. The total real cost of the removal of these PCB Transformers from use by 1990 is estimated at $207 million, or, $69 million per avoided incident. The total real cost of installing increased electrical protection on these transformers is $36 million, or, $12 million per avoided incident.

EPA believes, however, that it is prudent to require registration and increased labeling of outdoor PCB Transformers, the containment of all potential releases to water, and the reporting of all PCB Transformer fire-related incidents to the NRC. These measures will reduce exposures of emergency response personnel to spilled PCBs (which is anticipated to be the more prevalent situation in outdoor locations) and would serve to limit the spread of these materials into the environment.

4. *PCB Contaminated transformers.* A fire involving a PCB Contaminated transformer can result in the formation and/or release of PCBs and oxidation products. Thus, the use of these transformers does pose some level of risk in a fire-related incident. However, the level of risk posed is considerably less than the risks posed by the use of PCB Transformers. Further, there are an estimated 20 million PCB Contaminated transformers in use. Even the least costly regulatory alternative, the registration and external labeling of PCB Contaminated transformers, would cost more than $8 billion.

Thus, EPA has determined that the continued use of PCB Contaminated transformers without additional controls will not present unreasonable risks to public health or the environment.

VII. Findings on the Use of PCBs in Electrical Transformers

1. Based on the analyses presented in Unit VI, EPA has determined that the use of PCBs in electrical transformers does not pose unreasonable risks to public health or the environment, provided, that in addition to the inspection, recordkeeping, and servicing requirements of the August 25, 1982 Electrical Equipment Rule:

a. Higher secondary voltage network PCB Transformers (network PCB Transformers with secondary voltage at or above 480 volts, including 480/277 volt network PCB Transformers) in or near commercial buildings are removed from use, reclassified, placed into storage for disposal or disposed by October 1, 1990.

b. By October 1, 1990, higher secondary voltage radial PCB Transformers (radial PCB Transformers with secondary voltages at or above 480 volts, including 480/277 volts radial PCB Transformers) and lower secondary voltage network PCB Transformers used in or near commercial buildings are equipped with sensors to detect electrical faults and insure rapid deenergization prior to transformer failure.

c. All PCB Transformers are registered with appropriate fire response organizations and PCB Transformers located in or near buildings are also registered with building owners.

d. The vault door, machinery room door, or means of access (other than grates and manhole covers) to PCB Transformers are labeled with PCB identification labels.

e. PCB Transformer locations are cleared of stored combustibles.

f. In the event of a PCB Transformer fire, measures are taken to contain water releases.

g. In the event of a PCB Transformer fire, the National Response Center is immediately notified.

2. The use of PCBs in transformers that comply with: (1) The inspection, recordkeeping, and servicing

requirements of the August 25, 1982 Electrical Use Rule; and (2) the fire

VIII. Amendments to the PCB Electrical Equipment Rule

be stored within a PCB Transformer enclosure, within 5 meters of a PCB

wood and paper products, chemicals or plastics, and metals.

has also evaluated the potential for building contamination from vaulted

is acceptable. In order to be effective in avoiding PCB Transformer failures,

VOL 50 ISS 137 JL 17 1985 UMI

VOL
50
ISS
137
JL
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1985
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requirements of the August 25, 1982 Electrical Use Rule; and (2) the fire hazard risk reduction measures described above, does not pose unreasonable risks to public health or the environment for the following reasons:

a. If EPA immediately banned the continued use of PCB Transformers it would cost the public and United States industry billions of dollars, primarily as a result of the disruption of electrical service. There are over 120,000 PCB Transformers currently in use and an estimated 20 million PCB Contaminated transformers currently in use. The resulting reduction in risk from an immediate ban, after considering both the risks posed by spills and leaks of PCBs as well as the risks posed by fires involving this equipment, would not outweigh these substantial costs.

b. The required inspection, maintenance, and servicing requirements under the August 25, 1982 Electrical Use Rule, and the fire hazard risk reduction measures listed above (including the required removal of commercial higher secondary voltage network PCB Transformers from use by October 1, 1990) reasonably reduce the exposures associated with the use of PCBs in PCB Transformers. The required fire hazard risk reduction measures and the required 5-year phaseout of commercial higher secondary voltage network PCB Transformers are measures which are much less costly than a total ban on the use of PCBs but are of similar effectiveness in reducing the overall fire-related risks posed by the use of these transformers.

c. The costs of phaseout and retrofilling of all PCB Transformers are not reasonable when considering the potential reduction in release of PCBs and the reduction in the risks posed by PCB Transformer fires if these measures were required for all PCB Transformers. EPA has targeted phaseout requirements for those PCB Transformers which EPA has concluded pose particularly high risks of failure and fire.

d. Releases of PCBs to the environment and exposures to humans and biota from the use of PCB-Contaminated and non-PCB transformers are minimal. Further, the risks posed by fires involving this equipment are substantially less than the risks posed by fires involving PCB Transformers, and the costs of any control measures to reduce these low risks further are very high.

VIII. Amendments to the PCB Electrical Equipment Rule

A. Registration/Labeling/Removal of Stored Combustibles

EPA has required the registration of all PCB Transformers by December 1, 1985, with fire departments with primary response jurisdiction. This means that each PCB Transformer in use or in storage for reuse must be registered with the fire department(s) which would be called upon for the initial response to a fire involving the equipment. The information to be supplied to the fire department(s) includes the address of the building in which the transformer is located (or the nearest building for PCB Transformers located near buildings, or, the nearest intersection for outdoor PCB Transformers); the location of the transformer within the building or near the building (e.g., third floor east end, or, west side of the building); and the principal constituent of the dielectric fluid in the transformer (e.g., PCBs, mineral oil, silicone oil). For industrial PCB Transformers, this may mean only the registration of the transformers with the industrial fire brigade on site.

EPA has also required the registration, by December 1, 1985, of PCB Transformers located in or near buildings with building owners. Each owner of a PCB Transformer(s) is responsible for registering the transformer(s). This means that all PCB Transformers located in or near buildings must be registered with appropriate building owners. For PCB Transformers located inside buildings, this means the registration of the transformer(s) with the building owner of record. For PCB Transformers located "near" buildings, this means the registration of the PCB Transformer(s) with all building owners whose buildings are located within 30 meters of the PCB Transformer(s).

EPA has required the labeling of the exterior of all PCB Transformers with the Mark M_L. This means that doors, fences, hallways, and other easily markable means of access to PCB Transformer locations must be marked with PCB identification labels. These labels must be prominently displayed and visible to emergency response personnel in the event of a fire involving this equipment. The exterior of sidewalk and underground vaults, that is, grates and manhole covers, are not required to be marked (because of difficulties in maintaining the mark over time).

EPA has required the removal of stored combustibles from all PCB Transformer locations. This means that materials such as paints, solvents, paper, rubber, and sawn wood must not be stored within a PCB Transformer enclosure, within 5 meters of a PCB Transformer enclosure, or within 5 meters of a PCB Transformer. A PCB Transformer enclosure is defined as a confined area such as a vault, machinery room, partitioned area or fenced-in area that contains a PCB Transformer.

The objective of requiring the removal of stored combustibles is to avoid, to the extent possible and practical, PCB Transformer involvment in fires initiated by the combustion of stored materials and to eliminate a potential source of fuel for a fire initiated by an electrical fault or malfunction in a transformer.

B. Phaseout of Commercial Higher Secondary Voltage Network PCB Transformers

EPA has prohibited the use of all network PCB Transformers with secondary voltages at or above 480 volts (this includes 480 volt network PCB Transformers, 480/277 volt network PCB Transformers and other network PCB Transformers with secondary voltages at or above 480 volts) in or near commercial buildings beyond October 1, 1990, and has required that these transformers be placed into storage for disposal or disposed (or be reclassified to PCB Contaminated or non PCB status).

Commercial buildings are defined as non industrial (non substation) buildings which are generally or typically accessible to both members of the general public and employees. These buildings include: public assembly properties (e.g., arenas, stadiums, libraries, museums, restaurants, theaters, etc.); educational properties (e.g., schools, colleges, universities, etc.); institutional properties (e.g., nursing homes, hospitals, prisons, etc.); residential properties (e.g., apartments, hotels, dormitories, etc.); stores (e.g., supermarkets, clothing stores, malls, etc.); offices (e.g., general business offices (including those located on industrial sites), banks, municipal office buildings, etc.); and, transportation centers (e.g., airport terminal buildings, subway stations, bus stations, train stations, etc.).

An industrial building is defined as a building directly used in manufacturing or technically productive enterprises. Industrial buildings are not generally or typically readily accessible to other than workers. Industrial buildings include buildings used directly in the production of power, the manufacture of products, the mining of raw materials, and the storage of textiles, petroleum products, wood and paper products, chemicals or plastics, and metals.

A PCB Transformer located in or near a commercial building is located within the interior of the building, on the roof of the building or attached to the exterior wall of the building, in the parking area serving the building, or located within 30 meters of the building.

EPA has required the removal of PCB Transformers located near commercial buildings (in addition to those located inside commercial buildings) because incidents like the San Francisco fire indicate that PCB Transformers located near commercial buildings can result in building contamination. Several comments on the Proposed Rule requested that EPA define the term "near" in a more quantitative manner; such as, within 25, 50 or 100 feet of a commercial building. EPA recognizes the desirability of defining the term "near" in a quantitative manner—this would facilitate monitoring compliance with the rule and make the rule more easily understood by the regulated community.

In adopting this suggestion, EPA has three objectives: (1) to facilitate compliance by industry with the rule, (2) to facilitate EPA's monitoring of compliance with the rule, and (3) to insure that any PCB Transformer which poses a real risk of commercial building contamination is covered by the rule. EPA is somewhat hesitant to dictate an absolute distance at which a PCB Transformer would be considered to pose little risk of significant building contamination. Local climactic and geographic conditions could greatly influence the potential for building contamination from PCB Transformer fires in locations such as sidewalk and underground vaults. However, the benefits of establishing a numerical standard, in terms of ease of compliance with the rule and ease of enforcement, are great.

In urban locations, sidewalk vaults and underground vaults are typically located within 15 to 30 meters of buildings, with many located immediately adjacent to exterior walls. It is EPA's intent to include all of these transformers within the definition of PCB Transformers located "near" commercial buildings. Further, outdoor pad-mounted and pole top PCB Transformers located within 15 to 30 meters of commercial buildings are also covered within the definition of PCB Transformers located "near" commercial buildings.

EPA expects that in general very few vaulted PCB Transformers in urban and metropolitan areas are located at distances greater than 30 meters from commercial buildings. However, EPA has also evaluated the potential for building contamination from vaulted PCB Transformers located at distances greater than 30 meters from commercial buildings. EPA believes that the potential for commercial building contamination from a PCB Transformer fire in a vault located more than 30 meters from a building can be greatly influenced by factors such as wind velocity, wind direction, and plume height. While EPA has defined the term "near" by establishing a distance of 30 meters from commercial buildings, EPA recognizes that in certain geographic locales, vaulted PCB Transformers located more than 30 meters from a commercial building could also present a risk of building contamination. EPA suggests that owners of vaulted PCB Transformers located more than 30 meters from commercial buildings individually evaluate the potential for commerical building contamination from fires involving these transformers as well. Factors considered in this evaluation could include average wind velocity for the region and normal wind direction.

C. Increased Electrical Protection

EPA has required the installation of enhanced electrical protection on many of the remaining commercial PCB Transformers (i.e., other than higher secondary voltage network PCB Transformers) by October 1, 1990. The electrical protection requirements are intended to avoid PCB Transformer fires by allowing for the early detection of faults and the complete deenergization of PCB Transformers prior to failure (rupture and/or release of PCBs). The installation of current-limiting fuses or other equivalent energy limiting devices on PCB Transformers is intended to avoid failures from high current faults. In order to be effective in avoiding PCB Transformer failures from high current faults, these current-limiting devices must (in accordance with good engineering practices) be properly installed, appropriately placed, maintained, and set sensitive enough to provide for complete deenergization within several power cycles or several tenths of a second of the occurrence of a sustained high current fault.

The installation of heat and pressure sensitive detectors in higher secondary voltage commercial radial PCB Transformers (and appropriate disconnect equipment) is intended to avoid PCB Transformer failures from sustained low current faults. Equivalent technology that accomplishes the same goal, that is, the early detection of sustained low current faults and complete deenergization prior to failure, is acceptable. In order to be effective in avoiding PCB Transformer failures, these devices must be maintained, and set sensitive enough to allow for complete deenergization within 30 seconds to 1 minute of detection of a sustained low current fault. In addition, if these sensors are electrically powered, they must be provided with a secondary source of power configured to deenergize the transformer on failure (fail-safe).

The disconnect equipment may be set either to open automatically upon the sensing of abnormal conditions (e.g., temperature or pressure), or, it may be set to send a signal to an on-site manned control center where deenergization must occur (during facility operating hours) within 1 minute of the receipt of an audio or visual signal indicating abnormal conditions. Automatically operated circuit breakers must also have the capability to be opened manually.

EPA received several comments on the Proposed Rule which suggested that EPA should give PCB Transformer owners the option of implementing risk reduction measures on shorter schedule (such as enhanced electrical protection by 1990) or PCB Transformer removal on a longer schedule (such as PCB Transformer removal by 1992). EPA did not adopt this suggestion because, without additional reporting requirements (including the reporting to EPA of the address and location of each PCB Transformer and the option selected by the owner), EPA believes that its ability to effectively enforce the shorter term risk reduction measures would be compromised.

D. Prohibition on the Installation of PCB Transformers

EPA has prohibited the new installation of PCB Transformers in or near commercial buildings. PCB Transformers must not be newly installed in or near commercial buildings after October 1, 1985. This means that PCB Transformers which have been placed into storage for reuse cannot be taken out of storage for reuse and placed in use in or near commercial buildings.

While EPA has placed restrictions on the installation of PCB Transformers (by prohibiting the placement of the equipment in or near commercial buildings), owners of PCB Transformers which are in storage for reuse still have many available options. Owners of PCB Transformers which are in storage for reuse may use these transformers in industrial applications and in any outdoor location where there is no real risk of commercial building

contamination. These transformers may also be reclassified to PCB

current faults alone without protection against low current faults in these

Polychlorinated Dibenzofurans (PCDFs), and Polychlorinated Dibenzodioxins

whether a rule is a "major rule" and, therefore, subject to the requirement

transformers for variable treatment based on type and location. The Office

completely within 1 minute of the

contamination. These transformers may also be reclassified to PCB Contaminated status or non-PCB status and be placed in any desired location.

E. Reporting of Fire-Related Incidents and Containments of Potential Water Releases

EPA has required the reporting of all PCB Transformer fire-related incidents to the National Response Center. A fire-related incident is defined as any incident in which high temperatures or high pressures in a transformer location lead to the rupture of a transformer and/or the release of PCBs. PCB Transformer fire-related incidents must be immediately reported to the NRC. The information to be reported must include the type of PCB Transformer installation involved in the fire-related incident, and reasonably ascertainable information on the cause of the fire-related incident.

EPA has required that owners of PCB Transformers involved in fire-related incidents take measures as soon as practically and safely possible to contain any potential releases of PCBs and oxidation products to waterways. This means that measures must be taken to prevent further environmental release and contamination of waterways as soon as there is no immediate danger of injury from the fire itself. These measures include, but are not limited to the blocking of floor drains, the containment of runoff, and the containment and treatment of cleanup water prior to release. If there is evidence of the release of PCBs, PCDFs, and PCDDs down floor drains, the PCB Transformer owner should also notify the sewer system and water treatment system operators as soon as possible to prevent further environmental release.

IX. Compliance and Enforcement

EPA recognizes that technology is constantly evolving in areas such as the development of electrical protection systems. Thus, EPA has allowed some flexibility on the part of transformer owners in the selection of appropriate enhanced electrical protection systems. Further, by requiring electrical protection for commercial PCB Transformers, EPA implicitly allows the replacement of all commercial PCB Transformers with substitute equipment, and the retrofilling and reclassification of PCB Transformers to PCB Contaminated or non-PCB status.

EPA has, however, required the installation of protection against failures from high current faults and low current faults in all commercial higher secondary voltage radial PCB Transformer installations. The installation of protection against high current faults alone without protection against low current faults in these installations constitutes a violation of the PCB Transformer use authorization. For lower secondary voltage commercial PCB Transformer installations, EPA has required protection against failures from high current faults.

Failure to install properly and maintain protection which is set sensitive enough, based on good engineering judgment, to prevent PCB Transformer failures from sustained high and low current faults (for higher secondary voltage radial PCB Transformers) and PCB Transformer failures from high current faults (for lower secondary voltage PCB Transformers) constitutes a violation of the PCB Transformer use authorization.

X. Official Record of Rulemaking

A. Previous Rulemaking Records

(1) Official rulemaking record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibition Rule" published in the **Federal Register** of May 31, 1979, (44 FR 31514).

(2) Official rulemaking record from "Polychlorinated Biphenyls (PCBs); Disposal and Marking Final Regulation" published in the **Federal Register** of February 17, 1978, (43 FR 7150).

(3) Official rulemaking record from "Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution, and Use in Closed and Controlled Waste Manufacturing Processes" published in the **Federal Register** of October 21, 1982, (47 FR 46980).

(4) Official rulemaking record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Equipment" published in the **Federal Register** of August 25, 1982, (47 FR 37342).

(5) Official record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Transformers" Advance Notice of Proposed Rulemaking, published in the **Federal Register** of March 23, 1984, (49 FR 11070).

(6) Official record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Transformers" Proposed Rule, published in the **Federal Register** of October 11, 1984, (49 FR 39966).

B. Support Documents

(1) USEPA, OPTS, EED, Versar, Inc., "Exposure Assessment for Polychlorinated Biphenyls (PCBs), Polychlorinated Dibenzofurans (PCDFs), and Polychlorinated Dibenzodioxins (PCDDs) Released During Transformer Fires" (June 1985).

(2) USEPA, OPTS, HERD, "HERD Work for Proposed Polychlorinated Biphenyl (PCB) Transformer Fires Rulemaking" (August 1, 1984).

(3) USEPA, OPTS, HERD, "Addendum to August 1, 1984 HERD Work for Proposed Polychlorinated Biphenyl (PCB) Transformer Fires Rulemaking" (October 1, 1984).

(4) USEPA, OPTS HERD, "Response to Comments on Health Effects of PCBs Submitted by the Chemical Manufacturers Association and the Edison Electric Institute" (August 19, 1982).

(5) USEPA, OW, "Ambient Water Quality Criteria for 2,3,7,8-Tetrachlorodibenzo-p-dioxin" (February 1984).

(6) USEPA, ORD, OHEA, ECAO, "(DRAFT) Health Assessment Document for Polychlorinated Dibenzo-p-dioxins" (May 1984).

(7) USEPA, OPTS, ETD, Putnam, Hayes and Bartlett, Inc. "Regulatory Impact Analysis of the Final Rule for PCB Transformers" (June 1985).

(8) Kimbrough, Renate, D., *et al.* "Health Implications of 2,3,7,8-Tetrachlorodibenzodioxin (TCDD) Contamination of Residential Soil," Journal of Toxicology and Environmental Health (in press).

(9) USEPA, OPTS, EED, "NFIRS Data for 1982" (April 1984).

(10) USEPA, OPTS, EED, Midwest Research Institute, "Thermal Degradation Products from Dielectric Fluids" (December 1984).

(11) USEPA, OPTS, EED, Midwest Research Institute, "Products of Thermal Degradation of Dielectric Fluids" (January 28, 1985).

(12) National Bureau of Standards, "Factors To Be Considered Regarding Hazard Reduction Strategies for Fires Involving Electrical Transformers Containing Polychlorinated Biphenyls" (March 1985).

(13) USEPA, Barnes and Bellin, "Health Hazard Assessment for Chlorinated Dioxins and Dibenzofurans Other Than 2,3,7,8-TCDD" (October 1984).

(14) USEPA, EED, Versar, "Summary of Comments on the PCB Transformer Fires Proposed Rule" (June 1985).

(15) USEPA, EED, "Response to Comments on the PCB Transformer Fires Proposed Rule" (June 1985)

XI. Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA believes that this amendment to the PCB rule is a major rule as the term is defined in section 1(b) of the Executive Order. Therefore, EPA has prepared a Regulatory Impact Analysis.

While the rule places additional restrictions and conditions on the use of PCB Transformers, it is worth noting that this regulation allows the continued uses of PCBs in electrical transformers that would otherwise be prohibited by section 6(e) of TSCA. This rule avoids the severe disruption of electric service to the public and industry that would occur if the use of this equipment were immediately prohibited. It also avoids the economic impact that would result from a requirement to replace the equipment as soon as possible.

This rule was submitted to the Office of Management and Budget (OMB), as required by the Executive Order.

XII. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator may certify that a rule will not, if promulgated have a significant impact on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis.

In general, this rule will reduce the burden on small businesses that would otherwise be encountered if an immediate ban on PCB-containing transformers were to take effect. If an immediate ban on the use of PCBs in transformers were imposed, large costs would be incurred by all producers and users of electricity, including small businesses.

I certify that this rule will not have a significant economic impact on a substantial number of small entities.

XIII. Paperwork Reduction Act

The information collection requirements of this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. In response to the information collection requirements associated with the proposed rule, OMB commented that the Agency should resubmit the information collection requirements with the final rule showing how EPA has reduced the burdens by limiting the rule's applicability to transformers which because of location or installation type are of higher risk. Based on this comment and other comments made during the public comment period, EPA has segmented transformers for variable treatment based on type and location. The Office of Management and Budget has approved the information collection requirements of this rule under OMB Control Number: 2070-0073.

List of Subjects in 40 CFR Part 761

Hazardous substances, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: July 1, 1985.

A. James Barnes,

Acting Administrator.

PART 761—[AMENDED]

Therefore, 40 CFR Part 761 is amended as follows:

1. The authority citation for Part 761 is revised to read as follows:

Authority: 15 U.S.C. 2605, 2607, and 2611.

2. In § 761.3, the following paragraphs are alphabetically added to read as follows:

§ 761.3 Definitions.

* * * * *

"In or Near Commercial Buildings" means within the interior of, on the roof of, attached to the exterior wall of, in the parking area serving, or within 30 meters of a non-industrial non-substation building. Commercial buildings are typically accessible to both members of the general public and employees, and include: (1) Public assembly properties, (2) educational properties, (3) institutional properties, (4) residential properties, (5) stores, (6) office buildings, and (7) transportation centers (e.g., airport terminal buildings, subway stations, bus stations, or train stations).

* * * * *

"Industrial buildings" means a building directly used in manufacturing or technically productive enterprises. Industrial buildings are not generally or typically accessible to other than workers. Industrial buildings include buildings used directly in the production of power, the manufacture of products, the mining of raw materials, and the storage of textiles, petroleum products, wood and paper products, chemicals, plastics, and metals.

* * * * *

"Manned Control Center" means an electrical power distribution control room where the operating conditions of a PCB Transformer are continuously monitored during the normal hours of operation (of the facility), and, where the duty engineers, electricians, or other trained personnel have the capability to deenergize a PCB Transformer completely within 1 minute of the receipt of a signal indicating abnormal operating conditions such as an overtemperature condition or overpressure condition in a PCB Transformer.

* * * * *

"On site" means within the boundaries of a contiguous property unit.

* * * * *

"Rupture of a PCB Transformer" means a violent or non-violent break in the integrity of a PCB Transformer caused by an overtemperature and/or overpressure condition that results in the release of PCBs.

* * * * *

3. In § 761.30, the introductory text of paragraph (a) and paragraph (a)(1) are revised and OMB Control Number 2070-0073 is added to read as follows:

§ 761.30 Authorizations.

* * * * *

(a) *Use in and servicing of transformers (other than railroad transformers).* PCBs at any concentration may be used in transformers (other than in railroad locomotives and self-propelled railroad cars) and may be used for purposes of servicing including rebuilding these transformers for the remainder of their useful lives, subject to the following conditions:

(1) *Use conditions.* (i) As of October 1, 1985, the use and storage for reuse of PCB Transformers that pose an exposure risk to food or feed is prohibited.

(ii) As of October 1, 1990, the use of network PCB Transformers with higher secondary voltages (secondary voltages equal to or greater than 480 volts, including 480/277 volt systems) in or near commercial buildings is prohibited. Network PCB Transformers with higher secondary voltages which are removed from service in accordance with this requirement must either be reclassified to PCB Contaminated or non PCB status, placed into storage for disposal, or disposed.

(iii) As of October 1, 1985, the installation of PCB Transformers (which have been placed into storage for reuse or which have been removed from another location) in or near commercial buildings is prohibited.

(iv) As of October 1, 1990, all radial PCB Transformers and lower secondary voltage network PCB Transformers (network transformers with secondary voltages below 480 volts) in use in or near commercial buildings must be equipped with electrical protection to

avoid transformer failures caused by high current faults. Current-limiting total deenergization prior to PCB Transformer rupture (either violent or performed at least once every 3 months. These inspections may take place any

water. These measures include, but are not limited to:

(xiii) A reduced visual inspection frequency of at least once every 12

that the transformer may pose an

VOL
50
ISS
137
JL
17
1985
UMI

avoid transformer failures caused by high current faults. Current-limiting fuses or other equivalent technology must be used to detect sustained high current faults and provide for complete deenergization of the transformer within several tenths of a second of detection, before transformer failure occurs. The installation, setting, and maintenance of current-limiting fuses or other equivalent technology to avoid PCB Transformer failures from sustained high current faults must be completed in accordance with good engineering practices.

(v) As of October 1, 1990, all radial PCB Transformers with higher secondary voltages (480 volts and above, including 480/277 volt systems) in use in or near commercial buildings must (in addition to the requirements of paragraph (a)(1)(iv) of this section) be equipped with protection to avoid transformer failures caused by sustained low current faults.

(A) Pressure and temperature sensors (or other equivalent technology which has been demonstrated to be effective in the early detection of sustained low current faults) must be used in these transformers to detect sustained low current faults.

(B) Disconnect equipment must be provided to insure complete deenergization of the transformer in the event of a sensed abnormal condition (e.g., an overpressure or overtemperature condition in the transformer), caused by a sustained low current fault. The disconnect equipment must be configured to operate automatically within 30 seconds to 1 minute of the receipt of a signal indicating an abnormal condition from a sustained low current fault, or can be configured to allow for manual deenergization from a manned on-site control center upon the receipt of an audio or visual signal indicating an abnormal condition caused by a sustained low current fault. Manual deenergization from a manned on-site control center must occur within 1 minute of the receipt of the audio or visual signal indicating an abnormal condition caused by a sustained low current fault. If automatic operation is selected and a circuit breaker is utilized for disconnection, it must also have the capability to be manually opened if necessary.

(C) The enhanced electrical protective system required for the detection of sustained low current faults and the complete and rapid deenergization of transformers must be properly installed, maintained, and set sensitive enough (in accordance with good engineering practices) to detect sustained low current faults and allow for rapid and total deenergization prior to PCB Transformer rupture (either violent or non violent rupture) and release of PCBs.

(iv) As of December 1, 1985, all PCB Transformers (including PCB Transformers in storage for reuse) must be registered with fire response personnel with primary jurisdiction (that is, the fire department or fire brigade which would normally be called upon for the initial response to a fire involving the equipment). Information required to be provided to fire response personnel includes:

(A) The location of the PCB Transformer(s) (the address(es) of the building(s) and the physical location of the PCB Transformer(s) on the building site(s) and for outdoor PCB Transformers, the location of the outdoor substation).

(B) The principal constituent of the dielectric fluid in the transformer(s) (e.g., PCBs, mineral oil, or silicone oil).

(C) The name and telephone number of the person to contact in the event of a fire involving the equipment.

(vii) As of December 1, 1985, PCB Transformers in use in or near commercial buildings must be registered with building owners. For PCB Transformers located in commercial buildings, PCB Transformer owners must register the transformers with the building owner of record. For PCB Transformers located near commercial buildings, PCB Transformer owners must register the transformers with all owners of buildings located within 30 meters of the PCB Transformer(s). Information required to be provided to building owners by PCB Transformer owners includes but is not limited to:

(A) The specific location of the PCB Transformer(s).

(B) The principal constituent of the dielectric fluid in the transformer(s) (e.g., PCBs, mineral oil, or silicone oil).

(C) The type of transformer installation (e.g., 208/120 volt network, 280/120 volt radial, 208 volt radial, 480 volt network, 480/277 volt network, 480 volt radial, 480/277 volt radial).

(viii) As of December 1, 1985, combustible materials, including, but not limited to paints, solvents, plastics, paper, and sawn wood must not be stored within a PCB Transformer enclosure (i.e., in a transformer vault or in a partitioned area housing a transformer); within 5 meters of a transformer enclosure, or, if unenclosed (unpartitioned), within 5 meters of a PCB Transformer.

(ix) A visual inspection of each PCB Transformer (as defined in the definition of "PCB Transformer" under § 761.3) in use or stored for reuse shall be performed at least once every 3 months. These inspections may take place any time during the 3-month periods: January-March, April-June, July-September, and October-December as long as there is a minimum of 30 days between inspections. The visual inspection must include investigation for any leak of dielectric fluid on or around the transformer. The extent of the visual inspections will depend on the physical constraints of each transformer installation and should not require an electrical shutdown of the transformer being inspected.

(x) If a PCB Transformer is found to have a leak which results in any quantity of PCBs running off or about to run off the external surface of the transformer, then the transformer must be repaired or replaced to eliminate the source of the leak. In all cases any leaking material must be cleaned up and properly disposed of according to disposal requirements of § 761.60. Cleanup of the released PCBs must be initiated as soon as possible, but in no case later than 48 hours of its discovery. Until appropriate action is completed, any active leak of PCBs must be contained to prevent exposure of humans or the environment and inspected daily to verify containment of the leak. Trenches, dikes, buckets, and pans are examples of proper containment measures.

(xi) If a PCB Transformer is involved in a fire-related incident, the owner of the transformer must immediately report the incident to the National Response Center (toll-free 1-800-424-8802; in Washington, D.C. 202-426-2675). A fire-related incident is defined as any incident involving a PCB Transformer which involves the generation of sufficient heat and/or pressure (by any source) to result in the violent or non-violent rupture of a PCB Transformer and the release of PCBs. Information must be provided regarding the type of PCB Transformer installation involved in the fire-related incident (e.g., high or low secondary voltage network transformer, high or low secondary voltage simple radial system, expanded radial system, primary selective system, primary loop system, or secondary selective system or other systems) and the readily ascertainable cause of the fire-related incident (e.g., high current fault in the primary or secondary or low current fault in secondary). The owner of the PCB Transformer must also take measures as soon as practically and safely possible to contain and control any potential releases of PCBs and incomplete combustion products into

water. These measures include, but are not limited to:

(A) The blocking of all floor drains in the vicinity of the transformer.

(B) The containment of water runoff.

(C) The control and treatment (prior to release) of any water used in subsequent cleanup operations.

(xii) Records of inspection and maintenance history shall be maintained at least 3 years after disposing of the transformer and shall be made available for inspection, upon request by EPA. Such records shall contain the following information for each PCB Transformer:

(A) Its location.

(B) The date of each visual inspection and the date that leak was discovered, if different from the inspection date.

(C) The person performing the inspection.

(D) The location of any leak(s).

(E) An estimate of the amount of dielectric fluid released from any leak.

(F) The date of any cleanup, containment, repair, or replacement.

(G) A description of any cleanup, containment, or repair performed.

(H) The results of any containment and daily inspection required for uncorrected active leaks.

(xiii) A reduced visual inspection frequency of at least once every 12 months applies to PCB Transformers that utilize either of the following risk reduction measures. These inspections may take place any time during the calendar year as long as there is a minimum of 180 days between inspections.

(A) A PCB Transformer which has impervious, undrained, secondary containment capacity of at least 100 percent of the total dielectric fluid volume of all transformers so contained or

(B) A PCB Transformer which has been tested and found to contain less than 60,000 ppm PCBs (after 3 months of in service use if the transformer has been serviced for purposes of reducing the PCB concentration).

(xiv) An increased visual inspection frequency of at least once every week applies to any PCB Transformer in use or stored for reuse which poses an exposure risk to food or feed. The user of a PCB Transformer posing an exposure risk to food is responsible for the inspection, recordkeeping, and maintenance requirements under this section until the user notifies the owner that the transformer may pose an exposure risk to food or feed. Following such notification, it is the owner's ultimate responsibility to determine whether the PCB Transformer poses an exposure risk to food or feed.

* * * * *

(The recordkeeping requirements of paragraphs (a)(1) (vi), (vii), and (xi) were approved by the Office of Management and Budget under OMB Control Number 2070-0073. The recordkeeping requirements of paragraph (xii) were approved by the Office of Management and Budget under OMB Control Number 2070-0007.)

4. In § 761.40, paragraph (j) is added to read as follows:

§ 761.40 Marking requirements.

* * * * *

(j) As of December 1, 1985, the vault door, machinery room door, fence, hallway, or means of access (others than grates and manhole covers) to a PCB Transformer must be marked with the mark M_L. The mark must be placed so that it can be easily read by firemen fighting a fire involving this equipment.

[FR Doc. 85-16851 Filed 7-16-85; 8:45 am]
BILLING CODE 6560-50-M

Reader Aids

Federal Register

VOL
50
ISS
137
JL
17
1985
UMI

Reader Aids

Federal Register
Vol. 50, No. 137
Wednesday, July 17, 1985

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Public laws (Slip laws)	275-3030

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Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212	1
27213-27408	2
27409-27570	3
27571-27812	5
27813-27926	8
27927-28092	9
28093-28190	10
28191-28362	11
28363-28554	12
28555-28756	15
28757-28894	16
28895-29202	17

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
305 ... 28363

3 CFR
Executive Orders:
11888 (Amended by EO 12524) ... 27409
12470 (Revoked by EO12525) ... 28757
12523 ... 26963
12524 ... 27409
12525 ... 28757
Proclamations:
5356 ... 26961

5 CFR
771 ... 26965
1201 ... 28895
Proposed Rules:
532 ... 28583, 28584

7 CFR
Ch. IV ... 27927
52 ... 26965
54 ... 27571
226 ... 26972
301 ... 28366
400 ... 26976
402 ... 28367
908 ... 27411, 27928, 28898
910 ... 27813, 28372, 28555
911 ... 28373
915 ... 28373, 28556
916 ... 27813, 28373
917 ... 27813, 28373
918 ... 28373
921 ... 27411, 28373
922 ... 28373
923 ... 28373
924 ... 28373
930 ... 27213, 28373
944 ... 28556
967 ... 28373
979 ... 26976
985 ... 28373
991 ... 26977, 27814
1040 ... 27412
1427 ... 26978
1435 ... 27413
1941 ... 27414
1944 ... 27415
1945 ... 27414, 27416
3015 ... 28759
Proposed Rules:
Ch. IV ... 27971
Ch. X ... 27003
29 ... 27288
51 ... 27004
417 ... 27601
800 ... 28104
910 ... 28105
920 ... 27288
967 ... 28210
999 ... 28585
1124 ... 27972
1240 ... 28404
1930 ... 28782
1944 ... 28782
1965 ... 28782

8 CFR
316a ... 27816
Proposed Rules:
103 ... 27289
341 ... 28586
343a ... 28587

9 CFR
78 ... 28899
91 ... 27929
92 ... 27928, 28557
94 ... 28560, 28900
318 ... 27573, 28374
Proposed Rules:
94 ... 27973

10 CFR
9 ... 27214
Proposed Rules:
50 ... 27006, 28815

12 CFR
403 ... 27215
611 ... 27930
617 ... 27931
723 ... 27417
Proposed Rules:
561 ... 27290, 28586
563 ... 27290, 28586
571 ... 27290, 28586

13 CFR
121 ... 27418
302 ... 27419
Proposed Rules:
108 ... 27754

14 CFR
39 ... 26979, 27575, 27576, 27931-27933, 28093, 28094, 28561-28563, 28766
71 ... 26980, 27934, 28564, 28565, 28900-28902
97 ... 27934
108 ... 27924, 28884
Proposed Rules:
39 ... 27009, 27012, 27601, 27602, 28815
71 ... 27013, 27014, 27528, 28588-28591, 28816, 28950
75 ... 27014
91 ... 28950

15 CFR
19 ... 27577
510 ... 28395
520 ... 27818, 28768
57 ... 27566
700 ... 28180
Proposed Rules:
111 ... 27992

416 ... 28577
435 ... 28577

49 CFR
571 ... 27451

15 CFR

19 27577
90 28767
368–399 (See EO 12525) 28757
376 27420
399 27420

Proposed Rules:

911 28816

16 CFR

3 28095
4 28095
13 ..... 26981, 27578, 28374, 28902
453 ..... 28062, 28081
703 27936

Proposed Rules:

13 ..... 28592, 28951

17 CFR

3 28907
200 28385
239 27937
240 ..... 27937, 27940, 28385
249 27937
270 ..... 27937, 28930
274 27937
288 ..... 26981, 27947

Proposed Rules:

210 ..... 27973, 28953
230 28404
240 ..... 27829, 27976, 27981, 28106, 28210, 28219, 28404
250 27981
259 27981
270 27982

18 CFR

157 27816
389 27816

Proposed Rules:

2 28954
35 27604
154 28954
157 28954
161 28954
271 28221
284 28954
290 27604

19 CFR

4 26981
12 27947
142 27816
178 27947

Proposed Rules

162 27829
177 27831

20 CFR

200 27222
401 28565
422 28565
626 27818
627 27818
628 27818
629 27818
630 27818

Proposed Rules:

404 27615
416 27615

21 CFR

101 26984
510 28395
520 ..... 27818, 28768
558 ..... 27421, 27422, 28768, 28931, 28932
812 28932
1308 ..... 28098, 28395

Proposal Rules:

Ch. 1, Subchapter C 28594
170 27294
201 27016
211 27016
357 ..... 27552, 28595
514 27016
559 27016
561 27452
610 28595
660 28595
1002 27024

22 CFR

501 27422
1502 28932
1504 28934

23 CFR

1325 28191

24 CFR

200 28197
203 28197
885 28197
3282 28396

25 CFR

Proposed Rules:

61 27456

26 CFR

1 ..... 27222, 27231, 27427
602 ..... 27222, 27231

Proposed Rules:

1 ..... 27297, 27456, 27457, 28409
51 27621

27 CFR

4 27819
170 28572

Proposed Rules:

9 28409

28 CFR

0 28769
2 28101
18 28199
32 27428

Proposed Rules:

30 28955

29 CFR

70 28306
1952 ..... 27233, 28770

Proposed Rules:

33 ..... 27298, 28958
1910 27307

30 CFR

700 28186
701 28186
785 28186
827 28186
902 28592
943 28186
948 ..... 28316, 28324

Proposed Rules:

56 27566
57 27566
700 28180
701 28180
785 28180
817 27910
827 28180
913 27025
917 28222
936 27461
944 28107
948 28343
950 28595

31 CFR

51 26987
103 27821
500 27435
505 27435
515 27435
520 27435
535 27435
540 27435

32 CFR

Parts 1–39 26987
199 26988
642 28573
657 28573
706 28398–28400
726 28401

33 CFR

100 ..... 27579, 28573
110 ..... 26988, 27580
117 ..... 26989, 27582
150 26989
165 27583
166 26989

Proposed Rules:

110 ..... 27622, 27623, 28596
117 ..... 27026, 27029, 27624, 27832, 27990, 27991

34 CFR

19 28101

Proposed Rules:

369 28412
378 28412

35 CFR

101 26990
103 26990
121 26990

36 CFR

1200 27196
1202 27196
1228 27951
1250 27196

37 CFR

Proposed Rules:

1 ..... 27030, 28596

38 CFR

3 27584
21 27825

Proposed Rules:

3 28224
36 27833

39 CFR

10 27827
601 28941
3001 28144

Proposed Rules:

111 27992
3001 27308

40 CFR

51 27892
52 ..... 26991, 27244–27247, 28544
60 27248
61 27248
81 28574
86 27250
123 28202
147 ..... 28941, 28942
158 28943
162 28943
180 28944–28946
260 28702
261 28702
262 28702
264 28702
265 28702
268 28702
270 28702
271 28702
280 28702
419 28516
600 27172
761 29170
763 28530

Proposed Rules:

52 ..... 27030, 27462, 28224, 28415, 28596, 28598, 28818
86 28818
180 ..... 27463, 28108, 28956, 28957
202 27321
205 27321
414 29068
416 29068
600 27188

41 CFR

Chs. 1–49 26987
101–4 28402
101–17 28577
101–40 27951
101–47 28402
105–54 28203
105–63 26992
201–1 27142
201–2 ..... 27142, 28208
201–8 27142
201–11 27142
201–16 27142
201–20 27142
201–21 27142
201–22 28208
201–23 27142
201–24 27142
201–26 27142
201–30 ..... 27142, 28208
201–31 ..... 27142, 28208
201–32 ..... 27142, 28208
201–38 27142
201–39 ..... 27142, 28208
201–40 ..... 27142, 28208
201–45 28208

Proposed Rules:

101–41 ..... 27625, 27626

42 CFR

400 28577
405 27722
412 ..... 27208, 27722

416 28577
435 28577

Proposed Rules:

23 27465
405 27469
412 27469

43 CFR

5470 28947

Public Land Orders:

5150 (Revoked in part by PLO 6607) 27827
5179 (Revoked in part by PLO 6607) 27827
5180 (Revoked in part by PLO 6607) 27827
5188 (Revoked in part by PLO 6607) 27827
6389 (Corrected by PLO 6608) 28208
6607 27827
6608 28208

Proposed Rules:

2800 27322

44 CFR

64 ..... 26993, 26994, 28947

Proposed Rules:

67 27322
302 ..... 27627, 28959

45 CFR

1180 ..... 27584, 27586

Proposed Rules:

405 27406
412 27406
1620 27326

46 CFR

153 26996

Proposed Rules:

160 27628

47 CFR

0 27952
22 27953
68 27250
73 ..... 27287, 27438, 27954
76 27438
81 27968
83 27968

Proposed Rules:

Ch. I 28418
73 27629

48 CFR

7 27560
12 27969
15 ..... 27560, 28103
19 27560
33 27969
34 27560
52 ..... 27560, 27969
209 28209
504 26996
515 28578
522 28578
533 26998
552 ..... 27589, 28948
553 27589
570 27589
6101 27969

Proposed Rules:

208 28227
252 28227

49 CFR

571 27451

Proposed Rules:

Ch. X 27031
71 28959
171 28820
175 28820
571 ..... 27032, 27632, 27633, 28426, 28599
1132 27834

50 CFR

17 26999
215 27914
658 28103
672 ..... 28580, 28581
674 28103

Proposed Rules:

17 ..... 27637, 27992, 28821, 28870–28878, 28959
20 27638
611 28960
630 27470
655 28109
662 27470
663 28960

LIST OF PUBLIC LAWS

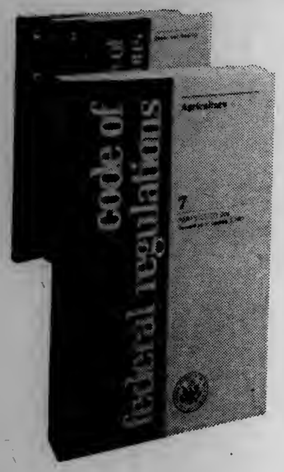
Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List July 16, 1985

VOL 50 ISS 137 JL 17 1985 UMI

Just Released

VOL
50
ISS
137
JL
17
1985
UMI



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Code of Federal Regulations

Revised as of April 1, 1985

Quantity	Volume	Price	Amount
_____	Title 20—Employees' Benefits (Part 500–End) (Stock No. 822–004–00055–5)	$18.00	$_____
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VOL
50

ISS
137

JL
17

1985

UMI

VOL
50
ISS
138
JL
18
1985
UMI

7-18-85
Vol. 50 No. 138

Thursday
July 18, 1985

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7-18-85
Vol. 50 No. 138

Thursday
July 18, 1985

VOL
50
ISS
138
JL
18
1985
UMI

7-18-85
Vol. 50 No. 138
Pages 29203-29366

federal register

Thursday
July 18, 1985

Selected Subjects

Adult Education
Education Department
Air Pollution Control
Environmental Protection Agency
Anchorage Grounds
Coast Guard
Aviation Safety
Federal Aviation Administration
Bridges
Coast Guard
Claims
Treasury Department
Endangered and Threatened Species
Fish and Wildlife Service
Education of Handicapped
Education Department
Exports
International Trade Administration
Fisheries
National Oceanic and Atmospheric Administration
Food Additives
Food and Drug Administration
Freedom of Information
Interior Department

CONTINUED INSIDE

Selected Subjects

Adult Education
Education Department
Air Pollution Control
Environmental Protection Agency
Anchorage Grounds
Coast Guard
Aviation Safety
Federal Aviation Administration
Bridges
Coast Guard
Claims
Treasury Department
Endangered and Threatened Species
Fish and Wildlife Service
Education of Handicapped
Education Department
Exports
International Trade Administration
Fisheries
National Oceanic and Atmospheric Administration
Food Additives
Food and Drug Administration
Freedom of Information
Interior Department

Contents

Federal Register
Vol. 50, No. 138

VOL
50
ISS
138
JL
18
1985
UMI

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Selected Subjects

Government Contracts
Land Management Bureau
Government Property
Veterans Administration
Investment Advisers
Securities and Exchange Commission
Marine Safety
Coast Guard
Occupational Safety and Health
Occupational Safety and Health Administration
Polychlorinated Biphenyls
Food and Drug Administration
Surface Mining
Surface Mining Reclamation and Enforcement Office
Watches and Jewelry
Interior Department
International Trade Administration

Contents

Federal Register
Vol. 50, No. 138
Thursday, July 18, 1985

The President
EXECUTIVE ORDERS
29203 President's Blue Ribbon Commission on Defense Management (EO 12526)

Executive Agencies

Agency for International Development
NOTICES
Meetings:
29282 International Food and Agricultural Development Board

Agricultural Trade and Export Policy National Commission
NOTICES
29284 Meetings

Agriculture Department
See Animal and Plant Health Inspection Service; Forest Service.

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
29205 Honolulu, HI; designated port; interim; correction

Army Department
See also Engineers Corps.
NOTICES
Meetings:
29249 Training and Doctrine Command; symposium on artificial intelligence and robotics

Arts and Humanities, National Foundation
NOTICES
29284 Agency information collection activities under OMB review
Meetings:
29284 Humanities National Council Advisory Committee

Centers for Disease Control
NOTICES
Meetings (NIOSH):
29268 Asymmetric lifting; identification of musculoskeletal injuries during

Coast Guard
RULES
Anchorage regulations:
29224 Illinois
Ports and waterways safety:
29225 Intracoastal Waterway, Ft. Lauderdale, FL; safety zone
Regattas and marine parades:
29223 Connecticut River Raft Race
29221 Night in Venice Boat Parade
29222 Stroh Signature Classic
PROPOSED RULES
Drawbridge operations:
29236 Louisiana
NOTICES
Committees; establishment, renewals, terminations, etc.:
29293 Lower Mississippi River Waterway Safety Advisory Committee
29293 New York Harbor Traffic Management Advisory Committee

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
29242 Agency information collection activities under OMB review (2 documents)

Defense Department
See also Army Department; Engineers Corps; Navy Department.
NOTICES
Committees; establishment, renewals, terminations, etc.:
29248 Defense Policy Board Advisory Committee
29249 Federal Acquisition Regulation (FAR); agency information collection activities under OMB review (2 documents)

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
29283 Stepan Chemical Co.

Economic Regulatory Administration
NOTICES
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
29251 Santa Clara, CA

Education Department
RULES
Special education and rehabilitative services:
29328 Architectural barriers to handicapped removal program
Vocational and adult education:
29352 Adult education; State administered program and national adult education discretionary program; clarification, etc.
NOTICES
Grants; availability, etc.:
29250 Handicapped education program, training personnel; funding priority

Energy Department
See also Economic Regulatory Administration; Hearings and Appeals Office, Energy Department; Western Area Power Administration.
NOTICES
Meetings:
29250, 29251 National Petroleum Council (3 documents)

Engineers Corps
NOTICES
Environmental statements; availability, etc.:

Fish and Wildlife Service
RULES

Human Development Services Office
NOTICES

Survey plat filings:

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
29248 Kahului Small Boat Harbor, Maui, HI

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
29229 Connecticut
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
29237 Maryland; correction

Federal Aviation Administration
RULES
Air carriers certification and operations:
29306 Flight time limitations and rest requirements for flight crew members

Federal Communications Commission
RULES
Radio services, special:
29231 Maritime services; medical advisory frequencies; correction

Federal Deposit Insurance Corporation
NOTICES
29295 Meetings; Sunshine Act (3 documents)

Federal Election Commission
PROPOSED RULES
Contribution and expenditure limitations and prohibitions:
29232 Contribution by persons and multicandidate political committees; hearing
NOTICES
29296 Meetings; Sunshine Act

Federal Highway Administration
RULES
Public transportation:
29209 Nonurbanized areas; CFR Part Removed
NOTICES
Environmental statements; notice of intent:
29293 Cook and Du Page Counties, IL

Federal Home Loan Bank Board
NOTICES
Senior Executive Service:
29259 Performance Review Board; membership

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
29259 Air/Ocean International, Inc., et al.
29259 Chem Group, Inc., et al.
Investigations, hearings, petitions, etc.:
29260 Transpacific Westbound Rate Agreement
29296 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
29267 Firsnabanco, Inc., et al.

Fish and Wildlife Service
RULES
Endangered and threatened species:
29345 Florida pine rockland plants
29338 Miccosukee gooseberry
29341 Ruth's golden aster
PROPOSED RULES
Endangered and threatened species:
29238 Findings on petitions, etc.

Food and Drug Administration
RULES
Food additives:
29208 Chloromethylated aminated styrene-divinylbenzene resins
Human drugs:
29209 Antibiotic drugs; sterile cefonicid sodium; correction
PROPOSED RULES
Animal feeds and food for human consumption:
29233 Polychlorinated biphenyls (PCB's) in sealed electrical transformers and capacitors stored or used in food and feed plants or storage facilities, restrictions; withdrawn
Food additives:
29235 Classification of food substances as generally recognized as safe (GRAS); eligibility; correction
NOTICES
Animal drugs, feeds, and related products:
29268 Anthelmintics, canine/feline; efficacy evaluation; guideline availability
29269 Anti-infective bovine mastitis; guideline availability
29269 Captan with benzocaine; approval withdrawn; correction

Forest Service
NOTICES
Environmental statements; availability, etc.:
29242 Deerlodge National Forest, MT
Meetings:
29242 Medicine Bow National Forest Grazing Advisory Board

General Services Administration
RULES
29231 Contract Appeals Board procedure rules (acquisition regulations); corrections
NOTICES
29249 Federal Acquisition Regulation (FAR); agency information collection activities under OMB review (2 documents)

Harry S Truman Scholarship Foundation
NOTICES
29296 Meetings; Sunshine Act

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; Human Development Services Office; National Institutes of Health; Public Health Service.

Hearings and Appeals Office, Energy Department
NOTICES
29252, 29256 Special refund procedures; implementation and inquiry (2 documents)

Human Development Services Office
NOTICES
Grants; availability, etc.:
29269 Developmental disabilities basic support and protection and advocacy formula programs; Federal allotment to states

Indian Affairs Bureau
NOTICES
Land transfers:
29274 Crow Creek Sioux Indian Reservation, SD

Interior Department
See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.
RULES
29230 Freedom of Information Act; implementation
PROPOSED RULES
29232 Watch duty-exemption program

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
RULES
Export licensing:
29205 Cambodia; country name change from Kampuchea
PROPOSED RULES
29232 Watch duty-exemption program
NOTICES
Export privileges, actions affecting:
29245 Agnese, Rudolphe, et al.
29244 Elzar, Anton, et al.
29246 Ivady, Sandor, et al.
Scientific articles; duty free entry:
29243 Western Research Institute et al.

Justice Department
See Drug Enforcement Administration.

Labor Department
See Occupational Safety and Health Administration.

Land Management Bureau
PROPOSED RULES
Forest management:
29324 Forest products sales; contractor debarment
NOTICES
Environmental concern; designation of critical areas:
29276 Folsom Resource Area, CA
Exchange of lands:
29276 Arizona
29279 California
29277 Idaho
Meetings:
29278 Emergency coal lease application (UT); correction
Oil and gas leases:
29282 Idaho
Sale of public lands:
29281 California
29279 Idaho
29277 Wyoming
Survey plat filings:
29282 Idaho
Withdrawal and reservation of lands:
29280 California
29278 Wyoming

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
29282 Amoco Production Co.

National Aeronautics and Space Administration
NOTICES
29249 Federal Acquisition Regulation (FAR); agency information collection activities under OMB review (2 documents)
Meetings:
29283 Aeronautics Advisory Committee

National Institutes of Health
NOTICES
Meetings:
29270 National Cancer Institutes; cancellation
Procurement:
29270 Commercial or industrial activities, performance; review schedule (OMB A-76 implementation)

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
29241 Atlantic groundfish; draft availability
29240 Atlantic sea scallop; draft availability
29240 Bering Sea and Aleutian Islands groundfish; draft availability
NOTICES
Permits:
29247 Marine mammals

National Science Foundation
NOTICES
29285 Antarctic Conservation Act of 1978; permit applications, etc.
Meetings:
29285 Equal Opportunities in Science and Technology Committee

Navy Department
NOTICES
Meetings:
29249 Chief of Naval Operations Executive Panel Advisory Committee

Nuclear Regulatory Commission
NOTICES
29286 Agency information collection activities under OMB review
Applications, etc.:
29286 Consumers Power Co.

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc:
29210 Maryland
NOTICES
Variance applications, etc.:
29283 Chlorine Institute, Inc.

Public Health Service
NOTICES
29294 Agency information collection activities under

CFR PARTS AFFECTED IN THIS ISSUE

Public Health Service
NOTICES
National Toxicology Program:
29270 Telone II; toxicology and carcinogenesis studies
29270 Privacy Act; systems of records

Securities and Exchange Commission
RULES
Investment advisors:
29206 Limited partnerships; client definition
NOTICES
Applications, etc.:
29288 Consolidated Natural Gas Co.
29287 KILICO Money Market Fund, Inc.
29291 Omega Government Fund, Inc.
29289 Omega Venture Partners I Ltd.
Self-regulatory organizations; proposed rule changes:
29290, 29291 National Association of Securities Dealers (2 documents)
29289 Options Clearing Corp.
Self-regulatory organizations; unlisted trading privileges:
29288 Midwest Stock Exchange, Inc.
29289 Philadelphia Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
29292 SB Capital Corp.
Meetings:
29292 Veterans Business Affairs Advisory Committee
Meetings; regional advisory councils:
29293 New Jersey

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission:
29235 Kentucky; comment period reopened
29235 Montana

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
29247 Korea; correction
29247 Taiwan; correction
Export visa requirements; certification, etc.:
29248 Thailand
Textile consultation; review of trade:
29248 Taiwan

Trade Representative, Office of United States
NOTICES
29287 International Sugar Agreement 1977; unused stamps refund deadline
Wine trading countries; intent to designate:
29287 Canada et al.; inquiry

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration.

Treasury Department
RULES
29221 Claims; military and civilian employees; dollar amount
NOTICES
29294 Agency information collection activities under OMB review

Veterans Administration
RULES
29226 Security and law enforcement at VA facilities

Western Area Power Administration
NOTICES
Environmental statements; availability, etc.:
29259 Conrad-Shelby transmission line project, MT

Separate Parts in This Issue

Part II
29306 Department of Transportation, Federal Aviation Administration

Part III
29324 Department of the Interior, Bureau of Land Management

Part IV
29328 Department of Education

Part V
29338 Department of the Interior, Fish and Wildlife Service

Part VI
29352 Department of Education

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12526 29203
9 CFR
91 29205
11 CFR
Proposed Rules:
110 29232
14 CFR
121 29306
135 29306
15 CFR
368 29205
370 29205
376 29205
378 29205
385 29205
386 29205
Proposed Rules:
303 29232
17 CFR
275 29206
21 CFR
173 29208
436 29209
Proposed Rules:
109 29233
110 29233
170 29235
225 29233
226 29233
500 29233
509 29233
23 CFR
825 29209
29 CFR
1952 29210
30 CFR
Proposed Rules:
917 29235
926 29235
31 CFR
4 29221
33 CFR
100 (3 documents) 29221–29233
110 29224
165 29225
Proposed Rules:
117 29236
34 CFR
304 29328
425 29352
426 29352
431 29352
432 29352
38 CFR
1 29226
40 CFR
52 29229
Proposed Rules:
52 29237
43 CFR
2 29230
Proposed Rules:
5400 29324
5440 29324
47 CFR
83 29231
48 CFR
6101 29231
50 CFR
17 (3 documents) 29338–29345
Proposed Rules:
17 29238
611 29240
650 29240
651 29241
675 29240

Federal Register
Vol. 50, No. 138

Presidential Documents

VOL
50
ISS
138
JL
18
1985
UMI

Federal Register
Vol. 50, No. 138
Thursday, July 18, 1985

Presidential Documents

Title 3—

The President

Executive Order 12526 of July 15, 1985

President's Blue Ribbon Commission on Defense Management

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), a Blue Ribbon Commission on Defense Management, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's Blue Ribbon Commission on Defense Management. The Commission shall be composed of no fewer than ten and no more than seventeen members appointed or designated by the President.

(b) The composition of the Commission shall include persons with extensive experience and national reputations in commerce and industry, as well as persons with broad experience in government and national defense.

(c) The President shall designate a Chairman from among the members of the Commission. The Chairman shall appoint a professional and administrative staff to support the Commission.

Sec. 2. *Functions.* (a) The Commission shall study the issues surrounding defense management and organization, and report its findings and recommendations to the President and simultaneously submit a copy of its report to the Secretary of Defense.

(b) The primary objective of the Commission shall be to study defense management policies and procedures, including the budget process, the procurement system, legislative oversight, and the organizational and operational arrangements, both formal and informal, among the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, the Unified and Specified Command system, the Military Departments, and the Congress. In particular, the Commission shall:

1. Review the adequacy of the defense acquisition process, including the adequacy of the defense industrial base, current law governing Federal and Department of Defense procurement activities, departmental directives and management procedures, and the execution of acquisition responsibilities within the Military Departments;

2. Review the adequacy of the current authority and control of the Secretary of Defense in the oversight of the Military Departments, and the efficiency of the decisionmaking apparatus of the Office of the Secretary of Defense;

3. Review the responsibilities of the Organization of the Joint Chiefs of Staff in providing for joint military advice and force development within a resource-constrained environment;

4. Review the adequacy of the Unified and Specified Command system in providing for the effective planning for and use of military forces;

5. Consider the value and continued role of intervening layers of command on the direction and control of military forces in peace and in war;

6. Review the procedures for developing and fielding military systems incorporating new technologies in a timely fashion;

7. Study and make recommendations concerning congressional oversight and investigative procedures relating to the Department of Defense; and

8. Recommend how to improve the effectiveness and stability of resources allocation for defense, including the legislative process.

Rules and Regulations

Federal Register
Vol. 50, No. 138

8. Recommend how to improve the effectiveness and stability of resources allocation for defense, including the legislative process.

(c) In formulating its recommendations to the President, the Commission shall consider the appropriate means for implementing its recommendations. The Commission shall first devote its attention to the procedures and activities of the Department of Defense associated with the procurement of military equipment and materiel. It shall report its conclusions and recommendations on the procurement section of this study by December 31, 1985. The final report, encompassing the balance of the issues reviewed by the Commission, shall be submitted not later than June 30, 1986, with an interim report to be submitted not later than March 31, 1986.

(d) The Commission shall be in place and operating as soon as possible. Shortly thereafter, the Commission shall brief the Assistant to the President for National Security Affairs and the Secretary of Defense on the Commission's plan of action.

(e) Where appropriate, implementation of the Commission's recommendations shall be considered in accordance with regular administrative procedures coordinated by the Office of Management and Budget, and involving the National Security Council, the Department of Defense, and other departments or agencies as required.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information as it may require for purposes of carrying out its functions.

(b) Members of the Commission shall serve without additional compensation for their work on the Commission. However, members appointed from among private citizens may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707), to the extent funds are available.

(c) The Secretary of Defense shall provide the Commission with such administrative services, facilities, staff, and other support services as may be necessary. Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of Defense.

Sec. 4. *General.* (a) Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Commission, shall be performed by the Secretary of Defense, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall terminate 30 days after the submission of its final report.

Ronald Reagan

THE WHITE HOUSE,
July 15, 1985.

[FR Doc. 85-17192
Filed 7-16-85; 12:43 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 138
Thursday, July 18, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 85-059]

Ports Designated for Exportation of Animals

Correction

In FR Doc. 85-16227, beginning on page 27929, in the issue of Tuesday, July 9, 1985, make the following correction:

§ 91.14 [Corrected]

On page 27930, in the third column, in § 91.14 (a)(3)(i)(A), third line, "97601" should read "96701".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 368, 370, 376, 378, 385, 386

[Docket No. 50578-5078]

Country Name Change From Kampuchea to Cambodia

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: In accordance with the January 2, 1985 decision of the U.S. Board on Geographic Names, the United States Government will use the country name Cambodia in lieu of the formerly approved country name Kampuchea.

EFFECTIVE DATE: July 18, 1985.

FOR FURTHER INFORMATION CONTACT: Richard Usrey, Exporter Assistance Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-3856).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Since this rule involves a foreign affairs function of the United States, the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date (5 U.S.C. 553) are inapplicable.

2. This rule does not contain a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

3. Because a notice of proposed rulemaking is not required to be published for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act, U.S.C. 601(2) and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. This rule is not a major rule or regulation within the meaning of section 1(a) of Executive Order 12291 and, accordingly, is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

Therefore, this regulation is issued in final form. Although there is no formal comment period, pubic comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Parts 368, 370, 376, 378, 385 and 386

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368, 370, 376, 378, 385, and 386) are amended as follows:

1. The authority citation for 15 CFR Parts 368, 376, 378, 385, and 386 is revised and the authority citation for 15 CFR Part 370 continues to read as follows:

Authority: Secs. 203, 206, Pub. L. 95-223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), Executive Order No. 12470 of March 30, 1984 (49 FR 13088, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513 March 29, 1985).

PART 368—[AMENDED]

§ 368.2 [Amended]

2. Footnote 1 to § 368.2(a)(9)(i) is amended by revising the three (3) entries of the word "Kampuchea" to read "Cambodia" and the one (1) entry of the word "Kampuchean" to read "Cambodian."

PART 370—[AMENDED]

3. Supplement No. 1 to Part 370 is amended by replacing the word "Kampuchea" with the word "Cambodia" in Country Group Z.

PART 376—[AMENDED]

§ 376.9 [Amended]

4. Section 376.9 is amended by revising in paragraph (c)(4)(i) the phrase "under the control of North Korea or Kampuchea"—to read—"under the control of North Korea or Cambodia"; by revising in paragraph (c)(4)(ii) the phrase "under the control of North Korea or Kampuchea"—to read—"under the control of North Korea or Cambodia"; by revising in paragraph (c)(4)(ii)(*a*) the phrase "under the control of North Korea or Kampuchea"—to read—"under the control of North Korea or Cambodia", by revising in paragraph (c)(4)(ii)(*b*) the phrase "registered in North Korea, Vietnam, Kampuchea"—to read—"registered in North Korea, Vietnam, Cambodia"; and by revising in paragraph (c)(4)(ii)(*c*) the phrase "a national of North Korea, Vietnam, Kampuchea"—to read— "a national of North Korea, Vietnam, Cambodia", and the phrase "under the control of North Korea, Vietnam, Kampuchea"—to read—"under the control of North Korea, Vietnam, Cambodia".

PART 378—[AMENDED]

5. Supplement No. 2 to Part 378 is amended by replacing the word "Kampuchea" with the word "Cambodia".

PART 385—[AMENDED]

§ 385.1 [Amended]

6. Section 385.1 is amended by revising the section heading "Country Group Z: North Korea, Vietnam, Kampuchea and Cuba"—to read—"Country Group Z: North Korea, Vietnam, Cambodia and Cuba".

PART 386—[AMENDED]

§ 386.6 [Amended]

registration exemption for any adviser with fewer than fifteen clients who does not hold himself out to the public as an

intended to address the question of when a general partner is an investment adviser as defined by the Act. This

D. Safe Harbor for a General Portner of a General Partnership

the limited partners with individualized investment advice.

body of the rule. A reminder about the applicability of section 208(d) to a

VOL 50 ISS 138 JL 18 1985 UMI

PART 386—[AMENDED]

§ 386.6 [Amended]

7. Section 386.6 is amended by revising in paragraph (d)(2)(i)(*b*) the phrase "any destination except Soviet Bloc [2], Laos, Libya, North Korea, Vietnam, Kampuchea,"—to read—"any destination except Soviet Bloc [2], Laos, Libya, North Korea, Vietnam, Cambodia,".

Dated: May 22, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85-17050 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DT-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA-983; File No. S7-7-85]

Definition of "Client" of an Investment Adviser for Certain Purposes Relating to Limited Partnerships

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a rule that specifies certain situations in which a limited partnership, rather than each of its limited partners, may be counted as a "client" of a general partner acting as investment adviser to the partnership, for purposes of an exemption from registration provided by the Investment Advisers Act of 1940. By creating a safe harbor, the rule will provide investment advisers with greater certainty in determining when they may rely on that exemption.

EFFECTIVE DATE: August 19, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lemke, Chief Counsel (202) 272-2030, or Thomas S. Harman, Attorney (202) 272-2030, Office of Chief Counsel, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is adopting rule 203(b)(3)-1 under the Investment Advisers Act of 1940 ("Act").[1] The rule specifies certain circumstances in which a general partner or other person acting as investment adviser to a limited partnership (a "general partner") may count the partnership, rather than each of the individual limited partners, as a "client" for purposes of the Act's registration exemption for any adviser with fewer than fifteen clients who does not hold himself out to the public as an investment adviser (the "private adviser exemption").[2] By providing a "safe harbor" setting forth circumstances when a general partner may count a limited partnership as a single client, the rule will provide general partners with greater certainty regarding when they may rely on the private adviser exemption.

The rule is available to any general partner, subject to two conditions. First, the limited partnership interests must be securities. Second, the general partner must provide investment advice to the partnership based on the investment objectives of the limited partnership. The rule also defines certain situations under which the safe harbor is unavailable with respect to certain limited partners. Readers are referred to Investment Advisers Act Rel. No. 956 (Feb. 25, 1985) [50 FR 8740, March 5, 1985] ("IA-956" or the "proposing release") for a more detailed discussion of the background and reasons for the rule.

Discussion

The Commission received twenty-seven comment letters on the proposed rule. Nearly all of the commenters supported the general intent of the rule, although three did not support its adoption based on general policy considerations. The Commission believes that the rule will add needed guidance and has determined to adopt it. A number of commenters urging adoption suggested specific modifications in order to clarify application of the rule. These comments, and the Commission's response thereto, are summarized below.

I. General comments

A. The status of a General Partner as an Investment Adviser

Two commenters urged the Commission to clarify that the rule is not intended to address the question of when a general partner is an investment adviser as defined by the Act. This interpretation of the rule is correct, because the rule applies only to a general partner who meets that definition and who seeks to rely on the private adviser exemption.[3] The rule does not address the question of whether any general partner in fact meets that definition.[4]

B. The Rule as a "Safe Harbor"

While most commenters endorsed the description of the rule as a "safe harbor," several recommended that the rule itself state that, as a safe harbor, it is not intended to specify the exclusive method for counting clients. This suggestion has been incorporated into a prefatory note to the rule.

C. The Relationship Between the Private Adviser Exemption and the Rule

As previously noted, in order for a general partner to rely on the private adviser exemption, it must satisfy two elements: it must have fewer than fifteen clients and it must not hold itself out to the public as an investment adviser. The safe harbor rule, as proposed, addressed only the former element. One commenter asserted, however, that if a general partner participates in a non-public offering of limited partnership interests, the general partner might be deemed to be holding itself out to the public as an investment adviser. If so, the general partner would not satisfy the latter element of the private adviser exemption and therefore would have to register, notwithstanding its compliance with the safe harbor rule. In this regard, the commenter was particularly concerned by the fact that the disclosure requirements of the federal securities laws would require a private placement memorandum to identify the partnership's investment adviser.[5] The Commission agrees that this limited activity be a general partner should not—in and of itself—cause a general partner relying on this safe harbor rule to fall outside of the second element of the private adviser exemption. Therefore, the Commission has added a new provision to the rule, paragraph (c), to make this point clear.

[1] 15 U.S.C. 80b-1 *et seq.*

[2] Section 203(b)(3) [15 U.S.C. 80b-3(b)(3)] exempts from the registration provision of the Act any investment adviser who during the course of the preceding twelve months has had fewer than fifteen clients and who neither holds himself out generally to the public as an investment adviser nor acts as an investment adviser to any investment company registered under title I of this Act, or a company which has elected to be a business development company pursuant to section 54 of title I of this Act and has not withdrawn its election. For purposes of determining the number of clients of an investment adviser under this paragraph, no shareholder, partner, or beneficial owner of a business development company, as defined in this title, shall be deemed to be a client of such investment adviser unless such person is a client of such investment adviser separate and apart from his status as a shareholder, partner, or beneficial owner.

[3] The definition of an "investment adviser" is set forth in section 202(a)(11) of the Act [15 U.S.C. 80b-2(a)(11)].

[4] As the Commission noted in the proposing release (*see* IA-956 at nn. 6-7 & accompanying text), several courts have addressed this question.

[5] The commenter also asserted that the proviso to paragraph (a)(2) of the proposed rule itself recognized the likelihood that a general partner would participate in the sale of limited partnership interests.

D. Safe Harbor for a General Partner of a General Partnership

Several commenters felt that the scope of the rule should be expanded to provide the same safe harbor to a general partner of a general partnership. The Commission has determined not to adopt this suggestion at this time. The rationale for the proposed rule, in large part was to accord limited partnerships the same treatment accorded passive investment vehicles organized as corporations. Because, among other things, general partnerships do not normally involve passive investors, comparable treatment for general partnerships may not be appropriate.

II. The Rul

A. Definition of Investment Advisory Client: Paragraph (a)(2)

One commenter suggested that the rule clarify whether a general partner's report on partnership investments could constitute investment advice and thus make any limited partner receiving such a report an investment advisory client of the general partner as defined in paragraph (a)(2). As such, the safe harbor would not be available with respect to that limited partner because of paragraph (b)(3). Such an interpretation, the commenter believes, is not appropriate because it would make the rule unavailable to the many general partners who desire to periodically report to limited partners on the status of partnership assets. The Commission agrees that this limited activity should not affect the availability of the safe harbor, and it has expanded paragraph (a)(2) of the rule to provide that a limited partner who receives a general partner's report regarding the performance of or plans for partnership assets (or similar matters) would not, by that fact alone, become an investment advisory client of the general partner.

Several commenters asserted that paragraph (a)(2)(ii) of the proposed rule, which deems a limited partner to be an investment advisory client of a general partner if the general partner advises the limited partner about transferring its assets to another partnership, is unnecessarily restrictive and arbitrarily limits the rule's availability. The Commission has determined to retain this provision because it believes it would be inappropriate for a general partner, in reliance on this safe harbor rule, to be able to establish a series of limited partnerships and switch limited partners from one partnership to another to meet their individual investment objectives, thereby, in effect, providing the limited partners with individualized investment advice.

B. The Rule's Safe Harbor: Paragraph (b)

1. Limited Partnership Interests as Securities: Paragraph (b)(2)(i)

Several commenters questioned the necessity of this provision, which requires that the limited partnership interests must be securities, although others acknowledged its usefulness and supported its retention in the rule as a means of preventing potential abuses. The Commission agrees with the latter commenters and, accordingly, has retained this provision.

2. Providing Investment Advice to the Partnership as a Common Investment Vehicle: Paragraph (b)(2)(ii)

Three commenters suggested that this provision should refer to the "investment objectives of the partnership" rather than the "investment objectives of the limited partners as a group." These commenters asserted that, among other things, such a change would more accurately reflect a typical partnership agreement and would produce the same result. The Commission has modified this provision to incorporate this suggestion.

3. The "Alter Ego" Provision: Paragraph (b)(2)(iii)

A number of commenters addressed this provision of the proposed rule, which made the safe harbor unavailable to a general partner which is the "alter ego" of a registered investment adviser. While commenters generally supported the intent of this provision—to prevent a registered adviser from using the safe harbor rule to circumvent the Act by establishing an unregistered general partner subsidiary to advise a limited partnership—several specifically objected to the use of the phrase "alter ego" on the ground that it is too vague for rulemaking. One commenter suggested that a more effective way to achieve the purpose intended by this condition would be to include in the rule a cross reference to section 208(d) of the Act.[6] The Commission continues to believe that the concept underlying section 208(d) is particularly relevant to this safe harbor rule, but has determined to delete the alter ego provision from the body of the rule. A reminder about the applicability of section 208(d) to a general partner relying on the rule has been added as a prefatory note.

C. Exclusions From the Safe Harbor: Paragraph (b)(3)

Several commenters objected to paragraph (b)(3), which specifies certain situations in which the safe harbor is not available with respect to a particular limited partner. In particular, the commenters did not agree with the inclusion of paragraph (b)(3)(ii) in the proposed rule, which makes the safe harbor unavailable with respect to any limited partner who is, separate and apart from its status as a limited partner, an investment advisory client of a related person of the general partner. The commenters asserted generally that the purpose of paragraph (b)(3) was unclear or that the alter ego provision adequately solved the problems that this provision sought to address. As the Commission noted in the proposing release, the purpose of paragraph (b)(3) is to make the safe harbor unavailable with respect to a limited partner who has an advisory relationship with the general partner, or a related person, in addition to that arising out of the limited partnership. In such a case, the Commission believes it would be inappropriate to include that limited partner within the safe harbor, although, as previously noted, the fact that a particular limited partner is outside the safe harbor does not automatically mean that the limited partner must be counted as a client. While the alter ego provision may to some extent address the same concerns as paragraph (b)(3), it does not deal with all the concerns this provision addresses. Accordingly, the Commission has determined to retain this provision as proposed.

Two commenters requested that the Commission make clear that even if the safe harbor is not available with respect to a particular limited partner because of paragraph (b)3), that fact alone would not make the safe harbor unavailable to other limited partners, so long as they otherwise satisfied the rule. A sentence clarifying this point has been added to paragraph (b)(3).

Summary of Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Chairman of the Commission previously certified that rule 203(b)(3)-(1) will not have a significant economic impact on a substantial number of small entities. No

[6] Section 208(d) [15 U.S.C. 80b-8(d)] of the Act makes it unlawful for any person indirectly, or through or by any other person, to do any act which it would be unlawful for such person to do directly under the provisions of the Advisers Act or any rule or regulation thereunder.

comments were received on that certification.

nature that the person providing the services would be an investment

DEPARTMENT OF HEALTH AND HUMAN SERVICES

materials that are not available for public disclosure before making the

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN

SUMMARY: The Food and Drug Administration (FDA) corrected a

comments were received on that certification.

Paperwork Reduction Act

The rule is not subject to that act because it does not impose an information collection requirement.

List of Subjects in 17 CFR Part 275

Investment Advisers, Reporting and recordkeeping requirements, Securities.

Text of Rule 203(b)(3)–(1)

Part 275 of Chapter II, Title 17 of the Code of Federal Regulations is hereby amended as set forth below:

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

1. The authority citation for Part 275 continues to read in part as follows:

Authority: Secs. 203, 204, 211, 54 Stat. 850, as amended, 852, as amended, 855, as amended; 15 U.S.C. 80b–3, 80b–4, 80b–11 * * *; Section 275.203b 3–1 also issued under section 206A (15 U.S.C. 80b–6A).

2. By adding § 275.203b 3–1 as follows:

§ 275.203(b)(3)–1 Definition of "Client" of an investment adviser for certain purposes relating to limited partnerships.

Preliminary Notes

1. This rule is a safe harbor and is not intended to specify the exclusive method for a limited partnership, rather than each limited partner, to be counted as a "client" for purposes of section 203(b)(3) of the Act. The rule is not intended to create any presumptions about the status of any person not relying, or unable to rely, on the rule.

2. Any person relying on this rule is reminded that section 208(d) of the Act makes it unlawful generally for such person to do indirectly, or through any other person, any act which it would be unlawful for such person to do directly under the Act or the rules thereunder. The fact that a person relying on this rule is related to a registered investment adviser is not sufficient, in and of itself, to preclude reliance on the rule. However, absent the separate and distinct operation of a registered adviser from a person relying on this rule, section 208(d) requires the two entities to be viewed as a single entity for purposes of section 203(b)(3) of the Act.

(a) As used in this subsection:

(1) A "related person" of another person is any person controlling, controlled by, under common control with, or any employee or employer of, such other person; and

(2) A limited partner is an "investment advisory client" of a general partner or other person acting as investment adviser to the partnership, or any related person of the foregoing persons, if the limited partner receives from any such person

(i) investment advisory services of a nature that the person providing the services would be an investment adviser, as defined in section 202(a)(11) of the Act, or

(ii) investment advice to transfer its assets from one limited partnership to another one; *Provided, however,* That a limited partner is not an investment advisory client of a person solely because such person offers, promotes, or sells interests in the limited partnership to the limited partner or reports periodically to the limited partners as a group solely with respect to the performance of, or the plans for, the partnership's assets (or similar matters).

(b) For purposes of section 203(b)(3) of the Act:

(1) A limited partnership shall be counted as a client of any general partner or other person acting as investment adviser to the partnership; and

(2) A limited partner of the partnership shall not be counted as a client of the general partner or other person acting as investment adviser to the partnership if:

(i) The limited partnership interests are securities; and

(ii) The general partner or other person provides investment advice to the partnership based on the investment objectives of the limited partnership.

(3) Paragraph (b)(2) of this section shall not be available with respect to any limited partner who is, separate and apart from its status as a limited partner, an investment advisory client of

(i) a general partner or other person acting as investment adviser to the partnership, or

(ii) any related person thereof. The fact that paragraph (b)(2) of this section is not available with respect to a particular limited partner shall not affect the availability of that paragraph with respect to any other limited partner otherwise complying with paragraph (b)(2) of this section.

(c) Any person relying on this rule shall not be deemed to be holding itself out generally to the public as an investment adviser, within the meaning of section 203(b)(3), solely because it participates in a non-public offering of limited partnership interests under the Securities Act of 1933.

By the Commission.

Dated: July 12, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–17134 Filed 7–17–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 83F–0324]

Secondary Direct Food Additives Permitted in Food for Human Consumption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an aqueous dispersion of small particle-size chloromethylated aminated styrene-divinylbenzene resins for treatment of sugar solutions. This action responds to a petition filed by Rohm and Haas Co.

DATES: Effective July 18, 1985; objections by August 19, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 31, 1983 (48 FR 50170), FDA announced that a petition (FAP 3A3751) had been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that Part 173 (21 CFR Part 173) of the food additive regulations be amended to provide for the safe use of an aqueous dispersion of small particle-size chloromethylated aminated styrene-divinyl-benzene resins for treatment of sugar solutions.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before August 19, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Food processing aids.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for Part 173 is revised to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10.

2. In Subpart A by adding new § 173.70 to read as follows:

§ 173.70 Chloromethylated aminated styrene-divinylbenzene resin.

Chloromethylated aminated styrene-divinylbenzene copolymer (CAS Reg. No. 60177–39–1) may be safely used in food in accordance with the following prescribed conditions:

(a) The additive is an aqueous dispersion of styrene-divinylbenzene copolymers, first chloromethylated then aminated with trimethylamine, having an average particle size of not more than 2.0 microns.

(b) The additive shall contain no more than 3.0 percent nonvolatile, soluble extractives when tested as follows: One hundred grams of the additive is centrifuged at 17,000 r/min for 2 hours. The resulting clear supernatant is removed from the compacted solids and concentrated to approximately 10 grams on a steam bath. The 10-gram sample is again centrifuged at 17,000 r/min for 2 hours to remove any residual insoluble material. The supernatant from the second centrifugation is then removed from any compacted solids and dried to constant residual weight using a steam bath. The percent nonvolatile solubles is obtained by dividing the weight of the dried residue by the weight of the solids in the original resin dispersion.

(c) The additive is used as a decolorizing and clarification agent for treatment of refinery sugar liquors and juices at levels not to exceed 500 parts of additive solids per million parts of sugar solids.

Dated: July 11, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–17022 Filed 7–17–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 436

[Docket No. 84N–0251]

Antibiotic Drugs; Sterile Cefonicid Sodium; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) corrected a document that provided for the inclusion of accepted standards for a new antibiotic drug, sterile cefonicid sodium (49 FR 44460; November 7, 1984). The document contained an error in an equation. This document corrects that error.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Center for Drugs and Biologics (HFN–815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

§ 436.350 [Corrected]

SUPPLEMENTARY INFORMATION:

In FR Doc. 84–29207, appearing on page 44460, second column, in the issue of Wednesday, November 7, 1984, under § 436.350 *High-performance liquid chromatograph assay for cefonicid,* in paragraph (c)(4), the equation is corrected to read as follows:

$$S_R = \frac{100}{\bar{X}} \left[\frac{\sum_{i=1}^{N} (X_i - \bar{X})^2}{N - 1} \right]^{\frac{1}{2}}$$

Dated: July 11, 1985.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 85–17019 Filed 7–17–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 825

Public Transportation for Nonurbanized Areas; Rescission of Regulation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescission of regulation.

SUMMARY: This document rescinds the FHWA regulation on the Public Transportation for Nonurbanized Areas Program (Section 18) because the provisions are obsolete. The Section 18 program is now administered by the Urban Mass Transportation Administration (UMTA).

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Torbik, Office of Highway Planning, and Construction. The regulations implementing Executive Order 12373 regarding intergovernmental consultation on

SUPPLEMENTARY INFORMATION:

Introduction

period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in

Federal occupational safety and health standards, including emergency

staffing system, and safety and health posters for private and public

VOL 50 ISS 138 JL 18 1985 UMI

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Torbik, Office of Highway Planning, Program Management Division, 202–426–0233, or Michael J. Laska, Office of the Chief Counsel, 202–426–0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The provisions contained in 23 CFR Part 825 were issued to prescribe procedures for States to follow when applying for funds under the section 18 program for public transportation in rural and small urban areas (Section 313 of the Surface Transportation Assistance Act of 1978, Pub. L. 95–599, 92 Stat. 2748). The Secretary of Transportation transferred the responsibility for administering this program from the FHWA to UMTA on October 1, 1983. To accommodate UMTA's administrative structure and to streamline the application and assurance requirements, UMTA issued new procedures. (Section 18 Program Guidelines and Grant Application Instructions, 9040.1, September 26, 1983). For this reason, Part 825 is no longer operative, and is, therefore, rescinded.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. No economic impacts are anticipated as a result of this action. Accordingly, a full regulatory evaluation is not required.

For the reasons stated above, the FHWA finds goods cause to rescind the regulation contained in 23 CFR Part 825 without notice and opportunity for comment and without a 30-day delay in effective date required under the Administrative Procedure Act since public comment is impracticable and unnecessary. In addition, notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information.

PART 825—PUBLIC TRANSPORTATION FOR NONURBANIZED AREAS—[REMOVED]

In consideration of the foregoing, the FHWA hereby removes Part 825 "Public Transportation Program for Nonurbanized Areas" from Title 23, Code of Federal Regulations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12373 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR 825

Grant programs—transportation, Highways and roads.

(23 U.S.C. 315; 49 CFR 1.48(b))

Issued on: July 11, 1985.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 85–17042 Filed 7–17–85; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T–010]

Maryland State Plan; Approval of Revised Compliance Staffing Benchmarks and Final Approval Determination

AGENCY: Department of Labor, Occupational Safety and Health Administration (OSHA).

ACTION: Approval of revised compliance staffing benchmarks and final State plan approval.

SUMMARY: This document amends Subpart O of 29 CFR Part 1952 to reflect the Assistant Secretary's decision approving revised compliance staffing requirements and granting final approval to the Maryland State plan. As a result of this affirmative determination under section 18(e) of the Occupational Safety and Health Act of 1970, Federal OSHA standards and enforcement authority no longer apply to occupational safety and health issues covered by the Maryland plan, and authority for Federal concurrent jurisdiction is relinquished. Federal enforcement jurisdiction is retained over maritime employment in the private sector and employment on military bases. Federal jurisdiction remains in effect with respect to Federal Government employers and employees.

EFFECTIVE DATE: July 18, 1985.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Introduction

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting, and obtaining Federal approval of, a State plan. Procedures for State plan submission and approval are set forth in regulations at 29 CFR Part 1902. If the Assistant Secretary, applying the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3 and 1902.4, finds that the plan provides or will provide for State standards and enforcement which are "at least as effective" as Federal standards and enforcement, initial approval is granted.

A State may commence operations under its plan after this determination is made, but the Assistant Secretary retains discretionary Federal enforcement authority during the initial approval period as provided by section 18(e) of the Act. A State plan may receive initial approval even though, upon submission, it does not fully meet the criteria set forth in 29 CFR 1902.3 and .4 if it includes satisfactory assurance by the State that it will take the necessary "developmental steps" to meet the criteria within a 3-year period. 29 CFR 1902.2(b). The Assistant Secretary publishes a notice of "certification of completion of developmental steps" when all of a State's developmental commitments have been satisfactorily met. 29 CFR 1902.34.

When a State plan that has been granted initial approval is developed sufficiently to warrant a suspension of concurrent Federal enforcement activity, it becomes eligible to enter into an "operational status agreement" with OSHA. 29 CFR 1954.3(f). A State must have enacted its enabling legislation, promulgated State standards, achieved an adequate level of qualified personnel, and established a system for review of contested enforcement actions. Under these voluntary agreements, concurrent Federal enforcement will not be initiated with regard to Federal occupational safety and health standards in those issues covered by the State plan, where the State program is providing an acceptable level of protection.

Following the initial approval of a complete plan, or the certification of a developmental plan, the Assistant Secretary must monitor and evaluate actual operations under the plan for a

period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3, 1902.4 and 1902.37 are being applied. An affirmative determination under section 18(e) of the Act (usually referred to as "final approval" of the State plan) results in the relinquishment of authority for Federal concurrent jurisdiction in the State with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e).

An additional requirement for final approval consideration is that a State must meet the compliance staffing levels, or benchmarks, for safety and health compliance officers established by OSHA for that State. This requirement stems from a 1978 Court Order by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406), pursuant to a U.S. Court of Appeals decision, that directed the Assistant Secretary to calculate for each State plan State the number of enforcement personnel needed to assure a "fully effective" enforcement program.

History of the Maryland Plan and its Compliance Staffing Benchmarks

Maryland Plan

On November 30, 1972, Maryland submitted occupational safety and health plan in accordance with section 18(b) of the Act and 29 CFR Part 1902, Subpart C, and on January 22, 1973, a notice was published in the **Federal Register** (38 FR 2188) concerning submission of the plan, announcing that initial Federal approval was at issue and offering interested persons an opportunity to submit data, views and arguments concerning the plan. Comments were received from the AFL–CIO and the Construction Industry Safety Advisory Committee. In response to these comments, as well as to OSHA's review of the plan submission, the State made changes in its plan which were discussed in the notice of initial approval. On July 5, 1973, the Assistant Secretary published a notice granting initial approval of the Maryland plan as a developmental plan under section 18(b) of the Act (38 FR 17834). The plan provides for a program patterned in most respects after that of the Federal Occupational Safety and Health Administration.

The Commissioner of the Maryland Division of Labor and Industry is designated as having responsibility for administering the plan throughout the State. The plan provides for the adoption by Maryland of standards which are at least as effective as Federal occupational safety and health standards, including emergency temporary standards. The plan requires employers to do everything necessary to protect the life, safety and health of employees and to comply with all occupational safety and health standards promulgated by the agency. Employees are likewise required to comply with standards applicable to their conduct. The plan contains provisions similar to Federal procedures for, among others, imminent danger proceedings, variances, safeguards to protect trade secrets, and employer and employee rights to participate in inspection and review proceedings. Appeals of citations, penalties and abatement periods are heard by a hearing examiner, whose decision may be reviewed by the Commissioner of Labor and Industry. Decisions of the Commissioner may be appealed to the appropriate State circuit court.

The notice of initial approval noted a few distinctions between the Federal and Maryland programs. The State does not cover private sector maritime employment or employment on military bases. Unlike the Federal Act, citations and penalties under the Maryland plan are first reviewed by the agency with overall responsibility for administering the plan rather than an independent agency. However, those decisions are subject to review by the appropriate circuit courts.

The Assistant Secretary's initial approval of the Maryland developmental plan, a general description of the plan, a schedule of required developmental steps and a provision for discretionary concurrent Federal enforcement during the period of initial approval were codified in the Code of Federal Regulations (29 CFR Part 1952, Subpart O; 38 FR 17834 (July 5, 1973)).

In accordance with the State's developmental schedule, all major structural components of the plan were put in place and appropriate documentation submitted for OSHA approval during the three-year period ending July 5, 1976. These "developmental steps" included amendments to the Maryland Occupational Safety and Health Law, promulgation of State occupational safety and health standards and program regulations, and development of a public employee program. In completing these developmental steps, the State developed and submitted for Federal approval all components of its enforcement program including, among other things, field operations manuals, management information system, merit staffing system, and safety and health posters for private and public employees.

These submissions were carefully reviewed by OSHA; after opportunity for public comment and modification of State submissions, where appropriate, the major plan elements were approved by the Assistant Secretary as meeting the criteria of section 18 of the Act and 29 CFR 1902.3 and 1902.4. The Maryland subpart of 29 CFR 1952 was amended to reflect each of these approval determinations (see 29 CFR 1952.214).

On August 16, 1976, OSHA entered into an operational status agreement with the State of Maryland. Under the terms of that agreement, OSHA voluntarily suspended the application of concurrent Federal enforcement authority with regard to Federal occupational safety and health standards in all issues covered by the Maryland plan.

On February 15, 1980, in accordance with procedures at 29 CFR 1902.34 and 1902.35, the Assistant Secretary certified that Maryland had satisfactorily completed all developmental steps (45 FR 10335). In certifying the plan, the Assistant Secretary found the structural features of the program—the statute, standards, regulations, and written procedures for administering the plan—to be at least as effective as corresponding Federal provisions. Certification does not entail findings or conclusions by OSHA concerning adequacy of actual plan performance. As has already been noted, OSHA regulations provide that certification initiates a period of evaluation and monitoring of State activity to determine, in accordance with section 18(e) of the Act, whether the statutory and regulatory criteria for State plans are being applied in actual operations under the plan and whether final approval should be granted.

Maryland Benchmarks

In 1978, the Assistant Secretary was directed by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406), pursuant to a U.S. Court of Appeals decision, to calculate for each State plan the number of enforcement personnel (compliance staffing benchmarks) needed to assure a "fully effective" enforcement program. In 1980, OSHA submitted a Report to the Court containing the benchmarks and requiring Maryland to allocate 30 safety compliance officers and 43 industrial hygienists to conduct inspections under the plan.

Pursuant to the initiative begun in August 1983 by the State plan designees as a group with OSHA and in accord

The January 16 **Federal Register** also contained notice of the Occupational

regarding the proposed revised compliance staffing benchmarks for

framework of overall State plan administration, detract from the State's

the need for "uniformity," OSHA believes the greatest strength of the

The AFL–CIO also objected to the

VOL
50
ISS
138
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1985
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Pursuant to the initiative begun in August 1983 by the State plan designees as a group with OSHA and in accord with the formula and general principles established by that group for individual State revision of the benchmarks, Maryland reassessed the staffing necessary for a "fully effective" occupational safety and health program in the State. In September 1984 Maryland in conjunction with OSHA completed a review of the components and requirements of the 1980 compliance staffing benchmarks established for Maryland. This reassessment resulted in a proposal to OSHA of a revised compliance staffing benchmark of 36 safety and 18 health compliance officers.

History of the Present Proceedings

Procedures for final approval of State plans are set forth at 29 CFR Part 1902, Subpart D. On January 16, 1985, the Occupational Safety and Health Administration published notice of its proposal to approve revised compliance staffing benchmarks for Maryland and the resultant eligibility of the Maryland State plan for determination under section 18(e) of the Act as to whether final approval of the plan should be granted (50 FR 2460). The determination of eligibility was based on monitoring of State operations for at least one year following certification, State participation in the Federal-State Unified Management Information System, and staffing which meets the proposed revised State staffing benchmarks.

The January 16 **Federal Register** notice set forth a general description of the Maryland plan and summarized the results of Federal OSHA monitoring of State operations during the period from October 1982 through March 1984. In addition to the information set forth in the notice itself, OSHA submitted, as part of the record in this rulemaking proceeding, extensive and detailed exhibits documenting the plan, including copies of the State legislation, administrative regulations and procedural manuals under which Maryland operates its plan, and copies of all previous **Federal Register** notices regarding the plan.

A copy of the October 1982—March 1984 Evaluation Report of the Maryland plan ("18(e) Evaluation Report"), which was extensively summarized in the January 16 proposal and which provided the principal factual basis for the proposed 18(e) determination, was included in the record (Ex. 2–10). Copies of all OSHA evaluation reports on the plan since its certification as having completed all developmental steps were made part of the record.

The January 16 **Federal Register** also contained notice of the Occupational Safety and Health Administration's proposal to approve revised compliance staffing benchmarks for Maryland. A detailed description of the methodology and State-specific information used to develop the revised compliance staffing benchmarks for Maryland was included in the notice. In addition, OSHA submitted, as a part of the record (Docket No. T–010), Maryland's detailed submission containing both a narrative explanation and supporting data. A summary of the benchmark revision process was likewise set forth in a separate **Federal Register** notice on January 16, 1985, concerning the Wyoming State plan (50 FR 2491). An informational record was established in a separate docket (No. T–018) and contained background information relevant to the benchmark issue in general and the current benchmark revision process.

To assist and encourage public participation in the benchmark revision process and 18(e) determination, copies of the complete record were maintained in the OSHA Docket Office in Washington, D.C., in the OSHA Region III Office in Philadelphia, Pennsylvania, and the office of the Maryland Division of Labor and Industry in Baltimore. Summaries of the January 16 proposal, with an invitation for public comments, were published in Maryland on January 26 and February 1, 1985 (Ex. 4).

The January 16 proposal invited interested persons to submit, by February 20 (subsequently extended to March 22, 1985, 50 FR 6956, in response to a request from James N. Ellenberger, Department of Occupational Safety, Health and Social Security, AFL–CIO) written comments and views regarding the Maryland plan, whether the proposed revised compliance staffing benchmarks should be approved, and whether final approval should be granted. Opportunity to request an informal public hearing on the issue of final approval was likewise provided. Three comments were received in response to these notices. All three comments were from organized labor. No requests for an informal hearing were received.

Summary and Evaluation of Comments Received

During this proposed rulemaking OSHA has encouraged interested members of the public to provide information and views regarding operations under the Maryland plan, to supplement the information already gathered during OSHA monitoring and evaluation of plan administration and regarding the proposed revised compliance staffing benchmarks for Maryland.

In response to the January **Federal Register** notice, OSHA received comments from the United Steelworkers of America (District No. 8), David Wilson, Director (Ex. 3–2); the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), Margaret Seminario, Associate Director, Department of Occupational Safety, Health and Social Security (Ex. 3–3); and the United Steelworkers of America, AFL–CIO (USWA), Mary Win O'Brien, Assistant General Counsel (Ex. 3–4). Commissioner of the Maryland Division of Labor and Industry, Dominic N. Fornaro, responded to the public comments (Ex. 3–5).

David Wilson, Director of District No. 8 of the United Steelworkers of America, expressed support for final approval of the Maryland occupational safety and health program and praised the program's commitment to occupational health and its cooperative working relationship. However, Mr. Wilson also expressed concern that the State's benchmark calculation did not provide for routine inspections of worksites with fewer than 10 employees in non-manufacturing and other industry groups. He expressed the belief that a reduction in staff could affect the program's efficiency and effectiveness. It should be noted that Maryland's revised benchmarks do not propose a reduction in actual staffing, but merely a reduction in the unrealistic staffing goals set for the program in 1980.

The United Steelworkers of America commented extentively on the benchmark revision process, with particular reference to Maryland's proposed revision, and therefore opposed the granting of final approval to any State.

The AFL–CIO indicated opposition to approval of the proposed revised benchmarks for Maryland and therefore opposed the granting of final State plan approval. Some of the AFL–CIO's comments were directed toward OSHA's system for monitoring and evaluation of State plans and the requirements that a State must meet to be eligible for final approval.

The evaluation of the Maryland plan was conducted in accordance with OSHA's new State plan monitoring and evaluation system. This system uses statistical data to compare Federal and State performance on a number of criteria, or measures. Significant differences between the two are evaluated to determine whether these differences, viewed within the framework of overall State plan administration, detract from the State's effectiveness and potentially render it less effective than the Federal program.

The AFL–CIO expressed concern that Federal OSHA's monitoring system with its reliance on statistical indicators fails to accurately reflect the overall conduct of the State program and tries to limit those areas of State performance which exceed OSHA's enforcement efforts in several areas. However, OSHA never intended that superior performance would result in any negative conclusion. Statistical outliers display differences, not necessarily deficiencies. If further review related to an outlier determines stronger State performance, clearly no negative determination will be made.

The AFL–CIO also commented on specific State performance issues. These comments are addressed in the appropriate sections of the Findings and conclusions portion of this notice. The Maryland State designee, Dominic N. Fornaro, responded to the concerns expressed by the AFL–CIO and the United Steelworkers on both the benchmark issue and State-specific performance (Ex. 3–5).

Comments by the AFL–CIO and Steelworkers addressing the proposed revised benchmarks for Maryland reflected for the most part the commenters' concerns regarding the benchmark revision process generally. Thus, the comments question whether the benchmarks formula as applied in Maryland should have assumed a need for routine, general schedule inspections at all covered workplaces; whether the proposed staffing levels will be sufficient to respond to new hazards or future standards; and question the appropriateness of the inclusion or exclusion of various industry groups in Maryland's general inspection universe unless corresponding industries are treated identically in other States. As was specifically discussed in the **Federal Register** notice of June 13, 1985, dealing with approval of revised benchmarks for the Kentucky State plan (50 FR 24884), the concept of universal general schedule coverage has been replaced by more sophisticated targeting systems which deploy enforcement resources where they are most needed, and universal coverage is as inappropriate a concept for benchmarks formulation as it is for inspection scheduling. The possible effect of new hazards or future standards cannot be ascertained with any precision, and in any case both OSHA and the States have generally been able to effectively enforce new standards with no additions to staff for that purpose. As to the need for "uniformity," OSHA believes the greatest strength of the current formula is that it takes into account actual State program needs as shown by State data and experience. OSHA has found that the formula used to derive benchmarks for Maryland and other States involved in the 1984 revision process employs the best information and techniques currently available, properly takes into account each of the factors set forth in the District Court Order in *AFL–CIO* v. *Marshall*, and is an appropriate means of establishing fully effective benchmarks which provide proper program coverage in the context of each State's specific program needs. A more detailed discussion of the general concerns raised by the AFL–CIO and the Steelworkers can be found in the June 13, 1985, **Federal Register** notice on Kentucky.

The comments filed by the AFL–CIO also addressed several specific issues relating to calculation of the benchmarks for Maryland. The union commented that although Maryland added both hazardous non-manufacturing and small high hazard establishments to its initial safety inspection universe, the specific Standard Industrial Classification (SICs) added were not identified. Rather than specifying the number of establishments in each industry group to be added, Maryland added a percentage of all non-manufacturing establishments based on the degree of hazardousness (proportion of not-in-compliance inspections) found during State inspections. For example, historically State inspections in SICs 52–59 produced 40% of the total number of not-in-compliance inspections in all non-manufacturing SICs. Therefore, provision is made in the benchmark estimates for staffing sufficient to inspect 40% of these establishments biennially.

It must be remembered that assumptions made in determining a State's theoretical workload for benchmark purposes are not binding on the State in scheduling specific employers for an enforcement visit. The initial universe is not in itself a targeting system but rather a method for determining a reasonable estimate of workplaces with industrial exposures likely to produce hazards. The same principles and methodology were used for estimating the proportion of workload to be devoted to small high hazard establishments. As the State indicated in its response, benchmark estimates do not intend that "inspections won't be done in these areas" (Ex. 3–5).

The AFL–CIO also objected to the State's exclusion of firms in low rate industries but with high hazard experience, regardless of size, and stated that any firm with a lost workday case incidence rate (LWCIR) higher than the State average should be included in the State's inspection universe. As the AFL–CIO is aware, BLS injury/illness incidence rates are not available on an establishment level basis. As an alternative, Maryland conducted a full analysis of its establishment inspection history and found that there was no incidence of significantly high violation rates in any of the low rate SICs. The State reasonably determined that the comparatively lower likelihood of identifying and correcting violations in this group of establishments did not justify inclusion in the universe of general schedule inspections. All such worksites will receive coverage in response to complaints and accidents.

Both the AFL–CIO and the Steelworkers expressed concern that the State has not allocated general schedule health inspection resources to many industries with serious health hazards, such as meat packing, auto repair, secondary non-ferrous metals, and hospitals. Most of the industries listed by the AFL–CIO are already included in the State's safety inspection universe and would receive wall-to-wall inspection coverage by safety compliance personnel cross-trained in the recognition of health hazards. Where complex health hazards are identified, a health inspection would result. Moreover, in these industry groups, as in all workplaces covered by the Maryland plan, the State responds to employee complaints of unsafe or unhealthful conditions. OSHA concurs that inclusion of these industries in the initial health universe is not required for proper program coverage.

The AFL–CIO asserted that Maryland's allocation of enforcement resources to health inspections in the public sector and the construction industry, which the State based on past experience, is inadequate. The State responded that its experience reflects the State's concerns regarding health hazards in the construction industry and the public sector. Maryland devotes a high percentage (21.8%) of its health inspection resources to construction and has promulgated a unique standard regarding lead in construction. The State also devotes 7% of its health inspection resources to the public sector and has instituted a Public Sector Asbestos Program.

Finally, both the AFL–CIO and the Steelworkers allege that the number of

enforcement personnel now found appropriate for a fully effective program

benchmarks and supporting documentation and carefully considered

In order to qualify for final State plan approval, a State program must be found

1902.37(b)(6)); temporary variances granted must assure compliance as early

complaints, citing the fact that the Evaluation Report showed that only

provide that employees have access to information on their exposure to

VOL
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138
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1985
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enforcement personnel now found appropriate for a fully effective program in Maryland and other States is lower than the staffing levels allocated by the States in 1980 or projected in the benchmarks issued by OSHA during its first effort to implement the *AFL–CIO* v. *Marshall* Court Order in 1980. (It should be noted that Maryland's proposed revised safety benchmark is actually higher than the 1980 estimate.) However, the District Court Order on which the revision process has been based does not assume or require that revised benchmarks must provide a comparative increase over past levels. The adequacy of the revised benchmarks cannot be determined by whether they are greater or smaller than the 1980 benchmarks or earlier enforcement levels. Such direct numerical comparison of staffing levels is no more valid than was the direct comparison of State to Federal staffing levels under the "at least as effective" test rejected by the Court of Appeals in 1978. The objective assigned to OSHA by the Court of Appeals decision and District Court order was, in sum, to measure the workload assumed by each State under its plan and to determine, using the best available information and techniques but avoiding direct numerical comparison, the staffing levels needed for fully effective coverage. This is precisely what has been done in the present revision process. The review of each State's illness and injury data, industrial mix, demographics and enforcement history has been far more detailed than was the case when benchmarks were first issued in 1980. As discussed above, the concept of universal routine inspections has been replaced by far more sophisticated targeting, devoting resources to the relative minority of industries where the majority of enforcement preventable injuries occur. These factors have resulted in the more realistic enforcement staffing requirements embodied in the revised benchmarks for Maryland.

For these reasons, OSHA believes application of the current benchmark formula for Maryland has resulted in staffing levels which result in fully effective enforcement in the State of Maryland.

Findings and Conclusions

Maryland Benchmarks

As provided in the 1978 Court Order in *AFL–CIO* v. *Marshall*, Maryland, in conjunction with OSHA, has undertaken to revise the compliance staffing benchmarks originally established in 1980 for Maryland. OSHA has reviewed the State's proposed revised benchmarks and supporting documentation and carefully considered the public comments received with regard to this proposal, and determined that compliance staffing levels of 36 safety and 18 health compliance officers meet the requirements of the Court and provide staff sufficient to ensure a fully effective enforcement program.

Maryland Final Approval

As required by 29 CFR 1902.41, in considering the granting of final approval to a State plan, OSHA has carefully and thoroughly reviewed all information available to it on the actual operation of the Maryland State plan. This information has included all previous evaluation findings since certification of completion of the State plan's developmental steps, especially data for the period of October 1982 through March 1984 and information presented in written submissions. Findings and conclusions in each of the areas of performance are as follows.

(1) *Standards.* Section 18(c)(2) of the Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. Such standards where not identical to the Federal must be promulgated through a procedure allowing for consideration of all pertinent factual information and participation of all interested persons (29 CFR 1902.4(b)(2)(iii)); must, where dealing with toxic materials or harmful physical agents, assure employee protection throughout his or her working life (29 CFR 1902.4(b)(2)(i)); must provide for furnishing employees appropriate information regarding hazards in the workplace through labels, posting, medical examinations, etc. (29 CFR 1902.4(b)(2)(vi)); must require suitable protective equipment, technological control, monitoring, etc. (29 CFR 1902.4(b)(2)(vii)); and where applicable to a product must be required by compelling local conditions and not pose an undue burden on interstate commerce (29 CFR 1902.3(c)(2)).

As documented in the approved Maryland State plan and OSHA's evaluation findings made a part of the record in this 18(e) determination proceeding, and as discussed in the January 16 notice, the Maryland plan provides for the adoption of standards and amendments thereto which are identical to or at least as effective as Federal standards. The State's law and regulations, previously approved by OSHA and made a part of the record in this proceeding (Exs. 2–2 and 2–3), include provisions addressing all of the structural requirements for State standards set out in 29 CFR Part 1902.

In order to qualify for final State plan approval, a State program must be found to have adhered to its approved procedures (29 CFR 1902.37(b)(2)); to have timely adopted identical or at least as effective standards, including emergency temporary standards and standards amendments (29 CFR 1902.37(b)(3)); to have interpreted its standards in a manner consistent with Federal interpretations and thus to demonstrate that in actual operation State standards are at least as effective as the Federal (29 CFR 1902.37(b)(4)); and to correct any deficiencies resulting from administrative or judicial challenge of State standards (29 CFR 1902.37(b)(5)).

As noted in the "18(e) Evaluation Report" and summarized in the January 16, 1985 **Federal Register** notice, Maryland has generally adopted standards which are identical to Federal standards and additionally has adopted State standards for conditions, not covered by Federal standards, such as confined spaces, kepone, and lead in construction. The Maryland General Assembly enacted and subsequently amended, in response to OSHA comments, legislation on hazard communication which is comparable to the Federal standard.

When a State adopts Federal standards, the State's interpretation and application of such standards must ensure consistency with Federal interpretation and application. Maryland also adopts standards interpretations which are identical to the Federal. OSHA's monitoring has found that the State's application of its standards is comparable to Federal standards application. No challenges to standards have occurred in Maryland.

Therefore, in accordance with section 18(c)(2) of the Act and the pertinent provisions of 29 CFR 1902.3, 1902.4 and 1902.37, OSHA finds the Maryland program in actual operation to provide for standards adoption, correction when found deficient, interpretation and application, in a manner at least as effective as the Federal program.

(2) *Variances.* A State plan is expected to have the authority and procedures for the granting of variances comparable to those in the Federal program (29 CFR 1902.4(b)(2)(iv)). The Maryland State plan contains such provisions in both law and regulations which have been previously approved by OSHA. In order to qualify for final State plan approval permanent variances granted must assure employment equally as safe and healthful as would be provided by compliance with the standard (29 CFR

1902.37(b)(6)); temporary variances granted must assure compliance as early as possible and provide appropriate interim employee protection (29 CFR 1902.37(b)(7)). As noted in the 18(e) Evaluation Report and the January 16 notice, the one permanent variance granted by the Maryland plan was deemed to provide equivalent protection. No temporary variances were requested during this evaluation period [Evaluation Report, p. 5]. However, past years' experience indicates that the State's procedures were properly applied when granting permanent and temporary variances.

Accordingly, OSHA finds that the Maryland program effectively grants variances from its occupational safety and health standards.

(3) *Enforcement.* Section 18(c)(2) of the Act and 29 CFR 1902.3(d)(1) require a State program to provide a program for enforcement of State standards which is and will continue to be at least as effective in providing safe and healthful employment and places of employment as the Federal program. The State must require employer and employee compliance with all applicable standards, rules and orders (29 CFR 1902.3(d)(2)) and must have the legal authority for standards enforcement including compulsory process (29 CFR 1902.4(c)(2)).

The Maryland Occupational Safety and Health Law (Annotated Code of Maryland, Article 89, Sections 28–49D) and implementing regulations previously approved by OSHA establish employer and employee compliance responsibility and contain legal authority for standards enforcement in terms substantially identical to those in the Federal Act. In order to be qualified for final approval, the State must have adhered to all approved procedures adopted to ensure an at least as effective compliance program (29 CFR 1902.37(b)(2)). The "18(e) Evaluation Report" data show no lack of adherence to such procedures.

(a) *Inspections.* A plan must provide for inspection of covered workplaces, including in response to complaints, where there are reasonable grounds to believe a hazard exists (29 CFR 1902.4(c)(2)(i)). As noted in the January 16, 1985 **Federal Register** notice, Maryland follows a policy of responding to all employee complaints by conducting inspections. Data contained in the 18(e) Evaluation Report indicates that 57.6% of the safety complaints and 53.2% of the health complaints resulted in inspections (Evaluation Report, p. 14). The AFL–CIO in its written comments alleged that the State had insufficient staff to adequately respond to complaints, citing the fact that the Evaluation Report showed that only 27.4% of the complaints alleging serious violations were responded to within five days (Ex. 3–3). The Report explained that the low percentage of complaints responded to in a timely manner was caused by the State's having incorrectly classified a large number of complaints as serious. Had the complaints been correctly classified as other-than-serious, all serious complaints would have been responded to in a timely manner. In its response, the State reports that it has improved its implementation of complaint handling procedures and that the timeliness of its response to complaints is now comparable to Federal performance (Ex. 3–6).

In order to qualify for final approval, the State program, as implemented, must allocate sufficient resources toward high-hazard workplaces while providing adequate attention to other covered workplaces (29 CFR 1902.37(b)(8)). The 18(e) Evaluation Report indicates that 90.9% of State programmed safety and 97.2% of programmed health (general schedule) inspections during October 1982 through March 1984 were conducted in high-hazard industries which compares favorably with Federal performance. During the evaluation period Maryland utilized a high-hazard list to schedule programmed inspections, as does OSHA. Maryland supplements its safety lists with information from injury reports and prior establishment history data. The State does not conduct records inspections.

(b) *Employee Notice and Participation in Inspections.* In conducting inspections the State plan must provide an opportunity for employees and their representatives to point out possible violations through such means as employee accompaniment or interviews with employees (29 CFR 1902.4(c)(2)(ii)). The State's procedures require compliance officers to provide this opportunity. The 18(e) Evaluation Report indicates that employee representatives accompanied Maryland's compliance officers in 5% of the State's initial inspections (Evaluation Report, p. 18). There was no data available on the number of employees interviewed. However, previous evaluation reports show that the State utilizes employee interviews extensively and OSHA has concluded that employee representation is properly provided in State inspections.

In addition, the State plan must provide that employees be informed of their protections and obligations under the Act by such means as the posting of notices, (29 CFR 1902.4(c)(2)(iv)) and provide that employees have access to information on their exposure to regulated agents and access to records of the monitoring of their exposure to such agents (29 CFR 1902.4(c)(vi)).

To inform employees and employers of their protections and obligations, Maryland requires that a poster, which was previously approved by OSHA (40 FR 25207) for employers in the private sector and a separate poster for State and local government employers, be displayed in all covered workplaces. Requirements for the posting of the poster and other notices such as citations, contests, hearings and variance applications, are set forth in the previously approved State law and regulations which are substantially identical to Federal requirements. Information on employee exposure to regulated agents and access to medical and monitoring records is provided through State standards, including the Access to Employee Exposure and Medical Records standard. Federal OSHA evaluation concluded that the State performance is satisfactory.

(c) *Nondiscrimination.* A State is expected to provide appropriate protection to employees against discharge or discrimination for exercising their rights under the State's program including provision for employer sanctions and employee confidentiality (29 CFR 1902.4(c)(2)(v)). The Maryland law and regulations provide for discrimination protection which is at least as effective as the Federal. The State received 14 complaints and investigated 10 complaints during the evaluation period. The State settled administratively the one complaint found meritorious. Average lapse time between receipt of a complaint and the notification to the complainant of the investigation results by the State was 117 days. The AFL–CIO commented that the State took more than 90 days to notify a complainant of the results of a discrimination investigation in 80% of the cases and that this contributed to the fact that only 10% of the discrimination complaints were found meritorious during the evaluation period (Ex. 3–3). The Evaluation Report noted that the delay in discrimination complaint response was attributable to delays within the Attorney General's office and that the problem had been resolved at the close of the evaluation period. The State response indicated that the State has reorganized its system for the investigation of discrimination cases and that newly opened discrimination cases are now being processed within 50 days (Ex. 3–5).

Further, the union provides no evidence of a correlation between the State's lapse time and the percentage of

procedures was found to be proper (Evaluation Report, p. 18).

The 18(e) Evaluation Report attributed the longer safety citation issuance time

reviewed by the Commissioner of Labor and Industry. The Commissioner's

and local government all case rate and 5.7 combined State and local

Standards for a Merit System of Personnel Administration by the U.S.

Further, the union provides no evidence of a correlation between the State's lapse time and the percentage of discrimination complaints found meritorious, a correlation OSHA finds irrelevant considering the nature of discrimination cases. Federal evaluation of the cases indicates that the State action was satisfactory (Evaluation Report, p. 25).

(d) *Restraint of Imminent Danger; Protection of Trade Secrets.* A State plan is required to provide for the prompt restraint of imminent danger situations, (29 CFR 1902.4(c)(2)(vii)) and to provide adequate safeguards for the protection of trade secrets (29 CFR 1902.4(c)(2)(viii)). The State has provisions concerning imminent danger and protection of trade secrets in its law, regulations and field operations manual which are similar to the Federal. The 18(e) Evaluation Report indicates that there were no problems with Maryland's imminent danger procedures. No Complaints About State Program Administration (CASPA's) have been received concerning trade secrets (Evaluation Report, p. 18).

(e) *Right of Entry; Advance Notice.* A State program is expected to have authority for right of entry to inspect and compulsory process to enforce such right equivalent to the Federal program (section 18(c)(3) of the Act and 29 CFR 1902.3(e)). Likewise, a State is expected to prohibit advance notice of inspection, allowing exception thereto no broader than in the Federal program (29 CFR 1902.3(f)). Section 35(a) of the Maryland Occupational Safety and Health Law authorizes the Commissioner of Labor and Industry to enter and inspect all covered workplaces in terms substantially indentical to those in the Federal Act. In addition, section 2A authorizes the Commissioner to petition the Maryland district courts for an order to permit entry into such establishments that have refused entry for the purpose of inspection or investigation. The Maryland law also prohibits advance notice, and implementing procedures for exceptions to this prohibition are substantially identical to the Federal.

In order to be found qualified for final approval, a State is expected to take action to enforce its right of entry when denied (29 CFR 1902.37(b)(9)) and to adhere to its advance notice procedures. The 18(e) Evaluation Report shows that Maryland received 24 denials of entry and warrants were obtained for 12 of these refusals. Entry was gained in the other 12 cases after negotiation with the employers. The 18(e) Evaluation Report shows that there was one instance of advance notice. The State's use of its procedures was found to be proper (Evaluation Report, p. 18).

(f) *Citations, Penalties, and Abatement.* A State plan is expected to have authority and procedures for promptly notifying employers and employees of violations identified during inspection, for the proposal of effective first-instance sanctions against employers found in violation of standards and for prompt employer notification of such penalities (29 CFR 1902.4(c)(2) (x) and (xi)). The Maryland plan through its law, regulations and field operations manual, which have all been previously approved by OSHA, has established a system similar to the Federal for prompt issuance of citations to employers delineating violations and establishing reasonable abatement periods requiring posting of such citations for employee information and proposing penalties.

In order to be qualified for final approval, the State, in actual operation, must be found to conduct competent inspections in accordance with approved procedures and to obtain adequate information to support resulting citations (29 CFR 1902.37(b)(10)), to issue citations, proposed penalties and failure-to-abate notifications in a timely manner (29 CFR 1902.37(b)(11)), to propose penalties for first instance violations that are at least as effective as those under the Federal program (29 CFR 1902.37(b)(12)), and to ensure abatement of hazards including issuance of failure to abate notices and appropriate penalties (29 CFR 1902.37(b)(13)). As discussed in the 18(e) Evaluation Report, the State finds an average of .8 violations per initial inspection. Additionally, data showed that the State percentage of not-in-compliance programmed inspections for safety (42.3%) was lower than Federal OSHA whereas health (49.5%) exceeded Federal OSHA (Evaluation Report, p. 12). The report attributed the lower averages primarily to the State's high safety penetration rate, with establishments on the State's high hazard safety list being inspected on an average of once every three years, and to the State's effective voluntary compliance program. In addition, monitoring has indicated that the State does effectively identify and cite violations, and that inspectors recognize and properly classify violations (Evaluation Report, p. 19).

The AFL–CIO's written comments suggest that a shortage of adequate staff is a factor in the State's longer lapse time from inspection to issuance of citation and proposed penalty (23 days for safety; 59 days for health) (Ex. 3–3). The 18(e) Evaluation Report attributed the longer safety citation issuance time to the fact that inspection reports are prepared in the State's four regional offices and all citations are issued from the Baltimore central office. Maryland in its written response agreed that the health citation issuance time was excessive and has implemented procedures whereby the State Attorney General's office no longer reviews most health cases prior to citation issuance (Ex. 3–5). Maryland concluded that although each of the aforementioned issues has some bearing on its lapse time, the size of its compliance staff, as purported by the AFL–CIO, has no significant bearing on this issue. The 18(e) Evaluation Report concludes that the States' overall performance relative to this area is satisfactory and as effective as the Federal OSHA program (p. 26).

Neither the data nor any comments suggest that the State has any problem in adequately documenting inspections to support citations.

During the 18(e) evaluation period penalty levels for serious violations were higher than Federal ($357 safety, $389 health). Maryland conducts a higher proportion of follow-up inspections than does Federal OSHA (14.4% of not-in-compliance inspections). Abatement periods are generally shorter than Federal (3 days for safety, 9.3 days for health). Maryland attempt to document abatement within 30 days for all serious, willful and repeat violations. The 18(e) Evaluation Report indicates acceptable performance (pp. 20–21).

(g) *Contested Cases.* In order to be considered for initial approval and certification, a State plan must have authority and procedures for employer contest of citations, penalties and abatement requirements at full administrative or judicial hearings. Employees must also have the right to contest abatement periods and the opportunity to participate as parties in all proceedings resulting from an employer's contest (29 CFR 1902.4(c)(2)(xii)). Maryland's procedures for contest of citations, penalties and abatement requirements and for ensuring employee rights are contained in the law, regulations and field operations manual made a part of the record in this proceeding. Unlike the Federal system of review, citations and penalties are first reviewed by the agency with overall responsibility for administering the plan rather than by an independent agency. Appeals of citations, penalties and abatement periods are first heard by a hearing examiner, whose decision may be reviewed by the Commissioner of Labor and Industry. The Commissioner's decision may be appealed to the appropriate circuit court. One hundred ninety-three (193) inspections resulted in contests during October 1982 through March 1984. OSHA evaluation of these cases supported the conclusion that the State's enforcement actions are adequately supported (Evaluation Report, p. 23).

To qualify for final approval, the State must seek review of any adverse adjudications and take action to correct any enforcement program deficiencies resulting from adverse administrative or judicial determinations (29 CFR 1902.37(b)(14)). The State had no adverse decisions which would require review or corrective astion. Accordingly, OSHA finds that the Maryland plan effectively reviews contested cases.

(h) *Enforcement Conclusion.* In summary, the Assistant Secretary finds that enforcement operations provided under the Maryland plan are competently planned and conducted, and are overall at least as effective as Federal OSHA enforcement.

(4) *Public Employee Program.* Section 18(c)(6) of the Act requires that a State which has an approved plan must maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program must be as effective as the standards contained in an approved plan. 29 CFR 1902.3(j) requires that a State's program for public employees be as effective as the State's program for private employees covered by the plan.

Maryland's plan provides a program in the public sector which is comparable to that in the private sector, with the exception that the State does not propose penalties and that the State supplements its compliance personnel with Public Sector Self Inspectors (PSSI's). The PSSI's are employed by State agencies or political subdivisions and are empowered to conduct inspections of their employers. There are 30 PSSI's in the 24 State agencies or political subdivisions participating in the program. During the evaluation period, the State conducted 188 inspections in the public sector and cited 242 violations. The proportion of inspections dedicated to the public sector (5% of total inspections during the evaluation period) was considered appropriate to the needs of public employees (Evaluation Report, p. 8). Injury and illness rates in the public sector in Maryland are higher than those in the private sector (8.8 combined State and local government all case rate and 5.7 combined State and local government lost workday case rate in 1982). The Evaluation Report notes that the differences in the public and private sector rates are explained by the unique character of public employment as well as the lower number of hours worked in the public sector (p. 11). The AFL–CIO commented on the fact that the State's lost workday case rate for the private sector in higher than the State's private sector rate (Ex. 3–3). In its response the State noted that the public sector rate reflects correctional institutions, police, fire and mental hospitals, which have working conditions not comparable to the private sector, and that current safety and health standards do not address many of the unique conditions found in these workplaces (Ex. 3–5). In addition, the Evaluation Report notes that the Maryland public sector rates are somewhat inflated by the more liberal leave policies of State and local governments which may serve as incentive for claims of illness or injury (p. 10).

Because the State treats the public sector in a manner comparable to the private sector, as evidenced by its written procedures, which are applicable to all covered employees, public or private, and since monitoring indicates similar performance in the public and private sectors, OSHA concludes that the Maryland program meets the criterion in 29 CFR 1902.3(j).

(5) *Staffing and Resources.* Section 18(c)(4) of the Act requires State plans to provide the qualified personnel necessary for the enforcement of standards. In accordance with 29 CFR 1902.37(b)(1), one factor which OSHA must consider in evaluating a plan for final approval is whether the State has a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan.

Maryland has committed itself to funding the State share of salaries for 42 safety inspectors and 19 health enforcement officers as evidenced by the FY 1984 Application for Federal Assistance (Ex. 2–6). In its subsequent FY 1985 application, the State has committed itself to the funding of 40 safety and 20 health enforcement officers. These compliance staffing levels exceed the revised benchmarks proposed for Maryland.

As noted in the Federal Register notice announcing certification of the completion of developmental steps for Maryland (45 FR 10335) all personnel under the plan meet civil service requirements under the State merit system, which was found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission.

The State provides continuing training for its staff. The 18(e) Evaluation Report noted that the State provided formal training for all professional employees (Evaluation Report, p. 8).

Because Maryland has allocated sufficient enforcement staff to meet the revised benchmarks for that State, and personnel are trained and competent, the requirements for final approval set forth in 29 CFR 1902.37(b)(1), and in the 1978 Court Order in *AFL–CIO* v. *Marshall*, supra, are being met by the Maryland plan.

Section 18(c)(5) of the Act requires that the State devote adequate funds to administration and enforcement of its standards. The Maryland plan was funded at $4,652,462 in FY 1984. (50% of the funds were provided by Federal OSHA and 50% were provided by the State.)

As noted in the Evaluation Report, Maryland's funding appears sufficient in absolute terms; moreover, the State compares favorably to Federal OSHA with respect to expenditures per covered employee (Evaluation Report, p. 27). On this basis, OSHA finds that Maryland has provided sufficient funding for the various activities carried out under the plan.

(6) *Records and Reports.* State plans must assure that employers in the State submit reports to the Secretary in the same manner as if the plan were not in effect (section 18(c)(7) of the Act and 29 CFR 1902.3(k)). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require (section 18(c)(8) of the Act and 29 CFR 1902.3(1)).

Maryland's employer recordkeeping requirements are substantially identical to those of Federal OSHA, and the State participates in the BLS Annual Survey of Occupational Illnesses and Injuries. As noted in the January 16 proposal, the State participates and has assured its continuing participation with OSHA in the Federal-State Unified Management Information System as a means of providing reports on its activities to OSHA.

For the foregoing reasons, OSHA finds that Maryland has met the requirements of sections 18(c) (7) and (8) of the Act on employer and State reports to the Secretary.

(7) *Voluntary Compliance Program.* A State plan is required to undertake programs to encourage voluntary compliance by employers by such

means as conducting training and consultation with employers and

rates, OSHA finds a favorable comparison between Maryland's trends

provides that upon making this determination "the provisions of

In accordance with section 18(e), this determination relinquishes Federal

approval of the plan. The new paragraph

Signed at Washington, D.C., this 18th day

VOL 50 ISS 138 JL 18 1985 UMI

means as conducting training and consultation with employers and employees (29 CFR 1902.4(c)(2)(xiii)).

During the 18(e) evaluation period, Maryland provided training to 2420 employers and supervisors and 9500 employees. Of the employees trained, 27.4% were in high hazard industries (Evaluation Report, p. 8).

Maryland provides public sector on-site consultative services to employers under its approved State plan. During the 18(e) evaluation period, 118 public sector on-site consultative visits were conducted in Maryland. In the private sector, Maryland provides on-site consultative services to employers under a cooperative agreement with OSHA made pursuant to section 7(c)(1) of the Act and 29 CFR Part 1908.

Accordingly, OHSA finds that Maryland has established and is administering an effective voluntary compliance program.

(8) *Injury and Illness Statistics.* As a factor in its 18(e) determination, OSHA must consider the Bureau of Labor Statistics Annual Occupational Safety and Health Survey and other available Federal and State measurements of program impact on worker safety and health (29 CFR 1902.37(b)(15)). As noted in the 18(e) Evaluation Report, Maryland's injury and illness all case rate was lower than the Federal average while the State's lost workday case rate was higher than the Federal average. It should be noted, however, that this comparative difference existed at the time of the inception of the Maryland plan in 1973. The overall trend in worker safety and health injury and illness rates since the State began enforcement of its plan compares favorably to that under the Federal program. For example, from 1973 through 1982, the injury and illness all case rate declined 27.7% for all industry, and the lost workday rate for all industry declined 2.6%

The AFL–CIO's comments expressed concern regarding Maryland's higher injury and illness lost workday case rate (Ex. 3–3). The Evaluation Report noted that Maryland had an overall lost workday case rate of 3.7 in all industries which does slightly exceed the Federal rate. However, an overall decreasing trend is evident as noted above.

Maryland, in its response to the AFL–CIO's comments, noted that the difference between the State and Federal lost workday case rates was very small and not significant. In addition, the State pointed out that the State's average lost workdays per lost workday case (18) was almost identical to the Federal average.

Considering the State's overall substantial decline in injury and illness rates, OSHA finds a favorable comparison between Maryland's trends in injury and illness statistics and those in States with Federal enforcement.

Decision

OSHA has carefully reviewed the record developed during the above described proceedings, including all comments received thereon. The present **Federal Register** document sets forth the findings and conclusions resulting from this review.

In light of all the facts presented on the record, the Assistant Secretary has determined that (1) the revised compliance staffing levels proposed for Maryland meet the requirements of the 1978 Court Order in *AFL–CIO* v. *Marshall* in providing the number of safety and health compliance officers necessary for a "fully effective" enforcement program, and (2) that the Maryland State plan for occupational safety and health in actual operation, which has been monitored for at least one year subsequent to certification, is at least as effective as the Federal program and meets the statutory criteria for State plans in section 18(e) of the Act and implementing regulations at 29 CFR 1902. Therefore, the revised compliance staffing benchmarks of 36 safety and 18 health are approved and the Maryland State plan is hereby granted final approval under section 18(e) of the Act and implementing regulations at 29 CFR Part 1902, effective

Under this 18(e) determination, Maryland will be expected to maintain a State program which will continue to be at least as effective as operations under the Federal program in providing employee safety and health at covered workplaces. This requirement includes submitting all required reports to the Assistant Secretary as well as submitting plan supplements documenting State initiated program changes, changes required in response to adverse evaluation findings, and responses to mandatory Federal program changes. In addition, Maryland must continue to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the Department of Labor, or any revision to those benchmarks.

Effect Of Decision

The determination that the criteria set forth in section 18(c) of the Act and 29 CFR Part 1902 are being applied in actual operations under the Maryland plan terminates OSHA authority for Federal enforcement of its standards in Maryland, in accordance with section 18(e) of the Act, in those issues covered under the State plan. Section 18(e) provides that upon making this determination "the provisions of sections 5(a)(2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 8 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination."

Accordingly, Federal authority to issue citations for violation of OSHA standards (sections 5(a)(2) and 9); to conduct inspections (except those necessary to conduct evaluations of the plan under section 18(f), and other inspections, investigations or proceedings necessary to carry out Federal responsibilities which are not specifically preempted by section 18(e)) (section 8); to conduct enforcement proceedings in contested cases (section 10); to institute proceedings to correct imminent dangers (section 13); and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act (section 17) is relinquished as of the effective date of this determination. (Because of the effectiveness of the Maryland plan, there has been no exercise of concurrent Federal enforcement authority in issues covered by the plan since the signing of the Operational Status Agreement in August 1976.)

Federal authority under provisions of the Act not listed in section 18(e) are unaffected by this determination. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act although such complaints may be initially referred to the State for investigation. Jurisdiction over any proceeding initiated by OSHA under sections 9 and 10 of the Act prior to the date of this final determination remains a Federal responsibility. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination. In the event that a State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in the State.

In accordance with section 18(e), this determination relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Maryland plan, and OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, for example, Federal OSHA retains its authority to enforce all provisions of the Act, and all Federal standards, rules or orders which relate to safety or health in private sector maritime employment since these issues are excluded from coverage under the Maryland plan. In addition Federal OSHA may subsequently initiate the exercise of jurisdiction over any issue (hazard, industry, geographical area, operation or facility) for which the State is unable to provide effective coverage for reasons not related to the required performance or structure of the State plan.

As provided by section 18(f) of the Act, the Assistant Secretary will continue to evaluate the manner in which the State is carrying out its plan. Section 18(f) and regulations at 29 CFR Part 1955 provide procedures for the withdrawal of Federal approval should the Assistant Secretary find that the State has substantially failed to comply with any provision or assurance contained in the plan. Additionally, the Assistant Secretary is required to initiate proceedings to revoke an 18(e) determination and reinstate concurrent Federal authority under procedures set forth in 29 CFR 1902.47 *et seq.*, if his evaluations show that the State has substantially failed to maintain a program which is at least as effective as operations under the Federal program, or if the State does not submit program change supplements to the Assistant Secretary as required by 29 CFR Part 1953.

Explanation of Changes to 29 CFR Part 1952

29 CFR Part 1952 contains, for each State having an approved plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. 29 CFR 1902.43(a)(3) requires that notices of affirmative 18(e) determinations be accompanied by changes to Part 1952 reflecting the final approval decision. This notice makes several changes to Subpart O of Part 1952 to reflect the final approval of the Maryland plan.

A new § 1952.213, Compliance staffing benchmarks, has been added to reflect the approval of the 1984 revised benchmarks for Maryland.

A new § 1952.214, Final approval determination, has been added to reflect the determination granting final approval of the plan. The new paragraph contains a more accurate description of the scope of the plan than the one contained in the initial approval decision.

Newly redesignated § 1952.215, Level of Federal enforcement, has been revised to reflect the State's 18(e) status. The new paragraph replaces former § 1952.212, which described the relationship of State and Federal enforcement under an Operational Status Agreement which was entered into on August 16, 1976. Federal concurrent enforcement authority has been relinquished as part of the present 18(e) determination for Maryland, and the Operational Status Agreement is no longer in effect. § 1952.215 describes the issues where Federal authority has been terminated and the issues where it has been retained in accordance with the discussion of the effects of the 18(e) determination set forth earlier in the present **Federal Register** notice.

While most of the existing Subpart O has been retained, paragraphs within the subpart have been rearranged and renumbered so that the major steps in the development of the plan (initial approval, developmental steps, certification of completion of developmental steps and final plan approval) are set forth in chronological order. Related editorial changes to the subpart include modification of the heading of § 1952.210, to clearly identify the 1973 initial plan approval decision to which it relates. The addresses of locations where State plan documents may be inspected have been updated and are found in § 1952.216.

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, *et seq.*) that this rulemaking will not have a significant economic impact on a substantial number of small entities. Final approval will not place small employers in Maryland under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan. Certification to this effect was previously forwarded to the Chief Counsel for Advocacy, Small Business Administration.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736))

Signed at Washington, D.C., this 18th day of July 1985.

Patrick R. Tyson,

Acting Assistant Secretary.

PART 1952—[AMENDED]

Accordingly, Subpart O of 29 CFR Part 1952 is hereby amended as follows:

1. The authority citation for Part 1952 continues to read:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736).

2. Section 1952.210 is amended by revising the heading to read:

§ 1952.210 "Description of the plan as initially approved."

§§ 1952.211, 1952.212, 1952.213, and 1952.214 [Redesignated as 1952.216, 1952.215, 1952.211, and 1952.212 Respectively].

3. Section 1952.211 [Redesignated as § 1952.216] Section 1952.211 is redesignated as § 1952.216.

4. Section 1952.212 [Redesignated as § 1952.215] Section 1952.212 is redesignated as § 1952.215.

5. Section 1952.213 [Redesignated as § 1952.211] Section 1952.213 is redesignated as § 1952.211.

6. Section 1952.214 [Redesignated as § 1952.212] Section 1952.214 is redesignated as § 1952.212.

7. The Table of Contents for Part 1952, Subpart O is revised to read as follows:

Subpart O—Maryland

Sec.

1952.210 Description of the plan as initially approved.
1952.211 Developmental schedule.
1952.212 Completion of developmental steps and certification.
1952.213 Compliance staffing benchmarks.
1952.214 Final approval determination.
1952.215 Level of Federal enforcement.
1952.216 Where the plan may be inspected.

8. New §§ 1952.213 and 1952.214 are added to read as follows:

§ 1952.213 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall* compliance staffing levels (benchmarks) necessary for a "fully effective" enforcement program were required to be established for each State operating an approved State plan. In September 1984 Maryland, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 36 safety and 18 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary

approved these revised staffing requirements on July 18, 1985.

DEPARTMENT OF THE TREASURY

21 CFR Part 4

procedure and a delayed effective date are impracticable and unnecessary.

SUPPLEMENTARY INFORMATION: On April 25, 1985, the Coast Guard published a

VOL 50 ISS 138 JL 18 1985 UMI

approved these revised staffing requirements on July 18, 1985.

§ 1952.214 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR Part 1902, and after determination that the State met the "fully effective" compliance staffing benchmarks as revised in 1984 in response to a Court Order in *AFL–CIO* v. *Marshall* (CA 74–406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Maryland State plan for a period of at least one year following certification of completion of developmental steps (45 FR 10335). Based on the 18(e) Evaluation Report for the period of October 1982 through March 1984, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Maryland's occupational safety and health program is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final State plan approval in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. Accordingly, the Maryland plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective July 18, 1985.

(b) The plan which has received final approval covers all activities of employers and all places of employment in Maryland except for private sector maritime and on military bases.

(c) Maryland is required to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR Part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

9. Newly designated §§ 1952.215 and 1952.216 are revised to read as follows:

§ 1952.215 Level of Federal Enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Maryland plan under section 18(e) of the Act, effective July 18, 1985, occupational safety and health standards which have been promulgated under section 6 of there Act do not apply with respect to issues covered under the Maryland plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violations of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(b) and other inspections, investigations, or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary retains jurisdiction under the above provisions in any proceeding commenced under sections 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Maryland plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to private sector maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification as well as provisions of general industry standards (29 CFR Part 1910) appropriate to hazards found in these employments) and employment on military bases. Federal jurisdiction is also retained with respect to Federal government employers and employees.

In addition, any hazard, industry, geographical area, operation or facility over which the State is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the finally approved plan, and shall be subject to Federal enforcement. Where enforcement jurisdiction is shared between Federal and State authorities for a particular area, project, or facility, in the interest of administrative practicability Federal jurisdiction may be assumed over the entire project or facility. In either of the two aforementioned circumstances, Federal enforcement may be exercised immediately upon agreement between Federal and State OSHA.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Maryland State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

§ 1952.216 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3476, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Gateway Building—Suite 2100, and Office of the Commissioner, Maryland Division of Labor and Industry, Department of Licensing and Regulation, 501 St. Paul Place, Baltimore, Maryland 21202.

[FR Doc. 85–16832 Filed 7–17–85; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE TREASURY

31 CFR Part 4

Amendment to Implementing Regulations Military and Civilian Employees' Claims Act

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is amending 31 CFR 4.1 to conform those regulations to a recently enacted amendment to the Military and Civilian Employees' Claims Act.

EFFECTIVE DATE: July 18, 1985.

FOR FURTHER INFORMATION CONTACT: Alexandra B. Keith, Attorney-Advisor, Office of the Assistant General Counsel (Administration, Legislation and Regulations), Department of the Treasury, Room 1414, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220, (202) 566–2327.

SUPPLEMENTARY INFORMATION:

Background

The Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 3721 *et seq.* (formerly 31 U.S.C. 240–243) authorizes the Secretary of the Treasury to settle and pay claims of officers or employees of the Department of the Treasury, for damage to or loss of, personal property incident to their service.

On January 12, 1983, Pub. L. 97–452, an act to codify without substantive changes recent laws related to money and finance and to improve the United States Code, was signed into law. Section 17 of the Act substituted $25,000 for $15,000 in 31 U.S.C. 3721(b). This substitution raised the amount which the Secretary of the Treasury is authorized to settle employee claims.

Section 4.1 of 31 CFR is hereby amended to reflect these changes in the law.

Notice and Comment; Delayed Effective Dates

Because this rule relates to agency management and personnel, notice of proposed rulemaking pursuant to 5 U.S.C. 553(b) and a delayed effective date pursuant to 5 U.S.C. 553(d) are not required. Moreover, the amended regulations are necessitated by, and are in conformity with, a Federal statute. There is no discretion vested in, or exercised by, the Secretary in implementing the statutory provisions they are incorporated into the regulations without change. Accordingly, the Department of the Treasury finds that notice and public procedure and a delayed effective date are impracticable and unnecessary.

Special Analysis

Because this rule relates to agency management and personnel, it is not subject to Executive Order 12291. Because no notice of proposed rulemaking is required for this final rule, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Authority and Issuance

The Department of the Treasury issues this rule under the authority of the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 3721 *et seq.* (formerly 31 U.S.C. 240–243), and subsection 17 of Pub. L. 97–452 (January 12, 1983).

List of Subjects in 31 CFR Part 4

Claims, Government employees.

1. The authority citation for 31 CFR Part 4 is revised to read as follows:

Authority: Sec. 3(b), 78 Stat. 767, as amended; 31 U.S.C. 3721(b).

2. Section 4.1 of Title 31 of the Code of Federal Regulations is proposed to be amended as set forth below:

§ 4.1 General. [Amended]

1. Section 4.1 is amended by striking "$15,000" and inserting in lieu thereof "$25,000".

Dated: July 5, 1985.

D. Edward Wilson, Jr.,

Deputy Assistant Secretary for Departmental Management.

[FR Doc. 85–17119 Filed 7–17–85; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 85–08]

Regatta; Night in Venice, Great Egg Harbor Bay, Ocean City, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Annual Night in Venice Boat Parade sponsored by the City of Ocean City, New Jersey. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

EFFECTIVE DATE: This regulation becomes effective on July 27, 1985.

FOR FURTHER INFORMATION CONTACT: Lt. D.R. Cilley, (212) 668–7974.

SUPPLEMENTARY INFORMATION: On April 25, 1985, the Coast Guard published a notice of proposed rule making in the **Federal Register** for this regulation (50 FR 16315). Interested persons were requested to submit comments and one comment was received.

Drafting Information

The drafters of this notice are Lt. D.R. Cilley, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Annual Night in Venice Boat Parade is a Marine Parade to be held on Great Egg Harbor Bay. It is sponsored by the City of Ocean City, New Jersey and is well known to the boaters and residents of this area. This event is traditionally held each year on the fourth Saturday in July. Because of the annual nature of this event, the Coast Guard has decided to promulgate a permanent amendment to Part 100 of Title 33, Code of Federal Regulations. Thereafter the Coast Guard will provide the public with full and adequate notice of this annual boat parade by publication in the Third District Local Notice to Mariners. Approximately 800 spectator craft are expected to watch the 125 participating vessels in the boat parade. The sponsor is providing in excess of 6 patrol vessels in conjunction with Coast Guard and local resources to partol this event. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement in the marine parade area and will establish spectator anchorages for what is expected to be a large spectator fleet.

Discussion of Comments

One comment was received from the City of Ocean City, New Jersey. The event sponsor requested to change the start time for this event from 6:00 p.m. to 7:00 p.m. The later start time would give those vessels which had been decoratively lighted a better chance of being seen later in the day. The Coast Guard is concerned about the safety of both participants and spectators. Over the years some problems have developed with this event involving the drinking of alcohol. The New Jersey Marine Police intends to enforce the New Jersey boating-while-intoxicated law this year during the event. The Coast Guard feels that the later start time will only add to the problem of trying to control a large spectator fleet during and after this event. Accordingly,

no changes have been made in the regulation as proposed.

(3) Spectator vessels must be at anchor within a designated spectator

2. Part 100 is amended to add a temporary § 100.35–0916 to read as

FOR FURTHER INFORMATION CONTACT: Lt. D.R. Cilley, (212) 668–7974.

Economic Assessment and Certification

VOL
50
ISS
138
JL
18
1985
UMI

no changes have been made in the regulation as proposed.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the parade. This should have a favorable impact on commercial facilities providing services to the spectators. This area is used primarily by recreational boaters; any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulation

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding§ 100.303 to read as follows:

§ 100.303 Night in Venice, Great Egg Harbor Bay, City of Ocean City, NJ.

(a) *Regulated Area:* The southwest side of Ship Channel from Buoy C, seaward to Board Thorofare Buoy No. 17 (black can) to Ocean City-Longport Bridge, thence south to Great Egg Waterway Daybeacon 28.

(b) *Effective Period:* This regulation will be effective from 4:30 p.m. to 11:45 p.m. on July 27, 1985 and thereafter annually on the fourth Saturday in July unless otherwise specified in the Third District Local Notice to Mariners and in a Federal Register notice.

(c) *Special Local Regulations:*

(1) All persons or vessels not registered with sponsor as participants or not part of the regatta patrol are considered spectators.

(2) No person or vessel may enter or remain in the regulated area unless participating in the event, or authorized to be there by the sponsor or Coast Guard patrol personnel.

(3) Spectator vessels must be at anchor within a designated spectator area or moored to a waterfront facility within the regulated area prior to the start of the parade in such a way that they shall not interfere with mariners transiting Great Egg Harbor Bay. The spectator fleet shall be held behind buoys or committee boats provided by the sponsor in the following areas:

(i) Northwestward of a line marked by a patrol vessel in position 39 degrees 17 minutes 45 seconds North latitude; 074 degrees 33 minutes 45 seconds West longitude to the 9th Street Route 52 Bridge in Ocean City, New Jersey, including Great Egg Waterway Red Buoy No. 2, but shall not extend northwestward of the Great Egg Waterway Point Buoy.

(ii) Westward of a line of buoys between Great Egg Waterway Buoys 10 and 14.

(iii) Within the area around the shoals and islands in Beach Thorofare between Great Egg Waterway Buoys 15 and 21. This area shall at no point be closer that 150 yards from the line of bulkheads and lagoon entrances in Ocean City, New Jersey.

(4) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: June 20, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 85-17089 Filed 7-17-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-85-16]

Special Local Regulations: Stroh Signature Classic, Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Stroh Signature Classic. This event will be held on 3 August 1985 at Sandusky Bay, Lake Erie. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective and terminate on 3 August 1985.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The application to hold this event was not received until July 2, 1985, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and Lcdr A.R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Stroh Signature Classic will be conducted on Sandusky Bay on 3 August 1985. This event will have an estimated 30 powerboats which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Commanding Officer, Coast Guard Station Marblehead, OH).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46(c)(5) and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35-0916 to read as follows:

§ 100.35-0916 Stroh Signature Classic, Lake Erie.

(a) *Regulated Area:* (1) That portion of Sandusky Bay from position 41 degrees 26.9 minutes North 082 degrees 45.5 minutes West to 41 degrees 29.6 minutes North 082 degrees 48.6 minutes West to 41 degrees 30.1 minutes North 082 degrees 48.2 minutes West to 41 degrees 28.6 minutes North 082 degrees 42.7 minutes West.

(b) *Special Local Regulations:* (1) The above area will be closed to vessel navigation or anchorage from 1030 (local time) until 1300 on 3 August 1985.

(2) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol in the performance of their assigned duties.

(3) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

Dated: July 10, 1985.

B.K. Scheeffer,

Captain, U.S. Coast Guard, Chief of Staff, Ninth Coast Guard District.

[FR Doc. 85-17091 Filed 7-17-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD3 85-18]

Regatta; Connecticut River Raft Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Annual Connecticut River Raft Race being sponsored by the Connecticut River Raft Race Inc., of Norwich, Connecticut. The purpose of this regulation is to provide for the safety of participants and spectators on navigable waters during the event.

EFFECTIVE DATE: This regulation is effective on August 3, 1985.

FOR FURTHER INFORMATION CONTACT: Lt. D.R. Cilley, (212) 668-7974.

SUPPLEMENTARY INFORMATION: On May 16, 1985, the Coast Guard published a Notice of Proposed Rulemaking in the Federal Register for this regulation (50 FR 20444). Interested persons were requested to submit comments and no comments were received. The regulation is being made effective in less than 30 days from the date of publication. There was not sufficient time remaining in advance of the event to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are Lt. D.R. Cilley, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Annual Connecticut River Raft Race is a marine event to be held on the Connecticut River between Hurd and Haddam Meadows State Parks. It is sponsored by the Connecticut River Raft Race Inc., of Norwich, CT, and is well known to the boaters and residents of this area. This event is traditionally held each year on the first Saturday in August. Because of the annual nature of this event, the Coast Guard has decided to promulgate a permanent amendment to Part 100 of Title 33, Code of Federal Regulations. Thereafter the Coast Guard will provide the public with full and adequate notice of this annual event by publication in the Third District Local Notice to Mariners. Over 100 self-propelled homemade rafts will cruise down a 2.5 mile section of the Connecticut River. Vessels provided by the State of Connecticut State Police, and Department of Environmental Protection will work in conjunction with approximately 12 vessels provided by the sponsor to patrol this event. Specific requirements have been imposed upon the sponsor to ensure that all participants wear personal flotation devices throughout the event for their own safety. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement prior to and during this event on this section of the river. A Coast Guard patrol vessel will be located at strategic locations on the river both above and below the regulated area to stop vessel traffic.

Discussion of Comments

No comments were received.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the race. This should have a favorable impact on commercial facilities providing services to the spectators. This area is used primarily by recreational boaters; any impact on commercial traffic in the area will be negligible. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulation

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding § 100.305 to read as follows:

§ 100.305 Connecticut River Raft Race.

(a) *Regulated Area:* That section of the Connecticut River between the Salmon River (Marker no. 48) and Middle Haddam (Marker no. 72).

(b) *Effective Period:* This regulation will be effective from 9:00 a.m. to 2:00 p.m. on August 3, 1985 and thereafter annually on the first Saturday in August unless otherwise specified in the Third District Local Notice to Mariners and in a Federal Register Notice.

(c) *Special Local Regulations:*

(1) The regulated area shall be closed to all vessels in excess of 20 meters (65.6 feet) in length during the effective period.

(2) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(3) All spectator vessels shall be moored or anchored prior to the start of the event in such a way as to not interfere with the passage of the race participants. They shall remain

anchored or moored until the end of the race or until directed by a patrol vessel.

Drafting Information: The drafters of these regulations are Ensign G.H. Burns,

anchorage will be borne by the commercial marina interests benefiting

North (16 feet North of the North face of the Northeast guidewall) and 590 feet

construction personnel from safety hazards associated with the drilling

the drilling rig will signal its intention to

anchored or moored until the end of the race or until directed by a patrol vessel.

(4) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: July 8, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 85-17088 Filed 7-17-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD9-85-01]

Anchorage Grounds; Chicago Harbor, IL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing two new commercial vessel anchorages and disestablishing one existing commercial vessel anchorage in Chicago Harbor. The existing anchorage known as "Anchorage F Filtration Plant Slip" conflicts with plans for a large recreational vessel marina. The effect of this rule will be accommodation of the marina development and continued availability of anchorage areas suitable for lakegoing barge tows without anchors.

EFFECTIVE DATE: August 19, 1985.

FOR FURTHER INFORMATION CONTACT: Ensign G.H. Burns, Marine Port and Environmental Safety Branch, Ninth Coast Guard District, Telephone number (216) 522-3919.

SUPPLEMENTARY INFORMATION: On 16 April, 1985, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (50 FR 15460). Interested persons were requested to submit comments and 3 comments were received.

Drafting Information: The drafters of these regulations are Ensign G.H. Burns, project officer, Marine Port and Environmental Safety Branch, and Lieutenant Raymond A. Pelletier, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Comments

There were three comments received concerning this regulation. Two of the comments received were from the developer of the proposed marina, and the association that represents the commercial towing industry in this area. Both organizations were supportive of the Notice of Proposed Rulemaking and had no objections to the proposal.

A third comment was received from the local Park District. This commenter objected to the proposal based upon their view that the area north of the locks (anchorage E) could restrict access to future recreation boating developments south of the Navy pier, and secondly that they also had plans to develop the slip north of Navy pier which is in the same location of the proposed marina. The first objection of this commenter is viewed as unlikely. The old Dime pier structure is located between anchorage E and Navy pier. The three hundred feet of channel separating anchorage E and Dime Pier should provide more than adequate navigational access for any boating development in the area. Additionally, the waters of Chicago Harbor are not for the exclusive use of recreational boating needs. The needs of commercial vessels must be considered in any development. These needs are addressed by this regulation.

In the second objection the Park Authority also states their desire to develop the area north of Navy Pier. The development of the area north of Navy pier is what creates the need to accommodate commercial vessels in new Anchorage areas E and D. This is the case regardless of who controls the development.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The proposed action simply relocates an existing anchorage. The new locations will provide a slight transit time advantage to the marine towing industry. The cost of establishing the protective pile clusters for each anchorage will be borne by the commercial marina interests benefiting from this relocation. The marine towing industry's cost of compliance with the continual surveillance requirements will be negligible. Anchorages D and E will be utilized as temporary mooring areas for towing vessels and tows during inclement weather or while awaiting a change of towing vessels. These towing vessels are normally manned while moored and would provide the surveillance required by the rule. This corresponds with current practice and the inclusion of this requirement in the rule will insure a rapid response to breakaways which might damage the adjacent lock structure or passing vessels. Preliminary discussions with industry personnel confirm that the formal surveillance requirement will not impose significant additional costs.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

PART 110—[AMENDED]

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority Citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05-1 (g).

§ 110.205 [Amended]

2. Part 110, § 110.205 is amended by removing paragraph (a)(6), adding paragraphs (a)(4) and (a)(5), and revising paragraph (b)(7), to read as follows:

(a) * * *

(4) Anchorage D, Chicago Harbor Lock South, Beginning at a point 35.5 feet South (16 feet South of the South face of the Southeast guidewall) and 28.0 feet West of the SE Guide Wall Light; thence Westerly and parallel to the guidewall 800 feet to a point that is 16 feet South of the South face of the Southeast guidewall; thence Southerly 80 feet to a point that is 96 feet South of the South face of the Southeast guidewall; thence Easterly 800 feet to a point that is 96 feet South of the south face of the southeast guidewall; thence Northerly 80 feet to the point of beginning.

(5) Anchorage E, Chicago Harbor Lock North. Beginning at a point 156.75 feet North (16 feet North of the North face of the Northeast guidewall) and 590 feet West of the SE Guidewall Light; thence Westerly and parallel to the guidewall 600 feet to a point that is 16 feet North of the North face of the Northeast guidewall; thence Northerly 80 Feet to a point that is 96 feet North of the North face of the Northeast guidewall; thence Easterly 600 feet to a point that is North of the North face of the Northeast guidewall; thence Southerly 80 feet to the point of beginning.

(b) * * *

(7) No vessel may use anchorages A, B, D, and E except commercial vessels operated for profit. No person may place floats or buoys for making moorings or anchors in place in anchorages A and B. No person may place fixed moorings piles or stakes in anchorages A and B. (Mooring facilities are available adjacent to the lakeside guidewalls of the Chicago Harbor Lock in anchorages D and E.) All vessels using anchorages D and E shall moor against pile clusters adjacent to the respective anchorage.

Any time barges are moored in anchorage D or E, a manned towing vessel shall be present in one of these anchorages. Exceptions to this surveillance requirement are allowable for periods not to exceed one hour.

Dated: July 5, 1985.

A. M. Danielsen,

Rear Admiral, U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 85-17090 Filed 7-17-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP Miami, Florida Regulation CCGD7-85-36]

Safety Zone Regulations: On the Intracoastal Waterway (ICW) at Ft. Lauderdale, FL, at a Position Approximately 800 Feet North of Dry Marina Canal and Extending to The Dania Cut Off Canal

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone for the drilling, blasting and dredging operations in an area starting from approximately 800 feet north of Dry Marina Canal extending south to the Dania Cut Off Canal on the Intracoastal Waterway (ICW) at Ft. Lauderdale, Florida and extending 750 feet into the Dry Marina Canal and 800 feet into the Dania Cut Off Canal. The zone is needed to protect swimmers, pleasure boaters, commercial traffic and construction personnel from safety hazards associated with the drilling, blasting and dredging operations. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on 9 July 1985. It terminates on 20 September 1985 unless completion of the drilling, blasting and dredging operation occurs first.

FOR FURTHER INFORMATION CONTACT: CWO3 P.J. MacDonald, c/o Commanding Officer, U.S. Coast Guard, Marine Safety Office, Miami, Fl. 33130, Tel (305) 350-5691.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential hazards to personnel and vessels involved.

Drafting Information:

The drafters of this regulation are CWO3 P.J. MacDonald, project officer for the Captain of the Port, and Lcdr K.E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation is the drilling, blasting and dredging operation on the Intracoastal Waterway between a position approximately 800 feet north of Dry Marina Canal and extending to the Dania Cut Off Canal on the Intracoastal Waterway (ICW) at Ft. Lauderdale, Florida and 750 feet into Dry Marina Canal and 800 feet into the Dania Cut Off Canal. Operations will commence on 9 July 1985 and continue until 20 September 1985 unless completion of the drilling, blasting and dredging operation occurs first. This operation is necessary to effect deepening and widening of the Intracoastal Waterway in the aforementioned area. During the period of 9 July 1985 through 20 September 1985, between sunrise and sunset, Monday through Saturday, blasting operations will be conducted. Five minutes prior to each blast, the drilling rig will signal its intention to blast with a series of 10 long horn signals. At this time the Intracoastal Waterway will be closed to all traffic between a position approximately 800 feet north of Dry Marina Canal and extending to the Dania Cut Off Canal on the Intracoastal Waterway (ICW) at Ft. Lauderdale, Florida and 750 feet into Dry Marina Canal and 800 feet into the Dania Cut Off Canal. One minute prior to blasting, the drilling rig will signal its intention to blast with a series of 3 long horn signals. After the blast, 1 long horn singal will be given as an "All Clear". During the same period (9 July 1985 through 20 September 1985) drilling and dredging operations will be conducted seven days a week, twenty-four hours a day. All vessels are restricted from penetrating a fifty foot radius of the dredge Illinois and the barge Drill 8. There will be approximately 3000 feet to 6000 feet of floating pipeline behind the dredge which will be marked with yellow flashing lights. Vessels transitting this area should minimize the effects of their wake.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: (33 U.S.C. 11225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5).

2. A new § 165.T-07-36 is added to read as follows:

§ 165.T-07-36 Safety Zone: On the Intracoastal Waterway (ICW) at Ft. Lauderdale, Florida, from a position approximately 800 feet north of Dry Marinia Canal and extending to the Dania Cut Off Canal and 750 feet into Dry Marina Canal and 800 feet into the Dania Cut Off Canal.

(a) *Location:* The following area is a Safety Zone: During the period of 9 July 1985 through 20 September 1985, between sunrise and sunset, Monday through Saturday, blasting operations will be conducted. Five minutes prior to each blast, the drilling rig will signal its intention to blast with a series of 10 long horn signals. At this time the Intracoastal Waterway will be closed to all traffic between a position approximately 800 feet north of Dry Marina Canal and extending to the Dania Cut Off Canal on the Intracoastal Waterway (ICW) at Ft. Lauderdale, Florida and 750 feet into Dry Marina Canal and 800 feet into the Dania Cut Off Canal. One minute prior to blasting, the drilling rig will signal its intention to blast with a series of 3 long horn signals. After the blast, 1 long horn signal will be given as an "All Clear". During the same period (9 July 1985 through 20 September 1985) drilling and dredging operations

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will be conducted seven days a week, twenty-four hours a day. All vessels are restricted from penetrating a fifty foot

prescribe regulations which include law enforcement policies to be followed by VA police officers in their exercise of

these amendments will not have a significant economic impact on a substantial number of small entities as

The property shall be closed to the public during other than the hours so

otherwise improper language; or unwarranted loitering, sleeping, or

solicitation of labor organization membership or dues under 5 U.S.C.

VOL 50 ISS 138 JL 18 1985 UMI

will be conducted seven days a week, twenty-four hours a day. All vessels are restricted from penetrating a fifty foot radius of the dredge Illinois and the barge Drill 8. There will be approximately 3000 feet to 6000 feet of floating pipeline behind the dredge which will be marked with yellow flashing lights.

(b) *Regulations:*

(1) In accordance with the general regulation in § 165.23 of this part, entry into this zone is prohibited, unless authorized by the Captain of the Port.

(2) Vessels transitting this area should minimize the effects of their wake.

Dated: July 9, 1985.

R.N. Roussel,

Commander, U.S. Coast Guard, Captain of the Port, Miami, Florida.

[FR Doc. 85-17085 Filed 7-17-85; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 1

Security at VA Facilities

AGENCY: Veterans Administration.

ACTION: Final regulation amendments.

SUMMARY: The Veterans Administration in consultation with the Department of Justice, is amending its general series of regulations (38 CFR Part 1) to implement provisions of Pub. L. 98-528, the Veteran's Health Care Act of 1984. These regulation amendments provide for increased security and protection of persons and property at VA facilities, grant authority to the Administrator of Veterans Affairs to increase rates of pay for police officers when needed to enhance recruitment and retention, and provide police officers with an allowance for uniforms.

EFFECTIVE DATE: These regulation amendments are effective July 10, 1985.

FOR FURTHER INFORMATION CONTACT: James Fasone, Director, Security Service (132), Department of Medicine & Surgery, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202-376-8858.

SUPPLEMENTARY INFORMATION: Pub. L. 98-528 makes extensive modifications to section 218, Title 38, United States Code, to clarify the scope of authority of VA police officers. These modifications include an increase in the maximum penalty for violations of rules prescribed for the protection of persons and property from a $50 fine and one month imprisonment to a $500 fine and imprisonment not to exceed six months. The law also requires the VA to prescribe regulations which include law enforcement policies to be followed by VA police officers in their exercise of this authority, the scope and duration of their training with particular emphasis on dealing with situations involving patients, and rules limiting the carrying and use of weapons. The law also authorizes an initial uniform allowance of $400 for VA police officers and a recurring annual allowance of $200. It amends section 4107(g) of Title 38, U.S.C. to authorize the Administrator to increase the rates of pay of VA police officers on a nationwide, local or other geographic basis in order to recruit or retain police officers. These regulation amendments clarify and update the rules governing the standards of conduct on property under the charge and control of the VA and increase the penalties for their violation. Penalty increases are based on the gravity of the respective offenses and their anticipated effect towards deterring violations of the rules of conduct. These regulation amendments also provide the authority for VA police officers to enforce these rules and other Federal laws in accordance with the policies and procedures issued by respective VA Department Directors and requires that VA police officers successfully complete required training courses. These regulations are fully contained in § 1.218, and Part 17 is amended by removing §§ 1.219 and 1.220. Remaining provisions of Pub. L. 98-528 such as increasing the police officer uniform allowance; including the police officer occupation under section 4107(g) of Title 38, U.S.C.; defining law enforcement and weapon use policies and procedures; and specifying police officer training requirements will be implemented through appropriate internal VA policy manuals.

These amendments conform the existing regulations to the requirements of Pub. L. 98-528. Since these regulation amendments simply complete statutory changes to the internal VA security program, the VA is not seeking public participation in promulgating these regulation amendments. The intent of the legislation is clear, and prior publication for public comment is unnecessary. Accordingly, these changes come within exceptions to the general VA policy of prior publication of proposed regulatory development as set forth in 38 CFR 1.12.

Because a proposed notice is not necessary and will not be published, these amendments do not come within the definition of the term "rule" under the Regulatory Flexibility Act (5 U.S.C. 601(2)), and are not subject to the requirements of that Act. In any case these amendments will not have a significant economic impact on a substantial number of small entities as defined in that Act because they deal with internal VA security matters at VA facilities.

These amendments have been reviewed under Executive Order 12291, Federal Regulation, and are not considered major as defined therein. The regulations will not impact on the public or private sectors as a major rule would. They will not have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

There is no Catalog of Federal Domestic Assistance Number involved.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Cemeteries, Employment, Government employees, Government property, Security, Law enforcement.

Approved: July 10, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

§ 1.219 [Removed]

38 CFR Part 1, GENERAL, is amended by removing §§ 1.219 and 1.220 and by revising the undesignated center heading and § 1.218 to read as follows:

Security and Law Enforcement at Veterans Administration Facilities

§ 1.218 Security and law enforcement at VA facilities.

(a) *Authority and rules of conduct.* Pursuant to 38 U.S.C. 218, the following rules and regulations apply at all property under the charge and control of the VA (and not under the charge and control of the General Services Administration) and to all persons entering in or on such property. The head of the facility is charged with the responsibility for the enforcement of these rules and regulations and shall cause these rules and regulations to be posted in a conspicuous place on the property.

(1) *Closing property to public.* The head of the facility, or designee, shall establish visiting hours for the convenience of the public and shall establish specific hours for the transaction of business with the public.

The property shall be closed to the public during other than the hours so established. In emergency situations, the property shall be closed to the public when reasonably necessary to ensure the orderly conduct of Government business. The decision to close a property during an emergency shall be made by the head of the facility or designee. The head of the facility or designee shall have authority to designate areas within a facility as closed to the public.

(2) *Recording presence.* Admission to property during periods when such property is closed to the public will be limited to persons authorized by the head of the facility or designee. Such persons may be required to sign a register and/or display identification documents when requested to do so by the VA police, or other authorized individual. No person, without authorization, shall enter upon or remain on such property while the property is closed. Failure to leave such premises by unauthorized persons shall constitute an offense under this paragraph.

(3) *Preservation of property.* The improper disposal of rubbish on property; the spitting on the property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from a building; the climbing upon the roof or any part of the building, without permission; or the willful destruction, damage, or removal of Government property or any part thereof, without authorization, is prohibited. The destruction, mutilation, defacement, injury, or removal of any monument, gravestone, or other structure within the limits of any national cemetery is prohibited.

(4) *Conformity with signs and emergency conditions.* The head of the facility, or designee, shall have authority to post signs of a prohibitory and directory nature. Persons, in and on property, shall comply with such signs of a prohibitory or directory nature, and during emergencies, with the direction of police authorities and other authorized officials. Tampering with, destruction, marring, or removal of such posted signs is prohibited.

(5) *Disturbances.* Conduct on property which creates loud or unusual noise; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees; which prevents one from obtaining medical or other services provided on the property in a timely manner; or the use of loud, abusive, or otherwise improper language; or unwarranted loitering, sleeping, or assembly is prohibited. In addition to measures designed to secure voluntary terminations of violations of this paragraph the head of the facility or designee may cause the issuance of orders for persons who are creating a disturbance to depart the property. Failure to leave the premises when so ordered constitutes a further disturbance within the meaning of this rule, and the offender is subject to arrest and removal from the premises.

(6) *Gambling.* Participating in games for money or for tangible or intangible things, or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on property is prohibited.

(7) *Alcoholic beverages and narcotics.* Operating a motor vehicle on property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering property under the influence of any narcotic drug, hallucinogen, marijuana, barbiturate, amphetamine, or alcoholic beverage (unless prescribed by a physician) is prohibited. The use on property of any narcotic drug, hallucinogen, marijuana, barbiturate, or amphetamine (unless prescribed by a physician) is prohibited. The introduction or possession of alcoholic beverages or any narcotic drug, hallucinogen, marijuana, barbiturate, and amphetamine on property is prohibited, except for liquor or drugs prescribed for use by medical authority for medical purposes. Provided such possession is consistent with the laws of the State in which the facility is located, liquor may be used and maintained in quarters assigned to employees as their normal abode, and away from the abode with the written consent of the head of the facility which specifies a special occasion for use and limits the area and period for the authorized use.

(8) *Soliciting, vending, and debt collection.* Soliciting alms and contributions, commercial soliciting and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts in or on property is prohibited. This rule does not apply to (i) national or local drives for funds for welfare, health, or other purposes as authorized under Executive Order 12353, Charitable Fund Raising (March 23, 1982), as amended by Executive Order 12404 (February 10, 1983), and regulations issued by the Office of Personnel Management implementing these Executive Orders; (ii) concessions or personal notices posted by employees on authorized bulletin boards; and (iii) solicitation of labor organization membership or dues under 5 U.S.C. chapter 71.

(9) *Distribution of handbills.* The distributing of materials such as pamphlets, handbills, and/or flyers, and the displaying of placards or posting of materials on bulletin boards or elsewhere on property is prohibited, except as authorized by the head of the facility or designee or when such distributions or displays are conducted as part of authorized Government activities.

(10) *Photographs for news, advertising, or commercial purposes.* Photographs for advertising or commercial purposes may be taken only with the written consent of the head of the facility or designee. Photographs for news purposes may be taken at entrances, lobbies, foyers, or in other places designated by the head of the facility or designee.

(11) *Dogs and other animals.* Dogs and other animals, except seeing-eye dogs, shall not be brought upon property except as authorized by the head of the facility or designee.

(12) *Vehicular and pedestrian traffic.* Drivers of all vehicles in or on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of police and all posted traffic signs. The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on property is prohibited; parking in unauthorized locations or in locations reserved for other persons or contrary to the direction of posted signs is prohibited. Creating excessive noise on hospital or cemetery premises by muffler cut out, the excessive use of a horn, or other means is prohibited. Operation of a vehicle in a reckless or unsafe manner, drag racing, bumping, overriding curbs, or leaving the roadway is prohibited.

(13) *Weapons and explosives.* No person while on property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

(14) *Demonstrations.* (i) All visitors are expected to observe proper standards of decorum and decency while on VA property. Toward this end, any service, ceremony, or demonstration, except as authorized by the head of the facility or designee, is prohibited. Jogging, bicycling, sledding and other forms of physical recreation on cemetery grounds is prohibited.

(ii) For the purpose of the prohibition expressed in this paragraph, unauthorized demonstrations or services shall be defined as, but not limited to,

picketing, or similar conduct on VA property; any oration or similar conduct to assembled groups of people, unless

(3) Throwing of articles from a building or the unauthorized climbing upon any part of a building, $50.

(23) Unauthorized photography on premises, $50.

(24) Failure to comply with traffic

(43) Soliciting for, or the act of, prostitution, $250.

ACTION: Final rule.

4. Changes to Section 22a-174-20(k) removing restrictions on certain

picketing, or similar conduct on VA property; any oration or similar conduct to assembled groups of people, unless the oration is part of an authorized service; the display of any placards, banners, or foreign flags on VA property unless approved by the head of the facility or designee; disorderly conduct such as fighting, threatening, violent, or tumultuous behavior, unreasonable noise or coarse utterance, gesture or display or the use of abusive language to any person present; and partisan activities, i.e., those involving commentary or actions in support of, or in opposition to, or attempting to influence, any current policy of the Government of the United States, or any private group, association, or enterprise.

(15) *Key security.* The head of the facility of designee, will determine which employees, by virtue of their duties, shall have access to keys or barrier-card keys which operate locks to rooms or areas on the property. The unauthorized possession, manufacture, and/or use of such keys or barrier cards is prohibited. The surreptitious opening or attempted opening of locks or card-operated barrier mechanisms is prohibited.

(16) *Sexual misconduct.* Any act of sexual gratification on VA property involving two or more persons, who do not reside in quarters on the property, is prohibited. Acts of prostitution or solicitation for acts of prostitution on VA property is prohibited. For the purposes of this paragraph, an act of prostitution is defined as the performance or the offer or agreement to perform any sexual act for money or payment.

(b) *Schedule of offenses and penalties.* Conduct in violation of the rules and regulations set forth in paragraph (a) of this section subjects an offender to arrest and removal from the premises. Whomever shall be found guilty of violating these rules and regulations while on any property under the charge and control of the VA is subject to a fine as stated in the schedule set forth herein or, if appropriate, the payment of fixed sum in lieu of appearance (forfeiture of collateral) as may be provided for in rules of the United States District Court. Violations included in the schedule of offenses and penalties may also subject an offender to a term of imprisonment of not more than six months, as may be determined appropriate by a magistrate or judge of the United States District Court:

(1) Improper disposal of rubbish on property, $200.

(2) Spitting on property, $25.

(3) Throwing of articles from a building or the unauthorized climbing upon any part of a building, $50.

(4) Willful destruction, damage, or removal of Government property without authorization, $500.

(5) Defacement, destruction, mutilation or injury to, or removal, or disturbance of, gravemarker or headstone, $500.

(6) Failure to comply with signs of a directive and restrictive nature posted for safety purposes, $50.

(7) Tampering with, removal, marring, or destruction of posted signs, $150.

(8) Entry into areas posted as closed to the public or others (trespass), $50.

(9) Unauthorized demonstration or service in a national cemetery or on other VA property, $250.

(10) Creating a disturbance during a burial ceremony, $250.

(11) Disorderly conduct which creates loud, boisterous, and unusual noise, or which obstructs the normal use of entrances, exits, foyers, offices, corridors, elevators, and stairways or which tends to impede or prevent the normal operation of a service or operation of the facility, $250.

(12) Failure to depart premises by unauthorized persons, $50.

(13) Unauthorized loitering, sleeping or assembly on property, $50.

(14) Gambling-participating in games of chance for monetary gain or personal property; the operation of gambling devices, a pool or lottery; or the taking or giving of bets, $200.

(15) Operation of a vehicle under the influence of alcoholic beverages or nonprescribed narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines, $500.

(16) Entering premises under the influence of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines, $200.

(17) Unauthorized use on property of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines, $300.

(18) Unauthorized introduction on VA controlled property of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines or the unauthorized giving of same to a patient or beneficiary, $500.

(19) Unauthorized solicitation of alms and contributions on premises, $50.

(20) Commercial soliciting or vending, or the collection of private debts on property, $50.

(21) Distribution of pamphlets, handbills, and flyers, $25.

(22) Display of placards or posting of material on property, $25.

(23) Unauthorized photography on premises, $50.

(24) Failure to comply with traffic directions of VA police, $25.

(25) Parking in spaces posted as reserved for physically disabled persons, $50.

(26) Parking in no-parking areas, lanes, or crosswalks so posted or marked by yellow borders or yellow stripes, $25.

(27) Parking in emergency vehicle spaces, areas and lanes bordered in red or posted as EMERGENCY VEHICLES ONLY or FIRE LANE, or parking within 15 feet of a fire hydrant, $50.

(28) Parking within an intersection or blocking a posted vehicle entrance or posted exit lane, $25.

(29) Parking in spaces posted as reserved or in excess of a posted time limit, $15.

(30) Failing to come to a complete stop at a STOP sign, $25.

(31) Failing to yield to a pedestrian in a marked and posted crosswalk, $25.

(32) Driving in the wrong direction on a posted one-way street, $25.

(33) Operation of a vehicle in a reckless or unsafe manner, too fast for conditions, drag racing, overriding curbs, or leaving the roadway, $100.

(34) Exceeding posted speed limits:

(i) By up to 10 mph, $25.

(ii) By up to 20 mph, $50.

(iii) By over 20 mph, $100.

(35) Creating excessive noise in a hospital or cemetery zone by muffler cut out, excessive use of a horn, or other means, $50.

(36) Failure to yield right of way to other vehicles, $50.

(37) Possession of firearms, carried either openly or concealed, whether loaded or unloaded except by Federal or State law enforcement officers on official business, $500.

(38) Introduction or possession of explosives, or explosive devices which fire a projectile, ammunition, or combustibles, $500.

(39) Possession of knives which exceed a blade length of 3 inches; switchblade knives; any of the variety of hatchets, clubs and hand-held weapons; or brass knuckles, $300.

(40) The unauthorized possession of any of the variety of incapacitating liquid or gas-emitting weapons, $200.

(41) Unauthorized possession, manufacture, or use of keys or barrier card-type keys to rooms or areas on the property, $200.

(42) The surreptitious opening, or attempted opening, of locks or card-operated barrier mechanisms on property, $500.

(43) Soliciting for, or the act of, prostitution, $250.

(44) Any unlawful sexual activity, $250.

(45) Jogging, bicycling, sledding or any recreational physical activity conducted on cemetery grounds, $50.

(c) *Enforcement procedures.* (1) VA Department Directors will issue policies and operating procedures governing the proper exercise of arrest and other law enforcement actions, and limiting the carrying and use of weapons by VA police officers. VA police officers found qualified under respective VA department directives and duly appointed heads of facilities for the purposes of 38 U.S.C. 218(b)(1), will enforce these rules and regulations and other Federal laws on VA property in accordance with the policies and operating procedures issued by respective VA Department Directors and under the direction of the head of the facility.

(2) VA Department Directors will prescribe training for VA police officers of the scope and duration necessary to assure the proper exercise of the law enforcement and arrest authority vested in them and to assure their abilities in the safe handling of situations involving patients and the public in general. VA police officers will successfully complete prescribed training in law enforcement procedures and the safe handling of patients as a condition of their retention of statutory law enforcement and arrest authority.

(3) Nothing contained in the rules and regulations set forth in paragraph (a) of this section shall be construed to abrogate any other Federal laws or regulations, including assimilated offenses under 18 U.S.C. 13, or any State or local laws and regulations applicable to the area in which the property is situated.

(38 U.S.C. 218; Pub. L. 98-528)

[FR Doc. 85-17037 Filed 7-17-85; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1- FRL-2866-9]

Approval and Promulgation of Implementation Plans, Connecticut; RACT Regulations for Gasoline Tank Trucks and External Floating Roof Storage Vessels; and Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Connecticut. These revisions require reasonably available control technology (RACT) for gasoline tank trucks and external floating roof storage vessels in order to reduce volatile organic compound (VOC) emissions. This action also approves revisions to exempt seven nonreactive compounds from the definition of VOC, and revisions to remove restrictions on certain materials used in cutback asphalt. The intent of this action is to approve revisions adopted pursuant to Part D of the Clean Air Act in accordance with Section 110 of that Act.

EFFECTIVE DATE: August 19, 1985.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2311, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, DC 20460; Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC 20408; and the Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (617) 223-4868, FTS 223-4868.

SUPPLEMENTARY INFORMATION: On December 19, 1984 (49 FR 49310), EPA published a Notice of Proposed Rulemaking (NPR) for draft revisions to the Connecticut SIP. Those revisions have been adopted by the State, and on April 22, 1985 were formally submitted to EPA by the Department of Environmental Protection (DEP). The revisions and EPA's rationale for approving them were explained in the NPR, and will not be restated here. No public comments were received on the NPR.

Final Action:

EPA is approving the following revisions to the Connecticut SIP as submitted April 22, 1985:

1. Changes to Section 22a-174-20(a) requiring gasoline storage facilities equipped with external floating roofs to install secondary seals.

2. Changes to Section 22a-174-20(b) requiring gasoline tank trucks to be tested yearly.

3. Changes to Section 22a-174-1 exempting from the definition of "volatile organic compounds" seven chlorofluorocarbons and fluorocarbons determined by EPA to be nonreactive.

4. Changes to Section 22a-174-20(k) removing restrictions on certain materials used in cutback asphalts which EPA has determined do not evaporate at or above 500 °F.

5. A narrative requirement that only persons who attended the Gasoline Tank Truck Certification Workwshop conducted in Hartford on September 14, 1984 will be permitted to certify test results; and a related narrative requirement that if a persons did not attend the workshop and wants to perform such tests, the DEP will provide a copy of the Workshop Manual and will oversee the test to insure that it is being conducted correctly. (A copy of the Workshop Manual has been submitted for approval as part of the SIP narrative.)

6. A narrative requirement that the procedures outlined in Appendix B of *Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection System* (EPA-450/2-78-051) be used to confirm continued leak tight conditions in tank trucks as required by Section 22a-174-20(b)(11)(D)(ii). (A copy of Appendix B has been submitted for the SIP narrative.)

7. A narrative requirement that sources notify the DEP thirty days prior to conducting a test in accordance with *Source Test Guidelines and Procedures.* (A copy of that document has been submitted for approval as part of the SIP narrative.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 16, 1985. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, and Incorporation by Reference.

Note.—Incorporation by Reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 11, 1985.

Lee M. Thomas,

under the Freedom of Information Act (FOIA) was last revised in 1981. The

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701 and 43 U.S.C. 1460, unless

cannot be performed by clerical personnel: $4.50

Dated: July 11, 1985.

1. On page 1760, in 6101.5(b)(3)(iii), in

VOL 50 ISS 138 JL 18 1985 UMI

Dated: July 11, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.370, paragraph (c) is amended by adding subparagraph (34) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(34) Revisions to the Ozone Attainment Plan were submitted by the Commissioner of the Connecticut Department of Environmental Protection on April 22, 1985.

(i) Incorporation by Reference

(A) Amendments to Regulation 22a–174–1, Definitions; Regulation 22a–174–20(a), Storage of Volatile Organic Compounds; Regulation 22a–174–20(b), Loading of Gasoline and Other Volatile Organic Compounds; and Regulation 22a–174–20(k), Restrictions on Cutback Asphalt, effective December 17, 1984.

(ii) Additional Material

(A) *Source Test Guidelines and Procedures*

(B) *Workshop Manual for Gasoline Tank Truck Certification*

(C) Appendix B of *Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems* (EPA–450/2–78–051.

[FR Doc. 85–17079 Filed 7–17–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

Records and Testimony; Freedom of Information Act; Fee Schedule Changes

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Department is amending its fee schedule for processing Freedom of Information Act requests in order to depict the current costs of such services.

EFFECTIVE DATE: August 19, 1985.

FOR FURTHER INFORMATION CONTACT: Richard A. Stephan, (202) 343–6191.

SUPPLEMENTARY INFORMATION: The Department's uniform fee schedule for making records available to the public under the Freedom of Information Act (FOIA) was last revised in 1981. The schedule, published as Appendix A to 43 CFR Part 2, as it presently exists does not accurately reflect the cost of making records available to the public. Therefore, on January 3, 1985 (50 FR 286; correction notice published January 9, 1985; 50 FR 1072), the Department published a proposed rule to amend its fee schedule.

One comment from the public was received in response to the proposed rule. In that comment, the view was expressed that no fees should be waived under any circumstance. However, the FOIA itself provides, in part, that "[d]ocuments shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest . . ." (5 U.S.C. 552(a)(4)(A)). Therefore, the suggestion that fees never be waived has not been adopted in this final rule.

The commenter also felt that copying fees should be considerably higher than those proposed; again, the Department is bound by the language of the FOIA, which provides in part, that ". . . fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of *only the direct costs of such search and duplication*" (5 U.S.C. 552(a)(4)(A)) (Emphasis added). Accordingly, the fee schedule, which was designed to meet the statutory requirement, has been adopted as proposed.

The Department has determined that this document is not a major rule under Executive Order 12291 and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. This document merely reflects an effort by the Department to recover some of the increased costs of administering the FOIA, as permitted by the FOIA. We do not perceive any significant economic effect upon any small entity resulting from the relatively small increase in fees.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The principal author of this document is Richard A. Stephan, Office of Information Resources Management.

List of Subjects in 43 CFR Part 2

Freedom of information, Privacy.

PART 2—[AMENDED]

Accordingly, 43 CFR Part 2 is amended as set forth below.

1. The authority citation for 43 CFR Part 2 is revised to read as follows:

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701 and 43 U.S.C. 1460, unless otherwise noted.

2. In § 2.19, paragraph (c)(3) introductory text is revised and a new paragraph (f) is added to read as follows:

§ 2.19 Fees.

* * * * * *

(c) * * *

(3) Fees otherwise chargeable for document search and duplication costs incurred in responding to requests shall be waived if the total amount of the fee does not exceed $15.00 or may be waived or reduced if the request involves:

* * * * *

(f) *Billing procedures.* A Bill for Collection, Form DI–1040, shall be prepared for each request which requires the collection of search and duplication costs. The requester shall be provided the first sheet of the DI–1040. The Accounting Copy of the Form shall be transmitted to the agency's finance office for entry into accounts receivable records. Upon receipt of payment from the requester, the recipient shall forward the payment along with a copy of the DI–1040 to the finance office.

3. Appendix A to 43 CFR Part 2 is revised to read as follows:

Appendix A—Fees

The following uniform fee schedule is applicable to all constituent units of the Department. It states the fees to be charged to members of the public for services performed in searching for and duplicating records in connection with requests made under the Freedom of Information Act. The fees are also applicable to services provided in duplicating and making available records in response to requests made under the Privacy Act. It also states the fees to be charged for certification of documents.

(1) *Copies, basic fee.* For copies of documents reproduced on a standard office copying machine in sizes up to 8½" x 14", the charge will be $0.13 per copy.

Examples: For one copy of a three-page document, the fee would be $0.39. For two copies of a three page document, the fee would be $0.78. For one copy of a 60-page document, the fee would be $7.80.

(2) *Copies, documents requiring special handling.* For copies of documents which require special handling because of their age, size, etc., cost will be based on direct costs of reproducing the materials.

(3) [Reserved]

(4) [Reserved]

(5) *Clerical searches.* For each quarter hour, or portion thereof, spent by clerical personnel in locating a requested record or records: $2.25

(6) *Nonclerical searches.* For each quarter hour, or portion thereof, spent by professional or managerial personnel in locating a requested record or records where the search cannot be performed by clerical personnel: $4.50

(7) [Reserved]

(8) *Certification.* For each certificate of verification attached to authenticated copies of records furnished to the public the charge will be $0.25.

(9) [Reserved]

(10) *Computerized records.* Charges for services in processing requests for records maintained in computerized form will be calculated in accordance with the following criteria:

(a) Costs for processing a data request will be calculated using the same standard direct costs charged to other users of the facility, and/or as specified in the user's manual or handbook published by the computer center in which the work will be performed.

(b) An itemized listing of operations required to process the job will be prepared (i.e., time for central processing unit, input/output, remote terminal, storage, plotters, printing, tape/disc mounting, etc.) with related associated costs applicable to each operation.

(c) Material costs (i.e., paper, cards, tape, etc.) will be calculated using the latest acquisition price paid by the facility.

(d) ADP facility managers must assure that all cost estimates are accurate, and if challenged, be prepared to substantiate that the rates are not higher than those charged to other users of the facility for similar work. Upon request, itemized listings of operations and associated costs for processing the job may be furnished to members of the public.

(11) *Postage/mailing costs.* Return postage/mailing fees may be added to charges for records if the postage/mailing fee exceeds $1.00.

(12) [Reserved]

(13) [Reserved]

(14) *Other services.* When a response to a request requires services or materials other than those described in this schedule, the direct cost of such services or materials to the Government may be charged, but only if the requester has been notified of such cost before it is incurred.

(15) *Effective date.* This schedule applies to all requests made under the Freedom of Information Act and Privacy Act after August 19, 1985.

Dated: July 11, 1985.

Joseph E. Doddridge, Jr.,

Deputy Assistant Secretary—Policy, Budget and Administration.

[FR Doc. 85–17116 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–10–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[PR Docket No. 84–1298; RM–4825; FCC 85–337]

Medical Advisory Communications With Ships at Sea

Correction

In FR Doc. 85–16293 beginning on page 27968 in the issue of Tuesday, July 9, 1985, make the following corrections:

1. On page 27969, in the first column, in the section heading now reading "§ 81.351 . . . " should read "§ 83.351 . . . ".

2. Also on page 27969, in the first column, in § 83.351(e), in the fourth line, "share" should read "shared".

BILLING CODE 1505–01–M

GENERAL SERVICES ADMINISTRATION

Board of Contract Appeals; Rules of Procedure

48 CFR Part 6101

AGENCY: GSA Board of Contract Appeals.

ACTION: Final rule and interim rule; correction.

SUMMARY: This document corrects the General Services Administration Board of Contract Appeals rules of procedure.

FOR FURTHER INFORMATION CONTACT: James J. Regan, General Services Administration Board of Contract Appeals, (202) 566–0890.

In FR Doc 85–878 beginning on page 1756 in the issue of Friday, January 11, 1985, make the following corrections:

1. On page 1760, in 6101.5(b)(3)(iii), in the first column, second paragraph, next-to-the-last line, add "s" to the word "limit".

2. On page 1761 in 6101.8(c)(4), in the third column, first paragraph, add "and" after semi-colon at the end of the paragraph.

3. On page 1765, in 6101.16(c)(3)(i)–(iii), in the first and second columns, remove "or" at end of each paragraph after each semi-colon.

4. On page 1765, in 6101.17(d), in the third column, fourth paragraph, remove "," after "service" in the next to the last line.

5. On page 1766, in 6101.18(b)(2)(v), in the first column, last paragraph, add "and" after semi-colon at the end of the paragraph.

6. On page 1770, in 6101.35(b), in the second column, in the seventh paragraph line six, add "," after the word "accuracy".

In FR Doc 85–15351 beginning on page 26764 in the issue of Friday, June 28, 1985, make the following corrections:

1. On page 26765, in 6101.19 (Rule 19), in the second column, add a semi-colon after the word "notice" in the title.

2. On page 26766, in 6101.5, in the first column, "(n) * * *" should read "(b) * * *".

3. On page 26766, in 6101.5(b)(3)(i), in the second column, remove "; and" and replace with "." at the end of the paragraph.

4. On page 26766, in the second column, in 6101.5(d), in the twenty-first line, "(XMA)" should read "(KMA)".

In the FR correction beginning on page 27969 in the issue of Tuesday, July 9, 1985, make the following correction:

1. On page 27970, the Subpoena form, in the upper left hand side under the title heading, remove the line "Appeal/Protest/Petition of :" from the form in its entirety.

Dated: July 12, 1985.

Leonard J. Suchanek,

Chairman, Board of Contract Appeals.

[FR Doc. 85–17187 Filed 7–17–85; 8:45 am]

BILLING CODE 6820–RW–M

Proposed Rules

Federal Register
Vol. 50, No. 138
Thursday, July 18, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1985-10]

Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees

AGENCY: Federal Election Commission.

ACTION: Notice of Hearing on Proposed Rules.

SUMMARY: On April 17, 1985 the Federal Election Commission published a Notice of Proposed Rulemaking to revise its regulations governing contributions by persons and multicandidate political committees at 11 CFR 110.1 and 110.2 (50 FR 15169). The Commission will hold a public hearing on these proposed rules.

DATES: The hearing will be held on October 16, 1985 at 10:00 a.m. Persons or organizations wishing to testify at the hearing should notify the Commission and should submit written comments by October 1, 1985, if they have not previously submitted comments on these proposed rules.

ADDRESSES: The hearing will be held in the Commission's fifth floor meeting room, 1325 K Street, NW., Washington, D.C. Those wishing to testify at the hearing should address their requests and comments to Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, (202) 523-4143 or (800) 424-9530.

Dated: July 12, 1985.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 85-17038 Filed 7-17-85; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

15 CFR Part 303

[Docket No. 50691-5091]

Watch Duty-Exemption Program

AGENCY: Import Administration, International Trade Administration, Commerce, Office of Territorial and International Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposed revision to 15 CFR Part 303, which governs the allocation of duty-free benefits among watch producers in the insular possessions (the Virgin Islands, Guam, and American Samoa) and the Northern Mariana Islands pursuant to Pub. L. 97-446.

The proposed revision is necessary in order to provide a territorial share of the duty exemption for the Northern Mariana Islands ("NMI"). Pub. L. 94-241, which prescribes among other things that NMI shall be entitled to the same tariff privileges afforded to Guam, authorizes the establishment of such a share. We are proposing to take this action now in response to a request from the Governor of the NMI and to an expression of interest in receiving an allocation by a potential producer in the NMI.

We also propose to change § 303.14 by raising the maximum value of components for watches (from $40 to $80) and watch movements (from $20 to $30). This change will afford producers increased flexibility in producing and marketing insular watches and watch movements.

Section 303.12(a)(1) requires producers to certify that they intend and shall be able to continue operations beyond the current calendar year prior to issuance of their production incentive certificates. When we adopted this requirement in 1983 we were concerned that producers might use the certificates but nevertheless cease operations, i.e., take advantage of the incentive without fulfilling its purpose. In our judgment, the additional incentives have been effective and there is no longer any reason for this transitional safeguard.

Finally, we are proposing minor editorial changes in §§ 303.1 (a) and (b), 303.6 (c) and (d), and 303.7(b)(6).

DATE: Comments must be received on or before August 19, 1985.

ADDRESS: Address comments to: Statutory Import Programs Staff, Rm. 1523, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 377-1660.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 dated February 17, 1981, the Departments of Commerce and the Interior have determined that these rules do not constitute a "major rule" as defined by section 1(b) of the Order. They are not likely to result in:

(1) Annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices in either the public or private sector; or

(3) Significant adverse impact on the domestic economy or on the ability of U.S. enterprise to compete with foreign enterprises.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Fewer than ten entities are directly affected by this action. The commercial benefits of the program governed by these regulations, for entities both directly and indirectly affected, are less than $10 million per year.

Pursuant to the requirements of the Paperwork Reduction Act of 1980, the Departments have determined that the proposed amendment will not significantly increase the information collection burden on the public. The collections of informatioon involved with this rule have been approved by the Office of Management and Budget under control numbers 9625-0040 and 0625-0134.

List of Subjects in 15 CFR Part 303

Imports, Customs duties and inspection, Watches and jewelry, Marketing quotas, Administrative practice and procedure, Reporting and recordkeeping requirements, American Samoa, Guam, Virgin Islands, Northern Mariana Islands.

PART 303—[AMENDED]

For reasons set forth above, the following amendments of Part 303 are made:

1a. The authority section is revised to read as follows:

Authority: Pub. L. 97-446, 96 Stat. 2329 (19 U.S.C. 1202); Pub. L. 94-241, 90 Stat. 263 (48 U.S.C.A 1681, note)

1b. Section 303.1 (a) and (b) are revised to read as follows:

§ 303.1 Purpose.

(a) This part implements the responsibilities of the Secretaries of Commerce and the Interior ("the Secretaries") under Pub. L. 97-446, enacted on 12 January 1983, which substantially amended Pub. L. 89-805, enacted 10 November 1966, amended by Pub. L. 94-88, enacted 6 August 1975, and amended by Pub. L. 94-241, enacted 24 March 1976. The law provides for exemption from duty of watches and watch movements produced or manufactured in a United States insular possession, without regard to the value of the foreign materials they contain, if they conform with the provisions of Headnote 6, Schedule 7, Part 2, Subpart E of the Tariff Schedules of the United States ("Headnote 6"). Headnote 6 denies this benefit to articles containing any material which is the product of any country with respect to which Column 2 rates of duty apply; authorizes the Secretaries to establish the total quantity of such articles, provided that the quantity so established does not exceed 10,000,000 units or one-ninth of apparent domestic consumption, whichever is greater, and provided also that the quantity is not decreased by more than ten percent nor increased by more than twenty percent (or to more than 7,000,000 units, whichever is greater) or the quantity established in the previous year.

(b) The law directs the International Trade Commission to determine apparent domestic consumption for the preceding calendar year in the first year U.S. insular imports of watches and watch movements exceed 9,000,000 units Headnote 6 authorizes the Secretaries to establish territorial shares of the overall duty-exemption within specific limits; and provides for the annual allocation of the duty-exemptions among insular watch producers equitably and on the basis of allocation criteria, including minimum assembly requirements, that will reasonably maximize the net amount of direct economic benefits to the insular possessions.

* * * * *

2. Section 303.2 is amended by revising paragraph (a)(6).

§ 303.2 Definitions and forms.

(a) * * *

(6) *Territories, territorial, and insular possessions* refer to the insular possessions of the United States (i.e., the U.S. Virgin Islands, Guam, and American Samoa) and the Northern Mariana Islands.

* * * * *

§ 303.2, 303.3, 303.5, 303.7, 303.9, 303.10, 303.14 [Amended]

3. The terms "insular possession" and "insular possessions" are changed to read "territory" and "territories," respectively, each time they appear in §§ 303.2(a)(14); 303.3 (b)(3) and (c)(1); 303.5(b)(7); 303.7(b)(1); 303.9(b)(4); 303.10(a)(2); and 303.14(b)(2).

§ 303.6 [Amended]

4. Section 303.6 is amended by changing the word "initial" to "interim" each time it appears in paragraphs (c) and (d).

§ 303.7 [Amended]

5. Section 303.7 is amended by taking out the words "as prescribed in the annual rules" in the first sentence of paragraph (b)(6).

6. Section 303.12 is amended by revising paragraph (a)(1).

§ 303.12 Issuance and use of Production incentive certificates.

(a) *Issuance of certificates.* (1) Certificates of Entitlement, Form ITA-360, shall be issued before March 1 of the current year.

* * * * *

7. Section 303.14 is amended by revising paragraph (b)(3), (d)(1), and (e).

§ 303.14 Allocation factors and miscellaneous provisions.

* * * * *

(b) * * *

(3) The maximum value of components referred to in Section 303.10(a)(1) shall be $30 for watch movements and $80 for watches.

* * * * *

(d) *New Entrant Invitations.* (1) Applications from new firms are invited for the territorial shares of American Samoa and the Northern Mariana Islands.

* * * * *

(e) *Territorial shares.* The shares of the total duty exemption are 3,500,000 for the Virgin Islands, 1,000,000 for Guam, 500,000 for American Samoa, and 500,000 for the Northern Mariana Islands.

(Approved by the Office of Management and Budget under control numbers 0625-0040 and 0625-0134.)

Dated: July 10, 1985.

John L. Evans,

Deputy to the Deputy Assistant Secretary for Import Administration.

Kittie Baier,

Deputy Assistant Secretary for Territorial and International Affairs.

[FR Doc. 85-17107 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DS 4310-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 109, 110, 225, 226, 500, and 509

[Docket No. 80N-0128]

Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants; Withdrawal of Proposed Rule

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing its proposed rule that would have prohibited or limited the amount of polychlorinated biphenyls (PCB's) in sealed electrical transformers or capacitors used or stored in or around food, feed, and food- and feed-packaging materials plants or storage facilities. FDA has concluded that a final rule recently published by the Environmental Protection Agency (EPA) adequately protects the public health in this area, and that, therefore, the proposed rule is no longer necessary.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION:

Background

The industrial uses of PCB's are subject to the Toxic Substances Control Act (TSCA) (15 U.S.C. 2605(e)), which is administered by EPA, as well as the Federal Food, Drug, and Cosmetic Act (the act), which is administered by FDA. TSCA authorizes EPA to allow PCB's to be used in a "totally enclosed manner." On May 31, 1979, EPA issued a rule that designated PCB-containing industrial transformers as totally enclosed and thus not subject to the TSCA prohibition.

In light of the EPA rule, FDA published in the **Federal Register** of May 9, 1980 (45 FR 30964), a proposed rule

concentration of 500 parts per million (ppm) or greater posing an exposure risk

21 CFR Part 110

Good manufacturing practices

21 CFR Part 170

State program amendment procedures, revised regulations

are directly responsible, for the use of

In light of the EPA rule, FDA published in the **Federal Register** of May 9, 1980 (45 FR 30984), a proposed rule that would have prohibited or limited the amount of PCB's in sealed electrical transformers and capacitors used or stored in or around food, feed, and food- and feed-packaging materials plants or storage facilities (21 CFR 109.15, 110.40, 225.1, 226.1, 500.45, and 509.15). FDA requested that comments submitted in response to that proposal include information regarding: (1) The number, types, and location of PCB-containing transformers or capacitors used or stored in or around FDA-regulated food, feed, or food-packaging materials plants and storage materials plants and storage facilities; (2) a reasonable time estimate for replacing such electrical equipment or replacing the PCB fluid in such equipment; and (3) an estimate of the cost involved.

Interested persons were requesterd to submit comments by July 7, 1980. After receiving a number of requests for extensions, FDA extended the comment period to November 4, 1980, by notice published in the **Federal Register** of July 1, 1980 (45 FR 44325); to December 4, 1980, by notice published in the **Federal Register** of October 28, 1980 (45 FR 71364); and to March 4, 1981, by notice published in the **Federal Register** of December 2, 1980 (45 FR 79856).

On October 30, 1980, the U.S. Court of Appeals for the District of Columbia ruled, in relevant part, that regulations issued by EPA that characterized intact, nonleaking transformers, capacitors, and electromagnets containing PCB's as "totally enclosed" for purposes of TSCA were unsupported by the rulemaking record and remanded the regulations to EPA for further consideration (see *Environmental Defense Fund* v. *Environmental Protection Agency*, No. 79-180 (D.C. Cir., October 30, 1980)).

In response to a motion by EPA and certain other parties to the case, the court issued an order on February 12, 1981, requiring EPA to undertake rulemaking concerning the use of PCB's. Because FDA's proposal was based in large part on EPA's regulation, and because of the uncertainties concerning the impact of the actions of the Court of Appeals on FDA's proposal, FDA decided to hold in abeyance the May 9, 1980 proposal. A notice of abeyance of the proposed rule was published in the **Federal Register** of March 6, 1981 (46 FR 15518).

In response to the court order of February 12, 1981, EPA published a final rule in the **Federal Register** of August 25, 1982 (47 FR 37342), that, among other things, prohibits the use of PCB transformers with a dielectric fluid PCB concentration of 500 parts per million (ppm) or greater posing an exposure risk to food or feed, after October 1, 1985, and requires a weekly inspection of this equipment for leaks of dielectric fluid until that date. The record compiled during the EPA rulemaking establishes that the 500 ppm limitation is reasonable and protective of the public health. The final rule also prohibits the use of large PCB capacitors after October 1, 1988, unless they are located in restricted-access electrical substations or in contained and restricted-access indoor installations for the remainder of their useful lives.

Comments Received by FDA

FDA received 160 comments in response to the May 9, 1980 proposal from utility companies, suppliers, manufacturers and processors, trade associations, consumers, and other interested persons. Most of the comments from industry said that the proposed regulations would have an adverse impact on their businesses. Several comments asserted that the proposal was overly broad. The food-packaging materials industry asked that their plants be excluded from the coverage of the proposed rule because, in the industry's view, there is no reason to believe that food or feed would be contaminated from any leak in such a plant. Many consumers, however, supported: (1) A ban on installation of any equipment containing PCB's in any plants that process food and (2) a prohibition of the use of currently installed equipment that contains PCB's.

Withdrawal of the Proposal

FDA has considered the comments and has carefully reviewed EPA's final rule of August 25, 1982. EPA's requirements apply to the uses and conditions that FDA sought to regulate in its proposed rule. FDA believes that EPA's new requirements place reasonable limitations on the industrial use of electrical transformers and capacitors and provide adequate safeguards against the risk of contamination of the food and feed supply from PCB-containing electrical equipment. Accordingly, FDA believes that the revisions to §§ 109.15, 110.40, 110.80(k), 225.1, 226.1, 500.45, and 509.15 proposed in the **Federal Register** of May 9, 1980, are no longer necessary and is withdrawing its proposal.

List of Subjects

21 CFR Part 109

Contaminants, Polychlorinated biphenyls (PCB's).

21 CFR Part 110

Good manufacturing practices, Umbrella good manufacturing practice.

21 CFR Part 225

Animal drugs, Animal feeds, Labeling, Packaging and containers.

21 CFR Part 226

Animal feed premixes, Labeling, Packaging and containers.

21 CFR Part 500

Animal drugs, Animal feeds, Labeling, Polychlorinated biphenyls (PCB's).

21 CFR Part 509

Animal food contaminants, Animal foods, Packaging and containers, Polychlorinated biphenyls (PCB's).

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL

PART 110—CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PROCESSING, PACKAGING, OR HOLDING HUMAN FOOD

PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

PART 226—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED PREMIXES

PART 500—GENERAL

PART 509—UNAVOIDABLE CONTAMINANTS IN ANIMAL FOOD AND FOOD-PACKAGING MATERIALS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 402(a), 406, 409, 701(a), 52 Stat. 1046 as amended, 1049 as amended, 1055, 72 Stat. 1785–1788 as amended (21 U.S.C. 342(a), 346, 348, 371(a))), the Public Health Service Act (sec. 361, 58 Stat. 703 (42 U.S.C. 264)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the proposal published in the **Federal Register** of May 9, 1980 (45 FR 30984), is hereby withdrawn, and the rulemaking proceeding initiated by the proceeding is terminated.

Dated: July 8, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17018 Filed 7-17-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 170

[Docket No. 84N-0080]

Eligibility for Classification of Food Substances as Generally Recognized as Safe

Correction

In FR Doc. 85-15787 beginning on page 27294 in the issue of Tuesday, July 2, 1985, make the following correction:

§ 170.30 [Corrected]

On page 27297, second column, § 170.30(c)(2), second line, "January 1, 1985" should read "January 1, 1958".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Consideration of Amendments to the Kentucky Program Under the Surface Mining Control and Reclamation Act 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on certain amendments submitted by the Commonwealth of Kentucky to its program for the regulation of surface coal mining and reclamation in the State. The amendments related to Kentucky's revised regulations pertaining to use of explosives and the blaster training and certification program.

DATES: Written comments, data or other relevant information must be received on or before 4:00 p.m. August 2, 1985 to be considered. Comments not received by this date will not necessarily be considered.

ADDRESSES: Comments should be sent or hand-delivered to: W.H. Tipton, Director, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

FOR FURTHER INFORMATION CONTACT: W.H. Tipton, Director, Lexington Field Office, Office of Surface Mining, 340 Legion Drive, Lexington, Kentucky 40504; Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION: by a letter dated December 4, 1984, OSM received, pursuant to the 30 CFR 732.17 State program amendment procedures, revised regulations amending the Kentucky program. On January 3, 1985, OSM published a notice in the **Federal Register** (50 FR 283) announcing receipt of the amendments to the Kentucky program and inviting public comment thereon. The public comment period closed February 4, 1985. A public hearing scheduled for January 28, 1985, was not held because no one expressed a desire to testify.

On May 22, 1985, OSM received additional material from Kentucky pertaining to use of explosives and the blaster training and certification program. This material consists of further revisions to the Kentucky Administrative Regulations (KAR) at 405 KAR 7:070, 16:120 and 16:120.

OSM is reopening the comment period for an additional 15 days to allow the public sufficient time to review and comment on the above Kentucky amendments. Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations of why the commenter believes or does not believe that the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations. Pursuant to 30 CFR 732.17(h)(2)(ii), each requestor may receive, free of charge, one single copy of the proposed amendment by contacting OSM's Lexington Field Office listed under "**ADDRESSES.**"

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 11, 1985.

Charles B. Kenehan,

Assistant Director, Program Operations and Inspection.

[FR Doc. 85-17051 Filed 7-17-85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 926

Permanent State Regulatory Program of Montana

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is seeking comment on Montana's request to further extend the deadline for Montana: (1) To promulgate rules governing the training, examination and certification of blasters and (2) to develop and adopt a program to examine and certify all persons who are directly responsible, for the use of explosives in a surface coal mining operation. On March 6, 1984, Montana requested an extension of time, until May 31, 1984, for the development of a blaster certification program. On May 14, 1984, the Director, OSM announced his decision to extend Montana's deadline to May 31, 1984 (49 FR 20288). On June 18, 1985, Montana requested an additional extension of time, until October 31, 1985, to develop the training portion of its blaster certification program.

DATE: Comments not received by August 19, 1985 the address below, will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William Thomas, Field Office Director, Casper Field Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Field Office Director, Casper Field Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644; Telephone: (307) 328-5830.

SUPPLEMENTARY INFORMATION: On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 month after approval of a State program or within 12 months after publication date of OSM's rule at 30 CFR Part 850, whichever is later. In the case of Montana's program, the applicable date is 12 months after publication date of OSM's rule, or March 4, 1984.

On January 3, 1984, the State of Montana submitted to OSM two amendments to its permanent regulatory program. One amendment was intended to implement the provisions of 30 CFR Part 850 relating to blaster training, examination and certification.

OSM announced in the February 6, 1984 **Federal Register** (49 FR 4385), receipt of the proposed program amendment and procedures for the public comment period and public hearing on the adequacy of the proposed amendments.

The State of Montana conducted on February 2, 1984, a public hearing to

28, 1981, the Officer of Management and Budget (OMB) granted OSM an

(4) The swing span bridge, mile 34.2, near Milton, Vermilion Parish, (parish

communications received and determine a course of final action on this proposal. The proposed regulations may be

bridges can be placed on four hours advance notice for an opening. This will

of Title 33, Code of Federal Regulations as follows:

The State of Montana conducted on February 2, 1984, a public hearing to receive comments on the adequacy of Montana's proposed regulations. As a result of substantive comments received at the hearing, the State decided to revise its amendment package and reopen the comment period until April 13, 1984.

To accommodate the revised schedule, the State submitted to OSM on March 6, 1984, a request for an extension until May 31, 1984, to submit final rules addressing the blaster certification program. On May 25, 1984, the State on Montana submitted to OSM a proposed blaster certification program amendment. OSM published notification of receipt of the State's submission and announced a public comment period on the proposed amendment in the June 14, 1984 Federal Register (49 FR 24542). On August 20, 1984, the State of Montana was notified of deficiencies that were identified as a result of OSM's review of the May 25, 1985 submission. Montana responded, on September 20, 1984, to OSM's concerns by providing additional material that appeared to adequately address the issues raised in OSM's letter of August 20, 1984.

On October 29, 1984, the Director of OSM's Casper Field Office informed the State of Montana that he was prepared to recommend to the Director that he approve Montana's blaster certification program pending review and approval of the State's blaster training course and blaster certification examination as required by 30 CFR Part 850.

OSM evaluated the State's blaster certification examination and blaster training program and identified deficiencies in the training program. As a result, the State of Montana requested on June 18, 1985 an additional extension of time, until October 31, 1985, to develop the training portion of its blaster certification program.

Therefore, OSM is seeking comment on the State's request for additional time to develop and adopt a blaster certification program. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Officer of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory program. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 926

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 11, 1985.

Ted O. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-17052 Filed 7-17-85; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8-85-13]

Drawbridge Operation Regulations; Vermilion River, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD) and Vermilion Parish, the Coast Guard is considering a change to the regulations governing the operation of four state owned drawbridges and one parish owned drawbridge over the Vermilion River, Louisiana, as follows:

(1) The lift span bridge, mile 22.4, on LA82 at Perry, Vermilion Parish.

(2) The lift span bridge, mile 25.4, on LA14 at Abbeville, Vermilion Parish.

(3) The lift span bridge, mile 26.0, on LA14 Bypass at Abbeville, Vermilion Parish.

(4) The swing span bridge, mile 34.2, near Milton, Vermilion Parish, (parish owned).

(5) The lift span bridge, mile 37.6, on LA92 at Milton, Lafayette Parish.

This proposed change would require that the draw of the bridge at Perry, mile 22.4, open on at least four hours advance notice from 9 p.m. to 5 a.m., and that the draws of the other four bridges open on at least four hours advance notice from 6 p.m. to 10 a.m. The draws would open on signal outside these hours. Presently, the draws are required to open on at least 12 hours advance notice from 9 p.m. to 5 a.m. and to open on signal from 5 a.m. to 9 p.m.

This proposal to extend the advance notice period for four bridges from eight to 16 hours (6 p.m. to 10 a.m.) is being made because of the infrequent requests for opening the draws during that period. This proposal does not change the existing advance notice period for the Perry bridge, but it does reduce the advance notice time to be given for an opening for that bridge from 12 to four hours, to be consistent with the other bridges. This action should relieve the bridge owners of the burden of having a person constantly available at each of the four bridges from 6 p.m. to 10 a.m., while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before September 3, 1985.

ADDRESS: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. The comments and other material referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Perry Haynes, project officer, and Steve Crawford, project attorney.

Discussion of Proposed Regulations

Vertical clearance of the bridges in the closed position range from 4.0 to 15.0 feet above high water and 9.0 to 18.0 feet above low water. Navigation through the bridges consists of commercial and pleasure boats. Data submitted by the LDOTD show that this traffic is infrequent during the proposed advance notice period as reviewed below:

(1) *Perry bridge (mile 22.4).* In 1984, between 9 p.m. and 5 a.m., the existing advance notice period, there were 138 bridge openings—an average of 11.5 openings per month or an average of one opening every three days. In 1983, for the same period, there was 96 bridge openings. No change is being proposed to the existing eight hour period during which the bridge opens on advance notice. However, the amount of advance notice time to be given for an opening is being reduced from 12 to four hours.

(2) *Abbeville bridge (mile 25.4).* In 1984, between 6 p.m. and 10 a.m., the proposed advance notice period, there were 254 bridge openings—an average of 21.0 openings per month or an average of two openings every three days. In 1983, for the same period, there were 216 bridge openings.

(3) *Abbeville by-pass bridge (mile 26.0).* In 1984, between 6 p.m. and 10 a.m., the proposed advance notice period, there were 230 bridge openings—an average of 19.0 openings per month or an average of two openings every three days. In 1983, for the same period, there were 198 bridge openings.

(4) *Vermilion Parish bridge (mile 34.2).* In 1984 and 1983, between 6 p.m. and 10 a.m., the proposed advance notice period, there were as many bridge openings each year as for the Milton bridge upsteam at mile 37.6.

(5) *Milton bridge (mile 37.6).* In 1984, between 6 p.m. and 10 a.m., the proposed advance notice period, there were 225 bridge openings—an average of 19.0 openings per month or an average of two openings every three days. In 1983, for the same period, there were 181 bridge openings.

Considering the few openings involved for each bridge, the Coast Guard feels that the current on site attendance at the four bridges (mile 25.4 through mile 37.6) between 6 p.m. and 10 a.m. is not warranted, and that the bridges can be placed on four hours advance notice for an opening. This will allow relief to the bridge owners, while still reasonably providing for the needs of navigation. Outside this period, the bridges will continue to open on signal. The only change to the operation of the Perry bridge (mile 22.4) is to reduce the advance notice time to be given for an opening from 12 to four hours.

The advance notice for opening the draws would be given by placing a collect call at any time to the LDOTD District Office at Lafayette, Louisiana, telephone (318) 233-7304, for state bridges; and, to Vermilion Parish at Abbeville, Louisiana (318) 893-0108, for the parish bridge. From afloat, this contact may be made by radiotelephone through a public coast station.

The LDOTD and Vermilion Parish recognize that there may be an unusual occasion to open the bridges on less than four hours notice for an emergency or to operate the bridges on demand for an isolated but temporary surge in waterway traffic, and has committed to doing so if such an event should occur.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that few vessels pass the bridges during the proposed advance notice periods, as evidenced by the bridge openings for 1984 and 1983. In those years, each bridge averaged well below one opening per day for those periods. These vessels can reasonably give four hours advance notice for a bridge opening by placing a collect call to the bridge owner at any time. Mariners requiring the bridge openings are mainly repeat users and scheduling their arrival at any of the bridges at the appointed time should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; and 49 CFR 1.46(c)(5) and 33 CFR 1.05-1(g).

2. Section 117.509 is amended by revising paragraph (a), designating existing paragraph (b) as paragraph (c), and adding new paragraph (b) and (d) to read as follows:

§ 117.509 Vermilion River.

(a) The draw of the S82 bridge, mile 22.4 at Perry, shall open on signal; except that, from 9 p.m. to 5 a.m. the draw shall open on signal if at least four hours notice is given.

(b) The draws of the following bridges shall open on signal; except that, from 6 p.m. to 10 a.m. the draws shall open on signal if at least four hours notice is given:

(1) S14 bridge, mile 25.4 at Abbeville.

(2) S14 Bypass bridge, mile 26.0 at Abbeville.

(3) Vermilion Parish bridge, mile 34.2 near Milton.

(4) S92 bridge, mile 37.6 at Milton.

(c) * * *

(d) During the advance notice periods, the draws of the bridges listed in this section shall open on less than four hours notice for an emergency and shall open on signal should a temporary surge in waterway traffic occur.

Dated: July 10, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 85-17092 Filed 7-17-85; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket Numbers AM064/065 MD]

Approval and Promulgation of Implementation Plans, Correction to the Maryland State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Correction to proposed rulemaking notice.

SUMMARY: This notice announces a correction to the proposed rulemaking notice regarding a revision to the Maryland State Implementation Plan

(SIP) under the Clean Air Act. On May 3, 1985, EPA published a proposed rulemaking notice (50 FR 18889), has presented substantial information that the requested action may be warranted. Review of the status of those commercial information, a finding be made within 12 months of the date of

distinct species that lives only in the Spruce Creek estuarine system of

precluded because of other pending proposals to list, delist, or reclassify

from immediate proposal by other pending proposals to list, delist, or

(SIP) under the Clean Air Act. On May 3, 1985, EPA published a proposed rulemaking notice (50 FR 18889), proposing approval of a generic visible emissions exception rule (AM084–MD). EPA inadvertently stated that this generic visible emissions exception rule would not be applicable in Air Quality Control Regions III and IV (Baltimore and Washington). The sentence should read, "The proposed revision is only applicable in Air Quality Control Regions III and IV (Baltimore and Washington metropolitan areas.") This **Federal Register** Notice also extends the comment/period for this proposed SIP revision.

EFFECTIVE DATE: Comments must be submitted on or before August 2, 1985.

ADDRESSES: Written comments on the proposed rule should be addressed to Mr. David L. Arnold at the EPA Region III address shown below. Copies of Maryland's request for amendments to their visible emissions regulations are available for public inspection during business hours at the following location:

U.S. Environmental Protection Agency, Region III, Air Programs Branch (3AM10), 841 Chestnut Building, Philadelphia, PA 19107, Attn: Ms. Patricia Gaughan (3AM11)

Maryland Office of Environmental Programs, Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, MD 21201, Attn: Mr. George P. Ferreri.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia H. Stahl, 215/597–9337, at the EPA Region III address above.

Authority: 42 U.S.C. 7401–7642.

Dated: July 8, 1985.

James M. Self,

Regional Administrator.

[FR Doc. 85–17127 Filed 7–17–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Petitions and Initiation of Status Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and status review.

SUMMARY: The Service announces 90-day findings on two petitions to add species to the List of Endangered and Threatened Wildlife. A petition to list six cave-adapted invertebrate species has presented substantial information that the requested action may be warranted. Review of the status of those six species begins herewith. A petition to list the Spruce Creek king's crown snail has not presented substantial information that the requested action may be warranted. The Service also announces its 12-month findings with respect to five pending petitions to add species to the List of Endangered and Threatened Wildlife. Petitioned actions to list the blackside dace, orangefin madtom and Roanoke logperch, flattened musk turtle, Concho water snake, and Florida scrub jay were found to be warranted but precluded by other efforts to revise the lists. The petition to list the Concho water snake included a request to list also a related subspecies, the Brazos water snake, an action found not to be warranted.

DATES: The findings announced in this notice were made between October 12, 1984, and April 28, 1985. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions should be submitted to the Associate Director—Federal Assistance (OES), U.S. Fish and Wildlife Service, Washington, DC 20240. The petitions, findings, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–2771 or FTS 235–2771).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If the finding is positive, the Service is also required to promptly commence a review of the status of the involved species.

Section 4(b)(3)(B) of the Act, as amended, requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information, a finding be made within 12 months of the date of receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted, but precluded from immediate proposal by other pending proposals. Section 4(b)(3)(C) requires that petitions for which the action requested is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e. requiring a subsequent finding to be made within 12 months. Such 12-month findings are also published promptly in the **Federal Register**.

Initial 90-day findings were announced for the blackside dace on September 4, 1984 (49 FR 34878); for the orangefin madtom and Roanoke logperch on January 16, 1984 (49 FR 1919); for the flattened musk turtle on April 5, 1984 (49 FR 13558); for the Concho and Brazos water snakes (as Harter's water snake) on May 18, 1984 (49 FR 21089); and for the Florida scrub jay on July 13, 1984 (49 FR 28583). The Concho water snake (*Nerodia harteri paucimaculata*) and Brazos water snake (*Nerodia harteri harteri*) have been referred to together in the previous notices as Harter's water snake (*Nerodia harteri*). Status review for the flattened musk turtle began with a notice of review on June 6, 1977 (42 FR 28903). Status review for the other species mentioned commenced with the December 30, 1982, vertebrate notice of review (47 FR 58454).

Findings

1. A petition from Travis Audubon Society, dated February 8, 1985, and received by the Service on February 12, 1985, requested listing as endangered species the following six cave organisms: *Microcreagris texana, Leptoneta myopica, Texella reddelli, Rhadine persephone, Texamaurops reddelli,* and *Cylindropsis* species (Tooth Cave blind rove beetle, undescribed species). These animals are found only in a limited set of caves in northwest Travis County and adjacent Williamson County, Texas, within or near an area known as the Parke that has been proposed for commercial and residential development. The Service has made the finding that this petition does present substantial information that the requested action may be warranted.

2. A petition from Mr. John K. Tucker, dated January 22, 1985, and received by the Service on January 28, 1985, requested listing as an endangered species an undescribed *Melongena* (king's crown) snail he considers a

distinct species that lives only in the Spruce Creek estuarine system of Volusia County, Florida. The Service found that the petition did not present substantial information that the requested action may be warranted.

3. A pending petition to list the blackside dace, *Phoxinus cumberlandensis,* dated May 11, 1984, was received by the Service on May 16, 1984, from Mr. George Burgess on behalf of the Southeastern Fishes Council. The blackside dace is a rare minnow restricted to small upland streams of the upper Cumberland River drainage in Kentucky and Tennessee, above and just below Cumberland Falls. On the basis of the best scientific information available the Service has found that the action requested by this petition is warranted, but precluded from immediate proposal because of other pending proposals to list, delist, or reclassify species.

4. A pending petition to list two fish species, the orangefin madtom, *Noturus gilberti,* and the Roanoke logperch, *Percina rex,* as threatened species, dated September 29, 1983, was received by the Service on October 6, 1983, from Mr. Noel M. Burkhead. The orangefin madtom is known only from the Roanoke River drainage in Virginia and North Carolina and one tributary of the James River in Virginia. The Roanoke logperch is known only from the Roanoke River drainage, including the Dan and Chowan Rivers, all within the State of Virginia. On October 12, 1984, the Service made the 12-month finding that both actions requested are warranted, but precluded from immediate proposal because of other pending proposals to list, delist or reclassify species. Through an oversight, the announcement of this finding was omitted from the notice of petition findings published May 10, 1985 (50 FR 19761).

5. A pending petition to list the flattened musk turtle as threatened, dated November 30, 1983, was received by the Service on December 1, 1983, from Mr. Michael Bean and Mr. Bruce Manheim on behalf of the Environmental Defense Fund. The flattened musk turtle is known only from the upper Black Warrior River system above Bankhead Dam in Alabama. Status surveys have been conducted under contract with the Service and separately under the sponsorship of Alabama Coal Association. The Service's review of the best scientific and commercial information available indicates that the action requested by this petition is warranted. An immediate propoasl to implement listing is precluded because of other pending proposals to list, delist, or reclassify species.

6. A pending petition to list the Concho water snake, *Nerodia harteri paucimaculata,* as threatened, dated February 14, 1984, was received by the Service on February 28, 1984, from Mr. Ted L. Brown of the New Mexico Herpetological Society. The Concho water snake is known only from the Concho and upper Colorado Rivers of west central Texas. An earlier survey of its status was conducted under cooperative agreement with John W. Flury and Terry C. Maxwell of Angelo State University and supplemented with additional information from surveys by Norman J. Scott and Lee A. Fitzgerald of the Service's Denver Wildlife Research Center. After review of the best scientific information available, the Service has fund that the action requested by the petitioner in respect to the Concho water snake is warranted. An immediate proposal to implement listing is precluded because of other pending proposals to list, delist, or reclassify species.

7. The pending petition just described dated February 14, 1984, and received by the Service on February 28, 1984, from Mr. Ted L. Brown of the New Mexico Herpetological Society, also requested listing as threatened the Brazos water snake, *Nerodia harteri, harteri.* This snake is known from the Brazos River of central Texas. On the basis of the scientific information available in 1982, the Brazos water snake was considered with the Concho water snake (as Harter's water snake) in the comprehensive vertebrate notice of review. Additional information secured in recent surveys indicates the Brazos water snake is neither as rare nor as patchy in distribution as originally believed. The Service has found that the action requested by the petitioner with respect to the Brazos water snake is not warranted by its present status.

8. A pending petition to list the Florida scrub jay as threatened, date March 16, 1984, was received by the Service on March 22, 1984, from Dr. Jeffrey A Cox. The supporting data, with population estimates and past and present distribution, was developed in his University of Florida doctoral dissertation, "Conservation and Ecology of the Florida Scrub Jay." This bird is known only from pockets of scrub oak on sand ridges in central and coastal Florida, isolated from other scrub jay subspecies by about 1000 miles of unsuitable habitat. The Service has found that the action requested by this petitioner is warranted, but precluded from immediate proposal by other pending proposals to list, delist, or reclassify species.

Section 4(b)(3)(B)(iii) of the Act states that petitioned actions may be found to be warranted but precluded by other listing actions when it is also found that the Service is making expeditious progress in revising the lists. Expeditious progress in listing endangered and threatened species is being made, and is reported annually in the **Federal Register**. The most recent progress report was published on May 10, 1985 (50 FR 19761).

The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the six Texas cave invertebrate species under status review. They include: (1) *Microreagris texana* Muchmore (Arachnida; Pseudoscorpionida; Neobisiidae), (2) *Leptoneta myopica* Gertsch (Arachnida; Araneae; Leptonetidae), (3) *Texella reddelli* Goodnight and Goodnight (Arachnida; Opilionida; Phalangodidae, (4) *Rhadine persephone* Barr (Insecta; Coleoptera; Carabidae), (5) *Texamaurops reddelli* Barr and Steeves (Insecta; Coleoptera; Pselaphidae), and (6) *Cylindropsis* species undescribed, Tooth Cave blind rove beetle (Insecta; Coleoptera, Staphylinidae). The sixth species represents the first New World blind staphylinid beetle, and apparently the first North American record of a genus previously known only from Europe.

Author

This notice was prepared by Dr. George Drewry, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (730/235–1975 or FTS 235–1975).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.;* Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: July 9, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–17039 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric

2. Establish a system for domestic catcher/processor vessels to submit a written catch report within one week of

minimum shell height with a four-ounce standard corresponding to a minimum scallop size of 40 meat count. The

Dated: July 15, 1985.

Richard B. Roe,

until September 30, 1985, for an additional year (September 30, 1986) or

requires that the Secretary of Commerce prepare a fishery management plan or

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the North Pacific Fishery Management Council has submitted to the Secretary of Commerce for his review Amendment #9 to the fishery management plan for the Bering Sea and Aleutian Islands groundfish fishery (FMP) and is requesting comments from the public.

DATE: Comments on the amendment should be submitted on or before September 27, 1985.

ADDRESSES: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. Copies of the amendment, the environmental assessment, and the regulatory impact review/initial regulatory flexibility analysis may be obtained from North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist, NMFS), 907–586–7230; or the Council staff (Jim Glock), 907–274–4563.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act requires that when a fishery management plan or plan amendment is submitted by a regional fishery management council to the Secretary for review, he must publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan or amendment.

Amendment 9 to the FMP proposes three measures to better manage and protect groundfish stocks in the Bering Sea and Aleutian Islands area as follows:

1. Prohibit foreign trawling within 20 miles of the Aleutian Islands.

This measure would greatly reduce the foreign incidental catch of near-shore species which are fully utilized by the U.S. fishing industry. Its effect on the ability of foreign nations to harvest their groundfish allocations would be insignificant.

2. Establish a system for domestic catcher/processor vessels to submit a written catch report within one week of the date of catch and to check in and check out of fishing areas.

This measure would provide timely catch data to fisheries managers to assure that optimum yields are not exceeded. It was not needed before onboard processing and freezing, when small boats landed their catch within a few days.

3. Implement the NMFS habitat conservation policy. In addition to implementing broad new policy, this measure would require fishing vessel operators not to discard or abandon fishing gear or other items in the sea and to make a reasonable attempt to retrieve such items if encountered or report the location to an appropriate official.

An environmental assessment, required under the National Environmental Policy Act, and a regulatory impact review/initial regulatory flexibility analysis, required under Executive Order 12291 and the Regulatory Flexibility Act, were prepared for this amendment and are available from the Council at the address above.

Regulations proposed by the Council and based on this amendment are scheduled to be published in 30 days.

List of Subjects in 50 CFR Parts 611 and 675

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: July 15, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–17136 Filed 7–16–85; 9:08 am]

BILLING CODE 3510–22–M

50 CFR Part 650

Atlantic Sea Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the New England Fishery Management Council has submitted an amendment (Amendment 1) to the Fishery Management Plan for the Atlantic Sea Scallop Fishery for review by the Secretary of Commerce, and is requesting comments from the public. The amendment proposes to replace the current maximum average meat count/minimum shell height with a four-ounce standard corresponding to a minimum scallop size of 40 meat count. The amendment also proposes to eliminate the adjustable meat count standard, and extend enforcement of the four-ounce standard beyond the point of first transaction in the United States. Copies of the amendment may be obtained from the address below.

DATE: Comments on the amendment should be submitted on or before September 30, 1985.

ADDRESS: All comments should be sent to Mr. Richard H. Schaefer, Acting Regional Director, National Marine Fisheries Service, Northeast Regional Office, 14 Elm Street, Gloucester, MA 01930. Clearly mark, "Comments for Sea Scallop Amendment 1" on the envelope.

Copies of the amendment are available upon request from Mr. Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Carol J. Kilbride, Scallop Management Coordinator, 617–281–3600, ext. 244.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*), requires that each regional fishery management council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether or not to approve the plan or amendment.

The proposed amendment establishes a four-ounce standard for Atlantic sea scallops, which becomes the minimum that the smallest tens sea scallops in a one-pound sample may weigh. Enforcement of this measure will be accomplished through a prohibition against the possession of non-conforming sea scallops at all times. The amendment is intended to improve the conservation program for Atlantic sea scallops by reducing the mortality of small, immature sea scallops which now occur when those scallops are mixed with larger scallops in technical compliance with the maximum average meat count.

Regulations proposed by the Council and based on this amendment are scheduled to be published within 30 days.

(16 U.S.C. 1801 *et seq.*)

Dated: July 15, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–17135 Filed 7–16–85; 9:06 am]

BILLING CODE 3510–22–M

50 CFR Part 651

Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder)

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of a Secretarial Amendment to the Interim Fishery Management Plan for Atlantic Groundfish and request for comments.

SUMMARY: NOAA issues this notice that the Secretary of Commerce has submitted to the New England Fishery Management Council a Secretarial Amendment to the Interim Fishery Management Plan for Atlantic Groundfish (FMP) and is requesting comments from the public. The Secretarial Amendment would extend the FMP which is currently effective until September 30, 1985, for an additional year (September 30, 1986) or until the FMP is replaced by an approved Northeast Multi-Species Fishery Management Plan; whichever time period is shorter. Copies of the Secretarial Amendment may be obtained from the address below.

DATE: Comments on the Amendment should be submitted on or before September 30, 1985.

ADDRESS: All comments should be sent to Richard B. Roe, Director, Office of Fisheries Management, 3300 Whitehaven St. NW., Washington, D.C. 20235. Mark the outside of the envelope "Comments on Atlantic Groundfish Secretarial Amendment."

Copies of the Secretarial Amendment to the Interim Fishery Management Plan for Atlantic Groundfish are available from W.P. Jensen, Chief, Fisheries Management Operations, 3300 Whitehaven St. NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mark Millikin, 202–634–7449.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that the Secretary of Commerce prepare a fishery management plan or amendment, in accordance with the national standards and any other applicable law, if the appropriate council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery. Since the current FMP remains effective until September 30, 1985, a continuation of management measures prescribed by the FMP is necessary for regulating harvest of these species while preparation and review of a new management plan is underway.

No new regulations are proposed by the Secretary to implement this Amendment. The regulations for the FMP are described in 50 CFR Part 651 at 47 FR 43709 (October 4, 1982).

(16 U.S.C. 1801 *et seq.*)

Dated: July 15, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–17137 Filed 7–16–85; 9:08 am]

BILLING CODE 3510–22–M

Notices

14th and Constitution Avenue, NW., Washington D.C. 20230.
Written comments and

Application received by Commissioner of Customs: May 31, 1985.

instrument is intended to be used to evaluate the metallurgical aspects of

Notices

Federal Register
Vol. 50, No. 138
Thursday, July 18, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Montana; Deerlodge National Forest Plan Draft Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Extension of public review period for the Deerlodge National Forest Plan Draft Environmental Impact Statement.

SUMMARY: The period of public review for the Deerlodge National Forest Draft Environmental Impact Statement has been extended until September 3, 1985.

ADDRESSES: Requests for further information should be addressed to: Frank Salmonsen, Supervisor, Deerlodge National Forest, Federal Building, P.O. Box 400, Butte, MT 59703.

Tom Coston,
Regional Forester.
[FR Doc. 85-17027 Filed 7-17-85; 8:45 am]
BILLING CODE 3410-11-M

Medicine Bow National Forest Grazing Advisory Board; Meeting

The Medicine Bow National Forest Grazing Advisory Board will meet August 5, 1985, at 7:30 a.m. at the Vee-Bar Ranch on Highway 130 six miles east of Centennial, Wyoming. The Board, Forest Service personnel and interested public will then proceed to review range improvements, range condition and allotment management on the Laramie Ranger District.

The Board will make recommendations concerning range analysis development of Allotment Management Plans, utilization of Range Betterment Funds and discuss Advisory Board By-laws.

The meeting will be open to the public. Persons who wish to attend and participate should notify Range Staff Officer, Ladd G. Frary, Medicine Bow National Forest (307/745-8971) prior to the meeting date. Public members may participate in discussions during the tour at any time or may file a written statement following the meeting.

Dated: July 8, 1985.
Sonny J. O'Neal,
Forest Supervisor.
[FR Doc. 85-17109 Filed 7-17-85; 8:45 am]
BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration (EDA)
Title: Application for Financial Assistance—Lender's Request for Guarantee
Form Number: Agency—ED-201; OMB—0610-0025
Type of Request: New collection
Burden: 50 respondents; 8,000 reporting hours
Needs and Uses: This application is intended to provide EDA with a more comprehensive analysis of the borrower's financial condition and its ability to repay the proposed loan
Affected Public: Businesses or other for-profit institutions, non-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: July 12, 1985.
Edward Michals,
Departmental Clearance Officer.
[FR Doc. 85-17030 Filed 7-17-85; 8:45 am]
BILLING CODE 3510-CW-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Census of Tampa—AHS Match Reconciliation Record
Form Number: Agency—TACM-3; OMB—NA
Burden: 200 respondents; 27 reporting hours
Type of Request: This questionnaire will be used to assess and resolve differences in household reporting for three basic housing characteristics between the pretest of the Census being conducted in Tampa, Florida, and the American Housing Survey.
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395-4814

Agency: Bureau of the Census
Title: 1986 Census of Central Los Angeles County and East Central Mississippi
Form Number: Agency—DC-102A-R, DC-102-A-U; OMB—NA
Type of Request: New collection
Burden: 100,000 respondents; 3,333 reporting hours
Needs and Uses: This survey will be a precanvass before the enumeration and consists primarily of verifying and updating address listings.
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington D.C. 20503

Dated: July 12, 1985.
Edward Michals,
Departmental Clearance Officer.
[FR Doc. 85-17031 Filed 7-17-85; 8:45 am]
BILLING CODE 3510-07-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; Western Research Institute et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket number: 84-279R. Applicant: Western Research Institute, Laramie, WY 82070. Instrument: Data System, Pyrolysis Probe & Desorption Chemical Ionization Probe. Original notice of this resubmitted application was published in the Federal Register of September 7, 1984.

Docket number: 85-213. Applicant: U.S. Army Institute of Dental Research, Walter Reed Army Medical Center, Washington, DC 20307-5300. Instrument: Mass Spectrometer, Model 8230B and Accessories. Manufacturer: Finnigan MAT, West Germany. Intended use: The instrument is intended to be used for the following research objectives:

(1) Structure elucidation of biological compounds.

(2) Characterization of degradation mechanisms of organic compounds.

(3) Elucidation of fragmentation mechanisms of novel organic compounds.

(4) Detection of and the application of item (2), above, to analysis of trace levels of compounds in biological samples.

Application received by Commissioner of Customs: May 31, 1985.

Docket number: 85-215. Applicant: The Pennsylvania State University, Purchasing Services, 152 Davey Laboratory, University Park, PA 16802. Instrument: Interferometric Spectrophotometer, Model; 1ZMO5 with Accessories. Manufacturer: Bomem, Inc., Canada. Intended use: The instrument is intended to be used to perform high resolution spectroscopy of gases including: (1) Resonance studies of rovibrational levels of polyatomic molecules, (2) infrared studies of small clusters, (3) Spectroscopy of light polyatomic molecules, (4) overtone spectroscopy and intramode interactions and (5) infrared laser photochemistry of silanes, germanes and phosphines. The instrument will also be used for intermediate resolution studies of condensed phase systems where its high sensitivity and signal averaging capabilities will be utilized. The gas phase studies will make it possible to extend the research programs of a number of faculty into new areas that are not accessible with present instrumentation. In addition, students in Chemistry 600—Research will use the instrument to learn how to do research. Application received by Commissioner of Customs: June 4, 1985.

Docket number: 85-216. Applicant: Unversity of Pittsburgh, Chemistry Department, 219 Parkman Avenue, Pittsburgh, PA 15260. Instrument: GC/Mass Spectrometer, Model MM7250E with Accessories. Manufacturer: VG Instruments, United Kingdom. Intended use: Studies of organic compounds having molecular weights from about 100 amu to about 3000 amu. The organic synthetic intermediates and products such as pseudomonic acid, rubradirins, polymixin B, chuangxinmycin, antitumor agents (jatrophatrione, bactobolin), cell enzyme agents (Vitamin B_{12}, methyl malonyl coenzyme A), and important natural products (mitosene, rugulovasine, guaiazulene, chamazulene, (±)-B-methylene-aspartic acid, etc.) are to be analyzed using mass spectrometry. In addition, the instrument will be used in conjunction with the course CHEM 271, Graduate Research and CHEM 171, Undergraduate Research for the training of students in the use and understanding of the techniques of chemical research. Application received by Commissioner of Customs: June 4, 1985.

Docket number: 85-223. Applicant: David Taylor Naval Ship Research and Development Center, Annapolis, MD 21402-1198. Instrument: Electron Microscope-STEM System. Manufacturer: N.V. Philips, The Netherlands. Intended use: The instrument is intended to be used to evaluate the metallurgical aspects of microstructures, defect structures, chemical composition and lattice structure of a variety of metals and alloy systems. Application Received by Commissioner of Customs: June 11, 1985.

Docket number: 85-224. Applicant: Oakland University, Rochester, MI 48063. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: The instrument is intended to be used for the following research projects:

(1) Morphological studies in experimental cataracts, (2) control of cell division in the ocular lens, (3) regulation of cell proliferation in mammalian heart, cell biology of aging fat body in *Drosophila*, the role of ethylene in abscission, studies on the cytoskeleton and cell membrane in regenerating corneal endothelium, hormonal control of $\alpha\zeta\mu$ globulin synthesis. In addition, the instrument will be used for educational purposes in a graduate program. Application received by Commissioner of Customs: June 11, 1985.

Docket number: 85-225. Applicant: Hospital of the University of Pennsylvania, 3400 Spruce Street/G1, Philadelphia, PA 19104. Instrument: Extracorporeal Shock Wave Lithotripter. Manufacturer: Dornier-System GmbH, West Germany. Intended use: The instrument is intended to be used for studies to determine its usefulness for the following:

(1) Treatment of lower ureteral stones and bladder stones.

(2) The effects of extracorporeal shock waves on benign and malignant renal tumors.

(3) The evaluation of side effects of extracorporeal shock wave on the kidney through the use of magnetic resonance imaging.

(4) Testing and developing new anesthesia techniques. In addition, the instrument will be used for educational purposes in the course Surgery 200 and for instructing medical, surgical and radiological house staff and established practitioners, in the current management of urinary tract stone disease. Application received by Commissioner of Customs: June 13, 1985.

Docket number: 85-226. Applicant: University of Utah, Salt Lake City, UT 84112. Instrument: Mass Spectrometer, Model VG 7070F wigh Accessories. Manufacturer: Vacuum Generators Analytical, Ltd., United Kingdom. Intended use: The instrument is intended to be used for investigation of the collision-induced dissociation (CID)

properties of positive and negative ions. Specifically, the energy and collision gas dependencies, angular-scattering

origin commodities for the Federal Republic of Germany, through Sweden and Finland, with an ultimate

transactions, either in the United States or abroad, shall include participation,

otherwise service or participate in any export, reexport, transshipment, or

United States to France. To support that export, Agnese informed the U.S.

States in whole or in part, or to be exported, or that are otherwise subject

VOL
50
ISS
138
JL
18
1985
UMI

properties of positive and negative ions. Specifically, the energy and collision gas dependencies, angular-scattering properties of productions, identities of daughter ions, and kinetic energy distributions of the CID event (and competing scattering and charge transfer phenomena) are to be investigated. In addition, the instrument will be used in the course Chemistry 797. The objectives of the course are to give students an understanding of how one does research and to prepare them to engage in future research activities in some area which may or may not be closely related to their thesis research. Application received by Commissioner of Customs: June 13, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-17032 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DS-M

[Case No. 669]

Order Temporarily Denying Export Privileges; Anton Elzar et al.

In the Matter of: Anton Elzar, individually and doing business as Development and Consultant Elzar ECO AB Grinnekullegatan 160, Goteborg, Sweden; Helmut Keck, individually and doing business as OTC Mess–unD Videoteknik GmbH, Eifferstra 598, Hamburg, Federal Republic of Germany; Paul Nurminen OY, Posylank 2, Helsinki, Finland; Metrab, Mellen Trading AB, Fridkullagatan 19, Goteborg, Sweden.

The United States Department of Commerce (the Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Parts 368–399 (1985)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to: Anton Elzar of Goteborg, Sweden; Helmut Keck of Hamburg, Federal Republic of Germany; Development and Consultant Elzar of Gotebory, Sweden; OTC Mess-Und Videoteknik GmbH of Hamburg, Federal Republic of Germany; Paul Nurminen Oy of Helsinki, Finland; and Metab, Mellen Trading AB of Goteborg, Sweden (hereinafter collectively referred to as respondents).

The Department states that respondents are under investigation for violating the Regulations. The Department states further that the investigation gives it reason to believe: (1) That respondents have engaged in a continuing conspiracy to reexport U.S.-origin commodities for the Federal Republic of Germany, through Sweden and Finland, with an ultimate destination of the U.S.S.R. without the proper authorization from the Department; (2) that respondents misrepresented, on export control documents, the ultimate destination of U.S.-origin vibration test equipment, claiming that the equipment was being export from the United States of resale in the Federal Republic of Germany, when respondents knew the equipment was intended for an ultimate destination in the U.S.S.R.: (3) that respondents failed to obtain the validated export license necessary to export U.S.-origin equipment to the U.S.S.R.; and (4) that respondents may seek in the future to divert U.S.-origin goods and technical data to the US.S.R. without the required authorization.

Based on the showing made by the Department, I find that an order temporarily denying all export privilege to respondents, and to parties related to them, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (1982)),[1] and the Regulations, and to permit completion of the investigation.

Anyone who is now or may in the future be dealing with any of the above-named respondents, or with anyone who is now or may be subsequently named as a related party, in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisiona set forth in Paragraph IV below.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. Respondents, their successors or assigness, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transactions, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities of technical data. such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. Such denial of export privileges shall extend not only to respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. No person, firm corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or

[1] The authority granted by the Act terminated on March 30, 1984. The Regulations have been continued in effect by virtue of E.O. 12470, 49 FR 13099, Aril 3, 1984, and Presidential Notice of March 28, 1985, 50 FR 12513, March 29, 1985, under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1982)).

otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, any respondent may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 15th Street and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceedings initiated against the respondents as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon each respondent.

Dated: July 11, 1985.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 85-17105 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DT-M

[Case No. 668]

Order Temporarily Denying Export Privileges; Rudolphe Agnese et al.

In the Matter of Rudolphe Agnese, individually and doing business as Developing Engineering and Electronics S.A.R.L., 91 Rue du Faubourg St. Denis, Paris 75010, France and Allimex A.G., Poststrasse 30, 5201 Zug, Switzerland, Respondents.

The United States Department of Commerce (Department), pursuant to the provisions of § 388.019 of the Export Administration Regulations (15 CFR Parts 368–399) (1985)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Allimex A.G. and Rudolphe Agnese, individually and doing business as Development Engineering and Electronics S.A.R.G.

The Department states that an investigation has shown that Rudolphe Agnese, at the direction of and using money provided by Allimex A.G., a Swiss company, established a French company, Development Engineering and Electronics S.A.R.L. (DEE), in Paris, France, DEE, on behalf of Allimex A.G., purchased a U.S.-origin integrated circuit test system for export from the United States to France. To support that export, Agnese informed the U.S. exporter that the test system was ultimately destined for a French company. The exporter applied for an export license indicating the French company as the ultimate consignee, and the Department issued the export license based on the representations made by the exporter. Based on the investigation, the Department believes that the test system was ultimately destined for Suin, S.A., a Spanish firm which is currently denied all U.S. export privileges (47 FR 46976, (October 21, 1982)). The Department states that, at its request, the test system was seized as Allimex attempted to reexport it, without the required reexport authorization, from French territory to Swiss territory at the Mulhouse/Basel Airport

Based on the representations made by the Department, I find that an order temporarily denying all export privileges to the respondents, and to parties related to them, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. 2401–2420 (1982)),[1] and the Regulations, and to permit completion of the investigation and of any subsequent judicial or administrative proceeding that might result from the investigation.

Anyone who is not or may in the future be dealing with any of the above-mentioned respondents, or with anyone who is now or may be subsequently named as a related party, in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which any respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, Officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a respresentative of a party to a validated export license application, (b) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering buying, selling, delivering, storing, using or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any respondent is not or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Those parties now known to be affiliated with one or more of the respondents, and which are accordingly subject to the provisions of this order, are:

Saba Agnese, a/k/a Saba Ambaye, 37 Rue de la Quintine, Paris 75015, France

Andree Agnese, 22 Rue du 11 November 1918, Pantin, France

Helene Agnese, 37 Rue de la Quintinie, Paris 75015, France

Yarra Anstalt A.G., Gagostrasse 863, Fl 9496 Balzers, Liechtenstein.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any

[1] The authority granted by the Act terminated on March 30, 1984. The Regulations have been continued in effect by virtue of Executive Order 12470, 49 FR 13099, April 3, 1984, and Presidential Notice of March 28, 1985, 50 FR 12513, March 29, 1985, under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1982)).

manner or capacity, on behalf of or in any association with any respondent or

as Austro-Montan Warenhandelsgesellschaft Trattnerhoff

technical data is specifically alerted to the provisions set forth in Paragraph IV

Maria Ivady, c/o Electronic Products GmbH, Sankt Johanngasse 1–5, A-

Dated: July 11, 1985.

Thomas W. Hoya,

Regional Director, Alaska Region, National Marine Fisheries Service,

VOL 50 ISS 138 JL 18 1985 UMI

manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

B. In accordance with the provisions of § 388.19(b) of the Regulations, any respondent or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceedings initiated against the respondents as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon each respondent and each above-named related party.

Dated: July 11, 1985.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 85-17104 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DT-M

[Case No. 670]

Order Temporarily Denying Export Privileges; Sandor Ivady et al.

In the matter of: Sandor Ivady, individually and doing business as Electronic Products GmbH Sankt Johanngasse 1-5 A-1050 Vienna, Austria Stefan Ludwig Borbas, individually and doing business as Austro-Montan Warenhandelsgesellschaft Trattnerhoff 1 A-1010 Vienna, Austria and Friedrich Roedler, individually and doing business as Austro-Montan Warenhandelsgesellschaft Trattnerhoff 1 A-1010 Vienna, Austria

The United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (currently codified at 15 CFR 368-399 (1985)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Sandor Ivady, individually and doing business as Electronic Products GmbH, and Stefan Ludwig Borbas and Friedrich Rodler, both individually and doing business as Austro-Montan Warenhandelsgesellschaft (herein collectively referred to as respondents).

The Department states that the respondents are under investigation for violating the Regulations. The Department states further that its investigation gives it reason to believe: (1) That the respondents conspired and acted in concert to violate the Regulations; (2) that the respondents indirectly caused the filing of false and misleading information with the Department for the purpose of effecting exports from the United States; (3) that Ivady made false and misleading statements of material fact to the Department in the course of an investigation being conducted by the Department; (4) that the respondents reexported U.S.-origin equipment, including fiber optic data transmissions systems, a semiconductor test system, a laser trimming system, and a computer and related parts and components, to proscribed destinations without authorization from the Department; and (5) that the respondents may seek in the future to reexport U.S.-origin equipment to proscribed destinations without the required authorization.

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to the respondents, and to parties related to them, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (1982)), and the Regulations,[1] and to permit completion of the investigation.

Anyone who is now or may in the future be dealing with the above-named respondents, or with anyone who is now or may be subsequently named as a related party, in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which any respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors, or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. Such denial of export privileges shall extend not only to the respodents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which the respondents are not or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Business organizations and individuals now known to be owned by or affiliated with the one or more of the above-named respondents, and which are accordingly subject to the provisions of this order, are:

[1] The authority granted by the Act terminated on March 30, 1984. The Regulatiocs have been continued in effect by virtue of E.O. 12470, 49 FR 13099, April 3, 1984, and Presidential Notice of March 28, 1985, 50 FR 12513, March 29, 1985, under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701-1706 (1982)).

Maria Ivady, c/o Electronic Products GmbH, Sankt Johanngasse 1-5, A-1050 Vienna, Austria

Klemens Urpani, c/o Seigfried Einoehrl, Trattnerhoff 1, A-1010 Vienna, Austria

and

Seigfried Einoehrl, Trattnerhoff 1, A-1010 Vienna, Austria

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents or any related party, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, any respondent or any related party may move at any time to vacate or modify this temporary denial order by filing with Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, an appropriate motion for relief, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceedings initiated against the respondents as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon each respondent and each above-named related party.

Dated: July 11, 1985.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 85-17106 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Marine Mammals; Proposed Permit Modification No. 1; the West Coast Whale Research Foundation (P349)

Notice is hereby given that The West Coast Whale Research Foundation, Applied Sciences 273, Center for Marine Studies, University of California at Santa Cruz, Santa Cruz, California 95064 has requested a modification to Permit No. 493 issued on February 28, 1985 (50 FR 9481), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) and the regulations governing endangered species permits (50 CFR Part 217-222).

The Permit Holder is requesting to change the authorized location of humpback whale (*Megaptera novaeangliae*) research from Hawaii to Alaska.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data reviews, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235 within 30 days of the publication of this notice.

Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular modification request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802;

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 15, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-17138 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending the Import Restraint Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan; Correction

July 15, 1985.

On January 25, 1985 a notice was published in the **Federal Register** (50 FR 3585) which established specific limits for certain wool and man-made fiber textile products in Categories 659 pt. (bodysuits and bodyshirts in T.S.U.S.A. numbers 383.1815 and 383.8022) and 438 (knit shirts and blouses), produced or manufactured in Taiwan and exported during 1985. The restraint limits in the letter to the Commissioner of Customs which followed that notice should have been stated in pounds for Category 659 pt. and dozens for Category 438.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-17126 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From the Republic of Korea, Effective on January 1, 1985; Correction

July 15, 1985.

On December 27, 1984 a notice was published in the **Federal Register** (49 FR 50237) which established import restraint limits for certain cotton, wool and man-made fiber textiles and textile products, including cordage in Category 605pt. (only T.S.U.S.A. numbers 316.5500 and 316.5800), produced or manufactured in the Republic of Korea

and exported during 1985. In the letter to the Commissioner of Customs of December 21, 1984, which followed that

The purpose of this notice is to advise that, if no solution is agreed upon in consultations, the Committee for the

duties imposed on the Department by law

The Defense Policy Board will review

Natural Resources, State Department of Health, State Department of Planning

the meeting will consist of discussions of key issues regarding the integration of

invite offerors to state an opinion on whether the quantity of supplies on

and exported during 1985. In the letter to the Commissioner of Customs of December 21, 1984, which followed that notice, the limit for Category 605pt. (cordage) should have been 2,382,032 pounds instead of 2,303,380 pounds.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-17125 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DR-M

Changes in Officials of the Government of Thailand Authorized To Issue Export Visas for Certain Cotton, Wool, and Man-Made Fiber Textile Products

July 15, 1985.

The Government of Thailand has notified the United States Government under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement, effected by exchange of notes dated July 27, and August 8, 1983, that the following officials have been authorized by the Government of Thailand to issue export visas for textile and apparel products produced or manufactured in Thailand and exported to the United States. These officials will replace those previously designated (48 FR 44605).

Boontipa Simaskul
Kumnung Phutasiri
Patom Punpatanavicha
Prapis Tantisira
Arbchit Nukulrak

The purpose of this notice is to advise the public of this change.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR. Doc. 85-17124 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations on Trade in Categories 352, 360, 361, 363, 369pt., 436 and 611 from Taiwan

July 15, 1985.

In June 1985, the American Institute in Taiwan (AIT), under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), requested the Coordination Council for North American Affairs (CCNAA) to enter into consultations concerning exports to the United States of underwear (Cat. 352), pillowcases (Cat. 360), sheets (Cat. 361), terry and other pile towels (Cat. 363), luggage in TSUSA numbers 706.3200, 706.3650, and 706.4111 (Cat. 369 pt.), dresses (Cat. 436), and woven fabrics (Cat. 611), produced or manufactured in Taiwan.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile and apparel products in these categories, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

Anyone wishing to comment or provide data or information regarding the treatment of these Categories is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly.Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR. Doc. 85-17123 Filed 7-17-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Defense Policy Board Advisory Committee (DPB)

Under the provisions of Pub L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Policy Board Advisory Committee (DPB) haa been found to be in the public interest in connection with the performance of duties imposed on the Department by law

The Defense Policy Board will review and assess: (a) The long-term, strategic implication of defense policies in various regions of the world; (b) the policy implications of current and prospective weapons/weapons classes; (c) the impact of our defense policies on alliance military issues; and (d) other major areas as identified by the Under Secretary for Policy. They will also analyze selected, short-term policy issues identified by the Secretary of Defense, Deputy Secretary or Under Secretary for Policy and present the results to the requesting official, and serve as individual advisors to the Under Secretary for Policy as required.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 15, 1985.

[FR Doc. 85-17145 Filed 7-17-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Kahului Small Boat Harbor, Kahului, Maui, HI

July 9, 1985.

AGENCY: U.S. Army Corps of Engineers, DOD Honolulu District.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY:

1. The US Army Corps of Engineers is studying improvements for small boat navigation in the Kahului area, Kahului, Maui, Hawaii.

2. The Corps is studying six alternative plans including no action which provides for an improved boating launching ramp with a protected area for temporary mooring of approximately 10-20 boats. The plans generally include an entrance channel, mooring area, turning area, and parking and shoreside facilities.

3. On June 13, 1985, a public workshop was held at Kahului Public Library to discuss the proposed action. Local, State and Federal agencies were contacted as well as local interest groups and private organizations and parties. At this time, the draft EIS will address the impacts of the project on fish and wildlife resources, historic resources, aesthetic values and lifestyles. Coordination with the U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Environmental Protection Agency, State of Hawaii Department of Land and Natural Resources, State Department of Health, State Department of Planning and Economic Development, State Department of Transportation and other local agencies will be done.

4. A scoping meeting is not planned at this time.

If there are any questions regarding the draft EIS, please contact: Dr. James E. Maragos, Chief, Environmental Resources Section, US Army Engineer District, Honolulu, Building T-1, Ft. Shafter, Hawaii 96858-5440. Telephone: (808) 438-2263/2264.

Dated: July 10, 1985.

John French,

Major Corps of Engineers, Deputy District Engineer.

[FR Doc. 85-17026 Filed 7-17-85; 8:45 am]

BILLING CODE 3710-NN-M

U.S. Army Training and Doctrine Command; Artificial Intelligence and Robotics Symposium

AGENCY: Department of the Army, DOD.

ACTION: Notice of a Symposium and a Call for Papers.

SUMMARY: A Symposium will be held on artificial intelligence and robotics.

DATE: November 6 and 7, 1985; Papers are due NLT August 23, 1985.

ADDRESS: Austin, Texas.

FOR FURTHER INFORMATION CONTACT: Colonel Bruce Holt, USAF (Ret) or Beth Jacobson, American Defense Preparedness Association, Rosslyn Center, Suite 900, 1700 N. Moore Street, Arlington, VA 22209, (703) 522-1820.

Peter J. Ladzinski,

Alternate, Department of the Army, Liaison with the Federal Register.

[FR Doc. 85-17078 Filed 7-17-85; 8:45 am]

BILLING CODE 3710-92-M

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee, Technology Base Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Technology Base Task Force will meet August 6-7, 1985, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to explore the relationship between Navy strategic planning process and the Technology Base. The entire agenda for the meeting will consist of discussions of key issues regarding the integration of technology management with strategic planning and requirements definition and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756-1205.

Dated: July 11, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85-17017 Filed 7-17-85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation; Information Collection Activities Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection.

ADDRESSES: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Green, Defense Acquisition Regulatory Council, 703-697-7268.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* This request covers the collection of information to be used to invite offerors to state an opinion on whether the quantity of supplies on which bids, proposals, or quotes are requested in solicitations is economically advantageous to the Government. Each offeror who believes that acquisitions in different quantities would be more advantageous will be invited to (a) recommend an economic purchase quantity, and quote a recommended unit and total price, and (b) identify the different quantity points where significant price breaks occur.

The information will be used by contracting officers, inventory managers, and requirements development activities to avoid acquisitions in disadvantageous quantities and to develop a data base for future acquisitions of the items of supply. This information is required by sec. 205 of Pub. L. 98-577 "Small Business and Federal Procurement Competition Enhancement Act of 1984", and sec. 1233 of Pub. L. 98-525 "Defense Procurement Reform Act of 1984".

b. *Annual reporting burden:* This is estimated as follows: Respondents, 2,252; responses, 78,820; and reporting and recordkeeping hours, 65,421.

Obtaining Copies of Proposals: Requestors may obtain copies from the FAR Secretariat (VRS), Room 4041, GS Building, Washington, DC 20405.

Dated: July 11, 1985.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 85-17108 Filed 7-17-85; 8:45 am]

BILLING CODE 6820-61-M

Federal Acquisition Regulation; Information Collection Activities Under OMB Review

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection.

ADDRESS: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Green, Defense Acquisition Regulatory Council, 703-697-7268.

SUPPLEMENTARY INFORMATION:

a. *Purpose.* This request covers the collection of information to be used to

FOR FURTHER INFORMATION CONTACT: Dr. Max Mueller. Telephone (202) 732-

assistance but who are not classified as handicapped.

evaluate future refinery operations and their impact on petroleum markets. Its analysis and findings will be based on

Council refining studies and evaluate future refinery operations and their

Issued at Washington, DC, July 8, 1985.

Donald L. Bauer,

VOL 50 ISS 138 JL 18 1985 UMI

SUPPLEMENTARY INFORMATION:

a. *Purpose.* This request covers the collection of information to be used to require offerors who have met the qualification requirement to identify the offeror's name, the manufacturer's name, the item name, and the test number. This information will be used by contracting officers to identify those offerors who have already met the qualification requirement. The solicitation provision and the contract clause addresses how agencies will establish and enforce qualification requirements, encourage additional sources and products to become qualified, bear the costs under certain circumstances for small businesses to become qualified, and periodically examine the need to continue the use of each qualification requirement. This information is required by sec. 202(a) of Pub. L. 98–577 "Small Business and Federal Procurement Competition Enhancement Act of 1984", and sec. 2319 of Pub. L. 98–525 "Defense Procurement Reform Act of 1984".

b. *Annual reporting burden:* This is estimated as follows: Respondents, 7,882; responses, 788,200; and reporting and recordkeeping hours, 66,209.

Obtaining Copies of Proposals: Requestors may obtain copies from the FAR Secretariat (VRS), Room 4041, GS Building, Washington, DC 20405.

Dated: July 11, 1985.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 85–17121 Filed 7–17–85; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Training Personnel for the Education of the Handicapped; Proposed Annual Funding Priority

AGENCY: Department of Education.

ACTION: Notice of Proposed Annual Funding Priority.

SUMMARY: The Secretary proposes to establish an annual priority for the Training Personnel for the Education of the Handicapped—Preparation of Regular Educators.

DATE: Comments must be received on or before August 19, 1985.

ADDRESS: Comments should be addressed to: Dr. Max Mueller, Division of Personnel Preparation, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511—M/S 2313), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Max Mueller. Telephone (202) 732–1068.

SUPPLEMENTARY INFORMATION: The Training Personnel for the Education of the Handicapped program, authorized by sections 631, 632, and 634 of Part D of the Education of the Handicapped Act, provides financial assistance through grants to State educational agencies, institutions of higher education, and other appropriate nonprofit agencies or organizations to increase the quantity and improve the quality of personnel available to educate handicapped children and youth. This Notice of Funding Priority, however, addresses awards for Fiscal Year 1986 only under Section 632 of the Act which limits eligible applicants to State educational agencies. In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), and subject to available funds, the Secretary proposes to give an absolute preference to each application under this priority which provides satisfactory assurance that the recipient will use the funds made available for these projects to conduct the activities in paragraph 2 below.

1. *Eligible applicants.* In accordance with Section 632 of the Act, awards under this priority are limited to State educational agencies.

2. *Activities.* The Preparation of Regular Educators priority supports projects for training regular educators to assist with the identification and delivery of special education and related services to children with learning disabilities. The objective of these projects is to develop personnel training programs for regular educators which will facilitate the Statewide delivery of comprehensive educational services to learning disabled children and youth. Projects must provide regular education teachers with innovative approaches to referral, assessment, placement, service delivery, and placement review processes for learning disabled children and youth. Projects will also provide training designed to improve the accuracy of the identification of learning disabled children. The content and scope of the training models is limited only by a focus on State-wide efforts to improve identification of learning disabled children, and by emphasis on innovative approaches to serving this population through improved training of regular educators. Further, such training will enhance regular educators' ability to maintain in the regular classroom those children who are in need of educational assistance but who are not classified as handicapped.

This notice of an annual priority is necessary to allow for the implementation of the OSERS' initiative on regular education. This initiative addresses the need to improve the quality of education for learning disabled children and youth in the least restrictive environment, *see* 34 CFR 300.550–300.556, and train regular education personnel in the skills, techniques, and strategies that will assist them in addressing the educational needs of children with mild learning problems who are referred to special education programs.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priority.

All comments submitted in response to this proposed priority will be available for public inspection during and after the comment period, in Room 4628, Switzer Building, 330 C Street SW., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday each week except Federal holidays.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed funding priority would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

(Catalog of Federal Domestic Assistance No. 84.029; Training Personnel for the Education of the Handicapped)

(20 U.S.C. 1432)

Dated: July 15, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85–17059 Filed 7–17–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Petroleum Council; Worldwide Refining Trends Task Group; Meeting

Notice is hereby given that the Worldwide Refining Trends Task Group will meet in July 1985. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Worldwide Refining Trends Task Group will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Worldwide Refining Trends Task Group will hold its sixth meeting on Thursday, July 25, 1985, starting at 9:00 a.m., in the Conroe Room of the Four Seasons Hotel, Houston Center, 1300 Lamar Street, Houston, Texas.

The tentative agenda for the Worldwide Refining Trends Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss the individual study assignments of the Worldwide Refining Trends Task Group.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Worldwide Refining Trends Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Worldwide Refining Trends Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Carolyn Klym, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353–2709, prior to the meeting and reasonable provisions will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on July 10, 1985.

Jeremiah E. Walsh, Jr.,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 85–17141 Filed 7–17–85; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council; U.S. Refinery Capability Task Group; Meeting

Notice is hereby given that the U.S. Refinery Capability Task Group will meet in August 1985. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The U.S. Refinery Capability Task Group will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The U.S. Refinery Capability Task Group will hold its eighth meeting on Thursday, August 1, 1985, starting at 9:00 a.m., in the Harris Room of the Houston Airport Marriott Hotel, 18700 Kennedy Boulevard, Houston, Texas.

The tentative agenda for the U.S. Refinery Capability Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review of the work of the Task Group.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the U.S. Refinery Capability Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the U.S. Refinery Capability Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Carolyn Klym, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353–2709, prior to the meeting and reasonable provisions will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on July 10, 1985.

Jeremiah E. Walsh, Jr.,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 85–17142 Filed 7–17–85; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council; U.S. Petroleum Refining; Coordinating Subcommittee on U.S. Petroleum Refining; Meeting Cancellation

The seventh meeting of the Coordinating Subcommittee on U.S. Petroleum Refining, (50 FR 27652, 7–5–85) scheduled for July 18, 1985, at the Four Seasons Hotel, Houston, Texas, has been cancelled. The meeting will be rescheduled for late August.

Issued at Washington, DC, July 8, 1985.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 85–17143 Filed 7–17–85; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–FC–85–016; OFP Case No. 67043–9280–20–22]

Acceptance of Petition for Exemption and Availability of Certification From the City of Santa Clara, CA for a Peaking Facility

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: On May 28, 1985, the city of Santa Clara (Santa Clara) California, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a proposed new powerplant from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 ((FUA or the Act) 42 U.S.C. 8301 *et seq.*) which (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the Federal Register at 46 FR 59872 (December 7, 1981).

Santa Clara requested a permanent peakload exemption under 10 CFR 503.41 for a simple-cycle combustion turbine installation consisting of one 29.4 MW gas turbine, generator auxiliaries and associated facilities. The proposed unit is to be installed in the northwest portion of the city of Santa Clara, California. The powerplant will be capable of burning natural gas and petroleum.

ERA has determined that the petition and certification for the requested exemption is complete in accordance with the final rules under 10 CFR 501.3 and 501.63. ERA hereby accepts the filing of the petition for the permanent exemption as adequate for filing. ERA retains the right to request additional relevant information from Santa Clara at any time during these proceedings where circumstances or procedural requirements may so require. A review of the petition is provided in the

SUPPLEMENTARY INFORMATION section below.

Under the requirements of 10 CFR 503.41(a)(2)(ii), if a petitioner proposes

submitted by Santa Clara pursuant to 10 CFR § 503.13, together with other

SUPPLEMENTARY INFORMATION: In

Decision and Order of the Department of

owned service stations, by reducing the

SUPPLEMENTARY INFORMATION section below.

As provided for in section 70.1 (c) and (d) of FUA and 10 CFR 501.31 and 501.33 of the final rule, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the public comment period provided for in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension will be published in the **Federal Register.**

DATES: Written comments are due on or before September 3, 1985. A request for public hearing must also be made within this 45-day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing should be submitted to the Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA-007, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-FC-85-016 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585. Telephone (202) 252-4523.

Steve E. Ferguson, Esq., Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A-113, Washington, DC 20585. Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Santa Clara has filed a petition for a permanent peakload powerplant exemption to use petroleum or natural gas as a primary energy source in its proposed simple-cycle combustion turbine installation facility.

Under the requirements of 10 CFR 503.41(a)(2)(ii), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency must certify the ERA that the use by the powerplant of any available alternate fuel as a primary energy source will not cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to the Santa Clara petition.

Santa Clara submitted a certified statement by a duly authorized officer to the effect that the proposed oil or gas fired combustion turbine generator will be operated solely as a peakload powerplant.

Santa Clara stated in its petition that the manufacturer of the proposed combustion turbine will be General Electric. The net rating of the unit is 29.4 MW and the maximum generation will be 29,400 MW hours during any 12-month period. Annual natural gas consumption is not expected to exceed 3.6×10^9 cubic feet. The maximum fuel input will be approximately 380×10^6 Btu/hr with a heat rate of 12,550 Btu/kilowatt hour (LHV).

On February 23, 1982, DOE published in the **Federal Register** (47 FR 7676) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, including the permanent exemption for peakload powerplants, is among the classes of action that DOE had categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environment Assessment pursuant to NEPA (categorical exclusion).

The classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly effect the quality of the human environment. Santa Clara has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.

DOE's Office of Environment, in consultation with the Office of the General Counsel, will review the completed environmental checklist submitted by Santa Clara pursuant to 10 CFR § 503.13, together with other relevant information. Unless it appears during the proceeding on Santa Clara's exemption that the grant or denial of the exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

As provided in 10 CFR 501.3(b)(4), the acceptance of the petition by ERA does not constitute a determination that Santa Clara is entitled to the exemption requested. That determination will be made on the basis of the entire record of these proceedings, including any comments received in response to this document.

Issued in Washington, DC, on July 11, 1985.

Richard Ransom,

Acting Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-17140 Filed 7-17-85; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Red Triangle Oil Co.; Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for the disbursement of $45,354.76 ultimately to be obtained as a result of a consent order which the DOE entered into with Red Triangle Oil Company, a reseller of petroleum products located in Fresno, California. The money is being held in escrow fillowing the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund of a portion of the Red Triangle consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the **Federal Register.** All applications should refer to Case Number HEF-0162 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Douglas Friedman, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a consent order entered into by the DOE and Red Triangle Oil Company, which settled possible pricing violations in Red Triangle's sales of motor gasoline to its customers during the consent order period, November 1, 1973, through December 31, 1978..

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of the escrow account funded by Red Trianble pursuant to the consent order. The DOE has decided that a portion of the consent order funds should be distributed to 46 wholesale customers which the DOE's audit of Red Triangle indicated may have been overcharged, after each has filed an application for refund. These purchasers were identified by the DOE audit and alloted funds based on findings and presumptions of injury which the DOE has used in past proceedings. Applications for refund will also be accepted from purchasers not identified by the DOE audit. These purchasers will be required to provide specific documentation concerning the date, place, price, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged.

A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Red Triangle consent order funds was issued on April 2, 1985. 50 FR 14148 (April 20, 1985).

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased motor gasoline from Red Triangle during the consent order period. Applications will be accepted provided they are filed in duplicate and are received no later than 90 days after publication of this Decision and Order in the Federal Register. The specific information required in an application for refund is set forth in the Decision and Order.

Dated: July 5, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 5, 1985.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Red Triangle Oil Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0162.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Red Triangle Oil Company (Red Triangle).

I. Background

Red Triangle is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Fresno, California. A DOE audit of Red Triangle's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. The audit alleged that between November 1, 1973, and December 31, 1978, Red Triangle committed possible pricing violations amounting to $91,345.68 with respect to its sales of motor gasoline.

In order to settle all claims and disputes between Red Triangle and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, Red Triangle and the DOE entered into a consent order on March 24, 1980. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that Red Triangle does not admit that it violated the regulations.

Under the terms of the consent order, Red Triangle agreed to make refunds amounting to $59,993. Separate processes were established by which Red Triangle would refund money to injured parties. First, $2,043, representing alleged overcharges on sales to Red Triangle's Bulk Retailer class of purchasers, was to be refunded directly to those purchasers. Second, Red Triangle was to refund $21,834, representing alleged overcharges on sales of motor gasoline at company-owned service stations, by reducing the price of gasoline at those stations by two cents per gallon until the full amount had been refunded. On January 23, 1982, Red Triangle remitted $9,238.76 to the DOE. This sum represents the amount Red Triangle was unable to refund to its retail customers due to the decontrol of gasoline. [1] *See* Memorandum of Telephone Conversation of June 6, 1985, between Eugene Guziewicz of ERA's Settlements Division and Douglas Friedman, OHA Staff Analyst. Finally, to account for alleged overcharges to service stations, Red Triangle was supposed to deposit $36,116 into an interest-bearing escrow account for ultimate distribution by the DOE. The payments were to be made quarterly with each payment equal to $.005 per gallon of motor gasoline sold by Red Triangle during the quarter. Red Triangle did not make any of the required payments. However, on December 5, 1984, the firm remitted $10,000 to the DOE and agreed to pay $2,000 per month until it has discharged its liability. The agreement stipulates that interest will continue to accrue on the unpaid balance of the settlement and that part of each $2,000 payment will represent accrued interest. *See* Memoranda of Telephone Conversations of December 26, 1984, and June 6, 1985, between Eugene Guziewicz and Douglas Friedman. Thus far, Red Triangle has remained current in its payments. This decision concerns the $45,354.76 plus interest that should ultimately be available for distribution.[2]

On April 2, 1985, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties who are injured by Red Triangle's alleged violations in the sale of motor gasoline during the consent order period, November 1, 1973, through December 31, 1978. 50 Fed. Reg. 14,148 (April 20, 1985). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of actual or alleged violations of the DOE

[1] Motor gasoline was decontrolled effective January 27, 1981. Executive Order 12,287 (January 28, 1981).

[2] Once we have analyzed all applications for refund, we will authorize disbursement of whatever funds are in escrow. In the event that valid claims exceed the amount in escrow at the time, each successful claimant will receive a pro rata share and will receive the remainder of its refunds if and when additional funds are received by the DOE. *See* Appalachian Flying Service, Inc., Case No. HEF-0028 (May 10, 1985) (proposed decision), slip op. at 4, n.4.

regulations. In order to effect restitution in this proceeding, we tentatively determined that we would rely in part

persons' injuries. For a more detailed discussion of Subpart V and the

claimants to participate in the refund process without incurring inordinate

Texas Oil & Gas Corp.; Office of Special Counsel, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein. The

the claimant.[3] The volumetric refund amount is the average per gallon refund

Decision and Order in the **Federal Register.**[3]

regulations. In order to effect restitution in this proceeding, we tentatively determined that we would rely in part on the information contained in ERA's audit file. We observed that our experience with similar cases supports the use of this approach in Subpart V cases where all or most of the purchasers of a firm's product are identified in the audit file. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We also noted that under such circumstances, a more precise determination regarding the identities of the allegedly overcharged first purchasers was possible. At the same time, we recognized that there may have been other purchasers not identified by the ERA audit who may have been injured by Red Triangle's pricing practices during the audit period who would also be entitled to a portion of the consent order funds. Therefore, procedures by which such purchasers could establish a claim were also proposed.

A copy of the PD&O was published in the **Federal Register** and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was mailed to each purchaser identified in the audit file whose address was available. Copies were also sent to various service station dealers' associations. None of Red Triangle's customers submitted comments on the proposed procedures. Comments were submitted by the State of California and, collectively, on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia. Both sets of comments concern the distribution of any funds remaining after refunds have been made to injured parties. The purpose of this Decision is to establish procedures for filing and processing claims in the first stage of the Red Triangle refund proceeding. Any procedures pertaining to the disposition of any monies remaining after this first stage will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address the issues raised by the states' comments at this time.

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received through enforcement proceedings. 10 CFR Part 205, Subpart V. The Subpart V process is used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

A. Refunds to Wholesale Customers

In the PD&O we stated that during the DOE's audit of Red Triangle, 46 first purchasers were identified as having allegedly been overcharged. We recognize that the DOE audit files do not necessarily provide conclusive evidence regarding the identity of all possible refund recipients or the appropriate refund for a particular firm. However, the information contained in those audit files may reasonably be used for guidance. *See Armstrong and Associates/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). In *Marion*, we stated that "the information contained in the . . . audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach." 12 DOE at 88,031. In previous cases of this type, we have proposed that the funds in the escrow account be apportioned among the customers identified by the audit and/or their downstream customers. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Richards Oil Company*, 12 DOE ¶ 85,150 (1984). The first purchasers identified by the audit, with the share of the settlement allotted to each by ERA, are listed in Appendices 1 and 2.

Identification of first purchasers is only the first step in the distribution process. We must also determine whether the first purchasers were injured or were able to pass through the alleged overcharges. Besides considering the information which the audit file provides, we will adopt a presumption in order to determine the level of a purchaser's injury and thereby distribute funds in the escrow account in this case. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. § 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumption we will adopt in this case is used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Therefore, as in previous special refund proceedings, we wil adopt a presumption that claimants seeking small refunds were injured by Red Triangle's pricing practices.

There are a variety of reasons for adopting this presumption. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). Firms which will be eligible for refunds were in the chain of distribution where the alleged overcharges occurred and therefore bore some impact of the alleged overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost to OHA of analyzing it could exceed the expected refund. Failure to allow simplified procedures could therefore deprive injured parties of the opportunity to receive a refund. This presumption eliminates the need for a claimant to submit and OHA to analyze detailed proof of what happened downstream of the initial impact.

Under the small-claims presumption, a claimant who is a reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain level. Other refund decisions have expressed this threshold in terms of either purchase volumes or refund dollar amounts. In *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a refund dollar amount rather than a purchase volume figure would more readily facilitate disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. This case merits the same approach. Several factors determine the value of the threshold below which a claimant is not required to submit any further evidence of injury beyond volumes purchased. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is fairly low and the early months of the consent order period are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.; Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein. The record indicates that 45 of the 46 identified customers made small purchases. The one firm whose potential refund falls above the threshold bought almost four times as much fuel as the second-largest purchaser.

A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of methods by which a firm can make such a showing, a firm is generally required to demonstrate that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through its own customers, and to show that market conditions would not permit it to pass through those increased costs.[3]

As in previous cases, only claims for at least $15 will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

Finally, as indicated in the PD&O, if additional meritorious claims are filed, we will adjust the figures listed in the Appendices accordingly. Actual refunds will be determined only after all appropriate claims have been analyzed.[4]

B. Refunds to Retail Customers

Since the PD&O was issued, it has come to our attention that the $9,238.76 payment Red Triangle made on January 23, 1982, represents the amount it was unable to refund to its customers and not the first installment of its other obligations as we had originally thought. We will use a volumetric system to distribute this portion of the escrow account to individuals and firms who purchased motor gasoline from Red Triangle's service stations. Under a volumetric system, a successful claimant's refund is determined by multiplying a factor, known as the volumetric refund amount, by the number of gallons of fuel purchased by the claimant.[5] The volumetric refund amount is the average per gallon refund and in this case equals $0.005300 per gallon.[6] Potential applicants may use this figure to estimate the refunds to which they may be entitled. We will not require any evidence of injury beyond purchase volumes for customers in this group. Since the fuel was pumped into the gasoline tanks of consumers' automobiles, these customers would have absorbed the effects of the alleged overcharges. *See Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984).

III. Applications for Refund

We have determined that by using the procedures described above, we can distribute the Red Triangle consent order funds as equitably and efficiently as possible. Accordingly, we will now accept applications for refund from individuals and firms who purchased motor gasoline from Red Triangle between November 1, 1973, and December 31, 1978. As we proposed, the consent order funds will be distributed to those firms listed in Appendices 1 and 2 who file applications for refund providing they make any necessary demonstrations of injury.[7] We will also grant refunds to any other eligible customers of Red Triangle's which apply for a refund.

No valid addresses are available for those firms listed in Appendix 2. In some cases no addresses at all are available; in others, copies of the PD&O sent to the firms' last known addresses were returned by the Post Office. In an attempt to locate those firms, we will provide Red Triangle and various petroleum dealers' associations in California with copies of this Decision and will publish a notice in the **Federal Register**. We will accept information regarding the identity and present location of these firms for a period of 90 days from the date of publication of this Decision and Order in the **Federal Register**.[8]

In order to receive a refund, each claimant will be required to submit either a schedule of its monthly purchases of motor gasoline from Red Triangle or a statement verifying that it purchased motor gasoline from Red Triangle and is willing to rely on the data in the audit file. Purchasers not identified by the ERA audit will be required to provide specific information as to the date, place, price, and volume of motor gasoline purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged.

In addition, all applications must state:.

(1) whether the applicant has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding;

(2) whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund;

(3) whether the applicant is or has been involved as a party in DOE enforcement or private, § 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly described the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d); and

(4) the name and telephone number of person who may be contacted by this Office for additional information.

Finally, each application must include the following statement: "I swear [or affirm] that the information submitted is true and accurate to the best of may knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the Office of

[3] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000 in order to avoid having to prove their injury. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,125 (1982) (Ada).

[4] Purchasers identified in the ERA audit as having allegedly been overcharged may also submit information to show thet they should receive refunds larger than those indicated.

[5] A volumetric approach is appropriate in special refund proceedings where the DOE is unable to identify readily those persons who may be eligible to receive refunds. It has proved to be an administratively efficient method for determining what proportion of the available settlement funds should be awarded to each successful claimant. It also serves as a useful approximation of injury in the treatment of overcharged claimants who are unable to quantify their alleged injury, thereby allowing applicants to recover a meaningful refund for the volumes of product they have purchased.

[6] This figure is obtained by dividing $9,238.76 by the 1,743,016 gallons of motor gasoline sold by Red Triangle through its service stations during the consent order period.

[7] The share of the escrow fund allocated to each firm listed in Appendices 1 and 2 represents 60 percent of the amount each was allegedly overcharged. This is consistent with the terms of the consent order, which settled for 60 percent of the total amount of alleged overcharges to service stations.

[8] If we are unable to locate any firm listed in Appendix 2, we will reserve any funds allocated to that firm for distribution in a subsequent proceeding.

Hearings and Appeals. Any applicant which believes that its application contains confidential information must

Appendix 1—First Purchasers—Continued

First purchaser	Share of settle-

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the

Dated: July 9, 1985.
George B. Breznay,

by DOE.[1] This decision concerns the distribution of the consent order amount

with Subpart V proceedings indicates that the likely claimants in this

VOL 50 ISS 138 JL 18 1985 UMI

Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to Case No. HEF-0162 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

It is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by Red Triangle Oil Company pursuant to the consent order executed on March 24, 1980, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: July 5, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX 1—FIRST PURCHASERS

First purchaser	Share of settlement [1]
William Aubuchon, Bill's Service, 2510 Whitson, P.O. Box 232, Selma, CA 93662	$1,466.31
Black's Gulf, 3551 East Lowe, Fresno, CA 93702	72.23
H. Bohannon, 959 Clovis Avenue, Clovis, CA 93612	884.84
Clore Gulf, 4520 East Redlands, Fresno, CA 93726	628.42
J.F. Crowell, c/o Rose & Connolly, 5100 North Sixth Street, Fresno, CA 93704	86.68
Ben Farmer, 2102 Vine Street, Sanger, CA 93657	516.46
Fresno, A.N.G., 5425 East McKinley, Fresno, CA 93705	50.56
Louis J. Gennuso, Sr., Gennuso's Service, 1350 Fresno St., Fresno, CA 93706	1,173.77
Elbert A. Hendrix, 317 South Peach, Fresno, CA 93727	1,357.96
Louie Hernandez, 2559 South Chestnut Avenue, Fresno, CA 93725	325.05
Jesse's Gulf, P.O. Box 489, Firebaugh, CA 93622	1,155.71
Liberty Auto, 1008 C Street, Fresno, CA 93702	707.87
Alfred G. Marmolejo, 3827 East Liberty, Fresno, CA 93706	964.30
Raul Marmolejo, Sunset Gulf, 4035 East Roco, Fresno, CA 93702	1,238.78
J. McBee, 2937 D Street, Selma, CA 93662	617.59
Horst Pakorra, General Delivery, Oakhurst, CA 93644	195.03
John Patterson, 2240 Tuolumne, Fresno, CA 93721	7,544.41
William W. Perry, 3770 West McKinley, Fresno, CA 93711	111.96
Ruth Reese, Lane's Gulf, 1107 Lincoln, Madera, CA 93637	505.62
Udom Ruengsorn, C & N Service, 6753 Blackstone, Fresno, CA 93710	877.62
J. Salazar, 7011 North Van Buren Avenue, Herndon CA 93721	61.40
Stone's Gulf, 215 East Estate, Tulare, CA 93274	1,014.86
Ted and Lil 16614 West Gettysberg, Kerman, CA 93630	552.57
Ben Vales, 1210 Academy, Sanger, CA 93657	393.66
Dan Vargas, P.O. Box 932, San Joaquin, CA 93660	848.73
Ralph Waldrum, Senior Citizens, 1917 South Chestnut, Building 15E, Fresno, CA 93702	379.22
Glenn N. Ward, 215 West Shaw, Clovis, CA 93612	906.51

APPENDIX 1—FIRST PURCHASERS—Continued

First purchaser	Share of settlement [1]
Williams Gulf, 12650 Second Drive, Cutler, CA 93615	906.51
Zip and Go, 485 Barstow Avenue, Fresno, CA 93706	715.10

[1] Not including accrued interest.

APPENDIX 2—FIRST PURCHASERS, NO ADDRESS AVAILABLE

First purchaser	Share of settlement [1]
James W. Askew	$1,325.46
Twain Bankston	144.66
R. Brown	985.97
D. Davis	137.24
Don's Gulf	81.40
Bill Hensley	1,932.20
Herring	426.17
Paul Lindsay	310.60
B. Malthrop	137.24
Herbert R. McCarty	130.02
D. McComas	50.56
L. McDonnell	809.00
Vincent Rio Frio	671.76
Schutz Gulf	812.61
Judith Ann Tweedy c/o Robert J. Cook, Esq.	155.30
W.W. Gulf	169.75
P. Weiler	494.79

[1] Not including accrued interest.

[FR Doc. 85-17139 Filed 7-17-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $33,199.83 in consent order funds to members of the public. This money is being held in escrow following the settlement of an enforcement proceeding involving Peterson Petroleum, Inc. a reseller-retailer of petroleum products located in Hudson, N.Y.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF-0149.

FOR FURTHER INFORMATION CONTACT: Angela Foster, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 109 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Peterson Petroleum, Inc. (Peterson) and the DOE. The Peterson consent order settled alleged pricing violations in the firm's sales of motor gasoline to customers during the period May 1, 1979 through June 30, 1979.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow account funded by Peterson pursuant to the consent order. The DOE has tentatively decided that the consent order funds should be distributed in two stages. In the first stage, funds will be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by Peterson's alleged pricing violations. Although the information available to us at this time regarding the firm's operations provides the names and addresses of potential claimants, that information does not indicate the amount of gallons purchased by them. We will also accept information regarding the identity and present locations of purchasers for a period of 90 days following publication of a final Decision and Order in this proceeding. In the event money remains in the escrow account after all first stage claims have been disposed of, the DOE will determine an alternative plan for distributing these funds. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted with 30 days of publication of this notice in the Federal Register, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: July 9, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 9, 1984.

PROPOSED DECISION AND ORDER OF THE DEPARTMENT OF ENERGY

Implementation of Special Refund Procedures

Name of Firm: Peterson Petroleum, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0149.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the DOE Office of hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of enforcement proceedings in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 C.F.R. Part 205, Subpart V. The Subpart V process may be used in situations where DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the extent of such persons' injuries. For a more detailed discussion of Subpart V, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1982), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

I. Background

In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order which it entered into with Peterson Petroleum, Inc. (Peterson). Peterson is a "reseller-retailer" of "covered" products as those terms were defined in 10 CFR 212.31, and is located in Hudson, N.Y. A DOE audit of the firm's records revealed possible violations of the Mandatory Petroleum Price and Allocation Regulations with respect to sales of motor gasoline during the period May 1, 1979 through June 30, 1979 (audit period). In order to settle all claims and disputes between Peterson and the DOE regarding the firm's sales of motor gasoline during the audit period, Peterson and the DOE entered into a consent order on October 27, 1980. The consent order refers to ERA's allegations of overcharges, but notes that no findings of violation were made. Additionally, the consent order states that Peterson does not admit that it committed any such violations. Finally, according to the Peterson consent order, the firm agreed to deposit $32,816.16, plus interest, into an interest-bearing escrow account for ultimate distribution by DOE.[1] This decision concerns the distribution of the consent order amount plus accrued interest to date.

II. Proposed Refund Procedures

We have considered ERA's Petition for the Implementation of Special Refund Procedures and have determined that it is appropriate to establish such a proceeding with respect to the Peterson consent order fund. Since the ERA indicated in its petition that it is unable to readily identify persons who were injured or to ascertain the degree of their injury, we find the use of Subpart V procedures appropriate. Therefore, we will grant ERA's petition and assume jurisdiction over the distribution of the Peterson consent order funds.

As we have stated in previous decisions, refunding moneys obtained through DOE enforcement proceedings is the focus of Subpart V proceedings. *See generally Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*.) Based upon our experience with Subpart V cases, we believe that the distribution of refunds in the present case should take place in two stages. The first stage will attempt to provide refunds to identifiable purchasers of motor gasoline who may have been injured by Petersons's pricing practices during the audit period. After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary if any funds remain. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*) (refund procedures established for first stage applicants, second stage refund procedures proposed).

A. *Refunds to Injured Purchasers:* We propose that the Peterson consent order funds be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by Peterson's alleged pricing violations. The information available to us at this time regarding the firm's operations does not provide the names, addresses or sales figures of the firm's customers during the audit period.[2] Our experience with Subpart V proceedings indicates that the likely claimants in this proceeding, when more fully identified, will fall into two categories: (1) resellers (including retailers) of Peterson motor gasoline and (2) firms, individuals, or organizations that were consumers (end-users) of gasoline purchased from Peterson. The products purchased by these claimaints were purchased either directly from Peterson or from other firms in a chain of distribution leading back to the firm.

As in many prior special refund cases, we propose to adopt certain presumptions in order to determine a purchaser's level of injury and thereby distribute the escrow account in this case. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

[i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we propose to adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Therefore, as in previous special refund proceedings, in this case we propose to adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by Peterson during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. In addition, we propose to adopt a presumption of injury with respect to small claims.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser may have been greater than the pro rata amount determined by the volumetric presumption. Certain purchasers may believe that they suffered

[1] Due to the accumulated interest on late deposits, however, Peterson paid $33,199.83 into the escrow account. The amount of money in the Peterson escrow account was $50,397.24 as of May 31, 1985.

[2] We do, however, have the names of some customers who may have purchased gasoline from Peterson during the audit period. Their names appear in the Appendix to this Decision. In addition to publishing this Proposed Decision in the Federal Register, we will attempt to contact these customers directly. We will also accept information regarding the identity and present locations of these purchasers for a period of 90 days following publication of a final Decision and Order in this proceeding.

disproportionate injury as a result of Peterson's pricing practices during the

efficiently. Finally, these smaller claimants did purchase covered

Vickers at 85,396-97. We believe the same rationale holds true in the present

order to demonstrate that it did not subsequently recover those costs by

Environmental Policy Act of 1969 (NEPA), the Western Area Power

For Further Information Contact: Doris

VOL 50 ISS 138 JL 18 1985 UMI

disproportionate injury as a result of Peterson's pricing practices during the consent order period. Any such purchaser may file a refund application for an amount greater than that calculated using the volumetric presumption, provided that the claimant documents the disproportionate impact of the alleged overcharges. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984), and cases cited therein at 88,164.

Under the method we are proposing, a successful refund applicant will receive a refund amount which is calculated by dividing the settlement amount by the total gallonage of the products covered by the consent order. In the present case, based on the information available to us at this time, the volumetric refund amount is $.007235 per gallon ($33,199.83 received from Peterson divided by 4,588,620 gallons of motor gasoline sold by the firm during the audit period).

Successful claimants will receive refunds based on their eligible purchase volumes multiplied by the volumetric refund amount, plus a proportionate share of the interest accrued on the escrowed funds. Consequently, a successful claimant who purchased, for example, 100,000 gallons of motor gasoline from Peterson during each of the months of the consent order period will receive a refund of $1,447 (100,000 gallons times 2 months times $.007235), plus interest.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Peterson consent order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expense involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure can be time-consuming and expensive. In the case of small claims, the cost to the firm of gathering this factual information, and the cost to the OHA of analyzing it, may exceed the expected refund amount. Failure to allow simplified application procedures for small claims could therefore deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and to use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Peterson and were in the chain of distribution where the alleged overcharges occurred. Therefore, they were affected by the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit, and the OHA to analyze, detailed proof of what happened downstream of that initial impact.

Under the presumptions we propose to adopt, a claimant who is a reseller or retailer would not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. Other refund decisions have expressed the threshold either in terms of purchase volumes or dollar amounts. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would more readily facilitate disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. This case merits the same approach. Several factors determine the threshold value below which a claimant is not required to submit any further evidence of injury beyond volumes purchased. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the consent order fund is small, and the time period of the consent order is many years past, establishing a presumption of injury for all claims of $5,000 would be reasonable.[3] *See Texas Oil & Gas Corp.; Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984), and cases cited therein.

If a reseller or retailer made only spot purchases from Peterson, however, we propose that it should not receive a refund because it presumably suffered no injury. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers at 85,396–97. We believe the same rationale holds true in the present case. Accordingly, a spot purchaser that files a claim should submit additional evidence to establish that it was unable to recover the increased prices it paid for Peterson motor gasoline. *See* Amoco at 88,200.

In addition to the presumptions we propose to adopt, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069, and cases cited therein. We have therefore concluded that end-users of Peterson petroleum products need only document their purchase volumes from Peterson to make a sufficient showing that they were injured by the alleged overcharges.

Finally, we propose to establish a minimum refund amount of $15.00 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban, supra* at 85,225. *See also* 10 CFR 205.286(b).

In order to receive a refund, each claimant will be required to submit a schedule of monthly purchases of covered products from Peterson for the period May 1, 1979 through June 30, 1979. If the products were not purchased directly from Peterson, the claimant will be required to include a statement setting forth his or her reason for believing the product originated with the firm. *See, e.g., Standard Oil Co. (Indiana)/Union Capm Comp.*, 11 DOE ¶ 85,007 (1983). In addition, a reseller or retailer of refined petroleum products that files a claim generally will be required to establish that it absorbed the alleged overcharges and was thereby injured. To make this showing, each reseller or retailer will be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Conoco* at 88,388. In addition, it will have to demonstrate that, at the time it purchased covered products from Peterson, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges.

B. *Distribution of the Remainder of the Consent Order Funds.* In the event that money remains in the Peterson escrow account after all first stage claims have been disposed of, undistributed funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining refunds.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Peterson Petroleum, Inc., pursuant to the consent order executed on October 27, 1980, will be distributed in accordance with the foregoing decision.

Appendix

Golub Service Stations, Inc., 501 Duanesburg Road, Schenectady, New York 12301
Stewarts Ice Cream, 210 Broadway, Saratoga Springs, New York 12866
Good Hope Industries, Post Office Box 3190, Springfield, Massachusetts 01101
Highway Oil Company, 12th Floor, First National Bank Tower, Topeka, Kansas 66603
Johnson Products, Post Office Box 851, Boston, Massachusetts 01230
Lehigh Oil Company, One Terminal Way, Norwich, Connecticut 06360
Midway Oil Company, Post Office Box 8, Rutland, Vermont 05701

[FR Doc. 85-17063 Filed 7-17-85; 8:45 am]
BILLING CODE 6450-01-M

[3] Resellers who claim a refund in excess of $5,000, but who cannot establish that they did not pass through the price increases, or who limit their claims to the threshold amount, will be eligible for a refund for up to the $5,000 threshold amount without being required to submit evidence of injury. *See* Vickers at 85,396; *see also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982).

Western Area Power Administration

Conrad-Shelby 230-kV Transmission Line Project, Montana; Intent To Prepare Environmental Impact Statement

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Notice is hereby given that in accordance with the National Environmental Policy Act of 1969 (NEPA), the Western Area Power Administration (Western) intends to prepare an Environmental Impact Statement (EIS) regarding a proposed action to construct, operate, and maintain a new high voltage 230-kV electric transmission line from Conrad to Shelby, Montana, including a new 230/115-kV substation near Shelby, in Pondera and Toole Counties.

The objectives of the subject EIS and related environmental activities will be to study and assess the possibilities of locating structures within floodplains or wetlands, impacting Federal or State listed or proposed threatened or endangered species or critical habitats, esthetic impacts, crossing irrigated or irrigable land, and possibly causing adverse effects on historic or cultural properties that are included or eligible for inclusion on the National Register of Historic Places.

Public scoping meetings will be held during October or November of 1985. Notice will be given in the Federal Register, and local news media via press releases and paid advertisements at least 15 days prior to the meetings. Federal and State agencies, and local government units will also be requested to provide Western their concerns and issues which should be addressed in the EIS.

A draft EIS is tentatively scheduled to be released to the public for review and comment in November 1986. The final EIS is tentatively scheduled for release in August 1987.

FOR FURTHER INFORMATION CONTACT: Stephen A. Fausett, Assistant Area Manager for Engineering, Billings Area Office, Western Area Power Administration, Department of Energy, P.O. Box EGY, Billings, MT 59101, (406) 657–6042.

Issued in Golden, Colorado, July 1, 1985.

Willian H. Clagett,
Administrator.

[FR Doc. 85–17064 Filed 7–17–85; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service—Performance Review Board Updated Membership

In accordance with Title IV of the Civil Service Reform Act of 1978, the Federal Home Loan Bank Board hereby gives notice of new memberships on the SES Performance Review Board. Current members are S.G. Frank Haas, III (Chairman), Lawrence W. Hayes, Robert J. Moore, Richard L. Petrocci, Richard C. Pickering and Jean C. Chabot.

For Further Information Contact: Doris H. McGhee, Director of Personnel, Federal Home Loan Bank Board, (202) 377–6050.

Jeff Sconyers,
Secretary to the Board, Federal Home Loan Bank Board.

[FR Doc. 85–17114 Filed 7–17–85; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 2624
Name: Chem Group, Inc.
Address: 30 Lincoln Plaza, #25M, New York, NY 10023
Date Revoked: June 27, 1985
Reason: Surrendered license voluntarily

License Number: 2665
Name: Katherine J. Segall dba K. J. Segall Customhouse Broker
Address: 623 Switzer Street, San Diego, CA 92101
Date Revoked: June 28, 1985
Reason: Failed to maintain a valid surety bond

License Number: 778
Name: F. B. Wilcon Company, Inc.
Address: 148 State Street, Boston, MA 02109
Date Revoked: July 1, 1985
Reason: Voluntarily requested revocation

License Number: 2709
Name: Midwest Eastern Transport, Inc.
Address: 731 S. Main, P.O. Box 1614, Elkhart, IN 46514
Date Revoked: July 5, 1985
Reason: Voluntarily requested revocation

Robert G. Drew,
Director, Bureau of Tariffs.

[FR Doc. 85–17061 Filed 7–17–85; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the

Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Since that date, issues have been raised as to whether the TWRA lines have

Notice of TWRA's filing with the Commission had been widely discussed

characterized as necessary in the

and fairly" considering shippers'

lines, or the TWRA itself. These

Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission Washington, D.C. 20573.

Steve Zamarripa Inc. dba Air/Ocean International Inc., 700 West Carob Street, Compton, CA 90220

Reynaldo Camacho, 21–18 33rd Avenue, Long Island City, NY 11106

Fracht Fwo Inc., 175–01 Rockaway Blvd, #308, Jamaica, NY 11434. Officers: Ruedi Reisdorf, President, Roland Meier, Vice President, Tahera (Tara) S. Thaver, Secretary

Baillie Lumber Co., Inc., 4002 Legion Drive, Hamburg, NY 14075. Officers; Donald L. Meyer, President/Treasurer/Director, Anthony Dutton, Assistant Secretary, Earl E. Statler, Vice President/Director, Doris C. Meyer, Vice President/Director, Donald A. Eichler, Vice President

Great World Express Corp., 1305 Grandview Drive, So. San Francisco, CA 94080. Officers: Judy Ting, President, Therese Lu, Secretary/Treasurer/Director, Debbie Lee Bresee, Manager/Vice President, John Ting, Vice President/General Manager

International Express Cargo, c/o 2511 SW 102nd Avenue, Miami, FL 33165. Officers: Nelson S. Martinez, President/Treasurer, Maggie P. Martinez, Vice President/Secretary

New York Customs Brokers, Inc., 148–02 Guy R. Brewer Blvd., Jamaica, NY 11434. Officers: Larry Lieberman, President/Director, Regina Cretella, Vice President

Arrow World-Wide Forwarders, Inc., 1012 Shary Circle, P.O. Box 5366, Concord, CA 94518. Officers: Richard Templeton, President, James H. Ferrell, James P. McCullough

By the Federal Maritime Commission.

Dated: July 15, 1985

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–17062 Filed 7–17–85; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 85–18]

Member Lines of the Transpacific Westbound Rate Agreement—Possible Violations of the Shipping Act of 1984; Order of Investigation and Hearing

The Transpacific Westbound Rate Agreement (TWRA or Agreement) became effective on January 5, 1985.[1] Since that date, issues have been raised as to whether the TWRA lines have been operating in a manner inconsistent with or outside the scope of the terms of their Agreement, contrary to sections 10(a)(2) or 10(a)(3) of the Shipping Act of 1984 (1984 Act or the Act) (46 U.S.C. app. 1709), and whether the operation of TWRA has produced or threatens to produce an unreasonable increase in transportation costs, contrary to the injunctive standard set forth in section 6(g) of the Act (46 U.S.C. app. 1705).

By this Order, issued pursuant to section 11(c) of the Act (46 U.S.C. app. 1710), the Commission sets down for investigation certain issues raised under sections 10(a)(2) and 10(a)(3) regarding the relationship between the TWRA lines' establishment and maintenance of minimum tariff and service contract rates and the lines' right of independent action, and the lines' authority under their Agreement to agree on minumum rates applying to service contracts between an individual carrier, or a combination of carriers, and a shipper. In addition, by this Order the Commission advises that it has decided not to seek at this time an injunction against TWRA under the standard of section 6(g). The reasons for that determination are set forth briefly below.

Background

I. The Filing of TWRA

TWRA was filed with the Commission for processing under the 1984 Act on November 21, 1984. The Agreement represented a major restructuring of liner common carrier service in the United States westbound Pacific trades. In addition to replacing the Pacific Westbound Conference, which had disbanded on November 1, 1984, TWRA replaced the Far East Conference, the Atlantic & Gulf/Singapore, Malaya & Thailand Conference, the Atlantic & Gulf/Indonesia Conference, the Pacific-Straits Conference and the Pacific/Indonesia Conference. TWRA gives its members broad authority to agree on rates, rules and practices covering the movement of liner cargo from points and ports in the United States and Canada, from or via ports on the Atlantic, Gulf and Pacific Coasts (including Alaska) of the United States, or via ports on the Atlantic and Pacific Coasts of Canada, and destined to a wide range of ports and points in the Far East, including Japan, Korea, Taiwan, Hong Kong and the Philippines. As of the effective date of the Agreement, there were 20 signatory lines. Barber Blue Sea Line subsequently submitted its resignation on January 15, 1985, effective March 16, 1985.

Notice of TWRA's filing with the Commission had been widely discussed in the industry press and was formally published in the **Federal Register** on November 30, 1984.[2] No comments or protests were received from any person. Nevertheless, in analyzing the Agreement and the extensive supporting material provided by the parties, the Commission's staff was aware that the member lines controlled among them a substantial share of the total liner capacity in the relevent market areas and an even greater share of the total container capacity. For that reason, TWRA required and received careful scrutiny under the standard of section 6(g).[3]

According to the parties, there are several purposes to TWRA. One objective is to reduce materially the administrative costs of the old conference structure and associated costs of the member lines by combining separate structures, simplifying the duties of the Agreement's employees, eliminating neutral body and cargo inspection programs and reducing regulatory and legal costs. A second stated objective is to permit more individual line competitive flexibility than the prodecessor conference structures could. A third objective is to stabilize rates in the westbound trades, which the parties characterized as having deteriorated to below-cost levels as a result of excess capacity. The parties also hoped to reduce the proliferation of overlapping tariffs by an evolution to common tariffs. Finally, the parties hope that TWRA could provide a stable long-term competitive structure in the Pacific trades, which would help some carriers avoid business failure during a period of anticipated severe overtonnaging.

In explaining how TWRA would achieve these objectives, the parties gave central importance to the competitive flexibility and reponsiveness to shipper demands permitted to the individual lines by the Agreement. The old conferences were described as too inflexible and slow moving to permit the members to operate with the quick response to market conditions that the parties

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[1] FMC Agreement No. 202–010689.

[2] 49 FR 47113.

[3] Section 6(g) provides in relevant part:

(g) Substantially Anticompetitive Agreements.—If, at any time after the filing or effective date of an agreement, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, it may, after notice to the person filing the agreement, seek appropriate injunctive relief. . . .

characterized as necessary in the westbound trades. Also, according to the parties, it was necessary to guarantee maximum price flexibility in order to attract enough carriers into the Agreement so that stabilization of rates was a reasonable goal. Rate flexibility was also necessary to achieve the desired reduction in administrative and regulatory costs.

There are three primary articles in TWRA that provide rate flexibility to the individual members. First, Article 13 gives the parties their statutory right to take independent action on ten days' notice "on any rate or service item within the scope of [TWRA]."[4] No limit on this right is stated in the Article. Article 13 also states that "[p]rior to giving notice of any independent action hereunder, each party is encouraged, but is not required, first to propose to the Agreement that the Agreement itself take the action and to permit the Agreement to act thereon at a meeting." Second, Article 5(c) of the Agreement permits the members to negotiate and adopt their own service contracts at whatever rate levels they choose. By the terms of Article 13, the independent action provisions of TWRA also apply to service contracts. Third, Article 8(a) provides for a procedure known as "rate initiative." According to the parties, this procedure is designed to produce the same result as independent action, only faster (three to five days) and with less work and expense. Its stated purpose is to provide even more market responsiveness than independent action and to give shipper added assurance that a rate negotiated with a carrier will actually be "delivered" by the carrier.

The parties argued that the rate initiative feature of TWRA, together with TWRA's provisions permitting members total freedom with regard to service contracts, provides for substantially more individual member competitive freedom and flexibility than the provisions of the Shipping Act of 1984 require. The Agreement in Article 12 also makes provision for "promptly and fairly" considering shippers' requests and complaints and for meeting with shippers "to promote the commercial resolution of disputes,"[5] and otherwise expresses the parties' intention to promote and develop "close communications and working relationships with shippers and consignees."

The Commission took note of these provisions and of the present and anticipated rate and tonnage conditions in the Pacific trades. We determined that the Agreement members' response to shipper rate needs should be kept under surveillance. Accordingly, the Commission obtained the parties' agreement to file quarterly reports on their use of the rate initiative and independent action procedures. Otherwise, the Commission determined that the information before us at that time did not provide a basis for contending to a federal district court that TWRA would likely result in unreasonable reductions in service or increase in costs to shippers. Accordingly, no injunction against TWRA was sought and the Agreement went into effect on January 5, 1985, 45 days after filing with the Commission, as provided by section 6(c)(1) of the Act (46 U.S.C. app. 1705(c)(1)).

II. The TWRA Rate Actions

The TWRA members met in Vancouver, British Columbia, on January 30–31, 1985. At that meeting, the nineteen member lines[6] agreed to a "Revenue Stabilization Program" that provided for a general rate increase of per container rate on nonrefrigerated cargoes by amounts ranging from $150 to $300, the precise figure dependent on container size and destination. Rates for refrigerated cargoes were scheduled to increase by ten percent. Further, all tariffs of all members were to be amended to reflect the establishment of minimum charges scaled from $750 to $5,000 per container. Tariffs were subsequently filed at the Commission that reflected both the agreed-upon general rate increase and minimum per container rate levels, to become effective March 6, 1985.

The member lines also agreed that effective January 31, 1985, there would be a minimum charge established for any new service contract or renewal of existing contracts entered into by any individual line, any combination of lines, or the TWRA itself. These minimum charges ranged from $2,250 to $5,000 per container. Finally, the TWRA lines filed minimum boxcar rates, effective March 22, 1985.

The Commission began to receive complaints and inquiries from shippers almost immediately after the TWRA meeting on January 30–31. The complaints generally were from shippers in the Pacific Northwest of low-rated commodities, such as lumber, hay and wastepaper. With some exceptions, they focused on the minimum revenue requirements rather than on the general rate increase. Some protests contended that the container minimums constituted *de facto* rate increases of 35 to 150 percent. Some shippers stated that such increases might cause the bankruptcy of segments of the lumber industry. Others stated that imposition of the rate charges as scheduled would force them to break existing contracts with overseas buyers or face huge losses. Cotton shippers based in Texas complained that previous ocean freight increases had always been scheduled by the carriers to allow for the fact that cotton export contracts generally expire in late August of each year.

In addition to complaints regarding the specific rate levels announced by TWRA, there were widespread shipper allegations that the TWRA members had reached certain tacit understandings designed to reinforce their agreed-upon minimum rates. These were alleged to include understandings that TWRA members would not enter into any service contracts for a period of 90 days from January 30, 1985; that the members would not grant shipper requests for independent action or rate initiatives that would result in rates below the minimums; that any such action by a member must be "approved" by the entire Agreement; that the members similarly would not negotiate service contracts for rates below the minimums; and that negotiations on service contracts were broken off after the TWRA January 30–31 meeting because the particular carriers involved felt themselves bound by the minimums.

In repsonse to the shippers' complaints, the Commission sent a telex on February 21, 1985 to the Agreement's representatives requesting a postponement of the tariff increases pending further discussion of them. After several meetings on February 26 involving Commission personnel, carrier representatives and shippers, TWRA announced a postponement of the increases until March 20. Further, after meeting in Honolulu, Hawaii, on March 6–8, the TWRA lines informed the

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[4] Section 5(b) of the 1984 Act (46 U.S.C. app. 1704(b)) requires, *inter alia*, that:

Each conference agreement must—

. . . . . .

(8) Provide that any member of the conference may take independent action on any rate or service item required to be filed in a tariff under section 8(a) of this Act upon not more than 10 calendar days' notice to the conference and that the conference will include the new rate or service item in its tariff for use by that member, effective no later than 10 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

[5] The consultation and shipper requests and complaints provisions are mandated by sections 5(b) (6) and (7) of the 1984 Act (46 U.S.C. app. 1704(b)).

[6] Barber Blue Sea Line did not attend the meeting, having resigned from TWRA two weeks earlier.

Commission that further adjustments in the per container minimums had been

adjustments to the minimums. The

In addition, by Agreement No. 202–

anticompetitive; and (2) if so, whether such an agreement is likely to produce

It seems clear that the TWRA carriers hold as a group significant market

justified. However, we reiterate that

Commission that further adjustments in the per-container minimums had been made. Effective March 20, the minimums for nonrefrigerated cargo moving from West Coast ports were to be $600 per 20-foot container and $800 per 40-foot container (reduced from $750 and $1,000, respectively). Corresponding adjustments were made to the other minimums. The full minimums were to go into effect on June 20, 1985. No action was taken at that meeting on the minimum charges on service contracts.

On March 12, 1985, the Commission issued an Order pursuant to section 15 of the 1984 Act (46 U.S.C. app. 1714) to TWRA and its member lines.[7] The section 15 order noted that while the postponement by the TWRA lines of the minimums might ease the difficulties some shippers apparently would have faced in meeting current contracts, the postponement did not resolve the issue whether the mimimum rates represented an unreasonable increase in transportation cost or whether the establishment and maintenance of the minimums were consistent with the terms of TWRA and otherwise lawful under the 1984 Act. The section 15 Order therefore directed TWRA and the member lines to respond on or before April 2, 1985 to a series of detailed questions and demands for documents concerning the minimum rates and the lines' responses to shippers' complaints and requests for service contracts and independent rate actions. The purpose of the Order was to develop a factual record sufficient to permit the Commission to determine the appropriate regulatory course of action, if any, to be taken regarding TWRA and its members. In addition, in early April the Commission's Bureau of Agreements and Trade Monitoring contacted approximately 40 shippers in the TWRA trades by letter, soliciting their views on the TWRA rate actions. The letter was designed to help the Commission develop a reasonably complete picture of shipper attitudes regarding TWRA, particularly of those shippers who had not thus far commented on the Agreement and its rate actions.

In the meantime, on March 27, 1985, the TWRA lines again made adjustments to the minimums. The imposition of the full minimums was postponed until September 1. A minimum of $700 on 40-foot nonrefrigerated containers from the West Coast went into effect on March 27, which was to increase to $800 on July 1 and to $1000 on September 1. The TWRA lines also voted on March 27 to reduce the minimums on service contract rates to not less than the rate that is provided for in the TWRA tariffs at the time the contract is entered into, but still subject to specified minimums. The lines noted that the service contract minimums agreed to at the Vancouver meeting on January 30–31 were, in some instances, actually higher than present tariff rates.

Finally, according to recent press reports, the TWRA lines have decided in a meeting in Hong Kong to make still more adjustments to the minimums. For 40-foot containers of eight historically low-rated commodities—lumber, woodpulp, kraft liner board, scrap metal, raw cotton, wastepaper, hay cubes and hides—bound for North Asia destinations, the current minimum of $700 was suspended. An $800 minimum previously postponed to July 1 will now go into effect on November 1. The $1,000 minimum previously scheduled for September 1 was postponed until January 1, 1986. For containers of the same eight commodities bound for South Asia destinations, the current $700 miuninum was suspended until November 1. An $800 minimum will go into effect on January 1.

For all other dry commodities bound for North Asia, the $800 per-container minimum scheduled for July 1 was reportedly postponed until September 1 and the previously scheduled $1,000 September 1 minimum will be delayed until December 1. Similar postponements were applied to the rates applicable to other dry commodities bound for South Asia destinations.

As noted above, complaints regarding the minimums have come mainly from West Coast shippers of low-rated cargo such as wastepaper, hay cubes and woodpulp. According to the TWRA members, the average revenue per forty-foot container of such cargo realized before their rate actions had dropped below $500. The lines first proposed to establish a minimum on such containers of $1,000, an increase of more than 100 percent, effective March 6, 1985, on slightly more than thirty days' notice. After the various postponements and adjustments, the full increase to $1,000 will not go into effect for any such cargo until December 1, *i.e.*, over ten months rather than one.

In addition, by Agreement No. 202–010689–005, filed June 19, 1985, the lines propose to amend their Agreement to prohibit the further offering of new service contracts or renewals of existing contracts either on an Agreement-wide basis or by individual carriers.

Discussion

All of the persons addressed by the section 15 Order submitted responses; these include the TWRA chairman, its executive director and the nineteen member lines.[8] The material submitted is voluminous and includes many internal company documents. In addition, in late April counsel for the TWRA lines submitted an unsolicited package of materials that they requested also be considered by the Commission. This package consisted of tabulations of independent rate actions taken under the Agreement, a memorandum of counsel on certain issues of law and statements of various persons employed by TWRA lines.

As discussed below, the information before the Commission does not establish that there have been no violations of the 1984 Act by the TWRA lines; on the contrary, the record justifies a formal adjudicatory investigation of certain of the lines' actions at Vancouver and afterwards. However, before discussing the TWRA responses to the section 15 Order, the Commission will address briefly the question of an injunction under section 6(g) of the Act.

I. TWRA's Rate Action Under Section 6(g)

The determination whether a particular concerted rate action by the parties to an agreement has violated the standard contained in section 6(g) involves two distinct tests: (1) Whether the agreement is one that can be categorized as substantially

[7] Section 15 provides, in relevant part, that:

The Commission may require any common carrier, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report or any account, record, rate, or charge, or memorandum of any facts and transactions appertaining to the business of that common carrier. The report, account, record, rate, charge, or memorandum shall be made under oath whenever the Commission so requires, and shall be furnished in the form and within the time prescribed by the Commission.

[8] As noted above, the due date for responses to the Section 15 Order was Tuesday, April 2, 1985. On the evening of April 2, TWRA's attorneys filed pleadings in U.S. District Court in San Francisco seeking an extension until April 9. At a hearing held on Wednesday, April 3, the court denied TWRA's request but retained jurisdiction over the case for the apparent purpose of reviewing any assessment by the Commission of civil penalties against TWRA for failure to comply with the April 2 deadline. *Transpacific Westbound Rate Agreement* v. *Dombrowski*, N.D. Ca. Civ. No. C–85–2888. The responses by TWRA and its members to the section 15 Order were submitted in a series of mailings. The first batch of material was mailed by air courier from San Francisco on April 2; it arrived at the Commission on April 4. The remaining material arrived over the following week. Nothwithstanding the fact that the responses to the section 15 Order were not all timely filed, the Commission has determined, given the circumstances, not to access penalties.

anticompetitive; and (2) if so, whether such an agreement is likely to produce (or has produced) an unreasonable increase in transportation cost or an unreasonable reduction in transportation services.[9]

Clearly, only agreements that pass the first test are subject to the second. The existence of substantially anticompetitive conditions in a trade requires a finding that the parties to an agreement have acquired significant market power. Market power means that a firm, or group of firms acting in concert, control a sufficient share of the market for their productr so that it is theoretically possible for them to set a price for their product in excess of the price that would be set by the interaction of supply and demand in a competitive market. The traditional antitrust concern with market power is sharpened where, as in ocean transportation regulated by the 1984 Act, the act of agreeing on prices is protected from antitrust attack (assuming the procedures required by the Act have been followed). In such circumstances, rate and service actions by carriers that collectively control a major market share in their trades must be scrutinized carefully so that shippers are not subjected to behavior that deviates significantly from that which could be expected in the absence of market power. At the same time, the Commission must be mindful of Congress's instructions to us, expressed in the legislative history of section 6(g), that a negative impact on shippers caused by an agreement rate increase or service reduction may be offset by the agreement's benefits, including the agreement's ability "to address problems of overcapacity and rate instability."[10]

It seems clear that the TWRA carriers hold as a group significant market power in nearly all of the TWRA sub-trades, measured by tonnage as applied to U.S. coastal districts. In fact, in their original submissions to the Commission in November 1984 in support of the Agreement, the parties argued that it was necessary for them to hold a large market share in order to achieve the Agreement's goals. The Commission's own calculations, based upon Bureau of Census data, show that the TWRA lines control 75 percent or more of liner tonnage in nearly all the subtrades they serve; the exceptions are largely confined to U.S. Gulf ports at which few of the parties call. For this reason, TWRA demonstrably passes the application of the first test. The Agreement is therefore a potential candidate for a section 6(g) injunction. Whether such an injunction is actually called for depends upon whether the TWRA carriers have used or are likely to use the market power conferred by their Agreement to unreasonably increase the rates that they charge.

It is the Commission's opinion that a section 6(g) injunctive action at this time would be inapproprate. While it does appear that TWRA was, in its January rate hike, attempting to take full advantage of its considerable market power, a number of mitigating circumstances led us to decide against invoking section 6(g). Among these circumstances was the fact that even if the TWRA carriers manage to maintain the rate increase they are currently phasing in (which is by no means certain in view of the continuing problems of overtonnaging and trade imbalance they face), they will only be returning to the levels of ten years ago.[11] Furthermore, as noted above, the TWRA lines have stretched out the increases so that they will go into effect over ten months rather than one. As a result, any possible adverse impact of the originally filed rate increases has been considerably ameliorated. Recent shipper communications to the Commission confirm that this action by the carriers has facilitated the shippers' adjustment to the increases.

In light of these facts and Congress's generally favorable view of agreements designed to combat overtonnaging and rate instability, we believe that section 6(g) injunctive action at this time is not justified. However, we reiterate that TWRA remains a potential target of a section 6(g) action by virtue of its market power. The Agreement's rate activities will be monitored closely so that the Commission will be in a position to seek an injunction expeditiously, if evidence appears of abuse of market power by the TWRA lines.

II. The Establishment and Maintenance of the Minimum Tariff Rates

The responses to the section 15 Order raise serious issues as to whether the establishment and subsequent maintenance of the minimum tariff rates by the TWRA lines were products of an unfiled agreement in violation of section 10(a)(2) of the 1984 Act, or represent conduct inconsistent with the provisions of the Agreement providing for unfettered independent action by individual members, in violation of section 10(a)(3) of the Act. The documents indicate that the January 30–31 TWRA meeting in Vancouver followed a pre-arranged agenda and that the establishment of minimum rates was part of that agenda. A carrier telex dated January 11, 1985 states in part:[12]

[R]evenue improvement is most important to the carriers and has been the prime objective for the principals . . . Two items will be discussed to achieve revenue improvement, GRI [general rate increase] and minimum rates. . . .

* * * * *

The minimum rates will be established with the aid that a certain minimum rate level will be observed strictly by members so that neither conference actions or independent actions will bring rates below such agreed minima . . .

To the same effect, a telex dated January 22 from a carrier's overseas headquarters to its United States offices states in part:

TWRA owners meeting in Vancouver: although final agenda not yet available Gottshall has in previous telex indicated a number of items which will be docketed. . . . Consider most important items for all members will be rate structure, general rate levels, minimum rates on major commodities, reefer rates and establishment of separate TWRA tariff. . . .

At the Vancouver meeting, the senior executives of each line formed an "Owners Special Committee." These persons have been identified by the TWRA response to the section 15 Order.

[9] In this regard the Conference Report states in relevant part as follows:

As suggested by the title of subsection (g), a likely reduction in competition should be substantial before triggering Commission intercession under the general standard. Unless the competitive threat is substantial, any reduction in service or increase in cost would not be unreasonable, as required by the general standard.

* * * * *

Even if an agreement is likely to cause the requisite reduction in competition, the Commission can obtain injunctive relief only if the likely net result will be an unreasonable increase in costs of shippers, or an unreasonable reduction in the frequency or quality of service available to shippers.

Committee of Conference, *Shipping Act of 1984*, H.R. Rep. 98–600, 98th Cong., 2d Sess. 34, 35 (1984).

[10] Committee of Conference, *Shipping Act of 1984*, H.R. Rep. No. 600, 98th Cong., 2d Sess. 35 (1984). The Conference Committee recognized that combined market share would be major, though not sole, determinant of whether an agreement was substantially anticompetitive, *Id.* at 34–35.

[11] In 1984, the rates published by the Pacific Westbound Conference (PWC), TWRA's predecessor, fell so precipitously that even in absolute terms, the rates were lower by the end of the year than they had been in 1978. This decline, caused by excess capacity and depressed U.S. exports, appears to have been the proximate cause of the dissolution of PWC.

[12] In quoting from telexes, some editing and punctuation has been provided to make them easier to read.

A telex of February 4 provides the details of the Committee's work:

atmosphere prevailing at this time. On February 6, the Boston office wrote to

By the time of their meeting in Honolulu on March 6–8, at which the

require full investigation. Any activity that threatens the viability of the

those minimums is accompanied by

subparts (d)(i) and (d)(ii), the only

A telex of February 4 provides the details of the Committee's work:

> The establishment of minimums, GRI and freight forwarders compensation was discussed at a one-to-one meeting with highest executives of each line attending. The lines committed not to invoke I.A. against the minimums (even if so-called commitments are involved). Exception: existing service contracts (which considering the number of lines and tonnage involved in TWRA are minimal). However, renewal of such service contracts or new service contracts must take the agreed minimums into account. . . . It was felt that TWRA carrying 90 percent of available cargo . . . is now in a position to not only prevent further deterioration of rates (which presently very depressed) but to improve the revenue position of the participants. Some lines * * * stated that if there are deviations from established minimums they will resign from TWRA. We understand that the established minimums are a considerable increase over the present going market rate and while we anticipate market's pressure (although the market expected high increase) and difficulties our sales personnel will encounter, it is hoped that this action will improve the westbound revenue to more profitable levels. So good luck to all of us.

A telex of February 1 pointed out that the approval of the minimums was unanimous and stated that "even though basic Agreement requires a simple majority to carry, it was the consensus of all members that any revenue improvement would not be successful unless all members were in agreement."

The TWRA carriers appear to have taken a number of steps to enforce the minimums. A February 1 telex from a carrier's headquarters to all U.S. and Far East agents stated: "It is a prerequisite for the future existence/survival of the TWRA that the minima . . . are strictly adhered to. . . ." The carriers had agreed at Vancouver that a carrier proposing independent action or "rate initiative" should be "encouraged" (though not required) to include in its proposal the name of the shipper and a justification for the proposal. It appears that in responding to actual shipper requests for rates below the minimums, the carriers usually declined, often with specific reference to the TWRA action at Vancouver but sometimes with more vague reference to "internal guidelines." The carriers' headquarters were under intense pressure for relief from the minimums from their regional sales offices, which in turn were under pressure from shippers. The carrers' submissions include many letters, telexes and memoranda of conversations with shippers protesting the announced rate actions. An exchange of telexes between a carrier's headquarters and its Boston office appears to provide a sample of the atmosphere prevailing at this time. On February 6, the Boston office wrote to headquarters:

> As you are aware during past couple of months we have received substantial support from [shipper X]. . . . This due to [our] aggressive pricing and service capabilities in Boston. . . . Shipper has learned of proposed March 5 rate increase and is extremely upset with lack of rate sensitivity to their business. . . . We have worked too hard to capture and protect his business to see it discarded so easily. . . . We strongly recommend that we exempt this commodity for [sic] the March 5th increase. . . .

On February 7, headquarters replied:

> Your concern appreciated and understood. Precondition for future existence of TWRA is that minima . . . are being strictly adhered to and in such circumstances regret unable deviate from set minima. . . .

On February 14, a carrier sent a telex to its offices in New York and Oakland reminding its agents that the minimums applied to exempted commodities:

> Minimum charges is [sic] the key to the stability of rate levels. The trade stability will be impaired and thus the whole TWRA will break once the [minimum] is violated. It was the unanimous determination of the senior executives of all members in the [Vancouver] meeting that the minimum charge would be strictly observed and no one would take exceptions to the minimums, even on exempted commodities and service contracts. In this regard, we cannot agree or compromise to any suggestion on exceptions to the minimums.

As noted above, the package of additional materials submitted by TWRA counsel to the Commission in late April included several statements by persons employed by TWRA lines. One of those statements addresses the February 4 telex quoted above with regard to the "Owners Special Committee." The statement acknowledges that the telex states that the TWRA lines had agreed not to exercise independent action against the minimums. In denying that his employer is actually a party to such an agreement, the carrier executive attributes the February 4 telex to his desire to provide a shield for sales personnel against shipper pressure:

> I knew that shippers would be importuning my company's sales personnel to create exceptions to minima. Such pressures are extraordinarily difficult to resist, since they may be coupled with a threat to withhold cargo. Since I had decided, at least for the time being, that our company would not take IA below the minima, I knew that it would be much easier for our sales people to refer to the TWRA minima as a reason why they could not grant requests for such rate reductions. Stating that the company couldn't take IA would reduce commercial pressures.

By the time of their meeting in Honolulu on March 6–8, at which the minimums were reduced and delayed, the lines apparently had realized that their use of TWRA to shield themselves from shipper pressure could have undesirable consequences. A March 12 telex states:

> It is of the utmost importance for the future of the TWRA that no shipper be given to believe that there is any reason whatsoever to think that TWRA itself might be in any way responsible for commercial decisions taken by members * * * as matter of individual company policy to implement . . . minima and GRI. It remains the policy of the TWRA that it is the sole responsibility of each individual member line to follow its own commercial interests acting in strict accordance with the Transpacific Westbound Rate Agreement as filed with the FMC and in total conformity with the U.S. Shipping Act of 1984.

Most recently, on March 27, the following resolution was adopted by the TWRA lines:

> 1. Resolved, that contrary to allegations made by shippers and government officials, every member has and always has had the absolute and unqualified right of independent action as to any TWRA rate or service item including, but not limited to GRI's, minimum rates, commodity rates or tariff rules governing the application of same.
>
> Resolved further that, in the event any employee or agent of any TWRA member may have conveyed any contrary impression to any shipper, employee or other agent of the member, the member should convey the text of the foregoing resolution to such person to correct any misimpression.
>
> 2. The executive in each company, responsible for westbound transpacific pricing, should, in implementing the resolution, send a communication to each person who previously has received company or agency communications respecting the Vancouver action, which affirms that the particular member's policy respecting the exercise of independent action is in all respects a matter of internal company policy. The member can state, if it wishes, what that policy is, if there is such a policy.

The TWRA lines contend that nothing in the Agreement or the 1984 Act precludes them from discouraging each other from taking independent action by threatening to leave the agreement. This is termed an exercise of "commercial speech". It is argued that members may discuss, reach consensus on or agree as to their future intentions regarding the independent action process because, notwithstanding any such agreements, a TWRA member may always change its mind and exercise its right of independent action to the contrary.

There are several issues of fact and law raised by the TWRA carriers' imposition of minimum rates that require full investigation. Any activity that threatens the viability of the concept of independent action must be viewed by the Commission with the utmost seriousness. Congress indicated in writing the Shipping Act of 1984 that independent action was to be a counterweight against the possibility that carriers might use their ability to form agreements more easily and their expanded antitrust immunity to extract unreasonably high rates from shippers.[13] Independent action is particularly important in the case of agreements, such as TWRA, that hold a high degree of market power.[14] The TWRA carriers stated in their November 1984 submissions in support of the Agreement that one of the central purposes of the Agreement was to permit more individual line competitive flexibility than the old conference structures, and that this would be achieved by the Agreement articles providing for independent action, reinforced by the novel concept of "rate initiative." An unfiled agreement not to invoke independent action below certain rate levels would—even if such an agreement was short-lived—be contrary to those representations, inconsistent with specific provisions of TWRA and directly against the intent of Congress and the 1984 Act. The Commission must investigate whether such an agreement was reached and whether it is still in effect despite the resolution adopted on March 27.

Perhaps more important, we believe that an investigation is necessary as to whether the publication and enforcement of a broad, comprehensive minimum rate program, such as that approved at the Vancouver meeting, by a ratemaking body with significant market power such as TWRA is, in and of itself, consistent with the statutory requirement of independent action. Certainly, the use of minimum rates is a long-standing commercial practice, usually designed to improve container utilization and deployment. But when a major rate agreement publishes a general rate increase and reinforces that with minimum rates that apply to essentially all types of cargo moving to all destinations served by the agreement, and when the approval of those minimums is accompanied by "commercial speech" of the sort used at Vancouver, and when the agreement members regard the raising of rates and revenues as a life-or-death proposition for the agreement, the existence of the minimums takes on new dimensions and the fact that the agreement members still have the right on paper to take independent action below the minimums may no longer have any real meaning. The Commission wishes a full and complete development of the record on this new and important issue whether the TWRA minimum rate program has unlawfully frustrated or undermined the individual member's right of independent action.

[13] House Committee on Merchant Marine and Fisheries, *International Ocean Commerce Transportation*, H.R. Rep. No. 53, 98th Cong., 1st Sess. 15–16 (1983).

[14] Congress stated:

> In the case of conference agreements, including those with intermodal ratemaking authority, the conferees believe that potential reductions in competition will be at least partially offset by a member carrier's right of independent action. . . ." H.R. Rep. No. 600, n. 9, *supra*, at 34.

III. Service Contracts

There are two distinct issues regarding service contracts raised by the TWRA actions at Vancouver and afterwards: (1) whether the Agreement permitted the establishment of minimum rates on individual carrier service contracts, and (2) whether the TWRA lines agreed not to take independent action against the established minimum rates.

A. The Establishment of Minimum Service Contract Rates on Other Than Agreement-Wide Contracts

There is no factual dispute that the lines agreed on minimum rates on individual contracts at the Vancouver meeting. The question is whether the Agreement authorized them to do so. Article 5(d) of TWRA states:

> *Service Contracts.* Any party which, as of the effective date of this Agreement (or the date it becomes a Party, whichever is later), has entered into a service contract(s) may, during the term thereof, continue such contract(s) and continue separately to publish the essential terms thereof. After the effective date of this Agreement:
>
> (i) Any Party may enter into a service contract(s), but must furnish a copy of its essential terms to the Manager and do so no later than the date such terms are filed with the Federal Maritime Commission;
>
> (ii) Any two or more Parties may jointly enter into a service contract(s), but such Parties must furnish a copy of the essential terms of such contract(s) to the Manager and do so no later than the date such terms are filed with the Federal Maritime Commission;
>
> (iii) The Agreement may, with the consent of any Party or Parties, enter into a service contract(s) on behalf of such Party or Parties.

This provision appears to permit Agreement-wide accord on service contract terms only in the circumstance described in subpart (d)(iii), where the Agreement itself is a party to the contract. Otherwise, individual carriers or groups of carriers appear free to negotiate contracts of their own under subparts (d)(i) and (d)(ii), the only restriction being that they must furnish the Agreement's executive office with informational copies of the contracts after they have been negotiated. Article 5(d) does not appear to authorize concerted activity on service contracts, such as the agreement reached at Vancouver, through which the parties attempt to control what individual lines or combinations of lines charge for carriage under a service contract. This interpretation appears to be consistent with the carriers' submissions in support of TWRA in November 1984, in which they stated:

> Another major feature of the TWRA, which distinguishes it from most traditional conference-type agreements, is that it does not prohibit *or create Agreement control over the terms of* individual carriers' service contracts. Moreover, the independent action clause of the TWRA also applies to service contracts. In this respect, as with rate initiative, the Agreement provides for substantially more individual member competitive freedom than the 1984 Shipping Act requires." (emphasis supplied).

The parties also said that service contracts were to be "left up to members." In his affidavit in support of the Agreement, Mr. Ronald Gottshall stated:

> The other basic decision under TWRA was not to prohibit or assume control in the Agreement over service contracts by individual carriers. Probably needlessly service contracts are also subject to independent action. Service contracts are proliferating in the trade and constitute an entire new and separate competitive force.

In informal submissions to the Commission, the TWRA carriers have denied that the Vancouver action on service contracts was inconsistent with their November 1984 statements or constituted the operation of an unfiled agreement or activity inconsistent with the TWRA. Nevertheless, a formal investigation is necessary as to whether the TWRA lines violated section 10(a)(2) of the 1984 Act by operating an agreement required to be filed under section 5 of the Act that has not become effective under section 6, and/or section 10(a)(3) by activity not in accordance with the provisions of their Agreement.

B. The Establishment and Maintenance of Minimum Service Contract Rates Generally

The issue whether the carriers agreed not to exercise their right of independent action against the service contract minimums does involve disputed facts. A carrier telex of February 4, 1985, summarizes the parties' understanding as follows:

All service contracts filed with the Federal Maritime Commission on or after [January 24] effect." The January 24 reply from the service contracts for a defined period.[15]

the Transpacific Westbound Rate Agreement;

It is further Ordered, that any person,

Nippon Yusen Kaisha, K. Miyaoka, President,

All service contracts filed with the Federal Maritime Commission on or after [January 31] must observe the new minimum charges. A contract filed with the Commission before this date even if the effective date of the contract is after January 31 is not a violation of this Agreement. Contracts below the minimums which are filed with the Federal Maritime Commission on or after January 31, even if signed by the parties or negotiated before January 31, are not within the spirit of the Agreement.

At a meeting held on February 22, 1985, the TWRA lines adopted the following resolution regarding service contracts and rate minimums:

It is the decision of TWRA that there may be no deviation from the rate increase and/or minima except for a commitment made on or before 30 January 1985 which agreement counsel concludes would be enforced. This conclusion would be based upon explanation and documentation presented by individual line seeking this conclusion. Initial requests to be submitted to counsel no later than 28 February 1985.

A telex of February 26 comments on this resolution as follows:

While there are still unclear points on this resolution, we interpret it as that Agreement counsel be authorized to evaluate each case submitted by member lines based upon explanation and supporting documents thereof as to whether each commitment made between carriers and shippers (or consignees) before January 31, 1985, has been legally binding in light of relative laws and once he concludes that such a commitment is to be enforced, rate action to exempt from the rate increase and/or minima will not be deemed as a deviation from owners' resolution adopted as the meeting in Vancouver on January 30 and 31, 1985.

There might have been various commitments based upon informal agreement by letter from carrier to shipper . . . and simple verbal agreement backed up by history of booking and rate application. We, however, expect that the Agreement counsel will not conclude that such commitments would be legally binding at least as far as cargo originating in the United States is concerned. . . . We, therefore, are quite doubtful if such submission make some sense.

One allegation made to the Commission was that the member lines had also agreed that no member would enter into any service contracts for a period of 90 days from January 30, 1985. Some documents apparently relevant to this allegation were submitted in response to the section 15 Order. A January 23 telex from a carrier's headquarters to its offices in the United States set forth several ideas for discussion at the upcoming Vancouver meeting. One was that all members should "freeze freight (no further reductions) . . . effective immediately or say February first for a three-month period or until common tariff goes into effect." The January 24 reply from the same carrier's U.S. office for conference matters supported this idea "subject to the understanding that member lines are free to match any confirmed filing of a TWRA co-member." Finally, another carrier's telex dated January 31 and reporting on the results of the first day, January 30, of the Vancouver meeting states that the lines agreed that:

No service contract [sic] will be allowed for the next 90 days unless they are above $3,000/40 foot for West Coast and $5,000/40 foot for East Coast.

Note.—Service contract [sic] will be further negotiated in tomorrow (January 31, 1985) meeting.

No further reference to the apparent January 30 agreement could be located in the Section 15 Order submissions. It is not clear whether it was superseded by the January 31 agreement on minimums, or whether the 90-day ban continued in effect—even for a short time—as a supplement to the January 31 minimums.

As with the minimum tariff rates, the service contract minimums engendered protests from shippers, particularly since the service contract minimums were higher at that time than the prevailing tariff rates. A March 20 telex to the TWRA offices in San Francisco from a major Japanese shipper, is representative:

Minimum charge of service contracts should be cancelled. Our strongest protest lies with minimum charge for service contracts. Current minimum charge . . . far exceeds prevailing freight rate and is prohibitive for us to negotiate service contracts. . . .

As noted above, on March 27, the TWRA lines reduced the service contract minimums to prevailing tariff rates. In addition, a telex was sent, a copy of which was provided to the Commission by TWRA, which states that the minimums are a matter of "voluntary adherence by the members and are not binding upon any member carrier which decides to withdraw its adherence." This is a markedly different tone from that expressed in the earlier telexes quoted above, which referred to contracts below the minimums as "violations of the Agreement" and "contrary to the spirit of the Agreement."

Although the TWRA carriers have denied that they agreed not to use their independent action rights to negotiate service contracts for rates below the Vancouver minimums, the internal documents quoted above justify further investigation of this issue. There must also be a resolution of whether there was a secret agreement to ban all new service contracts for a defined period.[15] Finally, the undisputed agreement on service contract minimums raises the same broad concerns discussed above, regarding the effect of such minimums on the right of independent action, as did the establishment of tariff rate minimums. As described by the carrier telexes, the service contract minimums were apparently enforced by a "clearance" procedure involving Agreement counsel; this additional factor casts further doubt on the true pertinence and effectiveness of TWRA's independent action provisions.

Therefore, it is ordered, that pursuant to section 11 of the Shipping Act of 1984 (46 U.S.C. app. 1710) a proceeding is hereby instituted to determine whether the Transpacific Westbound Rate Agreement and its member lines:

(1) Have violated sections 10(a)(2) or 10(a)(3) of the Shipping Act of 1984 [46 U.S.C. app. 1709(a) (2) or (3)] by agreeing not to exercise independent action at levels below their minimum tariff rates, which agreement was subject to the filing requirements of section 5 of the Shipping Act of 1984 [46 U.S.C. app. 1704], or inconsistent with the independent action provisions of the Transpacific Westbound Rate Agreement as required by section 5(b)(8) of the Act [46 U.S.C. app. 1704(b)(8)];

(2) Have violated section 10(a)(3) of the Shipping Act of 1984 by establishing and maintaining a program of minimum tariff rates in a manner inconsistent with the independent action provisions of the Transpacific Westbound Rate Agreement required by section 5(b)(8) of the Act;

(3) Have violated sections 10(a)(2) or 10(a)(3) of the Shipping Act of 1984 by agreeing on minimum rates applicable to service contracts between individual carriers, or combinations of carriers, and shippers, which agreement was subject to the filing requirements of section 5 of the Shipping Act of 1984, or inconsistent with the service contract and independent action provisions of the Transpacific Westbound Rate Agreement;

(4) Have violated sections 10(a)(2) or 10(a)(3) of the Shipping Act of 1984 by agreeing not to exercise independent action at levels below their minimum service contract rates, which agreement was subject to the filing requirements of section 5 of the Shipping Act of 1984, or inconsistent with the service contract and independent action provisions of the Transpacific Westbound Rate Agreement;

(5) Have violated section 10(a)(3) of the Shipping Act of 1984 by maintaining a system of minimum service contract rates in a manner inconsistent with the service contract and independent action provisions of the Transpacific Westbound Rate Agreement;

(6) Have violated sections 10(a)(2) or 10(a)(3) of the Shipping Act of 1984 by agreeing not to negotiate or execute new or renewed service contracts for a period of time, which agreement was subject to the filing requirements of section 5 of the Shipping Act of 1984, or inconsistent with the service contract and independent action provisions of the Transpacific Westbound Rate Agreement;

It is further Ordered, that in the event any of the violations described above are found to have occurred, it should be determined whether the Respondents:

(1) Should be assessed civil penalties and, if so, the amount of such penalties; and/or

(2) Should have their Transpacific Westbound Rate Agreement disapproved, cancelled or modified by the Commission; and/or

(3) Should be ordered to cease and desist from such activity;

It is further Ordered, that a public hearing be held in this proceeding and that the matter be assigned for hearing by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further Ordered, that the Transpacific Westbound Rate Agreement and its member lines, as identified in the Appendix to this Order, are hereby made Respondents in this proceeding;

It is further Ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Bureau of Hearing Counsel shall be a party to this proceeding;

It is further Ordered, that notice of this Order be published in the Federal Register, and a copy be served upon all parties of record;

It is further Ordered, that any person, other than parties of record, having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further Ordered, that all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further Ordered, that all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record;

Finally, it is Ordered, that pursuant to the terms of section 11(d) of the Shipping Act of 1984 (46 U.S.C. app. 1710(d)) and Rule 61 of the Commission's Rules of Practice and Procedure (46 CFR 502.61), the initial decision of the Presiding Officer in this proceeding shall be issued by July 15, 1986 and the final decision of the Commission shall be issued by November 17, 1986.

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

Appendix

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A.P. Moller-Maersk Line, Ib Kruse, General Partner, 50, Esplanaden, DK–1098 Copenhagen K, Denmark
Orient Overseas Container Line, Tan-Liu YU, President, c/o Robert E. Sequeira, Import Pricing Manager, Seapac Services, Inc., 433 Hegenberger Road, Suite 200, Oakland, California 94621
Neptune Orient Lines Ltd., Lua Cheng Eng, Managing Director, 456 Alexandra Road, NOL Building, Singapore 0511, Republic of Singapore
Sea-Land Service, Inc., R. Kenneth Johns, Chief Executive Officer, 10 Parsonage Road, P.O. Box 800, Iselin, New Jersey 08830
United States Lines, Inc., William B. Bru, Chief Executive Officer, 27 Commerce Drive, Cranford, New Jersey 07016
Yamashita-Shinnihon Steamship Co., Ltd., Takayoshi Kaji, President, 1–1, Hitotsubashi 1-Chome, Chiyoda-Ku, Tokyo 100, Japan
Zim Israel Navigation Company Ltd., Matty Morgenstern, Chief Executive Officer, c/o A. Birnbaum, Vice President, Conferences and Pricing, Zim Container Service, One World Trade Center, Suite 2969, New York, New York 10048

[FR Doc. 85–17084 Filed 7–17–85; 8:45 am]

BILLING CODE 6730–01–M

[15] The amendment by the TWRA carriers to prohibit service contracts will be legally relevant only to future activity subsequent to the effective date of the amendment.

FEDERAL RESERVE SYSTEM

Firsnabanco, Inc., et al.; Formations of, Acquisitions, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the

important biomechanical and physiological stresses associated with asymmetrical lifting. Viewpoints and suggestions from industry,

including that it be safe and effective for use as labeled. Section 514.1(b)(8) of the

[Docket No. 81D–0300]

published a notice in the Federal Register of December 4, 1981 (46 FR

Dated: July 11, 1985.

Mervin H. Shumate

Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 8, 1985.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Firsnabanco, Inc.*, Viroqua, Wisconsin; to acquire 96.1 percent of the voting shares of Citizens State Bank, Trempealeau, Wisconsin.

2. *Rhea County Financial Corporation*, Spring City, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank of Rhea County, Spring City, Tennessee.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Hunter Holding Company*, Hunter, North Dakota; to acquire 100 percent of the voting shares of First State Bank of Hope, Hope, North Dakota.

Board of Governors of the Federal Reserve System, July 12, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17036 Filed 7-17-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Identification of Musculoskeletal Injuries During Asymmetric Lifting; Open Meeting

The following meeting will be convened by the National Institutes for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: July 26, 1985.
Time: 9 a.m.–12 noon.
Place: Conference Room 3A, Appalachian Laboratory for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505–2888.

Purpose: To discuss the research protocol of a project which will identify some of the important biomechanical and physiological stresses associated with asymmetrical lifting. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Tim Pizatella, Division of Safety Research, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505–2888, Telephones: FTS: 923–4807, Commercial: 304/291–4807.

Dated: July 10, 1985.

Robert L. Foster,

Acting Associate Director for Policy Coordination.

[FR Doc. 85-17058 Filed 7-17-85; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 83D-0247]

Animal Drugs, Feeds, and Related Products; Efficacy Evaluation of Canine/Feline Anthelmintics; Availability of a Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guideline prepared by its Center for Veterinary Medicine (CVM) entitled "Guideline for Efficacy Evaluation of Canine/Feline Anthelmintics." The guideline reflects consideration of those comments received in response to publication of a notice of availability of the draft guideline.

ADDRESS: The December 1984 revised guideline and related materials are available for public examination at, additional written comments may be submitted to, and requests for single copies may be sent to, the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Bob C. Griffith, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act (the act) requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed in interstate commerce. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires that each NADA include full reports of investigations that show that the drug is safe and effective for use. Section 512(d) of the act (21 U.S.C. 360b(d)) describes the criteria that must be met before a new animal drug may be approved, including that it be safe and effective for use as labeled. Section 514.1(b)(8) of the animal drug regulations (21 CFR 514.1(b)(8)) describes the effectiveness requirements for an NADA.

In the **Federal Register** of September 13, 1983 (48 FR 41095), FDA published a notice of availability of a draft guideline for effectiveness evaluation of canine/feline anthelmintics. Comments were received from the Animal Health Institute, the Canadian Health and Welfare Bureau of Veterinary Drugs, and several independent parasitologists. Following evaluation of the comments, the guideline was revised. CVM's responses to the comments have been filed with the Dockets Management Branch. The "Guideline for Efficacy Evaluation of Canine/Feline Anthelimintics," dated December 17, 1984, describes studies an NADA sponsor may conduct to obtain information needed to evaluate effectiveness of anthelmintic new animal drugs for dogs and cats. This notice of availability is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. If an applicant believes that alternative procedures also apply, a guideline does not preclude the applicant from pursuing those alternative procedures. Under such circumstances, however, the agency encourages applicants to discuss the alternative procedures in advance with CVM to prevent the expenditure of resources and effort for work that may later be found to be unacceptable.

Requests for single copies of the guideline may be sent to the Docket Management Branch (address above). Interested persons may, at any time, submit additional written comments on the guideline to the Dockets Management Branch. Such comments will be considered in determining if further revisions of the guideline are required. Two copies of any comments should be submitted, except that individuals may submit one copy. Submissions should be identified with Docket No. 83D–0247. Received comments and all related materials may be seen in the Docket Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 11, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17021 Filed 7-17-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81D-0300]

Anti-Infective Bovine Mastitis Product Development; Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guideline entitled "Guideline for Anti-Infective Bovine Mastitis Product Development" prepared by FDA's Center for Veterinary Medicine (CVM). The guideline describes the type of data required to establish target animal safety and effectiveness of anti-infective drugs used for treatment and control of infectious bovine mastitis. This guideline is a revision of a 1981 draft guideline entitled "Antimicrobial Drugs for Intramammary Infusion" which described such required data. The agency is issuing the revised guideline under a different title to be consistent with current terminology.

ADDRESS: The draft and final revised guideline and comments are available for public examination at, further written comments may be submitted to, and requests for single copies may be sent to, the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act (the act) requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed in interstate commerce. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires that each NADA include full reports of investigations that show that the drug is safe and effective for use. Section 512(d) of the act (21 U.S.C. 360b(d)) describes the criteria that must be met before a new animal drug may be approved, including that it be safe and effective for use as labeled. Section 514.1(b)(8) of the animal drug regulations (21 CFR 514.1(b)(8)) describes the effectiveness requirements for an NADA.

In the **Federal Register** of October 9, 1981 (46 FR 50152), FDA published a notice of availability of a draft revised guideline concerning the evaluation of antimicrobial drugs for intramammary infusion (infectious bovine mastitis) as related to target animal safety and effectiveness. The notice solicited comments by December 7, 1981. FDA published a notice in the **Federal Register** of December 4, 1981 (46 FR 59309), extending the time for comment to February 5, 1982, based on a request by the Animal Health Institute (AHI) in a letter dated November 3, 1981 (on file with the Dockets Management Branch).

In a letter dated February 4, 1982 (on file with the Dockets Management Branch), AHI requested a further extension of time and a meeting with CVM to discuss the guideline. CVM believed it would be beneficial to hold an open public meeting, and FDA published a notice in the **Federal Register** of March 2, 1982 (47 FR 8857), announcing a meeting to be held on May 19, 1982, in Rockville, MD, and extending the time for comment to July 6, 1982. The meeting was held and is summarized in memoranda that are on file with the Dockets Management Branch.

Twelve letters containing comments were received from drug manufacturers, professional organizations, the AHI, and the National Mastitis Council. A summary of the significant comments and the agency's responses is on file with the Dockets Management Branch.

The guideline replaces a guideline entitled "Guideline for Bovine Anti-Mastitis Products: 1973 Revised."

This notice of availability is issued under 21 CFR 10.90(b), which provides for use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. Sponsors may rely upon a guideline with the assurance that it represents procedures acceptable to the agency (see 21 CFR 10.90). If a sponsor believes that alternative procedures are also applicable, a guideline does not preclude a sponsor from pursuing the alternative procedures. Under such circumstances, however, the agency encourages sponsors to discuss the alternative procedures in advance with FDA to prevent the expenditure of money and effort for work that may later be found unacceptable.

Interested persons may, at any time, submit additional written comments on the guideline to the Dockets Management Branch. Such comments will be considered in determining if further revisions of the guideline are required. Respondents should submit two copies (except that individuals may submit single copies) identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: July 11, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17020 Filed 7-17-85; 8:45 am]

BILLING CODE 4160-01-M

Captan With Benzocaine (Holiday® Itch Rid and VIP® Mercaptol); Withdrawal of Approval of NADA

Correction

In FR Doc. 85–15788 beginning on page 27360 in the issue of Tuesday, July 2, 1985, make the following correction:

On page 27361, first column, third line, "(21 U.S.C. 350(e))" should read "(21 U.S.C. 360b(e))".

BILLING CODE 1505-01-M

Office of Human Development Services

Intent To Reallot Basic Support and Protection and Advocacy Funds to States for Developmental Disabilities Expenditures

AGENCY: Administration on Developmental Disabilities, Office of Human Development Services, HHS.

ACTION: Notice of intent to reallot funds.

SUMMARY: The Administration on Developmental Disabilities herein gives notice of intent to reallot funds which will not be used by the Trust Territories of the Pacific and any other States prior to September 30, 1985, in accordance with section 125(d) of the Developmental Disabilities Assistance and Bill of Rights Act of 1984, Pub. L. 98–527. To be considered for receipt of additional funds under this reallotment, each State must provide the following information in writing:

(1) The amount of funds that will not be obligated prior to September 30, 1985, under its approved State Plan. If all funds will be obligated, provide a statement to that effect;

(2) If additional funds could be used and obligated prior to September 30, 1985; or

(3) A statement that no additional funds are needed.

The information provided will be used to calculate the amounts to be reallotted and this information should be submitted no later than (30 days from date of publication) to: Betty J. Mobley, Grants and Contracts Management Division, Office of Human Development Services, Department of Health and Human Services, 200 Independence

Avenue SW., Room 341F.4 HHH Bldg., Washington, D.C. 20201.

If a State fails to provide written

Building 31, Room 3B19, 9000 Rockville Pike, Bethesda, Maryland 20205, (301)

liver. In femal F334/N rats, there was *some evidence of carcinogenicity*

injustices resulting from the administration of laws and regulations.

to be part of the personnel records maintained by the Commissioned

Seven routine uses are proposed for

Avenue SW., Room 341F.4 HHH Bldg., Washington, D.C. 20201.

If a State fails to provide written notice as indicated above by August 19, 1985, that State will not receive additional funds under the fiscal year 1985 reallocation of funds.

FOR FURTHER INFORMATION CONTACT: Bettye J. Mobley, (202) 245–7220.

(Catalog of Federal Domestic Assistance Program No. 13–630 Developmental Disabilities-Basic Support and Advocacy Grants)

Dated: July 11, 1985.

Jean K. Elder,

Commissioner, Administration on Developmental Disabilities.

Approved: July 15, 1985.

[FR Doc. 85–17094 Filed 7–17–85; 8:45 am]

BILLING CODE 4130–01–M

National Institutes of Health

Developmental Therapeutics Contracts Review Committee; Cancellation of Meeting

Notice of the meeting of the Developmental Therapeutics Contracts Review Committee, National Cancer Institute, National Institutes of Health, July 26, 1985, published in the **Federal Register**, (50 FR 25629) is hereby cancelled as fewer applications were received than expected. Therefore, it will be possible to review all applications within the time frame of the July 29–30 meeting. For further information, please contact Dr. Kendall G. Powers, Executive Secretary, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7575).

Dated: July 10, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–17035 Filed 7–17–85; 8:45 am]

BILLING CODE 4140–01–M

Commercial/Industrial Activities Review Schedule

AGENCY: National Institutes of Health, DHHS.

ACTION: Notice of Review Schedule.

SUMMARY: This notice identifies a cost comparison study for a commercial/industrial activity by the National Institutes of Health during Fiscal Year 1986. This study will be in accordance with Office of Management and Budget Circular A–76.

FOR FURTHER INFORMATION CONTACT: Ana Kennedy, Division of Management Policy, National Institutes of Health, Building 31, Room 3B19, 9000 Rockville Pike, Bethesda, Maryland 20205, (301) 496–2461.

SUPPLEMENTARY INFORMATION: In accordance with OMB Circular A–76, a cost comparison is scheduled for the elevator maintenance and related services to be completed by January 1986. This activity includes administration, maintenance, repair, inspections and emergency service work for elevators, escalators, dumbwaiters, automatic doors, window washing scaffolds and automated materiel handling systems.

The activity is located at the National Institutes of Health, Bethesda, Maryland.

Dated: July 9, 1985.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 85–17033 Filed 7–17–85; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Telone II®

The HHS' National Toxicology Program today announces the availability of the technical report described toxicology and carcinogenesis studies of Telon II® (Technical-Grade 1,3-Dichloropropene containing 1.0% epichlorohydrin as a Stablilizer). Telone II® is widely used in agriculture as a soil fumigant for parasitic plant nematodes. 1.3-Dichloropropene, a mixture of *cis and trans* isomers, is a clear, light straw-colored liquid with a penetrating, irritating, chloroform-like odor and is also found in D-D® and Vorlex® soil fumigants.

Toxicology and carcinogenesis studies of Telone II® were conducted by administering the commercial-grade formulation in corn oil by gavage to groups of 52 male and 52 female F334/N rats at does of 0, 25, or 50 mg/kg and to groups of 50 male and 50 female B6C3F$_1$ mice at doses of 0, 50, or 100 mg/kg. Doses were administered three times per week for 104 weeks. Ancillary studies were conducted in which dose groups containing five male and five female rats were killed after Telone II® for 9, 16, 21, 24, or 27 months.

Under the conditions of these gavage studies, there was *clear evidence of carcinogenicity* for male F344/M rats, as indicated by Telone II®-related increased incidence of squamous cell papillomas and caricinomas of the forestomach, as well as an increased incidence of neoplastic nodules of the liver. In femal F334/N rats, there was *some evidence of carcinogenicity* because Telone II® caused an increased incidence of squamous cell papillomas of the forestomach. The experiment in male B6C3F$_1$ mice was considered to be an *inadequote study of carcinogenicity* because of reduced survival in the vehicle control group. However, there was some indication in the male mice of Telone II®-related increases of transitional cell carcinomas of the urinary bladder, squamous cell papillomas of the forestomach, and alveolar/bronchiolar adenomas and carcinomas of the lung. There was *clear evidence of carcinogenicity* for female B6C3F$_1$ mice, since Telone II® caused increased incidences of transitional cell carcinomas of the urinary bladder; Telone II® also increased the incidences of alveolar/bronchiolar adenomas of the lung and of squamous cell papillomas or carcinomas of the forestomach in the female mice. Telone II®-related non-neoplastic lesions included basal cell or hyperplasia in the forestomach of male and femal rats and male and female mice and epithelial hyperplasia of the urinary bladder in male and famale mice.

Copies of *Toxicology and Corcinogenesis Studies of Telone II®* in F344/N Rats and B6C3F$_1$ *Mice (Gavage Studies)* (*T.R. 269*) are available without charge from the NTP Public Information Office, M.D. B2–04, P.O. Box 12233, Research Triangle Park, NC, 27709. Telephone (919) 541–3991, FTS: 629–3991.

Dated: July 10, 1985.

David P. Rall,

Director.

[FR Doc. 85–17034 Filed 7–17–85; 8:45 am]

BILLING CODE 4101–01–M

Privacy Act of 1974; System of Records

AGENCY: Department of Health and Human Services, (HHS); Public Health Service, (PHS).

ACTION: Notification of establishment of a new Privacy Act system of records .

SUMMARY: In accordance with the requirements of the Privacy Act, the Office of the Assistant Secretary for Health (OASH) is publishing notice of a proposal to establish a new Privacy Act system of records 09–37–0017, "Proceedings of the Board for Correction of Public Health Service Commissioned Corps Records, HHS/OASH/OM." This system, which has been a subsystem under another system of records, will continue to be used to review and act on requests to correct alleged errors or

injustices resulting from the administration of laws and regulations. We are also proposing new routine uses for this system. PHS invites interested persons to submit comments:

(1) On the proposal to establish a separate system of records;

(2) On two proposed new routine uses (#6 and #7 of the accompanying system notice) on or before August 19, 1985.

DATES: PHS has sent a Report of the New System to the Congress and to the Office of Management and Budget (OMB) on July 10, 1985. The system of records will become effective 60 days from the date submitted to OMB unless PHS receives comments which would result in a contrary determination. A Notice of Proposed Rulemaking to exempt the system from the access provisions of the Privacy Act under subsections (k)(5) and (k)(6) has been submitted to the Secretary of the Department. These exemptions will become effective after the Secretary's approval and after the exemption have been published separately in the **Federal Register** for public comment. The proposed exemptions are included in the accompanying system notice solely for public information.

ADDRESS: Comments should be addressed to the Chairperson, Board for Correction of PHS Commissioned Corps Records, HHS/OASH/OM, Room 17–51, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Comments received will be available for inspection from 9:00 a.m. to 4:00 p.m. Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. White, Executive Secretary, Board for Correction of PHS Commissioned Corps Records, Room 17–79, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, or call (301) 443–6268. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Office of Management (OM) in the Office of the Assistant Secretary for Health (OASH) proposes to establish a new system of records: 09–37–0017, "Proceedings of the Board for Correction of Public Health Service Commissioned Corps Records, HHS/OASH/OM." To date, these records have been maintained as a discrete subsystem under system of records 09–37–0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OM." OM has decided to create a new, separate system of records for the Board for Correction of PHS Commissioned Corps Records, hereafter referred to as the Board for Correction, to allay a concern that the records of the Board for Correction may be incorrectly perceived to be part of the personnel records maintained by the Commissioned Personnel Operations Division (CPOD), since CPOD's decisions about officers' rights, benefits and privileges are the substance of appeals made to the Board for Correction.

As soon as the proposed new system has been approved and the requested exemptions have been granted, the Board for Correction subsystem will be deleted from system 09–37–0005.

The purposes of the proposed new system are the same as those of the original subsystem:

1. To process requests from present or former Commissioned Corps officers for the correction of alleged errors or injustices resulting from the administration of laws and regulations;

2. To review and adjudicate these requests;

3. To disclose the decisions of the Board for Correction to CPOD for appropriate action;

4. To document all actions and activities of the Board for Correction.

Such actions and activities include correspondence with applicants regarding their requests; case summaries; findings, conclusions and Board for Correction members' recommendations; and final decisions made on these recommendations. Copies of records maintained by CPOD is personnel systems of records are used for verification and documentation. Applicants are informed that the disclosure of their Social Security Number is mandatory when the applicant requests a correction of a financial record such as payroll or leave, or when it is anticipated that a favorable resolution of a request would result in a financial settlement.

Hard-copy records are stored securely in a manner compatiable with the sensitivity of the records. Microfiche technology will be used where appropriate, to facilitate the storage and retrieval of data.

The System Manager, who is also the Chairperson of the Board for Correction, and/or the Executive Secretary of the Board for Correction, control access to the data. Additional authorized personnel having access to the data are the Director, Office of Mangement, who has been delegated authority by the Assistant Secretary for Health (ASH) to oversee operations of the Board for Correction, and specifically designated clerical support staff in the offices of the System Manager and the Executive Secretary. Board for Correction members have access to records only on a need-to-know basis subject to the final decision of ASH.

Seven routine uses are proposed for this system.

Routine uses #1, 2, and 3 are the same as in the original subsystem. Routine use #1 permits disclosure of information to a congressional office to allow subject individuals to obtain assistance from their representatives in Congress. Such disclosure will be made only pursuant to a request of the individual. Routine use #2 permits disclosure of information to the Department of Justice (DOJ) in the case of litigation arising from actions of the Board for Correction, to allow DOJ to defend the Federal Government, the Department, or employees of the Department in case of such lawsuits.

Routine uses #3 permits disclosure of information to appropriate Federal, State, or local agencies as well as international agencies or foreign governments if the Board for Correction becomes aware of evidence a potential violation of civil or criminal law on the part of subject individuals.

Routine uses #4 and #5 were also in the original subsystem (although routine use # 5 here was #8 there) but are being modified here solely for the purpose of greater specificity (#4) and clarity (#5).

Routine uses #4 permits disclosure of information to a private contractor assisting the Board for correction in recording and transcribing tapes of Board for Correction meetings. The contractor is required to comply with Privacy Act safeguards, and the HHS Privacy Act Regulations, with respect to such records. These are explained in the system notice.

Routine uses #5 permits disclosure of information to properly indentified attorneys of subject individuals or their personaly designated representatives to court-appointed representatives of mentally incompetent or otherwise legally handicapped subject individuals and to guardians to the extent necessary to assure attainment of rights or payment of benefits to which such individuals would be entitled.

Routine uses #6 and #7 are new. If adopted, routine use #6 will permit disclosure of information to federal, State or local government agencies, or public interest organizations, when the subject individual's request for correction indicates that such agencies may have information which will assist the Board for Correction in clarifying the individual's entitlement to rights or benefits. By resulting in information which will help the Board for Correction to arrive at an equitable decision, this proposed new routine use is compatible with the purpose of the system, which is to support a process for assuring that subject individuals have available to

them an appeal procedure for correcting alleged errors or injustices

specified under Record Source Categories below.

4. Disclosure of information may be made to private contractors who record

access to the data are: (1) The Director, Office of Management; (2) Designated

Records are destroyed by the WNRC after 20 years by pulping

If the subject individual is deceased,

them an appeal procedure for correcting alleged errors or injustices.

Proposed routine use #7 will permit disclosure of information to consultants in a Federal agency or in the private sector if the Board for Correction has determined that it needs such opinions to arrive at an equitable decision concerning the subject individual's request. By making certain that expert opinion is available to the Board for Correction, this proposed new routine use is compatible with the purpose of the system, which is to support a process for assuring that subject individuals have avaliable to them an appeals procedure for correcting alleged errors or injustices.

The proposed system of records will not become effective until 60 days after the date it was reported to OMB, as discussed above. Until then it will remain a discrete subsystem under system of records 09–37–0005.

Dated: July 12, 1985.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–37–0017

SYSTEM NAME:

Proceedings of the Board for Correction of Public Health Service Commissioned Corps Records, HHS/OASH/OM

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Board for Correction of PHS Commissioned Corps Records, HHS/OASH/OM Room 17–79, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; and Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20409. Records also may be located at the contractor site. The names and addresses of contractors used by the Board for Correction can be obtained from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioned Officers of the PHS Commissioned Corps, and former officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Commissioned Officer case files consisting of applications requesting corrections of alleged errors or injustices, administrative reports, case summaries, findings, conclusions, recommendations, Board decisions, and related documents, including copies of records from other systems of records as specified under Record Source Categories below.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1552 "Correction of Military Records"; Public Health Service Act, 42 U.S.C. 213a(a)(12); Executive Order 9397, "Numbering System for Federal Accounts Relating to Individual Persons."

PURPOSE(S):

This system of records in used:

1. To process requests from present or former Commissioned Officers for the correction of alleged errors or injustices resulting from the administration of laws and regulations;

2. To review and adjudicate these requests;

3. To disclose the decisions of the Board for Correction to the Commissioned Personnel Operations Division (CPOD) for appropriate action;

4. To document all actions and activities of the Board for Correction.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. These records may be used to disclose information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is:

a. The Department, any component of the Department, or any employee of the Department in his or her official capacity;

b. The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

c. Any Department employee in his or her individual capacity where the Department of Justice (DOJ) has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the DOJ to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

3. These records may be used to disclose pertinent information to appropriate Federal, State, or local agencies; international agencies; or foreign governments responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, regulations, or orders, when PHS becomes aware of evidence of a potential violation of civil or criminal law.

4. Disclosure of information may be made to private contractors who record and transcribe tapes of Board for Correction meetings. Contractors are required to comply with Privacy Act safeguards and the HHS Privacy Act Regulations with respect to such records. These safeguards are explained in the section entitled "Safeguards."

5. Disclosure of information may be made to properly identified attorneys of subject individuals or their personally designated representatives, to court-appointed representatives of mentally incompetent or otherwise legally handicapped subject individuals and to guardians to the extent necessary to assure attainment of rights or payment of benefits to which such individuals would be entitled.

6. Disclosure of information may be made to Federal, State or local government agencies (such as those concerned with disability compensation, health and human services, hospitals, and legal affairs) or to public interest organizations (such as the American Red Cross, the American Civil Liberties Union, Disabled American Veterans, and the Legal Aid Society) when the subject individual's request for correction will affect the individual's entitlement to rights or benefits, and when such agencies may have information which will assist the Board for Correction in clarifying that entitlement.

7. Disclosure of information may be made to authorized experts or consultants in a Federal agency or in the private sector if the Board for Correction has determined that it needs such opinions to arrive at an equitable decision concerning the subject individual's request. Consultants or experts are required to comply with Privacy Act safe-guards and the HHS Privacy Act Regulations with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, word processing disks and microfiche.

RETRIEVABILITY:

Alphabetically by name, by service number, and by Social Security Number (SSN).

SAFEGUARDS:

1. *Authorized Users:* The System Manager, and/or the Executive Secretary of the Board for Correction, will control access to the data. Additional authorized personnel having access to the data are: (1) The Director, Office of Management; (2) Designated clerical support staff in the offices of the System Manager and the Executive Secretary; (3) Board for Correction members on a need-to-know basis; and (4) Experts, consultants or private contractors when approved by the System Manager.

2. *Physical Safeguards:* Hard-copy records, word processing disks and microfiche are stored in a locked metal file cabinet located in an inner office occupied continuously during working hours and locked at all other times. The doors to the inner and outer offices are secured with combination locks. The building has a 24-hour security guard, and entry into the building is controlled before and after normal working hours. A contractor who is given records must maintain the records in a secured area, allow only those individuals immediately involved in the processing of the records to have access to them, prevent any unauthorized persons from gaining access to the records, caution employees about the confidentiality of the records, and return the records to the System Manager immediately upon completion of the work specified in the contract.

3. *Administrative Safeguards:* Authorized personnel have been trained to comply with provisions of the Privacy Act and the HHS Privacy Act Regulations. Records are transmitted in sealed envelopes and are identified as confidential material. When copying records for authorized purposes, care is taken to ensure that no imperfect or extra pages are left in the reproduction room. These pages are disposed of by shredding. Contractor compliance is assured through inclusion of privacy requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records are instructed to make no disclosure of the records except as authorized by the System Manager.

4. *Implementation Guidelines:* These safeguards have been developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, and supplementary chapter PHS.hf:45–13.

RETENTION AND DISPOSAL:

Records are transferred to the Washington National Records Center (WNRC) one year after CPOD has implemented the Board for Correction's (favorable) decision, or three years after the Board for Correction has denied the applicant's request, whichever applies to the final disposition of a case. Records are destroyed by the WNRC after 20 years by pulping.

SYSTEM MANAGERS AND ADDRESS:

Chairperson, Board for Correction of PHS Commissioned Corps Records, Room 17–51, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURES:

To determine if a record exists, the subject individual should contact the System Manager at the above address. A subject individual who appears in person is required to provide his/her name and at least one piece of tangible identification (e.g., PHS Commissioned Corps Identification Card, driver's license, Social Security card, or discharge or separation papers). An individual making a written inquiry is required to sign the request mailed to the System Manager. The signature given is compared with the signature on file prior to release of the material requested.

If the subject individual is represented by an attorney, other than the one shown on the application to the Board for Correction, it would be necessary to have in the case file a dated letter signed by the subject individual giving the name of the attorney and stating that he/she has been authorized access to the case file. If the subject individual is represented by another person, it would also be necessary to have in the case file a dated letter signed by the individual giving the name of the representative and stating that he/she has been authorized access to the case file. In both instances, the persons representing the subject individual would be required to present documentation identifyng him/herself as being the person mentioned in the application or in a letter on file with the Board for Correction.

If the subject individual is judged to be mentally incompetent to handle his/her personal affairs, a court order should have been issued to that effect. The person identifying him/herself as representing the subject individual in this circumstance would be required to present a copy of the court order and to personally identify him/herself as being the person mentioned in the order.

If the subject individual is physically incapacitated, a medical statement certifying to the physical disability would be required, signed and dated by a licensed physician. The person presenting this statement would be required to personally identify him/herself and provide documentation of his/her relationship to the subject individual (e.g., marriage license, birth certificate, etc.).

If the subject individual is deceased, proof of death would be required, signed and dated by the appropriate certifying agency of Government. The person presenting this document would be required to personally identify him/herself and provide documentation of his/her relationship to the deceased (e.g., marriage license, birth certificate, etc.).

If a determination is made that the material sought contains medical information that is likely to have an adverse effect on either the subject individual or the determination of his/her request, the requester (whether the subject individual, his/her personal representative, an attorney other than the one shown on the application to the Board for Correction, a court appointed representative, or a guardian) shall be asked to designate in writing a physician or other health professional who is willing to review the material and inform the requester of its contents, at the discretion of the health professional. The person designated to evaluate the medical information must provide proof that he/she is duly authorized by the requester to review the material.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. The requester is required to specify reasonably the contents of the records being sought. Access to records granted exemptions from the Privacy Act access requirement is made at the discretion of the System Manager subject to the appropriate approvals. Denial of access is ultimately appealable to the Assistant Secretary for Health, Room 716G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

The requester may also ask for an accounting of disclosures that have been made of his/her records, if any.

CONTESTING RECORD PROCEDURES:

If access has been granted, the requester shall contact the System Manager above, reasonably identify the records, specify the information being contested, and state the corrective action sought, with supporting documentation to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Records are obtained from applicants; reports of findings and recommendations made by Board for Correction members; Board for Correction decisions; supervisors; private and Government physicians;

hospitals and clinics rendering treatment; investigative reports; death

Secretary—Indian Affairs by 209 DM 8.3A.

Judgment on Declaration of Taking, Civil Number 184 C.D., dated January 21,

Parcel 5

line of said SW¼SW¼ to a point on the

of, will be inserted in the conveyance or

hospitals and clinics rendering treatment; investigative reports; death certificates and reports of death; survivors and executors of estates; private and Government agency reports on service delivery, compensation, disability and legal opinions; and records contains in systems 09–37–0002, "PHS Commissioned Corps Personnel Records, HHS/OASH/OM"; 09–37–0003, "PHS Commissioned Officer Medical Records, HHS/OASH/OM"; 09–37–0005, "PHS Commissioned Corps Board Proceedings, HHS/OASH/OM"; 09–37–0006, "PHS Commissioned Corps Grievance; Non-Board and Pre-Board Involuntary Retirement/Separation, and Disciplinary Files, HHS/OASH/OM"; 09–37–0008, "PHS Commissioned Corps Unofficial Personnel Files and other Station Files, HHS/OASH/OM."

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Applicants may obtain information from the proposed record system except for the the exemption allowed in accordance with the provisions of 5 U.S.C. 552a(k)(5). The exemption includes investigatory material compiled by the Board for Correction or obtained from CPOD to the extent that disclosure of such material would reveal the identity of a confidential source when an express promise has been given to withhold that identity. This exemption applies only in those cases where the source provides expert opinion related to the subject individual's suitability, eligibility or qualification for Federal civilian employment or military service.

Additionally, in accordance with exemption (k)(6) of 5 U.S.C. 552a, the Board for Correction will protect from disclosure testing and examination materials relating to determining the qualifications of PHS Commissioned Corps officers for appointment or promotion, if disclosure of such materials could compromise the objectivity or fairness of the testing and examination process.

[FR Doc. 85–17095 Filed 7–17–85; 8:45 am]

BILLING CODE 4610–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Crow Creek Sioux Tribe; Crow Creek Sioux Indian Reservation, Fort Thompson, South Dakota; Transfer of Federally Owned Lands

July 9, 1985.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Deputy Assistant Secretary—Indian Affairs by 209 DM 8.3A.

On September 28, 1984, pursuant to authority contained in the Federal Property and Administrative Services Act of 1949 as amended by Public Law 93–599 dated January 2, 1975 (88 Stat. 1954), the below described property was transferred by the Administrator of the General Services Administration to the Secretary of the Interior without reimbursement to be held in trust by the United States for the benefit and use of the Crow Creek Sioux Tribe, Crow Creek Sioux Indian Reservation, Fort Thompson, South Dakota.

5th Principal Meridian

Parcel 1

A tract of land situated in the SE¼SW¼ of Section 24, Township 107 North, Range 72 West, Buffalo County, South Dakota, being more particularly described as follows:

Beginning at the Northeast corner of said SE¼SW¼; thence Southerly along the East line of said SE¼SW¼, 318.70 feet, more or less, to the centerline of existing highway; thence Northwesterly along said centerline to a point on the North line of said SE¼SW¼, said point being 490.90 feet Westerly of said Northeast corner; thence Easterly along said North line to the point of beginning.

Subject to a reservation in favor of the Crow Creek Tribe of Sioux Indians, et al., all mineral rights as described in Judgment on Declaration of Taking, Civil Number 184 C.D., dated January 21, 1955, United States District Court, Sioux Falls, South Dakota.

Subject to existing easements and encumbrances for public roads and highways, public utilities, railroads and pipelines and other easements and encumbrances of record, if any.

Parcel 2

A tract of land situated in the S½SW¼SE¼ of Section 24, Township 107 North, Range 72 West, Buffalo County, South Dakota, being more particularly described as follows:

Beginning at the Northeast corner of said S½SW¼SE¼; thence Southerly along the East line of said S½SW¼SE¼ to a point on the centerline of existing highway, said point being 170.20 feet Northerly of the Southeast corner of said S½SW¼SE¼; thence Northwesterly along a curve to the right, having a radius of 5,729.62 feet, a central angle of 04°58'00", 496.67 feet tangent to said curve being North 63°13'00" West, said curve being said centerline of existing highway; thence North 58°15'00" West to the North line of said S½SW¼SE¼; thence Easterly along said North line to the point of beginning.

Subject to a reservation in favor of the Crow Creek Tribe of Sioux Indians, et al., all mineral rights as described in Judgment on Declaration of Taking, Civil Number 184 C.D., dated January 21, 1955, United States District Court, Sioux Falls, South Dakota.

Subject to existing easements and encumbrances for public roads and highways, public utilities, railroads and pipelines and other easements and encumbrances of record, if any.

Parcel 3

A tract of land situated in the NE¼NE¼ of Section 25, Township 107 North, Range 72 West, Buffalo County, South Dakota, being more particularly described as follows:

Beginning at the Northeast corner of said Section 25; thence Southerly along the East line of said Section 25, 522.91 feet, more or less, to the centerline of the existing highway; thence Northwesterly along said centerline to a point on the North line of said Section 25, said point being 985.70 feet Westerly of said Northeast corner; thence Easterly along said North line to the point of beginning.

Subject to a reservation in favor of Dell Menzie and Rose Menzie for all oil and gas rights as described in Warranty Deed dated April 25, 1953, and recorded April 27, 1953, Book 8M of Misc. Records on page 3–4, records of Buffalo County, South Dakota.

Subject to existing easements and encumbrances for public roads and highways, public utilities, railroads and pipelines and other easements and encumbrances of record, if any.

Parcel 4

A tract of land situated in the S½NW¼NW¼ of Section 30, Township 107 North, Range 71 West, Buffalo County, South Dakota, being more particularly described as follows:

Beginning at the Northeast corner of said S½NW¼NW¼; thence Southerly along the East line of said S½NW¼NW¼ to a point on the centerline of the existing highway, said point being 132.50 feet Northerly of the Southeast corner of said S½NW¼NW¼; thence North 62°20'00" West along said centerline to the North line of said S½NW¼NW¼; thence Easterly along said centerline to the point of beginning.

Subject to a reservation in favor of L.P. Christensen, Victor D. Christensen, and Margery A. Christensen, all oil and gas rights as described in Warranty Deed dated August 11, 1953, and recorded August 13, 1953, in Book 17 of Deeds at Page No. 174, records of Buffalo County, South Dakota.

Subject to existing easements and encumbrances for public roads and highways, public utilities, railroads and pipelines and other easements and encumbrances of record, if any.

Parcel 5

A tract of land situated in the SE¼NW¼ of Section 30, Township 107 North, Range 71 West, Buffalo County, South Dakota, being more particularly described as follows:

Beginning at the Northeast corner of said SE¼NW¼; thence Southerly along the East line of said SE¼NW¼ to a point on the centerline of the existing highway, said point being 773.58 feet more or less Northerly of the Southeast corner of said SE¼NW¼; thence Northwesterly along said centerline to a point on the North line of said SE¼NW¼, said point being 290.10 feet Easterly of the Northwest corner of said SE¼NW¼; thence Easterly along said North line to the point of beginning.

Subject to a reservation in favor of the Crow Creek Tribe of Sioux Indians, et al., all mineral rights as described in Judgment on Declaration of Taking, Civil Number 184 C.D., dated January 21, 1955, United States District Court, Sioux Falls, South Dakota.

Subject to existing easements and encumbrances for public roads and highways, public utilities, railroads and pipelines and other easements and encumbrances of record, if any.

Parcel 6

A tract of land situated in the S½NE¼SE¼ of Section 30, Township 107 North, Range 71 West, Buffalo County, South Dakota, being more particularly described as follows:

Beginning at the Northeast corner of said S½NE¼SE¼; thence Southerly along the East line of said S½NE¼SE¼, 308.90 feet, more or less, to the centerline of the existing highway; thence Northwesterly along said centerline to a point on the North line of said S½NE¼SE¼, said point being 594.40 feet Easterly of the Northwest corner of said SW¼SW¼; thence Easterly along said North line to the point of beginning.

Subject to a reservation in favor of L.P. Christensen, Victor D. Christensen, and Margery A. Christensen, all oil and gas rights as described in Warranty Deed dated August 11, 1953, and recorded August 13, 1953, in Book 17 of Deeds at Page No. 174, records of Buffalo County, South Dakota.

Subject to existing easements and encumbrances for public roads and highways, public utilities, railroads and pipelines and other easements and encumbrances of record, if any.

Parcel 7

A tract of land situated in the SW¼SW¼ of Section 29, Township 107 North, Range 71 West, Buffalo County, South Dakota, being more particularly described as follows:

Beginning at the Northeast corner of said SW¼SW¼; thence Southerly along the East line of said SW¼SW¼ to a point on the centerline of the existing highway, said point being 992.34 feet Northerly of the Southeast corner of said SW¼SW¼; thence Northwesterly along said centerline to a point on the North line of said S½NE¼SE¼; said point being 594.40 feet Easterly of the Northwest corner of said SW¼SW¼; thence Easterly along said North line to the point of beginning.

Subject to a reservation in favor of L.P. Christensen, Victor D. Christensen, and Margery A. Christensen, all oil and gas rights as described in Warranty Deed dated August 11, 1953, and recorded August 13, 1953, in Book 17 of Deeds at Page No. 174, records of Buffalo County, South Dakota.

Subject to existing easements and encumbrances for public roads and highways, public utilities, railroads and pipelines and other easements and encumbrances of record, if any.

Parcel 8

A tract of land situated in the NW¼NE¼ of Section 32, Township 107 North, Range 71 West, Buffalo County, South Dakota, being more particularly described as follows:

Beginning at the Northeast corner of said NW¼NE¼; thence Southerly along the East line of said NW¼NE¼ 612.50 feet, more or less, to the centerline of the existing highway; thence Northwesterly along said centerline to a point on the North line of said NW¼NE¼, said point being 281.40 feet Easterly of the Northwest corner of said Northwest corner of said NW¼NE¼; thence Easterly along said North line to the point of beginning.

Subject to a reservation in favor of the Crow Creek Tribe of Sioux Indians, et al., all mineral rights as described in Judgment of Declaration of Taking, Civil Number 184 C.D., dated January 21, 1955, United States District Court, Sioux Falls, South Dakota.

Subject to a perpetual permit No. DA–25–066–CIVENG–61–818, granted by the United States of America, Secretary of the Army, to the Department of Interior, Bureau of Indian Affairs for the construction, use and maintenance of a road, as it now exists, over and across the above described property.

Subject to existing easements and encumbrances for public roads and highways, public utilities, railroads and pipelines and other easements and encumbrances of record, if any.

Preservation Covenant

Transfer of Parcels 7 and 8 is subject to the conditions, restrictions, and limitations hereinafter set forth which shall be considered as covenants running with the property, and which the transferee, its heirs, and assigns covenant and agree, in the event that the property is sold or otherwise disposed of, will be inserted in the conveyance or other instrument disposing of the property.

1. No physical change to the archeological site or its surface or surface covering will be made without the written approval of the South Dakota State Historic Preservation Officer.

2. Scientific investigation of the archeological site involving removal of its contents or disturbance of any area within the site boundaries will be permitted only if the investigations are conducted in a professional manner under the direction of a person(s) meeting the professional standards for archeologists established by the U.S. Department of the Interior and after (a) written approval by the South Dakota State Historic Preservation Officer of a research design which will ensure adequate recovery of data that makes the site significant; and (b) the owner has granted consent to the implementing individuals for conducting such work on the property.

3. The South Dakota State Historic Preservation Officer will be contacted by the owner upon completion of any scientific investigation or after any disturbance of the site in order that the State Historic Preservation Officer can conduct, or cause to be conducted, an inspection of the site to determine the necessity for retaining the protection provided by these covenants.

4. The owner shall not allow removal or collecting of artifacts from the archeological site except under the provision for scientific investigation described above.

5. The above restriction shall be binding on the parties hereto, to their heirs, successors, and assigns, in perpetuity or until the site no longer retains the data that makes it significant.

6. The State Historic Preservation Officer may, for good cause, modify or cancel any or all of the foregoing restrictions upon application of the grantee, his heirs and assigns.

7. In the event of a violation of the above restrictions, GSA or the South Dakota State Historic Preservation Officer may institute a suit to enjoin such violation or for damages by reason of any breach thereof.

The acceptance of this transfer shall constitute conclusive evidence of the agreement of the transferee to be bound by the conditions, restrictions, and limitations and to perform the obligations herein set forth.

Parcel 9

That portion of S½NW¼ of Section

as an Area of Critical Environmental Concern and the availability of the Final

ACTION: Notice of Realty Action—Exchange, Public Lands in Mohave

the mineral leasing laws. This segregation will terminate upon the

Sec. 16: All;
Sec. 36: All.

The non-Federal lands described above are subject to prior Federal

Parcel 9

That portion of S½NW¼ of Section 13 and the S½S½NE¼NE¼, S½SE¼NW¼NE¼ of Section 14, Township 106 North, Range 71 West, Buffalo County, South Dakota, lying Northerly of the centerline of the existing highway.

Subject to a reservation in favor of the Crow Creek Tribe of Sioux Indians et al., all mineral rights as described in Judgment on Declaration of Taking, Civil Number 184 C.D., dated January 21, 1955, United States District Court, Sioux Falls, South Dakota.

Subject to a permit, No. DACW 45-4-71-6042, which expires April 9, 2021, granted by the United States of America, Secretary of the Army, to the Department of the Interior, Bureau of Indian Affairs for the construction, use and maintenance of a road, as it now exists, over and across the above described property.

Subject to existing easements and encumbrances for public roads and highways, public utilities, railroads and pipelines and other easements and encumbrances of record, if any.

These lands are to be treated and receive the same benefits and protection as other trust lands held for the benefit and use of the Crow Creek Sioux Tribe. Appropriate notation will be made to the land records of the Bureau of Indian Affairs.

Hazel E. Elbert,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 85-17118 Filed 7-17-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Designation of the Red Hills Area of Critical Environmental Concern, Bakersfield District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice that Certain Public Lands in the Folsom Resource Area, Bakersfield District, California are Designated as an Area of Critical Environmental Concern (ACEC).

SUMARY: Notice is hereby given pursuant to authority in the Federal Land Policy and Management Act of 1976 (Sec. 202(c)(3)), 43 CFR Part 1610, and land use decisions developed in the Sierra Management Framework Plan (February 1983), that public lands within the Red Hills Management Area are designated as an Area of Critical Environmental Concern.

SUPPLEMENTARY INFORMATION: Notice of the intent to designate public lands within the Red Hills Management Area as an Area of Critical Environmental Concern and the availability of the Final Red Hills Management Plan and Environmental Assessment were published in the **Federal Register** on March 8, 1985. The Record of Decision and final management plan call for the management of the Red Hills as an ACEC.

The Red Hills ACEC is located in western Tuolumne County, southwest of Chinese Camp and east of Keystone. The ACEC was identified to protect five sensitive plant species found in the area. Major components of the plan are to restrict cumulative surface disturbance to less than five percent, and to close the ACEC to off-road vehicle activity.

The following described lands (approximately 4,500 acres) are hereby designated as the Red Hills Area of Critical Environmental Concern (ACEC):

Mount Diablo Meridian, California

T. 1 S., R. 13 E.,
Sec. 12, S½;
Sec. 13, NW¼N½NE¼, SE¼NE¼, NE¼SE¼;
T. 1 S., R. 14 E.,
Sec. 7, Lot 4;
Sec. 16, N½NW¼, NE¼, SE¼, S½SE¼, SE¼SW¼, S½SE¼SW¼;
Sec. 18, Lots 1, 2, N½ Lot 3;
Sec. 19, N½SW¼NE¼, SW¼SW¼NE¼;
Sec. 20, S½SE¼, SE¼SE¼SW¼, SE¼NE¼SE¼SW¼, SE¼SW¼SE ¼SW¼;
Sec. 21, S½S½, NW¼SW¼;
Sec. 22, S½NE¼, SE¼, S½SW¼;
Sec. 23, Lots 4, 5, 8, 9, 10, 12, 13, 14, 15, 16;
Sec. 24, SW¼NW¼, SW¼NE¼, SW¼, W½NW¼SE¼;
Sec. 25, NW¼NW¼NW¼, NE¼NW¼NW¼, SW¼NW¼NW¼;
Sec. 26, Lots 1–8, includes W½ Lot 9, 10–15, includes W¼ Lot 16;
Sec. 27, N½NE¼, E½SE¼NE¼, SW¼N¼, W½SE¼, W½;
Sec. 28, E½, NW¼;
Sec. 29, NE¼, E½NW¼;
Sec. 34, W½NE¼NE¼, NW¼,NE¼, N½NW¼;
Sec. 35, Lots 21, 25.

FOR FURTHER INFORMATION CONTACT: Deane K. Swickard, Folsom Resource Area Manager, 63 Natoma Street, Folsom, California 95630 (916) 985–4474.

Dated: July 11, 1985.

Richard F. Johnson,

Acting State Director, California.

[FR. Doc. 85-17120 Filed 7-17-85; 8:45 am]

BILLING CODE 4310-40-M

[A-20225]

Realty Action; Public Lands Exchange in Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Exchange, Public Lands In Mohave County, Arizona.

SUMMARY: The following described lands and interests therein have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 21 N., R. 18 W.,
Sec. 34, SW¼.
T. 20 N., R. 18 W.,
Sec. 13, S½S½;
Sec. 14, E½SE¼SE¼ and E½W½S E¼SE¼.

Comprising 350 acres, more or less.

In exchange for these lands, the United States will acquire the following described lands from the Western Progress Company of Kingman, Arizona.

Gila and Salt River Meridian

T. 19 N., R. 18 W.,
Sec. 29, all.

Comprising 640 acres, more or less.

The public lands to be transferred are subject to the following terms and conditions:

1. Reservations to the United States—(a) right-of-way for ditches and canals pursuant to the Act of August 30, 1890; (b) all the oil and gas and with it, the right to prospect for, mine and remove same; and (c) electric distribution right-of-way A–16998.

2. Subject to—(a) prior valid rights existing as of the date of this action; (b) electric distribution right-of-way PHX–034352; (c) telephone line right-of-way PHX–079765; (d) Topock-Oatman Road right-of-way A–21021; (e) such rights for road right-of-way purposes as the Mohave County Board of Supervisors may have under Revised Statute 2477; (f) any restrictions that may be imposed by the Mohave County Board of Supervisors in accordance with county floodplain regulations established under Resolution No. 84–10 of July 16, 1984; and (g) the right of the grazing lessee to continue the grazing use of those public lands in sections 13 and 14, T. 20 N., R. 18 W., through September 29, 1985.

Private lands to be acquired by the United States will be subject to the following reservations:

1. All minerals in the subject are reserved to the New Mexico and Arizona Land Company as set forth in Book 92 of Deeds, page 166, Mohave County, Arizona.

Publication of this Notice will segregate the subject lands from all appropriations under the public lands laws, including the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination.

Detailed information concerning this exchange can be obtained from the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401. For a period of forty-five (45) days from the date of this Notice, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of the Interior.

Dated: July 11, 1985.

Marlyn V. Jones,

District Manager.

[FR Doc. 85-17111 Filed 7-17-85; 8:45 am]

BILLING CODE 4310-32-M

Realty Action, Exchange of Public Lands in Boundary, Bonner, Kootenai Counties, ID

AGENCY: Bureau of land Management (BLM), Interior

ACTION: Notice

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 53 N., R. 5 W., B.M.,
Sec. 28: NE¼SE¼.
T. 56 N., R. 5 W., B.M.,
Sec. 3: S½SE¼,
Sec. 10: E½SE¼.
T. 56 N., R. 3 W., B.M.,
Sec. 12: S½SE¼.
T. 56 N., R. 2 W., B.M.,
Sec. 8: S½SE¼;
Sec. 19: Lots 1, 2, 3, 4, SE¼, E½SW¼.
T. 57 N., R. 3 W., B.M.,
Sec. 17: S½NW¼NE¼NW¼.
T. 62 N., R. 3 E., B.M.,
Sec. 10: Lot 4, SE¼SW¼,SW¼SE¼
Sec. 15: Lots 1 & 2.
T. 64 N., R. 4 W., B.M.,
Sec. 35: SW¼SW¼.

Containing 942.43 acres.

In exchange for these lands, the Federal Government will acquire scattered sections of non-Federal lands in Blaine and Power Counties from the State of Idaho, described as follows:

T. 5 S., R. 27 E., B.M.,
Sec. 36: All.
T. 6 S., R. 27 E., B.M.,
Sec. 16: All;
Sec. 36: All.
T. 6 S., R. 28 E., B.M.,
Sec. 16: All;
Sec. 25: SE¼SW¼, W½NW¼SW¼SE¼, SW¼SW¼SE¼;
Sec. 36: W½NE¼NW¼NE¼, W½NW¼NE¼, W½SW¼NE¼, NW¼, N½NE¼SW¼, N½S½NE¼SW¼, S½SW¼NE¼SW¼, SW¼SE¼NE¼SW¼, W½SW¼, NE¼NW¼SE¼SW¼, W½S½SE¼SW¼, NW¼NW¼SE¼.
T. 7 SE., R. 27 R., B.M.,
Sec. 16: N½, E½SE¼SW¼, SE¼SW¼, SE¼, N½SW¼;
Sec. 36: All.
T. 7 S., R. 28 E., B.M.;
Sec. 16: All;
T. 8 S., R. 27 E., B.M.,
Sec. 16: All.
T. 8 S., R. 28 E., B.M.,
Sec. 16: All.

Containing 6,140 acres.

The purpose of the exchange is to dispose of scattered, difficult to manage public lands while acquiring State-owned lands which would compliment management of the Bureau's Wapi Lava Flow portion of the proposed Great Rift Wilderness Area. The exchange is consistent with the Bureau's planning and has been discussed with Federal, State and local governmental agencies, public land user groups and individuals through participation in the Bureau's Land Use Planning Process. The public interest will be well served by making the exchange. The exchange will include both surface and mineral estates.

The acreage of the lands to be exchanged will be adjusted so that the acreage exchanged will be equal in value. The State of Idaho's offered land has been appraised at $25 per acre.

The terms and conditions applicable to the exchange are:

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Those rights for powerline purposes as granted to Northern Lights, Inc. under serial number I–017450.

3. Those rights for pipeline purposes as granted to Pacific Gas Transmission Company under serial numbers I–9099 and I–011838.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant.

The non-Federal lands described above are subject to prior Federal reserved minerals. The prior Federal interests are hereby segregated to the extent that such interests will not be subject to appropriation under the mining laws until a notice pursuant to 43 CFR 2200.3(a) is issued.

Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401.

For a period of 45 days, interested parties may submit comments to the Idaho Falls District Office, at the address listed above.

For Further Information Contact: O'dell A. Frandsen, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401; Telepone: (208) 529–1020.

July 9, 1984.

O'dell A. Frandsen,

District Manager.

[FR Doc. 85-17113 Filed 7-17-85; 8:45 am]

BILLING CODE 4310-GG-M

[W-90883]

Realty Action; Noncompetitive Sale of Public Land in Sweetwater County, WY

July 8, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Direct sale of public land in Sweetwater County, Wyoming.

SUMMARY: The following public lands have been examined and found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at not less than the appraised fair market value of $6,250.00. The lands will not be offered for sale until 60 days after the date of this notice.

Sixth Principal Meridian

T. 18 N., R. 105 W.,
Sec. 20: SW¼SE¼SW¼, SE¼NE¼SW¼SW¼, E½SE¼SW¼SW¼, S½NW¼SE¼SW¼, S½N½NW¼SE¼SW¼.

The above-described lands, containing 25 acres, are proposed to be offered for direct sale to the Sweetwater County Solid Waste Disposal District No. 1 which plans to construct a County industrial waste disposal facility adjacent to their existing sanitary landfill operation. The land proposed for sale is presently leased to the Solid Waste District for the landfill under authority of the Recreation and Public Purposes Act. The Recreation and Public

Purposes classification and lease on the affected lands would be terminated at

[W-059320, W-068665, W-094163, W-0150106, W-0321051, W-28577, W-34584]

T. 29 N., R. 75 W.,
Sec. 28, NW¼NW¼NE¼, NW¼SW¼

SUMMARY: Emergency coal lease application on public land in Carbon

Parcel	Legal description	Acres	Sale type

along with twenty percent (20%) of the full bid price, must accompany each bid

Purposes classification and lease on the affected lands would be terminated at the time of sale.

The sale is consistent with the Bureau's planning system. The lands are needed for any resource program and are not suitable for management by the Bureau or another Federal department or agency. After consulting with Sweetwater County officials and members of the public, it has been determined that the public interest would be served by offering the lands for sale.

All minerals except oil and gas and coal beneath the parcel will also be offered for conveyance. The mineral interest being offered have no known mineral value. A bid on the parcel will also constitute application for conveyance of those mineral interests offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)). The bid must be accompanied by a fifty dollar ($50.00) non-returnable filing fee to process the mineral conveyance.

The BLM must receive fair market value for the land sold and a bid for less than fair market value will be rejected. The BLM may accept or reject the offer, or withdraw any land or interest on the land for sale if the sale would not be consistent with FLPMA or other applicable law. Requests for information about the sale should be sent to BLM, Salt Wells Resource Area, P.O. Box 1170, Rock Springs, Wyoming 82902–1170 (Phone 307–362–7350).

The patent issued as the result of the sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for ditches and canals.

For period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Donald Sweep,

District Manager.

[FR Doc. 85–17112 Filed 7–17–85; 8:45 am]

BILLING CODE 4310-22-M

[W-059320, W-059665, W-094183, W-0150196, W-0321051, W-28577, W-34584]

Wyoming; Notice of Proposed Continuation of Forest Service Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service proposes a 537.40 acre withdrawal for an administrative site and recreational areas continue for an additional 20 years. The lands remain closed to the operation of the mining laws. They have been and will remain open to surface entry and mineral leasing.

DATE: Comments and requests for a public meeting should be received on or before October 16, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307–772–2089.

SUPPLEMENTARY INFORMATION: The U.S. Forest Service proposes that the existing withdrawals made by Public Land Order No. 2278, as modified by PLO 4788, and PLO No's 2796, 2978, 3250, 3777, 4265, 5140 and 5293, dated February 27, 1961, April 2, 1970, October 19, 1962, March 18 and October 10, 1963, August 10, 1965, August 30, 1967, October 18, 1971, October 11, 1972, and Executive Order 8519 of August 19, 1940, be continued for an additional 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as they affect the following described lands:

Sixth Principal Meridian

Medicine Bow National Forest

T. 14 N., R. 71 W.,
Sec. 7, S½N½, S½ of lot 1, NW¼SW¼ SE¼;
Sec. 18, N½NW¼NE¼;
Sec. 20, W½SW¼SE¼, SE¼SW¼SE¼, SE¼SE¼SE¼;
Sec. 29, N½NE¼NE¼, NW¼NE¼, NE¼NE¼NW¼.
T. 28 N., R. 71 W.,
Sec. 1, SW¼NW¼SW¼;
Sec. 2, S½NE¼NE¼SE¼, SE¼NE¼SE¼;
Sec. 9, Block 1, lots 1–5; Block 2, lots 1–5, 16–20; Block 3, lots 1–5, 16–20.
T. 15 N., R. 72 W.,
Sec. 23, S½NE¼SW¼, NW¼SE¼SW¼, W½E½SE¼SW¼, E½SW¼SE¼SW¼;
Sec. 24, S½NE¼SW¼, NW¼SE¼, N½SW¼SE¼.
T. 28 N., R. 73 W.,
Sec. 8, S½SW¼SE¼.
T. 29 N., R. 75 W.,
Sec. 28, NW¼NW¼NE¼, NW¼SW¼ NE¼.
T. 13 N., R. 77 W.,
Sec. 19, NW¼ of lot 6.
T. 12 N., R. 78 W.,
Sec. 23, SW¼ of lot 4.
T. 13 N., R. 78 W.,
Sec. 27, W½NW¼SW¼NW¼;
Sec. 28, NE¼SW¼NE¼, N½SE¼SW¼ NE¼, NE¼SE¼NE¼.
T. 16 N., R. 78 W.,
Sec. 16, W½NW¼NW¼NW¼, SW¼ NW¼NW¼, NW¼SW¼NW¼;
Sec. 17, NE¼NE¼NE¼, E½SE¼NE¼ NE¼, E½NE¼SE¼NE¼.
T. 13 N., R. 80 W.,
Sec. 6, E½ of lot 5, W½SE¼NW¼.
T. 14 N., R. 80 W.,
Sec. 31, SE¼SE¼SW¼, NE¼SW¼SE¼, W½SE¼SW¼SE¼, W½NE¼SE¼SE¼, NW¼SE¼SE¼.

The areas described aggregate 537.40 acres in Albany, Carbon and Converse Counties.

The purpose of the withdrawal is to protect the capital investments for the Esterbrook Administrative Site and the recreational areas. The withdrawal segregates the lands from the operation of the mining laws, but not from surface entry and mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawals may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Gerald L. Jessen,

Acting State Director.

[FR Doc. 85–17110 Filed 7–17–85; 8:45 am]

BILLING CODE 4310-22-M

Public Meeting; Emergency Coal Lease Application on Public Land in Carbon and Emery Counties; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting; Correction.

SUMMARY: Emergency coal lease application on public land in Carbon and Emery Counties.

For FR Doc. 85–15825 appearing on page 27364 in issue of Tuesday, July 2, 1985 note the following corrections:

1. The title should read: "NOTICE OF PUBLIC MEETING; EMERGENCY COAL LEASE APPLICATION ON PUBLIC LAND IN EMERY COUNTY".

2. The summary should read: "Emergency Coal Lease Application on Public Land in Emery County".

3. In 2nd column in 2nd paragraph beginning on the sixth line the information that appeared "the 278.16 acre tract (U–54762) is located on the Manti-La Sal National Forest in Carbon and Emery Counties approximately 5 miles west of Hiawatha, Utah" should have read, "the 256.46 acre tract (U–54762) is located on the Manti-La Sal National Forest in Emery County approximately 10 miles west of Hiawatha, Utah".

Dated: July 11, 1985.

Gary Hansen,

Acting District Manager.

[FR Doc. 85–17041 Filed 7–17–85; 8:45 am]

BILLING CODE 4310-DQ-M

Sale of Public Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Sale of Public lands in Lemhi County and Custer County, Idaho.

DATE AND ADDRESS: The sale offering will be held on Thursday, September 19, 1985, at 10:00 a.m. at the Salmon District Office, Box 430, Salmon, Idaho 83467. Unsold parcels will be offered every Thursday through December 19, 1985.

SUMMARY: Based on public supported land use plans the following described lands has been examined and identified as suitable for disposal by public sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. U.S.C. 1713), at no less than the appraised fair market value.

Sealed bids only will be accepted for each parcel offered for sale. The appraised values will be available after August 15, 1985 by contacting the Salmon District Office.

The below described lands are hereby segregated from all appropriations under the public land laws, including the mineral laws, as provided by 43 CFR 2711.1–2(d).

Parcel	Legal description	Acres	Sale type
I–22074, I–4(61).	T. 9 N., R. 22 E., B.M., Sec. 17: Lot 2.	17.91	Competitive.
I–22075, I–4(62).	T. 9 N., R. 22 E., B.M., Sec. 17: Lots 3, 6, 8.	62.45	Do.
I–22076, I–4(63).	T. 9 N., R. 22 E., B.M., Sec. 17: Lot 9.	25.53	Do.
I–21324, I–4(58).	T. 13 N., R. 23 E., B.M., Sec. 34: NE¼NE¼.	40.00	Modified competitive.
I–19635, I–4(27).	T. 8 N., R. 22 E., B.M., Sec. 6: Lot 9.	40.00	Competitive.
I–21325, I–4(45).	T. 16 N., R. 25 E., B.M., Sec. 35: NW¼NE¼.	40.00	Do.
I–21326, I–4(46).	T. 16 N., R. 25 E., B.M., Sec. 35: NW¼SE¼SW¼.	10.00	Do.
I–21327, I–4(47).	T. 16 N., R. 25 E., B.M., Sec. 35: N½NE¼ NW¼SE¼, SW¼NE¼ NW¼SE¼, NW¼NW¼SE¼, N½SW¼ NW¼SE¼, SW¼SE¼ NW¼SE¼.	25.00	Do.
I–21328, I–4(49).	T. 16 N., R. 25 E., B.M., Sec. 25: SW¼SW¼.	40.00	Do.
I–21330, I–4(50).	T. 16 N., R. 25 E., B.M., Sec. 11: SW¼SW¼.	40.00	Modified, competitive.

When patented the lands will be subject to the following reservations.

1. Ditches and Canals (43 U.S.C. 945).

2. Oil and gas leasing and development (43 U.S.C. 1719).

3. All valid and existing rights and reservations of record.

4. Sale of I–21327 will be subject to temporary continued use of existing grazing privileges. The successful bidder agrees that the real estate is taken, subject to the grazing use occurring within the State Section grazing allotment (No. 6220) by Charles Shiner. The privilege to graze domestic livestock on the real estate according to the terms and conditions of grazing permit No. 4708 dated January 8, 1983, shall cease on February 28, 1989. The level of use allowed on the real estate under the above grazing permit will not exceed 12 animal unit months annually. The successful bidder is entitled to receive annual grazing fees from Charles Shiner in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register**. If at any time prior to the expiration date listed above the permitted sells or leases to another person the condition of patent is null and void.

Sale Procedures

Bids for less than the appraised fair market value will not be accepted. A bid will constitute an application for conveyance of mineral interests of no known value. A $50.00 non-returnable filing fee for processing the mineral, along with twenty percent (20%) of the full bid price, must accompany each bid. Bids must be accompanied by a certified check, postal money order, or cashier's check made payable to the Bureau to Land Management. Bids will be rejected if accompanied by a personal check.

Sale parcels I–21324 and I–21330 are being offered at public auction subject to preference bidding designations to allow Dick Coleman, P.O. Box 5, Ellis, Idaho, 83235 to meet the highest bid on I–21324 and to allow Jack Powers, P.O. Box 203, Leadore, Idaho, 83464 to meet the highest bid on I–21330. Both of these preference right bidders must submit a bid on September 19, 1985, in order to exercise their preference. They will be allowed 30 days from the date of sale to match the highest bid. If no bid is received from a preference right bidder, the preference right will be waived and the parcel will be subject to competitive sale procedures as outlined above. This preference right is being allowed based on adjacent landownership, historical use and restricted access.

SUPPLEMENTARY INFORMATION: Detailed information concerning the sale terms and conditions, bidding instructions and procedures, appraisal and other details may be obtained by contacting the District Office at the above address or by calling (208) 756–2201. For a period of 45 days from the date of this notice, interested parties may submit comments to the Salmon District Manager at the above address.

Dated: July 9, 1985.

Kenneth G. Walker,

District Manager.

[FR Doc. 85–17122 Filed 7–17–85; 8:45 am]

BILLING CODE 4310-GG-M

[CA 16639]

California; Exchange of Public and Private Lands in Tehama County

July 11, 1985.

AGENCY: Bueau of Land Management, Interior.

ACTION: Notice of Issuance of Land Exchange Conveyance Document and order opening lands acquired in this exchange.

SUMMARY: The purpose of this exchange was to acquire a portion of the non-Federal lands within the proposed 13,030-acre preserve for the Coachella Valley fringe-toed lizard. The lizard is Federally listed as threatened and State listed as endangered. The Bureau of Land Mangement's goal is to acquire 6,700 acres of the preserve. Other State or Federal agencies will acquire the

remaining portion of the preserve. The values of the public and private lands in the exchange were equalized by a cash

The private land described above contains 850.00 acres.

At 10 a.m. on August 30, 1985, the

Sec. 35, lot 1, 2, 4 and 5, SE¼NE¼, SE¼ SW¼, NE¼SE¼ and S½SE¼;

the public land laws generally, including the mining laws but not mineral leasing

for how long. The final determination on

remaining portion of the preserve. The values of the public and private lands in the exchange were equalized by a cash payment in the amount of $6,625 from The Nature Conservancy. The public interest was well served through completion of this exchange. The land acquired in this exchange will be opened to the operation of the public land laws and to the full operation of the United States mining and mineral leasing laws.

EFFECTIVE DATE: March 14, 1985.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 484–4431.

The United States issued an exchange conveyance document to The Nature Conservancy on March 14, 1985, for the following described public land under the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2758, 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 8 S., R. 8 E.,
- Sec. 4, Fractional NW¼, SW¼, and W½SE¼;
- Sec. 10, E½SW¼;
- Sec. 14, SW¼SE¼;
- Sec. 22, E½, E½NW¼, E½NW¼NW¼, E½NE¼SW¼, SW¼NW¼SW¼, W½ SW¼SW¼, and NE¼SE¼SW¼;
- Sec. 28, E½NE¼, NW¼NE¼, E½SW¼ NE¼, NW¼SW¼NE¼, N½NW¼, NE¼ SW¼NW¼, N½SE¼NW¼, S½SW¼, SW¼SE¼, and S½SE¼SE¼.

Comprising 1,335.41 acres of public land.

In exchange for these lands, the United States acquired the following described land from The Nature Conservancy:

Parcel 1. Section 34, Township 3 South, Range 6 East, San Bernardino Base and Meridian, according to the Official Plat thereof;

Except all sodium, as reserved to the United States of America, together with the right to prospect for, mine and remove same, in Patent to William A. Whitlow and Minnie A. Whitlow, recorded April 7, 1965, as Instrument No. 39903 of Official Records of Riverside County, California.

Parcel 2. The Southwest Quarter, the Northwest Quarter of the Southeast Quarter, the Northwest Quarter of the Southwest Quarter of the Southeast Quarter of Section 35, Township 3 South, Range 6 East, San Bernardino Base and Meridian, according to the Official Plat thereof.

Subject To Agreement dated February 10, 1984, by and between Cathton Investments, Inc., C.I. Indio, Inc., and Nature Conservancy, copy of which is on file at District Office of Bureau of Land Management in Riverside, California.

The private land described above contains 850.00 acres.

At 10 a.m. on August 20, 1985, the lands described under Parcels 1 and 2 above shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on August 20, 1985, shall be considered as simultaneously filed at the time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on August 20, 1985, the lands described under Parcels 1 and 2 above shall be open to applications under the United States mining laws and mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E–2841, 2800 Cottage Way, Sacramento, California 95825.

Sharon N. Janis,
Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85–17046 Filed 7–17–85; 8:45 am]

BILLING CODE 4301–84–M

[CA 7572 WR, CA 7573 WR, CA 7576 WR]

California; Proposed Continuation of Withdrawals

July 11, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, Mid-Pacific Region, proposes that three land withdrawals in the Los Padres National Forest aggregating approximately 20,641 acres continue for an additional 50 years for the Cachuma Project. The lands would remain closed to surface entry and mining. As provided by Secretarial Order No. 2714 dated January 27, 1953, until further notice, no oil and gas lease under the Mineral Leasing Act of February 25, 1920, as amended, shall be issued affecting about 19,133 acres of land within the subject withdrawals. This is a separate order issued by the Secretary on the recommendation of the Department of Agriculture.

DATE: Comments should be received by October 16, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E–2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Anniteen Pack-Lovelace, California State Office, (916) 484–4431.

The Bureau of Reclamation proposes to continue three existing withdrawals of land for a period of 50 years pursuant to the provisions of Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The withdrawals are described as follows:

San Bernardino Meridian

CA 7572 WR

Secretarial Order dated July 3, 1943

T. 5 N., R. 29 W.,
- Sec. 3, S½SW¼, and SW¼SE¼.

T. 6 N., R. 29 W.,
- Sec. 29, lots 1, 2, and 3;
- Sec. 30, lots 1, 2, and 4.

The areas described aggregate 265.83 acres in Santa Barbara County.

CA 7573 WR

Secretarial Order dated February 20, 1946

T. 5 N., R. 29 W.
- Sec. 4, lots 1, 5, 9 to 12 and SE¼;
- Sec. 5, lots 1 to 3, 6 to 11 and 13 to 16; inclusive;
- Sec. 6, lots 5, 6, 7, SE¼NE¼, E½SW¼ and SE¼;
- Sec. 8;
- Sec. 8;
- Sec. 16, N½.

T. 6 N., R. 29 W.,
- Sec. 32, W½, N½SE¼ and SW¼SE¼;
- Sec. 33, W½SW¼;
- Sec. 34, lots 1 and 2.

The areas described aggregate 3332.15 acres in Santa Barbara County.

CA 7576 WR

Bureau of Land Management Order dated November 30, 1948

T. 5 N., R. 28 W.,
- Sec. 1, lots 1 to 6, S½N½, N½N½SW¼, SE¼NE¼SW¼, N½SE¼ and N½N½ SW¼SE¼;
- Sec. 2;
- Sec. 3;
- Sec. 4, lots 2, 4, 5, SE¼NE¼, E½SW¼ and SE¼;
- Sec. 5, lots 2, 3, 4 and S½S½;
- Sec. 6, lot 1;
- Sec. 7;
- Sec. 8, lots 2 to 6, E½NE¼ and NE¼SE¼;
- Sec. 9, lots 2, 3 and 4, SE¼NW¼, E½SW¼ and SE¼;
- Sec. 10, S½N½, SW¼ and W½SE¼;
- Sec. 11, S½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, and SE¼;
- Sec. 12, NE¼NE¼, NE¼NW¼NE¼, S½ NW¼NE¼, S½NE¼ and S½;
- Sec. 13;
- Sec. 14, N½ and SE¼;
- Sec. 15, N½, N½SW¼, SE¼SW¼ and W½SE¼;
- Sec. 17, E½NW¼, SW¼NW¼ and W½ SW¼;
- Sec. 19.

T. 6 N., R. 28 W.,
- Sec. 24, SE¼SE¼;
- Sec. 25, lots 1 to 4, NE¼NE¼, S½NE¼, E½SW¼ and SE¼;
- Sec. 26, lot 1;
- Sec. 34, lot 1;

- Sec. 35, lot 1, 2, 4 and 5, SE¼NE¼, SE¼ SW¼, NE¼SE¼ and S½SE¼;
- Sec. 36.

T. 5 N., R. 29 W.,
- Sec. 1 lots 3 to 6;
- Sec. 2, S½SW¼ and SW¼SE¼;
- Sec. 7;
- Sec. 10, W½NE¼, SE¼NE¼, W½ and SE¼;
- Sec. 11, W½NE¼, SE¼NE¼, W½ and SE¼;
- Sec. 12, SE¼NE¼, W½ and SE¼;
- Sec. 12, W½NE¼, SE¼NE¼, W½ and W½SE¼;
- Sec. 14;
- Sec. 15;
- Sec. 22;
- Sec. 23;
- Sec. 25, NW¼ and W½SW¼;
- Sec. 26, E½NW¼ and NE¼SW¼;
- Sec. 27, NE¼, N½SE¼ and SE¼SE¼.

T. 6 N., R. 29 W,
- Sec. 31, lots 2, 3, 4, and E½E½.

T. 5 N., R. 30 W.,
- Sec. 1, lots 1, 2, 3, 5, 6, and 7, SW¼NE¼, S½NW¼, SW¼ and W½SW¼;
- Sec. Sec. 12, lots 1 to 4, W½E½ and W½.

The areas described aggregate 17,042.82 acres in Santa Barbara County.

The purpose of the Reclamation withdrawals is to protect lands for the Cachuma Project. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws but not mineral leasing. No change is proposed in the purpose or segregative effect of the Reclamation withdrawals.

Secretarial Order No. 2714 provides that all pending applications for oil and gas leases and all applications for such leases shall be rejected. The overlapping order was issued to protect Forest Service watershed and wild-area values of the land.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the California State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and is resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will conintue until such final determination is made.

Sharon N. Janis,
Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85–17047 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–84–M

California; Sale of Public Land in Calaveras County

The following described land has been examined and through the development of land use planning decisions based on public input, resource considerations, regulations and Bureau policies, it has been determined that the proposed sale of these parcels is consistent with the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, (90 Stat. 2750; 43 U.S.C. 1713). Sale parcels will be offered for sale September 20, 1985, at no less than the appraised fair market value using competitive and modified competitive sale procedures.

Serial No.	Legal description	Acres	Fair market value	Bidding procedure
CA 16847	T. 3 N., R. 13 E., MDM, Sec. 29, Lot 13	1.93	$5,000	Modified competitive
CA 17465	T. 5 N., R. 14 E., MDM, Sec. 5, Lot 2	37.20	35,350	Do.
CA 17466	T. 6 N., R. 14 E., MDM, Sec. 29, Lots 3, 4, and 5; Sec. 32, Lots 6 and 7	86.57	103,250	Do.

The BLM solicits and will accept bids on these lands; and may accept or reject any and all bids, or withdraw any land from sale at any time, if in the opinion of the Authorized Officer, consummation of the sale would not be in the best interest of the United States.

Sale terms and conditions are as follows

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All bidders must be United States citizens; corporations must be authorized to own real property in the State of California; political subdivisions of the State and State instrumentalities must be authorized to hold property. Proof of meeting these requirements shall accompany bids.

3. The parcels described as CA 17465 and CA 17466 will be offered by modified competitive sealed bid with Fort Mountain Ranch designated as having the right to meet any high bid. Fort Mountain Ranch completely surrounds both parcels.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register** as provided in 43 CFR 2711.1–2(d) (amended) the above lands will be segregated from appropriation under the mining laws but excepting the mineral leasing laws for a period not to exceed 270 days, or until the lands are sold, whichever occurs first. The segregation effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the 270-day period. The above described lands, will be separately offered for sale utilizing sealed bid procedures. The bids will be opened at 10:00 a.m. on September 20, 1985, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630. Sealed bids shall be considered only if received at the above address prior to 10:00 a.m. on September 20, 1985. Each sealed bid shall be accompanied by certified check, postal money order, bank draft or cashier's check made payable to the Department of the Interior-BLM for 10 percent of the bid.

The sealed bid envelopes must be marked on the front lower left corner "Folsom Resource Area, September 1985, Land Sale, Case File Serial CA ———" After opening all sealed bids, if two or more envelopes containing valid high bids of the same amount are received, the determination of which is to be considered the highest bid shall be by supplemental oral bids. The oral bidding, if needed, will be conducted by the Authorized Officer immediately following the opening of the sealed bids. The person declared to have entered the highest qualifying oral bid shall submit payment of 10 percent as specified above, immediately following the close of the sale.

The successful bidder, whether such is a sealed or oral bid, shall submit the remainder of the full purchase price within 180 days of the sale date. Failure to submit the balance of the full bid within the above specified time limit shall result in cancellation of the sale and the deposit shall be forfeited. The next high bid will then be honored.

It has been determined that the lands are without known mineral values and a successful bid will constitute a

simultaneous request for conveyance of the reserved mineral estate. As such, the

Survey, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706

DATE: The subject DOCD was deemed

Support Programs; react to recommendations for improvement of

Administration to be registered as an importer of coca leaves (9040), a basic

publication of the Chlorine Institute, Inc. application for a permanent variance

VOL
50
ISS
138
JL
18
1985
UMI

simultaneous request for conveyance of the reserved mineral estate. As such, the successful high bidder will be required to deposit a $50.00 nonreturnable filing fee for conveyance of the mineral estate.

If any of the lands described do not receive qualifying bids on September 20, 1985, they will be available over the counter at the fair market value until April 30, 1986. Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630.

For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Bakersfield District, Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301; (805) 861–4191. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination.

DATE: Sealed bids must be received by 10:00 a.m. September 20, 1985.

ADDRESS: Bureau of Land Management, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630.

Dated: July 11, 1985.

D.K. Swickard,

Area Manager.

[FR Doc. 85–17043 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–40–M

Idaho; Filing of Plat of Survey

July 10, 1985.

The plats of survey of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, on the dates hereinafter stated:

Boise Meridian

T. 47 N., R. 5 W., Accepted June 4, 1985, Officially filed June 10, 1985.
T. 20 N., R. 3 W., Accepted June 5, 1985, Officially filed July 3, 1985.
T. 25 N., R. 1 E., Accepted June 4, 1985, Officially filed July 5, 1985.
T. 7 N., R. 4 E., Accepted June 5, 1985, Officially filed July 8, 1985.
T. 29 N., R. 4 E., Accepted June 18, 1985, Officially filed July 8, 1985.

The above plats represent surveys, dependent resurveys, and subdivisions of section.

Inquiries about these lands should be addressed to Chief, Branch of Cadastral Survey, Idaho State Office, 3380 Americana Terrace, Boise, Idaho, 83706.

Sharron Deroin,

Chief, Land Services Section.

[FR. Doc. 85–17045 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–GG–M

[Serial No. I–20858]

Idaho; Proposed Reinstatement of Oil and Gas Lease

Notice is hereby given that a petition for reinstatement of oil and gas lease I–20858 for lands in Clark County, Idaho, was timely filed and was accompanied by all the required rentals and royalties accruing from April 1, 1985, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective April 1, 1985, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Bunny Wilson of the Idaho State Office at (208) 334–9088.

Dated: July 3, 1985.

Peter Oberlindacher,

Chief, Branch of Solid and Fluid Minerals.

[FR. Doc. 85–17044 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–GQ–M

Minerals Management Service

Development Operations Coordination Document, Amoco Production Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6144, Block 67, High Island Area, Offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Freeport, Texas.

DATE: The subject DOCD was deemed submitted on July 9, 1985.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 10, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–17040 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the fourteenth meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development BIFAD) on August 8 and 9, 1985.

The purpose of the meeting is to discuss concepts of U.S. national agricultural extension programs as they relate to AID's activities in developing national extension systems in developing countries; review progress of AID-supported Collaborative Research Support Programs; react to recommendations for improvement of involvement of U.S. universities in AID's human capital development programs; and consider future action and agenda items for JCARD.

JCARD will meet from 1:00 p.m. to 5:00 p.m. on August 8 and from 9:00 a.m. to 1:00 p.m. on August 9. The meeting will be held in Room 1408 New State Building, 21st and Virginia Avenue NW, Washington, D.C. on August 8, and in Room 1105 New State Building on August 9. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. John Stovall, BIFAD Support Staff, is the designated AID Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632–9048.

Dated: July 12, 1985.

John Stovall,

AID Advisory Committee Representative, Joint Committee on Agricultural Research and Development Board for International Food and Agricultural Development.

[FR Doc. 85–17072 Filed 7–17–85; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Stepan Chemical Co.; Importation of Controlled Substances Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 25, 1985, Stepan Chemical Company, Natural Products Department, 100 West Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of coca leaves (9040), a basic class controlled substance in Schedule II.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefore, and any existing bulk manufacturer registered therefore, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than (30) days from publication.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice of 40 FR 43745–43746 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (e), and (f) are satisfied.

Dated: July 10, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85–17073 Filed 7–17–85; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V–85–5]

Permanent Variance; the Chlorine Institute, Inc.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Modification of Notice of Application for Permanent Variance.

SUMMARY: This notice is to make a change in the Federal Register publication of the Chlorine Institute, Inc. application for a permanemt variance (50 FR 25343–46, June 18, 1985).

The Occupational Safety and Health Administration has been requested, and has agreed, to extend the time for comments to be accepted for an additional 30 days until August 14, 1985. The comment period and last date for requests for a hearing have been extended by modifying the following:

(1) The paragraph entitled **"DATES:"** in column one on page 25344, to read:

"The last date for interested persons to submit comments on the variance application is August 18, 1985. The last date for affected employers and employees and appropriate State authority having jurisdication over employment or places of employment covered in the application to request a hearing on the application is August 18, 1985."

(2) The paragraph in column three on page 25346, to read:

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application of variance are invited to submit written data, views, and arguments relating to the pertinent application no later than August 18, 1985. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than August 18, 1985, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Signed at Washington, D.C., this 15th day of July, 1985.

Patrick R. Tyson,

Deputy Assistant Secretary of Labor.

[FR Doc. 85–17100 Filed 7–17–85; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[85–46]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Technology

August 12, 1985, at the Denver Airport Clarion, Denver, Colorado.

Title: Final Decriptive Report Form for State and Regional Arts Agencies

Chairman's Delegation of Authority dated January 15, 1979,

The remainder of the proposed

Permit Application Received Under the

VOL 50 ISS 138 JL 18 1985 UMI

announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Teams on Rotorcraft, Supersonic and Subsonic.

DATE AND TIME: July 23, 25 and 29, 1985, 8:30 a.m. to 5:00 p.m. each day.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Avenue, SW., Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Cecil Rosen, National Aeronautics and Space Administration, Code RJ, Washington, DC 20548 (202/453-2792).

SUPPLEMENTARY INFORMATION: The Ad Hoc Teams on Rotorcraft, Supersonic and Subsonic were established to assist the National Aeronautics and Space Administration in the development of "Technology Trees" for the National Aeronautical Research and Development (R&D) Goals. The Ad Hoc Team of Rotorcraft, Chaired by Mr. Al Schoen, is comprised on seven members. The Ad Hoc Team on Supersonic, Chaired by A.D. Welliver, is comprised of five members. The Ad Hoc Team on Subsonic, Chaired by R. Hopps, is comprised of seven members. The meetings of the Ad Hoc Teams are an integral first step in expanding and refining the Technology Roadmaps for the recently established National Aeronautical R&D Goals. It is imperative that the meetings be held at this time in order to review and revise the draft Technology Roadmaps to reflect a truly national perspective prior to submission to the White House Office of Science and Technology Policy by the end of July as requested. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Ad Hoc Team members and participants).

TYPE OF MEETING: Open.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

July 12, 1985.

[FR Doc. 85-17016 Filed 7-17-85; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON AGRICULTURAL TRADE AND EXPORT POLICY

Meeting

July 15, 1985.

The National Commission on Agricultural Trade and Export Policy will hold its next meeting at 9 a.m. on August 12, 1985, at the Denver Airport Clarion, Denver, Colorado.

The meeting is open to the public. Individuals or organizations interested in appearing before the Commission to discuss "Agricultural Trade Policy" should contact the Commission staff at (202) 488-1961.

Kenneth L. Bader,

Chairman.

[FR Doc. 85-17048 Filed 7-17-85; 8:45 am]

BILLING CODE 3410-05-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Foundation on the Arts and the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on the information collection must be submitted by August 2, 1985.

ADDRESSES: Send comments to Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 728 Jackson Place, NW., Room 3208, Washington, D.C. 20503; (202-395-7316). In addition, copies of such comments may be sent to Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506; (202-682-5464).

FOR FURTHER INFORMATION CONTACT: Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506; (202-682-5464) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The National Endowment for the Arts requests OMB approval of a revision of a currently approved collecion. The entry contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504 (h).

Title: Final Decriptive Report Form for State and Regional Arts Agencies
Form number: OMB No. 3135-0034
Frequency of Collection: Annually
Respondents: Non-profit institutions and State or local governments
Use: Information is used for monitoring of state and regional arts agency program activities; planning for coordination of Endowment programs and activities with those of state and regional arts agencies; and reporting to the Congress and the public on the use of funds awarded to the states and regions.
Estimated Number of Respondents; 63
Estimated Hours for Respondents to Provide Information: 252

Peter J. Basso,

Director of Administration, National Endowment for the Arts.

[FR Doc. 85-17029 Filed 7-17-85; 8:45 am]

BILLING CODE 7537-01-M

National Council on the Humanities Advisory Committee; Meeting

July 12, 1985.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on August 7-9, 1985.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, D.C. The afternoon session on August 7, 1985 and a portion of the morning and afternoon sessions on August 8-9, 1985 will not be open to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the session on August 7, 1985 will be as follows:

Committee Meeting

(Open to the Public)

4:00—4:20 p.m.: Challenge Grants—Room 430
4:20 p.m. until adjourned: (Closed to the Public)
Discussion of specific grant applications

The agenda for the sesslons on August 8, 1985 will be as follows:

Committee Meetings

(Open to the Public)

8:30—9:30 a.m.: Coffee for Council Members—Room 502
9:30—10:30 a.m.: Committee Meetings—Policy Discussion
General Programs—Room 415
Education Programs—Room M-14
Fellowship Programs—Room 315
Research Programs—Room 316-2
State Programs—Room M-07 East
10:30 a.m. until adjourned: Committee Meetings (Continued)
(Closed to the Public for the reasons stated above)—Consideration of specific applications

The morning session on August 9, 1985 will convene at 8:30 a.m. in the 1st Floor Council Room M-09 and will be open to the public. The agenda for the morning session will be as follows: (Coffee for Staff and Council members attending the meeting will be served from 8:30 a.m.—9:00 a.m.)

Minutes of the Previous Meeting Reports
A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. Dates of Future Council Meetings
E. Application Report and Gifts and Matching Report
F. Status of Fiscal Year 1985 Program Funds
G. FY 1986 Appropriation Request and Reauthorization Hearings
H. FY 1987 Budget Planning
I. Institutional Endowments and Application Review
J. Committee Reports on Policy and General Matters
1. General Programs
2. Education Programs
3. Fellowship Programs
4. Research Programs
5. State Programs
6. Challenge Grants
K. Emergency Grants and Actions Departing from Council Recommendation—Awards

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code 202-786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 85-17054 Filed 7-17-85; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Meeting of the Committee on Equal Opportunities in Science and Technology and of its Subcommittees; July 31 and August 1-2, 1985

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meetings:

Names/Dates/Times/Places:
Subcommittee on Minorities, Wednesday, July 31, 9:00-5:00 p.m.
Full Committee, Thursday, August 1, 9:00-12:00 Noon
Subcommittee on Women, Thursday, August 1, 1:30-5:00 p.m.; Friday, August 2, 9:00-12:00 Noon
Subcommittee on Disabled Scientists, Friday, August 2, 1:30-5:00 p.m.
National Science Foundation, 1800 G Street NW., Room 540, Washington, D.C. 20550

Type of Meeting: Open.

Contact Person: Ms. Jane Stutsman, Executive Secretary, National Science Foundation, Rm. 425, 1800 G Street, NW., Washington, D.C. 20550, Telephone: 202/357-9418.

Purpose of Subcommittees: Responsible for all Committee matters relating to the participation in and opportunities for education, training, and research for minorities, women and handicapped persons in science and technology, and the impact of science and technology on them.

Summary Minutes: May be obtained from the contact person at the above stated address.

Agenda: The Subcommittees will consider mechanisms to increase participation of minorities, women and handicapped persons in Foundation programs, research projects, and on all NSF advisory committees. They will also advise the Director on how to modify NSF policies and procedures relating to minority, women and handicapped persons as well as the internal distribution of funds to implement this program.

M. Rebecca Winkler,

Committee Management Officer.

July 15, 1985.

[FR Doc. 85-17028 Filed 7-17-85; 8:45 am]

BILLING CODE 7555-01-M

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by August 19, 1985. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. *Applicant*—David F. Parmelee, 349 Bell Museum of Natural History, University of Minnesota, Minneapolis, Minnesota 55455.

Activity for Which Permit Requested

Taking; Import into U.S.A.; Enter Specially Protected Area

The applicant proposes to collect birds south of the Antarctic Convergence in heavy pack ice, light pack ice, ice edge, and open water habitats along the west coast of the Antarctic Peninsula. The main objective of these collections is to obtain

representative samples of species present in this area in the austral winter

4. How often the collection is required: As necessary in order for NRC

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soliciting written comments on the list of countries which the USTR intends to

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VOL 50 ISS 138 JL 18 1985 UMI

representative samples of species present in this area in the austral winter to determine diet, plumage and molt condition, winter weight and fat content.

If ice conditions permit, the applicant will census birds on Anvers Island and the surrounding smaller islands, including Litchfield (SPA–17).

The applicant proposes to take up to the following numbers of birds:

Species	Number
Southern Giant Fulmar	6
Blue-eyed Shag	6
Antarctic Prion	20
Wilson's Storm Petrel	20
Black-bellied Storm Petrel	20
American Sheathbill	20
Southern Black-backed Gull	20
South Polar Skua	20
Antarctic Tern	20
Chinstrap Penguin	20
Adelie Penguin	20
Blue Petrel	50
Southern Fulmar	50
Antarctic Petrel	50
Cape Pigeon	50
Snow Petrel	50

Location

West Coast of Antarctic Peninsula

Dates

August–September, 1985.

Authority to publish this notice has been delegated by the Director of the National Science Foundation.

A. N. Fowler,

Acting Division Director, Division of Polar Programs.

[FR Doc. 85–17117 Filed 7–17–85; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Record Keeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget (OMB) review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act [44 U.S.C. Chapter 35].

1. Type of submission, new revision or extension: Revision.

2. The title of the information collection: 10 CFR Part 50.

3. The form number if applicable: N/A.

4. How often the collection is required: As necessary in order for NRC to meet its responsibilities to conduct a detailed review of applications for licenses, and amendments thereto, to construct and operate power plants, research and test facilities, reprocessing plants and other utilization and production facilities, licensed pursuant to the Atomic Energy Act of 1954, as amended (the Act).

5. Who will be required or asked to report: Licensees and applicants for nuclear power plants, and research and test reactors.

6. An estimate of the number of responses: 2,126 annually.

7. An estimate of the total number of hours needed to complete the requirement or request: 3.87 million.

8. An indication of whether section 3504(h), Pub. L. 9696–511 applies: Not applicable.

9. Abstract: 10 CFR Part 50 of the NRC's regulations, "Domestic Licensing of Production and Utilization Facilities," specifies technical information and data to be provided by applicants and licensees so that the NRC may make determinations necessary to promote the health and safety of the public, in accordance with the Act.

ADDRESSES: Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer: Jefferson B. Hill, (202) 395–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated At Bethesda, Maryland, This 10th day of July 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 85–17097 Filed 7–17–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–255]

Exemption; Consumers Power Co.

I

The Consumers Power Company (CPC the licensee) is the holder of Provisional Operating License No. DPR–20 which authorizes operation of the Palisades Plant. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises one pressurized water reactor at the licensee's site located in Van Buren County, Michigan.

II

On November 19, 1980, the Commission published a revised § 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these subsections, III.G., is the subject of the licensee's exemption request.

Subsection III.G.3 of Appendix R requires that for areas where alternative or dedicated shutdown is provided, fire detection and a fixed fire suppression system shall also be installed in the area, room, or zone under consideration.

III

By letters dated July 16, 1984, as supplemented by letters dated July 20, 1984, August 10, 1984, October 1, 1984, December 28, 1984, March 19, 1985 and June 19, 1985, the licensee requested exemptions from III.G.3 of Appendix R in the Engineered Safeguards Panel Room and the Corridor between the Charging Pump Room and the 1C Switchgear Room in the Reactor Building elevation 590'–0". The exemptions were requested from providing fixed fire suppression systems in the above areas as required by section III.G.3 of Appendix R.

The licensee has provided alternative shutdown capability in each area. Fire protection in each area consists of early warning fire detectors, manual hose stations and portable fire extinguishers. The fuel loading (cable insulation) in each area is moderate. The staff finds that there is reasonable assurance that a fire in these areas would be promptly detected and extinguished. The moderate combustible loading in each area ensures that safety-related equipment in adjacent areas will not be threatened before the fire brigade can extinguish the fire. NRR and Region III fire protection engineers recently visited the site to walk down the fire protection modifications made by the licensee to comply with Appendix R and to review the above two areas where exemptions from Appendix R had been requested. Based on the licensee's analysis and the review of the areas at the site the staff concludes that the installation of fixed fire suppression systems would not significantly increase the level of fire protection in the Engineered Safeguards Room or the Corridor between the Charging Pump Room and the 1C Switchgear Room in the Reactor Building elevation 590'–0". Therefore, the requested exemptions should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the requested exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. Therefore, the Commission hereby grants the following exemptions from the requirements of section III.G.3 of Appendix R to 10 CFR Part 50:

1. Engineered Safeguards Room to the extent a fixed fire suppression system should be installed in the area.

2. Corridor between the Charging Pump Room and the 1C Switchgear Room in the Reactor Building elevation 590'–0" to the extent a fixed fire suppression system should be installed in the area.

Pursuant to 10 CFR 51.32, the Commission had determined that the granting of these exemptions will have no significant impact on the environment (July 5, 1985, 50 FR 27708).

A copy of the Safety Evaluation dated July 12, 1985, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Van Zoeren Library, Hope College, Holland, Michigan 49428. A copy may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 12th day of July 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85–17096 Filed 7–17–85; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Intent to Designate Major Wine Trading Countries; Public Comments

AGENCY: Office of the United States Trade Representative.

ACTION: Notice requesting written comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is soliciting written comments on the list of countries which the USTR intends to designate as major wine trading countries.

The Trade and Tariff Act of 1984 (the "Act") was signed into law on October 30, 1984. Title IX of that Act, the Wine Equity and Expansion Act of 1984, provides USTR with specific responsibility to respond to problems that Congress has found are facing the U.S. wine industry. Among these responsibilities are: (1) The designation of major wine trading countries and (2) the development and coordination of reports on wine trade.

Section 906 of the Act provides that USTR must consult with representatives of the wine and grape products industries in the United States prior to designating major wine trading countries. In response to a **Federal Register** notice dated November 23, 1984, comments were received on market potential for U.S. wines in various countries and on trade barriers or distortions to U.S. wine exports.

Based on this and other information, the U.S. Trade Representative intends to designate the following as major wine trading countries: Canada, Jamaica, Japan, Mexico, South Korea, and Taiwan. In addition, the U.S. Government will conduct trade consultations with a number of other foreign governments to discuss their trade barriers or distortions affecting U.S. wine exports. Depending on additional information, other countries may be designated at a later date.

DATE: Written comments should be received by July 26, 1985. Twenty copies of the submission should be provided.

ADDRESS: Written comments should be submitted to Carolyn Frank, Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 500, 600 17th Street, NW., Washington, D.C. 20506, (202) 395–3487.

FOR FURTHER INFORMATION CONTACT: Ellen Terpstra, Advisor to the Assistant U.S. Trade Representative for Agricultural Affairs and Commodity Policy, Office of the United States Trade Representative, Room 423, 600 17th Street, NW., Washington, D.C. 20506, Phone: (202) 395–5006.

Alexander Platt, Associate General Counsel, Office of the United States Trade Representative, Room 223, 600 17th Street, NW., Washington, D.C. 20506, Phone: (202) 395–7305.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 85–17102 Filed 1–17–85; 8:45 am]

BILLING CODE 3190–01–M

Termination of the International Sugar Agreement 1977; Deadline for Refunds for Unused Stamps

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of termination for refunds of unused International Sugar Agreement 1977 stamps for contributions to the stock financing fund.

SUMMARY: Traders holding unused sugar stamps that are not required to meet obligations to pay outstanding contributions should seek refunds before July 31, 1985.

U.S. sugar importers were required to purchase certificate-exempt International Sugar Organization stamps for use on imported sugard under the terms of the 1977 International Sugar Agreement. This Agreement expired on December 31, 1984.

Unused stamps should be returned to the Manager, Stock Financing Fund, International Sugar Organization, 28 Haymarket, London SW1Y 4SP, England. requests for refunds on unused stamps will not be entertained after July 31, 1985, in accordance with the decision of the Council of the ISA 1977 taken on May 22, 1985.

FOR FURTHER INFORMATION CONTACT: Ellen Terpstra, Advisor to the assistant U.S. Trade Representative for Agricultural Affairs and Commodity Policy, Office of the United States Trade Representative, Room 423, 600 17th Street, NW., Washington, D.C. 20506, Phone: (202) 395–5006.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 85–17103 Filed 7–17–85; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–14626; File No. 811–3276]

Application and Opportunity for Hearing; KILICO Money Market Fund, Inc.

July 11, 1985.

Notice is hereby given that KILICO Money Market Fund, Inc. ("Applicant"), 120 S. LaSalle Street, Chicago, Illinois 60603, registered as a diversified open-end investment company under the Investment Company Act of 1940 (the "Act"), filed an application on Form N–8F on August 27, 1984, pursuant to section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All

interested persons are referred to the application on file with the Commission

D.C. 20549. A copy of such request should be served personally or by mail

Consolidated will initially pay $100,000 and will sign a promissory note

Washington, D.C. 20549. Following this opportunity for hearing, the Commission

[Release No. IC–14626; (File No. 811–3846)]

For the Commission, by the Division of Investment Management, pursuant to

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interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Maryland corporation, registered under the Investment Company Act of 1940 on October 9, 1981, and submitted a registration on Form N–1 on that same date. The application and exhibits attached thereto indicate that the Applicant's Board of Directors resolved it advisable that Applicant be dissolved and that the proposed dissolution be submitted for consideration by shareholders at a special meeting. Shareholders approved the proposal to dissolve Applicant at a special meeting held on October 4, 1983, and Applicant states that it filed Articles of Dissolution of the corporation with the state of Maryland concurrently with the filing of this application.

The application states that as of July 31, 1983, it had 19,820,448 shares outstanding common stock, the net asset value of which was $1.00 per share. Applicant submits that it distributed all of its assets remaining after the payment of all of its debts and obligations to Kemper Investors Life Insurance Company in behalf of participating contractowners in Kemper Investors Life Insurance Company Variable Annuity Account C. Applicant further states that participating contractowners were given the following options: (1) To use the remaining value of their contracts to purchase a Kemper Advantage III contract, with assets allocated to KILICO Money Market Separate Account, (2) retain the current contract and have its contract value transferred to a Fixed Rate Option, or (3) terminate the existing contract. Applicant states that it has retained no assets, has no outstanding debts, and no securityholders. Applicant states that it is not a party to any litigation or administrative proceeding, and is not now engaged or proposed to be engaged in any business activities other than those necessary for winding up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 6, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17068 Filed 7–17–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23763; 70–7126]

Consolidated Natural Gas Co.; Proposal to Acquire $250,000 Partnership Interest

July 11, 1985.

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, has filed an application with this Commission pursuant to section 9(c)(3) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 40 and 100 thereunder.

As a result of the difficult economic climate that has befallen Pittsburgh in recent years, The Pittsburgh Seed Fund ("Fund"), a limited partnership, has been formed for the purpose of encouraging and financing local high risk entrepreneurial ventures, including research and development of products. The limited partnership, organized under and by virtue of the laws of the Commonwealth of Pennsylvania, has appealed to companies operating in and around Pittsburgh, such as Consolidated, to assist financially in this endeavor.

Affiliated with the Fund will be The Enterprise Corporation of Pittsburgh, a nonprofit Pennsylvania corporation, which is also affiliated with the University of Pittsburgh and Carnegie-Mellon University. The function of The Enterprise Corporation will be to advise the Fund on the selection and financing of worth while ventures.

Consolidated proposes to subscribe for the acquisition of five of the Fund's units ("Units"), at a price of $50,000 per Unit, consisting of $20,000 cash and $30,000 in the form of a limited partner note. The subscription is irrevocable unless rejected by the general partner, Pittsburgh Venture Partners. Thus, Consolidated will initially pay $100,000 and will sign a promissory note obligating it to pay $75,000 in each of the years 1986 and 1987.

The application and any amendment thereto are available for public inspections through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 5, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17066 Filed 7–17–85; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

July 11, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stock:

Snyder Oil Partners

Units of Limited Partnership Interest (File No. 7–8468)

This security is listed and registered on one more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17065 Filed 7–17–85; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

July 10, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following security:

The Limited, Inc.

Common Stock, No Par Value (File No. 7–8480)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 31, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17070 Filed 7–17–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14628; (File No. 811–3846)]

Omega Venture Partners I Ltd.; Application for Order Declaring that Applicant Has Ceased To Be an Investment Company

July 12, 1985.

Notice is hereby given that Omega Venture Partners I Ltd. ("Applicant"), 5950 Canoga Avenue, Woodland Hills, California 91367, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on June 13, 1985, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rule thereunder for the applicable provisions thereof.

Applicant represents that it filed a registration statement pursuant to section 8(b) of the Act on September 16, 1983, never made a public offering of its securities, has fewer than 100 securityholders for purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make another public offering or engage in business of any kind. Applicant represents further that it is not a party to any litigation or administrative proceeding, and that it does not intend to engage in any business activities other than those necessary for the winding up of its affairs. Finally, Applicant represents that it was dissolved under California state law.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 5, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–17131 Filed 7–17–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22236; File No. SR–OCC–85–9]

Self-Regulatory Organizations; Options Clearing Corporation; Proposed Rule Change

The Options Clearing Corporation ("OCC") on June 26, 1985, submitted a proposed rule change to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). OCC's proposal would amend OCC By-Laws and Rules to enable OCC to issue, clear and settle European style options, which are options that may be exercised only on their expiration date. The Commission is publishing this notice to solicit public comment on the proposal.

Proposed issuance, clearance and settlement procedures for European style options would be identical to those now in effect for all options at OCC, except that European style options could not be exercised before their expiration date. As described below, OCC is proposing several changes in its By-Laws and Rules to accommodate European style options.

OCC By-Law Article I would be amended to provide definitions for "styles" of options. Options that can be exercised by holders at any time from issuance to expiration (which includes all options currently issued by OCC) would be termed "American" style options. Options that can be exercised only on their expiration date would be termed "European" style options. *See* proposed Article I, § 1 (rrr), (sss) and (ttt).

OCC By-Law Article VI, governing clearance of exchange transactions, would be amended in several ways. Section 7 of the By-Law would require all options exchanges submitting trade information to OCC to include the option style for each reported trade. Section 12 would be amended to limit the exercise of European style options to their expiration date. Amended Section 17 would clarify that exercise restrictions cannot be imposed for European style options.[1]

[1] Section 17 also would be amended to clarify that exercise restrictions on a series of American style options could not be imposed on that series' expiration date. Current Section 17 states that such restrictions cannot be imposed during the business

Continued

Section 2 of OCC By-Law Article XVII, which governs the general rights

comments with the Secretary of the Commission, 450 Fifth Street, N.W.,

most significant aspects of such statements.

the proposed rule change that are filed

administrative proceeding, and that it

customer margin system for "short"

Section 2 of OCC By-Law Article XVII, which governs the general rights and obligations of holders and writers of index options, would be amended to provide for the two styles of options. The amendment again would make it clear that European style options can only be exercised on their expiration date.[3]

OCC Rules would be amended to conform to the above changes in OCC By-Laws. Specifically, the proposal would amend OCC Rule 401, governing trade reports, and OCC Rule 801, governing option exercise procedures.[3]

OCC believes that the proposal is consistent with the Act in general, and section 17A of the Act in particular, because it facilitates the prompt and accurate clearance and settlement of European style options. OCC states that the proposal does so by applying to European style options substantially the same clearing system and rules currently in use by OCC. That system, in OCC's view, already has been proven efficient, effective, and safe.

OCC requested accelerated approval of its proposal to the extent necessary to allow OCC to issue, clear and settle European style options at the latest by the time the Commission approves any exchange proposal to trade European style options. OCC notes that trading in European style options has been proposed by the Chicago Board Options Exchange.[4] OCC believes that accelerated approval would be justified because the proposal would merely implement any Commission approved program for trading European style options.

Copies of all documents relating to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. and at OCC's principal office.

To assist the Commission in determining whether to approve the proposal or to institute disapproval proceedings, the Commission invites public comment on the proposal. Comments should refer to file no. SR-OCC-85-9. Please file six copies of comments with the Secretary of the Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, by August 8, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 12, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-17132 Filed 7-17-85; 8:45 am]

BILLING CODE 8010-01-M

day (for index options) or the ten business days (for all other options) immediately prior to the expiration date of such series.

[3] Section 2 of OCC By-Law Article XVII replaces Section 9 of OCC By-Law Article VI, which governs the general rights and obligations of holders and writers of non-index options. Thus, the proposal clarifies the rights and obligations of holders and writers of all OCC options.

[3] OCC's proposal also would correct typographical errors in Section 1 of OCC By-Law XVII.

[4] *See* file no. SR-CBOE-84-31.

[Release No. 34-22237; File No. SR-NASD-85-17]

Self-Regulatory Organizations; Proposed Rule Change by the National Association of Securities Dealers; Relating to the ITS/CAES Rules Dealing With Locked or Crossed Markets

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 25, 1985, the National Association of Securities Dealers, Inc., filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendment establishes specific procedures in regard to locked and crossed markets that have evolved through the operational experience and mutual agreement of the Intermarket Trading System (ITS) Participants.

The amendment provides a complaint and rectification procedure for the party whose quotation is locked or crossed which obligates the locking or crossing party to promptly ship stock or unlock the market, as directed.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

The rule change will allow the aggrieved member the flexibility of requesting either the shipment of stock or the unlocking of the market, and should enhance the operation of ITS by encouraging the prompt and equitable resolution of locked and crossed markets.

The proposed rule change is consistent with sections 15A(b)(6) of the Securities Exchange Act of 1934 and with the Commission's order dated May 6, 1982 issued pursuant to section 11A(a)(3)(B) of the Act which together requires the Association to adopt rules governing the participation of ITS/CAES market makers in the ITS/CAES linkage.

B. Self Regulatory Organization's Statement on Burden on Competition

The Association does not foresee any impact on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer periods to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 8, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

July 12, 1985.

[FR Doc. 85-17133 Filed 7-17-85; 8:45 am]

BILLING CODE 8010-01-M

Omega Government Fund, Inc.; Application For Order Declaring that Applicant Has Ceased To Be an Investment Company

[Release No. IC-14629; File No. 811-3845]

July 12, 1985.

Notice is hereby given that Omega Government Fund, Inc. ("Applicant"), 5950 Canoga Avenue, Woodland Hills, California 91367, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on June 13, 1985, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the applicable provisions thereof.

Applicant states that it filed a registration statement pursuant to section 8(b) of the Act on September 16, 1983, never made a public offering of its securities, has fewer than 100 securityholders for purposes of 3(c)(1) of the Act and the rules thereunder, and does not propose to make another public offering or engage in business of any kind. Applicant further states that it has previously distributed all of its assets to its one securityholder, and, accordingly, will have no assets to distribute upon dissolution. Applicant represents that it is not a party to any litigation or administrative proceeding, and that it does not intend to engage in any business activities other than those necessary for the winding up of its affairs. Finally, Applicant represents it is in the process of being dissolved under Maryland state law.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 5, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service [by affidavit or, in the case of any attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17129 Filed 7-17-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22235; File No. SR-NASD-85-15]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers Relating to Proposed Amendments to Appendix A to Article III, Section 30 of the Association's Rules of Fair Practice

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 29, 1985, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Appendix A to Article III, section 30 of the Association's Rules of Fair Practice to provide a uniform, premium-based customer margin system for "short" options positions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed amendments to section 4 of Appendix A is to establish uniform minimum margin requirements for different types of options which are listed or traded on a registered national securities exchange, or in the future, may be displayed on the NASDAQ System.

Under current margin rules, there are different systems for calculating margin requirements for the different types of options products (equity, broad and narrow-based indices, foreign currencies and treasuries). The Association and the options exchanges have developed a uniform margin system based upon the option premium plus an additional amount, which more closely reflects the risks involved in such trading than that under the current system. The Board of Governors determined that it was appropriate to adopt this uniform system as the basis for the Association's minimum margin requirements. The proposed rules continue to protect broker/dealers in the event that customers fail to meet their financial obligations but simplify the margin requirements by establishing a single, standardized approach, which can be applied to all option products. Under proposed rules, the minimum margin requirement for all short options positions would be: 100% of the option premium plus a fixed percentage of the current market value of the underlying security (the percentage to vary for each option product), with an adjustment for out-of-the-money options not to be less than 100% of the option premium plus a stipulated lesser percentage of the current market value of the underlying security. Percentages contained in the

proposed rule change which are the same as those previously adopted by the

concerns which will contribute to a well-balanced national economy by

DEPARTMENT OF TRANSPORTATION

This notice is issued under authority of the Federal Advisory Committee Act, Pub. L. 92-

proposed rule change which are the same as those previously adopted by the number of the registered options exchanges were developed by relating option margin to the annualized price volatility of the underlying security. The resulting percentage has been adjusted to provide for initial margin that would cover the underlying product's historical volatility over a seven day period given a 95% confidence level. The proposed formula will decrease the incidence of excessive or inappropriate margining in customer accounts by correlating the margin to risk exposure. In addition, the broker/dealer community will benefit from reduced operational and computerization costs due to the uniformity of the rules among the various self-regulatory organizations and the standardization of the formula. The Association and the other self-regulatory organizations will also have a more rational basis for establishing margin levels for new option products as well as for monitoring an appropriate level of existing requirements on an ongoing basis. The statutory basis for the proposed rule change is found in section 15A(b)(6) of the Securities Exchange Act of 1934 which applies to registered securities associations and requires that rules of the Association be designed to promote just and equitable principals of trade and to protect the investing public. The Association believes that by revising the margin requirements to more closely reflect the risks involved in options trading and thus potentially increasing market liquidity, the proposed rules are consistent with these provisions. The proposed rule change is also consistent with the requirements of Section 7(a) of the Act and the rules and regulations prescribed by the Board of Governors of the Federal Reserve System pursuant to that Section in that they adjust margins to a level which provides a reasonable amount of financial protection to the securities industry and does not permit the excessive use of credit for the purchase or carrying of securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not forsee any impact on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither sollcited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be avialable for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 8, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 12, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-17130 Filed 7-17-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans Business Affairs; Public Meeting

The U.S. Small Business Administration, Advisory Committee on Veterans Business Affairs will hold a public meeting at 10:30 a.m., on Wednesday, August 21, 1985, at the U.S. Small Business Headquarters, 1441 L Street, NW., Room 1000 Administrator's Conference Room, Washington, D.C. 20416, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Leon J. Bechet, Director (Acting) Office of Veterans Affairs, U.S. Small Business Administration, 1441 L Street, NW., Room 500, Washington, D.C. 20416. (202) 653-8220.

Jean M. Nowak,

Director, Office of Advisory Councils.

July 11, 1985.

[FR Doc. 85-17025 Filed 7-17-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5488]

SB Capital Corp.; Application for a License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company (SBIC) under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 *et seq.*), has been filed by SB Capital Corporation, 36 West 47th Street, Suite 701, New York, New York 10036, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102(1985).

The officers, directors and sole shareholder of the Applicant are as follows:

Name and address	Title or relationship	Percent of ownership
Benzion Bornfreund, 1624 46th Street, Brooklyn, New York 11204.	Chairman of the Board, President, Director.	100
Chaim Bornfreund, 1566 47th Street, Brooklyn, New York 11219.	Treasurer, Secretary, Director.	0
Marcel Gross, 1748 53rd Street, Brooklyn, New York 11219.	Manager, Director	0

The Applicant, a New York corporation, will begin operations with a capitalization of $1,000,000 and will conduct its operations principally in the State of New York.

As an SBIC licensed to operate under section 301(d) of the Act, the Applicant will provide financial and managerial assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: July 9, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-17024 Filed 7-17-85; 8:45 am]

BILLING CODE 8025-01-M

Region II—Advisory Council; Public Meeting

The Small Business Administration, Region II Newark District Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:00 A.M. on Tuesday, July 30, 1985, at the Ramada Inn, 36 Valley Road, Clark, New Jersey 07006 to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending. For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 60 Park Place, Newark, New Jersey 07102, (201) 645-3580.

Jean M. Nowak,

Director, Office of Advisory Council.

July 9, 1985.

[FR Doc. 85-17023 Filed 7-17-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 85-053]

Lower Mississippi River Waterway Safety Advisory Committee; Reestablishment

AGENCY: Coast Guard, DOT.

ACTION: Notice of Reestablishment.

SUMMARY: The Secretary of Transportation has approved the reestablishment of the Lower Mississippi River Waterway Safety Advisory Committee. The purpose of the Committee is to provide local expertise on such matters as communications, surveillance, traffic control, anchorages, and other related topics dealing with waterway safety in the Lower Mississippi River area as required by the Coast Guard.

FOR FURTHER INFORMATION CONTACT: Commander R. A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130. Telephone number (504) 589-6901.

This notice is issued under authority of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. 1.

Dated: July 12, 1985.

L. C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 85-17087 Filed 7-17-85; 8:45 am]

BILLING CODE 4910-14-M

[CGD 85-054]

New York Harbor Traffic Management Advisory Committee; Establishment

AGENCY: Coast Guard, DOT.

ACTION: Notice of establishment.

SUMMARY: The Secretary of Transportation has approved the establishment of the New York Harbor Traffic Management Advisory Committee. The purpose of this Committee is to advise the Coast Guard on matters relating to maritime traffic management and safety in the New York Harbor area.

FOR FURTHER INFORMATION CONTACT: Captain L. N. Hein, Chief, Marine Safety Division, Third Coast Guard District, Building 301, Coast Guard Support Center, Governors Island, New York 10004, Phone (212) 668-7179.

This notice is issued under authority of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. 1.

Dated: July 12, 1985.

L. C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 85-17086 Filed 7-17-85; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Cook and Dupage Counties, IL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for multi-lane (four or six) highway from U.S. Route 12/20/45 (Mannhiem Road), near O'Hare International Airport in Cook County, extending westerly approximately 21 miles to U.S. Route 20 (Lake Street) near the southeast corporate limits of the City of Elgin in Cook County, Illinois. The proposed project, which generally follows the previously recorded centerline for the Elgin-O'Hare Corridor Highway Improvement, will be designated Federal-aid Primary Route 426 (FAP 426).

FOR FURTHER INFORMATION CONTACT: James C. Partlow, District Engineer, Federal Highway Administration, 320 West Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone (217) 492-4622. Cesar Nepomuceno, Chief, Bureau of Programming, Illinois Department of Transportation, 1000 Plaza Drive, Schaumburg, Illinois 61096-1096, telephone (312) 884-3493.

SUPPLEMENTARY INFORMATION: The proposed Elgin-O'Hare Corridor Highway Improvement was conceived in the early 1960's and early 1970's. The studies were discontinued in 1972. As a result of these studies, an approximately 3 mile portion of the facility was constructed as the relocation of Illinois Route 19 (Irving Park Road) near O'Hare International Airport. The Illinois Route 53 (FAI 290) interchange at Thorndale Avenue was also constructed at that time, taking into account the proposed Elgin-O'Hare Supplemental Freeway.

Major alternatives under consideration are (1) no action, (2) upgrading and/or rehabilitation of existing arterial facilities and (3) construction of a limited access controlled, combined expressway/high-

type arterial facility. Incorporated into and studied with the build alternatives

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research

Title: Application—Permit—Special License—Unlading—Lading—

Sunshine Act Meetings

type arterial facility. Incorporated into and studied with the build alternatives will be design variations of grade, alignment, grade seperations, possible interchange locations and access to adjacent existing and planned facilities by means of access road or frontage roads.

Coordination meetings and public hearings were conducted as part of the earlier corridor studies. Coordination at that time was undertaken with Federal, State, regional, metropolitan and local agencies, community organizations, public utilities and private industry. Contacts, comments and imputs have been made through correspondence, telephone communications and meetings. As a result of these studies and coordination, corridor approval for the Elgin-O'Hare Corridor Highway Improvement was given by the FHWA January 5, 1970. Additional information will continue to be gathered throughout project development. Due to the ongoing nature of the coordination process a formal scoping meeting is not anticipated. If new information indicates a need to define issues attendant to the proposed action, scoping activities will be conducted with specific agencies.

To ensure that the range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or IDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The provisions of Executive Order 12372 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects apply to this program)

James C. Partlow,

District Engineer, Springfield, Illinois.

[FR Doc. 85-17115 Filed 7-17-85; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 15, 1985.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

United States Customs Service

OMB No.: 1515-0013
Form No.: Customs Form 3171
Type of Review: Reinstatement
Title: Application—Permit—Special License—Unlading—Lading—Overtime Service
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
Clearance Officer: Vince Olive (202) 566-9181, U.S. Customs Service, Room 2130, 1301 Constitution Avenue, NW., Washington, D.C. 20229

OMB No.: 1545-0003
Form No.: IRS Forms SS-4 and SS-4PR
Type of Review: Revision
Title: Application for Employer Identification Number

OMB No.: 1545-0074
Form No.: IRS Form 1040 and related Schedules A, B, C, D, E, F, G, R, SE and W
Type of Review: Revision
Title: U.S.Individual Income Return

OMB No.: 1545-0196
Form No.: IRS Form 5227
Type of Review: Revision
Title: Split-interest Trust Information Return
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224
OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph F. Maty,

Departmental Reports, Management Office.

[FR Doc. 85-17053 Filed 7-17-85; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 138
Thursday, July 18, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1-3
Federal Election Commission	4
Federal Maritime Commission	5
Harry S Truman Scholarship Foundation	6

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b (e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, July 15, 1985, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and resolution regarding liquidation rights of repurchase agreement participants in bank insolvencies.

The Board further determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of Currency), that Corporation business required the addition to the agenda for consideration at this meeting, on less than seven days' notice to the public, of the following matters:

Application of Council Bluffs Savings Bank, Council Bluffs, Iowa, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in Mineola State Bank, Mineola, Iowa, and for consent to establish the sole office of Mineola State Bank as a branch of Council Bluffs Savings Bank.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,277-L (Amendment)
The First National Bank of Midland, Midland, Texas

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: July 16, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Excutive Secretary.

[FR Doc. 85-17173 Filed 7-16-85; 8:45 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, July 22, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Summary Audit Report re: The National Bank of Carmel, Carmel, California, NR-478 (Memo dated June 27, 1985)
Summary Audit Report re: West Olympia Bank, Los Angeles, California, AP-374 (Memo dated June 25, 1985)
Summary Audit Report re: Washington National Bank of Chicago, Chicago, Illinois, AP-390 (Memo dated June 13, 1985)
Summary Audit Report re: The Shelby National Bank of Shelbyville, Shelbyville, Indiana, AP-381 (Memo dated June 13, 1985)
Summary Audit Report re: Oakland Savings Bank, Oakland, Iowa, AP-414 (Memo dated June 19, 1985)
Summary Audit Report re: Gamaliel Bank, Gamaliel, Kentucky, SR-469 (Memo dated June 25, 1985)
Summary Audit Report re: National Bank and Trust Company of Traverse City, Traverse City, Michigan, AP-378 (Memo dated June 19, 1985)
Summary Audit Report re: State Bank of Boyd, Boyd, Minnesota, AP-427 (Memo dated June 14, 1985)
Summary Audit Report re: Bucklin State Bank of Bucklin, Missouri, Bucklin, Missouri, AP-423 (Memo dated June 27, 1985)
Summary Audit Report re: David City Bank David City, Nebraska, AP-413 (Memo dated June 19, 1985)
Summary Audit Report re: United Bank of Oregon, Milwaukie, Oregon, AP-376 (Memo dated June 19, 1985)
Summary Audit Report re: First American Banking Company Pendleton, Oregon, AP-429 (Memo dated June 28, 1985)
Summary Audit Report re: San Francisco Regional Office-Liquidation, Cost Center 3600 (Memo dated June 27, 1985)
Summary Audit Report re: Decimus Asset Management Systems, Southwest Regional Office Audit (Memo dated July 1, 1985)

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hyle L. Robinson, Executive Secretary of the corporation, at (202) 389-4425.

Dated: July 15, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-17174 Filed 7-16-85; 11:25 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, July 22, 1985, the

Federal Deposit Insurance Corporation's Board of Directors will meet in closed	4

Portions Closed to the Public

1. Petition of Hong Kong Shippers' Council

Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 15, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–17175 Filed 7–16–85; 11:25 am]

BILLING CODE 6714–01–M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 23, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, July 25, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates of Future Meetings
Correction and Approval of Minutes
Draft AO 1985–21
Lois Moore, on behalf of Consolidated Freightways, Inc.
Draft AO 1985–22
The Honorable William Clay, United States House of Representatives
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR 85–17218 Filed 7–16–85; 2:59 pm]

BILLING CODE 6715–01–M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., JULY 24, 1985.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Petition of American President Lines for Rulemaking Re Tariff Rules on Free Time and Detention Applicable to Carrier Equipment—Consideration of the petition and replies submitted in response to Notice of Filing of Petition.
2. Docket No. 84–27: Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States: Co-Loading Practices by NVOCC's—Further Review of Deferred Final Rule.

Portions Closed to the Public

1. Petition of Hong Kong Shippers' Council for Investigation of General Rate Increase of the Inbound Hong Kong Conferences—Consideration of the petition and the reply of the respondent conferences.
2. Agreement No. 202–010776: Asia North America Eastbound Rate Agreement.
3. Docket No. 82–1: California Cartage Company, Inc. v. Pacific Maritime Association, and Docket No. 82–10: Containerfreight Terminals Company, et al. v. Pacific Maritime Association—Consideration of Complainants' Motion for Entry of a Final Order and respondent's reply thereto.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Acting Secretary, (202) 523–5725.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–17224 Filed 7–16–85; 3:40 pm]

BILLING CODE 6730–01–M

6

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

TIME AND DATE: 11:00 a.m. Monday, September 9, 1985.

PLACE: Taft Room, University Club 1135 16th Street, NW., Washington, D.C. 20006.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Call meeting to order.
2. Adoption of proposed agenda.
3. Approval of minutes of April 15, 1985 meeting.
4. Report of the Chairman.
5. Report of the Executive Secretary.
6. Report of the General Counsel.
7. New business.
8. Set date for Spring meeting of the Board in April, 1986.
9. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Malcolm C. McCormack, Executive Secretary, Telephone 202/395–4831.

Malcolm C. McCormack,

Executive Secretary.

[FR Doc. 85–17176 Filed 7–16–85; 11:37 am]

BILLING CODE 9500–01–M

federal register

Thursday
July 18, 1985

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121 and 135
Flight Time Limitations and Rest Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 23634; Amdt. Nos. 121–192, 135–10]

Flight Time Limitations and Rest Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the flight time limitations and rest requirements for domestic, flag, and supplemental operations. The flight time limitation rules in both Parts 121 and 135 have remained virtually unchanged for many years. The Advisory Committee met under the direction of Nicholas Fidandis who

• To incorporate into the rule certain exemptions that have wide applicability.

been given after the negotiation meetings to allow for a full

by the Advisory Committee, and some committee proposals included flag or

VOL
50
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138
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 23634; Amdt. Nos. 121-186 and 135-19]

Flight Time Limitations and Rest Requirements

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends flight time limitations and rest requirements for flight crewmembers engaged in air transportation. The rule is based on recommendations of a Regulatory Negotiation Advisory Committee composed of persons who represent the interests affected by the flight time rules. The rule clarifies certain requirements that have had voluminous interpretations and updates certain requirements in relation to current operating conditions.

DATES: Effective date: October 1, 1985. Certificate holders may comply on the effective date or on the first day of any calendar month after the effective date or on the final compliance date of this rule.

Final compliance date: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Larry P. Bedore, Project Development Branch, (AFO)-240), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, Washington, D.C. 20591; telephone: (202) 426-8096.

SUPPLEMENTARY INFORMATION:

Background

Air crewmember fatigue is a fundamental factor of flight safety. The flight time limitation rules regulate the number of flight hours a flight crewmember may be scheduled for in a year, month, week, and day and the frequency and length of rest periods that a flight crewmember must be given, in the interest of both individual and public safety. The flight time limitation rules that apply to major scheduled airlines—those most familiar to the traveling public—and to other airlines operating large transport category airplanes are contained in Part 121 of the Federal Aviation Regulations (FAR) (14 CFR Part 121). The flight time limitation rules that apply to the scheduled air carriers that operate airplanes of 30 or fewer seats and to air taxi operations are contained in Part 135 of the FAR (14 CFR Part 135).

The flight time limitation rules in both Parts 121 and 135 have remained virtually unchanged for the past 30 years despite significant changes in the aviation transportation industry. The most significant reasons for amending the rules are that—(1) rest requirements under Part 121 have been extremely complicated and have required thousands of pages of interpretation over the past 30 years; (2) rest requirements have been inflexible, preventing air carriers from adjusting schedules and resulting in a number of exemption requests; and (3) recent increases in short-duration, passenger-carrying operations (commonly called regional operations) have prompted recommendations (reflected in the Airline Deregulation Act of 1978) that Part 135 rules provide a level of safety that is, to the maximum feasible extent, equivalent to the level of safety provided by Part 121 rules.

The FAA has recognized for several years that the flight time rules need to be clarified and updated and on several occasions has proposed rules to correct problems. Because of the complexity of the rules and the variety of interested persons, none of the proposals adequately resolved the problems to the satisfaction of the affected parties. The FAA, therefore, initiated an innovative approach called Regulation by Negotiation. The FAA created an Advisory Committee under the Federal Advisory Committee Act. The committee included persons representing flight crewmembers, air carriers, air taxis, helicopter operators, the FAA, and a consumer interest group. Initially, the committee met on seven occasions for a total of 16 days. It gave serious consideration to various proposals and justifications submitted by its members and succeeded in narrowing the differences among interested parties and in reaching substantial agreement on some issues.

As a result of the committee's deliberations, the FAA drafted a Notice of Proposed Rulemaking (Notice 84-3), which reflected the committee's discussion of and agreements on certain issues, in addition to identifying five issues which were not resolved by the committee at the time of publication (49 FR 12136, March 28, 1984). The FAA and the Advisory Committee reviewed comments received on the NPRM, and on September 11, 1984, the Advisory Committee convened to discuss issues which needed to be addressed in the final rule. The final rule is the result of FAA consideration of all comments on the NPRM and of the final deliberations of the Advisory Committee.

The Advisory Committee met under the direction of Nicholas Fidandis who acted as convener/mediator. The regulatory negotiation process was supported by the Office of the Secretary of Transportation, the Vice President's Office, The Office of Management and Budget, and the Administrative Conference of the United States. The support of those offices was appreciated. In the obviously complex and controversial area of flight and duty time limitations, the regulatory negotiation process was essential in achieving the highly successful result which is apparent in these amendments. It allowed a thorough discussion of all issues with representatives of all interests. At a minimum, the process acted to substantially narrow the number of differences between the parties and, even where differences remained, acted to lessen the contentiousness of the parties regarding those differences. The process also highlighted for the FAA those areas in which a compromise position was possible that the parties could accept even if they could not concur with it publicly. The end result, in the FAA's view, is a final rule that accomplishes the objectives of the rulemaking and addresses the concerns expressed by all parties. An additional benefit is that the parties were made more sensitive to the competing interests of the other parties. As a result of this process, a better compliance attitude should result. The FAA wishes to express its appreciation for the cooperation and untiring efforts of all those who participated in the process either as committee members or commenters.

Intent of the Rule

The Notice of Intent for the formation of the Advisory Committee (48 FR 21339, May 12, 1983) contained a lengthy list of issues that could be addressed by the committee. However, as the committee began its deliberations, it became apparent that not all the issues could be resolved in a reasonable time. Therefore, the committee began to focus on the following major objectives:

- To address the series-of-flights problem in Part 121, thereby resolving many interpretation problems;
- To correct an inadequacy in current Part 121, domestic air carriers rules, for flight crewmembers scheduled to fly 8 hours or less in 24 consecutive hours (current rest requirements apply only if more than 8 hours is scheduled) and to allow greater scheduling flexibility;
- To upgrade the requirements for all operations in Part 135, particularly scheduled operations; and

- To incorporate into the rule certain exemptions that have wide applicability.

Both the proposed rule and the final rule have kept within the limits of the FAA's intention and the deliberations of the committee.

The rule accomplishes the intended objectives in the following way:

- It establishes flexible daily rest requirements in Part 121 for domestic operations and in § 135.265 for scheduled operations, in accordance with the number of scheduled flight hours.
- It establishes cumulative weekly (every 7 days), monthly, and annual flight time limits for Part 135 to assure a level of safety, to the maximum feasible extent, equivalent to that under Part 121;
- It codifies in Part 135 several exemptions: the reduction of a 10-hour rest under certain conditions, the extension of flight time with augmented crews, and the special limitations needed for helicopter medical emergency services.

Comments on the Proposed Rule

During the 45-day comment period, the FAA received over 140 comments in response to Notice 84-3. The comments represented the views of individuals, airline organizations, labor organizations, research institutions, public interest groups, and other government agencies. Most comments expressed agreement with the need for improving the regulations and commended the FAA for the rulemaking effort. Airline organizations generally favored the proposal while some labor organizations, research institutions, public interest groups, individual pilots, and the National Transportation Safety Board expressed reservations about certain proposed changes. In general, the tone and the length of the comments received indicated that the proposed rule was far more acceptable than the last several FAA proposals.

A number of commenters stated that the 45-day comment period was not long enough for them to respond as fully as they would have liked. According to certain of these comments, one group particularly affected by the 45-day comment time was flight crewmembers who are not represented by unions and, therefore, were not formally represented at the Advisory Committee sessions. According to these comments, because of the busy work schedule of these flight crewmembers and their lack of an organizational unit to represent their interests, 45 days in which to comment was not sufficient. In addition, comments pointed out that the proposed rule was highly complex and that a comment period of 90 days should have been given after the negotiation meetings to allow for a full consideration of the complex proposal. In response to these comments, the FAA points out that three factors determined the length of the comment period. First, all of the Advisory Committee meetings were open to the public. Interested parties, in addition to the representatives who served on the committee, were given an opportunity to express their concerns to the committee. A number of pilots, not represented by organizations on the committee, made oral presentations to the committee at the September 11, 1984 meeting, which occurred after the close of the comment period. The FAA considered these presentations, as well as the written comments submitted by non-unionized pilots, in the drafting of the final rule. Second, the majority of the parties most affected by the rulemaking were represented on the committee. Their views were heard during the negotiating sessions, and their written comments were, to a large extent, statements of their negotiating positions. Third, the scope of the rulemaking had been narrowed from the Notice of Intent in order to correct as quickly as possible those problems most in need of resolution. Thus, the issues for comment were relatively few. Given all of the above factors a 45-day comment period was considered sufficient. Comments which were received after the comment period closed were considered under 14 CFR 11.47 which provides that late filed comments are considered, in so far as possible, without incurring expense or delay.

Most of the comments received fall into one of three categories: (1) those which focus on particular provisions of the rule, such as the length of minimum rest and flight time limits between rests; (2) those which indicate a misunderstanding about certain provisions of the rule, such as the look-back provisions for required rest based on the amount of scheduled flight time during a preceding 24-hour period; and (3) those which focus on issues that are beyond the scope of this rulemaking. Comments that focus on particular provisions or that indicate a misunderstanding about certain provisions are discussed under the appropriate headings. Comments which raise issues beyond the scope of this rulemaking are discussed below.

A number of comments objected to the rule on the grounds that it does not amend flag and supplemental air carrier rules which have problems similar to those of domestic operations rules. In answer, the objective of revising the flag and supplemental rules was considered by the Advisory Committee, and some committee proposals included flag or supplemental revisions. However, because of the overriding importance of clarifying the domestic rules, revisions to flag and supplemental rules are not addressed at this time.

A number of comments objected to the proposed rule because it does not take into account recent bio-medical research or factors affecting pilot fatigue. Some of these comments include copies of bio-medical studies. A representative of the Air Line Pilots Association also made a presentation to the committee on the status of the relevant scientific research. Again, because of the overriding importance of clarifying and simplifying the current rules, broader revisions which could alter the overall structure of the FAR on flight time limits and rest requirements could not be considered at this time. The FAA intends to continue its consideration of fatigue studies and is awaiting completion of the National Aeronautics and Space Administration's study on the operational significance of pilot fatigue and circadian desynchronosis. The study report is expected to be available for review in the latter part of 1986. If the report establishes a quantifiable relationship between fatigue and job performance and identifies specific criteria which support an amendment of the flight time limitations and rest requirements, the FAA would then consider additional rulemaking. Presently, the rules adopted by these amendments protect against acute (short-term) fatigue by requiring specific rest periods in the 24 hours preceding the completion of scheduled flight time and protect against chronic or long-term fatigue by setting cumulative flight time limits.

A number of commenters pointed out that the proposed rule does not cover flight attendants and that regulations should be enacted that would cover flight attendants. The issue of including flight attendants is beyond the scope of this rulemaking. The Association of Flight Attendants presented a Petition for Rulemaking to the FAA on this issue, a summary of which was published in the Federal Register (50 FR 6185, February 14, 1985). Flight and duty time for flight attendants will be considered by the FAA as a separate issue.

One concern raised by a number of commenters is that the current rule and the proposed rule regulate only flight time and rest periods but do not regulate duty time. According to commenters, the proposed rule should specifically limit the duty period to protect flight crewmembers from fatigue. Again, the

FAA wishes to emphasize that these changes to Part 121 focused on

scheduled operations in § 135.265 if they obtain an amendment to their

Labor Board on May 10, 1934, which stated that 85 hours a month would be

have a significant cost impact because of the additional bookkeeping

scheduled operations, and that the benefits of the amendment outweigh the

consecutive hours in each quarter. If a

VOL
50
ISS
138
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FAA wishes to emphasize that these changes to Part 121 focused on clarification and simplification with the one exception of requiring a rest for less than 8 hours of flight time. To institute a limit on duty, beyond the inherent limits necessitated by the required rest, would be outside the scope of this rulemaking. However, adequate and timely rest periods effectively limit the length of duty periods.

The Rule—Parts 121 and 135

General Issues

Certain important issues, some of which were identified as unresolved issues in the proposed rule and some of which arise from the comments to the proposed rule, involve changes in both Parts 121 and 135. These issues and comments will be discussed in the following paragraphs. The general issues include: (1) applicability, (2) cumulative flight time limits, (3) daily flight time limits, (4) daily rest requirements, (5) actual flight time vs. scheduled flight time, (6) flight-crewmember responsibility, and (7) dual operations.

Specific changes to the sections involved and comments about these changes are discussed in the *Section by Section* division of this preamble.

Applicability

The dividing line between Part 121 and Part 135 is provided by Special Federal Aviation Regulation (SFAR) 38–2 (50 FR 23941; June 7, 1985). Operations of aircraft with more than 30 passenger seats or a payload capacity of more than 7,500 pounds must be conducted under Part 121. Operations of aircraft with a lesser seating configuration or payload capacity must be conducted under Part 135. This rule continues the 30 passenger/7,500 pound payload distinction as the major dividing line between Part 121 and Part 135, and it makes some additional distinctions within Part 135.

Part 135 contains two sets of cumulative flight time limits and daily rest requirements, one for scheduled operations and another for unscheduled operations. Scheduled operations that must be conducted under § 135.265 are defined in § 135.261(b) as passenger-carrying operations that are conducted in accordance with a published schedule of at least five round trips per week on at least one route between two or more points. The schedule must include dates or times (or both) and must be openly advertised or otherwise made available to the public. All other Part 135 certificate holders are given the option of complying with the rules applicable to scheduled operations in § 135.265 if they obtain an amendment to their operations specifications.

Unscheduled operations, except for helicopter hospital emergency medical evacuation service (HEMES) operations, are conducted under §§ 135.267 and 135.269. These operations include unscheduled air taxi operations and commercial operations. The rule also permits Part 135 scheduled passenger and cargo-carrying operations in Alaska to be conducted under these sections. Helicopter hospital emergency medical evacuation services (HEMES) are conducted under § 135.271.

While this rulemaking clarifies Part 121 rest requirements, it also upgrades the requirements for all Part 135 operations, particularly scheduled operations. By separating Part 135 into scheduled and unscheduled operations, the FAA is able to establish acceptable cumulative flight time limits for operations that under current rules have only daily flight time limits.

Cumulative Flight Time Limits

Cumulative flight time limits, that is weekly, monthly, and annual limits for Part 121 domestic air carrier operations and Part 135 scheduled operations, and quarterly, biquarterly and annual limits for Part 135 unscheduled operations, are meant to protect the flight crewmember against chronic or long-term fatigue. Weekly limits in the context of this preamble refer to limits over any 7 consecutive days, not a calendar week. A quarter refers to the four periods of 3 months each, beginning in January, April, July, and October.

The annual, monthly, and weekly flight time limits for Part 121 domestic operations will remain the same as in the current rule: 1,000 hours in any calendar year, 100 hours in any calendar month, and 30 hours in any seven consecutive days (§ 121.471(a)). Newly imposed annual, monthly, and weekly flight time limits for Part 135 scheduled operations will be slightly less restrictive: 1,200 hours in any calendar year, 120 hours in any calendar month, and 34 hours in any seven consecutive days (§ 135.265(a)). The new quarterly, biquarterly, and annual limits for Part 135 unscheduled operations will be the least restrictive: 1,400 hours in any calendar year, 800 hours in any two consecutive calendar quarters, and 500 hours in any calendar quarter (§§ 135.267, 135.269, and 135.271).

One commenter objected to the Part 121 monthly flight time limit of 100 hours in any calendar month on the basis that Decision 83, which was incorporated into law, is still in force. Decision 83 was an announcement of the National Labor Board on May 10, 1934, which stated that 85 hours a month would be the flight time limitation for pilots of five airline companies involved in a dispute. Decision 83 was incorporated into Federal law in the Civil Aeronautics Act of 1938, and reenacted in both the Federal Aviation Act of 1958 and the Airline Deregulation Act of 1978. Decision 83 is incorporated into Title IV of the Federal Aviation Act, which governs economic regulation, not into Title VI, which affects safety regulations. The economic decisions in Decision 83 have never carried over to safety rules such as the monthly flight time limit.

A number of commenters objected to the less restrictive limits for Part 135 operators on the basis that the FAA should require the same flight time limits as Part 121 domestic operations for all Part 135 operations. These commenters reasoned that what is considered safe for one type of operation should be considered safe for all. Certain factors, however, were considered in establishing the new Part 135 flight time limits. Part 121 limits for large aircraft have been established for more than 30 years. The large air carriers are accustomed to operating within these restrictions and have maintained a high level of safety. Part 135 scheduled and unscheduled operators have had no cumulative weekly, monthly, or annual flight time limits, only daily limits of 10 hours for a two-pilot crew and 8 hours for a one-pilot crew. Theoretically, the current rule allows a two-pilot crew to fly 70 hours of flight per week and 3,640 hours in 52 weeks. The new limits for both scheduled and unscheduled operations substantialy reduce flight time in order to reduce fatigue and provide a level of safety equivalent to, to the maximum feasible extent, the level of safety in Part 121.

The Airline Deregulation Act of 1978 requires the Administrator to "impose requirements upon . . . commuter air carriers to assure that the level of safety provided to persons traveling on such commuter air carriers is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling" on Part 121 air carriers: The FAA's action in establishing, for the first time, weekly, monthly, and annual flight time limits for Part 135 scheduled operations is consistent with the "maximum feasible extent" requirement.

Thirty-seven commenters, primarily operators, a few pilots, and a state government, objected to the proposed limit of 32 hours of flight time in any 7 consecutive days in § 135.265(a). They claimed that the weekly limit would

have a significant cost impact because of the additional bookkeeping requirements and the need to hire additional flight crewmembers. Examples from schedules submitted by operators as part of their comments showed that these operators were scheduling 1 or 2 hours of flight in excess of the proposed 32-hour weekly limit. Commenters also pointed out that during peak periods, seasonal operators would be forced to hire additional flight crewmembers. This would not only be costly to the operators but also to flight crewmembers who need the extra hours of flight time during peak seasons to compensate for wages lost during slack seasons. The commenters believed that from a safety standpoint a weekly limit is unnecessary; monthly and annual limits or only monthly limits are a sufficient safeguard against fatigue.

Based on these comments and considering that the new weekly flight time limit is considerably more restrictive than the old Part 135 limits, the FAA has decided to increase the weekly limit from the proposed 32 hours to 34 hours, which is within the range of weekly flight hour limitations discussed during the regulatory negotiation process. The increase should accommodate those air carriers who submitted schedules showing flight times in excess of 32 hours and should also increase flexibility for seasonal operators and crewmembers. However, the FAA is unwilling to eliminate the weekly flight time limitation.

The FAA points out that weekly, monthly, and annual limits work in conjunction with each other and with daily required rests and flight hour limitations between rests. For example, for Part 135 scheduled operators, an annual limit of 1200 hours if divided by 12 months allows 100 flight hours a month. However, a Part 135 pilot could accumulate a maximum of 120 flight hours in a month if necessary. In the same way, the monthly limit of 120 hours if divided by 4 weeks allows for 30 flight hours each week. However, a Part 135 pilot could accumulate a maximum of 34 flight hours per week for the first 3 weeks, but could not exceed 18 flight hours during the remainder of the calendar month. Thus the weekly, monthly, and annual flight hour limits will provide more protection from acute and chronic fatigue by significantly reducing the number of weekly, monthly, and annual flight hours permitted by the old rule. Therefore, the FAA believes that the weekly limit is a necessary component of the overall regulatory scheme for the prevention of fatigue of flight crewmembers engaged in scheduled operations, and that the benefits of the amendment outweigh the costs. The costs and benefits are discussed below under "Economic Evaluation."

A number of commenters pointed out that two earlier FAA proposals, Notice 78–3B and 82–4 (45 FR 55316, August 11, 1980 and 47 FR 10748, March 11, 1982) did not contain annual limits and that one of these proposals also did not contain weekly limits. In both cases, however, the concepts for the proposed rules differed from this proposal. In Notice 78–3B annual limits were dropped but monthly and weekly limits included both flight and duty hours. In Notice 82–4 the flight time rules were simplified across the board with a single monthly limit, and an 8-hour rest for under 8 hours of flight time and a 10-hour required rest for over 8 hours of flight time. In light of comments on Notice 82–4 and the negotiations of the Advisory Committee, the FAA has determined that the final rule better serves the needs of the public, flight crewmembers, and operators. Those operators who will have additional costs connected with the weekly limit are reminded that they have an adequate time period to adjust their scheduling practices to the new weekly requirements.

A number of commenters favored the quarterly, biquarterly, and annual limits for Part 135 unscheduled operators. Two commenters objected to the limits for Part 135 unscheduled operations on the grounds that they appear potentially unsafe. One commenter pointed out that under the proposed limits, a flight crewmember could be scheduled to work a 14-hour duty day with 8 hours of flight time each day for 2 consecutive calendar months without an extended rest. Under these circumstances the flight crewmember would be within the limit of 500 hours within one calendar quarter and 800 hours within two consecutive calendar quarters. (§ 135.267(a) (1) and (2)).

The FAA recognizes that such a schedule would be allowed under the new rule. However, the quarterly limit has been set at 500 flight hours to allow for seasonal, unscheduled operations which provide an important transportation service to the public. In addition, certain safeguards are inherent in the rule. If a flight crewmember does fly 500 hours in one quarter, he or she cannot fly more than 300 hours in the quarter before nor in the quarter after. And a flight crewmember cannot fly more than 1400 hours in the year. Also a Decrease in flight crewmember must be given 13 rest periods of at least 24 consecutive hours in each quarter. If a pilot does fly 8 hours in a 14-hour duty period each day for 60 consecutive days, in the last 30 days of the quarter he or she can fly only 20 hours and must be given 13 rest periods of at least 24 consecutive hours. Although such a schedule is theoretically possible under the rule, it seems highly impractical. Finally, the rule also requires that each 14-hour duty period in this example be preceded and followed by 10 hour rest periods and that the daily flight limit of 8 hours for a single pilot and 10 hours for two-pilot crew cannot be exceeded without incurring a penalty of up to 16 hours of rest. Given the entire context of § 135.267, the flight crewmember will be adequately rested. This is in contrast to the current rule which allows a pilot to fly 8 to 10 hours a day for 7 days a week for 52 weeks.

The proposed rule distinguished a special category of Part 121 operators in § 121.471(h). Paragraph (h) established less restrictive weekly, monthly, and annual limits for operators of propeller-driven multiengine airplanes with a passenger seating configuration of 31 to 60 seats and a payload capacity range of 7,501 pounds to 18,000 pounds. The provision was based upon a proposal from the Regional Airlines Association (RAA) submitted to the Advisory Committee involved in the regulatory negotiations of the flight time limitation rules. The RAA originally proposed establishing in Part 135 special flight time limits to apply to operations of multiengine propeller-driven airplanes with a maximum passenger seating configuration of 60 seats and a maximum payload capacity of 18,000 pounds. The present benchmark for Part 135 operations, as established in Special Federal Aviation Regulation 38 (now SFAR 38–2), is a maximum seating configuration of 30 seats and a maximum payload capacity of 7,500 pounds. The basic premise of the RAA's request was that the 30-seat benchmark is inappropriate for flight time rules. According to the RAA, short-duration, passenger-carrying operations using smaller aircraft (commonly known as regional operations), whether conducted under Part 135 or Part 121, are like each other and unlike the longer haul jet operations of the major airlines. Therefore, the RAA requested that those operations in aircraft up to 60 passenger seats follow the flight time rule appropriate to their type of operation.

The FAA's proposed rule (Notice 84–3) retained the 30-passenger, 7,500 pound payload distinction as the dividing line between Part 121 and Part 135 flight time rules. However, the FAA

accommodated the RAA request by (1) proposing the same daily rest requirements and flight time limits

especially in light of the flexibility and other benefits the rule offers Part 121 and Part 135 scheduled operators. If it is

FAA is impressed that the most persuasive comments oppose allowing less restrictive cumulative limits for

practices of carriers that carriers do not know and cannot hypothesize how often

it could not accommodate many distant city pairs. Furthermore, the 9-hour cap

FAA has decided that the final rule will limit scheduled flight time between

accommodated the RAA request by (1) proposing the same daily rest requirements and flight time limits between rests for Part 121 domestic air carrier operations and for Part 135 scheduled operations; and (2) proposing flight time limits, during any 7 days, calendar month or year, for Part 135 scheduled operations, which are less restrictive than those for Part 121 domestic air carrier operations (§ 121.471(a)). These less restrictive limits were incorporated in proposed § 121.471(h) as follows:

(h) For operations of propeller driven multiengine airplanes having a passenger seating configuration of 31–60 seats and a payload capacity of 18,000 pounds or less, no air carrier may schedule any flight crewmember for flight time in scheduled air transportation or in other commercial flying if that crewmember's total flight time in all commercial flying will exceed—

(1) 1,200 hours in any calendar year.
(2) 120 hours in any calendar month.
(3) 32 hours in any 7 consecutive days.
(4) 9 hours between rest periods. [Changed to "8 hours between rest periods" in this final rule.]

Thus, in effect, proposed paragraph (h) created a special aircraft size category in the Part 121 flight time limitations without changing the benchmark for Part 135 established in SFAR 38.

Proposed paragraph (h) was a controversial issue in the Advisory Committee negotiations and the Committee did not reach consensus on the issue. While the FAA chose to include paragraph (h) in the NPRM, it stated the following reservation:

Although the FAA has incorporated the RAA requests into this proposed rule, in view of objections to proposed paragraph (h) expressed at the February 14, 1984 Advisory Committee meeting, the FAA invites comments and statistics on this issue.

During the comment period, the FAA received a number of comments on paragraph (h). Of the 54 comments received on the subject, 27 favored including paragraph (h), while 27 opposed it. Most of the comments in favor of including paragraph (h) were from air carrier associations and individual air carriers who fly Part 121 operations or dual Part 121/135 operations. These comments supported the RAA's earlier position that regional operations are like each other and unlike other Part 121 or Part 135 operations. Some dual Part 121/135 operators pointed out that without paragraph (h) dual operators would have the expense of maintaining two sets of records on flight time limitations and rest requirements for operations that are essentially the same. However, recordkeeping is not that costly, especially in light of the flexibility and other benefits the rule offers Part 121 and Part 135 scheduled operators. If it is of significant cost to keep dual records, it is not a new cost, and presumably is an anticipated cost when a Part 135 operator considers purchasing large aircraft. It is a cost that operators should take into account as part of that decision and is in no way a cost imposed by this rulemaking.

Most of the comments in opposition to paragraph (h) were from regional airline pilots who conduct operations under Part 121 and from organizations representing pilots. These comments stated that regional operations are actually more strenuous and more fatiguing than other Part 121 operations.

At the last Advisory Committee meeting on September 11, 1984, the issue of including paragraph (h) was not separately discussed as an issue by the committee members. However, several regional air carrier pilots made oral presentations to the committee in which they objected to less restrictive limits for short-duration, passenger-carrying operations. The chairman of the National Transportation Safety Board (NTSB) also made an oral presentation in which he objected to paragraph (h) as follows:

The FAA has not presented any basis for the higher flight time limitations proposed for flight crewmembers of the category of aircraft addressed in proposed 121.471(h) over the limitations set forth in 121.471(a). The operation of propeller-driven smaller airplanes and those used for commuter operations are, by the very nature of their normal use, more demanding; they fly shorter leg segments, make more approaches into smaller airports having less sophisticated navigations aids, spend proportionately more time in high density terminal environments, and encounter more often the adverse weather conditions typical of lower altitudes. Moreover, flight crewmembers of these aircraft often have a higher duty time to flight time ratio which is not accounted for in the proposed regulations. In the Board's view, there is a compelling rationale for imposing more restrictive flight time limitations on these flight crews. To allow less restrictive limitations, as proposed, will possibly jeopardize safety.

As emphasized in the NPRM, decisions in this final rule are the sole responsibility of the Administrator. Although the consensus recommendations of the Advisory Committee made a significant impact on the final rule, on this issue the Committee did not reach a consensus. Therefore, the FAA has made its own determination after considering NPRM 84–3 comments, final presentations, and the earlier deliberations. While the comments were numerically split, the FAA is impressed that the most persuasive comments oppose allowing less restrictive cumulative limits for certain Part 121 operations. The less restrictive weekly, monthly, and annual limits being adopted for Part 135 scheduled operations can be justified primarily on the grounds that present Part 135 operations are subject only to daily limits. However, Part 121 operations—including operations conducted by operators who began as Part 135 operators—have for over 30 years been subject to the 30 hour weekly, 100 hour monthly, and 1,000 hour annual limits. The FAA concludes that it cannot ensure that the present level of safety would be maintained if it were to relax these limits for some Part 121 operations. Therefore, proposed § 121.471(h) has not been included in this final rule.

Daily Flight Time Limits—Part 121 and Part 135 Scheduled Operations

The daily flight time limits and rest requirements for Part 121 domestic operations and Part 135 scheduled operations are alike except that Part 135 scheduled operations have an additional daily flight time limit of 8 hours for a one-pilot crew. Under both parts, an air carrier may not schedule a flight crewmember for more than 8 hours of flight time between required rest periods. An 8-hour flight time limit between rests is similar to the current § 121.471(b) which limits flight time to 8 hours between rests by requiring that an intervening rest of twice the number of hours of flight time but not less than 8 hours be given at or before the completion of 8 hours of flight time in any given 24-hour period.

The proposed rule limited flight time to 9 hours between rest periods. A number of commenters objected to the 9-hour limit on the basis that 9 hours had not been discussed by the Advisory Committee before drafting NPRM. The FAA proposed 9 hours as the limit between rest periods because several members stood firm on an 8-hour flight time limit in any 24 consecutive hours with a 10-hour required rest and other members stood firm on an 8-hour flight time limit with an 8-hour required intervening rest.

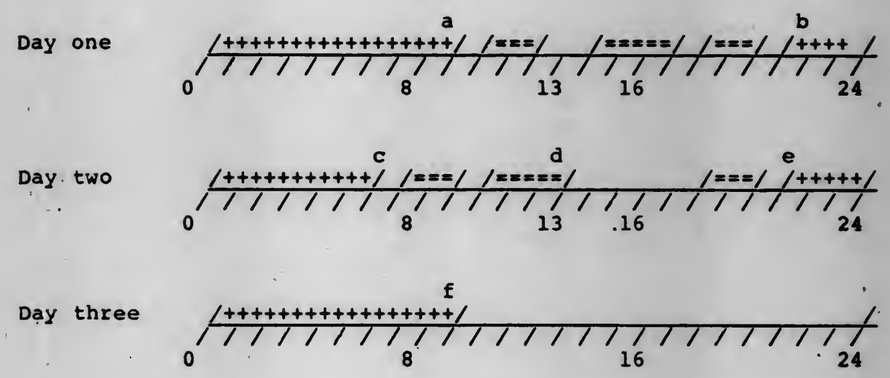
In order to gather additional information, in Notice 83–4 the FAA requested comments on how often the 9-hour cap would be reached, including the types of schedules contemplated. Only one commenter submitted specific, substantive comments on the 9-hour cap. This comment stated that current Part 121 requirements have so influenced marketing strategies and scheduling

practices of carriers that carriers do not know and cannot hypothesize how often the 9-hour cap would be reached. However, flexibility to exceed 8 hours would likely offer benefits as certain markets, which involve turn-arounds on long stage lengths, could be efficiently served within a 9-hour cap. The FAA considered this information in conjunction with a number of comments submitted by pilots, pilot associations, and others who objected to the 9-hour cap because it would extend the duty day. The FAA concluded that the proposed 9-hour cap was of dubious benefit to long-haul operations because it could not accommodate many distant city pairs. Furthermore, the 9-hour cap might extend what is already a long duty period for flight crewmembers in short-haul operations. For short-haul, passenger carrying operations, 8 hours of flight time usually involves 12 to 14 hours of duty because of the number of flights and the time needed on the ground between flights. Extending the flight time limitation between rests beyond the 8 hours currently allowed by the domestic rules in Part 121 cannot be justified at this time, and would create inconsistencies with certain other Part 121 flight time limitations. Therefore, the FAA has decided that the final rule will limit scheduled flight time between required rest periods to a maximum of 8 hours.

A number of commenters apparently view the 8-hour cap as an 8-hour limit within any 24-hour period. It should be noted that the 8-hour cap of this rule and the 8-hour cap of the current rule are not flight time limits in a rolling 24-hour period. Rather, the 8-hour cap is a flight time limit between required rest periods. It is possible under both rules to fly in excess of 8 hours within a 24-hour period. (See Figure 1 for an example of operation under the new rule.)

Figure 1

LEGALLY SCHEDULED FLIGHT TIME IN EXCESS OF 8 HOURS DURING 24 CONSECUTIVE HOURS



[+] Scheduled rest
[=] Scheduled flight time

(a) At 0900 hours the flight crewmember is scheduled for duty after 24 hours rest.

(b) At 2100 hours the flight crewmember is scheduled to be released from duty after being scheduled for 7 hours of flight time.

(c) At 0600 hours (Day two), the flight crewmember reports for duty after a 9 hour reduced rest.

(d) At 1300 hours (Day two) the flight crewmember can look back on 10 hours of scheduled flight time in 24 consecutive hours.

(e) At 2100 hours (Day two), the flight crewmember is released from duty after 7 hours of scheduled flight to receive compensatory rest of at least 12 hours.

(f) At 0900 hours (Day three), the flight crewmember completes the compensatory rest.

Daily Rest Requirements—Part 121 and Part 135 Scheduled Operations

The new rest requirements under Part 121 and Part 135 scheduled rules resolve the series-of-flights problem in current Part 121 by replacing the intervening rest concept and the 16-hour rest with a daily rest requirement based on the number of flight hours scheduled in any 24-hour period. The new daily rest requirements apply when any amount of flight time is scheduled, thereby correcting the lack of rest requirements in current Part 121 for flight crewmembers who are scheduled for

less than 8 hours of flight time in any 24-hour period. For both Part 121 and Part 135 scheduled operations for a 24-

little in that context, particularly since it does not include getting to or from the airport hotel or checking in and out.

less than 8 hours of rest. Therefore, the final compliance date of this final rule is

crewmember could be scheduled for 4 consecutive 15-hour days with 7.5 (now

hour period, a reduced rest of 8 hours for the first scheduled rest must be

a pilot is scheduled for 4 hours of flight

VOL 50 ISS 138 JL 18 1985 UMI

less than 8 hours of flight time in any 24-hour period. For both Part 121 and Part 135 scheduled operations for a 24 consecutive hour period, 9 consecutive hours of rest must be scheduled for less than 8 hours of flight time, 10 consecutive hours of rest for 8 or more but less than 9 hours of flight time, and 11 consecutive hours of rest for 9 or more hours of flight time.

To allow more flexibility than the current rule in scheduling or in adjusting scheduled rests in the event of late arrivals, the new rule provides for reducing a required rest as follows: a 9-hour rest can be reduced to 8 hours if 10 hours of rest is given at the flight crewmember's next scheduled rest; a 10-hour rest can be reduced to 8 hours of rest if 11 hours is given at the next scheduled rest; and an 11-hour rest can be reduced to 9 hours if 12 hours is given at the next scheduled rest. These reduced and compensatory rest periods are absolute and may not be further reduced under any circumstances.

It should be emphasized that the provisions for rest period reductions adopted herein provide substantially more flexibility for air carriers than is available under the current domestic rules. The change from the proposed 7½ hour reduced rest to an 8 hour reduced rest simplifies the regulation because the air carriers are accustomed to using an 8 hour rest period.

Scheduled flight time hours during any 24-hour period	Minimum hours of rest		
	Normal	Reduced	Compensatory
<8	9	8	10
>8<9	10	8	11
>9	11	9	12

NOTE.—< means less than. > means equal to or greater than.

The proposed rule allowed the 9-hour rest required for less than 8 hours of scheduled flight time to be reduced to 7½ hours provided a minimum of 10 hours rest is given at the next scheduled rest period. A large majority of the commenters who addressed this provision strongly opposed allowing a minimum rest period to be reduced to 7½ hours. The following excerpt from the comment of the Aviation Consumer Action Project (which was represented on the Committee) was typical of the anti-7½-hour minimum rest comments:

> It would seem more appropriate to limit the shrinkage, if at all, from nine hours to eight hours. An eight hour floor would seem more appropriate, particularly in the not unusual situation where the pilot lands late at night after a 'light' day of flying, but has a heavier schedule starting the next morning. Seven and one-half hours rest would seem to be too little in that context, particularly since it does not include getting to or from the airport hotel or checking in and out.

A significant number of pilots in regional air carrier operations made a joint submission in commenting on various aspects of the proposal including that for a reduced rest period of 7½ hours. This submission indicated that on one carrier alone, there are five "quick turnaround" schedules involving overnight rest periods. According to these commenters, although the rest periods are scheduled for 8 to 9 hours, frequently the flights arrive late at the overnight point thus creating a situation for reduction of the scheduled rest to 7½ hours. According to these pilots, if transportation to and from the hotel and normal functions prior to retiring and after arising are considered, the maximum time available for sleep is 5 hours and 45 minutes. These pilots contend that this amount of time is inadequate, particularly if the next day involves a heavy flight schedule.

Although the proposed 7½ hour reduced rest period was focused on during the regulatory negotiation process, the above described comments and others which opposed that provision raise a significant issue concerning whether to adopt the 7½-hour provision as proposed or modify it. This question is exacerbated by the fact that the air transportation industry is experiencing significant changes including innovative operating practices and the entry of many new air carriers. Competition has increased substantially. Thus, there is a recognizable risk that the present relatively few rest periods in the range of 7½ hours could increase substantially.

All parties agreed to a minimum rest period regardless of the amount of flight time. In determining the specific amount of such a rest period, the FAA has decided to follow a course of action which minimizes the possibility of pilot fatigue. Accordingly, the proposal, as adopted herein, is modified to change the 7½ hour reduced rest period to 8 hours. In this respect, as discussed earlier in this preamble, at the present time the National Aeronautics and Space Administration is conducting a study of pilot fatigue factors. When the results of that study are available to the FAA, the agency will review the flight time limitations and rest requirements to determine what, if any, changes are indicated.

The FAA recognizes that some of the approximately 30,000 scheduled daily flights currently operating within the United States may depend on providing less than 8 hours of rest. Therefore, the final compliance date of this final rule is delayed long enough to provide those operators affected by the minimum rest requirement ample time to adjust those flight schedules which provide for less than 8 hours of rest.

Requests that the minimum rest be an 8-hour rest at a rest facility are not being incorporated in the final rule because travel time to and from a rest facility varies according to distance, time of day, surface traffic conditions, and other variables. The FAA believes that the 8-hour minimum rest, taken together with weekly flight time limitations and compensatory requirements for rest reductions, will assure a rested flight crewmember. Since a reduced rest must be compensated for at the next scheduled rest, a flight crewmember will receive at a minimum 18 hours of rest over approximately 48 hours. Discussion at the last Advisory Committee meeting questioned whether the compensatory rest must be completed within a 48-hour period. One commenter specifically requested "definitive language" to that effect in the preamble or the proposed rule. The proposed rule only required that a compensatory rest be given at the next required rest period. The preamble by way of explanation stated that the rest would be given within "approximately a 48-hour period". The FAA did not intend to require that the compensatory rest be completed within exactly a 48-hour period. However, it was the intent of the proposal, as discussed at the last committee meeting, that the flight crewmember receive enough rest from the combined reduced and compensatory rests to overcome fatigue. In order to assure that a flight crewmember receives both the reduced and compensatory rests within a reasonable period, the final rule requires, in all appropriate sections, that the compensatory rest begin no later than 24 hours after the commencement of the reduced rest period. The longer compensatory rest is necessary within a reasonable time period to overcome any acute fatigue incurred during the flight times scheduled before and after the reduced rest period.

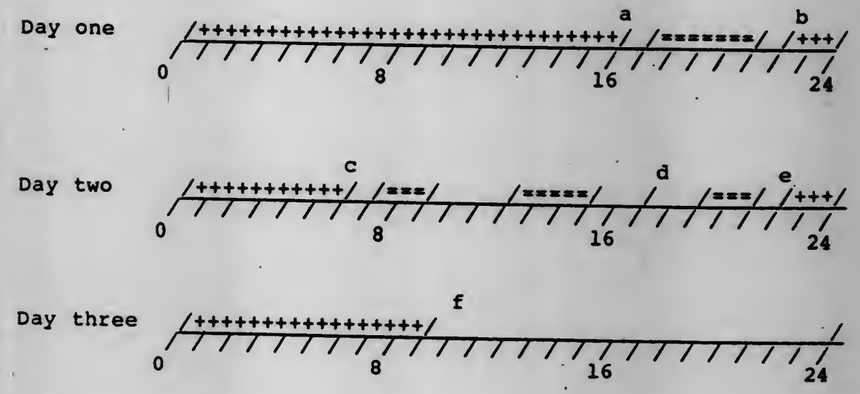
A number of commenters expressed concern that the rest reduction provisions of the rule would result in the scheduling of short flights late in the duty period of the first day, minimum rest overnight, and a strenuous flight and duty period on the second day. This concern, plus hypothetical schedules submitted in comments, suggest that these provisions have not been entirely understood. For example, one commenter stated that a flight

crewmember could be scheduled for 4 consecutive 15-hour days with 7.5 (now 8) to 9 hours of scheduled rest between the duty periods if the flight crewmember is acheduled for less than 8 hours of flight time each day. The statement is incorrect because in 4 consecutive days with less than 8 hours of scheduled flight time during any 24 hour period, a reduced rest of 8 hours for the first scheduled rest must be compensated for at the second scheduled rest by at least 10 consecutive hours of rest.

It should be noted that the rest requirement is based on the number of flight hours looking back 24 hours from the completion of each flight segment. If a pilot is scheduled for 4 hours of flight time late on the first day and receives a reduced rest of 8 hours, he or she can only be scheduled for up to 5 hours of flight time the following morning, since the flight crewmember cannot be scheduled for 9 or more flight time hours in 24 consecutive hours, based on an 8 hour reduced rest period. (See Figure 2)

Figure 2

REDUCED REST TIED TO NUMBER OF FLIGHT HOURS IN 24 CONSECUTIVE HOURS



(a) At 1600 hours the flight crewmember reports for duty after 24 hours rest.

(b) At 2200 hours the flight crewmember is scheduled to be released from duty having been scheduled to fly 4 hours.

(c) At 0600 hours (Day Two), the flight crewmember is scheduled to report for duty after an 8 hour reduced rest.

(d) By 1700 hours (Day Two), the flight crewmember may not be scheduled for more than 4 hours and 59 minutes of flight, or he or she will equal or exceed 9 hours of flight time in 24 consecutive hours which would not be legal unless he or she is scheduled for at least 9 hours of reduced rest in the preceding 24 hours.

(e) At 2200 hours (Day Two), 24 hours after the commencement of the reduced rest, the flight crewmember is released from duty to receive 11 hours of compensatory rest for 8 or more but less than 9 hours of scheduled flight time.

(f) At 0900 hours (Day Three), the flight crewmember completes the compensatory rest.

The purpose of the rest reduction is to allow scheduling flexibility for the benefit of air carriers, pilots, and the flying public. Although this rule allows for scheduling a reduced rest, it does not allow for any reduction of the minimum reduced rest or of the minimum compensatory rest under any circumstances. Therefore, in order to benefit fully from this flexibility, an air carrier should schedule realistically to avoid any possible flight schedule disruptions. The FAA expects that most air carriers will schedule at least 9- to 11-hour required rest periods. But, in those instances when air carriers need to schedule a shorter rest or when rest must be reduced because actual flight time has exceeded scheduled flight time, the rule allows for some scheduling flexibility.

A number of commenters requested that the word "rest" be defined or that rest be measured as the period between "release to report" and that release and report times be specified in the rules to allow 1 hour outside the rest period for report and 30 minutes outside the rest period for release. Actual report and release (briefing and debriefing) procedures vary among air carriers

depending on certain factors, such as agreements made with employees. In

regulation. The FAA intends to enforce the regulation vigorously. Realistic

for the air carriers. Committee members think that the air carriers should have

operations under Part 121 are subject to the domestic air carrier flight time

longer fly Part 121 domestic flights. The same principle would apply for the

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VOL
50
ISS
138
JL
18
1985
UMI

depending on certain factors, such as agreements made with employees. In addition, actual time spent for report and release duties may vary according to the nature and time of the flight. The FAA will continue to leave briefing and debriefing time allotments to the discretion of the air carrier as long as the air carriers permit adequate time to perform required preflight and post flight duties and do not infringe on the required rest periods.

A number of commenters stated that the new sliding scale for required rest plus the system of reduced rests and compensatory rests is more complicated than the current rule. Actually, the proposed rule is very simple if reduced scheduling is not used, and no air carrier is required to schedule a reduced rest period. However, to provide guidance for scheduling in compliance with the new rule, the FAA has added examples and a chart to this preamble to the rule that can help to determine if a schedule is in compliance.

Actual Flight Time vs. Scheduled Flight Time

While §§ 121.471 and 135.265 deal primarily with daily scheduled flight hours, *actual flight hours* determine compliance with weekly, monthly, and annual limits. Sections 121.471(g) and 135.263(d) state that a flight crewmember is not considered to be scheduled for duty in excess of flight time, limitations if the scheduled flights *normally* terminate within the limitation. In scheduling flights, each air carrier must provide adequate time for the flight crewmember to perform required pre- and post-flight duties, and at least the minimum rest periods required by the rules.

A number of commenters objected to the lack of a provision for a make-up rest in Part 121 domestic operations and Part 135 scheduled operations, such as exists in the Part 135 unscheduled operations rules for instances when actual flight time exceeds scheduled flight time. In answer, compliance with the flight scheduling rules requires each air carrier to schedule realistically. In addition, each flight crewmember, if provided the opportunity, should bid a realistic schedule. If actual flight time is consistently higher than the scheduled flight time allowed, the schedule should be adjusted. It should also be noted that the required rest period in § 121.471(b) and § 135.265(b) is actual rest time which may not be reduced except in accordance with § 121.471(c) and § 135.265(c). If a flight crewmember does not receive the required number of hours of rest, the operator and the flight crewmember are in violation of the regulation. The FAA intends to enforce the regulation vigorously. Realistic scheduling and bidding should provide a reasonable balance between scheduled flight hours and rest periods on a daily, weekly, monthly, and annual basis. Public safety demands realistic scheduling and properly rested flight crewmembers.

Two commenters raised a question about the application of the rule when during a 24 consecutive hour period, actual flight time exceeds scheduled flight time. For example, if a flight crewmember is scheduled for 7:45 hours of flight and 9 hours of rest in the 24 hours preceding the scheduled completion of the flight, and because of enroute delays, the crewmember actually flies 8:05 hours, does the subsequent rest have to be 10 hours? *No,* because the flight crewmember was not scheduled for more than eight flight hours. Nor is the air carrier required to provide a longer compensatory rest at the next scheduled rest period because the actual flight time exceeded scheduled flight time. No penalty exists in either § 121.471 or § 135.265 for circumstances under which actual flight time exceeds scheduled flight time. However, if actual flight hours infringe on a required minimum reduced rest or makeup rest, the full, required minimum rest must be given at the completion of the late flight even if doing so results in late departures for subsequent flights. As a further example, if a flight crewmember is scheduled for 5 hours of flight followed immediately by 9 hours of rest and because of reasons beyond the control of the operator or flight crewmember the flight infringes on the scheduled rest, one of two events could occur: (1) If the total scheduled flight time in the 24 consecutive hours is less than 8, the required rest could be reduced to 8 hours with a compensatory rest of 10 hours given at the next scheduled rest; (2) If the rest is already a minimum rest, the flight crewmember must be given that rest, which may mean that subsequent scheduled flights will have to be delayed.

Flight Crewmember Responsibility

At the September 11, 1984 meeting, several committee members requested that the proposed language in § 121.471(a) ". . . no domestic air carrier may schedule any flight crewmember and no flight crewmember may accept . . ." be changed by deleting the words "no flight crewmembers may accept." According to the committee, the phrase places responsibility for accepting an assignment on the crewmember which can create labor-management problems for the air carriers. Committee members think that the air carriers should have full responsibility for scheduling flight time. Members representing labor organizations expressed the concern that in the event of an accident, a flight crewmember could be blamed if he or she had accepted an assignment for flight time beyond his or her limit. A number of commenters also stated that requiring flight crewmembers to be responsible for the flight time limits could create confusion if a difference of opinion arises between a flight crewmember and an operator as to whether a flight will extend beyond the flight time limits.

"Flight crewmember responsibility" is a requirement in current Part 135, § 135.261. The FAA has retained the language throughout the final rule because the provision is essential for enforcement of the flight time limits. For example, in instances where a flight crewmember has logged commercial flying other than the flight time logged for the air carrier, the air carrier might not have knowledge of the additional commercial flying. Thus, the flight crewmember must also be responsible for complying with the flight time limits and rest requirements.

The FAA wants to stress that the goal of these revisions is to prevent fatigue. Acute or short-term fatigue will be prevented by the introduction of a minimum daily rest requirement in Part 121, regardless of the amount of flight time scheduled. Cumulative or long-term fatigue will be prevented by instituting either weekly, monthly, and annual flight time limitations for Part 135 scheduled operations or quarterly, biquarterly, and annual flight time limitations for Part 135 unscheduled operations. It is the responsibility of both the operator and the flight crewmember to prevent fatigue, not only by following the regulations, but also by acting intelligently and conscientiously while serving the traveling public. This means taking into consideration weather conditions, air traffic, health of each flight crewmember, or any other circumstances (personal problems, etc.) that might affect the flight crewmember's alertness or judgment on a particular flight. The FAA also emphasizes that accurate flight time records must be made. The agency will consider it a very serious matter if recording of flight time is not accomplished in an honest manner.

Dual Operations

In Notice 84-3, the FAA stated that "Part 135 operators who operate scheduled passenger-carrying operations under Part 121 are subject to the domestic air carrier flight time limitations of Subpart Q." The FAA requested comments on whether additional language was needed in the rule to clarify this requirement. The purpose of the statement was to clarify for air carriers that operate under both Part 121 and Part 135, that they must comply with Part 121 Subpart Q flight time limits and rest requirements for their Part 121 domestic air carrier operations. The statement was specifically referring to Part 135 operators who had been operating scheduled passenger-carrying operations under Part 121 Subpart S and who recently have been required to comply with the domestic air carrier requirements of Subpart Q and other rules applicable to domestic air carrier operations. No specific comments were received on this issue.

A number of comments indicated and the deliberations of the Advisory Committee confirmed the existence of a broader problem concerning dual operations. Several comments were received from air carriers who fly both scheduled and unscheduled operations. These comments expressed confusion about how to comply with the rules. Should a dual operator make all its operations comply with whatever the most restrictive flight time limits and rest requirements are? For example, should a Part 135 scheduled operator who has some Part 121 operations comply in all operations with the more restrictive Part 121 rules? Or should that operator maintain separate crews, one for Part 121 operations and one for Part 135 operations? The same questions arise for operators who have both Part 135 scheduled and Part 135 unscheduled operations, and for operators who fly different types of Part 121 operations, such as domestic and supplemental.

The long-standing policy of the FAA has been to permit dual operators to use the same flight crewmembers interchangeably for different types of operations. However, an operator may maintain separate crews for different types of operations if that is more convenient. To be in compliance with the rules, a pilot who files dual operations must, in all respects, comply with the flight time limits and rest requirements for the particular operation being conducted. Thus, under the new rule, a pilot flying Part 121 domestic flights and Part 135 scheduled flights could legally fly both types of flights interchangeably up to 1,000 hours in a calendar year. The pilot could then continue to fly Part 135 scheduled flights for an additional 200 hours, but could no longer fly Part 121 domestic flights. The same principle would apply for the monthly and weekly limits. In the case of dual operators who operate Part 121 domestic and supplemental flights, a pilot could fly up to 30 hours of domestic flight operations and supplemental operations in less than 7 days. During a 7-day period, the pilot could then continue to fly supplemental operations, which have no weekly limit, but could not fly more hours of domestic operations. However, the 30 hours in 7 days limit may prohibit the pilot from conducting a domestic flight on the eighth day.

Dual operators who assign pilots interchangeably on a daily basis must also see that the pilot has satisfied all of the flight time limits and rest requirements. Thus, for any assigned flight hours, a pilot must have had the required amount of rest and must fly within the daily flight time limitations for the particular type of operation. For example, a pilot who flies both Part 135 scheduled operations and Part 135 unscheduled operations on a daily basis must be in compliance with both sets of rest and flight requirements. If a pilot is flying scheduled operations morning and afternoon, the pilot must have had at least the required rest under § 135.265 and may not fly more than 8 hours between rests. If in addition to scheduled flights, the pilot is flying unscheduled operations in the middle of the day, the pilot must have had at least 10 hours of rest in the 24 hours preceding the completion of any flight.

On a daily basis, in instances where the requirements are not parallel (most cases) the more restrictive limits will necessarily apply. A certificate holder who plans less than 8 hours of flight time for combined scheduled and unscheduled flights must schedule at least 10 hours of rest preceding the flight hours. Certificate holders who plan more than 9 hours of scheduled and unscheduled flights must give 11 hours of rest in the preceding 24 hours. If the certificate holder reduces the 11-hour rest as allowed under § 135.265(c)(3), he may only reduce it to 10 hours or he will not be in compliance with § 135.267(c)(2). In the same way, a certificate holder who conducts scheduled and unscheduled operations on a daily basis must adhere to both daily flight time limits of § 135.265(a) (4) and (5), and § 135.267(c) (1) and (2) as applicable. This certificate holder cannot schedule a pilot for more than 8 hours of flight time between required rest periods nor schedule a pilot for more than 10 hours of flight time in any 24 consecutive hours.

Clearly, dual operations do present scheduling complications and always have. However, the FAA believes that it is beneficial to the majority of operators to have flight time limits and rest requirements specifically suited to different types of operations. One rule for all operations would eliminate the complications of dual operations, but might unreasonably restrict certain types of operations. Under the new rule, dual operators will continue to be required to comply with all applicable rules. However, in Part 121 and Part 135 rules certain mechanisms exist which allow some dual operators to simplify their operations. Section 121.5 allows flag and domestic air carriers to obtain authority from the Administrator to conduct charter flights or other special services, over certain routes, under the rules applicable to flag and domestic air carriers. The requirements in § 135.261 have been changed from the proposed rule to allow any Part 135 operator the option of conducting all Part 135 operations under the rules for scheduled operations after obtaining an appropriate operations specification amendment. This should reduce the administrative and operational management burdens for Part 135 dual operators.

Section by Section Discussion

Part 121, Subpart Q—Flight Time Limitations and Rest Requirements: Domestic Air Carriers

Subpart Q of Part 121 consists of §§ 121.470 and 121.471. Throughout Subpart Q, the words "rest requirements" have been added, in the subpart heading, in the body of § 121.470, and in the heading of § 121.471. In addition, certain nonsubstantive editorial changes have been made for clarity or correctness.

The following sections describe the technical changes to the proposed rule incorporated in the final rule. All of the major issues involving Part 121 and related changes have been discussed earlier in this preamble.

Section 121.471—Flight time limitations and rest requirements: All flight crewmembers.

Paragraph (a)(4) is changed from the proposed rule by adding the word "required" to clarify that the rest period must be a scheduled rest period as described in paragraph (b) or (c). The proposed 9 flight hours between rests in paragraph (a)(4) is changed to 8 flight hours, and the proposed minimum of 7½ hours of rest in paragraph (c) (1) is changed to 8 hours.

Paragraphs (c) (1), (2), and (3) are changed from the proposed rule to

Advisory Committee and those who commented in writing on the rule

Section 135.263—Flight time limitations and rest requirements: All certificate

Section 135.267—Flight time limitations and rest requirements: Unscheduled

rest. The purpose of the make-up rest is to ensure that each flight crewmember is

the FAA must respond to a request for a

VOL
50
ISS
138
JL
18
1985
UMI

Paragraphs (c) (1), (2), and (3) are changed from the proposed rule to clarify in the rule that the compensatory rest must begin within 24 hours of the commencement of the reduced rest. (See the "Daily Rest Requirements Part 121 and Part 135 Scheduled Operations" section of the preamble.) The undesignated paragraph at the end of paragraph (c) is redesignated as paragraph (c)(4) in order to make its relationship to the paragraph clear.

The word "duty" in the second line of paragraph (g), which describe flight time in excess of limitations, is changed in the final rule to "flight time", for consistency.

Paragraph (h) is removed, as discussed in the section on "Cumulative Flight Time Limits—Certain Part 121 Operations."

Part 135, Subpart, F—Flight Crewmember Flight Time Limitations and Rest Requirements

The flight time limitations and rest requirements for Part 135 operations are organized into the following categories to accommodate the needs of the varied operations conducted under Part 135: (1) general requirements for all Part 135 operations; (2) scheduled operations; (3) unscheduled operations (one- and two-pilot crews and augmented crews); and (4) helicopter hospital emergency medical evacuation services (HEMES).

Some technical changes have been made throughout Part 135, Subpart F. First, the words "rest requirements" are added to the subpart and section headings throughout the subpart in order to make it clear that the subpart contains rest requirements as well as flight time limitations.

Second, whenever the word "duty" meant "flight time" the wording has been changed to read "flight time" in order to make the language in the subpart consistent with the FAA interpretation of the word "duty".

In addition, certain nonsubstantive editorial changes have been made.

The following sections detail the technical changes from the proposed rule in the final rule. They also describe those changes and comments related to controversial issues in specific sections of Part 135, Subpart F. General issues related to both Parts 121 and 135 have been considered in earlier sections of this preamble.

Section 135.261—Applicability.

Proposed § 135.216(b) limited by definition "scheduled operations" to "scheduled passenger carrying operations" with a published schedule of at least five round trips per week. Cargo operators represented on the Advisory Committee and those who commented in writing on the rule requested that cargo operations also be allowed to operate under Section 135.265, scheduled operations rules. The FAA has changed the proposed rule to permit any Part 135 operator to comply with the flight time limitations and rest requirements of § 135.265 thereby reducing any compliance burden caused by keeping two sets of records. In addition, paragraph (b) has been restructured for the sake of clarity.

Paragraph (c) specifies that operations not included in the definition of "scheduled passengers-carrying operations" and operations conducted only within the state of Alaska (except for the helicopter hospital emergency medical evacuation operations) are conducted under the rest requirements and flight time limits of §§ 135.267 and 135.269. Comments were invited by the FAA on the inclusion of scheduled Alaskan operations under Part 135 unscheduled operations. One commenter opposed including Alaskan operations under unscheduled operations because the commenter believed that all operators providing regularly scheduled air service should be subject to the same rules. On this issue, the FAA remains in agreement with certain members of the Advisory Committee who maintain that because of the size of the state and the weather conditions, Alaska has a unique flying environment which justifies the flight time limits and rest requirements applicable to unscheduled operations. One commenter who opposed the rule apparently assumed that scheduled operators in Alaska would have to comply with scheduled rules. This is a misunderstanding of the proposal. Scheduled and unscheduled operations conducted solely within the state of Alaska must comply with § 135.267 and § 135.269, i.e., rules for unscheduled operations. However, Alaskan operators may elect to comply with § 135.265, flight time limitations and rest requirements for scheduled operations, and obtain an appropriate operations specification amendment.

Some commenters requested that large helicopters, those with a passenger seating capacity of more than 30 people, be allowed to fly under the Part 135 flight time limitations and rest requirements. They argued that the new, large helicopters are operated in the same way and under the same conditions as smaller helicopters. This concern is outside the scope of this rulemaking. The operation of large helicopters has been accommodated in a recent revision of SFAR 36.

Section 135.263—Flight time limitations and rest requirements: All certificate holders.

Section 135.263 contains requirements that apply either to all operations under Part 135 or to more than one type of operation. Most of the paragraphs in § 135.263 originated in current § 135.261. Paragraph (d) states that under certain conditions a flight crewmember is not considered to have flown in excess of the flight time limitations. It has been changed from proposed § 135.263 (d) to clarify that it applies to unscheduled as well as scheduled operations.

The requirements for compensatory rest for flight crewmembers who have exceeded the daily flight time limitations, which appeared in proposed § 135.263(e), have been moved to §§ 135.267(e), 135.269(c),and 135.271(c) for clarity and in order to tailor them appropriately to the different unscheduled operations.

The deviation authority that appeared in proposed § 135.263(f) is moved to § 135.267(g) because it concerns only that section.

Section 135.265—Flight time limitations and rest requirements: Scheduled operations.

The words "air carrier" in this section have been changed to "certificate holder" in order to clarify that § 135.265 applies to any operator conducting scheduled operations under Part 135, not just air carriers.

The flight time limit in § 135.265(a)(3) has been changed from "32 hours in any 7 consecutive days" to "34 hours in any 7 consecutive days." (See the discussion of "Cumulative Flight Time Limits.")

Section 135.265(a)(5) has been amended to clarify that the rest periods referred to are the required rest periods in paragraphs (b) and (c). The proposed 9 hours between rest in paragraph (a)(5) is changed to 8 hours, and the proposed minimum of 7½ in paragraph (c)(1) is changed to 8 hours. Paragraph (a)(5) is also changed from the proposed rule by adding the phrase "qualified under this part for the operation being conducted." This phrase was inadvertently omitted from the proposal. This is consistent with other provisions imposing certain qualifications for certain types of operations.

Paragraphs (c) (1), (2), and (3) are changed from the proposed rule to clarify in the rule that the make-up rest must commence within 24 hours of the beginning of the reduced rest. (See the "Daily Rest Requirements Part 121 and Part 135 Scheduled Operations" section of this preamble.)

Section 135.267—Flight time limitations and rest requirements: Unscheduled one- and two-pilot crews.

For the first time, quarterly, biquarterly, and yearly flight time limits are imposed. Quarterly limits, as opposed to monthly limits, allow flexible scheduling for seasonal and on-demand operations and provide adequate rest for flight crewmembers engaged in such operations. The rule requires 13 rest periods of at least 24 hours in each calendar quarter, as proposed, instead of 24 hours off in 7 days. This provides for the same number of days off as are required for Part 121 and scheduled Part 135 operators, and at the same time recognizes that unscheduled pilots, particularly in remote operating locations, may not find it convenient or necessary to take one day off every 7 days.

Daily flight time limits for one- and two-pilot crews remain 8 and 10 hours, respectively, in every 24 consecutive hours. However, § 135.267(c), which is adopted as proposed, allows an operator and flight crewmember to use a schedule of regular daily duty hours rather than a rolling 24-hour clock.

In paragraph (a), editorial changes have been made: (1) to clarify that the section applies to unscheduled one- and two-pilot crews, and (2) to remove the words "duty during."

Paragraph (b)(2) is changed by adding the phrase "for the operation being conducted." This is consistent with other provisions imposing certain qualifications for certain types of operations.

Paragraph (c)(1) is changed to incorporate elements of proposed paragraph (e), and (e) is deleted in order to avoid redundancy. Also, the paragraph is changed to clarify that the regularly scheduled rest period may be more than 10 hours.

A new paragraph (e) is added which contains the make-up rest provisions for overflights formerly in § 135.263(e) of the proposed rule. The provisions were moved unchanged to this section for convenience and to enable the similar provisions that apply to augmented crews in § 135.269 and to helicopter emergency medical evacuation services (HEMES) in § 135.271 to be tailored to those sections.

Comments on the make-up rest provision stated that, since a 16-hour rest was considered excessive under current Part 121 and Part 135, the maximum make-up rest should be no more than 13 hours of rest. The FAA does not agree. Although 16 hours may be excessive as a routinely required rest, it is not excessive as a make-up rest. The purpose of the make-up rest is to ensure that each flight crewmember is properly rested prior to the next assignment. The provision has always acted as an incentive to operators to plan for actual flight times, and leave an adequate margin of safety.

A number of commenters wrote that the make-up rest clause is inequitable because it applies to Part 135 operations and not Part 121 operations. Actually the provision applies to the unscheduled operations in Part 135, where daily flight time limits are actual limits. In scheduled operations under Part 135 (§ 135.265) and Part 121 operations, there is a limit to the number of scheduled flight time hours (8 hours) between required rest periods, but no specified limit to actual daily flight time (except for one-pilot crews in § 135.265). The wording and position of the make-up rest clause in proposed § 135.263(e) is changed to make it clear that it applies to the unscheduled flights in §§ 135.267 through 135.271, and not to the scheduled flights in § 135.265. The undesignated paragraph that followed proposed § 135.263(e) is deleted. The paragraph is unnecessary now that the application of the make-up rest provision has been clarified.

The deviation authority originally proposed in § 135.263(f) is transferred to § 135.267(g), the specific section to which it applies. If granted, a deviation will allow an operator who conforms with the current rules to continue under those rules for a period of time not to exceed 2 years. This will give operators who may experience difficulties because of the more restrictive cumulative flight time limits in new Part 135, Subpart F, additional time to adjust their operations. The reference to § 135.269 has been removed from the deviation authority since the current rules do not address augmented crews, and the deviation authority is not intended to apply to those operating under exemptions to the current rule. Each of these exemptions contains a provision that states that the exemption terminates with the adoption of any amendments to the Part 135 flight time limitations and rest requirements that provide for augmented crews.

The proposed rule stated that, within 2 years after the issuance of this rule, the Director of Flight Operations could issue operations specifications authorizing a deviation from any specific requirement of §§ 135.267 and 135.269 if he or she finds that the deviation provides a substantially equivalent standard of safety. Commenters pointed out that the proposal did not limit either the duration of the deviation or the time within which the FAA must respond to a request for a deviation. To correct the proposed language, the final rule makes the deviation effective for up to 2 years after the effective date of this rule, and allows an operator who has requested a deviation to operate under the current rule until the FAA has reviewed the request and made a final determination.

One commenter also suggested that deviations be discouraged and that requests for deviations be reviewed by personnel specifically trained in flight crew stress and fatigue management. The FAA intends that the deviation authority will provide a smooth transition to compliance with the new rule. The FAA will base its approval for allowing a deviation on the certificate holder's need for additional time and its ability to maintain a comparable level of safety.

Section 135.269—Flight time limitations and rest requirements: Unscheduled three- and four-pilot crews.

Section 135.269 provides flight time limitations and rest requirements for augmented crews which in the past have always been handled by exemption. This section limits not only hours of flight deck duty, but also hours of duty and hours aloft.

Paragraph (b) is redesignated as paragraph (d) and moved to the end of the section. Proposed paragraph (c) becomes paragraph (b) and the cross references are changed accordingly. This is done to make the organization of this section consistent with the rest of the subpart.

The term "flight time" in paragraphs (b)(2) and (c) is changed to "flight deck duty" in order to make the language consistent with similar provisions in Part 121 (§§ 121.507 and 121.509). The word "approved" in proposed paragraph (b)(5) has been replaced by the word "adequate" to be consistent with the requirements applicable to augmented crews in Part 121.

A new paragraph (c) is added which contains the compensatory rest provisions, formerly in proposed § 135.263(e), which apply particularly to augmented crews.

No substantive comments on § 135.269 were received.

Section 135.271—Helicopter hospital emergency medical evacuation service (HEMES).

This rule provides specific flight time limits and rest requirements for helicopter hospital emergency medical evacuation services. The rule was based on FAA experience with numerous certificate holders operating under

exemption. The internal cross reference in proposed § 135.271(a) has been deleted, and the referenced material has

Paragraph (h)(1) is changed from the proposed rule by removing the words "at least 24 hours but," in order to make

provide compensating rest when flight time limits are exceeded. The benefits associated with crew utilization

$25,000 to $50,000 per firm. The range of industry impacts is therefore between

balanced by benefits. Under the terms of the Regulatory Flexibility Act of 1980,

Subpart Q—Flight Time Limitations and Rest Requirements: Domestic Air Carriers

exemption. The internal cross reference in proposed § 135.271(a) has been deleted, and the referenced material has been included in the final rule in full for the convenience of the user.

New compensatory rest provisions have been added to this section in paragraph (c). The FAA has decided that the provisions that were contained in proposed § 135.263(e) are not appropriate to HEMES operations, nor do they reflect the requirements of the exemptions on which this rule is based. As stated in the preamble to the NPRM, this rule is based on the terms of typical exemptions for emergency evacuations because of their undoubted public benefit. Typically, the exemption required the development of procedures for the termination of a HEMES assignment "When it becomes apparent that . . . a flight crewmember might be required, for an emergency situation, to exceed 8 hours duty during flight time." While the FAA does not find it necessary for the rule to be that stringent, a HEMES pilot who exceeds 8 flight hours during any 24-hour period will not be given a graduated rest. Instead, he or she must be relieved of the HEMES assignment and immediately given a minimum rest period of:

1. 12 consecutive hours for an assignment of less than 48 hours.

2. 16 consecutive hours for an assignment of more than 48 hours.

A flight crewmember who has exceeded 8 flight hours in any 24-hour period of a HEMES assignment, because of circumstances beyond the control of the certificate holder or flight crewmember, is assumed to be tired and may be unsafe to conduct additional flight operations under demanding conditions. It is highly improbable that any HEMES flight crewmember will exceed 8 flight hours during any 24-hour period of a HEMES assignment, because the assignment is for emergency medical evacuation purposes only. The HEMES assignment is not to be used for the routine transport of patients to, from, or between hospitals. Rather, it is intended to be used in bona fide emergency situations.

Proposed paragraph (d) is changed by adding a sentence which explains that the flight crewmember must be relieved if he or she has not or cannot receive 8 hours of rest during any 24 consecutive hour period of a HEMES assignment. It is amended to be consistent with the conditions of the exemptions. The word "approved" in proposed paragraph (f) has been replaced by the word "adequate" to be consistent with the language in other parts of the FAR.

Paragraph (h)(1) is changed from the proposed rule by removing the words "at least 24 hours but," in order to make paragraph (h) compatible with the new compensatory rest provisions in paragraph (c).

One commenter objected to the exclusion of fixed-wing aircraft from the HEMES rule. The FAA has excluded fixed-wing aircraft because they are not truly hospital based, and the flight crewmember of an airplane does not work in the same closely controlled environment experienced by a helicopter flight crewmember based at a hospital heliport.

Economic Evaluation

FAA analysis indicates that there should be no significant adverse impact associated with the amendments, and that they will not have a significant economic impact on a substantial number of small entities. The amendment includes a number of changes which should benefit the industry. However, it is not possible for the FAA to quantify the benefits associated with the rule, as these benefits can only be achieved by the air carriers after any operational flexibilities are translated into actual use.

Part 135 Benefits

The benefits which result specifically from weekly and other flight time limits derive from improved safety, since the maximums established will prevent a flight crewmember from accruing unsafe amounts of flight time. These benefits are not specifically quantifiable, due to a lack of detailed accident records. Specifically, accident records rarely address cumulative fatigue, which is the primary problem addressed by these amended standards.

There are additional benefits associated with the amendments, resulting from increased flexibility in crew scheduling options, and reduced penalties for exceeding flight time limits. Aircraft and crew utilization can improve, providing benefits. Scheduled operators, for example, can provide 9 hours of rest after less than 8 hours of flight time, down from a minimum 10 hours of rest under current rules. The minimum rest periods can be reduced, whereas previous minimums could not be reduced. Additionally, while the regulation for unscheduled operators before amendment required 16 hours of make-up rest if daily flight time limits were exceeded, the amendment allows for less compensating rest, unless the daily limit is exceeded by more than 1 hour. After amendment, there is no requirement for scheduled operators to provide compensating rest when flight time limits are exceeded. The benefits associated with crew utilization flexibility and the change in make-up rest cannot be quantified with the data available. The changes can be evaluated economically by management only after experience with the flexibilities of the final rule.

Part 135 Costs

Part 135 operators incur costs as a result of these amendments in two ways. First, operators' scheduling costs will increase; second, decreased crew utilization will involve a cost for some operators. These costs will be higher for scheduled operators than for unscheduled operators.

Increased scheduling costs will affect both scheduled and unscheduled operators. Scheduled operators will be more heavily impacted than unscheduled operators, because the most complicated and restrictive new flight time limit is the one limiting scheduled operators to 34 hours of flight time in 7 consecutive days. This restriction will involve a more complex crew scheduling process for larger operators, since the crew scheduling task will be more complicated than at present.

The economic analysis assumes that the scheduling cost for the largest 50 commuter airlines will be approximately $25,000 per year, approximately equivalent to one full-time clerk and additional office expenses. The next largest 50 commuters are assumed to incur one half the cost of the largest commuters, and the smallest 40 scheduled operators are assumed to incur a cost of $2,500 yearly. The total scheduling cost impact for scheduled operators is thus approximately $2,000,000 for the industry.

Nonscheduled air taxi operators may incur minor scheduling cost increases since they must now be concerned with quarterly, biquarterly, and annual total flight hours in addition to daily flight hours. This analysis assumes that one half of the approximately 4,000 unscheduled operators will incur no notable cost, due to their very small size. The other half of unscheduled operators is assumed to incur costs averaging $500 per operator.

The weekly and other flight time limits also involve costs associated with crew utilization. Some scheduled firms will have to add to crew count in order to handle peaks of activity. Data submitted in comments was not substantive, however, and we expect that only about 20 scheduled operators will be affected, incurring a cost of

$25,000 to $50,000 per firm. The range of industry impacts is therefore between $500,000 and $1,000,000. The impact of crew utilization changes for unscheduled operators is expected to be negligible, based on review of the comments.

One final element of the amendment provides benefits to certain operators, particularly operators of unscheduled helicopter services. Section 135.267(c) refers to operations having regularly assigned duty periods, and it is discussed in the preamble to the final rule. This section involves a minor benefit which is not quantifiable, due to lack of information.

There are no other rule elements which involve notable increased costs for the Part 135 operator.

Part 121 Costs and Benefits

There is only one major change for Part 121, namely the new rule for daily rest requirements. The amendment is somewhat simpler than the rule prior to amendment and provides more flexibility in crew utilization. One potentially costly provision is that, under the present rules, there is no minimum rest requirement when crewmembers are scheduled for less than 8 hours of flight time in 24 consecutive hours. Under the amendment, there is a minimum 9-hour rest period required, which is reducible to 8 hours, as explained elsewhere. However, this cost is minimal and is balanced by benefits. The impact is minimal because the actual number of routings which would be affected by the amendment are very few.

Benefits of the Part 121 amendments result from better crew utilization, a possible reduction in the amount of time crews must be away from home, and, probably, a reduction in the number of days per month the typical crew member must work. The benefits of this amendment can only be quantified by air carriers, after experience is gained under the amendment.

For both classes of air operator, the FAA believes that the benefits of the amendments exceed any costs involved with showing compliance.

Conclusion

The FAA has determined that this amendment involves a regulation which is not major under Executive Order 12291 but is significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). This final rule is expected to generate no net cost, while maintaining or increasing the level of safety. Although there are a number of changes in the regulation, any potentially costly changes would be balanced by benefits. Under the terms of the Regulatory Flexibility Act of 1980, Federal Agencies must review rules with particular concern about the impact rules might have on small entities. It is certified that this rule will not have significant economic impact on a substantial number of small entities because the only costs implied are minimal and balanced by the benefits of the rule. A summary of the economic evaluation is printed in the preamble to this final rule, and a copy of the full economic evaluation is filed in the docket and may also be obtained by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

Compliance Date

This rule will become effective October 1, 1985, at which time any certificate holder who wishes to may begin complying with the new flight time and rest requirements. However, the final compliance date of this rule is delayed until October 1, 1986, in order to allow certificate holders ample time to reschedule and bring their operations into full compliance with this rule. The delayed compliance date is particularly intended to give those few operators who have flight schedules that depend on less than 8 hours of rest time to reschedule those flights.

List of Subjects

14 CFR Part 121

Aviation safety, Air carriers, Aircraft, Airmen, Charter flights, Reporting and recordkeeping requirements.

14 CFR Part 135

Aviation safety, Air taxis, Airmen, Aircraft, Reporting and recordkeeping requirements.

Rule

In consideration of the foregoing, the Federal Aviation Administration amends Parts 121 and 135 of the Federal Aviation Regulations (14 CFR Parts 121 and 135) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

2. By revising the table of contents of Subpart Q of Part 121 to read as follows:

Subpart Q—Flight Time Limitations and Rest Requirements: Domestic Air Carriers

Sec.
121.470 Applicability.
121.471 Flight time limitations and rest requirements: All flight crewmembers.

3. By revising Subpart Q of Part 121 to read as follows:

Subpart Q—Flight Time Limitations and Rest Requirements: Domestic Air Carriers

§ 121.470 Applicability.

This subpart prescribes flight time limitations and rest requirements for domestic air carriers.

§ 121.471 Flight time limitations and rest requirements: All flight crewmembers.

(a) No domestic air carrier may schedule any flight crewmember and no flight crewmember may accept an assignment for flight time in scheduled air transportation or in other commercial flying if that crewmember's total flight time in all commercial flying will exceed—

(1) 1,000 hours in any calendar year;
(2) 100 hours in any calendar month;
(3) 30 hours in any 7 consecutive days;
(4) 8 hours between required rest periods.

(b) Except as provided in paragraph (c) of this section, no domestic air carrier may schedule a flight crewmember and no flight crewmember may accept an assignment for flight time during the 24 consecutive hours preceding the scheduled completion of any flight segment without a scheduled rest period during that 24 hours of at least the following:

(1) 9 consecutive hours of rest for less than 8 hours of scheduled flight time.
(2) 10 consecutive hours of rest for 8 or more but less than 9 hours of scheduled flight time.
(3) 11 consecutive hours of rest for 9 or more hours of scheduled flight time.

(c) An air carrier may schedule a flight crewmember for less than the rest required in paragraph (b) of this section or may reduce a scheduled rest under the following conditions:

(1) A rest required under paragraph (b)(1) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 10 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(2) A rest required under paragraph (b)(2) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 11 hours that must

begin no later than 24 hours after the commencement of the reduced rest

Sec.
135.267 Flight time limitations and rest

holder requires of a flight crewmember and provides to transport the

commencement of the reduced rest period.

(3) If the combined duty and rest

(1) At least 10 consecutive hours of

VOL 50 ISS 138 JL 18 1985 UMI

begin no later than 24 hours after the commencement of the reduced rest period.

(3) A rest required under paragraph (b)(3) of this section may be scheduled for or reduced to a minimum of 9 hours if the flight crewmember is given a rest period of at least 12 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(4) No air carrier may assign, nor may any flight crewmember perform any flight time with the air carrier unless the flight crewmember has had at least the minimum rest required under this paragraph.

(d) Each domestic air carrier shall relieve each flight crewmember engaged in scheduled air transportation from all further duty for at least 24 consecutive hours during any 7 consecutive days.

(e) No domestic air carrier may assign any flight crewmember and no flight crewmember may accept assignment to any duty with the air carrier during any required rest period.

(f) Time spent in transportation, not local in character, that an air carrier requires of a flight crewmember and provides to transport the crewmember to an airport at which he is to serve on a flight as a crewmember, or from an airport at which he was relieved from duty to return to his home station, is not considered part of a rest period.

(g) A flight crewmember is not considered to be scheduled for flight time in excess of flight time limitations if the flights to which he is assigned are scheduled and normally terminate within the limitations, but due to circumstances beyond the control of the air carrier (such as adverse weather conditions), are not at the time of departure expected to reach their destination within the scheduled time.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

4. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

5. By revising the table of contents of Subpart F of Part 135 to read as follows:

Subpart F—Flight Crewmember Flight Time Limitations and Rest Requirements

Sec.
135.261 Applicability.
135.263 Flight time limitations and rest requirements: All certificate holders.
135.265 Flight time limitations and rest requirements: Scheduled operations.
135.267 Flight time limitations and rest requirements: Unscheduled one- and two-pilot crews.
135.269 Flight time limitation and rest requirements: Unscheduled three- and four-pilot crews.
135.271 Helicopter hospital emergency medical evacuation service (HEMES).

6. By revising Subpart F of Part 135 to read as follows:

Subpart F—Flight Crewmember Flight Time Limitations and Rest Requirements

§ 135.261 Applicability.

Sections 135.263 through 135.271 prescribe flight time limitations and rest requirements for operations conducted under this part as follows:

(a) Section 135.263 applies to all operations under this subpart.

(b) Section 135.265 applies to:

(1) Scheduled passenger-carrying operations except those conducted solely within the state of Alaska. "Scheduled passenger-carrying operations" means passenger-carrying operations that are conducted in accordance with a published schedule which covers at least five round trips per week on at least one route between two or more points, includes dates or times (or both), and is openly advertised or otherwise made readily available to the general public, and

(2) Any other operation under this part, if the operator elects to comply with § 135.265 and obtains an appropriate operations specification amendment.

(c) Sections 135.267 and 135.269 apply to any operation that is not a scheduled passenger-carrying operation and to any operation conducted solely within the State of Alaska, unless the operator elects to comply with § 135.265 as authorized under paragraph (b)(2) of this section.

(d) Section 135.271 contains special daily flight time limits for operations conducted under the helicopter emergency medical evacuation service (HEMES).

§ 135.263 Flight time limitations and rest requirements: All certificate holders.

(a) A certificate holder may assign a flight crewmember and a flight crewmember may accept an assignment for flight time only when the applicable requirements of §§ 135.263 through 135.271 are met.

(b) No certificate holder may assign any flight crewmember to any duty with the certificate holder during any required rest period.

(c) Time spent in transportation, not local in character, that a certificate holder requires of a flight crewmember and provides to transport the crewmember to an airport at which he is to serve on a flight as a crewmember, or from an airport at which he was relieved from duty to return to his home station, is not considered part of a rest period.

(d) A flight crewmember is not considered to be assigned flight time in excess of flight time limitations if the flights to which he is assigned normally terminate within the limitations, but due to circumstances beyond the control of the certificate holder or flight crewmember (such as adverse weather conditions), are not at the time of departure expected to reach their destination within the planned flight time.

§ 135.265 Flight time limitations and rest requirements: Scheduled operations.

(a) No certificate holder may schedule any flight crewmember, and no flight crewmember may accept an assignment, for flight time in scheduled operations or in other commercial flying if that crewmember's total flight time in all commercial flying will exceed—

(1) 1,200 hours in any calendar year.

(2) 120 hours in any calendar month.

(3) 34 hours in any 7 consecutive days.

(4) 8 hours during any 24 consecutive hours for a flight crew consisting of one pilot.

(5) 8 hours between required rest periods for a flight crew consisting of two pilots qualified under this part for the operation being conducted.

(b) Except as provided in paragraph (c) of this section, no certificate holder may schedule a flight crewmember, and no flight crewmember may accept an assignment, for flight time during the 24 consecutive hours preceding the scheduled completion of any flight segment without a scheduled rest period during that 24 hours of at least the following:

(1) 9 consecutive hours of rest for less than 8 hours of scheduled flight time.

(2) 10 consecutive hours of rest for 8 or more but less than 9 hours of scheduled flight time.

(3) 11 consecutive hours of rest for 9 or more hours of scheduled flight time.

(c) A certificate holder may schedule a flight crewmember for less than the rest required in paragraph (b) of this section or may reduce a scheduled rest under the following conditions:

(1) A rest required under paragraph (b)(1) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 10 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(2) A rest required under paragraph (b)(2) of this section may be scheduled for or reduced to a minimum of 8 hours if the flight crewmember is given a rest period of at least 11 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(3) A rest required under paragraph (b)(3) of this section may be scheduled for or reduced to a minimum of 9 hours if the flight crewmember is given a rest period of at least 12 hours that must begin no later than 24 hours after the commencement of the reduced rest period.

(d) Each certificate holder shall relieve each flight crewmember engaged in scheduled air transportation from all further duty for at least 24 consecutive hours during any 7 consecutive days.

§ 135.267 Flight time limitations and rest requirements: Unscheduled one- and two-pilot crews.

(a) No certificate holder may assign any flight crewmember, and no flight crewmember may accept an assignment, for flight time as a member of a one- or two-pilot crew if that crewmember's total flight time in all commercial flying will exceed—

(1) 500 hours in any calendar quarter.

(2) 800 hours in any two consecutive calendar quarters.

(3) 1,400 hours in any calendar year.

(b) Except as provided in paragraph (c) of this section, during any 24 consecutive hours the total flight time of the assigned flight when added to any other commercial flying by that flight crewmember may not exceed—

(1) 8 hours for a flight crew consisting of one pilot; or

(2) 10 hours for a flight crew consisting of two pilots qualified under this Part for the operation being conducted.

(c) A flight crewmember's flight time may exceed the flight time limits of paragraph (b) of this section if the assigned flight time occurs during a regularly assigned duty period of no more than 14 hours and—

(1) If this duty period is immediately preceded by and followed by a required rest period of at least 10 consecutive hours of rest;

(2) If flight time is assigned during this period, that total flight time when added to any other commercial flying by the flight crewmember may not exceed—

(i) 8 hours for a flight crew consisting of one pilot; or

(ii) 10 hours for a flight crew consisting of two pilots; and

(3) If the combined duty and rest periods equal 24 hours.

(d) Each assignment under paragraph (b) of this section must provide for at least 10 consecutive hours of rest during the 24-hour period that precedes the planned completion time of the assignment.

(e) When a flight crewmember has exceeded the daily flight time limitations in this section, because of circumstances beyond the control of the certificate holder or flight crewmember (such as adverse weather conditions), that flight crewmember must have a rest period before being assigned or accepting an assignment for flight time of at least—

(1) 11 consecutive hours of rest if the flight time limitation is exceeded by not more than 30 minutes;

(2) 12 consecutive hours of rest if the flight time limitation is exceeded by more than 30 minutes, but not more than 60 minutes; and

(3) 16 consecutive hours of rest if the flight time limitation is exceeded by more than 60 minutes.

(f) The certificate holder must provide each flight crewmember at least 13 rest periods of at least 24 consecutive hours each in each calendar quarter.

(g) The Director of Flight Operations may issue operations specifications authorizing a deviation from any specific requirement of this section if he finds that the deviation is justified to allow a certificate holder additional time, but in no case beyond October 1, 1987, to bring its operations into full compliance with the requirements of this section. Each application for a deviation must be submitted to the Director of Flight Operations before October 1, 1986. Each applicant for a deviation may continue to operate under the requirements of Subpart F of this part as in effect on September 30, 1985 until the Director of Flight Operations has responded to the deviation request.

§ 135.269 Flight time limitations and rest requirements: Unscheduled three- and four-pilot crews.

(a) No certificate holder may assign any flight crewmember, and no flight crewmember may accept an assignment, for flight time as a member of a three- or four-pilot crew if that crewmember's total flight time in all commercial flying will exceed—

(1) 500 hours in any calendar quarter.

(2) 800 hours in any two consecutive calendar quarters.

(3) 1,400 hours in any calendar year.

(b) No certificate holder may assign any pilot to a crew of three or four pilots, unless that assignment provides—

(1) At least 10 consecutive hours of rest immediately preceding the assignment;

(2) No more than 8 hours of flight deck duty in any 24 consecutive hours;

(3) No more than 18 duty hours for a three-pilot crew or 20 duty hours for a four-pilot crew in any 24 consecutive hours;

(4) No more than 12 hours aloft for a three-pilot crew or 16 hours aloft for a four-pilot crew during the maximum duty hours specified in paragraph (b)(3) of this section;

(5) Adequate sleeping facilities on the aircraft for the relief pilot;

(6) Upon completion of the assignment, a rest period of at least 12 hours;

(7) For a three-pilot crew, a crew which consists of at least the following:

(i) A pilot in command (PIC) who meets the applicable flight crewmember requirements of Subpart E of Part 135;

(ii) A PIC who meets the applicable flight crewmember requirements of Subpart E of Part 135, except those prescribed in §§ 135.244 and 135.247; and

(iii) A second in command (SIC) who meets the SIC qualifications of § 135.245.

(8) For a four-pilot crew, at least three pilots who meet the conditions of paragraph (b)(7) of this section, plus a fourth pilot who meets the SIC qualifications of § 135.245.

(c) When a flight crewmember has exceeded the daily flight deck duty limitation in this section by more than 60 minutes, because of circumstances beyond the control of the certificate holder or flight crewmember, that flight crewmember must have a rest period before the next duty period of at least 16 consecutive hours.

(d) A certificate holder must provide each flight crewmember at least 13 rest periods of at least 24 consecutive hours each in each calendar quarter.

§ 135.271 Helicopter hospital emergency medical evacuation service (HEMES).

(a) No certificate holder may assign any flight crewmember, and no flight crewmember may accept an assignment for flight time if that crewmember's total flight time in all commercial flight will exceed—

(1) 500 hours in any calendar quarter.

(2) 800 hours in any two consecutive calendar quarters.

(3) 1,400 hours in any calendar year.

(b) No certificate holder may assign a helicopter flight crewmember, and no flight crewmember may accept an assignment, for hospital emergency medical evacuation service helicopter operations unless that assignment

provides for at least 10 consecutive hours of rest immediately preceding

(d) Each flight crewmember must receive at least 8 consecutive hours of

(h) Each pilot must be given a rest period upon completion of the HEMES

VOL
Thursday

VOL
50
ISS
138
JL
18
1985
UMI

provides for at least 10 consecutive hours of rest immediately preceding reporting to the hospital for availability for flight time.

(c) No flight crewmember may accrue more than 8 hours of flight time during any 24-consecutive hour period of a HEMES assignment, unless an emergency medical evacuation operation is prolonged. Each flight crewmember who exceeds the daily 8 hour flight time limitation in this paragraph must be relieved of the HEMES assignment immediately upon the completion of that emergency medical evacuation operation and must be given a rest period in compliance with paragraph (h) of this section.

(d) Each flight crewmember must receive at least 8 consecutive hours of rest during any 24 consecutive hour period of a HEMES assignment. A flight crewmember must be relieved of the HEMES assignment if he or she has not or cannot receive at least 8 consecutive hours of rest during any 24 consecutive hour period of a HEMES assignment.

(e) A HEMES assignment may not exceed 72 consecutive hours at the hospital.

(f) An adequate place of rest must be provided at, or in close proximity to, the hospital at which the HEMES assignment is being performed.

(g) No certificate holder may assign any other duties to a flight crewmember during a HEMES assignment.

(h) Each pilot must be given a rest period upon completion of the HEMES assignment and prior to being assigned any further duty with the certificate holder of—

(1) At least 12 consecutive hours for an assignment of less than 48 hours.

(2) At least 16 consecutive hours for an assignment of more than 48 hours.

(i) The certificate holder must provide each flight crewmember at least 13 rest periods of at least 24 consecutive hours each in each calendar quarter.

Issued in Washington, D.C., on June 3, 1985.

Donald D. Engen,

Administrator.

[FR Doc. 85-16971 Filed 7-15-85; 11:37 am]

BILLING CODE 4910-13-M

federal register

Thursday
July 18, 1985

Part III

Department of the Interior

Bureau of Land Management

43 Parts 5400 and 5440
Procedures for Debarment of Timber Sale Contractors; Proposed Rule

DEPARTMENT OF THE INTERIOR

contractor is presently a bad risk for the

Office of Management and Budget

responsibility to do business as a government contractor.

exhibits submitted by the purchaser at this meeting shall become part of the

Office, and other Federal agencies

VOL
50
ISS
138
JL
18
1985
UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 5400 and 5440

Sales of Forest Products; General and Conduct of Sales, Procedures for Debarment of Contractors

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend provisions of the existing regulations in 43 CFR Part 5400, Sales of Forest Products; General, and Part 5440, Conduct of Sales. The Department of the Interior has determined that it is necessary to amend the existing regulations concerning debarment and suspension of timber sale contractors to provide notice and opportunity for a hearing to contractors who are subject to debarment, and to focus on the contractor's present and future responsibility, considering the circumstances provoking the proposed debarment. The provisions of the proposed rulemaking are similar to provisions in the revised Federal Procurement Regulations on debarment and suspension, and have been determined to be suitable for timber sale contracts and to meet the requirements of the law.

DATE: Comment period expires September 16, 1985. Comments received or postmarked after this date may not be considered in the decisionmaking process on a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Department of the Interior, Bureau of Land Management 1800 'C' Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles R. Frost, (202) 653–8864.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that there are two shortcomings in the existing regulations on debarment of timber contractors at 43 CFR 5441.1(c). First, the regulations fail to focus on the purchaser's present responsibility as a contractor with the Bureau of Land Management. The proposed rulemaking would eliminate this problem by requiring a careful review of the financial integrity of the contractor, which is in doubt upon its failure to make payment by the expiration date of the contract. Debarment will be pursued only if, as a result of the review, the debarring official determines that the contractor's financial situation demonstrates its lack of present responsibility i.e., the contractor is presently a bad risk for the government to do business with. Second, the regulations lack procedural safeguards, such as provisions for notice and opportunity to present evidence, in the process leading to debarment.

The existing regulation at 43 CFR 5441.1(c) provides for automatic debarment of defaulting contractors from all future Bureau of Land Management timber contracts until the default is cured. This proposed rulemaking would establish procedures for the Bureau to recognize mitigating and other circumstances relating to the contractor's present responsibility, and to assure the contractor due process of law.

This proposed rulemaking parallels the debarment procedures in Subpart 9.4 of the Federal Acquisition Regulation (48 FR 42102). These regulations meet the requirements of law and are well suited, as adapted herein, to the timber management program of the Bureau. The debarment provisions of the existing Federal Procurement Regulations have on occasion been used as the authority for debarring a timber purchase contractor, so the suitability of that segment of the Federal Procurement Regulations to timber sale contracts has been established.

The prinicipal author of this proposed rulemaking is Ernest Black, Division of Forestry, assisted by the staff of the Office of Legislation and Regulatory Management.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under this proposed rulemaking, individuals or firms who receive notice from the Bureau of Land Management of proposed debarment would be permitted to present facts and information pertaining to an allegation of failure to perform under a timber sale contract and/or to mitigation of damages. The rulemaking would not require any specific information or any format for the information to be provided. Therefore, the rulemaking would not impose an information collection requirement as that term is defined in Office of Management and Budget regulations at 5 CFR 1320.7.

List of Subjects in 43 CFR Part 5440

Forest and forest products, Government contracts, Public lands.

Under the authority of section 5 of the Act of August 28, 1937 (43 U.S.C. 1181e), and the Act of July 31, 1947, as amended (30 U.S.C. 601 *et seq.*), Subchapter E, Chapter II of Title 43 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 5400—[AMENDED]

1. The authority citation for Part 5400 is revised to read as follows:

Authority: 61 Stat. 681, as amended, 69 Stat. 367, 48 Stat. 1269, sec. 11, 30 Stat. 414, as amended, sec. 5, 50 Stat. 875; 30 U.S.C. 601 *et seq.*, 43 U.S.C. 315, 423, 1181a *et seq.* unless otherwise noted.

2. Section 5400.0–5 is amended by adding new paragraphs (p), (q), and (r) at the end thereof to read:

§ 5400.0–5 Definitions.

* * * * *

(p) 'Debarment' means action taken by a debarring official under § 5441.1(c) of this title to exclude a purchaser from entering into contracts with the Bureau of Land Management for sale of timber.

(q) 'Debarring Official' is a Bureau of Land Management official who has been delegated authority to make debarment decisions under this part.

(r) 'Purchaser' means any individual or other legal entity that: (1) Submits bids or proposals for or is awarded, or reasonably may be expected to submit bids or proposals for or be awarded, a Bureau of Land Management timber sale contract, or (2) conducts business with the Government as an agent or representative of another purchaser.

PART 5440—[AMENDED]

3. Section 5441.1 is amended by revising paragraph (c) to read:

§ 5441.1 Qualification of bidders.

* * * * *

(c)(1) In accordance with the provisions of this section the debarring official may debar a bidder who has defaulted on a timber purchase contract because of failure to make payment by the expiration date of the contract from bidding on any subsequent timber purchase contracts until the bidder has made satisfactory arrangements with the authorized officer for payment of damages to the United States.

(2) Debarment shall be pursued only if the defaulting purchaser's financial situation demonstrates a lack of present responsibility to do business as a government contractor.

(3) The authorized officer shall report to the State Director and the debarring official any information relating to the basis for dabarment of a timber purchaser, including a complete statement of the facts, appropriate exhibits and a recommendation for action.

(4) When the debarring official gives preliminary approval, debarments shall be initiated by informing purchasers and any specifically named affiliates by certified mail, return receipt requested, as follows:

(i) That debarment is being considered.

(ii) The reasons for the proposed debarment in terms sufficient to put the purchaser on notice of the transaction(s) upon which it is based; and

(iii) The potential effect of the proposed debarment.

(5) The purchaser, within 30 days after receipt of the notice, may submit, in person, in writing, or through a representative, information in opposition to the proposed debarment, including any additional specific information that raises a genuine dispute over the material facts.

(6) If purchaser requests, the authorized officer shall hold a meeting with the purchaser within 20 calendar days. Any statements, records, or exhibits submitted by the purchaser at this meeting shall become part of the debarment decision record.

(7) The debarring official shall make a decision on the basis of all the information in the record, including any submission made by the purchaser. The decision shall be made within 30 working days after receipt of any information and arguments submitted by the purchaser, unless the debarring official determines that there is good cause to extend this period.

(8)(i) If the debarring official decides to impose debarment, the purchaser and any affiliates involved shall be given prompt notice by certified mail, return receipt requested, as follows:

(A) The notice of proposed debarment shall be referred to;

(B) The reasons for debarment shall be specified; and

(C) The period of debarment including effective date shall be stated.

(ii) If a debarment is not imposed the debarring official shall promptly notify the purchaser and any affiliates involved of the decision by certified mail return receipt requested.

(d)(1) The debarring official shall compile and maintain a current list of debarred timber purchasers. This list shall be distributed to all State Directors, the General Services Administration, the General Accounting Office, and other Federal agencies requesting it.

(2) The list of debarred purchasers shall contain the following information:

(i) The names and addresses of all debarred or suspended purchasers.

(ii) The cause of the action.

(iii) Any limitation to or deviations from the normal effect of debarment.

(iv) The effective date of the action.

(v) The name and telephone number of the person in the Bureau of Land Management with information about the debarment.

(3) Purchasers debarred in accordance with this section shall be excluded from receiving Bureau of Land Management timber sale contracts and the Bureau shall not solicit offers from, award contracts to, or consent to subcontracts with these purchasers unless the Director or authorized representative determines in writing that there is a compelling reason for such action.

(4) During the period of debarment, a debarred contractor, upon a showing of good cause, may apply for reinstatement to contract with the Bureau of Land Management.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

May 7, 1985.

[FR Doc. 85–17074 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–84–M

VOL
Thursday
July 18, 1985

VOL
50

ISS
138

JL
18

1985

UMI

federal register

Thursday
July 18, 1985

Part IV

Department of Education

34 CFR Part 304

Removal of Architectural Barriers to the Handicapped; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 304

authorized to be appropriated such sums as may be necessary.

"direct grant program" and "State formula grant program" at 34 CFR

Pub. L. 98–8 requires that, to the extent practicable, funds authorized by the Act

control and direction of a public elementary or secondary school,

those comments are contained in the appendix to these regulations.

VOL
50
ISS
138
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DEPARTMENT OF EDUCATION

34 CFR Part 304

Removal of Architectural Barriers to the Handicapped

AGENCY: Department of Education.

ACTION: Final rule.

SUMMARY: The Secretary issues regulations under section 607 of the Education of the Handicapped Act to govern a State formula grant program for the elimination of architectural Barriers to handicapped children and individuals. The Removal of Architectural barriers to the Handicapped program provides grants to State educational agencies (SEAs) to assist them in making subgrants to local educational agencies (LEAs) and intermediate educational units (IEUs) to alter existing buildings and equipment. These final regulations include application requirements, an allocation formula, and funding activities that are allowable under this program.

EFFECTIVE DATE: These regulations will take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of the regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. William D. Tyrrell, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Switzer Building, Room 3611, Washington, D.C. 20202; Telephone (202) 732–1025.

SUPPLEMENTARY INFORMATION:

A. Overview of the Program

The Removal of Architectural Barriers to the Handicapped program is authorized by Section 607 of the Education of the Handicapped Act (EHA), 20 U.S.C. 1406, as amended by section 5 of the Education of the Handicapped Act Amendments of 1983, Pub. L. 98–199, December 2, 1983. As amended, section 607 provides that:

(a) The Secretary is authorized to make grants and to enter into cooperative agreements with State educational agencies to assist such agencies in making grants to local educational agencies or intermediate educational units to pay part or all of the cost of altering existing buildings and equipment in accordance with standards promulgated under the Act approved August 12, 1968 (Pub. L. 90–480), relating to architectural barriers.

(b) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

Pub. L. 98–8, commonly referred to as the Emergency Jobs Bill, enacted on March 24, 1983, provides $40 million to carry out the provisions of section 607. The funds will remain available until expended.

The Architectural Barriers Act of 1968 (ABA), Pub. L. 90–480, 42 U.S.C. 4151–4157, requires various Federal agencies—not including the Department of Education—to prescribe such standards for the design, construction, and alteration of certain buildings as may be necessary to ensure that handicapped children and individuals will have ready access to and use of those buildings. These agencies include the General Services Administration (GSA), the Department of Defense, the Department of Housing and Urban Development, and the United States Postal Service.

Section 607 of the EHA authorizes the alteration of existing buildings and equipment in accordance with standards promulgated under the ABA. The alteration of existing buildings and equipment under this part must be consistent with the standards adopted by the GSA on August 7, 1984 (49 FR 31528) and incorporated by reference at 41 CFR 101–19.603 (49 FR 31625; August 7, 1984). The GSA standards may be modified as appropriate to take into account the age groups of individuals who will benefit under this program.

The final regulations establish a State formula grant program. This is consistent with the revisions to Section 607 of the EHA made by the Education of the Handicapped Act Amendments of 1983. As amended, section 607 authorizes the Secretary to give grants to SEAs for the removal of architectural barriers. SEAs then give subgrants to LEAs and IEUs.

In order to establish administrative procedures for this program that are consistent with procedures used for the Department's other State formula grant programs, 34 CFR 76.102(y) is redesignated as § 76.102(z), and a new provision is added at 34 CFR 76.102(y).

This new provision adds the application submitted by a State under the Removal of Architectural Barriers to the Handicapped program to the EDGAR definition of "State plan." As a result of this amendment, all the administrative procedures set out in the EDGAR which govern State plans apply to the Removal of Architectural Barriers to the Handicapped program.

The authorizing statute for this program does not include a formula for distributing funds. The Secretary, however, amends the definitions of "direct grant program" and "State formula grant program" at 34 CFR 75.1(b) and 76.1(b), respectively, to include programs which contain a regulatory formula for distributing funds. In addition, conforming amendments are made to 34 CFR 76.260.

B. Overview of Regulatory Provisions

1. Subpart A—General

Subpart A describes the basic purpose of the Removal of Architectural Barriers to the Handicapped program. This subpart identifies the parties that are eligible to receive grants. Other Federal regulations which apply to this program are also listed. In addition, Subpart A contains definitions of several terms that apply to this program, and commonly used acronyms. The definition for "alteration" in this subpart is the definition used in the "Uniform Federal Accessibility Standards" (49 FR 31528, August 7, 1984) adopted by GSA. The definition of "equipment" under section 602 of the EHA is used for this program.

2. Subpart B—How Does an SEA Apply for a Grant?

Subpart B sets forth the requirements that an SEA must meet in order to receive a grant under this program, including program assurances and application requirements. Assurances included in this subpart incorporate requirements under section 607 of the EHA and Pub. L. 98–8. The use of assurances in the program application relieves the paperwork burden on SEAs since they will not need to submit detailed information to demonstrate how applicable statutory and regulatory requirements will be met.

In its application for program funds, each SEA must assure that the quality of the environment will be assessed according to provisions in the National Environmental Policy Act of 1969 and Executive Order 11514. *See* 34 CFR 75.601, as incorporated by 34 CFR 76.600(a). In addition, the SEA must provide the Secretary with the information required under 34 CFR 75.602(a) (*Preservation of historic sites*). The Secretary will notify SEAs of the date on which they must submit a summary of this information to the Department.

The SEA must also assure that special consideration will be given to projects in areas experiencing high rates of unemployment. The legislative history of Pub. L. 98–8 includes this provision for making section 607 awards under that appropriation. *See* Senate Report No. 98–17 (1983), pp. 33–34. Section 101(c) of Pub. L. 98–8 requires that, to the extent practicable, funds authorized by the Act be used in a manner which maximizes immediate creation of new employment opportunities to individuals who were unemployed at least fifteen of the twenty-six weeks immediately preceding the March 24, 1983, date of its enactment.

In its application, an SEA must describe the general areas to be funded under this program. The SEA need not describe specific projects, nor does it submit blueprints to the Secretary for approval.

3. Subpart C—How Does the Secretary Make a Grant to an SEA?

Section 607 of the EHA does not provide a funding formula for allocating funds among eligible SEAs. A funding formula has been developed from the comments of individuals and organizations who responded to the Secretary's request for comments in the notice of proposed rulemaking. The formula used to allocate funds to the fifty States, the District of Columbia, and Puerto Rico is based on the number of handicapped children served in each participating State, as determined under Part B of the EHA and the State agency program for handicapped children under section 146 of Title I of the Elementary and Secondary Education Act of 1965 (as incorporated in Chapter 1 of the Education Consolidation and Improvement Act of 1981). The Insular Areas, which include American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, are eligible for grants that, together, do not exceed one-half of one percent of the aggregate amounts available to States under this program, and which will be allocated proportionately among the Insular Areas on the basis of the number of children aged three through twenty-one in each Insular Area. However, no Insular Area will receive less than $15,000, and allocations within these jurisdictions will be ratably reduced, if necessary, to ensure that each Insular Area receives that amount.

Section 304.21 describes how excess funds are reallocated.

4. Subpart D—How Does an Applicant Apply to an SEA for a Subgrant?

Subpart D specifies the information which LEAs and IEUs must include in applications for subgrants. Readers should note that the EDGAR definition of "local educational agency" (34 CFR 77.1(c)) is substantively the same as the definition of that term under section 602(a)(8) of the EHA, and includes any public institution having administrative control and direction of a public elementary or secondary school. Consequently, State agencies and other public institutions which are legally responsible for the education of handicapped children are eligible for subgrants under this program.

5. Subpart E—How Does an ESA Make a Subgrant?

Subpart E describes the methods an SEA will use to approve or disapprove applications for subgrants from LEAS and IEUs. The regulations permit a State to establish criteria for awarding subgrants. This subpart includes the criteria for determining the amount of subgrants and procedures for reallocating funds.

6. Subpart F—What Conditions Must Be Met by an SEA, LEA, or IEU?

Subpart F describes the provisions with which recipients must comply as a condition of receiving funds under the Removal of Architectural Barriers to the Handicapped program. In the notice of proposed rulemaking, the Secretary encouraged States to use their funds for activities that would—

(1) Make available to handicapped children the variety of educational programs and services available to non-handicapped children in the area served by the LEA or IEU;

(2) Provide non-academic and extracurricular services and activities in a manner that affords handicapped children opportunity for participation in those services and activities; and

(3) Provide accessibility to handicapped individuals involved in the education of handicapped children or eligible to participate in programs administered by LEAs and IEUs.

These activities have been incorporated into § 304.51 as examples of project priorities which an SEA may adopt for approving projects.

7. Subpart G—What Are the Administrative Responsibilities of an SEA?

Subpart G describes the amount of grant funds that the SEA can use for administrative costs, including, among other things, technical assistance to, and monitoring of, participating LEAs and IEUs. Program planning is added to the examples of allowable administrative costs.

Public Participation

Proposed regulations for this program were published on September 19, 1984 (49 FR 36808). A summary of the comments received in response to that notice and the Secretary's responses to those comments are contained in the appendix to these regulations.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

The information collection requirements contained in these regulations (§ 304.11) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned an OMB control number. The control number appears as a citation at the end of this section.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of this Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based upon the comments on the proposed rules and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 304

Education, Education of handicapped, Grants program—education, Local educational agency, Reporting and recordkeeping requirements, School, School construction, State educational agencies.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the

line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance Number 84.023, Removal of Architectural Barriers to the Handicapped)

List of Subjects in 34 CFR Part 304

Education of the Handicapped, Education Programs,

Subpart B—How Does an SEA Apply for A Grant?

§ 304.3 Regulations that apply to the Removal of Architectural Barriers to the

house them, and includes all other items

in sufficient detail for the Secretary to

line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance No. 84.155; Removal of Architectural Barriers to the Handicapped)

Dated: July 11, 1985.

William J. Bennett,

Secretary of Education.

PART 75—[AMENDED]

The Secretary amends Parts 75 and 76 and adds a new Part 304 to Title 34 of the Code of Federal Regulations as follows:

1. Section 75.1 is amended by revising paragraph (b) to read as follows:

§ 75.1 Programs to which Part 75 applies.

* * * * *

(b) If a direct grant program does not have implementing regulations, the Secretary implements the program under the authorizing statute and, to the extent consistent with the authorizing statute, under the General Education Provisions Act and the regulations in this part. For the purposes of this part, the term "direct grant program" includes any grant program of the Department other than a program whose authorizing statute or implementing regulations provide a formula for allocating program funds among eligible States.

* * * * *

2. The table following § 75.1 is amended by removing the following language from the list in Section IV.C.

C. Education of the Handicapped Programs:

"Removal of Architectural Barriers to the Handicapped"; "Section 607 of the Education of the Handicapped Act (20 U.S.C. 1406)"; "None"; "None".

PART 76—[AMENDED]

3. Section 76.1 is amended by revising paragraph (b) to read as follows:

§ 76.1 Programs to which Part 76 applies.

* * * * *

(b) If a State formula grant program does not have implementing regulations, the Secretary implements the program under the authorizing statute and, to the extent consistent with the authorizing statute, under the General Education Provisions Act and the regulations in this part. For the purposes of this part, the term "State formula grant program" means a program whose authorizing statute or implementing regulations provide a formula for allocating program funds among eligible States.

* * * * *

4. The table following § 76.1 is amended by adding the following language to the list in Section B.

Education of the Handicapped Programs:

"Removal of Architectural Barriers to the Handicapped"; "Section 607 of the Education of the Handicapped Act (20 U.S.C. 1406)"; "Part 304"; "84.155".

* * * * *

5. Section 76.102 is amended by redesignating paragraph (y) as paragraph (z) and adding a new paragraph (y) to read as follows:

§ 76.102 Definition of "State plan" for Part 76.

* * * * *

(y) *Removal of Architectural Barriers to the Handicapped.* The application under Section 607 of the Education of the Handicapped Act.

* * * * *

6. The table following § 76.125 is amended by adding the following language to the list under "Education for the Handicapped Programs":

EDUCATION FOR THE HANDICAPPED PROGRAMS

CFDA No. and name of program	Authorizing legislation	Implementing regulations Title 34 CFR (Part)
* * * * *		
84.155 Removal of architectural barriers to the handicapped.	Section 607, Education of the Handicapped Act (20 U.S.C. 1406).	304

7. Section 76.260 is revised to read as follows:

§ 76.260 Allotments are made under program statute or regulations.

(a) The Secretary allots program funds to a State in accordance with the authorizing statute or implementing regulations for the program.

(b) Any reallotment to other States will be made by the Secretary in accordance with the authorizing statute or implementing regulations for that program. (20 U.S.C. 3474(a)).

8. A new Part 304 is added to Title 34 of the Code of Federal Regulations, as follows:

PART 304—REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED PROGRAM

Subpart A—General

Sec.

304.1 The Removal of Architectural Barriers to the Handicapped program.
304.2 Applicability of regulations in this part.
304.3 Regulations that apply to the Removal of Architectural Barriers to the Handicapped program.
304.4 Definitions.
304.5 Acronyms that are used.
304.6–304.9 [Reserved]

Subpart B—How Does an SEA Apply for A Grant?

304.10 Submission of an SEA application.
304.11 Content of SEA application.
304.12–304.19 [Reserved]

Subpart C—How Does the Secretary Make a Grant to an SEA?

304.20 Amount of an SEA's grant.
304.21 Reallocation of excess funds.
304.22–304.29 [Reserved]

Subpart D—How Does an LEA or IEU Apply to an SEA for a Subgrant?

304.30 Submission of an application to the SEA.
304.31 LEA and IEU applications.
304.32–304.39 [Reserved]

Subpart E—How Does an SEA Make a Subgrant?

304.40 Amount of a subgrant to an LEA or IEU.
304.41 Reallocation of excess funds.
304.42–304.49 [Reserved]

Subpart F—What Conditions Must be Met by an SEA, LEA, or IEU?

304.50 Standards for the removal of architectural barriers.
304.51 Project priorities.
304.52 Project requirements.
304.53–304.59 [Reserved]

Subpart G—What Are the Administrative Responsibilities of an SEA?

304.60 Amount available for SEA administration.
304.61 Administrative responsibilities and allowable costs.
304.62–304.69 [Reserved]

Authority: Sec. 607, Education of the Handicapped Act (20 U.S.C. 1406), Pub. L. 94–142, as amended by Pub. L. 98–199; Sec. 5, 97 Stat. 1358 (Dec. 2, 1983); sec. 101(c), Pub. L. 98–8, 97 Stat. 31–32 (1983), unless otherwise noted.

Subpart A—General

§ 304.1 The Removal of Architectural Barriers to the Handicapped program.

The purpose of this part is to provide financial assistance to State educational agencies and, through them, to local educational agencies and intermediate educational units to remove architectural barriers to the handicapped children and other handicapped individuals.

(20 U.S.C. 1406)

§ 304.2 Applicability of regulations in this part.

This part applies to assistance under section 607 of the Education of the Handicapped Act.

(20 U.S.C. 1406)

§ 304.3 Regulations that apply to the Removal of Architectural Barriers to the Handicapped program.

The following regulations apply to assistance under the Removal of Architectural Barriers to the Handicapped program:

(a) The regulations in this Part 304.

(b) The Education Department General Administrative Regulations (EDGAR) set out in the following parts of Title 34 of the Code of Federal Regulations—

(1) Part 74 (Administration of Grants);

(2) Part 76 (State-administered Programs);

(3) Part 77 (Definitions that Apply to Department Regulations);

(4) Part 78 (Education Appeal Board); and

(5) Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(20 U.S.C. 1406; 20 U.S.C. 3474(a))

§ 304.4 Definitions.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Application
EDGAR
Fiscal year
Grant
Local educational agency
Project
Public
Secretary
State
State educational agency
Subgrant

(20 U.S.C. 3474(a))

(b) *Definitions in 34 CFR Part 300.* The following terms used in this part are defined in 34 CFR 300.5(a), 300.7, 300.13, and 300.14:

Handicapped children
Intermediate educational unit
Related services
Special education

(20 U.S.C. 1401(a)(1), (16), (17), (22))

(c) *Other definitions that apply to this part.* In addition to the definitions referred to in paragraphs (a) and (b), the following definitions apply to this part:

(1) "Alteration," as applied to a building or structure, means a change or rearrangement in the structural parts or elements, or in the means of egress, or in moving from one location or position to another. It does not include normal maintenance and repair, reroofing, interior decoration, or changes to mechanical and electrical systems.

(20 U.S.C. 1406, 41 CFR 101–19.603)

(2) "Equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

(20 U.S.C. 1401(a)(5), 1406)

§ 304.5 Acronyms that are used.

The following acronyms are used in this part:

"IEU" stands for intermediate educational unit.

"LEA" stands for local educational agency.

"SEA" stands for State educational agency.

(20 U.S.C. 1406)

§§ 304.6–304.9 [Reserved]

SUBPART B—HOW DOES AN SEA APPLY FOR A GRANT?

§ 304.10 Submission of an SEA application.

In order to receive funds under this part, an SEA must submit an application to the Secretary for review and approval.

(20 U.S.C. 1406)

§ 304.11 Content of SEA application.

(a) Each SEA shall include in its application assurances that—

(1) Funds received under this part will be used to pay the costs of altering existing buildings and equipment in accordance with the standards in § 304.50;

(2) In using funds appropriated under Pub. L. 98–8, special consideration will be given to projects in areas experiencing high rates of unemployment; and

(Pub. L. 98–8, "Education for the Handicapped", 97 Stat. 27 (1983); S. Rep. No. 17, 98th Cong., 1st Sess. 33–34 (1983))

(3) Funds provided under this part that are appropriated under Pub. L. 98–8 will, to the extent practicable, be utilized in manner which maximizes immediate creation of new employment opportunities to individuals who were unemployed at least 15 of the 28 weeks immediately preceding March 24, 1983 (the date of enactment of Pub. L. 98–8).

(Pub. L. 98–8, section 101(c); 97 Stat. 31–32 (1983))

(b) Each SEA application must also include the following information:

(1) A description of the goals and objectives to be supported by the grant in sufficient detail for the Secretary to determine what will be achieved with the grant.

(2) The estimated number of LEAs and IEUs that will receive subgrants, and a description of the procedures and criteria the SEA will use to award subgrants to LEAs and IEUs, including any priorities established by the SEA under § 304.51(b) (*see* § 304.40 and Subpart F, "What Conditions Must Be Met by an SEA, LEA, or IEU?").

(20 U.S.C. 1406)

§§ 304.12–304.19 [Reserved]

Subpart C—How Does the Secretary Make a Grant to an SEA?

§ 304.20 Amount of an SEA's grant.

(a) For the purpose of this section—

(1) The term "Insular Area" means American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands; and

(2) The term "handicapped children" means the number of handicapped children determined by the Secretary—

(i) Under section 611 of the Act, to be receiving special education and related services; or

(ii) In average daily attendance at schools for handicapped children or supported by a State agency within the meaning of section 146 of Title I of the Elementary and Secondary Education Act of 1965.

(b) The amount of an SEA's grant under this part for a State other than an Insular Area is determined by—

(1) Dividing the number of handicapped children in that State by the total number of handicapped children in all States submitting approvable applications under this part; and

(2) Multiplying that fraction by the amount of funds available for grants under this part.

(c) The Secretary reserves up to one-half of one percent of the aggregate of the amounts available under this part for grants to Insular Areas. Funds reserved by the Secretary for the Insular Areas are allocated proportionately among them on the basis of the number of children ages three through twenty-one in each Insular Area. However, no Insular Area may receive less than $15,000, and allocations within these jurisdictions are ratably reduced, if necessary, to ensure that each Insular Area receives at least that amount. Allocations within these jurisdictions are further ratably reduced if the amount reserved is insufficient to provide $15,000 to each Insular Area.

(20 U.S.C. 1406)

§ 304.21 Reallocation of excess funds.

The Secretary may reallocate funds

§§ 304.42–304.49 [Reserved]

§§ 304.53–304.59 [Reserved]

change is considered necessary. Specific comments are arranged in order of the

health problems may need other kinds of adaptations to their educational environment

devices are included under the terms

§ 304.21 Reallocation of excess funds.

The Secretary may reallocate funds—or portions of those funds—made available to an SEA under this part if the Secretary determines that the SEA cannot use the funds in a manner consistent with the requirements of applicable statutes or this part. Any reallocation is made on the same basis as grants are determined under § 304.20.

(20 U.S.C. 1406)

§§ 304.22–304.29 [Reserved]

Subpart D—How Does an LEA or IEU Apply to an SEA for a Subgrant?

§ 304.30 Submission of an application to the SEA.

In order to receive funds under this part for any fiscal year, an LEA or IEU shall submit an application for a subgrant to the appropriate SEA.

(20 U.S.C. 1406, 3474(a))

§ 304.31 LEA and IEU applications.

An LEA or IEU shall include in its application any information that is required by the SEA in order to fulfill its responsibilities under this part.

(20 U.S.C. 1406, 3474(a))

§§ 304.32–304.39 [Reserved]

Subpart E—How Does an SEA Make a Subgrant?

§ 304.40 Amount of a subgrant to an LEA or IEU.

(a) The SEA shall determine the amount of a subgrant to an LEA or IEU based on—

(1) The size, scope, and quality of the proposed project; and

(2) Any other relevant criteria developed by the SEA and included in the SEA application approved by the Secretary.

(b) The SEA may establish minimum and maximum amounts for subgrants.

(20 U.S.C.1406)

§ 304.41 Reallocation of excess funds.

(a) The SEA may reallocate funds provided for subgrants under this part if an LEA or IEU cannot use the funds in a manner consistent with the requirements of section 607 of the Education of the Handicapped Act and the requirements in this part.

(b) The SEA shall reallocate funds in accordance with the criteria and priorities for approving subgrants in its approved application.

(20 U.S.C. 1406)

§§ 304.42–304.49 [Reserved]

Subpart F—What Conditions Must Be Met by an SEA, LEA, or IEU?

§ 304.50 Standards for the removal of architectural barriers.

The alteration of existing buildings and equipment under this part must be done consistently with standards adopted by the General Services Administration (GSA) under Pub. L. 90–480, the Architectural Barriers Act of 1968. However, the dimensions set out in those standards may be modified as appropriate considering the age groups of the individuals who will use the buildings or equipment.

Note.—On August 7, 1984, the GSA adopted new standards under the Architectural Barriers Act (49 FR 31528) and incorporated them by reference at 41 CFR 101–19.603 (49 FR 31625).

(20 U.S.C. 1406)

§ 304.51 Project priorities.

(a) An SEA may establish priorities for the use of funds made available under this part. The SEA may, for example, give special consideration to projects that will meet the special needs of urban or rural locations, or that will facilitate the transition of handicapped children and individuals from school to work.

(b) The Secretary encourages States to use their funds for activities that will—

(1) Make available to handicapped children the variety of educational programs and services available to non-handicapped children in the area served by the LEA or IEU;

(2) Provide non-academic and extracurricular services and activities in a manner that affords handicapped children opportunity for participation in those services and activities; and

(3) Provide accessibility to handicapped individuals involved in the education of handicapped children or eligible to participate in programs administered by LEAs and IEUs.

(20 U.S.C. 1406)

§ 304.52 Project requirements.

To the extent practicable, funds made available under this part that are appropriated under Pub. L. 98–8 must be utilized to create new employment opportunities for the unemployed, as required by Pub. L. 98–8, section 101(c).

(Pub. L. 98–8, sec. 101(c); 97 Stat. 31–32 (1983))

§§ 304.53–304.59 [Reserved]

Subpart G—What Are the Administrative Responsibilities of an SEA?

§ 304.60 Amount available for SEA administration.

An SEA may use up to five percent of its grant for the cost of administering funds provided under this part.

(20 U.S.C. 1406)

§ 304.61 Administrative responsibilities and allowable costs.

Administrative costs under this part include—

(a) Planning of programs and projects assisted by funds under this part;

(b) Approval, supervision, monitoring, and evaluation by an SEA of the effectiveness of projects assisted by funds made available under this part; and

(c) Technical assistance that an SEA provides to LEAs and IEUs with respect to the requirements of this part.

(20 U.S.C. 1406)

§ 304.62–304.69 [Reserved]

Subpart G—What Are the Administrative Responsibilities of an SEA?

§ 304.60 Amount available for SEA administration.

An SEA may use up to five percent of its grant for the cost of administering funds provided under this part.

(20 U.S.C. 1406)

§ 304.61 Administrative responsibilities and allowable costs.

Administrative costs under this part include—

(a) Planning of program and projects assisted by funds under this part;

(b) Approval, supervision, monitoring, and evaluation by an SEA of the effectiveness of projects assisted by funds made available under this part; and

(c) Technical assistance that an SEA provides to LEAs and IEUs with respect to the requirements of this part.

(20 U.S.C. 1406)

§ 304.62–304.69 [Reserved]

Appendix—Summary of Comments and Responses (Note: This Appendix Will Not Be Codified in the Code of Federal Regulations)

The following is a summary of the comments received on the notice of proposed rulemaking for the Removal of Architectural Barriers to the Handicapped program published on September 19, 1984. Each comment is followed by a response that indicates a change has been made or why no change is considered necessary. Specific comments are arranged in order of the sections of the final regulations to which they pertain.

Subpart A

Comment. One commenter recommended adding the term "handicapped children" to § 304.1 in place of the term "the handicapped."

Response. A change has been made. The term "handicapped" is modified by adding "children and other handicapped individuals" to § 304.1 to make it consistent with the language in § 304.51.

Comment. Several commenters asked about the availability of funds under this program for removing architectural barriers in postsecondary schools.

Response. No change has been made. Postsecondary schools are not eligible applicants under this program. Section 607 of the Education of the Handicapped Act (EHA) states that grants are made to State educational agencies (SEAs), and SEAs then make subgrants to local educational agencies (LEAs) and intermediate educational units (IEUs).

Comment. One commenter asked the Secretary to add a definition of the word "barriers" to help clarify how funds distributed under this program may be expended.

Response. No change has been made. The terms "alteration" and "equipment" are defined in § 304.4(c). These definitions and the "Uniform Federal Accessibility Standards" adopted by the GSA on August 7, 1984 describe the types of modifications that can be made for accessibility of handicapped persons to facilities and programs. This approach gives States the necessary flexibility to modify facilities to meet the variety of needs of handicapped persons for accessibility in LEAs and IEUs.

Comment. One commenter felt that State program funds should only be used for the removal of "actual architectural barriers," such as the construction of ramps, curb cuts, restroom renovations, the widening of doorways and sidewalks, and the purchase of properly approved equipment such as water fountains.

Response. No change has been made. The adoption of this recommendation would limit potential projects by responding primarily to some needs of handicapped individuals who are non-ambulatory. This program is not limited to providing accessibility only to individuals with those disabilities. The definitions of "alteration" and "equipment" applicable to this program reflect the needs created by the wide range of physical disabilities in handicapped children and other handicapped individuals which schools must accommodate. For example, some of the target population expected to benefit from this program have visual impairments which may require modification in signs and tactile warnings for detecting hazardous obstructions. Hearing impaired individuals may need visual emergency warning systems and may require amplification systems in classrooms and common areas. Children with other health impairments which result in limited strength due to chronic or acute health problems may need other kinds of adaptations to their educational environment.

Comment. A number of commenters approved of the proposed definition of "alteration" under § 304.4(c)(1). Other commenters requested changes. Several commenters recommended that the word "alteration" be modified to include the extension of mechanical systems needed to make renovated areas operative, and to include roofing when it is needed to complete a renovated area. Others suggested expanding the term "alteration" to include buildings and grounds in order to allow school systems to make changes to playgrounds, walkways, sidewalks, and curbs on school grounds, or to add bus ramps.

Response. A change has been made. The proposed definition of "alteration" has been replaced by the definition of the term which is used in the revised "Uniform Federal Accessibility Standards" (49 FR 31528, August 7, 1984) as adopted by GSA. The Secretary believes that the amended definition addresses the concerns of the commenters since the definition is flexible enough to permit the use of funds under this program for the various projects suggested by the commenters.

Comment. One commenter recommended that the definition of "alteration" in § 304.4(c)(1) be flexible enough to include State and local options for the use of non-standard temporary ramps so that cities can make more of their schools accessible.

Response. No change has been made. This type of ramp does not meet the guidelines in the GSA standards. The recipients of funds under this program must comply with the "Uniform Federal Accessibility Sandards."

Comment. Several commenters stated that the definition of "equipment" under § 304.4(c)(2) should not include "printed, published materials, or books, periodicals, documents, and other related materials" since these are generally considered supplies. One commenter wanted to delete all these examples from the definition. Another commenter felt that priorities should be assigned to the examples of equipment.

Response. No change has been made. By statute, the definition of "equipment" under section 602(a) of the EHA, which is repeated in these final regulations, applies to the program under Section 607. The Secretary notes, however, that under this program, priorities for the use of funds may be set at the discretion of SEAs. Under this program, SEAs have the responsibility to approve projects proposed by LEAs and IEUs. At a minimum, SEAs should ensure that proposed equipment purchases are directly related to the needs of handicapped individuals for an accessible school environment.

Comment. Several commenters requested that the definition of "equipment" under § 304.4(c)(2) be modified by adding the terms "communication aids," "computer access devices," and "augmentative communication" to provide program accessibility for mobility impaired, hearing impaired, and nonspeaking students, and those with other physical and sensory impairments.

Response. No change has been made. Communication aids, computer access devices, and augmentative communication devices are included under the terms "telecommunications, sensory, and other technological aids and devices" in the definition of equipment.

Subpart B

Comment. Several commenters agreed with the provisions in § 304.11(a) (2) and (3) which require SEAs to assure that special consideration will be given to projects in areas experiencing high rates of unemployment. However, one commenter felt that current unemployment data, rather than data from the 1980 census, should be used to determine which areas are experiencing high rates of unemployment. Others felt that the special consideration of high rates of unemployment and the creation of new employment opportunities are unnecessary requirements and have no bearing on the removal of architectural barriers to the handicapped. Another commenter felt that funds should be used to maximize immediate creation of new employment opportunities for unemployed individuals.

Response. No change has been made. The Senate report on the bill that became Pub. L. 98–199 states that special consideration should be given to areas experiencing high rates of unemployment. S. Rep. No. 17, 98th Cong., 1st Sess. 33–34 (1983). In addition, Section 101(c) of Pub. L. 98–8 requires that funds made available under the Act shall, *to the extent practicable*, be utilized in a manner which maximizes immediate creation of new employment opportunities to individuals who were unemployed at least fifteen of the twenty-six weeks preceding the date of enactment of the Act. These requirements are incorporated in the regulations at § 304.11(a)(2), and at § 302.11(a)(3) and § 304.52, respectively. The Secretary believes that States are afforded sufficient flexibility to comply with these requirements while selecting projects that most effectively meet the program's purpose. The Secretary also notes that nothing in the EHA, Pub. L. 98–8, or in these regulations requires the use of 1980 census data under this program.

Comment. A number of commenters recommended that the unique requirements in the Emergency Jobs Bill regarding the use of funds to ease unemployment should be deleted from § 304.11(a). Others felt that since regulations for this program will outlive the Emergency Jobs Bill, the regulations should not include specific references to the unemployment situation. Another commenter recommended adding an additional requirement to § 304.11(a) stating that funds should be distributed so that the largest possible number of handicapped children benefit.

Response. No change has been made. The assurances required by § 304.11(a) reflect the requirements of the Emergency Jobs Bill and Section 607 of the EHA. Each SEA has the discretion to establish further requirements for distributing funds within the State. *See* § 304.51 concerning project priorities.

Comment. Several commenters wanted to ensure that funds appropriated under this program are used in addition to, not instead of, funds already being spent or budgeted by

States for the removal of architectural barriers. One commenter recommended that LEAs match or contribute to program funds to all school-aged children in each participating State.

one percent of the appropriated funds will apply to the funds reserved for the Insular

modifications will eliminate previously identified program accessibility barriers.

Response. No change has been made.

Response. No change has been made. Section 607 of the EHA requires that

handicapped children and other handicapped individuals.

VOL 50 ISS 138 JL 18 1985 UMI

States for the removal of architectural barriers. One commenter recommended that LEAs match or contribute to program funds to increase the impact of the program.

Response. No change has been made. SEAs have the flexibility to develop criteria for approving LEA and IEU applications. There is no statutory requirement for cost-sharing under this program and no prohibition on supplanting of State and local funds.

Comment. Several commenters indicated approval of the requirements for an SEA application at § 304.11(b). One commenter was concerned that the requirement at § 304.11(b)(1) may be impossible for an SEA to fulfill. The commenter believed that since LEAs will apply for funds for specific projects, the SEA may only be able to provide enough detail for the Secretary to gain substantial understanding of whether the purposes of Section 607 of the EHA will be fulfilled.

Response. No change has been made. It is expected that each SEA will be able to provide the Secretary with a general overview of the State's goals and objectives for this program. The SEA will then approve LEA and IEU applications that support these goals and objectives. SEAs will meet the requirement of § 304.11(b)(1) by providing descriptions of priorities and criteria for funding and by indicating examples of the types of projects that can be considered rather than descriptions of specific projects.

Comment. Several commenters felt that consumer groups should be involved in the development of an SEA's criteria for approving LEA and IEU applications. Some of these commenters noted that, under § 304.11(b)(2), these criteria must be described in the State plan submitted to the Secretary for program funds.

Response. No change has been made. In the general State application required under EDGAR, which each State has submitted to the Secretary, SEAs provided an assurance that the State will provide for the participation of relevant committees, interest groups, and experienced professionals in the development of State plans (*see* 34 CFR 76.101(e)(7)(i)). Since that section in EDGAR applies to this program (*see* the amendments to 34 CFR 76.1), consumer groups will have the opportunity for participation in the development of the State's application. The public must also have 30 days to comment on the State's application for program funds before it is submitted to the Secretary. (*See* 34 CFR 76.101(e)(7)(ii).)

Subpart C

Comment. More than two-thirds of the commenters responding to the Secretary's invitation to comment on the proposed alternative funding formulas under § 304.20 recommended the adoption of the first option as the most appropriate distribution scheme for the appropriation under this program. The first formula is based on the number of handicapped children served in each participating State, as determined under Part B of the EHA and the State agency program for handicapped children under section 146 of Title I of the Elementary and Secondary Education Act of 1965 (ESEA). The second option is a formula based on the number of all school-aged children in each participating State.

Commenters who preferred the second formula felt that this approach would recognize the needs of children with impaired mobility who are not "handicapped" within the meaning of Section 602 of the Act, focus on increasing accessibility to general education facilities, deter some States from inflating their child counts in order to increase their allocations under this program, or provide specific States and LEAs with a greater amount of funds than would a formula based only on the relative numbers of handicapped children.

One commenter indicated that neither of the proposed formulas was adequate to address the needs of the Insular Areas. The commenter suggested that the funds be allocated according to a formula that provides a minimum of $100,000 to each of the Insular Areas.

A few commenters recommended the inclusion of a formula (based on either the first or second alternative) for making subgrants to LEAs.

Response. A change has been made. The Secretary has determined that allocations to the fifty States, the District of Columbia, and Pureto Rico will be based on the number of handicapped children served in those States and jurisdictions, as reported in their child counts under Part B of the EHA and the State agency programs for handicapped children under Section 146 of Title I of the ESEA.

A funding formula that is similiar to the funding formula under the EHA–B (*see* 34 CFR 300.710) has been adopted for the Insular Areas (American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific). Under this formula (*see* § 304.20(c)), the Secretary will reserve an amount not to exceed one-half of one percent of the aggregate of the amount available to States under this part. Funds reserved for the Insular Areas will be allocated proportionately among them on the basis of the number of all children aged three through twenty-one in each Insular Area. No Insular Area will receive less than $15,000, which is the minimum amount that the Secretary believes appropriate to support projects of adequate size, scope, and quality to meet the needs of the small population of handicapped children in those jurisdictions. In order to ensure that each Insular Area receives at least that amount, allocations within these jurisdictions will be ratably reduced if necessary. A formula based on the count of handicapped children in each Insular Area would not be consistent with the EHA–B funding formula for those areas and would impose additional data collection, record-keeping, and reporting requirements since those jurisdictions are not required to submit counts of handicapped children under either the EHA–B or the State agency program under section 146 of Title I.

Under Section 611(e)(2) of the EHA–B, the Insular Areas may receive grants that do not exceed a total amount equal to one percent of the amounts available to all States under that part for any fiscal year. For the purpose of the Removal of Architectural Barriers to the Handicapped program, the Secretary has determined that a maximum of one-half of one percent of the appropriated funds will apply to the funds reserved for the Insular Areas in order to provide a fair share of the program funds to each eligible State and jurisdiction.

The Secretary agrees with the majority of the commenters that the adoption of the funding formula applicable to the fifty States, Puerto Rico, and the District of Columbia is appropriate for the following reasons. First, this approach is consistent with the funding formula under Part B of the EHA and the purpose of that program, which is to make available (that is, to provide access to) special education and related services for handicapped children. Second, this formula directs funds to jurisdictions in proportion to their established programs for serving handicapped children. Third, the desirable goal of increasing accessibility to general education facilities, including vocational education and other program options, can be addressed as well under this formula as under the alternative approach. Finally, since there is no guarantee of further appropriations under this program, there is no real incentive for States to inflate their child counts in expectation of increased allocations under this program.

The Secretary also has determined that an allocation formula for LEAs and IEUs is not necessary for the purpose of this program. Each SEA can establish goals, objectives, criteria, and priorities for projects that reflect the number and location of physically handicapped children within its jurisdiction who can best benefit from the program funds.

Comment. One commenter indicated that the formula used for allocating funds should be used on a three-year trial basis before a final formula is selected for this program.

Response. No change has been made. The Secretary expects to distribute funds appropriated under this program before the end of fiscal year 1985. No additional funds were appropriated for this program.

Subpart D

Comment. One commenter asked if State-operated or State-supported programs for the education of handicapped children can receive subgrants under this program.

Response. No change has been made. The EDGAR definition of "local educational agency" is used for this program. This definition includes public institutions or agencies having administrative control and direction of a public elementary or secondary school. (*See* 34 CFR 77.1.) Under this definition, State-operated programs or State-supported programs are eligible subgrantees if they are under the administrative control and direction or a public institution or agency, and if they meet the EDGAR requirements for construction grants under 34 CFR 75.603 and 75.615, and other applicable rules and requirements under these regulations.

Subpart F

Comment. One commenter recommended incorporating into the regulations a requirement that LEAs and IEUs submit, as part of their application to the SEA, a copy of their most recent self-evaluation report and a description of how the proposed modifications will eliminate previously identified program accessibility barriers.

Response. No change has been made. According to the Department's regulations under Section 504 of the Rehabilitation Act of 1973 at 34 CFR 104.22(e), the recipients of Federal funds, including LEAs and IEUs, were required to develop and implement a transition plan describing how they would achieve program accessibility for handicapped individuals. Funds available under this program may be used to achieve full program accessibility, as specified in the schedule outlined in an LEA's or IEU's transition plan. The SEA has flexibility under this program to determine the types of information LEAs and IEUs must submit with an application for a subgrant.

Comment. A number of commenters felt that § 304.50 should be amended to allow States to use State standards which are equivalent to standards adopted by the GSA for making alterations to existing buildings and equipment. One commenter supported the use of GSA standards with age appropriate dimension modifications.

Response. No change has been made. The "Uniform Federal Accessibility Standards" adopted by GSA on August 7, 1984, are now in effect. As was noted in the preamble to the proposed regulations, the GSA standards may be modified as appropriate for the age groups of individuals to be served under this program.

Comment. Several commenters recommended that the Department send each SEA a copy of the "Uniform Federal Accessibility Standards" adopted by GSA on August 7, 1984.

Response. No change has been made. However, a copy of the GSA standards published in the **Federal Register** on August 7, 1984 will be included as part of the State application package for this program. Each State eligible for a grant will receive an application package.

Comment. One commenter recommended that the "Uniform Federal Accessibility Standards" adopted by GSA on August 7, 1984, be codified into the regulations for this program. The commenter believed that requirements relating to the preservation of historic sites might not be observed if users of 34 CFR Part 304 were not informed of the criteria in the GSA standards.

Response. No change has been made. The GSA standards are referenced in a note under § 304.50 of these regulations. In addition, the regulations under 34 CFR Part 76, which apply to this program, specify that States and subgrantees using funds for construction must comply with requirements relating to preservation of historic sites (*see* 34 CFR 76.600).

Comment. Several commenters felt that § 304.50 should be amended to permit the use of the American National Standards Institute (ANSI) accessibility standards.

Response. No change has been made. Section 607 of the EHA requires that alterations of existing buildings and equipment must be made in accordance with standards authorized by the Act approved August 12, 1968 (Pub. L. 90–480), relating to architectural barriers. The "Uniform Federal Accessibility Standards" (49 FR 31523, August 7, 1984) are the standards adopted to implement Pub. L. 90–480. Readers may be interested to note that these new standards clearly identify which provisions differ from the ANSI standards.

Comment. Numerous commenters responded to the Secretary's invitation to comment on the use of program funds for the three types of activities described in the portion of the preamble summarizing the contents of Subpart F in the proposed regulations. The comments fell into several distinct categories—

(1) Recommendations that no changes be made to the provisions relating to project priorities under § 304.51;

(2) Recommendations to incorporate the three proposed activities into the regulations and to make them mandatory;

(3) Recommendations for adding or substituting different activities as priorities instead of the three proposed activities (e.g., giving priority to educational facilities used as polling places); and

(4) Recommendations to target funding to projects enhancing the integration of handicapped and nonhandicapped children.

Response. A change has been made. The activities listed in the portion of the preamble summarizing Subpart F in the proposed regulations have been added to § 304.51 as examples of project priorities. This gives each SEA the discretion to determine which activities and priorities are needed to meet the needs within the State. States are not precluded from adopting different activities and priorities as criteria for approving projects under this program, and the requirements regarding the conditions which SEAs, LEAs, and IEUs must meet in order to receive program funds are kept flexible. States have the discretion to target funds to programs which integrate handicapped and nonhandicapped children. However, the Secretary believes that some funding needs to be available for children who are placed in separate facilities since this is the least restrictive environment for those children. Also, in previous responses in this Appendix, the Secretary has indicated that the definations of "alteration" and "equipment" are broadly construed to accommodate the wide variety of physical disabilities exhibited by handicapped children and other handicapped individuals.

Comment. One commenter stated that under this program LEAs should be encouraged to develop joint projects with recreation and other public community agencies and local organizations which serve handicapped children and other handicapped individuals.

Response. No change has been made. These types of cooperative arrangements are not precluded under this program, provided that grantees and subgrantees meet the construction requirements in EDGAR relating to the grantee's title to the construction site, and the responsibility for operation and maintenance of facilities built with program funds (*see* 34 CFR 75.603 and 75.615, as incorporated by 34 CFR 76.600).

Comment. Some commenters recommended that certain types of projects receive priority consideration (e.g., giving preference to projects for ramps or other alterations to assist nonambulatory individuals).

Response. No change has been made. Each State has the flexibility to develop the criteria for approving LEA and IEU applications based on State-established goals, objectives, criteria, and priorities. States have the discretion to assign relative weights to the types of projects that are consistent with their established requirements.

Subpart G

Comment. Several commenters felt that five percent of its grant allowed for SEA administration of the program under § 304.60 is an appropriate amount. One commenter felt that the Department should recognize that expenditures will be made by SEAs for planning and recommended that program planning be included as an allowable administrative cost.

Response. A change has been made. Program planning has been added to the activities listed under allowable administrative costs at § 304.61. The Secretary believes that pre-application planning by SEAs will ensure effective use of the program funds and that States may need to use some portion of these funds to involve appropriate staff or consultants.

Comment. One commenter asked if the SEA can contract for administrative services.

Response. No change has been made. Under EDGAR, 34 CFR Part 74, Appendix C, Part II, C. 7, the cost of professional services rendered by an individual or organization not part of a grantee's department may be paid with Federal funds if the State is given prior approval by the Department (*see* 34 CFR 74.102).

Comment. One commenter asked for clarification of the administrative responsibilities that SEAs will assume for this program (*see* § 304.61).

Response. No change has been made. The administrative responsibilities for State-administered grant programs, including this program, are described in EDGAR at 34 CFR Part 76, Subpart G.

[FR Doc. 85–16979 Filed 7–17–85; 8:45 am]
BILLING CODE 4000–01–M

VOL 50 ISS 138 JL 18 1985 UMI

Thursday

VOL
50

ISS
138

JL
18

1985

UMI

federal register

Thursday
July 18, 1985

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened and Endangered Status; Final Rule

DEPARTMENT OF THE INTERIOR

This unique plant is a shrub that reaches 1 meter (3.3 feet) in height and

species, including *Ribes echinellum*, was October 13, 1983. On October 13,

previously unknown group of plants had been discovered in Florida in January

Government. This attorney also requested an explanation of why the

of its habitat or range. Because of its localization to only two populations

VOL
50
ISS
138
JL
18
1985
UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Ribes Echinellum (Miccosukee Gooseberry)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Ribes Echinellum* (Coville) Rehder (Miccosukee gooseberry) to be a threatened species under the authority contained in the Endangered Species Act (Act) of 1973, as amended. *Ribes Echinellum* is found at only two locations, one in South Carolina and another, with two population segments, in Florida. *Ribes Echinellum* is threatened by potential recreational activities at both sites, and in Florida from development pressures and logging of its lakeshore habitat. This action will implement the protection provided by the Act for *Ribes Echinellum* (Miccosukee gooseberry).

DATE: The effective date of this rule is August 19, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, NC 28801.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Currie at the above address (704/259–0321 or FTS 672–0321).

SUPPLEMENTARY INFORMATION:

Background

Ribes echinellum was first discovered by two Florida Botanists in the early spring of 1924, along the shore of Lake Miccosukee, in Jefferson County, Florida (Coville, 1924). *Ribes echinellum* remained known only from this one population along the shores of Lake Miccosukee for over 30 years, until a second population was located about 308 kilometers (200 miles) northeast in McCormick County, South Carolina, in 1957 (Radford, 1959). The South Carolina location is considered to represent one of the most unusual floristic assemblages in the two Carolinas (Radford and Martin, 1975). In 1984, an additional segment of the Florida population was discovered approximately 0.6 kilometers (1 mile) from the previously known plants. These locations remain the only known sites for *Ribes echinellum*.

This unique plant is a shrub that reaches 1 meter (3.3 feet) in height and forms patches that often measure several meters in diameter. The plant has spiny stems and three-lobed leaves that measure 1–2 centimeters (0.5–1 inch) in length. The flowers are greenish white and small. The fruits are spiny and measure up to 22 millimeters (1 inch) in diameter.

Past Federal Government actions involving *Ribes echinellum* began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. The Secretary of the Smithsonian presented this report (House Document No. 94–51) to Congress on January 9, 1975. On July 1, 1975, the Service published a notice of review in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2), now section 4(b)(3)(a), of the Act, and of its intention thereby to review the status of the covered plants. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. *Ribes echinellum* was included in the Smithsonian petition and the 1976 proposal. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. *Ribes echinellum* was included as a category-1 species in a revised list of plants under review for threatened or endangered classification published in the December 15, 1980, **Federal Register** (45 FR 82480). Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. The species listed in the December 15, 1980, notice of review were considered to be petitioned, and the deadline for a finding on those species, including *Ribes echinellum*, was October 13, 1983. On October 13, 1983, the Service found that the petitioned listing of *Ribes echinellum* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. This finding was published in the **Federal Register** on January 20, 1984 (49 FR 2485). On August 31, 1984, the Service published a proposal to list *Ribes echinellum* as a threatened species (49 FR 34535). That proposal constituted the next one-year finding as required by the 1982 Amendments to the Endangered Species Act. The proposal provided information on the species' biology, status, and threats, and the potential implications of listing. The proposal also solicited comments on the status, distribution, and threats to the species.

Summary of Comments and Recommendations

In the August 31, 1984, proposed rule (49 FR 34535) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the *McCormick Messenger*, McCormick, South Carolina, on September 13, 1984, and in the *Monticello News*, Monticello, Florida, on September 12, 1984, which invited public comment. On September 18, 1984, the Fish and Wildlife Service received a request for a public hearing. A notice announcing the public hearing was published on October 22, 1984, in the **Federal Register** (49 FR 41266). Notice of the public hearing was also published in the *Monticello News* on October 24, 1984. Eleven substantive comments were received in response to the **Federal Register** and newspaper notifications. A public hearing was held on November 8, 1984, in the Jefferson County Courthouse, Monticello, Florida. The comments and public hearing are summarized below.

The proposal was supported by the Governor of South Carolina, South Carolina Wildlife and Marine Resources Department, South Carolina Nature Conservancy, Florida Department of Agriculture, Florida Department of Environmental Regulation, Florida Native Plant Society, Apalachee Regional Planning Council, and Florida Natural Areas Inventory. The last named group also reported that a previously unknown group of plants had been discovered in Florida in January 1984. The Orvis Company stated that it would cooperate with efforts to protect *Ribes echinellum* on its lands.

Woodlanders (a native plant dealer) provided information on its experience in propagating *Ribes echinellum*. It stated that the plant seemed to qualify for protection as a threatened species under the Endangered Species Act; however, it expressed doubts about the severity of threats to both the Florida and South Carolina populations of *Ribes echinellum*. The Service agrees that the threats facing the South Carolina population are not severe; however, the Florida population is not currently protected. The low number of populations and low total number of plants would have warranted endangered status if the threats had been more immediate.

Woodlanders further expressed concern that listing of the plant as a threatened species might restrict or prohibit its sale of cultivated *Ribes echinellum*. The merits of maintaining a commercial source of artificially propagated endangered and threatened plant species such as *Ribes echinellum* were also stated in the letter. The trade prohibitions, which are found in the Act and at 50 CFR 17.71 and 17.72, will prohibit interstate commerce in *Ribes echinellum*, except for the sale of seeds obtained from cultivated plants and shipped in containers clearly marked "cultivated origin." However, the Act and 50 CFR 17.72 also provide for issuance of permits to engage in interstate commerce of federally listed threatened plant species. The Service generally supports the commercial availability of federally listed endangered or threatened plant species, provided the original plant material is obtained in a manner that does not adversely affect wild populations of the species and the material in interstate commerce is of propagated origin.

An attorney representing an interested party in Florida requested a public hearing and asked for information about the specific location of the Florida population. Following a brief summary of the proposal, which included a review of current knowledge of the status of *Ribes echinellum*, the public hearing was opened to public comment. The above mentioned attorney stated that the best protection for *Ribes echinellum* would be provided if the Federal Government owned the land on which it occurred. He further indicated that the lands on which the Florida population occurs may in fact be owned by the State or Federal Government. This attorney also requested an explanation of why the species was being proposed as a threatened species in 1984 when it was discovered in 1924 and had been under review by the Service for some time. A representative of the Apalachee Regional Planning Council read from the Council's letter indicating their support for threatened status. An attorney representing a landowner for part of the Florida population of *Ribes echinellum* requested information about restrictions that would be placed on his client if *Ribes echinellum* were listed as a threatened species. More detailed information about listing restrictions and the geographical location of the Florida population of *Ribes echinellum* has been provided to the interested party and his attorney.

Notwithstanding comments to the contrary, the information currently available to the Service indicates that all segments of the Florida population of *Ribes echinellum* are located on privately owned land. Further examination of land ownership of this population may be an appropriate part of future recovery efforts for this species. Information about the discovery of the Miccosukee gooseberry is included in the "Background" section of this rule. The reasons for the extended period of time that has elapsed since *Ribes echinellum* was first recognized as a potential candidate for protection under the Act and the August 31, 1984, proposal to list it as a threatened species are also reviewed in the "Background" section of this rule. The potential restrictions on the actions of private landowners are reviewed in the "Available Conservation Measures" section of this rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Ribes echinellum* (Miccosukee gooseberry) should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Ribes echinellum* (Coville) Rehder (Miccosukee gooseberry) (Syn: *Grossularia echinella* Coville), are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Because of its localization to only two populations, *Ribes echinellum* is particularly vulnerable to any natural or human-influenced disturbance. The South Carolina population occurs on lands managed as a nature preserve by the South Carolina Wildlife and Marine Resources Department. Increased visitation by the public to this area could increase the risk of accidental destruction and trampling. Additional protection and management planning is needed at the South Carolina site. Also, research is needed to determine the management needs for *Ribes echinellum*.

The species' continued existence is more tenuous in Florida. The Florida population is on privately owned lands and the sites have potential for lakeside development. The present owners have no plans to sell or develop the sites, but subsequent owners may well choose to develop the sites for homesites or recreational developments if protection planning does not occur. Logging of the associated hardwoods and severe fire could pose additional threats to the Florida population (Milstead, 1978). Logging has occurred near part of the Florida site, with observed detrimental effects (Kral, 1977).

Both populations of *Ribes echinellum* occur at sites (riverbank and lakeshore) that have potential for recreational use. If this recreational use is not controlled with the protection of *Ribes echinellum* as a primary consideration, negative impacts to the populations could result.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Gooseberries and currants are cultivated for their edible fruits and for their ornamental habit and bloom. The Miccosukee gooseberry is not in demand for these purposes at present, but, with publicity, such a demand could occur.

C. *Disease or predation.* None known.

D. *The inadequacy of existing regulatory mechanisms. Ribes echinellum* is afforded limited protection under Florida State law, Chapter 65–426, which includes prohibitions concerning taking, transport, and the sale of plants listed under the Florida law. South Carolina does not have a State law to protect endangered plants, but *Ribes echinellum* is indirectly protected under the Natural Area prohibitions against unauthorized plant taking. The Endangered Species Act will offer additional protection for the species.

E. *Other natural or manmade factors affecting its continued existence.* The small size and number of the populations cause this species to be in

jeopardy due to natural perturbations such as lightning fires or to natural fluctuations in the numbers of extant

Species Act include recognition, recovery actions, requirements for

sought or issued since *Ribes echinellum* is not common in cultivation or in the

Washington, D.C. 20240 (703/235–1975), and Mr. Robert R. Currie, Endangered

Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth

(1980), is widely supported and is followed here.

VOL 50 ISS 138 JL 18 1985 UMI

jeopardy due to natural perturbations such as lightning fires or to natural fluctuations in the numbers of extant individuals. The South Carolina population is threatened by competition from the introduced vine, Japanese honeysuckle (*Lonicera japonica*).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Ribes echinellum* as threatened. With only two populations of this species known to exist, it warrants protection under the Act; threatened status seems appropriate since one of the sites is in State ownership and managed as a natural area. For the reasons given below, critical habitat is not being designated.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Ribes echinellum* at this time. Taking is not prohibited by the Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants from lands under Federal jurisdiction. Gooseberries and currants are cultivated for their edible fruits and for their ornamental habit and bloom. Publication of critical habitat descriptions would make this species even more vulnerable to taking and increase enforcement problems. Although South Carolina State law prohibits unauthorized plant taking from natural areas, drawing attention to the site could increase enforcement problems. Increased visitation at both populations, stimulated by critical habitat designation, could also result in trampling problems. Both the appropriate South Carolina land-management agency and the Florida landowners have been informed of the locations of this species and the importance of protecting *Ribes echinellum*, so no additional benefits from the notification function of a critical habitat designation are expected. Therefore, it would not be prudent to determine critical habitat for *Ribes echinellum* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No Federal involvement is expected or known for *Ribes echinellum*.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Ribes echinellum*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71 apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens of threatened species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since *Ribes echinellum* is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Section 4(d) allows for the provision of such protection to threatened species through regulations. This protection will apply to *Rives echinellum* once revised regulations are promulgated. Permits for exceptions to this prohibition are available through section 10(a) and 4(d) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that final regulations will be issued following public comment. As this species is not known to occur on Federal lands, no collecting permit requests are anticipated. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Coville, F.V. 1924. *Grossularia echinella*, a spiny-fruited gooseberry from Florida. Journal of Agricultural Research 28:71–76.

Kral, R. 1977. Personal communication by letter to Dr. R.R. Altevogt (then Staff Botanist at the Office of Endangered Species, Washington, D.C.) regarding the Florida population he visited in 1977.

Milstead, W.L. 1978. Status report on *Ribes echinellum*, U.S. Fish and Wildlife Service, Atlanta, Georgia. 19 pp.

Radford, A.E. 1959. A relict plant community in South Carolina. Journal of the Elisha Mitchell Scientific Society 75:35–43.

Radford, A.E., and D.L. Martin. 1975. Potential Ecological Natural Landmarks, Piedmont Region, Eastern United States. UNC-Chapel Hill, North Carolina. 4 pp.

Authors

The primary authors of this rule are Ms. LaVerne Smith and Mr. Quinn P. Sinnott, Office of Endangered Species, U.S. Fish and Wildlife Service,

Washington, D.C. 20240 (703/235–1975), and Mr. Robert R. Currie, Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321). Status information and a preliminary listing package were provided by Dr. Wayne Milstead, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Saxifragaceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
*	*	*	*	*	*	*
Saxifragaceae—Saxifrage family:						
Ribes echinellum	Miccosukee gooseberry	U.S.A. (FL, SC)	T	186	NA	NA
*	*	*	*	*	*	*

(Final: *Ribes echinellum* (Miccosukee gooseberry)—Threatened)

Dated: July 3, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–17075 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Pityopsis Ruthii (Ruth's Golden Aster)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Pityopsis ruthii* (Small) Small (Ruth's golden aster), a plant endemic to Polk County, Tennessee, to be an endangered species under the Endangered Species Act of 1973 (Act), as amended. *Pityopsis ruthii* is endangered by water quality degradation, toxic chemical spills, and water level and flow regime alterations, and potentially from trampling associated with recreational use of its habitat. This action will implement the protection provided by the Act for *Pityopsis ruthii*.

DATE: The effective date of this rule is August 19, 1985.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie, at the above address (704/259–0321 or FTS 672–0321).

SUPPLEMENTARY INFORMATION:

Background

Pityopsis ruthii, a member of the Asteraceae (Aster family), was first collected by Albert Ruth, A Knoxville botanist, near the Hiwassee River in Polk County, Tennessee. Ruth often visited this area between 1894 and 1902 and collected this unusual plant on several occasions (Bowers, 1972a). J.K. Small (1897) named the species in honor of Ruth, including it in the genus *Chrysopsis* in his original description. In 1933, Small transferred the pecies to the genus *Pityopsis*. Several alternative taxonomic treatments have been proposed for this and associated species (Harms, 1969; Bowers, 1972b; Cronquist, 1980; Semple *et al.*, 1980). Regardless of which genus (*Pityopsis*, *Heterotheca*, or *Chrysopsis*) the species is included in, all authors have recognized the specific distinctness of this unique plant. The inclusion of this species in the genus *Pityopsis*, as advocated by Semple *et al.* (1980), is widely supported and is followed here.

Following Ruth's original collections, *Pityopsis ruthii* was not collected again for almost 50 years. Harms (1969) speculated that the species might be extinct. Bowers (1972a) reported that *Pityopsis ruthii* had been rediscovered on the Hiwassee River by himself and two other Knoxville botanists and stated that W.J. Dress had also collected the species in 1953. The Dress collection had not been reported in the literature, and his collections were housed in herbaria outside the region. This resulted in a 19-year lapse in knowledge of Dress' discovery. In 1976, A. White discovered a small population of *Pityopsis ruthii* on the Ocoee River, Polk County, Tennessee (White, 1978). Despite searches of apparently suitable habitat on the adjacent Tellico and Conasauga River systems by White (1977) and Wofford and Smith (1980), *Pityopsis ruthii* is only known to occur on short reaches of the Ocoee and Hiwassee Rivers.

Pityopsis ruthii is a fibrous-rooted perennial which grows only in the soil-filled cracks of phyllite boulders in and adjacent to the Ocoee and Hiwassee Rivers. The stems are from one to three decimeters tall and bear long narrow leaves covered with silvery hairs. The yellow flower heads appear in a paniculate inflorescence in late August and September. The fruits (achenes) develop a few weeks after the flowers fade (Wofford and Smith, 1980).

Federal actions involving *Pityopsis ruthii* began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of former section 4(c)(2) (now section 4(b)(3)(A), as amended) of the Act and of its intention thereby to review the status of those plants. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. *Pityopsis ruthii* was included in the Smithsonian petition and the 1976 proposal. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978,

Federal Register publication (43 FR 17909).

The Endangered Species Act

published in the *Cleveland Banner* on December 12, 1984, which invited public

A. *The present or threatened destruction, modification, or curtailment*

Ocoee River during the growing season may be exceeding the species' capability

as pH 1.2 have been recorded in the Ocoee River (White, 1977). The

Available Conservation Measures

VOL
50
ISS
138
JL
18
1985
UMI

Federal Register publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over two years old be withdrawn. A one-year grace period was given to proposals already over two years old. In the December 10, 1979, Federal Register (44 FR 70796), the Service published a notice of withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. *Pityopsis ruthii* was included as a category 1 species in a revised list of plants under review for threatened or endangered classification published in the December 15, 1980, Federal Register (45 FR 82480). Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. The species listed in the December 15, 1980, notice of review were considered to be petitioned, and the deadline for a finding on those species, including *Pityopsis ruthii*, was October 13, 1983. On October 13, 1983, and October 13, 1984, the Service found that the petitioned listing of *Pityopsis ruthii* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Notice of the 1983 finding was published in the Federal Register on January 20, 1984 (49 FR 2485). On November 20, 1984, the Service published, in the Federal Register (40 FR 45766), a proposal to list *Pityopsis ruthii* as an endangered species. That proposal constituted the next one-year finding as required by the 1982 Amendments to the Endangered Species Act. The proposal provided information on the species' biology, status, and threats, and the potential implications of listing. The proposal also solicited comments on the status, distribution, and threats to the species.

Summary of Comments and Recommendations

In the November 20, 1984, proposed rule (49 FR 45766) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Cleveland Banner* on December 12, 1984, which invited public comment. Five supporting comments were received in response to the Federal Register and newspaper notifications. The comments are summarized below.

The U.S. Department of Agriculture, Forest Service Regional Office in Atlanta stated that *Pityopsis ruthii* merits listing as an endangered species. The forest superviser for the Cheokee National Forest stated that publicity (associated with designation of critical habitat) is likely to attract attention to the plant and make protection efforts more difficult. It was further stated that this species, which occurs on the Cherokee National Forest, has been treated by the Forest Service as a sensitive species since 1981.

The Tennessee Department of Conservation, Ecological Services Division, supported listing *Pityopsis ruthii* as an endangered species, provided additional information about the threats to this species, and provided recent information on the status of the Ocoee River population.

Two comments, one from a private organization and the other from a private individual, supported listing *Pityopsis ruthii* as an endangered species.

The Tennessee Valley Authority (TVA) was provided a copy of the November 20, 1984, proposed rule on November 27, 1984. Although that agency made no official comments during the formal comment period, it did provide, in a letter dated February 6, 1984, information concerning the existing environmental conditions in the reaches of the Ocoee and Hiwassee Rivers occupied by *Pityopsis ruthii*. The information provided has been incorporated into the appropriate sections of this rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Pityopsis ruthii* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Pityopsis ruthii* (Small) Small (Ruth's golden aster) [SYN: *Chrysopsis ruthii* Small and *Heterotheca ruthii* (Small) Harms] are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The two known populations of *Pityopsis ruthii* occur on short reaches of rivers in which water regimes are controlled by upstream dams. The dams are operated by the Tennessee Valley Authority. Natural water flows in the Hiwassee River, through the area where the species occurs, have been essentially eliminated since construction of the Appalachia Dam in 1943 (White, 1977). Water usually bypasses this area through a large pipeline between the dam and the powerhouse that is located several miles downstream of the dam. Apart from temporary releases to flush toxic chemical spills from the river or to release excess water after heavy upstream rainfall, the prime source of water for this river reach is inflow from small tributaries and surface runoff from the adjacent slopes (Wofford and Smith, 1980; Parrish, 1981). Rivers (1985) stated that releases due to high water above Appalachia Dam have occurred an average of 19 times per year since the dam was built in 1943. This alteration of natural flow cycles with a significant reduction of the annual scouring of boulders on which *Pityopsis ruthii* grows has permitted more competitive species to invade the boulders and encroach and overshadow the riverbanks (White, 1977). Somers (1985) reported that the Hiwassee River population has been reduced by approximately 50 percent in the past eight years. *Pityopsis ruthii* has little shade tolerance and is replaced by other species when sunlight is reduced (Wofford and Smith, 1980; White, 1977). If present trends continue it would appear that *Pityopsis ruthii* will eventually be displaced from the Hiwassee River by more shade-tolerant species. *Pityopsis ruthii* has adapted to and is not displaced by the normal high water flows that periodically scour the rocks and riverbanks and remove the more competitive vegetation.

The Ocoee River population of fewer than 500 plants (Wofford and Smith, 1980) appears to be subject to detrimental impacts of abnormally high flows during the growing season. Present water management on the Ocoee River results in regular releases during the growing season that approximate the historical average annual flow on this reach of the river (Rivers, 1985). However, periodic low (summer) and high (spring) flows have been eliminated. Although periodic high flows appear to be essential for maintenance of *Pityopsis ruthii* habitat, the higher than normal flows on the

Ocoee River during the growing season may be exceeding the species' capability to withstand this normally beneficial action. A closer correlation between water management and the needs of *Pityopsis ruthii* is needed, if the species is to survive on the Ocoee River.

Current recreational use of the Hiwassee River is limited to hiking and fishing on the banks adjacent to the *Pityopsis ruthii* population. Current levels of activity do not appear to be adversely affecting the species. Should levels of these activities increase in the future, they could threaten the species if they are not managed in a way that minimizes direct impacts such as trampling. Recreational use of the Ocoee River primarily consists of white-water sports like rafting. Since this activity takes place in the river, it would not appear to be impacting *Pityopsis ruthii* at this time. Observers and photographers of these white-water activities have trampled this species in the past (Collins, 1984).

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Pityopsis ruthii* is not currently in commercial trade as an ornamental plant. However, Farmer (1977) indicates that the species has excellent potential for horticultural use and public awareness of the species could generate a demand.

C. *Disease or predation.* Not applicable to this species at this time.

D. *The inadequacy of existing regulatory mechanisms.* The State of Tennessee recently passed the Tennessee Rare Plant Protection Act of 1985; implementing rules and regulations will soon be developed and it is anticipated that at that time *Pityopsis ruthii* will be offered some protection by this new legislation. The Tennessee Department of Conservation recognizes Ruth's golden aster as endangered in its current (1984) revision of the Official Rare Plant List of Tennessee issued pursuant to the Governor's Executive Order on March 7, 1980, and compiled with the assistance of a scientific advisory committee and with other public input. Removal of plants without a permit from the Cherokee National Forest is prohibited by regulation. However, this regulation is difficult to enforce. The Endangerd Species Act will provide additional protection for the species.

E. *Other natural and manmade foctors affecting its continued existence.* Water quality in the Ocoee River is drastically reduced on a regular basis because of mining activities in the Copperhill area, upstream of the *Pityopsis ruthii* population. Sediment levels are generally high, and acidity levels as low as pH 1.2 have been recorded in the Ocoee River (White, 1977). These water quality problems have adversely impacted the aquatic fauna of this reach of the Ocoee River and are probably adversely affecting the *Pityopsis ruthii* population. Several spills of toxic chemicals (sulfuric acid) have occurred on the Hiwassee River. In order to flush these chemicals from the river, releases from Appalachia Dam have been made. These releases have resulted, on at least one occasion (1976), in a loss of seed production for the year (White, 1977).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred actien is to list *Pityopsis ruthii* as endangered. With only two populations of this species known to exist, it definitely warrants protection under the Act; endangered status seems appropriate because of the threats facing both populations. Critical habitat is not being designated for reasons discussed in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Pityopsis ruthii* at this time. The species has high potential for horticultural use (Farmer, 1977). Increased publicity and the provision of specific location information associated with critical habitat designation could result in taking pressures on Ruth's golden aster. Although removal and reduction to possession of endangered plants from lands under Federal jurisdiction is prohibited by the Endangered Species Act, such provisions are difficult to enforce effectively. Publication of critical habitat descriptions would make *Pityopsis ruthii* more vulnerable and would increase enforcement problems for the U.S. Forest Service. Increased visits to both populations stimulated by critical habitat designation could also result in trampling problems. Both of the Federal agencies involved in managing the habitat of Ruth's golden aster have been informed of the locations of this species and of the importance of protecting it, so no additional benefits from the notification function of critical habitat designation would result. Therefore, it would not be prudent to determine critical habitat for *Pityopsis ruthii* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against removal and reduction to possession are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The U.S. Forest Service (Cherokee National Forest) and the Tennessee Valley Authority (TVA) have jurisdiction over this species' habitat or essential components of its habitat. Federal activities that could impact *Pityopsis ruthii* and its habitat in the future include, but are not limited to, the following: Management of flow regimes and water levels on the Ocoee and Hiwassee Rivers, timber harvesting, recreational development, channel alterations, road and bridge construction, permits for mineral exploration, and implementation of forest management plans. It has been the experience of the Service that the large majority of section 7 consultations are resolved so that the species is protected and the project can continue.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that

apply to all endangered plant species. With respect to *Pityopsis ruthii*, all

1973, as amended. A notice outlining the Service's reasons for this determination

White, A.J. 1977. An autecological study of the endangered species, *Heterotheca ruthii*

Dated: June 27, 1985.

J. Craig Potter,

treatment of the segregate genus *Chamaesyce*, the species affected by

known from only two sites near

VOL 50 ISS 138 JL 18 1985 UMI

apply to all endangered plant species. With respect to *Pityopsis ruthii*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commerical activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits will be sought or issued since Ruth's golden aster is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This prohibition now applies to *Pityopsis ruthii*. Permits for exceptions to this prohibition are available through section 10(a) of the Act (revised regulations are being developed for the issuance of removal or reduction to possession permits) *Pityopsis ruthii* is only known to occur on lands administered by the Forest Service and TVA, but it is anticipated that few collecting permits will be requested for this species. Requests for copies of the current regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this final rule is Mr. Robert R. Currie, Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 8/672–0321). Preliminary status information was provided by Mr. J. Heifetz and Dr. W.C. Milstead, formerly of the Service's Southeastern Regional Office, Atlanta, Georgia.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Asteraceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species							
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Asteraceae—Aster family:						
Pityopsis ruthii (SYN: *Heterotheca ruthii, Chrysopsis ruthii*).	Ruth's golden aster	U.S.A. (TN)	E	189	NA	NA

Dated: June 27, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–17076 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered and Threatened Status for Five Florida Pine Rockland Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service finds four plants to be endangered: *Euphorbia deltoidea* ssp. *deltoidea* (spurge), *Galactia smallii* (Small's milkpea), *Polygala smallii* (tiny polygala), and *Amorpha crenulata* (crenulate lead-plant). The Service finds one plant, *Euphorbia garberi* (Garber's spurge), to be a threatened species. The four endangered species are restricted to pine rockland habitats in Dade County, Florida. They are endangered by the continuing destruction of pine rocklands for residential and commercial purposes. *Euphorbia garberi* formerly occurred widely in Dade and Monroe Counties, Florida, at the edges of pinelands and hammocks, and in coastal areas. Its range has been reduced by commercial and residential development to four sites in Everglades National Park and one site in the Florida Keys. Critical habitat has not been designated for any of these species. This action provides the protection of the Endangered Species Act to the five plant species.

DATE: The effective date of this rule is August 19, 1985.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Endangered Species Field Supervisor, at the above address (904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Euphorbia deltoidea was originally described by Engelmann, and published in Chapman (1883). Small (1903) transferred the species to the genus *Chamaesyce*. For the sake of consistency with the Service's previous treatment of the segregate genus *Chamaesyce*, the species affected by this rule are referred to the genus Euphorbia. This agrees with the nomenclature used in the Service's December 15, 1980, plant notice of review (45 FR 82480). Small (1903, 1927) later described *Chamaesyce serpyllum* and *Chamaesyce adhaerens* as species distinct from *Chamaesyce deltoidea*. Burch (1966) considered *Euphorbia deltoidea* to have two subspecies, *deltoidea* and *serpyllum*, the former including the varieties *deltoidea* and *adhaerens*. Herndon, however, believes that *deltoidea, adhaerens*, and *serpyllum* should be considered distinct species (Herndon, Florida International University, pers. comm., 1984). This final rule applies to the taxa *deltoidea* and *adhaerens*, which are restricted to Dade County, Florida. *Euphorbia deltoidea* subspecies *serpyllum* is restricted to Big Pine Key, Monroe County, Florida, and is a candidate for Federal listing. There is no known overlap in range among these three taxa. *Euphorbia deltoidea* s p. *deltoidea* variety *deltoidea* occurs in the Coral Gables-South Miami-Perrine area, while variety *adhaerens* occurs in the Homestead-Goulds area. These two varieties are both covered by the listing of the subspecies *Euphorbia deltoidea* ssp. *deltoidea*.

Euphorbia deltoidea is a herbaceous, prostrate to barely ascending plant forming small mats to a few decimeters in diameter. The thin, wiry stems extend from a central woody taproot. Leaves are deltoid to ovate in shape, opposite, and up to 5 millimeters (0.2 inch) long. The flowers are unisexual; male and female flowers are arranged in a cuplike structure (cyathium). The 3-seeded fruits are 1–2 millimeters (0.04–0.08 inch) wide; seeds measure about 1 millimeter (0.04 inch) wide. The density and distribution of hairs on the stems, leaves, and capsules distinguish varieties *deltoidea* and *adhaerens*. Variety *deltoidea* is essentially hairless; *adhaerens* is fairly hairy.

Galactia smallii was described as *Galactia prostrata* by Small (1933). Herndon (1981) published H.J. Roger's finding that this specific name was preoccupied by another species of *Galactia*. He also published Hollis' suggestion of the new specific name *smallii*, and clarified the characters separating this species from the related *Galactia pinetorum*. *Galactia smallii* is a small vine with compound leaves, usually with 3 elliptic leaflets 1.5–3 centimeters (0.6–1.2 inches) long. The pinkish flowers have a calyx 8–9 millimeters (0.34 inch) long and a standard petal 15–17 millimeters (0.59–0.67 inch) long. This species is currently known from only two sites near Homestead.

Polygala smallii was originally described by Small (1905) as *Polygala arenicola*. Smith and Ward (1976), realizing that the specific name *arenicola* was preoccupied in the genus *Polygala*, proposed a new name, *Polygala smallii*. The plant was originally known from pine rocklands in Broward and Dade Counties, Florida, but attempts to locate this species in 1979 (Austin *et al.*, 1980b) found all historic populations extirpated. The species is now known only from two sites in Dade County. *Polygala smallii* is an erect biennial herb with short, branched or unbranched stems. Leaves are 12–50 millimeters (0.47–1.97 inches) long, crowded, and oblanceolate to linear-lanceolate, and often form a basal rosette. The small yellow-green flowers are clustered at the ends of stems. The oblong seeds are 1.9–2.3 millimeters (0.08–0.09 inch) long.

Amorpha crenulata was described by Rydberg (1919) based on material from near Coconut Grove, Dade County, Florida. Wilbur (1975) confirmed the taxonomic validity of this species. The plant is presently restricted to a few sites in the South Miami area (Herndon, 1984a). *Amorpha crenulata* is a shrub to 1.5 meters (4.92 feet) in height. The compound leaves bear 25–33 leaflets. The flowers bear a single petal (the standard) 6 millimeters (0.24 inch) long and are arranged in loosely clustered racemes 9–20 centimeters (3.5–7.9 inches) long. The seed pod is 6–7 millimeters (0.24–0.27 inch) long and is conspicuously glandular.

Pine rockland plants formerly were more widely distributed along the south Florida limestone ridge, an area about 105 kilometers (65 miles) long, extending more or less continuously from southeastern Broward County to Long Pine Key in Everglades National Park. The ridge reaches 3–5 meters (10–16 feet) in elevation and provides a markedly different habitat for plants and animals than the marshes and wet prairies that dominate the surrounding areas. The substrate consists of porous limestone known as Miami oolite. Soils are poorly developed, consisting mainly of a thin layer of sand. Erosion of the limestone results in frequent solution holes and jagged surface features. Many plants are rooted in crevices in the limestone. The predominant canopy vegetation on the ridge is southern slash pine (*Pinus elliottii* var. *densa*). An understory of saw palmetto (*Serenoa repens*), silver palm (*Coccothrinax argentata*), poisonwood (*Metopium toxiferum*), rough velvetseed (*Guettarda*

scobra), and wax myrtle (*Myrica cerifera*) is typical. Large numbers of Monroe County, Florida. *Euphorbia garberi* occurs in transitional areas

proposed to be listed as endangered or threatened species.

Commission, the Florida Department of Natural Resources (Division of

outside of Everglades National Park had been destroyed by 1984. The largest of

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VOL
50
ISS
138
JL
18
1985
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scabra), and wax myrtle (*Myrica cerifera*) is typical. Large numbers of endemic pine rockland plants are present in the understory. Lack of fire results in succession to tropical hardwood hammock vegetation, characterized by oaks (*Quercus virginiana*), gumbo-limbo (*Bursera simaruba*), strangler fig (*Ficus aurea*), poisonwood (*Metopium toxiferum*), wild tamarind (*Lysiloma latisiliqua*), and other species. Burning at 3 to 10-year intervals may be necessary to maintain the pine rockland community; without fire the community may develop into rockland hammock in about 25 years (Duever, 1984).

The pine rocklands have been extensively developed for residential, commercial and agricultural purposes. Shaw (1975) estimated that the historic area of pinelands and hammocks in Dade County, exclusive of Everglades National Park, was about 152,000 acres. In 1975, these forests were estimated to have been reduced to 8,149 acres; 7,370 acres were pinelands. Only 5,268 acres of pinelands were of sufficient size to be considered viable. In 1978, these 5,268 acres of viable pineland had decreased to 4,558 acres (Anonymous, 1978). Only 1,710 acres of pineland remained in good condition; the remainder suffered from lack of burning and/or invasion of exotic plants. The Dade County Department of Resources Management is currently updating the forest survey, since the pinelands have continued to decline rapidly since 1978. Summaries of the unique botanical features of the Miami rock ridge pineland and the threats facing the remnants of this habitat type were recently provided by Herndon (1984b) and Duever (1984). *Linum carteri* var. *carteri* (Carter's flax), an endemic to Dade County pinelands, is a candidate species for Federal listing but could not be located in a 1980 search and may now be extinct (Austin *et al.*, 1980a).

Euphorbia garberi was originally described by Engelmann in 1883. Small (1903) transferred the species to the genus *Chamaesyce*. *Euphorbia garberi* is a prostrate herb with hairy stems, ovate leaves 4–9 millimeters (0.16–0.35 inch) long, and conspicuous flowers. The species formerly occurred in Dade and Monroe Counties, Florida, from the Miami area to the lower Florida Keys. Researchers conducted a status survey and were unable to locate this species over much of the historic range (Austin *et al.*, 1980a). The only known remaining populations occur at four sites in Everglades National Park, one in Dade County and three in Monroe County, Florida, and one site on Big Pine Key, Monroe County, Florida. *Euphorbia garberi* occurs in transitional areas between hammocks and pine rocklands, and on beach ridges in saline coastal areas. This species occurs in open areas on dry, sandy soil. *Euphorbia garberi* has been extirpated from the Miami area and from most of the Florida Keys in Monroe County where it was formerly found.

Federal Government actions on these species began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In this report *Euphorbia deltoidea* ssp. *deltoidea* was listed as threatened, and *Euphorbia garberi* was listed as endangered. On July 1, 1975 (40 FR 27823), the Service published a notice in the **Federal Register** of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) [now section 4(b)(3)] of the Act, and its intention thereby to review the status of the plant taxa named within. The above two taxa were included in the notice. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Euphorbia garberi* was included in the proposed rule. General comments received in relation to the 1976 proposal were summarized in an April 26, 1976, **Federal Register** publication, which also determined 13 plant species to be endangered or threatened (43 FR 17909). On December 10, 1979, the Service published a notice of withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments. On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82480); *Euphorbia deltoidea*, *Polygala smallii*, and *Euphorbia garberi* were included as category-1 species. Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The species covered by the December 15, 1980, notice of review were considered to be petitioned and the deadline for a finding on those species, including *Polygala smallii*, *Euphorbia deltoidea* ssp. *deltoidea* and *Euphorbia garberi*, was October 13, 1983. On October 13, 1983, and October 12, 1984, the Service found that the petitioned listing of these three taxa was warranted, and that although other pending proposals had precluded their proposal, expeditious progress was being made to list the species.

On March 22, 1984, the Service received a petition from Mr. Alan Herndon of the Department of Biology, Florida International University, Miami, Florida, to list *Amorpha crenulata* and *Galactia smallii* pursuant to the Endangered Species Act. On June 4, 1984, an administrative decision was made that the petition presented substantial information indicating that the petitioned action might be warranted. Notice to this effect was published in the **Federal Register** on July 13, 1984 (49 FR 28583).

On November 7, 1984 (49 FR 44507), the Service proposed to list *Euphorbia deltoidea* ssp. *deltoidea*, *Galactia smallii*, *Polygala smallii*, and *Amorpha crenulata* as endangered species, and to list *Euphorbia garberi* as a threatened species. That proposal incorporated findings, pursuant to section 4(b)(3)(B) of the Act and due by March 22 and October 13, 1985, that the actions requested by the two petitions referred to above were warranted.

Summary of Comments and Recommendations

In the November 7, 1984, proposed rule (49 FR 44507) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the *Miami Herald* and the *Key West Citizen* on November 26, 1984, which invited general public comment. No public hearing was requested or held.

Six comments were received. The proposed listings were supported by the Florida Game and Fresh Water Fish Commission, the Florida Department of Natural Resources (Division of Recreation and Parks), the Florida Natural Areas Inventory (FNAI), and the State organization and a local chapter of the Florida Native Plant Society. The FNAI indicated that another site for *Amorpha crenulata* might exist; six plants were found on the site (a small cultivated lot) in 1982. A botanist supported the listing of *Euphorbia garberi*, noting that the single known remaining site for this species in the Florida Keys was vulnerable to storms.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Euphorbia deltoidea* ssp. *deltoidea*, *Galactia smallii*, *Pollygala smallii*, and *Amorpha crenulata* should be classified as endangered species, and that *Euphorbia garberi* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Euphorbia deltoidea* Engelm. *ex* Chapman ssp. *deltoidea* (spurge), *Galactia smallii* H.J. Rogers *ex* Herndon (synonym: *G. prostrata* Small) (Small's milkpea), *Polygala smallii* Smith and Ward (synonym: *P. arenicola* Small) (tiny polygala), *Amorpha crenulata* Rydberg (crenulate lead-plant), and *Euphorbia garberi* Engelm. *ex* Chapm. (Garber's spurge) are as follows:

A. *The present or threatened destruction, modification, or curtailment of their habitat or range.* *Euphorbia deltoidea* ssp. *deltoidea*, *Galactia smallii*, *Polygala smallii*, and *Amorpha crenulata* are restricted to pinelands of the Miami rock ridge in Dade County, Florida. Conversion of pine rocklands for commercial and residential purposes began early in the twentieth century and accelerated after 1930. It has been estimated that 90 percent of Dade County's pine rocklands (exclusive of the pine rocklands within Everglades National Park, where these species do not occur) present in 1940 had been destroyed by 1972 (Robertson and Kushlan, 1974). The pinelands outside of Everglades National Park have been even further reduced since that time, and are now restricted to small isolated stands. Herndon (1984b) estimated that 96 percent of the Dade County pinelands outside of Everglades National Park had been destroyed by 1984. The largest of these remnants are in county ownership; a few significant parcels are in private or Federal ownership. Originally, these plant species were probably distributed fairly widely throughout the pinelands, but apparently did not occur west of the Homestead area. The species occurring in Dade County parks (*Euphorbia deltoidea* ssp. *deltoidea* and *Amorpha crenulata*) are vulnerable to ongoing and potential future development for recreational purposes and the establishment of service roads, parking, and picnic areas.

Euphorbia deltoidea ssp. *deltoidea* var. *deltoidea* formerly occurred throughout the pinelands from Miami southwest to Cutler Ridge. It is now restricted to eight known sites in the vicinity of Cutler Ridge and Perrine. *Euphorbia deltoidea* ssp. *deltoidea* var. *adhaerens* formerly occurred at several sites in the Homestead-Goulds area; this species is now restricted to two sites near Homestead (Austin *et al.*, 1980a).

The former range of *Galactia smallii* is poorly known, but this species is presently restricted to two known sites near Homestead (Herndon, 1984a).

Polygala smallii formerly existed from southeastern Broward County (near Fort Lauderdale) to the Cutler area in Dade County. This species is now restricted to two sites in the Cutler area (Austin *et al.*, 1980b).

Amorpha crenulata formerly occurred throughout pinelands in the Miami-Coral Gables area; it is now known only from a few highly restricted sites within the Miami City limits (Herndon, 1984a).

Habitat destruction or modification threatening *Euphorbia garberi* includes residential and commercial development, lack of fire resulting in increased competition and shading out by other plant species, and natural risk from destruction by storms or hurricanes. *Euphorbia garberi* was formerly found from the Miami area southwest to Everglades National Park (ENP) and the Lower Florida Keys. Currently, the species is known from only four sites in ENP, one in Dade County and three in Monroe County, and one site on Big Pine Key, Monroe County. The species has apparently been extirpated from eight of the Florida Keys where it formerly occurred (Austin *et al.*, 1980a). It has not been found in the Miami area since 1949. Three of the ENP populations are located in coastal areas where storm overwash could eliminate them. *Euphorbia garberi* was considered a "species of highest concern" in a rare plant report prepared by the Everglades National Park South Florida Research Center (Loope and Avery, 1979). Another population is in a pineland area where periodic burning may be required to prevent overshading by shrubs. The Big Pine Key site is vulnerable to overshading and storm damage.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* *Euphorbia deltoidea* ssp. *deltoidea*, *Galactia smallii*, *Polygala smallii*, and *Amorpha crenulata* are so limited in distribution and population size that indiscriminate scientific or other collecting could adversely affect these species. Collecting is not known to occur at this time, but caution will be necessary to ensure that increased publicity does not spark such collecting.

C. *Disease or predation.* Not applicable to these species.

D. *The inadequacy of existing regulatory mechanisms.* *Polygala smallii* is considered endangered by the Florida Committee on Rare and Endangered Plants and Animals (Ward, 1979), but this recognition provides no protection to the plant or its habitat. *Euphorbia deltoidea* ssp. *deltoidea* and *Amorpha crenulata* occur in Dade County parks, but are not accorded any specific protection in park planning or development. *Euphorbia garberi* is provided some protection by its presence in ENP, but is unprotected outside the Park. National Park Service regulations prohibit the removal of plants from parks; these regulations will be further strengthened by prohibitions of the Act that restrict the removal and reduction to possession of endangered plants from lands under Federal jurisdiction (proposed to be implemented for threatened plants at 48 FR 31417, July, 1983).

Dade County sponsors an Environmentally Endangered Lands (EEL) program which provides property tax benefits to landowners who agree to maintain healthly forestlands. The program includes prescribed burning for pineland. Over 20 tracts of land supporting pinelands are now included in the EEL program, but these lands do not include any of the currently known sites for the species in this regulation.

E. *Other natural or manmade factors affecting its continued existence.* Pine rockland habitat in Dade County succeeds to hardwood hammock in the absence of periodic burning. Pine rockland plants are gradually shaded out as succession takes place. As Dade County becomes increasingly developed and the pinelands smaller and more fragmented, fire suppression is more apt to occur. Invasion of exotic plants is also affecting the pinelands. Two

species currently invading this habitat are *Schinus terebinthifolius* (Brazilian pepper) and a lesser pest (*Neo*

designation of critical habitat for these plants.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62,

public comment. It is likely that few collecting permits for these species will

combinations and a key to the Caribbean members of the genus. Annals of the

Ward, D.B. 1979. Rare and endangered biota of Florida. Vol. 5: Plants. University Presses

VOL 50 ISS 138 JL 18 1985 UMI

species currently invading this habitat are *Schinus terebinthifolius* (Brazilian pepper) and a large reed (*Neyraudia reynaudiana*). Other exotic plants, which are extremely widespread in south Florida, may also invade pine rocklands in the future. The orchid tree (*Bauhinia variegata*) is currently present in some pinelands. Most of the remaining pinelands are surrounded with suburban landscaping dominated by exotic plants. Fire suppression and exotic plant competition affect *Euphorbia deltiodea* ssp. *deltiodea, Galactia smallii, Polygala smallii,* and *Amorpha crenulata.*

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Euphorbia deltoidea* ssp. *deltoidea, Galactia smallii, Polygala smallii,* and *Amorpha crenulata* as endangered species and to list *Euphorbia garberi* as a threatened species. The former four species have already been extirpated over most of their historic range and could become extinct in the near future. *Euphorbia garberi* has been largely extirpated over its former range and is threatened at one or more of the remaining sites. The reasons for not proposing critical habitat for these species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these species at this time. *Euphorbia deltoidea* ssp. *deltoidea, Galactia smallii,* Polygala smallii, and *Amorpha crenulata* are sufficiently restricted that scientific collecting or vandalism could seriously damage the remaining populations of these species. Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. Similarly, it would not be prudent to publish descriptions and maps of the few known sites of *Euphorbia garberi.* While collecting is generally prohibited in Monroe County Parks and in Everglades National Park, these prohibitions are difficult to enforce. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. Therefore, there is no benefit in designation of critical habitat for these plants.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Euphorbia deltoidea ssp. *deltoidea* occurs on land under the jurisdiction of the U.S. Army. The Army is currently conferring with the Service regarding the development of Reserve facilities on the pineland site. This process is anticipated to become a consultation, with determination of *Euphorbia deltoidea* ssp. *deltoidea* to be an endangered species.

Euphorbia garberi occurs in Everglades National Park. Park management includes prescribed burning of pinelands in areas where *Euphorbia garberi* is located. The present burning schedules, aimed at maintaining pinelands, should benefit this species. This activity will be subject to consultation under section 7 of the Endangered Species Act. No monitoring of this plant species is currently being done in the Park; the listing could focus increased attention on its status.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plants and 17.71 and 17.72 for threatened plants set forth a series of general trade prohibitions that apply to all endangered and threatened plant species. With respect to *Euphorbia deltoidea* ssp. *deltoidea, Galactia smallii, Polygala smallii, Amorpha crenulata,* and *Euphorbia garberi,* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 and 17.71, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered and threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species are virtually unknown in cultivation and are uncommon in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This prohibition now applies to *Euphorbia deltoidea* ssp. *deltoidea* of Federal lands. Section 4(d) allows for the provision of such protection to threatened species through regulations. This protection will apply to *Euphorbia garberi* in ENP once revised regulations are promulgated. Everglades National Park regulations already prohibit collecting, except under permit, so the existing situation will be unchanged. The remaining plants considered in the rulemaking would be given similar protection to the extent they are located on land subject to Federal jurisdiction. Permits for exceptions to this prohibition are available through sections 10(a) and 4(d) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. It is likely that few collecting permits for these species will ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this final rule is Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580 or FTS 946–2580).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, in amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under family names indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Euphorbiaceae—Spurge family:						
Euphorbia (Chamaesyce) deltoidea ssp. *deltoidea*	Spurge	U.S.A. (FL)	E	190	NA	NA
Euphorbia (Chamaesyce) garberi	None	U.S.A. (FL)	T	190	NA	NA
Fabaceae—Pea family:						
Amorpha crenulata	Crenulate lead-plant	U.S.A. (FL)	E	190	NA	NA
Galactia smallii	Small's milkpea	U.S.A. (FL)	E	190	NA	NA
Polygalaceae—Milkwort family:						
Polygala smallii	Tiny polygal a ELS	U.S.A. (FL)	E	190	NA	NA

Dated: June 27, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–17077 Filed 7–17–85; 8:45 am]

BILLING CODE 4310–55–M

VOL 50 ISS 138 JL 18 1985 UMI

Thursday

VOL
50

ISS
138

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18

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federal register

Thursday
July 18, 1985

Part VI

Department of Education

34 CFR Parts 425, 426, 431, and 432
State-Administered Adult Education Program and National Adult Education Discretionary Program; Final Regulations

DEPARTMENT OF EDUCATION

become able to secure training that will make them more employable.

purposes of the State plan for adult education.

been changed to *State employment and training agencies*.

the State. The commenters pointed out

34 CFR Part 431

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50
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DEPARTMENT OF EDUCATION

34 CFR Parts 425, 426, 431, and 432

State-Administered Adult Education Program and National Adult Education Discretionary Program

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Secretary of Education issues final regulations to implement the Adult Education Act, which was amended and extended by the Education Amendments of 1984, Pub. L. 98-511. These regulations govern the State-administered program of adult basic and adult secondary education and the national adult education discretionary program for research, development, demonstration, dissemination, and evaluation. An additional purpose of these regulations is to reduce the administrative burden on grantees, to allow more flexibility in program administration to State educational agencies, to eliminate certain existing regulations that are unnecessary, and to clarify certain provisions of the existing regulations to make them more understandable to the public.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Paul V. Delker, Director, Division of Adult Education, U.S. Department of Education, (ROB-3, Room 5610), 400 Maryland Avenue, SW., Washington, D.C. 20202-3585, Telephone: (202) 245-9793; or Thomas L. Johns, Chairperson, Adult Education Regulations Task Force, U.S. Department of Education, (ROB-3, Room 5126), 400 Maryland Avenue, SW., Washington, D.C. 20202-3579, Telephone: (202) 245-8176.

SUPPLEMENTARY INFORMATION:

Background

Title I of the Education Amendments of 1984 (Pub. L. 98-511) amends and extends the Adult Education Act (the Act), enacted in Pub. L. 91-230 (20 U.S.C. 1201 *et seq.*), as amended. The primary purpose of the Act has been, and continues to be under the recent amendments, to offer educationally disadvantaged adults an opportunity to acquire basic literacy skills necessary to function in society, to continue their education to at least the level of completion of secondary school, and to become able to secure training that will make them more employable, productive, and responsible citizens.

There are two major parts to the adult education program established by the Act: The State-administered adult education program and the national adult education discretionary program.

The State-administered adult education program establishes a cooperative effort between the Federal Government and the States. Federal funds are allocated to the States on a formula basis, and the States, in turn, fund local programs of adult education based on need and resources available. The regulations governing the State-administered program are found in 34 CFR Parts 425 and 426.

The Act also authorizes a national adult education discretionary program. At an appropriation level of $112 million, or higher, the Secretary may set aside up to five percent of that amount for projects under section 309 of the Act. At the current appropriation level of $100 million for program operations, this authority is not available to the Secretary. The regulations governing the national discretionary program are found in 34 CFR Part 431.

As noted in § 425.2(a) of these regulations, the Education Department General Administrative Regulations (EDGAR) apply to the adult education programs. Specific regulatory requirements for EDGAR are not repeated in these regulations. However, particular attention should be directed to the following EDGAR requirements:

(A) The SEA must have on file with the Secretary a single State application that covers adult education programs (34 CFR 76.101).

(B) By submitting a single State application under 34 CFR 76.101, an SEA meets the requirements of section 306(b)(6) of the Act, covering fiscal control and fund accounting procedures.

(C) By submitting a single State application under 34 CFR 76.101, an SEA gives assurance that it will evaluate—not less often then once every three years—the effectiveness of section 306 and section 310 programs in meeting statutory objectives.

(D) A State plan for adult education must include the certifications required by 34 CFR 76.104.

(E) Computation of the non-Federal share of expenditures for matching or cost-sharing is discussed in 34 CFR 74.52. The non-Federal share of expenditures under the State plan may be computed on a statewide basis and may come from any source other than Federal assistance so long as these expenditures are made to further the purposes of the State plan for adult education.

(F) An SEA must administer special experimental demonstration projects and teacher training projects under section 310 of the Act in accordance with the requirements contained in Subparts D and E of 34 CFR Part 76.

Summary of Major Areas of Public Comment

The State-administered Adult Education Program and National Adult Education Discretionary Program regulations were published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on February 28, 1985 (50 FR 6304). The Secretary invited comments on the proposed rules. In response to these comments changes were made in these final regulations. Summarized below are the major areas of comment and the Secretary's response. Appendix A contains a summary of all comments and responses received on the Notice of Proposed Rulemaking.

(a) *Limited English proficiency.* Two commenters urged that the definition of "limited English proficiency" be taken verbatim from title VII of the Elementary and Secondary Education Act of 1965, as amended. The definition is added in § 425.3. The Secretary agrees with the commenters that this definition relates to a particular subset of that population with limited English language skills and is required by section 306(b)(11) of the Act. The definition in the proposed regulations of "limited English language skills" is retained because this term is used both in the Act and the regulations and defines a broader population than those included under the definition of "limited English proficiency."

(b) *Data collection.* Commenters suggested that the regulatory language on data collection should reflect the requirements of section 306(b)(14) of the Act. The program assurance in § 426.11(b)(8) has been changed to reflect more explicitly these requirements.

(c) *Clarification of terms.* Commenters called attention to a variance in terms relating to employment and training between those used in the adult education program and those used in current legislation authorizing vocational education and job training programs.

The Secretary agrees that the terms should be consistent and has made the appropriate changes:

(1) In § 426.12(a)(10), the term "State manpower and training agencies" has been changed to *State employment and training agencies.*

(2) In § 426.12(a)(11), the term "Local manpower and training agencies" has been changed to *Local employment and training agencies.*

(3) In § 426.12(i)(1), the term "State manpower service councils" has been changed to *State job training coordinating councils.*

(d) *Outreach activities.* Two commenters questioned the advisability of including the stipulation in § 426.12(h)(2) that a concerted effort be made to obtain such services as transportation and child care through other than adult education program resources. The Secretary agrees that this language may be misinterpreted by a State to preclude the expenditure of any funds under the Act for these services. The stipulation has been deleted in these final regulations.

(e) *Evaluation.* One commenter suggested that more frequent evaluations be required. Another commenter recommended that the requirement in § 426.12(o) be clarified.

Section 426.12(o) of the proposed regulations has been deleted from the final regulations. By submitting a single State application under 34 CFR 76.101, an SEA gives assurance that it will evaluate—not less often than once every three years—the effectiveness of section 306 and section 310 programs in meeting statutory objectives.

(f) *Administration.* One commenter pointed out that the provision in § 426.21 that stipulates that "allowable administrative costs must be necessary and reasonable for proper and efficient administration of the program" is also set forth in Appendix C to 34 CFR Part 74. The Language has been deleted from the final regulations. It is Department policy not to repeat requirements set forth in the Education Department General Administrative Regulations in other regulations.

(g) *Dissemination plan.* A change has been made in the final regulations. One commenter, addressing the criterion on the dissemination plan, as set forth in § 431.31 of the proposed regulations, recommended that products of these national projects be disseminated to all parties concerned about illiteracy and other adult education problems. The Secretary agrees and has deleted the restrictive reference to "educators" in § 431.31(g)(2)(iii).

(h) *Application approval.* One commenter objected to the requirement in § 426.32(b)(2) that an applicant other than a local educational agency must provide the applicable local educational agency the opportunity to comment on the application prior to submitting it to the State. The commenters pointed out that while section 304(a)(1) of the Act does require that the opportunity to comment must take place prior to approval of an application by the State educational agency, the Act does not require that the opportunity to comment must take place prior to submission of the application to the State.

The Secretary agrees with the commenter, and the phrase "prior to submitting it to the State" has been deleted from § 426.32(b)(2).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Intergovernmental Review

The State-administered adult education program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 425

Administrative practice and procedure, Adult education, Education, Grant programs—education.

34 CFR Part 426

Adult education, Education, Grant programs—education, Reporting and recordkeeping requirements, State advisory councils, Teachers.

34 CFR Part 431

Adult education, Education, Grant programs—education, Nonprofit organizations, Reporting and recordkeeping requirements.

34 CFR Part 432

Adult education, Education, Grant programs, Immigrants, Indochina, Non-profit organizations, Refugees.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance Numbers: 84.002 Adult Education—State-administered Program; National Adult Education Discretionary Program (Number not assigned))

Dated: July 15, 1985.

William J. Bennett,

Secretary of Education.

The Secretary amends Parts 425, 426, and 431 and removes Part 432 of Title 34 of the Code of Federal Regulations as follows:

1. Part 425 is revised to read as follows:

PART 425—ADULT EDUCATION—GENERAL PROVISIONS

Subpart A—General

Sec.

425.1 What are the Adult Education Programs?
425.2 What regulations apply to the Adult Education Programs?
425.3 What definitions apply to the Adult Education Programs?
425.4–425.9 [Reserved]

Subpart B—What Kinds of Activities Does the Secretary Assist Under the Adult Education Program?

425.10 What kinds of activities does the Secretary assist?

Authority: Secs. 301–315 of the Adult Education Act, as amended by Pub. L. 98–511; 20 U.S.C. 1201 *et seq.*, unless otherwise noted.

Subpart A—General

§ 425.1 What are the Adult Education Programs?

(a) Under the Adult Education Programs the Secretary provides Federal financial assistance to encourage and expand educational opportunities for adults.

(b) The regulations in this Part 425 govern the following programs:

(1) 34 CFR Part 426—State-Administered Adult Education Program.

(2) 34 CFR Part 431—National Adult Education Discretionary Program.

(20 U.S.C. 1201 *et seq.*)

§ 425.2 What regulations apply to the Adult Education Programs?

Grant
Grantee

community or junior college, is used as a community center operated in

combination of school districts or counties as are recognized in a State as

Sec.
426.33 What are special experimental

tuition, fees, or any other charges, or be

§ 425.2 What regulations apply to the Adult Education Programs?

The following regulations apply to the Adult Education Programs:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), (applicable only to Part 431), Part 76 (State-administered Programs) (applicable only to Part 426), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this part.

(c) The regulations in 34 CFR Parts 426 and 431.

(20 U.S.C. 1201 *et seq.*)

§ 425.3 What definitions apply to the Adult Education Programs?

(a) *Program definitions.* The following definitions apply to 34 CFR Parts 426 and 431:

"Act" means the Adult Education Act as amended (20 U.S.C. 1201 *et seq.*)

"Adult" means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 305(a) of the Act, the term "adult" means an individual 16 years of age or older.

"Adult basic education" means adult education for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, which is designed to help eliminate such inability and raise the level of education of those individuals with a view to making them less likely to become dependent on others, to improving their ability to benefit from occupational training and otherwise increasing their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities.

"Adult education" means instruction or services below the college level for adults who do not have—

(1) The basic skills to enable them to function effectively in society; or

(2) A certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).

"Basic literacy skills," as used in § 425.10(b)(1), means the skills taught in adult basic education.

"Community school program" means a program in which a public building, including but not limited to public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interests, and concerns of that community.

"Immigrant" means any refugee admitted or paroled into this country or any alien except one who is exempt under the provisions of the Immigration and Nationality Act, as amended.

(8 U.S.C. 1101(a)(15))

"Institution of higher education" means any such institution as defined by section 481 of the Higher Education Act of 1965.

"Institutionalized person" means an adult, as defined in the Act, who is an inmate, patient, or resident of a correctional, medical, or special institution.

"Limited English language skills" refers to difficulty of adults in speaking, reading, writing, or understanding the English language so that those adults are denied the opportunity to learn successfully in a learning environment where the language of instruction is English.

"Limited English proficiency" and "Limited English proficient" where used with reference to individuals means—

(1) Individuals who were not born in the United States or whose native language is a language other than English;

(2) Individuals who come from environments where a language other than English is dominant; and

(3) Individuals who are American Indian and Alaskan Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny those individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

(20 U.S.C. 3223(a)(1))

"Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, the term means that other board or authority.

"Outreach" means activities designed to—

(1) Inform adult populations who are least educated and most in need of assistance of the availability and benefits of the adult education program; and

(2) Assist these adult populations to participate in the program by providing reasonable and convenient access.

"State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"State administrative costs" means costs for those management and supervisory activities necessary for the direction and control by the State educational agency responsible for developing the State plan and overseeing the implementation of the adult education program under the Act. The term includes those costs incurred for State Advisory Councils under section 311 of the Act, but does not include those costs incurred for ancillary services such as evaluation, teacher training dissemination, and curriculum development.

"State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools; or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools, then that agency or officer may be designated for the purpose of the Act by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, the term means an appropriate agency of officer designated for the purpose of the Act by the Governor.

(b) *Definitions in EDGAR.* The following terms used in this part and Parts 426 and 431 are defined in 34 CFR Part 77:

Applicant
Application
Award
Budget
Budget period
ED
EDGAR
Grant
Grantee
Nonprofit
Private
Project
Project period
Public
Secretary
Subgrant
Subgrantee

(Sec. 303; 20 U.S.C. 1201 *et seq.*)

§§ 425.4–425.9 [Reserved]

Subpart B—What Kinds of Activities Does the Secretary Assist Under the Adult Education Programs?

§ 425.10 What kinds of activities does the Secretary assist?

The Secretary provides financial assistance to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

(a) Enable all adults to acquire basic literacy skills necessary to function in society;

(b) Enable adults who so desire to continue their education to at least the level of completion of secondary school; and

(c) Make available to adults the means to secure training and education that will enable them to become more employable, productive, and responsible citizens.

(Sec. 302; 20 U.S.C. 1201)

2. Part 426 is revised to read as follows:

PART 426—STATE-ADMINISTERED ADULT EDUCATION PROGRAM

Subpart A—General

Sec.
426.1 How is the State-administered adult education program governed?

Subpart B—How Does a State Apply for a Grant?

426.10 Who is eligible?
426.11 What documents must a State submit to receive its grant?
426.12 What must the State plan contain?
426.13—426.19 [Reserved]

Subpart C—How is a Grant Made to a State?

426.20 How is the amount of each State's grant determined?
426.21 How does a State provide for the administrative of the program?
426.22–426.29 [Reserved]

Subpart D—How Does a State Distribute Funds?

426.30 Who is eligible for a subgrant or contract?
426.31 How does a State distribute funds?
426.32 How does a State approve applications?
426.33 What are special experimental demonstration projects and teacher training projects?
426.34–426.39 [Reserved]

Subpart E—What Conditions Must Be Met by a State?

426.40 What are the matching requirements of the program?
426.41 What are the maintenance of effort requirements of the program?
426.42 How is a maintenance of effort waiver granted?
426.43 What are exceptional or uncontrollable circumstances?
426.44 How is maintenance of effort computed in the event of a waiver?
426.45 What are a State's responsibilities regarding State advisory councils and what the functions of these councils?
426.46–426.49 [Reserved]

Authority: Secs. 301–315 of the Adult Education Act, as amended by Pub. L. 98–511, 20 U.S.C. *et seq.*, unless otherwise noted.

Subpart A—General

§ 426.1 How is the State-administered adult education program governed?

(a) *Federal-State relationship.* The State-administered adult education program is a cooperative effort between the Federal Government and the States to provide adult education. Federal funds are granted to the States on a formula basis. The States fund local programs of adult education based on need and resources available.

(b) *Other applicable provisions.* The provision of 34 CFR Part 425 apply to the State-administered adult education program under this part

(20 U.S.C. 1201 *et seq.*).

Subpart B—How Does a State Apply for a Grant?

§ 426.10 Who is eligible?

Any State may apply for a grant under this part.

(Sec. 304(a); 20 U.S.C. 1203(a))

§ 426.11 What documents must a State submit to receive its grant?

A State educational agency (SEA) shall submit to the Secretary the following:

(a) A State plan, developed once every three years, that meets the requirements of the Act and the regulations in this part.

(b) Program assurances, signed by an authorized official of the SEA, to provide that—

(1) Special emphasis will be given to adult basic education programs except where these needs have been met in the State;

(2) Adult enrolled in adult basic education programs will not be charged tuition, fees, or any other charges, or be required to purchase any books or any other materials that are needed for participation in the program;

(3) The SEA will make available not to exceed 20 percent of the funds granted to the State under the Act for programs of equivalency for a certificate of graduation from a secondary school;

(4) Not more than 20 percent of the funds granted to the State under the Act for any fiscal year will be used for the education of institutionalized adults;

(5) The SEA will use not less than 10 percent of the funds granted to the State under the Act for special experimental demonstration projects and teacher training projects under section 310 of the Act.

(6) Special assistance will be given to the needs of persons with limited English proficiency by providing bilingual adult education programs of instruction in English and, to the extent necessary to allow these persons to progress effectively through the adult education program, in the native language of these persons; and these programs will be carried out in coordination with programs of bilingual education assisted under title VII of the Elementary and Secondary Education Act of 1965 and bilingual vocational education programs under the Carl D. Perkins Vocational Education Act;

(7) (i) For each year covered by the plan, the fiscal effort per student or the aggregate amount available for expenditure by the State for adult education from non-Federal sources for the preceding fiscal year was not less than the fiscal effort per student or the amount available for expenditure for such purposes from those sources during the second preceding fiscal year;

(ii) In the event of exceptional and uncontrollable circumstances, the State may, under § 426.42, request a one-time waiver of the requirement in paragraph (b)(7)(i) of this section;

(8) The SEA will report information about the State's adult education students, programs, expenditures, and goals, as may be required by the Secretary, together with information with respect to the age, sex, and race of students in the programs assisted under the Act and whether the students complete those programs; and

(9) The SEA will send to the Secretary one copy of each final report of special experimental demonstration projects and teacher training projects supported under section 310 of the Act.

(Approved under OMB Control No. 1830–0027)

Secs. 304(b), 306, 307(b) and 310; 20 U.S.C. 1203(b), 1205, 1206(b), 1208.)

§ 426.12 What must the State plan contain?

§ 426.21 including any planned expenditures for a State advisory

antipoverty programs, and community organizations; and

institutions, an SEA shall give sufficient public notice throughout all regions of

school programs, carried out in cooperation with other Federal

exceptional or uncontrollable

VOL 50 ISS 138 JL 18 1985 UMI

§ 426.12 What must the State plan contain?

An SEA shall include all of the following in its State plan:

(a) The SEA shall describe the means by which one or more representatives of each of the following agencies and groups were involved in the development of the State plan and how they will continue to be involved in carrying out the plan:

(1) The business community.
(2) Industry.
(3) Labor unions.
(4) Public educational agencies and institutions.
(5) Private educational agencies and institutions.
(6) Churches.
(7) Fraternal/sororal organizations.
(8) Voluntary organizations.
(9) Community organizations.
(10) State employment and training agencies.
(11) Local employment and training agencies.
(12) Adult residents of rural areas.
(13) Adult residents of urban areas with high rates of unemployment.
(14) Adults with limited English language skills.
(15) Institutionalized adults.
(16) Other entities concerned with adult education, such as basic skills programs, volunteer literacy programs, libraries, and organizations offering education programs for older persons and military personnel and their adult dependents.

(b) The SEA shall describe—

(1) Its accomplishments in meeting the goals included in the previous three-year plan; and

(2) How the assessment of accomplishments and the evaluation required by paragraph (o) of this section were considered in establishing the State's goals for adult education in the plan being submitted.

(c) The SEA shall describe, for the three-year period covered by the plan, the adult education needs of all segments of the adult population in the State.

(d) The SEA shall—

(1) Demonstrate that the special educational needs of adult immigrants in the State have been examined; and

(2) Provide for the implementation of adult education and adult basic education programs for immigrants to meet existing needs.

(e) The SEA shall identify the other Federal and non-Federal resources available to meet the needs described in paragraph (c) of this section.

(f) The SEA shall describe its planned use of Federal funds for the administration of the program under § 426.21 including any planned expenditures for a State advisory council under § 426.45.

(g) The SEA shall—

(1) Identify the goals it intends to achieve in meeting the needs described in paragraph (c) of this section for the period covered by the plan. These goals must be designed to develop a statewide program in which the adult populations in the State that are least educated and most in need of assistance are served in a manner whereby they learn most effectively; and

(2) Describe proposed activities for reaching each goal and give estimated percentages of funds under the State plan to be allocated to each goal.

(h) The SEA shall describe—

(1) The outreach activities that the State intends to carry out during the period covered by the plan; and

(2) In conjunction with these outreach activities, for the period covered by the State plan, the efforts it will undertake to assist adult participation in adult education programs through flexible course schedules, covenient locations, adequate transportation, and child care services.

(i) The SEA shall describe the procedures the State will use to ensure that in carrying out the program there will be—

(1) Adequate consultation, cooperation, and coordination among the SEA State job training coordinating councils, State occupational information systems, and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults; and

(2) Coordination of programs carried out under this part with other programs carried out by State and local agencies, including reading improvement programs, designed to provide reading instruction for adults.

(j) The SEA shall describe the local application process and the criteria for evaluating local applications submitted by all eligible applicants for subgrants or contracts.

(k) The SEA shall describe the method of determining the amount of funds to be distributed to applicants approved for funding.

(l) The SEA shall describe the means by which the delivery of adult education services will be significantly expanded by—

(1) Efforts to increase the number of participating agencies, institutions, and organizations other than the public school systems, such as business, labor unions, libraries, institutions of higher education, public health authorities, antipoverty programs, and community organizations; and

(2) Efforts to increase the number of participants in adult basic education.

(m) An SEA that is prohibited by State law from awarding Federal funds by grant or contract to public or private agencies, organizations, or institutions, other than local educational agencies, shall describe in its State plan—

(1) The legal basis of this prohibition; and

(2) How public or private agencies, organizations, or institutions will be used for expanding the delivery of services.

(n) The SEA shall describe—

(1) Its policies, procedures, and activities for carrying out special experimental demonstration projects and teacher training projects in accordance with § 426.33; and

(2) Its criteria and priorities for awarding special projects and teacher training projects.

(Approved Under OMB Control No. 1830–0026)

(Secs. 306 and 310; 20 U.S.C. 1205, 1208)

§§ 426.13–426.19 [Reserved]

Subpart C—How Is a Grant Made to a State?

§ 426.20 How is the amount of each State's grant determined?

The Secretary determines the amount of each State's grant according to the formula in section 305(a) of the Act.

(Sec. 305; 20 U.S.C. 1204)

§ 426.21 How does a State provide for the administration of the program?

A State may use funds received under section 304 of the Act to provide for State and local administration of the program. A State shall determine allowable local administrative costs.

(Sec. 306(b)(2); 20 U.S.C. 1205(b)(2))

§§ 426.22–426.29 [Reserved]

Subpart D—How Does a State Distribute Funds?

§ 426.30 Who is eligible for a subgrant or contract?

(a) Local educational agencies and public or private agencies, organizations, and institutions are eligible to apply for funds.

(b) An SEA shall give public notification of the availability of Federal and State funds to eligible applicants—

(1) For the purpose of notifying local educational agencies, an SEA shall provide the notice directly; and

(2) For the purpose of notifying public or private agencies, organizations, and institutions, an SEA shall give sufficient public notice throughout all regions of the State.

(Sec. 304; 20 U.S.C. 1203)

§ 426.31 How does a State distribute funds?

(a) An SEA shall distribute funds on the basis of applications submitted by eligible applicants.

(b) If funds are awarded to a for-profit agency, organization, or institution, the award must be in the form of a contract.

(Sec. 304; 20 U.S.C. 1203

§ 426.32 How does a State approve applications?

(a) An SEA may not approve an application from a for-profit agency, organization, or institution unless the State has first determined that the applicant—

(1) Can make a significant contribution to attaining the objectives of the Act; and

(2) Can provide substantially equivalent education at a lesser cost or can provide services and equipment not available in public institutions.

(b) An SEA may not approve an application from a public or private agency, organization, or institution other then a local educational agency unless the applicant—

(1) Provides assurance to the State that advice on the development of its application has been sought from the applicable local educational agency, located in the same city, county, township, school district, or other political subdivision of the State to be served by the applicant; and

(2) Provides the applicable local educational agency the opportunity to comment on the application.

(Sec. 304; 20 U.S.C. 1203)

§ 426.33 What are special experimental demonstration projects and teacher training projects?

In accordance with section 310 of the Act, the SEA shall provide assistance for—

(a) Special projects which will be carried out in furtherance of the purposes of the Act, and which—

(1) Involve the use of innovative methods, including methods for educating persons of limited English-speaking ability, systems, materials, or programs which may have national significance or may be of special value in promoting effective programs under the Act; or

(2) Involve programs of adult education, including education for persons of limited English-speaking ability, which are part of community school programs, carried out in cooperation with other Federal, federally assisted, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

(b) Training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of the Act.

(Sec. 310; 20 U.S.C. 1208)

§§ 426.34–426.39 [Reserved]

Subpart E—What Conditions Must be Met by a State?

§ 426.40 What are the matching requirements of the program?

(a) The Federal share of expenditures made under a State plan may not exceed 90 percent of the cost of carrying out a State's program.

(b) The Federal share for American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands is 100 percent.

(Sec. 307; 20 U.S.C. 1206)

§ 426.41 What are the maintenance of effort requirements of the program?

(a) To be eligible for Federal funds a State shall expend for adult education from non-Federal sources an amount equal to the fiscal effort of the State in the preceding fiscal year.

(b) A State may determine its fiscal effort on a per student expenditure basis or on a total expenditure basis.

(Sec. 307; 20 U.S.C. 1206)

§ 426.42 How is a maintenance of effort waiver granted?

(a) The Secretary may waive for one fiscal year only the maintenance of effort requirement in section 307(b) of the Act if the Secretary determines it would be equitable to do so in view of exceptional or uncontrollable circumstances affecting a State.

(b)(1) If an SEA wishes to receive a waiver from the maintenance of effort requirement in paragraph (a) of this section, the SEA shall submit a request for a waiver.

(2) An SEA shall include in the request for a waiver the reason for the request and any additional information the Secretary may require.

(Sec. 307; 20 U.S.C. 1206)

§ 426.43 What are exceptional or uncontrollable circumstances?

(a) The Secretary considers exceptional or uncontrollable circumstances under § 426.42 to include situations in which a State had no control of the events resulting in decreased expenditures but has made a reasonable effort in a timely fashion to comply with the maintenance of effort requirement of the Act.

(b) Exceptional or uncontrollable circumstances include, but are not limited to, the following situations:

(1) A sudden, substantial reduction in available revenue due to—

(i) A natural disaster;

(ii) The unforeseen removal of property from the tax roll by government action; or

(iii) The unforeseen departure of an industrial or commercial facility.

(2) An uncontrollable diversion of available revenue to other purposes outside the control of the State due to emergency circumstances such as those resulting from a disaster of human or natural causes.

(Sec. 307; 20 U.S.C. 1206)

§ 426.44 How is maintenance of effort computed in the event of a waiver?

A State shall determine fiscal effort for the year following the year for which a waiver is granted based on the level of effort that existed prior to the waiver. For example, if in fiscal year (FY) 1986 a State receives a waiver for its failure in FY 1985 to maintain fiscal effort at the level established in FY 1984, the State shall compute its fiscal effort for FY 1986 on the basis of the fiscal effort for FY 1984.

(Sec. 307; 20 U.S.C. 1206)

§ 426.45 What are a State's responsibilities regarding State advisory councils and what are the functions of these councils?

(a) A State may use funds received under section 304 of the Act to support a State advisory council.

(b) The State shall determine the membership, method of appointment, manner of operation, and necessary support services of a State advisory council.

(c) The functions of a State advisory council are to assist the SEA to plan, implement, or evaluate programs or activities assisted under the Act.

(Sec. 311; 20 U.S.C. 1206b)

§§ 426.46–426.49 [Reserved]

3. Part 431 is revised to read as follows:

PART 431—NATIONAL ADULT EDUCATION DISCRETIONARY PROGRAMS

§431.0 What regulations apply to this program?

§§ 431.1–431.11 [Reserved]

§ 431.12 What are the purposes of the program?

§§ 431.12—431.19 [Reserved]

(1) The Secretary reviews each application for information that shows

(ii) The equipment and supplies that the applicant plans to use are adequate.

PART 432—ADULT EDUCATION PROGRAMS FOR IMMIGRANTS AND

PART 431—NATIONAL ADULT EDUCATION DISCRETIONARY PROGRAM

Subpart A—General

Sec.

431.1 What is the National Adult Education Discretionary Program?
431.2 Who is eligible to apply for an award under the National Adult Education Discretionary Program?
431.3 What regulations apply to this program?
431.4 What definitions apply to this program?
431.5–431.9 [Revised]

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

431.10 What types of projects may be funded?
431.11 How does the Secretary establish priorities for this program?
431.12–431.19 [Reserved]

Subpart C—[Reserved]

431.20–431.29 [Reserved]

Subpart D—How Does the Secretary Make an Award?

431.30 How does the Secretary evaluate an application?
431.31 What selection criteria does the Secretary use?
431.32 How does the Secretary select an application for funding?
431.33–431.39 [Reserved]

Subpart E—What Condition Must Be Met by a Recipient?

431.40 What condition must be met under this program?
431.41–431.49 [Reserved]

Authority: Sec. 309 of the Adult Education Act, as amended by Pub. L. 98–511; 20 U.S.C.1207a, unless otherwise noted.

Subpart A—General

§ 431.1 What is the National Adult Education Discretionary Program?

The National Adult Education Discretionary Program supports projects that contribute to the improvement and expansion of adult education.

(Sec. 309(a)(1); 20 U.S.C. 1207a(a)(1))

§ 431.2 Who is eligible to apply for an award under the National Adult Education Discretionary Program?

The following are eligible to apply for grants, contracts, or cooperative agreements under this program:

(a) Public and private institutions, agencies, and organizations.

(b) Individuals.

(c) Business concerns.

(Sec. 309(a)(2); 20 U.S.C. 1207a(a)(2))

§ 431.3 What regulations apply to this program?

The following regulations apply to the National Adult Education Discretionary Program:

(a) The regulations in 34 CFR Part 425.

(b) The regulations in this part.

(20 U.S.C. 1201 *et seq.*)

§ 431.4 What definitions apply to this program?

The definitions in 34 CFR 425.3 apply to this program.

(20 U.S.C. 1201 *et. seq.*)

§§ 431.5–431.9 [Reserved]

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 431.10 What types of projects may be funded?

(a) The Secretary directly or through grants, contracts, or cooperative agreements supports projects for the improvement and expansion of adult education. Funds may be used for—

(1) Applied research;

(2) Development;

(3) Demonstration;

(4) Dissemination;

(5) Evaluation; and

(6) Related activities.

(b) Projects may include, but are not limited to—

(1) Improving adult education opportunities for elderly individuals and adult immigrants;

(2) Evaluating educational technology and computer software suitable for providing instruction to adults; and

(3) Supporting exemplary cooperative adult education programs that combine the resources of businesses, schools, and community organizations.

(Sec. 309(a)(1); 20 U.S.C. 1207a(a)(1))

§ 431.11 How does the Secretary establish priorities for this program?

(a) The Secretary announces, through one or more notices published in the **Federal Register**, the priorities for this program, if any, from the topics described in § 431.10, and the manner in which those priorities will be implemented.

(b) The Secretary may establish a separate competition for one or more of the priorities selected. If a separate competition is established for one or more priorities, the Secretary may reserve all applications that relate to those priorities for review as part of the separate competition.

(20 U.S.C. 1201 *et seq.*)

§§ 431.12–431.19 [Reserved]

Subpart C—[Reserved]

§§ 431.20–431.29 [Reserved]

Subpart D—How Does the Secretary Make an Award?

§ 431.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for a grant or cooperative agreement on the basis of the criteria in § 431.31.

(b) The Secretary may award up to 100 points, including a reserved 15 points to be distributed in accordance with paragraph (d) of this section, based on the criteria in § 431.31.

(c) Subject to paragraph (d) of this section, the maximum possible points for each criterion are indicated in parentheses after the heading for each criterion.

(d) For each competition, as announced through a notice published in the **Federal Register**, the Secretary may assign the reserved points among the criteria in § 431.31.

(20 U.S.C. 1201 *et seq.*)

§ 431.31 What selection criteria does the Secretary use?

The Secretary uses the following criteria in evaluating each application:

(a) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the application plans to use its resources and personnel to achieve each objective;

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Member of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the subject, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross Reference. See 34 CFR 75.590 (Evaluation by grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *National need.* (20 points)

(1) The Secretary reviews each application to determine how it addresses a national need in adult education.

(2) The Secretary looks for information that describes—

(i) The need in terms of the problem rather than the symptom of the problem;

(ii) Who or what will be helped by the project;

(iii) How the project will improve and expand adult education; and

(iv) The extent to which the project involves creative or innovative techniques and concepts.

(g) *Dissemination plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the dissemination plan for the project.

(2) The Secretary looks for information that shows—

(i) The extent to which the project is designed to yield outcomes that can be readily disseminated;

(ii) A clear description of the project outcomes; and

(iii) A detailed description of how information and materials will be disseminated.

(Sec. 309; 20 U.S.C. 1207a)

§ 431.32 How does the Secretary select an application for funding?

(a) After evaluating the applications according to the criteria contained in § 431.31, the Secretary may determine whether the most highly rated applications are broadly and equitably distributed throughout the Nation.

(b) The Secretary may select other applications for funding on the basis of geographic distribution if doing so would contribute to achieving the purposes of this discretionary program.

(c) The Secretary may decline to fund any project that is eligible for funding under a different competition of Department of Education program.

(Sec. 309; 20 U.S.C. 1207a)

§§ 431.33–431.39 [Reserved]

Subpart E—What Condition Must Be Met by a Recipient?

§ 431.40 What condition must be met under this program?

A recipient shall not charge participants for their participation in the projects assisted under this program.

(Sec. 309(a)(2); (20 U.S.C. 1207a(a)(2))

§§ 431.41–431.49 [Reserved]

4. Part 432 is removed.

PART 432—ADULT EDUCATION PROGRAMS FOR IMMIGRANTS AND INDOCHINA REFUGEES—[REMOVED]

Appendix—Summary of Comments and Responses

Note.—This Appendix will not be codified in the Code of Federal Regulations.

The following is a summary of the comments, suggestions, and recommendations received on the notice of proposed rulemaking for the Adult Education General Provisions, the State-administered Adult Education Program, and the National Adult Education Discretionary Program published on February 28, 1985. Each comment is followed by a response that indicates a change has been made or why no change is considered necessary. Specific comments are arranged in order of the sections of the final regulations to which they pertain.

§ 425.3 Program definition—Limited English proficiency.

Comment. Two commenters urged that the definition of "limited English proficiency" be taken verbatim from title VII of the Elementary and Secondary Education Act of 1965 (ESEA), as required by section 306(b)(11) of the Act.

Response. A change has been made. The definition of "limited English proficiency" from title VII of ESEA, as amended, is added in § 425.3. The Secretary agrees that this definition relates to a particular subset of that population with limited English language skills and is required for inclusion by section 306(b)(11) of the Act. However, since "limited English language skills" is also referenced in the Act and the regulations and defines a broader population than those included under the definition of "limited English proficiency," a definition of this term is retained in the final regulations.

§ 425.3 Program definition—Community school programs.

Comment. Two commenters suggested that the term "community school programs" be defined in the regulations.

Response. A change has been made. The term "community school program," as defined in section 303(e) of the Act, is included in § 425.3.

§ 425.10 Program activities.

Comment. One commenter took exception to the authorized program activities. With reference to acquiring basic literacy skills, the commenter questioned whether this activity takes into account cost-effectiveness of funding programs that are needed

because of the ineffectiveness of earlier compulsory education programs. The

will not discourage participation in the adult secondary education program.

including adult immigrants. The Secretary believes that a State

those key agencies and groups that are unique to a particular State.

highlighted in the preamble of these regulations. Another commenter called

evaluating local applications submitted

because of the ineffectiveness of earlier compulsory education programs. The commenter viewed the activities relating to enabling adults to become more employable, productive, and responsible citizens as too broad in scope and lacking in definition.

Response. No substantive change has been made. Section 302 of the Act states the purpose of and the activities to be supported by the adult education program. The format of § 425.10 now explicitly reflects the language of section 302 of the Act.

§ 426.11(b)(2) Tuition and fees.

Comment. A number of commenters addressed the prohibition on charging tuition, fees, or other charges for adults enrolled in adult basic education. Over three-fourths of these commenters concurred in retaining this prohibition. Another commenter suggested the allowance of a modest contribution by the adult basic education participant with assistance from other agencies or individual scholarships for the more economically disadvantaged. A few commenters viewed eliminating the prohibition as a guarantee of adequate interest and a means of building a better self image for adult participants. One commenter suggested sliding scales for adult basic education participants and allowing charges for materials. It was asserted this would give participants ownership of their books and also help relieve the fiscal constraint on some programs. A few commenters advocated eliminating the entire regulatory provision and leaving the decision on all charges to the discretion of individual State educational agencies.

While the proposed regulations did not address charges for adult secondary education, three commenters suggested that individual State educational agencies be allowed flexibility in creating procedures for charges to participants at this instructional level.

Response. No change has been made. The prohibition on charging tuition and fees for adult basic education participants has been in effect since late in the 1960's. The adult education program emphasis has been and continues to be on serving educationally disadvantaged adults. These adult participants are the ones least likely to have financial resources available for these charges.

The prohibition does not apply to adult secondary education participants. A State educational agency is permitted discretion in making charges for adult secondary education participants.

The Secretary believes that modest tuition or fee charges for this population will not discourage participation in the adult secondary education program.

§ 426.11(b)(9) Final reports of 310 projects.

Comment. One commenter requested retention of the requirement in the 1980 regulations that the results of State-administered special experimental demonstration projects and teacher training projects be sent to the adult education information clearinghouse.

Response. No change has been made. The Education Amendments of 1984 eliminated the requirement for an adult education information clearinghouse; consequently, no such dissemination requirement can be retained in the regulations.

§ 426.11(b) (5) and (9) and § 426.33 Funds for section 310 projects.

Comment. One commenter called for the repeal of the legislative authority for special experimental demonstration projects and teacher training projects. Another commenter recommended that a percentage range of expenditures, from 5 to 10 percent, be established to allow more flexibility to the State educational agency.

Response. No change has been made. Section 310 of the Act requires that each State expend not less than 10 percent of its allotment for each fiscal year for special experimental demonstration projects and teacher training projects. The statutory authority is specific and may not be changed by regulation. A State educational agency is allowed flexibility to determine any maximum limit.

§ 426.11(b)(6) Assistance to persons with limited English proficiency.

Comment. A commenter questioned the absence of any limitation on expenditures for special assistance to meet the needs of persons with limited English proficiency. That commenter believed assistance for this special population should carry an expenditure limitation as do programs in adult secondary education, programs for institutionalized adults, and section 310 projects.

Response. No change has been made. The program assurance relating to assistance to persons with limited English proficiency is required by section 306(b)(11) of the Act which contains no expenditure limitation. The Secretary, through the regulatory process, has no authority to establish an expenditure limitation on this activity.

Additionally, a State educational agency, in its three-year State plan, must show the needs, goals, and activities for persons with limited English proficiency, including adult immigrants. The Secretary believes that a State educational agency should have the flexibility to determine the appropriate services to meet the educational needs of this population.

§ 426.11(b)(8) Data collection.

Comment. One commenter recommended that the data collection requirement include an assurance to the Secretary that private entities are participating in the program.

Response. No change has been made. Public and private entity participation is assured to the Secretary through requirements in § 426.12 (a), (i), and (1).

Comment. Regarding the program assurance on data collection, two commenters stated that the specific language of the statute should be followed in the regulations.

Response. A change has been made. The program assurance in § 426.11(b)(8) has been changed to reflect the requirements of section 306(b)(14) of the Act.

§ 426.12 (a) and (i) Clarification of terms.

Comment. Two commenters suggested that terms relating to employment and training be made more consistent with the language contained in the Job Training Partnership Act and the Carl D. Perkins Vocational Education Act.

Response. Changes have been made. The Secretary agrees that the terms should be consistent among related legislative authorities. Accordingly, in listing the entities to be involved in developing and carrying out the State plan in § 426.12(a)(10), the term "State manpower and training agencies" has been changed to *State employment and training agencies.* Likewise, in § 426.12(a)(11), the term "Local manpower and training agencies" has been changed to *Local employment and training agencies.*

An additional change for consistency appears in § 426.12(i)(1). The term "State manpower service councils" has been changed to *State job training coordinating councils.*

§ 426.12(a) Representation in developing and carrying out the State plan.

Comment. One commenter expressed concern about the prescriptiveness of the regulations in the listing of agencies and groups required to be involved in developing and carrying out the State plan. The commenter suggested that a representative sampling of these agencies and groups would suffice, thus allowing flexibility to a State to involve those key agencies and groups that are unique to a particular State.

Another commenter supported this mechanism for ensuring involvement of nonpublic entities interested in adult education as a means of broadening the scope of the program.

Response. No change has been made. Section 306(b)(8) of the Act specifies fifteen agencies and groups to be involved in developing and carrying out the State plan. The Act also provides a general category of "other entities in the State concerned with adult education." The regulations contain this category, along with some examples of these "other entities," as the sixteenth agency and group. A State educational agency, of course, has the discretion to include additional entities as appropriate in its participatory planning process.

§ 426.12(h) Outreach activities.

Commenter. Two commenters questioned the advisability of stipulating that a State shall make a concerted effort to provide transportation and child care services through other programs, agencies, and organizations.

Response. A change has been made. A State is required, by § 426.12(h), to include in its three-year plan a description of its outreach activities, including efforts to assist adult participation in adult education programs. The regulations allow a State the option of using program funds for activities in conjunction with support services, such as child care. The permissible use of other programs or entities for support services is intended to allow maximum funding for programs to serve the needs of educationally disadvantaged adults. The stipulation that a concerted effort be made to obtain these services through other than adult education resources was included in the 1980 regulations. The Secretary agrees with the commenters that the statement may be misinterpreted by a State so as to discourage or preclude the expenditure of any funds under the Act for such support services as transportation and child care. Consequently, the statement stipulating that States make a concerted effort to obtain these services through other programs, agencies, and organizations has been deleted from the regulations.

§ 426.12(c) and (g) Addressing the educational needs of all segments of the adult population in a State.

Comment. One commenter, while agreeing with Department policy not to exceed statutory language in regulations, suggested that program participation of disabled persons be highlighted in the preamble of these regulations. Another commenter called for specificity in addressing migrant farmworkers as a segment of the adult population in need of educational services.

Response. No change has been made. Section 306(b) (1) and (4) of the Act requires a State to identify the needs and to set forth a program with respect to the needs of *all* segments of the adult population in the State, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults. In addition, section 306(b)(12) of the Act requires that the special needs of adult immigrants be addressed and section 306(b)(9) of the Act requires outreach activities to assist participation, including adequate transportation. These provisions should assure the participation of disabled persons and migrant farm workers as part of the adult population of a State.

§ 426.12(i)(1) Public and private entities.

Comment. One commenter suggested that in § 426.12(i)(1) the phrase "other agencies, organizations, and institutions in the State which operate employment . . ." be changed to read *other public and private agencies, organizations, and institutions in the State which operate employment . . .*

Response. No change has been made. The current phrase reflects the statutory language and includes both public and private entities which are made eligible under section 304(a)(1)(A) of the Act.

§ 426.12(j) Local application process.

Comment. A number of commenters recommended retention of the competitive local application process as required by the 1980 regulations. A lesser number of commenters recommended the elimination of the competitive local application process.

Response. No change has been made. Section 304(a) of the Act establishes local educational agencies and public or private agencies, organizations, and institutions as categories of eligible applicants to a State educational agency for financial assistance to conduct adult education programs. A State educational agency may not give preferential status to or exclude any category of eligible applicant, unless it is prohibited by State law from awarding Federal funds to a category of eligible applicants. The regulations in § 426.12(j) require that a State educational agency in its three-year State plan describe "the local application process and the criteria for evaluating local applications submitted by all eligible applicants for subgrants or contracts." This will ensure an open competition and equal opportuntity for all eligible applicants.

§ 426.12(j) State-established criteria for evaluating local applications.

Comment. A number of commenters recommended retaining the factors for evaluating applications, as enumerated in the 1980 regulations for the adult education program. One commenter recommended that the factors be made more selective. Another commenter recommended suggesting certain criteria in the regulations, rather than requiring specific criteria.

A lesser number of commenters recommended deletion of the factors for evaluating applications to allow more flexibility to a State educational agency. One commenter saw no clear need to delete the factors nor any inherent problem in deleting them.

Response. No change from the NPRM has been made. The 1980 regulations for the adult education program contained factors that a State educational agency was required to consider in developing objective criteria for evaluating local applications. In developing these new regulations, the Secretary deleted those provisions because it is the policy of the Secretary not to promulgate regulations or to delimit State discretion when not required to do so by the law. However, the Secretary encourages State educational agencies to develop objective criteria for evaluating local applications to ensure quality instructional services, fiscal accountability, and access for educationally disadvantaged adults.

§ 426.12(l) Expansion of the delivery system.

Comment. The provision that generated the most public comment was the definition of expansion of the delivery of adult education services. All commenters recommended modifications of the 1980 provisions. A number of commenters expressed concern that expansion should not be measured purely by quantitative means particularly in view of the fact that funding limitations sometimes act to preclude program expansion in terms of enrollment increases. Quality factors as well as quantity factors were suggested for inclusion in the concept of expansion. Suggested modifications included making the definition less burdensome administratively; providing optional ways of measuring expansion; measuring involvement with additional public and private providers in planning,

delivery, and evaluation; and measuring an increased use of volunteers and

§ 426.12(n) Criteria for awarding special projects and teacher training projects

limitations: the limitation under the 1980 regulations of five percent; a five to ten

and reasonable" cost principles, the Secretary has no authority to prescribe

equitable and appropriate public notice to public and private agencies,

of the Act and (2) either can provide substantially equivalent education at a

delivery, and evaluation; and measuring an increased use of volunteers and literacy volunteer programs. One commenter suggested that measures of expansion be enlarged to include adoption of improved instructional techniques, use of new technologies, or new agency coordination. One commenter suggested that an expansion of geographic areas in which adult education services are provided should be a measure.

Response. No change has been made. The final regulations retain the language of the proposed regulations in requiring a description of the *efforts* to increase the number of participating agencies, institutions, and organizations other than the public school systems and the number of participants in adult basic education. This language is intended to allow a State educational agency to document its efforts to expand rather than reporting the end results of its efforts. It is clear that the legislation does charge a State with the responsibility to make an effort to expand the delivery system and to document those efforts in the State plan. However, the Secretary recognizes that the best efforts may not always result in quantifiable increases in agencies and participants because of uncontrollable factors.

§ 426.12(m) Prohibition by Stote law.

Comment. One commenter suggested that a State having a legal prohibition against awarding Federal funds by grant or contract to private agencies receive a decrease in its Federal allotment for the adult education program.

Response. No change has been made. The Secretary has no authority to withhold Federal funds from a State if by State law that State is prohibited from awarding Federal funds to public or private agencies, organizations, or institutions, other than local educational agencies. The regulations, do, however, in § 426.12(m), require a State educational agency to describe in its State plan (1) the legal basis of this prohibition and (2) how public or private agencies, organizations, or institutions will be used for expanding the delivery of services.

Comment. One commenter suggested that the phrase "public or private agencies" in § 426.12(m)(2) be changed to read *public and private agencies.*

Response. No change has been made. The phrase "public or private agencies" reflects the requirements of section 304(a)(1) of the Act.

§ 426.12(n) Criteria for awarding special projects and teacher training projects under section 310 of the Act.

Comment. A number of commenters gave views on whether the Secretary should publish national priorities for a State educational agency to consider in establishing criteria for the approval of section 310 projects. Commenters were evenly divided on this issue. Commenters who favored the published national priorities saw them as providing good, broad-based guidance. The opposing viewpoint was that Section 310 efforts should be directed more toward needs that are unique to regions within State boundaries.

Response. No change has been made. The Secretary chooses not to regulate in this instance, thus affording a State more flexibility to address its own special interests, needs, and concerns in section 310 projects.

§ 426.12(o) Evaluation of activities under sections 306 and 310 of the Act.

Comment. One commenter advocated more frequent evaluations to ensure managerial and programmatic effectiveness in the adult education program. Another commenter called for clarification of the evaluation requirement.

Response. A change has been made. Section 426.12(o) of the proposed regulations has been deleted from these final regulations because the applicable State evaluation requirements for the Act are set forth in 34 CFR 76.101(e)(4).

The single State application required by section 435(b) of the General Education Provisions Act contains an assurance that a State will evaluate the effectiveness of covered programs in meeting its statutory objectives, at such intervals (at least once every three years), and in accordance with such procedures as the Secretary may prescribe by regulation. While more frequent evaluations may not be required, a State, of course, has the option of performing evaluations annually if it so desires.

By submitting a single State application, an SEA gives assurance that it will evaluate the effectiveness of section 306 and section 310 programs under the Act.

§ 426.21 State administrative costs.

Comment. A majority of the commenters agreed that the regulations should not establish a limitation on administrative costs at the State level. Those commenters believe that a State should be given authority to determine appropriate administrative costs. Other commenters suggested percentage limitations: the limitation under the 1980 regulations of five percent; a five to ten percent limitation; five percent of the State's total allocation or $65,000 limitation, whichever is greater; and negotiated costs based on administrative goals and objectives submitted in the three-year State plan.

Response. No change has been made. The 1980 regulations for the adult education program limited State administrative costs to five percent. The amended legislation retains the requirement, in section 306(b)(2), that a State plan provide for the administration of the program by the State educational agency. However, the amended legislation is silent on a separate authorization for, or a maximum limitation on, administrative costs. Accordingly, the Secretary has no legal authority for stipulating or suggesting a limitation. However, the Secretary believes that administrative costs should be held to a minimum so as to allow maximum funding for programs to serve the needs of educationally disadvantaged adults. Also, the cost principles in Appendix C of 34 CFR Part 74 impose a "necessary and reasonable" standard.

State educational agencies should note that § 426.12(f) of the regulations requires that the State set forth in its three-year State plan a description of the planned use of Federal funds for the administration of the program, including any planned expenditures for a State advisory council.

Comment. One commenter pointed out that the provision in § 426.21 that stipulates that "allowable administrative costs must be necessary and reasonable for proper and efficient administration of the program" is also set forth in Appendix C to 34 CFR Part 74.

Response. A change has been made. The language has been deleted from the final regulations. It is Department policy not to repeat requirements set forth in the Education Department General Administrative Regulations in other regulations.

§ 426.21 Local administrative costs.

Comment. While a majority of the commenters did not support a regulatory limitation on State administrative costs, the commenters were unanimous in their desire to allow a State flexibility in determining or limiting local administrative costs. The commenters recommended that no regulatory guidance on determining or limiting local administrative costs be provided.

Response. No change has been made. Except with respect to the "necessary and reasonable" cost principles, the Secretary has no authority to prescribe or limit local administrative costs. The regulations give a State the flexibility to determine allowable local administrative costs.

§ 426.30 Eligible applicants.

Comment. A number of commenters expressed concurrence with the elimination from the regulations of the authority to fund individuals under section 310 of the Act. A lesser number of commenters called for retention of the authority to fund individuals.

Response. No change has been made. Section 304(a)(1) of the Act provides that local educational agencies and public or private agencies, organizations, and institutions are eligible applicants for funds. Since the statute does not separately address eligible applicants for section 310 projects, these same categories of applicants are eligible for all components of the State-administered adult education program.

Previous program regulations permitted individuals to apply unless precluded by State law. Individuals are now excluded as eligible applicants for section 310 projects. A State educational agency, of course, has the authority to act directly and in doing so may issue personal service contracts to obtain products or services. Likewise, other recipients under section 310 may issue personal service contracts to obtain products or services.

Comment. One commenter suggested that the phrase "public or private agencies" in §426.30(a) be changed to read *public and private agencies.*

Response. No change has been made. The current phrase reflects statutory requirements.

§ 426.30 Public notice of ovoilability of funds.

Comment. One commenter recommended that the regulations prescribe the means of notifying public and private agencies, organizations, and institutions of the availability of funds. The commenter suggested a requirement that notices be posted in all public libraries and advertised in major daily newspapers in the State.

Response. No change has been made. A State educational agency is required by § 426.30(b)(2) to give sufficient public notice of the availability of Federal and State funds to public and private agencies, organizations, and institutions. The Secretary does not believe that a more prescriptive notification process is warranted. A State educational agency may choose to use public libraries, newspapers, or other means that ensure equitable and appropriate public notice to public and private agencies, organizations, and institutions. To notify local educational agencies, a State educational agency is required by § 426.30(b)(1) to provide the notice directly.

§ 426.31 State distribution of funds.

Comment. One commenter recommended that a minimum of one-third of the funds distributed by a State be awarded to private agencies, organizations, or institutions.

Response. No change has been made. The Secretary has no authority to establish any minimum or maximum allotment level for any category of eligible recipient. Open competition and equal opportunity must be afforded to all eligible applicants.

§ 426.31 Multi-year grants or contracts.

Comment. A number of commenters suggested that a State educational agency be authorized to award multi-year grants or contracts. A few commenters opposed this discretion. One commenter suggested a three-year period for instructional programs, two years for section 310 projects. Another commenter suggested that safeguards be included in the multi-year process to ensure that changing demographics in the population and emerging priorities are served.

Response. No change has been made. Unlike the 1980 regulations, these regulations do not require an annual review of applications from eligible applicants and single-year awards. A State educational agency may continue to employ an annual application review and funding process, or it may employ a multi-year review and funding process.

§ 426.32 For-profit providers of services.

Comment. A majority of the commenters found the statutory and regulatory language adequate with respect to for-profit providers and services. One commenter was critical of the provision making for-profit providers of services eligible for funding. The commenter expressed concern that for-profit providers may seriously weaken efforts to ensure quality control and professionalization in the adult education field.

Response. No change has been made. Under section 304(a)(2) of the Act, for-profit agencies, organizations, and institutions are eligible applicants. The law provides that for-profit entities must meet two tests not explicitly required of other applicants. These are (1) that the applicant can make a significant contribution to attaining the objectives of the Act and (2) either can provide substantially equivalent education at a lesser cost or can provide services and equipment not available in public institutions. The Secretary agrees with the commenters that a State educational agency should have the flexibility to develop its own procedures for determining these qualitative judgments and cost comparisons.

§ 426.32(b) Consultation by applicable local educational agency.

Comment. One commenter opposed the involvement by the applicable local educational agency in the review of applications by public or private agencies, organizations, and institutions. The commenter expressed doubt as to whether a local educational agency has an understanding of the problem or solutions superior to that of other eligible applicants.

Response. No change has been made. Section 304(a)(1) of the Act clearly requires consultation between the applicable local educational agency and other public or private eligible applicants prior to funding by a State. In addition to consultation, the Act further provides the applicable local educational agency the opportunity to comment on applications from these other categories of eligible applicants. This statutory requirement may not be changed by regulation.

The purpose of consultation is to reduce duplication of effort and provide for the best possible delivery of services to educationally disadvantaged adults. Consultation will enable different points of view and understanding to be considered in an organized way. The initiative for seeking consultation is the responsibility of the public or private agency. The local educational agency does not have the authority to certify, approve, or veto an application from an applicant. Nor can the local educational agency jeopardize the agency's application through inaction of the request for consultation. If a local educational agency delays in commenting on an agency's application, a State may still consider the application for funding if there is written evidence that consultation was requested in a timely manner.

Comment. One commenter objected to the requirement in § 426.32(b)(2) that an applicant other than a local educational agency must provide the applicable local educational agency the opportunity to comment on the application prior to submitting it to the State. The commenter pointed out that while section 304(a)(1) of the Act does require that the opportunity to comment must

take place prior to approval of an application by the State educational agency, the Act does not require that the

in financial resources, one commenter believed that the one-year waiver

educators" has been deleted in § 431.31(g)(2)(iii).

Comment. One commenter, while generally supporting the regulations,

appropriate. However, the statute contains no authority to regulate teacher

Response. No change has been made. Instructional content and methodology

take place prior to approval of an application by the State educational agency, the Act does not require that the opportunity to comment must take place prior to submission of the application to the State.

Response. A change has been made. The Secretary agrees with the commenter and the phrase "prior to submitting it to the State" has been deleted from § 426.32(b)(2).

§ 426.32 Local applications.

Comment. One commenter suggested that regulatory language be added in § 426.32 to require local applicants to describe the cooperative arrangements that have been made to deliver services to participants of the adult education program.

Response. No change has been made. Section 426.32 refers specifically to requirements for non-local educational agency applicants. The Secretary believes that assurance of consultation, cooperation, and coordination by both the State educational agency and by local providers of adult education services is adequately covered in § 426.12 (i) and (m).

§§ 426.41–426.44 Maintenance of effort.

Comment. One commenter strongly opposed the maintenance of effort requirement of the program on the basis that it would have the effect of punishing success. The commenter pointed out that as adult education programs achieve success State expenditures would be reduced in proportion to the decreased need for programs. In turn, the Federal contribution to the State would decrease.

Response. No change has been made. The statutory authority requiring maintenance of effort is specific and may not be changed by regulation.

Comment. One commenter suggested other situations that might result in less revenue to State governments and thereby constitute exceptional or uncontrollable circumstances warranting a waiver of the maintenance of effort requirement.

Response. No change has been made. Section 307(b)(2) of the the Act cites examples of exceptional or uncontrollable circumstances "such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency." The language in § 426.43(b) is offered for guidance and is not intended to be an all-inclusive list of situations denoting exceptional or uncontrollable circumstances.

Comment. Due to the long-range effect on State governments of certain declines in financial resources, one commenter believed that the one-year waiver provision is too restrictive.

Response. No change has been made. The regulatory language conforms to that in the Act and provides for a one-year waiver from the maintenance of effort requirement.

§ 431.2 Eligible applicants.

Comment. One commenter suggested that private nonprofit entities be eligible to apply under the National Adult Education Discretionary Program.

Response. No change has been made. both the statute and the regulations cite public and private institutions, agencies, and organization among the eligible applicants under the National Adult Education Discretionary Program. That category of eligible applicants includes both *nonprofit* and *for-profit* entities.

§ 431.10 Program activities under the National Discretionary Program.

Comment. One commenter objected to a basic goal of the National Discretionary Program. That objectionable goal is to support projects that contribute to the expansion of adult education. Rather, the commenter suggested that the goal should be to reduce the need for adult education by having successful educational programs for all age levels. The commenter also took exception to the examples of projects that may be funded. In particular, the commenter believed that elderly individuals should not be singled out as a group more worthy of this program than any other group. The commenter suggested that activities relating to educational technology and computer software should not be open-ended but should be directly related to meeting the needs of educationally disadvantaged adults.

Response. No change has been made. The regulations reflect the statutory requirements as set forth in section 309(a)(1) of the Act. It should be noted that the project examples relating to elderly individuals and adult immigrants, educational technology and computer software, and cooperative adult education programs are intended to be illustrative only and are not required by statute or regulations.

§ 431.31(g) Dissemination plan.

Comment. One commenter recommended that information and materials developed under national projects be disseminated to any parties concerned about illiteracy and other adult education problems, not solely to educators.

Response. A change has been made. The Secretary agrees, and the phrase "to educators" has been deleted in § 431.31(g)(2)(iii).

§ 431.40 Charges to participants.

Comment. One commenter suggested an amendment to the Act to allow charges to those participants who can afford to pay. The commenter further suggested that collected funds be reverted to the State program or placed in reserve for future funding needs.

Response. No change has been made. Section 309(a)(2)(B) of the Act is specific in the prohibition of charges to participants in projects conducted by any private for-profit institution, agency, organization, individual, or business concern. Further, the Secretary, based on legislative history, believes the Congress intended that no such charges shall be made to participants regardless of the entity conducting the program.

General Comments

Comment. Some commenters recommended that the greatest amount of latitude possible for program operations should be allowed to States. Commenters suggested that the diversity of conditions and populations throughout the country preclude establishing a set of prescriptive rules that will have equitable and beneficial application to all. Other commenters supported the efforts made to reduce administrative burden on grantees, to eliminate certain unnecessary regulations, and to clarify existing regulations.

Response. No change has been made. The Secretary believes that these regulations are not intrusive and provide maximum flexibility to State educational agencies, while adhering to requirements and intent of the authorizing legislation.

Comment. One commenter urged that the regulations be modified in a number of instances to involve public broadcasting stations and state public telecommunication agencies in State plan development and in the delivery of services under the Act. The commenter also suggested changes in the regulations that would encourage the use of telecommunications technology in the instructional program.

Response. No change has been made. The Secretary encourages States to utilize the public broadcasting system and its associated technology in carrying out responsibilities under the Act when such involvement and use is appropriate. However, there is no statutory authority for including in the regulations any requirements for such involvement.

Comment. One commenter, while generally supporting the regulations, emphasized the need to include teacher involvement in policy-making matters relative to the implementation of the adult education program.

Response. No change has been made. The Secretary agrees that teachers are the center of the learning environment and contribute immeasurably to programmatic achievements. The Secretary further agrees that States should use the expertise and experience of teachers in any way that is appropriate. However, the statute contains no authority to regulate teacher involvement.

Comment. A commenter recommended that the regulations should emphasize the importance of life skills toward enabling adults to function in society. The commenter also pointed out that life skill achievements should be among the evaluation criteria as well as the data collection elements. The commenter also spoke on behalf of competency-based adult education.

Response. No change has been made. Instructional content and methodology are determined at the State and local levels. While agreeing that life skills instruction and competency-based instruction may be effective methods in adult education, the Secretary leaves decisions of this nature to the discretion of the individual States. There is no requirement in the legislation to govern either the content or methodology of instruction.

[FR Doc. 85–17060 Filed 7–17–85; 8:45 am]
BILLING CODE 4000–01–M

Reader Aids

Federal Register

VOL 50 ISS 138 JL 18 1985 UMI

Reader Aids

Federal Register

Vol. 50, No. 138

Thursday, July 18, 1985

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
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Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212....1
27213-27408....2
27409-27570....3
27571-27812....5
27813-27926....8
27927-28092....9
28093-28190....10
28191-28362....11
28363-28554....12
28555-28756....15
28757-28894....16
28895-29202....17
29203-29366....18

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305....28363

3 CFR

Executive Orders:

11888 (Amended by EO 12524)....27409

12470 (Revoked by EO12525)....28757

12523....26963

12524....27409

12525....28757

12528....29203

Proclamations:

5356....26961

5 CFR

771....26965

1201....28895

Proposed Rules:

532....28583, 28584

7 CFR

Ch. IV....27927

52....26965

54....27571

226....26972

301....28366

400....26978

402....28367

908....27411, 27928, 28898

910....27813, 28372, 28555

911....28373

915....28373, 28556

916....27813, 28373

917....27813, 28373

918....28373

921....27411, 28373

922....28373

923....28373

924....28373

930....27213, 28373

944....28556

967....28373

979....26976

985....28373

991....26977, 27814

1040....27412

1427....26978

1435....27413

1941....27414

1944....27415

1945....27414, 27416

3015....28759

Proposed Rules:

Ch. IV....27971

Ch. X....27003

29....27288

51....27004

417....27601

800....28104

910....28105

920....27288

967....28210

999....28585

1124....27972

1240....28404

1930....28782

1944....28782

1965....28782

8 CFR

316a....27816

Proposed Rules:

103....27289

341....28586

343a....28587

9 CFR

78....28899

91....27929, 29205

92....27928, 28557

94....28560, 28900

318....27573, 28374

Proposed Rules:

94....27973

10 CFR

9....27214

Proposed Rules:

50....27006, 28815

11 CFR

Proposed Rules:

110....29232

12 CFR

403....27215

611....27930

617....27931

723....27417

Proposed Rules:

561....27290, 28588

563....27290, 28588

571....27290, 28588

13 CFR

121....27418

302....27419

Proposed Rules:

108....27754

14 CFR

39....26979, 27575, 27576, 27931-27933, 28093, 28094, 28561-28563, 28766

71....26980, 27934, 28564, 28565, 28900-28902

97....27934

108....27924, 28884

121....29306

135....29306

Proposed Rules:

39....27009, 27012, 27601, 27602, 28815

401....28565

422....28565

626....27818

2....28101

18....28199

32....27428

432....29352

Proposed Rules:

369....28412

101-4....28402

101-17....28577

101-40....27951

47 CFR

0....27952

Proposed Rules:
39.....27009, 27012, 27601, 27602, 28815
71.....27013, 27014, 27528, 28588–28591, 28816, 28950
75.....27014
91.....28950

15 CFR
19.....27577
90.....28767
368–399 (See EO 12525).....28757, 29205
370.....29205
376.....27420, 29205
378.....29205
385.....29205
386.....29205
399.....27420

Proposed Rules:
303.....29232
911.....28816

16 CFR
3.....28095
4.....28095
13.....26981, 27578, 28374, 28902
453.....28062, 28081
703.....27936

Proposed Rules:
13.....28592, 28951

17 CFR
3.....28907
200.....28385
239.....27937
240.....27937, 27940, 28385
249.....27937
270.....27937, 28930
274.....27937
275.....29206
288.....26981, 27947

Proposed Rules:
210.....27973, 28953
230.....28404
240.....27829, 27976, 27981, 28106, 28210, 28219, 28404
250.....27981
259.....27981
270.....27982

18 CFR
157.....27816
389.....27816

Proposed Rules:
2.....28954
35.....27604
154.....28954
157.....28954
161.....28954
271.....28221
284.....28954
290.....27604

19 CFR
4.....26981
12.....27947
142.....27816
178.....27947

Proposed Rules
162.....27829
177.....27831

20 CFR
200.....27222
401.....28565
422.....28565
626.....27818
627.....27818
628.....27818
629.....27818
630.....27818

Proposed Rules:
404.....27615
416.....27615

21 CFR
101.....26984
173.....29208
436.....29209
510.....28395
520.....27818, 28768
558.....27421, 27422, 28768, 28931, 28932
812.....28932
1308.....28098, 28395

Proposal Rules:
Ch. 1, Subchapter C.....28594
109.....29233
110.....29233
170.....29235
225.....29233
226.....29233
500.....29233
509.....29233
170.....27294
201.....27016
211.....27016
357.....27552, 28595
514.....27016
559.....27016
561.....27452
610.....28595
660.....28595
1002.....27024

22 CFR
501.....27422
1502.....28932
1504.....28934

23 CFR
825.....29209
1325.....28191

24 CFR
200.....28197
203.....28197
885.....28197
3282.....28396

25 CFR

Proposed Rules:
61.....27456

26 CFR
1.....27222, 27231, 27427
602.....27222, 27231

Proposed Rules:
1.....27297, 27456, 27457, 28409
51.....27621

27 CFR
4.....27819
170.....28572

Proposed Rules:
9.....28409

28 CFR
0.....28769
2.....28101
18.....28199
32.....27428

Proposed Rules:
30.....28955

29 CFR
70.....28306
1952.....27233, 28770, 29210

Proposed Rules:
33.....27298, 28956
1910.....27307

30 CFR
700.....28186
701.....28186
785.....28186
827.....28188
902.....28592
943.....28186
948.....28316, 28324

Proposed Rules:
56.....27566
57.....27566
700.....28180
701.....28180
785.....28180
817.....27910
827.....28180
913.....27025
917.....28222, 29235
926.....29235
936.....27461
944.....28107
946.....28343
950.....28595

31 CFR
4.....29221
51.....26987
103.....27821
500.....27435
505.....27435
515.....27435
520.....27435
535.....27435
540.....27435

32 CFR
Parts 1–39.....26987
199.....26988
642.....28573
657.....28573
706.....28398–28400
726.....28401

33 CFR
100.....27579, 28573, 29221–29223
110.....26988, 27580, 29224
117.....26989, 27582
150.....26989
165.....27583, 29225
166.....26989

Proposed Rules:
110.....27622, 27623, 28596
117.....27026, 27029, 27624, 27832, 27990, 27991, 29236

34 CFR
19.....28101
304.....29328
425.....29352
426.....29352
431.....29352
432.....29352

Proposed Rules:
369.....28412
376.....28412

35 CFR
101.....26990
103.....26990
121.....26990

36 CFR
1200.....27196
1202.....27196
1228.....27951
1250.....27196

37 CFR

Proposed Rules:
1.....27030, 28596

38 CFR
1.....29226
3.....27584
21.....27825

Proposed Rules:
3.....28224
36.....27833

39 CFR
10.....27827
601.....28941
3001.....28144

Proposed Rules:
111.....27992
3001.....27308

40 CFR
51.....27892
52.....26991, 27244–27247, 28544, 29229
60.....27248
61.....27248
81.....28574
86.....27250
123.....28202
147.....28941, 28942
158.....28943
162.....28943
180.....28944–28946
260.....28702
261.....28702
262.....28702
264.....28702
265.....28702
266.....28702
270.....28702
271.....28702
280.....28702
419.....28516
600.....27172
761.....29170
763.....28530

Proposed Rules:
52.....27030, 27462, 28224, 28415, 28596, 28598, 28818, 29237
86.....28818
180.....27463, 28108, 28956, 28957
202.....27321
205.....27321
414.....29068
416.....29068
600.....27188

41 CFR
Chs. 1–49.....26987

101–4.....28402
101–17.....28577
101–40.....27951
101–47.....28402
105–54.....28203
105–63.....26992
201–1.....27142
201–2.....27142, 28208
201–8.....27142
201–11.....27142
201–16.....27142
201–20.....27142
201–21.....27142
201–22.....28208
201–23.....27142
201–24.....27142
201–26.....27142
201–30.....27142, 28208
201–31.....27142, 28208
201–32.....27142, 28208
201–38.....27142
201–39.....27142, 28208
201–40.....27142, 28208
201–45.....28208

Proposed Rules:
101–41.....27625, 27626

42 CFR
400.....28577
405.....27722
412.....27208, 27722
416.....28577
435.....28577

Proposed Rules:
23.....27465
405.....27469
412.....27469

43 CFR
2.....29230
5470.....28947

Public Land Orders:
5150 (Revoked in part by PLO 6607).....27827
5179 (Revoked in part by PLO 6607).....27827
5180 (Revoked in part by PLO 6607).....27827
5186 (Revoked in part by PLO 6607).....27827
6389 (Corrected by PLO 6608).....28208
6607.....27827
6608.....28208

Proposed Rules:
2800.....27322
5400.....29324
5440.....29324

44 CFR
64.....26993, 26994, 28947

Proposed Rules:
67.....27322
302.....27627, 28959

45 CFR
1180.....27584, 27586

Proposed Rules:
405.....27406
412.....27406
1620.....27326

46 CFR
153.....26996

Proposed Rules:
160.....27628

47 CFR
0.....27952
22.....27953
68.....27250
73.....27287, 27438, 27954
76.....27438
81.....27968
83.....27968, 29231

Proposed Rules:
Ch. I.....28418
73.....27629

48 CFR
7.....27560
12.....27969
15.....27560, 28103
19.....27560
33.....27969
34.....27560
52.....27560, 27969
209.....28209
504.....26996
515.....28578
522.....28578
533.....26998
552.....27589, 28948
553.....27589
570.....27589
6101.....27969, 29231

Proposed Rules:
208.....28227
252.....28227

49 CFR
571.....27451

Proposed Rules:
Ch. X.....27031
71.....28959
171.....28820
175.....28820
571.....27032, 27632, 27633, 28426, 28599
1132.....27834

50 CFR
17.....26999, 29338–29345
215.....27914
658.....28103
672.....28580, 28581
674.....28103

Proposed Rules:
17.....27637, 27992, 28821, 28870–28878, 28959, 29238
20.....27638
611.....28960, 29240
630.....27470
650.....29240
651.....29241
655.....28109
662.....27470
663.....28960
675.....29240

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 16, 1985

VOL
50
ISS
138
JL
18
1985
UMI

Slip Laws

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VOL
50

ISS
138

JL
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1985

UMI

VOL
50
ISS
139
JL
19
1985
UMI

7-19-85
Vol. 50 No. 139

federal register

Friday
July 19, 1985

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VOL
50
ISS
139
JL
19
1985
UMI

7-19-85
Vol. 50 No. 139

Friday
July 19, 1985

VOL
50

ISS
139

JL
19

1985

UMI

7-19-85
Vol. 50 No. 139
Pages 29367-29628

federal register

Friday
July 19, 1985

Selected Subjects

Administrative Practice and Procedure
Postal Service
Air Pollution Control
Environmental Protection Agency
Authority Delegations (Government Agencies)
Agriculture Department
Aviation Safety
Federal Aviation Administration
Cable Television
Federal Communications Commission
Communications Common Carriers
Federal Communications Commission
Employee Benefit Plans
Internal Revenue Service
Employment
Employment and Training Administration
Fisheries
National Oceanic and Atmospheric Administration
Government Procurement
General Services Administration
Grant Programs—Energy
Conservation and Renewable Energy Office
Income Taxes
Internal Revenue Service

CONTINUED INSIDE

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Selected Subjects

Investment Companies
Securities and Exchange Commission
Marketing Agreements
Agricultural Marketing Service
Organization and Functions (Government Agencies)
Securities and Exchange Commission
Radio
Federal Communications Commission
Reporting and Recordkeeping Requirements
Small Business Administration
Securities
Securities and Exchange Commission
Surface Mining
Surface Mining Reclamation and Enforcement Office
Television Broadcasting
Federal Communications Commission

Contents

Federal Register
Vol. 50, No. 139
Friday, July 19, 1985

Agricultural Marketing Service
RULES
29628 Lemons grown in California and Arizona
PROPOSED RULES
29405 Oranges (navel) and (Valencia) grown in Arizona and California

Agriculture Department
See also Agricultural Marketing Service.
RULES
Organization, functions, and authority delegations:
29367 Assistant Secretary for Marketing and Inspection Services et al.

Air Force Department
NOTICES
Environmental statements; availability, etc.:
29470 Winnersville Weapons Range, GA; hearing

Army Department
NOTICES
Military traffic management:
29470 Carrier disqualification and nonuse; inquiry

Arts and Humanities, National Foundation
NOTICES
29497 Agency information collection activities under OMB review

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
29468, 29469 Procurement list, 1985; additions and deletions (3 documents)

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
29456 Maine
29456 Vermont
29456 Wyoming

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
29509 Meetings; Sunshine Act (5 documents)

Conservation and Renewable Energy Office
PROPOSED RULES
29620 Weatherization assistance for low-income persons

Defense Department
See also Air Force Department; Army Department.
NOTICES
Meetings:
29470 Defense Acquisition Regulatory Council

Education Department
NOTICES
Grants; availability, etc.:
29471 Endowment grant program

Employment and Training Administration
PROPOSED RULES
29606 Senior community service employment program; implementation
NOTICES
Adjustment assistance:
29493 Health-Tex, Inc.

Employment Standards Administration
NOTICES
29514 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (AZ, KS, NM, NJ, NY, OH, OR)

Energy Department
See Conservation and Renewable Energy Office; Energy Research Office; Federal Energy Regulatory Commission.

Energy Research Office
NOTICES
Meetings:
29471 Health and Environmental Research Advisory Committee

Environmental Protection Agency
RULES
Air pollution control; new motor vehicles and engines:
29384 Gaseous (nitrogen oxides) and particulate emission standards; 1987 and later model year light-duty vehicles; 1988 and later model year light-duty trucks, heavy-duty engines, and heavy duty diesel engines; reporting and recordkeeping requirements
Air quality implementation plans; approval and promulgation; various States:
29381 New York
29383 Tennessee
PROPOSED RULES
Air Quality implementation plans; approval and promulgation; various States:
29439 California; extension of time
NOTICES
Environmental statements; availability, etc.:
29480 Agency statements; comment availability
29479 Agency statements; weekly receipts
Grants; State and local assistance:
29478 Asbestos School Hazard Abatement Act awards
Toxic and hazardous substances control:
29476 Premanufacture notices receipts (2 documents)
Water pollution control:
29479 Disposal site determinations; Bayou aux Carpes swamp, LA; extension of time

Equal Employment Opportunity Commission
NOTICES
29509 Meetings; Sunshine Act (2 documents)

Federal Aviation Administration
PROPOSED RULES

Federal Trade Commission
NOTICES

International Trade Administration
NOTICES

Minerals Management Service

Federal Aviation Administration
PROPOSED RULES
29407 Control zones and transition areas
NOTICES
29504 Exemption petitions; summary and disposition

Federal Communications Commission
RULES
Common carrier services:
29384 Telephone companies; connection of equipment, systems, and protective apparatus one and two-line premises wiring and party line service
Radio services, special:
29394 Fixed and mobile services; spectrum utilization; correction
Television broadcasting:
29394 Cable television systems; frequency channeling requirements and restrictions, and signal leakage monitoring
Television stations; table of assignments:
29392 Colorado
29393 Wisconsin
PROPOSED RULES
Common carrier services:
29440 Customer premises telephone equipment, detariffing procedures, etc. (second computer inquiry);
Radio services, special:
29454 Amateur services; auxiliary operation on all amateur frequencies except 431–433 MHz and 435–438 MHz
Radio stations; table of assigments:
29446 New Hampshire
29448 New York
29449 Puerto Rico
29450 Puerto Rico and Virgin Islands
29451 Tennessee
29453 Texas
NOTICES
29481 Agency information collection activities under OMB review (2 documents)

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
29471 Commonwealth Edison Co. et al.
Environmental statements; availability, etc.:
29475 Texas Eastern Transmission Corp. et al.
Hearings, etc.:
29474 Montana Department of Natural Resources and Conservation
29474 Natural Gas Pipeline Co. of America
29474 Northern Natural Gas Co.
29474 Southern Natural Gas Co.
29475 Southwest Gas Corp.
29475 Texas Eastern Transmission Corp.
29510 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
29481 Agreements filed, etc.

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
29482 Citadel Bankshares, Inc., et al.
29510 Meetings; Sunshine Act

Federal Trade Commission
NOTICES
29482 Line of business program; 1977 Annual Line of Business Report
29482 Premerger notification waiting periods; early terminations; correction

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
29488 Upper Ouachita National Wildlife Refuge, LA

Food and Drug Administration
NOTICES
Food additive petitions:
29485 Distributors Processing, Inc.
Human drugs:
29484 Brompheniramine maleate in combination with phenylephrine hydrochloride, etc. (Dimetapp Elixir, etc.); approval withdrawn
Memorandum of understanding:
29485 Swiss Federal Office for Foreign Economic Affairs; good laboratory practice program
Radiological health:
29483 Dental x ray patient selection criteria; draft report availability

General Services Administration
RULES
Acquisition regulations (GSAR):
29402 Identification of provisions and clauses

Health and Human Services Department
See also Food and Drug Administration; Social Security Administration.
NOTICES
29483 Agency information collection activities under OMB review

Housing and Urban Development Department
NOTICES
29486 Agency information collection activities under OMB review

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
29369 Investment credit for commuter highway vehicles
29371 Pension, profit-sharing, and stock bonus plans; effective dates, transitional rules, etc.; temporary
29376 Pension, profit-sharing, and stock bonus plans; notice, election and consent rules; temporary
PROPOSED RULES
Income taxes:
29435 Mortgage credit certificates; hearing
29436 Pension, profit-sharing, and stock bonus plans; effective dates, transitional rules, etc.; cross-reference
29436 Pension, profit-sharing, and stock bonus plans; notice, election and consent rules; cross-reference

International Trade Administration
NOTICES
Antidumping:
29459 Carbon steel plate from Romania
29459 Carbon steel products from Romania
29460 Carbon steel products from Venezuela
29466 Fabric expanded neoprene laminate from Japan
29459 Fuel ethanol from Brazil
29458 64K dynamic random access memory components from Japan
Countervailing duties:
29465 Carbon steel products from Venezuela
29461 Offshore platform jackets and piles from Korea
29457 Oil country tubular goods from Austria
Meetings:
29456 Automated Manufacturing Equipment Technical Advisory Committee
Scientific articles; duty free entry:
29457 University of Illinois et al.

International Trade Commission
NOTICES
29510, 29511 Meetings; Sunshine Act (2 documents)

Interstate Commerce Commission
NOTICES
Motor carriers:
29489 Agricultural cooperative transportation; filing notices
29489 Compensated intercorporate hauling operations; intent to engage in
Railroad services abandonment:
29492 Union Pacific Railroad Co. et al.

Labor Department
See Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Pension and Welfare Benefit Programs Office.

Land Management Bureau
NOTICES
29488 Agency information collection activities under OMB review
Environmental statements; availability, etc.:
29487 Amselco Colosseum Project, CA
Lease or sale of public lands:
29488 Nevada; correction
29487 Riparian area management; draft policy statement
Sale of public lands:
29488 Idaho

Legal Services Corporation
NOTICES
29510 Meetings; Sunshine Act (3 documents)

Maritime Administration
PROPOSED RULES
29440 Citizenship for corporations and other entities; requirements for establishment; withdrawn

Mine Safety and Health Administration
PROPOSED RULES
Metal and nonmetal mine safety and health:
29437 Gassy mines safety standards; extension of time

Minerals Management Service
NOTICES
Outer Continental Shelf operations:
29489 Oil and gas information program; summary report and index availability

National Oceanic and Atmospheric Administration
RULES
Tuna, Atlantic fisheries:
29403 Bluefin tuna
NOTICES
Meetings:
29467 Western Pacific Fishery Management Council
Permits:
29467 Marine mammals

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
29498 Florida Power Corp. et al.
Meetings:
29497, 29498 Reactor Safeguards Advisory Committee (2 documents)

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
29493 Century Graphics Corp. Thrift Retirement Plan et al.
29494 Lesman Instrument Co. Profit Sharing Plan et al.

Postal Service
RULES
Bylaws:
29380 Research and development spending and overruns on capital investment projects

Research and Special Programs Administration
NOTICES
Hazardous materials:
29505 Applications; exemptions, renewals, etc.

Securities and Exchange Commission
RULES
Investment companies:
29368 Quarterly reporting forms and filing obligations for registered investment companies; withdrawal and incorporation into semi-annual report (Form N–SAR), etc.; correction
Organization, functions, and authority delegations:
29368 Market Regulation Division, Director
PROPOSED RULES
Securities and investment companies:
29409 Proxy rules; comprehensive review
NOTICES
Applications, etc.:
29499 Amax, Inc.
29500 DMC Corporate Dividend Fund, Inc.
29501 Exxon Corp. et al.
29502 Liberty U.S. Government Money Market Trust et al.
29502 Parkway U.S. Government Trust
Self-regulatory organizations; proposed rule changes:
29503 National Association of Securities Dealers, Inc.

Small Business Administration
PROPOSED RULES
29620 Part V

CFR PARTS AFFECTED IN THIS ISSUE

Small Business Administration
PROPOSED RULES
Small business investment companies:
29532 Accounting standards and financial reporting requirements

Social Security Administration
PROPOSED RULES
Social security benefits and supplemental security income:
29435 Cost-of-living increases; delayed retirement credits, and maximum family benefits; correction

State Department
NOTICES
Meetings:
29503 International Radio Consultative Committee
29504 Soviet and Eastern European Studies Advisory Committee

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
29379 Alabama
PROPOSED RULES
Permanent program submission:
29438 Ohio; comment period reopened and extension of time
29437 Ohio; withdrawn
29438 Wyoming

Textile Agreements Implementation Committee
NOTICES
Textile consultation; review of trade:
29467 Yugoslavia

Transportation Department
See also Federal Aviation Administration; Maritime Administration; Research and Special Programs Administration.
NOTICES
Aviation proceedings;
29504 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications

Treasury Department
See Internal Revenue Service.

Veterans Administration
NOTICES
Meetings:
29508 Geriatrics and Gerontology Advisory Committee

Separate Parts in This Issue

Part II
29532 Small Business Administration

Part III
29590 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part IV
29606 Department of Labor, Employment and Training Administration

Part V
29620 Department of Energy, Office of Conservation and Renewable Energy

Part VI
29628 Department of Agriculture, Agricultural Marketing Service

Reader Aids
Additional information, including a list of public laws, telephone numbers, and findings aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
2.....29367
910.....29628
Proposed Rules:
907.....29405
908.....29405

10 CFR
Proposed Rules:
440.....29620

13 CFR
Proposed Rules:
107.....29532

14 CFR
Proposed Rules:
71.....29407

17 CFR
200.....29368
274.....29368
Proposed Rules:
210.....29409
229.....29409
239.....29409
240.....29409
270.....29409

20 CFR
Proposed Rules:
404.....29435
416.....29435
674.....29606

26 CFR
1 (3 documents).....29369–29376
602 (2 documents).....29369, 29376
Proposed Rules:
1 (3 documents).....29435, 29436
602.....29436

29 CFR
Proposed Rules:
89.....29606

30 CFR
901.....29379
Proposed Rules:
57.....29437
935 (2 documents).....29437, 29438
950.....29438

39 CFR
3.....29380

40 CFR
52 (2 documents).....29381, 29383
86.....29384
Proposed Rules:
52.....29439

46 CFR
Proposed Rules:
355.....29440

47 CFR
68.....29384
73 (2 documents).....29392, 29393
74.....29394
76.....29394
Proposed Rules:
Ch. I.....29440
73 (6 documents).....29446–29453
97.....29454

48 CFR
552.....29402

50 CFR
285.....29403

Rules and Regulations

VOL
50
ISS
139
JL
19
1985
UMI

Rules and Regulations

Federal Register
Vol. 50, No. 139
Friday, July 19, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

[Docket No. 85-401]

Delegation of Authority Pertaining to Biotechnology

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority of the Department of Agriculture to assign responsibility for the regulation of biotechnology and for agricultural research in biotechnology.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. James W. Glosser, Assistant Administrator, Animal and Plant Health Inspection Service, USDA, Room 313-E, Administration Building, 12th and Independence Avenue, SW., Washington, D.C. 20250. Telephone (202) 447-3580; or Dr. John Patrick Jordan, Administrator, Cooperative State Research Service, USDA, Room 305-A, Administration Building, 12th and Independence Avenue, SW., Washington, D.C. 20250. Telephone (202) 447-4423.

SUPPLEMENTARY INFORMATION: This document amends the delegations of authority of the Department of Agriculture in 7 CFR Part 2 by delegating from the Secretary of Agriculture to the Assistant Secretary for Marketing and Inspection Services the responsibility to coordinate the development and carrying out by Department agencies of all matters and functions pertaining to the Department's regulation of biotechnology, and to act as liaison on all matters and functions pertaining to the regulation of biotechnology between agencies within the Department and between the Department and other governmental and private organizations. This document also amends the delegations of authority in 7 CFR Part 2 by further delegating the responsibilities referred to above from the Assistant Secretary for Marketing and Inspection Services to the Administrator of the Animal and Plant Health Inspection Service.

This document also amends the delegations of authority in 7 CFR Part 2 by delegating from the Secretary of Agriculture to the Assistant Secretary for Science and Education the responsibility to coordinate the development and carrying out by Department agencies of all matters and functions pertaining to agricultural research involving biotechnology conducted or funded by the Department including the development and implementation of guidelines for oversight of research activities, and to act as liaison on all matters and functions pertaining to agricultural research in biotechnology between agencies within the Department and between the Department and other governmental, educational and private organizations.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management it is exempt from the provisions of E.O. 12291. Also, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, 7 CFR Part 2 is amended as follows:

1. The authority citation for Part 2 is revised to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by adding a new paragraph (j) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * * * *

(j) *Related to Biotechnology.* Coordinate the development and carrying out by Department agencies of all matters and functions pertaining to the Department's regulation of biotechnology, an act as liaison on all matters and functions pertaining to the regulation of biotechnology between agencies within the Department and between the Department and governmental and private organizations.

3. Section 2.30 is amended by adding a new paragraph (e) to read as follows:

§ 2.30 Delegations of authority to the Assistant Secretary for Science and Education.

* * * * * *

(e) Coordinate the development and carrying out by Department agencies of all matters and functions pertaining to agricultural research conducted or funded by the Department involving biotechnology, including the development and implementation of guidelines for oversight of research activities, and to act as liaison on all matters and functions pertaining to agricultural research in biotechnology between agencies within the Department and between the Department and other governmental, educational and private organizations.

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

4. Section 2.51 is amended by revising the introductory text of paragraph (a) and by adding a new paragraph (a)(40) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service

(a) *Delegations.* Pursuant to § 2.17 (b), (i) and (j), subject to reservations in § 2.18(b), the following delegations of authority are made by the Assistant

Secretary for Marketing and Inspection Services to the Administrator, Animal and Plan Health Inspection Service:

governing delegation of authority to delegate to the Director of the Division of Market Regulation the authority to

By the Commission.
John Wheeler,

By the Commission.
John Wheeler,

To qualify for the investment credit for commuter highway vehicles, section

List of Subjects in 28 CFR Part 1.6-1 through 1.56-6

Secretary for Marketing and Inspection Services to the Administrator, Animal and Plan Health Inspection Service: Exercise functions of the Secretary of Agriculture under the following authorities:

* * * * *

(40) Coordinate the development and carrying out by Department agencies of all matters and functions pertaining to the Department's regulation of biotechnology, and act as liaison on all matters and functions pertaining to the regulation of biotechnology between agencies within the Department and between the Department and other governmental and private organizations.

For Subpart C:

Dated: July 12, 1985.

John R. Block,

Secretary of Agriculture.

For Subpart F:

Dated: June 21, 1985.

Karen K. Darling,

Acting Assistant Secretary for Marketing and Inspection Services.

Dated: June 28, 1985.

Orville G. Bentley,

Assistant Secretary for Science and Education.

[FR Doc. 85-17144 Filed 7-18-85; 8:45 am]

BILLING CODE 3410-34-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-22229]

Delegation of Authority to Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending its rules governing delegation of authority to provide the Director of the Division of Market Regulation with authority to comment to the Commodity Futures Trading Commission on whether proposals for futures contracts involving an index or group of securities meet the standards set forth under section 2(a)(1)(B)(ii) of the Commodity Exchange Act.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Sharon Lawson, (202) 272-2825, Division of Market Regulation, Securities and Exchange Commission, Room 5032, 450 5th Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is amending its rules governing delegation of authority to delegate to the Director of the Division of Market Regulation the authority to determine whether, and issue orders regarding, proposals submitted to the Commodity Futures Trading Commission ("CFTC") for designation of a contract market for futures trading on an index or group of securities meet the eligibility criteria set forth under section 2(a)(1)(B)(ii) of the Commodity Exchange Act ("CEA"), as amended by the Futures Trading Act of 1982 to reflect the terms of the SEC/CFTC Accord.[1]

The Commission finds, in accordance with the Administrative Procedure Act ("APA") [5 U.S.C. 553(b)(3)(B)], that notice is not necessary, because this amendment relates solely to agency organization, procedures, or practice. In addition, the Commission finds good cause for the amendment to become effective immediately because it will facilitate the prompt analysis of futures contracts proposals.

List of Subjects in 17 CFR Part 200

Organization and functions (government agencies).

On the basis of the above discussion, the Commission amends Part 200 of Title 17, Chapter II of the *Code of Federal Regulations* as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200 continues to read:

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11 * * *.

2. By amending § 200.30-3 by adding a new paragraph (e) and redesignating current paragraph (e) as (f) as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(e) To determine whether, and issue orders regarding, proposals for designation of a contract market for futures trading on an index or group of securities meet the eligibility criteria set forth under Section 2(a)(1)(B)(ii) of the Commodity Exchange Act, 7 U.S.C. 2(a).

* * * * *

Dated: July 12, 1985.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-17069 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

[1] Pursuant to section 2(a)(1)(B)(iv)(II) of the CEA, the CFTC cannot approve a contract proposal, submitted after December 9, 1982, if the Commission determines that such futures contract or the underlying securities index or group of securities does not meet the eligibility standards set forth in section 2(a)(1)(B)(ii).

17 CFR Part 274

[Release Nos. 33-6591A; 34-22194A; IC-14606A; File Nos. S7-1-85; S7-2-85]

Withdrawal of Quarterly Reporting Forms and Filing Obligations of Certain Registered Investment Companies; Incorporation of Quarterly Reporting Obligations in Form N-SAR; Adoption of Conforming Amendments to Registration Forms; Related Rule Amendments; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: On July 1, 1985, the Commission issued a release rescinding the quarterly reporting obligations of certain registered investment companies [50 FR 27937, July 9, 1985] and incorporating them into Form N-SAR, the semi-annual reporting form for such companies. At that time, the Commission withdrew the obligation to file form N-1Q [17 CFR 249.331] as required by the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*]. The Commission is now amending that release to withdraw the obligation to file form N-1Q [17 CFR 274.106] under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*].

EFFECTIVE DATE: August 8, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Gibbs, Attorney, Office of Regulatory Policy, (202) 272-2048.

List of Subjects in 17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Form Rescission

Part 274 of Chapter II, Title 17 of the Code of Federal Regulations is amended as set forth below:

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 274 continues to read as follows:

Authority: Investment Company Act of 1940, 15 U.S.C. 80a-1, *et seq.*, * * *.

§ 274.106 [Removed]

2. By removing § 274.106.

Dated: July 11, 1985.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-17067 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8035]

Investment Credit for Commuter Highway Vehicles

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to special rules for computing the investment credit for commuter highway vehicles. The Energy Tax Act of 1978 (Pub. L. 95-618, 92 Stat. 3193) enacted special rules for determining the amount of that credit and for the recapture of that credit. The regulations provide the public and Internal Revenue Service personnel with the guidance needed to comply with and administer the law.

DATES: The amendments are effective for commuter highway vehicles placed in service on or after November 9, 1978 and before January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia Wendlandt of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains final amendments to the Income Tax Regulations (26 CFR Part 1) under sections 46(c)(6) and 47(a)(4) of the Internal Revenue Code of 1954, relating to the investment credit for commuter highway vehicles. These regulations were published in proposed form in the **Federal Register** on October 5, 1984 [49 FR 39344]. One comment was received suggesting changes to the proposed amendments to the regulations. There were no requests for a public hearing and none was held. With only minor revisions, the proposed regulations are adopted by this Treasury decision.

Commuter Use Requirement

The proposed regulations define the 80 percent commuter use requirement. To qualify for the investment credit for commuter highway vehicles, section 46(c)(6)(B)(ii) and the regulations provide that at least 80 percent of the vehicle's mileage must be for purposes of transporting the taxpayer's employees between their residences and their places of employment. The comment suggested that personal incentive mileage and mileage for maintenance and refueling be included as qualified commuter uses. Such usage is not considered to be for the purpose of transporting the taxpayer's employees between their residences and places of employment and is not properly considered a qualified commuter use of the vehicle. Although personal incentive mileage and mileage for maintenance and refueling are not includible as qualified commuter uses, such mileage will not disqualify a commuter highway vehicle provided it does not exceed 20 percent of the vehicle's total mileage. Accordingly, the final regulations adopt the proposed definition of the commuter use requirement without change.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of these final regulations is Patricia Wendlandt of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 1.0-1 through 1.58-8

Income taxes, Tax liabilty, Tax rates, Credits.

26 CFR Part 602

OMB Control Numbers, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 and Part 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The Authority citation for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * § 1.47-1 also issued under 26 U.S.C. 47(a).

Par. 2. A new § 1.46-10 is added and reserved in the appropriate place.

§ 1.46-10 [Reserved].

Par. 3. A new § 1.46-11 is added in the appropriate place. As added, the new section reads as follows:

§ 1.46-11 Commuter highway vehicles.

(a) *In general.* Section 46(c)(6) provides that the applicable percentage to determine qualified investment under section 46(c)(1) for a qualifying commuter highway vehicle is 100 percent. A qualifying commuter highway vehicle is a vehicle (defined in paragraph (b) of this section)—

(1) Which is acquired by the taxpayer on or after November 9, 1978,

(2) Which is placed in service by the taxpayer before January 1, 1986, and

(3) With respect to which the taxpayer makes an election under paragraph (g) of this section.

(b) *Definition of commuter highway vehicle.* A commuter highway vehicle is a highway vehicle that meets the following requirements:

(1) The vehicle is section 38 property in the hands of the taxpayer. The rule of section 48(d), allowing a lessor to elect to treat the lessee of new section 38 property as having acquired the property, applies to commuter highway vehicles. If the vehicle is leased and that election is made, the lessee is treated as the taxpayer under this section. However, if that election is not made, the lessor, and not the lessee, is treated as the taxpayer under this section.

(2) The vehicle must meet the seating capacity requirement of paragraph (c) of this section; and

(3) The taxpayer reasonably expects to meet the commuter use requirement

of paragraph (d) of this section for at least the first 36 months after the vehicle is placed in service.

a qualifying commuter highway vehicle (as defined in paragraph (a) of § 1.46-11) which undergoes a change in use (as

vehicle was placed in service and ending before the end of the first 36

26 CFR Part 1

Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the

The regulations also provide two rules governing when a reduction in an

of paragraph (d) of this section for at least the first 36 months after the vehicle is placed in service.

(c) *Seating capacity.* A commuter highway vehicle must have a seating capacity of a least 8 adults in addition to the driver's seat.

(d) *Commuter use requirement.* A vehicle meets the commuter use requirement only if at least 80 percent of the miles the vehicle is driven are for trips to transport the taxpayer's employees between their residences and their places of employment. A trip for this purpose includes driving the vehicle before or after employees are in the vehicle, so long as the mileage driven is necessary either to pick up or drop off passengers or to park the vehicle in its regular parking space. A trip does not include miles driven solely for maintenance or to refuel the vehicle. A trip is not considered to transport the taxpayer's employees between their residences and their places of employment unless at least one-half the seating capacity (defined in paragraph (c) of this section) is used to seat employees of the taxpayer. In no event is the driver counted as an employee of the taxpayer.

(e) *Definition of employee.* An employee in this section is the same as in section 3121 (d) (definition of employee for withholding purposes).

(f) *Transportation between employee's residence and place of employment.* An employee is transported between that employee's residence and place of employment even if that place of employment is not the same as any of the other employees transported, and even if picked up or dropped off at some central point between that residence and place of employment. An employee is not transported between that employee's residence and place of employment if the transportation is of the type for which a deduction would be allowed under § 1.162–2 were the employee providing it, such as the transportation from one work site to another after beginning work for the day.

(g) *Election.* A taxpayer must elect to have the vehicle treated as a qualifying commuter highway vehicle on the return for the taxable year in which the vehicle is placed in service. The election may be made only if the vehicle actually meets the commuter use requirement under paragraph (d) of this section for that taxable year. It must be made on or before the due date (including extensions) of that return. The election is effective as of that due date.

Par. 4. Section 1.47–1 is amended by:

1. Inserting in the first sentence of paragraph (a)(1)(i) of that section, "or is a qualifying commuter highway vehicle (as defined in paragraph (a) of § 1.46–11) which undergoes a change in use (as defined in paragraph (m)(2) of this section)" immediately following "(as defined in paragraph (g) of § 1.46–3)", and

2. Adding and reserving paragraphs (i), (j), (k), and (l) and by adding a new paragraph (m) to read as follows:

§ 1.47–1 Recomputation of credit allowed by section 38.

* * * * *

(i) [Reserved].
(j) [Reserved].
(k) [Reserved].
(l) [Reserved].

(m) *Commuter highway vehicles*—(1) *Recomputed qualified investment.* (i) If a qualifying commuter highway vehicle (as defined in § 1.46–11(a) undergoes a change in use but does not cease to be section 38 property, qualified investment for that vehicle is recomputed as if the vehicle was section 38 property which is not a qualifying commuter highway vehicle for its entire useful life.

(ii) The following example illustrates this paragraph (m)(1).

Example. X Corporation, a calendar year taxpayer, acquired and placed in service on January 1, 1982, a qualifying commuter highway vehicle with a basis of $10,000 and which qualified as three year recovery property under section 168(c)(2)(A)(i). The amount of qualified investment for the vehicle under section 46(c) (1) and (6) is $10,000. For the taxable year 1982, X Corporation's credit earned was $1,000 (10 percent of $10,000) and X Corporation was allowed under section 38 a $1,000 credit against its 1982 tax liability. During the taxable year 1984, the vehicle undergoes a change in use but does not cease to be section 38 property. The vehicle is treated as section 38 property which is not a qualifying commuter highway vehicle for its entire useful life. The recomputed qualified investment for the vehicle is $6,000 (60 percent of $10,000) and X Corporation's recomputed credit earned is $600 (10 percent of $6,000). The income tax imposed by chapter 1 of the Code on X Corporation for 1984 is increased by the $400 decrease in its credit earned for 1982 ($1,000–$600).

(2) *Change in use*—(i) A qualifying commuter highway vehicle undergoes a change in use if the vehicle does not meet the commuter use requirement (as defined in § 1.46–11(d)) for each computation period.

(ii) Each of the following is a computation period:

(A) The period beginning on the date the vehicle was placed in service and ending on the last day of the taxpayer's taxable year in which the vehicle was placed in service;

(B) Each of the taxpayer's taxable years beginning after the date the vehicle was placed in service and ending before the end of the first 36 months after the vehicle was placed in service; and

(C) The period ending at the end of the first 36 months after the vehicle was placed in service and beginning on the first day of the taxpayer's taxable year in which the end of those first 36 months falls.

(iii) The following example illustrates this paragraph (m)(2).

Example. (*a*) Z Corporation, a calendar year taxpayer, acquired and placed in service a qualifying commuter highway vehicle on January 15, 1979. Z Corporation used the vehicle as set forth in the following table:

Taxable year ending	Total miles	Commuter miles	Ratio
1979	10,000	9,000	.90
1980	10,000	8,000	.80
1981	10,000	8,000	.80
1982 (1–14)	1,000	100	.10

(*b*) The first computation period begins on the date the vehicle is placed in service, in this example 1–15–79, and ends 12–31–79. In that computation period, the ratio of commuter miles to total miles is .90 (9,000 miles ÷ 10,000 miles). Therefore, the vehicle meets the commuter use requirement for that period and has not undergone a change in use. Similar calculations for the computation periods 1–1–80 to 12–31–80 and 1–1–81 to 12–31–81 produce the same result.

(*c*) As of the computation period beginning 1–1–82 and ending 1–14–82, the ratio of commuter use to total mileage is .10 (100 miles ÷ 1,000 miles). Since that ratio is less than .80, the vehicle does not meet the commuter use requirement for the period and the vehicle has undergone a change in use.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.46–11(g) . . . 1545–0155".

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: June 17, 1985.

Ronald A. Pearlman,
Assistant Secretary of the Treasury.

[FR Doc. 85–17269 Filed 7–18–85; 8:45 am]
BILLING CODE 4830–01–M

26 CFR Part 1

[T.D. 8038]

Income Tax, Taxable Years Beginning After December 31, 1953; Effective Dates, Transitional Rules, Restrictions on Plan Distributions, and Other Issues Arising Under the Retirement Equity Act of 1984

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the effective dates, transitional rules, restrictions on distributions from employee plans, and other issues arising under the Retirement Equity Act of 1984. The regulations will generally affect sponsors of, and participants in, pension, profit-sharing, and stock bonus plans, and they provide plan sponsors with guidance necessary to comply with the law.

In addition, the text of the temporary regulations set forth in this document also serves as the text of the notice of proposed rulemaking that appears in the Proposed Rules section of this issue of the **Federal Register.**

DATES: The regulations are effective July 19, 1985, and generally apply for plan years beginning after December 31, 1984, except as otherwise specified in the Retirement Equity Act of 1984.

FOR FURTHER INFORMATION CONTACT: Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention CC:LR:T) (202–566–3903, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the requirements for payment of survivor annuities, to restrictions on payments under qualified employee plans, and other rules, as enacted by Titles II and III of the Retirement Equity Act of 1984 ("REA '84") (Pub. L. 98–397, 98 Stat. 1436 *et seq.*).

Taxpayers may rely on these temporary regulations for guidance pending the issuance of final regulations. These temporary regulations do not, however, address comprehensively the issues raised by Titles II and III of REA '84, and no inferences should be drawn by reason of the fact that an issue is not addressed in this Treasury decision.

Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has jurisdiction over the subject matter addressed in these regulations (except the definition of a qualified domestic relations order). Therefore, under section 104 of the Reorganization Plan, these regulations apply when the Secretary of Labor exercises authority under Title I of the Employee Retirement Income Security Act of 1974 (as amended, including the amendments made by Title I of REA) ("ERISA"). Thus, the requirements also apply to employee plans subject to Title I of ERISA.

New Requirements

Sections 411(a)(11) and 417(e) of the Internal Revenue Code restrict a plan's ability to distribute benefits to participants and, when applicable, spouses. Section 411(a)(11) treats as forfeitable, for purposes of section 411(a), any accrued benefit that may be distributed to a participant without the participant's consent when the present value of the participant's nonforfeitable accrued benefit in the plan exceeds $3,500. Section 417(e) prohibits any plan subject to section 401(a)(11) from distributing any portion of a qualified joint and survivor annuity (QJSA), or a qualified preretirement survivor annuity (QPSA), if the present value of such an annuity is greater than $3,500, without the consent of the participant and the participant's spouse. Under sections 411(a)(11) and 417(e), the present value of a participant's annuity benefit in a defined benefit plan is to be determined by reference to an interest rate that is not greater than the interest rate used by the Pension Benefit Guaranty Corporation (PBGC) in valuing immediate annuities on plan termination. Plans are required to use this PBGC interest rate for both determining whether the $3,500 floor is reached and valuing the accrued benefit.

Defined contribution plans, such as money purchase, profit-sharing, and stock bonus plans, whether or not subject to section 401(a)(11), are not required to use interest rates that are not greater than the PBGC rates to calculate the amount to be distributed, even if such plans use an account balance to purchase an annuity.

The regulations provide that, for purposes of sections 401(a)(11), 411(a)(11), and 417, a participant's accrued benefit includes benefits attributable to both employer and employee contributions under the plan, excluding deductible employee contributions described in section 72(o).

The regulations also provide two rules governing when a reduction in an accrued benefit to satisfy a participant's loan obligation to the plan is treated as a distribution from the plan. Such a reduction is generally subject to the applicable consent requirements of sections 411(a)(11) and 417(e). Alternatively, a plan may obtain the consent of the participant and the participant's spouse to a subsequent reduction in accrued benefits within the 90 day period before the making of a loan secured by an accrued benefit.

The Department of Labor has jurisdiction over the prohibited transaction rules of section 4975. It has indicated that a loan secured by an accrued benefit subject to REA '84 may not be adequately secured under section 4975(d)(1) if consent to a reduction in the accrued benefit is not obtained before such a loan is made, and, therefore, may be a prohibited transaction.

Plan Amendments

Plan amendments required by the Retirement Equity Act of 1984 must, in general, be adopted not later than the end of the first plan year to which the statutory provisions generally apply.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, this regulation does not constitute a regulation subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal authors of these regulations are William D. Gibbs and Charles M. Watkins, of the Employee Plans and Exempt Organizations Division of the Office of the Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department also participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.401–0—1.425–1

Income taxes, Employee benefit plans, Pensions.

Adoption of Amendments to the Regulations

Section 401(a)(11)(C) provides that, for purposes of determining whether

of such participant's benefits. See § 1.417(e)–1T.

unless there is an acceptable separate

A–12: Yes. The new survivor annuity

after December 31, 1984. Sections 302

VOL 50 ISS 139 JL 19 1985 UMI

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. The authority citation for Part 1 continues to read:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. A new § 1.401(a)–11T is added immediately after § 1.401(a)–11 to read as follows:

§ 1.401(a)–11T Requirement of qualified joint and survivor annuity and qualified preretirement survivor annuity (temporary).

Q–1: Are there new survivor annuity requirements added to the Code by the Retirement Equity Act of 1984 (REA '84) to protect spouses?

A–1: Yes. REA '84 replaced section 401(a)(11) with a new section 491(a)(11) and added a new section 417. Plans subject to new section 401(a)(11) must comply with the requirements of section 401(a)(11) and section 417 in order to remain qualified under section 401(a) or 403(a). In general, these plans must now provide both a qualified joint and survivor annuity (QJSA) and a qualified preretirement survivor annuity (QPSA) to remain qualified. These new survivor annuity requirements are applicable to any benefit payable under a plan, including benefits payable to a participant under a contract purchased by the plan and paid by a third party. Thus, an annuity contract purchased by a plan and distributed to or owned by the participant must comply with the new survivor annuity requirements as they would apply to the plan if the benefits were paid directly by the plan.

Q–2: What plans are subject to sections 401(a)(11) and 417?

A–2: Sections 401(a)(11) and 417 apply to any defined benefit plan and to any defined contribution plan that is subject to the minimum funding standards of section 412. These sections also apply to any participant under any other defined contribution plan unless—

(a) The plan provides that the participant's nonforfeitable accrued benefit is payable in full, upon the participant's death, to the participant's surviving spouse (unless the participant has elected, with spousal consent that satisifies the requirements of section 417(a)(2), that such benefit be provided instead to a designated beneficiary);

(b) Such participant does not elect the payment of benefits in the form of a life annuity; and

(c) With respect to the participant, the plan is not a transferee plan (see Q&As–7 and 8).

Section 401(a)(11)(C) provides that, for purposes of determining whether benefits under an employee stock ownership plan are subject to sections 401(a)(11) and 417, that portion of a participant's accrued benefit that is subject to section 409(h) is to be treated as though such benefit were provided under a defined contribution plan not subject to section 412.

Q–3: May a defined contribution plan not subject to section 412 that provides that a participant's nonforfeitable accrued benefit is payable in full to a surviving spouse use the rules set forth in section 417(d) for determining whether or not the participant is married at the time of death?

A–3: Yes.

Q–4: How do the survivor annuity requirements added by REA '84 apply to married participants?

A–4: Section 401(a)(11)(A) requires that upon the death of a married participant with vested benefits attributable to employer contributions, plan benefits with respect to such participant, except plan benefits the payment of which had commenced prior to the participant's death, must be paid in the form of a QPSA. A QPSA must be provided regardless of whether the participant separated from service before the date of death. Section 401(a)(11)(A) also requires that the plan benefits of a married participant who survives until commencement of payment of such benefits be provided in the form of a QJSA. The QPSA and the QJSA may be waived if the applicable notice, election, and spousal consent requirements of section 417 are satisfied. Thus, for example, in order for a money purchase pension plan to distribute any portion of a married participant's benefit to such participant—even if the distribution is merely an ad hoc distribution after the participant has attained the normal retirement age under the plan but has not yet separated from service—the plan must distribute such portion in the form of a QJSA (unless the plan satisfies the applicable requirements of section 417(a) with respect to such portion of the participant's benefit). The plan still must satisfy the QPSA requirements with respect to any portion of the participant's benefits that has not been distributed, except any benefits the payment of which has commenced. However, if, prior to the commencement of a distribution of any benefits, the present value of such married participant's nonforefeitable accrued benefit is not more than $3,500, the requirements of section 417(a) need not be satisfied with respect to the payment of such participant's benefits. See § 1.417(e)–1T.

Q–5: Must a plan subject to sections 401(a)(11) and 417 provide an annuity to participants who are not married?

A–5: Yes. Plans subject to the requirements of sections 401(a)(11)(and 417 must satisfy those requirements with respect to participants who are not married. A QJSA for a participant who is not married is an annuity for the life of the participant, and thus, an unmarried participant must be provided such an annuity unless he elects another form of benefit.

Q–6: Must plans subject to new section 401(a)(11) meet other requirements?

A–6: Yes. Plans subject to new section 401(a)(11) must satisfy the requirements of section 417 (relating to minimum survivor annuity requirements).

Q–7: How do sections 401(a)(11) and 417 apply to transferee plans (certain defined contribution plans that are not subject to section 412)?

A–7: Although profit-sharing, stock bonus, and other defined contribution plans not subject to section 412 are generally not subject to sections 401(a)(11) and 417 with respect to their participants, these plans are subject to sections 401(a)(11) and 417 with respect to any participant if the plan is a transferee plan with respect to that participant. A defined contribution plan is a transferee plan with respect to a participant if the plan is a direct or indirect transferee, with respect to that participant, of benefits that were held, on or after January 1, 1985, by:

(a) A defined benefit plan;

(b) A defined contribution plan subject to section 412; or

(c) A defined contribution plan that is subject to sections 401(a)(11) and 417 with respect to that participant.

A transfer made before January 1, 1985, and any rollover contribution made at any time, is not a transfer that subjects a plan to the new survivor annuity rules with respect to a participant. If a plan is a transferee plan with respect to a participant, the section 417 requirements do not apply with respect to other plan participants solely because of the transfer. However, in order to prevent discrimination under section 401(a)(4), it may be necessary for the plan to provide QJSAs or QPSAs with respect to other participants.

Q–8: What benefits in a transferee plan are subject to the new survivor annuity requirements?

A–8: All accrued benefits held for a participant with respect to whom the plan is a transferee plan are subject to the new survivor annuity requirements

unless there is an acceptable separate accounting between the transferred benefits and any other benefits under the plan. A separate accounting is not acceptable unless gains, losses, withdrawals, contributions, forfeitures, and other credits or charges are allocated between the accrued benefits subject to the new survivor annuity requirements and other benefits on a reasonable and consistent basis. If there is an acceptable separate accounting between transferred benefits and any other benefits under the plan, only the transferred benefits are subject to the new survivor annuity requirements.

Q–9: Must annuity contracts purchased and distributed to a participant or spouse by a plan subject to sections 401(a)(11) and 417 satisfy the requirements of those sections?

A–9: Yes. No rights to accrued benefits, optional forms of payments, consents, or other privileges provided for by section 401(a)(11) or 417 may be eliminated or reduced because the plan uses annuity contracts to provide benefits or because such a contract is held by a participant or spouse instead of a plan trustee. Similarly, the protection provided by section 411(d)(6) may not be eliminated or reduced by the use of annuity contracts.

Q–10: If a plan would otherwise be subject to the survivor annuity requirements of new sections 401(a)(11) and 417, does the fact that it is frozen or terminated make a difference?

A–10: In general, benefits provided under a plan that is subject to the new survivor annuity requirements of sections 401(a)(11) and 417 must be provided in accordance with those requirements even if the plan is terminated or frozen. However, any plan that has a termination date prior to September 17, 1985, and that distributes all remaining assets as soon as administratively feasible after the termination date is not subject to the new survivor annuity requirements. The date of termination is determined under section 411(d)(3) and § 1.411(d)–2(c).

Q–11: If a plan would otherwise be subject to the survivor annuity requirements of new sections 401(a)(11) and 417, does it make a difference that the Pension Benefit Guaranty Corporation (PBGC) is administering the plan?

A–11: No. Participants and spouses are entitled to the same protection irrespective of whether an employer or the PBGC is administering a plan.

Q–12: Do the new survivor annuity requirements apply to benefits derived from employer and employee contributions?

A–12: Yes. The new survivor annuity benefit requirements apply to benefits derived from both employer and employee contributions.

Q–13: To what benefits do the new survivor annuity requirements apply?

A–13: (a) *Defined benefit plans.* Sections 401(a)(11) and 417 apply only to benefits in which a participant was vested immediately prior to death. They do not apply to benefits in which a participant becomes vested by reason of death or to the proceeds of a life insurance contract maintained by the plan for a participant to the extent such proceeds exceed the present value of the participant's nonforfeitable accrued benefits existing immediately prior to death.

(b) *Defined contribution plans.* Sections 401(a)(11) and 417 apply to all vested benefits, whether vested before or upon death, payable under the plan, including the proceeds of insurance contracts.

Q–14: What preretirement survivor annuity benefits must a defined contribution plan provide?

A–14: A defined contribution plan that is subject to sections 401(a)(11) and 417 must provide an annuity whose actuarial equivalent is not less than 50 percent of the nonforfeitable account balance of the participant as of the date of the participant's death. For this purpose, the nonforfeitable account balance of the participant includes amounts attributable to nonforfeitable employer contributions and amounts attributable to employee contributions.

Q–15: In determining whether amounts attributable to employer contributions to a defind contribution plan are nonforfeitable under sections 401(a)(11) and 417, does the rule of section 411(a)(3)(A) (permitting forfeitures on account of death) apply?

A–15: No. Therefore, sections 401(a)(11) and 417 apply to benefits that were nonforfeitable immediately prior to death (determined without regard to section 411(a)(3)(A)), as well as to benefits that become nonforfeitable at death.

Q–16: Do sections 401(a)(11) and 417 apply to accumulated deductible employee contributions, as defined in section 72(o)?

A–16: No. Accumulated deductible employee contributions are not subject to the new survivor annuity rules even though such contributions are made to a defined benefit or defined contribution plan that is subject to sections 401(a)(11) and 417.

Q–17: When do the new survivor annuity requirements apply to plans?

A–17: New sections 401(a)(11) and 417 generally apply to plan years beginning after December 31, 1984. Sections 302 and 303 of REA '84 provide specific effective dates and transitional rules under which the QJSA or QPSA (or pre-REA '84 section 401(a)(11)) requirements may be applicable to particular plans or with respect to benefits provided to particular participants. In general, the new section 401(a)(11) survivor annuity requirements do not apply with respect to a participant who does not have at least one hour of service or one hour of paid leave under the plan after August 22, 1984.

Q–18: Are there special effective dates for plans maintained pursuant to collective bargaining agreements?

A–18: Yes. Section 302(b) of REA '84 provides a special deferred effective date for such plans. Whether or not a plan is described in section 302(b) will be determined under the principles applied under section 1017(c) of the Employee Retirement Income Security Act of 1974. In addition, a plan will not be treated as maintained under a collective bargaining agreement unless the employee representative satisfies section 7701(a)(46) of the Internal Revenue Code after March 31, 1984. Nothing in section 302(b) shall deny a participant or spouse the rights set forth in sections 303(c)(2), 303(c)(3), 303(e)(1), and 303(e)(2) of REA '84.

Q–19: What is one hour of service or paid leave under the plan for purposes of the transition rules in section 303 of REA '84?

A–19: One hour of service or paid leave under the plan is one hour of service or paid leave recognized or required to be recognized under the plan for any purpose, *e.g.*, participation, vesting percentage, or benefit accrual purposes. For plans that do not compute hours of service, one hour of service or paid leave means any service or paid leave recognized or required to be recognized under the plan for any purpose.

Q–20: Must a plan be amended to provide for the QPSA required by section 303(c)(2) of REA '84, or for the survivor annuities required by section 303(e) of REA '84?

A–20: A plan will not fail to satisfy the qualification requirements of section 401(a) or 403(a) merely because it is not amended to provide the QPSA required by section 303(c)(2) or the survivor annuities required by section 303(e). The plan must, however, satisfy those requirements in operation. In addition, the plan must be amended to satisfy sections 401(a)(11) and 417 not later than the last day of the first plan year to which sections 401(a)(11) and 417 apply.

Q–21: Is a participant's election, or a spouse's consent to an election, with respect to a QPSA, made before August

1984. Thus, for example, assume a plan has a calendar plan year and disregarded years of service as

(b) *Example.* The rules of this section are illustrated by the following example:

present value of the nonforfeitable portion of such benefit is greater than

provided in section 401(a)(11)(C) for certain ESOP benefits. A plan does not

married at the time of the

VOL 50 ISS 139 JL 19 1985 UMI

Q-21: Is a participant's election, or a spouse's consent to an election, with respect to a QPSA, made before August 23, 1984, valid?

A-21: No.

Q-22: Is spousal consent required for certain survivor annuity elections made by the participant after December 31, 1984, and before the first plan year to which new sections 401(a)(11) and 417 apply?

A-22: Yes. Section 303(c)(3) of REA '84 provides that any election by a participant, made after December 31, 1984, and before the date sections 401(a)(11) and 417 apply to the plan, not to take a QJSA is not effective unless the spousal consent requirements of section 417 are met with respect to such election. Unless the participant's annuity starting date occurred before January 1, 1985, the spousal consent required by section 417(a)(2) and (e) must be obtained even though the participant elected the benefit prior to January 1, 1985. By the end of the first plan year to which new sections 401(a)(11) and 417 apply, the plan must be amended to comply with the QJSA requirements.

Par. 3. A new § 1.401(a)–13T is added immediately after § 1.401(a)–13 to read as follows:

§ 1.401(a)–13T Assignment or alienation of benefits; special rules for qualified domestic relations orders (temporary).

(a) *Definition.* The term qualified domestic relations order (QDRO) has the meaning set forth in section 414(p). For purposes of the Internal Revenue Code, a QDRO also includes any domestic relations order described in section 303(d) of the Retirement Equity Act of 1984, as provided in that section.

(b) *Plan amendments.* A plan will not fail to satisfy the qualification requirements of section 401(a) or 403(a) merely because it is not amended to require the plan to comply with a QDRO.

Par. 4. A new § 1.410(a)–5T is added immediately after § 1.410(a)–5 to read as follows:

§ 1.410(a)–5T Five consecutive 1-year breaks in service, transitional rules under the Retirement Equity Act of 1984 (temporary).

Sections 410(a)(5)(D) and 411(a)(6)(D), as amended by the Retirement Equity Act of 1984 (REA '84), permit a plan to disregard years of service that were disregarded under plan provisions satisfying those sections (as in effect on August 22, 1984), as of the day before the amendments apply to the plan. Under section 302(a) of REA '84, the new break in service rules generally apply to plan years beginning after December 31, 1984. Thus, for example, assume a plan has a calendar plan year and disregarded years of service as permitted by sections 410(a)(5)(D) and 411(a)(6)(D) as in effect on August 22, 1984. An employee completed two years of service in 1981 and 1982, and then incurred two consecutive 1-year breaks in service in 1983 and 1984. The plan may disregard the prior years of service, even though the employee did not incur five consecutive 1-year breaks in service. On the other hand, assume the employee completed three consecutive years of service beginning in 1980, and incurred two 1-year breaks in service in 1983 and 1984. Because, as of December 31, 1984, the years of service credited before 1983 could not be disregarded, whether the plan may subsequently disregard those years of service would be governed by the rules enacted by REA '84.

§ 1.411(a)–7 [Amended]

Par. 5. Section 1.411(a)–7(d)(4)(iv)(B) is amended by adding at the end thereof the following sentence:

* * * * *

(d) * * *

(4) * * *

(iv) * * *

(B) * * * Notwithstanding the above sentence, no defined benefit plan or defined contribution plan may require that repayments be made earlier than the end of a period of 5 consecutive one-year breaks in service.

* * * * *

Par. 6. A new § 1.410(a)–7T is added immediately after § 1.410(a)–7 to read as follows:

§ 1.410(a)–7T Elapsed time method; maternity and paternity absence (temporary).

(a) *General rule.* For purposes of applying the rules of § 1.410(a)–7 (relating to the elapsed time method of crediting service) to absences described in sections 410(a)(5)(E) and 411(a)(6)(E) (relating to maternity or paternity absence), the severance from service date of an employee who is absent from service beyond the first anniversary of the first date of absence by reason of a maternity or paternity absence described in section 410(a)(5)(E)(i) or 411(a)(6)(E)(i) is the second anniversary of the first date of such absence. The period between the first and second anniversaries of the first date of absence from work is neither a period of service nor a period of severance. This rule applies to maternity or paternity absences beginning on or after the first day of the first plan year in which the plan is required to credit service under sections 410(a)(5)(E) and 411(a)(6)(E).

(b) *Example.* The rules of this section are illustrated by the following example:

Assume an individual works until June 30, 1988; is first absent from employment on July 1, 1986, on account of maternity or paternity absence; and on July 1, 1989, performs an hour of service. The period of service must include the period from employment commencement date until June 30, 1987 (one year after the date of separation for any reason other than a quit, discharge, retirement, or death). The period from July 1, 1987, to June 30, 1988, is neither a period of service nor a period of severance. The period of severance would be from July 1, 1988 to June 30, 1989.

Par. 7. A new § 1.411(a)(11)–1T is added after § 1.411(a)–9 to read as follows:

§ 1.411(a)(11)–1T. Restrictions and valuations of distributions (temporary).

(a) *Scope.* Section 411(a)(11) restricts the ability of a plan subject to section 411 to distribute any portion of a participant's accrued benefits without the participant's consent. Section 411(a)(11) applies in determining whether a plan satisfies the nonforfeitability requirements of section 411(a).

(b) *General rules*—(1) *New requirements.* If a plan does not satisfy the participant consent requirement with respect to the immediate distribution of any participant's nonforfeitable accrued benefit with a present value in excess of $3,500, the entire accrued benefit is forfeitable for purposes of determining whether section 411(a) is satisfied.

(2) *Additional requirements.* The requirements of section 411(a)(11) and this section are in addition to the requirements of sections 401(a)(9) (relating to required distributions), 401(a)(14) (relating to benefit commencement), and 417 (relating to survivor benefits). Notwithstanding any provision to the contrary in section 401(a)(14) or § 1.401(a)–14, the failure of a participant to consent to a distribution while a benefit is immediately distributable is deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy section 401(a)(14) and § 1.401(a)–14.

(c) *Consent, etc. requirements*—(1) *General rule.* Section 411(a)(11) permits plans subject to that section to provide for the distribution of any portion of a participant's nonforfeitable accrued benefits only if either the applicable consent requirements are satisfied or such distribution is not immediately distributable.

(2) *Consent.* Written consent of the participant is required before the commencement of the distribution of any part of an accrued benefit if the present value of the nonforfeitable portion of such benefit is greater than $3,500.

(3) *Accrued benefit.* The term "accrued benefit" has the same meaning as such term has under section 417(e) and the regulations thereunder.

(4) *Immediately distributable.* An accrued benefit is immediately distributable for purposes of section 411(a)(11) and this section if any part of the benefit may be distributed to the participant before the later of the normal retirement age (as defined in section 411(a)(8)) or age 62.

(5) *Death of participant.* Section 411(a)(11) does not apply after the death of the participant.

§ 1.411(d)(3) [Amended]

Par. 8. Section 1.411(d)–3 is amended by removing the second sentence of paragraph (a)(1).

Par. 9. A new § 1.411(d)–3T is added immediately after § 1.411(d)–3, to read as follows:

§ 1.411(d)–3T Class year plans; plan years beginning after 1984 (temporary).

In the case of a class year plan, the rights of an employee who separates from service prior to the time such rights become nonforfeitable may be forfeited only if there is a 5-year break-in-service. A 5-year break-in-service is a period of five consecutive plan years, beginning with the plan year in which the employee separates from service, during which the employee is not employed on the last day of each plan year. For purposes of the preceding sentence, any plan year in which an individual is absent from work on the last day of the plan year by reason of an absence described in section 411(a)(6)(E)(i) shall be disregarded.

Par. 10. A new § 1.417(e)–1T is added after § 1.416–1 to read as follows:

§ 1.417(e)–1T Restrictions and valuations of distributions from plans subject to section 401(a)(11) (temporary).

(a) *Scope*—(1) *New requirements.* Section 417(e) restricts the ability of certain qualified plans to distribute any portion of a participant's accrued benefits without the consent of the participant and the participant's spouse. It also requires the present value of accrued benefits to be calculated using specified interest rates. Section 417(e) applies in determining whether certain plans satisfy the survivor annuity requirements of sections 401(a)(11) and 417. These requirements must be satisfied by pension plans with respect to all participants, and by profit-sharing and stock bonus plans with respect to participants to whom section 401(a)(11)(B) applies. Special rules are provided in section 401(a)(11)(C) for certain ESOP benefits. A plan does not satisfy the requirements of sections 401(a)(11) and 417 unless it satisfies the consent requirements, the determination of present value requirements and the other requirements set forth in this section. This section does not apply to payments to an alternate payee, defined in section 414(p)(8), except as provided in a qualified domestic relations order pursuant to section 414(p)(5).

(2) *Additional requirements.* The requirements of section 417(e) and this section are in addition to the requirements of sections 401(a)(9) (relating to required distributions), 401(a)(14) (relating to benefit commencement), and 411(a)(11) (relating to distributions). Notwithstanding any provision to the contrary in section 401(a)(14) or § 1.401(a)–14, the failure of a participant or spouse to consent to a distribution while a benefit is immediately distributable is deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy section 401(a)(14) and § 1.401(a)–14.

(3) *Accrued benefit.* For purposes of this section, accrued benefit has the same meaning as specified in section 411(a)(7). The present value of an accrued benefit or annuity includes benefits attributable to both employee and employer contributions. Because section 401(a)(11) is not applicable to accumulated deductible employee contributions described in section 72(o), such accumulated contributions are not part of the accrued benefit. The value of an accrued benefit does not include any plan subsidy included in the present value of the qualified joint and survivor annuity (QJSA) or in the present value of the qualified preretirement survivor annuity (QPSA).

(b) *Consent, etc. requirements*—(1) *General rule.* Section 417(e) prohibits plans subject to that section from permitting the commencement of any distribution of any portion of a participant's accrued benefits unless—

(i) The applicable consent requirements are satisfied; or

(ii) (A) Such distribution is provided in the form of a qualified joint and survivor annuity (QJSA) or a qualified preretirement survivor annuity (QPSA); and

(B) Such benefit is not immediately distributable as described in paragraph (b)(3) of this section.

The consent requirement is applicable to accrued benefits that are immediately distributable.

(2) *Consent.* (i) Written consent of the participant and, if the participant is married at the time of the commencement of the distribution of benefits, the participant's spouse (or, if either the participant or the spouse has died, the survivor) is required before the commencement of the distribution of any part of an accrued benefit if the present value of the nonforfeitable accrued benefit is greater than $3,500. Such present value will be treated as greater than $3,500 at all times after the commencement of a distribution of benefits that was subject to this consent requirement. No consent is required before the commencement of the distribution of benefits if the present value of the nonforfeitable accrued benefit is not more than $3,500.

(ii) In determining the present value of the nonforfeitable accrued benefit, a defined benefit plan must use an interest rate not greater than the rate used by the Pension Benefit Guaranty Corporation (PBGC) to value immediate annuities for plans terminating as of either (A) the proposed distribution (or benefit commencement) date or (B) the first day of the plan year that contains the proposed distribution (or benefit commencement) date (the PBGC rate.).

(3) *Immediately distributable.* An accrued benefit is immediately distributable if any part of the benefit could be distributed to the participant or beneficiary before that participant attains (or would have attained if not dead) the later of normal retirement age (as defined in section 411(a)(8)) or age 62.

(4) *Time of consent.* Written consent of the participant and the participant's spouse to the distribution must be obtained not more than 90 days before the commencement of the distribution of any part of an accrued benefit. See paragraph (d) of this section for a special rule for loans.

(5) *Other rules.* Except as provided in paragraphs (b)(2) and (d) of this section, the commencement of any distribution (including loans) permitted under section 417(e) and this section is subject to the election, spousal consent, and written explanation requirements of section 417(a).

(c) *Permitted distributions*—(1) *In general.* A plan may not require that a participant or surviving spouse begin to receive benefits without satisfying paragraph (b) of this section while such benefits are immediately distributable, as defined in paragraph (b)(3) of this section. Once benefits are no longer immediately distributable, all benefits must be provided in the form of a QJSA and QPSA unless the applicable written explanation, election, and consent

requirements of section 417(a) are satisfied.

violating section 417(e). Thus the plan (depending upon whether there is other

September 17, 1985, unless additional contributions are made under the plan

SUPPLEMENTARY INFORMATION:

Drafting Information

to the participant's election of a non-

requirements of section 417(a) are satisfied.

(2) *Special rule.* (i) In the case of a defined benefit plan, the plan must permit the surviving spouse to direct the commencement of payments under the QPSA no later than the month in which the participant would have attained the earliest retirement age under the plan. A plan may permit the commencement of payments at an earlier date.

(ii) In the case of a defined contribution plan, the plan must permit the surviving spouse to direct the commencement of payments under the QPSA within a reasonable time after the participant's death.

(3) *Unmarried participant.* In the case of a participant who is not married, the term "QJSA" means an annuity for the life of a participant.

(d) *Loans*—(1) *General rule.* (i) A loan from a plan to a participant shall not be treated as a distribution for purposes of this section. However, the reduction of an account balance or the present value of an accrued benefit to satisfy an obligation of a participant arising in connection with a loan from a plan to a participant is a distribution to the participant requiring the consent of the participant and spouse (if any) at the time of the reduction. The preceding sentence also applies to loans described in section 72(p)(4).

(ii) For purposes of satisfying the consent requirement with respect to a loan that is secured by a married participant's accrued benefit, a plan may require the participant and spouse to consent to the loan and the possible reduction in the accrued benefit within the 90-day period before the making of the loan. Thus, if spousal consent is obtained at the time of making a plan loan to a married participant, spousal consent is not required at the time of any setoff of the loan against the accrued benefit resulting from nonpayment, even though the participant is married to a different spouse at the time of the setoff. Similarly, in the case of an unmarried participant, the consent requirement may be satisfied by requiring the participant's consent to the loan and the possible reduction in the accrued benefit within the 90-day period before the making of the loan, even if the participant is married at the time of any setoff of the loan against the accrued benefit.

(iii) If the plan does not obtain consent of a current spouse at the time of a loan secured by some portion of the participant's accrued benefit, the plan will not be certain that it will be able to execute on the security by reducing the participant's accrued benefit without violating section 417(e). Thus the plan (depending upon whether there is other security for the loan) may have made a loan that is not adequately secured. See sections 401(a)(13) and 4975.

(2) *Renegotiation, etc.* For purposes of this paragraph (d), any renegotiation, extension, renewal, or other revision of a loan shall be treated as a new loan made on the date of the renegotiation, extension, renewal, or other revision.

(3) *Effective date.* This paragraph does not apply to loans made prior to August 19, 1985.

(e) *Present value requirement*—(1) *Interest rate.* For purposes of determining the present value of any accrued benefit and for purposes of determining the amount (subject to section 415) of any distribution, a defined benefit plan must use an interest rate not greater than the PBGC rate determined in the same manner and time as set forth in paragraph (b)(2)(ii). The same rate must be used for both purposes.

(2) *Other rules.* (i) In the case of a defined benefit plan that assumes a rate other than the PBGC rate, the rate producing the greater benefit (subject to section 415) must be used.

(ii) Any change in a rate described in subparagraph (1) is subject to section 411(d)(6).

(3) *Exceptions.* (i) Subparagraphs (1) and (2)(i) do not apply to a distribution under a non-decreasing annuity payable for a period not less than the life of the participant or, in the case of a QPSA, the life of the surviving spouse. A non-decreasing annuity includes an annuity that decreases merely because of the cessation or reduction of Social Security supplements or qualified disability payments (as defined in section 411(a)(9)).

(ii) Subparagraphs (1) and (2)(i) do not apply to any payment under a QJSA or QPSA.

(4) *Defined contribution plans.* Because the accrued benefit in a defined contribution plan equals the account balance, such plans are not subject to the interest rate requirements of this paragraph (e), even though they are subject to section 401(a)(11).

(f) *Special rules for annuity contracts*—(1) *General rule.* Any annuity contract purchased by a plan subject to section 401(a)(11) and distributed to or owned by a participant must provide that benefits under the contract are provided in accordance with the applicable consent, present value, and other requirements of this section applicable to the plan.

(2) *Effective date.* This paragraph does not apply to contracts distributed to or owned by a participant prior to September 17, 1985, unless additional contributions are made under the plan by the employer with respect to such contracts.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: July 3, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85-17238 Filed 7-18-85; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1 and 602

[T.D. 8037]

Income Tax—Taxable Years Beginning After December 31, 1953 and OMB Control Numbers Under the Paperwork Reduction Act; Notice, Election, and Consent Rules Under the Retirement Equity Act of 1984

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the notice, election and consent rules enacted by the Retirement Equity Act of 1984. The regulations will generally affect sponsors of, and participants in, pension, profit-sharing, and stock bonus plans, and they provide plan sponsors with guidance necessary to comply with the law.

In addition, the text of the temporary regulations set forth in this document also serves as the text of the notice of proposed rulemaking that appears in the Proposed Rules Section of this issue of the Federal Register.

DATES: The regulations are effective July 19, 1985, and generally apply for plan years beginning after December 31, 1984, except as otherwise specified in the Retirement Equity Act of 1984.

FOR FURTHER INFORMATION CONTACT: Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention CC:LR:T) (202-566-3903, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the requirements for payment of survivor annuities and other rules relating to qualified employee plans, as enacted by Titles II and III of the Retirement Equity Act of 1984 ("REA '84") (Pub. L. 98-397, 98 Stat. 1436 et seq.).

Taxpayers may rely on these temporary regulations for guidance pending the issuance of final regulations. These temporary regulations do not, however, address comprehensively the issues raised by Titles II and III of REA '84, and no inferences should be drawn by reason of the fact that an issue is not addressed in this Treasury decision.

Under section 101 of Reorganization Plan No. 4 of 1978, (43 FR 47713), the Secretary of the Treasury has jurisdiction over the subject matter addressed in these regulations (except the definition of a qualified domestic relations order). Therefore, under section 104 of the Reorganization Plan, these regulations apply when the Secretary of Labor exercises authority under Title I of the Employee Retirement Income Security Act of 1974 (as amended, including the amendments made by Title I of REA '84).

Plan Amendments

Plan amendments required by the Retirement Equity Act of 1984 must, in general, be adopted not later than the end of the first plan year to which the statutory provisions apply.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that this Regulation is not subject to review under Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, this regulation does not constitute a regulation subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

The collections of information contained in these regulations have been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under Control No. 1545-0928.

Drafting Information

The principal authors of these temporary regulations are William D. Gibbs and Charles M. Watkins, of the Employee Plans and Exempt Organizations Division of the Office of the Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department also participated in developing the regulations, on matters of both substance and style.

List of Subjects

26 CFR 1.401-0—1.425-1

Income taxes, Employee benefit plans, Pensions.

26 CFR Part 602

OMB control numbers, Paperwork Reduction Act, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. The authority citation for Part 1 continues to read:

Authority: 26 U.S.C. 7805.

Par. 1a. Section 1.401(a)-11T is amended by adding the following Q & A's at the end thereof:

§ 1.401(a)-11T Requirement of qualified joint and survivor annuity and qualified preretirement survivor annuity (temporary).

* * * * *

Q-23: If a participant's spouse consents to the participant's waiver of a survivor annuity form of benefit under section 417(a)(2)(A), is a subsequent spouse of the same participant bound by the consent?

A-23: No. A consent under section 417(a)(2)(A) by one spouse is binding only with respect to the consenting spouse.

Q-24: Does the spousal consent requirement of section 417(a)(2)(A) require that a spouse's consent be irrevocable?

A-24: No. A plan may preclude a spouse from revoking consent once it has been given. However, a plan may also permit a spouse to revoke a consent after it has been given, and thereby to render ineffective the participant's prior election not to receive a QPSA or QJSA.

Q-25: Does the spousal consent requirement of section 417(a)(2) apply with respect to a participant's affirmative election of a non-spouse beneficiary?

A-25: Yes. The spousal consent requirement of section 417(a)(2) applies to the participant's election of a non-spouse beneficiary. Thus, for example, if spouse B consents to participants A's election not to receive a QPSA, but instead to have any benefits payable upon A's death before the annuity starting date paid to A's children, A may not subsequently change beneficiaries without the consent of B. In addition, any consent must acknowledge the specific nonspouse beneficiary, including any class of beneficiaries or any contingent beneficiaries.

Q-26: Must the notice and rights required by section 417(a) (1) and (3) be provided to nonvested participants?

A-26: Yes.

Q-27: Are there special rules for certain participants who separated from service prior to August 23, 1984?

A-27: Yes. Section 303(e) of REA '84 provides special rules for certain participants who separated from service before August 23, 1984. Section 303(e)(1), which applies only to plans subject to section 401(a)(11) of the Code (as in effect on August 22, 1984), provides that participants whose annuity starting date did not occur before August 24, 1984, and who had one hour of service on or after September 2, 1974, but not after December 31, 1975, may elect to receive the benefits required to be provided under section 401(a)(11) of the Code (as in effect on August 22, 1984). Section 303(e)(2) provides that certain participants who had one hour of service on or after January 1, 1976, but not after August 22, 1984, may elect to be provided a QPSA under new sections 401(a)(11) and 417 in plans subject to these provisions. Section 303(e)(4)(A) requires plans to notify those participants of the provisions of section 303(e).

Q-28: When must a plan provide the notice required by section 303(e)(4)(A) of REA '84?

A-28: The notice required by section 303(e)(4)(A) must be provided no later than the earlier of:

(a) The date the first summary annual report provided September 17, 1985 is distributed to participants; or

(b) *September 30, 1985.* A plan will not fail to satisfy the preceding sentence if the plan provides the notice before January 1, 1987, and provides a fully subsidized qualified preretirement survivor annuity with respect to any participant described in section 303(e) who dies on or after July 19, 1985 and before the notice is received. For this purpose, an annuity payable to a nonspouse beneficiary elected by the participant, in lieu of a spouse, shall satisfy such survivor benefit. The notice required by this paragraph must be in

writing and sent to the participant's last known address.

Q-29: Is there another time when

survivor annuity and a lump sum option, the plan does not fully subsidize the

Rollovers

The Internal Revenue Code permits you to

the table, "§ 1.401(a)-11T . . . 1545-0928" and "§ 1.402(f)-1T . . . 1545-0928".

rules at 30 CFR Part 901 codifying decisions concerning the Alabama

guidelines were not presented establishing the means, procedure and

VOL 50 ISS 139 JL 19 1985 UMI

writing and sent to the participant's last known address.

Q–29: Is there another time when plans must provide notice of the right, described in section 303(e)(1) of REA '84, to elect a pre-REA '84 qualified joint and survivor annuity?

A–29: Yes. Notice of this right must also be provided to a participant at the time the participant applies for benefit payments.

Q–30: When must a plan provide the written explanation, required by section 417(a)(3)(B), of the QPSA to an individual who becomes a participant after age 32; or who was a participant on August 23, 1984, and, as of that date, had attained age 34?

A–30: (a) In the case of an individual who becomes a participant after age 32, the plan will satisfy the time requirement of section 417(a)(3)(B) if it provides the explanation by the end of the three-year period beginning with the first day of the first plan year for which the individual is a participant.

(b) In the case of an individual who was a participant in the plan on August 23, 1984, and, as of that date, had attained age 34, the plan will satisfy the requirement of section 417(a)(3)(B) if it provides the explanation not later than December 31, 1985.

Q–31: When must a plan provide the written explanation, required by section 417(a)(3)(B), of the QPSA to a participant who separates from service before attaining age 32?

A–31: In the case of separation before age 32, a plan must provide the explanation at the time of separation or within one year after separation.

Q–32: What are the consequences of fully subsidizing the cost of either a qualified joint and survivor annuity (QJSA) or a qualified preretirement survivor annuity (QPSA), in accordance with section 417(a)(4)?

A–32: If a plan fully subsidizes a QJSA or QPSA (in accordance with section 417(a)(4)), it is not required to provide the written explanation required by section 417(a)(3)(A) or 417(a)(3)(B), respectively. Such a plan need not offer an election. However, if the plan offers an election, it must satisfy the election, consent, and notice requirements of section 417(a) (1), (2), and (3), even if it subsidizes the cost of the QJSA and QPSA in accordance with section 417(a)(4).

Q–33: What is a fully subsidized benefit?

A–33: A fully subsidized benefit is one under which no increase in cost, or decrease in benefits, to the participant may result from the participant's failure to elect another benefit. Thus, for example, if a plan provides a joint and survivor annuity and a lump sum option, the plan does not fully subsidize the joint and survivor annuity, even if the actuarial value of the joint and survivor annuity is greater than the amount of the lump sum payment, because the participant's benefit in the event of his early death would be less than the benefit that would have been received if the lump sum were elected.

Similarly, if a plan provides for a life annuity of $100 per month and a joint and 100% survivor benefit of $99 per month, the plan is not fully subsidizing the joint and survivor benefit. A QPSA would be fully subsidized if the participant's account is not reduced because of the QPSA coverage and if no charge to the participant is made for the coverage. Thus, the QPSA would be fully subsidized in a defined contribution plan because account balances are not reduced by the QPSA coverage and no charge is made against accounts for such coverage.

Par. 2. A new § 1.402(f)–1T is added after § 1.402(e)–1 to read as follows:

§ 1.402(f)–1T. Required explanation of rollovers, capital gains, and ten-year averaging tax treatment (Temporary).

(a) *General rules.* Section 402(f) requires plan administrators to give recipients of certain distributions a written explanation of the rules relating to the taxation of certain amounts as capital gains under section 402(a)(2), the separate tax on the ordinary income portion of lump-sum distributions under section 402(e), and the exclusion from gross income under section 402(a)(5) for amounts rolled over into eligible retirement plans. This notice must be provided to the recipient of any qualified total distribution or any partial distribution satisfying section 402(a)(5)(D)(i) that is made after December 31, 1984, not later than two weeks after the distribution is made.

(b) *Safe harbor notice.* The requirements of section 402(f)(1) may be satisfied by providing each recipient of a qualified total distribution or a partial distribution that satisfies the requirements of section 402(a)(5)(D)(i) a copy of the notice included in this paragraph. Additional information may be provided to distributees, except that such information may not be inconsistent with the following safe harbor notice:

Special Tax Rules

The Internal Revenue Code provides several complex rules relating to the taxation of the amounts you received in this distribution. This notice merely summarizes these rules. You should promptly consult a tax advisor in deciding what course to follow with respect to this distribution.

Rollovers

The Internal Revenue Code permits you to avoid current taxation on any portion of the taxable amount of an eligible distribution by rolling over that portion into another qualified employer retirement plan that accepts rollover contributions or into an individual retirement arrangement (IRA). A tax-free rollover is accomplished by transferring the amount you are rolling over to the new plan or IRA *not later than 60 days* after you receive the amount from this plan and notifying the trustee or issuer of the new plan or IRA that you are making a rollover contribution. If you receive a series of distributions within a single year that would be treated as a lump sum distribution, the 60-day period does not expire until 60 days after the day you receive the last distribution in the series.

Not all plan distributions are eligible to be rolled over. A distribution must be either a "qualified total distribution" or a "partial distribution" in order to be rolled over. In general, a qualified total distribution is either a lump sum distribution or a distribution because of a plan termination. A lump sum distribution is the payment of all remaining benefits under a plan because of death or other separation from service or after the employee reaches age 59½. A partial distribution is payment of 50 percent or more of plan benefits that is not of a series of periodic payments. A rollover of any portion of a partial distribution may disqualify a subsequent distribution from the same type of plan for capital gains treatment and 10-year averaging (described below). There are specific and technical qualifications and requirements set forth in section 402 of the Internal Revenue Code that must be satisfied in order for your plan distribution to be eligible to be rolled over.

Capital Gains Treatment and 10-Year Averaging

If your distribution qualifies under section 402(e) of the Internal Revenue Code as a lump sum distribution, and no part of your distribution is rolled over, you may be able to elect to have the part of the distribution attributable to your participation in the plan before 1974 (if any) taxed as a long term capital gain, and the remainder taxed as ordinary income or under special 10-year averaging rules that may reduce the amount of income tax you will be required to pay on account of this distribution. Alternatively, you may elect to have the entire amount of the distribution taxed as ordinary income or under the 10-year averaging rules. In addition, 10-year averaging may not be elected unless the employee participated in the plan making the distribution for any part of at least five years.

PART 602—[AMENDED]

Par. 2a. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 3. Section 602.101(c) is amended by inserting in the appropriate places in the table, "§ 1.401(a)–11T . . . 1545–0928" and "§ 1.402(f)–1T . . . 1545–0928".

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: July 3, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–17237 Filed 7–18–85; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Approval of Permanent Program Amendment From the State of Alabama Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Director, OSM is announcing the approval of a program amendment submitted by Alabama to modify its approved permanent regulatory program (hereinafter referred to as the Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment establishes requirements for operations extracting coal incidental to extraction of other minerals (Sub-chapter 880–X–2E).

On May 22, 1985, Alabama submitted an amendment to its program which consisted of an emergency rule to establish requirements for operations extracting coal incidental to extraction of other minerals. After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director, OSM, has determined that the amendment meets the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendment. The Federal rules at 30 CFR Part 901 codifying decisions concerning the Alabama program are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Alabama State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found at 47 FR 22020–22058 (May 20, 1982) and 48 FR 34026 (July 27, 1983).

II. Proposed Amendment

On May 22, 1985, Alabama submitted a proposed amendment to its approved regulatory program to establish requirements for operations extracting coal incidental to extraction of other minerals (Sub-chapter 880–X–2E). These amended rules establish the responsibility of those persons intending to conduct operations under this exemption to apply for a determination of eligibility for the exemption prior to conducting such operations. The rules outline the informational requirements necessary for such applications and criteria to be used by the Alabama Surface Mining Commission (ASMC) to determine the eligiblity of the proposed operation for exemption and establish conditions and requirements for maintaining such eligibility during the conduct of such operations.

Section 9–16–99(d) of the Code of Alabama provides that the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percent of tonnage of minerals removed for commercial sale or use are exempt from the provisions of Act 81–435 and authorizes the regulatory authority to establish regulations for such exemption. Under existing ASMC rules, the provisions of the Act were repeated along with establishment of record keeping requirements, but guidelines were not presented establishing the means, procedure and criteria for determining eligibility for the exemption.

On June 7, 1985, OSM announced receipt of the amendments and procedures for a public comment period and for a public hearing on the substantive adequacy of the proposed amendments (50 FR 23996). Since no timely requests for a public hearing were received, the public hearing scheduled for July 2, 1985, was not held. The comment period ended on July 8, 1985.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17, that the amendment submitted by Alabama on May 22, 1985, meets the requirements of SMCRA and the Federal regulations. The amended provisions are cited at the end of this notice in the amendatory language for § 901.15.

Sub-chapter 880–X–2E of the Alabama Surface Mining Commission (ASMC) rules establishes procedures for determining those surface coal mining and reclamation operations which are exempt from the Act and the ASMC rules, when the extraction of coal is incidental to extraction of other minerals. The rules require that persons who intend to extract coal incidental to extraction of other minerals shall apply for and obtain a written exemption prior to conducting operations.

The rules place the burden of establishing the qualification for the exemption upon the operator, who must show that the coal extraction is incidental to the extraction of other minerals and that it shall not exceed 16⅔ percent of the mineral tonnage removed for commercial sale or use. The rules establish specific requirements for applications for the exemption, criteria for approval of the exemption, and conditions of the exemption.

The Director finds that the Alabama amendment is no less stringent than the requirements of section 528 of SMCRA and no less effective than 30 CFR 700.11(a)(4), which provide for exemption from the requirements of SMCRA and 30 CFR Chapter VII where the extraction of coal is incidental to the extraction of other minerals and where coal does not exceed 16⅔ percent of the mineral tonnage removed for commercial use or sale.

IV. Public Comments

Two responses to the request for public comments were received on the proposed rulemaking. Both commenters requested that the public hearing be

held to answer questions. The requests for the public hearing were not received

method of determining which operations qualify for a "16⅔" exemption.

and this action does not require regulatory review by OMB.

$5 million. The Board also provides that the expenditure of any funds in excess

connection with the lease/rental agreement. The present value will be

of Air Resources, 50 Wolf Road,

held to answer questions. The requests for the public hearing were not received until July 8, which was six days after the date of the scheduled hearing. Since no request for the hearing had been received by June 24, 1985, the deadline for such requests, no public hearing was held. In any event questions would not necessarily be answered during a public hearing, which is held to provide an opportunity for the public to offer comments on proposed rules.

The commenters asked why the preamble of the rule implied that current operations extracting coal incidental to other extraction were ineligible for the exemption. The preamble does not necessarily make this implication. It states only that in certain instances coal extraction was initiated without a prior determination of eligibility by ASMC.

The commenters state that ASMC rule 880–X–2E–.02 requires that a person who intends to extract coal incidental to other mineral extraction must obtain a written determination of exemption and that the intent to extract coal incidentally cannot be determined before commencing operations. The commenters further stated that 880–X–2E–.04 also refers to the intentions of the operator, "which cannot be legally pre-determined." The commenters also objected to the rule which places the burden of establishing certain proofs for the exemption on the operator. The commenters stated that the application criteria were too vague.

Under section 880–X–2E–.05, the commenters objected to the language which requires the operator to make certain showings "to the satisfaction of the SRA (state regulatory authority)." The commenters asked for more clear standards. The commenters said that the ASMC could prolong the application period until an operator is "driven out of business" because requirements are not explicit enough. The commenters said that the term of the exemption is not defined.

The commenters wanted to know how current their records have to be to satisfy the requirement in rule 880–X–2E–.06 that the operator make the records available on request. The commenters expressed concern that records of sales may be made public under this section and could thus put the company at a competitive disadvantage. The commenters asked whether ASMC had the right to close mines other than coal mines as provided in 880–X–2E–.06(6), and whether ASMC would be liable for losses suffered by the closed mines.

OSM notes the commenters' concerns but feels that the rules adopted by Alabama provide a thorough and fair method of determining which operations qualify for a "16⅔" exemption. Operators should be aware of coal deposits present in their proposed mining operations. Operators should have the burden of establishing their rights to an exemption from an Act and rules which regulate activities associated with coal extraction, since there is no argument that some coal is being extracted.

OSM does not agree that the application criteria are vague. The criteria include a topographic map showing coal deposits and a geologic report of minerals to be removed for commercial purposes, containing information relating to extent, depth, thickness, volume, quantity, quality and commercial value of the minerals.

The regulatory authority is required to act on the application within 30 days of receipt and is required to inform the applicant of deficiencies in the application within that time period. Thus, the applicant should know within 30 days of a second application, at the latest, whether he qualifies for the exemption. The term of the exemption as indicated by 880–X–2E–.05(4) is established in the exemption. The commenters' concerns about records and potential losses from closed mines should be directed to the State. Copies of the commenters' letters will be supplied to the State for consideration.

The Director, OSM, has found the State's amendment to be no less stringent than the Federal law and no less effective than the Federal rules.

V. Director's Decision

The Director, based on the findings above, is approving the May 22, 1985 amendment to the Alabama program. The Director is amending 30 CFR Part 901 to reflect the approval of the above State program modification.

VI. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 15, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 901—ALABAMA

30 CFR Part 901 is amended as follows:

1. The authority citation for Part 901 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 901.15 is amended by adding a new paragraph (f) to read as follows:

§ 901.15 Approval of regulatory program amendments.

* * * * *

(f) The following amendment is approved effective July 19, 1985. Regulations concerning exemptions for coal extraction incidental to the extraction of other minerals, contained in Alabama Surface Mining Commission rules at Sub-chapter 880–X–2E as submitted to OSM on May 22, 1985.

[FR Doc. 85–17244 Filed 7–18–85; 8:45 am]
BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 3

Amendment to Bylaws of Board of Governors

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the bylaws of the Board of Governors to add to the list of matters reserved for decision by the Board each research and development project costing more than $5 million. The Board also provides that the expenditure of any funds in excess of amounts previously authorized must be specifically approved by the Board. The purpose of these changes is to improve control of research and development spending and overruns on capital investment projects.

EFFECTIVE DATE: July 10, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. David F. Harris, (202) 245–3734.

List of Subjects in 39 CFR Part 3

Administrative practice and procedure, Reporting and record keeping requirements.

For the reasons set out above, the Board amends title 39, Code of Federal Regulations, Part 3 as follows:

PART 3—BOARD OF GOVERNORS [ARTICLE III]

1. The authority citation for Part 3 is revised to read as set forth below and the authority citations following all the sections in Part 3 are removed.

Authority: 39 U.S.C. 202, 203, 205, 401(2), (10), 1003, 3013; 5 U.S.C. 552b (g), (j).

2. In § 3.4 revise paragraph (g) to read as follows:

§ 3.4 Matters reserved for decision by the Board.

* * * * *

(g) Approval of the Postal Service Five-Year Capital Investment Plans, including specific approval of each capital investment project, each new lease/rental agreement, and each research and development project exceeding $5 million total external costs. In the case of any project or agreement subject to the requirement of Board approval under this provision, the expenditure of any funds in excess of the amount previously authorized by the Board must be specifically approved by the Board. For the purpose of determining the cost of a capital investment project, lease rental agreement, or research and development project,

(1) All such projects and agreements undertaken as part of a unitary plan (either for contemporaneous or sequential development in one of several locations) shall be considered one project or agreement, and

(2) The cost of a lease/rental agreement shall be the present value of all lease payments over the term of the lease, including all periods covered by renewal options or all periods for which failure to renew imposes a penalty or a hardship such that renewal appears to be reasonably assured, plus the cost of any leasehold improvements planned in connection with the lease/rental agreement. The present value will be determined using the cost of capital of the Postal Service.

* * * * *

David F. Harris,

Secretary.

[FR Doc. 85–17243 Filed 7–18–85; 8:45 am]
BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 53 A–2–FRL–2867–1]

Approval and Promulgation of Implementation Plans; Revision to the State of New York Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving a revision to the New York State Implementation Plan which concerns several revisions made by New York to its air pollution control regulations, Parts 201, 212, 223 and 224. These revisions involve the adoption of emission standards and monitoring requirements for existing sulfuric and nitric acid plants, minor corrections to existing provisions of these regulations and changes to make certain of their requirements internally consistent.

EFFECTIVE DATE: This action will be effective September 17, 1985 unless notice is received by August 19, 1985 that someone wishes to submit adverse or critical comments.

ADDRESSES: All comments should be addressed to Christopher J. Daggett, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the SIP revision are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, N.W.—Room 8401, Washington, D.C. 20408

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: On December 27, 1984 the State of New York sent to the Environmental Protection Agency (EPA) a request to revise its State Implementation Plant (SIP). The New York submission contained adopted revisions to State regulations currently contained in the SIP. These revisions to Title 6 of the New York Code of Rules and Regulations (6 NYCRR) affect the following Parts of the Code:

- Part 201—"Permits and Certificates," effective May 10, 1984,
- Part 212—"Processes and Exhaust and/or Ventilation Systems," effective May 10, 1984,
- Part 223—"Petroleum Refineries," effective August 9, 1984, and
- Part 224—"Sulfuric and Nitric Acid Plants," effective May 10, 1984.

These revisions and the results of EPA's review are summarized as follows:

Part 201—Permits and Certificates

Part 201 has been revised to exempt certain small stationary combustion sources and small gas turbines from State permit requirements. Maple syrup processes and certain food processes, which only emit carbon dioxide and water vapor, are also exempted. It should be noted that the regulation does not exempt food processes that emit substances other than carbon dioxide and water vapor. Such food processes must still comply with Part 201 permit requirements and any other applicable regulations. Open fires, small fecal incinerators, small dry cleaning facilities and petroleum liquid storage vessels that are not subject to Part 229 ("Petroleum Liquids, Storage and Transfer") or Part 230 ("Gasoline Dispensing Sites and Transport Vehicles") have also been exempted from State permit requirements.

Part 201 now requires that any source subject to State new source review or prevention of significant deterioration requirements also comply with Part 201 permit requirements.

In revising Part 201, the State inadvertently exempted some types of petroleum liquid storage tanks that are regulated by EPA's New Source Performance Standards (NSPS). This exemption will affect EPA's delegation

to the State of enforcement responsibility for Title 40 of the Code of Federal Regulations, Part 60 (40 CFR 60).

Section 224.6(b) provides a general variance mechanism for non-NSPS

requirements of section 3 of Executive Order 12291.

New York State regulation	State effective date	Latest EPA approval date	Comments

contained in this rule will now be

VOL 50 ISS 139 JL 19 1985 UMI

to the State of enforcement responsibility for Title 40 of the Code of Federal Regulations, Part 60 (40 CFR 60), Subparts K and Ka, but does not affect the ability of EPA to approve the revisions made to Part 201. Consequently, EPA is approving this revision.

Part 212—Processes and Exhaust and/or Ventilation Systems

Part 212 has been revised to exempt those sulfuric and nitric acid processes that are regulated by Part 224, "Sulfuric and Nitric Acid Plants." Any other process at a source of this type would still have to comply with Part 212 requirements. This revision serves to clarify the applicability of Parts 212 and 224 and EPA is approving it.

Part 223—Petroleum Refineries

Part 223 has been revised to correct typographical errors and make other non-substantive changes. EPA is approving this revision.

Part 224—Sulfuric and Nitric Acid Plants

Part 224 has been revised to add sulfuric acid mist limitations for existing sulfuric acid plants. Sulfuric acid mist is regulated by Section 224.2(b)(1) to 0.50 pounds per ton of sulfuric acid produced. By reference to Part 212 limitations, Part 224 has also been revised to regulate sulfur dioxide and nitrogen oxide emissions from existing sources. The visible emissions from sulfuric and nitric acid plants are now limited in Part 224 to an average 20 percent opacity for six minutes.

Part 224 has also been revised to require continuous emission monitoring (CEM) for sulfuric and nitric acid plants above a certain production capacity. Section 224.4(b) requires affected sources to install, calibrate, maintain and operate a CEM system. In addition, the source owner or operator must submit written reports, establish conversion factors to convert monitored data into units of the applicable emission standard, maintain records and make such records available for inspection. These requirements are consistent with EPA's monitoring provisions at 40 CFR 51.19(e) and Appendix P—Minimum Emission Monitoring Requirements.

It should be noted that earlier versions of Part 224 contained NSPS emission standards and CEM requirements. In this current revision, the State included additional details on the CEM requirements applicable to NSPS sources. These expanded CEM requirements are consistent with NSPS requirements.

Section 224.6(b) provides a general variance mechanism for non-NSPS affected sources. It allows for variances from the requirements of Part 224 if it can be demonstrated to the satisfaction of the Commissioner of NYSDEC that a particular source is unable to meet the required degree of control because of economic or technical reasons. EPA is approving this section, however, each variance issued by the State must be submitted to EPA for approval as a SIP revision.

The requirements for sulfuric and nitric acid plants in Part 224 are consistent with EPA policy and guidance and EPA is approving them.

Conclusion

EPA is approving the revisions made to Parts 201, 212, 223 and 224 as a part of the New York SIP. Part 224 has been found to satisfy EPA's CEM requirements for nitric and sulfuric acid plants.

This notice is issued as required by section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of section 110 of the Clean Air Act and 40 CFR Part 51.

EPA is approving this SIP revision request without prior proposal because it is viewed as noncontroversial and no adverse comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2).).

List of Subjects in 40 CFR Part 52

Air Pollution Control Agency, Sulfur oxides, Ozone, Nitrogen dioxide, Particulate matter, Incorporation by Reference.

Note.—Incorporation by Reference of the State Implementation Plan of New York was approved by the Director of the Federal Register on July 1, 1962.

Dated: July 11, 1985.

Lee M. Thomas,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1670 paragraph (c) is amended by adding new paragraph (c) (74) as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(74) Regulatory information submitted by New York State Department of Environmental Conservation for controlling various pollutants and establishing continuous emission monitoring requirements for sulfuric and nitric acid plants, dated December 27, 1984, providing adopted revisions to regulations Parts 201, 212, 223 and 224.

3. Section 52.1679 is amended by revising the entries for Parts 201, 212, 223, and 224 to the Table in numerical order as follows:

§ 52.1679 EPA-approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
* * *	* * *	* * *	* *
Part 201, Permits and Certificates.....	5/10/84	[Date & Citation of this notice].....	
* * *	* * *	* * *	* *
Part 212, Processes & Exhaust and/or Ventilation Systems.	5/10/84	[Date & Citation of this notice].....	

New York State regulation	State effective date	Latest EPA approval date	Comments
* * *	* * *	* * *	* *
Part 223, Petroleum Refineries.....	8/9/84	[Date & Citation of this notice].....	
Part 224, Sulfuric and Nitric Acid Plants.	5/10/84	....do.....	Variances adopted by the State pursuant to Part 224.6(b) become applicable only if approved by EPA as SIP revisions [Citation & date of this notice].
* * *	* * *	* * *	* *

[FR Doc. 85–17080 Filed 7–18–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[A–4–FRL–2867–2; TN–024]

Approval and Promulgation of Implementation Plans; Tennessee, Approval of Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today approving two State Implementation Plan (SIP) revisions submitted by the State of Tennessee. These changes in the regulatory part of the Tennessee plan involve Chapter 1200–3–5 (Visible Emissions for Wood-Fired Fuel Burning Equipment) of the rules of the Tennessee Department of Public Health, Division of Air Pollution Control.

DATES: This action will be effective on September 17, 1985, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Ray Gregory of EPA Region IV's Air Management Branch at 345 Courtland Street, N.E., Atlanta, GA, 30365. Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Division of Air Pollution Control, Tennessee Department of Health and Environment, 150 9th Avenue North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Mr. Ray Gregory, EPA Region IV, Air Management Branch, at the above address, telephone 404/881–3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION: On October 17, 1984, Tennessee submitted a revision to rule 1200–3–5–.07, Visible Emission, Certain Wood Fired Fuel Burning Equipment. On January 18, 1985, Tennessee submitted a revision to rule 1200–3–5–.06, Visible Emissions, Wood-Fired Fuel Burning Equipment. These revisions, discussed below, were adopted by the Tennessee Air Pollution Control Board and became State-effective on July 29, 1984, and January 19, 1985, respectively. Source coverage is greatly expanded by these revisions, and the compliance method is changed to a more universally accepted one. Since no relaxation of emission limits is involved, a control strategy to demonstrate compliance with the National Ambient Air Quality Standard and Prevention of Significant Deterioration increments is unnecessary.

1200–3–5–.06, Visible Emissions, Wood-Fired Fuel Burning Equipment

Tennessee has changed 1200–3–5–.06 to expand its coverage of size categories of wood-fired fuel burning equipment in certain counties in the State. Also, the method by which compliance with the visible emission limitations is determined is being changed from the aggregate method to a six-minute averaging method.

The present 1200–3–5–.06 limits wood-fired fuel burning equipment of greater than 100 million BTU per hour (MBTU/hr) heat input in all counties except Davidson, Hamilton, Knox, and Shelby to an opacity of 40%. With the revision approved in this notice, 1200–3–5–.06 will now apply to wood-fired fuel burning equipment of size categories from zero (0) to over 100 MBTU/hr heat input in certain counties. Opacity limits for sources newly covered will be either 20% or 40% (see below). Also, compliance with the opacity standards contained in this rule will now be determined using the six-minute averaging technique (average of all the readings taken in six minutes) rather than the aggregate technique (specified number of violations per specified time, i.e., only 20 readings in violation per hour).

For purposes of illustration in this notice, wood-fired burning equipment in Tennessee has been categorized, by date commenced and size, as follows:

Categorization of Wood-Fired Fuel Burning Equipment in Tennessee

I. Commenced before March 1, 1978
  A. Up to and including 50 MBTU/hr heat input
  B. Between 50 M and 100 MBTU/hr heat input
  C. Greater than or equal to 100 MBTU/hr heat input
II. Commenced on or after March 1, 1978
  A. Up to and including 25 MBTU/hr heat input
  B. Between 25 M and 100 MBTU/hr heat input
  C. Greater than or equal to 100 MBTU/hr heat input

The new requirements of 1200–3–5–.06 are now summarized.

- Category IC and IIC equipment in all counties except Davidson, Hamilton, Knox, and Shelby shall not exceed an opacity of 40% except for four six-minute periods per day not to exceed one six-minute period hour.
- Category IA and IB equipment in Madison, Bedford, Hamilton, and Coffee counties shall not exceed an opacity of 20% except for one six-minute period per hour.
- Category IA and IB equipment in Bradley, Claiborne, Cocke, Cumberland, Dickson, Fentress, Franklin, Gibson, Giles, Grainer, Greene, Henry, Jefferson, Lawrence, Loudon, Macon, Marion, Marshal, McMinn, Montgomery, Polk, Putman, Rhea, Rutherford, Scott, Sevier, Summer, Warren, Wayne, Weakley, White, Williamson, and Wilson counties shall not exceed an opacity of 40% except for one six-minute period per hour.
- Category IIA and IIB equipment in all counties except Davison, Hamilton, Knox, and Shelby shall not exceed an opacity of 20% except for one six-minute period per hour.

1200–3–5–.07, Visible Emissions, Certain Wood-Fired Fuel Burning Equipment

Tennessee has moved 1200–3–5–.07 and made it a part of 1200–3–5–.06, as 1200–3–5–.06–(3). Also, the State has

changed the technique by which compliance with the 40% opacity limit

§ 52.2220 Identification of plan.

* * * * *

FEDERAL COMMUNICATIONS

Adopted July 5, 1985.
Released July 12, 1985.

Fire Alarm Association's ("National Alarm") petition for reconsideration

on the serving telephone company's initiative.

VOL 50 ISS 139 JL 19 1985 UMI

changed the technique by which compliance with the 40% opacity limit will be determined from an aggregate method to the six-minute averaging method.

Final Action

EPA has reviewed these changes in the regulatory part of the Tennessee SIP and is approving them as submitted. This action is taken without prior proposal because the changes are noncontroversial and EPA anticipates no comments on them. The public should be advised that his action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rule-making by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Under 5 U.S.C. Section 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the Tennessee State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Particulate matter, Incorporation by reference.

Dated: July 11, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart RR—Tennesse

2. Section 52.2220 is amended by adding paragraph (c)(65) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified. * * *

(65) Changes in visible emission limitations for wood-fired fuel burning equipment (changes in regulations 1200–3–5–.06 and 1200–3–5–.07), submitted on October 17, 1984, and January 18, 1985, by the Tennessee Department of Health and Environment. Coverage of wood-fired equipment was expanded to include units of 0 to 100 million BTU per hour heat input in certain counties; the compliance determining technique was changed from the aggregate method to the six-minute average.

[FR Doc. 85–17205 Filed 7–18–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 86

[AMS–FRL–2861–1]

Particulate Regulations for Heavy-Duty Diesel Engines Information Collection Requirements; OMB Approval

AGENCY: Environmental Protection Agency.

ACTION: Information collection requirements; OMB aproval.

SUMMARY: In the preamble to the regulations published at 50 FR 10606 on March 15, 1985, on page 10646 EPA noted that a portion of the information collection requirements relating to heavy-duty diesel particulate standards were under review at the Office of Management and Budget (OMB). In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, those provisions are not effective until OMB approval has been obtained. The Agency is announcing today the approval of these information collection requirements by OMB for §§ 86.088–23 and 86.091–23 under OMB Control Number 2060–0104.

EFFECTIVE DATE: June 13, 1985.

FOR FURTHER INFORMATION CONTACT: Gregory J. Dana, Office of Mobile Sources, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 382–7647.

Dated: July 10, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85–17204 Filed 7–18–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 81–216; RM–2845, et al; FCC 85–347]

Connection of Telephone Equipment, Systems and Protective Apparatus to the Telephone Network; Standards for Inclusion of One and Two-Line Business and Residential Premises Wiring and Party Line Service in Part 68 of the Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this action the Commission rules on three petitions for reconsideration of various aspects of a previous order expanding the Part 68 registration program to allow subscribers to install their own business and residential one and two-line ("simple" or "non-system") wiring located on their premises. The Commission: (1) Denies the North American Telecommunications Association's request to amend the network demarcation point definition as it applies to multi-unit dwellings; (2) grants the alternative relief sought by National Burglar and Fire Alarm Association clarifying the right of states to permit non-telephone company entities limited access to the telephone company protector; and (3) grants U.S. West's request to amend the Part 68 rules to permit telephone companies flexibility in the ringback testing methods they make available to the public for testing subscriber wiring installations.

EFFECTIVE DATE: August 19, 1985.

FOR FURTHER INFORMATION CONTACT: Anne M. Siegel, Esq., Domestic Services Branch, Common Carrier Bureau, (202) 634–1831.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 68

Communications common carriers, Communications equipment, Telephone.

Memorandum Opinion and Order

In the matters of petitions seeking Amendment of Part 68 of the Commission's rules concerning connection of telephone equipment, systems and protective apparatus to the telephone network and notice of inquiry into standards for inclusion of one and two-line business and residential premises wiring and party line service in Part 68 of the Commission's rules, CC Docket No. 81–216, RM–2845, RM–2930, RM–3195, RM–3206, RM–3227, RM–3283, RM–3316, RM–3329, RM–3548, RM–3501, RM–3526, RM–3530, RM–4054.

Adopted July 5, 1985.
Released July 12, 1985.
By the Commission:

I. Introduction

1. Before the Commission are three petitions seeking reconsideration of various aspects of the Commission's *First Report and Order ("Order")* in CC Docket No. 81–216, FCC 84–182, released May 18, 1984, 49 FR 21719 (May 23, 1984), adopting final rules amending Part 68. Those rules went into effect on August 21, 1984.[1] The Commission's Part 68 program provides the technical and procedural standards under which telephone equipment, systems and protective apparatus may be directly connected to the nationwide telephone network without causing harm. The rules adopted in the *Order* expand Part 68 to allow subscribers to install one and two-line (non-system) business and residential customer-owned premises wiring (COPW).[2]

2. The focus of the *Order* was to extend the registration program to one- and two-line customer-owned premises wiring; no party seeks reconsideration of this aspect of the Commission's decision, though the North American Telecommunications Association ("NATA") requests that the demarcation point definition adopted in the *Order* be amended to ensure that in multi-unit buildings the demarcation point will be located on, or a reasonable distance within, the premises of each individual subscriber. The National Burglar and Fire Alarm Association's ("National Alarm") petition for reconsideration requests that the Commission amend the rules to permit, or in the alternative to authorize states to permit, qualified alarm company personnel to install demarcation jacks directly to telephone company protectors. The Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company and Pacific Northwest Bell Telephone Company ("U.S. West") also filed a petition for partial reconsideration in which they ask the Commission to modify the *Order's* requirement that telephone companies make "ringback" facilities available to the general public for purposes of testing COPW installations.[3] For the reasons discussed below, the Commission denies NATA's petition, grants the alternative relief requested by National Alarm, and grants the U.S. West petition.

II. The Demarcation Point Definition

3. *Background.* In order to implement its program to permit customer installation of simple COPW, the *Order* adopted a definition of "demarcation point" in § 68.3(h). This definition generally identifies the point where telephone company facilities end and COPW begins:

> *Network Interface or Demarcation Point:* The point of interconnection between telephone company communications facilities and terminal equipment, protective apparatus or wiring at a subscriber's premises. The network interface or demarcation point shall be located on the subscriber's side of the telephone company's protector, or the equivalent thereof in cases where a protector is not employed, as provided under the local telephone company's reasonable and nondiscriminatory standard operating practices.

A new § 68.213(b) was also added to the rules, providing, in part, that non-system premises wiring:

> [M]ay be used to connect units of terminal equipment or protective circuitry to one another and to the network interface (or demarcation point). . . . Subsequent relocation of a demarcation point may be arranged, either at the subscriber's request or on the serving telephone company's initiative, but the serving telephone company shall not discriminate in its treatment of demarcation point location, or relocation. . . .

The demarcation point definition recognized that nearly all telephone companies utilize protectors, generally located at or near the telephone cable's point of entry into the subscriber's premises, as a means to safeguard the subscriber's premises and telephone network from atmospheric or other electrical discharges through outside telephone plant. The demarcation point definition is also intended to provide a legal boundary definition between the telephone company network and COPW for all types of wiring (including multiline wiring), and to apply to all building types (including multi-unit business and residential premises), to embedded as well as new wiring, and to apply for all regulatory purposes, *i.e.*, those relating to accounting as well as COPW installation.

4. While it establishes the basic principles for locating the network-subscriber interface, the demarcation point definition is also designed to accommodate local telephone company practices, building types and environmental factors that may be encountered nationwide. Under our demarcation point definition, which requires only that the demarcation point be somewhere on the subscriber's side of the protector, the network-subscriber interface point will typically be located between the protector and the first jack on the customer's premises. *Order*, para. 33. It need not be located adjacent or in close proximity to the protector, although that will commonly be the case. Apart from the requirement in §§ 68.3(h) and 68.213(b) that telephone company operating practices not be unreasonable or discriminatory, the location, or relocation, of the demarcation point is left to the parties involved, *i.e.*, the subscriber and telephone company, subject to any applicable state requirements. In the case of multi-unit dwellings, the Commission declined to require that the demarcation point be located inside each individual unit.[4] The Commission

1 MCI Telecommunications Corporation filed a request that the Commission stay the effective date of certain of these amendments pending decision on the petition for reconsideration filed by National Burglar and Fire Alarm Association. That motion for stay was denied. FCC 84–546, released November 20, 1984. *See infra* note 35.

2 COPW, which includes all wiring on the customer's premises that is owned by the customer, may be either complex, system (multiline) wiring, or simple, non-system (one and two-line) wiring. Part 68 has permitted customer provision of system wiring since 1978, subject to the condition that multiline premises wiring—typically the telephone wiring associated with private branch exchange (PBX) and key telephone systems—be performed under the supervision of persons with specified experience and qualifications. *See* 47 CFR 68.215. The Commission has detariffed the provision of new system wiring installed as part of a detariffed CPE system after May 2, 1984, although the maintenance of embedded system wiring is provided pursuant to tariff, unless otherwise provided by the states. Modification to the Uniform System of Accounts, CC Docket No. 82–681, paras. 56–61, FCC 83–457 (released Nov. 2, 1983), 48 FR 50534 (1983). The installation of new and maintenance of embedded non-system wiring may still be provided by the telephone company on a regulated basis. In a Further Notice of Proposed Rulemaking in CC Docket No. 79–105, released April 5, 1985, the Commission has, among other things, proposed to detariff the installation of simple inside wiring and to detariff the maintenance of all simple and complex wiring. FCC 85–148.

3 Comments in response to the three petitions were variously filed by U.S. West: the Bell Telephone Company of Pennsylvania, the Chesapeake and Potomac Telephone Companies, The Diamond State Telephone Company, Illinois Bell, Indiana Bell, Michigan Bell, Nevada Bell, New England Telephone and Telegraph, New Jersey Bell, New York Telephone, The Ohio Bell, Pacific Bell, South Central Bell, Southern Bell, Southwestern Bell and Wisconsin Bell Companies (Bell Companies); GTE Service Corporation (GTE); Southern New England Telephone Company (SNET), AT&T Technologies, Inc. (AT&T–TI); and The Independent Data Manufacturers Association, Inc. (IDCMA). Reply comments were filed by NATA, National Alarm, SNET and MCI Telecommunications (MCI).

4 Multi-unit buildings present distinct definitional problems because there is generally a network of house riser and floor distribution cables interposed between the building protector, generally located in a basement equipment room, and the individual subscribers'/tenants' premises. House risers are the vertical cables which run from the outside plant terminal up through various floors of the building. Floor distribution cables are the horizontal cables which run from the distribution box or closet on each floor to the individual units. These house risers and floor distribution cables are also known as house or building cables. *See also infra* note 13.

Continued

did not feel that the potential difficulties associated with multi-unit dwellings

NATA also requests that the Commission distinguish between new

residential buildings. Finally, in any situation where non-carrier entities such

embedded wiring would, in the view of

causative ratepayer, as opposed to all

generally accepted understanding of

did not feel that the potential difficulties associated with multi-unit dwellings warranted a departure from its definition; it therefore adhered to its flexible approach to allow the demarcation point in such dwellings to be located either near the common building protector or inside each individual unit, as agreed to by the building owner and telephone company, and in accordance with the telephone company's reasonable and non-discriminatory standard operating procedures. Para. 13. The *Order* also made clear that local or federal regulatory authority could be invoked to redress any network access problems arising in multi-unit buildings, and expressed the Commission's willingness to revisit the matter if experience proved its flexible demarcation point definition to be unworkable. Paras. 14 and 24.

5. *The Petition and Comments.* NATA's petition for partial reconsideration asks the Commission to modify its definition of demarcation point, insofar as that definition applies to multiline or system premises wiring, to require that the demarcation point on the subscriber's side of the network interface be located on the customer's premises, or within a reasonable distance thereof rather than at a common location in the basement. NATA is concerned that tenants in multi-unit buildings will not otherwise be afforded full and equitable access to the network. In support of its position, NATA points to what it regards as the inconsistency between the current demarcation point definition and the "cost-causation" rationale of earlier Commission proceedings.[6] NATA Petition at 2. NATA claims that there is a significant amount of cabling on the subscriber's side of the protector block that represents "network distribution plant" which should be capitalized and regulated.[6] NATA Petition at 3. NATA believes that, as applied to multi-tenant or multiline single tenant buildings, the Commission's demarcation point definition imposes on individual ratepayers costs that should be capitalized and borne by the general class of present and future ratepayers.[7] NATA also requests that the Commission distinguish between new and embedded inside wire, and apply its demarcation point definition only on a phased-in basis as new wire is installed. NATA's concern with respect to embedded wire seems to be that under our demarcation point definition the ownership and maintenance of the riser and floor cable between the protector block and the various premises in multi-unit buildings could be stranded by the telephone companies. NATA also asks the Commission to clarify that the demarcation point concept applies to wiring used to provide Centrex-CO service [8] as well as wiring used in conjunction with PBX or key system devices. NATA Petition at 10; Reply Comments at 10.[9] Finally, NATA claims the Commission's flexible approach to demarcation point location is both unwise, because of the time-consuming nature of the regulatory complaint processes, and illegal because it is an abdication of authority.

6. Of the parties commenting on this issue, only IDCMA supports NATA's position, though with minor modifications. IDCMA Comments at 6. IDCMA notes that although our demarcation point definition does not prohibit location of the demarcation point in the individual premises of each tenant in a multi-unit building, neither does the definition *ensure* that it will be so located. In instances where the demarcation point is located in a place out of the individual users' control, it contends network access may be restricted. IDCMA believes the demarcation point definition adopted confers unacceptably broad discretion on telephone companies, and urges the Commission to require a demarcation point within the premises of individual telephone subscribers, whether in single- or multi-unit business or residential buildings. Finally, in any situation where non-carrier entities such as landlords own or control bottleneck facilities crucial for individual network access, e.g. the riser and distribution cables, IDCMA seeks to impose on them the same obligations as imposed upon carriers to provide reasonable and nondiscriminatory interconnection for CPE at a location within the customer's control.

7. GTE, U.S. West and the Bell Companies oppose the NATA petition. They support application of the demarcation point definition to all premises wiring including embedded and new wiring, as well as to all building types. They view the flexibility incorporated in the demarcation point definition as a necessary and desirable method to deal with the variety of building types and operational and environmental conditions which must be accommodated in locating a demarcation point. They also generally regard the Commission's non-discrimination requirement and provision for state and federal regulatory oversight to be adequate safeguards against subscriber network isolation in multi-unit buildings.[10] In GTE's view, NATA's fears about subscriber network isolation are unwarranted: In old buildings network access is assured because the house and riser cables running to each unit are already in place, and in new buildings, where the demarcation point may not be near the subscriber's premises, access will be assured without direct tenant involvement in this wiring because the building owner will include the wiring connecting each unit to the network in his construction plans. U.S. West and the Bell Companies further argue that NATA's concerns regarding multi-unit dwellings have already been considered by the Commission. They claim that no new arguments warranting modification of the current flexible approach have been offered. The Bell Companies also dispute NATA's assertion that there is an inconsistency between the demarcation point definition and earlier Commission accounting decisions where an interim demarcation point concept was utilized pending completion of the instant docket. And, NATA's proposal to distinguish between new and

regarding the accounting treatment accorded house cable.

[6] NATA cites "Accounting for Station Connections", First Report and Order, CC Docket No. 79-105, 85 F.C.C.2d 818 (1981), and Deregulation of Customer Premises Inside Wiring, Further Notice of Inquiry CC Docket No. 79-105, 86 F.C.C.2d 885 (1981).

[6] *Id.*

[7] NATA cites the dilemma of a 25th floor tenant who, denied access to building cable by the landlord, will be forced to pay the cost of running building cable from the demarcation point in the building basement to his or her premises. NATA argues that this is unfair because this tenant must pay for building cable that will be available to serve successive generations of subscribers in that 25th floor unit, and the expense to the subscriber of installing such cable would be so prohibitive as to effectively preclude subscriber choice of CPE, undermining the Commission's deregulatory and procompetitive goals.

[8] Centrex-CO refers to a tariffed telephone service in which calls among a customer's internal telephone stations (intercom calls), as well as calls between the customer's stations and the rest of the world, are switched at the central office of the local exchange telephone company. Each main station in a Centrex-based system is connected by a separate loop to the central office switch providing the service. By contrast, in a PBX system the lines from each station terminate on the customer's premises in the PBX switch, which is in turn connected to the central office by a smaller number of loops than the station terminations involved.

[9] *See infra* note 18.

[10] On the Centrex CO issue, U.S. West asserts that the relief sought by NATA is already provided for by § 68.213(b) and by the Order's non-discrimination rules which would prevent the telephone company from installing customer premises riser cable for Centrex-CO customers on a more favorable basis than for other customers. U.S. West Opposition at 6; *See* Bell Companies' Opposition and Comments at 10.

embedded wiring would, in the view of these companies, introduce a lack of uniformity undermining the Commission's concept of a universally applicable demarcation point definition.[11]

8. *Discussion.* We deny NATA's petition for reconsideration of the demaraction point definition. As U.S. West and the Bell Companies correctly indicate, the arguments presented in NATA's petition concerning demarcation point location were previously raised in response to our *Second Notice of Proposed Rulemaking and Order* 92 F.C.C.2d 1 (1982). NATA has presented nothing in its reconsideration request that justifies altering the conclusions or result reached in the *Order*.[12] Nevertheless, we believe responding to some of the points made in the NATA petition is necessary to clarify certain confusion regarding the demarcation point definition and its relationship to other Commission decisions concerning inside wiring.

9. NATA's claims that the *Order's* demarcation point definition is inconsistent with the cost-causation rationale of earlier Commission decisions, and that the demarcation point decision improperly charges a single ratepayer for what is actually network plant misperceive the meaning and operation of the demarcation point concept. *In Accounting for Station Connections*, the Commission determined that in order to more fully place the burden of costs associated with station connections.[13] on the causative ratepayer, as opposed to all present and future ratepayers, the "inside wiring" portion of station connection costs should be expensed rather than capitalized, while the "other" drop and block station connection costs would continue to be capitalized.[14] This bifurcated accounting treatment was based on the differences in the physical and investment characteristics of inside wiring and drop and block wiring. For instance, the Commission found that while inside wiring is subject to frequent change and reconfiguration due to the constant churning, or movement, of station apparatus by subscribers, the drop and block portion of station connections is rarely so affected. *Accounting for Station Connections*, paras. 22–25. The Commission deferred precise identification of a demarcation point to distinguish between the capitalized and expensed components of telephone company station connection investment,[15] indicating that industry's generally accepted understanding of demarcation point location would suffice in the interim.

10. In *Accounting for Station Connections* the Commission was applying the concepts of "cost-causation", "expensing", "capitalizing" and "churning" to situations where there was telephone company plant on both sides of the demarcation point. In this environment the Commission implemented its cost-causation policy by modifying the accounting rules governing telephone company cost recovery. Recognizing the limits of accounting changes to effectuate its goal of placing all inside wiring costs on the cost-causative customer,[16] the Commission issued a *Further Notice of Inquiry* in CC Docket No. 79-105, 85 F.C.C. 2d 885 (1981), proposing to deregulate the customer premises portion of station connections altogether. This led to the detariffing in CC Docket No. 82-681 [17] of new complex wiring installed for use with detariffed CPE systems.[18] And, as a result of the *Order* here under review, subscribers can also now provide their own simple inside wiring. In instances where a premises owner provides his own simple or complex inside wiring, the demarcation point serves as the commonly referenced, *i.e.*, institutional, boundary between telephone company-provided and owned plant and facilities which are subject to the Commission's accounting rules, and customer-owned wiring and equipment which are not. Simple or complex premises wiring in single or multi-unit structures extending from the customer's side of the demarcation point and installed by the premises or building owner belongs to the customer, not the telephone company, in which case the Commission's accounting rules and concepts are inapposite, and NATA's attempts to apply these accounting

[11] In its reply comments, NATA claims that: (1) The commenting parties have failed to address the argument that the Order is inconsistent with earlier Commission accounting decisions; (2) the BOCs are inconsistent in calling for flexibility for state regulators and telephone companies on the demarcation point issue and then expressing fear of such flexibility with respect to access to the protector, *see* discussion *infra* paras. 17–19; and (3) the danger of subscriber isolation is actual and not merely speculative, contrary to the views of the commenters.

[12] While NATA may view the Commission's demarcation point approach issue as "unwise", *supra* para. 5, NATA is incorrect in concluding that it is also "illegal." It is well established that the Commission has wide discretion in fashioning the particular rules and policies to effectuate its goals and fulfill its broad statutory mandate to foster a "rapid, efficient communications system." Our decision to allow telephone companies and their customers a degree of choice and flexibility in demarcation point location, subject to the non-discrimination constraints of the Act, our rules and federal and local regulatory oversight, is an exercise of, not an abdication of, our authority.

[13] *See supra* note 5. "Station connections", recorded in Account 232, originally consisted of the cost of inside wiring and cabling and the cost of installing or connecting items of station apparatus, including the drop and block wires and the protector. "Accounting for Station Connections" required subject carriers to separate their investment in station connections into two subclasses: "Station connections-inside wiring" and "station connections-other." The "inside wiring" component is the customer premises portion of station connections and refers to telephone plant, including labor and material costs, located on the customer's side of the protector. The "other" portion consisted of the drop and block (aerial or underground) wiring costs up to and including the protector. In the Report and Order in CC Docket No. 82-679, FCC 83-456, 48 FR 49643 (Oct. 28, 1983), the existing drop and block investment was transferred from Account 232, subclass "Station Connections-Other" to Account 242:1, "Aerial Cable", and Account 242:3, "Buried Cable", as appropriate, so that Account 232 now includes only "Station Connections-inside wiring". The house cable, which runs from the outside plant terminal up through the various floors of a building and is located on the telephone company's side of the demarcation point, is included in account 242:1. *See* Report and Order in CC Docket No. 82-681, 48 FR 50534 (1983), para. 57.

[14] "Accounting for Station Connections" required that effective October 1, 1981 future carrier inside wiring costs be expensed either on a phased-in basis over a four year period with 100% expensing of these costs effective October 1, 1984, or a flash-cut (expensing immediately) basis pursuant to a state-approved plan, and that their embedded investment in inside wiring as of October 1, 1981 was to be amortized over a ten-year period resulting in full cost recovery by October 1, 1991. The Commission's Further Notice of Proposed Rulemaking in CC Docket No. 79-105, *supra* note 2, proposes that the telephone companies relinquish all claims of ownership of the inside wiring when their inside wiring costs have been fully amortized.

[15] Also, in Report and Order in CC Docket No. 82-681, 48 FR 50534 (1983), the Commission ruled that carrier costs for installing network terminating wire (that wire which runs from the house cable terminal to the demarcation point) for large PBXs should be expensed rather than continue to be capitalized because network terminating wiring more closely resembled the inside wire expensed in "Accounting for Station Connections" than the drop wire which was there required to be capitalized.

[16] While the expensing of inside wiring could ensure that future ratepayers would not pay for certain station connection expenditures which were incurred in earlier time periods, it could not insure that the particular customer occasioning an inside wiring expenditure in a particular time period separately and completely paid for those costs.

[17] *See supra* note 2.

[18] The intrasystem concept for new detariffed PBX's and key systems established by the Commission in CC Docket No. 82-681, consists of common control equipment (switchboards), station equipment (telephones or key systems) and intrasystem wiring. Intrasystem wiring would consist of all cable or wiring and associated components located on the customer's side of the demarcation point when this wiring is inside a building, or between a customer's buildings located on the same or contiguous property not separated by a public thoroughfare, which connect station components to one another or to common equipment.

principles to non-telephone company wiring are misplaced.

company provided house cable, as requested by the ICA petition, will not

subscribers in multi-unit buildings will have access to the network without

rules), subscribers are not authorized to

Commission to amend § 68.213(b) to

system wiring, be permitted to install

principles to non-telephone company wiring are misplaced.

11. Contrary to NATA's claim that subscriber provision of house or building cables in multi-unit buildings undermines the Commission's deregulatory and pro-competitive goals, the opportunity afforded building owners to provide such wiring, which was previously the sole province of telephone companies, furthers the Commission's interest in promoting competition and multiple suppliers wherever technological and economic conditions permit. Furthermore, by removing control over this customer premises wiring from the telephone company, subscriber choice of CPE in multi-unit as well as single unit dwellings will be enhanced rather than frustrated.[19]

12. We also decline to adopt NATA's request that the demarcation point definition not apply to embedded inside wire.[20] Under the *Order*, the demarcation point in multi-unit structures with embedded wiring need not necessarily end at the protector block, despite NATA's claims. NATA Petition at 7–8.[21] Furthermore, even in those cases where the demarcation point associated with embedded wiring is located in or has been relocated to the basement protector block, the embedded telephone-company installed riser and floor cable located on the customer's side of the protector will not be stranded, as NATA suggests would happen. Location or relocation of the demarcation point to, for instance, enhance customer access to telephone company provided house cable, as requested by the ICA petition, will not necessarily affect the ownership or maintenance of this embedded wiring. In the absence of state or federal action transferring or authorizing the transfer of ownership or the sale of telephone company provided wiring, or detariffing or transferring the responsibility for wiring maintenance,[22] the telephone company will continue to own this embedded wiring, and, pursuant to state tariff requirements, be obligated to repair and maintain such wiring, regardless of the location of the demarcation point. What the demarcation point will do, however, is identify that point on the customer's premises from which that customer may provide his own new wiring. This new wiring will be COPW, owned by the customer and maintained by him or his vendor of choice. For embedded complex and simple wiring, as well as new simple wiring provided by the telephone company under tariff, the demarcation point serves as a dividing line between the telephone plant on one side that is to be capitalized and telephone company plant on the other side that is to be expensed.

13. In conclusion, we adhere to the principle that a single definition of demarcation point will obtain in all instances, and decline to modify that definition in any way, or to distinguish between new and embedded wiring. While our definition establishes general principles for demarcation point location, it is broad enough so that its universal application need not necessarily result in uniformity in demarcation point placement in all buildings or locations. We believe that this flexibility is both necessary and desirable in order to accommodate the variety of conditions and circumstances that exist. As regards the Centrex-CO issue newly raised by NATA, we note that the rules adopted in the *Order* apply to all premises wiring regardless of the function or service with which that wiring is associated. The demarcation point principles established do, therefore, apply to simple or complex premises wiring used to provide Centrex-CO service just as they apply to such wiring used to provide other subscriber services. Furthermore, we are confident that individual subscribers in multi-unit buildings will have access to the network without having to provide their own building house and riser cables. In existing buildings that cabling is already in place. This cable will be included in new construction pursuant to arrangements made by the building owner with the telephone company or other electrical contractor and provided to tenants, presumably at a market-clearing price; building owners have an incentive to equip their buildings with a range of affordable and accessible telecommunications services to make their leases competitive with those available in area buildings. The Commission also rejects as unfounded NATA's allegations that reliance on state and federal regulatory oversight to deal with problems of network isolation, should they arise, is inappropriate or inadequate.[23] For all the reasons discussed above, we affirm the demarcation point definition adopted in the *Order*, and deny NATA's petition for reconsideration.

III. Access to the Protector

14. *Background.* Consistent with our intent to bifurcate wiring responsibility at a demarcation point located on the subscriber's side of the protector and to prevent potential damage to the protector and network, we concluded in our *Order* that the wiring and grounding at the demarcation point protector should remain the responsibility of the telephone company. This determination was incorporated in § 68.213(b) of the rules, which states:

> Responsibility for the protector (and its associated grounding) on the network side of the demarcation point rests with the telephone company, though the subscriber is responsible for consequences resulting from erroneous wiring procedures conducted under his or her direction.

By virtue of this section and § 68.104 of the rules, which requires that all connections to the network be made through connectorized standard plug and jack arrangements (or other means, not here pertinent, specified in tariffs or

[19] The telephone company has greater incentive and opportunity to use its control over the customer premises wiring it provides to influence the individual subscriber's choice of CPE in favor of a single supplier, *i.e.*, its unregulated equipment affiliate, than does the owner of a multi-unit building who is providing only the cabling from a basement demarcation point to each unit, and who, to make the building attractive to potential lessees, has an incentive to facilitate effective communications by lessees.

[20] The Commission now has before it a petition filed by the International Communications Association (ICA) seeking a declaratory ruling to clarify users' rights of access to complex embedded intrasystem wiring (including house and riser cable) used with customer-provided CPE. That petition was put on notice for public comment and is currently under consideration.

[21] NATA misapprehends that the Commission's flexible approach to this issue permits, but does not require, that the demarcation point with respect to both new and embedded wiring in a multi-unit building be located at, or relocated to, a single point near the protector. Furthermore, we reject IDCMA's request that we modify the demarcation point definition to eliminate the discretion entrusted to the parties and to require, rather than merely permit, that the network interface be located at each individual premises in such a building. There have been no new arguments or evidence presented to warrant such a departure from our flexible approach to demarcation point location.

[22] In Accounting for Station Connections, the Commission permitted, but did not require, the states to provide for the sale of in-place inside wire. Para. 62. As earlier mentioned, the detariffing of the maintenance and installation as well as the transfer of ownership of all inside wiring still subject to tariff is currently being considered by the Commission in CC Docket No. 79–105. *See supra* notes 2 and 14.

[23] In this connection, we note that the Order indicated that state regulatory agencies were not prohibited from establishing "terms and conditions by which local telephone companies may or must install riser and distribution facilities to serve tenants directly in multi-unit buildings." *Paras.* 14 and 24. This is possible in today's environment, even though complex intrasystem wiring has been detariffed, because the wiring running from each individual unit demarcation point down to the basement protector would, by definition, constitute "house cable" which is telephone company plant subject to regulation, rather than detariffed intrasystem wiring which, by definition, is located on the customer's side of the demarcation point. See *supra* notes 13 and 18.

rules), subscribers are not authorized to directly access the protector. The program contemplates that new premises wiring, as well as additions and modifications to existing premises wiring, will be connected to the network either through an already existing jack or a telephone company installed demarcation jack. 97 F.C.C. 2d at 540–42. In the *Order*, the Commission rejected the request of National Alarm, a nationwide association of alarm companies, that alarm companies be permitted to wire alarm jacks directly onto the protector in the absence of an intervening telephone company installed demarcation jack.[24] The Commission was not convinced that telephone companies would improperly install or that they were delaying the installation of alarm or demarcation jacks, or that plug and jack connections would render alarm systems more susceptible to being disabled. Thus we refused to depart from the general rule that protector access on the network side of the demarcation point would be reserved to the telephone company. Moreover, the Commission felt the complaint process could adequately deal with any telephone company practices that were unreasonable or unresponsive to the needs of alarm companies and their customers. The Commission decided to require alarm companies either to install their own alarm jacks through a plug/adapter interposed between the demarcation jack provided by the telephone company and the subscriber's plug and associated wiring,[25] or have the telephone company install their RJ31X jacks.[26] 97 F.C.C. 2d at 536.

15. *The Petition and Comments.* In its petition for reconsideration, National Alarm seeks to eliminate the necessity of relying on the telephone company to install a demarcation jack.[27] It asks the Commission to amend § 68.213(b) to permit "qualified" alarm company personnel access to the telephone company protector to install an RJ3IX or equivalent jack to serve as a standard demarcation jack where a telephone-company installed demarcation jack does not already exist.[28] In the alternative, National Alarm asks the Commission to make clear that states are free to adopt rules permitting such limited access to the protector by certified alarm installers.

16. National Alarm claims as it did in its original comments in this proceeding that the telephone companies have often improperly installed these alarm jacks, or installed them in an untimely fashion, resulting in unfair and unnecessary expense, delay and inconvenience to consumers and alarm companies. National Alarm cites a January 5, 1984 decision of the California Public Utilities Commission (CPUC), *In the Matter of the Application of the Pacific Telephone and Telegraph Company*, Decision 84–01–036 ("California Decision"), in support of its petition. There, the CPUC concluded that telephone company installation of RJ31X jacks in the state had resulted in unnecessary hardship and service disruption to subscribers, and that licensed alarm installers were qualified and should be permitted to connect RJ31X or equivalent jacks directly to the telephone company protector.[29] National Alarm suggests that in order to satisfy the Commission's concerns regarding protector and network harm, only those alarm installers meeting certain qualifications, such as those reflected in §§ 68.215 (b) and (c) applicable to the installation of system wiring, be permitted to install the RJ3IX or equivalent jacks to the protector. National Alarm Petition at 8. National Alarm also claims that the language contained in paragraph 19 of the *Order* declaring that "the demarcation point protector should remain solely the telephone company's responsibility" would foreclose any such state action.[30] According to National Alarm, this result is contrary to precedent as reflected in *In the Matter of Telerent Leasing corp. et al. ("Telerent")* 45 F.C.C. 2d 204 (1974), *aff'd sub nom. North Carolina Utilities Commission v. FCC*, 537 F.2d 787 (4th Cir. 1976), *cert. denied*, 429 U.S. 1027 (1976), which established the principle that while the federal commission may have primacy in the interconnect arena, state commissions are not foreclosed from taking action to provide additional options to customers with respect to interconnection, provided the state action does not conflict with any interstate rulings. In short, National Alarm argues that under *Telerent* states may adopt procedures to permit subscribers the additional option of having alarm companies install demarcation jacks.

17. With the exception of MCI, all commenting parties oppose National Alarm's petition for reconsideration. SNET, the 16 Bell Companies, U.S. West and GTE argue that protector access should be limited to telephone company personnel. They believe that § 68.213(b) of the rules properly recognizes the compelling policy, technical and safety reasons for restricting grounding and wiring at the protector to telephone company employees. These telephone companies claim that they are prepared to install properly any requested jacks on a timely basis, and that the regulatory complaint process is available for occasional problems that may arise. They also believe that allowing one group, such as certified alarm companies, to access the protector would inevitably involve the Commission in evaluating the qualifications of other trade groups seeking similar authorization.[31]

[24] The only other party to object to the reservation of the protector to the telephone company was the Pennsylvania Burglar and Fire Alarm Association.

[25] Most security alarm systems communicate with their central monitoring apparatus through the telephone line. The alarm equipment on a customer's premises is connected to the network through an alarm jack, such as the series-wired RJ31X jack, which is installed between the protector and the first telephone terminal. Activation of the alarm equipment will preempt normal use of the telephone line and will either allow a pre-programmed number to be dialed or trigger a local alarm.

[26] Because the RJ31X jacks are authorized connectors under Subpart F of Part 68, these jacks may serve as a demarcation jack if installed by the telephone company. *See* 97 F.C.C. 2d at 536, n. 15.

[27] SNET, the 16 Bell Companies, U.S. West, GTE, and AT&T–TI filed comments. Reply comments were filed by SNET, MCI and National Alarm.

[28] While National Alarm originally sought to install alarm jacks on the network side of the network interface, or between the demarcation jack and protector, National Alarm's emphasizes that its petition for reconsideration requests authority to install the demarcation jack as an alternative to telephone company installation; it does not dispute the demarcation jack requirement. National Alarm Reply Comments at 2.

[29] This decision represents a modification of CPUC's earlier comments in this proceeding opposing all direct customer access to the protector which, according to National Alarm, this Commission relied on in part in rejecting National Alarm's arguments and denying alarm companies the right to direct protector access. After a full evidentiary hearing, however, the CPUC concluded that alarm jacks "can be installed by licensed alarm company personnel at the protector with about as much likelihood of causing problems for a subscriber's telephone service that if they are installed by utility installation personnel." California Decision, p. 32. One condition imposed on alarm companies by the CPUC is that they also install a standard network interface, *i.e.*, demarcation jack, of a type approved by telephone utilities, inside the premises as near the outside protector as is reasonably possible: *See also Infra* note 33 regarding maintenance responsibilities in such situations.

[30] National Alarm cites the finding of the California Decision that "there are no FCC rules or regulations which preclude states from allowing jacks to be installed at the protector by alarm industry installers." California Decision at 31. National Alarm apparently believes that the Order would prevent the state of California from permitting qualified alarm installers to install jacks at the protector. *But see* discussion *infra* at paras. 22–24.

[31] In this connection, AT&T–TI notes that the National Alarm petition raises the issue of whether members of groups other than alarm companies.

Continued

18. Furthermore, these parties claim that the only new evidence presented by National Alarm in the petition for reconsideration is the California Decision, which was issued after the *Order* was released. They argue that the California Decision is not relevant to the issues in this proceeding, and that it is not a sufficient basis for reconsideration. Cincinnati Bell. MCI claims that requiring exchange company installation of RJ31X jacks would be unduly burdensome and costly. MCI also argues that the complaint processes will be available to provide redress. Furthermore, were we

jacks installed by telephone companies, such additional interconnection options at which subscribers providing their own premises wiring can connect into conducted with a standard telephone

18. Furthermore, these parties claim that the only new evidence presented by National Alarm is the decision of the CPUC, which they find to be unconvincing. GTE and SNET argue that the California decision is of limited significance because it has been stayed pending resolution of a reconsideration request, and that no other states have challenged the Commission's long-standing assignment of protector responsibility to the telephone company.[32]

19. The parties opposing National Alarm's petition also express opposition to the alternative request that states be afforded the authority to permit alarm companies to access the protector. SNET agrees with National Alarm that, as written, the *Order* precludes the position taken in the California Decision. According to SNET, the integrity of the public switched network on the telephone company side of the demarcation point, and not interconnection, is at issue here. U.S. West also believes that the *Order* properly standardizes policies relating to protector access and responsibility nationwide and overrides the California Decision. The 16 Bell Companies urge the Commission to reject National Alarm's position on the role of state commissions because the resulting variety of state policies would undermine the Commission's determination that a workable COPW program requires a uniform network demarcation point dividing and assigning responsibility between subscribers and telephone companies.[33]

20. MCI, the only party supporting National Alarm, argues that mandating exchange company installation of demarcation jacks as a precondition to the private installation of CPE would increase competitive barriers to the use of non-exchange company CPE and services. In support, MCI details the problems it experienced in having its Advantage Units [34] installed by Cincinnati Bell. MCI claims that requiring exchange company installation of a demarcation jack prior to connection of an automatic dialer adds at least $50 cost and several days delay to each Advantage Unit installation. MCI Reply Comments at 5.[35] MCI proposes that if an exchange company has failed to install demarcation jacks at a given location after a reasonable opportunity to do so, qualified non-exchange company personnel should be permitted to install a standard demarcation jack.

21. *Discussion.* California's initial decision to permit alarm companies to access the protector under certain circumstances does not, of itself, persuade us to alter our position that wiring and grounding at the protector be the responsibility of the telephone company. The State of California, which had earlier opposed such access, was but one of the many parties whose views were considered in this proceeding. Despite National Alarm's claims that the network harm posed by alarm company installation at the protector is "miniscule", we conclude that the weight of the evidence on the potential for network harm and service disruption still militates against a federal policy authorizing access to the protector by non-telephone company personnel. We remain unconvinced, despite MCI's allegations to the contrary, that the potential for error, delay and extra cost in jack installation imposed upon alarm companies and their customers by a requirement for a telephone company installed demarcation jack justifies an exception to this principle. We believe that the exchange companies have incentives to implement jack installation policies that will fairly satisfy the technical requirements and convenience of alarm companies and subscribers without increasing competitive barriers to the use of non-exchange company CPE and services. And, as we indicated in the *Order*, where problems do arise the federal or state regulatory oversight and complaint processes will be available to provide redress. Furthermore, were we to allow "qualified" alarm companies to access the protector, the Commission would need to define this term, and determine what other classes of persons or trade groups should be entitled to do so. We decline to embark on such a program. Instead, we adhere to our initial finding that access to the protector poses a potential harm to the network that justifies, as a federal minimum, reserving access to the protector on the telephone company side of the demarcation point to the telephone company alone. Accordingly, this general rule will continue to form part of the federal framework established for delineating the respective rights and responsibilities of subscribers and telephone companies to ensure that our COPW program can go forward in all states without resulting in harm to the network.

22. We did not, however, intend by this policy to preclude states from adopting *additional* solutions which achieve these network-protective goals, despite language in the *Order* which National Alarm and others may have interpreted otherwise. Based upon our finding that unfettered protector access posed an unjustifiable risk of damage to the protector and network, we decline to authorize at the federal level such access by other than exchange company personnel. While it is true, as SNET points out, that federal primacy in the face of inconsistent state interconnection provisions is well established under *Telerent*, National Alarm is also correct that state initiatives which *supplement* federal interconnection policies may be valid. In *Telerent*, the Commission made clear that, despite an interstate tariff provision that customer-owned equipment could be directly connected to the telephone network only through protective interface devices offered by the telephone companies, the states were not prevented from "providing *additional* options to customers with respect to interconnection, provided that they are alternatives to, rather than substitutes for, the requirements specified in the interstate tariffs, and provided further that such regulations accomplish the protective objectives of the interstate tariff regulations and in no way permit interference with or impairment of interstate services." *Telerent* at 221.

23. Thus, if states determine that subscribers should have the option of connecting COPW to the network through jacks installed by non-telephone company entities as well as through jacks installed by telephone companies, such additional interconnection options are permissible, as long as the two *Telerent* conditions are met, *viz.*, that the states' options protect the network from harm and that interstate services are not impaired. To effectuate this additional interconnection option, the states may authorize non-telephone company employees to access the protector without contravening the *Order's* policies regarding limitations on protector access or sacrificing the integrity of the demarcation point concept. The *Order's* language reserving protector access to the telephone companies reflects a federal determination that unfettered protector access poses a threat of harm to the network. Under *Telerent*, states may meet the *Telerent* protective objective by ensuring that those parties it authorizes to access the protector for jack installation purposes have the requisite knowledge and skill to do so safely.[36] Thus, while the states may not permit indiscriminate protector access, they may authorize parties that they reasonably determine are "qualified" to access the protector where the state has determined those parties have the qualifications necessary to do so in a manner that will protect the network from harm.[37]

24. As to the second *Telerent* requirement that interstate services not be impaired, we disagree with the claims of some of the commenters that allowing states to authorize parties to access the protector on the telephone company's side of the demarcation point derogates from the demarcation point concept and function. Although the demarcation point marks the point where network and subscriber facilities interface for accounting, COPW installation and other regulatory purposes, and generally bifurcates telephone company and subscriber responsibility, it does not serve as an absolute barrier beyond which all subscriber activity is necessarily prohibited. The COPW program requires at a minimum a clear demarcation point at which subscribers providing their own premises wiring can connect into the public switched network. The states, however, may differ as to the rights of access subscribers or others should have to facilities on the telephone company side of the demarcation point. Some states may find it advisable to decline to authorize subscriber access to telephone company facilities such as the protector for jack installation purposes, while others may determine such access is warranted for certain parties and under certain circumstances. Some states may choose to embark on a licensing process for "qualified" parties; others may not. In our view, the various state policies regarding protector access would supplement rather than conflict with the general demarcation point principles established in the *Order* for interstate services, and are, therefore, permissible, as long as they alternatively protect the network from harm. Although we here merely clarify what was implicit in the *Order* and previous Commission decisions regarding the right of states to permit access to the protector, to the extent that this clarification coincides with the alternative relief requested by National Alarm we grant National Alarm's petition.

IV. Ringback Testing

25. *Backround.* In order to differentiate properly operating installations of one and two-line COPW from faulty ones that could cause network harm, the *Order* requires that installers conduct two forms of acceptance testing: (1) Dial tone testing [38] and (2) ringback testing. The ringback requirement for simple COPW is set forth in § 68.213(f)(2), which requires that whenever an operation associated with the installation, reconfiguration or removal (other than final removal) of customer provided simple wiring is performed, a prescribed ringback testing procedure must be observed. Under "ringback," or reverting-calling testing, the subscriber dials a telephone company-provided reverting-calling number from his completed installation, listens for a unique tone and then hangs up. The central office then automatically returns a ringing signal which allows the installer to determine that the non-system operations have been properly performed.[39] The test is generally conducted with a standard telephone which will ring on receipt of the returning ringing signal.

26. *The Petition and Comments.* The Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company and Pacific Northwest Bell Telephone Company ("U.S. West") filed a petition for partial reconsideration asking the Commission to eliminate the current requirement that all telephone companies make ringback service available to the general public. U.S. West does not contest the requirement that a ringback test of some sort be performed on simple COPW installations, only the requirement that all central offices be equipped to permit subscribers to perform reverting-calling ringback testing. Specifically, U.S. West proposes that § 68.213(f)(2) as adopted in the *Order*, be amended to read as follows:

(2) Ringback testing. A telephone connected to the subscriber line(s) shall be used as follows:

(i) Have another person dial the number of the line being tested. Some telephone companies provide direct "ringback" services which may be available for ringback testing. The installer should check with the local telephone company to determine the availability of and procedure for utilizing such ringback service. [The remainder of the section would continue as currently written].

27. In support of the requested modification, U.S. West argues that in imposing a ringback service requirement on the telephone companies, the Commission failed to take adequate account of the serious operational and technical difficulties which make the requirement impractical, and in some instances impossible, to fulfill. U.S. West acknowledges that these obstacles can be overcome if sufficient resources are committed to the task, in order to, for example, reconfigure circuits and purchase new equipment. It concludes, however, that such telephone company expenditures and system modifications are not justifiable in light of the availability of the simple and inexpensive alternative of having ringback tests performed by a third person placing a call to the number of the line being tested.[40] U.S. West also

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such as electrical contractor or appliance repair companies, might be qualified to install demarcation jacks. AT&T–TI asks the Commission to intitiate a rulemaking to establish a record on this issue in the event the Commission rules favorably on National Alarm's request.

[32] *See also infra* note 35.

[33] As an example, the Bell companies cite the California Decision which permits alarm companies to wire alarm jacks directly to the protector, yet leaves to telephone companies both the responsibility to correct any errors regarding the rearrangement of the premises wiring entailed in this jack installation and the obligation to service and maintain, at no extra charge, those alarm company installed jacks.

[34] The Advantage Unit is MCI's automatic dialer which, like alarm dialers, requires the presence of an RJ31X jack.

[35] MCI filed a motion to stay the effective date of the rules adopted in the Order pending completion of this reconsideration proceeding. *Supra* note 1. MCI argued that the Order would newly bar its practice of installing RJ31X jacks for its Advantage units where no exchange company-installed jack is present. The Commission, however, found that MCI did not previously have any right to engage in such practice because of the requirement, contained in § 68.104 of the rules for eight years, that all connections to the telephone nework be made through standard plugs and telephone company-installed jacks; the Order had merely implicitly extended that requirement to the installation of simple COPW. The Commission, therefore, concluded thet MCI had not met its burden of demonstrating irreparable harm and denied the motion for stay.

[36] This may be accomplished, for example, by subjecting these parties to some licensing or certification program especially designed for this purpose, or authorizing protector access only for those persons that belong to recognized local or national industry groups, such as licensed alarm companies, membership in which reasonably ensures that the parties have the requisite qualifications.

[37] Because of our decision allowing states to authorize limited protector access, any proceedings that might be appropriate, for example those requested by AT&T–TI, *supra* note 31, to determine those parties—alarm company personnel or others—who may be qualified to install demarcation jacks, would be conducted at the state level.

[38] This type of testing is designed to detect imbalance, i.e., hum or noise on the telephone line, and is set forth in § 68.215(f)(1) for system wiring and § 68.213(f)(1) for one and two-line installations.

[39] Section 68.213(f)(2) directs the subscriber to obtain information from the local telephone company on how to make these ringback test calls. The subscriber is also given the option, at his discretion, of performing the same test by having another person, such as a friend, dial the line being tested. 48 CFR § 68.213(f)(2)(i).

[40] U.S. West does not provide the Commission with any actual figures or estimates of the costs that would be involved in making the modifications necessary for a universally available ringback service.

believes there is a significant potential that public dissemination of ringback numbers which are also used in party

available without impairing other central office functions, we believe that

Memorandum Opinion and Order to be printed in the **Federal Register**.

seventh and eighth commercial television assignments, in response to

interference to its low power television facility, and since a noninterfering

47 CFR Part 73

VOL
50
ISS
139
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believes there is a significant potential that public dissemination of ringback numbers which are also used in party line services could lead to abuses which would impair the availability of such circuits for their primary party line purposes.[41] U.S. West concludes that the potential for such abuse outweighs the limited benefit which would accrue to the public through widespread availability of this automatic ringback testing service, especially in light of the accessibility of simpler, cheaper testing options.[42]

28. All commenting parties—the Bell Companies, GTE and SNET—support the U.S. West petition and concur with U.S. West's recitation of the engineering, administrative and cost problems associated with providing automatic ringback service. They argue that the Commission should not require the provision of ringback testing by telephone companies, and that telephone companies should be allowed some discretion as to whether to make this type of service available.

29. *Discussion.* We will adhere to the principle that some form of acceptance testing must be performed on subscriber-provided wiring installations in order to protect the network from harm. We also believe that, where feasible, a telephone company-provided automatic ringback service is the preferred method for such testing, and that some degree of telephone company investment to make this service available is not unreasonable. Indeed, we believe such equipment is available through many, if not most central offices. Nevertheless, after considering the claims presented in the U.S. West petition and supporting comments we will amend our acceptance testing requirement as currently reflected in § 68.213(f)(2) to make telephone company provision of ringback service permissive rather than mandatory. If, as U.S. West and the commenting parties argue, substantial investments in equipment and other central office modifications would in some instances be necessary to make the service available without impairing other central office functions, we believe that the public interest would be better served by offering alternatives that better reflect existing telephone company practices and plant configurations.[43]

30. In central offices where the equipment needs, operational difficulties, or potential for abuse would make the costs of providing a ringback service prohibitive, telephone companies should be able to offer alternative testing options to their customers. While we would prefer that a ringback service be universally available, we believe the use of alternative testing methods would be reasonable. In the event that neither ringback nor alternatives are made available by the telephone company in a particular central office, subscribers in that exchange area would then have no choice but to test their installation through the third-party calling method. In those central offices where the capability now exists to provide ringback service (or where ringback service could exist with modest expenditures) we expect that the telephone company will make automatic ringback service available to its subscribers *e.g.*, through telephone directory instructions or upon request. Our rule amendment merely recognizes that in some instances such service may be of greater cost than benefit to telephone ratepayers, and affords telephone companies a measure of flexibility in providing options for subscriber testing of inside wiring installations. We will therefore modify § 68.213(f)(2) to read:

(2) *"Ringback" testing.* A telephone connected to the subscriber's line(s) shall be used as follows:

(i) Either make a "ringback" call if the service is available (contact the local telephone company to determine the availability of and procedure for utilizing such ringback service), or have another person dial the number of the line being tested.

[2(ii)–(iv) would remain unchanged].

V. Ordering Clauses

31. Accordingly, it is Ordered, that the subject petitions for reconsideration ARE DENIED, except to the extent they are granted herein.

32. It is further Ordered, that the Secretary shall cause a copy of this *Memorandum Opinion and Order* to be printed in the **Federal Register.**

33. It is further Ordered, that the Secretary shall cause a copy of this *Memorandum Opinion and Order* to be served on the state commissions.

34. It is further Ordered, that CC Docket No. 81–216 IS TERMINATED with regard to the issues addressed herein.

35. It is further Ordered that Part 68 is Amended as set forth in the attached Appendix, effective August 19, 1985.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 68—[AMENDED]

Part 68 of Chapter I Title 47 of the Code of Federal Regulations is amended as set forth below.

1. The authority citation for Part 68 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602, 48 Stat. as amended, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 154, 201, 202, 203, 204, 205, 208, 215, 218, 313, 314, 403, 404, 410, 602.

2. 47 CFR Part 68 is amended by revising § 68.213(f)(2)(i) to read as follows:

Section 68.213. Installation of other than "fully protected" non-system premises wiring.

* * * * *

(f) * * *

(2) * * *

(i) Either make a "ringback" call if the service is available (contact the local telephone company to determine the availability of and procedure for utilizing such ringback service) or have another person dial the number of the line being tested.

* * * * * *

[FR Doc. 85–17159 Filed 7–18–85; 8:45 am]

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47 CFR Part 73

[MM Docket No. 83–385; RM–4292; MM Docket No. 83–1023; RM–4475]

TV Broadcast Station in Denver, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channels 50 and 59 to Denver, Colorado, as that community's seventh and eighth commercial television assignments, in response to petitions filed by William V. Johnson and Samuel R. Levatino.

EFFECTIVE DATE: August 16, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley Schmulewitz, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Denver, Colorado), MM Docket No. 83–385, RM–4292, MM Docket No. 83–1023, RM–4475.

Adopted: June 26, 1985.
Released: July 10, 1985.

By the Chief, Policy and Rules Division:

1. The Commission has before it: (1) The *Notice of Proposed Rule Making*, 48 FR 18854, published April 28, 1983, which invited comments on a proposal to add UHF television Channel 50 to Denver, Colorado, as its seventh commercial television assignment (Docket No. 83–385), in response to a petition filed by William V. Johnson ("Johnson"), and (2) the *Notice of Proposed Rule Making*, 48 FR 45435, published October 5, 1983, issued in response to a petition for rule making filed by Samuel R. Levatino ("Levatino"), requesting the assignment of UHF television Channel 59 to Denver, Colorado, as that community's eighth commercial television service. Johnson filed comments in support of the *Notice* in Docket 83–385, and restated his interest in applying for Channel 50, if assigned, Trinity Broadcasting of Denver, Inc. ("TBD"), filed comments in the nature of a counterproposal, in response to the *Notice* in both dockets.

2. TBD, licensee of low power television Station K57BT, Denver, Colorado, proposes the assignment of Channels 51 and 65 to Denver in place of Channels 50 and 59. TBD states that both assignments would cause interference to its low power television facility, and since a noninterfering alternative is available in both cases, the public interest would best be served by approving this counterproposal.

3. While TBD does recognize that its low power TV translator facility is, according to § 73.703(b), a secondary service, it says the station is providing television service to residents of Denver. As TBD submits, the Commission is not required to take into account possible interference considerations to a low power TV facility when evaluating the technical compliance with our Rules for a full service TV channel assignment. Here, the Commission has determined that either Channel 51 or 65 could be assigned to Denver consistent with spacing requirements. However, Channels 51 and 65 do not meet the spacing requirements with respect to each other.[1] Rather than lose an available channel, which could provide an additional television service to Denver, we will assign both Channels 50 and 59, as proposed. We believe that the petitioners have demonstrated the need for a seventh and eighth commercial television assignment to Denver. TBD will be expected to operate its low power facility so as not to cause interference to the reception of Channels 50 and 59. See § 74.703.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is Ordered, That effective August 16, 1985, the TV Table of Assignments, § 73.606(b) of the Rules, Is Amended, with respect to the following community:

City	Channel No.
Denver, Colorado	2, 4–, *6–, 7, 9–, 20, 31, *41, 50, 59.

6. It is further Ordered, that this proceeding is terminated.

7. For further information contact: Stanley Schmulewitz, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–17156 Filed 7–18–85; 8:45 am]

BILLING CODE 6712-01-M

[1] The required spacing between a Channel 51 and Channel 65 assignment is 80 miles. See § 73.698 (Table IV) of the Commission's Rules.

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47 CFR Part 73

[MM Docket No. 85–2; RM–4809]

TV Broadcast Station in Rice Lake, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF Television Channel 16 to Rice Lake, Wisconsin, as that community's first television broadcast service, at the request of James F. Dorrance, Jr.

EFFECTIVE DATE: August 16, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Report and order (Proceeding Terminated)

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations, (Rice Lake, Wisconsin), MM Docket No. 85–2, RM–4809.

Adopted: June 28, 1985.
Released: July 10, 1985.

By the Chief, Policy and Rules Division:

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 50 FR 4713, published February 1, 1985, proposing the assignment of UHF Television Channel 16 to Rice Lake, Wisconsin, as that community's first television channel. The *Notice* was issued in response to a petition filed by James F. Dorrance, Jr. ("petitioner"). Petitioner filed supporting comments and a supplement thereto reiterating his intention to apply for the channel.

2. Rice Lake (population 7,691),[1] in Barron County (population 38,730), is located in northwestern Wisconsin, approximately 130 kilometers (80 miles) northeast of Minneapolis, Minnesota. Currently, the only television outlet licensed to serve Rice Lake is low power television Station W15AB–TV.

3. We believe the public interest would be served by the assignment of

[1] Population figures are from the 1980 U.S. Census.

Channel 16 to Rice Lake in order to provide that community with its first television service. The channel

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47 CFR Part 76

[Docket No. 21006; FCC 85–333]

By the Commission.
Released: July 1, 1985.

to prevent, detect and repair leaks. In this regard, the Commission adopted

aeronautical *communications* channel center frequencies are spaced at 25 kHz

reinstituted. It argues that the old procedures were routine and feasible;

Channel 16 to Rice Lake in order to provide that community with its first television service. The channel assignment can be made in compliance with §§ 73.610 and 73.698 of the Commission's Rules.

4. Since Rice Lake is located within 400 kilometers (250 miles) of the U.S.-Canadian border, concurrence from the Canadian government has been obtained.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.024(b) and 0.283 of the Commission's Rules, it is ordered, that effective August 16, 1985, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the community listed below:

City	Channel No.
Rice Lake, Wisconsin	16

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-17155 Filed 7-18-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 74

[Gen. Docket No. 82-334; FCC 85-49]

Establishment of a Spectrum Utilization Policy for the Fixed and Mobile Services' Use of Certain Bands Between 947 MHz and 40 GHz

Correction

In FR Doc. 85-4028 beginning on page 7338 in the issue of Friday, February 22, 1985, make the following correction:

§ 74.536 [Corrected]

On page 7342 in § 74.536(b), in the table entitled, "Antenna Standards", the second entry under the fifth column reading, "10° to 15° K" should read, "10° to 15°".

BILLING CODE 1505-01-M

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47 CFR Part 76

[Docket No. 21006; FCC 85-333]

Frequency Channelling Requirements and Restrictions and To Require Monitoring for Signal Leakage From Cable Television Systems; Amendment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action grants in part and denies in all other respects seven petitions for reconsideration of the *Second Report and Order* in Docket No. 21006. Some petitioners requested that the Commission reinstitute the old rules governing cable television use of channels in the aeronautical frequency bands. However, the Commission determined that the uniform frequency offsets and quarterly monitoring requirements are necessary to ensure an absence of harmful interference to aeronautical services. It was determined, however, that delaying the effective date of compliance with the annual signal leakage performance criteria is warranted. The Commission also clarified that aeronautical frequency usage is grandfathered on a frequency rather than on a system-wide basis. Also, it was decided that average power, rather than peak power, will be used as the measure of potential cable interference to aeronautical radio systems. Finally, the Commission reconsidered its notification requirements and now only will require cable television operators using carrier signals with power levels of 10^{-4} watts or higher to notify the Commission of such frequency use.

EFFECTIVE DATE: Effective August 19, 1985 except § 76.611 which is removed effective July 19, 1985. A new § 76.611 is added effective July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Mass Media Bureau, (202) 632-7792 on legal concerns and Bernard Gorden, Mass Media Bureau, (202) 632-9660 on technical concerns.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 76

Cable television.

Memorandum Opinion and Order (Proceeding Terminated)

In the matter of amendment of part 76 of the Commission's Rules to Add Frequency Channelling Requirements and Restrictions and to Require Monitoring for Signal Leakage from Cable Television Systems; Docket No. 21006.

Adopted: June 21, 1985.

By the Commission.

Released: July 1, 1985.

Introduction

1. The Commission has before it seven petitions for reconsideration of the *Second Report and Order* ("Second Report") in this proceeding, 49 FR 45431, published November 16, 1984.[1] Comments in response to the petitions were filed by six parties with replies submitted by two parties.[2]

Background

2. The primary goal in this proceeding has been to determine the best way to protect aeronautical navigation and communications radio services from potentially harmful interference emanating from cable television systems. It is the Commission's desire to promote this goal without unduly constraining the development and utilization of new cable technologies. Consistent with these considerations, the record supported limiting cable operation on the frequencies used by aeronautical radio services given the potential for interference from cable systems that radiate or "leak" cable signals. The record further supported requiring those cable systems operating in the aeronautical bands to be well maintained and well monitored in order

[1] The petitioners are as follows: Aeronautical Radio, Inc., jointly with Air Transport Association of America ("ARINC"); Cable Investments, Inc., Capital Cities Cable, Inc., Cole, Raywid & Braverman; the National Cable Television Association ("NCTA"); Pepper & Corrazini; and Star CATV Investment Company jointly with Galaxy Cablevision Investors and Galaxy Cablevision Partners. In addition to the petitions for reconsideration, a request for clarification was filed by Blooston and Mordkofsky and a request for immediate relief was filed by Dow, Lohnes and Albertson. These pleadings raised questions regarding the effective date of the new rules, interim procedures to be followed by cable systems wishing to utilize new aeronautical frequencies and grandfathering provisions. These issues have been resolved by the Commission's *Public Notice* of January 30, 1985 (See para. e, *infra*), and this Memorandum Opinion and Order.

[2] Comments were filed by: American Radio Relay League, Archer S. Taylor, Capital Cities Cable, Inc., Heritage Communications, Inc., Jones Intercable, Inc., and NCTA. In a motion filed January 30, 1985, ARINC and NCTA requested an extension of time for the filing of oppositions. As no Commission action has been taken on this motion, we will consider it a request for acceptance of late-filed pleadings. Since the public interest is served by consideration of the late-filed comments (those of NCTA and Jones Intercable), and no opposition to this request was indicated, the comments are accepted. Reply comments submitted by ARINC and NCTA, were also filed late. These pleadings are also accepted as there has been no opposition to their consideration and their acceptance will foster a full and complete record. Finally, a letter offered on behalf of Crawfordsville Community Cable Corporation will be considered an informal comment.

to prevent, detect and repair leaks. In this regard, the Commission adopted rules in the *Second Report* which allowed cable systems to operate in the aeronautical radio bands if they met uniform aeronautical channel frequency offset requirements, annual basic signal leakage performance criteria, and routine monitoring requirements.

3. After publications of the *Second Report*, the Commission released a *Public Notice* on January 30, 1985, (No. 2275) which clarified the grandfather rights conferred by the decision, and which established interim procedures for use until the new rules were fully effectuated. As the new rules could not become effective until their review by the Office of Management and Budget, it was decided that, in the interim, each request to use new aeronautical frequencies would be considered on an individual basis.[3] During this period (January 30, 1985, to March 11, 1985) the Commission conditionally permitted the use of new aeronautical frequencies upon a showing that their use was consistent with the criteria set forth in the *Second Report*. On March 11, 1985, the rules concerning frequency offsets became effective; however, the rules concerning routine system monitoring did not take effect because of an OMB request for public clarification. In addition to resolving the petitions for reconsideration, this action provides the requested OMB clarifications.

Issue Analysis

4. The issues, as raised in the petitions for reconsideration, are as follows:

1. Uniform Frequency Offset Requirement
2. Basic Signal Leakage Criteria
3. Routine Monitoring Requirements
4. Grandfathering
5. Cable Signal Threshold Power Level
6. Notification Requirements
7. Leakage Limit

Each issue will be developed separately.

Issue 1: Uniform Frequency Offset Requirement

5. In the *Second Report*, the Commission held that in the aeronautical *communications* bands (118–136 MHz, 225–328.6 MHz, and 335.4–400 MHz), cable carriers must be offset from aeronautical channel center frequencies by 12.5 kHz ±5 kHz.[4] The aeronautical *communications* channel center frequencies are spaced at 25 kHz increments, beginning at the lower band edges. Similarly in the aeronautical *navigation* bands (108–118 MHz and 328.6–335.4 MHz) cable carriers must be offset from aeronautical channels center frequencies by the 25 kHz ±5 kHz.[5] The aeronautical radionavigation channels center frequencies are spaced at 50 kHz increments, beginning at the lower band edges.[6] These offsets were adopted to prevent interference to the aeronautical services should a cable system improperly leak signals.

6. In their joint petition for reconsideration Aeronautical Radio, Inc., and Air Transport Association of America, challenge these requirements, insofar as they allow cable carriers to be offset only 12.5 kHz, with a frequency tolerance of ±5 kHz, in the aeronautical communication bands. ARINC believes that the new provisions should require cable carriers to be maintained with an offset of at least 25 kHz from local aeronautical stations, and with a frequency tolerance of ±5 kHz. ARINC claims that the 12.5 kHz offset will not provide adequate protection to aeronautical communications. They also argue that the aeronautical industry might require additional frequencies and thereby split their current channels.

7. The National Cable Television Association, in its reply comments, submits that offsets of 25 kHz, as suggested by ARINC, would not work without a return to area-distance frequency coordination procedures because cable carrier frequencies would be on the same carrier frequencies as the aeronautical channels. NCTA further notes that the military and the Federal Aviation Administration ("FAA") support the 12.5 kHz offsets and have not indicated any plans to split their aeronautical channels in the near term. A petition from the firm of Cole, Raywid and Braverman, on behalf of several cable TV operators, requests that the old frequency offset rules be reinstituted. It argues that the old procedures were routine and feasible; whereas, the new requirements will cause wholesale disruptions and create the need for reeducation of the industry. Also, Capital Cities, Inc., argues that in reviewing existing station assignments in the aeronautical band, it found limited use of the channels by aeronautical licensees. Thus, they maintain that mandatory offsets are not justified.

8. Because many cable television systems radiate or leak signals, there is a potential for interference to aircraft navigation or communications when identical frequencies are used. Slight frequency offsets of the cable signals can prevent such interference. Unfortunately, while frequency offsets should eliminate current problems, such offsets can be viewed only as an interim solution. As observed by ARINC, the aeronautical channels may be split at some time in the future, which would place the offset cable carriers directly on the newly split aeronautical channels. Current aeronautical channels are a result of a relatively recent frequency split and it is anticipated that another channel division will not occur until after January 1, 1995, the date set by the International Civil Aeronautics Organization (ICAO).[7] Therefore, we expect that uniform frequency offsets of 12.5 kHz from aeronautical communication channels and 25 kHz from navigation channels (both with ±5 kHz tolerance), can be used for ten years to provide interference protection to aeronautical communications and navigation radio services. This offset procedure provides a high degree of interference protection and can remain in place until either: 1) the FAA splits the 25 kHz channels, or 2) the cable industry can fully bring leakage problems under control. In the interim, it provides flexibility for cable operations throughout the aeronautical bands.

9. In response to ARINC's specific assertion that the 12.5 kHz ±5 kHz offset is insufficient, we note that ARINC's main objection appears based on the fact that one cable television "midband" channel from 126 MHz to 132 MHz is potentially in conflict with its operations.[8] However, under the

[3] The Office of Management and Budget (OMB), upon further Commission clarification of the monitoring requirements, approved the new rules with the exception of the cable television annual Basic Signal Leakage Performance Criteria. (OMB Nos. 3060-0331 and 3060-0332) Approval of such criteria by OMB awaits resolution of the petitions for reconsideration.

[4] The *Second Report* inadvertently omitted reference to the expansion of the aeronautical band 118–136 MHz to 118–137 MHz. This extension is a result of frequency allocation of the 1979 WARC, and becomes effective January 1, 1990. Thus, the new cable restrictions will apply to the extended part of the aeronautical band on January 1, 1990. This amendment will be reflected in our rules.

[5] The *Second Report* also inadvertently omitted special offset requirements (100 kHz from the frequency 121.5 mHz and 50 kHz from the two frequencies 156.8 mHz and 243.0 mHz) for CATV operation near certain aeronautical and marine emergency radio frequencies. These requirements were formerly in the Rules and designated as § 76.611. We did not intend to make changes to those requirements, and therefore, will reinsert them under a new reference section number.

[6] The radionavigation glide path channels, in the 328.6 MHz to 335.4 MHz band, are listed in FCC Rule § 87.501.

[7] The last time the FAA split channels, both the cable industry and the FCC were given several years lead time to adjust to the new channel plan. We anticipate that this also would be the case for future channel splits.

[8] ARINC is permitted to operate its own set of offset frequency carrier networks in the band 128.825–132.0 MHz.

frequency usage plan now generally adopted by the industry, the nearest potential cable interfering frequency is

frequency, from which the visual carriers are derived, by integer multiples of precisely 8.0003 MHz with a tolerance

maintains that the CLI is fundamentally flawed and requests the Commission to allow alternative annual test methods-

adequate time to develop the necessary resources and expertise to comply with the CLI requirements and to depreciate

cover all portions of a system every three months.

context Jones Intercable, Inc. ("Jones"), requests that we reconsider the

VOL 50 ISS 139 JL 19 1985 UMI

frequency usage plan now generally adopted by the industry, the nearest potential cable interfering frequency is the audio carrier for the cited cable television channel. We agree with NCTA that because the cable audio carrier power level is normally operated about fifteen decibels below the power level of the video carrier, interference to ARINC channels can be expected to be minimal or non-existent. We further agree with NCTA that a 25 kHz ±5 kHz offset would place CATV carriers back onto the exact frequencies of the current aeronautical channels, thereby necessitating the reinstitution of frequency coordination procedures. This procedure is not only time-consuming, but also is not as effective as uniform offsets given rapid changes in FAA frequency assignments that can bring cable channels into conflict with aviation frequencies.

10. In response to Capital Cities' observations, we note that the FAA has begun planning and contracting for an extensive up-grade of communication and navigation facilities throughout the United States. Therefore, channels that may have been relatively silent are likely to become more active in the near future. Increased use of these channels by the FAA can reasonably be expected to result in more conflicts with cable television systems, and thus limit cable operators' uses of the mid-band frequencies. Further, we do not agree with petitioners that the old rules are working. Because of continual changes in FAA assignments and "drop-ins" of new aeronautical frequencies, a significant number of cable operators, as shown in recent random sampling, may not now be in compliance with the coordinated offset criteria for one or more frequencies. Absent a waiver, cable operators must vacate such conflicting channels within 30 days when so notified.[9] Additionally, the Commission recently completed a computer program that is capable of finding such conflicts and generating eviction notices. Once this program becomes fully operational, the number of documented conflicts can be expected to increase, causing numerous directed frequency changes in the cable industry. The uniform offset criteria eliminates the uncertainty associated with the old procedures.

11. Finally, in the frequency offset requirements, the *Second Report* provided for cable operators utilizing the HRC (Harmonically Related Carrier) system to set the fundamental frequency, from which the visual carriers are derived, by integer multiples of precisely 6.0003 MHz with a tolerance of ±1 Hz. Those cable operators utilizing IRC (Incrementally Related Carriers) systems were expected to meet the separation requirements by merely offsetting the nominal frequency of the video carrier component generator by an additional 12.5 kHz. As noted by Archer S. Taylor of the firm of Malarkey-Taylor Associates, Inc. the visual carrier frequencies for IRC systems may be phased-locked to a comb generator with reference set at (6n+1.250±0.0125) MHz. With these generator reference frequencies, neither HRC nor IRC meet the offset requirements of 25 kHz ±5 kHz in the navigation band 108–118 MHz. Thus, they may only operate in this band at power levels below 10^{-4} watts threshold.[10] However, the HRC system, as described will be 33.5 kHz offset from the nearest affected channel in the navigation glide path band 328.6–335.4 MHz, thereby meeting the 25 kHz offset requirement. The IRC system may also meet this offset requirement by setting its generator reference to certain odd multiple equal to or greater than 3 times the 0.0125 MHz (12.5 kHz) communication band offset requirement, e.g. (6n+1.250±0.0375) MHz.

Issue 2: Basic Signal Leakage Criteria

12. In the *Second Report*, the Commission concluded that cable systems must annually show compliance with basic signal leakage performance standards. Thus, as a prerequisite for operation in the aeronautical radio bands, cable systems must use ground-based or airspace measurements to indicate compliance with a Cumulative Leakage Index (CLI). The details and methodology of this requirement were based on the joint government-industry findings in the *Final Report of the Advisory Committee on Cable Signal Leakage*.

13. NCTA, in its petition, argues that such an annual CLI measurement requirement is superfluous in conjunction with mandated frequency offsets. It submits that only the offset requirements are needed to ensure against interference well into the future. NCTA, as well as Crawfordsville Community Cable, states that the CLI requirement is too rigid, immensely burdensome, and valueless. Capital Cities adds that the Advisory Committee did not consider the impact of frequency offsets in formulating the CLI procedures. Furthermore, Capital Cities maintains that the CLI is fundamentally flawed and requests the Commission to allow alternative annual test methods.

14. While NCTA argues that the CLI is superfluous if imposed along with the frequency offset criteria, we emphasize that *minimal signal leakage is the primary long-term objective* of this proceeding. The basic signal leakage criteria is key to demonstrating that fundamental objective. In other words, the CLI is a necessary periodic test to demonstrate safe levels of signal leakage. On the other hand, the offset criteria is only a secondary, as well as temporary, safeguard to assure protection to aeronautical frequencies. At some future time we hope to remove the offset frequency use restrictions to allow cable systems maximum flexibility. But, such restrictions cannot be removed before the record indicates that leakage has been brought under control.

15. In the absence of any significant evidence to the contrary, we continue to believe that the CLI is a valid measurement technique. It was developed as a consequence of an extensive scientific study by the Advisory Committee on Cable Signal Leakage. Further, we note that the cable industry, including NCTA, was well represented on the Advisory Committee and raised no objections to the procedure at the time. The work of the committee represents the best efforts of the industry and government experts. We must therefore reject Capital Cities' assertion that the technique is fundamentally flawed. However, as noted in the *Second Report*, we are receptive to submissions for consideration of alternative test methodologies. Capital Cities has submitted preliminary documentation of its on-going study for such an alternative signal leakage test method. When such new techniques have been refined, they may receive Commission acceptance. Until that time, the CLI will be considered the only authoritative work in the area. However, in order to allow cable operators as much flexibility as possible in performing the CLI, we will allow the use of any frequency that can be correlated to the frequencies within the VHF aeronautical band.

16. In view of the quarterly monitoring (see issue 3) and uniform offset requirements, we are persuaded, however, to provide cable operators with a longer transition period within which to comply with the CLI obligation. Therefore, we are delaying the CLI requirement for a period of five years. This will give the cable industry

[9] See § 76.619(e) (formerly § 76.610(e)) of the Commission's Rules.

[10] Independently, Commission staff will work with the FAA staff looking toward further HRC and IRC use of the navigation bands.

adequate time to develop the necessary resources and expertise to comply with the CLI requirements and to depreciate fully existing cable plants. We also believe that this delay will encourage cable operators to commence operations under the new uniform offset procedures as rapidly as possible, thus further assuring the prevention of harmful interference to aeronautical services. We do, however, expect cable operators to begin working immediately to assure compliance with the CLI within the five year time period.

Issue 3: Monitoring Requirements

17. The *Second Report* required that cable TV operators using aeronautical frequencies under the *new rules* provide a method for regular monitoring for signal leakage. This monitoring is required to cover all portions of the cable system at least once every three months. Monitoring equipment and procedures had to be adequate to detect a leakage source of 20 μV/m or greater at a distance of 3 meters. During regular monitoring, any leakage source of 20 μV/m or greater in the aeronautical radio frequency bands was to be noted, and any such leakage source was to be eliminated within a reasonable period of time.[11]

18. Several parties petitioned the Commission to reconsider the quarterly monitoring requirement, stating their preference for only an annual monitoring obligation. For instance, NCTA asserts that the new rule implies a requirement for a rigid, four times per year inspection of the cable plant by personnel and equipment, dedicated exclusively to that purpose. A number of cable companies, such as Cable Investments, Inc., submit that the quarterly monitoring requirement will be especially burdensome to multiple system operators. Furthermore, they assert that there is no evidence in the record to suggest that annual monitoring is inadequate. They also argue that in view of the offset and frequency stability requirement, an annual monitoring rule would adequately assure that aeronautical radio systems do not receive harmful interference. Some of the other petitioners, like Capital Cities, merely request us to state that the requirements can be satisfied by a program of continuous monitoring which reasonably can be expected to cover all portions of a system every three months.

19. In response to the above concerns, the *Second Report* outlined what the Commission envisioned as the quarterly monitoring requirement. Specifically, at paragraph 63, the Commission stated, "such monitoring can be done by service personnel while conducting service calls, installations, etc. The only extra effort on the part of cable operators comes when leaks are found and must be repaired." Clearly, it was not the Commission's desire to impose a burdensome quarterly requirement on cable operators. The quarterly requirement was merely to assure continued vigilance for new leaks. Such signal leakage repair programs should be part of the cable system's preventive maintenance plans that are, or should be, already in place. The petitioners read our previous rule to require that specific measurements be made at every point in the cable plant every three months. That clearly was not intended. The rules are therefore being modified to more accurately reflect what was envisioned for the quarterly monitoring, *i.e.*, a regular maintenance function to be performed by existing personnel in the discharge of their normal duties.

Issue 4: Grandfathering

20. The Commission limited grandfathering privileges for cable usage of aeronautical radio frequencies under the old method (case-by-case authorization) to those requests received or authorized prior to the adoption of the *Second Report*. Further, should usage of any of the authorized frequencies by the aeronautical radio service arise in the vicinity of the cable system, absent a waiver of the grandfathering rules, the system would forfeit its grandfathering privileges to those frequencies. Also, the system would not be permitted to substitute a different frequency not previously approved by the Commission. In any event, all grandfathering privileges would disappear in five years.

21. A number of petitioners, as well as commenters, have raised questions regarding the effective date and the scope of the grandfathering rights conferred by the *Second Report*. Such parties as Pepper & Corrazini and Cable Investments, Inc., ask whether the effective grandfathering date is the document's adoption date (October 26, 1984), the date appearing in its ordering clause (December 17, 1984), the date appearing in Section 76.618 of the new rules (January 1, 1985), or the date of approval by the Office of Management and Budget (March 11, 1985). In this context Jones Intercable, Inc. ("Jones"), requests that we reconsider the grandfathering date (November 30, 1984) announced in the *Public Notice*. Jones alleges that it is difficult if not impossible to attain compliance for all signal processors operating in the aeronautical bands using current circuit designs. Therefore, Jones asserts, manufacturers cannot and will not ship equipment to meet the new rules at this time. Jones submits that the November 30, 1984, grandfathering date thus will work a hardship on the industry and the public, in that an operator, absent a *de minimis* extension of a system's radius, will be unable to add frequencies or activate additional cable plant if not authorized by November 30, 1984. In response to this point, NCTA urges the Commission to grant waivers of the rules where necessary.

22. A few petitioners request that the Commission provide cable system operators with additional "lead time," of from three to six months. This would give cable operators time to plan for the expansion of existing systems or the construction of new systems. They argue that the unanticipated costs in providing new channels will delay the provision of new services to the public. During this time period, petitioners suggest that cable operators be given a window to file for clearance of frequencies under the former rules. Cable Investments, Inc., further requests that systems which timely file for clearance should be permitted to commence use of the authorized frequencies any time prior to January 1, 1990. However, to allay any concerns over frequency "warehousing" by cable operators, Cable Investments suggests that a second cut-off date could be established by which cleared frequencies would have to be placed into operation or any grandfathered right to those frequencies would be forfeited.

23. The petitioners also request clarification as to what is actually grandfathered. Cole, Raywid & Braverman asks whether existing systems, or only existing uses of existing systems, are grandfathered. Others, such as Capital Cities Cable, Inc., request clarification on whether cable operators are permitted to operate under a *hybrid system* during the transition period. In other words, should operators be permitted to offset frequencies under the new rules while continuing to use frequencies that are grandfathered under existing regulations? If not, it is submitted, in order to add additional channels an operator would be required to offset frequencies on the entire system which, in effect, would render

[11] For clarification, we note the distinction of the basic cable signal leakage (CLI) performance test from monitoring requirements. The CLI is intended to determine the overall interference potential of a cable system to aeronautical radio services. On the other hand, routine monitoring is a maintenance function of regularly checking for excessive leaks and making repairs.

the five year transition period meaningless. Pepper and Corrazzini

Commission's *Public Notice*. The *Second Report* required system

kHz bandwidth" to 10^{-4} watts "with an

Advisory Committee's recommendation of 100 uV/m at 3 meters from the cable

1. The authority citation for Part 76 continues to read as follows:

$$\frac{1}{\sum_{i=1}^{n} \frac{E_i^2}{}}$$

the five year transition period meaningless. Pepper and Corrazzini request clarification as to whether once clearance has been requested for a frequency, the Commission will consider an application for waiver to use that frequency at any time during the transition period.

24. The comments of Archer S. Taylor question whether later extensions to grandfathered systems are considered part of the system. He submits that extensions which do not increase the system radius to the most remote point of the system, existing or planned, which already have been declared in notifications (under old § 76.610(b)), should not invalidate grandfathering rights. Mr. Taylor futher notes that where the system radius would be increased by an extension, a new notification under the old rules would provide adequate information to determine the existence of any conflict.

25. Many of the questions raised by petitioners and commenters in regard to grandfathering privileges have been answered by the *Public Notice*. As indicated in that release, it was the Commission's intention to stop processing individual requests to add new aeronautical frequencies under the old rules on October 26, 1984, the adoption date of the *Second Report*. However, OMB's approval notwithstanding, in view of the fact that the *Second Report* was not released by the Commission until November 9, 1984, nor published in the **Federal Register** until November 16, 1984, and for purposes of administrative efficiency, it was decided that the Commission would process all requests to add aeronautical frequencies under the old rules received as of November 30, 1984.

26. We do not believe it is advisable to modify the November 30, 1984, grandfathering date. It is the Commission's responsibility to ensure the safe operation of radio services vital to the protection of life. We have provided cable operators considerable time (5 years) within which to adjust to the changes under the new rules. Changing the effective grandfathering date for any significant time, as requested by some petitioners, will only delay the effective control of signal leakage. In those instances where cable operators might have defficulty in obtaining equipment capable of meeting the new rules after having made a diligent good-faith effort to do so, we will consider waiver requests.

27. In the *Second Report*, the Commission intended to extend grandfathering rights to cable operators only on a frequency basis. That intention was clarified by the Commission's *Public Notice*. The *Second Report* required system operators adding new aeronautical frequencies to existing plants or extending their authorized service radii to follow the new aeronautical offset criteria. In essence, what the *Second Report* permitted was a *hybrid system* for five years, or a complete transition to the new procedures.

28. In response to a request by Pepper & Corrazzini, we are clarifying the point that if usage of any of the authorized frequencies by an aeronautical radio service arises in the vicinity of the cable system, and consequently the system forfeits its grandfathering privileges to that frequency, application for waiver under the former rules for continued use of the existing fequency will be considered. Applications for waiver will not be considered, however, for new frequencies to replace existing ones that have come into conflict with aeronautical channels.

29. Further, we have reconsidered whether to allow an operator to increase the system radius and continue to operate under the grandfathering rules. We now believe that an extension of service area would be beneficial to the public so that a segment of the community or an adjacent community not yet served by the cable system would not be deprived of service for a period perhaps as long as five years. The operator, however, must notify the Commission of such extensions, obtain clearance for the extension and comply with the grandfathering requirements.

Issue 5: Cable Signal Threshold Power Level

30. In the *Second Report*, the Commission changed the cable system peak power levels, at which the aeronautical restrictions apply, from 10^{-5} watts to 10^{-4} watts in a 25 kHz bandwidth (except for operation on the emergency frequencies). NCTA requests that we modify our rules to reflect that *average* power rather the *peak* power is to be used as the threshold. NCTA alleges that an average power level over a specified time period, rather than peak power as now required, is the better measure of potential cable interference. This is due primarily to the long integration time in airborne indicating devices, making power over time more critical than instantaneous power.[12] We agree with NCTA in this regard. Therefore, we are adopting NCTA's recommendation to modify references in the rules from 10^{-4} watts "peak in a 25 kHz bandwidth" to 10^{-4} watts "with an average power level across a 25 kHz bandwidth in any 160 microsecond period."

Issue 6: Notification Requirements

31. In the *Second Report*, the Commission raised the cable system permitted power levels in the aeronautical radio bands because low power carriers (10^{-5} watts or less) have a very low probability of causing interference even under "worst case" conditions of signal leakage. The threshold power level of 10^{-5} watts, however, was retained for FCC notification purposes. This has caused considerable confusion in the industry and consequently has led us to reconsider this notification requirement. Since it can be expected that cable systems, when routinely monitored, will not cause interference to aeronautical services when using carrier signals with power levels below 10^{-4} watts, no purpose is served by requiring cable television operators using carrier signals of power levels less then 10^{-4} watts to meet Commission notification requirements. Therefore, 10^{-4} watts is adopted as the universal trigger level for FCC notification for new frequencies under § 76.615 of the Rules.[13]

32. In response to a request by Cable Investments, Inc., we will clarify which notification provisions apply to grandfathered systems. The petitioner specifically asks whether grandfathered systems need to provide additional notification to the Commission before commencing use of pre-cleared frequencies or whether the new notification requirements are intended only for use of non-grandfathered frequencies. Although systems are not required to give the Commission notification under the new rules as to grandfathered frequencies, they must continue to comply with the previous requirements for carrier signals equal to or greater than 10^{-5} watts for their *grandfathered frequencies* inasmuch as quarterly monitoring and uniform offsets do not apply to these frequencies. The rules in the appendix are modified to reflect the above changes and clarifications (see Appendix A).

Issue 7: Leakage Limit

33. Several of the cable interests suggested relaxing the signal leakage limits now contained in § 76.605(a)(12) of the Rules. Petitioners cite the Advisory Committee's recommendation of 100 uV/m at 3 meters from the cable and the more relaxed limits in other rule parts as the basis for the relaxation. The Commission agrees with the need to examine the current limit and has issued a separate docket that reviews leakage and several other technical issues (MM Docket No. 85–38, 50 FR 7801) (February 26, 1985). Therefore, we will not reconsider the matter in this proceeding, but will issue a decision in the above referenced proceeding.

[12] This finding was related to the FAA by FCC staff by letter on November 29, 1984, for over-the-air services and it has not been disputed by the FAA.

[13] Measurement of the power levels for notification purposes on the coaxial distribution system, as opposed to measurement of internal levels in amplifiers, headend equipment, etc.

Ordering Clauses

34. Accordingly, it is ordered, That the Petitions for Reconsideration are granted as specified above and are denied in all other respects.

35. it is further ordered, That the request for clarification filed by Blooston and Mordkofsky and the motion for extension of time filed by ARINC and NCTA are granted.[14]

36. Authority for this action is contained in sections 4, 301, 302, 303, 304, 307, 308, 309 and 405 of the Communications Act of 1934, as amended, and the Cable Communications Policy Act of 1984.

37. It is further ordered, That the rule amendments, pertaining to the monitoring of cable equipment and the CLI, as set forth in Appendix A, become effective 30 days after publication in the **Federal Register**, except as otherwise noted.

38. The Secretary shall cause a copy of this *Memorandum Opinion and Order* with the attached Regulatory Flexibility Analysis (Appendix B) to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (Supp. 1984).

39. It is further ordered, That the Secretary shall cause a copy of this Memorandum Opinion and Order to be published in the FCC Reports.

40. It is further ordered, That this proceeding is terminated.

41. For further information concerning this proceeding, contact Freda Lippert Thyden, Mass Media Bureau, (202) 632–7792, on legal concerns or Bernard Gorden, Mass Media Bureau, (202) 632–9660, on technical concerns.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[14] The request for immediate relief filed by Dow, Lohnes & Albertson, in effect, was granted by the *Public Notice* of January 30, 1985.

Appendix A

PART 76—[AMENDED]

47 CFR Part 76 is amended as follows:

1. The authority citation for Part 76 continues to read as follows:

Authority: Secs. 4 and 303, 48 Stat. 1066 and 1082 (47 U.S.C. 154 and 303).

2. 47 CFR 76.610 is revised in its entirety to read as follows:

§ 76.610 Operation in the frequency bands 108–137 and 225–400 MHz—Scope of application.

The provisions of §§ 76.611 (effective July 1, 1990), 76.612, 76.613, 76.614 and 76.615 are applicable to all cable television systems transmitting carriers or other signal components carried at an average power level equal to or greater than 10^{-4} watts across a 25 kHz bandwidth in any 160 microsecond period, at any point in the cable distribution system in the frequency bands 108–137 and 225–400 MHz for any purpose. For grandfathered systems, refer to §§ 76.618 and 76.619.

Note 1.—See the provisions of § 76.616 for cable operation near certain aeronautical and marine emergency radio frequencies.

Note 2.—Until January 1, 1990, the band 136–137 MHz is allocated as an alternative allocation to the space operation, meteorological-satellite service and the space research service on a primary basis. After January 1, 1990, the space service will become secondary to aeronautical mobile service radio. Until January 1, 1990, the band 136 to 137 MHz is excluded from the rule sections regarding protection of aeronautical frequencies.

§ 76.611 [Removed]

3. 47 CFR 76.611 is removed effective July 19, 1985.

4. A new § 76.611 is added effective July 1, 1990, to read as follows:

§ 76.611 Cable television basic signal leakage performance criteria.

(a) No cable television system shall commence or provide service in the frequency bands 108–137 and 225–400 MHz unless such systems is in compliance with one of the following cable television basic signal leakage performance criteria:

(1) prior to carriage of signals in the aeronautical radio bands and at least once each calendar year, with no more than 12 months between successive tests thereafter, based on a sampling of at least 75% of the cable strand, and including any portion of the cable system which are known to have or can reasonably be expected to have less leakage integrity than the average of the system, the cable operator demonstrates compliance with a cumulative signal leakage index by showing either that (i) 10 log I_{3000} is equal to or less than −7 or (ii) 10 log I_∞ is equal to or less than 64, using one of the following formula:

$$I_{3000} = \frac{1}{\theta} \sum_{i=1}^{n} \frac{E_i^2}{R_i^2}$$

$$I_\infty = \frac{1}{\theta} \sum_{i=1}^{n} E_i^2$$

where:

$$R_i^2 = r_i^2 + (3000)^2$$

r_i is the distance (in meters) between the leakage source and the center of the cable television system;

θ is the fraction of the system cable length actually examined for leakage sources and is equal to the strand miles of plant tested divided by the total strand miles in the plant;

R_i is the slant height distance (in meters) from leakage source i to a point 3000 meters above the center of the cable television system;

E_i is the electric field strength in microvolts per meter (μV/m) measured pursuant to § 76.609(h) 3 meters from the leak i; and

n is the number of leaks found of field strength equal to or greater than 50 μV/m pursuant to Section 76.609(h).

The sum is carried over all leaks i detected in the cable examined; or

(2) prior to carriage of signals in the aeronautical radio bands and at least once each calendar year, with no more than 12 months between successive tests thereafter, the cable operator demonstrates by measurement in the airspace that at no point does the field strength generated by the cable system exceed 10 microvolts per meter (μV/m) RMS at an altitude of 450 meters above the average terrain of the cable system. The measurement system (including the receiving antenna) shall be calibrated against a known field of 10 μV/m RMS produced by a well characterized antenna consisting of orthogonal resonant dipoles, both parallel to and one quarter wavelength above the ground plane of a diameter of two meters or more at ground level. The dipoles shall have centers collocated and be excited 90 degrees apart. The half-power bandwidth of the detector shall be 25 kHz. If an aeronautical receiver is used for this purpose it shall meet the standards of the Radio Technical Commission for Aeronautics (RCTA) for aeronautical communications receivers. The aircraft antenna shall be horizontally polarized. Calibration shall be made in the community unit or, if more than one, in

any of the community units of the physical system within a reasonable

and 225–400 MHz shall comply with the following frequency separation

§ 76.614 Cable television system regular monitoring.

(3) The names and telephone numbers of local system officials who are responsible for compliance with

the cable system in the frequency bands 108–136 and 225–400 MHz for any

of a cable system is notified by the Commission that a change in operation

VOL 50 ISS 139 JL 19 1985 UMI

any of the community units of the physical system within a reasonable time period to performing the measurements. If data is recorded digitally the 90th percentile level of points recorded over the cable system shall not exceed 10 μV/m RMS; if analog recordings is used the peak values of the curves, when smoothed according to good engineering practices, shall not exceed 10 μV/m RMS.

(b) In paragraphs (a)(1) and (a)(2) of this section the unmodulated test signal used on the cable plant shall: (1) Be within the VHF aeronautical band 108–137 MHz or any other frequency in which the results can be correlated to the VHF aeronautical band and (2) have an average power level equal to the average power level of the strongest cable television carrier on the system.

(c) In paragraph (a)(1) and (2) of this section, if a modulated test signal is used, the test signal and detector technique must, when considered together, yield the same result as though an unmodulated test signal were used in conjunction with a detection technique which would yield the RMS value of said unmodulated carrier.

(d) If a sampling of at least 75% of the cable strand (and including any portions of the cable system which are known to have or can reasonably be expected to have less leakage integrity than the average of the system) as described in paragraph (a)(1) cannot be obtained by the cable operator or is otherwise not reasonably feasible, the cable operator shall perform the airspace measurements described in paragraph (a)(2).

(e) Prior to providing service to any subscriber on a new section of cable plant, the operator shall show compliance with either: (1) The basic signal leakage criteria in accordance with paragraph (a)(1) or (a)(2) of this section for the entire plant in operation or (2) a showing shall be made indicating that no individual leak in the new section of the plant exceeds 20 μV/m at 3 meters in accordance with § 76.609 fo the Rules.

(f) Notwithstanding paragraph (a) of this section, a cable operator shall be permitted to operate on any frequency which is offset pursuant to § 76.612 in the frequency band 108–137 MHz for the purpose of demonstrating compliance with the cable television basic signal leakage performance criteria.

5. 47 CFR 76.612 is revised in its entirety to read as follows:

§ 76.612 Cable television frequency separation standards.

All cable television systems which operate in the frequency bands 108–137 and 225–400 MHz shall comply with the following frequency separation standards:

(a) In the aeronautical radiocommunication bands 118–137, 225–328.6 and 335.4–400 MHz, the frequency of all carrier signals or signal components carried at an average power level equal to or greater than 10^{-4} watts in a 25 kHz bandwidth in any 160 microsecond period must operate at frequencies offset from certain frequencies which may be used by aeronautical radio services operated by Commission licensees or by the United States Government or its Agencies. The aeronautical frequencies from which offsets must be maintained are those frequencies which are within one of the aeronautical bands defined in this subparagraph, and when expressed in MHz and divided by 0.025 yield an integer. The offset must meet one of the following two criteria:

(1) All such cable carriers or signal components shall be offset by 12.5 kHz with a frequency tolerance of ±5 kHz; or

(2) The fundamental frequency from which the visual carrier frequencies are derived by multiplication by an integer number which shall be 6.0003 MHz with a tolerance of ±1 Hz (Harmonically Related Carrier (HRC) comb generators only).

(b) In the aeronautical radionavigation bands 108–116 and 328.6–335.4 MHz, the frequency of all carrier signals or signal components carrier at an average power level equal to or greater than 10^{-4} watts in a 25 kHz bandwidth in any 160 microsecond period shall be offset by 25 kHz with a tolerance of ±5 kHz. The aeronautical radionavigation frequencies from which offsets must be maintained are defined as follows:

(1) Within the aeronautical band 108–118 MHz when expressed in MHz and divided by 0.025 yield an even integer.

(2) Within the band 328.6–335.4 MHz, the radionavigation glide path channels are listed in Section 87.501 of the Rules.

Note.—The HRC system, as described above, will meet this requirement in the 328.6–335.4 MHz navigation glide path band. Those Incrementally Related Carriers (IRC) systems, with comb generator reference frequencies set at certain odd multiples equal to or greater than 3 times the 0.0125 MHz aeronautical communications band offset, e.g. (6n + 1.250 ± 0.0375) MHz, may also meet the 25 kHz offset requirement in the navigation glide path band.

6. 47 CFR 76.614 is revised in its entirety to read as follows:

§ 76.614 Cable television system regular monitoring.

Cable television operators transmitting carriers in the frequency bands 108–137 and 225–400 MHz shall provide for a program of regular monitoring for signal leakage by substantially covering the plant every three months. The incorporation of this monitoring program into the daily activities of existing service personnel in the discharge of their normal duties will generally cover all portions of the system and will therefore meet this requirement. Monitoring equipment and procedures utilized by a cable operator shall be adequate to detect a leakage source which produces a field strength in these bands of 20 μV/m or greater at a distance of 3 meters. During regular monitoring, any leakage source which produces a field strength of 20 μV/m or greater at a distance of 3 meters in the aeronautical radio frequency bands shall be noted and such leakage sources shall be repaired within a reasonable period of time. The operator shall maintain a log showing the date and location of each leakage source identified, the date on which the leakage was repaired, and the probable cause of the leakage. The log shall be kept on file for a period of two (2) years and shall be made available to authorized representatives of the Commission upon request.

7. 47 CFR 76.615 is revised in its entirety to read as follows:

§ 76.615 Notification requirements.

All cable television operators shall comply with each of the following notification requirements:

(a) The operator of the cable system shall notify the Commission annually of all signals carried in the aeronautical radio frequency bands, noting the type of information carried by the signal (television picture, aural, pilot carrier, or system control, etc.) The timely filing of FCC Form 325, Schedule 2, will meet this requirement.

(b) The operator of a cable system shall notify the Commission before transmitting any carrier or other signal component with an average power level across a 25 kHz bandwidth in any 160 microsecond time period equal to or greater than 10^{-4} watts at any point in the cable distribution system on any new frequency or frequencies in the aeronautical radio frequency bands. Such notification shall include:

(1) Legal name and local address of the cable television operator;

(2) The names and FCC identifiers (e.g. CA0001) of the system communities affected;

(3) The names and telephone numbers of local system officials who are responsible for compliance with §§ 76.610, 76.611 (effective July 1, 1990), and 76.612 through 76.616 of the Rules;

(4) Carrier and subcarrier frequencies and tolerance, types of modulation and the maximum average power levels of all carriers and subcarriers occurring at any location in the cable distribution system.

(5) The geographical coordinates of a point near the center of the cable system, together with the distance (in kilometers) from the designated point to the most remote point of the cable plant, existing or planned, which defines a circle enclosing the entire cable plant;

(6) A description of the routine monitoring procedure to be used; and

(7) For cable operators subject to § 76.611 (effective July 1, 1990), the cumulative signal leakage index derived under § 76.611(a)(1) (effective July 1, 1990) or the results of airspace measurements derived under § 76.611(a)(2) (effective July 1, 1990), including a description of the method by which compliance with basic signal leakage criteria is achieved and the method of calibrating the measurement equipment. This information shall be provided to the Commission prior to July 1, 1990 and each calendar year thereafter.

8. New 47 CFR 76.616 is added to Subpart K, Part 76, to read as follows:

§ 76.616 Operation near certain aeronautical and marine emergency radio frequencies.

The transmission of carriers or other signal components capable of delivering peak power levels equal to or greater than 10^{-5} watts at any point in a cable television system is prohibited within 100 kHz of the frequency 121.5 MHz, and is prohibited withn 50 kHz of the two frequencies 156.8 MHz and 243.0 MHz.

9. 47 CFR 76.618 is revised in its entirety to read as follows:

§ 76.618 Grandfathering.

Cable television systems are permitted to use aeronautical frequencies which were requested or granted for use by November 30, 1984, under Section 76.619 of the Rules until July 1, 1990.

10. New 47 CFR 76.619 is added to Subpart K, Part 76, to read as follows:

§ 76.619 Grandfathered Operation in the frequency bands 108–136 and 225–400 MHz.

All cable television systems operating in a grandfathered status under § 76.618 of the Rules and transmitting carriers or other signal components capable of delivering peak power equal to or greater than 10^{-5} watts at any point in the cable system in the frequency bands 108–136 and 225–400 MHz for any purpose are subject to the following requirements:

(a) The operator of the cable system shall notify the Commission annually of all signals carried in these bands, noting the type of information carried by the signal (television, aural, or pilot carrier and system control, etc.). The timely filing of FCC Form 325, Schedule 2, will meet this requirement.

(b) The operator of the cable system shall notify the Commission of the proposed extension of the system radius in these bands. Notification shall include carrier and subcarrier frequencies, types of modulation, the previously notified geographical coordinates, the new system radius and the maximum peak power occurring at any location in the cable distribution system. No system shall extend its radius in these bands without prior Commission authorization.

(c) The operator of the cable system shall maintain at its local office a current listing of all signals carried in these bands, noting carrier and subcarrier frequencies, types of modulation, and maximum peak power which occurs at any location within the cable distribution system.

(d) The operator of the system shall provide for regular monitoring of the cable system for signal leakage covering all portions of the cable system at least once each calendar year. Monitoring equipment and procedures shall be adequate to detect leakage sources which produce field strengths in these bands of 20 microvolts per meter at a distance of 3 meters. The operator shall maintain a log showing the date and location of each leakage source identified, the date on which the leakage was eliminated, and the probable cause of the leakage. The log shall be kept on file for a period of two (2) years, and shall be made to authorized representatives of the Commission on request.

(e) All carrier signals or signal components capable of delivering peak power equal to or greater than 10^{-5} watts must be operated at frequencies offset from aeronautical radio services operated by Commission licensees or by the United States Government or its agencies within 111 km (60 nautical miles) of any portion of the cable system as given in paragraph (f) of this section. (The limit of 111 km may be increased by the Commission in cases of "extended service volumes" as defined by the Federal Aviation Administration or other federal government agency for low altitude radio navigation or communication services). If an operator of a cable system is notified by the Commission that a change in operation of an aeronautical radio service will place the cable system in conflict with any of the offset criteria, the cable system operator is responsible for eliminating such conflict within 30 days of notification.

(f) A minimum frequency offset between the nominal carrier frequency of an aeronautical radio service qualifying under paragraph (d) of this Section and the nominal frequency of any cable system carrier or signal component capable of delivering peak power equal to or greater than 10^{-5} watts shall be maintained or exceeded at all times. The minimum frequency offsets are as follows:

Frequencies	Minimum frequency offsets
108–118 MHz	(50 + T) kHz.
328.6–335.4 MHz	
108–136 MHz	
225–328.6 MHz	(100 + T) kHz.
335.4–400 MHz	

In this table, T is the absolute value of the frequency tolerance of the cable television signal. The actual frequency tolerance will depend on the equipment and operating procedures of the cable system, but in no case shall the frequency tolerance T exceed ±25 kHz in the bands 108–136 and 225–400 MHz.

Appendix B.—Regulatory Flexibility Analysis

I. Need for and Purpose of Rule

1. The Commission has reaffirmed that to assure the protection of aeronautical communications from harmful interference, cable systems should not be permitted to operate on the same frequencies used by aeronautical radio services. It reaffirmed, however, that it is in the public interest for cable systems to operate in the aeronautical radio bands if they comply with frequency offset, monitoring and cumulative signal leakage requirements.

II. Summary of Issues Raised by Public Comment in Response to the Final Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. Issues Raised

2. A private aviation group suggested that the frequency offsets adopted were insufficient to protect aeronautical radio services. On the other hand, certain cable interests suggested that uniform offsets are adequate in and of themselves to assure the protection of

aeronautical communications. Thus, these petitioners request the elimination of the signal leakage performance

7. Since average power, over time, provides a better indicator of interference potential, cable operators

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT:

552.100 Scope of subpart.

This subpart explains the numbering and Regulations (VP) for potential inclusion in the GSAR.

Authorized Deviations or Variations in Clauses (Deviation FAR 52.252-6) (July 1985)

VOL 50 ISS 139 JL 19 1985 UMI

aeronautical communications. Thus, these petitioners request the elimination of the signal leakage performance criteria and a return to an annual, rather than a quarterly, monitoring requirement. Some petitioners also request clarifications on grandfather rights and notification obligations.

B. Assessment

3. Although the uniform offsets were challenged, we believe as does the FAA, that they provide adequate protection to aeronautical services. Because uniform frequency offsets are only a temporary solution, however, they cannot be relied upon to protect aeronautical channels from harmful interference in the long term. But, in view of the interim effectiveness of uniform offsets and quarterly leakage monitoring requirements, the Commission delayed the implementation of the cumulative signal leakage requirement for a period of five years. This will provide the cable industry with adequate time to develop the necessary resources and expertise to comply with this requirement and to fully depreciate existing equipment. In regard to the monitoring requirement, cable maintenance must be on-going, not just a quick, once-per-year status report. The quarterly requirement will assure the regular attention to problems, and thus prevent harmful interference.

C. Changes Made as a Result of this Proceeding

4. For the next five years cable television systems may operate in the aeronautical radio bands if they meet uniform channel frequency offset and monitoring requirements. After that time, cable systems must comply with the basic leakage performance criteria as well as the uniform offset and monitoring requirements.

5. The Commission clarified the monitoring requirement noting its intention to assure that the operator checks the system regularly for excessive leaks and makes proper repairs. These requirements do not require close-proximity inspection of every linear mile of cable in the system on a quarterly basis. Rather, cable service personnel can simply make spot checks throughout the entire system, either while on service calls or while performing installations.

6. On reconsideration, the Commission decided to allow a cable operator to extend the system radius under the old aeronautical rules so that a segment of the community, or an adjacent community not yet served by the cable system, would not be deprived of service for a period of perhaps as long as five years.

7. Since average power, over time, provides a better indicator of interference potential, cable operators may now use average rather than peak power as the cable signal threshold.

8. The cable system power levels, at which notification requirements apply, were relaxed because low level signals on a cable system have a very minimal potential to interfere with aeronautical radio services.

III. Significant Alternatives Considered and Rejected

9. We considered allowing cable usage of non-emergency aeronautical radio frequencies without frequency offsets, cumulative signal leakage index requirements (CLI) or quarterly monitoring obligations. These rules are necessary, however, to ensure that cable systems do not cause harmful interference to aeronautical radio services. The uniform offsets, although temporary, are necessary under current conditions, whereas, the CLI as well as the monitoring obligations are long-term tools for minimizing CATV signal leakage in the aeronautical bands.

[FR Doc. 85-18737 Filed 7-18-85; 8:45 am]
BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[APD 2800.12 CHGE15]

General Services Administration Acquisition Regulation; Identification of Provisions and Clauses

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) Chapter 5, is amended to revise section 552.103, 552.252-5, and 552.252-6 in order to provide a method of identifying provisions and clauses that the FAR and GSAR prescribe for use on a "substantially the same as" or "substantially as follows" basis. Variations of such provisions and clauses are not deviations and are not labeled as such. Therefore, the reader is not alerted to the fact that the provision or clause is not worded exactly the same as the FAR or GSAR provision or clause. In addition, minor editorial changes are made in section 552.100 and 552.101. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-3782.

SUPPLEMENTARY INFORMATION: On April 23, 1985, the General Services Administration published in the Federal Register (50 FR 15943) GSAR Notice No. 5-85 inviting comments from interested parties on these proposed changes to the regulation and provided a 30 day comment period. Comments received from the National Security Industrial Association and various GSA offices have been reviewed, reconciled, and incorporated, when appropriate, into this final rule.

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The regulation will benefit prospective contractors by making it easier for them to identify variations in standard FAR and GSAR provisions and clauses when reviewing solicitations and contracts. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 552

Government procurement.

1. The authority for 48 CFR Part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. The table of contents for Part 552 is amended by revising the entries for section 552.252-5 and 552.252-6 as set forth below:

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Sec.

Subpart 552.2—Text of Provisions and Clauses

* * * * *

552.252-5 Authorized Deviations or Variations in Provisions.
552.252-6 Authorized Deviations or Variations in Clauses.

* * * * *

Authority: 40 U.S.C. 486(c).

3. Section 552.100 is revised to read as follows:

552.100 Scope of subpart.

This subpart explains the numbering system used in Subpart 552.2 and prescribes procedures for incorporating and identifying provisions and clauses in solicitations and contracts.

4. Section 552.101 is amended by revising paragraph (b) to read as follows:

552.101 Using Part 552.

* * * * *

(b) *Numbering.* When a provision or clause in this Part has the same title as a similar provision or clause contained in the FAR, that provision or clause is preceded by the number 5 and is included under the same subsection number and caption as in the FAR. Provisions or clauses numbered in this manner represent: (1) Provisions or clauses which are "substantially" the same as FAR provisions or clauses, and (2) provisions and clauses which are to be used instead of FAR provisions. All supplemental provisions and clauses are numbered in the same manner as the FAR, except that the number is preceded by the chapter number and the subsection numbers begin with 70 and are sequentially numbered; e.g., 552.232-70, 552.232-71, etc.

* * * * *

5. Section 552.103 is amended by adding paragraphs (d) and (e) to read as follows:

552.103 Identification of provisions and clauses.

* * * * *

(d) When a "substantially the same as" provision or clause is used that varies from a FAR or GSAR clause, the word "(VARIATION)," the date of the variation, and the staff office/service/contracting activity and/or contracting office originating the variation, shall be included as a part of the title of the provision or clause, along with the FAR or GSAR citation. If there is more than one variation of a provision or clause, the variations are titled (VARIATION I), (VARIATION II), (VARIATION III) (552.232-70—PAYMENT DUE DATE (APR 1985)—(VARIATION I—OIRM (KESAO)). The contracting officer shall show the provision or clause citation in the solicitation or contract. Identification of variations of provisions or clauses which occur during negotiations is not required unless an amendment to the solicitation is issued.

(e) Variations of FAR or GSAR provisions or clauses should generally be used for individual cases. A copy of provision or clause variations developed for repeated use shall be furnished to the Office of GSA Acquisition Policy and Regulations (VP) for potential inclusion in the GSAR.

6. Section 552.107 is revised to read as follows:

552.107 Provisions and clauses prescribed in Subpart 552.1.

(a) The contracting officer shall insert the provision at GSAR 552.252-5, Authorized Deviations or Variations in Provisions, in solicitations that include any FAR or GSAR provision with an authorized deviation or variation. This provision shall be used in lieu of the FAR provision at 52.252-5.

(b) The contracting officer shall insert the provision at GSAR 552.252-6, Authorized Deviations or Variations in Clauses, in solicitations and contracts that include any FAR or GSAR provision with an authorized deviation or variation. This clause shall be used in lieu of the FAR provision at 52.252-6.

7. Sections 552.252-5 and 552.252-6 are revised to read as follows:

552.252-5 Authorized Deviations or Variations in Provisions.

As prescribed in GSAR 552.107(a), insert the following provision:

Authorized Deviations or Variations in Provisions (Deviation FAR 52.252-5) (July 1985)

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation or variation is indicated by the addition of "(DEVIATION)" or "(VARIATION)" after the date of the provision, if the provision is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5). The use in this solicitation of any Federal Acquisition Regulation (FAR) provision with an authorized deviation or variation that is published in the General Services Administration Acquisition Regulation is indicated by the addition of "(DEVIATION (FAR provision no.))" or "(VARIATION (FAR provision no.))" after the date of the provision.

(b) The use in this solicitation of any General Services Administration Acquisition Regulation provision with an authorized deviation or variation is indicated by the addition of "(DEVIATION)" or "(VARIATION)" after the date of the provision.

(c) Changes in wording of provisions that are prescribed for use on a "substantially the same as" basis are not considered deviations. Therefore, when such provisions are not worded exactly the same as the FAR or GSAR provision, they are identified by the word "(VARIATION)."

(End of Provision)

552.252-6 Authorized Deviations or Variations in Clauses.

As prescribed in GSAR 552.107(b), insert the following clause:

Authorized Deviations or Variations in Clauses (Deviation FAR 52.252-6) (July 1985)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation or variation is indicated by the addition of "(DEVIATION)" or "(VARIATION)" after the date of the clause, if the clause is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5). The use in this solicitation of any Federal Acquisition Regulation (FAR) clause with an authorized deviation or variation that is published in the General Services Administration Acquisition Regulation is indicated by the addition of "(DEVIATION (FAR clause no.))" or "(VARIATION (FAR clause no.))" after the date of the clause.

(b) The use in this solicitation of any General Services Administration Acquisition Regulation clause with an authorized deviation or variation is indicated by the addition of "(DEVIATION)" or "(VARIATION)" after the date of the clause.

(c) Changes in wording of provisions that are prescribed for use on a "substantially the same as" basis are not considered deviations. Therefore, when such provisions are not worded exactly the same as the FAR or GSAR provision, they are identified by the word "(VARIATION)."

(End of Clause)

Dated: July 11, 1985.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 85-17222 Filed 7-18-85; 8:45 am]
BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by vessels permitted in the incidental longline category in the regulatory area. Closure of this fishery is necessary because the annual catch quota of 145 short tons (st) will be attained by the effective date. The intent of this action is to prevent exceeding the annual quota established for this segment of the fishery and thereby maintain the U.S. obligations under the International Commission for the Conservation of Atlantic Tunas.

VOL
50
ISS
139
JL
19
1985
UMI

EFFECTIVE DATES: 0001 hours Eastern Daylight Time (EDT) July 19, 1985, through December 31, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617–281–3600, ext. 325, or David S. Crestin, 617–281–3600, ext. 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on June 17, 1983 (48 FR 27755).

Section 285.22(f)(1) of the regulations provides for an annual quota of 145 short tons (st) of Atlantic bluefin tuna to be taken by vessels permitted in the Incidental longline category in the regulatory area. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is required under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of Atlantic bluefin tuna of 135 st and the recent catch rate, that the annual quota of Atlantic bluefin tuna allocated to vessels permitted in the incidental longline category will be attained by the effective date. Fishing for and retention of any Atlantic bluefin tuna by longline vessels must cease at 0001 hours EDT on July 19, 1985.

NOAA closed the fishery for Atlantic bluefin tuna conducted by vessels permitted in the incidental longline category in the area south of 36°00′ N. latitude on May 14, 1985 (50 FR 20420, May 16, 1985). This action completes the closure of the total regulatory area for vessels permitted in the incidental longline fishery.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

(16 U.S.C. 971 *et seq.*)

Dated: July 16, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85–17170 Filed 7–18–85; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 50, No. 139
Friday, July 19, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 907 and 908

Navel Oranges Grown in Arizona and Designated Part of California; Valencia Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rules.

SUMMARY: The following proposed administrative rules and changes in the regulations governing the handling of California-Arizona navel and Valencia oranges would implement recent amendments to the marketing orders for these commodities. The proposals include: provisions for an interest charge and a late payment charge on late assessments; provisions for reporting to the marketing order administrative committees and recordkeeping; requirements for petitioning the committees to recommend to the Secretary that a continuance referendum be held; and a standardized definition of the term "field box".

DATE: Comments due: August 19, 1985.

ADDRESS: Interested persons are invited to submit written comments in duplicate to: Docket Clerk, Room 2069–S, F&V, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Comments should reference the date and page number of the **Federal Register** and will be made available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: These proposed actions have been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and have been designated "non-major" rules. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

These proposals are made under Marketing Order No. 907, as amended (7 CFR Part 907, 50 FR 1429), regulating the handling of navel oranges grown in Arizona and designated part of California, and Marketing Order No. 908, as amended (7 CFR Part 908, 50 FR 1429), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as "the act". These proposals are based upon the recommendations of and information submitted by the Navel and Valencia Orange Administrative Committees and upon other available information.

Marketing Order Nos. 907 and 908 were amended effective January 11, 1985. Amendments to the orders authorized the committees, which administer the marketing orders locally, to recommend to the Secretary such rules as would be necessary to implement the provisions of the amendments. All of the proposals herein are administrative in nature.

The first proposal would set an interest charge of 1–½ percent per month on any assessment not received by the appropriate committee within 30 days of the date such assessment was first invoiced to the handler. In addition, a late payment charge of 5 percent would be levied on any assessment not received by the appropriate committee within 60 days of the date such assessment was first invoiced to the handler. This proposal recognizes that nonpayment of assessments can have an adverse impact on the operation of the committees and could require them to borrow money and pay interest to continue operating. The proposed charges for late payment and nonpayment should serve to encourage handlers to pay their assessment obligations promptly. By paying the obligations when due, handlers would not be subject to either the interest or late payment charge. This proposal would add a new § 907.104 to the rules and regulations under the navel orange marketing order and a new § 908.104 to the rules and regulations under the Valencia orange marketing order. These rules would implement the recently amended §§ 907.41 and 908.41 of the orders.

The second proposal would implement the new §§ 907.73 and 908.73 which require that handlers maintain specific records for three years. Sections 907.173 and 908.173, respectively, would be added to the rules and regulations of the marketing orders under a new center heading "Records." The following records would be specified as those required to be maintained by handlers for the required three-year period:

(a) Details of all oranges received, including quantity, origin (including grove location), and date of receipt at packinghouse;

(b) An inventory of oranges in storage held at the beginning of each prorate week;

(c) Daily orange packout records by lot or grower;

(d) Signed trucks manifests, car manifests, bills of lading, or other documents reflecting orange shipment details;

(e) Copies of invoices or billings to customers for oranges sold;

(f) Cash sales tickets or other documents reflecting the sale of oranges for cash;

(g) Shipping register or equivalent form of information, pool statements, and records of accounting made to growers for oranges handled;

(h) Records showing the disposition of oranges to by-products plants; and

(i) Records showing the disposition of all other oranges.

These recordkeeping requirements would permit the committees to verify compliance with regulation under the orders and are consistent with § 8d of the act. In carrying out this proposed provision, the committees, through their designated employees, would have access to premises and records of handlers to verify the information submitted in the form of reports. If implemented, this provision would add to the ability of the committees to investigate and report violations of the orders in a timely fashion.

Although there is clear authority for this recordkeeping rule and the records specified for retention appear to be necessary support documents for the information submitted to the committees, the Department would be interested in learning if the specified records are among those which would be retained by handlers in their normal

course of business and whether more or fewer information items for retention

must be submitted to VOAC on or before July 15 of such odd-numbered

(i) Unless otherwise specified in a particular report form, when information

(e) Copies of invoices or billings to customers for oranges sold;

committee's office within 30 days of the date such assessment was first invoiced

11. A new § 908.183 would be added under a new heading "Referenda" to

VOL 50 ISS 139 JL 19 1985 UMI

course of business and whether more or fewer information items for retention should be specified.

The third proposal would amend §§ 907.142 and 908.142 by clarifying the particular report form to be used by handlers when responding to committee requests for written information regarding acreage, tree crop estimates, annual clean picks partial picks, and fruit remaining to be picked. The fourth proposal would define "field box" as used in this and other reports to mean field boxes having a volume of 3,115 cubic inches. Both of these proposals would contribute to the accuracy of the computation of prorate bases. Sections 907.53 and 907.72 and 908.53 and 908.72 authorize these changes in the rules and regulations of the orders. The changes are designed to improve crop estimation by handlers and consequently provide more accurate handler prorate bases. Approval by the Office of Management and Budget (OMB) of the information collection will be requested at the time the final rule is developed.

The final proposal would add new §§ 907.183 and 908.183, respectively, under a new heading "Referenda." This action is authorized under §§ 907.83(d) and 908.83(d), respectively, which specify that continuance referenda be conducted when recommended by the committee. These paragraphs further specify that the committees should develop "such rules and regulations as are necessary to establish the basis for the recommendation" to hold a referendum. The committees therefore recommended to the Secretary the basis for the new §§ 907.183 and 908.183 that are proposed herein.

It is proposed that the NOAC or VOAC shall recommend to the Secretary that a referendum be held to ascertain whether continuance of the marketing order is favored by growers whenever the committee is petitioned, in writing, by at least one fourth of the producers who produced navel or Valencia oranges for market within the production area during the previous fiscal year. The petitioning producers must have produced for market at least 22 percent of the volume of oranges produced during that fiscal year within the production areas. Further, on the navel orange petition, all signatures shall have been inscribed on the petition during the period November 1 and December 14 of an even-numbered year, and the petition must be presented to the NOAC on or before December 15 of such even-numbered year. For Valencia oranges, the signatures shall have been inscribed between June 1 and July 14 of an odd-numbered year, and the petition must be submitted to VOAC on or before July 15 of such odd-numbered year.

All petitions would be required to be presented on a form approved and provided by the respective committee. The forms have not yet been developed. As soon as they have been developed, they will be submitted to OMB, and they will not be used until OMB approval has been obtained.

Several aspects of this proposed rule merit discussion. Is the requirement that 25 percent of the producers must sign the petition too high or too low a percentage? Is there another percentage that would be more appropriate? Should the petition be submitted to the administrative committee or directly to the Department of Agriculture? To provide a means by which producer eligibility and production can be determined, what kinds of information should be requested on the petition: name? address? telephone number? total production in field boxes? total number of acres of groves? location of groves? packinghouses which handle the producer's fruit? status of legal entity (partnership, cooperative, or other)? information on whether the producer resides on the property which produces the fruit? for cooperatives—a certification by the Board of Directors? the number of producers for which the cooperative is signing? Along these lines, should a cooperative be permitted to sign the petition on behalf of its producers? Also, is six weeks an appropriate period during which the signatures shall be inscribed?

In addition to answers to the questions posed above, the Department invites relevant comments on other aspects of all of the proposed rules. The public will be provided 30 days to comment upon these proposals.

List of subjects in 7 CFR Parts 907 and 908

Marketing agreements and orders, California, Arizona, Oranges (Navel and Valencia).

1. The authority citation for 7 CFR Parts 907 and 908 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

2. Section 907.100 would be amended by adding a new paragraph (i) to read as follows:

§ 907.100 Definitions.

* * * * *

(i) Unless otherwise specified in a particular report form, when information is requested to be reported in the unit of measure "field box," such field box shall be deemed to have a volume of 3,115 cubic inches.

3. A new § 907.104 would be added to read as follows:

§ 907.104 Interest and late payment charges.

(a) There shall be an interest charge of 1½ percent per month on any assessment not received at the committee's office within 30 days of the date such assessment was first involved to the handler; and

(b) In addition to the interest charge specified in paragraph (a) above, there shall be a late payment charge of 5 percent on any assessment not received at the committee's office within 60 days of the date such assessment was first invoiced to the handlers.

4. Section 907.142 would be amended by adding a new sentence at the end of paragraph (a). Paragraph (a) as revised would read as follows:

§ 907.142 Other reports.

(a) Each handler shall make available to the committee's field department representative, upon request, information as to the quantity of oranges which has been harvested from all groves or portions thereof under such handler's control. When requested, the information shall be supplied in writing on Handler Report of Picks and Estimates (Base Estimate Form No. 1), requiring information on designated individual blocks as to acreage, original tree crop estimate by the handler, actual clean picks, partial picks to date, and oranges remaining to be picked.

* * * * *

5. A new § 907.173 would be added, under a new center heading "Records", to read as follows:

Records

§ 907.173 Records to be maintained.

The following records are specified for maintenance by all handlers pursuant to § 907.73:

(a) Details of all oranges received, including quantity, origin (including grove location), and date of receipt at packinghouse;

(b) An inventory of oranges in storage held at the beginning of each prorate week;

(c) Daily orange packout records by lot or grower;

(d) Signed truck manifests, car manifests, bills of lading, or other documents reflecting orange shipment details;

(e) Copies of invoices or billings to customers for oranges sold;

(f) Cash sales tickets or other documents reflecting the sale of oranges for cash;

(g) Shipping register or equivalent form of information, pool statements, and records of accounting made to growers for oranges handled;

(h) Records showing the disposition of oranges to byproducts plants; and

(i) Records showing the disposition of all other oranges.

6. A new § 907.183 would be added under a new heading "Referenda" to read as follows:

Referenda

§ 907.183 Petitions.

The committee shall recommend to the Secretary that a referendum be held to ascertain whether continuance of this part is favored by growers whenever the committee is petitioned, in writing, to do so by at least one fourth of the producers who produced navel oranges for market within the production area in the previous fiscal year, *Provided that:*

(a) The petitioning producers produced for market at least 22 percent of the volume of navel oranges produced within the production area during said fiscal year; and

(b) All signatures shall have been inscribed on the petition during the period between November 1 and December 14 of an even-numbered year; and

(c) The petition is presented to the committee on or before December 15 of such even-numbered year; and

(d) The petition is presented on a form approved and provided by the committee.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

7. Section 908.100 would be amended by adding a new paragraph (i) to read as follows:

§ 908.100 Definitions.

* * * * *

(i) Unless otherwise specified in a particular report, when information is required to be reported in the unit of measure "field box," such field box shall be deemed to have a volume of 3,115 cubic inches.

8. A new § 908.104 would be added to read as follows:

§ 908.104 Interest and late payment charges.

(a) There shall be an interest charge of 1½ percent per month on any assessment not received at the committee's office within 30 days of the date such assessment was first invoiced to the handler; and

(b) In addition to the interest charge specified in paragraph (a) above, there shall be a late payment charge of 5 percent on any assessment not received at the committee's office within 60 days of the date such assessment was first invoiced to the handler.

9. Section 908.142 would be amended by adding a new sentence at the end of paragraph (a). Paragraph (a) as revised would read as follows:

§ 908.142 Other reports

(a) Each handler shall make available to the committee's field department representative, upon request, information as to the quantity of oranges which has been harvested from all groves or portions thereof under such handler's control. When requested, the information shall be supplied in writing on Handler Report of Picks and Estimates (Base Estimate Form No. 1), requiring information on designated individual blocks as to acreage, original tree crop estimate by the handler, actual clean picks, partial picks to date, and oranges remaining to be picked.

* * * * *

10. A new § 908.173 would be added, under a new center heading "Records," to read as follows:

Records

§ 908.173 Records to be maintained.

The following records are specified for maintenance by all handlers pursuant to § 908.73:

(a) Details of all oranges received, including quantity, origin (including grove location), and date of receipt at packinghouse;

(b) An inventory of oranges in storage held at the beginning of each prorate week;

(c) Daily orange packout records by lot or grower;

(d) Signed truck manifests, car manifests, bills of lading, or other documents reflecting orange shipment details;

(e) Copies of invoices or billings to customers for oranges sold;

(f) Cash sales tickets or other documents reflecting the sale of oranges for cash;

(g) Shipping register or equivalent form of information, pool statements, and records of accounting made to growers for oranges handled;

(h) Records showing the disposition of oranges to by-products plants; and

(i) Records showing the disposition of all other oranges.

11. A new § 908.183 would be added under a new heading "Referenda" to read as follows:

Referenda

§ 908.183 Petitions.

The Committee shall recommend to the Secretary that a referendum be held to ascertain whether continuance of this part is favored by growers whenever the Committee is petitioned, in writing, to do so by at least one fourth of the producers who produced Valencia oranges for market within the production area in the previous fiscal year, provided that:

(a) The petitioning producers produced for market at least 22 percent of the volume of Valencia oranges produced within the production area during said fiscal year; and

(b) All signatures shall have been inscribed on the petition in the period between June 1 and July 14 of an odd-numbered year; and

(c) The petition is presented to the committee on or before July 15 of such odd-numbered year; and

(d) The petition is presented on a form approved and provided by the committee.

Dated: July 16, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 85–17234 Filed 7–18–85; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AWA–20]

Proposed Alteration of the Massachusetts Transition Area and the North Atlantic Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Massachusetts Transition Area and the North Atlantic Control Area to provide additional domestic airspace for air traffic in the vicinity of Nantucket Airport, MA.

DATES: Comments must be received on or before September 3, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, New England Region, Attention: Manager, Air Traffic Division, Docket No. 85–AWA–20, Federal Aviation

Administration, 12 New England Executive Park, Burlington, MA 01803.

Public Affairs, Attention: Public Information Center, APA–430, 800

Aviation, which pertains to the establishment of air navigation

41°00'00"N., long. 70°00'00"W.; to lat.
41°09'00"N., long. 70°00'00"W.; to lat.

Commission's Public Reference Room,

are intended to: (1) update the proxy

Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert G. Burns, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Coments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85–AWA–20." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering amendments to § 71.163 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Massachusetts Transition Area and the North Atlantic Control Area to provide additional domestic airspace for approach control service in the vicinity of Nantucket Airport, Nantucket, MA. To allow for safe and efficient approach control service into Nantucket Airport, MA, additional domestic airspace is necessary for vectoring for approaches to Runway 6 and departures from Runway 24. Sections 71.163 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consisent with the adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Aviation safety, Additional control areas and transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.163 is amended as follows:

North Atlantic, MA [Amended]

In the title by removing "North Atlantic, MA" and substituting "North Atlantic" and in the text after "shoreline" insert "to lat. 41°08'30"N., long. 71°04'45"W.; to lat. 41°00'00"N., long. 70°51'00"W.; to lat. 41°00'00"N., long. 70°00'00"W.; to lat. 41°09'00"N., long. 70°00'00"W.; to lat. 41°20'00"N., long. 69°45'10"W.; to lat. 41°38'00"N., long. 69°45'10"W.; to lat. 41°40'00"N., long. 69°46'30"W.; to lat. 41°40'00"N., long. 67°00'00"W.;"

3. Section 71.181 is amended as follows:

Massachusetts, MA [Amended]

In the title by removing "Massachusetts, MA" and substituting "Massachusetts" and in the test by removing the words "to lat. 41°10'25"N., long. 70°12'50"W.; to lat. 41°04'00"N., long. 70°42'30"W.; to lat. 41°12'45"N., long. 70°42'30"W." and substituting the words "to lat. 41°00'00"N., long. 70°00'00"W.; to lat. 41°00'00"N., long. 70°51'00"W.; to lat. 41°08'30"N., long. 71°04'45"W.;"

Issued in Washington, D.C., on July 11, 1985.

John Watterson,

Acting Manager, Airspace, Rules and Aeronautical Information Division.

[FR Doc. 85–17163 Filed 7–18–85; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 239, 240 and 270

[Release Nos. 33–6592; 34–22195; 35–23752; IC–14606; File No. S7–31–85]

Proxy Rules—Comprehensive Review

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is publishing for comment proposals to update and simplify the proxy rules. The proposed revisions result from a comprehensive review of the proxy rules undertaken as part of the Commission's Proxy Review Program. The principal substantive revisions would streamline proxy disclosure and enhance investor protection by applying the principles of the integrated disclosure system to proxy and information statements and by requiring additional disclosure related to independent public accountants in proxy statements and other filings containing audited financial statements.

DATE: Comments should be received on or before September 17, 1985.

ADDRESS: Comments should be submitted in triplicate to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comment letters should refer to File No. S7–31–85. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Sarah A. Miller or Leslie Murphy, (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, or (with respect to accounting issues) Robert Burns or Leland Graul, (202) 272–2130, Office of Chief Accountant, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") is publishing for comment proposed revisions to the proxy and information statement rules [1] under the Securities Exchange Act of 1934 ("Exchange Act").[2] The Commission is proposing revisions to Regulation 14A,[3] including Schedules 14A [4] and 14B;[5] Regulation 14C,[6] including Schedule 14C;[7] Regulation S–K;[8] and Form S–18.[9] In addition, corresponding amendments to a number of other rules, regulations, forms and schedules are proposed in order to revise or correct references to Regulations and Schedules 14A and 14C.[10].

I. Executive Summary

The proposals, which are part of the Commission's Proxy Review Program,[11] are intended to: (1) update the proxy rules to comport with present practice, staff administration, new laws and changes in other Commission rules; (2) clarify and simplify the rules; and (3) enhance investor protection. In addition to various technical changes and changes to the procedural rules, the proposals also encompass changes in disclosure requirements. The principal proposed disclosure changes relate to: (1) the application of the integrated disclosure system to proxy and information statements involving business combinations or the authorization, issuance, modification or exchange of securities; and (2) independent public accountants.

A. Application of Integrated Disclosure System

The proposed revisions to Schedule 14A would apply the principles of the integrated disclosure system to proxy statement disclosure. Thus, to the extent certain proxy statement disclosure requirements call for information which has been previously reported in other filings with the Commission, that information may be incorporated by reference, and not reiterated in the proxy statement, to the same extent as is permitted when a company registers securities under the Securities Act of 1933 ("Securities Act").[12] In newly adopted Form S–4, company-oriented information regarding the registrant and the other person involved in the transaction may be "tiered;" *i.e.*, the extent to which incorporation by reference is permissible depends upon whether the company meets the requirements of Form S–2 or S–3 or must use Form S–1.[13] Similarly, tiering would be permitted for company-oriented information primarily in proposed Item 13, "Mergers, consolidations, acquisitions and similar matters" and proposed Item 14, "Financial information."[14] The latter is required in proxy statements for business combination plans as well as for the authorization, issuance, modification or exchange of securities.[15]

[1] 17 CFR 240.14a-1 through 240.14c-101.

[2] 15 U.S.C. 78a—78kk (1982), *as amended by* Act of June 6, 1983, Pub. L. No. 98–38, 97 Stat. 205 (1983).

[3] 17 CFR 240.14a-1 through. 240.14b-1

[4] 17 CFR 240.14a-101.

[5] 17 CFR 240.14a-102.

[6] 17 CFR 240.14c-1 through 240.14c-101.

[7] 17 CFR 240.14c-101.

[8] 17 CFR Part 229.

[9] 17 CFR 239.28.

[10] The corresponding amendments would affect: Rule 3–05(b) of Regulation S–X (17 CFR 210.3–05(b)), Rule 14f-1 (17 CFR 240.14f-1), Rule 13e-3 (17 CFR 240.13e-3) and Schedule 13E–3 (17 CFR 240.13e-100) under the Exchange Act; Forms S–4 and F–4 (17 CFR 239.25 and 239.34) under the Securities Act of 1933; and Rule 20a–3 (17 CFR 270.20a–3) under the Investment Company Act of 1940.

[11] The amendments proposed today are the sixth rule-making initiative in the Commission's program. *See:* Release No. 33–6441 (December 2, 1982) [47 FR 55661], new uniform Regulation S–K item relating to the disclosure of certain relationships and transactions involving management; Release No. 34–20021 (July 25, 1983) [47 FR 35082], amendments designed to facilitate shareholder communications and Release No. 34–21901 (April 5, 1985) [50 FR 13612], proposal of further amendments; Release No. 34–20091 (August 16, 1983) [48 FR 38218], amendments to the shareholder proposal rule, Rule 14a–8; Release No. 33–6486 (September 23, 1983) [48 FR 44467], amendments to the uniform Regulation S–K item governing the disclosure of executive compensation. The most recent initiative was the adoption of Forms S–4 and F–4, new registration forms to be used in connection with business combination transactions (Release Nos. 33–6578 and 6579 (April 23, 1985) [50 FR 18960]). The remaining initiative, the regulation of proxy contests, will be the subject of a separate project. In addition, before the Commission's electronic filing system ("Edgar") becomes fully operational, there will be further changes in the rules to accommodate electronic filing and dissemination.

[12] 15 U.S.C. 77a–77aa (1982).

[13] 17 CFR 239.12, 239.13 and 239.11, respectively.

[14] Proposed Items 13 and 14 are based upon current Items 14 and 15.

[15] In addition to the tiered system, proposed Schedule 14A would permit incorporation by reference of the company-oriented information from an annual report to security holders furnished in connection with the same meeting or solicitation, unlike the present proxy rules, which only permit incorporation by reference of financial statements.

In addition to the use of incorporation by reference, the proposals reflect several improvements in disclosure proposed for election, approval, or ratification by the security holders, such information is material to the security

companies change accountants, the impact such changes may have on the

Attention is directed to the text of the proposed changes, which appears at the end of the release, for a more complete

definition refers to a registrant's record date as set in accordance with state law.

are exempt from proxy rules pursuant to current Rule 14a–2. When the

In addition to the use of incorporation by reference, the proposals reflect several improvements in disclosure requirements which also build upon the integrated disclosure system. First, Item 13 would revise and update transaction information to comport with and reflect improvements made to transaction disclosure in Form S–4. Second, Item 13 as well as proposed Items 11 and 12, which are applicable to the authorization, issuance, modification or exchange of securities, would require the inclusion of the information regarding the market price of securities and other security holder matters called for by Item 201 of Regulation S–K.[16] This item is part of the "basic information package" which is the cornerstone of the integrated disclosure system, containing the information which is necessary for all investment decisions and must be included in the annual report to security holders, in Exchange Act periodic reports and in Securities Act registration statements. The Item 201 information, like the other company-oriented information in Item 13 and the financial information in Item 14, could be incorporated by reference according to the tiered system. The Commission believes that building upon the foundation laid by Form S–4 by updating and improving disclosure and by applying incorporation by reference to the proxy statement context would enhance investor protection and result in a substantial reduction of burdens on reporting companies.

B. Independent Public Accountants

In light of the importance of the public accountant's role in the disclosure system under the federal securities laws, the Commission proposes to increase the disclosure concerning the registrant's accounting firm. The proposed changes would enhance investor protection by requiring additional disclosure related to independent accountants in two areas. These areas are: (1) self-regulation, and (2) changes of accountants and any disagreements accompanying or preceding such changes. The requirement in the first area would apply only to proxy statements, but the requirement in the second area would apply to registration statements and Exchange Act periodic reports as well as to proxies.[17] Where auditors are proposed for election, approval, or ratification by the security holders, such information is material to the security holder's decision to approve or disapprove the nominated accounting firm. When the auditor is selected by the Board of Directors, this information is material where security holders are voting to elect the directors. It is also material to the security holder's evaluation of the financial statements.

Proposed Item 9 to Schedule 14A, "Independent public accountants," would require registrants to disclose whether or not their independent auditors are members of a voluntary self-regulatory organization which has both a peer review program and an independent oversight function, both of which are subject to review by the Commission. If the auditor is a member of such an organization, a statement must be made as to whether the auditor has had such a review, and, if so, the date of the most recent peer review report.

The second proposed change to Item 9 would relate to the requirement to disclose whether a disagreement with the prior accountant over accounting principles has occurred in connection with a change of accountants. This change would not affect existing requirements for registrants who had an Exchange Act reporting requirement at the time the change in accountants occurred. The proposal would revise Item 9, Item 304 of Regulation S–K [18] and Form S–18 so that disclosure would be required in annual reports to security holders filed pursuant to Rule 14a–3 or Rule 14c–3 of the Exchange Act, proxy statements, registration statements, and periodic reports about changes in accountants which have not been previously reported.[19] These revisions will enhance investor protection by requiring initial public offerings, and filings by Exchange Act reporting registrants who were not subject to Form 8–K filing requirements at the time the change occurred, to include the same disclosure that is presently required only if there is a Form 8–K obligation at the time of the change.

In addition to the proposed changes, the Commission's concerns about the manner and circumstances in which companies change accountants, the impact such changes may have on the integrity of the financial statements, and the adequacy of disclosure about "opinion shopping" are reflected in the issuance today of a concept release on "opinion shopping." [20]

C. Additional Changes

Among the other significant changes proposed are: (1) a revised Schedule 14A item concerning compensation plans being voted on which would combine and simplify three existing items, eliminate the disparities in disclosure requirements between different types of plans, and reduce from five to three years the period for which information regarding plans previously in effect would be required;[21] (2) an amendment to Rule 14a–3(b) that would clarify the circumstances under which an annual report to security holders must be furnished in connection with a special meeting; and (3) clarification throughout the proxy rules of their application to written consents or authorizations for actions to be taken without a meeting of security holders.

A number of other proposed changes will codify staff practice, clarify requirements, reposition items more logically for ease of compliance, and make the proxy rules consistent with other rules under both the Securities Act and the Exchange Act. The term "issuer" would be redesignated "registrant," though keeping the same definition. This would simplify compliance with the proxy rules and Regulation S–K, since the same term will be applied in both.[22] Other technical revisions would be made throughout the proxy rules to make the language consistent with language changes adopted as part of the integrated disclosure system.[23]

Part II of the release provides a synopsis of the proposed changes. It is divided into six sections: (A) Regulation 14A; (B) Schedule 14A (includes changes also proposed to Regulation S–K and Form S–18); (C) Schedule 14B; (D) Regulation 14C; (E) Schedule 14C; and (F) Corresponding amendments.

[16] 17 CFR 229.201. Market price of and dividends on the registrant's common equity and related stockholder matters.

[17] For investment companies, this proposal would require disclosure only in proxy statements and annual reports to security holders.

[18] 17 CFR 229.304. Disagreements with accountants on accounting and financial disclosure. This item is proposed to be retitled, "Changes in and disagreements with accountants on accounting and financial disclosure."

[19] The term "previously reported" is defined in Rule 12b–2 (17 CFR 240.12b–2). Such information may have been reported, *e.g.*, on Forms 8–K (Item 4) (17 CFR 249.308), 10–Q (Item 5 of Part II) (17 CFR 249.308a), or N-SAR (Items 77K and 102)) (17 CFR 274.101).

[20] *See* Release No. 33–6594 (July 1, 1985) [50 FR 28219, July 11, 1985].

[21] This is proposed Item 10, a combination of existing Items 9, 10 and 11.

[22] Although the definitions of "registrant" as proposed in Regulation 14A and 14C vary from the definitions of the same term in Rule 405 under the Securities Act (17 CFR 230.405) and Rule 12b–2 under the Exchange Act, disclosure required by Regulation S–K with respect to the registrant would be required for the appropriate entity regardless of the type of filing involved.

[23] Release No. 33–6383 (March 3, 1982) [47 FR 11380].

Attention is directed to the text of the proposed changes, which appears at the end of the release, for a more complete understanding.

II. Discussion of the Proposals

A. Regulation 14A

Regulation 14A is applicable to the solicitation of proxies, defined in Rule 14a–1 as including any proxies, consents or authorizations with respect to securities registered pursuant to Section 12 of the Exchange Act. Rules adopted under the Public Utility Holding Company Act of 1935 [24] and the Investment Company Act of 1940 [25] make the regulation applicable as well to the solicitation of proxies, consents and authorizations with respect to the securities of certain companies subject to those statutes. In addition to technical revisions made throughout the proxy rules (such as the redesignation of the term "issuer" as "registrant" and the term "officer" as "executive officer" [26] whenever applicable in order to be consistent with the terms as used in Regulation S–K, as well as the substitution of "security holder" for "shareholder"), the Commission proposes the revisions to Regulation 14A rules described below.[27]

One change that is made generally throughout is that the proposals specifically address consents and authorizations in order to clarify certain disclosure requirements. Despite the fact that the general term "proxy" is defined in Rule 14a–1 to include consents and authorizations,[28] questions frequently arise concerning the applicability of the proxy rules to such solicitations. Accordingly, the proposals adapt the proxy solicitation rules to deal explicitly with solicitations of written consents or authorizations when the circumstances warrant separate treatment.

Rule 14a–1, Definitions. Rule 14a–1 contains several proposed revisions. The first proposal would add to Rule 14a–1 a new defined term, "record date," because the term is used elsewhere in the proxy rules and currently is not defined. The proposed definition refers to a registrant's record date as set in accordance with state law. In addition, the term "registrant" is substituted for "issuer," and the definition of "last fiscal year" is revised to clarify the applicability of the definition to consent solicitations. A registrant's last fiscal year will not only be defined in terms of the date of the meeting, as at present, but also, if there is no meeting, in terms of the earliest date on which the consents or authorizations may be used to effect corporate action. Similar language referring to consent solicitations now appears in Regulation 14C and new Form S–4.[29]

Further, the proposed revision to the definition of "solicitation" would conform with case law by including communications "which reasonably could be expected to affect" the procurement, withholding, or revocation of a proxy, as well as those communications actually calculated to produce such a result.[30] In determining whether communications could reasonably be expected to cause such an effect, consideration should be given to the length of time between the making of the communication and the taking of the vote. The shorter the time, the more likely the communication would be expected to affect the proxy process. The Commission believes that this definitional change better describes the types of solicitations that are regulated.[31] The change is intended to protect security holders and give improved notice that any communications affecting the proxy process of registrants subject to section 14 in the manner specified are required to comply with the proxy rules.

In addition, a technical amendment to the first paragraph of Rule 14a–1 would replace the phrase "terms used in §§ 240.14a–1 to 240.14a–10 and in Schedule 14A" by "terms used in this regulation" to clarify that the definitions are intended to apply to Regulation 14A in its entirely. Similar changes would be made to the first paragraph of Rule 14a–7.

Rule 14a–2, Solicitations to which § 240.14a–3 to § 240.14a–13 apply. The only substantive change proposed to Rule 14a–2, which exempts certain solicitations from compliance with the proxy rules, concerns solicitations with respect to a plan of reorganization under the bankruptcy laws. Such solicitations are exempt from proxy rules pursuant to current Rule 14a–2. When the bankruptcy laws changed with the Bankruptcy Reform Act of 1978,[32] Rule 14a–2 was not changed accordingly. The proposed revisions would amend paragraph (a)(4) of the Rule 14a–2 to exempt solicitations pursuant to Chapter 11 of the Bankruptcy Reform Act [33], which contains the reorganization provisions. When a company files for reorganization under Chapter 11, it must submit for court approval a written disclosure statement concerning its plan for reorganization. The proposed revision to paragraph (a)(4) would exempt a solicitation in such instance, if made after court approval of the disclosure statement and after, or concurrently with, the transmittal of the disclosure statement.

Rule 14a–3, Information to be furnished to security holders. Rule 14a–3 sets forth the requirements that security holders be provided a proxy statement and, in connection with the annual election of directors, an annual report to security holders. The proposed revisions are as follows:

1. In accordance with staff interpretation, the Commission proposes to amend paragraph (b) to provide that if a special meeting is convened to elect directors in lieu of an annual meeting, an annual report must be furnished to security holders in connection with such special meeting. In addition, paragraph (b) would be revised to clarify that the annual report to security holders is required whether the registrant is soliciting proxies or consents in connection with the annual election of directors. Rule 14c–3(a), which imposes an analogous requirement with regard to information statements, would be revised similarly.

The proposed revisions would retain the present requirements that the annual report to security holders be furnished at least once in each fiscal year, at the time of the annual election of directors.[34] The Commission, however, is aware of some circumstances under which companies have had more than one election of directors in a fiscal year. Comment is solicited on whether Rule 14a–3(b) should be modified to take into account elections of directors that take

[24] 15 U.S.C. 79–79z–6 (1982); *see* 17 CFR 250.61.

[25] 15 U.S.C. 80a–1 through 80a–64, *as amended by* Act of October 21, 1980, Pub. L. No. 96–477, 94 Stat. 2275 (1980); *see* 17 CFR 270.20a–1.

[26] The terms "officer" and "executive officer" are defined in Rules 3b–2 and 3b–7, respectively (17 CFR 240.3b–2, 240.3b–7).

[27] In addtion to Rule 14a–11 and 12, the separate project concerning proxy contest will address the other aspects of the proxy rules that are only relevant to or operate in the context of proxy contests. Accordingly, no substantive changes on such matters are being proposed at this time.

[28] This definition is based upon the coverage of section 14(a) of the Exchange Act, which applies to ". . . any proxy or consent or authorization. . ."

[29] *See* Rule 14c–2(b) and General Instruction A.2. of Form S–4.

[30] *See, e.g., Dyer v. S.E.C.*, 291 F.2d 774 (8th Cir. 1961); *S.E.C. v. Okin*, 132 F.2d 784 (2d Cir. 1943).

[31] Registrants should be aware, in addition, that certain oral communications are solicitations if they fit the definition.

[32] 11 U.S.C. 101–151326, *as amended by* Act of November 6, 1978, Pub. L. No. 95–598, 92 Stat. 2549 (1978).

[33] 11 U.S.C. 1101–1174.

[34] Apart from the Rule 14a–3(b) or 14c–3(a) requirement to furnish the annual report to security holders, registrants may choose to furnish the report along with the proxy statement in order to satisfy Schedule 14A by incorporating information by reference where permitted.

VOL 50 ISS 139 JL 19 1985 UMI

place either before or after the annual election in a given fiscal year.

2. The entire note following paragraph (b)(7) would be deleted because it is duplicative of other provisions.

3. Paragraph (b)(10) currently requires the proxy statement to contain an undertaking that the registrant provide, upon written request, a copy of its annual report on Form 10–K [36] if such report has been filed with the Commission at the time of the request. The proposed revision to paragraph (b)(10) would require that any information contained in other documents filed pursuant to Section 13(a) of the Exchange Act (including amendments to such documents) subsequent to the Form 10–K, through the date of responding to the request, also shall be provided. This requirement is proposed because the periodic and current Exchange Act reports will update the Form 10–K information.[36] Particularly when a security holder requests information late in a fiscal year, the registrant should have the obligation to furnish more up-to-date information than the most recent Form 10–K.

4. As part of its recent proposals to refine the rule for communications with beneficial owners, the Commission proposed to move paragraph (d) to new Rule 14a–13.[37] As proposed, paragraph (d) of Rule 14a–3 would become paragraph (a) of proposed new Rule 14a–13 and would reflect additional changes as a result of this proposal.

Rule 14a–4, Requirements as to proxy. The substantive changes being proposed to Rule 14a–4 are intended to clarify: (1) the staff's position that a proxy may not confer authority to vote at more than one meeting or consent solicitation; and (2) the applicability of paragraph (d) to consent solicitations.

The Commission specifically requests comment as to whether the current proxy card requirements are sufficient with respect to telegraphic proxies, which are equivalent to proxy cards and should comply with the requirements of the rule. The validity of such proxies generally is a matter of state law.

Rule 14a–5, Presentation of information in proxy statement. Rule 14a–5(b) contains the standard to be applied when information required in the proxy statement is not known to the persons making a solicitation. This standard differs from the standards applied to Exchange Act reports [38] and Securities Act registration statements.[39] The Rule 14a–5(b) standard relates to whether or not it is reasonably within the power of the person to determine the required information whereas Rules 12b–21 and 409 go to the level of effort and expense required and whether the information rests with an unaffiliated party. The Commission requests specific comment as to whether the standard in Rule 14a–5, as well as the similar language in Rule 14c–4(b), should be revised to be consistent with the others.

Paragraph (e) of this rule contains specific disclosure requirements for proxy statements, and the Commission believes such requirements should more appropriately be located in Schedule 14A. Accordingly, this paragraph is proposed to be moved from this rule to new Item 1 of Schedule 14A.

Rule 14a–6, Filing requirements.[40] Five substantive revisions are proposed to Rule 14a–6.

1. Paragraph (a) would be clarified by means of an additional note to explain that the filing of revised preliminary material does not recommence the ten day time period during which material must be on file with the Commission, unless the revised material contains such revisions or new proposals as to constitute a fundamental change in the material.[41] In connection with this change, the note to paragraph (c) would be deleted. This change will update the rule to make it more closely comport with present practice, under which revised material generally is submitted in preliminary form and thus the definitive material does not reflect new material changes. This paragraph also clarifies that the ten day period refers to calendar days; similar changes clarifying the time periods are proposed in other places as well.

2. Current paragraph (e) would be separated into two paragraphs. New paragraph (e) would require the furnishing of information about when the registrant intends to release certain materials to security holders. New paragraph (f), concerning the public availability of information filed with the Commission, would be updated to accord with staff practice when material has been released or abandoned.

3. Proposed paragraph (h) would be revised to clarify that it applies to material filed pursuant to Rule 14a–12(b) as welll as to material filed pursuant to other rules.

4. Proposed paragraph (j) would contain provisions regarding filing fees. This paragraph is unchanged except that paragraph (j)(3) would be amended to refer to proposed Rule 0–11,[42] which would implement the provisions of section 14(g) of the Exchange Act relating to statutory filing fees for proxy solicitation materials involving certain business combinations.

5. New paragraph (*l*) would provide clarifying information for computing time periods specified in Regulation 14A.

Rule 14a–7, Mailing communications for security holders. The first paragraph of this rule would be revised to make it clear that it applies to Regulation 14A in its entirety, as would be the case with proposed Rule 14a–1.

Rule 14a–8, Proposals of security holders. Rule 14a–8(a)(1) would be revised to make it clear that securities owned by the proponent must be entitled to be voted "on the proposal." These words, which appeared in earlier versions of the rule, are proposed to be restored in order to make clear the staff's interpretation of the operation of the rule.

In addition, paragraph (d) would be amended to require the registrant to submit six instead of five copies of security holder proposals, no-action requests and all related materials. Such a requirement would reduce staff time spent photocopying and allow more time for resolution of substantive issues involved.

Rule 14a–13, Obligations of registrants in communicating with beneficial owners. This proposed rule is taken from the Commission's recent release on shareholder communications. As described under Rule 14a–3 above, this Rule is a relocation of Rule 14a–3(d). This proposal further amends the language of Rule 14a–13 as proposed previously to address the specific circumstances of consent solicitations and the election of directors at special meetings in lieu of annual meetings.[43]

[36] 17 CFR 249.310.

[36] When the Commission adopted the existing requirement to furnish the Form 10–K on request, in 1974, it stated that: "It is the Commission's position that an issuer, upon receipt of an appropriate written request at any time prior to the record date for the next annual meeting of security holders, must furnish a copy of its annual report on Form 10–K . . . *including all amendments*, if any, which have been filed to that date" [emphasis added]. *See* Release No. 34–11079 (October 31, 1974) [39 FR 40768].

[37] Release No. 34–21901.

[38] 17 CFR 240.12b–21.

[39] 17 CFR 229.409.

[40] The proposed revisions to Rule 14a–6 would retitle the rule *"Filing requirements"* because that title would describe the contents of the rule more accurately than *"Material to be filed."* In addition, the proposed revisions would add captions to clarify the rule and make it easer to read.

[41] This would apply the standard of "fundamental change" used in the Securities Act context for determining when a post-effective amendment is required under Rule 415 and Item 512(e) of Regulation S–K (17 CFR 230.415 and 229.512(a). Undertakings).

[42] The Commission is also publishing today a proposal to adopt new Rule 0–11 to codify the administration of the 1983 legislation requiring payment of a filing fee calculated on a percentage of the transaction's value for cash tender offers, mergers and certain other business combinations. Release No. 33–6593 (July 1, 1985) [50 FR 28404, July 12, 1985].

[43] The Commission anticipates that the amendments proposed herein to Rule 14a–13 will be adopted at the same time as the adoption of the other proposed shareholder communications revisions. See Release No. 34–21901.

B. Schedule 14A, Information Required in Proxy Statement

The three existing notes to Schedule 14A are not proposed to be substantially changed. Note A as revised would provide a new example which will have more frequent applicability to Schedule 14A then the existing one.

The proposed revisions to Schedule 14A apply the approach of the integrated disclosure system to provide for incorporation by reference in certain instances. Therefore, the Commission proposes a new "Note D" to Schedule 14A to provide rules for incorporation by reference. Proposed Note D is similar to the provisions of Rule 411 [44] under the Securities Act and Item 502(c) of Regulation S–K,[45] as well as General Instruction A.2. and Item 22 of Form S–4. This note provides that incorporation by reference may be made only in the manner and to the extent specifically provided by items of Schedule 14A, and sets forth general requirements applicable whenever incorporation by reference is used. Schedule 14A currently permits incorporation by reference only of the required financial statements, and then only when such statements are in an annual report to security holders furnished in connection with the same meeting or solicitation.[46] Proposed Items 11, 12, 13, and 14 of Schedule 14A would permit incorporation by reference of part or all of the required information, either pursuant to the tiered S–1–2–3 approach (Item 14(a)) or from an annual report to security holders furnished in connection with the same meeting (Item 14(b)). The information permitted to be incorporated by reference, in addition to the currently permitted financial statements, would be: the business description and the other uniform disclosure items which comprise the basic information package. In addition, in the case of S–3 companies, incorporation by reference would no longer be tied to a concurrently delivered annual report.

The first paragraph of proposed Note D contains requirements applicable to any incorporation by reference permitted by Schedule 14A. The second paragraph requires that, when information is incorporated by reference but not delivered with the proxy statement, the proxy statement contain an undertaking to furnish the incorporated documents to security holders upon request. This undertaking is similar to that required in connection with a Form S–4 registration statement. In the case of S–3 level incorporation by reference, which includes incorporation by reference of subsequently filed documents, the undertaking would require the furnishing of any documents incorporated by reference which were filed up to the date of responding to the request.

The last paragraph of proposed Note D would provide that when incorporation by reference is being used pursuant to the tiered S–1–2–3 approach (Item 14(a)), the proxy statement must be sent to security holders no later than 20 business days prior to the date of the meeting or, if there is no meeting, the date on which the proposed corporate action may be effected. This time period is the same requirement as in General Instruction A.2. of Form S–4 and is designed to address the need for documents incorporated by reference at either the S–2 or S–3 level to be delivered to security holders on a timely basis. The requirement would not be applicable when the only incorporation by reference is pursuant to Item 14(b), which permits incorporation of any information from an annual report to security holders furnished in connection with the same solicitation.

Proposed Note E would define S–2 and S–3 companies for purposes of those items of Schedule 14A which provide different levels of disclosure and incorporation by reference for such companies. The provisions are similar to those used in General Instruction B of Form S–4, except that the "investment grade securities" transaction requirement is adapted to relate to proxy material rather than an offering of securities. A registrant which meets the requirements of General Instruction I.A. of Form S–3 would meet the definition of "S–3 company," provided that the proxy material relates to action being taken on a matter involving investment grade non-convertible debt or preferred securities. The securities would have to be assigned an investment grade security rating before definitive proxy material is sent or given to security holders, not before the effectiveness of the registration statement, as is the case in Form S–4.

Item 1, Date, time and place information. The Commission proposes to add to Schedule 14A a new item similar to that presently required by Item 3 of Schedule 14C, "Date, time and place of meeting." Proposed new Item 1 would require a proxy statement to specify either the date, time and place of meeting if a meeting is to be convened or, if the proposed action is to be taken by written consent, the date, time and place the consents will be counted if applicable. In addition, the information now required by Rule 14a–5(e) would be moved to this item. The last paragraph of this item would require that the information called for by current Rule 14a–5(f), redesignated Rule 14a–5(e), be provided.[47] Thus, the disclosure requirements will all be located in or referred to in Schedule 14A, except for the information that may be required by Rule 14a–8 regarding proposals of security holders. Because of the proposed addition of this item, as well as the other proposed revisions to Schedule 14A, Items 2–22 would be would be renumbered as follows:[48]

Old item No.	Proposed item No.	Title of proposed item
	1	Date, time and place information.
1	2	Revocability of proxy.
2	3	Dissenters' rights of appraisal.
3	4	Persons making the solicitation.
4	5	Interest of certain persons in matters to be acted upon.
5	6	Voting securities and principal holders thereof.
6	7	Directors and executive officers.
7	8	Compensation of directors and executive officers.
8	9	Independent public accountants.
9, 10, 11	10	Compensation plans.
12	11	Authorization or issuance of securities otherwise than for exchange.
13	12	Modification or exchange of securities.
14	13	Mergers, consolidations, acquisitions and similar matters.
15	14	Financial information.
16	15	Acquisition or disposition of property.
17	16	Restatement of accounts.
18	17	Action with respect to reports.
19	18	Matters not required to be submitted.
20	19	Amendment of charter, bylaws or other documents.
21	20	Other proposed action.
22	21	Vote required for approval.

Item 2, Revocability of proxy. The Commission seeks specific comment as to whether a specific note concerning revocability of written consents is necessary. The revocability of written consents is determined by state law and, therefore, Item 2 is applicable to written consents when state law provides for revocation.[49]

[44] 17 CFR 230.411.

[45] 17 CFR 229.502(c). Incorporation by reference.

[46] *See* current Item 15(e).

[47] Current Rule 14a–5(f) is not being moved to Schedule 14A because it contains other provisions in addition to proxy statement disclosure requirements.

[48] Hereinafter the Schedule 14A items will be referred to by their proposed new numbers, except where otherwise indicated.

[49] *See Pabst Brewing Co. v. Jacobs*, 549 F. Supp. 1068 (D. Del.), eff'd., 707 F.2d 1394 (3d Cir. 1982).

Item 6, Voting securities and principal holders thereof; Item 403 of Regulation S–K. The proposed revisions combine

all directors. Consistent with this change, Instruction 3 would be similarly

to: (1) the annual election of directors,[55] (2) the election, approval or ratification

undergone a peer review, and if so the date of the review.

of Form 8–K and Item 304 of Regulation S–K were originally drafted to provide a

applied to all registrants. (In the case of

VOL 50 ISS 139 JL 19 1985 UMI

Item 6, Voting securities and principal holders thereof; Item 403 of Regulation S–K. The proposed revisions combine paragraphs (d), (e) and (g) to simplify the language of Item 6. All three paragraphs currently refer to Item 403 of Regulation S–K, "Security ownership of certain benefical owners and management."[50]

In a related proposal, Item 403 is proposed to be amended to permit a beneficial owner of 5% of a registrant's voting securities to list his business or mailing address as his address. This would codify the staff's practice of accepting such addresses in light of concerns of security holders, who for reasons of privacy and security, do not wish their home addresses made public.

Specific comment is requested as to the most meaningful presentation of management's ownership of the registrant's voting securities in Item 403. For example, comment is solicited as to whether Item 403, which refers to "directors and officers of the registrant as a group," should be amended to read "directors and executive officers of the registrant as a group." While this would conform with Items 401, 402 and 404 of Regulation S–K,[51] the disclosure items may serve different purposes. For purposes of compensation and transactions, focus on those persons in policy-making positions is appropriate; for purposes of determining security ownership which management is in a postion to influence or control, however, the Commission believes it may be appropriate to continue to include all officers.

Item 7, Directors and executive officers. The Commission proposes to move the information required by Instruction 4 to Item 103 of Regulation S–K [52] from Item 8, "Compensation of directors and executive officers," to Item 7. The information required concerns legal proceedings involving directors and executive officers, rather than compensation. In addition, paragraphs (b) and (c) would be combined into one paragraph (c) because they both refer to parts of Item 404 of Regulation S–K.

Instruction 2 to relettered paragraph (h) would be amended to provide that the information specified in paragraph (h) (regarding directors whom 5% or more of the vote was cast against or withheld from) is required to be given for only those nominees who trigger the five percent voting requirement, not for all directors. Consistent with this change, Instruction 3 would be similarly clarified. Instruction 3 also would be amended to provide that, when the information is required to be disclosed for a director on a classified board, it must only be disclosed the first time that director is renominated, and not with respect to intervening elections for which that director is not a nominee. Comment is solicited as to whether the disclosure required by this paragraph should be further revised, or should be retained as providing information useful for assessing the credentials of the directors or the adequacy of the nominating process.

Although no other substantive changes are proposed to this item, the Commission solicits comment as to whether the disclosure called for by the paragraphs to be redesignated (e) and (f) (committees of the Board of Directors; number of meetings and director attendance) should be revised. These paragraphs were adopted in 1978 as part of a general re-examination of the rules relating to security holder communications and participation in the corporate electoral process and corporate governance generally.[53] Having had several years of experience with these requirements, the Commission wishes to solicit the commentator views on whether they have furthered the ability of security holders to evaluate the credentials of the directors and the manner in which the Board of Directors functions. The Commission is not, however, considering changes in the required disclosures concerning audit committees. In view of the current concerns regarding disclosure about independent accountants, which are discussed in connection with Item 9, the Commission believes the present requirements concerning audit committees should be retained.

Item 8, Compensation of directors and executive officers. As noted above, the Commission proposes moving the Item 103 information to Item 7 because it does not concern compensation. In addition, Item 8 would be retitled to reflect the change in terms from remuneration to compensation in Item 402 of Regulation S–K.[54]

Item 9, Independent public accountants; Item 304 of Regulation S–K; Form S–18. The Commission is proposing two significant additions to the disclosure required pursuant to proposed Item 9, which would be provided when the solicitation relates to: (1) the annual election of directors,[55] (2) the election, approval or ratification of the auditors,[56] or (3) an action requiring the furnishing of financial statements.[57] The proposed additions are as follows:

1. Self-Regulation. Proposed amendments include new paragraph (b), which would require that a registrant disclose whether or not its independent accountants participate in a professional organization which has both a peer review program and an independent oversight function, both of which are subject to review by the Commission.[58] The Commission has previously outlined the objectives for such a self-regulatory organization in its Reports to Congress.[59] The proposal would also require disclosure of whether the auditor, if a member of such an organization, has

[50] 17 CFR 229.403.

[51] 17 CFR 229.401, 229.402 and 229.404. Directors and executive officers, promoters and control persons; Executive compensation; and Certain relationships and related transactions, respectively.

[52] 17 CFR 229.103. Legal proceedings.

[53] Release No. 34–15384 (December 6, 1978) [43 FR 58522].

[54] Release No. 33–6486.

[55] The reference to the election of directors would be modified to read similarly to Rule 14a–3(b) so that Item 9 disclosure will be required at the same time an annual report to security holders is required.

[56] A security holder vote upon the auditors is not currently an action that triggers the requirements of this item. In most cases, such a vote would be taken at the annual meeting, so the item would be triggered by the election of directors. The Commission believes, however, that the Item 9 information would be relevant to a vote upon the auditors whether or not such a vote coincided with the election of directors or a corporate action, requiring the inclusion of financial statements. The first paragraph of Item 9 is proposed to be amended accordingly.

[57] In addition to the substantive changes in proposed Item 9, a technical amendment is proposed which would eliminate the instructions concerning accounting fees at the end of the item. The instructions related to disclosure rescinded in 1982 concerning nonaudit services performed by independent accountants (*see* Release 33–6379, January 28, 1982 [47 FR 5404]). The instructions inadvertently were not deleted at the same time as the related disclosure requirement.

[58] This disclosure only would be required when directors are being elected or the auditors are being recommended to security holders for election, approval or ratification.

[59] *See, e.g.*, Securities Exchange Commission Report to Senate Committee on Governmental Affairs, 96th Cong., 2d Sess., Report to Congress on the Accounting Profession and the Commission's Oversight Role 18 (Comm. Print 1980). In addition, on March 6, 1985 before the House Subcommittee on Oversight and Investigation of the Committee on Energy and Commerce, Chairman Shad further discussed the accounting profession's self-regulatory effort and the Commission's oversight thereof. Such a self-regulatory Organization (1) is capable of addressing and solving accounting and professional issues neded to assure quality performance, (2) maintains quality control standards and requires peer reviews on a regular basis with initiatives to upgrade the practice of those who are not in compliance with its professional standards, (3) provides for oversight of its peer review process by representatives of the public interest, and (4) provides for Commission oversight.

undergone a peer review, and if so the date of the review.

Disclosure of membership in such a professional organization and whether or not the firm has had such a review would be relevant to an investor's understanding of the auditor's commitment to quality of practice. The Commission recognizes that since peer reviewers examine only a sample of the firm's engagements, an unqualified peer review report cannot be construed as a quarantee that the firm has performed all engagements, and will perform all future engagements, in accordance with professional standards. However, the Commission believes that the peer review function is an important element of a voluntary self-regulatory program.

The SEC Practice Section ("SECPS") of the AICPA's Division for Firms and the Public Oversight Board ("POB") is an example of such a voluntary self-regulatory organization. The Commission staff oversees the activities of the SECPS through frequent contact with the POB and members of the executive and peer review committees of the SECPS. The staff also reviews POB files and selected working papers of the peer reviewers.

While proposed paragraph (b) would require disclosure of whether the auditor had undergone a peer review, it would not specifically address the results of the review. If the results of a peer review were other than unqualified, however, registrants would need to consider whether they should disclose the nature of any qualifications and the status of the principal accountant's efforts to correct deficiencies which were the basis for such qualifications. Such disclosure might be material to an informed voting decision, where, for example, the deficiencies uncovered were of a significant or pervasive nature and have not yet been corrected.[60]

2. Disagreements with Accountants. Currently paragraph (c) of Item 8, "Relationship to independent public accountants," requires disclosure in connection with a change in accountants due to a disagreement between the accountant and the registrant which occurred within the 24 months prior to the date of the most recent proxy statement if such disagreement was required to be reported on Form 8–K under the Exchange Act. The requirement to provide the disclosure in Item 304 of Regulation S–K is similarly triggered by Form 8–K disclosure. Item 4 of Form 8–K and Item 304 of Regulation S–K were originally drafted to provide a two step disclosure system. The first step, the filing of a Form 8–K, is taken when the change in accountants occurs; and the second step, Item 304 disclosure, it taken when transactions or events occur subsequent to the change in accountants which are similar to the transactions or events which were the subject of a disagreement reported in the Form 8–K filing.

The proposals would improve these current requirements in two respects. First, the current Item 8 requirements fail to refer to Forms 10–Q or N–SAR, in which such information also may be reported.[61] Second, by tying this disclosure to registrants who have been reporting under the Exchange Act for the past two years, the requirement does not address the circumstance of a new registrant having an initial public offering or others without an Exchange Act reporting requirement at the time the change of accountants occurred. Since the information is material to investors in both a proxy and prospectus context, it would be required disclosure whether or not the registrant had an Exchange Act reporting requirement at the time of the change.

The Commission is proposing amendments to paragraph (b) of Item 9, to Item 304 of Regulation S–K and to Item 21 of Form S–18 intended to close these gaps that currently exist in the disclosure system. The amendments to proposed Item 9 of the proxy rules would require disclosure, whether or not a registrant was subject to section 13(a) or 15(d) of the Exchange Act when a change in accountants occurred, if in connection with such change there was a disagreement between the accountant and the registrant. Under revised Item 304 and Form S–18, the registrant would disclose the information required in Item 4 of Form 8–K, unless such disclosure had previously been made. This would assure compliance with the first step of the two step disclosure system mentioned above. Also, the pre-existing filing requirement for Form 8–K would be removed as a trigger for both proxy disclosure of the disagreement and disclosure of the recurrence of transactions or events which were the subject of a disagreement with a previous accountant, thus assuring that the second step would be similarly applied to all registrants. (In the case of investment companies, the Item 304 disclosure would only be required in proxy statements and annual reports to security holders.)

As is currently the case under Item 4 of Form 8–K, under revised Item 304 the former accountant also will be asked by the registrant to furnish a letter stating whether it agrees with the statements made by the registrant, and if not, the reasons the accountant does not agree. When the letter is required, it will be filed as an exhibit to the registration statement or report which requires the Item 304 disclosure. However, when the Item 304 information is required in connection with a proxy or information statement, the disclosure must be obtained by different means, as such documents do not provide for exhibits to be filed separately from the document sent to shareholders. Accordingly, when Item 304 disclosure is required in a proxy or information statement, or an annual report to security holders filed pursuant to Rule 14a-3 or Rule 14c-3 of the Exchange Act, in lieu of furnishing a letter the accountant would be given the opportunity to include a 200-word statement in the proxy or information statement, as provided in Item 9 of Schedule 14A.

An instruction will be added to Item 304 to state that this item is not applicable to disclosure concerning a non-reporting company being acquired by a reporting company.[62] This will comport with the present requirements of Item 2 of Form 8–K, "Acquisition or Disposition of Assets," which calls for disclosure concerning material acquisitions.

The Commission recognizes that the proposed changes would not resolve all issues concerning changes in accountants and related disclosure. In particular, the difficulty in defining and ascertaining when a disagreement has occurred in connection with a change in accountants may result in a lack of appropriate disclosure. The Commission's concerns regarding these issues are reflected in the separate concept release the Commission is issuing today, which invites comments on "opinion shopping."[63] In addition to

[60] *See* Rule 14a–9(a), which prohibits, *inter alia*, the use of proxy material that "omits to state any material fact necessary in order to make the statements therein not false or misleading . . ."

[61] In Release No. 34–17524 (February 9, 1981) [46 FR 12485] both Forms 8–K and 10–Q were amended with complementary provisions enabling the registrant under Item 5 of the Form 10–Q to report on information that otherwise would be reported upon in a Form 8–K.

[62] As defined, "non-reporting company" means a company not subject to the filing requirements of sections 13(a) or 15(d) of the Exchange Act. Entities filing reports pursuant to section 12(i) of the Exchange Act would not fall within the definition because they are reporting companies, even though their reports are not filed with the Commission. Accordingly, Item 304 disclosure would have to be provided with respect to such entities.

[63] Release No. 33–6594.

the comments on "opinion shopping" which will be directed to the concept

necessary for an informed voting decision should be given.

"Financial information," is designed to elicit substantially the same disclosure

presented in the prospectus rather than incorporated by reference, Item 13(a)

context.[74] The effect of this codification, however, is not to be construed as

reasons set forth above. Instruction 3 of proposed Item 14 states that financial

the comments on "opinion shopping" which will be directed to the concept release, the Commission invites commentators on proposed Item 9 to express any other suggestions for additional disclosure relating to independent public accountants.

Item 10, Compensation Plans. Proposed new Item 10 is a combination of existing Items 9, 10 and 11, all of which involve compensation plans.[64] In addition to simplifying the language of the items, the proposal contains several substantive revisions to streamline the disclosure required and eliminate inconsistencies between disclosure for different types of plans. The proposed item is divided into two parts, with instructions. The first part sets out the general information that must be provided for all plans being voted on. The second details the information that must be disclosed for specified types of plans being voted on.

The information required with respect to plans previously in effect would be required only for plans in effect within the last three years, rather than five years. The information currently required by the last two sentences of Instruction 3(c) of present Item 9, concerning the purchase and sale of securities pursuant to options, is not included in the proposed item. This information currently is not required for other security ownership plans. Comment is requested as to whether this disclosure is useful to a voting decision concerning compensation plans and, if so, whether such disclosure should be required with respect to all plans.

In order to prevent duplication, proposed paragraph (a)(3) provides that the information called for by that paragraph may be provided in lieu of certain similar information called for by Item 402(b) of Regulation S–K pursuant to Item 8 of Schedule 14A.

Instruction 2 of the proposed item clarifies that, when an amendment to an existing plan is being voted on, Item 10 in its entirety need be complied with only if the change is material. The Commission believes it is appropriate that the initial determination as to materiality be made by the registrant and its counsel, given their particular knowledge of the plan and proposed amendment. Materiality in this context should be defined in relation to the plan and to what security holders need to know to make an informed vote. Even if Item 10 information is not required in its entirety, however, information about the amendment being voted on which is necessary for an informed voting decision should be given.

Comment is specifically solicited on whether Item 10 also should be amended to require disclosure of the accounting treatment which will be accorded the plan being voted on, such as whether there will be a charge to income upon the occurrence of certain events.

Item 11, Authorization or issuance of securities otherwise than for exchange, and Item 12, Modification or exchange of securities. Two revisions are proposed to these items. The first would ease compliance by eliminating the need to refer to Form 10[65] or 8A,[66] which in turn merely cross-reference to Item 202 of Regulation S–K,[67] by referring directly to Item 202.

Under the second proposed revision, both Items (as well as Item 13) would require the disclosure concerning market price, dividends and related matters called for by Item 201 of Regulation S–K, provided such disclosure is applicable to a class of securities materially affected by the corporate action being voted on.

This information was classified in 1980 as part of the basic information package which should be furnished to investors for all investment decisions.[68] In the context of a voting decision on the authorization, issuance, modification, or exchange of securities, shareholders are provided the other components of the basic information package. The Commission believes that the Item 201 information should be included when the Item 201 information relates to the new class of securities or a class of securities to be affected by the transaction. Comment is solicited, however, on whether the requirement to include Item 201 information should be limited to certain types of transactions, and if so, which ones.

The Item 201 disclosure would be permitted to be incorporated by reference as provided in Item 14. This treatment would be the same as for the other basic information package material, such as the financial information requirements of Item 14.

Item 13, Mergers, consolidations, acquisitions and similar matters. Proposed Item 13, together with Item 14, "Financial information," is designed to elicit substantially the same disclosure found in Form S–4, when appropriate in the proxy context, such as for cash mergers and other business combinations where voting security holders do not receive registered securities as a result of the contemplated corporate action.[69]

Proposed Items 13 and 14 would extend the principles of the integrated disclosure system in the same manner as Form S–4.[70] Under Forms S–1, S–2 and S–3, company oriented information may be, respectively, presented in, delivered with or incorporated by reference from previously filed public documents. The use of the S–1–2–3 approach in the proxy statement reflects the premise that the information necessary for decisions made in the context of the transactions being proposed to security holders under proposed Item 13 and these made otherwise in the purchase of a security in the primary or trading market is substantially similar.[71]

Just as Form S–4 requires certain transactional information to be

[64] Bonus, profit sharing and other compensation plans; pension and retirement plans; and options, warrants, or rights, respectively.

[65] 17 CFR 240.21.

[66] 17 CFR 240.206a.

[67] 17 CFR 229.202. Description of registrant's securities.

[68] Release No. 33–6231 (September 2, 1980) [45 FR 63630]. The components of the basic information package were identified to be: Item 201 information; Management's discussion and analysis of financial condition and results of operations (Item 303 of Regulation S–K); Selected financial data (Item 301 of Regulation S–K); and uniform financial statement requirements.

[69] Item 13 is applicable to a wider variety of transactions than Form S–4, *i.e.*, acquisitions of securities, businesses or assets, dispositions of assets, and liquidations, as well as mergers and consolidations.

[70] For extensive discussion of the development of those principles, *see* Release No. 33–6534 (May 9, 1984 [49 FR 20833], proposing Form S–4; Release No. 33–6578, adopting the form; and comment letters and staff summary contained in File No. S7–20–84, which is available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

[71] Application of the Form S–3 level includes the forward incorporation feature of that Form, *i.e.*, the incorporation by reference of all Exchange Act reports filed subsequent to the filing of the proxy statement in definitive form and prior to the date the action is taken. As the Commission noted in proposing Form S–3 and in adopting Form S–4, however: Despite the fact that subsequently filed periodic reports under the Exchange Act are incorporated by reference into a Form S–3 prospectus, registrants should be aware that they may be required to amend the prospectus if the information actually presented therein has become materially false and misleading by reason of subsequent events that are reported in the incorporated Exchange Act documents. [*See* Release No. 33–6331 (August 6, 1981) [46 FR 41902] at fn. 64.]

Similarly, registrants using the S–3 level for either entity for proposed Schedule 14A should be aware that, while the updating information could be provided by subsequently filed documents, it may not eliminate the need for additional soliciting material or for a resolicitation, particularly in the case where the annual report to security holders was furnished pursuant to Rule 14a–3(b) and contained information that became incomplete or materially misleading based on the occurrence of subsequent events.

presented in the prospectus rather than incorporated by reference, Item 13(a) would contain similar requirements. In contrast, Items 13(b) and 14 permit certain company oriented information (relating to the registrant and, if applicable, to the other person) to be incorporated by reference in the same manner as in Form S–4. Such information includes information relating to the business of the company, industry segments, property, market prices and other security holder information (Item 13(b)), and financial information (Item 14). Item 13(b), like Items 11 and 12, requires the disclosure called for by Item 201 of Regulation S–K. This s consistent with the requirements of Form S–4, and somewhat more extensive than the market price information required at present by current Item 14(c).

One difference in disclosure between the proposed item and Form S–4 is that Item 13(b)(1)(iv) would permit the description of business to be the same as that provided in the annual report to security holders for all companies, rather than requiring that the more extensive information called for by Item 101 of Regulation S–K[72] be included for S–1 level companies. This is consistent with the requirements of the present Item 14(b)(1) and with the significant role played by the annual report to security holders in proxy solicitation.

Appropriate modifications to the Form S–4 requirements have been made to reflect the fact that, in most cases, voting security holders will not be receiving new securities.[73] Because the need for disclosure regarding another person involved in the transaction may be significantly reduced in such a situation, proposed Item 13 provides that, when the registrant is being acquired by another person, disclosure regarding the other person will only be required when the registrant or the solicited security holders will become or remain security holders of the other person, or otherwise, if such disclosure is material under the circumstances. This language in proposed Item 13 (Instruction 1) codifies present staff practice by permitting less disclosure concerning the other person in cash mergers and certain other transactions covered by Item 13 than in Form S–4 context.[74] The effect of this codification, however, is not to be construed as meaning that disclosure about the other person need not be furnished if required by other Commission rules, such as Rule 13e–3, or if material to the voting decision.[75] The Commission requests specific comments as to whether the statement that the information concerning the other person is only required to the extent material is sufficient to elicit the pertinent disclosure or whether greater guidance should be given.

Proposed Instruction 2 of Item 13 would revise Instruction 3 of the current Item 14. This instruction now indicates that certain information need not be provided if the transaction involves only the registrant and one or more of its totally-held subsidiaries. The instruction would be revised to clarify the staff's position that this instruction does not apply to a transaction such as a liquidation or a spin-off. The intent of the instruction is to permit the omission of information when the transaction involves a technical restructuring of a registrant and its subsidiaries and the financial position of the registrant and the rights of the shareholders will be generally unaffected. In addition, the instruction would be amended to state specifically which Item 13 information may be omitted.

Item 14, Financial information. Proposed Item 14 would replace existing Item 15, which requires financial statements in connection with action taken with respect to authorization or issuance of securities, modification or exchange of securities, mergers, consolidations, acquisitions or similar matters (Items 11, 12 and 13). The proposed item makes no change in the required financial information, but allows the financal statements and related information to be provided in the same manner as is allowed by Form S–4. Thus, depending on the level of the company involved (S–1–2–3), the financial statements may be presented in the proxy statement or incorporated by reference. In addition, for the same reasons set forth above, Instruction 3 of proposed Item 14 states that financial statement disclosure regarding the other person need be provided only to the extent material when the registrant is being acquired and the contemplated transaction provides that the registrant and its voting security holders will not receive securities.

Several paragraphs of the current item would be moved to instructions. The statement in paragraph (a) that one copy of the definitive proxy statement shall include a copy of the accountant's certificate would be moved to Instruction 1. In addition, Instruction 1 would be expanded to state that where the accountant's report is incorporated by reference and therefore will not be in the proxy material, a statement should be included in the proxy material to the effect that the accountant is aware that the report will be made of the proxy material. When the definitive proxy material is filed, in lieu of the manually signed copy of the accountant's report that would otherwise be provided, one copy of the definitive material should contain a copy of that statement signed and dated by the accounting firm.

Paragraph (b) of the present item, which describes circumstances under which financial statements are not material, would be clarified and moved to Instruction 2. Paragraph (c) of the present item would be moved to Instruction 4 and would be changed in the same manner as the comparable Instruction 2 to Item 13. Paragraph (d) of the present item would be retained as Instruction 5, with additional language clarifying the requirements applicable to investment companies.[76] Paragraph (e), regarding incorporation by reference to an annual report sent to security holders in connection with the same meeting, would be moved to paragraph (b) of the revised item and would permit the incorporation in this manner of any information permitted by Schedule 14A to be incorporated by reference, not just financial statements. Finally, paragraph (f), relating to the financial statements of a non-reporting acquired company, would be modified to remove references to Form S–14 and revised consistent with changes made in Forms S–4, and would be moved to paragraph (a)(3)(ii) of the item.

Item 19, Amendment of charter, bylaws or other documents. Although the subject of anti-takeover proposals is not specifically addressed in this review of the proxy rules, an instruction to this item is proposed that directs the

[72] 17 CFR 229.101. Description of business.

[73] In the event that a transaction being voted on involves the issuance of securities exempt from registration, information material to the voting decision would include a description of the new securities as compared with the security to be exchanged by the voting security holders, as well as business and financial information concerning the issuer of the securities.

[74] If the registrant is acquiring the other person, this instruction would not be applicable; accordingly, the information regarding the person would be required, consistent with current practice.

[75] For example, in the context of a cash merger, it may be material to the voting security holder's evaluation of the proposed transaction to know whether the acquiring other person has the requisite financial ability to satisfy the terms of its offer. Similarly, it may be material to a voting securitiy holder's decision to approve or disapprove the proposed action to know whether a situation involving potential conflicts of interest between the managements of the registrant and the other person exist.

[76] A new Instruction 6 also would set forth specific requirements for investment companies.

registrant's attention to Release No. 34–15230,[77] regarding disclosure in proxy and information statements of defensive

Rule 14a–3 be provided in the annual report.

Rule 14c–5, Filing requirements.

Act. Comments on this inquiry will be considered by the Commission in

"small business" in Rule 0–10 under the Exchange Act.[78] That rule provides that,

change would only require disclosure when a change in accountants occurs

that take into account the resources available to small entities or the use of

registrant's attention to Release No. 34–15230,[77] regarding disclosure in proxy and information statements of defensive corporate charter and bylaw amendments.

C. Schedule 14B

The Commission does not propose any substantive changes to Schedule 14B; the only proposed changes are the issuer/registrant redesignation, and language permitting the use of a business or mailing address instead of a residence address. This schedule will be further considered in connection with the separate proxy contest project.

D. Regulation 14C

Regulation 14C provides disclosure obligations for those situations in which a registrant chooses not to solicit proxies. The information required to be disclosed is basically the same as that required in a proxy solicitation pursuant to Regulation 14A, including an annual report to security holders if directors are to be elected. The proposed revisions to Regulation 14C, detailed below, are consistent with the proposed revisions to Regulation 14A.

Rule 14c-1, Definitions. "Record date" would be added as a defined term and the definition of "last fiscal year" would be expanded, as proposed in Rule 14a-1. The term "issuer" would be redefined as "registrant," and the term would be redesignated wherever applicable in Regulation 14C.

Rule 14c-2, Distribution of information statement. Paragraph (a) of this rule describes the circumstances under which an information statement must be furnished. The proposed revision would clarify the Commission's position that an information statement must be furnished to every holder of a class of securities registered under section 12 of the Exchange Act that is entitled to vote or give consents or authorizations, if a proxy is not solicited from the security holder. The revision would make it clear that if consents are solicited from a few security holders who have enough shares to approve the transaction, the remaining security holders must be furnished with information statements as required by Rule 14c-2.

Rule 14c-3, Annual report to be furnished security holders. Revisions are proposed to Rule 14c-3 consistent with those proposed to Rule 14a-3. In addition, to avoid needless repetition, the proposed revisions would delete paragraphs (a)(1) through (a)(11), which set forth the required annual report to security holders disclosure, and instead require that the information specified in Rule 14a-3 be provided in the annual report.

Rule 14c-5, Filing requirements. Changes would be made in this rule consistent with those proposed for Rule 14a-6.

Rule 14c-7, Providing copies of materiol for certain beneficial owners. The proposed revisions to Rule 14c-7 are those which were included in Release No. 34–21901 and those necessary to reflect the specific treatment of consents. They will be adopted along with the other proposals in that release.

E. Schedule 14C, Information required in Informotion Statement

No substantive changes are proposed to Schedule 14C itself because it refers to Schedule 14A which, as discussed above, is the subject of extensive changes. In addition, the item are renumbered to reflect the deletion of Item 3, which now forms part of new Item 1 in Schedule 14A. The list of Schedule 14A items which are not required in information statements is revised to reflect the new numbering of Schedule 14A items. In addition, Item 1(c) of Schedule 14A is added to the list of Schedule 14A items excluded from Schedule 14C, since this item would consist of a reference to a shareholder proposal requirement which is now part of a Regulation 14A rule and was not intended to be part of Regulation 14C. Finally, Item 1 of the schedule would add a reminder that the notes at the beginning of Schedule 14A are also applicable to Schedule 14C.

F. Corresponding Amendments

The proposed amendments, which are enumerated in Footnote 10 above, either correct typographical errors or are necessitated by other proposed amendments to the proxy rules, such as the renumbering of items. If item 304 of Regulation S–K is adopted as proposed, amendments will also be adopted to all forms referring to Item 304, in order to substitute the new title for the present title.

III. Request for Comment

Any interested persons wishing to submit written comments on the proposed revisions to the proxy rules, or to suggest additional changes, or to submit comments on other matters that might have an impact on the proposals contained herein, are requested to do so.

The Commission also requests comment on whether the proposed revisions, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under section 23(a)(2) of the Exchange Act.

IV. Initial Regulatory Flexibility Act Analysis

This initial regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 603.

Reasons for Proposed Action

The proposed revisions to the proxy rules are part of the Commission's ongoing Proxy Review Program. Many of the changes are designed to conform the proxy rules to other disclosure rules, to reflect recent rule amendments and the adoption of Form S–4, and to clarify the proxy rules' application to solicitations of consents and authorizations. The reasons for these changes are to update the rules. Other changes, such as specifying when an annual report to security holders must accompany a proxy or information statement and defining "solicitation" to include communications which may reasonably be expected to affect the proxy process, are meant to amend the proxy rules by bringing them into compliance with current staff or court interpretations. Still others would add new disclosure for investor protection or streamline existing disclosure to improve the readibility of the proxy materials. One of the proposed revisions would enhance investor protection by requiring additional disclosure related to independent public accountants in all filings containing financial statements. Another revision would expand the availability of incorporation by reference in proxy statements. At present, the rules do not permit incorporation by reference from other filings except under narrowly drawn circumstances. These circumstances would be considerably expanded and, in particular, would follow the Form S–4 approach of permitting differing amounts of incorporation by reference for S–1–2–3 companies.

Objective

The basic objectives of the proposed revisions are to update the proxy rules, codifying staff and court interpretations, and provide more relevant disclosure to improve security holder protection.

See Part I *supra*.

Legal Basis

See Part V *infra*.

Small Entities Subject to the Rule

For the purposes of this analysis, the Commission is using the definition of

[77] (October 13, 1978) [43 FR 49863].

"small business" in Rule 0–10 under the Exchange Act.[78] That rule provides that, when used in reference to a registrant pursuant to the Exchange Act, small business means a registrant that, on the last day of its most recent fiscal year, had total assets of three million dollars or less.

The information called for by the proxy rules applies to proxy solicitation or information statements for securities either listed on a national securities exchange pursuant to section 12(b) or registered pursuant to Section 12(g) of the Exchange Act. The Commission estimates that 23 percent, or 2,300, of the roughly 10,000 issuers reporting under sections 12 and 15(d) are companies having total assets not exceeding $3 million. While certain exchanges do permit such small-sized issuers to register their securities,[79] the Commission estimates that fewer than 50 small entities are listed on national securities exchanges and, thereby, subject to the section 12(b) reporting requirements and the proxy rules.

While companies whose total assets do not exceed $3 million are exempted from the reporting requirements of section 12(g) by Rule 12g–1,[80] a number of such registrants have elected to remain subject to those requirements. The Commission estimates that the number of such registrants is less than 1,750.

So, the number of small entities that may be directly affected by these rule changes is likely to be under 1,800.

The proposed change in Item 304 of Regulation S–K would require disclosure related to independent public accountants in all filings that currently reference Item 304 such as registration statements, annual, and quarterly reports. Therefore, in addition to the number of small entities that may be directly affected by the proxy rule changes, the revision to Item 304 may impact upon small entities that undertake initial public offerings. On the basis of the number of new issuer registration statements filed by small entities using Form S–18 in the last fiscal year ending September 30, 1984, it is estimated that under 600 small entities may be directly affected each year by this rule change in connection with initial public offerings. Further, the rule change would only require disclosure when a change in accountants occurs and if the change was due to a disagreement between the accountant and registrant.

Reporting, Recordkeeping and Other Compliance Requirements

The Commission expects that the changes it is proposing (see Part II *supra*) will not substantially change reporting and recordkeeping requirements.

Overlapping or Conflicting Federal Rules

The Commission does not believe that most of the proposed revisions to the proxy rules would duplicate, overlap or conflict with other rules or forms. However, Schedule 14B overlaps and duplicates to some extent Schedule 13D. This overlap and duplication will be addressed in a future proposal. Also, the annual report to security holders, as required by Rule 14a–3(b), overlaps and duplicates to some extent Form 10–K. But the Commission views this to be necessary and appropriate, in light of the differing functions served by these two documents.

Significant Alternatives

Pursuant to section 603 of the Regulatory Flexibility Act, the following types of alternatives wer considered:

(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

(3) The use of performance rather than design standards; and

(4) An exemption from coverage of the rule, or any part thereof, for small entities.

The principal function of the proxy rules and Item 304 of Regulation S-K is to make information available to the securities markets. Proxy solicitations, opposition solicitations, and information statements containing the information specified in Schedules 14A, 14B, and 14C are used by security holders to make informed voting decisions. The information that revised Item 304 would provide is material to investors in the prospectus context. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of such information. The Commission does not believe that the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities or the use of performance rather than design standards would be consistent with the Commission's statutory mandate to protect investors. These proposals would, however, clarify, consolidate and simplify compliance and reporting requirements under these rules for such small entities, as well as large ones.

Further, the Commission believes that exempting small entities from all or part of the requirements of the proxy rules or Item 304 would harm the investors in those companies that are subject to them. Nonetheless, the Commission invites public comment on the appropriateness of extending such an exemption to small entities.

Solicitation of Comments

The Commission encourages the submission of written comments with respect to any aspect of this initial regulatory flexibility analysis. Such written comments will be considered in the preparation of the final regulatory flexibility analysis if the proxy rules are adopted. Persons wishing to submit written comments should file four copies thereof with John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. All submissions should refer to File No. S7–31–85 and will be available for public inspection at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

VI. Statutory Basis and Text of Proposed Amendments Authority

The amendments to Items 304 and 403 of Regulation S-K, Rule 3–05 of Regulation S-X, Forms S–4, F–4 and S–18, Rule 13e–3, Schedule 13E–3, Rule 14f–1, Rule 20a–3 of the Investment Company Act of 1940 and to the proxy and information statement rules are being proposed by the Commission pursuant to sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933, sections 3, 10, 12, 13, 14, 15(d), 17 and 23(a) of the Securities Exchange Act of 1934, and sections 20(a) and 38(a) of the Investment Company Act of 1940.

List of Subjects in 17 CFR Parts 210, 229, 239, 240 and 270

Reporting and recordkeeping requirements, securities.

Text of Proposals

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

[78] 17 CFR 240.0–10; *see also* Release No. 33–6380 (January 28, 1983) [47 FR 5215].

[79] For example, the Pacific Stock Exchange, the Midwest Stock Exchange, the Boston Stock Exchange, and the Philadelphia Stock Exchange permit a registrant whose tangible net worth is less than $3,000,000 to list securities. Pacific Stock Ex. Guide (CCH) ¶ 1897; Boston Stock Ex. Guide (CCH) ¶ 2260; Philadelphia Stock Ex. Guide (CCH) ¶ 2803.

[80] 17 CFR 240.12g–1.

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL

(1) The information required by Item 2 of Schedule 14A, revocability of proxy;

D. Voting and Monagement Information Item 18. Information if Proxies, Consents or

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. 78w, unless otherwise

§ 229.403 (Item 403) Security ownership of certain beneficial owners and management.

which the change in accountants took place or during the subsequent fiscal

VOL 50 ISS 139 JL 19 1985 UMI

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. The authority citation for Part 210 continues to read, in part, as follows:

Authority: Secs. 6, 7, 8, 10, 12, 13, 15, 19, 23, 48 Stat. 78, 79, amended, 81, as amended, 85, as amended, 892, as amended, 894, 895, as amended, 901, as amended, secs. 5, 14, 20, 49 Stat. 812, 827, 833, secs. 8, 30, 31, 38, 54 Stat. 803, 836, 838, 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78l, 78m, 78o, 78w, 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–37, * * * § 210.3–05 also issued under 15 U.S.C. 77aa, 78n and 80a–20 * * *

§ 210.3–05 [Amended]

2. In paragraph (b) of § 210.3–05 the reference to "Item 15" is removed and replaced with the words "Item 14"

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER THE SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

3. The authority citation for Part 229 continues to read, in part, as follows:

Authority: Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c) 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78l(d), 78w(a) * * *

4. By revising § 229.304 to read as follows:

§ 229.304 (Item 304) Changes in and disagreements with accountants on accounting and financial disclosure.

(a) If a change in accountants has taken place within 24 months prior to, or in any period subsequent to, the date of the most recent financial statements, the information called for by Item 4 of Form 8–K (§ 249.308 of this chapter) or, with respect to registered investment companies, Items 77K or 102J of Form N-SAR (§ 274.101 of this chapter) shall be disclosed.

(b) If in connection with paragraph (a) of this section there was any disagreement as described in Item 4(b) of Form 8–K or Item 77K or 102J of Form N-SAR and (1) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year there have been any transactions or events similar to those which involved the disagreement; and (2) such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the existence and nature of the disagreement and also state the effect on the financial statements if the method had been followed which the former accountants apparently would have concluded was required. These disclosures need not be made if the method asserted by the former accountants ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

Instructions to Item 304: 1. The disclosure called for by paragraph (a) of this section need not be provided if it has been previously reported (as that term is defined in Rule 12b–2 under the Exchange Act (§ 240.12b–2 of this chapter); however, the disclosure called for by paragraph (b) of this section must be furnished, where appplicable, notwithstanding any prior disclosure about accountant changes or disagreements.

2. The accountant's letter referred to in Item 4(b) of Form 8–K of Item 77K or 102J of Form N-SAR, when required by paragraph (a) of this section, should be filed as an exhibit to the report or registration statement. When the document is an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3 of this chapter) or Rule 14c–3 (§ 240.14c–3 of this chapter), or is a proxy or information statement filed pursuant to the requirements of Schedules 14A or 14C (§ 240.14a–101 and § 240.14c–101 of this chapter), no such exhibit shall be required, and in lieu of a letter pursuant to Item 4(d) of Form 8–K or Item 77K or 102J of Form N-SAR, the registrant, prior to filing such materials with or furnishing such materials to the Commission, shall furnish the disclosure required by this Item 304 of any former accountant engaged by the registrant during the period set forth in paragraph (a) of this section. If that accountant believes that the statements made in reponse to this Item are incorrect or incomplete, he may include a brief statement, ordinarily expected not to exceed 200 words, in the document presenting his views. This statement shall be submitted to the registrant within ten business days of the date the accountant receives the registrant's disclosure

3. The information required by this Item 304 need not be provided for non-reporting companies being acquired by the registrant. Non-reporting companies are those companies not subject to the filing requirements of either section 13(a) or 15(d) of the Exchange Act.

5. By amending paragraph (a) of § 229.403 by adding a sentence after the first complete sentence. The first complete sentence is published for the convenience of the reader.

§ 229.403 (Item 403) Security ownership of certain beneficial owners and management.

(a) *Security ownership of certain beneficial owners.* Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Exchange Act) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. In column (2), the address may be a business, mailing or residence address.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

6. The authority citation for Part 239 continues to read, in part, as follows:

Authority: The Securities Exchange Act of 1933, 15 U.S.C. 77a, et seq., * * *

7. Section 239.28 is amended by revising Item 21 of Form S–18 (§ 239.28) to add new paragraph (k) to read as follows (Note that the text of Form S–18 does not appear in the Code of Federal Regulations):

§ 239.28 Form S–18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $7,500,000.

* * * * *

Form S–18

* * * * *

Item 21. Financial statements

* * * * *

(k) Furnish the information required by Item 304 of Regulation S–K (§ 229.304 of this chapter), changes in and disagreements with accountants on accounting and financial disclosure.

* * * * *

8. Section 239.25 is amended by revising paragraphs (a)(1)–(8) of Item 18 and paragraphs (a)(2), (3), and (5)–(7) of Item 19 of Form S–4 (§ 239.25) to read as follows (Note that the text of Form S–4 does not appear in the Code of Federal Regulations):

§ 239.25 Form S–4, for the registration of securities issued in business combination transactions.

* * * * *

Form S–4

* * * * *

D. Voting and Management Information

Item 18. Information if Proxies, Consents or Authorizations are to be Solicited.

(a) If proxies, consents or authorizations are to be solicited, furnish the following information, except as provided by paragraph (b) of this Item:

(1) The information required by Item 2 of Schedule 14A, revocability of proxy;

(2) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

(3) The information required by Item 4 of Schedule 14A, persons making the solicitation;

(4) With respect to both the registrant and the company being acquired, the information required by:

(i) Item 5 of Schedule 14A, interest of certain persons in matters to be acted upon; and

(ii) Item 5 of Schedule 14A, voting securities and principal holders thereof;

(5) The information required by Item 9 of Schedule 14A, independent public accountants;

(6) The information required by Item 21 of Schedule 14A, vote required for approval; and

* * * * *

Item 19. Information if Proxies, Consents or Authorizations are not to be Solicited or in an Exchange Offer.

(a) If the transaction is an exchange offer or if proxies, consents or authorizations are not to be solicited, furnish the following information, except as provided by paragraph (c) of this Item;

(1) The information required by Item 2 of Schedule 14C, statement that proxies are not to be solicited;

(2) The date, time and place of the meeting of security holders, unless such information is otherwise disclosed in material furnished to security holders with the prospectus.

(3) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

* * * * *

(5) With respect to both the registrant and the company being acquired, the information required by Item 6 of Schedule 14A, voting securities and principal holders thereof;

(6) The information required by Item 9 of Schedule 14A, independent public accountants;

(7) The information required by Item 21 of Schedule 14A, vote required for approval; and

* * * * *

9. Section 239.34 is amended by revising paragraphs (a)(1)–(6) including the Instruction following paragraph (a)(4) of Item 18 and paragraphs (a)(2), (3) and (5)–(7), including the Instruction following paragraph (a)(5) of Item 19 of Form F–4 (§ 239.34 of this chapter) to read as follows (Note that the text of Form F–4 does not appear in the Code of Federal Regulations):

§ 239.34 Form F–4, for registration of securities of certain foreign private issuers issued in certain business combination transactions.

* * * * *

Form F–4

* * * * *

D. Voting and Management Information Item 18. Information if Proxies, Consents or Authorizations Are To Be Solicited.

(a) If proxies, consents or authorizations are to be solicited, furnish the following information, except as provided by paragraph (b) of this Item:

(1) The information required by Item 2 of Schedule 14A, revocability of proxy;

(2) The information required by Item 3 of Schedule 14A, dissenters' rights of appraisal;

(3) The information required by Item 4 of Schedule 14A, persons making the solicitation;

(4) With respect to both the registrant and the company being acquired, the information required by:

(i) Item 5 of Schedule 14A, interests of certain persons in matters to be acted upon; and

(ii) Item 6 of Schedule 14A, voting, securities and principal holders thereof.

Instruction

The information specified in Item 4 of Form 20–F may be provided in lieu of the information specified in Item 6(d) of Schedule 14A.

(5) The information required by Item 9 of Schedule 14A, independent public accountants;

(6) The information required by Item 21 of Schedule 14A, vote required for approval;

* * * * *

Item 19. Information if Proxies, Consents or Authorizations Are Not To Be Solicited in an Exchange Offer.

(a) If the transaction is an exchange offer or if proxies, consents or authorizations are not to be solicited, furnish the following information, except as provided by paragraph (b) of this Item:

(1) The information required by Item 2 of Schedule 14C statement that proxies are not to be solicited:

(2) The date, time and place of the meeting of security holders, unless such information is otherwise disclosed in material furnished to security holders with the prospectus.

(3) The information required by Item 3 of Schedule 14A, dissenters rights of appraisal;

* * * * *

(5) With respect to both the registrant and the company being acquired, the information required by Item 6 of Schedule 14A, voting securities and principal holders thereof.

Instruction

The information specified in Item 4 of 20–F may be provided in lieu of the information specified in Item 6(d) of Schedule 14A.

(6) The information required by Item 9 of Schedule 14A, independent public accountants:

(7) The information required by Item 21 of Schedule 14A, vote required for approval, and

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

10. The authority citation for Part 240 continues to read, in part, as follows:

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. 78w, unless otherwise noted. §§ 240.12b–1 to 240.12b–36 also issued under secs. 3, 12, 13, 15, 48 Stat. 892, as amended, 894, 895, as amended; 15 U.S.C. 78c, 78*l*, 78m, 78*o*. §§ 240.14c–1 to 240.14c–101 also issued under sec. 14, 48 Stat. 895; 15 U.S.C. 78n. §§ 240.15b10–1 to 240.15b10–9 also issued under secs. 15, 17, 48 Stat. 895, 897, sec. 203, 49 Stat. 704, secs. 4, 8, 49 Stat. 1379, sec. 5, 52 Stat. 1076, sec. 8, 78 Stat. 570; 15 U.S.C. 78*o*, 78q, 12 U.S.C. 241 nt., * * * § 240.13e–3 continues to be also issued under 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a). 77*l*, 77m, 77n, 77*o*(d), 78c(b), 78i(a), 78j(b), and 78m(e). § 240.13e–100 continues to be also issued under 15 U.S.C. 77g(e), 77s(a), 78c(b), 78j(b), 78m(e), 78n(a), 78n(c) and 78n(e). § 240.14a–1 to 14a–102 continues to be also issued under 15 U.S.C. 77b, 77d, 77e, 77f, 77g, 77h, 77j, 77s, 77sss(a), 78c, 78*l*, 78m, 78n, 78*o*(d), 78q, 80a–20, 80a–37, 80a–87, 79e, and 79t * * *

§ 240.13e–3 [Amended]

11. In § 240.13e–3 in paragraphs (a)(3)(i)(C), (c)(2) and (e)(1) the reference to " 240.14a–103" is removed and replaced with the reference "240.14b–1" and in paragraph (f)(1)(ii) the reference to "Rule 14a–3(d) [§ 240.14a–3(d)]" is removed and replaced with "Rule 14a–13(a) [§ 240.14a–13(a)]."

§ 240.13e–100 [Amended]

12. By amending § 240.13e–100 by removing the reference to "240.14a–103" and replacing it with "240.14b–1" in paragraph (a) and General Instructions F and G.

13. By revising § 240.14a–1 to read as follows:

§ 240.14a–1 Definitions.

Unless the context otherwise requires, all terms used in this regulation have the same meaning as in the Act or elsewhere in the general rules and regulations thereunder. In addition, the following definitions apply unless the context otherwise requires:

(a) *Associate.* The term "associate" used to indicate a relationship with any person, means (1) any corporation or organization (other than the registrant or a majority owned subsidiary of the registrant of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (3) any relative of spouse of such person, or any relative of such spouse, who has the same home of such person or who is a director or officer of the registrant or any of its parents or subsidiaries.

(b) *Last fiscal year.* The term "last fiscal year" of the registrant means the last fiscal year of the registrant ending prior to the date of the meeting for which proxies are to be solicited or, if the solicitation involves written authorizations or consents in lieu of a meeting, the earliest date they may be used to effect corporate action.

(c) *Proxy.* The term "proxy" includes every proxy, consent or authorization within the meaning of section 14(a) of the Act. The consent or authorization may take the form of failure to object or to dissent.

(d) *Proxy statement.* The term "proxy statement" means the statement required by § 240.14a–3(a) whether or not contained in a single document.

(e) *Record date.* The term "record date" shall mean the date as of which the record holders of securities entitled to vote at a meeting or by written consent or authorization shall be determined.

(f) *Registrant.* The term "registrant" means the issuer of the securities in respect of which proxies are to be solicited.

(g) *Solicitation.* (1) The terms "solicit" and "solicitation" include but are not limited to the following:

(i) Any request for a proxy whether or not accompanied by or included in a form of proxy;

(ii) Any request to execute or not to execute, or to revoke, a proxy; or

(iii) The furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in, or which reasonably could be expected to affect, the procurement, withholding or revocation of a proxy.

(2) The terms do not apply, however to the furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, the performance by the reistrant of acts required by § 240.14a–7, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

14. Section 240.14a–2 is amended By revising the section heading, introductory paragraph, and paragraphs (a) introductory text, (a)(4)(a)(6), (b) introductory text, (b)(1) and (b)(2)(ii) to read as follows:

§ 240.14a–2 Solicitations to which § 240.14a–3 to § 240.14a–13 apply.

Sections 240.14a–3 to 240.14a–13 apply to every solicitation of a proxy with respect to securities registered pursuant to section 12 of the Act. whether or not trading in such securities has been suspended, except that:

(a) Sections 240.14a–3 to 240.14a–13 do not apply to the following:

* * * * *

(4) Any solicitation with respect to a plan of reorganization under Chapter 11 of the Bankruptcy Reform Act of 1978, as amended, if made after the entry of an order approving the written disclosure statement concerning a plan of reorganization pursuant to section 1125 of said Act and after, or concurrently with, the transmittal of such disclosure statement as required by section 1125 of said Act;

* * * * *

(6) Any solicitation through the medium of a newspaper advertisement which informs security holders of a source from which they may obtain copies of a proxy statement, form of proxy and any other soliciting material and does no more than (i) name the registrant, (ii) state the reason for the advertisement, and (iii) identify the proposal or proposals to be acted upon by security holders.

(b) Sections 240.14a–3 to 240.14a–8 and 240.14a–10 to 240.14a–13 do not apply to the following:

(1) Any solicitation made otherwise than on behalf of the registrant where the total number of persons solicited is not more than ten; and

(2) * * *

(ii) The advisor discloses to the recipient of the advice any significant relationship with the registrant or any of its affiliates, or a security holder proponent of the matter on which advice is given, as well as any material interest of the advisor in such matter:

15. Section 240.14a–3 is amended by revising paragraph (b) introductory text, revising the heading of "NOTE 1" after paragraph (b)(1) to read "NOTE," revising (b)(4), and (b)(6) through (b)(10), and Notes after (b) (10) and (b)(11), revising (b)(13), (c), and the Note following paragraph (c), deleting the Note after paragraph (b)(7), removing paragraph (d) and redesignating and revising paragraphs (e) and (f) as paragraphs (d) and (e) to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) If the solicitation is made on behalf of the registrant and relates to an annual (or special in lieu of the annual) meeting of security holders, or written consent in lieu of such meeting, at which directors are to be elected, each proxy statement furnished pursuant to paragraph (a) of this section shall be accompanied or preceded by an annual report to security holders as follows:

* * * * *

(4) The report shall contain information concerning changes in and disagreements with accountants on accounting and financial disclosure required by Item 304 of Regulation S–K (§ 229.304 of this chapter).

* * * * *

(6) The report shall contain a brief description of the business done by the registrant and its subsidiaries during the most recent fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the and its subsidiaries.

(7) The report shall contain information relating to the registrant's industry segments, classes of similar products or services, foreign and domestic operations and export sales required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S–K (§ 229.101 of this chapter).

(8) The report shall identify each of the registrant's directors and executive officers, and shall indicate the principal occupation or employment of each such person and the name and principal business of any organization by which such person is employed.

(9) The report shall contain the market price of and dividends on the registrant's common equity and related security holder matters required by Item 201 of Regulation S–K (§ 229.201 of this chapter).

(10) The registrant's proxy statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person solicited, upon the written request of any such person, a copy of the registrant's annual report on Form 10–K, including the financial statements and the financial statement schedules, required to be filed with the Commission pursuant to Rule 13a-1 under the Act for the registrant's most recent fiscal year, and a copy of any information contained in reports filed by the registrant subsequent to the Form 10–K pursuant to section 13(a) of the Act through the date of responding to the request, and shall indicate the name and address (including title or department) of the person to whom such a written request is to be directed. In the discretion of management, a registrant need not undertake to furnish without charge copies of all exhibits to its Form 10–K provided that the copy of the annual report on Form 10–K furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained

therein and indicating that the registrant will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the registrant's reasonable expenses in furnishing such exhibit. If the registrant's annual report to security holders complies with all of the disclosure requirements of Form 10–K and is filed with the Commission in satisfaction of its Form 10–K filing requirements, such registrant need not furnish a separate Form 10–K to security holders who receive a copy of such annual report.

Note.—Pursuant to the undertaking required by paragraph (b)(10) of this section, a registrant shall furnish a copy of its annual report on Form 10–K (§ 249.310 of this chapter) and the subsequently filed information required by paragraph (b)(10) of this section to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the solicitation requiring the furnishing of the annual report to security holders pursuant to paragraph (b) of this section, the person making the request was a beneficial owner of securities entitled to vote.

(11) * * *

Note.—Registrants are encouraged to utilize tables, schedules, charts, and graphic illustrations to present financial information in an understandable manner. Any presentation of financial information must be consistent with the data in the financial statements contained in the report and, if appropriate, should refer to relevant portions of the financial statements and notes thereto.

* * * * *

(13) Paragraph (b) of this section shall not apply, however, to solicitations made on behalf of the registrant before the financial statements are available if a solicitation is being made at the same time in opposition to the registrant and if the registrant's proxy statement includes an undertaking in bold face type to furnish such annual report to all persons being solicited at least 20 calendar days before the date of the meeting or, if the solicitation refers to a written consent or authorization in lieu of a meeting, at least 20 calendar days prior to the earliest date on which they may be used to effect corporate action.

(c) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Commission pursuant to Rule 14a–6(a), whichever date is later. The report is not deemed to be "soliciting material" or to be "filed" with the Commission or subject to this regulation otherwise than as provided in this Rule, or to the liabilities of section 18 of the Act, except to the extent that the registrant specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement or other filed report be reference.

Note.—To assist the staff, managements of registrants are requested to indicate in a letter transmitting to the Commission copies of their annual reports to security holders or in a separate letter at or about the time the annual report is furnished to the Commission, whether the financial statements in the report reflect a change from the preceding year in any accounting principles or practices or in the method of applying any such principles or practices.

(d) An annual report to security holders prepared on an integrated basis pursuant to General Instruction H to Form 10–K (§ 249.310) may also be submitted in satisfaction of this rule. When filed as the annual report on Form 10–K, responses to the Items of that form are subject to section 18 of the Act notwithstanding paragraph (c).

(e) Notwithstanding paragraphs (a) and (b) of this section.

(1) A registrant is not required to send an annual report to a security holder of record having the same address as another security holder of record, provided that (i) such security holders are not holding such registrant's securities in nominee name, (ii) at least one report is sent to a holder of record at that address and (iii) the holders of record to whom a report is not sent agree thereto in writing; and

(2) Unless state law requires otherwise, and a registrant is not required to send an annual report or proxy statement to a security holder if (i) an annual report and a proxy statement for two consecutive annual meetings or (ii) all and at least two, checks (if sent by first class mail) in payment of dividends or interest on securities during a twelve month period have been mailed to such security holder's address and have been returned undeliverable. However, a registrant obligation to deliver an annual report or a proxy statement under this section is reinstated once it has such security holder's current address.

16. Section 240.14a–4 is amended by removing the words "issuer's" and "issuer" and replacing them with the words "registrant's" and "registrant" in paragraph (a) and in Instruction 2 after paragraph (b)(2)(iv), by removing the word "shareholder" and replacing it with the words "security holder" in paragraphs (b)(2) (iii) and (iv), by revising paragraphs (c)(4) and (d) to read as follows:

§240.14a–4 Requirements as to proxy.

* * * * *

(c) * * *

(4) Any proposal omitted from the proxy statement and form of proxy pursuant to § 240.14a–8 or § 240.14a–9 of this chapter.

* * * * *

(d) No proxy shall confer authority (1) to vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, (2) to vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders (3) to vote with respect to more than one meeting (and any adjournment thereof) or one consent solicitation or (4) to consent to or authorize any action other than the action proposed to be taken in the proxy statement. A person shall not be deemed to be a bona fide nominee and he shall not be named as such unless he has consented to being named in the proxy statement and to serve if elected.

* * * * *

17. Section 240.14a–5 is amended by revising paragraph (c), removing the word "leading" and replacing it with "leaded" in paragraph (d), removing paragraph (e), removing the words "issuer" and "issuer's" and replacing them with "registrant" and "registrant's" in paragraph (f) and redesignating paragraph (f) as paragraph (e) to read as follows:

§ 240.14a–5 Presentation of information in proxy statement.

* * * * *

(c) Any information contained in any other proxy soliciting material which has been furnished to each person solicited in connection with the same meeting or subject matter may be omitted from the proxy statement, if a clear reference is made to the particular document containing such information.

* * * * *

18. Section 240.14a–6 is amended by revising the section heading, paragraph (a)(1), adding new NOTE 1 after paragraph (a), revising "NOTE:" after (a) to read "NOTE 2:" and revising the word "company" to read "registrant" in Note 2, revising paragraphs (b), (c), and (d), removing the Note after paragraph (c), by redesignating paragraphs (e) through (j) as (f) through (k) and adding a new paragraph (e) revising newly redesignated paragraphs (f), (h), (j) and (k), by adding paragraph headings to newly redesignated paragraphs (g)

"Communications not required to be filed" and (i) *"Revised material"* and

shorter period prior to that date as the Commission may authorize upon a

(j) *Fees.* At the time of filing the preliminary proxy solicition material,

§ 240.14a–7 Mailing communications for security holders.

released to security holders in connection with the previous year's

a meeting (or by written consents or authorizations if no meeting is held)

"*Communications not required to be filed*" and (i) "*Revised material*" and adding new paragraph (l) to read as follows:

§ 240.14a–6 Filing requirements

(a) *Preliminary proxy statement.* (1) Five preliminary copies of the proxy statement and form of proxy and any other soliciting material to be furnished to security holders concurrently therewith shall be filed with the Commission at least 10 calendar days prior to the date definitive copies of such material are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor;

Note 1.—When revised material is filed it does not recommence the ten day time period unless the revised material contains such material revisions or material new proposal(s) that it constitutes a fundamental change in the proxy material.

* * * * *

(b) *Preliminary additional materials.* Five preliminary copies of any additional soliciting material, relating to the same meeting or subject matter, furnished to security holders subsequent to the proxy statement shall be filed with the Commission at least 2 business days prior to the date copies of such material are first sent or given to security holders, or such shorter period prior to such date as the Commission may authorize upon a showing of good cause therefor.

(c) *Definitive proxy statement.* Eight definitive copies of the proxy statement, form of proxy and all other soliciting material, in the form in which such material is furnished to security holders, shall be filed with, or mailed for filing to, the Commission not later than the date such material is first sent or given to any security holders. Three copies of such material shall at the same time be filed with, or mailed for filing to, each national securities exchange upon which any class of securities of the registrant is listed and registered.

(d) *Personal solicitation materials.* If the solicitation is to be made in whole or in part by personal solicitation, three copies of all written instructions or other material which discusses or reviews, or comments upon the merits of, any matter to be acted upon and which is furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation shall be filed with the Commission by the person on whose behalf the solicitation is made a least five calendar days prior to the date copies of such material are first sent or given to such individuals, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor.

(e) *Release dates.* All preliminary material filed pursuant to paragraph (a) or (b) of this section shall be accompanied by a statement of the date on which definitive copies therefor filed pursuant to paragraph (c) of this section are intended to be released to security holders. All definitive material filed pursuant to paragraph (c) of this section shall be accompanied by a statement of the date on which copies of such material have been released to security holders, or, if not released, the date on which copies thereof are intended to be released. All material filed pursuant to paragraph (d) of this section shall be accompanied by a statement of the date on which copies thereof are intended to be released to the individual who will make the actual solicitation.

(f) *Public ovoilability of information.* All copies of preliminary material filed pursuant to this Regulation shall be clearly marked "Preliminary Copies," shall be for the information of the Commission only and shall not be deemed available for public inspection intil definitive material has been filed with the Commission except that (1) such material may be disclosed to any department or agency of the United States Government and to the Congress, and the Commission may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Commission, and (2) such material may be deemed available for public inspection when the staff determines that the registrant has released the proxy material to security holders or has abandoned the intention of releasing the proxy material.

* * * * *

(h) *Speeches, press releases and scripts.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, of § 240.14a–11(e) and of § 240.14a–12(b) copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the Commission prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the Commission as required by paragraph (c) of this section not later than the date such material is used or published. The provisions of paragraphs (a) and (b) of this section and of § 240.14a–11(e) and of § 240.14a–12(b) shall apply, however, to any reprints or reproductions of all or any part of such material.

* * * * *

(j) *Fees.* At the time of filing the preliminary proxy solicition material, the persons upon whose behalf the solicitation is made, other than companies registered under the Investment Company Act of 1940, or where an application or declaration under the Public Utility Holding Company Act of 1935 is involved, shall pay to the Commission the following applicable fee: (1) For preliminary proxy material which solicits proxies for election of directors or other business for which a stockholder vote is necessary, but apparently no controversy is involved, a fee of $125; (2) for proxy material where a contest as set forth in Rule 14a–11 is involved, a fee of $500 from each party to the controversy; and (3) for proxy material involving acquisitions, mergers, spin-offs, consolidations or proposed sales or other dispositions of substantially all the assets of the company, a fee established in accordance with Rule 0–11, (§ 240.0–11 of this chapter), shall be paid. No refund shall be given.

(k) *Merger proxies.* Notwithstanding the foregoing provisions of this section, any proxy statement, form of proxy or other soliciting material included in a registration statement filed under the Securities Act of 1933 on Form S–14, S–4 or F–4 (§ 239.23, 25 or 34 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section nor shall any fee be required under paragraph (j) of this section. However, any additional soliciting material used after the effective date of the registration statement on Form S–14, S–4 or F–4 shall be filed in accordance with this section, unless separate copies of such material are required to be filed as an amendment of such registration statement.

(l) *Computing time periods.* In computing time periods beginning with the filing date specified in Regulation 14A (§§ 240.14a–1 to 240.14b–1 of this chapter), the filing date shall be counted as the first day of the time period and midnight of the last day shall constitute the end of the specified time period.

19. Section 240.14a–7 is amended by revising the introductory text, in paragraphs (a) through (c) removing the word "issuer" and replacing it with the word "registrant," and in paragraph (b)(2) removing the work "solicited" and replacing it with the word "soliciting" to read as follows:

§ 240.14a–7 Mailing communications for security holders.

If the registrant has made or intends to make any solicitation subject to this regulation, the registrant shall perform such of the following acts as may be duly requested in writing with respect to the same subject matter or meeting by any security holder who is entitled to vote on such matter or to vote at such meeting and who shall defray the reasonable expenses to be incurred by the registrant in the performance of the act or acts requested.

* * * * *

20. Section 240.14a–8 is amended by revising paragraph (a)(1)(i), (a)(3)(i), (c)(3), and (d), and in the following paragraphs of § 240.14a–8 removing the words "an issuer," "issuer's" and "issuer" and replacing them with the words "a registrant," "registrant's" and "registrant" in paragraphs: (a) introductory text, (a)(1)(ii), (a)(2), (a)(3), the Note following (a)(3)(ii), (a)(4), (b)(1), (b)(2), (c) introductory text, the Note to (c)(1), (c)(2), (c)(4) through (c)(12), (e), and the last paragraph.

§ 240.14a–8 Proposals of security holders.

(a) * * *

(1) *Eligibility.* (i) At the time he submits the proposal, the proponent shall be a record or beneficial owner of at least 1% of $1000 in market value of securities entitled to be voted on the proposal at the meeting and have held such securities for at least one year, and he shall continue to own such securities through the date on which the meeting is held. If the registrant requests documentary support for a proponent's claim that he is the beneficial owner of at least $1000 in market value of such voting securities of the registrant or that he has been a beneficial owner of the securities for one or more years, the proponent shall furnish appropriate documentation within 14 calendar days after receiving the request. In the event the registrant includes the proponent's proposal in its proxy soliciting material for the meeting and the proponent fails to comply with the requirement that he continuously hold such securities through the meeting date, the registrant shall not be required to include any proposals submitted by the proponent in its proxy material for any meeting held in the following two calendar years.

* * * * *

(3) * * *

(i) *Annual Meetings.* A proposal to be presented at an annual meeting shall be received at the registrant's principal executive offices not less than 120 calendar days in advance of the date of the registrant's proxy statement released to security holders in connection with the previous year's annual meeting of security holders except that if no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date contemplated at the time of the previous year's proxy statement, a proposal shall be received by the registrant a reasonable time before the solicitation is made.

* * * * *

(c) * * *

(3) If the proposal or the supporting statement is contrary to any of the Commission's proxy rules and regulations, including Rule 14a–9 [§ 240.14a–9 of this chapter], which prohibits false or misleading statements in proxy soliciting materials;

(d) Whenever the registrant asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Commission, not later than 60 calendar days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a–6(a) [§ 240.14a–6(a) of this chapter], or such shorter period prior to such date as the Commission or its staff may permit, six copies of the following items: (1) The proposal; (2) any statement in support thereof as received from the proponent; (3) a statement of the reasons why the registrant deems such omission to be proper in the particular case; and (4) where such reasons are based on matters of law, a supporting opinion of counsel. The registrant shall at the same time, if it has not already done so, notify the proponent of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the registrant deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

* * * * *

§ 240.14a–11 [Amended]

21. Section 240.14a–11 is amended by removing the word "issuer" and replacing it with the word "registrant" in paragraphs (b)(1), (b)(2), (b)(6), (c)(1), through (c)(3).

22. Section 240.14a–13 is amended by revising paragraph (a) introductory text and paragraphs (a)(1) and (a)(2) as proposed to be added at 50 FR 13615, April 5, 1985 to read as follows:

§ 240.14a–13 Obligation of registrants in communicating with beneficial owners.

(a) If the registrant knows that securities of any class entitled to vote at a meeting (or by written consents or authorizations if no meeting is held) with respect to which the registrant intends to solicit proxies, consents or authorizations are held of record by a broker, dealer, bank or voting trustee, or their nominees, the registrant shall:

(1) By first class mail or other equally prompt means, inquire of such record holder whether other persons are the beneficial owners of such securities and, if so, the number of copies of the proxy and other soliciting material necessary to supply such material to beneficial owners; and, in the case of an annual (or special in lieu of the annual) meeting, or written consent in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to security holders necessary to supply such material to beneficial owners if such reports are to be distributed by the broker, dealer, bank, voting trustee or their nominees;

(2) Make the inquiry at least 20 calendar days prior to the record date of the meeting of security holders, or (i) if such inquiry is impracticable 20 calendar days prior to the record date of a special meeting, as many days before such meeting as is practicable, or (ii) if, consents or authorizations are solicited, and such inquiry is impracticable 20 calendar days before the earliest date on which they may be used to effect corporate action, as many days as is practicable, or (iii) at such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown; and

* * * * *

23. By revising § 240.14a–101 as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

Notes.—A. Where any item calls for information with respect to any matter to be acted upon and such matter involves other matters with respect to which information is called for by other items of this schedule, the information called for by such other items also shall be given. For example, where a solicitation of security holders is for the purpose of approving the authorization of additional securities which are to be used to acquire another specified company, and the registrants' security holders will not have a separate opportunity to vote upon the transaction, the solicitation to authorize the securities is also a solicitation with respect to the acquisition. In such case, information required by Items 13 and 14 shall be furnished.

B. Where any item calls for information with respect to any matter to be acted upon at the meeting, such item need be answered in the registrant's soliciting material only

with respect to proposals to be made by or on behalf of the registrant.

C. Except as otherwise specifically provided, where any item calls for

E. In Item 14(a) of this schedule, the reference to an "S–2 company" shall refer to a company which meets the requirements for

state. Give the name of any director of the registrant who has informed the registrant in writing that he intends to oppose any action

regular employees and officers, provided a statement to that effect is included in the proxy statement

other security holders may be entitled to vote.

"interested person" within the meaning of section 2(a)(19) of the Investment Company

VOL 50 ISS 139 JL 19 1985 UMI

with respect to proposals to be made by or on behalf of the registrant.

C. Except as otherwise specifically provided, where any item calls for information for a specified period with regard to directors, executive officers, officers or other persons holding specified positions or relationships, the information shall be given with regard to any person who held any of the specified positions or relationships at any time during the period. Information need not be included for any portion of the period during which such person did not hold any such position or relationship, provided a statement to that effect is made.

D. Information may be incorporated by reference only in the manner and to the extent specifically permitted in the items of this schedule. Where incorporation by reference is used, the following shall apply:

1. Any incorporation by reference of information pursuant to the provisions of this schedule shall be subject to the provisions of Rule 24 of the Commission's Rules of Practice (§ 201.24 of this chapter) restricting incorporation by reference of documents which incorporate by reference other information. Information incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. Where only certain pages of a document are incorporated by reference, the document from which the information is taken shall be clearly identified in the reference. An express statement that the specified information is incorporated by reference shall be made at the particular place in the statement where the information is required. Information shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

2. If a document is incorporated by reference but not delivered to security holders, include an undertaking to provide, without charge to each person to whom a proxy statement is delivered, upon written or oral request of such person and by first class mail or other equally prompt means within one business day of receipt of such request, a copy of any and all of the information that has been incorporated by reference in the proxy statement (not including exhibits to the information that is incorporated by reference unless such exhibits are specifically incorporated by reference into the information that the proxy statement incorporates), and the address (including title or department) and telephone numbers to which such a request is to be directed. This includes information contained in documents filed subsequent to the date on which definitive copies of the proxy statement are sent or given to security holders, up to the date of responding to the request.

3. If a document is incorporated by reference in the manner permitted by Item 14(a) of this schedule, the proxy statement must be sent to security holders no later than 20 business days prior to the date on which the meeting of such security holders is held, or if no meeting is held, the earlier of 20 business days prior to (1) the date of such vote, consent or authorization, or (2) the date the transaction is consummated or the votes, consents or authorizations may be used to effect the corporate action.

E. In Item 14(a) of this schedule, the reference to an "S–2 company" shall refer to a company which meets the requirements for use of Form S–2 (§239.12 of this chapter), the reference to an "S–3 company" shall refer to a company which meets the following requirements:

(1) the company meets the requirements of General Instruction I.A. of Form S–3 (§ 239.13 of this chapter); and

(2) one of the following is met:

(i) the company meets the aggregate market value requirement of General Instruction I.B.1. of Form S–3; or

(ii) action is to be taken as described in Items 11, 12 and 13 of this schedule which concerns non-convertible debt or preferred securities which are "investment grade securities" as defined in General Instruction I.B.2. of Form S–3, except that the time by which the rating must be assigned shall be the date on which definitive copies of the proxy statement are first sent or given to security holders; or

(iii) the company is a majority-owned subsidiary and one of the conditions of General Instruction I.C. of Form S–3 is met.

Item 1. Date, time and place information. (a) State and date, time and place of the meeting of security holders, and the compete mailing address, including ZIP code, of the principal executive offices of the registrant, unless such information is otherwide disclosed in material furnished to security holders with the proxy statement. If action is to be taken by written consent, state the date, time and place such consents will be counted.

(b) On the first page of the proxy statement, state the approximate date on which the proxy statement and form of proxy are first sent or given to security holders.

(c) Furnish the information required to be in the proxy statement by Rule 14a-5(e) (§ 240.14a-5(e) of this chapter).

Item 2. Revocability of proxy. State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

Item 3. Dissenters' right of appraisal. Outline briefly the rights of appraisal or similar rights of dissenters with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by dissenting security holders in order to perfect such rights. Where such rights may be exercised only within a limited time after the date of adoption of a proposal, the filing of a charter amendment or other similar act, state whether the persons solicited will be notified of such date.

Instruction. Indicate whether a security holder's failure to vote against a proposal will constitute a waiver of his appraisal or similar rights and whether a vote against a proposal will be deemed to satisfy any notice requirements under State law with respect to appraisal rights. If the State law is unclear, state what position will be taken in regard to these matters.

Item 4. Persons Making the Solicitation—(a) Solicitations not subject to Rule 14a-11 (§ 240.14a-11 of this chapter.) (1) If the solicitation is made by the registrant, so state. Give the name of any director of the registrant who has informed the registrant in writing that he intends to oppose any action intended to be taken by the registrant and indicate the action which he intends to oppose.

(2) If the solicitation is made otherwise than by the registrant, so state and give the names of the persons by whom and on whose behalf it is made.

(3) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially engaged employees or paid solicitors, state (i) the material features of any contract or arrangement for such solicitation and identify the parties, and (ii) the cost or anticipated cost thereof.

(4) State the names of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

(b) *Solicitations subject to Rule 14a-11 (§ 240.14a-11 of this chapter.)* (1) State by whom the solicitation is made and describe the methods employed and to be employed to solicit security holders.

(2) If regular employees of the registrant or any other participant in a solicitation have been or are to be employed to solicit security holders, describe the class or classes of employees to be so employed, and the manner and nature of their employment for such purpose.

(3) If specially engaged employees, representatives or other persons have been or are to be employed to solicit security holders, state (i) the material features of any contract or arrangement for such solicitation and identify the parties (ii) the cost or anticipated cost thereof, and (iii) the approximate number of such employees or employees of any other person (naming such other person who will solicit security holders.

(4) State the total amount estimate to be spent and the total expenditures to date for, in furtherance of, or in connection with the solicitation of security holders.

(5) State by whom the cost of the solicitation will be borne. If such cost is to be borne initially by any person other than the registrant, state whether reimbursement will be sought from the registrant, and, if so, whether the question of such reimbursement will be submitted to a vote of security holders.

(6) If any such solicitation is terminated pursuant to a settlement between the registrant and any other participant in such solicitation, describe the terms of such settlement, including the cost or anticipated cost thereof to the registrant.

Instructions. 1. With respect to solicitations subject to § 240.14a–11 (Rule 14a–11), costs and expenditures within the meaning of this Item 4 shall include fees for attorneys, accountants, public relations or financial advisers, solicitors, advertising, printing, transportation, litigation and other costs incidental to the solicitation, except that the registrant may exclude the amount to such costs represented by the amount normally expended for a solicitation for an election of directors in the absence of a contest, and costs represented by salaries and wages of

regular employees and officers, provided a statement to that effect is included in the proxy statement.

2. The information required pursuant to paragraph(b)(6) of this Item should be included in any amended or revised proxy statement or other soliciting materials relating to the same meeting or subject matter furnished to security holders by the registrant subsequent to the date of settlement.

Item 5. Interest of certain Persons in Matters To Be Acted Upon—(a) Solicitations not subject to Rule 14a–11 (§ 240.14a–11 of this chapter). Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each of the following persons in any matter to be acted upon, other than elections to office:

(1) If the solicitation is made on behalf of the registrant, each person who has been a director or executive officer of the registrant at any time since the beginning of the last fiscal year.

(2) If the solicitation is made otherwise than or behalf of the registrant, each person on whose behalf the solicitation is made.

Any person who would be a participant in a solicitation purposes of Rule 14a–11 as defined in paragraph (b) (3), (4), (5) and (6) thereof, shall be deemed a person on whose behalf the solicitation is made for purposes of this paragraph (a).

(3) Each nominee for election as a director of the registrant.

(4) Each associate of the foregoing persons.

Instruction. Except in the case of a solicitation subject to this regulation made in opposition to another solicitation subject to this regulation, this sub-item (a) shall not apply to any interest arising from the ownership of securities of the registrant where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

(b) *Solicitation subject to Rule 14a–11.* (1) Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each participant as defined in § 240.14a–11(b) (2), (3), (4), (5) and (6) (Rule X–14A–11), in any matter to be acted upon at the meeting, and include with respect to each participant the information, or a fair and adequate summary thereof, required by Items 2(a), 2(d), 3, 4(b) and 4(c) of Schedule 14B (§ 240.14a–102 of this chapter).

(2) With respect to any person, other than a director or executive officer of the registrant acting solely in that capacity, who is a party to an arrangement or understanding pursuant to which a nominee for election as director is proposed to be elected, describe any substantial interest, direct or indirect, by security holdings or otherwise, that he has in any matter to be acted upon at the meeting, and furnish the information called for by item 4(b) and (c) of Schedule 14B.

Item 6. Voting securities and principal holders thereof. (a) As to each class of voting securities of the registrant entitled to be voted, state the number of shares outstanding and the number of votes to which each class is entitled.

(b) State the record date with respect to this solicitation. If the right to vote is not limited to security holders of record on that date, indicate the conditions under which other security holders may be entitled to vote.

(c) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights: (1) Make a statement that they have such rights, (2) briefly describe such rights, (3) state briefly the conditions precedent to the exercise thereof, and (4) if discretionary authority to cumulate votes is solicited, so indicate.

(d) Furnish the information required by Item 403(a) of Regulation S–K (§ 229.403(a) of this chapter) to the extent known by the persons on whose behalf the solicitation is made.

(e) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the registrant has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person or persons; the basis of the control, the date and a description of the transaction(s) which resulted in the change of control and the percentage of voting securities of the registrant now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that the identity of the bank has been so omitted and filed separately with the Commission.

Instruction. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters should be described.

Item 7. Directors and executive officers. If action is to be taken with respect to the election of directors, furnish the following information in tabular form to the extent practicable. If, however, the solicitation is made on behalf of persons other than the registrant, the information required need be furnished only as to nominees of the persons making the solicitation.

(a) The information required by instruction 4 to Item 103 of Regulation S–K (§ 229.103 of this chapter).

(b) The information required by Item 401 of Regulation S–K (§ 229.401 of this chapter).

(c) With respect to registrants other than investment companies registered under the Investment Company Act of 1940 furnish the information required by Item 404 (a), (b), and (c) of Regulation S–K (§ 229.404 of this chapter).

(d) With respect to investment companies registered under the Investment Company Act of 1940, indicate by an asterisk any nominee or director who is or would be an "interested person" within the meaning of section 2(a)(19) of the Investment Company Act of 1940 and briefly describe the relationships by reason of which such person is deemed an "interested person."

(e)(1) State whether or not the registrant has standing audit, nominating and compensation committees of the Board of Directors, or committees performing similar functions. If the registrant has such committees, however designated, identify each committee member, state the number of committee meetings held by each such committee during the last fiscal year and describe briefly the functions performed by such committees. In the case of investment companies registered under the Investment Company Act of 1940, indicate by an asterisk whether that member is an "interested person" as defined in section 2(a)(19) of that Act. Information concerning compensation committees is not required of registered investment companies whose management functions are performed by external managers.

(2) If the registrant has a nominating or similar committee, state whether the committee will consider nominees recommended by security holders and, if so, describe the procedures to be followed by security holders in submitting such recommendations.

(f) State the total number of meetings of the board of directors (including regularly scheduled and special meetings) which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of (1) the total number of meetings of the board of directors (held during the period for which he has been a director) and (2) the total number of meetings held by all committees of the board on which he served (during the periods that he served).

(g) If a director has resigned or declined to stand for re-election to the board of directors since the date of the last annual meeting of security holders because of a disagreement with the registrant on any matter relating to the registrant's operations, policies or practices, and if the director has furnished the registrant with a letter describing such disagreement and requesting that the matter be disclosed, the registrant shall state the date of resignation or declination to stand for re-election and summarize the director's description of the disagreement.

If the registrant believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

(h) With respect to those classes of voting stock which participated in the most recent election of directors:

(1) State in an introductory paragraph the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors; and

(2) Disclose in tabular format, following such introductory paragraph, the percentage of total shares cast for and withheld from the vote for or, where applicable, cast against, each nominee, which, respectively, were voted for and withheld from the vote for, or

voted against, such nominee. When groups of classes or series of classes voted together in the election of a director or directors, they

special (in lieu of annual) meeting of security holders at which directors are to be elected,

holders, state whether such change was recommended or approved by:

annual payments necessary to pay the total amount over such period; and (ii) the estimated annual payment to be made with

otherwise than for exchange for outstanding securities of the registrant, furnish the

and amount of outstanding securities to be exchanged therefor and the basis of the

voted against, such nominee. When groups of classes or series of classes voted together in the election of a director or directors, they shall be treated as a single class for the purpose of the preceding sentence.

Instructions. 1. Calculate the percentage of shares voting or withholding authority to vote in the election of directors, referred to in paragraph (h)(1), by dividing the total shares cast for and withheld from the vote for or, where applicable, voted against, the director in respect of whom the highest aggregate number of shares was cast by the total number of shares outstanding which were eligible to vote as of the record date.

2. The information required by paragraph (h) is to be provided for only those nominees with respect to whom 5 percent or more of the total shares as calculated above were withheld from the vote for or cast against such nominee.

3. If a registrant elects less than the entire board of directors annually, disclosure is required as to any individual director if 5% or more of the total shares cast for and withheld from, the vote for, or, where applicable, cast against any incumbent director were withheld from, or cast against the vote for such director in the election in which he was most recently elected. The disclosure is required only in connection with the first renomination of the director after such election.

4. No information need be given in response to Item 7(h) if the registrant has previously furnished to its security holders a report of the results of the most recent meeting of security holders or solicitation of consents in which directors were elected which includes: (1) A description of each matter voted upon at the meeting and a statement of the percentage of the shares voting which were voted for and against each such matter; and (2) the information which would be called for by this Item 7(h). If a registrant has previously furnished such results to its security holders, this fact should be set forth in the registrant's cover letter accompanying the filing of preliminary proxy materials with the Commission.

Item 8. Compensation of directors and executive officers. (See Note C at the beginning of Schedule 14A).

Furnish the information required by Item 402 (§ 229.402 of this chapter) of Regulation S–K if action is to be taken with regard to (i) the election of directors, (ii) any bonus, profit sharing or other compensation plan, contract, or arrangement in which any director, nominee for election as a director, or executive officer of the registrant will participate, (iii) any pension or retirement plan in which any such person will participate or (iv) the granting or extension to any such person of any options, warrants or rights to purchase any securities, other than warrants or rights issued to security holders as such, on a pro rata basis. However, if the solicitation is made on behalf of persons other than the registrant the information required need be furnished only as to nominees of the persons making the solicitation and associates of such nominees.

Item 9. Independent public accountants. If the solicitation is made on behalf of the registrant and relates to (1) the annual (or special in lieu of annual) meeting of security holders at which directors are to be elected, or a solicitation of consents or authorizations in lieu of such meeting, (2) the election, approval or ratification of the registrant's independent public accountant, or (3) an action requiring the furnishing of financial statements pursuant to Item 14 of this schedule, furnish the following information describing the registrant's relationship with its independent public accountants:

(a) The name of the principal accountant selected or being recommended to security holders for election, approval or ratification for the current year. If no accountant has been selected or recommended, so state and briefly describe the reasons therefor.

(b) If the solicitation relates to (1) or (2) above, (i) a statement whether or not the principal accountant named in paragraph (a) of this section is a member in a professional organization which has both a peer review program and independent oversight function, both of which are subject to review by the Commission and (ii) if such a member, a statement whether or not the principal accountant has had such peer review, and if so the date of the most recent peer review report.

(c) The name of the principal accountant for the fiscal year most recently completed if different from the accountant selected or recommended for the current year or if no accountant has yet been selected or recommended for the current year.

(d) If a change or changes in accountants have taken place since the date of the proxy statement for the most recent annual meeting of security holders (or, if no such meeting has been held, within 12 months prior to, and any period subsequent to, the date of the most recent financial statements) and if in connection with such change(s) a disagreement between the accountant and the registrant has occurred as described in Item 6(b) of Form 8–K or Items 77K or 102] of Form N–SAR, then whether or not previously reported, the disagreement shall be described. Prior to filing the preliminary proxy materials with the Commission which contains or amends such description, the registrant shall furnish the description of the disagreement to any accountant with whom a disagreement has been or was required to be reported. If that accountant believes that the description of the disagreement is incorrect or incomplete, he may include a brief statement, ordinarily expected not to exceed 200 words, in the proxy statement presenting his view of the disagreement. This statement shall be submitted to the registrant within ten business days of the date the accountant receives the registrant's description.

(e) The proxy statement shall indicate whether or not representatives of the principal accountants for the current year and for the most recently completed fiscal year are expected to be present at the security holders' meeting with the opportunity to make a statement if they desire to do so and whether or not such representatives are expected to be available to respond to appropriate questions.

(f) If any change in accountants has taken place since the date of the proxy statement for the most recent annual meeting of security holders, state whether such change was recommended or approved by:

(1) Any audit or similar committee of the Board of Directors, if the registrant has such a committee; or

(2) The Board of Directors, if the registrant has no such committee.

Item 10. Compensation Plans. If action is to be taken with respect to any plan pursuant to which cash or noncash compensation may be paid, furnish the following information with respect to any such plan:

(a) *All Plans.*

(1) Describe briefly the material features of the plan, identify each class of persons who will be eligible to participate therein, indicate the approximate number of persons in each such class and state the basis of such participation.

(2) State the benefits or amounts which will be received by, or allocated to, each of the following under the plan, if such benefits or amounts are determinable: (i) each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S–K (§ 229.402(a)(1)(i) of this chapter); (ii) all executive officers as a group; (iii) all directors who are not executive officers; (iv) all employees. If such benefits or amounts are not determinable, state the benefits or amounts which would have been received by, or allocated to, each of the following for the last fiscal year if the plan had been in effect, if such benefits or amounts may be determined: (i) each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S–K (§ 229.402(a)(1)(i) of this chapter); (ii) all executive officers as a group; (iii) all directors who are not executive officers; (iv) all employees.

(3) Furnish the information called for by Item 402(b) of Regulation S–K (§ 229.402(b) of this chapter) with respect to all compensation plans now in effect, or in effect during the last three years except that information called for in subparagraphs (b)(1) (vi) and (vii) and (b)(4) of Item 402(b) of Regulation S–K (§ 229.402(b) of this chapter) should be furnished with respect to the last three fiscal years for the following: (i) each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S–K (§ 229.402(a) of this chapter); (ii) all executive officers as a group; (iii) all directors who are not executive officers, if such persons may participate in the plan; and (iv) all employees, if such persons may participate in the plan. Such information is in lieu of the information otherwise called for by Item 402(b) of Regulation S–K (§ 229.402(b) of this chapter) in connection with Item 8 of this schedule.

(4) If the plan to be acted upon can be amended, otherwise than by a vote of security holders, to increase the cost thereof to the registrant or to alter the allocation of the benefits as between the groups specified in paragraph (a)(3), state the nature of the amendments which can be so made.

(b) *Specific Plans.*

(1) With respect to any pension or retirement plan submitted for security holder action, state: (i) the approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid and the estimated annual payments necessary to pay the total amount over such period; and (ii) the estimated annual payment to be made with respect to current services. In the case of a pension or retirement plan, information called for by subparagraph (a)(2) of this item may be furnished in the format specified by Item 402(b) (2) and (3) of Regulation S–K (§ 229.402(b) (2) and (3) of this chapter).

(2) With respect to options, warrants or rights submitted for security holder action, (i) state: (A) the title and amount of securities called for or to be called for by such options, warrants or rights; (B) the prices, expiration dates and other material conditions upon which the options, warrants or rights may be exercised; (C) the consideration received or to be received by the registrant or subsidiary for the granting or extension of the options, warrants or rights; (D) the market value of the securities called for or to be called for by the options, warrants or rights as of the latest practicable date; and (E) in the case of options, the federal income tax consequences of the issuance and exercise of such options to the recipient and to the registrant; and (ii) state separately the mount of options, warrants or rights received or to be received by the following persons: (A) each person (stating name and position) specified in Item 402(a)(1)(i) of Regulation S–K (§ 229.402(a)(1)(i) of this chapter); (B) all executive officers as a group; (C) all directors who are not executive officers; (D) each nominee for election as a director; (E) each associate of such directors, executive officers or nominees; (F) each other person who received or is to receive 5 percent of such options, warrants or rights; and (G) all employees.

Instructions.

1. The term "plan" as used in this item means any plan as defined in Instruction 3 of Item 402(b) of Regulation S–K (§ 229.402(b) of this chapter).

2. If action is to be taken with respect to a material amendment or modification of an existing plan, the item shall be answered with respect to the plan as proposed to be amended or modified and shall indicate any material differences from the existing plan.

3. If the plan to be acted upon is set forth in a written document, three copies thereof shall be filed with the Commission at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to paragraph (a) of Rule 14a–6 (§ 229.14a–6 of this chapter).

4. Paragraphs (a)(3) and (b)(2)(ii) do not apply to warrants or rights to be issued to security holders as such on a pro rata basis.

5. The Commission should be informed, as suplemental information, when the proxy statement in preliminary form is filed, as to when the options, warrants or rights and the shares called for thereby will be registered under the Securities Act, or, if such registration is not contemplated, the section of the Act or rule of the Commission under which exemption from such registration is claimed and the facts relied upon to make the exemption available.

Item 11. Authorization or issuance of securities otherwise than for exchange. If action is to be taken with respect to the authorization or issuance of any securities otherwise than for exchange for outstanding securities of the registrant, furnish the following information:

(a) State the title and amount of securities to be authorized or issued.

(b)(1) Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter). If the terms of the securities cannot be stated or estimated with respect to any or all of the securities to be authorized, because no offering thereof is contemplated in the proximate future, and if no further authorization by security holders for the issuance thereof is to be obtained, it should be stated that the terms of the securities to be authorized, including dividend or interest rates, conversion prices, voting rights, redemption prices, maturity dates, and similar matters will be determined by the board of directors. If the securities are additional shares of common stock of a class outstanding, the description may be omitted except for a statement of the preemptive rights, if any. Where the statutory provisions with respect to preemptive rights are so indefinite or complex that they cannot be stated in summarized form, it will suffice to make a statement in the form of an opinion of counsel as to the existence and extent of such rights. (2) Where common equity securities are concerned, furnished the information required by Item 201 of Regulation S–K (§ 229.201 of this chapter), if the information required in Item 201 would be applicable to a class of securities materially affected by the corporate action to be taken. Item 201 disclosure may be incorporated by reference in the manner and to the extent permitted for financial information by Item 14(a) of this schedule (for S–2 and S–3 companies) or Item 14(b) of this schedules (for all companies).

(c) Describe briefly the transaction in which the securities are to be issued including a statement as to (1) the nature and approximate amount of consideration received or to be received by the registrant and (2) the approximate amount devoted to each purpose so far as determinable for which the net proceeds have been or are to be used. If it is impracticable to describe the tranaction in which the securities are to be issued, state the reason, indicate the purpose of the authorization of the securities, and state whether further authorization for the issuance of the securities by a vote of security holders will be solicited prior to such issuance.

(d) If the securities are to be issued otherwise than in a general public offering for cash, state the reasons for the proposed authorization or issuance and the general effect thereof upon the rights of existing security holders.

Item 12. Modification or exchonge of securities. If action is to be taken with respect to the modification of any class of securities of the registrant, or the issuance or authorization for issuance of securities of the registrant in exchange for outstanding securities of the registrant furnish the following information:

(a) If outstanding securities are to be modified, state the title and amount thereof. If securities are to be issued in exchange for outstanding securities, state the title and amount of securities to be so issued, the title and amount of outstanding securities to be exchanged therefor and the basis of the exchange.

(b) Describe any material differences between the oustanding securities and the modified or new securities in respect of any of the matters concerning which information would be required in the description of the securities in Item 202 of Regulation S–K (§ 229.202 of this chapter).

(c) State the reasons for the proposed modification or exchange and the general effect thereof upon the rights of existing security holders.

(d) Furnish a brief statement as to arrears in dividends or as to defaults in principal or interest in respect to the outstanding securities which are to be modified or exchanged and such other information as may be appropriate in the particular case to disclose adequately the nature and effect of the proposed action.

(e) Outline briefly any other material features of the proposed modification or exchange. If the plan of proposed action is set forth in a written document, file copies thereof with the Commission in accordance with § 240.14a–6.

(f) Where common equity securities are concerned, furnish the information required by Item 201 of Regulation S–K (§ 229.201 of this chapter), if the information required in Item 201 would be applicable to a class of securities materially affected by the corporate action to be taken. Item 201 disclosure may be incorporated by reference in the manner and to the extent permitted for financial information by Item 14(a) of this schedule (for S–2 and S–3 companies or Item 14(b) of this schedule (for all companies).

Instruction. If the existing security is presently listed and registered on a national securities exchange, state whether the registrant intends to apply for listing and registration of the new or reclassified security on such exchange or any other exchange. If the registrant does not intend to make such application, state the effect of the termination of such listing and registration.

Item 13. Mergers, consolidations, acquisitions and similar matters. (See Notes A and D at the beginning of this section.) If action is to be taken with respect to any plan for (i) the merger or consolidation of the registrant into or with any other person or of any other person into or with the registrant, (ii) the acquisition by the registrant or any of its security holders of securities of another person, (iii) the acquisition by the registrant of any other going business or of the assets thereof, (iv) the sale or other transfer of all or any substantial part of the assets of the registrant, or (v) the liquidation or dissolution of the registrant, furnish the following information:

(a) *Information about the transaction.* Furnish the following information concerning the registrant and (unless otherwise indicated) each other person: which is to be merged into the registrant or into or with which the registrant is to be merged or consolidated; the business or assets of which are to be acquired; which is the issuer of securities to be acquired by the registrant in exchange for all or a substantial part of the

registrant's assets; or which is the issuer of securities to be acquired by the registrant or its security holders;

registrant by the exchange ratio so that the per share amounts are equated to the

(ii) Information relating to property required by Item 102 of Regulation S–K

(ii) Describe any and all material changes in the registrant's affairs that have occurred

(i) *Information required to be furnished.* If the registrant is an S–2 or S–3 company (See

included in the latest annual report to

registrant's assets; or which is the issuer of securities to be acquired by the registrant or its security holders:

(1) The name, complete mailing address (including the Zip Code), and telephone number (including the area code) of the principal executive offices.

(2) A brief description of the general nature of the business conducted by the other person.

(3) A summary of the material features of the proposed transaction. If the plan is set forth in a written document, file three copies thereof with the Commission at the time preliminary copies of the proxy statement and form of proxy are filed pursuant to Rule 14a–6(a) (§ 240.14a–6(a) of this chapter). The summary shall include, where applicable:

(i) a brief summary of the terms of the transaction agreement;

(ii) the reasons for engaging in the transaction;

(iii) An explanation of any material differences in the rights of security holders of the registrant as a result of this transaction;

(iv) a brief statement as to the accounting treatment of the transaction; and

(v) the federal income tax consequences of the transaction.

(4) A brief statement as to dividends in arrears or defaults in principal or interest in respect of any securities of the registrant or of such other person, and as to the effect of the plan thereon and such other information as may be appropriate in the particular case to disclose adequately the nature and effect of the proposed action.

(5) The information required by Item 301 of Regulation S–K (§ 229.301 of this chapter) (selected financial data) for (i) the registrant; (ii) the other person; and (iii) if material, the registrant or the other person on a pro forma basis, giving effect to the transaction.

(6) In comparative columnar form, historical and pro forma per share data of the registrant and historical and equivalent pro forma per share data of the other person for the following items:

(i) book value per share as of the date financial data is presented pursuant to Item 301 of Regulation S–K (§ 229.301 of this chapter) (selected financial data);

(ii) cash dividends declared per share for the periods for which financial data is presented pursuant to Item 301 of Regulation S–K (§ 229.301 of this chapter) (selected financial data); and

(iii) income (loss) per share from continuing operations for the periods for which financial data is presented pursuant to Item 301 of Regulation S–K (§ 229.301 of this chapter) (selected financial data).

Instruction to paragraph (a)(6). For a business combination accounted for as a purchase, the pro forma and equivalent pro forma income (loss) from continuing operations per share and equivalent pro forma cash dividends declared per share shall be presented only for the most recent fiscal year and interim period. Equivalent pro forma per share amounts shall be calculated by multiplying the pro forma income (loss) per share before non-recurring charges or credits directly attributable to the transaction, pro forma book value per share, and the pro forma dividends per share of the registrant by the exchange ratio so that the per share amounts are equated to the respective values for one share of the other person.

(7) Financial information required by Article 11 of Regulation S–X (§ 210.11–01 et seq. of this chapter) with respect to this transaction.

Instructions to paragraph (a)(7).

1. Any other Article 11 information that is presented (rather than incorporated by reference) pursuant to other items of this schedule shall be presented together with the information provided pursuant to paragraph (a)(7), but the presentation shall clearly distinguish between this transaction and any other.

2. If pro forma financial information with respect to all other transactions is incorporated by reference pursuant to (b)(2) of this Item, only the pro forma results need be presented as part of the pro forma financial information required by this Item.

(8) A statement as to whether any federal or state regulatory requirements must be complied with or approval must be obtained in connection with the transaction, and if so, the status of such compliance or approval.

(9) If a report, opinion or appraisal materially relating to the transaction has been received from an outside party, and such report, opinion or appraisal is referred to in the proxy statement, furnish the same information as would be required by Item 9(b)(1) through (6) of Schedule 13E–3 (§ 240.13e-100 of this chapter). (10) A description of any past, present or proposed material contacts, arrangements, understandings, relationships, negotiations or transactions during the periods for which financial statements are presented or incorporated by reference pursuant to Item 14 of this schedule between the other person or its affiliates and the registrant or its affiliates such as those concerning a merger, consolidation or acquisition; a tender offer or other acquisition of securities; an election of directors; or a sale or other transfer of a material amount of assets.

(11) As to each class of securities of the registrant, or of the other person which is admitted to trading on a national securities exchange or with respect to which a market otherwise exists, and which will be materially affected by the plan, state the high and low sale prices (or, in the absence of trading in a particular period, the range of the bid and asked prices) as of the date preceding public announcement of the proposed transaction, or if no such public announcement was made, as of the day preceding the day the agreement or resolution with respect to the corporate action was made.

(b) *Information about the registrant and the other person.*

(1) Furnish the following information concerning the registrant and the other person referred to the paragraph (a) of this Item:

(i) Information relating to industry segments, classes of similar products or services, foreign and domestic operations and export sales required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S–K (§ 229.101 of this chapter).

(ii) Information relating to property required by Item 102 of Regulation S–K (§ 229.102 of this chapter) shall be provided for any property involved in the transaction described pursuant to this Item, if such disclosure is material to the security holders' understanding of the transaction.

(iii) Information required by Item 201 of Regulation S–K (§ 229.201 of this chapter) unless otherwise provided pursuant to another item of this schedule.

(iv) In addition to the brief description of the other person's business required to be in the proxy statement by paragraph (a)(2) of this Item, a brief description of the business done by the registrant and the other person and their subsidiaries during the most recent fiscal year as required by Rule 14a-3 (§ 240.14a-3 of this chapter) to be included in an annual report to security holders. The description also shall take into account changes in the business that have occurred between the end of the latest fiscal year and the date the definitive proxy statement is filed.

(2) The information required in paragraph (b)(1) above may be incorporated by reference in the manner and to the extent permitted in Item 14 of this schedule (§ 240.14a-101 of this chapter), provided that the material so incorporated meets the requirements of this Item.

Instructions to Item 13.

1. If the registrant or any of its securities or assets are to be acquired by the other person, the information regarding the other person that is required by paragraphs (a)(4) through (a)(7), (a)(11) and (b) of this Item need only be provided to the extent that: (1) the registrant or its security holders who are entitled to vote or give an authorization or consent with regard to the action will become or remain security holders of the other person; or (2) such information is otherwise material to an informed voting decision.

2. If the plan being voted on involves only the registrant and one or more of its totally-held subsidiaries and does not involve a liquidation or spin-off, the information required by paragraphs (a)(5), (a)(6), (a)(7) and (b) of this Item may be omitted.

Item 14. Financial information. (See Notes D and E at the beginning of this section). If action is to be taken with respect to any matter specified in Items 11, 12 or 13, furnish the information specified below for the registrant and for the other person designated in Item 13(a), if applicable (hereinafter all references to the registrant should be read to include a reference to such other person, unless the context otherwise indicates):

(a) Information about the registrant.

(1) *Information with respect to S–3 registrants.* If the registrant is an S–3 company (*See* Note E to this schedule) and elects to furnish information in accordance with the provisions of this paragraph, furnish information as required below:

(i) The information required by Item 301 of Regulation S–K (§ 229.301 of this chapter) (selected financial data). To the extent the information is required to be presented in the proxy statement pursuant to Item 13, it need not be repeated pursuant to this Item;

(ii) Describe any and all material changes in the registrant's affairs that have occurred since the end of the latest fiscal year for which audited financial statements were included in the latest annual report to security holders and that have not been described in a report on Form 10–Q (§ 249.308(a) of this chapter) or Form 8–K (§ 249.308 of this chapter) filed under the Exchange Act;

(iii) Include in the proxy statement if not incorporated by reference from the reports filed under the Exchange Act specified in paragraph (a)(1)(iv) of this Item, a proxy or information statement filed pursuant to section 14 of the Exchange Act, a prospectus previously filed pursuant to Rule 424 under the Securities Act (§ 230.424 of this chapter), or a Form 8–K filed during either of the two preceding fiscal years:

(A) Financial information required by Rule 3–05 of this chapter) and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which action is to be taken as described in this proxy statement;

(B) Restated financial statements prepared in accordance with Regulation S–X (Part 210 of this chapter), if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements;

(C) Restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X (§ 210.11–01(b) of this chapter); or

(D) Any financial information required because of a material disposition of assets outside the normal course of business.

(iv) Incorporate by reference into the proxy statement, by means of a statement to that effect listing all documents so incorporated, the documents listed in paragraphs (A) and (B) below.

(A) The registrant's latest annual report on Form 10–K (§ 249.310 of this chapter) filed pursuant to sections 13(a) or 15(d) of the Exchange Act which contains financial statements for the registrant's latest fiscal year for which a Form 10–K was required to be filed;

(B) All other reports filed pursuant to section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report referred to in paragraph (a)(1)(iv)(A) of this Item.

(v) The proxy statement also shall state that all documents subsequently filed by the registrant pursuant to sections 13(a), 13(c), 14 or 15(d) the Exchange Act, prior to one of the following dates, whichever is applicable, shall be deemed to be incorporated by reference into the proxy statement:

(A) The date on which the vote is taken;

(B) If a meeting of security holders is not to be held, the date on which the consents or authorizations are used to effect the corporate action.

(2) *Information with respect to S–2 or S–3 registrants.*

(i) *Information required to be furnished.* If the registrant is an S–2 or S–3 company (*See* Note E of this schedule) and elects to comply with this paragraph, furnish the information required by either paragraph (A) or (B) of this paragraph. However, the registrant shall not provide information in the manner allowed by paragraph (A) of this paragraph, if the financial statements in the registrant's latest annual report to security holders do not reflect: restated financial statements prepared in accordance with Regulation S–X if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements; restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X; or any financial information required because of a material disposition of assets outside of the normal course of business.

(A) If the registrant elects to furnish information pursuant to this paragraph (a)(2)(i)(A) and delivers this proxy statement together with its latest annual report to security holders, which meets or at the time of original preparation met the requirements of either Rule 14a–3 (§ 240.14a–3 of this chapter) or 14c–3 (§ 240.14c–3 of this chpater), or a complete and legible facsimile of its latest annual report to security holders, the proxy statement should:

(*1*) Indicate that the proxy statement is accompanied by the registrant's latest annual report to security holders.

(*2*) Provide financial and other information with respect to the registrant in the form required by Part I of Form 10–Q as of the end of the most recent fiscal quarter which ended after the end of the latest fiscal year for which audited financial statements were included in the latest report to security holders and more than 45 days prior to the date this proxy statement is filed in definitive form (or as of a more recent date) by one of the following means:

(*i*) Including such information in the proxy statement;

(*ii*) Providing without charge to each person to whom a proxy statement is delivered a copy of the registrant's latest Form 10–Q; or

(*iii*) Providing without charge to each person to whom a proxy statement is delivered a copy of the registrant's latest quarterly report that was delivered to its security holders and that included the required financial information.

(*3*) If not reflected in the registrant's latest annual report to security holders, provide information required by Rule 3–05 and Article 11 of Regulation S–X with respect to other transactions other than that pursuant to which action is to be taken as described in this proxy statement.

(*4*) Describe any and all material changes in the registrant's affairs that have occured since the end of the latest fiscal year for which audited financial statements were included in the latest annual report to security holders and that were not described in a Form 10–Q or quarterly report delivered with the proxy statement in accordance with paragraph (a)(2)(i)(A) (*2*) (*ii*) or (*iii*).

(B) If the registrant does not elect to furnish information pursuant to paragraph (a)(2)(i)(A), the proxy statement should:

(*1*) Include financial statements and information as required by Rule 14a–3(b)(1) (§ 240.14a–3(b)(1) of this chapter) to be included in an annual report to security holders. In addition, provide:

(*i*) The interim financial information required by Rule 10–01 of Regulation S–X (§ 210.10–01 of this chapter) for a report on Form 10–Q;

(*ii*) Financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which action is to be taken as described in this proxy statement;

(*iii*) Restated financial statements prepared in accordance with Regulation S–X if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements;

(*iv*) Restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant pursuant to Rule 11–01(b) of Regulation S–X; and

(*v*) Any financial information required because of a material disposition of assets outside of the normal course of business.

(*2*) Furnish the information required by the following:

(*i*) Item 301 of Regulation S–K (§ 229.301 of this chapter), selected financial data;

(*ii*) Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information;

(*iii*) Item 303 of Regulation S–K (§ 229.303 of this chapter), management's discussion and analysis of financial condition and results of operations; and

(*iv*) Item 304 of Regulation S–K (§ 229.304 of this chapter), changes in and disagreements with accountants on accounting and financial disclosure.

(ii) *Incorporation of certain information by reference.* If the registrant meets the requirements of an S–2 or S–3 company and elects to furnish information in accordance with the provisions of paragraph (a)(2)(i) of this item:

(A) Incorporate by reference into the proxy statement, by means of a statement to that effect in the proxy statement listing all documents so incorporated, the documents listed in paragraphs (*1*) and (*2*) of this Item and, if applicable, the portions of the documents listed in paragraphs (*3*) and (*4*) thereof.

(*1*) The registrant's latest annual report on Form 10–K filed pursuant to section 13(a) or 15(d) of the Exchange Act which contains audited financial statements for the

registrant's latest fiscal year for which a Form 10–K was required to be filed.

(*2*) All other reports filed pursuant to

annual report to security holders pursuant to Rules 14a–3 (b)(1) and (b)(2), had the company been required to furnish such a

security holders of the other person; or (2) such information is otherwise material to an

appropriate item or items of this schedule with respect to each such matter.

Item 18. Matters not required to be

last fiscal year of the registrant ending prior to the date of the meeting with respect to which an information

and (a)(2) to read as follows, removing (a)(3) through (a)(12) including the notes after a (a)(2) and (a)(10), and by

registrant's latest fiscal year for which a Form 10–K was required to be filed.

(2) All other reports filed pursuant to section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report referred to in paragraph (a)(2)(i)(A)(*1*).

(*3*) If the registrant elects to deliver its latest annual report to security holders pursuant to paragraph (a)(2)(i) (A) of this Item, the information furnished in accordance with the following:

(*i*) Item 301 of Regulation S–K, selected financial data;

(*ii*) Item 302 of Regulation S–K, supplementary financial information;

(*iii*) Item 303 of Regulation S–K, management's discussion and analysis of financial condition and results of operations; and

(*iv*) Item 304 of Regulation S–K, changes in and disagreements with accountants on accounting and financial disclosure.

(*4*) If the registrant elects, pursuant to paragraph (a)(2)(i)(A)(*2*)(*iii*) of this Item, to provide a copy of its latest quarterly report which was delivered to security holders, financial information equivalent to that required to be presented in Part I of Form 10–Q.

(B) The registrant also may state, if it so chooses, that specifically described portions of its annual or quarterly report to security holders, other than those portions required to be incorporated by reference pursuant to paragraphs (a)(2)(ii)(A)(*3*) and (*4*) of this Item, are not part of the proxy statement. In such case, the description of portions that are not incorporated by reference or that are excluded shall be made with clarity and in reasonable detail.

(3) *Information with respect to registrants other than S–3 or S–2 registrants.*

(i) If the registrant is not an S–2 or S–3 company (*See* Note E of this schedule), or otherwise elects to comply with this paragraph (a)(3) in lieu of (a)(1) or (a)(2), the proxy statement should furnish the following information:

(A) Financial statements meeting the requirements of Regulation S–X, as well as financial information required by Rule 3–05 and Article 11 of Regulation S–X with respect to transactions other than that pursuant to which action is to be taken as described in this proxy statement.

(B) Item 301 of Regulation S–K, selected financial data;

(C) Item 302 of Regulation S–K, supplementary financial information;

(D) Item 303 of Regulation S–K, management's discussion and analysis of financial condition and results of operations; and

(E) Item 304 of Regulation S–K, changes in and disagreements with accountants on accounting and financial disclosure.

(ii) If the other person is not subject to the reporting requirements of either section 13(a) or 15(d) of the Exchange Act; or, because of section 12(i) of the Exchange Act, has not furnished an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3 of this chapter) or Rule 14c–3 (§ 240.14c–3 of this chapter) for its latest fiscal year, furnish:

(A) the financial statements that would have been required to be included in an annual report to security holders pursuant to Rules 14a–3 (b)(1) and (b)(2), had the company been required to furnish such a report; *provided, however,* that the balance sheet for the year preceding the latest full fiscal year and the income statements for the two years preceding the latest full fiscal year need not be audited if they have not previously been audited. In any case, such financial statements need only be audited to the extent practicable.

(B) the quarterly financial and other information that would have been required had the company been required to file Part I of Form 10–Q (§ 249.308a) for the most recent quarter for which such a report would have been on file at the time the proxy statement is mailed or for a period ending as of a more recent date.

(C) the information required by paragraph (a)(3)(i) (B), (C), (D), and (E) of this Item. (*See also* Instruction 6.)

(b) In addition to the incorporation by reference permitted in paragraph (a), the proxy statement may incorporate by reference any information required by this Item or any other item in this schedule permitted to be incorporated by reference, if it is contained in an annual report sent to security holders pursuant to Rule 14a–3 (§ 240.14a–3 of this chapter) with respect to the same meeting or solicitation of consents or authorizations as that to which the proxy statement relates, provided such information substantially meets the requirements of the Item or the appropriate portions of the item.

Instructions to Item 14.

1. In order to facilitate compliance with Rule 2–02(a) of Regulation S–X, one copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's report; or, when the accountant's report is incorporated by reference:

A. a statement shall be included in the proxy statement to the effect that the accountant is aware that its report will be made a part of the proxy soliciting material; and

B. at least one copy of the definitive proxy statement shall contain a manually signed and dated copy of the statement concerning the accountant.

2. Notwithstanding the provisions of this item, any or all of the required financial statements which are not material for the exercise of prudent judgment in regard to the matter to be acted upon may be omitted. In the usual case, financial statements are deemed material to the exercise of prudent judgment where the matter to be acted upon is the authorization or issuance of a material amount of senior securities, but are not deemed material where the matter to be acted upon is the authorization or issuance of common stock otherwise than in an exchange, merger, consolidation, acquisition or similar transaction.

3. If the registrant or any of its securities or assets are to be acquired by the other person, the information regarding the other person that is required by this Item need only be provided to the extent that: (1) the registrant or its security holders who are entitled to vote or give an authorization or consent with regard to the action will become or remain security holders of the other person; or (2) such information is otherwise material to an informed voting decision.

4. If the plan being voted on involves only the registrant and one or more of its totally-held subsidiaries and does not involve a liquidation or spin-off, the information required by this Item may be omitted.

5. Notwithstanding the provisions of Regulation S–X, no schedules other than those prepared in accordance with Rules 12–15, 12–28 and 12–29 (or, for management investment companies, Rules 12–12 through 12–14) of that regulation need be furnished in the proxy statement.

6. Unless registered on a national securities exchange or otherwise required to furnish such information, registered investment companies need not furnish the information required by paragraph (a)(3)(i) (B), (C) or (D) of this Item.

Item 15. Acquisition or disposition of property. If action is to be taken with respect to the acquisition or disposition of any property, furnish the following information:

(a) Describe briefly the general character and location of the property.

(b) State the nature and amount of consideration to be paid or received by the issuer or any subsidiary. To the extent practicable, outline briefly the facts bearing upon the question of the fairness of the consideration.

(c) State the name and address of the transferer or transferee, as the case may be, and the nature of any material relationship of such person to the issuer or any affiliate of the issuer.

(d) Outline briefly any other material features of the contract or transaction.

Item 16. Restatement of accounts. If action is to be taken with respect to the restatement of any asset, capital, or surplus account of the issuer, furnish the following information:

(a) State the nature aof the restatement and the date as of which it is to be effective.

(b) Outline briefly the reasons for the restatement and for the selection of the particular effective date.

(c) State the name and amount of each account (including any reserve accounts) affected by the restatement and the effect of the restatement thereon. Tabular presentation of the amounts shall be made when appropriate, particularly in the case of recapitalizations.

(d) To the extent practicable, state whether and the extent, if any, to which, the restatement will, as of the date thereof, alter the amount available for distribution to the holders of equity securities.

Item 17. Action with respect to reports. If action is to be taken with respect to any report of the issuer or of its directors, officers or committees or any minutes of meeting of its stockholders, furnish the following information:

(a) State whether or not such action is to constitute approval or disapproval of any of the matters referred to in such reports or minutes.

(b) Identify each of such matters which it is intended will be approved or disapproved, and furnish the information required by the appropriate item or items of this schedule with respect to each such matter.

Item 18. Matters not required to be submitted. If action is to be taken with respect to any matter which is not required to be submitted to a vote of security holders, state the nature of such matter, the reasons for submitting it to a vote of security holders and what action is intended to be taken by the issuer in the event of a negative vote on the matter by the security holders.

Item 19. Amendment of charter, bylaws or other documents.

If action is to be taken with respect to any amendment of the registrant's charter, bylaws or other documents as to which information is not required above, state briefly the reasons for and the general effect of such amendment.

Instructions. 1. Where the matter to be acted upon is the classification of directors, state whether vacancies which occur during the year may be filled by the board of directors to serve only until the next annual meeting or may be so filled for the remainder of the full term.

2. Attention is directed to the discussion of disclosure regarding anti-takeover and similar proposals in Release No. 34–15230 (October 13, 1978).

Item 20. Other proposed action. If action is to be taken with respect to any matter not specifically referred to above, describe briefly the substance of each such matter in substantially the same degree of detail as is required by Items 5 to 19, inclusive, above.

Item 21. Vote required for approval. As to each matter which is to be submitted to a vote of security holders, other than elections to office or the selection or approval of auditors, state the vote required for its approval.

24. Section 240. 14a–102 is amended by removing the words "issuer" or "issuers" and replacing them with the words "registrant" or "registrants" in Item 1, Item 2(c), Item 3(a), (b), (c), (e), (f) and (g) and Item 4(c)(l) and (2) and revising Item 2.(b)(1) to read as follows:

§ 240.14a–102 Schedule 14B. Information to be included in statements filed by or on behalf of a participant (other than the issuer) pursuant to § 240.14a–11(c) (Rule 14a–11(c)).

* * * * *

Item 2. * * *

(b) State the following:

(1) Your business, mailing or residence address.

* * * * *

25. By amending § 240.14c–1 by removing the word "issuer" and replacing it with the word "registrant" in paragraph (a), by removing paragraph (c), by redesignating paragraph (d) as (c) and revising it, by redesignating paragraph (e) as (d) and by adding new paragraphs (e) and (f) to read as follows:

§ 240.14c–1 Definitions.

* * * * *

(c) *Last fiscal yeor.* The term "last fiscal year" of the registrant means the last fiscal year of the registrant ending prior to the date of the meeting with respect to which an information statement is required to be distributed, or if the information statement involves consents or authorizations in lieu of a meeting, the earliest date on which they may be used to effect corporate action.

* * * * *

(e) *Record date.* The term "record date" shall mean the date as of which the record holders of securities entitled to vote at a meeting or by written consent or authorization shall be determined.

(f) *Registrant.* The term "registrant" means the issuer of a class of securities registered pursuant to section 12 of the Act.

26. By revising § 240.14c–2 as follows:

§ 240.14c–2 Distribution of information statement.

(a) In connection with every annual or other meeting of the holders of a class of securities registered pursuant to section 12 of the Act, including the taking of corporate action with the written authorization or consent of the holders of a class of securities so registered, the registrant of such securities shall transmit a written information statement containing the information specified in Schedule 14C (§ 240.14c–101 of this chapter) or a written information statement included in a registration statement filed under the Securities Act of 1933 on Form S–4 or F–4 § 239.25 or 34 of this chapter) and containing the information specified in such Form, to every security holder of the class that is entitled to vote or give an authorization or consent in regard to any matter to be acted upon and from whom a proxy, authorization or consent is not solicited on behalf of the registrant pursuant to section 14(a) of the Act: *Provided, however,* that (1) in the case of a class of securities in unregistered or bearer form, such statements need be transmitted only to those security holders whose names are known to the registrant; and (2) no such statements need be transmitted to a security holder if a registrant would be excused from delivery of an annual report or a proxy statement under Rule 14a-3(e)(2) (§ 240.14a–3(e)(2) of this chapter) if such section were applicable.

(b) The information statement shall be sent or given at least 20 calendar days prior to the meeting date or, in the case of corporate action taken pursuant to the consents or authorizations of security holders, at least 20 calendar days prior to the earliest date on which the corporate action may be taken.

27. In § 240.14c–3 by revising paragraph (a) introductory text, (a)(1) and (a)(2) to read as follows, removing (a)(3) through (a)(12) including the notes after a (a)(7) and (a)(10), and by removing the words "issuer," "issuers" and "shareholders" and replacing them with the words "registrant," "registrants" and "security holders" respectively in paragraph (b) and the note following paragraph (b):

§ 240.14c–3 Annual report to be furnished security holders.

(a) If the information statement relates to an annual (or special in lieu of the annual) meeting, or written consent in lieu of such meeting, of security holders at which directors are to be elected, it shall be accompanied or preceded by an annual report to such security holders (1) The annual report shall contain the information specified in paragraph (b)(1) through (b)(11) of Rule 14a–3 (§ 240.14a–3 of this chapter.)

(2) Paragraphs (b)(5) through (b)(11) of Rule 14a–3 shall not apply to an investment company registered under the Investment Company Act of 1940. Subject to the requirements of paragraphs (b)(1) through (b)(4) of Rule 14a–3, the annual report to security holders of such investment company may be in any form deemed suitable by management.

* * * * *

§ 240.14c–4 [Amended]

28. By amending § 240.14c–4 by removing the word "issuer" and replacing it with the word "registrant" and by removing the word "to" in the phrase "within the power to" and replacing it with the word "of" so that the phrase would read "within the power of" in paragraph (b) and by placing a comma between the words "presentation" and "financial" in the first sentence of paragraph (c).

29. By revising § 240.14c–5 as follows:

§ 240.14c–5 Filing requirements.

(a) *Preliminary information statement.* Five preliminary copies of the information statement shall be filed with the Commission at least 10 calendar days prior to the date definitive copies of such statement are first sent or given to security holders, or such shorter period prior to that date as the Commission may authorize upon a showing of good cause therefor. In computing the 10-day period, the filing date of the preliminary copies is to be counted as the first day and the 11th day is the date on which definitive copies of the information statement may be mailed to security holders. At the time of filing the preliminary information statement, the issuer shall pay to the

Commission a fee of $125, no part of which shall be refunded.

Note 1.—When revised material is filed it

material as may be necessary for an adequate review thereof by the Commission, and (2) such material may

(a) By first class mail or other equally prompt means, inquire of such record holder whether other persons are the

consent has submitted to the registrant a reasonable time before the information

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ACTION: Notice of public hearing on proposed regulations.

VOL 50 ISS 139 JL 19 1985 UMI

Commission a fee of $125, no part of which shall be refunded.

Note 1.—When revised material is filed it does not recommence the ten day time period unless the revised material contains such material revisions or material new proposal(s) that it constitutes a fundamental change in the information statement.

Note 2.—The officials responsible for the preparation of the information statement should make every effort to verify the accuracy and completeness of the information required by the applicable rules. The preliminary statement should be filed with the Commission at the earliest practicable date. It should be accompanied by a letter, over the signature of an officer of the company or its counsel, stating whether the current preliminary statement merely reflects an updating of the prior year's statement (e.g., changes in the board of directors or nominees for election to the board) or includes changes of a material nature. All changes from the previously filed statement should be identified in an accompanying marked copy of the preliminary statement. If a change is material, the letter should include any explanatory comment which may be of assistance in the expeditious processing of the statement.

(b) *Definitive information statement.* Eight definitive copies of the information statement, in the form in which it is furnished to security holders, shall be filed with, or mailed for filing to, the Commission not later than the date it is first sent or given to any security holders. Three copies thereof shall at the same time be filed with, or mailed for filing to, each national securities exchange upon which any security of the registrant is listed and registered.

(c) *Release dates.* All preliminary material filed pursuant to paragraph (a) of this section shall be accompanied by a statement of the date on which copies thereof filed pursuant to paragraph (b) of this section are intended to be released to security holders. All definitive material filed pursuant to paragraph (b) of this section shall be accompanied by a statement of the date on which copies of such material have been released to security holders or, if not released, the date on which copies thereof are intended to be released.

(d) *Public availability of information.* All copies of material filed pursuant to paragraph (a) of this section shall be clearly marked "Preliminary Copies" and shall be for the information of the Commission only and shall not be deemed available for public inspection until definitive material has been filed with the Commission except that (1) such material may be disclosed to any department or agency of the United States Government and to the Congress and the Commission may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Commission, and (2) such material may be deemed available for public inspection when the staff determines that the registrant has released such material to security holders or has abandoned the intention of releasing the material.

(e) *Revised information statements.* Where any information statement filed pursuant to this section is amended or revised, two of the copies of such amended or revised material filed pursuant to this section shall be marked to indicate clearly and precisely the changes effected therein. If the amendment or revision alters the text of the material the changes in such text shall be indicated by means of underscoring or in some other appropriate manner.

(f) *Merger material.* Notwithstanding the foregoing provisions of this section, any information statement or other material included in a registration statement filed under the Securities Act of 1933 on Form S–14, S–4, or F–4 (§ 239.23, 25 or 34 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section, nor shall any fee be required under paragraph (a) of this section. However, any additional material used after the effective date of the registration statement on Form S–14, S–4 or F–4 shall be filed in accordance with this section, unless separate copies of such material are required to be filed as an amendment of such registration statement.

(g) *Fees.* At the time of filing the preliminary information statement, the registrant shall pay to the Commission a fee of $125, no part of which shall be refunded, except, however, when filing a preliminary information statement regarding an acquisition, merger, spin-off, consolidation or proposed sale or other disposition of substantially all the assets of the company, the registrant shall pay the Commission a fee established in accordance with Rule 0–11, (§ 240.0–11 of this chapter).

30. Section 240.14c–7 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 240.14c–7 Providing copies of material for certain beneficial owners.

If the registrant knows that securities of any class entitled to vote at a meeting, or by written authorizations or consents if no meeting is held, are held of record by a broker, dealer, bank or voting trustee, or their nominees, the registrant shall:

(a) By first class mail or other equally prompt means, inquire of such record holder whether other persons are the beneficial owners of such securities and, if so, the number of copies of the information statement necessary to supply such material to beneficial owners and, in the case of an annual (or special in lieu of the annual) meeting, or written consent in lieu of such meeting, at which directors are to be elected, the number of copies of the annual report to security holders, necessary to supply such material to such beneficial owners for whom proxy material has not been and is not to be made available if such reports are to be distributed by the brokers, dealer, bank, voting trustee or their nominees; and

* * * * *

31. By revising § 240.14c–101 as follows:

§ 240.14c–101 Schedule 14C. Information required in information statement.

Note.—Where any item, other than Item 4 calls for information with respect to any matter to be acted upon at the meeting or, if no meeting is being held, by written authorization or consent, such item need be answered only with respect to proposals to be made by the registrant.

Item 1. Information required by Items of Schedule 14A (17 CFR 240.14a–101). Furnish the information called for by all of the items of Schedule 14A of Regulation 14A (17 CFR 240.14a–101) (other than Items 1(c), 2, 4 and 5 thereof) which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. Notes A, C, D, and E to Schedule 14A are also applicable to Schedule 14C.

Item 2. Statement that proxies are not solicited. The following statement shall be set forth in the first page of the information statement in bold-face type:

We Are Not Asking You For A Proxy and You Are Requested Not To Send Us A Proxy

Item 3. Interest of certain persons in or opposition to matters to be acted upon. (a) Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each of the following persons in any matter to be acted upon, other than elections to office.

(1) Each person who has been a director or officer of the registrant at any time since the beginning of the last fiscal year.

(2) Each nominee for election as a director of the registrant

(3) Each associate of the foregoing persons.

(b) Give the name of any director of the registrant who has informed the registrant in writing that he intends to oppose any action to be taken by the registrant at the meeting and indicate the action which he intends to oppose.

Item 4. Proposals by security holders. If any security holder entitled to vote at the meeting or by written authorization or

consent has submitted to the registrant a reasonable time before the information statement is to be transmitted to security holders a proposal, other than elections to office, which is accompanied by notice of his intention to present the proposal for action at the meeting the registrant shall, if a meeting is held make a statement to that effect, identify the proposal and indicate the disposition proposed to be made of the proposal by the registrant at the meeting.

Instructions. 1. This item need not be answered as to any proposal submitted with respect to an annual meeting if such proposal is submitted less than 60 days in advance of a day corresponding to the date of mailing a proxy statement or information statement in connection with the last annual meeting of security holders.

2. If the registrant intends to rule a proposal out of order, the Commission shall be so advised at the time preliminary copies of the information statement are filed with the Commission, together with a statement of the reasons why the proposal is not deemed to be a proper subject for action by security holders.

§ 240.14f–1 [Amended]

32. By revising § 240.14f–1 by removing the phrase "Items 5(a), (d), (e), and (f), 6 and 7 of Schedule 14A of Regulation 14A" and replacing it with the phrase "Items 6(a), (d) and (e), 7 and 8 of Schedule 14A of Regulation 14A (§ 240.14a–101 of this chapter)."

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

33. The authority citation for Part 270 continues to read, in part, as follows:

Authority: Secs. 38, 40, 54 Stat. 841, 842; 15 U.S.C. 80a–37, 80c–89, * * *

34. By revising paragraph (a) of § 27.20a–3 to read as follows:

§ 270.20a–3 Information as to certain transactions.

(a) This section shall apply to a solicitation if (1) the information specified in Item 8, Compensation of directors and executive officers, of Schedule 14A of Regulation 14A (§ 240.14a–101 of this chapter) is required to be furnished for an investment company, or (2) action is to be taken with respect to an investment advisory contract.

* * * * *

By the Commission.

John Wheeler,

Secretary.

July 1, 1985.

[FR Doc. 85–16579 Filed 7–18–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Federal Old-Age, Survivors and Disability Insurance; Supplemental Security Income for the Aged, Blind and Disabled; Cost-of-Living Increases; Delayed Retirement Credits; and Maximum Family Benefits

Correction

In FR Doc. 85–16078 beginning on page 27615 in the issue of Friday, July 5, 1985, make the following corrections:

1. On page 27615, in the third column, in the third complete paragraph, in the sixth line, "for" should read "from".

2. On page 27616, in the first column, in the third complete paragraph, in the ninth line, "incresed" should read "increased".

3. On page 27617, in the third column, in § 404.272(c), in the third line, insert "is the ratio" between "ratio" and "of"; also, in the twenty-fourth, twenty-fifth, and twenty-sixth lines, remove the sentence "Estimated expenditures are amounts we expect of interfund loans."

4. On page 27618, in the third column, in § 404.275(a), in the second line, "CPI of" should read "CPI for"; also, in the eleventh line "measuring" should read "measuring".

5. On page 27619, in the second column, in § 404.313(a)(1), in the eighteenth line, "beneifits" should read "benefits".

6. On age 27619, in the third column, in § 404.313(b)(3), in the fourth line "on-fourth" should read "one-fourth".

7. On page 27619, in the third column, in § 404.313(b)(4), in the seventh line, "on" should read "in".

8. On page 27620, in the first column, in § 404.313(d), in the thirteenth line, "benefit is based" should read "benefit based".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–245–84]

Mortgage Credit Certificates; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to mortgage credit certificates.

DATES: The public hearing will be held on Wednesday, August 14, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, July 31, 1985.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The requests to speak and outlines or oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–245–84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 25 of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Wednesday, May 8, 1985 (50 FR 19383).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Wednesday, July 31, 1985, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Peter K. Scott

comply with Titles II and III of the Retirement Equity Act of 1984. The final regulations which are proposed to be

List of Subject in 26 CFR 1.401–0—1.425–1

Watkins and William D. Gibbs of the Employee Plans and Exempt

commenting on this proposed rule. The comment period is extended to

By direction of the Commissioner of Internal Revenue.

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85-17270 Filed 7-18-85; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[EE-3-85]

Effective Dates, Transitional Rules, Restrictions on Plan Distributions, and Other Issues Under the Retirement Equity Act of 1984; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to effective dates, transitional rules, restrictions on distributions from employee plans and other issues arising under the Retirement Equity Act of 1984. The text of those temporary regulations also serves as the text for this Notice of Proposed Rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed before September 17, 1985. The amendments to the regulations generally would apply to plan years beginning after December 31, 1984, except as otherwise specified in the Retirement Equity Act of 1984, and are proposed be effective on the date of their publication in the **Federal Register** as a Treasury decision.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-3-85), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (EE-3-85), 202-566-3903 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend 26 CFR by adding new sections under Part 1 to provide guidance so taxpayers can comply with Titles II and III of the Retirement Equity Act of 1984. The final regulations which are proposed to be based on the temporary regulations would amend Part 1 of Title 26 of the Code of Federal Regulations by adding similar sections to Part 1 (Income Tax; Taxable years beginning after December 31, 1953). The regulations are proposed to be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805). For the text of the temporary regulations, see FR Doc. 85-17238 (T.D. 8038) published in the Rules and Regulations portion of this issue of the **Federal Register**.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Request for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who submits written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Charles M. Watkins and William D. Gibbs of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subject in 26 CFR 1.401-0—1.425-1

Income taxes, Employee benefit plans, Pensions.

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 85-17229 Filed 7-18-85; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1 and 602

[EE-35-85]

Notice, Election, and Consent Rules Under the Retirement Equity Act of 1984

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to notice, election, and consent rules under the Retirement Equity Act of 1984. The text of those temporary regulations also serves as the text for this Notice of Proposed Rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed before September 17, 1985. The amendments to the regulations generally would apply to plan years beginning after December 31, 1984, except as otherwise specified in the Retirement Equity Act of 1984, and are proposed to be effective on the date of their publication in the **Federal Register** as a Treasury decision.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-35-85), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles M. Watkins of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (EE-35-85), 202-566-3903 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend 26 CFR by amending §1.401(a)-11T and by adding a new § 1.402(f)-1T under Part 1 to provide guidance so taxpayers can comply with Titles II and III of the Retirement Equity Act of 1984. The final regulations which are proposed to be based on the temporary regulations would amend Part 1 of Title 26 of the Code of Federal Regulations by adding similar sections to Part 1 (Income Tax; Taxable years beginning after December 31, 1953). The regulations are proposed to be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805). For the text of the temporary regulations, see FR Doc. 85-17237 (T.D. 8037) published in the Rules and Regulations portion of this issue of the **Federal Register**.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Request for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**. The collection of information requirements contained herein have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on the requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Internal Revenue Service, New Executive Office Building, Washington D.C. 20503. The Internal Revenue Service requests persons submitting comments to OMB also to send copies of the comments to the Service.

Drafting Information

The principal authors of these proposed regulations are Charles M. Watkins and William D. Gibbs of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of subjects

26 CFR 1.401-0-1.425-1

Income taxes, Employee benefit plans, Pensions.

26 CFR Part 602

OMB Control numbers, Paperwork Reduction Act, Reporting and recordkeeping requirements.

James I. Owens,

Acting Commissioner of Internal Revenue.

[FR Doc. 85-17228 Filed 7-18-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

Safety Standards for Gassy Metal and Nonmetal Mines; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice to extend period for public comment on proposed rule.

SUMMARY: Due to requests from the public, the Mine Safety and Health Administration (MSHA) is extending the period for public comment regarding its proposed rule for gassy metal and nonmetal mines.

DATE: Written comments on the proposed rule must be received on or before September 5, 1985.

ADDRESS: All comments should be sent to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone: (703) 235-1910.

SUPPLEMENTARY INFORMATION: On June 4, 1985, MSHA published a proposed rule (50 FR 23612) revising the gassy mine standards for the metal and nonmetal mining industry. The comment period was scheduled to end on August 5, 1985.

Due to requests from the public, MSHA is extending the time for commenting on this proposed rule. The comment period is extended to September 5, 1985. All interested members of the mining community are encouraged to submit comments prior to that date.

Dated: July 15, 1985.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 85-17225 Filed 7-18-85; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Notice of Withdrawal of a Proposed Rulemaking Concerning an Amendment to the Ohio Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Withdrawal of a proposed rule.

SUMMARY: OSM is announcing the withdrawal of a proposed rulemaking concerning a proposed program amendment submitted by Ohio as an amendment to its permanent regulatory program. The proposed amendment pertaining to the disposal of excess spoil was withdrawn by the State in a letter to OSM dated June 13, 1985.

DATE: This withdrawal is effective July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION: By letter dated November 20, 1984, Ohio submitted a proposed program amendment to OSM concerning disposal of excess spoil. OSM announced receipt of the amendment and initiated a public comment period in the **Federal Register** on December 31, 1984 (49 FR 50741). The comment period ended on January 30, 1985. On April 2, 1985, OSM notified the State of concerns it had regarding the proposed amendment. OSM identified the handling and disposal of excess spoil and the construction of excess spoil fills as concerns. By letter dated June 13, 1985, the State withdrew this proposed amendment. At the same time, Ohio informed OSM that it was preparing another State program amendment on excess spoil and would

submit it to OSM at a later date. When received by OSM the proposed amendment will be announced in the

response to this notice will be available for public review at the OSM Field

The full text of the proposed amendment and of the subsequent

held, if requested on August 13, 1985, at the address listed below under

background on the State program approval process, the general

2. Executive Order No. 12291 and the Regulatory Flexibility Act: On August

submit it to OSM at a later date. When received by OSM the proposed amendment will be announced in the **Federal Register** to include a 30-day public comment period and an opportunity to request a public hearing.

Dated: July 16, 1985.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 85-17241 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 935

Ohio Permanent Regulatory Program; Reopening and Extension of Comment Period

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: By letter dated November 6, 1984, Ohio submitted to OSM a program amendment concerning civil penalties. OSM published a notice in the **Federal Register** on December 12, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the amendment (49 FR 48324).

OSM's review of Ohio's proposed amendment identified the implementation of alternate enforcement measures as a concern. OSM notified the State about its concern on March 11, 1985. On June 21, 1985, the State responded by submitting a policy statement addressing the implementation of alternate enforcement measures.

Accordingly, OSM is reopening and extending the comment period on Ohio's November 6, 1984 proposed amendment as modified on June 21, 1985. This action is being taken to provide the public an opportunity to consider the adequacy of the proposed amendment in light of the State's clarification.

DATES: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:30 p.m. August 5, 1985, will not necessarily be considered in the Director's decision.

ADDRESSES: Written comments should be mailed or hand delivered to Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modification to the program, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters office and the office of the State regulatory authority listed below, during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting OSM's Columbus Field Office.

Office of Surface Mining, Room 5124, 1100 L Street, NW., Washington, D.C. 20240

Ohio Division of Reclamation, Fountain Square—Building B-3, Columbus, Ohio 43224

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982. Information pertinent to the general background, revisions, modifications and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register** (47 FR 34688).

II. Proposed Amendment

By letter dated November 6, 1984, Ohio submitted a proposed program amendment consisting of a revision to rule 1501:13-14-03 concerning civil penalties, setting a 30-day cap on failure-to-abate cessation order assessments and establishing assessment conference procedures. The proposed amendment also provides for alternative enforcement actions to be taken if a violation has not been abated within 30 days.

OSM announced receipt of the amendments and initiated a public comment period on December 12, 1984 (49 FR 48324). The comment period closed on January 11, 1985.

During review of the amendment, OSM identified one concern. The proposed amendment does not specify how alternative enforcement measures will be implemented at the end of the 30-day abatement period to ensure that violations will be corrected. OSM notified Ohio about this concern by letter dated March 11, 1985. On June 21, 1985, Ohio responded by providing a policy statement on the implementation of alternative enforcement measures.

The full text of the proposed amendment and of the subsequent material is available for review at the locations listed above under "**ADDRESSES**". OSM is now seeking public comment on the adequacy of Ohio's November 6, 1984 amendment in light of the June 21, 1985 modification. If the Director determines that the proposed amendment is no less stringent than SMCRA and no less effective than the Federal regulations, the amendment will be approved and become part of the approved permanent program.

List of Subjects in 30 CFR Part 935

Coal mining; Intergovernmental relations; Surface mining; Underground mining.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: July 16, 1985.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 85-17239 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 950

Public Comment Period and Opportunity for Public Hearing on an Amendment to the Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on an amendment submitted by the State of Wyoming to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the water quality provisions of the approved program which are administered by the Wyoming Water Quality Division.

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment and information pertinent to the public hearing.

DATES: Written comments not received on or before 4:00 p.m. on August 19, 1985, will not necessarily be considered. A public hearing on the proposal will be held, if requested on August 13, 1985, at the address listed below under "**ADDRESSES.**"

Any person interested in making an oral or written presentation at the hearing should contact Mr. William Thomas at the OSM Casper Field Office, whose address appears below, by 4:00 p.m. on August 8, 1985. If no one has contacted Mr. Thomas to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Thomas, a public meeting, rather than a hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held at the Herschler Office Building, 122 W. 25th Street, Cheyenne, Wyoming 82002.

Written comments should be mailed or hand-delivered to Mr. William R. Thomas, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644. See "**SUPPLEMENTARY INFORMATION**" for address where copies of the Wyoming program amendment and administrative record on the Wyoming program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Casper Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644, Telephone: (307) 261-5824.

SUPPLEMENTARY INFORMATION: Copies of the Wyoming program amendment, the Wyoming program and the administrative record on the Wyoming program are available for public review and copying at the OSM offices and the office of State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room 5124, 1100 "L" Street, N.W., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644

Wyoming Department of Environmental Quality, Land Quality Division, Herschler Office Building, 122 W. 25th Street, Cheyenne, Wyoming 82002

Background

The general background on the permanent program, the general background on the State program approval process, the general background on the Wyoming program, and the conditional approval can be found in the Secretary's Findings and conditional approval published in the November 26, 1980 **Federal Register** (45 FR 78637-78684).

On January 22, 1985, the State of Wyoming submitted to OSM a proposed regulation package which addressed water quality standards and related provisions that were administered by the Wyoming Water Quality Division. OSM announced receipt of the material and a public comment period in the March 11, 1985 **Federal Register** (50 FR 9680). Subsequent to the close of OSM's comment period, the State of Wyoming conducted a public hearing on the draft water quality regulation package. As a result of comments received at the State hearing, Wyoming made revisions to the draft water quality package. OSM stopped processing the material upon notification of pending revisions by the State.

Proposed Amendment

On June 19, 1985, the State of Wyoming submitted to OSM an amendment to its approved permanent regulatory program. The amendment addresses water quality standards and related provisions that are administered by the Wyoming Water Quality Division. Specifically, the amendment consists of proposed regulations addressing definitions relating to water quality, effluent limitations for coal mining operations, water testing procedures, discharge points, application requirements for construction of sedimentation control facilities, minimum design standards for sedimentation control facilities and enforcement of the water quality provisions.

OSM is seeking comment on whether the Wyoming proposed modifications are consistent with the requirements of the Federal provisions and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the program modification submitted by Wyoming for OSM's consideration is available for public review at the addresses listed under "**ADDRESSES.**"

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 15, 1985.

Jed D. Christensen,

Director, Office of Surface Mining.

[FR Doc. 85-17240 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9 FRL 2867-3]

County of Ventura; Air Pollution Control Regulations, State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On May 30, 1985 (50 FR 23032), EPA invited comment on the proposed approval of the Ventura County Air Pollution Control District's NSR/PSD rule. Due to the complexity of the regulations and in light of a request for an extension of the comment period by the Ventura County APCD, EPA is extending the comment period to August 1, 1985.

DATE: Comments are due on or before August 1, 1985.

FOR FURTHER INFORMATION CONTACT: David Howekamp at (415) 974-8201.

ADDRESS: Comments may be sent to: Regional Administrator, Attn: Air

Management Division (A-3-1), Environmental Protection Agency, Region 9, 215 Fremont Street, San

to participate in each of these programs. (46 CFR 355.1).

By Order of the Maritime Administrator.

Dated: July 16, 1985.

I. Introduction

1. This *Notice* proposes and seeks comment on the procedures for the deregulation of any remaining new or to detariffing CPE, the Commission decided to deregulate new and

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Management Division (A–3–1), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Dated: July 3, 1985.

John Wise,

Acting Regional Administrator.

[FR Doc. 85–17203 Filed 7–18–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 355

Requirements for Establishing U.S. Citizenship

AGENCY: Maritime Administration, DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Maritime Administration (MARAD) is withdrawing a notice of proposed rulemaking (NPRM) published in 1979. This NPRM proposed amendments to 46 CFR Part 355, principally concerning the types of proof that MARAD would require from a corporation in order to determine that corporation is a United States citizen, as defined in the Shipping Act, 1916, thus, making it eligible to participate in various benefit programs administered by MARAD.

FOR FURTHER INFORMATION CONTACT: Doris Lansberry, Office of Chief Counsel Maritime Administration, 400 Seventh Street, SW., Room 7230, Washington, D.C. 20590; Telephone (202) 426–5711.

SUPPLEMENTARY INFORMATION: On October 12, 1979, MARAD published a NPRM (44 FR 58928) that proposed amendments to its requirements for establishing United States citizenship (46 CFR Part 355). The proposed amendments would have been applicable to certain participants in the various benefit programs administered by MARAD under the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.).

Those receiving or requesting benefits include individuals, corporations and other entities deemed to have a legal or beneficial interest in vessels built with or operated with MARAD financial assistance under its programs. Corporate applicants for construction-differential subsidy (CDS), operating-differential subsidy (ODS), vessel obligation guarantees (Title XI guarantees) and Capital Construction Fund (CCF), as well as other interested parties, are required to establish their United States citizenship for eligibility to participate in each of these programs. (46 CFR 355.1).

The NPRM

The first proposed provision would have liberalized the so-called "fair inference" rule (46 CFR 355.2). That rule allows the inference that a publicly-held corporation owning and operating vessels in the United States coastwise trade has at least 75 percent of its stock owned by citizens of the United States, if 95 percent of the stock is held by persons having registered United States addresses. The proposed amendment would have required a showing of at least 90 percent of the stock held by persons having registered United States addresses.

Another proposed provision would have required that a majority of any committee authorized under the bylaws of a corporation to act on behalf of its board of directors be United States citizens. This proposal responded to a trend toward delegation of significant decision-making authority by corporate boards of directors to committees, often referred to as Executive Committees or Mangement Committees.

The NPRM also proposed formalizing MARAD's existing policy of exercising discretion in acceptance of other methods of proof of U.S. citizenship as alternatives to: (1) Direct proof of citizenship for privately-owned corporations; and (2) proof through the "fair inference" rule for publicly-held corporations. The NPRM included a proposed provision informing the public of MARAD's acceptance of alternate methods of proof of U.S. citizenship, such as dual stock certificates.

The fourth provision proposed to inform the public that the affidavits and other documents filed in support of establishing U.S. citizenship would become subject to automatic release, pursuant to a Freedom of Information Act (FOIA) request, unless the documents were marked "confidential" and the submitting party stated the basis of the claim for exemption at the time of filing the information with MARAD.

The proposed revisions were intended principally to establish official agency practice and policy for demonstrating corporate citizenship, and to advise the participants submitting citizenship data of the FOIA requirements.

However, in view of the time that has elapsed since the proposed rule was published, MARAD has decided to withdraw this proposed rulemaking action and review these issues further before determining any further action.

Authority: 46 U.S.C. 1114(b); 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: July 16, 1985.

Georgia P. Stamas

Secretary, Maritime Administration.

[FR Doc. 85–17219 Filed 7–18–85; 8:45 am]

BILLING CODE 4910–81–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 81–893; FCC 85–345]

Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Service (Second Computer Inquiry)

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Notice proposes and seeks comment on a structure for the detariffing of embedded customer premises equipment (CPE) that is (i) owned by Independent telephone companies (Independents); (ii) tariffed at the federal or state level, and (iii) used by the Federal government for national security and emergency preparedness functions. This Notice also seeks comment on the procedures for the deregulation of any remaining new or embedded CPE that is still subject to tariff and that has not been, or is not being addressed in other notices and orders, including: (1) Detariffing procedures for federally tariffed embedded mobile CPE that has already been deregulated; (2) leaving the decision of whether or not to detariff Independent-owned 911 emergency equipment to the states rather than requiring deregulation by December 31, 1987; and (3) deregulating any new or embedded CPE used in conjunction with Part 81 licensed maritime common carrier services.

DATES: Comments are due by August 9, 1985 and replies by August 27, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Rose M. Crellin at (202) 632–9342.

Third Further Notice of Proposed Rulemaking

In the matter of Procedures for implementing the Detariffing of Customer Premises Equipment and Enhanced Service (Second Computer Inquiry), CC Docket No. 81–893.

Adopted: July 5, 1985.

Released: July 12, 1985.

By the Commission:

I. Introduction

1. This *Notice* proposes, and seeks comment on, a structure for the detariffing of embedded customer premises equipment (CPE)[1] that is (i) owned by Independent telephone companies (ITCs or "Independents"),[2] (ii) tariffed at the federal or state level, and (iii) used by the Federal government for national security and emergency preparedness (NSEP) functions.[3] The proposed plan seeks to accomplish detariffing of this ITC-owned NSEP CPE in a manner that is consistent with the principles and goals we have established in the *Second Computer Inquiry*.[4] This Notice also seeks comment on the procedures for the deregulation of any remaining new or embedded CPE that is still subject to tariff and that has not been, or is not being, addressed in other notices or orders.[5] Specifically, we seek comment on: (1) Detariffing procedures for federally tariffed embedded mobile CPE that has already been deregulated; (2) leaving the decision of whether or not to detariff ITC-owned 911 equipment to the states rather than requiring deregulation by December 31, 1987; and (3) deregulating any new or embedded CPE. used in conjunction with Part 81 licensed maritime common carrier services.

II. General Background

2. In the *Second Computer Inquiry*, we concluded that "CPE is a severable commodity from the provision of transmission services and that regulation of CPE under Title II [of the Communication Act of 1934] is not required and is no longer warranted."[6] We concluded in subsequent proceedings in the *Second Computer Inquiry* that continued provision of CPE by common carriers under regulation impedes the evolution of a truly competitive CPE market."[7] With regard to detariffing CPE, the Commission decided to deregulate new and embedded CPE separately.[8] New CPE was detariffed on January 1, 1983, while the detariffing of embedded CPE began after the completion of a separate "implementation proceeding", which addressed "issues of capital recovery and asset valuation, alternative mechanisms by which transition to an unregulated CPE environment may be achieved, and the appropriate time period for removal of embedded CPE investment from separations and a carrier's rate base."[9] We indicated that special treatment of embedded CPE was necessary in order to avoid the significant dislocations that could result from immediate detariffing.[10]

3. Several Commission Orders in this docket have implemented the *Second Computer Inquiry* decisions requiring detariffing of embedded CPE.[11] In the *First Order*, we required the transfer of embedded CPE owned by AT&T at net book value plus transaction costs to an unregulated subsidiary, AT&T–IS, effective January 1, 1984, [12] and required

[1] In the *Second Computer Inquiry* proceeding, we defined "CPE" to include all equipment provided by common carriers in the fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands and located on customer premises, except over-voltage protection equipment, inside wiring, coin-operated or pay telephones, and multiplexing equipment to deliver multiple channels to the customer. Amendment of 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Memorandum Opinion and Order on Further Reconsideration, 88 FCC 2d 512, para. 1 n.1 (1981) (hereinafter *Further Reconsideration Order*). We also defined "embedded" CPE as "that equipment or inventory, which is tariffed or otherwise subject to the jurisdictional separations process as of the bifurcation date [January 1, 1983]," and "new" CPE as "[a]ny other CPE which is acquired by a carrier or manufactured by an affiliated entity after [the bifurcation date]." *Id.* at para. 45. Mobile customer premises equipment was defined in Procedures for Implementing the Detariffing of Customer Premises Equipment (Second Computer Inquiry), Second Report and Order, 96 FCC 2d 814, para. 1 n.1 (1984) (hereinafter *Second Order*). (This equipment had been excluded from the original *Second Computer Inquiry* deregulatory decisions on CPE. *See infra* note 49.) Furthermore, there may still be some equipment subject to *tariff* that does not fall within either the *Second Computer Inquiry* or the *Second Order* definitions of CPE, but should be considered "customer premises equipment" and should be detariffed. *See, e.g., infra* note 51. As explained more fully *infra*, we invite comment on the detariffing of such equipment.

[2] For purposes of this proceeding, Cincinnati Bell Telephone Company (CBT) and Southern New England Telephone Company (SNET) are included among the Independent telephone companies.

[3] Section 1 of the Communications Act of 1934, as amended, 47 U.S.C. 151 (1982), provides that two of the goals the FCC should pursue in exercising its regulatory mandate over interstate and foreign communications are to assist in the national defense and to promote the safety of life and property. *See* Exec. Order No. 12,472, 49 FR 13,471 (1984) and 47 CFR 201.0–215.2 (1984).

[4] Amendment of § 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (hereinafter *Final Decision*), *modified on reconsideration*, 84 FCC 2d 50 (1980) (hereinafter *Reconsideration Order*), *modified on further reconsideration*, 88 FCC 2d 512 (1981) (hereinafter *Further Reconsideration Order*), *aff'd sub nom. Computer & Communications Industry Ass'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 461 U.S. 938 (1983), *aff'd on second further reconsideration*, FCC 84–190 (released May 4, 1984) (hereinafter *Second Further Reconsideration Order*).

[5] One exception to the broad scope of this proposed detariffing of all remaining CPE subject to tariff is the embedded CPE owned by the Bell Operating Companies (BOCs) that was not transferred to AT&T at divestiture. This category of CPE will be addressed in a subsequent rulemaking. It includes 911 Public Safety Answering Point CPE, concentrator-identifier systems associated with telephone answering service systems, network channel terminating equipment (such as terminating sets, subscriber pair gain equipment, and repeaters), 101 ESS switches used in providing Centrex-CU service, Centrex-CO attendant position equipment (including Centrex consoles and console cabinets), CPE located at Public Service Answering Points used in connection with 911 emergency service, and 60-type console control cabinets and mini-computers associated with ESS–ACD (Automatic Call Distributor) service. *See* AT&T Plan of Reorganization at 82–86, United States v. AT&T (filed Dec. 16, 1982). Coin or pay telephones are specifically excluded from the definition of CPE. *Reconsideration Order*, 84 FCC 2d at 81 n.10. We recently reaffirmed that public and semi-public telephones may remain tariffed. See Petition for Declaratory Ruling of Tonka Tools, Inc. and Southern Merchandise Corp. Regarding American Telephone and Telegraph Company Provision of Coinless Pay Telephones, Memorandum, Opinion and Order, FCC 85–289, (released May 22, 1985). In a previous decision, however, we determined that "extensions" to semi-public telephones are CPE. *See* Modifications to the Uniform System of Accounts, 48 FR 50,534 (1983). An extension is equipment attached to public, pay telephones typically located on private premises or in a private establishment and used by the owner or employees of the private establishment. This Notice covers other new or embedded CPE, if any, held by the BOCs that is still subject to tariff.

[6] *Final decision* at para. 9.

[7] *Reconsideration Order* at para. 46 (citing *Final Decision* at paras. 144–59).

[8] *Reconsideration Order* at para. 49.

[9] *Id.* at para. 55 (footnote omitted).

[10] This docket was initiated through the release of a Notice of Inquiry on April 13, 1982. Procedures for Implementing the Detariffing of Customer Premises Equipment (Second Computer Inquiry), Notice of Inquiry, 89 FCC 2d 594 (1982) (hereinafter *Notice of Inquiry*). On June 21, 1983, we released a Notice of Proposed Rulemaking, 94 FCC 2d 76 (1983) (hereinafter *Notice*). The Report and Order detariffing AT&T's embedded CPE was released on December 15, 1983, 95 FCC 2d 1276 (1983) (hereinafter *First Order*), *modified on reconsideration*, 50 FR 9016 (1985) (hereinafter *First Order Reconsideration*). On June 28, 1984, we released *the Second Order*, *supra* note 1, which detariffed embedded CPE used in mobile telephone service. A Second Further Notice of Proposed Rulemaking, released on June 20, 1984, 98 FCC 2d 361 (1984) (hereinafter *Second Further Notice*), sought comment on a framework to allow federal agencies to obtain NSEP equipment from AT&T and its subsidiaries and the Bell Operating Companies, and the Sixth Report and Order in this docket, 50 FR 1525 (1985) (hereinafter *Sixth Order*), established such a framework. The Third Report and Order, released on October 26, 1984, 99 FCC 2d 354 (1984) (hereinafter *Third Order*), *aff'd on reconsideration*, FCC 85–118 (released March 27, 1985), provides a framework for states to deregulate embedded CPE owned by the ITCs and tariffed at the state level. The Fourth Report and Order in this docket, 49 FR 47,265 (1984), released November 4, 1984, detariffed CPE provided by Western Union and the international record carriers. The Fifth Report and Order, released November 20, 1984, 49 FR 46,378 (1984) (hereinafter *Fifth Order, reconsideration pending*, addressed accounting matters involved in detariffing CPE.

[11] The principal rules regarding the treatment of any gains or losses in connection with the removal of utility assets from regulated service are set out in *Democratic Cent. Comm. v. Washington Metro. Area Transit Comm'n*, 485 F.2d 786 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 935 (1974) (hereinafter, together with companion cases, referred to as *Democratic Central Committee*). For a list of companion cases, see *First Order* at para. 56 n. 48.

that AT&T–IS provide a sale option to its embedded CPE customers. National comments in this Notice on the detariffing of any remaining CPE, new or Communications (AT&T–COM) and the BOCs could continue to act as a single

B. Discussion

8. Our goal in formulating this state has imposed such a requirement on an ITC, problems similar to those Federal Communications Commission approved restoration priority (RP) 1–4,[20]

that AT&T–IS provide a sale option to its embedded CPE customers. National sales prices are set for single-line equipment for a two-year price predictability period. For multiline equipment, the sales prices are not to exceed net book value plus transaction costs in the aggregate. Increases in lease prices are also controlled by the *First Order* for the two-year period ending December 31, 1985.[13]

4. In the *Third Order*, we established a framework for states to follow in deregulating ITC-owned embedded CPE tariffed at the state level. Subject to a minimum set of federal requirements, states are given the flexibility to develop an approach to detariffing that best meets the needs of customers and ITCs in their jurisdictions. We did not set a valuation standard for the transfer price, but rather allowed the states to determine the valuation mechanism.[14] States are required to certify to the Commission by September 1, 1985, that they have developed plans to deregulate embedded CPE by December 31, 1987, in a manner consistent with the *Third Order*.[15]

5. While we have deregulated, or have established a framework for deregulation of, a substantial amount of embedded CPE, there are still certain categories of embedded CPE yet to be detariffed. In this proceeding we seek comment on our proposals to deregulate embedded CPE for which we did not receive substantial comment in prior proceedings, *i.e.*, NSEP equipment owned by Independents and tariffed at the state or federal level. We also propose to establish detariffing mechanisms for mobile CPE tariffed at the federal level. In order to complete in an orderly and timely fashion the deregulation of all CPE, we also seek comments in this Notice on the detariffing of any remaining CPE, new or embedded, for which we have not previously requested comments. Parties should provide information on the type of any such CPE, the entity responsible for the equipment, and a preferred valuation technique and deregulation date.[16] We seek to complete the deregulatory process with respect to all CPE as expeditiously as possible.

III. NSEP Equipment Owned by Independent Telephone Companies

A. Background

6. Previous rulemakings in this docket have not specifically addressed the deregulation of embedded NSEP equipment owned by ITCs. The *Notice* did not discuss the deregulation of NSEP equipment. The *Third Order*, which provided a framework for states to deregulate embedded CPE owned by Independents and tariffed at the state level, specifically excluded NSEP equipment [17] in order to provide for a consistent deregulatory process for all NSEP owned by ITCs, whether tariffed at the state or federal level.

7. In the *Second Further Notice*, we suggested several options for a framework under which certain federal agencies might obtain CPE needed for NSEP function.[18] The options presented, and the majority of the responses received, however, focused only on AT&T's role in the provision of NSEP equipment. Accordingly the *Sixth Order* established a framework, involving a permanent waiver of the *Second Computer Inquiry* separate subsidiary requirements,[19] under which AT&T Communications (AT&T–COM) and the BOCs could continue to act as a single point of contact for federal agencies to facilitate the operation, maintenance and servicing of 21 NSEP systems.[20] This waiver applies to both new and embedded NSEP CPE. The *Sixth Order* provided for the deregulation of embedded NSEP CPE owned by AT&T in a manner similar to that required by the *First Order* with respect to single and multiline CPE, *i.e.*, the equipment was transferred out of regulation at net book value plus transaction costs with a sales plan and two-year price predictability period. After careful review by the Commission of the impact of NSEP CPE deregulation on national security communications, deregulation of AT&T-owned NSEP became effective retroactive to January 1, 1984.[21] Although the *Sixth Order* did not address the provision of NSEP equipment by ITCs, we pointed out that ITCs could continue to act as a single point of contact for NSEP communications needs and that a specific waiver similar to that obtained by AT&T–COM and the BOCs would not be necessary since ITCs, unlike AT&T–COM and the BOCs, are not restricted by the Commission-imposed separate subsidiary requirements.[22]

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[13] In the *First Order*, we decided to detariff embedded CPE owned by AT&T quickly because of the then-imminent Bell System divestiture, but determined that, since divestiture did not apply to ITCs, we could decide on the detariffing of ITC-owned CPE in a future rulemaking. *First Order* at para. 174–76.

[14] States are subject to compliance with the principles of *Democratic central Committee, i.e.*, "the right to capital gains on utility assets is tied to the risk of capital losses" and "he who bears the financial burden of particular utility activity should also reap the benefit resulting therefrom." *Democratic Central Committee*, 485 F.2d at 806. Therefore, gains or losses on transfer or sale of assets must go to the entity—carriers, investors, or ratepayers—that bore the risk of loss of capital value over the regulated life of the assets. For further discussion of this case, see *Third Order* at para. 39 n. 28.

[15] In the *Second Order*, we detariffed state and federally tariffed mobile CPE owned by ITCs. States were allowed to establish the detariffing mechanisms, including establishing valuation. We propose detariffing mechanisms for federally tariffed ITC-owned mobile CPE herein.

[16] In response to the *Second Further Notice* in this docket, we received comments on the deregulation of federally tariffed CPE provided by the ITCs. The deregulation of this equipment (excluding federally tariffed, ITC-owned NSEP CPE), and CPE that remained with the BOCs at divestiture, described *supra* note 5, will be implemented in subsequent proceedings.

[17] *Third Order* at para. 27.

[18] *Second Further Notice* at paras. 9–11.

[19] In the *Second Computer Inquiry*, we permitted AT&T to engage in the provision of CPE and enhanced services only through a separate subsidiary. We adopted this requirement to lessen the likelihood that AT&T's provision of CPE and enhanced services would result in harm to competition in these markets or cause ratepayers to fund CPE and enhanced service operations through the improper allocation of costs properly associated with these unregulated activities to AT&T's regulated services. *See Final Decision* at para. 206. We have recently issued a Notice of Proposed Rulemaking inviting comments on our proposal to relieve AT&T from structural separation requirements for the provision of CPE. *See* Furnishing of Customer Premises Equipment and Enhanced Services by American Telephone and Telegraph Company, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 50 FR 9060 (1985).

[20] The permanent waiver permits AT&T–C and the regulated BOC entities to maintain end-to-end responsibility for NSEP communications in cases of presidentially declared and other emergencies and on a continuous bases for the designated NSEP systems. *See Sixth Order* at para. 28, n.72. The Federal Executive Agencies (FEA) listed 21 NSEP systems and circuits as being covered by its request that CPE associated with NSEP functions not be detariffed and transferred to AT&T–IS. The Department of Defense systems were: Automatic Secure Voice Communications Network (AUTOSEVOCOM); Joint Chiefs of Staff Systems (JCS Alerting Network and Minuteman); Strategic Air Command Systems (SAC Primary Alerting System, SAC Operations Conference System, and SAC Command Post Command and Control Consoles); Northern American Air Defense Command (NORAD) Alerting System; Tactical Air Command Systems (TAC Command and Control Alerting Command and TAC Force Control Management System); Military Airlift Command (MAC) Operational Phone System; Air Force Digital Graphics System (AFDIGS); Air Force Command Post Alerting Network (COPAN); and Air Force Command Post Record Capability (COPREC). Also included was the U.S. National Airspace System in the Federal Aviation Administration. The Federal Emergency Management Agency Systems were: A classified FEMA system provided under AT&T Tariff FCC No. 260; Emergency Broadcast System; FEMA National Voice System; and FEMA National Warning System. The NRC Emergency Notification System in the Nuclear Regulatory Commission was also listed. The following White House Communications Agency systems and equipment were included: Transportable electric consoles; and Echo Fox Radio System. *See First Order* at para. 171 n.146, and *Sixth Order*, App. A.

[21] *Sixth Order* at para. 34.

[22] *Id.* at para. 1 n.4.

B. Discussion

8. Our goal in formulating this proposal for the deregulation of ITC-owned NSEP CPE is to effectuate the detariffing of this equipment in a timely manner, while also protecting the national security and the interests of ratepayers, in-place customers, and investors. Although we are convinced that the deregulatory policies of the *Second Computer Inquiry* can proceed without adversely affecting national security and emergency preparedness, we would like to provide interested parties with an opportunity for more detailed comment on the ITC's NSEP CPE before we proceed to establish rules for deregulation.

1. STATE-TARIFFED NSEP

9. In response to the *Notice*, the Federal Executive Agencies (FEAs) opposed state-by-state sale of embedded CPE. In the *Third Order*, we determined that the benefits of allowing states flexibility in the detariffing of embedded CPE outweighed any inconvenience to some large users in having to deal with several state commissions.[23] We are convinced, however, that there is merit to the FEAs' objections with respect to NSEP CPE due to the unique concerns implicated in national security and emergency preparedness. Thus, we propose that ITC-owned NSEP CPE tariffed at the state level be detariffed along with federally tariffed, ITC-owned NSEP CPE, as proposed herein.

10. Additionally, in the *Second Computer Inquiry*, we required that AT&T provide embedded and new CPE through a separate subsidiary in order to eliminate the risk of cross-subsidization or other anticompetitive conduct.[24] While we chose not to place these requirements on ITCs,[25] we did not preclude states from requiring that an ITC establish a separate subsidiary for the provision of CPE.[26] However, when a state has imposed such a requirement on an ITC, problems similar to those addressed in the *Sixth Order*, regarding AT&T's ability to provide end-to-end service for NSEP requirements, may exist.

2. Federally Tariffed NSFE

11. In the *Second Further Notice*, we proposed a framework for deregulating federally tariffed embedded CPE owned by ITCs.[27] Since we did not require that ITC-owned CPE be handled through a separate subsidiary, as was required for AT&T, we are not aware of any special provisions that are needed in the deregulation of this federally tariffed NSEP equipment. As with other federally tariffed CPE owned by ITCs, the ITCs that provide NSEP CPE to the Federal Government vary in size.[28] We are aware of the need to assess the impact of our deregulatory policies on smaller ITCs. We seek comment on any special requirements in deregulating embedded NSEP CPE faced by the specified federal agencies, ITCs, and other interested parties in order to provide for the smooth deregulation of this equipment.

3. Definition of NSEP CPE

12. We also seek comment on the type of CPE that should be included as NSEP subject to the detariffing provisions of this Notice. We propose to include any embedded CPE that is used in conjunction with a service or circuit that has been assigned a National Communications System (NCS).[29] Federal Communications Commission approved restoration priority (RP) 1–4,[30] and is under contract to specified federal agencies.[31] This definition, although relatively broad,[32] ensures that NSEP communications are not hampered by the varied state detariffing procedures.[33] It also provides an opportunity for any further comment on any special requirements, should they be necessary, in order to provide a smooth transition to deregulation.[34] We seek comment on whether this definition should be limited to CPE in a specified set of NSEP systems.

3. NSEP CPE Detariffing Requirements

13. We propose to deregulate ITC-owned NSEP-CPE, tariffed at the state and federal level, in a manner similar to that proposed for all federally tariffed CPE in the *Second Further Notice*. We propose to: (1) Deregulate ITC-owned NSEP CPE on January 1, 1986; (2) require that net book value [35] plus transaction

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[23] *Third Order* at para. 27. As we indicated in the *Third Order*, our findings that states may implement federal policy in deregulating ITC-owned CPE tariffed at the state level does not prejudice our decision in other areas where implementation at the national level is required. *See Third Order* at para. 22 n.14.

[24] *See supra* note 19.

[25] In the *Reconsideration Order*, we found that separate subsidiary requirements would not be necessary for Independents. First, we indicated that opportunities for Independents to cross-subsidize were less than those for AT&T. Second, the costs of separation would be greater for Independents and might foreclose their entry into the enhanced service or CPE markets. *See Reconsideration Order* at para. 70.

[26] In the *Second Computer Inquiry*, we held that "if a state regulatory authority, focusing on the local activities of a carrier not subject to structural separation under our rules, perceived that the carrier's unregulated activities could lead to cross-subsidies or other anticompetitive conduct detrimental to basic service ratepayers the state could apply structural separation conditions on that carrier." *Second Further Reconsideration Order* at para. 2.

[27] *See Second Further Notice* at paras. 20–4. As discussed *supra* note 16, the deregulation of federally tariffed, ITC-owned, non-NSEP embedded CPE will be addressed in a subsequent order.

[28] Central Telephone Co. indicated in its reply comments to the *Second Further Notice* that it provides in excess of $14 million of CPE to three Air Force bases, an Army facility, and an FAA air traffic control facility. Filings in Tariff 277 indicate smaller companies that provide CPE include Iroquois Telephone Co., Shenandoah Telephone Co., and Hardy Telephone Co.

[29] The NCS includes the telecommunication assets of, and representatives from, "those Federal departments, agencies or entities, designated by the President, which lease or own telecommunications facilities or services of significance to national security or emergency preparedness, and to the extent permitted by law, other Executive entities which bear policy, regulatory or enforcement responsibilities of importance to national security or emergency preparedness telecommunications capabilities." Exec. Order No. 12, 472, 48 FR 13471 (1984).

[30] *See* 47 CFR Part 64, App. A, pp. 693–97. The Communications Act grants the FCC authority over the assignment of priorities for restoration of common carrier provided service, until such time as the applicable FCC rules are superseded by the President's emergency power. *Id.* at 693. A restoration priority system is "intended to restore only the most essential private line communications circuits in order to increase their reliability during emergencies." *Id.* All communications common carriers are directed by Appendix A of Part 64 of the Commission's Rules to honor and apply the restoration priority system.

[31] The federal agencies involved are the Department of Defense (DOD) the Department of Energy, the Department of the Interior, the Department of Transportation (including the Federal Aviation Administration and the Coast Guard), the General Services Administration, the Central Intelligence Agency, the Federal Emergency Management Agency, the National Aeronautics and Space Administration, the United States Information Agency, and the Nuclear Regulatory Commission. These agencies are hereinafter referred to as the "specified federal agencies."

[32] Dod originally argued that the AT&T waiver from the separate subsidiary requirements for the provision of NSEP CPE should include all RP systems. *CPE Waiver Order* at para. 11. In the *Bureau Waiver Order*, the waiver was limited to 12 systems due to the possible impact on competition. Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), Order in CC Docket No. 81–893, Mimeo No. 1705 (released Jan. 10, 1984) (hereinafter *Bureau Waiver Order*). The *Sixth Order* affirmed the 21-system

[33] The use of this definition of NSEP is limited to this Notice and any orders issued in response to it.

[34] This definition does not adversely impact competition since these provisions apply to embedded NSEP CPE. New CPE provided to restoration priority systems and circuits is not regulated and is therefore open to competition. Embedded ITC-owned CPE not subject to the proposed detariffing provisions of this Notice (non NSEP CPE) and tariffed at the state level would be deregulated by states according to the provisions of the *Third Order*.

[35] Adjustments to net book value would be made in accordance with the principles and rules adopted

Continued

cost be used as the valuation standard for the transfer of the equipment to unregulated books; (3) provide that not unduly disadvantage the ratepayers or investors of those ITCs, while at the same time adequately balancing the

17. Where it is necessary to preempt any state-imposed limitations due to

AT&T, we decided to require the removal of embedded mobile CPE from

2. Other CPE

Comments should address the type of CPE, the entity responsible for the CPE

VOL 50 ISS 139 JL 19 1985 UMI

cost be used as the valuation standard for the transfer of the equipment to unregulated books; (3) provide that customers have an opportunity to purchase the in-place equipment at any time during a two-year price predictability period following detariffing, at sales prices that in the aggregate do not exceed the net book value of the equipment; and (4) mandate that accounting requirements currently applicable to the offering of new CPE by companies that do not establish separate subsidiaries for such offerings would also apply to this detariffed CPE. We seek comment on whether we should establish a price predictability program, based on the requirements established for AT&T–IS in the *First Order*, under which month-to-month lease rates charged by the ITCs would be subject to established ceilings. Existing fixed-term leases applicable to this detariffed equipment would remain in effect according to their terms and would be enforceable by the ITC and customer involved.[36] The ITC would have to establish accounting mechanisms for the detariffed equipment that comply with the accounting and tax requirements we established in the *Third Order* for state-tariffed embedded CPE owned by the Independents and the *Fifth Order*.[37]

14. In the *Second Further Notice*, we indicated that, although the amount of federally tariffed embedded CPE provided by Independents may be small in comparison with the total amount of ITC-owned CPE, a significant portion of embedded CPE owned by a particular ITC may be subject to federal tariff. We are concerned about this possibility as it impacts NSEP CPE and, therefore, propose to allow for a waiver of the detariffing date to no later than January 1, 1989, in certain limited circumstances for those ITCs with a substantial amount of embedded NSEP equipment. The purpose of such waivers would be to ensure that our detariffing plan does not unduly disadvantage the ratepayers or investors of those ITCs, while at the same time adequately balancing the interests of CPE users. The waiver request must demonstrate that the ITC in question will not recover its investment in NSEP CPE if the CPE is detariffed on January 1, 1986, and that a substantial portion of the investment has not already been recovered through depreciation. We propose to limit this waiver to ITCs that are providing more than 20 percent of their embedded CPE base (in terms of net book value) to support the NSEP communications needs of the specified federal agencies.

15. We invite interested parties to comment on our proposal to deregulate NSEP CPE owned by ITCs, and to present and discuss other alternatives for the detariffing of this embedded NSEP equipment. We also invite interested parties to propose and discuss additional terms and conditions that may be necessary to ensure that the arrangements we propose herein accommodate ITCs and NSEP requirements in a manner consistent with the *Second Computer Inquiry* and a competitive CPE market.

4. State Separate Subsidiary Requirements

16. In those states where ITCs have been required to provide CPE through a separate subsidiary, we believe that any state-imposed limitations may need to be preempted for the effective provision of CPE for national security and emergency purposes,[38] including those situations under which priority restoration and similar requirements would necessitate participation by ITCs in ensuring the telecommunications requirements of NSEP.[39] As was the case with AT&T in the *Sixth Order*, we are concerned here that these state separate subsidiary requirements would preclude ITCs from responding on an "end-to-end" basis in providing new and embedded NSEP CPE.[40]

17. Where it is necessary to preempt any state-imposed limitations due to separate subsidiary or other requirements for the provision of NSEP CPE, we propose to include: (a) The RP system discussed above,[41] (b) new or embedded CPE equipment that is utilized for any service or circuit required in support of emergency situations,[42] and (c) any new or embedded CPE required with respect to NSEP military exercise or special purpose services or circuits.[43]

18. Thus, we seek comment on the need for the Commission to preempt state subsidiary requirements[44] that do not allow ITCs to provide embedded, new, or replacement NSEP CPE[45] as part of an end-to-end service. We also seek comment on any limitations that should apply to ITCs in this case.[46]

IV. Other Embedded CPE

A. Background

19. As previously noted, the Commission in several Orders has proceeded to deregulate embedded CPE in a manner consistent with the requirements of the *Second Computer Inquiry*.[47] We seek in this Notice comment regarding the deregulatory framework for any new or embedded CPE that has not been addressed in a prior notice in this docket or has not been commented on.[48]

1. Mobile Telephone Equipment

20. In the *Second Order* in this proceeding, we detariffed all embedded CPE used in mobile telephone services that was provided by AT&T, ITCs, and radio common carriers (RCCs).[49] For AT&T, we decided to require the removal of embedded mobile CPE from regulated service in accordance with the conditions and requirements established in the *First Order*. As with other embedded CPE, the valuation of AT&T's embedded mobile CPE was set at adjusted net book value, and a sale and price predictability program was established. This detariffing plan was made effective retroactive to January 1, 1984. With regard to embedded mobile CPE owned by the ITCs and the RCCs, we determined that the position of these companies in this competitive market did not require any extended transition period before removing embedded mobile CPE from regulated service, and therefore, we required detariffing of this equipment as of January 1, 1985. We decided to extend to the state commissions the flexibility to establish valuation standards and detariffing mechanisms, such as sales plans, to be applied at the time these assets owned by ITCs and RCCs were removed from regulated service.

21. Although we detariffed federally tariffed embedded mobile ITC-owned CPE in the *Second Order*, we did not specify the detariffing mechanisms or valuation methodology to be used. It is our understanding that this represents a small amount of CPE. In this Notice we seek comment on our proposal to utilize net book value plus transaction costs as the valuation mechanism for the detariffing of this equipment in a manner similar to that described herein for NSEP equipment, excluding the waiver provision.

2. Other CPE

22. In order to ensure that when we terminate this proceeding all new or embedded CPE has been detariffed,[50] we are seeking comment on the deregulation of any remaining CPE we have not addressed in this or any previous notice and order.[51] We propose to deregulate any other embedeed CPE in a manner similiar to NSEP CPE, excluding the waiver provision for extending the period for deregulation.[52] Comments should address the type of CPE, the entity responsible for the CPE, valuation standard, transfer, date of deregulation and other significant issues involved in the proposed detariffing plan.

V. Initial Analysis and Certification Under the Regulatory Flexibility Act

23. This Notice proposes rules and policies for the detariffing of CPE owned by ITCs, tariffed at the federal or state level, and used by the Federal Government for NSEP functions. The objective of this proceeding is to establish a workable and durable framework for the provision of this CPE in a manner that accommodates national defense and emergency preparedness goals as well as the policies of the *Second Computer Inquiry*. This Notice also proposes a framework for the deregulation of any remaining new or embedded CPE that is still being offered subject to tariffs. The authority for this proposed rulemaking proceeding is contained in sections 4(i), 4(j), 201–205, 213, 218, 220, and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 213, 218, 220, 403. We state our legal authority for taking action in this proceeding, and note that the policy objectives of the Regulatory Flexibility Act are also encompassed in sections 2(b) and 203(a) of the Communications Act of 1934, the provisions of which are intended to relieve many small telephone companies from various reporting requirements established in the Communications Act.

24. We tentatively conclude that small business entities, as defined for purposes of the Regulatory Flexibility Act, 5 U.S.C. 602–12, would be favorably affected by this proposed rulemaking. The proposals made in this Notice for NSEP and mobile CPE could affect some ITCs and RCCs. Our request for comment on other CPE may also affect AT&T–IS and the BOCs.

25. We hereby certify pursuant to 5 U.S.C. 605(b) that the Regulatory Flexibility Act is not applicable to ITCs because they are monopolies in their own service areas.[53] The Act incorporates the definition of a "small business" in section 3 of the Small Business Act as the definition of a "small entity." The latter definition excludes any business that is dominant in its field of operation. ITCs, even small ones, enjoy a dominant monopoly position in their local service area. This is the case regarding the ITCs because each of them is the dominant provider of telephone service within its service

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with respect to AT&T embedded CPE in the *First Order*. For AT&T, we found that "using net book value as a proxy for economic value (has the advantage of extreme simplicity, and it may be the most prudent approach in some cases given the practical difficulties of implementing other alternatives'." *First Order* at para. 51 (quoting *Notice of Inquiry* at para. 12). We further concluded regarding detariffing of CPE owned by AT&T that a sale plan of embedded CPE, coupled with a plan for transferring the remaining CPE to unregulated service, was consistent with the equitable principles of *Democratic Central Committee*, since it properly accommodates the interests of both ratepayers and investors. *See Notice* at para. 32.

[36] *See* Memorandum Opinion and Order in CC Docket No. 81–893, FCC 85–220 (released May 15, 1985).

[37] *See Third Order* at paras. 43–45; *see also Fifth Order*.

[38] These emergency situations include a presidentially declared disaster or emergency as defined in the Disaster Relief Act (42 U.S.C. 5122) or other emergency as defined in DCA Circular 310–130–1, Chapter II, para. 2 (Feb. 1982). For the relevant text from the DCA Circular, see AT&T Petition for Waiver of § 64.702 of the Commission's Rules and Regulations with Respect to the Department of Defense and Specified Government Agencies, Memorandum Opinion and Order, 93 FCC 2d 632, para. 7 n. 6 (1983) (hereinafter *CPE Waiver Order*).

[39] *See supra* para. 10.

[40] *See Bureau Waiver Order* at para. 12 n.16 regarding the DOD's comments on the need for a single point of contact for emergency communications needs.

[41] *See supra* note 30.

[42] *See supra* note 38.

[43] Special purpose services/circuits include services/circuits used to support the President, Vice President, or activities conducted pursuant to the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801–11.

[44] Only CPE associated with NSEP situations, as described *supra* para. 17, would be covered by the proposed preemption.

[45] The new or replacement CPE would not be tariffed and would not be added to the regulatory revenue requirements. Expenses incurred by ITCs in connection with making such arrangements would be recorded as "below-the-line" expenses.

[46] For example, in the *Sixth Order*, we placed restrictions on AT&T–COM and the BOCs in providing NSEP CPE to the Federal Government. *See also CPE Waiver Order* at paras. 15–17.

[47] *See supra* note 11.

[48] As noted above, this Notice excludes consideration of CPE owned by the BOCs that was not transferred to AT&T at divestiture, and non-NSEP federally tariffed CPE provided by the ITCs. *See supra* notes 5 and 16.

[49] Mobile telephone equipment was excluded from the decision to deregulate CPE in the *Second Computer Inquiry* because the status of this

Continued

equipment was being examined in a separate cellular mobile radio proceeding. *See Final Decision* at para. 161 n.57; *Reconsideration Order* at para. 59. In the cellular proceeding, we ordered that mobile telephone equipment provided in conjunction with cellular systems be deregulated. Cellular Communications Systems, Report and Order, 86 FCC 2d 469 (1981), *modified on reconsideration*, 89 FCC 2d 58 (1982), *modified on further reconsideration*, 90 FCC 2d 571 (1982), *appeal dismissed sub. nom. U.S. v. F.C.C.*, No 82–1526 (D.C. Cir. January 17, 1983). Subsquently, a Notice of Proposed Rulemaking in CC Docket No. 83–372 addressed the deregulation of mobile CPE used in conventional common carrier mobile radio services. Deregulation of Mobile Customer Premises Equipment, Notice of Proposed Rulemaking, 48 FR 20952 (1983)(hereinafter *Mobile Notice*). In the Order adopted pursuant to this notice, the Commission, consistent with the procedures established in the *Second Computer Inquiry*, deregulated and detariffed mobile telephone equipment on a bifurcated basis. Deregulation of Mobile Customer Premises Equipment, Report and Order, 48 FR 54619 (1983) (hereinafter *Mobile Order*), *modified on reconsideration*, 49 FR 882 (1983). In a Further Notice of Proposed Rulemaking in this docket, 48 FR 54668 (1983), we proposed procedures for deregulating embedded mobile CPE, and the *Second Order* was adopted pursuant to that notice.

[50] In the *Third Order*, the Commission indicated that states must detariff embedded CPE no later than December 31, 1987. The Commission, however, excluded from this requirement CPE that serves the disabled. States were given the option of deciding whether or not to detariff the specialized terminal equipment needed by persons whose hearing, speech, vision or mobility is impaired. *See id.*, para. 45 n. 35. We propose herein to provide the same type of option with respect to 911 emergency CPE owned by ITCs and tariffed at the state level. The Common Carrier Bureau has previously concluded that the provision of 911 emergency service directly promotes the statutory objectives embodied in Section 1 of the Communications Act, 47 U.S.C. 151, of "promoting safety of life and property through the use of wire and radio communications." *See* Letter from the Chief, Common Carrier Bureau, to Alfred A. Green, AT&T (Dec. 30, 1982). *See also generally* Southwestern Bell Telephone Company, File No. ENF 84–44, Mimeo No. 1709 (released January 8, 1985). Because of the extraordinary requirements for service continuity, reliability and maintenance associated with 911 emergency calls, we propose to defer to the states the decision of whether and how to detariff new or embedded 911 emergency service. State action should not, however, unnecessarily restrain competition in the provision of 911 equipment. *See generally id.* at paras. 18–19. Our proposal governs the CPE located at 911 attendants' positions, including associated switches and processing database equipment used to implement centralized 911 dispatch services. It does not govern coventional telephone CPE that might be used to place or receive a 911 call.

[51] For example, in a recent letter to the Common Carrier Bureau, Waterway Communications Systems, Inc. once again requested that the Commission deregulate new CPE to be utilized in a maritime common carrier service licensed under Part 81 of the Commission's Rules, 47 CFR 81.913–15. Letter from Martin W. Bercovici to Chief, Common Carrier Bureau (March 1, 1985). In comments filed in response to the *Mobile Notice*, Waterway had argued that the proceeding in CC Docket No. 83–372 should include customer equipment used in conjunction with Part 81-licensed services, but the Commission rejected this position, noting that the *Mobile Notice* was "finely focused upon the sole issue of deregulating mobile telephone CPE [used in all services licensed under Part 22 of the Commission's Rules] and did not include deregulation of any other type of CPE." *Mobile Order* at para. 11. Therefore, we seek comments in the Notice regarding the deregulation of customer equipment used in conjunction with Part 81-licensed maritime common carrier services. We propose to deregulate any such new equipment as soon as possible, and embedded equipment, if any, would be detariffed pursuant to the schedule proposed herein. *See also supra* notes 5 and 16.

[52] *See supra* para. 13.

[53] *See Notice* at para. 88.

area. Moreover, the actions we are taking in this proceeding with respect to

a member of the Commission's staff which addresses the merits of the

Notice of Proposed Rulemaking to be

Hampshire. Sound, an applicant for Channel 221A, also requests that we

City	Channel No.	Federal Communications Commission.

VOL
50
ISS
139
JL
19
1985
UMI

area. Moreover, the actions we are taking in this proceeding with respect to NSEP CPE is designed such that the interests of small telephone companies are protected. We note that, even though the Regulatory Flexibility Act does not apply to ITCs, our proposal regarding the detariffing or CPE owned by those companies and tariffed at the federal or state level complies with the spirit of that statute because it will have the effect of reducing administrative burdens faced by small ITCs.

26. We tentatively conclude that our proposals will have a favorable impact on small RCCs directly affected by our actions. It is our view that any small business under the terms of the Regulatory Flexibility Act will be favorably affected because the removal of tariffs and other regulatory restrictions will enable those companies to contend with market forces, to meet the needs of their customers, to take advantage of technological developments affecting CPE, and to control and direct the operation and expansion of their CPE businesses in a more efficient manner. Moreover, as we noted in the *CPE Detariffing Order*, the Regulatory Flexibility Act was designed for the protection of small businesses that are directly subject to administrative rules rather than businesses indirectly affected by the results that any rules will produce.[54]

27. With respect to any detariffing of CPE proposed for equipment owned by AT&T–IS or the BOCs, we conclude, as we found in the *CPE Detariffing Order*, that these companies are not small businesses for the purposes of the Regulatory Flexibility Act. We also conclude that there are no federal rules which would overlap, duplicate, or conflict with the action proposed in this Notice.

VI. Comment Filings; Ordering Clauses

28. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantial disposition of the matter is to be considered in a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever occurs earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding.

29. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation, and that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

30. Accordingly, it is hereby ordered, that pursuant to sections 4(i), 4(j), 201–205, 213, 218, 220, and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 213, 218, 220, 403, and pursuant to Section 553 of Title 5, United States Code, notice is hereby given of the proposed adoption of new or modified rules, in accordance with the discussion and delineation of issues in this Notice and on the basis of previous notices and filings in this proceeding.

31. It is further Ordered, that all interested persons may file comments on the issues and proposals discussed in this Notice not later than August 9, 1985, and that replies may be filed not later than August 27, 1985. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, an original and five copies of all statements, briefs, comments, or replies shall be filed with the Federal Communications Commission, Washington, D.C. 20554, and all such filings will be available for public inspection in the Docket Reference Room at the Commission's Washington, D.C., offices. In reaching its decision, the Commission may consider information and ideas not contained in filings, provided that such information is reduced to writing and placed in the public file, and provided that the fact of the Commission's reliance on any such information or ideas is noted in the *Order*.

32. It is further Ordered, that the Secretary shall cause this Notice of Proposed Rulemaking to be published in the **Federal Register**.

33. It is further Ordered, that the Secretary shall cause a copy of this Notice of Proposed Rulemaking to be mailed to the Chief Counsel for Advocacy of the Small Business Administration.

34. It is further Ordered, that the Secretary shall cause a copy of this Notice of Proposed Rulemaking to be provided to each state regulatory commission.

Federal Communications Commission
William J. Tricarico,
Secretary.

[FR Doc. 85–17158 Filed 7–18–85; 8:45 am]
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[54] *Id.*

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47 CFR Part 73

[MM Docket No. 85–213; RM–4907]

FM Broadcast Station in Hanover, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of Channel 277A at Hanover, New Hampshire, in response to a petition filed by Sound Citizen Corp., Inc. The allotment could provide for a second FM service for Hanover.

DATE: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority. Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rulemaking

In the matter of amendments of § 73.202(b), Table of Allotments, FM Broadcast Stations (Hanover, New Hampshire); MM Docket No. 85–213, Rm–4907.

Adopted: June 26, 1985.
Released: July 11, 1985.
By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Sound Citizen Communications Corp., Inc. ("Sound"), requesting the substitution of FM Channel 263A for Channel 221A at Hanover, New Hampshire, and the substitution of FM Channel 230A for vacant Channel 263A at Lebanon, New Hampshire. Sound, an applicant for Channel 221A, also requests that we permit its application to be amended to specify FM Channel 263A and to retain cut-off protection.

2. Channel 221A was assigned to Hanover, New Hampshire, in 1981 (Docket 80–278). Currently, three applications are pending at the Commission for Channel 221A.[1] The applicants state that they have been hampered by the lack of site availability. Five sites have been proposed by the applicants, all of which have been opposed on environmental grounds by local citizens group. The petitioner relates that the three applicants have signed a settlement agreement which could provide additional FM service to Hanover with a minimum of delay, provided the substitution and modification of Sound's application is granted. Valley Radio Corporation and North Star Communications Corp., Inc. have agreed to dismiss their applications, and Sound will reimburse them for the expenses incurred in the preparation of their applications. The agreement is contingent upon the Commission taking the following action: substitute Channel 263A, with no site restriction, for Channel 221A at Hanover; permit Sound to amend its application to specify the new channel with cut-off protection; and grant a construction permit to Sound on the new channel.

3. On May 15, 1985, the petitioner filed an amendment to his petition requesting Channel 277A be substituted for Channel 221A at Hanover, instead of Channel 263A. A staff study indicates that Channel 277A can be allotted to Hanover in compliance with the Commission's mileage separation requirements and would not require a substitution of channels at Lebanon, New Hampshire. Since Hanover is located within 320 kilometers (200 miles) of the common U.S.-Canadian border, Canadian concurrence is required.

4. In accordance with Commission policy we would retain Sound's cut-off protection when it amends to specify Channel 277A, since the channels are equivalent. See, *Phillipsburg, Kansas* (Docket 82–145), 48 FR 10844, published March 15, 1983.[2]

5. In view of the foregoing, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Hanover, New Hampshire	221A, 257A	257A, 277A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note. A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be serve on the petitioner, as follows: J. Dominic Monahan, Noel C.R. Gunther, Dow, Lohnes & Albertson, 1255—23rd Street, NW., Washington, D.C. 20037 (Counsel for the petitioner).

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rulemaking* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes *ex parte* presentation and shall not be considered in the proceeding.

[1] Sound Citizen Communications Corp., Inc. (File No. BPH–810603AH); Valley Radio Corporation (File No. BPH–811024AN); and, North Star Communications, Inc. (File No. BPH–811028AJ).

[2] See, also, *Bountiful, Utah*, 48 R.R. 2d 1322 (1981).

Federal Communications Commission.
Charles Schott,
Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended; and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Apppendix is attached. All submissions

by parties to this proceeding or persons acting on behalf of such parties must be

Adopted: June 25, 1985.
Released: July 11, 1985.

Commission consideration or court review, all ex parte contacts are

considered as comments in the proceeding, and Public Notice to this

comments on or before September 18, 1985.

the attached Appendix and are

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accomplished by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-17153 Filed 7-18-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-210; RM-4969]

FM Broadcast Station in Corning, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 254A to Corning, New York, as that community's second local FM service, at the request of WCBA Radio, Inc.

DATES: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Corning, New York); MM Docket No. 85-210, RM-4969.

Adopted: June 25, 1985.

Released: July 11, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by WCBA Radio, Inc. ("petitioner") requesting the allocation of Channel 254A to Corning, New York, as that community's second local FM service. Petitioner states that it will apply for the frequency, if allocated.

2. Corning is located within 320 kilometers (200 miles) of the U.S.-Canadian border. Therefore, Canadian concurrence must be obtained before the channel will be allotted.

3. We believe the public interest would be served by proposing to allot Channel 254A to Corning, as requested. Accordingly, we seek comments on the amendment of the FM Table of Allotments, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Corning, New York	291	254A, 291

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note. A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Mark E. Fields, Esq. Miller & Fields, P.C., P.O. Box 33003, Washington, D.C. 20033 (Counsel to petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202 (b) of the Commission's Rules. See, *Certificotion that Sections 603 ond 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex porte* contact is a massage (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner consititutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All findings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-17150 Filed 7-18-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-209; RM-4923]

FM Broadcast Station in Naguabo, PR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of channel 268A to Naguabo, Puerto Rico, as that community's first local FM service, at the request of Reyes Ruiz Rivera.

DATES: Comments must be filed on or before [September 3, 1985, and reply comments on or before September 18, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Naguabo, Puerto Rico); MM Docket No. 85-209, RM-4923.

Adopted: June 26, 1985.

Released: July 11, 1985.

By the chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Reyes Ruiz Rivera ("petitioner") requesting the allocation of Channel 268A to Naguabo, Puerto Rico, as that community's first local FM service. Petitioner states that he will apply for the channel, if allocated. The channel can be allocated to Naguabo in compliance with the Commission's mileage separation requirements, if the transmitter site is restricted to an area 12.5 kilometers (7.8 miles) east of the community, to avoid a short-spacing to the construction permit of Station WKSA-FM, Isabella, Puerto Rico.[1]

2. In view of the fact that this allotment could provide a first local FM service to Naguabo, we believe it is appropriate to invite comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, with respect to the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Naguabo, Puerto Rico		268A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.)

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allocated.

4. Interested parties may file comments on or before September 3, 1985, and reply commends on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Vincent J. Curtis, Jr., Esq. Kathleen Quinn Abernathy, Esq., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400 Washington, D.C. 20036 (Counsel to petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules.* 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allocations. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it

[1] The staff has conducted an engineering study and confirmed petitioner's showing that a transmitter for Channel 268 can be located at least 7.8 miles east of Naguabo and provide the entire community with the required city-grade coverage. Thus, we believe it is not necessary for the petitioner to provide us with any further signal coverage showings.

is proposed to amend the FM Table of Allotments, § 73.202(b) of the

service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

1. The Commission has before it for consideration the petition for rule

specify operation on Channel 268 in lieu of Channel 258 as proposed herein.

Commission's Rules, 46 F.R. 11549, published February 9, 1981.

parties may comment on them in reply comments. They will not be considered

is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85-17149 Filed 7-18-85 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-211; RM-4740]

FM Broadcast Stations in Santa Isabel, PR and Christiansted, VI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allotment of Class B FM Channel 258 to Santa Isabel, Puerto Rico, as that community's first local service, and the substitution of Class B FM Channel 268 for Channel 258 at Christiansted, Virgin Islands, at the request of Pablo Rodriquez.

DATES: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making and Order to Show Cause

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Santa Isabel, Puerto Rico, and Christiansted, Virgin Islands); MM Docket No. 85-211, RM-4740.

Adopted: June 25, 1985.
Released: July 11, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Pablo Rodriquez ("petitioner") requesting the allocation of Channel 258 to Santa Isabel, Puerto Rico, as that community's first local FM service. Petitioner states that he will apply for channel, if allocated.

2. Channel 258 can be allocated to Santa Isabel, in compliance with the Commission's minimum distance separation requirements, if Channel 268 is substituted for Channel 258 at Christiansted, Virgin Islands. Channel 258 is currently licensed to Station WIVI-FM.[1] Petitioner states that he will reimburse Station WIVI-FM for the reasonable expenses incurred in changing its channel of operation. We are issuing an *Order to Show Cause* to Station WIVI-FM as it has not indicated its consent to the channel change. We also note that Station WIOB, Channel 260, San Juan, Puerto Rico, has an application pending before the Commission to move its transmitter to a site that would be shortspaced to a Channel 258 allotment at Santa Isabel (BPH-831116AK). Therefore, in accordance with Commission policy, this application will be held in abeyance pending the outcome of this proceeding. See *Andalusia, Alabama*, 49 Fed. Reg. 32201, published August 13, 1984, and cases cited therein.

3. We believe the public interest would be served by seeking comments on the proposed allotment at Santa Isabel, as it could provide the community with its first local service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Rules, with respect to the communities listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Santa Isabel, Puerto Rico	.....	258.
Christiansted, Virgin Islands.	232A, 236, 258, 262, 291.	232A, 236, 262, 268, 291.

4. It is ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, CDI Communications ("CDI"), licensee of Station WIVI-FM, Christiansted, Virgin Islands, shall show cause why its license should not be modified to specify operation on Channel 268 in lieu of Channel 258 as proposed herein.

5. Pursuant to § 1.87 of the Commission's Rules, CDI may, not later than September 3, 1985, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, CDI may, not later than September 3, 1985, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on CDI to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, CDI will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission if the above-mentioned channel modification is ultimately found to be in the public interest.

6. It is further ordered, that the Secretary shall send a copy of this *Notice of Proposed Rule Making and Order to Show Cause* by certified mail, return receipt requested, to CDI Communications, Bankers Building, Suite 942, 105 W. Adams Street, Chicago, Illinois, and to Estereotempo, Inc., licensee of Station WIOB-FM, P.O. Box 43, Mayaguez, Puerto Rico 00708.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allocated.

8. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Pablo Rodriquez, P.O. Box AR, Juana Diaz, Puerto Rico 00605 (Petitioner).

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 F.R. 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allocations. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communication Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflicts with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-17151 Filed 7-18-85; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-214; RM-4921]

FM Broadcast Station in Wartburg, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

[1] The new allocation rules adopted in BC Docket 80-90 increased the mileage separation for second adjacent Class B channels to 74 kilometers. However, as this petition was filed prior to the effective date of these rules, the previously required 64 kilometer spacing remains in effect. *Report and Order*, 94 F.C.C. 2d 152 (1983).

SUMMARY: Action taken herein, at the request of Sandra Lavender, proposes

read the Appendix for the proper procedures. Additionally, a copy of such

whatever questions are presented in initial comments. The proponent of a

available for examination by interested parties during regular business hours in

proposes to amend the FM Table of

an *ex parte* presentation and shall not

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SUMMARY: Action taken herein, at the request of Sandra Lavender, proposes the allotment of Channel 255A to Wartburg, Tennessee, as that community's first FM service.

DATES: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Wartburg, Tennessee); MM Docket No. 85–214, RM–4921.

Adopted: June 28, 1985.
Released: July 11, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by Sandra Lavender ("petitioner"), seeking the allocation of Channel 255A to Wartburg, Tennessee, as that community's first FM allotment. Petitioner has expressed an intention to apply for the channel, if assigned. The channel can be alloted in compliance with the Commission's minimum distance separation requirements.

2. In view of the fact that the proposed allotment could provide a first FM service to Wartburg, Tennessee, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Wartburg, Tennessee		255A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, or their counsel or consultant as follows: Timothy K. Brady, 1116 Weisgarber Road, P.O. Box 10566, Knoxville, Tennessee 37939–0566, (Counsel to petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the AM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is alloted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85–17152 Filed 7–18–85; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 85–212; RM–4925]

FM Broadcast Station in Paris, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allotment of Channel 230C2 to Paris, Texas, as that community's third FM service, at the request of The Gene Sudduth Co., Inc.

DATES: Comments must be filed on or before September 3, 1985, and reply comments on or before September 18, 1985.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Paris, Texas): MM Docket No. 85–212, RM–4925.

Adopted: June 26, 1985.
Released: July 11, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by The Gene Sudduth Co., Inc., ("petitioner") requesting the allocation of Channel 230C2 to Paris, Texas, as that community's third FM service. Petitioner has expressed an intention to apply for the channel.

2. The channel can be allotted consistent with the Commission's minimum distance separation requirements provided a site restriction of 17.2 kilometers (10.7 miles) north of Paris is imposed to avoid short spacings to Station KMBQ–FM, Channel 229, at Shreveport, Louisiana and Station KESS–FM, Channel 231 at Fort Worth, Texas.

3. In view of the fact that the proposed allotment could provide a third FM service to Paris, Texas, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Paris, Texas	257A, 280A	230C2, 257A, and 280A.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before September 3, 1985, and reply comments on or before September 18, 1985 and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the counsel to the petitioner, as follows: Thomas J. Keller, Verner, Liipfert, Bernhard, McPherson and Hand, 1660 L Street NW., Suite 1000, Washington, D.C. 20036.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73,504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex porte* contacts are prohibited in Commission proceedings such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes as *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is alloted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

(4) *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice*

of Proposed Rule Making to which this Appendix is attached. All submissions

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

. . . we believe that now may be the appropriate time to expand automatic control

and (r) of the Communications Act of

proceeding to which it relates (PR

10. It is ordered, That the Secretary

VOL 50 ISS 139 JL 19 1985 UMI

of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be srved on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85–17154 Filed 7–18–85; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 97

[PR Docket No. 85–215; RM–4885; FCC 85–341]

Proposed Amendment of the Amateur Radio Service Rules To Allow Auxiliary Operation on All Amateur Frequencies, Except 431–433 MHz and 435–438 MHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Amateur Radio Service Rules to allow auxiliary operation on all amateur frequencies, except 431–433 MHz and 435–438 MHz. The proposed rule is necessary so that amateur radio operators will have more flexibility in operating their stations. The effect of the proposed rule is simplification in the operation of amateur repeaters and remote controlled stations.

DATES: Comments are due by September 24, 1985 and replies by October 25, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Amateur radio, Radio, Repeaters.

Notice of Proposed Rule Making

In the matter of amendment of the amateur radio service rules to allow auxiliary operation on all amateur frequencies, except 431–433 MHz and 435–438 MHz, PR Docket No. 85–215, RM–4885.

Adopted: July 5, 1985.
Released: July 10, 1985.
By the Commission.

1. Notice of Proposed Rule Making in the above-captioned matter is hereby given.

2. On December 28, 1984, the Quarter Century Wireless Association (QCWA) filed a petition (RM–4885) requesting that the Amateur Rules be amended to permit auxiliary links to be used by amateur operators on all amateur frequencies. The present rules permit amateur operators to engage in auxiliary operation only on frequencies above 220.5 MHz (except 431–433 MHz and 435–438 MHz). Auxiliary operation is defined in Section 97.3(1) of the Amateur Rules as radio communication for remotely controlling other amateur radio stations, for automatically relaying the radio signals of other amateur radio stations in a system of stations, or for intercommunicating with other amateur radio stations in a system of amateur radio stations. No comments concerning the petition were filed.

3. In support of its petition, the QCWA states that the technological state of the art has made restrictions on auxiliary operation unnecessary. According to petitioner, allowing auxiliary links to be used on all amateur frequencies would provide the Amateur Radio Service with a variety of options such as in-band control including the use of tertiary offsets; cross polarization of antennas; new cross-band modes of operation; and independent sideband for simultaneous control and repeater operation referenced to the same suppressed carrier frequency). Petitioner believes that the general use of auxiliary links would provide more flexibility for amateurs operating remotely-controlled stations and greatly simplify the operation of repeaters and remotely-controlled stations.

4. The rationale for expanding the use of auxiliary links in the Amateur Radio Service is consistent with our proposal in PR Docket 85–105 to broaden the uses of automatic control. In that proceeding [1] we said:

> . . . we believe that now may be the appropriate time to expand automatic control to all amateur operations, prohibiting its use only in those situations where there is a justifiable reason why automatic control should not be allowed.

It appears that this approach is as valid for "auxiliary links" as it is for "automatic control". For these reasons, we propose to permit auxiliary links on all amateur frequencies, except on frequencies between 431–433 MHz and 435–438 MHz where we would continue to protect such activities as weak-signal communications, moonbounce experimentation and satellite transmissions. As in Docket 85–105, we invite amateur radio operators in general, and amateurs experienced in auxiliary operation in particular, to submit comments calling to our attention any problems that may arise by expanding the use of auxiliary links.

5. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation, addressing matters not fully covered in any previously-filed comments in the proceeding, must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632–7000.

6. Authority for issuance of this Notice is contained in sections 4(i) and 303 (g) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (g) and (r). Pursuant to applicable procedures set forth in § 1.415, 47 CFR 1.415, of the Commission's Rules, interested persons may file comments on or before September 24, 1985, and reply comments on or before October 25, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided further that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. In accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. Each set of comments must state on its face the proceeding to which it relates (PR Docket Number) and should be submitted to: The Secretary, Federal Communications Commission, Washington, D.C. 20554. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

8. In accordance with section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605), the Commission certifies that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities because these entities may not use the Amateur Radio Service for commercial radiocommunication (see 47 CFR 97.3(b)). In addition, the proposed rules allowing auxiliary operation on additional amateur frequencies would not significantly impact manufacturers of amateur radio equipment since auxiliary operation on the additional frequencies proposed herein would be optional rather than mandatory.

9. In view of the foregoing, rule making petition RM–4885 filed by the QCWA is granted insofar as we propose to allow auxiliary operation on additional amateur frequencies and IS DENIED insofar as the restrictions prohibiting auxiliary operation on frequencies between 431–433 MHz and 435–438 MHz are retained.

10. It is ordered, That the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and the Secretary shall also cause a copy of this Notice to be published in the **Federal Register.**

11. For information concerning this proceeding, contact Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations would be amended, as follows:

1. The authority citation for Part 97 would continue to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 97.86(d) would be amended to read:

§ 97.86 Auxiliary operation.

* * * * *

(d) All amateur frequency bands, except 431–433 MHz and 435–438 MHz, are available for auxiliary operation.

[FR Doc. 85–17157 Filed 7–18–85; 8:45 am]
BILLING CODE 6712–01–M

[1] See Notice of Proposed Rule Making in PR Docket No. 85–105, adopted April 5, 1985; FCC 85–169, 50 FR 15196, April 17, 1985.

Notices

A copy of the Notice of Determination

Accessories. Manufacturer: [EOL, Co., [C–433–502]

VOL 50 ISS 139 JL 19 1985 UMI

Notices

Federal Register
Vol. 50, No. 139
Friday, July 19, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Maine Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on August 13, 1985, at the Hubbard Hall, Government Department Conference Room, Bowdoin College, Brunswick, Maine. The purpose of the meeting is to provide an orientation for new members of the recently rechartered Committee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Richard Morgan of Jacob Schlitt, Director of the New England Regional Office at (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 16, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–17196 Filed 7–18–85; 8:45 am]

BILLING CODE 6335–01–M

Vermont Advisory Committee; Agenda for Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on August 12, 1985, at the University of Vermont, Williams Science Hall, Room 511, Burlington, Vermont. The purpose of the meeting is to provide an orientation for new members of the recently rechartered Committee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Kenneth Holland or Jacob Schlitt, Director of the New England Regional Office at (617 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, July 16, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–17197 Filed 7–18–85; 8:45 am]

BILLING CODE 6335–01–M

Wyoming Advisory Committee; Agenda for Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 1:00 p.m. on August 3, 1985, at the Downtowner Motel, I–25 and Center Street, the Champagne Room, Casper, Wyoming. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Donald Tolin or William Muldrow, director of the Rocky Mountain Regional Office at (303) 844–2211.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 12, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–17198 Filed 7–18–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Automated Manufacturing Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held August 7, 1985, at 9:30 a.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue NW., Washington, D.C.

The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export control applicable to automated manufacturing equipment or technology.

Agenda

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Programmable Controllers.
5. Robotics.
6. Automatically Controlled Industrial Systems.
7. Sensory Controls.
8. Technology notes to CCL.
9. Foreign Availability.
10. 1985 annual report.

Executive Session

11. Discussions of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: (202) 377–4217. For further information or copies of the minutes contact Jess M. Batton, (202) 377–2583.

Dated: July 16, 1985.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 85–17210 Filed 7–18–85; 8:45 am]

BILLING CODE 3510–DT–M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; University of Illinois et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85–100. Applicant: University of Illinois, Urbana-Champaign Campus, Urbana, IL 61801. Instrument: Electron Microscope, Model JEM–4000EX with Accessories. Manufacturer: JEOL, Japan. Intended use: See notice 50 FR 9476. Application received by Commissioner of Customs: February 13, 1985.

Docket No. 85–102. Applicant: Atlanta University, Atlanta, GA 30314. Instrument: Electron Microscope, Model H–600–2 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See notice 50 FR 11233. Instrument Ordered: August 23, 1984.

Docket No. 85–105. Applicant: DHHS/PHS/CDC/NIOSH, Cincinnati, OH 45226. Instrument: Electron Microscope, Model EM 420 and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 50 FR 11233. Instrument ordered: January 29, 1985.

Docket No. 85–107. Applicant: Texas A&M University, College Station, TX 77843. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 50 FR 11746. Instrument ordered: January 11, 1985.

Docket No. 85–110. Applicant: Tulane University School of Medicine, New Orleans, LA 70112. Instrument: Electron Microscope, Model JEM–100CXII with Accessories. Manufacturer: JEOL, Co., Ltd., Japan. Intended use: See notice at 50 FR 13059. Instrument ordered: December 6, 1984.

Docket No. 85–111. Applicant: University of Maryland, Baltimore, MD 21201. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended use: See notice at 50 FR 13059. Instrument ordered: October 2, 1984.

Docket No. 85–113. Applicant: Rutgers Medical School, Piscataway, NJ 08854. Instrument: Electron Microscope, Model EM 420T with Accessories. Manufacturer: Philips Gloeilampenfabrieken, The Netherlands. Intended use: See notice at 50 FR 13059. Application Received by Commissioner of Customs: March 11, 1985.

Docket No. 85–121. Applicant: University of Nebraska Medical Center, Omaha, NE 68105. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: Philips, The Netherlands. Intended use: See notice at 50 FR 13844. Application received by Commissioner of Customs: March 14, 1985.

Docket No. 85–122. Applicant: David Taylor Naval Ship Research and Development Center, Annapolis, MD 21402–1198. Instrument: Electron Microscope, Model EM 420. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 50 FR 15596. Instrument ordered: January 25, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or of any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–17211 Filed 7–18–85; 8:45 am]

BILLING CODE 3510–05–M

antidumping and countervailing duty investigations, and on March 20, 1985,

United States at less than fair value. We

Based on the comparison of United

Dated: July 15, 1985.

[A–485–006]

[C–433–502]

Extension of the Deadline for Final Countervailing Duty Determination; Oil Country Tubular Goods (OCTG) From Austria

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of the United States Steel Corporation, the Department of Commerce is extending the deadline for its final determination in the countervailing duty investigation of oil country tubular goods (OCTG) from Austria to correspond to the date of the final determination in the antidumping investigation of the same product pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub.L. 98–573).

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–0167 or 377–3464.

SUPPLEMENTARY INFORMATION:

Case Histories

On February 28, 1985, we received antidumping and countervailing duty petitions filed by the United States Steel Corporation against oil country tubular goods from Austria.

In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the antidumping petition alleged that imports of oil country tubular goods from Austria are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the countervailing duty petition alleged that manufacturers, producers, or exporters in Austria of oil country tubular goods directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petitions contained sufficient grounds on which to initiate

VOL 50 ISS 139 JL 19 1985 UMI

antidumping and countervailing duty investigations, and on March 20, 1985, we initiated such investigations (50 FR 12069, 50 FR 12065). On May 24, 1985, we issued an affirmative preliminary determination in the countervailing duty investigation (50 FR 23334). The preliminary determination in the antidumping investigation will be made on or before August 7, 1985.

On June 17, 1985, the United States Steel Corporation filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determination in the antidumping investigation.

Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination [in the countervailing duty investigation] to the date of the final determination" in the antidumping investigation (19 U.S.C. 1671d(a)(1)). Pursuant to this provision, the Department is granting an extension of the deadline for the final determination in the countervaiing duty investigation of oil country tubular goods from Austria to October 21, 1985, the current deadline for the final determination in the antidumping investigation.

Dated: July 2, 1985.

Alan F. Holmer,

Deputy Assistont Secretory for Import Administration.

[FR Doc. 85-17256 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-503]

64K Dynamic Random Access Memory Components (64K DRAMS) From Japan; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether 64K dynamic random access memory components (64K (DRAMs) from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 8, 1985, and we will make ours on or before December 2, 1985.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Mara; Office of Investigations, Import Administration International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1779.

SUPPLEMENTARY INFORMATION: .

The Petition

On June 24, 1985, we received a petition in proper form filed by Micron Technology, Inc. (Micron). In compliance wth the filling requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

The petitioner based the United States price upon bid and price quotations made to an independent third party by authorized U.S. distributors and authorized manufacturer representatives of Japanese companies.

Petitioner based foreign market value upon local distributor prices, reports appearing in the Japanese press, and local market reports translated and forwarded by the office of Micron Technology, Inc. in Japan. Petitioner also alleged that these home market sales of 64K DRAMs were made at prices below the cost of production.

Petitioner constructed a value for Japanese 64K DRAMs based on both a 1982-83 Integrated Circuit Engineering Corporation ("ICE") report, as adjusted to take into account progress in the industry, and petitioner's actual costs since the ICE report and a 1983 report by the Semiconductor Industry Association which concluded that Japanese costs of production do not vary significantly form those of U.S. manufacturers. Adjustments were made as necessary to account for general expenses, interest expense, and the statutory minimum for profits.

Based on the comparison of United States price and foreign market value, petitioner alleges an average dumping margin of 94 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on 64K DRAMs from Japan and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether 64K DRAMs from Japan are being, or are likely to be, sold in the United States at less than fair value. We are also investigating the allegation of sales below the cost of production. If our investigation proceeds normally, we will make our preliminary determination by December 2, 1985.

Scope of Investigation

The merchandise covered by this investigation are all 65,536 bit dynamic random access memory components of the N-channel metal oxide semiconductor type (64K DRAMs) from Japan. This merchandise is currently provided for in item 687.7441 of the Tariff Schedules of the United States, Annotated.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 8, 1985, whether there is a reasonable indication that imports of 64K DRAMs from Japan are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: July 15, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17258 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-502]

Fuel Ethanol From Brazil; Postponement of Preliminary Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The preliminary antidumping duty determination involving fuel ethanol from Brazil is being postponed until not later than September 4, 1985.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Ken Shimabukuro or David Johnston Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-5332 or 377-2239.

SUPPLEMENTARY INFORMATION: On March 18, 1985, we announced the initiation of an antidumping duty investigation to determine whether fuel ethanol from Brazil is being, or is likely to be, sold in the United States at less than fair value (50 FR 11748). The notice stated that we would issue a preliminary determination by August 5, 1985.

As detailed in that notice, the petition alleged that imports from Brazil of fuel ethanol are being, or are likely to be, sold in the United States at less than fair value.

On July 3, 1985, counsel for petitioners, the Ad Hoc Committee of Domestic Fuel Ethanol Producers and the Oil Chemical and Atomic Workers International Union, requested that the Department extend the period for the preliminary determination until September 4, 1985. Accordingly, the period for determination in the case is hereby extended. We intend to issue a preliminary determination not later than September 4, 1985.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: July 12, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17261 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-006]

Termination of Antidumping Duty Investigation; Carbon Steel Plate From Romania

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In letters dated June 19 and 25, 1985, petitioners withdrew their antidumping petitions, filed on January 11, 1982, on carbon steel plate from Romania. Based on the withdrawals, we are terminating the investigation.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2830.

SUPPLEMENTARY INFORMATION:

Case History

On January 11, 1982, we received petitions from United States Steel Corporation, and from Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Inc., National Steel Corporation, and Cyclops Corporation (the "Five"), on behalf of the U.S. industry producing certain steel products.

After reviewing the petitions, we determined that they contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on February 1, 1982 (47 FR 5752). On February 25, 1982, the ITC found that there was a reasonable indication that imports of carbon steel plate from Romania materially injure, or threaten material injury to, a United States industry. On August 16, 1982, we made a preliminary determination that carbon steel plate from Romania was being, or was likely to be, sold in the United States at less than fair value (47 FR 35646).

On December 28, 1982, on the basis of an agreement with the Romanian exporter to revise its prices to eliminate sales of the merchandise to the U.S. at less than fair value, the Department suspended the antidumping duty investigation (48 FR 317). On March 6, 1985, the Department cancelled the suspension agreement and resumed the antidumping duty investigation because the Department concluded that the suspension agreement was no longer in the public interest and no longer met the requirements of section 734(d)(1)(A) of the Tariff Act of 1930, as amended, 19 U.S.C. 1673c(d)(1)(A) (50 FR 9612).

Scope of Investigation

The product under investigation is hot-rolled carbon steel plate, currently classifiable under items 607.8620, 607.8625, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA).

Withdrawal of Petitions

In letters dated June 19, 1985 and June 25, 1985 from United States Steel Corporation and the Five, respectively, petitioners notified us that they were withdrawing their January 11, 1982 petitions, and requested that the investigation be terminated. Under section 734(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 (the Act), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation and after assessing the public interest as required by statute. These withdrawals are based on a bilateral arrangement with the Government of Romania to limit the volume of imports of this product. We have taken into account the public interest factors set out in section 734(a) of the Act and consulted with potentially affected producers, workers, consuming industries, and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioners' withdrawals and our intention to terminate.

For these reasons, we are terminating our investigation.

Dated: July 15, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17260 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-401]

Termination of Antidumping Duty Investigations; Certain Carbon Steel Products From Romania

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On June 20, 1985, the United

The term "hot-rolled carbon steel flat-

SUMMARY: On June 26, 1985, United

inch or more in thickness and over 8

We have notified all parties to the

benefits which constitute subsidies

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SUMMARY: On June 20, 1985, the United States Steel Corporation withdrew its antidumping duty petition, filed on December 19, 1984, on certain carbon steel products from Romania. Based on the withdrawal, we are terminating the investigations.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: David Johnston, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–2239.

SUPPLEMENTARY INFORMATION:

Case History

On December 19, 1984, we received a petition from the United States Steel Corporation filed on behalf of the U.S. industry producing certain carbon steel products.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping duty investigations. We notified the International Trade Commission (ITC) of our action and initiated the investigations on January 8, 1985 (50 FR 1916). On February 4, 1985, the ITC found that there was a reasonable indication that imports from Romania materially injure, or threaten material injury to, a United States industry. On May 28, 1985, we made a preliminary determination that certain carbon steel products from Romania were being, or were likely to be, sold at less than fair value (50 FR 23342). On June 20, 1985, the United States Steel Corporation withdrew its antidumping duty petition.

Scope of the Investigations

The products under investigation are cold-rolled carbon steel flat-rolled products and hot-rolled carbon steel flat-rolled products.

The term "cold-rolled carbon steel flat-rolled products" covers cold-rolled carbon steel flat-rolled products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width, and 0.1875 inch or more in thickness; as currently provided for in item 607.8320 of the *Tariff Schedules of the United States Annotated* (TSUSA); or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils; as currently provided for in items 607.8350, 607.8355 or 607.8360 of the *TSUSA*.

The term "hot-rolled carbon steel flat-rolled products" covers hot-rolled carbon steel flat-rolled products, whether or not corrugated or crimped; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; pickled, as currently provided for in item 607.8320 of the *TSUSA;* or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not in coils; as currently provided for in items 607.7610, 607.6720 or 607.6730, 607.6740, or 607.8342 of the TSUSA.

Withdrawal of Petition

By letter dated on June 20, 1985, petitioner notified us that it was withdrawing its petition, and requested that the investigations be terminated. Under section 734(a) of the Tariff Act of 1930 (the Act), as amended by section 604 of the Trade and Tariff Act of 1984 (19 U.S.C. 1673(c), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation and after assessing the public interest as required by the Act. This withdrawal is based on bilateral arrangements with the Government of Romania to limit the volume of imports of these products. We have assessed the public interest factors set out in section 734(a)(2) of the Act, and consulted with potentially affected producers, workers, and consuming industries and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination would be in the public interest.

We have notified all parties to the investigations and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigations.

Dated: July 15, 1985.

Gibert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85–17259 Filed 7–18–85; 8:45 am]

BILLING CODE 3510–05–DS

[A–307–402]

Termination of Antidumping Duty Investigations; Certain Carbon Steel Products From Venezuela

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On June 26, 1985, United States Steel Corporation withdrew its antidumping petition, filed on December 19, 1984, on certain carbon steel products from Venezuela. Based on the withdrawal, we are terminating these investigations.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–2613.

SUPPLEMENTARY INFORMATION:

Case History

On December 19, 1984, we received a petition from the United States Steel Corporation on behalf of the U.S. industries producing hot-rolled carbon steel flat-rolled products (hot-rolled sheet), cold-rolled carbon steel flat-rolled products (cold-rolled sheet), carbon steel plate, and galvanized carbon steel sheet.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping duty investigations. We notified the International Trade Commission (ITC) of our action and initiated these investigations on January 8, 1985 (50 FR 1915). On February 4, 1985, the ITC found that there was a reasonable indication that imports of hot-rolled sheet, cold-rolled sheet, and carbon steel plate (hereafter referred to as certain carbon steel products) materially injure, or threaten material injury to, a U.S. industry. The ITC also determined that there is no reasonable indication that imports of galvanized carbon steel sheet materially injure or threaten material injury to, a U.S. industry. Consequently, we terminated our investigation with respect to galvanized carbon steel sheet.

On May 28, 1985, we made preliminary determinations that certain carbon steel products from Venezuela were being, or were likely to be, sold in the United States at less than fair value (50 FR 23345).

Scope of Investigations

The products under investigation are certain carbon steel products, which are fully described below:

1. The term *"hot-rolled carbon steel flat-rolled products"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; pickled and as currently provided for in item 607.8320 of the *TSUSA*; and not pickled and in coils; as currently provided in items 607.6610 or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not in coils, as currently provided for in items 607.6710, 607.6720, 607.6730, 607.6740, or 607.8342 of the *TSUSA*.

2. The term *"cold-rolled carbon steel flat-rolled products"* covers cold-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width, and 0.1875 or more in thickness; as currently provided for in item 607.8320 of the *TSUSA*; or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils; as currently provided for in items 607.8350, 607.8355, 607.8360 of the *TSUSA*.

3. The term *"carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620, and 607.6625 of the *Tariff Schedules of the United States Annotated* (TSUSA). Semifinished products of solid rectangular cross section with width at least four times the thickness and processed only through primary mill hot-rolling are not included.

Withdrawal of Petition

On June 26, 1985, petitioner notified us that it is withdrawing its petition, and requested that the investigations be terminated. This withdrawal is based on an arrangement with the Government of Venezuela to limit the volume of imports of these products. Under section 734(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 (the Act), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. We have assessed the public interest factors set out in section 734(a) of the Act and consulted with potentially affected producers, workers, and consuming interests and with the ITC. On the basis of our assessment of the public interest factors and our consultations with affected parties, we have determined that termination would be in the public interest.

We have notified all parties to the investigations and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigations.

Dated: July 12, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85–17257 Filed 7–18–85; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. C580–504]

Preliminary Affirmative Countervailing Duty Determination; Offshore Platform Jackets and Piles From Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles. The estimated net subsidy is 9.58 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery, Ltd./Daewoo Corporation and 4.14 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd/Hyundai Corporation.

We have notified the U.S. International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of offshore platform jackets and piles from Korea that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by September 30, 1985.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Martin or Rick Herring, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–3464 or 377–0187.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles. For purposes of this investigation, the following programs are found to confer subsidies:

- Export Credit Financing from the Korea Export-Import Bank;
- Accelerated Depreciation under Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption"; and
- Tax Incentives for Exporters under Articles 22, 23, and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption."

We determine the estimated net subsidy to be 9.58 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery Ltd./Daewoo Corporation and 4.14 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd./Hyundai Corporation.

Case History

On April 19, 1985, we received a petition in proper form from the Kaiser Steel Corporation and the International Brotherhood of Boilermakers, Ironship Builders, Blacksmiths, Forgers and Helpers, filed on behalf of the U.S. industry producing offshore platform jackets and piles. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Korea of offshore platform jackets and piles directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on May 9, 1985, we initiated this investigation (50 FR 20253). We stated that we expected to issue a preliminary determination by July 15, 1985.

Since Korea is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On June 3, 1985, the ITC determined that there is a reasonable indication that these imports materially injure, or threaten material injury to, a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Korea in Washington, D.C. on May 20, 1985.

On June 24, 1985, we received responses to our questionnaire from the

During the period 1983 through the first quarter of 1985, two Korean firms

A. *Export Credit Financing from the Export-Import Bank of Korea*

its post-delivery loan at a fixed interest

interest payment would not be made

Under our normal methodology for

On June 24, 1985, we received responses to our questionnaire from the government of Korea, Daewoo Shipbuilding and Heavy Machinery Ltd., and Daewoo Corporation (the manufacturer and exporter of Platform Harvest), and Hyundai Heavy Industries Co. Ltd., and Hyundai Corporation (the manufacturer and exporter of Platform Julius).

The Department has received letters and comments from several U.S. importers of platform jackets and piles from Korea claiming that the petition was not filed on behalf of the U.S. industry producing platform jackets and piles. However, we have not received any opposition from any members of the domestic industry.

Scope of Investigation

The products covered by this investigation are steel jackets (templates) and piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These platforms are also known as conventional fixed platforms and are permanently affixed by the piles to the seabed. The platforms are not mobile. These jackets and piles are currently provided for in item 652.97 of the 1985 *Tariff Schedules of the United States* (TSUS).

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

During the period 1983 through the first quarter of 1985, two Korean firms were awarded contracts for construction of platform jackets and piles for the United States, Daewoo Shipbuilding and Heavy Industries and Hyundai Heavy Industries. The two platforms are Platform Harvest and Platform Julius. Very recently we have learned that a third contract was awarded to Daewoo in April, 1985 for Platform Esther.

For purposes of this preliminary determination, we investigated only the manufacturers of these platforms and we calculated the subsidy conferred upon the two platforms, Harvest and Julius. This is a departure from our normal practice, where we choose for purposes of the investigation an historical period and calculate subsidies bestowed on the total output or exports during that period.

In this case, the normal practice does not apply. Once a contract for a platform is awarded, it can take fourteen months to construct and then, after it is entered into the United States, payment terms are extended for up to ten years. Also, as noted above, there have been only three contracts awarded to Korean firms in over two years. Therefore, were we to choose 1984, for example, as the period for which we are measuring subsidization, there would be no exports of the subject merchandise.

Because of the lack of a period which is representative of total subsidies bestowed on total exports of the subject merchandise and because of the small number of contracts and their dollar value, we have calculated the subsidy conferred on each of the two platforms, Harvest and Julius. We have chosen these particular sales because they constitute entries of the merchandise that are potentially liable for countervailable duties. We would have included Platform Esther, but information on this contract was received too late.

Based upon our analysis of the petition, information submitted by petitioners, and the responses to our questionnaires submitted by the government of Korea, Daewoo Shipbuilding and Heavy Machinery, Daewoo Corporation, Hyundai Heavy Industries, and Hyundai Corporation, we preliminarily determine the following:

I. Programs Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles under the following programs:

A. *Export Credit Financing from the Export-Import Bank of Korea.* Petitioners allege that the U.S. purchasers of the subject merchandise receive preferential buyer's credit from the Export-Import Bank of Korea.

The Export-Import Bank of Korea (KXMB) was inaugurated on July 1, 1976, under the authority of the Export-Import Bank of Korea Act (Law No. 2122; July 28, 1969). The purpose of this Act is to promote the sound development of the national economy and economic cooperation with foreign countries by extending financing for export and import transactions, overseas investments and development of natural resources abroad.

The KXMB has provided two types of export credit: (1) a pre-delivery loan to cover the period of construction of the project, and (2) a deferred export credit in the form of a post-delivery loan for ten years including a two-year grace period. To be eligible for deferred export credit, the following criteria must be met by the exporter: (1) The contract on the sale must require a minimum 15 percent cash payment by the foreign purchaser; (2) the requested financing cannot exceed a 10-year period for loans greater than U.S. $1,000,000; and (3) the requested financing cannot be at interest rates below the KXMB's lending rates.

For pre-delivery financing, interest is pre-paid quarterly beginning at the time each principal installment is drawn down and extending throughout the life of the loan. Interest on the post-delivery loan is paid semi-annually on a retroactive basis. The principal of the pre-delivery loan is repaid in one lump sum at the time of acceptance of delivery. Post-delivery financing is repaid semi-annually over an eight-year period beginning two years after disbursement of the loan. The KXMB requires that the borrower obtain Medium- and Long-Term Credit Risk Insurance for post-delivery financing. For our determination on the Export Credit Insurance program, see the section "Program Determination Not to Confer a Subsidy."

Daewoo Corporation and Hyundai Corporation have both received pre- and post-delivery financing for Platform Julius and Platform Harvest, respectively, from the KXMB. The financing is in the form of seller's credits, rather than buyer's credits as alleged by petitioners; i.e., the lending is direct to the manufacturer/exporter. Daewoo received all of its financing at a fixed interest rate of 9 percent, while Hyyundai received its pre-delivery loan at a fixed interest rate of 9 percent and

its post-delivery loan at a fixed interest rate of 10 percent. These are dollar-denominated loans.

In order to determine if the KXMB financing is preferential, we sought the cost to Daewoo and Hyundai of comparable alternative fixed-interest dollar-denominated commercial financing. Since these are long-term loans, we first reviewed the credit histories of both of the companies. We found that both have received commercial long-term dollar-denominated loans, but all were at variable interest rates. We also learned that there are no commercial fixed-rate dollar loans available in Korea. However, we discovered that there is a well-established international market available to companies that wish to swap variable-rate dollar obligations for fixed-rate dollar obligations, and that Daewoo has participated in this market. Based on the fact that one of the producers under investigation has used the swap market on a number of occasions, and on a careful review of information we obtained regarding all alternative sources of long-term fixed-interest dollar-denominated commercial financing, we preliminarily determine that, absent the availability of the KXMB financing, both Daewoo and Hyundai would have most likely obtained long-term fixed-interest dollar-denominated commercial financing for the projects under investigation in the swap market. Furthermore, based on company-specific information regarding the terms Hyundai received on commercial long-term variable-rate dollar loans actually used in the financing of Platform Julius, and technical analysis of the structure of swap arrangements during the relevant time periods, we were able to determine the fixed-interest financing costs which each company would have had to bear after a swap. A comparison of these rates with those of the companies' KXMB loans indicates that, in the case of both loans to both companies, the KXMB export financing rates are less. Because this financing is contingent upon export and the rates of interest charged are less than that on comparable commercial financing, we preliminarily determine that this program confers a countervailable benefit.

Under our normal methodology for allocating the benefits of long-term loans, benefits are deemed to begin accruing at the time of the first cashflow effect and continue through the life of the loan. Therefore, if we were measuring subsidization in calendar year 1984, for example, and the first interest payment would not be made until 1985, then we would find no benefits conferred upon exports of the subject merchandise in 1984. Instead, the benefits of the loan would be allocated to exports in 1985 and each year thereafter for as long as the loan was outstanding.

The use of our standard long-term loan methodology is not appropriate in this case because of the nature of the platform jackets and piles market. In the first place, the loans in question can be unquestionably tied to specific plaforms. Secondly, allocating the benefits over the life of the loan would mean we might not capture, and countervail, all the benefits conferred upon these exports. This is because Platform Harvest and Platform Julius would be imported into the United States and their entries liquidated by U.S. Customs ten years before the last interest payments would be made on the Export-Import Bank loans; i.e., ten years before the last countervailable benefits would be conferred upon the products.

In order to capture the full benefit conferred by each of the KXMB loans, we measured the difference in the present value of the repayment stream on the KXMB loans and the repayment stream on swap market financing. This amount was divided by the contract value of the respective platform. Using this methodology, we calculated an export subsidy of 9.4 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery, Ltd./Daewoo Corporation and 3.91 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd./Hyundai Corporation.

B. *Accelerated Depreciation Under Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption."* Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption" permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. If the corporation has received less than 50 percent of its total proceeds from foreign exchange, it can still claim some accelerated depreciation, determined by a formula based on the firm's foreign exchange earnings and total business earnings. Of the firms manufacturing or exporting the products under investigation, only Hyundai Heavy Industries, the manufacturer of Platform Julius, used accelerated depreciation under this program. Because the use of accelerated depreciation is contingent upon export performance, we determine that this program confers benefits which constitute export subsidies.

Under our normal methodology for determining the benefits from export-related accelerated depreciation, we would calculate the subsidy based on the tax savings received during the period of review and attribute it to export sales during the same period. For the same reasons described *supra* regarding KXMB financing, however, the use of our standard methodology is not appropriate in this case. Hyundai Heavy Industries will record no export sales income from Platform Julius until it files its taxes in 1986 and 1987. The most recent year in which taxes have been filed is 1984. Therefore, none of the tax savings in 1984 derive from, or are attributable to, sales of the subject merchandise to the United States.

In order to capture and countervail all of the tax benefits attributable to Platform Julius, we should calculate the present value of the benefits that will accrue in 1986 and 1987. Obviously, it is impossible to make this calculation in 1985 because we do not know how much or whether accelerated depreciation will be claimed. Therefore, believing it to be the only reasonable alternative methodology available to us, we have instead calculated the benefit that would have accrued in 1984 (the most recent year for which we have all the necessary data) had the entire sales income earned from Platform Julius been reported in that year. Using this methodology, we found a subsidy of 0.15 percent *ad valorem* for Hyundai Heavy Industries.

C. *Tax Incentives for Exporters Under Articles 22, 23 and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption".* Articles 22, 23 and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption" provide for the deduction from taxable income of a number of different reserves relating to export activities. These reserves cover export losses, overseas market development and price fluctuation losses. Under Article 22, a corporation may establish a reserve amounting to one percent of the foreign exchange earnings or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve fund. If there are no offsets for export losses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

Under Article 23, governing overseas market development, a corporation may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses

incurred in developing overseas markets

Because these export reserve funds

insurance program has been not only

A. *Deferred Export Loans through the*

investigation. We will allow the ITC

ACTION: Notice.

incurred in developing overseas markets are offset from the reserve fund. Like the export loss reserve fund, if there are no offsets for expenses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

A price fluctuation reserve fund may be established under Article 24. Under this article, a corporation may establish reserves equivalent to five percent of the book value of the products and works in progress which will be exported by the close of the business year. This reserve may be used to offset losses incurred from the fluctuation of prices for export goods. These losses may be offset by returning an amount equivalent to the losses to the income account. If not so utilized, the reserve is returned to the income account the following business year.

The balance in all three reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either when they offset export losses, are used to develop overseas markets, or when the grace period expires. Daewoo Corporation claimed reserves under Articles 22 and 23 and Hyundai Heavy Industries claimed reserves under Article 22. We determine that these export reserve programs confer benefits which constitute export-subsidies because they provide a deferral of direct taxes specifically related to export performance.

As with the previous programs, our normal methodology for calculating the benefit arising from these tax deferrals does not apply in this case. This is because the deferrals currently being enjoyed are not derived from sales of the subject merchandise to the United States. Nor can we anticipate that there will be imports in each of the years that deferrals attributable to these sales are in effect. Therefore, to calculate the benefits received under this program applicable to the products under investigation, we first took one percent of the value of the platform contract and treated it as if it were placed into the respective reserve fund based on when the company would enter the contract value as sales revenue in its accounting records. For Daewoo Corporation the entire one percent was treated as it it were put into each of the tax-free reserves on the date of shipment of the platform. Hyundai Heavy Industries recognizes income progressively during the period of construction rather than in one lump-sum on a single date, and thus, the one percent of the contract was divided into two reserves.

Because these export reserve funds constitute a deferral of tax liabilities, we treat the tax savings on these funds as short-term interest-free loans. Thus, we took the tax savings on one percent of the contract value (or that portion of the contract treated as sales revenue) for the platform in the year in which it would be treated as sales revenue and treated it as a zero-interest loan, rolled over in each year that taxes would be deferred. We compared the zero-interest that would be paid in each year to the interest that would be paid had the money been borrowed from commercial sources. We used as our benchmark the average interest rate on commercial short-term loans in Korea which we preliminarily determine to be 10.75 percent. The source of our benchmark determination is the Bank of Korea's *Monthly Statistical Bulletin*. We necessarily assumed that this benchmark interest rate would extend into the future periods. We then calculated the present value of the benefits in each of the years in which there would be a tax savings accruing to the respective reserve funds. We then took the total benefit for each of the reserve funds and allocated it over the contract value of the respective platform. Using this methodology, we calculated a subsidy of 0.16 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery, Ltd./Daewoo Corporation and 0.08 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd./Hyundai Corporation.

II. Program Preliminarily Determined Not To Confer a Subsidy

A. Export Credit Insurance by the Export-Import Bank of Korea. Petitioners allege that the Korean government makes substantial contributions to the export credit insurance program of the Export-Import Bank of Korea and that this program is not self-supporting, thus providing countervailable benefits to producers of the subject merchandise.

The Korean Import Bank operates an export insurance program which provides commercial, political and managerial risk insurance. A separate budget for this program is maintained by the Export-Import Bank. Hyundai Corporation and Daewoo Corporation have both applied for commercial risk insurance. Purchase of this insurance is compulsory on all loans provided by the Export-Import Bank of Korea.

To be a subsidy, a government-operated insurance program has to charge premiums which are inadequate to cover the long-term operating costs and losses of the program. The government of Korea states that the insurance program has been not only self-sustaining, but also very profitable since its inception. They further state that the government has never contributed funds to cover losses and that the level of premiums charged far exceeds the costs associated with claims against the insurance policies.

We reviewed the financial statements for the last five years for the export insurance fund, and have preliminarily determined that the premiums charged to exporters allow the Export-Import Bank of Korea to cover its losses and its long-term operating expenses. Therefore, we preliminarily determine that this program does not constitute a subsidy.

III. Programs Preliminarily Determined Not to be Used

We have preliminarily determined that manufacturers, producers, or exporters in Korea of off shore platform jackets and piles do not use the following programs:

A. *Short-term Export Financing.* Petitioners allege that the manufacturers and exporters receive preferential export financing under the Export Financing Regulations. According to the government of Korea, this program was not used by manufacturers and exporters of the subject merchandise because projects receiving deferred export financing from the Export-Import Bank of Korea are not eligible for short-term loans under the Export Financing Regulations.

B. *Special Depreciation Under Article 11 of the "Act Concerning the Regulation of the Tax Reduction and Exemption".* Petitioners allege that certain designated industries receive preferential depreciation benefits under Article 11. According to the government of Korea, assets used to construct jackets and piles are not eligible for accelerated depreciation under Article 11.

C. *Export Guarantees From Export-Import Bank of Korea.* Petitioners allege that producers of the subject merchandise receive advance payment export guarantees and performance export guarantees from the Export-Import Bank of Korea. According to the government of Korea, the platform jackets and piles covered by this investigation have not received such guarantees from the Export-Import Bank of Korea.

IV. Program Determined Not to be an Independent Program

We preliminary determine that the following is not an individual export loan program:

A. *Deferred Export Loans through the Notional Investment Fund.* Petitioners allege that National Investment Fund loans provided through the Export-Import Bank of Korea are used to finance exports of the subject merchandise on a deferred payment basis and at below-market interest rates.

According to the government of Korea, the National Investment Fund (NIF) is a specific type of financing and not a particular loan program. The only deferred export financing authorized under the NIF is wholly administered by the Export-Import Bank. There is no separate facility under the NIF to grant such financing. The NIF's only participation in the export credit financing program is as a source of funding in the Export-Import Bank's budget. The NIF is not involved in any way with the individual loan decisions made by the Export-Import Bank and the interest rates charged to exporters by the Bank are the same regardless of the source of financing. Therefore, we preliminarily determine that the NIF is not a specific export loan program but a source of funding within the Export-Import Bank's Export Credit Financing program which is discussed in the section "Programs Determined to Confer Subsidies".

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of offshore platform jacket and piles which are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register, and to require a cash deposit or bond in the amount of 9.58 percent *ad valorem* for Daewoo Shipbuilding and Heavy Machinery, Ltd./Daewoo Corporation and 4.14 percent *ad valorem* for Hyundai Heavy Industries Co., Ltd./Hyundai Corporation. The cash deposit or bonding rate for imports of the subject merchandise from all other companies is 7.22 percent ad valorem. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our file, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If our final determination is affirmative, the ITC will make its determination of whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days after our final determination.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on September 4, 1985, at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by August 28, 1985. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: July 15, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17271 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-307-403]

Termination of Countervailing Duty Investigations: Certain Carbon Steel Products From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On June 26, 1985, United States Steel Corporation withdrew its countervailing duty petition, filed on December 19, 1984, on certain carbon steel products from Venezuela. Based on the withdrawal, we are terminating these investigations.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Ms Terry Link or Ms. Barbara Tillman of the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0189 or 377-2438.

SUPPLEMENTARY INFORMATION:

Case History

On December 19, 1984, we received a petition from the United States Steel Corporation filed on behalf of the U.S. industries producing hot-rolled carbon steel flat-rolled products (hot-rolled sheet), cold-rolled carbon steel flat-rolled products (cold-rolled sheet), carbon steel plate, and galvanized carbon steel sheet.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate countervailing duty investigations. We notified the International Trade Commission (ITC) of our action and initiated these investigations on January 8, 1985 (50 FR 1905). On February 4, 1985, the ITC found that there was reasonable indication that imports of hot-rolled sheet, cold-rolled sheet, and carbon steel plate (hereinafter referred to as certain carbon steel products) materially injure, or threaten material injury to, a U.S. industry. The ITC also determined that there is no reasonable indication that imports of galvanized carbon steel sheet materially injure, or threaten material injury to, a U.S. industry. Consequently, we terminated our investigation with respect to galvanized carbon steel sheet.

On March 14, 1985, we made preliminary determinations that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Venezuela of certain carbon steel products (50 FR 11227).

Scope of Investigations

The products covered by these investigations are certain carbon steel products, which are fully described below:

1. The term *"hot-rolled carbon steel flat-rolled products"* covers hot-rolled

On the basis of our assesment of the public interest factors and our

believe or suspect the fabric expanded neoprene laminate from Japan was

CFR Part 353, which listed antidumping findings and orders currently in effect.

bodies will convene public meetings as follows:

Dated: July 16, 1985.

1. The term "*hot-rolled carbon steel flat-rolled products*" covers hot-rolled carbon steel products, whether or not corregated, or crimped; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; pickled, as currently provided for in item 607.8320 of the *TSUSA;* and not pickled and in coils; as currently provided in item 607.6610, or under 0.1875 inch in thickness and over 12 inches in width, whether or not pickled, whether or not in coils, as currently provided for in items 607.6710, 607.6720, 607.6730, 607.6740, or 607.8342 of the *TSUSA.*

2. The term "*cold-rolled carbon steel flat-rolled products*" covers cold-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width and 0.1875 inch or more in thickness, as currently provided for in item 607.8320 of the *TSUSA;* or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils; as currently provided for in items 607.8350, 607.8355, or 607.8360 of the *TSUSA.*

3. The term "*carbon steel plate*" covers hot-rolled carbon steel products, whether or not corrugated, or crimped; not pickled; not cold-rolled: not in coils, not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in item 607.6620, and 607.6625 of the *TSUSA.* Semi-finished products of solid rectangular cross-section with a width at least four times the thickness and processed only through primary mill hot-rolling are not included.

Withdrawal of Petition

On June 26, 1985, petitioner notified us that it is withdrawing its petition, and requested that the investigations be terminated. This withdrawal is based on an arrangement with the govenment of Venezuela to limit the volume of imports of these products. Under section 704(a) of the Tariff Act of 1930 ("the Act"), as amended by section 604 of the Trade and Tariff Act of 1984, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. We have assessed the public interest factors set out in section 704(a)(2) of the Act and consulted with potentially affected producers, workers, consuming interests, and with the ITC.

On the basis of our assesment of the public interest factors and our consultations with affected parties, we have determined that termination would be in the public interest.

We have notified all parties to the investigations and the ITC of petitioner's withdrawal and our intention to terminate.

For these reasons, we are terminating our investigations.

Dated: July 12, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-17262 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-404]

Antidumping Duty Order: Fabric Expanded Neoprene Laminate From Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that fabric expanded neoprene laminate from Japan is being sold at less than fair value and that sales of this product are materially injuring a United States industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of this product made on or after March 15, 1985, the date on which the Department published its preliminary determination of sales at less than fair value in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made after the date of publication of this antidumping duty order in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The merchandise covered by this investigation is fabric expanded neoprene, currently provided for in item numbers 355.81, 355.82, 359.50 and 359.60 of the *Tariff Schedules of the United States (Annotated).*

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on March 15, 1985, the Department published its preliminary determination that there was reason to believe or suspect the fabric expanded neoprene laminate from Japan was being sold in the United States at less than fair value. On June 4, 1985, the Department published its final determination that these imports were being sold at less than fair value.

On July 12, 1985, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that imports of fabric expanded neoprene laminate are materially injuring a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of fabric expanded neoprene laminate from Japan, with the exception of that produced by Asahi Rubber Co., Ltd., Sedo Chemicals Co., Ltd. and Daiwa Rubber and Chemicals Co., Ltd. who have been excluded from this investigation.

These antidumping duties will be assessed on all unliquidated entries of such merchandise entered, or withdrawn from warehouse, for consumption on or after March 15, 1985, the date on which the Department published its "Preliminary Determination of Sales at Less Than Fair Value" notice in the **Federal Register.**

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturers/Producers/ Exporters	Identification No.	Weighted-average margin (percent)
Yamamoto Corporation	A-588-404-01	3.09
All Others (except Asahi, Sedo and Daiwa)	A-588-404-02	3.09

This determination constitutes an antidumping duty order with respect to fabric expanded neoprene laminate from Japan pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex 1 of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 16, 1985.

[FR Doc. 85-17335 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

University of California; Marine Mammal Permit Application

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216), Scientific Research Permit No. 397 issued to Ms. Susan H. Shane, Biology-Applied Sciences Bldg., University of California, Santa Cruz, California 95064, on December 16, 1982 (47 FR 57083), is modified as follows:

Section B-5 is modified by substituting the following:

5. "This Permit is valid with respect to the authorized taking until December 31, 1986."

This modification became effective July 15, 1985.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 15, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-17255 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Managment Council and its advisory bodies will convene public meetings as follows:

Bottomfish Plan Development Team

The Council's Bottomfish Plan Development Team will meet July 18, 1985, at 9 a.m., at the Council's Office, 1164 Bishop Street, Room 1405, Honolulu, HI, to review a redraft of the Bottomfish Framework Fishery Management Plan (FMP), and to discuss progress on the limited entry concept for the Northwestern Hawaiian Islands (NWHI).

Crustaceans Development Team

The Council's Crustaceans Development Team will meet also on July 18, at 1:30 p.m., at the same location as above, to review Amendment #5 to the Spiny Lobster FMP that would change the legal size measurement basis from carapace length to tail width and abolish the 15 percent of total catch tolerance provision for undersized lobsters.

Council

The Western Pacific Fishery Management Council will meet August 7-8, 1985, at the King Kamehameha Hotel, 75-5660 Palani Road, Kailua-Kona, HI, to: (1) Review the redraft of the Bottomfish Framework FMP with management measures for the NWHI, and to further discuss limited entry concepts for the NWHI; (2) approve amendment to the Spiny Lobster FMP that changes the legal size measurement basis from carapace length to tail width and abolishes the 15 percent total catch tolerance provision; (3) review public and agency comments on the Pelagics FMP; (4) discuss reauthorization of amendments to the Magunuson Fishery Conservation and Management Act, and (5) approve the FY86 administrative budget.

Scientific and Statistical Committee (SSC) and Advisory Panel (AP)

The Council's SSC will meet August 5-6, 1985, and its AP will meet August 6, 1985, both at the same location as the Council to discuss the same subjects as the Council. Detailed agendas for the Council, SSC and AP meetings are available.

For futher information, contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Dated: July 16, 1985.

Richard B. Roe, Director,

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-17101 Filed 7-18-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations With the Government of the Socialist Federal Republic of Yugoslavia on Categories 340 and 448

July 16, 1985.

On June 28, 1985 the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of the Socialist Federal Republic of Yugoslavia to enter into consultations concerning exports to the United States of men's and boys' woven cotton shirts in Category 340 and women's, girls' and infants' wool trousers, slacks and shorts in Category 448, produced or manufactured in Yugoslavia.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with the Government of the Socialist Federal Republic of Yugoslavia, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehoue for consumption of textile products in Categories 340 and 448, produced or manufactured in Yugoslavia and exported to the United States during the twelve-month period which began on June 28, 1985 and extends through June 27, 1986, to respective levels of 147,576 dozen and 22,933 dozen.

Summary market statements concerning these categories follow this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Anyone wishing to comment or provide data or information regarding

the treatment of these categories is invited to submit such comments or

Cuttings of all men's and boys' shirts declined 5 percent in the first three months of

percent in 1982 to an estimated 75 percent in 1984.

received as well as other pertinent information and determined that the

Additions

FOR FURTHER INFORMATION CONTACT:

the treatment of these categories is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultation is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Yugoslavia—Market Statement

Category 340—Men's and Boys' Woven Cotton Shirts

June 1985.

Summary and Conclusion

United States imports of Category 340 from Yugoslavia were 171,000 dozens for the year ending April 1985. This is an annualized level of 249,000 dozens. Imports were 4,000 dozens for the same period one year earlier. Imports from Yugoslavia of this category were 300 dozens in 1983 and less than 100 dozens in 1982.

Import growth from Yugoslavia of Category 340 has been sharp and substantial, adding to the existing market disruption in this category.

General Imports

Imports of Category 340 from all sources increased 29 percent between 1983 and 1984. In the first four months of 1985 imports of this category increased 27 percent from the same period in 1984. The overall growth rate from 1980 to 1984 was 45 percent; seventy-two percent of this growth occurred in 1984 alone.

U.S. Production and Market Share

U.S. production of this category has declined over 50 percent since 1973. Between 1980 and 1983 production declined from 5,526,000 dozens to 4,735,000 dozens, a drop of 14 percent. Production in 1984 is estimated to be flat, or just slightly below the 1983 level. Cuttings of all men's and boys' shirts declined 5 percent in the first three months of 1985.

Imports have not only captured all of the growth but have also displaced domestically produced MB cotton woven shirts in the market. The U.S. Category 340 market increased by 2 million dozens during 1980–1984. Imports increased by about 2.8 million dozens while domestic production was reduced by 800,000 dozens. The U.S. producers' market share for Category 340 was 46.7 percent in 1980 and only an estimated 34.0 percent in 1984.

Import Penetration

The import-to-production ratio for this category has increased sharply over the last 5 years. In 1980 the ratio topped 100 percent for the first time, reaching 114 percent. By 1983 the ratio had climbed 36 percentage points to 150 percent. The huge increase in imports in 1984 helped boost the ratio an additional 44 percentage points, nearing 194 percent.

Employment

Employment in the men's and boys' shirt industry was 99,200 workers in 1984.[1] This is approximately the same level as in 1980. In the first four months of 1985 employment was down 3.3 percent from the same period one year earlier.

Import Value vs Domestic Producer's Price

Ninety-eight percent of Category 340 imports from Yugoslavia imported in the first four months of 1985 entered under two TSUSA numbers. These were 379.5520—other men's cotton dress shirts, and 379.5530—other men's cotton sport shirts. These items entered at duty-paid values below the U.S. producer's price for comparable garments.

Yugoslavia—Market Statement

Category 448—Women's, Girls' and Infants' Wool Trousers, Slacks and Shorts (WGI Trousers)

Summary and Conclusion

Category 448—WGI wool trouser imports from Yugoslavia reached 24,823 dozens during the year-ending April 1985, compared with 19,257 dozens imported in 1984 and 634 dozens in 1983. In 1982, Yugoslavia was the 14th largest foreign supplier of WGI wool trousers to the United States. In the 1st four months of 1985, however, when Category 448 imports from Yugoslavia reached 6,560 dozens, Yugoslavia became the third major supplier.

This is a sharp and substantial increase in trade which has created a real risk of market disruption.

U.S. Market and Domestic Producers' Share

The market for domestically produced and imported WGI wool trousers has leveled at about 1,000,000 dozens since 1982. However, the U.S. producers' share of this market has continued to decline. From 1982–1984, domestic production declined 10 percent while imports more than doubled. As a result the U.S. share of this market fell from 87 percent in 1982 to an estimated 75 percent in 1984.

U.S. Production

U.S. production has been declining in recent years, with 1984 Category 448 production an estimated 85,000 dozens below 1982 levels. Cuttings data indicates further declines in domestic production in 1985. Cuttings of women's trousers, slacks and shorts were down by 6 percent during January–April 1985.

Imports

Imports in 1984, at 263,000 dozens, were 134,000 dozens above 1982 levels and three times greater than the 81,000 dozens imported in 1980. Imports during January–April 1985 increased 40 percent to 49,021 dozens. Yugoslavia contributed 39 percent of the 1985 Category 448 import growth from all sources.

Import Unit Values and Domestic Producers Price

Virtually all of the Category 448 imports from Yugoslavia entered under TSUSA No. 383.7556—women's and girls' not ornamented woven slacks. These garments entered at landed, duty-paid values below the domestic producers' price for comparable garments.

[FR Doc. 85–17212 Filed 7–18–85; 8:45 am]

BILLING CODE 3510-DR-M

[1] SIC 2321, Men's and boys' shirt and nightwear industry.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1985; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1985 a service to be provided by workshops for other severely handicapped.

EFFECTIVE DATE: July 19, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Addition to the Procurement List of the service listed below was published in the **Federal Register** on January 4, 1985 (50 FR 522). One comment was received in response to this notice. The commenter, the current contractor, indicated that it had lost other business as the result of the Committee's program and suggested that employment of severely handicapped should be accomplished by other means. The Committee considered the comment received as well as other pertinent information and determined that the addition of this service to the Procurement List will not result in severe impact on the current contractor.

Addition

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the service listed.

c. The action will result in authorizing small entities to provide the service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1985:

Janitorial/Custodial, Naval Communications Unit (Cheltenham), Washington, D.C.

C.W. Fletcher,

Executive Director.

[FR Doc. 85–17215 Filed 7–18–85; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1985; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1985 commodities and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: July 18, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On January 4, February 15, March 15, March 29, April 12, April 18, 1985, the Committee for Purchase from the Blind and Other severely Handicapped published notices (50 FR 522, 50 FR 6376, 50 FR 10529, 50 FR 12605, 50 FR 14412 and 50 FR 15474) of proposed additions to Procurement List 1985, October 19, 1984 (49 FR 41195).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1985:

Commodities

Cushion, Seat Back, Vehicular: 2540–00–880–3925

Microfiche, Subject Headings and Name Authorities (Requirements of Library of Congress only): 7670–00–NSH–0001

Services

Administrative Services, FAA Regional Office, East Point, Field Facilities and Accounting Office, Hapeville, Georgia

Commissary Shelf Stocking and Custodial, Shaw Air Force Base, South Carolina

Janitorial/Custodial, Federal Building and U.S. Courthouse, 121 W. Spring Street, New Albany, Indiana

C.W. Fletcher,

Executive Director.

[FR Doc. 85–17216 Filed 7–18–85; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1985; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions and Deletions to Procurement List.

SUMMARY: The Committee has received proposals to add to delete from Procurement List 1985 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: August 21, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1985, October 19, 1984 (49 FR 41195):

Commodities

Cloth, Abrasive: 5350–00–187–6275, 5350–00–187–6272, 5350–00–187–6270, 5350–00–187–6269, 5350–00–187–6268, 5350–00–187–6286, 5350–00–187–6285, 5350–00–187–6284, 5350–00–187–6283, 5350–00–187–6281, 5350–00–187–6280, 5350–00–187–6297, 5350–00–229–3088, 5350–00–229–3085, 5350–00–187–6295, 5350–00–187–6294, 5350–00–187–6293, 5350–00–187–6292, 5350–00–187–6291, 5350–00–174–6209, 5350–00–187–6290, 5350–00–187–6289, 5350–00–187–7986, 5350–00–229–3097, 5350–00–229–3094, 5350–00–229–3095, 5350–00–229–3080, 5350–00–229–3081, 5350–00–229–3092, 5350–00–192–9325.

Pallet Assembly: 8140–01–050–9789.

Services

Commissary Shelf Stocking:

1. Branch Commissary Store, Little Creek, Naval Amphibious Base, Building 3324, Norfolk, Virginia.
2. Branch Commissary Store, Building 350, Norfolk Naval Shipyard, Portsmouth, Virginia.

Commissary Shelf stocking and Custodial, Fort Irwin, California.

Commissary Shelf Stocking and Custodial, Tobyhanna Army Depot, Pennsylvania.

Drill Sharpening (Requirements of Hill Air Force Base, Ogden, Utah only)

Janitorial/Custodial, U.S. Courthouse, 312 North Spring Street, Los Angeles, California.

Deletions

It is proposed to delete the following commodities from Procurement List 1985, October 19, 1984 (49 FR 41195):

Pillow, Foam Latex: 7210–00–619–8262

Paper Set, Manifold and Carbon: 7530–00–880–9154, 7530–00–205–0511.

C.W. Fletcher,

Executive Director.

[FR Doc. 85–17217 Filed 7–18–85; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Defense Acquisition Regulatory

Written comments should be forwarded to: Mr. Alton Chavis, HQ

f. Discontinue using Consignee's Statement of Delivery and Loss or

DEPARTMENT OF EDUCATION

Name: Health and Environmental Research Advisory Committee (HERAC),

Federal Energy Regulatory

DEPARTMENT OF DEFENSE

Defense Acquisition Regulatory Council; Meeting

ACTION: Notice of public meeting.

SUMMARY: The Defense Acquisition Regulatory Council will hold a meeting with the public from 2:00 p.m. until 3:30 p.m. on Friday, July 26, 1985 in Room 5A1070, The Pentagon. The Council will discuss its operating reforms, its Case Action Management (CAM) System, and receive questions and comments. Attendees not in possession of a DoD Building Pass will be conducted to Room 5A1070 from the Information Desk on the Pentagon Concourse at 1:45 p.m. on the date of the meeting.

FOR FURTHER INFORMATION CONTACT: Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7267.

Charles W. Lloyd,

Executive Secretary, DAR Council.

[FR Doc. 85-17318 Filed 7-18-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Winnersville Weapons Range; Public Hearing

To All Interested Government Agencies, Public Groups and Concerned Citizens: The United States Air Force will hold a public hearing on Thursday, August 15, 1985, to receive public and agency comments on the Winnersville Weapons Range, Lanier and Lowndes Counties, Georgia Draft Environmental Impact Statement (EIS). The Winnersville Weapons Range Draft EIS addresses the proposed action to take advantage of an opportunity to construct an air to surface weapons range in the immediate geographical area of Moody AFB and the no action alternative.

The public hearing will be held August 15, 1985, at 7:00 P.M. in the Lanier County courthouse located in Lakeland, Georgia. Both written and oral comments will be accepted and a transcript of the hearing will be made. Lengthy or technically complex statements should be summarized for the oral presentation. If possible, copies of the statements should be presented prior to the oral presentation. Oral statements will be limited to 5 minutes for individuals and 10 minutes for group spokespersons.

Additional written comments may be submitted until September 3, 1985 (the end of the public comment for the draft EIS).

Written comments should be forwarded to: Mr. Alton Chavis, HQ TAC/DEEV, Langley AFB, Virginia 23665, (804) 764-4430.

Copies of the Winnersville Weapons Range Draft EIS will be available for review at the following locations:

Lanier County Public Library, 300 Church Street, LakeLand, Georgia 31635

Lowndes County Public Library, Valdosta, Georgia 31603.

Aditional copies of the draft EIS are available from Mr. Chavis at the address noted above.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-17221 Filed 7-18-85; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Military Traffic Management Command; Directorate of Personal Property; Freight Carriers

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Invitation to comment on a procedural change relative to nonuse and disqualification action taken against freight carriers.

SUMMARY: As a result of the memorandum of understanding between the military service claims office and the carrier industry, it was necessary to develop procedures to coincide with the new DD Forms 1840 and 1840R. After discussion with the military services, military service claims offices, and the carrier industry, the following proposed procedures are offered for comment.

1. Carrier shall:

a. Complete Section A of the DD Form 1840 and make all (5) copies available upon delivery.

b. In conjunction with member, annotate all loss and/or damage in Section B on all (5) copies of the DD Form 1840.

c. Provide the member with (3) copies of the completed DD Form 1840 signed by both the carrier and the member.

d. Trace all missing items annotated on DD Form 1840 and/or DD Form 1840R immediately and respond to the destination ITO/TMO in writing within 30 days of notification of loss.

e. Provide the destination ITO/TMO a copy of DD Form 1840 within 30 days of delivery or be subject to action taken by the ITO/TMO for a Tender of Service violation for failure to return documents.

f. Discontinue using Consignee's Statement of Delivery and Loss or Damage Portion of DD Form 619-1.

2. Member shall:

a. In conjunction with the carrier, complete Section B and sign the DD Form 1840 at time of delivery.

b. Retain (3) signed and completed copies of the DD Form 1840.

c. Annotate additional loss or damage found after delivery on DD Form 1840R (reverse DD Form 1840).

d. Within 70 days from date of delivery submit all (3) copies of the completed DD Forms 1840 and DD 1840R to the appropriate claims office. The claims office will return one copy acknowledging receipt for use in filing claim and provide one copy to the carrier for notice of additional loss and/or damage.

e. Contact the ITO/TMO for any assistance required at time of delivery and for any supporting documents required in processing a claim.

f. File a claim with appropriate claims office.

3. ITO/TMO shall:

a. Retain the carrier provided copy of the DD Form 1840.

b. Conduct inspection for loss or damage upon request by service member or military service claims office within 10 workdays of request when possible and prepare the DD 1841 (Government Inspection Report).

c. Upon request provide a copy of the PPGBL and any other shipment documents to assist member in filing a claim.

d. Take appropriate action against carrier for Tender of Service violation for failure to return documents if DD Form 1840 is not returned by carrier within 30 days of delivery.

DATE: Submit written comments by August 16, 1985.

HQ Military Traffic Management Command, 5611 Columbia Pike, ATTN: MT-PPM, File: DD 1840, Falls Church, Virginia 22041-5050.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Gaige, HQ Military Traffic Management Command, ATTN: MT-PPM (Room No. 410), 5611 Columbia Pike, Falls Church, Virginia 22041-5050.

Peter J. Ladzinski,

Alternate Department of the Army Liaison with the Federal Register.

[FR Doc. 85-17227 Filed 7-18-85; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Endowment Grant Program, Extension of Closing Date Deadline for Matching Fiscal Year (FY) 1985, Federal Endowment Grant Funds

The Secretary extends the closing date for raising matching funds to August 15, 1985 for those institutions selected in FY 1985 for funding under the Endowment Grant Program. The previous closing date of July 15, 1985 was published in the **Federal Register** of November 6, 1984 (FR 44320).

The Endowment Grant Program is authorized by section 333 of Title III of the Higher Education Act of 1965, as amended (20 U.S.C. 1065a).

Under the Endowment Grant Program, the Secretary is authorized to make grants to eligible institutions of higher education for the purpose of establishing or increasing endowment funds at those institutions. The Federal grant funds must be matched dollar-for-dollar by the institution selected to receive a grant.

The Secretary determines annually the fund-raising period. The Secretary is extending the closing date to allow institutions as much time as possible before the end of the Fiscal Year to raise their matching funds.

Subject to other limitations in the statute, the maximum endowment grant an institution may receive is the amount of the matching funds it raises by August 15, 1985.

Further Information: For further information, contact Dr. Caroline Gillin, Director, Division of Institutional Development, U.S. Department of Education, Room 3042, Regional Office Building 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 426-8960.

(20 U.S.C. 1064-1069c)

(Catalog of Federal Domestic Assistance Number 84.031—Institutional Aid Programs)

Dated: July 17, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 84-17338 Filed 7-18-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Energy Research

Health and Environmental Research Advisory Committee; Open Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Health and Environmental Research Advisory Committee (HERAC).

Date and Time: August 5, 1985—9:00 a.m.-5:00 p.m.; August 6, 1985—8:30 a.m.-Noon.

Place: Conference Room 190, Building 1505, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

Contact: David A. Smith, Department of Energy, Office of Health and Environmental Research (ER-72), Office of Energy Research, Washington, D.C. 20545, Telephone: 301/353-2987.

Purpose of the Committee: To provide advice on a continuing basis to the Secretary of the Department of Energy (DOE), through the Director of Energy Research, on the many complex scientific and technical issues that arise in the development and implementation of the Health and Environmental Research (HER) program.

Tentative Agenda: Briefings and discussions of:

Monday, August 5, 1985

- Presentations by Oak Ridge National Laboratory Staff
- Public comment (10 minute rule)

Tuesday, August 6, 1985

- Report from HERAC Subcommittee on Risk Analysis
- Report from HERAC Subcommittee on Ecology
- Report from HERAC Subcommittee Radiation Biology
- Discussion of New Business
- Public comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact David A. Smith at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, IE-190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on July 15, 1985.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 85-17186 Filed 7-18-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER85-600-000 et al.]

Commonwealth Edison Co. et al.; Electric Rate and Corporate Regulation Filings

July 11, 1985.

Take notice that the following filings have been made with the Commission:

1. Commonwealth Edison Company

[Docket No. ER85-600-000]

Take notice that Commonwealth Edison Company (Edison) on July 1, 1985, tendered for filing a Facilities Connection Agreement (Agreement) dated June 10, 1985, between Edision, Iowa-Illinois Gas and Electric Company (Iowa) and Interstate Power Company (Interstate), proposed effective upon acceptance for filing.

The Agreement effects coordinated construction of certain 345 kV electric transmission facilities of Iowa and Interstate from Quad-Cities Station, in Cordova Township, Illinois, extending to a defined point of departure in Clinton County, Iowa, utilizing transmission support structures suitable for double circuit construction, ultimately achieving economics and minimization of environmental impact in respect of a Mississippi river crossing, and enhancing reliability of the systems of all parties upon the completion by Interstate of its circuit thereon and extension by Interstate of its facilities to its Rock Creek Substation in Clinton County, Iowa, and, upon Iowa's exercise of an option to purchase an interest in the support structures, construction of its facilities to Substation 91 in Scott County, Iowa.

It is stated no fixed charges for facilities of one party for the use by another is involved, and that, as interchanges of power and energy occur under other rate schedules between various of the parties, no rates of charges in respect thereto are effected. Rather, it is contemplated Edison would act as constructor of line terminals at Quad-Cities Station, in which Iowa, contributing to Interstate the incremental cost of double-circuit construction, would hold an option to purchase an interest therein, ultimately to purchase such interest and construct its own circuit. Various future filings under Parts 33 and 35 of the Commission's Regulations are contemplated, it is stated.

Edison states a complete copy of the filing has been mailed to Iowa and Interstate, the Illinois Commerce

Commission, the Iowa State Commerce Commission and the Minnesota Public

Comment date: July 23, 1985, in accordance with Standard Paragraph E

The reasons for the Amendment are to accommodate the desire of SPDE

Comment date: July 23, 1985, in

10. South Carolina Generating Company

Such transmission service is to be

Commission, the Iowa State Commerce Commission and the Minnesota Public Utilities Commission.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket No. ER85-601-000]

Take notice that on June 26, 1985, Commonwealth Edison Company (the Company) tendered for filing newly executed sheets of the revised form of an Electric Service Contract between the Company and the City of Batavia, Illinois. This filing complies with the Settlement Agreement between the Company and the Cities of Batavia, Geneva, Naperville, Rock Falls and St. Charles approved by the Commission by letter dated October 2, 1984. This filing also complies with Item 2, Page 3 of the Company's letter to the Commission dated October 31, 1984, which submitted for filing revised contracts between the Company and the Cities.

The new sheets essentially reflect the same information as the original filing for this revision which was previously approved except for modifications required to comply with the Settlement Agreement filing also approved by the Federal Energy Regulatory Commission. The new sheets also provide the actual effective date of the applicable Electric Service Contract.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Power Company

[Docket No. ER85-602-000]

Take notice that on July 1, 1985, Duke Power Company (the Company) tendered for filing a Notice of Cancellation of service under the Company's Electric Power Contract for Resale Service and Resale Schedule for the following customers:

Customer	FERC rate schedule Nos.
City of Abeville	231
City of Clinton	249
City of Easley	241
City of Gaffney	243
City of Greer	226
City of Laurens	244
City of Newberry	268
City of Rock Hill	226
Town of Westminster	256

To the extent that this notice to the Commission does not comply with the Commission's notice requirements, the Company requests waiver of the notice period requirements.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Gulf States Utilities Company

[Docket No. ER85-593-000]

Take notice that Gulf States Utilities Company (Gulf States), on June 27, 1985, tendered for filing an Amendment, executed as of May 10, 1985, to the Power Supply agreement dated June 6, 1980, by and between Gulf States, Sam Rayburn Dam Electric Cooperative, Inc. (SRDE), Sam Rayburn Municipal Agency (SRMA), and Sam Rayburn G&T, Inc. (SRG&T). The Amendment does not provide for a rate increase.

A brief description of the Amendment is that, while it is in effect, a portion of the load of SRDE, SRG&T, and SRMA (the Sam Rayburn Load) that would otherwise be supplied under the Power Supply Agreement by purchases of wholesale electric service from Gulf States pursuant to Article V.A. of that agreement, shall instead be served by power purchased from others and delivered to SRDE, SRG&T and SRMA by transmission service provided by Gulf States. The Amendment would remain in effect for ten years unless terminated earlier pursuant to rights of termination reserved by the parties in the Amendment. While the Amendment is in effect, the percentage of the Sam Rayburn Load that would otherwise have been served by Gulf States and which shall instead be supplied pursuant to the Amendment is 10 percent in 1985. It then increases each calendar year thereafter to a final level of 45 percent in 1990, and continues at that level for the remaining calendar years.

The Amendment provides that the power SRDE, SRG&T, and SRMA will purchase from other electric utilities to supply the agreed to portion of Sam Rayburn Load will be power Gulf States has contracted for and will contract for from other electric utilities and will share, by assignment, with SRDE, SRG&T, and SRMA will be billed for the purchased power at Gulf States' cost as defined in the Amendment. To deliver the purchased power, Gulf States will provide transmission service pursuant to Service Schedule SRSTS of the Power Interconnection Agreement already in existence between the parties. The Power Interconnection Agreement has been designated Rate Schedule FERC No. 131 in a prior filing and is not being amended in this submission. Gulf States has offered or is discussing with many of its other wholesale electric service customers similar purchased power and transmission service arrangements.

The reasons for the Amendment are to accommodate the desire of SRDE, SRG&T, and SRMA to purchase electric power from other electric utilities, and the desire of all the parties for Gulf States to continue to provide reliable wholesale electric service to a significant portion of the Sam Rayburn Load, and the desire of all parties to reduce the administrative and engineering complexities, as well as other problems associated with SRDE, SRG&T, and SRMA receiving electric power from multiple sources within and beyond the Gulf States service area.

Gulf States requests that any necessary waivers be granted so that the Amendment can become effective as of the first day of June 1985.

Copies of the filing have been served upon SRDE, SRMA, SRG&T, and upon the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER85-596-000]

Take notice that New England Power Company (NEP) on June 28, 1985 tendered for filing as an initial rate schedule an Agreement for Transmission of Firm Power between NEP and the Massachusetts Municipal Wholesale Electric Company, on behalf of various Massachusetts municipal utilities.

NEP submits that the Agreement is for the required transmission across its system of capacity and energy that municipal systems have agreed to purchase from the New York Power Authority for the period July 1, 1985 through June 30, 1995.

The proposed effective date is July 1, 1985 collateral with the commencement of the NYPA power flow. In connection therewith, NEP requests waiver of the Commission's Regulations as to the prior notice period.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Orange and Rockland Utilities, Inc.

[Docket No. ER85-598-000]

Take notice that on July 1, 1985 Orange and Rockland Utilities, Inc. (O&R) submitted for filing as an initial rate schedule, a contract dated as of June 27, 1985 between O&R and the county of Rockland, New York through its agent The Rockland County Municipal Distribution Agency ("MDA").

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Pennsylvania Power & Light Company

[Docket No. ER85-597-000]

Take notice that Pennsylvania Power & Light Company (PP&L) tendered for filing on June 28, 1985 executed Supplements to certain Power Supply Agreements, as supplemented, presently on file with the Commission as Rate Schedule FERC NOs. 50, 51, 58, 63 and 68. PP&L had previously submitted unexecuted supplements which were accepted by the Commission by letter order dated June 25, 1985 in Docket No. ER85-479-000. The instant filing is intended solely to substitute executed supplements for the unexecuted supplements on file with the Commission.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Mexico

[Docket No. ER85-592-000]

Take notice that on June 25, 1985, Public Service Company of New Mexico (PNM) tendered for filing information regarding the date on which the Interconnection Agreement and Service Schedules A through I ("Agreement") between ("PNM") and the Incorporated County of Los Alamos County, New Mexico (the "County") would commence. PNM said that service under the agreement would commence on July 1, 1985.

In addition, PNM submitted a letter agreement between PNM and the County dated June 7, 1985, entitled "Implementation of the Interconnection Agreement" ("Letter Agreement") which is intended to provide for a smoother transition period in connection with the implementation of the agreement.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER85-599-000]

Take notice that on July 1, 1985, Southern California Edison Company tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 169. Such cancellation will become effective midnight June 30, 1985.

Notice of the proposed cancellation has been served upon the State of California Department of Water Resources.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. South Carolina Generating Company

[Docket No. ER85-603-000]

Take notice that on June 27, 1985, South Carolina Generating Company (GENCO), tendered for filing revisions in its Unit Sales Agreement between South Carolina Electric and Gas Company and GENCO, filed with the Commission on December 26, 1984.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

11. Vermont Electric Power Company, Inc.

[Docket No. ER85-595-000]

Take notice that Vermont Electric Power Company, Inc. ("VELCO") on June 28, 1985, made six filings regarding transmission service rendered by VELCO to the State of Vermont ("the State"). The filings are as follows:

(1) VELCO filed a notice of cancellation of service under the Power Transmission Contract dated June 13, 1957 (hereinafter referred to as "the 1957 contract") for transmission of power purchased by the State from the New York Power Authority's ("NYPA") St. Lawrence project under purchase contract designated the S-2 contract dated January 25, 1956. The State's purchase of St. Lawrence S-2 power expires on June 30, 1985, and VELCO requests that its notice of cancellation of transmission service for that purchase be permitted to become effective as of the end of that day.

(2) VELCO filed a notice of cancellation of service under the 1957 contract, as supplemented by a March 12, 1980 letter contract, for transmission of power purchased by the State from NYPA's Niagara project under purchase contract dated February 7, 1980. The State's 1980 purchase of Niagara power expires on June 30, 1985, and VELCO requests that its notice of cancellation of transmission service for that purchase be permitted to become effective as of the end of that day.

(3) VELCO filed a notice of cancellation of service under the 1957 contract, as supplemented by a September 24, 1980 letter contract, for transmission of power purchased by the State from Hydro Quebec under purchase contract date June 26, 1979. The State's purchase of Hydro Quebec power expires September 30, 1985, and VELCO requests that its notice of cancellation of transmission service for that purchase be permitted to become effective as of the end of that day.

(4) VELCO filed a commitment to provide service for transmission of power newly purchased by the State from NYPA commencing July 1, 1985. Such transmission service is to be rendered temporarily, while VELCO and Vermont discuss terms of a long-term contract, under the terms and conditions of the 1957 contract, treating the newly purchased power as taking the place of the firm St. Lawrence S-2 power referred to in paragraph 3.3 thereof. The commitment may be terminated by VELCO by giving 60 days written notice to Vermont and filing a superseding rate schedule. VELCO requests that the commitment be permitted to become effective as a supplement to the 1957 contract on July 1, 1985.

(5) VELCO filed the First Amendment dated September 23, 1969 to the 1957 contract. The amendment extended the 1957 contract from June 30, 1985 through June 30, 2000, with an option in the State to extend the contract an additional 10 years. It also effected certain changes in billing provisions. By oversight, the amendment was not filed when it was executed. VELCO requests that the amendment be permitted to become effective as of December 1, 1969, the first month in which it was implemented for billing purposes.

(6) VELCO filed a notice of cancellation of service under the 1957 contract, as supplemented by an August 4, 1961 letter contract, for transmission of power purchased by the State from NYPA's Niagara project under purchase contract dated June 20, 1961. The State's 1961 purchase of Niagara Power expired on December 31, 1979. By oversight, no notice of cancellation of transmission service for that purchase was filed. VELCO requests that the cancellation be allowed to become effective as of the day that service was terminated.

VELCO requests waiver of the Commission's notice provisions to permit the filings designated (1) and (2) above to become effective as of end-of-day June 30, 1985 and the filing designated (4) above to become effective on July 1, 1985. If such waiver is not granted, VELCO requests that those filings be permitted to become effective on August 27, 1985, which is 90 days from the date of the filing. VELCO states that it has served copies of the filing on the Vermont Department of Public Service and the Vermont Public Service Board.

Comment date: July 23, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington,

D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

8, 1985, tendered for filing a refund report regarding refunds attributable to

Copies of this filing are on file with the Commission and are available for

[Docket Nos. TA85-2-41-000 and TA85-2-41-001]

[Docket No. RP85-170-000]

operation of the proposed facilities would not constitute a major Federal

D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17178 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4700-003]

Montana Department of Natural Resources and Conservation; Surrender of Exemption From Licensing of a Small Hydroelectric Project of Five Megawatts or Less

July 15, 1985.

Take notice that the Montana Department of Natural Resources and Conservation, Exemptee for the Cooney Dam Hydroelectric Project No. 4700, has requested that its exemption be terminated. The exemption from licensing was issued on April 5, 1984. The project would have been located on Red Lodge Creek in Carbon County, Montana. The Exemptee has stated that project construction has not commenced.

The Exemptee filed the request on June 17, 1985. The exemption from licensing of Project No. 4700 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17180 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP72-132-001]

Natural Gas Pipeline Co. of America; Filing of Refund Report and Request for Waiver

July 12, 1985.

Take notice that Natural Gas Pipeline Company of America (Natural), on July 8, 1985, tendered for filing a refund report regarding refunds attributable to the resolution of certain storage tax issues in the captioned dockets. Natural also seeks waivers of the Commission regulations and of certain settlement provisions to permit it to flow through the refunds in its PGA deferred account.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 22, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17181 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-122-001]

Northern Natural Gas Co., Division of InterNorth, Inc.; Tariff Filing

July 12, 1985.

Take notice that on July 9, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariff, Third Revised Volume No. 1:

Second Revised Sheet No. 49b,
First Revised Sheet No. 50.

These sheets reflect a change in term of Northern's EUT-1 Rate Schedule and the cancellation of Northern's AIC-1 Rate Schedule.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 22, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17182 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-136-006 et al.]

Southern Natural Gas Co.; Refund Report

July 12, 1985.

Take notice that on April 29, 1985, Southern Natural Gas Company (Southern) filed a refund report detailing the flowthrough to its jurisdictional customers of a refund Southern received from Southern Energy Company. Additionally, Southern requests approval to credit the refunds due two pipeline producers, Florida Gas Transmission Company and Texas Eastern Transmission Company, against those pipelines' proportionate share of Southern's retroactive Order No. 94 amounts. Pending such approval, Southern has retained the refunds due these pipelines.

Southern's refund report was previously noticed on May 9, 1985 in Docket Nos. RP82-125-014, *et al.* It is being renoticed at this time to give clear public notice of Southern's proposal to retain and credit certain refund amounts against Order No. 94 amounts.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17183 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-2-41-000 and TA85-2-41-001]

Southwest Gas Corp.; Change in Purchased Gas Adjustment Clause Provisions and in Rates Pursuant to Purchased Gas Adjustment Clause Provisions, as Modified

July 12, 1985.

Take notice that Southwest Gas Corporation (Southwest) on July 9, 1985 tendered for filing Twenty-fifth Revised Sheet No. 10, Twenty-sixth Revised Sheet No. 10, Third Revised Sheet No. 28 and Original Sheet Nos. 30A and 30B pursuant to Section 9, Purchased Gas Adjustment Clause (PGAC), as modified by said filing, of the General Terms and Conditions contained in its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to reflect a two-part demand/commodity rate structure to be consistent with that of Southwest's northern Nevada sole supplier of gas, Northwest Pipeline Corporation, effective November 1, 1984. This filing also reflects two rate decreases occasioned by a decrease from Northwest effective May 1, 1985 and one proposed to be effective July 1, 1985. Southwest requests that its rates become effective concurrently with Northwest's rates.

Southwest's states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to be come a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17184 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-170-000]

Texas Eastern Transmission Corp.; Petition for Direct Billing Proposal Approval

July 12, 1985.

Take notice that on July 3, 1985, Texas Eastern Transmission Corporation (Texas Eastern) filed a petition requesting the Commission to approve a direct billing proposal for production-related cost allowances authorized by 18 CFR 271.1104 of the Commission's regulations as promulgated under the Commission's Order No. 94 series. Under the proposed plan, Texas Eastern will bill each customer directly for its share of the Order No. 94 payments made by Texas Eastern for periods from July 25, 1980 to April 30, 1985. Texas Eastern will calculate each customer's share of Order No. 94 payments by month based on the ratio of that customer's purchases from Texas Eastern for such month during the retroactive period to the total of all purchases from Texas Eastern for such respective month during the retroactive period. The sums will be directly billed including interest.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20428, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 22, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17185 Filed 7-18-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-429-001 et al.]

Texas Eastern Transmission Corp. et al.; Availability of the DCQ Pipeline Project Environmental Assessment

July 16, 1985.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has prepared an environmental assessment (EA) an the above-referenced dockets. The staff has determined that construction and operation of the proposed facilities would not constitute a major Federal action significantly affecting the quality of the human environment. The DCQ Pipeline Project facilities include 130.26 miles of 10- through 36-inch-diameter pipeline loop, one new 7,660-horsepower compressor station, a 4,000-horsepower addition at one compressor station, a 6,000-horsepower addition at one compressor station, one new meter and regulator station, and appurtenances. The facilities examined in the EA are located in Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and Georgia. A detailed listing of the counties effected in each state was published in the **Federal Register** on March 15, 1985 (50 FR 10535). Alternatives are also evaluated.

The EA will be used in the regulatory decisionmaking process at the Commission and may be presented as evidentiary matter in formal hearings. Notices of the applications under Docket Nos. CP84-429-001, CP84-654-001, and CP85-294-000 were published in the **Federal Register** on January 18, 1985 (50 FR 2714), February 19, 1985 (50 FR 6985), and March 13, 1985 (50 FR 10099), respectively. The period of time for filing motions to intervene or notices of intervention expired on February 1, 1985; February 22, 1985; and March 28, 1985; respectively. Motions to intervene out of time can be filed with the Commission in accordance with the requirements of Rule 214(d) of the Commission's Rules of Practice and Procedures, 18 CFR 385.214(d). Anyone desiring to file a protest should do so in accordance with 18 CFR 385.211.

The EA has been placed in the public files of the Commission and is available for public inspection in the FERC Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. Copies have been sent to the public, all parties to the proceeding, and Federal, state, and local officials, and are available in limited quantities from the FERC Division of Public Information.

Anyone wishing to do so may file comments on the EA no later than August 2, 1985. Comments should be sent to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Additional information about the project is available from Mr. Kenneth D. Frye, Project Manager, Environmental Evaluation Branch, Office of Pipeline

and Producer Regulation, telephone (202) 357-9039.

Use/Production. (G) Industrial adhesive and coating. Prod. range:

P 85-1175, 85-1176, 85-1177, 85-1178, 85-1179, 85-1180, 85-1181 and 85-1182—

Toxicity Data. No data submitted.

Exposure. Manufacture and

(rat): 8,000 mg/kg; I.V. administration

Environmental Release/Disposal. No

and Producer Regulation, telephone (202) 357–9039.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17179 Filed 7–18–85; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59723; FRL–2866–4]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of two such PMNs and provides a summary of each.

DATE: Close of Review Period:

Y 85–107 and 85–108—July 28, 1985.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington, DC 20460, (202–382–2725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 85–107

Manufacturer. H.B. Fuller Company.

Chemical. (G) Ethylene, vinyl acetate, methacrylic acid, hydroxy substituted hydrocarbon copolymer.

Use/Production. (G) Industrial adhesive and coating. Prod. range: 20,000–1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 80 workers, up to 2 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. 15 kg/da to 50 kg/batch released to land. Disposal by licensed landfill.

Y 85–108

Manufacturer. Confidential.

Chemcial. (G) Polysiloxane block copolymer.

Use/Production. (G) Additive for magnetic media. Prod. range: Confidential.

Toxicity Data. Hemolysis test: No hemolytic; Agar Overlay Test: Non-cytotoxic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: July 12, 1985.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 85–17083 Filed 7–18–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51580; FRL–2866–5]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of fifteen PMNs and provides a summary of each.

DATES: Close of Review Period:

P 85–1172 and 85–1173—October 2, 1985.

P 85–1174—October 5, 1985.

P 85–1175, 85–1176, 85–1177, 85–1178, 85–1179, 85–1180, 85–1181 and 85–1182—October 6, 1985.

P 85–1183—October 7, 1985.

P 85–1184, 85–1185, and 85–1186—October 8, 1985.

Written comments by:

P 85–1172 and 85–1173—September 2, 1985.

P 85–1174—September 5, 1985.

P 85–1175, 85–1176, 85–1177, 85–1178, 85–1179, 85–1180, 85–1181 and 85–1182—September 6, 1985.

P 85–1183—September 7, 1985.

P 85–1184, 85–1185 and 85–1186—September 8, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS–51580]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E–201, 401 M Street SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington, DC 20460 (202–382–3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

P 85–1172

Manufacturer. Confidential.

Chemical. (G) Phosphorotrithioic acid aliphatic ester.

Use/Production. (G) Plastics additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. No release.

P 85–1173

Manufacturer. Confidential.

Chemical. (G) Silica supported transitional metal complex.

Use/Production. (G) Site-limited intermediate in a contained use. Prod. range: Confidential.

Toxicity Data. Irritation: Skin—Non-irritant, Eye—Slight; Ames Test: Mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P85–1174

Manufacturer. Confidential.

Chemical. (G) Further clarification needed before information can be released to the public file.

Use/Production. (G) Paint polymer product. Prod. range: 200,000–500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 36 workers, up to 8 hrs/da, up to 184 da/yr.

Environmental Release/Disposal. 3 to 150 kg/batch released to land. Disposal by incineration and landfill.

P85–1175

Manufacturer. Confidential.

Chemical. (G) Amide of naturally occuring organic acids and fatty amines.

Use/Production. (G) Open, non-dispersive use. Prod. range: 113,400–158,800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Inhalation, a total of 2 workers, up to 2 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Less than 5.0 kg/da released to air with .02 kg/da to land. Disposal by incineration and approved landfill.

P85–1176

Manufacturer. Confidential.

Chemical. (S) Polymer of trimethylol propane triacrylate, jeffamine M600, (polyoxypropylene mono primary amine), maleic anhydride.

Use/Production. (G) The substance will be used as one component of a blend and in a closed system. Prod. range: 2,200–8,800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 10 workers, up to 8 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. Minimal release to air. Disposal by licensed landfill and biological treatment lagoons.

P85–1177

Manufacturer. Confidential.

Chemical. (G) Cyclooctoamylose.

Use/Import. (G) Inclusion complexating agent. Import range: Confidential.

Toxicity Data. P.O. administration (mice): 16,000 mg/kg; I.V. administration (mice): 4,000 mg/kg; P.O. administration: (rat): 8,000 mg/kg; I.V. administration (rat): 2,400 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential Disposal by biological treatment.

P 85–1178

Importer. Confidential.

Chemical. (G) Enzymatically derived starch based syrup.

Use/Import. (G) Inclusion complexating agent. Import range: Confidential.

Toxicity Data. P.O. administration (mice): 16,000 mg/kg; I.V. administation (mice): 4,000 mg/kg; P.O. administration: (rat): 8,000 mg/kg; I.V. administration (rat): 2,400 mg/kg.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by biological treatment.

P 85–1179

Manufacturer. Confidential.

Chemical. (G) Polyacrylate.

Use/Production. (G) Polyacrylate for use in adhesive emulsions. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

P 85–1180

Manufacturer. Confidential.

Chemical. (G) Tert-amyl peroxy alkylene ester.

Use/Production. (S) Curing agent/catalyst for polymerizing unsaturated polyester resins and initiator for polymerizing other vinyl monomers, i.e. ethylene, styrene, etc. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 85–1181

Manufacturer. First Chemical Corporation.

Chemical. (S) Dinitroethylbenzene.

Use/Production. (S) Industrial intermediate for manufacturing diaminoethylbenzene. Prod. range: 227,000–1,364,000 kg/yr.

Toxicity Data. Acute oral: 810.27 mg/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant Ames Test: Negative.

Exposure. Manufacture: Dermal, a total of 16 workers, up to 8 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. 0.05 kg/da released to air. Disposal by fume scubber.

P 85–1182

Manufacturer. First Chemical Corporation.

Chemical. (S) Diaminoethylbenzene.

Use/Production. (S) Industrial intermediate for curing epoxy resins and isocyanates. Prod. range: 227,000–1,364,000 kg/yr.

Toxicity Data. Acute oral: 292.69 mg/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Irritant Ames test: Negative; DNA repair test: Not genetically active.

Exposure. Manufacture: Dermal, a total of 20 workers, up to 8 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. No release.

P 85–1183

Manufacturer. Alkaril Chemicals, Inc.

Chemical. (G) N,N-bis(substituted imidazolinium chloride) alkyl steramide.

Use/Production. (G) Textile fabric softner. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85–1184

Manufacturer. The DOW Chemical Company.

Chemical. (G) Substituted pyridine.

Use/Production. (S) Site-limited reaction intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: Between 500–1,000 mg/kg; Irritation: Skin—No irritation, Eye—Slight.

Exposure. Manufacture and use: Dermal.

Environmental Release/Disposal. Release to air and water. Disposal by incineration, on-site industrial waste treatment plant and navigable waterway after treatment.

P 85–1185

Importer. Naarden International.

Chemical. (S) 1-Naphtalenol, 5,6,7,8 tetrahydro-.

Use/Import. (S) Industrial fragrance ingredient. Import range: Confidential.

Toxicity Data. Acute oral: 1,195 mg/kg; Irritation: Skin—Severe, Eye—Severe; Ames Test: Non-mutagenic; Skin sensitization: Weak/mild sensitizer.

Exposure. Use: dermal, a total of 5 workers, up to 6 hrs/da, up to 6 da/yr.

Environmental Release/Disposal. 10 to 20 parts per million (ppm) released to air. Disposal by venting.

P 85–1186

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Monosubstitutedcarbamic acid, methyl ester, salt.

Use/Production. (S) Site-limited and commercial intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 11,000 mg/kg; Irritation: Mild to minimal.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by waste treatment plant.

Dated: July 12, 1985.

Water Act (CWA) with regard to an area known as the Bayou aux Carpes

administrative record will be forwarded

VOL 50 ISS 139 JL 19 1985 UMI

Dated: July 12, 1985.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 85-17082 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[FRL-2864-2]

Financial Assistance Awards Made Under the Asbestos School Hazard Abatement Act of 1984 (ASHAA)

AGENCY: Environmental Protection Agency

ACTION: Listing of ASHAA Awards.

SUMMARY: The Environmental Protection Agency [EPA] has announced awards totaling $45 million in grants and loans to the nation's most needy schools to help abate asbestos hazards. Under the Asbestos School Hazard Abatement Act of 1984 (ASHAA), EPA makes loans and grants to help public and private schools remove or contain friable abestos-containing materials. The law also provides for Federal scientific and technical assistance to state and local governments to help them identify and assess school abestos hazards.

The following is a listing of the 198 awards made under ASHAA:

AWARDS LISTINGS BY STATE

Applicant name	City	State
Kodiak Island Boro	Kodiak	AK
City Board of Education of B'ham.	Birmingham	AL
Montgomery County Board of Education.	Montgomery	AL
Selma Public Schools	Selma	AL
Alabama Institute for Deaf and Blind.	Talladega	AL
Arkadelphia School Dist No. 1	Arkadelphia	AR
Special Sch Dist of Fort Smith	Fort Smith	AR
Paris School District No. 7	Paris	AR
Walnut Ridge Public Schools	Walnut Ridge	AR
Sunnyside Unified School Dist. No. 12.	Tucson	AZ
Brea-Olinda Unified School District.	Brea	CA
Cupertino Union School District.	Cupertino	CA
Elk Grove Unif. S.D.	Elk Grove	CA
Central Unified School District	Fresno	CA
Bassett Unified School District	La Puente	CA
Rim of the World Unified School Dist.	Lake Arrowhead.	CA
Oakdale Union Elem School District.	Oakdale	CA
Adams-Arapahoe Joint School Dist 28J.	Aurora	CO
Hartford Public Schools	Hartford	CT
Newtown Board of Education	Newtown	CT
District of Columbia Public Schools.	Washington	DC
Caesar Rodney School District.	Camden	DE
Capitol School	Dover	DE
Lake Forest School District	Harrington	DE
Holy Spirit School	New Castle	DE
Appoquinimink School	Odessa	DE
Seaford School District	Seaford	DE
St. John the Beloved	Wilmington	DE
St. Mary Magdalene School	Wilmington	DE
School Board of Manatee County.	Bradenton	FL
School District of Taylor County.	Perry	FL
Richmond County Board of Education.	Augusta	GA
Diocese of Savannah	Savannah	GA
South Winneshiek Community School.	Calmar	IA
Charles City Comm. Schools	Charles City	IA
Des Moines Independent Comm. School.	Des Moines	IA
Kanawha Comm School District.	Kanawha	IA
New Hampton Community School District.	New Hampton	IA
Blackfoot School District No. 55.	Blackfoot	ID
Joint School District No. 151	Burley	ID
Caldwell School District No. 132.	Caldwell	ID
Bonneville Joint School District No. 93.	Idaho Falls	ID
Independent School District No. 1.	Lewiston	ID
Moscow School District No. 281.	Moscow	ID
Post Falls School District No. 273.	Post Falls	ID
Township High School District 211.	Palatine	IL
Venice Comm. Unit School Dist. No. 3.	Venice	IL
Yorkville Community Unit 115	Yorkville	IL
Diocese of Fort Wayne-South Bend, Inc.	For Wayne	IN
St John's Church	Beloit	KS
Unified School District No. 204.	Bonner Springs	KS
USD, No. 352, Goodland Kansas.	Goodland	KS
Unified School District No. 233.	Olathe	KS
Villa Madonna Academy	Covington	KY
Harlan Co. Board of Education.	Harlan	KY
Laurel County School Division	London	KY
Jefferson County Public Schools.	Louisville	KY
Clay County Public Schools	Manchester	KY
Jessamine County Board of Education.	Nicholasville	KY
Daviess County Board of Education.	Owensboro	KY
Bossier Parish School Board	Benton	LA
New Orleans Public Schools	New Orleans	LA
City of Lynn School Department.	Lynn	MA
Mohawk Trail Reg. School District.	Shelburne Falls	MA
Roman Catholic Diocese of Spg Fld MA.	Springfield	MA
Baltimore, City Schools	Baltimore	MD
Grace & St. Peter's Day School.	Baltimore	MD
Talmudical Academy of Balt. Inc..	Baltimore	MD
Harford County Public Schools.	Bel Air	MD
Brunswick School Department	Brunswick	ME
M.S.A.D. No. 16	Hallowell	ME
Davison Community Schools	Davison	MI
Millington Community Schools	Millington	MI
Oak Park School District	Oak Park	MI
Lamberton Public School	Lamberton	MN
Special School Dist. Number 1.	Minneapolis	MN
North St. Francois County R-I Sch Dist.	Bonne Terre	MO
Hayti R-2 School District	Hayti	MO
King City R-I School District	King City	MO
Moberly Public School District No. 81.	Moberly	MO
Noxubee County School District.	Macon	MS
Natchez Spc. Mun. Sep. School District.	Natchez	MS
Anaconda School District No 10.	Anaconda	MT
Burlington City Schools	Burlington	NC
Aberdeen Area	Belcourt	ND
Central Cass Public School Dist 17.	Casselton	ND
Elgin Public School	Elgin	ND
Dakota Public School 3	Hunter	ND
Milnor Public School Dist 2	Milnor	ND
Oakes Public School District	Oakes	ND
Valley City Public School Dist 2.	Valley City	ND
Walhalla Public School	Walhalla	ND
Chadron City Schools	Chadron	NE
Archbishop Bergan Jr/Sr. Catholic High.	Fremont	NE
Brownell-Talbot School	Omaha	NE
St. Pius X/St. Leo School	Omaha	NE
St. John Lutheran School	Seward	NE
Stanton Community Schools	Stanton	NE
Crotched Mountain Rehab. Center.	Greenfield	NH
Kearsrage Regional School District.	Newport	NH
Newport School District	Newport	NH
Sunapee School District	Sunapee	NH
Camden Board of Education	Camden	NJ
Board of Education of Clifton	Clifton	NJ
Collingswood Board of Education.	Collingswood	NJ
Hanover Park Regional High Sch. Dist..	East Hanover	NJ
Fair Lawn Public Schools	Fair Lawn	NJ
Flemington-Raritan Board of Education.	Flemington	NJ
Newark Board of Education	Newark	NJ
Paramus Board of Education	Paramus	NJ
Paterson Board of Education	Paterson	NJ
Roselle Park Board of Education.	Roselle Park	NJ
Clark County School District	Las Vegas	NV
Lincoln County School District	Panaca	NV
Sacred Heart Church	Bronx	NY
Fredonia Central School District.	Fredonia	NY
Limestone Union Free School District.	Limestone	NY
Nanuet Union Free School District.	Nanuet	NY
Our Lady of Grace Church	New York	NY
St. Philip & James	New York	NY
Ashtabula Area City Schools	Ashtabula	OH
Brunswick City School District	Brunswick	OH
Cleveland City School Dist.	Cleveland	OH
Diocese of Cleveland	Cleveland	OH
Copley-Fairlawn City School	Copley	OH
Fairborn City School District	Fairborn	OH
Labrae Local Schools	Leavittsburg	OH
Madison Board of Education	Mansfield	OH
Fairbanks Local School District.	Milford Center	OH
Nelsonville-York City Schools	Nelsonville	OH
Niles City Schools	Niles	OH
Sylvania City School District	Sylvania	OH
Washington Local Schools	Toledo	OH
Cleve Hts-University Hts School Dist.	University Hts	OH
Vanlue Local Schools	Vanlue	OH
Howland Local Schools	Warren	OH
Sts. Peter and Paul School	Warren	OH
Warren City Schools	Warren	OH
Jefferson Local School District.	West Jefferson	OH
Youngstown City School District.	Youngstown	OH
West Muskingom Schools	Zanesville	OH
Enid Public Schools	Enid	OK
Hooker Public Schools	Hooker	OK
School District No. 1-J	Portland	OR
Sweet Home School District No. 55.	Sweet Home	OR
Canon McMillan School District.	Canonsburg	PA
Our Lady of Peace School	Clarks Green	PA
Coatesville Area School District.	Coatesville	PA
Lake Lehman School District	Dallas	PA
Erie City School District	Erie	PA
School District of Haverford Twp.	Havertown	PA
Keystone School District	Knox	PA
Milton Area School District	Milton	PA
Visitation School	Norristown	PA
Oxford Area School District	Oxford	PA
Port Allegany School District	Port Allegany	PA
Selinsgrove Area School District.	Selinsgrove	PA
Wilkes-Barre Area School District.	Wilkes-Barre	PA
Commonwealth of the Northern Marians I.	Saipan	PI
Providence School Department.	Providence	RI
Horry County School District	Conway	SC
Hampton School District No. 2	Estill	SC
Lancaster County School District.	Lancaster	SC
S.D. School for the Visually Handicapped.	Aberdeen	SD
Bullhead Day School	Bullhead	SD
Eagle Butte High School	Eagle Butte	SD
Swift Bird Day School	Eagle Butte	SD
Flandreau Indian School	Flandreau	SD
West Central School District No. 49-7.	Hartford	SD
Lead-Deadwood School District 40-1.	Lead	SD
Marty Indian School	Marty	SD
New Underwood School District 51-3.	New Underwood.	SD
Pierre Indian Learning Center	Pierre	SD
Sicangu Oyate Ho, Inc	St. Francis	SD
SD School for the Deaf	Sioux Falls	SD
Sioux Falls School District No. 49-5.	Sioux Falls	SD
Crow Creek Reservation H.S.	Stephan	SD
Sullivan County Department of Ed.	Blountville	TN
Marion County School Board	Jasper	TN
Memphis City Schools	Memphis	TN
Houston Ind. School District	Houston	TX
San Angelo Independent Sch District.	San Angelo	TX
Burlington Public School	Burlington	VT
Hinesburg Elementary School	Hinesburg	VT
Shelburne School District	Shelburne	VT
Anacortes School District	Anacortes	WA
Richland School District No. 400.	Richland	WA
Eau Claire Area School District.	Eau Claire	WI
Sacred Heart School	Eau Claire	WI
St. Patricks School	Elkhorn	WI
St. Anne Parish	Milwaukee	WI
Harrison County Board of Education.	Clarksburg	WV
Logan County School System	Logan	WV
Wayne County Board of Education.	Wayne	WV
Lewis County School System	Weston	WV
Laramie County School District No. 1.	Cheyenne	WY
Laramie Co. School Dist No. 2.	Pine Bluffs	WY
St. Joseph's School	Rawlins	WY

FOR FURTHER INFORMATION CONTACT: Ellen O'Boyle, Office of Administration and Resources Management, Grants Information and Analysis Branch (PM-216F), 401 M Street SW., Washington, D.C. 20460, (202) 475-8270.

Dated: June 28, 1985.

Thomas Hadd,

Chief, Grants Information and Analysis Branch.

[FR Doc. 85-16730 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[OW-6-FRL-2867-4]

Proposed Determination To Prohibit, Deny, or Restrict the Specification, or the Use for Specification, of an Area as a Disposal Site; Extension of Time

Background

On May 17, 1985, EPA published a notice in the **Federal Register** of a proposed determination to invoke the provisions of section 404(c) of the Clean Water Act (CWA) with regard to an area known as the Bayou aux Carpes swamp. The approximately 3,000 acre site is located south of New Orleans, Louisiana, and adjoins the Barataria Unit of the Jean Lafitte National Historical Park. The previous **Federal Register** notice also announced the public hearing, which was held on June 18, 1985, in Gretna, Louisiana. The notice stipulated that the hearing record would remain open for the submittal of written comments until the close of business on July 3, 1985, or possibly a later date as announced at the hearing. Due to the substantial public interest in this issue and the requests by affected landowners for an extension of time in which to provide comments, an extension to August 2, 1985, was announced at the hearing. In a related matter, additional time was afforded EPA by Judge Lansing L. Mitchell, Eastern District Court of Louisiana, for the completion of the Section 404(c) process. This situation made it possible for EPA to allow more time for the submission of public comments. Therefore, this notice serves to announce a further extension of the comment period until August 19, 1985.

Extension of Time

Representatives of numerous landowners, whose property interests will be affected if the provisions of section 404(c) CWA are invoked, requested additional time in which to review and comment on the technical reports and other documents which will be considered in making the recommended determination. Since the request constitutes good cause, within the meaning of 40 CFR 231.8, the period of time available for the public to comment on the proposed determination has been extended through August 19, 1985. Documents post-marked on or before this date will be considered in making the recommended determination.

Submission of Comments

Comments should be sent to the Environmental Protection Agency, Federal Activities Branch, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270. All comments should directly address whether the proposed determination should become the recommended determination, according to the criteria set forth in 40 CFR Part 231. These comments will be considered in reaching a decison to either withdraw the proposed determination or prepare a recommended determination to prohibit or deny the specification of the area as a disposal site. If a recommended determination is made, it and the administrative record will be forwarded to the Administrator of EPA in Washington, D.C., for review and the final determination. The procedures to be used by the Administrator in making the final determination are specified in 40 CFR 231.6.

Copies of all comments submitted in response to the proposed determination will be available for public inspection from 8:00 a.m. to 4:00 p.m. weekdays at the EPA address below.

Additional Information

Technical reports and other information regarding this matter are also available for review at the Earl K. Long Library, Louisiana Collection, located at the University of New Orleans, Lakefront Drive, New Orleans, Louisiana.

For further information, contact Clinton Spotts, Federal Activities Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

Dated: July 9, 1985.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 85-17202 Filed 7-18-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2866-1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements filed July 8, 1985 through July 12, 1985 Pursuant to 40 CFR 1506.9.

EIS No. 850286, Draft, CDB, CA, Chinatown Redevelopment Project, Construction, Grants, Alameda County, Due: September 3, 1985, Contact: Ann Raud (415) 273-3941.

EIS No. 850287, Draft, FHW, TN, TN-386 extension, I-65 to Hendersonville Bypass, Construction and Right-of-Way Acquisition, Davidson and Sumner Counties, Due September 3, 1985, Contact: Thomas Ptak (615) 251-5394.

EIS No. 850288, Final, COE, NJ, Lower Saddle River and Sprout Brook, Flood Control Plan, Bergen County, Due: August 19, 1985, Contact: Robert Kurtz (212) 264-3609.

EIS No. 850289, DSuppl, NOA, RI, PRO, Rhode Island Coastal Resources, Management Program, 1985 Program Changes Amendment, Approval, Due: September 3, 1985, Contact: Kathryn Cousins (202) 634-4126.

EIS No. 850290, Draft, COE, AL, Huntsville Spring Branch and Indian

VOL

Creek System, DDT Contamination Isolation, Olin's Remedial Action Plan, Permits, Due: September 3, 1985

Reduction Plan—Officially withdrawn.

EIS No. 850114, Draft, AFS, MT, ID

non-point sources. EPA recommended that proposals to increase range,

agreed with the DEIS that improperly designed or implemented erosion control

Title: Renewal Notice and Certification in the Private Operational Fixed

Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street

Creek System, DDT Contamination Isolation, Olin's Remedial Action Plan, Permits, Due: September 3, 1985, Contact: Ray Hedrick (615) 251–5026.

EIS No. 850291, Draft, AFS, TX, East Texas National Forests and Caddo and LBJ National grasslands, Land and Resource Management Plan, Due: October 17, 1985, Contact: Gordan Steele (409) 639–8501.

EIS No. 850292, Draft, COE, FL, Upper St. Johns River Basin Flood Damage Reduction Plan, Due: September 3, 1985, Contact: Dr. Gerald Atmar (904) 791–2615.

EIS No. 850293, Draft, COE, LA, Aloha-Rigolette Area Agricultural Flood Control Plan, Due: September 14, 1985, Contact: Dr. Steve Mathies (504) 838–2525.

EIS No. 850294, Revised, AFS, MT, ID, Kootenai National Forest, Land and Resource Management Plan, Due: October 15, 1985, Contact: Ed Hiest (406) 329–3011.

EIS No. 850295, Draft, UAF, GA, Winnersville Air-to-Surface Weapons Range, Construction and Operation, 347 Tactical Fighter Wing, Lanier and Lowndes Counties, Due: September 3, 1985, Contact: Alton Chavis (804) 764–4430.

EIS No. 850296, Final, NOA, PR, VI, Shallow-Water Reeffish Fishery Management Plan, Implementation and Adoption, Due: August 19, 1985, Contact: William Gordan (202) 634–7283.

EIS No. 850297, Draft, COE, VA, James City County Dam and Water Supply Reservoir, Construction and Development, 404 Permit, Ware Creek, James City County, Due: September 3, 1985, Contact: Bob Hume (804) 441–3657.

EIS No. 850298, Final, BIA, NM, Norton to Tesuque 115kV Overhead Transmission Line and Substation Construction, Right-of-Way Grant and Approval, Santa Fe County, Due: August 19, 1985, Contact: Bruce Blanchard (202) 343–3891.

EIS No. 850299, Final, AFS, OK, TX, NM, Cibola National Forest and Kiowa, Rtia Blanca, Black Kettle and McClellan Creek National Grasslands, Land and Resource Management Plan, Due: August 19, 1985, Contact: C. Phil Smith (505) 766–2185.

EIS No. 850300, Draft, CDB, MA, Tent City Development, Parcells 11A and 11B, South End Urban renewal Area, UDAG, Suffolk County, Due: September 3, 1985, Contact: Richard Mertens (617) 722–4300.

Amended Notices

EIS No. 731616, Draft, COE, FL, Upper St. Johns River Basin Flood Damage Reduction Plan—Officially withdrawn.

EIS No. 850114, Draft, AFS, MT, ID, Bitterroot National Forest, Land and Resource Management Plan, Missoula and Ravalli Cos., MT and Idaho Co., ID, Due: August 15, 1985, Published FR 4–19–85—Review extended.

EIS No. 850115, Draft, AFS, MT, Gallatin National Forest, Land and Resource Management Plan, Due: August 15, 1985, Published FR 4–19–85—Review extended.

EIS No. 850258, Draft, FHW, AR, US 65 Bypass Construction, US 65/US 270 Interchange and Bryant Street Intersection to US 65/US 65B, Pine Bluff, Jefferson County, Due: August 16, 1985, Published FR 6–28–85—Review extended.

Dated: July 16, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85–17263 Filed 7–18–85; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2866–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 1, 1985 through July 5, 1985 pursuant to the Environmental Review Process (ERP), under secitn 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D–AFS–F65013–WI, Rating LO, Chequamegon Nat'l Forest, Land and Resource Mgmt. Plan, WI. **SUMMARY:** EPA's review of the DEIS did not identify any significant environmental impacts requiring changes to the proposed project.

ERP No. DS–AFS–K61081–CA, Rating LO, Peppermint Mtn. Resort Development, Permit, Slate Mtn., Sequoia Nat'l Forest, Calif. Condor Survival, CA. **SUMMARY:** EPA continues to have environmental reservations regarding potential air and water quality impacts, as were expressed in its comment letter on the DEIS.

ERP No. D–AFS–K65092–CA, Rating EC2, Cleveland Nat'l Forest Land and Resource Mgmt. Plan, CA. **SUMMARY:** EPA's review raised concerns with potential water quality impacts from non-point sources. EPA recommended that proposals to increase range, recreation, and development of riparian areas be included and consider specific mitigation measures to protect water quality.

ERP No. D–AFS–L65093–ID, Rating EO2, Nezperce Nat'l Forest, Land and Resource Mgmt. Plan, ID. **SUMMARY:** EPA was concerned about the water quality implications of the Forest Plan, particularly in light of the unresolved issue of the definition of "serious injury" in the State of Idaho water quality standards. EPA also felt that impacts to fish and fish habitat were understated and suggested new information regarding combined and cumulative impacts of planned activities on the forests' various resources. Conflicts with the resource management plans and policies of other agencies were also of concern. Overall, EPA believes that modified alternatives may have to be presented in the FEIS so that more emphasis is placed on managing for water quality.

ERP No. DS–COE–F32023–00, Rating EC2, Mississippi and Illinois Rivers, Pools 24, 25, and 26, Operation and Maintenance Permits, Shoreline Mgmt. Plan for Fleeting on Pool 26, MO and IL. **SUMMARY:** EPA believes that additional information needs to be provided on three topics: mussel beds, characteristics of side channel and channel border sediments, and the fleeting area located near Lock and Dam No. 26R (which currently is under construction). Additional substantiation of the claim that no significant mussle beds occur in the project area needs to be included in the FSEIS. Analysis of grain size of the sediments in the areas identified as acceptable for fleeting would aid in determining the need for pollutant analysis before a permit application is submitted. EPA believes that the environmental analysis in the FSEIS should include the left shore area of the pool that would be formed by the closure of Lock and Dam No. 26R. This area could be used as a mitigation site for some of the more sensitive areas proposed in the current REM Plan.

ERP No. DS–COE–F36075–WI, Rating LO, State Rd. and Edner Coulees Flood Control Project, Modifications, WI. **SUMMARY:** EPA's review of the DEIS did not identify any significant environmental impacts requiring changes to the proposed project.

ERP No. D–FRC–L05193–WA, Rating EC2, Hamma Hamma Hydroelectric Project, Construction and Operation, Licenses, WA. **SUMMARY:** EPA expressed primary concerns about the project's impacts on water quality. EPA agreed with the DEIS that improperly designed or implemented erosion control measures could result in significant adverse impacts and that an aggressive mitigation program is needed. The expected temperature increase from the reservoir will exceed water quality standards and should be re-evaluated and mitigated if needed. EPA also asked that entrainment of resident fish through the turbines be mitigated.

ERP No. D–GSA–K81017–CA, Rating EC2, Los Angeles Federal Center Development, Construction, Metropolitan Detention Ctr., VA Outpatient Clinic, and Federal Bldg. Courthouse, CA. **SUMMARY:** EPA expressed concerns with the project's contribution to existing poor air quality and the EIS's failure to fully analyze project alternatives.

ERP No. D–JUS–A82113–00, Rating LO, Cannabis Eradication on Non-Federal and Indian Lands in the Contiguous US and HI. **SUMMARY:** EPA has no objections to the proposed eradication program, provided that all appropriate mitigation measures are fully implemented and site-specific analyses are undertaken prior to initiation of individual projects.

Final EISs

ERP No. F–FHW–F40152–MI, Logan St. and Dewitt Rd. Reconstruction, Kalamazoo St. to I–69, Improvements, MI. **SUMMARY:** EPA's review of the FEIS did not identify any significant environmental impacts requiring changes to the proposed project.

ERP No. F–FHW–F40267–OH, OH–79 Improvement, OH–79 to OH–16 Expressway, Construction, OH. **SUMMARY:** EPA's review of the FEIS did not identify any significant environmental impacts requiring changes to the proposed project.

Dated: July 16, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85–17264 Filed 7–18–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Requirements Approved by OMB

July 11, 1985.

The following information collection requirements have been approved by the Office of Management and Budget. For further information contact Doris Peacock, FCC, (202) 632–7513.

OMB No.: 3060–0141

Title: Renewal Notice and Certification in the Private Operational Fixed Microwave Radio Service

Form No.: FCC 402–R

The approval of FCC 402–R has been extended through 7/31/88. The January 1983 edition with an OMB expiration date of 7/31/85 will remain in use until the forms are updated.

OMB No.: 3060–0127

Title: Assignment of Authorization

Form No.: FCC 1046

The approval on FCC 1046 has been extended through 7/31/88. The August 1982 edition with an OMB expiration date of 8/31/85 will remain in use until updated forms are available.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–17147 Filed 7–18–85; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 11, 1985.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of the submission are available from Jerry Cowden, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395–7231.

OMB Number: 3060–0254

Title: Section 74.433, Temporary Authorizations

Action: Extension

Respondents: Licensees of remote pickup broadcast stations

Estimated Annual Burden: 600 Responses; 2,400 Hours

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–17148 Filed 7–18–85; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 202–002744–056.

Title: Atlantic and Gulf/West Coast of South America Conference.

Parties:

Compania Chilena de Navigacion Interoceania, S.A.

Compania Sud Americana de Vapores, S.A.

Lykes Bros. Steamship Co., Inc.

Compania Peruana de Vapores

Lineas Navieras Bolivianas, S.A.M.

United States Lines (S.A.), Inc.

Synopsis: The proposed amendment would reduce the required security deposit from $50,000 to $25,000 and would substitute United States Lines, (S.A.) Inc. for United States Lines, Inc. as a party to the Agreement. The parties have requested a shortened review period.

Agreement No. 207–009973–012.

Title: Johnson ScanStar Service Agreement.

Parties:

Blue Star Line Limited

The East Asiatic Company Ltd. A/S

Johnson Line Aktiebolag

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements and would make certain nonsubstantive changes to the language of the agreement.

Agreement No. 213–010719–002.

Title: The EAC Lines Transpacific Service, Ltd. and Mitsui O.S.K. Lines, Ltd. Space Charter and Sailing Agreement.

Parties:

EAC Lines Transpacific Service, Ltd.

Mitsui O.S.K. Lines, Ltd.

Synopsis: The proposed amendment would midify the agreement to allow the parties to share operational expenses with respect to vessel calls of a party made at ports where there is no corresponding vessel call by the other party due to the implementation of changes in vessel rotation. It would delete the East Asiatic Company, Ltd. (EAC), as a party to the agreement and

substitute EAC Lines Transpacific Service, Ltd. It would also delete

indirectly acquiring Independence State Bank, Independence, Kansas.

Competition, Room 301, Federal Trade

DEPARTMENT OF HEALTH AND HUMAN SERVICES

profit institutions, small businesses or organizations

SUMMARY: The Food and Drug Administration (FDA) is announcing the

substitute EAC Lines Transpacific Service, Ltd. It would also delete provisions allowing EAC to assign its rights and obligations to an affiliated company as provided in Agreement No. 203–010752. The parties have requested a shortened review period.

Dated: July 16, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–17193 Filed 7–18–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Citadel Bankshares, Inc., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 9, 1985.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citadel Bankshares, Inc.*, Wichita, Kansas; to acquire 86.7 percent of the voting shares of Augusta Bank and Trust, Augusta, Kansas and 99.8 percent of the voting shares of Montgomery County Financial Corporation, Independence, Kansas, thereby indirectly acquiring Independence State Bank, Independence, Kansas.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Atlanta Bancshares, Inc.*, Atlanta, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Atlanta.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Alaska Northern Banc Corp.*, Fairbanks, Alaska; to become a bank holding company by acquiring 100 percent of the voting shares of Alaska National Bank of the North, Fairbanks, Alaska.

Board of Governors of the Federal Reserve System, July 15, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–17172 Filed 7–18–85; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Bairnco Corp., et al.

The attached notice is to correct the **Federal Register** publication of July 12, 1985 which listed transactions granted early termination of the waiting period.

Transaction 85–0719 was listed with an incorrect file number; the file number should be 85–0710.

Transaction 85–0701 was listed with an effective termination date of June 25, 1985; the correct effective termination date is June 28, 1985.

The two corrected transactions should read as follows:

Transaction	Waiting period terminated effective
(1) 85–0710—Bairnco Corporation's proposed acquisition of assets of The Frankelite Company and voting securities of Diaman-Mexo held by Diamond F.	June 20, 1985.
(2) 85–0701 Transco Energy Company's proposed acquisition of assets of Paramont Coal Company.	June 28, 1985.

For further information contact: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 85–17190 Filed 7–18–85; 8:45 am]

BILLING CODE 6750–01–M

Line of Business Program: Notice of Publication of the 1977 Annual Line of Business Report

AGENCY: Federal Trade Commission.

ACTION: Publication of the 1977 Annual Line of Business Report on or after August 8, 1985.

FOR FURTHER INFORMATION CONTACT: David F. Lean, Deputy Manager, Line of Business Program, Room LL01, 2120 L Street NW., Washington, D.C. 20037. Telephone: (202) 634–7332.

The Federal Trade Commission has authorized publication of the 1977 Annual Line of Business Report (ALBR), which contains aggregates of data reported by individual companies, but which does not contain any information by which individual company data can be identified. Publication will take place on or after twenty days following the date of this announcement, at which time copies will be available for examination in the Commission's public reference room (Room 130, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580). Within approximately eight weeks afterwards, copies will be available for public distribution.

This is the last in the series of five ALBRs to be published by the Commission. The series began in 1973 with publication of industry data compiled from a partial sample of the reporting companies. Industry aggregates for ALBRs 1974, 1975, 1976, and 1977 are based on the full sample of reporting companies.

The 1977 ALBR is virtually identical in format to the 1976 ALBR. About 50 financial line items of data are reported for about 250 industry categories. The data were gathered from the approximately 450 largest manufacturing companies.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 85–17189 Filed 7–18–85; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 12, 1985.

Social Security Administration

Subject: Statement Regarding Date of Birth and Citizenship—SSA–702—Extension (0960–0016)
Respondents: Individuals
Subject: Reconsideration Disability Report—SSA–3441—Extension (0960–0144)
Respondents: Individuals
OMB Desk Officer: Judy A. McIntosh

Public Health Service

Food and Drug Administration

Subject: Weight-Loss Practices Study—Concept Clearance
Respondents: Individuals or households
Subject: Food Canning Establishment Registration and Process Filing—Extension (0910–0037)
Respondents: Businesses or other for-profit, small businesses or organizations
Subject: Nutrition Labeling—Reinstatement (0910–0177)
Respondents: Businesses or other for-profit, small businesses or organizations
Subject: New Animal Drug Application—Reinstatement (0910–0032)
Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations
OMB Desk Officer: Bruce Artim

Health Resources and Service Administration

Subject: Study of Public Health and Environmental Health Personnel—New
Respondents: Individuals or households
Subject: Reporting Requirements for Limitation on Federal Participation of Capital Expenditures under Section 1122 of the Social Security Act—Revision (0915–0071)
Respondents: State/local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations

Centers for Disease Control

Subject: Investigation of Workers Exposed to Methylenebis Chloroaniline (MBOCA)—New
Respondents: Individuals or households
Subject: Regulation–45 CFR 96–Preventive Health and Health Services Block Grant—Extension (0920–0106)
Respondents: State/local governments

National Institutes of Health

Subject: Public Health Service Policy on Humane Care and Use of Laboratory Animals by Awardee institutions—Existing Collection
Respondents: Institutions that receive a Public Health Service grant or contract support for research involving animals
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Physician/Suppliers Over Payment Report—HCFA–496—Existing Collection
Respondents: Businesses, non-profit institutions
Subject: Health Insurance Claims Form—FCFA–1500—Revision (0938–0008)
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Office on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503
Attn: (name of OMB Desk Officer)

Dated: July 15, 1985.

Peter D. Gness,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85–17093 Filed 7–18–85; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 83N–0260]

Availability of Dental X-Ray Patient Selection Criteria; Draft Report

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft report entitled "The Selection of Patients for Dental X-Ray Examinations: Routine Dental X-Ray Examinations." The report, developed by a panel of dentists, discusses the utility of dental x-rays are used on the asymptomatic dental patient.

DATE: Comments by August 19, 1985.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane Rockville, MD 20857; a copy of the draft report is available for public review at the Docket Management Branch. Request for single copies of the draft report should be made in writing to Lireka P. Joseph, Center for Devices and Radiological Health (HFZ–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lireka P. Joseph, Center for Devices and Radiological Health (HFZ–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4600.

SUPPLEMENTARY INFORMATION: Through the Center for Devices and Radiological Health, FDA conducts and supports research and training to minimize unproductive radiation exposure from diagnostic radiological examinations, including nuclear medicine procedures. One possible source of unproductive radiation exposure is radiological examinations that are not likely to affect patient management. To reduce the use of ineffective examinations, dentists need up-to-date information as to when a given radiological study is likely to provide needed diagnostic data. This information, which can take the form of decision guides bases on patient signs, symptoms, or history,is termed here "patient selection criteria" or "high-yield criteria."

To assist in making this type of information development, testing has establishing a program to facilitate the development, testing, and use of patient selection criteria for diagnostic radiological procedures (The **Federal Register** of June 9, 1981 (46 FR 30568), provides a detailed description of the x-ray referral criteria development and process.) The agency believes that such information about the utility of radiological procedures can (1) assist dentists in using limited health care and diagnostic radiological resources more effectively, and (2) help minimize unnecessary radiation to the population.

Draft Dental X-Ray Patient Selection Criteria Panel Report

The American Academy of Dental Radiology is coordinating the review of

these drugs lack substantial evidence of effectiveness. Specifically, each of the

pertaining to the original three-

pulverized stems of *Yucca schidigera* in

necessary for either party to conduct

Draft Dental X-Ray Patient Selection Criteria Panel Report

In its role as facilitator, FDA has provided logistical support to the Dental X-Ray Patient Selection Criteria Panel, a panel of dentists expert in dental radiography as used in the evaulation of the asymptomatic dental patient. The panel consisted of dentists in private practice, representatives appointed by the American Dental Association, the American Academy of Dental Radiology, the American Academy of Oral Medicine, the American Academy of General Dentistry, the American Academy of Periodontology, and the American Academy of Pedodontics, as well as dental radiology investigators. The panel held its first meeting on September 7 and 8, 1983, and reviewed the status of dental radiography in the evaluation and management of the asymptomatic dental patient.

An overview report on the subject (Ref. 1) prepared by FDA staff and results of a grant report funded by the Center for Devices and Radiological Health (Ref. 2) were presented to members of the panel. Since the first meeting, the panel has convened two additional times. During the course of these meetings, the panel (1) reviewed studies in the literature on the use of dental radiography, (2) sought data from the dental practice community on the use of dental radiography protocols, (3) sought data from the dental schools in North America and selected schools in Europe and Asia on the use of dental radiography protocols, and (4) was addressed by researchers on other subjects which were of special concern to panel members.

The panel specifically considered the issues of overuse of dental x-ray examinations for the asymptomatic dental patient, the relationship between the clinical progression of dental caries and its radiographic appearance, the effectiveness of various x-ray technologies, and the biological effects and risks from the use of radiation. The panel was especially conerned with missed occult (obscure) lesions that could result in adverse effects. Based on a review of available literature, the panel was able to resolve these concerns and recommend guidelines for prescribing dental radiographs for the asymptomatic child, adolescent, and adult dental patient.

The panel has submitted its draft report entitled "The Selection of Patients for Dental X-Ray Examinations: Routine Dental X-Ray Examinations" for review by appropriate professional organizations and by interested members of the public. The American Academy of Dental Radiology is coordinating the review of the draft report by professional organizations. By this notice, FDA invites and encourages interested members of the public to provide to the agency, and in turn to the panel, additional data and comments on the draft report. Single copies of the draft report are available from the contact person listed above.

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m. Monday through Friday.

1. Menny, E. F., et al., "An Overview of Dental Radiology," National Center for Health Care Technology, 1980.

2. White, S. C., A. B. Forsythe, and L. P. Joseph, "High-Yield Criteria for Panoramic Radiography," HHS Publication FDA 82-8186, June 1982.

Interested persons may on or before August 19, 1985, submit written comments to the Dockets Management Branch (address above). Two copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. FDA wil refer all comments to the panel for consideration in developing a final report. The draft report and comments received in response to this notice may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 15 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17167 Filed 7-18-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0095; DESI 11935]

Brompheniramine Maleate in Combination with Phenylephrine Hydrochloride and Phenylpropanolamine Hydrochloride; Withdrawal of Approval of Pertinent Parts of the New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of pertinent parts of the new drug applications (NDA's) for Dimetapp Elixir and Dimetapp Extentabs. The original three-ingredient formulations of these drugs lack substantial evidence of effectiveness. Specifically, each of the two nasal decongestants contained in these combination products has not been shown to contribute to the effectiveness of the products. Reformulations of the products have been approved as safe and effective.

EFFECTIVE DATE: August 19, 1985.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the DESI number 11935 and directed to the Division of Drug Labeling Compliance (HFN-310), Center for Drugs and Biologics, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, Center for Drugs and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: On December 14, 1973 (38 FR 34481), FDA granted a temporary exemption to certain oral prescription drugs offered for relief of cough, cold, allergy, and related symptoms. The exemption was from the time limits established for completing certain phases of the Drug Efficiency Study Implementation (DESI) program, and covered the two products described below.

1. NDA 12-436; Dimetapp Extentabs containing 12 milligrams (mg) brompheniramine maleate, 15 mg phenylephrine hydrochloride, and 15 mg phenylpropanolamine hydrochloride; A. H. Robins, Co., Inc., 1407 Cummings Dr., Richmond, VA 23220.

2. NDA 13-087; Dimetapp Elixir containing in each 5 milliliters 4 mg brompheniramine maleate, 5 mp phenylephrine hydrochloride, and 5 mg phenlypropanolamine hydrochloride; A. H. Robins.

In a notice published in the Federal Register of December 23, 1983 (48 FR 56854), FDA revoked the exemption and proposed to withdraw approval of the original three-ingredient formulations of the Dimetapp products. FDA also announced conditions for approval and marketing of two-ingredient reformulations of these products that were found to be effective. In response to the December 1983 notice, Robins requested a hearing for its three-ingredient products and submitted data, information, and analysis in support of its hearing request. FDA subsequently approved supplemental applications providing for the reformulation products.

Robins has since withdrawn its hearing request. Accordingly, FDA is now withdrawing approval of those parts of NDA's 12-436 and 13-087 pertaining to the original three-ingredient formulations of Dimetapp Extentabs and Elixir, described above.

Any drug product that is identical, related, or similar to these products and is not the subject of an approved new drug application or of a pending hearing request is covered by these new drug applications and is subject to this notice (21 CFR 310.6). Hearing requests submitted by other manufacturers for identical, similar, or related products will be addressed in a future notice. Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the center for drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)) and under the authority delegated to him (21 CFR 5.82) finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA's 12-436 and 13-087 that provide for the three-Ingredient formulations of Dimetapp Extentabs and Elixir described above and all the amendments and supplements that provide for those three-ingredient products is withdrawn effective August 19, 1985. Shipment in interstate commerce of the above products or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: July 15, 1985.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 85-17165 Filed 7-18-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 78F-0034]

Distributors Processing, Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of a petition (MF-3712) proposing that the food additive regulations be amended to provide for the safe use of dried pulverized stems of *Yucca schidigera* in poultry feed to reduce ammonia emissions from decomposing poultry manure.

FOR FURTHER INFORMATION CONTACT: William D. Price, Center for Veterinary Medicine (HFV-221), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5362.

In the **Federal Register** of March 14, 1978 (43 FR 10621), FDA published notice that it had filed a petition (MF 3712) from Distributors Processing, Inc., 17626 Avenue 168, Porterville, CA 93257, that proposed to provide for the safe use of dried pulverized stems of *Yucca schidigera* in poultry feed to reduce ammonia emissions from decomposing poultry manure. Distributors Processing, Inc., has withdrawn the petition without prejudice to a future filing (21 CFR 571.7).

Dated: July 15, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85-17168 Filed 7-18-85; 8:45 am]

BILLING CODE 4160-01-M

[FDA-225-85-8401]

Memorandum of Understanding With the Federal Office for Foreign Economic Affairs, Federal Department of Public Economy of the Swiss Confederation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding (MOU) with the Swiss Federal Office for Foreign Economic Affairs, formalizing an agreement which affords reciprocal recognition to each country's good laboratory practice program, and provides for the mutual acceptance of safety test data collected in either country, and sets forth procedures for continuing cooperative efforts for achieving quality safety data. As a consequence, it will not be necessary for either party to conduct nonclinical laboratory inspections in the other country.

DATE: The agreement became effective April 29, 1985.

FOR FURTHER INFORMATION CONTACT: Paul D. Lepore, Office of Enforcement (HFC-230), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2390.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) which states that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the memorandum of understanding as set forth below. As a consequence of this MOU, it is expected that it will not be necessary for either party to conduct nonclinical surveillance laboratory inspections in the other country. However, each country reserves the authority to refuse to consider a nonclinical laboratory study in support of an application for a research or marketing permit if the sponsor, the testing facility or the competent authority refuses a request made under Section III.B.3 of the MOU to permit participation of the other party in an audit of the subject study. Each party to this MOU agrees to notify the other party of any changes in the respective good laboratory practice programs of the country before the effective date of such change.

Memorandum of Understanding Between the Federal Office for Foreign Economic Affairs, Federal Department of Public Economy of the Swiss Confederation and the Food and Drug Administration, U.S. Department of Health and Human Services

I. Purpose

The signatory agencies of Switzerland and the United States have a concern for assuring the quality and integrity of safety evaluation data that support the approval of applications for research and/or marketing permits for human and animal drugs. The agencies recognize that such data must be collected under principles of good laboratory practice that are internationally recognized and that are monitored by mutually acceptable national inspection programs. Accordingly, this memorandum affords reciprocal recognition to each country's good laboratory practice program, provides for the mutual acceptance of safety test data collected in either country, and sets forth procedures for continuing cooperative efforts for achieving quality safety data. As a consequence, it will not be necessary for either party to conduct nonclinical laboratory inspections in the other country.

II. Background

On March 5, 1980, the agencies signed a Memorandum of Understanding that constituted a statement of intent to develop standards or guidelines of good laboratory practice applicable to nonclinical laboratories and to establish national programs of inspection to implement those standards or guidelines. Subsequently, each agency has endeavored to satisfy the intent of the Memorandum. Sufficient progress has been made to permit the following

comparisons of the respective national programs.

adherence to the standards of good laboratory practice;

the two parties. Either party may

needed to prepare the information submission; (7) whether the proposal is

long-term commitment to the

750,000 ounces of gold over the 9-year

comparisons of the respective national programs.

A. Good Laboratory Practices

Both Agencies have published comparable standards of good laboratory practice (GLP) that encompass nonclinical laboratory studies for safety evaluation of human and animal drugs. These standards also satisfy the Principles of Good Laboratory Practice recommended by the Organization for Economic Cooperation and Development (OECD), and are adequate to foster the collection of quality data.

The Swiss Intercantonal Office for the Control of Medicaments (IKS) has published the GLPs as guidelines whereas the U.S. Food and Drug Administration (FDA) has published them as regulations.

B. National Inspection Programs

Both agencies assess adherence to the principles of good laboratory practice through the conduct of periodic laboratory inspections approximately every two years by a trained government inspectorate. The inspection programs permit assessment of current laboratory operations (surveillance) as well as the audit of final reports of selected studies. Laboratories are pre-notified and inspectional procedures are mutually acceptable and consistent with those adopted as a recommendation on July 26, 1983, by the OECD. The product of an inspection is a report that describes laboratory operations and addresses compliance with good laboratory practice standards.

C. Compliance

Both agencies have established satisfactory procedures for obtaining compliance with the principles of good laboratory practice. The procedures include, notifying a laboratory of the deficiencies observed and requesting corrective action within a specified time frame. Failure to correct deficiencies is dealt with by the FDA in a variety of ways that include the rejection of specific studies from scientific consideration to the disqualification of the laboratory. IKS denies statements of compliance to deficient laboratories that fail to take corrective action.

III. Substance of the Understanding

A. The parties understand that:

1. Adherence to adequate principles of good laboratory practice is essential to the conduct of high quality safety testing;

2. A national program of periodic inspections conducted by a trained inspectorate is required to monitor adherence to the standards of good laboratory practice;

3. Appropriate compliance procedures are necessary to assure adherence to the standards of good laboratory practice; and

4. Studies conducted in accordance with the respective standards of good laboratory practice promulgated by either country shall be acceptable to both parties to satisfy regulatory requirements.

B. Each party will:

1. Inform the other party of significant changes in their good laboratory practice standards and their national inspection program;

2. Provide the other party, annually, with the names and addresses of nonclinical laboratories operating within their national boundaries, which are inspected under the good laboratory practice program, along with the dates of inspection;

3. Upon request, provide the other party with information regarding whether or not a specific laboratory or study is in compliance with the good laboratory practice standards. In exceptional situations, in which the requesting party can justify a special concern, the other party may invite, with the consent of the sponsor, the test facility, and the competent authorities, a scientist of the requesting country to participate as an observer in the audit of a study. The parties recognize the need to protect the confidentiality of trade secrets and commercial information.

IV. Liaison

The parties respectively appoint the following officials to serve as liaisons for all communications regarding matters relative to this Memorandum of Understanding.

A. For the Federal Office for Foreign Economic Affairs: Through the Embassy of Switzerland, 2900 Cathedral Avenue NW., Washington, DC 20008.

On behalf of: The Federal Office for Health Affairs (currently Dr. Bertino Somaini), for serums and vaccines.

The Intercantonal Office for the Control of Medicaments (currently Director Dr. Peter Fischer), for pharmaceutical products.

B. For the Food and Drug Administration: Office of Regulatory Affairs (currently Dr. Paul D. Lepore), 5600 Fishers Lane, Rockville, MD 20857.

V. Duration

This Memorandum shall become effective on the date of the last signature and shall continue in effect unless modified by mutual written consent of the two parties. Either party may withdraw from this Memorandum by written notice to the other party.

Approved and Accepted for the Federal Office for Foreign Economic Affairs
By: s/ K. Jacobi; Title: Ambassador; Date: 29 April 1985.

Approved and Accepted for the Food and Drug Administration
By: s/ Frank E. Young; Title: Commissioner FDA; Date: April 29, 1985.

Dated: July 15, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17166 Filed 7-18-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-85-1544]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC. 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Insurance—Supplementary Loan
Office: Housing
Form Number: HUD-93201A
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit and Non-Profit Institutions
Estimated burden hours: 10
Status: Reinstatement
Contact: C. Edward Lewis, HUD, (202) 755-6223; Robert Fishman, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 25, 1985.

Dennis F. Geer, Director

Office of Information Policies and Systems.

[FR Doc. 85-17272 Filed 7-18-85; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Draft Policy Statement; Riparian Area Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability for Public Review and Comment of Draft Policy Statement on Riparian Area Management.

SUMMARY: This notice is to advise the public of the availability of a draft policy statement regarding the management of riparian areas on public lands administered by the Bureau of Land Management. Specifically, the draft statement is intended to: (1) Provide a definition for riparian areas that will apply to different geographic areas; (2) communicate the Bureau's long-term commitment to the management of riparian areas as unique public land resources; (3) recognize the function of soil, water, and vegetation as key components of riparian areas; and (4) recognize the benefits from proper management of riparian areas.

DATE: Comments received by August 30, 1985, will be considered in developing a final policy statement.

ADDRESS: Copies of the draft policy statement may be obtained by writing: Director (220), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Individuals desiring additional information may contact: Donald R. Cain (202) 653-9195, Bureau of Land Management.

Dated: July 15, 1985.

James M. Parker,

Acting Director, Bureau of Land Management.

[FR Doc. 85-17164 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-84-M

Proposed Amselco and California Gold Properties Colosseum Gold Mining and Milling Project; Final Environmental Impact Statement and Report

AGENCY: Bureau of Land Management, California Desert District.

ACTION: Notice of Availability of the Final Environmental Impact Statement and Environmental Impact Report (EIS/EIR).

SUMMARY: Pursuant to section 102(C) of the National Environmental Policy Act of 1969, a Final EIS/EIR has been prepared for the proposed Amselco Colosseum Project.

SUPPLEMENTARY INFORMATION: A Final EIS/EIR has been prepared by the BLM, in cooperation with the County of San Bernardino, California, for the Amselco Colosseum Project.

Amselco's proposed Colosseum Project would be located about 10 miles north of Interstate Highway 15 in California, about 50 miles southwest of Las Vegas. It would be in the Clark Mountain Range. The project would consist of a 60-acre open pit, 130-acre waste rock dumps, 15 acres for low grade ore storage, 275 acres for tailings disposal facility and associated areas, 16 acres for the crusher, mill, office complex, and 60 acres for roads, transmission and water lines corridors and substations. Approximately 6 million tons of material would be removed from the pit each year over the 9-year life of the project. The material would be processed at the mill site. The project is expected to yield about 750,000 ounces of gold over the 9-year period.

The Final EIS/EIR was prepared under contract by Environmental Monitoring and Services, Inc.

The Final EIS/EIR will need to be supplemented by the original Draft EIS/EIR for a complete understanding of the Amselco Project Proposal. The Final EIS/EIR will contain the following: (1.0) Summary, (2.0) Consultation and Coordination, including Draft EIS/EIR review, Public Hearing review, letter comments and responses, (3.0) Modifications and Corrections, (4.0) Appendices.

FOR FURTHER INFORMATION CONTACT: Roger Britton, Project Leader, Bureau of Land Management, Needles Resource Area, 901 3rd Street, Needles, CA 92363, telephone (619) 326-3896.

A limited number of copies of the FEIS/EIR may be obtained by contacting the Needles Resource Area at the above address.

Copies of the Final EIS/EIR may be inspected at the following locations:

Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, CA 92507

Bureau of Land Management, Needles Resource Area, 901 3rd Street, Needles, CA 92363

County of San Bernardino, Office of Planning, 3rd Floor, 385 N. Arrowhead, San Bernardino, CA 92415

Clark County Library, 1401 Flamingo Avenue, Las Vegas, NV 89101

Los Angeles City Central Library, 630 West 5th, Los Angeles, CA 90071

San Bernardino Central Library, 401 North Arrowhead, San Bernardino, CA 92415

Bureau of Land Management, Public Affairs, Interior Bldg., 18th and C Streets, NW., Washington, D.C. 20240

Bureau of Land Management, State Office, Federal Bldg., 1800 Cottage Way, Rm E-2841, Sacramento, CA 95825

DATE: The review period runs for 30 days from the date of this notice.

ADDRESS: Comments will be received during the review period. These will be used by the decision maker in preparing the Record of Decision.

Send all comments to: Roger Britton, Project Leader, Bureau of Land Management, Needles Resource Area, 901 3rd Street, Needles, CA 92363. Telephone (619) 326-3896.

Dated: July 15, 1985.

Gerald E. Hillier,

District Manager.

[FR Doc. 85-17161 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-40-M

Realty Action; Competitive Sale of Public Lands; Idaho Falls District

declared high bidder will be required to deposit a $50 non-refundable filing fee to

SE¼SW¼SW¼, N½SW¼SW¼SW¼, SE¼SW¼, N½SE¼, N½S½SE¼, W½

Exploration and Production Operations on the Upper Ouachita National

transportation strategies, and nature and location of nearshore and offshore

cooperatives intending to perform nonmember nonexempt interstate

Realty Action; Competitive Sale of Public Lands; Idaho Falls District

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action, Competitive Sale of Public Lands in Jefferson, Fremont and Teton Counties.

Competitive sale summary: Based on public support land use plans, the following lands have been examined and identified for disposal under section 203(a) of the Federal Land Policy and Management Act of 1976, for no less than the appraised fair market value (FMV):

Tract	Legal description	Acres
I-21375	T. 7 N., R. 39 E., B.M., sec. 1: SW¼SW¼.	40
I-21376	T. 6 N., R. 43 E., B.M., sec. 24: NW¼NE¼.	40
I-21371	T. 6 N., R. 33 E., B.M., sec. 2: E½SE1¼NE¼.	20

All sales will be subject to a reservation for ditches and canals, valid and existing rights and reservations of record. In addition the following reservations will be made:

I-21375: All leasable minerals. Right-of-way I-2224 for an observation well to the Bureau of Reclamation. Reservation to the U.S. for two 30 feet wide existing access roads that cross the parcel. These roads are located (1) north-south along the eastern edge of the parcel and (2) beginning at the paved road, midway on the southern boundary and running in a northwesterly direction to the northwest corner of the parcel.

I-21376: All leasable minerals. The successful bidder agrees to take the real estate subject to the existing grazing use of Potter Enterprizes, c/o David L. Nissen, holder of grazing authorization No. 3799. The rights of Potter Enterprizes to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. 3799 shall cease on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from Potter Enterprizes in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the Federal Register.

I-21371: Oil and gas material estates. Road right-of-way I-13423 issued to the Idaho Department of Transportation.

Sealed bids only are solicited for each tract offered. Acceptable bids must meet the FMV or higher and include a deposit of 30 percent of the full price bid. In addition, a bid will constitute an application for conveyance of all minerals except those reserved. The declared high bidder will be required to deposit a $50 non-refundable filing fee to process the conveyance. Failure to do so will result in disqualification as high bidder. Fair market value appraisals will be available after August 23, 1985.

Upon publication in the Federal Register the tracts are segregated from all forms of appropriation under the public land laws including the mining laws, but excepting the mineral leasing laws as provided by 43 CFR 2711.1-2(a), for a period of 270 days, or until patent is issued.

DATE: *Dates and addresses:* Bids should be submitted to the District Manager, Idaho Falls District, 940 Lincoln Road, Idaho Falls, Idaho 83401 prior to the sale time. Bids will be opened on September 24, 1985, at 1 p.m. in the District Office at the above address. Any unsold parcels will be reoffered for sale beginning October 1, 1985 at 1 p.m. and continuing thereafter on October 8, 15 and 22, at 1 p.m. If no qualifying bids are received by the October 22, 1985 date, the sales will be cancelled. All bids will be opened at the Idaho Falls District Office.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning reservations, conditions, terms, appraised price, bidding procedures and other items should be obtained by contacting Scott Powers, realty specialist at the above address or by calling (208) 529-1020 during office hours.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the day of this notice, interested parties may submit comments to the District Manager at ehe above address.

July 12, 1985.

O'dell A. Frandsen,

District Manager.

[FR Doc. 85-17177 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-GG-M

[N-42005]

Realty Action; Non-Competitive Lease/Sale of Public Land; Nevada

Correction

In FR Doc. 85-15974, beginning on page 27697 in the issue of Friday, July 5, 1985, the legal description under *Mount Diablo Meridian,* in the first column of page 27698, should have read:

Mount Diablo Meridian

T. 20 S., R. 60 E.,
Sec. 15, NE¼NE¼, NW¼NE¼, SW¼NE¼, W½SE¼NE¼, W½NE¼SE¼NE¼, SE¼NE¼SE¼NE¼, E½SE¼SE¼NE¼, SW¼SE¼SE¼NE¼, S½N½N½SW¼, S½N½SW¼, N½SW¼SW¼, SE¼SW¼SW¼, N½SW¼SW¼SW¼, SE¼SW¼, N½SE¼, N½S½SE¼, W½SW¼SW¼SE¼, N½S½SE¼SE¼, SE¼SW¼SE¼SE¼, SW¼SE¼SE¼SE¼.

Comprising 430 acres (gross).

BILLING CODE 1505-01-M

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement, related forms, and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau's Clearance Officer and to the Office of Management and Budget Interim Department Desk Officer, Washington, D.C. 20503, Telephone (202) 395-7340.

Title: Road Use Fee Paid Report 43 CFR 2812.0-6g

Abstract: These forms are used by timber purchasers to indicate payment of road use and maintenance fees to third parties.

Bureau Form Number: 5450-8

Frequency: Occasionally

Description of Respondents: Individuals, companies and corporations bidding on or entering into a timber sale contract with the Bureau of Land Management.

Annual Responses: 100

Annual Burden Hours: 25

Bureau Clearance Officer (alternate): Rebecca Daugherty (202) 653-8853

Dated: June 19, 1985.

Billy R. Templeton,

Acting Assistant Director.

[FR Doc. 85-17223 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Notice of Availability of the Final Environmental Assessment; Oil and Natural Gas Exploration and Production Operations on the Upper Ouachita National Wildlife Refuge, Union and Morehouse Parishes, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Environmental Assessment *"Oil and Natural Gas Exploration and Production Operations on the Upper Ouachita National Wildlife Refuge, Union and Morehouse Parishes, Louisiana",* is available for public distribution. The Service determined that the special conditions relating to the exploration and production of oil and natural gas on the refuge that are included in the Preferred Action are reasonable and necessary to minimize adverse impacts of such activities on fish and wildlife and other surface resources. These special conditions do not constitute a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969; therefore, a Finding of No Significant Impact decision was made.

DATE: The EA is available to the public.

ADDRESS: Requests for the EA should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Butts, Chief, Branch of Planning and Coordination, U.S. Fish and Wildlife Service, 75 Spring Street. SW., Atlanta, Georgia 30303; Commercial (404) 221-3543 or FTS 242-3543.

Dated: July 12, 1985.

James W. Pulliam, Jr.,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 85-17160 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf (OCS) Oil and Gas Information Program; Availability of Summary Reports and Indexes

Notice: Availability of Summary Reports and Indexes.

Summary: The OCS Information Program has published eight documents in accordance with the OCS Lands Act Amendments of 1978 and 30 CFR 252.4:

Summary Reports and Indexes

Arctic (Jan 1985)—Alaska (May 1983–Jan 1985)

Atlantic (Dec 1984)—Atlantic (Jun 1983–May 1984)

Bering Sea (Sep 1984)—Gulf of Mexico (Aug 1983–Oct 1984)

Gulf of Mexico (Jul 1984)—Pacific (Apr 1983–Oct 1984)

The Summary Reports are syntheses of recent data concerning OCS leasing activities including oil and gas resource estimates, magnitude and timing of offshore development, oil and gas transportation strategies, and nature and location of nearshore and offshore facilities.

The Indexes present detailed information on (1) OCS minerals leasing activities; (2) the 5-year OCS oil and gas leasing schedule process; (3) four programs that generate, review, or report OCS-related data used on a continuous basis from prelease activities up through post-lease activities (those programs are the Minerals Management Service's geological and geophysical surveys and analyses, the Regional Technical Working Group, the Environmental Studies Program, and the OCS Oil and Gas Information Program); and (4) listings of Federal and State agencies involved in the OCS leasing process and a list of Federal depository libraries.

The next revisions of the Arctic, Bering Sea, and Gulf of Alaska Summary Reports will be combined and published as one document called the Alaska Summary Report, with a projected publication date of March 1986. The Gulf of Mexico and Pacific Summary Reports are scheduled for publication in July 1985 and September 1985, respectively.

Note: The OCS Information Program has moved to a new location, the new address and phone number are listed below.

Addresses: Copies of the documents may be obtained free of charge from the OCS Information Program, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, telephone (703) 285-2285.

For further information contact: William S. Cook, Chief, OCS Information Program, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, telephone (703) 285-2285.

Dated: July 11, 1985.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 85-17220 Filed 7-18-85; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperatives; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: July 16, 1985.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

*(1) Dawn Transport, Inc.

(2) 117 W. San Ysidra Blvd. CFP #13, San Ysidro, CA 92073.

(3) 1590 Reforma Ave., Mexicali Baja, CA.

(4) H. Jackson, 117 W. San Ysidro Blvd. CFP #13, San Ysidro, CA 92073.

(1) Land O'Lakes, Inc.

(2) P.O. Box 116, Minneapolis, MN 55440.

(3) 4001 Lexington Avenue No., Arden Hills, MN 55112.

(4) Herb Sorvik, P.O. Box 116, Minneapolis, MN 55440.

(1) Northwest Agricultural Cooperative Association, Inc.

(2) P.O. Box 1, Ontario, OR 97914.

(3) 920 Southeast Ninth Ave., Ontario, OR 97914.

(4) Ted Hoots, P.O. Box 1, Ontario, OR 97914.

James H. Bayne,

Secretary.

[FR Doc. 85-17247 Filed 7-18-85; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

1. Parent Corporation—Alamo Group, 609 N. 123 Bypass, P.O. Box 549, Seguin, Texas 78156-0549.

2. Subsidiaries

Terrain King Corporation—Nevada

OEM Parts, Inc.—Texas

Mott Corporation—Illinois

Triumph Corporation—New Jersey

1. Parent corporation and address of principal office: Bechtold Excavating,

Inc.—a North Dakota corporation, Rural Route 5—Box 7, Minot, ND 58701.

(18) BFI Suburban Michigan, Inc., 2201 Hamlin Road, Utica, Michigan 48087

Also 5002 Southwest, 41st Boulevard. Gainesville, Florida 32608.

(52) Browning-Ferris Industries of New Hampshire, Inc., Post Office Box

(70) Browning-Ferris Industries of

(91) Heavy Equipment Leasing

VOL 50 ISS 139 JL 19 1985 UMI

Inc.—a North Dakota corporation, Rural Route 5—Box 7, Minot, ND 58701.

2. Wholly owned subsidiary which will participate in the operations, and State of incorporation: Low Boy Service, Inc.—a North Dakota corporation, Rural Route 5—Box 7, Minot, ND 58701.

A. Parent corporation and address of principal office: Browning-Ferris Industries, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

B. Wholly-owned subsidiaries which will participate in the operations, address of their respective principal offices, and States of Incorporation:

(1) Active Disposal Company, 32600 Five Mile Road, Livonia, Michigan 48154 (Michigan Corp.)

(2) American Waste Removal, Inc., 979 Channel Avenue, Memphis, Tennessee (Tennessee Corp.)

(3) Atkinson Enterprises, Inc., 1401 Newman Street, Indianapolis, Indiana 46201 (Indiana Corp.)

(4) Beach Disposal, Inc., Route 34, Box 501, Pine Ridge Road, Fort Meyers Beach, Florida 33931 (Florida Corp.)

(5) BFI Acquisition, Inc., 14701 St. Mary's, Houston, Texas 77079 (Delaware Corp.)

(6) BFI Aviation Services, Inc., 14701 St. Mary's, Houston, Texas 77079 (Delaware Corp.)

(7) BFI Constructors, 1417 North Harper Street, Santa Ana, California 92703 (California Corp.)

(8) BFI Energy Systems, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(9) BFI Energy Systems of Bergen County, Inc., Post Office Box 3151, Houston, Texas 77253 (New Jersey Corp.)

(10) BFI Energy Systems of Boston, Inc., Post Office Box 3151, Houston, Texas 77253 (Massachusetts Corp.)

(11) BFI Energy Systems of Broward County, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(12) BFI Energy Systems of Essex County, Inc. Post Office Box 3151, Houston, Texas 77253 (New Jersey Corp.)

(13) BFI Energy Systems of Fresno, Inc., Post Office Box 3151, Houston, Texas 77253 (California Corp.)

(14)BFI Energy Systems of Hennepin County, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(15) BFI Energy Systems of Los Angeles, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(16) BFI Energy Systems of Plymouth, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(17)BFI Energy Systems of Texas, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(18) BFI Suburban Michigan, Inc., 2201 Hamlin Road, Utica, Michigan 48087 (Michigan Corp.)

(19) BFI Waste Systems, Inc., 14701 St. Mary's, Houston, Texas 77079 (Texas Corp.)

(20) BFI Waste Systems of Indiana, Inc., 10 North West Street, Crown Point, Indiana (Indiana Corp.)

(21) Black Hawk Industrial Disposal, Inc., 2135 West Bennett, Springfield, Missouri 65807 (Missouri Corp.)

(22) Browning-Ferris, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(23) Browning-Ferris, Inc., 1800 Parkway Drive, Hanover, Maryland 21076 (Maryland Corp.)

(24) Browning-Ferris Industries Chemical Services, Inc., Post Office Box 3151, Houston, Texas 77253 (Nevada Corp.)

(25) Browning-Ferris Industries Waste Control, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(26) Browning-Ferris Industries, Inc., 100 Hallet Street, Boston, Massachusetts 02124 (Massachusetts Corp.)

(27) Browning-Ferris Industries of Alabama, Inc., 3950 50th Street, SW., Birmingham, Alabama 35202 (Alabama Corp.)

Also 4649 Commercial Drive, NW., Huntsville, Alabama 35805.

Also 920 Navco Road, Mobile, Alabama 36606.

(28) Browning-Ferris Industries of Arizona, Inc., 2240 W. Shangri-la, Phoenix, Arizona 85029 (Delaware Corp.)

(29) Browning-Ferris Industries of Arkansas, Inc., 1911 West 65th Street, Little Rock, Arkansas 72209 (Arkansas Corp.)

(30) Browning-Ferris Industries of California, Inc., 55 Almaden Blvd, 4th Floor, San Jose, California 95113 (California Corp.)

(31) Browning-Ferris Industries of Central Jersey, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(32) Browning-Ferris Industries of Colorado, Inc., 5590 East 55th Avenue, Commerce City, Colorado 80022 (Colorado Corp.)

(33) Browning-Ferris Industries of Connecticut, Inc., 49 Burtville Avenue, Derby, Connecticut 06418 (Delaware Corp.)

(34) Browning-Ferris Industries of Elizabeth, N.J., Inc., Post Office Box 508, 714 Division Street, Elizabeth, New Jersey 07207 (New Jersey Corp.)

(35) Browning-Ferris Industries of Florida, Inc., Post Office Box 16966, 7580 Phillips Highway, Jacksonville, Florida 32216 (Delaware Corp.)

Also 5002 Southwest, 41st Boulevard, Gainesville, Florida 32608.

(36) Browning-Ferris Industries of Georgia, Inc., 2 Peachtree Street, NW., Atlanta, Georgia 30383 (Georgia Corp.)

(37) Browning-Ferris Industries of Hawaii, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(38) Browning-Ferris Industries of Idaho, Inc., Post Office Box 1037, 117 East 37th, Boise, Idaho 83701 (Idaho Corp.)

Also Post Office Box 985, Nampa, Idaho 83651.

(39) Browning-Ferris Industries of Illinois, Inc., 1827 Walden Office Square, Suite 107, Schaumburg, Illinois 60195 (Delaware Corp.)

(40) Browning-Ferris Industries of Indiana, Inc., Post Office Box 2269, 801 East Michigan, Evansville, Indiana 47714 (Indiana Corp.)

(41) Browning-Ferris Industries of Iowa, Inc., 4487 Delaware Street, Des Moines, Iowa 50313 (Iowa Corp.)

(42) Browning-Ferris Industries of Kansas, Inc., 3920 West Walker, Wichita, Kansas 67213 (Kansas Corp.)

(43) Browning-Ferris Industries of Kansas City, Inc., Post Office Box 15200, 3150 North 7th, Kansas City, Kansas 66115 (Missouri Corp.)

(44) Browning-Ferris Industries of Kentucky, Inc., 2605 Nonconnah Boulevard, Suite 165, Memphis, Tennessee 38132 (Delaware Corp.)

(45) Browning-Ferris Industries of Louisiana, Inc., 808 L & A Road, Metairie, Louisiana 70001–6289 (Louisiana Corp.)

(46) Browning-Ferris Industries of Louisville, Inc., Post Office Box Drawer A, Sellersburg, Indiana 47172 (Indiana Corp.)

(47) Browning-Ferris Industries of Michigan, Inc., 5400 Cogswell Road, Wayne, Michigan 48184 (Michigan Corp.)

(48) Browning-Ferris Industries of Minnesota, Inc., 9813 Flying Cloud Drive, Eden Prairie, Minnesota 55344 (Minnesota Corp.)

(49) Browning-Ferris Industries of Mississippi, Inc., Post Office Box 267, Biloxi, Mississippi 39533 (Mississippi Corp.)

Also Post Office Box 1638, 1035 Old Brandon Road, Jackson, Mississippi 39205.

(50) Browning-Ferris Industries of Montana, Inc., 1819 South Avenue West, Missoula, Montana 59870 (Nevada Corp.)

(51) Browning-Ferris Industries of Nebraska, Inc., 2121 South 24th Street, Omaha, Nebraska 68108 (Nebraska Corp.)

(52) Browning-Ferris Industries of New Hampshire, Inc., Post Office Box 466, Portsmouth, New Hampshire 02801 (New Hampshire Corp.)

(53) Browning-Ferris Industries of New Jersey, Inc., 714 Division Street, Elizabeth, New Jersey 07207 (New Jersey Corp.)

(54) Browning-Ferris Industries of North Jersey, Inc., 54 Montesano Road, Fairfield, New Jersey 07006 (New Jersey Corp.)

(55) Browning-Ferris Industries of New York, Inc., 136 Sicker Road, Latham, New York 12110 (New York Corp.)

(56) Browning-Ferris Industries of Ohio, Inc., 33 N. Wickliffe Circle, Youngstown, Ohio 44515 (Delaware Corp.)

(57) Browning-Ferris Industries of Ohio and Michigan, Inc., Post Office Box 5069, Pt. Place Station, Toledo, Ohio 43611 (Ohio Corp.)

(58) Browning-Ferris Industries of Oregon, Inc., P.O. Box 3151, Houston, Texas 77253 (Oregon Corp.)

(59) Browning-Ferris Industries of Paterson, N.J., Inc., 54 Montesano Road, Fairfield, New Jersey 07006 (New Jersey Corp.)

(60) Browning-Ferris Industries of Pennsylvania, Inc., West Noblestown Road, Post Office Box 448, Carnegie, Pennsylvania 15106 (Delaware Corp.)

(61) Browning-Ferris Industries of Puerto Rico, Inc., 65th Infantry Station, Rio Piedras, Puerto Rico 00929 (Puerto Rico Corp.)

(62) Browning-Ferris Industries of Quincy, Illinois, Inc., Post Office Box 3124, 1704 North 24th, Quincy, Illinois 62301 (Iowa Corp.)

(63) Browning-Ferris Industries of Rochester, Inc., 2117 Marion road, SE., Rochester, Minnesota 55901 (Minnesota Corp.)

(64) Browning-Ferris Industries of South Jersey, Inc., Cranbury Station Road, Post Office Box 437, Cranbury, New Jersey 08512 (New Jersey Corp.)

(65) Browning-Ferris Industries of South Atlantic, Inc., 2605 Nonconnah Boulevard, Suite 105, Memphis, Tennessee 38132 (North Carolina Corp.)

(66) Browning-Ferris Industries of Springfield, Inc., 2115 West Bennett, Springfield, Missouri 65807 (Missouri Corp.)

(67) Browning-Ferris Industries of St. Louis, Inc., 11506 Bowling Green, Creve Coeur, Missouri 63141 (Delaware Corp.)

(68) Browning-Ferris Industries of Staten Island, Inc., Post Office Box 3151, Houston, Texas 77253 (New York Corp.)

(69) Browning-Ferris Industries of Tennessee, Inc., 530 Gay Street, c/o CT Corporation System, Knoxville, Tennessee 37902 (Tennessee Corp.)

(70) Browning-Ferris Industries of Utah, Inc., Post Office Box 26333, Salt Lake City, Utah 84125 (Utah Corp.)

(71) Browning-Ferris Industries of Vermont, Inc., Post Office Box 121, Springfield, Vermont 05156 (Vermont Corp.)

(72) Browning-Ferris Industries of Washington, Inc., Post Office Box 3151, Houston, Texas 77253 (Washington Corp.)

(73) Browning-Ferris Industries of West Virginia, Inc., 97 10th Street, Fairmount, West Virginia 26554 (Delaware Corp.)

(74) Browning-Ferris Industries of Wisconsin, Inc., 3083 Highway MM, Madison, Wisconsin 53711 (Wisconsin Corp.)

(75) Browning-Ferris Industries of Wyoming, Inc., Post Office Box 3151, Houston, Texas 77253 (Wyoming Corp.)

(76) Browning-Ferris Services, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(77) Captiva Disposal, Inc., Route 34, Box 501, Pine Ridge Road, Ft. Meyers Beach, Florida 33931 (Florida Corp.)

(78) Cardinal Land Corp., 32600 Five Mile Road, Livonia, Michigan 48154 (Michigan Corp.)

(79) CECOS Environmental, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (Texas Corp.)

(80) CECOS International, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(81) CECOS Environmental, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(82) CECOS Treatment Corporation, 51 Broderick Road, Bristol, Connecticut 06010 (Connecticut Corp.)

(83) Comet Enterprises, Inc., Post Office Box 3151, Houston, Texas 77253 (Ohio Corp.)

(84) Dallas Refuse Service, Inc., 2617 Willowbrook Road, Dallas, Texas 7520 (Texas Corp.)

(85) Disposal Specialists, Inc., Post Office Box 121, Springfield, Vermont 05156 (Vermont Corp.)

(86) Dooley Equipment Corporation, 164 Market Street, Brighton, Massachusetts 02135 (Massachusetts Corp.)

(87) Econowaste Trash Corporation, 5105 Creston Street, Tuxedo, Maryland 20781 (District of Columbia Corp.)

(88) Empire Sweeping Company, Post Office Box 7189, Sta. A, 1929 38th Street, Canton, Ohio 44705 (Ohio Corp.)

(89) Environmental Equipment Corp., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(90) ESI, Inc., Post Office Box 3151, Houston Texas 77253 (Pennsylvania Corp.)

(91) Heavy Equipment Leasing Services Co., Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(92) Highway 36 Land Development Company, 5590 East 55th Avenue, Commerce City, Colorado (Colorado Corp.)

(93) HL–NIW, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(94) Indoco, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(95) International Disposal Corp., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(96) International Disposal Corp., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)

(97) International Disposal Corp. of California, Post Office Box 1987, San Jose, California 95109 (California Corp.)

(98) International Disposal Corporation of Indiana, Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

(99) International Disposal Corporation of Kansas, Post Office Box 3151, Houston, Texas 77253 (Kansas Corp.)

(100) Isler's Refuse Service, Inc., Post Office Box R, Station C, Canton, Ohio 44708 (Ohio Corp.)

(101) Jeffco Land Reclamation Company, 8480 Tower Road, Commerce City, Colorado 80290 (Colorado Corp.)

(102) Jeffco Land Reclamation, Inc., 11506 Bowling Green, Creve Coeur, Missouri 63141 (Missouri Corp.)

(103) Joe Ball Sanitation Service, Inc., 4053 Mile Strip Road, Blasdell, New York 14219 (New York Corp.)

(104) Karas Trucking Co., Inc., 16200 Brookpark Rd., Cleveland, Ohio 44135 (Ohio Corp.)

(105) Kas-Sol Corporation, 1539 North Lincoln Avenue, Pasadena, California 91103 (California Corp.)

(106) Landfill, Inc., 8480 Tower Road, Commerce City, Colorado 80022 (Colorado Corp.)

(107) Landfill, Inc., Post Office Box 15200, Kansas City, Kansas 66115 (Missouri Corp.)

(108) Land Reclamation, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)

(109) Lanham Waste Control, Inc., 2 Peachtree Street, NW., c/o CT Corporation System, Atlanta, Georgia 30383 (Georgia Corp.)

(110) Louis Kmito & Son, Inc., 95 Liberty Street, Randolph, Massachusetts 02368 (Massachusetts Corp.)

(111) Lyon Development Company, 5380 South Milford Road, New Hudson, Michigan 48165 (Michigan Corp.)

(112) Mickey McGuire Sanitation, Inc., Post Office Box 758, Frankfort, Kentucky

(134) Rick's Repair and Mfg. Co., 2605 Nonconnah Boulevard, Suite 165,

(l) Texaco Refining and Marketing Inc. 1111 Rusk Avenue, Houston, TX

As a condition to use of this

Office of Pension and Welfare Benefit

(b) They are in the interests of the

(112) Mickey McGuire Sanitation, Inc., Post Office Box 758, Frankfort, Kentucky 40601 (Kentucky Corp.)
(113) Modern Waste Removal, Inc., 12001 Mack Avenue, Detroit, Michigan 48215 (Michigan Corp.)
(114) Multi-Packer Incorporated, 3 Baconsfield Office Park, Macon, Georgia 31211 (Georgia Corp.)
(115) National Disposal Service of Nebraska, Inc., 212 South 24th Street, Omaha, Nebraska 68108 (Nebraska Corp.)
(116) Newco Waste Systems, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)
(117) Newco Waste Systems of New Jersey, Inc., Mt. Airy Avenue, Linwood, New Jersey 08221 (New Jersey Corp.)
(118) Niagara Landfill, Inc., River Road, Tonawanda, New York 14150 (New York Corp.)
(119) Niagara Recycling, Inc., 2321 Kenmore Avenue, Buffalo, New York 14207 (New York Corp.)
(120) Niagara Sanitation Company, Inc., 262 Woodward Avenue, Kenmore, New York 14217 (New York Corp.)
(121) Northwest Sweepers, Inc., 14701 St. Mary's, Houston, Texas 77079 (Texas Corp.)
(122) Orchard Mesa Landfill, Inc., 2724 Highway 50, Grand Junction, Colorado 81503 (Colorado Corp.)
(123) Pasadena Repair Company, Inc., 1539 North Lincoln Avenue, Pasadena, California 91103 (California Corp.)
(124) Pine Bend Landfill, Inc., 2495 East 117th Street, Inner Grove Hights, Minnesota 55075 (Minnesota Corp.)
(125) Prince William Trash Service, Inc., Post Office Box 45, Manassas, Virginia 22110 (Virginia Corp.)
(126) Recra Environmental and Health Sciences, Inc., 4248 Ridge Lea Road, Amherst, New York 14226 (Tennessee Corp.)
(127) Recra Research, Inc., 4248 Ridge Lea Road, Amherst, New York 14226 (New York Corp.)
(128) Reliable Refuse Service, Inc., 2135 West Bennett, Springfield, Missouri 65807 (Missouri Corp.)
(129) Removal, Inc., Post Office Box 2348, Gardena, California 90247 (California Corp.)
(130) Residential Service, Inc., 14701 St. Mary's, Houston, Texas 77079 (Nebraska Corp.)
(131) Resource Recovery Corporation, 115 Washington Street, Holliston, Massachusetts 01746 (Massachusetts Corp.)
(132) Resource Recovery, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)
(133) RHF, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)
(134) Rick's Repair and Mfg. Co., 2605 Nonconnah Boulevard, Suite 165, Memphis, Tennessee 38132 (Missouri Corp.)
(135) River City Refuse Removal, Inc., 1102 Menomonie Street, Eua Claire, Wisconsin 54701 (Wisconsin Corp.)
(136) Rot's Disposal Service, Inc., Post Office Box 0, Downers Grove, Illinois 60515 (Illinois Corp.)
(137) RWCGP, Inc., Post Office Box 3151, Houston, Texas 77253 (Texas Corp.)
(138) Sanibel Disposal, Inc., Route 34, Box 501, Pine Ridge Road, Ft. Meyers Beach, Florida 33931 (Florida Corp.)
(139) Springfield Relay Systems, Inc., 2135 West Bennett, Springfield, Missouri 65807 (Missouri Corp.)
(140) Trans-World Hospital Consultants, Inc., 3 Baconsfield Office Park, Macon, Georgia 31211 (Georgia Corp.)
(141) Wasteco, Inc., 1600 North Lincoln Avenue, Pasadena, California 91103 (California Corp.)
(142) Waste Disposal, Inc., Post Office Box 15200, Kansas City, Kansas 66115 (Kansas Corp.)
(143) West Roxbury Crushed Stone Co., 10 Grove Street, West Roxbury, Massachusetts 02132 (Massachusetts Corp.)
(144) Westowns Disposal Systems, Inc., 2583 Bryan Evansville Road, Casper, Wyoming 82601 (Wyoming Corp.)
(145) Woodlake Sanitary Service, Inc., 9613 Flying Cloud Drive, Eden Prairie, Minnesota 55344 (Minnesota Corp.)

L. Parent corporation and address of principal office: Fabrica Industrial de Tijuana, S.A., Calle Industrial No. 102, Col. 20 de Nov., Tijuana, B.C.

2. Wholly-owned subsidary which will participate in the operation and State of incorporation: Fitsa Transportation Inc.—California.

1. The name and address of the principal office of the parent corporation are as follows: Structural Steel Services, Inc., South Industrial Park, Highway 11 South, Meridian, Mississippi 39301.

2. The names of the wholly-owned subsidary corporations who are to participate in the compensated intercorporate hauling operation and the states where they are incorporated are as follows:

T.H. Webb Construction Co., Inc.—Delaware
SSS Trucking, Inc.—Mississippi

1. Parent corporation: Texaco Inc., 2000 Westchester Avenue, White Plains, NY 10650 (Delaware)

2. Wholly-owned subsidiaries as follows:

(I) Texaco Refining and Marketing Inc., 1111 Rusk Avenue, Houston, TX 77052 (Delaware)
(II) Arbuckle Pipe Line Company, 1670 Broadway, Denver, CO 80202 (Delaware)
(III) Texaco Chemical Company, 4800 Fournace Place, Bellaire, TX 77401 (Delaware)
(IV) Wesco Pipe Line Company, 1670 Broadway, Denver, CO 80202 (Oklahoma)
(V) Texaco Trading and Transportation Inc., 1670 Broadway, Denver, CO 80202 (Delaware)
(VI) Texaco Producing Inc., 1111 Rusk Avenue, Houston, TX 77052 (Delaware)
(VII) Wes Shore Corporation, 1670 Broadway, Denver, CO 80202 (Michigan)
(VIII) The Texas Pipe Line Co., 9700 Richmond Avenue, Houston, TX 77042 (Texas)

James H. Bayne,
Secretary.

[FR Doc. 85-17246 Filed 7-18-85; 8:45 am]
BILLING CODE 7035-01-M

[Docket Nos. AB-33 and AB-35; Sub-32X and -8X]

Union Pacific Railroad Company; Discontinuance of Service Exemption; in Los Angeles County, CA; and Los Angeles and Salt Lake Railroad Company; Abandonment Exemption in Los Angeles County, CA; Exemption

The Union Pacific Railroad Company (UP) and the Los Angeles & Salt Lake Railroad Company (LASL) have filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuance of Service and Trackage Rights.* Applicants seek to discontinue service and trackage rights over a line of railroad owned by LASL and operated by UP, extending from milepost 1.76 to the end at milepost 3.10 at Pasadena, CA, a distance of approximately 1.34 miles in Los Angeles, County, CA.

Applicant has certificed (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance of trackage rights shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective August 8, 1985, (unless stayed pending reconsideration). Petitions to stay must be filed by July 29, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by August 8, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Joseph D. Anthofer, 1416 Dodge St., Omaha, NE 68179.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: July 11, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,
Secretary.

[FR Doc. 85-17248 Filed 7-18-85; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-15,919]

Health-Tex, Inc., Cowpens, SC; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 16, 1985 in response to a worker petition received on April 5, 1985 which was filed by the Amalgamated Clothing and Textile Workers Union, AFL-CIO on behalf of workers at Health-Tex, Incorporated, Cowpens, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 12th day of July 1985.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-17245 Filed 7-18-85; 8:45 am]
BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 85-124; Exemption Application No. D-5367 et al.]

Grant of Individual Exemptions; Century Graphics Corporation Thrift Retirement Plan et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 [43 FR 47713, October 17, 1978] transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Century Graphics Corporation Thrift Retirement Plan (the Plan) Located in Metairie, Louisiana

[Prohibited Transaction Exemption 85-124; Exemption Application No. D-5367]

Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loans by the Plan of amounts not to exceed 25% of its total assets to Century Graphics Corporation (the Plan Sponsor) on a recurring basis over a five-year period, provided that the terms of the loans are no less favorable to the Plan then those obtainable in an arm's-length transaction with an unrelated third party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 14, 1985 at 50 FR 20152.

Temporary Nature of Exemption: This exemption is effective for five years from the date this grant is published in the Federal Register. Subsequent to the expiration of the exemption, the Plan may hold the loans provided they were made during the five-year period.

For Further Information Contact: Ms. Linda Shore of the Department, telephone (202) 523-8196. (This is not a toll-free number.)

Haines & Dolgash, D.D.S., P.S. Profit Sharing Plan and Trust (the Profit Sharing Plan) and Pension Plan and Trust (the Pension Plan) Located in Olympia, Washington

[Prohibited Transaction Exemption 85-125; Exemption Application Nos. D-5995 and D-5996]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase by the Pension Plan of an undeveloped parcel of real property from Dr. and Mrs. Gerald Dolgash for $47,800 in cash, and the purchase of another undeveloped parcel of real property by the Pension

Plan from Dr. and Mrs. Michael Haines for $47,200 in cash, provided the

section 404(a)(1)(B) of the Act; nor does it affect the requirement of section

Fiduciary Standards, Pension and

sanctions resulting from the application of section 4975 of the Code, by reason of

New Lease. The New Lease will be for a period of five years beginning May 1,

approximately $50,000. Accordingly, Mr. Walker maintains that the Bank is

Plan from Dr. and Mrs. Michael Haines for $47,200 in cash, provided the purchase prices are not greater than the fair market values of the parcels of real property on the date of the acquisitions.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 14, 1985 at 50 FR 20153.

For Further Information Contact: Mr. Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Columbus Obstetricians & Gynecologists, Inc. Profit Sharing Plan (the Plan) Located in Columbus, Ohio

[Prohibited Transaction Exemption 85-126; Exemption Application No. D-6023]

Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan of $73,000 by the Plan to Columbus Obstetricians & Gynecologists, Inc. (the Employer), the sponsor of the Plan; and the guarantee of the proposed loan by the shareholders of the Employer, provided that the terms of the loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 14, 1985 at 50 FR 20154.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed in Washington, D.C., this 16th day of July 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-17265 Filed 7-18-85; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-5120 et al.]

Proposed Exemptions; Lesman Instrument Company Profit Sharing Plan et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Lesman Instrument Company Profit Sharing Plan (the Plan) Located in Berkeley, IL

[Application No. D-5720]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed lease (the New Lease) of a parcel of improved real property (the Property) by the Plan to the Lesman Instrument Company, the employer and sponsor of the Plan (the Employer) provided that the terms of the New Lease are at least as favorable to the Plan as those obtainable by the Plan in an arm's-length transaction with an unrelated party.

Effective Date: If the proposed exemption is granted, it will be effective on May 1, 1985.

Summary of Facts and Representations

1. The Plan is a discretionary profit-sharing plan with an estimated 15 participants and total assets of $661,413.21 as of September 30, 1983. It is represented that Mr. Robert Delacluyse (Mr. Delacluyse), as the president of the Employer which is the Plan administrator and named fiduciary in the Plan documents, has discretionary authority to make investment decisions on behalf of the Plan. It is also represented in the Trust Agreement that the Heritage Pullman Bank (the Bank) located at 1000 E. 111th St., Chicago, Illinois, has, since July 11, 1967, been the directed trustee for the Plan.

2. The Plan, on July 17, 1969, purchased from an unrelated party the Property located at 5642 St. Charles Road, Berkeley, Illinois at a cost of $65,000. Subsequently, the Plan entered into a lease (the Old Lease) with the Employer for the period between August 1, 1969 to May 31, 1974, at a rent of $40,600 payable in monthly installments of $700. Thereafter, the Plan and the Employer entered into a series of leases (the Successor Leases) of the Property from January 1, 1973 through December 31, 1984, at an increasing monthly rental rate of between $850-$1,300.[1] The Bank represents that approximately 24 percent of the Plan's assets are attributed to the Property which has been leased to the Employer.

3. It is now proposed that the Property be leased to the Employer under the New Lease. The New Lease will be for a period of five years beginning May 1, 1985 and ending April 30, 1990 with provisions for the rent to be adjusted for each of the last three years to equal the fair market appraisal of the rent as determined by Coldwell Banker Commercial Group, Inc. For the first two years of the New Lease, the rental rate will be $1,450 per month as determined on April 23, 1985, by Mr. Bruce E. Poetter, (Mr. Poetter) MAI, SRPA, the vice president and manager of Coldwell Banker Commercial Group, Inc., located at 1900 Spring Road, Suite 400, Oak Brook, Illinois and as approved by the Bank. The Employer will pay all insurance premiums, taxes, maintenance, and utilities during the term of the New Lease. The terms of the New Lease provide for eviction and confession of judgment in the event the Employer defaults. The Bank has stated its intention not to waive any rights under the default provisions of the New Lease and to commence enforcement proceedings for all legal rights of the Plan in the event a default has not been cured within two months. The Bank notes that the form of the New Lease is oriented toward the Plan as lessor and expresses its belief that the Employer is a good tenant who will pay promptly and maintain the Property. It is represented that the Employer has no current plans to move from the Property at the end of two years or at any set future time.

4. Mr. Gerald F. Walker (Mr. Walker), the trust officer for the Bank represents that the Bank will serve as the independent fiduciary for the Plan with respect to the New Lease, rather than as the directed trustee. It is also represented that since the Bank's trust department administers an estimated $94,000,000 in assets owned by approximately 350 qualified employee trusts, it is qualified to act as the fiduciary for the Plan. Mr. Walker states in the application that as of February 7, 1985, the Employer's business dealings with the Bank do not constitute a major account, the trust department's decisions are independent of other departments in the Bank, and the determinations of the trust department are not the sole decision of one individual but are subject to a monthly review procedure by a committee. The ongoing relationship between the Employer and Bank which has assets as of December 31, 1984, totalling $220,000,000 consists of (1) a line of credit of $200,000 from which in recent years the Employer has borrowed approximately $80,000; and (2) a general daily balance for the Employer of approximately $50,000. Accordingly, Mr. Walker maintains that the Bank is independent of the Employer.

Mr. Walker represents that the Bank has been advised by counsel of the duties of a fiduciary under the Act as to the format of the New Lease. Mr. Walker further represents that the Bank has, as of the proposed date of relief, accepted all duties under the Act as trustee and fiduciary with respect to the negotiation of the New Lease of the Property between the Plan and the Employer and the collection of fair market rents.

5. The Bank represents that it is in the best interest of the Plan to have a five year term on the New Lease with an escalation of the rental based on a fair market appraisal of the rent in each of the last three years. Mr. Walker states that early in 1984 the Bank initiated action either to sell the Property or to file the exemption request for the subject transaction. Because the Bank determined the New Lease was a good investment for the participants of the Plan, the Bank concurred in the exemption filing. Further, Mr. Walker represents that the trust department of the Bank has and will continue to closely monitor the marketability of the Property under review.

In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The Bank has determined that the New Lease is in the interest of and protective of the Plan and its participants and beneficiaries;

(2) Mr. Poetter has established that the rental rate of the Property under the terms of the New Lease is at least as favorable to the Plan as an arm's-length transaction with an unrelated party; and

(3) The Plan will pay no expenses relating to the Property.

For Further Information Contact: Ms. Angelena C. Le Blanc of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Wick Homes Inc. Profit Sharing Plan (the Plan) Located in Bellevue, Washington

[Application No. D-5834]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and

[1] The applicant represents that the Old Lease and the Successor Leases between the Plan and the Employer did not involve prohibited transactions because they were entered into before July 1, 1974, the date specified in the transitional rules under sections 414 and are covered by the statutory exemption provided by section 414(c)(2) of the Act until June 30, 1984. The applicant represents that within 60 days of the date of the granting of this proposed exemption, he will file the 5330 form with the Internal Revenue Service, and he will pay any excise tax due on the applicable rents received by the Plan for the period of July 1, 1984, through May 1, 1985.

the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) of $23,500 which was rejected. On July 21, 1983, the Plan sold the Property to the Employer for $25,000 in cash. decisions are Rod Altmeyer, sole shareholder of the Employer, and his

the Employer for successive terms of one year each, up to the present time. The applicant further represents that the in the interests of the plan and of its participants and beneficiaries and

Endowment for the Humanities, Administrative Services Office, Room

VOL 50 ISS 139 JL 19 1985 UMI

the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a parcel of real property by the Plan to Wick Homes, Inc. (the Employer) for $25,000, provided that the terms and conditions of sale were at least as favorable to the Plan as an arm's-length transaction with an unrelated person.

Effective Date: This proposed exemption, if granted, will be effective July 21, 1983.

Summary of Facts and Representations

1. The Plan is a profit sharing with 19 participants and total assets as of 2/28/83 of approximately $950,966. Messrs. Herbert Chaffey and Robert E. Ferguson, officers of the Employer, serve as the Plan's trustees. The Employer is a real estate development and construction firm.

2. On June 18, 1979 the Plan purchased a parcel of real property (the Property) from an unrelated party for $18,185.09. The Property, containing approximately 4.2 acres, consists of 3 undeveloped lots located on the North side of Sedgewick Road in Port Orchard, Washington. The applicant represents that the Property was purchased because it was felt to be an attractive investment. Also, the Property because of its size was eligible for the short plating process. This process allows a developer to subdivide property and develop it into residential building lots without having to go through certain administrative procedures, such as a public hearing, which would otherwise be required. The Plan, in order to market the Property, had preliminary engineering work performed on the Property and had the Property appraised. The Plan incurred costs for the engineering work and for real estate taxes on the Property amounting to $2,235.09. The Property was appraised by Mr. Tim S. Arnold of Bradley Scott, Inc., Bremerton, Washington as having a fair market value of $24,750 as of 4/20/83.

3. In the spring of 1983, the Plan decided to sell the Property. The applicant represents that the Plan decided to sell the Property because it had already had the engineering and appraisal work done to prepare the Property for short plating and because the market had begun to pick up. It was felt that the Property would be attractive to an appropriate builder or developer at this time and could be sold at a fair profit.

4. In April 1983, the Plan received an offer for the Property from Living Systems Inc., an unrelated party, for $18,950. The Plan made a counter offer of $23,500 which was rejected. On July 21, 1983, the Plan sold the Property to the Employer for $25,000 in cash.

5. The applicant represents that the sale of the Property was in the Plan's best interests because it enabled the Plan to dispose of a non-income producing asset for a profit. The applicant also represents that due to the seasonal nature of the building and real estate industries, if the Property was not sold to the Employer it was felt that the Plan would have been forced to hold the Property for another year before it could have been sold.

6. In summary, the applicant represents that the transaction satisfied the statutory criteria of section 408(a) of the Act because:

(a) It was a one time cash transaction;

(b) The Plan received an amount in excess of its appraised value;

(c) The Plan was able to dispose of a non-income producing asset for a profit: and

(d) The Plan's trustees determined that the transaction was in the best interest and protective of Plan participants and beneficaries.

For Further Information Contact: Mr. Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Altmeyer Home Stores, Inc. Employees' Profit Sharing Plan (the Plan) Located in New Kensington, Pennsylvania

[Application No. D-6056]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Plan to Altmeyer Home Stores, Inc. (the Employer), the Plan sponsor, of certain real property (the Real Property) for the cash consideration of $86,000, provided that the price paid for the Real Property is not less than its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 56 participants and total assets of $304,135 as of May 1, 1985. The trustees of the Plan responsible for the Plan's investment decisions are Rod Altmeyer, sole shareholder of the Employer, and his wife, Judith Altmeyer. The Employer is primarily engaged in the retail sale of furniture and home furnishings.

2. On January 21, 1963, the Plan purchased the Real Property from an unrelated third party for $75,000. The Real Property consists of a two-story commercial brick building, with basement and built-up roof, located in New Kensington, Pennsylvania, and is used by the Employer as its principal place of business.

3. On September 4, 1984, Richard L. Walley, IFAS, an independent appraiser located in New Kensington, Pennsylvania, placed the fair market value of the Real Property at $86,000. On May 28, 1985, Mr. Walley stated that a reappraisal of the Real Property could possibly show a decrease in the fair market value.

4. The applicant seeks an administrative exemption for the Plan to sell an administrative exemption for the Plan to sell the Real Property to the Employer for cash at $86,000, the fair market value as established by Mr. Walley on September 4, 1984. The Plan will not be required to pay any real estate commissions or fees in connection with the sale.

5. The applicant represents that if the Plan were to sell the Real Property to an unrelated third party it would not receive fair market value because of the depressed economy of the area. The independent appraiser, Mr. Walley, represents that the oversupply of buildings for sale or rent and the many vacant stores in the downtown section of New Kensington tend to depress prices. This, together with a 12.7 percent decrease in the population of New Kensington between 1970 and 1980, and the recent closings of several major employers in the area, has resulted in there being no appreciation in real estate values in the past several years, a condition likely to continue into the near future. The applicant notes that another building owned by the Plan was sold to an unrelated third party on February 20, 1985 for $42,500. That property had been appraised on November 16, 1984 at $45,000. Accordingly, the applicant concludes that the proposed transaction is the only option which would permit the Plan to receive fair market value for the Real Property. The proposed transaction would also increase the Plan's liquidity and diversification of assets, as well as provide greater return on investment.

6. The applicant represents that the Plan, following the purchase of the Real Property on January 21, 1963, leased it to the Employer for successive terms of one year each, up to the present time. The applicant further represents that the Employer has prepared Form 5330 (Return of Initial Excise Tax) with respect to the lease beyond June 30, 1984 of the Real Property, and will file this return and pay all applicable excise taxes within 60 days from the date of the grant of this exemption.[2]

7. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the sales price for the Real Property will be not less than its fair market value as determined by an independent appraiser; (c) the Plan will not incur any expenses with respect to the sale; (d) within 60 days of the granting of the proposed exemption the Employer will pay all applicable excise taxes with respect to the past leasing of the Real Property; and (e) the Plan trustees have determined that the proposed transaction is in the interests and protective of the Plan and of its participants and beneficiaries.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 16th day of July, 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-17266 Filed 7-18-85; 8:45 am]

BILLING CODE 4510-29-M

[2] The Department is expressing no opinion herein as to the applicability of section 414(c)(2) of the Act to the lease prior to June 30, 1984.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted 30 days from date of this notice.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506 (202) 786-0233 or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, D.C. 20503 (202) 395-6880.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506 (202) 786-0233 from whom copies of the form and supporting documents are available.

SUPPLEMENTARY INFORMATION:

Category: Extension of OMB Expiration Date
Title: NEH Performance Reporting Requirements
Form Number: n/a
Frequency of Collection: Varies—Occasional, Quarterly, Semi-Annually and Annual
Respondents: All NEH Grantees
Use: Provide information on project expenditures
Estimated Number of Respondents: 3,000 maximum
Estimated Hours for Respondents to Provide Information: 3

This entry is not subject to 44 U.S.C. 3504(h).

Susan Metts,

Acting Director of Administration.

[FR Doc. 85-17199 Filed 7-18-85; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Long Range Plan for NRC; Meeting

The ACRS Subcommittee on Long Range Plan for NRC will hold a meeting on August 7, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, August 7, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics under discussion are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years. The outline of a comprehensive long range plan being developed by the EDO and OPE will also be reviewed.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made to allow the necessary time during the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its

II

On December 2, 1981, the Commission

noncondensible gases. Based upon these test results, the licensee requested a permanent exemption from the

1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library,

or resign. Subsection (1) of such section provides, in effect, with certain

consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 15, 1985

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–17231 Filed 7–18–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Qualification Program for Safety-Related Equipment; Meeting

The ACRS Subcommittee on Qualification Program for Safety-Related Equipment will hold a meeting on August 6, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, August 6, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will discuss NRC Staff resolution of USI A–46, "Seismic Qualification of Equipment in Operating Plants."

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. A Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 15, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–17232 Filed 7–18–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp., et al. Crystal River Unit No. 3 Nuclear Generating Plant; Exemption

I

The Florida Power Corporation (the licensee) and eleven other co-owners are the holders of Facility Operating License No. DPR–72 which authorizes operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) at steady-state power levels not in excess of 2544 megawatts thermal. This license provides, among other things, that it is subject to all rules and regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized water reactor at the licensee's site located in Citrus County, Florida.

II

On December 2, 1981, the Commission published a revised Section 10 CFR 50.44, "Standards for Combustible Gas Control System in Light-Water-Cooled Power Reactors" (46 FR 58484). Section 10 CFR 50.44(c)(3)(iii) of the regulation requires:

> To provide improved operation capability to maintain adequate core cooling following an accident, by the end of the first scheduled outage beginning after July 1, 1982, and of sufficient duration to permit required modifications, each light-water nuclear power reactor shall be provided with high point vents for the reactor coolant system, for the reactor vessel head, and for other systems required to maintain adequate core cooling if the accumulation of noncondensible gases would cause the loss of function of these systems.

By letter dated October 12, 1982, the licensee requested an exemption from the requirement of 10 CFR 50.44(c)(3)(iii) to install a reactor vessel head vent. Installation of high point vents at the top of the hot leg U-bends and the pressurizer for CR–3 was accomplished during the 1983 refueling outage. The licensee's justification for the exemption request, contained in the licensee's letter dated January 30, 1981, was based upon the ability to perform a plant depressurization to cold shutdown (following a small-break Loss of Coolant Accident (LOCA)) "even with a gas bubble in the reactor vessel (RV) head, without interrupting natural circulation". In a letter dated April 29, 1983, the licensee committed to implementing procedures and training for use of the high point vents in venting noncondensible gases trapped in the reactor vessel head.

On July 21, 1983, the Commission issued an interim exemption to defer the implementation date for installation of a reactor vessel head vent until December 31, 1985. At that time, the Commission was unable to conclude that noncondensible gases could be safely vented by the hot leg high point vents alone. The primary reason for the Commission's conclusion was the lack of integral system test data which would demonstrate the feasibility of the proposed venting procedure. The interim exemption was granted in order to allow the licensee to perform the necessary integral system testing.

On October 22, 1984, the licensee provided the results of testing performed in the Once-Through Integral System (OTIS) test facility which was performed to demonstrate that a reactor vessel head vent is not necessary to ensure adequate core cooling in the presence of significant quantities of noncondensible gases. Based upon these test results, the licensee requested a permanent exemption from the requirement to install a reactor vessel head vent.

III

The OTIS facility is an experimental test facility at Babcock & Wilcox's (B&W's) Alliance Research Center in Alliance, Ohio. The OTIS facility was designed to evaluate the thermal/hydraulic conditions in the reactor coolant system and steam generator of a raised-loop B&W reactor, during the natural circulation phases of a small-break LOCA. The OTIS facility is a portion of the Integral Systems Test Program sponsored by the Commission, EPRI, B&W Owners Group and B&W.

The Commission has reviewed the OTIS test results and the licensee's proposed procedures and found that:

—The hot leg vent can be used to remove noncondensible gases from the reactor vessel head during a plant cooldown and depressurization without interrupting natural circulation.

—Even if noncondensible gases in the reactor vessel head expanded into the hot leg U-bend and interrupted natural circulation, feed-and-bleed cooling can be used to assure core cooling. In addition, opening of the hot leg vent will also allow the restoration of natural circulation.

—Venting procedures have been developed to limit gas expansion rates from the reactor vessel head in order to ensure that natural circulation is continuously maintained during a plant cooldown.

—Procedures would specify initiation of feed-and-bleed cooling of the core, should natural circulation become interrupted, while attempting to recover natural circulation by leaving the hot leg vents open.

—The reactor vessel head gas bubble which would remain following plant cooldown to actuation of the decay heat removal system will not interfere with core cooling. The licensee has developed various means to remove this gas bubble in the long term.

—The OTIS tests were performed in a manner which assures that the results bound the expected CR–3 plant performance.

Based on the above discussion, we conclude that an exemption to 10 CFR 50.44(c)(3)(iii) can be granted. Details of the review may be found in the Commission's related Safety Evaluation dated July 10, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River Florida.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants an exemption with respect to the requirements of 10 CFR 50.44(c)(3)(iii), as follows:

The licensee is not required to install a reactor vessel head vent at Crystal River Unit 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (50 FR 26422, June 26, 1985).

Dated at Bethesda, Maryland, this 10th day of July 1985.

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Hugh L Thompson, Jr.,

Director Division of Licensing Office of Nuclear Reactor Regulation.

[FR Doc. 85–17230 Filed 7–18–85; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–13898]

Application and Opportunity For Hearing; Amax, Inc.

July 15, 1985.

Notice Is Hereby Given that Amax, Inc. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of United States Trust Company of New York ("United States Trust") under two existing indentures and the trusteeship of United States Trust as successor trustee under three indentures of the Applicant, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify United States Trust from acting as trustee under the indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions, that a trustee under qualified indentures shall be deemed to have a conflicting interest if such trustee is trustee under other indentures under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indentures and such other indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under the indentures.

The Applicant alleges that:

(1) United States Trust, as Trustee, has entered into an Indenture, dated as of December 1, 1984 (the "1984 Indenture"), pursuant to which the Applicant's 14½% Notes, in the principal amount of $150,000,000 due December 1, 1994 were issued and outstanding. These Notes are wholly unsecured. The Notes were registered under the Securities Act of 1933 (File No. 2–94336), and the 1984 Indenture was qualified under the Act.

(2) United States Trust has agreed to act as Trustee under an Indenture, dated as of March 15, 1985 (the "1985 Indentures"), pursuant to which Senior Debt Securities of the Applicant may be issued from time to time in one or more series. If any such Senior Debt securities are issued, they will be wholly unsecured. The Senior Debt Securities were registered under the Securities Act of 1933 (File No. 2–96438) pursuant to Rule 415 thereunder, and the 1984 Indenture was qualified under the Act. As of May 23, 1985, no Senior Debt Securities of the Applicant have been issued under the 1985 Indenture. The 1984 and 1985 Indentures are hereinafter collectively the "U.S. Trust Indentures".

(3) Chase Manhattan Bank (National Association) ("Chase"), as Trustee, has entered into an Indenture, dated as of Jaunary 15, 1975 (the "1975 Indenture"), under which the Applicant's 9⅜% Sinking Fund Debentures due January 15, 2000 were issued. These Debentures are wholly unsecured. The Debentures were registered under the Securities Act of 1933 (File No. 2–52542), and the 1975 Indenture was qualified under the Act. As of May 23, 1985, $31,937,000 principal amount of the Applicant 9⅜% Sinking Fund Debentures is outstanding.

(4) Chase, as Trustee, has entered into an Indenture, dated as of December 15,

(11) Applicant has waived notice of hearing, hearing and any and all rights

Applicant states that it filed a registration statement pursuant to

[File No. 22–14001]

the protection of investors to disqualify

trustee under the Pipeline Indenture, the

VOL 50 ISS 139 JL 19 1985 UMI

(4) Chase, as Trustee, has entered into an Indenture, dated as of December 15, 1980 (the "1980 Indenture"), pursuant to which the Applicant's 14¼% Notes due December 15, 1990 were issued. These Notes are wholly unsecured. The Notes were registered under the Securities Act of 1933 (File No. 2–68391), and the 1980 Indenture was qualified under the Act. As of May 23, 1985, $150,000 principal amount of the Applicant's 14¼% Notes is outstanding; and

(5) National Bank of North America ("NBNA"), as Trustee, entered into an Indenture, dated as of March 15, 1982 (the "1982 Indenture"), under which the Applicant's Zero Coupon Notes due March 15, 1992 were issued. Chase accepted the successor trusteeship from NBNA on April 29, 1982. These Notes are wholly unsecured. The Notes were registered under the Securities Act of 1933 (File No. 2–76363), and the 1982 Indenture was qualified under the Act. As of May 23, 1985, $71,602,000 principal amount (net of unamortized discount of $128,398,000) of the Applicant's Zero Coupon Notes due March 15, 1992 was outstanding. The 1975, 1980 and 1982 Indentures are hereinafter collectively the "Chase Indentures".

(6) On May 16, 1985, Chase notified the Applicant that it had resigned as Trustee under the Chase Indentures, such resignation to be effective upon the appointment of a successor trustee and the acceptance of such appointment by such successor trustee, all as provided in the Chase Indentures. The Applicant has appointed United States Trust to act as successor Trustee under the Chase Indentures, subject to United States Trust executing an instrument accepting such appointment and the issuance of the finding sought by this Application under section 310(b)(1) of the Act.

(7) The Applicant's Indentures are wholly unsecured and rank *pari passu inter se*.

(8) The Applicant's obligation to make payments on the Notes and Senior Debt Securities issued or issuable under the U.S. Trust Indentures is not or will not be superior or inferior in right of payment to the Applicant's obligation to make payments on the Notes and Debentures issued under the Chase Indentures.

(9) The Company is not in default under any of the Indentures.

(10) Such differences as exist between the U.S. Trust Indentures and the Chase Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify United States Trust from acting as Trustee under the U.S. Trust Indentures and the Chase Indentures.

(11) Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice Is Further Given that any interested person may, not later than August 8, 1985, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–17250 Filed 7–18–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14633 (File No. 811–3929)]

DMC Corporate Dividend Fund, Inc.; Application for Order Declaring That Applicant Has Ceased To Be an Investment Company

July 15, 1985.

Notice is hereby given that DMC Corporate Dividend Fund, Inc. ("Applicant"), Ten Penn Center Plaza, Philadelphia, PA 19103, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on March 5, 1985, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the applicable provisions thereof.

Applicant states that it filed a registration statement pursuant to section 8(b) of the Act on December 28, 1983, and registered an indefinite number of shares under the Securities Act of 1933 on January 6, 1984. Applicant states in the application that it made a public offering of its securities, but determined subsequently that continuation of the public offering was inadvisable. Applicant thereafter contacted all shareholders other than its investment adviser and each shareholder voluntarily liquidated their shares.

Applicant represents that it has fewer than 100 securityholders for purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make another public offering or engage in business of any kind. Applicant represents further that it has one remaining securityholder, its investment adviser named Delaware Management Company, Inc., with common stock valued at $10,456.11. Applicant anticipates that liquidation expenses will not exceed $10,000. According to the application, Applicant is not a party to any litigation or administrative proceeding and does not intend to engage in business activities other than those necessary for the winding up of its affairs. Finally, Applicant represents that it is presently a Maryland corporation but intends to file a certificate of dissolution following deregistration.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 9, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–17254 Filed 7–18–85; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–14001]

Application and Opportunity for Hearing; Exxon Corp. and Exxon Pipeline Co.

July 15, 1985.

Notice is Hereby given that Exxon Pipeline Company ("Pipeline") and Exxon Corporation ("Exxon") have filed a joint application pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "1939 Act") for a finding that the trusteeship of Manufacturers Hanover Trust Company ("Manufacturers") under (i) an Indenture dated as of June 1, 1967 (the "Pipeline Indenture") between Pipeline and The Chase Manhattan Bank N.A. ("Chase"), (ii) an Indenture dated as of November 1, 1967 (the Exxon Indenture") between Exxon Corporation ("Exxon") and Manufacturers and (iii) an Indenture dated as of September 15, 1982 (the "Finance Indenture") between Exxon Finance N.V. ("Finance") and Manufacturers would not, despite a prior guarantee by Exxon of obligations of Pipeline under the Pipeline Indenture and the current appointment of Manufacturers as a successor trustee under the Pipeline Indenture, be so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under the Pipeline Indenture were it to continue to act as trustee under the Exxon Indenture and the Finance Indenture after such appointment as successor trustee.

Section 310(b) of the 1939 Act provides in part that if a trustee under an indenture qualified under the 1939 Act has or shall acquire any conflicting interest it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

In support of the application Pipeline and Exxon set forth the following:

(1) Pipeline had outstanding as of December 31, 1984 $8,280,000 aggregate principal amount of its 5–⅝% Guaranteed Sinking Fund Debentures due 1997 issued under the Pipeline Indenture. The Pipeline Indenture was filled by Pipeline as an exhibit to Registration No. 2–28573 under the Securities Act of 1933 (the "1933 Act") which was declared effective May 31, 1967 and was contemporaneously qualified under the 1939 Act. Pursuant to a supplemental indenture dated as of December 15, 1983, Exxon has guaranteed the due and punctual payment of the principal of and premium, if any, and interest on such debentures issued under the Pipeline Indenture.

(2) Exxon had outstanding as of December 31, 1984 $156,500,000 aggregate principal amount of its 6% Debentures due 1997 issued under the Exxon Indenture. The Exxon Indenture was filed by Exxon as an exhibit to Registration No. 2–27470 under the 1933 Act which was declared effective on October 25, 1967 and was contemporaneously qualified under the 1939 Act.

(3) Finance had outstanding as of December 31, 1984 $300,000,000 aggregate principal amount of its 11% Guaranteed Notes due 1987 and $200,000,000 aggregate principal amount of its 10–½% Guaranteed Notes due 1989, both issued under the Finance Indenture. The Finance Indenture was filed by Exxon as an exhibit to Registration No. 2–77345 under the 1933 Act which was declared effective on September 10, 1982 and was contemporaneously qualified under the 1939 Act.

(4) The Pipeline Indenture, the Exxon Indenture and the Finance Indenture each contain the provisions required by section 310(b) of the 1939 Act.

(5) Pipeline, Manufacturers and Chase intend to enter into an agreement pursuant to which Chase will resign as trustee under the Pipeline Indenture and Manufacturers will be appointed successor trustee under the Pipeline Indenture. Manufacturers would not be qualified to continue to act as trustee under the Pipeline Indenture, the Exxon Indenture and the Finance Indenture after such agreement is executed unless Manufacturers is deemed not to have such a conflict of interest by reason of a finding by the Commission after opportunity for a hearing that acting as trustee under the Pipeline Indenture, the Exxon Indenture and the Finance Indenture is not so likely to involve a material conflict of interest or for the protection of investors to disqualify Manufacturers from so acting.

(6) The obligations of Pipeline, Exxon and Finance under the Pipeline Indenture, the Exxon Indenture and the Finance Indenture are wholly unsecured and each such obligation ranks equally with the other.

(7) If Manufacturers had been named as trustee under the Pipleine Indenture when such Indenture was qualified, the Exxon Indenture and the Finance Indenture could have made reference to the Pipeline Indenture and in such event the trusteeship thereunder of Manufacturers would not have constituted a conflict under the provisions of the Exxon Indenture, the Finance Indenture, or section 310(b) of the Trust Indenture Act of 1939.

(8) Neither Pipeline, Exxon nor Finance is now in default under the Pipeline Indenture, the Exxon Indenture or the Finance Indenture, nor would the execution of the aforementioned agreement cause such a default.

(9) Such differences as exist among the Pipeline Indenture, the Exxon Indenture and the Finance Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under each such indenture after execution of the aforementioned agreement.

(10) Pipeline and Exxon waived the notice of hearing, the hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is on file in the offices of the Commission's Public Reference Section at 450 Fifth Street NW., Washington, D.C. 20549.

Notice is further given that any interested person, may not later than August 12, 1985 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. At any

time after said date, the Commission may issue an order granting the application upon such terms and

states that upon final liquidation, unamortized organization expenses and

Federated Mortgage Securities Income Fund, Federated Short-Intermediate

remaining 13% interest of Federated.) Further, Applicants state that this bond

section 17(b) of the Act. Additionally, Applicants believe that the regular

syndicate manager within 120 days following the syndicate settlement date

time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17249 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC 14631 (811-3510)]

Parkway U.S. Government Trust; Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

July 16, 1985.

Notice is hereby given that Parkway U.S. Government Trust ("Applicant"), Rodney Building, 3411 Silverside Road, Wilmington, DE 19810, registered under the Investment Company Act of 1940 as a face amount certificate company, filed an application on February 27, 1984, for an order of the Commission pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, on December 14, 1983, the trustees of Applicant executed a unanimous consent authorizing the termination of Applicant. Applicant states that as of December 29, 1983, it had 489,016 shares outstanding with an asset value of $489,016. Applicant states that on December 30, 1983, it liquidated all of its existing 55 shareholder accounts and that the total amount liquidated as of that date was $338,261.99. Applicant further states that as of January 16, 1984, the only open account of Applicant is the account of its investment adviser, Parkway Management Company ("Adviser"). Applicant states that as of January 3, 1984, it had net assets of $105,827.90 which consisted of $71,934.30 in cash, $62,053.86 in unamortized organization expenses, and accrued liabilities of $28,160.26. Applicant states that it subsequently, paid $23,064.86 in cash of the $28,160.26 in accrued liabilities, thereby reducing its cash balance to $48,869.44 and accrued liabilities to $5,095.40, but leaving its net assets unchanged. Finally, Applicant states that upon final liquidation, unamortized organization expenses and accrued liabilities were charged to capital, and the remaining cash of $43,869.44 was distributed to the Adviser, which had originally contributed $100,000 upon formation of the Trust.

Applicant represents that it does not propose to engage in any business activities other than those necessary for the winding up of its affairs, is not a party to any litigation or administrative proceeding, and has not within the past 18 months transferred any of its assets to a separate trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 9, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17251 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14632 (812-6043)]

Liberty U.S. Government Money Market Trust (Formerly AARP U.S. Government Money Market Trust) et al.; Application for Order Permitting Purchase of Fidelity Bond From Affiliate and Settlement of Any Claims Arising Therefrom

July 16, 1985.

Notice is hereby given that American Leaders Fund, Inc., Automated Cash Management Trust, Automated Government Money Trust, EGT Money Market Trust, Federated Corporate Cash Trust, Federated Exchange Fund, Ltd., Federated GNMA Trust, Federated Growth Trust, Federated High Income Securities, Inc., Federated High Yield Trust, Federated Income Trust, Federated Intermediate Government Trust, Federated Master Trust, Federated Mortgage Securities Income Fund, Federated Short-Intermediate Government Trust, Federated Short-Intermediate Municipal Trust, Federated Stock Trust, Federated Stock and Bond Fund, Inc., Federated Tax-Free Income Fund, Inc., Federated Tax-Free Trust, Fort Washington Money Market Fund, FT International Trust, Fund for U.S. Government Securities, Inc., High Yield Cash Trust, Edward D. Jones & Co. Daily Passport Cash Trust, Legg Mason Cash Reserve Trust, Liberty U.S. Government Money Market Trust, Liquid Cash Trust, Lutheran Brotherhood Fund, Inc., Lutheran Brotherhood Income Fund, Inc., Lutheran Brotherhood Money Market Fund, Lutheran Brotherhood Municipal Bond Fund, Inc., Money Market Instruments Trust, Money Market Management, Money Market Trust, Morgan Keegan Daily Cash Trust, New York Tax-Free Trust, SUTRO Money Market Fund, Tax-Free Instruments Trust, Trust for Cash Reserves, Trust for Short-Term U.S. Government Securities, Trust for U.S. Treasury Obligations, and all future investment companies (collectively, "Funds") advised or underwritten by subsidiaries or affiliates of Federated Investors, Inc. ("Federated" and together with the Funds, "Applicants"), each at 421 Seventh Avenue, Pittsburgh, PA 15219, filed an application on March 8, 1985, and an amendment thereto on June 26, 1985, for a Commission order, pursuant to section 17(b) of the Investment Company Act of 1940 ("Act"), granting an exemption from the provisions of section 17(a) of the Act to the extent necessary to allow (i) an affiliate of Applicants to provide the Funds with all or a portion of the fidelity insurance required pursuant to section 17(g) of the Act and Rule 17g-1 ("Rule") thereunder, and (ii) the Funds to accept any settlement which might arise from a claim made pursuant to that insurance. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

According to the application, since March 1980, the Funds have been joint insureds under a fidelity bond issued by The Aetna Casualty and Surety Company "(Aetna"), a subsidiary of Aetna Life and Casualty Company ("Aetna Life"). Aetna became an affiliated person (or an affiliated person of an affiliated person) of Applicants in November 1982, when Aetna Life acquired 87% of Federated. (In June 1985, Aetna Life agreed to acquire the remaining 13% interest of Federated.) Further, Applicants state that this bond was allowed to continue to its term pursuant to a no-action letter granted by the Division of Investment Management. Ref. No. 83-128-CC (Pub. Avail. Oct. 21, 1983).

Applicants state that the Rule requires the Funds to maintain fidelity insurance in excess of $31 million to cover the existing gross assets of the Funds. Applicants represent that they solicited the advice of an unaffiliated insurance broker to determine whether it would be advisable to purchase fidelity insurance from an insurer other than Aetna. According to the application, all insurers able to write all or a significant portion of the required coverage were contacted. Applicants represent that Aetna is the only insurer able to provide the entire amount of the required coverage. Applicants also represent that no combination of insurers which would exclude Aetna could provide the required amount of coverage.

Applicants submit that it is in the best interests of the Funds to continue to purchase fidelity insurance from Aetna because Aetna has (i) a sound understanding of the Funds' operations and fidelity insurance requirements and (ii) tailored the insurance to the specific needs of the Funds such as providing coverage for computer fraud. Further, Applicants represent that Aetna will not charge the Funds a higher premium for the provided coverage than it would charge funds similarly situated to the Funds for like coverage. Applicants also state that they will use other insurers in combination with Aetna if such combination would provide the best possible protection and allow the Funds to incur the lowest costs consistent with such coverage.

According to the application, in order to insure fairness and eliminate any possibility of overreaching with respect to settlement of any claims arising under an Aetna bond, the officers of each Fund would be required to report all losses covered by the bond to the board of directors ("Board") of the concerned Fund. Such Board, including the directors who are not "interested persons" of the Fund as that term is defined under the Act ("Disinterested Directors"), would, upon unanimous agreement as to the amount of the loss, submit the claim to Aetna. Applicants state that if Aetna offered to settle for less than the amount submitted, the Disinterested Directors of the concerned Fund, with the advice of their independent counsel, would determine the adequacy of any such offer, taking into consideration the requirements of section 17(b) of the Act. Additionally, Applicants believe that the regular review performed by their independent auditors provide further safeguards to insure that the requirements of section 17(b) of the Act are met.

Applicants believe that the interests of the Funds would be best served by allowing Aetna to continue to provide fidelity insurance to them by allowing the Boards to accept extra-judicial settlements of claims, without further exemptive orders, subject to the representations set forth above. On the basis of the foregoing, Applicants submit that the requested exemption is fair and reasonable, does not involve overreaching, and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 6, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17252 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22238; File No. SR-NASD-85-14]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD"), submitted on May 29, 1985, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to add Section 66 to the NASD's Uniform Practice Code, which requires the settlement of syndicate accounts by the syndicate manager within 120 days following the syndicate settlement date.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22124, June 7, 1985) and by publication in the **Federal Register** (50 FR 24853, June 13, 1985). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: July 15, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17253 Filed 7-18-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/867]

Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on August 14, 1985, in Conference Room 922, 9th Floor, AT&T Building, 1120 20th Street, NW., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group CMTT deals with the specifications to be satisfied by telecommunication systems for transmission of radio and television programs over long distances. The agenda for the meeting is as follows:

1. Review of foreign contributions to the meeting of international Study Group CMTT, Geneva, October 21-November 5, 1985;
2. Meeting strategies;
3. Trip preparations.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr.

Richard Shrum, State Department, Washington, D.C. 20520; telephone (202)

agenda will include: opening statements by the Chairman of the Committee and

Admittance of public members will be limited to the seating available. In that

Issued in Washington, D.C., on July 15, 1985.

Research and Special Programs

from the Department of Transportation's

Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632–2592.

Dated: July 1, 1985.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 85–17214 Filed 7–18–85; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/868]

Soviet and Eastern European Studies Advisory Committee; Meeting

The Department of State announces that the Soviet and Eastern European Studies Advisory Committee will meet on August 5–6, 1985 starting at 10:00 a.m. in Room 1107, Department of State, 2201 C Street NW., Washington, D.C.

The Advisory Committee will issue a call for applications for FY–86. The agenda will include: opening statements by the Chairman of the Committee and its members; oral statements by interested members of the public and receipt of written statements; interim oral/written progress reports of FY–85 grant recipients and questioning by Committee members; and within the Committee discussion, approval and recommendation for negotiation of supplementary grant agreements to FY–85 recipients and guidelines for FY–86 applications to "national organizations with an interest and expertise in conducting research and training concerning Soviet and Eastern European countries and in disseminating the results of such research."

Members of the general public may attend the meeting to make and/or submit statements, and to observe the Committee's deliberations subject to the instructions of the Chairman.

Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry must be arranged in advance of the meeting. It is required that prior to the meeting, persons who plan to attend or to make or submit statements, so advise Paul K. Cook, Executive Director, Soviet-Eastern European Studies Advisory Committee, INR, Department of State, Room 6747, Washington, D.C. 20520, (202) 653–5144. All attendees must use the C Street entrance to the building.

Dated: July 5, 1985.

Paul K. Cook,

Executive Director, Soviet and Eastern European Studies Advisory Committee.

[FR Doc. 85–17213 Filed 7–18–85; 8:45 am]

BILLING CODE 4710–32–M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q (See 14 CFR 302.1701 et seq.); Week Ended July 12, 1985.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without futher proceding.

Date filed	Docket No.	Description
July 8, 1985	43201	Tropical Airways, Inc., Larry Singh, President & Chief Executive Officer, 111–09 101st Avenue, Richmond Hill, New York 11419. Amendment to the Application of Tropical Airways, Inc. pursuant to 14 CFR 302.1701 et seq., Subpart Q submitting additional information. Conforming Applications, Motions to Modify Scope and Answers may be filed by August 5, 1985.
July 8, 1985	43250	Servicio Aereo de Honduras, S.A., c/o Philip Schleit, Esq., 1660 L Street, NW., Suite 1100, Washington, D.C. 20036. Application of Servicio Aereo de Honduras, pursuant to section 402 and § 302.1704 of Subpart Q of the Regulations for renewal of its foreign permit authorizing it to engage in foreign air transportation with respect to persons, property and mail as follows: Between a point or points in Honduras; the intermediate point Belize City, Belize; and the coterminal points Houston, Texas, New Orleans, Louisiana and New York, New York Answers may be filed by August 6, 1985.

[FR Doc. 85–17195 Filed 7–18–85; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

[Summary Notice No. PE–85–18]

Petition for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: July 29, 1985.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 15, 1985.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
24699	National Airlines, Inc. and Peninsula Seafoods, Inc..	14 CFR 91.303.	To allow petitioner to operate one Stage 1 DC–8–55 aircraft until hush kits are installed.

[FR Doc. 85–17162 Filed 7–18–85; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in June 1985. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1–Motor vehicle, 2–Rail freight, 3–Cargo vessel, 4–Cargo-only aircraft, 5–Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2709–P	DOT–E 2709	Atlas Powder Company, Dallas, TX	49 CFR 173.52, 173.93, 177.821, 177.834(L)(1), 177.835(k).	To become a party to Exemption 2709. (mode 1)
2709–P	DOT–E 2709	Trojan Corporation, Salt Lake City, UT	49 CFR 173.52, 173.93, 177.821, 177.834(L)(1), 177.835(k).	To become a party to Exemption 2709. (mode 1)
2981–P	DOT–E 2981	IRECO Incorporated, Salt Lake City, UT..	49 CFR 173.64(a), 173.93(a)	To become a party to Exemption 2981. (modes 1, 2)
4282–P	DOT–E 4282	IRECO Incorporated, Salt Lake City, UT.	49 CFR 172.101, 173.114a, 173.93(a)	To become a party to Exemption 4482. (mode 1)
4453–P	DOT–E 4453	H. L. & A. G. Balsinger, Inc., Bridgeville, PA.	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (mode 1)
4453–P	DOT–E 4453	Ren-Loi, Inc., Bridgeville, PA	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (mode 1)
4453–P	DOT–E 4453	Mountaineer Explosives, Inc., Kingwood, WV.	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (mode 1)
4453–P	DOT–E 4453	Explo, Inc., Bridgeville, PA	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (mode 1)
4719–X	DOT–E 4719	Dow Chemical U.S.A., Freeport, TX	49 CFR 173.314(c), 173.315(a)(1), 179.102–11.	To authorize shipment of certain compressed gases not listed in 49 CFR 173.314 and 173.315, in DOT Specification MC–330 and MC–331 cargo tanks or 105A300W, 112A340W, 114A340W, 106A500, 106A500X and 110A500W tank car tanks. (modes 1, 2)
5206–P	DOT–E 5206	Amos L. Dolby Company, Corsica, PA	49 CFR 173.114a	To become a party to Exemption 5206. (mode 1)
5243–P	DOT–E 5243	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.103(a), 173.66(g)(1), 177.835(g).	To become a party to Exemption 5243. (modes 1, 2, 3)
5704–P	DOT–E 5704	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.62, 173.93(e)	To become a party to Exemption 5704. (modes 1, 2, 3)
5895–X	DOT–E 5895	Explosive Technology, Inc., Fairfield, CA.	49 CFR 173.100(cc), 173.104(b), 175.3	To authorize use of non-DOT specification inner container overpacked in a DOT Specification 12H fiberboard box, or a wooden box, for shipment of class C explosives. (modes 1, 2, 3, 4)
6126–X	DOT–E 6126	Aceto Chemical Co., Inc., Flushing, NY	49 CFR 173.253(a)	To authorize shipment of chloracetyl chloride in DOT Specification 6D/2S or 2SL composite packaging. (modes 1, 3)
6126–P	DOT–E 6126	Daicel Chemical Industries, Ltd., Osaka, Japan.	49 CFR 173.253(a)	To become a party to Exemption 6126. (modes 1, 3)
6126–X	DOT–E 6126	D & O Chemicals, Inc., Fort Lee, NJ	49 CFR 173.253(a)	To authorize shipment of chloracetyl chloride in DOT Specification 6D/2S or 2SL composite packaging. (modes 1, 3)
6232–X	DOT–E 6232	U.S. Department of Defense, Washington, DC.	49 CFR 172.101, 173.102, 173.106, 173.176, 173.67, 175.3.	To authorize shipment of nonflammable and flammable gases, and flammable solid in the same outside packages. (modes 1, 3, 4)
6232–X	DOT–E 6232	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 173.102, 173.106, 173.176, 173.67, 175.3.	To authorize a magnesium fire starter to replace butane lighter to be contained in a survival vest. (modes 1, 3, 4)
6293–P	DOT–E 6293	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.21(b), 173.248	To become a party to Exemption 6293. (mode 1)
6614–P	DOT–E 6614	Bison Laboratories, Inc., Buffalo, NY	49 CFR 173.263(a)(28), 173.277(a)(6)	To become a party to Exemption 6614. (mode 1)
6759–X	DOT–E 6759	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.87, 177.835(g)(2)	To authorize transport of Class A or B explosives in an IME 22 container or compartment on the same vehicle with non-mass detonating blasting caps. (mode 1)
6759–P	DOT–E 6759	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.87, 177.835(g)(2)	To become a party to Exemption 6759. (mode 1)
6759–X	DOT–E 6759	Austin Powder Company, Cleveland, OH.	49 CFR 173.87, 177.835(g)(2)	To authorize transport of Class A or B explosives in an IME 22 container or compartment on the same vehicle with non-mass detonating blasting caps. (mode 1)
6759–X	DOT–E 6759	Atlas Powder Company, Dallas, TX	49 CFR 173.87, 177.835(g)(2)	To authorize transport of Class A or B explosives in an IME 22 container or compartment on the same vehicle with non-mass detonating blasting caps. (mode 1)
6759–X	DOT–E 6759	Mesabi Powder Company, Hibbing, MN	49 CFR 173.87, 177.835(g)(2)	To authorize transport of Class A or B explosives in an IME 22 container or compartment on the same vehicle with non-mass detonating blasting caps. (mode 1)
6762–X	DOT–E 6762	Aquaphase Laboratories, Inc., Adrian, MI.	49 CFR 173.266(b)(2), 175.3	To authorize transport of chemical kits in plastic inside bottles, packed in plastic boxes overpacked in fiberboard boxes. (modes 1, 2, 3, 4)
6762–X	DOT–E 6762	National Chemical, Atlanta, GA	49 CFR 173.266(b)(2), 175.3	To authorize transport of chemical kits in plastic inside bottles, packed in plastic boxes overpacked in fiberboard boxes. (modes 1, 2, 3, 4)
6806–P	DOT–E 6806	Stone & Webster Engineering Corporation, Boston, MA.	49 CFR 173.302(a), 175.3	To become a party to Exemption 6806. (mode 5)
6824–X	DOT–E 6824	GPS Industries, City of Industry, CA	49 CFR 173.217(a)	To authorize packagings not provided for in the Hazardous Materials Regulations, for shipment of certain oxidizing materials. (modes 1, 2, 3)
6824–X	DOT–E 6824	Bio-Lab, Incorporated, Conyers, GA	49 CFR 173.217(a)	To authorize packagings not provided for in the Hazardous Materials Regulations, for shipment of certain oxidizing materials. (modes 1, 2, 3)
7052–P	DOT–E 7052	Tracor, Inc., Austin, TX	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (modes 1, 2, 3, 4)
7052–P	DOT–E 7052	IRECO Incorporated, Salt Lake City, UT.	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (modes 1, 2, 3, 4)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7052-P	DOT-E 7052	Flow Research Corporation, Houston, TX.	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (modes 1, 2, 3, 4)
7052-P	DOT-E 7052	Micro Memory, Inc., Chatsworth, CA	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (modes 1, 2, 3, 4)
7063-X	DOT-E 7063	Twin Lake Chemical, Co., Lockport, NY	49 CFR 173.191(a)	To authorize use of a removable-head non-DOT specification polyethylene pail, for transportation of corrosive materials. (modes 1, 2, 3)
7476-X	DOT-E 7476	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.340-8(c), 178.342-5, 178.343-5.	To modify cargo tank overturn protection; to authorize an 8 inch diameter inlet and outlet valve configuration and to authorize compartmented tanks (mode 1)
7476-X	DOT-E 7476	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.340-8(c), 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of flammable, corrosive and poisonous waste materials. (mode 1)
7489-X	DOT-E 7489	Micor Company, Inc., Milwaukee, WI	49 CFR 172.312, 173.249	To authorize shipment of a corrosive liquid in specified non-DOT specification metal container having a capacity of 1 quart or less, in a DOT Specification 37A metal drum. (modes 1, 2, 3)
7616-P	DOT-E 7616	South Pacific, Transportation Company, San Francisco, CA.	49 CFR 172.204(a), 172.204(d)	To become a party to Exemption 7616. (mode 2)
7700-X	DOT-E 7700	Forest Service, U.S. Department of Agriculture, Washington, DC.	49 CFR 175.310(d)	To authorize transport of gasoline in the baggage and/or passenger compartment of helicopters. (mode 5)
7735-X	DOT-E 7735	Rheem Manufacturing Company, Edison, NJ.	49 CFR 173.119, 173.264(a), 173.272(g), 173.346, 173.358, 173.359.	To authorize manufacture, marking and sale of DOT Specification 34 containers, for shipment of flammable liquids and corrosive materials. (modes 1, 2, 3)
7754-P	DOT-E 7754	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.103(a), 173.66, 177.835(g)(2)(i).	To become a party to Exemption 7754. (mode 1)
7835-P	DOT-E 7835	Synthatron Corporation, Parsippany, NJ	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to Exemption 7835. (mode 1)
7835-P	DOT-E 7835	AGA Burdox, Inc., Cleveland OH	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to Exemption 7835. (mode 1)
7857-X	DOT-E 7857	Makhteshim Darom (Ramat Hovav) Ltd., Beer Sheva, Israel.	49 CFR 173.315	To authorize use of certain non-DOT specification portable tanks, for shipment of certain flammable gases. (modes 1, 3)
7951-P	DOT-E 7951	Beatrice Cheese, Inc., New Berlin, WI	49 CFR 173.306(b)(1), 175.3, 178.33	To become a party to Exemption 7951 (mode 1, 2, 3, 4, 5)
8016-X	DOT-E 8016	Forest Service, U.S. Department of Agriculture, Washington, DC.	49 CFR 175.3, 175.30, 175.35, 175.40, 175.75, 175.85.	To authorize transport of detonating cord and exploding bridge wire detonators in passenger-carrying aircraft and helicopters. (mode 5)
8096-X	DOT-E 8096	Pressure-Pak Container Company, Incorporated, East Hampton, CT.	49 CFR 173.302(a)(1) 175.3, 178.42	To renew and to authorize ethylene, classed as a flammable gas, as an additional commodity. (modes 1, 2, 3, 4, 5)
8196-X	DOT-E 8196	GCS Container Service SA, Chiasso, Switzerland.	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (modes 1, 2, 3)
8196-X	DOT-E 8196	Allied Chemical, Morristown, NJ	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (modes 1, 2, 3)
8196-X	DOT-E 8196	Societe Auxiliarie de Transports et d'Industries, Paris, France.	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (modes 1, 2, 3)
8196-X	DOT-E 8196	ANF-Industrie, Paris, France	49 CFR 173.119, 173.315(a)	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases. (modes 1, 2, 3)
8209-X	DOT-E 8209	Coastal Planes Airways, Incorporated, Warner Robins, GA.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (mode 4)
8228-X	DOT-E 8228	Bureau of Alcoho, Tobacco and Firearms, Washington, DC.	49 CFR 173.100(bb), 173.113(a)(1), 173.86.	To authorize transport of packages containing not in excess of 35 grams of one type of explosive material or one explosive device, not exceeding 35 grams, in a pasteboard carton packed in a DOT Specification 12H fiberboard box or a non-DOT specification corrugated fiberboard box. (mode 1)
8232-X	DOT-E 8232	ANF-Industrie, Paris, France	49 CFR 173.123(e), 173.315	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases and a flammable liquid. (modes 1, 2, 3)
8232-X	DOT-E 8232	GCS Container Service, SA, Chiasso, Switzerland.	49 CFR 173.123(a), 173.315	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases and a flammable liquid. (modes 1, 2, 3)
8232-X	DOT-E 8232	Societe Auxiliarie de Transports et d'Industries, Paris, France.	49 CFR 173.123(a), 173.315	To authorize use of a non-DOT specification portable tank, for transportation of certain compressed gases and a flammable liquid. (modes 1, 2, 3)
8397-X	DOT-E 8397	Mauser Packaging, Ltd., New York, NY	49 CFR 173.154, 173.160, 173.191, 173.217, 173.245b, 173,945, 178.16.	To authorize an additional 40 gallon capacity drum, for shipment of certain oxidizers or corrosive solids. (modes 1, 2, 3)
8445-P	DOT-E 8445	Southern Illinois University, Carbondale, IL.	49 CFR 173, Subpart D, E, F, & H	To become a party to Exemption 8445. (mode 1)
8450-P	DOT-E 8450	Atlantic Research Corporation, Camden, AR.	49 CFR 173.92	To become a party to Exemption 8450. (mode 1)
8523-X	DOT-E 8523	Dehon and Prochimac, Paris, France	49 CFR 173.304, 173.315	To authorize use of non-DOT IMCO Type 5 portable tanks, for transporation of flammable and nonflammable gases. (modes 1, 2, 3)
8554-X	DOT-E 8554	Evenson Explosives, Morris, IL	49 CFR 173.114a, 173.154, 173.93	To authorize transport of propellant explosives, blasting agents and oxidizers, in a DOT Specification MC-306, MC-307 and MC-312 cargo tank. (mode 1)
8554-P	DOT-E 8554	CTL Distribution, Inc., Mulberry, FL	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (mode 1)
8563-X	DOT-E 8563	Ashland Oil, Inc., Columbus, OH	49 CFR 173.266(e) 177.848(a)	To authorize shipment of an oxidizer and a corrosive material in compartmented DOT Specification MC-307 or MC-312 cargo tanks, with double bulkheads and completely separate loading and unloading systems. (mode 1)
8573-X	DOT-E 8573	All Pure Chemical Company, Inc., Tracy, CA.	49 CFR 173.217(a)(8)	To authorize transport of certain solid oxidizers in non-DOT specification polyethylene bottles packed in a DOT Specification 12B double-wall corrugated fiberboard box. (modes 1, 2, 3)
8573-X	DOT-E 8573	Alstar Company, Tracy, CA	49 CFR 173.217(a)(8)	To authorize transport of certain solid oxidizers in non-DOT specification polyethylene bottles packed in a DOT Specification 12B double-wall corrugated fiberboard box. (modes 1, 2, 3)
8573-X	DOT-E 8573	Hasa Chemicals, Inc., Saugus, CA	49 CFR 173.217(a)(8)	To authorize transport of certain solid oxidizers in non-DOT specification polyethylene bottles packed in a DOT Specification 12B double-wall corrugated fiberboard box. (modes 1, 2, 3)
8585-X	DOT-E 8585	Bergen Barrel and Drum Company, Kearny, NJ.	49 CFR 173.247, 173.266, 178.19, Part 173 Subpart D, Subpart F, H.	To authorize manufacture, marking and sale of non-DOT specification reusable, rotationally molded, polyethylene container, for shipment of certain corrosive, flammable, class B poisonous liquids, and oxidizer. (modes 1, 2, 3)
8621-X	DOT-E 8621	Atlantic & Gulf Stevedores of Alabama, Mobile, AL.	49 CFR 176.415(c)(2)	To authorize loading or unloading of ammonium nitrate mixtures containing more than 60% ammonium nitrate with no organic coating at a non-isolated facility. (mode 3)
8673-X	DOT-E 8673	MarkAir, Inc., Anchorage, AK	49 CFR 172.101(6)(b), 175.30	To authorize shipment of inhibited acid solution in DOT Specification 60 rubber lined portable tanks. (mode 4)
8685-P	DOT-E 8685	IRECO Incorporated, Salt Lake City, UT.	49 CFR 173.182(b)(6)(ii)	To become a party to Exemption 8685. (modes 1, 2, 3)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8691-P	DOT-E 8691	Witco Chemical Corporation, Pearsall Division, New York, NY.	49 CFR 173.333	To become a party to Exemption 8691. (modes 1, 2, 3)
8723-P	DOT-E 8723	CTL Distribution, Inc., Mulberry, FL	49 CFR 173.114a(h)(3)	To become a party to Exemption 8723. (mode 1)
8862-X	DOT-E 8862	ABERCO Inc., Seabrook, MD	49 CFR 173.119, 173.305	To authorize shipment of propylene oxide, classed as a flammable liquid, in DOT Specification 5P lagged steel drums. (mode 1)
8901-X	DOT-E 8901	Hopkins Agricultural Chem. Co., Madison, WI.	49 CFR 173.357	To authorize shipment of chloropicrin, in polyethylene bottles overpacked in non-DOT specification triple-wall, corrugated fiberboard boxes. (mode 1)
8901-X	DOT-E 8901	Soweco, Inc., Amarillo, TX	49 CFR 173.357	To authorize shipment of chloropicrin, in polyethylene bottles overpacked in non-DOT specification triple-wall, corrugated fiberboard boxes. (mode 1)
8901-X	DOT-E 8901	Great Lakes Chemical Corporation, El Dorado, AK.	49 CFR 173.357	To authorize shipment of chloropicrin, in polyethylene bottles overpacked in non-DOT specification triple-wall, corrugated fiberboard boxes. (mode 1)
8914-X	DOT-E 8914	Amerijet International, Fort Lauderdale, FL.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (mode 4)
8917-X	DOT-E 8917	Morrison-Knudsen Company, Inc., Boise, ID.	49 CFR 173.182, 178.400	To authorize transport of ammonium nitrate prills in a large, lined steel container. (modes 1, 2, 3)
8936-X	DOT-E 8936	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.357(b)(2)	To authorize shipment of a mixture containing 57% chloropicrin and 43% 1,3-dichloropropene, 1,2-dichloropropane and related hydrocarbons, respectively, by weight, in non-authorized DOT Specification 5B metal drums. (modes 1, 2, 3)
8958-P	DOT-E 8958	Track of the Wolf, Inc., Osseo, MN	49 CFR 172.101, 173.60	To become a party to Exemption 8958. (modes 1, 2)
8960-X	DOT-E 8960	Sunshine Aero Industries, Inc., Crestview, FL.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (mode 4)
8977-X	DOT-E 8977	Eurotainer, S.A Paris, France	49 CFR 173.315, 178.245	To authorize use of a non-DOT specification IMO-Type 5 portable tank, for transportation of liquefied compressed gases. (modes 1, 2, 3)
9004-X	DOT-E 9004	Metric Corporation, Tulsa, OK	49 CFR 173.119, 173.304, 173.315	To authorize manufacture, marking and sale of non-DOT specification containers, for transportation of flammable liquids and flammable gases. (mode 1)
9010-X	DOT-E 9010	United Technologies Chemical Systems, San Jose, CA.	49 CFR 173.88(e)(2)(ii), 173.92	To authorize transport of a large rocket motor with or without igniter installed and which may be in a propulsive state, or a rocket motor igniter. (mode 1)
9011-X	DOT-E 9011	Van Leer Containers, Inc., Chicago, IL	49 CFR 175.3, 178.100, 178.115, 178.116, 178.117, 178.118, 178.80, 178.81, 178.82, 178.98, 178.99.	To authorize certain DOT Specification 5, 6 and 17 series drums constructed of stainless steel, nickel or monel to be exempt from certain steel drum test requirements, for shipment of those commodities presently authorized for each drum. (modes 1, 2, 3, 4)
9023-X	DOT-E 9023	ANF-Industrie, Paris, France	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of liquefied compressed gases. (modes 1, 2, 3)
9023-X	DOT-E 9023	Eurotainer, S.A., Paris, France	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of liquefied compressed gases. (modes 1, 2, 3)
9030-X	DOT-E 9030	LND Incorporated, Oceanside, NY	49 CFR 173.302, 175.3	To authorize use of non-DOT specification, metal, single trip, inside container, for shipment of a nonflammable gase. (modes 1, 2, 3, 4, 5)
9069-X	DOT-E 9069	Ford Aerospace & Communications Corp., Palo Alto, CA.	49 CFR 172.101 Column 6(b)	To authorize shipment of four rocket motors having excess gross weight, with other authorized hazardous and nonhazardous materials. (mode 4)
9110-P	DOT-E 9110	QueNord Inc., Magog, Quebec, Canada	49 CFR 173.163	To become a party to Exemption 9110. (modes 1, 2, 3)
9330-X	DOT-E 9330	MarkAir, Inc., Anchorage, AK	49 CFR 172.101 column 6, 173.315, 175.30.	To authorize use of non-DOT specification portable tank of 1,000 to 2,200 gallon capacity, for transportation of nitrogen refrigerated liquid. (mode 4)
9401-P	DOT-E 9401	Parlefer S.A.R.L., Paris, France	49 CFR 173.315, 178.245, 178.245	To become a party to Exemption 9401. (modes 1, 2, 3)
9401-P	DOT-E 9401	ATOCHEM, Paris, France	49 CFR 173.315, 178.245, 178.245	To become a party to Exemption 9401. (modes 1, 2, 3)
9402-P	DOT-E 9402	NAACO S.A., Paris, France	49 CFR 173.315	To become a party to Exemption 9402. (modes 1, 2, 3)
9402-P	DOT-E 9402	ALGECO, Paris, France	49 CFR 173.315	To become a party to Exemption 9402. (modes 1, 2, 3)
9402-P	DOT-E 9402	Exploitation De Services Industriels ET DE Forets, Paris, France.	49 CFR 173.315	To become a party to Exemption 9402. (modes 1, 2, 3)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9283-N	DOT-E 9283	Varian Associates, Palo Alto, CA	49 CFR 173.302, 173.306(f)(3), 175.3	To authorize use of a refrigeration system and components that consists of accumulators exempt from the retest requirements prescribed in 49 CFR 173.306(e)(2). (modes 1, 2, 4, 5)
9323-N	DOT-E 9323	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.119(a)	To authorize shipment only by the U.S. Department of Defense of gasoline and JP-4 and JP-5 fuel, classed as flammable liquids, in non-DOT specification collapsible, fabric reinforced rubber drums of 500 gallon capacity. (mode 1)
9338-N	DOT-E 9338	Allied Corporation, Morristown, NJ	49 CFR 179.302(a)	To authorize use of DOT Specification 106A500X and 110A500W multi-unit tank car tanks without a gas tight valve protection housing, for transportation of a corroive material. (modes 1, 2)
9401-N	DOT-E 9401	Fauvet-Girel, St. Laurent-Blangy France	49 CFR 173.315, 178.245, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of flammable and nonflammable liquefied compressed gases. (modes 1, 2, 3)
9402-N	DOT-E 9402	Fauvet-Girel, St. Laurent-Balngy France	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of flammable and nonflammable liquefied compressed gases (modes 1, 2, 3)
9416-N	DOT-E 9416	CIBA-GEIGY Corporation, Ardsley, NY	49 CFR 173.359	To authorize shipment of organophosphorous pesticide, liquid, in a DOT Specification 12P fiberboard box containing two inside DOT Specification 2U polyethylene containers of 2-½ gallons capacity. (mode 1)
9418-N	DOT-E 9418	West Texas Fabrication, Odessa, TX	49 CFR 173.119, 173.245, 178.253	To authorize manufacture, marking and sale of non-DOT specification portable tank assemblies manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (mode 1)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof

Sunshine Act Meetings

Federal Register
Vol. 50, No. 139

Emergency Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9437-N	DOT-E 9437	Eagle Enterprises, Inc., Anchorage, AK	49 CFR 172.101(6)(b), 175.30	To authorize shipment of corrosive liquid, n.o.s. in 55 gallon capacity DOT Specification 34 polyethylene containers. (mode 4)
EE 9438-N	DOT-E 9438	U.S. Department of Defense, Alexandria, VA.	49 CFR 173.31(a)(7), 174.3	To authorize use of DOT Specification 103W tank cars, equipped with old style couplers for transportation of a flammable liquid.
EE 9447-N	DOT-E 9447	American Recovery Co., Inc., Baltimore, MD.	49 CFR 177.834(k), Part 173, Subpart D, E, F, H, Subpart K, L, M, O.	To authorize shipment of certain hazardous waste placed in compressed gas cylinders which are overpacked into intermediate containers than placed in removable head drums and completely surrounded by absorbent material. (mode 1)
EE 9451-N	DOT-E 9451	U.S. Department of Defense, Washington, DC.	49 CFR 174.101(n), 174.101(o)	To authorize use of containers equipped with tarpaulins for shipment of a class A explosive by rail. (mode 1)
EE 9452-N	DOT-E 9452	E. I. du Pont de Nemours Inc., Co., Wilmington, DE.	49 CFR 173.292, 179.200-19	To authorize the use of non-DOT specification tank cars which conform to DOT Specification 111A100WI except for certain prescribed bracket reinforcing pads, for transportation of a corrosive material. (mode 2)
EE 9453-N	DOT-E 9453	Alaska Automated Systems, Inc., Anchorage, AK.	49 CFR 172.101(6)(b), 175.30	To authorize a one-time shipment of bromotrifluoromethane in two DOT Specification 4BW500 cylinders, containing 410 pounds of gas which exceeds the weight limitations authorized for cargo aircraft. (mode 4)
EE 9454-N	DOT-E 9454	Dow Chemical Co., Midland, MI	49 CFR 173.119, 173.123, 173.245, 173.249, 173.294.	To authorize use of non-DOT specification tank cars which conform to DOT Specifications 105A300W, 111A100W1 or 111A100W6, except for certain prescribed bracket reinforcing pads, for transportation of flammable liquids, corrosive liquids, or poison B liquids. (mode 2)
EE 9455-N	DOT-E 9455	Petrochem Services, Inc., Lemont, IL	49 CFR Part 173, Subpart D, E, F, H, Subpart K, L, M, O.	To authorize shipment of certain hazardous waste materials placed in compressed gas cylinders which are overpacked in specially fabricated metal packagings. (mode 1)
EE 9457-N	DOT-E 9457	Arco Chemical Company, Philadelphia, PA.	49 CFR 173.119, 179.200-19	To authorize the use of non-DOT specification tank cars which conform to DOT Specification 111A60W1, 111A100W1 or 111A100W3, except for certain prescribed bracket reinforcing pads. (mode 2)
EE 9458-N	DOT-E 9458	Diamond Shamrock Chemicals Company, Deer Park, TX.	49 CFR	To authorize the use of non-DOT specification tank cars which conform to DOT Specifications 105A300W, 111A100W1 or 111A100W6 except for certain prescribed bracket reinforcing pads. (mode 2)
EE 9459-N	DOT-E 9459	Monsanto Company, St. Louis, MO	49 CFR 173.119, 173.190, 173.292, 179.200-19.	To authorize use of non-DOT specification tank cars which conform to DOT Specification 111A100W1 except for certain prescribed bracket reinforcing pads, for transportation of flammable liquids, flammable solids and corrosive materials. (mode 2)

Withdrawals

Application No.	Applicant	Regulations(s) affected	Nature of exemption thereof
6964-P	IRECO Incorporated, salt Lake City, UT	49 CFR 173.103(e), 173.66(g), 177.835(g)(2)(i)	To become a party to Exemption 6964. (mode 1)
8481-X	Northrop Services, Inc., Research Trangle Park, NC.	49 CFR Parts 100-199	To authorize shipment of small quantities (no greater than 100 milligrams) of various poison B liquids, flammable liquids, corroeive and ORM-A materials shipped as analytical standards when packed in specially designed packaging. (models 1, 2, 3, 4, 5)

Denials

8982-X—Request by Olin Corp., Stamford, CT to authorize shipment of calcium hypochlorite, hydrated, classed as an oxidzer in DOT Specification 56 steel portable tanks denied June 3, 1985.

9393-N—Request by Sexton Can Company, Inc., Everett, MA to manufacture, mark and sell non-DOT Specification nonreusable steel containers, patterned after DOT Specification 2Q, for shipment of (mono) chlorodifluoromethane (R-22) classed as nonflammable gas denied June 18, 1985.

Issued in Washington, DC, on July 10, 1985.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-17194 Filed 7-18-85; 8:45 am]

BILLING CODE 4910-60-M

VETERANS ADMINISTRATION

Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Geriatrics and Gerontology Advisory Committee will be held in Room 119 at the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC, on August 14 and 15, 1985. The purpose of the Geriatrics and Gerontology Advisory Committee is to advise the Administrator and the Chief Medical Director relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Education and Clinical Centers established by the Department of Medicine and Surgery.

The sessions will convene at 8:30 a.m. both days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Jacqueline Holmes, Program Assistant, Office of the Assistant Chief Medical Director for Geriatrics and Extended Care, Veterans Administration Central Office (phone 202/389-3781) prior to August 7, 1985.

Dated: July 15, 1985.

Rosa Maria Fontanez,

Committee Management Officer

[FR Doc. 85-17188 Filed 7-18-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 139
Friday, July 19, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commodity Futures Trading Commission	1-5
Equal Employment Opportunity Commission	6, 7
Federal Energy Regulatory Commission	8
Federal Reserve System	9
Legal Services Corporation	10-12

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 2, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17346 Filed 7-17-85; 3:14 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 9, 1985.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17347 Filed 7-17-85; 3:14 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 16, 1985.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17348 Filed 7-17-85; 8:45 am]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, August 23, 1985.

PLACE: 2033 K Street, NW., Washington, D.C. 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17349 Filed 7-17-85; 3:14 pm]

BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m. Friday, August 30, 1985.

PLACE: 2033 K street, NW. Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveilllance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-17350 Filed 7-17-85 3:14 p.m.]

BILLING CODE 7590-01-M

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, July 29, 1985. 2:00 p.m. eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Closed to the public.

Closed

Litigation Authorization: General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634-6748.

Dated: July 17, 1985.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued July 17, 1985.

[FR Doc. 85-17369 Filed 7-17-85; 3:51 pm]

BILLING CODE 6750-06-M

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, July 30, 1985, 9:30 AM (Eastern Time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Request for Consideration of an Opinion Letter Under the ADEA
4. Recommended 3rd Quarter Modifications to FEP Agency FY '85 Title VII and ADEA Contracts

Closed

Litigation Authorization: General Counsel Recommendations

Note. Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews,

Executive Officer, Executive Secretariat at (202) 634-6748.

Dated: July 17, 1985.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued July 17, 1985.

[FR Doc. 85-17370 Filed 7-17-85; 3:51 pm]

BILLING CODE 6750-06-M

10

LEGAL SERVICES CORPORATION

(Board of Directors—Meeting—Telephonic Conference Call)

TIME AND DATE: 2:00 p.m., July 22, 1985.

PLACE: Telephonic Conference Call.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes
   —June 27, 1985
2. Approval of Draft Minutes
   —June 27, 1985
3. Discussion of State Support Standards

CONTACT PERSON FOR MORE INFORMATION: Patricia D. Batie, Secretary, (202) 272-4040.

Dated: July 17, 1985.

Patricia D. Batie,

Secretary.

[FR Doc. 85-17371 Filed 7-17-85; 3:51 pm]

BILLING CODE 6820-35-M

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1.

14

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: July 24, 1985, at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: Certain Electrical Connectors.
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-17372 Filed 7-17-85; 3:51 pm]

BILLING CODE 7020-02-M

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634-6748.

Dated: July 17, 1985.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued July 17, 1985.

[FR Doc. 85-17369 Filed 7-17-85; 3:51 pm]

BILLING CODE 6750-06-M

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, July 30, 1985, 9:30 AM (Eastern Time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Request for Consideration of an Opinion Letter Under the ADEA
4. Recommended 3rd Quarter Modifications to FEP Agency FY '85 Title VII and ADEA Contracts

Closed

Litigation Authorization: General Counsel Recommendations

Note. Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews,

Executive Officer, Executive Secretariat at (202) 634–6748.

Dated: July 17, 1985.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued July 17, 1985.

[FR Doc. 85–17370 Filed 7–17–85; 3:51 pm]

BILLING CODE 6750–51–M

8

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 28682, July 15, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., July 17, 1985.

CHANGE IN THE MEETING: The following docket numbers have been added:

Item No., Docket No., and Company

CAG–2.—CP85–672–000, CP85–487–000 and CP85–488–000, Distrigas of Massachusetts Corporation

CI–2.—CI80–151–000, Mitchell Energy Corporation

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17291 Filed 7–17–85; 11:19 am]

BILLING CODE 6717–02–M

9

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, July 24, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

Matters to be Considered:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 16, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–17288 Filed 7–16–85; 5:10 pm]

BILLING CODE 6210–01–M

10

LEGAL SERVICES CORPORATION

(Board of Directors Meeting; Tentative Agenda)

TIME AND DATE: An executive session will be held at 8:00 p.m., Wedenesday, July 31, 1985. The public portion of the meeting will commence at 10:00 a.m., Friday, August 2, 1985, and continue until all official business is completed.

PLACE:

July 31, 1985—The Sheraton Hotel and Towers, Board Room, 255 South West Temple, Salt Lake City, Utah 84101

August 2, 1985—The Sheraton Hotel and Towers, Grand Ballroom, 255 South West Temple, Salt Lake City, Utah 84101

STATUS OF MEETING: Open [A portion of the meeting is to be closed to discuss personnel, personal, litigation, and investigatory matters under The Government in the Sunshine Act (5 U.S.C. 552b (c) (2), (6), (7), (9)(B), and (10) and 45 CFR 1622.5(a), (e), (f), (g), and (h)].

MATTERS TO BE CONSIDERED:

1. Personal and Personnel Matters (Closed)
2. Litigation and Investigation matters (closed)
3. Approval of Agenda
4. Approval of Minutes
   —June 28, 1985
5. Discussion and Action on the Recommendations of the Operations and Regulations Committee
   —45 CFR 1614 (Private Attorney Involvement)
6. Discussion and Action on the Recommendations of the Committee on Audit and Appropriations
   —Reallocation of FY '85 Funds

CONTACT PERSON FOR MORE INFORMATION: Dennis Daugherty, Executive Office, (202) 272–4040.

DATE ISSUED: July 17, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85–17319 Filed 7–17–85; 1:36 pm]

BILLING CODE 6820–35–M

11

LEGAL SERVICES CORPORATION

Committee on Audit and Appropriations

TIME AND DATE: Meeting will commence at 9:00 a.m., Thursday, August 1, 1985, and continue until all official business is completed.

PLACE: Sheraton Hotel and Towers, Grand Ballroom, 255 South West Temple, Salt Lake City, Utah 84101.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Draft Minutes
   —June 27, 1985
3. Discussion of State Support Standards
4. Reallocation of FY '85 Funds

CONTACT PERSON FOR MORE INFORMATION: Joel Thimell, Executive Office, (202) 272–4040.

DATE ISSUED: July 16, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85–17320 Filed 7–17–85; 1:36 pm]

BILLING CODE 6820–35–M

12

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting

TIME AND DATE: Meeting will commence at 1:30 p.m., Thursday, August 1, 1985, and continue until all official business is completed.

PLACE: Sheraton Hotel and Towers, Grand Ballroom, 255 South West Temple, Salt Lake City, Utah 84101.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes
   —June 27, 1985
3. Lobbying—45 CFR 1612
   —Report from the Office of the General Counsel
   —Outside witnesses
   —Public comment
4. Disallowed Questioned Costs—Instruction 83–8
   —Report from the Grants & Budget Unit, Office of Field Services
   —Report from the Audit Division
   —Report from the Office of the General Counsel
   —Public comment
5. Other Regulations Adopted after April 27, 1984.

CONTACT PERSON FOR MORE INFORMATION: Thomas A. Bovard, Office of General Counsel, (202) 272–4010.

DATE ISSUED: July 16, 1986.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85–17321 Filed 7–17–85; 1:38 pm]

BILLING CODE 6820–35–M

13

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–85–30]

TIME AND DATE: 10:00 a.m., Monday, July 22, 1985.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Investigation 701–TA–224 [Final] (Live swine and pork from Canada)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17386 Filed 7–17–85; 5:05 pm]

BILLING CODE 7020–02–M

14

UNITED STATES INTERNATIONAL TRADE COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., July 22, 1985.

CHANGES IN THE MEETING: Change of time for Commission meeting from 10:00 a.m. to 3:00 p.m.

In conformity with 19 CFR 201.37(b), Commissioners Stern, Liebeler, Eckes, Lodwick, and Rohr determined by unanimous vote that Commission business requires the change in subject matter by addition of the agenda item, affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17368 Filed 7–17–85; 3:51 pm]

BILLING CODE 7020–02–M

VOL
50

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139

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federal register

Friday
July 19, 1985

Part II

Small Business Administration

13 CFR Part 107

Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies; Proposed Rule

SMALL BUSINESS ADMINISTRATION

and Financial Reporting requirements rules relating to all aspects of

capture all the important data in a concise straightforward manner.

interpreted as applying to multiple year statements. SBA has made this change

11. Comment: SBA should define the word "delinquent."

21. Comment: Eliminate the schedule

VOL
50
ISS
139
JL
19
1985
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SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this publication, SBA is giving notice of its intention to replace Appendices A, B and C of Part 107 of its regulations (13 CFR Part 107) with Appendices I and II which deal with accounting standards and mandatory financial reporting requirements for licensed Small Business Investment Companies (SBIC's). This proposal addresses the accounting requirements of Limited Partnership Small Business Investment Companies, an area on which the current appendices are silent, and consolidates the accounting requirements of all SBIC's. The objectives of the proposed rulemaking are:

1. To reduce the number of forms required in the annual financial report, SBA Form 468; and,

2. To provide the necessary special forms required for financial reporting of limited partnership SBIC's, thereby eliminating time-consuming modifications limited partnership SBIC's must now make to the corporate financial reporting forms currently used.

DATES: Comments must be received on or before August 19, 1985.

ADDRESS: Written comments should be directed to Mr. Thomas C. Bresnan, Staff Accountant, Small Business Administration, Office of Finance and Investment, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas C. Bresnan, Telephone: (202) 653–6782.

SUPPLEMENTARY INFORMATION: As of June 30, 1984, there were 497 corporate SBIC's, and 24 limited partnership SBIC's, a total of 521 licensees. In the February 10, 1984 Federal Register (49 FR 5230) SBA published an advanced notice of proposed rulemaking setting forth SBA's intent to revise Appendices A, B and C to Part 107 of its regulations (13 CFR 107) which deal with accounting standards and financial reporting requirements affecting all SBIC's. The following describes the major changes in the accounting standards and financial reporting requirements contemplated by SBA in the advance notice of February 10, 1984.

This proposed revision would incorporate into the SBIC Accounting and Financial Reporting requirements rules relating to all aspects of accounting and financial reporting for Limited Partnership SBIC's. Presently there is no guidance for Limited Partnership SBIC's in regard to their particular problems. Therefore, in order to comply with reporting requirements, such entities must attempt to modify corporate guidelines to accommodate partnership situations. This proposed revision would establish equity accounts for Limited Partnerships, would explain in detail the preparation of financial statements, and would discuss the regulatory concerns of Limited Partnership SBIC's. As these SBIC's are regulated by SBA, their equity accounts must be maintained in greater detail than is generally the case with unregulated partnerships.

Moreover, at this time the only annual financial report forms (SBA Form 468) available for SBIC's were designed for corporate entities, and, as such, are inappropriate for the reporting requirements of partnerships. With this proposed revision, a complete set of annual financial statements for partnerships has been designed. If adopted, the new forms would comply with the Office of Management and Budget approval requirements under the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

In addition, whereas corporate financial statements require capital stock, paid in surplus, retained earnings and taxes to be reported, the financial statements of Limited Partnership SBIC's need only account for partnership equities. Additionally, Limited Partnership SBIC's differentiate between general partner and limited partner equity interests. Finally, as Limited Partnership SBIC's are regulated investment companies, the financial statements provide for unrealized gains/losses and non-cash gains/losses. This revision accommodates all of these differences by providing annual reporting forms which take such differences into consideration.

A proposed revised annual financial statement has also been designed for corporations. Currently the annual financial statement consists of two parts and requires the submission of numerous supporting statements; the proposed revised forms have been substantially shortened and combined into a single part. The number of pages included in the proposed form has been reduced from 31 to 18. If adopted, this will be accomplished by eliminating schedules of marginal importance, combining certain statements, and generally reworking the statements to capture all the important data in a concise straightforward manner.

The applicable current form has two parts: Part I consists of Standard Financial Statements; Part II is a Management Report consisting of numerous schedules describing various aspects of the company's portfolio, funds maintained, and principal owners. A number of these required schedules have been found to be burdensome to licensees and could be easily combined with others. This proposed revision would reduce the number of different schedules significantly, and simplify the ones remaining.

Public Response to the Advanced Notice of Proposed Rulemaking

On February 10, 1984, SBA gave advance notice to the public of its intent to revise Appendices A, B and C of 13 CFR 107 which deal with accounting standards and financial reporting requirements for licensed Small Business Investment Companies; 49 FR 5230. In order to ensure that the affected members of the public were notified of the advance notice, reprints of the **Federal Register** publication, along with draft copies of the proposed SBA Form 468—SBIC Financial Statement, were mailed to all SBIC's.

In response to the advance notice SBA received eight written comments, six of which addressed a variety of substantive issues. The comments received from the American Institute of Certified Public Accountants addressed those issues of concern to member CPAs throughout the country. The comments received from the National Association of Small Business Investment Companies and the American Association of Minority Enterprise Small Business Investment Companies addressed issues of concern to all member investment companies.

The comments received and the actions taken by SBA in response to this proposed rule are as follows:

1. Comment: Specific references to the American Institute of Certified Public Accounts (AICPA) "Audits of Investment Companies" audit guide should be eliminated.

Action: Specific references will be retained to facilitate the review of the financial statements by the SBA analysts.

2. Comment: Minor change to the wording of the accountant's opinion.

Action: The requested change would clarify the wording of the opinion so that it applies only to current year statements. The wording of the advanced notice could have been interpreted as applying to multiple year statements. SBA has made this change.

3. Comment: Schedules supporting the basic financial statements should be treated as supplemental schedules by the independent accountant.

Action: In the advance notice, there was no differentiation between the basic financial statements and the supplemental schedules. All were to be subject to audit and an opinion expressed on the full package. This comment requested that the supplemental schedules be treated as such and the accountant's opinion so state.

SBA agrees with this comment and has so changed the requirement.

4. Comment: Eliminate the Uniform System of Accounts.

Action: SBA has decided to retain the Uniform System of Accounts for the following reasons: the Uniform System of Accounts imposes little burden on SBIC's; a uniform system benefits examiners in their work by increasing their productivity when performing examinations, and finally, financial analysts also find uniformity beneficial to their efficiency.

5. Comment: 301(d) subsidiaries' financial statements should be consolidated with those of the parent.

Action: There is only one case in which consolidation would be appropriate. The present system of not consolidating 301(d) subsidiaries will be continued to facilitate continuing statistical analyses.

6. Comment: Investment in 301(d) licensees should be carried at value rather than on equity.

Action: Investments in 301(d) licensees are considered in the nature of a permanent investment rather than an investment in a portfolio company. Therefore, SBA made no change.

7. Comment: Permit the benefits of loss carry-forward tax effects in determining net unrealized gains.

Action: SBA will permit the use of loss carry-forward tax benefits in the case of unrealized gains but not in the case of unrealized losses.

8. Comment: Eliminate the provision for the division of retained earnings between cash and non-cash.

Action: In order for SBA to make proper determinations as to a licensee's financial make-up as well as leverage decisions, this information is necessary.

9. Comment: Eliminate the overview.

Action: SBA has eliminated the overview.

10. Comment: The potential fees on unrealized gains should be disclosed.

Action: SBA agrees and proposes a requirement that the potential fees be disclosed in a footnote.

11. Comment: SBA should define the word "delinquent."

Action: In the proposed section of Appendix I which describes the Schedule of Investments, SBA has defined the word "delinquent" to be "any item that is 60 or more days past due."

12. Comment: SBA should have the same requirements as the SEC concerning the notification of irregularities rather than more stringent rules.

Action: SBA has made this change.

13. Comment: SBA should delete the requirement that the licensee furnish SBA a copy of reclassification and adjusting entries made by the independent accountant.

Action: The SBA examiners feel adjusting entries are necessary. The licensee will continue to furnish the SBA with a copy of the adjusting entries.

14. Comment: The memorandum accounts should be a matter of a footnote by the management.

Action: SBA has made this change.

15. Comment: Special reports by the independent accountant or other outside consultants should be eliminated or limited.

Action: SBA will require reports only if the report involves the financial aspects of a portfolio company or the licensee.

16. Comment: Distributions in kind by limited partnerships should be shown only at cost.

Action: Distributions are required to be shown at both cost and value in compliance with GAAP.

17. Comment: Use the "cash basis" of accounting for SBIC limited portnerships.

Action: SBIC Partnerships are to follow GAAP and report on the accrual basis.

18. Comment: Do not require temporary declines in the value of the marketable securities of portfolio companies to reduce the retained earnings available for distributions.

Action: SBA policy is in full agreement with this comment.

19. Comment: Eliminate the schedule of delinquencies.

Action: SBA financial analysts find that the schedule of delinquencies presents information in a clear and concise manner and thereby promotes efficiency in their work. For this reason the schedule has been maintained.

20. Comment: Eliminate the requirement that all advisory directors of limited partnerships be disclosed.

Action: SBA will require disclosure of only those advisory directors that can be construed as either control persons or associates.

21. Comment: Eliminate the schedule of participations.

Action: The financial analysts feel that the schedule of participations presents information in a clear and concise manner and thereby promotes efficiency in their work. For this reason the schedule has been maintained.

22. Comment: Only Certified Public Accountants should be authorized to render opinions on the financial statements of SBIC's.

Action: This comment referred to the Comptroller General's statement on Standards for Audits of Governmental Organizations Programs, Activities, and Functions which recommended that audits of Governmental Organizations etc., be conducted by CPA's or Public Accountants licensed on or before December 31, 1970. SBA legal counsel has researched this recommendation and has concluded that it is based on GAO's desire to obtain quality auditing services. As there is no reason for believing higher quality auditing services will be provided by a Public Accountant licensed before January 1, 1971, than by Public Accountants licensed later, SBA has no basis for excluding duly licensed Public Accountants from the audit of SBIC's. Therefore, Certified Public Accountants and duly licensed Public Accountants are authorized to render opinions on the financial statements of SBIC's.

Finally, SBA inadvertently omitted a paragraph in the advance notice of proposed rulemaking which required the accountant's work papers to be available to the SBA examiners. The original paragraph has been reinserted in this proposed rule.

Compliance With Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act

This proposed rule will likely have a significant economic impact on a substantial number of small entities as it will affect the entire SBIC industry. Therefore, for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the following analysis is offered:

There are no Federal rules which duplicate, overlap or conflict with this proposed rule.

The legal basis for this proposal is in section 308(b) of the Small Business Investment Act, 15 U.S.C. 687(b). The objectives of this proposal have been indicated above.

There are no significant alternatives capable of accomplishing the objectives and/or minimizing any significant economic impact on the SBIC's.

The Proposed rule is a *nonmajor proposed* rule for purposes of E.O. 12291, for the following reasons:

In addition to the above benefits, the limited partnerships would benefit by

Distributions to stockholders or partners are permitted only to the extent that

I. Statement of Operations Realized—Partnerships

the filing with SBA by such accountant of an executed IPA Certification, CO Form 112

b. Was a trustee of any trust or executor or administrator of any estate if such trust or

The Proposed rule is a *nonmajor proposed* rule for purposes of E.O. 12291, for the following reasons:

1. It will *not* result in an annual economic effect of $100 million or more;

2. It will *not* result in a major increase in costs for consumers, individual industries, Federal, State, or local government agencies, or geographic regions;

3. It will *not* have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses in the domestic or export markets.

SBIC's range in size from very small with capital of less than $300,000 to very large licensees with capital in excess of $5,000,000. Activity ranges between relatively inactive for the smaller companies to very active for large companies. Audit fees charged by independent accountants reflect the difference in size and activity as shown by the facts in the following table.

SBIC	Total capital	Total assets	Audit fees
SBIC No. 1	$258,600	$600,000	$1,375
SBIC No. 2	500,000	900,000	2,968
SBIC No. 3	1,905,000	4,000,000	7,961
SBIC No. 4	16,383,795	65,000,000	48,971

The above table was compiled from the annual reports filed on SBA Form 468 for the year 1983.

Audit fees will vary from region to region, urban or rural, big eight firm or sole practitioner. Preparation of the SBA Form 468 after completion of the audit should be a relatively minor part of the audit expense if it is assumed that the independent public accountant prepared the SBA Form 468.

It is not possible, therefore, to determine an exact monetary cost or a monetary benefit to any individual SBIC. What can be determined, however, is that in the furtherance of the principles of paperwork reduction, the number of statements required to be prepared, and the amount of detailed data to be reported will be significantly reduced by adoption of this proposed rule. The number of forms to be submitted will be reduced from the current burden of 31 to a proposed number of 18—a reduction of 13, or 41% fewer forms.

The potential net benefits are not quantifiable in monetary terms due to the wide range in size and levels of activity. All SBIC's would have net benefits from each of the following changes; the few number of forms required, the smaller size of the forms, and the reduced burden of preparation.

In addition to the above benefits, the limited partnerships would benefit by reason of having forms that are designed for partnerships, and not having to manipulate corporate forms for reporting purposes. The elimination of information not required for the financial analysis and the rearrangement of the information being submitted will permit SBA analysts to do a more efficient job of reviewing the annual report, which it is hoped will result in fewer letters to the licensee from SBA requesting additional information.

There are no alternatives that could achieve the same objectives at a lower cost, or even at a higher cost.

The proposed amendment to 13 CFR 107 contains reporting and/or recordkeeping requirements and is therefore subject to the review and clearance provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The revised statements, SBA Form 468, have been submitted to the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, and are pending approval.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs/business, Small business.

Dated: June 12, 1985.

James C. Sanders,

Administrator.

Accordingly, pursuant to the authority set forth in section 301, of the Small Business Investment Act, et seq., 15 U.S.C. 683, et seq., and section 5(b)(6) of the Small Business Act, 15 U.S.C. 634 (b)(6), Appendices A, B and C of Part 107 of Title 13 Code of Federal Regulations are proposed to be amended as follows:

1. The authority cite for Part 107 continues to read as follows:

Authority: Sec. 308(c), 72 Stat. 694, as amended (15 U.S.C. 687(c); sec. 312, 76 Stat. 147 (15 U.S.C. 687d); Sec. 315, 80 Stat. 1364 (15 U.S.C. 687g).

2. 13 CFR Part 107 is amended by removing Appendices A, B and C and adding Appendices I and II to read as follows:

Appendix I—Audit Guide for SBICs and Preparation of the Annual Report

A Note of Caution to All SBICs Legal Counsel, Accountants and Tax Advisors

The appendices refer to Securities and Exchange Commission Rules and Regulations, American Institute of Certified Public Accountants' publications, and the Internal Revenue Code in various places. The references are current at this time but can be changed at some future time. It is the responsibility of the licensee and its advisors to be knowledgeable of any change and its effect on the SBIC.

Distributions to stockholders or partners are permitted only to the extent that undistributed net realized earnings exist. Under certain circumstances this could create a hardship on stockholders in Subchapter S Licensees or partners in Limited Partnership Licensees.

The Financial Statements (SBA Form 468) must be typed.

Table of Contents

I. Introduction
A. Purpose of the Guide
B. Definitions
II. Selection and Qualification of the Auditor
A. Selection of the Auditor
B. Qualification of Accountants
C. Independence
IPA Certification
Accountants Opinion
III. Scope of Audit
IV. Accounting Policies and Practices
A. General
B. Reporting Entity
1. Equity Method of Accounting for Investments in Common Stock
2. Policy on Consolidated Financial Statements
V. Reporting Requirements—General
A. Annual Financial Report
B. Reporting Irregularities
C. Regulated Investments Companies
D. Special Management Reports
E. Investment Objectives & Policies
F. Federal Income Tax Provisions Affecting Investment Accounts
G. Recordkeeping Requirements Relating to Investment Activity
H. Custody of Securities
I. Valuation of Securities
J. Audit Procedures
K. 3 Percent Cumulative Preferred Stock
L. Unrealized Gain (Loss) on Securities Held
M. Undistributed Realized Earnings
VI. Other Matters
A. Compensating Balances
B. Taxes
C. Notes and Debentures Payable to or Guaranteed by SBA
D. Licensees Regulated Under the Investment Company Act of 1940
VII. Reporting Requirements—Specifics
A. General
B. Financial Report Heading
C. Statement of Financial Position
General Discussion of Partnership Capital Accounts Regulatory Problems
Partners' Permanent Capital Contribution
Partners' Net Realized Gains and
Partners' Non-Cash Gains/Income
Partners' Unrealized Gains on Securities Held
Description by Line Item
D. Statement of Undistributed Realized Earnings
E. Statement of Operations Realized—Corporation
F. Statement of Changes in Financial Position for Corporations
G. Statement of Unrealized Gain (Loss) on Securities Held
H. Statement of Undistributed Realized Earnings (Part.)
I. Statement of Operations Realized—Partnerships
J. Statement of Change in Financial Position for Partnership
K. Statement of Unrealized Gain (Loss) on Securities Held
L. Statement of Commitments and Guarantees

I. Introduction

A. *Purpose of the Guide.* The Small Business Administration (SBA) Audit Guide has been written primarily to (1) inform the licensee and (2) assist the auditors of Small Business Investment Companies (SBICs) in performing their financial examination by focusing on matters that are unique to the SBIC program and the venture capital industry. It should be noted that this Guide is not intended to be a substitute for the accountant's judgment as to the work required to meet generally accepted auditing standards.

The report (SBA Form 468) and related schedules have been designed to provide standard reporting in such form that will insure that uniform and comparable data will be received by SBA from all licensees. The licensee is responsible for the preparation of the report. The independent public accountant is required to audit the licensees' financial statements and express an opinion.

Further discussion of specific policies will be found on pages 1–98 of Appendix II.

B. *Definitions.*

(1) "Licensee" means any corporation or limited partnership that has been licensed by the SBA as a Small Business Investment Company.

(2) "Directors" means any director of a corporation or any person performing similar functions with respect to any licensee whether incorporated or unincorporated.

(3) "Executive Officer" means the president, vice president, secretary or treasurer of the licensee or any other person who performs similar policy making functions for the licensee whether incorporated or unincorporated.

(4) "Advisory Board" means a board, whether elected or appointed, which is distinct from the board of directors or board of trustees, of the licensee, and which is composed solely of persons who do not serve such licensee in any other capacity, whether or not the functions of such board are such as to render its members "directors" within the definition of that term, which board has advisory functions as to investments but has no power to determine that any security or other investment shall be purchased or sold by such licensee.

(5) See § 107.3 for other "definition of terms."

II. Selection and Qualification of the Auditor

A. *Selection of the Auditor.* The responsibility for selecting the independent public accountant is vested in the licensee's Board of Directors/General Partner(s). Any accountant qualifying as an independent public accountant, as explained in Paragraph C, may be considered as having SBA approval to perform the annual audit (financial examination) upon selection by the Board of Directors/General Partner(s), and the filing with SBA by such accountant of an executed IPA Certification, CO Form 112 (XX–XX) certifying as to his qualification and independence, unless advised otherwise by SBA.

It is strongly recommended that the Board of Directors/General Partner(s) give thorough consideration each year to the matter of selecting the public accountant to perform that year's audit. The Board/General Partner(s) under this policy selects an accountant with whom it agrees as to the scope of the engagement and basis of compensation. Notification of the Board's selection will be furnished to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Notification to SBA is not necessary when the same accountant or accountants are retained for successive years.

B. *Qualification of Accountants.* Any public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, who is independent and who is duly authorized to practice as a public accountant, and is in good standing under the laws of the State or other comparable authority in which so authorized, may be considered qualified to render an opinion as an independent public accountant on behalf of a licensee whose office is located in such State or Authority.

C. *Independence.* Accountants approved by SBA as auditors of a licensee are to follow the code of professional ethics adopted by the American Institute of Certified Public Accountants (AICPA). In determining whether an accountant may in fact be not independent with respect to a particular licensee, SBA will give appropriate consideration to all relevant circumstances, including evidence bearing or relationships between the accountant and such licensee or any affiliate thereof.

Accordingly, an accountant or a firm of which he is a partner or shareholder shall not express an opinion or financial statements of a licensee unless he and his firm are independent with respect to such licensee. Independence will be considered to be impaired if, for example:

1. During the period of his professional engagement, or at the time of expressing his opinion he or his firm,

a. Had or was committed to acquire any direct or indirect financial interest in the licensee; or

b. Had any joint closely held business investment with the licensee or any officer, director or principal stockholder, or partner, general or limited, thereof which was material in relation to his or his firm's net worth; or

c. Had any loan to or from the licensee or any officer, director or principal stockholder thereof.

2. During the period covered by the financial statements, during the period of the professional engagement or at the time of expressing an opinion, he or his firm,

a. Was connected with the licensee as a promoter, underwriter or voting trustee, and director or officer or in any capacity equivalent to that of a member of management or of an employee; or

b. Was a trustee of any trust or executor or administrator of any estate if such trust or estate had a direct or material indirect financial interest in the licensee; or was a trustee for any pension or profit-sharing trust of the licensee.

c. The independent accountant should familiarize himself with Section 600 "Matters Relating to Independent Accountants" of the "Codification of Financial Reporting Policies" of the Securities and Exchange Commission (SEC) which the SBA follows in most matters relating to the independence of accountants.

IPA Certification

Staff Accountant,
Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416

Gentlemen: I (we) have been selected by the Board of Directors of

(Name of Licensed Small Business Investment Company

License Number ——————

(Address of Licensee's Principal Office)

License Number ——————

to conduct an annual examination of the licensee's financial statements as of ——————, 19 ——. In accordance with proviisions of Paragraph II. B of Appendix I., (Check One):

☐ Independent* Certified Public Accountant (or firm of CPAs).

☐ Independent* Licensed Public Accountant (or firm of Licensed PAs).

I certify that this accountant (or firm of public accountants) is authorized to practice in, and is in good standing under the laws of, the state or other jurisdiction in which the principal office of the Licensee is located, and accordingly, qualifies to perform the annual audit of the above named Licensee.

(Date (Signature of Individual Practitioner of Principal, if applicable)

(Date (Signature of Partner of Accounting Firm, if applicable

(Type name under which individual practitioner or accounting firm is doing business)

(Business Address) (Zip Code)

*Independent within the meaning of this term as used by the Small Business Administration. SBA will not recognize any public accountant as independent who is not in fact independent. For example, an accountant will be considered not independent with respect to any small business investment company with which he has, or has during the period covered by the audit (financial examination), and direct financial interest or any material indirect financial interest; or with which he is, or was during such period, connected as a promoter, underwriter, voting trustee, investment adviser, director, officer, or employee.

Accountants Opinion

To the Board of Directors and Shareholders
or
Company at (insert date), and the results of its operations, change in financial position, and supplementary information for the year

wholly owned management consulting subsidiary. A limited partnership licensee

Three copies of the accountant's report including the Financial Report prepared on forms constituting SBA Form 468 and

widely diversified or specialized as to industry or geographical area. In addition, the licensee may choose to be "30(d) licensee"

determined in good faith by the Board of Directors or General Partner(s).

VOL
50
ISS
139
JL
19
1985
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Accountants Opinion

To the Board of Directors and Shareholders
or
To the General Partners and Limited Partners
of
XYZ Investment Company,
A Small Business Investment Company
licensed by the SBA.

We have examined the statement of (Consolidated or combined, if applicable) financial condition of XYZ Investment Company including the portfolio of investments as of (insert date for close of fiscal period), and the related statement of operations for the year then ended, the statement of changes in financial position, and the supplementary schedules and information required by SBA Form 468. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. Securities owned at (insert date), except securities purchased but not received, were confirmed to us by the custodian (or "counted" if such was the audit procedure). As to securities purchased but not received, we requested confirmation from the (brokers/sellers as applicable), and where replies were not received, we carried out other appropriate auditing procedures.

The accompany presents its financial statements in conformity with accounting practices prescribed by the Small Business Administration, which provide for specific allocations of certain types of income to specific capital accounts. As discussed more fully in note (identify the note or notes) to the financial statements, securities amounting to $——— (——% of the net assets) have been valued at fair value as determined by the (board of directors/general partners, as applicable). We have reviewed the procedures applied by the (directors/partners) in valuing such securities and have inspected the underlying documentation; while in the circumstances the procedures appear to be reasonable and the documentation appropriate, determination involves subjective judgment which is not susceptible to substantiation by auditing procedures.

Our examination was made primarily for the purpose of formulating an opinion on the basic financial statements taken as a whole. The supplemental data contained in Schedules 1 through 7 is presented to conform with the requirements of preparing the Company's annual report to the Small Business Administration and, although not considered necessary for a fair presentation of the basic financial statements, such information has been subjected to the audit procedures applied in the examination of the basic financial statements. In our opinion, Schedules 1 through 7 are fairly stated in all material respects in relation to the basic financial statements taken as a whole.

In our opinion, subject to the possible effect on the financial statements of the valuation of securities determined by the (board of directors/general partners) as described in the preceding paragraph, the aforementioned financial statements present fairly the net assets of XYZ Investment Company at (insert date), and the results of its operations, change in financial position, and supplementary information for the year then ended, in conformity with generally accepted accounting principles, applied in a manner consistent with that of the preceding year.

We consent to the use of this opinion in connection with the filing of the report of XYZ Investment Company with the Small Business Administration on SBA Form 468.

(Signed) Independent Auditor,
Anytown, U.S.A. (Insert Date)

Note.—The accountant will comment on any other exceptions in Paragraph 2 prior to the comments on valuation.

III. Scope of Audit

The independent public accountant's audit is to be an examination of the licensee's financial statements in accordance with generally accepted auditing standards as expressed by the American Institute of Certified Public Accountants. The auditor is to make an examination of the licensee's financial statements with the view of expressing an opinion as to whether the financial statements present fairly the financial position, changes in financial position, and results of operations in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Management is responsible for the preparation of the Annual Report, SBA Form 468. The statements and supporting schedules will be the basis for the auditor's opinion. It is expected that all audit adjustments will be recorded in the licensee's records before completion of the audit report so that financial statements accompanying the report will agree with the books as adjusted as of the statement date, giving consideration to reclassifications of account balances for report purposes. If the adjustments are not so recorded on the licensee's books, a statement should be made by the independent accountant to this effect.

The independent public accountant is expected to satisfy himself as to the reasonableness of the basis used by the licensee's Board of Directors/General Partner(s) in determining the valuation of loans and investments. Accordingly, the auditor should comment in his report as to reasonableness of procedures used and adequacy of documentation.

IV. Accounting Policies and Practices

A. *General.* As a general rule, accounting policies followed by licensees are those expressed by the American Institute of CPA's as generally accepted accounting principles and practices. Certain of these principles and practices are prescribed in the AICPA's Audit Guide. The System of Accounts Classification (Appendix II) in item II identifies particular accounting policies and practices licensees are required to follow.

B. *Reporting Entity.* The auditor should bear in mind that the reporting entity being audited is the licensee. Those securities and assets that are held for investments are to be reported on the fair value basis.

A corporate licensee may hold an investment in a 301(d) licensee and/or have a wholly owned management consulting subsidiary. A limited partnership licensee may hold an investment in a 301(d) licensee and/or own 100 percent of outstanding stock of a management consulting company. Such securities would not be considered held for investment but are considered held for long-term operating purposes.

1. Equity Method of Accounting for Investments in Common Stock.

"Equity" method of accounting for investments in common stock is not to be confused with the "fair value" method of reporting portfolio securities. Under the equity method, an investor initially records an investment in the stock at cost, and adjusts the carrying amount of the investment to recognize the investor's share of the earnings or losses of the investee after the date of acquisition. The amount of the adjustment is included in the determination of net income by the investor. Dividends received from an investee reduce the carrying amount of the investment. Accounting Principles Board Opinion No. 18 issued in March 1971, by the AICPA specifically does not apply to licensees whether or not registered under the Investment Company Act of 1940, as explained in Paragraph 2 of that Opinion.

The AICPA Audit Guide states that investments in other than portfolio securities which meet the criteria of APB Opinion No. 18 should be carried on the equity basis. As applied to licensees, this would only apply to investments in Section 301(d) licensees, investments in unincorporated entities and/or management consulting investments. In those cases where a 301(d) licensee is a subsidiary of another licensee, such subsidiary should be reported as an unconsolidated subsidiary by the corporate parent licensee.

2. Policy on Consolidated Financial Statements.

Consolidated Financial Statements are to be filed with SBA only where the corporate licensee has a management consulting subsidiary. Combined Financial statements are to be filed with SBA only where the limited partnership licensee has an investment in a management company. Under SBA Regulations, management consulting companies are to be a wholly owned and are to be consolidated or combined with the licensee.

Under certain circumstances, a licensee may temporarily own more than a 50 percent equity position in a financed concern. Such investments are to be reported on the fair value basis and classified as loans and investments rather than being reported on a consolidated basis with the licensee.

V. Reporting Requirements—General

A. *Annual Financial Report.* The Small Business Administration, under authority granted by the Small Business Investment Act of 1958, as amended (1958 Act), requires licensees to have their financial statements examined annually by independent public accountants approved by SBA. The annual audit shall be performed as of the close of the licensee's fiscal year.

Three copies of the accountant's report including the Financial Report prepared on forms constituting SBA Form 468 and supporting schedules, shall be submitted to SBA by the licensee as soon as practicable after completion and no later than the last day of the third month following the close of the period covered by the audit. Attached to the inside of the back cover of each copy of the audit report should be a copy of any transmittal letter, special reports, or similar communications furnished to the licensee by the auditor. If adjusting entries are furnished to the licensee with the report, they should be submitted to SBA.

B. *Reporting Irregularities.* The independent public accountant shall promptly inform a responsible official of the licensee and the Deputy Associate Administrator for Investment, Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, concerning any apparent defalcation that may come to his attention in connection with his examination. Based on available information, he will indicate the nature and the extent of such defalcation(s). In regard to other financial or regulatory irregularities that may come to his attention in connection with his examination, the independent public accountant shall promptly inform the licensee in writing of his findings. The licensee shall, within 30 days, inform the SBA of the findings of the independent accountant and enclose a copy of the report to the SBA. The independent account shall, not later than 60 days after the date of his report to the licensee concerning the irregularities request confirmation from the SBA that the SBA has received a copy of his report to the licensee dated (insert date).

C. *Regulated Investment Companies.* Concerning licensees that are registered with the Securities and Exchange Commission, additional reports are required by SEC which are identified in Chapter 1 of the AICPA's Audit Guide. It should be noted that any report submitted by a licensee to the SEC shall also be submitted to the Investment Division Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

D. *Special Monogement Reports.* Frequently, the independent public accountant or an outside consultant will render special reports to the licensee's management concerning the financial condition or other matters on the portfolio investments of the licensee. Licensee will promptly submit to the SBA a copy of all such reports. Upon request, licensees shall submit to SBA either, the complete SBA Form 468 or a part thereof. Such reports are considered interim in that they cover less than a full year of operations and the financial report is audited by the licensee's independent accountant. Accordingly, such reports are in addition to, not in lieu of, the annual report.

E. *Investment Objectives & Policies.* The composition of a licensee's loans and investments varies from one licensee to another and reflects the licensee's policies and objectives of investing that are being followed in practice. Such objectives may emphasize equity investments, loans or a balance between loans and equity investments. The portfolio may also be widely diversified or specialized as to industry or geographical area. In addition, the licensee may choose to be "301(d) licensee" that is organized to be a profit or non-profit corporation with an investment policy limited to providing financing solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages. Such licensees were formerly designated by the acronym "MESBIC."

The basic investment objectives adopted by management can be found in the licensee's proposal to operate, as amended.

F. *Federal Income Tax Provisions Affecting Investment Accounts.* Licensees which elect to qualify as Regulated Investment Companies under Subchapter M of the Internal Revenue Code must meet the various requirements set forth therein which are summarized in Chapter 5 of the AICPA's Audit Guide. Also Item VI. B. of this Guide summarizes the special income tax provisions that may apply to licensees.

G. *Recordkeeping Requirements Relating to Investment Activity.* No specific recordkeeping system for investment activity is required other than that provided in the SBA's System of Account Classification. However, the licensee is to develop systems and maintain records sufficient to properly account for transactions and valuation of individual loans and investments.

Section 107.1002 of the SBA Rules and Regulations specifies the records and documents which must be maintained and preserved by all licensees. In addition, licensees registered under the Investment Company Act of 1940 are required to maintain and preserve those records specified in such Act and the Rules and Regulations thereunder.

H. *Custody of Securities.* A licensee's management is expected to assume responsibility for the custody of securities. Accordingly, there is to be safekeeping for securities, usually a safe deposit box at a bank or other custodian with such safekeeping facilities, and control over withdrawal of securities from safekeeping is required as specified in Section 107.1003 of the SBA Regulations.

I. *Valuation of Securities.* The general practice in the investment company industry is to disclose, in one form or another, valuation of securities at quoted market values or, in the absence of quoted values, at fair values determined by the company's Board of Directors or General Partner(s) in good faith.

Ordinarily, little difficulty should be experienced in valuing securities traded on a recognized securities exchange since the prices of transactions are published daily. If a security was traded on the valuation date, the last quoted sales price generally is used. However, if there were no sales on the exchange on the valuation date but published closing bid and asked prices are available, the valuation should be within the range of these quoted prices. Where quotations appear questionable, consideration should be given to valuing the securities at fair value as determined in good faith by the Board of Directors or General Partner(s).

Quotations are available from various sources for most unlisted securities traded regularly in the over-the-counter market. Ordinarily, quotations for an over-the-counter security should be obtained from more than one broker/dealer unless available from an established market-maker for that security. Quotations for several days should be used and the valuation should be within the range of these quotations.

The Board of Directors or General Partner(s) when valuing securities must consider the effect of factors having a bearing on the value of such securities even when they are traded on a recognized exchange where market quotations are available. Examples of such factors are a thin market, large holdings by the licensee that would adversely affect the market price if traded, or securities that are restricted.

Regarding securities that are not publicly traded, it is incumbent upon the Board of Directors or General Partner(s) to satisfy themselves that all appropriate factors relevant to the value of securities for which market quotations are not readily available have been considered and to determine the method of arriving at the fair value of each security.

To the extent considered necessary, the Board of Directors or General Partner(s) may appoint persons to assist it in the determination of such value. However, the Board of Directors or General Partner(s) must review continuously the appropriateness of the method used in valuing each loan and investment in the licensee's portfolio.

It should be noted that the investments of licensees usually are venture-type investments that complicate the determination of value. The investee, in such cases, is usually a closely, held, immature Small Business Concern whose stock is not publicly traded.

In addition, there may be weaknesses in the Concern's management. For these and other reasons, cost may be the most appropriate measure of value of venture-type securities until sufficient evidential matter is available to the licensee's Board of Directors or General Partner(s) to form a basis for valuing the securities at other than cost.

As stated in Accounting Series Release No. 118 of SEC, (404.03 Codification of Financial Reporting Policies) no single standards for determining fair value in good faith can be laid down, since fair value depends upon the circumstances of each individual case. SBA has set forth guidelines in SBA Policy and Procedural Release No. 2006 to assist the directors of licensees in valuing their securities. The auditor should satisfy himself that the valuation guidelines issued by SBA, or other reasonable methods, are used in valuing securities.

Additional guidance for the valuation of securities is given in Chapter 3 of the AICPA Audit Guide and in Accounting Series Releases 113 (404.04 Codification of Financial Reporting Policies) and 118 issued by the SEC.

J. *Audit Procedures.* The auditing procedures relating to the investment

accounts of investment companies require greater attention than those of a commercial enterprise because of the relative signficance

investment income including realized gain (loss) on securities sold.

1. Corporate Licensees—less dividend

the number or denomination of bonds, the basis and selling price, and the respective dates of purchase and sale or the reasons for

indebtedness, he may consider requesting a

principal office address of the licensee. As to the employer identification number, enter the

current or other assets. Likewise, long-term debt is shown before current or other

VOL 50 ISS 139 JL 19 1985 UMI

accounts of investment companies require greater attention than those of a commercial enterprise because of the relative signficance of such assets. In either case, the independent auditor should evaluate the internal accounting controls as a basis for determining the extent of his examination. The auditing procedures outlined in the AICPA's Audit Guide should be followed to the extent appropriate. Concerning valuation of securities:

The Licensee's Board of Directors or General Partner(s) has (Have) the Sole Responsibility for Valuing Securities in Good Faith.

The auditor is not to be an appraiser in the sense that he is to determine the value of the licensee's securities. He is, however, expected to review the methods and evidential matter used by the Board of Directors or General Partner(s) in their determinations of fair value. He is further expected to comment in his report on the reasonableness of such practices and adequacy of such information.

K. *3 Percent Cumulative Preferred Stock.* As part of the leverage funds provided to a 301(d) licensee, SBA may purchase 3 percent cumulative preferred stock, which while considered to be part of equity, is not considered paid-in capital or paid-in surplus for leverage or regulatory purposes.

The rights of the preferred stockholder (SBA) are set forth in § 107.203 of the SBA Regulations.

L. *Unrealized Gain (Loss) on Securities Held.* Unrealized Gain (Loss) on Securities Held represents the estimated net gain (loss) after tax effect, if any, that the licensee would realize if the loans and investments were sold at the statement date, but as if in the normal course of business.

The auditor should recognize the Unrealized Gain (Loss) on Securities Held results from valuation of Loans and Investments by the licensee's Board of Directors. Such valuation usually is a judgmental estimate which involves uncertainties that are difficult to quantify. Accordingly, the reliability of the unrealized gain (loss) on securities held will not be as great as realized gain (loss) on sale of securities because the latter is based on transactions that are objectively measurable.

1. Unrealized Appreciation on Securities Held—This is the amount by which fair value of the licensee's loans and investments exceeds costs.

2. Unrealized Depreciation of Securities Held—This is the amount by which fair value of the licensee's loans and investments is less than cost. Included in unrealized depreciation are items such as allowances for losses, temporary declines, and mortgage discounts.

3. Estimated Income Taxes.

a. Corporate Licenses—This is a provision for taxes on the net amount of unrealized appreciation or (depreciation) and the offset being a deferred credit or deferred charge.

b. Limited Partnership Licensees—No provision for estimated income taxes is necessary since partnerships do not pay income taxes.

M. *Undistributed Realized Earnings.* Undistributed Realized Earnings is the cumulative balance of periodic net investment income including realized gain (loss) on securities sold.

1. Corporate Licensees—less dividend distributions whether cash, stock or dividends in kind. Included are non-cash gains on securities sold, i.e. notes, securities or other assets received.

2. Limited Partnership Licensee—less distributions to partners, general or limited, whether cash or property in kind. Included are non-cash gains on securities sold, i.e. notes, securities or other assets received.

Such non-cash gains will not be available for capitalization or distribution until such assets are converted to cash. Accordingly, undistributed realized earnings will be reflected in two capital accounts: (1) Non-Cash Gains/Income and (2) Undistributed Net Realized Earnings.

3. Non-cash income from the following sources is to be reported as non-cash income, and in certain cases may be reported on the equity method:

(a) Corporate Licensee from a—
(i) Parent and/or;
(ii) Subsidiary.
(b) Partnership Licensee from—
(i) Partner (general or limited) and/or;
(ii) Wholly owned investment or management company which results in an unpaid receivable.

VI. Other Matters

The independent auditor should satisfy himself that investment company accounts not specifically mentioned in this audit guide or the AICPA Audit Guide are maintained in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards for other commercial enterprises.

A. *Compensating Balances.* In those instances where idle funds are encumbered or are being used as "compensating balances", the nature and extent of such encumbrance will be disclosed in a note to the financial statements.

If the compensating balance is a formal arrangement, the funds should be reclassified to either other current assets or other assets, whichever would be appropriate.

B. *Taxes.* Licensees receive special tax treatment in a number of areas. The effect is to allow certain exclusions or additional deductions without the limitations prescribed for other corporations.

A corporate licensee operating under the 1958 Act is allowed a 100 percent dividends received deduction for dividends received by it from a taxable domestic corporation. To claim this 100 percent deduction the licensee must file with its return a statement that it was a Federal licensee under the 1958 Act at the a time of the receipt of the dividends.

An ordinary loss, rather than a capital loss, shall be taken on the sale or exchange of convertible debentures or stock acquired pursuant to the conversion privilege of such debentures. Capital losses on other investments receive no special treatment. A licensee must submit with its tax return a statement that it is a Federal licensee under the 1958 Act setting forth the name and address of the small business concern with respect to whose securities the loss was sustained, the number of shares of stock or the number or denomination of bonds, the basis and selling price, and the respective dates of purchase and sale or the reasons for their worthlessness and the approximate date thereof.

Special provisions are provided for reserves for losses on loans of licensees, and they may obtain special treatment for net operating losses and may be excluded from the definition of a personal holding company. The independent auditor should assure himself that he is familiar with the most recent changes in the IR Code concerning net operating losses or other matters affecting the licensee.

A shareholder in a licensee may treat a loss on stock as an ordinary loss and in the case of a noncorporate shareholder such loss is considered a loss from a trade or business.

Finally, there is no excess accumulated earnings tax assessed to a licensee provided it utilizes such earnings and profits for additional loans and investments.

Congress has recently changed the rules on Subchapter S Corporations. Licensees should seek knowledgeable tax counsel prior to any decision.

C. *Notes and Debentures Payable to or Guaranteed by SBA.* A primary advantage of the SBIC program is the ability of licensees to acquire long-term leverage funds from SBA. Usually the terms and conditions set forth in § 107.203(b) of SBA Rules and Regulations are incorporated in the debenture as covenants to the agreement.

Section 107.203(b)(1)(iii) provides that the entire indebtedness of the licensee may be declared immediately due and payable for: ". . . Failure of the licensee, as determined by SBA, to comply with any one or more of the provisions of the Act or Regulations promulgated thereunder, as they may be amended from time to time . . ."

Demand in such cases will be made in a letter from SBA specifying the violations that have occurred and that funds owed the SBA are due and payable in accordance with the acceleration provisions of the debentures. The violations which cause demand to be made are usually those which are significant and include such areas as conflicts of interest, control of small business concerns by the licensee, overline investments and any other such major acts which might be determined by SBA to be contrary to the Act and Regulations. It should be noted that in such cases demand is viewed as a means to protect the SBA's position as a creditor usually after other efforts have been unsuccessful.

In those instances where the licensee fails to maintain either the capital requirement or the investment ratio (See section 303(b)(2) of the Act or §§ 107.203(b)(6) and 107.203(d) of the Regulations) SBA may, in its discretion, upon written notice consider part or all of the licensee's long-term debt to be due and payable. Written notice is not required, however, for the long-term debt to be considered due and payable when any of the four conditions set forth in § 107.203(b)(2) exist.

Should the auditor have difficulty in determining whether demand has been or is about to be made on such long-term indebtedness, he may consider requesting a positive confirmation from the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, as to whether the licensee is in violation of the Act or regulations as of the statement date and as a result whether demand is being made by SBA on the long-term debt.

D. *Licensees Regulated Under the Investment Company Act of 1940.* Licensees that are regulated by SEC under the Investment Company Act of 1940, shall also comply with the Fidelity Bond requirements set forth in § 270.17g-1 of the SEC Rules and Regulations. Therefore, SBICs that are regulated by SEC under the 1940 Act are to comply with such requirements.

VII. Reporting Requirements—Specifics

A. *General.* The financial statements of Licensees are directed to the presentation of financial position, changes in financial position, results of operations and supporting schedules. Such statements and schedules constitute the Financial Report, SBA Form 468, and are required to be presented in the prescribed format.

The financial statements required for Licensees differ in certain respects from those suggested in the AICPA's Audit Guide. Such deviations are not at variance with generally accepted accounting principles and reporting practices. The opening paragraphs of Chapter 7 of the AICPA's Guide support this view:

"The financial statements illustrated in this chapter are for typical open-end management investment companies and may need to be modified to fit the requirements of other types of investment companies.

"In all instances, the management of investment companies and the auditor should be cognizant of the need for reporting in a manner which properly highlights significant information for shareholders and other interested parties. Content and format of reports required by regulatory authorities, e.g., the Securities and Exchange Commission and Small Business Administration, are, of course, governed by the requirements of the applicable form and related rules, regulations, and instructions."

The Financial Report (SBA Form 468) with supporting schedule, is designed to present the licensee's financial statements as audited by the independent public accountant. Accordingly, the statements are based on the transactions recorded in the accounts.

The Financial Report contains standard statements and schedules. Therefore, when a particular statement or schedule does not apply to the licensee's operations, it should be omitted. For example, if the licensee did not sell securities during the period, the Statement of Realized Gain (Loss) on Sale of Securities would be omitted. The Financial Report, therefore, should be "tailored" to fit the licensee's given situation.

Such tailoring, however, does not include deviating from accounting and reporting practices prescribed in the Audit Guide or System of Account Classification.

B. *Financial Report Heading.* Set forth in the appropriate spaces the information called for representing the identification and the principal office address of the licensee. As to the employer identification number, enter the number assigned to the licensee by the U.S. Treasury Department. If such number has not yet been assigned, an Application for Employer Identification Number, Form SS-4, shall be submitted to the U.S. Director of Internal Revenue for the area in which the licensee's principal office is located.

The preparer of this report should keep in mind that amounts are to be rounded to the nearest dollar.

The following is a detailed discussion as to how the statements are prepared.

Cover Sheet

Give Name of Licensee, City, State and License Number on the designated lines. Show Fiscal Year End in the space provided. Immediately below the appropriate lettered box, enter the number that describes the proper classification shown in Tables A through D.

Name of Licensee: _____
City and State: _____
County _____
ZIP Code _____
Employer ID Number _____
(SIC Code, 4 digit) _____
License Number: _____

Annual Report

For fiscal year ended ———, 19——

SBA Form 468

Size and Classification

A☐ B☐ C☐ D☐

Size—In Total Assets—A

1. Zero to $1 million
2. $1 million to $2 million
3. $2 million–$5 million
4. $5 million–$10 million
5. Over $10 million

Investment Policy—C

1. Diversified
2. Non-diversified

Venture Capital Status—D

1. Venture Capital Qualified
2. Not Venture Capital

Ownership—B

Bank-Owned

1. Bank Dominated (50% or more owned by Bank or Bank Holding Company)
2. Bank Associated (10% to 49% owned by Bank or Bank Holding Company)

Owned by Financial Corporation (Other Than Bank or Bank Holding Company)

3. Publicy Owned
4. Privately Owned

Owned by Non-Financial Corporation

5. Publicly Owned
6. Privately Owned

Owned by Individuals

7. Publicly Owned
8. Privately Owned

C. *Statement of Financial Position.* This statement is designed to measure the licensee's financial position as of the statement date in a conventional balance sheet format. Because of their significance, loans and investments are presented before current or other assets. Likewise, long-term debt is shown before current or other liabilities.

1. *Assets*—are grouped according to Loans and Investments, Investment in 301(d) Licensee, Current Assets and Other Assets.

a. *Loans & Investments* as grouped into four categories:

(1) *Portfolio Securities*—are those securities of small business concerns obtained through providing financing.

(2) *Assets Acquired in Liquidation of Portfolio Securities*—are those securities or other assets the licensee has acquired by taking action to protect its investment. Such assets are grouped according to receivables from debtors, and other assets acquired.

(3) *Operating Concerns Acquired*—represents the total investment in portfolio concerns where action was necessary to protect the licensee's investment. This will include only operating concerns over which the licensee has acquired control or has the power to control either individually or in concert with other licensees.

(4) *Other Securities*—are those securities the licensee holds that did not result from providing financing to small business concerns. Other securities will result when portfolio securities or assets acquired are sold and part of the net sales price is notes, or other securities. Also, dividends in kind from portfolio concerns would be classified as other securities.

Loans and investments are shown at cost and through adjustments for unrealized appreciation and unrealized depreciation arrive at their value.

b. *Investment in 301(d) Licensee*—is a unique investment in that the nature and purpose of the investee is similar to that of the investors. Also, the investor actively participates in the management of the investee. For those and other reasons, investments in 301(d) licensees are not classified as Loans and Investments but are shown as a separate asset group on the Statement of Financial Position. Such investments will be carried on the equity method of accounting.

c. *Current Assets*—are those assets that are cash, expected to be converted to cash or are expected to be expensed in the next operating business cycle; i.e., one year from the statement date. While current assets are not grouped as such for other investment companies, regulatory purposes require such a grouping for SBICs.

d. *Other Assets*—are those assets that are not otherwise explained above. Included are furniture and equipment, deferred charges, funds in escrow and other items.

e. *Memorandum Assets*—are worthless investments, each of which has been written off. The licensee will disclose in a footnote to the financial statements on the disposal of any security in this category.

2. *Liabilities*—are classified according to long-term debt, current liabilities and other liabilities.

a. *Long-Term Debt*—includes debt of the licensee net of current maturities. Such debt is grouped according to that which is payable to or guaranteed by SBA and that which is payable to others.

b. *Current Liabilities*—are those liabilities requiring the payment of cash during the next business cycle; i.e., 12 months from the

Capital Contribution (paid-in cash and capitalized retained earnings), Unrealized Gain (Loss) on securities held, non-cash gain

Partners Undistributed Net Realized Earnings (Earned Capital). The sum of these four

License No. Name of Licensee

b. *Current Liabilities*—are those liabilities requiring the payment of cash during the next business cycle; i.e., 12 months from the statement date. Included are accounts payable, accrued interest and taxes payable, current maturities on long-term debt, dividends payable, distributions payable to partners and other current items.

Other Liabilities—are those liabilities not otherwise classified and include trust receipts, deferred credits and other items.

3. *Carporate Capital Accounts*—are grouped according to paid-in capital and surplus, 3 percent preferred stock sold to SBA, unrealized gain (loss) on securities held and undistributed realized earnings.

a. *Capital Stock and Paid-In-Surplus*—represents the licensee's capital which is the first component used to compute the licensee's regulatory capital for leverage and overline purposes.

b. *3% Preferred Stock Issued to SBA*—while such preferred stock by the nature of the instrument is equity, it is not considered paid-in capital and paid-in surplus; rather it is a part of the leverage funds obtained by a 301(d) licensee from SBA.

c. *Unrealized Gain (Loss) on Securities Held*—is the net unrealized appreciation on securities held after an allowance for taxes as of the statement date. This is the amount in column 2 line 13, on the Statement of Unrealized Gain (Loss) on Securities Held if a corporation or the amount of column 2 line 11 of a partnership.

d. *Undistributed Realized Earnings*—represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold, less dividend or distributions. Undistributed realized earnings is composed of:

(1) *Non-Cash Gains/Income*—which represent notes, securities or other assets received as part of the net sale price when securities are sold and non-cash income from investments reported on the equity method of accounting.

(2) *Undistributed Net Earnings Realized*—which represents undistributed earnings realized net of (a) non-cash gains on sale of securities (b) non-cash income from investments reported on the Equity Method of Accounting.

4. *Retained Earnings Computation*—in note form above the Statement of Undistributed Realized Earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was viewed on the cost basis. Such Retained Earnings will be the basis for dividend declaration (whether cash or stock) or the basis for capitalizing earnings by corporate resolution.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments. The allowance for loss should not be less than the net amount by which the unrealized depreciation exceeds the unrealized appreciation.

Treasury Stock is a restriction on the amount of Retained Earnings available for distribution.

5. *Partnership Capital Accounts*—are grouped according to Partner's Permanent Capital Contribution (paid-in cash and capitalized retained earnings), Unrealized Gain (Loss) on securities held, non-cash gain on sale of securities and undistributed net-realized earnings.

a. *Partners Permanent Capital Contribution*—represents cash paid in to acquire a partnership interest plus any undistributed net realized earnings transferred to partner's permanent capital contribution which is the basis for leverage and other regulatory purposes.

b. *Unrealized Gain (Loss) on Securities Held*—is the net unrealized appreciation on securities held as of the statement date. This is the amount in column 2, line 11, on the Statement of Unrealized Gain (Loss) on Securities Held.

c. *Non-Cosh Goins/Income*—which represent notes, securities or other assets received as part of the net sale price when securities are sold, and non-cash income from investments reported on the equity method of accounting.

d. *Undistributed Net Realized Earnings (Earned Capital)*—represents the cumulative balance of periodic net investment income and realized gain (loss) on securities sold less partnership distributions.

6. *Partners Earned Capital Computation*—in note form above the statement of undistributed realized earnings is designed to set forth "retained earnings" on the same basis and in the same manner as it was viewed on the cost basis. Such "Earned Capital" will be the basis for partnership distributions (whether cash or in kind) or the basis for capitalizing earnings by agreement of the partners in accordance with the partnership agreement.

"Retained Earnings" is Undistributed Net Realized Earnings reduced by allowances for losses that have been established on Loans and Investments.

General Discussion of Partnership Capital Accounts Regulatory Problems. Regulations governing SBICs create very special and unique requirements for the accounting of Partner's Capital Accounts. Normal partnership accounting requires only one capital account for each partner. Depending on the partnership agreement there may be additional accounts for partners' salaries, interest on partners' capital invested, and/or partners' drawing accounts. At the end of the fiscal year all of the partner's other accounts are closed to the partner's capital account in addition to the partner's share of the results of operations for the year.

Some limited partnership agreements divide the partnership capital between (1) Partnership Permanent Capital, and (2) Partnership Earned Capital.

SBICs, who have adopted the limited partnership form of organization, must, because of regulatory requirements, keep the partners' capital accounts divided into four sub-sections. Each subsection and the legal reason requiring the subsection will be discussed separately. The four subsections are (1) Partner's Permanent Capital Contribution, (2) Partner's Unrealized Gain on Securities Held, (3) Partners Non-cash Gain/Income (restricted capital) and (4) Partners Undistributed Net Realized Earnings (Earned Capital). The sum of these four accounts is the equivalent of the partnership capital account of a non-SBIC partnership. The SBIC must also keep the general partners and limited partners shares of each of the four capital accounts separate which creates eight capital accounts as control accounts. The SBIC will, either by subsidiary or memorandum accounts, keep a record for each partner, general or limited.

Partners' Permanent Capital Contribution

The balances shown in these accounts are the amount of cash contributed by each partner to the partnership less any reductions to permanent capital. Any reductions of permanent capital in excess of two percent in any fiscal year must receive prior approval from SBA. These balances after the adjustments required by regulation then constitute "Regulatory Capital" for first, the amount of capital that will be leveraged by SBA and second, the amount of capital that determines the legal maximum amount of any investment in a small business concern without requiring SBA approval for an "Overline". Partners' Permanent Capital Contribution performs the same function for the partnership as "Capital Stock" and "Capital Surplus Contributed in Excess of Par Value" perform in a corporation.

Partners' Net Realized Gains and Partners Non-Cash Gains/Income

A limited partnership which was not subject to the legal requirements of an SBIC would have a single account titled "Earned Capital". Distributions to either general or limited partners would be charged to this account. SBA rules and regulations, however, permit distributions to be made only from gains realized in cash or cash income from investments reported on the equity method of accounting. "Earned Capital" is therefore divided into two accounts:

1. Partners' Net Realized Gain and,
2. Partners' Non-cash Gains/Income

Distributions may only be made to partners to the extent that Partner's Net Realized Gains has a credit balance.

Partners' Unrealized Gains on Securities Held

Investment companies report on the value basis rather than on the cost basis for their investments. This account has many of the characteristics of either appraisal surplus for a corporation or recognized goodwill on the admission of a new partner in a non-investment partnership. Normal practice, in a non-investment partnership, for the admission of a new partner by investment in the partnership or the withdrawal of a partner from the partnership requires agreement by all parties on the current market value of the assets to determine the proper price to be paid by a new partner for admission or to the partner who is withdrawing.

Description by Line Item—The following is a description by line item as to how the amounts shown on this statement are developed.

License No. _____ Name of Licensee

Statement of Financial Position as of _____

(Amounts rounded to nearest dollar)

Assets loans and investments	Cost	Valuation: Unrealized depreciation	Valuation: Unrealized appreciation	Value
Portfolio Securities:				
1. Loans				
2. Debt Securities				
3. Equity Interests				
4. Total				
Assets Acquired in Liquidation of Portfolio Securities:				
5. Receivables From Debtors on Sale of Assets Acquired				
6. Assets Acquired				
7. Total				
8. Operating Concerns Acquired				
9. Notes and Other Securities Received				
10. Total Loans and Investments				
11. Less Current Maturities				
12. Loans and Investments Net of Current Maturities				
Investment in 301(d) Licensee*:				
13. Name: License No.:				
Current Assets:				
14. Cash				
15. Invested Idle Funds				
16. Interest and Dividends Receivable				
17. Notes, Accounts Receivable and Receivables from Parent				
18. Less: Allowance for Losses				
19. Current Maturities of Portfolio Securities				
20. Current Maturities of Assets Acquired				
21. Current Maturities of Operating Concerns Acquired				
22. Current Maturities on Other Securities				
23. Other Current Assets				
Other Assets:				
24.				
a. Furniture & Equipment				
b. Less: Accumulated Depreciation				
25. Other				
26. Total Assets (Note 2)				

Note 1.—Column Headings apply to items 1 through 12 only. (Cost—Unrealized Depreciation + Unrealized Appreciation = Value)

Note 2.—*Memorandum Assets*—are worthless investments, each of which has been written off. The Licensee will disclose in a footnote to the financial statements on the disposal of any security in this category.

*Note to Item 13 should include percent owned, cost basis and changes resulting from equity method of accounting.

Item 1. Loans—In column 1, show the balance of account 170 less the balance of account 173. In column 2, show the balance of account 172. In column 3, show the balance of account 171.

Item 2. Debt Securities—In column 1, show the aggregate of balances in accounts 180 and 184 less account 188. In column 2, show the balance of account 187. In column 3, show the balance of account 186.

Item 3. Equity Interests—In column 1, show the aggregate of balances in accounts 190, 191, 194, and 197. In column 2, show the aggregate of balances in accounts 193, 196, and 199. In column 3, show the aggregate of balances in accounts 192, 195, and 198.

Item 4. Total—Show the total of Items 1, 2, and 3 which represents the total of portfolio securities.

Item 5. Receivables from Debtors on Sale of Assets Acquired—Show in column 1 the balance of account 200 and in column 2 the balance of account 203.

Item 6. Assets Acquired—In column 1, show the balance in account 204. In column 2, show the balance in account 206 and in column 3, show the balance of account 205.

Item 7. Total—State the aggregate of Items 5 and 6 which represents the total of assets acquired in liquidation to portfolio securities.

Item 8. Operating Concerns Acquired—Show in column 1 the balance of account 210, in column 2 the balance of account 212 and in column 3 the balance of account 211.

Item 9. Notes and Other Securities Received—Show in column 1 the aggregate of balances in accounts 220 and 221. In column 2, show the balance in account 223 and in column 3 show the balance of account 222.

Item 10. Total Loans and Investments—State the aggregate of Items 4, 7, 8, and 9 which represents the total of loans and investments.

Item 11. Less Current Maturities—Show the aggregate of balances in accounts 150 thru 154.

Item 12. Loans and Investments Net of Current Maturities—Show the amount stated in Item 10, column 4 less the amount shown in Item 11.

Item 13. Investment in 301(d) Licensee—When a licensee has an investment in a 301(d) licensee, the name and license number

aggregate of balances in accounts 140, 141, and 146.

Item 23. Other Current Assets—Show the balance of account 156.

Item 34 for Corporations. Dividends Payable—Show the aggregate of balances in

Item 44, 3% Preferred Stock Issued to SBA (301(d) Licensee's Only)—Show the balance

between Account Number 451 and the amount shown as Item 47(a). If Account

Item 13, Investment in 301(d) Licensee—When a licensee has an investment in a 301(d) licensee, the name and license number of the investee should be shown in the space provided. The balance shown in account 160 should be shown.

Item 14, Cash—Show the aggregate of accounts 100 through 120.

Item 15, Invested Idle Funds—Show the aggregate of accounts 130 through 138.

Item 16, Interest and Dividends Receivable—Show the aggregate of balances in accounts 143 and 145.

Item 17, Notes, Accounts Receivables, and Receivables from Parent—Show the aggregate of balances in accounts 140, 141, and 146.

Item 18, Less: Allowance of Losses—Show the aggregate of balances in accounts 142 and 144.

Item 19, Current Maturities of Portfolio Securities—Show the balance of account 150.

Item 20, Current Maturities of Operating Concerns Acquired—Show the balance of account 152.

Item 21, Current Maturities of Operating Concerns Acquired—Show the balance of account 153.

Item 22, Current Maturities of Other Securities—Show the balance of account 154.

Item 23, Other Current Assets—Show the balance of account 156.

Item 24, (a), Furniture & Equipment—Show the balance of account 240.

Item 24, (b), Less: Accumulated Depreciation—Show the balance of account 241.

Item 25, Other—Show the aggregate of balances of accounts 230, 231, 250, 251, 252, 265 thru 269.

Item 26, Total Assets—Show the aggregate of Items 12, 13, and 14 through 25.

Note.—The following six forms are applicable only to corporations. The next six forms are applicable only to partnerships.

Name of Licensee ..... License Number (Use Only if Licensee Is a Corporation)

Statement of Financial Position (Continued) as of .....

Liabilities & Capital		
Long-Term Debt (Net of Current Maturities):		
27. Notes and Debentures Payable to or Guaranteed by SBA		
28. Notes and Debentures Payable to Others		
29. Total		
Current Liabilities:		
30. Accounts Payable and Accounts Payable Due Parent		
31. Accrued Interest Payable		
32. Accrued Taxes Payable		
33.		
a. Current Maturities of Line 27		
b. Current Maturities of line 28		
34. Dividends Payable		
35. Other Current Liabilities		
36. Total		
Other Liabilities:		
37. Trust Receipts		
38. Deferred Credits		
39. Other Liabilities		
40. Total Liabilities		
Capital		
41. Capital Stock		
42. Paid-in Surplus		
43. Paid-in Capital Stock and Surplus		
44. 3% Preferred Stock Issued (301(d) Licensees only)		
45. Unrealized Gain (Loss) on Securities Held		
46. Non-Cash Gains/Income*		
47. Undistributed Net Realized Earnings		
(a) Restricted-Equal to Cost of Treasury Stock		
(b) Free		
(c) Subtotal (47(a) plus 47(b))		
48. Undistributed Realized Earnings		
49. Total		
50. Less Cost of Treasury Stock		
51. Total Capital		
52. Total Liabilities & Capital		

* Note to Item 46 should show (a) amount of non-cash gains on sale of securities and (b) income from investments reported on the equity method of accounting.

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable and Accounts Payable Due Parent—Show the balance of account 340 and 341.

Item 31, Accrued Interest Payable—Show the balance of account 350.

Item 32, Accrued Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

Item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Corporations, Dividends Payable—Show the aggregate of balances in accounts 360 through 364.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 20 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374 and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40, Total Liabilities—Show the aggregate of Items 29 and 36 through 39.

The following accounts are applicable only to corporate licensees and are to be reported on the Statement of Financial Position for corporations.

Item 41, Capital Stock—Show the aggregate of balances in accounts 400 through 414.

Item 42, Paid-in Surplus—Show balance of account 420.

Item 43, Paid-In Capital Stock and Surplus—Show the aggregate of Items 41 and 42.

Item 44, 3% Preferred Stock Issued to SBA (301(d) Licensee's Only)—Show the balance of account 430.

Item 45, Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of account 440 less 445 and 448.

Item 46, Non-Cash Gain/Income—Show the balance of account 450 and 463.

Item 47, Undistributed Net Realized Earnings—Undistributed Net Realized Earnings is the amount of realized earnings minus the amount of non-cash gains and non-cash income from investments reported on the equity method of accounting. This will be the amount of account 451. Treasury Stock is a restriction on the amount of earnings available for distributions to stockholders. Capitalization of retained earnings by a credit to Capital Stock and/or Paid-in Surplus is a distribution to stockholders.

Item 47(a), Restricted-Equal to Cost of Treasury Stock—Show the aggregate of the balances in accounts 415 through 419.

Item 47(b), Free—This is the amount of undistributed net realized earnings available for distribution if there is a restriction due to the presence of Treasury Stock. The amount to be shown as Item 47(b) is the difference between Account Number 451 and the amount shown as Item 47(a). If Account Number 451 has a debit balance do not report the cost of Treasury Stock as Item 47(a). If the licensee does not have Treasury Stock Item 47(b) and Item 47(c) will be identical. In such instance it will be necessary to complete both Item 47(b) and 47(c) since item 47(b) is required for other computations on the Form 468.

Item 47(c), Subtotal—This is the sum of Items 47(a) and 47(b).

Item 48, Undistributed Realized Earnings—Show the aggregate of Items 46 and 47.

Item 49, Total—Show the aggregate of Items 43, 44, 45 and 48.

Item 50, Less Cost of Treasury Stock—Show the sum of the balances in Account Numbers 415 through 419.

Item 51, Total Capital—Subtract Item 50 from Item 49.

Item 52, Total Liabilities and Capital—Add Item 40 and Item 51.

Name of licensee ..... License No. (Use Only if Licensee Is a Corporation)

Computation of Earnings Available for Dividend Declaration or Capitalization

NOTE.—Retained Earnings Available for Dividend Declaration or Capitalization in Accordance with SBA Regulations

Computed As Follows:

Undistributed Net Realized Earnings (Line 47(b)) .....

Less: Allowance for Losses on Loans & Investments .....

Retained Earnings Available for Distribution or Capitalization .....

Statement of Undistributed Realized Earnings—Lines 46, 47, 48

Description	Non-cash gains/ income (46)	Undistributed net earnings (47)	Total (48)
1. Beginning Balance			
2. Additions:			
a. Net Investment Income			
b. Realized Gain (Loss) on Sale of Securities			
c. Non-cash Gains on Distributions in Kind*			
d.			
e. Total Additions			
3. Adjust: Collections of Non-cash Gain	( )		
4. Total (Lines 1,2,3)			
5. Deductions:			
a. Dividends—Cash			
b. Dividends—Stock			
c. Dividends—In Kind*			
d.			
e. Total Deductions			
6. Ending Balance			

*Read Instructions Carefully.

**Name of SBC ——————.

Description of assets being distributed ——————.

D. *Statement of Undistributed Realized Earnings (Page 5 Corp.)*—This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains/income and undistributed net earnings realized. The ending balances of this statement are the same as items 46 through 48 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450 and 463.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. *Beginning Balance*—In column 1, show the beginning balances of accounts 450 and 463 and in column 2, show the beginning balances of account 451. These amounts should agree with the ending balances shown on the statement for the prior period.

2. (a) *Net Investment Income*—State as Non-cash income undistributed net earnings as applicable that amount shown as item 33 on the Statement of Operations Realized.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts column 2 "Undistributed Net Earnings." There will be no effect on column 3 "Total" asset being distributed. The total shown in

Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536

Item 22, Travel Expense—Show the balance of account 665.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts 461 and 462.

(c) *Non-cash Gains on Distributions In Kind*—in column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. *Adjustments: Collections of Non-Cash Gains*—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings." There will be no effect on column 3, "Total".

4. *Total*—Aggregate of lines 1, 2, & 3.

5. *Deductions:* (a) and (b)—Are to be paid out of undistributed net earnings only. Therefore, dividends will be entered in column 2.

(c) *Dividends In Kind*—Column 1 show the amount of non-cash gain reported in column 1 Item 2(c). In column 2 show the cost of the asset being distributed. The total shown in column 3 is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. *Ending Balance*—is determined by subtracting 5(e) "Total Deductions" from item 4 which represents the beginning balance plus additions.

(Use Only if Licensee Is a Corporation)

Name of Licensee.....

License No.....

Statement of operations realized—for — months ended ———.

Investment income:

1. Interest on Loans and Debt Securities	
2. Dividend Income	
3. Income from Investments Reported on the Equity Method of Accounting	
4. Management Services	
5. Application and Other Fees	
6. Interest on Invested Idle Funds	
7. Income from Assets Acquired in Liquidation of Loans and Investments (Net of $——— Expense)	
8. Other Income	
9. Gross investment income	
Expenses:	
10. Interest on Long-term Debt	
11. Commitment Fees	
12. Other Financial Costs	
13. Officer Salaries	
14. Employee Salaries	
15. Employee Benefits	
16. Investment Advisory and Management Services	
17. Directors' and Stockholders' Meetings	
18. Advertising & Promotion	
19. Appraisal & Investigation	
20. Communication	
21. Legal Fees	
22. Travel Expense	
23. Cost of Space Occupied	
24. Depreciation and Amortization Expense	
25. Audit and Examination Fees	
26. Insurance Expense	
27. Taxes Expense (Excluding Income Taxes)	
28. Provision for Losses on Accounts Receivables	
29. Miscellaneous Expenses	
30. Total Expenses	
31. Net Investment Income Before Provision for Income Taxes	
32. Provision for Income Taxes (Note 1)	
33. Net Investment Income (Loss)	
Realized Gain (Loss) on Sale of Securities:	
34. Net Sale Price	
35. Cost of Securities Sold	
36. Net Prior to Income Tax Provision	
37. Provision for Income Taxes	
38. Realized Gain (Loss) On Sale of Securities	

Note.—(1) Compute a tax only if line 31 is a gain.

E. *Statement of Operations Realized—Corporation.* This statement is designed to measure separately Net Investment Income (Loss) and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. *Net Investment Income*—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized by source; i.e., from portfolio, from services provided, or from other sources.

Provision for taxes is the final measurement prior to determination of Net Investment Income.

2. *Realized Gain (Loss) on Sale of Securities*—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold and a provision for taxes on the resulting gain. The remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. *Description by Line Item*—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. *Investment Income*—the amounts shown in items 1 through 33 of this statement are derived primarily from the general ledger accounts as follows.

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show the balance of account 540.

Item 3, Income from Investments Reported on The Equity Method of Accounting—Show the balance of Account 542.

Item 4, Management Services—Show the balance of account 532.

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income from Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 582 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balances in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Officer Salaries—Show the balance of account 663–1.

Item 14, Employee Salaries—Show the balance of account 663–2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Monogement Service—Show the balance of accounts 659 and 660.

Item 17, Director's and Stockholder's Meetings—Show the balance of account 657–1.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communication—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of account 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate of balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679, and 715.

Item 30, Total Expenses—Show the aggregate of items 10 through 29.

Item 31, Net Investment Income before Provision for Income Taxes—Show the balance of amount of item 9 less item 30.

Item 32, Provision for Income Taxes—Show the balance of account 720.

Item 33, Net Investment Income (Loss)—Item 31 minus Item 32.

Item 34, Net Sales Price—Show net sales price.

Item 35, Cost of Securities Sold—Show cost.

Item 36, Net Prior to Income Tax Provision—Line 34 minus line 35.

Item 37, Provisions for Income Taxes—Show amount of Income Taxes, if any, applicable to Gains on sale of securities.

Item 38, Realized Gain (Loss) on Sale of Securities—Item 36 minus Item 37.

Analysis of Capital Stock and Paid-In Surplus and Computation of Regulatory Capital

	Capital stock (note 1)	Paid in surplus	Total
1. Balance at Beginning of Fiscal Year			
2. Additions:			
(a) Capital Stock Issued for Cash			
(b) Stock Dividends Issued for Capitalized Free Undistributed Net Realized Earnings			
(c) Capital Stock Issued for Services Rendered*			
(d) Capital Stock Issued for Assets Other than Cash or Services			
(e) Gain on Sale of Treasury Stock			
(f) Other Credits (Explain)*			
3. Total Additions (The sum of Items 2(a) through 2(f))			
4. Subtotal (Line 1 plus Line 3)			
5. Deductions:			
(a) Retirement of Capital Stock			
(b) Loss on Sale of Treasury Stock (Note 2)			
(c) Distributions in Partial Liquidation			
(d) Other Debits (Explain)*			
6. Total Deductions (The sum of Items 5(a) through 5(d))			
7. Balance at End of Fiscal Year			
Computation of Regulatory Capital for Leverage Purposes:			
8. Regulatory Deductions: (Note 3)			
(a) Organization Expense (Note 4)			
(b) Capital Stock Issued for Services			
(c) Capital Stock Issued for Assets Other than Cash or Services			
(d) Other Non-monetary Items			
(e) Investment in 301(d) Licensee			
(f) Treasury Stock at Cost			
(g) Other (Explain)*			
9. Total Regulatory Deductions (The sum of Items 8(a) through 8(g))			

Analysis of Capital Stock and Paid-In Surplus and Computation of Regulatory Capital—Continued

Analysis of Capital Stock and Paid-In Surplus and Computation of Regulatory Capital—Continued

	Capital stock (note 1)	Paid in surplus	Total
10. Regulatory Capital for Leverage Purposes (Line 7 Minus Line 9)			
Computation of Regulatory Capital for Overline Purposes:			
11. Net Unrealized Gains as Defined by Section 107.303(b) of the Regulations (Note 5)			
12. Regulatory Capital for Overline Purposes (Line 10 Plus Line 11)			

*Give complete details of these items by means of footnotes.

Note 1.— Capital Stock is the sum of the amounts of all classes of capital stock.

Note 2.— If Paid-in Surplus is not sufficient to absorb the entire amount of Loss on the Sale of Treasury Stock, the amount of loss in excess of Paid-in Surplus will be charged against Undistributed Net Realized Earnings as shown on line 47(b) of the Statement of Financial Position.

Note 3.— The deductions listed in Items 8(b), 8(c), 8(d) and 8(g) are total amounts of these items from time of organization to the end of the reporting period.

Note 4.— If the amount of cash contributed for the organization expense was never credited to Capital Stock or Paid-in Surplus, it should be so stated and explained by a footnote.

Note 5.— Licensees who rely on this section to increase the amount of their overline limitation will submit an addition to this schedule detailing the following information:

1. Name of small business concern
2. Market in which traded
3. Class of security
4. Cost
5. Value
6. Amount of unrealized appreciation
7. The total amount of unrealized appreciation on the securities listed
8. The other adjustments reported on line 13 of the statement of unrealized gain (loss) on securities held.
9. The other adjustments required by 107.303b.
10. Names of market makers.

Analysis of Capital Stock, Paid-in Surplus and Computation of Regulatory Capital—

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Capital Stock Issued for Cash—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of cash received in excess of par or stated value. In column 3 enter the total of columns 1 and 2.

Line 2(b) Stock Dividends Issued for Capitalized Free Undistributed Net Realized Earnings—In column 1 enter the amount of par value or stated value of the stock issued. In column 2 enter the amount of fair market value of the stock in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2. This amount will be the amount charged against retained earnings..

Line 2(c) Capital Stock Issued for Services Rendered—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the services rendered in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(d) Capital Stock Issued for Assets Other than Cash or Services—In column 1 enter the amount of par or stated value of the stock issued. In column 2 enter the amount of fair market value of the asset in excess of the par or stated value of the stock. In column 3 enter the total of columns 1 and 2.

Line 2(e) Gain on Sale of Treasury Stock—Enter the amount of gain on the sale of treasury stock in columns 2 and 3.

Line 2(f) Other Credits—Enter the amount of the credit in either column 1 or 2 or both and column 3.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(f) of columns 1, 2, and 3.

Line 4 Subtotal—The total of line 1 and lines for columns 1, 2, and 3.

Line 5(a) Retirement of Capital Stock—In column 1 enter the amount of par or stated value of the stock being retired. In column 2 enter the amount appropriate to the particular circumstances. In column 3 enter the total of columns 1 and 2.

Line 5(b) Loss on Sale of Treasury Stock—Enter the amount of loss in columns 2 and 3 but not in excess of the balance of Paid-in Surplus.

Line 5(c) Distributions in Partial Liquidation—Enter the amount of the partial liquidation in either column 1 or 2 or both, appropriate to the facts and in column 3.

Line 5(d) Other Debits—Enter the amount of the debit in either column 1 or 2 or both and column 3.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d) of columns 1, 2 and 3.

Line 7 Balance at the End of the Fiscal Period—Subtract line 6 from line 4 for columns 1, 2 and 3.

Line 8(a) Organization Expense—Enter the amount of organization expense whether or not amortized.

Line 8(b) Capital Stock Issued for Services—Enter the amount credited to both Capital Stock and Paid-in Surplus for services since date of organization.

Line 8(c) Capital Stock Issued for Assets Other than Cash or Services—Enter the amount credited to both Capital Stock and Paid-in Surplus for assets other than cash or services since date of organization. At such time as the asset is converted to cash the amount of cash received may be considered to have been for stock issued. An adjustment to Paid-in Surplus may be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to either Capital Stock or Paid-in Surplus or both since date of organization.

Line 8(e) Investment in 301(d) Licensee—Enter the amount of investment in 301(d) licensee.

Line 8(f) Treasury Stock at Cost—Enter the cost of Treasury Stock.

Line 8(g) Other—Enter any other necessary adjustments.

Line 9 Total Regulatory Adjustments—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7 and enter.

Line 11 Net unrealized gains as defined by § 107.303(b)—Go to Note 5, prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 11 to line 10 and enter.

Name of licensee.....
License No.....

Statement of changes in financial position for — Months Ended ———

Funds were provided from:	
2. Net Investment Income	
3. Depreciation, Amortization, Provision for Loss on Receivables	
4. Realized Gain (Loss) on Sale of Securities	
5. Decrease in Portfolio Securities	
6. Decrease in Assets Acquired	
7. Decrease in Operating Concerns Acquired	
8. Decrease in Other Securities	
9. Decrease in Current Assets (Excluding Cash and Invested Idle Funds)	
10. Decrease in Other Assets	
11. Increase in Current Liabilities	
12. Increase in Other Liabilities	
13. Increase in Long-Term Debt	
a. Due to or Guaranteed by SBA	
b. Due to Others	
14. Sale of Licensee's Stock	
15. TOTAL FUNDS PROVIDED	
16. TOTAL FUNDS AVAILABLE	
Funds were used for:	
17. Increase in Portfolio Securities	
18. Increases in Assets Acquired	
19. Increase in Operating Concerns Acquired	
20. Increase in Other Securities	
21. Increase in Current Assets (Excluding Cash and Invested Idle Funds)	
22. Increase in Other Assets	
23. Decrease in Current Liabilities (Excluding Dividends)	
24. Decrease in Other Liabilities	
25. Decrease in Long-Term Debt	
a. Due to or Guaranteed by SBA	
b. Due to Others	
26. Payment of Dividends	
27. Redemption of Stock	
28. Total Funds Used	
29. Ending Cash and Invested Idle Funds Position	

Note: Unrealized Gain (Loss) on Securities Held is not reflected in the above statement as it has no effect upon source or application of funds. All increases and decreases from the balance sheet in above schedule are net after the deduction of non-cash items EXCEPT THE NON-CASH ITEMS REPORTED ON LINE 3 ABOVE. Furnish a schedule of non-cash items for each applicable category.

F. *Statement of Changes in Financial Position for Corporations.* The Statement of Changes in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the Board of Directors and not based on transactions. The objectives of this statement are (1) to summarize the extent to which the licensee has generated cash and invested idle funds and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the amounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 468 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 3, Depreciation, Amortization, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in Item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 38 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during the period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is an increase during the period.

Item 12, Increase in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period. Do not include the amount of account 448.

Item 13(a), Due to or Guaranteed by SBA—Enter amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Licensee's Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a corporation.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 16 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if the amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16

through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Dividends)—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liabilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period. Do not include the amount of

Item 27, Redemption of Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that

amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the

Item 7—the amount shown in column 2 Item 7 of the Statement of Financial Position.

Item 8—the amount shown in column 2

partnership or corporate) receives a fee, bonus or other type of emolument based on

through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Dividends)—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liabilities—Enter the net amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period. Do not include the amount of account 448.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if that amount is a decrease during the period.

Item 26, Payment of Dividends—Enter the amounts shown in accounts 360 through 364.

Item 27, Redemption of Stock—Enter the amount of net change in Items 41 through 44 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal sum of Items 14 plus 15 of the Statement of Financial Position.

(Use Only if Licensee Is a Corporation)

Licensee.....

License No.....

Statement of Unrealized Gain (Loss) on Securities Held for —— Months Ended ——

	Beginning balance (1)	Ending balance (2)	Net changes (3)(2)(1)
Unrealized Appreciation:			
1. Portfolio Securities			
2. Assets Acquired in Liquidation of Portfolio Securities			
3. Operating Concerns Acquired			
4. Other Securities			
5. Total (Note 1)			
Unrealized Depreciation:			
6. Portfolio Securities			
7. Assets Acquired in Liquidation of Portfolio Securities			
8. Operating Concerns Acquired			
9. Other Securities			
10. Total			
11. Unrealized appreciation (net of depreciation) on securities held before fees paid on gains or income taxes			
12. Less Provision for Taxes			
13. Unrealized gain (loss) on securities held (Note 2)			

Note 1.—Disclose by footnote the following information (a) The amount of any potential fees that would be due on the amount shown on line 5 if the amount of unrealized appreciation were to be realized. (b) For any person paid a percent of realized gain, supply the following information by footnote: (1) name, (2) title, (3) stock ownership, (4) percent to be paid.

Note 2.—Do not compute tax effect if line 11 is a loss.

Realized Loss Experience on Receivables, Loans and Investments

[Dollars rounded to the nearest thousand]

Description	Current year loss
Notes, Accounts and Accrued Interest Receivable	
Loans	
Debt Securities	
Equity Interests	
Assets Acquired in Liquidation of Portfolio Securities	
Operating Concerns Acquired	
Other Securities	
Total	

G. *Statement of Unrealized Gain (Loss) on Securities Held.* This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the Unrealized Gain (Loss) on Securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are (1) Portfolio Securities, (2) Assets Acquired in Liquidation of Portfolio Securities, (3) Operating concerns acquired and (4) other securities.

In arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item 1—the amount shown in column 3 Item 4 of the Statement of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the Statement of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the Statement of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the Statement of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the Statement of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the Statement of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the Statement of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the Statement of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the Statement of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the Statement of Financial Position.

Item 11—Item 5 minus Item 10.

Item 12 will be the estimated taxes that would be due.

CAUTION DO NOT COMPUTE A TAX BENEFIT IF ITEM 13 IS A NET UNREALIZED DEPRECIATION.

Instructions Concerning Contingent Fees. If *ANY* person (officer, director, manager, or investment advisor whether individual, partnership or corporate) receives a fee, bonus or other type of emolument based on either income or gains summarize the pertinent provisions of manner in which the compensation is determined and include statement as to the amount of the recompense that would be due and the tax effect that would result and the change to the amount shown on line 13.

Realized Loss Experience on Receivables, Loans and Investments. Furnish in this schedule by categories shown, the amount of loss experienced on loans and investments as well as receivables resulting from income realization. The loss experience will be the actual loss experience during the current period. The amounts shall be rounded to the nearest thousand.

Name of licensee

Licensee Number

(Use Only if Licensee Is a Partnership)

Statement of Financial Position (continued) as of ——

Liabilities and Capital			
Long-Term Debt (Net of Current Maturities):			
27. Notes nd Debentures Payable to or Guaranteed by SBA			
28. Notes and Debentures Payable to Others			
29. Total			
Current Liabilities:			
30. Accounts Payable and Accounts Payable Due Parent			
31. Accrued Interest Payable			
32. Accrued Taxes Payable			
33. a. Current Maturities of line 27			
b. Current Maturities of line 28			
34. Distribution Payable			
35. Other Current Liabilities			
36. Total			
Other Liabilities:			
37. Trust Receipts			
38. Deferred Credits			
39. Other Liabilities			
40. Total Liabilities			
	General Partner(s)	Limited Partner(s)	Combined
Partnership Capital:			
41. Partners' Permanent Capital Contributed			
42. Unrealized Gain (Loss) on Securities Held			
43. Non-Cash Gains/Income [1]			
44. Undistributed Net Realized Earnings (Earned Capital)			
45. Total Partner's Capital			
46. Total Liabilities and Capital			

[1] Note to Item 43 should show (a) amount of non-cash gains on sale of securities and (b) income from investments reported on the equity method of accounting.

Item 27, Notes and Debentures Payable to or Guaranteed by SBA—Show the aggregate of balances in accounts 300, 301 and 310.

Item 28, Notes and Debentures Payable to Other—Show the aggregate of balances in accounts 311, 312, 313 and 320.

Item 29, Total—Show the aggregate of Items 27 and 28.

Item 30, Accounts Payable—Show the balance of account 340.

Item 31, Accrued Interest Payable—Show the balance of account 350.

Item 32, Accrued Taxes Payable—Show the aggregate of balances in accounts 351 and 354.

Item 33(a), Current Maturities of Line 27—Show the balance of account 330.

item 33(b), Current Maturities of Line 28—Show the balance of account 331.

Item 34 for Partnerships, Partnership Distributions Payable and Accounts Payable Due Partners—Show the aggregate of balances 365 through 369.

Item 35, Other Current Liabilities—Show the balance of account 358.

Item 36, Total—Show the aggregate of Items 30 through 35.

Item 37, Trust Receipts—Show the aggregate of balances in accounts 370, 374 and 378.

Item 38, Deferred Credits—Show the balances of accounts 380 and 383.

Item 39, Other Liabilities—Show the balance of account 390.

Item 40, Total Liabilities—Show the aggregate of Items 29 and 36 through 39.

The following accounts are applicable only

Item 41, Partner's Permanent Capital Contributions—Show the balances in accounts 470 through 476.

Item 44, Undistributed Net Realized Earnings—Show the balances in accounts 493 through 496.

3. Income from Investments Reported on the Equity Method of Accounting

Item 40, Total Liabilities—Show the aggregate of Items 29 and 36 through 39.

The following accounts are applicable only to partnership licensees and are to be reported on the Statement of Financial Position for partnerships.

Item 41, Partner's Permanent Capital Contributions—Show the balances in accounts 470 through 476.

Item 42, Unrealized Gain (Loss) on Securities Held—Show the aggregate of balances of accounts 440 less 445.

Item 43, Non-Cash Gain/Income—Show the balance of account 450 and 468.

Item 44, Undistributed Net Realized Earnings—Show the balances in accounts 493 through 498.

Item 45, Total Partners Capital—Show the totals of Item 41 through 44.

Item 46, Total Liabilities and Capital—Show the total of Item 40 plus Item 45.

Name of licensee.....
License No.....

(Use Only if Licensee Is a Partnership)

Computation of Earnings Available for Distribution to Partners or Capitalization

Note.—Retained earnings available for distribution to partners and/or capitalization in accordance with SBA Regulations is computed as follows:

Undistributed Net Realized Earnings—Line 44	$
Less: Allowance For Loss on Loans and Investments	
Retained Earnings Available For Distribution or Capitalization	$

Statement of Undistributed Realized Earnings Lines 43 and 44

Description	Non-cash gains/ income (43)	Undistributed net earnings (44)
1. Beginning Balance		
2. Additions:		
a. Net Investment Income		
b. Realized Gain (Loss) on Sale of Securities		
c. Non-cash Gains on Distributions In Kind*		
d.		
e. Total Additions		
3. Adjust: Collections of Non-cash Gain	( )	
4. Total (Lines 1, 2, 3)		
5. Deductions:		
a. Distributions—Cash		
b. Distributions—In Kind**		
c.		
d. Total Deductions		
6. Ending Balance		

* Read instructions carefully.
** Name of SBC———.
Description of assets being distributed ———.

H. *Statement of Undistributed Realized Earnings (Part.).* This statement is designed to analyze the activity in undistributed realized earnings by non-cash gains on sale of securities and undistributed net earnings realized. The ending balances of this statement are the same as items 43 and 44 on the Statement of Financial Position.

Column 1: Non-Cash Gains activity can be determined by reviewing account 450.

Column 2: Undistributed Net Earnings activity can be determined by reviewing account 451.

1. *Beginning Balance*—In column 1, show the beginning balances of accounts 450 and 468 in column 2, show the beginning balance of account 451. These amounts should agree with the ending balances shown on the statement for the prior period.

2. (a) *Net Investment Income*—State as undistributed net earnings that amount shown as item 31 on the Statement of Operations Realized.

(b) *Realized Gain (Loss) on Sale of Securities*—Show the balances in accounts 466 and 467.

(c) *Non-cash Gains on Distributions In Kind*—In column 1 report the amount of unrealized gains on any distributions in kind during the period covered by this report.

3. *Adjustments: Collections of Non-Cash Gains*—Will be a decrease in column 1 "Non-Cash Gains" and will be an increase in column 2 "Undistributed Net Earnings."

4. *Total*—Aggregate of lines 1, 2, & 3.

5. *Deductions:*

(a) *Distributions to Partners*—are to be paid out of undistributed earnings only. Therefore, distributions will be entered in column 2.

(b) *Dividends In Kind*—Column 1 show the amount of non-cash gain reported in column 1 Item 2(c). In column 2 show the cost of the asset being distributed. The total is the value as reported for the asset on the SBA Form 468 immediately prior to the distribution.

6. *Ending Balance*—is determined by subtracting 5(d) "Total Deductions" from item 4 which represents the beginning balance plus additions.

(Use Only if Licensee Is a Partnership)

Name of Licensee.....
License No.....

Statement of operations realized for — months ended ———

Investment income:	
1. Interest on Loans and Debt Securities	
2. Dividend Income	

3. Income from Investments Reported on the Equity Method of Accounting	
4. Management Services	
5. Application and Other Fees	
6. Interest on Invested Idle Funds	
7. Income from Assets Acquired in Liquidation of Loans and Investments (Net of $ ——— Expenses)	
8. Other Income*	
9. Gross Investment Income	
Expenses:	
10. Interest on Long-term Debt	
11. Commitment Fees	
12. Other Financial Costs	
13. Partners' Salaries	
14. Employee Salaries	
15. Employee Benefits	
16. Investment Advisory and Management Services	
17. General and Limited Partners' Meetings	
18. Advertising & Promotion	
19. Appraisal & Investigation	
20. Communication	
21. Legal Fees	
22. Travel Expense	
23. Cost of Space Occupied	
24. Depreciation and Amortization Expense	
25. Audit and Examination Fees	
26. Insurance Expense	
27. Taxes Expense	
28. Provision for Losses on Accounts Receivables	
29. Miscellaneous Expenses*	
30. Total Expenses	
31. Net Investment Income	
Realized Gain (Loss) on Sale of Securities:	
32. Net Sale Price	
33. Cost of Securities Sold	
34. REALIZED GAIN (LOSS) ON SALE OF SECURITIES	

* Give supporting details on Items 8 and 29.

I. *Statement of Operations Realized—Partnerships.* This statement is designed to measure separately Net Investment Income and Realized Gain (Loss) on Sale of Securities. Such measurement is of realized operations only and is on the accrual basis of accounting.

1. *Net Investment Income*—is the result of measuring revenue and expense associated with investment and management assistance activities of a licensee other than realized gain (loss) on securities sold. Revenue is organized by source; i.e., from portfolio, from services provided, or from other sources.

2. *Realized Gain (Loss) on Sale of Securities*—is a function of operations that is measured separately from Net Investment Income. While the Statement of Realized Gain (Loss) on Sale of Securities provides a detailed analysis of realized gain or losses, the Statement of Operations shows in the aggregate, net sales price of securities sold during the period, the cost of such securities sold, the remainder becomes net realized gain (loss) on sale of securities.

Although an allowance for loss on securities may be established for valuation and in some cases tax purposes, such allowances when provided are not reflected as an expense in measuring investment income. Rather, they are measured in the Statement of Unrealized Gain (Loss) on Securities Held as a component of unrealized depreciation which is an offset against unrealized appreciation. For this reason, the entire loss is reported in this statement when realized and the allowance for loss on the security is reduced by the amount of allowance previously established.

3. *Description by Line Item*—The following is a description by line item as to how the amounts shown on the Statement of Operations Realized are developed.

a. *Investment Income*—the amounts shown in items 1 through 35 of this statement are derived primarily from the general ledger accounts as follows.

Item 1, Interest on Loans and Debt Securities—Show the aggregate of balances in accounts 512, 516 and 541.

Item 2, Dividend Income—Show balance of account 540.

Item 3, Income from Investments Reported The Equity Method of Accounting—Show the balance of account 542.

Item 4, Management Services—Show the balance of account 532.

Item 5, Application and Other Fees—Show the aggregate of balances in accounts 500, 534 and 536.

Item 6, Interest on Invested Idle Funds—Show the balance of account 510.

Item 7, Income from Assets Acquired in Liquidation of Portfolio Securities—Show the balance of account 582 net of the balance of account 710. Also, show the balance of account 710 parenthetically.

Item 8, Other Income—Show the aggregate of balances in accounts 520 and 584.

Item 9, Gross Investment Income—Show the aggregate of Items 1 through 8.

Item 10, Interest on Long-term Debt—Show the aggregate of balances in accounts 610 and 622.

Item 11, Commitment Fees—Show the balance of account 600.

Item 12, Other Financial Costs—Show the balance of account 642.

Item 13, Partners Salaries—Show the balance of account 663–1.

Item 14, Employee Salaries—Show the balance of account 663–2.

Item 15, Employee Benefits—Show the balance of account 670.

Item 16, Investment Advisory and Management Service—Show the balance of accounts 659 and 660.

Item 17, General and Limited Partners' Meetings—Show the balance of account 657–2.

Item 18, Advertising and Promotion—Show the balance of account 650.

Item 19, Appraisal and Investigation—Show the balance of account 651.

Item 20, Communicotion—Show the balance of account 653.

Item 21, Legal Fees—Show the balance of account 661.

Item 22, Travel Expense—Show the balance of account 665.

Item 23, Cost of Space Occupied—Show the balance of account 654.

Item 24, Depreciation & Amortization Expense—Show the aggregate of balances in

Item 28, Provision for Losses on Receivables—Show the balance of account

b. *Realized Gain (Loss) on Sale of Securities*—

leading to a complete liquidation. This line should be used when there is a pro-rata

Permanent Capital for Services since date of organization.

Line 8(e) Investment in 301(d) Licensees—

Item 24, Depreciation & Amortization Expense—Show the aggregate of balances in accounts 655 and 656.

Item 25, Audit and Examination Fees—Show the balance of account 652.

Item 26, Insurance Expense—Show the balance of account 658.

Item 27, Taxes Expense (Excluding Income Taxes)—Show the balance of account 664.

Item 28, Provision for Losses on Receivables—Show the balance of account 680.

Item 29, Miscellaneous Expenses—Show the aggregate of balances in accounts 672, 679, and 715.

Item 30, Total Expenses—Show the aggregate of items 10 through 29.

Item 31, Net Investment Income—Show the balance of amount of Item 9 less Item 30.

b. *Realized Gain (Loss) on Sale of Securities*—

Item 32, Net Sales Price—Show Net Sales Price.

Item 33, Cost of Securities Sold—Show cost.

Item 34, Net Realized Gain (Loss) on Sale of Securities—Line 32 minus 33.

Analysis of Partners' Permanent Capital Contribution and Computation of Regulatory Capital

	General partner(s)	Limited partner(s)	Total
Permanent Capital Contribution:			
1. Balance at Beginning of Fiscal Year			
2. Additions:			
(a) Cash Contributions			
(b) Undistributed Net Realized Earnings Contributed to Permanent Capital			
(c) Permanent Capital Contributed for Services Rendered *			
(d) Permanent Capital Contributed for Other than Cash and Services *			
(e) Other Credits *			
3. Total Additions (The sum of Items 2(a) through 2(e))			
4. Subtotal (Line 1 plus Line 3)			
5. Deductions:			
(a) Complete Liquidation of Partners' Interest *			
(b) Partial Liquidation of Partners' Interest *			
(c) Partial Liquidation of All Partners' Interest *			
(d) Other Debits *			
6. Total Deductions (The sum of Items 5(a) through 5(d))			
7. Balance at End of Fiscal Year			
Computation of Regulatory Capital for Leverage Purposes:			
8. Regulatory Deductions: (Note 1)			
(a) Organization Expense (Note 2)			
(b) Permanent Capital Contributed for Services			
(c) Permanent Capital Contributed for Other than Cash or Services			
(d) Other Non-monetory Items			
(e) Investment in 301(d) Licensee			
(f) Other *			
9. Total Regulatory Deductions (The sum of Items 6(a) through 8(f)			
10. Regulatory Capital for Leverage Purposes (Line 7 minus line 9)			
Computation of Regulatory Capital for Overline Purposes:			
11. Net Unrealized Gains as Defined by Section 107.301(b) of the Regulations (Note 3)			
12. Regulatory Capital for Overline Purposes			

* Give complete details of these items by means of footnotes.

Note 1.—The deductions listed in Items 8(b), 8(c), 8(d) and 8(f) are the total amounts of these items from time of organization to the end of the reporting period.

Note 2.—If the amount of cash contributed for the organization expense was never credited to Permanent Capital, it should be so stated and explained by a footnote.

Note 3.—Licensees who rely on this section to increase the amount of their overline limitation will submit an addition to this schedule detailing the following information:

1. Name of small business concern
2. Market in which traded
3. Class of security
4. Cost
5. Value
6. Amount of unrealized appreciation
7. The total amount of unrealized appreciation on the securities listed
8. The other adjustments required by Section 107.303(b)
9. The net amount reported on line 11 of Statement of Unrealized Gains (Loss)
10. Names of market makers

Analysis of Partners' Permanent Capital Contributions and Computation of Regulatory Capital

Line 1 Enter the amount shown on Form 468 as the balance at the end of the prior fiscal period.

Line 2(a) Cash Contributions—Enter the amount of cash contributed to Permanent Capital during the year.

Line 2(b) Undistributed Net Realized Earnings Contributed to Permanent Capital—Enter the amount transferred from Undistributed Net Realized Earnings to Permanent Capital during the year.

Line 2(c) Permanent Capital Contributed for Services Rendered—Enter the amount of services rendered which was credited to permanent capital.

Line 2(d) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to permanent capital and explain in detail by a footnote.

Line 3 Total Additions—Enter the total of lines 2(a) through 2(e).

Line 4 Subtotal—Enter the sum of lines 1 and 3.

Line 5(a) Complete Liquidation of Partner's Interest—Enter the amount of the interest of the partner whose capital is being liquidated.

Line 5(b) Partial Liquidation of Partner's Interest—Enter the amount of interest of the partner whose permanent capital is being partially liquidated.

Line 5(c) Partial Liquidation of All Partners' Interests—Enter the amount of interest of all partners that is being liquidated. In a footnote state whether SBA has approved of the partial liquidation and whether the liquidation is one of a series leading to a complete liquidation. This line should be used when there is a pro-rata liquidation of "all" partners' interests. All means "substantially all" in terms of dollar value of the partners' Permanent Capital by class.

Line 5(d) Other Debits—Enter the amount of the other debits.

Line 6 Total Deductions—Enter the total of lines 5(a) through 5(d).

Line 7 Balance at the End of Fiscal Year—Subtract line 6 from line 4.

Line 8(a) Organization Expense—Enter the amount of organization expense whether or not amortized.

Line 8(b) Permanent Capital Contributed for Services—Enter the amount credited to Permanent Capital for Services since date of organization.

Line 8(c) Permanent Capital Contributed for Other than Cash or Services—Enter the amount credited to Permanent Capital for assets other than cash or services since date of organization. At such time as the asset is converted to cash, the amount of cash received may be considered to be a cash contribution to Permanent Capital. An adjustment to Permanent Capital may be necessary when the asset is converted to cash.

Line 8(d) Other Non-monetary Items—Enter the amount of other non-monetary items credited to Permanent Capital since date of organization.

Line 8(e) Investment in 301(d) Licenses—Enter the amount of investment in 301(d) licensee.

Line 8(f) Other—Enter the amount of other credits to Permanent Capital since date of organization.

Line 9 Total Regulatory Deductions—Enter the sum of lines 8(a) through 8(f).

Line 10 Regulatory Capital for Leverage Purposes—Subtract line 9 from line 7.

Line 11 Net Unrealized Gains as defined by section 107.303(b)—Go to Note 3, prepare the necessary information and enter the result here.

Line 12 Regulatory Capital for Overline Purposes—Add line 11 to line 10 and enter.

(Use Only if Licensee Is a Partnership)

Name of Licensee.....

License No.....

Statement of Changes in Financial Position for — Months Ended———

1. Beginning Cash and Invested Funds Position		$
Funds Were Provided From:		
2. Net Investment Income	$	
3. Depreciation, Amortization, Provision for Loss on Receivables		
4. Realized Gain (Loss) on Sale of Securities		
5. Decrease in Portfolio Securities		
6. Decrease in Assets Acquired		
7. Decrease in Operating Concerns Acquired		
8. Decrease in Other Securities		
9. Decrease in Current Assets (Excluding Cash and Invested Idle Funds)		
10. Decrease in Other Assets		
11. Increase in Current Liabilities		
12. Increase in Other Liabilities		
13. Increase in Long-Term Debt:		
a. Due to or Guaranteed by SBA		
b. Due to Others		
14. Sale of Additional Partnership Interests		
15. Total Funds Provided		$
16. Total Funds Available		$
Funds Were Used for:		
17. Increase in Portfolio Securities		
18. Increases in Assets Acquired		
19. Increase in Operating Concerns Acquired		
20. Increase in Other Securities		
21. Increase in Current Assets (Excluding Cash and Invested Idle Funds)		
22. Increase in Other Assets		
23. Decrease in Current Liabilities (Excluding Distributions to Partners)		
24. Decrease in Other Liabilities		
25. Decrease in Long-Term Debt:		
a. Due to or Guaranteed by SBA		
b. Due to Others		
26. Distributions to Partners		
27. Redemption of Partnership Interests		
28. Total Funds Used		
29. Ending Cash and Invested Idle Funds Position		

Note.—Unrealized Gain (Loss) on Securities Held is not reflected in the above statement as it has no effect upon source or application of funds. All increases and decreases from the balance sheet in the above schedule are net after the deduction of non-cash items Except the Non-Cash Items Reported on Line 3 Above. *Furnish a schedule of non-cash items for each applicable category.*

J. *Statement of Change in Financial Position for Partnership.* The Statement of Change in Financial Position is to be inclusive of all changes in financial position resulting from transactions. However, the statement does not include changes in unrealized gains (loss) on securities held which are based on subjective determinations by the General Partner(s) and not based on transactions. The objectives of this statement are (1) to summarize the extent to which the licensee has generated cash and invested idle funds and (2) to complete the disclosure of changes in financial position during the period.

The following description by line item explains how the amounts on the Statement of Changes in Financial Position are developed.

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds, A

25 of the Statement of Financial Position if that amount is a decrease during the period.

Cost column of the Statement of Financial Position if that amount is an increase during

	Beginning balance	Ending balance	(2)–(1) Net changes

Item 1, Beginning Cash and Invested Funds Position—The total of line item 14, Cash, and line item 15, Invested Idle Funds Assets, as reported on Form 468 at the end of the prior fiscal period.

Funds were Provided From:

Item 2, Net Investment Income (Loss)—Enter the amount shown on line 31 of the Statement of Operations Realized.

Item 3, Depreciation, Amortizotio, Provision for Loss on Receivables—Enter the total of amounts shown in line items 24 and 28 of the Statement of Operations Realized and the amount of account 672 included in Item 29 of the Statement of Operations Realized.

Item 4, Realized Gain (Loss) on Sale of Securities—Enter the amount shown on line 33 of the Statement of Operations Realized.

Item 5, Decrease in Portfolio Securities—Enter the amount of net change in Item 4, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 6, Decrease in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 7, Decrease in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 8, Decrease in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is a decrease during the period. Do not include current maturities.

Item 9, Decrease in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23 of the Statement of Financial Position if that amount is a decrease during the period.

Item 10, Decrease in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is a decrease during the period.

Item 11, Increase in Current Liabilities—Enter the amount of net change in Items 30 through 35 of the Statement of Financial Position if that amount is an increase during the period.

Item 12, Increase in Other Liobilities—Enter the amount of net change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is an increase during the period. Do not include the amount of account 448.

Item 13(a), Due to or Guaranteed by SBA—Enter the amount of net change in Item 27 of the Statement of Financial Position if that amount is an increase during the period.

Item 13(b), Due Others—Enter the amount of net change in Item 28 of the Statement of Financial Position if that amount is an increase during the period.

Item 14, Sale of Additional Partnership Interests—Enter the amount of net change in Item 41 of the Statement of Financial Position if that amount is an increase during the period and the licensee is a partnership.

Item 15, Total Funds Provided—Enter the total of Items 2 through 14 of the Statement of Change in Financial Position.

Item 16, Total Funds Available—Enter the total of Items 1 and 15 of the Statement of Change in Financial Position.

Item 17, Increase in Portfolio Securities—Enter the amount of net change in Item 4 of the Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 18, Increase in Assets Acquired—Enter the amount of net change in Item 7, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 19, Increase in Operating Concerns Acquired—Enter the amount of net change in Item 8, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 20, Increase in Other Securities—Enter the amount of net change in Item 9, Cost column of the Statement of Financial Position if that amount is an increase during the period.

Item 21, Increase in Current Assets (Excluding Cash and Invested Idle Funds)—Enter the amount of net change in Items 16 through 23, of the Statement of Financial Position if that amount is an increase during the period.

Item 22, Increase in Other Assets—Enter the amount of net change in Items 13, 24 and 25 of the Statement of Financial Position if that amount is an increase during the period.

Item 23, Decrease in Current Liabilities (Excluding Distributions to Partners)—Enter the amount of net change in Items 30 through 33 and Item 35 of the Statement of Financial Position if that amount is a decrease during the period.

Item 24, Decrease in Other Liobilities—Enter the amount of change in Items 37, 38 and 39 of the Statement of Financial Position if that amount is a decrease during the period. Do not include the amount of account 448.

Item 25(a), Due or Guaranteed by SBA—Enter the net amount of change in Item 27 of the Statement of Financial Position if that amount is a decrease during the period.

Item 25(b), Due Others—Enter the net amount of change in Item 28 of the Statement of Financial Position if the amount is a decrease during the period.

Item 26, Distribution to Partners—Enter the amount shown in accounts 365 through 369 of the Statement of Financial Position if that amount is a decrease during the period.

Item 27, Redemption of a Partnership Interests—Enter the amount of Item 41 of the Statement of Financial Position if that amount is a decrease during the period.

Item 28, Total Funds Used—Enter the sum of Items 17 through 27 of the Statement of Change in Financial Position.

Item 29, Ending Cash and Invested Idle Funds Position—Subtract Item 28 from Item 16. The balance will equal the sum of Items 14 plus 15 of the Statement of Financial Position.

(Use Only if Licensee Is a Partnership)

License No.....

Licensee.....

Statement of Unrealized Gain (Loss) on Securities Held for — months ended——

	Beginning balance (1)	Ending balance (2)	(2)–(1) Net changes (3)
Unrealized Appreciation:			
1. Portfolio Securities			
2. Assets Acquired in Liquidation of Portfolio Securities			
3. Operating Concerns Acquired			
4. Other Securities			
5. Total (Note 1)			
Unrealized Depreciation:			
6. Portfolio Securities			
7. Assets Acquired in Liquidation of Portfolio Securites			
8. Operating Concerns Acquired			
9. Other Securities			
10. Total			
11. Unrealized Appreciation (Net of Depreciation) on Securities Held			

Realized Loss Experience on Receivables, Loans, and Investments

[Dollars Rounded to the Nearest Thousand]

Description	Current year loss
Notes, Accounts and Accrued Interest Receivable	
Loans	
Debt Securities	
Equity Interests	
Assets Acquired in Liquidation of Portfolio Securities	
Operating Concerns Acquired	
Other Securities	
Total	

Note (1).—Disclose by footnote the following information (a) The amount of any potential fees that would be due on the amount shown on line 5 if the amount of unrealized appreciation were to be realized. (b) For any person paid a percent or realized gain, supply the following information by footnote: (1) name, (2) title, (3) stock ownership, (4) percent to be paid.

K. *Statement of Unrealized Gain (Loss) on Securities Held.* This statement summarizes the results of the valuation process of securities held as of the statement date as compared to the previous statement date and discloses the net change in the Unrealized Gain (Loss) on Securities Held.

The types of securities held are the primary groupings of loans and investments as set forth in items 1 through 10 of the Statement of Financial Position and are (1) Portfolio Securities, (2) Assets Acquired in Liquidation of Portfolio Securities, (3) Operating concerns acquired and (4) other securities.

in arriving at net unrealized gain (loss) on securities held, consideration must be given to unrealized appreciation (valuation above cost) and unrealized depreciation (valuation below cost) of such securities. After adjusting the net unrealized appreciation (depreciation) for the appropriate tax effect, the remaining amount will represent unrealized gain (loss) on securities held.

Items 1 through 11 are without the estimated tax effect.

Item 1—the amount shown in column 3 Item 4 of the Statement of Financial Position.

Item 2—the amount shown in column 3 Item 7 of the Statement of Financial Position.

Item 3—the amount shown in column 3 Item 8 of the Statement of Financial Position.

Item 4—the amount shown in column 3 Item 9 of the Statement of Financial Position.

Item 5—the amount shown in column 3 Item 10 of the Statement of Financial Position.

Item 6—the amount shown in column 2 Item 4 of the Statement of Financial Position.

Item 7—the amount shown in column 2 Item 7 of the Statement of Financial Position.

Item 8—the amount shown in column 2 Item 8 of the Statement of Financial Position.

Item 9—the amount shown in column 2 Item 9 of the Statement of Financial Position.

Item 10—the amount shown in column 2 Item 10 of the Statement of Financial Position.

Item 11—Item 5 minus Item 10.

Instructions Concerning Contingent Fees. If *ANY* person (officer, director, manager, or investment advisor whether individual, partnership or corporate) receives a fee, bonus or other type of emolument based on either income or gains summarize the pertinent provisions of manner in which the compensation is determined and include statement as to the amount of the recompense that would be due and the change to the amount shown on line 11.

Realized Loss Experience on Receivables, Loans and Investments. Furnish in this schedule by categories shown, the amount of loss experience on loans and investments as well as receivables resulting from income realization. The loss experience will be the actual loss experience during the current period. The amounts shall be rounded to the nearest thousand.

This portion of statement is the basis for determining the loss experience of the industry.

Name of Licensee.....

License No.....

Statement of Commitments and Guarantees as of——

Description	Date made	Expiration date	Portfolio securities	Assets acquired	Operating concerns acquired
Commitments of Funding					
Total					
Guarantees to Others					
Total					

Description	Date made	Expiration date	Portfolio securities	Assets acquired	Operating concerns acquired
Commitments of Funding					
Total					
Guarantees to Others					
Total					

The total of all investments in any small business concern appearing in column. 5, 6, 7, 8, and 9 should be shown, a line drawn and the investments in the next SBC shown.

Description	Date made	Expiration date	Portfolio securities	Assets acquired	Operating concerns acquired
Total commitments and guarantees outstanding.....					

L. *Statement of Commitments and Guarantees.* This statement provides a schedule of outstanding commitments of the licensee to provide funds to small business concerns. It also shows by small business concern the amount of such concern's debt to a third party the licensee has guaranteed.

Such amounts will be shown according to Portfolio Securities, Assets Acquired in Liquidation of Portfolio Securities, or operating concerns acquired.

The statement is completed as follows:

(1) Under Commitments of Funding, show the small business concern to whom the funds are committed. The amounts shown as commitments are derived from memorandum account CL–15.

(2) Under Guarantees to Others, show the name of the small business concern. The amounts shown as guarantees are derived from memoradum account CL–16.

Schedule 1

Name of Licensee..... License No.
Small Business Concern (Issuer) Street address..... City..... State
name.
..... ZIP Code..... SIC Code..... Report for the months ended

Schedule of Investments

[In Dollars Only—No Cents]

[Including Participations Purchased and After Deduction of Participations Sold]

Description of investment	Loan debt equity	Pub PubRes NonPub NPRes Vent SpPort	DelPri DelInt D P&I	Principal balance of financing at beginning of period	Additions (deductions) during period	Principal balance of financing at close of period	Market, or fair value as determined by the board of directors	Unrealized—appreciation—(depreciation)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Schedule of Investments—Schedule 1

The Schedule of Investments will be prepared to show each investment by the licensee in each small business concern. A description of each column follows:

Column 1. Show each investment giving the following details:

Loans: Date of Loan
Amount of Original Loan
Interest Rate
Maturity Date
Repayment Terms
Collateral
If regular repayments are scheduled give details.
Debt: Date of Initial Investment
Amount of Investment
Interest Rate
Maturity Date
Repayment Terms
Equity Features (Include percent of ownership or potential ownership)
Stock: Date of Initial Investment
Amount of Investment
Type of Investment—i.e., common, preferred, common with warrants/options
Percent of Ownership
Equity Interest of Unincorporated SBC
Date of Initial Investment
Amount of Involvement
Percent of Ownership
How Share of Profit (Loss) Determined
Warrants, Options and Other Rights
Date of Initial Investment of Acquisition Cost (if any)
Percent of Ownership Represented
Additional Cost to Exercise

Column 2:

Opposite each investment the appropriate letter should appear
L—Loan
D—Debt Security
E—Equity

Column 3:

Opposite each investment the appropriate letter(s) should appear:
P—Public Traded
PR—Public Traded Restricted
N—Non-public
NR—Non-public—Restricted
V—Venture Capital
SD—Special Discretionary Portfolio

Column 4:

Definition of Delinquency: Any investment that a payment of principal and/or interest is 60 or more days past due.

Opposite each investment the appropriate letter should appear
DP—Delinquent as to Principal
DI—Delinquent as to Interest
DPI—Delinquent as to Principal and Interest

If the small business concern is delinquent in one or more of the licensee's investments an identification number should be assigned to the investment for identification on Schedule 2.

Details of delinquent investments should be shown on Schedule 2, Schedule of Delinquencies

Column 5:

Principal Balance at Beginning of Period. Show balance at cost at beginning of fiscal period.

Column 6:

Additions (Deductions) During Period
Show change during fiscal period
Details of changes, except for regularly scheduled repayments of loans or debt should be explained by footnote

Column 7:

Principal Balance at Close of Period
Show balance at close of period

Column 8:

Market or Fair Value as Determined by Board of Directors/General Partners

Column 9:

Unrealized Appreciation (Depreciation)
Column 9 minus Column 8

The total of all investments in any small business concern appearing in column, 5, 6, 7, 8, and 9 should be shown, a line drawn and the investments in the next SBC shown.

SCHEDULE 2

Name of Licensee..... License No..... Report for the..... Months ended

Schedule of Delinquencies

Small business concern name	Balance beginning of period	Balance end of period	Prin Int	Amount of delinquency at end of fiscal period	Date of last payment	No. of pays delq	Description of collateral	Fair market value of collateral
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Schedule of Delinquencies—Schedule 2

The schedule will give complete details of all investments reported as delinquent on Schedule 1, (Schedule of Investments). A separate line should be used to report an investment delinquent as to principal and interest in columns 5, 6 and 7.

Column 1. Give name of small business concern.

Column 2. Give balance of investment at beginning of fiscal period.

Column 3. Give balance of investment at end of fiscal period.

Column 4. Insert P for principal and/or I for interest if investment is delinquent as to both principal and interest use separate lines in columns 5, 6, and 7.

Column 5. Show the amount of delinquency at end of fiscal period.

Column 6. Show date of last payment.

Column 7. Show numbers of payments delinquent.

Column 8. If investment is collateralized describe collateral in sufficient detail for SBA to evaluate the fair market value of collateral.

Since various types of collateral may be offered, the amount of detail to be supplied should be what "any reasonable person" would require.

Column 9. Show the fair market value of the collateral as determined by the Board of Director/General Manager.

If any delinquencies existing at the balance sheet date have been resolved prior to issuance of Form 468 that fact should be appropriately noted in column 9 and the details of the manner in which the delinquency was resolved disclosed by a footnote on Schedule 2 or a separate sheet attached to Schedule 2.

SCHEDULE 3

Schedule of Changes in Operating Concerns Acquired

Name of SBC.....
Address..... Street Address..... City..... State

Description	Asset Changes				Commitments and guarantees	Total
	Loans (1)	Debt securities (2)	Equity** (3)	Total (4)	(5)	(6)
1. Balance, Beginning of Period*						
2. Add: Cash Additions						
3. Non-cash Additions						
4. Total (Lines 2 and 3)						
5. Less: Cash Deductions						
6. Non-cash Deductions						
7. Total (Lines 5 and 6)						
8. Net Increase (Decrease) Line 4 minus 7)						
9. Balance End of Period (Line 1 plus 8 (at cost)						
10. Less: Unrealized Depreciation						
11. Lower of Cost or Value (Line 9 Minus 10)						
12. Add: Unrealized Appreciation						
13. Fair Value (Line 11 plus 12)						

*Balance at Beginning of Period is Net of Unearned Discounts, Fees, Etc.
**Give Details of Equity By Reference to Schedule 1.
If Investment Has Been Sold, Show By Footnote—Cost—Sales Price—Gain—Cash Received—Non Cash Receipts.

Schedule of Changes in Operating Concerns Acquired—Schedule 3

A schedule 3 should be prepared for each

Schedule 5A.—Cash—Continued

Schedule of Changes in Operating Concerns Acquired—Schedule 3

A schedule 3 should be prepared for each small business concern acquired in which changes occurred.

SCHEDULE 4

Name of Licensee.....
License No.....
Participation [1] and joint financings as of ——————, 19——.....

Name of small business concern	LDE	Original total amount of financing [2]	Names of participating entities or those taking part in joint financing (identify initiating entity)	Reporting company's outstanding principal balance of—			Description of collateral showing percent applicable to each party and any preference to collateral
				Paticipation purchased [2]	Participation sold [2]	Joint financing [2]	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

[1] A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.
[2] Show participations in, or joint financings pertaining to, capital stock or warrants or options at cost.

Participations and Joint Financings—Schedule 4

Show in this schedule the financings in which the reporting licensee participated as well as financings made jointly by the reporting licensee and one or more other lenders or investors during the period or which were outstanding at any time during such period. Identify each item in column (1) name of the financed small business concern; indicate by appropriate letter in column (2) the type of financing (loan, debt security, stock, warrants, and options).

In column (3) show the original total amount contributed by all parties in the participation or joint financing. The name of such participating or joint financing entities (including the name of the reporting licensee) shall be shown in column (4) with appropriate indication as to which is the initiating (sponsoring) entity.

Show in column (5), (6), and (7), as appropriate, the reporting licensee's outstanding principal balance, or other cost, of participation purchased, participation sold, or joint financing, as of the close of the period covered in the report. Enter in column (8) a description of collateral pertaining to each financing, together with information as to the percentage applicable to each party and as to any preferences agreed upon.

Cash and Invested Idle Funds—Schedule 5

Cash will be reported on Schedule 5(a) and Invested Idle Funds will be reported on Schedule 5(b).

SCHEDULE 5.—CASH

Name of licensee ..... License No..... Date——————, 19——

Schedule 5A.—Cash

Name of depository (1)	Location of depository (2)	Amount (3)
1. General funds—demand balances with:		
(a).....		
(b).....		
(c).....		
(d).....		
(e).....		
(f).....		
(g).....		
2. Deposits in imprest accounts with:		
(a).....		
(b).....		

Schedule 5A.—Cash—Continued

Name of depository (1)	Location of depository (2)	Amount (3)
(c).....		
(d).....		
(e).....		
(f).....		
(g).....		
3. Other investments in insured institutions:		
(a).....		
(b).....		
(c).....		
(d).....		
(e).....		
(f).....		
(g).....		
4. Cash items in process of collection.....	XXX	
5. Petty cash.....	XXX	
6.....		
7.....		
8.....		
9.....		
10.....		
11. Total Cash.....	XXX	

Identify compensating balances by a footnote

Cash—Schedule 5(a)

Show cash on hand and in general funds demand deposits; funds in imprest bank accounts. Demand deposits are balances subject to withdrawal without notice and shall be in commercial banks which are members of the Federal Deposit Insurance Corporation. Cash items in process of collection represent those cash items which have been placed with banks for collection.

Petty cash shall represent the full amount of the petty cash imprest fund. The amount shown on line 11 should be the same amount reported on line 14 of the Statement of Financial Position.

Schedule 5B.—Schedule of Invested Idle Funds

Name of Licensee.....
License No.....
Date ——————, 19——

Schedule 58–1.—U.S. Government Obligations, Direct and Fully Guaranteed

Name of issuer and title of issue (1)	Interest rate (2)	Call date (3)	Maturity date (4)	Principal at Par (5)	Principal at cost (6)	Market value (7)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10. Totals						

Schedule 58–2.—Insured Savings, and Time Certificates of Deposit

Name and location of depository					
Insured savings (1)	Time certificates of deposit (2)	Interest rate (3)	Insured savings balance (4)	Time certificates of deposit balance (5)	
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17. Totals					
18. Total Insured Savings and Time Certificates of Deposit (column (4) plus column (5) item 17)					
19. Total U.S. Government Obligations, Insured Savings, and Time Certificates of Deposit (item 18 plus total column (6) Schedule 5(b)(1)				XXX XXX	

Invested Idle Funds—Schedule 5(b)

Show in Schedule 5b(1) securities owned which have been issued or guaranteed by the U.S. Government, showing the name of the issuer and the title of each issue. Other required data, such as interest rate, call date, maturity date, and principal amount at par of bonds and notes, may be obtained by inspection of the securities or from records of securities pledged. The cost of the securities shall be shown in column (6) and the current market value thereof in column (7).

Show in Schedule 5b(2) funds invested in insured savings accounts and funds on time deposit evidenced by time certificates of deposit. Savings accounts shall be with institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. Time deposits shall include all time certificates of deposit held by the company in commercial banks which are members of the Federal Deposit Insurance Corporation.

The amount shown in Schedule 5(b)(2) line 19 represents invested idle funds and should be the same amount as shown on line 15 of the Statement of Financial Position.

The amounts contained in this schedule can be obtained from the accounts as follows:

In Schedule 5(a), item 1 is based on accounts 100 through 108, item 2 is based on accounts 110 through 112, item 3 is based on account 118, and item 4 is based on account 120.

Schedule 5(b)(1) is based on account 130.

In Schedule 5(b)(2), columns 1 and 4 are based on accounts 131 through 134, and columns 2 and 5 are based on accounts 135 through 137.

In column 3 enter the rate of interest.

Schedule 6

Name of Licensee.....
License No.....

Schedule of Average Cash and Invested Idle Funds Balances on a Monthly Basis for Fiscal Year Ended ——

Determination of Inactivity

Month and Year	(1) Cash	+	(2) Idle funds	=	(3) Total
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13. Totals					

14. Average Idle Funds (Line 13 column 3 ÷ 12).
15. Line 26 of statement of financial position value at cost.
16. Twenty-five percent of Line 15.
17. Is Line 16 larger than line 14? ☐ Yes —— ☐ No ——
    If ANSWER IS YES—STOP.
    If ANSWER IS NO—CONTINUE.
18. Twenty-five percent of Line 14.
19. Amount of financing during the past 18 months.
20. Is Line 19 larger than Line 18? ☐ Yes —— ☐ No ——
    If ANSWER IS YES—STOP.
    If ANSWER IS NO—LICENSEE IS INACTIVE.

Average Cash and Invested Idle Fund Balances on a Monthly Basis—Schedule 6

This schedule is designed to measure cash or cash items available for investment and is a basis for measuring the licensee's level of activity.

A monthly average is to be computed which fairly represents cash and invested idle funds available during the month. The average amount of cash available can usually be obtained from the licensee's bank statements. The average of invested idle funds is to be a "simple" average based on the number of days in the month and giving consideration to the liquidation value of such short-term securities.

The schedule is to include the 12-month period prior to the statement date. Should there be cash or idle funds that are encumbered or restricted (compensating balances, pledged funds, etc.), such amounts will be eliminated.

The amounts contained in the schedule can be obtained from the accounts as follows:

Column 1, cash, is based on accounts 100 through 120.

Column 2, idle funds, is based on accounts 130 through 138.

If the computation as shown on Schedule 6 show the licensee to be inactive as defined by Regulation, licensee should attach a statement listing extenuating circumstances, if any exist.

Schedule 1

[Use Only If Licensee Is a Corporation]

Name of Licensee.....
License No.....

Schedule 1—Continued

[Use Only If Licensee Is a Corporation]

As of ————, 19——

Shareholders, Officers, and Directors of the Licensee

Name and address	Officer, director, and manager, give exact title	Title of class	Type of ownership	Amount owned		Percent owned of class outstanding
				Number of shares	Total par or stated value	
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Totals by Class			X X X			

Shareholders, Officers, and Directors of the Licensee—Schedule 7

Furnish in this schedule the information as required by the form regarding equity securities issued by the licensee and regarding the licensee's officers, directors and manager.

In column (1) list:

(a) Each person or company directly or indirectly owning, controlling, or holding with power to vote, 10 percent or more of the outstanding voting securities of the company.

(b) Each person or company owning of record or being known to own beneficially more than 10 percent of any other class of equity securities of the company.

(c) Each officer, director, or manager of the licensee. (List and identify officers and directors, and manager regardless of whether or not they own any equity securities of the company.)

Show in column (2) whether each natural person listed in column (1) is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee. Column (3) shall show the title of each class of stock owned by any person or company and column (4) shall indicate whether the securities of the specific class are owned both of record and beneficially, or record only, or beneficially only.

In column (5), (6), and (7), respectively, show the number of shares of each class owned by each listed person or company, the total par or stated value of such shares, and the percentage of the total number of shares of this class outstanding which is represented by the shares owned by the particular person or company.

Summarize the foregoing information by class of equity security at the bottom of the schedule.

Schedule 7

[Use Only if Licensee Is A Partnership]

Name of licensee.....
License No. .....
As of————, 19——

General Partners, Limited Partners and Advisory Directors of the Licensee

Name and address	Officer, director, and manager* give exact title	General or limited partner	Type of ownership	Amount owned		Percent owned of class outstanding
				Percent of total partnership	Total dollar value	
(1)	(2)	(2)	(4)	(5)	(6)	(7)

*See Glossary For Definitions: Totals by class—General partner, X; Limited partner, X; General partner, X.

General Partners, and all control persons whether limited partner, advisory director or other person–Schedule 7

Furnish in this schedule the information as required regarding the partnership interests of the licensee and licensees partners. The definitions of Director and Executive Officer should be reviewed to insure that the Schedule is complete.

In Column 1 list:

(a) each person or company directly or indirectly owning or controlling a 10 percent or more partnership interest.

(b) each officer, director or manager of the licensee whether or not they own any partnership interest.

Show in column 2 whether any person listed in column 1 is an officer, director, manager of the licensee or specific combination of any of the three and the total remuneration for the period received by each from the licensee.

Column 3 shall show the type of partnership interest (general or limited) of each listed person.

Column 4 shall indicate whether the partnership interest is owned both of record and beneficially, of record only or beneficially only.

Column 5 will show the percent of total partnership interest owned.

Column 6 will show the total dollars of Partner's capital contribution.

Column 7 will show the percent owned of the total general partnership interest or the percent of the total limited partnership interests.

Management Certification

The Annual Report for Fiscal Year Ended ————, 19— submitted by ———— (Licensee) to the Small Business Administration, and consisting of the Audited Financial Statements specified in SBA Form 468 (except those statements listed below which have been omitted) are hereby certified to be correct.

Date: ————
Chief Financial Officer:[1] ————
Title: ————

Statements and Schedules Omitted:

————

VERIFICATION

I hereby attest that the minutes of the meeting of Board of Directors [1] of ———— (Licensee) on ————, 19—, show that the Board[1] at such meeting, reviewed and approved the Annual Report of such company for the Fiscal Year Ended ————, 19—, covered by the above certification of the chief financial officer.

Date ————
Secretary[1] ————

Title 18, Sections 1001 and 1006 of the U.S. Code subjects to punishment by fine and/or imprisonment any person who makes any oral or written statements, entry or representation to SBA, knowing it to be false, or willfully conceals a material fact, in a matter within SBA's jurisdiction or who with intent to defraud directly or indirectly shares any benefits derived from any act of an SBIC. Title 15, Section 645(a) subjects to punishment by fine and/or imprisonment any person making a false statement or willfully overvaluing any security, for the purpose of obtaining for himself or another any loan, extension thereof, or the acceptance, release, or substitution of security therefore, or for the purpose of influencing in any way the action of SBA, or for the purpose of obtaining money or anything of value.

Appendix II—Chart of Accounts for SBICs

Table of Contents

I. Introduction
A. Statement of Policy
B. Purpose of the System
C. Maintenance and Retention of Records
II. Accounting Policies and Practices
A. Accrual Basis of Accounting
B. Accounting and Reporting Loans and Investments on the Value Basis
C. Equity Method of Accounting
D. Management Consulting Subsidiary for Corporate SBICs
E. Tax Allocation Policy
F. Accounting for Dividend and Interest Income
G. Profit Sharing
H. Financing Discounts and Fees
I. Realization of Gain (Loss) on Sale of Securities
J. Unrealized Gain (Loss) on Securities Held
K. Undistributed Realized Earnings
L. Accounting for Non-Monetary Transactions
1. Loans and Investment Transactions
2. Dividends and "Spin offs"
M. Special Policies Applying to 301(d) Licensees
1. 3% Non-Voting Preferred Stock Purchased by SBA
2. Capitalized Operating Expenses
N. Allowance for Losses on Loans and Investments
III. Chart of Accounts
A. Account Numbering System
B. Additional Accounts
C. Primary Classification of Accounts
D. Detail Chart of Accounts
IV. Description of Accounts

[1] See Glossary For Definitions and Explain Correct title in this space.

I. Introduction

A. *Statement of Policy.* Small Business Investment Companies (SBICs) licensed by the Small Business Administration (SBA) including 301(d) licensees are to maintain their books of account in accordance with the system of account classification and accounting policies herein prescribed. Accounting principles and practices set forth herein are in accordance with generally accepted accounting principles for investment companies as set forth by the American Institute of Certified Public Accountants.

The system of account classification is adaptable to manual or machine accounting procedures employing the double-entry method of accounting, and is otherwise designed to meet the specific needs of companies licensed in accordance with the provisions of the Small Business Investment Act of 1958, as amended.

Nothing contained in this system of account classification can/or is intended to authorize or approve any operation or action by a licensee, or any other action, not authorized or approved by the Small Business Investment Act of 1958, as amended, or the Rules and Regulations promulgated thereunder.

This system of Account Classification was prepared by the SBA. Any inquiries or comments relating to the system should be directed to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

B. *Purpose of the System.* This system has been prescribed to insure that standard books of account are maintained by licensees and that uniform accounting policies are followed. By design, the system is basic and may be expanded by a licensee if necessary.

C. *Maintenance and Retention of Records.* The licensee's books and records shall be maintained at its principal place of business. Books and records shall include its books of account, and other records, and memoranda which support the entries in its books of account. These supporting records shall be maintained in such manner as to be able readily to furnish information on any item included in any account. The books and records referred to herein include not only accounting records in a limited technical sense, but other records, such as minute books, capital stock records, reports, correspondence, and memoranda which may be useful in developing the history of, or facts regarding, any transaction.

Memorandum Accounts are included in the chart of accounts to facilitate record keeping of nominal assets, contingent liabilities, commitments to provide future financing (directly or through participations) and guarantees.

Section 107.1002 of SBA Rules and Regulations specifies the time period licensee's records are to be maintained.

II. Accounting Policies and Practices

As a general rule, accounting policies followed by licensees are those promulgated by the American Institute of CAP's as generally accepted accounting principles. Certain of these principles and practices are prescribed in the AICPA's Audit Guide for Investment Companies.

The significant accounting policies licensees are to follow are summarized below. The summary is intended to highlight the more important accounting policies and practices rather than being an all inclusive statement.

A. *Accrual Basis of Accounting.* Books of account shall be maintained on an accrual basis and, at the end of each month, transactions shall be posted to the General Ledger. Entering in the records and posting to the General Ledger of accruals applicable to each month is optional but all accruals are to be entered in the records and posted at the end of the fiscal year, and as of such other dates as mark the close of periods to be covered by interim or special financial reports required to be furnished to SBA.

B. *Accounting and Reporting Loans and Investments on the Value Basis.* Loans and investments will be recorded at cost. However, unrealized appreciation or depreciation of such securities will be recognized in the accounts and as such will result in fair value accounting for loans and investments.

The practice of valuing loans and investments and reflecting in the accounts the resulting unrealized gain (loss) on such securities held has been expressed by the American Institute of CPA's as being a generally accepted accounting practice for investment companies. Accordingly, this practice has been adopted for SBICs.

The adoption of this practice causes unrealized appreciation on loans and investments to be recognized in the accounts. Unrealized depreciation, essentially allowance for losses, has always been recognized. An appropriate tax provision will be established for net unrealized appreciation or depreciation on securities held for all corporate SBICs. No provision for taxes is necessary for limited partnership SBICs.

C. *Equity Method of Accounting.* The carrying value of equity interests in unincorporated concerns will be determined by the equity method of accounting. However, for valuation purposes, the fair value of accounting will be used for the equity interest in unincorporated concerns.

The equity method of accounting will also apply to the investment in 301(d) licensees. Accordingly, an SBICs investment account

Stock splits and dividends in stock of the same class as that owned, are not recorded as income since the Licensee's equity interest

agreement, option, privilege, or other rights to repurchase by and/or resell to the Licensee

receivable, stock, etc. Earnings realized in other than cash will not be available for

2. Dr The appropriate asset account	$400	

Computation of Earnings Available for Dividend Declaration or Capitalization

The equity method of accounting will also apply to the investment in 301(d) licensees. Accordingly, an SBICs investment account will be adjusted for its proportionate share of net income (loss) of such investee as well as dividends paid by the investee. The result will be an investment carried at the book value of such stock.

Income reported on the equity method of accounting will be reported as a non-cash item of income.

D. 1. *Management Consulting Subsidiary for Corporate SBICs.* According to § 107.501(c) of SBA Regulations, consolidated financial statements are to be submitted to SBA when a licensee has a management consulting subsidiary, books of account are to be maintained for the subsidiary so as to properly account for its financial position and result of operations. Such accounts should also be compatible with this system of accounts.

Consolidated statements will include only the licensee and the management consulting subsidiary. Other subsidiaries are not to be reported on a consolidated basis.

2. *Management Consulting Company Investment of Limited Partnership SBICs.* Limited partnership, legally and technically, do not have subsidiaries. A limited partnership SBIC may have an investment in a management consulting company. It is required that in such cases the limited partnership SBIC will own 100 percent of the stock of the management consulting company. The investment in the management consulting company will be accounted for on the records of the limited partnership by the equity method. A combined balance sheet and statement of operations for the limited partnership SBIC and the management consulting company will be filed with SBA in addition to the annual report on SBA Form 468 and supporting schedules required for the limited partnership SBIC.

E. *Tax Allocation Policy.* Tax allocation policies as set forth in Accounting Principles Board Opinion No. 11, *Accounting for Income Taxes*, effective December 31, 1967, will be followed by licensees in accounting for income taxes.

A difference between the amount of gain or loss recognized for tax purposes and that recognized for accounting purposes may constitute a timing difference to be accounted for according to APB Opinion No. 11.

Such differences will result in either deferred credits or deferred charges to future income taxes.

The licensee and its accountant should also follow the current amendments and/or clarifications or interpretations to APB 11 which include FASB 37, FASB Interpretation 29 and FASB Technical Bulletin 82-1.

FASB Interpretation 29 is not an amendment of APB 11.

FASB Technical Bulletin 82-1 is not an amendment it is a clarification on disclosure only.

F. *Accounting for Dividend and Interest Income.*— 1. *Dividend Income*—As a general rule, cash dividends on investment securities are recorded as of the ex-dividend date. Occasionally, cash distributions represent a return of capital; under these circumstances the distributions should be credited to the investment account rather than to income.

Stock splits and dividends in stock of the same class as that owned, are not recorded as income since the Licensee's equity interest in the company declaring the dividend or split has not changed.

Dividends in kind are generally recorded as non-cash income at the fair value of the property received. When the recipient Licensee has the option to receive cash or stock, income should be recorded for the amount of cash that could have been received. When stock rights are received, a portion of the cost basis of the related investment may be allocated to the rights on a pro rata cost basis.

2. *Interest Income*—Interest Income will be accrued according to terms of interest bearing loans and investments. Interest will not be accrued if the ability of the small business concern to pay such accrued interest is doubtful. Indicators of uncollectible accrued interest arise when the SBC is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Other indicators are when principal and/or interest payments are in default more then 6 months or when the Board of Directors values the security below cost and considers collection to be doubtful.

Unearned premiums or discounts are an adjustment of interest income and are to be amortized over the stated life of the debt instrument on a ratable basis.

Interest on invested idle funds is usually accrued on a monthly basis.

G. *Profit Sharing.* As a general rule, profit sharing with the financed concern is an adjustment of the interest rate. An exception to this rule can arise when the licensee makes an investment in an unincorporated concern which takes the form of an equity interest rather than a loan, and the financed concern treats the profit sharing as an equity distribution rather than an expense.

H. *Financing Discounts and Fees.* Discounts on debt instruments resulting from financing made to small business concerns are considered an upward adjustment of the interest rate and are to be amortized over the stated life of the instrument on a ratable basis. Accordingly, the discount is considered earned as it is amortized.

Fees as a general rule, are considered earned at the time of financing since they are for services rendered in connection with the financing. To the extent fees are for services to be rendered in the future, such amount will be considered unearned until the services are performed, at which time such fees will be considered earned.

I. *Realization of Gain (Loss) on Sale of Securities.* In accordance with the accrual basis of accounting, gain or loss on sale of securities or other assets of a licensee will be realized at the time of sale rather than at the time of collection. this practice assumes that the sale represents the final transaction, that the collectability of the gain is reasonably assured, and that the earnings process is complete, i.e., the licensee is not obligated to perform significant activities after the sale in order to earn the gain. Accordingly, this practice of recognizing gain is in accordance with generally accepted accounting principles.

Any transaction with recourse upon the licensee or involving any understanding, agreement, option, privilege, or other rights to repurchase by and/or resell to the Licensee may not be considered as a final transaction.

Any gain on sale of securities which does not qualify as realized gain in accordance with the foregoing shall be deferred pending such realization.

When part of the net sales price is other than cash, gain will be realized at the time of sale unless the sale is not a final transaction or unless collection of the proceeds is not reasonably assured. However, such non-cash gains will be restricted in the sense that they will be unavailable for capitalization or distribution until converted to cash. When collected, application of cash will first be made to the recovery of the licensee's cost of securities sold and then to gain. This is not the cost recovery method if the gain is recognized at the time of sale. It is a method of calculating gains available for distribution similar to the cost recovery method.

Losses are recognized at the point of sale and are shown as a reduction of undistributed net earnings realized. They have no effect on non-cash gains.

Cost of securities sold is usually the carrying value of such assets on the licensee's books. Occasionally, a licensee will acquire shares of an investee's stock (which shares are of the same class) at different times and prices. The average cost method of determining cost of such securities when sold is preferred. If a basis other than the average cost method is used, the difference (if material) in gain (loss) between that determined on the average cost method and that on the method actually used should be disclosed.

J. *Unrealized Gain (Loss) on Securities Held.* Unrealized gain (loss) on securities held results from the licensee's directors/general partner(s) valuation of Loans and Investments. Unrealized appreciation represents the valuation above cost and unrealized depreciation represents valuation below cost. After considering an appropriate provision for taxes, the net amount will be unrealized gain (loss) on securities held for corporate licensees. Limited partnership licensees will not have a provision for taxes.

The Statement of Operations measures the realized activities of a licensee that can be objectively measured. Unrealized gain (loss) on securities held is in many ways a subjective determination by a licensee: therefore, measurement in a separate statement would be most appropriate with the final results being reflected in the equity section of the Statement of Financial Position. Accordingly, unrealized gain (loss) on securities held will be measured separately in the equity accounts rather than being a measurement of earnings. Such accounting treatment is not at variance with Accounting Principles Board Opinion No. 9, *Reporting the Results of Operations*, issued by the AICPA and effective December 31, 1966, or with accounting practices set forth in the AICPA Audit Guide for Investment Companies as applied to SBICs.

K. *Undistributed Realized Earnings.* Undistributed realized earnings will encompass all realized earnings whether in cash or non-monetary receipts such as notes

receivable, stock, etc. Earnings realized in other than cash will not be available for distribution or otherwise made available for capitalization until converted to cash. Gain or loss on securities held is unrealized and, therefore, not measured in undistributed earnings.

L. *Accounting for Non-Monetary Transactions.* Non-monetary transactions involve both reciprocal and non-reciprocal transfers of assets or liabilities not involving cash between the licensee and another entity or person, or between the licensee and its stockholders/partners. Accounting Principles Board Opinion No. 29, issued by the AICPA and effective October 1, 1973, should be followed by licensees to the extent applicable when accounting for non-monetary transactions.

1. *Loan and Investment Transactions*—Non-monetary exchanges with portfolio concerns or others whereby the licensee transfers certain securities or assets for other securities or assets will not be considered transactions where gain (loss) is realized whether such transactions are taxable or non-taxable exchanges. The accounting basis for assets received will be the same basis as assets transferred and unrealized gain (loss) on securities held will be the result of the valuation process.

2. *Dividends and Spin-offs*—Dividends in kind are nonreciprocal transfers of non-monetary assets to owners and should be accounted for at fair value. Fair is defined as being not less than the value as reported on the most recent SBA Form 468 and the gain will be reported as a non-cash gain.

Assume the following facts:

Licensee has an investment, Cost $100
Value $500, and wishes to distribute the asset to the shareholders. If this item is isolated from the remainder of the records the balance sheet would appear as follows:

The appropriate asset account	$100	
The appropriate appreciation account		400
Account 440-Stockholders Unrealized Appreciation on Loans and Investments		$400
Account 451-Stockholders Undistributed Net Realized Earnings		100

At the time that a decision is made to distribute the asset, immediately prior to distribution the licensee will make the following journal entries:

1. Dr Account 440-Stockholders Unrealized Appreciation on Loans and Investments	$400	
Cr Account 450-Stockholders Non-cash Gains on Sale of Securities		$400

Explanation—The distribution of the asset is equivalent to a sale which results in a non-cash gain.

2. Dr The appropriate asset account	$400	
Cr The appropriate appreciation account		$400

Explanation: The appreciation of the asset has been now realized.

At the time of distribution the following entry would be made.

3. Dr Account 450-Stockholders' Non-cash Gain on Sales of Assets	$400	
Dr Account 451-Stockholders Net Realized Earnings	100	
Cr The appropriate asset account		$500

M. *Special Policies Applying to 301(d) Licensees.*—1. *Three percent non-voting Preferred Stock Purchased by SBA.* Although considered leverage funds, preferred stock purchased by SBA of a 301(d) licensee is treated like other equity securities for *accounting purposes.* Dividends on such stock receive the conventional treatment of dividends and are declared and paid out of "retained earnings". If arrearages of dividends exist on the preferred stock purchased by SBA, the balance sheet should indicate that a footnote should be read in conjunction with the preferred stock. The footnote should explain the amount of the arrearages and the number of arrearages. Dividends or other distributions may not be made if (a) Retained Earnings is a deficit or (b) there are any arrearages of dividends on preferred stock issued to SBA.

2. *Capitalized Operating Expenses.* Frequently, 301(d) licensees that have parent companies will be allowed to increase capital by transfers of allocated operating expenses incurred on the part of the licensee but paid for by the parent company. Another form of the same type of transaction exists when the parent company increases private capital of a subsidiary licensee by a cash transfer in which funds are designed to be used for budgeted operating expenses.

Such transfers will be deferred (account No. 383) expenses rather than assets on the basis that they have no future value.

N. *Allowance for Losses on Loans and Investments.* The value basis of accounting does not contemplate a general allowance for losses on loans and investments as does the cost basis. Rather, value accounting requires the licensee's Board of Directors/General Partner(s) to value each loan or investment as of the statement date. When value is determined to be less than cost, unrealized depreciation will result. The Unrealized Depreciation, which is the SBIC's good faith valuation of certain investments below cost, is the amount that should be shown as an "Allowance for Losses on Loans and Investments" in the Computation of Earnings Available for Dividend Declaration or Capitalization. The total amount shown on Line Item 10, Column 2, of the Statement of Financial Position should, under normal conditions, be the amount of the "Allowance for Losses." Any material difference between the amount reported on Line 10, Column 2 of the Statement of Financial Position and the amount reported as the Allowance for Losses on Loans and Investments in the Computation of Earnings Available for Dividend Declaration or Capitalization should be explained by a footnote(s). It should be noted, however, that the adoption of value accounting will have no effect on the licensee's reserve for losses for tax purposes (see I.R.C.)

III. Chart of Accounts

A. *Account Numbering System.* This system provides for two-digit number designations for major categories under which accounts are listed, and three-digit number designations for individual general ledger accounts. The first two digits of an individual account number refer to the major category under which the account is classified and the third digit identifies the specific account. Digits from zero through nine are use to identify specific accounts; the first deposit bank account established will be designed "100" and the second "101." It will be noted that some categories encompass individual accounts in sufficient number to require assignment of more than one two-digit number to identify the category. For example, "Cash on Hand and in Banks" has been assigned category numbers "10," "11," and "12."

B. *Additional Accounts.* Licensees may incorporate such additional accounts into their accounting system as are considered necessary.

Any account may be subdivided provided that such subaccounts do not impair the integrity of the accounts set forth in the prescribed system. Subaccounts shall refer by number and title to the accounts to which they apply. Use of a decimal system is required for extending the account numbers to identify such subaccounts.

C. *Primary Classification of Accounts.* The primary classification of accounts is as follows:

Account No.	Description
General Ledger	
100 to 299	Asset and valuation accounts.
300 to 399	Liability accounts.
400 to 499	Capital accounts.
500 to 599	Income accounts.
600 to 699	Expense accounts.
Memorandum Records	
NA-10-NA-14	Nominal assets.
CL-15-CI-17	Contingent liabilities.
OCS-1	Options on company's stock.
AL-1	Actual (realized) losses.
WI	Worthless investments-written off.
PDA	Preferred dividend arrearages on preferred stock sold SBA.

D. *Detail Chart of Accounts.* The detail chart of accounts is organized according to the primary classification of accounts and identifies the account number and title of each account. The page where a description of the account can be found is indicated at the right of the account title.

Asset and Valuation Accounts

10-12—Cash on Hand and in Banks
198—Appreciation of warrants, options, and other stock rights acquired from SBCs.
199—Depreciation of warrants, options and

33—Current Maturities of Long-Term Debt
330—Current maturities of notes and

46—Stockholders' and Partners Profit and Loss Clearing
536—Application and appraisal fees.
54—Dividends and Other Earnings
705—Loss on equity interests of unincorporated concerns.

Asset and Valuation Accounts

10–12—Cash on Hand and in Banks

100–108—Deposits in _____ bank.
110–112—Deposits in imprest account in _____ bank.
118—Cash items in process of collection.
120—Petty cash fund.

13—Invested Idle Funds

130—U.S. Government obligations, direct and fully guaranteed.
131—Insured savings accounts.
135–137—Time certificates of deposit in _____ bank.
138—Other investments in insured institutions.

14—Receivables

140—Notes receivable.
141—Accounts receivable.
142—Allowance for uncollectible notes and accounts receivable.
143—Accrued interest receivable.
144—Allowances for uncollectible interest receivable.
145—Dividends receivable.
146—Receivables from parent.

15—Current Maturities and Other Current Assets

150—Current maturities on portfolio securities.
152—Current maturities on assets acquired in liquidation of portfolio securities.
153—Current maturities on operating concerns acquired.
154—Current maturities on other securities.
156—Other current assets.

16—Investment in 301(d) Licensee

160—Investment in 301(d) licensee.

17—Loans to Small Business Concerns

170—Loans.
171—Appreciation of loan values.
172—Depreciation of loan values.
173—Unearned discount, fees, and other charges on loans.

18—Debt Securities of Small Business Concerns

180—Debt securities, convertible, and with stock purchase warrants or options.
184—Debt securities divested of stock rights.
186—Appreciation of debt securities values.
187—Depreciation of debt securities values.
188—Unearned discount, fees, and other charges on debt securities.

19—Equity Interests of SBCs

190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.
191—Capital stock of SBCs—other.
192—Appreciation of capital stock values.
193—Depreciation of capital stock values.
194—Equity interests of unincorporated concerns.
195—Appreciation of equity interests in unincorporated concerns.
196—Depreciation of equity interests in unincorporated concerns.
197—Warrants, options, and other stock rights acquired from SBCs.
198—Appreciation of warrants, options, and other stock rights acquired from SBCs.
199—Depreciation of warrants, options and other stock rights acquired from SBCs.

20—Assets Acquired in Liquidations of Portfolio Securities

200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
203—Depreciation in values of receivables from debtors on sale of assets acquired in liquidation of portfolio securities.
204—Assets acquired in liquidation of portfolio securities.
205—Appreciation of assets acquired in liquidation of portfolio securities.
206—Depreciation of assets acquired in liquidation of portfolio securities.

21—Operating Concerns Acquired

210—Operating concerns acquired.
211—Appreciation of operating concerns acquired.
212—Depreciation of operating concerns acquired.

22—Other securities

220—Notes and other securities received on sale of portfolio securities.
221—Other securities received.
222—Appreciation of other securities.
223—Depreciation of other securities.

23—Prepaid Expenses and Deferred Charges

230—Prepaid expenses.
231—Deferred charges.

24—Furniture and Equipment

240—Furniture and equipment.
241—Accumulated depreciation on furniture and equipment.

25—Corporate Premises Owned

250—Corporate premises owned.
251—Accumulated depreciation on corporate premises owned.
252—Leasehold improvements.

26—Other Assets

265—Amounts due from directors, officers, general partners, limited partners and employees.
266—Organization costs.
267—Funds in escrow.
269—Other assets.

Liability Accounts

30—Notes and Other Obligations Payable to SBA for Funds Borrowed

300—Notes payable to SBA.
301—Debentures payable issued to SBA.

31—Notes and Other Obligations Payable to Other than SBA for Funds Borrowed

310—Notes payable to other than SBA—guaranteed by SBA.
311—Notes payable to other than SBA—not guaranteed by SBA.
312—Mortgages payable for funds borrowed.
313—Mortgages payable on assets acquired in liquidation of portfolio securities.

32—Notes Payable—Other

320—Notes payable—other.

33—Current Maturities of Long-Term Debt

330—Current maturities of notes and debentures payable to or guaranteed by SBA.
331—Current maturities of notes and debentures payable to others not guaranteed by SBA.

34—Accounts Payable

340—Accounts payable.
341—Accounts payable due parent or partners.

35—Accrued Expenses and other current Liabilities

350—Accrued interest payable.
351—Accrued taxes.
354—Estimated income taxes accrued.
358—Other current liabilities.

36—Dividends and Distributions Payable

360–364—Dividends payable on type and class capital stock.
365–369—Distributions payable to general and limited partners.

37—Trust Receipts

370—Employee taxes withheld.
374—Unapplied receipts.
378—Miscellaneous trust receipts.

38—Deferred Credits

380—Deferred credit to future income taxes.
383—Other deferred credits.

39—Other Liabilities

390—Other liabilities.

Capital Accounts

40–41—Capital Stock

400–404—(type and class) capital stock authorized.
405–409—(type and class) unissued capital stock.
410–411—(type and class) capital stock subscribed.
413–414—Capital stock subscriptions receivable (type and class).
415–419—Treasury stock (type and class).

42—Paid-in Surplus

420—Paid-in surplus.

43—3 Percent Preferred Stock [301(d) Licensees only]

430–3 percent preferred stock, cumulative, non-voting issued to SBA.

44—Stockholders' Unrealized Gain (Loss) on Securities Held

440—Stockholders' unrealized appreciation on loans and investments.
445—Stockholders' unrealized depreciation on loans and investments.
448—Stockholders' estimated taxes on net unrealized gain (loss) on securities held.

45—Stockholders' Undistributed Realized Earnings

450—Stockholders' non-cash gains on sale of securities.
451—Stockholders' undistributed net realized earnings.

46—Stockholders' and Partners Profit and Loss Clearing

460—Stockholders' profit and loss summary.
461—Stockholders' realized gain and loss summary in cash.
462—Stockholders' non-cash realized gain summary.
463—Stockholders' non-cash income from investments reported on the equity method of accounting.
465—Partners' profit and loss summary.
466—Partners' realized gain and loss summary in cash.
467—Partners' non-cash realized gain summary.
468—Partners' non-cash income from investments reported on the equity method of accounting.

47—Partners' Capital Contributions

470—General Partners' Permanent Capital Contribution Summary.
471—Corporate General Partners' Permanent Capital Contribution.
472—Individual General Partners' Permanent Capital Contribution.
475—Limited Partners' Permanent Capital Contribution Summary.
476—Limited Partners' Permanent Capital Contribution.

48—Partners' Unrealized Gain (Loss) on Securities Held

481—Corporate General Patners' Unrealized Appreciation on loans and investments.
482—Individual General Partners' Unrealized Appreciation on loans and investments.
483—Corporate General Partners' Depreciation on loans and investments.
484—Individual General Partners' Depreciation on loans and investments.
485—Limited Partners' Unrealized Appreciation on loans and investments.
486—Limited Partners' Unrealized Depreciation on loans and investments.

49—Partners' Undistributed Realized Earnings

491—Corporate General Partners' non-cash gains.
492—Individual General Partners' non-cash gains.
493—Corporate General Partners' undistributed net realized earnings.
494—Individual General Partners' undistributed net realized earnings.
495—Limited Partners' non-cash gains.
496—Limited Partners' Undistributed net realized earnings.

Income Accounts

50—Commitment Income

500—Commitment Income.

51–52—Interest Income

510—Interest on invested idle funds.
512—Interest on loans.
516—Interest on debt securities.
520—Interest income—other.

53—Fee Income

532—Management service fees.
534—Investigation and service fees charged other lenders.
536—Application and appraisal fees.

54—Dividends and Other Earnings

540—Dividends on capital stock of SBCs.
541—Sharings in income or revenue of SBCs.
542—Non-cash income from investments reported on the "Equity Method of Accounting."

57—Gain on Securities and Other Assets

570—Gain on U.S. Government securities.
571—Gain on loans.
572—Gain on debt securities.
574—Gain on capital stock of SBCs.
575—Gain on equity interests of unincorporated SBCs.
576—Gain on warrants, options, and other stock rights acquired from SBCs.
577—Gain on assets acquired in liquidation of portfolio securities.
578—Gain on operating concerns acquired.
579—Gain on other assets.

58—Miscelloneous Income

582—Income from assets acquired in liquidation of portfolio securities.
584—Other income.

Expense Accounts

60—Commitment Expense

600—Commitment expense.

61–62—Interest Expense

610—Interest on obligations payable to SBA.
622—Interest on obligations payable to other than SBA.

64—Stock Record and Other Financial Expenses

642—Stock record and other financial expenses.

65–67—Operating Expenses

650—Advertising and promotional costs.
651—Appraisal and investigation costs.
652—Auditing and examination costs.
653—Communications.
654—Cost of space occupied.
655—Depreciation of corporate premises owned, furniture, and equipment.
656—Amortization of leasehold improvements.
657—Directors' and stockholders' and partners' meetings costs.
658—Insurance.
659—Management services fees.
660—Investment adviser costs.
661—Legal services.
663—Salaries.
664—Taxes, excluding income taxes.
665—Travel.
670—Employee benefits expense.
672—Amortization of organization expense.
679—Miscellaneous operating expenses.

68—Estimated Losses on Receivables

680—Estimated losses on receivables.

70—Loss on Securities and Other Assets

700—Losss on U.S. Government securities.
701—Loss on loans.
702—Loss on debt securities.
704—Loss on capital stock of SBCs.
705—Loss on equity interests of unincorporated concerns.
706—Loss on warrants, options, and other stock rights acquired from SBCs.
707—Loss on assets acquired in liquidation of portfolio securities.
708—Loss on operating concerns acquired.
709—Loss on other assets.

71—Miscelloneous Expenses

710—Expense on assets acquired in liquidation of portfolio securities.
715—Other Expenses

72—Income Taxes

720—Income taxes—net income.
722—Income taxes—net realized gain on investments.

Memorandum Records

Nominal Assets

NA–10—Stock purchase warrants or options on stock of SBCs.

Contingent Liabilities

CL–15—Commitments outstanding.
CL–16—Guarantees outstanding.
CL–17—Other contingent liabilities.

Options on Company's Stock

OCS–1—Options on company's stock.

Actual Loss Experience

AL 1—Actual (realized) losses.

Worthless Investments

WI–1—Worthless investments written off.

Preferred Dividend Arrearages

PDA–1—Preferred dividend arrearages on preferred stock sold to SBA.

IV—Description of Accounts

Asset and Valuation Accounts

100–108—Deposits in _____ bank.

These accounts will represent funds on demand deposit in banks which are members of the Federal Deposit Insurance Corporation.
Debit:
(a) With amount of funds deposited.
Credit:
(a) With amount of funds withdrawn, and charges made by bank for such items as dishonored checks, transfer of funds by wire, collection, exchange, etc.

110–112—Deposits in imprest account in _____ bank.

These accounts will represent funds on demand deposit in imprest bank accounts to be drawn upon for the payment of operating expenses and to be reimbursed periodically through deposit therein of a check requiring dual signatures and drawn on the company's general funds bank account.
Debit:
(a) With amount of funds deposited.
Credit:
(a) With amount of funds withdrawn.

118—Cash items in process of collection

This account will represent the amount of cash items placed with banks for collection.
Debit:

(a) With amount of such items placed with banks for collection.
Credit:
(a) With amount of funds withdrawn.

135–137—Time certificates of deposit in _____ bank.

services rendered to "participating" companies and the amount of accrued commitment fees receivable for making funds

addition to the allowance for uncollectible notes and accounts receivable reflected in

conservative estimate of probable losses. This valuation reserve will be adjusted as

(a) Parent's share of any expense shared with the licensee which was paid by the

VOL 50 ISS 139 JL 19 1985 UMI

(a) With amount of such items placed with banks for collection.

Credit:

(a) With amount of items collected.

(b) With amount of uncollected items returned or withdrawn.

120—Petty cash fund

This account will represent the imprest petty cash fund maintained for the purpose of making small disbursements.

Debit:

(a) With amount placed in the fund when established.

(b) With amount of increase in the fund.

Credit:

(a) With amount of decrease in the fund.

Note.—The petty cash fund may be reimbursed and expenditures recorded as often as circumstances require, but must be reimbursed at the close of the company's fiscal year. Checks to replenish the fund will be drawn on a general fund bank account and include "petty cash" as a payee. Debits totaling the amount of this replenishment should be made concurrently to the appropriate accounts.

130—United States Government obligations, direct and fully guaranteed

This account will represent the cost of temporary investments made from general cash funds in direct obligations of the United States Government and obligations guaranteed as to principal and interest by the United States Government. When United States Government Savings Bonds redeemable at par value on maturity are purchased at less than face value, the increase in redemption value may be periodically charged to this account with concurrent credit to account No. 510—Interest on invested idle funds.

Debit:

(a) With cost of such securities acquired.

(b) With increase in redemption value of United States Savings Bonds.

Credit:

(a) With redemption value of United States Savings Bonds redeemed.

(b) With cost of such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury Bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be debited to account No. 143–Accrued interest receivable, with concurrent credit to account No. 510-Interest on invested idle funds.

(See accounts Nos. 570 and 700.)

131—Insured savings accounts

This account will include the balances in subaccounts Nos. 131.1, 131.2, etc.

131.1—Insured savings in ——————

This account will represent funds invested in an insured savings account (up to the amount of the insurance) in an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) With amount of funds invested.

(b) With amount of interest earned on such invested funds.

Credit:

(a) With amount of funds withdrawn.

135–137—Time certificates of deposit in —————— bank.

These accounts will represent funds in Time Certificates of Deposit, maturing not later than one year after issuance, in banks which are members of the Federal Deposit Insurance Corporation.

Debit:

(a) With amount of funds deposited.

Credit:

(a) With amount of funds withdrawn.

139—Other investments in insured institutions

This account will represent funds deposited or invested in insured institutions that can not be classified in any of the prior categories.

Debit:

(a) With the amount of funds deposited or invested.

Credit:

(a) With the amount of funds withdrawn.

140—Notes receivable

This account will represent the unpaid balance of miscellaneous notes receivable, such as notes for management consulting services. Notes representing amounts due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount of such miscellaneous notes received.

Credit:

(a) With amount collected on principal of such miscellaneous notes.

(b) With unpaid principal balance written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—other deferred credits, pending determination on the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 6 months to the licensee, or the fair value of its debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

141—Accounts receivable

This account will represent the amount due on open account for management consulting, appraisal, and miscellaneous services rendered; and miscellaneous current receivables.

The account also will include the amount of accured compensation receivable for services rendered to "participating" companies and the amount of accrued commitment fees receivable for making funds available on a deferred basis to small business concerns and to "initiating" companies in connection with the latter's financing of small business concerns.

Accounts receivable representing receivables due from debtors on sale of assets acquired in liquidation of portfolio securities will be reflected in account No. 200.

Debit:

(a) With amount due the company.

Credit:

(a) With amount collected.

(b) With amount written off or disposed of otherwise.

Note.—Recording as income of amounts entered in this account should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination on the appropriate accounting. In less serious situations, when the debtor small business concern is in default more than 6 months to the licensee, or the fair value of its debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the receivable entered in this account, or, as an alternative, the receivable recorded as an asset should be concurrently credited as deferred income to account No. 383 as above indicated.

(See account No. 142.)

142—Allowance for uncollectible notes and accounts receivable

This account will represent the valuation reserve provided for estimated losses on notes and accounts receivable and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate or probable losses on notes and accounts receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of notes and accounts receivable written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on notes and accounts receivable written off.

Notes.—When a note receivable or an account receivable is recorded with respect to any debtor small business is in default more than 6 months to the licensee, or the fair value of whose debt or equity instruments held by the company, as determined by the Board of Directors/General Partner(s), is less than cost, or recovery thereon is doubtful, an

addition to the allowance for uncollectible notes and accounts receivable reflected in this account should be made in an amount equivalent to the recorded receivable, or, as an alternative, the amount of the receivable recorded as an asset should be concurrently credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See accounts Nos. 140, 141 and 680.)

143—Accrued interest receivable

This account will represent the amount of interest accrued on portfolio loans to and debt securities of small business concerns, United States Government obligations, direct and fully guaranteed, notes receivable, sales contracts, and other interest-bearing amounts due from debtors, including funds placed in escrow pending the closing of financing and assets acquired in liquidation of portfolio securities as well as interest accrued on other securities.

Debit:

(a) With amount of interest accrued on all items covered by this account.

Credit:

(a) With amount of interest payments received.

(b) With amount of accrued interest transferred to assets acquired in liquidation of loans and debt securities.

(c) Upon disposition of interest-bearing obligations, with amount of accrued interest thereon included in this account.

(d) With amount of accrued interest written off or disposed of otherwise.

Note 1.—At the option of the company, interest payments received in cash from debtors prior to the interest maturity date may be credited to account No. 374—Unapplied receipts, until the maturity date.

Note 2.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee; or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partners is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See account No. 144.)

144—Allowance for uncollectible interest receivable

This account will represent the valuation reserve provided for estimated losses of accrued interest receivable, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands, so that this account will reflect the best available estimate of probable losses of accrued interest receivable.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of accrued interest receivable written off.

Credit:

(a) With amount of increases in such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries of accrued interest receivable written off.

Note.—When interest receivable is accrued under circumstances in which the financed small business concern is in default over six months to the licensee, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable reflected in this account should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in account No. 383—Other deferred credits, pending determination of the appropriate accounting.

(See accounts Nos. 143 and 680.)

145—Dividends receivable

This account will represent cash dividends that have been declared on capital stock of small business concerns but have not been distributed to stockholders.

Debit:

(a) With amount due the licensee of cash dividend declared.

Credit:

(a) With amount distributed to the licensee of the dividend declared.

(See account No. 540.)

Note 1.—Stock splits or dividends in stock of the same class as that owned are not recorded as dividend receivable or income because the licensee's equity interest in the company declaring the dividend or split has not changed.

Therefore, stock splits or dividends will be measured in the appropriate investment account.

(Account Nos. 190 or 191.)

Note 2.—Dividends in kind will be recorded as income at the fair market value of the securities received and will be recorded in account No. 221, Other securities received.

146—Receivables from parent

This account will represent receivables due licensee from its parent. Receivables due from parent will generally be from one of two sources: (1) Expenses shared pro-rata with the parent paid by the licensee, but not yet reimbursed by the parent and/or (2) licensee has a tax loss from which the parent (and/or consolidated group) have received a tax benefit.

Debit:

(a) Parent's share of any expense shared with the licensee which was paid by the licensee.

(b) Licensee's share of any tax benefit derived by the parent from the filing of a consolidated tax return when the licensee has a taxable loss.

(c) And other receivable due from parent arising from any other source.

Credit:

(a) Cash received from parent.

(b) Income taxes due from licensee but paid by the parent.

Note.—The credit for income taxes due from licensee but paid by the parent can only arise in the case of a prior benefit being derived by the parent.

If the licensee has had a previous tax benefit by reason of a tax loss from some other member of the consolidated group the credit would be to account No. 341—Accounts payable due parent.

150—Current Maturities of Portfolio Securities

The account will represent the principal amounts due the licensee on a cost basis of loans and debt securities of small business concerns that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to loan or debt security accounts.

(See accounts Nos. 170, 180, and 184.)

152—Current maturities on assets acquired in liquidation of portfolio securities

This account will represent the current principal amounts due the licensee on a cost basis of amounts due from debtors on sale of assets acquired; or the current principal amounts of their debt instruments that are classified as assets acquired in liquidation of portfolio securities.

This account will represent only those amounts reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to the appropriate asset acquired in liquidation of portfolio securities account.

(See accounts Nos. 200, 204.)

153—Current maturities on operating concerns acquired

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as operating concerns acquired that are reasonably expected to be collected in the normal course

of business in the next 12 months of operations.

the Small Business Investment Act of 1958, as amended.

(a) With amount of decreases in such reserve.

disbursements to debtor small business concerns, in connection with loans

repayments transmitted by the "initiating" company.

which have been subsequently divested of

VOL 50 ISS 139 JL 19 1985 UMI

of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See account No. 210.)

154—Current maturities on other securities

This account will represent the principal amounts due the licensee on a cost basis of debt instruments classified as "other securities" that are reasonably expected to be collected in the normal course of business in the next 12 months of operations.

Debit:

(a) With amount due the licensee during the current year.

Credit:

(a) With amount of current maturities collected by the licensee.

(b) With amount not considered collectible on a current basis and restored to other securities accounts.

(See accounts Nos. 220 and 221.)

156—Other current assets

This account will represent current assets not otherwise classified of the licensee that are expected to be converted to cash or expensed in the normal course of business in the next twelve months.

Debit:

(a) With amount of such asset.

Credit:

(a) With amount collected.

(b) With the proportionate amount allocated to the period as an expense.

160—Investment in 301(d) licensee

This account will represent the licensee's investment in capital stock of a special purpose SBIC. The account will be maintained on the equity method of accounting basis and will show licensee's investment after considering proportionate share of realized income (loss) of the 301(d) licensee's operations and dividends declared by the 301(d) licensee.

Debit:

(a) With cost of capital stock of such 301(d) licensee.

(b) With the licensee's proportionate share of the 301(d) licensees:

(1) Net investment income, and

(2) Net realized gain on the sale of securities.

Credit:

(a) With the licensee's proportionate share of:

(1) Net investment loss.

(2) Net realized loss on sale of securities.

(b) With the licensee's proportionate share of cash dividends or dividends in kind at fair value.

(c) With the valûe on equity basis of stock in 301(d) licensee when sold.

170—Loans

This account will represent the unpaid principal balance of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With face amount of direct loans.

(b) With portion retained by company of loans in which participations are sold to others.

(c) With amount of participations in loans of others.

(d) With unpaid principal of loans represented by renewal notes accepted or notes taken in substitution for those held.

(e) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) When amount collected on face amount of direct loans.

(b) With company's share of amount collected on principal of loans in which participations are sold to others.

(c) With amount by which participations in loans of others are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of loans represented by notes renewed or for which other notes have been substituted.

(e) With amount transferred to assets acquired in liquidation of portfolio securities.

(f) With unpaid principal of loans written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all loan participation arrangements the "initiating" company will service the loans.

Note 3.—It is recommended that individual loan ledger cards or sheets be maintained for all loans. Such ledger cards or sheets should contain the detailed information needed for account No. 173—Unearned discount, fees, and other charges on loans.

(See accounts Nos. 171 and 172.)

171—Appreciation of loan values

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans about cost.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of loans.

(b) With amount of appreciation attributable to loans sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 172.

172—Depreciation of loan values

This account will represent the downward valuation of loans and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of such loans written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on such loans written off.

(See accounts Nos. 170 and 445.)

Note.—Usually, this account will be subdivided into at least two accounts:

172.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific loans.

172.2 *Other Depreciation of Loan Values*—which represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are held to maturity, no loss would be expected. An example would be money mortgage discounts.

173—Unearned discount, fees, and other charges on loans

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of loans made to small business concerns pursuant to Section 305 of the Small Business Investment Act to such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which is retained by the company in connection with loans participated in by other lenders (the amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, which is assigned to the company in connection with its participations in loans of other lenders (the amount to be recorded becomes earned through collection of passage of time).

(d) With amount of unearned discount, fee, and other charges included in the face amount of loans, but withheld from disbursement to debtor small business concerns, which is rebated to borrowers upon early repayment of loans, or is closed into the asset account upon liquidation of loans at less than full amount.

Credit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of loans but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from

disbursements to debtor small business concerns, in connection with loans participated in by other lenders.

(c) With portion assigned to the company of total amount of unearned discount, fees, and other charges included in the face amount of loans, but withheld from disbursements to debtor small business concerns, in connection with its participation in loans of other lenders.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate to account No. 512—Interest on loans, as it becomes earned, and unearned fees and other charges will be transferred to account No. 536—application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of loans will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all unearned amounts included in this account to permit identification of such amounts with the particular loans to which they relate.

180—Debt securities, with stock purchase warrants or options, and/or convertible

This account will represent the unpaid principal balance of small business concerns' debt securities, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With face amounts of debt securities, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amount of participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities, with stock purchase warrants or options, and/or convertible.

(b) With company's share of amount collected on principal of debt securities, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amounts by which participations in purchases by others of debt securities, with stock purchase warrants or options, and/or convertible, are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, or portions thereof, converted into capital stock.

(e) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, which have been divested of stock rights through (1) the expiration of the conversion privilege, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options.

(f) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, transferred to assets acquired in liquidation of loans and debt securities.

(g) With unpaid principal of debt securities, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participation in the purchase of debt securities, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all debt securities, convertible, and with stock purchase warrants or options. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities, and for activities pertaining to participations purchased or sold.

(See accounts Nos. 184, 186, 187, 188 and memorandum record No. NA–10.)

184—Debt securities divested of stock rights

This account will represent the unpaid principal balance of small business concerns' debt securities which have been divested of stock rights through (1) the expiration of the conversion privilege of convertible debt securities, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options of debt securities, or (3) the detachment of detachable stock purchase warrants or options of debt securities, obtained in connection with the acquisition of debt securities pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With unpaid principal of debt securities divested of stock rights through (1) the expiration of the conversion privilege, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options.

(b) With company's retained portion of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With amount of participations in purchases by others of debt securities which have been subsequently divested of stock rights.

(d) With reversal of prior credits when checks received representing repayments are dishonored, etc.

Credit:

(a) With amount collected on face amount of debt securities divested of stock rights.

(b) With company's share of amount collected on principal of debt securities participated in by others which have been subsequently divested of stock rights.

(c) With full amount by which participations in purchases by others of debt securities which have been subsequently divested of stock rights are reduced by repayments transmitted by the "initiating" company.

(d) With unpaid principal of debt securities divested of stock rights transferred to assets acquired in liquidation of loans and debt securities.

(e) With unpaid principal of debt securities divested of stock rights written off or disposed of otherwise.

Note.—It is recommended that individual ledger cards or sheets be maintained for all debt securities which have been divested of stock rights. Such ledger cards or sheets should contain the detailed information needed for account No. 188—Unearned discount, fees, and other charges on debt securities.

(See accounts Nos. 186, 187, and 188.)

186—Appreciation of debt securities of SBC's

This account will represent the amount by which the licensee's Board of Directors/General partner(s) has valued debt securities with equity features above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account 187.

187—Depreciation of debt securities values

This account will represent the downward valuation of debt securities, with stock purchase warrants or options, and/or convertible, and debt securities divested of stock rights and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for debt securities which are written off, sold, or disposed of otherwise.

(c) With amount of writedown of such debt securities, not to exceed the amount of

concerns, which is rebated to borrowers upon early repayment of debt securities, or is

purchase warrants or options, and/or convertible, in which participations are sold

capital stock of SBCs. (2) the expiration of rights conveyed by nondetachable or

of probable losses. This valuation reserve will be adjusted as occasion demands.

interests of unincorporated concerns above the carrying value of such securities on the

(c) With amount of writedown of such debt securities, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When debt securities of small business concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 702 will be debited for the amount of the loss, and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 572. The amount of the reserve which has been established in this account for the debt security sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

187.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific debt securities.

187.2 *Other Depreciation of Debt Securities Values*—which represents the Board of Directors/General Partner(s) downward valuation of specific debt securities. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

188—Unearned discount, fees and other charges on debt securities

This account will represent the amount of unearned discount, fees, and other charges included in the face amount of small business concerns's debt securities acquired pursuant to Section 304 of the Small Business Investment Act of 1958, as amended, and which is withheld from disbursements to such small business concerns.

Debit:

(a) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which becomes earned through collection or passage of time.

(b) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is retained by the company in connection with purchases of debt securities participated in by other investors (the amount to be recorded becomes earned through collection or passage of time).

(c) With amount earned of that portion of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns which is assigned to the company in connection with its participations in purchases of debt securities by other investors (the amount to be recorded becomes earned through collection or passage of time).

(d) With amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursements to debtor small business concerns, which is rebated to borrowers upon early repayment of debt securities, or is closed into the asset account upon liquidation of debt securities at less than full amount.

Credit:

(a) With amount of unearned discount (including that equivalent to the determined cost of warrants, options, and other stock rights, as explained in Note 2 of the account No. 197), fees, and other charges included in the face amount of debt securities but withheld from disbursements to debtor small business concerns.

(b) With portion retained by the company of total amount of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with purchases of debt securities participated in by other investors.

(c) With portion assigned to the company of total amont of unearned discount, fees, and other charges included in the face amount of debt securities, but withheld from disbursement to debtor small business concerns, in connection with its participations in purchases of debt securities by other investors.

Note 1.—A participation is defined as an undivided interest shared with one or more lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—Unearned discount in this account will be transferred, as appropriate, to account No. 516—Interest on debt securities, as it becomes earned, and unearned fees and other charges will be transferred to account No. 536—Application and appraisal fees, under similar circumstances.

Note 3.—Any fees and other charges considered earned immediately upon closing of financing through purchase of debt securities will be recorded in the income account at once without first being entered in this account.

Note 4.—Appropriate subsidiary records should be maintained for all earned amounts included in this account to permit identification of such amounts with the particular debt securities to which they relate.

190—Capitol stock of SBCs, with stock purchase warrants or options, and/or convertible

This account will represent the value at cost of small business concerns' capital stock, with attached stock purchase warrants or options, and/or convertible, acquired by the company pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. If the stock purchase warrants, options, or other stock rights have a separate purchase cost, or if a separate cost has otherwise been determined for them, the warrants, options, or other stock rights will be reflected at such cost in account No. 197.

Debit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, acquired.

(b) With portion retained by company of the capital stock of SBCs, with stock purchase warrants or options, and/or convertible, in which participations are sold to others.

(c) With amount of participations in acquisitions by others of capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

Credit:

(a) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, which has been divested of stock purchase rights through (1) the expiration of the conversion privilege, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options.

(b) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, converted to another class of capital stock.

(c) With cost of such capital stock of SBCs, with stock purchase warrants or options, and/or convertible, written off or disposed of otherwise.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—It is assumed that in all arrangements for participation in the acquisition of capital stock of SBCs, with stock purchase warrants or options, and/or convertible, the "initiating" company will service the financing.

Note 3.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See accounts Nos. 191, 193 and memorandum record No. NA-10.)

191—Capital stock SBCs—other

This account will represent the value at cost of small business concerns capital stock acquired by the company without conversion privileges or stock purchase warrants or options, or existing on the books as the result of (1) the expiration of the conversion privilege of convertible capital stock of SBCs, (2) the exercise or the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) With cost of such capital stock of SBCs—other acquired through (1) purchase (2) conversion of convertible debt securities or convertible capital stock of SBCs, or (3) exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock acquired by the company.

(b) With cost of such capital stock of SBCs—other resulting from (1) the expiration of the conversion privilege of convertible

capital stock of SBCs, (2) the expiration of rights conveyed by nondetachable or detachable stock purchase warrants or options, or (3) the detachment of detachable stock purchase warrants or options, obtained in connection with the acquisition of capital stock of small business concerns.

(c) With portion retained by company of the capital stock of SBCs—other in which participations are sold to others.

(d) With amount of participations in capital stock of SBCs—other acquired by or subsequently existing on the books of others without conversion privileges or stock purchase warrants or options.

Credit:

(a) With cost of such capital stock of SBCs—other written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all capital stock of SBCs—other acquired or subsequently existing without conversion privileges or stock purchase warrants or options.

Note 2.—In acquisitions of capital stock through exercise of rights conveyed by stock purchase warrants or options issued by small business concerns in connection with their debt securities or capital stock previously acquired by the company, the amount of the expenditure made by the company in the current acquisition of the capital stock will be considered the cost of the stock in those instances when the stock purchase rights surrendered have only a nominal value; otherwise, the cost of the stock will comprise the current expenditure plus cost of the warrants or options surrendered.

Note 3.—In conversion of convertible debt securities of small business concerns into capital stock, or in conversions of convertible capital stock of SBCs into another class of capital stock, the value at cost of the particular convertible security should be considered the cost of the capital stock received in the conversion.

(See account Nos. 190, 193, and 197.)

192—Appreciation of capital stock of SBCs

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued capital stock of SBCs above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account No. 440.)

Note.—See Note 1 to account No. 193.

193—Depreciation of capitol stock values

This account will represent the downward valuation of (1) capital stock of SBCs, with stock purchase warrants or options, and/or convertible, and (2) capital stock of SBCs—other, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for capital stock which is written off, sold, or disposed of otherwise.

(c) With amount of writedown of such capital stock, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increase in such reserve.

Note 1.—When capital stock of SBCs is sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 704 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 574. The amount of the reserve which has been established in the account for capital stock sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

193.1 *Allowance for Losses*—represents losses the licensee expects to realize on specific capital stock investments.

193.2 *Other Depreciation of Stock Values*—represents the downward valuation of specific stock investments. However, the licensee's management expects the decline to be temporary and thereby suffer no loss on the investment. An example is a temporary market decline of public tradeable stocks that are unrestricted.

(See accounts Nos. 190, 192, and 445.)

194—Equity interests of unincorporated concerns

This account will represent the licensee's investment in equity types securities of a limited partnership or other type of unincorporated concern. The account will be maintained on the equity method of accounting basis and will show the licensee's investment after considering its proportionate share of realized income (loss) of the unincorporated concern as well as distributions.

Debit:

(a) With cost of equity interest acquired.

(b) With the licensee's proportionate share of the concern's net income.

Credit:

(a) With the licensee's proportionate share of net loss.

(b) With the licensee's proportionate share of cash distributions.

(c) With the value on equity basis of the licensee's investment when sold or disposed of otherwise.

(See accounts Nos. 195 and 196.)

195—Appreciation of equity interest of unincorporated concerns

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns above the carrying value of such securities on the equity method of accounting.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account 198.

(See account Nos. 194, and 440.)

196—Depreciation of equity interests of unincorporated concerns

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued equity interests of unincorporated concerns below the carrying value of such securities on the equity method of accounting.

Debit:

(a) With decrease in amount of such depreciation resulting from increase in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note—1. When equity interests are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 705 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 575. The amount of the reserve which has been established in the account for equity interest sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—This account will usually be the same as allowance for loss on equity interests of unincorporated concerns. Otherwise, the account should be subdivided.

(See account Nos. 194, 195 and 445.)

197—Warrants, options, and other stock rights acquired from SBCs

This account will represent the value at purchase price or at cost as otherwise determined of warrants, options, and other stock rights acquired by the company from small business concerns pursuant to Section 304 of the Small Business Investment Act of 1958, as amended. The account will include conversion rights for which a separate cost has been determined.

Detachable stock purchase warrants or options on stock of SBCs for which no consideration is given distinct from that surrendered for the debt securities or capital stock which they accompany, or for which no separate cost has been determined, will be

reflected in memorandum record No. NA-10, if retained after the financing instruments

Debit:

(a) With amount of such appreciation

sale or assets acquired in liquidation of portfolio securities.

The investment in property at the date of acquisition by the company should be

Debit:

classified as assets acquired in liquidation of

reflected in memorandum record No. NA–10, if retained after the financing instruments which they accompanied have been disposed of.

Debit:

(a) With cost of such warrants, options, or other stock rights acquired.

(b) With portion retained by company of the warrants, options, or other stock rights in which participations are sold to others.

(c) With amount of participation in acquisitions by others of warrants, options, or other stock rights.

Credit:

(a) With cost of such warrants, options, or other stock rights surrendered in exercising the stock rights.

(b) With cost of such warrants, options, or other stock rights written off or disposed of otherwise.

(c) With cost of such warrants, options, or other stock rights for which the exercise period has expired.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for all warrants, options, or other stock rights acquired from SBCs.

Note 2.—The cost of warrants, options, and other stock rights acquired from SBCs for a separate consideration will be charged to this account, with a credit to cash. If warrants, options, or other stock rights are acquired from SBCs without a separate consideration and a cost thereof is otherwise determined, such cost will be established in this account. (The determined cost of warrants, options, and other stock rights acquired with debt securities without a separate consideration therefore shall be arrived at giving full consideration to the grade of the debt security.) The payment for the debt security or capital stock certificate which accompanied the stock rights will be allocated between the obligation or stock and the stock rights. Cash will be credited for the determined cost of the stock rights. Cash also will be credited for the amount of the debt security or stock received less the amount withheld from disbursement in relation to the debt security or stock received, which is equivalent to the determined cost of the stock rights plus (in the case of a debt security) any other withholding from net funds advanced. In the purchase of a debt security the deduction equal to the determined cost of the stock rights, plus any other withholding from net funds advanced, will be treated as unearned discount on the debt security and credited to account No. 188—Unearned discount, fees, and other charges on debt securities. In the case of a purchase of capital stock, the deduction equal to the determined cost of the stock rights will serve to reduce the cost of the stock to be recorded in account No. 190—Capital stock of SBCs, with stock purchase warrants or options, and/or convertible.

(See accounts Nos. 199, 576 and 706.)

196—Appreciation of warrants, options, and other stock rights acquired from SBCs

This account will represent the amount by which the licensee's Board of Directors General Partner(s) has valued warrants, options and other stock rights above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See account Nos. 197, 199 and 440.)

Note.—See Note 1 to account No. 199.

199—Depreciation of warrants, options, and other stock rights acquired from SBCs

This account will represent the Board of Directors/General Partner(s) downward valuation of warrants, opinions, and other stock rights acquired from SBCs, and should represent an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for warrants, options, and other stock rights acquired from SBCs which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such warrants, options, and other stock rights acquired from SBCs, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When warrants, options, and other stock rights acquired from SBCs are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 706 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account 576. The amount of the reserve which has been established in the account for warrants, options, or other stock rights acquired, sold or disposed of otherwise will be reversed and offset against account 445.

Note 2.—This account will usually represent the allowance for losses on warrants, options, and other stock rights. Otherwise, this account should be subdivided.

(See accounts Nos. 197, 198, and 445.)

200—Receivables due from debtors on sale of assets acquired in liquidation of portfolio securities

This account will represent the unpaid balance of accounts receivable, notes receivable, sales contracts, purchase money mortgages, and similar evidences of indebtedness to the company arising from the sale or assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such receivables.

(b) With amount of participation in amounts due from debtors on sale of assets acquired in liquidation of portfolio securities of other lenders or investors.

Credit:

(a) With amount collected on principal of such receivables.

(b) With amount transferred to account No. 204—assets acquired in liquidation of portfolio securities. (Noncash assets other than receivables obtained on sale of assets acquired in liquidation of portfolio securities should be reflected at cost in account No. 204).

(c) With unpaid principal balance written off or disposed of otherwise.

Note.—It is recommended that subsidiary records to be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting amounts due from debtors on sale of assets acquired in liquidation of portfolio securities.

(See accounts Nos. 203, 204.)

203—Depreciation in values of receivables from debtors on sale of assets acquired in liquidation of portfolio securities

This account will represent the downward valuation on amounts due from debtors and securities received on sale of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount due from debtors on sale of assets acquired in liquidation of portfolio securities written off.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

(c) With amount of recoveries on such items written off.

Note.—Occasionally, this amount will be subdivided into at least two accounts:

203.1 *Allowance for Losses*—which represents losses the licensee expects to realize on specific receivables from debtors.

203.2 *Other Depreciation of Receivables from Debtors*—Represents the Board of Directors/General Partner(s) downward valuation of specific receivables from debtors. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

(See accounts Nos. 200 and 445.)

204—Assets acquired in liquidation of portfolio securities

This account will represent the company's investment in assets acquired by foreclosure, or otherwise, in liquidation of portfolio securities, judgments, sheriffs' certificates (including property acquired subject to redemption), etc., will be reflected in this account.

The investment in property at the date of acquisition by the company should be determined by the Board of Directors/General Partner(s) on the most suitable of the following basis: (1) Bid-in price of the property; (2) agreed consideration for the property; (3) fair appraised value of the property. Any remaining indebtedness will be written off unless the company expects further liquidation of the debt from other sources. Insofar as practicable, investment values will be determined for each individual asset, or unit, at the time such assets are recorded in this account, and when an asset is sold only an amount equal to the investment in such asset will be credited to this account.

The company's investment in mortgaged real property acquired in liquidation of portfolio securities should be recorded at gross value as determined by the Board of Directors/General Partner(s), reduced as necessary to bring the net recorded value to no more than the outstanding principal balance of the related portfolio securities involved. The amount of the existing mortgage or mortgages on such property acquired by the company will be reflected in account No. 313.

The company's investment in judgments should be recorded at the face amount of the judgment. When the company acquires the underlying security to the related portfolio securities outright or subject to redemption, the investment in the property should be determined in accordance with the basis set forth in the second paragraph.

Debit:

(a) With amount of the company's investment in the assets at the time of the acquisition.

(b) With amount of the company's investment in the assets at the date of judgment, sheriff's certificate, etc.

(c) With amount of participation in assets acquired by others in liquidation of portfolio securities.

Credit:

(a) With proceeds of partial sale of the assets.

(b) With amount of the company's investment at date of sale, or other disposition of the assets.

(c) With amount written off.

Note 1.—Collateral notes receivable acquired in the liquidation of portfolio securities will be reflected in this account; but notes receivable that are subsequently accepted in connection with the disposition of assets acquired in the liquidation of portfolio securities will be included in account No. 200—Receivables from debtors on sale of assets acquired in liquidation of portfolio securities.

Note 2.—It is recommended that subsidiary records be maintained in sufficient detail to disclose for report and tax purposes all transactions affecting assets acquired in liquidation of portfolio securities.

(See accounts Nos. 170, 180, 184, and 200.)

205—Appreciation of assets acquired in liquidation of portfolio securities

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued assets acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 206.

(See accounts Nos. 204, 206, and 440.)

206—Depreciation of assets acquired in liquidation of portfolio securities

This account will represent the downward valuation of assets acquired in liquidation of portfolio securities, and should be maintained in an amount not less than a conservative estimate of probable losses. This valuation reserve will be adjusted as occasion demands.

Debit:

(a) With amount of decreases in such reserve.

(b) With amount of reserve established in this account for assets acquired in liquidation of portfolio securities which are written off, sold, or disposed of otherwise (contra credit will be made to account No. 445).

(c) With amount of writedown of such assets acquired in liquidation of portfolio securities, not to exceed the amount of reserve established therefor in this account.

Credit:

(a) With amount of such reserve established.

(b) With amount of increases in such reserve.

Note 1.—When assets acquired in liquidation of portfolio securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received, account 707 will be debited for the amount of the loss and account No. 204 will be credited for the related cost value carried therein. If a gain over recorded investment in the assets acquired in liquidation is realized, such gain will be credited to account No. 577. The amount of the reserve which has been established in this account for other assets acquired in liquidation of portfolio securities will be reversed and offset against account 445 when such assets are sold or disposed of otherwise.

Note 2.—This account will usually represent the allowance for losses on other assets acquired in liquidation of portfolio securities. Otherwise, it should be subdivided.

(See accounts Nos. 204 and 445.)

210—Operating concerns acquired

Occasionally, a licensee takes action to protect its investment in a portfolio concern and as a result acquires a controlling interest in an operating concern. In such cases, the licensee will reclassify the aggregate amount due from the portfolio concern to this account. If the concern has ceased operations and is being liquidated, the aggregate amount due from the portfolio concern will be classified as assets acquired in liquidation of portfolio securities (account No. 204) rather than this account.

Debit:

(a) With total amount of the licensee's investment in the operating concern at the time of the acquisition.

(b) With additional financing provided by the licensee.

Credit:

(a) With amount collected from such operating concern.

(b) With proportionate cost of interest sold or disposed of otherwise.

(c) With amounts written off.

Note.—It is recommended that individual ledger cards or sheets be maintained for individual loans and investments by operating concerns acquired.

(See accounts Nos. 211 and 212.)

211—Appreciation of operating concerns acquired

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued securities of operating concerns acquired above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

(See accounts 210, 212, and 440.)

Note.—See Note 1 to account No. 212.

212—Depreciation of operating concerns acquired

This account will represent the amount by which the licensee's Board of Directors/General Patner(s) has valued securities of operating concerns acquired below cost of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increases in fair value of such equity interests.

(b) With amount of depreciation attributable to equity interests sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When investments in operating concerns are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 708 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein.

If a gain over cost is realized, such gain will be credited to account No. 578. The amount of the reserve which has been established in the account for the investment

sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be

General Partner(s) has valued other securities below the carrying value of such securities.

Debit:

(a) Such account for amounts that have been previously prepaid that are being

service life of such building and improvements while owned by the company.

including short-term loans or debt securities issued to protect the company's interests in

Debit:

VOL 50 ISS 139 JL 19 1985 UMI

sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Usually, this account will be subdivided into at least two accounts:

212.1 *Allowance for Losses*—which represents losses the licensee expects to realize on the specific operating concern acquired.

212.2 *Other Depreciation of Values*—represents the Board of Directors/General Partner(s) downward valuation of specific loans. However, if securities are held to maturity no loss would be expected. An example is money mortgage discount.

(See account Nos. 210, 211, and 445.)

220—Notes and other securities received on sale of portfolio securities

This account will represent the securities taken by the licensee as part of the net sales price of portfolio securities sold.

Debit:

(a) With assigned cost of such securities when acquired.

Credit:

(a) With cost of such securities when sold.

(b) With cost of such securities when written off or disposed of otherwise.

Note 1.—It is recommended that individual ledger cards or sheets be maintained for securities received on sale of portfolio securities.

(See account 221, 222, and 223.)

221—Other securities received

This account will represent securities received by the licensee for which no funds were provided and which would not otherwise be classified as loans and investments. An example of such securities would be a dividend in kind received by licensee from a portfolio concern.

Debit:

(a) With fair value of such securities when received.

Credit:

(b) With carrying value of such securities when sold, written off or disposed of otherwise.

(See accounts 220, 222, and 223.)

222—Appreciation of other securities

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued other securities with equity features above cost of such securities.

Debit:

(a) With amount of such appreciation recognized.

(b) With amount of increases in such appreciation recognized.

Credit:

(a) With decrease in amount of such appreciation resulting from decline in fair value of securities.

(b) With amount of appreciation attributable to securities sold or otherwise disposed of.

Note.—See Note 1 to account No. 223.

(See accounts 220, 221, 223, and 440.)

223—Depreciation of other securities

This account will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued other securities below the carrying value of such securities.

Debit:

(a) With decreases in amount of such depreciation resulting from increase in fair value of such securities.

(b) With amount of depreciation attributable to other securities sold or otherwise disposed of.

Credit:

(a) With amount of such depreciation recognized.

(b) With amount of increase in such depreciation recognized.

Note 1.—When other securities are sold by the company or disposed of otherwise, cash or other appropriate asset account will be debited for the amount received. Account 709 will be debited for the amount of the loss and the appropriate investment account will be credited for the related cost value carried therein. If a gain over cost is realized, such gain will be credited to account No. 579. The amount of the reserve which has been established in the account for securities sold or disposed of otherwise will be reversed and offset against account No. 445.

Note 2.—Frequently, this account will be subdivided into at least two accounts:

223.1 *Allowance for Losses*—represents losses the licensee expects to realize on specific other securities.

223.2 *Other Depreciation of Values*—represents the Board of Directors/General Partner(s) downward valuation of specific securities. However, if securities are held to maturity, no loss would be expected. An example is money mortgage discount. Another example would be temporary market decline of marketable securities.

(See account Nos. 220, 221, 222, and 445.)

230—Prepaid expenses

This account will represent the unexpired or unconsumed portion of expenses expressly applicable to future periods for which no specific accounts have been provided. Such expenses should be amortized over the appropriate period. An example of such prepaid expense is debt discount and expense that may result from obtaining leverage funds.

Debit:

(a) With amount of prepaid expenses.

Credit:

(a) With the proportional amount of such expenses applicable to the period.

Note.—Subsidiary records should be maintained to identify the items reflected in this account and to facilitate their amortization.

231—Deferred charge

Timing differences will exist between accounting income and taxable income and thereby may cause a prepayment of taxes which is considered to be a deferred charge to future tax expense. The prepayment is based on accounting income and primarily will result from provision for loss on stock or SBCs. This account will represent such deferred charges recognized.

Debit:

(a) Such account for amounts when prepaid.

Credit:

(a) Such account for amounts that have been previously prepaid that are being applied during the period.

(See account No. 388.)

240—Furniture and equipment

This account will represent the cost of furniture, fixtures, and equipment, including automobiles, owned by the company. The cost of freight, drayage, cartage, express, etc., in connection with the purchase of such items of furniture and equipment, will be included in this account.

Debit:

(a) With cost of such assets purchased.

Credit:

(b) With cost of such assets at the time of sale or other disposition.

Note.—An inventory record should be maintained for all such assets and each item should be tagged or numbered to facilitate ready identification.

(See account No. 241.)

241—Accumulated depreciation of furniture and equipment

This account will represent the valuation reserve provided for depreciation of furniture, fixtures, and equipment, including automobiles, owned by the company. This account should be maintained in an amount not less than a conservative estimate of the expired service life of such assets while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With amount necessary to depreciate the cost of such assets over the estimated service life.

(See accounts Nos. 240 and 655.)

250—Corporate premises owned

This account will represent the actual cost of acquisition of the land and building used as the company's office quarters. The account also will include the actual cost of any improvements, such as street, sidewalk and other benefits, applicable to the land, and any improvements applicable to the building.

Debit:

(a) With actual cost of acquisition of the land and building.

(b) With actual cost of any improvement to the land and/or building.

Credit:

(a) With the acquisition cost of the land and/or building, plus the cost of improvements made thereto, when the land and/or building is sold or disposed of otherwise.

(See account No. 251.)

251—Accumulated depreciation of corporate premises owned

This account will represent the valuation reserve provided for depreciation of the building and other depreciable improvements of corporate premises owned and used as the company's office quarters. This account should be maintained in an amount not less than a conservative estimate of the expired service life of such building and improvements while owned by the company.

Debit:

(a) With amount of depreciation accumulated, when such an asset is sold or disposed of otherwise.

Credit:

(a) With the amount necessary to depreciate the cost of such assets over the estimated service life.

(See accounts Nos. 250 and 655.)

252—Leasehold improvements

This account will represent the actual cost of improvements to leased property used as the company's office quarters. The amount of this account will be amortized through account No. 656 over the life of the lease or the life of the improvements, whichever is the shorter.

Debit:

(a) With actual cost of improvements to leasehold.

Credit:

(a) With the amount necessary to amortize the cost of leasehold improvements.

265—Amounts due from directors, officers, general partners, limited partners and employees

This account will represent the unpaid balance of amounts advanced to directors, officers, general partners, limited partners and employees.

Debit:

(a) With amount of such advances made.

Credit:

(a) With amount collected on such advances.

(b) With amount transferred to appropriate expense classification upon proper authorization.

(c) With amount written off or disposed of otherwise.

(See account No. 709.)

266—Organization costs

This account will represent the amount of legal fees, promotional expense, stock certificate cost, incorporation fees, taxes, and other related costs incurred in organizing the company.

Debit:

(a) With amount of such costs incurred.

Credit:

(a) With the amount necessary to amortize the organization costs.

(See account No. 672.)

267—Funds in escrow

This account will represent the amount of funds placed in escrow pending the closing of financing for small business concerns.

Debit:

(a) With amount of funds placed in escrow.

Credit:

(a) With amount of funds withdrawn from escrow.

269—Other assets

This account will represent the amount of assets of the company, at cost, not specifically provided for in other accounts, including recoverable amounts advanced for the protection and preservation of the company's investments (such as the payment of taxes on mortgaged property), but not including short-term loans or debt securities issued to protect the company's interests in previously issued long-term loans or equity securities.

Debit:

(a) With amount of the company's investment in such assets.

Credit:

(a) With amount of such assets sold or disposed of otherwise.

(See account No. 709.)

Liability Accounts

300—Notes payable to SBA

This account will represent the long-term principal balance of notes payable (1) for funds borrowed and received directly from the Small Business Administration and (2) for funds borrowed from others through guaranteed loans which subsequently have been purchased by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(b) With unpaid principal balance of guaranteed loans purchased by SBA (contra debit will be made to account No. 310).

(See account 330.)

301—Debentures payable issued to SBA

This account will represent the loan-term principal balance of funds received by the company under its debentures payable issued to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of principal payments made to SBA on such debentures.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds received from SBA under such debentures.

(See account 330.)

310—Notes payable to other than SBA—guaranteed by SBA

This account will represent the long-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With unpaid principal balance of guaranteed loans purchased by SBA (contra credit will be made to account No. 300).

(c) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(See account 330.)

311—Notes payable to other than SBA—not guaranteed by SBA

This account will represent the loan-term principal balance of notes payable for funds borrowed from other than the Small Business Administration and not guaranteed by the Small Business Administration.

Debit:

(a) With amount of principal payments made on such notes.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(See account 331.)

312—Mortgages payable for funds borrowed

This account will represent the long-term principal balance of mortgages payable for funds borrowed on corporate premises or other real estate owned by the company. Purchase money mortgages, conditional sales contracts, or similar documentary evidence of indebtedness given by the company in the acquisition of real property will be included in this account.

Debit:

(a) With amount of principal payments made on such indebtedness.

(b) With amount of principal transferred to current maturities.

Credit:

(a) With amount of funds borrowed.

(See account 331.)

313—Mortgages payable on assets acquired in liquidation of portfolio securities

This account will represent the unpaid principal balance of existing mortgages payable on assets acquired by the company in liquidation of portfolio securities.

Debit:

(a) With amount of principal payments made on such indebtedness.

Credit:

(a) With amount of such indebtedness.

(See account No. 204.)

320—Notes payable—other

This account will represent the unpaid principal balance of notes payable in evidence of amounts owned by the company other than for funds borrowed. Notes payable, conditional sales contracts, and liens for the acquisition of furniture, fixtures, equipment, and automobiles will be included in this account.

Debit:

(a) With amount of principal payments made on such notes.

Credit:

(a) With amount of unpaid principal of such notes executed.

330—Current maturities of notes and debentures payable to or guaranteed by SBA

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 300, 301 and 310.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See accounts Nos. 300, 301, and 310.)

331—Current maturities of notes and debentures payable to others not guaranteed

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 310 and 311.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See accounts Nos. 310 and 311.)

340—Deferred income

This account will represent the amount of income received in advance of the time when it is earned. Such income will be amortized over the period in which it is earned.

Debit:

(a) With amount of such income earned.

Credit:

(a) With amount of such income received in advance.

341—Accounts payable

This account will represent the amount of accounts payable to suppliers for goods and services received by the company.

Debit:

(a) With amount of such accounts paid.

Credit:

(a) With amount of such accounts incurred.

342—Accrued expenses

This account will represent the amount of accrued expenses payable at the end of the accounting period, such as accrued interest, taxes, rent, royalties, and salaries.

Debit:

(a) With amount of such expenses paid.

Credit:

(a) With amount of such expenses accrued.

343—Reserve for contingencies

This account will represent the amount of reserve established by the company for contingencies.

Debit:

(a) With amount of such reserve released.

Credit:

(a) With amount of such reserve established.

344—Reserve for losses on unfunded commitments

This account will represent the amount of reserve established by the company for losses on unfunded commitments.

Debit:

(a) With amount of such reserve released.

Credit:

(a) With amount of such reserve established.

345—Income taxes payable

This account will represent the amount of income taxes payable at the end of the accounting period.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

346—Other taxes payable

This account will represent the amount of taxes other than income taxes payable at the end of the accounting period.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

347—Dividends payable

This account will represent the amount of dividends payable at the end of the accounting period.

Debit:

(a) With amount of such dividends paid.

Credit:

(a) With amount of such dividends declared.

348—Debentures payable to Treasury

This account will represent the amount of debentures payable to the Treasury.

Debit:

(a) With amount of such debentures paid.

Credit:

(a) With amount of such debentures issued.

349—Other liabilities

This account will represent the amount of liabilities not specifically provided for in other accounts.

Debit:

(a) With amount of such liabilities paid.

Credit:

(a) With amount of such liabilities incurred.

350—Subordinated debentures

This account will represent the amount of subordinated debentures issued by the company.

Debit:

(a) With amount of such debentures paid.

Credit:

(a) With amount of such debentures issued.

351—Deferred taxes

Timing differences will exist between accounting income and taxable income and thereby may cause a prepayment of taxes which is considered to be a deferred charge to future tax expense. The prepayment is based on accounting income and primarily will result from provision for loss on stock or SBCs. This account will represent such deferred taxes recognized.

Debit:

(a) Such account with amount of taxes paid which had been previously deferred.

(b) With amount of reductions of such deferred taxes.

Credit:

(a) With amount of such deferred taxes recognized.

(b) With amount of increases in such deferred taxes.

352—Deferred taxes on unrealized appreciation

This account will represent the amount of deferred taxes on unrealized appreciation.

Debit:

(a) With amount of such taxes paid.

(b) With amount of reductions of such deferred taxes.

Credit:

(a) With amount of such deferred taxes recognized.

(b) With amount of increases in such deferred taxes.

Capital Accounts

370—Capital stock authorized

This account will represent the amount of capital stock authorized by the company's Articles of Incorporation.

Debit:

(a) With amount of reductions of such capital stock authorized.

Credit:

(a) With amount of such capital stock authorized.

331—Current maturities of notes and debentures payable to others not guaranteed by SBA

This account will represent the principal amount due on a current basis (payable by the licensee in the next 12 months of operations) of long-term debt shown in accounts 311 through 313.

Debit:

(a) With amounts paid by the licensee or disposed of otherwise.

Credit:

(a) With amounts that become due by the licensee on a current basis.

(See account Nos. 311 through 313.)

340—Accounts payable

This account will represent amounts payable on open account. The account also will include accrued compensation payable for services rendered to the company on its participations in financing transactions, and accrued commitment fees payable for having funds made available on a deferred basis by "participating" companies in connection with the financing of, or commitments to finance, small business concerns.

Debit:

(a) With amount of such indebtedness paid, or disposed of otherwise.

Credit:

(a) With amount of such indebtedness incurred.

Note 1.—A participation is defined as an undivided interest shared with one or more other lenders or investors in a note, debenture, certificate of stock, or other instrument evidencing a loan to, or equity financing of, a small business concern.

Note 2.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with a "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See accounts Nos. 141, 600, and 715.)

341—Accounts payable due parent and partners

This account will represent payables due parent from licensee. Payables due parent will generally be from one of two sources: (1) Expenses shared (pro-rata with the parent, paid by the parent but not yet reimbursed by the licensee and/or (2) parent (and/or consolidated group) has a tax loss from which the licensee has received a tax benefit.

Debit:

(a) Cash paid to parent and partners.

(b) Income taxes due from licensee but paid by the parent.

Note.—The above debit can only arise when the licensee has had the benefit of a prior tax loss from the filing of a consolidated return.

Credit:

(a) Licensee's share of any expense shared with parent and paid by parent.

(b) Licensee's share of any tax benefit resulting from the filing of a consolidated tax return with the parent if the licensee has taxable income but the consolidation has a loss.

(c) Any other payable due parent or partner arising from any other source.

350—Accrued interest payable

This account will represent the amount of liability for interest accrued on the company's notes, mortgages and debentures payable. The account will also include accrued interest payable on other interest-bearing obligations of the company.

Debit:

(a) With amounts of such interest paid or disposed of otherwise.

Credit:

(a) With amounts of such interest accrued on all interest-bearing obligations covered by this account.

351—Accrued taxes

This account will represent the balance of accrued taxes on payroll, such as the company's portion of social security taxes, which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See account No. 664.)

354—Estimated income taxes accrued

This account will include the balances in subaccounts Nos. 354.1, 354.2, 354.3, etc.

354.1—Estimated Federal income taxes accrued.

This account will represent the balance of estimated Federal income taxes accrued which have not been remitted to the Internal Revenue Service.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See subaccounts Nos. 720.1 and 722.1.)

354.2—Estimated State income taxes accrued.

This account will represent the balance of estimated State income taxes accrued which have not been remitted to the appropriate collector of such taxes.

Debit:

(a) With amount of such taxes paid.

Credit:

(a) With amount of such taxes accrued.

(See subaccounts No. 720.2 and 722.2.)

358—Other current liabilities

This account will represent other current liability not provided for in other accounts.

Debit:

(a) With amount of such expenses paid of disposed or otherwise.

Credit:

(a) With amount of such expenses accrued.

Note.—Increases or decreases in the liability for accrued expenses, through accruals or adjustments, will be offset by increases or decreases, respectively, in the appropriate expenses accounts.

360–364—Dividends payable on (Type of class) ———— *capital stock*

These accounts will represent the company's liability for dividends declared by the company's Board of Directors on the respective types and classes of capital stock issued and outstanding. A separate account should be used to reflect the dividends payable for each type and class of capital stock outstanding.

Debit:

(a) With amount of such dividends paid.

Credit:

(a) With amount of such dividends declared payable by the company's Board of Directors.

365–369—Partnership distributions payable to general partners/limited partners

Debit:

(a) With the amount of distributions paid.

Credit:

(a) With the amount of distributions accrued.

370—Employee taxes withheld

This account will represent the amount of income and social security taxes withheld from employee's salaries which have not been remitted to the appropriate collectors of such taxes.

Debit:

(a) With amount of such taxes remitted.

Credit:

(a) With amount of such taxes withheld.

374—Unapplied receipts

This account will represent the amount of funds received by the company which have not been applied to loans, debt securities, interest receivable, etc. This account will be used only in instances when the funds received cannot be applied promptly.

Debit:

(a) With amount of such funds applied or disposed of otherwise.

Credit:

(a) With amount of funds received which cannot be applied promptly.

378—Miscellaneous trust receipts

This account will represent the liability of the company for funds withheld or received in trust, for which no specific account is provided, including earnest money deposits, and funds withheld from employees' salaries for the purpose of United States Savings Bonds, payment of group life insurance premiums, payment of pension fund contributions, etc. The account will also include amounts due other companies that are participants in financing where the licensee is the sponsor and is servicing the debt.

Debit:

(a) With amount of such funds disbursed or disposed of otherwise.

Credit:

(a) With amount of such funds withheld or received.

380—Deferred credit to future taxes

Timing differences will exist between accounting income and taxable income and thereby cause a deferment of tax expense. Such deferred credits usually will result from provision for loss on loans and debt securities. This account will represent such deferred tax payments.

Debit:

(a) Such account with amount of taxes paid which had been previously deferred.

Credit:

(a) Such account with amount of tax payments when deferred.

(See account No. 231 and 448.)

383—Other deferred credits

This account will represent the amount of deferred credits of the company not specifically provided for in other accounts.

The account will include any gain on sale of assets which does not qualify as realized gain.

Debit:

(a) With amount of such deferred credits transferred to income or gain, or disposed of otherwise.

Credit:

(a) With amount of such deferred credits established.

Note 1.—Accrual of interest receivable should be discontinued with respect to any loan or debt security financing a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be treated as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in this account, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to licensee over 6 months, or the fair value of the loan or debt security as determined in good faith by the Board of Directors/General Partner(s) is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrual of interest receivable, or, as an alternative, the interest income should be deferred in this account as above indicated.

Note 2.—Deferred gain in this account will be transferred to appropriate gain accounts as it is realized.

390—Other liabilities

This account will represent the amount of liabilities of the company not specifically provided for in other accounts.

Debit:

(a) With amount of such liabilities paid or disposed of otherwise.

Credit:

(a) With amount of such liabilities incurred.

Capital Accounts

400–404 ———— capital stock authorized.

(Type and class)

These accounts will represent the total par or stated value of the capital stock authorized, as provided for in the company's charter. A separate account should be provided for each type and class of capital stock authorized.

Debit:

(a) With amount of reductions of such capital stock authorized.

Credit:

(a) With original amount of such capital stock authorized.

(b) With additional amounts of such capital stock authorized.

(See accounts Nos. 405–409 and "Note" of accounts Nos. 415–419.)

405–409 ———— unissued capital stock.

(Type and class)

These accounts will represent the total par or stated value of unissued capital stock of the company. A separate account should be provided for each type and class of unissued capital stock.

Debit:

(a) With original amount of such unissued capital stock, as provided for in the company's charter.

(b) With additional amounts of such unissued capital stock authorized.

(c) With par or stated value of capital stock retired.

Credit:

(a) With amount of such capital stock issued (contra debit will be made to accounts Nos. 410–411).

(b) With amount of reductions of capital stock authorized.

(See accounts Nos. 400–404 and "Note" of accounts Nos. 414–419.)

410–411 ———— capital stock subscribed.

(Type and class)

These accounts will represent the total amount at the subscription price of the company's capital stock subscribed. A separate account should be provided for each type and class of capital stock subscribed. These accounts will reflect the company's responsibility to issue shares of its stock to subscribers who have made final payment of their capital stock subscriptions.

Debit:

(a) With amount at the subscription price of such subscribed capital stock issued (contra credits will be made to accounts Nos. 405–409 and, as appropriate, No. 420).

(b) With amount at the subscription price of such subscribed capital stock canceled or disposed of otherwise.

Credit:

(a) With amount at the subscription price of such capital stock subscribed.

(See accounts Nos. 413–414 and "Note" of accounts Nos. 415–419.)

413–414—Capital stock subscriptions receivable————

(Type and class)

These accounts will represent the total unpaid balances of capital stock subscriptions receivable from subscribers of the company's authorized capital stock. A separate subscriptions receivable account should be provided for each type and class of capital stock subscribed.

Debit:

(a) With amount of such capital stock subscriptions received.

Credit:

(a) With amount collected on such capital stock subscriptions.

(b) With amount of such capital stock subscriptions canceled or disposed of otherwise.

(See accounts Nos. 410–411 and "Note" of accounts Nos. 415–419.)

415–419—Treasury stock————

(Type and class)

These accounts will represent the total amount of the company's issued capital stock which has been reacquired through purchase or donation and has not been retired. A separate account should be provided for each type and class of such capital stock held by the company.

Debit:

(a) With cost of such capital stock acquired through purchase.

(b) With amount of fair market value or par value of such capital stock acquired through donation (contra credit will be made to account No. 420).

Credit:

(a) With cost of such capital stock acquired through purchase, when sold or disposed of otherwise.

(b) With amount of fair market value or par value of such capital stock acquired through donation, when sold or disposed of otherwise.

Note.—Appropriate subsidiary records should be maintained as deemed necessary.

420—Paid-in surplus

This account will represent the amount of surplus arising from (1) sales initially of the company's capital stock at a price in excess of par value (including amounts transferred from capital stock subscribed at a price above par, when shares are issued); (2) donations to the company of its issued capital stock carried as treasury stock at fair market value or par value; (3) retirements of capital stock purchased at less than the par value thereof; (4) sales of treasury stock in excess of its carrying value on the books of the company; (5) donations or gifts to the company of assets carried at not in excess of fair market value; and (6) other equity transactions with stockholders.

Debit:

(a) With amount of loss on treasury stock sold which was acquired through purchase, but not to exceed the total paid-in surplus. (Any amount of loss in excess of the total of such credits will be charged to account No. 451).

(b) With amount received by the company below fair market value, or par value, whichever applicable, for treasury stock sold which was acquired through donations.

(c) With amount paid by the company in excess of par value, but not to exceed the premium received initially, for shares of capital stock retired (any amount paid in excess of par plus initial premium received will be charged to account No. 451).

Credit:

(a) With amount paid in (including stock dividends from undistributed earnings), or transferred from capital stock subscribed

(b) With amount of increase in such depreciation recognized.

Credit:

on sale of securities are included in account No. 450.

Debit:

461—Stockholders' realized goin and loss summary in cash

465—Partners' profit and loss summary

492—Individual General Partners' non-cash gain sale of securities, and 495—Limited

(a) With amount paid in (including stock dividends from undistributed earnings), or transferred from capital stock subscribed, representing the excess after deduction of underwriters' fees and commissions) over par value of the company's capital stock, when shares are issued.

(b) With amount of fair value or par value of the company's capital stock acquired through donation.

(c) With amount of discount below par value of the company's capital stock acquired through purchases, when such stock is retired.

(d) With amount received by the company in excess of cost, or in excess of fair value or par value, whichever applicable, for treasury stock sold.

(e) With amount not to exceed fair market value of donations or gifts of assets to the company.

430—3% Cumulative preferred stock (Issued to SBA)

This account will be used by 301(d) licensees only and will represent the preferred stock sold to the Small Business Administration at its par value by the licensee. Such stock is not included in capital stock accounts Nos. 400 and 414 because such stock is not considered private capital for leverage or regulatory purposes.

Debit:

(a) Such account with the par value of preferred stock repurchased by the licensee.

Credit:

(a) Such account with the par value of preferred stock sold to SBA by the licensee.

440—Stockholders' unrealized appreciation on loans and investments

This is a credit balance account and will represent the amount by which the licensee's Board of Directors/General Partner(s) has valued loans and investments above cost of such securities.

Debit:

(a) With decrease in amount of appreciation resulting from decline in fair value of securities held.

(b) With amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With amount of such appreciation recognized.

(b) With amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211, and 222.)

Note.—In the case of distributions in kind to stockholders, this account will be debited with an amount not less than the amount of unrealized gain reported on the most recent 468 for the asset being distributed. The offsetting credit will be to account No. 450, Non-cash gains.

445—Stockholders' unrealized depreciation on loans and investments

This is a debit balance account and will represent the amount by which the licensee's Board of Directors has valued loans and investments below cost of such securities.

Debit:

(a) With amount of "depreciation" of loans and investments recognized.

(b) With amount of increase in such depreciation recognized.

Credit:

(a) With decrease in the amount of depreciation resulting from increase in fair value of securities held.

(b) With amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 223.)

446—Stockholders' estimated taxes on net unrealized gain (loss) on securities held

This is a debit balance account that will represent the provision for income taxes on net unrealized appreciation (amount by which the Board of Directors valuation of all securities exceeds cost). As the valuation of securities changes, the provisions for taxes will change.

Debit:

(a) With provisions for taxes established on net unrealized gain.

(b) With increases in provisions for taxes.

Credit:

(a) With established provision for taxes attributable to securities sold or disposed of otherwise.

(b) With decrease in provision established.

Note.—Should the net amount (unrealized appreciation less unrealized depreciation) be a negative figure, (i.e., a net loss) the tax effect should be computed and reflected in the accounts.

(See account No. 380.)

450—Stockholders' non-cash gains on sale of securities

This is a credit balance account and represents gains realized on sale of securities that have not been converted to cash. While considered to be undistributed earnings, amounts in this account will not be available for distribution or capitalized by corporate action. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With amount of cash collected of such non-cash gains previously recognized.

(b) With amount of non-cash gains written off or disposed of otherwise.

(c) With the amount previously credited to this account from stockholders' unrealized appreciation on loans and investments.

Credit:

(a) With amounts of non-cash gain when the securities generating such gain are sold.

(b) With the amounts of unrealized gain on the asset being distributed. This is the amount debited to account No. 440.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 462, 220, 579 and 709.)

451—Stockholders' undistributed net realized earnings

This is a credit balance account and represents the cumulative balance of periodic net investment income including realized gain (loss) on securities sold, less dividend distributions whether cash, stock, or cost portions of dividends in kind. Non-cash gain on sale of securities are included in account No. 450.

Debit:

(a) At the end of the fiscal year, with any debit balance in account No. 460 reflected in the profit and loss summary account, and/or the realized gain and loss summary account No. 461.

(b) With amount of dividends, other than stock dividends declared payable out of undistributed net realized earnings by the company's Board of Directors.

(c) With amount of stock dividends, at a per share value representing the higher of fair value existing at the time that the dividend is declared, which are declared by the company's Board of Directors and paid out of undistributed net realized earnings.

(d) With appropriate amount of loss on treasury stock sold which was acquired through purchase, representing the excess of such loss over the total of credits residing in paid-in surplus, account No. 420, relating to previous gains on treasury stock sold or retirement of capital stock at amounts less than the amounts previously paid in with respect thereto.

(e) With appropriate amount paid by the company in excess of par plus initial premium received on the type and class of shares of capital stock retired.

Credit:

(a) At end of the fiscal year, with the credit balances of the profit and loss summary account, No. 460 and the realized gain and loss summary account, No. 461.

(See account Nos. 450, 460, 461 and 462.)

460—Stockholders' profit and loss summary

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the year with any credits arising from investments in management service subsidiaries or unincorporated businesses reported on the equity method of accounting.

(c) At the end of the fiscal year, with the credit balance of the account (transfer to undistributed net realized earnings—account No. 451).

Credit:

(a) At the end of the fiscal year, with the credit balances of all income and expense accounts.

(b) At the end of the year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services subsidiary and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss summary that were credited to account No. 463—Stockholders' non-cash income from investments reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to undistributed net realized earnings—account No. 451).

(See account No. 451.)

461—Stockholders' realized gain and loss summary in cash

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balance of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to retained earnings).

Credit:

(a) At the end of the fiscal year, with the balance of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balance of the account (transfer to retained earnings).

(See account No. 451.)

462—Stockholders non-cash realized gain summary

This account will be used as a clearing account through which all accounts for non-cash realized gains on investment on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to non-cash gains on sale of securities)—account No. 450.

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579.

(See account Nos. 450 and 461.)

463—Stockholders non-cash income from investments reported on the Equity Method of Accounting

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management services subsidiaries and/or investments in unincorporated small businesses concerns. Licensee's losses will not be reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 460 on the same investment.

Credit:

(a) At the end of the fiscal year with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note.—It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 460.

465—Partners' profit and loss summary

This account will be used as a clearing account through which all income and expense accounts on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the debit balance of all expense and income accounts.

(b) At the end of the fiscal year with any credit arising from a management services investments or unincorporated businesses reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the credit balance (transfer to the appropriate partners' undistributed net realized earnings account, i.e., account 493—Corporate General Partners' undistributed net realized earnings, 494—Individual General Partners' undistributed net realized earnings and 496—Limited Partners' undistributed net realized earnings.)

Credit:

(a) At the end of the fiscal year, with the credit balance of all income and expense accounts.

(b) At the end of the fiscal year, by means of a journal entry, credit profit and loss summary with the amount of cash received from a management services investment and/or unincorporated business which is not in excess of amounts previously charged to Profit and Loss Summary that were credited to Account 466—Partners Non-cash Income from Investment Reported on the Equity Method of Accounting.

(c) At the end of the fiscal year, with the debit balance of the account (transfer to the appropriate partners' Undistributed net realized earnings, i.e., 493, 494 and 496.

466—Partners' realized gain and loss summary-in cash

This account will be used as a clearing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the balances of all accounts for losses on investments.

(b) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 496).

Credit:

(a) At the end of the fiscal year, with the balances of all accounts for gains on investments.

(b) At the end of the fiscal year, with the debit balances of the account (transfer to the appropriate partners' undistributed net realized earnings, i.e., 493, 494, and 496).

467—Partners' non-cash realized gain summary

This account will be used as a closing account through which all accounts for realized gains and losses on investments on the books of the company will be closed.

Debit:

(a) At the end of the fiscal year, with the credit balance of the account (transfer to the appropriate partners' non-cash gains on sale of securities, i.e. 491—Corporate General Partners' non-cash gain on sale of securities.

492—Individual General Partners' non-cash gain sale of securities, and 495—Limited Partners non-cash gain on sale of securities.

Credit:

(a) At the end of the fiscal year, with the amounts of non-cash gains on investments sold during the period and recognized in accounts 572 through 579.

468—Partners' non-cash income from investments reported on the Equity Method of Accounting

This account will be used as a clearing account for income from any investment being reported on the Equity Method of Accounting rather than on the Value Method of Accounting. Generally this will be from investments in management service investments and/or investments in unincorporated small business concerns. Licensee's losses will not be reported in this account.

Debit:

(a) At the end of the fiscal year by a journal entry, debit with the amount of cash received from investments reported on the Equity Method of Accounting but not in excess of amounts previously credited to the account from account 465.

Credit:

(a) At the end of the fiscal year credit with the amount of the licensee's share of income from investments reported on the Equity Method of Accounting.

Note 1.—It is suggested that subsidiary records be kept of each investment being reported on the Equity Method of Accounting. Income from each investment is to be treated as a separate item.

Losses are not reported through this account but remain in account 465.

Note 2.—This account should be divided into 468.1 for general partners and 468.2 for limited partners.

470—General Partners' Permanent Capital Contribution Summary

This is a summary account reflecting the balances of all general partners capital contributions. The credit balance in this account represents the amount of general partners' capital contributions that is a component in the computation of regulatory capital for leverage and overline purposes.

471—Corporate General Partners' Permanent Capital Contribution

This account respects the amount of the corporate general partners' capital contribution available for computation of regulatory capital.

Debit:

(a) Debit with the amount of any withdrawal during the fiscal period of capital contributions available for leverage.

Credit:

(a) Credit with the amount of additional cash contributed to the general partners' permanent capital contribution that is available for SBA leverage purposes.

(b) Credit with the amount transferred from account 493—Corporate General Partners' undistributed net realized earnings to increase the amount of capital available for SBA leverage and overline purposes.

Note 1.—This account performs the same function for a partnership licensee as a capital stock account performs for a

permanent capital contribution that is available for computation of regulatory

(b) With the amount of depreciation attributable to securities sold or disposed of

share on gains realized on the sale of securities that have not been converted to

494—Individual General Partners' Undistributed Net Realized Earnings

Account 466—Partners' realized gain and loss summary in cash.

Note 1.—This account performs the same function for a partnership licensee as a capital stock account performs for a corporate licensee. It represents capital available for leverage purposes, subject to certain regulatory adjustments.

Note 2.—This account performs an additional function for the partnership licensee. The credit balance in this account may be used to determine the percent of interest a corporate general partners has in the following items: (a) general partners' unrealized appreciation (depreciation), (b) general partners non-cash income from investments reported on the Equity Method of Accounting, (c) general partners' non-cash gain on sale of securities and (d) general partners undistributed net realized earnings.

Note 3.—Usually there is no relationship between the amount of capital contributed by general partners to the total partnership capital and the general partners' share of profits, losses and gains on securities. The ratio of the general partners' share of profits and gains is determined by the partnership agreement.

471—Individual General Partners' Permanent Capital Contribution

This account corresponds to account 471.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for leverage.

Credit:

(a) Credit with the amount of additional cash contributed to general partners' capital contribution that is available for computation of regulatory capital.

(b) Credit with the amount transferred from account 494—individual general partners undistributed net realized earnings to increase the amount of capital available for SBA leverage and overline purposes.

Note 1.—See notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each general partner.

475—Limited Partners Capital Permanent Contribution Summary

This is a summary amount reflecting the balance of all limited partners capital contributions. The credit balance in this account represents the amount of limited partners capital contributions that is available for computation of regulatory capital.

Note.—This account performs the same function for limited partners as account 470 performs for general partners.

476—Limited Partners Permanent Capital Contribution

This account performs the same function for limited partners that accounts 471 and 472 perform for general partners.

Debit:

(a) Debit with the amount of any withdrawals during the fiscal period of capital contributions available for computation of regulatory capital.

Credit:

(a) Credit with the amount of additional cash contributed to limited partners' permenent capital contribution that is available for computation of regulatory capital.

(b) Credit with the account transferred from account 496—Limited Partners Undistributed Net Realized Earnings to increase the amount of capital available for computation of regulatory capital.

Note 1.—The same rules apply to limited partners as apply to general partners. See Notes 1, 2, and 3 to account 471.

Note 2.—It is suggested that subsidiary records be kept for each limited partner.

481—Corporate General Partners' Unrealized Appreciation on Loans and Investments

This is a credit balance account representing the corporate general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211, and 222.)

482—Individual General Partner(s) Unrealized Appreciation on Loans and Investments

This is a credit balance account representing the individual general partners' share of the amount by which the general partner(s) has valued loans and investments above the cost of such investment.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

483—Corporate General Partners' Depreciation on Loans and Investments

This is a debit balance account and will represent the corporate general partners share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 222.)

484—Individual General Partners' Depreciation on Loans and Investments

This is a debit balance account and will represent the individual general partners' share of the amount by which the licensee's general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 222.)

485—Limited Partners Unrealized Appreciation on Loans and Investments

This is a credit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments above the cost of such securities.

Debit:

(a) With the decrease in the amount of appreciation resulting from the decline in the fair value of securities held.

(b) With the amount of appreciation attributable to securities sold or disposed of otherwise.

Credit:

(a) With the amount of such appreciation recognized.

(b) With the amount of increase in such appreciation recognized.

(See accounts Nos. 171, 186, 192, 195, 198, 205, 211 and 222.)

486—Limited Partners Unrealized Depreciation on Loans and Investments

This is a debit balance account and will represent the limited partners share of the amount by which the general partner(s) has valued loans and investments below the cost of such securities.

Debit:

(a) With the amount of "depreciation" of loans and investments recognized.

(b) With the amount of increase in such depreciation recognized.

Credit:

(a) With the Decrease in the amount of depreciation resulting from the increase in fair value of securities held.

(b) With the amount of depreciation attributable to securities sold or disposed of otherwise.

(See accounts Nos. 172, 187, 193, 196, 199, 203, 206, 212 and 222.)

491—Corporate General Partners Non-cash Gains on Sale of Securities

This is a credit balance account and represents the corporate general partners' share on gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amounts in this account will not be available for distribution or capitalized by partnership action transferring amounts to Partners' Permanent Capital Contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579 and 709.)

492—Individual General Partners Non-cash Gain on Sale of Securities

This is credit balance account that performs the same function for individual general partners as account 491 performs for corporate general partners.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amount of non-cash gain when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579, and 709.)

493—Corporate General Partners Undistributed Net Realized Earnings

This is a credit balance account and repesents the corporate general partners share of the limited partnership's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in account 491.

Debit:

(a) At the end of the fiscal year, with the corporate general partners' share of any debit balance in accounts (a) 465—Partners' profit and loss summary and/or (b) the debit balance in account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to corporate general partners whether cash, stock and/or in kind.

(c) With the amount transferred to corporate general partners capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year with the corporate general partners share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) the credit balance in Account 466—Partners' realized gain and loss summary in cash.

494—Individual General Partners' Undistributed Net Realized Earnings

This is a credit balance account and represents the individual general partners' share of the limited partnerships' cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in Account 492.

Debit:

(a) At the end of the fiscal year, with the individual general partners' share of any debit balance in accounts (a) 465—Partners' profit and loss summary and/or (b) the debit balance in 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to individual general partners whether cash, stock and/or in kind.

(c) With the amount transferred to the individual general partners' capital contribution account 471 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the individual general partners' share of any credit balance in (a) accounts 465—Partners' profit and loss summary and/or (b) the credit balance in account 466—Partners' realized gain and loss summary in cash.

495—Limited Partners' Non-cash Gains On Sale of Securities

This is a credit balance account and represents the limited partners' share of gains realized on the sale of securities that have not been converted to cash. While considered to be undistributed earnings, the amount in this account will not be available for distribution or capitalized by partnership action transferring amounts to partners capital contribution for SBA leverage. Therefore, such amounts are considered restricted undistributed earnings realized.

Debit:

(a) With the amount of cash collected from non-cash gains previously recognized.

(b) With the amount of non-cash gains written off or disposed of otherwise.

Credit:

(a) With the amounts of non-cash gains when the securities generating such gain are sold.

Note.—It is recommended that individual records be maintained for each non-cash gain realized.

(See accounts Nos. 467, 220, 579 and 709.)

496—Limited Partners' Undistributed Net Realized Earnings

This is a credit balance account and represents the limited partners' share of the licensee's cumulative balance of periodic net investment income including realized gain (loss) on securities sold less partnership distributions whether cash, stock or in kind and less non-cash gain on sales of securities which are included in Account 495.

Debit:

(a) At the end of the fiscal year, with the limited partners' share of any debit balance in (a) account 465—Partners' profit and loss summary and/or (b) the debit balance in Account 466—Partners' realized gain and loss summary in cash.

(b) With the amount of distributions made to limited partners whether cash, stock and/or in kind.

(c) With the amount transferred to limited Partners' capital contribution account 476 for SBA leverage purposes.

Credit:

(a) At the end of the fiscal year, with the limited partners' share of any credit balance in (a) account 465—Partners' profit and loss summary and/or (b) account 466—Partners' realized gain and loss summary in cash.

Income Accounts

500—Commitment income

This account will represent the amount of income earned on commitments to small business concerns for loans and equity securities. This account, on the books of the "participating" company, will include the amount of commitment income on deferred participations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income earned on commitments and deferred participations.

Note 1.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

Note 2.—Recording as income in this account of accrued commitment fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the small business concern or the fair value of its debt or equity instrument held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued commitment fees taken into income in this account, or as an alternative, the commitment income should be deferred in account No. 383 as above indicated.

(See account Nos. 141 and 142.)

510—Interest on invested idle funds

This account will represent the amount of interest earned on (1) time certificates of deposit in banks which are members of the Federal Deposit Insurance Corporation, (2) U.S. Government obligations, direct and fully guaranteed, owned by the company, and (3)

funds of the company in insured savings accounts in institutions the accounts of which are insured by the Federal Savings and Loan

383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest

rendered to banks or other lenders or investors, pursuant to section 308(a) of the

to account 483—Stockholder non-cash income from investments reported on the

(See accounts Nos. 383 and 702.)

574—Gain on capital stock of SBCs

Credit:

(a) With amount of gain on such assets

funds of the company in insured savings accounts in institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on invested idle funds.

(See account Nos. 130 through 137, 143 and 144.)

512—Interest on loans

This account will represent the amount of interest earned on loans to small business concerns.

Debit:

(a) At the end of fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of interest earned on loans outstanding to small business concerns.

Note.—Accrual of interest receivable should be discontinued with respect to any loan to a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payment received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credit as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the loan as determined in good faith by the Board of Directors is less than cost of recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 170 and 173.)

516—Interest on debt securities

This account will represent the amount of interest earned on debt securities of small business concerns owned by the company pursuant to section 304 of the Small Business Investment Act of 1958, as amended.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profit and loss summary)

Credit:

(a) With amount of interest earned on debt securities owned.

Note.—Accrual of interest received should be discontinued with respect to any debt security of a small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. Any interest payments received from such a debtor should not be credited to this account as interest income, but should be either credited as payments on principal of the debt or credited as deferred income in account No 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when interest receivable is accrued under circumstances in which the financed small business concern is in default to the licensee, or the fair value of the debt security as determined in good faith by the Board of Directors is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible interest receivable should be made in an amount equivalent to the accrued interest receivable taken into income in this account, or, as an alternative, the interest income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 143, 144, 180, 184 and 188.)

520—Interest income—other

This account will represent the amount of interest earned on miscellaneous notes receivable, funds in escrow, and interest-bearing receivables not otherwise classified.

Debit:

(a) At the end of the fiscal year with the balance of account (transfer to profit and loss summary)

Credit:

(a) With amount of interest earned on such receivables.

(See accounts Nos. 140, 143, and 267.)

532—Management service fees

This account will represent the amount of fees charged for management services rendered to small business concerns and other small business investment companies pursuant to section 107.601 of the Small Business Administration Rules and Regulations.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

Note.—Recording as income in this account of accrued management service fees receivable should be discontinued with respect to any small business concern which is in bankruptcy, or on the verge thereof, or otherwise considered to be insolvent. The amounts in question should be credited as deferred income in account No. 383—Other deferred credits, pending determination of the appropriate accounting. In less serious situations, when the fair value of the financed concern's debt or equity instruments held by the company, as determined by the Board of Directors, is less than cost, or recovery thereon is doubtful, an addition to the allowance for uncollectible notes and accounts receivable should be made in an amount equivalent to the accrued management consulting service fees taken into income in this account, or, as an alternative, the management consulting service income should be deferred in account No. 383 as above indicated.

(See accounts Nos. 140, 141, and 142.)

534—Investigation and service fees charged other lenders

This account will represent the amount of fees charged for investigation and services rendered to banks or other lenders or investors, pursuant to section 308(a) of the Small Business Investment Act of 1958, as amended. The account will include compensation for financial services rendered in connection with participations sold.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See accounts Nos. 140, 141 and 142.)

536—Application and appraisal fees

This account will represent the amount of fees charged for application, appraisal, investigation, and related services rendered to small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such fees charged.

(See accounts Nos. 173 and 188 and "Note" of accounts Nos. 140, 141 and 532.)

540—Dividends on capital stock of SBCs

This account will represent the amount of income from dividends on capital stock of small business concerns.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of income from such dividends.

(See account No. 145.)

541—Sharings in income or revenue of SBCs

This account will represent the amount of sharing or participations in the income or revenue of small business concerns which the company has financed by means of loans or debt securities.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such sharings.

(See accounts Nos. 140, 141 and 145.)

542—Non-cash income from investments reported on equity method of accounting.

This account is a summary account of all income and losses from investments required to be reported on the Equity Method of Accounting. The sources of entries will be primarily from any of the following sources.

1. Corporate licensees' management service subsidiary.

2. Limited partnerships' investment in a management services company.

3. Investments in unincorporated small business concerns.

It is important that separate records be kept of each source of investments reported on the Equity Method of Accounting since losses and gains are not reported in the same manner.

Debit:

(a) At the end of the fiscal year with the amounts of all gains, which will be credited to account 463—Stockholder non-cash income from investments reported on the Equity Method of Accounting or to account 468—Partners' non-cash income from investments reported on the Equity Method of Accounting.

(b) With the amount of losses resulting from investments to be reported on the Equity Method of Accounting.

Credit:

(a) With the amount of income from investments to be reported on the Equity Method of Accounting.

(b) With the amount of losses from investments to be reported on the Equity Method of Accounting. If the licensee is a corporation the offsetting debit will be to account 480. If the licensee is a limited partnership the offsetting debit will be to account No. 465.

570—Gain on U.S. Governemnt securities

This account will represent the amount of gain on the sale or other disposition of U.S. Government obligations, direct and fully guaranteed, carried in account No. 130.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such securities sold or disposed of otherwise.

Note.—Increase in value over cost of United States Treasury bills, which are issued at a discount and are noninterest bearing, will not be reflected in this account but will be credited to account No. 510—Interest on invested idle funds, with concurrent debit to account No. 143—Accrued interest receivable.

571—Gain on loans.

This account will represent the amount of gain on the sale or other disposition of loans of small business concerns carried in account No. 170, and will include recoveries on loan losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462)

Credit:

(a) With amount of gain on such loans sold or disposed of otherwise.

(b) With amount collected on portions of loans previously charged to the loss account.

(See accounts Nos. 383 and 701.)

572—Gain on debt securities

This account will represent the amount of gain on the sale or other disposition of debt securities of small business concerns carried in accounts Nos. 180 and 184, and will include recoveries on debt security losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such debt securities sold or disposed of otherwise.

(b) With amount collected on portions of debt securities previously charged to the loss account.

(See accounts Nos. 383 and 702.)

574—Gain on capital stock of SBCs

This account will represent the amount of gain on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191, and will include recoveries on capital stock losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such capital stock sold or disposed of otherwise.

(b) With amount realized on capital stock of SBCs previously charged to the loss account.

(See accounts Nos. 383 and 704.)

575—Gain on equity interest of unincorporated concerns

This account will represent the amount of gain on the sale or other disposition of equity interests of unincorporated concerns carried in account 194 and will include recoveries of losses on equity interests of unincorporated concerns previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such equity interests sold or disposed of otherwise.

(b) With amount realized on equity interests previously charged to the loss account.

576—Gain on warrants, options, and other stock rights acquired from SBCs

This account will represent the amount of gain on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs, and will include recoveries on stock rights losses previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such warrants, options, and other stock rights acquired from SBCs sold or disposed of otherwise.

(b) With amount realized on warrants, options, and other stock rights previously charged to the loss account.

(See accounts Nos. 197, 383 and 706, and memorandum record No. NA–10.)

577—Gain on assets acquired in liquidation of portfolio securities

This account will represent the amount of gain on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in accounts Nos. 200, and 204, and will include recoveries on losses on assets acquired in liquidation previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets acquired in liquidation of portfolio securities sold or disposed of otherwise.

(b) With amount realized on assets in liquidation of portfolio securities previously charged to the loss account.

(See accounts Nos. 383 and 707.)

578—Gain on Operating Concerns Acquired

This account will represent the amount of gain on the sale or other disposition of investments in operating concerns acquired and will include recoveries on losses previously charged to the related loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on other assets previously charged to the loss account.

(See accounts Nos. 210, 221, 383, and 708.)

579—Gain on other assets

This account will represent the amount of gain on the sale or other disposition of assets not specifically provided for in other accounts, and will include recoveries on losses on other assets previously charged to the loss account.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 461 or 462).

Credit:

(a) With amount of gain on such assets sold or disposed of otherwise.

(b) With amount realized on other assets previously charged to the loss account.

(See accounts Nos. 220, 221, 383, and 709.)

582—Income from assets acquired in liquidation of portfolio securities

This account will represent the amount of income earned on assets acquired in liquidation of portfolio securities, including the operation of properties, carried in accounts Nos. 200, 204.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Credit:

(a) With amount of such income earned.

Note.—In instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent. Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittances to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation or the

642—Stock record and other financial expenses

658—Amortization of leasehold improvements

other company cost incurred by officers and employees while in a travel status

(a) At the end of the fiscal year, with the

(a) With amount of loss on such assets

Any advances to a liquidating agent for expenses incident to the operation or the disposition of assets accquired in the liquidation of portfolio securities should be charged to account No. 230—Prepaid expenses.

584—Other income

This account will represent the income earned not specifically provided for in other accounts.

Debit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary)

Credit:

(a) With amount of such income earned.

Expense Accounts

600—Commitment expense

This account will represent the amount of commitment expense on commitments from lending institutions.

On the books of the "initiating" company, this account also will include the amount of commitment expense on deferred participations.

Debit:

(a) With amount of expense incurred on commitments and deferred participations.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

Note.—A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies.

(See account No. 340.)

610—Interest on obligations payable to SBA

This account will represent the amount of interest expense accrued on obligations payable to the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See accounts Nos. 300, 301 and 350.)

622—Interest on obligations payable to other than SBA

This account will represent the amount of interest expense accrued on obligations payable to other than the Small Business Administration for funds borrowed.

Debit:

(a) With amount of such interest accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See accounts Nos. 310, 311, 312, 313, 320 and 350.)

642—Stock record and other financial expenses

This account will represent the amount of charges to the company by transfer agent and the registrar for services rendered in connection with the issuance and transfer of company's capital stock, and will include other financial expenses not provided for elsewhere.

Debit:

(a) With amount of such interest incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

(See account No. 340.)

650–679—Operating Expenses

The accounts under this caption will represent the amounts of operating expenses incurred.

Debit appropriate account:

(a) With amount of operating expenses incurred.

Credit appropriate account:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

650—Advertising and promotional costs

This account will represent the cost of advertising and promoting the company's services, including the cost of entertaining prospective borrowers and clients.

651—Appraisal and investigation costs

This account will represent the amount of charges made by outside firms and individuals for appraisal, investigation, and related services rendered to the company.

652—Auditing and examination costs

This account will represent the amount of charges for auditing, examination, and bookkeeping services rendered by accountants not on the company's payroll, and charges for services rendered by SBA examiners.

653—Communications

This account will represent telephone, telegraph, and postage expense.

654—Cost of space occupied

This amount will represent the cost of space occupied such as rent, alterations, light, heat, power, janitor service, maintenance and repair expenses on buildings, furniture, and equipment (other than automobiles), etc.

655—Depreciation of corporate premises owned, furniture, equipment and automobiles

This account will represent the amount of provision applicable to the fiscal year for depreciation of the buildings and other depreciable improvements of corporate premises owned and used as the company's office quarters. The account also will include the amount of provision applicable to the fiscal year for depreciation of furniture, equipment and automobiles owned by the company.

656—Amortization of leasehold improvements

This account will represent the amortization of leasehold improvements.

657—Directors, stockholders' or partners' meetings costs

This account will represent director's fees and travel expense for attendance at directors' and stockholders' or partners' meetings. The account also will include the cost of holding stockholders' or partners' meetings, such as rental of the meeting hall and related expenses.

658—Insurance

This account will represent fire, theft, employee group life insurance, and other insurance expense, including fidelity bond, premiums and insurance on automobiles. The portion, if any, of employee group life insurance premiums withheld from salaries or received from employees will be reflected in account No. 378. Insurance premiums to be amortized will be charged to account No. 230.

659—Management services fees

This account will represent the amount of charges made by outside firms or individuals for management services provided to licensee pursuant to management agreement approved by SBA.

660—Investment advisor costs

This account will represent the amount of charges made by outside firms and individuals for furnishing consultation and advice to the company with respect to the desirability of investing in, purchasing, or selling loans, debt securities, and capital stock of small business concerns and other property.

661—Legal services

This account will represent the cost of legal services rendered to the company.

663—Salaries

This account will include the balance in subaccounts Nos. 663.1 and 663.2.

663.1—*Salaries of officers or Partners*

This account will represent the salary cost of all officers/partners of the company, including director's salaries, if any, but not director's fees for attendance at meetings.

663.2—*Salaries of employees*

This account will represent the salary cost of all employees other than officers/partners, including salaries of any temporary or part-time employees engaged for specific assignments.

664—Taxes, excluding income taxes

This account will represent the cost of all taxes, including those on corporate premises owned, motor vehicle, and personal property, social security taxes (company's portion), and other taxes charged to the company, exclusive of income taxes.

665—Travel

This account will represent all travel expense, including transportation charges, automobile maintenance, operating expense, meals, lodging, telephone, telegraph, and other company cost incurred by officers and employees while in a travel status.

670—Employee benefits expense

This account will represent the cost assumed by the company in contributing to funds providing for employee retirement benefits and other types of employee benefits, except group life insurance. The portion, if any, of the cost of employee benefits withheld from salaries or received from employees will be reflected in account No. 378.

672—Amortization of organization expense

This account will represent the amount of legal fees, promotional expense, stock certificate costs, incorporation fees, taxes, and other related costs incurred in organizing the company, which are charged to expense (this account) as incurred or are transferred to this account periodically through the amortization of organization costs established as an asset in account No. 266.

679—Miscellaneous operating expenses

This account will represent the amount of operating expenses not specifically provided for in other accounts. There will be included expenses incurred in connection with dues, subscriptions, donations, and similar items; charges made to the company for custodial or safekeeping services in connection with its portfolio securities; and bank service charges, exchange on checks, protest fees, etc., and the cost of office supplies such as stationery, accounting forms, binders, pencils, etc.

680—Estimated losses on receivables

This account will represent the amount of estimated losses applicable to the fiscal year on notes and accounts receivable, and interest receivable.

Debit:

(a) With amount of such estimated losses incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary).

700—Loss on U.S. Government securities

This account will represent the amount of loss on the sale or other disposition of United States Government obligations, direct and fully guaranteed, carried in account No. 130–135.

Debit:

(a) With amount of loss on such securities sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account 460 or 462).

(See account No. 570.)

701—Loss on loans

This account will represent the amount of loss on the sale or other disposition of loans of small business concerns carried in account No. 170.

Debit:

(a) With amount of loss on such loans written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 571.)

702—Loss on debt securities

This account will represent the amount of loss on the sale or other disposition of debt securities of small business concerns carried in accounts Nos. 180 and 184.

Debit:

(a) With amount of loss on such debt securities written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary—account No. 461).

(See account No. 572.)

704—Loss on capital stock of SBCs

This account will represent the amount of loss on the sale or other disposition of capital stock of small business concerns carried in accounts Nos. 190 and 191.

Debit:

(a) With amount of loss on such capital stock written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 574.)

705—Loss on equity interest of unincorporated concern

This account will represent the amount of loss resulting from sale or other disposition of equity interests of unincorporated concerns carried in account No. 194.

Debit:

(a) With amount of loss on such equity interest sold, written off, or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 575.)

706—Loss on warrants, options, and other stock rights acquired from SBCs

This account will represent the amount of loss on the sale or other disposition of warrants, options, and other stock rights acquired from SBCs.

Debit:

(a) With amount of loss on such waffants, and other stock rights written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See accounts Nos. 197, 576, and memorandum record No. NA–10.)

707—Loss on assets acquired in liquidation of portfolio securities

This account will represent the amount of loss on the sale or other disposition of assets acquired in liquidation of portfolio securities of small business concerns carried in account No. 200, 204.

Debit:

(a) With amount of loss on such assets written down or sold or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 577.)

708—Loss on Operating Concerns Acquired

This account will represent the amount of loss on the sale or other disposition of investments in operating concerns acquired.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 578.)

709—Loss on other assets

This account will represent the amount of loss on the sale or other disposition of assets not specifically provided for in other accounts.

Debit:

(a) With amount of loss on such assets or disposed of otherwise.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to account No. 461).

(See account No. 579.)

710—Expense on assets acquired in liquidation of portfolio securities

This account will represent the amount of expense incurred on assets acquired in liquidation of portfolio securities, including the operation and depreciation of properties, carried in account No. 204. The account also will include the amount of interest expense accrued on mortgages payable on assets acquired in liquidation of portfolio securities.

Debit:

(a) With amount of such expense incurred.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

Note.—In instances when a liquidating agent is employed to supervise the disposition of the assets, appropriate subsidiary accounts should be maintained by the agent.

Cash collected from the sale of assets by the liquidating agent should be remitted immediately to the company. The company should maintain a local depository bank account, in which all receipts of the agent are deposited when direct remittances to the company are not feasible. Deposit balances in this account should be subject to withdrawal by check only by the company and should be reflected on the company's records in the same manner as other bank accounts.

Any advances to a liquidating agent for expenses incident to the operation of or in the disposition of assets acquired in the liquidation of loans and debt securities should be charged to account No. 230—Prepaid expenses.

715—Other expenses

This account will represent the amount of

(See subaccount No. 354.2.)

Memorandum Records

connection with obligations of portfolio concerns under notes, debentures, or other

VOL 50 ISS 139 JL 19 1985 UMI

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VOL
50
ISS
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JL
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715—Other expenses

This account will represent the amount of nonoperating expenses not specifically provided for in other accounts, including, on the books on the "participating" company, the amount of compensation expense for financial services received from "initiating" companies in connection with participations purchased.

Debit:

(a) With amount of such expenses incurred.

Credit:

(b) At the end of fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

(See account No. 340.)

720—Income taxes—net income

This account will include the balances in subaccounts Nos. 720.1, 720.2, 720.3, etc.

720.1—Federal income taxes—net income.

This account will represent the amount of Federal income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

720.2—State income taxes—net income.

This account will represent the amount of State income taxes applicable to net income for the current fiscal year.

Debit:

(a) With amount of such taxes accured.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to profit and loss summary—account No. 460).

(See subaccount Nos. 354.1 and 354.2.)

722—Income taxes—net realized gain on investments

This account will include the balance in subaccounts Nos. 722.1, 722.2, 722.3, etc.

722.1—Federal income taxes—net realized gain on investments.

This account will represent the amount of Federal income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accured.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.1.)

722.2—State income taxes—net realized gain on investments.

This account will represent the amount of State income taxes applicable to net realized gain on investments for the current fiscal year.

Debit:

(a) With amount of such taxes accrued.

Credit:

(a) At the end of the fiscal year, with the balance of account (transfer to realized gain and loss summary account 461 or 462).

(See subaccount No. 354.2.)

Memorandum Records

Nominal Assets

NA–10—*Stock purchase warrants or options on stock of SBCs.* This record will show the company's ownership of detachable stock purchase warrants or options on stock of SBCs, retained after the accompanying financing instruments have been disposed of, for which no consideration was given distinct from that surrendered for such financing instruments and for which no separate cost has otherwise been determined.

Each such detachable stock purchase warrant or option certificate should be entered in this record, upon detachment, at a nominal value of one dollar ($1.00). Upon sale of such a detached stock purchase warrant or option, upon exercise or expiration of rights conveyed by such a detached stock purchase warrant or option or upon the determination of a cost to be recorded for such a detached stock purchase warrant or option, the entry establishing such certificate in the memorandum records is to be discharged through an equivalent credit.

Debit:

(a) With nominal value of such detachable stock purchase warrants or options upon their detachment from capital stock certificates or debt securities.

Credit:

(a) With nominal value of such detachable stock purchase warrants or options upon exercise or expiration of rights conveyed by such warrant or option certificates.

(b) With nominal value of such detachable stock purchase warrants or options sold or disposed of otherwise.

(c) With nominal value of such detachable stock purchase warrants or options for which a separate cost has been established.

(See accounts Nos. 180, 190, and 197.)

Contingent Liabilities

CL–15—*Commitments outstanding.* This record will show the amount of financing commitments made and outstanding to small business concerns, including commitments for loans and for the acquisition of small business concerns' capital stock and debt securities. This record also will show the amount of deferred participations. A deferred participation is defined as a commitment under a participation agreement whereby the "participating" company will make funds available on a deferred basis to the "initiating" company in connection with the latter's financing of, or commitment to finance, a small business concern, or in connection with an "initiating" small business investment company's acquisition of loans or equity securities from other such companies. When funds are advanced against commitments, appropriate entry will be made in this record.

CL–16—*Guarantees outstanding.* This record will show the amount for which the company is contingently liable under guarantees issued to lending institutions in connection with obligations of portfolio concerns under notes, debentures, or other evidences of indebtness, or short-term advances to such concerns.

CL–17—*Other contingent liabilities.* This record will show the amount of miscellaneous contingent obligations not otherwise classified.

Options on Company's Stock

OCS–1—*Options on company's stock.* This record will show details of outstanding options on the company's capital stock granted in lieu of salary or in payment for services actually rendered to the company. The following data will be included:

1. Identification of person or entity holding options.
2. Number of shares optioned.
3. Type and class of stock called for by options.
4. Dates of grant and of expiration of options.
5. Price or prices at which options exercisable, with dates they apply.
6. Fair market value, per share, of stock called for at date each option was granted.
7. Price of each option as percent of fair market value of optioned stock at date option was granted.
8. Provisions for termination of options in case of death of retirement of optionees, or other circumstances.
9. Details of authorization, shares reserved for, issuance, exercise, lapse, and forfeiture of options provided for under the company's stock option plan.

Actual Loss Experience

AL–1—*Actual (realized) losses.* This record will show for each fiscal year, and also accumulatively, the amount of actual (realized) losses incurred through disposition, writedown, or write-off of loans and investments. Losses shall be stated in total for all loans and investments and also separately for loans; debt securities; capital stock of small business concerns; warrants; options, and other stock rights of small business concerns; assets acquired in liquidation of loans and debt securities; and amounts due from debtors on sale of assets acquired in liquidation of loans and debt securities. Losses realized shall be determined in relation to cost of the assets involved without regard to the existence or nonexistence of related allowances for losses.

WI—Worthless Investments Written Off.

PDA—Preferred Dividend Arrearages on Preferred Stock Sold SBA.

A memorandum account will be established showing:

(a) the amount of each arrearage
(b) the total amount of arrearage
(c) the number of arrearages
(d) the date the arrearages began.

The auditor will disclose the above information by an appropriate footnote.

[FR Doc. 85–16321 Filed 7–18–85; 8:45 am]
BILLING CODE 8025–01–M

federal register

Friday
July 19, 1985

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions, Notice

DEPARTMENT OF LABOR

impractical and contrary to the public interest.

publication in the **Federal Register**

VOL 50 ISS 139 19 1985 JL UMI

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona:	
AZ83–5102	Mar. 4, 1983.
AZ84–5005	Mar. 9, 1984.
Kansas: KS85–4009	May 10, 1985.
New Mexico: NM85–4014	June 14, 1985.
New Jersey: NJ84–3019	July 6, 1984.
New York:	
NY83–3018	May 20, 1983.
NY83–3032	July 29, 1983.
NY83–3027	July 22, 1983.
Ohio:	
OH83–5123	Dec. 2, 1983.
OH83–5124	Do.
OH83–5125	Dec. 23, 1983.
Oregon: OR85–5030	June 28, 1985.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

New Jersey: NJ84–3020 (NJ85–3032).	July 27, 1984.

Signed at Washington, D.C. this 12th day of July 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AZ83-5102 - MODIFICATION NO. 11
(48 FR 9424-March 4, 1983)
Maricopa County Arizona

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Carpenters:		
Millwrights	$15.69	$2.84
Plasterers	15.69	3.06

DECISION NO. AZ84-5005 - MODIFICATION NO. 7
(49 FR 9059-March 9, 1984)
Statewide, Arizona

ADD:

	Basic Hourly Rates	Fringe Benefits
Millwrights	$15.69	$2.84

DECISION NO. NJ84-3019 - MOD. #5
(49 FR 27883 - July 6, 1984)
Bergen, Essex, Hudson, Hunterton, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Counties, New Jersey

EXCLUDE:

Ellis Island & Statue of Liberty Island from geographical scope of Decision.

DECISION NO. KS85-4009
MOD. NO. 2-(50FR19853)
May 10, 1985

DOUGLAS, JEFFERSON, LEAVENWORTH, MIAMI and SHAWNEE COUNTIES, KANSAS

CHANGE:

"Decision No. KS84-4009" listed on modification No. 1 published in Federal Register June 26, 1985 to read "Decision No. KS85-4009".

CHANGE:

LABORERS:

	Basic Hourly Rates	Fringe Benefits
Zone 1		
Group 1	$7.95	$2.30
Group 2	8.20	2.30
Zone 2		
Group 1	8.75	2.30
Group 2	9.00	2.30
Zone 3		
Group 1	9.10	2.40
Group 2	9.35	2.40
Zone 4		
Group 1	7.95	2.30
Group 2	8.20	2.30

DECISION NO. NY83-3032 - MOD. #5
(48 FR 34629 - July 29, 1983)
BRONX, KINGS, NEW YORK, QUEENS AND RICHMOND COUNTIES, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
STEAMFITTERS	21.55	7.67

EXCLUDE:

Ellis Island & Statue of Liberty Island from geographical scope of Decision.

DECISION NO. NY83-3027 - MOD. # 11
(48 FR 33622 - July 22, 1983
NASSAU, SUFFOLK COUNTIES, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
STEAMFITTERS	21.55	7.67

DECISION #NM85-4014-MOD.#1
(49 FR 24997-June 14, 1985)
Statewide (excluding Eddy and Lea Cos. for Building Construction is New Mexico)

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Elevator Constructors:		
Mechanics	$16.335	$3.29 + a
Helpers	70%JR	3.29 + a
Helpers (Prob.)	50%JR	
Plumbers & Pipefitters:		
Light Commercial:		
All 5-N type construction work under the uniform building code of a project of 150 fixture units or less; Motels not over two stories in height regardless of type of construction; Refrigeration limited to 40 tons per unit or less for comfort refrigeration only; Indoor swimming pools in conjunction with work covered above; All utilities except on industrial work; and all remodel work up to $120,000 in volume:		
Bernalillo County	10.00	2.31
Remainder of New Mexico	9.00	2.31
All Irrigation & Lawn Sprinkler Work	7.00	2.31

DECISION NO. NY83-3018 LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits
Groundman truck driver (tractor trailer unit)	14.306	4.35+p +6.25%
Groundman mobile equipment operator; groundman truck driber; mechanic	13.464	4.35+p +6.25%
Groundman	10.098	4.35+p +6.25%
Overhead transmission line work (where other work is or has been involved):		
Lineman; Technician	19.61	4.35+p +6.25%
Groundman diggine machine operator; dynamite man	17.649	4.35+p +6.25%
Groundman truck driver (tractor trailer unit)	16.669	4.35+p +6.25%
Mobile equipment operator; groundman truck driver; mechanic	15.688	4.35+p +6.25%
Groundman	10.098	4.35+p +6.25%
PAINTERS:		
DUTCHESS: ULSTER; SULLIVAN:		
Brush	16.24	3.13
Structural Steel, Bridges, Towers, Fire Escapes, Smoke Stacks, Flagpoles, and other exposed areas 15' or more in height, Swing Stage, Window Jacks, Boatswain Chairs, Safety Belts and Spray Gun	16.54	3.13
ORANGE:		
Commercial Spray, Sandblasting, Taping & paperhanging, epoxy & Other toxic materials	14.94	2.95
Elevated work:		
Structural steel, power plants, Towers	15.94	2.95
Smoke stacks, Bridges	16.62	2.95
PLUMBERS & STEAMFITTERS:		
DUTCHESS; ULSTER (Remainder of County)	18.70	6.90

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS		
DUTCHESS (Poughkeepsie & South thereof):		
BUILDING:		
Group I-A	19.8525	1.20+ 18.25%+ 1
Group I-B	17.785	"
Group II	18.94	"
Group III-A	18.0475	"
Group III-B	16.7275	"
Group IV-A	17.765	"
Group IV-B	16.585	"
Group V-A	16.7625	"
Group V-B	15.4425	"
Group VI-A-1	21.22	"
Group VI-A-2	20.3675	"
Group VI-A-3	19.3675	"
Group VI-A-4	20.0825	"
Group VI-A-5	24.0825	"
Group VI-A-6	17.5125	"
Group VI-A-7	23.7975	"
Group VI-B-1	14.4625	"
Group VI-B-2	15.4275	"
Group VI-B-3	14.4775	"
Group VI-B-4	17.66	"
Group VII	19.855	"
HEAVY & HIGHWAY:		
Group I-A	19.75	1.20+ 17.75% +1
Group II	18.95	"
Group III	18.83	"
Group IV-A	17.70	"
Group IV-B	15.13	"
Group V-A-1	20.95	"
Group V-A-2	20.20	"
Group V-A-3	23.20	"
Group V-A-4	19.95	"
Group V-A-5	19.33	"
Group V-A-6	23.45	"
Group V-A-7	17.70	"
Group V-A-8	18.79	"
Group V-B-1	15.13	"
Group V-B-2	14.30	
POWER EQUIPMENT OPERATORS:		
DUTCHESS (Remainder of County):		
HEAVY & HIGHWAY		
Class I	17.12	4.00+m
Class II	16.55	4.00+m
Class III	14.94	4.00+m
Class IV	13.52	4.00+m
Class V	18.13	4.00+m

DECISION NO. NY83-3018	Basic Hourly Rates	Fringe Benefits
ROOFERS	17.00	7.15+n
TRUCK DRIVERS		
Group 1	15.95	3.55+o
Group 2	15.85	3.55+o
Group 3	15.65	3.55+o
Group 4	15.55	3.55+o
Group 5	15.45	3.55+o

ADD:

FOOTNOTE:

p. Paid Holidays: A through F, plus Washington's Birthday, Good Friday, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

Basic Hourly Rates	Fringe Benefits

DECISION NUMBER OH83-5125 - MOD. #6
(48 FR 56898 - December 23, 1983)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Stonemasons:		
Area 2	$19.59	$4.12
Area 3	20.47	3.55
Area 6	17.59	3.27
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:		
Area 1:		
Carpenters; Soft Floor Layers	18.95	5.16
Millwrights	18.50	5.61
Piledrivermen	18.50	5.61
Area 2:		
Millwrights	18.50	5.61
Piledrivermen	18.50	5.61
Area 3:		
Commercial Building:		
Millwrights	18.50	5.61
Piledrivermen	18.50	5.61
Area 4:		
Carpenters	17.68	3.37
Millwrights; Piledrivermen	19.16	3.37
Soft Floor Layers	17.51	3.37
Cement Masons:		
Area 2	20.85	3.52
Area 3	20.47	3.55
Electricians:		
Area 6:		
Family residences, not to exceed 6 units between fire walls, not exceeding 3 stories	11.72	1.20+ 3.2%
Elevator Constructors:		
Area 2:		
Mechanics	21.42	3.00+ e+f
Helpers	70%JR	3.00+ e+f
Probationary Helpers	50%JR	
Glaziers:		
Area 1	$20.03	$4.61
Area 2:		
Commercial Building	12.00	3.46
Residential	7.69	2.83
Ironworkers:		
Area 2:		
Ornamental; Reinforcing; & Structural	20.62	4.13
Sheeters	20.87	4.13
Area 3:		
Ornamental; Reinforcing; & Structural	16.96	5.36
Sheeters; Layout Man	17.96	5.36
Area 4	15.73	6.24
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 2:		
Terrazzo Workers	19.59	4.12
Area 3	20.47	3.55
Marble, Terrazzo, & Tile Finishers:		
Area 1	18.35	
Area 2:		
Marble & Tile Finishers	18.54	3.00
Terrazzo Finishers	18.57	3.00
Painters:		
Area 1:		
New Commercial Building:		
Brush; Roller; Paperhanger	19.46	3.17
Sandblasting; Spray; & Closed Steel Below 55 feet	19.86	3.17
Tapers	20.16	3.17
Commercial Building Repaint:		
Brush; Roller; Paperhanger	18.21	3.17
Sandblasting; Spray; & Closed Steel Below 55 feet	18.61	3.17
Tapers	18.91	3.17

(6)

DECISION NUMBER OH83-5125 (CONT'D)

	Basic Hourly Rates	Fringe Benefits
Change:		
Painters (Cont'd):		
Area 1:		
Residential:		
Brush; Roller; Paperhanger	$15.81	$3.17
Sandblasting; Spray; & Closed Steel Below 55 feet	16.21	3.17
Tapers	16.51	3.17
Area 2:		
Commercial Building:		
Brush	14.00	3.17
Roller; Sandblast & Spray	14.50	3.17
Drywall; Wallpaper	14.75	3.17
Residential:		
Brush	12.20	3.17
Spray	12.50	3.17
Drywall; Wallpaper	13.00	3.17
Pipefitters; Plumbers; & Steamfitters:		
Area 1	18.86	3.32
Area 3	17.50	3.39+h
Plasterers:		
Area 3	20.47	3.55
Plumbers:		
Area 1	20.73	4.00
Sheet Metal Workers:		
Area 1:		
Commercial Building	20.21	4.40
Truck Drivers:		
Area 1:		
Group 1	14.29	1.91+1
Group 2	14.51	1.91+1
Group 3	14.76	1.91+1
Group 4	14.86	1.91+1
Omit:		
Laborers:		
Area 2 wage rates & Classifications		
Footnotes:		
a. $75.00 per year		
c. 2 Paid Holidays: C & D		
g. 2 Paid Holidays: C & D		

	Basic Hourly Rates	Fringe Benefits
Omit (Cont'd):		
Area Descriptions:		
Painters:		
Areas 1 & 2		
Add:		
Laborers:		
Area 2:		
Group 1	$10.00	$6.30
Group 2	15.00	6.30
Group 3	15.15	6.30
Group 4	15.25	6.30
Group 5	15.40	6.30
Group 6	15.48	6.30
Group 7	15.50	6.30
Group 8	15.65	6.30
Group 9	16.50	6.30
Footnote:		
c. 2 Paid Holidays: B & D		
Area Descriptions:		
Painters:		
Area 1: Ashtabula, Cuyahoga, Lake, Portage (N. of East West Turnpike), & Summit (N. of East West Turnpike) Cos.		
Area 2: Lorain Co.		
Laborers Classifications:		
Area 2:		
Group 1: Asbestos Removal; Final Cleanup Laborers (Not tending other crafts); Landscaping; Sewer Jet; & Unloading of Furniture & Fixtures		
Group 2: Building & Construction Laborers & Tenders		
Group 3: Firebrick Tenders		
Group 4: Air Track & Wagon Drill; Swinging Scaffolds		
Group 5: Mason Tender Handling Carbon Block & Bottom Block Material		
Group 6: Gunite Operating		
Group 7: Acid Brick Tenders; Blasters; Shooters, Caisson, Well, Cylinder, Coffardams, & Mine Workers w/o Air		
Group 8: Bellman & Bottom Man in Blast Furnace & Stove		
Group 9: Lansing Burners		

(7)

MODIFICATION P. 7

DECISION NUMBER OH83-5123 - MOD. #5
(48 FR 54419 - December 2, 1983)
Mahoning & Trumbull Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Area 2	$17.14	$3.25
Cement Masons:		
Area 1	17.70	2.65
Area 2	18.37	1.91+a
Ironworkers:		
Area 1	17.96	5.36
Area 2	15.73	6.24
Marble Setters; Terrazzo Workers; & Tile Setters:		
Area 1	19.33	
Marble Setters' Finishers Terrazzo Workers' Finishers; & Tile Setters Finishers:		
Area 1	18.35	
Plasterers:		
Area 1:		
Commercial	18.45	1.65
Area 2:		
Commercial	13.06	1.68
Roofers	16.82	3.18
Sheet Metal Workers	17.55	3.26
Truck Drivers:		
Group 1	14.29	1.91+d
Group 2	14.51	1.91+d
Group 3	14.76	1.91+d
Group 4	14.86	1.91+d

DECISION NUMBER OH83-5124 - MOD. #6
(48 FR 54422 - December 2, 1983)
Lucas County, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Plumbers; Steamfitters; & Pipefitters:		
Commercial Building	$19.60	$4.12
Residential	14.70	4.12

DECISION NO. OR85-5030 - Mod #1
50 FR 26893 - June 28, 1985
Statewide Oregon

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Group 1	$15.59	$5.15
Group 2	15.77	5.15
Group 3	15.93	5.15
Group 4	16.13	5.15
Group 5	16.17	5.15
Group 6	16.28	5.15
Group 7	16.35	5.15
Group 8	16.49	5.15
Group 9	16.58	5.15
Group 10	16.66	5.15
Group 11	16.68	5.15
Group 12	16.78	5.15
Group 13	16.88	5.15
Group 14	17.12	5.15
Group 15	17.31	5.15
Group 16	17.56	5.15
Group 17	17.76	5.15
Group 18	18.01	5.15
Group 19	18.19	5.15

SUPERSEDEAS DECISION

STATE: New Jersey

COUNTIES: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem

DECISION NUMBER: NJ85-3032

DATE: Date of Publication

Supersedes Decision No. NJ84-3020 dated July 27, 1984, in 49 FR 30280.

DESCRIPTION OF WORK: Building (excluding single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING and REFRIGERATION MECHANICS:		
Group 1	15.40	1.48+a
ASBESTOS WORKERS:		
Zone 1	18.61	4.92
Zone 2	18.47	4.945
Zone 3	18.30	6.825
Zone 4	19.64	4.04
Zone 5	18.75	4.45
BOILERMAKERS	18.27	.29+38%
BRICKLAYERS, STONEMASONS, MARBLE MASONS, CEMENT MASONS, PLASTERERS, TILE LAYERS, and TERRAZZO WORKERS:		
Zone 1	17.57	5.12
Zone 2:		
Bricklayers, Stone masons, Marble Masons, and Terrazzo Workers	17.52	4.32
Cement Masons	16.35	4.85
Plasterers	13.45	2.00
Zone 3	16.95	3.25
Zone 4	19.40	2.93
Zone 5	17.52	4.62
CARPENTERS, MILLWRIGHTS and INSULATORS:		
Zone 1	20.62	15.5%
Zone 2:		
Carpenters & Insulators	17.74	20.5%
Millwrights	19.99	20.5%
Zone 3:		
Carpenters & Insulators	19.74	20.5%
Millwrights	19.99	20.5%
Zone 4:		
Carpenters, Insulators & Millwrights	19.26	23.5%
	19.54	23.5%
Zone 5:		
Carpenters & Insulators	19.26	23.5%
Millwrights	19.76	23.5%
Zone 6:		
Carpenters & Insulators	16.70	15.5%
Millwrights	16.95	15.5%

	Basic Hourly Rates	Fringe Benefits
DIVERS & DIVER TENDERS:		
Zone 1:		
Divers	20.87	6.83
Diver Tenders	16.27	6.83
DOCK BUILDERS and PILEDRIVERMEN:		
Zone 1	15.97	7.76+q
Zone 2	17.66	6.75
DRYWALL TAPERS & FINISHERS		
Zone 1	14.85	3.35
Zone 2	16.03	6.69
ELECTRICIANS and CABLE SPLICERS:		
Zone 1	19.66	3.67+11%
Zone 2	19.68	1.00+16.7%
Zone 3	18.58	1.80+10%
Zone 4	18.41	2.89+10%
Zone 5	19.46	3.38+10%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.62	2.474+c+d
Helpers	10.30	2.47+c+d
Probationary Helper	7.36	
GLAZIERS:		
Zone 1	16.90	6.60
Zone 2	7.80	.50
Zone 3	16.04	3.55
30' Above ground	16.64	3.55
Zone 4	9.41	.87
IRONWORKERS:		
Structural, Ornamental, and Reinforcing:		
Zone 1	15.00	6.80
Zone 2	15.68	7.95
Zone 3	18.10	5.80
Zone 4	17.20	10.00
MARBLE FINISHERS:		
Zone 1	7.84	2.75

DECISION NO. NJ85-3032	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Zone 1:		
New Construction and Major Alterations	13.30	4.85
Repaint-New Construction and Major Alterations	12.30	4.85
Repaint - Spray Exterior over 3 stories and Steel	12.90	4.85
Repaint - Steel	13.45	4.85
Bridges, TV Towers	12.45	4.85
Zone 2:	13.90	4.85
Painters on New Construction and Major Alterations	13.80	2.55
Painters on Repaint Work	12.70	2.55
Spraying or application of hazardous or dangerour materials on repaint work	13.30	2.55
Exterior work exceeding 3 stories in height for painting of open structual steel and tanks under 3 stories in height except Flat Tanks on the ground and on interior work which requires painting higher than 20' above (this shall not be applicable to machinery or equipment located therein)	13.95	2.55
Repaint Work as described above	12.85	2.55
On Bridges, Television and Radio Towers, Structural Steel and Tanks above 3 stories in height (30' or over) Smoke Stacks, Water Towers, Sandblasting, Steamcleaning, Spraying or application of hazardous materials	14.40	2.55
Paperhanging	14.30	2.55
Zone 3:		
Commercial Brush, Roller and Paperhanging	16.70	3.25
Comercial Spray or dipping, or the use of any speciel material, brushing or Rolling on Steel or Tanks, or Working Swing or Chair	17.45	3.25
Sandblasting or Power Tools; Spraying or the use of any special material on Steel or Tanks	18.70	3.25
Zone 4:		
New Construction:		
Brush or Roller; Paperhanging and Vinyl-wall covering	19.00	23½
Working on all Structural Steel and Iron, Steeples, Stacks, Tanks, Flagpoles, all Swing Work & Window Jack Work above 2 stories, Spray Painting & Sandblasting and Line Striping by machinery, all Power Tools and Hazardous materials (i.e. Creosote, Epoxy, Acid, Pitchmaster and Urethanes)	20.00	23½
Zone 5:		
General Painting	15.70	2.85
Spray, Special material and Blasting	17.85	2.85
Repainting Work except Bridges, Tanks, Towers, all other open structural Steel and Power Plants	14.00	2.85
PLUMBERS & PIPEFITTERS:		
Zone 1	18.72	5.15
Zone 2	18.62	5.06
ROOFERS:		
Zone 1:		
Shingle, slate and tile	14.15	2.42
Mechanic II for shingle, slate or tile work - handles and transports all materials, tools and equipment; clean-up debris	6.25	2.42
All other work	20.12	2.83+p
Mechanic II for all other work - handles & transports all materials, tools and equipment; clean-up debris	8.25	2.83+p
Zone 2:		
Composition	16.50	3.50
Slate & Tile	16.625	3.50

DECISION NO. NJ85-3032	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
Zone 1	18.89	4.89
Zone 2	18.63	5.10
Zone 3	18.43	5.35
Zone 4	18.73	5.54
SOFT FLOOR LAYERS:		
Zone 1	10.65	15.2%
Zone 2	17.22	1.50+ 13%
SPRINKLER FITTERS:		
Zone 1	15.62	2.50
Zone 2	17.67	3.23
TERRAZZO FINISHERS:		
Zone 1	7.82	2.75
TILE SETTERS FINISHERS:		
Zone 1	6.45	13%
Zone 2	7.61	2.75
LABORERS:		
Building Construction:		
Zone 1:		
Group 1	12.00	3.65
Group 2	12.15	3.65
Group 3	12.40	3.69
Zone 2:		
Group 1	12.40	3.22
Group 2	12.50	3.22
Group 3	12.625	3.22
Group 4	12.75	3.22
Zone 3:		
Group 1	12.80	2.85
Group 2	13.05	2.85
Zone 4	12.55	3.10
Zone 5:		
Laborers	11.80	3.70
Jackhammers	12.20	3.70
Zone 6:		
Laborers	11.95	4.72
Rod Carriers and Plasterers Tenders	11.50	4.72
Heavy & Highway Construction		
Zone 1:		
Group 1	13.10	2.50
Group 2	13.30	2.50
Group 3	13.60	2.50
Group 4	13.80	2.50
Group 5	14.05	2.50
Group 6	15.60	2.50
Zone 2:		
Group 1	13.20	2.50
Group 2	13.40	2.50
Group 3	13.70	2.50
Group 4	13.90	2.50
Group 5	14.15	2.50
Group 6	15.70	2.50
FREE AIR TUNNEL JOBS:		
Group 1	15.95	2.50
Group 2	14.25	2.50
Group 3	14.10	2.50
Group 4	13.60	2.50
ASPHALT CONSTRUCTION		
Street:		
Head Rakers	11.65	2.60
Rakers & Screed Men	11.50	2.60
Tampers, Smothers, Kettlemen, Painters, Shovelers & Roller Boys	11.25	2.60
Plant:		
Scale Mixers & Burner Men	11.50	2.60
Feeders and Dust Men	11.25	2.60
LINE CONSTRUCTION: (Excluding Railroad Construction):		
Zone 1:		
Linemen; Cable Splicers and Equipment Operators	19.66	4.37+ 11%
Groundmen	17.71	4.37+ 11%
Zone 2:		
Linemen; Cable Splicers, Truck Drivers, Equipment Operators and Technicians	15.27	.80+ 10.75%
Groundmen and Winch Operators	12.22	.80+ 10.75%
Zone 3:		
Linemen	19.40	3.30+ 10.75%
Groundmen & Winch Operators	16.95	3.30+ 10.75%
Zone 4:		
Linemen	18.41	1.85+ 10%
Line Digger Truck Drivers	13.94	1.85+ 10%
Groundmen	15.09	1.85+ 10%
Zone 5:		
Linemen, Equipment Operators, Technicians and Certified Linemen Welder	20.33	2.00+ 3.75%
Truck Drivers	14.64	2.00+ 3.75%
Groundmen	13.65	2.00+ 3.75%

DECISION NO. NJ85-3032

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION CONT'D		
(Railroad ONLY):		
Zone 1:		
Linemen	16.96	25%
Line Equipment Operator	16.20	25%
Groundman Winch Op.	13.07	25%
Groundman	11.06	25%
Dynamite Man	14.20	25%
Street Light Mechanic	12.97	25%
Line Equipment Mechanic	12.90	25%
POWER EQUIPMENT OPERATORS		
Building Construction Projects in which individual items of work are $100,000 or less (including clearing, and grading, excavation, foo foundations, back filling, storm and sanitary sweres, sidewalks, street excavation and paving, curbing and landscaping, water and gas supply lines)	12.19	5.80+a
OTHER BUILDING CONSTRUCTION PROJECTS: HEAVY, HIGHWAY, ROAD, STREET, AND SEWER PROJECTS:		
Class A	21.92	5.80+a
Class B	20.33	5.80+a
Class C	18.42	5.80+a
Class D	16.79	5.80+a
Class E	15.08	5.80+a
Class F	23.74	5.80+a
TANK ERECTION:		
Class A	23.91	5.80+a
Class B	23.57	5.80+a
Class C	25.55	5.80+a
Class D	21.48	5.80+a
Class E	16.27	5.80+a
OILOSATATIC MAINLINES & TRANSPORTATION PIPELINES:		
Class A	22.55	5.80+a
Class B	20.90	5.80+a
Class C	18.76	5.80+a
Class D	17.26	5.80+a
Class E	15.54	5.80+a
Class F	24.48	5.80+a

	Basic Hourly Rates	Fringe Benefits
STEEL ERECTION:		
Class A	23.74	5.80+a
Class B	22.83	5.80+a
Class C	21.49	5.80+a
Class D	18.83	5.80+a
Class E	17.30	5.80+a
Class F	15.54	5.80+a
Class G	25.55	5.80+a
TRUCK DRIVERS:		
Zone 1:		
Group 1	8.55	f+g+h+i
Group 2	8.65	f+g+h+i
Group 3	8.80	f+g+h+i
Group 4	8.95	f+g+h+i
Zone 2:		
Group 1	13.05	j+k+l+m
Group 2	13.75	j+k+l+m
Group 3	13.90	j+k+l+m
Group 4	13.95	j+k+l+m
Group 5	14.10	j+k+l+m
Group 6	14.30	J+k+l+m
Group 7	14.45	j+k+l+m
Zone 3:		
Group 1	14.97	1.855+ n+o
Group 2	15.20	1.855+ n+o
Group 3	15.25	1.855+ n+o
Group 4	15.35	1.855+ n+o
Group 5	15.45	1.855+ n+o
WELDERS - Rate for craft to which welding is incidental		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Paid Holidays: A through F plus Washington's Birthday, Presidential Election Day and Veterans Day, provided the employee works any of the 3 days in the 5-day workweek preceeding the holiday and the first work day after the holiday.
b. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Independence Day; Presidential Election Day; Veteran's Day; and Thanksgiving Day
c. Paid Holidays: A through F
d. Employer contributes 4% of basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
e. Paid Holidays: A through F, plus Washington's Birthday, Presidential Election Day and Veteran's Day provided the employee works any of the 3 days in the 5 work days preceeding the Holiday and the first work day after the recognized Holiday
f. Employer contributes $6.30 per day per employee to Health and Welfare Funds
g. Employer contributes $4.00 per day per employee to Pension Funds
h. One week vacation after one year's work; Two weeks vacation after three year's work
i. Paid Holidays: A through F, plus Washington's Birthday, Veteran's Day and Presidential Election Day provided the employee works 3 days in the week in which the Holiday falls
j. Employer contributes $65.50 per week per employee to Health and Welfare Funds
k. Employer contributes $65.00 per week per employee to Pension Funds
l. Employee who has worked or receive pay for 90 days within a year prior to his anniversary date shall receive 56 hours straight time vacation pay; for 3 years but less than 8 years of service he will receive 100 hours of straight time vacation pay; 15 years or more he will receive 165 hours of streight time vacation pay
m. Paid Holidays: A through F, plus Washington's Birthday, Presidential Election Day, Armistic Day, 2 Personal Holidays, Good Friday, and Christmas Eve afternoon (provided the employee works that morning) on the condition that the employee works or is available for work on at least 2 days in the week in which the Holiday occurs
n. Employees working or receiving pay for 80 days within a year receive one week's paid vacation(40 hours); 125 days receive two weeks' vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 hours)
o. Paid Holidays: A through F, plus Lincoln's Birthday, Washington's Birthday, Good Friday, General Election Day, Columbia Day and Veteran's Day provided the employee has been assigned to work or "shapes" one day of the calendar week during which the Holiday Falls
p. Paid Holiday: Election Day.
q. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 45 full days for the same employer during the 120 calendar days prior to the holiday and is available for work the day preceeding and the day following the holiday.

GROUP and ZONE DESCRIPTIONS

AIR CONDITIONING and REFRIGERATION MECHANICS:
Group 1: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; Installation of water-cooled air-conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); Installation of air-cooled air conditioning that does not exceed 15 tons

ASBESTOS WORKERS:
Zone 1: Atlantic, Burlington (Bass River and Washington Townships); Cape May, Cumberland and Ocean (Englewood, Lacy, Little Egg Harbor, Long Beach, Ocean, Stafford, Tuckerton, and Union Townships) Counties
Zone 2: Burlington (Bordentown, Burlington, Chesterfield, Easthampton, Florence, Manafield, Mount Holly, New Hanover, North Hanover, Pemberton, Roebling, Springfield, Wrightstown, and Woodlawn Townships); Mercer, Monmouth (Allentown, Blainsinburg, Brielle, Englishtown, Farmingdale, Freehold, Howell, Manalapan, Manasquan, Millstone, Roosevelt, Sea Girt, South Belmar, Spring Lake Heights, Upper Freehold, Wall, and West Belmar Townships) and Ocean (Remainder of County) Counties
Zone 3: Monmouth (Remainder of County)
Zone 4: Salem County
Zone 5: Burlington (Remainder of County); Camden and Gloucester Counties

BRICKLAYERS, STONEMASONS, MARBLE MASONS, CEMENT MASONS, PLASTERERS, TILE LAYERS, and TERRAZZO WORKERS:
Zone 1: Atlantic and Cape May Counties
Zone 2: Camden, Gloucester, and Salem Counties
Zone 3: Cumberland County
Zone 4: Burlington and Mercer Counties
Zone 5: Monmouth and Ocean Counties

CARPENTERS, MILLWRIGHTS and INSULATORS:
Zone 1: Atlantic, Camden, Cape May, Cumberland, Gloucester and Salem Counties
Zone 2: Burlington County
Zone 3: Mercer County (beginning from the present Post Office in Lawrenceville to a point northward through the present "Radio Site" to the junction of Rosedale Road and Read's Mill Road to the junction of Pennington and Mount Rose Road to the Somerset County Line; again starting at the present Post Office in Lawrenceville and eastward to the junction of Brunswick Pike and Delaware and Raritan Canal Bridge taking the center of the road to Clarksville then south on Providence Line Road to the Pennsylvania Railroad then east on Dutch Neck North to Grover's Mills to the Middlesex County Line
Zone 4: Remainder of Mercer County.

Zone 5: Ocean County
Zone 6: Monmouth County

DIVER and DIVER TENDERS:
Zone 1: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties

GROUP and ZONE DESCRIPTIONS (Cont'd)

DOCKBUILDERS and PILEDRIVERMEN
Zone 1: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer (Trenton Area), Ocean and Salem Counties
Zone 2: Mercer (Princeton Area) and Monmouth Counties

DRYWALL TAPERS and FINISHERS:
Zone 1: Atlantic, Burlington, Cape May, Cumberland, Mercer, Monmouth and Ocean Counties
Zone 2: Camden, Gloucester and Salem Counties

ELECTRICIANS and CABLE SPLICERS:
Zone 1: Monmouth and Ocean Counties
Zone 2: Burlington (that portion north of a line following the west and south limits of Burlington Borough from the Delaware River in a southeasterly direction to the Burlington - Mt. Holly Road, south-southeast along this road to and including the Town of Mt. Holly, east along the Pennsylvania Railroad to and including New Lisbon and continuing along the Pennsylvania Railroad to the Ocean County Line) and Mercer Counties
Zone 3: Burlington (Edgewater Park, Delanco, Delran, Cinnaminson, Moorestown, Mount Laurel, Willingsboro, Hainesport, Lumberton, Medford, Evesham Townships in the County and that portion of Shamong, Tabernacle, Woodland Townships north of the Central Railroad of New Jersey Line and that portion of Burlington, Westhampton, Easthampton, South Hampton and Pemberton Townships in the County south of a line starting at the Delaware River and following the southern boundary of Burlington Borough to the Burlington, Mount Holly Road, along this road to Mount Holly around but excluding Mount Holly to the Pennsylvania Railroad along the Pennsylvania Line through, but excluding Pemberton, through but excluding New Lisbon to the Ocean County Line), Camden, Gloucester (Washington, Deptford, West Deptford, Greenwich, East Greenwich, Manuta, Harrison, South Harrison, Woolwich and Logan Townships and Pitman Borough) and Salem (from Lower Penns Neck, Upper Pens Neck, Oldmans Townships and that portion of Mannington and Pilesgrove Townships north of a line following State Highway #45 northeast from Fenswick Creek to the Borough of Woodstown, around and including Woodstown to U. S. Highway #40 and east on #40 to Upper Pittsgrove Townships Line) Counties
Zone 4: Atlantic (that portion south and west of a line following the White Horse Pike (U. S. Highway #30) in a southeasterly direction from Camden County to the Mays Landing-DaCosta Road, continuing south along that road to the Great Egg Harbour River near Weymouth along that river to the Harding Highway to the Mays Landing - Tuckahoe Road, south on that road to the north limits of Corbin City to the Tuckahoe River), Cumberland, Gloucester (remainder of County) and Salem (Remainder of County) Counties
Zone 5: Atlantic (Remainder of County), Burlington (Remainder of County) and Cape May Counties

GROUP and ZONE DESCRIPTIONS (Cont'd)

GLAZIERS:
Zone 1: Monmouth and Ocean and Mercer Counties
Zone 2: Atlantic and Cape May Counties
Zone 3: Camden, Gloucester and Salem Counties
Zone 4: Burlington (that portion north of a line that begins at Florence-Roebling and that extends in a southeasterly direction that includes Fort Dix to the Ocean County Line) County

IRONWORKERS:
Zone 1: Monmouth and Ocean (northern half of County) Counties
Zone 2: Atlantic, Cape May, Cumberland (that portion east of a line drawn from the Delaware Bay through the Town of Cedarville and upwards to the point where the County Lines of Gloucester, Cumberland and Atlantic meet) and Ocean (Remainder of County) Counties
Zone 3: Burlington (southern portion of County up to but not including Lumberton and Chatsworth Townships), Camden, Cumberland (Remainder of County), Gloucester and Salem Counties
Zone 4: Burlington (Remainder of County) and Mercer Counties

MARBLE FINISHERS:
Zone 1: Camden, Gloucester, and Salem Counties

PAINTERS:
Zone 1: Monmouth and Ocean (except Townships of Ocean, Union, Stafford, Eaglewood and Little Egg Barbor) Counties
Zone 2: Mercer County
Zone 3: Burlington, Camden, Gloucester and Salem (the portion of County north of Salem Bridges) Counties
Zone 4: Atlantic, Cape May and Ocean (Remainder of County) Counties
Zone 5: Cumberland and Salem (Remainder of County) Counties

PLUMBERS and PIPEFITTERS:
Zone 1: Atlantic, Burlington (that portion of the County including Atsion, Bass River Township, Batsto, Chatsworth, Green Bank, Herman, Jenkins, New Gretna, Quaker Bridge, Wading River, Washington and Woodland Township), Cape May, Cumberland, Gloucester, Burlington (that portion of the County starting on the west by the Delaware River, on the north by a line following the center of High Street to the Pennsylvania Railroad running from Camden to Mount Holly, Birmingham, Seaside Park and Shore Points on the Jersey Coast and along aforesaid Railroad to the Town of Whittings; thence diagonally across Burlington County to the junction of Burlington, Camden and Atlantic Counties), Camden and Salem Counties.
Zone 2: Monmouth, Mercer, Ocean, Burlington County (Remainder of County)

GROUP and ZONE DESCRIPTIONS (Cont'd)

ROOFERS:
Zone 1: Atlantic, Cape May, Cumberland, Burlington, Camden, Gloucester, Salem, Mercer, Monmouth (Remainder of County) and Ocean (Remainder of County) Counties
Zone 2: Monmouth (the entire County except the southwest corner which includes Perrineville and the towns west thereof) and Ocean (from the County Line southward to Cassville, Lakehurst, Whitings, Wheatland and Cedar Bridge inclusive) Counties

SHEET METAL WORKERS:
Zone 1: Atlantic, Cape May and Cumberland Counties
Zone 2: Monmouth and Ocean Counties
Zone 3: Burlington and Mercer Counties
Zone 4: Camden, Gloucester and Salem Counties

SOFT FLOOR LAYERS:
Zone 1: Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem Counties
Zone 2: Burlington, Mercer, Monmouth and Ocean Counties

SPRINKLER FITTERS:
Zone 1: Camden, Gloucester, Mercer (Town of Trenton) and Salem (Penns Grove excluding Penns Grove Airport) Counties
Zone 2: Atlantic, Burlington, Cape May, Cumberland, Mercer (Remainder of County), Monmouth, Ocean and Salem (Remainder of County) Counties

TERRAZZO FINISHERS:
Zone 1: Camden, Gloucester, and Salem Counties

TILE SETTERS FINISHERS:
Zone 1: Atlantic and Monmouth Counties
Zone 2: Camden, Gloucester, and Salem Counties

ZONE and GROUP DESCRIPTIONS (Cont'd)

LABORERS
BUILDING CONSTRUCTION

Zone 1: Atlantic, Burlington (Townships of Washington and Bass River), Cape May, Cumberland (Townships of Fairfield, Millville, Maurce River, Lawrence, Dawne and Commercial) and Ocean (that portion of the County up to and including Lacy Township) Counties:

Group 1: Laborers, Mason' and Plasterers' Tenders, and Concrete Workers
Group 2: Tool Operators (except small hand tools) including operation of motorized buggies
Group 3:Gunnite Men and Gun Nozzle Operators for Gunnite and Asbestos Sandblasting

Zone 2: Burlington (Townships of Edgewater Park, Delance, Willingsboro, West Hampton, East Hampton, Pemberton, Delran, Cinnaminson, Norrestown, Mt. Laurel, Hainesport, Lumberton, South Hampton, Evesham, Medford, Shamong, Tabernacle and Woodland), Camden, Gloucester and Salem and Cumberland (Remainder of County) Counties:

Group 1: Construction Laborers, Plasterers and Lathers Tenders Brick Tenders, Mortar Tenders, Scaffold Builders (brick), Hod Carriers (brick)
Group 2: Power Tool Operators
Group 3: Motorized Buggy Operators, Burners, Nozzlemen (Gunnite Work)
Group 4: Jackhammer Operators, Barko Tamper Operators and Concrete Vibrator Operators (over 27 lbs.)

Zone 3: Mercer (Townships of Princetown, Lawrence, West Windsor, and Borough of Princeton) County:

Group 1: Laborers
Group 2: Hod Carriers, Mason Tenders, Operators of Jackhammers, Tampers and Electric Hammers

Zone 4: Monmouth (Townships of Matawan, Union Beach, Raritan, Keansburg, Highlands, Holmdel, Middletown, Fair Haven, Red Bank, Mattawa Borough and Marlboro) Counties
Zone 5: Mercer (Townships of Washington, Highstown and East Windsor), Monmouth (Remainder of County), and Ocean (Remainder of County) Cos.
Zone 6: Burlington (Remainder of County) and Mercer (Remainder of County) Counties

ZONE and GROUP DESCRIPTIONS (Cont'd)

LABORERS (Cont'd)
HEAVY and HIGHWAY CONSTRUCTION

Zone 1: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean and Salem Counties:
Zone 2: Monmouth County:

Group 1: Common Laborers, Landscape Laborers, Railroad Track Laborers, Traffic Directors, Salamander Tenders, Pitman, Dumpman, Waterproofing Laborers, Rakers and Tampers on Cold Patch Work, and Wrapping and Coating of all Pipes
Group 2: Powder Carrier, Magazine Tender, Wagon Drill Operator Helpers, Drill Master Helper, and Signalman
Group 3: Sewer Pipe, Laser Men, Conduit and Duct Line Layer, Power Tool Operator, Jack Hammer, Chipping Hammer, Pavement Breaker, Power Buggy, Cutter, Concrete Cutter, Asphalt Cutter, Sheet Hammer and Tree Cutter Operators, Sandblasting Cutting, Burning and such other power tools used to perform work usually done manually by Laborers
Group 4: Wagon Drill Operator, Timberman and Drill Master
Group 5: Finisher, Form Setter, Rammer, Paver, Gunite Nozzleman and Stonecutter
Group 6: Blaster

FREE AIR TUNNEL JOBS

Group 1: Blasterers

Group 2: Skilled Men (including Miners, Drill Runners, Iron Men, Maintenance Men, Conveyor Men, Safety Miners, Riggers, Block Layers, Cement Finishers, Rod Men, Caulkers, Powder Carriers, All other Skilled Men)

Group 3: Semi-skilled Men (including Miner's Helpers, Chuck Tenders, Track Men, Nippers, Brakemen, Derail Men, Cable Men, Hose Men, Grout Men, Gravel Men, Form Men, Bell or Signal Men (top or bottom), Form Workers and Movers, Concrete Workers, Shaft Men, Tunnel Laborers, Caulkers' Helpers, all other Semi-skilled)

Group 4: All others (including Powder Watchmen, Change House Attendants, Top Laborers)

ZONE DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION:
Zone 1: Monmouth and Ocean Counties
Zone 2: Burlington (that portion north of a line following the west and south limits of Burlington Borough from the Delaware River in a southeasterly direction to the Burlington - Mt. Holly Road, south-southeast along this road to and including the Town of Mt. Holly, east along the Pennsylvania Railroad to and including New Lisbon and continuing along the Pennsylvania Railroad to the Ocean County Line) and Mercer Counties
Zone 3: Burlington (Edgewater Park, Delanco, Delran, Cinnaminson, Moorestown, Mount Laurel, Willingsboro, Haineeport, Lumberton, Medford, Evesham Townships in the County and that portion of Shamong, Tabernacle, Woodland Townships north of the Central Railroad of New Jersey Line and that portion of Burlington, Westhampton, Easthampton, South Hampton and Pemberton Townships in the County south of a line starting at the Delaware River and following the southern boundary of Burlington Borough to the Burlington - Mount Holly Road, along this road to Mount Holly around but excluding Mount Holly to the Pennsylvania Railroad along the Pennsylvania Line through, but excluding Pemberton, through but excluding New Lisbon to the Ocean County Line), Camden, Gloucester (Washington, Deptford, West Deptford, Greenwich, East Greenwich, Manuta, Harrison, South Harrison, Woolwich and Logan Townships and Pitman Borough) and Salem (from Lower Penns Neck, Upper Penns Neck, Oldmans Townships and that portion of Mannington and Pilesgrove Townships north of a line following State Highway #45 northeast from Penswick Creek to the Borough of Woodstown, around and including Woodstown to U. S. Highway #40 and east on #40 to Upper Pittsgrove Townships Line) Counties
Zone 4: Atlantic (that portion south and west of a line following the White Horse Pike (U. S. Highway #30) in a southeasterly direction from Camden County to the Mays Landing-DaCosta Road, continuing south along that road to the Great Egg Harbour River near Weymouth along that river to the Harding Highway to the Mays Landing - Tuckahoe Road, south on that road to the north limits of Corbin City to the Tuckahoe River), Cumberland, Gloucester (Remainder of County) and Salem (Remainder of County) Counties
Zone 5: Atlantic (Remainder of County), Burlington (Remainder of County) and Cape May Counties

LINE CONSTRUCTION - Railroad ONLY:
Zone 1: Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean and Salem Counties

POWER EQUIPMENT OPERATORS

Class A: Autograde - Combination Subgrader; Base Metal Spreader and 7 Base Trimmer (CMI and similar types); Autograde Placer, Trimmer, Spreader Combination (CMI and similar types); Autograde Slipform Paver (CMI and similar types); Backhoe; Central Power Plants (all types); Concrete Paving Machines; Cranes (all types, including Overhead and Straddle Travelling type); Cranes; Gantry; Derricks (Land or Floating); Drillmaster, Quarrymaster (down the Hole Drill) Rotary Drill; Self Propelled Hydraulic Drill; Self-powered Drill; Dragline; Elevator Graders; Front End Loaders (5 yds. and over); Gradalls; Grader; Raygo; Locomotive (large); Mucking Machines; Pavement and Concrete Breaker, i.e.; Superhammer and Hoe Ram; Pile Driver; Length of Boom including Length of Leads, shall determine premium rate applicable; Roadway-Surface Grinder; Scooper (Loader and Shovel); Shovels; Tree Chopper with Boom; Trench Machines

Class B: "A" Frame; Backhoe (combination); Boom Attachment on Loaders (rate based on size of Bucket) not applicable to Pipehook, Boring and Drilling Machines; Brush Chopper; Shredder and Tree Shredder; Tree shearer; Cableways; Carryalls; Concrete Pump; Concrete Pumping System; Pumpcrete and similar types; Conveyors, 125 ft. and over; Drill Doctor including Dust Collector, Maintenance); Front End Loaders (2 yds. but less than 5 yds.); Graders (Finisher); Groove Cutting Machine (ride on type); Header Planer; Hoists: (all types hoists, shall also include Steam, Gas, Diesel, Electric, Air Hydraulic, Single and Double Drum, Concrete Brick Shaft Caisson, Snorkel Roof, and/or any other similar type Hoisting Machines, portable or stationary, except Chicago Boom type); Hoists (Chicago Boom type); Hydraulic Cranes, 10 tons and under; Hydro-axle; Jacks Screw Air Hydraulic power operated unit or Console type (not Hand Jack or Pile Load Test type); Log Skidder; Pans; Pavers (all Concrete; Pumpcrete Machines; Squeezecrete and Concrete Pumping (regardless of size); Scrapers; Side Booms; Straddle Carrier; Rose and similar types; Winch Truck (hoisting)

Class C: Asphalt Curbing Machine; Asphalt Plant Engineer; Asphalt Spreader; Autograde Tube Finisher and Texturing Machine (CMI and similar types); Autograde Curercrete Machine (CMI and similar types); Autograde Curb Trimmer and Sidewalk; Shoulder; Slipform (CMI and similar types); Bar Bending Machines (power); Batchers; Batching Plant and Crusher on Site; Belt Conveyor Systems; Boom type Skimmer Machines, Bridge Deck Finisher; Bulldozers (all); Car Dumpers (railroad); Compressor and Blower type units (used independently or mounted on Dual Purposes Trucks, on job site or in conjuction with job site, in loading and unloading of Concrete, Cement, Fly Ash, Instancrete, or similar type materials); Compressor (2 or 3)(Battery); Concrete Finishing Machines; Concrete Saws and Cutters (ride on type); Concrete Spreaders; Setzel; Rexcmatic and similar types; Concrete Vibrators; Conveyors; under 125 ft.; Crushing Machines; Ditching Machine; Small (Ditchwitch or similar type); Dope Pots (Mechanical with or without Pump); Dumpsters Elevator; Fireman; Fork Lifts (Economobile; Lull and similar types of

20000 Federal Register / Vol. 50, No. 139 / Friday, July 19, 1985 / Notices

DECISION NO. NJ85-3032

equipment); Front End Loaders (1 yd. and over but less than 2 yds.); Generators (2 or 3) in Battery; Giraffe Grinders; Graders and Motor Patrols; Gunnite Machines (excluding Nozzle); Hammer Vibratory (in conjunction with Generator); Hoist (Roof, Tugger, Aerial Platform Hoist and House Cars); Hoppers; Hopper Doors (power operated); Ladders (motorized); Laddervator; Locomotive; Dinky type; Maintenance; Utility Man; Mechanics; Mixers (except Paving Mixers); Motor Patrols and Graders; Pavement Breakers, small; Self-propelled Ride on type (also maintaining Compressor or Hydraulic unit); Pavement Breaker; Truck mounted; Pipe Bending Machine (power); Pitch Pump; Plaster Pump (regardless of size); Post Hole Digger (Post Pounder and Auger); Rod Bending Machines (power); Roller; Black Top; Scales; Power; Seaman Pulverizing Mixer; Shoulder Widener; Silos; Skimmer Machines (boom type); Steel Cutting Machine; Services and Maintaning; Tractors; Tug Captain; Vibrating Plants (used in conjunction with unloading); Welder and Repair Mechanics

Class D: Brooms and Sweepers, Chippers, Compressor (single), Concrete Spreaders (small type), Conveyor Loaders (not including Elevator Gradera), Engines, Large Diesel (1620 H.P.) and Staging Pump, Farm Tractors; Fertilizing Equipment (operation and maintenance) Fine Grade Machine (small type); Form Line Graders (small type); Front Loader (under 1 yd.); Generator (single); Grease, Gas, Fuel and Oil Supply Trucks; Heaters (Nelson or other type including Propane, Naturel Gas or Flow-type units); Lights; Portable Generating Light Plants; Mixers; Concrete small; Mulching Equipment (operation and maintenance) Pumps (4 inch suction and over including Sumbersible Pumps); Pumps (2 or less than 4" suction and over including submersible pumps); Pumps (Diesel engine and Hydraulic) immaterial of power Road Finishing Machines (small type); Rollers; Grade; Fill or Stone Base; Seeding Equipment (operation and maintenance of); Sprinkler and Water Pump Trucks Steam Jennies and Boilers, Stone Spreader; Tamping Machines Vibrating Ride-on; Temporary Heating Plant (Nelson or other type, including Propane, Natrual Gas or Flow type units); Water and Sprinkler Trucks; Welding Machines (gas, diesel, and/or electric Converters of any type, single; two or three in a Battery); Welding Syatem, Multiple (Rectifier Transformer type); Wellpoint Systems.

Class E: Oiler

Class F: Helicopter Pilot

Oilostatic Mainlines and Transportation Pipe Lines

Class A: Backhoe; Cranes (all types); Draglines; Front-end Loaders (5 yds. and over); Gradalls; Scooper (Loader and Shovel); Koehring and Trench Machines

Class B: "A" Frame; Backhoe (combination Hoe Loader); Boring and Drilling Machines; Ditching Machine, small; Ditchwitch or similar type; Fork Lifts; Front End Loaders (2 yds. and over but less than 5 yds.); Gradars, finish (fine); Hydraulic Cranes, 10 tons and under (over 10 tons - Crane rate applies); Side Booms; and Winch Trucks (hoisting)

Class C: Backfiller; Brooms and Sweepers; Bulldozers; Compressors (2 or 3 in battery); Front-end Loaders (under 2 yds.); Generators; Giraffe Grinders; Graders and Motor Patrols; Mechanic; Pipe Bending Machine (power); Tractors; Water and Sprinkler Trucks, Welder and Repair Mechanic;

Class D: Compressor (single); Dope Pots (Mechanical with or without pump); Dust Collectors; Farm Tractors; Pumps (4 in. suction and over); Pumps (2 or less than 4 in. suction); Pumps; Diesel Engine and Hydraulic (Immaterial or power); Welding Machines; Gas or Electric Converters of any type, single; Welding Machines, gas or electric converters of any type, 2 or 3 in Battery multiple Welders; Wellpoint Systems (including installation and maintenance)

Class E: Oiler, Grease, gas, fuel and Supply Trucks and Tire Repair and Maintenance

Class F: Helicopter- Pilot

TANK ERECTION

Class A: Operating engineers--on all Cranes, Derricks, etc. with Vooms including Jib 140 ft. or more above the ground.

Class B: Operating Engineers--on all Equipment, including Cranes Derricks, etc. with Booms including Jib, less than 140 ft. above the ground.

Class C: Helicopters--Pilot.

Class D: Air Compressors, Welding Machines and Generators (Gas, Diesel, or Electrical driven equipment and sources of power from a permanment plant, i.e., Steam, Compressed Air, Hydraulic or other power, for the operating of any machine or automatic tools used in the Erection, Alteration, Repair and dismantling of tanks and any and all "dual purpose" Trucks used on the construction job site.

Class E: Oiler.

Power Equipment Operators (Cont'd)

STEEL ERECTION

Class A: Cranes - (all Cranes, Land or Floating with Booms including Job 140 Ft. and over, above ground); Derricks-(all Derricks, Land or Floating with Boom including Jib 140 ft. and over, above ground).

Class P: Cranes - (all cranes, Land or Floating with Booms including Jib less than 140 ft. above ground); Derricks (all Derricks, Land or Floating with Booms including Jib, less than 140 ft. above ground)

Class C: "A" Frame; Cherry pickers 10 tons and under; Hoists: all types Hoists shall also includes Steam, Gas, Diesel, Electric, Air Hydraulic, Single and Double Drum, Concrete, Brick Shaft Caisson, or any other similar type Hoisting Machines, Portable or Stationary, except Chicago Boom type; Jacks-Screw Air Hydraulic Power operated unit Console type (not Hand Jack or Pile Load Test type) Side Booms.

Class D: Aerial platform used Hoist; Compressor, 2 or 3 in Battery; Elevators or House Cars; Conveyors and Tugger Hoists; Fireman; Forklift; Generators, 2 or 3 maintenance-utility man; Rod Bending Machine (Power); Welding Machines--(Gas or Electric, 2 or 3 in Battery, including Diesels); Captain Power Boats; Tug Master Power Boats.

Class E: Compressor, single, Welding Machine, Single, Gas, Electric Converters of any type, Diesel; Welding System Multiple (rectifier Transformer type); Generator, Single.

Class F: Straddle Carrier.

Glass G: Helicopter Pilot

TRUCK DRIVERS

Zone 1: Atlantic and Cape May Counties

Group 1: Warehousemen and Helpers

Group 2: Teamsters and Chauffeurs

Group 3: Drivers on Tractors, Trailers, 10 wheel Flats and Dumps

Group 4: Drivers on Euclids, 10 wheel Tractors and Tractor Trailer Trucks, Low Beds and Pole Trailers

Zone 2: Burlington (that portion west of the Jersey Turnpike to the Delaware River), Camden, Cumberland, Gloucester and Salem Counties.:

Group 1: Ten wheel Dump Truck Drivar and Trailer Dump Driver off site

Group 2: Straight Truck Driver (helper)

Group 3: Warehousemen, Fork Lift Truck and Parts Men

Group 4: Straight Truck Driver including all "Dual Purpose" Trucks, (straight), Transit Mix Trucks, Fuel Trucks, Seeding Trucks, Fertilizing Trucks, Dumpcrete Trucks, Mulching Trucks, "A" Frame (when transporting material), Water Sprinkler Trucks, Tanks, Straight Trucks with mechanical Tailgates, Asphalt Distributor Trucks, Batch Trucks and similar type of equipment and Mechanics (Helper), Pick-up Trucks (only when transporting material), and Flat Bed Trucks

Group 5: All Truck Towing

Group 6: Winch Straight Tractor and Trailer Truck Driver and Euclid Trailer Dump (not self-loading), Fuel Truck Drivers and Asphalt Oil Distributors on Dumpcrete Trucks, Transit-Mixers, Flat Bed Trucks, Low Bed Trucks, Tanks, Water Tanks, Fuel Tanks, Euclid Water Sprinkler, Asphalt Distributor, Pole Trailer, Winch Trailer, I Beam Trucks, Euclids (all), and type equipment

Group 7: Mechanics

TRUCK DRIVERS (Cont'd)

Zone 3: Burlington (Remainder of County), Mercer, Monmouth and Ocean Counties:

Group 1: Mechanic Helper

Group 2: Drivers on the following type vehicles: Straight Dumps, Flats, Floats, Pick-ups, Container Haulers, Fuel, Water Sprinkler, road Oil, Stringer, Bead, Hot Pass, Bus, Dumpcrete, Transit Mixers, Agitator Mixer, Half Truck, Winch Truck, Side-o-matic, Dynamite, Power, X-ray, Welding, Skid, Jeep, Station Wagon, Stringer, A-Frame, all Dual Purpose Trucks, Truck with mechanical tailgate, Asphalt Distributor, Batch Trucks, Seeding, Mulching, Fertilizer, Air Compressor Trucks (in transit), Parts Chaser, Escort, Scissor, Hi-lift, Telescope, Concrete Breaker, Gin Pole, Stone, Sand, Asphalt Distributor and Spreader, Nipper, Fuel Trucks (Drivers on Fuel Trucks, including handling of unit), Skid Truck (Debris Container - entire unit), Concrete Mobile Trucks (entire unit), Expediter (parts chaser), Beltcrete Trucks, Pumpcrete Trucks, Line Truck, Reel Truck, Wreckers, Utility Trucks, Tank Trucks, Warehousemen, Warehouse Partsmen, Yardmen, Lift Truck in Warehouse, Helper when required on Lift Truck in Warehouse, Warehouse Clerk, Parts Man, Material Checkers, Receivers, Shippers, Binning Men (materials Cardex Man); Helper when required on Broyhill Coal Tar Epoxy Truck and Asphalt and Bituminous Distriburor Truck; Drivers on the following type vehicles: Broyhill Coal Tar Epoxy Trucks, Little-Ford Bituminous Distributor, Slurry Seal Truck or Vehicle, Thiokol Trackmaster Pick-up (Swamp Cat Pickup), Bucket Loader Dump Truck and any Rubber Tired Tractor used in pulling and towing farm wagons and trailers of any description, similar type vehicles; Off-site and On-site Repair Shop, Team Drivers, Vacuum or Vac-all Trucks (entire unit)

Group 3: Drivers on straight 3-axle materials; Truck and Floats

Group 4: Drivers on all Euclid-type Vehicle: Euclids, International Harvesters, Wabcos, Caterpillar, Koehring, Tractors, and Wagons, Dumptors, Straight, Bottom, Rear and Side Dumps, Carryalls and Scrapers (not self-loading - loading over the top), Water Sprinkler, Trailers, Water Pulls and similar types of Vehicles; Drivers on Tractors and Trailer type Vehicles: Flat, Floats, I-beam, Low Beds, Water Sprinkler, Bituminous Transit Mix, Road Oil, Fuel Bottom, Dump Hopper, Rear Dump, Office Shanty, Epoxy, Asphalt, Agitator Mixer, Mulching, Stringer, Seeding, Fertilizing Pole Spread, Bituminous Distributor, Water Pulls (entire unit)(tractor Trailer), Reel Trailer and similar types of vehicles

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

(26)

[FR Doc. 85–17011 Filed 7–18–85; 8:45 am]
BILLING CODE 4510-27-C

VOL
50

ISS
139

JL
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1985

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federal register

Friday
July 19, 1985

Part IV

Department of Labor

Employment and Training Administration

20 CFR Part 674
29 CFR Part 89
Senior Community Service Employment Program; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training

In addition, the Older American Community Service Employment Act has been amended since the last

In § 674.315, *Placement into unsubsidized employment.* Language is

REDESIGNATION TABLE—Continued

Old section of 29 CFR	New section

Business Administration, and made the certification pursuant to 5 U.S.C. 605(b)

Sec.
674.304 Recruitment and selection of

VOL 50 ISS 139 JL 19 1985 UMI

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 674

29 CFR Part 89

Senior Community Service Employment Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration proposes to revise the regulations for the Senior Community Service Employment Program (SCSEP) to implement the Older Americans Act Amendments of 1984 and to make clarifying changes. These proposed regulations provide administrative and programmatic guidance and requirements for the implementation of the SCSEP.

DATE: Written comments on the proposed rulemaking must be received on or before August 19, 1985.

ADDRESS: Comments should be addressed to: Chief, Division of Older Worker Programs, Office of Special Targeted Programs, Employment and Training Administration, U.S. Department of Labor, Room 6122, 601 D Street NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Paul A. Mayrand, telephone (202) 376-6225.

SUPPLEMENTARY INFORMATION: As authorized by the Older American Community Service Employment Act (Act), the Department of Labor has established the Senior Community Service Employment Program (SCSEP). Older Americans Act of 1965, Pub. L. 89-73, as amended, secs. 502 *et seq.* (42 U.S.C. 3056 *et seq.*). SCSEP fosters and promotes useful part-time opportunities in community service activities for persons with low incomes who are fifty-five years old or older. The Employment and Training Administration (ETA) of the Department of Labor operates the program by means of grants, contracts, and other agreements with eligible organizations, such as governmental entities, and certain public and private nonprofit agencies and organizations.

The regulations for the SCSEP currently are at 29 CFR Part 89, among regulations of the Office of the Secretary of Labor. 29 CFR Subtitle A. As part of a process of consolidating all of the ETA regulations into 20 CFR Chapter V, the Department is proposing in this document to redesignate the regulations at 29 CFR Part 89 as 20 CFR Part 674.

In addition, the Older American Community Service Employment Act has been amended since the last revision of the regulations. Pub. L. 98-459, secs. 501-505; Pub. L. 97-115, sec. 12; Pub. L. 95-478, sec. 105. This document proposes regulations to conform to the statute as amended and to make clarifying changes based on the Department's experience in operating the SCSEP and a thorough review of the regulations by a specially-formed project sponsors' work group.

Major changes proposed include the schedule for implementation of new limits on costs of administration, a requirement for an annual report by States on the status of compliance with section 506(c) of the Act which provides for apportionment of projects within a State in an equitable manner, and a requirement for informing all persons associated with the SCSEP of allowable and unallowable political activities as set forth in section 502(b)(1)(O) of the Act. More details are provided in the "Summary of Changes" below.

Summary of Changes

In addition to changes reflecting the redesignation of SCSEP rules as 20 CFR Part 674 and various clarifying and editing changes which condense previous language, significant proposed changes as a result of amendments to Title V of the Act and the review of experience include:

In § 674.201, *Allotment of Title V funds*, language is added, in accordance with section 506(d) of the Act, requiring each State agency receiving funds under Title V to report at the beginning of each fiscal year on compliance with section 506(c) of the Act.

In § 674.205, *Responsibility review*, requirements are included for the Department to review previous experiences with a grantee prior to selecting a grant applicant as a potential grantee.

In § 674.306, *Enrollment priorities*, language is added to make clear that enrollment priorities for temporary positions are to parallel priorities for authorized positions.

In § 674.307, *Physical examinations*, the time period during which a physical examination must take place prior to enrollment is increased to 2 months to permit project sponsors more flexibility, and language is added to clarify examination requirements upon reenrollment following specified periods of termination.

In § 674.314, *Additional training*, language is added to encourage skill training for enrollees where appropriate and to make clear differences between required and voluntary training.

In § 674.315, *Placement into unsubsidized employment*. Language is changed to raise the goal for placement into unsubsidized employment to 20 percent of the number of authorized positions.

In § 674.316, *Duration of enrollment*, language is added to describe the conditions under which the Department will consider permitting grantees to set limits on enrollment.

In § 674.321, *Political activities; lobbying*, language is added to require that notices be posted and all persons associated with SCSEP be provided a written explanation of allowable and unallowable political activities; and to require nonprofit organizations to comply with the lobbying restrictions in OMB Circular A-122, Attachment B, paragraph B21.

In § 674.324, *Adverse action against enrollees*, language is changed to eliminate enrollee appeals to the Department except in cases alleging discrimination or other violations of law and in determining that established appeals procedures were followed.

In § 674.402, *Limitations on Federal funds*, the schedule is established for reducing maximum costs of administration to 12 percent as required by section 502(c)(3) of the Act.

Subpart C, *Project Operations*, and Subpart D, *Limitations on Federal Funds and Administrative Standards and Procedures for Grantees*, have been reorganized and condensed without substantive changes.

Other technical changes include statutory references in the various sections, and conformance of terminology to that used under the Job Training Partnership Act. See 20 CFR Part 626 *et seq.*

This document was prepared under the direction of Paul A. Mayrand, Director, Office of Special Targeted Programs.

REDESIGNATION TABLE

Old section of 29 CFR	New section of 20 CFR
89.1	674.101
89.2	674.201
89.3	674.103
89.5	674.202
89.6	674.203
89.7	674.204 and 674.205
89.8	674.204
89.9	674.206
89.10	674.208
89.11	674.207
89.12	674.209
89.15	674.301
89.16	674.302
89.17	674.303
89.18	674.304
89.19	674.305
89.20	674.306
89.21	674.307

REDESIGNATION TABLE—Continued

Old section of 29 CFR	New section of 20 CFR
89.22	674.308
89.23	674.309
89.24	674.313
89.25	674.310
89.26	674.314
89.27	674.312
89.28	674.312
89.29	674.315
89.30	674.316
89.31	674.324
89.32	674.311
89.33	674.311
89.34	674.318
89.35	674.310
89.36	674.317
89.37	674.319
89.38	674.310 and 674.321
89.39	674.323
89.40	674.325
89.41	674.404
89.42	674.402 and 674.403
89.43	674.204
89.51	674.401
89.52	674.405
89.53	674.405
89.54	674.405
89.55	674.405
89.56	674.405
89.57	674.404
89.58	674.405
89.59	674.406
89.60	674.406
89.61	674.405
89.62	674.405
89.63	674.409
89.64	674.405
89.65	674.405
89.71	674.401
89.72	674.405
89.73	674.405
89.74	674.405
89.75	674.405
89.76	674.404
89.77	674.405
89.78	674.404
89.79	674.406
89.80	674.405
89.81	674.405
89.82	674.409
89.83	674.407
89.84	674.405
89.85	674.405
89.91	674.501
89.96	674.601
89.97	674.601
89.98	674.602
89.99	674.303

Regulatory Impact

This proposed rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in domestic or export markets. Accordingly, no regulatory impact analysis is required.

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b) that the proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

Paperwork Reduction Act

These proposed rules contain only one information collection requirement which will increase the Federal paperwork requirement on the private or public sector. Grantees must certify compliance with the lobbying requirement at § 674.321(c). OMB approval of this paperwork increase is being sought. Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and Executive Order 12291)).

(*Catalogue of Federal Domestic Assistance Number:* This program is listed in the catalogue of Federal Domestic Assistance at No. 17.235 "Senior Community Service Employment Program.")

List of Subjects in 20 CFR Part 674

Allotment, Award, Cooperative relationships, Community service employment, Eligibility, Limitations on Federal funds, Orientation, Placement, Political activities, Responsibility review, Suspension and termination procedures.

Proposed Rule

Accordingly, it is proposed that Part 89 of 29 CFR Subtitle A be transferred to 20 CFR Chapter V and redesignated as Part 674 and that the redesignated 20 CFR Part 674 be revised to read as follows:

PART 674—SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Subpart A—Introductory Provisions

Sec.
674.101 Scope and purpose of the Senior Community Service Employment Program.
674.102 Format of the regulations.
674.103 Definitions.

Subpart B—Grant Planning and Application Procedures

674.201 Allotment of Title V funds.
674.202 Eligibility for Title V funds.
674.203 Soliciting applications for Title V funds.
674.204 Grant application requirements.
674.205 Responsibility review.
674.206 Grant application review.
674.207 Negotiation.
674.208 Rejection.
674.209 Award of funds.

Subpart C—Project Operations

674.301 General.
674.302 Basic responsibilities of the project sponsor.
674.303 Cooperative relationships.
674.304 Recruitment and selection of enrollees.
674.305 Eligibility for enrollment in SCSEP.
674.306 Enrollment priorities.
674.307 Physical examinations.
674.308 Orientation.
674.309 Assessment and evaluation of enrollees.
674.310 Community service employment.
674.311 Enrollee wages and fringe benefits.
674.312 Enrollee supportive services.
674.313 Training in preparation for community service employment.
674.314 Additional training.
674.315 Placement into unsubsidized employment.
674.316 Duration of enrollment.
674.317 Non-Federal status of enrollees.
674.318 Temporary positions.
674.319 Nondiscrimination.
674.320 Political patronage.
674.321 Political activities; lobbying.
674.322 Unionization.
674.323 Nepotism.
674.324 Adverse actions against enrollees.
674.325 Maintenance of effort.

Subpart D—Limitations on Federal Funds and Administrative Standards and Procedures for Grantees

674.401 General.
674.402 Limitations on Federal funds.
674.403 Administration costs waiver.
674.404 Sponsor share of project costs.
674.405 Administrative standards and procedures.
674.406 Fiscal and project performance monitoring and reporting requirements.
674.407 Suspension and termination procedures.
674.408 Department of Labor appeals procedure for project sponsors.
674.409 Grant closeout procedures.

Subpart E—Interagency Agreements

674.501 Administration.

Subpart F—Assessment and Evaluation

674.601 General.
674.602 Limitation.

Authority: 42 U.S.C. 3056(b)(2).

Subpart A—Introductory Provisions

§ 674.101 Scope and purpose of the Senior Community Service Employment Program.

(a) This Part 674 contains the regulations of the Department of Labor for the Senior Community Service Employment Program which is authorized by Title V of the Older Americans Act of 1965, as amended.

(b) It is the purpose of the Act to provide useful part-time community service employment for persons with low incomes who are 55 years old or older (section 502(a)).

(c) In order to carry out the provisions of the Act, the Department of Labor is authorized to enter into agreements with public agencies or private nonprofit organizations (section 502(b)).

§ 674.102 Format of the regulations.

(a) Regulations promulgated by the

"Department" means the United States Department of Labor, including

of a family which receives regular cash welfare payments shall be deemed to

aggregate; among the States (section 506).

(Standard Form 424) filed as a result of

(6) Failure to correct deficiencies

VOL 50 ISS 139 JL 19 1985 UMI

§ 674.102 Format of the regulations.

(a) Regulations promulgated by the Department of Labor to implement Title V of the Older Americans Act of 1965 are set forth in 20 CFR Part 674. This part and other pertinent regulations expressly incorporated by reference contain all regulations applicable to the Senior Community Service Employment Program.

(b) Should the regulations at this part conflict with other regulations in the Code of Federal Regulations, the regulations at this part shall prevail with respect to the Senior Community Service Employment Program.

§ 674.103 Definitions.

The following definitions apply to all sections of this part:

"Act" means Title V of the Older Americans Act of 1965 (42 U.S.C. 3001) as amended.

"Allotment" means the initial designation of an amount of appropriated Title V funds to all project sponsors operating within States.

"Authorized position" means an enrollment opportunity during a program year. The number of authorized positions is derived by dividing the total amount of funds appropriated during a program year by the national average unit cost per enrollee for that program year as determined by the Department. The national average unit cost includes all administration costs, other enrollee costs, and enrollee wage and fringe benefit costs. An allotment is divided by unit cost to determine the total number of authorized positions for each grant agreement.

"Cash welfare payment" means public assistance through Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

"Community service" means social, health, welfare, and educational services; legal assistance, and other counseling services, including tax counseling and assistance and financial counseling; library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; pollution control and environmental quality efforts; weatherization activities; economic development, and other types of services which the Department may approve. It excludes building and highway construction (except that which normally is performed by the project sponsor) and work which primarily benefits private, profitmaking, organizations.

"Department" means the United States Department of Labor, including its agencies and organizational units.

"Eligible individual" means a person who is 55 years of age or older and who has a low income as defined in this section. Persons who are 60 years of age or older have enrollment priority among eligible individuals (section 507(2)).

"Eligible organization" means an organization which is legally capable of receiving and using Federal funds under the Act and entering into a grant or other agreement with the Department to carry out provisions of Title V as provided in section 502(b).

"Employment and training program(s)" means publicly funded efforts designed to offer training and/or placement services which enhance an individual's employability. The term is used in this part to include but not be limited to the Job Training Partnership Act or similar successor legislation and State or local programs of a similar nature.

"Enrollee" means an individual who is eligible, receives services, and is paid wages for engaging in community service employment under a project.

"Grant agreement" means a legally binding agreement in document form which is a grant or other form of agreement entered into between the Department and an eligible organization and which awards Federal funds and provides for authorized activities under Title V of the Act.

"Host agency" means a public agency or a private nonprofit organization, other than a political party, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, which provides a worksite and supervision for an enrollee.

"Local government" means a local unit of government, including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, and for the purposes of Subpart D of this part, includes any agency or instrumentality of a local government, except institutions of higher education and hospitals.

"Low income" means, for purposes of this part, an income which, during the preceding 6 months on an annualized basis or the actual income during the preceding 12 months, whichever is more beneficial to the applicant, is not more than 125 percent of the poverty levels established and periodically updated by the U.S. Department of Health and Human Services. In addition, an individual who receives or is a member of a family which receives regular cash welfare payments shall be deemed to have a low income for purposes of this part.

"Project" means an undertaking by a project sponsor pursuant to a grant agreement between the Department and a project sponsor which provides for the employment of eligible individuals and the delivery of associated services.

"Project sponsor" means an eligible organization which has entered into a grant agreement with the Department.

"Project year" means the 12-month period covered by a grant agreement.

"Reallocation" means the redistribution of Title V funds as proposed by the Department from one State to another State(s) or from one project sponsor to another project sponsor(s).

"SCSEP" means Senior Community Service Employment Program as authorized under Title V of the Act.

"State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Trust Territory of the Pacific Islands.

"State agency on aging" means that sole State agency designated by the State, in accordance with regulations of the Commissioner on Aging, pursuant to section 305(a)(1) of the Older Americans Act.

"Subproject agreement or contract" means an agreement entered into between a project sponsor and an organization which provides for the transfer of Federal funds to the organization for the purpose of carrying out activities authorized in the grant agreement.

"Subproject sponsor" means an organization which has entered into a subproject agreement or contract with a project sponsor.

"Temporary position" means an enrollment opportunity in addition to the authorized positions made available during a project year when a portion of project funds is not being used as planned in the grant agreement. Requirements for temporary positions are in § 674.318 of this part.

Subpart B—Grant Planning and Application Procedures

§ 674.201 Allotment of Title V funds.

(a) Funds shall be allotted for projects or subprojects in each State to assure, to the extent feasible, an equitable distribution of community service employment opportunities, in the

aggregate, among the States (section 506).

(b) The allotment of funds among designated State agencies and national organizations shall be in accordance with section 506 of the Act except as may be provided for by law.

(c) Funds may be reallotted from one State to another State only as permitted by section 506(b) of the Act.

(d) To the extent feasible, the amount allotted for projects in each State shall be apportioned among areas within a State in an equitable manner (section 506(c)).

(e) The State agency for each State receiving funds under Title V of the Act shall report at the beginning of each fiscal year on such State's compliance with section 506(c) of the Act. Each State's report shall include names and geographic locations of all projecis receiving Title V funds for projects in the State and the amount allotted to each project. All sponsors operating in a State shall provide information necessary to compile the report (section 506(d)).

(f) The Department shall review the reports submitted pursuant to paragraph (e). In addition, the Department may review the distribution of projects within a State as provided in section 502(d)(2) of the Act.

(g) Prior to any reallocation within a State, the Department shall give notice and opportunity for a hearing on the record by all interested individuals and shall make a written determination of the findings and decision (section 502(d)(2)).

§ 674.202 Eligibility for Title V funds.

Agencies and organizations eligible to receive Title V funds shall be those specified in sections 502(b) and 506(a) of the Act.

§ 674.203 Soliciting applications for Title V funds.

The Department may solicit or request eligible organizations to submit applications for funds (sections 502(b)(1) and 506(a)(1)(A)).

§ 674.204 Grant application requirements.

(a) The Department shall establish by administrative directive schedules for submittal of grant preapplications and applications; contents of grant applications, including goals and objectives; amounts of grants; and grant budget and narrative formats.

(b) Applicants must comply with the requirements of the Department's regulations at 29 CFR Part 17 which implement the Single Point of Contact (SPOC) Clearance System. A Preapplication for Federal Assistance (Standard Form 424) filed as a result of the SPOC system shall contain an attachment which as a minimum lists the proposed number of authorized community service employment positions in each city, county, or other appropriate jurisdiction within the affected State. Grant applicants also are responsible for complying with section 502(d)(1) of the Act.

(c) A grant applicant planning to award project funds by subgrant or contract shall outline the nature and extent of the planned use of subproject sponsors. A project sponsor:

(1) Shall not enter into a subproject agreement which provides for any activity past the ending date of the grant agreement approved by the Department;

(2) Shall be held directly responsible for the performance of all activities implemented under subproject agreements and shall be held directly responsible for compliance by subproject sponsors with the Act and these regulations; and

(3) Shall assure, in the event that a subproject agreement is cancelled in whole or in part, that the project sponsor is prepared to develop procedures to provide continuity of services to enrollees.

§ 674.205 Responsibility review.

(a) Prior to final selection as a potential grantee, the Department will conduct a review of the available records to determine whether the applicant organization has failed any responsibility test. This review is intended to establish overall responsiblity to administer Federal funds. With the exceptions of paragraphs (a)(1) and (a)(2) of this section, the failure to meet any one of the tests would not establish that the organization is irresponsible unless the failure is substantial or persistent. The responsibility tests are:

(1) The agency's efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or failure to comply with an approved repayment plan.

(2) Established fraud or criminal activity within the organization.

(3) Serious administrative deficiencies identified in final findings and determinations, such as failure to maintain a financial management system as required by Federal regulations.

(4) Willful obstruction of the audit process.

(5) Substantial failure to provide services to eligible individuals as agreed to in a current or recent grant.

(6) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, or assessments.

(7) Failure to return a grant closeout package or outstanding advances within 90 days of expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted; final billings reflecting serious cost category or total budget cost overrun.

(8) Failure to submit required reports.

(9) Failure to report properly and dispose of government property as instructed by the Department.

(10) Failure to maintain cost controls resulting in excess cash on hand.

(11) Failure to procure or arrange for audit coverage for any period when required by the Department.

(12) Failure to audit subprojects within the required period, when applicable.

(13) Failure to establish a mechanism to resolve subproject audits within established time limits.

(14) Final disallowed costs in excess of 5 percent of the grant or contract award.

(b) Applicants failing to meet the requirements of this section will not be selected as potential grantees.

§ 674.206 Grant application review.

(a) The Department will review each grant application which is submitted by an eligible organization determined to be a potential grantee (section 502(b)(1)).

(b) In reviewing and considering an application, the Department will determine whether:

(1) Funds are available for the proposed project;

(2) The application has been prepared in accordance with instructions of the Department;

(3) The application demonstrates compliance with the requirements of the Act and these regulations;

(4) The application offers the best prospect of serving appropriate geographic areas; and

(5) The application demonstrates that effective use will be made of funds.

§ 647.207 Negotiation.

(a) The Department may negotiate with an eligible organization to arrive at a grant agreement if the application generally meets requirements set forth in § 674.204, 674.205, and 674.206.

(b) The subjects of negotiation may include, but are not limited to:

(1) Project components, including planned occupational categories of SCSEP employment and geographic locations of authorized positions;

VOL

(2) Subproject sponsors, if any;
(3) Funding level, including all budget line items; and

employment-related counseling, assistance in transition to unsubsidized

participation of groups described in § 674.302(c) of this part (section

continued enrollment because of income shall be given immediate written notice

(3) *Third:* Eligible individuals who are enrolled in temporary positions as

service employment for more than 15 months without signing a waiver.

(2) Subproject sponsors, if any;
(3) Funding level, including all budget line items; and
(4) Performance goals.
(c) The Department may reject any proposed project component if it is determined that the component will not serve the purposes of the Act.
(d) The Department may, if negotiation does not produce a mutually acceptable conclusion, reject a grant application. In this event, the Department will provide written notification in accordance with the procedures for rejection of an application as set forth in § 674.208.
(e) If the Department rejects an application as set forth in paragraph (d), the Department may solicit applications from other eligible organizations in order to arrive at a grant agreement.

§ 674.208 Rejection.

(a) When an application is not approved, the Department shall notify the applicant in writing and state the reason or reasons for rejection.
(b) Rejection of a proposal or application is final agency action and is not subject to further administrative review. Rejection will not affect consideration in the future of an application from an eligible organization.

§ 674.209 Award of funds.

Award of funds to implement a project will be accomplished through the execution of a grant agreement prepared by the Department when the applicant is a unit of State government or a public or private nonprofit organization or through an interagency agreement when the applicant is a unit of the Federal government other than the Department of Labor.

Subpart C—Project Operations

§ 674.301 General.

(a) This Subpart C states basic project operation standards and procedures which shall be followed by all organizations receiving Title V funds for the purpose of operating Senior Community Service Employment Programs.
(b) The primary purposes of a project are to provide useful part-time community service employment for persons with low incomes who are 55 years old or older and to provide useful community services (sections 502(a) and 507(3)).
(c) Project sponsors shall provide eligible individuals wages, skill acquisition or skill enhancement opportunities, periodic physical examinations, personal and employment-related counseling, assistance in transition to unsubsidized employment where feasible, and other benefits as approved by the Department (section 502).
(d) Project sponsors shall develop work assignments for eligible individuals which will result in the provision of community services as defined in sections 502(b) and 507(3) of the Act.

§ 674.302 Basic responsibilities of the project sponsor.

The Department will hold the project sponsor responsible for: (a) Following and enforcing the requirements set forth in the Act and regulations promulgated under the Act;
(b) Implementing and carrying out the project in accordance with the provisions of the grant agreement; and
(c) Assuring that, to the extent feasible, the project enrolls minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State (section 502(b)(1)(M)).

§ 674.303 Cooperative relationships.

(a) Each project sponsor shall, to the maximum extent feasible, cooperate with other project sponsors, with agencies providing services to elderly persons and to persons with low incomes, and with agencies providing employment and training services, including activities conducted under the Job Training Partnership Act (section 503 (a) and (b)).
(b) Objectives of cooperation shall include but not be limited to:
(1) Selection of community service employment occupational categories, work assignments, and host agencies to provide a variety of community service opportunities for enrollees and to produce a variety of services which respond to the community's total needs; and
(2) Establishment of cooperative relations with State agencies on aging designated under section 305(a)(1) and area agencies on aging designated under section 305(a)(2) of the Older Americans Act of 1965 and with State employment security agencies.

§ 674.304 Recruitment and selection of enrollees.

Each project sponsor shall use methods of recruitment and selection (including listing of vacancies with the State employment security agency) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project. Recruitment efforts shall be designed to assure equitable participation of groups described in § 674.302(c) of this part (section 502(b)(1)(H)).

§ 674.305 Eligibility for enrollment in SCSEP.

(a) *General.* Eligibility criteria set forth in this section apply to all SCSEP applicants and enrollees. Each project sponsor is responsible for assuring and documenting the eligibility of each enrollee.
(b) *Eligibility criteria.* To be eligible for initial enrollment, each individual shall meet the criteria for age, income, and place of residence. To be eligible for reenrollment or certification for continued enrollment, each individual shall meet the criteria for age and income. These criteria are:
(1) *Age.* Each individual shall be no less than 55 years of age. No person whose age is 55 years or more shall be determined ineligible because of age, and no upper age limit shall be imposed for initial or continued enrollment (section 502).
(2) *Income.* The income of an individual or of the family of which the individual is a member shall not exceed the low income standards defined in § 674.103 of this part and shall be applied to:
(i) Each individual seeking initial enrollment;
(ii) Each individual seeking reenrollment after termination from the SCSEP; and
(iii) Each enrollee seeking certification for continued enrollment (section 507(2)).
(3) *Place of residence.* Each individual, upon initial enrollment, shall have a place of residence in the State in which the project or subproject is authorized. The term place of residence shall mean an individual's declared permanent dwelling place. No requirement pertaining to length of residency prior to enrollment shall be imposed.
(c) *No additional eligibility requirement.* Project sponsors shall not impose any additional condition or requirement for enrollment eligibility.
(d) *Special responsibilities of the project sponsor.* (1) Project sponsors shall obtain and record the personal information necessary for a proper determination of eligibility for each individual and may request documentation to assure that only eligible individuals are enrolled.
(2) Each project sponsor shall recertify the income of each enrollee once each project year according to the schedule set forth in the grant agreement. Enrollees found to be ineligible for continued enrollment because of income shall be given immediate written notice of termination and shall be terminated 30 days after the notice.
(3) If at any time a project sponsor determines that an enrollee was incorrectly declared eligible as a direct result of false information given by that individual, the individual shall be terminated immediately.
(4) If at any time the project sponsor determines that an enrollee was incorrectly declared eligible through no fault of the enrollee, the project sponsor shall give the enrollee immediate written notice, and the enrollee shall be terminated 30 days after the notice.
(5) When a project sponsor makes an unfavorable determination on continued eligibility, the sponsor shall explain in writing to the enrollee the reason or reasons for the determination. The project sponsor shall inform each individual affected by an unfavorable determination that the determination may be appealed pursuant to § 674.324 of this part.
(6) When a project sponsor terminates an enrollee for failure to perform assigned tasks, the enrollee shall be informed in writing of the reason or reasons for termination and of the right of appeal in accordance with procedures required in § 674.324 of this part.
(7) When a project sponsor makes an unfavorable determination of enrollment eligibility pursuant to paragraph (d)(2) or (d)(4) of this section, the project sponsor should assure that the individual is referred to other potential sources of assistance.

§ 674.306 Enrollment priorities.

(a) In selecting eligible individuals for enrollment in the SCSEP, project sponsors shall provide community service employment for persons with low incomes who are 55 years old or older, shall accord enrollment priority to eligible individuals who are 60 years old or older, and shall provide community services which will contribute to the general welfare of the community (sections 502(a); 502(b)(1)(D), 507(2), and 507(3)).
(b) Taking into account the objectives described in paragraph (a) of this section, enrollment priorities for filling vacant authorized positions shall be:
(1) *First:* Eligible individuals who are 60 years old or older;
(2) *Second:* Eligible individuals who seek reenrollment following termination because of illness or engaging in unsubsidized employment, provided that reenrollment is sought within one year of termination;
(3) *Third:* Eligible individuals who are enrolled in temporary positions as defined in § 674.315 of this part; and
(4) *Fourth:* Other eligible individuals.
(c) Priorities for enrollment in temporary positions shall be those established in paragraphs (b) (1), (2), and (4) of this section.
(d) Within all priorities established in this section, project sponsors shall give consideration to eligible individuals who are most in need. In determining those eligible individuals who are most in need, project sponsors may consider the extent to which an individual's income is below the low-income standard described in § 674.103 of this part.
(e) Enrollment priorities established in this section shall apply to vacant positions and shall not be interpreted to require the termination of any eligible enrollee.

§ 674.307 Physical examinations.

(a) Each individual selected for enrollment shall have a physical examination within the 2-month period immediately before the first day of compensated participation, except as provided in paragraph (e) of this section.
(b) Each enrollee shall have additional physical examinations at intervals which assure that no enrollee participates in community service employment for more than 15 months without a physical examination or a waiver as provided by paragraph (e) of this section.
(c) Enrollees who are terminated may be reenrolled without an additional examination, provided that the time elapsed since the last examination shall not exceed 15 months, and provided that a schedule of one examination within each 15-month period shall be resumed based on the date of the last examination.
(d) A physical examination shall be regarded as a service to the individual and is not intended to be the basis for denial of participation unless there is clear indication of potential adverse health effects as a result of the performance of tasks to be assigned. A physical examination is a program benefit and shall not be interpreted as an eligibility criterion.
(e) Notwithstanding paragraphs (a) and (b) of this section, when an individual objects to a physical examination, the project sponsor shall obtain a signed waiver prior to the first day of compensated enrollment. The project sponsor shall obtain additional signed waivers from each enrollee who objects to a physical examination at intervals which assure that no such individual participates in community service employment for more than 15 months without signing a waiver.

§ 674.308 Orientation

(a) Each project sponsor shall, as soon as practicable, provide each individual enrolled in community service employment orientation to the project. The orientation shall provide the new enrollee with information related to, as appropriate: project objectives; community service employment assignments; training; supportive services; responsibilities, rights, and duties of the enrollee; permitted and prohibited political activities; and plans for transition to unsubsidized employment.
(b) Project sponsors also shall provide orientation for host agencies and particularly for those individuals who will supervise enrollees to assure that enrollees will receive adequate supervision and opportunities for transitioning to the host agency staff or other unsubsidized employment.

§ 674.309 Assessment and evaluation of enrollees.

(a) Project sponsors shall assess each new enrollee to determine the most suitable SCSEP assignment for the individual. The assessment shall be made in consultation with the new enrollee and should consider the individual's preference of occupational category, work history, skills, aptitudes, potential for performing proposed community service employment duties, and potential for transition to unsubsidized employment.
(b) The project sponsor shall seek a community service employment assignment which will permit the most effective use of each enrollee's skills and aptitudes.
(c) The project sponsor shall make periodic evaluations, no less frequently than once each program year, to determine each enrollee's potential for transition to unsubsidized employment and the appropriateness of each enrollee's current community service employment assignment.
(d) If the project sponsor determines that a different community service employment assignment will provide greater opportunity for the use of an enrollee's skills and aptitudes, will provide work experience which will enhance the potential for unsubsidized employment, or will otherwise serve the best interests of an enrollee, the sponsor should develop an alternate assignment whenever feasible.
(e) The assessments and evaluations required by this section shall be

documented and be a part of each enrollee's permanent record.
(e) *Supervision.* A project sponsor shall ensure that host agencies provide

promised employees at retirement) and a separate actuarial determination has

(b) Training in preparation for community service employment

1,300-hour limit on compensated participation as set forth in § 674.310 of

(d) No hours of paid enrollment prior to July 1, 1985, will be counted against

VOL 50 ISS 139 JL 19 1985 UMI

documented and be a part of each enrollee's permanent record.

§ 674.310 Community service employment.

(a) *Assignment to community service employment.* As soon as possible after the completion of an enrollee's orientation and training, if any, the project sponsor shall assign the enrollee to useful part-time community service employment (section 502).

(b) *Hours of community service employment.* (1) Community service employment provided by a project sponsor or project sponsors under the Act shall not exceed 1,300 hours, including paid hours of orientation, training, sick leave, and vacation, during the 12-month period specified in the grant agreement. The limit of 1,300 hours within the 12-month period shall apply to each individual enrollee and shall include hours of enrollment provided by all project sponsors (section 508(a)(2)).

(2) A project sponsor shall not require an enrollee to participate more than 20 hours during one week.

(3) A project sponsor shall not offer an enrollee an average of fewer than 20 hours of paid participation per week; however, shorter periods may be authorized by the grant agreement, in writing by the Department, or by written agreement between an enrollee and a project sponsor (section 508(a)(2)).

(4) A project sponsor shall, to the extent possible, ensure that enrollees work during normal business hours if they so desire.

(c) *Location.* Enrollees shall be employed at work-sites in or near the communities where they reside (section 502(b)(1)(b)).

(d) *Work assignments.* (1) Enrollees shall be employed in assignments which contribute to the general welfare of the community and which provide services related to publicly owned and operated facilities and projects or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954. Enrollees shall be employed to provide community services as defined in section 507(3) of the Act. To the fullest extent feasible, enrollees shall be given first consideration for assignments involved in the operation of projects.

(2) Enrollees shall not be assigned: (i) To work involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship, or (ii) to work which primarily benefits private, profitmaking organizations (sections 502(b)(1) (A) (C) (D) and 507(3)).

(e) *Supervision.* A project sponsor shall ensure that host agencies provide adequate orientation, instruction, and supervision for enrollees regarding responsibilities and safety.

(f) *Working conditions for enrollees.* Enrollees shall not be permitted to work in buildings or surroundings or under conditions which are unsanitary, hazardous, or dangerous to the enrollees' health or safety. A project sponsor shall make periodic visits to the enrollees' worksites to assure that the working conditions and treatment of enrollees are consistent with the Act and these regulations (section 502(b)(1)(J)).

§ 674.311 Enrollee wages and fringe benefits.

(a) Upon engaging in part-time community service employment, including orientation and training in preparation for community service employment, enrollees shall receive wages at a rate no less than the highest applicable rate required in section 502(b)(1)(J) of the Act.

(b) Within a project or subproject, fringe benefits shall be administered uniformly to all enrollees, including enrollees in temporary positions.

(c) Project sponsors shall ensure that enrollees receive all fringe benefits required by law.

(d) Where enrollees are not covered by the State workers' compensation law, the project sponsor shall provide enrollees with worker's compensation benefits equal to that provided by law for covered employment (section 504(b)).

(e) The project sponsor is authorized to pay the cost of unemployment insurance for enrollees where required by law (section 502(b)(1)(N)).

(f) The following fringe benefits shall be allowable provided they are administered uniformly to all enrollees within a project or subproject: Annual leave; sick leave; holidays; health insurance; and any other fringe benefits approved in the grant agreement, except as limited by paragraph (g) of this section.

(g) Expenditures of Federal funds for contributions into a retirement system or plan are prohibited unless the project sponsor can demonstrate that:

(1) Such contributions bear a reasonable relationship to the cost of providing such benefits to enrollees; and

(2) (i) The enrollees have a reasonable expectation of receiving the value of such contributions because such contributions vest at the time they are made on behalf of the enrollees; or

(ii) The retirement system or plan is of a "defined benefit" type (a system or plan under which a specified benefit is promised employees at retirement) and a separate actuarial determination has established a reasonable expectation that the enrollees will receive benefits as a result of contributions.

§ 674.312 Enrollee supportive services.

(a) Project sponsors shall provide supportive services designed to assist enrollees in successful participation in community service employment and, where appropriate, to prepare enrollees for and to assist enrollees to obtain unsubsidized employment.

(b) Supportive services may include but shall not be limited to:

(1) Counseling or instruction designed to assist enrollees to participate successfully in community service employment or to obtain unsubsidized employment.

(2) Counseling designed to assist enrollees personally in areas such as health, nutrition, social security benefits, medicare benefits, and retirement laws.

(3) If necessary for successful participation in community service employment and if not available from other sources, project sponsors may provide incidentals, including but not limited to work shoes, badges, uniforms, safety glasses, eyeglasses, and hand tools.

(4) Project sponsors, prior to expending project funds for enrollee transportation, must first seek enrollee transportation from other sources at no cost to the project. Project sponsors may expend project funds for transportation of enrollees provided that the transportation is in the direct performance of employment or employment-related activities. Reimbursement from Title V funds shall not exceed the limitation set forth in § 674.402 of this part (section 502(b)(1)(L)).

§ 674.313 Training in preparation for community service employment.

(a) Project sponsors may provide new enrollees with training related to community service employment assignments prior to and as preparation for actual community service employment. Training may be delivered through lectures, seminars, classroom instruction, or other arrangements including but not limited to arrangements with employment and training programs. Project sponsors are encouraged to obtain training services through locally available resources, including employment and training programs as defined in § 674.103 of this part and through host agencies, at no cost or reduced cost to the project (section 502(b)(1)(I)).

(b) Training in preparation for community service employment combined with time spent in orientation, shall be completed within the first 80 hours of the individuals's enrollment except when extended periods are authorized by the Department.

(c) Project sponsors shall enroll each individual in the project prior to orientation and training in preparation for community service employment and shall pay each enrollee as provided in § 674.310 of this part.

§ 674.314 Additional training.

(a) In addition to training and orientation in preparation for community service employment as described in § 674.313 of this part, project sponsors are encouraged to provide additional training opportunities which will permit enrollees to acquire or improve skills applicable in community service employment or unsubsidized employment.

(b) Additional training described in paragraph (a) of this section may be classified either as required training or voluntary training which can be defined by these general purposes:

(1) "Required training" is training which, in the judgment of the project sponsor, has the primary purpose of providing or improving skills which an enrollee will be expected to use in the performance of a community service employment assignment. When a project sponsor determines that it is necessary for an enrollee to engage in training primarily for the purpose of acquiring or improving skills to be used in a community service employment assignment, the enrollee shall be paid for the hours of training at the established wage rate. Required training shall be reasonable and consistent with the enrollee's community service employment assignment. No arbitrary time is imposed on training for an individual enrollee; however, project sponsors shall not schedule required training for an enrollee which exceeds 260 hours during a project year without prior approval of the Department.

(2) "Voluntary training" is training which is available to an enrollee but which does not have the primary purpose of providing or improving skills necessary in the performance of a community service employment assignment. While voluntary training may enhance skills which will be used in community service employment, it also should enhance an enrollee's potential for unsubsidized employment. Enrollees need not be compensated for hours of voluntary training, and uncompensated hours of voluntary training need not be counted within the 1,300-hour limit on compensated participation as set forth in § 674.310 of this part.

(c) Enrollees engaging in required training as described in paragraph (b)(1) of this section may be reimbursed at reasonable rates as described in the grant agreement for the cost of travel and room and board necessary to engage in such training, provided that reimbursement shall not exceed rates established by current Federal travel regulations (section 502(b)(1)(I)).

(d) Project sponsors shall seek at all times to obtain all training for enrollees at no cost to the project. Where training is not available from other sources, Title V funds may be used for training.

(e) Nothing in this section shall be interpreted to prevent or limit enrollees from engaging in training available from sources other than Title V of the Act during hours other than hours of community service employment.

§ 674.315 Placement into unsubsidized employment.

(a) In order to ensure that the maximum number of eligible individuals have an opportunity to participate in community service employment, project sponsors shall employ reasonable means to place enrollees into unsubsidized employment.

(b) To encourage the placement of enrollees into unsubsidized jobs, the Department has established a goal of placing into unsubsidized employment the number of enrollees which equals 20 percent of the authorized positions.

(c) Project sponsors should contact private and public employers directly to develop or identify suitable unsubsidized employment opportunities and should encourage host agencies to employ enrollees in their regular work forces.

(d) Project sponsors shall follow up on enrollees who are placed into unsubsidized employment and shall document such follow up at least once within 3 months of placement.

§ 674.316 Duration of enrollment.

A project sponsor may establish or use time limitations on enrollment within a project, or within specified subprojects, if the limitations are approved in the grant agreement, provided the sponsor demonstrates that:

(a) The limitation will be applied in an equitable and uniform manner;

(b) Enrollees whose only source of income is community service employment will not be terminated solely because of the limitation;

(c) No limitation will be less than 1,040 hours of paid community service enrollment;

(d) No hours of paid enrollment prior to July 1, 1985, will be counted against the limitation; and

(e) Enrollees subject to termination because of a limitation on enrollment will be informed in writing no less than 12 months prior to scheduled termination.

§ 674.317 Non-Federal status of enrollees.

Enrollees who are employed in any project funded under the Act are not Federal employees as a result of such employment (section 504(a)).

§ 674.318 Temporary positions.

Where a portion of project funds is not being used as planned in the grant agreement, the project sponsor may use those funds during the period of the agreement to enroll additional eligible individuals in temporary positions. The number of temporary positions may not exceed 20 percent of the total number of authorized positions established under the agreement without the written approval of the Department. Payments to or on behalf of enrollees in temporary positions shall not exceed the amount of the unused funds available. Each individual enrolled in a temporary position shall be informed in writing that the employment is of a temporary nature and may be terminated. Project sponsors first shall seek to maintain full enrollment in authorized positions and shall seek to schedule all enrollments and terminations to avoid excessive terminations at the end of the project period.

§ 674.319 Nondiscrimination.

(a) No person shall on the grounds of race, color, religion, sex, national origin, handicap, or age (except where age is a valid consideration under §§ 674.305 and 674.306 of this part) be excluded from participation in, be denied of benefits of, or be subjected to discrimination in connection with any program or activity funded in whole or part with funds made available under Title V of the Act.

(b) Project sponsors shall comply with the Department's nondiscrimination requirements at 29 CFR Parts 31 and 32 and any amendments thereto.

(c) Each grant agreement or subagreement made pursuant to the Act shall contain an assurance signed by the project sponsor concerning nondiscrimination in all activities undertaken with funds from the Act.

§ 674.320 Political patronage.

(a) No project sponsor may select, reject, promote, or terminate an individual based on that individual's political affiliations or beliefs. The

selection or advancement of enrollees as a reward for political services or as a form of political patronage, whether or

United States Office of Personnel Management.

(2) Each project subject to Chapter 15

father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-

reduction in hours of non-overtime work, wages, or employment benefits;

enrollee costs shall not exceed the percentage of Federal funds remaining

assignments as provided in § 674.310 of this part;

VOL 50 ISS 139 JL 19 1985 UMI

selection or advancement of enrollees as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is prohibited.

(b) There shall be no selection of subproject sponsors or host agencies based on political affiliation.

§ 674.321 Political activities; lobbying.

(a) *Political Activities.* No project under the Act may involve political activities.

(1) No enrollee or staff person may be permitted to engage in partisan or nonpartisan political activities during hours for which the enrollee is paid with SCSEP funds.

(2) No enrollee or staff person at any time may be permitted to engage in partisan political activities in which such enrollee represents himself or herself as a spokesperson of the SCSEP project.

(3) No enrollee may be employed or outstationed in the office of a member of Congress or a State or local legislator or on any staff of a legislative committee.

(4) No enrollee may be employed or outstationed in the immediate office of any elected chief executive officer (or officers, if the office of chief executive is shared by more than one person) of a State or unit of general government, except that:

(i) Units of local government may serve as host agencies for enrollees in such positions provided that, prior to the assignments, documentation which makes clear that such assignments are nonpolitical is provided to and approved by the Department; and

(ii) Where assignments are technically in such offices, but actually are program activities not in any way involved in political functions, documentation attesting to the nonpolitical nature of the assignments is provided to and approved by the Department prior to such assignments.

(5) No enrollee may be assigned to perform political activities in the offices of other elected officials. However, since under the responsibility of such elected officials there are nonpolitical activities, placement of enrollees in such nonpolitical assignments is permissible, provided that project sponsors develop safeguards to ensure that enrollees placed in these assignments are not involved in political activities. These safeguards shall be described in the grant agreement and will be subject to review and monitoring.

(b) *Hatch Act.* (1) Persons governed by Chapter 15 of Title 5, United States Code, the Hatch Act, shall comply with its provisions as interpreted by the United States Office of Personnel Management.

(2) Each project subject to Chapter 15 of Title 5 of the United States Code will display a notice and will make available to each person associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under Chapter 15 of Title 5 of the United States Code which are applicable to the project and each category of individuals associated with such project. This notice, which shall have approval of the Department, will contain the telephone number and address of the Inspector General of the Department of Labor. Enforcement of the Hatch Act shall be as provided at Chapter 15 of Title 5 of the United States Code (section 502(b)(1)(O)).

(c) *Lobbying.* (1) No funds provided under this Act may be used in any way to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress.

(2) No funds provided under this Act shall be used in any way to attempt to influence in any manner a member of a State or local legislature to favor or oppose any legislation or appropriation by that legislature.

(3) Nonprofit organizations receiving funds under this Act shall comply with the terms of Paragraph B21 ("Lobbying") of Attachment B of Office of Management and Budget Circular No. A–122.

(4) Each grantee under the Act shall submit as part of its annual indirect cost rate proposal a certification that it has complied with the requirements of this paragraph (c).

§ 674.322 Unionization.

No funds provided under the Act may be used in any way to assist, promote, or deter union organizing.

§ 674.323 Nepotism.

(a) No project or subproject sponsor may hire and no host agency may be a worksite for a person in an administrative capacity, staff position, or community service employment position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity for that project or subproject sponsor or host agency.

(b) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, that requirement shall be followed.

(c) For purposes of this section: (1) The term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent and stepchild, grandparent, and grandchild.

(2) The term "engaged in an administrative capacity" includes those persons who in the administration of projects, subprojects, or host agencies have responsibility for or authority over those with responsibility for the selection of enrollees from among eligible applicants.

§ 674.324 Adverse actions against enrollees.

(a) Each project sponsor shall establish and described in the grant agreement procedures for resolving complaints arising between the project sponsor and an enrollee.

(b) Complaints alleging volations of law, other than those described in paragraph (c) of this Section, which cannot be resolved within 60 days as a result of the project sponsor's procedures may be filed with the Division of Older Worker Programs, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

(c) Complaints alleging discrimination on the basis of race, color, religion, sex, national origin, handicap, or age (except where age is a valid consideration under §§ 674.305 and 674.316 of this part) which are not resolved as a result of the project sponsor's procedure may be file with the Director, Office of Civil Rights, U.S. Department of Labor, Washington, D.C. 20210. Such complaints shall be handled in accordance with the procedures at 29 CFR Parts 31 and 32.

(d) Except for complaints described in paragraphs (b) and (c) of this Section, the Department shall limit its review in determining whether the project sponor's appeal procedures were followed.

§ 674.325 Maintenance of effort.

(a) Employment of enrollees funded under the Act shall be only in addition to employment which would otherwise be funded by the project sponsor, the subproject sponsor, and the host agencies without assistance under the Act (section 502(b)(1)(F).

(b) Projects funded under the Act:

(1) Shall result in an increase in employment opportunities in addition to those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a

reduction in hours of non-overtime work, wages, or employment benefits;

(3) Shall not impair existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(4) Shall not substitute project jobs for existing Federally-assisted jobs; and

(5) Shall not employ or continue to employ any enrollee to perform work which is the same or substantially the same as that performed by any other person who is on layoff section 502(b)(1)(G).

Subpart D—Limitations on Federal Funds and Administrative Standards and Procedures for Grantees

§ 674.401 General.

This Subpart D establishes limitations on Title V funds to be used for community service employment and describes or incorporates by reference requirements for the administration of grants by sponsors of Senior Community Service Employment Program projects.

§ 674.402 Limitations on Federal funds.

(a) Limitations on Federal funds set forth in this section shall apply to Title V funds allotted to project sponsors for community service employment. Cost categories, limitations, and periods during which different limitations shall apply are set forth in paragraph (b) of this section. Functions and related costs which shall be assigned to each cost category are set forth in paragraph (c) of this section.

(b) Cost categories, limitations, and periods during which limitations apply shall be:

(1) *Administration:* The amount of Federal funds expended for the cost of administration shall be no more than 15 percent for the period ending June 30, 1986; no more than 13.5 percent for the period beginning July 1, 1986, and ending June 30, 1987; and no more than 12 percent for the period beginning July 1, 1987. For projects to be operated after July 1, 1986, the Secretary of Labor may increase the amount available for the cost of administration to no more than 15 percent in accordance with section 502(c)(3) of the Act.

(2) *Enrollee wages and fringe benefits:* The amount of Federal funds expended for enrollee wages and fringe benefits shall be no less than 75 percent for the period ending June 30, 1986; no less than 76 percent for the period beginning July 1, 1986, and ending June 60, 1987; and no less than 78 percent for the period beginning July 1, 1987.

(3) *Other Enrollee Costs:* The amount of Federal funds expended for other enrollee costs shall not exceed the percentage of Federal funds remaining after the limitations on administration as set forth in paragraph (b)(1) and on enrollee wages and fringe benefits as set for in paragraph (b)(2) have been applied.

(c) Functions and related costs which shall be assigned to each cost category are:

(1) *Administration:* The cost category of administration shall include but shall not be limited to costs of providing and costs associated with providing:

(i) Administration, management, and direction of a project or subproject;

(ii) Reports on evaluation, management, community benefits, and other aspects of project or subproject activity;

(iii) Assistance of an advisory council, if any;

(iv) Accounting and management information systems;

(v) Training and technical assistance for project or subproject sponsor staff;

(vi) Bonding;

(vii) Audits; and

(viii) Services or other benefits accruing to a project or subproject as a result of allowable indirect cost charges.

(2) *Enrollee wages and fringe benefits:* The cost category of enrollee wages and fringe benefits shall include wages paid to enrollees for hours of community service employment as described in § 674.311 of this part or training as described in §§ 674.313 and 674.314 and the costs of fringe benefits actually provided as described in § 674.311.

(3) *Other enrollee costs:* The cost category of other enrollee costs shall include the costs of providing and the costs associated with providing those functions, services, and benefits not categorized as administration or enrollee wages and fringe benefits. Other enrollee costs shall include but shall not be limited to the costs of providing and the costs associated with providing:

(i) Recruitment and selection of eligible enrollees as provided in § 674.304 of this part;

(ii) Physical examinations for enrollees and eligible applicants who are being selected for enrollment as provided in § 674.307 of this part;

(iii) Orientation of enrollees and host agencies as provided in § 674.308 of this part;

(iv) Assessment of enrollees for participation in community service employment and evaluation of enrollees for continued participation or transition to unsubsidized employment as provided in § 674.309 of this part;

(v) Development of appropriate community service employment assignments as provided in § 674.310 of this part;

(vi) Supportive services for enrollees, including transportation, as provided in § 674.312, provided that when enrollee transportation is by privately-owned vehicle, reimbursement from Title V funds shall not exceed the current mileage rate established by Federal travel regulations.

(vii) Training for enrollees as provided in §§ 674.313 and 674.314; and

(viii) Development of unsubsidized employment opportunities for enrollees as provided in § 674.315.

(d) Project and subproject sponsors may lower administration costs or other enrollee costs by assigning enrollees to activities which normally would be charged to either of these cost categories. In such instances, the costs of enrollees' wages and fringe benefits shall be charged to the cost category of enrollee wages and fringe benefits; however, other costs which are not enrollee wages and fringe benefits and which are associated with the provision of administrative functions as described in paragraph (c)(1) of this section or with the provision of other enrollee costs services and functions as described in paragraph (c)(3) of this section shall be charged to the category of administration or other enrollee costs as appropriate (section 502(b)(1)(A)).

(e) No Federal funds provided to a project sponsor under the Act may be expended directly or indirectly for the purchase, erection, or repair of any building except for the labor involved in:

(1) Minor remodeling of a public building necessary to make it suitable for use by project administrators;

(2) Minor repair and rehabilitation of publicly used facilities for the general benefit of the community; and

(3) Minor repair and rehabilitation of housing occupied by persons with low incomes who are declared eligible for such services by authorized local agencies.

(f) Within the limitations stated in paragraphs (a) through (e) of this section, no Federal project funds may be expended for purposes other than those permitted by the applicable Federal cost principles which are set forth at 41 CFR Part 29–70.

§ 674.403 Administration costs waiver.

Based upon information submitted by a public or private nonprofit agency or organization with which the Department has or proposes to have an agreement under section 502(b) of the Act, the Department may increase the amount available for paying the costs of administration to an amount not to

exceed 15 percent of the Federal costs of the project (section 502(c)(3)).

with the financial reporting requirements of 41 CFR Part 29–70.

the noncancellable obligations properly incurred by the project sponsor prior to

exception not specifically urged shall be deemed to have been waived.

the overall program under the Act, the Department shall not use any individual

offer testimony at a regularly scheduled Congressional hearing pursuant to a written

VOL 50 ISS 139 JL 19 1985 UMI

exceed 15 percent of the Federal costs of the project (section 502(c)(3)).

§ 674.404 Sponsor share of project costs.

The Department will pay not more than 90 percent of the cost of any project which is the subject of an agreement entered into under the Act, except that the Department is authorized to pay all of the costs of any such project or subproject which is (a) an emergency or disaster project or subproject, (b) a project or subproject located in an economically depressed area as determined in consultation with the Secretary of Commerce and the Director of the Office of Community Services of the Department of Health and Human Services, or (c) a project or subproject permitted under section 502(e) of the Act, or (d) a project or subproject which is exempted by law. The sponsor share of project or subproject costs may be in cash or in-kind, or a combination of the two. The in-kind share shall be calculated in accordance with 41 CFR Part 29–70 sections 502(c) and 502(e).

§ 674.405 Administrative standards and procedures.

(a) All applicable requirements set forth at 41 CFR Part 29–70, "Administrative Requirements Governing All Grants and Agreements by Which Department of Labor Agencies Award Funds to State and Local Governments, Indian and Native American Entities, Public and Private Institutions of Higher Education and Hospitals, and Other Quasi-Public and Private Nonprofit Organizations," shall apply to grants (except for the administration of interagency agreements as set forth in Subpart E of this part) under Title V of the Older Americans Act of 1965, as amended.

(1) The requirements at 41 CFR 29–70.1 set forth the policies which apply to all grants.

(2) The requirements at 41 CFR 29–70.2 implement Office of Management and Budget Circulars A–102 and A–110, and apply to all SCSEP grants and agreements.

(b) Grant recipients under Title V shall be responsible for complying with all applicable sections of 41 CFR Part 29–70.

(c) For purposes of this part, "procurement" as defined in 41 CFR Part 29–70 does not include the award of subproject agreements described in § 674.204 of this part.

§ 674.406 Fiscal and project performance monitoring and reporting requirements.

(a) Each grantee shall submit quarterly fiscal reports in accordance with the financial reporting requirements of 41 CFR Part 29–70.

(b) Each grantee shall submit a Senior Community Service Employment Program Quarterly Progress Report. This report shall be prepared to coincide with the ending dates for Federal fiscal year quarters and shall be submitted to the Department no later than 30 days after the end of the quarterly reporting period. If the grant period ends on a date other than the last day of a Federal fiscal year quarter, a final report covering the entire grant period shall be submitted no later than 30 days after the ending date. The Department will provide instructions for the preparation of this report.

§ 674.407 Suspension and termination procedures.

(a) *Suspension.* In the event that the Department determines that a project sponsor has failed to comply with stipulations, standards, or conditions of the grant agreement, the Department may, on reasonable notice to the project sponsor, suspend the agreement and withhold further payments, or prohibit the project sponsor from incurring additional obligations against Federal funds pending corrective action or a decision to terminate in accordance with paragraph (b)(1) of this section. The Department may allow all necessary and proper costs which reasonably could not be avoided during the period of suspension provided that the costs meet the provisions of applicable cost principles.

(b) *Termination.* An agreement may be terminated under the following conditions:

(1) The Department may terminate any agreement in whole or in part at any time before the date of completion whenever it is determined that the project sponsor has failed to comply with the conditions of the agreement. The Department will notify the project sponsor promptly in writing of the determination, the reasons for the termination, and the effective date.

(2) An agreement may be terminated in whole or in part when both the project sponsor and the Department agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. The project sponsor shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible. The Department will allow full credit to the project sponsor for the Federal share of the noncancellable obligations properly incurred by the project sponsor prior to termination.

(c) *Appeal of termination.* The project sponsor may appeal a suspension or termination under the terms set forth in § 674.408 of this part.

§ 674.408 Department of Labor appeals procedure for project sponsors.

(a) This section sets forth the procedures by which project sponsors may appeal SCSEP final determinations by the Department of Labor relating to costs, payments, notices of suspension, and notices of termination.

(b) Upon a project sponsor's receipt of the Department's final determination relating to costs, payments, suspension, or termination, the project sponsor may appeal the final determination to the Department's Office of Administrative Law Judges, as follows:

(1) Within 21 days of receipt of the Department's final determination the project sponsor may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20036, with a copy to the Department official who signed the final determination. The Chief Administrative Law Judge shall designate an administrative law judge to hear the appeal.

(2) The request for hearing shall be accompanied by a copy of the final determination, if issued, and shall state specifically those issues of the determination upon which review is requested. Those provisions of the determination not specified for review, or the entire determination when no hearing has been requested, shall be considered resolved and not subject to further review.

(3) The *Rule of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges*, set forth at 29 CFR Part 18, shall govern the conduct of hearings under this paragraph (b).

(4) The administrative law judge should render a written decision no later than 90 days after the closing of the record.

(5) The decision of the administrative law judge shall constitute final action by the Secretary of labor, unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part thereof has filed exceptions with the Secretary of Labor specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. Thereafter, the decision of the administrative law judge shall become the decision of the Secretary of Labor unless the Secretary of Labor, within 30 days of such filing, has notified the parties that the case has been accepted for review.

(6) Any case accepted for review by the Secretary of Labor shall be decided within 180 days of such acceptance. If not so decided, the decision of the administrative law judge shall become the final decision of the Secretary of Labor.

§ 674.409 Grant closeout procedures.

Grant closeout procedures shall conform to the requirements at 41 CFR Part 29–70. As necessary, the Department shall issue supplementary closeout requirements.

Subpart E—Interagency Agreements

§ 674.501 Administration.

(a) The Department will require other Federal establishments which receive and use funds under the Act to submit project fiscal and progress reports as described in § 674.406 of this part.

(b) The Department will require other Federal establishments which receive and use funds under the Act to maintain the standard records on individual enrollees and enrollee activities.

(c) Payments under the Act to Federal agencies may be made by advance transfer of obligational authority by the Department in accordance with a nonexpenditure transfer authorization.

(d) In aspects of project administration other than those described in paragraphs (a) and (b) of this section, Federal establishments which receive and use funds under the Act may use their normal administrative procedures.

Subpart F—Assessment and Evaluation

§ 674.601 General.

The Department will assess project sponsors to determine whether they are carrying out the purposes and provisions of the Act in accordance with grant or other agreements. The Department also will evaluate the overall program conducted under the Act to aid in the administration of the Act.

§ 674.602 Limitation.

In arranging for the assessment of project sponsors, the evaluation of project sponsors, or the evaluation of the overall program under the Act, the Department shall not use any individual, institution, or organization associated with any project or subproject sponsor under the Act.

Appendix No. 1—"Lobbying Costs for Nonprofit Organizations"

a. Notwithstanding other provisions of this Circular, costs associated with the following activities are unallowable:

a. (1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind of cash contributions, endorsements, publicity, or similar activity;

a. (2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

a. (3) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment of modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enrolled legislation;

a. (4) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or

a. (5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

b. The following activities are excepted from the coverage of subparagraph a:

b. (1) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form; and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing.

b. (2) Any lobbying made unallowable by section a.(3) to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.

b. (3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

c. (1) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of paragraph B3 of Attachment A.

c. (2) Organizations shall submit as part of their annual indirect cost rate proposal a certification that the requirements and standards of this paragraph have been complied with.

c. (3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to paragraph B21 complies with the requirements of this Circular.

c. (4) Time logs, calendars, or similar records documenting the portion of an employee's time that is treated as an indirect cost shall not be required for the purposes of complying with subparagraph c, and the absence of such records which are not kept pursuant to the discretion of the grantee or contractor, will not serve as a basis for disallowing claims of allowable costs by contesting estimates or unallowable lobbying time spent by employees during any calendar month unless: (i) The employee engages in lobbying, as defined in subparagraphs a and b, more than 25 percent of his compensated hours of employment during that calendar month; or (ii) the organization has materially misstated allowable or unallowable costs within the preceding five year period.

c. (5) Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of paragraph B21. Any such advance resolution shall be binding in any subsequent settlements, audits or investigations with respect to the grant or contract for purposes of interpretation of this Circular; provided, however, that this shall not be construed to prevent a contractor or grantee from contesting the lawfulness of such a determination.

Signed at Washington, D.C., this 12th day of July 1985.

William E. Brock,

Secretary of Labor.

[FR Doc. 85–17169 Filed 7–18–85; 8:45 am]

BILLING CODE 4510–30–M

VOL

Friday

VOL
50

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139

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1985

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federal register

Friday
July 19, 1985

Part V

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 440

Weatherization Assistance for Low-Income Persons; Notice of Proposed Rulemaking and Public Hearings

DEPARTMENT OF ENERGY

(Request to speak by August 2)
San Francisco, California—August 9,

Avenue, SW., Washington, DC 20585, (202) 252-9527.

for weatherization assistance among the States. The formula takes into account

Performance Fund would be very difficult and expensed fears the fund

Program. This information provided by

VOL
50
ISS
139
JL
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DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 440

[Docket No. CAS-RM-80-506]

Weatherization Assistance for Low-Income Persons

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Department of Energy (DOE) is issuing a notice of proposed rulemaking for the Program for Weatherization Assistance for Low-Income Persons in order to implement a recent statutory change requiring that a Performance Fund be established to provide additional financial assistance to those States demonstrating best performance under the Program. The proposed regulation sets forth the following criteria for determining annually which States have demonstrated the best performance: Percentage of eligible dwelling units within the State which have been weatherized during the evaluation period; energy savings data supplied by the States; States' actual performance in achieving goals as projected in the State Application; States' ability to use available funds during the relevant period.

Beginning in fiscal year 1986, not less than 5 and not more than 15 percent of the amount appropriated for the Program for each fiscal year will be set aside by DOE to establish the Performance Fund. The twenty States to have demonstrated best performance will share the Performance Fund each year. The first funds awarded under the Performance Fund will be made available for expenditure during program year 1987.

DOE is aware that the equitable implementation of this statutory requirement is important to States. DOE is proposing a methodology it believes will give each State an equal opportunity to compete for the funds without regard to climate or amount of funding allocation. Each State will be evaluated individually on how effectively and efficiently it operates the DOE weatherization program.

DATES: Written comments must be received on or before September 17, 1985.

Public hearings will be held in:

Atlanta, Georgia—August 7, 1985—9:30 AM
(Request to speak by August 2)
San Francisco, California—August 9, 1985—9:30 AM
(Request to speak by August 6)
Boston, Massachusetts—August 12, 1985—9:30 AM
(Request to speak by August 7)
Chicago, Illinois—August 14, 1985—9:30 AM
(Request to speak by August 9)
Dallas, Texas—August 16, 1985—9:30 AM
(Request to speak by August 13)
Washington, DC—August 20, 1985—9:30 AM
(Request to speak by August 15)

ADDRESSES: Public hearing locations—

Atlanta, Georgia:
Richard Russell Federal Building, 75 Spring Street, Lower Plaza Conference Room (LP-7), 30303
San Francisco, California:
Federal Office Building, 450 Golden Gate Avenue, (between Polk & Larkin Streets), Room 13029 (13th Floor) 94102
Boston, Massachusetts:
John F. Kennedy Federal Building, Government Center, Room 2003-A (20th Floor) 02203
Chicago, Illinois:
U.S. District Court, 219 South Dearborn, Room 1669 (16th Floor) 60604
Dallas, Texas:
Main Tower Building, 1200 Main Street, Room 635 (6th Floor) 75202
Washington, DC:
U.S. Department of Energy, 1000 Independence Avenue, SW., Room 1E-245 (1st Floor) 20585

All written comments and requests to speak at the hearings should be addressed to: Conservation and Renewable Energy, Department of Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9319. Though five (5) copies are requested to be submitted, this is not a mandatory requirement in order to submit comments. In the event any person wishing to submit a written comment cannot provide five copies, alternative arrangements can be made in advance with the Office of Hearings and Dockets.

FOR FURTHER INFORMATION CONTACT: Greg Reamy, Office of Weatherization Assistance Program, Conservation and Renewable Energy Department of Energy, Mail Shop 5G-023, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2207.

Dan Ruge, Office of General Counsel, Department of Energy, Mail Stop 6B-144, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9527.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background of the Program
II. Amendments to the Weatherization Assistance Program
III. Opportunity for Public Comment
IV. Environmental, Regulatory Impact, Regulatory Flexibility, Paperwork Reduction Act, and Coordinating Agency Reviews

I. Introduction and Background of the Program

Introduction

The Department of Energy (DOE) is proposing an amendment to the regulations for the Weatherization Assistance for Low-Income Persons Program (Program or WAP), 10 CFR Part 440, issued under Title IV of the Energy Conservation and Production Act, as amended, 42 U.S.C. 6861 *et seq.* (Act or Program Statute). Today's action proposes implementation of a new provision of the Program required by the recent passage of section 404, 42 U.S.C. 6865, of the Human Services Reauthorization Act of 1984, Pub. L. 98-558, 98 Stat. 2888 (Amending Act). When final, this amendment will provide States an opportunity to compete annually for additional funding based on their performance in operating the Weatherization Assistance Program.

Background of the Program

The Act authorized DOE to establish a program to weatherize the homes of low-income persons, particularly those who are elderly or handicapped. The program is intended to reduce national energy consumption, particularly of imported oil, and to reduce the impact of higher fuel costs on low-income families. Funds are provided to install weatherization materials such as insulation, storm windows, caulking and weatherstripping, and to make furnace efficiency modifications and other improvements to conserve energy.

DOE currently makes grants to States, the District of Columbia, and under certain circumstances, Indian tribal organizations. The Governor of each State, or designee, applies for, receives and administers the grant funds. The funds are distributed by the States and the District of Columbia to local governments and nonprofit organizations to weatherize homes. Certain Indian tribal organizations also administer Federal funds and perform weatherization activities under this Program.

Funds are allocated by DOE through a formula which reflects the relative need for weatherization assistance among the States. The formula takes into account the number of low-income households, the percentage of total residential energy used for space heating and cooling, and the number of heating and cooling degree days in each State.

II. Amendment to the Weatherization Program

DOE is proposing in this rulemaking to establish the criteria and procedures by which States will be evaluated to determine which have demonstrated the best program performance. This evaluation will serve as the basis for DOE awarding supplemental funding to States from the Performance Fund.

The percentage of appropriated funds to be set aside for each year's Performance Fund will be determined by DOE and issued as part of the Annual Grant Guidance. This amount will be between 5 and 15 percent of the appropriated funds.

Section 440.26 Establishment of the Performance Fund.

Beginning in fiscal year 1986, not less than 5 and not more than 15 percent of the amount appropriated for each fiscal year will be set aside by DOE to establish the Performance Fund as required by the Amending Act. The Amending Act requires that the determinations of best performance be on a fiscal year basis (October 1 through September 30 of the following calender year). The program, however, is operated on a program year basis (April 1 through March 31 of the following calendar year). In order to accommodate these two different "years," DOE is proposing to use relevant evaluative information from an 18-month period beginning with a given fiscal year (October 1) and running through the related program year (March 31 of the second following calendar year). This 18-month period is called the "relevant reporting period." The first relevant reporting period is proposed to run from October 1, 1985, through March 31, 1987. Funds for the first year will be made available in program year 1987.

On January 4, 1985, DOE published at 50 FR 708 an interim final rule implementing seven other amendments to the Weatherization Program mandated by the Amending Act. In that rulemaking DOE indicated that a separate rulemaking would be issued concerning the Performance Fund amendment. While the interim final rule did not solicit comments on the Performance Fund idea, several comments were received. One comment suggested that the establishment and implementation of a fair and equitable Performance Fund would be very difficult and expressed fears the fund would turn into a "numbers game." Several comments suggested that States and local agencies would sacrifice quality at the expense of production. Three comments expressed concern that States in the Western part of the country might be unfairly evaluated because population-related criteria could adversely affect the sparsely-populated States. These States might lose funding in spite of a good performance record. DOE's proposed criteria would attempt to avoid these potential problems by evaluating the States on their individual performance in operating the Weatherization Program.

Only the 50 States and the District of Columbia will be eligible to receive money from the Performance Fund. Certain Indian tribes which are grantees of the program would not be eligible because, at the discretion of DOE, the tribes at present usually receive funding at more than 100 percent of their tentative allocation. Because the amount of funds involved with these grantees, moreover, is so small, it would be impractical to include them in a Performance Fund. The following paragraphs discuss the performance criteria DOE is proposing for evaluating States' performance and distributing funds placed in the Performance Fund. DOE invites comments regarding these criteria, as well as all other aspects of today's proposal.

Section 440.27 Evaluating State Performance.

A. Information

This section lists the information DOE will use in its annual evaluation of the States. This information is already provided to DOE by the States as part of the application and reporting aspects of the program. DOE will not require new or additional information in evaluating States' performance.

DOE will evaluate a State's performance based on information provided in the State Plan, the monitoring plan, and the training and technical assistance plan, pursuant to § 440.12; the monthly and quarterly reports required under § 440.25; and any relevant additional information available to DOE. The annual grant guidance from DOE to the States will detail explicitly all information required by the criteria in the Performance Fund.

It will be the responsibility of each State to insure the information provided in each of the areas above reflects an accurate account, as relevant, of operations to date and of how the State intends to operate its Weatherization Program. This information provided by the State will be the basis for DOE's evaluation.

B. Percentage of Eligible Units Weatherized

The first performance factor, which is mandated by the Amending Act, is the percentage of eligible dwelling units within the State which have been weatherized using low-income weatherization assistance program funds during the relevant reporting period. This percentage will consist of the actual completions reported to DOE on the monthly and quarterly reports divided by the planned completions submitted by the State under § 440.14(b)(8)(ii), multiplied by the maximum score for this criterion of 20. To minimize any incentive for a State to project a low completion figure but achieve a higher figure in order to receive a higher score, the maximum point value for this factor is 20. This proposed criterion will provide equity to all States regardless of funding level, climate, or eligible population. For example, a State which plans 1,200 completed units during the relevant reporting period and completes 1,000 actual units will be evaluated in the formula as follows:
$1,000 \div 1,200 = .83 \times 20 = 17$ Therefore, 17 would be the score that State would receive out of a possible 20.

C. Comparable Energy Savings

The second performance factor, also mandated by the Amending Act, requires DOE to consider comparable energy savings data in assessing the quality of weatherization assistance provided. Section 440.14(b)(5) of the program regulation already requires States in their Annual Plans to provide to DOE the estimated amount of energy to be conserved. DOE has completed an energy savings study entitled *Weatherization Program Evaluation* by Gerald E. Peabody, under contract SR-EEUD-84-1, published on August 20, 1984, by the Energy Information Administration of the Department of Energy. The study concludes that energy savings for this program average nationally between 13 to 14 percent. Copies of this report are available from DOE upon request. DOE proposes to award points for energy savings on the basis of data which States supply as required in the Annual State Plan. No score will be awarded for program energy savings of 10 percent or less. For energy savings between 11 and 12 percent the value awarded is 5. For savings between 13 and 14 percent the value awarded is 10; between 15 and 16

the value awarded is 12; between 17 and 18 the value awarded is 14; between 19 and 20 the value awarded is 16; between

evaluated has a maximum point value of 5. Accordingly, the maximum value

State which qualifies for performance funding will receive at least the

All comments received will be available for public inspection in the

made by DOE with respect to the subject matter of the hearings will be

the environmental impacts of the

VOL 50 ISS 139 JL 19 1985 UMI

the value awarded is 12; between 17 and 18 the value awarded is 14; between 19 and 20 the value awarded is 16; between 21 and 22 the value awarded is 18; and for 23 percent or higher the value awarded is 20. Any claim of more than 14 percent energy savings must be accompanied by supporting documentation for purposes of the Performance Fund. At a minimum, the State must provide the methodology it used in determining the energy savings.

DOE is particularly interested in comments on whether the Department should require a particular methodology for justifying some or all of the savings to be considered under the Performance Fund. If a particular methodology is favored, commenters are also invited to make detailed recommendations in this regard. For example, commenters might think that the formula in § 440.21(b), which details energy audit procedures, might be adaptable without too great a burden. Prior to issuing a final rule, DOE will also examine further whether methodologies can be adopted nationally for calculating energy savings for Performance Fund use.

D. Achievement of Goals

The third factor in the Performance Fund criteria is the State's actual achievement of its goals as projected in the State Plan submitted under § 440.14. The State Plan, submitted annually, is an important link between DOE and the State which tells how the Weatherization Program will be managed for the year. DOE will evaluate a State's achievement of goals by comparing the projected goals with actual production and expenditures as reported in data supplied monthly on DOE Standard Form 459E and the Quarterly Financial Status Report, Standard Form 269. The areas of the State Application which DOE will use in its evaluation are as follows: (1) The production schedule for expenditures and number of dwellings expected to be weatherized each month (§ 440.14(b)(1)); (2) the estimated number of dwelling units expected to be weatherized during the relevant reporting period by category (§ 440.14(b)(2)); (3) the average amount of the DOE funds to be applied to any dwelling unit not to exceed $1,600 (§ 440.14(b)(9)(viii)); (4) the requirement that States spend at least 40 percent of their program costs for weatherization materials (§ 440.14(b)(9)(ix)); (5) the compliance with the State's Training and Technical Assistance Plan (T&TA) (§ 440.12(b)(7)); and (6) the compliance with the Monitoring Plan (§ 440.12(b)(6)). DOE will use the information from DOE Form 459E for evaluating T&TA and monitoring goals. Each of the six areas evaluated has a maximum point value of 5. Accordingly, the maximum value score for this factor is 30. The proposal for areas (1), (2), (5), and (6) is to divide the actual goals achieved by the planned goals and multiply each by 5. The maximum score for each area would be 5, even if actual performance were to exceed planning. Because areas (3) and (4) involve either meeting or failing to meet limits in the Act and WAP regulations, DOE proposes to award the maximum score of 5 to any State which complies and a score of 0 to a State not in compliance.

E. Actual Expenditures

The fourth criterion of the Performance Fund is the State's actual expenditure of DOE funds during the relevant reporting period. States that expend all DOE funds during the relevant reporting period will receive the maximum score of 30 points. Any State which does not expend all DOE funds, excluding funds used for administrative expenses, during the relevant reporting period will have a reduced score. States with one month's carryover, that is, an amount equal to 1/12 of the tentative allocation for that State, will receive a maximum score of 20. States with two months' carryover will receive a score of 10. States with carryover funds in excess of two months will receive a score of 0. DOE proposes to weight this criterion heavily because States which cannot expend funds during the relevant reporting period should be given less consideration for additional funding under the Performance Fund.

Section 440.28 Awarding the Performance Fund.

DOE proposes that the money allocated in this Performance Fund will be awarded to the twenty States annually determined to have demonstrated the "best performance." A State's ranking will be based on the total score achieved as a result of DOE's evaluation of each performance criterion. The criterion for distributing remaining funds is similar to that currently used to reallocate funds from States which were incrementally funded due to inability to expend DOE funds during a program year. DOE will evaluate production and expenditures as reported by the States on DOE Form 459E and Form 269 for the relevant reporting period and determine the demonstrated capacity of each State to expend additional funds to weatherize homes. DOE may find it necessary to review other data in addition in order to evaluate trends in making its determination. DOE proposes that a State which qualifies for performance funding will receive at least the percentage of its tentative allocation that is the same as the percentage (5 percent through 15 percent) used in determining the amount of the Performance Fund for the relevant year. For example, if DOE selects 10 percent of an appropriation as the figure to be used for the Performance Fund for that year, then a State which qualifies will receive an additional 10 percent of its tentative allocation from that year's Performance Fund. Any remaining funds will be distributed to all twenty States qualifying, based on their demonstrated capacity to expend. For example, a State with a relatively low tentative allocation that scores very high in the Performance Fund would not receive any more funds than that State's demonstrated capacity to expend them. To reward a State with more money than it can expend in a timely fashion would jeopardize that State's performance for the relevant reporting period in which the funds were not expended. In no event would this amount exceed 50 percent of a State's tentative allocation.

Section 440.29 Appeal.

DOE is proposing that States will be notified of their performance score, ranking, and the amount, if any, of funds to be received from the Performance Fund. A State may appeal the results only as to any technical or clerical error. Any appeal must be submitted in writing to DOE within 10 days of the receipt of the notification.

III. Opportunity for Public Comment

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the matters set forth in this notice to: Conservation and Renewable Energy, Department of Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9319.

Comments should be identified on the outside of the envelope, and on the document themselves, with the designation: "Weatherization Assistance for Low-Income Persons, Notice of Proposed Rulemaking, Docket Number CAS-RM-80-508." Five copies should be submitted. Though five (5) copies are requested to be submitted, this is not a requirement in order to submit comments. In the event any person wishing to submit a written comment cannot provide five copies, alternative arrangements can be made in advance with the Office of Hearings and Dockets.

All comments received will be available for public inspection in the DOE Reading Room, Room 1E-090, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours, 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Any person submitting information which that person believes to be confidential, and which may be exempt by law from public disclosure, should submit one complete copy, as well as two copies from which the information claimed to be confidential has been deleted. DOE shall make a determination of any such claim. This procedure is set forth in 10 CFR 1004.11 (44 FR 1980, January 8, 1979).

DOE will hold several public hearings on this proposed rule. The hearings will be held on the dates and at the locations indicated at the beginning of this notice.

Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a request for an opportunity to make an oral presentation. Such a request to speak at a hearing should be addressed to the Office of Hearings and Dockets, at the address indicated at the beginning of this notice.

The person making the request should describe briefly his or her interest in the proceedings and, if appropriate, state why that person is a proper representative of a group. The person should also give a concise summary of the proposed oral presentation, and should provide a phone number where the person may be reached. Each person selected to be heard at a public hearing will be notified. Those persons selected to be heard should bring five copies of their statement to the hearing, however, this is not a requirement. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made in advance with the Office of Hearings and Dockets by so indicating in the letter or phone call requesting an opportunity to make an oral presentation.

DOE reserves the right to select persons to speak at the hearings, to schedule their presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation will be limited to twenty minutes, based on the number of persons requesting to speak.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearings will be based on all of the information available to DOE.

Any particlpant who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Notice of cancellation will also be given to all persons scheduled to speak at the hearing. Hearing dates may be cancelled in the event no public testimony has been scheduled in advance.

IV. Environmental, Regulatory Impact, Regulatory Flexibility, Paperwork Reduction Act, and Coordinating Agency Reviews

A. Environmental Review

Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190, 83 Stat. 852, 42 U.S.C. 4321 *et seq.*, DOE published a Notice of Availability of an Environmental Assessment (EA) (DOE/EA-0085) of the Program for Weatherization Assistance for Low-Income Persons in the **Federal Register** on April 10, 1979 (44 FR 21323). At the same time, DOE published notice of its determination, based on the EA, that the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment, and that therefore no Environmental Impact Statement (EIS) was required.

DOE has reviewed the environmental impacts of the program amendment proposed today. It is DOE's judgment that the program amendments will result in no environmental impacts not previously analyzed in the EA. Accordingly, DOE has determined that the environmental impacts of the program amendments, if modified as proposed, have been adequately analyzed in the April 1979 EA, and that these impacts are not significant. Hence, no additional EA or EIS is required.

B. Review Under Executive Order 12291

Today's issuance was reviewed under Executive Order 12291, 46 FR 13193 (February 27, 1981). DOE has concluded that the rule is not a "major rule" under the Executive Order because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, State, Federal or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to section 3(c)(3) of Executive Order 12291, this rule was submitted to the Director of OMB for a ten-day review. The Director has concluded his review of this proposed regulation under the Executive Order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, requires, in part, that an agency prepare a final regulatory flexibility analysis for any final rule, unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the **Federal Register**. The changes proposed in this action, the addition of the Performance Fund, are largely procedural and have direct effect on only States and other grantees. Any impact on small entities would not be direct and would have, at most, only a minimal effect on only a few small entities. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

The information collection requirements contained in this proposed rule are included in the Program Management package of information collections, and were approved by the Office of Management and Budget (OMB) under Control Number 1910-1400.

E. Catalog of Federal Domestic Assistance

§ 440.26 Establishment of the Performance Fund.

(iii) Ten points will be awarded for

(2) DOE will award each State that has up to a one month carryover at the

to the percentage of funds reserved for the Performance Fund for that year.

(b) If a State believes a technical or clerical error was made in arriving at its

E. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the Weatherization Assistance Program is 81.042.

F. Consultation

In developing these proposed regulations, DOE has consulted with the Departments of Housing and Urban Development, Health and Human Services, and Agriculture, pursuant to section 413(b) of the Act.

List of Subjects in 10 CFR Part 440

Administrative practice and procedure, Aged, Energy conservation, Grant programs—energy, Grant programs—housing and community development, Handicapped, Housing standards, Indians, Report and recordkeeping requirements, Weatherization.

In consideration of the foregoing, DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., July 11, 1985.

Alan J. Streb,

Acting Assistant Secretary, Conservation and Renewable Energy.

1. The authority citation for Part 440 is revised to read as follows:

Authority: Title IV, Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 *et seq.*), as amended by Title IV of the Human Services Reauthorization Act of 1984, Pub. L. 98-558, 98 Stat. 2888; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*).

PART 440—[AMENDED]

2. 10 CFR Part 440 is amended by adding to the Table of Contents the following entries:

Sec.

440.26 Establishment of the Performance Fund.
440.27 Evaluating State Performance.
440.28 Awarding the Performance Fund.
440.29 Appeals.

3. 10 CFR Part 440 is further amended by adding to § 440.3 in the appropriate alphabetical order the definition of "relevant reporting period"; and by adding §§ 440.26, 440.27, 440.28, and 440.29 to read as follows:

§ 440.3 Definitions.

* * * * *

"Relevant reporting period" means that period, as designed annually by DOE, beginning on October 1 and running through March 31 of the second following year.

* * * * *

§ 440.26 Establishment of the Performance Fund.

(a) Beginning in fiscal year 1986, the Secretary shall allot annually not less than five percent and no more than fifteen percent of the amount appropriated for each fiscal year for the program to a special Performance Fund, to be awarded to provide additional financial assistance under this part to the States which DOE determines demonstrate the best performance during that fiscal year in accordance with the evaluation criteria established in § 440.27 and the procedures established in § 440.28. DOE will announce the percentage chosen for the year in the annual grant guidance issued to States.

(b) The Performance Fund will be distributed annually beginning with program year 1987.

§ 440.27 Evaluating State Performance.

(a) *Information.* DOE will evaluate annually the performance of each State in the program based on the criteria set forth in paragraphs (b), (c), (d), and (e) of this section from the following information submitted to DOE by the State:

(1) The annual State Application under § 440.12 including:

(i) The State Plan,

(ii) The Monitoring Plan, and

(iii) The Training and Technical Assistance Plan;

(2) Monthly and quarterly reports required under § 440.25; and

(3) Any additional relevent information available to DOE.

(b) *Percent of units weatherized (Maximum Score: 20 points).* DOE will score the States according to the reported percentage of eligible dwelling units in the State weatherized during the relevent reporting period. A State's score for this criterion is determined by taking the nunber of dwelling units weatherized, as reported to DOE under § 440.25, dividing it by the number of dwelling units expected to be weatherized during the relevant reporting period as submitted by the State in accordance with § 440.14 (b)(8)(ii), and multiplying the result by 20.

(c) *Comparable energy savings (Maximum Score: 20 points) (1)* DOE will award points to each State for the percentage of energy to be conserved in the State as reported in the State Plan as follows:

(i) No points will be awarded for estimated energy savings of ten percent of less;

(ii) Five points will be awarded for estimated energy savings between eleven and twelve percent;

(iii) Ten points will be awarded for estimated energy savings between thirteen and fourteen percent;

(iv) Twelve points will be awarded for estimated energy savings between fifteen and sixteen percent;

(v) Fourteen points will be awarded for estimated energy savings between seventeen and eighteen percent;

(vi) Sixteen points will be awarded for estimated energy savings between nineteen and twenty percent;

(vii) Eighteen points will be awarded for estimated energy savings between twenty-one and twenty-two percent; and

(viii) Twenty points will be awarded for estimated energy savings of twenty-three percent or higher.

(2) If a State estimates energy savings to be greater than fourteen percent it must provide DOE with relevant information to support its estimates. At a minimum this information must include the methodology used in deriving its estimates.

(d) *Achievement of goals (Maximum Score: 30 points).* (1) DOE will award each State a maximum of five points for performance toward each of the following goals stated in the State's Application under § 440.12:

(i) The production schedule and the number of dwelling units to be weatherized each month (§ 440.14(1));

(ii) The number of dwelling units to be weatherized during the relevant reporting period by category (§ 440.14(b)(2));

(iii) The amount spent on weatherization materials (at least forty percent) (§ 440.14(b)(9)(ix));

(iv) The average amount of funds (not to exceed an average of $1600) to be applied to a dwelling unit (§440.14(b)(9)(viii));

(v) Compliance with the State Training and Technical Assistance Plan (§ 440.12(b)(7)); and

(vi) Compliance with the State Monitoring Plan (§ 440.12(b)(6)).

(2) For each of paragraphs (d)(1) (i), (ii), (v), and (vi) of this section, a score will be awarded to a State by dividing the amount of actual achievement, as reported to DOE under § 440.25, by the goal stated in the Application, and multiplying the result by five.

(3) For each of paragraphs (d)(1) (iii) and (iv) of this section, a State will be awarded five points if it complies with the criterion and no points if the State does not comply.

(e) *Actual expenditure (Maximum Score: 30 points).* (1) DOE will award each State that spends all DOE funds, excluding funds for administrative expenses, the maximum score of thirty points.

(2) DOE will award each State that has up to a one month carryover at the end of the relevant reporting period twenty points.

(3) Doe will award each State that has up to a two month carryover at the end of the relevant reporting period ten points.

(4) States with a carryover in excess of two months will receive no score under this paragraph.

§ 440.28 Awarding the Performance Fund.

(a) DOE will award funds from the Performance Fund to the twenty States annually determined to have demonstrated the best performance based on the criteria set forth in § 440.27.

(b) The amount of funds from the Performance Fund to be awarded to a State will be the percentage of the State's tentative allocation for the year of outstanding performance that is equal to the percentage of funds reserved for the Performance Fund for that year.

(c) DOE will distribute the remaining money in the Performance Fund among the twenty States on the basis of their demonstrated ability to use program funds, except that no State will receive an amount equal to more than 50 percent of its tentative allocation for the relevant year. DOE will make this determination based on the information provided by the States to DOE for the relevant reporting period, and possibly for other periods of time, in Standard Form 459E, which details the States' production and expenditures, and the Quarterly Financial Status Report, Standard Form 269.

§ 440.29 Appeals.

(a) DOE will notify each State in writing of its score, ranking and the amount of funds, if any, to be awarded from the Performance Fund.

(b) If a State believes a technical or clerical error was made in arriving at its score, the State may file an appeal in writing with DOE, within ten days of receipt of notification, at the Office of Weatherization Assistance, U.S. Department of Energy, Mail Stop 5G-023, 1000 Independence Avenue SW., Washington, D.C. 20585 and marked "Weatherization Assistance: Appeal."

(c) 10 CFR 205.131 and 205.134 provide the format for such a request.

(d) The appeal must adequately explain how DOE made a technical or clerical error.

(e) DOE shall consider the appeal and notify the State of its final determination within 30 days of the receipt of the appeal, if at all possible.

[FR Doc. 85-17274 Filed 7-18-85; 8:45 am]
BILLING CODE 6450-01-M

VOL
50

ISS
139

JL
19

1985

UMI

federal register

Friday
July 19, 1985

Part VI

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Limitation of Handling; Final Rule

DEPARTMENT OF AGRICULTURE

significant economic impact on a substantial number of small entities.

meeting, and the amendment relieves restrictions on the handling of lemons. It

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Federal Register

VOL 50 ISS 139 JL 19 1985 UMI

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regs. 524 and 525; Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 400,000 cartons during the period July 21–27, 1985, and increases the quantity of lemons that may be shipped to 350,000 cartons during the period July 14–20, 1985. Such action is needed to provide for orderly marketing of fresh lemons for such periods due to the marketing situation confronting the lemon industry.

DATES: The regulation (§ 910.825) becomes effective June 21, 1985, and the amendment (§ 910.824) is effective for the period July 14–20, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on July 16, 1985, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports that lemon demand continues to improve.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 910.825 is added to read as follows:

§ 910.825 Lemon Regulation 525.

The quantity of lemons grown in California and Arizona which may be handled during the period July 21, 1985, through July 27, 1985, is established at 400,000 cartons.

3. § 910.824 Lemon Regulation 524 is revised to read as follows:

§ 910.824 Lemon Regulation 524.

The quantity of lemons grown in California and Arizona which may be handled during the period July 14, 1985, through July 20, 1985, is established at 350,000 cartons.

Dated: July 18, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 85–17396 Filed 7–18–85; 12:17pm]

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Federal Register

Vol. 50, No. 139

Friday, July 19, 1985

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PUBLICATIONS AND SERVICES

Daily Federal Register	
General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408
Code of Federal Regulations	
General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419
Laws	
Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Presidential Documents	
Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230
United States Government Manual	523-5230
Other Services	
Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212	1
27213-27408	2
27409-27570	3
27571-27812	5
27813-27926	8
27927-28092	9
28093-28190	10
28191-28362	11
28363-28554	12
28555-28756	15
28757-28894	16
28895-29202	17
29203-29366	18
29367-29628	19

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305....28363

3 CFR

Executive Orders:

11888 (Amended by EO 12524)....27409

12470 (Revoked by EO12525)....28757

12523....26963

12524....27409

12525....28757

12526....29203

Proclamations:

5356....26961

5 CFR

771....26965

1201....28895

Proposed Rules:

532....28583, 28584

7 CFR

Ch. IV....27927

2....29367

52....26965

54....27571

226....26972

301....28366

400....26976

402....28367

908....27411, 27928, 28898

910....27813, 28372, 28555, 29628

911....28373

915....28373, 28556

916....27813, 28373

917....27813, 28373

918....28373

921....27411, 28373

922....28373

923....28373

924....28373

930....27213, 28373

944....28556

967....28373

979....26976

985....28373

991....26977, 27814

1040....27412

1427....26978

1435....27413

1941....27414

1944....27415

1945....27414, 27416

3015....28759

Proposed Rules:

Ch. IV....27971

Ch. X....27003

29....27288

51....27004

417....27601

800....28104

907....29405

908....29405

910....28105

920....27288

967....28210

999....28585

1124....27972

1240....28404

1930....28782

1944....28782

1965....28782

8 CFR

316a....27816

Proposed Rules:

103....27289

341....28586

343a....28587

9 CFR

78....28899

91....27929, 29205

92....27928, 28557

94....28560, 28900

318....27573, 28374

Proposed Rules:

94....27973

10 CFR

9....27214

Proposed Rules:

50....27006, 28815

440....29620

11 CFR

Proposed Rules:

110....29232

12 CFR

403....27215

611....27930

617....27931

723....27417

Proposed Rules:

561....27290, 28588

563....27290, 28588

571....27290, 28588

13 CFR

121....27418

302....27419

Proposed Rules:

107....29532

108....27754

14 CFR

39....26979, 27575, 27576, 27931-27933, 28093, 28094, 28561-28563, 28766

71....26980, 27934, 28564, 28565, 28900-28902

97....27934 12....27947 51....27621 117....26989, 27582

108....27924, 28884 142....27816 602....29436 150....26989

600....27172 44 CFR 28870-28878, 28959, 29238

20....27638

97 27934
108 ..... 27924, 28884
121 29306
135 29306

Proposed Rules:
39 ..... 27009, 27012, 27601, 27602, 28815
71 ..... 27013, 27014, 27528, 28588–28591, 28816, 28950, 29407
75 27014
91 28950

15 CFR

19 27577
90 28767
368–399 (See EO 12525) 28757, 29205
370 29205
376 ..... 27420, 29205
378 29205
385 29205
386 29205
399 27420

Proposed Rules:
303 29232
911 28816

16 CFR

3 28095
4 28095
13 ..... 26981, 27578, 28374, 28902
453 ..... 28062, 28081
703 27936

Proposed Rules:
13 ..... 28592, 28951

17 CFR

3 28907
200 ..... 28385, 29368
239 27937
240 ..... 27937, 27940, 28385
249 27937
270 ..... 27937, 28930
274 ..... 27937, 29368
275 29206
288 ..... 26981, 27947

Proposed Rules:
210 ..... 27973, 28953, 29409
229 29409
230 28404
239 29409
240 ..... 27829, 27976, 27981, 28106, 28210, 28219, 28404, 29409
250 27981
259 27981
270 ..... 27982, 29409

18 CFR

157 27816
389 27816

Proposed Rules:
2 28954
35 27604
154 28954
157 28954
161 28954
271 28221
284 28954
290 27604

19 CFR

4 26981
12 27947
142 27816
178 27947

Proposed Rules
162 27829
177 27831

20 CFR

200 27222
401 28565
422 28565
626 27818
627 27818
628 27818
629 27818
630 27818

Proposed Rules:
404 ..... 27615, 29435
416 ..... 27615, 29435
674 29606

21 CFR

101 26984
173 29208
436 29209
510 28395
520 ..... 27818, 28768
558 ..... 27421, 27422, 28768, 28931, 28932
812 28932
1308 ..... 28098, 28395

Proposal Rules:
Ch. 1, Subchapter C 28594
109 29233
110 29233
170 29235
225 29233
226 29233
500 29233
509 29233
170 27294
201 27016
211 27016
357 ..... 27552, 28595
514 27016
559 27016
561 27452
610 28595
660 28595
1002 27024

22 CFR

501 27422
1502 28932
1504 28934

23 CFR

825 29209
1325 28191

24 CFR

200 28197
203 28197
885 28197
3282 28396

25 CFR

Proposed Rules:
61 27456

26 CFR

1 ..... 27222, 27231, 27427, 29369–29376
602 ..... 27222, 27231, 29369, 29376

Proposed Rules:
1 ..... 27297, 27456, 27457, 28409, 29435, 29436
51 27621
602 29436

27 CFR

4 27819
170 28572

Proposed Rules:
9 28409

28 CFR

0 28769
2 28101
18 28199
32 27428

Proposed Rules:
30 28955

29 CFR

70 28306
1952 ..... 27233, 28770, 29210

Proposed Rules:
33 ..... 27298, 28956
89 29606
1910 27307

30 CFR

700 28186
701 28186
785 28186
827 28186
901 29379
902 28592
943 28186
948 ..... 28316, 28324

Proposed Rules:
56 27566
57 ..... 27566, 29437
700 28180
701 28180
785 28180
817 27910
827 28180
913 27025
917 ..... 28222, 29235
926 29235
935 ..... 29437, 29438
936 27461
944 28107
948 28343
950 ..... 28595, 29438

31 CFR

4 29221
51 26987
103 27821
500 27435
505 27435
515 27435
520 27435
535 27435
540 27435

32 CFR

Parts 1–39 26987
199 26988
642 28573
657 28573
706 28398–28400
726 28401

33 CFR

100 ..... 27579, 28573, 29221–29223
110 ..... 26988, 27580, 29224
117 ..... 26989, 27582
150 26989
165 ..... 27583, 29225
166 26989

Proposed Rules:
110 ..... 27622, 27623, 28596
117 ..... 27026, 27029, 27624, 27832, 27990, 27991, 29236

34 CFR

19 28101
304 29328
425 29352
426 29352
431 29352
432 29352

Proposed Rules:
369 28412
376 28412

35 CFR

101 26990
103 26990
121 26990

36 CFR

1200 27196
1202 27196
1228 27951
1250 27196

37 CFR

Proposed Rules:
1 ..... 27030, 28596

38 CFR

1 29226
3 27584
21 27825

Proposed Rules:
3 28224
36 27833

39 CFR

3 29380
10 27827
601 28941
3001 28144

Proposed Rules:
111 27992
3001 27308

40 CFR

51 27892
52 ..... 26991, 27244–27247, 28544, 29229, 29381, 29383
60 27248
61 27248
81 28574
86 ..... 27250, 29384
123 28202
147 ..... 28941, 28942
158 28943
162 28943
180 28944–28946
260 28702
261 28702
262 28702
264 28702
265 28702
266 28702
270 28702
271 28702
280 28702
419 28516

600 27172
761 29170
763 28530

Proposed Rules:
52 ..... 27030, 27462, 28224, 28415, 28596, 28598, 28818, 29237, 29439
86 28818
180 ..... 27463, 28108, 28958, 28957
202 27321
205 27321
414 29068
416 29068
600 27188

41 CFR

Chs. 1–49 26987
101–4 28402
101–17 28577
101–40 27951
101–47 28402
105–54 28203
105–63 26992
201–1 27142
201–2 ..... 27142, 28208
201–8 27142
201–11 27142
201–16 27142
201–20 27142
201–21 27142
201–22 28208
201–23 27142
201–24 27142
201–26 27142
201–30 ..... 27142, 28208
201–31 ..... 27142, 28208
201–32 ..... 27142, 28208
201–38 27142
201–39 ..... 27142, 28208
201–40 ..... 27142, 28208
201–45 28208

Proposed Rules:
101–41 ..... 27625, 27626

42 CFR

400 28577
405 27722
412 ..... 27208, 27722
416 28577
435 28577

Proposed Rules:
23 27465
405 27469
412 27469

43 CFR

2 29230
5470 28947

Public Land Orders:
5150 (Revoked in part by PLO 6607) 27827
5179 (Revoked in part by PLO 6607) 27827
5180 (Revoked in part by PLO 6607) 27827
5186 (Revoked in part by PLO 6607) 27827
6389 (Corrected by PLO 6608) 28208
6607 27827
6608 28208

Proposed Rules:
2800 27322
5400 29324
5440 29324

44 CFR

64 ..... 26993, 26994, 28947

Proposed Rules:
67 27322
302 ..... 27627, 28959

45 CFR

1180 ..... 27584, 27586

Proposed Rules:
405 27408
412 27406
1620 27326

46 CFR

153 26996

Proposed Rules:
160 27628
355 29440

47 CFR

0 27952
22 27953
68 ..... 27250, 29384
73 ..... 27287, 27438, 27954, 29392, 29393
74 29394
76 ..... 27438, 29394
81 27968
83 ..... 27968, 29231

Proposed Rules:
Ch. I 28418, 29440
73 ..... 27629, 29446–29453
97 29454

48 CFR

7 27560
12 27969
15 ..... 27560, 28103
19 27560
33 27969
34 27560
52 ..... 27560, 27969
209 28209
504 26996
515 28578
522 28578
533 26998
552 ..... 27589, 28948, 29402
553 27589
570 27589
6101 ..... 27969, 29231

Proposed Rules:
208 28227
252 28227

49 CFR

571 27451

Proposed Rules:
Ch. X 27031
71 28959
171 28820
175 28820
571 ..... 27032, 27632, 27633, 28426, 28599
1132 27834

50 CFR

17 ..... 26999, 29338–29345
215 27914
285 29403
658 28103
672 ..... 28580, 28581
674 28103

Proposed Rules:
17 ..... 27637, 27992, 28821, 28870–28878, 28959, 29238
20 27638
611 ..... 28960, 29240
630 27470
650 29240
651 29241
655 28109
662 27470
663 28960
675 29240

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

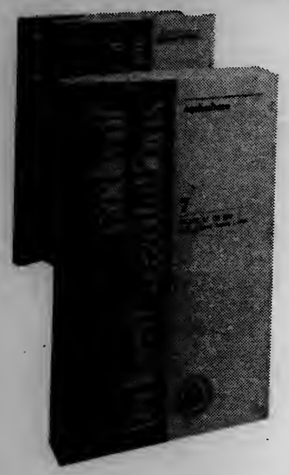
Last List July 16, 1985

VOL 50 ISS 139 JL 19 1985 UMI

VOL

Just Released

VOL
50
ISS
139
JL
19
1985
UMI



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_____	Title 18—Conservation of Power and Water Resources (Parts 1–149) (Stock No. 822–004–00049–1)	$12.00	$ _____
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_____	Title 24—Housing and Urban Development (Parts 700–1699) (Stock No. 822–004–00070–9)	13.00	_____
_____	Title 26—Internal Revenue, Pt 1 (§§ 1.851–1.1200) (Stock No. 822–004–00079–2)	22.00	_____
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VOL
50

ISS
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JL

19

1985

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VOL
50
ISS
140
JL
22
1985
UMI

7-22-85
Vol. 50 No. 140

federal register

Monday
July 22, 1985

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VOL
50
ISS
140
JL
22
1985
UMI

7-22-85
Vol. 50 No. 140

Monday
July 22, 1985

VOL
50
ISS
140
JL
22
1985
UMI

7-22-85
Vol. 50 No. 140
Pages 29629-29834

federal register

Monday
July 22, 1985

Selected Subjects

Antibiotics
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Bridges
Coast Guard
Education
Veterans Administration
Electric Utilities
Federal Energy Regulatory Commission
Endangered and Threatened Species
Fish and Wildlife Service
Energy Conservation
National Highway Traffic Safety Administration
Fisheries
National Oceanic and Atmospheric Administration
Food Additives
Food and Drug Administration
Food Grades and Standards
Agricultural Marketing Service
Government Contracts
Immigration and Naturalization Service
Government Procurement
Defense Department

CONTINUED INSIDE

Selected Subjects

Antibiotics
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Bridges
Coast Guard
Education
Veterans Administration
Electric Utilities
Federal Energy Regulatory Commission
Endangered and Threatened Species
Fish and Wildlife Service
Energy Conservation
National Highway Traffic Safety Administration
Fisheries
National Oceanic and Atmospheric Administration
Food Additives
Food and Drug Administration
Food Grades and Standards
Agricultural Marketing Service
Government Contracts
Immigration and Naturalization Service
Government Procurement
Defense Department

Contents

Federal Register

VOL 50 ISS 140 JL 22 1985 UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Selected Subjects

Justice Department

Grains
Federal Grain Inspection Service

Hunting
Fish and Wildlife Service

Loan Programs—Agriculture
Commodity Credit Corporation

Milk Marketing Orders
Agricultural Marketing Service

Motor Vehicle Safety
National Highway Traffic Safety Administration

National Forests
Forest Service

Occupational Safety and Health
Occupational Safety and Health Administration

Surface Mining
Surface Mining Reclamation and Enforcement Office

Trade Practices
Federal Trade Commission

Waste Treatment and Disposal
Nuclear Regulatory Commission

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 50, No. 140
Monday, July 22, 1985

The President
ADMINISTRATIVE ORDERS
29631 European Space Agency, U.S. trade determination (Memorandum of July 17, 1985)
29629 Palestinian and Khmer refugees, U.S. assistance (Presidential Determination No. 85–16 of July 12, 1985)

Executive Agencies

Agricultural Marketing Service
RULES
Milk marketing orders:
29637 Great Basin
29635 Tomato juice; grade standards

Agriculture Department
See also Agricultural Marketing Service; Commodity Credit Corporation; Federal Grain Inspection Service; Forest Service.
NOTICES
Committees; establishment, renewals, terminations, etc.:
29710 Agricultural Export Enhancement Advisory Group
Meetings:
29710 Science and Education Research Grants Program Technical Advisory Committee (3 documents)

Coast Guard
RULES
Drawbridge operations:
29670–29672 Florida (3 documents)

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
RULES
Loan and purchase programs:
29639 Grain, etc.; warehouse approval standards
PROPOSED RULES
Loan and purchase programs:
29693 Cotton warehouse approval standards

Defense Department
RULES
Acquisition Regulations:
29675 Reverse engineering projects

Economic Regulatory Administration
NOTICES
Consent orders:
29737 Bi-Petro, Inc.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
29738 OLS Energy—University of California
Remedial orders:
29738 Oklahoma Refining Co.
29736 Tonkawa Refining Co.

Education Department
NOTICES
29717 Civil Rights Office; annual operating plan
Grants; availability, etc.:
29721 Discretionary grant programs
29720 National direct student loan, College work-study, and supplemental educational opportunity grant programs; sample cases and expected parental contributions

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
Grants; availability, etc.:
29736 Weatherization assistance program; regional training and technical assistance
Trespassing on Department property:
29733 Portsmouth Area site, OH

Environmental Protection Agency
PROPOSED RULES
Water pollution; effluent guidelines for point source categories:
29705 Maryland national pollutant discharge elimination system pretreatment program
NOTICES
29757 Agency information collection activities under OMB review
Committees; establishment, renewals, terminations, etc.:
29758 Chesapeake Bay Executive Council
Motor vehicle fuel economy; retrofit devices evaluation:
29764 AUTOTHERM Energy Conservation System
Toxic and hazardous substances control:
29761 Interagency Testing Committee; response, etc.; carbofuran intermediates
Water pollution; discharge of pollutants (NPDES):
29928 Alaska OCS operations
Water pollution control:
29758 State water quality standards; adoptions and approvals; updated listing; availability

Federal Aviation Administration
RULES
Airworthiness directives:
29649 Aerospatiale
29648, 29649 Boeing (2 documents)
29650 McDonnell Douglas
29651 Slingsby Aircraft Co.
29653 Standard instrument approach procedures
PROPOSED RULES
Airworthiness directives:
29694 Fokker

Federal Deposit Insurance Corp.
NOTICES
29794 Meetings; Sunshine Act

Federal Election Commission
NOTICES

Food and Drug Administration

International Trade Commission

Historic Places National Register; pending

VOL 50 ISS 140 JL 22 1985 UMI

Federal Election Commission
NOTICES
Meetings:
29764 Clearinghouse Advisory Panel

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
29655 Public utilities; rate of return on common equity; generic determinations
NOTICES
Electric rate and corporate regulation filings:
29745 Centel Corp. et al.
Hearings, etc.:
29745 Cascade Natural Gas Corp.
29753 Colorado Interstate Gas Co. et al.
29753 FMP Operating Co.
29756 Sohio Alaska Petroleum Co.
29757 Transwestern Pipeline Co.
29757 Zapata Exploration Co.
Natural gas certificate filings:
29739 Colorado Interstate Gas Co. et al.
29747 Natural Gas Pipeline Co. of America et al.
Natural gas companies:
29754 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (Philips Oil Co. et al.)
Preliminary permits surrender
29739 American Hydro Power Co. et al.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
29744 O'Brien Energy Systems, Inc., et al.
29745 Ogden Martin Systems of Bristol, Inc.

Federal Grain Inspection Service
PROPOSED RULES
29689 Weighing and inspection equipment; performance and procedural requirements

Federal Home Loan Bank Board
NOTICES
29794 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
29765 Schulyer Bancorporation
Federal Open Market Committee:
29765 Domestic policy directives

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
29696 Hospital Corp. of America
29699 John C. Lincoln Hospital & Health Center Medical Staff

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
29901 Wildlife classified as endangered or threatened before 1976 and in 1979 and 1980; 5-year status review
29900 Wildlife classified as endangered or threatened in 1978; 5-year status review
Migratory bird hunting:
29706 Waterfowl hunting; non-toxic shot approval procedures

Food and Drug Administration
RULES
Food additives:
29658 Irradiated foods; production, processing and handling
29657 Paper and paperboard components
PROPOSED RULES
Animal drugs, feeds, and related products:
29702 Bulk new animal drug substances; approval for use by veterinarians; correction
Color additives:
29702 D&C Orange No. 17, D&C Red Nos. 8, 9, 19, 33, 36, and 37, FD&C Yellow No. 6, and FD&C Red No. 3; provisional listing; closing date postponed; correction
Food for human consumption:
29702 Pulpy nectars of small fruits; standard consideration terminated; correction
Human drugs:
29702 Antibiotic drugs for over-the-counter (OTC) use; certification exemption
Radiological health:
29704 Radiation emitting electronic products; records and reports regulations review; availability of report; correction
NOTICES
Human drugs:
29765 New drugs and antibiotic drugs; marketing approval; draft guidelines; availability and inquiry; correction

Forest Service
RULES
29673 Landownership; National Forest townsites

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Public Health Service.

Health Care Financing Administration
NOTICES
29766 Privacy Act; systems of records

Immigration and Naturalization Service
RULES
Transportation line contracts:
29641 Skystar International Inc.

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
NOTICES
29816 Privacy Act; systems of records

International Trade Administration
NOTICES
Antidumping:
29711 Barbed wire and barbless fencing wire from Poland
29713 Cellular mobile telephones and subassemblies from Japan
29713 Welded rectangular carbon steel pipes and tubes from Taiwan

International Trade Commission
NOTICES
Import investigations:
29770 Barbed wire and barbless wire strand from Argentina, Brazil, and Poland

Interstate Commerce Commission
PROPOSED RULES
Reports:
29706 Railroad annual report R-1; certification by independent accountant; extension of time

Justice Department
See also Immigration and Naturalization Service.
RULES
29798 Acquisition regulations; competition in contracting, etc.; interim
NOTICES
29771 Agency information collection activities under OMB review

Labor Department
See Occupational Safety and Health Administration.

Land Management Bureau
NOTICES
Sale of public lands:
29768 Idaho
Survey plat filings:
29768 New Mexico

National Credit Union Administration
NOTICES
29772 Agency information collection activities under OMB review

National Highway Traffic Safety Administration
RULES
Motor vehicle safety programs:
29676 Lamps, reflective devices, and associated equipment; modulating headlamps on motorcycles
PROPOSED RULES
Fuel economy standards:
29912 Passenger automobiles
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
29791 California Strolee, Inc

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
29681 Gulf of Alaska groundfish
29681 Gulf of Alaska groundfish; interim
PROPOSED RULES
Fishery conservation and management:
29709 Gulf of Mexico and South Atlantic coastal migratory pelagic resources; correction
NOTICES
Permits:
29715 Marine mammals (2 documents)

National Park Service
NOTICES
Concession contract negotiations:
29769 Bullfrog Resort & Marina, Inc.
Historic Places National Register; pending nominations:
29769 Alabama et al
Meetings:
29769 Cape Cod National Seashore Advisory Commission
29770 National Historic Landmarks; proposed boundaries

National Transportation Safety Board
NOTICES
29772 Aircraft accident: Provincetown-Boston Airlines, Inc.; hearing

Nuclear Regulatory Commission
RULES
29641 Radioactive wastes, high-level; disposal in geologic repositories; unsaturated zones
NOTICES
Applications, etc.:
29774 Florida Power Corp. et al.
29773 Wolverine Power Supply Cooperative, Inc.
Meetings:
29774, 29775 Reactor Safeguards Advisory Committee (3 documents)
Senior Executive Service:
29773 Performance Review Board; membership

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
29659 Tennessee

Public Health Service
NOTICES
Organization, functions, and authority delegations:
29767 Health Resources and Services Administration

Securities and Exchange Commission
NOTICES
Applications, etc.:
29780 Carnegie-Cappiello Growth Trust et al.
29776 Central Power & Light Co.
Self-regulatory organizations; proposed rule changes:
29776 American Stock Exchange, Inc.
29779 National Association of Securities Dealers, Inc.
29777 Options Clearing Corp.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
29704 Wyoming

Synthetic Fuels Corporation
NOTICES
29781 Conflict of interests; revised policy

Tennessee Valley Authority
NOTICES
29794 Meetings; Sunshine Act

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
29716 China
29717 Turkey

Transportation Department
See Coast Guard; Federal Aviation Administration;

CFR PARTS AFFECTED IN THIS ISSUE

Transportation Department
See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

Treasury Department
See also Internal Revenue Service.
NOTICES
29791 Agency information collection activities under OMB review

United States Information Agency
NOTICES
Grants; availability, etc.:
29792 International educational and cultural activities

Veterans Administration
RULES
Vocational rehabilitation and education:
29674 Veterans education; reports of unsatisfactory progress

Separate Parts in This Issue

Part II
29798 Department of Justice

Part III
29816 Department of the Treasury, Internal Revenue Service

Part IV
29900 Department of the Interior, Fish and Wildlife Service

Part V
29912 Department of Transportation, National Highway Traffic Safety Administration

Part VI
29928 Environmental Protection Agency

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandums:
July 17, 1985 29631
Presidential Determinations:
No. 85-16 of July 12, 1985 29629

7 CFR
52 29635
1136 29637
1421 29639
Proposed Rules:
801 29689
802 29689
1427 29693

8 CFR
238 29641

10 CFR
60 29641

14 CFR
39 (5 documents) 29648–29651
97 29653
Proposed Rules:
39 29694

16 CFR
Proposed Rules:
13 (2 documents) 29696, 29699

18 CFR
37 29655

21 CFR
176 29657
179 29658
Proposed Rules:
81 29702
146 29702
201 29702
211 29702
433 29702
514 29702
559 29702
1002 29704

29 CFR
1952 29659

30 CFR
Proposed Rules:
950 29704

33 CFR
117 (3 documents) 29670–29672

36 CFR
254 29673

38 CFR
21 29674

40 CFR
Proposed Rules:
403 29705

48 CFR
217 29675
2801 29798
2804 29798
2806 29798
2807 29798
2808 29798
2809 29798
2810 29798
2814 29798
2815 29798
2827 29798
2830 29798
2831 29798
2834 29798
2835 29798
2852 29798

49 CFR
571 29676
Proposed Rules:
531 29912
1241 29706

50 CFR
611 (2 documents) 29681
672 (2 documents) 29681
Proposed Rules:
17 (2 documents) 29900, 29901
20 29706
642 29709

Federal Register
Vol. 50, No. 140

Presidential Documents

VOL
50
ISS
140
JL
22
1985
UMI

Federal Register
Vol. 50, No. 140
Monday, July 22, 1985

Presidential Documents

Title 3—

The President

Presidential Determination No. 85–16 of July 12, 1985

Determination Pursuant to Sections 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

In order to meet unexpected urgent refugee and migration needs in the Near East and Southeast Asia, I hereby determine, pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended (the Act), that it is important to the national interest that there shall be made available from the United States Emergency Refugee and Migration Assistance Fund up to $8 million for assistance to Palestinian refugees in the Near East and up to $2 million for assistance to Khmer in Thailand, including, as appropriate, contributions to the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the International Committee of the Red Cross, and the United Nations Border Relief Operation.

The Secretary of State is requested to inform the appropriate committees of the Congress of this Determination.

This Determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, July 12, 1985.

[FR Doc. 85–17409
Filed 7–18–85; 12:46 pm]
Billing code 3195–01–M

Presidential Documents

VOL
50
ISS
140
JL
22
1985
UMI

Presidential Documents

Memorandum of July 17, 1985

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to Section 301(a) of the Trade Act of 1974, as amended (19 U.S.C. 2411(a)), I have determined that the practices of the Member States of the European Space Agency (ESA) and their instrumentalities with respect to the commercial satellite launching services of Arianespace, S.A. are not unreasonable and a burden or restriction on U.S. commerce. While Arianespace does not operate under purely commercial conditions, this is in large measure a result of the history of the launch services industry, which is marked by almost exclusive government involvement. I have determined that these conditions do not require affirmative U.S. action at this time. But because of my decision to commercialize expendable launch services in the United States, and our policies with respect to manned launch services such as the Shuttle (STS), it may become appropriate for the United States to approach other interested nations to reach an international understanding on guidelines for commercial satellite launch services at some point in the future.

Reasons for Determination

Based on a petition filed by Transpace Carriers, Inc., (TCI) the United States Trade Representative (USTR) initiated an investigation on July 9, 1984, of the European Space Agency's policies with respect to Arianespace S.A. Arianespace is a privately owned company, incorporated under the laws of France for the purpose of launching satellites. Arianespace's shareholders include the French national space agency, and aerospace companies and banks incorporated in the ESA Member States.

The Petitioner alleged that 1) Arianespace uses a two tier pricing policy whereby Arianespace charges a higher price to ESA Member States than to foreign customers; 2) the French national space agency (CNES) subsidizes launch and range facilities, and services and personnel provided to Arianespace; 3) the French national space agency subsidizes the administrative and technical personnel it provides to Arianespace; and 4) Arianespace's mission insurance rates are subsidized. In addition to these allegations, the U.S. also investigated three other areas: government inducements to purchasers of Arianespace's services; direct and indirect government assistance to Arianespace; and, Arianespace's costs and pricing policies.

Our findings with respect to these allegations are set forth below. Many of the factual allegations were not supported by evidence on the record. While other allegations were substantiated, the practices were not sufficiently different from U.S. practice in this field to be considered unreasonable under Section 301.

Government Inducements:

The investigation uncovered no evidence of offsets or insurance being provided by ESA or its Member States. Member States of ESA do provide export financing for Arianespace's customers. However, the terms of the financing are consistent with international agreements to which the United States is a party.

Direct Government Assistance:

Administrative Personnel: Arianespace and CNES entered into a Head Off-

Since there are no international standards of reasonableness for launch

Direct Government Assistance:

Administrative Personnel: Arianespace and CNES entered into a Head Office Services Agreement pursuant to which CNES personnel perform certain administrative functions for Arianespace. CNES charges Arianespace a flat percentage of annual turnover for its services. While the fee is arbitrary, we have no reason to question CNES's assertion that the fee, in fact, covers actual wage costs plus fringe benefits. The amounts paid to date seem reasonable.

Range Services: The range facilities at Kourou are operated by CNES. Arianespace pays CNES a fee for the use of the range facilities including personnel services. The fee is arbitrary and it does not cover the full range costs incurred by Arianespace. ESA claims that when the fee is raised Arianespace will pay the full cost of range services attributable to Arianespace's activities. Current U.S. policy offers use of the national ranges and launch support services to commercial ELV's on a direct cost, rather than full cost, reimbursement basis.

Loans and Capital Grants: There is no evidence of direct capital grants or soft loans being given to Arianespace by ESA or the Member States other than CNES, which as a stockholder put up equity capital in Arianespace. Of course, Arianespace stockholders, some of whom, e.g. Aerospatiale, are government-owned, have contributed equity capital to the firm. However, we have no evidence to suggest that such transactions are inconsistent with normal commercial practice.

Hardware: ESA provided a certain amount of hardware to Arianespace at less than its cost of acquisition. ESA claims that the cost was reduced because some of the hardware had been used. ESA estimated the value of this hardware to be $50,000. NASA's agreement with TCI for the transfer of the Delta program also provided for transfer of certain flight hardware at less than the government's cost of acquisition.

Protected Home Market: ESA and its Member States have agreed to give Arianespace a preference over other launch service providers with respect to payloads owned and operated by these government entities. Because of this preference and because almost all European communication satellites are operated by governments, rather than private firms, U.S. ELV's and the Shuttle (STS) have limited opportunities to penetrate the European market. In contrast, much of the U.S. market, which is the major market in the world, is open because communication satellites are owned and operated by private sector firms. However, U.S.G. payloads also are carried almost exclusively by U.S. launch service providers. Thus, there is little difference in the respective treatment by ESA and the United States of government payloads. The major difference is in the structure of the market with European communication satellites being operated primarily by government entities.

Indirect Government Assistance: Because Arianespace's major suppliers are also major stockholders and because some of these suppliers are, in turn, owned in whole or part by Member State governments of ESA there is concern that the governments, through their ownership of these supplier companies, can artificially reduce Arianespace's operating costs. However, the investigation uncovered no evidence to suggest that Arianespace is obtaining significant assistance by reason of low-cost inputs from its suppliers.

Costs and Pricing: Under current pricing policies, Arianespace is not recovering its full costs, nor is it likely to do so in the near future. ESA has agreed to long-term, fixed-price contracts for launch services with Arianespace. On the other hand, Arianespace has been quite flexible in its price bids to non-ESA customers, and consistently charges less than the price charged to ESA. But it is not uncommon for firms to discount heavily in order to establish themselves in the market, especially when demand is low. Therefore, it appears that market forces, especially the current excess supply of launch capacity, are primarily responsible for current low launch prices.

Since there are no international standards of reasonableness for launch services, we have compared ESA practices to United States practice, and to reasonable commercial practices. The ESA practices are not sufficiently different from those of the U.S. to be actionable under Section 301. This determination is not an endorsement of ESA practices. Our policies in this area are now undergoing revision, and in the future we may wish to reexamine ESA's practices and their effect on U.S.G. launch services. At that time it may be in our mutual interest to engage in international discussions aimed at establishing appropriate guidelines for the commercial launch industry.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, July 17, 1985.

[FR Doc. 85-17441
Filed 7-18-85; 2:47 pm]
Billing code 3195-01-M

Rules and Regulations

VOL
50
ISS
140
JL
22
1985
UMI

Rules and Regulations

Federal Register
Vol. 50, No. 140
Monday, July 22, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Tomato Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Canned Tomato Juice and establish U.S. Standards for Grades of Tomato Juice from Concentrate. This rule was developed by the U.S. Department of Agriculture (USDA) at the request of major segments of the tomato juice industry. It will improve the standards by: (1) Establishing standards for tomato juice from concentrate; (2) modernizing the format of the standards to include definitions of terms and easy to read tables; (3) removing the word "canned" from the canned tomato juice grade standards; and (4) redesignating the grade name, "U.S. Grade C" to "U.S. Grade B," with no quality change through this redesignation. Its effect will be to improve the standards and promote orderly and efficient marketing of tomato juice and tomato juice from concentrate.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Graesanto V. Berbano, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

It is found that good cause exists for making this document effective upon publication in the **Federal Register** (5 U.S.C. 533) because: (1) The 1985-86 crop year begins in late June or early July 1985, and this final rule should be effective by the time new crop deliveries from growers to processors begin; (2) postponing the effective date of this final rule would serve no useful purpose and could cause administrative problems in the application of the U.S. Standards for Grades of Tomato Juice; (3) the effective date for compliance to the amended FDA Standards of Identity and Standards of Quality for Tomato Juice was July 1, 1985.

The Food and Drug Administration (FDA) on January 28, 1983 (48 FR 3946) amended 21 CFR 156.145 to provide for the use of tomato concentrates (tomato puree, tomato paste and concentrated tomato juice) to prepare tomato juice from concentrate and to establish a minimum tomato soluble solids requirement of 5.0 percent, by weight, for tomato juice from concentrate. The effective date for compliance to this amendment was July 1, 1985.

Because of its relationship to the FDA standards, the product description in the current U.S. grade standards for "canned tomato juice" includes "canned tomato juice from concentrate." The final rule will provide separate requirements for "tomato juice from concentrate." Two tables—one for "tomato juice" and another for "tomato juice from concentrate" showing score point ranges for the various quality factors in tabular rather than narrative form—are included in the final rule.

Innovations in processing practices for tomato juice have brought about methods of marketing tomato juice in containers other than hermetically sealed cans. So that the standards can be used for these other types of processing and packaging, the word "canned" will be eliminated from the canned tomato juice grade standards.

The canned tomato juice grade standards have the two quality levels designated as "U.S. Grade A" and "U.S. Grade C." Most other U.S. grade standards for juices have quality levels designated as "U.S. Grade A" and "U.S. Grade B." This action will change the grade designation of "U.S. Grade C" to "U.S. Grade B."

The final rule will also provide a uniform format consistent with recent revisions of other U.S. grade standards. The format has been designed to provide industry personnel and agricultural commodity graders with simpler and more comprehensive standards. Definitions of terms and easy to read tables have been incorporated to assure a better understanding and a uniform application of the standards.

On March 19, 1985, a proposed rule was published in the **Federal Register** (50 FR 10970) to provide for the establishment of grade standards for tomato juice from concentrate with easy to read tables, remove the word "canned" from the canned tomato juice grade standards, and redesignate the grade name, "U.S. Grade C" to "U.S. Grade B," with no quality change through this redesignation.

One comment was received in response to the proposed rule. The National Food Processors Association (NFPA), which is a trade association representing about 600 member companies, fully supports the proposal.

After review of the NFPA comment and in order to promote the orderly marketing of tomato juice, the USDA hereby revises the voluntary grade standards for canned tomato juice to: (1) include tomato juice from concentrate; (2) modernize the format of the standards to include definitions of terms and easy to read tables; (3) remove the word "canned" from the canned tomato juice grade standards; and (4) redesignate the grade name, "U.S. Grade C" to "U.S. Grade B," with no quality change through this redesignation.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food

color contains as much red as, or more red than, that produced by spinning the

not a marked degree of solids separation.

of quality for the purposes of these

TABLE II.—TOMATO JUICE FROM CONCENTRATE

(bottling) use that may be moved

VOL 50 ISS 140 JL 22 1985 UMI

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

PART 52—[AMENDED]

Accordingly, 7 CFR Part 52 is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205; 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624.

2. Subpart—United States Standards for Grades of Canned Tomato Juice (7 CFR 52.3621–52.3630) is revised to read as follows:

Subpart—United States Standards for Grades of Tomato Juice

Sec.

52.3621 Product description.
52.3622 Definitions of terms.
52.3623 Recommended sample unit sizes.
52.3624 Grades.
52.3625 Recommended fill of container.
52.3626 Factors of quality and analysis.
52.3627 Requirements for grades.
52.3628 Sample size.
52.3629 Lot quality requirements.

§ 52.3621 Product description.

(a) *"Tomato juice"* is the product as defined in the Standards of Identity for Tomato Juice (21 CFR 156.145), issued under the Federal Food, Drug, and Cosmetic Act.

(b) *"Tomato juice from concentrate"* is the product as defined in the Standards of Identity for Tomato Juice (21 CFR 156.145), issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.3622 Definitions of terms.

In these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Color.*—(1) *General.* The amount of red in tomato juice and tomato juice from concentrate is determined by comparing the color of the product with the Munsell color discs with specified percentages. The availability and procedure for using the Munsell color discs may be obtained from the supplier licensed by the U.S. Department of Agriculture:

Munsell Color Company, 2441 North Calvert Street, Baltimore, Maryland 21218

Any method or device approved by the USDA (including electronic color meters) which gives equivalent results may be used.

(2) *"Good color"* means a color that is bright and characteristic of tomato juice, made from mature red tomatoes, which is not affected by caramelization, oxidation or other similar causes. Such color contains as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

65 percent of the area of Red (5R 2.6/13) (glossy finish);
21 percent of the area of Yellow (2.5 YR 5/12) (glossy finish); and
14 percent of the area of either Black (N1) (glossy finish) or Grey (N4) (mat finish); or
7 percent of the area of Black (N1) (glossy finish) and
7 percent of the area of Grey (N4) (mat finish), whichever most nearly matches the reflectance of the product.

(3) *"Reasonably good color"* means a color that is typical of red tomato juice which may be slightly affected by caramelization, oxidation or other similar causes.

(i) To score 25 points for color, the juice shall contain as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

59 percent of the area of Red (5R 2.6/13) (glossy finish);
24½ percent of the area of Yellow (2.5 YR ⅚) (glossy finish); and
16½ percent of the area of either Black (N1) (glossy finish) or Grey (N4) (mat finish); or
8¼ percent of the area of Black (N1) (glossy finish) and
8¼ percent of the area of Grey (N4) (mat finish), whichever most nearly matches the reflectance of the product.

(ii) To score 23 or 24 points for color, the juice shall contain as much red as, or more red than, that produced by spinning the specified Munsell color discs in the following combinations or an equivalent of such composite color:

53 percent of the area of Red (5R 2.6/13) (glossy finish);
28 percent of the area of Yellow (2.5 YR 5/12) (glossy finish); and
19 percent of the area of either Black (N1) (glossy finish) or Grey (N4) (mat finish); or
9½ percent of the area of Black (N1) (glossy finish) and
9½ percent of the area of Grey (N4) (mat finish), whichever most nearly matches the reflectance of the product.

(b) *Consistency* means the viscosity of tomato juice or tomato juice from concentrate including the degree of separation of the insoluble solids.

(1) *Good Consistency* means that the juice flows readily; has a normal amount of insoluble tomato solids in suspension; and that there is little solids separation.

(2) *Reasonably good consistency* means that the juice flows readily; has a normal amount of insoluble tomato solids in suspension; and that there is not a marked degree of solids separation.

(c) *Defects* means dark specks or scale-like particles, seeds, particles of seed, tomato peel, core material, or other similar substances.

(1) *Practically free from defects* means that any defects present do not more than slightly affect the appearance or drinking quality of the product.

(2) *Reasonably free from defects* means that any defects present may be noticeable, but are not so large, so numerous, or of such contrasting color as to seriously affect the appearance or drinking quality of the product.

(d) *Flavor.* Flavor is evaluated based upon characteristics normal to tomato juice or tomato juice from concentrate.

(1) *Good flavor* means a distinct tomato juice flavor and odor characteristic of good quality tomatoes which is not materially affected by stems, leaves, crushed seeds, cores, immature tomatoes, or the effects of improper trimming or processing.

(2) *Reasonably good flavor* means a characteristic tomato juice flavor which may be materially, but not seriously, affected by stems, leaves, crushed seeds, cores, immature tomatoes, or the effects of improper trimming or processing.

(e) *Tomato soluble solids* (TSS) means the sucrose value as determined by the method prescribed in 21 CFR 156.3.

§ 52.3623 Recommended sample unit sizes.

The requirements for all factors of quality are based on the following:

(a) The entire contents of a container;

(b) A representative portion of the contents of a container;

(c) A combination of the contents of two or more containers; or

(d) A representative portion of processed product stored or held in bulk containers.

§ 52.3624 Grades.

(a) *U.S. Grade A* is the quality of tomato juice or tomato juice from concentrate that meets the applicable requirements of Tables I or II.

(b) *U.S. Grade B* is the quality of tomato juice or tomato juice from concentrate that meets the applicable requirements of Tables I or II.

(c) *Substandard* is the quality of tomato juice or tomato juice from concentrate that fails to meet the requirements for "U.S. Grade B."

§ 52.3625 Recommended fill of container.

Fill of container is not incorporated in the grades of the finished product, since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container of tomato juice be filled as full as practicable without impairment of quality, and that the product occupies not less than 90 percent of the capacity of the container.

§ 52.3626 Factors of quality and analysis.

(a) The grade of a lot of tomato juice or tomato juice from concentrate is based on evaluation and analysis of the juice for the following quality and analytical factors:

(1) Color;
(2) Consistency;
(3) Defects;
(4) Flavor; and
(5) Tomato soluble solids (tomato juice from concentrate).

(b) The relative importance of each quality factor is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors	Points
Color	30
Consistency	15
Defects	15
Flavor	40
Total Score	100

(c) The essential variations within each factor are so described that the value may be determined for each factor and expressed numerically. The numerical range for the rating of each factor is inclusive (for example, 13 to 15 points means 13, 14, or 15 points) and the score points shall be prorated relative to the degree of excellence for each factor.

§ 52.3627 Requirements for grades.

TABLE I.—TOMATO JUICE

Quality factors	Factor description	Grade	Score point range
Color	Good	(A)	26–30
	Reasonably good	(B)	[1]25
Consistency	Good	(A)	[2]23–24
	Reasonably good	(B)	13–15
Defects	Practically free	(A)	[3]10–12
	Reasonably free	(B)	13–15
Flavor	Good	(A)	[4]10–12
	Reasonably good	(B)	33–40
Minimum total score.		(A)	[5]27–32
			85 points
		(B)	(6)
		(B)	70 points

[1] Tomato juice assigned 25 points for the factor of color can be graded U.S. Grade A, provided all other requirements for U.S. Grade A are met and that the total score for the product is not less than 85 points.
[2] Tomato juice assigned 23 or 24 points for the factor of color cannot be graded above U.S. Grade B regardless of the total score for the product.
[3] Tomato juice possessing only "reasonably good consistency" (10–12 points) can be graded U.S. Grade A, provided all other requirements for U.S. Grade A are met and that the total score for the product is not less than 85 points.
[4] Cannot be graded above U.S. Grade B regardless of the total score for the product.

TABLE II.—TOMATO JUICE FROM CONCENTRATE

Quality factors	Factor description	Grade	Score point range
Color	Good	(A)	26–30
	Reasonably good	(B)	[1]25
Consistency	Good	(A)	[2]23–24
	Reasonably good	(B)	13–15
Defects	Practically free	(A)	[3]10–12
	Reasonably free	(B)	13–15
Flavor	Good	(A)	[4]10–12
	Reasonably good	(B)	33–40
Minimum total score.		(A)	[5]27–32
			85 points
		(B)	(6)
		(B)	70 points

[1] Tomato juice from concentrate assigned 25 points for the factor of color can be graded U.S. Grade A, provided all other requirements for U.S. Grade A are met and that the total score for the product is not less than 85 points.
[2] Tomato juice from concentrate assigned 23 or 24 points for the factor of color cannot be graded above U.S. Grade B regardless of the total score for the product.
[3] Tomato juice from concentrate possessing only "reasonably good consistency" (10–12 points) can be graded U.S. Grade A, provided all other requirements for U.S. Grade A are met and that the total score for the product is not less than 85 points.
[4] Cannot be graded above U.S. Grade B regardless of the total score for the product.

Note: Tomato soluble solids (minimum)—5.0 percent by weight.

§ 52.3628 Sample size.

The sample size used to determine whether the requirements of these standards are met shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 52.1–52.83) for lot grading and on-line grading, as applicable.

§ 52.3629 Lot quality requirements.

A lot of tomato juice or tomato juice from concentrate is considered as meeting the requirements for quality if:

(a) The requirements specified in Tables I or II, as applicable, are met; and

(b) The sampling plans and procedures in 7 CFR 52.1–52.83 are met.

Done at Washington, D.C., on: July 16, 1985.

William T. Manley,
Deputy Administrator, Marketing Programs.

[FR Doc. 85–17302 Filed 7–19–85; 8:45 am]
BILLING CODE 3410–02–M

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7 CFR Part 1136

Milk in the Great Basin Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues for the months of July through December 1985 a suspension of the provisions of the Great Basin milk order that limit the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Also suspended for the same period is the requirement that 6 days' production of each producer whose milk is diverted to nonpool plants be received at pool plants in order for the diverted milk to be priced and pooled under the order. The suspension was requested by Western General Dairies, Inc., a cooperative association representing most of the producers supplying the market. The suspension is needed to prevent uneconomic movements of milk.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued June 12, 1985; published June 18, 1985 (50 FR 25249).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Great Basin marketing area.

Notice of proposed rulemaking was published in the Federal Register on June 18, 1985 (50 FR 25249) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon.

Views in opposition to the proposed suspension were received from twenty-four producers and the operator of the pool plant to which their milk is delivered.

The opponents view the suspension request as a means by which cooperatives could associate additional milk supplies with the Great Basin market, thereby lowering the blend price to producers in the Great Basin market. They also expressed the view that the suspension of the diversion percentages

would result in shifting costs that should be borne by the cooperative that is

through August, and up to 20 percent of its member milk physically received at

With regard to the percentage limitations on the amount of milk that

hereof is impractical, unnecessary and contrary to the public interest in that:

Commodity Credit Corporation

Environmental Impact Statement is needed.

VOL 50 ISS 140 JL 22 1985 UMI

would result in shifting costs that should be borne by the cooperative that is diverting its producers' milk to other producers who are not members of the cooperative.

Western General submitted data showing that Grade A milk marketed jointly by Western General and Lake Mead Cooperative Association in the Great Basin marketing area increased 49.9 percent between August 1984 and May 1985 while dispositions by the two cooperatives to fluid milk plants have increased only 14.9 percent. Proponent states that the movement of producer milk solely for the purpose of qualifying those producers for pooling on the Great Basin market has caused additional expense to the cooperative for handling the reserve supply of milk.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of July through December 1985 the following provisions do not tend to effectuate the declared policy of the Act:

(1) Section 1136.13(c)(2).

(2) In § 1136.13(c)(3), the language "*Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;", and

(3) In § 1136.13(c)(4), the language "*Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;".

Statement of Consideration

This action makes inoperative for July through December 1985 the requirement that at least 6 days' production of each producer whose milk is diverted to nonpool plants be received at pool plants in order for the diverted milk to be priced and pooled under the order. In addition, this action continues a suspension that has been in effect since January 1985 of the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 25 percent of its member milk physically received at pool plants in any month of March through August, and up to 20 percent of its member milk physically received at pool plants in any month of September through February. Similarly, the operator of a pool plant may divert up to 25 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of March through August, and 20 percent during the months of September through February.

The suspension was requested by Western General Dairies, Inc., a cooperative association that supplies most of the market's fluid milk needs and handles most of the market's reserve milk supplies.

The suspension is necessary because the volume of producer milk marketed jointly by Western General and Lake Mead Cooperative Association in the Great Basin marketing area increased 49.90 percent over the period from August 1984 to May 1985. During the same period, combined dispositions of the two cooperative associations to fluid plants increased only 14.94 percent. Consequently, the cooperative's reserve milk supplies through December 1985 are expected to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of the suspension, some of the milk of the cooperative's member producers who regularly have supplied the fluid market would have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants in order to continue producer status for such milk during July through December 1985.

In addition, milk has had to be moved uneconomically from distant production areas in order to meet the 6-day delivery requirement, only to displace milk produced at locations nearer the pool plants. The close-in milk must then be moved, uneconomically, to distant nonpool plants for manufacturing use.

It is obvious from the comments received that minunderstanding exists regarding the role of diversion provisions under an order. Diversion of milk from a pool plant to a nonpool plant is simply a way for milk that is surplus to the fluid needs of a market to be delivered directly from the farm to a nonpool plant for use in manufactured products. The alternative to such practice is to receive the milk at a pool plant and then transfer the milk to a nonpool plant. Such alternative is more costly than moving the milk directly from the farm to the nonpool plant. Under the alternative method, the milk must first be moved to the pool plant, physically unloaded, then reloaded and moved to a nonpool plant.

With regard to the percentage limitations on the amount of milk that may be diverted to nonpool plants under the Great Basin order, such limitations are quite restrictive in comparison to most other Federal orders. Under the Great Basin order during months when the 20-percent limitation on diversions to nonpool plants is in effect, not more than 17 percent of the producer milk can be diverted to nonpool plants while in excess of 83 percent of the producer milk supply must be received at pool plants.

Proponent cooperative requested that the suspension be effective for an additional six-month period to allow time for a hearing to be held to review whether changes should be made in the order provisions to accommodate future needs of the market. In view of the increased production on the market and the cooperative's request for time to assess how the order might best accommodate the production increases in an orderly manner, a continued suspension appears to be appropriate. Accordingly, the suspension should be effective for the months of July through December 1985.

While the suspension of the diversion percentages will allow the movement of additional milk supplies directly from the farms of producers to nonpool plants, other provisions of the order will assure that producers have a continuing association with this market. The pooling requirements for pool plants under the Great Basin order specify that diversions are to be included as receipts of the pool plant in determining the pool status of plants. Consequently, the volume of milk that cooperative associations and pool plant operators may associate with the Great Basin market as producer milk is limited by the pooling provisions of the order. Thus, the suspension of the diversion percentages will not permit the association of unlimited milk supplies with the Great Basin market, which appeared to be one of the primary concerns of opponents of the proposed suspension.

In view of these circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. The suspension will provide greater flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. Views in opposition to the proposed suspension and in favor of the proposed action were received from interested parties and considered in determining whether the proposed suspension should be adopted.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1136

Milk marketing orders, Milk, Dairy products.

PART 1136—[AMENDED]

§ 1136.13 [Amended]

It is therefore ordered, that the following language in § 1136.13(c) is suspended for the months of July through December 1985:

(1) Section 1136.13(c)(2).

(2) In § 1136.13(c)(3), the language "*Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;", and

(3) In § 1136.13(c)(4), the language "*Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;".

Effective Date: July 22, 1985.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C., on July 17, 1985.

Karen K. Darling,

Acting Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 85–17382 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

[Amdt. 4]

Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations found at 7 CFR 1421.5551 *et seq.* relating to the Commodity Credit Corporation (CCC) Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed. The final rule will: (1) Permit a parent company to submit a financial statement for a wholly-owned subsidiary; (2) permit warehousemen to submit financial statements on forms other than on Form WA–51–2; (3) revise the references to CCC regulations governing suspension and debarment; (4) permit CCC to accept an irrevocable letter of credit on forms other than Form CCC–33A; (5) delete the use of a Certificate of Competency issued by the Small Business Administration for a warehouseman who is deficient in net worth; (6) delete certain references to the withdrawal of approval of warehouses by CCC; and (7) make certain other miscellaneous changes.

EFFECTIVE DATE: June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Lynda Flament, 202–447–7912, Warehouse Division, U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not major" since it does not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 28115 (June 24, 1983).

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The Commodity Credit Corporation Charter Act (15 U.S.C. 714) authorizes CCC to conduct various activities to stabilize, support, and protect farm income and prices. CCC is authorized to carry out such activities as making price support available with respect to various agricultural commodities, removing and disposing of surplus agricultural commodities, exporting or aiding in the exportation of agricultural commodities, and procuring agricultural commodities for sale both in the domestic market and abroad.

Section 4(h) of the CCC Charter Act provides that CCC shall not acquire real property in order to provide storage facilities for agricultural commodities, unless CCC determines that private facilities for the storage of such commodities are inadequate. Further, Section 5 of the CCC Charter Act provides that, in carrying out the Corporation's purchasing and selling operations, and in the warehousing, transporting, processing, or handling of agricultural commodities, CCC is directed to use, to the maximum extent practicable, the usual and customary channels, facilities, and arrangements of trade and commerce.

Accordingly, CCC has set forth Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed which must be met by warehousemen before CCC will enter into storage agreements with such warehousemen for the storage of grain and other commodities which are owned by CCC or which are serving as collateral for CCC price support loans.

Changes in the grain warehousing industry, financial institution requirements, and Federal contracting requirements during the past few years necessitate updating the Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed.

Accordingly, a notice of proposed rulemaking was published by the Department in the **Federal Register** on

April 26, 1985, 50 FR 16504, requesting comments with respect to a number of

Final Rule

(2) Be neither suspended nor debarred under applicable CCC suspension and

action, request reconsideration of the action and present to the Director,

9. Part 1421 is amended to add a new

an editorial change to the listing of

VOL 50 ISS 140 JL 22 1985 UMI

April 26, 1985, 50 FR 16504, requesting comments with respect to a number of proposals regarding changes in the Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed. The comment period was for thirty days and ended on May 28, 1985.

Amendments to the regulations were proposed which would: (1) Permit a parent company to submit a financial statement for a wholly-owned subsidiary; (2) permit warehouses to submit financial statements on forms other than on Form WA–51–2; (3) revise the references to CCC regulations governing suspension and debarment; (4) permit CCC to accept an irrevocable letter of credit on forms other than Form CCC–33A; (5) delete the use of a Certificate of Competency issued by the Small Business Administration for a warehouseman who is deficient in net worth; (6) delete certain references to the withdrawal of approval of warehouses by CCC; and (7) make certain other miscellaneous changes, such as correcting the mailing address for the Kansas City Commodity Office, changing old Form TW–51 to Form WA–51–2, deleting the contract fee schedule since the schedule is subject to change, and adding a new § 1421.5559 to include control numbers assigned by the Office of Management and Budget (OBM) under the provisions of 44 U.S.C. Chapter 35 for information collection requirements.

Two comments were received, one from a State Agency and one from a National Association. The State Agency supports the proposed changes. The Agency approves of the practice of accepting financial statements submitted by a parent company for a wholly-owned subsidiary. However, they recommend that a letter of guarantee be submitted by the parent company to assure the integrity of the contract. In the past when financial statements from parent companies have been accepted by CCC for a wholly-owned subsidiary under limited circumstances, a Letter of Guarantee has been required. We intend to continue this practice. The National Association submitted the results of a pool of its membership. The results showed that the majority of those polled support the proposed changes.

Accordingly, it has been determined that the provisions of the proposed rule should be adopted as a final rule.

List of Subjects in 7 CFR Part 1421

Grains, Loans programs, Agriculture, Oilseeds, Peanuts, Price support programs, Soybeans, Surety bonds, Tobacco, and Warehouses.

Final Rule

PART 1421—[AMENDED]

Accordingly, the regulations at 7 CFR Part 1421 are amended as follows:

1. The authority citation for 7 CFR Part 1421, Subpart-Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed is added to read as follows:

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended, 1072, as amended (15 U.S.C. 714 b and c).

2. The table of contents to 7 CFR Part 1421, Subpart-Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed is amended by adding New § 1421.5559 to read as follows:

* * * * *

1421.5559 OMB Control Numbers Assigned Pursuant to Paperwork Reduction Act.

3. In Section 1421.5551, paragraphs (b) and (d)(2) (iv) and (v) are revised to read as follows:

§ 1421.5551 General Statement and Administration.

* * * * *

(b) Copies of the CCC storage agreement and forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, P.O. Box 205, Kansas City, Missouri 64141 (hereinafter referred to as the "KCCO").

* * * * *

(d) * * *

(2) * * *

(iv) A current financial statement on Form WA–51–2, "Financial Statement", supported by such supplemental schedules as CCC may request. Financial statements may be submitted on forms other than Form WA–51–2 with approval of the Director, KCCO, or the Director's designee.

(v) Only one financial statement is required for a chain of warehouses owned or operated by a single business entity. If approved by the Director, KCCO, or the Director's designee, the financial statement of a parent company, which includes the financial position of a wholly-owned subsidiary, may be used to meet the CCC standards for approval for the wholly-owned subsidiary.

* * * * *

4. In § 1421.5552, paragraph (c)(2) is revised to read as follows:

§ 1421.5552 Basic standards.

* * * * *

(c) * * *

(2) Be neither suspended nor debarred under applicable CCC suspension and debarment regulations.

* * * * *

5. In § 1421.5553, paragraph (e) is revised to read as follows:

§ 1421.5553 Bonding requirements for net worth.

* * * * *

(e) An irrevocable letter of credit may be accepted by CCC in lieu of the required amount of bond coverage provided that the issuing bank is a commercial bank insured by the Federal Deposit Insurance Corporation. Such standby letter of credit shall be on Form CCC–33A, "Irrevocable Letter of Credit", or on such other form as may be specifically approved by the Director, KCCO, or the Director's designee.

§ 1421.5555 [Amended]

6. Section 1421.5555 is amended by deleting paragraph (b) and by redesignating paragraph (c) as paragraph (b).

7. Section 1421.5556 is revised to read as follows:

§ 1421.5556 Approval of warehouses, requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set forth in this subpart. CCC will send a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of the responsibility for performing the warehouseman's obligations under any agreement with CCC or any other agency of the United States.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set forth in this subpart, and

(2) CCC will send any notice of rejection of approval to the warehouseman. The notice will state the cause(s) for such action. Unless the warehouseman or any officials or supervisory employees of the warehouseman are suspended or debarred, CCC will approve the warehouse if the warehouseman establishes that the causes for CCC's rejection of approval have been remedied.

(c) If rejection of approval by CCC is due to the warehouseman's failure to meet the standards set forth:

(1) In § 1421.5552, other than the standard set forth in paragraph (c)(2) thereof, the warehouseman may, at any time after receiving notice of such action, request reconsideration of the action and present to the Director, KCCO, in writing, information in support of such request. The Director shall consider such information in making a determination and notify the warehouseman in writing of such determination. The warehouseman may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing thereon by filing an appeal with the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS"). The time of filing appeals, forms for requesting an appeal, nature of the informal hearing, determination and reopening of the hearing shall be as prescribed in the ASCS regulations governing appeals, 7 CFR 780. When appealing under such regulations, the warehouseman shall be considered as a "participant"; and

(2) In § 1421.5552(c)(2), the warehouseman's administrative appeal rights with respect to suspension and debarment shall be in accordance with applicable CCC regulations. After expiration of a period of suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

8. Section 1421.5558 is revised to read as follows:

§ 1421.5558 Contract fees.

(a) Each warehouseman who has a non-Federally licensed grain or rice warehouse in States that do not have a Cooperative Agreement with CCC for warehouse examinations must pay an annual contract fee to CCC for each such warehouse which is approved by CCC or for which CCC approval is sought as follows:

(1) A warehouseman who has an existing agreement with CCC for the storage or handling of CCC-owned commodities or commodities pledged to CCC as loan collateral must pay an annual contract fee for each warehouse approved under that agreement in advance of the renewal date of such agreement.

(2) A warehouseman who does not have an existing agreement with CCC for the storage and handling of CCC-owned commodities or commodities pledged to CCC as loan collateral but who desires such an agreement must pay a contract fee for each warehouse for which CCC approval is sought prior to the time that the agreement is approved by CCC.

(b) The amount of the contract fee shall be determined and announced annually in the **Federal Register**.

9. Part 1421 is amended to add a new § 1421.5559 to read as follows:

§ 1421.5559 OMB control numbers assigned pursuant to Paperwork Reduction Act.

The information collection requirements contained in this regulation (7 CFR Part 1421) have been approved by the Office of Management and Budget under provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Numbers 0560–0009 and 0560–0036.

Signed at Washington, D.C. on July 17, 1985.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 85–17383 Filed 7–19–85; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Skystar International, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Skystar International, Inc. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Skystar International, Inc. on July 3, 1985, to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.2 [Amended]

In § 238.3 aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, "Skystar International, Inc."

* * * * *

Dated: July 10, 1985.

Marvin J. Gibson,

Acting Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 85–17278 Filed 7–19–85; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 60

Disposal of High-Level Radioactive Wastes in Geologic Repositories

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations for the disposal of high-level radioactive wastes in geologic repositories. These amendments will ensure that the rule contains specific criteria for the disposal of high-level radioactive wastes within the unsaturated zone. This action is necessary to assure that NRC regulations address considerations relevant to all geologic repositories.

whether sited in the saturated or unsaturated zone.

contained a discussion of the principal technical issues considered by the

from the disturbed zone to the accessible environment which

other Federal agencies, endorsed the

comments received on this question, the

accessible environment will also be

VOL 50 ISS 140 JL 22 1985 UMI

whether sited in the saturated or unsaturated zone.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Frank A. Costanzi, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4362.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 1981, the Nuclear Regulatory Commission (NRC) promulgated a rule that established procedures for licensing the disposal of high-level radioactive wastes (HLW) in geologic repositories (46 FR 13971). NRC promulgated technical criteria to be used in the evaluation of license applications under those procedures on June 21, 1983 (48 FR 28194). Although these technical criteria are generally appropriate to disposal in both the saturated and unsaturated hydrogeologic zones, some further distinctions need to be made for disposal in the unsaturated zone. Consequently, the Commission expressed its intent to issue specific technical criteria for the unsaturated zone after promulgating the final technical criteria so as to afford further opportunity for public comment on this issue. Proposed amendments to these technical criteria to include HLW disposal within either the saturated or unsaturated zone were published for comment on February 16, 1984. These proposed amendments contained provisions for new definitions and favorable and potentially adverse siting criteria. In addition to the proposed amendments, the Commission specifically requested public input on two questions related to groundwater travel time calculations within the unsaturated zone. In conjunction with the proposed amendments, the Commission published for public comment draft NUREG–1046 [1] which contained a discussion of the principal technical issues considered by the Commission during the development of the proposed amendments.

[1] Draft NUREG–1046—*Disposal of High-Level Radioactive Wastes in the Unsaturated Zone: Technical Considerations* is currently being revised to reflect changes made in the amendments to 10 CFR Part 60 related to HLW disposal within the unsaturated zone. When this revision is completed, a copy of NUREG–1046 will be placed in the Commission's Public Document Room. Upon publication, copies of NUREG–1046 may be purchased by calling (301) 492–9530 or by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Summary of Comments and Changes

A total of fourteen groups and individuals commented on the proposed amendments and draft NUREG–1046. There was general acceptance of the Commission's view that disposal of HLW within the unsaturated zone is a viable alternative to disposal within the saturated zone. The commenters addressed the Commission's specific questions on groundwater travel time within the unsaturated zone and provided additional comments suggesting word changes to improve the technical accuracy and clarity of the proposed amendments. The principal comments received on the questions and proposed amendments, and the Commission's corresponding responses, are discussed below. Changes and clarifications made in the rule as a result of the Commission's consideration of these comments are also explained in this section. Copies of the individual comment letters and a detailed analysis of these letters by the NRC staff are available in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

(a) Groundwater Travel Time Calculations

Technical criteria governing the post-emplacement performance of the particular barriers of the and geologic repository system (i.e. engineered barriers and geologic setting) are set forth at § 60.113 (48 FR 28224; June 21, 1983). The post-closure performance criterion for the geologic setting set forth at § 60.113(a)(2) requires that the geologic repository be located so that pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment be at least 1,000 years or such other travel time as may be approved or specified by the Commission. Although no change was made explicitly to the provisions of § 60.113(a)(2) in the proposed amendments for the unsaturated zone, the proposed definition of the term "groundwater" set forth at § 60.2 would clearly make the scope of § 60.113(a)(2) applicable to geologic repositories within either the saturated or unsaturated zone. Similarly, the proposed amendment to the Siting Criteria (§ 60.122(b)(7)) would have the effect of making pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment which substantially exceeds 1,000 years a favorable condition for HLW disposal within either hydrogeologic zone.

In the statement of considerations which accompanied the proposed amendments, the Commission discussed possible limitations of the pre-waste-emplacement groundwater travel time performance objective of § 60.113 when applied to the unsaturated zone. However, the Commission stated that if DOE could demonstrate with reasonable assurance that travel time for groundwater movement through the unsaturated zone can be quantified, then DOE should be allowed to include such travel time when demonstrating compliance with § 60.113(a)(2). The Commission also acknowledged that it may be more appropriate to specify another parameter upon which performance may be evaluated for a geologic setting in the unsaturated zone, or to use the approach set forth in § 60.113(b) which provides the Commission with the flexibility to specify variations in performance objectives on a case-by-case basis, as long as the overall system performance objective is satisfied. Further, the Commission observed that calculations of pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel through the unsaturated zone could involve considerable uncertainty, and thus requested public comment on questions related to the applicability of the existing 10 CFR Part 60 performance objective for the geologic setting to sites located in unsaturated geologic media. In response to this solicitation of public comment, seven of the fourteen commenters specifically addressed the questions on groundwater travel time calculations. These questions and the views expressed by the seven commenters are reviewed below.

The notice of proposed rulemaking first requested comment on how groundwater travel time in the unsaturated zone could be determined with reasonable assurance. Comments received in response to this question were divided nearly equally into two categories. The first group of commenters argued that presently it would be difficult to calculate groundwater travel time in the unsaturated zone with reasonable assurance because of the lack of generally acceptable methodology and the limited scope of research efforts currently devoted to this question. A second group of commenters, comprised predominantly of representatives of other Federal agencies, endorsed the opinion that groundwater travel time could be determined with reasonable assurance. One of these commenters indicated that groundwater travel time calculations could be made by measuring the amount of natural tritium in the groundwater samples from a vertical profile in unsaturated geologic formations. Two other commenters stated that groundwater travel time could be derived from groundwater flux using measurements of ambient water content, degree of saturation, matric potential and hydraulic conductivity to determine moisture-characteristic curves relating these parameters to one another. These curves can be developed so as to predict constitutive relationships over a wide range of conditions. From these relationships and flux determinations these commenters argued that groundwater velocities and subsequently groundwater travel times could then be estimated. One of these two commenters further stated that reasonable assurance may be gained in estimating groundwater travel time using results of laboratory testing, state-of-the-art direct determinations in the field or laboratory, and bounding estimates developed by indirect methods, while both commenters indicated that reasonable assurance may also be gained by incorporating uncertainty analyses into predictive models.

The Commission recognizes that prior to the commencement of HLW disposal studies most groundwater investigations in unsaturated geologic media were generally limited in scope to issues related to near-surface, highly porous soils and unconsolidated rock types. Efforts to predict groundwater movement through potentially suitable geologic repository sites within the unsaturated zone often entail the application of hydrogeologic theories, models and methodologies governing near-surface, porous media to much deeper hydrogeologic environments and different rock properties than they originally were designed for. The Commission realizes that given the current state of groundwater investigations there may be difficulties associated with groundwater travel time calculations in both the saturated and unsaturated zones, as one commenter observed. However, the Commission concludes that groundwater travel time calculations can be determined in the unsaturated zone, though not necessarily with great precision, provided that the proper level of site characterization analysis is conducted. Following a detailed study of the comments received on this question, the Commission believes it is feasible for DOE to demonstrate compliance with the groundwater travel time provision, using existing field and laboratory experiments. Further, as several commenters indicated, a substantial effort is currently underway to develop new methodologies and to improve existing techniques for measuring the hydrogeologic parameters and flow properties that will provide the necessary imput to groundwater travel time calculations. For example, it was noted that in-situ monitoring techniques, including tracer tests, are undergoing development and may broaden the range of rock types and conditions for which it is feasible to estimate groundwater velocity and, hence, groundwater travel time.

The second part of the first question on which the Commission sought comment centered on whether or not the existing groundwater travel time performance objective in § 60.113(a)(2) should be limited to groundwater movement within the saturated zone. The general consensus among commenters on this issue was that there is no reason to strictly limit the groundwater travel time performance objective to water movement in the saturated zone. Following a review of the discussions presented in these comments the Commission has determined that the groundwater travel time provision (§ 60.113(a)(2)) can be applied to a geologic setting located in either the saturated or unsaturated zone. The Commission could discern no obvious advantage for developing a parallel provision for the unsaturated zone as one commenter suggested. With respect to another commenter's concern that if the Commission decided to retain the groundwater travel time provision, travel time along any segment of the flow path, including the unsaturated zone, should be creditable, provided that reasonable assurance has been demonstrated, the Commission has concluded further that the definition of the term "groundwater" set forth at § 60.2 will allow travel time along subsurface flowpaths to be considered regardless of the hydrogeologic regime through which the water is moving. As defined in § 60.2, "groundwater" means all water which occurs below the land surface. The Commission believes that the concerns of one commenter that it would be inappropriate to limit groundwater travel time to the saturated zone because such an action would not accurately indicate the actual radionuclide transport time from the original location of the waste to the accessible environment will also be largely accommodated by the definition of the term "groundwater" in § 60.2. With respect to the view expressed that the approach set forth in § 60.113(b) may be particularly appropriate in the case of HLW disposal in the unsaturated zone, it should be noted that in those instances when groundwater travel time calculations cannot be demonstrated with reasonable assurance, the Commission may prefer to specify or approve alternative performance objectives pursuant to § 60.113(b).

In its second question related to groundwater travel time the Commission sought public comment on whether groundwater travel time represented an appropriate measure of performance for a site within the unsaturated zone, or whether an alternative performance objective for the geologic setting would be more appropriate. The views expressed by the commenters were nearly equally divided on this issue. Some of the commenters asserted that, although not ideal, the groundwater travel time provision may, under certain circumstances, represent an appropriate measure of performance for a geologic setting in the unsaturated zone. Other commenters argued that groundwater travel time was not an appropriate performance objective for HLW disposal within the unsaturated zone and suggested several alternative performance objectives, as discussed below.

With respect to alternative performance requirements, one commenter considered it unacceptable to establish an alternative performance measure for unsaturated geologic media while using a different measure for a saturated salt site. The Commission anticipates that the decision to apply the groundwater travel time provision to all geologic settings regardless of the hydrogeologic zone in which the site is located should alleviate this commenter's concern. Another commenter stated that although groundwater travel time substantially exceeding 1,000 years is a favorable condition, it is not appropriate as a totally definitive performance objective for disposal in either the saturated or unsaturated zone. However, in view of § 60.113(b), the groundwater travel time performance objective is not such a "totally definitive" objective. The same commenter considered release criteria as the absolute measure of total performance and further argued that realistic estimates of release criteria for the unsaturated zone might not be possible until observations are actually made in shafts and drifts. In response,

the Commission would note that the site

§ 60.113(b), the Commission already has

independent of any interaction between

retain the existing provisions of

community. Therefore, the Commission

internal consistency with the definitions

VOL 50 ISS 140 JL 22 1985 UMI

the Commission would note that the site characterization program would include such observations. One commenter indicated that if NRC chose to retain the groundwater travel time performance objective that this provision should only be applied if the travel time calculations include combined travel times in the unsaturated and saturated zones so as to better approximate radionuclide transport. The Commission considers the concerns of this commenter to be accommodated by the definition of the term "groundwater" adopted in the final amendments.

Most commenters who argued against the application of the groundwater travel time performance objective to unsaturated geologic media generally suggested alternatives based either on the hydrogeologic concept of flux or upon the case-by-case approach of § 60.113(b).

As derived from U.S. Geological Survey Water Supply Paper–1988 the term groundwater "flux" can be defined as the rate of discharge of groundwater per unit area of porous or fractured geologic media measured at right angles to the direction of flow. In comparison, the term "groundwater travel time" used in 10 CFR Part 60 can be interpreted as the length of time required for a unit volume of groundwater to travel between two locations. Alternatives suggested by the commenters which were based upon the concept of flux included a maximum groundwater flux requirement and a dual "either/or" criterion which would allow the applicant the option of demonstrating compliance with either a minimum groundwater travel time requirement or a maximum groundwater flux requirement. After considering the possibility of an alternative performance objective based upon the maximum groundwater flux, the Commission has decided to retain the groundwater travel time requirement for geologic settings regardless of the hydrogeologic zone in which they are located. This decision was based on the Commission's belief that the groundwater travel time requirement represents an independent measure of the overall hydrogeologic system performance which may encompass a variety of hydrogeologic parameters including groundwater flux. However, the Commission expects that groundwater flux will be an important factor in the technical evaluation of radionuclide releases in the unsaturated zone, as well as in the saturated zone.

The Commission does not consider it necessary to specify a dual "either/or" groundwater criterion suggested by one commenter since under the provisions of § 60.113(b), the Commission already has the flexibility to approve or specify some other radionuclide release rate, designed containment period, or pre-waste-emplacement groundwater travel time on a case-by-case basis. Futher, the Commission anticipates that areally integrated or averaged groundwater flow velocity referred to by this same commenter will be addressed in the evaluation of uncertainties surrounding the groundwater travel time calculations.

In addition, to a performance criterion based upon groundwater flux, other alternative performance criteria were discussed by commenters. DOE, in its original comment letter on the proposed amendments expressed general support for a performance criterion based upon groundwater flux, but in an addendum to this letter concluded that it would be impractical to define a performance objective for the geologic setting based on flux through a geologic repository located in the unsaturated zone. Instead, DOE took the position that an alternative performance objective developed upon the concept of a minimum time for groundwater travel to the accessible environment based on four separate physical events would be more appropriate for the unsaturated zone. The four physical events contained in the suggested DOE alternative performance objective are: (1) The creation of a drying zone around the emplaced wastes, (2) the subsequent return of moisture to the rock surrounding the waste canisters, (3) the travel time through the unsaturated zone and finally, (4) the travel time to the accessible environment by groundwater movement through the saturated zone.

The manner in which these or possibly other events may occur within the geologic repository system will depend upon the interactions of a number of site- and design-specific parameters such as the thermomechanical and hydrogeologic properties of the host rock, thermal loading of the underground facility and waste package design. However, as noted at 48 FR 28203, the Commission believes that it is important to consider both natural and engineered barriers individually and has structured the technical criteria of 10 CFR Part 60 in a way that requires that the natural and engineered barriers each make a definite contribution to the overall system performance objective for the geologic repository. To that end the Commission considers it important to maintain a standard of performance for the geologic setting that is a measure of the quality of the natural barriers and is independent of any interaction between these natural barriers and the engineered barriers.

The existing pre-waste-emplacement groundwater travel time provision (§ 60.113(a)(2)) is such a performance standard since it is characteristic of the area outside of the disturbed zone created by underground facility construction and waste emplacement operations. This parameter is not dependent upon the effects of waste emplacement and is intended to provide assurance of isolation beyond the first 1000 years. The Commission prefers the existing groundwater travel time provision, which is part of its multiple barrier approach, to the alternative performance objective suggested by DOE since the latter does not offer a measure of performance for the geologic setting that can be evaluated independently of design and engineering factors. Further, the physical parameters needed to evaluate pre-waste-emplacement conditions of the geologic setting can be accurately measured with direct and indirect field methodology.

The DOE suggestion would necessitate that estimates of long-term performance of the geologic setting under post-waste-emplacement conditions be used in the Commission's deliberations on whether the groundwater travel time performance objective is met. The uncertainties associated with such estimates can be affected by a number of factors, including the age and nature of the waste and the design of the underground facility. Evaluations of the performance of the geologic setting under post-waste-emplacement condition must also take into account predictions of future changes in the thermomechanical, geochemical and hydrogeologic properties of the geologic setting through time as a result of the creation of a non-isothermal environment due to waste emplacement. The Commission's view is that the present emphasis on pre-waste-emplacement conditions will provide a higher degree of confidence in the continued isolation capabilities of the natural barriers of the geologic setting over the long term.

The view was also expressed by other commenters that the development of a new alternative performance objective to existing § 60.113(a)(2) may not be necessary since the Commission's approach set forth at § 60.113(b) might be a more appropriate means of specifying alternatives to the groundwater travel time criterion. The Commission notes that it is essentially following this approach in its decision to retain the existing provisions of § 60.113(a)(2) and § 60.113(b).

Following a review of the various alternative performance objectives suggested by the commenters, the Commission considers groundwater travel time to represent a more appropriate parameter upon which the performance of the geologic setting can be evaluated than any of the suggested alternatives because a prescribed groundwater travel time can be generically applied and will provide a conservative estimate of a minimum radionuclide release time to the accessible environment. It should be noted, however, that the Commission still retains the option of applying the provisions of § 60.113(b) instead of § 60.113(a)(2) to a particular geologic setting when such an action is deemed appropriate.

(b) Definition of Groundwater

Three commenters addressed the Commission's proposed definition of the term "groundwater" as meaning "all water below the Earth's surface". Two of these commenters, citing possible confusion among the public and scientific community stated that the Commission should not define "groundwater" in this manner, but rather should limit the use of the term to water within the saturated zone. In contrast, one commenter commended NRC on this definition, but noted that it may not be consistent with the definition of the term included in the proposed EPA environmental standards—40 CFR Part 191. In its proposed rule EPA defined "groundwater" as "water below the land surface in a zone of saturation" (47 FR 58205, December 29, 1982). While the Commission recognizes that limiting the use of the term "groundwater" to water within the saturated zone may currently be a more widely accepted practice, the Commission also notes that numerous members of the scientific community routinely use the term groundwater in the same context as the Commission proposed.

The Commission has carefully reviewed the arguments presented by the commenters on this issue and has decided to retain the definition of groundwater with one minor change—the phrase "Earth's surface" has been replaced by "land surface". This change was made for the sake of clarity and internal consistency with wording in the definition of the term "unsaturated zone". The Commission's decision was based on the fact that, at present, no unique definition of the term "groundwater" appears to be universally accepted in the technical community. Therefore, the Commission has not actually redefined the term "groundwater" as one commenter suggested but rather has adopted one of the commonly used definitions of the term that is most consistent with the Commission's intent concerning the provisions related to groundwater throughout the Part 60 regulation. With respect to the differences between the definition of the term "groundwater" adopted by the Commission and that proposed by EPA, the Commission notes that it does not consider the two definitions to be inconsistent since the scope of the definition adopted in § 60.2 will encompass water within the zone of saturation as well as water within the unsaturated zone. As noted above, the Commission considers it necessary to adopt a broader definition of the term "groundwater" in order to maintain consistency with previous Commission usage of this term and to effectively apply the provisions of 10 CFR Part 60 to the regulation of HLW disposal within unsaturated as well as saturated geologic media. Further, since EPA has not yet promulgated its final environmental standards, the Commission cannot anticipate whether or how "groundwater" will actually be defined in the final EPA regulation.

(c) Definition of the "Unsaturated Zone"

The Commission's proposed definition was derived from U.S. Geological Survey (USGS) Water Supply Paper 1988. Two commenters noted that the phrase "deepest water table" introduced confusion into the definition of the term "unsaturated zone" (§ 60.2). The Commission had inferred that the phrase "deepest water table" as used by the USGS referred to the regional water table and hence adopted this same phraseology in the definition of the term "unsaturated zone" set forth in the proposed amendments to 10 CFR Part 60. However, in light of confusion expressed by commenters which may be due partially to the incorrect inference by some that the phrase "deepest water table" referred to local rather than regional water tables, the definition of term "unsaturated zone" has been modified. To clarify the Commission's original intent, the phrase "deepest water table" has been replaced by "regional water table" in the final amendments. (A conforming change has also been made to the definition of the term "saturated zone"). Additionally, the phrase "water in this zone is under less than atmospheric pressure" has been rewritten as "fluid pressure in this zone is less than atmospheric pressure" for the sake of technical clarity. The Commission has attempted to maintain internal consistency with the definitions of hydrogeologic terms presented in USGS Water Supply Paper 1988 wherever practicable and for this reason has not adopted any of the alternative definitions of the term "unsaturated zone" suggested by the commenters.

(d) Favorable Siting Conditions

Section 60.122(b)(2). The term "low hydraulic potential" has been replaced with "low hydraulic gradient" in § 60.122(b)(2)(iii) as suggested by one commenter for the sake of technical accuracy.

Section § 60.122(b)(7). In addition to comments received in response to the Commission's specific request for input on its questions related to groundwater travel time calculations in the unsaturated zone, the subject of groundwater travel time was also addressed by two commenters on proposed § 60.122(b)(7). The issues raised by these two commenters merit discussion here although they have resulted in no change to the rule.

The provisions of § 60.122(b)(7) have the effect of identifying pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment that substantially exceeds 1,000 years as a favorable siting criteria for both the saturated and unsaturated zones. Previously these provisions (formerly designated as § 60.122(b)(2)(iv)) applied only to sites within the saturated zone.

One commenter on proposed § 60.122(b)(7) opposed the application of this provision to the unsaturated zone on the grounds that the determination of groundwater travel time in the unsaturated zone may not be necessary nor always be possible. Under such circumstances, this commenter argued, inability to demonstrate that groundwater travel time substantially exceeds 1,000 years should not amount to the absence of a favorable condition. The issue of groundwater travel time in the unsaturated zone has already been discussed in detail in the above section on *Groundwater Travel Time Calculations* and will not be repeated here. With respect to the second part of this comment the Commission reiterates its position set forth in the Supplementary Information to the final 10 CFR Part 60 technical criteria (48 FR 28201) that a site is not disqualified as a result of the absence of a favorable siting condition.

A second commenter on § 60.122(b)(7) expressed the view that for a HLW repository within the unsaturated zone, minimizing leachate flux would appear

to be at least as important as maximizing groundwater travel time. To

geologic media, water is transported in both liquid and vapor phases. The

provision since the proposed wording allowed no potential vapor transport of

(300–1,000 yrs) will generally exceed the post-closure time required for

Regulatory Flexibility Certification

"Unsaturated zone" means the zone

VOL 50 ISS 140 JL 22 1985 UMI

to be at least as important as maximizing groundwater travel time. To that end, this commenter fleet that it might be more appropriate to specify as a favorable siting condition a dual "either/or" criterion such that groundwater travel time is greater than 1,000 years or groundwater flux through the host rock at a proposed site is less than some average rate. This rate, it was argued, could be based on nuclide solubility, leach rate criteria, and population exposure criteria. The commenter stated that whichever criterion was ultimately selected it should be based upon an areally integrated or averaged calculation, over an area on the order of the cross-sectional area of the repository normal to the direction of expected flux regardless of hydrogeologic zone to help reduce controversy concerning how the "fastest pathway" can be determined. For a discussion of the concept of applying a dual criterion of either groundwater travel time or groundwater flux see the above section entitled *Groundwater Travel Time Calculations.*

Minor corrections have been made to the provisions of § 60.122(b)(8) for the sake of clarity and technical accuracy as a result of the comments received. The phrase "and nearly constant" has been deleted from § 60.122(b)(8)(i) and a typographical error in the word "overlying" has been corrected.

(e) Potentially Adverse Conditions

Section 60.122(c)(9). This provision of the final technical criteria identified groundwater conditions in the host rock that are not reducing as a potentially adverse condition for the saturated zone. One commenter on the proposed amendments stated that a parallel provision should be provided for the unsaturated zone. The Commission considers this argument to have merit and has modified the final amendments accordingly. Rather than create an additional provision, the Commission has deleted the qualifying phrase "for disposal in the saturated zone" from existing § 60.122(c)(9) to ensure that this provision will be applicable equally to groundwater conditions in the saturated and unsaturated zones.

Section 60.122(c)(23). Minor editorial changes have been made as suggested by one commenter, for the sake of clarity.

Section 60.122(c)(24). During the development of the proposed amendments (47 FR 5935, February 16, 1984) the Commission's staff identified vapor transport of contaminants as a potential concern associated with HLW disposal in the unsaturated zone. The Commission noted that in unsaturated geologic media, water is transported in both liquid and vapor phases. The relative contribution of tranport via both these phases and their direction of movement with respect to a geologic repository was deemed to directly influence the containment of contaminants. Vapor transport, particularly when a thermal gradient is imposed, may provide a possible mechanism for radionuclide migration from a geologic repository in unsaturated geologic media. This issue was discussed at length by the Commission in the proposed amendments and in draft NUREG-1046. The comments received on the discussion of vapor transport and on the wording of the proposed amendment § 60.122(c)(24) indicated a need for the Commission to clarify its intent with respect to vapor transport.

The issue of vapor transport of contaminants is a relatively new issue that has grown out of scientific investigations of the feasibility of HLW disposal in unsaturated geologic media. Since most scientific studies related to HLW disposal within the unsaturated zone have been initiated very recently, many of the associated issues have not as yet been examined in any great detail. The Commission recognized that vapor formation may not necessarily constitute an adverse condition for a particular geologic repository site, but, given the fact that vapor transport could provide a mechanism for radionuclide transport within the unsaturated zone, it wanted the opportunity to evaluate whether or not vapor transport could adversely affect a geologic repository system. To that end the Commission identified the potential for vapor transport of radionuclides from an underground facility located in the unsaturated zone to the accessible environment as a potentially adverse condition in the proposed amendments (§ 60.122(c)(24)). The Commission has not reached any conclusions on vapor transport, as one commenter incorrectly inferred, but rather is currently sponsoring research on vapor transport in unsaturated fractured rock in an effort to better understand this subject.

Some confusion was expressed by the commenters with respect to the Commission's use of the term "vapor transport". In particular, one commenter stated that § 60.122(c)(24), as written, was ambiguous and meaningless. The term "vapor transport" as used in the proposed amendments referred to both water vapor and the gaseous state of some constituent contaminants. A second commenter on this issue suggested that the Commission add quantitative clarifications to this provision since the proposed wording allowed no potential vapor transport of radionuclides by molecular diffusion (i.e., transport at a microscopic level due to concentration gradients) or convective transport (i.e., transport due to temperature or density gradients). The same commenter noted that while the flux values associated with these two transport processes might be miniscule, they would not be zero at any unsaturated site. The Commission does not consider it appropriate to add quantitative clarifications to § 60.122(c)(24) because the movement of radionuclides in the gaseous state is, to a large extent, dependent on site- and design-specific parameters. The Commission considers the movement of radionuclides in the gaseous state may be a potentially important site- and design-related process and will retain the opportunity to evaluate whether or not such a process will adversely affect the geologic repository system. However, to alleviate the confusion surrounding proposed § 60.122(c)(24), the wording of this provision has been extensively modified in the final amendments. Reference to "vapor transport" has been deleted, and this provision now solely addresses the potential for the movement of radionuclides in a gaseous state through air-filled pore spaces of an unsaturated geologic medium to the accessible environment as a potentially adverse condition. The Commission believes the revised wording will more accurately convey its original intent and should remove any ambiguity associated with the previous wording, such as one commenter's query of where the vapor transport is occurring and when it is important.

The Commission agrees with the commenter who indicated that vapor transport may also occur in geologic repositories sited in the saturated zone until resaturation occurs. A temporary, localized, unsaturated region could form around an underground facility within the saturated zone as a result of activities related to construction and operation of a geologic repository (e.g. dewatering of shafts and drifts). To date, the issue of vapor transport has not been raised for a geologic repository within the saturated zone primarily because such a phenomenon would be expected to be encompassed within a much larger saturated region, that is, vapor transport might only be expected to occur in that portion of the host rock where the voids are not completely filled or refilled with groundwater. Further, it is anticipated that the time required for waste package integrity (300–1,000 yrs) will generally exceed the post-closure time required for resaturation of a geologic repository within the saturated zone (assumed by the NRC staff to occur within a few hundred years following permanent closure). Therefore, the Commission does not consider it necessary at this time to identify vapor transport as a potentially adverse condition for HLW disposal within the saturated zone. However, if future research in the area of vapor transport challenges these current assumptions, the Commission may decide to broaden the provisions of § 60.122(c)(24) to include both the saturated and unsaturated zones.

(f) Design Criteria

Changes were made to provisions of the final technical criteria related to design criteria. The provisions of § 60.133(f) have been modified to more closely identify the concept of a potential for creating a preferential pathway for groundwater to contact the waste packages. This change was prompted by a commenter's observation that as originally worded, this provision might not be internally consistent with new § 60.122(b)(8)(iv) which identifies a host rock that provides for free drainage as a favorable hydrogeologic condition in the unsaturated zone. Similar word changes have been made to the provisions of § 60.134(b) for consistency with § 60.122(b)(8)(iv). Additionally, the phrase "radioactive waste migration" has been changed to "radionuclide migration" in both § 60.133(f) and § 60.134(b) for the sake of technical accuracy. The changes should ensure that these provisions will be equally applicable to geologic repositories within either the saturated or unsaturated zone, and will more accurately convey the Commission's original intent.

Environmental Impact

Pursuant to Section 121(c) of the Nuclear Waste Policy Act of 1982, the promulgation of these criteria does not require the preparation of an environmental impact statement under Section 102(2)(C) of the National Environmental Policy Act of 1969 or any environmental review under subparagraph (E) or (F) of Section 102(2) of such Act.

Paperwork Reduction Act Statement

The final rule contains no new or amended recordkeeping, reporting or application requirement, or any other type of information collection requirement subject to the Paperwork Reduction Act (Pub. L. 96–511).

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. The only entity subject to regulation under this rule is the U.S. Department of Energy, which is not a small entity as defined in the Regulatory Flexibility Act.

List of Subjects in 10 CFR Part 60

High-level waste, Nuclear power plants and reactors, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Waste treatment and disposal.

Issuance

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 553, the Nuclear Regulatory Commission is adopting the following amendments to 10 CFR Part 60.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); sec. 121, Pub. L. 97–425, 96 Stat. 2228 (42 U.S.C. 10141).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 60.71 to 60.75 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 60.2 is amended by adding two new definitions of "Groundwater" and "Unsaturated zone" in proper alphabetical sequence and revising the existing definition of "Saturated zone" to read as follows:

§ 60.2 Definitions.

* * * * *

"Groundwater" means all water which occurs below the land surface.

* * * * *

"Saturated zone" means that part of the earth's crust beneath the regional water table in which all voids, large and small, are ideally filled with water under pressure greater than atmospheric.

* * * * *

"Unsaturated zone" means the zone between the land surface and the regional water table. Generally, fluid pressure in this zone is less than atmospheric pressure, and some of the voids may contain air or other gases at atmospheric pressure. Beneath flooded areas or in perched water bodies the fluid pressure locally may be greater than atmospheric.

* * * * *

3. Section 60.122 is amended by revising paragraphs (b)(2)(iii) and (c)(9), redesignating and revising paragraph (b)(2)(iv) as (b)(7), and adding new paragraphs (b)(8), (c)(22), (23) and (24) to read as follows:

§ 60.122 Siting criteria.

* * * * * *

(b) * * *

(2) * * *

(iii) Low vertical permeability and low hydraulic gradient between the host rock and the surrounding hydrogeologic units.

* * * * * *

(7) Pre-waste-emplacement groundwater travel time along the fastest path of likely radionuclide travel from the disturbed zone to the accessible environment that substantially exceeds 1,000 years.

(8) For disposal in the unsaturated zone, hydrogeologic conditions that provide—

(i) Low moisture flux in the host rock and in the overlying and underlying hydrogeologic units;

(ii) A water table sufficiently below the underground facility such that fully saturated voids contiguous with the water table do not encounter the underground facility;

(iii) A laterally extensive low-permeability hydrogeologic unit above the host rock that would inhibit the downward movement of water or divert downward moving water to a location beyond the limits of the underground facility;

(iv) A host rock that provides for free drainage; or

(v) A climatic regime in which the average annual historic precipitation is a small percentage of the average annual potential evapotranspiration.

(c) * * *

(9) Groundwater conditions in the host rock that are not reducing.

* * * * * *

(22) Potential for the water table to rise sufficiently so as to cause saturation of an underground facility located in the unsaturated zone.

(23) Potential for existing or future perched water bodies that may saturate

portions of the underground facility or provide a faster flow path from an

by individual telegrams. The AD requires the use of only those fuels

unsafe condition in aircraft. It has been further determined that this document

Issued in Seattle, Washington, on July 12, 1985.

fatigue cracking and crack growth which

(e) Replace any cracked mast with a

VOL 50 ISS 140 JL 22 1985 UMI

portions of the underground facility or provide a faster flow path from an underground facility located in the unsaturated zone to the accessible environment.

(24) Potential for the movement of radionuclides in a gaseous state through air-filled pore spaces of an unsaturated geologic medium to the accessible environment.

* * * * *

4. Section 60.133 is amended by revising paragraph (f) to read as follows:

§ 60.133 Additional design criteria for the underground facility.

* * * * *

(f) Rock excavation. The design of the underground facility shall incorporate excavation methods that will limit the potential for creating a preferential pathway for groundwater to contact the waste packages or radionuclide migration to the accessible environment.

* * * * *

5. Section 60.134 is amended by revising paragraphs (b)(1) and (6)(2) to read as follows:

§ 60.134 Design of seals for shafts and boreholes.

* * * * *

(b) * * *

(1) The potential for creating a preferential pathway for groundwater to contact the waste packages or (2) for radionuclide migration through existing pathways.

Dated at Washington, DC, this 16th day of July, 1985.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 85-17364 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-62-AD; Amdt. 39-5105]

Airworthiness Directives; Boeing Model 737-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Boeing Model 737-300 series airplanes by individual telegrams. The AD requires the use of only certain approved fuels and and appropriate revision to the FAA-approved Airplane Flight Manual. The AD was prompted by reports from one operator of a Boeing Model 737-300 airplane who had experienced four loss-of-power incidents during climb while using JP-4 fuel. One of these events resulted in a flame out. Two of these events occurred on the same flight and affected both engines at nearly the same time.

The manufacturer has confirmed through flight test that use of JP-4 fuel in the system as presently configured can result in engine power rollback during climb. This rollback event could result in engine flameout and could occur simultaneously on both engines.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued June 7, 1985, to all known U.S. owners and operators of Boeing Model 737-300 airplanes. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (other wise, an evaluation or analysis is not required).

DATES: Effective August 6, 1985 as to all persons except those persons to whom it was made immediately effective by telegraphic AD T85-11-52, issued June 7, 1985, which contained this amendment.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart Miller, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office; telephone (206) 431-2969. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On June 7, 1985, telegraphic AD T85-11-52 was issued and made effective immediately as to all known U.S. owners and operators of Boeing Model 737-300 series airplanes. The AD requires the use of only certain approved fuels and and appropriate revision to the FAA-approved Airplane Flight Manual. The AD was prompted by reports from one operator of a Boeing Model 737-300 airplane who had experienced four loss-of-power incidents during climb while using JP-4 fuel. One of these events resulted in a flame out. Two of these events occurred on the same flight and affected both engines at nearly the same time.

The manufacturer has confirmed through flight test that use of JP-4 fuel in the system as presently configured can result in engine power rollback during climb. This rollback event could result in engine flameout and could occur simultaneously on both engines.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued June 7, 1985, to all known U.S. owners and operators of Boeing Model 737-300 airplanes. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (other wise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a) 1421 and 1423; 40 U.S.C. 106(g) (Revised Pub. L. 97-449; January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737-300 series airplanes certificated in any category. To prevent engine flameouts during climb, accomplish the following, unless already accomplished:

1. Before further flight ensure that the fuel being used is one of the following types:

- Jet A or A1 conforming to specification ASTM-D-1655;
- JP5 conforming to MIL-T-5624;
- Fuels conforming to DERD 2494 or 2498; or
- Fuels conforming to AIR 3404 or 3405.

2. Within 48 hours incorporate the following information into the Limitations Section of the Airplane Flight Manual and provide to crews:

"The only approved fuels are Jet A and A1 conforming to Specification ASTM-D-1655, JP5 conforming to MIL-T-5624, fuels conforming to DERD 2494 or 2498, and fuels conforming to AIR 3404 or 3405."

3. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Compliance with paragraph 2. of this directive may be effected by including a copy of this AD in the Airplane Flight Manual and Operating Manual.

This amendment becomes effective August 6, 1985. It was effective earlier to all recipients of telegraphic AD 85-11-52, issued June 7, 1985, which contained this amendment.

Issued in Seattle, Washington, on July 12, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-17313 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-ASW-10, Amdt. 39-5093]

Airworthiness Directives; Aerospatiale (Societe Nationale Industrielle Aerospatiale) Model SA 365 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections of the main rotor mast on Aerospatiale Model SA 365 series helicopters. The AD is needed to detect corrosion or cracks which could result in failure of the main rotor mast and subsequent loss of control of the helicopter.

EFFECTIVE DATE: July 30, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

A copy of each of the service bulletins is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO NY 09667, telephone number 513.38.30; or R.T. Weaver, Rotorcraft Standards Staff, ASW-110, FAA, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2548.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection of the main rotor mast for cracks and repair or replacement, as necessary, on certain Aerospatiale Model SA 365 series helicopters was published in the **Federal Register** on April 12, 1985 (50 FR 14390).

The proposal was prompted by reports of corrosion of main rotor masts occurring as a result of fretting or finish deterioration which could result in fatigue cracking and crack growth which could cause loss of the helicopter.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation only involves 13 helicopters in operation in the United States with an annual cost of $2,800 for each helicopter. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Aerospatiale (Societe Nationale Industrielle Aerospatiale): Applies to Aerospatiale Model SA 365 series helicopters, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible failure of the main rotor mast, accomplish the following:

(a) For helicopters which have 250 hours' or more time in service on the main rotor mast on the effective date of this AD, inspect in accordance with paragraph (d) within 50 hours' time in service.

(b) For those helicopters which have less than 250 hours' time in service on the main rotor mast on the effective date of this AD, inspect in accordance with paragraph (d) before reaching 300 hours' time in service.

(c) For those helicopters exhibiting a severe tracking defect, inspect in accordance with paragraph (d) before further flight.

(d) Remove the main rotor hub from the main rotor mast and inspect the mast in accordance with Service Bulletin No. 05.08 (for Model SA 365C series helicopters) and Service Bulletin No. 05.04 (for Model SA 365N helicopters) or FAA-approved equivalent, as appropriate.

(e) Replace any cracked mast with a serviceable part.

(f) Reinstall the main rotor hub in accordance with Service Bulletin No. 05.08, Service Bulletin 05.04, or FAA-approved equivalent, after completion of the inspection and rework of paragraphs (d) and (e).

(g) Repeat the inspections required in paragraph (d) at intervals not to exceed 300 hours' time in service from the last inspection.

(h) After the installation of a corrosion resistant mast (P/N 365A31-1179-02), the inspections of paragraphs (a), (b), (d), and (g) no longer apply.

(i) Any equivalent method of compliance with this AD must be approved by the Manager, Aircraft Certification Division, FAA, P.O. Box 1689, Forth Worth, Texas 76101, or by the Manager, Brussels Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium 09667.

(j) In accordance with FAR §§ 21.197 and 21.199, flight is permitted to a base where the inspections required by this AD may be accomplished.

This amendment becomes effective July 30, 1985.

Issued in Fort Worth, Texas, on July 2, 1985.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85-17311 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-68-AD; Amdt. 39-5104]

Airworthiness Directives; Boeing Model 737-100 and 737-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Boeing Model 737-100 and -200 airplanes by individual telegrams. The AD applies to airplanes equipped with Plessey Type 8240 Mark 1, 2, or 3 fuel boost pumps. The AD requires the use of only those fuels known to perform properly in the fuel system. This action is prompted by one incident of loss-of-power during climb while using JP-4 fuel.

DATES: Effective August 6, 1985 as to all persons except those persons to whom it was made immediately effective by telegraphic AD T85-12-51, issued June 13, 1985, which contained this amendment.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart Miller, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office; telephone (206) 431-2969. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On June 7, 1985, telegraphic AD T85-12-51 was issued and made effective immediately as to all known U.S. owners and operators of Boeing Model 737-100 and -200 airplanes. The AD requires the use of only certain approved fuels and and appropriate revision to the FAA-approved Airplane Flight Manual. The AD was prompted by reports from one operator of a Boeing Model 737-100 airplane who had experienced four loss-of-power incidents during climb while using JP-4 fuel. One of these events resulted in a flame out. Two of these events occurred on the same flight and affected both engines at nearly the same time.

The manufacturer has confirmed through flight test that use of JP-4 fuel in the system as presently configured can result in engine power rollback during climb. This rollback event could result in engine flameout and could occur simultaneously on both engines.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued June 7, 1985, to all known U.S. owners and operators of Boeing Model 737-100 and -200 airplanes. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (other wise, an evaluation or analysis is not required).

14 CFR Part 39

objections to the issuance of the proposed AD.

$339 per airplane. Based on these

operate airplanes to a base in order to comply

VOL 50 ISS 140 JL 22 1985 UMI

FOR FURTHER INFORMATION CONTACT: Mr. Stewart Miller, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office; telephone (206) 431-2969. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On June 13, 1985, telegraphic AD T85-12-51 was issued and made effective immediately as to all known U.S. owners and operators of Boeing Models 737-100 and 737-200 series airplanes. The AD required the use of only certain approved fuels and an appropriate revision to the FAA-approved Airplane Flight Manual. The AD was prompted by a report from one operator of a Model 737-200 airplane equipped with Plessey pumps who had experienced a flameout during climb while using JP-4 fuel.

As a result of the manufacturer's flight test on an instrumented Model 737-300 airplane, the FAA has concluded that use of JP-4 in the Models 737-100 and 200 fuel systems equipped with Plessey pumps can also result in engine power loss during climb. This loss of power could possibly occur simultaneously on both engines.

Most Boeing Model 737-100 and -200 airplanes have been delivered with TRW boost pumps. However, since late in 1984, a small number of these airplanes have been delivered with Plessey Type 8240 Mark 1, 2, or 3 pumps. These pumps are interchangeable with TRW pumps in all Model 737 series airplanes.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued June 13, 1985, to all known U.S. owners and operators of Boeing Models 737-100 and 737-200 series airplanes. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evalution or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evalution or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 40 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737-100 and -200 series airplanes equipped with Plessey Type 8240 Mark 1, 2, or 3 boost pumps and certificated in any category.

To prevent engine flamouts during climb, accomplish the following, unless already accomplished:

1. Before further flight ensure that the fuel being used in one of the following types:

• Jet or A1 conforming to specification ASTM-D-1655; or

• JP-5 conforming to MIL-T-5624.

2. Within 48 hours incorporate the following information into the Limitations Section of the Airplane Flight Manual and provide to crews:

"The only approved fuels are Jet A and A1 conforming to Specification ASTM-D-1655, and JP-5 conforming to MIL-T-5624."

3. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Compliance with Paragraph 2. of this directive may be effected by including a copy of this AD in the Airplane Flight Manual and Operating Manual.

This amendment becomes effective August 6, 1985.

It was effective earlier to all recipients of telegraphic AD T85-12-51, issued June 13, 1985, which contained this amendment.

Issued in Seattle, Washington, on July 12, 1985.

Wayne J. Barlow,

Acting Director Northwest Mountain Region.

[FR Doc. 85-17310 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-NM-128-AD; Amdt. 39-5103]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires modification of the forward and/or aft lavatory waste containers to improve the service life of the container and provide container sealing capacity for enhanced fire containment on McDonnell Douglas DC-9 and C-9 (Military) series airplanes. This action is necessary to assure the fire containment capability of the lavatory waste containers.

DATES: Effective August 26, 1985.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert L. Thompson, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) requiring modification of the forward and/or aft lavatory waste containers on McDonnell Douglas DC-9 and C-9 (Military) series airplanes was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on February 26, 1985 (50 FR 7794). The comment period for the proposal closed on April 8, 1985.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Eight comments were received. Six commenters had no objections to the issuance of the proposed AD.

The seventh commenter noted that the proposed modification appeared to overlook the opening at the top of the waste chute which would allow a fire in the waste container to exit into the area beneath the sink cabinet. On the contrary, the FAA has determined that one of the primary objectives of the proposed modification is to seal the gap that exists in this area so that the fire is contained. This is accomplished for the aft lavatory waste container by the addition of P/N 5919130-BF3 left side (-BF4 right side) chute extension or installation of the new P/N 5919130-21 left side (-22 right side) longer chute assembly. In conjunction with this chute extension, both the forward and aft lavatory waste chutes' interior surfaces are sealed in the area at the opening to the top of the waste chute including three inches down the throat of the cabinet assembly, using Scotch 425 (aluminized) tape. Waste containers modified in this manner that include the other changes specified by this AD have been shown by actual tests to contain fires likely to occur therein.

The last commenter suggested that operator emphasis on maintenance of the existing waste container door hinge spring and compressive pad should be adequate to assure the proper door seal without the need to attempt to trim the edge of the container opening to improve the door seal. Further, this commenter stated that extension of the upper aft lavatory waste chute could be adequately accomplished by the application of fireproof tape during modification of the waste chute door hinge. The FAA does not agree. In some cases, the gap at the top of the aft lavatory waste chute interface with the cabinet assembly was found to be too large to adequately support the application of tape when exposed to a fire environment within the waste container. Extension of the aft lavatory waste chute corrects this problem. Also, trimming of the waste container opening at the cleanout door to eliminate gaps is necessary, in conjunction with upper waste chute modifications, to assure adequate control of air leakage in the waste container commensurate with the demonstrated fire containment capability.

It is estimated that 601 U.S. registered airplanes will be affected by this proposed AD, that it will take approximately 13.0 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The actual cost of modification parts is estimated to be $339 per airplane. Based on these figures, the total cost impact of this AD is expected to be $516,259.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model DC-9 and C-9 (Military) airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9 and C-9 (Military) series airplanes, certificated in any categories. Compliance required as indicated unless previously accomplished.

To assure the fire containment capability of the lavatory waste containers, accomplish the following:

A. Within 18 months after the effective date of this airworthiness directive (AD), modify the forward and/or aft lavatory waste containers in accordance with the Accomplishment Instructions of McDonnell Douglas DC-9 Service Bulletin 25-259, dated April 11, 1984, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective August 26, 1985.

Issued in Seattle, Washington, on July 12, 1985.

Wayne J. Barlow,

Acting Director Northwest Mountain Region.

[FR Doc. 85-17309 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-ANE-09; Amdt. 39-5079]

Airworthiness Directives; Slingsby Aircraft Company, Ltd., Model T.53.B Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective airworthiness directive (AD) applicable to Slingsby T.53.B gliders certificated in all categories. This amendment provides for: (a) An initial and a repetitive dye penetrant inspection in lieu of a visual inspection of wing center section joint to frame attachment brackets, (b) an initial and repetitive dye penetrant inspection for fatigue cracks of two additional structural parts, wing center section joint to frame metal lugs and channel, and their replacement, if required, and (c) an optional method of demonstrating compliance with the AD requirements, for Slingsby Aircraft Company, Limited, Model T.53.B Gliders. This amendment is needed because the FAA has determined that the visual inspection method specified in the existing AD is inadequate to detect fatigue cracks occurring in wing and fuselage structural components, and there is a need to dye penetrant inspect two additional parts for fatigue cracks, to prevent possible loss of a glider.

DATES: Effective—July 22, 1985.

Incorporation by Reference—Approved by the Director of the Federal

good cause exists for making this

(2) Within the next 10 hours time in service after the effective date of this AD and

c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30 ext. 2710.

For Examination

1. FAA Rules Docket, FAA

affected CFR (and FAR) sections, with the types and effective dates of the

VOL 50 ISS 140 JL 22 1985 UMI

Incorporation by Reference—Approved by the Director of the Federal Register July 22, 1985.

ADDRESSES: The applicable service information may be obtained from:

Slingsby Engineering Limited, Ings Lane, Kirbymoorside, York, Y06, 6EZ, England.

A copy of the service information is contained in the Rules Docket, Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Munro Dearing, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30 ext. 2710, or Terry Fahr, ANE-153, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park Burlington, Massachusetts 01803, telephone (617) 273-7103.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39-2308 (40 FR 32318), AD 75-17-07, which currently imposes flight restrictions; requires repetitive visual inspections of the fuselage frame P/N T53B-1079 for fatigue cracks, and modifications as necessary; and requires repetitive visual inspections of the wing attach brackets P/N T53B-10-168 for fatigue cracks, and replacements, if required, on Slingsby Aircraft Company, Limited, Model T.53.B Gliders. Amendment 39-2308 also provides for removing the flight restrictions if the modifications and replacements are accomplished. After issuing Amendment 39-2308, the FAA has determined that an additional fatigue crack repetitive dye penetrant inspection and replacement, if required, of two additional structural components, metal lugs P/N T53B-10-115 and channel section P/N T53B-10-118, are necessary. The FAA has also determined that the visual inspection of the wing attach brackets P/N T538-10-168 is inadequate and must be changed to a dye penetrant inspection. This AD differs from Amendment 39-2308 by (1) requiring a dye penetrant inspection in lieu of the visual inspection of the wing attachment brackets P/N T53B-10-168 in paragraph (b), (2) adding paragraph (f) to require a repetitive dye penetrant inspection of the metal lugs P/N T53B-10-115 and channel section P/N T53B-10-118, and (3) adding a paragraph to allow for an equivalent means of compliance.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket, otherwise, an evaluation or analysis is not required. A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423, 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and (14 CFR 11.89): 49 CFR 1.47.

2. By adding the following new AD:

Slingsby Sailplanes: Applies to Slingsby T.53.B gliders certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent structural failure due to fatigue cracks, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, install a placard on the instrument panel in full view of the pilot reading: "CLOUD FLYING AND AEROBATIC MANEUVERS PROHIBITED".

(b) (1) Within the next 10 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 5 hours time in service from the last inspection, visually inspect the welded frame P/N T53B-1079, which joins the forward spar member with the rear spar member of the fuselage center section, for cracks at the forward extremity of the lower two tubes where they are welded to the thin vertical channels.

(2) Within the next 10 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 5 hours time in service from the last inspection, inspect the two aft brackets (welded brackets—P/N T53B-10-168, Issue 1-4; riveted brackets—P/N T53B-10-168, Issue 5) that attach the wing center section to fuselage frame No. 6 for fatigue cracks using the dye penetrant crack detection method in accordance with Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or an FAA-approved equivalent.

(c) If cracks are found as a result of the inspections required by paragraph (b)(1), prior to further flight, modify the tubular structure in accordance with Slingsby Sailplanes Technical Instruction No. 68, dated August 14, 1974, or an FAA-approved equivalent.

(d) If cracks are found as a result of the inspections required by paragraph (b)(2), prior to further flight, replace the aft two brackets in accordance with Slingsby Sailplanes Technical Instuction No. 70, dated September 11, 1974, or an FAA-approved equivalent, and Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or an FAA-approved equivalent.

(e) The placard required by paragraph (a) may be removed, and the inspections required by paragraph (b) may be discontinued, after the modification of the tubular structure, in accordance with Slingsby Sailplanes Technical Instruction No. 68, dated August 14, 1974, or an FAA-approved equivalent, has been accomplished, and when the aft two brackets have been replaced in accordance with Slingsby Sailplanes Technical Instruction No. 70, dated September 11, 1974, or an FAA-approved equivalent, and Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or an FAA-approved equivalent.

(f) Within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the past 75 hours time in service, and thereafter at intervals not to exceed 100 hours time in service from the last inspection, comply with the following:

(1) Dye penetrant inspect the metal lugs P/N T53B-10-115, and channel section P/N T53B-10-118, on fuselage frame No. 6, in accordance with Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or an FAA-approved equivalent.

(2) If cracks are found as a result of the inspections required by paragraph (f)(1) of the AD, prior to further flight, replace the metal lugs and/or channel section in accordance with Slingsby Engineering Limited Technical Instruction No. 100/T53, Issue 1, dated October 20, 1981, or FAA-approved equivalent.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30 ext. 2710.

Slingsby Sailplane Technical Instruction No. 70 dated September 11, 1974, Slingsby Sailplane Technical Instruction No. 68 dated August 14, 1974, and Slingsby Engineering Limited Technical Instruction No. 100/T53 dated October 20, 1981, are incorporated herein and made a part hereof pursuant to 5 U.S.C 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Slingsby Engineering Limited, Ings Lane, Kirbymoorside, York Y06, 6EZ, England. These documents also may be examined at the Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective on July 22, 1985.

This AD supersedes Amendment 39-2308 (40 FR 32318), AD 75-17-07.

Issued in Burlington, Massachusetts, on June 10, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-17303 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 24720; Amdt. No. 1299]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument; Aviation safety.

VOL

Issued in Washington, D.C. on July 12, 1985.

John S. Kern,

Columbia, MO—Columbia Regional, VOR Rwy 20, Amdt. 9

under Section 97.27 effective July 4, 1985, which is hereby amended as follows:

DEPARTMENT OF ENERGY

Applying this yield to the formula for estimating the cost of common equity,

By direction of the Commission.

VOL 50 ISS 140 JL 22 1985 UMI

Issued in Washington, D.C. on July 12, 1985.

John S. Kern,

Acting Director of Flight Operations.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

2. By Amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

Effective September 26, 1985

Macon, MO—Macon-Fower Meml, VOR Rwy 2, Orig
Macon, MO—Macon-Fower Meml, VOR/DME Rwy 20, Orig

Effective August 29, 1985

Haleyville, AL—Posey Field, VOR/DME Rwy 18, Amdt. 2
Wetumpka, AL—Wetumpka Muni, VOR-A, Amdt. 1
Toccoa, GA—Toccoa RG Letourneau Field, VOR Rwy 20, Amdt. 10
Sullivan, IN—Sullivan County, VOR/DME-A, Orig
Sullivan, IN—Sullivan County, VOR/DME-A, Amdt. 5 Cancelled
Terre Haute, IN—Hulman Regional, VOR Rwy 23, Amdt. 17
Terre Haute, IN—Hulman Regional, VOR/DME Rwy 5, Amdt. 14
Welsh, LA—Welsh, VOR/DME Rwy 6, Amdt. 2
Gardner, MA—Gardner Muni, VOR-A, Amdt. 4
Muskegon, MI—Muskegon County, VOR-A (TAC), Amdt. 16
Muskegon, MI—Muskegon County, VOR/DME Rwy 6, Amdt. 8
Albert Lea, MN—Albert Lea Muni, VOR Rwy 16, Amdt. 6
Kansas City, MO—Kansas City Downtown, VOR Rwy 3, Amdt. 13
Kansas City, MO—Kansas City Downtown, VOR Rwy 19, Amdt. 17
Kansas City, MO—Kansas City Downtown, VOR Rwy 21, Amdt. 11
Ponce, PR—Mercedita, VOR Rwy 30, Amdt. 10
Allendale, SC—Allendale County, VOR-A, Amdt. 3
Columbia, SC—Columbia Metropolitan, VOR-A, Amdt. 14
Dillon, SC—Dillon County, VOR/DME Rwy 6, Amdt. 4
Terrell, TX—Terrell Muni, VOR/DME Rwy 35, Amdt. 2

Effective August 1, 1985

Columbia, MO—Columbia Regional, VOR Rwy 13, Amdt. 3
Columbia, MO—Columbia Regional, VOR Rwy 20, Amdt. 9

Effective July 1, 1985

Syracuse, NY—Syracuse Hancock Intl, VOR Rwy 14, Admt. 18

3. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

Effective August 29, 1985

Auburn, AL—Auburn-Opelika Robert G. Pitts, LOC Rwy 36, Amdt. 1
Fayetteville, AR—Drake Field, LOC Rwy 16, Amdt. 14
Denver, CO—Stapleton Intl, LOC/DME BC Rwy 17R, Amdt. 16 cancelled
Terre Haute, IN—Hulman Regional, LOC BC Rwy 23, Amdt. 17l
Muskegon, MI—Muskegon County, LOC Rwy 24, Amdt. 6
Muskegon, MI—Muskegon County, LOC BC Rwy 14, Amdt. 6
Laurel/Hattiesburg, MS—Pine Belt Regional, LOC BC Rwy 36, Orig
St. Louis, MO—Lambert-St. Louis Intl, LOC BC Rwy 6, Amdt. 1
Columbus, NE—Columbus Muni LOC Rwy 14, Amdt. 5
Martinsburg, WV—Eastern WV Regional Airport/Shepherd Field, LOC/DME BC Rwy 8, Amdt. 3

The FAA published an Amendment in Docket No. 24685, Amdt. No. 1297 to Part 97 of the Federal Aviation Regulations (VOL 50 FR No. 119 Page 25548; dated June 20, 1985) under Section 97.25 effective August 1, 1985, which is hereby amended as follows:

Lake Charles, LA—Lake Charles Muni, LOC BC Rwy 33, Amdt. 15 change the effective date to June 10, 1985.

4. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

Effective September 12, 1985

Fort Lauderdale, FL—Ft Lauderdale Executive, NDB Rwy 8, Amdt. 6

Effective August 29, 1985

Terre Haute, IN—Hulman Regional, NDB Rwy 5, Amdt. 15
Sibley IA—Sibley Muni, NDB Rwy 17, Orig
Sibley IA—Sibley Muni, NDB Rwy 35, Orig
Topeka, KS—Forbes Field, NDB Rwy 31, Amdt. 6
DeRidder, LA—Beauregard Parish, NDB Rwy 36, Amdt. 1
Tewksbury, MA—TEW-MAC, NDB-A, Amdt. 3
Muskegon, MI—Muskegon County, NDB Rwy 32, Amdt. 10
Kansas City, MO—Kansas City Downtown, NDB Rwy 19, Amdt. 15
Dillon, SC—Dillon County, NDB Rwy 6, Amdt. 4
Watertown, WI—Watertown Muni, NDB Rwy 23, Amdt. 1

Effective July 1, 1985

Syracuse, NY—Syracuse Hancock Intl, NDB Rwy 28, Amdt. 24

The FAA published an Amendment in Docket No. 24685, Amdt. No. 1297 to Part 97 of the Federal Aviation Regulations (VOL 50 FR No. 119 Page 25548; dated June 20, 1985) under Section 97.27 effective July 4, 1985, which is hereby amended as follows:

Seattle, WA—Seattle-Tacoma Intl, NDB Rwy 16L/R, Amdt. 4 is rescinded. NDB Rwy 16L/R, Amdt. 4 published in Docket No. 24635; Amdt. No. 1294, Vol 50, No. 90 dated Thursday, May 9, 1985, remains current.

5. By amending § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

Effective September 12, 1985

Fort Lauderdale, FL—Ft Lauderdale Executive, ILS Rwy 8, Amdt. 2

Effective August 29, 1985

Fort Myers, FL—Southwest Florida Regl, ILS Rwy 6, Amdt. 2
St. Petersburg Clearwater, FL—St. Petersburg-Clearwater Intl, ILS Rwy 17L, Amdt. 18
Terre Haute, IN—Hulman Regional, ILS Rwy 5, Amdt. 19
Muskegon, MI—Muskegon County, ILS Rwy 32, Amdt. 15
Kansas City, MO—Kansas City Downtown, ILS Rwy 19, Amdt. 17
Glens Falls, NY—Warren County, ILS Rwy 1, Admt. 3

Effective August 1, 1985

New Bedford, MA—New Bedford Muni, ILS Rwy 5, Amdt. 22

Effective July 1, 1985

Syracuse, NY—Syracuse Hancock Intl, ILS Rwy 28, Amdt. 28

6. By amending § 97.31 RADAR SIAPs identified as follows:

Effective August 29, 1985

Terre Haute, IN—Hulman Regional, RADAR-1, Amdt. 2

Effective July 1, 1985

Syracuse, NY—Syracuse Hancock Intl, RADAR 1, Amdt. 5

7. By amending § 97.33 RNAV SIAPs identified as follows:

Effective September 12, 1985

Fort Lauderdale, FL—Ft Lauderdale Executive, RNAV Rwy 8, Amdt. 2

Effective August 29, 1985

Terre Haute, IN—Hulman Regional, RNAV Rwy 31, Amdt. 5
Muskegon, MI—Muskegon County, RNAV Rwy 6, Amdt. 2
Muskegon, MI—Muskegon County, RNAV Rwy 14, Amdt. 7
Junction, TX—Kimble County, RNAV Rwy 17, Orig
Watertown, WI—Watertown Muni, RNAV Rwy 5, Orig, Cancelled

[FR Doc. 85-17312 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM84-15-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities

July 16, 1985.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of update to benchmark rate of return on common equity for public utilities.

SUMMARY: In accordance with § 37.5, the Commission issues the update to the "advisory" benchmark rate of return on common equity applicable to rate filings made during the period August through October of 1985. This rate is set at 13.96 percent.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8015.

SUPPLEMENTARY INFORMATION:

Update to Benchmark Rate of Return on Common Equity for Public Utilities

On May 20, 1985, the Commission issued a final rule establishing an "advisory" benchmark rate of return on common equity applicable to rate filings made from July 1 through July 31, 1985 and a procedure for updating the advisory benchmark quarterly through January of 1986.

This notice provides the first quarterly update to the benchmark rate of return. As provided in § 37.9, the quarterly updates are based on changes in the median dividend yield for a sample of 100 utilities, applied to a formula with fixed adjustment factors (determined in the annual proceeding) and subject to a 50 basis point cap on the quarter-to-quarter changes.[1]

The median dividend yield for the sample of utilities for the second calendar quarter of 1985 is 9.08 percent.[2] Applying this yield to the formula for estimating the cost of common equity, and subject to the 50 basis point cap, the benchmark rate of return applicable to rate filings made from August 1 through October 31, 1985 is 13.96 percent. The attached appendix provides the underlying data on dividends and market prices supporting this update.

In consideration of the foregoing, the Commission amends Chapter I, Title 18 of the *Code of Federal Regulations*, as set forth below, effective August 1, 1985.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Rate of return.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 37—[AMENDED]

1. The authority citation for Part 37 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a-825r (1982); Department of Energy Organization Act 42 U.S.C. 7101-7352 (1982).

2. The "Table of Quarterly Benchmark Rates of Return" of § 37.9(d) is revised to read as follows:

§ 37.9 Quarterly indexing procedure.

* * * * *

(d) * * *

Benchmark applicability period (t)	First adjustment factor (a)	Second adjustment factor (b)	Current dividend yield (y_t)	Cost of common equity (k_t)	Benchmark rate of return
7/1/85 to 7/31/85	1.02	4.36	9.90	14.46	14.46
8/1/85 to 10/31/85	1.02	4.36	9.08	13.82	13.96
11/1/85 to 1/31/86					

Appendix

Exhibit No. and Title

1—Initial Sample of Utilities
2—Utilities Excluded From the Sample for the Indicated Quarter Due to Either Zero Dividends or a Cut in Dividends for this Quarter or the Prior Three Quarters
3—Quarterly Dividend Yields for the Indicated Quarter for Utilities Retained in the Sample

Source of data: Standard and Poor's Compustat Services Inc., Utility COMPUSTAT® II Quarterly Data Base.

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES

Utility	Ticker symbol
Allegheny Power System	AYP
American Electric Power	AEP
Atlantic City Electric	ATE
AZP Group Inc	AZP
Baltimore Gas & Electric	BGE
Black Hills Power & Light Co	BHP
Boston Edison Co	BSE
Carolina Power & Light	CPL
Central & South West Corp	CSR
Central Hudson Gas & Elec	CNH
Central Ill Public Service	CIP
Central Louisiana Electric	CNL
Central Maine Power Co	CTP
Central Vermont Pub Serv	CV
Cilcorp Inc	CER
Cincinnati Gas & Electric	CIN
Cleveland Electric Illum	CVX
Commonwealth Edison	CWE
Commonwealth Energy System	CES
Consolidated Edison of NY	ED
Consumers Power Co	CMS
Dayton Power & Light	DPL
Delmarva Power & Light	DEW
Detroit Edison Co	DTE
Dominion Resources Inc-VA	D
Duke Power Co	DUK
Duquesne Light Co	DQU

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Eastern Utilities Assoc	EUA
Empire District Electric Co	EDE
Fitchburg Gas & Elec Light	FGE
Florida Progress Corp	FPC
FPL Group Inc	FPL
General Public Utilities	GPU
Green Mountain Power Corp	GMP
Gulf States Utilities Co	GSU
Hawaiian Electric Inds	HE
Houston Industries Inc	HOU
Idaho Power Co	IDA
Illinois Power Co	IPC
Interstate Power Co	IPW
Iowa Electric Light & Pwr	IEL
Iowa Resources Inc	IOR
Iowa-Illinois Gas & Elec	IWG
Ipalco Enterprises Inc	IPL
Kansas City Power & Light	KLT
Kansas Gas & Electric	KGE
Kansas Power & Light	KAN
Kentucky Utilities Co	KU
Long Island Lighting	LIL
Louisville Gas & Electric	LOU
Maine Public Service	MAP
Middle South Utilities	MSU
Midwest Energy Co	MWE
Minnesota Power & Light	MPL
Montana Power Co	MTP
Nevada Power Co	NVP
New England Electric System	NES
New York State Elect & Gas	NGE
Newport Electric Corp	NPT
Niagara Mohawk Power	NMK
Northeast Utilities	NU
Northern Indiana Public Serv	NI
Northern States Power-MN	NSP
Ohio Edison Co	OEC
Oklahoma Gas & Electric	OGE
Orange & Rockland Utilities	ORU
Pacific Gas & Electric	PCG
Pacificorp	PPW
Pennsylvania Power & Light	PPL
Philadelphia Electric Co	PE
Portland General Electric Co	PGN
Potomac Electric Power	POM
Public Service Co of Colo	PSR

[1] For a more detailed explanation of the method for determining the quarterly updates, *see* Generic Determination of Rate of Return on Common Equity for Public Utilities, 50 FR 21,802 (May 29, 1985) (Docket No. RM84-15-000) (Final Rule) (Order No. 420) (issued May 20, 1985).

[2] One utility in the sample, Missouri Public Service Co. changed its name to Utilicorp United Inc. on May 2, 1985.

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Eastern Utilities Assoc	EUA
Empire District Electric Co	EDE
Fitchburg Gas & Elec Light	FGE
Florida Progress Corp	FPC
FPL Group Inc	FPL
General Public Utilities	GPU
Green Mountain Power Corp	GMP
Gulf States Utilities Co	GSU
Hawaiian Electric Inds	HE
Houston Industries Inc	HOU
Idaho Power Co	IDA
Illinois Power Co	IPC
Interstate Power Co	IPW
Iowa Electric Light & Pwr	IEL
Iowa Resources Inc	IOR
Iowa-Illinois Gas & Elec	IWG
Ipalco Enterprises Inc	IPL
Kansas City Power & Light	KLT
Kansas Gas & Electric	KGE
Kansas Power & Light	KAN
Kentucky Utilities Co	KU
Long Island Lighting	LIL
Louisville Gas & Electric	LOU
Maine Public Service	MAP
Middle South Utilities	MSU
Midwest Energy Co	MWE
Minnesota Power & Light	MPL
Montana Power Co	MTP
Nevada Power Co	NVP
New England Electric System	NES
New York State Elect & Gas	NGE
Newport Electric Corp	NPT
Niagara Mohawk Power	NMK
Northeast Utilities	NU
Northern Indiana Public Serv	NI
Northern States Power-MN	NSP
Ohio Edison Co	OEC
Oklahoma Gas & Electric	OGE
Orange & Rockland Utilities	ORU
Pacific Gas & Electric	PCG
Pacificorp	PPW
Pennsylvania Power & Light	PPL
Philadelphia Electric Co	PE
Portland General Electric Co	PGN
Potomac Electric Power	POM
Public Service Co of Colo	PSR

EXHIBIT 2.—UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE

EXHIBIT 3.—QUARTERLY DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

VOL 50 ISS 140 JL 22 1985 UMI

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Public Service Co of Ind	PIN
Public Service Co of N H	PNH
Public Service Co of N Mex	PNM
Public Service Elec & Gas	PEG
Puget Sound Power & Light	PSD
Rochester Gas & Electric	RGS
San Diego Gas & Electric	SDO
Savannah Elec & Power	SAV
Scana Corp	SCG
Sierra Pacific Resources	SRP
Southern Calif Edison Co	SCE
Southern Co	SO
Southern Indiana Gas & Elec	SIG
St Joseph Light & Power	SAJ

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Teco Energy Inc	TE
Texas Utilities Co	TXU
TNP Enterprises Inc	TNP
Toledo Edison Co	TED
Tucson Electric Power Co	TEP
Union Electric Co	UEP
United Illuminating Co	UIL
Utah Power & Light	UTP
Utilicorp United Inc	UCU
Washington Water Power	WWP
Wisconsin Electric Power	WPC
Wisconsin Power & Light	WPL
Wisconsin Public Service	WPS

EXHIBIT 2.—UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE TO EITHER ZERO DIVIDENDS OR A CUT IN DIVIDENDS FOR THIS QUARTER OR THE PRIOR THREE QUARTERS

[Year—85 Quarter—2]

Ticker symbol	Utility
CTP	Central Maine Power Co.
FGE	Fitchburg Gas & Elec Light.
GPU	General Public Utilities
LIL	Long Island Lighting.
MAP	Maine Public Service.
MTP	Montana Power Co.
PNH	Public Service Co of NH
N=7	

EXHIBIT 3.—QUARTERLY DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE

[Year—85 Quarter—2]

Ticker symbol	Price, 1st month of qrtr-high	Price, 1st month of qrtr-low	Price, 2nd month of qrtr-high	Price, 2nd month of qrtr-low	Price, 3rd month of qrtr-high	Price, 3rd month of qrtr-low	Dividends: Annual rate	Quarterly dividend yield
AEP	21.875	21.250	23.000	21.000	24.125	22.750	2.260	10.119
ATE	27.375	24.750	26.750	26.500	29.750	28.000	2.580	9.375
AYP	31.875	30.750	33.375	31.000	34.375	32.625	2.700	8.351
AZP	24.875	22.250	25.250	22.500	28.125	25.000	2.720	11.027
BGE	43.250	40.250	46.000	42.250	46.625	44.375	3.400	7.764
BHP	32.875	29.500	33.875	30.125	33.875	32.250	1.920	5.984
BSE	39.750	37.250	40.750	38.000	43.750	40.000	3.240	8.117
CER	25.000	23.500	26.500	24.250	27.000	24.500	2.220	8.836
CES	25.125	23.750	26.875	24.125	29.625	26.250	2.320	8.937
CIN	15.875	15.000	15.875	14.750	18.500	15.000	2.160	13.642
CIP	19.500	18.250	19.750	18.000	20.750	19.125	1.640	8.529
CMS	7.000	6.125	7.000	6.500	8.375	6.750	0.400	5.749
CNH	26.750	24.500	28.375	25.375	30.500	27.625	2.840	10.446
CNL	25.750	23.875	25.875	24.000	27.375	25.625	2.080	8.184
CPL	28.375	26.375	29.375	26.750	30.375	27.875	2.600	9.224
CSR	24.750	22.625	25.000	23.125	26.125	24.500	2.020	8.294
CV	18.000	17.250	18.500	17.000	20.625	18.500	1.900	10.282
CVX	21.375	20.125	22.250	20.000	23.375	21.000	2.520	11.801
CWE	30.375	28.250	31.125	28.125	31.875	30.000	3.000	10.014
D	30.750	29.125	32.750	29.875	33.625	31.000	2.720	8.721
DEW	24.750	22.875	25.500	24.125	26.500	25.125	1.920	7.738
DPL	17.000	15.625	18.000	18.250	20.625	17.875	2.000	11.388
DQU	16.250	15.500	17.000	15.625	16.875	16.125	2.060	12.693
DTE	17.000	16.250	17.250	16.000	17.750	16.500	1.680	10.005
DUK	33.250	32.000	34.000	32.125	35.875	33.000	2.480	7.431
ED	33.625	31.750	35.500	32.000	37.750	35.625	2.400	6.982
EDE	20.375	19.625	22.000	20.125	22.125	20.750	1.760	8.448
EUA	20.375	18.375	21.500	18.375	23.125	19.875	2.060	10.162
FPC	27.250	25.375	28.750	26.375	28.500	27.375	2.160	7.921
FPL	24.625	23.125	25.500	23.375	26.125	24.375	1.960	7.993
GMP	17.250	15.500	19.250	16.750	19.875	18.375	1.720	9.645
GSU	15.125	13.750	15.125	13.250	16.000	14.375	1.640	11.230
HE	22.375	21.000	23.750	21.000	24.250	22.125	1.640	7.316
HOU	25.750	23.375	28.000	24.875	28.625	26.875	2.640	10.057
IDA	21.563	20.500	21.625	20.625	23.625	20.625	1.640	7.654
IEL	20.000	18.375	21.000	19.375	21.750	20.250	1.900	9.441
IOR	32.750	30.875	35.375	32.500	37.875	35.000	3.080	9.042
IPC	25.625	23.750	26.625	23.750	27.250	25.125	2.640	10.412
IPL	36.875	33.875	37.250	35.375	37.375	35.875	3.040	8.420
IPW	20.500	19.375	20.875	19.875	22.375	20.125	1.900	9.259
IWG	30.875	29.250	31.500	29.125	33.000	30.625	2.740	8.917
KAN	37.250	34.375	39.750	36.375	39.375	38.500	2.960	7.871
KGE	19.625	18.875	18.875	16.750	18.000	17.000	2.360	13.218
KLT	24.000	21.250	24.125	19.875	23.375	21.250	2.360	10.577
KU	27.000	25.875	28.000	26.375	29.250	26.875	2.440	8.961
LOU	29.250	28.000	30.000	28.375	32.750	29.625	2.440	8.225
MPL	34.375	32.500	36.750	33.500	39.000	35.250	2.760	7.834
MSU	14.250	12.875	14.500	12.875	15.250	13.750	1.780	12.790
MWE	29.375	27.250	30.250	27.500	31.500	29.500	2.780	9.443
NES	40.875	38.750	43.750	40.000	44.750	42.500	3.800	8.618
NGE	24.750	23.125	26.750	23.250	27.500	25.750	2.440	9.687
NI	12.500	11.625	12.000	10.750	12.500	11.000	1.560	13.300
NMK	18.500	17.625	20.375	18.000	20.375	19.375	2.060	10.923
NPT	14.875	14.000	15.500	14.625	17.500	14.750	1.500	9.863
NSP	40.625	43.125	47.875	44.625	50.750	47.250	3.520	7.536
NU	16.000	15.000	17.875	15.375	17.250	18.250	1.580	9.898
NVP	29.875	28.125	29.875	28.375	32.250	29.750	2.760	9.290
OEC	14.875	14.000	15.625	14.000	15.500	14.625	1.880	12.728
OGE	24.375	23.000	24.250	23.000	26.375	23.875	2.000	8.283
ORU	25.875	24.500	26.500	24.875	27.875	26.125	2.040	7.859
PCG	18.500	17.375	19.875	17.875	20.250	18.500	1.640	9.824
PE	16.000	15.125	16.000	13.875	18.125	14.375	2.200	14.426
PEG	29.125	27.250	31.375	28.250	32.500	30.125	2.840	9.540
PGN	19.000	17.875	21.125	18.750	21.875	20.375	1.900	9.580

EXHIBIT 3.—QUARTERLY DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[Year—85 Quarter—2]

Ticker symbol	Price, 1st month of qrtr-high	Price, 1st month of qrtr-low	Price, 2nd month of qrtr-high	Price, 2nd month of qrtr-low	Price, 3rd month of qrtr-high	Price, 3rd month of qrtr-low	Dividends: Annual rate	Quarterly dividend yield
PIN	8.125	7.500	7.875	7.250	8.500	7.500	1.000	12.834
PNM	27.625	25.625	27.250	25.000	28.250	26.625	2.880	10.775
POM	29.875	28.250	32.250	29.125	33.375	30.875	2.160	7.053
PPW	27.750	23.875	26.750	24.000	27.250	25.875	2.560	9.878
PSD	28.625	27.375	29.250	27.625	30.625	28.750	2.320	8.081
PSR	14.875	13.875	15.000	13.875	15.625	14.625	1.780	12.017
RGS	21.500	20.125	23.000	21.000	24.250	22.250	2.000	9.062
SAJ	21.875	20.250	23.875	20.625	24.375	22.750	2.200	9.869
SAV	22.875	21.125	22.000	21.000	22.375	21.125	1.720	7.908
SCE	20.625	19.125	22.250	19.625	22.250	20.625	1.600	7.711
SCG	25.375	23.625	27.125	24.125	27.875	26.375	2.160	8.266
SDO	26.000	23.875	27.875	25.000	28.000	26.625	2.160	8.235
SIG	26.500	23.875	27.250	25.125	28.375	26.750	2.240	8.513
SO	25.250	23.000	26.375	24.750	26.750	25.000	1.800	7.146
SRP	20.750	19.500	21.125	19.500	22.250	20.750	1.920	9.300
TE	17.125	15.750	18.250	16.750	19.375	17.750	1.800	9.143
TED	32.500	30.125	33.125	30.375	34.875	32.500	2.360	7.318
TEP	18.625	17.250	18.375	17.250	21.125	17.750	2.520	13.899
TNP	40.250	38.500	41.375	38.250	41.375	40.000	3.000	7.508
TXU	17.375	15.500	19.000	18.625	20.000	17.000	1.250	7.109
UCU	29.500	27.750	29.500	27.500	31.125	27.750	2.520	8.734
UEP	21.814	19.485	24.375	22.058	25.000	22.875	1.320	5.840
UIL	18.625	17.125	18.125	17.500	19.375	18.000	1.720	9.403
UTP	16.500	15.250	17.125	15.000	19.000	18.625	2.000	12.060
WPC	24.125	22.750	25.875	23.500	26.000	24.500	2.320	9.486
WPL	34.625	32.500	36.375	33.625	36.250	36.500	2.480	6.957
WPS	35.250	32.500	36.500	33.625	36.375	35.375	2.640	7.556
WWP	34.375	32.500	37.875	33.500	37.375	35.500	2.560	7.275
N=93	21.500	20.500	23.000	20.750	24.250	22.125	2.480	11.262

[FR Doc. 85-17289 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 84F-0194]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of glyoxal-urea-formaldehyde condensate as a component of paper and paperboard intended for use in contact with dry food. This action responds to a petition filed by American Cyanamid Co.

DATES: Effective July 22, 1985; objections by August 21, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary J. Stephens, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 20, 1984 (49 FR 25308), FDA announced that a food additive petition (FAP 4B3802) had been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that the food additive regulations be amended to provide for the safe use of glyoxal-urea-formaldehyde condensate as a component of paper and paperboard intended for use in contact with dry food.

FDA is aware that some studies show that formaldehyde has caused tumors in rats at the site of intranasal administration. No study exists, however, that suggests that formaldehyde is tumorigenic when ingested by animals. In fact, there are studies in the literature in which a precursor to formaldehyde (hexamethylenetetramine) did not cause tumors when ingested by mice and rats. Because hexamethylenetetramine is broken down in the stomach to formaldehyde, these studies directly tested whether orally administered formaldehyde is carcinogenic. For the reasons discussed more fully in the agency's denial of requests for a hearing on aspartame (49 FR 6672; February 22, 1984), the inhalation study is not appropriate for use in evaluating the safety of this resin because it has been demonstrated that formaldehyde is not a systemic carcinogen.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before August 21, 1985, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on

the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with

Effective date. This regulation is effective July 22, 1985.

doses not exceeding 1 kiloGray (kGy) (100 kilorads (krad)) is safe for human

reaching its decision to approve the petition are available for inspection at

List of Subjects in 21 CFR Part 179

Food additives, Food packaging,

requirements and granting final approval to the Tennessee State plan.

the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for Part 176 is revised to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 176.180(b)(2) by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * * * *	* *
Glyoxal-urea-formaldehyde condensate (CAS Reg. No. 27013-01-0) formed by reaction in the molar ratio of approximately 47:33:15, respectively. The reaction product has a number average molecular weight of 278±14 as determined by a suitable method.	For use as an insolubilizer for starch in coatings.
* * * * *	* *

Effective date. This regulation is effective July 22, 1985.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: May 8, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-17282 Filed 7-19-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 179

[Docket No. 84F-0230]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to permit gamma radiation treatment of pork to control *Trichinella spiralis*. This action responds to a food additive petition filed by Radiation Technology, Inc.

DATES: Effective July 22, 1985; objections by August 21, 1985.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION:

Introduction

In a notice published in the **Federal Register** of July 23, 1984 (49 FR 29682), FDA announced that a petition (FAP 4M3789) had been filed by Radiation Technology, Inc., Lake Denmark Rd., Rockaway, NJ 07866, requesting amendment of the food additive regulations to provide for the safe use of a cobalt 60 or cesium 137 source of gamma radiation to control trichinae and other helminths in pork.

Background

In its proposal published in the **Federal Register** of February 14, 1984, to permit the use of low doses of food irradiation for certain purposes, FDA explained that the Bureau of Foods' Irradiated Food Committee had concluded that "* * * food irradiated at doses not exceeding 1 kiloGray (kGy) (100 kilorads (krad)) is safe for human consumption" (49 FR 5714, 5715). FDA also stated that it believes that the conclusions of this committee are valid because, "* * * at doses below 1 kGy (100 krad), the difference between an irradiated food and a comparable nonirradiated food is so small as to make the foods indistinguishable with respect to safety" (49 FR at 5716).

Nevertheless, in evaluating this petition, the agency considered whether data from a U.S. Department of Agriculture-sponsored study, conducted by Raltech Scientific Services, raised sufficient concern to preclude issuing this regulation. Citing this study, comments on the February 14, 1984 proposed regulation claimed that mice fed irradiated chicken were found to have a "statistically significant" increase in the incidence of testicular tumors, and argued that regulations permitting food irradiation should, therefore, not issue. The Center for Food Safety and Applied Nutrition (the Center) evaluated the relevant histopathology data from that study and did not find any treatment-related effect that is either biologicially or statistically significant. The National Toxicology Program's (NTP) Board of Scientific Counselors conducted, at FDA's request, a peer review of the relevant histopathology data, including an open meeting on March 28, 1985. In its final summary minutes dated May 16, 1985, and submitted to FDA, NTP's Board of Scientific Counselors concluded that the available data did not allow the study to be categorized as demonstrating a carcinogenic response.

During the course of its evaluation, FDA requested comment from the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) regarding whether this regulation would pose any problems with that agency's enforcement of the Federal Meat Inspection Act. FSIS requested that the regulation be limited to control of the parasite *Trichinella spiralis* rather than for control of trichinae and other helminths because FSIS has no information at this time to assure that gamma radiation at this dose level can control helminths other than *Trichinella spiralis*.

In view of USDA's comments, FDA has concluded that this final regulation should be limited to the use of gamma radiation for the control of *Trichinella spiralis* in pork, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Mangement Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before August 21, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 179

Food additives, Food packaging, Irradiation of foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING, AND HANDLING OF FOOD

1. The authority citation for 21 CFR Part 179 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10.

2. In § 179.22(b) in the table by alphabetically inserting a new item to read as follows:

§ 179.22 Gamma radiation for the treatment of food.

* * * * *

(b) * * *

Food for irradiation	Limitations	Use
* * *	* * *	*
Pork carcasses or fresh, non-heat-processed cuts of pork carcasses.	Absorbed dose: Minimum dose 0.3 kiloGray (30 kilorads); Maximum dose not to exceed 1 kiloGray (100 kilorads).	Control of *Trichinella spiralis*.
* * *	* * *	*

* * * * *

Dated: July 16, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17280 Filed 7-17-85; 10:39 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T-012]

Tennessee State Plan; Approval of Revised Compliance Staffing Benchmarks and Final Approval Determination

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Approval of Revised Compliance Staffing Benchmarks and Final State Plan Approval.

SUMMARY: This document amends Subpart P of 29 CFR Part 1952 to reflect the Assistant Secretary's decision approving revised compliance staffing benchmarks, of 22 safety and 14 health compliance officers, in a separate **Federal Register** notice on January 16, 1985, concerning the requirements and granting final approval to the Tennessee State plan. As a result of this affirmative determination under Section 18(e) of the Occupational Safety and Health Act of 1970, Federal OSHA standards and enforcement authority no longer apply to occupational safety and health issues covered by the Tennessee plan, and authority for Federal concurrent jurisdiction is relinquished. Federal enforcement jurisdiction is retained over private sector maritime and railroad employment (where not regulated by another Federal agency), employment on military bases, and employment at Tennessee Valley Authority facilities. Federal jurisdiction remains in effect with respect to Federal government employers and employees.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Introduction

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting, and obtaining Federal approval of, a State plan. Procedures for State plan submission and approval are set forth in regulations at 29 CFR Part 1902. If the Assistant Secretary, applying the criteria set forth in section 18(c) of the Act and 29 CFR Part 1902.3 and 1902.4, finds that the plan provides or will provide for State standards and enforcement which are "at least as effective" as Federal standards and enforcement, initial approval is granted.

A State may commence operations under its plan after this determination is made, but the Assistant Secretary retains discretionary Federal enforcement authority during the initial approval period as provided by section 18(e) of the Act. A State plan may receive initial approval even though, upon submission, it does not fully meet the criteria set forth in 29 CFR 1902.3 and 1902.4 if it includes satisfactory assurances by the State that it will take the necessary "development steps" to meet the criteria within a 3-year period 29 CFR 1902.2(b). The Assistant Secretary publishes a notice of

"certification of completion of developmental steps" when all of a State's developmental commitments

41 FR 34252, August 13, 1976.) Under the terms of that agreement, OSHA

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"certification of completion of developmental steps" when all of a State's developmental commitments have been satisfactorily met. 29 CFR 1902.34.

When a State plan that has been granted initial approval is developed sufficiently to warrant a suspension of concurrent Federal enforcement activity, it becomes eligible to enter into an "operational status agreement" with OSHA. 29 CFR 1954.3(f). A State must have enacted its enabling legislation, promulgated State standards, achieved an adequate level of qualified personnel, and established a system for review of contested enforcement actions. Under these voluntary agreements, concurrent Federal enforcement will not be initiated with regard to Federal occupational safety and health standards in those issues covered by the State plan, where the State program is providing an acceptable level of protection.

Following the initial approval of a complete plan, or the certification of a developmental plan, the Assistant Secretary must monitor and evaluate actual operations under the plan for a period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3, 1902.4 and 1902.37 are being applied. An affirmative determination under section 18(e) of the Act (usually referred to as "final approval" of the State plan) results in the relinquishment of authority for Federal concurrent jurisdiction in the State with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e).

An additional requirement for final approval consideration is that a State must meet the compliance staffing levels, or benchmarks, for safety and health compliance officers established by OSHA for that State. This requirement stems from a 1978 Court Order by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406), pursuant to a U.S. Court of Appeals decision, that directed the Assistant Secretary to calculate for each State plan state the number of enforcement personnel needed to assure a "fully effective" enforcement program.

History of the Tennessee Plan and its Compliance Staffing Benchmarks

Tennessee Plan

On January 31, 1973, Tennessee submitted an occupational safety and health plan in accordance with section 18(b) of the Act and 29 CFR Part 1902, Subpart C. On March 2, 1973, a notice was published in the Federal Register (38 FR 5702) concerning submission of the plan, announcing that initial Federal approval was at issue and offering interested persons an opportunity to submit data, views and arguments concerning the plan. Comments were received from the American Federation of Labor-Congress of Industrial Organizations (AFL–CIO). In response to these comments, as well as to OSHA's review of the plan submission, the State made changes in its plan which were discussed in the notice of initial approval. On July 5, 1973, the Assistant Secretary published a notice granting initial approval of the Tennessee plan as a developmental plan under section 18(b) of the Act (38 FR 17838). The plan provides for a program patterned in most respects after that of the Federal Occupational Safety and Health Administration.

The Tennessee Department of Labor, which is headed by a Commissioner, is designated as having responsibility for administering the plan throughout the State. The day-to-day administration of the plan is directed by the Tennessee Division of Occupational Safety and Health. The plan provides for the adoption by Tennessee of standards which are at least as effective as Federal occupational safety and health standards, including emergency temporary standards. The plan requires employers to furnish employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm, and to comply with all occupational safety and health standards promulgated by the agency. Employees are likewise required to comply with all standards and regulations applicable to their conduct. The plan contains provisions similar to Federal procedures for, among others, imminent danger proceedings, variances, safeguards to protect trade secrets, and employer and employee rights to participate in inspection and review proceedings. Appeals of citations, penalties and abatement periods are heard by the Tennessee Occupational Safety and Health Review Commission. Decisions of the Review Commission may be appealed to the Court of Appeals of Tennessee.

The notice of initial approval noted a few distinctions between the Federal and Tennessee programs. The State plan does not cover safety and health in private sector maritime employment or at Tennessee Valley Authority facilities, employment on military bases, and as a result of a State Supreme Court decision does not cover those aspects of railroad employment regulated under the Federal OSHA program. Under the Tennessee law, employees have the right to contest the terms and conditions of citations as well as abatement dates whereas Federally employees may only object to the established abatement periods. The law also provides for issuance of stop work orders where cases of imminent danger are encountered.

The Assistant Secretary's initial approval of the Tennessee developmental plan, a general description of the plan, a schedule of required developmental steps and a provision for discretionary concurrent Federal enforcement during the period of initial approval were codified in the Code of Federal Regulations (29 CFR Part 1952, Subpart P; 38 FR 17838 (July 5, 1973)).

In accordance with the State's developmental schedule, all major structural components of the plan were put in place and appropriate documentation submitted for OSHA approval during the three-year period ending July 5, 1976. These "developmental steps" included: amendments to the Tennessee Occupational Safety and Health Act; promulgation of State occupational safety and health standards and program regulations; and development of a public employee program. In completing these developmental steps, the State developed and submitted for Federal approval all components of its enforcement program including, among other things, legislative amendments, management information system, merit staffing system, regulations for inspections, citations and proposed penalties, recordkeeping and reporting regulations, and a safety and health poster for private employers and local government employers choosing to be treated as private employers and a poster for State and all other local government employers.

These submissions were carefully reviewed by OSHA; after opportunity for public comment and modification of State submissions, where appropriate, the major plan elements were approved by the Assistant Secretary as meeting the criteria of section 18 of the Act and 29 CFR 1902.3 and 1902.4. The Tennessee subpart of 29 CFR Part 1952 was amended to reflect each of these approval determinations (see 29 CFR 1952.224).

During 1974, OSHA entered into an operational status agreement with the State of Tennessee. A Federal Register notice was published on December 23, 1974 (39 FR 41200), announcing the signing of the agreement. (The agreement was subsequently amended, 41 FR 34252, August 13, 1976.) Under the terms of that agreement, OSHA voluntarily suspended the application of concurrent Federal enforcement authority with regard to Federal occupational safety and health standards in all issues covered by the Tennessee plan.

On May 16, 1978, in accordance with procedures at 29 CFR 1902.34 and 1902.35, the Assistant Secretary certified that Tennessee had satisfactorily completed all developmental steps (43 FR 20980). In certifying the plan, the Assistant Secretary found the structural features of the program—the statute, standards, regulations, and written procedures for administering the plan—to be at least as effective as corresponding Federal provisions. Certification does not entail findings or conclusions by OSHA concerning adequacy of actual plan performance. As has already been noted, OSHA regulations provide that certification initiates a period of evaluation and monitoring of State activity to determine, in accordance with Section 18(e) of the Act, whether the statutory and regulatory criteria for State plans are being applied in actual operations under the plan and whether final approval should be granted.

Tennessee Benchmarks

In 1978, the Assistant Secretary was directed by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406), pursuant to a U.S. Court of Appeals decision, to calculate for each State plan state the number of enforcement personnel (compliance staffing benchmarks) needed to assure a "fully effective" enforcement program. In 1980, OSHA submitted a Report to the Court containing the benchmarks and requiring Tennessee to allocate 52 safety compliance officers and 79 industrial hygienists to conduct inspections under the plan.

In September 1984 the Tennessee State designee in conjunction with OSHA completed a review of the components and requirements of the 1980 compliance staffing benchmarks established for Tennessee. Pursuant to an initiative begun in August 1983 by the State plan designees as a group with OSHA, and in accord with the formulas and general principles established by that group for individual State revision of the benchmarks, Tennessee reassessed the staffing necessary for a "fully effective" occupational safety and health program in the State. This reassessment resulted in a proposal to OSHA, contained in comprehensive documents of revised compliance staffing benchmarks, of 22 safety and 14 health compliance officers.

History of the Present Proceedings

Procedures for final approval of State plans are set forth at 29 CFR Part 1902, Subpart D. On January 16, 1985, the Occupational Safety and Health Administration published notice of its proposal to approve the revised compliance staffing benchmarks for Tennessee and the resultant eligibility of the Tennessee State plan for determination under section 18(e) of the Act as to whether final approval of the plan should be granted (50 FR 2477). The determination of eligibility was based on monitoring of State operations for at least one year following certification, State participation in the Federal-State Unified Management Information System, and staffing which meets the proposed revised State Staffing benchmarks.

The January 16 Federal Register notice set forth a general description of the Tennessee plan and summarized the results of Federal OSHA monitoring of State operations during the period from October 1982 through March 1984. In addition to the information set forth in the notice itself, OSHA submitted, as part of the record in this rulemaking proceeding, extensive and detailed exhibits documenting the plan, including copies of the State legislation, administrative regulations and procedural manuals under which Tennessee operates its plan, and copies of all previous Federal Register notices regarding the plan.

A copy of the October 1982—March 1984 Evaluation Report of the Tennessee plan ("18(e) Evaluation Report"), which was extensively summarized in the January 16 proposal and which provided the principal factual basis for the proposed 18(e) determination, was included in the record (Ex. 4–6). Copies of all OSHA evaluation reports on the plan since its certification as having completed all developmental steps were made part of the record.

The January 16 Federal Register also contained notice of the Occupational Safety and Health Administration proposal to approve revised compliance staffing benchmarks for Tennessee. A detailed description of the methodology and State-specific information used to develop the revised compliance staffing benchmarks for Tennessee was included in the notice. In addition OSHA submitted, as a part of the record (Docket No. T–012), Tennessee's detailed submission containing both a narrative explanation and supporting data. A summary of the benchmark revision process was likewise set forth in a separate Federal Register notice on January 16, 1985, concerning the Wyoming State plan (50 FR 2491). An informational record was established in a separate docket (No. T–018) and contained background information relevant to the benchmark issue in general and the current benchmark revision process.

To assist and encourage public participation in the benchmark revision process and 18(e) determination, copies of the complete record were maintained in the OSHA Docket Office in Washington, D.C., in the OSHA Region IV Office in Atlanta, Georgia, and the Tennessee Department of Labor in Nashville. Summaries of the January 16 proposal, with an invitation for public comments were published in Tennessee on January 23, and 24, 1985. (Ex. 6).

The January 16 proposal invited interested persons to submit, by February 20 (subsequently extended to March 22, 1985, 50 FR 6856, in response to a request from James N. Ellenberger, Department of Occupational Safety, Health and Social Security, AFL–CIO) written comments and views regarding the Tennessee plan, whether the proposed revised compliance staffing benchmarks should be approved, and whether the final approval should be granted. Opportunity to request an informal public hearing on the issue of final approval was likewise provided. Seventy comments were received in response to these notices. Two were received from organized labor, one from a private citizen in Tennessee, one from a safety group, three from State and local government entities and sixty-three from private employers. No requests for an informal hearing were received.

Summary and Evaluation of Comments Received

During this proposed rulemaking OSHA has encouraged interested members of the public to provide information and views regarding operations under the Tennessee plan, to supplement the information already gathered during OSHA monitoring and evaluation of plan administration and regarding the proposed revised compliance staffing benchmarks for Tennessee.

In response to the January 16 Federal Register notice, OSHA received comments from the Tennessee Manufacturers Association, Ernest C. Blankenship, Vice President (Ex. 3–2); Worth Sports Company, John L. Parish (Ex. 3–3); American Can Company, Frank B. Veal, Human Resources (Ex. 3–4); American Can Company, Gaylord R.

Friedlein, Plant Manager (Ex. 3–5); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–6); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–7); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–8); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–9); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–10); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–11); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–12); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–13); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–14); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–15); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–16); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–17); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–18); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–19); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–20); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–21); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–22); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–23); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–24); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–25); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–26); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–27); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–28); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–29); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–30); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–31); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–32); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–33); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–34); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–35); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–36); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–37); R. C. Hughes, Chief Engineer (Ex. 3–38); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–39); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–40); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–41); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–42); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–43); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–44); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–45); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–46); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–47); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–48); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–49); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–50); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–51); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–52); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–53); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–54); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–55); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–56); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–57); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–58); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–59); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–60); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–61); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–62); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–63); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–64); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–65); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–66); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–67); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–68); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–69); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–70); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–71); American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), Margaret Seminario,

those areas of State performance which exceed OSHA's enforcement efforts in several areas. However, OSHA

benchmarks which provide proper program coverage in the context of each

resources to health inspections in the public sector and the construction

VOL 50 ISS 140 JL 22 1985 UMI

Friedlein, Plant Manager (Ex. 3–5); Tennessee Valley Electric Cooperative, James L. Clausel, Operations Supervisor (Ex. 3–6); Genesco Inc., Ralph E. Mosely, Director, Employee and Environmental Safety (Ex. 3–7); General Electric Company, J. A. Lucier, Manager Safety (Ex. 3–8); Eaton Corporation, Robert J. Rooke, Plant Manager (Ex. 3–9); Aluminum Company of America, Bertram D. Dinman, Vice President, Health and Safety (Ex. 3–10); Rogers Group, Inc., Barbara Phillips, Corporate Risk Manager (Ex. 3–11); Allied Automotive, Cathy W. Hanley, Health and Safety Administrator, Bendix Aftermarket Brake Division (Ex. 3–12); Bradley County Office of Planning and Engineering, Keith Holloway, Safety Director (Ex. 3–13) Dixie Yarns, Inc., Bryan Gibson, Vice President, Industrial Relations (Ex. 3–14); Burroughs-Ross-Colville Company, Kenneth Casteel, Vice President and Secretary (Ex. 3–15); TRW Chassis Components Group, Gary W. Coonard, Plant Manager (Ex. 3–16); Electric Power Board of Chattanooga, Jack H. Wade, Safety Director (Ex. 3–17); McMinnville Garment Company, Inc., Jim Risinger, Plant Manager (Ex. 3–18); ASARCO, V.L. Hendrix, Safety Engineer (Ex. 3–19); United States Pipe and Foundry Company, B. M. Hendrix, Sr., Safety Director, Assistant Personnel Director (Ex. 3–20); Washington Industries, Riley Amacher, Vice President (Ex. 3–21); State of Tennessee Department of Transportation, Dave Goodwin, Regional Safety Coordinator (Ex. 3–22); Linden Apparel Corporation, Charles W. Harper, Plant Superintendent (Ex. 3–23); Occidental Chemical Corporation, Clay W. Buttrey, Plant Manager (Ex. 3–24); Blue Ridge Shirt Manufacturing Company, Inc., Jerry Stevenson, Manager (Ex. 3–25); The Turner Manufacturing Company, Robert DePriest, Plant Manager (Ex. 3–26); TRW General Components Group, Myra Johnson, Human Relations Supervisor (Ex. 3–27); APCOM, Inc., Gilbert Wilson, Safety Director (Ex. 3–28); Tennessee Eastman Company, D. Lynn Johnson, Manager, Government Relations (Ex. 3–29); Milan Shirt Manufacturing Company, Charles Daugherty, Plant Manager (Ex. 3–30); Dixie Manufacturing Company, Inc., M. I. Hedrick, Plant Manager (Ex. 3–31); E & W of Monterey, Inc., Francis Powell, Plant Manager (Ex. 3–32); Dee Cee Apparel, Inc., Michael S. Joiner, Plant Manager (Ex. 3–33); Heckethorn Manufacturing Company, W. R. Heckethorn, President (Ex. 3–34); Plast-Line, Inc., Mark A. McKinney, Assistant Manager, Industrial Relations (Ex. 3–35); Tennessee Valley Electric Cooperative, R. C. Hughes, Chief Engineer (Ex. 3–36); Heavy Duty Manufacturing Company, Ray Gaylord, Plant Manager (Ex. 3–37); Colonial Rubber Works, Inc., T. Carlton Holt, Chairman (Ex. 3–38); Washington Manufacturing Company, McCauley Gray, Risk Manager (Ex. 3–39); Dyersburg Fabrics, Inc., R. E. Donner, Chairman of the Board (Ex. 3–40); Aluminum Company of America, William M. Cochran, Safety Manager, Tennessee Operations (Ex. 3–41); Jack Daniel Distillery, Joe Rossman, Human Resources Manager (Ex. 3–42); TNS, Inc., Frank Ward, Vice President/Plant Manager (Ex. 3–43); United Technologies Carrier, William E. Seitz, Safety/Industrial Hygiene Supervisor (Ex. 3–44); Nashville Electric Service, Clyde T. Brake, Field Supervisor (Ex. 3–45); General Shale Products Corporation, Kenneth A. Parham, Manager of Health and Safety (Ex. 3–46); Rohm and Haas Tennessee Incorporated, R. R. Van Sickle, President (Ex. 3–47); Middle Tennessee State University, Baxter Cook, P. E., Safety Officer (Ex. 3–48); Spaulding Fibre Company, Inc., William R. Davis, Jr., Project/Safety Engineer (Ex. 3–49); McDowell Enterprises, Inc., Nashville, Safety Director, Co-Chairman (Ex. 3–50); TRW General Components Group, John H. Smith, Plant Manager (Ex. 3–51); Opryland, Jesse Caskey, Safety Manager (Ex. 3–52); Samsonite Furniture, William L. Fox, General Manager (Ex. 3–53); John and Carroll Croes (Ex. 3–54); Tennessee River Pulp & Paper Company, B. Scott Wells, Safety Coordinator (Ex. 3–55); Vulcan Corporation, W. C. Williams, Personnel Manager (Ex. 3–56); Cookeville Electric Department, W. R. Holland, Safety Director, City of Cookeville (Ex. 3–57); Nuturn Corporation, Rita M. Grisham, Vice President (Ex. 3–58); The City of Knoxville, Tennessee, Paul W. Dunn, Fire Safety Officer (Ex. 3–59); W. R. Grace and Company, N. E. Picquet, General Manager (Ex. 3–60); Nuturn Corporation, James W. Murray, Vice President and General Manager (Ex. 3–61); DeSoto, Inc., Jane G. Grider, Delegate Tennessee Safety Congress (Ex. 3–62); Polysar Latex, David Darnell, Safety Coordinator (Ex. 3–63); E. I. du Pont de Nemours and Company, E. H. Bennett, Plant Manager (Ex. 3–64); TRW General Component Group, Douglas P. Thurley, Plant Manager (Ex. 3–65); American Limestone Company, W. Hoyl Gill, President (Ex. 3–66); Nuturn Corporation, Russell L. Armer, Vice President and General Manager (Ex. 3–67); Tennessee Safety Congress, Dave White, Co-Chairman (Ex. 3–68); Tennessee Contractors Association, Inc., L. D. Pennington, President (Ex. 3–71); American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), Margaret Seminario, Associate Director, Department of Occupational Safety, Health and Social Security (Ex. 69); and United Steelworkers of America, Mary Win O'Brien, Assistant General Counsel (Ex. 3–70). Tennessee Department of Labor, Division of Occupational Safety and Health, Director Robert Taylor responded to the AFL–CIO comments (Ex. 3–72).

Sixty-eight comments expressed general support for final approval on the grounds of State competence, responsiveness, and specific knowledge of local conditions. Several of these comments indicated that the State has established an outstanding safety and health program which far exceeds the National effort without adversarial relations with local industries, and that a climate of working together has gone far to stop costly accidents and to protect workers in Tennessee. Comments further expressed preference for State enforcement rather than Federal, because State inspectors are better able to deal with Tennessee specific concerns. The comments praise the State's effectiveness in reducing workplace injuries and illnesses and competency of Tennessee officials.

The United Steelworkers of America, AFL–CIO, commented extensively on the benchmark revision process, but did not specifically address Tennessee's revision.

The AFL–CIO indicated opposition to approval of the proposed revised benchmarks for Tennessee and therefore opposed the granting of final State plan approval. Some of the AFL–CIO's comments were directed toward OSHA's system for monitoring and evaluation of State plans and the requirements that a State must meet to be eligible for final approval.

The evaluation of the Tennessee plan was conducted in accordance with OSHA's new State plan monitoring and evaluation system. This system uses statistical data to compare Federal and State performance on a number of criteria, or measures. Significant differences between the two are evaluated to determine whether these differences, viewed within the framework of overall State plan administration, detract from the State's effectiveness and potentially render it less effective than the Federal program.

The AFL–CIO expressed concern that Federal OSHA's monitoring system with its reliance on statistical indicators fails to accurately reflect the overall conduct of the State program and tries to limit

those areas of State performance which exceed OSHA's enforcement efforts in several areas. However, OSHA never intended that superior performance would result in any negative conclusion. Statistical outliers display differences, not necessarily deficiencies. If further review related to an outlier determines stronger State performance, clearly no negative determination will be made.

The AFL–CIO also commented on specific State performance issues. These comments are addressed in the appropriate sections of the Findings and Conclusions portion of this notice.

Comments by the AFL–CIO and the Steelworkers addressing the proposed revised benchmarks for Tennessee reflected for the most part the commenters' concerns regarding the benchmark revision process generally. Thus, the comments question whether the benchmark formula as applied in Tennessee should have assumed a need for routine, general-schedule inspections at all covered workplaces; whether the proposed staffing levels will be sufficient to respond to new hazards or future standards; and question the appropriateness of the inclusion or exclusion of various industry groups in Tennessee's general inspection universe unless corresponding industries are treated identically in other States. As was specifically discussed in the **Federal Register** notice of June 13, 1985, dealing with approval of revised benchmarks for the Kentucky State plan (50 FR 24884), the concept of universal general schedule coverage has been replaced by more sophisticated targeting systems which deploy enforcement resources where they are most needed, and universal coverage is as inappropriate a concept for benchmarks formulation as it is for inspection scheduling. The possible effect of new hazards or future standards cannot be ascertained with any precision, and in any case both OSHA and the States have generally been able to effectively enforce new standards with no additions to staff for that purpose. As to the need for "uniformity," OSHA believes the greatest strength of the current formula is that it takes into account actual State program needs as shown by State data and experience. OSHA has found that the formula used to derive benchmarks for Tennessee, and other States involved in the 1984 revision process employs the best information and techniques currently available; properly takes into account each of the factors set forth in the District Court Order in *AFL–CIO* v. *Marshall;* and is an appropriate means of establishing fully effective benchmarks which provide proper program coverage in the context of each State's specific program needs. A more detailed discussion of the general concerns raised by the AFL–CIO and the Steelworkers can be found in the June 13, 1985, **Federal Register** notice on Kentucky.

The comments filed by the AFL–CIO also addressed several specific issues relating to the calculation of the benchmarks for Tennessee. The union commented that the State excluded all small and many large establishments from its general schedule safety universe, even when industry injury rates exceeded the average State rate. The State responded that it had added a number of high hazard non-manufacturing establishments to its initial general schedule inspection universe. In a review of State inspection data for a five-year period, the State determined that there were 79 non-manufacturing establishments with histories of high injury rates. That review also showed that the State had no establishments with ten or fewer employees whose lost workday case rate was higher than the overall State rate. The State further responded that industries not included in the initial universe are still subject to employee complaint inspections. In addition, the State frequently reviews survey data from the Tennessee Department of Research and Statistics for information regarding high hazard industries within the State. It should also be noted that assumptions made in determining a State's theoretical workload for benchmark purposes are not binding on the State in scheduling specific employers for enforcement visits. A State's general schedule inspection universe is not in itself a targeting system but rather a method for determining a reasonable estimate of workplaces with industrial exposures likely to produce hazards.

In a similar comment, the AFL–CIO also criticized the State for not including all small and many large establishments in industries with serious health hazards in its general schedule inspection universe for health. Based on its review of health inspections during the past 10 years the State has added those SIC's where serious air contaminant and/or noise hazards have been found. Thus the State added 52 small and 159 larger establishments to its health inspection universe. Other establishments not included in the initial inspection universe continue to be subject to complaint and accident inspections.

The AFL–CIO asserted that Tennessee's allocation of enforcement resources to health inspections in the public sector and the construction industry, which the State based on past experience, is inadequate. The union argued that these industries have not been adequately covered in the past but provides no data in support of that conclusion. Tennessee responded that the State is very active in asbestos-related enforcement activity in the construction industry. With regard to the public sector, Tennessee responded that State inspection experience has shown that there are few health hazards found in the public sector. Nonetheless, the benchmark formula allocates one full-time health compliance officer to the public sector in Tennessee. The State does intend to monitor potential health problems. In addition, health hazards in the construction industry (and, to a lesser extent, the public sector) are frequently cited by cross-trained safety compliance officers or as the result of referral or health complaint inspections.

Finally, both the AFL–CIO and the Steelworkers allege that the number of enforcement personnel now found appropriate for a fully effective program in Tennessee and other States is lower than the staffing levels allocated by the States in 1980 or projected in the benchmarks issued by OSHA during its first effort to implement the *AFL–CIO* v. *Marshall* Court Order in 1980. (It should be pointed out that Tennessee's allocated compliance staffing is higher now than it was in 1980.) However, the District Court Order on which the revision process has been based does not assume or require that revised benchmarks must provide a comparative increase over past levels. The adequacy of the revised benchmarks cannot be determined by whether they are greater or smaller than the 1980 benchmarks or earlier enforcement levels. Such direct numerical comparison of staffing levels is no more valid than was the direct comparison of State to Federal staffing levels under the "at least as effective" test rejected by the Court of Appeals in 1978. The objective assigned to OSHA by the Court of Appeals and District Court order was, in sum, to measure the workload assumed by each State under its plan and to determine, using the best available information and techniques, but avoiding direct numerical comparisons, the staffing levels needed for fully effective coverage. This is precisely what has been done in the present revision process. The review of each State's illness and injury data, industrial mix, demographics and enforcement history has been for more detailed than was the case when benchmarks were first issued in 1980. As

discussed above, the concept of universal routine inspections has been replaced by far more sophisticated

participation of all interested persons (29 CFR 1902.4(b)(2)(iii)); must, where

that the State's application of its standards is comparable to Federal

and employee compliance responsibility and contain legal authority for

In addition, the State plan must provide that employee be informed of

General's Office has initiated litigation on one of the two outstanding cases and

VOL 50 ISS 140 1985 UMI JL 22

discussed above, the concept of universal routine inspections has been replaced by far more sophisticated targeting, devoting resources to the relative minority of industries where the majority of enforcement-preventable injuries occur. These factors have resulted in the more realistic enforcement staffing requirements embodied in the revised benchmarks for Tennessee.

For these reasons, and in light of other comments by groups and individuals directly affected and knowledgeable about safety and health enforcement needs in Tennessee, OSHA believes application of the current benchmark formula for Tennessee has resulted in staffing levels which result in fully effective enforcement in the State of Tennessee.

Findings and Conclusions

Tennessee Benchmarks

As provided in the 1978 Court Order in *AFL-CIO* v. *Marshall,* Tennessee, in conjunction with OSHA, has undertaken to revise the compliance staffing benchmarks originally established in 1980 for Tennessee. OSHA has reviewed the State's proposed revised benchmarks and supporting documentation and carefully considered the public comments received with regard to this proposal, and determined that compliance staffing levels of 22 safety and 14 health compliance officers meet the requirements of the Court and provide staff sufficient to ensure a fully effective enforcement program.

Tennessee Final Approval

As required by 29 CFR 1902.41, in considering the granting of final approval to a State plan OSHA has carefully and thoroughly reviewed all information available to it on the actual operation of the Tennessee State plan. This information has included all previous evaluation findings since certification of completion of the State plan's developmental steps, especially data for the period of October 1982 through March 1984 and information presented in written submissions. Findings and conclusions in each of the areas of performance are as follows.

(1) Standards

Section 18(c)(2) of the Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. Such standards where not identical to the Federal must be promulgated through a procedure allowing for consideration of all pertinent factual information and participation of all interested persons (29 CFR 1902.4(b)(2)(iii)); must, where dealing with toxic materials or harmful physical agents, assure employee protection throughout his or her working life (29 CFR 1902.4(b)(2)(i)); must provide for furnishing employees appropriate information regarding hazards in the workplace through labels, posting, medical examinations, etc. (29 CFR 1902.4(b)(2)(vi)); must require suitable protective equipment, technological control, monitoring, etc. (29 CFR 1902.4(b)(2)(vii)); and where applicable to a product must be required by compelling local conditions and not pose an undue burden on interstate commerce (29 CFR 1902.3(c)(2)).

As documented in the approved Tennessee State plan and OSHA's evaluation findings made a part of the record in this 18(e) determination proceeding, and as discussed in the January 16 notice, the Tennessee plan provides for the adoption of standards and amendments thereto which are identical to or at least as effective as Federal standards. The State's law and regulations, previously approved by OSHA and made a part of the record in this proceeding (Exs. 2–3 and 2–5), include provisions addressing all of the structural requirements for State standards set out in 29 CFR Part 1902.

In order to qualify for final State plan approval, a State program must be found to have adhered to its approved procedures (29 CFR 1902.37(b)(2)); to have timely adopted identical or at least as effective standards, including emergency temporary standards and standards amendments (29 CFR 1902.37(b)(3)); to have interpreted its standards in a manner consistent with Federal interpretations and thus to demonstrate that in actual operation State standards are at least as effective as the Federal (29 CFR 1902.37(b)(4)); and to correct any deficiencies resulting from administrative or judicial challenge of State standards (29 CFR 1902.37(b)(5)).

As noted in the "18(e) Evaluation Report" and summarized in the January 16, 1985 **Federal Register** notice, Tennessee has generally adopted standards which are identical to Federal standards. The State has recently adopted an identical Hazard Communication Standard, as well as enacted a Right-to-Know Act.

When a State adopts Federal standards, the State's interpretation and application of such standards must ensure consistency with Federal interpretation and application. Tennessee likewise adopts standards interpretations, which are identical to Federal. OSHA's monitoring has found that the State's application of its standards is comparable to Federal standards application. No challenges to standards have occurred in Tennessee.

Therefore, in accordance with section 18(c)(2) of the Act and the pertinent provisions of 29 CFR 1902.3, 1092.4 and 1902.37, OSHA finds the Tennessee program in actual operation to provide for standards adoption, correction when found deficient, interpretation and application, in a manner at least as effective as the Federal program.

(2) Variances

A State plan is expected to have the authority and procedures for the granting of variances comparable to those in the Federal program (29 CFR 1902.4(b)(2)(iv)). The Tennessee State plan contains such provisions in both law and regulations which have been previously approved by OSHA. In order to qualify for final State plan approval permanent variances granted must assure employment equally as safe and healthful as would be provided by compliance with the standard (29 CFR 1902.37(b)(6)); temporary variances granted must assure compliance as early as possible and provide appropriate interim employee protection (29 CFR 1902.37(b)(7)). As noted in the 18(e) Evaluation Report and the January 16 notice, one permanent variance was granted during the reporting period. The action on this request was in accordance with the State's procedures and the granted variance provided protection equivalent to that provided under the standard. No temporary variances were requested during the evaluation period.

Accordingly, OSHA finds that the Tennessee program effectively grants variances from its occupational safety and health standards.

(3) Enforcement

Section 18(c)(2) of the Act and § 1902.3(d)(1) require a State program to provide a program for enforcement of State standards which is and will continue to be at least as effective in providing safe and healthful employment and places of employment as the Federal program. The State must require employer and employee compliance with all applicable standards, rules and orders (§ 1902.3(d)(2)) and must have the legal authority for standards enforcement including compulsory process (§ 1902.4(c)(2)).

The Tennessee law (Tennessee Annotated Codes, Title 50, Chapter 3) and implementing regulations previously approved by OSHA establish employer and employee compliance responsibility and contain legal authority for standards enforcement in terms virtually identical to those in the Federal Act. In order to be qualified for final approval, the State must have adhered to all approved procedures adopted to ensure an at least as effective compliance program (29 CFR 1902.37(b)(2)). The "18(e) Evaluation Report" data show no lack of adherence to such procedures.

(a) *Inspections.* A plan must provide for inspection of covered workplaces, including in response to complaints, where there are reasonable grounds to believe a hazard exists (29 CFR 1902.4(c)(2)(i)). As noted in the January 16, 1985 **Federal Register** notice Tennessee follows a policy of responding to all employee complaints by conducting inspections. Data contained in the 18(e) Evaluation Report indicates that 98.6% of the safety complaints and 96.4% of the health complaints resulted in inspections (Evaluation Report, page 14).

In order to qualify for final approval, the State program, as implemented, must allocate sufficient resources toward high-hazard workplace while providing adequate attention to other covered workplaces (29 CFR 1902.37(b)(8)). The 18(e) Evaluation Report indicates that 94.2% of State programmed safety and 74.6% of programmed health (general schedule) inspections during October 1982 through March 1984 were conducted in high-hazard industries. The lower percent of programmed health inspections resulted from the State utilizing a health high-hazard list comparable to the Federal, but applying a different high-hazard rating to establishments. Near the end of the reporting period, the State began using a hazard ranking system more comparable to the Federal. As a result of the change, an increase in programmed high-hazard health inspections was noted and was within the prescribed acceptable level.

(b) *Employee Notice and Participation in Inspections.* In conducting inspections the State plan must provide an opportunity for employees and their representatives to point out possible violations through such means as employee accompaniment or interviews with employees (29 CFR 1902.4(c)(2)(ii)). The State procedures require compliance officers to provide this opportunity. During the evaluation period, 97.7% of initial inspections included either employee representatives on the walkaround or interviews with employees. OSHA has concluded that employee representation is properly provided in State inspections.

In addition, the State plan must provide that employee be informed of their protections and obligations under the Act by such means as the posting of notices (29 CFR 1902.4(c)(2)(iv)), and provide that employees have access to information on their exposure to regulated agents and access to records of the monitoring of their exposure to such agents (29 CFR 1902.4(c)(vi)).

To inform employees and employers of their protections and obligations, Tennessee requires that a poster, which was previously approved by OSHA [40 FR 36566] for employers in the private sector and for local government employers choosing to be treated as private employers and a separate poster (43 FR 20908) for State government and all other government employers, be displayed in all covered workplaces. Requirements for the posting of the poster and other notices such as citations, contests, hearings and variance applications, are set forth in the previously approved State law and regulations which are substantially identical to Federal requirements. Information on employee exposure to regulated agents and access to medical and monitoring records is provided through State standards, including the Access to Employee Exposure and Medical Records standard. The Evaluation Report indicates posting violations were cited in 16 inspections. Federal OSHA's evaluation concluded that the State's performance is satisfactory.

(c) *Nondiscrimination.* A State is expected to provide appropriate protection to employees against discharge or discrimination for exercising their rights under the State's program including provision for employer sanctions and employee confidentiality (29 CFR 1902.4(c)(2)(v)). The Tennessee law and regulations provide for discrimination protection which is at least as effective as the Federal. The State investigated 12 discrimination complaints during the evaluation period. None of the complaints investigated were found to be meritorious. Average lapse time between receipt of a complaint and the notification to the complainant of the investigation results by the State was 110 days, which compared very favorably with Federal experience.

However, the Evaluation Report pointed out that Tennessee had two outstanding meritorious discrimination cases from several years ago which had never been litigated. This delay was caused by failure of the State Attorney General's Office to initiate litigation proceedings. The State Attorney General's Office has initiated litigation on one of the two outstanding cases and is in the process of settling the other. Additionally, TOSHA now has written assurance from the Attorney General's Office that it will pursue future litigation of discrimination cases more expeditiously.

The AFL-CIO in its written comments expressed concern that failure by the State Attorney General's office to initiate litigation in those discrimination complaints Tennessee finds meritorious results in a reluctance by the State to find more discrimination complaints meritorious, and that OSHA investigation and review is needed.

As noted above, the State Attorney General's office initiated litigation on one of the outstanding cases and is in the process of settling the other. The report indicates that Tennessee's OSHA performance with regard to timely investigation of discrimination complaints is at an acceptable level. Tennessee OSHA's written response to the AFL-CIO's comment further indicates the State Attorney General's office has reviewed its process for litigating discrimination complaints and has assured TOSHA that future cases will be pursued in a timely manner. Absent any evidence to the contrary, e.g., CASPA's regarding Tennessee's handling of discrimination complaints, OSHA's evaluation concludes that the State's performance is satisfactory.

(d) *Restraint of Imminent Danger; Protection of Trade Secrets.* A State plan is required to provide for the prompt restraint of imminent danger situations, (29 CFR 1902.4(c)(2) (vii)) and to provide adequate safeguards for the protection of trade secrets (29 CFR 1902.4(c)(2)(viii)). The State has provisions concerning imminent danger and protection of trade secrets in its law, regulations and field operations manual which are similar to the Federal. The 18(e) Evaluation Report indicates that there were no imminent danger situations identified. No Complaints About State Program Administration (CASPA's) have been received concerning trade secrets during the reporting period.

(e) *Right of Entry; Advance Notice.* A State program is expected to have authority for right of entry to inspect and compulsory process to enforce such right equivalent to the Federal program (section 18(c)(3) of the Act and 29 CFR 1902.3(e)). Likewise, a State is expected to prohibit advance notice of inspection, allowing exception thereto no broader than in the Federal program (29 CFR 1902.3(f)). Title 50, Chapter 3 of the Tennessee Occupational Safety and

Health Act authorizes the Commissioner to enter and inspect all covered workplaces in terms substantially

promptly notifying employers and employees of violations identified

serious violations actually being present in the State's workplaces. Monitoring

expanded employee right to contest terms and conditions of citations as well

dedicated to the public sector (28% of total inspections during the evaluation

finds that Tennessee has provided sufficient funding for the various

Health Act authorizes the Commissioner to enter and inspect all covered workplaces in terms substantially identical to those in the Federal Act. In addition, Title 50, Chapter 4 of the Tennessee Administrative Inspection Warrant Act authorize the Commissioner to petition any court of record for an order to permit entry into such establishments that have refused entry for the purpose of inspection or investigation. The Tennessee law likewise prohibits advance notice, and implementing procedures for exceptions to this prohibition are substantially identical to the Federal.

In order to be found qualified for final approval, a State is expected to take action to enforce its right of entry when denied (29 CFR 1902.37(b)(9)) and to adhere to its advance notice procedures. The 18(e) Evaluation Report shows that Tennessee received 12 denials of entry and warrants were obtained for all 12 refusals. The 18(e) Evaluation Report shows that 30 instances of advance notice procedures were used. The State's use of its procedures were proper.

The AFL-CIO in its written comments asserted that the length of time between denial of entry and application by the State for a warrant (75 days) is a serious problem, and that the result of such delays has the impact of providing advance notice contradictory to the Federal Act thereby limiting a truly effective enforcement program.

The evaluation report indicates that the primary cause for the delays in seeking warrants was a temporary administrative problem. The staff attorney's position, which includes the function of securing warrants, was vacant during the evaluation period, and this function has to be absorbed with other day-to-day activities. The State has now filled this position. The evaluation report concluded that once the warrants were granted the State was exceptionally timely in entering the establishments (4.3 days) and on an overall basis the State handles denials of entry in an acceptable manner. OSHA has not received any evidence to indicate that the delays in applying for warrants upon denials of entry has resulted in any negative effect on inspection findings. Since the primary cause of the delay was associated with a temporary administrative deficiency which has now been corrected, warrant applications should be handled in a timely manner. Therefore, Federal evaluation concluded that the State's performance is satisfactory.

(f) *Citations, Penalties, and Abotement.* A State plan is expected to have authority and procedures for promptly notifying employers and employees of violations identified during inspection, for the proposal of effective first-instance sanctions against employers found in violation of standards and for prompt employer notification of such penalties (29 CFR 1902.4(c)(2)(x) and (xi)). The Tennessee plan through its law, regulations and field operations manual, which have all been previously approved by OSHA, has established a system similar to the Federal for prompt issuance of citations to employers delineating violations and establishing reasonable abatement periods requiring posting of such citations for employee information and proposing penalties.

In order to be qualified for final approval, the State, in actual operation, must be found to conduct competent inspections in accordance with approved procedures and to obtain adequate information to support resulting citations (29 CFR 1902.37(b)(10)), the issue citations, proposed penalties and failure-to-abate notifications in a timely manner (29 CFR 1902.37(b)(11)), to propose penalties for first instance violations that are at least as effective as those under the Federal program (29 CFR 1902.37(b)(12)), and to ensure abatement of hazards including issuance of failure to abate notices and appropriate penalties (29 CFR 1902.37(b)(13)). Comparison of Federal and State data, as discussed in the 18(e) Evaluation Report shows that the State finds a comparable number of violations per initial inspection (1.6). Additionally, data showed State percentages of not-in-compliance programmed inspections were lower than Federal OSHA for safety (41.6%) and exceeded Federal OSHA in health (48%).

The AFL-CIO in its written comments asserted that Tennessee spends less time conducting safety inspections than Federal OSHA and, not surprisingly, classifies citations for violations of standards at a lower level than Federal OSHA.

The evaluation report indicates that the State finds a higher number of violations per inspection but does classify a lower number of violations as serious (12.5% safety 8.3% health). The report concluded that the lower percentage of serious violations cited resulted from a difference in interpretation of established procedures for classifying violations. As also indicated in the report, the State changed its interpretation to more closely mirror Federal OSHA's interpretations.

Additionally, many establishments in Tennessee have received multiple inspections likely resulting in fewer serious violations actually being present in the State's workplaces. Monitoring has indicated that the State does effectively identify and cite violations, and that inspectors recognize and properly classify violations (Evaluation Report, pp. 12 and 19). The time spent conducting safety inspections is indeed shorter than Federal OSHA. However, the Evaluation Report indicates that there is no evidence that the State fails to conduct thorough inspections, and concludes that the shorter time does not have a negative impact on the program. Establishments may also be of a smaller size. The Evaluation Report concludes that the State's performance is acceptable.

Neither the data nor any comments suggest the State has any problem in adequately documenting inspections to support citations.

During the 18(e) evaluation period penalty levels for serious safety violations were lower than Federal ($160), while penalty levels for serious health violations ($381) were within the Federal range.

Tennessee conducts a higher proportion of follow-up inspections than does Federal OSHA (21.7% of not-in-compliance inspections). Abatement periods for safety (12.0 days) are comparable to the Federal and somewhat longer for health (41.2 days). Tennessee attempts to document abatement within 30 days for all serious, willful and repeat violations. However, Tennessee's policy of assigning abatement periods for not longer than six months results in an increased number of PMA requests, particularly for health violations. The 18(e) Evaluation Report indicates effective performance since the State is obtaining evidence of abatement in 99.5% of its inspections (pages 20 and 21).

(g) *Contested Cases.* In order to be considered for initial approval and certification, a State plan must have authority and procedures for employer contest of citations, penalties and abatement requirements at full administrative or judicial hearings. Employees must also have the right to contest abatement periods and the opportunity to participate as parties in all proceedings resulting from an employer's contest (29 CFR 1902.4(c)(2)(xii). Tennessee's procedures for employer contest of citations, penalties and abatement requirements and for ensuring employee rights are contained in the law, regulations and field operations manual made a part of the record in this proceeding and are substantially identical to the Federal procedures with the exception of the

expanded employee right to contest terms and conditions of citations as well as abatement dates. Appeals of citations, penalties and abatement periods are heard by the Tennessee Occupational Safety and Health Review Commission and may be further appealed to the State Court of Appeals. Thirty-two inspections during October 1982 through March 1984 resulted in contests. OSHA evaluation of these cases supported the conclusion that the State's enforcement actions are adequately supported.

To qualify for final approval, the State must seek review of any adverse adjudications and take action to correct any enforcement program deficiencies resulting from adverse administrative or judicial determinations (29 CFR 1902.37(b)(14)). The State had no adverse decisions which would require review or corrective action. Accordingly, OSHA finds that the Tennessee plan effectively reviews contested cases.

(h) *Enforcement Conclusion.* In summary, the Assistant Secretary finds that enforcement operations provided under the Tennessee plan are competently planned and conducted, and are overall at least as effective as Federal OSHA enforcement.

(4) Public Employee Program

Section 18(c)(6) of the Act requires that a State which has an approved plan must maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivision, which program must be as effective as the standards contained in an approved plan. 29 CFR 1902.3(j) requires that a State's program for public employees be as effective as the State's program for private employees covered by the plan.

Tennessee's plan provides a program in the public sector which is different from that in the private sector. The three significant differences are (1) there are no penalties imposed against employers when violations are found and cited; (2) public sector compliance officers make compliance assistance and courtesy visits, as well as conduct inspections; and (3) 98% of the employers are also covered by a self-inspection program. The State conducted 1488 inspections in the public sector and cited 979 violations.

Injury and illness rates in the public sector in Tennessee are much lower than in the private sector (5.1 combined State and local government all case rate and 2.9 combined State and local government lost workday case rate in 1982). The proportion of inspections dedicated to the public sector (28% of total inspections during the evaluation period) was appropriate to the needs of public employees. Because Tennessee's performance in the public sector compares very favorably to that in the private sector, OSHA concludes that the Tennessee program meets the criterion in 29 CFR 1902.3(j).

(5) Staffing and Resources

Section 18(c)(4) of the Act requires State plans to provide the qualified personnel necessary for the enforcement of standards. In accordance with 29 CFR 1902.37(b)(1), one factor which OSHA must consider in evaluating a plan for final approval is whether the State has a sufficient number of adequately trained and compentent personnel to discharge its responsibilities under the plan.

Tennessee has committed itself to funding the State share of salaries for 23 safety inspectors and 14 health enforcement officers as evidenced by the FY 1984 Application for Federal Assistance as amended (Ex. 2–8) as well as its subsequent FY 1985 application. These compliance staffing levels meet the revised benchmarks proposed for Tennessee.

As noted in the **Federal Register** notice announcing certification of the completion of developmental steps for Tennessee (43 FR 20980) all personnel under the plan meet civil service requirements under the State merit system, which was found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission.

The State provides continuing training for its staff. The Evaluation Report noted that the State provided formal training for all professional employees.

Because Tennessee has allocated sufficient enforcement staff to meet the revised benchmarks for that State, and personnel are trained and competent, the requirements for final approval set forth in 29 CFR 1902.37(b)(1), and in the 1978 Court Order in *AFL–CIO* v. *Marshall, supra,* are being met by the Tennessee plan.

Section 18(c)(5) of the Act requires that the State devote adequate funds to administration and enforcement of its standards. The Tennessee plan was funded at $2,345,146 in FY 1984. (50% of the funds were provided by Federal OSHA and 50% were provided by the State.)

As noted in the Evaluation Report, Tennessee's funding appears sufficient in absolute terms; moreover, the State compares favorably to Federal OSHA with respect to expenditures per covered employee. On this basis, OSHA finds that Tennessee has provided sufficient funding for the various activities carried out under the plan.

(8) Records and Reports

State plans must assure that employers in the State submit reports to the Secretary in the same manner as if the plan were not in effect (section 18(c)(7) of the Act and 29 CFR 1902.3(k)). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require (section 18(c)(8) of the Act and 29 CFR 1902.3(l)).

Tennessee's employer recordkeeping requirements are substantially identical to those of Federal OSHA, and the State participates in the BLS Annual Survey of Occupational Illnesses and Injuries. As noted in the January 16 proposal, the State participates and has assured its continuing participation with OSHA in the Federal-State Unified Management Information System as a means of providing reports on its activities to OSHA.

For the foregoing reasons, OSHA finds that Tennessee has met the requirements of sections 18(c) (7) and (8) of the Act on employer and State reports to the Secretary.

(7) Voluntary Compliance Program

A State plan is required to undertake programs to encourage voluntary compliance by employers by such means as conducting training and consultation with employers and employees (29 CFR 1902.4(c)(2)(xiii)).

During the 18(e) evaluation period, Tennessee provided training to 2418 public sector employers, supervisors, and employees. In the private sector, 1675 employers and supervisors and 2268 employees participated in training programs.

In the private sector, Tennessee provides on-site consultative services to employers under a cooperative agreement with OSHA made pursuant to section 7(c)(1) of the Act and 29 CFR Part 1908. On-site consultation for the public sector is incorporated into the enforcement program through a compliance assistance program for the public sector.

Accordingly, OSHA finds that Tennessee has established and is administering an effective voluntary compliance program.

(8) Injury and Illness Statistics

As a factor in its 18(e) determination, OSHA must consider the Bureau of Labor Statistics Annual Occupational

Safety and Health Survey and other available Federal and State

health are approved and the Tennessee State plan is hereby granted final

effectiveness of the Tennessee plan, there has been no exercise of concurrent

which the State is carrying out its plan. Section 18(f) and regulations at 29 CFR Part 1955 provide procedures for the

While most of the existing Subpart P has been retained, paragraphs within

4. Section 1952.222 is Redesignated as § 1952.225

VOL 50 ISS 140 JL 22 1985 UMI

Safety and Health Survey and other available Federal and State measurements of program impact on worker safety and health (29 CFR 1902.37(b)(15)). As noted in the 18(e) Evaluation Report, Tennessee's reportable injury and illness rates in absolute terms are slightly higher than Federal averages. It should be noted, however, that this comparative difference existed at the time of the inception of the Tennessee plan in 1973. The overall trend in worker safety and health injury and illness rates since the State began enforcement of its plan compares favorably to that under the Federal program. For example, from 1973 through 1982, the injury and illness all case rate declined 32.5% for all industry, and from 1975 through 1982, 21.4% for manufacturing.

The AFL–CIO's comments noted that while Tennessee's lost workday case rates are lower than the Federal rates, the State's all case rates for all industry and manufacturing are higher.

As noted in the 18(e) Evaluation Report, the 1982 BLS rates (7.9—all case rate for all industry and 10.3 all case rate for manufacturing) for Tennessee were only slightly higher than rates in States where Federal OSHA provides enforcement coverage and are within the prescribed acceptable levels.

Considering the State's overall substantial decline in injury and illness rates, OSHA finds a favorable comparison between Tennessee's trends in injury and illness statistics and those in States with Federal enforcement.

Decision

OSHA has carefully reviewed the record developed during the above described proceedings, including all comments received thereon. The present **Federal Register** document sets forth the findings and conclusions resulting from this review.

In light of all the facts presented on the record, the Assistant Secretary has determined that (1) the revised compliance staffing levels proposed for Tennessee meet the requirements of the 1978 Court Order in *AFL–CIO* v. *Marshall* in providing the number of safety and health compliance officers necessary for a "fully effective" enforcement program, and (2) that the Tennessee State plan for occupational safety and health in actual operation, which has been monitored for at least one year subsequent to certification, is at least as effective as the Federal program and meets the statutory criteria for State plans in section 18(e) of the Act and implementing regulations at 29 CFR 1902. Therefore, the revised compliance staffing benchmarks of 22 safety and 14 health are approved and the Tennessee State plan is hereby granted final approval under section 18(e) of the Act and implementing regulations at 29 CFR Part 1902, effective, July 22, 1985.

Under this 18(e) determination, Tennessee will be expected to maintain a State program which will continue to be at least as effective as operations under the Federal program in providing employee safety and health at covered workplaces. This requirement includes submitting all required reports to the Assistant Secretary as well as submitting plan supplements documenting State initiated program changes, changes required in response to adverse evaluation findings, and responses to mandatory Federal program changes. In addition, Tennessee must continue to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the Department of Labor, or any revision to those benchmarks.

Effect of Decision

The determination that the criteria set forth in section 18(c) of the Act and 29 CFR Part 1902 are being applied in actual operations under the Tennessee plan terminates OSHA authority for Federal enforcement of its standards in Tennessee, in accordance with section 18(e) of the Act, in those issues covered under the State plan. Section 18(e) provides that upon making this determination "the provisions of sections 5(a)(2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination."

Accordingly, Federal authority to issue citations for violation of OSHA standards (sections 5(a)(2) and 9); to conduct inspections (except those necessary to conduct evaluations of the plan under section 18(f), and other inspections, investigations on proceedings necessary to carry out Federal responsibilities which are not specifically preempted by section 18(e)) (section 8); to conduct enforcement proceedings in contested cases (section 10); to institute proceedings to correct imminent dangers (section 13); and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act (section 17) is relinquished as of the effective date of this determination. (Because of the effectiveness of the Tennessee plan, there has been no exercise of concurrent Federal enforcement authority in issues covered by the plan since the signing of the Operational Status Agreement in November 1974 and subsequently amended in April 1976.

Federal authority under provisions of the Act not listed in section 18(e) are unaffected by this determination. Thus, for example, the Assistant Secretary retains his authority under Section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act although such complaints may be initially referred to the State for investigation. Jurisdiction over any proceeding initiated by OSHA under sections 9 and 10 of the Act prior to the date of this determination remains a Federal responsibility. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination. In the event that a State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in the State.

In accordance with section 18(e), this determination relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Tennessee plan, and OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, for example, Federal OSHA retains its authority to enforce all provisions of the Act, and all Federal standards, rules or orders which relate to safety or health in private sector maritime employment, employment on military bases, employment at Tennessee Valley Authority facilities, and those activities of railroad employers which are not regulated by another Federal agency since these issues are excluded from coverage under the Tennessee plan. In addition Federal OSHA may subsequently initiate the exercise of jurisdiction over any issue (hazard, industry, geographical area, operation or facility) for which the State is unable to provide effective coverage for reasons not related to the required performance or structure of the State plan.

As provided by section 18(f) of the Act, the Assistant Secretary will continue to evaluate the manner in which the State is carrying out its plan. Section 18(f) and regulations at 29 CFR Part 1955 provide procedures for the withdrawal of Federal approval should the Assistant Secretary find that the State has substantially failed to comply with any provision or assurance contained in the plan. Additionally, the Assistant Secretary is required to initiate proceedings to revoke an 18(e) determination and reinstate concurrent Federal authority under procedures set forth in 29 CFR 1902.47, *et seq.*, if his evaluation show that the State has substantially failed to maintain a program which is at least as effective as operations under the Federal program, or if the State does not submit program change supplements to the Assistant Secretary as required by 29 CFR Part 1953.

Explanation of Changes to 29 CFR Part 1952

29 CFR Part 1952 contains, for each State having an approved plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. 29 CFR 1902.43(a)(3) requires that notices of affirmative 18(e) determinations be accompanied by changes to Part 1952 reflecting the final approval decision. This notice makes several changes to Subpart P of Part 1952 to reflect the final approval of the Tennessee plan.

A new paragraph § 1952.223, Compliance staffing benchmarks, has been added to reflect the approval of the 1984 revised benchmarks for Tennessee.

A new paragraph § 1952.224, Final approval determination, has been added to reflect the determination granting final approval of the plan. The new paragraph contains a more accurate description of the scope of the plan than the one contained in the initial approval decision.

Newly redesignated § 1952.225, Level of Federal enforcement, has been revised to reflect the State's 18(e) status. The new paragraph replaces former § 1952.222, which described the relationship of State and Federal enforcement under an Operational Status Agreement which was entered into on November 11, 1974. Federal concurrent enforcement authority has been relinquished as part of the present 18(e) determination for Tennessee, and the Operational Status Agreement is no longer in effect. Section 1952.225 describes the issues where Federal authority has been terminated and the issues where it has been retained in accordance with the discussion of the effects of the 18(e) determination set forth earlier in the present **Federal Register** notice.

While most of the existing Subpart P has been retained, paragraphs within the subpart have been rearranged and renumbered so that the major steps in the development of the plan (initial approval, developmental steps, certification of completion of developmental steps and final plan approval) are set forth in chronological order. Related editorial changes to the subpart include modification of the heading of § 1952.220, to clearly identify the 1973 initial plan approval decision to which it relates. The addresses of locations where State plan documents may be inspected have been updated and are found in § 1952.226.

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, *et seq.*) that this rulemaking will not have a significant economic impact on a substantial number of small entities. Final approval will not place small employers in Tennessee under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan. A certification to this effect was previously forwarded to the Chief Counsel for Advocacy, Small Business Administration.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736))

Signed at Washington, D.C., this 22nd day of July 1985.

Patrick R. Tyson,

Acting Assistant Secretary.

PART 1952—[AMENDED]

Accordingly, Subpart P of 29 CFR Part 1952 is hereby amended as follows:

1. The authority citation for Part 1952 continues to read:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736).

§ 1952.220 [Amended]

2. Section 1952.220 is amended by revising the heading to read: § 1952.220 "Description of the plan as initially approved."

§§ 1952.221, 1952.222, 1962.223, and 1952.224 [Redesignated as §§ 1952.226, 1952.225, 1952.221 and 1952.222, Respectively]

3. Section 1952.221 is Redesignated as § 1952.226

4. Section 1952.222 is Redesignated as § 1952.225

5. Section 1952.223 is Redesignated as § 1952.221

6. Section 1952.224 is Redesignated as § 1952.222

7. The Table of contents for Part 1952, Subpart P is revised to read as follows:

Subpart P—Tennessee

Sec.
1952.220 Description of the plan as initially approved.
1952.221 Developmental schedule.
1952.222 Completion of developmental steps and certification.
1952.223 Compliance staffing benchmarks.
1952.224 Final approval determination.
1952.225 Level of Federal enforcement.
1952.226 Where the plan may be inspected.

8. New §§ 1952.223 and 1952.224 are added to read as follows:

§ 1952.223 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall* compliance staffing levels (benchmarks) necessary for a "fully effective" enforcement program were required to be established for each State operating an approved State plan. In September 1984 Tennessee, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 22 safety and 14 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on July 22, 1985.

§ 1952.224 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR Part 1902, and after determination that the State met the "fully effective" compliance staffing benchmarks as revised in 1984 in response to a Court Order in *AFL–CIO* v. *Marshall* (CA 74–406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Tennessee State plan for a period of at least one year following certification of completion of developmental steps (43 FR 20960). Based on the 18(e) Evaluation Report for the period of October 1982 through March 1984, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Tennessee's occupational safety health program is at least as effective as the Federal program in providing safe and healthful employment and places of

employment and meets the criteria for final State plan approval in section 18(e)

(b) In accordance with section 18(e), final approval relinquishes Federal

may not be Federally applied. In the event that the State's 18(e) status is

vehicular traffic yet still provide for the reasonable needs of navigation

been redesignated as § 117.277. Legal holidays have been identified as

Service small craft advisory or warning

VOL 50 ISS 140 JL 22 1985 UMI

employment and meets the criteria for final State plan approval in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. Accordingly, the Tennessee plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective July 22, 1985.

(b) The plan which has received final approval covers all activities of employers and all places of employment in Tennessee except for private sector maritime, railroad employment, employment at Tennessee Valley Authority facilities and on military bases, as well as any other properties ceded to the United States Government.

(c) Tennessee is required to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR Part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

9. Newly redesignated §§ 1952.225 and 1952.226 are revised to read as follows:

§ 1952.225 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Tennessee plan under section 18(e) of the Act, effective July 22, 1985, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Tennessee plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violations of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(b) and other inspections, investigations, or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary retains jurisdiction under the above provisions in any proceeding commenced under sections 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Tennessee plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry standards (29 CFR Part 1910) appropriate to hazards found in these employments), railroad employment, not otherwise regulated by another Federal agency, employment at Tennessee Valley Authority facilities and on military bases. Federal jurisdication is also retained with respect to Federal government employers and employees.

In addition, any hazard, industry, geographical area, operation or facility over which the State is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the finally approved plan, and shall be subject to federal enforcement. Where enforcement jurisdicton is shared between Federal and State authorities for a particular area, project, or facility, in the interest of administrative practicability Federal jurisdiction may be assumed over the entire project or facility. In either of the two aforementioned circumstances, Federal enforcement may be exercised immediately upon agreement between Federal and State OSHA.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Tennessee State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

§ 1952.226 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3476, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30309; and Office of the Commissioner, Tennessee Department of Labor, 501 Union Building, Suite "A"—2nd Floor, Nashville, Tennessee 37219.

[FR Doc. 85-16833 Filed 7-[illegible]-85; 8:45 am]
BILLING CODE 4510-26-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-84-18]

Drawbridge Operation Regulations; Clearwater Pass, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the city of Clearwater the Coast Guard is changing the regulations governing the Clearwater Pass bridge by permitting the number of openings to be limited during certain periods. This change is being made because of increased vehicular traffic and multiple draw openings. This action will accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky (305) 350-4103.

SUPPLEMENTARY INFORMATION: On May 10, 1984 the Coast Guard published (49 FR 19849) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on May 22, 1984. In each notice interested persons were given until June 28, 1984 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

Forty-five comments were received. Seven letters including one with 15 signatures supported the proposal. One letter of support expressed concern for the movement of emergency vehicles, for unnecessary openings for vessel appurtenances, and for the training and quality of bridgetenders. These concerns are addressed in 33 CFR 117.31, 117.11, and 117.7(b)(1), respectively.

Ten individual letters and 23 preprinted form letters opposed the proposal. These comments noted that Clearwater Pass is narrow, subject to strong currents, and congested with boat traffic. They noted that the relatively narrow horizontal clearance of the bridge (50 feet) often limits passage to one vessel at a time. They also noted that Clearwater Pass is the only nearby route to and from the Gulf of Mexico. The Coast Guard agrees that these concerns are valid and therefore evaluated temporary regulations at this bridge in November and December 1984. We requested public comment on the effect of the temporary regulations but received none. Our on site observations of this test and a favorable recommendation from the city of Clearwater led to our decision to implement this final rule.

Other comments were received suggesting alternative time schedules, coordinating openings with the Clearwater Memorial bridge, building a high level, fixed bridge, and dredging additional routes to the Gulf of Mexico. These suggestions were considered but not adopted.

There are several minor differences between the final rule and the proposed rule: These regulations were formerly designated as § 117.467 but have since been redesignated as § 117.277. Legal holidays have been identified as federal holidays. Small craft warnings have been correctly identified as small craft advisories. The U.S. Weather Service has been correctly identified as the National Weather Service. Since the Coast Guard is reconsidering (50 FR 27026) the appropriateness of special regulations for "regularly scheduled cruise vessels" this term has been deleted from the regulation. Provisions for special opening signals and the posting of signs have been deleted since they are now contained in §§ 117.15 and 117.55, respectively.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 of Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g)

2. Section 117.277 is revised to read as follows:

117.277 Clearwater Pass.

(a) The draw of the SR 699 bridge shall open on signal except as provided below.

(b) From 12 noon to 6 p.m. on Saturdays, Sundays, and federal holidays the draw need open only on the hour, quarter-hour, half-hour and three-quarter hour. Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time.

(c) Notwithstanding the provisions of paragraph (b), the draw shall open on signal whenever a National Weather Service small craft advisory or warning for winds of greater force is in effect.

(d) From 11 p.m. to 7 a.m. a delay of up to 10 minutes may be expected unless the drawtender has been contacted by telephone or radiotelephone.

Dated: July 9, 1985.

A.R. Larrabee,

Captain, U.S. Coast Guard Commander, Seventh Coast Guard District, Acting.

[FR Doc. 17282 Filed 7-19-85; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-85-13]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Florida Department of Transportation the Coast Guard is adding regulations governing the Siesta Key bridge by permitting the number of openings to be limited during certain periods. This change is being made because vehicular traffic has increased. This action will accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 350-4103.

SUPPLEMENTARY INFORMATION: On April 29, 1985 the Coast Guard published (50 FR 16721) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on May 7, 1985. In each notice interested persons were given until June 13, 1985 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

A total of 123 comments were received. Nine supported the proposal. Three opposed any restrictions on bridge openings and favored retention of the existing requirement that the bridge open on signal at all times. Ten commenters, including the city of Sarasota, the Southwest Florida Regional Planning Council, and two community associations, requested that the bridge openings be limited to half-

hour intervals instead of the quarter-hour intervals proposed and that the

Regulations

In consideration of the foregoing, Part

(b) The draw of the Moss Bluff (SR 464) bridge, mile 66.0, need not open for

used in paragraph (b)(1) and (b)(2) to define acceptable and unacceptable

Federal Government and to other units

VOL 50 ISS 140 JL 22 1985 UMI

hour intervals instead of the quarter-hour intervals proposed and that the regulation be effective seven days a week instead of just weekends and holidays. In addition, another 101 commenters sent in preprinted postcards favoring daily, half-hour openings.

Restricting drawbridge openings on weekdays is beyond the scope of the proposed regulation. Weekday regulations were considered in formulating the proposed rule but were rejected because of infrequent weekday openings (less than one per hour).

Weekend openings averaged 3.5 per hour with peak activity (4.2 openings) occurring between 1 p.m. and 2 p.m. The Coast Guard believes that limiting weekend openings to one every 30 minutes would create unsafe vessel congestion near the bridge and increase vehicular traffic delays as the draw remained open until all accumulated vessels passed through the span. Authorizing an opening every 15 minutes would reduce unsafe vessel delays and virtually eliminate vehicular delays that result from "back-to-back" draw openings permitted by the existing regulations. Some commenters mistakenly believed that the proposed rules would require the bridge to open every 15 minutes, even if no vessels were waiting. Actually, these rules should reduce the weekend rate of 3.5 openings per hour as vessels would share scheduled openings and would no longer require individual openings. Thirty minute intervals between openings, as requested by most commenters, would occur whenever a scheduled opening is avoided by this forced sharing of bridge openings.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.287 is revised by adding a new paragraph (b–1) to read as follows:

§ 117.287 Gulf Intracoastal Waterway, Caloosahatchee River to Perdido River.

* * * * *

(b–1) The draw of the Siesta Key bridge, mile 71.6 at Sarasota, shall open on signal, except that from 11 a.m. to 6 p.m. on Saturdays, Sundays, and federal holidays, the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

Dated: July 10, 1985.

A.R. Larzelere,

Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District, Acting.

[FR Doc. 85–17351 Filed 7–19–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD7–85–15]

Drawbridge Operation Regulations; Oklawaha River, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Marion County Commission the Coast Guard is changing the regulations governing the State Road 464 drawbridge at Moss Bluff to provide that the draw need not open. This change is being made because no requests have been made to open the draw in the past six years. This action will relieve the bridge owner of the burden of maintaining the machinery and of having a person available to open the draw yet still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 350–4103.

SUPPLEMENTARY INFORMATION: On May 13 and May 21, 1985 the Coast Guard published (50 FR 19955 and 50 FR 20918) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on May 21, 1985. In each notice interested persons were given until June 27, 1985 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

The only comment received was from the Florida Department of Transportation advising that the bridge was on State Road 464 rather than State Road 46 as indicated in the existing rule and proposed revision. The final rule incorporates this correction.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because of the lack of navigation upon the waterway requiring the opening of the bridge. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.319 is revised to read as follows:

§ 117.319 Oklawaha River.

(a) The draws of the Sharpes Ferry (SR 40) bridge, mile 55.1, Muclan Farms bridge, mile 63.9, and the Starkes Ferry (SR 42) bridge, mile 73.0, shall open on signal if at least three hours notice is given.

(b) The draw of the Moss Bluff (SR 464) bridge, mile 66.0, need not open for the passage of vessels.

Dated: July 9, 1985.

A.R. Larzelere,

Captain, U.S. Coast Guard Commander, Seventh Coast Guard District, Acting.

[FR Doc. 85–17353 Filed 7–19–85; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 254

National Forest Townsites

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: These revised regulations establish standards to expedite processing of sales of certain National Forest System lands to governmental entities pursuant to the National Forest Townsite Act of July 31, 1958 (72 Stat. 438; 16 U.S.C. 478a) as amended by the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1722). The revision of these regulations clarifies the existing process, provides for prior designation of potential townsites by the Secretary of Agriculture or the Secretary's designee, expedites case processing by reducing the number of decision levels, and reduces regulatory impact on nonfederal entities.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Haarala, Lands Staff, Forest Service, (703) 235–2161.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to expedite processing of sales under the National Forest Townsite Act was published on September 17, 1984, at 49 FR 36405. Individual responses were received from 4 sources: 2 business and 2 Federal Government. A summary of the comments and actions taken in response to the comments follow along with other minor changes in the text resulting from further agency consideration of the proposed rule. The comments and changes are keyed to section headings of the proposed rule.

Response to Public Comments

Section 254.20 Purpose and scope.

The comments on this section dealt with whether the existing 5-acre minimum on lands to be sold had been deleted. Reviewers also felt there was a need to clarify the intent of the terms "intensive" and "seasonal or outside" as used in paragraph (b)(1) and (b)(2) to define acceptable and unacceptable indigenous community objectives. In response we confirm that the minimum acreage requirements were deleted from the proposed rule. Experience has shown that individual tracts of less than an acre are required by some local governmental entities. We also agree that use of the terms "intensive" and "seasonal or outside" in the test tends to confuse rather than clarify the meaning of acceptable indigenous community objectives. The text has been revised to exclude these terms from the final rule. We believe the revised text retains the Congressional intent of the Townsite Act which is to limit conveyances for essential community needs resulting from internal growth and from the need to improve and modernize the facilities and services of an established community.

Section 254.22 Designation and public notice.

The reference to § 254.20 has been deleted from paragraph (2)(1) since it is not relevant to the application procedure.

Section 254.25 Survey.

The comments on this section questioned Forest Service authority to survey designated townsite lands, the standards to be followed in conducting such surveys, and the recording of survey documents.

In response, the Forest Service authority to designate, subdivide or survey, and dispose of National Forest System lands designated for townsite purposes remains unchanged from the previous regulations. Also since extensive standards and direction covering surveying and the other functions for the conveyance of National Forest System lands already exists in other regulations and directives, the duplicate standards were deleted from the revised text of the final rule. In addition to the changes made in response to public comment, several other provisions (254.20(b), 254.22(b), 254.23 (a)(1) and (b)) were rewritten to be clearer and more precise. These revisions do not change the intent or effect of these provisions as they appeared in the proposed rule.

Regulatory Impact

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been determined not to be a major rule. Little or no effect on the economy will result from this regulation. Since the rule provides streamlined procedures for processing townsite applications, time and costs to the Federal Government and to other units of government in handling these cases should be significantly reduced.

The Assistant Secretary of Agriculture for Natural Resources and the Environment has determined that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, it would result in reducing procedures and associated paperwork.

The regulation does not significantly affect the environment; therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

List of Subjects in 36 CFR Part 254

National forests, Public lands—acquisition and exchanges, Permits, Sales.

Therefore, for the reasons set forth in the preamble, Part 254 of Title 36 of the Code of Federal Regulations is revised to read as follows:

PART 254—LAND OWNERSHIP ADJUSTMENTS

Subpart B—National Forest Townsites

Sec.

254.20 Purpose and scope.
254.21 Applications.
254.22 Designation and public notice.
254.23 Studies, assessments, and approval.
254.24 Conveyance.
254.25 Survey.
254.26 Appraisal.

Authority: Pub. L. 85–569; 72 Stat. 438; 16 U.S.C. 478a, as amended by Sec. 213, Pub. L. 94–579; 90 Stat. 27431.

Subpart B—National Forest Townsites

§ 254.20 Purpose and scope.

(a) A Forest Service official may, upon application, set aside and designate for townsite purposes up to 640 acres of National Forest System lands adjacent to or contiguous to an established community in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(b) National Forest System lands, needed by a community, may be sold under the Townsite Act, for fair market value if those lands would serve indigenous community objectives that outweigh the public objectives and values of retaining the lands in Federal ownership. Indigenous community objectives may include space for housing and for service industries, expansion of existing economic enterprises, new industries utilizing local resources and skills, public schools, public health facilities, community parks, and other recreation

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areas for local citizens, but would exclude such uses as commercial enterprises or new industries and

(1) Determine if the applicant has made a satisfactory showing that the land will meet essential community

necessary tract survey and boundary posting of National Forest System land

Between 1976 and 1980 the law permitted the VA to determine whether a veteran's progress was satisfactory by

determined by the regularly prescribed standards and practices of a school. As stated above, regulations already in

Defense Acquisition Regulatory Council, OASD(A&L)(AM)(DARS), Room 3D139,

VOL 50 ISS 140 JL 22 1985 UMI

areas for local citizens, but would exclude such uses as commercial enterprises or new industries and housing projects that would change the character of the local community.

§ 254.21 Applications.

(a) An application to purchase National Forest System lands—

(1) Must be made by designated officials) authorized to do business in the name of a county, city, or local governmental subdivision;

(2) May be in the form of a letter, ordinance, or resolution;

(3) Must be furnished to the District Ranger or the Forest Supervisor for the National Forest area in which the lands are situated; and

(4) Must be limited to 640 acres or less adjacent to an established community.

(b) An application must be accompanied by—

(1) A description of the land desired; and

(2) A development plan, consisting of a narrative statement and map, which gives a detailed description of the intended use of the site and how essential community needs will be met by the purchase.

§ 254.22 Designation and public notice.

(a) A Forest Service official must—

(1) Ensure the application meets the requirements of § 254.21;

(2) Process an order to set aside and designate the lands for townsite purposes; and

(3) Transmit, where applicable, a copy of the designation order to the State Director, Bureau of Land Management.

(b) The designation order will segregate the lands from other forms of entry as long as the application remains in force.

(c) The designation order does not preclude compatible land adjustments under the Secretary's authority within the area set aside.

(d) A Forest Service official must prepare a public notice of the proposed townsite sale to be inserted once a week for 4 consecutive weeks in a local newspaper:

(1) The notice shall include descriptive information on the proposed townsite sale and identify the applicant and responsible Forest Service official; and

(2) A period of 45 days, from first date of publication, must be provided for accepting public comments.

§ 254.23 Studies, assessments, and approval.

(a) After initial public notice has been published, a Forest Service official must conduct the necessary studies and assessments to—

(1) Determine if the applicant has made a satisfactory showing that the land will meet essential community needs resulting from internal growth;

(2) Determine if lands applied for would serve indigenous community objectives that outweight other public objectives and values which would be served by maintaining such a tract in Federal ownership;

(3) Determine if the sale would substantially affect or impair important scenic, wildlife, environmental, historical, archeological, or cultural values;

(4) Evaluate the applicability of public comments;

(5) Identify the extent of valid existing rights and uses; and

(6) Determine if zoning ordinances, covenants, or standards are needed to protect adjacent National Forest land and to protect or mitigate valid existing rights and uses.

(b) Upon approval, the authorized Forest Service official shall take appropriate steps to have an assessment made of the fair market value of the land and process the conveyance pursuant to §§ 254.24, 254.25, and 254.26.

(c) Upon disapproval, a Forest Service official shall—

(1) Notify the applicant in writing of the reasons the proposal is not acceptable;

(2) Inform the applicant of alternate proposals under other authorities and/or appeal rights.

§ 254.24 Conveyance.

(a) Conveyance of the approved tract(s) may be made by a single transaction or by multiple transactions spread over a period of time in accordance with a prearranged schedule.

(b) The authorized Forest Service official shall—

(1) Execute and convey title to the townsite tract(s) by quitclaim deed;

(2) Ensure deeds are free of terms and covenants, except those deemed necessary to ensure protection of adjacent National Forest System land and/or valid existing rights and uses; and

(3) Deliver executed deeds to the governmental body upon—

(i) Adoption of zoning ordinance and development plan if found necessary; and

(ii) Notice from the authorized Forest Service Fiscal Agent that payment has been received.

§ 254.25 Survey.

The authorized Forest Service official shall conduct or provide for the necessary tract survey and boundary posting of National Forest System land.

§ 254.26 Appraisal.

Fair market value of townsite tracts shall be determined following Forest Service appraisal procedures and the Uniform Standards for Federal Acquisitions.

Dated: April 26, 1985.

[FR Doc. 85-17385 Filed 7-19-85; 8:45 am]
BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans' Education; Reports of Unsatisfactory Progress

AGENCY: Veterans' Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans' Administration) is amending the regulation dealing with reports of a veteran's or eligible person's unsatisfactory progress in training under the GI Bill. This is a technical amendment which eliminates a reference to a subparagraph which no longer exists. This change should eliminate any confusion which may have been caused by this obsolete reference.

EFFECTIVE DATE: July 8, 1985.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans' Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202) 389-2092.

SUPPLEMENTARY INFORMATION: On pages 1549 and 1550 of the Federal Register of January 11, there was published a notice of a proposal to amend 38 CFR Part 21 in order to clarify how the VA will determine whether a veteran's or eligible person's progress is satisfactory.

Interested people were given 30 days to submit comments, suggestions, or objections. The VA received four letters containing comments and one telephone call. Two of the letters were from school officials, and two were from officials of educational organizations. The telephone call was from an official of a State approving agency.

The letter writers were generally pleased with the amended regulation. They thought that this marked the end of the VA's setting standards for educational institutions.

Between 1976 and 1980 the law permitted the VA to determine whether a veteran's progress was satisfactory by using either the school's own standards or a minimum standard contained in the law. The regulation which contained this minimum standard was § 21.4277(a)(2).

In 1980 Pub. L. 96-466, the Veterans' Rehabilitation and Education Amendments of 1980 was enacted. This law amended title 38, United States Code, to require the VA to use the schools' own standards when determining whether the veteran's progress was satisfactory. Accordingly, § 21.4277(a)(2) was removed from the Code of Federal Regulations. The VA no longer imposed its own standards on schools or educational institutions.

However, through oversight a reference to § 21.4277(a)(2) was left in § 21.4203. The proposal of January 11 was designed to correct this oversight, and to make clear that only the schools' own standards will be used to determine satisfactory progress. Since the VA is required to follow the United States Code, the standards formerly found in § 21.4277(a)(2) have not been followed since the law was changed in 1980. Hence, this technical amendment should have no effect on the way in which the VA is determining satisfactory progress.

The State approving agency thought that the VA was trying to prevent State governments or State approving agencies from requiring schools to have certain minimum requirements in their standards of progress. The VA is not trying to usurp the functions of State governments. If, for example, a State requires that a school establish certain minimum standards in order to obtain a license to operate in that State, the State approving agency may include establishment of those standards as an approval criterion. The VA does not wish to encourage schools to ignore State laws and regulations, and the VA does not think that this amended regulation will have that effect. Accordingly, the regulation is being made final without change.

The Administrator of Veterans Affairs has certified that amendment of this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the (RFA) Regulatory Flexibility Act, 5 U.S.C. 601-602. Pursuant to 5 U.S.C. 605(b), the amendment of this regulation, therefore, is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This certification can be made because the other sections which deal with standards of progress already state that satisfactory progress will be determined by the regularly prescribed standards and practices of a school. As stated above, regulations already in effect state that those standards should be related to the student's grade. The amended regulation should affect only those veterans and eligible persons who are attending schools where a misunderstanding has arisen concerning the VA's policy in this area.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: July 8, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

38 CFR Part 21, VOCATIONAL REHABILITATION AND EDUCATION is amended by revising the introductory text of § 21.4203(h)(1) to read as follows:

§ 21.4203 Reports—requirements

* * * * *

(h) * * *

(1) A veteran's or eligible person's progress may become unsatisfactory according to the regularly prescribed standards and practices of the school as a result of the grades he or she receives The school shall report such unsatisfactory progress to the VA in time for the VA to receive it before the earlier of the following dates is reached: (38 U.S.C. 1674)

* * * * *

[FR Doc. 85-17316 Filed 7-19-85; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 217

DoD FAR Supplement; Reverse Engineering

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The DoD FAR Supplement Part 217 is revised to allow delegation of authorization of reverse engineering projects to a lower level within the Air Force than is currently stated in the coverage.

EFFECTIVE DATE: July 11, 1985.

FOR FURTHER INFORMATION CONTACT: Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, OASD(A&L)(AM)(DARS), Room 3D139, Pentagon, Washington, D.C. 20301, telephone (202) 697-7267.

SUPPLEMENTARY INFORMATION: Public comments have not been solicited since such revision does not have a significant impact on contractors or offerors and does not have a significant effect beyond agency internal operating procedures.

Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1984 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1984 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 84-1 through 84-3.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

Impact

The Department of Defense has certified that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rule has no impact outside of the agency. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 217

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Part 217 is amended as set forth below.

1. The authority for 48 CFR Part 217 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 217—SPECIAL CONTRACTING METHODS

217.7201-2 [Amended]

2. Section 217.7201-2 is amended by deleting the last sentence of paragraph (b)(4).

[FR Doc. 85-17327 Filed 7-19-85; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-16; Notice 4]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 108 to allow installation of modulating headlamps on motorcycles. Such a headlamp, whose use is currently not allowed, could improve conspicuity of a motorcycle and its operator during daylight. The rule completes agency action following the agency's grant of a petition by Harley-Davidson Motor Co., Inc. A notice of proposed rulemaking (NPRM) was published on August 28, 1984, which was a revision of the notice of proposed rulemaking published on September 23, 1982. Although the notice also proposed amending Safety Standard No. 123 to establish location and operation requirements for headlamp modulator switches for new motorcycles on which modulating headlamps have been installed as original equipment, this proposal has not been adopted.

DATE: Effective date of the amendment August 21, 1985.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: Paragraph S4.6(b) of Standard No. 108 requires headlamps to be steady-burning when in use although allowing them to be flashed automatically for signalling purposes. This paragraph allows cycles of activation and deactivation of the headlamp but it has not been interpreted as allowing cycles of varying intensity (modulation).

Harley-Davidson Motor Co., Inc., of Milwaukee, a manufacturer of motorcycles, wished to introduce headlamp modulation as an option and petitioned the agency for an amendment to Standard No. 108 to allow it. The agency granted the petition and published an NPRM on September 23, 1982 (Notice 1, 47 FR 42009), later extending the time in which to comment (Notice 2, 47 FR 47896) upon petition by the American Motorcycle Association. A revised NPRM was published on August 28, 1984 (Notice 3, 49 FR 34050).

Background of 1982 NPRM

In 1979, on behalf of the agency, the Highway Safety Research Institute evaluated various means of increasing the conspicuity of motorcycles and their operators (DOT-HS-805143). More than 30 types of conspicuity treatments were developed. Three principal means of improvement were found. One was the wearing by the cyclist of a high visibility vest and helmet cover. Another was continual operation of the low beam of the headlamp during daylight (it is now the practice of virtually all cycle manufacturers to wire the headlamp so that it is on when the engine is running). The third was modulation of the upper beam of the headlamp from full to low intensity at three times per second. Data show that about 75 percent of motorcycle accidents occur in daytime. Therefore, enhancement of conspicuity during daylight hours is manifestly in the interests of motor vehicle safety. For this reason and because some State legislatures have shown interest in allowing modulated headlamps on their highways, NHTSA tentatively concluded that cyclists should be afforded an option to choose a headlamp wired to modulate on the upper beam from higher to lower intensity at a pulse rate from 150 to 240 cycles per minute.

The agency particularly solicited comments from States, and from individuals who had used these lamps. Emphasis was placed on whether there was a potential for misuse; for example, the likelihood of use of the modulating mode under conditions such as inclement weather or dusk when the steady-burning mode is required for safety.

Comments on 1982 NPRM

Over 150 comments were received on the initial NPRM, of which only 17 could be characterized as objecting to the proposal. The principal comments in opposition were submitted by the States of Maryland and Minnesota. Each raised the possibility that a motorcycle with a modulating white headlamp might be perceived as a potential emergency vehicle, since flashing white lights in those States are generally reserved for emergency vehicles. Maryland commented that a mixture of motorcycles with and without modulating headlamps would compound the potential for confusion. It suggested mandatory usage of a measure other than modulating headlamps to enhance conspicuity. Minnesota asked for safeguards to prevent the modulator from being operated when steady-burning headlamps are required. Commenters also asked for an automatic fail-safe provision to allow headlamp use if the modulator or its circuit failed.

The issue of "photic driving" was raised by the Insurance Institute for Highway Safety, the National Society for the Prevention of Blindness, and others. This issue concerns potential adverse reactions in the central nervous system from regularly flashing lights, similar to epileptic seizures. These are termed "photic driving" and can occur in persons not otherwise prone to epilepsy. These commenters recommended that the agency determine whether modulating headlamps would cause a photic driving problem prior to permitting their use. Their main concern related to the rate of modulation that would be allowed. One commenter, the California Highway Patrol, suggested a rate between 200 and 280 cycles per minute, specified for use in that State.

A final group of commenters expressed concern that modulating headlamps would prove distracting to other drivers, either when viewed directly oncoming, or indirectly in rearview mirrors.

The agency gave lengthy consideration to all these comments and concluded that none of them justified termination of the rulemaking action. It also concluded that the standard should not be amended in the manner proposed, and that a further notice of proposed rulemaking would be required to implement the suggestions and allay the concerns expressed in the comments to the initial proposal.

The 1984 NPRM

The agency did not deem it likely that a modulating headlamp would be perceived as belonging to an emergency vehicle for several reasons. One is that usually there would be only one headlamp, or two closely spaced headlamps, flashing rather than a widely spaced pair as would be the case with an emergency vehicle. Also, emergency vehicles would normally have either red or blue flashing lights in addition to the flashing headlamps, which a motorcycle would not have. The modulated headlamp would also be substantially different than the white "strobe" lights that are used on emergency vehicles and which usually are intense, of short duration and flash at a higher rate than proposed for modulated headlamps. "Strobe" lights also have a sharp distinction between the "on" condition and the "off" condition whereas modulated headlamps make a gradual transition from a higher intensity to a lesser one.

NHTSA tentatively concurred with Minnesota's request for safeguards against misuse, and proposed, in essence, that any modulating system be automatically activated by ambient light so that when steady-burning headlamps are required (e.g., at night), the modulator could not be used. Also proposed was a requirement to prevent excessive voltage drops in the circuit caused by inferior switches. The limit for voltage drop was proposed at .45 volt.

The agency reviewed its proposed flash rate of 150 to 240 cycles per minute, and concluded that 150 cycles was too close to that of turn signals and hazard warning signals for its intended purpose. Because the State of California had specified 200 to 280 cycles per minute for 3½ years with no apparent problems, the agency proposed a cycle rate of 240±40 per minute.

With respect to the photic driving phenomenon, the agency tentatively concluded that modulating headlamps would cause no problem during daytime if a pulse rate of 4 per second (240 cycles per minute) were used. This conclusion was based upon two aspects of the phenomenon: The pulse rate of the light and the amount of contrast between the light and the background. From the available studies on the subject, it appeared that people are most likely to be affected if the light flashes at about 10 flashes per second (600 per minute) and/or when the background is very dark. Thus, modulation of headlamps at night within the proposed pulse rate could possibly produce a signal that is in the range of reported conditions that produce photic reactions. Accordingly, NHTSA proposed, in essence, that modulation be allowed only during daylight conditions. This could be accomplished through the use of a light sensor, which NHTSA believed could be incorporated into the system for less than $1.00. Specific comments were sought on the incremental cost of such a sensor. With such a device, headlamp modulation would cease when the level of ambient light falls below the normal daytime light level (or below the level of high intensity street lights). The sensor would be mounted either upward to measure direct light, from above the motorcycle, or downward to measure indirect light, reflected off the pavement beneath the motorcycle.

In developing this aspect of the proposal, NHTSA gave close attention to comments from Dotech, Inc., submitted to the docket on January 9, 1984, and April 30, 1984. Dotech had measured both incident light and reflected light levels from various types of street lighting in parking lots and on parkways at night to determine appropriate values for direct or reflected light to deactivate the modulator. Dotech found that incident light levels did not change significantly when it moved its light meter from waist level up and down several feet, while conducting direct light measurements under street lights located 30 feet above the pavement. Reflected light was measured with the meter three feet above the pavement. Dotech initially concluded that the modulator sensor should have a vertical orientation to avoid light reflected from headlamps or other sources, and that appropriate values appeared to be 430 lux (40 foot-candles) of direct light, or 150 lux (13.9 foot-candles) of indirect reflected light. Subsequently, however, Dotech recommended 270 lux (25 foot-candles) for direct light and 60 lux (5.6 foot-candles) for reflected light as more appropriate based on its experiments. Accordingly, NHTSA proposed that modulator systems be equipped with a sensor which would deactivate the modulator whenever the light level appropriate for the sensor's orientation is reached. The upward or downward orientation of the sensor would be at the option of the manufacturer. The light source that NHTSA proposed to use in its compliance tests of the systems would be a tungsten filament lamp operating at 3000 degrees Kelvin. Because of the dearth of comments in this area, other than that of Dotech, and because of Dotech's own modified conclusions, NHTSA was particularly interested in additional comments on the appropriateness of the values of direct and reflected light that it proposed.

There were also additional features that were not proposed in the initial notice that NHTSA proposed to incorporate into a modulating headlamp standard. The first of these was the proposal of a modulation depth limit to assure that not less than 17 percent of full luminous intensity is available regardless of lamp wattage. This would serve to prevent early bulb filament failure and to ensure that a distinction remains between the modulating headlamp and flashing strobe lights used on emergency vehicles, as well as lessening the likelihood of a "photic response".

To assure performance of the headlamp modulator, NHTSA proposed an accelerated environmental requirement comprised of a temperature and humidity test. NHTSA proposed to use the SAE Standard for vehicle hazard warning signal flashers, J945b, as a guide to thermal extremes, acceptable voltage variation and general procedure. Humidity exposure was added as were performance checks at each environmental extreme. The test duration proposed was 60 hours.

With respect to the aftermarket, NHTSA proposed only that each modulator be labelled with the maximum wattage for which it is intended. Some motorcycles, for example, may have two 70-watt headlamps while others may have a single 35-watt headlamp. The consumer must be provided information to determine whether a modulator is sufficient to drive high-wattage or multiple headlamps.

A companion amendment to Standard No. 123, *Motorcycle Controls and Displays*, was proposed for location and operation requirements for modulator switches on vehicles equipped by their manufacturers with modulating headlamps. The agency specifically invited comments on the location of the Modulate position on the Headlamp Beam Control Switch.

Comments on 1984 NPRM

Over 50 comments were received in response to the second NPRM, virtually all of which supported it and some of which suggested minor modifications and refinements that the agency has adopted.

The first significant issue raised was whether modulation might not be allowed on the lower beam (only the upper beam was proposed), with some commenters expressing the opinion that the lower beam modulation might be less irritating to oncoming drivers, as well as being consistent with the driving requirement of dimming upper beams when approaching other vehicles. Intuitively this comment has appeal and NHTSA has concluded that lower beam modulation should be permitted for the reasons discussed below.

In studies of daytime running lights, a value of 1500 candela has been found sufficient to demonstrate conspicuity of a passenger car more than a mile away. Therefore, the 3000 candela that most motorcycle headlamps have at the H-V test point would be more than sufficient for conspicuity. In addition, the requirement that the minimum intensity during modulation be not less than 17% of full-on intensity during modulation reduces the possibility that modulation will be less effective for conspicuity than a steady-burning lower beam.

There are additional factors in support of allowing modulation on the lower beam. An increasing number of

motorcycles are being equipped with headlamps of greater wattage. For these

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

(b) The headlamp shall be operated at

12 volt systems and 6 volt systems shall

VOL 50 ISS 140 JL 22 1985 UMI

motorcycles are being equipped with headlamps of greater wattage. For these motorcycles, use of the upper beam for modulation might create a glare problem. On the other hand, smaller motorcycles with headlamps of no greater output than 35 watts may find an upper beam modulator more effective. Based upon the comments, NHTSA has decided to allow modulation on either the upper or lower beam, at the manufacturer's option. The headlamp would not be permitted to modulate on the beam not chosen, and therefore, the operator would not be able to switch the beam for which modulation was produced by the manufacturer. NHTSA also proposed that the modulator be equipped with a sensor that would activate and deactivate it. Comments were generally directed to factors which might impair satisfactory operation of the sensor, such as mounting in a shielded location where light might not reach it, or in a location where it could be obscured by dirt. The effect of either of these factors would be to deactivate the device at a time when it should be functioning. No further comments were received on the issue of photic driving.

Harley-Davidson expressed particular concern that the reliability of the sensor would be reduced by the addition of components to provide the light sensing functions, raising the possibility that if it failed in one mode it might not operate at all, but that failure in another would cause continuous operation. Further, comments were made to the effect that a manufacturer of a modulator, Dotech, had applied for patents that cover the construction of the light sensor and that NHTSA might be in the position of having written a standard that mandated a design that was under the monoply control of the patent holder. NHTSA has reviewed these comments. The manual by-pass switch required for these systems will assure the restoration of normal operation in the event of a malfunction in the modulator. Further, the humidity-temperature test that was proposed and now adopted will insure system reliability. Although Dotech has applied for patents, it is only one manufacturer of modulating devices. While Dotech uses a light sensing transistor for a light detector, a number of other types of light sensors can be used, such as solar cells and light dependent resistors.

The notice proposed a maximum allowable voltage drop of .45 volt across the modulator during operation. Koito commented that it was impossible to meet this requirement with high wattage headlamps since the voltage drop across the transistor is increased. Koito recommended 1.5 volts, or, alternatively no requirement. The suggested 1.5 volt value is unacceptable to the agency as it could result in a reduction to 65% of normal intensity during nighttime when the lights are steady-burning. NHTSA is aware of transistor switches which are available which can handle power requirements without excessive voltage drop. Another possible solution to the problem is the use of mechanical relays in a hybrid circuit with switch transistors. Therefore NHTSA has adopted the proposed voltage drop of .45.

Part of the proposed temperature-humidity test involves operation of the modulator at −25°F for three hours. Some commenters objected to the temperature arguing that few will ride their motorcycles at such an extremely low temperature. The agency wishes to insure that modulators remain operative when subjected to temperatures of the sort that have been experienced through wide areas of the United States during winters in the past ten years. Motorcycles may be exposed to this extreme at times other than when in use; for example, when parked overnight. Current SAE standards on flashers and switches require operation at −25°F and the proposed test values were taken from these SAE requirements which reflect industry capability and practice. The agency understands that modulators can operate at this temperature, and is therefore adopting the value as proposed.

NHTSA also proposed that the headlamp dimmer switch incorporate a modulator position when this feature is offered as original equipment. Two commenters indicated that frequent use of the modulator switch is not required, and that it does not have to be as accessible as the upper-lower beam switch. In addition, the requirement would not cover the switch for aftermarket modulators. For these reasons, NHTSA has not adopted the position indicator proposal, nor the companion proposal to amend Safety Standard No. 123 to identify the modulator position.

NHTSA has considered the impacts of this rule and has determined that it is neither major within the meaning of Executive Order 12291 nor significant under Department of Transportation guidelines regarding regulatory policy and procedure. The rule will have an impact only on those who voluntarily choose to produce and buy an alternative headlamp. Because the modulating headlamp will not be required but is simply an option to a standard motorcycle headlamp, there will be no mandatory increased manufacturing costs connected with this proposal. The cost to the purchaser who chooses a headlamp with a modulating switch would be about $40. However, since this feature would presumably be desired only by those purchasers who selected it as an option, NHTSA does not anticipate any impact on motorcycle sales. The impacts of this rule are so minimal that preparation of a regulatory impact analysis or a full regulatory evaluation is not warranted.

NHTSA has analyzed this rule for the purpose of the National Environmental Policy Act, and has determined that it would not have a significant effect on the human environment since neither the weight nor quantity of materials used in the manufacture of the lamps is greatly affected.

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. I certify that this rule would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a flexibility analysis. Manufacturers of motorcycle headlamps and modulators, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, compliance with the adopted changes is optional. Small organizations and governmental jurisdictions would be affected only to the extent that law enforcement agencies chose to purchase motorcycles with modulating headlamps.

Because the amendment relieves a restriction and does not impose a burden upon any party, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest, and its amendment is effective 30 days after publication in the **Federal Register**.

The engineer and attorney primarily responsible for this notice are Jere Medlin and Taylor Vinson, respectively.

List of Subjects in 19 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Motor vehicle equipment, Lamps—reflective devices and associated equipment.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR 571.108 is amended as follows:

§ 571.108 [Amended]

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Paragraph S4.6 is redesignated S4.5.11 and revised to read:

S4.5.11 The wiring requirements for lighting equipment in use are:

(a) Turn signal lamps, hazard warning signal lamps, and school bus warning lamps shall be wired to flash;

(b) High-mounted stop lamps on passenger cars manufactured on or after August 1, 1984, but before September 1, 1986, may flash when the hazard warning system is activated;

(c) Headlamps and side marker lamps may be wired to flash for signalling purposes;

(d) A motorcycle headlamp may be wired to allow either its upper beam or its lower beam, but not both, to modulate from a higher intensity to a lower intensity in accordance with section S4.6;

(e) All other lamps shall be wired to be steady-burning.

3. A new paragraph S4.6, *Motorcycle headlamp modulation system* is added to read:

S4.6 *Motorcycle headlamp modulation system.*

S4.6.1 A headlamp on a motorcycle may be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity provided that:

(a) The rate of modulation shall be 240±40 cycles per minute.

(b) The headlamp shall be operated at maximum power for 50 to 70 percent of each cycle.

(c) The lowest intensity at any test point shall be not less than 17 percent of the maximum intensity measured at the same point.

(d) The modulator switch shall be wired in the power lead of the beam filament being modulated and not in the ground side of the circuit.

(e) Means shall be provided so that both the lower beam and upper beam remain operable in the event of a modulator failure.

(f) The system shall include a sensor mounted with the axis of its sensing element perpendicular to a horizontal plane. Headlamp modulation shall cease whenever the level of light emitted by a tungsten filament light operating at 3000° Kelvin is either less than 270 lux (25 foot-candles) of direct light for upward pointing sensors or less than 60 lux (5.6 foot-candles) of reflected light for downward pointing sensors. The light is measured by a silicon cell type light meter that is located at the sensor and pointing in the same direction as the sensor. A Kodak Gray Card (Kodak R-27) is placed at ground level to simulate the road surface in testing downward pointing sensors.

(g) When tested in accordance with the test profile shown in Figure 9, the voltage drop across the modulator when the lamp is on at all test conditions for 12 volt systems and 6 volt systems shall not be greater than .45 volt. The modulator shall meet all the provisions of the standard after completion of the test profile shown in Figure 9.

(h) Means shall be provided so that both the lower and upper beam function at design voltage when the headlamp control switch is in either the lower or upper beam position when the modulator is off.

S4.6.2(a) Each motorcycle headlamp modulator not intended as original equipment, or its container, shall be labelled with the maximum wattage, and the minimum wattage, appropriate for its use. Additionally, each such modulator shall comply with S4.6.1 (a) through (g) when connected to a headlamp of the maximum rated power and a headlamp of the minimum rated power and shall provide means so that the modulated beam functions at design voltage when the modulator is off.

(g) Instructions, with a diagram, shall be provided for mounting the light sensor including location on the motorcycle, distance above the road surface, and orientation with respect to the light.

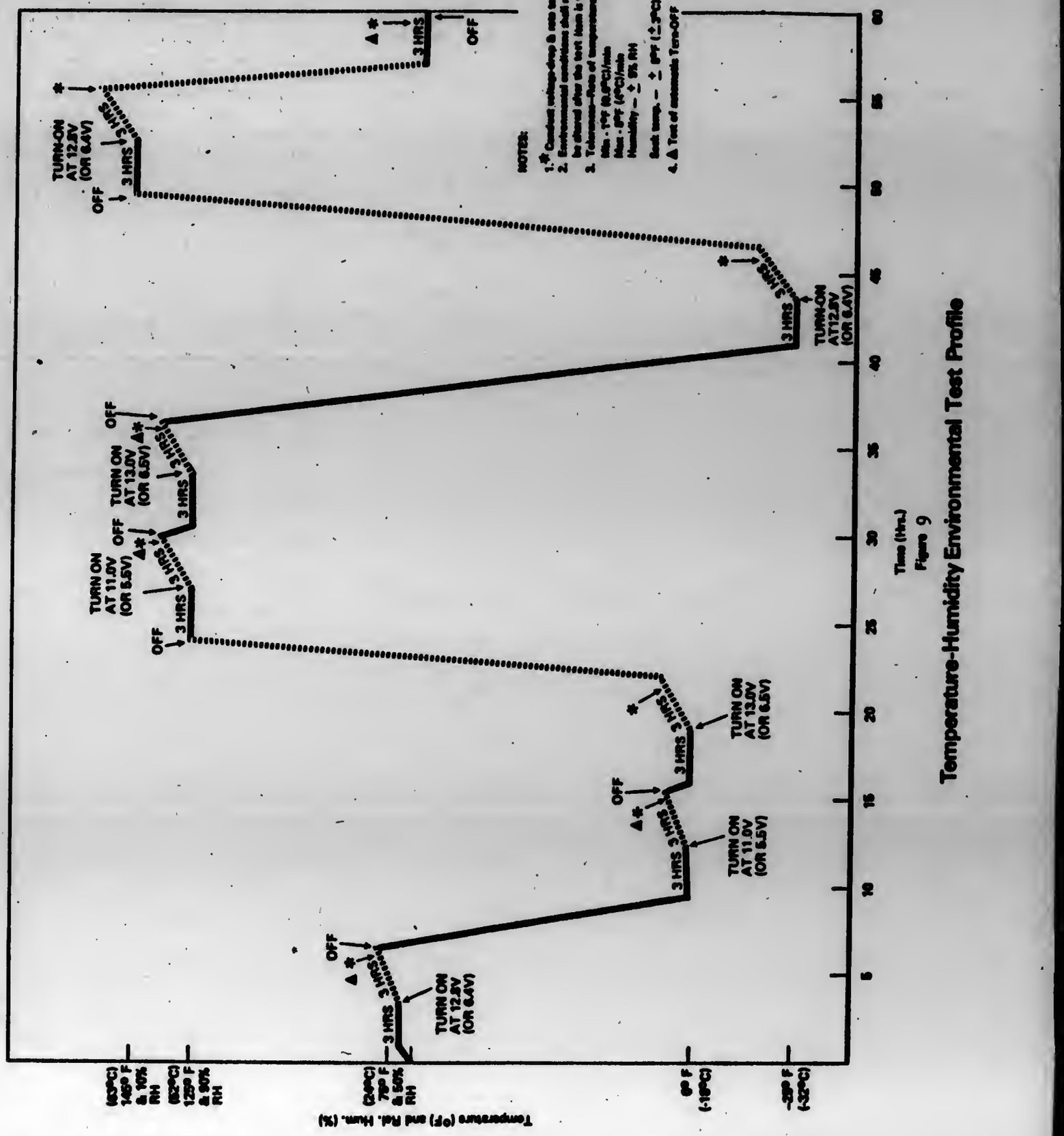
4. A new Figure 9 is added as follows:

Issued on July 16, 1985.

Diane K. Steed,

Administrator.

BILLING CODE 4910-59-M



[FR Doc. 85-17332 Filed 7-19-85; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 41046-4174]

Foreign Fishing and Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustments.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) under provisions of the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Groundfish are apportioned according to the regulations implementing that FMP. The purpose of this action is to assure optimum use of these groundfish by allowing the domestic and foreign fisheries to proceed without interruption.

EFFECTIVE DATE: July 17, 1985.

FOR FURTHER INFORMATION CONTACT: Janet Smoker (Resource Management Specialist, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields (OYs) are established by the FMP, which was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act and implemented by rules appearing at 50 CFR 611.92 and Part 672. The OYs are apportioned initially among DAH, reserves, and TALFF. Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under §§ 611.92(c) and 672.20(c). In addition, surplus amounts of both components of DAH [DAP (domestic processed fish) and JVP (joint venture processed fish)] may be apportioned to TALFF during the fishing year under those same regulations.

The initial DAPs and JVPs for 1985 were based in part on the projected needs of the U.S. industry as assessed by a mail survey sent by the Director, Alaska Region, NMFS (Regional Director) to fishermen and processors in September 1984. The Regional Director initiated another survey in March 1985, for which the results are now complete.

Survey results indicate that more than half of the Gulf of Alaska U.S. DAP fisheries and JVP fisheries for species other than pollock will occur during the second half of the year. It is therefore impossible to determine at this time what amounts of DAH, if any, will prove excess to the needs of U.S. fishermen. The reapportionment of any DAH to TALFF would thus be inappropriate. Reapportionment of DAH and any reserves not released by this action will be considered at a later date.

The regulations implementing the FMP require that, as soon as practicable after April 1, June 1, and August 1, or on other dates as are determined appropriate, the Secretary of Commerce will apportion to DAH all or part of the reserve that he finds will be harvested by U.S. vessels during the remainder of the year, and will apportion to TALFF the remaining portion of the reserves. The initial figures for 1985 (50 FR 467, January 4, 1985), were recently revised in an emergency rule published elsewhere in this issue of the **Federal Register**. This action supplements DAH and TALFF from reserves. The changes are summarized in Table 1.

TABLE 1.—GULF OF ALASKA REAPPORTIONMENTS OF OY

	DAH	DAP	JVP	Reserve	TALFF
Pollock (Western/Central) OY=305,000	256,871	44,371	212,500	23,129	25,000
This action			+8,000	−23,129	+15,129
Revised			220,500	0	40,129

Apportionments to DAH

The joint venture catch to date of pollock in the Western/Central area of the Gulf of Alaska is 220,000 metric tons (mt), exceeding the current JVP of 212,500 mt. Therefore, 8,000 mt of the pollock reserves in the Western/Central area is apportioned to JVP.

Apportionments to TALFF

In the Western/Central area, 15,129 mt of the pollock reserve is transferred to TALFF. Based on the industry surveys discussed above and reports of catch to date, it is found that these fish will not be taken by U.S. fishermen during 1985.

Comments and Responses

In accordance with §§ 611.92(c) and 672.20(c), aggregated reports on U.S. catches of Alaska groundfish and the processing of those groundfish were available for public inspection to facilitate informed public comment. In addition, those sections of the regulations offer the public an opportunity to submit comments on the extent to which U.S. fishermen will harvest and the extent to which U.S. processors will process Alaska groundfish. No comments were received.

Classification

This action is taken under §§ 611.92(c) and 672.20(c) and complies with Executive Order 12291.

In view of the prior notice provided in the authorizing regulations regarding the dates after which apportionment of reserves and reassessment of DAH are to occur, together with the need to avoid disruption of U.S. and foreign fisheries and to afford a reasonable opportunity to achieve OY, the Agency has determined that delaying the effective date of this notice would be impracticable, unnecessary, and contrary to the public interest.

(16 U.S.C. 1801 *et seq.*)

Dated: July 17, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Services.

[FR Doc. 85-17375 Filed 7-17-85; 5:06 pm]

BILLING CODE 3510-22-M

50 CFR Parts 611 and 672

[Docket No. 50711-5111]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; reduction of optimum yield for four species; initial 1985 groundfish specifications; establishment of prohibited species catch limits; reapportionment of reserves.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency exists in the conduct of groundfish fisheries in the Gulf of Alaska, because exploitable biomasses of pollock, Pacific ocean perch, "other rockfish", and Atka mackerel will not support harvests at the currently specified optimum yield (OY) levels and because OYs of sablefish, Pacific ocean perch, and "other rockfish" will be fully utilized by U.S. fishermen, preventing allocations under existing rules to joint venture and foreign fisheries. The Secretary, therefore, reduces the OYs for pollock, Pacific ocean perch (POP), and Atka mackerel, as well as for the "other species" category as required by formula under the Fishery Management

VOL
50
ISS
140
JL
22
1985
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Plan for Groundfish of the Gulf of Alaska (FMP). He has established prohibited species catch (PSC) limits for (1) sablefish and POP in joint venture fisheries and (2) sablefish, POP, and "other rockfish" in foreign fisheries. The OY reductions are necessary to prevent overfishing, which would otherwise occur if harvests were to exceed levels that the stocks will support. The establishment of PSC limits is necessary to minimize the incidental catch of species fully utilized by U.S. fishermen and to avoid the wastage of large amounts of target groundfish species that would otherwise occur if joint venture or foreign fisheries were to be prohibited. The 1985 initial apportionments of all OYs, including those implemented by this emergency rule, are announced in this notice, which is necessary to make allocations available to United States and foreign fishermen for the 1985 fishing year. These actions are intended as conservation measures that respond to the best available scientific information on the status of these fishery stocks and are intended to inform the fishing industry of the amounts of groundfish available in order to provide for an orderly fishery.

DATES: In § 611.92, paragraphs (b)(2), (c)(2)(i) (A), (D), and (E), (c)(2)(ii) (A), (B) and (C), (e)(3)(ii), and (f)(2)(i) are suspended from July 17, 1985 until October 15, 1985. New paragraphs (b)(5), (c)(2)(i) (F), (G), (H), and (I), (c)(2)(ii) (D), (E), (F), (G), and (H), and (i) are added, effective from July 17, 1985 until October 15, 1985. In Part 672, Table 1 in § 672.20(a) is replaced with a new table, and a new paragraph § 672.20(a)(4) and a new § 672.21 are added to be effective from July 17, 1985 until October 15, 1985. Comments on the reapportionments under § 672.20(c)(4) are invited until August 1, 1985.

ADDRESS: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. The environmental assessment prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Biologist, NMFS) 907–586–7230.

SUPPLEMENTARY INFORMATION:

Background

Reductions in Optimum Yields

The domestic and foreign groundfish fishery in the fishery conservation zone (3–200 miles offshore) of the Gulf of Alaska is managed under the FMP, which was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented December 1, 1978 (43 FR 52709, November 14, 1978). Twelve amendments to the FMP have been approved and implemented by the Secretary.

Stocks of groundfish are managed on the basis of the best available scientific information. For the 1985 fishery, the best available information on pollock, Pacific ocean perch, Atka mackerel, and "other rockfish" is derived from results of the triennial Gulf of Alaska biomass survey conducted by the Northwest and Alaska Fisheries Center. After conducting the survey, the Center provided the Council's Plan Team and Scientific and Statistical Committee (SSC) with their results. Their recommendations were presented to the Council at its December 5-8, 1984, meeting. After considering the recommendations, the Council established new OYs for pollock, Pacific ocean perch, Atka mackerel, and "other rockfish" (see Table I).

TABLE I.—EQUILIBRIUM YIELD (EY), INITIAL OPTIMUM YIELD (OY) [50 FR 468, JAN. 4, 1985], NEW OY AND RESERVE [COUNCIL ACTION OF DECEMBER 1984], AND PROHIBITED SPECIES CATCH (PSC) LIMITS [COUNCIL ACTION OF FEBRUARY 1985] IN THE JOINT VENTURE (JVP) AND FOREIGN (TALFF) FISHERIES BY REGULATORY AREA IN THE GULF OF ALASKA

[Figures are in metric tons]

Species/area	EY	Initial OY	New OY	20-pct reserve	PSC	
					JVP	TALFF
Pollock: Western/Central		400,000	305,000	61,000		
Sablefish:						
Western	2,227	1,670	1,670	334	245	140
Central	4,080	3,060	3,060	612	545	31
Pacific Ocean perch:						
Western	1,736	2,700	1,302	260	53	30
Central	5,208	7,900	3,906	781	98	18
Atka mackerel:						
Western		4,678	4,678	935		
Central		20,838	500	100		
Eastern		3,166	100	20		
Other rockfish: gulf-wide	(1)	7,600	5,000	1,000		25
Other species: gulf-wide		28,780	22,460	4,492		

[1] Unknown.

The Council has approved preparation of an FMP amendment to reflect these changes, but voted to request the Secretary in the interim to implement the modifications by emergency rule under § 305(e) of the Magnuson Act. Apportionments of the OYs contained in Table 1 of §672.20 are intended to satisfy procedures required by § 672.20(a)(2) for prescribing initial 1985 apportionments. Comments received on the initial apportionments are summarized and responded to in this document.

Reasons for the changes in OY for each species follow:

Pollock—Based on acoustic surveys conducted in the Shelikof Strait region of the Gulf of Alaska during March and April, 1984, pollock biomass is estimated to be about 1,800,000 metric tons (mt). This amount represents the biomass in the Central and Western Regulatory Areas combined, because few pollock were found elsewhere in these areas while surveys were conducted during the spawning period. Similar surveys were conducted in Shelikof Strait during 1980, 1981, and 1983. Results of the 1984 survey indicate that biomass continued to decrease from the peak level reached in 1982. Length and age composition and hydroacoustic survey data from 1984 joint venture fisheries confirm that the 1980 year class (age 4 fish) is weak. The 1981 year class (age 3 fish) also appears to be weak. The abundance estimate of age 3 fish in 1984 is about the same as age 3 fish (1980 year class) in 1983. It is estimated that the exploitable biomass (age 3 and older) of pollock has now declined from the 1984 level by some 500,000, mt, to fall within a range of 1,200,000 to 1,270,000 mt. An acceptable maximum exploitation rate of 28.5 percent would provide a harvest between 342,000 mt and 362,000 mt. The Council and the SSC reviewed the Plan Team's concern that most of the 1985 harvest will come from the two dominant year classes, 1978 and 1979, which are 7- and 6-year old fish in the 1985 fishery. Recognizing the dependence of the fishery on these two year classes and the continuing poor recruitment from others, the Council applied a more conservative allowable exploitation rate of 24 percent to the upper end of the exploitable biomass range, resulting in an OY of 305,000 mt.

Pacific ocean perch (five-species complex)—Results of the triennial Gulf of Alaska biomass survey indicate that the current exploitable biomasses of POP are 53,400 mt, 120,150 mt, and 93,450 mt in the Western, Central, and Eastern Regulatory Areas, respectively. Respective equilibrium yields (EYs) are 1,736 mt, 5,208 mt, and 4,530 mt. The Council considered the desirability of establishing OYs at levels that would provide only minimal bycatches incidental to other target fisheries in order to promote fast rebuilding of POP stocks. It concluded that such minimal levels would be detrimental to developing domestic fisheries if the fisheries' operations were terminated by prematurely achieved bycatches. The Council, therefore, established OYs in excess of minimum bycatch levels, 1,302 mt in the Western Area and 3,906 mt in the Central Area. It retained the existing OY of 875 mt in the Eastern Area to promote rapid stock rebuilding.

Other rockfish—This group contains about twenty-five species of "other rockfish", excluding the POP complex, that occur along the continental slope and on the continental shelf. These species are taken incidentally in other target fisheries. The condition of "other rockfish" has been depressed for several years. Although catches by foreign nations ranged from 7,600 to 10,200 mt during the years 1973–1975, few other data exist about the condition of "other rockfish". The Gulf-wide OY for this group has been set at 7,600 mt since 1979; the maximum sustainable yield is established by the FMP to equal the range of catches occurring during the mid-1970s of between 7,600 mt and 10,200 mt. Most of the "other rockfish" harvest since the FMP was implemented has been by foreign nations, but these nations did not target on "other rockfish" for fear of premature closures of their fisheries. Since foreign fishing is allowed only seaward of 12 miles from the baseline, few catch data are available for that part of the management unit shoreward of 12 miles. Similarly, few data exist about stock conditions of the nearshore demersal species of current interest to domestic fishermen. Results of the 1984 trawl survey did not indicate that any of them were present in significant numbers. The average 1982–1984 bycatch harvest in the joint venture and foreign fisheries is about 1,500 mt with a 1984 harvest of only 700 mt. The Council considered the limiting effect that an OY equal to the bycatch would have on the developing domestic fisheries and established the OY at 5,000 mt, which is substantially higher than the bycatch level so as not to limit that growth.

Atka mackerel—The 1984 survey indicated that the total biomass for Atka mackerel is 39,000 mt, of which 38,000 mt is located in the Western Area and 1,000 mt in the Central Area. Length-frequency information suggests that the population consists mostly of large fish. Recruitment in the Central Area appears nonexistent. The absence of catches in the Eastern Area indicates that stocks are not sufficiently abundant to support a commercial fishery. The low abundance of Atka mackerel may be due to a westward shift in the distribution of stocks and not to excessive fishing mortality. The Council reviewed the SSC recommendation for the Western Area to set the exploitation rate between 10 and 15 percent of 38,000 mt, which would provide an OY between 3,800 mt and 5,700 mt. Since the current OY for the Western Area of 4,678 mt falls within this range, the Council opted not to change the OY. The Council recognized the reduced abundance of Atka mackerel in the Central and Eastern Areas and recommended that OYs be set only at bycatch levels. The Secretary concurred with this recommendation and has set the OYs in the Central and Eastern Regulatory Areas at 500 mt and 100 mt respectively.

Other Species—The OY for "other species" is reduced to 22,460 mt; the FMP sets this OY equal to 5 percent of the combined OYs for the "target species", which include those species for which OYs are reduced.

Apportionments of Optimum Yields

OYs for groundfish species in the Gulf of Alaska are established by the FMP. OYs are apportioned initially among domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF) under §§ 611.92 and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. The reserves, equal to 20 percent of the OY for each species, are set aside for possible reapportionment to DAP and/or to JVP if these amounts prove inadequate.

Under §§ 611.92(a)(1) and 672.20(a)(2), the initial amounts of DAP and JVP are determined each year by the Regional Director. The DAP and JVP amounts must equal the actual DAP and JVP of the previous year plus any additional amounts the Regional Director projects will be used by the U.S. fishing industry during the coming year. These additional amounts reflect as accurately as possible the projected increases in U.S. processing and harvesting capacity and the extend to which increases in U.S. processing and harvesting will occur during the coming year. These projections are based on current available information, including industry surveys, market data, and stated intentions by representative for the U.S. fishing industry. The Secretary proposed initial apportionments (49 FR 44655, November 8, 1984) following tentative recommendations from the Council after its September 27–29, 1984, meeting. During its December 5–8, 1984, meeting the Council considered comments received and made final recommendations to the Secretary for the 1985 initial apportionments. The Council's recommendations, however, were made prior to the 1984 meeting of the commercial fishing industries of the United States and Japan, which was held December 9–12, 1984. In 1982 and 1983, these meetings had been held before the Council meeting. Discussions at the meetings were based on the U.S. policy of "fish and chips", under which foreign allocations are related to the efforts of foreign nations to foster development of the U.S. fishing industry. After the December 1984 meeting, the Alaska Pacific Seafood industry Coalition (Coalition) successfully negotiated an agreement with the Japanese industry that would provide for significant growth in all sectors of the Pacific Northwest and Alaska fishing industry. This agreement was inconsistent with apportionment recommendations made by the Council at the December meeting. The Council decided that, in view of the inconsistencies, it should review the result of the industry agreement and any other new information at its next meeting, February 5–8, 1985, in Sitka, Alaska.

As a result of this action, the Secretary concluded that action on the apportionments recommended at the December 1984 meeting would serve no useful purpose, since changes were anticipated at the February 1985 meeting. However, because § 672.20(a)(2) requires the Secretary to publish apportionments in the **Federal Register** before they may take effect, and because § 611.20(c) requires that the specifications of OY and initial estimates of U.S. harvests and TALFFs be published at the beginning of the relevant fishing year, the amounts published initially (49 FR 44655, November 8, 1984) were adopted as an interim measure and comments were invited until January 31, 1985 (50 FR 467,

January 4, 1985). Written comments responded to in this notice are those invited by these two notices.

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the Western/Central Area; Pacific cod—

U.S.-Japan industry-to-industry

January 4, 1985). Written comments responded to in this notice are those invited by these two notices.

Prohibited Species Catch Limits

Regulations implementing the FMP establish OYs for each groundfish category and apportion them among domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF). Only those groundfish amounts not needed by U.S. fishermen are eligible for apportionment to JVP and/or TALFF. However, joint ventures may still be conducted, because any catches of species having zero JVP may be kept on board U.S. catcher boats for subsequent sale as domestically processed product (DAP). When DAP limits are reached, no further joint venture fishing is allowed. Similarly if TALFF for any species is set at zero, no foreign fishing for those species is allowed in the affected area. This emergency interim rule establishes PSC limits for species having zero JVP and zero TALFF, which will allow joint venture trawl and foreign trawl fisheries for other species to continue. PSCs will not exceed each species' EY and will not result in overfishing.

Two species—sablefish and POP—will be fully utilized by U.S. fishermen during 1985 in DAP fisheries and JVP and TALFF are zero in each case. Furthermore, "other rockfish" will be fully utilized by U.S. fishermen during 1985 in DAP and JVP fisheries and TALFF is zero. This determination is based on (1) the results of a NMFS-conducted survey of the U.S. fishing industry's intent to harvest and process sablefish, POP, and "other rockfish"; (2) comments received by the Council at its December 5–8, 1984, meeting; and (3) the best available information on the condition of these stocks as determined by the Northwest and Alaska Fisheries Center, NMFS.

After considering testimony on the condition of these stocks from its SSC and Advisory Panel, the Council retained the existing OYs (50 FR 468, January 4, 1985) for sablefish but reduced the OYs for pollock, POP, "other rockfish", and "other species". The existing OYs, the reduced OYs, the EYs on which they are based, and the PSC limits are set forth by Regulatory Area in Table I above.

Under Sections 201(d)(2) and 204(b)(6)(B)(ii) of the Magnuson Act, no amounts of sablefish or POP are available for harvest in foreign fisheries (TALFF) or in joint ventures (JVP), because each will be fully utilized by U.S. fishermen. Further, no amount of "other rockfish" in available for foreign fisheries (TALFF), because the entire OY will be fully utilized by U.S. domestic processors (DAP). Any taking of the above species that would result in their mortality in excess of the OY would be inconsistent with the provisions of the FMP, which provides only for a harvest equal to the specified OY for any species category.

The FMP contains no provision to allow foreign vessels to receive any amount of the above species from U.S. catcher boats in joint ventures or to continue target fisheries that would take any amounts of them. Hence, no foreign fishery in the Gulf of Alaska could be allowed, and joint ventures might be terminated early, without an amendment to the FMP or an emergency regulation that would authorize the treatment of these species as prohibited species under § 611.13. This emergency regulation establishes allowable limits of PSCs and requires that such species be sorted promptly and returned to the sea with a minimum of injury, regardless of their condition, after allowing for sampling by an observer.

At its December 5–8, 1984, meeting the Council voted to set the OYs for Pacific cod, flounders, Atka mackerel, thornyhead rockfish, "other rockfish", squid, and "other species" equal to the sum of DAP and JVP up to specified maximum amounts, thereby setting TALFF at zero. The TALFF for pollock was set at zero, because the sum of the DAP and JVP for pollock equals the previously specified OY. These actions would have effectively eliminated foreign fishing in the Gulf of Alaska. The Council's decisions were made before the 1984 meeting discussed above between the Coalition and the Japanese fishing industry.

The Secretary considered the Coalition's negotiated agreement and the unprecedented opportunity for the U.S. fishing industry to achieve significant growth in 1985. He subsequently recommended to the Secretary of State that 4,500 mt of Pacific cod and TALFF amounts of certain bycatch species which will not be fully utilized by U.S. fishermen be allocated to Japan. In so doing, he also established PSCs for sablefish, POP, and "other rockfish" that would be necessary to accommodate the bycatches expected in a longline fishery for Pacific cod. This action was done by emergency regulations that were originally in effect for 90 days (50 FR 3911, January 29, 1985), and subsequently extended for five days (50 FR 16705, April 29, 1985).

At its February 4–7, 1985, meeting, the Council considered the future of foreign access to groundfish in the Gulf of Alaska and reviewed the results of the U.S.-Japanese fishing agreements. The Council voted to allow TALFFs for pollock and Pacific cod of 25,000 mt and 10,000 mt, respectively. This action increases the TALFF for Pacific cod in the Central and Western Areas by transferring 100 mt from the reserve into each area to allow for additional bycatch in the foreign trawl fishery. The Council recommend that the Regional Director apportion additional amounts to TALFF if he determines that, as the fishing year progresses, U.S. fishermen will not harvest the entire OY.

The Council recognized that some amounts of sablefish and POP would be taken incidentally in joint venture trawl operations and that some sablefish, POP, and "other rockfish" would be taken incidentally in foreign trawl operations. Both operations will be conducted in the Western and Central Regulatory Areas. (No joint venture trawl operations are planned in the Eastern Regulatory Area, nor have TALFFs been established in this area.) Therefore, this emergency interim rule is needed to minimize the incidental catch of these species in fishing operations for target groundfish species (principally pollock).

The Assistant Administrator for Fisheries, NOAA, concurs with the Council's action and recommends that the Secretary establish the PSCs listed in Table I above. Each foreign nation will be allocated PSCs in proportion to its TALFF. If a foreign nation takes its share of a PSC in a regulatory area for which the PSC is specified, further fishing by vessels of that nation will be prohibited in that area for the remainder of the fishing year. If the joint venture share of PSC is reached in a regulatory area, further receipt of groundfish by foreign vessels from U.S. vessels at sea in that regulatory area will be prohibited for the remainder of the fishing year.

Each PSC was calculated from estimates of 1984 bycatch rates achieved by (1) foreign trawl vessel types that had experienced low bycatches and (2) foreign longline vessels fishing for groundfish. The Council selected the rates experienced by surimi trawlers, because they were the lowest among the foreign trawl vessels fishing in the Western and Central Regulatory Areas in 1984. PSC rates for joint venture fisheries represent the average of the PSC rates experienced among joint venture companies in 1984. All PSCs must be treated in accordance with the prohibited species requirements of § 611.13. A U.S. vessel engaged in joint ventures may deliver its catch of sablefish and POP for sale as DAP

unless the OY for these two species has been reached. Such landings would be counted against DAP and not against PSC. Only when sablefish and POP are discarded at sea after being delivered to, and sorted on, foreign processors will these landings be counted against the PSC.

The OY reductions are based on the best available information on status of stocks. The PSCs are based on recent catch rates experienced by joint venture and foreign fisheries and on reevaluations of EYs for each species. The Alaska Region generally uses EY as a guide to prevent overfishing a fish stock. The sablefish EY is 33 percent higher than OY in each regulatory area. The POP EY is 50 and 13 percent higher than the respective OYs in the Western and Central Regulatory Areas. The sablefish and POP OYs are set low to hasten stock rebuilding to maximum levels. The sablefish OYs are based on those stocks below 300 meters in water depth, where larger, more commercially valuable fish are found that are sought by the commercial fishery. The sablefish PSC being made available will be taken from water depths where the joint venture and foreign longline and trawl fisheries are conducted, i.e., 300 meters and shallower. Sablefish at these depths are small and are excluded in calculations of OYs. The EYs for POP are also higher than the OYs in order to promote rebuilding of this species group. The EY for "other rockfish" (a groundfish category that includes about 25 pelagic and benthic species) is largely unknown; about 1,500 mt of rockfish have been caught during 1982–1984 in the groundfish trawl fisheries, incidentally, mostly on the continental slope. The Council may direct its Plan Team to analyze this rockfish category further and recommend management changes.

Additional Public Comments Requested

Under §§ 611.92(c)(1)(ii) and 672.20(c), the Secretary finds that early reapportionment of reserves to TALFF and/or DAP and JVP is necessary to assure the orderly conduct of foreign fisheries; that affording a prior opportunity for public comment is impracticable and contrary to the public interest, and that the reapportionments should go into effect immediately. In addition to reducing OYs and establishing PSC limits, this action reapportions reserves of pollock, Pacific cod, flounders, Atka mackerel, thornyhead rockfish, squid, and "other species" to TALFF and reapportions reserves of "other rockfish" to DAH as follows: pollock—25,000 mt and 12,671 mt to TALFF and JVP, respectively, in the Western/Central Area; Pacific cod—100 mt to TALFF in each of the Central and Western Areas; flounders—200 mt and 250 mt to TALFF in the Western and Central Areas, respectively; Atka mackerel—100 mt to TALFF in the Western Area; "other rockfish"—133 mt and 600 mt to JVP and DAP, respectively; thornyhead rockfish—50 mt to TALFF; squid—50 mt to TALFF; and "other species"—301 mt to TALFF. Comments are invited as specified under **DATES** of this notice. In light of any substantial comments received, the Secretary may issue a subsequent notice to either affirm, amend, or rescind the reserve reapportionments.

Public Comments Received

The Council received two letters of comments from the Fisheries Agency of the Government of Japan on the proposed initial apportionments as invited by the two notices. These comments are summarized and responded to below:

Comment 1. Changes in OYs for pollock, Pacific ocean perch, Atka mackerel, "other rockfish", and other species are not opposed, but the OY for Atka mackerel in the Central Regulatory Area should be set sufficiently high to allow at least 100 mt of bycatch TALFF.

Response: The OY for Atka mackerel is set at 500 mt in the Central Regulatory Area. Information received from 1984 data indicate that about 0.0009 mt of Atka mackerel is required to support each metric ton of groundfish caught in foreign fisheries. Thus, about 25 mt of Atka mackerel is needed to support a TALFF of about 27,000 mt. An initial 20 mt of Atka mackerel is being made available; another 100 mt is available in the reserve for possible reapportionment to TALFF if not needed by U.S. fishermen.

Comment 2. NMFS should not implement the Council's decision to set OY equal to DAH in the Gulf of Alaska for Pacific cod, flounders, thornyheads, squid, and other species, because the resulting TALFF for these species would be inconsistent with the U.S. industry's commitment to Japan to "assist in securing a reasonable TALFF for bottomfish species where a surplus exists."

Response: At its February 1985 meeting, the Council reversed its decision made at its December 1984 meeting and established TALFF's for the above species to provide for a target hook-and-line fishery for Pacific cod and needed bycatches to support target Pacific cod and pollock fisheries.

Comment 3. The JVP estimate for pollock proposed by the Council should be reduced to reflect the results of the U.S.-Japan industry-to-industry negotiations and to deduct JVP amounts included for phantom ventures for which no permit applications have been submitted. At least 92,000 mt of pollock is available for apportionment to TALFF; at least 50,000 mt should be allocated to Japan for its directed fishery. The sum of reserves plus TALFF results in substantial surpluses for a number of other species that should be apportioned to TALFF and allocated as soon as practicable in order to allow normal fishing operations in the Gulf of Alaska. A sufficient amount of Pacific cod, 1,500 mt in the Central Area and 750 mt in the Western Area, must be allocated to Japan as a bycatch to support its trawl fishery.

Response: The joint venture catch to date is about 220,000 mt; therefore, the Council's recommended apportionment to JVP of 212,500 mt has proved too conservative. On the basis of 1984 Pacific cod bycatch rates experienced by Japan's surimi trawlers, only 0.0048 mt of Pacific cod is needed to support each metric ton of groundfish taken by a surimi trawler, the class of vessel expected to be used by Japan in the Gulf of Alaska trawl fishery. At this rate, only 120 mt of Pacific cod in the Western and Central areas combined would be required to support a pollock TALFF of 25,000 mt. Although the U.S. Department of State makes allocations to foreign nations, NMFS recommends to the Department of State the amounts of bycatches needed by foreign vessels to conduct orderly fisheries. However, the Government of Japan is responsible for apportioning from its national allocations whatever amounts are needed for bycatches by the different components of its fleets.

Comment 4. Although an emergency rule to set prohibited species catch limits for sablefish, Pacific ocean perch, "other rockfish", Atka mackerel, and "other species" is not necessary in the event such limits are established, then Japan believes the following limits should be established by regulatory area: sablefish—Western, 130 mt and Central, 210 mt; Pacific ocean perch—Western, 110 mt and Central, 230 mt; Atka mackerel—Western, 50 mt and Central, 100 mt; and "other rockfish"—Gulf-wide, 470 mt.

Response: Atka mackerel is not a PSC species. The PSC amounts recommended by the Council for sablefish, POP, and "other rockfish", set forth at § 672.21, are based on observed rates obtained from the actual performance of the foreign fisheries during 1984. The Secretary considers

these PSCs to be adequate to support the foreign fisheries.

JVP and zero TALFF involve a "foreign affairs function of the United States"

Dated: July 17, 1985.

Carmen J. Blondin,

§ 611.15(c) prohibiting fishing by vessels of that nation in that regulatory area. (H) When the area allocation of any

will prohibit fishing for groundfish in that regulatory area or district by all

PSCs by Regulatory Area

these PSCs to be adequate to support the foreign fisheries.

Classification

The Assistant Administrator has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law. The new OYs implemented by this rule are based on the best available information that takes into account the biomasses determined by 1984 trawl and/or hydroacoustic surveys. Should fishing be allowed to proceed to the current OYs specified by the FMP, overfishing could occur. Establishing PSCs by this action will prevent overfishing while avoiding the disruption in foreign fishing and wastage of other groundfish that would otherwise occur. It will thus support the developing domestic groundfish fishery in accordance with the industry agreement. It will also constrain joint venture fisheries to bycatches only of sablefish and POP, thus allowing wholly domestic fishermen to fully utilize the OYs for these species.

The Assistant Administrator finds that promulgation of this rule on an emergency basis for the reasons given below makes it impracticable and contrary to the public interest to provide prior notice and an opportunity for public comment, or to delay its effective date for 30 days. Early implementation of the rule is desirable, because it conveys a benefit to the fishing industry, which needs to plan its operations on the best available information. The Assistant Administrator recognizes that the public has had opportunity to comment on the OY changes at the Council's December 1984 meeting when this subject was discussed during public hearings. Traditional foreign bottom trawl fishing begins on June 1, following the December 1–May 31 ban on the use of bottom trawl gear. Consequently, foreign fishing operations would be disrupted if their fishing season were delayed substantially. Also, many agreements for joint ventures and purchases of U.S.-processed fish products were reached between the Japanese and U.S. fishing industries on the premise that foreign fishing would be allowed in the Gulf of Alaska. Foreign nations may find that a lengthy delay in their directed operations would cause them to forgo all fishing in the Gulf of Alaska for the remainder of 1985, which would jeopardize joint venture and purchasing agreements. Accordingly, the portions of these regulations which establish a PSC to prevent disruption of foreign fishing for species other than species having zero JVP and zero TALFF involve a "foreign affairs function of the United States" and thus are exempt from the provisions of 5 U.S.C. 553. Delay for a comment period could also cause severe socioeconomic harm for both the U.S. and foreign fishing industries. Since the OY for sablefish has been reached in the Central Regulatory Area and will soon be reached in the Western Regulatory Area, severe economic harm could be incurred by both wholly domestic and joint venture fishermen if this emergency rule were delayed.

The Director, Alaska Region, NMFS, prepared environmental assessments (EAs) for this action and concluded that no significant impact on the human environment will result from its implementation. Copies of the EAs are available from the address above.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination has been submitted for review by Alaska's Office of Management and Budget under section 307 of the Coastal Zone Management Act.

This rule is exempt from the procedures of the Regulatory Flexibility Act, because it is issued without opportunity for prior public comment. As provided by section 608 of that Act, this emergency rule is being promulgated in response to an emergency that makes preparation of an initial regulatory flexibility analysis under section 603 and timely compliance with the section 604 requirements for a final regulatory flexibility analysis impracticable.

This rule does not contain a collection of information requirement and therefore is not subject to the provisions of the Paperwork Reduction Act.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: July 17, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, Parts 611 and 672 are amended to read as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. In § 611.92, paragraphs (b)(2), (c)(2)(i) (A), (D), and (E), (c)(2)(ii) (A), (B), and (C), (e)(3)(ii), and (f)(2)(i) are suspended from July 17, 1985 until October 15, 1985. New paragraphs (b)(5), (c)(2)(i) (F), (G), (H), and (I), (c)(2)(ii) (D), (E), (F), (G), and (H), and (i) are added, effective from July 17, 1985 until October 15, 1985 to read as follows:

§ 611.92 Gulf of Alaska groundfish fishery.

* * * * *

(b) * * *

(5) "Target species" are the species that are commercially important and are generally targeted on by the foreign and domestic groundfish fisheries. They include pollock, Pacific cod, flounders, Pacific ocean perch, "other rockfish", sablefish, Atka mackerel, squid, and thornyhead rockfish. Sufficient data on each species or species group exist for it to be managed separately from the others. Records of the catch of each target species or species group must be kept. Pacific ocean perch, "other rockfish", and sablefish are prohibited to foreign vessels, and must be treated in accordance with paragraph (i) of this section and § 611.13 of this part.

(c) * * *

(2) * * *

(i) * * *

(F) When vessels of a nation have caught their applicable share of a prohibited species catch limit provided for by paragraph (i) of this section for sablefish, Pacific ocean perch, or "other rockfish", fishing by vessels of that nation is prohibited in that regulatory area.

(G) When vessels of a nation have caught the amount of the allocation of that nation for any groundfish species or species group in any regulatory area, fishing for groundfish using other than longline gear in that regulatory area by vessels of that nation is prohibited, even if allocations of other species for that nation in the regulatory area have not been reached or the nation has not received a notice issued under § 611.15(c) prohibiting fishing by vessels of that nation in that regulatory area.

(H) When the area allocation of any groundfish species or species group other than Pacific cod is reached, unless the fishery is closed under other provisions of this section, any subsequent catch of that species in that area by vessels fishing with longline gear will be considered catch of a prohibited species and treated in accordance with the provisions of § 611.13. Catches of those species or species groups in the target and "other species" categories that become prohibited species must be recorded and reported as required by § 611.9.

(I) A notice of closure issued under paragraph (c)(2) of this section will not apply to any receipt or processing by foreign vessels of U.S.-harvested fish authorized by a permit issued by the Department of Commerce under the Act, unless the Secretary has issued a notice prohibiting through December 31 further receipt of groundfish from U.S. vessels under paragraph (c)(2)(ii)(G) of this section.

(ii) * * *

(D) OY for any groundfish species, species group, or species category in a regulatory area or district: the Secretary will issue a notice prohibiting through December 31 fishing using trawl gear for groundfish in that regulatory area or district by vessels subject to this section unless a prohibited species catch limit for that species, species group, or species category has not yet been reached; except that if the OY for Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section through December 31.

(E) TALFF for any groundfish species, species group, or species category in a regulatory area or district: the Secretary will issue a notice prohibiting through December 31 fishing using trawl gear for groundfish in that regulatory area or district, except that if the TALFF for Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section through December 31.

(F) The allocation of a nation for any groundfish species, species group, or species category in a regulatory area or district: the Secretary will issue a notice prohibiting through December 31 in that regulatory area or district, fishing using trawl gear for groundfish by vessels of that nation; and retention of that species, species group, or species category by vessels of that nation using longline gear. However, if a national allocation for Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels of that nation through December 31.

(G) The prohibited species catch limit share of a nation for sablefish, Pacific ocean perch, or "other rockfish" in a regulatory area: the Secretary will issue a notice prohibiting through December 31 further fishing by vessels of that nation in that regulatory area.

(H) The prohibited species catch limit for U.S. vessels engaged in joint venture fisheries for sablefish and Pacific ocean perch in a regulatory area: the Secretary will issue a notice prohibiting through December 31 further receipt of groundfish by foreign vessels from U.S. vessels in that regulatory area.

* * * * *

(i) *Prohibited species catch (PSC) limits.* (1) When during any fishing year the vessels of a nation have taken incidentally that nation's current share of the PSC for sablefish, Pacific ocean perch, or "other rockfish" in a regulatory area as determined under paragraph (i)(2) of this section, the entire regulatory area will be closed to vessels of that nation for the remainder of the fishing year or until an increase in that nation's groundfish allocation results in a corresponding increase in its current share of PSC for sablefish, Pacific ocean perch, or "other rockfish" not to exceed the total amounts specified below and in § 672.21 of this chapter.

PSCs by Regulatory Area

[Metric tons]

Sablefish:	
Western	140
Central	31
Pacific ocean perch:	
Western	30
Central	16
Rockfish: Entire gulf	25

(2) At any time during the fishing year the total PSC available to foreign nations in a regulatory area for sablefish, Pacific ocean perch, or "other rockfish" is equal to amounts set forth in § 672.21 of this chapter.

(3) A nation's current share of a PSC for sablefish, Pacific ocean perch, or "other rockfish" at any time during the fishing year is determined by multiplying the PSC set forth in § 672.21 of this chapter by the ratio of that nation's current allocation of groundfish to the current groundfish TALFF plus the current pollock reserve, according to the following equation:

Nation's PSC share = PSC × [Nation's current groundfish allocation/(current TALFF + current pollock reserve)]

Hence, the total PSCs set forth in § 672.21 of this chapter will not be distributed to nations until (1) all the pollock reserve is reduced to zero, by apportioning it either to DAH or to TALFF; and (2) all TALFF is apportioned to nations.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

3. The authority citation for Part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 672.20, Table 1 at paragraph (a) is revised and paragraph (a)(4) is added, to be effective from July 17, 1985 until October 15, 1985 to read as follows:

§ 672.20 Optimum yield.

(a) * * *

TABLE 1.—OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), INITIAL RESERVE AND ADJUSTMENTS TO RESERVE BY THIS ACTION, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF; DAH=DAP+JVP

Species/species code area[1]	OY	DAH	DAP	JVP	Reserve	TALFF
Pollock 701:						
Western/Central	305,000	256,871	44,371	199,629	61,000	0
				+12,871	−37,871 −25,000	
				now 212,500	now 23,129	now 25,000
Eastern	16,600	13,280	13,280	−0	3,320	0
Total	321,600	270,151	57,651	212,500	now 26,449	25,000
Pacific cod 702						
Western	16,560	5,748	2,539	3,209	3,31	7,500
					−100	+100
					now 3,212	now 7,600

TABLE 1.—OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), INITIAL RESERVE AND ADJUSTMENTS TO RESERVE BY THIS ACTION, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF; DAH=DAP+JVP—Continued

Proposed Rules

Federal Register
Vol. 50, No. 140

TABLE 1.—OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), INITIAL RESERVE AND ADJUSTMENTS TO RESERVE BY THIS ACTION, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF; DAH=DAP+JVP—Continued

Species/species code area[1]	OY	DAH	DAP	JVP	Reserve	TALFF
Central	33,540	24,332	19,901	4,431	6,708	2,500
					--100	+100
Eastern	9,900	7,920	7,920	0	1,980	now 2,600 0
Total	60,000	38,000	30,360	7,640	11,800	10,200
Flounders 129:						
Western	10,400	8,320	7,398	922	2,080	0
					--200	+200
Central	14,700	11,760	6,292	3,468	2,940	now 200 0
					--250	+250
Eastern	8,400	6,720	6,720	0	1,680	now 250 0
Total	33,500	26,800	22,410	4,390	now 6,250	now 450
Pacific ocean perch[2] 780:						
Western	1,302	1,302	1,302	0	0	0
Central	3,906	3,906	3,906	0	0	0
Eastern	875	875	875	0	0	0
Total	6,083	6,083	6,083	0	0	0
Sablefish[3] 703:						
Western	1,670	1,670	1,670	0	0	0
Central	3,060	3,060	3,060	0	0	0
West Yakutat	1,680	1,680	1,680	0	0	0
East Yakutat	850–1,135	850–1,135	850–1,135	0	0	0
Southeast Outside	470–1,435	470–1,435	470–1,435	0	0	0
Total	7,330–8,980	7,330–8,980	7,330–8,980	0	0	0
Atka Mackerel 297:						
Western	4,678	3,742	50	3,692	936	0
					--100	--100
Central	500	380	350	30	now 836 100	now 100 20
Eastern	100	80	80	0	20	0
Total	5,278	4,202	480	3,722	now 956	now 120
Other rockfish[4] 849:						
Gulf-wide	5,000	4,000	4,000	0	0	0
		+733	+600	+133	--733	0
Thornyhead rockfish 749:		now 4,800	now 133	now 267	0	
Gulf-wide	3,750	3,000	2,990	10	750	0
					--50	0
Squid 509:					now 700	now 50
Gulf-wide	5,000	4,000	3,990	10	1,000	0
					--50	+50
Other species[5] 499:					now 950	now 50
Gulf-wide	22,460	17,944	16,544	1,400	4,516	0
					--325	0
					now 4,191	325

[1] See figure 1 of § 672.20 for description of regulatory areas and districts.
[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[3] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[4] The category "Other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote 2 above and *Sebastolobus* (thornyhead rockfish).
[5] The category "Other species" includes sculpins, sharks, skates, eulachon smelts, capelin, and octopus. The OY for "Other species" is equal to 5% of the target species.

(4) If a joint venture prohibited species catch limit for sablefish or Pacific ocean perch for the Western or Central Regulatory Area, as set forth in § 672.21, is taken by U.S. vessels while fishing in joint ventures for delivery to foreign vessels, that entire regulatory area will be closed to further delivery by U.S. vessels of groundfish to foreign vessels.

* * * * *

5. A new § 672.21 is added, effective from July 17, 1985 until October 15, 1985 to read as follows:

§ 672.21 Catch limitations.

Prohibited species catch (PSC) limits. PSC limits in the regulatory areas of the Gulf of Alaska are set forth in Table 2.

TABLE 2.—PSC'S (MT) FOR SABLEFISH, PACIFIC OCEAN PERCH, AND OTHER ROCKFISH IN JOINT VENTURE (JVP) AND FOREIGN (TALFF) FISHERIES

Species	Regulatory area		Gulf-wide
	Western	Central	
Sablefish:			
JVP	245	545	
TALFF	140	31	
Pacific ocean perch:			
JVP	55	98	
TALFF	30	18	
Rockfish: TALFF			25

[FR Doc. 85–17376 Filed 7–17–85; 5:00 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 140
Monday, July 22, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 801 and 802

Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling Systems

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposal rule.

SUMMARY: In compliance with the requirements for periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) reviewed and proposes to revise the regulations under the United States Grain Standards act, as amended, concerning the Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling Systems. FGIS proposes to incorporate by reference the applicable requirements of National Bureau of Standards' (NBS) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," 1985 edition (Handbook 44) and NBS Handbook 105–1,"Specifications and Tolerances for Field Standard Weights," (Handbook 105–1); to clarify the scope and format of the requirements of the current Parts 801 and 802. In addition, the proposal would revise the tolerances for scales near-infrared reflectance (NIR) analyzers, and Kjeldahl analyses, so as to update the regulations to reflect current commercial standards. The proposed changes would condense and reduce the text of the regulations and would simplify the overall language to facilities the use of the regulations.

DATE: Comments must be submitted on or before September 20, 1985.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above,telephone (202) 382–1938.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed action has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities.

Regulatory Review

Part 801 of the regulations, *Official Performance Requirements for Grain Inspection Equipment*, prescribes specifications, tolerances, and other technical requirements for official grain inspection equipment and related sample handling systems used in performing official services.

Part 802 of the regulations, *Official Performance and Procedural Requirements*, sets forth certain procedures, specifications, tolerances, and other technical requirements for grain weighing equipment and related grain handling systems used in performing Class X or Class Y weighing services.

This review of ther regulations concerning Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling System (7 CFR Part 801.1–801.12 and 7 CFR Part 802.0–802.13) included a determination of continued need for and consequences of the regulations. An objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and the regulations are consistent with FGIS policy and authority. FGIS had determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. However, the regulations, particularly Part 802, contain requirements that are also covered in NBS Handbooks 44 and 105–1 and in the FGIS Weighing Handbook. In order to condense and reduce the text of the regulations, thereby eliminating unnecessary duplication, FGIS proposes, in Part 802, to incorporate by reference NBS handbooks 44 and 105–1. Additionally, certain information contained in the regulations would be deleted but would continue to appear as provisions set forth in the FGIS Weighing Handbook. This would reduce further the text of the regulations as appropriate and simplify and facilitate use of the regulations. The sections affected in whole or part appear generally in §§ 802.2 (b) and (p); 802.3(j); 802.4(a); 802.9(d), (e), and (g); 802.10; 802.11 (a), (c), (d), and (f); 802.12; 802.13 (c), (d) (e), and (f). Specifically FGIS proposes to revise:

1. Section 801.2, *Meaning of terms*, by removing the definition for balances because the tolerances for balances are proposed to be removed from 7 CFR Part 801 so as to consolidate all the tolerances for balances in one Part of the regulations; renumbering the remaining definitions, as appropriate; changing the definition title *Master inspection equipment* to *National standard equipment* and the definition title *Grain divider* to *Divider* to more clearly describe the equipment; adding a definition for *Transfer standard* for clarity; and changing certain definitions by simplifying, clarifying, and removing unnecessary language to promote a better understanding of the requirements.

2. Section 801.3, *Tolerances for balances*, by removing the entire section because these tolerances are proposed to be included in 7 CFR Part 802 so as to consolidate all tolerances for balances in one Part of the regulations.

3. Sections 801.4, *Tolerances for barley pearlers*, 801.5, *Tolerances for dockage testers*, 801.6, *Tolerances for diverter-type mechanical samplers*, 801.7, *Tolerances for moisture meters*, 801.9, *Tolerances for sieve devices*, 801.10, *Tolerances for test weight*

apparatuses, and 801.11, *Tolerances for dividers*, by consolidating the footnote representations, 802.4, *Design of balance, tare, dampening, and arresting*

List of Subjects in 7 CFR Parts 801 and 802

transfer standards are tested at the same time and place to compare the

Service for use in determining the

type of grain that the system will be

VOL 50 ISS 140 JL 22 1985 UMI

apparatuses, and 801.11, *Tolerances for dividers*, by consolidating the footnote references into the body of the tolerances and clarifying the scope of the tolerances by stating, where appropriate, the type of grain and standard used to test the equipment. These proposed revisions will facilitate the use of the regulations. The present §§ 801.4–801.7 and 801.9–801.11 would be renumbered as §§ 801.3–801.6 and 801.8–801.10, respectively.

4. Section 801.7, *Tolerances for moisture meters*, by revising the tolerance title 'FGIS/Master Standard meter" to "FGIS Standard meter" to indicate more clearly that the FGIS Master meter is the reference standard against which the FGIS Standard meter is tested.

5. Section 801.8, *Tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses*, by revising for accuracy the tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses. The proposed tolerances have been used on a trial basis since May 1982 to improve accuracy. All officially approved NIR analyzers and Kjeldahl laboratories have been tested using the proposed tolerances and found to be capable of meeting the proposed tolerances. The proposal would update the regulations to reflect current commercial standards. This section will be renumbered as § 801.7.

6. Section 801.10, *Tolerances for test weight apparatuses*, by revising the tolerance titles for the test weight apparatuses to clarify the manner in which these tolerances are to be applied to electronic test weight computer/scales.

7. Section 801.11, *Tolerances for dividers*, by combining the tolerances for dividers and restating the tolerance as a percentage instead of the present weight basis in order to simplify its use and clarify its application. The present tolerances are only applicable to two-way dividers. In the last two years, however, the Service approved several models of three- and four-way dividers using tolerances based upon a mathematical extrapolation of the present two-way divider tolerances. The proposed tolerances would reflect such mathematical extrapolations.

8. Section 801.12, *Related design requirement*, by revising the related design requirements to simplify and clarify its language in order to facilitate their use. This section would be renumbered as § 801.11.

9. Sections 802.1, *Meaning of terms*, 802.2, *General requirements*, 802.3, *Design of indicating and recording elements and of recorded representations*, 802.4, *Design of balance, tare, dampening, and arresting mechanisms*, 802.5, *Design of weighing elements*, 802.6, *Design of weighbeams and poises*, 802.7, *Marking requirements*, 802.8 *Installation requirements*, 802.9, *User requirements*, 802.11, *Weight-indicating and weight-recording devices and representations*, and 802.12, *Railroad track scales; additional requirements*, by removing and incorporating by reference the requirements of the 1985 edition of NBS Handbooks 44 and 105–1, with the exception of those Handbook 44 requirements which do not pertain to grain scales or are different from FGIS requirements under the U.S. Grain Standards Act which generally are more stringent for FGIS program purposes than NBS Handbook 44; e.g., grain hopper scale tolerances, vehicle and track scale class requirements and the minimum test weight requirements for vehicle and track scales. These tolerances and minimum weight requirements would continue to appear in Part 802, as revised. Since the FGIS regulations were approved in 1980, many of the Handbook 44 requirements have been revised and expanded to encompass the requirements necessary for official grain weight certification. FGIS has discussed adopting the applicable requirements of NBS Handbook 44 with the FGIS Advisory Committee and grain industry organizations and determined that the requirements in the 1985 edition of Handbook 44 and 105–1, pertaining to the scales under the jurisdiction of FGIS, are substantially the same as the present FGIS regulations. Therefore, FGIS has determined that these regulations should be incorporated by reference into the Code of Federal Regulations in paragraph (a) of revised § 802.0. This incorporation by reference will be submitted for approval to the Director of the Federal Register at the final rule stage.

10. Sections 802.0, *Applicability*, 802.10, *Tolerances and sensitivity requirements*, and 802.13, *Test standards and counterpoise weights*, by simplifying, clarifying, condensing, and removing unnecessary language to facilitate the use of the regulations; and redesignating § 802.10 as § 802.1, § 802.13(a) as § 802.2 (a) and (b), and § 802.13(g) as § 802.3. In addition, certain track scale requirements pertaining to obsolete equipment and the requirements for monitoring test weights during movement to and from storage were removed because they are no longer necessary or applicable.

List of Subjects in 7 CFR Parts 801 and 802

Administrative practice and procedure, Export, Grain, Incorporation by reference.

Accordingly, it is proposed that 7 CFR Parts 801 and 802 be revised as follows:

PART 801—OFFICIAL PERFORMANCE REQUIREMENTS FOR GRAIN INSPECTION EQUIPMENT

Sec.

801.1 Applicability
801.2 Meaning of terms
801.3 Tolerances for barley pearlers
801.4 Tolerances for dockage testers
801.5 Tolerances for diverter-type mechanical samplers
801.6 Tolerances for moisture meters
801.7 Tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses
801.8 Tolerances for sieves
801.9 Tolerances for test weight appartuses
801.10 Tolerances for dividers
801.11 Related design requirements

The authority citation for Part 801 reads as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended. (7 U.S.C. 71 *et seq.*).

1. Sections 801.1 and 801.2 would be revised as follows:

§ 801.1 Applicability.

The requirements set forth in this Part 801 describe certain specifications, tolerances, and other technical requirements for official grain inspection equipment and related sample handling systems used in performing inspection services under the Act.

§ 801.2 Meaning of terms

(a) *Construction.* Words used in the singular form in this part shall be considered to imply the plural and vice versa, as appropriate.

(b) *Definitions.* The definitions of terms listed in the Part 800 shall have the same meaning when the terms are used in this Part 801. For the purpose of this part, the following terms shall have the meanings given for them below.

(1) *Avoirdupois weight.* A unit of weight based on a pound of 16 ounces.

(2) *Barely pearler.* An approved laboratory device used to mechanically dehull kernels of barley or other grain.

(3) *Deviation from standard.* In testing inspection equipment for accuracy, the variation between (i) the individual test result from the equipment that is being tested and (ii) the reference standard or the individual test result from the standard (or National standard) equipment, as applicable.

(4) *Direct comparison method.* An equipment testing procedure wherein transfer standards are tested at the same time and place to compare the performance of two or more units of the same inspection equipment. One unit of the equipment used in the test shall be standard inspection equipment. (See also sample exchange method.)

(5) *Diverter-type mechanical sampler (primary).* An approved device used to obtain representative portions from a flowing stream of grain.

(6) *Diverter-type mechanical sampler (secondary).* An approved device used to subdivide the portions of grain obtained with a diverter-type mechanical sampler (primary).

(7) *Divider.* An approved laboratory device used to mechanically divide a sample of grain into two or more representative portions.

(8) *Dockage tester.* An approved laboratory device used to mechanically separate dockage and/or foreign materials from grain.

(9) *Maintenance tolerance.* An allowance established for use in determining whether inspection equipment should be approved for use in performing official inspection services.

(10) *Mean deviation from standard.* In testing inspection equipment for accuracy, the variation between (i) the average of the test results from the equipment that is being tested and (ii) the reference standard or the average of the test results from the standard (or National standard) equipment, as applicable.

(11) *Metric weight.* A unit of weight based on the kilogram of 1,000 grams.

(12) *Moisture meter.* An approved device used to indicate directly or through conversion and/or correction tables the mositure content of grain including cereal grains and oil seeds.

(13) *National standard inspection equipment.* A designated approved unit of inspection equipment used as the reference in determining the accuracy of standard inspection equipment.

(14) *Official inspection equipment.* Equipment approved by the Service and used in performing official inspection services.

(15) *Sample exchange method.* An equipment testing procedure wherein transfer standards are tested to compare the performance of two or more units of the same inspection equipment installed at different locations. One unit of the equipment used in the test shall be standard inspection equipment. (See also direct comparison method.)

(16) *Sieves.* Approved laboratory devices with perforations for use in separating particles of various sizes.

(17) *Standard inspection equipment.* An approved unit of inspection equipment that is designated by the Service for use in determining the accuracy of official inspection equipment.

(18) *Test weight.* The avoirdupois weight of the grain or other material in a level-full Winchester bushel.

(19) *Test weight apparatus.* An approved laboratory device used to mechanically measure the test weight of a sample of grain.

(20) *Transfer standard.* The medium by which traceability is transferred from one inspection equipment standard unit to another unit.

(21) *Winchester bushel.* A container that has a capacity of 2,150.42 cubic inches (32 dry quarts).

§ 801.3 [Removed]

2. Section 801.3 would be removed.

3. Section 801.4 would be redesignated as § 801.3 and revised:

§ 801.3 Tolerances for barley pearlers.

The maintenance tolerances for barley pearlers used in performing official inspection services shall be:

Item	Tolerance
Timer switch	0 to 60 seconds ±5 seconds, deviation from standard clock. 61 seconds to 90 seconds ±17 seconds, deviation from standard clock. Over 90 seconds ±10 seconds, deviation from standard clock.
Pearled portion	±1.0 gram, mean deviation from standard barley pearler using barley.

4. Section 801.5 would be redesignated as § 801.4 and revised:

§ 801.4 Tolerances for dockage testers.

The maintenance tolerances for dockage testers used in performing official inspection services shall be:

Item	Tolerance
Air separation	±0.10 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.
Riddle separation	±0.10 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.
Sieve separation	±0.10 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.
Total separation	±0.15 percent, mean deviation from standard dockage tester using Hard Red Winter wheat.

5. Section 801.6 would be redesignated as § 801.5 and revised:

§ 801.5 Tolerance for diverter-type mechanical samplers.

The maintenance tolerances for diverter-type mechanical samplers (primary, or primary and secondary in combination) used in performing official inspection services shall be ±10 percent, mean deviation from standard sampling device using corn or the same type of grain that the system will be used to sample.

6. Section 801.7 would be redesignated as § 801.6 and revised:

§ 801.6 Tolerances for moisture meters.

The maintenance tolerances for moisture meters used in performing official inspection services shall be:

(a) *FGIS standard meters.*

Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.
Mid	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.
High	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.	± 0.05 percent moisture, mean deviation from the National standard moisture meter using Hard Red Winter wheat.

(b) All other than FGIS standard meters.

Moisture range	Tolerance	
	Direct comparison	Sample exchange
Low	± 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.	± 0.20 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.
Mid	± 0.10 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.	± 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.
High	± 0.15 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.	± 0.20 percent moisture, mean deviation from standard moisture meter using Hard Red Winter wheat.

7. Section 801.8 would be redesignated as § 801.7 and revised:

§ 801.7 Tolerances for near-infrared reflectance (NIR) analyzers and Kjeldahl analyses.

(a) *NIR.* The maintenance tolerance for NIR analyzers used in performing official inspection services shall be ±0.15 percent, mean deviation from standard Kjeldahl using wheat.

(b) *Kjeldahl.* The maintenance tolerance for Kjeldahl analyses used in performing official services shall be ±0.15 percent, standard deviation

8. Section 801.9 would be redesignated as § 801.8 and revised:

§ 801.8 Tolerances for sieves.

The maintenance tolerances for sieves used in performing official inspection services shall be:

(a) *Thickness of metal:* ±0.0015 inch.

(b) *Accuracy of perforation:* ±0.001

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*)

T.1.3—Vehicle, axle-load, livestock, railway track (weighing statically) and hopper

for Class "F" weights as referenced in

Commodity Credit Corporation

§ 801.8 Tolerances for sieves.

The maintenance tolerances for sieves used in performing official inspection services shall be:

Sieve description	Tolerance	
	Direct comparison	Sample exchange
.064 x ⅜ inch oblong	±0.2 percent, mean deviation from standard sieve using wheat.	±0.3 percent, mean deviation from standard sieve using wheat.
5/64 x ¾ inch slotted	±0.3 percent, mean deviation from standard sieve using barley.	±0.5 percent, mean deviation from standard sieve using barley.
6/64 x ¾ inch slotted	±0.5 percent, mean deviation from standard sieve using barley.	±0.7 percent, mean deviation from standard sieve using barley.
7/64 x ¾ inch slotted	±0.7 percent, mean deviation from standard sieve using barley.	±1.0 percent, mean deviation from standard sieve using barley.

9. Section 801.10 would be redesignated as § 801.9 and revised:

§ 801.9 Tolerances for test weight apparatuses.

The maintenance tolerance for test weight per bushel apparatuses shall be:

Item	Tolerance
Beam/scale accuracy.	±0.10 pound per bushel at any reading, deviation using test weights.
Overall accuracy	±0.15 pound per bushel, mean deviation from standard test weight apparatus using wheat.

10. Section 801.11 would be redesignated as § 801.10 and revised:

§ 801.10 Tolerance for dividers.

The maintenance tolerance for dividers shall be ±1.0 percent, mean deviation from target value using wheat.

11. Section 801.12 would be redesignated as § 801.11 and revised:

§ 801.11 Related design requirements.

(a) *Suitability.* The design, construction, and location of official sampling and inspection equipment and related sample handling systems shall be suitable for the official sampling and inspection activities for which the equipment is to be used.

(b) *Durability.* The design, construction, and material used in official sampling and inspection equipment and related sample handling systems shall assure that, under normal operating conditions, operating parts will remain fully operable, adjustments will remain reasonably constant, and accuracy will be maintained between equipment test periods.

(c) *Marking and identification.* Official sampling and inspection equipment for which tolerances have been established shall be permanently marked to show the manufacturer's name, initials, or trademark; the serial number of the equipment; and the model, the type, and the design or pattern of the equipment. Operational controls for mechanical samplers and related sample handling systems, including but not limited to pushbuttons and switches, shall be conspicuously identified as to the equipment or activity controlled by the pushbutton or switch.

(d) *Repeatability.* Official inspection equipment when tested in accordance with §§ 800.217 and 800.219 shall, within the tolerances prescribed in §§ 801.3 through 801.10, be capable of repeating its recorded results when the equipment is operated in its normal manner.

(e) *Security.* Mechanical samplers and related sample handling systems shall provide a ready means of sealing to block unauthorized adjustments, removal, or changing of component parts or timing sequence without removing or breaking the seals; and otherwise be designed, constructed, and installed in a manner to prevent deception by any person.

(f) *Installation requirements.* Official sampling and inspection equipment and related sample handling systems shall be installed (1) at a site approved by the Service, (2) according to the manufacturer's instructions, and (3) in such a manner that neither the operation nor the performance of the equipment or system will be adversely affected by the foundation, supports, or any other characteristic of the installation.

PART 802—OFFICIAL PERFORMANCE AND PROCEDURAL REQUIREMENTS FOR GRAIN WEIGHING EQUIPMENT AND RELATED GRAIN HANDLING SYSTEMS

Sec.
802.0 Applicability.
802.1 Tolerance requirements.
802.2 Test standards and counterpoise weights.
802.3 Qualified metrology laboratories

The authority citation for Part 802 reads as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*)

§ 802.0 Applicability.

(a) The requirements set forth in this Part 802 describe certain specifications, tolerances, and other technical requirements for grain weighing equipment and related grain handling systems used in performing Class X or Class Y weighing services and inspection services under the Act. All scales used for official grain weight and inspection certification shall meet applicable requirements contained in the FIGS Weighing Handbook; the General Code, Scale Codes, Automatic Bulk Weighing Systems Code and the Weights Code of the 1985 edition of National Bureau of Standard's (NBS) Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices" (Handbook 44); and NBS Handbook 105–1, "Specifications and Tolerances for Field Standard Weights" (Handbook 105–1), which are hereby incorporated by reference pursuant to the provisions of 5 U.S.C. 552(a), with the exception of the Handbook 44 requirements listed in paragraph (b). The materials in Handbooks 44 and 105–1 are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.** The NBS Handbooks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20403. These are also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 "L" Street, NW., Washington, D.C. 20408.

(b) The following Handbook 44 requirements are not incorporated by reference.

Scales Code (2.20)

N.2—Recommended minimum test weights and test loads
N.2.1—Minimum test weight load for railway track scales
N.2.1.1—For coupled-in-motion tests
T.2.10—For railway track scales
T.3.7—For animal, livestock, crane, axle-load, hopper (other than grain hopper) and vehicle scales
T.3.7.1—For grain hopper scales
T.3.8.1–.4—For railway track scales
UR.1.1.7—For railway track scales only (selection requirements)

New Scales Code (2.20)

N.3—Recommended minimum test weights and test loads
N.3.1—Minimum test weight load for railway track scales
N.3.1.1—Test train
T.1.3—Vehicle, axle-load, livestock, railway track (weighing statically,) and hopper (other than grain hopper) scales
T.1.9—Railway track scales weighing in motion
T.N.3.6—In motion weighing
T.N.3.6.1–.4—In motion weighing

Automatic Bulk Weighing Systems Code (2.22)

T.3—Basic tolerance values

§ 802.1 Tolerance requirements.

(a) *Tolerance values.* The applicable tolerances are established as follows:

(1) *Official automatic bulk weighing systems and official grain hopper scales.* The basic maintenance tolerance shall be one-half pound per 1000-pounds of test load (.05 percent). The basic acceptance tolerance shall be the same as the maintenance tolerance.

(2) *Official vehicle and railroad track scales installed prior to January 1, 1986.* The basic maintenance tolerance shall be one pound per 1000-pounds of test load (.1 percent). The basic acceptance tolerance shall be one-half the basic maintenance tolerance.

(3) *Official vehicle and railroad track scales installed after January 1, 1986.* These scales shall comply with the requirements and tolerances established in Handbook 44 for accuracy class III scales.

(4) *Official portable platform scales and grain test scales.* These scales shall comply with the requirements and tolerances established in Handbook 44 for the appropriate accuracy class of scales.

(b) *Minimum tolerances.* The minimum tolerances shall comply with the applicable tolerances established in Handbook 44 except for railroad track scales. The minimum tolerance that may be applied to railroad track scales shall not be smaller than 25 pounds.

(c) *Tolerance tests involving digital indications or representations on all hopper scales and other scales not marked with an accuracy class designation.* To the tolerances that would otherwise be applied, there shall be added an amount equal to one-half the minimum value that can be indicated or recorded.

(d) *To railroad track scales weighing uncoupled-in-motion cars.* The basic maintenance and acceptance tolerance shall be the same as the static weighing basic tolerances for railroad track scales.

§ 802.2 Test standards and counterpoise weights.

(a) *Weight accuracy.* Counterpoise weights and field test standards (except railroad test cars) shall be verified to within tolerances established by NBS for Class "F" weights as referenced in Handbook 105–1.

(b) *Railroad test cars.* Test cars shall be calibrated within master track scale limits whenever possible. In any event, the test car error shall not exceed 16 pounds plus or minus.

§ 802.3 Qualified metrology laboratories.

(a) All metrology laboratories currently approved by the NBS ongoing certification program having auditing capability are automatically approved by the Service.

(b) Any county or city weights and measures jurisdiction approved by NBS or by their respective NBS-Certified State laboratory as being equipped with appropriate traceable standards and trained staff to provide valid calibration is approved by the Service. The State approval may be documented by a certificate or letter. The jurisdiction must be equipped to provide suitable certification documentation.

(c) Any commercial industrial laboratory primarily involved in the business of sealing and calibrating test weights (standards) will be qualified provided:

(1) They request written authority to perform tolerance testing of weights used within the Service's program(s) through their approved State jurisdiction. Copies of their request and written reference regarding the State decision shall be provided to the Service. A positive decision by the State will be required as a prerequisite to the Service granting approval to any commercial laboratory to tolerance test the weights used in testing scales under the jurisdiction of the Service.

(2) They have NBS traceable standards (through the State) and trained staff to perform calibrations in a manner prescribed by NBS and/or the State;

(3) They are equipped to provide suitable certification documentation;

(4) They permit the Service to make on-the-site visits to laboratory testing space. Final approval of the commercial industrial laboratory will be contingent on the Service's judgment; and

(5) Once they have obtained approval, the commercial industrial laboratory maintains its site in a manner prescribed by the State and/or the Service.

Dated: July 5, 1985.

Kenneth A. Gilles,
Administrator.

[FR Doc. 85–17286 Filed 7–19–85; 8:45 am]
BILLING CODE 3410-EN-M

Commodity Credit Corporation

7 CFR Part 1427

[Amdt. 4]

Standards for Approval of Warehouses for Cotton or Cotton Linters

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations at 7 CFR §§ 1427.1061 *et seq.* relating to the Commodity Credit Corporation (CCC) Standards for Approval of Warehouses for Cotton or Cotton Linters. The proposed rule would: (1) Require non-federally licensed warehousemen requesting renewal of an existing Cotton Storage Agreement (CSA) to pay fees to CCC to partially defray warehouse examination costs incurred by CCC in determining whether to renew the CSA; and (2) require non-federally licensed warehousemen requesting approval of a new CSA to pay fees to partially defray warehouse examination costs incurred by CCC in determining whether to approve such new CSA.

DATE: Comments must be received on or before August 21, 1985 in order to be assured of consideration.

ADDRESS: Interested persons are intived to send written comments to Paul W. King, Director, Warehouse Division, United States Department of Agriculture, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4018 or 447–7433.

FOR FURTHER INFORMATION CONTACT: Steven Closson, Chief, Storage Contract Branch, Warehouse Division, ASCS, USDA, Room 5962-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 382–8053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in conformity with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." This action has been classified "not major" since implementation of this proposed rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or the ability of United States-based enterprises to compete

with foreign-based enterprises in domestic or export markets.

This program/activity is not subject to

CSA. If the warehouse examination discloses that (1) all cotton is accounted

(1) A warehouseman who has an existing Cotton Storage Agreement with

Washington 98168. The applicable service information may be obtained from the Manager of Maintenance and

landings, the manufacturer found a crack in the center wing rear spar end fitting LH, P/N A81130. In its

Procedures (44 FR 11034; February 26, 1979); and it is certified under the

VOL 50 ISS 140 JL 22 1985 UMI

with foreign-based enterprises in domestic or export markets.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 28115 (June 24, 1983).

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

It has been determined by an environmental evaluation that this action will have no significant adverse impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

The Commodity Credit Corporation (CCC) Charter Act (15 U.S.C. 714 *et seq.*) provides authority for CCC to conduct a number of operations to stabilize, support, and protect farm income and prices.

Section 4(h) of the CCC Charter Act provides that CCC shall not acquire real property in order to provide storage facilities for agricultural commodities, unless CCC determines that private facilities for the storage of such commodities are inadequate. Further, section 5 of the CCC Charter Act provides that, in carrying out the Corporation's purchasing and selling operations, and in the warehousing, transporting, processing, or handling of agricultural commodities, CCC is directed to use, to the maximum extent practicable, the usual and customary channels, facilities, and arrangements of trade and commerce. Pursuant to these provisions, CCC enters into Cotton Storage Agreements (CSA) with private warehousemen which provide for the storage of commodities owned by CCC or pledged as security to CCC for a price support loan.

CCC examines all warehouses which are subject to a CSA, or for which a warehouseman has requested approval of a new CSS, to determine whether quantities of CCC-owned cotton, CCC loan-cotton, and other depositors' cotton are totally accounted for and whether the warehouse will provide adequate protection for all cotton in storage and all cotton to be placed in storage. CCC now pays all examination costs with respect to those warehouses which are not licensed under the U.S. Warehouse Act but for which there is a request by the warehouseman for renewal of an existing CSA or for approval of a new CSA. If the warehouse examination discloses that (1) all cotton is accounted for, (2) the facility provides or will provide adequate protection for all cotton and (3) the warehousemen and warehouse meet the financial and other requirements of the Standards of Approval, an existing CSA may be renewed or a new CSA may be approved for the warehouse. Since the warehouseman also derives a direct benefit from warehouse examination, it has been determined that the warehouseman should pay a portion of the examination costs. Accordingly, it is proposed that 7 CFR Part 1427 be amended to require those warehousemen who have a non-federally licensed warehouse and who are seeking renewal of an existing CSA or approval of a new CSA to pay a fee to partially offset the cost of the warehouse examination.

The information collection requirements contained in this regulation (7 CFR Part 1427) have been approved by the Office of Management and Budget under provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Numbers 0560–0040, 0560–0074, 0560–0027, and 0560–0059.

List of Subjects in 7 CFR Part 1427

Cotton, Loan programs—Cotton price support programs, Cotton storage.

Proposed Rule

Accordingly, it is proposed that 7 CFR Part 1427, Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters, be amended as follows:

PART 1427—[AMENDED]

1. The authority citation for 7 CFR Part 1427, Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters, continues to read as follows:

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended, 1072, as amended (15 U.S.C. 714 b and c).

1427.1088 [Redesignated as 1427.1089]

2. Section 1427.1088 is redesignated as § 1427.1089.

3. A new § 1427.1088 is added immediately following § 1427.1087 to read as follows:

§ 1427.1088 Contract fees.

(a) Each warehouseman who has a non-federally licensed cotton warehouse must pay an annual contract fee for each such warehouse for which the warehouseman requests renewal of an existing Cotton Storage Agreement or approval of a new Cotton Storage Agreement as follows:

(1) A warehouseman who has an existing Cotton Storage Agreement with CCC for the storage and handling of CCC-owned cotton or cotton pledged to CCC as loan collateral must pay an annual contract fee for each warehouse approved under such agreement in advance of the renewal date of such agreement.

(2) A warehouseman who does not have an existing Cotton Storage Agreement with CCC for the storage and handling of CCC-owned cotton or cotton pledged to CCC as loan collateral but who desires such an agreement must pay a contract fee for each warehouse for which CCC approval is sought prior to the time that the agreement is approved by CCC.

(b) The amount of the contract fee shall be determined and announced annually in the **Federal Register.**

Signed at Washington, D.C., on July 17, 1985.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 85–17384 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–NM–64–AD]

Airworthiness Directives; Fokker B.V. Model F28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections, and repair, if necessary, of the center wing rear spar end fittings on certain Fokker Model F28 series airplanes. Several cases of cracked fittings due to stress corrosion were found during inspection by the manufacturer. Uncorrected cracked fittings could result in structural failure and loss of the airplane.

DATE: Comments must be received on or before September 10, 1985.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–64–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from the Manager of Maintenance and Engineering, Fokker B.V., Product Support, P.O. Box 7600, 1117ZJ Schiphol Oost, the Netherlands. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Baldwin, Standardization Branch, ANM–113, telephone (206) 431–2978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–64–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Ministerie van Verkeer en Waaterstaat, Rijksluchtvaartidienst (RLD), the Civil Aviation Authority of the Netherlands, has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a potentially unsafe condition on certain Fokker Model F28 airplanes. During a routine maintenance inspection on of an F28 airplane with approximately 24,000 accumulated flight-hours and 29,500 landings, the manufacturer found a crack in the center wing rear spar end fitting LH, P/N A81130. In its investigation, the manufacturer determined the cause of the crack to be stress corrosion. An unrepaired crack could progress to a point that wing failure occurs.

In order to obtain an inventory of possible cracks, Service Bulletin F28/57–69, dated November 1, 1982, was issued and distributed to operators of affected Model F28 airplanes. Service Bulletins F28/57–69 and F28/57–69 (Revision 1), dated April 16, 1984, were made mandatory by Netherlands Airworthiness Directive (AD) No. 82–40–57. The AD was subsequently canceled because the inspection and repairs required were incorporated in the Fokker F28 Structural Integrity Program which was also made mandatory by the RLD. In order to establish a reference source for U.S. AD action, Fokker issued Service Bulletin F28/57–73 which applies only to those affected Model F28 airplanes which are registered in the U.S. This service bulletin refers to all Fokker F28 technical manuals which contain the necessary information to carry out properly the required inspections and to accomplish a repair, if necessary. This service bulletin, like the predecessor Service Bulletin F28/57–69 (Revision 1), does not recommend the initial inspection until six years after delivery due to the nature of the stress corrosion cracks and service experience.

This airplane model is manufactured in the Netherlands and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this type design registered in the United States, an AD is proposed that would require an initial inspection, repetitive inspections at not more than yearly intervals, and repair as necessary, of the center rear spar end fittings.

It is estimated that 30 airplanes would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required inspections each year, and that the average labor cost would be $40 per manhour. Based on these figures, the cost impact of the inspections of this AD to U.S. operators is estimated to be $3,600 per year.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Fokker Model F28 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85.

2. By adding the following new airworthiness directive:

Fokker B.V.: Applies to Model F28 series airplanes certificated in any category:
Serial Nos:
11003 to 11189 inclusive
11190 to 11192 inclusive (RH side only)
11991 and 11992

To prevent failures of the wing center section, accomplish the following, unless already accomplished, within the next 60 days after the effective date of this AD or before the airplane reaches six years of age (from date of delivery), whichever occurs later:

A. Inspect the center wing rear spar end fittings, and repair if cracks are found, in accordance with Fokker Service Bulletin F28/57–73 dated June 18, 1984.

B. Repeat the inspection and repairs required by paragraph A., above, at intervals not to exceed one year.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Standardization Branch, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

Issued in Seattle, Washington, on July 12, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–17304 Filed 7–19–85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

considered by the Commission and will be available for inspection and copying at its principal office in accordance with

decision, in disposition of the proceeding.

5. This agreement is for settlement

subsidiaries, divisions, affiliates, successors, and assigns.

II

period for the divestitures provided therein. The trustee shall have twelve

VOL 50 ISS 140 JL 22 1985 UMI

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 851 0027]

Hospital Corp. of America; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Nashville, Tenn. for-profit hospital chain, among other things, to divest three of the hospitals it acquired from Forum Group, Inc. to Commission-approved acquirers within 12 months after the order becomes final. If respondent cannot divest within the time specified, the Commission would appoint a trustee to make the divestitures. Respondent would be prohibited from reacquiring the assets of any of the divested hospitals for 10 years without prior Commission approval. Additionally, respondent would be required to provide advance notification to the Commission before acquiring any psychiatric hospital or unit, or any general acute care hospital operating a psychiatric unit, in the Norfolk, Va., area; or any general acute care hospital in the Midland/Odessa, Tex. area; unless such acquisition price does not exceed one million dollars ($1,000,000). Further, respondent would be required to file compliance reports with the Commission at specified times and make records available to Commission staff.

DATE: Comments must be received on or before September 20, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Arthur N. Lerner, FTC/B-823, Washington, D.C. 20580. (202) 724-1341.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9 (b)(14)).

List of Subjects in 16 CFR Part 13

Hospitals, Trade practices.

Before Federal Trade Commission

[File No. 851-0027]

In the matter of Hospital Corporation of America, a corporation. Agreement Containing Consent Order to Cease and Desist.

The Federal Trade Commission having initiated an investigation of the proposed acquisition by Hospital Corporation of America ("HCA") of certain assets of Forum Group, Inc., and it now appearing that HCA, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order with respect to the acquisition being investigated.

It is hereby agreed by and between HCA, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. HCA is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Tennessee, with its office and principal place of business located at One Park Plaza, Nashville, Tennessee 37203.

2. Proposed respondent admits all the jurisdictional allegations set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to the proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

A. "HCA" means Hospital Corporation of America, a corporation organized under the laws of Tennessee, with its principal executive office at One Park Plaza, Nashville, Tennessee 37203, and its directors, officers, agents, employees, and representatives, and its

subsidiaries, divisions, affiliates, successors, and assigns.

B. "Forum" means Forum Group, Inc. and its subsidiaries, divisions, affiliates successors, and assigns.

C. "Hospital" means a health facility, other than a federally owned facility, having a duly organized governing body with overall administrative responsibility and an organized professional staff that provides 24-hour inpatient care, and that may also provide outpatient services.

D. "General acute care hospital" means a hospital which has as a primary function the provision of inpatient services for medical diagnosis, treatment, and care of physicially injured or sick persons with short-term or episodic health problems or infirmities.

E. "Psychiatric hospital" means a hospital which has as a primary function the provision of inpatient services for psychiatric diagnosis, treament, and care of persons suffering from mental illness or emotional disturbance, and may also provide treatment for alchol or drug abuse.

F. "Psychiatric unit" means a department, unit, or other organizational subdivision of a general acute care hospital that has as a primary function the provision of inpatient services for psychiatric diagnosis, treatment, and care of persons suffering from mental illness or emotional disturbance, and may also provide treatment for alcohol or drug abuse.

G. "Norfolk MSA" means the Norfolk-Virginia Beach-Newport News, Virginia Metropolitan Statistical Area, as defined as of January 1, 1985 by the Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President.

H. "Midland/Odessa Area" means the area comprising Ector and Midland counties in Texas.

I. "Acquire" a hospital or psychiatric unit means to directly or indirectly acquire all or any part of the stock or assets of a hospital or psychiatric unit, or enter into any other arrangement by which HCA obtains direct or indirect ownership of, or otherwise begins to operate, a hospital or psychiatric unit; *privided, however,* that if an order is issued and becomes final in *Hospital Corporation of America,* FTC Docket No. 9161, that requires HCA to obtain the prior approval of, or provide advance notification to, the Federal Trade Commission with respect to any hospital management contracts, then as of that date, "operate a hospital or psychiatric unit" shall be deemed to include management of a hospital or a psychiatric unit pursuant to a management contract.

II

It is ordered that within twelve (12) months from the date this Order becomes final, HCA shall divest, absolutely and in good faith, all of the stock and assets specified in Schedule A. The purpose of the divestitures is to reestablish the hospitals listed in Schedule A as viable competitors. The divestitures shall be subject to the prior approval of the Federal Trade Commission.

Pending divestiture, whether by HCA or by a trustee as provided for in section III below, HCA shall continue to operate the facilities to be divested, and take all measures necessary to maintain those facilities in their present condition and to prevent any deterioration, except for normal wear and tear, of any of the assets to be divested so as not to impair their present operating abilities or market value.

For a period of ten (10) years from the date this Order becomes final, HCA shall not, directly or indirectly, reacquire any interest in any Schedule A stock or assets required to be divested by this Section II of this Order without the prior approval of the Federal Trade Commission.

III

A. If HCA has not divested all of the properties, assets, or enterprises required to be divested pursuant to section II of this Order within the 12-month period provided therein, the Federal Trade Commission may select a trustee to effect any ordered divestitures yet to be accomplished. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If the Federal Trade Commission should elect to appoint a trustee, it shall not be precluded from seeking civil penalties and other relief available to it for any failure by HCA to comply with this Order. If the Federal Trade Commission should not elect to appoint a trustee under this section III of this Order, it shall not be precluded from seeking civil penalties, the appointment by the courts of a trustee to effect the divestitures, and other relief available to it, for any failure by HCA to comply with this Order.

B. Any trustee appointed by the Federal Trade Commission pursuant to this section III shall have the following powers, authority, duties, and responsibilities:

1. The trustee shall have the exclusive power and authority to divest any properties, assets, or enterprises required to be divested pursuant to Section II of this Order that have not been divested by HCA within the time period for the divestitures provided therein. The trustee shall have twelve (12) months from the date of appointment to accomplish the divestitures, which shall be subject to the prior approval of the Federal Trade Commission. If, however, at the end of the twelve-month period the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Federal Trade Commission. In addition, any delay in divestiture caused by HCA shall extend the time for divestiture in accordance with the delay caused.

2. The trustee shall have full and complete access to the personnel, books, records and facilities of any property, asset, or enterprise that the trustee has the duty to divest, and HCA shall develop such financial or other information relevant to the properties, assets, or enterprises to be divested as the trustee may reasonably request. HCA shall cooperate with the trustee, and shall take no action to interfere with or impede the trustee's accomplishment of the divestitures.

3. The power and authority of the trustee to divest shall be at the most favorable price and terms available consistent with this Order's absolute and unconditional obligation to divest and the purposes of the divestitures as stated in Section II of this Order.

4. The trustee shall serve, without bond or any other security, at the cost and expense of HCA on such reasonable and customary terms and conditions as the Federal Trade Commission may set. The trustee shall have authority to retain, at the cost and expense of HCA, such consultants, attorneys, investment bankers, business brokers, accountants, appraisers, and other representatives and assistants as are reasonably necessary to assist in the divestitures. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Federal Trade Commission of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to HCA and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee divesting the trust property.

5. HCA shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities to which the trustee may become subject, arising in any manner out of, or in connection with, the trustee's duties under this Order, unless

the Federal Trade Commission determines that such losses, claims,

area hospital market, as specified in Schedule B. In addition, HCA shall

who may have counsel present. regarding such matters.

relating to market share, formulation of hospital prices, competitive interaction

Odessa market that it acquired from Forum

that may affect HCA's compliance with

the Federal Trade Commission determines that such losses, claims, damages, or liabilities arose out of the misfeasance, negligence, or the willful or wanton acts or bad faith of the trustee.

6. Promptly upon appointment of the trustee and subject to the approval of the Federal Trade Commission, HCA shall, subject to the Federal Trade Commission's prior approval and consistent with provisions of this Order, execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to cause the divestitures.

7. If the trustee ceases to act or fails to act diligently, the Federal Trade Commission shall appoint a substitute trustee.

8. The trustee may ask the Federal Trade Commission to issue, and the Federal Trade Commission may issue, such additional orders or directions as may be necessary and appropriate to accomplish the divestitures required under this Order.

9. The trustee shall have no obligation or authority to operate or maintain any of the properties, assets, or enterprises required to be divested pursuant to section II of this Order.

10. The trustee shall report in writing to HCA and the Federal Trade Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

It is further ordered that for a period of ten (10) years from the date this Order becomes final, HCA shall not, without providing advance notification to the Federal Trade Commission, acquire: (1) Any psychiatric hospital, any psychiatric unit, or any general acute care hospital operating a psychiatric unit, in the Norfolk MSA; or (2) any general acute care hospital in the Midland/Odessa Area. Such advance notification shall be provided when HCA executes a letter of intent or enters into an agreement to make such an acquisition, whichever is earlier.

The notification required by this section shall be the Notification and Report form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations, as amended, and shall be prepared and transmitted in accordance with the requirements of that Part. This notification requirement shall apply to HCA and shall not apply to any party that HCA seeks to acquire. HCA shall also provide at the same time of the filing of the Notification and Report Form supplemental information, either in HCA's possession or reasonably available to HCA, relating to the hospital to be acquired, the HCA hospital(s) in that geographic area, and identification and assessment of the area hospital market, as specified in Schedule B. In addition, HCA shall comply with reasonable requests by Commission staff for additional information within fifteen (15) days of service of such requests.

Provided, however, that no acquisition shall be subject to the notification requirements of this section: (1) If the acquisition is by purchase, and the consideration paid for the hospital or any rights or interest therein, including assumption by HCA of any liabilities, does not exceed one million dollars ($1,000,000); or (2) if notification of the acquisition is required to be made, and in fact is made, pursuant to section 7A of the Clayton Act, 15 U.S.C. 18a.

V

It is further ordered that HCA shall, within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until it has fully complied with the provisions of Section II of this Order, submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with these provisions.

Such compliance reports shall include, in addition to any other information that the staff of the Federal Trade Commission may reasonably request, a summary of all contacts and negotiations with potential purchasers of the stock, assets, or other rights or interests to be divested under this Order, the identity and address of all such potential purchasers, and copies of all written communications to and from such potential purchasers.

VI

It is further ordered, that HCA, upon written request of the Secretary of the Federal Trade Commission or the Director of the Bureau of Competition of the Federal Trade Commission made to HCA at its principal office, for the purpose of securing compliance with this Order, and for no other purpose, and subject to any legally recognized privilege, shall permit duly authorized representatives of the Federal Trade Commission:

1. Reasonable access during the office hours of HCA, which may have counsel present, to those books, ledgers, accounts, correspondence, memoranda, reports, and other records and documents in HCA's custody, possession or control that relate materially and substantially to any matter contained in this Order; and

2. An opportunity, subject to the reasonable convenience of HCA, to interview officers or employees of HCA, who may have counsel present, regarding such matters.

VII

It is further ordered that HCA shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed corporate change, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance with the obligations arising out of this Order.

Schedule A: Stock and Assets To Be Divested

A. All stock, and all assets (including, but not limited to, properties, licenses, land, and other rights and privileges, tangible or intangible), acquired by HCA directly or indirectly from Forum in connection with any of the following hospitals:

1. Parkview Hospital, in Midland, Texas;

2. Doctors' Hospital of the Permian Basin, in Midland, Texas (a planned new facility which, if and when it is completed, will replace Parkview Hospital);

3. Virginia Center for Psychiatry—Norfolk, in Norfolk, Virginia; and

4. Virginia Center for Psychiatry—Portsmouth, in Portsmouth, Virginia,

Including specifically all stock of Doctors' Hospital Permian Basin, Inc. (a Texas corporation), and whatever assets may have been acquired by HCA directly or indirectly from that corporation, from Midland Hospital Corporation (a Texas corporation), or from Norfolk Psychiatric Center, Inc. or Portsmouth Psychiatric Center, Inc. (both Virginia corporations).

B. All improvements made to the hospitals and related assets specified in paragraph A above subsequent to their acquistion by HCA.

Schedule B. Supplemental Information To Accompany Notificotion of a Hospital Acquisition

The supplemental information HCA is required to submit with its notification to the Federal Trade Commission of a hospital acquisition, pursuant to Section IV of this Order, shall include a full description of the acquisition (including a copy of the acquistion agreement), to the extent such information is not already provided in the Notification and Report form submitted by HCA, and shall also include, where available, patient flow data, annual management and strategic plans, hospital utilization and revenue data, and documents relating to market share, formulation of hospital prices, competitive interaction among area hospitals, implementation of certificate of need standards in the area, planned efficiencies, relations with third-party payers, and physician admitting patterns.

Hospital Corporation of America

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has provisionally accepted an agreement to a consent order from Hospital Corporation of America ("HCA").

The proposed consent order has been placed on the public record for sixty (60) days for filing of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should make final the agreement's proposed order or withdraw from the agreement.

The Complaint. A complaint prepared for issuance by the Commission along with the proposed order alleges that part of HCA's acquisition of assets and voting securities from Forum Group, Inc. ("Forum"), completed on April 2, 1985, violated section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act.

Count I of the complaint alleges that HCA's acquisition of Forum's two psychiatric hospitals in the Norfolk, Virginia area threatened to lessen competition substantially in the market for psychiatric hospital services in the Norfolk-Virginia Beach-Newport News, Virginia Metropolitan Statistical Area ("Norfolk MSA"). The acquisition eliminated Forum as an independent competitor and increased concentration in the market, substantially increasing the likelihood of collusion in the market, which has high barriers to entry.

Count II of the complaint alleges that HCA's acquisition of Forum's general acute care hospital in Midland, Texas, threatened to lessen competition substantially in the market for general acute care hospital services in Midland and Ector counties in Texas (the "Midland/Odessa area"). The acquisition eliminated Forum as an independent competitor and increased concentration in the market, substantially increasing the likelihood of collusion in the market, which has substantial barriers to entry.

The Proposed Consent Order. HCA has agreed to an order providing for divestiture of the psychiatric hospitals in the Norfolk MSA market and the general acute care hospital in the Midland/Odessa market that it acquired from Forum.

Section I of the proposed Order defines the terms used throughout the Order.

Section II of the proposed Order would require HCA to divest the hospitals it acquired from Forum in the Norfolk MSA and the Midland/Odessa area, along with certain related stock and assets (specified in Schedule A, attached to the proposed Order), to Commission-approved acquirers within twelve (12) months of the issuance of the Order. The purpose of these divestitures is to reestablish the hospitals as viable competitors. Therefore, pending divesture, Section II would require HCA to preserve the assets and to continue to operate the hospitals. For a period of ten (10) years, HCA would be prohibited from reacquiring any interest in the divested hospitals and assets without prior approval of the Commission.

Section III of the proposed Order would give the Commission the right to appoint a trustee to carry out the divestitures required by section II if HCA fails to do so within the twelve-month period.

Section IV of the proposed Order would require HCA, for a period of ten years, to notify the Commission prior to the acquisition of: (1) Any psychiatric hospital, psychiatric unit in a general acute care hospital, or general acute care hospital operating a psychiatric unit, in the Norfolk MSA market; or (2) any general acute care hospital in the Midland/Odessa market. HCA would be required to provide the Commission with notice by filing (1) a Notification and Report form designed for use in the Hart-Scott-Rodino premerger notification program, and (2) supplemental information relating to the planned acquisition, such as patient flow data and documents relating to competitive interaction among hospitals in the area of the acquisition (specified in Schedule B, attached to the proposed Order). If, however, the acquisition involves less than $1 million or is reported under the Hart-Scott-Rodino premerger notification program, notice pursuant to this section would not be required.

Sections V, VI, and VII are standard compliance provisions of Commission orders. Section V of the proposed Order would require HCA to file with the Commission written reports setting forth the manner and form of its compliance with the Order. Pursuant to section VI, HCA would be required to make its records available to Commission staff. Finally, Section VII would require HCA to notify the Commission at least thirty (30) days prior to any corporate change that may affect HCA's compliance with the Order.

The purposes of this proposed Order are to prevent the anticompetitive conduct the acquisition would likely have facilitated in the relevant markets, and to restore competition to its preacquisition level in those markets.

The purpose of this analysis is to facilitate public comment on the proposed Order. It is not intended to constitute an official interpretation of the agreement and the proposed Order, or to modify it in any way.

Emily H. Rock,
Secretary.

[FR Doc 85-17295 Filed 7-19-85; 8:45 am]
BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 831 0147]

Medical Staff of John C. Lincoln Hospital & Health Center; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require an unincorporated association of physicians and other practitioners who have been granted privileges by John C. Lincoln Hospital & Health Center in Phoenix, Ariz. to admit and attend patients, among other things, to cease threatening or participating in any: (1) Boycott or concerted refusal fo deal, including a refusal to refer, admit or treat patients; (2) unreasonably discriminatory action against a health care facility or professional; or (3) coercive action to influence any reimbursement or insurance determination, if the purpose or effect of such conduct would be to impede the development or operation of an urgent care center or other health care facility or institution in the Arizona counties of Maricopa, Pinal, Yavapai or Gila. Respondent would not be prohibited from participating in any policy-making or medical review activities at the hospital, when such conduct does not constitute, and is not part of, a boycott or refusal to deal. Additionally, respondent would be required to file compliance reports with the Commission at specified times and provide copies of the Complaint and

Order to all present and future members of the Medical Staff.

B. Suggesting, encouraging, initiating, engaging in, or participating in any

be filed with the Commission a written report setting forth in detail the manner

urgent care center that Medical Staff physicians felt was competing with their

Order to all present and future members of the Medical Staff.

DATE: Comments must be received on or before September 20, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Arthur N. Lerner, FTC/B-823, Washington, D.C. 20580. (202) 724-1341.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Hospitals, Trade practices.

Before Federal Trade Commission

[File No. 831-0147]

Agreement Containing Consent Order to Cease and Desist

In the matter of Medical Staff of John C. Lincoln Hospital & Health Center.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Medical Staff of John C. Lincoln Hospital & Health Center ("Respondent"), and it now appearing that Respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Respondent, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Respondent's mailing address is 9211 North Second Street, Phoenix, Arizona 85020.

2. Only for purposes of this proceeding and any subsequent proceedings for enforcement or modification of the consent order entered as a result of this agreement, Respondent admits all of the jurisdictional facts set forth in pargraphs TWO, FOUR, and FIVE of the draft complaint that is attached as Exhibit A.

3. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in the draft complaint attached as Exhibit A.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Respondent, (1) issue its complaint corresponding in form and substance with the draft complaint attached as Exhibit A and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Respondent's address as stated in this agreement shall constitute service. Respondent waives any right it may have to any other manner of service. The complaint attached hereto may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Respondent has read the proposed complaint and order contemplated hereby. It understands that when the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

For purposes of this Order, the following definitions shall apply:

A. "Respondent" or "the Medical Staff" means the Medical Staff of John C. Lincoln Hospital & Health Center, its officers, committees, representatives, delegates, agents, employees, successors, or assigns. The Medical Staff is an unincorporated association of physicians and other practitioners who have been granted privileges by John C. Lincoln Hospital & Health Center to admit and attend patients in John C. Lincoln Hospital & Health Center.

B. "Lincoln Hospital" means John C. Lincoln Hospital & Health Center, a non-profit corporation organized and existing under and by virtue of the laws of the State of Arizona that operates a general acute care hospital.

C. "Urgent care center" means a freestanding health care delivery facility that is designed and staffed to provide treatment to patients with non-life threatening, but nevertheless urgent, conditions on a non-appointment, episodic basis.

D. "Corrective action" means action taken pursuant to and in conformance with the Medical Staff's bylaws against any person with clinical privileges at Lincoln Hospital who fails to provide evidence of eligibility to purchase malpractice insurance or whose activities or professional conduct are detrimental to patient safety, the delivery of quality patient care, or are unreasonably disruptive to the operation of Lincoln Hospital.

II

It is ordered that Respondent shall cease and desist from, directly or indirectly or through any device:

A. Making, or joining in any plan to make, any express or implied threat of any unreasonably discriminatory action against a health care facility, institution, or professional, any coercive action to influence any reimbursement or insurance determination, or any boycott or concerted refusal to deal, including a refusal to refer, admit, or treat patients, or

B. Suggesting, encouraging, initiating, engaging in, or participating in any unreasonably discriminatory action against a health care facility, institution, or professional, any coercive action to influence any reimbursement or issuance determination, or any boycott or concerted refusal to deal, including a refusal to refer, admit, or treat patients, for the purpose of, or with the effect or likely effect of, impeding the development or operation of an urgent care center or other health care facility or institution in the Arizona counties of Maricopa, Pinal, Yavapai, or Gila.

III

It is further ordered that this Order shall not be construed to prohibit Respondent or its members from engaging, pursuant to the Medical Staff's bylaws, in credentialling, corrective action, utilization review, quality assurance, peer review, or hospital policy-making activities at Lincoln Hospital, where such conduct neither constitutes nor is part of any boycott, concerted refusal to deal, discrimination, or coercion, the purpose, effect, or likely effect of which is to impede unreasonably the development or operation of an urgent care center or any other health care facility or institution.

IV

It is further ordered that this Order shall not be construed to prevent Respondent from exercising rights guaranteed against infringement by the First Amendment of the United States Constitution, including the right to petition any federal or state executive, legislative, judicial, or administrative agency or body, concerning legislation, rules, regulations, or procedures, or from engaging in any activities which are exempt from the antitrust laws under the state action doctrine or the *Noerr-Pennington* Doctrine.

V

It is further ordered that Respondent shall:

A. Within thirty (30) days after this Order becomes final, mail a copy of this Order and of the Complaint in this proceeding to each officer and to each physician who is a member of the Medical Staff on that date, and, for a period of five (5) years after that date, provide a copy of such Order and Complaint to each physician who becomes a member of the Medical Staff.

B. Within one hundred and twenty days (120) after this Order becomes final, and at such other times as the Commission may be written notice to the Respondent require, file or cause to be filed with the Commission a written report setting forth in detail the manner and form in which it has complied with this Order.

C. In addition to the report required by Section V.B., within one year after this Order becomes final, and annually for a period of five (5) years on or before the anniversary of the date on which this Order becomes final, and at such other times as the Commission may be written notice require, file a written report with the Federal Trade Commission setting forth in detail the manner and form in which the Medical Staff has complied and is complying with this Order.

D. For a period of five years after this Order becomes final, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with any activity covered by Part II of this Order.

VI

It is further ordered that the Respondent notify the Commission at least thirty (30) days prior to any proposed change in the Medical Staff that may affect compliance obligations arising out of this Order.

Medical Staff at John C. Lincoln Hospital & Health Center

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Medical Staff of John C. Lincoln Hospital and Health Center ("Medical Staff").

The proposed consent order has been place on the public record for sixty (60) days for reception of comments by interested persons. Comment received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will determine whether it should withdraw the agreement or make final the agreement's proposed order.

The Complaint. A complaint prepared for issuance by the Commission along with the proposed order alleges that the Medical Staff, acting as a combination of its members, or in conspiracy with at least some of its members or others, participated in a conspiracy to restrain competition among the various health care providers in Phoenix, Arizona, by joining in a common plan to coerce, intimidate, and threaten to boycott John C. Lincoln Hospital & Health Center ("Lincoln Hospital" or "the Hospital") in order to induce the Hospital to close an urgent care center that Medical Staff physicians felt was competing with their private practices. An urgent care center is a freestanding health facility designed and staffed to provide treatment to patients with non-life threatening, but nevertheless urgent, conditions on a non appointment, episodic basis. This activity is alleged to be an unfair method of competition in violation of section 5 of the Federal Trade Commission Act.

The complaint alleges that the totality of actions taken by the Medical Staff and its members in opposition to the Hospital's operation of the urgent care center establishes the existence of a conspiracy. The passage of written resolutions opposing Lincoln Hospital's operation of an urgent care center by the members of the Medical Staff, on its behalf, link the Medical Staff to the conspiracy. These resolutions contained the implied threat that members of the Medical Staff would take their patients to other hospitals if Lincoln Hospital operated the urgent care center. In addition, the complaint alleges that a member of the Medical Staff, purporting to represent the attitude of the Medical Staff's members, disseminated to each member of Lincoln Hosital's Board of Directors a statement that Medical Staff members would take their patients to other hospitals if Lincoln Hospital operated any facility that competed directly with the Medical Staff physician's private practices. The complaint further alleges that a member of the Medical Staff wrote to all of Lincoln Hospital's Board members stating that Lincoln Hospital could not afford to alienate its Medical Staff and referred them to a "position paper" prepared by the Maricopa County Medical Society. This position paper recommended that physicians stand together and not support hospitals that compete with them. The complaint further asserts that some members of the Medical Staff wrote letters to Lincoln Hospital Board members resigning from the Medical Staff or threatening to resign or to cease admitting patients because of the Hospital's operation of the urgent care center.

The complaint alleges that, as a result of the Medical Staff's actions, Lincoln Hospital closed the urgent care center. As a further result, the complaint alleges that competition in the provision of health care services has been unreasonably restrained and consumers were deprived of the benefits of competition in the following ways: patients have been limited in their ability to choose among a variety of

alternative types of health care facilities; other hospitals have been or

written reports with the Commission setting forth the manner and form of its

21 CFR Parts 201, 211, 514, and 559

[Docket No. 83N-0076]

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

proposing that § 433.1 be revised to exempt from the requirements of batch

List of Subjects in 21 CFR Part 433

VOL 50 ISS 140 JL 22 1985 UMI

alternative types of health care facilities; other hospitals have been or may be deterred from operating facilities that might compete with the private practices of physicians on their medical staffs; the development of an alternative and innovative form of health care facility has been hindered; and, Lincoln Hospital's ability to compete with other hospitals in the Phoenix metropolitan area has been restrained.

The Proposed Consent Order. The proposed consent order would prohibit the Medical Staff from making or joining in any plan to make: (1) Any threat of unreasonably discriminatory action against a health care facility, institution, or professional; (2) any coercive action to influence any reimbursement or insurance determination; (3) any boycott or concerted refusal to deal, which may include a refusal to refer, admit or treat patients, if the purpose or the effect of such conduct would be to impede the development or operation of an urgent care center or other health care facility or institution in the Arizona counties of Maricopa, Pinal, Yavapai, or Gila. It would further prohibit the Medical Staff from suggesting, encouraging, initiating, engaging in, or participating in any of the above-described conduct.

The proposed consent order also contains two provisions. The first permits the Medical Staff to perform legitimate Medical Staff activities, such as credentialling, corrective action, utilization review, quality assurance, peer review, or hospital policy-making activities at Lincoln Hospital, as long as its conduct in connection with these activities is not a boycott, a concerted refusal to deal, discrimination, or coercion, and the purpose or effect of the conduct would not be to impede unreasonably the development of an urgent care center or any other health care facility or institution. The second proviso permits the Medical Staff to exercise its rights guaranteed by the First Amendment of the United States Constitution and to engage in activities which are exempt from the antitrust laws under the state action doctrine or the *Noerr Pennington* Doctrine.

To ensure that all present and future members of the Medical Staff are aware of the limitations imposed by the order, the Medical Staff would be required to mail a copy of the order to each physician who is currently a member of the Medical Staff, and for the next five (5) years, provide a copy of the order and complaint to each physician who joins the Medical Staff. To ensure that the proposed order is obeyed, the Medical Staff would be required to file written reports with the Commission setting forth the manner and form of its compliance. The Medical Staff would also be required to make its records available to the Commission staff. Finally, the proposed order would require the Medical Staff to notify the Commission at least thirty (30) days prior to any proposed change in the Medical Staff that may affect its compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 85-17292 Filed 7-19-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of Certain Color Additives; Proposal To Extend Closing Dates

Correction

In FR Doc. 85-15378 beginning on page 26377 in the issue of Wednesday, June 26, 1985, make the following correction: On page 26382, in the second column, in § 81.27(d), in the table, in the second entry, "D&C Red No. 3" should read "FD&C Red No. 3".

BILLING CODE 1505-01-M

21 CFR Part 146

[Docket No. 84N-0402]

Pulpy Nectars of Certain Small Fruits; Termination of Consideration of Codex Standard

Correction

In FR Doc. 85-15279 appearing on page 26384 in the issue of Wednesday, June 26, 1985, make the following correction: In the second column, in the sixth line from the top "is need" should read "is no need".

BILLING CODE 1505-01-M

21 CFR Parts 201, 211, 514, and 559

[Docket No. 83N-0076]

Approval of Bulk New Animal Drug Substances for Use by Licensed Veterinarians

Correction

In FR Doc. 85-15674, beginning on page 27016 in the issue of Monday, July 1, 1985, make the following corrections:

1. On page 27020, in the second column, fifteenth line of paragraph d, "NAS/BRC" should read "NAS/NRC".

2. On page 27021, first column, at the end of the first complete paragraph, add the following sentence: "Thus, the proposal would amend § 211.1(a) to broaden the scope of the CGMP regulations to include the manufacture, processing, packing, or holding of bulk new animal drug substances."

3. On page 27023, first column, first line of amendatory instruction 8, "Part 541" should read "Part 514".

4. On page 27023, third column, fourth line of § 559.4(d), "§ 514.300" should read "§ 510.300".

BILLING CODE 1505-01-M

21 CFR Part 433

[Docket No. 84N-0373]

Antibiotic Drug Products for Over-the-Counter Human Use; Exemption From Certification

AGENCY: Food and Drug Administration.

ACTION: Proposed rule

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations to specifically exempt from batch certification antibiotic drug products for over-the-counter (OTC) human use that meet all of the conditions in § 330.1 (21 CFR 330.1) and in an applicable final OTC antibiotic drug monograph. Under the exemption, manufacturers would not be required to obtain, before marketing, certification of each batch of an OTC antibiotic drug that is generally recognized as safe and effective and not misbranded.

DATES: Comments by September 20, 1985; requests for an informal conference by August 21, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Meyer, Center for Drug and Biologics (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 7, 1982 (47 FR 39155), FDA amended § 433.1 of the regulations (21 CFR 433.1), which describes how antibiotic drugs can be exempted from the batch certification requirements of section 507 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 357). This regulation now provides that antibiotic drugs for human use are exempt from the batch certification requirements of the act if they are approved for marketing under an appropriate antibiotic Form 5 or Form 6 and meet certain other specified conditions. Because the act provides that an antibiotic drug that is a new drug exempted from the batch certification requirements is subject to the new drug approval requirements of section 505 of the act (21 U.S.C. 355), the regulations also provide that an approved antibiotic Form 5 is regarded as an approved new drug application, and an approved antibiotic Form 6 is regarded as an approved abbreviated new drug application.

Part 330 of the regulations (21 CFR Part 330) contains procedures by which classes of OTC human drugs are generally recognized as safe and effective and not misbranded. Under these procedures, an OTC drug product, including an OTC antibiotic drug product, that conforms to each of the general conditions established in § 330.1, and to each of the conditions in an applicable final OTC drug monograph issued under § 330.10, is generally recognized as safe and effective and not misbranded. Because it is generally recognized as safe and effective, such a product is not subject to the new drug approval requirements of section 505 of the act. Accordingly, OTC antibiotic drug products that meet the conditions in Part 330 do not need approval for marketing in the form of an approved antibiotic Form 5 or Form 6.

The agency believes that an OTC antibiotic drug product that meets the requirements of Part 330 also should be exempted from the batch certification requirements of section 507 of the act. However, such drug products would not meet one of the conditions necessary for exemption under § 433.1, as this section is presently written. Specifically, such drug products would not be approved for marketing under an appropriate antibiotic Form 5 or Form 6, as § 433.1 now requires. FDA did not intend to exclude OTC antibiotic drugs that are generally recognized as safe and effective from the exemption from batch certification. Therefore, the agency is proposing that § 433.1 be revised to exempt from the requirements of batch certification all OTC antibiotic drug products that conform to each of the general conditions established in § 330.1 of the regulations and to each of the conditions in an applicable final OTC drug monograph issued under § 330.10. The agency is also proposing a conforming technical amendment to § 433.2(b).

Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(a) (8) and (9) (April 26, 1985; 50 FR 16636) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has considered the economic impact of this proposed rule and has determined that it does not require a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). Specifically, the proposed rule would allow OTC antibiotic drugs that are generally recognized as safe and effective to be marketed without obtaining certification of each batch of antibiotic drug, thus eliminating the cost of this certification for the manufacturers of OTC antibiotic drugs that will be marketed under an applicable final OTC drug monograph. Accordingly, the agency certifies that this rulemaking, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Interested persons may, on or before September 20, 1985, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before August 21, 1985, submit to the Dockets Management Branch a request for an informal conference. The participants in a informal conference, if one is held, will have until September 20, 1985, or 30 days from the date of the conference, whichever is later, to submit their comments.

List of Subjects in 21 CFR Part 433

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs it is proposed that Part 433 be amended as follows:

PART 433—EXEMPTIONS FROM ANTIBIOTIC CERTIFICATION AND LABELING REQUIREMENTS

1. The authority citation for 21 CFR Part 433 would continue to read as follows:

Authority: Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357), unless otherwise noted.

2. In Part 433 by revising §§ 433.1 and 433.2(b) to read as follows:

§ 433.1 Exemption of antibiotic drugs for human use from batch certification requirements.

(a) Antibiotic drugs for human use are exempt from the batch certification requirements of Part 431 of this chapter if the conditions of paragraph (b) of this section are met; or, in the case of over-the-counter antibiotic drugs subject to an over-the-counter drug monograph in this chapter, if the conditions of paragraph (c) of this section are met.

(b) The conditions are as follows:

(1) The antibiotic drug is approved for marketing under an appropriate antibiotic Form 5 or Form 6 application or is the subject of review under the Drug Efficacy Study Implementation Program.

(2) The antibiotic drug is packaged and labeled for dispensing in accordance with the applicable regulation (monograph) in this chapter except where other labeling has been approved in an applicable antibiotic Form 5 or Form 6 application.

(3) The bulk antibiotic drug used in preparing the antibiotic drug product meets the standards of identity, strength, quality, and purity specified in the applicable regulation (monograph) in this chapter except where other standards have been approved in an applicable antibiotic Form 5 or Form 6 application.

(4) The antibiotic drug product meets the standards of identity, strength, quality and purity specified in the applicable regulation (monograph) in this chapter except where other standards have been approved in an applicable antibiotic Form 5 or Form 6 application.

(c) The over-the-counter antibiotic drug product for human use meets the general conditions established in § 330.1 of this chapter, and the conditions

specified in an applicable over-the-counter drug monograph in this chapter.

(d) In accordance with the provisions of section 507(e) of the act, an antibiotic-containing drug for human use exempt from the requirements for batch certification under paragraph (b) of this section is subject following its approval to section 505 of the act and applicable regulations for new drugs, generally Parts 310 through 314 of this chapter. For each antibiotic drug subject to an exemption under paragraph (b) of this section:

(1) An approved antibiotic Form 5 application is regarded to be an approved new drug application under § 314.50 of this chapter.

(2) An approved antibiotic Form 6 application is regarded to be an approved abbreviated new drug application under § 314.55 of this chapter.

(e) Nothing in this section prevents a manufacturer from applying for batch certification of an antibiotic drug for human use subject to an exemption under this section as provided in section 507(c) of the act.

(f) All exemptions from batch certification requirements for antibiotic drugs for human use under this section are subject to the conditions of effectiveness under § 433.2.

(g) Reporting/recordkeeping requirements contained in this Part 433 have been approved by the Office of Management and Budget and assigned approval numbers 0910–0007, 0910–0009, and 0910–0055.

§ 433.2 Conditions on the effectiveness of exemptions of antibiotic drugs for human use from batch certification requirements.

* * * * *

(b) If the Commissioner finds that the person granted an exemption from batch certification requirements for an antibiotic drug for human use has failed either to comply with the requirements of section 505 of the act and the regulations promulgated thereunder or to meet the general conditions established in § 330.1 of this chapter and the conditions specified in an applicable over-the-counter drug monograph in this chapter; or if the Commission finds that the requirements of § 433.1 have not been met; or if the Commissioner finds that the petition for exemption from batch certification contains any false statements of fact, the Commissioner may revoke the exemption from batch certifications requirements immediately and require batch certification of the drug until such person shows adequate cause why the exemption from batch certification requirements should be reinstated.

* * * * *

Dated: July 12, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–17281 Filed 7–19–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 1002

[Docket No. 82N–0273]

Review of Records and Reports Regulations for Radiation Emitting Electronic Products; Availability of Report

Correction

In FR Doc. 85–15673, appearing on page 27024 in the issue of Monday, July 1, 1985, make the following correction:

In the second column, in the **FOR FURTHER INFORMATION CONTACT** paragraph, in the second line "(HFS–83)" should read "HFZ–83)".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Public Comment Period and Opportunity for Public Hearing on an Amendment to the Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on an amendment submitted by the State of Wyoming to amend its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Also, the public is invited to comment on the proposal to make the decision on the proposal program amendment retroactive to October 22, 1984, to coincide with the promulgation date of this regulation package by the Wyoming Secretary of State. The proposed amendment consists of revisions to eight chapters of the approved permanent program regulations which are administered by the Wyoming Land Quality Division (LQD).

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment and information pertinent to the public hearing.

DATES: Written comments not received on or before 4:00 p.m. on August 21, 1985 will not necessarily be considered. A public hearing on the proposal will be held, if requested on August 16, 1985, at the address listed below under **"ADDRESSES."**

Any person interested in making an oral or written presentation at the hearing should contact Mr. William Thomas at the OSM Casper Field Office by 4:00 p.m. on August 11, 1985. If no one has contacted Mr. Thomas to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Thomas, a public meeting, rather than a hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public meeting will be held at the Herschler Office Building, 122 W. 25th Street, Cheyenne, Wyoming 82002.

Written comments should be mailed or hand-delivered to Mr. William R. Thomas, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

See **"SUPPLEMENTARY INFORMATION"** for address where copies of the Wyoming program amendment and administrative record on the Wyoming program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Casper Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644. Telephone: (307) 261–5824.

SUPPLEMENTARY INFORMATION: Copies of the Wyoming program amendment, the Wyoming program and the administrative record on the Wyoming program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240.

Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

Wyoming Department of Environmental Quality, Land Quality Division, Herschler Office Building, 122 W. 25th Street, Cheyenne, Wyoming 82002.

Background

The general background on the permanent program, the general background on the State program approval process, the general background on the Wyoming program, and the conditional approval can be found in the Secretary's Findings and conditional approval published in the November 26, 1980 Federal Register (45 FR 78637–78684).

Proposed Amendment

On June 10, 1985, the State of Wyoming submitted to OSM an amendment to its approved regulatory program, the amendment addresses revisions to eight chapters of the approved permanent program regulations which are administered by the Wyoming Land Quality Division. Specifically, the amendment consists of revisions to the following Chapters:

Chapter II—Requires applicant to submit detailed blasting plan as part of the mining and reclamation plan.

Chapter III—Provides for a preapplication determination by the Administrator of the LQD, if requested, as to the existence and extent of any alluvial valley floor.

Chapter V—Adds clarifying language, in response to revisions to Federal provisions, concerning mining through alluvial valley floors, impacts of such mining on farming, post-mining management of auger holes and recognition of remining as a special category of mining.

Chapter VI—Revises the use of explosives provisions in light of the revisions to the Federal rules in the area of blasting standards and record keeping.

Chapter VII—Provides for the submission of a detailed subsidence control plan when the likelihood of material damage exists as a result of underground mining.

Chapter XI—Revises the notification requirements for coal exploration activities which do not substantially distrub the natural land surface.

Chapter XVI—Revises the notification requirements for bond release activities including the bond release inspection and provides citizens the opportunity to request an informal conference on pending bond release decisions.

Chapter XVIII—Revises provisions concerning content requirements for petitions to designate lands unsuitable for mining, timeframes for processing petitions, and allows for supplemental information concerning coal resources.

In accordance with the provisions of 30 CFR 732.15 and 732.17, OSM is seeking comments from the public on the adequacy of the proposed modifications and on the proposal to make the decision on the proposed program amendment retroactive to October 22, 1984, to coincide with the promulgation date of this regulation package by the Wyoming Secretary of State. Retroactive approval is necessary to ensure no adverse effect on State enforcement actions taken since that date, and is reasonable because no one will be unreasonably injured as a result of detrimental reliance on a later effective date because the State has been enforcing these regulations since October 22, 1984. If approved, the proposed amendment will become part of Wyoming's permanent regulatory program.

The full text of the program modification submitted by Wyoming for OSM's consideration is available for public review at the addresses listed under **"ADDRESSES."**

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* The rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 15, 1985.

Jed Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85–17279 Filed 7–19–85; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[OW–3–FRL–2867–6]

Maryland's Application To Administer the National Pollutant Discharge Elimination System (NPDES) Pretreatment Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application.

SUMMARY: In a letter dated June 1, 1983, Mr. William M. Eichbaum, Assistant Secretary for Environmental Programs of the Maryland Department of Health and Mental Hygiene, requested approval of the State of Maryland Pretreatment Program, and submitted a signed statement from the Maryland Attorney General that the State of Maryland has the necessary authority, along with a description of how the State proposes to operate the program. The Office of Regional Counsel in U.S. EPA Region III has reviewed the Attorney General statement and has determined that the State of Maryland has legal authority to implement an NPDES Pretreatment Program. This notice provides for a comment period on Maryland's request. Under U.S. EPA regulations the Administrator shall approve or disapprove this request after taking into consideration all comments received. The Administrator has delegated this authority to the Regional Administrator.

DATE: To be considered, comments must be received on or before August 21, 1985. Interested persons may also request a public hearing on the State's request. If there is a significant public interest expressed in the comments, U.S. EPA will schedule a hearing. In the event U.S. EPA determines to hold a public hearing, prior notice of the date, time, and location of such a hearing will be given. All requests for a public hearing must be submitted on or before the expiration of the comment period.

ADDRESS: Comments should be addressed to: U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA. 19107. Attn: Mr. Thomas Maack (3WM43). Copies of the State's application are available for inspection during normal business hours at the following addresses: U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA. 19107. Attn: Mr. Thomas Maack (3WM43); and Maryland Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, MD 21201. Attn: Mr. Robert Summers.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Maack (3WM43), U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA. 19107, (215) 597–9800.

SUPPLEMENTARY INFORMATION: Section 402(b) of the Clean Water Act (CWA) allows the Administrator of the U.S. EPA to approve State programs to administer portions of the National Pollutant Discharge Elimination System (NPDES) established by the CWA. Section 402(b)(8) requires that State programs include adequate authority to ensure compliance with pretreatment requirements by any source which introduces pollutants into a publicly owned treatment works (POTW). Section 402(c)(3) requires the Administrator to approve a State program unless he determines that adequate authority does not exist to comply with this section. Section 402(d) requires the Administrator to withdraw approval of a State program that no longer complies with the requirements of section 402(b).

On June 26, 1978, U.S. EPA published regulations (43 FR 27736) establishing pretreatment program requirements for POTWs and States. These regulations are found at 40 CFR Part 403. Section 403.10(f) of these regulations establishes procedures for State submission of pretreatment programs. Section 403.11 establishes procedures for U.S. EPA approval, disapproval, and withdrawal of State pretreatment programs.

On June 1, 1983, Mr. William M. Eichbaum, Assistant Secretary for Environmental Programs of the Maryland Department of Health and Mental Hygiene, requested approval of the State of Maryland Pretreatment Program, and submitted a signed statement from the Maryland Attorney General that the State of Maryland has the necessary authority, along with a description of how the State proposes to operate the program. The Office of Regional Counsel in U.S. EPA Region III has reviewed the Attorney General statement and has determined that the State of Maryland has legal authority to implement an NPDES Pretreatment Program. This notice provides for a comment period on Maryland's request. Under U.S. EPA regulations the Administrator shall approve or disapprove this request after taking into consideration all comments received. The Administrator has delegated this authority to the Regional Administrator.

shotshell loads that might be used as an alternative to lead shot (50 CFR 20.134); relating to a particular material being

wording in its entirety and replacing

ADDRESS: Comments should be addressed to: U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA. 19107, Attention: Mr. Jeffrey W. Hass, Water Permits Branch (3WM51).

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey W. Hass, Water Permits Branch (3WM51), U.S. EPA, Region III, 841 Chestnut Building, Philadelphia PA. 19107; 215/597–3689.

SUPPLEMENTARY INFORMATION: On June 26, 1978, the United States Environmental Protection Agency (U.S. EPA) promulgated the general Pretreatment Regulations (40 CFR Part 403). Amendments to the General Pretreatment Regulations were promulgated on January 28, 1981. These regulations mandated by the Clean Water Act of 1977 (Pub. L. 95–217), govern the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs), commonly referred to as municipal sewage treatment plants. The objectives of the regulations are to: (1) Prevent introduction of pollutants into POTWs which will interfere with plant operations and/or disposal or use of municipal sludges; (2) Prevent introduction of pollutants into POTWs which will pass through treatment works in unacceptable amounts to receiving waters; and (3) Improve the feasibility of recycling and reclaiming municipal and industrial wastewater and sludges.

The State of Maryland received NPDES permit authority on September 5, 1974. One of the keystones of the industrial waste control program as set forth in the general Pretreatment Regulations is the establishment of Pretreatment Programs as a supplement to the existing State National Pollutant Discharge Elimination System (NPDES) permit program. In order to be approved, a request for State Pretreatment Program approval must demonstrate that the State has legal authority, procedures, available funding, and qualified personnel to implement a State Pretreatment Program as specified in § 403.10 of the Regulations. Generally, local Pretreatment Programs will be the primary vehicle for administering, applying, and enforcing Federal Pretreatment Standards for Industrial Users of POTWs. States will be required to apply and enforce Pretreatment Standards directly against industries that discharge to POTWs where local programs are not required or have not been developed.

The Regional Administrator's decision to approve or disapprove the proposed pretreatment program will be based on a determination of whether the proposed program meets the requirements of the Clean Water Act and 40 CFR Part 403 and on the comments received.

The Maryland submission may be reviewed by the public at the State of Maryland, Department of Health and Mental Hygiene, 201 W. Preston Street, Baltimore, MD. 21201, and the U.S. EPA office of Philadelphia at the address appearing at the beginning of this Notice. Copies of the submittal may also be obtained (at cost of 20 cents a page) from these offices.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: July 5, 1985.

James M. Seif,

Regional Administrator, Region III.

[FR Doc. 17201 Filed 7–19–85; 8:45 am]

BILLING CODE 6560–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1241

[Docket Ex Parte No. 460]

Certification of Railroad Annual Report R–1 by Independent Accountant

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to notice of proposed rulemaking.

SUMMARY: This proceeding was initiated by Notice of Proposed Rulemaking (NPRM), 50 FR 18539 (May 1, 1985), with comments due June 17, 1985. The NPRM proposed to have the railroads' independent accountants certify the annual reports filed with the Commission. A petition was filed by the Association of American Railroads (AAR) on June 17, 1985, requesting an additional 30 days to file comments. The Commission granted the AAR's request and extended the comment deadline to July 17, 1985. This action was noticed in the Federal Register (50 FR 25282) on June 18, 1985. This Notice supersedes the notice of June 18, 1985, and extends the time for filing comments an additional 30 days.

DATE: Comments must be received by August 16, 1985.

ADDRESS: Send comments (original and 15 copies) to: Docket Ex Parte No. 460, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

SUPPLEMENTARY INFORMATION: By petition filed July 11, 1985, the AAR has requested an additional 30-day extension of the comment deadline to develop an alternative to the certification program proposed in the NPR published in the Federal Register, 50 FR 18539 (May 1, 1985), and clarified in our Notice of June 18, 1985. The AAR states that their proposal would be feasible for the accounting community and the railroad industry while satisfying the needs of the Commission.

The development of a positive alternative proposal would assist the Commission in considering the change to certification of the R–1 data. For that reason, we believe an additional 30-day extension of time is warranted to give parties an opportunity to provide a positive alternative proposal.

It is ordered

The date for filing comments is extended to August 16, 1985.

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: July 15, 1985.

James H. Bayne,

Secretary.

[FR Doc. 85–17294 Filed 7–19–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Nontoxic Shot Approval Procedures

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed revision of rule.

SUMMARY: Traditionally, shotshell loads used in hunting waterfowl have been made of lead. As a consequence, spent lead shot is deposited in feeding areas by hunters, where it is frequently mistaken for seeds or grit and ingested by migratory birds and other wildlife. Moreover, spent lead shot that is lodged in the muscle tissue or contained in the digestive tract of the prey of certain predators, such as bald eagles, is sometimes ingested by these predators as they consume the prey. Ingested lead pellets from either source are known to cause sickness or death to migratory birds and other wildlife.

A procedure was developed in 1976 for obtaining nontoxic status for shotshell loads that might be used as an alternative to lead shot (50 CFR 20.134). The Service had finalized at that time a regulation requiring nontoxic shot for waterfowl hunting in certain areas (50 CFR 20.21(j)). The descriptions of areas in which nontoxic shot is required are presented in 50 CFR 20.108. The only approved nontoxic shot at the present time is steel shot.

It is the responsibility of the Director of the Fish and Wildlife Service to determine the nontoxic status of shot materials to be used for migratory bird hunting (50 CFR 20.134(a)). Considerable information has accumulated on the subject of lead poisoning among birds since nontoxic shot approval procedures were first developed in 1976. The procedures developed in 1976 were reviewed in 1984 and found to be inadequate in several respects. This proposed rule is offered by the Service as a revision of 50 CFR 20.134.

DATE: Comments on this proposal will be accepted until September 20, 1985.

ADDRESS: Submit comments to Director (FWS/MBMO), Room 536 Matomic, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The proposed revision presented below differs from the current version of 50 CFR 20.134 in the following ways:

1. The current regulation requires extensive ballistics and toxicity testing before an application can be made. The proposed revision allows for exchanges of information between the developer and the Director and guidance from the Director prior to extensive and relatively costly testing.

2. The current regulation is inflexible with respect to testing procedures. The proposed revision allows for adjustments in procedures by the Director based upon information gathered during preliminary tests. The Director can approve or reject a candidate material prior to completion of the entire series of tests, or require additional tests, if necessary.

3. The current procedure compares the toxicity of the candidate material to the toxicity of lead. In this proposed revision the candidate material is compared to steel shot and to lead shot.

4. The current rule has rigid timeframes for public comment and for decisions by the Director. The proposed revision allows the Director to adjust these schedules to the information needs relating to a particular material being tested.

5. Both the current rule and the proposed revision place responsibility for testing and the costs of testing on the developer. However, the proposed revision establishes a procedure that allows the Director to consult with the developer to make certain that expenditures by the developer relate to questions essential to the Director's decision regarding the status of the shot material.

This rule will not result in the collection of information from, or place recordkeeping requirements on, the public under the Paperwork Reduction Act of 1980. Since there have been no applications submitted since 1976, and the revisions will not relieve the developmental costs, the Service feels that there will not be 10 or more persons submitting applications within the foreseeable future. Therefore, clearance under 44 U.S.C. 3501 is not required. In accordance with Executive Order 12291, it has been determined that this rule is not a major rule. Since no application has been received since 1976, and not more than one or two applications are likely to occur over the next few years, it is unlikely that the current regulations or this proposed revision will have any economic effect on small entities. Therefore, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it was determined that this rule would not have a significant economic effect on a substantial number of small entities. A copy of the analysis relating to these decisions, Determination of Effects of Proposed Revision of Nontoxic Shot Approval Procedures, can be obtained from the U.S. Fish and Wildlife Service (MBMO), Washington, D.C. 20240.

This proposed rule was authored by Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

PART 20—[AMENDED]

In light of the foregoing, 50 CFR Part 20 is proposed to be amended as follows:

1. The authority citation continues to read as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712).

2. Section 20.134 is proposed to be revised by removing the present wording in its entirety and replacing with the following:

§ 20.134 Nontoxic shot

(a) *Approval.* The Director, U.S. Fish and Wildlife Service, shall determine that a specific type of shot material is acceptable for the purposes of § 20.21(j) if after a review of applications and supporting data submitted in accordance with this section, together with all other relevant evidence, it is concluded that the shot material can be used without imposing a significant danger to migratory birds or their habitats.

(b) *Procedures.* (1) Applicant submits to the Director:

(i) A minimum of 25 pounds of the candidate shot in size #4.

(ii) A description of shot composition and a statement of the expected composition variability during large-scale production.

(iii) The applicant's assessment of the ballistic characteristics of the candidate shot.

(iv) The applicant's assessment of the potential toxicity of the candidate shot to migratory birds and other wildlife species as compared to lead and steel shot.

(v) The applicant's assessment of the environmental fate of the candidate shot and of any human health or safety issues that may be of concern.

(2) If the Director concludes that this candidate is worthy of further testing, the applicant is notified to submit a plan for conducting initial screening evaluations as outlined in paragraph (c)(1) below. The Director specifies what portion of (c)(1) should be conducted and any modifications to the procedures that might be necessary.

(3) The Plan submitted by the applicant is reviewed by the Director. The Director, or authorized representative, will inspect laboratory facilities to be used.

(4) Initial screening tests, if approved, are then conducted, analyzed, and reported by the applicant to the Director.

(5) The Director reviews results, analytical procedures, and conclusions from screening tests. Guidance concerning further testing will be made by the Director within 30 days of receipt of the report.

(6) If the Director feels that the candidate material has possibilities, the applicant will be advised on the second phase of tests (paragraph (c)(2)). The applicant is advised to develop and submit a plan for conducting a 30-day dosing test using mallards on a

nutritionally complete diet (Test Number 1, (c)(2)).

Procedures: Hydrochloric acid and pepsin are added to each pooled test

of the candidate shot. In every case, the

effects that are not significantly greater

candidate shot. All birds dying prior to

in Test Numbers 1 and 2 will be measured in

nutritionally complete diet (Test Number 1, (c)(2)).

(7) The Plan for conducting the 30-day dosing test on a nutritionally complete diet is submitted to the Director for review and approval. The Director, or authorized representative, inspects the test facilities and reviews the test procedures.

(8) Test Number 1, if approved, is then conducted, analyzed, and reported by the applicant to the Director.

(9) The Director reviews the report and provides guidance concerning further testing within 30 days of receipt of the report.

(10) This process of requesting a plan, reviewing the plan, accepting or rejecting the plan, conducting tests, analyzing results, reporting to the Director, followed by a decision by the Director to continue or terminate testing can occur twice more as Test Numbers 2 and 3 in pargraph (c)(2) are performed.

(c) *Outline of procedures for testing.*—(1) *Initial screening tests.* These tests will be performed on the candidate shot if the initial submission of information (Paragraphs (b)(1)(i)–(v)) by the applicant indicates that it is worthy of further testing. The Director will provide instructions to the applicant concerning the conduct of the following tests.

(i) The candidate shot will be chemically analyzed by the Fish and Wildlife Service or an independent laboratory and the results will be compared to the applicant's descriptions of shot composition and composition variability.

(ii) At the applicant's expense, two independent laboratories will evaluate the ballistic characteristics of the candidate shot.

(iii) The candidate shot will be run through a standardized test (see below) that will assess its erosion in an environment simulating *in vivo* conditions of a waterfowl gizzard and its release of components into a liquid medium. Erosion characteristics will be compared to those of lead and steel shot of comparable size.

Standardized Test For Erosion Rate

Reference: Kimball, W.H. and Munir, Z.A. 1971. The corrosion of lead shot in a simulated waterfowl gizzard. J. Wildl. Mgmt. 35(2):360–365.

Material:
- Atomic absorption spectrophotometer.
- Drilled aluminum block to support test tubes.
- Thermostatically controlled stirring hot plate.
- Small teflon costed magnets.
- Hydrochloric acid (pH 2.0) and pepsin.
- Capped test tubes.
- Lead, steel, and candidate shot.

Procedures: Hydrochloric acid and pepsin are added to each capped test tube at a volume and concentration that will erode a single #4 lead shot at a rate of 5 mg/day. Three test tubes containing either lead shot, steel shot, or candidate shot are placed in the aluminum block on the stirring hot plate. A teflon coated magnet is added to each test tube and the hot plate is set at 42° C and 500 rpm. Erosion of shot will be determined on a daily basis for 14 consecutive days by weighing the shot and analyzing the digestion solution with an atomic absorption spectrophotometer. The 14 day procedure will be replicated five times.

Analysis: Erosion rates of the three types of shot will be compared with appropriate analysis of variance and regression procedures. The statistical analysis will determine whether the rate of erosion of the candidate shot is significantly greater or less than that of lead and steel. This determination will be important if the candidate shot is subsequently tested for toxicity.

(2) *Toxicity tests.* The three tests described in this section represent an evaluation of three major categories of toxic effects: Short-term periodic exposure, chronic exposure under adverse environmental conditions, and chronic exposure impact on reproduction. The details of the experimental procedure can be modified, if necessary, to address the specific composition and erosion characteristics of the candidate shot. The inclusion of lead shot and steel shot control groups is considered necessary for dealing with the experimental variability associated with tests being performed by different laboratories under a variety of conditions beyond control of the experimental protocol. Statistical analyses will be performed on all data from each test. Specific guidance on statistical procedures and levels of significance (0.10 through 0.01) will be provided by the Director to the applicant prior to initiation of each test. A significance level of 0.01 indicates that not more than one trial in 100 trials would produce results that contradict a finding of significant difference. Criteria of acceptability (e.g., percent of control or steel shot values for a given measure) will be employed for some of the factors being measured in the test, however, these criteria must be established in conjunction with the Director's instructions regarding statistical procedures. Toxicity tests 1–3 are designed for testing the effects of metal or metalloid shot. If the candidate is not metal or metalloid, separate testing procedures will have to be developed to evaluate the effects of the components of the candidate shot. In every case, the test animals will be exposed to the candidate material:

(i) Both acutely and chronically:

(ii) Both stressed and non-stressed by diet and temperature.

(iii) With comparisons made to lead and steel shot regarding mortality and sublethal effects.

When special consideration is given to potential impacts on species other than migratory birds and to the environmental fate of non-metal or non-metalloid candidate shot, further testing beyond that outlined in Section (c) might be required.

TEST NUMBER 1 Short-term, 30-day toxicity test using a nutritionally complete diet.

Material:
- 100 male and 100 female hand-reared mallards less than 8 months old.
- 200 elevated outdoor 1-meter square pens of vinyl-coated wire equipped with food containers and waterers.
- Laboratory equipped to perform fluoroscopy, required blood and tissue assays, tissue metal analyses, and necropsies.
- Commercial developer pellets for ducks.
- Lead, steel, and candidate shot.

Procedures: Mallards will be housed individually in outdoor pens and given *ad libitum* access to food and water. After 3 weeks, they will be randomly assigned to 10 groups (10 males and 10 females/group) and sham-dosed (control) or dosed with two, four, or eight pellets of lead, steel or the candidate shot. Birds will be fluoroscoped 1 week after dosage to check for shot retention. Birds will be observed daily for signs of intoxication and mortality for a 30 day period. Body weight will be determined at the time of dosing, and at day 15 and 30 of the test.

On days 0, 3, 9, 15 and 30, blood will be collected by venipuncture for determination of hematocrit, hemoglobin concentration, red blood cell delta aminolevulinic acid dehydratase, and zinc porphyrin concentration. All survivors will be sacrificed on day 30, and liver delta aminolevunic acid dehydratase, and total and protein bound glutathione concentration will be determined. The liver and other appropriate organs will be removed from sacrificed birds dying prior to sacrifice on day 30. The organs will be analyzed for lead and other metals contained in the steel and candidate shot. All birds dying prior to sacrifice will be necropsied to determine pathological conditions associated with death.

Analysis: The candidate shot must cause significantly less sublethal effects than lead shot and must cause sublethal effects that are not significantly greater than those caused by steel shot. Mortality among the three types of shot will be analyzed with appropriate chi-square procedures. Certain levels of mortality resulting from dosing of the candidate material will be acceptable using this procedure; however, the Director reserves the right to reject any candidate material that causes mortality equal to 20 percent or more of the mortality caused by comparable doses of lead shot. Physiological data and tissue residues will be analyzed by analysis of variance or other appropriate statistical procedures to include the factors of shot type, does, and sex. Comparisons between sacrificed birds and birds dying before sacrifice will be made whenever sample sizes are adequate for a meaningful comparison. The applicant will insure that copies of all the raw data and statistical analysis accompany the report of this test when it is sent to the Director.

TEST NUMBER 2 Chronic, 14-week toxicity test in cold weather using a nutritionally-deficient diet.

Material:
- 56 male and 56 female hand-reared mallards less than 8 months old.
- 112 elevated outdoor 1-meter square pens of vinyl-coated wire equipped with food containers and waterers.
- Laboratory equipped to perform fluoroscopy, and required blood and tissue assays, tissue metal analysis, and necropsies.
- Whole kernel corn.
- Lead, steel, and candidate shot.

Procedures: Mallards will be individually assigned to outdoor 1-meter square pens of vinyl-coated-wire during the first week of December and acclimated to and *ad libitum* diet of whole kernel corn for 2 weeks. Birds will be randomly assigned to seven groups (8 males and 8 females/group) and sham-dosed (control) or dosed with one or four #4 pellets of lead, steel, or the candidate shot.

Birds will be weighed and fluoroscoped weekly. All recovered shot will be weighed to measure erosion. Blood parameters determined in Test Number 1 will be measured in blood samples drawn at the initiation of dosage, 24 hours after dosage, and at the end of weeks 1, 2, 4, 8 and 14. At the end of 84 days, all survivors will be sacrificed. The liver and other appropriate organs will be removed from the sacrificed birds and birds dying prior to sacrifice on day 84. The organs will be analyzed for lead and other metals contained in the steel and candidate shot. All birds dying prior to sacrifice will be necropsied to determine pathological conditions associated with death.

Analysis: The candidate shot must cause significantly less sublethal effects than lead shot and must cause sublethal effects that are not significantly greater than those caused by steel shot. Mortality among the three types of shot will be analyzed with appropriate chi-square procedures. Certain levels of mortality resulting from dosing of the candidate material will be acceptable using this procedure; however, the Director reserves the right to reject any candidate material that causes mortality equal to 20 percent or more of the mortality caused by comparable doses of lead shot. Physiological data and tissue residues will be analyzed by analysis of variance or appropriate statistical procedures to include the factors of shot type, does, and sex. Comparisons between sacrificed birds and birds dying before sacrifice will be made whenever sample sizes are adequate for a meaningful comparison. The applicant will insure that copies of all the raw data and statistical analyses accompany the report of this test when it is sent to the Director.

TEST NUMBER 3 Chronic dosage study which includes reproductive assessment on a nutritionally-complete diet.

Material:
- 200 male and 200 female hand-reared mallard ducks who have not been through a reproductive season.
- Pens capable of holding 5–10 ducks each.
- 200 elevated outdoor pens at least 1-meter square, covered with vinyl-coated wire, and equipped with feeders, waterers and nest boxes.
- Laboratory equipped to perform fluoroscopy and required blood assays.
- Commercial developer pellets, breeder pellets, and starter mash for ducks.
- Lead, steel and candidate shot.

Procedures: Mallards will be randomly assigned to 10 groups (20 males and 20 females/group) in January and held in same-sex groups of 5–10 individuals until mid-February. The mallards will then be randomly paired and moved to outdoor pens (one pair per pen). Ducks will be provided with an *ad libitum* diet of commercial developer pellets until initiation of laying, when the pairs will be switched to breeder pellets. Ducks will be sham-dosed (controls) or dosed with three #4 pellets of lead, steel or candidate shot. Dosing will occur according to three schedules; (1) once in January, 2 weeks after initiation of the study, (2) once at the initiation of laying, and (3) at both times designated in (1) and (2).

Birds will be fluoroscoped 1 week after dosage to check shot retention, and weighed every 2 weeks. Blood parameters determined in Test Numbers 1 and 2 will be measured in blood samples drawn at initiation of the study, at time of dosing, at initiation of incubation, and at sacrifice. All birds will be sacrificed when ducklings reach 7 days of age.

Clutches will be candled to determine fertility of the eggs. Nests will be checked daily to determine the fate of eggs and ducklings. Ducklings will be provided with starter mash after hatching.

Analysis: The candidate shot must cause significantly less mortality, sublethal effects than lead shot, reproductive inhibition not significantly greater than lead shot and must cause mortality, sublethal effects, and reproductive inhibition that are not significantly greater than those caused by steel shot. Physiological and reproductive data will be analyzed by analysis of variance or other appropriate statistical procedures. The applicant will insure that copies of all raw data and statistical analysis accompany the report of this test when it is sent to the Director.

Dated: July 2, 1985.

Susan Recce,

Acting, Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-17329 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Document No. 50687-5067]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

Correction

In the document beginning on page 24242 in the issue of Monday, June 10, 1985 make the following correction:

1. On page 24250, the file line was omitted and should have appeared as follows:

[FR Doc. 85-13950 Filed 6-6-85; 10:21 am]

2. On page 24248, third column, Table 1 in § 642.29, under the heading "Ends", "Mar. 30" and "Dec. 30" should have read "Mar. 31" and "Dec. 31" respectively.

BILLING CODE 1505-01-M

Notices

Done at Washington, D.C., this 10th day of July 1985.

We also found that critical circumstances do not exist

United States Price

VOL 50 ISS 140 JL 22 1985 UMI

Notices

Federal Register
Vol. 50, No. 140
Monday, July 22, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Intent To Establish Agricultural Export Enhancement Advisory Group

The Department of Agriculture proposes to establish the Agricultural Export Enhancement Advisory Group. The purpose of the Advisory Group is to provide advice on the establishment and administration of the Agricultural Export Enhancement Program. Establishment of the Advisory Group is necessary and in the public interest in connection with duties imposed upon the Department by law.

Comments of interested persons concerning the establishment of the Agricultural Export Enhancement Advisory Group should be submitted to Richard A. Smith, Administrator, Foreign Agricultural Service, Room 5071–S, USDA, Washington, D.C. 20250 on or before August 6, 1985.

Dated: July 17, 1985.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 85–17297 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-10-M

Office of Grants and Program Systems; Technical Advisory Committee for Science and Education Research Grants Program, Subcommittee on Forest Biology (II); Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee on Forest Biology (II), Technical Advisory Committee for Science and Education Research Grants Programs

Date: August 22–24, 1985.

Time: 8:30 a.m. to 5:30 p.m.

Place: Dupont Plaza Hotel, Dupont Circle, Washington, D.C.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in the Forest Biology program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of section 10(d) of Pub. L. 92–463.

Contact Person: Robert C. Koeppen, Acting Associate Program Manager, Competitive Research Grants Office, Office of Grants and Program Systems, USDA, Room 112, Justin Smith Morrill Building, Washington, D.C. 20251.

Done at Washington, D.C., this 10th day of July 1985.

Gary R. Evans,

Executive Secretary, Subcommittee on Forest Biology (II).

[FR Doc. 85–17298 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-MT-M

Office of Grants and Program Systems; Technical Advisory Committee for Science and Education Research Grants Program, Subcommittee on Wood Utilization; Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee on Wood Utilization, Technical Advisory Committee for Science and Education Research Grants Programs.

Date: August 21–23, 1985.

Time: 8:30 a.m. to 5:30 p.m.

Place: U.S. Department of Agriculture, Room 320–W, Administration Building, Washington, D.C. 20250.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in the Wood Utilization program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of section 10(d) of Pub. L. 92–463.

Contact Person: Gary R. Evans, Acting Associate Program Manager, Competitive Research Grants Office, Office of Grants and Program Systems, USDA, Room 112, Justin Smith Morrill Building, Washington, D.C. 20251.

Done at Washington, D.C., this 10th day of July 1985.

[FR Doc. 85 17299 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-MT-M

Office of Grants and Program Systems; Technical Advisory Committee for Science and Education Research Grants Program, Subcommittee on Forest Biology (I); Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee on Forest Biology (I), Technical Advisory Committee for Science and Education Research Grants Programs.

Date: August 19–21, 1985.

Time: 8:30 a.m. to 5:30 p.m.

Place: Dupont Plaza Hotel, Dupont Circle, Washington, D.C.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in the Forest Biology program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of section 10(d) of Pub. L. 92–463.

Contact Person: Gary R. Evans, Acting Associate Program Manager, Competitive Research Grants Office, Office of Grants and Program Systems, USDA, Room 112 Justin Smith Morrill Building, Washington, D.C. 20251.

Done at Washington, D.C., this 10th day of July 1985.

Gary R. Evans,

Executive Secretary, Subcommittee on Forest Biology (I).

[FR Doc. 85–17300 Filed 7–19–85; 8:45 am]

BILLING CODE 3410-MT-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–455–401]

Barbed Wire and Barbless Fencing Wire From Poland; Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration. Commerce.

ACTION: Notice.

SUMMARY: We have determined that barbed wire and barbless fencing wire (barbed wire) from Poland are being, or are likely to be, sold in the United States at less than fair value, and that "critical circumstances" do not exist with respect to imports of the merchandise under investigation. We have notified the U.S. International Trade Commission (ITC) of our determinations, and we have directed the U.S. Customs Service to continue with the suspension of liquidation of all entries of the subject merchandise as discussed in the section under "Continuation of Suspension of Liquidation". The ITC will determine, within forty-five days of the date of this determination, whether these imports are materially injuring, or are threatening material injury to, a U.S. industry.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Shimabukuro, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; Telephone: (202) 377–5332.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that barbed wire and barbless fencing wire (barbed wire) from Poland are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). We have determined the weighted-average margin of sales at less than fair value to be 36.25 percent. The margins range from 29.51 percent to 39.08 percent on virtually all of the sales compared. We also found that critical circumstances do not exist.

Case History

On November 19, 1984, we received an antidumping duty petition from Forbes Steel and Wire Corporation, filed on behalf of domestic producers of barbed wire. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petitioner alleged that imports of barbed wire from Poland are being, or are likely to be, sold in the United States at less than fair value within the meaing of section 731 of the Act, and that these imports materially injure, or threaten material injury to, a United States industry. Petitioner also alleged that "critical circumstances" exist, as defined in section 733(e) of the Act. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an jnvestigation on December 9, 1984 (49 FR 49128). On January 2, 1985, the ITC determined that there is a reasonable indication that imports of barbed wire from Poland are materially injuring a U.S. industry.

A questionnaire was presented to counsel of Universal F.T.E., the only known exporter of barbed wire to the United States, on March 1, 1985. The response was received on April 8, 1985. We have determined that Poland is a state-controlled-economy country for the purpose of this investigation. This is discussed further under the "Foreign Market Value" section of this notice.

We published the preliminary determination of sales at less than fair value on May 3, 1985 (50 FR 18902). A hearing, requested by both petitioner and respondent, was held on June 4, 1985. Arguments raised in the briefs of both parties were considered for the final determination.

Scope of Investigation

The products covered by this investigation are barbed wire and barbless fencing wire, as currently provided for in items 642.0200 and 642.1105 of the Tariff Schedules of the United States Annotated (TSUSA). We investigated all sales of barbed wire, to the United States, for the period June 1, 1984, through November 30, 1984.

Fair Value Comparison

To determine whether sales in the United States of the subject merchandise were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, the purchase price of the subject merchandise was used to represent the United States price because the merchandise was sold to an unrelated United States purchaser prior to its importation into the United States. We made deductions for foreign inland freight and ocean freight. Deductions for inland freight were based on trucking charges obtained in Italy which were applied to the distances over which the merchandise was transported, by rail, in Poland.

Foreign Market Value

In accordance with section 773(c)(1)(A) of the Act, we used prices of barbed wire sold for consumption in the home market of the surrogate country to determine foreign market value. Petitioner alleged that Poland is a state-controlled-economy country and that sales of the subject merchandise from that country do not permit a determination of foreign market value under section 773(a). After an analysis of Poland's economy and consideration of the briefs submitted by the parties, we have concluded that Poland is a state-controlled-economy country for purposes of this investigation.

Our decision on this issue is mainly based on the fact that the government of Poland strictly controls the prices and levels of production of the steel industry, as well as the internal pricing of the factors of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchadise in a "non-state-controlled-economy" country. Section 353.8 (a) of our regulations established a preference for foreign maket value based upon prices at which similar merchandise is sold for consumption in the home maket of that surrogate country, or to other countries, including the United States. Our regulations further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled-economy" country at a stage of economic development comparable to the country with the state-controlled economy.

After an analysis of the economies of the countries producing barded wire, we determined that Italy would be an appropriate surrogate. We sent questionnaires to three Italian producers of barbed wire and, on April 18, 1985, received a response from one of them.

We based foreign market value on the weighted-average ex-mill unpacked

VOL 50 ISS 140 JL 22 1985 UMI

price in the Italian home market. An adjustment was made for differences in circumstances of sale relating to credit expenses. The adjustment was based on the number of days between shipment and payment, and interest rates, in Italy. Adjustments for differences in similar merchandise were not made since the appropriate information on factors of production for such adjustments was not available. Since the Italian producers did not utilize packing of the same type as that of the Polish sales to the United States, we valued packing in Korea, using data from Special Steel Summary Invoices.

In calculating foreign market value we made currency conversions from Italian lire to United States dollars in accordance with § 353.56(a)(1) of the Commerce regulations, using the average of the daily exchange rates, during the period, certified by the U.S. Federal Reserve.

Respondent's Comments

Comment 1: Respondent claims that adjustments for cost differences of similar merchandise should be made.

DOC Response: As stated in the "Foreign Market Value" section of this notice, information necessary for such adjustments was not available.

Comment 2: Respondent claims that the inland freight used in the preliminary determination was overstated.

DOC Response: In the preliminary determination we calculated inland freight on the basis of barge rates in the Federal Republic of Germany. At the verification we learned that all barge transportation charges were included in the ocean freight reported. Therefore, we applied Italian freight charges to the distances from the factory to the barge loading point in calculating inland freight, on sales to the United States, for purposes of this determination.

Comment 3: Respondent argues that based upon comparisons of infrastructure development and generally recognized "macro" development criteria, the United Kingdom is the most comparable surrogate for Poland for purposes of this investigation.

DOC Response: In its submissions analyzing possible surrogate countries for Poland in this investigation, respondent finds that the United Kingdom, Italy and Spain are all at a stage of economic development comparable to that of Poland. However, in our view, respondent's analysis does not support the conclusion that the United Kingdom is the most comparable of the three. Among the various "macro" development criteria studied (per capita GNP, GDP, energy production and consumption, transportation infrastructure, labor force, literacy rates, life expectancy and population growth rate), the United Kingdom was most comparable to Poland only in terms of recent growth rate of GNP and per capita energy consumption. No argument is offered as to why these particular similarities make the United Kingdom more preferable than Italy or Spain as a surrogate for Poland.

Petitioner's Comments

Comment 1: Petitioner argues that critical circumstances exist with regard to imports of this merchandise from Poland.

DOC Response: We disagree. See the "Final Negative Determination of Critical Circumstances" section of this notice.

Comment 2: Petitioner claims that inland freight should not be reduced.

DOC Response: See DOC response to Respondent's comment 2.

Final Negative Determination of Critical Circumstances

The petitioner alleged that imports of barbed wire from Poland present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist if we find that (1) there is a history of dumping in the United States, or elsewhere, of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise, which is the subject of the investigation, at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there have been massive imports over a relatively short period, we considered the following factors:

1. Whether recent imports have increased significantly;
2. Whether recent import penetration ratios have increased significantly;
3. Whether the pattern of recent imports may be explained by seasonal factors; and
4. Whether recent imports are significantly above average imports calculated over the last three years.

Based on our analysis of these factors, we have determined that imports of the products covered by this investigation were not massive over a relatively short period.

We, therefore, did not need to consider whether there is a history of dumping of barbed wire, or whether the person by whom or for whose account these products were imported knew or should have known that the exporters were selling these products at less than fair value.

We have determined, for the reasons described above, that "critical circumstances" do not exist with respect to barbed wire from Poland.

Verification

In accordance with section 776(a) of the Act we verified the information provided by the respondent and the Italian surrogate company using standard verification procedures, which included on-site inspection of the merchandise and examination of relevant sales and financial records of the companies.

Continuation of Suspension of Liquidation

We are directing the United States Customs Service to continue to suspend liquidation of all entries of barbed wire from Poland that are entered, or withdrawn from warehouse, for consumption, on or after May 3, 1985, the date of publication of our notice of preliminary determination in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The bond or cash deposit rate established in the preliminary determination shall remain in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the **Federal Register**. The bond or cash deposit rate for entries or withdrawals made on or after the publication of this notice is 36.25 percent.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days after we make our final determination. If the ITC determines that material injury, or threat of material injury, does not exist this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC, however, determines that such injury does exist we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on barbed wire from Poland which were entered, or withdrawn from warehouse, for consumption on or after May 3, 1985, the publication date of the preliminary determination in the **Federal Register**, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

July 15, 1985.

[FR Doc. 85-17333 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-405]

Cellular Mobile Telephones and Subassemblies From Japan; Postponement of Final Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that the Department of Commerce (the Department) has received a request from several respondents in this investigation to postpone the final determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). Based on these requests, we are postponing our final antidumping duty determination as to whether sales of cellular mobile telephones and subassemblies from Japan have occurred at less than fair value until not later than October 24, 1985.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: John R. Brinkmann Jr., Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-4929.

SUPPLEMENTARY INFORMATION: On November 5, 1984, we announced the initiation of an antidumping duty investigation to determine whether cellular mobile telephones and subassemblies from Japan, are being, or are likely to be, sold in the United States at less than fair value (49 FR 47076). We published our preliminary affirmative determination on June 11, 1985 (50 FR 24554). That notice stated that we would issue a final determination by August 19, 1985. On June 19 and July 2, 1985, counsel for Toshiba Corporation, Mitsubishi Electric Corporation and Matsushita Communications Industrial Co., Ltd., three of the six respondents in the investigation, requested that we extend the period for the final determination until not later than the 135th day after publication of our preliminary determination in accordance with section 735(a)(2)(A) of the Act. These respondents account for a signficant proportion of exports of the subject merchandise to the United States, and thus are qualified to make this request. If qualified exporters properly request an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the requests. Accordingly, we grant the request and postpone our final determination until not later than October 24, 1985. The date of the public hearing has also been changed to September 9, 1985, at 9:00 AM in room 4830 of the Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230. Prehearing briefs in at least 10 copies must now be submitted to the Deputy Assistant Secretary by August 30, 1985.

This notice is published pursuant to section 735(d) of the Act.

Scope of Investigation

The products covered by this investigation are cellular mobile telephones (CMTs), CMT transceivers, CMT control units, and subassemblies dedicated for use in CMTs. CMTs are radio-telephone equipment designed to operate in a cellular radio-telephone system, i.e., a system that permits mobile telephones to communicate with traditional land-line telephones via a base station, and that permits multiple simultaneous use of particular radio frequencies through the division of the system into independent cells, each of which has its own transceiving base station. Each CMT generally consists of (1) a transceiver, i.e., a box of electronic subassemblies which receives and transmits calls; and (2) a control unit, i.e., a handset and cradle resembling a modern telephone, which permits a motor-vehicle driver or passenger to dial, speak, and hear a call. They are designed to use motor vehicle power sources. Cellular transportable telephones, which are designed to use either motor vehicle power sources or, alternatively, portable power sources, are included in this investigation.

Subassemblies are any completed or partially completed circuit boards, circuit modules and/or any packaged assemblage of electronic components, the value of which is equal to or greater than five dollars, and which are dedicated for use in CMT transceivers or control units. Examples of such subassemblies are circuit boards and/or modules containing any of the following circuitry or combinations thereof: audio processing, signal processing (logic), RF, IF, synthesizer, duplexer, power supply, power amplification, transmitter, and exciter.

The following merchandise has been excluded from this investigation: Pocket-size self-contained portable cellular telephones, cellular base stations or base station apparatus, cellular switches, and mobile telephones designed for operation on other, non-cellular, mobile telephone systems.

Cellular mobile telephones and subassemblies are no longer classified under item numbers 685.23, 685.24 and 685.29 of the Tariff Schedules of the United States (TSUS), as was reported in the preliminary determination. They are currently classified under TSUS numbers 685.28 and 685.32.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 15, 1985.

[FR Doc. 85-17336 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-403]

Certain Welded Rectangular Carbon Steel Pipes and Tubes From Taiwan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain welded rectangular carbon steel pipes and tubes (pipes and tubes) from Taiwan are being, or are likely to be, sold in the United States at less than fair value and that "critical circumstances" do not exist with respect to imports of the merchandise under investigation. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the

U.S. Customs Service to suspend liquidation on all entries of the subject merchandise as described in the

The petitioner alleged that two companies in Taiwan produced pipes and tubes for export to the United

we compared the United States price with the foreign market value.

for whose account, the merchandise was imported knew or should have known

States price. This suspension of liquidation will remain in effect until

this notice's publication, at the above address and in at least 10 copies

VOL 50 ISS 140 JL 22 1985 UMI

U.S. Customs Service to suspend liquidation on all entries of the subject merchandise as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by September 30, 1985.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Karen L. Sackett, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1273.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that pipes and tubes from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) (19 U.S.C. 1673b(b)) of the Tariff Act of 1930, as amended (the Act). The margin preliminarily found for the company investigated is listed in the "Suspension of Liquidation" section of this notice. We have also preliminarily determined that "critical circumstances" do not exist with respect to imports of this product from Taiwan.

If this investigation proceeds normally, we will make our final determination by September 30, 1985.

Case History

On December 18, 1984, we received a petition filed by the Mechanical Tubing Subcommittee of the Committee on Pipe and Tube Imports, on behalf of the U.S. industry producing certain welded rectangular carbon steel pipes and tubes. In compliance with the filing requirements of § 353.36 of Commerce Regulations (19 CFR 353.36), the petition alleged that imports of pipes and tubes from Taiwan are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on January 11, 1985 (50 FR 1614). On February 1, 1985, the ITC subsequently found that there is a reasonable indication that imports of pipes and tubes from Taiwan are materially injuring or threatening to materially injure a United States industry.

The petitioner alleged that two companies in Taiwan produced pipes and tubes for export to the United States. We found that Yieh Hsing accounted for virtually all of the sales of the subject merchandise from Taiwan during the period of investigation. A questionnaire was presented to counsel for Yieh Hsing on February 14, 1985. Yieh Hsing responded to our questionnaire on April 9, 1985.

After reviewing the questionnaire response, counsel for the petitioner alleged that sales of rectangular pipe from Taiwan are being made at below the cost of production, and petitioner requested that the deadline for the preliminary determination be extended for 50 days in order to allow sufficient time for the cost of production investigation. On May 8, 1985, we postponed the preliminary antidumping duty determination for 50 days, or not later than July 16, 1985 (50 FR 20255). On May 23, 1985 we sent a cost of production questionnaire to the respondent. On June 27, 1985 we received a response to our questionnaire. The response was deficient in that it did not properly allocate costs for the various sizes of pipes and tubes under investigation, and that a theoretical instead of an actual factor weight was used for the cost of production. Therefore, we used the best information available to determine the cost of production. The best information available was cost information submitted by petitioner, which is based on costs of raw materials, labor, and general expenses, excluding profit, incurred in producing such or similar merchandise.

Scope of Investigation

The products under investigation are welded rectangular (including square) carbon steel pipes and tubes having a walk thickness of less than 0.156 inch, as currently classified in the Tariff Schedules of the United States, Annotated (TSUSA), under item 610.4928.

Since the respondent produced and exported virtually all of the rectangular pipes and tubes from Taiwan during the period of investigatin, we limited our investigation to that one company.

We investigation sales of certain welded rectangerlar carbon steel pipes and tubes from Taiwan during the period from July 1 through December 31, 1984

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of pipes and tubes to represent the United States price for sales by the respondent because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price on the c.&f. price to unrelated purchasers in the United States. We made deductions, where appropriate, for inland freight, ocean freight, brokerage and handling, stamp tax, and export charges.

Foreign Market Value

In calculating foreign market value we used constructed value in accordance with section 773(e) of the Act. There was no viable home market. Petitioner alleged and we found that all sales to the largest third country market were at prices below the cost of production. For cost of production, we used the "best information available," which was based on cost data submitted by petitioner. Accordingly, we disregarded third country prices and used constructed value in making our comparisons.

Since respondent's cost of production information was deficient, cosntructed value was based on best information available. Best information available was the cost of production submitted by petitioner, which was based on the cost of materials, labor, and general expenses. To the cost of materials and labor, we added the statutory minimum of 10 percent for selling, general, and administrative expenses and the statutory minimum of 6 percent profit, as required in section 773 of the Act, since the cost information furnished by petitioner did not include general expenses and profit.

In calculating foreign market value we made currency conversions from Taiwan dollars to United States dollars in accordance with § 353.56(a)(1) of our regulations.

Preliminary Negative Determination of Critical Circumstances

Counsel for the petitioners alleged that imports of pipes and tubes from Taiwan present "critical circumstances." Under section 733(e) of the Act, critical circumstances exist if we have a reasonable basis to believe or suspect that (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of pipes and tubes from Taiwan in the United States or elsewhere, we reviewed past antidumping findings of the Department of Treasury as well as past Department of Commerce antidumping duty orders. We also reviewed the antidumping actions of other countries, and found one past antidumping determination on the same product being imported into Australia. Since there is a history of dumping, we did not need to consider whether to impute knowledge of dumping.

We then considered whether there were massive imports. We generally consider the following concerning massive imports: (1) Recent trends in import penetration levels, (2) whether imports have surged recently, (3) whether the recent imports are significantly above the average calcuated over the last three years; and (4) whether the pattern of imports over that three years period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on impost levels and import penetration ratios for pipes and tubes from Taiwan for the periods immediately preceding and subsequent to the filing of the petition. Based on our analysis of recent trade data, we find that imports of pipes and tubes from Taiwan during the period subsequent to the receipt of the petition have not been massive when compared to recent import levels and import penetration ratios.

Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of certain pipes and tubes from Taiwan.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of pipes and tubes from Taiwan which are entered, or withdrawn from warehouse, for consumption, on or after the date of the publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer	Dumping margins (percent)
Yieh Hsing	34.34
All other manufacturers/producers and exporters	34.34

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on August 9, 1985, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by August 2, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 16, 1985.

[FR Doc. 85–17334 Filed 7–19–85; 8:45 am]

BILLING CODE 35-DS-M

National Oceanic and Atmospheric Administration

[Modification No. 1 to Permit No. 443]

Marine Mammal Permit Modification; Southwest Fisheries Center

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216), Permit No. 443 issued to Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038 on March 5, 1984 (49 FR 8057) is modified as follows:

Section C is deleted and replaced by:

"C. All General Conditions attached as Section C shall apply and are made a part hereof except Sections C–2(g), C–3, C–4, C–6 and C–7 are specifically waived."

This modification became effective on July 16, 1985.

Documents in connection with the above modification and Permit are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 16, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85–17307 Filed 7–19–85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; Dr. Howard E. Winn

On April 18, 1985, notice was published in the **Federal Register** (50 FR 15472) that an application had been filed by Dr. Howard E. Winn (P12F), Graduate School of Oceanography, University of Rhode Island, Kingston, Rhode Island 02881 for a scientific research permit to harass cetaceans off

the east coast of the United States and humpback whales worldwide.

made fiber textile products, produced or manufactured in China and exported to

Under the terms of Section 204 of the Agricultural Act 1956, as amended (7 U.S.C.

to include entry for consumption into the Commonwealth of Puerto Rico.

(48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July

Sincerely,

Walter C. Lenahan,

the east coast of the United States and humpback whales worldwide.

Notice is hereby given that on July 12, 1985 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service (NMFS) issued a Permit for the above taking, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, NMFS, 3300 Whitehaven Street, NW, Washington, D.C.;
Regional Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, AK 99802;
Regional Director, Northeast Region, NMFS, 14 Elm Street, Federal Building, Gloucester, MA 01930;
Regional Director, Northwest Region, NMFS, 7600 Sand Point Way, N.E., BIN C15700, Seattle, WA 98115;
Regional Director, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and
Regional Director, Southwest Region, NMFS, 300 So. Ferry Street, Terminal Island, CA 90731.

Date: July 12, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation National Marine Fisheries Service

[FR Doc. 85-17306 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

July 17, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 23, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On December 28, 1984 a notice was published in the **Federal Register** (49 FR 50434) announcing the import restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in China and exported to the United States during the agreement year which began on January 1, 1985.

During consultations held May 20–24, 1985 under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, the Governments of the United States and the People's Republic of China agreed to establish specific limits for the following products: twill and sateen in Category 317, dresses in Category 336, underwear in Category 352, coveralls, overalls and similar apparel in Category 359pt. (only T.S.U.S.A. numbers 379.0822, 379.6410, 383.0828 and 383.5053), women's, girls', and infants' suits in Category 444, women's, girls', and infants' knit shirts and blouses in Category 639, and polypropylene bags in Category 669pt. (only T.S.U.S.A. number 385.5300), produced or manufactured in China and exported during the agreement year which began on January 1, 1985. The United States Government has decided to control imports in these categories at the agreed limits. Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to prohibit entry, or withdrawal from warehouse, for consumption in the United States of textile products in the foregoing categories in excess of the designated restraint limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

July 17, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directives of April 3, May 21, June 27, and August 22, 1984 which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton, wool, and man-made fiber textile products, produced or manufactured in China and exported during designated restraint periods.

Under the terms of Section 204 of the Agricultural Act 1956, as amended (7 U.S.C. 1954), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on July 23, 1985, to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 317, 336, 352, 359pt.[1] 444, 639 and 669pt.[2], produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985, in excess of the following limits:

Category	12-mo restraint limit[3]
317	15,600,000 square yards of which not more than 3,120,000 square yards shall be in TSUSA items 320.—through 331.—with statistical suffixes 50, 87 and 93.
336	118,450 dozen.
352	1,254,000 dozen.
359pt.[1]	706,750 dozen.
444	15,150 dozen.
639	958,375 dozen.
669pt.[2]	2,491,000 pounds.

[1] In Category 359, only TSUSA numbers 383.5027 and 379.6410, 379.0822; 383.0828.
[2] In Category 669, only TSUSA number 385.5300.
[3] The limits have not been adjusted to account for any imports exported after December 31, 1984.

In carrying out this directive textile products in the foregoing categories which have been exported to the United States during the agreement year which began on January 1, 1984 and extended through December 31, 1984, shall, to the extent of any unfilled balance, be charged against the restraint limits established for such goods during that twelve-month period. In the event the restraint limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter.

Textile products in the foregoing Categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-17330 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-DR-M

Announcing an Import Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in Turkey

July 17, 1985

On May 10, 1985 a notice was published in the **Federal Register** (50 FR 19776) announcing that, on April 30, 1985, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, had requested the Government of Turkey to enter into consultations concerning exports to the United States of cotton twill fabric in Category 317pt. (only T.S.U.S.A. numbers 320.— through 331.— with statistical suffixes 51, 52, 85, 89, 91, and 95), produced or manufactured in Turkey.

The purpose of this notice is to advise the public that, inasmuch as no agreement has been reached on a mutually satisfactory solution concerning this category in consultations held June 17–19, 1985, the United States Government has decided to control imports in Category 317pt., produced or manufactured in Turkey and exported during the twelve-month period which began on April 30, 1985 and extends through April 29, 1986 at a level of 6,441,771 square yards.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 317pt. in excess of the designated restraint limit.

For Further Information Contact: Anne Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

July 17, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 23, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 317pt.[1] produced or manufactured in Turkey and exported during the twelve-month period which began on April 30, 1985 and extends through April 29, 1986, in excess of 6,441,771 square yards.[2]

Textile products in Category 317pt.[1] which have been exported to the United States prior to April 30, 1985 shall not be subject to this directive.

Textile products in Category 317pt.[1] which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of The United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

[1] In Category 317, only T.S.U.S.A. numbers 320.— through 331.— with statistical suffixes 51, 52, 85, 89, 91, and 95.
[2] The level has not been adjusted to reflect any imports exported after April 29, 1985.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-17331 Filed 7-19-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF EDUCATION

Office for Civil Rights; Proposed Annual Operating Plan for Fiscal Year 1986

AGENCY: Department of Education.

ACTION: Notice of proposed annual operating plan for fiscal year 1986.

SUMMARY: The Secretary of Education invites comments on the proposed FY 1986 Annual Operating Plan (AOP) for the Office for Civil Rights (OCR).

DATES: Comments must be received on or before September 5, 1985.

ADDRESS: All comments concerning the AOP should be addressed to Harry M. Singleton, Assistant Secretary for Civil Rights, Department of Education, 400 Maryland Avenue SW Room 5000, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Fred Tate, Department of Education, 400 Maryland Avenue SW., Room 5000, Washington, D.C. 20202, (202) 732–1479.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Office for Civil Rights (OCR) is responsible for ensuring that no person is unlawfully discriminated against on the basis of race, color, national origin, sex, handicap, or age, in the delivery of services or the provision of benefits, in programs or activities receiving financial assistance from the Department of Education (ED). The jurisdictional authorities under which OCR operates are Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

These authorities cover ED funded programs and activities carried out by 50 State education and rehabilitation agencies and those of their subrecipients, as well as those of the District of Columbia and the territories and possessions of the United States; 15,840 local education agencies; and 3,300 institutions of higher education. In addition, OCR's civil rights authorities cover programs and activities in other institutions that receive ED funds, such as libraries and museums.

OCR ensures compliance with Federal civil rights statutes by the recipients of ED financial assistance through two

basic types of activities: compliance activities and technical assistance activities. Most of OCR's compliance

statutory requirements, in an LOF sent to the recipient. Where the settlement

gives information on the number of reviews initiated for each issue. During

OCR may require a recipient to submit one or more progress reports detailing

rights agencies to facilitate meeting mutual civil rights compliance goals and

engaged in civil rights compliance

VOL
50
ISS
140
JL
22
1985
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basic types of activities: compliance activities and technical assistance activities. Most of OCR's compliance activities (including complaint investigations, compliance reviews and monitoring the implementation of some voluntary compliance plans) are required by the *Adams* court orders. However, OCR has some discretion over where it will conduct its compliance review and other monitoring activities and what those activities will cover. For the most part, OCR concentrates its investigative activities on those recipients that have been identified as having possible compliance problems. OCR also provides technical assistance, including the transfer of information, material, and skills to facilitate ED recipients' voluntary compliance with civil rights laws and to inform beneficiaries of their rights.

Compliance activities and technical assistance activities also may be combined. OCR may provide technical assistance to recipients at any time after the initiation of a compliance review or complaint investigation, or following its conclusion, either in response to a request from a recipient or after an inquiry by investigative staff as to whether a recipient would be interested in such assistance. As a result, compliance issues may be resolved in a nonconfrontational manner that facilitates closer cooperation at the recipient level while assuring that the rights of beneficiaries are protected.

During FY 1986, OCR will continue to use two operational techniques designed to improve the efficiency of the case handling process. The first, Early Complaint Resolution (ECR), is a process in which OCR acts as a mediator between the complainant and the recipient to negotiate a settlement between them. If the mediation is successful, OCR closes the complaint without an investigation. If the parties cannot reach an agreement, OCR investigates the complaint. During the first half of FY 1985, ECR was offered in 139 complaints and accepted in 87 complaints (63 percent). Of those cases in which ECR was offered and accepted, 57 (66 percent) were resolved through mediation.

The second technique is pre-letter of findings (LOF) settlement. With this process OCR reviews its findings with the recipient on each of the issues raised in the complaint or covered by the compliance review in an attempt to reach a settlement prior to the issuance of an LOF addressing areas of non-compliance. When settlement is reached, OCR sets forth the terms of the settlement; along with the applicable statutory requirements, in an LOF sent to the recipient. Where the settlement results from a complaint, the complainant is also sent a copy of the LOF. If an area of noncompliance has been resovled, the LOF cites the basis for the violation findings and the remedy adopted by the recipient. OCR then monitors the implementation of these agreements.

It should be noted that the activities planned by OCR in FY 1986, and outlined below, are consistent with the appropriations authorized by Congress and approved by the President.

The following narrative and table describe the activities that OCR plans for FY 1986.

II. Compliance and Enforcement Activities

OCR's compliance and enforcement responsibilities are divided into three general categories: complaint investigation, compliance reviews, and monitoring activities.

A. *Complaint Investigations.* OCR's primary compliance activity is the investigation and resolution of complaints alleging discrimination. Each timely, complete complaint must be resolved in accordance with established procedures and time frames.

OCR received 1,003 complaints and closed 899 (some of which had been filed prior to the beginning of the fiscal year) during the first half of FY 1985. OCR had 955 open complaints as of March 31, 1985. Alleged discrimination against handicapped persons was the basis of approximately 53 percent of complaint receipts; race, multiple bases, sex, national origin, and age complaints followed in descending order of frequency. The largest number of complaints involved elementary and secondary schools. In the first half of FY 1985, 77 percent of the complaints received involved issues of service delivery to students, 16 percent involved various employment issues, 2 percent involved both, and 4 percent involved other issues.

B. *Compliance Reviews.* OCR's compliance review program complements its complaint investigation activities. Compliance reviews differ from complaint investigations in that OCR has some discretion in selecting the issues and institutions for review. This permits OCR to target resources on compliance problems that appear to be serious or national in scope and that may not have been raised by complaints.

During the first half of FY 1985, OCR initiated compliance reviews of 88 recipients; the Table on compliance review starts, included in this plan, gives information on the number of reviews initiated for each issue. During this same period, OCR closed 87 reviews, some of which had been initiated prior to the beginning of FY 1985. OCR had 148 open compliance reviews as of March 31, 1985.

During FY 1986, pursuant to the December 29, 1977 *Adams* order (*Adams* v. *Califano*, No. 3095–70 (D.D.C. December 29, 1977)) OCR intends to conduct an appropriate number of compliance reviews to ensure adequate enforcement of the civil rights laws.

While some review activities are required by the *Adams* order, most compliance reviews are discretionary and represent the only area in which OCR has flexibility to choose the institutions to be investigated, the issues to be examined, and the dates on which the reviews will begin. Selection of review sites has, in the past, been based on various sources of information, including survey data indicating potential compliance problems and information provided by complainants, interest groups, the media, and the general public. In order to provide greater flexibility in the targeting of institutions and to help validate OCR's current targeting methods, OCR initiated a random site selection program for compliance reviews in some regional offices during FY 1984. This experiment is designed to determine the relative effectiveness of a statistically random compliance review site selection compared with the traditional form of site selection in which regions nominate sites based on criteria set forth by the Assistant Secretary. The experiment calls for five regions to select randomly compliance review sites. Of the five, two regions employ random site selection for 100 percent of their compliance reviews. Three of the five regions employ random site selection for 50 percent of their selections and traditional methods for the remainder. The remaining five regions employ traditional compliance review site selection techniques for all reviews. The random site selection program for compliance reviews is continuing and evaluation results of the effectiveness of this alternative site selection procedure are expected in the near future.

C. *Monitoring Activities.* OCR closes many of the complaints and compliance reviews in which it has identified violations of civil rights statutes on the basis of a commitment by the recipient institution to complete remedial action at a future date. OCR has a responsibility to ensure that agreements to complete such remedial actions are carried out. To fulfill that responsibility, OCR may require a recipient to submit one or more progress reports detailing efforts to come into compliance with applicable laws. In some cases, OCR may go on-site to monitor a recipient's compliance with a negotiated remedial action plan. Other types of OCR monitoring activities include monitoring of higher education desegregation plans pursuant to the March 24, 1983 *Adams* order, (*Adams* v. *Bell*, No. 3095–70 (D.D.C. March 24, 1983)) and vocational education Methods of Administration. In FY 1986, OCR will monitor the following:

- Implementation by recipient institutions of remedial action plans resulting from OCR complaint investigations and compliance reviews.
- Implementation of *Adams* higher education desegregation plans of approximately 416 institutions of higher education in 13 States.
- Review and implementation of corrective action plans to provide educational opportunities to national origin minority students who are limited English proficient (i.e., Title VI *Lau* plans).
- Activities of 50 States, four territories, and the District of Columbia, to ensure that they fulfill their Methods of Administration responsibilities under the Vocational Education Guidelines and the July 1979 Memorandum of Procedures regarding the civil rights compliance of their vocational education subrecipients.

III. Technical Assistance Activities

Technical assistance complements OCR's compliance activities because it encourages voluntary compliance. Through technical assistance, OCR is able to reach a far greater number of recipients than it could solely through complaint investigations or compliance reviews. OCR provides technical assistance to recipients to inform them of their responsibilities under the civil rights statutes and the ED implementing regulations and of means to meet these responsibilities. OCR provides technical assistance to beneficiaries to inform them of their rights under the civil rights statutes and to explore voluntary methods of securing those rights. During FY 1985, in addition to responding to requests for technical assistance, OCR regional offices were encouraged to increase technical assistance outreach activities, to the extent staff resources were available, based on ongoing assessments of recipient and beneficiary needs.

In FY 1986, OCR will conduct the following technical assistance activities:

- Continue development and implementation of Memoranda of Understanding with State and human rights agencies to facilitate meeting mutual civil rights compliance goals and objectives and to promote the sharing of information.
- Coordinate with other ED program offices on the provision of civil rights related technical assistance.
- Facilitate the exchange of information, materials, technical assistance strategies, techniques, and successful compliance practices and procedures among OCR staff providing technical assistance.
- Provide materials and courses to OCR regional investigators and legal staff to facilitate the provision of technical assistance training to education institutions and State and local governments.
- Provide training to State and local education agencies to enhance their capabilities to carry out civil rights activities.
- Prepare materials for dissemination to recipients and beneficiaries, summarizing and explaining OCR policies and regulations.

IV. Program Management Activities

In conducting its compliance, enforcement, and technical assistance activities, OCR continues to implement a comprehensive program that includes—

- Formulating or updating regulations, policies, and investigative manuals, including—
  - —Promulgating ED regulations to implement the Age Discrimination Act of 1975;
  - —Amending the Title IX and Section 504 regulations to provide for vocational education Methods of Administration;
  - —Revising the benefits of employment section of the Title IX regulation to reflect the Supreme Court's decision in *Arizona Governing Committee* v. *Norris*, 103 S.Ct. 3492 (1983);
- Providing technical guidance on complaints and compliance reviews referred from regional offices;
- Conducting hearings before Administrative Law Judges on the compliance of Federal financial recipients with civil rights requirements;
- Meeting with congressional staffs, school district representatives, college and university officials, complainants, and civil rights groups to discuss OCR activities;
- Conducting and evaluating OCR surveys and data collection projects to obtain information on recipients and beneficiary populations for enforcement purposes;
- Providing in-house programmatic training to investigators and legal staff engaged in civil rights compliance activities;
- Conducting a quality assurance program to systematically review, evaluate, and recommend improvements in OCR operations; and
- Operating a Management-by-Objectives program designed to enhance management planning and to track performance in meeting organizational goals.

V. Summary

While regional programs will vary due to considerations such as the number and type of complaints received, compliance reviews conducted, and requests for technical assistance, all OCR activities will be guided by national policies, priorities, and direction. As in previous years, each Regional Director will be responsible for timely fulfillment of OCR's obligations in handling complaint investigations and compliance reviews, monitoring compliance plans, and providing technical assistance to recipients and beneficiaries of ED financial assistance. A large part of each region's compliance program will involve the investigation of complaints of discrimination. Compliance reviews initiated in FY 1986 will include, as appropriate, each of OCR's civil rights jurisdictions in the geographic area served by each regional office. Monitoring activities will focus on ensuring that recipients comply with voluntary compliance plans and fulfill their vocational education Methods of Administration responsibilites. OCR will design technical assistance activities to respond to recipient and beneficiary needs.

Paperwork Reduction Act of 1980. The information collection activity to be undertaken pursuant to this plan is the Fall 1986 Elementary and Secondary School Civil Rights Survey. A notice will be published in the Federal Register in the Fall of 1985, prior to submission of the survey to OMB, notifying the public of OCR's intention to gather this data. This survey is scheduled for OMB approval in February 1986 and for distribution to selected local education agencies in the Fall of 1986. In addition to the above survey, OCR also jointly sponsors two surveys with the National Center for Education Statistics, the Fall Enrollment and Compliance Report of Institutions of Higher Education Survey (OMB control number 1850–0035) and the Earned Degrees and Other Formal Awards Conferred Survey (OMB control number 1850–0053).

COMPLIANCE REVIEW STARTS BY ISSUE
[Oct. 1, 1984–Mar. 31, 1985]

parental contribution provided in the tables contained in this notice will be based on dependent undergraduate students, or the expected parental

students must also submit its system of need analysis for independent students,

21, 1985 and addressed to Anna Borlaug, Department of Education, Office of

postmark. Before relying on this method,

COMPLIANCE REVIEW STARTS BY ISSUE

[Oct. 1, 1984–Mar. 31, 1985]

	Review starts
Elementary and Secondary Education Issues:	
Within-School Discrimination	25
Vocational Education	8
Special Purpose Schools	1
Free Appropriate Public Education	12
Employment	2
Segregated Schools	0
Within District Comparability	0
Joint Issue: Within-School Discrimination and Free Appropriate Public Education	2
Other Elementary and Secondary Reviews	1
Postsecondary Issues:	
Program Accessibility	11
Admissions	0
Intercollegiate Athletics	1
Vocational Education	8
Student Services	12
Vocational Rehabilitation Services	0
Employment	0
Other Postsecondary Reviews	1
Total	86

VI. Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed plan. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the end of the comment period will be considered in the development of the final plan.

All comments submitted in response to the proposed plan will be available for public inspection, during and after the comment period, at the Department of Education, Room 5074, Switzer Building, 330 C Street SW, Washington, D.C. between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance does not apply)

Dated: July 17, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85–17339 Filed 7–19–85; 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

Publication of Sample Cases and Expected Parental Contributions for the National Direct Student Loan, College Work-Study and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of publication of sample cases and expected parental contributions for the approval of need analysis systems and notice of closing date for transmittal of information.

SUMMARY: The Secretary gives notice that the sample cases and expected parental contribution provided in the tables contained in this notice will be used in approving systems of need analysis for award year 1986–87 for the National Direct Student Loan (NDSL), College Work-Study (CWS) and Supplemental Educational Opportunity Grant (SEOG) programs. These programs are known collectively as the campus-based programs. The Secretary takes this action under the authority of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97–301) as amended and 34 CFR 674.13, 675.13, and 676.13 of the NDSL, CWS, and SEOG program regulations, respectively.

Institutions of higher education must use these approved systems of need analysis in determining the financial need of dependent and independent students under the respective campus-based programs.

FOR FURTHER INFORMATION CONTACT: Margaret O. Henry or Anna S. Borlaug, telephone (202) 245–9720.

SUPPLEMENTARY INFORMATION:

Program Information

This notice provides the sample cases and the expected parental contributions that the Secretary will use to approve need analysis systems for award year 1986–87 under the campus-based programs (20 U.S.C. 1089—Note). In order to be approved, a system must meet the requirements provided in this notice.

If the majority of students served by a system are undergraduate students, an individual or organization must submit to the Secretary expected parental contributions for dependent undergraduate students which increase incrementally as the parents' financial strength (measured in constant dollars) increases, are equal for families of equal financial strength, and are within $50 of the expected parental contributions in 75 percent of the sample cases supplied by the Secretary in Table 1.

If the majority of students served by a system are graduate and professional students, an individual or organization must submit to the Secretary expected parental contributions for dependent graduate and professional students which increase incrementally as the parents' financial strength (measured in constant dollars) increases, are equal for families of equal financial strength, and are within $50 of the expected parental contributions in 75 percent of the sample cases supplied by the Secretary in Table 2. An individual or organization that wishes to have its system of need analysis approved for dependent students must also submit its system of need analysis for independent students.

If the Secretary approves an individual's or organization's system for dependent undergraduate students, the Secretary will also approve that individual's or organization's system for dependent graduate and professional students, and independent undergraduate, and graduate and professional students. If the Secretary approves an individual's or organization's system for dependent graduate and professional students, the Secretary will also approve that individual's or organization's system for dependent undergraduate students, and independent undergraduate, and graduate and professional students.

The expected parental contributions in this notice are based on the following assumptions: a 4.5 percent inflation rate for 1985; families of varying sizes with two parents and either one dependent unergraduate student (Table 1), or one dependent graduate or professional student (Table 2); the adjusted gross income of that student's older parent who is the family's sole wage earner and is 45; an asset protection allowance of $31,000; an 8-percent allowance for State and other taxes; and the use of 1985 U.S. income tax schedules for a joint return with standard deductions. The expected parental contributions in this notice do not take into account—

Business or farm assets;
Nontaxable income;
Other unusual expenses; and
Elementary and secondary tuition expenses.

The Secretary will use the sample cases and expected parental contributions contained in this notice to approve need analysis systems for dependent undergraduate, and graduate and professional students under the campus-based programs. The approved systems will be used for making awards to students under the campus-based programs for award year 1986–87.

Closing Date for Transmittal of Information

An individual or organization wishing to have a system of need analysis approved must submit to the Secretary on or before August 21, 1985: (1) A complete description of its system of need analysis for dependent and independent students; (2) its student application form(s) for undergraduate, and graduate and professional students; (3) either the expected parental contributions for undergraduate students produced by an individual's or organization's system using the sample cases provided in Table 1 which are based on dependent undergraduate students, or the expected parental contributions for graduate and professional students produced by an individual's or organization's system using the sample cases provided in Table 2 which are based on dependent graduate and professional students; and (4) a complete calculation of how each expected parental contribution was derived, including enough information to allow the Secretary to duplicate these calculations and results.

The Secretary will not accept this information in the form of computer programs, software, or mechanical devices. The Secretary will not accept this information after the closing date and will return information received after the closing date to the sender.

Documents Delivered by Mail

Descriptions of systems, application form(s), expected parental contributions, and calculations that are sent by mail must be postmarked on or before August 21, 1985 and addressed to Anna Borlaug, Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, SW, [ROB–3, Room 4018], Washington, DC, 20202.

An individual or organization must show proof of mailing these documents. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the Secretary of Education.

If these documents are sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An individual or organization should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an individual or organization should check with its local post office. An individual or organization is encouraged to use certified or at least first-class mail.

Documents Delivered by Hand

Descriptions of systems, application form(s), expected parental contributions and calculations that are hand-delivered must be taken on or before (insert date 30 days from the date of publication) to Anna Borlaug, Department of Education, Office of Student Financial Assistance, 7th and D Streets, SW [ROB–3, Room 4018], Washington, DC, 20202. The Campus and State Grant Branch will accept these hand-delivered documents between 8:00 a.m. and 4:30 p.m. daily (Washington, DC time) except Saturdays, Sundays and Federal holidays.

These documents will not be accepted after 4:30 p.m. August 21, 1985.

TABLE 1.—(UNDERGRADUATE) SAMPLE CASES AND EXPECTED PARENTAL CONTRIBUTIONS FOR THE NDSL, CWS, AND SEOG PROGRAMS—AWARD YEAR 1986–87

Net assets—	$30,000				$40,000				$50,000				$60,000			
Family size—	3	4	5	6	3	4	5	6	3	4	5	6	3	4	5	6
Adjusted gross income:																
$12,000	0	0	0	0	60	0	0	0	360	0	0	0	620	130	0	0
18,000	470	0	0	0	710	220	0	0	980	490	20	0	1,240	750	290	0
20,000	1,060	590	130	0	1,320	830	370	0	1,580	1,100	640	120	1,880	1,380	900	380
24,000	1,880	1,180	730	220	1,950	1,430	970	460	2,260	1,700	1,230	720	2,640	2,000	1,500	980
28,000	2,360	1,780	1,310	800	2,680	2,040	1,540	1,040	3,090	2,390	1,840	1,310	3,550	2,760	2,150	1,570
32,000	3,150	2,450	1,890	1,360	3,580	2,760	2,170	1,580	4,060	3,190	2,520	1,880	4,620	3,670	2,920	2,210

TABLE 2.—(GRADUATE AND PROFESSIONAL) SAMPLE CASES AND EXPECTED PARENTAL CONTRIBUTIONS FOR THE NDSL, CWS, AND SEOG PROGRAMS—AWARD YEAR 1986–87

Net assets—	$30,000				$40,000				$50,000				$60,000			
Family size—	3	4	5	6	3	4	5	6	3	4	5	6	3	4	5	6
Adjusted gross income:																
$12,000	0	0	0	0	40	0	0	0	180	0	0	0	280	60	0	0
18,000	210	0	0	0	320	100	0	0	440	220	10	0	560	340	130	0
20,000	490	270	60	0	600	380	170	0	720	500	290	60	860	620	410	160
24,000	770	540	330	100	920	650	440	210	1,130	780	580	330	1,370	950	680	450
28,000	1,160	830	590	360	1,400	970	700	470	1,700	1,200	860	580	2,080	1,480	1,040	710
32,000	1,740	1,240	890	620	2,090	1,470	1,060	720	2,540	1,770	1,290	890	3,100	2,160	1,570	1,080

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: July 17, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85–17337 Filed 7–19–85; 8:45 am]

BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Discretionary Grant Programs

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1986 Noncompeting Continuation Awards.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of noncompeting continuation grant applications for certain programs administered by the Department of Education under the Office of Special Education and Rehabilitative Services.

Organization of Notice

This notice contains two parts. Part I includes the list of all closing dates for noncompeting continuation awards covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

of funding levels do not bind the Department to a specific number of

Part I—List of Program Application Announcements Published in This

CFDA No.	Program	Closing date
84.086X-J...	Statewide Systems Change...	Do.

environments such as competitive or supported employment.

84.158E—Secondary Education and

approximately $500,000 will be available for support of the third budget period for

VOL
50
ISS
140
JL
22
1985
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Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: (insert appropriate CFDA number), 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW. Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Available funds: An estimate of available funds is included in each application notice, under the paragraph on availability of funds. These estimates of funding levels do not bind the Department to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled: "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

Some of the following programs in this notice are subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

Included in each application announcement in this notice is a current list of States that have established a process, designated a single point of contact, and have selected that program for review. Also included in each announcement is the date by which comments and recommendations from the single point of contact review are due to the Department.

The Executive Order for Intergovernmental Review will apply to the following programs:

84.158—Secondary Education and Transitional Services for Handicapped Youth
84.024—Handicapped Children's Early Education Program
84.025—Services for Deaf-Blind Children and Youth
84.078—Postsecondary Education Programs for Handicapped Persons

Part I—List of Program Application Announcements Published in This Notice

CFDA No.	Program	Closing date
Secondary Education and Transitional Services for Handicapped Youth		
84.158F	Secondary Education and Transitional Services for Handicapped Youth—Transition Strategies and Techniques.	Sept. 30, 1985.
84.158H	Secondary Education and Transitional Services for Handicapped Youth—Research Projects in Secondary Education.	Oct. 15, 1985.
Handicapped Children's Early Education Program		
84.024B–B	Handicapped Children's Early Education Program—Demonstration Projects.	Do.
Research in Education of the Handicapped		
84.023L	Research in Education of the Handicapped—Handicapped Children's Model Program/Youth Employment Projects.	Oct. 25, 1985.
84.023N	Research in Education of the Handicapped—Handicapped Children's Model Program/Postsecondary Projects.	Do.
Secondary Education and Transitional Services for Handicapped Youth		
84.158B	Secondary Education and Transitional Services for Handicapped Youth—Service Demonstration Models.	Oct. 25, 1985.
Handicapped Children's Early Education Program		
84.024B–A	Handicapped Children's Early Education Program—Demonstration Projects.	Dec. 27, 1985.
Secondary Education and Transitional Services for Handicapped Youth		
84.158D	Secondary Education and Transitional Services for Handicapped Youth—Cooperative Models for Planning and Developing Transitional Services.	Jan. 15, 1985.
Services for Deaf-Blind Children and Youth		
84.025B	Services for Deaf-Blind Children and Youth.	Jan. 27, 1986.
Research in Education of the Handicapped		
84.023D	Research in Education of the Handicapped—Field-Initiated Research.	Feb. 3, 1986.
Auxiliary Activities—Innovative Programs for Severely Handicapped Children		
84.086X–A	Independent Living Skills Training for Severely Handicapped Youth.	Mar. 3, 1986.
84.086X–B	Parent Involvement in Provision of Educational Services and Life-Long Planning for Severely Handicapped Children and Youth.	Do.
84.086X–C	Non-Directed Demonstration Projects for Severely Handicapped Children and Youth.	Do.

CFDA No.	Program	Closing date
84.086X–J	Statewide Systems Change	Do.
84.086X–L	Social and Community Skills Development for Severely Handicapped Children and Youth.	Do.
84.086X–N	Education of Severely Handicapped (Including Deaf-Blind) Children and Youth in the Least Restrictive Environment.	Do.
84.086Y–D	Approaches to Total Life Planning for Deaf-Blind Children and Youth.	Do.
84.086Y–E	Skills Training, Placement and Supported Employment for Deaf-Blind Youth.	Do.
84.086Y–H	Non-Directed Demonstration Projects for Deaf-Blind Children and Youth.	Do.
84.086Y–K	Communication Skills Development for School-Aged Deaf-Blind Children and Youth.	Do.
Postsecondary Education Programs for Handicapped Persons		
84.078D	Postsecondary Education Programs for Handicapped Persons—Demonstration Projects.	Mar. 14, 1986.
Handicapped Children's Early Education Program		
84.024F	Handicapped Children's Early Education Program—Early Childhood State Plan.	Apr. 30, 1986.
Research in Education of the Handicapped		
84.023Q	Research in Education of the Handicapped—Enhancing Instructional Program Options Projects.	May 1, 1986.
84.023J	Research in Education of the Handicapped—Technology Effectiveness Research Projects.	May 19, 1986.
84.023E	Research in Education of the Handicapped—Field-Initiated Research Projects.	June 3, 1986.
84.023S	Research in Education of the Handicapped—Special Population/Handicapped Projects.	Do.

Part II—Application Notice

Secondary Education and Transitional Services for Handicapped Youth

Applications are invited for projects under the Secondary Education and Transitional Services for Handicapped Youth program.

Authority for this program is contained in section 626 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1425)

Awards are made under this program to institutions of higher education, State educational agencies, and other appropriate public and private nonprofit institutions or agencies.

The purpose of this program is to provide support for research, development, demonstration, evaluation, and other types of projects that improve secondary special education and other services for handicapped youth in order to assist them in the transition from secondary school to postsecondary environments such as competitive or supported employment.

84.158F—Secondary Education and Transitional Services for Handicapped Youth—Transition Strategies and Techniques

Closing date: September 30, 1985.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for research projects designed to develop strategies and techniques for transition to cooperative or supported employment through improvements in independent living skills, secondary and postsecondary education, vocational preparation, and availability of work opportunity.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The Secondary Education and Transitional Services for Handicapped Youth program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review. In those States which have not selected this program for review under the State review process, immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.158F), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $500,000 will be available for support of the third budget period for 6 fiscal year 1984 Transition Strategies and Techniques projects.

Application forms: Application forms and program information packages will be mailed on July 30, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary and Transitional Services for Handicapped Youth program (34 CFR Part 326) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Nancy Safer, Research Project Branch, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1109.

(20 U.S.C. 1425)

84.158H—Secondary Education and Transitional Services for Handicapped Youth—Research Projects in Secondary Education

Closing date: October 15, 1985.

Program information: This priority supports the continued second budget period funding for grants originally awarded in 1985 to support research projects which focus on secondary level programs for handicapped youth as described under 34 CFR Part 326.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The Secondary and Transitional Services for Handicapped Youth program is a new program, and most

requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the

eight years of age. Demonstration projects assist in developing and

Maryland Avenue, SW., Washington,

Research in Education of the

be limited on August 30, 1985 to grantees

The Secondary and Transitional Services for Handicapped Youth program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review. In those States which have not selected this program for review under the State review process, immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the followifg address:

The Secretary, U.S. Department of Education, Room 4181 (84.158H), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that $1,500,000 will be available for support of the second budget period for 18 Research Projects in Secondary Education projects initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on July 30, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applications not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary and Transitional Services for Handicapped Youth program (34 CFR Part 326) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78 and 79).

For further information contact: Mr. Melville Appell, Research Projects Branch, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1113.

(20 U.S.C. 1425)

Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in Section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private nonprofit organizations to develop and implement experimental preschool and early education programs for handicapped children which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, developing, and implementing a comprehensive delivery system that provides education and related services to handicapped children from birth through five years and their families.

84.024B–B—Handicapped Children's Early Education Progam—Demonstration Projects

Closing date: October 15, 1985.

Program information: The purpose of this program is to support experiemental preschool and early education programs for handicapped children. These programs are intended to promote a comprehensive service delivery system to meet the special needs of handicapped children from birth through eight years of age. Demonstration projects assist in developing and implementing innovative and experimental practices that establish specific strategies and products worthy of dissemination and replication. This priority supports the continued third budget period funding for grants initially awarded in 1985 for demonstration projects.

Intergovernment Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Jersey
Arizona	New Mexico
Arkansas	New York
California	Northern Mariana Islands
Connecticut	North Dakota
Delaware	Ohio
District of Columbia	Oklahoma
Florida	Oregon
Guam	Pennsylvania
Georgia	Puerto Rico
Hawaii	South Carolina
Indiana	South Dakota
Iowa	Tennessee
Kansas	Texas
Kentucky	Trust Territory
Louisiana	Utah
Maine	Vermont
Massachusetts	Virgin Islands
Michigan	Virginia
Missouri	Washington
Montana	West Virginia
Nebraska	Wisconsin
Nevada	
New Hampshire	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In State that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education. Room 4181 (84.024B–B), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SENT APPLICATONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $3,700,000 will be available for support of the third budget period for the 32 demonstration projects initially awarded in fiscal year 1984.

Application forms: Application forms and program information packages will be mailed on September 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submittted in accordance with the regulations, instructions, and forms included in the program information package. However, the progam information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under Control Number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contract: Dr. Thomas Finch, Chief, Early Childhood Programs, Division of Innovation and Development special education programs, Department of Education, 400 Maryland Avenue, SW, (Switzer Building, Room 3511–M/S 2313) Washington, D.C. 20202. Telephone: (202) 732–1084.

(20 U.S.C. 1423)

Research in Education of the Handicapped

Applications are invited for projects under the Research in Education of the Handicapped program.

Authority for this program is contained in sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Awards are made under this program to State or local educational agencies, institutions of higher education and other public or nonprofit private educational or research agencies and organizations. In addition, the Secretary may award contracts to profit making organizations.

The purpose of this program is to fund research and related purposes and to conduct research, surveys, or demonstrations relating to the education of handicapped children. This may include model programs designed to meet the special educational needs of those children. It may also include research and related purposes, and research surveys, or demonstrations relating to physical education and recreation for handicapped children.

84.023L—Research in Education of the Handicapped—Handicapped Children's Model Program Youth Employment Projects

Closing date: October 25, 1985.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for projects on the role of the school in increasing the employment of handicapped individuals, and on any option open to the handicapped providing for the transition from school to work.

48.023N—Research in the Education of the Handicapped—Handicapped Children's Model Program Postsecondary Projects

Closing date: October 25, 1985.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for projects related to postsecondary and continuing education for the handicapped.

Available funds: It is estimated that approximately $1,400,000 will be available for support of the third budget period for 12 Youth Employment projects initially funded in fiscal year 1984. It is estimated that approximately $1,500,000 will be available for support of the third budget period for 15 Postsecondary projects initially awarded in fiscal year 1984.

Application forms: Application forms and program information packages will be limited on August 30, 1985 to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped program (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. Thomas R. Behrens, Director, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1154.

(20 U.S.C. 1441, 1442)

Secondary Educotion and Transitional Services for Handicapped Youth

Applications are invited for projects under the Secondary Education and Transitional Services for Handicapped Youth program.

Authority for this program is contained in section 626 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1425)

Awards are made under this program to institutions of higher education, State educational agencies, local educational agencies and other public and private nonprofit institutions or agencies.

The purpose of this program is to provide support for research, development, demonstration, evaluation and other types of projects that improve secondary special education and other services for handicapped youth in order to assist them in the transition from secondary school to postsecondary

environments such as competitive or

educational agencies, must contact the appropriate State single point of contact

VOL 50 ISS 140 JL 22 1985 UMI

environments such as competitive or supported employment.

84.158B—Secondary Education and Transitional Services for Handicapped Youth—Service Demonstrations Models

Closing date: October 25, 1985.

Program information: This priority suports the continued third budget period funding for grants initially awarded in 1984 for projects that develop and establish exemplary models for services and programs, including specific vocational training and job placement, that result directly in paid employment in regular work settings for handicapped youth leaving school or that enhance the effectiveness of secondary and postsecondary services which lead to employment.

Intergovernmental review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The Secondary and Transitional Services for Handicapped Youth program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review. In those States which have not selected this program for review under the State review process, immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be inlcuded under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education Room 4161 (84.158B), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $1,655,000 will be available for support of the third budget period for 16 Service Demonstration Model projects initially awarded in fiscal year 1984.

Application forms: Application forms and program information packages will be mailed on September 10, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirments beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary and Transitional Services for Handicapped Youth program (34 CFR Part 326) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78 and 79).

For further information contact: Dr. Thomas R. Behrens, Director, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1154.

(20 U.S.C. 1425)

Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private nonprofit organizations to develop and implement experimental preschool and early education programs for handicapped children which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, developing, and implementing a comprehensive delivery system that provides education and related services to handicapped children from birth through five years and their families.

84.024B-A—Handicapped Children's Early Education Program—Demonstration Projects

Closing date: December 27, 1985.

Program information: The purpose of this program is to support experimental preschool and early education programs for handicapped children. These programs are intended to promote a comprehensive service delivery system to meet the special needs of handicapped children from birth through eight years of age. Demonstration projects assist in developing and implementing innovative and experimental practices that establish specific strategies and products worthy of dissemination and replication. This priority supports the continued second budget period fundng for grants initially awarded in 1985 for demonstration projects.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Jersey
Arizona	New Mexico
Arkansas	New York
California	Northern Mariana Islands
Connecticut	North Dakota
Delaware	Ohio
District of Columbia	Oklahoma
Florida	Oregon
Guam	Pennsylvania
Georgia	Puerto Rico
Hawaii	South Carolina
Indiana	South Dakota
Iowa	Tennessee
Kansas	Texas
Kentucky	Trust Territory
Louisiana	Utah
Maine	Vermont
Massachusetts	Virgin Islands
Michigan	Virginia
Missouri	Washington
Montana	West Virginia
Nebraska	Wisconsin
Nevada	
New Hampshire	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included ins the application package for this program.

In States that have not established a process or chosen this program for review, State areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.024B-A), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determines on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $2,300,000 will be available for support of the second budget period for the 20 demonstration projects initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on September 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under Control Number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Thomas Finch, Chief, Early Childhood Programs, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW, (Switzer Building, Room 3511-M/S 2313) Washington, D.C. 20202. Telephone: (202) 732-1084.

(20 U.S.C. 1423)

Secondary Education and Transitional Service for Handicapped Youth

Applications are invited for projects under the Secondary Education and Transitional Services for Handicapped Youth program.

Authority for this program is contained in Section 628 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1425)

Awards are made under this program to institutions of higher education, State educational agencies, and other appropriate public and private nonprofit institutions or agencies.

The purpose of this program is to provide support for research, development, demonstration, evaluation, and other types of projects that improve secondary special education and other services for handicapped youth in order to assist them in the transition from secondary school to a postsecondary environment such as competitive or supported employment.

84.158D—Secondary Education and Transitional Services for Handicapped Youth—Cooperative Models for Planning and Developing Transitional Services

Closing date: January 15, 1986

Program information: This priority supports the continued second budget period funding for grants initially awarded in 1985 for projects designed to plan and develop cooperative models for activities among State or local educational agencies, developmental disabilities councils, and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and private employers, which will facilitate effective planning for services to meet the employment needs of handicapped youth as they leave school.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The Secondary Education and Transitional Services for Handicapped Youth Program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review. In those States which have not selected this program for review under the State review process, immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process and to comply with the State's process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.158D), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $1,460,000 will be available for support of the second budget period for 15 Cooperative Models for Planning and Developing Transitional Services projects initially awarded fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on September 10, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms

1984 for the provision of services to deaf-blind children and youth, and technical assistance to State educational

ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS

Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313),

Available funds: It is estimated that approximately $5,240,000 will be

Auxiliary Activities—Innovative Programs for Severely Handicapped

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary and Transitional Services for Handicapped Youth program (34 CFR Part 328) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Thomas R. Behrens, Director, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1154.

(20 U.S.C. 1425)

Services for Deaf-Blind Children and Youth

Applications are invited for projects under the Services for Deaf-Blind Children and Youth program.

Authority for this program is contained in section 622 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1422)

Awards are made under this program to public or nonprofit private agencies, institutions, or organizations.

This program supports projects that enhance services to deaf-blind children and youth, particularly by providing technical assistance to State educational agencies and others who are involved in the education of deaf-blind children and youth.

84.025B—Services for Deaf-Blind Children and Youth

Closing Date: January 27, 1986.

Program information: This priority supports the continued second or third budget period funding for cooperative agreements initially awarded in 1985 or 1984 for the provision of services to deaf-blind children and youth, and technical assistance to State educational agencies, in accordance with 34 CFR 307.11.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Jersey
Arizona	New Mexico
Arkansas	New York
California	Northern Mariana Islands
Connecticut	North Dakota
Delaware	Ohio
District of Columbia	Oklahoma
Florida	Oregon
Guam	Pennsylvania
Hawaii	South Carolina
Indiana	South Dakota
Iowa	Tennessee
Kansas	Texas
Kentucky	Trust Territory
Louisiana	Utah
Maine	Virgin Islands
Massachusetts	Vermont
Michigan	Virginia
Missouri	Washington
Montana	West Virginia
Nebraska	Wyoming
Nevada	
New Hampshire	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.025B), 400 Maryland Avenue SW., Washington D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $2,763,000 will be available for support of the third budget period for the 13 cooperative agreements initially funded in fiscal year 1984 and approximately $1,574,000 for support of the second budget period of the 18 cooperative agreements initially awarded in fiscal year 1985 for services to deaf-blind children and youth under the Services for Deaf-Blind Children and Youth program. A total of $4,935,000 is expected to be made available for awards for multi and single State projects for fiscal year 1986. Of this amount, $4,337,000 is anticipated to be awarded under this competition for new awards. It is expected that funds available for continuation awards will be increased to the extent that funds are not awarded under the new competition.

Application forms: Application forms and program information packages will be mailed on December 2, 1985, to grantees who are eligible to apply for noncompeting continuation cooperative agreement support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Services for Deaf-Blind Children and Youth program (34 CFR Part 307) published at 49 FR 28360 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Charles W. Freeman, Special Needs Section, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1177.

(20 U.S.C. 1422)

Research in Education of the Handicapped

Applications are invited for projects under the Research in Education of the Handicapped program.

Authority for this program is contained in sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities, to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and research-related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth, including physical education and recreation.

84.023D—Research in Education of the Handicapped—Field-Initiated Research

Closing date: February 3, 1986.

Program information: This priority supports second or third budget period funding for Field-Initiated Research projects that were first funded in fiscal years 1985 or 1984 under the Research in Education of the Handicapped program. The purpose of these projects is to provide support for a broad range of field-initiated research projects focusing on the education of handicapped children and youth. The appropriate areas of interest for projects are limited only by the mission of the research program—support of applied research relating to education of the handicapped children and youth.

Available funds: It is estimated that approximately $5,240,000 will be available for support of the second of third budget periods for 65 Field-Initiated Research projects initially funded in fiscal years 1985 or 1984.

Application forms: Application forms and program information packages will be mailed on December 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the Federal Register on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. James Johnson, Technology and Marketing Branch, Division of Educational Services Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511 M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1123.

(20 U.S.C. 1441, 1442)

Auxiliary Activities—Innovative Programs for Severely Handicapped Children

Applications are invited for projects under the Auxiliary Activities—Innovative Programs for Severely Handicapped Children program.

Authority for this program is contained in Section 624 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424)

Awards are made under this program to public or private, profit or nonprofit organizations and institutions.

The Auxiliary Activities program supports research, development or demonstration, training, and dissemination activities which, consistent with the purpose of Part C of the Education of the Handicapped Act, meet the unique educational needs of handicapped children and youth, including those who are severely handicapped.

84.086X-A—Independent Living Skills Training for Severely Handicapped Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for the development of innovative, cost effective methods for providing training in independent living skills to severely handicapped youth, ages 16 through 21, making the transition from educational to home/community environments.

84.086X-B—Parent Involvement in Provision of Educational Services and Life-Long Planning for Severely Handicapped Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued third budget period funding for grants initially awarded in 1984 for increasing the involvement of parents in the development, establishment, and evaluation of individualized educational programs for severely handicapped children and youth, and in the life-long planning for these persons.

84.086X-C—Non-Directed Demonstration Projects for Severely Handicapped Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second or third budget period funding for grants initially awarded in 1985 or 1984 for demonstrating specific, viable procedures for meeting significant educational needs of severely

handicapped (other than deaf-blind) children and youth.

84.086X-I—Statewide Systems Change

have selected this program for review:

Alabama	New Mexico

grantees who are eligible to apply for noncompeting continuation grant

and related services to handicapped children from birth through five years

VOL 50 ISS 140 JL 22 1985 UMI

handicapped (other than deaf-blind) children and youth.

84.086X–J—Statewide Systems Change

Closing date: March 3, 1986.

Program information: This priority supports the continued second or third budget period funding for grants initially awarded in 1985 or 1984 to design, implement, evaluate, and disseminate information about a model for the Statewide delivery of comprehensive special education and related services to severely handicapped children and youth (including deaf-blind children and youth), ages birth through 21, within a particular State.

84.086X–L—Social and Community Skills Development for Severely Handicapped Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding for grants initially awarded in 1985 to design, implement, and evaluate innovative procedures which increase the skills and opportunities of severely handicapped (including deaf-blind) children and youth to socially interact with peers and others in neighborhood and other community situations.

84.086X–N—Education of Severely Handicapped (Including Deaf-Blind) Children and Youth in the Least Restrictive Environment

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding for grants initially awarded in 1985 to design, implement, and evaluate innovative approaches for the education of severely handicapped (including deaf-blind) children and youth in the least restrictive and least segregated environments.

84.086Y–D—Approaches to Total Life Planning for Deaf-Blind Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding from grants initially awarded in 1985 for projects which implement innovative procedures for the development of total life planning for deaf-blind children and youth.

84.086Y–E—Skills Training, Placement, and Supported Employment for Deaf-Blind Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second or third budget period funding from grants initially awarded in 1985 for projects which design, implement, and disseminate innovative practices in the prevocational and vocational skills training, work site placement, and supported employment of deaf-blind youth.

84.086Y–H—Non-Directed Demonstration Projects for Deaf-Blind Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding from grants initially awarded in 1985 or 1984 for projects designed to demonstrate specific, viable procedures for meeting significant educational needs of deaf-blind children and youth. These demonstration projects focus upon the overall mission of the program to demonstrate innovative and effective approaches to the education of deaf-blind children and youth in the least restrictive environment with the goal of providing educational programs for these children and youth in regular school settings.

84.086–K—Communication Skills Development for School-Aged Deaf-Blind Children and Youth

Closing date: March 3, 1986.

Program information: This priority supports the continued second budget period funding from grants initially awarded in 1985 for projects which identify critical educational problems in developing communication skills in school-aged deaf-blind children, ages 6 through 21, design and demonstrate innovative programs to effectively resolve such problems, and disseminate information about project findings and recommendations.

Available funds: It is estimated that approximately $1,635,000 will be available for support of the third year of the 13 grants initially awarded in fiscal year 1984 and $7,980,000 for support of the second year of the 76 grants initially awarded in fiscal year 1985 grants.

Application forms: Application forms and program information packages will be mailed on January 16, 1986, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing Auxiliary Activities—Innovative Programs for Severely Handicapped Children (34 CFR Part 315) published at 49 FR 28020 on July 9, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: R. Paul Thompson, Special Needs Section, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1177.

(20 U.S.C. 1424)

Postsecondary Education Programs for Handicapped Persons

Applications are invited for projects governing demonstration projects under the Postsecondary Education Programs for Handicapped Persons program.

Authority for this program is contained in Section 625 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424a)

Awards are made under this program to State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other nonprofit educational agencies.

84.078D—Postsecondary Education Programs for Handicapped Persons—Demonstration Projects

Closing date: March 14, 1986.

Program information: The purpose of this program is to provide assistance for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for Handicapped individuals. This priority supports continued second or third budget period funding for grants awarded in fiscal years 1985 or 1984 for demonstration projects.

Intergovernmental review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Mexico
Arizona	New York
Arkansas	Northern Mariana Islands
California	North Dakota
Colorado	Ohio
Connecticut	Oklahoma
Delaware	Oregon
District of Columbia	Pennsylvania
Florida	Puerto Rico
Guam	Rhode Island
Hawaii	South Carolina
Indiana	South Dakota
Iowa	Texas
Kansas	Trust Territory
Louisiana	Utah
Maine	Vermont
Missouri	Virginia
Montana	Virgin Islands
Nebraska	Washington
Nevada	Wyoming
New Hampshire	
New Jersey	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single points of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single point of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.078D), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $2,500,000 will be available for support of the second or third budget periods for 21 demonstration projects initially awarded in fiscal years 1985 or 1984.

Application forms: Application forms and program information packages will be mailed on January 10, 1986, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Postsecondary Education Programs for Handicapped Persons program (34 CFR Part 338) published at 49 FR 25990 on June 25, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Joseph Rosenstein, Postsecondary Education Programs, Captioning and Adaptation Branch, Division of Innovation and Development, Special Education Programs, 400 Maryland Avenue, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1176.

(20 U.S.C. 1424a)

Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private nonprofit organizations to develop and implement experimental preschool and early education programs for handicapped children which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, developing, and implementing a comprehensive delivery system that provides education and related services to handicapped children from birth through five years and their families.

84.024F—Handicapped Children's Early Education Program—Early Childhood State Plan

Closing date: April 30, 1986.

Program information: This priority supports the second budget period for grants initially awarded in 1985. Grantees may be in one of three program stages: planning, development, or implementation. Grants are for the purpose of establishing, over a maximum period of eight years, a comprehensive State-wide system for delivering special education and related services to all handicapped children from birth through five years of age.

Intergovernmental review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Jersey
Arizona	New Mexico
Arkansas	New York
California	Northern Mariana Islands
Connecticut	North Dakota
Delaware	Ohio
District of Columbia	Oklahoma
Florida	Oregon
Guam	Pennsylvania
Georgia	Puerto Rico
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Trust Territory
Maine	Utah
Massachusetts	Vermont
Michigan	Virgin Islands
Missouri	Virginia
Montana	Washington
Nebraska	West Virginia
Nevada	Wisconsin
New Hampshire	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for

review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single point of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.086), 400 Maryland Avenue, SW, (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1109.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $1,000,000 will be available for support of the second budget period for 11 Enhancing Instructional Program Options projects

Program information: This priority supports fourth budget period funding for Technology Effectiveness Research

3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1109.

Nothing in the program information package is intended to impose any

VOL 50 ISS 140 JL 22 1985 UMI

review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 22, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4161 (84.024F), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $3,000,000 will be available for support of the second budget period for the 29 Early Childhood State Plan grants initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on January 20, 1986, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretay strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretay further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

For further information contact: Dr. Thomas Finch, Chief, Early Childhood Programs, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW, (Switzer Building, Room 3511–M/S 2313) Washington, D.C. 20202. Telephone: (202) 732–1084.

(20 U.S.C. 1423)

Research in Education of the Handicapped

Applications are invited for projects under the Research in Education of the Handicapped program.

Authority for this program is contained in sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities, to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and research-related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children, and youth, including physical education and recreation.

84.023Q—Research in Education of the Handicapped—Enhancing Instructional Program Options Projects

Closing date: May 1, 1986.

Program information: This priority supports second budget period funding for Enhancing Instructional Program Options projects under the Research in Education of the Handicapped program. The purpose of this priority is to provide support for projects to enhance the capacity of local educational agencies to provide a variety of instructional options and screening procedures prior to evaluation and placement of children with learning problems in special education.

Available funds: It is estimated that approximately $1,200,000 will be available for support of the second budget period for 11 Enhancing Instructional Program Options projects initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on December 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the progam information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the Federal Register on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. Gary Lambour, Research Projects Branch, Division of Educational Services, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1054.

(20 U.S.C. 1441, 1442)

84.023J—Research in Education of the Handicapped—Technology Effectiveness Research Projects

Closing dote: May 19, 1986.

Program information: This priority supports fourth budget period funding for Technology Effectiveness Research projects under the Research in Education of the Handicapped program. The purpose of this program is to support projects on the use of technological devices and systems in schools and by handicapped students.

Available funds: It is estimated that approximately $1,082,000 will be available for support of the fourth year budget period for 4 Technology Effectiveness Research projects initially funded in fiscal year 1983.

Application forms: Application forms and program information packages will be mailed on December 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the Federal Register on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. Nancy Safer, Research Projects Branch, Division of Educational Services, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1109.

(20 U.S.C. 1441, 1442)

84.023E—Research in Education of the Handicapped—Field-Initiated Research Projects

Closing date: June 3, 1986.

Program information: This priority supports the third budget period funding for Field-Initiated Research projects under the Research in Education of the Handicapped program. These five year projects were initially funded in fiscal year 1984. The purpose of these projects is to provide support for a broad range of field-initiated research projects focusing on the education of handicapped children and youth. The appropriate areas of interest for projects are limited only by the mission of the research program—support of applied research relating to education of the handicapped children and youth.

84.023S—Research in Education of the Handicapped—Special Population/Handicapped Projects

Closing date: June 3, 1986.

Program information: This priority supports second budget period funding for Special Population/Handicapped projects under the Research in Education of the Handicapped program. These projects are designed to deal with the unique educational problems resulting from a combination of membership in a particular special population and having (a) handicapping condition(s), and, in particular, to identify and analyze intervention strategies for serving secondary-aged handicapped students who are also youthful offenders, children of migrant families, school dropouts, or substance abusers.

Available funds: It is estimated that approximately $800,000 will be available for support of the third budget period for 16 Field-Initiated Research projects initially awarded in fiscal year 1984, and it is estimated that approximately $650,000 will be available for support of the second budget period for 10 Special Population/Handicapped projects initially awarded in fiscal year 1985.

Application forms: Application forms and program information packages will be mailed on December 3, 1985, to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the Federal Register on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: Dr. Nancy Safer, Research Project Branch, Special Education Programs, Division of Educational Services, U.S. Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1109.

(20 U.S.C. 1441, 1442)

Dated: July 15, 1985.

Joan Standlee,

Acting Assistant Secretary, Office of Special Education and Rehobilitative Services.

[FR Doc. 85–17340 Filed 7–19–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Portsmouth Area Site, Ohio; Trespassing on DOE Property

The Department of Energy (DOE), successor agency to the Atomic Energy Commission, is authorized pursuant to section 229 of the Atomic Energy Act of 1954, as amended; section 104 of the Energy Reorganization Act of 1974 as implemented by 10 CFR Part 860; and section 301 of the Department of Energy Organization Act, to prohibit unauthorized entry and the unauthorized introduction of weapons or

dangerous materials into and upon its nuclear sites. By Notice dated October 19, 1985, appearing at page 13280 of the

Street a distance of 0.04 mile along and to a corner in said fence on the

Thence in a westerly direction paralleling the southerly side of said

and to a corner in said fence at the

lot a distance of 0.09 mile along and to a

distance of 0.02 mile along and to a

VOL 50 ISS 140 JL 22 1985 UMI

dangerous materials into and upon its nuclear sites. By Notice dated October 19, 1965, appearing at page 13288 of the Federal Register (FR Doc. 65–11108), the Atomic Energy Commission prohibited unauthorized entry into and upon several installations and facilities of the Portsmouth Area Office of the Atomic Energy Commission, located in Pike County, Ohio, including the Portsmouth Gaseous Diffusion Plant, the Portsmouth Area Water Treatment Plant, the Portsmouth Area Raw Water Pumphouse, and the Portsmouth Area Booster Pumphouse. This Notice amends the site description of all these installations and facilities to reflect perimeter and other changes. The most significant amendment is to the description for the Portsmouth Gaseous Diffusion Plant which has been revised to reflect a perimeter and name common to both it and the recently constructed Portsmouth Gas Centrifuge Plant. Notices stating the pertinent prohibition of 10 CFR 860.3 and 860.4 and penalties of 10 CFR 860.5 will be posted at all entrances of said tracts and at intervals along its perimeters as provided in 10 CFR 860.6.

The site description of the Portsmouth Gaseous Diffusion Plant is hereby amended to read as follows:

The Department of Energy (DOE) installation known as the Portsmouth Uranium Enrichment Plant, said installation being a tract of land located in the township of Scioto, Pike County, Ohio, east of State Route 23 approximately four miles southeast of the village of Piketon, Ohio, covering approximately 900 acres, and more particularly described as follows:

Beginning at a point in the DOE-owned chain link fence on the south side of the intersection of Perimeter Road and the Piketon Hill Road, also known as North Access Road, said point being the point of intersection of the centerline of Piketon Hill Road extended and said DOE-owned chain link fence;

Thence in an easterly and southerly direction paralleling Perimeter Road a distance of 0.70 mile along and to the point of intersection of said fence with the centerline of Dutch Run Road extended, also known as East Access Road;

Thence in a southerly and westerly direction paralleling Perimeter Road a distance of 0.13 mile along and to a corner in said fence on the southerly side of 16th Street;

Thence in a westerly direction paralleling 16th Street a distance of 0.05 mile along and to a corner in said fence on the southerly side of 16th Street;

Thence in a southerly and westerly direction along and to the south of 16th Street a distance of 0.04 mile along and to a corner in said fence on the southerly side of 16th Street;

Thence in a westerly direction paralleling 16th Street a distance of 0.11 mile along and to a corner in said fence on the southerly side of 16th Street and X–105 Building;

Thence in a southerly and westerly direction along and to the south of 16th Street and said building a distance of 0.01 mile along and to a corner in said fence on the easterly side of Patrol Road paralleling X–744L Warehouse;

Thence in a southerly direction paralleling Patrol Road and the easterly side of said warehouse a distance of 0.06 mile along and to a corner in said fence on the southerly side of the Patrol Road extension of 12th Street;

Thence in a westerly direction paralleling the Patrol Road extension of 12th Street and crossing Jackson Avenue a distance of 0.06 mile along and to a corner in said fence on the southerly side of 12th Street and westerly side of Jackson Avenue;

Thence in a southerly and westerly direction along and to the south of 12th Street a distance of 0.02 mile along and to a corner in said fence on the southerly side of 12th Street and westerly side of Jefferson Avenue;

Thence in a southerly direction paralleling Jefferson Avenue a distance of 0.32 mile along and to a corner in said fence on the southerly side of 7th Street;

Thence in a westerly direction paralleling 7th Street a distance of 0.01 mile along and to a corner in said fence on the easterly side of Patrol Road "B";

Thence in a southerly direction paralleling said Patrol Road a distance of 0.02 mile along and to a corner in said fence on the easterly side of said Patrol Road;

Thence in a southerly and easterly direction along and to the east of said Patrol Road a distance of 0.02 mile along and to a corner in said fence on the easterly side of said Patrol Road;

Thence in a southerly direction paralleling said Patrol Road a distance of 0.18 mile along and to a corner in said fence at the southeast corner of said Patrol Road;

Thence in a westerly direction paralleling said Patrol Road a distance of 0.17 mile along and to a point in existing chain link fence a distance of 0.02 mile from the easterly side of X–744K Warehouse;

Thence leaving the existing chain link fence in a southerly direction and paralleling the easterly side of said warehouse a distance of 0.06 mile to a point, said point being 0.02 mile from the easterly side and 0.01 mile from the southerly side of said warehouse;

Thence in a westerly direction paralleling the southerly side of said warehouse and X–751 Building a distance of 0.13 mile to a point, said point being 0.03 mile from the southerly side and 0.01 mile from the westerly side of said building;

Thence in a northerly direction paralleling the westerly side of said building a distance of 0.06 mile to a point, said point being 0.01 mile from the northerly side and 0.01 mile from the westerly side of the said building;

Thence in a northerly and westerly direction a distance of 0.04 mile to a point in existing DOE owned chain link fence on the southerly side of 2nd Street;

Thence in a westerly direction paralleling 2nd Street a distance of 0.02 mile along and to a corner in said fence;

Thence in a southerly direction paralleling Eagle Avenue a distance of 0.09 mile along and to a corner in said fence on the northerly side of Dove Avenue;

Thence in an easterly direction paralleling Dove Avenue a distance of 0.01 mile along and to a corner in said fence on the easterly side of Dove Avenue;

Thence in a southerly direction paralleling Dove Avenue a distance of 0.04 mile along and to a corner in said fence on the southerly side of Dove Avenue;

Thence in a westerly direction paralleling Dove Avenue a distance of 0.01 mile along and to a corner in said fence on the easterly side of Dove Avenue;

Thence in a southerly direction paralleling Dove Avenue a distance of 0.15 mile along and to a corner in said fence on the northerly side of Hewes Street;

Thence in an easterly direction paralleling Hewes Street a distance of 0.05 mile along and to a corner in said fence at the northeast corner of Vehicle Portal X–1107AV;

Thence in a southerly direction crossing Hewes Street a distance of 0.01 mile totaling 0.02 mile along and to a corner in said fence at the southeast corner of said vehicle portal;

Thence in a westerly direction paralleling Hewes Street and said vehicle portal a distance of 0.02 mile along and to a corner in said fence at the easterly side of Crane Avenue;

Thence in a southerly direction paralleling Crane Avenue a distance of 0.12 mile along and to a corner of said fence at the southeast corner of XT–847 Warehouse;

Thence in a westerly direction paralleling the southerly side of said warehouse a distance of 0.05 mile along

and to a corner in said fence at the northeast corner of X–749 Storage Yard;

Thence in a southerly direction paralleling said storage yard on the easterly side a distance of 0.11 mile along and to a corner in said fence;

Thence in an easterly direction paralleling said storage yard a distance of 0.02 mile along and to a corner in said fence;

Thence in a southerly direction paralleling said storage yard on the easterly side, a distance of 0.04 mile along and to a corner in said fence;

Thence in a westerly direction paralleling said storage yard on the southerly side a distance of 0.07 mile along and to a corner in said fence;

Thence in a northerly and westerly direction paralleling the westerly side of X–749 Storage Yard a distance of 0.08 mile along and to a corner in said fence;

Thence in an easterly direction paralleling the northerly side of said storage yard a distance of 0.03 mile along and to a corner in said fence, said corner being a distance of 0.01 mile from the southerly side and 0.03 mile from the westerly side of the XT–847 Warehouse;

Thence in a northerly direction paralleling the westerly side of said warehouse a distance of 0.12 mile along and to a corner in said fence on the southerly side of Hewes Street;

Thence in a westerly direction paralleling Hewes Street a distance of 0.25 mile along and to a corner in said fence on the easterly side of Martin Avenue;

Thence in a southerly direction paralleling Martin Avenue a distance of 0.13 mile along and to a corner in said fence on the southerly end of Martin Avenue and Shrike Loop;

Thence in an easterly direction paralleling Shrike Loop and passing on the south side of the X–1107F Portal a distance of 0.11 mile along and to a corner in said fence on the easterly side of Sunbird Loop;

Thence in a southerly direction paralleling Sunbird Loop a distance of 0.03 mile along and to a corner in said fence on the southerly side of Sunbird Loop;

Thence in a westerly direction paralleling Sunbird Loop a distance of 0.04 mile along and to a corner in said fence on the westerly side of Sunbird Loop;

Thence in a northerly direction paralleling Sunbird Loop, Teal Avenue and Patrol Road a distance of 0.58 mile along and to a corner in said fence at the southwest corner of the X–2207E Parking Lot and northerly side of Patrol Road;

Thence in an easterly direction paralleling Patrol Road and said parking lot a distance of 0.09 mile along and to a corner in said fence on the westerly side of Plover Avenue;

Thence in a northerly direction parelling Plover Avenue a distance of 0.09 mile along and to a corner in said fence on the southerly side of Sherman Loop;

Thence in a westerly direction paralleling Sherman Loop a distance of 0.02 mile along and to a corner in said fence on the westerly side of Sherman Loop.

Thence in a northerly direction parelleling Sherman Loop a distance of 0.06 mile along and to a corner in said fence on the northerly side of the extension of Stockton Street;

Thence in an easterly direction parelleling the extension of Stockton Street and X–1107EV Portal a distance of 0.02 mile along and to a corner in said fence on the north side of the extension of Stockton Street and west side of Plover Avenue;

Thence in a northerly direction paralleling Patrol Road and west side of X–7725A Warehouse a distance of 0.05 mile along and to a corner in said fence at northwest corner of said warehouse;

Thence in an easterly direction paralleling Patrol Road and north side of said warehouse a distance of 0.07 mile along and to a corner in said fence on the northeast corner of said warehouse;

Thence in a southerly direction paralleling Patrol Road and east side of said warehouse a distance of 0.05 mile along and to a corner in said fence on the northerly side of Stockton Street;

Thence in an easterly direction paralleling Stockton Street a distance of 0.10 mile along and to a corner in said fence on the westerly side of Hawk Avenue;

Thence in a northerly direction paralleling Hawk Avenue a distance of 0.05 mile along and to a corner in said fence at the corner of Hawk Avenue and Taylor Street;

Thence in an easterly direction paralleling Taylor Street a distance of 0.09 along and to a corner in said fence on the northwest corner of Taylor Street and Grebe Avenue;

Thence in a northerly direction paralleling Grebe Avenue and X–1107DV Portal a distance of 0.02 mile along and to a corner in said fence at the northwest corner of said Portal.

Thence in an easterly direction paralleling Taylor Street and Gannet Loop and crossing Grebe Avenue a distance of 0.06 mile along and to a corner in said fence at the northeast corner of X–1107DP Portal and Gannet loop;

Thence in a southerly direction paralleling Gannet Loop on the east a distance of 0.02 mile along and to a corner in said fence on the northerly side of Taylor Street;

Thence in an easterly direction paralleling Taylor Street a distance of 0.07 mile along and to a corner in said fence on the westerly side of Scioto Avenue and Patrol Road;

Thence in a northerly direction paralleling Patrol Road and Scioto Avenue a distance of 0.20 mile along and to a corner in said fence on the easterly side of Parking Lot X–206E;

Thence in a northwesterly direction paralleling said parking lot, crossing contruction road, and paralleling Contractor's Parking Lot a distance of 0.10 mile along and to a corner in said fence on the north side of Contractor's Parking Lot;

Thence in a southwesterly direction paralleling Contractor's Parking Lot a distance of 0.08 mile along and to a corner in said fence on the westerly side of "A" Road;

Thence in a northwesterly direction paralleling "A" Road a distance of 0.28 mile along and to a corner in said fence on the westerly side of "B" Road;

Thence in a northerly direction paralleling "B" Road a distance of 0.30 mile along and to a corner in said fence on the southeasterly side of Perimeter Road;

Thence in a northeasterly and easterly direction paralleling Perimeter Road a distance of 0.78 mile along said fence to the point of beginning.

The site description of the X–611 Water Treatment Plant is hereby amended to read as follows:

The Department of Energy (DOE) Facility known as the Portsmouth Area Water Treatment Plant (X–611), located in the township of Scioto, Pike County, Ohio, east of State Route 23 approximately 4 miles southeast of the Village of Piketon, Ohio. This facility is enclosed by a chain link fence seven feet in height, topped by three strands of barbed wire, covers approximately 7.9 acres, and is more particularly described as follows:

Beginning at a corner of a DOE-owned chain link fence located on the easterly side of the Service Road to X–611 at a distance of 0.24 mile from the intersection of said X–611 Road with Perimeter Road;

Thence in a southerly direction a distance of 0.10 mile along and to a corner of said fence;

Thence in a westerly direction a distance of 0.12 mile along and to a corner of said fence;

Thence in a northerly direction a distance of 0.04 mile along and to a corner of said fence located on the

northerly side of the Service Road to X–611C Road at a distance of 0.07 mile from the intersection of said X–611C

Thence in a southerly direction a distance of 0.03 mile along said fence to

Conservation-Grants Management (617) 223–3745.

Tonkawa Refining Company. This Proposed Remedial Order alleges

Consent Order may be obtained free of charge by writing or call this office.)

necessitate a re-audit involving analysis of a voluminous amount of data. Due to

VOL 50 ISS 140 JL 22 1985 UMI

northerly side of the Service Road to X-611C Road at a distance of 0.07 mile from the intersection of said X-611C Road with said X-611 Service Road;

Thence in a westerly direction parallel to said X-611C Road a distance of 0.02 mile along and to a corner of said fence;

Thence in a northerly direction a distance of 0.02 mile along and to a corner of said fence;

Thence in a westerly direction a distance of 0.01 mile along and to a corner of said fence;

Thence ina a northerly direction a distance of 0.02 mile along and to a corner of said fence;

Thence in an easterly direction a distance of 0.01 mile along and to a corner of said fence;

Thence in a northerly direction a distance of 0.03 mile along and to a corner of said fence;

Thence in a easterly and southerly direction a distance of 0.12 mile along said fence to the point of beginning.

The site description of the X-608 Raw Water Pumphouse is hereby amended to read as follows:

The Department of Energy (DOE) facility known as the Portsmouth Area Raw Water Pumphouse (X-608), located in the township of Seal, Pike County, Ohio, approximately 0.13 mile west of the Village of Piketon, Ohio. This facility is enclosed by a chain link fence seven feet in height, topped by three strands of barbed wire, covers approximately 1.48 acres, and is more particularly described as follows:

Beginning at the corner of a DOE-owned chain link fence located 0.15 mile north of West Second Street and 0.13 mile west of Northwest Street, Piketon;

Thence in a westerly direction a distance of 0.06 mile along and to a corner of said fence;

Thence in a northerly direction a distance of 0.05 mile along and to a corner of said fence located on the southerly bank of the Scioto River;

Thence in a southeasterly and easterly direction parallel to said bank a distance of 0.04 mile along said fence to the concrete wall of the pumphouse;

Thence in a northerly direction a distance of 0.01 mile along and to a corner of said wall located in said river;

Thence in a easterly direction of a distance of 0.01 mile along and to a corner of said wall located in said river;

Thence in a southerly direction a distance of 0.01 mile along said wall to said fence located on said bank;

Thence in a easterly direction parallel to said bank a distance of 0.02 mile along and to a corner of said fence;

Thence in a southerly direction a distance of 0.03 mile along said fence to the point of beginning.

The site description of the X-605 Booster Pumphouse is hereby amended to read as follows:

The Department of Energy (DOE) facility known as the Portsmouth Area Booster Pumphouse (X-605), located in the township of Scioto, Pike County, Ohio, east of State Route 23 approximately 4 miles southeast of the Village of Piketon, Ohio. This facility is enclosed by a chain link fence seven feet in height, topped by three strands of barbed wire, covers approximately 0.40 acre and is more particularly described as follows:

Beginning at the corner of a DOE-owned chain link fence located on the westerly side of the Booster Pump Station Road and 0.59 mile north of the intersection of said road with Perimeter Road;

Thence in a northerly direction a distance of 0.02 mile along and to a corner of said fence;

Thence in an easterly direction a distance of 0.03 mile along and to a corner of said fence;

Thence in a southerly direction a distance of 0.02 mile along and to a corner of said fence;

Thence in a westerly direction a distance of 0.03 mile along of said fence to the point of beginning.

Dated at Washington, DC, this 5th day of July 1985.

John L. Gilbert,

Executive Assistant, Office of the Assistant Secretary for Defense Programs.

[FR Doc. 85-17380 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

Weatherization Assistance Program (WAP); Regional Training and Technical Assistance; Availability of Funding

AGENCY: Department of Energy.

ACTION: Notice of availability of funding.

SUMMARY: This document announces the issuance of a Program Solicitation DE-FG-41-85R150000 by the Department of Energy, Boston Support Office (BSO). The Solicitation invites grant application from state WAP grantees located in New England for funding of project(s) in support of the WAP.

ADDRESS: Department of Energy, Boston Support Office, 150 Causeway Street, Boston, MA 02114.

FOR FURTHER INFORMATION CONTACT: Richard C. Michaud, State and Local Conservation Program, (617) 223-5288, Louise S. Urgo, State and Local Conservation-Grants Management (617) 223-3745.

SUPPLEMENTARY INFORMATION:

I. Background
II. Eligible Grantees
III. Eligible Activities

I. Background

The U.S. Department of Energy—Boston Support Office (BSO) is making funds available as part of its Weatherization Assistance Program (WAP) training and technical assistance (T&TA) program.

Two areas for which the BSO is seeking pilot project grant proposals are; (1) Elderly project; and (2) Consumer education.

II. Eligible Grantees

Eligible grantees are the WAP state grantees located in the area serviced by the DOE-BSO (Connecticut, Maine, Vermont, Massachusetts, New Hampshire, and Rhode Island).

III. Eligible Activities

Grants issued pursuant to this Notice are limited to the following projects:

1. Elderly—WAP.
2. Consumer Education—WAP.

Application Procedures

The Program Solicitation and Grant Applications have been provided to each state WAP grantee in the BSO area and must be received no later than August 31, 1985. Application content and evaluation criteria are set forth in the Program Solicitation.

It is anticipated that grant award will be issued by September 30, 1985.

Issued in Chicago, IL, July 12, 1985.

Johnnie D. Greenwood,

Acting Assistant Manager for Acquisition and Assistance.

[FR Doc. 85-17381 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Issuance of Proposed Remedial Order to Tonkawa Refining Co. and Opportunity for Objection

AGENCY: Economic Regulatory Administration, U.S. Department of Energy.

ACTION: Notice of issuance of proposed remedial order to Tonkawa Refining Company and notice of opportunity for objection.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Tonkawa Refining Company. This Proposed Remedial Order alleges entitlements violations in the amount of $18,634,038 plus interest in connection with the failure to satisfy entitlements purchase obligations during the period January 1980 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from the Freedom of Information Public Reading Room (MA-232.1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6020.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F-055, 1000 Independence Avenue, SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193. Failure to file a Notice of Objection shall be deemed to be an admission of the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, D.C., on the 25th day of June 1985.

Avrom Landesman,

Director, Office of Enforcement Programs, Economic Regulatory Administration.

[FR Doc. 85-17314 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

Bi-Petro, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed Consent Order and Opportunity for Comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Bi-Petro, Inc., concerning crude oil resales by the firm, and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATED: Comments by: August 21, 1985.

ADDRESS: Send comments to: Bi-Petro Consent Order Comments, Office of Special Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Edward P. Levy, Office of Special Counsel, U.S. Department of Energy, 1000 Independence Avenue, SW., Room: 5B-151, 202/252-4945. (Copies of the Consent Order may be obtained free of charge by writing or call this office.)

SUPPLEMENTARY INFORMATION: On July 9, 1985, the ERA executed a proposed Consent Order with Bi-Petro, Inc. of Illinois for $1,250,000. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. Background

Bi-Petro, Inc. (Bi-Petro) is a crude oil reseller. Until January 14, 1974, the activities of Bi-Petro were covered by the provisions of 6 CFR Part 150; from then until December 31, 1977, Subpart F of 10 CFR Part 212 of the federal petroleum price regulations applied; and thereafter Subpart L of Part 212 applied. ERA audited the firm's crude oil resales for the period November 1973 through August 1980 to determine Bi-Petro's compliance with these regulations. The audit concluded that Bi-Petro had received illegal revenues in its sales of crude oil, and ERA alleged in a Proposed Remedial Order (PRO) issued on May 2, 1983 (Case Number 6C0X00251), that Bi-Petro overcharged certain of its customers of crude oil in the total amount of $7,968,308.17 during the audit period.

After Bi-Petro filed its Statement of Objections to the PRO, ERA analyzed the firm's arguments and the underlying basis for the PRO. ERA concluded from its analysis that the PRO raised a range of complex issues concerning Bi-Petro's compliance with the regulations, including the following: (1) Whether ERA correctly determined Bi-Petro's base period selling price; (2) whether Bi-Petro sold to more than one class of purchaser in the Subpart F Period; (3) whether ERA determined Bi-Petro's correct cost of crude oil in inventory during the Subpart F period; (4) whether ERA properly treated Bi-Petro's sales of crude oil to Bi-Petro Refining Company; and (5) whether ERA correctly calculated Bi-Petro's Permissible Average Markup for the Subpart L Period. ERA also determined that its resolution of these issues would require the agency to address numerous interpretative matters, and could necessitate a re-audit involving analysis of a voluminous amount of data. Due to the uncertainty involved, ERA withdrew to PRO. Subsequent audit work confirmed that serious issues of regulatory interpretation existed, and that substantial additional work would be required to resolve them.

Nevertheless, ERA believes that significant violations may have occurred during the entire period of price controls. In light of this fact, as well as the unsettled issues described above, and the expense to the government associated with performing additional analysis and audit work and conducting any ensuing litigation, it is the opinion of the ERA that a payment of $1,250,000 is a satisfactory compromise of the issues raised in this audit. This amount includes interest.

II. The Consent Order

The proposed Consent Order has been entered into to resolve all civil and administrative disputes, claims, and causes of action by DOE relating to Bi-Petro's compliance in its resales of crude oil during the period of price controls. Although Bi-Petro contends that in all respects it correctly construed and applied the applicable regulations, Bi-Petro has entered into this proposed Consent Order to avoid the expense of litigation and the disruption of business. DOE believes the Consent Order is in the public interest and provides a satisfactory resolution of the issues raised by its audit.

III. Refunds

Under the Consent Order, Bi-Petro will pay the sum of $1,250,000 to DOE as follows: (1) $350,000 on or before ten days after the effective date of the Consent Order; (2) $450,000 with interest within twelve months from the effective date of the Consent Order; and, (3) $450,000 with interest within twenty-four months from the effective date of the Consent Order. The DOE shall direct that these monies be deposited in the "Deposit Fund Escrow Account" maintained by the U.S. Treasury. In consideration for Bi-Petro's performance under the Consent Order, the DOE agrees not to pursue any civil claims against Bi-Petro that the DOE may have arising out of the matters covered by the Consent Order.

The foregoing provisions for payment of the refund amount were established because ERA was unable to readily identify the ultimate injured parties due to the nature of the alleged violations and the complexities of petroleum marketing. The refund will be disbursed

pursuant to the procedures of 10 CFR Part 205, Subpart V.

Notice of Objection shall be deemed an admission of the findings of fact and

Administration, 1000 Independence Avenue, SW, Room GA-045

an opportunity to request a public

1. American Hydro Power Company

Standard Paragraphs

pursuant to the procedures of 10 CFR Part 205, Subpart V.

V. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on Bi-Petro, Inc. Consent Order." The ERA will consider all comments it receives by 4:30 p.m. CST, thirty (30) days after the date of publication of this notice. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C., on the 9th day of July, 1985.

Milton C. Lorenz,

Special Counsel, U.S. Department of Energy.

[FR Doc. 85-17379 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Remedial Order to Oklahoma Refining Co. and Opportunity for Objection

AGENCY: Economic Regulatory Administration, U.S. Department of Energy.

ACTION: Notice of issuance of proposed remedial order to Oklahoma Refining Company and notice of opportunity for objection.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Oklahoma Refining Company. This Proposed Remedial Order alleges entitlement violations in the amount of $12,360,914 plus interest in connection with the failure to satisfy entitlements purchase obligations during the time period February 1980 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from the Freedom of Information Public Reading Room, MA-232.1, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6020.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F-055, 1000 Independence Avenue, SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193. Failure to file a Notice of Objection shall be deemed an admission of the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, D.C., on the 25th day of June 1985.

Avrum Landesman,

Director, Office of Enforcement Programs, Economic Regulatory Administration.

[FR Doc. 85-17377 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-006; OFP Case No. 65039-9268-20-24]

Order Granting to OLS Energy—University of California, Berkeley, Exemption From Prohibitions of Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting to OLS Energy—University of California, Berkeley, Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to OLS Energy—University of California, Berkeley. The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a 23.5 net megawatts combined cycle cogeneration facility designed to produce electricity and process steam at the University of California—Berkeley, California. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on September 20, 1985.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA-045, Washington, D.C. 20585, Telephone (202) 252-4708.

Steven E. Ferguson, Esq., Office of the General Counsel, Department of Energy, Forrestal Building—Room 6A-113, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: On March 18, 1985, OLS Energy—University of California, Berkeley, petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 23.5 MW (net) combined cycle cogeneration facility consisting of a gas turbine generator, a supplementary-fired heat recovery steam generator and a steam turbine.

The powerplant will produce approximately 23.5 net megawatts of electricity while providing the University of California with 125 psig saturated steam (95,000 lb/hr average) for its heating and process steam needs. The University of California, Berkeley, cogeneration facility will burn natural gas and will consume approximately 253,000,000 Btu's/hr (lower heating value) with an anticipated availability of 8,322 hr/yr (95%).

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including OLS Energy—University of California, Berkeley's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility, will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the Federal Register on April 24, 1985 (50 FR 16124), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded

an opportunity to request a public hearing. The comment period closed on June 10, 1985; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that OLS Energy—University of California, Berkeley, has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a a permanent cogeneration exemption to OLS Energy—University of California, Berkeley, to permit the use of natural gas as the primary energy source for its cogeneration facility at the University of California, Berkeley, in Berkeley, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the Federal Register.

Issued in Washington, D.C., on July 12, 1985.

Richard A. Ransom,

Acting Director, Cool ond Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-17378 Filed 7-19-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 8274-002 et al.]

American Hydro Power Co. et al.; Surrender of preliminary permits

July 15, 1985.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. American Hydro Power Company

[Project No. 8274-002]

Take notice that American Hydro Power Company, Permittee for the proposed Alvin R. Bush Project No. 8274 requested by letter dated June 10, 1985, that its preliminary permit be terminated. The preliminary permit was issued on December 10, 1984, and would have expired on May 31, 1986. The project would be located on the Kettle Creek in Clinton County, Pennsylvania.

The Permittee filed the request on June 10, 1985.

2. F. Alan Sever

[Project No. 8280-001]

Take notice that the F. Alan Sever, Permittee for the Jeddo Tunnel Project No. 8280, located on a drainage tunnel in Luzerne County, Pennsylvania, has requested that its preliminary permit be terminated. The preliminary permit was issued on December 14, 1984, and would have expired on November 30, 1986. The Permittee states that analysis of the Jeddo Tunnel Project did not indicate feasibility for development.

The Permittee filed the request on June 17, 1985.

3. Modesto Irrigation District

[Project No. 5303-001]

Take notice that Modesto Irrigation District, Permittee for the proposed Lavezzola Creek Project No. 5303, has requested that its preliminary permit be terminated. The preliminary permit was issued on January 23, 1985, and would have expired December 31, 1987. The project would have been located on Lavezzola and Pauley Creeks in Sierra County, California. The Permittee states that a preliminary permit study found that the project would not be economically feasible to develop at this time.

The Permittee filed the request on June 18, 1985.

4. Ralston Hydro Associates

[Project No. 7983-001]

Take notice that the Ralston Hydro Associates Permittee for the Ralston Hydro Power Project No. 7983 located on Red Run in Lycoming County, Pennsylvania, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 7, 1984, and would have expired on May 31, 1986. The Permittee states that analysis of the Ralston Hydro Power Project did not indicate feasibility for development.

The Permittee filed the request on June 17, 1985.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17288 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-589-000 et al.]

Natural Gas Certificate Filings; Colorado Interstate Gas Company et al.

Take notice that the following filings have been made with the Commission:

1. Colorado Interstate Gas Company

[Docket No. CP85-589-000]

July 12, 1985.

Take notice that on June 7, 1985, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85-589-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 10,000 Mcf of natural gas per day for Sinclair Oil Corporation (Sinclair), on an interruptible basis, and for authority to add and delete receipt and delivery points, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 10,000 Mcf of natural gas per day for Sinclair from various points on Applicant's system in Wyoming to an existing interconnection with Sinclair in Carbon County, Wyoming. It is stated that Sinclair would use the gas in its Sinclair refinery. Applicant proposes to charge Sinclair 36.06 cents per Mcf plus a 1.25-cent per Mcf Gas Research Institute funding fee for this service. Applicant further proposes to be allowed to add or delete receipt and delivery points for the proposed transportation. It is stated that Applicant would file annual tariff revisions reflecting the addition or deletion of receipt and delivery points.

Applicant states that it is currently transporting the natural gas for Sinclair pursuant to the authority granted to

Applicant in Docket No. CP83-21-000 and Subpart F of Part 157 of the

pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR

Comment date: August 26, 1985, in accordance with Standard Paragraph G

daily flowing and load-equation system supplies. Applicant states that if it

end-user, all as more fully set forth in the application which is on file with the

the parties mutually agree to terminate the underlying agreement.

VOL 50 ISS 140 JL 22 1985 UMI

Applicant in Docket No. CP83-21-000 and Subpart F of Part 157 of the Commission's Regulations.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Colorado Interstate Gas Company

[Docket No. CP85-624-000]

July 12, 1985.

Take notice that on June 19, 1985, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85-624-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 6,500 Mcf of natural gas per day for The Gates Rubber Company (Gates), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport until September 1, 1985, on an interruptible basis, up to 6,500 Mcf of natural gas per day which Williston Basin Interstate Pipeline Company would deliver for Gates' account to Applicant at existing interconnections on Applicant's system in Wyoming. Applicant states it would redeliver thermally equivalent volumes, less fuel and lost or unaccounted-for gas, to Public Service Company of Colorado for Gates' account at an existing interconnection in Adams County, Colorado.

Applicant states that it is currently transporting the volumes of natural gas available to Gates pursuant to the authority granted to Applicant in Docket No. CP83-21-000 and Subpart F of Part 157 of the Commission's Regulations. Applicant indicates that it is currently charging Gates 36.08 cents per Mcf for each Mcf of gas transported and that it proposes to continue to charge such rate.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Columbia Gas Transmission Corporation, Columbia Gas Transmission Company

[Docket No. CP85-663-000]

July 11, 1985.

Take notice that on June 28, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, hereinafter referred to jointly as Applicants, filed in Docket No. CP85-663-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of International Permalite, Inc. (International Permalite) under their certificates issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicants propose to transport up to 4 billion Btu equivalent of natural gas per day for International Permalite through October 31, 1985. Applicants state that the gas to be transported hereunder would be used as process gas in International Permalite's plant in Florence, Kentucky.

Applicants indicate that the gas to be purchased was not released by Columbia and that such supplies would not exceed the applicable maximum lawful price.

Columbia Gulf states that it would charge its current rate for offshore to Kentucky of 23.92 cents per dt equivalent with 1.69 percent retainage; or lateral onshore to Kentucky—4.28 cents per dt with 1.50 percent retainage; or from Payne, Louisiana to Kentucky—12.76 cents per dt and 1.50 percent retainage; or from Corinth, Mississippi to Kentucky—6.38 cents per dt with 0.75 percent retainage.

Columbia states that it would charge its current rate of 29.93 cents per dt equivalent of volumes that are within the distribution company's total daily entitlement, or its current rate of 41.27 cents per dt equivalent of volumes that are in excess of the distribution company's total daily entitlement, exclusive of company-use and unaccounted-for gas. It is further stated that Columbia would retain for company-use and unaccounted-for gas a percentage of the gas delivered hereunder as reflected in the rate filings; this percentage is currently 2.43 percent.

Applicant also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Applicant will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 26, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. El Paso Natural Gas Company

[Docket No. CP85-658-000]

July 12, 1985.

Take notice that on June 27, 1985, El Paso Natural Gas Company (Applicant), Post Office Box 1492, El Paso, Texas, 79978, filed in Docket No. CP85-658-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain minor facilities in Roger Mills County, Oklahoma, and the transportation and delivery of natural gas, on an exchange basis, to ANR Pipeline Company (ANR), all as more fully set forth in the application on file with the Commission and open for public inspection.

Applicant states that the construction and operation of the proposed facilities, together with the requested transportation by exchange, would enable Applicant and ANR to operate more effectively and efficiently their respective pipeline facilities. Applicant states that ANR has purchased large volumes of natural gas in the Overthrust Belt area of Wyoming from Exxon Corporation (Exxon) which volumes of natural gas ANR desires to receive and utilize for its general system supply. It is explained that the volumes of natural gas purchased by ANR from Exxon are not located in close proximity to ANR's interstate pipeline system. Applicant further states that by exchanging volumes of natural gas with ANR in the Anadarko Basin area of Oklahoma and through the utilization of the volumes of natural gas that ANR causes Northwest Pipeline Corporation (Northwest) to tender to Applicant, for ANR's account, at the point of interconnection between the facilities of Applicant and Northwest at Ignacio, Colorado, for Applicant's system supply, would: (i) Help alleviate existing capacity problems on Applicant's Dumas-Plains pipeline system; and (ii) assist ANR in moving its Overthrust Belt area gas to ANR's interstate pipeline transmission system. Applicant and ANR have entered into a gas exchange agreement providing for the free exchange of up to 75,000 Mcf per day.

Applicant states that it has agreed to evaluate periodically the capability of its system to accept for ANR's account, the volume of natural gas tendered to Applicant by Northwest, the volume of natural gas tendered at Ignacio pursuant to similar arrangements with other parties, and the volume of Applicant's daily flowing and load-equation system supplies. Applicant states that if it determines the need for incremental facilities it would notify ANR of such need. Applicant proposes that ANR after being notified of the need for such additional facilities, would advise Applicant to seek necessary regulatory authorizations to construct and operate facility additions or to instruct Applicant not to make such additions for ANR. In the event that ANR authorized Applicant to seek all necessary regulatory approvals for the construction of facility additions, Applicant explains that ANR would be entitled to utilize the additional capacity in direct proportion to ANR's contribution to the costs of construction and ANR would pay a demand charge with respect to ANR's allocable share of Applicant's costs of service of said facilities. In the event that ANR instructs Applicant not to seek necessary regulatory approvals to construct said facilities then Applicant's obligation under the transportation arrangement to move natural gas through said facilities would be on a best-efforts basis, it is asserted.

Applicant states that it and ANR have agreed to perform their respective exchange obligations without monetary compensation from the other party and that the primary term of the requested exchange is for a period of fifteen years.

Applicant states that it would be required to construct minor facilities which facilities would consist of one 8⅝ inch O.D. tap and valve assembly, with appurtenances, including two 10¾ inch standard orifice-type meters and two flow controllers. Applicant estimates the total cost of those facilities proposed to be constructed and operated by it, including respective overhead, contingency and required filing fees is $266,569 which cost would be financed from internally generated funds.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

5. Great Lakes Gas Transmission

[Docket No. CP85-652-000]

July 12, 1985

Take notice that on June 26, 1985, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP85-652-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on an interruptible basis for the account of Bethlehem Steel Corporation (Bethlehem Steel), a new customer and end-user, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Bethlehem Steel has requested that the Applicant transport up to 30,000 Mcf of gas per day from the Emerson, Maintoba, delivery point, where the facilities of the Applicant interconnect with the facilities of TransCanada PipeLines Limited, to points where Applicant's facilities interconnect with those of Northern Natural Gas Company, a Division of InterNorth, Inc., and ANR Pipeline Company, a Carlton, Minnesota, and Fortune Lake, Michigan, respectively.

It is further alleged that the term of the proposed transportation service is two years, beginning July 1, 1985, and that the Applicant and Bethlehem Steel have agreed upon initial rates of 12.465 cents per Mcf of natural gas delivered to Carlton Minnesota, and 24.323 cents per Mcf of natural gas delivered to Fortune Lake, Michigan.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP85-648-000]

July 12, 1985.

Take notice that on June 26, 1985, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-648-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural proposes to transport on a best-efforts basis up to 14 billion Btu of natural gas per day for Transcontinental Gas Pipe Line Corporation (Transco). Natural would accept Transco's natural gas produced in Eugene Island Block 57, offshore Louisiana, and would deliver the gas at an existing point of interconnection in Eugene Island Block 32 with United Gas Pipe Line Company (United). It is asserted that United and Transco have proposed in Docket No. CP85-452-000 an exchange arrangement involving Transco's Eugene Island natural gas reserves. Natural proposes that the term of service would commence on the date of initial deliveries and end the earliest of (1) ten years thereafter of (2) when Transco's purchase volumes from Eugene Island Block 57 have been depleted or (3) when the parties mutually agree to terminate the underlying agreement.

Natural states that it would provide the transportation service at no charge in exchange for Transco's agreement: (1) To maintain the current level of charges under all rate schedules which Transco provides transportation service to Natural (despite the next two scheduled annual rate increases granted by the Commission in Transco's general rate proceeding Docket Nos. RP83-11-000 and RP83-30-000), (2) to reduce Natural's transportation contract demand quantity under Transco's Rate Schedule X-210 from 30,000 Mcf to 15,000 Mcf of natural gas per day effective April 1, 1984, and to terminate Rate Schedule X-210 on April 1, 1985, and (3) to reduce from time to time the presently applicable transportation contract demand of 10,000 Mcf of natural gas per day under Transco's Rate Schedule X-75.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

7. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-638-000]

July 12, 1985.

Take notice that on June 24, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-638-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Northern to implement adjustments to the firm entitlement of certain of Northern's market area utility customers as a result of the stipulation and agreement of settlement (stipulation and agreement) filed in resolution of issues in Docket Nos. RP82-71, TA83-1-59, TA84-1-59, and TA85-1-59, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that as part of the stipulation and agreement, Northern agreed to provide for a firm entitlement adjustment program which would be in effect through November 1986. Northern states that this program would allow each of its market area customers to reduce or realign its respective level of firm entitlement in the following manner:

(1) Effective March 27, 1985, November 27, 1985, and November 27, 1986, each of Northern's market area utility customers would be allowed to reduce its firm entitlement under the CD-1, CDO-1, or PL-1 Rate Schedules up to a maximum of 2 percent of its then

VOL
50
ISS
140
JL
22
1985
UMI

currently effective firm entitlement (Turnback Program).

(2) Any customer not requesting a reduction in its currently effective firm entitlement or who only desires to reduce a portion of the 2 percent limit, may realign from CD–1, CDO–1 or PL–1 to SS–1 up to the maximum 2 percent limit or the balance of the 2 percent limit not reduced.

(3) If a customer does not reduce or realign up to the 2 percent limit in any year, a carryover of the unutilized portion of such 2 percent limit to a subsequent year will not be allowed. A customer would have the option to participate in all or any of the three phases of the Turnback Program.

Northern states that as a result of the implementation of the firm entitlement adjustment program, it seeks authority to realign and reduce 45,604 Mcf of gas per day of its market area system firm entitlement to be effective March 27, 1985. Northern indicates that the proposed reduction in firm entitlement is the net result of 52,481 Mcf of gas per day decrease in contract demand, 180 Mcf per day decrease in contract demand offsystem, 12,194 Mcf per day increase in seasonal service, and 5,137 Mcf per day decrease in pipe line service.

Northern states that it agreed to file a certificate application under section 7(c) of the Natural Gas Act within 30 days of the date of filing of the stipulation and agreement or as soon afterward as possible to implement the first phase of the turnback program to be effective March 27, 1985. Northern also states that no facility modifications are required to implement the proposed adjustments.

Northern also indicates that section VII of the stipulation and agreement provides that upon effectuation of a reduction in the firm entitlement of Northern's customers, each customer's additional demand quantities (ADQ's), as established in Northern's rate settlement in Docket No. RP82–71 and billed during the winter heating months of December through March, would be increased by an increment equal to the daily firm entitlement reduction (CD–1, CDO–1 or PL–1 reduction). Northern also states that this reduction would not apply to any realignment from those same rate schedules to Rate Schedule SS–1 and that through October 26, 1985, the volume to be utilized in computing the minimum monthly bill volumes for the Rate Schedule PL–1 customers would remain at the level in effect on October 27, 1984.

In addition, Northern states that it would not request authority to adjust its demand rate as of the effective date of each phase in the turnback program but would recover its costs through Commission-approved tracking mechanisms. Finally, Northern indicates that in any general rate proceeding made prior to November 27, 1987, it would not be precluded from filing to recover any demand revenue shortfall resulting from the turnback program.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

8. Panhandle Eastern Pipeline Company

[Docket No. CP85–611–000]

July 12, 1985.

Take notice that on June 13, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001 filed in Docket No. CP85–611–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a portion of its Sneed 100 Line as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle proposes to retire from service 17.15 miles of its Sneed-to-Hansford 100 pipeline from 2 gate to 4 gate and related facilities, all located in Hansford and Hutchinson Counties, Texas, between the Sneed and Hansford compressor stations. Panhandle states that this line was constructed in 1930, is severely deteriorated and would require extensive repairs if not abandoned. Panhandle states further that it has sufficient capacity in the area to move its gas supply without these facilities and that this abandonment will reduce its costs. Panhandle further explains the subject line has been previously looped by a 22-inch line which will continue to be operated. Panhandle advises that its proposal will have no negative effect on any customer service.

Comment date: August 2, 1985, in accordance with Standard Paragraph F at the end of this notice.

9. Panhandle Eastern Pipe Line Company

[Docket No. CP85–637–000]

July 12, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85–637–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Richardson Battery Parts Division-Witco Chemical Corporation (Richardson) under the certificate issued in Docket No. CP83–83–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport up to 1,000 Mcf of natural gas per day for Richardson. It is stated that the gas to be transported would be purchased from Damson Oil Corporation (Damson) and would be used as boiler fuel in Richardson's plant in Indianapolis, Indiana. It is explained that the gas has been released by Panhandle and would be subject to the provisions of section 102 of the Natural Gas Policy Act. Panhandle would receive the gas from Damson at existing receipt points in Texas County, Oklahoma, and would redeliver the gas at an existing interconnection with Citizens Gas and Coke Utility, the distributor serving Richardson, in Marion County, Indiana, for ultimate delivery to Richardson's plant in Indianapolis, Indiana. The service would be until the earlier of 18 months from April 22, 1985, or the termination of authorization provided by Subpart F of 18 CFR Part 157, or the termination of the transportation agreement by the parties thereto.

It is indicated that Panhandle would charge the currently applicable transportation rate set forth in its Rate Schedule OST.

Panhandle also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Panhandle would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 26, 1985, in accordance with Standard Paragraph G at the end of this notice.

10. Panhandle Eastern Pipe Line Company

[Docket No. CP85–639–000]

July 12, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85–639–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Broderick Co., a Division of Harsco Corporation (Broderick), under the certificate issued in Docket No. CP83–83–000 pursuant to section 7 of the

Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 2,000 Mcf of natural gas per day for Broderick pursuant to a transportation agreement dated April 16, 1985, among Applicant, Broderick and Indiana Gas Company (Indiana Gas). Applicant states that the gas to be transported would be purchased from Yankee Resources, Inc. (Yankee), and would be used for forge furnaces, heat treating and plant heating and protection in Broderick's facility in Muncie, Indiana.

It is stated that Applicant would receive the gas on an interruptible basis, at an existing point of interconnection between the facilities of Applicant and others in Kingfisher, Woodward and Major Counties, Oklahoma. It is further stated that Applicant would transport and deliver such gas to Indiana Gas in Delaware County, Indiana. Indiana Gas, it is said, would in turn make ultimate delivery of the gas to Broderick at its facility in Muncie, Indiana.

Applicant states that it would charge the OST contract service rate of 42 cents per MMBtu or the OST excess service rate of 87 cents per MMBtu. In addition, Applicant states it would collect the General R&D Funding Unit of the Gas Research Institute.

Comment date: August 26, 1985, in accordance with Standard Paragraph G at the end of this notice.

11. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP85–680–000]

July 11, 1985.

Take notice that on July 9, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85–680–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for LOOP, Inc. (LOOP), the construction and operation of a subsea hot tap and abandonment authority for the transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that LOOP has reserved interests in certain quantities of gas produced in offshore Louisiana. Tennessee has agreed to receive the natural gas produced from such supply sources and redeliver thermally equivalent volumes to LOOP for its own use. It is explained that pursuant to the terms of a June 10, 1985, gas transportation agreement between Tennessee and Tenngasco Corporation (Tenngasco), acting as agent for LOOP, Tennessee would accept and receive on an interruptible basis, up to 3,000 Mcf of natural gas per day for the account of LOOP from points of receipt located in Vermilion Area Block 122; East Cameron Block 129; Ship Shoal Area Block 181; Eugene Island Area Blocks 215 and 343; and Bay Marchand Block 5, all in offshore Louisiana. In addition, Tennessee states that it would have the right to accept excess quantities provided that such excess quantities do not exceed 2,000 Mcf per day.

It is stated that Tennessee would then transport and redeliver thermally equivalent quantities, less volumes for Tennessee's fuel and uses and lost and unaccounted for volumes, due to processing, to LOOP at a proposed subsea interconnection between the facilities of Tennessee and LOOP to be constructed in Grand Isle Block 39, offshore Louisiana. It is also stated that deliveries of plant volume reductions would be made to the Ycloskey Processing Plant, onshore Louisiana, from the Ship Shoal Block 181, Eugene Island Block 215 and 343, and Bay Marchand receipt points and to the Blue Water Processing Plant, onshore Louisiana, from the Vermilion Block 122 and East Cameron Block 129 receipt points. Tennessee submits that the term of the transportation agreement expires December 31, 1988. Tennessee requests abandonment authorization to be effective 11:59 P.M. CST December 31, 1988.

It is asserted that in order to effectuate the deliveries from Tennessee to LOOP, Tennessee proposes to install a subsea hot tap and valve on its existing 12-inch line in Grand Isle Block 39, offshore Louisiana. Tennessee estimates the cost of installing the proposed facilities to be $243,500. It is stated that LOOP has agreed to reimburse Tennessee for all costs and expenses incurred in the construction of Tennessee's hot tap and appurtenant facilities necessary to connect the facilities of LOOP and to effect the transportation service. It is explained that all funds necessary for the proposed construction would be supplied from current working funds available to Tennessee and its parent, Tenneco Inc. It is also explained that LOOP would use the gas transported by Tennessee to generate electricity for use on its offshore oil port facilities in Grand Isle Block 59, offshore Louisiana.

It is submitted that Tennessee would charge Tenngasco for the transportation service a volume charge equal to the product of 10.63 cents multiplied by the total volume in Mcf of gas delivered by Tennessee for the account of Tenngasco during the month. In addition to the volume charge, the GRI surcharge of 1.25 cents per Mcf would be assessed. It is submitted that Tennessee would also charge Tenngasco a minimum monthly bill which would consist of the volume charge of 10.63 cents multiplied by the minimum bill volume, which would consist of the number of days in said month multiplied by sixty-six and two-thirds percent of the transportation quantity; provided, however, that the minimum bill volume would be reduced by the volumes tendered and not taken by Tennessee and by the volumes retained for Tennessee's system fuel and uses and gas lost and unaccounted for. It is also stated that Tennessee would charge Tenngasco for plant volume reduction a charge equal to 7.51 cents per Mcf of plant volume reduction delivered to the Blue Water Processing Plant from the Vermilion Block 122 receipt point, 7.82 cents per Mcf of plant volume reduction delivered to the Blue Water Processing Plant from East Cameron Block 129 receipt point, 9.82 cents per Mcf of plant volume reduction delivered to the Ycloskey Processing Plant from the Ship Shoal Block 181 receipt point, 10.94 cents per Mcf of plant volume reduction delivered to the Ycloskey Processing Plant from the Eugene Island Block 215 receipt point, 6.71 cents per Mcf of plant volume reduction delivered to the Ycloskey Processing Plant from the Bay Marchand receipt point, and 11.35 cents per Mcf of plant volume reduction delivered to the Ycloskey Processing Plant from the Eugene Island 343 receipt point. Additionally, it is explained, LOOP would provide to Tennessee 1.3 percent of the daily volume of gas received for delivery at the Grand Isle 39 point of delivery for Tennessee's fuel and uses and gas lost and unaccounted for as well as 1.2 percent of the daily volumes of plant volume reduction received at Vermilion Block 122, East Cameron Block 139, and Bay Marchand, 1.5 percent of the daily volumes of plant volume reduction received at Ship Shoal Block 181, and 1.7 percent of the daily volumes of plant volume reduction received at Eugene Island 215 and Eugene Island 343 for Tennessee's fuel and uses and gas lost and unaccounted for.

Finally, Tennessee states it would charge a liquids transportation charge for transportation of liquid hydrocarbons to separation facilities at Pecan Island, Vermilion Parish, Louisiana, Cocodrie, Terrebonne Parish, Louisiana, or Leeville, Lafourche Parish,

Louisiana, depending on the point of receipt involved.

the proposed activity shall be deemed to be authorized effective the day after the

The facility located at Morehouse, Missouri is a cogeneration facility and a

North Capitol Street N.E., Washington, D.C. 20426, in accordance with Rules 211

gas per year; Shell has stated it could purchase 34 MMth per year.

Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and

VOL
50
ISS
140
JL
22
1985
UMI

Louisiana, depending on the point of receipt involved.

Tennessee maintains that the proposed service would assist LOOP in obtaining a less expensive source of energy to generate electricity on it soffshore oil port facilities.

Comment date: July 31, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the conquest. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Act.

Kenneth F. Plumb,

Secretary.

[FR 85-17287 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-583-000 et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; O'Brien Energy Systems, Inc., et al.

July 12, 1985.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. O'Brien Energy Systems Inc.

[Docket No. QF85-583-000]

On June 7, 1985, O'Brien Energy Systems Inc. (Applicant), Green and Washington Streets, Downingtown, Pennsylvania, 19335 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is a gas turbine-steam turbine combined cycle cogeneration plant. The primary energy source for the cogeneration facility will be natural gas. The power production capacity of the facility will be approximately 41 MW electrical, with average thermal output of 23,750 lbs/hr. steam. The facility will be located at the manufacturing site of Merchants Refrigerating Company, 950 South Sanborn Road, Salinas, California, 93901. Installation will begin in June 1986 with commencement of operation planned for June 1987.

2. Himmelberger-Harrison Co., Inc.

[Docket No. QF85-565-000]

On June 24, 1985, Himmelberger-Harrison Company, Inc. (Applicant), P.O. Box 108, Morehouse, Missouri 63868 submitted for filing an application for certification of a facility as a cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility located at Morehouse, Missouri is a cogeneration facility and a small power producer. The facility consists of a biomass fired boiler, an extraction turbine and a condensing turbine. The cogeneration aspect of the plant utilizes a topping cycle extraction turbine. The thermal energy remaining in the extracted steam is used in plant process to dry lumber and heat the plant. Electrical output of the cogeneration portion of the facility is approximately 125 kilowatts. Installation of the facility will begin in July 1985 with completion due by October 1985.

3. Himmelberger-Harrison Co., Inc.

[Docket No. QF85-565-001]

On June 24, 1985, Himmelberger-Harrison Company, Inc. (Applicant), P.O. Box 108, Morehouse Missouri, 63868 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility located at Morehouse, Missouri is a cogeneration facility and a small power producer. The facility consists of a biomass fired boiler, an extraction turbine and a condensing turbine. The primary energy source will be kiln dried Hardwood scrap. Electrical output of the small power production portion of the facility will be approximately 400 kilowatts.

4. Swift River/Hafslund Company

[Docket No. QF85-562-000]

On June 24, 1985, Swift River/Hafslund Company (Applicant), of 10 Harbor Street, Danversport, Massachusetts 01923 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located at the Greenville Biomass Project in the Town of Greenville, Maine. The facility will contain a boiler and a steam-turbine generator. The primary energy source will be biomass in the form of wood and wood wastes. The electric power production capacity of the facility will be 13.8 MW.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17288 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-43-000]

Cascade Natural Gas Corporation; Petition for Exemption and Interim Relief

Issued: July 18, 1985.

Take notice that on July 1, 1985, the Cascade Natural Gas Corporation (Cascade) filed a petition with the Commission under section 206(d) of the Natural Gas Policy Act of 1978 (NGPA) and § 282.206(b) of the Commission's regulations for an exemption from the Commission's incremental pricing rules with regard to proposed natural gas sales to Mobil Oil Corporation and Shell Oil Company for use in their non-exempt industrial facilities. In addition Cascade requests interim relief under Rule 1113 of the Commission's rules of practice and procedure.

Cascade asserts that its sales to industrial customers have declined precipitously and as a result its high-priority customers have absorbed a greater portion of the system's fixed costs. Cascade states that Mobil and Shell have refinery by-products, primarily No. 6 fuel oil, available to them for use at the facilities in question at prices lower than those Cascade is required to charge for natural gas under the Commission's incremental pricing rules, 18 CFR 282.101 *et. seq.* The disparity in pricing levels between incrementally priced natural gas and the alternative fuel available to Mobil and Shell has continued without material change for an extended period, and Cascade asserts that without the requested exemption its sales of gas to Mobil and Shell will not be economically feasible, and accordingly, will not be made. If the requested exemption is granted, Mobil has stated it could purchase 22 MMth of natural gas per year; Shell has stated it could purchase 34 MMth per year.

Cascade also states that its facilities are currently underutilized and that the proposed sales to Mobil and Shell will contribute $2.7 million per year to Cascade's total fixed costs, and reduce or eliminate the need for a general rate increase by Cascade. Cascade asks for interim relief in order to realize the benefits of the proposed sales as soon as possible.

The procedures applicable to the conduct of this proceeding are found in Subpart K of the Commission's rules of practice and procedure, 18 CFR 385.1101-.1117 (1985). Any person desiring to participate in this proceeding shall file a motion to intervene in accordance with Rule 1105 of the Commission's rules of practice and procedure. All motions to intervene must be filed within fifteen days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretory.

[FR Doc. 85-17357 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-582-000]

Ogden Martin Systems of Bristol, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 18, 1985.

On June 27, 1985, Ogden Martin Systems of Bristol, Inc., (Applicant) of 140 East Ridgewood, Paramus, New Jersey 07652 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility, known as the Bristol, Connecticut Resource Recovery Project, will be located in the City of Bristol, Connecticut. The facility will generate electric power by burning municipal solid waste (MSW) as the primary energy source. The net electric power production capacity of the facility will be 13.2 MW. The only planned usage of natural gas will be for the purpose of warming boiler prior to ignition of the MSW that will not exceed 25 percent of total energy input during any calendar year.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17290 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-612-000 et al.]

Centel Corp. et al.; Electric Rate and Corporate Regulation Filings

July 15, 1985.

Take notice that the following filings have been made with the Commission.

1. Centel Corporation

[Docket No. ER85-612-000]

Take notice that Centel Corporation on July 8, 1985, tendered for filing a proposed Appendix No. 1 to Service Schedule P (Participation Power Service) and Appendix No. 1 to Service Schedule J (Displacement Power Service), both as a part of the Electric Interconnection and Interchange Agreement between Centel Corporation and Sunflower Electric Cooperative, Inc., dated June 3, 1980. These Appendixes contain the determination calculations for the contract year beginning June 1, 1985 and ending May 31, 1986.

Centel proposes an effective date of June 1, 1985 for the proposed Appendixes and therefore request waiver of the Commission's notice requirements.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket No. ER85-615-000]

Take notice that Commonwealth Edison Company, on July 9, 1985, tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes revised the Electric Service Contract between Commonwealth Edison Company and the City of St. Charles, Illinois, to provide for a new

point of electric supply to the City by the Company.

Delivery at PGandE's Tesla Substation ("Tesla"), and to increase the Contract

Comment date: July 29, 1985, in accordance with Standard Paragraph E

11. The Kansas Power and Light

1. Natural Gas Pipeline Company of

ST85-1051, for a 120-day period

VOL 50 ISS 140 JL 22 1985 UMI

point of electric supply to the City by the Company.

A copy of the filing has been served upon the City of St. Charles, Illinois.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Consolidated Edison Company of New York, Inc.

[Docket No. ER85-607-000]

Take notice that on July 8, 1985, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing as an initial rate schedule an agreement to provide transmission service to the Power Authority of the State of New York ("NYPA"). The Rate Schedule provides for a monthly transmission charge of $0.89 per kilowatt for firm transmission of power and energy sold by NYPA to Municipal Distribution Agencies ("MDAs") on Long Island and for an interruptible transmission rate of 2.7 mills per kwh for any additional interruptible service that NYPA might schedule to the MDAs.

Con Edison requests a waiver of notice requirements so that the Rate Schedule can be made effective as of July 1, 1985.

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power and Light Company

[Docket No. ER85-380-003]

Take notice that on June 17, 1984 ("FPL"), tendered for filing, in compliance with the Commission's order of May 17, 1985, revised rates and cost support data which reflect the Commission's determination that summarily disallowed FP&L's inclusion of accumulated deferred investment tax credits (ADITC) as a separate component of its capital structure.

Comment date: July 29, 1985, in accordance with Standard Paragraph H at the end of this notice.

5. Pacific Gas and Electric Company

[Docket No. ER85-614-000]

Take notice that on July 9, 1985, Pacific Gas and Electric Company ("PGandE") tendered for filing changes to the rate schedules under the Interconnection Agreement between PGandE and the City of Santa Clara (the "Santa Clara Agreement").

The Santa Clara Agreement provides for firm transmission service between Points of Receipt and Points of Delivery. The City of ("Santa Clara") wishes to include new Points of Receipt and Delivery at PGandE's Tesla Substation ("Tesla"), and to increase the Contract Coincident Rate of Delivery and the Maximum Rate of Delivery at the city of Santa Clara. The new Points of Receipt and Delivery at Tesla will allow Santa Clara to import power over the existing Pacific Northwest-Southwest Intertie pursuant to the assignment by the Sacramento Municipal Utility District ("SMUD") of transmission service under its EVH contract (FERC Docket No. ER85-342-000). PGandE requests an effective date of June 1, 1986.

PGandE requests that these new Points of Receipt and Delivery will be effective only until the earliest of the following:

(1) May 1, 1986; or

(2) The date when the California-Oregon Transmission Project (the "Project") becomes operational; or

(3) The date when the participation of PGandE in the Project is terminated because the approvals required under section 11.4 of the Project's Memorandum of Understanding (the "MOU") cannot be obtained or because those approvals are unsatsifactory to PGandE; or

(4) The date when the Project is terminated prior to its operation, such termination to be deemed to have occurred on January 1, 1993, if no work has been on the Project for three years prior to that date.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of New Mexico

[Docket No. ER85-608-000]

Take notice that on July 8, 1985, Public Service Company of New Mexico filed a petition to amend the fuel adjustment clause in its wholesale rate schedules for service to the Cities of Gallup and Farmington, New Mexico, the Department of Energy—Los Alamos, Plains Electric Generation and Transmission Cooperative, Inc., and Texas-New Mexico Power Company. PNM proposes to revise its fuel adjustment clause to exclude the effect of the availability of test energy from Palo Verde Nuclear generating station Units 1, 2, and 3 from the calculation of its fuel adjustment charges and to include fees for the disposal of spent nuclear fuel and/or high level radioactive waste in such charge. PNM requests that its revisions become effective as of June 12, except for Gallup, for whom the change is proposed to become effective as of September 2, 1986.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Union Electric Company

[Docket No. ER85-610-000]

Take notice that Union Electric Company, on July 8, 1985, tendered for filing First Amendment dated June 20, 1985, to the Wholesale Electric Service Agreement of March 17, 1980 between City of Farmington, Missouri, and Union Electric Company.

Union Electric states the purpose of the amendment is to provide for a new delivery point between the parties.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Union Electric Company

[Docket No. ER85-611-000]

Take notice that Union Electric Company, on July 8, 1985, tended for filing Third Amendment dated June 11, 1985, to the Interchange Agreement of June 28, 1978 between Associated Electric Cooperative, Incorporated, and Union Electric Company.

Union Electric states the purpose of the Amendment is to provide for revised reservation charges for certain classes of power, to establish a new class of power, Term Energy, and to comply with FERC Order No. 84.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Vermont Yankee Nuclear Power Corporation

[Docket No. ER85-300-002]

Take notice that on May 31, 1985, Vermont Yankee Nuclear Power Corporation tendered for filing, pursuant to the Commission's order of May 1, 1985, the original and six copies of executed amendments to its power contracts with each of its sponsors specifying a 15.5% return on common equity.

Comment date: July 29, 1985, in accordance with Standard Paragraph H at the end of this notice.

10. Kansas Gas and Electric Company

[Docket No. ER85-432-001]

Take notice that on July 1, 1985, Kansas Gas and Electric Company tendered for filing information relating to its filing for revised rates in compliance with a deficiency letter from the Commission dated June 4, 1985.

Comment date: July 29, 1985, in accordance with Standard Paragraph H at the end of this notice.

11. The Kansas Power and Light Company

[Docket No. ER85-613-000]

Take notice that on July 8, 1985, The Kansas Power and Light Company (KPL) tendered for filing a proposed cancellation of FPC Rate Schedule No. 166. Said rate schedule was dated December 7, 1984 between the City Netawaka and KPL.

KPL states that the termination of the contract will be effective not later than September 1, 1985.

Comment date: July 29, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17354 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-647-000 et al.]

Natural Gas Pipeline Company of America et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission.

1. Natural Gas Pipeline Company of America

July 12, 1985.

[Docket No. CP85-647-000]

Take notice that on June 25, 1985, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-647-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Wabash Alloys, Inc. (Wabash), an industrial end-user of the gas, under the certificate issued in Docket No. CP82-402-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural proposes to transport a maximum of 4.3 billion Btu equivalent of natural gas per day for Wabash pursuant to the terms of a May 1, 1985, gastransportation agreement between the two parties. Natural states that it would charge Wabash a transportation fee of 27.2 cents per dt equivalent of gas plus the Gas Research Institute's surcharge funding unit per dt (currently 1.21 cents per dt) as shown on Sheet No. 5A of Natural's FERC Gas Tariff, Volume No. 1, for gas transported from Woodward County, Oklahoma, to its interconnection with Northern Indiana Public Service Company (NIPSCO) on the border between Cook County, Illinois, and Lake County, Indiana. It is explained that NIPSCO, the local distribution company, would redeliver the natural gas to Wabash which would use the gas in its aluminum smelting operations at its Wabash, Indiana, plant. The request states that the gas would be sold to Wabash by Park-Ohio Energy, Inc., *et al.*, and initially would be delivered to Natural by Oklahoma Natural Gas Company, a Division of ONEOK Inc.

Natural also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Natural would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Natural advises that the transportation service commenced on May 1, 1985, as reported in Docket No. ST85-1051, for a 120-day period terminating August 29, 1985. Natural proposes to continue this service without cessation until the earlier of (1) an effective date of a final rule in Docket No. RM85-1-000, (2) October 21, 1985, under the requested authorization, or (3) May 1, 1987, when the subject gas transportation agreement expires by its own terms.

Comment date: August 26, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Natural Gas Pipeline Company of America

July 12, 1985.

[Docket No. CP85-653-000]

Take notice that on June 27, 1985, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-653-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Westvaco Corporation (Westvaco) under the certificate issued in Docket No. CP82-402-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural states that it proposes to transport a maximum of 10 billion Btu's of natural gas per day for Westvaco from Polk County, Texas to Vermilion Parish, Louisiana, Cameron Meadows in Cameron Parish, Louisiana and near Lowery in Cameron Parish, Louisiana. It is stated that Natural would charge transportation fees of 8.9 cents, 5.2 cents an 7.1 cents per million Btu of gas received by Natural for the account of Westvaco in Polk County, Texas and delivered in Vermilion Parish, Louisiana, Cameron Meadows in Cameron Parish, Louisiana and near Lowery in Cameron Parish, Louisiana, respectively.

Natural further states that it commenced this service on May 1, 1985 pursuant to §157.209(e)(1) for a 120-day period that terminates August 29, 1985. Natural states that it proposes to continue this service from August 29, 1985, until the earlier of (1) an effective date of a final rule in Docket No. RM85-1-000, (2) the date authorization would expire (presently October 31, 1985), under the notice procedure authorization, or (3) May 1, 1986, pursuant to the April 8, 1985, gas transportation agreement between Natural and Westvaco.

Natural also requests flexible authority to add or delete receipt/

delivery points associated with sources of gas acquired by the end-user. The

stipulation and agreement approved by the Commission's letter order issued

The gas would be purchased by Bethlehem from Northern Gas

seeking authority to transport gas pursuant to all the terms and conditions

It is claimed Rate Schedule TF-1 is

accommodated, based upon Applicant's

VOL 50 ISS 140 JL 22 1985 UMI

delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Natural would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 28, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Michigan Consolidated Gas Company—Interstate Storage Division

[Docket No. CP85-646-000]

July 15, 1985.

Take notice that on June 25, 1985, Michigan Consolidated Gas Company (Mich Con), 500 Griswold Street, Detroit, Michigan 48226, filed in Docket No. CP85-646-000 a request pursuant to §157.205 of the Commission' Regulations under the Natural Gas Act (18 CFR 157.205) for authority to undertake a storage service for AMCA International (AMCA) under the blanket certificate issued in Docket No. CP82-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Mich Con would provide this service through its Interstate Storage Division (ISD) pursuant to §157.213(b) of the Commission's Regulations and a storage service agreement (Agreement) between Mich Con and AMCA dated June 17, 1985. It is explained that pursuant to the Agreement, Mich Con (through ISD) would provide storage service on behalf of AMCA for a period of 5 years. It is stated that ISD would receive up to 100,000 McF (approximately 100 billion Btu) of storage volumes, plus compressor fuel of 0.9 percent of such volumes, which AMCA would cause ANR Pipeline Company (ANR) to tender to ISD for AMCA's account at existing points of interconnection between the pipeline systems of ISD and ANR as the parties agree upon from time to time. ISD would store the gas and redeliver equivalent volumes, exclusive of compressor fuel, to ANR for AMCA's account.

It is asserted that ISD would receive 49.22 cents per Mcf of storage contract demand ($4,102 per month). It is stated that such revenues received by ISD would be refunded to ISD's customers in accordance with Article IX of the stipulation and agreement approved by the Commission's letter order issued January 11, 1985, in Docket No. RP84-13-000.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-541-000]

July 15, 1985.

Take notice that on May 24, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-541-000 a request pursuant to §157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Bethlehem Steel Corporation (Bethlehem) under the authorization issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commisssion and open to public inspection.

Northern states that the proposed transportation service would be performed in accordance with a transportation agreement dated March 15, 1985, which provides for the transportation of up to 20,000 Mcf of natural gas per day. Such gas would be received at an existing interconnection between Northern and Funk Fuels Corporation in Beaver County, Oklahoma. Northern would deliver equivalent volumes for the account of Bethehem at a common point on Northern's system at Oasis, Pecos County, Texas. The gas transported to Oasis would then be delivered by displacement for the account of Bethlehem at the facilities of Columbia Gulf Transmission Company (Columbia Gulf) at Egan, Arcadia Parish, Louisiana (Egan). It is explained that Columbia Gulf would transport the gas to Columbia Gas Transmission Corporation which then would transport it to Columbia Gas of Pennsylvania, Inc., the local distribution company for ultimate delievery to Bethlehem's Hanover Quarry, Pennsylvania, plant. Northern further indicates that this same route would be used to serve Bethlehem's plants at Steelton and Bethlehem, Pennsylvania, with the exception that the local distribution company is UGI Corporation. Northern proposes to transport gas through December 31, 1986.

Northern states that it would charge Bethlehem 10.92 cents per Mcf and retain 1.25 percent of the gas for fuel. The gas would be purchased by Bethlehem from Northern Gas Marketing, Inc., and would be used as boiler, reheat furnace, and lime kiln fuel at Bethlehem's plants in Steelton, Hanover Quarry, and Bethlehem, Pennsylvania.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-671-000]

July 12, 1985.

Taken notice that on July 2, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-671-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the establishment of four transportation rate schedules and blanket authorization to provide firm and interruptible transportation service pursuant to such rate schedules, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to establish two new transportation rate schedules, Rate Schedle TF-1 and Rate Schedule IT-1, to be incorporated in Applicant's FERC Gas Tariff, Third Revised Volume No. 1 (Volume 1 Tariff) and to establish two new transportation rate schedules, Rate Schedule TF-1 and Rate Schedule IT-1 to be incorporated in Applicant's FERC Gas Tariff, Original Volume No. 2 (Volume 2 Tariff). It is stated that Rate Schedule TF-1 is proposed to become a permanent part of Applicant's Volume 1 and Volume 2 Tariffs and reflects the rules and regulations proposed in Docket No. RM85-1. It is claimed that the appropriate time Applicant would file any necessary changes to Rate Schedule TF-1 to comply with the conditions issued in the final order in Docket No. RM85-1. It is further stated that Rate Schedule IT-1 is proposed to be an interim rate schedule under Applicant's Volume 1 and Volume 2 Tariffs and would terminate on the date that Applicant implemented a new rate schedule reflecting the requirements of the final order issued in Docket No. RM85-1. Applicant also proposes blanket authorization to transfer existing firm entitlement under Rate Schedules CD-1 or CDO-1 to proposed Rate Schedule TF-1 and vice versa to achieve maximum flexibility under the proposed transportation program. It is claimed that other than establishing four new transportation rate schedules and seeking authority to transport gas pursuant to all the terms and conditions set forth in Rate Schedules TF-1 and IT-1 of Applicants Volume 1 and Volume 2 Tariffs, respectively, Applicant proposes no changes in currently authorized facilities or services.

Applicant states that as the price of natural gas in the spot or short term markets has continued to compete with the price of gas in the long-term contract market, it has received numerous requests for transportation service on behalf of local distribution customers and end-users within its market area. It is asserted that in response to competitive forces in the marketplace Applicant proposes to establish four new transportation services in order to complement its existing transportation services. It is averred that these proposed rate schedules would complement Applicant's on-going efforts to transport gas to off-system markets and would provide Applicant's utility customers greater flexibility in rates and services to adjust to rapidly changing Market conditions to serve more effectively and efficiently their market requirements and to promote end-user utilization of its distributor's facilities. It is further averred that both a firm and interruptible transportation service would be available to Applicant's customers which services may displace sales on Applicant's system.

Applicant proposes to continue transportation for existing on-system end-users and on-system utility customers which are being provided transportation services under Rate Schedule EUT-1 of Applicant's Volume 1 Tariff and/or Part 284 of the Commission's Regulations, respectively, until the termination date of their existing contracts. It is stated that when the proposed rate schedules become effective any on-system utility customers woud be allowed to have its own gas supply transported under the proposed Rate Schedules TF-1 or IT-1 of Applicant's Volume 1 and Volume 2 Tariffs, whichever would be applicable.

Applicant asserts it would continue to be active in transporting gas to off-system markets, and that such transportation services would be subject to available capacity and Applicant's approved transportation rates for such services.

Applicant states its proposed Rate Schedule TF-1 would be available for the transportation of natural gas to any of Applicant's distribution customers (Shipper) purchasing contract demand from Applicant pursuant to Rate Schedules CD-1 or CDO-1 under Applicant's Volume 1 Tariff.

It is claimed Rate Schedule TF-1 is designed to be an integral part of Applicant's unbundled services as a capacity reserved service. It is stated that the provisions of transfer to Rate Schedule TF-1 and the TF-1 rates are designed to allow Shippers the opportunity to access competing supplies of gas while minimizing the potential for cost shifting among customers.

Service rendered under Rate Schedule TF-1, up to the transportation demand quantity (TDQ) would be firm reservation of capacity and would not be subject to interruption, it is stated.

Applicant explains that the TDQ would be the maximum daily volume of natural gas that it is obligated to receive and transport for Shipper at the receipt point(s), and delivery point(s), respectively, as set forth in the TF-1 transportation service agreement, which would be required to be executed between Applicant and Shipper for service under the rate schedule, except as provided in Section 8 of the rate schedule.

It is claimed that in order to plan and accommodate system supply sales requirements a minimum one-year term would be required for all service agreements executed under Rate Schedule TF-1.

Applicant states that upon requesting an initial TDQ under Rate Schedule TF-1 the Shipper would have the right to request a concurrent reduction in his effective firm entitlement under Rate Schedules CD-1 or CDO-1 by an amount not exceeding the requested TDQ. It is further stated the TDQ may be increased or decreased as long as there is a corresponding increase or decrease in sales firm entitlement under Rate Schedules CD-1 or CDO-1, such that the net effect on the Shipper's total firm entitlement for transportation and sales is zero. It is claimed the Shipper would be required to execute new service agreements for any change in service and that Applicant would require the Shipper to nominate on or before May 1 of each year, commencing May 1, 1986, any changes in the TDQ under Rate Schedule TF-1 and corresponding changes in its sales firm entitlement under Rate Schedules CD-1 or CDO-1. Once the customer has transferred sales firm entitlement to transportation firm entitlement, it is stated, such customer would relinquish his right to that transferred sales firm entitlement under Rate Schedules CD-1 or CDO-1. It is claimed Applicant would notify Shipper by September 1 of each year as to when and to the extent such increase or decrease can be accommodated, based upon Applicant's ability to provide the transportation service without detriment or disadvantage to its sales customers and subject to its operating and system requirements. Applicant states that in its sole judgement it may waive the nomination period if conditions warrant such action.

Applicant states this nomination would not preclude Shipper from requesting any additions or deletions to the receipt point(s) or delivery point(s) of the TF-1 transportation service agreement.

Applicant proposes to charge a two part rate for service rendered under Rate Schedule TF-1. It is explained that the demand rate proposed to be charged would be equivalent to the currently effective demand rate under Rate Schedules CD-1 or CDO-1 applicable to the rate zone which contains the delivery point(s) where gas would be delivered by Applicant to Shipper. It is asserted that the commodity rate proposed to be charged per Mcf at 1000 Btu, would be equivalent to the non-gas component of Applicant's CD-1 or CDO-1 commodity rate per Mcf at 1000 Btu (whichever is applicable) for the rate zone applicable to the delivery point(s) where gas is being transported by Applicant to Shipper. Applicant also proposes to charge Shipper the currently effective GRI surcharge. In addition, Applicant claims it would charge a commodity rate of 21.56 cents per Mcf at 1000 Btu for fuel and unaccounted-for losses based upon the same factor as currently included in Applicant's Purchased Gas Adjustment filing in Docket No. TA85-3-59. It is further stated that in the event the daily quantities of natural gas Shipper delivers or causes to be delivered to Applicant at the designated receipt point(s) exceed 110 percent or is less than 90 percent of the nominated quantity as established in section 7 of Rate Schedule TF-1, Applicant would have the right to charge Shipper a penalty of $5.00 for each Mcf of deliveries which are above or below such limitations.

It is stated that Shipper would be responsible for all costs associated with delivering the gas to the specified receipt points on Applicant's system for transportation by Applicant and that Applicant would have the right to charge Shipper a total incremental cost of service or, alternatively, a one-time charge associated with any new facilities constructed and paid for by Applicant to enable Applicant to receive or delivery volumes of gas. It is claimed that such cost of service would be based

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upon the cost of service methodologies and factors underlying Applicant's currently effective rates.

It is asserted that for billing purposes all volumes nominated under Rate Schedule TF–1 would be considered the first volumes delivered to Shipper each day.

It is asserted no change in the total firm entitlement of Shippers would result from the implementation of this rate schedule, since the sum of the TDQ contracted for under Rate Schedule TF–1 plus the adjusted sales firm entitlement of the Shipper would equal the currently effective firm entitlement for the respective Shipper under currently existing service agreements as detailed in the Index of Purchasers contained in Applicant's Volume 1 Tariff.

Applicant states that its proposed Rate Schedule IT–1 would be a best efforts interruptible transportation service available to any Shipper who has executed a transportation service agreement for the transportation of natural gas under Rate Schedule TF–1 of Applicant's Volume 1 Tariff.

Applicant claims that some of its customers may desire a short-term, interruptible transportation service for spot market gas and that Rate Schedule IT–1 would be available to accommodate such need. It is asserted that Rate Schedule IT–1 would terminate after the final order issued in Docket No. RM85–1.

It is claimed Rate Schedule IT–1 would be applicable for the transportation of natural gas in excess of Shipper's TDQ, under Applicant's Rate Schedule IT–1 of its Volume 1 Tariff. Applicant asserts service rendered under this rate schedule would be interruptible service subject to interruption as deemed necessary in Applicant's sole judgement.

It is stated that for all volumes of natural gas transported under Rate Schedule IT–1, Shipper would pay Applicant a commodity rate Mcf at 1000 Btu equivalent to the commodity rate charged under proposed Rate Schedule TF–1 for the rate zone applicable to the delivery point(s) where gas would be delivered to Shipper. In addition it is stated Applicant would charge Shipper the currently effective GRI Surcharge.

In addition Applicant states it would charge Shipper a commodity rate per Mcf at 1000 Btu for fuel and unaccounted-for losses which rate Applicant claims is equivalent to the fuel rate charged under its proposed Rate Schedule TF–1 of its Volume 1 Tariff.

It is further stated that in the event the daily quantities of natural gas Shipper delivers or causes to be delivered to Applicant at the designated receipt point(s) exeed 110 percent or is less than 90 percent of the nominated quantity as established in section 7 of Rate Schedule IT–1, Applicant would have the right to charge Shipper a penalty of $5.00 for each Mcf of deliveries which are above or below such limitations.

It is stated that Shipper would be responsible for all costs associated with delivering the gas to the specified receipt points on Applicant's system for transportation by Applicant and that Applicant would have the right to charge Shipper a total incremental cost of service or, alternatively, a one-time charge associated with any new facilities constructed and paid for by Applicant to enable Applicant to receive or deliver volumes of gas. It is claimed that such cost of service would be based upon the cost of service methodologies and factors underlying Applicant's currently effective rates.

It is asserted that for billing purposes all volumes nominated pursuant to Rate Schedule IT–1 would be considered the second volumes delivered each day.

Applicant asserts that Rate Schedule TF–1 proposed to be included in Applicant's Volume 2 Tariff would be a firm transportation service available to any Shipper currently purchasing natural gas from Applicant pursuant to Applicant's Panhandle, Plains, or Permian area rates under Applicant's Volume 2 Tariff.

It is claimed Rate Schedule TF–1 is designed to be an integal part of Applicant's unbundled services as a capacity reserved service. It is stated that the provisions of transfer to Rate Schedule TF–1 and the TF–1 rates are designed to allow users the opportunity to access competing supplies of gas while minimizing the potential for cost shifting among customers.

Service rendered under Rate Schedule TF–1, up to the TDQ would be a firm reservation of capacity and would not be subject to interruption, it is stated.

Applicant explains that the TDQ would be the maximum daily volume of natural gas that it is obligated to receive and transport for Shipper at the receipt point(s) and delivery point(s), respectively, set forth in the TF–1 transportation service agreement, which would be required to be executed between Applicant and Shipper for service under Rate Schedule TF–1.

It is claimed that in order to plan and accommodate system supply sales requirements a minimum one-year term would be required for all service agreements executed under Rate Schedule TF–1.

Applicant states that upon requesting an initial TDQ under Rate Schedule TF–1 the Shipper would have the right to request a concurrent reduction in its effective firm entitlement, as defined in Shipper's respective rate schedule, by an amount not exceeding the requested TDQ. It is further stated the TDQ may be increased or decreased as long as there is a corresponding increase or decrease in the sales firm entitlement as defined in Shipper's respective rate schedule. It is stated that the Shipper would be required to execute the necessary service agreements reflecting such changes. Applicant states it would require Shippe- to nominate, on or before May 1 of each year, commencing May 1, 1986, any changes in the TDQ and corresponding changes to their firm entitlement demand, and that Applicant would notify Shipper by September 1 of each year as to the extent such nomination can be accommodated, based upon Applicant's ability to provide the service without detriment or disadvantage to its existing sales customer and subject to its operating and system requirements. Applicant states that in its sole judgment it may waive the nomination period if conditions warrant such action.

Applicant states this nomination procedure would not preclude Shipper from making any requested additions or deletions to the receipt point(s) or delivery point(s) of the transportation service agreement.

Applicant proposes to charge a one-part commodity rate for service rendered under this rate schedule. The proposed commodity rate per Mcf at 1000 Btu for transportation services would be determined by the area applicable to the delivery point(s) where gas is being transported by Applicant to Shipper, it is claimed. Applicant also proposes to charge Shipper the currently effective GRI Surcharge. Shipper would also be charged a commodity rate of 21.56 cents per Mcf at 1000 Btu for fuel and unaccounted-for losses. It is further stated that in the event the daily quantities of natural gas Shipper delivers or causes to be delivered to Applicant at the designated receipt point(s) exceed 110 percent or is less than 90 percent of the nominated quantity as established in Section 7 of Rate Schedule TF–1. Applicant would have the right to charge Shipper $5.00 per Mcf for deliveries of natural gas which are above or below such limitations.

It is stated that Shipper would be responsible for all costs associated with delivering gas to Applicant's system for subsequent transportation by Applicant and that Applicant would have the right to charge Shipper a total incremental cost of service or, alternatively, a one-time charge associated with facilities constructed and paid for by Applicant to enable Applicant to receive or deliver volumes of gas. It is claimed that such cost of service would be based upon the cost of service methodologies and factors underlying Applicant's currently effective rates.

It is asserted that for billing purposes all volumes nominated under this rate schedule would be considered the first volumes delivered to Shipper each day.

It is asserted no change in the total contract quantity of Applicant's existing volume 2 customers would result from the implementation of this rate schedule.

Applicant states that its proposed Rate Schedule IT–1, to be included in Applicant's Volume 2 Tariff, would be a best efforts interruptible transporation service available to any Shipper who has executed a transportation service agreement for the transportation of natural gas under Rate Schedule TF–1 of Applicant's Volume 2 Tariff. Applicant states that Rate Schedule IT–1 would be applicable to the transportation of natural gas in excess of Shipper's TDQ under Rate Schedule TF–1 of Applicant's Volume 2 Tariff. It is asserted that service rendered under this rate schedule would be an interruptible service subject to interruption as deemed necessary in Applicant's sole judgment.

It is stated that for all volumes of natural gas transported under this rate schedule Shipper would pay a commodity rate per Mcf as determined by the area applicable to the delivery point(s) where gas would be delivered to Shipper. In addition Applicant proposes to charge Shipper the currently effective GRI Surcharge. It is further stated that Applicant would charge Shipper a commodity rate per Mcf for fuel and unaccounted for losses at a rate equivalent to the fuel rate charged under proposed Rate Schedule TF–1 of Applicant's Volume 2 Tariff.

Applicant explains that for billing purposes all volumes nominated under this rate schedule would be considered second volumes delivered each day to Shipper.

It is claimed that the transportation service pursuant to the proposed Rate Schedule TF–1 of Applicant's Volume 1 or Volume 2 Tariff would be a firm service equal in priority to the sale of gas under Applicant's firm sales rate schedules contained in Applicant's Volume 1 and Volume 2 Tariffs. It is stated that firm sales and transportation services would have priority over interruptible sales and interruptible transportation services when the request for all such services exceeds, on any day, the available transmission capacity. It is averred that in the event curtailment of firm services is required due to capacity constraints on Applicant's system, such curtailment would be performed in accordance with the priorities set forth in Section 9 of Applicant's Volume 1 Tariff or the respective customer sales rate schedule contained in Applicant's Volume 2 Tariff.

Applicant asserts that the Shipper must be aware that the potential exists for isolated system bottlenecks if a number of customers elect to use the same or closely locate receipt points for their transportation service, and that such potential would be discussed with each customer upon implementation of service. Applicant further asserts that it retains the right to reject certain receipt points if capacity does not exist or alternatively to selectively curtail certain customers pursuant to provisions of their transportation service agreement.

Applicant proposes to retain all transportation revenues received under these rate schedules to assist it in recovering the costs underlying Applicant's currently effective sales rates. It is stated that the volumes to be transported under these rate schedules would be volumes that Applicant would otherwise sell under currently effective rate schedules. It is claimed that the proposed rates and revenues treatment would ensure that Shippers continue to bear their fair share of Applicant's system fixed costs and would prevent undue cost shifting. Applicant claims that revenues received for fuel and unaccounted for losses would be credited to its Account No. 191—Unrecovered Gas Purchase Costs.

It is claimed that in order to achieve the maximum flexibility under Applicant's proposal to meet the needs of its Volume 1 Tariff customers, Applicant requests blanket certificate authority to realign the firm entitlement of its existing customers from Rate Schedule(s) CD–1 or DCO–1 to Rate Schedule TF–1, and vice versa, as long as their total firm entitlement under existing service agreements does not change. Applicant proposes to advise the Commission of such transactions by filing the necessary tariff sheets reflecting such changes. Such blanket certificate authority also is requested for Applicant's Volume 2 Tariff customers who realign firm entitlement demand between sales and transportation.

It is asserted that Applicant, its customers, and the Commission would benefit from the efficiencies resulting from the reduction in individual certificate filings by authorizing such blanket authority, and that the ultimate consumer would benefit from the shorter time required for the commencement of the firm transportation service.

Applicant submits that the proposed Rate Schedules TF–1 and IT–1 are in the public convenience and necessity since the proposed rate schedules (1) provide open access to transportation services; (2) proivde alternatives and maximize supply flexibility for Applicant's existing customers; (3) ensure that consumers are provided natural gas service at the lowest reasonable rates consistent with reliable long-term service; and (4) minimize rate consequences to nonparticipating customers.

Comment date: August 1, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. Panhandle Eastern Pipe Line Company

[Docket No. CP85–638–000]

July 15, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85–638–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of North American Refractories Company, an Allied Company (NAR), under the certificate issued in Docket No. DP83–83–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle requests authorization to transport natural gas on behalf of NAR, pursuant to a transportation agreement dated March 25, 1985, between NAR and Panhandle. It is explained that the agreement provides for Panhandle to receive up to 400 Mcf per day of natural gas on an interruptible basis at an existing point of interconnection between Panhandle and Anadarko Land and Exploration Co. (Anadarko) in Custer County, Oklahoma. Panhandle would then transport and redeliver such gas, less a four percent reduction for fuel, to an existing point of interconnection between Panhandle and NAR in Audrain County, Missouri, for use at NAR's facilities in Farber, Missouri. It is stated that NAR is an existing direct industrial sales customer of Panhandle.

NAR would pay Panhandle the rate under Panhandle's Rate Schedule OST.

The currently effective rate is $.8524 per MMBtu.

Panhandle Eastern indicates that it would charge RCA 3.28 cents for each

Gas & Coke would ultimately deliver

any hearing therein must file a motion to intervene in accordance with the

determine whether production-related costs have been charged to CIG by Koch

Energy Regulatory Commission 825 North Capitol Street, NE, Washington

The currently effective rate is $.8524 per MMBtu.

This agreement, it is stated, would be effective from March 25, 1985, for a primary term of six months, and successive terms of one month each, until the earlier of eighteen months from the date thereof, or termination of authorizations for service thereunder pursuant to Subpart F of 18 CFR Part 157.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

7. Panhandle Eastern Pipe Line Company

[Docket No. CP85-641-000]

July 15, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Panhandle Eastern), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-641-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of RCA Corporation (RCA), an industrial customer, under the certificate issued in Docket No. CP83-83 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle Eastern proposes to transport up to 1,300 Mcf of natural gas per day on an interruptible basis for RCA for 18 months should the Commission extend the end-user transportation program beyond June 30, 1985. Panhandle Eastern indicates that the gas to be transported would be purchased from Phillips Petroleum Company (Phillips) and that it would receive said volumes at their existing connections in Kingfisher and Woodward Counties, Oklahoma. Panhandle Eastern states it would transport and deliver said volumes, less a 4 percent retainer, to Citizens Gas and Coke Utility for RCA's account and that Citizens Gas & Coke would ultimately deliver said volumes to RCA for its use as boiler fuel in its Marion County, Indiana facility. Panhandle Eastern further states that Rebel Energy is acting as agent between Phillips and itself for a monthly fee of 3.0 cents per Mcf. It is explained that these volumes represent gas Panhandle Eastern released under section 102 of the Natural Gas Policy Act of 1978. Panhandle Eastern states that it commenced this transportation service on April 26, 1985 under the automatic authorization of § 157.209 of the Regulations and that existing facilities were utilized.

Panhandle Eastern indicates that it would charge RCA 3.28 cents for each Mcf of natural gas delivered to the Kingfisher plant and 3.25 cents for each Mcf delivered to the Cimarron plant, which is in accordance with its Rate Schedule On-System Transportation Service (OST). In addition, RCA would pay a Gas Research Institute surcharge, if applicable, it is stated.

Panhandle Eastern also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Panhandle Eastern would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. Panhandle Eastern Pipe Line Company

[Docket No. CP85-642-000]

July 15, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Panhandle Eastern), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-642-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Quemetco, Inc. (Quemetco), under the certificate issued in Docket No. CP83-83 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle Eastern proposes to transport up to 1,000 Mcf of natural gas per day on an interruptible basis for Quemetco for 18 months should the Commission extend the end-user transportation program beyond June 30, 1985. Panhandle Eastern indicates that the gas to be transported would be purchased from Phillips Petroleum Company (Phillips) and that it would receive said volumes at their existing interconnections with Phillips in Kingfisher and Woodward Counties, Oklahoma. Panhandle Eastern states it would transport and deliver said volumes, less a 4 percent retainer, to Citizens Gas and Coke Utility for Quemetco's account and that Citizens Gas & Coke would ultimately deliver said volumes to Quemetco for its use in its reverbatory furnace, rotary dryers, and lead-meltinga kettle, in its Marion County, Indiana facility. Panhandle Eastern further states that Rebel Energy is acting as agent between Phillips and itself for a monthly fee of 3.0 cents per Mcf. It is explained that these volumes represent gas Panhandle Eastern released under section 102 of the Natural Gas Policy Act of 1978. Panhandle Eastern states that it commenced this transportation service on May 2, 1985 under the automatic authorization of § 157.209 of the Regulations and that existing facilities were utilized.

Panhandle Eastern indicates that it would charge Quemetco 3.28 cents for each Mcf of natural gas delivered to the Kingfisher plant and 3.25 cents for each Mcf delivered to the Cimarron plant, which is in accordance with its Rate Schedule On-System Transportation Service (OST). In addition, Quemetco would pay a Gas Research Institute surcharge, if applicable, it is stated.

Panhandle Eastern also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Panhandle Eastern would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 29, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17355 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP85-29-000]

Colorado Interstate Gas Company v. Koch Industries, Inc., Koch Hydrocarbon Company, Koch Exploration Company; Complaint Filed

July 15, 1985.

On April 29, 1985, Colorado Interstate Gas Company (CIG) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. CIG requests that the Production-Related Costs Board (Board) determine whether production-related costs have been charged to CIG by Koch Hydrocarbon Company and Koch Exploration Company, both wholly-owned subsidiaries of Koch Industries, Inc. (collectively referred to as "Koch"), contrary to 18 CFR 271.1104.

CIG states that it purchases natural gas produced from thirty-nine wells sold under two contracts with Koch at the tailgate of Koch's liquids extraction plant. CIG contends that Koch charged gathering allowances in excess of those permitted by § 271.1104 for both section 105 and 108 wells. CIG notes that they are currently litigating the issue of whether certain wells are properly priced under section 105. They state that their complaint is directed solely to the validity of Koch's claim for production-related costs, assuming the gas is correctly priced as Koch claims, but that CIG does not admit or concede by the filing of this complaint that such price was proper.

CIG further states that Koch is claiming gathering allowances for gas produced from seventeen additional wells which CIG believes are not committed to the two contracts. The issue of whether gas sales from these wells are committed to contracts is the subject of current litigation. CIG states that if the gas is not committed, then Koch is in violation of § 271.1104 because there is no expressed contractual authorization for collection of production-related costs. CIG also states that if it is determined that gas sales from eight of these wells are committed to a contract and properly priced under section 105, then Koch is collecting a gathering charge in excess of that permitted by § 271.1104.

CIG requests that the Board determine (1) the allowable gathering charges for all gas sold by Koch under Section 105, (2) the allowable gathering charge for all gas sold by Koch under Section 108, (3) the propriety of a gathering charge for gas from any well not covered by the terms of either contract, and (4) such other relief as the Board may find just and proper.

Under Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Koch must file an answer to CIG's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Koch shall file its answer with the Commission on or before August 14, 1985.

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests or motions should be filed on or before August 14, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17358 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CS69-6, et al. and CI77-145-003 et al.]

FMP Operating Company (Successor to McMoRan Exploration Co., McMoRan-Freeport Oil Company, McMoRan Offshore Production Co. and McMoRan Offshore Exploration Co.; Mergers and Name Change

July 15, 1985.

Take notice that on June 28, 1985, FMP Operating Company of P.O. Box 6800, Metairie, Louisiana 70009 filed a Notice of Mergers and Name Change.

McMoRan Exploration Co., McMoRan-Freeport Oil Company, McMoRan Offshore Production Co., and McMoRan Offshore Exploration Co. were merged into McMoRan Offshore Exploration Co. on April 4, 1985.

McMoRan Oil & Gas Co. was merged into McMoRan Offshore Exploration Co. on April 9, 1985, and the name of the Corporation was changed to McMoRan Oil & Gas Co.

Thereafter, by general conveyance, McMoRan Oil & Gas Co., the survivor and successor corporation, assigned its interest in the gas production reserves subject to the Rate Schedules and Certificates listed in Exhibit "A" to FMP Operating Company.

The certificates and FERC Gas Rate Schedules of FMP Operating Company, for which amendment to reflect the name change is requested, are listed in the attached Appendix "A".

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to

[Docket No. G-17447-001 et al.]

Phillips Oil Co., et al.; Applications for

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base

385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

EXHIBIT "A"

Field	Rate schedule	Schedule date	Docket No.	Purchaser
Formerly McMoRan-Freeport Oil Company				
Production commenced prior to Freeport becoming Large Producer.		01/16/79	CS 69-6	Small producer exemption.
VE 22	1	01/27/77	CI 77-145-003	TGPL.
VE 22	2	01/27/77	CI 77-148	Florida Gas.
Erick	3	05/23/77	CI 77-192	MRT.
E.C. 263	4	06/27/79	CI 79-245	TGPL.
VE 25	5	06/27/79	CI 79-311	TGPL.
VE 310	6	05/05/80	CI 80-235	TGPL.
W.C. 65	7	02/11/81	CI 81-086	TGPL.
W.C. 65	8	02/11/81	CI 81-086	Florida Gas.
W.D. 34	9	06/05/81	CI 81-275	TGPL.
H.I. 492	10	06/05/81	CI 81-278	TGPL.
Brown Bassett	11	09/17/81	CI 81-365	El Paso.
E.I. 10	12	05/14/82	CI 82-205	TGPL.
E.C. 336	13	09/29/82	CI 82-407	TX Eastern.
Mat. I 527/555	14	12/07/82	CI 83-010	Florida Gas.
VE 217, 218, 225, 226	15	01/11/83	CI 83-42-000	Tennessee Gas.
Formerly McMoRan Offshore Production Co.				
Production commenced prior to 4/7/81		7/18/78	CS 78-233	Small producer exemption.
H.I. 471	1	01/19/82	CI 82-42-001	Columbia Gas.
H.I. 446	2	01/12/82	CI 82-21	TGPL.
H.I. 289/290	3	05/24/82	CI 82-229	TX Eastern.
Formerly McMoRan Offshore Exploration Co.				
Production commenced prior to 4/7/81		7/18/78	CS 78-233	Small producer exemption.
H.I. 447/448	1	06/05/81	CI 81-317	TGPL.
W.C. 464	2	11/27/81	CI 81-494	TX Eastern.
Mat. I 527/555	4	12/07/82	CI 83-011	Florida Gas.
VE 217, 218, 225, 226	5	01/11/83	CI 83-43-000	Tennessee Gas.
VE 146	6	11/18/83	CI 83-448	TX Eastern.
Mat. I. 700	(1)		CI 85-181-000	TGPL.
Formerly McMoRan Exploration Co.				
Production commenced prior to 4/7/81		10/12/71	CS 71-331	Small producer exemption.
New Mexico production commenced prior to 4/7/81		08/02/76	CS 74-29	Small producer exemption.
Shell I. Pass	3	06/26/82	CI 82-329-000	Trunkline.

[1] Filed for 2/1/85.

[FR Doc. 85-17359 Filed 7-19-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-17447-001 et al.]

Phillips Oil Co., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

July 17, 1985.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Policy Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 31 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
G-17447-001 and CI67-1645-000, D, June 28, 1985.	Phillips Oil Company, 336 HS&L Bldg., Bartlesville, Okla. 74004.	Transcontinental Gas Pipe Line Corporation, Ship Shoal Block 33, Offshore, Louisiana.	(1)	
CI85-528-000 (CI71-885-000), B, June 28, 1985.	Chevron U.S.A. Inc., P.O. Box 7643, San Francisco, Calif. 94120.	Tennessee Gas Pipeline Company, West Parc Perdue Field, Vermilion Perish, Louisiana.	(2)	
CI85-531-000 (G-15596), B, July 2, 1985	Phillips Petroleum Company, 336 HS&L Bldg., Bartlesville, Okla 74004	Transcontinental Gas Pipe Line Corporation, Bear Field, Beauregard Parish, Louisiana.	(3)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
CI85-532-000 (CI75-253), B, July 1, 1985.	Union Texas Petroleum, A Division of Allied Corporation, P.O. Box 2120, Houston, Texas 77252-2120.	El Paso Natural Gas Company, Crosby Field, Lea County, New Mexico.	(4)	
CI85-533-000 (CI77-314), B, July 1, 1985.	Unicon Producing Company, P.O. Box 2120, Houston, Texas 77252-2120.	El Paso Natural Gas Company, Sec. 31-T29N-R6W, Dakota Field, Rio Arriba County, New Mexico.	(5)	
CI85-534-000 (CI72-288), B, July 1, 1985.	Union Texas Petroleum, A Division of Allied Corporation.	Northwest Pipeline Corporation, Cisco Dome Field, Grand County, Utah.	(6)	
CI85-535-000 (CI78-398), B, July 1, 1985.	Unicon Producing Company	Transcontinental Gas Pipe Line Corporation, Henry Field, McMullen County, Texas.	(7)	
CI85-536-000 (CI67-1483), B, July 1, 1985.	Union Texas Petroleum Corporation, P.O. Box 2120, Houston, Texas 77252-2120.	Southern Natural Gas Company, Section 26, Dome Field, St. Martin Parish, Louisiana.	(8)	
CI85-537-000 (G-17742), B, July 1, 1985.	Union Texas Petroleum, A Division of Allied Corporation.	El Paso Natural Gas Company, Bisti Field, San Juan County, New Mexico.	(9)	
CI85-538-000 (I76-761), B, July 1, 1985.	do	Columbia Gas Transmission Company, West Cameron Area Block 544, Offshore Louisiana.	(10)	
CI85-539-000, B, July 1, 1985	Philip Lemon Agent, Rt. 1, Cairo, W. Va. 26337	Consolidated Gas Transmission Corporation, Ritchie County, W. Va.	(11)	
CI85-540-000, B, July 1, 1985	Delta Drilling, 200 Fleet Street—Suite 4005, Pittsburgh, Pa. 15220.	Consolidated Gas Transmission Corporation, Clearfield County, Pennsylvania.	(12)	
CI85-541-000, B, July 1, 1985	do	do	(12)	
CI85-542-000, B, July 1, 1985	WEVA Oil Corp., 608 Main Street, Hingham, Mass. 02043.	Consolidated Gas Transmission Corporation, Wirt County, W. Va.	(14)	
CI85-543-000, B, July 1, 1985	E. Davieson Hardman, Box 48A, St. James Drive, Clarksburg, W. Va. 26301.	Consolidated Gas Transmission Corporation, Kinchaloe District, Lewis County, W. Va.	(14)	
CI85-544-000, B, July 1, 1985	Kanawha Drilling Co.—c/o Waco Oil & Gas Co., Inc., P.O. Box 1486, Parkersburg, W. Va. 26101.	Consolidated Gas Transmission Corporation, Acreage in Gilmer County, W. Va.	(14)	
CI85-545-000, B, July 1, 1985	Waco Oil & Gas Co., Inc., 1297 N. Lewis Street, Glenville, W. Va. 26351.	do	(14)	
CI85-546-000, B, July 1, 1985	Morris & Perrill, Box 4, Glenville, W. Va. 26351	do	(14)	
CI85-547-000, B, July 1, 1985	Waco Oil & Gas, 1297 N. Lewis Street, Glenville, W. Va. 26351.	do	(14)	
CI85-548-000, B, July 1, 1985	Meadows Oil Co.—Inields Long Star Rte. Box 4, Harrisville, W. Va. 26362.	Consolidated Gas Transmission Corporation, Murphy District, Ritchie County, W. Va.	(13)	
CI85-549-000, B, July 1, 1985	Energy Unlimited, Inc., J. E. Olds and Zalem Olds, 426 Second Street, Marietta, Ohio 45750.	Consolidated Gas Transmission Corporation, Union District, Wood County, W. Va.	(14)	
CI85-550-000, B, July 1, 1985	Chemico, Inc., Agent Darrell Goe, RD #1, Albion, Pa. 16401.	Consolidated Gas Transmission Corporation, Erie County, Conneaut Township, Pennsylvania.	(14)	
CI85-551-000, B, July 1, 1985	do	do	(14)	
CI85-552-000, B, July 1, 1985	Frank Zickefoose, et al, RD #1, Box 47R, Burgettstown, Pa. 15021.	Hope Natural Gas, Union District, Ritchie County, W. Va.	(15)	
CI85-553-000, B, July 1, 1985	Doran & Associates, Inc., 200 Roessler Road, Pittsburgh, Pa. 15220.	Consolidated Gas Transmission Corporation, Harrison County, W. Va.	(17)	
CI85-554-000, B, July 1, 1985	Worldwide Oil & Gas Co., Box 310, Pineville, W. Va. 24874.	Consolidated Gas Transmission Corporation, Sandy River District, McDowell County, W. Va.	(16)	
CI85-555-000, B, July 1, 1985	James F. Scott, P.O. Box 112, Salem, W. Va. 26426.	Consolidated Gas Transmission Corporation, Acreage in Harrison County, W. Va.	(17)	
CI85-556-000, B, July 1, 1985	do	do	(17)	
CI85-557-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Acreage in Upshur County, W. Va.	(17)	
CI85-558-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Acreage in Barbour County, W. Va.	(17)	
CI85-559-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Acreage in Harrison County, W. Va.	(17)	
CI85-560-000, B, July 1, 1985	Joseph H. Hager, DBA Seneca-Upshur Petroleum, Inc., P.O. Drawer 2048, Buckhannon, W. Va. 26201.	Consolidated Gas Transmission Corporation, Acreage in Upshur County, W. Va.	(16)	
CI85-561-000, B, July 1, 1985	Alton Skinner DBA Chase Petroleum, Agent for Continental Reserves 1979-3, P.O. Drawer 369, Glenville, W. Va. 26351.	Consolidated Gas Transmission Corporation, Greenbrier District, Doddridge County, W. Va.	(17)	
CI85-562-000, B, July 1, 1985	WEVA Oil Corporation, 608 Main Street, Hingham, Mass. 02043.	Consolidated Gas Transmission Corporation, Spring District, Wirt County, W. Va.	(20)	
CI85-563-000, B, July 1, 1985	Carroll Resources, Inc., 5501 Elson Street S.E., Magnolia, Ohio 44643.	Consolidated Gas Transmission Corporation, Acreage in Braxton County, W. Va.	(16)	
CI85-564-000, B, July 1, 1985	Ramco Oil & Gas Corp., P.O. Box 2347, Hollywood, Fla. 33020.	Consolidated Gas Transmission Corporation, Acreage in Mingo County, W. Va.	(21)	
CI85-565-000, B, July 1, 1985	Warren Associates, Inc., 4424 Emerson Avenue, Parkersburg, W. Va. 26104.	Consolidated Gas Transmission Corporation, Acreage in Ritchie County, W. Va.	(17)	
CI85-566-000, B, July 1, 1985	Russell Ware, P.O. Box 11, Cox's Mill, W. Va. 26342.	Consolidated Gas Transmission Corporation, Troy District, Gilmer County, W. Va.	(22)	
CI85-567-000, B, July 1, 1985	Alamco, Inc., P.O. Box 1740, Clarksburg, W. Va. 26301.	Consolidated Gas Transmission Corporation, Southwest District, Doddridge County, W. Va.	(23)	
CI85-568-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Sardis District, Harrison County, W. Va.	(22)	
CI85-569-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Freemans Creek District, Lewis County, W. Va.	(23)	
CI85-570-000, B, July 1, 1985	Union Drilling, Inc., P.O. Box 40, Buchannon, W. Va. 26201.	Consolidated Gas Transmission Corporation, Warren District, Upshur County, W. Va.	(16)	
CI85-571-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Pleasant District, Barbour County, W. Va.	(16)	
CI85-572-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Elk District, Barbour County, W. Va.	(16)	
CI85-573-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Pleasant District, Barbour County, W. Va.	(16)	
CI85-574-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Union District, Upshur County, W. Va.	(16)	
CI85-575-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Eagle District, Harrison County, W. Va.	(16)	
CI85-576-000, B, July 1, 1985	do	Consolidated Gas Transmission Corporation, Pleasant District, Barbour County, W. Va.	(16)	
CI85-577-000 (CI66-1346), B, July 1, 1985.	Unicon Producing Company, P.O. Box 2120, Houston, Texas 77252-2120.	Michigan Wisconsin Pipeline Company, Sec. 18-T22N-R6W, NE Cedardale Field, Major County, Oklahoma.	(24)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base

[Docket No. RP85-168-000

be redesignated as Zapata Exploration Company rate schedules.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI85-578-000, B, July 8, 1985	Samson Resources Company (Succ. to Diamond Shamrock Exploration Company), Samson Plaza, Two West Second Street, Tulsa, Okla. 74103.	Arkansas Louisiana Gas Company, Arkoma Area, South Pocola and Pocola Fields, Leflore County, Oklahoma.	([25])	14.73
CI85-579-000 (CI80-90), B, July 5, 1985.	Geo. Oil and Gas Company of Houston, P.O. Box 2511, Houston, Texas 77001.	El Paso Natural Gas Company, Undesignated RMD Palmer Fields, San Juan County, New Mexico.	([26])	
CI85-580-000 (G-5669), B, July 5, 1985.	Walter Kuhn Drilling Company, P.O. Box 3758, Wichita, Kansas 67201.	Northern Natural Gas Company, Harrison #1 Well, Sec. 31-T30S-R34W, Hugoton Gas Field, Haskell County, Kansas.	([27])	
CI85-581-000 (G-5016), B, July 5, 1985.	Shell Western E&P Inc., P.O. Box 4684, Houston, Texas 77210.	Phillips Petroleum Company, Hugonton Field, Sherman County, Texas.	([28])	
CI85-582-000 (G-5015), B, July 5, 1985.	....do	....do	([29])	
G-6654-000, D, July 11, 1985	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221-2880.	Texas Eastern Gas Transmission Corporation, Delhi, South Field, Franklin Parish, Louisiana.	([29])	
CI68-200-002, D, July 8, 1985	....do	Arkansas Louisiana Gas Company, Peno Field, Sequoyah County, Oklahoma.	([30])	

[1] The wells connected to the Ship Shoal Block 33, "B" Platform have all ceased to produce. The #1 and #3 wells, OCS-G-0336 and OCS-G-0333, respectively, never produced gas in commercial quantities. The date of last production for #2 well, OCS-G-0334, was April 1979, and for the #4 well, OCS-G-0333, was November 1969.
[2] All production from leases committed to Tennessee Gas Pipe Line Company under the contract has ceased. Pursuant to the terms of the lease agreements, leases expired shortly after production ceased. Lessee interests have passed to Lea Exploration, Inc. Chevron is therefore not able to produce further from these leases, or continue sales under the contract.
[3] All of the production related to the Bear Field, in Beauregard Parish, Louisiana has ceased. The gas purchaser Transcontinental Gas Pipe Line Corporation, in conjunction with the operator, Sun Exploration and Production Company, has requested that Phillips file this abandonment.
[4] Producing wells on the acreage dedicated to R.S. 122 were plugged and abandoned in 1975. El Paso disconnected the wells on 5-27-76.
[5] On 5-20-82 in Docket No. CI81-1265-002, *et al.*, Unicon Producing Company filed a request to be designated Successor-In-Interest to Supron Energy Company in R.S. 35. The inclusion of this R.S. was erroneous. Unicon was never assigned Supron's interest in the leases covered by R.S. 35. These leases are owned by Southern Union Exploration Company.
[6] Union Texas' interest in the leases dedicated to R.S. 107 was assigned to NP Energy Corporation. Sales by UTP have not been made under this R.S. since December 1977.
[7] Leases dedicated to R.S. 38 were never conveyed to Unicon Producing Company. On 5-20-82 Unicon erroneously filed to be named Successor-In-Interest to Supron Energy in Docket No. CI78-398, R.S. 38.
[8] Contract expired on 6-30-83. All wells dedicated thereto have been plugged and abandoned.
[9] Gas Purchase Contract was terminated on 4-1-81. There has been no production from the zones dedicated to R.S. 53 since 1971.
[10] Because no Natural Gas was produced and sold since September 1979. Union Texas' Lease OCS-G-2011 expired on 12-6-80. Therefore Union Texas will make no sales under the terms and provisions of the contract filed in Docket No. CI76-761, R.S. 104.
[11] Gas has depleted down to the extent that it isn't paying to maintain a meter.
[12] Well #1698 has been plugged.
[13] Well #1564 has been plugged.
[14] Low well production.
[15] Non-production.
[16] Low delivery.
[17] Uneconomical.
[18] Dry hole.
[19] Expenses exceed income.
[20] Well production has stopped.
[21] Well has not produced any gas since 1980.
[22] Low volume. Purchaser wants to remove meter.
[23] Unprofitable production.
[24] Unicon's interest in the leases dedicated to R.S. 20 was canceled effective 1-1-83. The primary term of the contract expired 5-24-82.
[25] Effective date of transfer of ownership: 10-1-84. Proposed effective date of assignment: 10-1-84. Applicant respectfully requests that a Certificate of Public Convenience and Necessity be issued authorizing it to render the service previously authorized in the certificate of public convenience and necessity issued to Diamond Shamrock Exploration Company, effective from and after 10-1-84.
[26] Sale of dedicated properties to Quinoco Petroleum Inc. on 1-1-84.
[27] Clifford Love is the owner of Sec. 31-T30S-R34W, including all minerals and all the mineral owners royalty for gas produced from the Harrison #1 Well. Mr. Love, on behalf of the tenant farmer, Archie Rooney, desire to purchase natural gas at the wellhead of the Harrison #1 Well in volumes for use as fuel for irrigation water pumps.
[28] All acreage has been assigned to Lyco Acquasition 1984 Limited Partnership.
[29] Partial Assignment and Bill of Sale executed on 3-28-85, effective 4-1-85 to Edel, Inc.
[30] Partial Assignment and Bill of Sale executed on 8-1-84, effective 8-1-84 to Kaiser-Francis Oil Company.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 85-17360 Filed 7-19-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP85-34-000]

Sohio Alaska Petroleum Co.; Petition for Declaratory Order

Issued: July 17, 1985.

Take notice that on June 17, 1985, Sohio Alaska Petroleum Company (Sohio), pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, petitions the Commission to remove uncertainty as to the applicability of section 109 of the Natural Gas Policy Act to sales of natural gas to Sohio from other Prudhoe Bay Unit working interest owners.

Sohio states that it is one of several oil and gas producers operating on the North Slope of Alaska in the Prudhoe Bay Field, both the largest oil field and the largest gas field in North America. Sohio states that, operations at Prudhoe Bay are conducted in accordance with the Prudhoe Bay Unit Operating Agreement (PBUOA). Sohio alleges that under an exercised option contained in the PBOUA, Sohio and other major oil owners must purchase natural gas from the field's major gas owners to satisfy fuel requirements within the unit.

Pursuant to a November 1984 arbitration decision, the price Sohio must pay for natural gas was determined to be $3.04 per MMBtu. Sohio claims that payment of $3.04 per MMBtu in accordance with the arbitration decision would violate the maximum lawful price provisions of section 109 to the extent the wells involved do not qualify for NGPA section 103 or 103 pricing. As to deliveries made before January 1, 1985, Sohio states that payments at the $3.04 per MMBtu rate for gas from section 103(c) wells also would violate the NGPA.

Sohio therefore requests that the Commission issue an order declaring that the price of $3.04 per MMBtu (1) exceeds the applicable maximum lawful price provisions of section 109 to the extent the gas sold to Sohio has been and is produced from wells not qualifying for NGPA section 102 or 103 pricing and (2) exceeds the maximum lawful price provisions of NGPA section 102 for gas acquired by Sohio before January 1, 1985, from wells classified under NGPA section 103.

Within thirty days of publication in the **Federal Register**, any person may file a protest or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. If you wish to become a party, you must file a petition to intervene. See Rules 214 or 211.[1]

Kenneth F. Plumb,
Secretary.

[FR DOC. 85-17361 Filed 7-19-85; 8:45 am]
BILLING CODE 6717-01-M

[1] 18 CFR 385.214 or 385.211 [1984].

[Docket No. RP85-168-000

Transwestern Pipeline Co.; Request for Waiver

July 16, 1985.

Take notice that on June 28, 1985, Transwestern Pipeline Company (Transwestern) requested a partial waiver of section 4 of its Rate Schedule CDQ-1 and related tariff provisions to permit crediting of transportation revenues against the annual minimum commodity bill.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 22, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-17362 Filed 7-19-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI82-296-001 et al.]

Zapata Exploration Co. (Successor to Pacific Petroleums, Inc.); Merger; Filing of Certificate

July 15, 1985.

Take notice that on July 2, 1985, Zapata Exploration Company of 1410 United Bank Tower, 400 West Fifteenth Street, Austin, Texas 78701 pursuant to § 154.92(d) of the Commission's Regulations, filed a certificate of the Secretary of State of the State of Delaware recognizing the merger of Pacific Petroleums, Inc., into Zapata Exploration Company and a copy of a certificate of ownership and merger, both effective October 1, 1984.

Zapata Exploration Company requests that it be authorized to continue to perform the service heretofore performed by its wholly-owned subsidiary, Pacific Petroleums, Inc., under Docket Nos. CI82-296-001 and CI82-299-000. Zapata Exploration Company also requests that Pacific Petroleums' Rate Schedule Nos. 1 and 2 be redesignated as Zapata Exploration Company rate schedules.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-17363 Filed 7-19-85; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRI 2867-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman (PM-223); Office of Standards and Regulations; Regulation and Information Management Division; U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, DC 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

- *Title:* Census of State and Territorial Non-Hazardous Waste Programs. (EPA #1248) (This is a one-time collection.)

Abstract: EPA is conducting a census of the Non-Hazardous Waste Programs (RCRA Subtitle-D) implemented by the States and Territories. Section 302 of the Hazardous and Solid Waste Amendments of 1984 requires EPA to determine if the current programs are adequate to protect human health and the environment.

Respondents: States and Territories.

Office of Pesticides and Toxic Substances

- *Title:* Request for Contractor Access to TSCA Confidential Business Information. (EPA #1250) (This is a new collection.)

Abstract: EPA must collect information from contractors to confirm clearance for their employees who need access to Toxic Substances Control Act (TSCA) confidential business information (CBI). Under terms of a Consent Order with Polaroid the Agency is required to revise its TSCA CBI Access Form for use by contractor/subcontractor personnel by June 1, 1985.

Respondents: EPA contractors with employees needing clearance to work with TSCA confidential business information.

Agency PRA Clearance Requests Completed by OMB

EPA No. 0619; Mobile Sources Emission Factor Survey, was approved 6/13/85 (OMB #2060-0078; expires 6/30/86).

EPA No. 0783; Application for Motor Vehicle Certification and Fuel Economy Labeling: Information Requirements (Revision), was approved 6/13/85 (OMB #2060-0104; expires 6/30/88).

EPA No. 0807; RCRA Closure and Post-Closure, was approved 6/12/85 (OMB #2000-0380; expires 9/30/85).

EPA No. 1049; Notification of Oil or Hazardous Substance Discharge, was approved 6/14/85 (OMB #2050-0046; expires 6/30/88).

EPA No. 1054; New Source Performance Standards for Petroleum Refineries, was approved 6/19/85 (OMB #2060-0022; expires 12/31/85).

EPA No. 1086; New Source Performance Standards for Onshore Natural Gas Processing Plants/Equipment Leaks for Volatile Organic Compounds, was approved 6/12/85 (OMB #2060-0120; expires 6/30/88).

EPA No. 1236; Information Requirements for National Emission

Standards for Hazardous Air Pollutants (NESHAPS)—Department of Energy,

Columbia, and the EPA Regional Administrator, Region III.

Dated: July 10, 1985.
Edwin Johnson,

Adopted or amended by State: Jan. 19, 1984.

Resolution 83-80 Resolution 83-80—

Territory of Guam

Standards for Hazardous Air Pollutants (NESHAPS)—Department of Energy,. Nuclear Regulatory Commission Licensees, and Elemental Phosphorous Facilities which Emit Radionuclides, was approved 6/12/85 (OMB #2060–0117; expires 6/30/88).

EPA No. 1250; Guideline for Federal Procurement of Paper and Paper Products Containing Recovered Materials, was approved 6/14/85 (OMB #2050–0045; expires 6/30/88).

EPA No. 1242; New Source Performance Standards—Information for Flare Requirements, was approved 6/13/85 (OMB #2060–0119; expires 6/30/88).

EPA No. 1243; Notification Requirements for Underground Storage Tanks Containing Regulated Substances, was approved 6/14/85 (OMB #2050–0049; expires 6/30/88).

Comments on all parts of this notice should be sent to:

Nanette Liepman (PM–223), U.S. Environmental Protection Agency, Office of Standards and Regulations, Regulation and Information Management Division, 401 M Street, SW., Washington, DC 20460

and

Nancy Baldwin (ICR $1248), or Carlos Tellez (ICR #1250), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503.

Dated: July 16, 1985.

Daniel J. Fiorino

Acting Director, Regulation and Information Management Division.

[FR Doc. 85–17207 Filed 7–19–85; 8:45 am]

BILLING CODE 6560–50–M

[FRL–2867–8]

Chesapeake Bay Executive Council; Establishment

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). Following consultation with the General Services Administration, notice is hereby given that the Environmental Protection Agency is establishing the Chesapeake Bay Executive Council as described in the Chesapeake Bay Agreement of December 9, 1983.

The Council will assess and oversee the implementation of coordinated plans to improve and protect the water quality and living resources of the Chesapeake estuarine system. The nine members are Cabinet designees of the Governors of the States of Pennsylvania, Virginia, and Maryland, the Mayor of the District of Columbia, and the EPA Regional Administrator, Region III.

It has been determined that establishment of this Council is in the public interest in connection with the performance of the Environmental Protection Agency's duties and responsibilities under the Clean Water Act of 1981, as amended.

For further information contact: Henry Zygmunt, Coordinator for Policy and Program Integration, Chesapeake Bay Program, at (301) 266–6873.

Dated: July 5, 1985.

A. James Barnes,

Deputy Administrator.

[FR Doc. 85–17209 Filed 7–19–85; 8:45 am]

BILLING CODE 6560–50–M

[OW–FRL–2867–5]

State Water Quality Standards; Availability of Updated Listing

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice contains an updated listing of State water quality standards, dates of adoption by the State and dates of approval by the EPA of the standards or sections thereof pursuant to the Water Quality Standard Regulation (40 CFR Part 131, Subpart C § 131.21).

FOR FURTHER INFORMATION CONTACT: David K. Sabock, Chief, Standards Branch (WH–585), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: This listing of State water quality standards is an update of a listing that was noticed in the Federal Register on Friday, April 27, 1984 (49 FR 18177). The updated listing identifies the State regulatory documentation containing the State water quality standards and the dates of State adoption and EPA approval from April 1984 through May 1985. Not included in this Notice are: (1) The text of the water quality standards, (2) a description of the adoption action, or (3) any conditions (including disapprovals) that might have been attached to the approvals.

The text of a State's standards and copies of the approval letters can be obtained from the State's pollution control agency or the appropriate EPA Regional Office. Proprietary publications such as those of the Bureau of National Affairs also contain the text of State standards.

Dated: July 10, 1985.

Edwin Johnson,

Acting Assistant Administrator for Water.

Alaska

State water quality standards for the surface waters of the State of Alaska are those which are contained in the "Alaska Administrative Code", Register 47 at "Title 18, Environmental Conservation, Chapter 70, Water Quality Standards".

Adopted or amended by State: Jan. 20, 1984.

Approved by EPA: April 30, 1984.

Adopted or amended by State: Sept. 18, 1984.

Approved by EPA: Dec. 28, 1984.

Arizona

State water quality standards for the surface waters of the State of Arizona are those adopted by the Arizona Water Quality Control Council, contained in State regulations entitled "Water Quality Standards for Surface Waters in Arizona" (A.C.R.R. R9–21–214, Appendix A, Appendix B, R9–21–301 through R9–21–304) and Water Quality Standards for Salinity, Colorado River System.

Adopted or amended by State: Jan. 4, 1985.

Approved by EPA: (Not yet approved.)

Arkansas

State water quality standards for the surface waters of the State of Arkansas are those which are contained in the document entitled "Arkansas Water Quality Standards Regulation No. 2".

Adopted or amended by State: Nov. 28, 1984.

Approved by EPA: Jan. 28, 1984.

American Samoa

State water quality standards for the surface waters of the territory of American Samoa are those contained in the document entitled "Water Quality Standards for American Samoa", 1981.

Adopted or amended by State: July 19, 1985.

Approved by EPA: Oct. 22, 1984.

California

California State Water Quality Standards pertaining to the following amendment and approval dates are those contained in the documents entitled:

Resolution Number 84–11—Consideration of an Amendment to the Water Quality Control Plan for the Central Coastal Basin (Revision and Amendment of Table 2–1, "Existing and Anticipated Uses of Inland Surface Waters").

Adopted or amended by State: Jan. 19, 1984.

Approved by EPA: Apr. 17, 1984.

Resolution 83–17—Re-affirming Central Coastal Basin Standards.

Adopted or amended by State: Oct. 14, 1983.

Approved by EPA: Aug. 2, 1984.

Resolution 98–83—Reconsideration of an Amendment to the Water Quality Control Plan for the West Fork Carson River Hydrological Unit and Indian Creek Watershed, Alpine Country (Water Quality Standards of the Lahontan Region, North Lahontan Basin).

Adopted or amended by State: Dec. 15, 1983.

Approved by EPA: Apr. 19, 1984.

Resolution 84–046—Re-affirming Central Valley Basin Standards.

Adopted or amended by State: May 18, 1984.

Approved by EPA: Sept. 22, 1984.

Resolution 83–82—Consideration of Water Quality Standards for the Santa Ana River Region, Chapters 2 and 3 of the "Water Quality Control Plan, Santa Ana Region Basin (8)".

Adopted or amended by State: Oct. 20, 1983.

Approved by EPA: Apr. 28, 1984.

Resolution 84–55—Amending Central Valley Basin standards for the Sacramento River August 16, 1984.

Amendments to the Water Quality Control Plan for the Ocean Waters of California. (Res. 83–87)

Adopted or amended by State: Nov. 17, 1983.

Approved by EPA: May 2, 1984.

Resolution 85–12 amending Colorado River Basin standards.

Adopted or amended by State: Feb. 21, 1985.

Approved by EPA: (Not yet approved).

Resolution 84–5 re-affirming Los Angeles Basin standards

Adopted or amended by State: Sept. 13, 1984.

Approved by EPA: Oct. 22, 1984.

Resolution 85–10 amending Colorado River salinity standards by adopting "Proposed Report on the 1984 Review, Water Quality Standards for Salinity, Colorado River System". Colorado River Basin Salintiy Control Forum May 1, 1984, and "Supplemental River System", Colorado River Basin Salinity Control Forum July 1984.

Adopted or amended by State: Feb. 21, 1985.

Approved by EPA: (Not yet approved).

Resolution 85–4 re-affirming Sacramento-San Joaquin Delta standards for salinity control.

Adopted or amended by State: Jan. 17, 1985.

Approved by EPA: (Not yet approved).

Resolution 83–90 Resolution 83–90—Consideration of an amendment to the Water Quality Control Plan for the South Lahontan Basin to incorporate water quality objectives for the lower Mojave River Basin, and San Bernardino County.

Adopted or amended by State: Dec. 15, 1983.

Approved by EPA: May 30, 1984.

Colorado

State water quality standards for the surface waters of the State of Colorado are contained in the document entitled "Water Quality Standards and Stream Classification" and the Colorado River Basin Salinity Control Forum report entitled "Proposed Water Quality Standards for Salinity, Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", and "Supplement Including Modification to Proposed Water Quality Standards for Salinity Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975".

Adopted or amended by State: Aug. 22, 1984.

Approved by EPA: (Not yet approved).

Connecticut

State water quality standards for the surface waters of the State of Connecticut are those adopted by the Connecticut Department of Environmental Protection which are contained in the document entitled "Water Quality Criteria".

Adopted or amended by State: Apr. 17, 1985.

Approved by EPA: Apr. 25, 1985.

Florida

State water quality standards for the surface waters of the State of Florida are those contained in Chapter 17–3, "Water Quality Standards", and Chapter 17–4, "Permits", of the Florida Administrative Code.

Adopted or amended by State: Feb. 17, 1984.

Approved by EPA: Mar. 16, 1984, Mar. 18, 1985.

Georgia

State water quality standards for the surface waters of the State of Georgia are those contained in the document entitled "Water-Use Classifications, Trout Stream Designations and Water Quality Standards for the Surface Waters of the State of Georgia".

Adopted or amended by State: Feb. 27, 1985.

Approved by EPA: (Not yet approved).

Territory of Guam

State water quality standards for the surface waters of the Territory of Guam are those contained in the document entitled "Water Quality Standards for the Territory of Guam, 1984".

Adopted or amended by State: Feb. 24, 1984.

Approved by EPA: July 24, 1984.

Idaho

State water quality standards for the surface waters of the State of Idaho are contained in the document entitled "Water Quality Standards and Wastewater Treatment Requirements" as amended.

Adopted or approved by State: Dec. 5, 1984.

Approved by EPA: Mar. 4, 1985.

Indiana

State water quality standards for the surface waters of the State of Indiana are those which are contained in the documents recodified as:

(1) "330 1AC 1–1 Water Quality Standards for waters of Indiana", effective August 21, 1973;

(2) "330 1AC 2–1, Water Quality Standards for Lake Michigan and Contiguous Harbor Areas", effective February 11, 1972;

(3) "330 1AC 2–2, Water Quality Standards for the Grand Calumet River and the Indiana Harbor Ship Canal", effective August 21, 1973;

(4) "330 1AC 2–3, Water Quality Standards for Wolf Lake", effective August 21, 1973;

(5) "330 1AC 2–4, Water Quality Standards for Natural Spawning Areas, Rearing or Imprinting Areas and Migration Routes of Salamoid Fishes", effective February 11, 1972.

Adopted or approved by State: Mar. 2, 1984.

Adopted or approved by State: Mar. 2, 1984. Approved by EPA; Nov. 1, 1984.

Kansas

State water quality standards for the surface waters of the State of Kansas are those regulations contained in the document entitled "Kansas Administrative Regulations, 28–16–28, Water Quality Criteria for Interstate and Intrastate Waters of Kansas" and "Emergency Regulation 28–16–28(a) Water Quality Criteria for Interstate and Intrastate Waters of Kansas". State adoption and Federal approval dates are:

Adopted or amended by State: Dec. 2, 1982.

Approved by EPA: Sept. 6, 1984.

Kentucky

State water quality standards [illegible] Water Resources Commission, Part 4, Water Quality Standards" amended, and 1984 Review, Water Quality Standards for Salinity, Colorado

"Ohio Water Quality Standards, Ohio regulations 3745–1 through 3745–1–14."

Dakota are contained in the document entitled "South Dakota Surface Waters

"Regulations Governing Water Classification and Control of Quality;"

Kentucky

State water quality standards for the surface waters of the Commonwealth of Kentucky are contained in the documents entitled:

(1) 401KAR 5:026—Classification of waters.

(2) 401KAR 5:029—General Provisions.

(3) 401KAR 5:031—Surface waters standards.

Adopted or amended by State: Nov. 13, 1984.

Approved by EPA: Dec. 19, 1984.

Louisiana

State water quality standards for the surface waters of the State of Louisiana are contained in the document entitled "State of Louisiana Water Quality Criteria, Louisiana Stream Control Commission, 1973".

Adopted or amended by State: Nov. 13, 1984.

Approved by EPA: Jan. 11, 1985.

Maine

State water quality standards for the surface waters of the State of Maine are contained in the documents entitled:

(1) "Revised statutes of 1964, Title 38, Sections 363–364, 368–369, and 370–371, as amended; and

(2) "Department of Environmental Protection, Bureau of Water Quality Control, Regulations, 480.1–480.9".

Adopted or amended by State: Dec. 27, 1984.

Approved by EPA: Feb. 20, 1985.

Maryland

State water quality standards for the surface waters of the State of Maryland are contained in the document entitled "Maryland Receiving Water Quality Standards, Maryland Water Pollution Control Regulations 08.05.04.01, 08.05.04.02m, 08.05.04.03, 08.05.04.09, and 08.05.04.11".

Adopted or amended by State: Dec. 3, 1984.

Approved by EPA: May 12, 1985.

Massachusetts

State water quality standards for the surface waters of the Commonwealth of the State of Massachusetts are contained in the document entitled "Massachusetts Water Quality Standards".

Adopted or amended by State: Dec. 20, 1984.

Approved by EPA: Jan. 28, 1985.

Michigan

State water quality standards for the navigable waters of the State of Michigan are contained in the document entitled "General Rules of the Michigan Water Resources Commission, Part 4, Water Quality Standards".

R323.1041, R323.1043, R323.1044, R323.1050, R323.1051, R323.1053, R323.1055, R323.1057, R323.1058, R323.1060, R323.1062, R323.1064, R323.1065, R323.1069, R323.1070, R323.1072, R323.1073, R323.1074, R323.1075, R323.1080, R323.1082, R323.1090, R323.1091, R323.1092, R323.1096, R323.1097, R323.1098, R323.1100, R323.1105, R323.1110, R323.1115, R323.1116, together with Appendices A and B.

Adopted or amended by State: Jan 18, 1985.

Approved by EPA: Mar. 14, 1985.

Minnesota

State water quality standards for the surface waters of the State of Minnesota are contained in the documents entitled "Minnesota Water Quality Standards—6MCAR 4.8014, 8015, 8024, 8025; Recodified and amended through June 29, 1981.

Adopted or amended by State: Aug. 28, 1984.

Approved by EPA: Mar. 1985.

Mississippi

State water quality standards for the surface waters of the State of Mississippi are those contained in the document entitled "State of Mississippi Water Quality Criteria for Intrastate, Interstate and Coastal Waters".

Adopted or amended by State: Apr. 10, 1984.

Approved by EPA: May 18, 1984.

Missouri

State water quality standards for the surface waters of the State of Missouri are contained in MSCR, Title 10, Clean Water Commission Chapter 7—Water Quality. State adoption and Federal approval dates are:

Adopted or amended by State: Dec. 13, 1984.

Approved by EPA: Jan. 17, 1985.

Montana

State water quality standards for the surface waters of Montana are contained in the document entitled "Montana Surface Water Quality Standards".

Adopted or amended by State: Nov. 16, 1984.

Approved by EPA: Mar. 20, 1985.

Nevada

State water quality standards for the waters of the State of Nevada are contained in the document entitled "Water Pollution Control Regulations, Commission of Environmental Protection", November 14, 1972, as amended, and 1984 Review, Water Quality Standards for Salinity, Colorado River System," Colorado River Report on the 1984 Review, Water Quality Standards for Salinity, Colorado River System," Colorado River Basin Salinity Control Forum, July 1984.

Adopted or amended by State: June 29, 1984.

Approved by EPA: Mar. 8, 1985.

New Hampshire

State water quality standards for the waters of the State of New Hampshire are contained in the document entitled "New Hampshire Water Quality Standards".

Adopted or amended by State: May 15, 1984.

Approved by EPA: Dec. 19, 1984.

New Mexico

State water quality standards for the surface waters of the State of New Mexico are contained in the documents entitled "New Mexico Water Quality Standards, August 1973", as amended. Water Quality Standards for Intrastate and Interstate Streams in New Mexico adopted February 8, 1977 and the Colorado River Basin Salinity Control Forum report entitled "Proposed Water Quality Standards for Salinity Control Colorado River System, June 1975", and "Supplement Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", dated August 28, 1975.

Adopted or amended by State: Jan. 8, 1985.

Approved by EPA: Mar. 28, 1985.

North Carolina

State water quality standards for the surface waters of the State of North Carolina are contained in the documents entitled "Classifications and Water Quality Standards Applicable to the Surface Waters of North Carolina".

Adopted or amended by State: Apr. 12, 1984.

Approved by EPA: Sept. 17, 1984.

North Dakota

State water quality standards for the surface waters of the State of North Dakota are contained in the document entitled "Standards of Surface Water Quality, State of North Dakota" (R.61–28–05.2, X through VIII).

Adopted or amended by State: Jan. 16, 1985.

Approved by EPA: (Not yet approved).

Ohio

State water quality standards for the surface waters of the State of Ohio are contained in the document entitled, "Ohio Water Quality Standards, Ohio regulations 3745–1 through 3745–1–14."

Adopted or amended by State: Jan. 4, 1985.

Approved by EPA: (Not yet aproved).

Pennsylvania

State water quality standards for the surface water of the State of Pennsylvania are contained in the documents entitled:

(1) "Title 25, Part I, Subpart C, Article II, Chapter 93—Water Quality Criteria, and

(2) Title 25, Part I, Subpart C, Article II, Chapter 95—Water paragraph 95.1".

Adopted or amended by State: Dec. 18, 1984.

Approved by EPA: May 14, 1985.

Commonwealth of Puerto Rico

State water quality standards for the surface waters of the Commonwealth of Puerto Rico are contained in the documents entitled:

(1) "Water Quality Standards Regulations, December 1973," Commonwealth of Puerto Rico, Office of the Governor, Environmental Quality Board, January 4, 1974, as amended on May 1, 1974; and

(2) "Amendments to Certain Sections of WQS Regulation", October 1976, amended version "Commonwealth of Puerto Rico, Office of the Governor. Environmental Quality Board, November 12, 1976".

Adopted or amended by State: Mar. 2, 1983.

Approved by EPA: March 1984.

Rhode Island

State water quality standards for the surface waters for the State of Rhode Island are contained in the documents entitled "Rhode Island Water Quality Regulations for Water Pollution Control".

Adopted or amended by State: Dec. 20, 1984.

Approved by EPA: Jan. 31, 1985.

South Carolina

State water quality standards for the surface waters of the State of South Carolina are contained in the documents entitled "Water Classification—Standards System for the State of South Carolina".

Adopted or amended by State: July 27, 1984.

Approved by EPA: Sept. 28, 1984.

Adopted or amended by State: Dec. 20, 1984.

Approved by EPA: Feb. 27, 1985.

South Dakota

State water quality standards for the surface waters of the State of South Dakota are contained in the document entitled, "South Dakota Surface Water Quality Standards Regulations".

Adopted or approved by State: Apr. 26, 1984.

Approved by EPA: (Not yet approved).

Tennessee

State water quality standards for the surface waters of the State of Tennessee are those contained in Chapters 1200–4–3, "General Water Quality Criteria and 1200–4–4, "Stream Use Classifications for Interstate and Intrastate Streams", of the document entitled, "Rules of Tennessee Department of Health and Environment, Bureau of Environment, Division of Water Management".

Adopted or amended by State: Oct. 22, 1982.

Approved by EPA: Feb. 3, 1984.

Texas

State water quality standards for the surface waters of the State of Texas are contained in the document entitled "Texas Water Quality Standards, February 1976".

Adopted or amended by State: Dec. 28, 1984.

Approved by EPA: Feb. 28, 1985.

Utah

State water quality standards for the surface waters of the State of Utah are contained in the document entitled "Code of Waste Disposal Regulations, Part II Standards of Quality for Waters of the State", and the Colorado River Basin Salinity Control Forum report entitled "Proposed Water Quality Standards for Salinity, Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", and Supplement Including Modification to Proposed Water Quality Standards for Salinity Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", dated August 25, 1975.

Adopted or amended by State: Nov. 14, 1984.

Approved by EPA: (Not yet approved).

Virginia

State water quality standards for the surface waters of the State of Virginia are contained in the document entitled "Commonwealth of Virginia Water Quality Standards".

Adopted or amended by State: Sept. 22, 1983, Oct. 28, 1984.

Approval by EPA: March 22, 1985.

Vermont

State water quality standards for the surface waters of the State of Vermont are contained in the document entitled "Regulations Governing Water Classification and Control of Quality".

Adopted or amended by State: Jan. 17, 1985.

Approved by EPA: Feb. 19, 1985.

Washington

State water quality standards for the surface waters of the State of Washington are contained in the document entitled "State of Washington Department of Ecology, Water Quality Standards, June 19, 1973".

Adopted or amended by State: May 25, 1982.

Approved by EPA: Oct. 26, 1984.

Wyoming

State water quality standards for the surface waters of the State of Wyoming are contained in the documents entitled "Water Quality Standards, Stream Classification in Wyoming" and the Colorado River Basin Salinity Control Forum report entitled "Proposed Water Quality Standards for Salinity, Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", and "Supplement Including Modification to Proposed Water Quality Standards for Salinity Including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", dated August 25, 1975.

Adopted or amended by State: Dec. 14, 1984.

Approved by EPA: (Not yet approved).

[FR Doc. 85–17206 Filed 7–19–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–42068; TSH–FRL 2849–1]

Carbofuran Intermediates; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is EPA's response to the Interagency Testing Committee's (ITC) recommendation of methally-2-nitrophenyl ether (CAS No. 13414–54–5), 7-nitro-2,2-dimethyl-2,3-dihydrobenzofuran (CAS No. 13414–55–6), and 7-amino-2,2-dimethyl-2,3-dihydrobenzofuran (CAS No. 68298–46–4), collectively known as the carbofuran intermediates (CIs), for priority consideration for chemical fate and environmental effects testing. EPA is not initiating rulemaking at this time under section 4(a) of the Toxic Substances Control Act (TSCA) to require any testing of the CIs because EPA does not believe that there is a basis to find that these substances may present an

unreasonable risk of injury to the environment nor that there is or may be substantial environmental release.

that is likely to contain the CIs is either incinerated or placed in a Resource

unreasonable risk of injury to the environment nor that there is or may be substantial environmental release.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460. Toll Free: (800-424-9065). In Washington, DC (554-1404). Outside the U.S.A.: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is not initiating rulemaking at this time under section 4(a) of TSCA to require chemical fate or environmental effects testing of the CIs as recommended by the ITC in its Eleventh Report.

I. Background

Section 4(e) of the TSCA (Pub. L. 94-469, 90 Stat. 2010 *et seq.*; 15 U.S.C. 2603 *et seq.*) established the ITC to recommend to EPA a list of chemicals to receive priority consideration for testing under section 4(a) of TSCA.

The ITC recommended, but did not designate for response within 12 months, methallyl-2-nitrophenyl ether (MNE, CAS No. 13414-54-5), 7-nitro-2,2-dimethyl-2,3-dihydrobenzofuran (NDD, CAS No. 13414-55-6) and 7-amino-2,2-dimethyl-2,3-dihydrobenzofuran (ADD, CAS No. 68248-48-4), collectively known as the carbofuran intermediates (CIs), for priority testing consideration in its Eleventh Report, published in the **Federal Register** of December 3, 1982 (47 FR 54626). This notice constitutes EPA's response to the ITC's recommendation of the CIs.

The ITC recommended chemical fate testing for the CIs with emphasis on environmental monitoring. The ITC's rationale for chemical fate testing was that there was insufficient information to characterize the nature of dispersion, concentration, and persistence of CIs in the environment.

The ITC also recommended environmental effects tests for the CIs including acute toxicity to fish and aquatic invertebrates. The ITC's rationale for environmental effects testing was that concentrations of CIs in wastewater effluent released to the aquatic environment were believed to approach the concentrations of CIs reported to cause acute effects in goldfish and possibly exceed levels for more sensitive species.

Under section 4(a)(1) of TSCA, the Administrator shall, by rule, require testing of a chemical substance to develop appropriate test data if the Agency finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment.

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in which both exposure and toxicity information are considered in making a section 4(a)(1)(A)(i) finding that the chemical may present an unreasonable risk. For the section 4(a)(1)(B)(i) finding, EPA considers only production, exposure, and release information to determine whether there is substantial production, and signficant or substantial exposure, or substantial release. Thus, EPA can require testing for an effect under section 4(a)(1)(A) only if there is a suspicion of a hazard. Under 4(a)(1)(B), EPA can require testing whether or not there are data suggesting adverse effects if the relevant production and exposure or release criteria are met.

For the findings under both section 4(a)(1)(A)(ii) and 4(a)(1)(B)(ii), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing that the Agency might require would be capable of developing the necessary information. EPA's process for determining when these findings can be made is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48510) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) finding is discussed in 45 FR 48528, and the section 4(a)(1)(B) finding is discussed in 46 FR 30302.

In evaluating the ITC's testing recommendations for the CIs, EPA considered all available relevant information including the following: information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by the manufacturer of CIs under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712—Chemical Information Rules, Subpart B—Manufacturers Reporting—Preliminary Assessment Information); and published and unpublished data available to the Agency.

II. Review of Available Data

A. Environmental Release

The carbofuran intermediates are produced solely by FMC Coroporation in Baltimore, Maryland. Production was about 10 to 50 million pounds for each CI in 1977 (Ref. 1). The manufacturer has submitted to EPA production volumes for 1982 as confidential business information (Ref. 2).

FMC reports that the CIs are used consumptively as intermediates in closed systems during the production of the insecticide-nematicide carbofuran (Ref. 3). The manufacturer pretreats the effluent through a carbon bed adsorption system and a settling basin with pH adjustments. Since January, 1984, the manufacturer's pretreated effluent has been further treated by a local publicly owned treatment works (POTW). Approximately 10 to 20 thousand pounds of each of the CIs is expected to enter the POTW in 1985 (Ref. 4).

EPA has calculated worst-case predicted environmental concentrations (PECs) for the CIs in the discharge environment of 1.75 parts per billion (ppb) for MNE, 1.97 ppb for NDD and 0.85 ppb for ADD. These figures were derived from recent release data supplied to EPA by the manufacturer. Because we have no data on the fate of the CIs in the POTW or the environment, calculation of the PECs was based on the assumption that none of the CIs are removed during treatment by the POTW or from the discharge environment by physical or biological processes (Refs. 4 and 5). In addition, the dilution estimate for the discharge environment was conservatively based on an average 7 day per 10-year, low flow rate (7Q10) and included tidal flushing for the receiving brackish water. Sludge waste from the POTW that is likely to contain the CIs is either incinerated or placed in a Resource Conservation and Recovery Act (RCRA)-regulated landfill where the CIs are expected to biodegrade (Ref. 6).

B. Chemical Fate

1. *Water solubility and octanol/water partition coefficient.* EPA has calculated water solubilities of 1,100 mg/L for MNE, 120 mg/L for NDD, and 2,300 for ADD and logs of the octanol/water partition coefficient (log P) of 2.75 for MNE, 3.33 for NDD, and 2.36 for ADD (Ref. 5). These calculated properties indicate that under equilibrium conditions the CIs will remain mainly in the water compartment.

2. *Soil mobility.* The adsorption properties of the CIs have not been reported in the available literature. However, using equations developed by Kenaga (Ref. 7) and Kenaga and Goring (Ref. 8), values for the adsorption coefficients (K_{oc}) have been estimated from the calulated lop P values (Ref. 5). These estimated adsorption coefficients of 746 for MNE, 1,540 for NDD and 458 for ADD indicate that the CIs will adsorb moderately to organic matter in soil and sediment and therefore can be considered moderately mobile. There are experimental data to indicate that aromatic amines chemically bind to soil organics (Refs. 9 and 10). Because ADD is an aromatic amine, it may bind chemically to organics in soil and therefore be less mobile than the other two CIs.

3. *Persistence.* EPA is not aware of any information on the environmental persistence of the CIs in the available literature. However, data on a compound structurally related to the CIs indicate that the CIs are likely to biodegrade in soil (Ref. 11).

Environmental Effects

1. *Acute toxicity.* The manufacturer reported measured 96hr LC_{50} values for goldfish of 6.5 ppm for MNE, 30 ppm for NDD and 56 to 140 ppm for ADD (Ref. 12).

2. *Other toxicity data.* EPA knows of no data on the chronic effects of CIs on fish, or on the acute or chronic effects of CIs on aquatic and benthic invertebrates.

III. Decision Not To Initiate Rulemaking

EPA has decided not to initiate rulemaking at this time to require chemical fate or environmental effects testing of the CIs. The ITC recommended environmental effects testing because concentrations of CIs in wastewater affluent released to the aquatic environment were believed to approach the concentrations of CIs reported to cause acute effects in goldfish and possibly exceed effected levels for more sensitive species. The ITC recommended chemical fate testing because there was insufficient information to characterize the nature of dispersion, concentration and persistence of CIs in the environment.

EPA has estimated the environmental risk posed by the CIs by comparing goldfish LC_{50}s (Unit II.C) to the PECs (Unit II.A). In general, if the LC_{50} for a chemical exceeds its envorinmental concentration by three orders of magnitude the Agency considers the substance to be of low concern. The factor of three orders of magnitude between the LC_{50}s and PEC takes into account interspecies, acute-to-chronic, field-to-lab, and lab-to-lab variability. Since the LC_{50}s for the CIs exceed the PECs for the CIs by three orders of magnitude, EPA finds no indication of potential unreasonable risk. Furthermore, EPA believes that factors used in calculating the predicted environmental concentrations, such as assuming a 7Q10 low flow rate for dilution and that no biodegradation or adsorption occurs to remove CIs in the POTW or environment, are very conservative and provide an additional margin of confidence that the CIs present no unreasonable risk to the environment.

In summary, the ITC recommended chemical fate and environmental effects testing of the CIs because they believed the environmental exposure exceeded effects levels in goldfish and possibly more sensitive species. However, EPA concludes from available data that information in Unit II.A through C of this notice does not support a TSCA section 4(a)(1)(A) finding that the CIs may present an unreasonable risk of injury to fish and invertebrates in the environment. EPA also concludes on the basis of information presented in Unit II.A of this notice, some of which was not available to the ITC, that there is not sufficient environmental release to support TSCA section 4(a)(1)(B) findings for chemical fate and environmental effects testing of CIs. Therefore, the Agency is not requiring testing for the CIs at this time.

IV. Public Record

EPA has established a public record for this decision not to test under Section 4 of TSCA (docket number OPTS-42068). The record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notice containing the ITC Report recommending methallyl-2-nitrophenyl ether, 7-nitro-2, 2-dimethyl-2,3-dihydrobenzofuran, and 7-amino-2, 2-dimethyl-2, 3-dihydrobenzofuran to the priority list.

(2) Communications consisting of:

(a) Written public and intra-agency or interagency memoranda and comments.

(b) Summaries of telephone conversations.

(c) Summaries of meetings.

(3) Reports—published and unpublished factual materials, including contractors' reports.

B. REFERENCES

(1) USEPA. U.S. Environmental Protection Agency. Nonconfidential TSCA Inventory for Carbofuran Intermediates from Producers of Chemicals In Commerce for 1977, 1981.

(2) USEPA. U.S. Environmental Protection Agency. Letter from D. Palmer of FMC Corporation to S. Newburg-Rinn, Office of Toxic Substances, USEPA with attached data for TSCA section 8(a) Preliminary Assessment Information Rule. (40 CFR Part 712—Chemical Information Rules, Subpart B—Manufacturers REporting—Preliminary Assessment Information.) February 15, 1983.

(3) USEPA. U.S. Environmental Protection Agency Hazard Information Review, Report for the Interagency Testing Committee prepared by Enviro Control Inc. Rockville, Maryland. September 17, 1981.

(4) USEPA. U.S. Environmental Protection Agency. Letter from R. Roseberry of FMC Corporation to M. McCommas, Office of Toxic Substances, USEPA. January 10, 1985.

(5) USEPA. U.S. Environmental Protection Agency. Memo: Estimated Environmental Concentration and Chemical Fate of the Carbofuran Intermediates, from R. Kinerson, Design and Development Branch, Office of Toxic Substances to M. McCommas, Test Rules Development Branch, Office of Toxic Substances. USEPA. February 16, 1984.

(6) USEPA. U.S. Environmental Protection Agency. Personal Communication between H.K. Latourette of FMC Corporation and M. McCommas, Office of Toxic Substances, USEPA. December 28, 1982.

(7) Kenaga, E.E. "Predicted bioconcentration and soil sorption coefficients of pesticides and other chemicals." *Ecotoxicol. Environ. Saf.* 4:26-38. 1980.

(8) Kenaga, E.E. and Goring C.A.I. "Relationship between water solubility, soil sorption, octanol-water partitioning, and concentration of chemicals in biota." *ASTM Spec. Tech. Publ. STP.* 707:78-115. 1980.

(9) Parris, G.E. "Covalent binding of aromatic amines to humate, 1—Reactions with carbonyl and quinones." *Env. Sci. Technology* 14:1099-1106. 1980.

(10) Bollag, J.M., Minard, R.D., and Liu, S.V. "Crosslinkage between anilines and phenolic humus constituents." *Env. Sci. Technol.* 17:72-80. 1983.

(11) Clay, V.E., Fahmy, A.H.M., Martin, J.P. and T.R. Fukuto. "Degradation of 2,3-dihydro-2,2-dimethyl-7-benzofuranyl in Cosad Sandy Loam." *J. Agr. Food Chem, 28(6):1122-1129. 1980.*

(12) USEPA. U.S. Environmental Protection Agency. Letter from R. Roseberry of FMC

Corporation to M. McCommas, Office of Toxic Substances, USEPA, March 21, 1983.

This record includes basis information together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy, and

(2) The practicability of the device such that the principal functions of the motor vehicle will be preserved to assure reasonable driveability, and

(3) The safety effects of the device.

A public docket containing the petition and all supporting documentation is available for inspection in the Docket Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday.

Interested persons are invited to submit comments on the petition. Comments should refer to the docket number and be submitted to: Docket Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated above will be considered. All comments and material received after the closing date will be considered to the extent possible. Comments received will be available for public inspection in the docket.

Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: (15 U.S.C. 1410; delegation of authority at 49 CFR 1.50)

Issued on: July 18, 1985.

John Warren McGarry,

Deputy Administrator.

[FR Doc. 85-17446 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-59-M

Dated: July 18, 1985.

John Warren McGarry,

Deputy Administrator.

that will help to reduce inflation further, promote growth in output on a sustainable basis, and increase employment.

Act (12 U.S.C. 1842) and § 225.14 of the

VOL 50 ISS 140 JL 22 1985 UMI

Corporation to M. McCommas, Office of Toxic Substances, USEPA, March 21, 1948.

This record includes basic information considered by the Agency in developing this notice. Confidential business information (CBI), while part of the record, is not available for public review. A public version of the record from which CBI has been deleted is available for inspection in the OPTS Reading Room, Rm. E-107, 401 M St., SW., Washington, DC, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Agency will supplement the record periodically with additional relevant information received.

Dated: July 15, 1985.

Authority: 15 U.S.C. 2603.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-17343 Filed 7-19-85; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL 2868-2]

Motor Vehicle Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for the Autotherm Energy Conservation System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces the completion of the EPA evaluation of the "AUTOTHERM Energy Conservation System" under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act. The notice also announces our findings, conclusions, and the availability of the report.

SUPPLEMENTARY INFORMATION:

I. Background

Section 511(b)(1) and section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting evaluations of fuel economy retrofit devices on March 23, 1979 [44 FR 17946].

II. Origin of Request for Evaluation, Device Descriptions and Report Identification

On May 21, 1984, the EPA received a request from AUTOTHERM Sales Corporation for evaluation of the AUTOTHERM Energy Conservation System as a fuel saving device. The device allows using the vehicle's heater to utilize the residual heat in the engine, and electrical circuitry to control the operation of the device.

Report: "EPA evaluation of the Autotherm Energy Conservation System Under Section 511 of the Motor Vehicle Information and Cost Savings Act". Report Number EPA-AA-TEB-511-85-1 contains the analysis and conclusions and consists of 85 pages including all attachments.

III. Availability of Evaluation Reports

Copies of these reports may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487-4650 or FTS 737-4650.

IV. Summary of Evaluation

EPA fully considered all of the information submitted by the device manufacturer in the Application. The evaluation of the AUTOTHERM Energy Conservation System was based on that information, tests conducted by the Air Force, and our engineering judgement.

The overall conclusion is that Autotherm Energy Conservation System, when used, has the potential to conserve fuel and lower exhaust emissions. In most cases, fuel savings should fall between 0.15 and 1.0 gallons of fuel per hour of device use. Engine size and efficiency are the primary determinants of the actual gallons saved per hour of device usage.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Sources, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone: (313) 668-4299.

Dated: July 15, 1985.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 85-17344 Filed 7-19-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL ELECTION COMMISSION

Clearinghouse on Election Administration Clearinghouse Advisory Panel; Meeting

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) and Office of Management and Budget Circular A-63, as revised, the Federal Election Commission announces the following Advisory Panel meeting:

Name: Federal Election Commission Clearinghouse, Advisory Panel.

Date: 5-6 August 1985.

Place: Washington Plaza-Hotel, Massachusetts and Vermont Aves., NW., Washington, DC.

Time: 0900-1200; 1400-1700 on 5 August 1985, 0900-1200; 1400-1700 on 6 August 1985.

Proposed Agenda: Discussion sessions addressing Clearinghouse research projects, including the Voting Systems Standards Project, the Voting Accessibility for the Elderly and Handicapped Act, the FEC Remote Access project; FEC campaign finance workshops, and the proposed use of Post Office Change of Address forms for voter registration purposes.

Purpose of the Meeting: The Panel will discuss the agenda items, present their views on problems in the administration of Federal elections, and formulate recommendations to the Federal Election Commission Clearinghouse for its future program development.

The Advisory Panel meeting is open to the public, dependent on available space. Any member of the public may file a written statement with the Panel before, during, or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation or oral statements at the meeting.

All communications regarding this Advisory Panel should be addressed to Penelope Bonsall, Clearinghouse on Election Administration, Federal Election Commission, 1325 K St., NW Washington, DC 20463.

Dated: July 18, 1985.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 85-17465 Filed 7-19-85; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of May 21, 1985

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Policy Directive issued at its meeting held on March 26, 1985.[1]

The following domestic policy directive was issued to the Federal Reserve Bank of New York:

The information reviewed at this meeting suggests only a modest pickup in real GNP in the current quarter from the reduced rate of growth in the first quarter. Total retail sales rose in April to a level somewhat above the average for the first quarter, and housing starts increased further after rising substantially in the first quarter. Information on business capital spending suggests further growth, though at a much less rapid pace than earlier in the economic expansion. Industrial production declined slightly in April after rising little over the first quarter. Total nonfarm payroll employment increased at a somewhat reduced pace in April with employment in manufacturing registering another decline. The civilian unemployment rate remained at 7.3 percent in April. Broad measures of prices and wages appear to be rising at rates close to those recorded in 1984.

Since the Committee's meeting in late March, the trade-weighted value of the dollar against major foreign currencies has continued to fluctuate widely in often volatile market conditions and has declined moderately on balance. The trade and current account deficits widened in the first quarter as a rebound in non-oil imports from their low fourth-quarter level extended the pattern of sharp quarter-to-quarter swings experienced since the beginning of 1984.

Growth in M1 slowed markedly in March from the rapid pace of earlier months and remained moderate in April. The broader aggregates showed little change in April after their growth had slowed appreciably in March. Expansion in total domestic nonfinancial debt has remained relatively rapid. Interest rates have declined considerably since the March meeting of the Committee. On May 17, the Federal Reserve Board approved a reduction in the discount rate from 8 to 7½ percent.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation further, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee agreed at its meeting in February to establish ranges for monetary growth of 4 to 7 percent for M1, 6 to 9 percent for M2, and 6 to 9½ percent for M3 for the period from the fourth quarter of 1984 to the fourth quarter of 1985. The associated range for total domestic nonfinancial debt was set at 9 to 12 percent for the year 1985. The Committee agreed that growth in the monetary aggregates in the upper part of their ranges for 1985 may be appropriate, depending on developments with respect to velocity and provided that inflationary pressures remain subdued.

The Committee understood that policy implementation would require continuing appraisal of the relationships not only among the various measures of money and credit but also between those aggregates and nominal GNP, including evaluation of conditions in domestic credit and foreign exchange markets.

In the implementation of policy for the immediate future, and against the background of the recent reduction in the discount rate, the Committee seeks to maintain about the same degree of pressure on bank reserve positions. This action is expected to be consistent with growth in M1 at an annual rate of around 6 percent or a little higher during the period from March to June, while M2 and M3, in the light of their weakness in April, are expected to grow more slowly over the quarter than the 7 and 8 percent annual rates, respectively, anticipated earlier. Somewhat lesser reserve restraint would be acceptable in the event of substantially slower growth of the monetary aggregates while somewhat greater restraint might be acceptable in the event of substantially higher growth. In either case such a change would be considered in the context of appraisals of the strength of the business expansion, progress against inflation, and conditions in domestic credit and foreign exchange markets. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 5 to 10 percent.

By order of the Federal Open Market Committee, July 16, 1985.

Stephen H. Axilrod,

Secretary.

[FR Doc. 85-17284 Filed 7-19-85 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of policy actions of the Committee for the meeting of May 21, 1985, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Schuyler Bancorporation; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 12, 1985.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Schulyer Bancorporation*, Schulyer, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Schulyer State Bank and Trust Co., Schulyer, Nebraska.

Board of Governors of the Federal Reserve System, July 16, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17283 Filed 7-19-85; 8:45 am]

BILLING CODE 6210-01-M

Food and Drug Administration

[Docket No. 85D-0242]

Draft Guidelines Supplementing the Regulations Governing the Review and Approval of New Drug and Antibiotic Marketing Applications

Correction

In FR Doc. 85-15283 beginning on page 26411 in the issue of Wednesday, June 26, 1985, make the following correction: On page 26412, in the second column, in the fourth line, "is so" should read "if so".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HMO seeks to enroll voluntarily persons

SECURITY CLASSIFICATION:

that the claim, if successful, is likely to directly affect the operations of the

information that would enable research subjects to be identified is removed or

CONTESTING RECORD PROCEDURES:

Contact the System Manager named

VOL
50
ISS
140
JL
22
1985
UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, Evaluation of the Social/Health Maintenance Organization (S/HMO) Demonstration, HHS/HCFA/ORD No. 09–70–0034. We have provided background information about the proposed system in the "Supplementary Information" section below. HCFA invites public comments by August 21, 1985, with respect to routine uses of the system.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on July 17, 1985. The new system of records, including routine uses, will become effective September 16, 1985, unless HCFA receives comments which would convince us to make a contrary determination.

ADDRESS: The public should address comments to Richard A. DeMeo, Privacy Act Officer, Office of Management and Budget, Health Care Financing Administration, Room G–A–1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Alan S. Friedlob, Division of Long-Term Care Experimentation, Office of Research and Demonstrations, Health Care Financing Administration, Room 2–F–3 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone 301–597–2364.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records collecting data under the authority of section 402 of the 1967 Amendments to the Social Security Act, Pub. L. 90–248 as amended by section 222(b) of the Amendments to the Social Security Act, Pub. L. 92–603. The purpose of this system of records is to provide data necessary to evaluate HCFA's S/HMO demonstration projects. The S/HMO demonstration and evaluation have been Congressionally mandated by Pub. L. 98–369, "The Deficit Reduction Act of 1984". The S/HMO seeks to enroll voluntarily persons 65 years of age and over in an innovative prepaid program that integrates medical, social, and long-term care delivery systems. The S/HMO merges the health maintenance organization concepts of capitation financing and provider risk-sharing developed by HCFA under its Medicare capitation and competition demonstrations with the case-management and support services concepts underlying Department of Health and Human Services' sponsored long-term care demonstrations serving the chronically ill aged.

The system of records will include demongraphic, health status, long-term care services use, and satisfaction data collected through sample surveys of Medicare beneficaries who join the S/HMOs participating in the demonstration and comparison group benefitciaries choosing not to enroll. Demonstration contractors included in the evaluation are: Kaiser-Portland, Portland, Oregon; Elderplan, Inc., Brooklyn, New York; Medicare Partners, Inc., Minneapolis Minnesota; and SCAN Health Plan, Long Beach, California.

This information will be collected by a contractor that HCFA shall choose on or about September 1, 1985.

In order to fulfill the objective and complete tasks in this project, the contractor must have individually-identified records. Since we are proposing to establish this system of records in accordance with the requirements and principles of the Privacy Act, we do not anticipate that it will have an unfavorable effect on the privacy or other personal rights of individuals.

The Privacy Act permits us to disclose information without the consent of the individual for "routine uses"—that is, disclosures for purposes that are compatible with the purpose for which we collected the information. The proposed routine uses in the new system meet the compatibility criteria since the information is collected for administering the Medicare program for which we are responsible. We anticipate that disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: July 16, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

09–70–0034

SYSTEM NAME:

Evaluation of Social/Health Maintenance Organization (S/HMO) Demonstrations.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

To be determined on or about September 1, 1985 by HCFA's selection of an evaluation contractor. Contact the systems manager for the location of the contractor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare beneficiaries residing in the following states and counties who join the social/health maintenance organization demonstrations and comparison group beneficiaries who choose not to enroll: *California:* Los Angeles, Orange; *Minnesota:* Hennepin, Ramsey; *New York:* Bronx, Kings, Queens; *Oregon:* Multnomah.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic characteristics (e.g., income, education, source of medical care), factors related to choice of S/HMO, data on satisfaction with S/HMO, data related to use of community-based and institutional long-term care services and informal care-givers; health and functional status assessment data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 402 of the Social Security Amendments of 1967, Pub. L. 90–248, as amended by section 222(b) of the Social Security Amendments of 1972, Pub. L. 92–603, 42 U.S.C. 1395b–1.

PURPOSE(S):

To provide data necessary to evaluate HCFA's Social/Health Maintenance Organization demonstration projects, including information to study the impact of the S/HMO on Medicare beneficiaries' use of acute care and long-term care services; health status; choice of the S/HMO option; and satisfaction with the S/HMO alternative.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made:

1. To the evaluation contractor who will use this information to evaluate HCFA's S/HMO demonstration projects.

2. To a congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In the event of litigation, where the defendant is (a) the Department, any component of the department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines

that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

4. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or the containment of costs in the Medicare and/or Medicaid programs if HCFA:

(a) Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

(b) Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form,

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use will be accomplished;

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual,

(b) For use in another research project, under these some conditions, and with written authorization of HCFA,

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law:

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic tape.

RETRIEVABILITY:

Information will be retrieved by beneficiary's name and health insurance claim number.

SAFEGUARDS:

The contractor will maintain all records in secure storage areas accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. For computerized records, the contractor will initiate automated data processing (ADP) system security procedures required by DHHS *ADP Systems Manual,* Part 6, ADP Systems Security (e.g., use of passwords), and the National Bureau of Standards Federal Information Processing Standards.

RETENTION AND DISPOSAL:

Hardcopy data collection forms and magnetic tapes with identifiers will be retained in secure storage areas. The disposal technique of degaussing will be used to strip magnetic tape of all identifying names and numbers in December 1989. Hardcopy records will be destroyed at this time.

SYSTEM MANAGERS(S) AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, 2230 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address indicated above, specify name, address, and health insurance number.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete, or not current).

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system include surveys to be conducted of Medicare beneficiaries and their informal care-givers by HCFA's evaluation contractor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 85–17273 Filed 7–19–85; 8:45 am]

BILLING CODE 4120–03–M

Public Health Service

Statement of Organization, Functions and Delegations of Authority; Health Resources and Services Administration

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (47 FR 38409–24, August 31, 1982, as amended most recently at 50 FR 3415–16, January 24, 1985), is amended to reflect the abolishment of the Division of Beneficiary Medical Programs, Bureau of Health Care Delivery and Assistance, and a change in the title and functions of the Division of Federal Employee Occupational Health, Bureau of Health Care Delivery and Assistance.

Under *Section HB–10, Organization and Functions,* amend the statement for the Bureau of Health Care Delivery and Assistance as follows:

(1) Delete the *Division of Beneficiary Medical Programs (HBC2)* in its entirety.

(2) Delete the statement for the *Division of Federal Employee Occupational Health (HBC9)* and substitute the following: *Division of Federal Occupational and Beneficiary Health Services (HBC9).*

Division of Federal Occupational and Beneficiary Health Services (HBC9).—(1) Provides consultation on, and stimulates the development of improved occupational health and safety programs throughout the Government; (2) provides evaluation, support, and direction to Federal agency health services in relation to standards; (3) administers

VOL
50
ISS
140
JL
22
1985
UMI

employee occupational health programs for other Federal agencies on a reimbursable basis; (4) conducts research studies, training, and demonstration projects; (5) develops occupational health standards and methods for Federal Employee Occupational Health Programs; (6) promotes activities designed to protect the occupational health and safety of Federal employees in order to maximize their productivity and reduce financial liability; (7) provides for the operation of a Federal agency contract formulation and assistance program for the standardization of contracting, cost comparison and analysis, and health program formulation for agencies desiring health units; (8) plans, develops, implements, and supervises the employee counseling service program operated by the Division; (9) plans, directs, and evaluates the delivery of health services for designated Public Health Service (PHS) beneficiaries, including direction of the contract health care program; (10) assures that adequate resources are available to provide comprehensive health care to eligible beneficiaries; (11) maintains relationships with health officials in other Federal and private agencies; (12) develops and implements Division standards for acceptable levels of utilization, cost, and efficiency of health care services; (13) evaluates the quality and appropriateness of Division health care programs and operations; (14) recommends automated systems activities for medical programs; (15) recommends financial management approaches to assure the integrity and appropriateness of provider reimbursement; (16) provides clinical and programmatic consultation, guidance and assistance to beneficiaries on their health care entitlement; (17) carries out all departmental responsibilities with regard to the Civilian Health Medical Care Program of the Uniform Services (CHAMPUS); (18) participates in the development of forward plans, legislative proposals and budgets for the Bureau; and (19) provides overall direction of the Data Records Center.

These organizational and functional changes are effective upon date of signature.

Dated: July 12, 1985.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations, and Director, Office of Management, PHS.

[FR Doc. 85-17317 Filed 7-19-85; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[I-20704, I-21520, and I-21521]

Realty Action; Direct Sale of Public Land in Owyhee County, ID

SUMMARY: The following-described lands have been examined, and through the land use planning process, have been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 at no less than fair market value:

Boise Meridian, Idaho

T. 1 N., R. 3 W. (I-20704)
Sec. 27, NE¼SE¼SW¼;
Sec. 28, E½SE¼.
Containing 90 acres.

T. 4 S., R. 1 E. (I-21520)
Sec. 28, S½NE¼NW¼.
Containing 20 acres.

T. 4 S., R. 1 E. (I-21521)
Sec. 28, W½SW¼NE¼.
Containing 20 acres.

The patents, when issued, will contain the following reservations to the United States:

1. Ditches and canals.

2. Oil and gas and geothermal resources.

The patents will be subject to all valid, existing rights and reservations of record. This includes:

1. Oil and gas lease I-14584 held by Amoco, P.O. Box 800, Denver, Colorado 80201, on I-20704. Access, exploration, and development rights shall be reserved for this lease.

2. Irrigation ditch right-of-way I-05177 held by James Agenbroad and Sons, Route 3, Nampa, Idaho 83651, across I-20704.

3. A 60-foot road right-of-way to Owyhee County across I-21520.

4. County road right-of-way I-20724 across I-21521.

The lands are hereby segregated from appropriation under the public land laws, including the mining laws, as provided by 43 CFR 2711.1-2(d).

The lands of I-20704 are being offered by direct sale to Elias Jaca, the existing user who has placed improvements on the land and is the adjoining landowner. The lands of I-21520 are being offered by direct sale to O.M. Cox, the existing user and adjoining landowner. The lands of I-21521 are being offered by direct sale to Shirley Cox, the existing user who has placed improvements on the land and is the adjoining landowner.

Each offer to purchase will include a $50.00 nonreturnable filing fee for processing the conveyance of mineral interests of no known value.

If no offers to purchse are received within 30 days after these tracts are offered, each tract will be offered for sale by competitive bid until November 26, 1985.

DATE AND ADDRESSES: The sale offerings will be held in the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, no less than 60 days following the date of this notice.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale terms and conditions and other details can be obtained by contacting Blackie Bruegman at the above address, or by calling (208) 334-1582.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties my submit comments to the Boise District Manager at the above address.

Dated: July 5, 1985.

J. David Brunner,

Associate District Manager.

[FR Doc. 85-16806 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-GG-M

New Mexico; Filing of Plat of Survey

July 11, 1985.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on July 11, 1985.

The dependent resurvey of portions of the west and south boundaries of the Felipe Gutierrez or Bernalillo Grant, the south boundary of the Santa Ana Pueblo or El Ranchito Grant, the north and west boundaries of the Sandia Pueblo Grant, and the north boundary of the Town of Alameda Grant, a portion of the Third Standard Parallel North through Range 4 East, a portion of the subdivisional lines, certain boundaries of tracts and lots, and the subdivision of section 32, the survey of lots 6 through 8, section 29, lots 28 through 51, section 30, lots 23 through 46, section 31, and lots 24 through 45, section 32, Township 13 North, Range 4 East, and the dependent resurvey of a portion of the north boundary of the Sandia Pueblo Grant, certain boundaries of tracts and the survey of lots 15 through 22, section 5, Township 12 North, Range 4 East, New Mexico Principal Meridian, New Mexico under Group 794.

This survey was request by the Albuquerque District Manager, Bureau of Land Management.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-17301 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-FB-M

National Park Service

Intention to Extend Concession Contract; Bullfrog Resort & Marina, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend a concession contract with Bullfrog Resort & Marina, Incorporated, authorizing it to continue to provide accommodations, facilities, and services for the public at Glen Canyon National Recreation Area, Arizona, for a period of one (1) year from January 1, 1986, through December 31, 1986.

This contract extension has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires on December 31, 1985, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Rocky Mountain Region, Denver, Colorado, for information as to the requirements of the proposed contract.

Dated: June 24, 1985.

Jack W. Neckels,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 85-17342 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-70-M

South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. 1 section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held Friday, August 9, 1985.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The meeting will convene at Park Headquarters at 1:30 p.m. to discuss:

1. Status Report—Land Protection Plan.

2. Historic Preservation.

3. Herring River Environmental Studies.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663. Telephone: (617) 349-3785. Minutes of the meeting will be available for public information and copying two weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

July 11, 1985.

[FR Doc. 85-17341 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 13, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 6, 1985.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Mobile County

Mobile, *Stone Street Baptist Church*, 311 Tunstall St.

GEORGIA

Fulton County

Atlanta, *Castleberry Hill Historic District*, Roughly bounded by Nelson St., Southern & Central of Georgia RR, McDaniel, Peters & Walker Sts.

ILLINOIS

Cook County

Chicago, *Austin Historic District*, Roughly bounded by W. Ohio St., N. Waller, Parkside, W. West End & N. Mayfield Aves. & W. Corcoran Pl.

Logan County

Lincoln, *Lincoln Courthouse Square Historic District*, Roughly bounded by Sagamon, Pekin, Chicago, Delaware, Broadway & Pulaski Sts.

KENTUCKY

Bell County

Middlesboro, *Mt. Moriah Baptist Church*, 314 N. Main St.

Caldwell County

Fredonia, *Fredonia Cumberland Presbyterian Church*, US 641

Fayette County

Lexington, *Northeast Residential Historic District*, Roughly bounded by E. 5th St., Kleiser Ave., E. Fourth, Campsie Pl., Walnut St. & Humbard Alley

Laurel County

London, *Poynter Building*, Main St.

MASSACHUSETTS

Suffolk County

Charlestown, *Hoosac Stores 1 & 2-Hoosac Stores 3*, 25 and 115 Water St.

OHIO

Belmont County

Barnesville, *Barnesville Baltimore and Ohio Railroad Depot*, 300 E. Church St.

Cuyahoga County

Cleveland, *Cleveland Worsted Mills Company*, 5846—6116 Broadway
Cleveland, *Stockbridge Apartment Building*, 3328 Euclid Ave.

Fairfield County

West Rushfield, *Dilger Store*, 7640 Main St.

Franklin County

Columbus, *Miller, Frederick, A., House-Broad Gables*, 2065 Barton Pl. & 140 Park Dr.

Hamilton County

Cincinnati, *Frederick Lunkenheimer House*, Washington, DC 20240, Attention: Chief of Registration (202) 343-9536. Copies of

Barbed Wire and Barbless Wire Strand from Poland (Investigation No. 731-TA-210

the hearing should be filed in writing

with the requirements of § 201.6 of the

Agency Clearance Officer of your intent

Hamilton County

Cincinnati, *Frederick, Lunkenheimer, House,* 2133 Luray

Lorain County

Amherst Township, *South Ridge Schoolhouse, OH 113 and Betchtel Rd.*

OKLAHOMA

Carter County

Healdton vicinity, *Zaneis School Teacher's Dormitory,* Off US 70

PENNSYLVANIA

Allegheny County

Pittsburgh, *Bindley Hardware Company Building,* 401 Amberson Ave.

Washington County

West Middletown Borough, *West Middletown Historic District,* Main St.

VERMONT

Windsor County

Chester, *Chester Village Historic District,* Roughly bounded by Lovers Lane Brook, Maple St., Williams River, Middle Branch & Lovers Lane

WEST VIRGINIA

Cabell County

Huntington, *Campbell-Hicks House,* 1102 Fifth Ave.

Fayette County

Ansted, *Page-Vawter House,* Rt. 2, Box 20

Harrison County

Clarksburg, *Quality Hill Historic District,* East Main St.

[FR Doc. 85-17469 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Proposed NHL Boundaries

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

Comments on the proposed boundaries will be received for 60 days after the date of this notice. Please address replies to Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, Washington, DC 20240, Attention: Chief of Registration (202) 343-9536. Copies of the documentation of the landmarks and their proposed boundaries, including maps may be obtained from that same office.

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Kamakahonu National Historic Landmark

Kailua-Kona, Hawaii County, Hawaii

American Factors, Ltd. owns the major portions of old Kamakahonu in two parcels (7-5-06: parcels 24 and 32). These parcels are 0.6 and 1.6 acres, respectively. Additionally, the State of Hawaii owns a narrow strip of beach—lands below the high tide mark. Amfac's parcel 24 (0.8 acre) contains the reconstructed 'Ahu'ena Heiau and hale nana mahina'ai and the foundations of the hale poki.

Parcel 24 (0.8 acre) contains the only visible remains of the former Kamakahonu settlement. All other structures referred to in this text have been destroyed in the course of modern commercial developments.

[FR Doc. 85-17468 Filed 7-19-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-208, 209, and 210 (Final)]

Barbed Wire and Barbless Wire Strand From Argentina, Brazil, and Poland

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation No. 731-TA-210 (Final), Barbed Wire and Barbless Wire Strand from Poland and rescheduling of the hearing to be held in connection with investigations Nos. 731-TA-208 and 209 (Final), Barbed Wire and Barbless Wire Strand from Argentina and Brazil.

SUMMARY: On July 15, 1985, the Commission received a letter from petitioner in the subject investigations (Forbes Steel and Wire Corp.) which stated, with respect to the investigation on Poland, that it ". . . withdraws the above-described petition without prejudice" and that "the Commission is requested to terminate the investigation." Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the following investigation is terminated:

Barbed Wire and Barbless Wire Strand from Poland (investigation No. 731-TA-210 (Final)).

The Commission further announces the rescheduling of the hearing to be held in connection with the investigations on Argentina and Brazil from 10:00 a.m. on July 24, 1985, to 10:00 a.m. on September 23, 1985.

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32568, Aug. 15, 1984).

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202-523-0399), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

Effective May 2, 1985, the Commission instituted the subject investigations and scheduled a hearing to be held in connection therewith for July 24, 1985 (50 FR 23083). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations on Argentina and Brazil from July 15, 1985 to September 16, 1985. The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule. As provided in section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must make its final determinations in antidumping investigations within 45 days of Commerce's final determinations, or in these cases by October 30, 1985.

Staff report

A public version of the prehearing staff report in these investigations was placed in the public record on July 5, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on September 23, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 12, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on September 17, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is September 17, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 1, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 1, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: these investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984)

By Order of the Commission.

Issued: July 17, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-17365 Filed 7-19-85; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

July 16, 1985.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available);

(2) The office of the agency issuing the form;

(3) The title of the form;

(4) The agency form number, if applicable;

(5) How often the form must be filled out;

(6) Who will be required or asked to report;

(7) An estimate of the number of responses;

(8) An estimate of the total number of hours needed to fill out the form;

(9) An indication of whether section 3504(h) of Pub. L. 96-511 applies; and.

(10) The name and telephone number of the person or office responsible for the OMB review.

Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the item(s) contained in this list should be directed to the reviewer listed at the end of each entry *AND* to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible:

Department of Justice, Agency Clearance Officer: Larry E. Miesse, 202/633-4312

• **New Collection**

(1) Larry E. Miesse, 202/633-4312
(2) Bureau of Justice Statistics, Department of Justice
(3) Justice Assistance Data/Survey of Civil and Criminal Justice Activities
(4) CJ-6, CJ-23
(5) One-time
(6) State and local governments. This survey will collect data needed to comply with grant allocation procedures mandated by Congress under Justice Assistance Improvement Act of 1984. Data will be used to administer new grant programs and provide descriptive data for policymakers, planners, and practitioners.
(7) 8,000 respondents
(8) 3,750 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

• **Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection**

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Nonresident Alien's Mexican Border Crossing Card
(4) I-190
(5) On occasion
(6) Individuals or households. Used to obtain data from applicant for a Mexican border crossing card (I-186/I-586) to determine eligibility of applicant.
(7) 250,000 respondents
(8) 28,333 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder-395-4814

(1) Larry E. Miesse, 202/633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Request for Certification of Military or Naval Service
(4) N-426
(5) On occasion
(6) Individuals or households. Used to verify the military or naval service claimed by an applicant for naturalization under sections 328 or 329 of the I&N Act.
(7) 4,000 respondents
(8) 666 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312

(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Nonresident Alien's Mexican Border Crossing Card
(4) I-190
(5) On occasion
(6) Individuals or households. Used to determine eligibility of applicant for
(10) Robert Veeder—395-4814

Larry E. Miesse

1984, the National Transportation Safety Board will convene a public hearing at 9

Denwood F. Ross, Deputy Director,

requirements of the Atomic Energy Act

(2) Immigration and Naturalization Service, Department of Justice
(3) Supplement to Application to File Petition for Naturalization (Seaman)
(4) N–400B
(5) On occasion
(6) Individuals or households. Used to determine eligibility of applicant for naturalization benefits under section 330 of the I&N Act.
(7) 25 respondents
(8) 4 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Change of Nonimmigrant Status
(4) I–506
(5) On occasion
(6) Individuals or households. Used to comply with Section 248 of the I&N Act by collecting adequate information to determine person's eligibility for nonimmigrant status and status change.
(7) 50,000 respondents
(8) 25,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Nonresident Alien's Canadian Border Crossing Card
(4) I–175
(5) On occasion
(6) Individuals or households. Used to obtain data from an applicant for a Canadian border crossing card to determine eligibility.
(7) 700 respondents
(8) 60 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Status as Permanent Resident
(4) I–485B
(5) On occasion
(6) Individuals or households. Used to adjust status to that of a lawful permanent resident of the U.S. under sections 245 and 249 of the I&N Act.
(7) 175,000 respondents
(8) 87,500 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Registration for Classification as Refugee
(4) I–590
(5) On occasion
(6) Individuals or households. Used to determine eligibility of applicant for refugee status under section 207, I&N Act.
(7) 75,000 respondents
(8) 25,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Biographic Information
(4) G–325
(5) On occasion
(6) Individuals or households. Used when necessary to check other agency records on applications or petitions submitted by applicants for benefits under I&N Act.
(7) 500,000 respondents
(8) 125,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Notice to Student or Exchange Visitor
(4) I–515
(5) On occasion
(6) Individuals or households. Used to notify students or exchange aliens admitted to the U.S. without required documentation to obtain required documents within 30 days and present same to INS office.
(7) 5,000 respondents
(8) 417 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Departure Information Card
(4) I–438
(5) On occasion
(6) Individuals or households. Used by aliens granted voluntary departure in lieu of deportation to notify INS of departure arrangements.
(7) 50,000 respondents
(8) 1,667 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Application for Issuance of Refugee Travel Document
(4) I–570
(5) On occasion
(6) Individuals or households. Used to determine an applicant's eligibility for issuance of a refugee travel document.
(7) 11,000 respondents
(8) 11,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

Larry E. Miesse,
Agency Clearance Officer.
[FR Doc. 85–17191 Filed 7–19–85; 8:45 am]
BILLING CODE 4410–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Form Submitted to the Office of Management and Budget for Clearance

The following package was submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Criminal Referral Form—NCUA 2362 and NCUA 2363

Respondents: Federally Insured Credit Unions

Abstract: All federally insured credit unions will be required to complete and, within seven business days, to report suspected criminal activity on NCUA 2362 or NCUA 2363 to the NCUA regional director, the U.S. Attorney, and the Federal Bureau of Investigation. The requirement will provide for timely and specific information needed for decisions regarding investigation and prosecution.

OMB Desk Officer for NCUA

Copies of the above information collection clearance package can be obtained by calling the NCUA Department of Supervision and Examination on (202) 357–1065.

Written comments and recommendations for the listed information and collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: July 16, 1985.
Rosemary Brady,
Secretary of the NCUA Board.
[FR Doc. 85–17293 Filed 7–19–85; 8:45 am]
BILLING CODE 7535–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Jacksonville, FL; Aviation Accident

In connection with its investigation of the accident involving the PBA, Inc. (Provincetown-Boston Airlines), Embraer Bandeirante EMB–110, N96PB, Jacksonville International Airport, Jacksonville, Florida, on December 6, 1984, the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time) on Tuesday, August 6, 1985, in the ballroom, Marco Beach Hilton, 560 South Collier Boulevard, Marco Island, Florida 33937. For more information, contact Mr. Brad Dunbar, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Ave., SW., Washington, D.C. 20594, telephone (202) 382–6600.

Dated: July 15, 1985.
Catherine T. Kaputa,
Federal Register Liaison Officer.
[FR Doc. 85–17277 Filed 7–19–85; 8:45 am]
BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Appointments to Performance Review Board for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointments to Performance Review Board for Senior Executive Service.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced the following new appointments to the NRC Performance Review Board (PRB):

Robert M. Bernero, Director, Division of Systems Integration, Office of Nuclear Reactor Regulation
Richard E. Cunningham, Director, Division of Fuel Cycle & Material Safety, Office of Nuclear Material Safety and Safeguards
James P. Murray, Deputy Executive Legal Director
William B. Kerr, Director, Office of Small and Disadvantaged Business Utilization and Civil Rights has been appointed as an ex officio nonvoting member.

In addition to the above appointments, the following members are continuing on the PRB:

John G. Davis, Director, Office of Nuclear Material Safety and Safeguards
Harold R. Denton, Director, Office of Nuclear Reactor Regulation
James G. Keppler, Regional Administrator, Region III
Martin G. Malsch, Deputy General Counsel for Domestic Licensing and Regulation, Office of the General Counsel
Patricia G. Norry, Director, Office of Administration
Thomas Rehm, Assistant for Operations, Office of the Executive Director for Operations
Denwood F. Ross, Deputy Director, Office of Nuclear Regulatory Research
James M. Taylor, Director, Office of Inspection and Enforcement

The NRC has created a Performance Review Board Panel with the following members:

Guy H. Cunningham, Executive Legal Director
Thomas E. Murley, Regional Administrator, Region I
Jack W. Roe, Deputy Executive Director for Operations

All appointments are made pursuant to section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: July 12, 1985.

FOR FURTHER INFORMATION CONTACT: Patricia G. Norry, Chair, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301–492–7335.

Dated at Bethesda, Maryland, this 12th day of July, 1985.

For the Nuclear Regulatory Commission.
William J. Dircks,
Executive Director for Operations.
[FR Doc. 85–17371 Filed 7–19–85; 8:45 am]
BILLING CODE 7590–01–M

[FERMI–2; Docket No. 50–341]

Issuance of Facility Operating License; Detroit Edison Co. and Wolverine Power Supply Cooperative, Inc.

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission or NRC), has issued Facility Operating License No. NPF–43 to Detroit Edison Company and Wolverine Power Supply Cooperative, Incorporated (the licensees) which authorizes operation of Fermi–2 (the facility), at reactor core power levels not in excess of 3292 megawatts thermal in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan.

The issuance of this license was approved by the Nuclear Regulatory Commission at a meeting on July 10, 1985, and supersedes the License for Fuel Loading and Low Power Testing, License No. NPF–33, issued on March 20, 1985.

License No. NPF–43 incorporates changes to the technical specifications which were made subsequent to the issuance of NPF–33 and supersedes NPF–33.

Fermi–2 is a boiling water reactor located in Frenchtown Township, Monroe County, Michigan. The license is effective as of the date of issuance.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the Federal Register on May 18, 1975 (40 FR 23122).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF–43, with Technical Specifications (NUREG–1141) and the Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards, dated August 11, 1981; (3) the Commission's Safety Evaluation Report, dated July 1981 (NUREG–0798), and Supplements 1 through 6; (4) the Final Safety Analysis Report and Amendments thereto; (5) the Environmental Report and supplements thereto; and (6) the Final Environmental Statement, dated August 1981.

These items are available for inspection at the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C. 20555, and at the Monroe County Library Systems, Reference Department, 3700 Custer Road, Monroe, Michigan 48161. A copy of Facility Operating License NPF–43 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and Supplements 1 through 6 (NUREG–0798) and the Final Environmental Statement (NUREG–0789) may be ordered by calling (202) 275–2060 or (202) 275–2171 or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, D.C. 20013–7082. All orders should clearly identify the NRC publication number and the requester's GPO deposit account, VISA or Mastercard number and expiration date. Anyone wishing to inquire about a subscription account or subscribe to a periodic NRC publication may do so by calling GPO at (202) 783–3238. The NRC will continue to participate in the National Technical Information Service Program and

individuals or organizations may

The agenda for subject meeting shall be as follows:

The meeting will, for the most part, be

Advisory Committee on Reactor

VOL 50 ISS 140 JL 22 1985 UMI

individuals or organizations may continue to purchase NRC documents at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 15th day of July, 1985.

For the Nuclear Regulatory Commission.

B.J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 85-17366 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp. et al., (Crystal River Unit No. 3 Nuclear Generating Plant); Exemption

I

The Florida Power Corporation (the licensee) and eleven other co-owners are the holders of Facility Operating License No. DPR-72 which authorizes operation of Crystal River Unit No. 3 Nuclear Generating Plant (CR-3) at steady state reactor power levels not in excess of 2544 megawatts thermal. The facility comprises one pressurized water reactor at the licensee's site located in Citrus County, Florida. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

10 CFR Part 50, Appendix R, Section III, identifies specific fire protection required to be provided by a licensee authorized to operate a nuclear power reactor. 10 CFR 50.48(c) identifies the schedules for the completion of fire protection modifications for which a plant shutdown is required. By letter dated October 5, 1984, as superseded March 1, 1985, the licensee requested that the current deadline of Refuel V (July 1985) be extended to the first quarter of 1986 (March 31, 1986) for the fire protection modifications identified below.

The time extension is needed to implement the following modifications:

1. Installations of the dedicated heating, ventilating and air conditioning (HVAC) system for safe shutdown areas of the Control Complex;

2. Installation of the 3-hour rated fire barrier for the ceilings in the new Emergency Feedwater Initiation and Control (EFIC) Room located on elevation 124 feet of the Control Complex; and

3. Installation of fire barriers for protection of safety-related cable trays and conduits in the Auxiliary Building, Intermediate Building and Control Complex.

III

The licensee has indicated that the proposed exemption is needed because of the extremely ambitious scope of the presently planned 20-week outage and the difficulty of completing all the required modifications within the scheduled shutdown period. As a measure of the scope of the modifications being performed during this outage, the total cost of the outage will be approximately $110 million, covering 1.8 million manhours, and occupying 1800 craft and supervisory personnel associated with modifications. Major modifications include those required for Emergency Feedwater Initiation and Control, Reactor Coolant Inventory Tracking System, Evironmental Qualification, and Appendix R including Remote Shutdown Capability. The requested exemption addresses areas where there are significant conflicts between the Appendix R work scope other and work scopes, making concurrent accomplishment during this outage impractical. The licensee concludes that modifications covered by the requested exemption can be completed within the requested time extension without adversely affecting public health and safety, based on (1) compensatory measures proposed, (2) completion of the major Appendix R modifications during this shutdown, and (3) ability of the onsite fire brigade to respond rapidly to any fires in the affected areas.

As compensation pending the completion of the modifications indentified above, the licensee will implement a roving fire watch patrol in all areas for which schedular relief has been requested. The fire watch will continue until all fire protection related work associated with Appendix R has been completed. The routing of the fire watch will be established to ensure that the patrol observes each area in which a fire could damage redundant shutdown related systems. It will return to these areas at a frequency of about once every twenty minutes.

If a fire should occur within any area provided with a fire watch, there is reasonable assurance that it will be detected in its incipient stages, before significant flame propgation or temperature rise occur. Upon discovery of a fire, the Control Room will be immediately notified and fire brigade response initiated. Pending arrival of the brigade, the fire watch, having been trained in the proper use of portable fire extinguishers, will be capable of suppressing the fire before significant damage occurs. We therefore have reasonable assurance that, pending completion of the licensee's Appendix R related modifications, the advent of fire in any of these areas will not result in damage to shutdown systems to the extent that safe plant shutdown could not be achieved and maintained.

Based on the considerations discussed above, the Commission concludes that the licensee has provided reasonable and acceptable interim post-fire safe shutdown capability or interim fire protection measures to support the exemption request.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption as requested by the licensee's letter of October 5, 1984, as superseded by letter dated March 1, 1985, is authorized by law and will not endanger life or property or the common defense and security and is othewise in the public interest. The Commission hereby grants an exemption from the requirements of 10 CFR 50.48(c) to extend the deadline for completion of the above identified fire protection modifications at Crystal River Unit 3 Nuclear Generating Plant until March 31, 1986.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (50 FR 28858).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 16th day of July, 1985.

Darrell G. Eisenhut,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-17367 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Gessar II; Meeting

The ACRS Subcommittee on GESSAR II will hold a meeting on August 7, 1985, Room 1167, 1717 H Street, NW., Washington, DC.

To the extent practical the meeting will be open to public attendance. However, portions of the meeting will be closed to discuss proprietary information relating to the GESSAR probabilistic risk assessment and plant security.

The agenda for subject meeting shall be as follows:

Wednesday, August 7, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of GESSAR II for a Final Design Approval applicable to future plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 16, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-17374 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee Reactor Radiological Effects; Meeting

The ACRS Subcommittee on Reactor Radiological Effects will hold a meeting on July 31, 1985, in Room 1167, at 1717 H Street, NW., Washington, DC.

The meeting will, for the most part, be open to public attendance. However, portions of the meeting will be closed for the discussion of Institute of Nuclear Power Operations (INPO) proprietary information.

The agenda for the subject meeting shall be as follows:

Wednesday, July 31, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will review the INPO Radiation Protection Program, particularly as it relates to a similar and related NRC program.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practiable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee and its consultants will then hear presentations by and hold discussions with representatives of INPO, the NRC Staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen Merrill (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 17, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-17373 Filed 7-19-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittees on Waste Management and Procedures and Administration; Meeting

The ACRS Subcommittees on Waste Management, and Procedures and Administration will hold a joint meeting on July 30, 1985, Room 1046, 1717 H Street, NW., Washington, D.C.

The meeting will, for the most part, be open to public attendance. However, portions of the meeting may be closed for the discussion of inviduals as potential consultants to the Waste Management Subcommittee.

The agenda for the subject meeting shall be as follows:

Tuesday, July 30, 1985—8:30 a.m. until the conclusion of business

The Subcommittees will review the ACRS Role in the Civilian High-Level Radioactive Waste Management Program.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen S. Merrill (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 17, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project

and regulations thereunder applicable to a self-regulatory organization and, in

repurchase for cash a substantial portion of the Securities through tender

premium to be paid on the Debentures

New Debentures (exclusive of any

10334 (March 14, 1985). The Commission

VOL 50 ISS 140 JL 22 1985 UMI

Dated: July 17, 1985.

Morton W. Liberkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-17372 Filed 7-19-85; 8:45 am]

BILLING CODE 7200-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-22240; SR-Amex-84-41]

Self-Regulatory Organizations; the American Stock Exchange, Inc.; Order Approving Proposed Rule Change

The American Stock Exchange, Inc. ("Amex") submitted on December 28, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend Rule 950 to permit stop and stop limit option orders to be elected when the quoted market for the option reaches the appropriate bid or offer price, in addition to being elected when a transaction in the security occurs at the appropriate stop or stop limit price. The amended rule is primarily designed to increase the effectiveness of these orders when used in connection with inactive option series.

The rule proposal provides that procedures applicable for the election of stop and stop limit orders by transaction shall be governed by Amex Rule 154, Commentary .04 relating to stop and stop limit orders for equity securities. The Amex has pending with the Commission a proposal to amend Commentary .04 to permit specialists on the equity side of the market to accept stop orders and to elect stop orders for their own account provided that the specialist first obtains a floor official's approval and executes the stop order at the same price as the electing transaction.[1] Under the Amex's proposal to amend Rule 950, this procedure also would apply to the options market.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 21629, January 3, 1985) and by publication in the **Federal Register** (50 FR 1964, January 4 1985). No written comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirement of the Act and the rules and regulations thereunder applicable to a self-regulatory organization and, in particular, the requirements of Section 6 and the rules and regulations thereunder. At this time, however, the Commission is approving only that part of the rule proposal providing for election of stop and stop limit orders by quotation. The Commission defers action upon that part of the proposal providing for election by transaction until such time as the Commission acts upon SR-Amex-84—32 (*see* note 1, *supra*).

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above mentioned proposed rule change (with the exception discussed herein) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 15, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17324 Filed 7-19-85; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* SR-Amex-84-32, which was noticed in Securities Exchange Act Release No. 21654 (January 11, 1985), 50 FR 2745 (January 18, 1985).

[Release No. 35-23765; 70-7128]

Central Power and Light Co.; Proposal To Make Tender Offer for $150 Million of Securities, and To Issue and Sell $90 Million of First Mortgage Bonds and $95 Million of Debentures

July 16, 1985.

Central Power and Light Company ("Company"), a subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed an application-declaration with this Commission pursuant to sections 6(a) 7, 9(a), 10 and 12(c) of the Public Utility Holding Company Act ("Act"), and Rules 42 and 50 thereunder.

The Company has $75 million of its First Mortgage Bonds, Series R, 14 ⅝% due January 1, 2011 ("Bonds"), and $75 million of its 15 ⅞% Debentures, Series 1982, Due April 1, 2012 ("Debentures"), collectively ("Securities") presently outstanding. The bonds may not be redeemed at a lower cost of money prior to January 1, 1986 and the Debentures may not be so redeemed prior to April 1, 1987. Since the Securities were issued, there has been a dramatic reduction in long term interest rates. The Company believes that comparable securities issued in today's market would bear significantly lower interest rates, and refunding of the Securities would benefit the Company's ratepayers by reducing the present interest costs to the Company. Although the Securities cannot presently be called due to refunding restrictions it is possible to repurchase for cash a substantial portion of the Securities through tender offers ("Tender Offers") to the holders which the Company proposes to make in the form of a letter to all Security holders. The Security holders may also be notified by telephone of the offers. The Company presently intends to hold open the offers for ten days but if market conditions require or particular Security holders require, the Company requests authority to extend the offer periods. Based on the experience of other utility companies, the Company expects that 80% to 90% of the Securities will be tendered.

Under the present market conditions based upon the information from several investment bankers, the Company believes that a Tender Offer for the Bonds could be successfully made at approximately 115% of the principal amount thereof, plus accrued interest. Similarly, a Tender Offer for the Debentures could be made at approximately 121% of the principal amount, plus accrued interest. The Tender Offer prices must be determined shortly before the Tender Offer commences.The actual prices will be based on a number of factors, including the coupon rate of the Securities, the date of expiration of the refunding protection on the Securities, the call price on such expiration date and the present market rates for similar bonds and debentures. Based upon limited information available to the Company, similar bonds and debentures have recently bid at a price of 114.125% and 119% of the principal amount thereof, respectively.

Based on today's market conditions the Company estimates that it could issue new 30-year first mortgage bonds ("New Bonds") at an interest rate of approximately 11.50%. Assuming that 100% of the Bonds are tendered, the transactions would reduce annual interest costs to the Company by approximately $675,000, including the amortization of the premium to be paid on the Bonds over the life of the New Bonds, for a total interest savings over the remaining life of the Bonds of approximately $16,875,000.

The Company intends to issue new debentures to provide funds to pay the tender price to the Debenture holders. Based on today's market conditions, the Company estimates that it could issue new debentures ("New Debentures") at an interest rate of approximately 11.75%. Assuming 100% of the Debentures are tendered, the transactions would reduce interest costs to the Company by approximately $718,000, annually including the amortization of the

premium to be paid on the Debentures over the life of the New Debentures, for a total interest savings over the remaining life of the Debentures of approximately $18,600,000.

The Company proposes to retain Salomon Brothers Inc. as the Company's tender agent and dealer-manager for the Tender Offer for the Bonds, and Goldman, Sachs & Co. as tender agent and dealer-manager for the Tender Offer for the Debentures in order to obtain the benefit of their experiences in similar transactions involving other utilities. The dealer-managers will not become obligated to purchase or sell any of the Securities. They will act merely as the Company's agents in disseminating the offer and receiving responses thereto. The dealer-manager's fee for the Bonds will be $2.50 per $1,000 principal amount of Bonds tendered, a solicitation fee of $1.50 per $1,000 principal amount of Bonds, plus reimbursement of out of pocket expenses in an amount not to exceed $20,000. In addition, the Company will reimburse the dealer-manager for its attorney fees not to exceed $15,000. The dealer-manager's fee for the Debentures will be $5.00 per $1,000 principal amount of Debentures tendered plus reimbursement of out of pocket expenses in an amount not to exceed $20,000. In addition, the Company will reimburse the dealer-manager for its attorney fees not to exceed $20,000. As is customary, the Company will be required to indemnify the dealer-managers for certain liabilities as provided in the contracts with the dealer-managers. While not yet determined, the Company may also retain depositaries to hold the tendered Securities pending the purchase thereof and/or an information agent to assist in the Tender Offers. If any such arrangements are entered into, they will be on customary items which will be filed by amendment.

Depending upon the amount of Securities tendered and the price paid for the tendered Securities, it will be necessary for the Company to issue up to approximately $90,000,000 principal amount of New Bonds and $95,000,000 principal amount of New Debentures in order to fund the purchase of the tendered Securities. The New Bonds would not be issued until completion of the Tender Offer to allow the company to have the New Bonds authenticated against the retired Bonds rather than property additions.

The New Bonds and the Debentures will be offered by competitive bidding in one or more series with up to 30-year maturity periods. The price to be paid to the Company for the New Bonds and the New Debentures (exclusive of any accrued interest which will be added to such price) will not be less than 98%, nor more than 101.75%, of the principal amount of the New Bonds and New Debentures. It is anticipated that the New Bonds and New Debentures will be redeemable at any time in whole or in part provided that such redemption will not be allowed for a period of five years from issue if it is part of a refunding at an effective interest cost lower than that of the particular series of the New Bonds or New Debentures.

The application-declaration, and any amendments thereto, are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 8, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17326 Filed 7-19-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22239; File No. SR-OCC-83-22]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of Options Clearing Corp.

On October 11, 1983, Options Clearing Corporation ("OCC") filed with the Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") to regulate facilities management agreements of OCC Clearing Members. Notice of the proposal was published in Securities Exchange Act Release No. 20323 (October 24, 1983), 48 FR 50187. On January 7, 1985, OCC filed substantive amendments to the proposal. Notice of the amendment was published in Securities Exchange Act Release No. 21827 (March 8, 1985), 50 FR 10334 (March 14, 1985). The Commission did not receive any comments on the proposal. As discussed below, the Commission is approving the proposed rule change.

I. Description

OCC proposes rules and procedures governing facilities management agreements between OCC Clearing Members. Under a typical facilities management agreement, a Clearing Member with clearance and settlement facilities (the "Managing Clearing Member") agrees to perform "back-office" sevices for another Clearing Member (the "Managed Cleaing Member") for a fee. The Managing Clearing Member may perform a variety of services for the Managed Clearing Member including: (1) Ministerial and cashiering functions; (2) preparation of trade input; (3) adjustment and settlement of options; (4) receipt, delivery, and custody of cash and securities; and (5) processing of exchange offers, tender offers, and redemptions.[1]

The proposal would change OCC's By-laws and Rules in several ways. First, the proposal would add Interpretation and Policy ("I&P") Four to OCC By-law Article V governing Clearing Member qualifications. Second, the proposal would add new OCC Rule 309 entitled "Managing Clearing Members and Managed Clearing Members." Finally, the proposal would amend OCC Rule 305 to authorize OCC to limit, under specified circumstances, the facilities management activities of Clearing Members.

New I&P Four would provide that OCC's Membership Committee will consider the provisions of a facilities management contract of an applicant for OCC membership as a managed Clearing Member to determine whether OCC's membership requirements have been met. The applicant would rely on its facilities management contract with a Managing Clearing Member to meet several of those requirements.[2] With

[1] The proposal does not affect what services a Managing Clearing Member may perform for a Managed Clearing Member. This continues to be an item of negotiation between the parties.

[2] OCC will look to the Managing Clearing Member with regard to: (1) Complying with the Act's books and record maintenance requirements; (2) demonstrating an ability to reconcile uncompared trades on a timely and efficient basis under options exchange rules and procedures; and (3) using personnel and procedures sufficent to discharge Clearing Member functions timely and efficiently. *See* OCC By-law Article V. § 1. I&P Two.

VOL 50 ISS 140 JL 22 1985 UMI

respect to services that will not be performed by the Managing Clearing Member, however, the Managed Clearing Member must show OCC's Membership Committee that it has the operational experience, capability and competence to perform those services. Moreover, the Managed Clearing Member must satisfy on its own several important membership criteria.[3]

In addition to reviewing facilities management contracts of applicants, OCC will review Managing Clearing Members and approve or disapprove them to act as Managing Clearing Members.[4] Moreover OCC will conduct periodic reviews of Managing Clearing Members and require further operational readiness reviews each time a Managing Clearing Member expands its facilities management activities by an additional four Managed Clearing Members.

New I&P Four requires that several provisions be in a facilities management agreement. First, the agreement must specify the services that will be performed by the Managing Clearing Member for the Managed Clearing Member and the respective duties and obligations of each. Second, the agreement must provide that it will not be terminated unless OCC is given 30 days prior written notice of termination. Third, the agreement must provide for its termination if OCC disapproves the Managing Clearing Member from acting as such. Last, all existing facilities management agreements must meet the requirements of OCC By-law Article V, Section 1 within 120 days from the effective date of the proposal.

New I&P Four also provides that OCC's Membership Committee will review a facilities management contract between an applicant and a facilities manager that is not an OCC Clearing Member when the facilities manager agrees to perform an applicant Clearing Member's obligations relating to OCC, OCC's Clearing Members or the maintenance of required books and records. Under those circumstances, the proposal provides that each facilities management agreement will be considered by OCC for approval on a case-by-case basis.

In addition to proposed I&P Four, the proposed rule change would add new OCC Rule 309. That Rule would institute specific requirements for facilities management activities. First, Rule 309 defines Managing Clearing Member as a Clearing Member that provides any facilities management services to one or more other Clearing Members, *i.e.*, Managed Clearing Members. Second, Rule 309 would create additional new net capital requirements for Managing Clearing Members. Managing Clearing Members would be required to maintain net capital which is the greater of the minimum net capital required by OCC Rule 302 [5] or the sum of $300,000 plus $50,000 times the number of its Managed Clearing Members in excess of four. Third, Rule 309 would require Managing Clearing Members to notify OCC if their net capital requirements are not met and would authorize OCC, under specified circumstances, to impose restrictions or limitations on the activities of Managing and Managed Clearing Members.[6] Those limitations or restrictions can be imposed if OCC's Chairman or President determines that the financial or operational condition of the Clearing Members makes limitations or restrictions necessary or advisable to protect OCC, other Clearing Members, or the general public. Finally, OCC Rule 309 states that, if a facilities management agreement is terminated, affected Managed Clearing Members must withdraw from OCC membership. Alternatively, the Managed Clearing Member can retain its membership by demonstrating to OCC's Membership Committee that it can perform the previously managed services itself or has entered into another facilities management agreement that is acceptable to OCC.

OCC's amendments to OCC Rule 305 would incorporate OCC's authority to impose the above restrictions and limitations on Clearing Member's activities and would clarify that OCC is authorized to restrict or limit Clearing Members' facilities management activities.

II. OCC'S Rationale

OCC states in its filing that facilities management agreements between Clearing Members have existed for a number of years. OCC represents that it recently has witnessed a substantial increase in facilities management arrangements and believes that Managed Clearing Members are relying increasingly on Managing Clearing Members to perform broader functions or all operational functions for the Managed Clearing Members. For those reasons, OCC believes that its proposal is now necessary.

OCC states that the proposal defines clearly the relationship between Managed and Managing Clearing Members and their respective relationships to OCC. OCC believes that I & P Four provides clear guidelines as to how the Managed and Managing Clearing Members can meet and maintain OCC's standards for Clearing Member operational capacity, experience and competence. Similarly, OCC believes its increased net capital requirements for certain Managing Clearing Members helps to inform it of the potential liabilities of facilities managements relationships and should help to ensure that those firms can meet those liabilities.

OCC notes that there has been an increasing tendency for Managed Clearing Members to use OCC Managing Clearing Members. OCC states in its filing, however, that it has allowed, and will continue to allow, Managed Clearing Members to maintain facilities management agreements with non-Clearing Member facilities managers. Nevertheless, OCC notes that, because those facilities managers are not OCC Clearing Members, OCC regulatory authority over those facilities managers is very different than its authority over facilities manager that are Clearing Members. Thus, OCC believes it necessary to continue to review such arrangements on a case-by-case basis.

OCC states in its filing that its proposal is consistent with Section 17A of the Act because it will facilitate the prompt and accurate clearance and settlement of securities transactions. OCC also states that the proposal will serve to protect the public interest, OCC Clearing Members, and OCC.

III. Discussion

The Commission agrees with OCC that the proposal is consistent with the Act and should be approved. Specifically, the Commission believes that OCC's proposal is consistent with the requirement of Section 17A that a clearing agency safeguard securities and funds in its custody or control or for which it is responsible. The Commission agrees with OCC that facilities management activities of OCC Clearing Members pose potential financial exposure to OCC and its Clearing Members. The Commission believes, however, that the safeguards incorporated in OCC's proposal should protect OCC, its members, and the public from that exposure. The proposal's increased net capital requirements for Managing Clearing Members should provide OCC with additional assurances of financial responsibility. If Managing or Managed Clearing Members fail to maintain required net capital, the proposal enables OCC to restrict or limit the activities of those members to protect OCC, other OCC members, and the public. In addition, the proposal provides for adequate monitoring by OCC of facilities management arrangements. OCC will approve a Managing Clearing Member to act as such only so long as the Managing Clearing Member demonstrates its operational capability in both periodic reviews by OCC and automatically whenever the Managing Clearing Member expands its activities by an additional four Managed Clearing Members. For Managed Clearing Members, all of OCC's membership requirements and monitoring programs will continue to apply except for functions performed by Managing Clearing Members, which also must meet applicable OCC requirements. In addition, the proposal ensures that if a facilities management arrangement is terminated, affected Managed Clearing Members must withdraw from OCC membership or satisfy OCC's membership requirements on their own or through a new facilities management arrangement.

Finally, the Commission believes that the proposal will promote the prompt and accurate clearance and settlement of securities transactions under section 17A of the Act. By subjecting facilities management arrangements to structured regulatory oversight, the proposal should help to ensure that facilities management services are being performed adequately.

IV. Conclusion

It is therefore ordered, under section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17325 Filed 7-19-85; 8:45 am]

BILLING CODE 8010-01-M

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[3] The Managed Clearing Member still must meet OCC's financial responsibility membership requirements. For example, the Managed Clearing Member must: (1) Meet OCC's initial financial requirements in OCC's Rules; (2) not sustain significant net pre-tax losses; or (3) not be on the Securities Investor Protection corporation's special surveillance list. *See* Article V, § 1 I&P One. The Managed Clearing Member also must meet several OCC operational requirements. For example, the Managed Clearing Member or any of its associated persons: (1) Cannot be subject to a "statutory disqualification" defined in § 3 of the Act; and (2) must not have been engaged or be reasonably likely to engage again in acts or practices inconsistent with just and equitable principles of trade.

[4] To qualify for OCC approval, a Managing Clearing Member must have "the requisite operational capability, experience and competence and [must have] allocated sufficient resources and experienced staff to enable it properly to serve . . . all facilities management agreements . . . and that it [has sufficient net capital under OCC's Rules for Managing Clearing Members]" Proposed I&P 4c. In addition, OCC's Membership Committee will not recommend for membership any Managed Clearing Member whose proposed Managing Clearing Member: (1) Lacks options clearing experience and has failed to employ sufficiently experienced personnel to compensate for that weakness (*see* Article V. § 1, I&P 3c); (2) has less than two key operations personnel that have attended OCC operations readiness review sessions and have passed any applicable OCC operational and financial examinations (*see* Article V. § 1 I&P 3d); and (3) has not yet undertaken to apply for approval to clear the type of option transaction contemplated in the facilities management agreement (*see* Article V. § 1, I&P 3e).

[5] OCC Rule 302 requires OCC Clearing Members to maintain net capital that is the greater of $100,000, 6⅔ percent of its aggregate indebtedness, or, for Clearing Members using OCC's alternative net capital requirements, 2 percent of its aggregate debit items. *See also* OCC Rule 301 which sets forth initial net capital requirements as opposed to minimum net capital maintenance requirements.

[6] Those restrictions include: Prohibitions against distributions that would cause the member's net capital to fall below OCC's requirements; limitations on the clearance of opening purchase transactions and/or opening writing transactions; and requirements that the member reduce or eliminate short positions for which underlying securities have not been deposited with OCC under OCC Rules Chapter VI. *See* OCC Rules 304 and 305.

[Release No. 34-22241; File No. SR-NASD-85-18]

Self-Regulatory Organizations; Proposed Rule Change by the National Association of Securities Dealers, Inc.; Relating to Proposed Fees To Be Paid by Members Receiving the Computer Assisted Execution Servcie ("CAES")

The National Association of Securities Dealers, Inc. ("NASD"), on July 10, 1985 filed with the Securities and Exchange Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), a proposed rule change as described in Item I, II, and III below. These Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendment establishes service and transaction chargea to be paid by members receiving the Computer Assisted Execution Services ("CAES"). The new fee schedule will result in the costs of operation and enhancement to the system being borne by CAES market makers.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

The CAES User Committee, which has a significant representation of the CAES market makers, has requested that certain enhancements be made to CAES which will require additional funding. The new fee schedule is designed to recover developmental and operational costs of CAES.

Section 15A(b)(5) of the Securities Exchange Act provides that the rules of a National Securities Association must provide for the equitable allocation of reasonable dues, fees and other charges among members, issuers and other persons using any facility of the Association.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Association believes that the fees charged to CAES are nominal, and does not foresee any impact on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others.

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions

should file six copies thereof with the Secretary, Securities and Exchange

for a statement of the representations contained therein, which are

a trustee entitled to payment of deferred fees will be a general unsecured creditor

of section 22(f) of the Act because that section was designed only to bar those

Agreements would not, therefore, constitute a joint or joint and several

Corporation's Board of Directors on June 18, 1985

VOL 50 ISS 140 JL 22 1985 UMI

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available at the principal office of the NASD. All submissions should refer to File No. SR–NASD–85–18 and should be submitted by August 12, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 15, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–17322 Filed 7–19–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14637; 812–6129]

Carnegie-Cappiello Growth Trust et al.; Notice of Application for an Order Granting Exemptions

July 16, 1985.

Notice is hereby given that Carnegie-Cappiello Growth Trust, Carnegie Government Securities Trust, Carnegie Tax Free Income Trust, and Liquid Capital Income Trust ("Applicants"), 1331 Euclid Avenue, Cleveland, Ohio 44115, open-end, diversified management investment companies registered under the Investment Company Act of 1940 ("Act"), filed an application on June 7, 1985, for an order of the Commission, (1) pursuant to section 6(c) of the Act, exempting Applicants and all subsequent funds and similar series of funds organized and managed by Carnegie Capital Management Company (together with Applicants, "Carnegie Funds"), from the provisions of sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act, to the extent necessary to permit the Carnegie Funds to enter into deferred fee agreements with certain of their trustees ("Agreements"), and (2) pursuant to section 17(d) of the Act and Rule 17d–1 thereunder, permitting the Carnegie Funds to effect certain affiliated transactions incident to the Agreements. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant statutory provisions.

Applicants state that, with the exception of Carnegie-Cappiello Growth Trust, each Applicant has a board of trustees comprised of six persons, none of whom are "interested persons" within the meaning of section 2(a)(19) of the Act. Carnegie-Cappiello Growth Trust's board of trustees is comprised of seven persons, only one of whom is an "interested person." Each of the disinterested trustees receives trustees' fees in varying amounts for serving as a trustee of any Applicant, in addition to a fee in varying amounts for each board meeting attended, and that each trustee is also reimbursed for expenses incurred in attending any meeting of the board and, if a member, the audit committee. Applicants represent that they do not pay any other remuneration to their trustees and that the trustees' fees paid are, and are expected to continue to be, insignificant in comparison to each Applicant's total net assets.

It is stated that under the Agreements, Applicants would be able to defer payment of trustees' fees otherwise currently payable so as to avoid a loss or diminution of social security benefits, to defer payment of income taxes on such fees, or for other reasons. The institution of the Agreements is expected to enhance the ability of the Funds to attract and retain trustees of the same high caliber as those who presently serve on their boards. Applicants state that the deferred trustees' fees will be credited, as of the date such fees would have been paid, to a book reserve account ("Deferred Fee Account") that will be established on each Applicant's books, and that trustees' fees that become payable for attending board meetings will be credited to the applicable Applicant's Deferred Fee Account on the following business day.

Fees thus deferred will accrue interest daily from the date they are credited to the Deferred Fee Account, and the rate of return on amounts (including accrued interest) in the Deferred Fee Account will be equivalent to the rate payable on shares of Liquid Capital Income Trust. Each Applicant may purchase shares of Liquid Capital Income Trust to fund interest payments on amounts in such Applicant's Deferred Fee Account; however, pursuant to the Agreements, payment of deferred fees and accrued interest will constitute a general obligation of each Applicant, and such payment will be made out of each Applicant's general assets and property; a trustee entitled to payment of deferred fees will be a general unsecured creditor of the Applicant he serves. Applicants represent that the Agreements will not create a trust or fiduciary relationship between an Applicant and its trustees, nor will they constitute a security interest of any kind in any property of the Applicants in favor of a trustee or any third person.

Applicants state that the deferred trustees' fees (including interest accrued thereon) will become payable in cash upon termination of a trustee's services in such capacity; in a lump sum; or in such number of annual installments as shall be elected in writing by such trustee, subject to the right of each Applicant, in its sole discretion, to accelerate payment of such fees. In the event of a trustee's death or disability, amounts payable to him under the Agreement will be paid in a lump sum on the date specified in the Agreement, subject to each Applicant's right to accelerate payment. Such amount will be payable to the trustee's personal representative or designated beneficiary; in all other events, the trustee's right to receive payments will be non-transferable. Applicants state that the Agreements will not obligate them to retain a trustee in such capacity, nor will they obligate Applicants to pay any (or any particular level of) trustees' fees to any trustee. Applicants further represent that deferral of trustees' fees in accordance with the Agreements will have a negligible effect on their assets, liabilities, net assets and net income per share.

Applicants contend that they should be exempted from the provisions of sections 18(f)(1) and 13(a)(2) of the Act because the Agreements would not possess any of the caracteristics of a senior security which led Congress to enact section 18 of the Act. Applicants would not "borrow" from their trustees, and all liabilities created by credits to Deferred Fee Accounts would be offset by equivalent amounts of assets that would not exist if the deferred fees were paid currently. Applicants assert that the Agreements would not: (1) Induce speculative investments by Applicants, or provide an opportunity for manipulative allocation of any of Applicants' expenses and profits, (2) effect control of any Applicant, or (3) given the currently widespread use of deferred compensation agreements, confuse Applicants' investors, make it difficult for them to value Applicants' shares, or convey a false impression of safety.

Applicants further submit that they should be exempted from the provisions

of section 22(f) of the Act because that section was designed only to bar those restrictions on transferability or negotiability either not disclosed to the holders of the subject security, or expressly prohibited by Commission rule or regulation. On the contrary, the restrictions on transferability of trustees' benefits would be clearly set forth in the Agreements, would primarily benefit the trustees, and assertedly would not effect adversely the interests of the trustees or the shareholders of any Applicant.

With respect to the exemption requested from section 22(g) of the Act, it is stated that the legislative history of the Act indicates that Congress was primarily concerned with the dilutive effect on the equity and voting power of the securities of an open-end company if such securities were issued for consideration not readily valued. Applicants' assert that their obligations to make payments under the Agreements should not be viewed as being "issued" for services, and that although fees that might become payable to a trustee would clearly be for services, any such fees would become payable independently of the Agreements. The Agreements would merely provide for deferral of payment of such fees and thus should be viewed as being undertaken, not in return for services, but in return for Applicants' not being required to pay such fees on a current basis.

With regard to the applicability of section 17(d) and Rule 17d–1 thereunder, Applicants submit that the Agreements do not possess profit-sharing characteristics within the meaning of paragraph (c) of Rule 17d–1, which defines "joint enterprise or other joint arrangement or profit-sharing plan" for purposes of the Rule. Under the Agreements, each Applicant will have the discretion to set aside cash to fund the general obligations accruing under the Agreements and may invest such cash in shares of Liquid Capital Income Trust. The income, gain, or loss on investments of the assets of Liquid Capital Income Trust would be received indirectly by a trustee through receipt thereof by the Deferred Fee Account; such receipt would, however, be identical in amount to the income, gain, or loss which would be received by a shareholder of Liquid Capital Income Trust whose shares were not held in the Deferred Fee Account. Applicants represent that as an affiliated person, the trustee would neither directly nor indirectly receive a benefit which would otherwise inure to Applicants or any of their shareholders, and that the Agreements would not, therefore, constitute a joint or joint and several participation by any Applicant with an affiliated person in a transaction on a basis different from or less advantageous than that of the affiliated person. Applicants contend that the use of Liquid Capital Income Trust's yield to determine the level of interest to be paid on amounts in Deferred Fee Accounts does not inherently differ from the use of the prime rate or another assumed rate of interest. Applicants represent that deferral of a t ustee's fees in accordance with the Agreements will maintain the parties to the Agreements, viewed both separately and in their relationship to one another, in the same position as if the fees were paid on a current basis, and that payment of interest on deferred fees is necessary to prevent a trustee from being penalized by an election to defer fees. It is believed that the benefits to Applicants and their shareholders will outweigh any benefit that may be realized by any trustee individually.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 12, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Mangement, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85–17323 Filed 7–19–85; 8:45 am]

BILLING CODE 8010–01–M

SYNTHETIC FUELS CORPORATION

Revised Policy on Standards of Conduct

AGENCY: United States Synthetic Fuels Corporation.

ACTION: Publication of Revised Policy on Standards of Conduct.

SUMMARY: This notice publishes the Corporation's revised Policy on Standards of Conduct, approved by the Corporation's Board of Directors on June 18, 1985.

FOR FURTHER INFORMATION CONTACT:

John Roberts, Acting Ethics Officer, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822–6341.

United States Synthetic Fuels Corporation.

March Coleman,

Assistant General Counsel, Corporate and Litigation.

July 17, 1985.

Policy on Standards of Conduct—United States Snythetic Fuels Corporation

Approved and Adopted June 18, 1985.

Standards of Conduct—Table of Contents

Part 1—General

Sec.

1. Purpose and Scope.
2. Applicability.
3. Definitions.
4. Corporation Ethics Program.
5. Designated Corporation Ethics Officer.
6. Responsibilities and Administration.

Part 2—Conduct of Employees

7. General.
8. Gifts, Gratuities, Entertainment, and Favors.
9. Outside Employment and Other Outside Activity.
10. Political Activity.
11. Confidential Information.
12. Use of Corporation Property.
13. Financial Integrity/Gambling.
14. Courtesy.
15. Availability of Counseling.
16. Procedures and Remedial Action.

Part 3—Financial Interests, Prior Employment, and Similar Interests

17. Restrictions Related to Employee Financial Interests, Prior Employment, and Similar Interests.
    (a) General.
    (b) Acquisition of financial interest in participating organization.
    (c) Restrictions concerning private financial interests and previous employment.
    (d) Definitions.
    (e) Waiver.
    (f) Waiver by rule.
    (g) Procedures applicable to Directors.

Part 4—Executive Personnel Financial Disclosure Requirements

18. Financial Disclosure Requirements for Directors and Certain Employees.
    (a) Statutory.
    (b) General policy and purpose.
    (c) Persons required to file—General Requirements for Filing.
    (d) Contents of reports.
    (e) Filing, Custody, Review.
    (f) Custody of and Public Access to Reports.
    (g) Review of Reports.
    (h) Failure to File or Falsifying Reports.

Part 5—Financial Interest of Other Corporation Employees

19. Financial Interest of Other Corporation Employees.

Part 6—Post-Employment Restrictions

20. Post-Employment Restrictions.

Part 7—Enforcement

21. Enforcement.

Part 1—General

1. Purpose and Scope.

(a) This Policy implements for the Corporation the Ethics in Government Act of 1978, as amended, and Executive Order 12674 of April 12, 1989, as modified by Executive Order 12731 of October 17, 1990.

(b) This Policy also implements for the Corporation:

(1) Section 7(b)(2)(A)(iii) of the Energy Security Act, 42 U.S.C. 8706(b)(2)(A)(iii), which requires the Corporation to establish a code of ethics governing the conduct of its employees;

(2) Section 7(b)(2)(A)(iv) of the Energy Security Act, 42 U.S.C. 8706(b)(2)(A)(iv), which requires the Corporation to establish a program for the disclosure of financial interests of its employees; and

(3) Section 7(b)(2)(A)(v) of the Energy Security Act, 42 U.S.C. 8706(b)(2)(A)(v), which requires the Corporation to establish a program for the disclosure of financial interests of its Directors.

(c) This Policy establishes standards of conduct for Corporation employees and Directors, and sets forth the Corporation's program for the disclosure of financial interests of its employees and Directors.

2. Applicability.

(a) This Policy applies to all employees of the Corporation, including Directors, and to all persons who provide services to the Corporation under personal service contracts.

(b) Unless otherwise specifically provided, this Policy does not apply to the Chairman of the Board of Directors, who is the Secretary of Energy, or to the Secretary of Energy.

3. Definitions.

For purposes of this Policy:

"Act" and "Energy Security Act" mean the Energy Security Act (95 Stat.

official and as such will administer the

Corporation is made or, if possible, prior

receipt of anything of value for or

VOL
50
ISS
140
JL
22
1985
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Part 5—Financial Interest of Other Corporation Employees

19. Financial Disclosure Statements.
(a) Filing requirement.
(b) Time and place for submission.
(c) Form of Statements.
(d) Confidentiality of Employees' Statements.
(e) Effect of Employees' Statements on other requirements.
(f) Review of Statements and remedial action.
(g) Exclusions from reporting requirements.

Part 6—Post-Employment Conflicts of Interest

20. Post-Employment Conflicts of Interest.
(a) Statutory.
(b) Purpose.
(c) Guidelines.
(d) Permanent restriction against any former Director or Employee acting as representative as to a particular matter in which the Director or Employee personally and substantially participated.
(e) Exemption for persons with special qualifications.
(f) Testimony and statements under oath or subject to penalty of perjury.
(g) Administrative enforcement.

Part 7—Procedures and Standards of Conduct Applicable to Consultants

21. (a) Procedures applicable to consultants.
(b) Standards of conduct for consultants.
(c) Statutory provisions.

Part 1—General

Section 1. Purpose and Scope.

(a) The purpose of this Policy is to assure that the business of the United States Synthetic Fuels Corporation (the "Corporation") is conducted effectively, objectively, and without improper influence or the appearance thereof.

The Corporation expects that its Directors and Employees will exhibit courtesy, consideration, and promptness in all dealings with the public, with parties having business before the Corporation, and with government agencies. It is the intent of this Policy that Directors and Employees will avoid any action, whether or not specifically prohibited by this Policy, which might result in, or create the appearance of:

(1) Using Corporation office for private gain;

(2) Giving improper preferential treatment to any person;

(3) Impeding the efficiency and economy of the operations of the Corporation;

(4) Losing complete independence or impartiality of action;

(5) Making a Corporation decision outside of official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Corporation.

(b) This Policy also implements for the Corporation:

(1) The same standards of ethical conduct and financial reporting as set forth in Executive Order 11222, pursuant to section 117(f) of the Energy Security Act (Pub. L. 96–294, as amended) (The "Act" or the "Energy Security Act");

(2) The financial disclosure provisions of the Ethics in Goverment Act of 1978, as amended (Pub. L. 95–521), made applicable to the Corporation by section 118(a) of the Energy Security Act;

(3) The regulations relating to the financial disclosure provisions of the Ethics in Government Act of 1978, as amended, issued by the Office of Personnel Managment (5 CFR Part 734);

(4) The provisions of section 207(a) of title 18 of the United States Code (and subsections (f), (h), and (j) of such section to the extend that they relate to section 207(a)) relating to post-employment prohibitions applicable to former Directors and Employees of the Corporation, pursuant to section 118(d) of the Energy Security Act; and

(5) The regulations relating to 18 U.S.C. 207(a) and subsection (f), (h), and (j) of said Section as they relate to 18 U.S.C. 207(a), issued by the Office of Personnel Managment. (5 CFR Part 737).

In addition, this Policy directs the attention of the Directors and Employees of the Corporation to certain important prohibitions and requirements imposed by the Energy Security Act and other laws of the United States. This Policy does not purport to reflect or enumerate all restrictions or requirements imposed by statutes, regulations or otherwise upon Corporation Directors and Employees and former Directors and Employees of the Corporation. The omission of a restatement of or a reference to any restriction or requirement in no way alters the legal effect of that restriction or requirement and any such restriction or requirement, as the case may be, continues to be applicable in accordance with its own terms.

(c) It is expected that the provisions of this Policy will be observed and administered in a manner which is consistent with both their spirit and their letter.

Section 2. Applicability.

Unless specifically provided otherwise, the provisions of this Policy apply to all Directors and Employees of the Corporation.

Section 3. Definitions.

Unless the context requires otherwise, the following definitions apply in this Policy:

"Act" and "Energy Security Act" mean the Energy Security Act (95 Stat. 611, Pub. L. 96–294) approved June 30, 1980, as amended.

"Board of Directors" and "Board" mean the Board of Directors of the Corporation.

"Chairman" means the Chairman of the Board of Directors or his delegate.

"Corporation" or the "United States Synthetic Fuels Corporation" means the corporation created by Subtitle B of Title I of the Act.

"Director" means a member of the Board of Directors.

"Employee" means a Corporation officer or a full-time or part-time employee of the Corporation or an employee of a Government agency assigned or detailed to the Corporation.

"Ethics Officer" means the person designated pursuant to section 5 hereof to administer this Policy and the provisions of Title II of the Ethics in Government Act within the Corporation.

"Participating Organization" means any entity listed on the list of Participating Organizations published from time to time by the Ethics Officer under section 6(b)(5) hereof, which list shall contain the name of each firm, corporation or other entity which has undertaken or formally proposes to undertake a synthetic fuels project involving the Corporation and any other entity participating in any material way in any such project, including but not limited to financial institutions, investment bankers, construction companies, engineering firms, supply contractors and attorneys.

Section 4. Corporation Ethics Program.

(a) The Corporation's ethics program shall consist generally of liaison with the Office of Government Ethics; review of financial disclosure reports; ethics counseling; and the administration of this Policy within the Corporation.

(b) The Ethics Officer under the direction of the Chairman is the Corporation official responsible for establishing, maintaining, and carrying out the Corporation's ethics program. To carry out this responsibility, sufficient resources (including investigative, audit, legal, and administrative staff as necessary) shall be made available to enable the Corporation to administer its program in a positive and effective manner.

Section 5: Designated Corporation Ethics Officer.

(a) By designation of the Chairman, a qualified attorney in the Office of the General Counsel of the Corporation shall serve as the Corporation's ethics

official and as such will administer the provisions of Title II of the Ethics in Government Act within the Corporation, coordinate and manage the Corporation's ethics program, and provide liaison to the Office of Government Ethics with regard to all aspects of the Corporation's ethics program.

(b) The Chairman may designate an alternate Corporation Ethics Officer who shall serve in an acting capacity in the absence of the designated Ethics Officer.

Section 6. Responsibilities and Administration.

(a) Each Employee shall:

(1) Read and comply with this Policy and the statutes and regulations referred to herein. Each Employee shall receive a copy of this Policy and acknowledge such receipt in writing prior to assuming duties at the Corporation or, if already employed, promptly after the effective date of the Policy;

(2) Be mindful of the high standards of integrity expected of them in all their activities, personal and official;

(3) Recognize that violation of the provisions of this policy or the laws referred to herein may subject them to dismissal, disciplinary action, and other penalties;

(4) Discuss with the Ethics Officer any problems arising out of this Policy.

(b) The Ethics Officer shall:

(1) Assure that required reports are promptly filed by all Directors and Employees;

(2) Review all reports submitted to him under the Policy;

(3) Notify Directors and Employees at that time of entrance on duty and periodically thereafter of the availability of counseling services and how and where these services are available;

(4) Bring the provisions of this Policy to the attention of each Director and Employee as circumstances warrant;

(5) Compile, maintain, and periodically update a list of all Participating Organizations and submit such list to the Vice President for Administration for distribution to all Directors and Employees; and

(6) Serve as the Corporation's designee to the Office of Government Ethics on matters within the jurisdiction of that office covered by this policy.

(c) The Director of Personnel shall:

(1) Distribute to prospective Employees, and departing Employees, those forms required to be submitted pursuant to this Policy; and

(2) Distribute a copy of this Policy to all prospective Employees at the time an offer of employment with the Corporation is made or, if possible, prior to making such offer.

Part 2—Conduct of Employees

Section 7. General.

(a) It is the policy of the Corporation not to interfere in the private lives of its Directors and Employees. However, in view of the public trust confided to the Corporation by the Energy Security Act, certain standards of conduct, some of which are statutory, are required to assure the proper performance of the Corporation's business and the maintenance of public confidence in the Corporation. The provisions of this section are designed to insure the fulfillment of that trust and the maintenance of that public confidence. Adherence to the provisions in this Section requires that Directors and Employees not do indirectly what would be improper to do directly.

(b) The attention of Directors and Employees is directed to the following statutory provisions:

(1) The prohibition contained in section 118(c) of the Act (42 U.S.C. 8714(c)) relating to a Director voting on any matter in which, to his or her knowledge, he or she has a financial interest (See section 17(g) hereof).

(2) The prohibition contained in section 118(d) of the Act (42 U.S.C. 8714(d)) relating to post-employment activities of former Directors and Employees of the Corporation (See section 20 hereof).

(3) The prohibition contained in section 161 of the Act (42 U.S.C. 8761) relating to false statements in connection with certain Corporation activities.

(4) The prohibition contained in section 162 of the Act (42 U.S.C. 8762) relating to forgery of Corporation instruments and agreements.

(5) The prohibition contained in section 163 of the Act (42 U.S.C. 8763) relating to misappropriation of funds and unauthorized activities in relation to the Corporation's business.

(6) The prohibition contained in section 164 of the Act (42 U.S.C. 8764) relating to conspiracy to commit acts made unlawful by sections 161, 162, or 163 of the Act.

(7) The prohibition contained in section 171(b) of the Act (42 U.S.C. 8771(b)) relating to the exercise of the Corporation's authorities.

(8) The prohibition contained in section 121(c) of the Act (42 U.S.C. 8717(c)) and 18 U.S.C. 1905 relating to the disclosure of confidential information.

(9) The prohibition contained in 18 U.S.C. 201 relating to the soliciton or receipt of anything of value for or because of an official act.

(10) The prohibition contained in 18 U.S.C. 1719 relating to misuse of the franking privilege.

(11) The prohibition contained in 18 U.S.C. 600 relating to promises of employment or other benefit for political activity.

(12) The prohibition contained in 18 U.S.C. 601 relating to deprivation of employment or other benefit for political contribution.

(13) The prohibition contained in 18 U.S.C. 602 relating to solicitation of political contributions.

(14) The prohibition contained in 18 U.S.C. 603 relating to making political contributions.

Section 8. Gifts, Gratuities, Entertainment, and Favors.

(a) Acceptance of gifts, gratuties, entertainment, and favors from those who have or seek business with the Corporation may be a source of embarrassment to both the Corporation and the Director or Employee involved, may affect or appear to affect the objective judgment of the recipient, and may impair public confidence in the integrity of the Corporation's business relationships. Therefore, except as provided in subsection (b) of this Section, no Director or Employee shall knowingly solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from any Participating Organization or any person who: (1) Has, or is seeking to obtain, contractual, or other business or financial relations with the Corporation; or (2) has interests that may be substantially affected by the performance or nonperformance of the Director's or Employee's official duty. In those cases in which the tender of any such gift, gratuity, or other thing of monetary value occurs under circumstances making the return thereof to the donor either impractical or impossible, the item involved shall be promptly delivered to the Vice President for Administration of the Corporation. All such items delivered to the Vice President shall be disposed of by him in accordance with instructions of the General Counsel of the Corporation.

(b) Notwithstanding the foregoing, a Director or Employee may:

(1) Accept gifts, entertainment, or favors given him as a result of obvious family or personal relationships (such as those between a parent, child, spouse, or other relative of the Director or Employee) when the circumstances make it clear that it is those

relationships rather than the business of the persons concerned which are the

writing. However, a Director or Employee shall not, either for or without

the Corporation under the Energy Security Act, and the need to avoid any

have access to business information of a confidential nature, including

courtesy, consideration, and promptness

Part 3—Financial Interests, Prior

relationships rather than the business of the persons concerned which are the motivating factors;

(2) Accept food and refreshments of moderate value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where such Director or Employee is authorized by the Corporation to be in attendance;

(3) With approval of the Vice President to whom he or she reports and the Ethics Officer, accept food and refreshment, transportation, lodging, or subsistence from a consumer, environemntal, industrial, technical, trade, professional, or other association or similar group, in connection with the Employee's participation in a widely attended luncheon, dinner, seminar, conference, or similar gathering sponsored by the donor; provided that this exception shall not apply when the donor is a Participating Organization or an association or group composed principally of Participating Organizations;

(4) Accept loans from banks or other financial institutions or parties on customary term to finance proper and usual activities such as home mortgage loans;

(5) Accept unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value; and

(6) Accept transportation to inspect or investigate a location or facility, if under the circumstances it would be unduly inconvenient or inefficient to use other transportation.

Section 9. Outside Employment and Other Outside Activity.

(a) Employees are prohibited from holding employment with any Participating Organization and shall not engage in any other outside employment or outside activity not compatible with the full and proper discharge of the duties and responsibilities of their Corporation employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest; or

(2) Outside employment which tends to impair the individual's mental or physical capacity to perform his or her Corporation duties and responsibilities in an acceptable manner, or which requires time or attention during the Employee's official work hours.

(b) Within the limitations imposed by this Section, Employees are encouraged to engage in teaching, lecturing and writing. However, a Director or Employee shall not, either for or without compensation, engage in teaching, lecturing or writing that is dependent on information obtained as a result of the Employee's Corporation employment, except: (1) Where that information has been made available to the general public or will be made available on request, or (2) when the Chairman gives written authorization for the use of non-public information on the basis that the use is in the public interest. Any such outside teaching, lecturing, and writing shall clearly distinguish the views of the Employee from those of the Corporation and its management. In addition, Directors and Employees shall not accept any compensation or honorarium for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Corporation.

(c) No Employee shall accept a fee from an outside source on account of a public appearance, speech, or lecture (1) if the public appearance or the preparation or delivery of the speech or lecture was a part of the official duties of the Employee, (2) if the public appearance, speech, or lecture was made during official working hours, or (3) if travel for the purpose of the public appearance, speech, or lecture was made at Corporation expense. In addition, no Employee shall accept a fee for the preparation, publication, or review of an article, story or book if it was prepared during official working hours or was part of the official duties of the Employee.

(d) This Section shall not preclude an Employee from:

(1) Participating in discussions and meetings of a professional nature and from receiving from outside sources (other than a Participating Organization) bona fide reimbursement for actual expenses of travel and subsistence incurred in connection with his or her participation if such Employee's participation is not a part of his official duties at the Corporation;

(2) Participating in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization.

Section 10. Political Activity.

(a) Although Corporation personnel are free to engage in political activity as a private matter, and while it is the policy of the Corporation not to interfere in the private lives of its Directors and Employees, the public trust confided to the Corporation under the Energy Security Act, and the need to avoid any action that might adversely affect public confidence in the Corporation's operations require that special care be taken by all Directors and Employees to avoid any action that might be at odds with the ethical standards for the conduct of business established in section 1(a) of this Policy. Attention is also directed to the prohibition contained in section 8 of the Policy relating to gifts, gratuities, entertainment, and favors. This prohibition is not limited to the solicitation and acceptance of personal gifts, and includes the solicitation and acceptance of any thing of monetary value (including services) on behalf of another, including contributions to political organizations. Such solicitations from Participating Organizations are prohibited. All Directors and Employees shall also remain alert to and comply with the statutory standards of conduct based on general law referenced in section 7(b) of the Policy relating to prohibited political activity. The referenced statutes include section 600 of title 18 of the United States Code, which makes it a federal offense for anyone to promise a benefit made possible by an Act of Congress, or any special consideration in obtaining such benefit, as consideration for any political activity or the support of or opposition to any candidate or political party in connection with any general or primary election, or political convention.

Section 11. Confidential Information.

(a) Section 163(a)(4) of the Act makes it a criminal offense for anyone to give to any person any unauthorized information concerning any future action or plan of the Corporation, or having such information to invest or speculate, directly or indirectly, in the securities or property of any company, bank, or corporation receiving financial assistance from the Corporation. Criminal statutes also prohibit a Director or Employee from disclosing, other than as provided by law, confidential business information obtained through his employment (section 121(c) of the Act, and 18 U.S.C. 1905).

(b) A Corporation Director or Employee shall not make use or give the appearance of making use, or permit others to make use or give the appearance of making use, of Corporation information not made available to the general public, for the purpose of furthering a private interest.

(c) As a result of their official duties, Directors and Employees will frequently have access to business information of a confidential nature, including commercial, financial, or proprietary data provided by companies seeking financial assistance from the Corporation. Such information is disclosed for official use within the Corporation and is made available for no other purpose than consideration of the financial assistance application or other Corporation matters. Where such confidential business information might be compromised in responding to outside inquiries from apparently authorized or legitimate sources, such as government agencies, these inquiries should be referred to the Director of Public Disclosure to determine whether the nature and circumstances of such inquiries justify disclosure of the particular information sought.

Section 12. Use of Corporation Property.

A Director or Employee shall not, directly or indirectly, use, or allow the use of, Corporation property of any kind, including property leased to the Corporation, for other than officially approved activities. A Director or Employee has a positive duty to protect and conserve Corporation property, including equipment, supplies, and other property entrusted or issued to him.

Section 13. Financial Integrity/ Gambling.

(a) *Personal Financial Integrity*—An Employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as federal, state, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, or one imposed by law such as federal, state, and local taxes, and "in a proper and timely manner" means in a manner which the Chairman determines does not, under the circumstances, reflect adversely on the Corporation as an employer.

(b) *Gambling, Betting, and Lotteries*—An Employee shall not participate, while on Corporation owned or leased property, or while on duty for the Corporation, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing numbers slips or tickets.

Section 14. Courtesy.

An Employee shall conduct himself in a manner that will assure effective accomplishment of his responsibilities and must observe the requirements of courtesy, consideration, and promptness in dealing with those seeking the Corporation's assistance.

Section 15. Availability of Counseling.

Each Director or Employee may consult the Ethics Officer at any time during normal Corporation hours for counseling on problems raised by this Policy.

Section 16. Procedures and Remedial Action.

(a) Information or complaints from any source evidencing violations of the ethical standards and standards of conduct prescribed in this Policy, whether emanating from within or outside the Corporation, shall be brought to the attention of the Chairman, who shall take immediate action to resolve the matter. All such complaints or allegations shall be referred to the Ethics Officer, who shall review the same and advise the Chairman in writing whether the matter should be resolved by administrative action, is appropriate for investigation by the Inspector General, or should be referred to the Department of Justice for investigation. Any such information or complaint involving a Director or Officer of the Corporation shall be referred to the Board of Directors together with the Chairman's recommendation for appropriate action. Information which, following review, affords reasonable grounds to believe that there has been a violation of criminal law, shall be promptly referred to the Department of Justice for investigation.

(1) Administrative Sanctions—

(i) A violation by an Employee of the ethical standards and standards of conduct prescribed by this Policy may be cause for appropriate disciplinary action, which may be in addition to any penalty prescribed by law.

(ii) When, after review of the report of the Ethics Officer and/or the report of the Inspector General, and after consideration of any explanation and information provided by the Employee, the Chairman decides that remedial action is required, he shall take appropriate disciplinary action against the Employee, which action may include, among others, oral admonishment, written reprimand, suspension, or termination of employment. When appropriate, the Chairman shall recommend to the Board of Directors the suspension or termination of employment of Officers. Disciplinary and other remedial action shall be effected in accordance with any applicable laws.

Part 3—Financial Interests, Prior Employment, and Similar Interests

Section 17. Restrictions Related to Employee Financial Interests, Prior Employment, and Similar Interests.

(a) The maintenance of public confidence in the Corporation requires that a Director or Employee not take any action which would constitute the use of his or her Corporation position to advance personal or private interests.

(b) After assuming an office or employment with the Corporation, a Director or Employee shall not acquire any financial interest in a Participating Organization while it is on the list of Participating Organizations maintained by the Ethics Officer pursuant to section 6(b)(5) above.

(c) Unless authorized to do so as provided hereafter in this Section, an Employee shall not participate personally and substantially as an Employee in a particular matter in which the employee knowingly has a financial interest or in which he or she participated personally and substantially prior to employment by the Corporation.

(d) For purposes of this Section—

(1) An Employee "participates" in a particular matter through decision, approval, disapproval, recommendations, evaluation, the rendering of advice, negotiation, investigation, implementation, or otherwise.

(2) "Particular matter" is any synthetic fuel project proposal or other application, request for determination, determination, proposal, agreement, contract, claim, controversy, or other similar matter under consideration within the Corporation.

(3) A "financial interest" of an Employee includes the financial interest of the Employee's spouse, dependent child, partner, or an organization (other than the Corporation) in which the Employee is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom the Employee is negotiating or has an arrangement concerning prospective employment. An Employee shall be deemed to be negotiating for prospetive employment upon an expression of interest in response to a solicitation for future employment by either the Employee or the person or organization.

(e) With the approval of the Chairman, the Ethics Officer may waive the restrictions of subsection (c) of this Section in a particular matter for an individual if the Ethics Officer determines in writing that the interest is

too remote or too inconsequential, or the prior participation was too

advise each Director in writing if any reported financial interest is within the

Schedule under 5 U.S.C. 5332, are required to complete financial disclosure

position or office in which the report is required to be filed pursuant to Title II

submit the report of each Director, as well as his or her own report, to the

Part 5—Financial Interests of Other

too remote or too inconsequential, or the prior participation was too insubstantial, to affect the integrity of the services which the Corporation may expect of the individual. This determination shall be made after consultation with the Vice President in charge of the Employee's work assignment. Where it appears that a conflict of interest would arise in other matters in which the Employee might in the future be involved in the performance of normal duties, the Ethics Officer will so advise the Chairman and appropriate action shall be taken.

(f) The Chairman may by rule waive the restrictions of subsection (c) of this Section for classes of financial interests which the Chairman determines are too remote or too inconsequential to affect the integrity of an Employee's services. The restrictions on the following financial interests are waived pursuant to this paragraph:

Financial interests in mutual funds, regulated investment companies or similarly constituted entities the portfolios of which are widely diversified, and similarly constituted commercially fungible entities.

(g) Procedures Applicable to Directors.

(1) Subsection 118(c) of the Act prohibits a Director from voting on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the Director's knowledge, he or she, his or her spouse, minor child, partner, or an organization (other than the Corporation) in which the Director is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom the Director is negotiating or has any arrangement concerning prospective employment, has a financial interest. This prohibition shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such Director's services for the Corporation in that matter. The Director involved shall not participate in such determination.

(2) Prior to any meeting of the Board of Directors at which the Board is expected to vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, the Ethics Officer shall review the financial disclosure report filed with the Corporation by each Director and shall advise each Director in writing if any reported financial interest is within the purview of section 118(c) of the Act.

(3) If a Director has a financial interest within the purview of section 118(c)(1) of the Act and believes that the interest is too remote or too inconsequential to affect the integrity of his services for the Corporation in the particular matter on which the Board is scheduled to vote, he may request the Ethics Officer to evaluate the particular financial interest and make a recommendation to the Board of Directors as to whether, in his opinion, the financial interest in question is too remote or too inconsequential to affect the integrity of the Director's service within the meaning of section 18(c)(3) of the Act.

Part 4—Executive Personnel Financial Disclosure Requirements

Section 18. Financial Disclosure Requirements for Directors and Certain Employees.

(a) *Statutory.* Section 118(a) of the Act and Title II of the Ethics in Government Act of 1978, (the "1978 Act") (Pub. L. 95–521, as amended), require the Directors and certain Employees of the Corporation to disclose personal financial interests and a description of certain employment relationships in order to avoid potential conflicts of interest, and the appearance of such conflicts, which may arise as they carry out the duties of their positions. The 1978 Act directs the Office of Government Ethics ("OGE") to provide for the systematic review of the financial holdings of both current and prospective Directors and Employees. The Office of Personnel Management ("OPM"), on the recommendation of the Director of OGE, has promulgated regulations establishing the procedures for the filing, review, and public availability of the Financial Disclosure Report required under the 1978 Act. (5 CFR Part 734).

(b) *General Policy and Purpose.* The purpose of this Section is to implement the statutory requirements and to provide guidelines for those Directors and those Employees who are required to submit financial disclosure reports under the 1978 Act and the OPM regulations. Reference should be made to the Ethics Act and regulations for detailed statements of the law, definitions, exemptions, limitations, and illustrative examples (5 CFR 734.103).

Under Title II of the Ethics Act, Directors and Employees whose positions are compensated at a rate equivalent to or above that payable for the grade GS–16 of the Federal General Schedule under 5 U.S.C. 5332, are required to complete financial disclosure forms, disclosing any other employment relationships, any income received (other than from Corporation employment), assets, liabilities, and certain purchases, sales, exchanges, and gifts. These reports are not net worth statements. Only assets held as investments and certain other items must be reported. Items for personal use, such as a residence, a personal automobile or jewelry not held for sale need not be reported. Although the reports must be made available if requested by a member of the public, subject to compliance with certain procedures set out in the OPM regulations, they cannot be used for any commercial purpose, for establishing credit rating or, directly or indirectly, in the solicitation of money for any political, charitable or other purpose. In the event that a report is used by a person for one of these prohibited purposes, the Attorney General may institute a civil action against such person.

(c) *Persons Required to File—General Requirements for Filing.* Each Director and each Employee compensated at a rate equivalent to or above the rate payable for grade GS–16 of the General Schedule prescribed by 5 U.S.C. 5332, and any other Employee in a position determined by the Director of OGE to be of equal classification and certain others unless excluded pursuant to 5 CFR 734.203 (hereinafter referred to as a "reporting individual"), shall file a report in accordance with the following rules:

(1) A reporting individual who, during any calendar year, performs the duties of his or her office for more than sixty days shall file a report on or before May 15 of the succeeding year.

(2) Within thirty days of assuming a position or office at the Corporation, a reporting individual shall file a report, unless such individual

(a) Has left another position within the thirty days prior to the assumption of the Corporation position in which a report required by 5 CFR 734.201 has previously been filed, or

(b) Has already filed such a report as a nominee for the Corporation position.

(3) On or before the thirtieth day after termination of his or her Corporation employment, a reporting individual shall file a report for the period from the end of the calendar year with respect to which a report was last filed to the date on which the individual left such office or position. If the individual assumes employment within thirty days of leaving the Corporation in another position or office in which the report is required to be filed pursuant to Title II of the 1978 Act, he or she need not file a report under this paragraph.

(4) The Ethics Officer may, for good cause shown, grant to any Employee or class of Employees an extension of up to 45 days. OGE may grant an additional extension of up to 45 days if it makes a determination, based upon the reporting indvidual's specific reasons which have been forwarded to OGE by the Ethics Officer along with his or her own comments on the request, that there is good cause shown for an extension.

(5) Any reporting individual who, as determined by the Ethics Officer, is not reasonably expected to perform the duties of his or her office for more than sixty days in a calendar year need not file a report.

(6) Notwithstanding the provisions of paragraph (5) of this Section, if the reporting individual does perform the duties of his or her office or position for more than sixty days in a calendar year, and (i) if such individual is a new entrant or nominee, he or she shall file a report within fifteen calendar days after the sixty-first day unless the individual has filed a request for a waiver which is subsequently granted or (ii) if such individual is terminating employment, he or she shall file a report required by paragraph (3) of this section.

(7) In unusual circumstances, the Director of OGE may grant a request for a waiver of any public reporting requirement otherwise applicable under this Section for a reporting individual who is reasonably expected to perform, or has performed, the duties of his or her office for less than 130 days in a calendar year. Such a determination will be made after OGE has received advice from the Corporation and shall be in accordance with the guidelines established in 5 CFR 734.205.

(d) *Contents of Reports.* The information required to be included in each report is fully described in the instructions accompanying the Executive Personnel Financial Disclosure Report (S.F. 278) prescribed by OGE and in regulations promulgated by OGE (5 CFR Part 734), which requirements are incorporated herein by reference. Directors and Employees are encouraged to consult with the Ethics Officer, as necessary, concerning such requirements.

(e) *Filing, Custody, Review.* A reporting individual shall file the report with the Ethics Officer of the Corporation, who shall note on the report or supplemental report the date it is received. The Ethics Officer shall submit the report of each Director, as well as his or her own report, to the Director of OGE after he or she has reviewed it (except that the Chairman or his delegate shall review the report of the Ethics Officer).

(f) The Corporation shall, within fifteen days after any report is received by the Ethics Officer, make each report filed with it under this Part available to the public by permitting inspection of such report by, or furnishing a copy of such report to, any person who makes a written application stating: (1) The person's name, occupation and address, (2) the name and address of any other person or organization on whose behalf the inspection or copy is requested, and (3) that such person is aware of the prohibitions on obtaining or using the report for (a) any unlawful purpose, (b) any commercial purpose, other than by news and communications media for dissemination to the general public, (c) determining or establishing the individual's credit rating, or (d) use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose. The Corporation may require a reasonable fee to be paid which is necessary to recover the direct cost of reproduction or mailing of such report, or may waive or reduce the fee if the Corporation determines that such waiver or reduction is in the public interest.

All reports shall be retained by the Corporation for six years, during which time they shall be made available to the public as provided above. After the six-year period a report shall be destroyed, unless needed in an ongoing investigation.

(g) The Ethics Officer shall review each report within 60 days after the date of filing (or earlier if required by the expedited procedure of 5 CFR 734.604(c)) in order to determine that the individual is in compliance with applicable laws and regulations and that the interests or positions disclosed on the form do not violate any applicable statute or regulation. Such review shall be conducted pursuant to 5 CFR 734.604.

(h) The Chairman of the Corporation shall refer to the Attorney General the name of any individual he or she has reasonable cause to believe has willfully falsified or willfully failed to file information required to be reported and may take any appropriate personnel or other action in accordance with applicable law or Corporation policy against such individual.

Part 5—Financial Interests of Other Corporation Employees

Section 19. Financial Disclosure Statements.

(a) *Filing Requirement.* To the extent they are not covered by Part 4 of these Standards of Conduct (which implements the financial disclosure provisions of title II of the Ethics in Government Act of 1978) statements of employment and financial interests shall also be submitted by:

(1) Each Corporation employee whose position is compensated at or above the pay level for GS–13 under section 5332 of Title 5, United States Code, the incumbent of which is responsible for making a Corporation decision or taking a Corporation action in regard to:

(i) Contracting or procurement;

(ii) Administering or monitoring a financial assistance agreement;

(iii) Regulating or auditing a private or other non-federal enterprise; or

(iv) Other activities where the decision or action has an economic impact on the interests of any other non-federal enterprise;

(2) Each Corporation employee whose position is compensated at a rate equivalent to that payable for Grade GS–13 or above of the General Schedule established by Chapter 53 of Title 5 of the United States Code who occupies a position the basic duties and responsibilities of which consist of the investigation, evaluation, negotiation, administration, or implementation of any synthetic fuels project formally proposed to the Corporation or the preparation of the comprehensive strategy for a national synthetic fuels development program to be recommended to the Congress by the Corporation;

(3) Such other employees who are in positions which the Chairman determines require the incumbent to report employment and financial interests in order to carry out the purposes of law, Executive Order 11222 of May 8, 1965, this Part 5 or any other Corporation regulations.

(4) Notwithstanding paragraph (1) above, employees in positions which meet the criteria of paragraph (1) may be excluded from the reporting requirement when the Chairman determines that:

(i) The duties of a position are such that the likelihood of the incumbent's involvement in a conflicts of interest situation is remote; or

(ii) The duties of a position are at such a level of responsibility that the submission of a statement of employment anf financial interests is

not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect

Employment and Financial Interests" or supplementary statement any

(2) Disqualification for a particular assignment;

section 207 throughout the Government. Pursuant to the 1978 Act, the OPM has,

Corporation shall knowingly act as agent or attorney for, or otherwise

requires such qualifications and that the

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not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect of the duties of the position on the integrity of the Corporation.

(5) An employee is not required to submit in a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society, a charitable, religious, social, fraternal, recreational, public service, civic or political organization or a similar organization and not conducted as a business enterprise. For the purpose of this Section, educational and other institutions doing research and development or related work involving contracts with the Corporation are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

(b) *Time and Place for Submission.* The statements referred to in this Section shall be submitted to the Ethics Officer. An Employee who, after the effective date of this Policy, is appointed to a position requiring submission of such statement, shall submit such statement within 30 days after appointment. Each covered Employee who previously submitted any such statement shall submit a supplementary statement on or before June 30 of each succeeding year, regardless of whether or not there were occurrences which require changes in, or additions to, information previously submitted.

(c) *Form of Statements.* Statements of employment and financial interests shall be submitted on a standard form "Confidential Statement of Employment and Financial Interests", copies of which are available in the Personnel Office of the Corporation.

The following rules shall be observed in preparing the statements:

(1) The interest, if any, of a spouse, minor child, or other member of the Employee's immediate household is considered to be an interest of the Employee. For the purpose of this Section, "member of an Employee's immediate household" means those blood relations who are residents of the Employee's household.

(2) If any information required to be included on a "Confidential Statement of Employment and Financial Interests" or supplementary statement, including holdings placed in trust, is not known to the Employee but is known to another person, the Employee shall request that other person to submit information on his behalf.

(3) An employee is not required to submit in a "Confidential Statement of Employment and Financial Interests" or supplementary statement any information relating to the Employee's connection with, or interest in, a professional society, a charitable, religious, social, fraternal, recreational, public service, civic or political organization or a similar organization not conducted as a business enterprise.

(d) *Confidentiality of Employees' Statements.* The Corporation shall hold each Confidential Statement of Employment and Financial Interests, and each supplementary statement, filed under this Section in confidence. To insure this confidentiality, the Ethics Officer is designated to review and retain the statements, and shall be responsible for the maintenance of the statements in confidence, and he shall not allow access to, or allow information to be disclosed from a statement except as necessary to carry out the purpose of this section. The Corporation shall not disclose information from a statement except as the Chairman may determine for good cause shown. All statements filed under this Section shall be retained by the Corporation for six years, after which period a statement shall be destroyed, unless needed in an ongoing investigation.

(e) *Effect of Employees' Statements on Other Requirements.* The statements required by this Section are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law or regulation. The submission of a statement or supplementary statement by an Employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law or this Policy.

(f) *Review of Statements and Remedial Action.* All statements submitted under this Section shall be reviewed by the Ethics Officer. If, in the judgment of the Ethics Officer, any statement discloses a conflict of interest, or an apparent or potential conflict of interest between the interests of the Employee and the performance of such Employee's duties at the Corporation, the Ethics Officer shall consult with such Employee and shall take such action as the Ethics Officer deems appropriate to resolve such conflict, or apparent or potential conflict. If the Ethics Officer is unable to resolve the situation, he shall report the matter to the Chairman who shall then take appropriate remedial action to end such conflict or potential conflict, or apparent conflict. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Disqualification for a particular assignment;

(3) Divestment by the Employee of his conflicting interest; or

(4) Disciplinary action.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws and regulations.

(g) *Exclusions From Reporting Requirements.* (1) Any Employee who considers that his or her position has been improperly included among those requiring the submission of the statements required by this Section may submit the matter for review by the Ethics Officer.

(2) Employees in positions that meet the criteria in subsection (a) of this Section may be excluded from the reporting requirements of this Section if the Chairman determines that:

(a) The duties of a position are at such a level of responsibility that the likelihood of the incumbent's involvement in a conflict of interest situation is remote; or

(b) The duties of a position are at such level of responsibility that the submission of a statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect of the duties of the position on the integrity of the Corporation.

Part 6—Post-Employment Conflicts of Interest

Section 20. Post-Employment Conflicts of Interest.

(a) *Statutory.* Sections 118(b) and 118(d) of the Act relate to post-employment activities of Directors and Employees. Section 118(b) applies to former federal employees employed by the Corporation and provides that the laws governing post-federal employment shall not apply to them while acting on behalf of the Corporation. Section 118(d) provides that section 207(a) of Title 18 of the United States Code (and subsections (f), (h), and (j) of such Section to the extent they relate to subsection (a)) shall apply to former Directors and Employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government, and also provides that section 207(a) shall apply to the Corporation as if it were an agency of the executive branch of the United States Government. In addition, under the Ethics in Government Act of 1978 the Office of Government Ethics within the Office of Personnel Management has supervisory jurisdiction over the administration of subsection (j) of section 207 throughout the Government. Pursuant to the 1978 Act, the OPM has, on the recommendation of the Director of OGE and in consultation with the Attorney General, issued regulations in 5 CFR Part 737 to guide agencies (including the Corporation) in exercising the administrative enforcement authority contained in section 18 U.S.C. 207(j), and to provide guidance to individuals who must conform to the law. Criminal enforcement of the provisions of 18 U.S.C. 207(a) is the exclusive responsibility of the Attorney General.

(b) *Purpose.* It is the purpose of this Section to provide guidelines for Directors and Employees within the framework of 18 U.S.C. 207(a) and the OPM regulations. Reference should be made to the regulations, and the Ethics Officer should be consulted, for detailed statements of the law, definitions, exemptions, limitations and illustrative examples.

(c) *Guidelines.* The statute bars certain acts by former Directors and Employees, which may reasonably give the appearance of making unfair use of prior Corporation employment and affiliations. It does not, however, bar any former Director or Employee, regardless of rank, from employment with any private or public employer after he or she has left the Corporation's employ. Nor does it bar employment even on a particular matter in which the former Director or Employee had major official involvement except in certain circumstances involving persons engaged in advocacy. Rather, the specific prohibitions arise from a combination of the following factors which in any given situation may include the following: (1) The nature and extent of the involvement in a particular matter by the individual while employed by the Corporation, (2) the identity of the particular matter with which the individual dealt while employed by the Corporation with the same matter with respect to which he or she may represent others after leaving the Corporation, (3) the manner in which the former Director of Employee appears before or communicates with the Corporation or the U.S. Government, and (4) the position occupied by the individual while in the Corporation's employ.

(d) Permanent restriction against any former Director or Employee acting as representative as to a particular matter in which the Director or Employee personally and substantially participated.

(1) The Prohibition of 18 U.S.C. 207(a). No former Director or Employee after terminating employment with the Corporation shall knowingly act as agent or attorney for, or otherwise represent any other person, in any formal or informal appearance before, or with intent to influence, make any oral or written communication on behalf of any other person: (1) To the Corporation or otherwise to the United States, (2) in connection with any particular matter involving a specific party, and (3) in which matter such Director or Employee participated personally and substantially while with the Corporation.

(2) Pertinent combinations of factors involved in this prohibition include the following:

(a) Since the prohibition has no time limit, it raises a permanent bar to the proscribed activity;

(b) The former Director or Employee is prohibited from acting as agent or attorney for any other person, but not for himself;

(c) It prohibits representation by an "appearance" even if only in a technical procedural sense regardless of physical presence;

(d) It also prohibits any communication with intent to influence;

(e) The prohibition against an appearance or communication extends to other departments, agencies and courts of the United States and is not limited to the Corporation;

(f) The representation by the former Director or Employee must be in connection with a particular matter involving specific parties; and

(g) The particular matter must be one in which the former Director or Employee participated personally and subsantially while in the Corporation's employ.

(3) The prohibition in paragraph (1) of this subsection shall not apply to:

(a) Any appearance, attendance, or communication by a former Director or Employee who is employed by and acting on behalf of the United States; or

(b) Any appearance or communication by the individual where such appearance or communication is made in response to a subpoena, or concerns any matter of an exclusively personal and individual nature such as pension benefits.

(e) *Exemption for persons with special qualifications.* (1) A former Director or Employee may be exempted from the prohibitions of 18 U.S.C. 207(a) and this Section if the Chairman, in consultation with the Director of OGE, executes a certification published in the Federal Register that such individual has outstanding qualifications in a scientific, technological, or other technical discipline and is acting with respect to a particular matter which requires such qualifications and that the national interest would be served by such individual's participation.

(2) This exemption shall be used only in instances where the former Director or Employee's services are needed on so continuous and comprehensive a basis that other procedures for the communication of technical information designed to isolate the individual from other aspects of the matter would burdensome and impractical.

(3) The exemption shall be effective upon the execution of the certification required by paragraph (1), provided that it is transmitted to the Federal Register for publication.

(f) *Testimony and statements under oath or subject to penalty of perjury.* A former Corporation Director or Employee may make any statement required to be made under oath or subject to penalty of perjury.

(g) *Administrative enforcement.*—(1) *Information of Violation.* On receipt of information regarding a possible violation of 18 U.S.C. 207(a) and after determining that such information appears substantiated, the Chairman, or the Ethics Officer, if so directed by the Chairman, shall expeditiously provide such information along with any comments on pertinent Corporation policy to the Director of the OGE and to the Criminal Division, Department of Justice. Any continuing investigation by the Corporation on administrative action shall be coordinated with the Department of Justice to avoid prejudicing criminal proceedings unless the Department of Justice advises the Corporation that it does not intend to initiate criminal prosecution (18 U.S.C. 207, 5 CFR 737.27).

(2) *Initiation of Administrative Proceedings.* Whenever the Corporation has determined after appropriate review that there is reasonable cause to believe that a former Director or Employee has violated any of the provisions of 18 U.S.C. 207(a) or 5 CFR Part 737, it may initiate an administrative disciplinary proceeding by providing the former Director or Employee with notice as defined in the statute. Prior to a determination of sufficient cause to initiate an administrative disciplinary hearing, all records under the Corporation's control relating to allegations of a violation shall be confidential, subject to applicable law (18 U.S.C. 207, 5 CFR 737.27).

(3) *Notice and Hearing.* The notice of an administrative disciplinary proceeding and any hearing pursuant to such notice requested by the former Director or Employee shall follow the

procedures set forth in 5 CFR 737.27(a)(3), (4), (5), (6), (7) and (8).

(4) *Administrative Sanctions.* Actions

staff consultant on more than 60 days during any perod of 365 consecutive days shall submit to the Corporation for

receiving financial assistance from the Corporation.

18 U.S.C. 1905 relating to the disclosure of confidential information.

the head excursion was beyond the 32 inch maximum allowed by the standard.

is requested but not required that five copies be submitted.

procedures set forth in 5 CFR 737.27(a)(3), (4), (5), (6), (7) and (8).

(4) *Administrative Sanctions.* Actions which may be taken by the Corporation in the case of an individual who is found in violation of 18 U.S.C. 207(a) or 5 CFR Part 737, after a final administrative decision, or who failed to request a hearing after receiving adequate notice, include: (1) Prohibiting the individual from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the Corporation on any matter of business for a period not to exceed five years, which may be accomplished by directing Corporation Employees to refuse to participate in such appearance or to accept any such communications, or (2) taking other appropriate desciplinary action.

Part 7—Procedures and Standards of Conduct Applicable to Consultants

Section 21. Procedures Applicable to Consultants.

(a) This Section sets forth procedures which shall be observed in appointing and utilizing consultants.

(1) All individuals and organizations retained to perform consulting services for the Corporation shall be required to read the "Standards of Conduct for Consultants" set forth in subsection (b) of this Section.

(2) Prior to appointment or retention prospective consultants shall be required to make disclosure of any financial interest in, any affiliation with any person, firm, or organization listed on the list of Participating Organizations published by the Ethics Officer pursuant to section 6(b)(5) of this Policy. "Affiliation" includes, but is not limited to service as an employee, officer, member, owner, director, trustee, advisor, or consultant.

(3) No consultant having any financial interest in or affiliation with any Participating Organization shall be retained by the Corporation, unless the Ethics Officer determines in writing: (1) That the financial interest or affiliation is too remote or too inconsequential to affect the integrity of the services which the Corporation may expect from the consultant or (2) that satsifactory arrangements have been made to obviate any conflicts of interest on the part of such consultant. This detemination shall be made after consultation with the Employee proposing retention of the consultant.

(4) Each individual who provides or is expected to provide services on a full-time, part-time, or intermittent basis as a staff consultant on more than 60 days during any perod of 365 consecutive days shall submit to the Corporation for review by the Ethics Officer a statement of employment and financial interests in accordance with section 19 of this Policy, and shall keep such statement current throughout his or her employment with the Corporation by the submission of annual statements.

(5) The Ethics Officer shall advise those authorizing the services of consultants of the requirements of this section, and each Officer of the Corporation shall observe such requirements in engaging consultant services for the Corporation.

(b) *Standards of Conduct for Consultants.* The following is intended for the guidance of consultants retained to provide services to the Corporation.

(1) *Inside information.* A consultant must conduct himself in a manner devoid of the slightest suggestion that he is exploiting his Corporation consultancy for private advantage. Thus, a consultant must not, on the basis of any inside information gained in the course of his activities with the Corporation invest or recommend investment in any commodities, land or securities. Moreover, he should be careful in his personal financial activities to avoid any appearance of acting on the basis of information obtained in the course of his activities with the Corporation.

(2) It is important for a consultant to have access to Corporation data pertinent to this duties and to maintain familiarity with the Corporation's plans and programs and the requirements thereof, within the area of his responsibility. Where such data have been made generally available to the public, there is generally no impropriety in a consultant's utilizing such information in the course of his non-Corporation activitites after it has become so available. However, a consultant may, in addition, acquire information which is not generally available to those outside the Corporation. In that event, he may not use such information for the benefit of a business or other entity by which he is employed or retained on in which he has a financial interest.

(3) Consultants must also be alert to section 163(a)(4) of the Energy Security Act which makes it a criminal offense for anyone to give to any person any unauthorized information concerning any future action or plan of the Corporation, or having such knowledge to invest or speculate, directly or indirectly, in the securities or property of any company, bank, or corporation receiving financial assistance from the Corporation.

(4) Consultants and advisors are encouraged to confer with the Ethics Officer and other appropriate persons at the Corporation to assist them in the identification of information not generally available and in the resolution of any acutal or potential conflict between duties to the Corporation and to other employers or clients.

(5) Occasionally an individual who becomes a consultant to the Corporation may, subsequent to his designation as such, be requested by another party to act in a similar capacity. In some cases the request may give the appearance of being motivated by the desire of the other party to secure inside information. Where the consultant has reason to believe that the request for his services is so motivated, he should make a choice between acceptance of the tendered employment and continuation of his Corporation consultancy. In such circumstances he may not engaged in both.

(6) A consultant shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons with whom he has family, business, or financial ties.

(7) A staff consultant shall comply with section 8 of this Policy relating to the solicitation and acceptance of gifts and other things of monetary value from parties having business before the Corporation.

(c) *Statutory provisions.* The attention of all Corporation consultants is directed to the following statutory provisions:

(1) The prohibition contained in section 161 of the Act (42 U.S.C. 8761) relating to false statements in connection with certain Corporation activities.

(2) The prohibition contained in section 162 of the Act (42 U.S.C. 8762) relating to forgery of Corporation instruments and agreements.

(3) The prohibition contained in section 163 of the Act (42 U.S.C. 8763) relating to misappropriation of funds and unauthorized activities in relation to the Corporation's business.

(4) The prohibition contained in section 164 of the Act (42 U.S.C. 8764) relating to conspiracy to commit acts made unlawful by sections 161, 162, or 163 of the Act.

(5) The prohibition contained in section 171(b) of the Act (42 U.S.C. 8771(b)) relating to the exercise of the Corporation's authorities.

The prohibition contained in section 121(c) of the Act (42 U.S.C. 8717(c)) and 18 U.S.C. 1905 relating to the disclosure of confidential information.

(7) The prohibition contained in 18 U.S.C. 201 relating to the solicitation or receipt of anything of value for or because of an official act.

(8) The prohibition contained in 18 U.S.C. 1719 relating to misuse of the franking privilege.

United States Synthetic Fuels Corporation.

Dated: July 12, 1985.

Edward E. Noble,

Chairman of the Board.

[FR Doc. 85-17356 Filed 7-19-85; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP85-11; Notice 1]

California Strolee, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance

California Strolee, Inc., of Rancho Dominguez, California, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.213, Motor Vehicle Safety Standard No. 213, *Child Seating Systems*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This Notice of Receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.3.1 of Federal Motor Vehicle Safety Standard No. 213, requires that on front facing child restraint systems, the test dummy's torso shall be retained within the system and no portion of the test dummy's head shall pass through the vertical transverse plane that is 32 inches forward of a point Z on the standard seat assembly, *et seq.*

In periodic testing of their production, the petitioner found that one of its booster seat component suppliers had changed the type of plastic used in molding the bolster, which helps retain the occupant and spreads the chest loads over a wider area. Strolee states that approximately 4,367 units of its Number 605 booster seat shields were produced with the wrong polymer formulation by its supplier, causing cracking and excessive head excursion. In testing conducted by the petitioner, the head excursion was beyond the 32 inch maximum allowed by the standard. Test results, Table I, show a maximum excursion of 1.5" above the limit imposed by the standard.

TABLE 1.—TEST SPECIFICATIONS AND RESULTS

Date	Head excursion (32 in maximum)	Knee excursion (36 inch maximum)	Head injury criterion (1,000 maximum)	Chest peak G's (60 G's maximum)
Apr. 23, 1985	33.5	29.2	455	36
May 2, 1985	32.9	27.7	306	29
May 2, 1985	31.8	26.5	364	28
May 2, 1985	31.7	27.8	306	30
May 2, 1985	32.7	27.1	585	29
May 9, 1985	30.5	26.9	312	15
May 9, 1985	31.2	28.1	434	13

Paragraphs S5.1.1 of the standard requires that, "each child seat restraint system shall: (a) exhibit no complete separation of any load bearing structural element and no partial separation exposing either surfaces with a radius of less than ¼ inch or surfaces with protrusions greater tha ⅜ inch above the immediate adjacent surrounding contactable surface of any structural element of the system;"

Strolee states that, "in all of these tests, the child model remained within the unit and the cracks referred to did produce separation of the product. In sum, for the product run with the different plastic, at some speeds, a slightly excessive head excursion was observed, but the unit protected the child well within required ranges on other standards and held the child within the unit itself."

The petitioner indicated that cracking did not occur at speeds below 28 miles per hour, and that 28 mph appears to be the threshold for excessive head excursion.

"For the reasons set forth herein, having quickly stopped production and shipping of the units manufactured with the questionable plastic, and given the fact that even the questionable plastic, when subjected to the range of tests described above, generally performed in a fashion protective of the child, and within standards, Strolee petitions for a determination that the condition noted herein, while sometime producing a noncompliance with the head excursion portions of Motor Vehicle Standard No. 213, is inconsequential."

Interested persons are invited to submit written data, views and arguments on the petition of Strolee of California described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: August 21, 1985.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 17, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-17308 Filed 7-19-85; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 16, 1985.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtaind by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collectios should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Financial Management Service

OMB Number: 1510-0019
Form Number: TFS 1133
Type of Review: Extension
Title: Claim Against the United States for the Proceeds of a Government Check
Clearance Officer: Douglas Lewis (202) 287-4500, Financial Management Service, Room 163, Liberty Loan Building, 401 14th Street, NW., Washington, D.C. 20228
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
OMB Number: 1545-0058

Form Number: IRS Form 1028
Type of Review: Extension
Title: Application for Recognition of

achievement of the Agency's international public diplomacy goals

Project Proposal Information

All proposals will be judged on

international participant and $150 cultural allotment for escort/

proposed program; a list of the participating institutions and

development from the Office of Private Sector Programs (E/P) will be notified

Form Number: IRS Form 1028
Type of Review: Extension
Title: Application for Recognition of Exemption Under Section 521 of the International Revenue Code (Farmers' Cooperatives)
OMB Number: 1545–0092
Form Number: IRS Form 1041 and related Schedules D, J and K–1
Type of Review: Revision
Title: U.S. Fiduciary Income Tax Return—Capital Gains and Losses—Trust Allocation of an Accumulation Distribution—Beneficiary's Share of Income, Deductions, Credits, etc.
OMB Number: 1545–0094
Form Number: IRS Form 1041–A
Type of Review: Revision
Title: U.S. Information Return—Trust Accumulation of Charitable Amounts
OMB Number: 1545–0096
Form Number: IRS Form 1042/1042S
Type of Review: Revision
Title: Annual Withholding Tax Return for U.S. Income of Foreign Persons and Income Subject to Withholding Under Chapter 3, Internal Revenue Code
OMB Number: 1545–0184
Form Number: IRS Form 4797
Type of Review: Revision
Title: Supplemental Schedule of Gains and Losses
OMB Number: 1545–0383
Form Number: IRS Form 6560
Type of Review: Extension
Title: Employer Summary of Form W–2 Magnetic Media Wage Information
Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224
OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph F. Maty,
Departmental Reports Management Office.
[FR Doc. 85–17276 Filed 7–19–85; 8:45 am]
BILLING CODE 1810–25–M

UNITED STATES INFORMATION AGENCY

A Grants Program for Private Not-for-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The primary purpose of the program is to enhance the achievement of the Agency's international public diplomacy goals and objectives by stimulating and encouraging increased private sector commitment, activity, and resources. The information collection involved in this solicitation is covered by OMB Clearance Number 3116–0175, entitled "A Grants Program for Private Organizations", expiration date January 31, 1987.

The United States Information Agency is interested in working cooperatively with private sector organizations and is requesting proposals (deadline August 25, 1985) for the following program:

USIA African Regional Communication Project

Summary

USIA plans to support a pilot exchange program for Deans and Professors of Journalism from francophone Africa to familiarize them with journalism education at both the theoretical and practical level in the United States. The twenty-one to twenty-eight day program will take place sometime between November 1985 and April 1986, the precise period to be determined in consultation with ESIJY and CESTI (see following paragraph).

Background

As part of the United States government's commitment to sponsor programs for journalists, USIA will support a number of exchanges designed to provide project participants with non-ideological professional experience in communications. These USIA designed activities are intended to focus on the establishment of bilateral or regional programs for communication training and on the improvement of communication technology in developing nations. While the role and level of development of the mass media vary from country to country within Africa, two existing regional schools of journalism provide training for many of the key journalists from francophone Africa. These two schools—one is located in Cameroon (International College of Journalism, ESIJY) and the other is in Senegal (Centre for Information Studies, CESTI)—have been selected as the most appropriate organizations with which to initiate this project. In addition, USIA has determined that the smaller national schools of journalism in Zaire and Burundi should also participate in this undertaking. With heightened interest in journalism throughout francophone Africa, USIA would like to include representatives from countries not currently conducting formal journalism training programs.

Project Proposal Information

All proposals will be judged on effectiveness in accomplishing the following project goals: (1) Providing African participants with an enhanced understanding of how U.S. universities train journalists; (2) reviewing the practice and philosophy of the free press in the U.S.; (3) highlighting the independence of the press; (4) outlining professional standards for writing, editing and reporting; (5) evaluating the impact of technological progress on the media; (6) offering opportunities for hands-on experience; (7) describing the various types of internship programs conducted in the U.S.

In addition to the seven factors listed above, proposals will be ranked on effectiveness in providing participants with an enhanced understanding of the distinctive features of the U.S. media; of what makes news in the U.S., including how news on Africa is reported; and of what conflicting pressures U.S. media operators and practitioners must confront. Also taken into consideration will be the submitting organization's demonstrated potential to design and implement programs as well as the proposal's cost effectiveness, institutional in-kind contributions, and minimal overhead.

Program Description

The program should include a week at the host institution for lectures and briefings, followed by a week of hands-on experience at differing media outlets in another metropolitan area and a final week or so in Washington and New York for on-site tours and exposure to national and international reporting by both private and government media outlets. USIA's Foreign Press Centers in Washington and New York will assist in the facilitation of this program in those two cities. In addition to professional meetings and experiences, weekend homestays for each individual participant are desirable. Since knowledge of English is not a requirement for participation in this project, French/English interpreters will be provided for all phases of the program.

Funding

Costs may include, but are not necessarily limited to, per diem (for 16 African participants and 6 additional escort/interpreters at a maximum of $100.00 per day); international travel from home country to U.S. and return (appx. $2,200 per participant); U.S. travel for all participants and escort/interpreters; single payment book/cultural allotment of $300 per international participant and $150 cultural allotment for escort/interpreters; direct administrative expenditures; and minimal (if any) indirect costs as a percentage of administrative costs. (Salaries for escort/interpreters are covered separately by USIA and need for be part of your proposal.)

Applications Procedures

Applicants must submit ten (10) copies of the proposal to the address below. In order to be eligible for review the proposal must include: an abstract of approximately two pages; a narrative, not exceeding ten pages, outlining the proposed program; a list of the participating institutions and participating departments; a detailed line-item three column budget defining specific expenditures with information on in-kind and cash contributions to the program by the institution; and vitae on project managers

Timing

To be eligible for consideration, organizations *must* forward their proposals for receipt at USIA by COB August 25, 1985.

Guidance

Because of the competitive nature of this solicitation, guidance in proposal development from the Office of Private Sector Programs (E/P) will be restricted to technical issues (202–485–7319).

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (Attn: Initiative Programs), United States Information Agency, 301 4th Street, SW, Washington, D.C. 20547

Dated: July 17, 1985.

Albert Ball,
Deputy Director Office of Private Sector Programs.
[FR Doc. 85–17315 Filed 7–19–85; 8:45 am]
BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 140

D3. Personal services contract with Nuclear Energy Consultants, Inc., Rockville,

F—Unclasifed

Commerce Union Bank trust agreement; and 1985 restated and amended trust agreement;

VOL 50 ISS 140 JUL 22 1985 UMI

Sunshine Act Meetings

Federal Register
Vol. 50, No. 140
Monday, July 22, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1
Federal Home Loan Bank Board	2
Tennessee Valley Authority	3

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:20 p.m. on Tuesday, July 16, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A) consider bids submitted for the transfer of the insured deposits made in the Houston, Texas; Chicago, Illinois; Boston, Massachusetts; San Mateo, California; and Monterey Park, California, loan production offices of Golden Pacific National Bank, New York (Manhattan), New York, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Friday, June 21, 1985;

(B) adopt a resolution: (1) Making funds available for the payment of insured deposits made in the Houston, Texas, loan production office of the closed Golden Pacific National Bank; (2) accepting the bid of Texas First National Bank, Houston, Texas, for the transfer of the insured deposits of the Houston, Texas, loan production office of the closed bank; and (3) designating Texas First National Bank as the agent for the Corporation for the payment of the insured deposits of the Houston, Texas, loan production office of the closed bank;

(C) adopt a resolution: (1) Making funds available for the payment of insured deposits made in the Monterey Park, California, loan production office of the closed Golden Pacific National Bank; (2) accepting the bid of OMNI Bank, National Association, Monterey Park, California, for the transfer of the insured deposits of the Monterey Park, California, loan production office of the closed bank; and (3) designating OMNI Bank, National Association as the agent for the Corporation for the payment of insured deposits in the Monterey Park, California, loan production office of the closed bank; and

(D) adopt a resolution making funds available for the payment of insured deposits made in the Chicago, Illinois; Boston, Massachusetts; and San Mateo, California, loan production offices of the closed Golden Pacific National Bank.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 17, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-17459 Filed 7-18-85; 3:48 p.m.]

BILLING CODE 6714-01-M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: Thursday, July 25, 1985, at 2:00 p.m.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6679).

MATTERS TO BE CONSIDERED: ARM Booklet Distribution.

Jeff Sconyers,

Secretary.

No. 17—July 17, 1985.

[FR Doc. 85-17275 Filed 7-18-85; 9:09 am]

BILLING CODE 6720-01-M

3

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1352]

TIME AND DATE: 9:00 a.m. (EDT), Wednesday, July 24, 1985.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on June 18, 1985.

Discussion Items

1. Preliminary rate review.

Action Item

A—Budget and Financing

A1. Adoption of supplemental resolution authorizing 1985 Series D power bonds.

A2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1985 Series D power bonds.

A3. Amendment to fiscal year 1985 capital budget for the Power program—Replace component cooling system heat exchangers for Sequoyah Nuclear Plant.

B—Purchase Awards

B1. Invitation B4-952618 Reissue—Indefinite quantity term contract for TVA's annual requirement for high-content calcium carbonate crushed limestone for the wet scrubber system on units 1 and 2 at the Paradise Fossil Plant.

B2. Invitation 67-064403—Indefinite quantity term contract for high-integrity containers, cask rental and transportation for various nuclear plants.

B3. Amendment to indefinite quantity term contract 81P68-187408 with U.S. Ecology, Inc., to provide for continuation of low-level radioactive waste disposal services for TVA nuclear plants for an additional year and include services for Watts Bar Nuclear Plant.

B4. Invitation 64-955590—Indefinite quantity term contract for eddy current inspection services for various TVA nuclear plants.

C—Power Items

C1. Revision of limited interruptible power arrangements.

C2. Form agreement covering participation by distributors in TVA's redesigned Load Research Program.

*C3. Memorandum of understanding between TVA and the Department of the Army, governing power supply to Department of the Army's Redstone Arsenal.

D—Personnel Items

D1. Personal services contract with General Physics Corporation, Columbia, Maryland, for engineering and related support services at Browns Ferry Nuclear Plant, requested by Power and Engineering (Nuclear).

D2. Personal services contract with BCP Technical Services, New Orleans, Louisiana, for engineering and related support service at Browns Ferry Nuclear Plant, requested by Power and Engineering (Nuclear).

*Item approved by individual Board members. This would give formal ratification to Board's action.

D3. Personal services contract with Nuclear Energy Consultants, Inc., Rockville, Maryland, for engineering and related support service at Browns Ferry Nuclear Plant, requested by Power and Engineering (Nuclear).

E—Real Property Transactions

E1. Grant of permanent easement to the Eastern Band of Cherokee Indians, affecting two parcels of Tellico Reservoir land located in Monroe County, Tennessee, containing approximately 26.9 acres—Tract Nos. XTTELR-29RE and XTTELR-30RE; and authorization to change the land use designation for Tract No. XTTELR-29RE containing 13.5 acres.

E2. Sale of permanent easement to City of Kingsport, Tennessee, for the construction, operation, and maintenance of a pumping station and sewerline affecting approximately 0.6 acre of Fort Patrick Henry Dam Reservation property loacted in Sullivan County, Tennessee—Tract No. XFHR-33PS.

E3. Filing of condemnation cases.

F—Unclasifed

F1. Kentucky Reservoir Land Management Plan.

F2. Memorandum of understanding No. TV-67062A between Corps of Engineers, Nashville District, U.S. Department of the Army, and TVA covering arrangements for a cooperative effort for the production of navigation charts for the Tennessee River system.

F3. Contract No. TV-67201A between TVA and State of Alabama Department of Economic and Community Affairs for an economic development project in the Tennessee-Tombigbee Waterway area.

F4. Subagreements to general agreement (TV-50942A) between the Electric Power Research Institute and TVA covering arrangements for Pittsburgh No. 8-type coal test and high ash fusion coal test.

F5. Amendments to Retirement System rules and regulations and to Savings Plan terms and conditions; selection of additional investment managers; amendment to Commerce Union Bank trust agreement; and 1985 restated and amended trust agreement with American National Bank and Trust Company of Chicago.

F6. Changes in designation of certifying officers for vouchers and letter-of-credit transactions.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Informaton, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: July 17, 1985.

W.F. Willis,

General Manager.

[FR Doc. 85-17392 Filed 7-18-85; 9:38 am]

BILLING CODE 8120-01-M

VOL
50

ISS
140

JL
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1985

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federal register

Monday
July 22, 1985

Part II

Department of Justice

48 CFR Parts 2801, 2804, 2806, 2807, 2808, 2809, 2810, 2814, 2815, 2827, 2830, 2831, 2834, 2835, and 2852

Amendments to the Justice Acquisition Regulation (JAR) Concerning Competition in Contracting; Interim Rule and Request for Comments

DEPARTMENT OF JUSTICE

properly implement the provisions of the CICA. The Director, Office of

2801.601 [Amended]

5. Section 2801.601, is amended by

a waiver. A post review of the completed contract file is required.

Tab No.	Document	In file	N/A

Tab No.	Document	In file	N/A

VOL 50 ISS 140 JL 22 1985 UMI

DEPARTMENT OF JUSTICE

48 CFR Parts 2801, 2804, 2806, 2807, 2808, 2809, 2810, 2814, 2815, 2827, 2830, 2831, 2834, 2835, and 2852

[Justice Acquisition Circular 85-1]

Amendments to the Justice Acquisition Regulation (JAR) Concerning Competition in Contracting

AGENCY: Justice Management Division, Office of the Procurement Executive, Justice.

ACTION: Interim rule and request for comments.

SUMMARY: This notice invites written comments to an interim rule to amend the Justice Acquisition Regulations, 48 CFR, Chapter 28. The purpose of the amendments is to implement the Competition in Contracting Act of 1984, the Small Business and Federal Procurement Competition Enhancement Act of 1984 and the DOJ procurement reorganization plan authorized by the Attorney General February 21, 1985. This reorganization established in DOJ an Office of the Procurement Executive and placed under this office the procurement policy and contract review function. In addition, a new Part 2827, Patents, Data, and Copyrights, and associated clauses in Subpart 2852.227 are added. The effective date of this JAR amendment is the date of publication in the **Federal Register**. However, when a statute, the FAR, or Attorney General Order has an earlier effective date, the earlier date has precedence.

DATES: *Effective date:* July 22, 1985.

Comment date: Comments must be received on or before September 20, 1985. Please cite JAC 85-1 in all correspondence related to these amendments.

ADDRESS: Requests for copies of the interim regulations and comments should be addressed to the Office of the Procurement Executive, Department of Justice, Room 9000, 601 D Street, N.W., Washington, D.C. 10004. The regulations may be reviewed at the above address.

FOR FURTHER INFORMATION CONTACT: Wilson L. Silvis at the above address or telephone (202) 272-8356.

SUPPLEMENTARY INFORMATION: The determination is hereby made that these amendments must be issued as an interim or temporary regulation. The CICA is effective on April 1, 1985. All solicitations for bids or proposals must be in compliance with the Act. Any delay in issuing these amendments could impair DOJ's ability to provide procedural guidance necessary to properly implement the provisions of the CICA. The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted agency procurement regulations from review under Executive Order 12291 except for selected areas. Where applicable, these amendments have been reviewed in accordance with OMB Bulletin 85-7. The Department of Justice certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 60 et seq.).

List of Subjects in 48 CFR Parts 2801, 2804, 2806, 2807, 2808, 2809, 2810, 2814, 2815, 2827, 2830, 2831, 2834, 2835, and 2852.

Government procurement.

W. Lawrence Wallace,

Acting Assistant Attorney General for Administration.

Accordingly, 48 CFR, Ch. 28 is amended as set forth herein. The authority citation for 48 CFR Parts 2801, 2804, 2807, 2808, 2809, 2810, 2814, 2815, 2830, 2831, 2835, and 2852 continues to read as follows:

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).

PART 2801—DEPARTMENT OF JUSTICE ACQUISITION REGULATIONS SYSTEM

2801.301 [Amended]

1. Section 2801.301, paragraph (c) is amended by revising the last sentence in paragraph (c) to read "Authority to issue departmentwide acquisition regulations has been delegated by Attorney General Order 1085-85 to the Office of the Procurement Executive, subject to the review of the Assistant Attorney General of Administration."

2801.304 [Amended]

2. Section 2801.304, paragraph (b), first sentence is amended by removing the words "departmental Procurement Executive" and inserting the words "Office of the Procurement Executive."

3. Section 2801.304, paragraph (b) is amended by revising the last sentence in paragraph (b) to read "A record of the approved bureau policies and procedures will be maintained by the Office of the Procurement Executive."

2801.403 [Amended]

4. Section 2801.403, paragraph (a) is amended by removing the words "DOJ Procurement Executive" and inserting the words "The Office of the Procurement Executive."

2801.601 [Amended]

5. Section 2801.601, is amended by revising the introductory text of paragraph (a) to read as follows:

(a) Pursuant to Attorney General Order 1085-85 the authority vested in the Attorney General with respect to contractual actions is delegated to the following officials:

* * * * * *

6. Section 2801.602-70 is revised to read as follows:

2801.602-70 Office of the Procurement Executive.

(a) Prior to the execution of any contractual action in excess of $25,000 the contracting officer shall forward the proposed action to the Office of the Procurement Executive for review. Review by the Office of the Procurement Executive is applicable to all organization elements in the Department (OBDBs) with the exception of the FBI. It is the responsibility of the FBI's Contract Review Board to ensure that procurement actions are awarded in conformity with applicable statutes, regulations, and procedures. This exemption does not exempt the FBI from other oversight responsibilities of the Office of the Procurement Executive, including Procurement Executive review and approval of justifications for other than full and open competition on contracts over $10 million.

(b) For the purposes of this section contractual actions include all pre-award and post-award contractual actions over $25,000 including but not limited to modifications, ratification, and options but excluding orders from Federal Supply Schedules.

(c) Prior to submission to the Procurement Executive the legal office for each bureau-level procurement activity is responsible for reviewing and approving all such procurement actions for legal sufficiency.

(d) The Procurement Executive or his authorized representative shall have the authority to grant waivers from pre-award reviews for emergency requirements.

(1) Except for extreme emergencies, waiver requests must be in writing and include a detailed explanation as to why the waiver is required as well as information explaining reasons why the contract cannot be reviewed on a pre-award basis. Telephone waivers may be granted in extreme emergencies.

(2) All contract documents that are available at the time a waiver request is made must accompany the request for review. All available documents will be reviewed to assure that the award is legally sufficient prior to the granting of a waiver. A post review of the completed contract file is required.

(3) Waivers will not be granted near the end of a fiscal year for the purpose of obligating year end funds.

(e) There is established, in accordance with Attorney General Order 1085-85, a Contract Appeals Panel to permit the head of a bureau-level procurement activity to appeal a decision of the Procurement Executive. This panel shall be composed of the Deputy Attorney General (who shall serve as Chairperson), the Associate Attorney General, and the Assistant Attorney General for Administration. The panel shall meet on an ad hoc basis as necessary and determined by the Chairperson.

(f) The Office of the Procurement Executive is authorized to postaudit any procurement transaction throughout the Department and direct that corrective actions be taken wherever deemed necessary, and to inspect at any time the procurement operations of the Justice Management Division, Federal Bureau of Investigation, Bureau of Prison, Federal Prison Industries, Inc., Immigration and Naturalization Service, Drug Enforcement Administration, Office of Justice Programs, the National Institute of Corrections, United States Marshals Service and other organizational elements exercising delegated procurement authority:

2804.601 [Amended]

7. Section 2804.601 (a) and (b) are amended by removing the words "Departmental Procurement Executive" and substituting "Office of the Procurement Executive."

2804.803-70 [Amended]

8. Section 2804.803-70 is amended by revising the Checklist for Invitation for Bids (2804.803-70(b)(1)), the RFP Checklist (2804.803-70(b)(2)), and the Contract File Award Checklist (2804.803-70(c)), and by adding a new Checklist for Modifications (2804.803-70(b)(3)).

(1) *IFB* preaward file checklist:

Tab No.	Document	In file	N/A
	Flap A		
1	Solicitation Document		
2	Amendments (FAR) 14.208		
3	Supervisory Solicitation Review (FAR 14.202-6).		
	Flap B		
4	Requisition (DOJ Order 2320.1)		
5	Contract Status Record		
6	Presolicitation Approvals		
	AIS (DOJ Order 2830.1)		
	Micrographics (DOJ Order 2780.1).		
	Dept. Of Labor Wage Determination FAR 22.1008-1).		
	GSA Delegation of Proc. Authority (FIRMR 201-23).		
	Requisitioner		
	Other:		
7	1Determinations and Findings		
	Cancellation after Opening (FAR 14.404-1).		
	Type of Contract		
	Rejection of Individual Bids (FAR 14.404-2(f)).		
	Use of Options (FAR 17.205 and 206).		
	Set-Aside for S/B, LSA (FAR 19.501(b) and 20.201).		
	Performance Bond (FAR 28.103-2).		
	Bid Samples (FAR 14.202-4(d))		
	Descriptive Literature (FAR 12.202-5(c)).		
	Other:		
8	Synopsis (FAR 5.201)		
9	Pre-Solicitation Notice-Construction (FAR 36.302).		
10	Source List (FAR 14.205-1)		
11	Solicitation Requests		
12	Declination to Offer		
13	Clarification of Solicitation (requests and responses).		
14	Notice of Cancellation Before Opening (FAR 14.209).		
	Flap C		
15	Abstract of Bids—SF 1409 (FAR 14.403).		
16	Notice of Late Bids (FAR 14.304-2 and 304-3).		
17	Notice to Reject All Bids (FAR 14.404-3).		
18	Minor Informalities and Verification of Bids (FAR 14.405 and 406).		
19	Mistakes in Bids Before Award (FAR 14.406).		
20	Technical Evaluation—Brand Name or Equal.		
21	Determination of Price Reasonableness (FAR 14.407-2).		
22	Determination of Responsibility (FAR 9.104-1).		
23	Documentation of Award (formally SF-1036) (FAR 14.407-7).		
24	Miscellaneous Correspondence		
	Flap D		
25	Pre-Award Approvals		
	EEO Compliance Clearance (FAR 22.805).		
	Other:		
26	Supervisory Review		
27	Legal Review (AG Order 1085-85).		
28	Office of the Procurement Executive Review (AG Order 1085-85).		
	Flap E		
29	Protests Before Award (FAR 14.407-8).		
30	FOIA Requests Before Award (FAR 24.2).		
	Flap F		
31	Unsuccessful Bids		
32	Successful Bid(s)		
33	Notice to Unsuccessful Bidders (FAR 15.1001(c)).		

(2) REP preward file checklist:

Tab No.	Document	In file	N/A
	Flap A		
1	Solicitation Document		
2	Amendments		
3	Supervisory Solicitation Review		
	Flap B		
4	Requisition (DOJ Order 2320.1)		
5	Contract Status Record		
6	Presolicitation Approvals		
	AIS (DOJ Order 2830.1)		
	Micrographics (DOJ Order 2780.1).		
	Dept. of Labor Wage Determination (FAR 22.1008-1).		
	GSA Delegation of Proc. Authority (FIRMR 201-23).		
	SBA 8(a) Authority (FAR 19.8)		
	Requisitioner		
	Other:		
7	Determinations and Findings		
	Justification for Other Than Full and Open Competition (FAR 6.3).		
	Type of Contract		
	Cost Reimbursement (FAR 16.301-3).		
	Rejection of All Proposals (FAR 15.608(b)).		
	Time and Materials Type (FAR 16.601(c)).		
	Letter Contract (FAR 16.603-3)		
	Statutory Fee Limitation (FAR 15.903(d)).		
	Waiver of C/P Data (FAR 15.804-3).		
	Waiver of Audit (FAR 15.805-5)		
	Use of Options (FAR 17.205 and 206).		
	Set-Asides for S/B and LSA (FAR 19.501(b) and 20.201).		
	Performance Bond (FAR 28.103-2).		
8	Sources Sought Synopsis		
	Synopsis (FAR 5.201)		
	Waiver of Synopsis (FAR 5.202)		
9	Source List		
10	Solicitation Requests		
11	Declination to Offer		
12	Correspondence—Inquiries and Responses.		
	Flap C		
13	Notice to Late Offerors (FAR 15.412(d)).		
14	Clarifications of Offers (FAR 15.601)		
	Questions		
	Responses		
15	Technical Evaluation Report (FAR 15.608(2)).		
16	Successful Proposal (including Best and Final Offer).		
17	Cost/Price Analysis Including Audit (FAR 15.805).		
18	Competitive Range/Notice to Offeror (FAR 15.609, 15.609(c) and 15.1001(b)).		
19	Request for Best and Final Offers (FAR 15.811).		
20	Miscellaneous Correspondence		
	Flap D		
21	Summary of Negotiations (FAR 15.808).		
22	Pre-award Approvals		
	EEO Compliance Clearance (FAR 22.805).		
	Contracting Officer's Technical Representative.		
	Other:		
23	Supervisory Preward Review		
24	Legal Review (AG Order 1085-85)		
25	Office of the Procurement Executive Review (AG Order 1085-85).		
	Flap E		
26	Debriefing Report (FAR 15.1003)		
27	Protests Before Award (FAR 14.407-8).		

Tab No.	Document	In file	N/A
28	FOIA Disclosure Review (AG Order 1085-85).		
	Flap F		
29	Unsuccessful Offers		
30	Successful Offer(s)		
31	Notice to Unsuccessful Offerors (FAR 15.1001(c)).		

(3) Modifications preaward file checklist:

Tab No.	Document	In file	N/A
	Flap A		
1	Solicitation Document		
2	Amendments		
3	Supervisory Solicitation Review		
	Flap B		
4	Requisition (DOJ Order 2320.1)		
5	Contract Status Record		
6	Presolicitation Approvals		
	AIS (DOJ Order 2830.1)		
	Micrographics (DOJ Order 2780.1).		
	Dept. of Labor Wage Determination (FAR 22.1008-1).		
	GSA Delegation of Proc. Authority (FIRMR 201-23).		
	SBA 8(a) Authority (FAR 19.8)		
	Requisitioner		
	Other:		
7	Determinations and Findings		
	Justification for Other Than Full and Open Competition (FAR 6.3).		
	Type of Contract		
	Cost Reimbursement (FAR 16.301-3).		
	Rejection of All Proposals (FAR 15.608(b)).		
	Time and Materials Type (FAR 16.601(c)).		
	Letter Contract (FAR 16.603-3)		
	Statutory Fee Limitation (FAR 15.903(d)).		
	Waiver of C/P Data (FAR 15.804-3).		
	Waiver of Audit (FAR 15.805-5)		
	Use of Options (FAR 17.205 and 206).		
	Set-Asides for S/B and LSA (FAR 19.501(b) and 20.201).		
	Performance Bond (FAR 28.103-2).		
8	Sources Sought Synopsis		
	Synopsis (FAR 5.201)		
	Waiver of Synopsis (FAR 5.202)		
9	Source List		
10	Solicitation Requests		
11	Declination to Offer		
12	Correspondence—Inquiries and Responses.		
	Flap C		
13	Notice to Late Offerors (FAR 15.412(d)).		
14	Clarifications of Offers (FAR 15.601)		
	Questions		
	Responses		
15	Technical Evaluation Report (FAR 15.608(2)).		
16	Successful Proposal (including Best and Final Offer).		
17	Cost/Price Analysis Including Audit (FAR 15.805).		
18	Competitive Range/Notice to Offeror (FAR 15.609, 15.609(c) and 15.1001(b)).		
19	Request for Best and Final Offers (FAR 15.811).		
20	Miscellaneous Correspondence		
	Flap D		
21	Summary of Negotiations (FAR 15.808).		
22	Pre-award Approvals		
	EEO Compliance Clearance (FAR 22.805).		
	Contracting Officer's Technical Representative.		
	Other:		
23	Supervisory Preward Review		
24	Legal Review (AG Order 1085-85)		
25	Office of the Procurement Executive Review (AG Order 1085-85).		
	Flap E		
26	Debriefing Report (FAR 15.1003)		
27	Protests Before Award (FAR 14.407-8).		
	Flap F		
28	Unsuccessful Offers		
29	Successful Offer(s)		
30	Notice to Unsuccessful Offerors (FAR 15.1001(c)).		

(4) Contract file award checklist:

Tab No.	Document	In file	N/A
	Flap A		
1	Solicitation Document		
2	Amendments		
3	Supervisory Solicitation Review		
	Flap B		
4	Requisition (DOJ Order 2320.1)		
5	Contract Status Record		
6	Presolicitation Approvals		
	AIS (DOJ Order 2830.1)		
	Micrographics (DOJ Order 2780.1).		
	Dept. of Labor Wage Determination (FAR 22.1008-1).		
	GSA Delegation of Proc. Authority (FIRMR 201-23).		
	SBA 8(a) Authority (FAR 19.8)		
	Requisitioner		
	Other:		
7	Determinations and Findings		
	Justification for Other Than Full and Open Competition (FAR 6.3).		
	Type of Contract		
	Cost Reimbursement (FAR 16.301-3).		
	Rejection of All Proposals (FAR 15.608(b)).		
	Time and Materials Type (FAR 16.601(c)).		
	Letter Contract (FAR 16.603-3)		
	Statutory Fee Limitation (FAR 15.903(d)).		
	Waiver of C/P Data (FAR 15.804-3).		
	Waiver of Audit (FAR 15.805-5)		
	Use of Options (FAR 17.205 and 206).		
	Set-Asides for S/B and LSA (FAR 19.501(b) and 20.201).		
	Performance Bond (FAR 28.103-2).		
8	Sources Sought Synopsis		
	Synopsis (FAR 5.201)		
	Waiver of Synopsis (FAR 5.202)		
9	Source List		
10	Solicitation Requests		
11	Declination to Offer		
12	Correspondence—Inquiries and Responses.		
	Flap C		
13	Notice to Late Offerors (FAR 15.412(d)).		
14	Clarifications of Offers (FAR 15.601)		
	Questions		
	Responses		
15	Technical Evaluation Report (FAR 15.608(2)).		
16	Successful Proposal (including Best and Final Offer).		
17	Cost/Price Analysis Including Audit (FAR 15.805).		
18	Competitive Range/Notice to Offeror (FAR 15.609, 15.609(c) and 15.1001(b)).		
19	Request for Best and Final Offers (FAR 15.811).		
20	Miscellaneous Correspondence		
	Flap D		
21	Summary of Negotiations (FAR 15.808).		
22	Pre-award Approvals		
	EEO Compliance Clearance (FAR 22.805).		
	Contracting Officer's Technical Representative.		
	Other:		
23	Supervisory Preward Review		
24	Legal Review (AG Order 1085-85)		
25	Office of the Procurement Executive Review (AG Order 1085-85).		
	Flap E		
26	Debriefing Report (FAR 15.1003)		
27	Protests Before Award (FAR 14.407-8).		
	Flap F		
28	Unsuccessful Offers		
29	Successful Offer(s)		
30	Notice to Unsuccessful Offerors (FAR 15.1001(c)).		

DOCUMENT—Continued			
	Date filed	Cont. spec.	

(b) The HCA may approve ratification of the unauthorized commitment by an

and in violation of Federal laws and regulations. In situations where

report. This report will provide specific information and a summary of advocacy

2814.000 [Amended]

18. Section 2814.000 is amended by

Tab No.	Document	In file	N/A
28	FOIA Requests Before Award (FAR 24.2).		
29	Notice to Unsuccessful Offerors (FAR 15.1001(c)).		
	Flap F		
30	Unsuccessful Proposals (including Best and Final Offers) (file in separate folders, if necessary).		

(3) Modifications checklist:

Tab No.	Document	In File	N/A
1	Requisition (DOJ Order 2320.1) and Preliminary Notice to Exercise Option.		
2	Contract Status Record		
3	Presolicitation Approvals		
	Micrographics (DOJ Order 2780.1).		
	AIS (DOJ Order 2830.1		
	Wage Determination (FAR 22.1006-1).		
	GSA Delegation of Authority (FIRMR 201-23).		
	Requisitionar		
Other:			
4	Determinations and Findings		
	Justification for Other Than Full and Open Competition (FAR 6.3).		
	Statutory Fee Limitation (FAR 15.903(d)).		
	Waiver of C/P Data (FAR 15.804-3).		
	Waiver of Audit (FAR 15.805-5)		
5	Synopsis (FAR 5.201)		
	Waiver of Synopsis (FAR 5.202)		
6	Solicitation Document or Change Order.		
7	Correspondence—Inquiries and Responses.		
8	Technical Evaluation Report (FAR 15.608(a)(2)).		
9	Proposal or Claim for Equitable Adjustment.		
10	Cost/Price Analysis including audit (FAR 15.805).		
11	Miscellaneous Correspondence		
12	Summary of Negotiations (FAR 15.808).		
13	Pre-Award Approvals		
	EEO Compliance Clearance (FAR 22.805).		
	Contracting Officer's Technical Representative.		
Other:			
14	Supervisory Preaward Review		
15	Legal Review (AG Order 1085-85).		
16	Office of the Procurement Executive Review (AG Order 1085-85).		
17	Transmittal Letter and Proposed Modification.		
18	Acknowledgement Letter		
19	Postaward Synopsis		
20	Modification Checklist		

(4) *Contract file, award checklist:*

Contractor: _____
Requirement: _____
Contract No.: _____
Contract Type: _____
Solicitation No.: _____

Document	Date filed	Cont. spec. initials
Flap A Item No.		
1 Contract Document/Modifications.	_____	_____

DOCUMENT—Continued

	Date filed	Cont. spec. initials
2. FPDS, Individual Contract Action Report (SF-279 and/or SF-279A).	_____	_____
3. PCS Data System Input Forms.	_____	_____
4. Award Distribution Checklist.	_____	_____
5. Award Checklist	_____	_____
Flap B Item No.		
6. Supporting Papers for Basic Contract.	_____	_____
—Award Synopsis (FAR 28.301).	_____	_____
—Performance Bond (FAR 5.103 and 53.301-25).	_____	_____
—Subcontracting Report (SF-294).	_____	_____
7. Protests After Award (FAR 14-407-8).	_____	_____
8. FOIA Requests After Award.	_____	_____
9. Transmittal/Acknowledgement Letters.	_____	_____
Flap C		
10. Supporting Papers for Modifications.	_____	_____
Flap D		
11. Vouchers and Related Correspondence.	_____	_____
Flap E		
12. Contractor's Reports	_____	_____
Flap F		
13. Contract Close Out Checklist (Administrative Correspondence).	_____	_____

I certify that this file has been reviewed and the contract is adequate for award:

Contract Specialist Date: _____
Signature: _____
Reviewer Title: _____
Date: _____
Signature: _____

PART 2804—ADMINISTRATIVE MATTERS

9. Subpart 2804.70 is revised to read as follows:

Subpart 2804.70—Ratification of Unauthorized Contractual Commitments

Sec.
2804.7001 Ratification of unauthorized contract awards.
2804.7002 Request for ratification.

Subpart 2804.70—Ratification of Unauthorized Contractual Commitments

2804.7001 Ratification of unauthorized contract awards.

(a) Execution of otherwise proper contracts made by individuals without contracting authority or by contracting officers in excess of the limits of their delegated authority may be later ratified. To be effective ratifications must be approved by the head of the contracting activity (HCA) as designated in 2801.601(a).

(b) The HCA may approve ratification of the unauthorized commitment by an authorized contracting officer if:

(1) Ratification is in the best interests of the Government;

(2) The unauthorized commitment is otherwise proper;

(3) The price is fair and reasonable; and

(4) Funds are available.

2804.7002 Request for ratification.

(a) The request for approval of a ratification must be submitted to the HCA in writing and shall include all relevant documents and records. The ratification file shall include, but not be limited to, a statement signed by the official who made the unauthorized commitment stating the facts leading up to the commitment, why and how the contractor was selected, why normal procedures were not followed, a description of the work performed, the current status of the work, and any price agreement. If the official who made the unauthorized commitment has left the agency or is otherwise no longer available, the contracting officer assigned the ratification action shall assemble the record and document the facts to the extent known, including identification of the official who made the unauthorized commitment and why he/she is not available.

(b) The contracting officer assigned the ratification action shall review the file to determine the adequacy of the facts and prepare a written recommendation as to whether the ratification action should be approved. This recommendation shall include:

(1) A determination of fair market value of the benefit received;

(2) A statement as to the availability of funds; and,

(3) Concurrence by the contracting activity's legal counsel as to whether the action should be ratified.

(c) The contracting officer shall forward the complete file as described in paragraphs (a) and (b) above as applicable to the HCA for approval. Following approval, the contracting officer shall prepare the appropriate contractual documents and when required by 2801.602-70(b) submit the contract for review by legal counsel and the Office of the Procurement Executive. If not approved, the HCA shall return the file with a written explanation and any recommendations.

(d) The HCA may delegate to subordinate individuals approval of ratification requests of $5,000 and below.

(e) Unauthorized commitments of Government funds are a serious matter and in violation of Federal laws and regulations. In situations where suspected irregularities may involve fraud, other criminal misconduct, or other employee misconduct, the matter shall be forwarded to the Department's Office of Professional Responsibility.

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

10. The title to Subchapter B is amended by removing the words "Acquisition Planning" and substituting in their place "Competition and Acquisition Planning." The title is relocated to the end of Part 4.

11. A new Part 2806 is added to read as follows:

PART 2806—COMPETITION REQUIREMENTS

Subpart 2806.5—Competition Advocates

Sec.
2806.501 Requirement.
2806.502 Duties and responsibilities.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(e); 28 CFR 0.75(j) and 0.76(j).

Subpart 2806.5—Competition Advocates

2806.501 Requirement.

As required by section 20 of the Office of Federal Procurement Policy Act, each executive agency must appoint an agency competition advocate and a competition advocate in each procuring activity of the executive agency. Accordingly:

(a) The competition advocate for DOJ will be located in the Office of the Procurement Executive. The official designated will not be the Procurement Executive but will occupy a senior level position in the office with department-wide responsibility for procurement matters.

(b) The agency head will appoint in each bureau an official to be the bureau activity competition advocate. The individuals designated may not be located in or be in direct supervision of the operational procurement activity.

2806.502 Duties and responsibilities.

(a) The duties and responsibilities of the competition advocates are set forth in FAR 6.502. The Department's Procurement Executive will provide guidance to the competition advocates in formulating plans, goals, and procedures to achieve the goals of enhancing competition and challenging barriers to full and open competition.

(b) *Responsibilities.* (1) Within 60 days following the end of the fiscal year each competition advocate in the procuring activities will submit to the agency competition advocate an annual report. This report will provide specific information and a summary of advocacy accomplishments during the fiscal year. The information provided, combined with other available data, will provide the basis for the report in paragraph (b)(3) of this section to be submitted to Congress by the agency head in accordance with section 21(a) of the Office of Federal Procurement Policy Act.

(2) Within 90 days following the end of the fiscal year the agency competition advocate shall submit to the Procurement Executive a report on the competition advocacy accomplishments throughout DOJ during the preceding year and plans for the next year.

(3) Annual reports will be submitted for the fiscal years 1985 (from April 1, 1985 to September 30, 1985), 1986, 1987, 1988 and 1989.

PART 2807—ACQUISITION PLANNING

2807.102 [Amended]

12. Section 2807.102, paragraph (b), last sentence, is amended by removing the letters "DOJ/PE" and adding "the Office of the Procurement Executive."

PART 2808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2808.802-70 [Amended]

13. Section 2808.802-70 is amended by removing the words "Information Systems Staff" and inserting in their place "General Services Staff, JMD."

2809.400 [Amended]

14. Section 2809.400, paragraph (b) is amended by removing the words "DOJ Procurement Executive" and inserting the words "The Office of the Procurement Executive."

2809.470 [Amended]

15. Section 2809.470, paragraph (a)(4), is amended by removing the words "DOJ Procurement Executive" and inserting the words "The Office of the Procurement Executive."

PART 2810—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

2810.007 [Amended]

16. Section 2810.007, last sentence, is amended by removing the words "Procurement Executive" and inserting the words "Office of the Procurement Executive."

PART 2814—SEALED BIDDING

17. The title of Part 14 is amended by removing the words "Formal Advertising" and inserting in their place "Sealed Bidding."

2814.000 [Amended]

18. Section 2814.000 is amended by removing the words "formal advertising" and inserting in their place "sealed bidding."

PART 2815—CONTRACTING BY NEGOTIATION

Subpart 2815.1 [Removed]

19. Subpart 2815.1 is removed in its entirety.

Subpart 2815.3 [Removed]

20. Subpart 2815.3 is removed in its entirety.

Subpart 2815.8—Price Negotiation

2815.803-70 [Amended]

21. Section 2815.803-70 is amended by removing the words "DOJ Procurement Executive" and inserting the words "The Office of the Procurement Executive."

22. A new Part 2827 is added to read as follows.

PART 2827—PATENTS, DATA, AND COPYRIGHTS

Subpart 2827.4—Rights in Data and Copyrights

Sec.
2827.400 Scope of subpart.
2827.401 Definitions.
2827.402 Policy.
2827.403 Procedures.
2827.404 Acquisition of data.
2827.405 Solicitation provisions and contract clauses.

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c), 28 CFR 0.75(j) and 0.76(j).

Subpart 2827.4—Rights in Data and Copyrights

2827.400 Scope of subpart.

This subpart sets forth policies, procedures, and instructions with respect to: (a) rights in data and copyrights; and (b) requirements for data.

2827.401 Definitions.

"Computer software," as used in this subpart, means:

(1) Computer programs, i.e., any set of statements or instructions in any form of written programming language source code or machine-executable code that is capable of causing a machine with information processing capabilities to perform a particular result;

(2) Computer data bases, i.e., any form of information in written programming language source code or machine-executable code, other than computer programs;

(3) Computer supporting material, i.e., any material in lingual, pictorial,

schematic, or any other forms, that would permit the making of a computer

may be included or incorporated in the contract.

2827.403 Procedures.

validation of proprietary data restrictions or questions whether notices

training material for installation, operation, or routine maintenance and

(C) Use by other contractors participating in the Government's

VOL
50
ISS
140
JL
22
1985
UMI

schematic, or any other forms, that would permit the making of a computer program (e.g. flow charts) or that was created to aid the understanding, application, or use of a computer program (e.g., user instructions and manuals, installation and operational manuals, input and output forms, and technical documentation); and,

(4) Any updates or revisions to computer programs, computer data bases, or computer supporting material;

(5) But does not mean any data produced as a result of using computer programs, computer data bases, or computer supporting material delivered under a contract.

"Data," as used in this subpart, means recorded information, regardless of form or the media on which it may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analysis or any financial, business, and management information required for contract administration purposes.

"Data first produced in the performance of this contract," as used in this subpart, means data the contractor created, in whole or in part, after the effective date of this contract.

"Created," as used in this subpart, has the same meaning as does that term in the Copyright Act (17 U.S.C. 101).

"Form, fit, and function data," as used in this subpart, means data relating to, and sufficient to enable, physical and functional interchangeability; as well as data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements.

"Limited rights," as used in this subpart, means the rights of the Government in limited rights data, as set forth in a Limited Rights Notice, if included in the data rights clause of the contract, or as otherwise provided in a collateral agreement incorporated in and made a part of the contract.

"Limited rights data," as used in this subpart, means data other than computer software, developed in whole at private expense, that embodies trade secrets.

"Restricted computer software," as used in this subpart, means computer software that is developed in whole at private expense and is a trade secret or copyrighted computer software.

"Restricted rights," as used in this subpart, means the rights of the Government in restricted computer software as set forth in a Restricted Rights Notice, if included in a data rights clause of the contract or as otherwise may be included or incorporated in the contract.

"Unlimited rights," as used in this subpart, means the right to make, use, disclose publicly, reproduce, prepare derivative works, distribute copies to the public without restriction, by sale or other transfer of ownership or by rental, lease or lending, perform publicly in whole or in part, and display publicly in any manner and for any purpose, and to have or permit others to do so. In the case of computer software, "unlimited rights" also includes the right to modify, prepare adaptations, enhance, merge or combine with other computer software, and convert to any other programming language source code or machine-executable code.

2827.402 Policy.

It is necessary for the departments and agencies, in order to carry out their missions and programs, to acquire or obtain access to many kinds of data produced during or used in the performance of their contracts. Such data may be required to: obtain competition among suppliers; fulfill certain responsibilities for disseminating and publishing the results of their activities; ensure appropriate utilization of the results of research, development, and demonstration activities; and meet other programmatic and statutory requirements. At the same time, the Government recognizes that its contractors may have a property right or other valid economic interest in certain data resulting from private investment, and that protection from unauthorized use and disclosure of this data is necessary in order to prevent the compromise of such property right or economic interest, avoid jeopardizing the contractor's commercial position, and maintain the Government's ability to obtain access to or use such data. The protection of this data by the Government is necessary to encourage qualified contractors to participate in Government programs and apply innovative concepts to such programs. The specific procedures and prescriptions for use of solicitation provisions and contract clauses set forth below are framed in light of the above considerations to strike a balance between the Government's needs and the contractor's property rights and economic interests. In instances where data developed during contractual performance is produced partially at Government expense and partially at private expense, the respective rights of the Government and the contractor, if not delineated elsewhere in the contract, shall be determined by negotiation on a case-by-case basis.

2827.403 Procedures.

(a) *General.* All contracts that require data be produced, furnished, or acquired must contain terms that delineate the respective rights and obligations of the Government and the contractor regarding the use, disclosure, modification, reproduction, preparation of derivative works, distribution of copies to the public, transfer and public performance and display of such data, except certain contracts resulting from sealed bidding that require only existing data (other than limited rights data and restricted computer software) to be delivered and reproduction rights are not needed for such data. As a general rule, the data rights clause at section 2852.227–70, Rights in Data-General, including Alternates I–V where determined appropriate by the contracting agency as discussed in paragraph (b) below, is to be used for this purpose. However, certain types of contracts, the particular subject matter of a contract, or the intended use of the data, may require the use of other clauses or no clause at all, as discussed in paragraphs (c) and (d) below.

(b) *Basic Rights in Data Clause.*—(1) *Summary.* The clause at 2852.227–70, Rights in Data-General, is structured to strike a balance between an agency's needs in carrying out its missions and programs and the contractor's needs to protect property rights and valid economic interests in certain data arising out of private investment. This clause enables the contractor to protect from unauthorized use and disclosure data that qualifies as limited rights data or restricted computer software (see paragraph (b)(2) below for an alternate definition of limited rights data). This clause also specifically delineates the categories or types of data that the Government is to acquire with unlimited rights (see paragraph (b)(3) below). The contractor may protect qualifying limited rights data and restricted computer software under this clause by either withholding such data from delivery to the Government; or when an agency has a need to obtain delivery of limited rights data or restricted computer software, by delivering such data with limited rights data or restricted rights with authorized notices on the data. (See paragraphs (b) (4) and (5) below.) In addition, this clause enables contractors to establish and/or maintain copyright protection for data first produced and/or delivered under the contract, subject to certain license rights in the Government. (See paragraph (b)(6) below.) This clause also includes procedures that apply when the Government requests

validation of proprietary data restrictions or questions whether notices on data are authorized (see paragraphs (b) (7) and (8) below) or when a contractor wishes to add or correct omitted or incorrect notices on data (see paragraph (b)(9) below); addresses the contractor's right to release, publish, or use certain data involved in contract performance (see paragraph (b)(10) below); and, provides for the possibility for the Government to inspect certain data at the contractor's facility (see paragraph (b)(11) below).

(2) *Alternate definition of limited rights data.* In the clause at 2852.227–70, Rights in Data-General, in order for data to qualify as limited rights data, in addition to being data that either embody a trade secret or are data that are commercial or financial and confidential or privileged, such data must also pertain to items, components, or processes developed at private expense, including minor modifications thereof. However, where appropriate, an agency may determine to adopt in the clause the alternate definition for limited rights data that does not require that such data pertain to items, components, or processes developed at private expense; but rather that the data that embody a trade secret or is commercial or financial and confidential or privileged be produced at private expense in order to qualify as limited rights data. As an example, this alternate definition may be used where the principal purpose of a contract does not involve the development, use, or delivery of items, components, or processes that are intended to be acquired for use by or for the Government (either under the contract in question or any anticipated follow-on contracts relating to the same subject matter). Other examples include contracts for market research and surveys, economic forecasts, socio-economic reports, educational material, health and safety information, management analysis, and related matters. This alternate definition of limited rights data may be adopted, where appropriate, by using the clause with its Alternate I.

(3) *Unlimited rights data.* Under the clause at 2852.227–70, Rights in Data-General, the Government acquires unlimited rights in the following data except as provided in paragraph (b)(6) below for copyrighted data: (i) Data first produced in the performance of a contract; (ii) form, fit, and function data delivered under contract; (iii) data (except as may be included with restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair delivered under a contract; and (iv) all other data delivered under the contract unless such data qualify as limited rights data or restricted computer software. If any of the foregoing data is published copyrighted data, the Government acquires it under a copyright license as set forth in paragraph (b)(6) below rather than with limited rights or restricted rights.

(4) *Protection of limited rights data.* (i) The contractor may protect data (other than unlimited rights data or published copyrighted data) that qualify as limited rights data under the clause at 2852.227–70, Rights in Data-General, by withholding such data from delivery and providing form, fit, and function data in lieu thereof; or, if the clause is used with its Alternate II and the Government specifies the delivery of the data, by delivering such data with limitations on their use and disclosure. These two modes of protection afforded the contractor (i.e., withhold or deliver with limited rights) are provided for in paragraph (h) of the clause at 2852.227–70, Rights in Data-General. Subparagraph (h)(1) of this clause allows the contractor to withhold limited rights data and provide form, fit, and function data in lieu thereof. Alternate II adds subparagraph (h)(2) to this clause to enable the Government selectively to obtain the delivery of withheld or withholdable data with limited rights. The limitations on the Government's right to use and disclose limited rights data when the clause is used with its Alternate II are set forth in a "Limited Rights Notice" that the contractor is required to affix to such data. The specific limitations in the Notice are described below.

(ii) Limited rights data delivered to the Government with the Limited Rights Notice contained in subparagraph (h)(2) (Alternate II) will not, without permission of the contractor, be used by the Government for purposes of manufacture, and will not be disclosed outside the Government except for certain limited purposes as may be set forth in the Notice, and then only if the Government makes the disclosure subject to prohibition against further use and disclosure by the recipient. The following are examples of specific purposes which may be selected by an agency and added to the Limited Rights Notice of subparagraph (h)(2) of the clause (Alternative II):

(A) Use by support service contractors.

(B) Evaluation by nongovernment evaluators.

(C) Use by other contractors participating in the Government's program of which this contract is a part, for information and use in connection with the work performed under their contracts.

(D) Emergency repair or overhaul work.

(E) Release to a foreign government, as the interests of the United States may require, for information or evaluation, or for emergency repair or overhaul work by such government.

(iii) As an aid in determining whether the clause should be used with its Alternate II, the provision at 2852.227–71, Notification of Limited Rights Data and Restricted Computer Software, may be included in any solicitation containing the clause at 2852.227–70, Rights in Data-General. In addition, the need for Alternate II should be considered during the negotiations of a contract, particularly if negotiations are based on an unsolicited proposal. However, use of the clause at 2852.227–70, Rights in Data-General, without Alternate II does not preclude this Alternate from being used subsequently by amendment during contract performance should the need arise for delivery of limited rights data that have been withheld or identified as withholdable.

(5) *Protection of restricted computer software.* (i) If computer software qualifies as restricted computer software, the clause at 2852.227–70, Rights in Data-General, permits the contractor to protect such software by either withholding it from delivery and providing form, fit, and function data in lieu thereof; or if the clause is used with its Alternate III and the Government specifies delivery of the software, by delivering the software with restricted rights regarding its use, disclosure, and reproduction. The two modes of protection afforded the contractor (i.e., withhold or deliver with restricted rights) are provided for in paragraph (h) of the clause at 2852.227–70, Rights in Data-General. Subparagraph (h)(1) of the clause allows the contractor to withhold restricted computer software and provide form, fit, and function data in lieu thereof. Alternate III adds subparagraph (h)(3) to this clause to enable the Government selectively to obtain delivery of the withheld or withholdable computer software with restricted rights. The restrictions on the Government's rights to use, disclose, and reproduce restricted computer software when the clause is used with its Alternate III are set forth in a "Restricted Rights Notice" that the contractor is required to affix to such

computer software. When restricted computer software delivered with such Notice is published copy-righted

considered during negotiations of a contract, particularly if negotiations are

required by statute to prepare; (2) the data are intended primarily for internal

contractor may be afforded an

appropriate. If a party asserting a

2412(d)(2)(A)) incurred by the party

VOL 50 ISS 140 JL 22 1985 UMI

computer software. When restricted computer software delivered with such Notice is published copy-righted computer software, it is acquired with a restricted copyright license, without disclosure prohibitions, as also set forth in the Notice. The specific restrictions in the Notice are set forth in paragraph (b)(5)(ii) below.

(ii) Restricted computer software delivered with the Restricted Rights Notice of subparagraph (h)(3) (Alternate III) will not be used or reproduced by the Government, or disclosed outside the Government, except that the computer software may be:

(A) Used, or copies for use in or with the computer for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(B) Used, or copies for use in or with a backup computer if the computer or computers for which it is acquired are inoperative;

(C) Reproduced for safekeeping (archives) or backup purposes;

(D) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of any derivative software incorporating restricted computer software are made subject to the same restricted rights; and,

(E) Disclosed and reproduced by support contractors or their subcontractors, subject to the same restrictions under which the Government acquired the software.

(iii) The restricted rights set forth in paragraph (b)(5)(ii) above are the minimum rights the Government normally obtains with restricted computer software and will automatically apply when such software is acquired under the Restricted Rights Notice of subparagraph (h)(3) (Alternate III) of the clause. However, either greater or lesser rights, consistent with the purposes and needs for which the software is to be acquired, may be specified in the contract. Any additions to, or limitations on, the restricted rights set forth in the Restricted Rights Notice of subparagraph (h)(3) of the clause are to be expressly stated in the contract; or, with approval of the contracting officer, in a collateral agreement incorporated in and made part of the contract. (See paragraph (d)(2) below.)

(iv) As an aid in determining whether the clause should be used with its Alternate III, the provision at 2852.227-71, Notification of Limited Rights Data and Restricted Computer Software, may be included in any solicitation containing the clause at 2852.227-70, Rights in Data-General. In addition, the need for Alternate III should be considered during negotiations of a contract, particularly if negotiations are based on an unsolicited proposal. However, use of the clause at 2852.227-70, Rights in Data-General, without Alternate III does not preclude this Alternate from being used subsequently by amendment during contract performance, should the need arise for the delivery of restricted computer software that has been withheld or identified as withholdable.

(6) *Copyrighted data.*—(i) *Data first produced in the performance of a contract.* (A) In order to enhance the transfer or dissemination of information produced at Government expense, contractors may be permitted to establish claim to copyright subsisting in data first produced in the performance of work under a contract containing the clause at 2852.227-70, Rights in Data-General. This right is granted in subparagraph (c)(1) of the clause for any data first produced under the contract. Agencies may, however, specifically exclude items or categories of data from the right of the contractor to establish claim to copyright when appropriate; for example, where the data is to be disseminated in useful form by the Government. Also, agencies having programs for the transfer or dissemination of information resulting from its programs may, by use of the clause with its Alternate IV, include a substitute subparagraph (c)(1) in the clause to limit the right of the contractor granted in subparagraph (c)(1) to establish claim of copyright to scientific and technical articles based on or derived from work performed under the contract and published in academic, professional, or technical journals. However, when Alternate IV is used, permission may be granted to establish claim to copyright in all other data in accordance with the procedures set forth below.

(B) Usually permission for a contractor to establish claim to copyright for data first produced under the contract will be granted when copyright protection will enhance the appropriate transfer or dissemination of such data. The request for permission must be in writing, and may be made either at the time of contracting or subsequently during contract performance. It should identify the data involved or furnish a copy of the data for which permission is requested, as well as a statement as to the intended publication or dissemination media or other purpose for which copyright is desired. The request normally will be granted unless: (*1*) the data consist of a report that represents the official views of the agency or that the agency is required by statute to prepare; (*2*) the data are intended primarily for internal use by the Government; (*3*) the data are of the type that the agency itself distributes to the public under an established program; or (*4*) the Government determines that limitation on distribution of the data is in the national interest.

(C) Whenever a contractor establishes claim to copyright subsisting in data first produced in the performance of a contract, the Government normally is granted a paid-up, nonexclusive, irrevocable, worldwide license of unlimited rights for all such data, as set forth in subparagraph (c)(1) of the clause at 2852.227-70, Rights in Data-General, with the following exceptions: these rights do not include the right to license or sublicense or to have or to permit other persons to exercise those rights other than those on behalf of the Government. However, agencies may on a case-by-case basis or no a class basis if provided in implementing regulations, obtain on equitable terms a license of lesser scope than set forth in subparagraph (c)(1) of the clause if the agency determines that such lesser license will substantially enhance the transfer or dissemination of any data first produced under the contract.

(ii) *Data not first produced in the performance of a contract.* (A) Contractors are not to incorporate in data delivered under contract any data not first produced under the contract with the copyright notice of 17 U.S.C. 401 or 402 without either: acquiring for, or granting to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data; or obtaining permission from the contacting officer to do otherwise. However, if computer software not first produced under contract is delivered with the copyright notice of 17 U.S.C. 401 or 402, the Government's license will be as set forth in subparagraph (h)(3) (Alternate III) if included in the clause at 2852.227-70, Rights in Data-General, or as otherwise may be provided in a collateral agreement incorporated in or made part of the contract.

(B) Contractors delivering data with an authorized limited rights or restricted rights notice and a copyright notice of 17 U.S.C. 401 or 402 should modify the copyright notice to include the following (or similar) statement: "Unpublished-all rights reserved under the copyright laws." If this statement is omitted, the

contractor may be afforded an opportunity to correct it in accordance with 2827.403(b)(9). Otherwise, data delivered with a copyright notice of 17 U.S.C. 401 or 402 may be presumed to be published copyrighted data subject to the applicable license rights as set forth in paragraph (b)(6)(ii) (A) above, without disclosure limitations or restrictions.

(C) If contractor action causes limited rights or restricted rights data to be published with copyright notice after its delivery to the Government, the Government is relieved of disclosure and use limitations and restrictions regarding such data, and the contractor should advise the Government and request that a copyright notice be placed on the data, and acknowledge that the applicable copyright license set forth in paragraph (b)(6)(ii) above applies.

(7) *Validation of proprietary data restrictions.* (i) The Government has, in accordance with paragraph (e) of the clause at 2852.277-70, Rights in Data-General, the right to require a contractor or subcontractor, at any tier, to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the Government to use such technical data. The contracting officer shall review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of Government to use technical data furnished to it under a contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that continued adherence to the asserted restriction by the Government would make it impracticable to procure the item competitively at a later date.

(ii) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall state:

(A) The grounds for challenging the asserted restriction; and,

(B) The requirement for a written response within 60 days justifying the current validity of the asserted restriction.

(iii) If a contractor or subcontractor asserting a restriction subject to this section submits to the contracting officer a written request showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate. If a party asserting a restriction receives notices of challenges to restrictions on technical data from more than one contracting officer and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and other contracting officers, shall formulate a schedule of responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

(iv) (A) Upon a failure by the contractor or subcontractor to submit any response under paragraph (b)(7)(ii) above, the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

(B) If a justification is submitted in response to the notice provided pursuant to paragraph (b)(7)(ii) above, a contracting officer shall, within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

(v) If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(vi) (A) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the Government to use such technical data is sustained:

(1) The restriction on the right of the Government to use the technical data shall be cancelled; and,

(2) If the asserted restriction is found not to be substantially justified, the contractor, or subcontractor, as appropriate, shall be liable to the Government for payment of the cost to the Government of reviewing the asserted restriction and the fees and other expenses (as defined in Title 28 U.S.C. section 2412(d)(2)(A)) incurred by the Government in challenging the asserted restriction, unless special circumstances would make such payments unjust.

(B) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the Government to use such technical data is not sustained:

(*1*) the Government shall continue to be bound by the restriction; and,

(*2*) the Government shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in Title 28 U.S.C. section 2412(d)(2)(A)) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the Government is found not to be made in good faith.

(8) *Unauthorized marking of data.* The Government has, in accordance with paragraph (f) of the clause at 2852.227-70, Rights in Data-General, the right to either return to the contractor data containing markings not authorized by that clause, or to cancel or ignore such markings. However, markings will not be cancelled or ignored without making written inquiry of the contractor and affording the contractor at least 60 days (or a longer time approved by the contracting officer for good cause shown) to substantiate the propriety of the markings. The contracting officer will also give the contractor notice of any determination made based on any response by the contractor. Any such determination to cancel or ignore the markings shall be a final decision under the Contract Disputes Act. Failure of the contractor to respond to the contracting officer's inquiry within the time afforded may, however, result in Government action to cancel or ignore the markings. The above procedures may be modified in accordance with bureau regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request for data thereunder.

(9) *Omitted or incorrect notices.* (i) Data delivered under a contract containing the clause at 2852.227-70, Rights in Data-General, without a limited rights notice or restricted rights notice, or without a copyright notice, shall be presumed to have been delivered with unlimited rights, and the Government assumes no liability for the disclosure or use, or reproduction, of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the contractor may within 6 months (or a longer period approved by the contracting officer for good cause shown) request permission of the contracting officer to have the omitted limited rights or restricted rights notices, as applicable, placed on qualifying data at the contractor's expense, and the contracting officer may agree to so permit if the contractor:

(A) Identifies the data for which a notice is to be added or corrected;

(B) Demonstrates that the omission of the proposed notice was inadvertent;

(C) Establishes that use of the proposed notice is authorized; and,

(D) Acknowledges that the Government has no liability with respect to any disclosure or use of any

such data made prior to the addition of the notice or resulting from the omission

contracting officer that there would be a possible conflict of interest if inspection

with the purposes for which the works are acquired.

commercial sales and may not be appropriate for Government contracts.

should be made to keep the contract data requirements to a minimum.

other than special works, as appropriate;

such data made prior to the addition of the notice or resulting from the omission of the notice.

(ii) The contracting officer may also (A) permit correction, at the contractor's expense, of incorrect notices if the contractor identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized, or (B) correct any incorrect notices.

(10) *Release, publication, and use of data.* (i) In the clause at 2852.227–70, Rights in Data-General, paragraph (d) provides that contractors normally have the right to use, release to others, reproduce, distribute, or publish data first produced specifically in the performance of a contract; however, to the extent the contractor receives or is given access to data that are necessary for the performance of the contract and the data contains restrictive markings, the contractor agrees to treat the data in accordance with such markings unless otherwise specifically authorized in writing by the contracting officer.

(ii) Agencies may, on a case-by-case basis, or on a class basis if provided in implementing regulations, place further limitations or restrictions on the contractor's right to use, release to others, reproduce, distribute or publish any data first produced (but not data specifically used) in the performance of the contract. Such restrictions are not to be imposed on a class basis unless they are pursuant to statutory requirements, determined to be necessary in the furtherance of agency mission objectives, or determined to be necessary in support of specific agency programs.

(11) *Inspection of data at the contractor's facility.* Agencies may obtain the right to inspect data at the contractor's facility by use of Alternate V, which adds paragraph (b)(1) above to provide that right in the clause at 2852.227–70, Rights in Data-General. The data subject to inspection may be data withheld or withholdable under subparagraph (h)(1) of the clause, or any data specifically used in the performance of the contract. Such inspection may be made by the contracting officer or representative for the purpose of verifying a contractor's assertion regarding the limited rights or restricted rights status of the data, or for evaluating work performance under the contract. This right may be exercised at all reasonable times up to three years after acceptance of all items to be delivered under the contract. The contract may specify data items that are not subject to inspection under paragraph (b)(1) above (Alternate V). If the contractor demonstrates to the contracting officer that there would be a possible conflict of interest if inspection were made by a particular representative, the contracting officer shall designate an alternate representative.

(c) *Production of special works.* (1) The clause at 2852.227–73, Rights in Data-Special Works, applies to contracts (or may be made applicable to portions thereof) that are primarily for the production or compilation of data (other than limited rights data or restricted computer software) for the Government's internal use, or when there is a specific need to limit distribution and use of the data and/or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples are contracts for:

(i) The production of audiovisual works including motion pictures or television recordings with or without accompanying sound, or for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptations, and the like;

(ii) Histories of the respective agencies, departments, services, or units thereof;

(iii) Works pertaining to recruiting, morale, training, or career guidance;

(iv) Surveys of Government establishments;

(v) Works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties;

(vi) The compilation of reports, studies, surveys, or similar documents that do not involve research, development, or experimental work performed by the contractor;

(vii) The collection of data containing personally identifiable information such that the disclosure thereof would violate the right of privacy or publicity of the individual to whom the information relates;

(viii) Investigatory reports; or,

(ix) The development, accumulation, or compilation of data (other than that resulting from research, development, or experimental work performed by the contractor), the early release of which could prejudice follow-on acquisition activities.

(2) The contract may specify the purposes and conditions (including time limitations) under which the data may be used, released, or reproduced other than for contract performance. Contracts for the production of audiovisual works, sound recordings, etc., may include limitations in connection with talent releases, music licenses, and the like that are consistent with the purposes for which the works are acquired.

(d) *Acquisition of existing data other than limited rights data.*—(1) *Existing audiovisual and similar works.* The clause at 2852.227–74, Rights in Data-Existing Works, is for use in contracts exclusively for the acquisition (without modification) of existing motion pictures, television recordings, and other audiovisual works; sound recordings; musical dramatic, and literary works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; and works of a similar nature. The contract may set forth limitations consistent with the purposes for which the works covered by the contract are being acquired. Examples of these limitations are (i) means of exhibition or transmission, (ii) time, (iii) type of audience, and (iv) geographical location. If the contract requires that works of the type indicated above are to be modified through editing, translation, or addition of subject matter, etc. (rather than purchased in existing form) the clause at 2852.227–73, Rights in Data-Special Works, is to be used. (See 2827–403(c).)

(2) *Separate acquisition of existing computer software.* (i) If the contract is for the separate acquisition of existing computer software, no specific contract clause contained in this subpart need be used. However, the contract must specifically address the Government's rights to use, disclose, and reproduce the software and must contain terms obtaining sufficient rights for the Government to fulfill the need for which the software is being acquired. The restricted rights set forth in 2827.403(b)(5) should be used as a guide and are usually the minimum the Government should accept. If the computer software is to be acquired with unlimited rights, the contract must also so state. In addition, the contract must adequately describe the computer programs and/or data bases, the form (tapes, punch cards, disc pack, and the like), and all the necessary documentation pertaining thereto. If the acquisition is by lease or license, the disposition of the computer software (by returning to the vendor or destroying) at the end of the term of the lease or license must be addressed.

(ii) If the contract incorporates, makes reference to, or uses a vendor's standard commercial lease, license, or purchase agreement, such agreement shall be reviewed to assure that it is consistent with paragraph (d)(2)(i) above, and all other statutory and regulatory constraints. Caution should be exercised in accepting a vendor's terms and conditions since they may be directed to commercial sales and may not be appropriate for Government contracts. Any inconsistencies in a vendor's standard commercial agreement shall be addressed in the contract and the contract shall state that its terms shall take precedence over the vendor's standard commercial agreement.

(iii) If a prime contractor under a contract containing the clause at 2852.227–70, Rights in Data-General, with subparagraph (h)(3) (Alternate III) in the clause acquires restricted computer software from a subcontractor (at any tier) as a separate acquisition for delivery to the Government, the contracting officer may approve any additions to, or limitations on the restricted rights in the Restricted Rights Notice of subparagraph (h)(3) in a collateral agreement incorporated in and made part of the contract. (See also 2827.403(b)(5).)

(3) *Other existing works.* (i) Except for existing audiovisual and similar works pursuant to paragraph (d)(1) above, and existing computer software pursuant to paragraph (d)(2) above, no clause contained in this subpart need be included in: (*a*) contracts solely for the acquisition of books, publications, and similar items in the exact form in which such items exist prior to the request for purchase (i.e., the off-the-shelf purchase of such items) unless reproduction rights of such items are to be obtained; or (*b*) contracts resulting from formal advertising that require only existing data to be delivered unless reproduction rights for such data (other than limited rights data) are to be obtained. If reproduction rights are to be obtained, such rights must be specifically set forth in the contract.

2827.404 Acquisition of data.

(a) *General.* (1) It is important to recognize and maintain the conceptual distinction between contract terms whose purpose is to identify the data required for delivery to, or made available to, the Government (i.e., data requirements); and those contract terms whose purpose is to define the respective rights of the Government and the contractor in such data (i.e., data rights). This section relates to data requirements; section 2827.403 relates to the data rights.

(2) It is the Government's practice to determine, to the extent feasible, its data requirements in time for inclusion in solicitations. The data requirements are subject to revision during contract negotiations. Since the preparation, reformatting, maintenance, updating, cataloging, and storage of data represents an expense to both the Government and the contractor, efforts should be made to keep the contract data requirements to a minimum.

(3) To the extent feasible, all known data requirements, including the time and place for delivery and any limitations and restrictions to be imposed on the contractor in the handling of the data, shall be specified in the contract. In establishing the contract data requirements and in specifying data items to be delivered by a contractor, bureaus may, consistent with paragraph (a)(2) above, develop their own implementing instructions (including data requirements lists) for listing, specifying, identifying sources, assuring delivery, and handling any data required to be delivered, first produced, or specifically used in the performance of the contract.

(b) *Additional data requirements.* Recognizing that in some contracting situations, such as experimental, developmental, research, or demonstration contracts, it may not be possible or appropriate to ascertain all the data requirements at the time of contracting, the clause at 2852.227–72, Additional Data Requirements, is provided to enable the subsequent ordering by the Government of additional data first produced or specifically used in the performance of such contracts as the actual requirements become known. Data may be ordered under this clause at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under the contract. The contractor is to be compensated for converting the data into the prescribed form, for reproduction, and for delivery. In order to minimize storage costs for the retention of data, the contractor may be relieved of retention requirements for specified data items by the contracting officer at any time during the retention period required by the clause. Any data ordered under the clause will be subject to the Rights in Data-General clause in the contract and data authorized to be withheld under that clause will not be required to be delivered under this Additional Data Requirements clause.

2827.405 Solicitation provisions and contract clauses

(a)(1) The contracting officer shall insert the clause at 2852.227–70, Rights in Data-General (see 2827.403(b)), in solicitations and contracts if it is contemplated that data will be produced, furnished, or acquired under the contract, unless the contract is:

(i) For the production of special works of the type set forth in 2827.403(c), but the clause at 2852.227–70, Rights in Data-General, shall be included in the contract and made applicable to data other than special works, as appropriate;

(ii) For the separate acquisition of existing works, as described in 2827.403(d);

(iii) To be performed outside the United States, its possessions, and Puerto Rico, in which case bureaus may prescribe different clauses (see paragraph (h) below);

(iv) For architect-engineer services or construction work, in which case bureaus may prescribe different clauses (see paragraph (i) below), but the clause at 2852.227–70, Rights in Data-General, may be included in the contract and made applicable to data pertaining to other than architect-engineer services and construction work;

(v) A Small Business Innovative Research (SBIR) contract, in which case bureaus shall prescribe clauses consistent with the requirements of Public Law 97–219 (the Small Business Innovative Development Act of 1982) and the Small Business Administration Policy Directive No. 65–01 (see paragraph (j) below);

(vi) For the operation of a Government-owned facility to perform research, development or production work, in which case bureaus may prescribe different clauses (see paragraph (k) below).

(2) If a contracting officer determines, in accordance with 2827.403(b)(2), to adopt the alternate definition of "Limited Rights Data" in paragraph (a) of the clause, the clause shall be used with its Alternate I.

(3) If a contracting officer needs to obtain the delivery of limited rights data, the clause shall be used with its Alternate II (see 2827.403(b)(4)). The contracting officer shall, when Alternate II is used, assure that the purposes, if any, for which limited rights data is to be disclosed outside the Government are included in the "Limited Rights Notice" of subparagraph (h)(2) of the clause in accordance with 2827.403(b)(4). The contract may exclude identified items of data from delivery under subparagraph (h)(2) of the clause. Alternate II may be used at the time of contracting or subsequently by amendment if the need to acquire limited rights data arises during contract performance.

(4) If a contracting officer needs to obtain the delivery of restricted computer software, the clause shall be used with its Alternate III (see 2827.403(b)(5)). Any greater or lesser rights regarding the use, duplication, or disclosure of restricted computer software than those set forth in the Restricted Rights Notice of

subparagraph (h)(3) of the clause must be specified in the contract. Alternate III may be used at the time of contracting or subsequently by amendment if the need to acquire restricted computer software arises during contract performance.

(5) The clause at 2852.227–73, Rights in Data-Special Works, shall be used if existing works, other than computer software, are to be modified or adapted to the specific needs of the contracting agency and the modifications or adaptations are to be performed under the contract. The clause may be used with its Alternate I if the contracting officer determines that the Government's minimum needs can be satisfied with less than all rights as set forth in the basic clause.

(6) The clause at 2852.227–74, Rights in Data-Existing Works, shall be used when existing works are to be acquired under the contract. The clause may be used with its Alternate I if the contracting officer determines that the Government's minimum needs can be satisfied with less than all rights as set forth in the basic clause.

(7) The clause at 2852.227–75, Rights in Data-Special Works (Small Business Innovative Research Program), shall be used in contracts awarded under the Small Business Innovative Research Program.

(b) The clause at 2852.227–76, Computer Software, shall be used in contracts when computer software is to be developed or furnished.

(c) The clause at 2852.227–77, Rights in Bid or Proposal Info, shall be used in solicitations and contracts when technical data or computer software is required to be submitted with a bid or proposal.

(d) The clause at 2852.227–78, Preservation of Data, shall be used in solicitations and contracts when there is a need to preserve data for a period after contract completion.

(e) The clause at 2852.227–79, Copyright—Data First Produced in the Performance of the Contract, shall be used in solicitations and contracts when data first produced in the performance of the contract is to be copyrighted.

(f) The clause at 2852.227–80, Copyright—Existing Data, shall be used in solicitations and contracts when existing data is to be copyrighted.

(g) The clause at 2852.227–81, Rights in Data—Existing Works (Architect-Engineer Services), shall be used in solicitations and contracts for architect-engineer services when existing works are to be acquired under the contract.

(h) The clause at 2852.227–82, Rights in Data-General (Outside U.S.), shall be used in solicitations and contracts when data is to be produced outside the United States, its possessions, and Puerto Rico.

(i) The clause at 2852.227–83, Rights in Data-General (Architect-Engineer Services), shall be used in solicitations and contracts for architect-engineer services when data is to be produced.

(j) The clause at 2852.227–84, Rights in Data-General (Small Business Innovative Research Program), shall be used in solicitations and contracts awarded under the Small Business Innovative Research Program.

(k) The clause at 2852.227–85, Rights in Data-General (Government-Owned Facility), shall be used in solicitations and contracts when data is to be produced in a Government-owned facility.

(l) The clause at 2852.227–86, Technical Data—Computer Software, shall be used in solicitations and contracts when technical data or computer software is required to be delivered.

(m) The clause at 2852.227–87, Rights in Data—Special Works (Architect-Engineer Services), shall be used in solicitations and contracts for architect-engineer services when special works are to be produced.

(n) The clause at 2852.227–88, Rights in Data—Special Works (Outside U.S.), shall be used in solicitations and contracts when special works are to be produced outside the United States, its possessions, and Puerto Rico.

(o) The clause at 2852.227–89, Rights in Data—Special Works (Government-Owned Facility), shall be used in solicitations and contracts when special works are to be produced in a Government-owned facility.

(p) The clause at 2852.227–90, Rights in Data—Special Works (Small Business Innovative Research Program), shall be used in solicitations and contracts awarded under the Small Business Innovative Research Program.

(q) The clause at 2852.227–91, Rights in Data—Special Works (Architect-Engineer Services, Outside U.S.), shall be used in solicitations and contracts for architect-engineer services when special works are to be produced outside the United States, its possessions, and Puerto Rico.

(r) The clause at 2852.227–92, Rights in Data—Special Works (Architect-Engineer Services, Government-Owned Facility), shall be used in solicitations and contracts for architect-engineer services when special works are to be produced in a Government-owned facility.

(s) The clause at 2852.227–93, Rights in Data—Special Works (Small Business Innovative Research Program, Government-Owned Facility), shall be used in solicitations and contracts awarded under the Small Business Innovative Research Program.

(t) The clause at 2852.227–94, Rights in Data—Special Works (Outside U.S., Government-Owned Facility), shall be used in solicitations and contracts when special works are to be produced outside the United States, its possessions, and Puerto Rico in a Government-owned facility.

(u) The clause at 2852.227–95, Rights in Data—Special Works (Architect-Engineer Services, Outside U.S., Government-Owned Facility), shall be used in solicitations and contracts for architect-engineer services when special works are to be produced outside the United States, its possessions, and Puerto Rico in a Government-owned facility.

PART 2831—CONTRACT COST PRINCIPLES AND PROCEDURES

PART 2835—RESEARCH AND DEVELOPMENT CONTRACTING

"Created," as used in this clause, has the same meaning as does that term in the

subparagraph (h)(3) of the clause must be specified in the contract. Alternate III may be used at the time of contracting or subsequently by amendment if the need to acquire restricted computer software arises during contract performance.

(5) If a contracting officer wishes to limit the automatic right of the contractor to establish claim to copyright subsisting in data first produced in the performance of the contract to scientific and technical articles based on or derived from the work performed under the contract and published in academic, technical, or professional journals, the clause shall be used with its Alternate IV. (See 2827.403(b)(6).) Alternate IV provides a substitute subparagraph (c)(1) in the clause with such limitation. This subparagraph (c)(1) does, however, allow the contracting officer to give permission to the contractor to establish claim to copyright subsisting in other data first produced in the performance of the contract, either at the time of contracting or subsequently during contract performance, in accordance with 2827.403(b)(6).

(6) If a contracting officer needs to have the right to inspect certain data at a contractor's facility, the clause shall be used with its Alternate V. (See 2827.403(b)(11).) Alternate V adds a paragraph (1) to the clause to provide for such right, including the limitations thereon. Inspection may be by the contracting officer or a representative, and may be made at all reasonable times up to 3 years after acceptance of all items to be delivered under the contract. The contract may specify data items that are not to be subject to inspection under paragraph (1) of the clause. If the contractor demonstrates to the contracting officer that there would be a possible conflict of interest if inspection were made by a particular representative, the contracting officer shall designate an alternate representative.

(b) If a contracting officer desires to have an offeror state in response to a solicitation, to the extent feasible, whether limited rights data or restricted computer software is likely to be used in meeting the data requirements set forth in the solicitation, the contracting officer shall insert the provision at 2852.227–71, Notification of Limited Rights Data and Restricted Computer Software, in any solicitation containing the clause at 2852.227–70, Rights in Data-General. The contractor's response will provide an aid in determining whether the clause should be used with Alternate II and/or Alternate III. (See 2827.403(b)(4) and (5).)

(c) The contracting officer shall insert the clause at 2852.227–72, Additional Data Requirements, in solicitations and contracts involving experimental, developmental, research, or demonstration work unless all the requirements for data are believed to be known at the time of contracting and specified in the contract. (See 2827.404.) This clause may also be used in other contracts when considered appropriate. If the clause at 2852.227–70, Rights in Data-General, is used in the contract with its Alternates II or III, the contracting officer may permit the contractor to identify data the contractor does not wish to deliver, and may specifically exclude in the contract any requirements that such data be delivered under paragraphs (h) (2) or (3) of that clause or ordered for delivery under the Additional Data Requirements clause if such data is not necessary to meet the Government's requirements for data. Also, the contracting officer may alter the Additional Data Requirements clause by deleting the term "or specifically used" in subparagraph (a) of the clause if delivery of such data is not necessary to meet the Government's requirements for data.

(d) The contracting officer shall insert the clause at 2852.227–73, Rights in Data-Special Works, in solicitations and contracts primarily for the production or compilation of data (other than limited rights data or restricted computer software) for the Government's internal use, or when there is a specific reason to limit distribution and use of the data and/or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples of such contracts are set forth in 2827.403(c). The contract may specify the purposes and conditions (including time limitations) under which the data may be used, released, or reproduced by the contractor for other than contract performance. Contracts for the production of audiovisual works, sound recordings, etc., may include limitations in connection with talent releases, music licenses, and the like that are consistent with the purposes for which the data is acquired.

(e) The contracting officer shall insert the clause at 2852.227–74, Rights in Data-Existing Works, in solicitations and contracts exclusively for the acquisition, without modification, of existing audiovisual and similar works of the type set forth in 2827.403(d)(1). The contract may set forth limitations consistent with the purposes for which the work is being acquired. The clause at 2852.227–73, Rights in Data-Special Works, shall be used if existing works are to be modified, as by editing, translation, addition of subject matter, etc.

(f) While no specific clause of this subpart need be included in contracts for the separate acquisition of existing computer software, the contracting officer shall assure that the contract contains terms to obtain sufficient rights for the Government to fulfill the need for which the software is being acquired and is otherwise consistent with 2827.403(d)(2).

(g) While no specific clause of this subpart need be included in contracts solely for the acquisition of books, publications, and similar items in the exact form in which such items exist prior to the request for purchase (i.e., the off-the-shelf purchase of such items), if reproduction rights are to be acquired, the contract shall include terms addressing such rights. (See 2827.403(d)(3).)

(h) Bureaus may prescribe, as appropriate, clauses consistent with the policy of section 2827.402 in contracts to be performed outside the United States, its possessions, and Puerto Rico.

(i) Bureaus may prescribe, as appropriate, clauses consistent with the policy in section 2827.402 in contracts for architect-engineer services and construction work.

(j) Bureaus shall prescribe clauses consistent with the requirements of Pub. L. 97–219 (the Small Business Administration Development Act of 1982) and the Small Business Innovative Policy Directive No. 65–01 in Small Business Innovative Research (SBIR) contracts.

(k) Bureaus may prescribe, as appropriate, clauses consistent with the policy in section 2827.402 in contracts for the operation of Government-owned research, development, or production facilities.

PART 2830—COST ACCOUNTING STANDARDS

Subpart 2830.2—Disclosure Requirements

2830.201–270 [Amended]

23. Section 2830.201–70, last sentence is amended by removing the words ". . . to the DOJ Procurement Executive who will review" and inserting ". . . to the Office of the Procurement Executive for review of . . ." in their place.

PART 2831—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 2831.1—Applicability

2831.101–70 [Amended]

24. 2831.101–70, paragraph (b), is amended by removing the words "DOJ Procurement Executive" and inserting the words "Office of the Procurement Executive" in their place.

25. A new Part 2834 is added to read as follows:

PART 2834—MAJOR SYSTEM ACQUISITION

2834.002–70 Policy.

In accordance with Pub. L. 98–577, the Small Business and Federal Procurement Competition Enhancement Act of 1984, an executive agency may establish dollar thresholds for the designation of a major system. Accordingly, dollar thresholds for a major system under Office of Management and Budget Circular A–109 are designated below.

(a) *Major Automated Information System.* Within the Department of Justice, a major automated information system is one whose life cycle cost is in excess of $40 million.

(b) *Major Real Property System.* (1) By purchase, when the assessed value of the property exceeds $12 million.

(2) By lease, when the annual rental charges, including basic services (e.g., cleaning, guards, maintenance), exceed $1.5 million.

(3) By transfer from another agency at no cost when the assessed value of the property exceeds $12 million.

(c) *Construction Projects.* Construction projects for which the total estimated costs (including architectural and engineering design fees, and project administration and management fees) through implementation of the project exceed $60 million.

(d) *Research and Development (R&D) System.* Any R&D activity expected to exceed $0.5 million for the R&D phase is subject to OMB Circular A–109, unless exempted by the head of the contracting activity.

(e) *Any Other System or Activity.* The head of the agency responsible for the system may designate any system or activity as a Major System under OMB Circular A–109 as a result of Departmental review, e.g., selected systems designed to support more than one principal organizational unit.

(28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 0.76(j).)

PART 2835—RESEARCH AND DEVELOPMENT CONTRACTING

Subpart 2835.003–70 Policy and Procedures

2835.003–70 [Amended]

26. Section 2835.003–70, paragraph (a), second sentence, is amended by removing "justification for noncompetitive procurement" and inserting the words "justification for other than full and open competition" in their place.

27. Section 2835.003–70, paragraph (a), third sentence, is amended by removing the words "DOJ Procurement Executive" and inserting the words "Office of the Procurement Executive" in their place.

PART 2852—[AMENDED]

28. Subpart 2852.227 is added to read as follows:

Subpart 2852.227

Sec.
2852.227–70 Rights in data—general.
2852.227–71 Notification of limited rights data and restricted computer software.
2852.227–72 Additional data requirements.
2852.227–73 Rights in data—special works.
2852.227–74 Rights in data—existing works.

Subpart 2852.227

2852.227–70 Rights in data—general.

As prescribed in 2827.403(a) and 2827.405(a)(1), insert the following clause:

Rights in Data—General (Apr. 1, 1985)

(a) *Definitions.*

"Computer software," as used in this clause, means:

(1) Computer programs, i.e., any set of statements or instructions in any form of written programming language source code, or machine-executable code that is capable of causing a machine with information processing capabilities to perform a particular result;

(2) Computer data bases, i.e., any form of information in written programming language source code or machine-executable code, other than computer programs;

(3) Computer supporting material, i.e., any material in lingual, pictorial schematic, or other form, that would permit the making of a computer program (e.g., flow charts), or that was created to aid the understanding, application, or use of a computer program (e.g., user instructions and manuals, installation and operation manuals, input and output forms, and technical documentation); and,

(4) Any updates or revisions to computer programs, computer data based, or computer supporting material;

(5) But, does not mean any data produced as a result of using computer programs, computer data bases, or computer supporting material delivered under a contract.

"Created," as used in this clause, has the same meaning as does that term in the Copyright Act (17 U.S.C. 101).

"Data," as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analysis or financial, business, and management information required for contract administration purposes.

"Data first produced in the performance of this contract," as used in this clause, means data the contractor created, in whole or in part, after the effective date of this contract for the purpose of performing its obligations under this contract.

"Form, fit, and function data," as used in this clause, means data relating to, and sufficient to enable, physical and functional interchangeability; as well as data identify source, size, configuration, mating and attachment characteristics, and performance requirements.

"Limited rights," as used in this clause, means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of subparagraph (h)(2) if included in this clause, or as otherwise provided in a collateral agreement incorporated in and made part of this contract.

"Limited rights data," as used in this clause, means computer software developed in whole at private expense and that is a trade secret or is copyrighted computer software.

"Restricted computer software," as used in this clause, means computer software developed in whole at private expense and that is a trade secret or is copyrighted computer software.

"Restricted rights," as used in this clause, means the rights of the Government in restricted computer software, as set forth in the Restricted Rights Notice of subparagraph (h)(3) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract.

"Unlimited rights," as used in this clause, means the rights to make, use, disclose publicly, reproduce, prepare derivative works, distribute copies to the public, without restriction, by sale or other transfer of ownership or by rental, lease or lending, perform publicly in whole or in part, and display publicly in any manner and for any purpose, and to have or permit others to do so. In the case of computer software, "unlimited rights" also includes the right to modify, prepare adaptations, enhance, merge or combine with other computer software, and convert to any other programming language, source code, or machine-executable code.

(b) *Allocation of rights.* (1) Except as provided in paragraph (c) below, the Government shall have entire right, title and interest, and unlimited rights in:

(i) All data first produced in the performance of this contract;

(ii) All form, fit, and function data delivered under this contract;

(iii) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer

(ii) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the Government to

of incorrect notices if the contractor identifies the data on which correction of the notice is

commercial or financial and confidential or privileged.

(iii) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (h) below;

(iv) All data produced as a result of using computer software delivered under this contract; and,

(v) All modifications, adaptation, enhancements, mergers or combinations with other computer software, and conversions to any other programming language source code or machine executable code, of any computer software first produced in the performance of this contract, or of any other computer software delivered under this contract unless provided otherwise for restricted computer software in accordance with paragraph (h) below, created by or on behalf of the Government.

(2) Except as provided in paragraph (d) below, the contractor shall have:

(i) A non-exclusive, royalty-free, worldwide, unlimited right to all data first produced in the performance of this contract or otherwise delivered under this contract, but not in data identified in subparagraph (1)(iv) and (1)(v) of this paragraph above, except as set forth in paragraph (h) below.

(ii) The right to protect data which is limited rights data or restricted computer software to the extent provided in paragraphs (f), (g), and (h) below; and,

(iii) The right to establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided in subparagraph (c)(1) below.

(c) *Copyright.*—(1) *Data first produced in the performance of this contract.* (i) Except as provided in paragraph (ii) below, the contractor may establish claim to copyright subsisting in any data it first produced in the performance of the contract. If the contractor claims such copyrights, the contractor shall notify the Government that it claims such copyrights, identify the specific data for which the contractor claims such copyrights and affix the applicable copyright notice of 17 U.S.C. 401 or 402 to the data when the contractor delivers that data to the Government, and include an acknowledgement of Government sponsorship on the data when registering the copyright claim in the U.S. Copyright Office, and when publishing the data. For any data first produced in the performance of this contract for which the contractor claims such copyrights, the contractor shall have title to such data and the Government shall have a non-exclusive, non-transferable, irrevocable, paid-up worldwide license of unlimited rights with the following exceptions: these rights do not include the right to license or sublicense, or to have, or permit, other persons to exercise those rights other than those on behalf of the Government. For any such data for which the contractor so acquires title, the march-in-rights provided in paragraph (ii) below shall apply.

(ii) *March-In-Rights.* With respect to any data first produced in the performance of this contract in which the contractor has acquired title, the Department of Justice (DOJ) shall have the right to require the contractor, assignee, or exclusive licensee of the copyright to such data, to grant a non-exclusive, partially exclusive, or exclusive license of such rights in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request, the DOJ has the right to grant such license itself if DOJ determines that: (1) such action is necessary because the contractor, assignee, or licensee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the data in such field of use; (2) such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or licensee; (3) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensee; or, (4) the effect of the contractor's acquisition of title at the time of the acquisition, in any line of commerce in any section of the country, may be to substantially lessen competition or tend to create a monopoly.

(2) *Data not first produced in the performance of this contract.* The contractor shall not, without prior written permission of the contracting officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and for which copyright is claimed by anyone, unless the contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (1)(i) above; (*provided, however,* That if such data is computer software the Government shall acquire a copyright license as set forth in subparagraph (h)(3) below if included in this contract or as otherwise may be provided in a collateral agreement incorporated in or made part of this contract.)

(3) The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all reproduction of the data.

(d) *Data received in performance of contract.* The contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contains restrictive markings, the contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the contracting officer.

(e) *Validation of proprietary data restrictions.* (1) Notwithstanding any other provisions of this contract including inspection and acceptance the Government has the right to require a contractor or subcontractor, at any tier, to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the Government to use such technical data. The contracting officer shall review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of Government to use technical data furnished to it under a contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that continued adherence to the asserted restriction by the Government would make it impracticable to procure the item competitively at a later date.

(2) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall state:

(i) the grounds for challenging the asserted restriction; and,

(ii) the requirement for a written response within 60 days justifying the current validity of the asserted restriction.

(3) If a contractor or subcontractor asserting a restriction subject to this section submits to the contracting office a written request, showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate. If a party asserting a restriction receives notices of challenge to restrictions or technical data from more than one contracting officer and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and other contracting officers, shall formulate a schedule of responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

(4)(i) Upon a failure by the contractor or subcontractor to submit any response under subsection (2), the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

(ii) If a justification is submitted in response to the notice provided pursuant to subsection (2), a contracting officer shall within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

(5) If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(6)(i) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the Government to use such technical data is sustained:

(A) the restriction on the right of the Government to use the technical data shall be cancelled; and,

(B) if the asserted restriction is found not to be substantially justified, the contractor, or subcontractor, as appropriate, shall be liable to the Government for payment of the cost to the Government of reviewing the asserted restriction and the fees and other expenses (as defined in Title 28 Section 2412(d)(2)(A)) incurred by the Government in challenging the asserted restriction, unless special circumstances would make such payments unjust.

(ii) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the Government to use such technical data is not sustained:

(A) the Government shall continue to be bound by the restriction; and,

(B) the Government shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in Title 28 U.S.C. Section 2412(d)(2)(A)) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the Government is found not to be made in good faith.

(f) *Unauthorized markings of data.* (1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract is marked with the notices specified in subparagraphs (h)(2) or (h)(3) below and use of such is not authorized by this clause, the contracting officer may either return the data to the contractor, or cancel or ignore the markings. However, markings will not be cancelled or ignored unless:

(i) The contracting officer makes written inquiry to the contractor concerning the propriety of the markings, providing the contractor 60 days to respond; and,

(ii) The contractor fails to respond within the 60-day period (or a longer time approved by the contracting officer for good cause shown), or the contractor's response fails to substantiate the propriety of the markings.

(2) The contracting officer shall consider the contractor's response, if any, and determine whether the markings shall be cancelled or ignored. The contracting officer shall furnish written notice to the contractor of the determination, which shall be a final decision under the Contract Disputes Act.

(3) The above procedures may be modified in accordance with bureau regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request for data thereunder.

(g) *Omitted or incorrect markings.* (1) Data delivered to the Government without any notice authorized by paragraph (h) below, or without a copyright notice, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the contractor may request, within six months (or a longer time approved by the contracting officer for good cause shown) after delivery of such data, permission to have notices placed on qualifying data at the contractor's expense, and the contracting officer may agree to do so if the contractor:

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the use of the proposed notice is authorized; and,

(iv) Acknowledges that the Government has no liability with respect to the disclosure or use of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The contracting officer may also (i) permit correction at the contractor's expense, of incorrect notices if the contractor identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized, or, (ii) correct any incorrect notices.

(h) *Protection of limited rights data and restricted computer software.* (1) Except as provided otherwise in paragraphs (2) and (3) below, when data other than those listed in subparagraphs (b)(1) (i) and (ii) above are specified to be delivered under this contract and qualify as either limited rights data or restricted computer software the contractor, if he/she desires to continue protection of such data, shall withhold such data and not furnish it to the Government under this contract. As a condition of this withholding the contractor shall identify the data as withheld and furnish form, fit, and function data in lieu thereof. Limited rights data that are formatted as computer data bases for delivery to the Government are to be treated as limited rights data and not restricted computer software.

(2) Reserved (unless Alternate II is used)

(3) Reserved (unless Alternate III is used)

(i) *Subcontracting.* The contractor has the responsibility to obtain from its subcontractors all data and rights therein necessary to fulfill the contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government such rights, the contractor shall promptly bring such refusal to the attention of the contracting officer and not proceed with subcontract award without further authorization.

(j) *Relationship to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(k) *Indemnity.* The contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery publication, or use of any data delivered under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the contractor as soon as practicable of any claim or suit, affords the contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

Alternate I (Apr. 1, 1985). As prescribed in 2827.403(b)(2) and 2827.405(a)(2), substitute the following definition for "Limited Rights Data" in paragraph (a) of the clause.

"Limited rights data," as used in this clause, means data produced at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

Alternate II (Apr. 1, 1985). As prescribed in 2827.403(b)(4) and 2827.405(a)(3), insert the following subparagraph (h)(2) in the clause:

(h)(2) Notwithstanding subparagraph (h)(1) above, the contract may identify and specify the delivery of limited rights data, or the contracting officer may require by written request the delivery of limited rights data that have been withheld or would otherwise be withholdable. If deliver of such data is so required, the contractor may affix the following "Limited Rights Notice" to the data and the Government will thereafter treat the data, subject to the provisions of paragraphs (e), (f) and (g) above, in accordance with such Notice:

"Limited Rights Notice (Apr. 1, 1985)

(a) These data are submitted with limited rights under Government contract No. ——— (subcontract ———, if appropriate). The data may be reproduced and used by or on behalf of the Government with the express limitation that it will not, without permission of the contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose this data outside the Government for the following purposes, if any, provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

[Agencies may list additional purposes as set forth in 2827.403(b)(4)]

(b) This Notice shall be marked on any reproduction of this data, in whole or in part."

Alternate III (Apr. 1, 1985). As prescribed in 2827.403(b)(5) and 2827.405(a)(4), insert the following subparagraph (h)(3) in the clause:

(h)(3) Notwithstanding subparagraph (h)(1) above, the contract may identify and specify the delivery of restricted computer software, or the contracting officer may require by written request the delivery of restricted computer software that has been withheld. If delivery of such computer software is so required, the contractor may affix the following "Restricted Rights Notice" to the computer software and the Government will thereafter treat the computer software, subject to paragraphs (e), (f) and (g) above, in accordance with the Notice:

"Restricted Rights Notice (Apr. 1, 1985)

(a) This computer software is submitted with restricted rights under Government contract No. ——— (and subcontract . . . . . , if appropriate). The rights of the Government are those as provided below.

(b) The Government may:

(1) Use this computer software or reproduce it for use in or with the computer for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(2) Reproduce it for safekeeping (archives) or backup purposes;

(3) Prepare derivative works of, modify or adapt, or enhance it, or merge or combine it with other computer software, or convert it to other programming language source code or machine-executable code, providing that the modified or adapted, enhanced, merged,

combined or converted portions of the restricted computer software incorporated in the computer software shall be subject to the

with the following exceptions: these rights do not include the right to license or sublicense,

Notification of Limited Rights Data and Restricted Computer Software (Apr. 1, 1985)

authorized by the Rights in Data—General clause of this contract, or data which are

the permission of the contracting officer,

contract and for which copyright is claimed

VOL 50 ISS 140 JL 22 1985 UMI

combined or converted portions of the restricted computer software incorporated in the computer software shall be subject to the same restricted rights, and the contractor shall not have any rights to other portions of the modified, adapted, enhanced, merged, combined or converted computer software; and

(4) Disclose and reproduce it for use by support contractors or their subcontractors in accordance with subparagraphs (1) through (3) above, provided the Government makes such disclosure subject to these restricted rights.

(c) Notwithstanding the foregoing, if this computer software is published, copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the minimum rights set forth in paragraph (c) of the clause No. 2852.227–70, "Rights in Data-General."

(d) Any other rights or limitations regarding the use, duplication or disclosure of this computer software are to be expressly stated in the contract.

(e) This Notice shall be marked on any reproduction of this computer software, whether reproduced in whole or in part."

Where it is impractical to include the above Notice on restricted computer software, the following short-form notice may be used in lieu thereof:

"Restricted Rights Notice

(Short Form) (Apr. 1, 1985)

Use, reproduction, or disclosure is subject to restrictions set forth in contract No. ——— (and subcontract ———, if appropriate) with ——— (name of contractor and subcontractor)."

Alternate IV (Apr. 1, 1985). As prescribed in 2827.403(b)(6) and 2827.405(a)(5), substitute the following subparagraph (c)(1) in the clause:

(c)(1) *Data first produced in the performance of this contract.* (i) Unless provided otherwise in subparagraph (d) below, the contractor may establish claim to copyright subsisting in scientific and technical articles based on or derived from data first produced in the performance of this contract and published in academic, technical, or professional journals. The prior, express written permission of the contracting officer is required to establish claim to copyright subsisting in all other data first produced in the performance of this contract in accordance with Justice Acquisition Regulation 2827.403(b)(6). When the contractor claims such copyrights, the contractor shall notify the specific data for which the contractor claims such copyrights and affix the applicable copyright notice of 17 U.S.C. 401 or 402 to the data when the contractor delivers those data to the Government, and include an acknowledgment of Government sponsorship on the data when registering the copyright claim in the U.S. Copyright Office, and when publishing the data. For any data first produced in the performance of this contract for which the contractor claims such copyrights the contractor shall have title to such data and the Government shall have a non-exclusive, non-transferable, irrevocable, paid-up worldwide license of unlimited rights with the following exceptions: these rights do not include the right to license or sublicense, or to have, or permit, other persons to exercise those rights other than those on behalf of the Government. For any such data for which the contractor so acquires title, the march-in-rights provided in paragraph (ii) below shall apply.

(ii) *March-In-Rights.* With respect to any data first produced in the performance of this contract in which the contractor has acquired title, the Department of Justice (DOJ) shall have the right to require the contractor, assignee, or exclusive licensee of the copyright to such data, to grant a non-exclusive, partially exclusive, or exclusive license of such rights in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request, the DOJ has the right to grant such license itself if DOJ determines that: (1) such action is necessary because the contractor, assignee, or licensee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the data in such field of use; (2) such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or licensee; (3) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensee; or (4) the effect of the contractor's acquisition of title at the time of the acquisition, in any line of commerce in any section of the country, may be to substantially lessen competition or tend to create a monopoly.

Alternate V (Apr. 1, 1985). As prescribed in 2827.403(b)(11) and 2827.405(a)(6), add the following paragraph (1) to the clause:

(1) The contractor agrees, except as may be otherwise specified in this contract for specific data items listed as not subject to this paragraph, that the contracting officer or an authorized representative may, at all reasonable times up to three years after acceptance of all items to be delivered under this contract, inspect at the contractor's facility any data withheld under subparagraph (h)(1) of this clause, or any data specifically used in the performance of this contract, for the purpose of evaluating work performance or verifying the contractor's assertion to pertaining to the limited rights or restricted rights status of the data. Where the contractor whose data are to be inspected demonstrates to the contracting officer that there would be a possible conflict of interest if the inspection were made by a particular representative, the contracting officer shall designate an alternate representative.

(End of clause)

2852.227–71 Notification of limited rights data and restricted computer software.

As prescribed in 2827.403(b)(4) and 2827.405(b), insert the following provision in solicitations that include the clause at 2852.227–70, "Rights in Data-General."

Notification of Limited Rights Data and Restricted Computer Software (Apr. 1, 1985)

(a) This solicitation sets forth the work to be performed if a contract award results, and the Government's known requirements for data (as defined in Justice Acquisition Regulations 2852.227–70 Rights in Data—General) may include limited rights data or restricted computer software. Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause (Justice Acquisition Regulation 2852.227–72), if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data—General clause (Justice Acquisition Regulation 2852.227–70) that is to be included in this contract. Under this clause a contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. This clause also may be used with Alternates II and/or III to obtain delivery of limited rights data or restricted computer software with limited rights or restricted rights. In addition, use of Alternate V with this clause provides the Government with the rights to inspect such data at the contractor's facility.

(b) As an aid in determining the Government's need to include any of the above Alternates in the clause at 2852.227–70, Rights in Data—General, the offeror's response to this solicitation shall, to the extent feasible, either state that none of the data qualify as limited rights data or restricted computer software, or identify which of the data qualify as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of such data should a contract be awarded to the offeror.

(End of clause)

2852.227–72 Additional data requirements.

As prescribed in 2827.404(b) and 2827.405(c), insert the following clause in solicitations and contracts involving experimental, developmental, or research work, except those awards using small purchase procedures. This clause may be used in solicitations and contracts for other types of work after consultation with counsel.

Additional Data Requirements (Apr. 1, 1985)

(a) In addition to the data (as defined in the Rights in Data—General clause included in this contract) specified elsewhere in this contract to be delivered, the contracting officer may at any time during contract performance or within a period three years after acceptance of all items to be delivered under this contract, order any data first produced or specifically used in the performance of this contract.

(b) The Rights in Data—General clause included in this contract is applicable to all data ordered under this Additional Data Requirements clause. Nothing contained in this clause shall require the contractor to deliver any data the withholding of which is

authorized by the Rights in Data—General clause of this contract, or data which are specifically identified in this contract as not subject to this clause.

(c) When data are to be delivered under this clause, the contractor will be compensated for converting the data into prescribed form, for reproduction, and for delivery.

(d) The contracting officer may release the contractor from the requirements of this clause for specifically identified data items at any time during the three year period set forth in (a) above.

(End of clause)

2852.227–73 Rights in data—special works.

As prescribed in 2827.403(c) and 2827.405(d), insert the following clause.

Rights in Data—Special Works (Apr. 1, 1985)

(a) *Definitions.*

"Data," as used in this clause, means recorded information, regardless of form or the media on which they may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analysis or financial, business, and management information required for contract administration purposes.

"Unlimited rights," as used in this clause, means the rights to make, use, disclose publicly, reproduce, prepare derivative works, distribute copies to the public, without restriction, perform publicly by sale or other transfer of ownership or by rental, lease or lending, in whole or in part, and display publicly in any manner and for any purpose, and to have or permit others to do so. In the case of computer software, "unlimited rights" also includes the right to modify, prepare adaptations, enhance, merge or combine with other computer software, and convert to any other programming language, source code, or machine-executable code.

(b) *Allocation of Rights.*

(1) The Government shall have:

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) below for copyright.

(ii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with subparagraph (c)(1) below.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) below.

(2) The contractor shall have, to the extent permission is granted in accordance with subparagraph (c)(1) below, the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

(c) *Copyright.*—(1) *Data first produced in the performance of this contract.* (i) The contractor agrees not to assert, establish, or authorize others to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this contract without the prior written permission of the contracting officer. When the contractor, with the permission of the contracting officer, claims such copyrights, the contractor shall notify the Government that it claims such copyrights, identify the specific data for which the contractor claims such copyrights and affix the applicable copyright notice of 17 U.S.C. 401 or 402 to the data when the contractor delivers those data to the Government, and include and acknowledgement of Government sponsorship on the data when registering the copyright claim in the U.S. Copyright Office, and when publishing the data. For any data first produced in the performance of this contract for which the contractor claims such copyrights, the contractor shall have title to such data and the Government shall have a non-exclusive, non-transferable, irrevocable, paid-up worldwide license of unlimited rights with the following exceptions: these rights do not include the right to license or sublicense, or to have or permit other persons to exercise these rights other than on behalf of the Government. For any such data for which the contractor so acquires title, the march-in-rights provided in paragraph (ii) below shall apply.

(ii) *March-In-Rights.* With respect to any data first produced in the performance of this contract in which the contractor has acquired title, the Department of Justice (DOJ) shall have the right to require the contractor, assignee, or exclusive licensee of the copyright to such data, to grant a non-exclusive, partially exclusive, or exclusive license of such rights in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request, the DOJ has the right to grant such license itself if DOJ determines that: (1) Such action is necessary because the contractor, assignee, or licensee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the data in such field of use; (2) such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or licensee; (3) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensee; or (4) the effect of the contractor's acquisition of title at the time of the acquisition, in any line of commerce in any section of the country, may be to substantially lessen competition or tend to create a monopoly.

(iii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (i) above, the contracting officer may direct the contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(2) *Data not first produced in the performance of this contract.* The contractor shall not, without prior written permission of the contracting officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and for which copyright is claimed by anyone, unless the contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (1)(i) above; [*provided*, however, that if such data are computer software the Government shall acquire a copyright license as set forth in subparagraph (b)(3) of the Justice Acquisition Regulations Part 2852.227–70 Rights in Data—General clause of this contract, or as otherwise may be provided in a collateral agreement incorporated in or made part of this contract.]

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the contractor shall not use for purposes other than the performance of this contract, nor release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the contracting officer.

(e) *Indemnity.* The contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy of publicity, arising out of the creation, delivery, publication, or use of any data delivered under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the contractor as soon as practicable of any claim or suit, affords the contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

2852.227–74 Rights in data—existing works.

As prescribed in 2827.403(d) and 2827.405(e), insert the following clause:

Rights in Data—Existing Works (Apr. 1, 1985)

(a) Except as otherwise provided in this contract, the contractor grants to the Government, and others acting on its behalf, a non-exclusive, non-transferable, irrevocable, paid-up, worldwide license of unlimited rights with the following exceptions: these rights do not include the right to license or sublicense; or, to have or permit other persons to exercise these rights other than on behalf of the Government, for all the material or subject matter called for under this contract or for which this clause is specifically made applicable.

(b) The contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of: (1) the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation,

delivery, publication, or use of any data furnished under this contract; or, (2) any

contractor an opportunity under applicable laws, rules, or regulations to participate in

contractor by the Government and incorporated in data to which this clause

Monday July 22, 1985

VOL
50
ISS
140
JL
22
1985
UMI

delivery, publication, or use of any data furnished under this contract; or, (2) any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the contractor as soon as practicable of any claim or suit, affords the contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

[FR Doc. 85-16715 Filed 7-19-85; 8:45 am]
BILLING CODE 4410-01-M

federal register

Monday
July 22, 1985

Part III

Department of the Treasury

Internal Revenue Service

Privacy Act of 1974; Notices of Systems of Records

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Table of Contents

Internal Revenue Service (IRS)
IRS 34.014—Motor Vehicle Registration and Entry Pass Files

IRS 46.015—Relocated Witnesses, Criminal Investigation Division
IRS 90.014—Management Files Maintained by Operations Division and the Deputy

for appropriate address for regional and district offices or service center files

VOL 50 ISS 140 JL 22 1985 UMI

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974: Periodic Publications of all Privacy Act Systems of Records

The Department of the Treasury is systematically republishing all of its systems of records notices. This notice updates the information for the systems of records maintained by the Internal Revenue Service. The notices for these systems of records were last published by the **Federal Register** in the Privacy Act Issuances 1984 Compilation, pages 787–836.

The Department has eliminated Appendix AA which listed blanket-type routine uses. The applicable routine uses now appear in each system of records. All other changes are editorial in nature and consist principally of address changes, revision of organizational titles and transfer of functions. None of the changes require an altered system report as prescribed by 5 U.S.C. 552a(o).

The Internal Revenue Service has deleted eight systems of records. Five of those systems are included in other existing systems as noted below.

Dated: July 15, 1985.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

Deletions

22.012—Collection Case File, TX:R—(now included in 22.061).

22.036—Interest Equalization Tax Forms File, TX:R—This tax was repealed on February 1, 1977. The return file has been combined with System 22.034.

22.058—Corporate Tentative Carryback Allowance File, TX:R—Corporations are not covered by the Privacy Act of 1974.

24.017—Employee Inquiry Look-up for TDA Inquiries—(obsolete.) Its successor, the Taxpayer Inquiry Look-up Tape (TILT) is also a file of information returns and is a sub-file of 22.061.

24.057—Taxpayer Delinquent Investigation (TDI) Notice File—(now included in the IMF and BMF, 24.030 and 24.046 respectively).

26.007—Form 2990—Miscellaneous Investigations CP:C—(now included in System 26.006).

46.007—Economic Stabilization Program Files—This program, which related to entrepreneurial activity, ceased to function in 1974.

90.012—Internal Control Records for Chief Counsel Legal Files—Internal control has been decentralized and the records in this system have been placed in many other existing systems of records.

Table of Contents

Internal Revenue Service (IRS)

IRS 10.001—Biographical Files
IRS 10.004—Subject Files
IRS 21.001—Tax Administration Advisors Resources File
IRS 22.003—Annual Listing of Undelivered Refund Checks
IRS 22.011—File of Erroneous Refunds
IRS 22.026—Form 1042S Index by Name of Recipient
IRS 22.027—Foreign Information System (FIS)
IRS 22.032—Individual Microfilm Retention Register
IRS 22.034—Individual Returns Files, Adjustments and Miscellaneous Documents Files
IRS 22.043—Potential Refund Litigation Case Files
IRS 22.044—P.O.W.—M.I.A. Reference File
IRS 22.054—Subsidiary Accounting Files
IRS 22.059—Unidentified Remittance File
IRS 22.060—Unit Ledger Cards
IRS 22.061—Wage and Information Returns Processing (IRP)
IRS 24.013—Combined Account Number File, Returns and Information Processing
IRS 24.029—Individual Account Number File (IANF), Returns and Information Processing
IRS 24.030—Individual Master File (IMF), Returns and Information Processing
IRS 24.046—Returns and Information Processing, Business Master File (BMF)
IRS 26.001—Acquired Property Records
IRS 26.006—Form 2209, Courtesy Investigations
IRS 26.008—IRS and Treasury Employee Delinquency
IRS 26.009—Lien Files (open and closed)
IRS 26.010—Lists of Prospective Bidders at Internal Revenue Sales of Seized Property
IRS 26.011—Litigation Case Files
IRS 26.012—Offer in Compromise (OIC) File
IRS 26.013—One Hundred Percent Penalty Cases
IRS 26.014—Record 21, Record of Seizure and Sale of Real Property
IRS 26.016—Returns Compliance Programs (RCP)
IRS 26.019—TDA (Taxpayer Delinquent Accounts)
IRS 26.020—TDI (Taxpayer Delinquency Investigation)
IRS 26.021—Transferee Files
IRS 26.022—Delinquency Prevention Programs
IRS 30.003—Requests for Printed Tax Materials Including Lists
IRS 30.004—Security Violations
IRS 32.001—Travel Expense Record
IRS 32.003—Schedules of Collections and Schedules of Cancelled Checks
IRS 34.003—Assignment and Accountability of Personal Property Files
IRS 34.005—Parking Space Application and Assignment
IRS 34.007—Record of Government Books of Transportation Requests
IRS 34.009—Safety Program Files
IRS 34.012—Emergency Preparedness Cadre Assignments and Alerting Rosters Files
IRS 34.013—Identification Media Files for Employees and Others Issued IRS ID
IRS 34.014—Motor Vehicle Registration and Entry Pass Files
IRS 34.016—Security Clearance Files
IRS 34.018—Integrated Data Retrieval System (IDRS) Security Files
IRS 36.001—Appeals, Grievances and Complaints Records
IRS 36.002—Employee Activity Records
IRS 36.003—General Personnel and Payroll Records
IRS 36.005—Medical Records
IRS 36.008—Recruiting, Examining and Placement Records
IRS 36.009—Retirement, Life Insurance and Health Benefits Records
IRS 37.001—Abandoned Enrollment Applications
IRS 37.002—Applicant Appeal Files
IRS 37.003—Closed Files containing Derogatory Information about Individual's practice before the Internal Revenue Service and Files of attorneys and certified public accountants formerly enrolled to Practice
IRS 37.004—Derogatory Information (No Action)
IRS 37.005—Present Suspensions and Disbarments Resulting from Administrative Proceeding
IRS 37.006—General Correspondence File
IRS 37.007—Inventory
IRS 37.008—Register of Docketed Cases and Applicant Appeal
IRS 37.009—Resigned enrolled Agents (action pursuant to 31 CFR, Section 10.55(b))
IRS 37.010—Roster of Former Enrollees
IRS 37.011—Present suspensions from Practice before the Internal Revenue Service
IRS 38.001—General Training Records
IRS 42.001—Examination Administrative File
IRS 42.008—Audit Information Management System (AIMS)
IRS 42.012—Combined Case Control Files
IRS 42.013—Project Files for the Uniform Application of laws as a result of technical determinations and court decisions
IRS 42.014—Internal Revenue Service Employees' Returns Control Files
IRS 42.016—Classification and Examination Selection Files
IRS 42.017—International Enforcement Program Files
IRS 42.021—Compliance Programs and Projects Files
IRS 42.027—Data on Foreign Corporations
IRS 42.029—Audit Underreporter Case Files
IRS 42.030—Discriminant Function File (DIF)
IRS 44.001—Appeals Case Files
IRS 44.003—Appeals Case Data
IRS 46.002—Case Management and Time Reporting System, Criminal Investigation Division
IRS 46.003—Confidential Informants, Criminal Investigation Division
IRS 46.004—Controlled Accounts—Open and Closed
IRS 46.005—Electronic Surveillance File, Criminal Investigation Division
IRS 46.009—Centralized Evaluation and Processing of Information items (CEPIIs) Criminal Investigation Division
IRS 46.011—Land Trust Files, Criminal Investigation Division

IRS 46.015—Relocated Witnesses, Criminal Investigation Division
IRS 46.016—Secret Service Details, Criminal Investigation Division
IRS 46.022—Treasury Enforcement Communications System (TECS)
IRS 48.001—Disclosure Records
IRS 48.008—Defunct Special Service Staff File being retained because of Congressional Directive
IRS 49.001—Collateral and Information Requests
IRS 49.002—Competent Authority and Index Card—Microfilm Retrieval System
IRS 49.003—Financial Statements File
IRS 49.007—Overseas Compliance Project System
IRS 49.008—Taxpayer Service Correspondence System
IRS 50.001—Employee Plans/Exempt Organizations, Correspondence Control Records
IRS 50.003—Employee Plans/Exempt organizations, Report of Significant Matters in Technical (M–5945)
IRS 60.001—Assault and Threat Investigation Files
IRS 60.002—Bribery Investigation Files
IRS 60.003—Conduct Investigation Files
IRS 60.004—Disclosure Investigation Files
IRS 60.005—Enrollee Applicant Investigation Files
IRS 60.006—Enrollee Charge Investigation Files
IRS 60.007—Miscellaneous Information File
IRS 60.008—Security, Background, and Character Investigations Files
IRS 60.009—Special Inquiry Investigation Files
IRS 60.010—Tort Investigation Files
IRS 70.001—Individual Income Tax Returns, Statistics of Income
IRS 80.001—Artist File
IRS 80.002—Expert Witness and Fee Appraiser Files
IRS 80.003—Correspondence Control and Records
IRS 90.001—Chief Counsel Criminal Tax Case Files
IRS 90.002—Chief Counsel Disclosure Litigation Division Case Files
IRS 90.003—Chief Counsel General Administrative Systems
IRS 90.004—Chief Counsel General Legal Services Case Files
IRS 90.005—Chief Counsel General Litigation Case Files
IRS 90.006—Chief Counsel Interpretive Division Case Files
IRS 90.007—Chief Counsel Legislation and Regulations Division Correspondence and Private Bill Files
IRS 90.009—Chief Counsel Tax Litigation Case Files
IRS 90.010—Digest Room Files Containing Briefs, Legal Opinions, and Digests of Documents Generated Internally or by the Department of Justice Relating to the Administration of the Revenue Laws
IRS 90.011—Employee Recruiting Files Maintained by the Operations Division
IRS 90.013—Legal Case Files of the Chief Counsel Deputy Chief Counsel, Associate Chief Counsels (Litigation) and (Technical)
IRS 90.014—Management Files Maintained by Operations Division and the Deputy Chief Counsel other than OPM's Official Personnel Files
IRS 90.015—Reference Records of the Library in the Office of Chief Counsel
IRS 90.016—Reports and Information Retrieval Activity Computer and Microfilm Records
IRS 00.002—Correspondence Files and Correspondence Control Files

Treasury/IRS 10.001

SYSTEM NAME:

Biographical Files, Public Affairs—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices and Service Centers (See IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are biographical data on key IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file cabinets without locks or on magnetic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Office doors locked at night.

RETENTION AND DISPOSAL:

Generally governed by the Records Management Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant to the Commissioner (Public Affairs), Regional, District and Service Centers (see IRS Appendix A).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant to the Commissioner (Public Affairs), IRS, Washington, D.C. 20224, for national office file. See Appendix A for appropriate address for regional and district office or service center files.

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, subpart C, Appendix B. Inquiries should be addressed as in Notification Procedures.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information is supplied by the IRS official on an IRS biographical data form.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 10.004

SYSTEM NAME:

Subject Files, Public Affairs—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices and Service Centers (See IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In general, records are maintained on individuals whose names have been mentioned in the press in connection with their relationship with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records include correspondence, newspaper clippings, inter-office memoranda and similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file cabinets without locks or on magnetic media.

RETRIEVABILITY:

Alphabetical by subject.

SAFEGUARDS:

Office doors locked at night.

RETENTION AND DISPOSAL:

Generally governed by the Records

and potential tax administration advisors, which contain employment

Treasury/IRS 22.003

NOTIFICATION PROCEDURE:

Individuals seeking to

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND

SYSTEM LOCATION:

VOL 50 ISS 140 JL 22 1985 UMI

RETENTION AND DISPOSAL:

Generally governed by the Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant to the Commissioner (Public Affairs), Regional, District and Service Centers (see IRS Appendix A).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant to the Commissioner (Public Affairs), IRS, Washington, D.C. 20224, for national office file. See Appendix A for appropriate address for regional and district office or service center files.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed as in Notification Procedures.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Records generally are clippings from newspapers, magazines, and similar sources, internal documents and memoranda.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 21.001

SYSTEM NAME:

Tax Administration Advisors Resources File, Tax Administration Advisory Services Division—Treasury/IRS.

SYSTEM LOCATION:

National office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and potential tax administration advisors who have served or indicated an interest in serving on advisory assignments, and selected officials engaged in tax administration and related fields.

CATEGORIES OF RECORDS IN THE SYSTEM:

Locator cards and lists with names, addresses, telephone numbers, and organizational affiliations of officials engaged in tax administration; work assignment or application folders of past and potential tax administration advisors, which contain employment history, information, medical abstracts, security clearances, and passport information; bio-data sketches on IRS and others engaged in tax administration and related fields.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in filing cabinets.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Access limited to authorized Division personnel. File folders kept in locked file or locked room.

RETENTION AND DISPOSAL:

Disposed when no longer useful for official use. Auth: IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Tax Administration Advisory Services Division, National Office (see IRS Appendix A).

NOTIFICATION PROCEDURE:

See System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

From the individual, from the organization with which he is associated, or from other knowledgeable experts in the field of Tax Administration.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.003

SYSTEM NAME:

Annual Listing of Underlivered Refund Checks, D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and District Offices (see IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose refund checks have been returned as undeliverable since the last Annual Listing of Undelivered Refund Checks was produced.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity information (Name, Street Address, City, State, Zip Code and Taxpayer Identification Number) and records containing tax module information (Tax Period, Amount of Credit Balance and Control Document Locator Number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Individuals entitled to undeliverable refund checks will be notified of such checks by publication of their names in the news media. Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document stored in files or on magnetic media.

RETRIEVABILITY:

Information is retrievable by taxpayer's SSN or EIN.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

The policies and practices regarding retention and disposal are as specified in IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquires should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.011

SYSTEM NAME:

File of Erroneous Refunds, D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers issued erroneous refunds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case reference name, number, control number, date of erroneous refund, statute expiration date, status of case, location, correspondence and research material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document file.

RETRIEVABILITY:

Retrieved by SSN or EIN.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained four years then destroyed. Auth: IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquires should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.026

SYSTEM NAME:

FORM 1042S Index By Name of Recipient, D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Philadelphia Internal Revenue Service Center (see IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-resident aliens and U.S. citizens living abroad whose taxes are covered by IR Chapter 3 Withholding.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include taxpayer's name, address, tax data, country of residence and employer identification number and name of withholding agent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained at PSC 5 years, then at Federal Records Center 25 years. Auth: IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Director, Philadelphia Internal Revenue Service Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

VOL 50 ISS 140 JL 22 1985 UMI

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.027

SYSTEM NAME:

Foreign Information System (FIS). D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Detroit Data Center, Philadelphia Internal Revenue Service Center, its servicing Federal Records Centers, all Regional Offices, District Offices and National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who file Form 5471, Information Return with Respect to a Foreign Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, and identification number), foreign corporation identification, information relating to stock, U.S. shareholders, Earnings and Profits, Balance Sheet, and other available accounting information relating to a specific taxable period.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media. (Various tables are published from this media.)

RETRIEVABILITY:

Documents are stored and retrieved by Document Locator Numbers.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retention and Disposal Instructions for this file are as specified in the Records Disposition Handbook, Service Centers, IRM 1(15)59.26.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressd to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.032

SYSTEM NAME:

Individual Microfilm Retention Register, D:R:R:—Treasury/IRS.

SYSTEM LOCATION:

All IRS Service Centers, District Offices, and National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals on whom records are maintained are: For Individual Master File (IMF) registers—Individuals who file, or may be required to file, individual tax returns such as Form 1040, 1040A, or 1040EZ.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained are abstracts of tax and/or entity modules that have been removed from the IMF. These abstract records indicate the taxpayer name, identification number, specific tax returns filed, document locater number, tax years, debit and credit amounts, balances, and other transactions which have been recorded relative to the module(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm Tape.

RETRIEVABILITY:

IMF Reference Register, (for IMF Register only), identification number, Tax Period, name, and type of tax Methods of retrievability are explained in the Research Operations Handbook, IRM 36(66)0.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner

(D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers, and National Computer Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.034

SYSTEM NAME:

Individual Returns Files, Adjustments and Miscellaneous Documents Files. D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers or return preparers who have had changes made to their accounts, or have had information posted to the Individual Master File or other tax accounting files as a result of filing returns, applications, or other documents, or as a result of actions initiated by the Service. A record will be maintained for those taxpayers whose individual income tax overpayments have been retained or transferred from the IMF to apply against past due child and/or spousal support payments as reported to IRS by the states under PL97–35.

CATEGORIES OF RECORDS IN THE SYSTEM:

A variety of records reflecting tax matters which have served as input documents or supporting documentation for entries on the Individual Master File, or other tax accounting files, including tax return forms, declarations, applications, case records, processing documents, vouchers, computer notices, posting and correction forms, Interest Equalization Tax Forms, and similar records. Information will be maintained as to the name, SSN, address of individuals owing past due child and/or spousal support payments submitted by states under PL97–35; Also maintained will be the name of the submission state, the amount owed, and the amount of any individual income tax overpayment retained and transferred to the state to apply against the amount owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper document files.

RETRIEVABILITY:

Documents are stored and retrieved by Document Locator Numbers and by taxpayer name. The Document Locator Numbers can be determined by reference to the Individual Master File entries for the individual to whom they relate.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retention and Disposal Instructions for paper documents in these files is as specified in the Records Disposition Handbook, Service Centers, IRM 1(15)59.26.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.043

SYSTEM NAME:

Potential Refund Litigation Case Files, D:R:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have indicated to the Service that they may file suit against the service for a refund.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms filed by the taxpayer and case documents determined by the Service to be related.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND

Treasury/IRS 22.044

Inquiries should be addressed to the Director of the Internal Revenue Service

agencies, substantiation for the receipt of funds collected by the Service for

Center servicing the area in which the individual resides. (See IRS Appendix

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF

VOL 50 ISS 140 JL 22 1985 UMI

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

This is a paper document file.

RETRIEVABILITY:

Documents are stored and retrieved by taxpayer name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

Retention and Disposal Instruction for paper document in these files is as specified in the Records Disposition Handbook, Service Centers, IRM 1 (15) 59.26.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.044

SYSTEM NAME:

P.O.W.–M.I.A. Reference File, D:R:T—Treasury/IRS.

SYSTEM LOCATION:

Austin Service Center and each district office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

P.O.W./M.I.A.–originated from Department of Defense lists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of P.O.W./M.I.A., Regulations, Rulings, and Instructions as to how to handle specific tax questions relating to their special tax status, copies of individual tax returns, claims, and other documents germane to specific cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents in file folders.

RETRIEVABILITY:

Cases filed alphabetically by last name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

All cases have been retained and no current provisions have been established for disposal. Auth: IRM (15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Director, Internal Revenue Austin Service Center and District Directors of Internal Revenue. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852 (e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.054

SYSTEM NAME:

Subsidiary Accounting Files, D:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals on whom records are maintained are taxpayers affected by one or more of the transactions reflected in the categories of records listed below.

CATEGORIES OF RECORDS IN THE SYSTEM:

The types of records maintained in the system are documents containing entity information (name, address, taxpayer identification number or employer identification number and other information necessary to identify the taxpayer) and accounting information relevant to one of the following categories: Funds held pending, disposition and not applied to the taxpayer's liability at present, properties, tangible or intangible, now in the custody of the Internal Revenue Service, counterfeit money, misappropriations or robbery of Internal Revenue Service funds, credits which cannot be applied to a specific taxpayer account at this time, accounts transferred to other Service Centers or

agencies, substantiation for the receipt of funds collected by the Service for other agencies, abatements or assessments of tax on individuals, deposits received from taxpayers, refunds to taxpayers, taxpayer accounts written off by the Service as uncollectible, credits allowed taxpayers requiring special consideration due to processing constraints, litigation, seized and acquired property and Offers-in-Compromise. A General Ledger with all fiscal accounting information is maintained within the RACS system which is an automated accounting control system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Accounting Files consist of paper documents and computer printouts stored in files.

RETRIEVABILITY:

Records are retrievable by Social Security Number and by name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

Records are retired to the Records Center and are retrieved by request from authorized individuals where account substantiation is necessary. Policies regarding disposal are as specified in the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852 (e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account. Some Justice Department investigations are an additional source for the information contained in litigation case files.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.059

SYSTEM NAME:

Unidentified Remitance File, D:R—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. See IRS Appendix A for locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Remittances which have been received but cannot be positively identified, either as to the taxpayer who sent it or the tax period to which it is to be applied.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each record contains a fourteen digit unidentified remittance (UR) control number, the amount, received date, and all known identifying data. In addition, the URF contains a record of all doubtfully applied Estimated Tax (ES) credits. The ES record contains the taxpayer's name, address, type of payment, taxpayer identification number, tax period, received date, money amount, and the transaction document locator number (DLN).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk Storage.

RETRIEVABILITY:

Remittance amount, Unidentified Remittance Control Number, taxpayer name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

180 days after the amount is reduced to zero balance. Auth: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Remittances received from taxpayers that cannot be positively identified either as to the taxpayer who sent it or the type of tax to which it is to be applied.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.060

SYSTEM NAME:

Unit Ledger Cards, D:R:R–Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers and Records Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on taxpayers having accounts with the Internal Revenue Service which are not compatible with normal master file processes, e.g.: penalties, transferee assessments, termination assessments, excise protest accounts, Master File overflow accounts, culpable and non-petitioning spouses, Forms 1042, 1040–NR, 926, 5330, 4720, 990–AR (Penalty) and pre-ADP returns. Also, a record will be maintained for those taxpayers whose individual income tax overpayment have been retained and transferred from the IMF to apply against past due child and/or spousal support payments as reported to IRS by the States under Pub. L. 97–35.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained are taxpayer entity records (name, address, taxpayer identification number or employer identification number and other indicators relevant to entity maintenance) and records containing tax module information (the tax return, the tax period, the balance due or credit balance, and transactions which have been recorded relative to the module). Information will be maintained as to the name, SSN, address of individuals owing past due child and/or spousal support payments submitted by the States under Pub. L. 97–35. Also maintained will be names of the submission state, the amount owed, and the amount on any individual income tax overpayment retained and transferred to the state to apply against the amount owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The unit ledger cards are a card file.

RETRIEVABILITY:

Information is retrievable by Taxpayer Identification Number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

Disposition is prescribed in IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURES:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 22.061

SYSTEM NAME:

Wage and Information Returns Processing (IRP) File; D:R—Treasury/IRS.

SYSTEM LOCATION:

National Computer Center, Martinsburg, W. Va.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of various types on income; wages; dividends; interest; rents and royalties; medical payments; capital gains distributions; non-taxable distributions; pensions, annuities, retired pay or IRA payments; patronage dividends, distributions, and allocations; fishing crew payments; sales or redemption of securities, future transactions, commodities, bartering exchange transactions; original issue discount; distributions and prizes; currency transactions; state tax refunds; unemployment compensation, agricultural payments, taxable grants, indebtedness forgiveness; non-employees compensation; gambling winnings; and miscellaneous income.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained are records representing certain wage and information returns: Forms W–2, W–2P, the 1087 and 1099 series; currency transaction reports; state tax refunds; statements of sales of equity obligations; and records of agricultural subsidy payments. Information included on each record identifies the recipient of the income (name, address, taxpayer identifying number, and other indicators relating to payee identification), identifies the incomepayer (very similar information), and identifies the type(s) and amount(s) of income.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape in social security number sequence.

RETRIEVABILITY:

By taxpayer social security number and name control.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

Until tax year 1974, only until processed; after tax year 1974, four years; then magnetically erased. Auth: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (D:R), National Office. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A for locations.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 24.013

SYSTEM NAME:

Combined Account Number File, Returns and Information Processing, D:R:R.—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and businesses having specific, current business with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance; no return has posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

Social security number or employer identification number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Index IRM 1(16)41.

RETENTION AND DISPOSAL:

The policies and practices regarding storage, retention, and disposal are governed by the principle that a specific tax period will be retained on the file dependent upon specified criteria prescribed in the Internal Revenue Manual. The disposal of documents output from this file is specified in the Records Disposition Handbook, IRM 1(15)59, published by the Service.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Assistant Commissioner Returns and Information Processing. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 24.029

SYSTEM NAME:

Individual Account Number File (IANF), Returns and Information Processing: Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals having specific, current business with IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance, no return has posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disk storage.

RETRIEVABILITY:

Social security number.

Treasury/IRS 24.030

SYSTEM NAME:

SAFEGUARDS:

Safeguards will not be less than

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of

the disclosing agency becomes aware of an indication of a violation or potential

RETRIEVABILITY:

Social security number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

The policies and practices regarding storage, retention and disposal are governed by the principle that a specific tax period will be retained on the file dependent upon specified criteria prescribed in IRM 1(15)59. The disposal of documents output from this file is specified in the Records Retention Handbook published by the Service and in the Internal Revenue Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Officials prescribing policies and practices—Assistant Commissioner Returns and Information Processing. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the indivdual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 24.030

SYSTEM NAME:

Individual Master File (IMF); Returns and Information Processing, D:D:R—Treasury/IRS.

SYSTEM LOCATION:

National Computer Center (NCC), Martinsburg, West Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who file Federal Individual Income Tax Returns (i.e. Forms 1040, 1040A) and power of attorney notifications for individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, identification number (SSN) and other indicators pertaining to entity maintenance, including Zip Code), and tax modular records which contain all records relative to specific tax returns for each applicable tax period or year. Modular records for authorization information (name, address, identification number and type of authority granted, and the name of the representative(s) for the taxpayer. Modular records for the representative (name, address and unique identification number). Recorded here are tax transactions such as tax amount, additions, abatements of tax payments, interest and like type transactions recorded relative to each tax module, power or attorney authorization transactions, and a code identifying taxpayers who threatened or assaulted IRS employees. An indicator will be added to any taxpayer's account who owes past due child and/or spousal support payments and whose name has been submitted to IRS by a state under provisions of Pub. L. 97–35.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By identification number and alphabet.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook published by the Service, IRM 1(15)59. The code identifying taxpayers who threatened or assaulted IRS employees will be removed after five years or initial input.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner Returns and Information Processing. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 24.046

SYSTEM NAME:

Returns and Information Processing, D:R:R—Treasury/IRS Business Master File (BMF).

SYSTEM LOCATION:

National Computer Center (NCC), Martinsburg, West Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons in a sole proprietary role who file Excise Tax Returns (Form 11, 11 Band 720), Wagering Returns (Form 11C and 730), Highway Use Returns (Form 2290), and U.S. Fiduciary Return (Form 1041) and Estate and Gift Taxes (Form 706, 706NA and 709). The latter can be individuals not in a sole proprietorship role.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer entity records (name, address, identification name (TIN) which may be either EIN or SSN, and other indicators pertaining to entity maintenance, including Zip Code), and tax modules which are all the records relative to specific tax returns for each applicable tax period. Recorded are tax transactions such as tax amount, statements/additions to tax, payments, interest and like type transactions relative to each tax module.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By name, type of tax, and identifying number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook published by the Service, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner Returns and Information Processing. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system contains a record pertaining to themselves may inquire in accordance with Instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 26.001

SYSTEM NAME:

Acquired Property Records, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delinquent taxpayers whose property has been acquired by purchase by government or right of redemption.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, revenue officer reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (5) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

Retrievable by taxpayer name, taxpayer identification number, seizure number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Assistant Commissioner (Collection). Officials maintaining the system-District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

activities; i.e., follow-up on defaulted installments, secure payments on collateral agreements, etc. Monitoring

SAFEGUARDS:

Access Controls will be not less than

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF

District Directors and Service Center Directors (See IRS Appendix A.)

tien and the index thereto are available to the public.

VOL 50 ISS 140 JL 22 1985 UMI

CONTESTING RECORD PROCEDURES:

28 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains data for government accounting purposes from Service sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.006

SYSTEM NAME:

Form 2209, Courtesy Investigations, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices (See IRS Appendix A), Service Centers, and Federal Records Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom a delinquent account or delinquency or other investigation is or was located in one IRS district office, but the individual is now living or has assets located in the jurisdiction of another IRS District office. Taxpayers on whom an investigation has been initiated for purposes of securing information necessary for Federal Tax Administration purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains taxpayer name, current and former addresses, taxpayer identifying number, if known. Contains the information, including class of tax, if applicable, or information concerning the action desired to be taken. The name and address of party that was contacted, chronological investigative history and/or information secured. The following types of investigations are included in this system: Form SSA–1273 cases—Notice of determination of FICA wages—issued when SSA obtains evidence that wages paid to claimant have not been recorded on his earnings record; requests for data needed in proof of claim cases; applications for discharge of property from tax lien; service of tax court subpoenas; complaints of employers failing to provide withholding statements; recovery of unassessable erroneous refunds; Form SSA–7010 cases—Request for preferential Investigation. This is a request for preferential treatment (over other SSA cases) on an earning discrepancy case. Secure application for exemption from self-employment tax. Offers in compromise and related activities; i.e., follow-up on defaulted installments, secure payments on collateral agreements, etc. Maximize compliance with withholding requirements on alien's earnings; other miscellaneous uses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Records, magnetic media.

RETRIEVABILITY:

By taxpayer name and taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices-Assistant Commissioner (Collection). Officials maintaining the system-District Directors and Service Center Directors. (See IRS Appendix A).

NOTIFICATION PROCEDURES:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.008

SYSTEM NAME:

IRS and Treasury Employee Delinquency, OP:C—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices and Service Centers. (See IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS and Treasury employees who are shown on the Master File as delinquent in meeting Federal tax requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, social security number, address, fact of IRS or Treasury employment code, District location code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USER:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (5) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—Assistant Commissioner (Collection), Regional Commissioners, District Directors and Service Center Directors (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

28 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.009

SYSTEM NAME:

Lien Files (Open and Closed), OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Federal Records Center (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax liens have been filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment including class of tax, period, dollar amount. Open and closed Federal tax liens including: Certificates of Discharge of Property from Federal Tax Lien; Certificates of Subordination; Certificates of Non-Attachment; Exercise of Government's Right of Redemption of Seized Property; Releases of Government's Right of Redemption. Federal tax lien information entered in Treasury Enforcement Communications System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802. U.S.C. 6323.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103, notices of lien and the index thereto are available to the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—Assistant Commissioner (Collection), Regional Commissioners, District Directors and Service Center Directors (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may address inquiries to District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

This system contains copies of public records, the originals of which are filed in accordance with the laws of each State, the District of Columbia, the Commonwealth of Puerto Rico, or possessions of the United States. See Notification above.

CONTESTING RECORD PROCEDURES:

28 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers' Federal Tax Returns

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 26.010

SYSTEM NAME:

Lists of Prospective Bidders at Internal Revenue Sales of Seized Property; OP:C—Treasury/IRS

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested that

SAFEGUARDS:

Access Controls will be not less than

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer

disclose information to foreign governments in accordance with formal

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

opposing counsel or witnesses in the course of civil discovery, litigation, or

VOL 50 ISS 140 JL 22 1985 UMI

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested that they be notified of Internal Revenue sales of seized property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address and phone number (if provided).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By name of prospective bidder.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors determine if need for this system exists. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director of Internal Revenue Service servicing the area in which the individual resides.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of Internal Revenue Service servicing the area in which the individual resides.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Supplied voluntarily by the subject prospective bidder.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 26.011

SYSTEM NAME:

Litigation Case Files, OPC:—Treasury/IRS.

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax assessments have been made but against whom litigation has been initiated or is being considered by the government or who have instituted suits against the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, and dollar amount. This file includes: Suit to Reduce Tax Claim to Judgement; Suit for Failure to Honor a Levy; Suit to Enforce Federal Tax Lien; Suit Against Transferee; Suit to Set Aside Fraudulent Transfer; Suit to Recover Erroneous Refund; other suits include those which the United States may intervene to assert a Federal tax lien; a proceeding to require opening of a safe deposit box, etc. The following suits against the United States are also included in this file: Quiet Title Suit; Foreclosure of Mortgage or other Lien; Partition; Condemnation; Interpleader; Refund Suits Involving 100-Percent Penalty Assessments; Injunction Suits Under Freedom of Information Act. Also included in Litigation Files are: Individuals against whom bankruptcy proceedings are pending; decedent estates in probate with outstanding Federal tax liabilities; individuals executing Assignments for the Benefit of Creditors; individuals in Receivership Proceedings; individuals conducting a bulk sale; summons referrals; subpoena files; advisory opinions; collateral security agreements; revenue officer reports; and various other legal instruments and correspondence. Disclosure may be made during judicial processes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To

disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system, and District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.012

SYSTEM NAME:

Offer in Compromise (OIC) File, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices, Service Center, Regional Offices, and Federal Records Center. [See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have submitted an offer to compromise a liability imposed by the Internal Revenue Code.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form 2515, used to control offer cases, contains space for entering taxpayer name, address, taxpayer identification number, and all other pertinent information for identifying and assigning the OIC investigation. The file contains all records, documents, reports and work papers relating to the assignment, investigation, review and adjudication of the offer. This includes such items as the original offer, results of property records checks, interviews with third parties and the taxpayer, collateral income agreements, financial statements, tax return copies, and other information submitted by the taxpayer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103, and to the extent necessary to permit public inspection of any accepted offer-in-compromise as required by 26 U.S.C. 6103(K)(1). These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices Assistant Commissioner (Collection). Officials maintaining the system—Regional Commissioners, Service Center Directors and District Directors. [See IRS Appendix A.]

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains

disclose information to a court, magistrate, or administrative tribunal in

CONTESTING RECORD PROCEDURES:

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook IRM 1(15)59.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

RETENTION AND DISPOSAL:

As specified in Records Disposition

VOL 50 ISS 140 JL 22 1985 UMI

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported. If an offer is accepted, an Abstract and Statement which identifies the taxpayer, the liability, the amount compromised and the basic circumstances of the case is made available for public inspection in accordance with EO 10386 and EO 10906.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.013

SYSTEM NAME:

One Hundred Percent Penalty Cases, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices, Service Centers and Federal Records Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom Federal tax assessments have been made or are being considered as a result of their being deemed responsible for payment of unpaid corporation withholding taxes and social security contributions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar figures, waiver extending the period for asserting the 100-percent penalty (if any) and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for enforcing or investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By individual, or corporation name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices Assistant Commissioner (Collection). Officials maintaining the system, District Directors and Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.014

SYSTEM NAME:

Record 21, Record of Seizure and Sale of Real Property. OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom tax assessments have been made and whose real property was seized and sold to satisfy their tax liability. Also name and address of purchaser.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, property description.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of this system of records evidences chain of title to real property and is a matter of public record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number and seizure number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection); officials maintaining the system—District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may address inquiries to District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may address inquiries to or appear in person at the Office of District Director for each District whose records are to be searched.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This System of Records evidences chain of title to real property and is a matter of public record. (See Category of Record above.)

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 26.016

SYSTEM NAME:

Returns Compliance Programs (RCP) OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who may be delinquent in filing or paying Federal taxes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of name, address, taxpayer identification number (if known) and information concerning the potential tax liability. Returns Compliance Programs involve any type of Federal tax administered by the Collection Division and are conducted in accordance with Section 7601 of the Internal Revenue Code. RCP programs can be initiated by the National Office, Regional Offices, or by individual districts. Disclosure may be made during judicial processes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To disclose information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (7) To provide information to third parties during the course of an investigation to extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors and Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.019

SYSTEM NAME:

TDA (Taxpayer Delinquent Accounts) including subsystems: (a) Adjustments and Payment Tracers Files, (b) Collateral Files, (c) Seized Property Records, (d) Tax Collection Waiver, Forms 900, Files, (e) Accounts on child support obligations; OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers on whom Federal tax assessments have been made, and persons who owe child support obligations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, chronological investigative history, cancelled checks, amended returns, claims, collateral submitted to stay collection, copies of notices of Federal

tax liens, revenue officer reports, waivers to extend statutory period for collection, etc. and similar information

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information from

RETRIEVABILITY:

number and related information about

RETENTION AND DISPOSAL:

VOL 50 ISS 140 JL 22 1985 UMI

tax liens, revenue officer reports, waivers to extend statutory period for collection, etc. and similar information about persons who owe child support obligations. This system includes Installment Agreement Files; Delinquent Account Inventory Profile (DAIP); Currently Not Collectible Register; Currently Not Collectible Register (over $25,000); Advance Dated Remittance Check Files; Currently Not Collectable Accounts Files; File of taxpayer names entered in the Treasury Enforcement Communications System and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disc and paper records, and magnetic media.

RETRIEVABILITY:

By taxpayer name, or name of person who owes child support obligations, and taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors and Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852 (e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.020

SYSTEM NAME:

TDI (Taxpayer Delinquency Investigation) Files, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers believed to be delinquent in filing Federal tax returns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information from previously filed returns, information about the potential delinquent return(s), including class of tax, chronological investigative history; Delinquency Investigation Inventory Profile (DIIP) and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors and Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURE:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system of records has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.021

SYSTEM NAME:

Transferee Files, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Includes taxpayers on whom tax assessments have been made but who have allegedly transferred their assets in order to place them beyond the reach of the government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts. Also the name, address, taxpayer identification number and related information about transferee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper record, magnetic media.

RETRIEVABILITY:

By taxpayer name, taxpayer identification number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors, Service and Data Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURE:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

28 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.022

SYSTEM NAME:

Delinquency Prevention Programs, OP:C—Treasury/IRS.

SYSTEM LOCATION:

District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers having a history of Federal tax delinquency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, taxpayer identification number, address, filing requirements, chronological investigative history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These

records and information in these records may be used: (1) To disclose pertinent

NOTIFICATION PROCEDURE:

for debt collection services. (5) To a

records or seeking to contest its content, may inquire in accordance with

SYSTEM MANAGER(S) AND ADDRESS:

ROUTINE USES OF RECORDS MAINTAINED IN

VOL 50 ISS 140 JL 22 1985 UMI

records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of Presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To disclose information to foreign governments in accordance with formal or informal international agreements. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Collection). Officials maintaining the system—District Directors and Service Center Directors Service and Data Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigative material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 30.003

SYSTEM NAME:

Requests for Printed Tax Materials Including Lists, Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Files include those individuals that request various IRS printed materials such as publication 1045, reproduction proofs, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

A cross reference index may be developed to identify and control requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made: (1) To the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (2) To other federal agencies for the purpose of effecting interagency salary offset or interagency administrative offset. (3) To consumer reporting agencies in accordance with 31 U.S.C. 3711(f). (4) To a debt collection agency for debt collection services. (5) To a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (7) To mailing or distribution services contractors for the purpose of executing mailouts, order fulfillment, or subscription fulfillment. (8) To mailing or distribution services contractors for the purpose of maintaining mailing lists.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, paper records.or mailing plates.

RETRIEVABILITY:

Alphabetically or numerically, by zip code.

SAFEGUARDS:

Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with IRM 1 (15)59.31, RCS 301, GRS 13, Printing, Binding, Duplication, and Distribution Records. Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Publishing Services Branch National Office, and Chief, Resource Management in Regional Offices, District Offices and Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of

records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be accessed or contested.

RECORD SOURCE CATEGORIES:

The information is supplied by the individual and/or company making the request. The Service adds data pertaining to the fulfillment of the request.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 30.004

SYSTEM NAME:

Security Violations—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, Service Centers, and District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Violators of IRS Security Regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of violator, circumstances of violation (date, time, actions of violator, etc.) supervisory action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder (notices of violation); 3 x 5 inch card file.

RETRIEVABILITY:

3 x 5 inch card file-name; lateral file cabinets, access by security officer and staff only.

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Security Offices, National Office, Regional Office District Offices and Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Chief, Protective Programs Staff, National Office, or Security Officer for regional offices, service centers, and district offices. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any records contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System manager as noted.

RECORD SOURCE CATEGORIES:

Contract Guard Force and Security Inspections.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 32.001

SYSTEM NAME:

Travel Expense Record—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices and District Offices. (See IRS Appendix A for Locations.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All IRS employees who have incurred travel or moving expenses in conjunction with official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of travel advances, personal travel vouchers, household move vouchers, Forms W–2, Schedule of Disbursements, GAO decisions/rulings, Transportation Requests, Overdue Notices, Certification of Deposits, Government Bills of Lading, and Forms 2221 (Schedule of Collections). Records are for the purpose of maintaining accurate financial accounting of travel and moving expenses of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

GAO Policy and Procedures Manual for Guidance of Federal Agencies, Title 2, Chapter 2, Sections 5 and 6.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure of information may be made to furnish another Federal agency information to effect inter-agency salary offset; to furnish a consumer reporting agency information to obtain commercial credit reports; to furnish a debt collection agency information for debt collection services; to furnish a consumer reporting agency with delinquency and default data available to private sector credit grantors.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(e)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media or paper records.

RETRIEVABILITY:

Alphabetically or numerically.

SAFEGUARDS:

Access is restricted to designated Fiscal Management employees, to individuals concerned on a need-to-know basis, and to administrative offices through the authority of the Travel Management Supervisor. As required, IRS Internal Audit and Security has access to the files.

RETENTION AND DISPOSAL:

Retired after one to three years to Federal Records Center; disposed in accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, IRS National Office, Financial Operations Branch, or Chief, Accounting Section, IRS Regional Office. See IRS Appendix A for Locations.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record

pertaining to themselves may inquire in accordance with instructions appearing

reports; to furnish debt collection agency information for debt collection

RECORD SOURCE CATEGORIES:

course of an investigation to the extent

CATEGORIES OF RECORDS IN THE SYSTEM:

Treasury/IRS 34.007

pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information supplied by employees, by GAO as required, and consumer reporting agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 32.003

SYSTEM NAME:

Schedules of Collections and Schedules of Canceled Checks—Treasury/IRS

SYSTEM LOCATION:

National Office and Regional Offices. See IRS Appendix A for locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Checks received from employees in connection with jury duty and overpayments. System maintained to place all collections under security control promptly upon receipt and to record amount of deposit to general ledger control accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure of information may be made to furnish another federal agency information to effect inter-agency salary offset, to furnish a consumer reporting agency information to obtain commercial credit reports; to furnish debt collection agency information for debt collection services; to furnish a consumer reporting agency with delinquency and default data available to private sector credit grantors.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in locked file cabinet.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Access controls are not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Records are maintained until transferred to the Federal Records Center to be retained in accordance with the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, National Office Financial Operations Branch, or Chief, Accounting Section, Regional Offices. (See IRS Appendix A for locations.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each Office whose records are to be accessed or contested.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Employees, District Directors, Regional Commissioners.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.003

SYSTEM NAME:

Assignment and Accountability of Personal Property Files. Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals receiving Government property for temporary use and repair.

CATEGORIES OF RECORDS IN THE SYSTEM:

Descriptions of property, receipts, reasons for removal, and property passes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301 and FPMR (41 CFR) 101–19.108.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution of civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on various forms and ledgers maintained in locked filing cabinets.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with the Records disposition Handbook IRM 1(15)59.31, RCS 301, General Records Schedule 18, Security and Protective Services Records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Space and Property Branch, National Office; Chief, National Office Facilities Management Branch; Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Individuals who receive property or request property passes.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.005

SYSTEM NAME:

Parking Space Application and Assignment—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Internal Revenue Service employees who apply for assignment of carpool or reserved parking spaces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, position title, organization, vehicle identification, arrival and departure time, and service computation date of individual or principal carpool applicant. Contains name, place of employment, duty telephone, vehicle license number and service computation date of applicants, individuals or carpool members, for parking spaces.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on an 8½ x 10 inch or other local form.

RETRIEVABILITY:

Indexed by name of individual or principal carpool applicant.

SAFEGUARDS:

Records are maintained in a file cabinet in a locked room.

RETENTION AND DISPOSAL:

In accordance with IRM1(15)59.311, GRS 11, Space and Maintenance Records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, National Office Protective Programs Staff, National Office; Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Individuals applying for parking spaces.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.007

SYSTEM NAME:

Record of Government Books of Transportation Requests—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, and National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees issued Transportation Requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form 496, alphabetical card record by name of the serial numbers of Transportation Requests issued to the employee; and Form 4678, numerical list by serial number listing the name of the employee to whom issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure of information may be made to furnish another federal agency information to effect inter-agency salary offset; to furnish a consumer reporting agency information to obtain commercial credit reports; to furnish a debt collection agency information for debt collection services; to furnish a consumer reporting agency with delinquency and default data available to private sector credit grantors.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

reports, lost time and no-lost time personal injury reports, tort and

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND

Treasury/IRS 34.012

SYSTEM NAME:

RECORD ACCESS PROCEDURES:

Same as System Manager above.

containers in offices which are locked or guarded during non-work hours. Access

VOL 50 ISS 140 JL 22 1985 UMI

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card file box or file cabinets.

RETRIEVABILITY:

By name or serial number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.31 GRS 9, Travel and Transportation Records.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officers, National Office; Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Government Books of Transportation Requests and employees to whom Books were issued.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.009

SYSTEM NAME:

Safety Program Files System—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees and others involved in an IRS motor vehicle accident, and accident or injury on IRS property, or a tort or personal property claim against the service. All individuals issued an IRS drivers license are covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual driving records and license applications, motor vehicle accident reports, lost time and no-lost time personal injury reports, tort and personal property claims case files, informal and formal investigative report files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Executive Order 12196.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. (2) To provide the Department of Labor in connection with investigations of accidents occurring in the work place. (3) To disclose information during judicial processes. (4) To provide information to other federal agencies for the purpose of effecting interagency salarly offset or interagency administrative offset. (5) To provide information to consumer reporting agencies in accordance with 31 U.S.C. 3711(f). (6) To provide information to a debt collection agency for debt collection services. (7) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (8) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (9) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (10) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(e)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders with corresponding card indexes.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Access to information is restricted to official use of IRS employees and not less than that required by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with The Records Disposition Handbook, IRM (15)59.31, RCS 301, GRS 1, 10, 18, IRM 1(15)59.1(14) and IRM 1(15)59.2(12).

SYSTEM MANAGER(S) AND ADDRESS:

For National Office—safety Management Officer, Space and Property Branch, Facilities Management Division, Chief, National Office Facilities Management Branch; Regional and District Offices—Chief, Facilities Management Branch, appropriate Regional or District office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above. Name must be provided to ascertain whether or not the system has a record pertaining to the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine if the system of records contains information pertaining to themselves may inquire in accordance with instructions appearing in 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be accessed.

CONTESTING RECORD PROCEDURES:

Individuals seeking access to any record contained in the system of records to contest its contents, may inquire in accordance with instructions appearing in 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager for each office whose records are to be accessed or contested.

RECORD SOURCE CATEGORIES:

Information originates from IRS employees, private individuals and private parties.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.012

SYSTEM NAME:

Emergency Preparedness Cadre Assignments and Alerting Rosters Files System—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Key IRS and Treasury personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cadre assignments-personal information on employees, i.e., name, address, phone number, family data, security clearance, relocation assignment, etc. Alerting rosters-current listing of individuals by name and title stating their work and home address and phone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Routine disclosure of information contained in this sytem of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual forms and correspondence kept in file folders.

RETRIEVABILITY:

Cadre assignments are filed by relocation site and alerting rosters by title of list.

SAFEGUARDS:

Records are kept in a secured office.

RETENTION AND DISPOSAL:

In accordance with IRM 1(15)59 31, GRS 16, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

For National Office—Chief, Physical Security Section, Security Branch, Disclosure and Security Division. For Regional Offices and Service Centers and district offices, Security officer. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Provided by individuals themselves.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.013

SYSTEM NAME:

Identification Media Files System for Employees and Others Issued IRS ID-Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, National Computer Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees having one or more items of identification and federal and non-federal personnel working in or visiting IRS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, home address, and other personal information and reports on loss, theft, or destruction of pocket commissions, enforcement badges and other forms of identification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence file folders; 3 x 5 inch card files computer memory.

RETRIEVABILITY:

Indexed separately by name and Identification Media serial number.

SAFEGUARDS:

Access to the records is restricted to official use of Internal Revenue. The files are stored in locked security containers in offices which are locked or guarded during non-work hours. Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with IRM 1(15)59.31, GRS, Space and Maintenance Records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Physical Security Section, Security Branch, Disclosure and National Office; Security Officer, Each Region, Service Center and District; and Chief, National Office Protective Programs Staff.

NOTIFICATION PROCEDURE:

Individual's name, SSN, address and type of ID media, plus the approximate date that he/she was issued and/or returned the particular item of identification, would have to be furnished the Service office that issued the item for them to be able to ascertain whether or not their system contains a record about the individual. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

By writing or visiting applicable Service office.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information was furnished by each individual at the time they received the particular item of identification.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.014

SYSTEM NAME:

Motor Vehicle Registration and Entry Pass Files System—Treasury/IRS.

SYSTEM LOCATION:

Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requiring continued access to the facility and parking area violators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, registered owner of vehicle, branch, telephone number, description of car, license number, employee's signature, name and expiration date of insurance, parking violations, decal number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

cancelled or transferred and individuals who have violated IRS security regulations regarding classified national

RETENTION AND DISPOSAL:

All records are disposed of in

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

connection with actual or potential criminal prosecution or civil litigation

VOL 50 ISS 140 JL 22 1985 UMI

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and card file.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records are kept in a secured container in a secured office.

RETENTION AND DISPOSAL:

Records are kept until obsolete. Auth: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Security Function appropriate Service Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Same as System Manager above.

RECORD ACCESS PROCEDURES:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Mgr. above.

RECORD SOURCE CATEGORIES:

Information is supplied by individual except for parking violations information which is supplied by Security guard personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.016

SYSTEM NAME:

Security clearance files system—Treasury/IRS.

SYSTEM LOCATION:

National Office, Regional Offices, District Offices, Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Internal Revenue Service requiring a security clearance, having their security clearance cancelled or transferred and individuals who have violated IRS security regulations regarding classified national Security information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, employing office, date of security clearance, level of clearance, reason for the need for the national security clearance, and any changes in such clearance. Security violations records contain name of violator, circumstance of violation and supervisory action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. To provide information to agencies and individuals on a need-to-know basis to determine the current status of an individual's security clearance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence file folders.

RETRIEVABILITY:

Indexed by name and cross filed by functional area.

SAFEGUARDS:

Stored in locked security container in offices which are locked or guarded during non-work hours. Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Physical Security Section, Security Branch, Disclosure and Security Division, National Office, for security violations, and Chief, Employment Branch, Personnel Division, National Office for security clearances.

NOTIFICATION PROCEDURES:

Same as Systems Manager above.

RECORD ACCESS PROCEDURE:

Same as System Manager above.

CONTESTING RECORD PROCEDURES:

Same as System Manager above.

RECORD SOURCE CATEGORIES:

Information is provided by the employee, his/her supervisor or employee's personnel record. Security violation information is obtained from a variety of sources, such as guard reports, security inspections, supervisor's reports, Internal Audit Reports, etc.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 34.018

SYSTEM NAME:

Integrated Data Retrieval System (IDRS) Security Files—Treaury/IRS

SYSTEM LOCATION:

Internal Revenue Service Centers and District Offices (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual employees who input or are authorized to input IDRS transactions or who are subjects of IDRS inputs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record logs of the employees who are authorized access to IDRS and of employee inputs and inquiries processed through IDRS terminals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic media, disk, flatpaper, lists, and card files.

RETRIEVABILITY:

These records are indexed by employee's SSN or other employee identifying number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established Retention Schedules contained in IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Computer Security Section, Security Branch, Disclosure and Security Division, National Office.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center or District Office servicing the area in which the individual resides. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center or District Office servicing the area in which the individual resides. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information supplied by the IRS employee on standard personnel forms and computer generated records of all inputs to IDRS. Data may also be retrieved from other published systems of records used in processing of this system.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 36.001

SYSTEM NAME:

Appeals, Grievances and Complaints Records—Treasury/IRS

SYSTEM LOCATION:

National, Regional and District Offices, POD's, Service Centers, The National Computer Center and The IRS Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Federal employment, current and former Federal employees (including annuitants) who submit appeals grievances, or complaints for resolution.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by an agency or other appropriate action organization (e.g., Office of Personnel Management, Equal Employment Opportunity Commission, Merit Systems Protection Board) affecting an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, instructions to an agency about action to be taken to comply with decisions, and related correspondence, opinions and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C., Sections 1302, 3301, 3302, 4308, 5115, 5338, 5351, 5388, 7105, 7151, 7154, 7301, 7512, 7701, 8347, Executive Order 9830, 10577, 10987, 11222, 11478, 11491, and Pub. L. 92–261 (EEO Act of 1972), and Pub. L. 93–259 (Provisions of ADEA extended to Federal employees).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To provide information to a Member of Congress regarding the status of an appeal, complaintor grievance. (2) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or licensee, where the disclosing agency becomes aware of an indication of a violation or potential civil or criminal law or regulation. (3) To disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To provide information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation and in connection with requests for legal advice. Disclosure may be made during judicial processes. (5) To provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcenent agencies. (6) To provide records and information to the Office of Personnel Management, Merit Systems Protection Board or Equal Employment Opportunity Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations. (7) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card files, flat paper, lists, forms, folders, binder, microfilm and microfiche, punch card, and magnetic media.

RETRIEVABILITY:

Indexed by the names and case number of the individuals on whom they are maintained.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is also in conformance with existing EEOC regulations.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established Retention Schedules, IRM 1(15)59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

(a) EEO Discrimination Complaint Records-Assistant to the Commissioner (EEO), National Office; (b) all other records. Director, Personnel Division, or

Chief, Personnel Branch, appropriate office. (See IRS Appendix A.)

Treasury/IRS 36.002

SYSTEM NAME:

RETRIEVABILITY:

Indexed by the name of the

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

institutions for recruitment and

Chief, Personnel Branch, appropriate office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner Human Resources, National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See IRS Appendix A for Locations.) Individuals should provide their name, date of birth, agency in which employed, and the approximate date, and the kind of action taken by the agency when making inquiries about records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above. Individuals should provide their name, date of birth, POD, approximate date, and the kind of action taken by the agency when requesting access to, or contest of, records.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

(a) Individual to whom the record pertains. (b) Agency and/or other authorized Federal officials. (c) Affidavits or statements from employee. (d) Testimonies of witnesses. (e) Official document relating to the appeal, grievance, or complaints. (f) Correspondence from specific organization or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 36.002

SYSTEM NAME:

Employee Activity Records—Treasury/IRS.

SYSTEM LOCATION:

National, Regional, and District Offices, POD's, Service Centers, The National Computer Center, and The IRS Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records and information relating to voluntary employee activities and functions which are not directly related to the mission of the IRS or any of its functional components. These records will contain the names of participants and such other information only to the extent that it is necessary for the operation of the activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C., Section 302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. These records and information in these records may be used: (1) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (2) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (3) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on flat paper, card files, lists, and in folders, and binders.

RETRIEVABILITY:

Indexed by the name of the individuals on whom they are maintained.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is in conformance with existing CSC regulations.

RETENTION AND DISPOSAL:

Disposition varies in accordance with the nature of the record, but is made in accordance with the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisor of the organizational segment participating in the activity.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager or the individual designated to maintain the record. Inquiring individuals need only provide their name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager or the individual designated to maintain the record. Inquiring individuals need only provide their name.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information is derived only from the individual to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 36.003

SYSTEM NAME:

General Personnel and Payroll Records—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices, POD's, Service Centers, the National Computer Center and the Data Center. Payroll records are maintained at the Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, current and former employees of the IRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service. These records contain data on individuals required by the Office of Personnel Management (OPM) and maintained in the Official Personnel Folder (OPF). The OPF may also contain letters of commendation; awards from non-federal organizations; recommendations for Federal awards; awards; reprimands; adverse or disciplinary charges; records relating to life insurance, health insurance, designation of beneficiary; training; performance ratings; and other records which OPM and IRS require or permit to be maintained in the OPF. This system also includes records which are maintained in support of a personnel action such as a position management or position classification action, a reduction-in-force action (including such documents as retention registers and notices), and priority placement actions. Other records maintained about an individual in this system are evaluation records, including appraisal, expectation and payout records; employee performance file records; suggestion files; award files; financial and tax matters; back pay files; jury duty records; special emphasis programs records, such as Upward Mobility and Handicapped; outside employment statements; clearance upon separation; Unemployment Compensation records; adverse and disciplinary action files; supervisory files; records relating to personnel actions correcting a pay problem; employment of relatives; furlough/recall records; work measurement records; emergency notification, employee locator and current address records; other records relating to the status of an individual; executive resources records and Senior Executive Service records; Management Careers Program records; and correspondence files pertaining to any personnel information contained in this notice. Pyroll records included in this system are data storage and file records system for processing payroll and personnel actions, consisting of records of time and attendance, leave, tax withholding, bond purchases and issuances, emergency salaries, overtime and holiday pay, optional payroll deductions, and minority group designator codes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. Section 301, 1302, 2951, 4118, 4308, 4506, and Executive Order 10561, September 13, 1954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To provide information to a prospective employer of an IRS employee or former IRS employee. (2) To provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and security investigations index on new hires, adverse actions, and terminations. (3) To provide information to a Federal, state, or local agency, other organizations or individuals in order to obtain relevant and pertinent information about an individual which is necessary for the hiring or retention of an individual; letting of a contract; or the issuance of a license, grant or other benefit. (4) To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent agencies. (5) To provide information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial process. (6) To provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violation of law to appropriate law enforcement agencies. (7) To provide information or records, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to any other appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto or upon request of such agency when the agency is investigating the possible violation of their rules or regulations. (8) To provide records to the Office of Personnel Management, Merit Systems Protection Board, Equal Employment Opportunity Commission, and General Accounting Office for the purpose of properly administering Federal Personnel systems or other agencies systems in accordance with applicable laws, Executive Orders, and applicable regulations. (9) To provide information to hospitals and similar institutions or organizations involved in voluntary blood donation activities. (10) To provide information to educational institutions for recruitment and cooperative education purposes. (11) To provide information to a Federal, state, or local agency so that the agency may adjudicate an individual's eligibility for a benefit, such as a state unemployment compensation board, housing administration agency and Social Security Administration. (12) To provide information to financial institutions for payroll purposes. (13) To provide information to another agency such as the Department of Labor or Social Security Administration and state and local taxing authorities as required by law for payroll purposes. (14) To provide information to Federal agencies to effect inter-agency salary offset; to effect inter-agency administrative offset to consumer reporting agency for obtaining commercial credit reports; and to a debt collecting agency for debt collection services. (15) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (16) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic media, discs, forms, punched cards, flat paper, lists, card files, forms, folders, binders, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by any combination of name, birthdate, Social Security Number, or identification number.

SAFEGUARDS:

Access Control will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is also in conformance with existing OPM and GAO regulations.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established retention

schedules. IRM 1(15)59.31 General Records Schedule.

payroll coordinator, or administrative officer.

Information relating to employee participation in the Federal Civilian

representative is required by the Office

District Director for each District whose

VOL 50 ISS 140 JL 22 1985 UMI

schedules, IRM 1(15)59.31 General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Division, and Chief, Personnel Branch, appropriate office (see IRS Appendix A); Executive Secretary, Executive Resources Board (for executive resource records).

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner for each appropriate Division in the National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See Appendix A.) Inquiries should include name, date of birth, social security number and POD.

RECORD ACCESS PROCEDURE:

Individual seeking access to any record contained in the system of record or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above. Former IRS employees who wish to gain access to their records should direct such a request in writing, including their name, date of birth, and Social Security Number, to: National Personnel Records Center, General Services Administration, 111 Winnebago St., St. Louis, Missouri 63118.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information supplied by that individual, except information provided by agency officials. Payroll Information is compiled from existing master records, i.e. employees official personnel folders, or the employee Information. is also obtained directly from an employee.

payroll coordinator, or administrative officer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

Treasury/IRS 36.005

SYSTEM NAME:

Medical Records—Treasury/IRS.

SYSTEM LOCATION:

(1) Applicants and current IRS employees: National, Regional and District Offices, POD's, Service Centers, the National Computer Center and the Data Center. (See Appendix A.) (2) Former IRS employees: National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118. Records may also be maintained in the National Regional and District Offices, POD's Service Centers, the National Computer Center and the Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicants for IRS employment. (2) Applicants rejected on medical grounds. (3) Applicants for disability retirement under the Civil Service Retirement Law. (4) IRS employees. (5) Former IRS employees. (6) Visitors of IRS Offices who require medical attention while on the premises.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Applications for IRS employment containing information relating to an individual's medical qualifications to hold a position in the IRS. (2) Applications rejected on medical grounds. Information relating to an applicant's rejection for a position because of medical reasons. (3) Disability retirement records. Information relating to an individual's capability (physical and mental) to satisfactorily perform the duties of the position he or she holds or held. (4) Health unit medical records (Federal civilian employees). Information relating to an employee's participation in an occupational health services program. (5) Qualification examinations (Federal employees). Information relates to pre-employment, or periodic re-qualification medical examinations to assure that the incumbents are qualified (physically and mentally) to satisfactorily perform the duties of the position. (6) Fitness-for-duty examinations. Information relating to a medical examination to determine an individual's physical or mental condition with respect to ability to satisfactorily perform the duties of the position held. (7) Alcohol/drug employee assistance records. Information relating to employee participation in the Federal Civilian Alcoholism and Drug Abuse Program. (8) Injury Compensation Records. Information relating to on-the-job injuries of employees and former employees. (9) Records relating to the Blood Donor Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Medical Information relating to the Retirement, Life Insurance and Health Benefits Programs—5 U.S.C., Chapters 81, 87 and 89. Information for Federal employment—5 U.S.C. 3301. Information relating to the Alcoholism, Drug Abuse and Employee Assistance Programs—Pub. L. 91-616 and 92-255 as amended by Pub. L. 93-282 in regard to confidentiality of patient records. Information relating to the Occupational Health Program (5 U.S.C. 7901).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Information may be provided to other Federal agencies responsible for other Federal benefits programs administered by the Office of Workmen's Compensation Programs; Retired Military Pay Centers; Veterans Administration; Social Security Administration; Office of Personnel Management; Private contractors engaged in providing benefits under Federal contracts. (2) Disclosure of information may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in requests for legal advice. (3) Disclosure may be made during judicial processes. (4) Disclosure may be made to other agencies to the extent provided by law or regulation. (5) Disclosure may be made to the appropriate Federal, state or local agency where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature. (6) Disclosure may be made to Federal, state, or local agencies in order to obtain or release relevant and pertinent information to an agency decision concerning the hiring or retention of an individual, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit. (7) Disclosure may be made to the Public Health Service. (8) Disclosure may be made to an individual's private physician where medical considerations or the content of medical records indicate that such release is appropriate. (9) Disclosure may be made to an agency designated employee representative where such

representative is required by the Office of Personnel Management. (10) Disclosure may be made to hospitals and similar institutions or organizations participating in blood donor activities. (11) Disclosure of Alcoholism, Drug Abuse, and Employee Assistance records are limited under Pub. L. 91-616, 92-255, and 93-282. (12) disclosure may be made to the Equal Employment Opportunity Commission when needed to resolve a complaint. (13) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (14) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (15) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, discs, flat paper, lists, forms, folders, card files, microfilm, and microfiche.

RETRIEVABILITY:

Records are indexed by name, social security number, date of birth, and/or claim number.

SAFEGUARDS:

Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established Retention Schedules, IRM 1(15)59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Division, or Chief, Personnel Branch, appropriate office; Director, Operations Divisions (Office of Chief Counsel), National and Regional Counsels. (See IRS Appendix A for Locations.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for Data Center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Human Resources), National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See IRS Appendix A for Location.) Former employees should direct inquiries to: The National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118. Individuals requesting information about this system of records should provide their full name, date of birth, social security number, name, and address of office in which currently or formerly employed in the Federal service, and annuity account number, if any has been assigned.

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

(1) The individual to whom the record pertains. (2) Private physicians. (3) Medical institutions. (4) Office of Workers' Compensation Programs. (5) Military Retired Pay Systems Records. (6) Federal civilian retirement systems other than Civil Service Retirement System. (7) General Accounting Office pay, leave allowance cards. (8) CSC Retirement, Life Insurance and Health Benefits Records System. (9) OPM Personnel Management Records System.

Treasury/IRS 36.008

SYSTEM NAME:

Recruiting, Examining and Placement Records—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices, POD's, Service Centers, The National Computer Center and The Data Center. (See Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for IRS employment, current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education, training employment history and earnings, tests, results of written tests, test scores, qualification determinations, evaluations, appraisals of potential, interview records, responses to test items and questionnaires, honors, and awards or fellowships. Other information maintained in the records includes military service, date of birth, birthplace, SSN, home address. Records may also be maintained on suitability determinations, employee participation in special emphasis placement and recruiting programs, and employee turnover records. This system also includes correspondence files relating to the above mentioned records. Personnel research and test validation records are included in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Sections 1302, 3109, 3301, 3302, 3304, 3306, 3307 3309, 3313, 3317, 3318, 3319, 3326, 3349, 4103, 5532, 5533, 5723, and Executive Orders 10577 and 11103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (2) To disclose information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. (3) To disclose information and records to the Office of Personnel Management, Merit Systems Protection Board, or the Equal Employment Opportunity Commission, for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations. (4) To refer applicants to officials of Federal government agencies for purposes of consideration for placement in positions for which an applicant has applied and is qualified; to state and local governments with permission of an applicant for the purpose of employment consideration; and to refer current IRS employees to Federal agencies for

consideration for transfer, reassignment, and promotion. (5) To educational

1(16)41. This is in conformance with existing OPM regulations.

applicants and vouchers supplied by references the applicant lists.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF

to a court, magistrate, or administrative tribunal in the course of presenting

Director, Personnel Division, National

VOL 50 ISS 140 JL 22 1985 UMI

consideration for transfer, reassignment, and promotion. (5) To educational institutions in connection with recruiting efforts. (6) To disclose information or records where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to any other appropriate agency, whether federal, state, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule. (8) To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (9) To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter. (10) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (11) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (12) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes, punched cards, discs, card files, lists, flat paper, microfilm, microfiche, forms and folders.

RETRIEVABILITY:

Records are indexed by name, combination of birth date, special security account number, and an identification number that is applicable.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established Retention Schedules, IRM 1(15) 59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Division, or Chief, Personnel Branch, appropriate office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; ServiceCenter Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Human Resources), National Office; or other appropriate official. (See Appendix A.) Individuals should provide name, date of birth, social security number, identification number (if known), approximate date of record, and title of examination or announcement with which concerned.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official as listed above. This system of records may not be accessed for purposes of inspection or for contest of content of Treasury Forms 4825 (Evaluation of Candidates for Initial Executive Placement) and Treasury Form 4245 (Report of Managerial Potential) prepared prior to September 27, 1975.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplied, except reports from medical personnel on physical qualification; results of examination which are made known to applicants and vouchers supplied by references the applicant lists.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been desiganted as exempt from certain provisions of the Privacy Act.

Treasury/IRS 36.009

SYSTEM NAME:

Retirement, Life Insurance and Health Benefits Records System—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices, POD's Service Centers, the National Computer Center; and the IRS Data Center (see Appendix A). For former employees: Records Division, Bureau of Retirement, Insurance and Occupational Health, Office of Personnel Management, Boyers, Pennsylvania.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) IRS employees who are covered by the Civil Service Retirement System. (2) IRS employees who have either declined or are covered by the Federal Employees' Group Life Insurance Program or the Federal Employees Health Benefits Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Documentation of Federal service creditable under the Civil Service Retirement System. (2) Documentation of coverage or declination of coverage under the Federal Employees' Group Life Insurance Program, and the Federal Employees Health Benefits Program. (3) Documentation of claim for refund or for annuity benefits under Civil Service Retirement System. (4) Documentation of claim for survivor annuity or death benefits under Civil Service Retirement System. (5) Medical records supporting claims for disability retirement under the Civil Service Retirement System. (6) Designations of beneficiary for benefits payable under the Civil Service Retirement System or the Federal Employees Group Life Insurance Program. (7) All other information necessary to enable offices to recruit annuitants for short term assignments and to send them requested publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapters 83, 87, and 89 of Title 5, United States Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To provide information to the Office of Workers' Compensation Programs, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, and Federal civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system. (2) To provide information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance Program to the Office of Federal Employees' Group Life Insurance, 4 East 34th Street, New York, N.Y. 10010. (3) To provide information necessary to support a claim for health insurance benefits under the Federal Employees Health Benefits Program to a health insurance carrier or plan participating in the program. (4) To provide information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation and in connection with requests for legal advice. Disclosure may be made during judicial processes. (5) To provide information to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. (6) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (7) To provide information and records to the Office of Personnel Management for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders, and regulations. (8) To provide information to an agency-designated employee representative when such representative is required under Office of Personnel Management regulations. (9) To provide information to hospitals and similar institutions to verify an employee's coverage in the Federal Employees Health Benefits Program. (10) To provide information to the Equal Employment Opportunity Commission when needed to resolve a complaint. (11) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (12) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (13) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic media, punched cards, discs, forms, flat paper, card files, lists, folders, microfilm, and microfiche.

RETRIEVABILITY:

Records are indexed by name, social security number, birth date, and by annuity or death claim number.

SAFEGUARDS:

Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is also in conformance with existing OPM regulations.

RETENTION AND DISPOSAL:

All records are disposed of in conformance with established retention schedules, IRM 1(15)59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Division, and Chief, Personnel Branch, appropriate office. Director, Operations Division (Office of Chief Counsel), National and Regional Counsels. (See IRS Appendix A for Locations.)

NOTIFICATION PROCEDURE:

(1) Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for Computer Center employees only); Director, Data Center (for Data Center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Human Resources), National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See IRS Appendix A for locations.) (2) If the individual is retired from Federal service he should direct inquiries to: Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415. (3) If the individual is not retired, but has been separated from Federal service, he should direct inquiries to: National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118.

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above.

CONTESTING RECORD PROCEDURES:

See Access. Individuals requesting information in this system of records should provide their full name, date of birth, social security number, claim number, if assigned, and the POD in which currently or formerly employed.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources: (1) The individual whom the information is about. (2) GAO Pay, Leave and Allowance Records System. (3) OPM Personnel Management Records System. (4) GSA National Personnel Records Center. (5) OPM Medical Records System. (6) Federal civilian retirement systems other than Civil Service Retirement System. (7) Military retired pay system records. (8) Office of Workers' Compensation Programs. (9) Veterans Administration Pension Benefits Programs. (10) Social Security Old Age, Survivor and Disability Insurance and Medicare Programs.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 37.001

SYSTEM NAME:

Abandoned Enrollment Applications—Treasury/IRS.

SYSTEM LOCATION:

Washington National Record Center,

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

RETENTION AND DISPOSAL:

Dispose 25 years after case closed;

certified public accountants, and enrolled agents)

RETENTION AND DISPOSAL:

VOL 50 ISS 140 JL 22 1985 UMI

SYSTEM LOCATION:

Washington National Record Center, National Archives and Record Service, General Services Administration. Washington, D.C. 20409..

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who applied for enrollment to practice before the Internal Revenue Service but subsequently abandoned their applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for enrollment to practice before the Internal Revenue Service and, in some cases, information regarding individuals' fitness for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original application form and information relating to it fastened to each other.

RETRIEVABILITY:

Indexed by name of applicant.

SAFEGUARDS:

Those safeguards in effect at Federal Record Center.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM: HR: DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they named in this system of records, or gain access to records maintained in this system, must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to system manager above.

RECORD ACCESS PROCEDURE:

System manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Applicant, (2) individuals, (3) Internal Revenue Service, (4) other government agencies, (5) and professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 37.002

SYSTEM NAME:

Applicant Appeal Files—Treasury-IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224. (2) Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose applications for enrollment to practice before the Internal Revenue Service have been denied and who have appealed such denial to the Director of Practice.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' applications and eligibility for enrollment to practice before the Internal Revenue Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed; except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system, must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) individuals, (2) Internal Revenue Service, (3) other government agencies, and (5) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.003

SYSTEM NAME:

Closed Files containing Derogatory Information about individuals' practice before the Internal Revenue Service and files of attorneys and certified public accountants formerly enrolled to practice—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue NW., Room 1413, Washington, D.C. 20224. (2) Washington National Records Center National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals eligible to practice before the Internal Revenue Service (attorneys, certified public accountants, and enrolled agents).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollments to practice before the Internal Revenue Service and, derogatory and other information regarding such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed, except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DB, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system: (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.004

SYSTEM NAME:

Derogatory Information (No Action)—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants, enrolled agents and others.

CATEGORIES OF RECORDS IN THE SYSTEM:

Such files contain derogatory information concerning attorneys, certified public accountants, and enrolled agents and others over whom there is no current jurisdiction, where

VOL 50 ISS 140 JL 22 1985 UMI

such information is subject to future development, or where such information is not sufficiently serious to be currently considered a case file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose after 5 years by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by (1) individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.005

SYSTEM NAME:

Present Suspensions and Disbarments Resulting From Administrative Proceeding—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224. (2) Washington National Record Center, National Archives and Record Service, Geheral Services Administration, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals formerly eligible to practice before the Internal Revenue Service but now either suspended or disbarred from such practice after being accorded due notice and opportunity for hearing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment to practice before the Internal Revenue Service, derogatory and other information regarding such practice, and record of proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) Transfer of information regarding suspension or disbarment of attorneys, certified public accountants and enrolled agents to professional organizations. (2) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.006

SYSTEM NAME:

General Correpondence File—Treasury/OS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

General public.

CATEGORIES OF RECORDS IN THE SYSTEM:

General inquiries and comments from the general public.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folder.

RETRIEVABILITY:

Correspondence is indexed alphabetically by writer.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed after 3 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this sytem must submit a written request containing the following elements: (1) Identify the record system; (2) identify the category and type of records sought; (3) provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to Systems Manager above.

RECORD ACCESS PROCEDURES:

See system manager above.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information contained in records of this system has been provided by the writers of correspondence contained in the system.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 37.007

SYSTEM NAME:

Inventory—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants, and enrolled agents about which alleged misconduct in their practice before the Internal Revenue Service is being reviewed and evaluated.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, and information relating to their conduct in such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court,

magistrate, or administrative tribunal in

SYSTEMS EXEMPTED FROM CERTAIN

civil discovery, litigation, or settlement

SYSTEM LOCATION:

Internal Revenue Service, Office of

RETRIEVABILITY:

Service prior to enactment of the

VOL 50 ISS 140 JL 22 1985 UMI

magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case is closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.008

SYSTEM NAME:

Register of Docketed Cases and Applicant Appeals—Treasury/OS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1314, Washington, D.C. 20224

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals against whom complaints have been filed with the Office of Director of Practice pursuant to Title 31, CFR, Subpart C, § 10.54, for alleged violation of the regulations governing practice before the Internal Revenue Service and individuals who have appealed to the Secretary of the Treasury, the denials of their application for enrollment to practice before the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of actions taken in cases docketed for hearings and record of actions taken on appeals from denials of applications for enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In loose-leaf binder.

RETRIEVABILITY:

Indexed by complaint number and by name of the individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in records in this system has been provided by: (1) This office, (2) administrative law judges, and (3) Internal Revenue Service.

Treasury/IRS 37.009

SYSTEM NAME:

Resigned Enrolled Agents (action pursuant to 31 CFR, Section 10.55(b))—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those individuals who were formerly enrolled to practice before the Internal Revenue Service and who resigned from such enrollment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' applications for enrollment to practice before the Internal Revenue Service and derogatory and other information regarding such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 37.010

SYSTEM NAME:

Roster of Former Enrollees—Treasury-IRS.

SYSTEM LOCATION:

Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and certified public accountants who were enrolled to practice before the Internal Revenue Service prior to enactment of the Agency Practice Act, Title 5 U.S. Code, Section 500.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains individuals' names, addresses, profesions, the dates of their enrollments, and the expiration dates of such enrollments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S. Code 330.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In loose-leaf binders.

RETRIEVABILITY:

Indexed by profession (i.e., attorney or certified public accountant) and by the individual's name.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In loose-leaf binder.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records, maintained in this system, must submit

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

RECORD ACCESS PROCEDURES:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF

VOL 50 ISS 140 JL 22 1985 UMI

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:DR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in records in this system has been provided by: (1) Individuals and (2) Internal Revenue Service.

Treasury/IRS 37.011

SYSTEM NAME:

Present suspensions from practice before the Internal Revenue Service—Treasury/IRS.

SYSTEM LOCATION:

(1) Internal Revenue Service, Office of Director of Practice, 1200 Pennsylvania Avenue, NW., Room 1413, Washington, D.C. 20224. (2) Washington National Records Center, National Archives and Records Service, General Services Administration, Washington, D.C. 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys, certified public accountants and enrolled agents who have offered their consent to voluntary suspension from practice before the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, derogatory and other information relating to their conduct in such practice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 1026.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, or foreign agencies responsible for investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders.

RETRIEVABILITY:

Indexed by name of individual.

SAFEGUARDS:

Locked doors. Access limited to authorized personnel.

RETENTION AND DISPOSAL:

Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Practice, PM:HR:DP, Internal Revenue Service, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records, maintained in this system, must submit a written request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). Address inquiries to System Manager above.

RECORD ACCESS PROCEDURE:

See System Manager above.

CONTESTING RECORD PROCEDURES:

See System Manager above.

RECORD SOURCE CATEGORIES:

Information contained in this system may have been provided by: (1) Individuals, (2) Internal Revenue Service, (3) other government agencies, and (4) professional organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 38.001

SYSTEM NAME:

General Training Records—Treasury/IRS.

SYSTEM LOCATION:

National, Regional and District Offices, Service Centers National Computer Center, Data Center and posts of duty. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees who have participated in or who may be scheduled for training activities (students, instructors, program managers, etc.). Other Federal or non-Government individuals who have participated in or assisted with training programs (students, instructors, course developers, interpreters, etc.).

CATEGORIES OF RECORDS IN THE SYSTEM:

Variety of records containing information about an individual related to training, such as: course rosters, student registrations, nomination forms, course evaluations, instructor lists, individual development plans, counseling records, examination materials, payment records, and other recordations of training necessary for reporting and evaluative purposes. Some records within this system also may be contained in TR/IRS 36.003, General Personnel Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 41, Title 5 U.S.C.; EO 11348; and FPM 410.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system may be made available to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Information in these records may be used to provide input data for the automated Training CPDF at the Office of Personnel Management.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be maintained on magnetic media, computer tapes, index cards, forms, or flat paper.

RETRIEVABILITY:

Computer records are indexed by social security account numbers, course titles, dates of training, location of training, and by specific employee information (i.e., name, title, grade, etc.); other records are indexed by name and course title.

SAFEGUARDS:

Individual computer records are available to those persons at OPM, Treasury, or IRS who are directly involved with the training function.

RETENTION AND DISPOSAL:

All records are disposed of in accordance with established retention schedules, IRM 1(15)59.31, General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Training and Development Division; and Chief, Training and Development Branch; Training Manager, Foreign Operations District; at the National Office. Chiefs, Training and Development Branches at Regional and District Offices, and Service Centers. Training managers at computer center and data center. (See Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched. See System Manager.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquires should be addressed to the System Manager for each office whose records are to be accessed or contested. See System Manager.

CONTESTING RECORD PROCEDURES:

See Access.

RECORD SOURCE CATEGORIES:

Information is extracted from participant registration forms, individual development plans, skill surveys, personnel records, and such other forms as may be developed and prescribed by CSC, Treasury, and IRS Training Personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 42.001

SYSTEM NAME:

Examination Administrative File—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional District Office where the individual resides, or Service Center where return was examined, or Assistant Commissioner (Examination), National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any taxpayer who is being considered for examination or is being examined for tax determination purposes, i.e., income, estate and gift, excise, or employment tax liability.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing investigatory materials required in making a tax determination or other verification in the administration of tax laws and all other related sub-files directly related to the processing of the tax case. This system also includes other management material related to a case and used for tax administrative purposes including the appeals process. Includes systems formerly published as 42.018, 42.023, and 42.025.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, microfilm.

RETRIEVABILITY:

By taxpayer's name and social security number and employer identification number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Destroyed in accordance with the established retention schedule in IRM 1(15)59.22, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination); Officials maintaining the system—Director of Jurisdictional District Office, or Service Center, or Assistant Commissioner (Examination). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Taxpayer's return. (2) Taxpayer's books and records. (3) Informants and third party information. (4) City, state governments. (5) Other Federal agencies. (6) Examinations of related taxpayers. (7) Examinations of other taxpayers. (8) Taxpayer's representative.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.008

SYSTEM NAME:

dropped from the data base 60 days after closing or when assessment

taxpayers with suspended issues on their returns.

Treasury/IRS 42.013

RECORD ACCESS PROCEDURES:

Document Security Handbook, IRM

VOL 50 ISS 140 JL 22 1985 UMI

Treasury/IRS 42.008

SYSTEM NAME:

Audit Information Management System (AIMS)—Treasury/IRS.

SYSTEM LOCATION:

This system is composed of: (1) Computer files located at each jurisdictional IRS Service Center (where tax return is under examination control)—each jurisdictional district (served by an IRS Service Center) has access to the computer file via video terminals; (2) Group control card forms 5345 and 5354 (including temporary and interim processing files for management and control purposes), located at each jurisdictional district office. Items described under (2), above, are subfiles of the AIMS System.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers whose tax returns are under the jurisdiction of the Examination Division; Examiner.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax return information from the Master File, Tax return status and location changes, Examination Closing information on examined and non-examined tax returns, examiner's name including related internal management information and a code identifying taxpayers that threatened or assaulted IRS employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer, microfiche, paper.

RETRIEVABILITY:

Social Security number, taxpayer's name, examiner's name.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

(1) Computer Record: Examined closings, surveyed claims, and some types of non-examined closings are dropped from the data base 60 days after closing or when assessment verification is completed, whichever is later. The balance of non-examined closing are dropped at the end of the month following the month of closing. (2) Records: Generally, AIMS forms are destroyed within 90 days of the closing. Exceptions include: (a) The charge-out which becomes part of the case file and is sent to the Federal Records Center with the case; (b) Examination requests forms which become the Examination group's controlled card; and (c) The Examination group's control card which is retained in a closed case file for 3 years (in the case of field examinations) and 90 days (in the case of office examinations). Authority: Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination), National Office. Officials maintaining the system—Each jurisdictional (taxpayer's place of residence) District Director; each jurisdictional (the Service Center where taxpayer's tax return was filed) IRS Service Center. (See IRS Appendix A.)

NOTIFICATION PROCEDURES:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Tax Returns; examination files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.012

SYSTEM NAME:

Combined Case Control Files—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional District offices (not necessarily carried out in every district). (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers that may be abusing the tax laws through the use of tax shelters, investors in flow-through entities, and taxpayers with suspended issues on their returns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax information relating to the tax shelter for use in determining abuses of tax laws.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, and microfilm.

RETRIEVABILITY:

Taxpayer's identifying number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained until individual projects are completed. Authority: IRM 1(5)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of jurisdictional District. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Individual's tax return (2) Related taxpayer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.013

SYSTEM NAME:

Project Files for the Uniform Application of laws as a result of technical determinations and court decisions—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional district office where taxpayer resides. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals grouped as to project, i.e., individual shareholders of a corporation where a determination having a tax effect has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individuals and their income tax information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Destroyed in accordance with the established Retention Schedule 1(15)59.12, Records Retention Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of jurisdictional District. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Shareholder records. (2) Individual's tax return. (3) Examination of related taxpayer.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 42.014

SYSTEM NAME:

Internal Revenue Service Employees' Returns Control Files—Treasury/IRS.

SYSTEM LOCATION:

District Office of district where individual resides. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who is employed by the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetic listing of employee income tax return information, including prior examination results and other tax related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, microfilm.

RETRIEVABILITY:

Employee's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Updated periodically and retained as long as individual is employed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of District where individual resides. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Employee's tax return.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 42.016

SYSTEM NAME:

Classification and Examination Selection Files—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional District Office or related service center where individual resides. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose returns or claims are classified for examination.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individuals or returns and sub-files consisting of financial information and other information considered in classification and selection of an individual's return or claim for examination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, machine-sensible data media, and microfilm.

RETRIEVABILITY:

Taxpayer's identifying number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained until individual projects are completed. Authority: IRM 1(5)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of jurisdictional District. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt from the

RETRIEVABILITY:

By taxpayer's name and social

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subpart C, Appendix B. Inquiries should be addressed to the District Director for

VOL 50 ISS 140 JL 22 1985 UMI

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, computer printouts, magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Until information is associated with return or two years, whichever occurs first. Authority: Records Disposition Handbook IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissiomer (Examination). Officials maintaining the system—Director of jurisdictional District or service center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Tax returns. (2) Requests from taxpayer. (3) Requests from Collection Division for prompt examination.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.017

SYSTEM NAME:

International Enforcement Program Files—Treasury/IRS.

SYSTEM LOCATION:

Jurisdictional District Office of district where individual resides; National Office: Examination, Washington, DC. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual having foreign business activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of individual, summary of income expenses, financial information as to foreign operations, acquisition of foreign stock, controlling Interest of a foreign corporation, organization or reorganization of foreign corporation examination results, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents, microfilm, machine sensible magnetic media.

RETRIEVABILITY:

Individual's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physcial and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Updated periodically and retained as long as individual has substantial foreign business activities. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of jurisdictional District; Assistant Commissioner (Examination). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) European treaty countries. (2) Individual's tax returns. (3) Examination of related taxpayers. (4) Public sources of information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.021

SYSTEM NAME:

Compliance Programs and Projects Files—Treasury/IRS.

SYSTEM LOCATION:

Initiated and maintained in National Office, Regional Offices, or jurisdictional District or service center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers that may be involved in tax evasion schemes or areas of noncompliance grouped by industry, occupation, or financial transactions, i.e., return preparers, political contributions, corporate kickbacks.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to individuals in projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, machine-sensible data media, microfilm, and magnetic media.

RETRIEVABILITY:

By taxpayer's name and social security number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Records associated with the examination of returns are disposed of in accordance with the established Retention Schedule 1(15)59.22, Records Control Schedule. Records not associated with the examination of returns will be destroyed at the completion of the program or project, or in accordance with IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination). Officials maintaining the system—Director of jurisdictional District or service center. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

(1) Taxpayer's return, (2) taxpayer's books and records, (3) informants and third party information, (4) city, state government, (5) other federal agencies, and (6) examinations of related taxpayers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.027

SYSTEM NAME:

Data on Foreign Corporations—Treasury/IRS.

SYSTEM LOCATION:

IRS Data Center, Detroit, Michigan; National Office, Examination Division, Washington, D.C.; District Offices; Regional Offices, Philadelphia Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals required to file Form 5471, Information Return with Respect to a Foreign Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals filing on foreign holdings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 7801, and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape in Data Center, Philadelphia Service Center; paper at other listed locations, machine-sensible data media, and microfilm.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Three years or earlier. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination), National Office. Officials maintaining the system—District Directors; Regional Commissioners; Director, Examination Division, National Office; Director, Data Center, Detroit, Michigan; Director, Returns Processing and Accounting Division, National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the System of Records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addreseed to the District Director for each District whose records are to be searched.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the System of Records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Form 5471 only.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 42.029

SYSTEM NAME:

Audit Underreporter Case File, OP:EX—Treasury/IRS.

SYSTEM LOCATION:

National Computer Center (NCC), Martinsburg, West Virginia. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of income who appear not to have declared on their income tax returns (Forms 1040 and 1040A) all income paid to them in the tax year under study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained are taxpayer (i.e., payee) entity records containing payee name, address, taxpayer identification number, and other indicators relating to entity maintenance; and income records containing the types and amounts of income received, and information identifying the income payer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, and 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On magnetic media.

RETRIEVABILITY:

By matching on SSN and name control.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained for one year, then data are

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Treasury/IRS 44.003

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS

SYSTEM MANAGER(S) AND ADDRESS:

VOL 50 ISS 140 JL 22 1985 UMI

RETENTION AND DISPOSAL:

Retained for one year, then data are magnetically erased. Authority: IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner (Examination) OP:EX, National Office. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A for locations.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Information returns filed by payers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.030

SYSTEM NAME:

Discriminant Function File (DIF), OP:EX—Treasury/IRS.

SYSTEM LOCATION:

Internal Revenue Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals whose Forms 1040 and 1040A have a DIF Score higher than a cutoff score determined by Examination Division, indicating high audit potential. The DIF Score is the computation of Audit potential, based on formulae prescribed by Examination.

CATEGORIES OF RECORDS IN THE SYSTEM:

Document Locator Number of the return, the Regional and District Offices of the taxpayer, the taxpayer's DIF Score and data from the individual's Income Tax Return needed to conduct an audit of his return.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801. 26 U.S.C. 7802, 26 U.S.C. 7602.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

By magnetic tape and computer printout.

RETRIEVABILITY:

By individual's Social Security Number.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Retained for three years. Disposed of thereafter. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner Examination. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purpose of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This System of records may not be accessed for the purpose of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual's tax return information and data on retrieving the return information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.001

SYSTEM NAME:

Appeals Case Files—Treasury/IRS.

SYSTEM LOCATION:

Director, Appeals Division, National Office; Regional Director of Appeals. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tax returns, Revenue Agents' Reports, case correspondence, legal opinions, and Appeals closing actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, file cabinets, and magnetic media.

RETRIEVABILITY:

Name of taxpayer.

SAFEGUARDS:

Locked file cabinets, locked doors, need to know.

RETENTION AND DISPOSAL:

Retention as prescribed in Records Disposition Handbook, IRM 1(15)59. Disposal by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Appeals Division, National Office; Regional Director of Appeals. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to the individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.003

SYSTEM NAME:

Appeals Case Data—Treasury/IRS.

SYSTEM LOCATION:

Director, Appeals Division, National Office; Regional Director of Appeals. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Provides case control data and management information, utilizing data from system 42.008 and data developed in the appeal process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic media, interactive terminal, diskette, hard disk.

RETRIEVABILITY:

By taxpayer's name and social security number, employer identification number, and by work unit number.

SAFEGUARDS:

IRS personnel on need to know basis and passwords to access system information.

RETENTION AND DISPOSAL:

Retention is prescribed in Records Disposition Handbook. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Appeals Division, National Office, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Regional Director of Appeals. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

See System Manager above.

RECORD ACCESS PROCEDURES:

See System Manager above.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Record clerks and Appeals Officers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 46.002

SYSTEM NAME:

Case Management and Time Reporting System, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National, Regional, and District Offices, Data Center, Service centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of Criminal Investigation Division Investigations, Special Agents, U.S. District Court Judges, and U.S. Attorneys.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal and financial information developed in criminal tax investigations, potential tax investigations, and in projects including information from other Federal, state, and local agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7802; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Information contained in this system of records may be disclosed to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in binders; magnetic media; computer discs; computer printouts.

RETRIEVABILITY:

Name, case number, and social security number.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—Regional Commissioners; District Directors; Assistant Commissioner, Criminal Investigation; Director, Data Center, Directors, Service centers. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be assessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the PrivAcy Act.

Treasury/IRS 46.003

SYSTEM NAME:

Confidential Informants, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

District Offices, National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Confidential Informants. Subjects of Confidential Informant's Reports.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memorandums, index cards, related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7802; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system of records may be disclosed to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure of

VOL 50 ISS 140 JL 22 1985 UMI

returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

Name, or number.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner Criminal Investigation, National Office. Officials maintaining the system—District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be assessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.004

SYSTEM NAME:

Controlled Accounts—Open and Closed, Criminal Investigation Division TC 910/TC 914/TC 916/TC 918—Treasury/IRS.

SYSTEM LOCATION:

Service Centers, National Computer Center, District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects and potential subjects of criminal tax investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal Investigation Information and Control Notices; list of names and related data; lists of action taken; transcripts of account.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media and paper.

RETRIEVABILITY:

By name or Social Security Number.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Paper destroyed after 1 year. Magnetic tape erased after 3 months. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—District Directors, Service Center Directors, National Computer Center Director. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

District Office Personnel; Service Center Personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 46.005

SYSTEM NAME:

Electronic Surveillance File, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of electronic surveillance. Individuals who have been subjects of queries by other agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to conduct of electronic surveillance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

Names, addresses, and telephone numbers.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Permanent; none authorized. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—Director, Criminal Investigation. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.009

SYSTEM NAME:

Centralized Evaluation and Processing of Information Items (CEPIIs), Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

District Offices and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers about whom the Internal Revenue Service has received information alleging a violation of laws within IRS jurisdiction, potential subjects of investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of income tax returns, special agents' reports, revenue agents' reports, reports from police and other investigative agencies, memorandum of interview, question-and-answer statements, affidavits, collateral request and replies, information items, newspaper and magazine articles and other published data, financial information from public records, case initiating documents and other similar and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Tape, paper, and microfilm.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Paper—shredded after use. Microfilm—destroyed after 5 years. Magnetic tape—erased after 3 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation National Office. Officials maintaining the system—Service Center Directors, District Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852 (e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.011

SYSTEM NAME:

Land Trust Files, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

District Offices (Chicago and Springfield), Service Center (Kansas City). (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries of Land Trusts, Related individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notices of Fiduciary Relationships. Related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microfilm, magnetic tape.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation—National Office. Officials maintaining the system—District Directors, Service Center Directors. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to District Director for each District whose records are to be searched and Assistant Commissioner, Criminal Investigation, National Office. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1,

Subpart C, Appendix B. Inquiries should be addressed to the District Director for

subjects with Taxpayer Delinquent Accounts against whom Federal Tax

RECORD ACCESS PROCEDURE:

CATEGORIES OF RECORDS IN THE SYSTEM:

Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched and Assistant Commissioner, Criminal Investigation, National Office. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Financial institutions. Fiduciary reports. Notices of Fiduciary Relationships.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 46.015

SYSTEM NAME:

Relocated Witnesses, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Relocated witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation and Relocation Information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, file cabinet.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Indefinite retention. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—Assistant Commissioner, Criminal Investigation, National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.016

SYSTEM NAME:

Secret Service Details, Criminal Investigation Division—Treasury/IRS.

SYSTEM LOCATION:

District Offices, Service Centers, Regional Offices, National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of names, and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, file cabinet.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Controls will be not less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Not established.

SYSTEM MANAGER(S) AND ADDRESS:

Official precribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—District Directors, Service Center Directors, Regional Commissioners, Assistant Commissioner, Criminal Investigation. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.022

SYSTEM NAME:

Treasury Enforcement Communications System (TECS), Assistant Commissioner, Criminal Investigation Division —Treasury/IRS.

SYSTEM LOCATION:

National Office.

CATEGORIES OF INDIVIDUALS COVERED BY TH SYSTEM:

Fugitives, subjects of open and close criminal investigations, subjects of potential criminal investigations,

subjects with Taxpayer Delinquent Accounts against whom Federal Tax Liens have been filed, and other subjects of potential interest to criminal investigation such as witnesses and associates of subjects of criminal investigations or related to a matter under Criminal Investigation jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, Social Security Number, address, identifying details, aliases, associates, physical descriptions, various identification numbers, details and circumstances surrounding the actual or suspected violator.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Disc.

RETRIEVABILITY:

By name, social security number, or other unique identifier.

SAFEGUARDS:

Controls will not be less than provided for by the Access Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Fugitives until apprehended. Other records are deleted when no longer of potential use for criminal investigation case or informational purposes. Cancellation after 10 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Assistant Commissioner, Criminal Investigation, National Office. Officials maintaining the system—Assistant Commissioner, Criminal Investigation, National Office.

NOTIFICATION PROCEDURES:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURE:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.001

SYSTEM NAME:

Disclosure Records; Disclosure—Treasury/IRS.

SYSTEM LOCATION:

National Office, National Computer Center, Data Center, Regional Offices, Service Centers, and District Offices. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Subjects or requests for disclosure initiated by the Department of Justice, including auspects or persons related to the violation of Federal laws; persons who have initiated legal actions against the Federal Government; persons identified as strike force targets or related to organized crime activities; persons under investigation for national security reasons; persons believed by the Internal Revenue Service to be related to violations of Federal laws other than the Internal Revenue Code. (2) Persons under investigation by other executive departments or congressional committees for whom tax information has been requested pursuant to 26 U.S.C. 6103. (3) Persons who are parties to criminal or civil non-tax litigation in which the testimony of IRS employees has been requested. (4) Persons who have applied for Federal employment or presidential appointments for which pre-employment tax checks have been requested, and applicants for Department of Commerce "E" Awards. (5) Requesters for access to records pursuant to 26 U.S.C. 6103, the Freedom of Information Act, 5 U.S.C. 552, and initiators of requests for access, amendment, or other action pursuant to the Privacy Act of 1974, 5 U.S.C. 552a. (6) Individuals identified by or initiating correspondence or inquiries processed or controlled by the Disclosure function or relating to the foregoing subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for records, information or testimony, responses to such requests, supporting documentation, processing records, copies of items provided or withheld, control records, and related files. Department of Justice, and IRS replies to such requests. (2) Copies of related authorizations to IRS officials permitting such disclosures and, in some instances, their responses. (3) Copies of individuals' tax information, memoranda for file, notations of telephone calls, file search requests, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801 and 7802; 26 U.S.C. 6103; 5 U.S.C. 301, 552, and 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes, and necessary to report apparent violations of law to appropriate law enforcement agencies. Disclosure of debtor information may be made to a Federal payor agency for purposes of salary and administrative offsets, to a consumer reporting agency to obtain commercial credit reports, and to a debt collection agency for debt collection services. Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)12: Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in alphabetical or chronological order within subject categories and/or such automated or electronic recordkeeping equipment as may be locally available. No centralized index exists. Accountings of disclosure of tax related records pursuant to 5 U.S.C. 552a(c) or 26 U.S.C. 6103(p)(3) are posted to the Individual Master File and retrievable by Social Security Number, or to the Business Master File and

retrievable by Employer Identification Number.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Information inquiries and litigation cases

District Office, 1325 K Street, N.W., Washington, D.C. 20225. A corresponding system of records is

SAFEGUARDS:

Access Controls will not be less than

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

VOL 50 ISS 140 JL 22 1985 UMI

retrievable by Employer Identification Number.

RETRIEVABILITY:

Records are generally retrievable by name of individual, although category of record and chronological period may be necessary to retrieve some records. The Social Security number is necessary to access accountings of disclosure posted to the Individual Master File. The Employer Identification Number is necessary for access to the Business Master File.

SAFEGUARDS:

Safeguards will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

In accordance with IRM 1(15)59, Records Disposition Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Official prescribing policies and practices—Director, Disclosure and Security Division. Officials maintaining the system—Director, Disclosure Security Division, National Office; Regional Commissioners, District Directors, Service Center Directors, or other official receiving or servicing requests for records. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Requesters seeking to determine if accountable disclosures about them have been made should request an accounting of disclosure pursuant to 5 U.S.C. 552a(c) and 26 U.S.C. 6103(p)(3) of the District Director for the area in which they reside. This system may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Requests for disclosure, records being evaluated and processed for disclosure, and related information from other systems of records. Portions of this system may contain investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system have been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.008

SYSTEM NAME:

Defunct Special Service Staff File being retained because of Congressional directive, Disclosure—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals suspected of violating the Internal Revenue laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Revenue Service Master File printouts; returns and field reports; information from other law enforcement government investigative agencies; Congressional Reports; and news media articles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This file is no longer being used by the Internal Revenue Service. The Special Service Staff was abolished August 13, 1973. Disclosure of information contained in this System of Records may be made to the Department of Justice in connection with actual or potential litigation. Access to the system is limited to Congressional Committees and individuals making Freedom of Information requests pertaining to themselves.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained alphabetically by individual and organization contained in vault at IRS National Office.

RETRIEVABILITY:

By alphabet.

SAFEGUARDS:

Access controls are in conformance with provisions of the Physical and Document Security Handbook, IRM 1(16)41. No IRS official has access to these records except for retrieval purposes in connection with Congressional or Freedom of Information inquiries and litigation cases.

RETENTION AND DISPOSAL:

Records are being maintained solely for Congressional Committees at their request. When the Congressional Committees have completed their inquiries, the records will be destroyed except for those documents pertaining to pending litigation. Those records will be destroyed upon direction by the Court having jurisdiction over the documents. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Disclosure and Security Division, National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the System of Records contains a record pertaining to themselves may address inquiries to the Director, Disclosure and Security Division, National Office. (See IRS Appendix A for location.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any System of Records may inquire in accordance with the instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director, Disclosure and Security Division, National Office. (See IRS Appendix A for location.) In addition, this System may contain some records provided by other agencies which are exempt from the Access and Contest provisions of the Privacy Act as published in the Notices of the Systems of Records for those agencies.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

News media articles, taxpayers' returns and records, informant and third party information, other Federal agencies, and examinations of related or other taxpayers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Information from an exempt system of records duplicated in this system of records retains the exempt status.

Treasury/IRS 49.001

SYSTEM NAME:

Collateral and Information Requests System—Treasury/IRS.

SYSTEM LOCATION:

The central files for this system are maintained at Foreign Operations District Office, 1325 K Street, N.W., Washington, D.C. 20225. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) Caracas, Venezuela; (4) Jidda, Saudi Arabia; (5) Johannesburg, Republic of South Africa; (6) Nassau, Bahamas; (7) London, England; (8) Manila, Philippines; (9) Mexico City, Mexico; (10) Ottawa, Canada; (11) Paris, France; (12) Rome, Italy; (13) Sao Paulo, Brazil; (14) Singapore; and (15) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Director, Foreign Operations District.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States citizens, resident aliens, nonresident aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of interviewing witnesses regarding financial transactions of taxpayers; employment data; bank and brokerage house records; probate records; property valuations; public documents; payments of foreign taxes; inventories of assets; business books and records. These records relate to tax investigations conducted by the U.S. Internal Revenue Service where some aspects on an investigation must be pursued in foreign countries pursuant to the various tax treaties between the United States and foreign governments. The records also include individual case files of taxpayers on whom information (as is pertinent to carrying out the provisions of the convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this convention) is exchanged with foreign tax officials of treaty countries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Records.

RETRIEVABILITY:

By Taxpayer Name.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Dispose after 3 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Records of examinations of taxpayers, interviews of witnesses, etc., where some aspects on an investigation must be pursued in foreign countries pursuant to various tax treaties between the United States and foreign governments.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.002

SYSTEM NAME:

Competent Authority and Index Card—Microfilm Retrieval System—Treasury/IRS.

SYSTEM LOCATION:

Foreign Operations District Office, 1325 K Street, NW., Washington, D.C. 20225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizens, resident aliens, nonresident aliens whose tax matters come under the jurisdiction of the U.S. competent authority in accordance with pertinent provisions of tax treaties with foreign countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual case files of taxpayers who request relief from double taxation or any other assistance that is pertinent to carrying out the provisions of income tax treaties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802, and applicable treaties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and microfilm records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

May be disposed of after 10 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of the records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Requests for relief from double taxation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.003

SYSTEM NAME:

Financial Statements File—Treasury/IRS.

SYSTEM LOCATION:

Foreign Operation Districts, 1325 K Street, NW., Washington, D.C. 20225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who submitted financial

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

SAFEGUARDS:

Access Controls will not be less than

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

RECORD SOURCE CATEGORIES:

Taxpayers and Foreign Operations

Constitution Avenue, NW., Washington,

VOL 50 ISS 140 JL 22 1985 UMI

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who submitted financial statements when interviewed overseas by examination division employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Financial Statements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer's name.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Dispose after 2 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries may be addressed to the Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Foreign Operations District.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Overseas examination division employees.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 49.007

SYSTEM NAME:

Overseas Compliance Projects System—Treasury/IRS

SYSTEM LOCATION:

The central files for this system are maintained at the Foreign Operations District, 1325 K Street, NW., Washington, D.C., 20225. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) Caracas, Venezuela; (4) Jidda, Saudi Arabia; (5) Johannesburg, Republic of South Africa; (6) Nassau, Bahamas; (7) London, England; (8) Manila, Philippines; (9) Mexico City, Mexico; (10) Ottawa, Canada; (11) Paris, France; (12) Rome, Italy; (13) Sao Paulo, Brazil; (14) Singapore; and (15) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Director of Foreign International District.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States citizens, resident aliens, nonresident aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents and factual data relating to: (1) Personal expenditures or investments not commensurate with known income and assets; (2) receipt of significant unreported income; (3) improper deduction of significant capital or personal living expenses; (4) failure to file required returns or pay tax due; (5) omission of assets or improper deduction or exclusion of items from state and gift tax returns.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Dispose after 3 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Documents and data relating to income and expenses items concerning income, estate and gift tax returns.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.008

SYSTEM NAME:

Taxpayer Service Correspondence System—Treasury/IRS.

SYSTEM LOCATION:

This system is separately maintained by each one of the 15 overseas posts of the Office of the Foreign Operations Districts, located in: (1) Bonn, Germany; (2) Sydney, Australia; (3) Caracas, Venezuela; (4) Jidda, Saudi Arabia; (5) Johannesburg, Republic of South Africa; (6) Kuala Nassau, Bahamas; (7) London, England; (8) Manila, Philippines; (9) Mexico City, Mexico; (10) Ottawa, Canada; (11) Paris, France; (12) Rome, Italy; (13) Sao Paulo, Brazil; (14) Singapore; and (15) Tokyo, Japan; as well as Vancouver, Canada. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States citizens, resident aliens, nonresident aliens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence from taxpayers, foreign post personnel, and Foreign Operations District headquarters offices in Washington, D.C.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7602, 26 U.S.C. 7801, 26 U.S.C. 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

By taxpayer name.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Dispose after 2 years. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director of the Foreign Operations District, 1325 K Street, NW., Washington, DC 20225.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Foreign Operations District.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and Foreign Operations District's foreign posts and headquarter's offices.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 50.001

SYSTEM NAME:

Employee Plans/Exempt Organizations, Correspondence Control Record (Form 5961)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Requestors of letter rulings, and subject of field office requests for technical advice and assistance and other correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, date, nature and subject of an assignment, and work history. Sub-systems include case files that contain the correspondence, internal memoranda, and related material. They also include digests of issues involved in proposed revenue rulings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, and 7805.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and microfiche.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Security will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Control Schedule 104 for Employee Plans/Exempt Organizations—National Office, IRM 1(15)59.14.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Employee Plans/Exempt Organizations), 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (EP/EO), National Office.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individuals requesting rulings or information and field offices requesting technical advice or assistance.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 50.003

SYSTEM NAME:

Employee Plans/Exempt Organizations, Report of Significant Matters in Technical (M-5945)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual subjects of letter ruling requests, technical advice requests, etc., where a "Report of Significant Matter in Technical" has been prepared because of the presence of a matter significant to tax administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of "Reports of Significant Matter in Technical."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, and 7805.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by name.

or information that fit the following criteria: (1) Taxpayers who physically

to a court, magistrate, or administrative tribunal in the course of presenting

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

including disclosures to opposing counsel or witnesses in the course of

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

VOL 50 ISS 140 JL 22 1985 UMI

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

As specified in the Records Control Schedule 104 for Employee Plans/Exempt Organizations—National Office, IRM 1(15)59.14.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Employee Plans/Exempt Organizations), 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Employee Plans/Exempt Organizations, National Office.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual subjects of letter ruling requests, technical advice requests, etc., where a "Report of Significant Matter in EP/EO" has been prepared.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 60.001

SYSTEM NAME:

Assault and Threat Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and the Federal Records Center, as well as Collection Offices at IRS National office, Regional Offices, District Offices, and Service Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals attempting to interfere with the administration of the Internal Revenue laws through threats, assaults or forcible interference of any officer or employee while discharging the official duties of his position, or individuals classified as potentially dangerous taxpayers, based on verifiable evidence or information that fit the following criteria: (1) Taxpayers who physically assault an employee; (2) taxpayers who have on hand a deadly or dangerous weapon when meeting with an employee and it is apparent their purpose is to intimidate the employee; (3) taxpayers who make specific threats to do bodily harm to an employee; (4) taxpayers who use animals to threaten or intimidate an employee; (5) taxpayers who have committed the acts set forth in any of the above criteria (1) through (4), but whose acts have been directed against employees of other governmental agencies at Federal, state, county, or local levels; and (6) taxpayers who are not classifiable as potentially dangerous through application of the above criteria (1) through (5), but who have demonstrated a clear propensity toward violence through acts of violent behavior to a serious and extreme degree within the five-year period immediately preceeding the time of classification as potentially dangerous.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing the complaint. (2) Documentary evidence (i.e., threatening letter). (3) Report of investigation, with possible statements, or affidavits as exhibits, and related tax information. (4) Report of legal action, if case is prosecuted. (5) Local police record of individual named in case. (6) FBI record of individual named in the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7608, 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Documents Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.002

SYSTEM NAME:

Bribery Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and/or former employees of the Treasury Department; taxpayers and non-IRS persons whose alleged criminal actions may affect the integrity of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Report of investigation including exhibits, affidavits, transcripts, and documentation concerning requests and approval for consensual telephone and consensual non-telephone monitoring. (2) Report of legal action concerning the results of prosecution. (3) Prior criminal record of subject.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for enforcing or investigating or prosecuting the violations of, or for implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation of potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16) 41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15) 59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.003

SYSTEM NAME:

Conduct Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Center. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of Internal Revenue Service, and other Bureaus and Services within the Department of the Treasury.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing complaint of alleged misconduct or violation of statute. (2) Report of investigation to resolve allegation of misconduct or violation of statute, with related exhibits of statements, affidavits or records obtained during investigation. (3) Report of action taken by management personnel adjudicating any misconduct substantiated by the investigation. (4) Report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security

clearance, license, contract, grant, or other benefit. (3) To disclose information

documents; Personal observations of the investigator; and subjects of the

regulation. (2) To disclose information to a Federal, State, or local agency,

RECORD ACCESS PROCEDURES:

RECORD ACCESS PROCEDURES:

clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification section.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records; Taxpayers (Complainants, Witnesses, Confidential Informants); Other Federal Agencies, State, and local agencies; Tax Returns and related documents; Personal observations of the investigator; and subjects of the investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.004

SYSTEM NAME:

Disclosure Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Internal Revenue Service employees and/or Government contract employees at IRS Facilities who have allegedly disclosed confidential tax information. (2) Federal, State, and local government employees who have allegedly disclosed confidential Federal tax information. (3) Tax return preparers who have allegedly disclosed confidential Federal tax information, et. al.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Document citing the complaint of the alleged criminal or administrative violation. (2) Investigative report, including statements, affidavits and any other pertinent documents supporting the investigative report, which will be attached as an exhibit. (3) Report of legal action if case is accepted by U.S. Attorney for prosecution. (4) Report of action by management personnel if case is referred for administrative adjudication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the buresu's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provded for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.005

SYSTEM NAME:

Enrollee Applicant Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former employees and non-IRS persons who apply for enrollment to practice before IRS under the provisions of Circular 230.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports on non-IRS employees covered derogatory results of checks of: FBI files; Inspection files; local police; Examination and Criminal Investigation and Collection Division files; and verification of Federal tax filing status. Also, appropriate documents attached as exhibits showing results of above file checks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for or investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant Commissioner (Inspection), National Office.

RECORD ACCESS PROCEDURES:

Same as Notification section.

RECORD SOURCE CATEGORIES:

Internal Revenue Service, Federal Bureau of Investigation, local police departments.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 60.006

SYSTEM NAME:

Enrollee Charge Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

IRS employees or former employees, tax practitioners, attorneys, certified public accountants, or enrolled persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

A documented complaint or request for investigation alleging criminal or administrative misconduct affecting IRS integrity. A report of investigation, including exhibits such as affidavits, statements or documents which have been reviewed. A report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 7801, 7802, 7608.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security

VOL 50 ISS 140 JL 22 1985 UMI

clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification section above.

CONTESTING RECORD PROCEDURES:

Same as Notification section above.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, other Federal agencies, Taxpayers/Complainants, State and local agencies, tax returns, newspapers, persons acquainted with the individual under investigation, subjects of the investigation, and personal observations of the investigator.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.007

SYSTEM NAME:

Miscellaneous Information File, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the Internal Revenue Service; Tax Practitioners (Attorneys, Certified Public Accountants, Enrolled Persons, Return Preparers); alleged tax violators; persons whose actions or alleged actions indicate a threat to IRS employees, facilities, or the integrity of the tax system; confidential informants; and reputed members of the organized criminal element.

Categories of records in the system: (1) Complaint type information regarding IRS employees which is not, in itself, specific or significant enough to initiate an investigation when received. (2) Allegations of bribery and gratuities by taxpayers and/or their representatives which are not by themselves specific or significant enough to initiate an investigation when received. (3) Allegations of misconduct by tax practitioners, enrolled persons, or tax preparers which are not by themselves specific or significant enough to initiate an investigation when received. (4) Any information received or developed by Inspection that has a bearing on IRS, but is not of itself specific or significant enough to initiate an investigation when received. (5) Information received by Inspection pertaining to alleged violations enforced by other agencies or Divisions of IRS, copies of which are referred to those respective agencies or divisions. (6) Photographs and descriptive data of some IRS employees and of persons arrested by Inspection. (7) Information concerning lost or stolen Government documents, property, credentials, or IRS employee personal property lost or stolen on Government premises. (8) List of persons in State or Local Government agencies working under State agreements and having access to Federal Tax information. (9) Newspaper or periodical items about IRS. (10) Newspaper items regarding attorneys, CPA's, Tax Practitioners, or Return Preparers arrested, indicted, convicted or under investigation by other agencies. (11) Allegations of threats, assaults, forcible interference, or other violence type activity aimed at employees or facilities of IRS which are not by themselves specific or significant enough to initiate an investigation when received. Information regarding Inspection's mission which does not fall into any of the above categories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counselor witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual, subject, or incident involved, by name at cross-referenced third parties, and/or information item number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59. Informant files are retained as long as informant remains active.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification section.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7851(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records, newspapers and periodicals, taxpayers (complainants, witnesses, and informants), State and local government agency personnel and records, and anonymous complainants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.008

SYSTEM NAME:

Security, Background and Character Investigations Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current, former, and prospective employees of Internal Revenue Service, Office of the Secretary of the Treasury, Office of the General Counsel, Office of the Treasurer of the United States, Office of the Comptroller of the Currency, Office of International Finance, Bureau of Accounts, Bureau of Engraving and Printing, United States Mint, Bureau of the Public Debt, Financial Management Service [formerly Bureau of Government Financial Operations], U.S. Savings Bonds Division, Federal Law Enforcement Training Center, and Private Contractors at IRS Facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Federal Employment Application Forms. (2) Results of National Agency Checks (prior reports and records from FBI Investigative Files, Fingerprint Files, Office of Personnel Management, Defense Central Index of Investigations, House Committee on Internal Security, and Coast Guard Intelligence). (3) Employee's Tax Account History. (4) Results of Employees Tax Examination. (5) Employee's Financial Statement. (6) A summary report, a narrative report, notes and/or written replies resulting from the investigator's inquiries into the subject's scholastic record, prior employment, military service, references, neighbors, acquaintances, or other knowledgeable sources, police records, and past credit record. (7) Report of action taken by management personnel adjudicating any derogatory information developed by the investigation. (8) Report of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; E.O. 10450; E.O. 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection Personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification section.

CONTESTING RECORD PROCEDURES:

Same as Notification section.

RECORD SOURCE CATEGORIES:

Employment Application Forms submitted by subject of investigation

NOTIFICATION PROCEDURE:

This system is exempt and may not be

responsible for investigating or prosecuting the violations of, or for

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-

CATEGORIES OF RECORDS IN THE SYSTEM:

VOL 50 ISS 140 JL 22 1985 UMI

RECORD SOURCE CATEGORIES:

Employment Application Forms submitted by subject of investigation. Financial information from subject. Federal, State, and local government agencies (police, court, and vital statistics records). Credit reporting agencies. Neighbors (former and present). References. Former and present employers and co-workers. Other third party sources. Schools. Tax Returns and Examination Results. Information provided by the individual under investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.009

SYSTEM NAME:

Special inquiry Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees of the Treasury Department and the Internal Revenue Service. Non-employees whose alleged criminal actions may affect the integrity of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

A documented complaint from some source alleging criminal or administrative misconduct affecting Internal Revenue Service integrity. Reports of integrity reviews and tests for deterrence and detection of fraud or corrupt practices and serious control weaknesses. A report of investigation to resolve the complaint or the suspected problem detected by integrity reviews and tests, including exhibits of IRS or public documents reviewed during the investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, subject, other identifier, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification above.

CONTESTING RECORD PROCEDURES:

Same as Notification above.

RECORD SOURCE CATEGORIES:

Taxpayers (Complainants, Witnesses, Confidential Informants); Federal, State, and local government agencies' personnel and records (police, court, property, etc.); newspapers or periodicals; Department of the Treasury personnel and records; financial institutions; and other private business records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.010

SYSTEM NAME:

Tort Investigation Files, Inspection—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of the Treasury and non-Federal persons involved in accidents on property under Department of the Treasury jurisdiction or with Department of the Treasury employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of investigation including exhibits such as SF–91, Operator's Report of Motor Vehicle Accident; SF–91A, Investigation Report of Motor Vehicle Accident; SF–92A, Report of Accident Other Than Motor Vehicle; SF–94, Statement of Witness; Optional Form 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator In addition, attached as exhibits might be a Police Report of the accident; copies of insurance policies of the involved drivers; photographs of the scene or vehicles after the accident; Treasury Department vehicle maintenance record, medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose informations to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, or on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Some of the records in this system may not be accessed for purposes of inspection or for contest of content of records. Individuals seeking to determine if their record is accessible may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Inspection), National Office.

RECORD ACCESS PROCEDURES:

Same as Notification above.

CONTESTING RECORD PROCEDURES:

Same as Notification above.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel and records; Federal, State, and local police agencies; witnesses; subjects involved in the investigation; hospitals (medical records); doctors (medical records and personal observations); personal observations of the investigator; automobile repair facilities; insurance companies; attorneys; Federal, State, and local driver license records; and Federal and State vehicle registration records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 70.001

SYSTEM NAME:

Individual Income Tax Returns, Statistics of Income—Treasury/IRS.

SYSTEM LOCATION:

Primary—Internal Revenue Service Data Center. Secondary—(1) Internal Revenue Service, Statistics Division. (2) Treasury Department, Offices of Tax Analysis and Computer Science. (3) Health and Human Services Department, Parklawn Computer Center. (4) Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers selected for an annual statistical sample.

CATEGORIES OF RECORDS IN THE SYSTEM:

Sources of income, exemptions deductions, income tax, and tax credits, as reported on Forms 1040 and 1040A, U.S. Individual income tax return; and demographic characteristics as reported on Form SS–5, Application for a Social Security number. The records are used to prepare and publish annually statistics, with respect to the operations of the tax laws and for special statistical studies and compilations. The statistics, studies, and compilations are designed so as to prevent disclosure of a particular taxpayer's identity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 6108.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Records and magnetic media.

RETRIEVABILITY:

Each magnetic tape record is identified by social security number and a unique Document Locator Number assigned by the Internal Revenue Service. Those with sole proprietorship income, in addition, contain employer identification number, if reported by the taxpayer. Input records that are copies of tax returns and other input records for high income taxpayers for tax years prior to 1967 are identified by name and address.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Input records disposed after publication of the statistics, except for input records for high income taxpayers for tax years prior to 1967 which are disposed after 40 years. Output records retained permanently. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Returns and Information Processing), National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification above.

CONTESTING RECORD PROCEDURES:

Same as Notification above.

RECORD SOURCE CATEGORIES:

Taxpayers (Complainants, Witnesses, Confidential Informants); Federal, State, and local government agencies' personnel and records (police, court, property, etc.); newspapers or periodicals; Department of the Treasury personnel and records; financial institutions; and other private business records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.011

SYSTEM NAME:

Internal Revenue Service Employee Tax Compliance Records—Treasury/IRS.

SYSTEM LOCATION:

Primary—Internal Revenue Service Data Center. Secondary—(1) Internal Revenue Service, Statistics Division. (2) Treasury Department, Offices of Tax Analysis and Computer Science. (3) Health and Human Services Department, Parklawn Computer Center. (4) Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Sources of income, exemptions deductions, income tax, and tax credits, as reported on Forms 1040 and 1040A, U.S. Individual income tax return; and demographic characteristics as reported on Form SS–5, Application for a Social Security number. The records are used to prepare and publish annually statistics, with respect to the operations of the tax laws and for special statistical studies and compilations. The statistics, studies, and compilations are designed so as to prevent disclosure of a particular taxpayer's identity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 6108.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Records and magnetic media.

RETRIEVABILITY:

Each magnetic tape record is identified by social security number and a unique Document Locator Number assigned by the Internal Revenue Service. Those with sole proprietorship income, in addition, contain employer identification number, if reported by the taxpayer. Input records that are copies of tax returns and other input records for high income taxpayers for tax years prior to 1967 are identified by name and address.

SAFEGUARDS:

Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Input records disposed after publication of the statistics, except for input records for high income taxpayers for tax years prior to 1967 which are disposed after 40 years. Output records retained permanently. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Returns and Information Processing), National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system is exempt and may not be accessed for purposes of notification and inspection or for contest of content of records.

RECORD ACCESS PROCEDURES:

Same as Notification above.

CONTESTING RECORD PROCEDURES:

Same as Notification above.

RECORD SOURCE CATEGORIES:

Taxpayers (Complainants, Witnesses, Confidential Informants); Federal, State, and local government agencies' personnel and records (police, court, property, etc.); newspapers or periodicals; Department of the Treasury personnel and records; financial institutions; and other private business records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.012

SYSTEM NAME:

Internal Revenue Service Employee Tax Compliance Records—Treasury/IRS.

SYSTEM LOCATION:

IRS National Office, Regional Inspectors' Offices, and Federal Records Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of investigation including exhibits such as SF–91, Operator's Report of Motor Vehicle Accident; SF–91A, Investigation Report of Motor Vehicle Accident; SF–92A, Report of Accident Other Than Motor Vehicle; SF–94, Statement of Witness; Optional Form 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator In addition, attached as exhibits might be a Police Report of the accident; copies of insurance policies of the involved drivers; photographs of the scene or vehicles after the accident; Treasury Department vehicle maintenance record, medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, in folders, maintained in file cabinets, and on magnetic media.

RETRIEVABILITY:

By name of individual to whom it applies, cross-referenced third parties, subject, other identifier, and/or by case number.

SAFEGUARDS:

Minimum requirements provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been the subject of background investigations.

RETENTION AND DISPOSAL:

In accordance with Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner (Inspection). (See IRS Appendix A.)

VOL 50 ISS 140 JL 22 1985 UMI

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURE:

This system of records may not be accessed for purposes of inspection or for contest of content of records.

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

Primary—Forms 1040 and 1040A, U.S. Individual Income Tax Returns. Secondary—Form SS-5, Application for a Social Security Number.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from Privacy Act provisions relating to notification, access, and contest.

Treasury/IRS 80.001

SYSTEM NAME:

Artist File. Associate Chief Counsel (Technical)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Famous or noted artists whose works have been evaluated.

CATEGORIES OF RECORDS IN THE SYSTEM:

Commissioner's Art Panel decisions on values of works of art by named artists and appraisal documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 27 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, magnetic media.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

System has been retained since 1968. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Technical), National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Appraisal documentation and Art Panel decisions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 80.002

SYSTEM NAME:

Expert witness and fee appraiser files, Associate Chief Counsel (Technical)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential expert witnesses for litigation and fee appraisers for art valuation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical sketches, application letters, or list of names by specialty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. (1) To disclose information Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as needed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Technical), National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B.

Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Counsel (Technical), National Office.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Varied, generally from the named individual, often unsolicited.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 80.003

SYSTEM NAME:

Correspondence Control and Records, Associate Chief Counsel (Technical)—Treasury/IRS.

SYSTEM LOCATION:

National Office. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual subjects of letter rulings, technical advice, memorandum, and other correspondence from the Office of the Associate Chief Counsel (Technical).

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards and disks containing taxpayer names, date of correspondence, issue, and related information, including in some cases the conclusions reached, and related letter ruling, technical advice, memorandum, and other correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805 (a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and as necessary to report apparent violations of law to appropriate law enforcement agencies. These records and information in these records may be used: (1) To disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. (2) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Indexed by name and control number.

SAFEGUARDS:

Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16) 41.

RETENTION AND DISPOSAL:

Cards and disks are periodically updated and maintained as long as needed. Related files are destroyed or retired over varying numbers of years as

specified in the Records Control Schedule, IRM 1(15)59.1(10).

Drive, Strike Force, Narcotics Project, or HUD project.

1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties

or for contest of content of records as it is exempt under 5 U.S.C. 552a(j)(2).

a Federal, State, or local agency, maintaining civil, criminal or other

years after they are transferred to the FRC and disposed of 6 years after they

VOL 50 ISS 140 JL 22 1985 UMI

specified in the Records Control Schedule, IRM 1(15)59.1(10).

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Technical), National Office. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instruction appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

RECORD ACCESS PROCEDURES:

Individual seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Associate Chief Counsel (Technical), National Office.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Individual subjects of letter rulings, technical advice, memorandums, and other correspondence; field office personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 90.001

SYSTEM NAME:

Chief Counsel Criminal Tax Case Files. Each Regional Counsel Office, each District Counsel Office, and the National Office maintain one of these systems. The information in this notice applies to all 57 systems—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Regional Counsel Office, and each District Counsel Office are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers and related parties against whom tax-related criminal recommendations have been made. (2) Taxpayers and related parties under investigation for criminal tax-related violations who have corresponded with the Regional Counsel's Office. (3) Taxpayers and related parties on whom advice has been requested concerning investigation for tax-related offenses. (4) Potential witnesses in criminal tax investigations. (5) Investigative subjects in connection with Organized Crime Drive, Strike Force, Narcotics Project, or HUD project.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Internal Control Records. (2) Legal and administrative files including investigative reports. (3) Correspondence files. (4) Information on potential witnesses, including expert witnesses. (5) Special project files such as Organized Crime Drive, Narcotics Project, and HUD project.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Records are locked up during nonworking hours and during periods when the work area is vacant. Access is strictly controlled and limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain "significant case" files an additional 19 years and dispose of them 20 years after they are closed. Other legal files are retained in the FRC 4 years after they are transferred to the FRC and disposed of 5 years after they are closed. Duplicate National Office legal files are retained in the Division 1 year after they are closed in the field. Other records are retained in the Division for the same time periods described above. Files transferred from other Divisions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Director of the Criminal Tax Division is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual as it is exempt under 5 U.S.C. 552a(j)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for the purposes of inspection or for contest of content of records as it is exempt under 5 U.S.C. 552a(j)[2].

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses, informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.002

SYSTEM NAME:

Chief Counsel Disclosure Litigation Division Case Files—Treasury/IRS.

SYSTEM LOCATION:

Disclosure Litigation Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who communicate with the Service regarding disclosure matters or who are involved with a disclosure issue involving the Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Case Files; (2) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply, cross-referenced third parties, issues, and by case number.

SAFEGUARDS:

A background investigation is made on personnel. Division offices are located in a security area. Access to keys to these offices is restricted. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) 1 year after they are closed. The FRC will retain "significant case" files an additional 29 years and dispose of them 30 years after they are closed. Other legal files are retained in the FRC 5 years after they are transferred to the FRC and disposed of 6 years after they are closed. Other records, are retained in the Division for the same time periods as described above.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Disclosure Litigation Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purpose of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Persons who communicate with the agency regarding disclosure matters; Department of Treasury employees; State, local, and foreign governments; other Federal agencies; witnesses; informants; parties to disputed matters of fact or law.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.003

SYSTEM NAME:

Chief Counsel General Administrative Systems. Each of the 7 Regional Counsel Offices and 49 District Counsel Offices, each of the 9 Divisions in the National Office, the Office of the Chief Counsel, and the Office of the Deputy Chief Counsel, Associate Chief Counsels (Litigation and Technical) maintain a General Administrative System. This notice applies to all 68 of these systems.—Treasury/IRS.

SYSTEM LOCATION:

The location of these systems are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Past, present, and prospective

who are parties in practitioner actions under the jurisdiction of the Director of

information, which has requested information relevant to or necessary to

Statements, who makes the statements available to the public as required by

VOL 50 ISS 140 JL 22 1985 UMI

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Past, present, and prospective employees of the Chief Counsel's Office. (2) Tax Court Witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Employee records other than Official Personnel Files of the Office of Personnel Management and the Merit System Protection Board. (2) Time and attendance Rosters. (3) Financial records, such as travel expenses, Notary Public expenses, moving expenses, expenses of Tax Court witnesses, and miscellaneous expenses. (4) Employee recruiting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose information to the Office of Personnel Management and the Merit System Protection Board for appropriate Personnel actions. (3) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (4) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (5) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (6) To disclose information to foreign governments in accordance with formal or informal international agreements. (7) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (8) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (9) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (10) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are generally retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Records are updated periodically to reflect changes and maintained as long as needed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. Each Division Director is the system manager of the system in his or her Division. The Chief Counsel, the Deputy Chief Counsel, and the Associate Chief Counsels (Litigation) and (Technical), are the system managers of the system in each of their Offices. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of records in the National Office. The addresses are listed in the Appendix. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of records in the National Office. The addresses are listed in the Appendix. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a(k)(5).

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Employees, Department of Treasury Personnel; Tax Court witnesses; Office of Personnel Management and Merit System Protection Board; other Federal agencies; State, local, and foreign governments; references; former employers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.004

SYSTEM NAME:

Chief Counsel General Legal Services Case Files. Each of the seven Regional Counsel Offices and the National Office do or will maintain a General Legal Services Case File System. The information in this notice applies to all eight systems—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office and each Regional Counsel Office are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons involved in litigation, actions, investigations, or cases falling within the jurisdiction of the General Legal Services function, including persons (1) who have caused service of subpoenas, summonses, or other judicial processes directed to an officer or employee of the Treasury Department in his official capacity; (2) who are parties in personnel matters, as well as discrimination and labor management relations matters, of the Internal Revenue Service, Chief Counsel's Office, or, in some instances, other constituent units of the Treasury Department; (3)

who are parties in practitioner actions under the jurisdiction of the Director of Practice or the Joint Board of Actuaries; (4) who are parties in procurement matters and under the Federal Claims Collection Act; (5) who are parties in litigation or administrative claims involving alleged violations of the United States Constitution, the Federal Tort Claims Act, the Military Personnel and Civilian Employee Compensation Act, relief of accountable officers for loss of Government funds, rewards, acts of officers or employees acting within the scope of their employment, or official acts of officers or employees not directly relating to Federal tax issues but relating to the Internal Revenue Service; (6) who are parties in miscellaneous matters referred to the General Legal Service Division; (7) who are the subjects of investigations made by the Internal Security Division if the case is referred to the General Legal Services Division; (8) who have filed petitions for the remission or mitigation of forfeitures or who are otherwise directly involved as parties in forfeiture matters, judicial or administrative; (9) who are officials of the Internal Revenue Service and Chief Counsel's Office required to file a Financial Disclosure Statement under the Ethics in Government Act of 1978; (10) who have corresponded regarding a matter under consideration within the General Legal Services Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal case and administrative case files. (2) Internal Control Cards. (3) Correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purposes of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) To provide information to the Director of Practice and Joint Board of Actuaries in practitioner disciplinary matters. (11) To provide information to the Office of Personnel Management in personnel, discrimination, and labor management matters. (12) To provide information to arbitrators, the Federal Labor Relations Authority, including the Office of the General Counsel of that authority, the Federal Service Impasses Board, and the Federal Mediation and Conciliation Service in labor management matters. (13) To provide information to the Merit Systems Protection Board in Personnel, Discrimination, and Labor Management matters. (14) To provide information to the Equal Employment Opportunity Commission in Personnel, Discrimination, and Labor Management matters. (15) To provide information to the Special Counsel of the Merit Systems Protection Board in Personnel, Discrimination, and Labor Management matters. (16) To provide information to the General Services Administration in property management matters. (17) To provide information to Federal, state, and foreign government agencies to the extent necessary to obtain records in their possession. (18) To provide information to the Administrative Assistant of the Executive Reources Board as to Financial Disclosure Statements, who makes the statements available to the public as required by law. (19) To provide information to other Federal agencies for the purpose of effectuating inter-agency salary offset or inter-agency administrative offset. (20) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures of debt information concerning a claim against an individual may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply. If more than one person is involved in a given case, then it is generally retrievable only by the first named person.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) 1 year after the cases are closed. The FRC will retain "significant case" files an additional 19 years and dispose of them 20 years after they are closed. Other legal files are retained in the FRC 4 years after they are transferred to the center and disposed of 5 years after they are closed. Other records are retained in the Division for the same time periods described above.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the system in his or her Region. The Director of the General Legal Services Division is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system of records may not be

corresponded regarding a matter under consideration within the General

media in accordance with guidelines contained in 28 CFR 50.2 which relate to

RECORD ACCESS PROCEDURES:

information to appropriate Federal, State, local, or foreign

SAFEGUARDS:

VOL 50 ISS 140 JL 22 1985 UMI

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system of records may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.005

SYSTEM NAME:

Chief Counsel General Litigation Case Files. Each Regional Counsel Office, each District Counsel Office, and the National Office maintain one of these systems. The information in this notice applies to all 57 systems—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Regional Counsel Office, and each District Counsel Office are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers or other individuals involved in matters referred to the General Litigation function including: (a) Taxpayers with outstanding tax liabilities or with potential outstanding tax liabilities; (b) persons from whom information is being sought (summons); (c) persons requesting information (disclosure); (d) present or former Internal Revenue Service employees who are being or may be sued in connection with their duties or who have been called upon to testify in private litigation; (e) persons who are or may be liable to the United States on non-tax claims; (f) persons who have submitted offers in compromise of federal taxes. (2) Persons who have corresponded regarding a matter under consideration within the General Litigation function.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal and administrative files. (2) Internal Control Records. (3) Offer in Compromise files. (4) Correspondence files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To provide information to other Federal agencies holding funds of taxpayer for the purpose of collecting a liability owed by the taxpayer. (2) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (3) To provide information to State and local taxing authorities for purpose of enforcing federal tax laws. (4) To provide information to Federal, State, and local regulatory authorities for purposes of collection of Federal taxes. (5) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (6) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (7) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (8) To disclose information to foreign governments in accordance with formal or informal international agreements. (9) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (10) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (11) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (12) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

National Office, Regional, and District Counsel legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain "significant case" files an additional 24 years and dispose of them 25 years after the cases are closed. Other legal files are retained in the FRC 9 years after they are transferred to the Center and disposed of 10 years after they are closed. Other records are retained in the Division for the same time periods described above. Files transferred from other divisions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Director of the General Litigation Division is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of the Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of this Privacy Act.

Treasury/IRS 90.006

SYSTEM NAME:

Chief Counsel Interpretative Division Case Files—Treasury/IRS.

SYSTEM LOCATION:

Interpretative Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Employee Plans and Exempt Organizations Division, same address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers concerning whom legal issues have been referred to the Interpretative Division or the Employee Plans and Exempt Organizations Division for opinion.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Files and Advisory Legal Opinions; (2) General Counsel Memorandums; (3) Office Memorandums; (4) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) To provide information to the Social Security Administration to consult about a matter involving legal issues concerning the imposition of Social Security taxes. (11) To provide information to the Department of Labor or the Pension Benefit Guaranty Corporation concerning the Employee Retirement Income Security Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

General Counsel Memorandums, Office Memorandums, and Internal Control Records are periodically updated to reflect changes and maintained as long as needed. Legal files are transferred to the Federal Records Center (FRC) 6 years after the cases are closed and disposed of 25 years after they are closed. Other records are generally retained in the Division for the same time periods described above.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Interpretative Division, Internal Revenue Service, Office of the Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Director, Employee Plans and Exempt Organizations Division, same address.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 90.007

Treasury/IRS 90.007

SYSTEM NAME:

Chief Counsel Legislation and Regulations Division Correspondence and Private Bill Files—Treasury/IRS.

SYSTEM LOCATION:

Legislation and Regulations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Employee Plans and Exempt Organizations Division, same address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who have corresponded to the Service, the Department of the Treasury, the White House, or Members of Congress regarding a matter in which the Legislation and Regulations Division or the Employee Plans and Exempt Organizations Division was asked to draft a reply. (2) Persons on whose behalf private relief bills were introduced in Congress involving tax related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Correspondence files. (2) Private Relief Bill Legal Files. (3) Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) To provide information to the agency or individual who directed correspondence to the Legislation and Regulations Division for the Division to draft a response.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Correspondence files are retrievable by the name of the individual who initiated the correspondence. Private Relief Bill files are retrievable by the H.R. or S. number for each Congress.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Correspondence files are geneally disposed of after 3 years. Private Relief Bill files are periodically updated to reflect changes and are maintained as long as needed. Internal control records are generally disposed of after 2 years or when no longer useful. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Legislation and Regulations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224; Director, Employee Plans and Exempt Organization Division, same address.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS Appendix A.)

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. (See IRS Appendix A.)

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Persons who initiate correspondence referred to the Legislation and Regulations Division; Congressional documents; taxpayers and their representatives; Department of the Treasury personnel; other Federal agencies; state, local, and foreign governments; witnesses; informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 90.009

SYSTEM NAME:

Chief Counsel Tax Litigation Case Files. Each Regional Counsel Office, each District Counsel Office, and the National Office maintain one of these systems. The information in this notice applies to all 57 systems—Treasury/IRS.

SYSTEM LOCATION:

The addresses of the National Office, each Regional Counsel Office, and each District Counsel Office are listed in the Appendix. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who have filed petitions with the Tax Court or suits for refunds of Federal taxes. (2) Taxpayers upon whom the issuance of a statutory notice is or was contemplated whose case has been referred to the Tax Litigation function. (3) Taxpayers who are the subject of formal or informal advisory opinions during the investigative stage of the case or while under administrative processing. (4) Persons who have corresponded regarding a matter under consideration within the Tax Litigation function.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Legal Case and Administrative Case Files. (2) Internal Control Records. (3) Correspondence Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, state, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Legal files are generally retired to the Federal Records Center (FRC) one year after they are closed. The FRC will retain "significant case" files an additional 29 years and dispose of them 30 years after they are closed. Other legal files are retained in the FRC 9 years after they are transferred to the Center and disposed of 10 years after they are closed. Other records are periodically updated to reflect changes and maintained as long as needed. Files transferred from other divisions are returned to the source when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Regional Counsel is the system manager of the systems in his or her Region. The Director of the Tax Litigation Division is the system manager of the National Office system. The addresses are in the Appendix. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.010

SYSTEM NAME:

Digest Room Files Containing Briefs, Legal Opinions, and Digests of Documents Generated Internally or by the Department of Justice Relating to the Administration of the Revenue Laws—Treasury/IRS.

SYSTEM LOCATION:

Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers who have sought Internal Revenue Service rulings and/or legal opinions on tax problems and those whose cases are being or have been adjudicated.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Internal Control Records. (2) Briefs. (3) Legal Opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Justice Department personnel for research purposes. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to

a Federal, State, or local agency, maintaining civil, criminal or other

NOTIFICATION PROCEDURE:

This system may not be accessed for

of Justice for the purpose of litigating an action or seeking legal advice. (2) To

SAFEGUARDS:

Access is limited to employees who

the persons currently holding the above positions and those who previously held

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND

VOL 50 ISS 140 JL 22 1985 UMI

a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Records are kept in a secured area. Access is limited to authorized personnel. Users of the system must show IRS identification and sign a register each time the room is used. Background checks are made on employees.

RETENTION AND DISROSAL:

Records are periodically updated to reflect changes and maintained as long as needed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Department of Treasury personnel; Department of Justice personnel; taxpayers and their representatives; other Federal agencies; witnesses; informants; State, local, and foreign governments; parties to disputed matters of fact and law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.011

SYSTEM NAME:

Employee Recruiting Files Maintained by the Operations Division—Treasury/IRS.

SYSTEM LOCATION:

Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for attorney positions with the Chief Counsel's Office, both National Office and field, and persons who have applied for non-attorney positions in the National Office only.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant Files and lists of eligible applicants, Internal Control Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing, or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) To the Office of Personnel Management and Merit System Protection Board for appropriate personnel actions. (11) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

The applicant files and other records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Applicants, Department of Treasury Personnel; Office of Personnel Management; Other Federal Agencies; State, local, and foreign governments; references; former employers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.013

SYSTEM NAME:

Legal case files of the Chief Counsel, Deputy Chief Counsel, Associate Chief Counsels (Litigation) and (Technical)—Treasury/IRS.

SYSTEM LOCATION:

Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose cases at one time involved important issues or unusual circumstances which were brought to the attention of the above persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal case files which include internal control records of such case files of both the persons currently holding the above positions and those who previously held such positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records pertaining to individuals are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURE:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.014

SYSTEM NAME:

Management Files Maintained by Operations Division and the Deputy Chief Counsel other than the Office of

Personnel Management's Official Personnel Files—Treasury/IRS.

investigating or prosecuting the violations of, or for enforcing or

VOL 50 ISS 140 JL 22 1985 UMI

Personnel Management's Official Personnel Files—Treasury/IRS.

SYSTEM LOCATION:

Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224. The location of the Executive Resources Board Files is: Deputy Chief Counsel, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of Chief Counsel's Office, both National Office and field.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains some materials which are duplicated materials contained in the Official Personnel File, and includes material such as: Transfer and reassignment requests, miscellaneous correspondence, personnel listings, information regarding employees' participation in training programs, resumes, information on loss suffered by employees who are theft victims, on FTS, list of bus tokens issued, list of parking permits, records or requests for use of GSA vehicles, case assignments, and financial information on employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, Executive Order 11222, and Executive Order 11590.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) To the Office of Personnel Management and Merit System Protection Board for appropriate personnel actions (11) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224. The system manager of the Executive Resources Chief Counsel Board Files is: Deputy Chief Counsel, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURES:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Employees; Department of the Treasury personnel; Office of Personnel Management and Merit System Protection Board; other Federal agencies; State, local, and foreign governments; references; former employers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.015

SYSTEM NAME:

Reference Records of the Library in the Office of Chief Counsel—Treasury/IRS.

SYSTEM LOCATION:

Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who have sought Congressional tax relief by means of a Private Bill. (2) Taxpayers involved in tax litigation. (3) IRS employees who charge out books.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Numerical and alphabetical listing of Private Relief Bill and files related to the Bill. (2) Reference cards for tax cases. (3) Charge cards and inter-library loan forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 26 U.S.C. 7801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To disclose information to foreign governments in accordance with formal or informal international agreements. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (7) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (8) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Records are retrievable by the name of the individual to whom they pertain and Private Bill material can also be retrieved by H.R. or S. number.

SAFEGUARDS:

Although access is limited to authorized individuals, this material would be available to any person through a Freedom of Information Act request.

RETENTION AND DISPOSAL:

Records are regularly updated. If the library materials to which the references pertain are no longer in the library collection, the reference cards are destroyed. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitutional Avenue, NW., Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Material to which reference information pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 90.016

SYSTEM NAME:

Reports and Information Retrieval Activity Computer and Microfilm Records (Counsel/Appeals Tracking System)—Treasury/IRS.

SYSTEM LOCATION:

Computer Records: Internal Revenue Service Data Center, 1300 John Lodge Drive, Detroit, Michigan 48226 (and a commercial vendor to be identified later for FY 1983–1986 system development). Microfilm Records: Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, D.C., 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Taxpayers who initiated suits for refund in district courts or the Claims Court. (2) Taxpayers who have filed petitions with the United States Tax Court. (3) Taxpayers who have requested rulings from the Service in those cases in which the request has been referred to the Office of Chief Counsel for a legal opinion. (4) Taxpayers who have been involved in litigation concerning the collection of taxes. (5) Taxpayers whose cases were the subject of technical advice memoranda to the Solicitor General and similar advisory memoranda. (6) The Counsel/Appeals Tracking System to be developed during fiscal years 1983–1986 will act as a control and management information system for the following Chief Counsel systems of records: Treasury/IRS 90.001, 90.002, 90.003, 90.004, 90.005, 90.006, 90.007, 90.009, 90.010, 90.011, 90.013, 90.014, and 90.015. The system will contain control records concerning the categories of individuals identified in these systems. Control records concerning individuals who have, or had, cases pending with the Appeals Division will also be included in the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Skeletal legal files. (2) Indexes. (3) Actions on Decisions. (4) Case Abstracts. (5) Technical Advice Replies by the Tax Litigation Division. (6) Miscellaneous Advisory Memoranda regarding a case usually going to the Solicitor General.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose information to the Department of Justice for the purpose of litigating an action, seeking legal advice, or for research purposes. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or

settlement negotiations or in connection with criminal law proceedings. (5) To

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal

Associated records. This system may include tax return information and

NOTIFICATION PROCEDURE:

This system is exempt from the

District Director, Internal Revenue Service, Rm. 2483, Patrick V. McNamara Building,

District Director, Internal Revenue Service, U.S. Court and Custom House, 1114 Market

VOL 50 ISS 140 JL 22 1985 UMI

settlement negotiations or in connection with criminal law proceedings. (5) To disclose information to foreign governments in accordance with formal or informal international agreements. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (8) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Skeletal legal files and indexes to the narrative material or microfilm excluding the General Litigation Division's Actions on Decisions are stored on magnetic media. Actions on Decisions, Case Abstracts, Technical Advice and Advisory Memoranda are stored on microfilm. Input documents are on paper. The system to be developed during fiscal years 1983–1986 will also show access by interactive terminal.

RETRIEVABILITY:

Records are retrievable by legal jacket number and case issue. The system to be developed during fiscal years 1983–1986 will also allow retrieval by name of the person to whom they apply.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Passwords are required in the Counsel/Appeals Tracking System to access system information.

RETENTION AND DISPOSAL:

Magnetic media and microfilm will be periodically updated to reflect changes and maintained as long as needed. Input documents are retained for one year. Authority: IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue NW, Washington, D.C. 20224.

NOTIFICATION PROCEDURE:

This system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

RECORD ACCESS PROCEDURES:

This system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d)(5) and/or (k)(2).

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Taxpayers and their representatives; Department of Treasury personnel; other Federal agencies; State, local, and foreign governments; witnesses; informants; parties to disputed matters of fact or law; other persons who communicate with the Internal Revenue Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 00.002

SYSTEM NAME:

Correspondence Files and Correspondence Control Files (Including inquiries about enforcement activities)—Treasury/IRS.

SYSTEM LOCATION:

National Office, National Computer Center, Data Center, Regional Offices, District Offices, and Service Centers. (See IRS Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Initiators of correspondence. (2) Persons upon whose behalf the correspondence was initiated. (3) Persons who are subjects of the correspondence. Includes individuals for whom tax liabilities exist, individuals who have made a complaint or inquiry relative to an Internal Revenue tax matter, or individuals for whom a third party is interceding relative to an Internal Revenue tax matter.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Correspondence received. (2) Responses to correspondence. (3) Associated records. This system may include tax return information and investigation records as necessary to process correspondence received. Correspondence may include letters, telegrams, memoranda of telephone calls, and other forms of communication. This notice is not intended to apply to correspondence or correspondence controls covered by other published notices of systems of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system of records may be disclosed to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103 and as necessary to report apparent violations of law to appropriate law enforcement agencies. Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and/or such automated or electronic record-keeping equipment as may be locally available.

RETRIEVABILITY:

Controlled items are generally retrievable by name; some items are not retrievable, depending upon the controls established locally. No centralized index exists.

SAFEGUARDS:

Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Disposition varies in accordance with the nature of the correspondence file, but is made in accordance with the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioners, Regional Commissioners, District Directors, and Service Center Directors of Internal Revenue.

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Correspondence received. This system of records may contain investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS—Appendix A

Inquiries under Treasury/IRS systems should be addressed to the office whose records are to be searched. The titles and addresses of the Systems Managers are as follows:

National Office Internal Revenue Service

Assistant to the Commissioner (Equal Opportunity)
Assistant to the Commissioner (Public Affairs)
Assistant Commissioner (Collection)
Assistant Commissioner (Computer Services)
Assistant Commissioner (Employee Plans and Exempt Organizations)
Assistant Commissioner (Inspection)
Assistant Commissioner (Planning Finance and Research)
Assistant Commissioner (Human Resources)
Assistant Commissioner (Support and Services)
Assistant Commissioner (Returns and Information Processing)
Associate Chief Counsel (Technical)
Director, Disclosure and Security Division
Chief Counsel
Director, Appeals Division

The address for all of the above Systems Managers is as follows:
1111 Constitution Avenue, NW., Washington, D.C. 20224
Foreign Operations District, 1325 K Street, NW., Washington, D.C. 20225

Regional Office Internal Revenue Service

Central Region

Regional Commissioner, Internal Revenue Service, 550 Main Street, Cincinnati, Ohio 45202.
Regional Inspector, Internal Revenue Service, 550 Main Street, Room 8508, Cincinnati, Ohio 45202.
District Director, Internal Revenue Service, 550 Main Street, Cincinnati, Ohio 45202.
District Director, Internal Revenue Service, 1240 East 9th Street, Cleveland, Ohio 44199.
District Director, Internal Revenue Service, Rm. 2483, Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226.
District Director, Internal Revenue Service, Federal Office Building, 575 N. Pennsylvania Street, Indianapolis, Indiana 46204.
District Director, Internal Revenue Service, U.S. Post Office Building, 601 West Broadway, Louisville, Kentucky 40202.
District Director, Internal Revenue Service, 425 Juliana Street, Parkersburg, West Virginia 26101.
Director, Internal Revenue Service Center, Central Region, 201 W. Second St., Covington, Kentucky 41019.

Mid-Atlantic Region

Regional Commissioner, Internal Revenue Service, Room 500, 2 Penn Center Plaza, Philadelphia, Pennsylvania 19102.
Regional Inspector, Internal Revenue Service, Room 42284, W. J. Green Federal Bldg., 600 Arch Street, Philadelphia, Pennsylvania 19106.
District Director, Internal Revenue Service, Federal Building, 31 Hopkins Plaza, Baltimore, Maryland 21201.
District Director, Internal Revenue Service, 1501–970 Broad Street, Newark, New Jersey 07101.
District Director, Internal Revenue Service, 600 Arch Street, Philadelphia, Pennsylvania 19106.
District Director, Internal Revenue Service, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.
District Director, Internal Revenue Service, 400 North 8th Street, Richmond, Virginia 23240.
District Director, Internal Revenue Service, 844 King Street, Wilmington, Delaware 19801.
District Director, Internal Revenue Service Center, Mid-Atlantic Region, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155.

Midwest Region

Regional Commissioner, Internal Revenue Service, One North Wacker Drive, Chicago, Illinois 60606.
Regional Inspector, Internal Revenue Service, Rm. 1646, 35 East Wacker Drive, Chicago, Illinois 60601.
District Director, Internal Revenue Service, 115 Fourth Avenue, S.E., Aberdeen, South Dakota 57401.
District Director, Internal Revenue Service, 230 South Dearborn Street, Chicago, Illinois 60604.
District Director, Internal Revenue Service, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
District Director, Internal Revenue Service, Federal Building and Post Office, 653 Second Avenue, North, Fargo, North Dakota 58102.
District Director, Internal Revenue Service, Federal Building and Court House, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.
District Director, Internal Revenue Service, Federal Office Building, 106 South 15th Street, Omaha, Nebraska 68102.
District Director, Internal Revenue Service, U.S. Court and Custom House, 1114 Market Street, St. Louis, Missouri 63101.
District Director, Internal Revenue Service, Federal Building and Court House, 316 North Robert Street, St. Paul, Minnesota 55101.
District Director, Internal Revenue Service, 320 West Washington St., Springfield, Illinois 62704.
Director, Internal Revenue Service, Midwest Region, 2306 East Bannister Road, Kansas City, Missouri 64170.

North-Atlantic Region

Regional Commissioner, Internal Revenue Service, 90 Church Street, New York, New York 10007.
Regional Inspector, Internal Revenue Service, 28 Federal Plaza (14th Floor), New York, New York 10007.
District Director, Internal Revenue Service, 68 Sewell Street, Augusta, Maine 04330.
District Director, Internal Revenue Service, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.
District Director, Internal Revenue Service, Leo W. O'Brien Federal Building, Clinton Avenue and North Pearl Street, Albany, New York 12207.
District Director, Internal Revenue Service, 120 Church Street Station, New York, New York 10007.
District Director, Internal Revenue Service, 35 Tillary Street, Brooklyn, New York 11201.
District Director, Internal Revenue Service, 111 W. Huron Street, Buffalo, New York 14202.
District Director, Internal Revenue Service, 11 Elmwood Avenue, Burlington, Vermont 05401.
District Director, Internal Revenue Service, 135 Main Street, Hartford, Connecticut 06103.
District Director, Internal Revenue Service, Federal Building, 80 Daniels Street, Portsmouth, New Hampshire 03801.
District Director, Internal Revenue Service, 380 Westminster Mall, Providence, Rhode Island 02903.
Director, Internal Revenue Service Center, North-Atlantic Region, 310 Lowell Street, Andover, Massachusetts 01812.
Director, Internal Revenue Service Center, North-Atlantic Region, 1040 Waverly Avenue, Holtsville, New York 11799.

Southeast Region

Regional Commissioner, Internal Revenue Service, 275 Peachtree Street, N.E., Atlanta, Georgia 30043.
Regional Inspector, Internal Revenue Service, 4th FFoor, 221 Courtland Street, N.E., Atlanta, Georgia 30370.
District Director, Internal Revenue Service, 275 Peachtree Street, N.E., Atlanta, Georgia 30043.
District Director, Internal Revenue Service, 500 22nd Street, Rm. 300, Birmingham, Alabama 35233.
District Director, Internal Revenue Service, 1835 Assembly Street, Columbia, South Carolina 29201.

District Director, Internal Revenue Service, 320 Federal Place, Greensboro, North

District Director, Internal Revenue Service, 2120 N. Central Avenue, Phoenix, Arizona

Regional Counsel's Office, IRS, North-Atlantic Region, 26 Federal Plaza, 12th

Regional Director of Appeals, 625 Federal

District Counsel's Office, IRS, P.O. Box 1500,

District Counsel's Office, IRS, 801 I Street,

VOL
50
ISS
140
JL
22
1985
UMI

District Director, Internal Revenue Service, 320 Federal Place, Greensboro, North Carolina 27401.
District Director, Internal Revenue Service, 100 W. Capital Street, Jackson, Mississippi 39269.
District Director, Internal Revenue Service, Federal Office Building, 400 West Bay Street, Jacksonville, Florida 32202.
District Director, Internal Revenue Service, 801 Broadway, Nashville, Tennessee 37202.
Director, Internal Revenue Center, Southeast Region, 4800 Buford Highway, Chamblee, Georgia 30341.
Director, Internal Revenue Service Center, Southeast Region, 3131 Democrat Road, Memphis, Tennessee 37501.

Southwest Region

Regional Commissioner, Internal Revenue Service, 7839 Churchill Way, LB-70, Dallas, Texas 75251.
Regional Inspector, Internal Revenue Service, 7839 Churchill Way, LB-61, Dallas, Texas 75251.
District Director, Internal Revenue Service, 517 Gold Avenue, S.W., Albuquerque, New Mexico 87101.
District Director, Internal Revenue Service, 300 E. 8th Street, Austin, Texas 78701.
District Director, Internal Revenue Service, 3223 Briar Park, Houston, Texas 77042.
District Director, Internal Revenue Service, 308 W. 21st Street, Cheyenne, Wyoming 82001.
District Director, Internal Revenue Service, 1100 Commerce Street, Dallas, Texas 75242.
District Director, Internal Revenue Service, 610 Arapahoe Street, Denver, Colorado 80265.
District Director, Internal Revenue Service, 700 W. Capitol, Little Rock, Arkansas 72201.
District Director, Internal Revenue Service, 500 Camp Street, New Orleans, Louisiana 70130.
District Director, Internal Revenue Service, 200 N.W. 4th Street, Oklahoma City, Oklahoma 73102.
District Director, Internal Revenue Service, 412 S. Main Street, Wichita, Kansas 67202.
Director, Internal Revenue Service Center, Southwest Region, 3651 S. Interregional Highway, Austin, Texas 78740.

Western Region

Regional Commissioner, Internal Revenue Service, 525 Market Street, San Francisco, California 94105.
Regional Inspector, Internal Revenue Service, 160 Pine Street, Suite 500, San Francisco, California 94111.
District Director, Internal Revenue Service, 310 K Street, Anchorage, Alaska 99501.
District Director, Internal Revenue Service, 550 West Fort Street, Box 041, Boise, Idaho 83724.
District Director, Internal Revenue Service, Federal Building, 316 North Park, Helena, Montana 59601.
District Director, Internal Revenue Service, P.J.K.K. Federal Bldg., 300 Ala Moana, Honolulu, Hawaii 96850.
District Director, Internal Revenue Service, 2400 Avila Road, Laguna Niguel, CA 92677.
District Director, Internal Revenue Service, 300 N. Los Angeles Street, Los Angeles, CA 90012.
District Director, Internal Revenue Service, 2120 N. Central Avenue, Phoenix, Arizona 85004.
District Director, Internal Revenue Service, 1220 S.W. 3rd Ave., Portland, Oregon 97204.
District Director, Internal Revenue Service, 300 Booth Street, Reno, Nevada 89509.
District Director, Internal Revenue Service, 2345 Fair Oaks Blvd., Sacramento, CA 95825.
District Director, Internal Revenue Service, 465 S. 4th East, Salt Lake City, Utah 84111.
District Director, Internal Revenue Service, 450 Golden Gate Avenue, San Francisco, CA 94102.
District Director, Internal Revenue Service, One North First Street, San Jose, CA 95113.
District Director, Internal Revenue Service, 915 S. Second Street, Seattle, Washington, 98174.
Director, Internal Revenue Service Center, Western Region, 1160 W. 1200 South Street, Ogden, Utah 84201.
Director, Internal Revenue Service Center, Western Region, 5045 East Butler Avenue, Fresno, CA 93888.

Addresses of Chief Counsel, Regional Counsel, District Counsel, and Regional Director of Appeals Offices

National Office

Operations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Criminal Tax Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Disclosure Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
General Legal Services Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
General Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Interpretative Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Tax Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.
Chief Counsel, Deputy Chief Counsel, Associate Chief Counsels (Litigation), (Technical), and (General), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

Regional Counsel Offices

North-Atlantic Region

Regional Counsel Office

Regional Counsel's Office, IRS, North-Atlantic Region, 26 Federal Plaza, 12th Floor, New York, New York 10007.

District Counsel Offices

District Counsel's Office, IRS, 26 Federal Plaza, 12th Floor, New York, New York 10278.
District Counsel's Office, IRS, Manhattan Office, Leo W. O'Brien Federal Building, Clinton Avenue and N. Pearl Streets, Albany, New York 12207.
District Counsel's Office, IRS, 100 Summer Street, Room 1728, Boston, Massachusetts 02110.
District Counsel's Office, IRS, Brooklyn Office, 1000 Uniondale Avenue at Hempstead Turnpike, Uniondale, New York 11553.
District Counsel's Office, IRS, 304 U.S. Court House, Niagara Square, Buffalo, New York 14202.
District Counsel's Office, IRS, 35 High Street, Room 259, Hartford, Connecticut 06103.
Regional Director of Appeals, 90 Church St. N.Y., N.Y. 10007.

Mid-Atlantic Region:

Regional Counsel Office

Regional Counsel Office, IRS, Mid-Atlantic Region, 841 Chestnut Street, Room 360 Philadelphia, Pennsylvania 19107.

District Counsel Offices

District Counsel's Office, IRS, Room 10424, 600 Arch Street, Philadelphia, Pennsylvania 19106.
District Counsel's Office, IRS, Room 4100, 101 W. Lombard Street, Baltimore, Maryland 21201.
District Counsel's Office, IRS, 970 Broad St., Room 904, Newark, New Jersey 07101.
District Counsel's Office, IRS, Foreign Operations, Room 600, 1325 K Street, NW., Washington, D.C. 20225.
District Counsel's Office, IRS, 726 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.
District Counsel's Office, IRS, P.O. Box 10065, Richmond, Virginia 23240.
District Counsel's Office, IRS, Universal Building, North, 1875 Connecticut Avenue, NW., Washington, D.C. 20009.
Regional Director of Appeals, Room 360, 841 Chestnut St, Philadelphia, PA 19107.

Southeast Region:

Regional Counsel Office

Regional Counsel's Office, IRS, Southeast Region, P.O. Box 1974, Atlanta, Georgia 30370.

District Counsel Offices

District Counsel's Offices, IRS, P.O. 901, Atlanta, Georgia 30370.
District Counsel's Office, IRS, Room 340, 500 22nd Street, South, Birmingham, Alabama 35203.
District Counsel's Office, IRS, P.O. Box 21002, Greensboro, North Carolina 27420.
District Counsel's Office, IRS, Box 35027, Federal Office Building, 400 West Bay Street, Jacksonville, Florida 32202.
District Counsel's Office, IRS, Room 1502, Federal Office Building, 51 SW First Avenue, Miami, Florida 33130.
District Counsel's Office, IRS, P.O. Box 23264, Nashville, Tennessee 37202.

Regional Director of Appeals, 625 Federal Office Building, 275 Peachtree St., N.E., Atlanta, GA 30043.

Central Region:

Regional Counsel Office

Regional Counsel's Office, IRS, 7570 Federal Office Building, 550 Main Street, Cincinnati, Ohio 45201.

District Counsel Offices

District Counsel's Office, IRS, 7525 Federal Office Bldg., 550 Main Street, Cincinnati, Ohio 45201.
District Counsel's Office, IRS, 605 Bancohio Building, 1404 E. Ninth St., Cleveland, Ohio 44114.
District Counsel's Office, IRS, P.O. Box 32516, Detroit, Michigan 48232.
District Counsel's Office, IRS, P.O. Box 44010, Indianapolis, Indiana 46244.
District Counsel's Office, IRS, P.O. Box 898, Louisville, Kentucky 40201.
Regional Director of Appeals, 7514 Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202.

Midwest Region:

Regional Counsel Office

Regional Counsel's Office, IRS, Suite 3410, 230 South Dearborn Street, Chicago, Illinois 60604.

District Counsel Offices

District Counsel's Office, IRS, 1342 Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604.
District Counsel's Office, IRS, Room 441, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
District Counsel's Office, IRS, 2700 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.
District Counsel's Office, IRS, Suite 760, 310 W. Wisconsin Avenue, Milwaukee, Wisconsin 53233.
District Counsel's Office, IRS, P.O. Box 1500, Downtown Station, Omaha, Nebraska 68101.
District Counsel's Office, IRS, Room 720, 320 West Washington Street, Springfield, Illinois 62701.
District Counsel's Office, IRS, P.O. Box 1146, H. W. Wheeler Station, St. Louis, Missouri 63101.
District Counsel's Office, IRS, Room 572, Federal Building and U.S. Court House, 316 N. Robert Street, St. Paul, Minnesota 55101.
Regional Director of Appeals, 10th Floor, One N. Wacker Drive, Chicago, Illinois 60606.

Southwest Region:

Regional Counsel Office

Regional Counsel's Office, IRS, Southwest Region, 7839 Churchill Way, LB-61, Dallas, Texas 75251.

District Counsel Offices

District Counsel's Office, IRS, Room 12A24, Earle Cabell Federal Building, 1100 Commerce St., Dallas, TX 75242.
District Counsel's Office, IRS, 20th Floor, 1050-17th Street, Denver, Colorado 80265.
District Counsel's Office, IRS, Room 8102, Federal Building, 515 Rusk Avenue, Houston, Texas 77002.
District Counsel's Office, IRS, P.O. Box 30509, New Orleans, Louisiana 70190.
District Counsel's Office, IRS, P.O. Box 1903, Oklahoma City, Oklahoma 73101.
Regional Director of Appeals, LB-70, 7839 Churchill Way, Dallas, TX 75251.

Western Region:

Regional Counsel Office

Regional Counsel's Office, IRS, Western Region, Room 2470, 525 Market Street, San Francisco, CA 94105.

District Counsel Offices

District Counsel's Office, IRS, 84 W. Santa Clara Street, Room 300, San Jose, CA 95113.
District Counsel's Office, IRS, 801 I Street, Room 204, Sacramento, CA 95814.
District Counsel's Office IRS, P.O. Box 2031, Main Post Office, Los Angeles, CA 90053.
District Counsel's Office, IRS, 101 N. First Avenue, Suite 1474, Phoenix, AZ 85003.
District Counsel's Office, IRS, 810 Crown Plaza, 1500 S.W. First Avenue, Portland, Oregon 97201.
District Counsel's Office, IRS, P.O. Box 891, Reno, Nevada 89504.
District Counsel's Office, IRS, 940 Front Street, Room 5S18, San Diego, California 92189.
District Counsel's Office, IRS, Room 2710, Federal Building, 915 Second Ave., Seattle, Washington 98174.
District Counsel's Office, IRS, P.O. Box 2520, Salt Lake City, Utah 84110.
District Counsel's Office, IRS, P.O. Box 891, Reno, Nevada 89504.
District Counsel's Office, IRS, P.O. Box 2520, Salt Lake City, Utah 84110.
District Counsel's Office, IRS, 2N16 U.S. Courthouse, 940 Front Street, San Diego, CA 92189.
District Counsel's Office, IRS, Suite 900, Two Embarcadero Center, San Francisco, CA 94111.
District Counsel's Office, IRS, 2710 Federal Building, 915 Second Avenue, Seattle, Washington 98174
District Counsel's Office, IRS, P.O. Box 50089, Honolulu, HI 96850
Regional Director of Appeals, 525 Market Street, San Francisco, CA 94105.

[FR Doc. 85-17128 Filed 7-19-85; 8:45 am]
BILLING CODE 4830-01-M

VOL
50

ISS
140

JL
22

1985

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federal register

Monday
July 22, 1985

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notices of Completion of Review for 1978 and of Five-Year Review for Species Listed Before 1976 and in 1979 and 1980

DEPARTMENT OF THE INTERIOR

substantial data to suggest a change in status for any of the 39 species. All such

Snails:

Scrophulariaceae—Snapdragon family:

Suite 700, Newton Corner, Massachusetts 02158.

is listed, upon a determination that such

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review Completed for Species Classified as Endangered or Threatened in 1978

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 5-year review completion.

SUMMARY: The Service reports the completion of its review of species listed as endangered or threatened in 1978. No proposed change in the status of these species is contemplated in the near future.

DATES: The Service will continue to accept data on any listed species at any time.

ADDRESSES: Comments or data may be submitted to the Director (OES–500 Broyhill), U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, 500 Broyhill, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771 or FTS 235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973 (16 U.S.C. 1531, *et seq.*), as amended, requires the Service to conduct a review of all listed species at least once every 5 years. The purpose of this action is to ensure that the listing accurately reflects the most current status of the listed species. In order to aid in discharging this responsibility, the Service requested in the **Federal Register** of December 8, 1983 (48 FR 55102), comments and appropriate data that might document the need to delist or reclassify any of the species of endangered or threatened wildlife and plants listed in 1978. The Service requested all comments be submitted by April 6, 1984, in order to be considered in this review. The Service actively sought comments from recovery teams, applicable State conservation agencies, individuals known to be concerned with particular species, and other groups and individuals who might shed light on the current status of those species in this review. In addition, the Service searched its own files and requested data from Service biologists that might also help in this review.

The Service has reviewed all the pertinent material available on each species and finds that there are no substantial data to suggest a change in status for any of the 39 species. All such data support the present status for those species. However, it is possible that at some point before the next 5-year review for these species that data may become available that would suggest the Service propose the reclassification or even delisting of one or more species.

The Service has conducted four previous 5-year reviews (e.g., review of species listed in 1976, 1977, etc.). A few species have either been delisted or reclassified as a result, at least in part, of these 5-year reviews. This is the first summary of the results of any 5-year review to be published; summaries will be published of future 5-year reviews in order to better inform the public of the outcome of the reviews.

Author

The primary author of this notice is Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

List of Wildlife Reviewed in 50 CFR 17.11

Mammals:

Elephant, African (*Loxodonta africana*)
Wolf, gray (*Canis lupus*)

Birds:

Eagle, bald (*Haliaeetus leucocephalus*)

Reptiles:

Boa, Mona (*Epicrates monensis monensis*)
Iguana, Mona ground (*Cyclura stejnegeri*)
Rattlesnake, New Mexican (*Crotalus willardi obscurus*)
Snake, eastern indigo (*Drymarchon corais couperi*)
Turtle, green sea (*Chelonia mydas*)
Turtle, loggerhead sea (*Caretta caretta*)
Turtle, Olive (Pacific) Ridley sea (*Lepidochelys olivacea*)

Fishes:

Darter, leopard (*Percina pantherina*)
Trout, greenback cutthroat (*Salmo clarki stomias*)
Trout, little kern golden (*Salmo aquabonita whitei*)

Snails:

Snail, Chittenango ovate amber (*Succinea chittenangoensis*)
Snail, flat-spired three-toothed (*Triodopsis platysayoides*)
Snail, Iowa Pleistocene (*Discus macclintocki*)
Snail, noonday (*Mesodon clarki nantahala*)
Snail, painted snake coiled forest (*Anguispira picta*)
Snail, Stock Island (*Orthalicus reses*)
Snail, Virginia fringed mountain (*Polygyriscus virginianus*)

Crustaceans:

Isopod, Socorro (*Thermosphaeroma* [=*Exosphaeroma*] *thermophilus*)

List of Plants Reviewed in 50 CFR 17.12

Betulaceae—Birch family:

Betula uber (Virginia round-leaf birch)

Brassicaceae—Mustard family:

Arabis mcdonaldiana (McDonald's rock-cress)
Erysimum capitatum var. *angustatum* (Contra Costa wallflower)

Crassulaceae—Stonecrop family:

Dudleya traskiae (Santa Barbara Island liveforever)

Fabaceae—Pea family:

Astragalus perianus (Rydberg milk-vetch)
Baptisia arachnifera (Hairy rattleweed)
Vicia menziesii (Hawaiian vetch)

Hydrophyllaceae—Waterleaf family:

Phacelia argillacea (Clay-loving phacelia)

Lamiaceae—Mint family:

Pogogyne abramsii (San Diego mesa mint)

Liliaceae—Lily family:

Trillium persistens (Persistent trillium)

Onagraceae—Evening-primrose family:

Oenothera avita ssp. *eurekensis* (Eureka Valley evening-primrose)
Oenothera deltoides ssp. *howellii* (Antioch Dunes evening-primrose)

Poaceae—Grass family:

Tuctoria mucronata (=*Orcuttia m.*) (Solano grass)
Swallenia alexandrae (Eureka Dune grass)
Zizania texana (Texas wild-rice)

Ranunculaceae—Buttercup family:

Aconitum noveboracense (Northern wild monkshood)

Scrophulariaceae—Snapdragon family:

Cordylanthus maritimus spp. *maritimus* (Salt marsh bird's beak)
Pedicularis furbishiae (Furbish lousewort)

Dated: June 28, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–17235 Filed 7–19–85; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 5-Year Review for Species Listed Before 1976 and in 1979 and 1980

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Endangered Species Act of 1973, as amended, requires the Service to conduct a review of all species listed as endangered or threatened at least once every 5 years. The purpose of this action is to ensure that the list accurately reflects the most current status of the species. The Service requests comments and appropriate data that might document the need to delist or reclassify any of the species of wildlife and plants in the table below. If, as a result of this review, the present classification of these species as endangered or threatened is not consistent with the current evidence, the Service may propose changes accordingly.

DATES: In order to be considered in this review, comments must be received no later than November 19, 1985.

ADDRESSES: Each species in the table below has a U.S. Fish and Wildlife Service office (USFWS) identified for receipt of comments:

1. Regional Director, Region 1 (ARD/FA), USFWS, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.
2. Regional Director, Region 2 (ARD/AFF), USFWS, 500 Gold Avenue, SW., P.O. Box 1306, Albuquerque, New Mexico 87103.
3. Regional Director, Region 3 (ARD/AFF), USFWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.
4. Regional Director, Region 4 (ARD/FA), USFWS, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303.
5. Regional Director, Region 5 (ARD/FA), USFWS, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.
6. Regional Director, Region 6 (ARD/FA), USFWS, 134 Union Boulevard, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.
7. Regional Director, Region 7 (ARD/FA), USFWS, 1101 E. Tudor Road, Anchorage, Alaska 99503.
8. Associate Director—Federal Assistance, Room 3024, USFWS, Department of the Interior, Washington, D.C. 20240.

Comments and materials sent in response to this notice of review will be available for public inspection at the appropriate office (see addresses above and the table of species below) by appointment during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, 5th Floor Broyhill, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 (wildlife) and 50 CFR 17.12 (plants). The most recent publication of such lists was in the Code of Federal Regulations of October 1, 1984. The procedural rules for listing, reclassifying, or removing species from the lists are codified at 50 CFR Part 424. The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, and 50 CFR 424.21 require the Service to conduct a review of each listed species at least once every 5 years. Species that are to be considered under the present review are species listed during 1979 or 1980 or before 1976 and are listed in the table below. Species subsequently affected by rules reclassifying all or significant parts of their populations are not included in this notice.

Definitions

The following definitions are provided to assist those persons who contemplate submitting information regarding the status of the species given in the table below:

1. "Critical Habitat" means (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.
2. "Endangered" means any species which is in danger of extinction throughout all or a significant portion of its range.
3. "Species" includes any species or subspecies of fish or wildlife or plant, and any distinct population segment of any species or subspecies of a vertebrate, which is capable of interbreeding when mature.
4. "Threatened" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

A species is determined to be endangered or threatened because of any of the following factors (§ 424.11(c)):

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;
(b) Overutilization for commercial, recreational, scientific, or educational purposes;
(c) Disease or predation;
(d) The inadequacy of existing regulatory mechanisms; or
(e) Other natural or manmade factors affecting its continued existence.

The factors considered when removing a species from the lists are also those in the paragraph above. The data to support such removal must be the best scientific and commercial data available to the Service to substantiate that the species is neither endangered nor threatened for one or more of the following reasons:

1. *Extinction.* Unless all individuals of the listed species had been previously identified and located and were later found to be extirpated from their previous range, a sufficient period of time must be allowed before delisting to clearly ensure that the species is in fact extinct.
2. *Recovery of the species.* The principal goal of the Service is to return listed species to a point at which protection under the Act is no longer required. A species may be delisted on the basis of recovery only if the best scientific and commercial data available indicate that it is no longer endangered or threatened.
3. *Original data for classification in error.* Subsequent investigations may show that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error.

Effects of the Review

If substantial evidence is available to the Service or is presented by any party

for one or more species in the table

from the public, other governmental

pertinent publications, or copies of

LIST OF SPECIES UNDER REVIEW—Continued

VOL 50 ISS 140 JL 22 1985 UMI

for one or more species in the table below, the Service may propose new rules that could do any of the following: (a) Reclassify a species from endangered to threatened, (b) reclassify a species from threatened to endangered, or (c) remove a species from the Lists of Endangered and Threatened Wildlife and Plants. Distinct geographic populations of vertebrate species as well as subspecies of all species may be proposed for either separate reclassification or for removal from the lists. If no substantial data are available or presented to suggest a status change for a particular species, then the next formal status review for that species will be announced no later than 5 years hence. However, the Service continuously reviews the status of listed species, and reclassifications and delistings are initiated whenever data shows they are appropriate.

Public Comments Solicited

The Service requests comments concerning the status of any of the species in the table below. Comments from the public, other governmental agencies, the scientific community, industry, or any other interested party are hereby solicited. The original proposed and final rules (see "When Listed" citation in table below) for each species may be used to determine what data formed the basis for the original classification. The Service primarily seeks any new or additional information that reflects the necessity of a change in status. If significant data are available warranting a change in a species' classification under the Act, the Service may propose a rule to modify the present status of the species. Comments and data are requested regarding past and present numbers and distribution of the involved species, subspecies, or distinct vertebrate population; the particular threatening factors affecting the species; and, if appropriate, the features and importance of any critical habitat. This information should preferably be supported by documentation, such as maps, a list of bibliographic references, reprints or pertinent publications, or copies of written reports or letters from authorities.

Author

The primary author of this notice is Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-1975).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1255; Pub. L. 97-304; 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: June 28, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

LIST OF SPECIES UNDER REVIEW

Species: Common name	Species: Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Office receiving comment
MAMMALS						
Anoa, lowland	*Bubalus depressicornis* (=*B. anoa depressicornis*).	Indonesia	Entire	E	3	8
Armadillo, pink fairy	*Chlamyphorus truncatus*	Argentina	do	E	3	8
Ass, African wild	*Equus asinus* (=*africanus*)	Somalia, Sudan, Ethiopia	do	E	3	8
Ass, Asian wild (=kulan, onager)	*Equus hemionus*	Southwestern and central Asia	do	E	3	8
Avahi	*Avahi* (=*Lichanotus*) *laniger* (=entire genus).	Malagasy Republic (=Madagascar)	do	E	3	8
Aye-Aye	*Daubentonia madagascariensis*	Malagasy Republic (=Madagascar)	do	E	3	8
Bandicoot, barred	*Perameles bougainville*	Australia	do	E	4	8
Bandicoot, desert	*Perameles eremiana*	do	do	E	6	8
Bandicoot, lesser rabbit	*Macrotis leucura*	do	do	E	4	8
Bandicoot, pig-footed	*Chaeropus ecaudatus*	do	do	E	4	8
Bandicoot, rabbit	*Macrotis lagotis*	do	do	E	4	8
Banteng	*Bos javanicus* (=*banteng*)	Southeast Asia	do	E	3	8
Bat, Hawaiian hoary	*Lasiurus cinereus semotus*	U.S.A. (Hawaii)	do	E	2	1
Bat, Indiana	*Myotis sodalis*	Eastern and midwestern U.S.A	do	E	1	3
Bat, Ozark big-eared	*Plecotus townsendii ingens*	U.S.A. (MO, OK, AR)	do	E	85	4
Bat, Virginia big-eared	*Plecotus townsendii virginianus*	U.S.A. (KY, WV, VA)	do	E	85	5
Bear, brown or grizzly	*Ursus arctos horribilis*	Canada, western U.S.A	U.S.A.—48 conterminous States.	T	1, 2, 9	8
Bear, Mexican grizzly	*Ursus arctos nelsoni*	Mexico	Entire	E	3	2
Bison, wood	*Bison bison athabascae*	Canada, northwestern U.S.A	Canada	E	3	8
Cat, Iriomote	*Felis (Mayailurus) iriomotensis*	Japan (Iriomote Island, Ryukyu Islands)	Entire	E	60	8
Cat, tiger	*Felis tigrinus*	Costa Rica to northern Argentina	do	E	5	8
Cheetah	*Acinonyx jubatus*	Africa to India	do	E	3, 5	8
Civet, Malabar large-spotted	*Viverra megaspila civettina*	India	do	E	50	8
Cougar, eastern	*Felis concolor couguar*	Eastern North America	do	E	8	5
Deer, Bactrian	*Cervus elaphus bactrianus*	U.S.S.R., Afghanistan	do	E	50	8
Deer, Barbary	*Cervus elaphus barbarus*	Morocco, Tunisia, Algeria	do	E	50	6
Deer, Bawean	*Axis* (=*Cervus*) *porcinus kuhli*	Indonesia	do	E	3	8
Deer, Cedros Island mule	*Odocoileus hemionus cedrosensis*	Mexico (Cedros Island)	do	E	10	8
Deer, Columbian white-tailed	*Odocoileus virginianus leucurus*	U.S.A. (WA, OR)	do	E	1	1
Deer, Corsican red	*Cervus elaphus corsicanus*	Corsica, Sardinia	do	E	50	8
Deer, Eld's brow-antlered	*Cervus eldi*	India to Southeast Asia	do	E	3	8
Deer, Formosan sika	*Cervus nippon taiouanus*	Taiwan	do	E	50	8
Deer, key	*Odocoileus virginianus clavium*	U.S.A. (southern Florida)	do	E	1	4
Deer, marsh	*Blastocerus dichotomus*	Argentina, Uruguay, Paraguay, Bolivia, Brazil.	do	E	3	8
Deer, McNeill's	*Cervus elaphus macneilli*	China (Sinkiang, Tibet)	do	E	3	8
Deer, North China sika	*Cervus nippon mandarinus*	China (Shantung and Chihli Provinces)	do	E	50	8
Deer, Persian fallow	*Dama dama mesopotamica*	Iraq, Iran	do	E	3	8
Deer, Ryukyu sika	*Cervus nippon keramae*	Japan (Ryukyu Islands)	do	E	50	8
Deer, Shansi sika	*Cervus nippon grassianus*	China (Shansi Province)	do	E	50	8
Deer, South China sika	*Cervus nippon kopschi*	Southern China	do	E	50	8
Deer, swamp (=barasingha)	*Cervus duvauceli*	India, Nepal	do	E	3	8
Deer, Yarkand	*Cervus elaphus yarkandensis*	China (Sinkiang)	do	E	50	8

LIST OF SPECIES UNDER REVIEW—Continued

Species: Common name	Species: Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Office receiving comment
Dhole (=Asiatic wild dog)	*Cuon alpinus*	U.S.S.R., Korea, China, India, Southeast Asia.	do	E	3	8
Dibbler	*Antechinus apicalis*	Australia	do	E	4	8
Dugong	*Dugong dugon*	East Africa to southern Japan, including U.S.A. (Trust Territories).	do	E	4	8
Duiker, Jentink's	*Cephalophus jentinki*	Sierra Leone, Liberia, Ivory Coast	do	E	50	8
Eland, Western giant	*Taurotragus derbianus derbianus*	Senegal to Ivory Coast	do	E	50	8
Ferret, black-footed	*Mustela nigripes*	Western U.S.A., western Canada	do	E	1, 3	8
Fox, Northern swift	*Vulpes velox hebes*	U.S.A. (northern plains), Canada	Canada	E	3	8
Fox, San Joaquin kit	*Vulpes macrotis mutica*	U.S.A. (California)	Entire	E	1	1
Fox, Simien	*Canis (Simenia) simensis*	Ethiopia	do	E	50	8
Gazelle, Arabian	*Gazella gazella*	Arabian Peninsula, Palestine, Sinai	do	E	50	8
Gazelle, Clark's (=Dibatag)	*Ammodorcas clarkei*	Somalia, Ethiopia	do	E	3	8
Gazelle, Cuvier's	*Gazella cuvieri*	Morocco, Algeria, Tunisia	do	E	3	8
Gazelle, Mhorr	*Gazella dama mhorr*	Morocco	do	E	3	8
Gazelle, Moroccan (=Dorcas)	*Gazella dorcas massaesyla*	Morocco, Algeria, Tunisia	do	E	3	8
Gazelle, Pelzeln's	*Gazella dorcas pelzelni*	Somalia	do	E	50	8
Gazelle, Rio de Oro Dama	*Gazella dama lozanoi*	Western Sahara	do	E	3	8
Gazelle, sand	*Gazella subgutturosa marica*	Jordan, Arabian Peninsula	do	E	50	8
Gazelle, Saudi Arabian	*Gazella dorcas saudiya*	Israel, Iraq, Jordan, Syria, Arabian Peninsula.	do	E	50	8
Gazelle, slender-horned (=Rhim)	*Gazella leptoceros*	Sudan, Egypt, Algeria, Libya	do	E	3	8
Gorilla	*Gorilla gorilla*	Central and western Africa	do	E	3	8
Hartebeest, Swayne's	*Alcelaphus buselaphus swaynei*	Ethiopia, Somalia	do	E	3, 50	8
Hartebeest, Tora	*Alcelaphus buselaphus tora*	Ethiopia, Sudan, Egypt	do	E	50	8
Hog, pygmy	*Sus salvanius*	India, Nepal, Bhutan, Sikkim	do	E	3	8
Hyena, Barbary	*Hyaena hyaena barbara*	Morocco, Algeria, Tunisia	do	E	3	8
Hyena, brown	*Hyaena brunnea*	Southern Africa	do	E	3	8
Ibex, Pyrenean	*Capra pyrenaica pyrenaica*	Spain	do	E	3	8
Ibex, Walia	*Capra walie*	Ethiopia	do	E	3	8
Impala, black-faced	*Aepyceros melampus petersi*	Namibia, Angola	do	E	3	8
Indri	*Indri indri* (=entire genus)	Malagasy Republic (=Madagascar)	do	E	3	8
Jaguar	*Panthera onca*	U.S.A. (TX, NM, AZ), C. and S. America	Mexico southward	E	5	2
Kangaroo, Tasmanian forester	*Macropus giganteus tasmaniensis*	Australia (Tasmania)	Entire	E	8	8
Kouprey	*Bos sauveli*	Vietnam, Laos, Cambodia, Thailand	do	E	3	8
Langur, Douc	*Pygathrix nemaeus*	Cambodia, Laos, Vietnam	do	E	3	8
Langur, Pagi Island	*Nasalis (Simias) concolor*	Indonesia	do	E	3	8
Lechwe, red	*Kobus leche*	Southern Africa	do	T	3, 15, 108	8
Leopard, snow	*Panthera uncia*	Central Asia	do	E	6	8
Lion, Asiatic	*Panthera leo persica*	Turkey to India	do	E	3	8
Lynx, Spanish	*Felis* (=*Lynx*) *pardina*	Spain, Portugal	do	E	3	8
Macaque, lion-tailed	*Macaca silenus*	India	do	E	3	8
Manatee, Amazonian	*Trichechus inunguis*	South America (Amazon River Basin)	do	E	3	8
Manatee, West African	*Trichechus senegalensis*	West coast of Africa from Senegal River to Cuanza River.	do	T	52	8
Manatee, West Indian (Florida)	*Trichechus manatus*	U.S.A. (southeastern), Caribbean Sea, South America.	do	E	1; 3	4
Mangabey, Tana River	*Cercocebus galeritus*	Kenya	do	E	3	8
Margay	*Felis wiedii*	U.S.A. (Texas), C. and S. America	Mexico southward	E	5	8
Marmoset, Goeldi's	*Callimico goeldii*	Brazil, Colombia, Ecuador, Peru, Bolivia	Entire	E	3	8
Marsupial, eastern jerboa	*Antechinomys laniger*	Australia	do	E	4	8
Marsupial-mouse, large desert	*Sminthopsis psammophila*	do	do	E	4	8
Marsupial-mouse, long-tailed	*Sminthopsis longicaudata*	do	do	E	4	8
Marten, Formosan yellow-throated	*Martes flavigula chrysospila*	Taiwan	do	E	3	8
Monkey, red-backed squirrel	*Saimiri oerstedii*	Costa Rica, Panama	do	E	3	8
Monkey, spider	*Ateles geoffroyi panamensis*	do	do	E	3	8
Monkey, spider	*Ateles geoffroyi frontatus*	Costa Rica, Nicaragua	do	E	3	8
Monkey, woolly spider	*Brachyteles arachnoides*	Brazil	do	E	3	8
Monkey, Zanzibar red colobus	*Colobus kirki*	Tanzania	do	E	3	8
Mouse, Field's	*Pseudomys fieldi*	Australia	do	E	4	8
Mouse, Gould's	*Pseudomys gouldii*	do	do	E	8	8
Mouse, New Holland	*Pseudomys novaehollandiae*	do	do	E	4	8
Mouse, salt marsh harvest	*Reithrodontomys raviventris*	U.S.A. (California)	do	E	2	1
Mouse, Shark Bay	*Pseudomys praeconis*	Australia	do	E	4	8
Mouse, Shortridge's	*Pseudomys shortridgei*	do	do	E	4	8
Mouse, Smoky	*Pseudomys fumeus*	do	do	E	4	8
Mouse, western	*Pseudomys occidentalis*	do	do	E	4	8
Muntjac, Fea's	*Muntiacus feae*	Northern Thailand, Burma	do	E	50	8
Native-cat, eastern	*Dasyurus viverrinus*	Australia	do	E	8	8
Numbat	*Myrmecobius fasciatus*	do	do	E	4; 8	8
Orangutan	*Pongo pygmaeus*	Borneo, Sumatra	do	E	3	8
Oryx, Arabian	*Oryx leucoryx*	Arabian Peninsula	do	E	3	8
Otter, Cameroon clawless	*Aonyx (Paraonyx) congica microdon*	Cameroon, Nigeria	do	E	3	8
Otter, giant	*Pteronura brasiliensis*	South America	do	E	3	8
Panther, Florida	*Felis concolor coryi*	U.S.A. (LA and AR east to SC and FL)	do	E	1	4
Planigale, little	*Planigale ingrami subtilissima* (formerly *P. subtilissima*).	Australia	do	E	4	8
Planigale, southern	*Planigale tenuirostris*	do	do	E	4	8
Porcupine, thin-spined	*Chaetomys subspinosus*	Brazil	do	E	3	8
Possum, mountain pygmy	*Burramys parvus*	Australia	do	E	4	8
Possum, scaly-tailed	*Wyulda squamicaudata*	do	do	E	4	8
Prairie dog, Mexican	*Cynomys mexicanus*	Mexico	do	E	3	8
Pronghorn, peninsular	*Antilocapra americana peninsularis*	Mexico (Baja California)	do	E	10	8
Pronghorn, Sonoran	*Antilocapra americana sonoriensis*	U.S.A. (AZ), Mexico	do	E	1, 3	2
Quokka	*Setonix brachyurus*	Australia	do	E	8	8
Rabbit, Ryukyu	*Pentalagus furnessi*	Japan (Ryukyu Islands)	do	E	50	8
Rabbit, volcano	*Romerolagus diazi*	Mexico	do	E	3	8
Rat, false water	*Xeromys myoides*	Australia	do	E	4	8
Rat, Morro Bay kangaroo	*Dipodomys heermanni morroensis*	U.S.A. (California)	do	E	2	1

VOL

LIST OF SPECIES UNDER REVIEW—Continued

Species

Vertebrate

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VOL 50 ISS 140 JL 22 1985 UMI

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Rat, stick-nest	*Leporillus conditor*	Australia	do	E	6	8
Rat-kangaroo, brush-tailed	*Bettongia penicillata*	do	do	E	4	8
Rat-kangaroo, Gaimard's	*Bettongia gaimardi*	do	do	E	6	8
Rat-kangaroo, Lesuer's	*Bettongia lesueur*	do	do	E	4	8
Rat-kangaroo, plain	*Caloprymnus campestris*	do	do	E	4	8
Rat-kangaroo, Queensland	*Bettongia tropica*	do	do	E	4	8
Rhinoceros, black	*Diceros bicornis*	Sub-Saharan Africa	do	E	97	8
Rhinoceros, great Indian	*Rhinoceros unicornis*	India, Nepal	do	E	4	8
Rhinoceros, Javan	*Rhinoceros sondaicus*	Indonesia, Indochina, Burma, Thailand, Sikkim, Bangladesh, Malaysia.	do	E	3	8
Rhinoceros, northern white	*Ceratotherium simum cottoni*	Zaire, Sudan, Uganda, Central African Republic.	do	E	3	8
Rhinoceros, Sumatran	*Dicerorhinus* (=*Didermocerus*) *sumatrensis*.	Bangladesh to Vietnam to Indonesia (Borneo).	do	E	3	8
Saki, white-nosed	*Chiropotes albinasus*	Brazil	do	E	3	8
Seladang (=Gaur)	*Bos gaurus*	Bangladesh, Southeast Asia, India	do	E	3	8
Serval, Barbary	*Felis serval constantina*	Algeria	do	E	3	8
Shou	*Cervus elaphus wallichi*	Tibet, Bhutan	do	E	3	8
Sifakas	*Propithecus*spp. (all species)	Malagasy Republic (=Madagascar)	do	E	4	8
Sloth, Brazilian three-toed	*Bradypus torquatus*	Brazil	do	E	3, 4	8
Solenodon, Cuban	*Solendon (Atopogale) cubanus*	Cuba	do	E	3	8
Solenodon, Haitian	*Solenodon paradoxus*	Dominican Republic, Haiti	do	E	3	8
Stag, Barbary	*Cervus elaphus barbarus*	Tunisia, Algeria	do	E	3	8
Stag, Kashmir	*Cervus elaphus hanglu*	Kashmir	do	E	3	8
Suni, Zanzibar	*Neotragus (Nesotragus) moschatus moschatus*.	Zanzibar (and nearby islands)	do	E	50	8
Tahr, Arabian	*Hemitragus jayakari*	Oman	do	E	50	8
Tamaraw	*Bubalus mindorensis*	Philippines	do	E	4	8
Tamarin, golden-rumped (=golden-headed tamarin; =golden-lion marmoset).	*Leontopithecus* (=*Leontideus*) spp. (all species).	Brazil	do	E	3	8
Tapir, Brazilian	*Tapirus terrestris*	Colombia and Venezuela south to Paraguay and Argentina.	do	E	3	8
Tapir, Central American	*Tapirus bairdii*	Southern Mexico to Colombia and Ecuador	do	E	3	8
Tapir, mountain	*Tapirus pinchaque*	Colombia, Ecuador and possibly Peru and Venezuela.	do	E	3	8
Tiger, Tasmanian (=Thylacine)	*Thylacinus cynocephalus*	Australia	do	E	3	8
Tiger	*Panthera tigris*	Temperate and Tropical Asia	do	E	3, 6	8
Uakari (all species)	*Cacajao* spp. (all species)	Peru, Brazil, Ecuador, Colombia, Venezuela.	do	E	3	8
Vicuna	*Vicugna vicugna*	South America (Andes)	do	E	3	8
Wallaby, banded hare	*Lagostrophus fasciatus*	Australia	do	E	4	8
Wallaby, brindled nail-tailed	*Onychogalea fraenata*	do	do	E	4	8
Wallaby, crescent nail-tailed	*Onychogalea lunata*	do	do	E	4	8
Wallaby, Parma	*Macropus parma*	do	do	E	4	8
Wallaby, Western hare	*Lagorchestes hirsutus*	do	do	E	4	8
Wallaby, yellow-footed rock	*Petrogale xanthopus*	do	do	E	6	8
Wolf, maned	*Chrysocyon brachyurus*	Argentina, Bolivia, Brazil, Paraguay, Uruguay.	do	E	4	8
Wolf, red	*Canis rufus*	U.S.A. (southeastern U.S.A. west to central TX).	do	E	1	2
Wombat, hairy-nosed (=Barnard's and Queensland hairy-nosed).	*Lasiorhinus krefftii* (formerly *L. barnardi* and *L. gillespiei*).	Australia	do	E	4, 6	8
Yak, wild	*Bos grunniens*	China (Tibet), India	do	E	3	8
Zebra, Grevy's	*Equus grevyi*	Kenya, Ethiopia, Somalia	do	T	54	8
BIRDS						
Akepa, Hawaii (honeycreeper)	*Loxops coccineus coccineus*	U.S.A. (Hawaii)	do	E	2	1
Akepa, Maui (honeycreeper)	*Loxops coccineus ochraceus*	do	do	E	2	1
Akialoa, Kauai (honeycreeper)	*Hemignathus procerus*	do	do	E	1	1
Akiapolaau (honeycreeper)	*Hemignathus munroi* (=*wilsoni*)	do	do	E	1	1
Albatross, short-tailed	*Diomedea albatrus*	North Pacific Ocean: Japan, U.S.S.R., U.S.A. (AK, CA, HI, OR, WA).	Entire, except U.S.A.	E	3	8
Bobwhite, masked (quail)	*Colinus virginianus ridgwayi*	U.S.A. (Arizona), Mexico (Sonora)	Entire	E	1, 3	2
Bristlebird, western	*Dasyornis brachypterus longirostris*	Australia	do	E	3	8
Bulbul, Mauritius olivaceous	*Hypsipetes borbonicus olivaceus*	Indian Ocean: Mauritius	do	E	3	8
Bullfinch, Sao Miguel (finch)	*Pyrrhula pyrrhula murina*	Eastern Atlantic Ocean: Azores	do	E	3	8
Bushwren, New Zealand	*Xenicus longipes*	New Zealand	do	E	3	8
Bustard, great Indian	*Choriotis nigriceps*	India, Pakistan	do	E	3	8
Cahow (=Bermuda Petrel)	*Pterodroma cahow*	North Atlantic Ocean: Bermuda	do	E	3	8
Condor, Andean	*Vultur gryphus*	Colombia to Chile and Argentina	do	E	4	8
Condor, California	*Gymnogyps californianus*	U.S.A. (OR, CA), Mexico (Baja California)	do	E	1	1
Coot, Hawaiian (=Alae keo keo)	*Fulica americana alai*	U.S.A. (Hawaii)	do	E	2	1
Crane, hooded	*Grus monacha*	Japan, U.S.S.R	do	E	4	8
Crane, Japanese	*Grus japonensis*	China, Japan, Korea, U.S.S.R	do	E	3	8
Crane, Mississippi sandhill	*Grus canadensis pulla*	U.S.A. (Mississippi)	do	E	6	4
Crane, Siberian white	*Grus leucogeranus*	U.S.S.R. (Siberia) to India, including Iran and China.	do	E	4	8
Crane, whooping	*Grus americana*	Canada, U.S.A. (Rocky Mountains east to Carolinas), Mexico.	do	E	1, 3	2
Creeper, Hawaii	*Oreomystis* (=*Loxops*) *mana*	U.S.A. (Hawaii)	do	E	10	1
Creeper, Molokai (=Kakawahie)	*Oreomystis* (=*Loxops*) *flammea*	do	do	E	2	1
Creeper, Oahu (=alauwahio)	*Oreomystis* (=*Loxops*) *maculata*	do	do	E	2	1
Crow, Hawaiian (='alala)	*Corvus hawaiiensis* (=*tropicus*)	do	do	E	1	1
Cuckoo-shrike, Mauritius	*Coquus* (=*Coracina*) *typicus*	Indian Ocean: Mauritius	do	E	3	8
Cuckoo-shrike, Reunion	*Coquus* (=*Coracina*) *newtoni*	Indian Ocean: Reunion	do	E	3	8
Curassow, red-billed	*Crax blumenbachii*	Brazil	do	E	4	8
Curassow, Trinidad white-headed	*Pipile pipile pipile*	West Indies: Trinidad	do	E	3	8
Curlew, Eskimo	*Numenius borealis*	Alaska and northern Canada to Argentina	do	E	1, 3	7
Dove, cloven-feathered	*Drepanoptila holosericea*	Southwest Pacific Ocean: New Caledonia	do	E	3	8

LIST OF SPECIES UNDER REVIEW—Continued

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Dove, Grenada	*Leptotila wellsi*	West Indies: Grenada	do	E	3	8
Dove, Palau ground	*Gallicolumba canifrons*	West Pacific Ocean: U.S.A. (Palau Islands)	do	E	3	1
Duck, Hawaiian (=koloa)	*Anas wyvilliana*	U.S.A. (Hawaii)	do	E	1	1
Duck, Laysan	*Anas laysanensis*	do	do	E	1	1
Duck, white-winged wood	*Cairina scutulata*	India, Malaysia, Indonesia, Thailand	do	E	3	8
Eagle, Philippine (=monkey-eating)	*Pithecophaga jefferyi*	Philippines	do	E	3	8
Eagle, Spanish imperial	*Aquila heliaca adalberti*	Spain, Morocco, Algeria	do	E	3	8
Egret, Chinese	*Egretta eulophotes*	China, Korea	do	E	3	8
Finch, Laysan (honeycreeper)	*Telespyza* (=*Psittirostra*) *cantans*	U.S.A. (Hawaii)	do	E	1	1
Finch, Nihoa (honeycreeper)	*Telespyza* (=*Psittirostra*) *ultima*	do	do	E	1	1
Flycatcher, Euler's	*Empidonax euleri johnstonei*	West Indies: Grenada	do	E	3	8
Flycatcher, Palau fantail	*Rhipidura lepida*	West Pacific Ocean: U.S.A. (Palau Islands)	do	E	3	1
Flycatcher, Seychelles paradise	*Terpsiphone corvina*	Indian Ocean: Seychelles	do	E	3	8
Flycatcher, Tahiti	*Pomarea nigra*	South Pacific Ocean: Tahiti	do	E	3	8
Flycatcher, Tinian monarch	*Monarcha takatsukasae*	Western Pacific Ocean: U.S.A. (Mariana Islands).	do	E	3	1
Gallinule, Hawaiian (moorhen)	*Gallinula chloropus sandvicensis*	U.S.A. (Hawaii)	do	E	1	1
Goose, Aleutian Canada	*Branta canadensis leucopareia*	U.S.A. (AK, CA, OR, WA), Japan	do	E	1, 3	7
Goose, Hawaiian (=nene)	*Nesochen* (=*Branta*) *sandvicensis*	U.S.A. (Hawaii)	do	E	1	1
Goshawk, Christmas Island	*Accipiter fasciatus natalis*	Indian Ocean: Christmas Island	do	E	3	8
Grackle, slender-billed	*Quiscalus* (=*Cassidix*) *palustris*	Mexico	do	E	3	8
Grasswren, Eyrean (flycatcher)	*Amytornis goyderi*	Australia	do	E	3	8
Grebe, Atitlan	*Podilymbus gigas*	Guatemala	do	E	3	8
Guan, horned	*Oreophasis derbianus*	Guatemala, Mexico	do	E	3	8
Gull, Audouin's	*Larus audouinii*	Mediterranean Sea	do	E	3	8
Hawk, Anjouan Island sparrow	*Accipiter francesii pusillus*	Indian Ocean: Comoro Islands	do	E	3	8
Hawk, Galapagos	*Buteo galapagoensis*	Ecuador (Galapagos Island)	do	E	3	8
Hawk, Hawaiian (=io)	*Buteo solitarius*	U.S.A. (Hawaii)	do	E	1	1
Honeycreeper, crested (='akohekohe)	*Palmeria dolei*	do	do	E	1	1
Honeyeater, helmeted	*Meliphaga cassidix*	Australia	do	E	4	8
Ibis, Japanese crested	*Nipponia nippon*	China, Japan, U.S.S.R., Korea	do	E	3	8
Kagu	*Rhynochetos jubatus*	South Pacific Ocean: New Caledonia	do	E	3	8
Kakapo (=owl-parrot)	*Strigops habroptilus*	New Zealand	do	E	3	8
Kestrel, Mauritius	*Falco punctatus*	Indian Ocean: Mauritius	do	E	3	8
Kestrel, Seychelles	*Falco araea*	Indian Ocean: Seychelles Islands	do	E	3	8
Kite, Cuba hook-billed	*Chondrohierax uncinatus wilsonii*	West Indies: Cuba	do	E	3	8
Kite, Everglade (snail kite)	*Rostrhamus sociabilis plumbeus*	U.S.A. (Florida)	do	E	1	4
Kite, Grenada hook-billed	*Chondrohierax uncinatus mirus*	West Indies: Grenada	do	E	3	8
Kokako (wattlebird)	*Callaeas cinerea*	New Zealand	do	E	3	8
Magpie-robin, Seychelles (thrush)	*Copsychus sechellarum*	Indian Ocean: Seychelles Islands	do	E	3	8
Malkoha, red-faced (cuckoo)	*Phaenicophaeus pyrrhocephalus*	Sri Lanka (=Ceylon)	do	E	3	8
Megapode, La Perouse's	*Megapodius laperouse*	West Pacific Ocean: U.S.A. (Palau Island, Mariana Islands).	do	E	3	1
Megapode, Maleo	*Macrocephalon maleo*	Indonesia (Celebes)	do	E	3	8
Millerbird, Nihoa (old world warbler)	*Acrocephalus familiaris kingi*	U.S.A. (Hawaii)	do	E	1	1
Nukupu'u (honeycreeper)	*Hemignathus lucidus*	do	do	E	1, 2	1
'O'o, Kauai (='O'o 'A'a) (honeyeater)	*Moho braccatus*	do	do	E	1	1
Ostrich, Arabian	*Struthio camelus syriacus*	Jordan, Saudi Arabia	do	E	3	8
Ostrich, West African	*Struthio camelus spatzi*	Spanish Sahara	do	E	3	8
'O'u (honeycreeper)	*Psittirostra psittacea*	U.S.A. (Hawaii)	do	E	1	1
Owl, Anjouan scops	*Otus rutilus capnodes*	Indian Ocean: Comoro Island	do	E	3	8
Owl, Palau	*Pyroglaux* (=*Otus*) *podargina*	West Pacific Ocean: U.S.A. (Palau Islands)	do	E	3	1
Owl, Seychelles	*Otus insularis*	Indian Ocean: Seychelles Islands	do	E	3	8
Owlet, Morden's (=Sokoke)	*Otus ireneae*	Kenya	do	E	3	8
Palila (honeycreeper)	*Loxioides* (=*Psittirostra*) *bailleui*	U.S.A. (Hawaii)	do	E	1	1
Parakeet, golden	*Aratinga guarouba*	Brazil	do	E	4	8
Parakeet, golden-shouldered (=hooded)	*Psephotus chrysopterygius*	Australia	do	E	3	8
Parakeet, Mauritius	*Psittacula echo*	Indian Ocean: Mauritius	do	E	3	8
Parakeet, ochre-marked	*Pyrrhura cruentata*	Brazil	do	E	3	8
Parakeet, orange-bellied	*Neophema chrysogaster*	Australia	do	E	4	8
Parakeet, paradise (=beautiful)	*Psephotus pulcherrimus*	do	do	E	4	8
Parakeet, scarlet-chested (=splendid)	*Neophema splendida*	do	do	E	4	8
Parakeet, turquoise	*Neophema pulchella*	do	do	E	3	8
Parrot, Australian	*Geopsittacus occidentalis*	do	do	E	3	8
Parrot, ground	*Pezoporus wallicus*	do	do	E	8	8
Parrot, imperial	*Amazona imperialis*	West Indies: Dominica	do	E	3	8
Parrot, Puerto Rican	*Amazona vittata*	U.S.A. (Puerto Rico)	do	E	1	4
Parrot, red-browed	*Amazona rhodocorytha*	Brazil	do	E	3	8
Parrot, red-necked	*Amazona arausiaca*	West Indies: Dominica	do	E	50	8
Parrot, St. Lucia	*Amazona versicolor*	West Indies: St. Lucia	do	E	3	8
Parrot, St. Vincent	*Amazona guildingii*	West Indies: St. Vincent	do	E	3	8
Parrot, thick-billed	*Rhynchopsitta pachyrhyncha*	Mexico, U.S.A. (AZ, NM)	Mexico	E	3	8
Parrotbill, Maui (honeycreeper)	*Pseudonestor xanthophrys*	U.S.A. (Hawaii)	Entire	E	1	1
Penguin, Galapagos	*Spheniscus mendiculus*	Ecuador (Galapagos Island)	do	E	3	8
Petrel, Hawaiian dark-rumped	*Pterodroma phaeopygia sandwichensis*	U.S.A. (Hawaii)	do	E	2, 4, 1	1
Pheasant, bar-tailed	*Syrmaticus humiae*	Burma, China	do	E	3	8
Pheasant, Blyth's tragopan	*Tragopan blythii*	Burma, China, India	do	E	3	8
Pheasant, brown eared	*Crossoptilon mantchuricum*	China	do	E	3	8
Pheasant, Cabot's tragopan	*Tragopan caboti*	do	do	E	3	8
Pheasant, Chinese monal	*Lophophorus lhuysii*	do	do	E	3	8
Pheasant, Edward's	*Lophura edwardsi*	Vietnam	do	E	3	8
Pheasant, imperial	*Lophura imperialis*	do	do	E	3	8
Pheasant, Mikado	*Syrmaticus mikado*	Taiwan	do	E	3	8
Pheasant, Palawan peacock	*Polyplectron emphanum*	Philippines	do	E	3	8
Pheasant, Sclater's monal	*Lophophorus sclateri*	Burma, China, India	do	E	3	8
Pheasant, Swinhoe's	*Lophura swinhoii*	Taiwan	do	E	3	8
Pheasant, western tragopan	*Tragopan melanocephalus*	India, Pakistan	do	E	3	8
Pheasant, white eared	*Crossoptilon crossoptilon*	China (Tibet), India	do	E	4	8
Pigeon, Azores wood	*Columba palumbus azorica*	East Atlantic Ocean: Azores	do	E	3	8

VOL

LIST OF SPECIES UNDER REVIEW—Continued

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Office receiving comment
Common name	Scientific name					
Pigeon, Chatham Island	*Hemiphaga novaeseelandiae chathamensis*	New Zealand	do	E	3	8
Pigeon, Puerto Rican plain	*Columba inornata wetmorei*	U.S.A. (Puerto Rico)	do	E	2	4
Plover, New Zealand shore	*Thinornis novaeseelandiae*	New Zealand	do	E	3	8
Po'ouli (honeycreaper)	*Melamprosops phaeosoma*	U.S.A. (Hawaii)	do	E	10	1
Prairie-chicken, Attwater's greater	*Tympanuchus cupido attwateri*	U.S.A. (Texas)	do	E	1	2
Rail, Auklend Island	*Rallus pectoralis muelleri*	New Zealand	do	E	3	8
Rail, California clapper	*Rallus longirostris obsoletus*	U.S.A. (California)	do	E	2	1
Rail, light-footed clapper	*Rallus longirostris levipes*	U.S.A. (CA), Mexico (Baja California)	do	E	2	1
Rail, Yuma clapper	*Rallus longirostris yumanensis*	Mexico, U.S.A. (AZ, CA)	do	E	1	2
Rhea, Darwin's	*Pterocnemia pennata*	Argentina, Bolivia, Peru, Uruguay	do	E	3	8
Robin, Chatham Island	*Petroica traversi*	New Zealand	do	E	3	8
Robin, scarlet-breasted (flycatcher)	*Petroica multicolor multicolor*	Australia (Norfolk Island)	do	E	3	8
Rockfowl, grey-necked	*Picathartes oreas*	Cameroon, Gabon	do	E	3	8
Rockfowl, white-necked	*Picathartes gymnocephalus*	Africa: Togo to Sierra Leone	do	E	3	8
Roller, long-tailed ground	*Uratelornis chimaera*	Malagasy Republic (=Madagascar)	do	E	3	8
Scrub-bird, noisy	*Atrichornis clamosus*	Australia	do	E	3	8
Shama, Cebu black (thrush)	*Copsychus niger cebuanus*	Philippines	do	E	3	8
Shearwater, Newell's (Townsend's, formerly Manx) (='A'o).	*Puffinus auricularis* (formerly *puffinus*) *newelli*.	U.S.A. (Hawaii)	do	T	10	1
Sparrow, Cape Sable seaside	*Ammospiza maritima mirabilis*	U.S.A. (Florida)	do	E	1	4
Sparrow, dusky seaside	*Ammospiza maritima nigrescens*	do	do	E	1	4
Starling, Ponape mountain	*Aplonis pelzelni*	West Pacific Ocean: U.S.A. (Caroline Island).	do	E	3	1
Starling, Rothschild's (myna)	*Leucopsar rothschildi*	Indonesia (Bali)	do	E	3	8
Stilt, Hawaiian (=Ae'o)	*Himantopus himantopus knudseni*	U.S.A. (Hawaii)	do	E	2	1
Stork, oriental white	*Ciconia ciconia boyciana*	China, Japan, Korea, U.S.S.R	do	E	3	8
Tern, California least	*Sterna antillarum* (=*albifrons*) *browni*	Mexico, U.S.A. (CA)	do	E	2, 3	1
Thrasher, white-breasted	*Ramphocinclus brachyurus*	West Indies: St. Lucia, Martinique	do	E	3	8
Thrush, large Kauai	*Phaeornis obscurus myadestina*	U.S.A. (Hawaii)	do	E	2	1
Thrush, Molokai (=oloma'o)	*Phaeornis obscurus rutha*	do	do	E	2	1
Thrush, New Zealand (wattlebird)	*Turnagra capensis*	New Zealand	do	E	3	8
Thrush, small Kauai (=puaiohi)	*Phaeornis palmeri*	U.S.A. (Hawaii)	do	E	1	1
Trembler, Martinique brown (thrasher)	*Cinclocerthia ruficauda gutturalis*	West Indies: Martinique	do	E	3	8
Wanderer, plain (collared-hemipode)	*Pedionomus torquatus*	Australia	do	E	8	8
Warbler (willow), reed	*Acrocephalus luscinia*	Western Pacific Ocean: U.S.A. (Mariana Islands).	do	E	3	1
Warbler (willow), Rodriques	*Bebrornis rodericanus*	Mauritius (Rodrigues Islands)	do	E	3	8
Warbler (willow), Seychelles	*Bebrornis sechellensis*	Indian Ocean: Seychelles Island	do	E	3	8
Warbler (wood), Bachman's	*Vermivora bachmanii*	U.S.A. (southeastern), Cuba	do	E	1, 3	4
Warbler (wood), Barbados yellow	*Dendroica petechia petechia*	West Indies: Barbados	do	E	3	8
Warbler (wood), Kirtland's	*Dendroica kirtlandii*	U.S.A. (principally MI), Canada, West Indies: Bahama Islands.	do	E	1, 3	3
Warbler (wood), Semper's	*Leucopeza semperi*	West Indies: St. Lucia	do	E	3	8
Whipbird, Western	*Psophodes nigrogularis*	Australia	do	E	3	8
Whip-poor-will, Puerto Rican	*Caprimulgus noctitherus*	U.S.A. (Puerto Rico)	do	E	6	4
White-eye, Ponape great	*Rukia longirostra* (=*sanfordi*)	West Pacific Ocean: U.S.A. (Caroline Islands).	do	E	3	1
White-eye, Seychelles	*Zosterops modesta*	Indian Ocean: Seychelles	do	E	3	8
Woodpecker, imperial	*Campephilus imperialis*	Mexico	do	E	3	8
Woodpecker, red-cockaded	*Picoides* (=*Dendrocopos*) *borealis*	U.S.A. (southcentral and southeastern)	do	E	2	4
Woodpecker, Tristam's	*Dryocopus javensis richardsi*	Korea	do	E	3	8
Wren, Guadeloupe house	*Troglodytes aedon guadeloupensis*	West Indies: Guadeloupe	do	E	3	8
Wren, St. Lucia house	*Troglodytes aedon mesoleucus*	West Indies: St. Lucia	do	E	3	8
REPTILES						
Boa, Jamaican	*Epicrates subflavus*	Jamaica	do	E	3	8
Boa, Puerto Rico	*Epicrates inornatus*	U.S.A. (PR)	do	E	2	4
Boa, Round Island [no common name]	*Bolyeria multocarinata*	Indian Ocean: Mauritius	do	E	86	8
Boa, Round Island [no common name]	*Casarea dussumieri*	do	do	E	86	8
Boa, Virgin Islands tree	*Epicrates monensis granti*	U.S. and British Virgin Islands	do	E	2, 86	4
Caiman, Yacare	*Caiman crocodilus yacare*	Bolivia, Argentina, Peru, Brazil	do	E	3	8
Chuckwalla, San Esteban Island	*Sauromalus varius*	Mexico	do	E	86	8
Crocodile, African slender-snouted	*Crocodylus cataphractus*	Western and central Africa	do	E	5	8
Crocodile, American	*Crocodylus acutus*	U.S.A. (FL), Mexico, South America, Central America, Caribbean.	do	E	10, 67	8
Crocodile, Cuban	*Crocodylus rhombifer*	Cuba	do	E	3	8
Crocodile, Morelet's	*Crocodylus moreletii*	Mexico, Belize, Guatemala	do	E	3	8
Crocodile, Nile	*Crocodylus niloticus*	Africa	do	E	3	8
Crocodile, Orinoco	*Crocodylus intermedius*	South America: Orinoco River Basin	do	E	3	8
Crocodile, saltwater (=estuarine)	*Crocodylus porosus*	Southeast Asia, Australia, Papua-New Guinea, Pacific Islands.	Entire, except Papua-New Guinea.	E	67	8
Gecko, day	*Phelsuma edwardnewtoni*	Indian Ocean: Mauritius	Entire	E	3	8
Gecko, Round Island day	*Phelsuma guentheri*	do	do	E	3	8
Iguana, Anegada ground	*Cyclura pinguis*	West Indies: British Virgin Islands (Anegada Island).	do	E	3	8
Iguana, Barrington land	*Conolophus pallidus*	Ecuador (Galapegos Island)	do	E	3	8
Iguana, Fiji banded	*Brachylophus fasciatus*	Pacific: Fiji, Tonga	do	E	86	8
Iguana, Fiji crested	*Brachylophus vitiensis*	Pacific: Fiji	do	E	86	8
Lizard, blunt-nosed leopard	*Gambelia* (=*Crotaphytus*) *silus*	U.S.A. (CA)	do	E	1	1
Lizard, Coachella Valley fringe-toed	*Uma inornata*	do	do	T	105	1
Snake, San Francisco garter	*Thamnophis sirtalis tetrataenia*	do	do	E	1	1
Tartaruga	*Podocnemis expansa*	South America: Orinoco and Amazon River basins.	do	E	3	8
Terrapin, river (=Tuntong)	*Batagur baska*	Malaysia, Bangladesh, Burma, India, Indonesia.	do	E	3	8
Tortoise, Bolson	*Gopherus flavomarginatus*	Mexico	do	E	46	8
Tortoise, desert	*Scaptochelys* (=*Gopherus*) *agassizii*	U.S.A. (UT, AZ, CA, NV); Mexico	Beaver Dam Slope, Utah.	T	103	6

LIST OF SPECIES UNDER REVIEW—Continued

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Common name	Scientific name					
Tortoise, Galapegos	*Geochelone elephantopus*	Ecuador (Galapegos Islands)	Entire	E	3	8
Tortoise, radiated	*Geochelone* (=*Testudo*) *radiata*	Malagasy Republic (=Madagascar)	do	E	3	8
Tracaja	*Podocnemis unifilis*	South America: Orinoco and Amazon River basins.	do	E	3	8
Tuatara	*Sphenodon punctatus*	New Zealand	do	E	3	8
Turtle, aquatic box	*Terrapene coahuila*	Mexico	do	E	6	8
Turtle, hawksbill sea (=carey)	*Eretmochelys imbricata*	Tropical seas	do	E	3	2
Turtle, Kemp's (=Atlantic) Ridley sea	*Lepidochelys kempii*	Tropical and temperate seas in Atlantic Basin.	do	E	4	2
Turtle, leatherback sea	*Dermochelys coriacea*	Tropical, temperate, and subpolar seas	do	E	3	2
Turtle, Plymouth red-bellied	*Pseudemys* (=*Chrysemys*) *rubriventris bangsi*.	U.S.A. (Massachusetts)	do	E	90	5
Turtle, short-necked or western swamp	*Pseudemydura umbrina*	Australia	do	E	3	8
AMPHIBIANS						
Frog, lariel painted	*Discoglossus nigriventer*	Israel	do	E	3	8
Frog, Stephen Island	*Leiopelma hamiltoni*	New Zealand	do	E	3	8
Salemander, desert slender	*Batrachoseps aridus*	U.S.A. (California)	do	E	6	1
Salemander, San Marcos	*Eurycea nana*	U.S.A. (Texas)	do	E	98	2
Salemander, Santa Cruz long-toed	*Ambystoma macrodactylum croceum*	U.S.A. (California)	do	E	1	1
Salemander, Texas blind	*Typhlomolge rathbuni*	U.S.A. (Texas)	do	E	1	2
Toad, Houston	*Bufo houstonensis*	do	do	E	2	2
FISHES						
Ala Balik (trout)	*Salmo platycephalus*	Turkey	do	E	3	8
Ayumodoki (loach)	*Hymenophysa* (=*Botia*) *curta*	Japan	do	E	3	8
Blindcat, Mexican (catfish)	*Prietella phreatophila*	Mexico	do	E	3	8
Bonytail, Pahranagat	*Gila robusta jordani*	U.S.A. (Nevada)	do	E	3	8
Catfish, giant	*Pangasianodon gigas*	Thailand	do	E	2	1
Catfish [no common name]	*Pangasius sanhwongsei*	do	do	E	3	1
Chub, bonytail	*Gila elegans*	U.S.A. (AZ, CA, CO, NV, UT, WY)	do	E	2	8
Chub, humpback	*Gila cypha*	U.S.A. (AZ, CO, UT, WY)	do	E	92	8
Chub, Mohave tui	*Gila bicolor mohavensis* (=*G. mohavensis*).	U.S.A. (California)	do	E	1	6
Cicek (minnow)	*Acanthorutilus handlirschi*	Turkey	do	E	2	1
Cui-ui	*Chasmistes cujus*	U.S.A. (Nevada)	do	E	3	8
Dace, Kendall Warm Springs	*Rhinichthys osculus thermalis*	U.S.A. (Wyoming)	do	E	1	1
Dace, Moapa	*Moapa coriacea*	U.S.A. (Nevada)	do	E	2	6
Darter, bayou	*Etheostoma rubrum*	U.S.A. (Mississippi)	do	E	1	1
Darter, fountain	*Etheostoma fonticola*	U.S.A. (Texas)	do	T	10	4
Darter, Maryland	*Etheostoma sellare*	U.S.A. (Maryland)	do	E	2	2
Darter, Okaloosa	*Etheostoma okaloosae*	U.S.A. (Florida)	do	E	1	5
Darter, watercress	*Etheostoma nuchale*	U.S.A. (Alabama)	do	E	6	4
Gambusia, Amistad (=Goodenough)	*Gambusia amistadensis*	do	do	E	2	4
Gambusia, Big Bend	*Gambusia gaigei*	U.S.A. (Texas)	do	E	93	4
Gambusia, Clear Creek	*Gambusia heterochir*	do	do	E	1	2
Gambusia, Pecos	*Gambusia nobilis*	U.S.A. (NM, TX)	do	E	1	2
Gambusia, San Marcos	*Gambusia georgei*	U.S.A. (Texas)	do	E	2	2
Killifish, Pahrump	*Empetrichthys latos*	U.S.A. (Nevada)	do	E	98	2
Madtom, Scioto	*Noturus trautmani*	U.S.A. (Ohio)	do	E	1	1
Nekogigi (catfish)	*Corocbagrus ichikawai*	Japan	do	E	10	3
Pupfish, Comanche Springs	*Cyprinodon elegans*	U.S.A. (Texas)	do	E	3	8
Pupfish, Devils Hole	*Cyprinodon diabolis*	U.S.A. (Nevada)	do	E	1	2
Pupfish, Leon Springs	*Cyprinodon bovinus*	U.S.A. (Texas)	do	E	1	1
Pupfish, Owens River	*Cyprinodon radiosus*	U.S.A. (California)	do	E	102	2
Pupfish, Warm Springs	*Cyprinodon nevadensis pectoralis*	U.S.A. (Nevada)	do	E	1	1
Squawfish, Colorado	*Ptychocheilus lucius*	U.S.A. (AZ, CA, CO, NM, NV, UT, WY), Mexico.	do	E	2	1
Stickleback, unarmored threespine	*Gasterosteus aculeatus williamsoni*	U.S.A. (California)	do	E	1	6
Tango, Miyako (Tokyo bitterling)	*Tanakia tanago*	Japan	do	E	2	1
Topminnow, Gila	*Poeciliopsis occidentalis*	U.S.A. (AZ, NM), Mexico	do	E	3	8
Trout, Apache (=Arizona)	*Salmo apache*	U.S.A. (Arizona)	do	T	1	2
Trout, Gila	*Salmo gilae*	U.S.A. (New Mexico)	do	T	1, 6	2
Trout, Lahontan cutthroat	*Salmo clarki henshawi*	U.S.A. (CA, NV)	do	E	1	2
Trout, Paiute cutthroat	*Salmo clarki seleniris*	do	do	T	2, 6	1
Woundfin	*Plagopterus argentissimus*	U.S.A. (AZ, NV, UT)	do	T	1, 6	1
SNAILS				E	2	
Snail, Manus Island tree	*Papustyla pulcherrima*	Pacific Ocean: Admiralty is. (Manus is.)	NA	E	3	8
INSECTS						
Beetle, Delta green ground	*Elaphrus viridis*	U.S.A. (California)	NA	T	100	1
Beetle, valley elderberry longhorn	*Desmocerus californicus dimorphus*	do	NA	T	99	1
Butterfly: Oregon silverspot	*Speyeria zerene hippolyta*	U.S.A. (OR, WA)	NA	T	95	1
Butterfly: Palos Verdes blue	*Glaucopsyche lygdamus palosverdesensis*	U.S.A. (California)	NA	E	86	1
Moth, Kern primrose sphinx	*Euproserpinus euterpe*	do	NA	T	91	1

1—32 FR 4001; March 11, 1967.
2—35 FR 16047; October 13, 1970.
3—35 FR 8495; June 2, 1970.
4—35 FR 18320; December 2, 1970.
5—37 FR 6476; March 30, 1972.
6—38 FR 14678; June 4, 1973.
7—39 FR 44991; December 30, 1974.
8—40 FR 29864; July 18, 1975.
9—40 FR 31736; July 28, 1975.
10—40 FR 44151; September 25, 1975.
11—40 FR 44418; September 26, 1975.
12—40 FR 47506; October 9, 1975.
45—44 FR 21289; April 10, 1979.
46—44 FR 23064; April 17, 1979.
48—44 FR 29480; May 21, 1979.
50—44 FR 37128; June 25, 1979.
51—44 FR 37132; June 25, 1979.
52—44 FR 42911; July 20, 1979.
54—44 FR 49220; August 21, 1979.
55—44 FR 54007; September 17, 1979.
60—44 FR 59084; October 12, 1979.

VOL 50 ISS 140 JL 22 1985 UMI

85—44 FR 69208; November 30, 1979.
86—44 FR 70677; December 7, 1979.
87—44 FR 75078; December 18, 1979.
88—45 FR 18010; March 20, 1980.
90—45 FR 21633; April 2, 1980.
91—45 FR 24090; April 8, 1980.
92—45 FR 27713; April 23, 1980.
93—45 FR 28722; April 30, 1980.
94—45 FR 35821; May 28, 1980.
95—45 FR 44935; July 2, 1980.
96—45 FR 44939; July 2, 1980.
97—45 FR 47352; July 14, 1980.
98—45 FR 47355; July 14, 1980.
99—45 FR 52803; August 8, 1980.
100—45 FR 52807; August 8, 1980.
102—45 FR 54678; August 15, 1980.
103—45 FR 55654; August 20, 1980.
105—45 FR 63812; September 25, 1980.
106—45 FR 65132; October 1, 1980.

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Scientific name	Common name				
Alismataceae—Water-plantain family:					
Sagittaria fasciculata	Bunched arrowhead	U.S.A. (NC, SC)	E	53	4
Asteraceae—Aster family:					
Echinacea tennesseensis	Tennessee purple coneflower	U.S.A. (TN)	E	49	4
Lipocheeta venosa	None	U.S.A. (HI)	E	73	1
Berberidaceae—Barberry family:					
Mahonia sonnei (=*Berberis s.*)	Truckee barberry	U.S.A. (CA)	E	76	1
Cactaceae—Cactus family:					
Ancistrocactus tobuschii (=*Echinocactus t., Mammillaria t.*)	Tobusch fishhook cactus	U.S.A. (TX)	E	80	2
Coryphantha minima (=*C. nellieae, Escobaria n., Mammillaria n.*)	Nellie cory cactus	do	E	61	2
Coryphantha ramillosa	Bunched cory cactus	U.S.A. (TX), Mexico (Coahuila).	T	77	2
Coryphantha sneedii var. *leei* (=*Escobaria l., Mammillaria l.*)	Lee pincushion cactus	U.S.A. (NM)	T	61	2
Coryphantha sneedii var. *sneedii* (=*Escobaria s., Mammillaria s.*)	Sneed pincushion cactus	U.S.A. (TX, NM)	E	62	2
Echinocactus horizonthalonius var. *nicholii*	Nichol's Turk's head cactus	U.S.A. (AZ)	E	71	2
Echinocereus engelmannii var. *purpureus*	Purple-spined hedgehog cactus	U.S.A. (UT)	E	58	6
Echinocereus fendleri var. *kuenzleri* (=*E. kuenzleri, E. hempelii* of authors, not Fobe).	Kuenzler hedgehog cactus	U.S.A. (NM)	E	70	2
Echinocereus floydii (=*E. roetteri* var. *l.*)	Lloyd's hedgehog cactus	U.S.A. (TX)	E	67	2
Echinocereus reichenbachii var. *albertii* (=*E. melanocentrus*)	Black lace cactus	do	E	66	2
Echinocereus triglochidiatus var. *arizonicus* (=*E. arizonicus*)	Arizona hedgehog cactus	U.S.A. (AZ)	E	62	2
Echinocereus triglochidiatus var. *inermis* (=*E. coccineus* var. *i., E. phoeniceus* var. *i.*).	Spineless hedgehog cactus	U.S.A. (CO, UT)	E	83	6
Echinocereus viridiflorus var. *davisii* (=*E. davisii*)	Davis' green pitaya	U.S.A. (TX)	E	61	2
Neolloydia mariposensis (=*Echinocactus m., Echinomastus m.*)	Lloyd's Mariposa cactus	U.S.A. (TX), Mexico (Coahuila).	T	77	2
Pediocactus bradyi (=*Toumeya b.*)	Brady pincushion cactus	U.S.A. (AZ)	E	63	2
Pediocactus knowltonii (=*P. bradyi* var. *k. Toumeya k.*)	Knowlton cactus	U.S.A. (NM, CO)	E	72	
Pediocactus peeblesianus var. *peeblesianus* (=*Echinocactus p., Navajoa p., Toumeya p., Utahia p.*).	Peebles Navajo cactus	U.S.A. (AZ)	E	69	2
Pediocactus sileri (=*Echinocactus s., Utahia s.*)	Siler pincushion cactus	U.S.A. (AZ, UT)	E	64	2
Sclerocactus glaucus (=*Echinocactus g., E. subglaucus, E. whipplei* var. *g., Pediocactus g., S. franklinii, S. whipplei* var. *g.*).	Uinta Basin hookless cactus	U.S.A. (CO, UT)	T	59	6
Sclerocactus mesae-verdae (=*Coloradoa m., Echinocactus m., Pediocactus m.*).	Mesa Verde cactus	U.S.A. (CO, NM)	T	75	6
Sclerocactus wrightiae (=*Pediocactus w.*)	Wright fishhook cactus	U.S.A. (UT)	E	58	6
Cistaceae—Rockrose family:					
Hudsonia montana	Mountain golden heather	U.S.A. (NC)	T	107	4
Cupressaceae—Cypress family:					
Fitzroya cupressoides	Chilean false larch (=alerce)	Chile, Argentina	T	79	8
Ericaceae—Heath family:					
Arctostaphylos pungens var. *ravenii* (=*A. hookeri* ssp. *ravenii*)	Presidio (=Raven's) manzanita	U.S.A. (CA)	E	65	1
Rhododendron chapmanii	Chapman rhododendron	U.S.A. (FL)	E	47	4
Lamiaceae—Mint family:					
Haplostachys haplostachya var. *angustifolia*	None	U.S.A. (HI)	E	73	1
Pogogyne abramsii	San Diego mesa mint	U.S.A. (CA)	E	44	1
Stenogyne angustifolia var. *angustifolia*	None	U.S.A. (HI)	E	73	1
Liliaceae—Lily family:					
Harperocallis flava	Harper's beauty	U.S.A. (FL)	E	57	4
Malvaceae—Mallow family:					
Kokia cookei	Cooke's kokio	U.S.A. (HI)	E	74	1
Nyctaginaceae—Four-o'clock family:					
Mirabilis macfarlanei	MacFarlane's four-o'clock	U.S.A. (ID, OR)	E	66	1
Papaveraceae—Poppy family:					
Arctomecon humilis	Dwarf bear-poppy	U.S.A. (UT)	E	78	6
Pinaceae—Pine family:					
Abies guatemalensis	Guatemalan fir (=pinabete)	Mexico, Guatemala, Honduras, El Salvador.	T	84	8
Rosaceae—Rose family:					
Potentilla robbinsiana	Robbins' cinquefoil	U.S.A. (NH, VT)	E	104	6
Sarraceniaceae—Pitcher plant family:					
Sarracenia oreophila	Green pitcher plant	U.S.A. (AL, GA, TN)	E	56, 69	4

E—Indicates Emergency rule publication (see FR document for effective dates); subsequent number(s) indicate FR final rule, if applicable.

EDITORIAL NOTE: For "When listed" citations, see list following.

47—44 FR 24250; April 24, 1979.
49—44 FR 32605; June 6, 1979.
53—44 FR 43701; July 25, 1979.
56—44 FR 54923; September 21, 1979.
57—44 FR 58863; October 2, 1979.
58—44 FR 58868; October 11, 1979.
59—44 FR 58870; October 11, 1979.
61—44 FR 61556; October 25, 1979.
62—44 FR 61558; October 25, 1979.
63—44 FR 61786; October 26, 1979.
64—44 FR 61788; October 26, 1979
65—44 FR 61911; October 26, 1979.
66—44 FR 61913; October 26, 1979.
67—44 FR 61916; October 26, 1979.
68—44 FR 61920; October 26, 1979.
69—44 FR 61924; October 26, 1979.
70—44 FR 61927; October 26, 1979.
71—44 FR 61929; October 26, 1979.
72—44 FR 62246; October 26, 1979.
73—44 FR 62469; October 30, 1979.
74—44 FR 62471; October 30, 1979.
75—44 FR 62474; October 30, 1979.
76—44 FR 64247; November 8, 1979.
77—44 FR 64250; November 8, 1979.
78—44 FR 64252; November 6, 1979.
79—44 FR 64733; November 7, 1979.
80—44 FR 64738; November 7, 1979.
81—44 FR 64740; November 7, 1979.
82—44 FR 64743; November 7, 1979.
83—44 FR 64746; November 7, 1979.
84—44 FR 65005; November 8, 1979.
89—45 FR 18929; March 24, 1980.
104—45 FR 61944; September 17, 1980.
107—45 FR 69360; October 20, 1980.

[FR Doc. 85-17236 Filed 7-19-85; 8:45 am]
BILLING CODE 4310-55-M

VOL 50 ISS 140 JL 22 1985 UMI

VOL
50
ISS
140
JL
22
1985
UMI

federal register

Monday
July 22, 1985

Part V

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 531

Passenger Automobile Average Fuel Economy Standards; Model Year 1986; Notice of Proposed Rulemaking and Public Meeting

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. 85-06; Notice 1]

Passenger Automobile Average Fuel Economy Standards; Model Year 1986; Notice of Proposed Rulemaking and Public Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of proposed rulemaking and public meeting.

SUMMARY: This notice proposes that the passenger automobile average fuel economy standard for model year 1986 be established at 26 miles per gallon. It also announces a public meeting to be held on the proposal.

DATES: Comments must be received by September 20, 1985. The public meeting will be held on August 20, 1985, beginning at 9:30 a.m.

ADDRESSES: Comments should refer to the docket number and be submitted (in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. The public meeting will be held in Room 2230 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Orron P. Kee, Office of Market Incentives, NRM-12, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 426-1740.

SUPPLEMENTARY INFORMATION: Section 502(a)(3) of the Motor Vehicle Information and Cost Savings Act, as amended by the Motor Vehicle and Schoolbus Safety Amendments of 1974 (15 U.S.C. 2002(a)(3)), required that the standards for each of model years 1981–84. Section 502(a)(3) required that the standards for each of

Under section 507 of the Act, it is unlawful conduct for a manufacturer not

Congress' view of the likelihood of such events and its willingness to accept—

"constituting a safety margin" for

VOL 50 ISS 140 JL 22 1985 UMI

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. FE-85-01; Notice 2]

Passenger Automobile Average Fuel Economy Standards; Model Year 1986

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); Notice of public meeting.

SUMMARY: This notice proposes to amend the average fuel economy standard applicable to passenger automobiles manufactured in model year (MY) 1986 and invites written and oral comments concerning the proposed action. This notice also announces the time and location of the public meeting to receive the oral comments. In March 1985, both General Motors (GM) and Ford submitted petitions for rulemaking requesting that NHTSA reduce the automotive fuel economy standards for passenger cars for the 1986 model year and beyond from 27.5 mpg to 26.0 mpg. The petitioners stated that factors beyond their control, including lower gasoline prices and resultant greater consumer demand for larger cars and engines, had reduced the maximum feasible average fuel economy level. Based on a detailed agency analysis, NHTSA is proposing to amend the MY 1986 standard to 26.0 mpg. Due to the fact that the agency needs more time to complete its analysis of the data for MY 1987 and subsequent years, the agency will not consider petitions for those years at this time. The agency currently anticipates issuing a notice simultaneously with its announcement of a final decision for model year 1986 or shortly thereafter, proposing a range of alternatives for passenger car standards for model year 1987 and subsequent years.

DATES: *Public Comments:* Written comments on this notice must be received on or before August 21, 1985.

Public Meeting: A public meeting to receive oral comments will be held on August 8–9, 1985, in Washington, D.C. The agency at this time intends to limit the meeting to two days, from 9:00 a.m. to 12:00 noon and 2:00 p.m. to 5:00 p.m.

Effective Date: The proposed amendment would be effective for the 1986 model year.

ADDRESSES: *Public Comments:* Written comments on this notice must refer to the docket and notice numbers set forth above and be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. The Docket is open 8 a.m. to 4 p.m., Monday through Friday. Submissions containing information for which confidential treatment is requested should be submitted (in 3 copies) to Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590, and 7 additional copies from which the purportedly confidential information has been deleted should be sent to the Docket Section.

Public Meeting: The meeting will be held at the following location: Federal Aviation Administration Auditorium, 800 Independence Avenue, S.W., Washington, D.C. 20591.

This facility is accessible to the handicapped.

FOR FURTHER INFORMATION CONTACT: All questions concerning the public meeting should be directed to: Ms. Viola Walsh, Office of Public and Consumer Affairs, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–0670). All other questions should be directed to: Mr. William Boehly, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION:

Background

A. The Energy Policy and Conservation Act

1. Overview

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–74, the Congress enacted the Energy Policy and Conservation Act. Based on the relatively low average fuel economy of cars at that time (14 mpg for model year 1974 cars) and on a report by the Department of Transportation on the potential for improving that average, Congress included a provision in that Act establishing the automotive fuel economy regulatory program. That provision added a new title, Title V, "Improving Automotive Efficiency," to the Motor Vehicle Information and Cost Savings Act.

Title V specified corporate average fuel economy (CAFE) standards for cars of 18, 19 and 20 mpg for model years 1978, 1979, and 1980, respectively, and 27.5 mpg for 1985 and thereafter. The Secretary of Transportation was required to establish standards for model years 1981–84. Section 502(a)(3) required that the standards for each of those model years be set at a level which (1) was the maximum feasible average fuel economy level and (2) would result in steady progress toward meeting the 27.5 mpg standard for model year 1985.

Although Congress clearly established the 27.5 mpg value as a goal to strive for (27.5 mpg is roughly twice the MY 1974 estimated CAFE), it recognized that such long-term goals are subject to considerable uncertainty. As a means of adjusting the standards based on up-to-date information and changing trends and assumptions, the Act permits the standard to be changed by the Department. Section 502(a)(4) provides that the Secretary of Transportation can raise or lower the 27.5 mpg standard for model year 1985 or for any subsequent model year if he or she determines that some other standard represents the maximum feasible average fuel economy level. In determining maximum feasible average fuel economy, the Secretary is required under section 502(e) of the Act to consider four factors: technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy.[1]

Title V specifies several special rules regarding compliance with the fuel economy standards. In an attempt to prevent the fuel economy program from inducing domestic manufacturers to increase their importation of foreign produced cars, Title V requires manufacturers to meet average fuel economy standards separately for their domestically manufactured and imported fleets. See section 503. Also, the Act does not require absolute compliance with the standard for each year. Instead, it allows a shortfall in one year to be offset if a manufacturer exceeds the standard for another year. Under the Act, as amended by the Automobile Fuel Efficiency Act of 1980, manufacturers earn credits for exceeding average fuel economy standards which may be carried back for three model years or carried forward for three model years. See section 502(1). In order to use carryback credits in advance of their actually being earned, manufacturers must submit a plan demonstrating that the credits will be earned. Such plans are subject to DOT approval.

[1] Responsibility for the automotive fuel economy program was delegated by the Secretary of Transportation to the Administrator of NHTSA (41 FR 25015, June 22, 1976).

Under section 507 of the Act, it is unlawful conduct for a manufacturer not to meet an average fuel economy standard. Compliance is determined after taking into consideration available credits. The penalty for such unlawful conduct is payment of civil penalties, computed at $5 per each tenth of a mile a manufacturer falls below the standard, multiplied by its production volume for the year in question.

2. Congressional Intent

While the Congress established a goal of 27.5 mpg, it also provided the necessary flexibility to the Department to adjust the standards, upwards or downwards, to the maximum feasible level.

The report accompanying H.R. 7014, the bill containing the House version of the fuel economy provisions (which would have specified a 28.0 mpg standard for 1985 and thereafter), stated that "the automobile industry has a central role in our national economy and that any regulatory program must be carefully drafted so as to require of the industry what is attainable without either imposing impossible burdens on it or unduly limiting consumer choice as to capacity and performance of motor vehicles." H.R. Rep. No. 94-340, 94th Cong., 1st Sess. 87 (1975). As another indication of congressional view of the need for flexibility, the report recognized the difficulty in establishing goals ten years in the future by stating that "(t)he 1985 average fuel economy standard presented a different problem [than establishing standards for MY's 1978–80] because of the high level of uncertainty which attends any attempt to predict technological feasibility a decade into the future." Id. at 88. The Committee also stated that although the 1985 standard was a "clear target," it also provided DOT the ability to amend that target so as to provide the program "with the necessary flexibility." Ibid.

Congress thus recognized that the ability of the industry to meet the 27.5 mpg standard was subject to uncertainty and that the standard might have to be changed. It is noteworthy that the Secretary was given authority to lower the standard for MY 1985 or for any subsequent year to 26.0 mpg without such action being subject to a one-house veto. Conversely, any action to raise the standard above 27.5 mpg or to lower it beyond 26.0 mpg was subject to that form of congressional review and disapproval. While such legislative vetoes have since been declared unconstitutional, the separate treatment in the original legislation of action to lower the standard to any level between 26.0 mpg and 27.5 mpg appears to reflect Congress' view of the likelihood of such events and its willingness to accept—without formal review—Departmental actions which might make slight changes in the long-term goal established by the Act.[2]

B. Setting the 1981–84 Standards

On June 30, 1977, NHTSA published in the **Federal Register** (42 FR 33534) a final rule establishing the 1981–84 passenger automobile CAFE standards. The selected standards were 22 mpg for 1981, 24 mpg for 1982, 26 mpg for 1983, and 27 mpg for 1984.

As part of establishing the 1981–84 standards, the agency developed estimates of the maximum feasible fuel economy for each manufacturer for model years 1981 through 1985. The agency's conclusion at the time was that "levels of average fuel economy in excess of 27.5 mpg are achievable in the 1985 time frame." 42 FR 33552. The agency believed that it was feasible for General Motors to achieve an average fuel economy level of 28.9 mpg in model year 1985, Ford 27.9 mpg, and Chrysler 28.7 mpg. 1977 Rulemaking Support Paper (RSP), p. 5-38 (Table 5.11). Those levels were based on a number of assumptions, including the ability of manufacturers to maintain a rapid rate of introduction of technology, consumer acceptance of a 10 percent reduction in vehicle acceleration, and significant use of a widespread range of technological options, including weight reduction, improved transmissions and lubricants, reduced aerodynamic drag, reduced accessory losses, and reduced tire rolling resistance.

The agency's estimates did not assume a downward mix shift in automobile sizes or the use of diesel engines. The agency concluded that a standard set at a level that required substantial mix shifts would not be economically practicable due to the risk that a significant number of consumers might defer purchasing new automobiles, resulting in a substantial sales drop. However, these techniques were viewed in the 1977 rule as "constituting a safety margin" for manufacturers in the event that other technological improvements did not result in sufficient CAFE improvements. 42 FR 33545, June 30, 1977.

As to foreign manufacturers, the 1977 RSP projected that all but three of them could improve their average fuel economy levels, without expanded use of diesel engines, sufficiently to meet the 27.5 mpg standard. With fleet fuel economy improvements from additional diesels included in the foreign fleet projections, only one manufacturer, Mercedes-Benz, was projected to fall below the 1985 standard.

It should be emphasized that the agency's 1977 estimates were intended to demonstrate the feasibility of achieving the 27.5 mpg standard and not to predict what specific actions the manufacturers would actually take to achieve that standard. The agency's estimates were based on one scenario of what the agency believed manufacturers could do to achieve an average fuel economy level of 27.5 mpg by 1985. Manufacturers were free to pursue other courses of action to achieve the 27.5 mpg fuel economy level.

Subsequent to the issuance of the June 1977 final rule, the domestic manufacturers all indicated they expected to comply with the requirements.

C. Events From 1977 to 1985

In January 1979, NHTSA presented new feasibility estimates for each manufacturer for model years 1980 through 1985 in its Third Annual Report to the Congress on the Automotive Fuel Economy Program (44 FR 5742, January 29, 1979). The agency concluded that "(o)n balance, the conclusions reached during the 1981–84 rulemaking . . . are similar to those resulting from the most recent assessments. These assessments indicate that all domestic manufacturers can exceed the scheduled standards for each year through 1985." 44 FR 5757.

NHTSA recognized in its Third Annual Report that the changes in vehicle design necessary to meet the fuel economy projections would require tremendous outlays of capital. The agency stated:

. . . the important impact of the fuel economy program on the industry relates directly to the fact that the industry must have the resources directly to generate an "extra" $11.5 billion in capital. This ability to make increased investments while maintaining financial health is the criterion which was of prime importance in determining whether the standards are "economically practicable." The Department largely views this criterion to mean that the investment requirements are within the industry's capability but not so

[2] While section 502(a)(4) of the Cost Savings Act permits the Department to establish fuel economy standards for passenger automobiles at levels other than 27.5 mpg for model year 1985 or any subsequent model year, it provided that changes outside the range of 26.0 to 27.5 mpg were subject to a one-house legislative veto. Such vetoes were declared unconstitutional in the Supreme Court's 1983 *Chodha* decision. The Deparment of Justice has advised that the legislative veto provision in section 502(a)(4) is fully separable from the balance of the section. Thus, the Department of Transportation retains its authority to establish fuel economy standards both within and outside the 26.0 to 27.5 mpg range, so long as the standard is at the "maximum feasible" level for the model year in question.

VOL
50
ISS
140
JL
22
1985
UMI

stringent as to threaten economic hardship for the industry as a whole. 44 FR 5765.

NHTSA also recognized that its feasibility estimates were dependent on the continued financial health of the industry and could be subject to change in the event of a severe economic downturn. The agency stated:

DOT also analyzed the degree to which potential anti-competitive pressures would be increased if the economy were to suffer a downturn. Certainly in a severe economic downturn, companies with a weaker financial base will find their resources strained more severely. . . . Thus, if a serious decline in auto sales occurs in conjunction with a severe economic downturn, the Department has the authority to revise the standards since regulations that were "economically practicable" in a healthy economy might not be so in a recession. . . . 44 FR 5772.

The Third Annual Report noted that a number of manufacturers did not agree with the agency's conclusion that "(t)he technology is available that will enable manufacturers to achieve an average fuel economy of 27.5 mpg without reducing vehicle interior space or significantly affecting performance and without significantly changing the mix of size classes." The document stated:

Ford indicated the conclusion is wishful thinking on NHTSA's part. The technology on which Ford's predictions are based are the PROCO and/or diesel engines. They indicated that neither engine is "available" at the present time because of various problems yet to be solved. Ford also said the second round of downsizing will decrease interior volume unless very expensive materials are used and indicated that smaller engines in its vehicles will cause reduced vehicle acceleration.

GM stated that the rise of standards at the rate of two miles-per-gallon per year will cause all manufacturers to introduce unproven technology and that there will be compromises in vehicle acceleration and owner utility. GM stated that much of the available technology is "high risk," and may not be "commercially practicable in production hardware." 44 FR 5775–5776.

Between January and May of 1979, NHTSA received a number of submissions from Ford and General Motors on the 1981–84 fuel economy standards for passenger automobiles asserting that those standards should be reduced. In response to these submissions, the agency published a document entitled "Report on Requests by General Motors and Ford to Reduce Fuel Economy Standards for MY 1981–85 Passenger Automobiles," DOT HS–804 731, June 1979. The report concluded that the standards were technologically feasible and economically practicable and noted that both companies had submitted product plans for meeting the standards. Report, p. 14. The report noted that the product plans submitted by the two companies differed from each other significantly and also differed from the paths projected by NHTSA in its prior rulemaking on standards for MY 1981–84 and in the January 1979 Report to Congress. Report, p. 5.

One year later, the nation was in the midst of another energy crisis, brought on by events in Iran. Gasoline prices were rising rapidly, creating significantly increased consumer demand for small cars. The U.S. city average retail price for unleaded gasoline rose from 90 cents per gallon in 1979 to $1.25 in 1980. (In 1981 dollars, this increase was from $1.24 in 1979 to $1.57 in 1980.) In light of these changed conditions, the industry announced plans to significantly exceed the 27.5 mpg standard for 1985. Both Ford and GM, as well as Chrysler and American Motors, indicated that they expected to achieve average fuel economy in excess of 30 mpg for that model year. Product plans submitted to NHTSA by those companies indicated that the projections assumed significant mix shifts toward smaller cars and rapid introduction of new technology. A letter submitted to the agency by Ford in July 1980, however, cautioned that "it is important to emphasize that the affordability of many of these programs is dependent upon substantial improvement in the market and economic conditions."

On January 26, 1981, NHTSA published an advance notice of proposed rulemaking (ANPRM) in the Federal Register (46 FR 8056) which addressed the issue of passenger automobile fuel economy standards for model year 1985 and beyond. That notice and an accompanying paper entitled "Analysis of Post-1985 Fuel Economy," assumed that manufacturers would achieve their announced average fuel economy goals of over 30 mpg for 1985. The notice also took note, however, of a deepening economic crisis then facing the auto industry and possible effects on financing investments for improving fuel economy. The notice stated:

A major issue is the capability of the domestic manufacturers to finance investments for fuel economy improvements after 1985 when they have strained that capability to make the investments needed to meet the fuel economy standards through model year 1985. It is expected that the combined losses of the domestic manufacturers for 1980 will exceed $4.5 billion. The domestic automobile industry's traditionally more profitable mid and large size passenger automobiles are once again selling poorly, while smaller passenger automobiles are selling at very high volumes. Indefinite layoffs of automobile workers now exceed 175,000, and significant operational cash shortfalls are being projected for the domestic manufacturers in the early 1980's. This will involve substantial borrowing by the domestic manufacturers, whereas they have traditionally used internal sources of funds for capital expenditures. Thus, the pace at which the domestic manufacturers can improve their fuel economy must be closely examined. . . . 46 FR 8058–8059.

On April 16, 1981, NHTSA published in the Federal Register (46 FR 22243) a notice withdrawing the ANPRM. The notice stated that "(t)his action is being taken in recognition of market pressures which are creating strong consumer demand for fuel-efficient vehicles and sending clear signals to the vehicle manufacturers to produce such vehicles. It is expected that the market will continue to act as a powerful catalyst. . . .

Conditions affecting fuel economy changed dramatically after 1981, following decontrol of domestic oil and other external factors increasing available supplies. Gasoline prices did not continue to rise but instead declined over time. This, combined with economic recovery, caused consumer demand to shift back toward larger cars and larger engines. Data submitted to the agency by GM and Ford in mid-1983 indicated that instead of achieving fuel economy well in excess of the 27.5 mpg standard for MY 1985, they would be unable to meet the levels prescribed by the standard.

During the 1977 to 1985 timeframe, NHTSA twice found it necessary to reduce previously set CAFE standards for light trucks, based on changed circumstances. As with passenger car standards, the Motor Vehicle Information and Cost Savings Act requires that light truck standards be set at the maximum feasible average fuel economy level. In June 1979, the agency reduced the 1981 light truck average fuel economy standard. 44 FR 36975 (June 25, 1979). In October 1984, the agency reduced the 1985 light truck average fuel economy standard. 49 FR 41250, October 22, 1984.

Petitions

In March 1985, both GM and Ford submitted petitions for rulemaking requesting that NHTSA reduce the automotive fuel economy standards for passenger cars for the 1986 model year and beyond from 27.5 mpg to 26.0 mpg. The petitioners stated that factors beyond their control, including lower gasoline prices and resultant greater consumer demand for larger cars and engines, had reduced their fuel economy capability. NHTSA granted the GM and Ford petitions in a notice published in the Federal Register (50 FR 12344) on March 28, 1985, and requested public comments. The agency noted that it was already considering, in connection with a petition for rulemaking submitted by the Center for Auto Safety (CFAS) and the Environmental Policy Institute (EPI), whether the fuel economy standards for passenger cars manufactured in model years 1987 and thereafter should be amended. The CFAS/EPI petition had requested that those standards be increased.

NHTSA stated in the March 1985 notice that as a first step in its consideration of the fuel economy standards for passenger cars, it was focusing its attention on the 1986 model year. The agency explained that it believed this approach was appropriate in view of the possibility of serious economic harm cited by GM and Ford and the limited remaining time for amending the 1986 standard. As discussed by the agency in a previous Federal Register notice, amendments reducing a standard for a particular model year may be made until the beginning of the model year, but not after that time. See 49 FR 41254–5 (October 22, 1984).

Due to the fact that the agency needs more time to complete its analysis of the data for MY 1987 and subsequent years, the agency will not consider petitions for those years at this time. The agency currently anticipates issuing a notice simultaneously with its announcement of a final decision for model year 1986 or shortly thereafter, proposing a range of alternatives for model year 1987 and subsequent years.

Public Comments on the Petitions

Comments were received both from parties strongly supporting a reduction in the 1986 passenger car CAFE standard and parties strongly opposing such action. The National Automobile Dealers Association (NADA), the Automobile Importers of America (AIA), several limited-line European automobile manufacturers, the U.S. Department of Commerce, several members of Congress, and various private individuals supported the GM and Ford petitions.

NADA cited increased consumer demand for larger, less fuel-efficient vehicles and stated that the 27.5 mpg CAFE standard forces manufacturers to choose between either unlawful conduct or curtailment of product offerings and/or creation of market disincentives to the purchase of larger, less fuel-efficient passenger cars. According to NADA, either alternative would likely result in serious adverse consequences for affected manufacturers, their franchised dealers, consumers, and the nation's economy in general.

The European manufacturers generally cited the significant progress they have already made in improving fuel economy, increased market demand for larger cars and larger engines, and the difficulty limited-line manufacturers have in achieving higher average fuel economy if they do not produce small cars whose fuel economy can be averaged in with that of their larger cars.

The U.S. Department of Commerce expressed support for reducing the standard based upon its view that achievement of the 27.5 mpg standard for MY 1986 no longer appears to be economically practicable or technologically feasible. That Department stated that it believes GM and Ford can achieve that standard only by reducing their U.S. product offerings and adjusting their output mix, with economically damaging consequences, including substantial sales losses and employment decline.

Both GM and Ford submitted various additional information in support of their petitions, much of it at the request of the agency. Among other things, GM submitted a legal memorandum arguing that NHTSA should take account of the need to generate carryback credits as part of the determination of maximum feasible fuel economy.

Chrysler, Volkswagen, EPI, the New York State Energy Office, several members of Congress, and various private individuals opposed reducing the MY 1986 fuel economy standard. Both Chrysler and Volkswagen raised concerns as to the equity of changing the 1986 standard at this date, arguing that it is unfair to manufacturers which based their corporate plans on the long-established standard.

Chrysler argued that the GM and Ford petitions were untimely filed with respect to MY 1986, given the procedural steps which it contends the agency must work through and the difficulty and importance of the issues presented. Among other things, Chrysler argued that NHTSA must provide a comment period on any proposed rule of at least 60 and preferably 90 days and must wait until after the comment period to hold public hearings.

Chrysler also contended that the record does not warrant a reduction in the standard for MY 1986. According to that company, the issue is not whether the petitioners are currently capable of meeting the 27.5 mpg standard, but instead whether petitioners did everything possible, within the limits of technological feasibility and economic practicability, to meet the 27.5 mpg standard prescribed by Congress. That commenter stated that since Congress provided nearly 10 years to meet the standard, the "maximum feasible" average is the highest level they could have reached if they had done everything reasonably possible over the course of that entire period.

Chrysler raised a number of specific factual issues which it contends the agency must address. These include why GM and Ford are unable to meet the 27.5 mpg standard when Chrysler, a company with far fewer resources, can; why GM and Ford deferred programs to produce fuel-efficient cars; why the petitioners could not have had new, fuel-efficient vehicles planned for the future ready by MY 1986; why GM elected to close plants that build fuel-efficiency cars; why GM and Ford have elected to retain a number of older, fuel-inefficient rear-wheel-drive models that compete with their own newer front-wheel-drive cars; whether petitioners have done everything they can to influence consumer demand in favor of fuel-efficient cars; and why GM, and to a lesser extent Ford, are increasing their imports of cars that will compete with their own fuel-efficient domestic offerings.

Chrysler also expressed concern that a reduction in the standard for MY 1986, even if coupled with a carefully worded disclaimer about future years, would inevitably deter the petitioners from adopting any expensive new measures to improve fuel economy in 1987 and beyond.

Chrysler requested that NHTSA use its authority to place substantially all relevant material, including material subject to a claim of confidentiality, on the public record. According to that commenter, this is necessary in order to provide the public with a meaningful opportunity to comment.

EPI argued that a reduction in the MY 1986 CAFE standard would sanction the failure of certain automobile companies to comply with the Energy Policy and Conservation Act; exacerbate what it contends is a currently diminished focus on energy conservation in the transportation sector; and increase automobile fuel consumption, thereby promoting U.S. dependence on oil imports. That commenter questioned reducing the standard when it is conceivable that Ford and GM, if seizing the opportunity to advance fuel economy improvements, could earn sufficient carryback credits to avoid having to pay penalties for failure to meet one or more existing standards. EPI argued that the question of a commitment to gain these credits in the

future must be addressed and that industry should be willing to exercise

reasonable plans to achieve the 27.5 mpg level which subsequently became

Oldsmobile Toronado, Buick Riviera, the Cadillac Eldorado, and the Cadillac

Chrysler has projected that its MY 1985 CAFE would be 27.5 mpg and that

introduced a smaller model (the 190) with fuel economy of up to 40 mpg in

their more fuel-efficient vehicles and

VOL 50 ISS 140 JL 22 1985 UMI

future must be addressed and that industry should be willing to exercise this option or pay the appropriate fines rather than "retreat" from the MY 1985 standard which was established nearly 10 years ago.

The New York State Energy Office argued that reducing the MY 1986 automobile fuel economy standard would result in an "enormous" increase in gasoline consumption, eliminating the gains in fuel economy that have been achieved during recent years.

Agency's Analytical Approach

As discussed above, section 502(a)(4) provides that if NHTSA determines that a level other than 27.5 mpg is the maximum feasible average fuel economy for 1985 or any subsequent model year, the agency may change the standard for that year to that level. If NHTSA were writing on a blank slate and establishing the MY 1986 standard for the first time, it would simply evaluate the average fuel economy levels of the manufacturers and determine what improvements could be made in those levels between now and the end of MY 1986. This would involve taking into account the capabilities of each manufacturer and considering the four factors listed in section 502(e), i.e., technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy.

The agency agrees with Chrysler, however, that the sole issue is not whether manufacturers are now capable of meeting the 27.5 mpg standard. Since the Cost Savings Act imposed a long-term obligation on manufacturers to achieve a 27.5 mpg fuel economy level, it would be inappropriate to reduce the standard if a current inability to meet the standard simply resulted from manufacturers previously declining to take reasonable steps to improve their average fuel economy as required by the Act. Therefore, the agency must evaluate the manufacturers' effort to achieve higher levels of fuel economy as well as their current capabilities.

On the other hand, the agency does not consider it appropriate to judge manufacturers' efforts by 20–20 hindsight. In assessing the reasonableness of manufacturers' fuel economy efforts, it is necessary to take account of the information available to manufacturers at the time product decisions were being made. Manufacturers had an obligation to take reasonable steps, consistent with the factors of section 502(e), to achieve a fuel economy level of 27.5 mpg. To the extent that manufacturers had reasonable plans to achieve the 27.5 mpg level which subsequently became infeasible due to unforeseen events, NHTSA does not believe the manufacturers should be charged with a failure to act in a reasonable manner.

The agency's analytical approach thus consists of first evaluating the maximum feasible average fuel economy level that manufacturers are now capable of achieving in MY 1986, taking into account the four factors of section 502(e) and second, to the extent that level is determined to be below 27.5 mpg, assessing the reasonableness of manufacturers' fuel economy efforts to meet the 27.5 mpg standard, in light of the information available to manufacturers at the time product decisions were being made and the four factors of section 502(e).

Summary of Agency Analysis

Based on its analysis and in light of the four factors of section 502(e), NHTSA has tentatively concluded that the maximum feasible average fuel economy level for MY 1986 is 26.0 mpg. The agency's analysis indicates that GM and Ford, constituting a substantial part of the industry, have made significant efforts to meet the current standard, and that those efforts have been overtaken by unforeseen events. Based on its analysis, the agency is proposing to reduce the 27.5 mpg CAFE standard for MY 1986 to 26.0 mpg.

Manufacturer Projections for 1986

The starting point in analyzing the GM and Ford petitions for rulemaking is to examine the manufacturers' MY 1986 CAFE projections. While manufacturers have greatly improved their CAFE during the past decade, current projections indicate that the CAFE levels for a number of manufacturers remain below 27.5 mpg.

GM projects its MY 1986 domestic CAFE to be 25.7 mpg,[3] 0.6 mpg higher than the company's projection of 25.1 mpg for MY 1985. This improvement results primarily from a reduction in the average weight of the GM fleet. The weight reduction is due mainly to the introduction of a new front-wheel drive large car (the GM70—replacing the rear-drive Buick LeSabre and Oldsmobile 88 models), the introduction of a lighter mid-size luxury car (the GM30—replacing the E- and K-body models: the Oldsmobile Toronado, Buick Riviera, the Cadillac Eldorado, and the Cadillac Seville) and the introduction of a 4-door version of the GM20 compact. There is an additional fuel economy gain due to the expanded use of 4-speed automatic transmissions. There is also an increase in CAFE because of a slight mix shift toward smaller models. Much of this mix shift is due to an increase in compact sales as a result of the introduction of the 4-door GM20 model, as well as a reduction in the share of GM's mix taken by large car sales.

Several other changes in the characteristics of the GM car fleet have minor, and generally offsetting, effects on the company's projected MY 1986 CAFE. The new models have improved aerodynamics, adding to the company's fuel economy level. This effect is essentially offset by the elimination of diesel engines from all models except the Chevette/1000.

Ford projects its MY 1986 domestic CAFE to be 26.2 mpg, 0.9 mpg higher than the company's projection of 25.3 mpg for MY 1985. The most visible change in Ford's fleet for MY 1986 is the introduction of the Taurus/Sable mid-size model. This new front-wheel drive car is designed to eventually replace the rear-wheel drive LTD/Marquis models. The new model includes new 2.5 liter 4-cylinder and 3.0 liter V–6 engines, as well as a new 4-speed automatic transmission, and is thus more fuel-efficient than the LTD/Marquis.

Between MY 1985 and MY 1986, Ford expects an increase in mid-size car sales as a percentage of its fleet and a decline in the large car and compact car share of its sales. Some of this effect is caused by the timing of the introduction of new models. This effect results in a slight lowering of Ford's CAFE.

Ford expects a slight increase in its average weight for MY 1986. Reasons for this increase include the replacement of the 1.6 liter engine in the Escort-Lynx compacts with a 1.9 liter engine, increased sales of a larger engine in the Mustang/Capri, and the introduction of a new version of an existing vehicle. This impact on Ford's CAFE is a 0.4 mpg decline, which is completely offset by a reduction in average engine size with the introduction of the Taurus/Sable.

Ford intends to introduce a number of technological improvements for MY 1986. These improvements include engine efficiency improvements, reduced aerodynamic drag (primarily due to the introduction of the Taurus/Sable), lower rolling resistance tires on several models, improved calibrations on two engines, and a number of other, relatively minor, changes.

[3] On June 18, 1985, GM submitted a letter indicating that its model year 1986 CAFE projection may change, based on a preliminary staff update of that company's current business plan. The submission was made under a claim of confidentiality, which is being reviewed by NHTSA. The agency will fully consider the submission before reaching a decision concerning a final rule.

Chrysler has projected that its MY 1985 CAFE would be 27.5 mpg and that its 1986 CAFE would be 28.1 mpg. However, subsequent to its statement about MY 1986 CAFE, Chrysler announced that it was changing its product plans because the United States had decided not to request an extension of the Japanese Voluntary Restraint Agreement on car exports to the United States. NHTSA has requested Chrysler to provide data on the effects of those product plan changes on Chrysler's MY 1986 CAFE and is awaiting the data. In the meantime, the agency does not know the specific impact of the changes on Chrysler's projection. However, the agency expects Chrysler's MY 1986 CAFE to be at or above 27.5 mpg.

American Motors, Volkswagen and the major Japanese manufacturers are expected to easily exceed the current 27.5 mpg standard for MY 1986. The fuel economy trend of the Japanese manufacturers has been mixed, however. Honda, Nissan and Isuzu have dropped in corporate fuel economy over the last three years, while Toyota and Mitsubishi have increased. The reason for the drop in fuel economy experienced by some of the Japanese manufacturers has been a mix shift toward larger, more performance-oriented vehicles.

Most of the European manufacturers are expected to be below the 27.5 mpg level for MY 1986. These include BMW, Mercedes-Benz, Peugeot, Saab, Volvo, and Jaguar. Many of these manufacturers' CAFE have also declined within the last three years.

BMW projects a MY 1986 CAFE of 26.1 mpg. While that is above its projected MY 1985 CAFE of 25.6 mpg, it is well below its MY 1984 CAFE of 27.4 mpg. BMW's drop in CAFE has resulted from a mix shift in sales to vehicles with larger engines and greater performance. While BMW has a selection of vehicle models which exceed the standard of 27.5 mpg, sales have shifted toward higher performance vehicles with lower fuel economy.

While the agency does not have a MY 1986 CAFE projection from Mercedes-Benz, that company's fuel economy has dropped approximately three mpg over the last three years. Its 1983, 1984 and projected 1985 CAFE levels have been 26.5 mpg, 25.5 mpg and 23.4 mpg, respectively. The reason for the drop is that consumer demand has shifted sales toward the higher performance end of that company's model line and away from vehicles with diesel engines. The fraction of Mercedes-Benz cars equipped with diesels has fallen from 78 percent in 1983 to an estimated 44 percent in 1985. While Mercedes introduced a smaller model (the 190) with fuel economy of up to 40 mpg in some diesel versions, the sales volumes have not been enough to offset the sales of its larger versions. That company noted in its comment that the pump price of regular unleaded gasoline is currently approximately $1.15 per gallon versus $1.29 for diesel fuel, the opposite of the relative prices in effect when the CAFE legislation was passed and when that company developed its plans to improve its fuel economy.

Volvo projects a MY 1986 CAFE of 26.5 mpg, approximately the same as its projected CAFE for MY 1985. Peugeot projects that its MY 1986 CAFE will be 25.8 mpg, 0.8 mpg higher than its MY 1985 projection of 24.8 mpg. Saab projects that its MY 1986 CAFE will be 25.4 mpg, 0.4 mpg lower than its MY 1985 projection of 25.8 mpg. Jaguar, which produces only large, heavy, luxury class vehicles, projects a MY 1986 CAFE of 19.2 mpg.

The agency has evaluated the manufacturers' MY 1986 CAFE projections and considers them to be reasonable projections based on the vehicles the manufacturers plan to offer for sale and expected market conditions. As with any sales projections, there are a number of uncertainties associated with them. Both GM and Ford indicated a number of marketing risks, including the possibility that Japanese car sales may rise substantially during the 1986 model year, resulting in a corresponding loss in sales of their most fuel efficient cars and a concomitant reduction in their CAFE ability. Ford also identified a number of technological risks associated with achieving their submitted CAFE estimates for MY 1986, which could result in a small reduction in that company's projected CAFE.

Manufacturer Capabilities for 1986

Since the 1986 model year begins this fall, there is insufficient time for the manufacturers to make further significant technological changes in their product plans. Any additional efforts by the manufacturers to increase their MY 1986 CAFE would therefore largely be limited to attempts to change product mixes through increased marketing efforts and/or product restrictions.

The agency has indicated in the past that manufacturers must, under the Act, make efforts to sell fuel-efficient cars. The agency concludes, based on its analysis, that GM and Ford have, in the past been, and are now, making such efforts. To counteract the declining consumer interest in new car fuel economy, manufacturers have undertaken extensive and significant market efforts to shift consumers toward their more fuel-efficient vehicles and options. As discussed in the agency's 1985 preliminary regulatory impact analysis (PRIA), both GM and Ford have undertaken pricing actions to encourage small car sales and to discourage large car sales and that purchase of optional, less fuel-efficient engines. Below-market financing offerings, cash discounts, and non-cash consumer and dealer incentives were some of the other measures undertaken by Ford and GM to increase their CAFE through marketing actions.

In light of these past efforts, the agency believes that there is relatively little remaining capability to improve fuel economy by this technique. An additional factor making it difficult to increase sales of small cars is the strong competition in that market from the Japanese manufacturers, which enjoy a significant cost advantage over the domestic manufacturers. The comment submitted by the Department of Commerce estimated the cost advantage at $2,000 per car. This cost advantage limits the ability of the domestic manufacturers to increase sales of small cars through price reductions. Given these factors, NHTSA does not believe that the manufacturers can significantly improve their CAFE by increased marketing efforts. Further, the agency concludes that Ford and GM made reasonable marketing efforts to improve their CAFE.

Manufacturers could improve their CAFE by restricting their product offerings, i.e., deleting less fuel-efficient car lines or dropping higher performance engines. However, such product restrictions would have significant adverse economic impacts on the industry and the economy as a whole. The Department of Commerce comment estimated that the effect of GM and Ford achieving 27.5 mpg CAFE in MY 1986 could be sales losses ranging from 750 thousand to 1 million units. Based on the labor required for producing large domestic cars, including suppliers, that Department estimated job losses between 80 and 110 thousand. Confidential submissions received from GM and Ford indicated that a much higher number of job losses would be possible. The agency has analyzed these submissions and has tentatively concluded that, while it is difficult to calculate precise numbers for potential sales and employment losses associated with the major manufacturers achieving 27.5 mpg CAFE for MY 1986, there would be a likelihood of sales losses well into the hundreds of thousands of units and job losses well into the tens of thousands. Sales and employment losses

of these magnitudes would have significant adverse effects on the

(The discussion which follows first presents the agency's conclusions

perform both a major redesign and a material substitution action for an

other items, such as lack of acceleration capability reduction and minor weight

differences between Ford's 1980 plan for MY 1985 and what actually happened.

limited data, it appears that Chrysler's

VOL 50 ISS 140 JL 22 1985 UMI

of these magnitudes would have significant adverse effects on the economy as a whole, including GNP. Also, such product restrictions could increase the price of large cars or reduce their availability, and thereby unreasonably limit consumer choices.

In the preamble to the final rule establishing the MY 1981–84 passenger car standards, the agency concluded that economic practicability should be interpreted as requiring standards to be within the financial capability of the industry, but not so stringent as to threaten substantial economic hardship for the industry. 42 FR 33537, June 30, 1977. In a final rule reducing the light truck fuel economy standard for MY 1985, the agency concluded that sales reductions to a manufacturer of 100,000 to 180,000 units, with resulting employment losses of 12,000 to 23,000, "go beyond the realm of 'economic practicability' as contemplated in the Act . . . ." 49 FR 41252, October 22, 1984. The agency similarly concludes that the economic hardship associated with the product restrictions necessary for the major manufacturers to achieve 27.5 mpg CAFE in MY 1986 would be beyond the realm of economic parcticability.

Manufacturer Compliance Efforts 1977 to 1985

While there is now insufficient time for manufacturers to improve their MY 1986 CAFE by making significant technological changes in their product plans, the current MY 1986 standard has been in effect for nearly a decade. Therefore, an important issue in analyzing the GM and Ford petitions is whether manufacturers made reasonable efforts to meet the standard. As discussed above, the agency would not consider it appropriate to reduce the standard if a current inability to meet the standard simply resulted only from manufacturers declining to take reasonable steps to improve their average fuel economy as required by the Act. As part of analyzing this issue, NHTSA compared manufacturers' current product plans with past agency analyses which had concluded that the 27.5 mpg standard was feasible. The agency also compared current product plans with earlier plans submitted by the manufacturers indicating that they would meet the standards. As discussed below, the agency believes that GM and Ford made reasonable attempts to comply with the current MY 1986 standard and that the manufacturers' efforts were overtaken by unforeseen events whose effects could not be overcome with the means and time available.

(The discussion which follows first presents the agency's conclusions concerning the differences between the manufacturers' current product plans, i.e., what is not actually happening, and past analyses/plans by NHTSA and the manufacturers as to what was believed feasible, and then presents the agency's conclusions as to why manufacturers' CAFE's are lower than was once expected.)

A. NHTSA's 1977 RSP

As discussed above, as part of establishing the 1981–84 standards, the agency developed estimates of the maximum feasible fuel economy for each manufacturer for model year 1981 through 1985. The estimates were based on a number of assumptions, including the ability of manufacturers to sustain a rapid rate of introduction of technology, consumer acceptance of a 10 percent reduction in vehicle acceleration, and significant use of a widespread range of technological options, including weight reduction, improved transmissions and lubricants, reduced aerodynamic drag, reduced accessory losses, and reduced tire rolling resistance. The agency's estimates did not assume a downward mix shift in automobile sizes or the use of diesel engines.

The agency's 1985 PRIA contains a detailed analysis comparing NHTSA's 1977 feasibility estimates for MY 1985 with manufacturers' current projections for that model year. It should be noted that while the 1977 RSP projected that it was feasible for a number of manufacturers to achieve fuel economy levels somewhat above 27.5 mpg by MY 1985, no standard was ever set above the 27.5 mpg level. Thus, manufacturers were never required to make efforts to achieve the higher (NHTSA-projected) CAFE levels.

The 1977 RSP estimated that GM could achieve 28.9 mpg CAFE for MY 1985. GM currently projects its MY 1985 CAFE at 25.1 mpg. The PRIA concludes that the primary reason why GM's present MY 1985 projection is lower is that the average GM model weighs 359 pounds more than NHTSA projected in 1977. Part of the difference in expected weight is due to changes in EPA test weight classes, which could result in a measured fuel economy loss of 0.3 mpg. The remaining weight difference is 284 pounds, the effect of which, including the fact that a proportionately larger engine is needed to maintain acceleration capabilities, is a 2.0 mpg reduction in average fuel economy from that estimated in 1977.

A number of factors appear to account for this weight difference. In the 1977 RSP, NHTSA concluded that GM could perform both a major redesign and a material substitution action for an additional reduction in weight, for every carline during the MY 1977–85 timeframe. GM made all anticipated major redesigns except in the T-body cars (Chevette and 1000) and, in addition, introduced two additional lightweight models not projected in the 1977 analysis. The redesigns did not, however, achieve the full amount of weight reduction originally projected as feasible, and, in most cases, the material substitution actions did not occur. Also, when GM introduced new models, the company often continued production of the earlier models.

Other factors which explain GM's lower CAFE are a higher than anticipated engine/size ratio (−0.6 mpg), indicating that GM did not reduce acceleration capability by the percentage projected by the 1977 RSP, and fewer 4-speed automatic transmissions (−0.8 mpg). These factors account for the bulk of the remaining differences between GM's present MY 1985 CAFE estimate and NHTSA's 1977 projection.

The 1977 RSP estimated that Ford could achieve 27.9 mpg CAFE for MY 1985. Ford currently projects its MY 1985 CAFE at 25.3. The agency's analysis in the PRIA concludes that a number of factors explain Ford's lower CAFE. The most significant are lack of acceleration capability reduction (−1.1 mpg), higher weight than anticipated (−0.8 mpg), and fewer lockup and wide-ratio automatic transmissions (−0.8 mpg). Additional factors which explain Ford's lower CAFE are the EPA change in test weight class (−0.3 mpg) and a sales mix adjustment (−0.3 mpg). While Ford's CAFE is lower than was projected as feasible back in 1977, the agency concludes, as discussed in the PRIA, that Ford exceeded the agency's projections for improving CAFE in the areas of reduced rolling resistance (+0.4 mpg) and reduced aerodynamic drag (+0.2 mpg). Also, diesel engines added slightly to Ford's CAFE (+0.1 mpg).

The 1977 RSP estimated that Chrysler could achieve 28.7 mpg CAFE for MY 1985. Chrysler currently projects its MY 1985 CAFE at 27.5 mpg. Major changes in product plans by that company from what were anticipated make it difficult to directly compare the agency's 1977 RSP to Chrysler's current projections. An unanticipated shift toward smaller cars in the company's product line-up significantly increased Chrysler's CAFE (+2.2 mpg). This was more than offset, however, by the effect of fewer lock-up and no wide-ratio automatic transmissions (−2.5 mpg). A number of other items, such as lack of acceleration capability reduction and minor weight increases contribute to the remaining decline in fuel economy.

The PRIA also compares the 1977 RSP feasibility estimates for foreign manufacturers to current projections. On a sales-weighted basis, the foreign manufacturers' vehicle horsepower/weight ratio has increased by an average of 13 percent and vehicle weight has increased by an average of 8.6 percent since 1977, rather than decreasing as believed feasible by NHTSA in 1977. In spite of these changes, the foreign manufacturers have increased their average fleet fuel economy by about 2.5 mpg since 1977, as a result of factors such as improved rolling resistance and aerodynamic drag. However, this is significantly less than the agency had projected as feasible.

B. Manufacturers' Previous Plans

1. 1980

During the summer of 1980, as fuel prices were rising rapidly, GM, Ford and Chrysler all announced that their MY 1985 CAFE levels would be approximately 30 mpg or higher. At NHTSA's request, the companies provided the agency with data to support the projections.

GM expected to achieve 31 mpg in MY 1985 with a completely redesigned line-up of U.S. passenger cars. Included in this product plan were extensive use of diesel engines, the introduction of an electric car, the introduction of a new domestic subcompact front-wheel drive economy car (the S-body, designed to eventually replace the Chevette/1000), the replacement of essentially all GM's existing cars with lighter weight front-wheel-drive models, a mix shift toward smaller models, and the virtual elimination of V–8 engines.

There are a number of differences in GM's 1980 plan for MY 1985 and what actually happened, including a substantial drop in diesel engine sales, the fact that GM did not introduce an electric car or a new domestic subcompact economy car, a slowdown in the rate of replacing existing cars with lighter weight front-wheel-drive models, a sales shift toward larger models and engines, and the continuation of many existing lines.

In the summer of 1980, Ford projected that it could achieve a fuel economy level as high as 29.9 mpg in MY 1985. Included in that product plan was the complete elimination of large cars and large station wagons by MY 1985. Instead, large car sales are now projected to comprise approximately a fifth of Ford's MY 1985 volume. Other differences between Ford's 1980 plan for MY 1985 and what actually happened include delay in introducing the new front-wheel-drive Taurus mid-size car (to MY 1986), continuation of V–6 engines in a significant portion of the vehicle fleet instead of eliminating them, lower-than-expected diesel sales, and substantially fewer sales of Ford's most fuel-efficient model, the two-seater EXP.

In 1980, Chrysler expected to achieve CAFE of 30.7 mpg in MY 1985, well above that company's current projection of 27.5 mpg. A number of the car models in that plan have not been introduced. In addition, Chrysler projected it would replace the rear-wheel-drive, relatively heavy M-body (presently the Diplomat, Gran Fury, and Fifth Avenue) with versions of the front-wheel-drive K-body. Instead, Chrysler continued to offer this model after its ostensible replacements were introduced. The older-design M-body has an average fuel economy about 6 mpg below the equivalent front-wheel-drive models. Chrysler also planned a number of technological improvements that have not been introduced.

2. 1983

By mid-1983, GM's and Ford's expectations about exceeding the fuel economy standards had reversed. By this time, the manufacturers were having difficulty meeting the levels of the fuel economy standards. GM, Ford and Chrysler, as well as many other companies, had experienced a decline in their CAFE levels between MY 1982 and MY 1983. At NHTSA's request, the manufacturers provided the agency with data indicating their projected fuel economy levels through MY 1988.

GM's and Ford's mid-1983 projections for MY 1985 were not substantially different from what they are today. GM projected a CAFE of 25.9 mpg for MY 1985, as compared to its current projection of 25.1 mpg. In 1983, that company projected a sales mix with a slightly lower average weight and a greater number of diesel sales. Ford's 1983 projection was almost identical to its current projection. That company's 1983 projection included fewer large cars and station wagons in its MY 1985 fleet. However, this negative impact was offset by an increase in average fuel efficiency of the compact class due primarily to increases in projected Escort/Lynx sales and decreases in Thunderbird/Cougar sales.

Chrysler projected in 1983 that it could achieve 28.8 mpg in MY 1985, 1.3 mpg above its current estimate. In 1983 Chrysler did not provide the agency with as detailed product plans for MY 1985 as did GM and Ford. Based on the limited data, it appears that Chrysler's least fuel-efficient models are now selling at higher rates than the company anticipated in 1983. In addition, the average fuel economy level for each carline is lower than anticipated. This appears to indicate a mix shift toward larger and more powerful engines within each carline, similar to the mix shift experienced by Ford and GM.

3. 1984–1985

Product plan information provided to NHTSA within approximately the past year by both GM and Ford indicates that those company's CAFE projections for *MY 1986* have declined within that time frame.

The most significant changes have been for Ford. A carryback plan submitted by that company on May 7, 1984, indicated that Ford then expected to exceed the 27.5 mpg standard in MY 1986. A carryback plan submitted on December 7, 1984, projected significantly lower CAFE for MY 1986, reflecting a product plan change by that company. Ford's February 28, 1985, response to a NHTSA questionnaire on post-1985 fuel economy and an April 19, 1985, submission discussing the effects of changes in the Voluntary Restraint Agreement (VRA) with Japan both included slight additional declines in projected CAFE for MY 1986.

The PRIA includes an analysis of the changes in Ford's CAFE projections. Ford explained the reductions by citing changes in mix and model start-up schedules and the fact that new models had resulted in less fuel economy improvement than expected. The agency's analysis is largely in agreement with Ford's explanation, although it concludes that an additional factor appears to be that Ford is not achieving the engine or transmission efficiencies it expected for certain of its cars.

A carryback plan submitted by GM on November 27, 1984, projected slightly higher CAFE for MY 1986 than it currently projects. The agency concludes, as discussed in the PRIA, that the change represents an aggregation of changes in the GM fleet in which the fuel economies and market share of several models change slightly. Overall, the changes are small and largely compensatory.

C. Assessment of Manufacturers' Compliance Efforts

Assessing manufacturers' efforts to meet the 27.5 mpg standard is a difficult and complex task. With 20–20 hindsight, one can point to various actions that manufacturers might have been able to take at different points over the past

decade, e.g., increased use of material substitution, that would have improved

Manufacturers have used virtually all the technologies deemed feasible in the

Information Administration,[4] U.S. Department of Energy, January 1984, p.

efficient model, the two-seater EXP, was projected in 1980 to capture over 12

year 1986 fuel economy. The companies

changes in their product plans for MY

VOL
50
ISS
140
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22
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UMI

decade, e.g., increased use of material substitution, that would have improved their current fuel economy capability for MY 1986. The manufacturers, however, had to make their product plan decisions based on the information then available and often in the face of considerable economic difficulty.

In looking back over the past decade, the manufacturers' progress in improving fuel economy has been impressive. In evaluating technological feasibility, the agency considers the commercial availablity of technology to aid in meeting a standard for a particular model year. The amount of CAFE improvements gained by a manufacturer from using new technology is dependent on: (1) The increase in fuel economy associated with a particular type of technology, and (2) the percent of a manufacturer's fleet which incorporates that technology. Technology-based improvements include such items as weight reduction via downsizing or material substitution, engine and transmission improvements, reduced performance (e.g., acceleration capability), reductions in rolling resistance and aerodynamic drag, improved lubricants, and increased accessory efficiency, among others.

Over the past 10 years, manufacturers have reduced average car weight by 1000 pounds, reduced average engine displacement from 288 CID to 177 CID, increased the use of front-wheel drive from seven percent to 64 percent, increased the use of transmissions with overdrive and/or lockup from five to 84 percent, and increased the use of fuel-injected engines from five percent to 54 percent.

The agency notes that some major investments made by manufacturers to improve fuel economy were not successful. For example, both GM and Ford made major investments in diesel engines. Largely due to market conditions, however, including lower-than-expected gasoline prices and a change in the relative price of gasoline and diesel fuel, sales of passenger cars with diesel engines have virtually collapsed. Various efforts by the manufacturers to develop new technologies, such as Ford's experience with the PROCO engine, were unsuccessful. Given the massive undertaking by the industry to virtually double its CAFE in a relatively short period of time, it is not surprising that there would be failures as well as successes. In assessing the manufacturers' efforts to improve their CAFE's, however, the agency believes it is appropriate to take account of all of the efforts.

Manufacturers have used virtually all the technologies deemed feasible in the the agency's 1977 RSP, as well as achieving a number of gains in areas not foreseen at that time. However, not all of those technologies have been installed in as high a percentage of cars in the manufacturers' fleets as was believed feasible. This is particularly true for weight reduction, performance reduction, and transmission improvements.

The agency believes that the lower than anticipated use of these three technologies is largely attributable to market conditions. The consumer acceptability of lower performance, for example, is relatively easy to achieve in times of short fuel supply and steadily rising prices. However, the real price of gasoline has declined by nearly 20 cents per gallon since the early 1980's, is generally expected to rise less than four percent over the next five years, and there is currently a petroleum glut, which results in the public perception of no foreseable energy shortage. Thus, as discussed in the PRIA, the anticipated performance reductions were achieved as early as 1982, but since that time consumers have been demanding greater engine/vehicle performance. Similarly, consumers have been switching to heavier vehicles over the last few years. And finally, making transmission improvements in certain small cars would have further exacerbated the already serious production cost differential between Japanese and domestic subcompacts.

As discussed above, the Cost Savings Act imposed a long-term obligation on manufacturers to make reasonable efforts to achieve CAFE of 27.5 mpg. As of mid-1980, GM and Ford had plans which they believed would not only achieve that level but significantly exceed it. Moreover, during the early 1980's, manufacturers not only met the standards set at levels intended to result in steady progress toward 27.5 mpg, but in fact exceeded those standards.

By 1983, however, domestic manufacturers were having difficulty meeting the levels of fuel economy standards. Consumer demand was shifting toward larger, more comfortable cars with better performance. The nation (and the auto industry in particular) was coming out of a serious economic recession, and, contrary to prior NHTSA and industry expectations, gasoline prices were falling instead of rising. The U.S. city average retail price for unleaded regular gasoline fell from $1.38 in 1981 to $1.30 in 1982 and $1.24 in 1983. (*Monthly Energy Review*, Energy Information Administration,[4] U.S. Department of Energy, January 1984, p. 88) (In 1984 dollars, this decrease was from $1.58 in 1981 to $1.40 in 1982 and $1.29 in 1983.) When fuel prices are high, consumers tend to demand more fuel-efficient vehicles in the marketplace. The rise in gasoline prices since 1973 was a factor in the tremendous increase in fuel efficiency that has been achieved since Congress passed the Energy Policy and Conservation Act. Conversely, when prices fall, it becomes more difficult for manufacturers to meet CAFE standards.

The effect of consumer demand on CAFE is reflected both by actual market shifts and by expected market shifts which did not occur. The percent of total new car sales consisting of subcompact models declined from 46 percent in model year 1980 to 30 percent in model year 1983. Since then, the share appears to be leveling off at approximately 26 percent. For GM, the percent of sales of subcompacts (including two-seaters) declined from 27 percent in model year 1980 to 11 percent in model year 1983. For model year 1985, GM projects an 11 percent share for subcompacts (including two-seaters). Seventeen percent of GM's model year 1980 sales were large cars, as compared to 27 percent for model year 1983 and a projection of 27 percent for model year 1985. For Ford, the percent of sales of subcompacts (including minicompacts) declined from 37 percent for model year 1980 to 12 percent for model year 1983. For model year 1985, Ford projects a 9 percent share for subcompacts (including two-seaters). Sixteen percent of Ford's model year 1980 sales were large cars, as compared to 21 percent for model year 1983 and a projection of 22 percent for model year 1985. For Chrysler, the percent of sales of subcompacts declined from 41 percent in model year 1980 to 12 percent in model year 1983. For model year 1985, Chrysler projects a 20 percent share for subcompacts. Eight percent of Chrysler's model year 1980 sales were large cars. That company stopped producing large cars after model year 1981.

In addition to these actual market shifts are expected market shifts which did not occur. For example, as indicated above, Ford anticipated in 1980 that it could virtually eliminate large cars by 1985, as compared to its current projection that large cars will comprise 22 percent of its sales. Ford's most fuel-efficient model, the two-seater EXP, was projected in 1980 to capture over 12 percent of model year 1985 sales. Ford now expects it will take less than two percent of sales. Similarly, GM anticipated in 1980 that the large car share of its model year 1985 sales would be 17 percent, well below its current projection of 27 percent. GM expected its subcompact share to be 18 percent, as compared to its current projection of 11 percent (including two-seaters). The manufacturers' 1980 expectations were overtaken by events as gasoline prices began to fall, instead of rising significantly as expected.

MY 1985 projections provided by the manufacturers during the summer of 1983 indicate that they recognized at that time they would not be able to achieve 27.5 mpg CAFE for MY 1985, although they apparently believed they would have sufficient carryforward and carryback credits available to avoid non-compliance with the Cost Savings Act. Given that the manufacturers recognized difficulties in achieving 27.5 mpg as early as 1983 (as opposed to their earlier expectations of significantly exceeding that level), the issue arises whether manufacturers could or should have done more between then and now to improve their CAFE.

The agency believes several factors are relevant in analyzing that issue. First, the domestic industry was just beginning to recover from one of the worst periods of economic difficulty in its history. From a picture of high profitability in the late 1970's, their fortunes had declined such that they encountered their largest losses ever during the 1980–82 period. During those three years, GM, Ford, and Chrysler had combined operating losses of $4.8 billion. Chrysler staved off bankruptcy through corporate restructuring and with the help of Federal loan guarantees, while Ford alone incurred $3.3 billion in losses over that three-year period.

At the same time, the companies were involved in massive efforts to restructure their operations and redesign their fleets. Even though they were incurring operating losses and inflation was high in the early 1980's, Ford and GM continued or accelerated their capital investment levels, compared to earlier years. For example, GM's highest two years of actual capital expenditures occurred during 1980–81. Long-term debt greatly increased for GM and Ford during this period, as they could not raise the money they needed for capital expenditures from operations.

Given this backdrop of events, it would have been very difficult for GM and Ford to initiate significant further new programs to improve their model year 1986 fuel economy. The companies were heavily in debt, and limited corporate funds were available for new programs. The agency has long recognized that the ability to generate the funds necessary to make fuel economy improvements is a critical factor in assessing economic practicability and determining maximum feasible average fuel economy. As discussed in the background section of this preamble, NHTSA recognized in its January 1979 Third Annual Report that its feasibility estimates were dependent on the continued financial health of the industry and could be subject to change in the event of a severe economic downturn.

Second, it was generally expected that the drop in gasoline prices during the early 1980's was temporary and would quickly reverse. For example, the Summer 1983 Data Resources, Inc. (DRI) U.S. Long-Term Review projected that the percent change in the personal consumption deflator for gasoline would be −3.9 for 1983 but 3.9, 6.6, and 8.6 or 7.7 (reflecting two types of forecasts) for 1984, 1985 and 1986, respectively. Had gasoline prices begun to rise again, consumer demand would have tended to shift back toward more fuel-efficient vehicles, and as a result the manufacturers would generally have had higher CAFE's. Instead of turning positive in 1984, however, the personal consumption deflator for gasoline was −1.6 percent. Moreover, the Spring 1985 DRI U.S. Long-Term Review forecasts that indicator will remain negative for both 1985 and 1986, at −1.8 percent and −0.8 percent, respectively. This continued decline (in real terms) of gasoline prices has resulted in relatively less consumer demand for small cars with high fuel efficiency levels than would otherwise have been expected.[5] The virtual collapse in sales of diesel fuel automobiles illustrates this effect.

Third, the manufacturers' projections in recent years indicate that they believed they would still comply with the law for model years 1985 and 1986, using carryforward/carryback credits as permitted by the Cost Savings Act. Indeed, later submissions by both Ford and GM, most notably the carryback plans, indicate that they did not recognize a CAFE compliance problem until approximately the time they submitted their petitions. By that time, it was too late for the manufacturers to make further significant technological changes in their product plans for MY 1986.

Chrysler has raised the issue of the reasonableness of GM and Ford changing their product plans in a variety of ways over the past few years with the effect of decreasing their projected CAFE's. That company cited decisions by those companies to continued selling larger models and engines that had been planned to be cancelled and the continuation of rear-wheel drive models after front-wheel drive "replacements" had been introduced.

The agency notes that Chrysler stated that it "agrees that consumers have indicated a preference for better performance in recent years . . ." and that it in fact has done some of the same things. It is that company's contention, however, that "what is permissible for Chrysler, who meets the 27.5 mpg standard, should be considered excessive for GM, who does not."

NHTSA cannot agree that product plan changes that decrease CAFE are *per se* "excessive" for companies which are having difficulty meeting the CAFE standards. Given that consumer demand is a major determinant of what it is economically practicable for manufacturers to sell, since consumers need not buy what they do not want, it is axiomatic that a change in consumer demand (all other things held constant) will change what is economically practicable for manufacturers to sell. The fact that GM and Ford once believed they could delete certain models or engines without significant adverse economic impacts does not mean that they would be able to do so after conditions have changed.

As discussed above, Congress did not cast the 27.5 mpg standard in stone but instead provided flexibility to adjust the standard based on up-to-date information, subject to the requirement that the standard be set at the maximum feasible average fuel economy level. Holding manufacturers to product plans which are no longer consistent with current market conditions would have the same result as requiring product restrictions. As discussed above, the types of product restrictions that would be required to significantly improve GM's and Ford's CAFE's would result in serious harm to the industry and the economy as a whole.

While the agency believes that product plan changes such as those discussed above are consistent with statutory criteria, since they reflect changes in what is economically practicable, manufacturers continue to have an obligation to make all efforts consistent with those statutory criteria

[4] The Energy Information Administration is a statistical and analytical branch of the Federal Government that is policy independent of the Department of Energy.

[5] The decline in gasoline prices has been occurring while prices in general have been rising. For example, the 1984 change in the implicit GNP Deflator was 3.8 percent. DRI forecasts increases of 3.4 and 3.3 percent for 1985 and 1986.

to meet CAFE standards. To the extent that changes in product plans result in manufacturers falling below the standard for any given year, the manufacturers must pursue other means, such as additional technological improvements, to achieve that standard. As discussed above, however, by the time GM and Ford recognized that economic forces had created a compliance problem, it was too late to make further significant technological changes to improve their CAFE's for MY 1986.

Another issue raised by Chrysler is why GM and Ford are unable to meet the 27.5 mpg standard when it, a company with far fewer resources, can. As noted above, the legislative history indicates that Congress did not intend to unduly limit consumer choice as to capacity and performance of motor vehicles. Unlike GM and Ford, Chrysler does not offer any vehicles which are defined by EPA as "large cars" or "large station wagons." These vehicles, which account for 10–25 percent of Ford's and GM's sales, are less fuel-efficient than the cars Chrysler sells. The primary reason GM's and Ford's CAFE's are lower than Chrysler's is that Chrysler does not complete in all the market segments in which GM and Ford sell cars. The agency believes that GM's and Ford's decisions to continue selling large cars are fully consistent with the statutory criteria. Moreover, Chrysler's fuel economy is not significantly different from that of GM or Ford for the market segments in which it does compete.

The agency tentatively concludes that the manufacturers did make reasonable efforts to improve their fuel economy and that those efforts were overtaken by unforeseen events whose effects could not be overcome by technological means within the time available.

Other Federal Standards

On July 1, 1985, the Environmental Protection Agency (EPA) published a final rule in the **Federal Register** (50 FR 27172) to provide CAFE adjustments to compensate for the effects of past test procedure changes. The final rule adopted a formula approach for calculating CAFE adjustments for the 1986 model year.

Manufacturers had argued that changes in EPA test procedures had adversely affected their CAFE values. On December 21, 1983, EPA published a proposal to give a 0.2 mpg credit to all passenger car manufacturers to account for test procedure changes regarding inertia weights, dynamometer controllers, actual distance versus nominal distance traveled in the test, and humidity level. In August 1984, GM requested additional CAFE credit to compensate for changes over time in the properties of test fuels used by EPA and the industry. GM argued that the test fuel adjustment should be an additional 0.02 mpg to 0.32 mpg fuel economy credit, with the value varying by model year. On December 7, 1984, EPA published a supplemental notice requesting comment on the test fuel issue.

Because EPA had issued its proposals prior to this agency's receipt of the GM and Ford petitions, NHTSA considered the effect of the EPA rulemaking throughout its analysis of those petitions. Due to the formula approach adopted by EPA, that agency is currently unable to provide precise calculations concerning how the rule will affect each manufacturer. EPA staff informed NHTSA that they expected GM and Ford to receive credits for the 1986 model year of approximately 0.2 mpg. GM and Ford informed NHTSA that they expected to receive credits of 0.2 mpg and 0.1 mpg, respectively. While the agency does not have specific data concerning how the credits will affect other manufacturers, it believes that the credits will be similar to those for GM and Ford. The EPA final rule will thus raise the manufacturers' projected CAFE for model year 1986 by approximately 0.1 to 0.2 mpg.

(It should be noted that some but not all of the manufacturers' projections provided to NHTSA prior to the EPA final rule included CAFE adjustments based on EPA's proposals. For purposes of consistency, however, none of the manufacturers' projections set forth above include the CAFE adjustment. This is true for both the model year 1986 projections and the projections for model year 1985. The EPA final rule generally provided somewhat higher CAFE adjustments for model year 1985 than for model year 1986.)

As discussed in the PRIA, changes in other Federal standards which may affect CAFE have been made in safety and damageability requirements. These include the May 1982 amendment to the Part 581 Bumper Standard, which permits weight savings; several amendments to the agency's lighting standard, which permit greater aerodynamic efficiency; and the fact that the automatic restraint requirement of Standard No. 208, with its attendant weight penalty, is not in effect for MY 1986, as earlier anticipated. The potential weight savings permitted by the change in the Bumper Standard could improve CAFE by approximately 0.15 to 0.4 mpg. The agency concluded, however, that continued consumer demand for 5 mph bumpers did not permit the manufacturers to avail themselves of much of those potential weight savings. The net effect of the safety changes was to increase the CAFE capabilities of the manufacturers by approximately 0.3 mpg.

The Need To Conserve Energy

Since 1975, when the Energy Policy and Conservation Act was passed, this nation's energy situation has undergone a great deal of change. In particular, oil markets have been deregulated and the Strategic Petroleum Reserve (SPR) has been established. These changes have raised questions about which means of energy conservation are most economically efficient. The agency invites comments on whether and, if so, how these changes should affect the determination of passenger car CAFE standards under the statute.

The United States imported 15 percent of its oil needs in 1955. By 1977, the import share was 46.4 percent and the value of imported crude oil and refined petroleum products was $67 billion (stated as 1984 dollars). While the import share of total petroleum demand declined after that year, the cost continued to rise to a 1980 peak level of $93.2 billion (1984 dollars). By 1984, the import share had declined to 30.9 percent at a cost of $54.2 billion. Thus, the concern over dependence on imported petroleum, as measured by these indicators, has lessened in the past several years.

Moreover, imports from OPEC sources have been declining, from a high of 6.2 million barrels per day and 70.3 percent of all imports in 1977 to 2.0 million barrels per day and 37.6 percent of imports in 1984. Imports from non-OPEC sources have risen slightly from a low of 2.2 million barrels per day or 30.7 percent in 1976, to 3.4 million barrels per day or 62.4 percent in 1984. In 1984, Mexico supplied the U.S. with the largest amount of crude oil and petroleum products, followed by Canada. As imports have shifted to non-OPEC sources, the United States' supply of petroleum has become less vulnerable to the political instabilities of some OPEC countries, as compared to the situation in the mid-1970's.

Overall, the nation is much more energy independent than it was a decade ago, when Congress established the MY 1985 and thereafter standard. From 1975 to 1984, energy efficiency in the economy improved by 21 percent. (*1984 Annual Energy Review*, Energy Information Administration, U.S. Department of Energy, p. 47) Passenger car petroleum consumption is actually lower than it was in 1975, even though travel has increased 25 percent since

then. Domestic oil production is higher than it was in 1975, total imports have dropped 20 percent since then, the value of the nation's imported oil bill has declined nearly 40 percent in the last five years (on a net import basis the value of the nation's imported oil bill fell nearly 45 percent from 1980 to 1984), and the amount of imported oil from OPEC has dropped by 67 percent since the peak of 1977. As a percentage share of GNP, the net oil import bill fell from 2.8 percent in 1980 to 1.5 percent in 1984. In addition, the price of oil is now fully decontrolled, permitting the market to adjust quickly to changing conditions, and the Strategic Petroleum Reserve is well on its way to being filled. The 451 million barrels in the SPR at year-end 1984 were equal to 141 days or 38.6 percent of non-SPR crude oil imports that year. Thus, by any measure, the nation is in a stronger energy position than it was a decade ago.

According to Energy Information Administration (EIA) and Data Resources, Inc., projections, however, domestic production is expected to decline from a stable level of 10 MMB/D to about 8.5 MMB/D by 1995. Net imports are expected to rise from 4.5 to 5 MMB/D to about 7.5 (EIA) to 9.0 (DRI) MMB/D by 1995. This would result in imports approaching 50 percent of U.S. petroleum use by 1995. However, future projections about petroleum imports are subject to great uncertainty and may be overtaken by new domestic discoveries. Indeed, oil imports are very difficult to project beyond a year or two. For example, the EIA's *1977 Annual Report to Congress* projected that net oil imports by the U.S. would, in the "reference case," reach 11 million barrels per day by 1985. Net imports for this year are now forecast to be less than 4.5 million barrels per day, substantially less than half the level predicted in 1977. The agency believes that energy conservation is important but also notes that even with a reduction in the standard MY 1986 passenger cars meeting a 26.0 mpg standard will be considerably more fuel-efficient than the nation's overall vehicle fleet and will thus make a substantial positive contribution to the goal of petroleum conservation.

Determining the 1986 Maximum Feasible Average Fuel Economy Level

As discussed above, section 502(a)(4) provides that the 27.5 mpg standard can be raised or lowered for MY 1985 or any subsequent model year if the agency determines that some other standard represents the maximum feasible average fuel economy level. In making this determination, the agency must consider the four factors of section 502(e): technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy.

Based on dictionary definitions and judicial interpretations of similar language in other statutes, the terms "feasible" and "practicable" refer to whether something is capable of being done.[8] A standard set at the maximum feasible average fuel economy level must thus (1) be capable of being done and (2) be at the highest level that is capable of being done, taking account of what manufacturers are able to do in light of available technology, economic practicability, how other Federal motor vehicle standards effect average fuel economy level, and the need of the nation to conserve energy.

The Conference Report to the 1975 Act (S. Rep. No. 94–516, 94th Cong., 1st Sess. 154–5 (1975)) states:

> Such determination should therefore take industrywide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual automobile manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic automobile manufacturers that currently exist, and the possible implications for the national economy and for reduced competition association (sic) with a severe strain on any manufacturer. . . .

This language of the Conference Report indicates that standards may at times be set at a level above that of the least capable manufacturer and that some manufacturers may find it necessary to pay penalties. The issue arises of how (and whether) this language should be reconciled with the statutory text indicating that standards must be set at a level that is capable of being done. As a matter of construction, statutory language is controlling over legislative history. Legislative history, however, should be used as an indication of congressional intent in resolving ambiguities in a statutory language. The agency believes that the above-quoted language of the Conference Report provides guidance on the meaning of "maximum feasible average fuel economy level."

It is clear from the Conference Report that Congress did not intend that standards simply be set at the level of the least capable manufacturer. Rather, NHTSA must take industrywide considerations into account in determining the maximum feasible average fuel economy level. The focus, thus, must be on the manufacturers' collective ability to meet a standard, rather than any particular manufacturer's ability to meet it.

With respect to light truck standards, NHTSA has consistently taken the position that it has a responsibility to set standards at a level that can be achieved by manufacturers of a substantial share of sales. See 49 FR 41251, October 22, 1984. The agency believes this same criterion is relevant to the setting of passenger car standards, as part of taking industrywide considerations into account. Given the substantial share (more than 60 percent) of sales by GM and Ford, the agency believes that a standard set at a level above the maximum feasible capability of these manufacturers would by definition not be at the maximum feasible average fuel economy level for the industry, i.e., such standard would exceed that level.

The least capable manufacturers with major shares of the market are GM and Ford. Taking account of the EPA test adjustment credit, GM projects its MY 1986 CAFE at 25.9 mpg, and Ford projects its MY 1986 CAFE at 26.3 mpg. In the section of this preamble entitled "Manufacturer Capabilities for 1986," the agency made several tentative conclusions concerning the manufacturers' abilities to improve their projected CAFE levels. First, given the imminence of the 1986 model year, there is insufficient time now for the manufacturers to make further significant technological changes to their product plans. Therefore, any additional efforts by the manufacturers to increase their MY 1986 CAFE would largely be limited to attempts to change product mixes through increased marketing efforts and/or product restrictions. Second, based on past experience and current competitive conditions, NHTSA tentatively concludes that GM and Ford cannot significantly improve their CAFE's by increased marketing efforts. Third, the types of product restrictions that would be required for GM and Ford to significantly improve their CAFE's could

[8] The *Random House Dictionary of the English Language* (unabridged edition) defines "feasible" as "capable of being done, effected, or accomplished." It defines "practicable" as "capable of being done, effected, or put into practice, with the available means; feasible. . . ." In *American Textile Mfrs. Institute Inc. v. Donovan*, 452 U.S. 400 (1981), the Supreme Court interpreted use of the word "feasible" in a similar statutory context to mean "capable of being done."

result in significant adverse economic impacts and restrict consumer choice to

responsibility to set standards at a level that can be achieved by such a major

agency's analysis of this issue is

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result in significant adverse economic impacts and restrict consumer choice to an unreasonable degree. The unacceptability of the resulting product mix to a significant segment of the consuming public would likely result in MY 1986 sales losses well into the hundreds of thousands of units and job losses well into the tens of thousands. The agency considers these effects to be beyond the realm of economic practicability.

While the agency believes that that energy conservation is important, it cannot conclude that the possible energy savings associated with maintaining the 27.5 mpg standard for MY 1986 would justify the major economic hardships discussed above. The magnitude of possible energy savings is uncertain. If manufacturers restricted the availability of their large cars, consumers might tend to keep their older, less fuel-efficient large cars in service longer or purchase large pickup trucks and vans to obtain the room, power and load-carrying capacity they desire. This could offset in whole or part the apparent energy savings associated with higher passenger car CAFE.

The agency's PRIA indicates that the *maximum* magnitude of any increase in fuel consumption associated with a 26.0 mpg CAFE standard would be 1.54 billion gallons (37 million barrels) over the life of the MY 1986 fleet. The maximum yearly impact on U.S. gasoline consumption would be 210 million gallons, or roughly 0.3 percent of total annual automobile gasoline consumption. In terms of total U.S. petroleum consumption, it would amount to a maximum yearly increase of 0.09 percent. While the agency does not view these figures as insignificant, it does not believe that such savings would justify sales losses to the industry in the hundreds of thousands, job losses in the tens of thousands, or the unreasonable restriction of consumer choices.

The changes in Federal safety and damageability standards discussed above provided some additional flexibility in improving CAFE. However, as discussed above with respect to possible technological changes, the imminence of the 1986 model year precludes significant changes in product designs.

Taking account of the four factors of section 502(e), the agency tentatively determines that the maximum feasible average fuel economy level for MY 1986 is 26.0 mpg. This level would be at the maximum capability of GM, the least capable manufacturer with a major share of the market. As discussed above, the agency believes it has a responsibility to set standards at a level that can be achieved by such a major manufacturer. Based on its analysis discussed above, the agency believes 26.0 mpg is the highest standard GM can achieve for MY 1986, particularly since a standard at that level does not provide any margin for market risks. As discussed above, GM's projected CAFE is subject to marketing risks, including the possibility that Japanese car sales may rise substantially during the 1986 model year, resulting in a corresponding loss in sales of GM's most fuel-efficient cars and a concomitant reduction in its CAFE capability. Efforts by GM to exceed 26.0 mpg CAFE could necessitate significant product restrictions and could result in the serious economic harms discussed above. Furthermore, since the agency's ability to predict the future is necessarily imperfect, any standard is not without risk.

A 26.0 mpg standard would permit some slight allowance to Ford for technological and market risks. Given Ford's previous inability to meet the level of prior year standards, the agency believes that Ford will have strong incentives to achieve the highest CAFE possible in order to earn credits.

With the exception of Jaguar, Mercedes-Benz, and possibly Saab, the agency believes the rest of the industry is capable of meeting the 26.0 mpg standard, although compliance may be close for some of the European manufacturers. NHTSA has concern about setting standards that one or more manufacturers cannot meet, particularly since some of the manufacturers have made great improvements in their fuel economy. As discussed above, however, the Act requires the agency to take industrywide considerations into account in determining the maximum feasible average fuel economy level. A standard set at the level of the least capable European manufacturer would be so far below that of the industry as a whole that it would remove any effect the CAFE program has on improving fuel economy. The agency notes that each of the manufacturers in question has chosen to concentrate on a segment of the market that tends toward lower fuel economy.

In this and other rulemakings, commenters have raised the issue of whether and how penalties and carryforward/carryback credits should be taken into account in setting standards at the maximum feasible average fuel economy level. It is NHTSA's conclusion that the Act generally requires standards to be set without regard to penalties or carryforward/carryback credits. The agency's analysis of this issue is contained in the PRIA.

Competitive Effects; Equity

Chrysler contends that amending the standard to 26.0 mpg "would discriminate against, and place at a competitive disadvantage, those manufacturers like Chrysler, who have made the investment imposed ten years ago." This position was echoed by Volkswagen, which argued that lowering the standard "would be unfair to a manufacturer which relied on the long established standard in formulating its corporate plan for 1986."

The agency recognizes the equity issues involved in revising fuel economy standards. However, the agency must consider the feasibility of its standards for the industry as a whole, as discussed above, in accordance with the four factors provided by section 502(e) of the Act. Indeed, since the Act specifically permits the revision of previously set fuel economy standards, it necessarily contemplates the possibility of different impacts on different manufacturers. The agency notes that the MY 1981 light truck standard was lowered in response to a petition for rulemaking submitted by Chrysler. Thus, that company has requested and received the primary benefit from the same type of rulemaking action to which it now objects.

Comment Period; Timeliness of Petitions

The agency is providing a comment period of 30 days. In its March 1985 notice granting the GM and Ford petitions and requesting comments on those petitions, NHTSA stated that it was focusing its attention on the 1986 model year in view of the possibility of serious economic harm cited by the petitioners and the limited remaining time for amending the 1986 standard. As discussed by the agency in a previous **Federal Register** notice, amendments reducing a standard for a particular model year may be made until the beginning of the model year, but not after that time. See 49 FR 41250, 41254–5 (October 22, 1984). In its March 1985 notice, the agency noted that since model years begin in the fall, a final rule reducing the 1986 standard would have to be issued by this fall. The agency also noted that "(t)he nearness of that deadline would necessitate that each phase of the rulemaking, including the period for commenting on a proposal, be shortened so that the rulemaking could be completed in a timely fashion." 50 FR 12344 (March 28, 1985).

Chrysler argued that the GM and Ford petitions for rulemaking were untimely filed with respect to model year 1986, given the procedural steps which it contends the agency must work through and the difficulty and importance of the issues presented. Chrysler argued that NHTSA must provide a comment period on any proposed rule of at least 60 and preferably 90 days and must wait until after the comment period to hold public hearings, in order to provide a meaningful opportunity for public comment.

NHTSA disagrees. The agency addressed the issue of the timing of petitions to reduce fuel economy standards in a notice published in the **Federal Register** (49 FR 41250, 55–56) on October 22, 1984. Noting that amendments reducing a fuel economy standard for a particular model year must be promulgated prior to the start of the model year, the agency concluded that "(a)s a general matter, petitions regarding a particular model year's standards should be submitted no later than the early part of the preceding calendar year, and preferably before that time." The GM and Ford petitions were filed on March 1, 1985, which is in the early part of the calendar year preceding model year 1986. Thus, the timing of the petitions within agency guidelines.

The agency agrees with Chrysler concerning the importance of the issues presented. It is precisely because of the importance of the issues, which concern possible serious economic harm to GM and Ford and the economy as a whole, coupled with the nearness of the deadline for amending the 1986 model year standard, that the agency finds good cause for a shortened comment period. NHTSA does not agree with Chrysler that either a 60- or 90-day comment period is required, or that the public meetings need to be held after the close of the comment period. The statute does not establish a specific minimum notice period. Accordingly, the agency has established a reasonable comment period, based on the circumstances. The agency believes that the procedural steps previously followed by the agency and those adopted here provide a full opportunity for meaningful participation by the public. The agency notes that the public was given advance notice in the March 28, 1985, **Federal Register** publication of a possible shortened comment period and the opportunity to comment on the issues raised by the petitions in advance of NHTSA's decision whether to issue an NPRM.

Disclosure of Confidential Information

Chrysler requested that NHTSA release confidential information filed by GM and Ford concerning their petitions, arguing that the public needs such information in order to have a meaningful opportunity for comment. The agency contacted GM and Ford and other manufacturers and obtained revocations of claims of confidentiality for a considerable amount of information relevant to the issues of this rulemaking. The agency believes that the information available to the public ensures a full and meaningful opportunity for comment.

Public Meeting

A public meeting will be held on August 8–9, 1985, in Washington, D.C., at the time and place specified near the beginning of this notice. The agency invites interested members of the public to participate in this meeting and to comment on the full range of issues raised by this proposal.

No opportunity will be afforded the public to directly question participants in the meetings. However, the public may submit written questions to the presiding panel of Federal officials for the panel to consider asking of particular participants. The presiding officials reserve the right to ask questions of all persons making oral presentations.

Persons wishing to make oral presentations at the public hearing should contact Ms. Viola Walsh (whose address and telephone number are provided near the beginning of this notice) by July 29, so that time limitations (if necessary) and the need for any special equipment, such as projectors, can be discussed and final arrangements can be made. A general outline of each planned oral presentation should also be submitted to Ms. Walsh by August 5. Persons whose presentations will include slides, motion pictures, or other visual aids should submit copies of them for the record at the meeting. Oral presentations will be limited to between five and 15 minutes, depending upon the number of witnesses. If the number of requests for oral presentations exceeds the available time, the agency may ask prospective witnesses having similar views or belonging to similar types of groups or occupations to combine their presentations.

Persons making oral presentations are requested but not required to submit 25 written copies of the full text of their presentation to Ms. Walsh, no later than the day before the hearings begin. Where time permits, persons who have not requested time, but would like to make a statement, will be afforded an opportunity to do so at the end of the schedule for each day. Copies of all written statements will be placed in the docket for this notice. A verbatim transcript of the public hearing will be prepared and also placed in the NHTSA docket as soon as possible after the hearing. A schedule of the persons making oral presentations at the hearing will be available at the designated meeting area at the beginning of the public meeting.

Written Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR § 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Impact Analyses

A. Economic Impacts

The agency considered the economic implications of the proposed amendment and determined that the proposal is major within the meaning of Executive Order 12291 and significant within the meaning of the Department's regulatory procedures. The agency's detailed analysis of the economic effects is set forth in a preliminary regulatory impact analysis, copies of which are available free from the Docket Section. The contents of that analysis are generally described above.

B. Environmental Impacts

The agency has analyzed the environmental impacts of the proposed amendment to the 1986 model year passenger automobile average fuel economy standard in accordance with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* Copies of that analysis are available from the Docket Section. The agency's analysis concludes that no significant adverse environmental impact would result from the execution of this rulemaking action.

C. Impacts on Small Entities

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this rulemaking would have on small entities. I certify that this action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. No passenger car manufacturer subject to the proposed rule would be classified as a "small business" under the Regulatory Flexibility Act. In the case of small businesses, small organizations, and small governmental units which purchase passenger cars, adoption of the proposed rule would not affect the availability of fuel efficient passenger cars or have a significant effect on the overall cost of purchasing and operating passenger cars.

In accordance with section 502(i) of the Cost Savings Act, the agency submitted this proposal to the Department of Energy for review. That Department provided extensive comments on the NPRM, which have been placed in the public docket. The Department of Energy stated that it fully supports issuance of this NPRM as consistent with the statutory criteria of "economic practicability" and the "need of the nation to conserve energy." There were no unaccommodated comments.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

PART 531—[AMENDED]

In consideration of the foregoing, 49 CFR Part 531 would be amended as follows:

1. The authority citation for Part 531 would be revised to read as follows:

Authority: 49 U.S.C. 1657, 15 U.S.C. 2002, delegation of authority at 49 CFR 1.50.

2. The table in § 531.5(a) would be revised to read as follows:

§ 531.5 Fuel economy standards.

(a) * * *

Model year	Average fuel economy standard (miles per gallon)
1978	18.0
1979	19.0
1980	20.0
1981	22.0
1982	24.0
1983	26.0
1984	27.0
1985	27.5
1986	26.0
1987 and thereafter	27.5

* * * * *

Issued on July 17, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85-17285 Filed 7-18-85; 1:30 pm]

BILLING CODE 4910-59-M

federal register

Monday
July 22, 1985

Part VI

Environmental Protection Agency

Draft General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) of Alaska; Bering Sea General Permit Area II; Notice

ENVIRONMENTAL PROTECTION AGENCY

below or at (206) 442-1413 by 4:00 p.m. on August 15, 1985. The public hearing

(5) In the opinion of the Regional Administrator, are more appropriately

marine and coastal birds, and provides important feeding habitat for these

Gas Extraction Point Source Category (40 CFR Part 435).

in produced water allowed a daily

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2868-4]

Draft General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) of Alaska; Bering Sea General Permit Area II

AGENCY: Environmental Protection Agency.

ACTION: Notice of draft General NPDES permit.

SUMMARY: The Regional Administrator, Region 10, is proposing to issue a draft general National Pollutant Discharge Elimination System (NPDES) permit for oil and gas stratigraphic test and exploration wells on the Alaskan Outer Continental Shelf.

The proposed Bering Sea II general permit will authorize oil and gas stratigraphic test and exploration wells only (not production wells) in federal waters of St. George Basin. The permit will authorize discharges from operations in all areas offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) during Federal Lease Sale 89 (St. George Basin), with the exception of areas in the vicinity of the Pribilof Islands and Unimak Pass. A general NPDES permit (49 *FR* 23734, June 7, 1984) was issued May 30, 1984, for two previous Bering Sea lease sales, Federal Lease Sales 70 (St. George Basin) and 83 (Navarin Basin).

When issued, the proposed permit will establish effluent limitations, standards, prohibitions, and other conditions on discharges from facilities in the general permit area. These conditions are based on the administrative record. EPA regulations and the permit contain a procedure which allows the owner or operator of a point source discharge to apply for an individual permit instead of coverage under the general permit.

A brief description of the basis for the conditions and requirements of the proposed permit is given in the fact sheet published below.

Public comment period: Interested persons may submit comments on the draft general permit to EPA, Region 10, at the address below. Comments must be received in the regional office by August 23, 1985.

Public hearing: A public hearing on the proposed general permit is tentatively scheduled to be held at the Federal Building, Room 105, 710 "C" Street, Anchorage, Alaska on August 21, 1985, from 9:00 until all persons have been heard. Persons interested in making a statement at the hearing must contact Duane Karna at the address below or at (206) 442-1413 by 4:00 p.m. on August 15, 1985. The public hearing will be cancelled if insufficient interest is expressed in it. Interested persons can contact Duane Karna between the hours of 8:30 a.m. and 4 p.m. on August 16, 1985, to confirm that the hearing will take place. At the hearing, interested persons may submit oral or written statements concerning the draft general permit.

Requets for coverage: Written request for authorization to discharge under the general permit shall be provided, as described in Part I.A. of the draft permit, to EPA, Region 10, at least 60 days prior to initiation of discharges. The 60-day notification requirement may be waived for those permittees who notify EPA during the public comment period for the draft permit. Authorization to discharge requires written notification from EPA that coverage has been granted and that a specific permit number has been assigned to operations at the discharge site. The permit also requires permittees to notify EPA no more than 7 days prior to the initiation of discharges at the site.

Administrative record: The administrative record for the draft permit is available for public review at EPA, Region 10, Room 10D, at the address listed below.

ADDRESS: Public comments and requests for coverage should be sent to: Environmental Protection Agency, Region 10, Attn: Ocean Programs Section M/S 430, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Duane Karna, Region 10, at the address listed above or telephone (206) 442-1413. Copies of the draft general permit and today's publication will be provided upon request.

Fact Sheet

I. General Permits and Requests for Individual NPDES Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with the terms of an NPDES permit. Under EPA's regulations [40 CFR 122.28(a)(2)], EPA may issue a single general permit to a category of point sources located within the same geographic area if the regulated point sources:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require similar monitoring requirements; and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

In addition, under EPA regulations [40 CFR 122.28(c)(1)], the Regional Administrator is required to issue general permits covering discharges from offshore oil and gas facilities within the Region's jurisdiction. Where the offshore area includes areas, for which separate permit conditions are required, such as areas of environmental concern, a separate individual or general permit may be required by the Regional Administrator.

The Regional Administrator has determined that exploratory oil and gas facilities operating in the area described in this general NPDES permit are more appropriately controlled by a general permit than by individual permits. The decision of the Regional Administrator is based on an evaluation of the section 403(c) Ocean Discharge Criteria (40 CFR Part 125, Subpart M) for discharges from exploratory operations in St. George Basin, the Agency's recent permit decisions in other Alaskan OCS areas, and the Final Environmental Impact Statement (Final EIS) for OCS Lease Sale 89.

Two geographic zones within proposed St. George Basin OCS Lease Sale 89 are excluded from coverage under the draft general permit. EPA has identified these zones as areas of biological concern based on information provided in the Final EIS for the proposed lease offering. The importance of the biological resources in these zones has led the Regional Administrator to conclude pursuant to 40 CFR 122.28(b)(2)(ii) and 122.28(c) that they should be excluded from coverage under the proposed general permit. Lease Sale 89 is scheduled for September 1985. If blocks within the two zones excluded from coverage under the general NPDES permit are offered and accepted for lease, operators in these areas would have to submit individual NPDES permit applications to EPA Region 10. The Region will review individual permit applications and all available site-specific environmental information on a case-by-case basis to determine appropriate permit conditions for operations in these areas.

The first zone excluded from coverage under the general permit was evaluated in the Final EIS as the Pribilof Islands Deferral Alternative. It consists of all whole and partial OCS blocks within a 50 statute mile radius of the Pribilof Islands. The area supports major populations of marine mammals, including benthic feeding species, and

marine and coastal birds, and provides important feeding habitat for these species. Furthermore, this region supports a major fishery for species of bottomfish and is an important migratory pathway for salmonid fish. Finally, recently reported work under the OCS Environmental Assessment Progam has revealed that virtually the entire U.S. population of blue king crab spawns in this area.

The second zone excluded from coverage under the proposed general permit is the area evaluated as the Unimak Pass Deferral Alternative in the Final EIS and consists of all whole and partial OCS blocks within 50 statute miles of Unimak Pass. This area is a major migratory route for fur seals, whales, and salmonid fish. Throughout most of the year, this region provides critical habitat for various species of migratory seabirds and waterfowl as well as for foraging seabirds.

Any owner and/or operator authorized to discharge under a general permit may request to be excluded from coverage under the general permit by applying for an individual permit as provided by 40 CFR 122.28(b). The operator shall submit an application together with the reasons supporting the request to the Director, Water Division, EPA, Region 10 ("Director"). A source located within a general permit area, excluded from coverage under the general permit solely because it already has an individual permit (i.e., a permit that has not been continued under the Administrative Procedures Act), may request that its individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply. Procedures for modification, revocation, termination, and processing of NPDES permits are provided by 40 CFR 122.62–122.64. As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act that is enforceable under section 309 of the Act.

II. Nature of Discharges and Covered Facilities

The general permit proposed today authorizes the discharge of drilling muds, drill cuttings and associated operational wastewaters from exploratory operations in federal waters. Exploratory operations are defined as those operations involving the drilling of wells to determine the nature of potential hydrocarbon reserves. Under the permit, they are limited to a maximum of five wells at a single site. Exploration facilities covered by this general permit are included in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435).

This general permit authorizes the following discharges: drilling mud; drill cuttings and washwater; deck drainage; sanitary wastes; domestic wastes; desalination unit wastes; blowout preventer fluid; boiler blowdown; fire control system test water; non-contact cooling water; uncontaminated ballast water; uncontaminated bilge water; excess cement slurry; mud, cuttings, and cement at the seafloor; and test fluids. Descriptions of discharges are given in Part II.A. of the permit.

Drilling muds and cuttings are the major pollutant sources discharged from exploratory drilling operations.

III. Statutory Basis for Permit Conditions

Sections 301(b), 304, 308, 401, 402, and 403 of the Clean Water Act provide the basis for the permit conditions contained in the permit. The general requirements of these sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in Part IV.

A. Technology-Based Effluent Limitations.

1. *BPT Effluent Limitations:* The Clean Water Act requires particular classes of industrial dischargers to meet effluent limitations established by EPA. EPA promulgated effluent limitations guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A) on April 13, 1979 (44 *FR* 22069).

BPT effluent limitations guidelines required "no discharge of free oil" for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation required that a discharge shall not cause a film or sheen upon or discoloration on the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (40 CFR 435.11(d)). The BPT effluent limitations guideline for sanitary waste required that the concentration of chlorine be maintained as close to 1 mg/l as possible in discharges from facilities housing ten or more persons. For facilities continuously manned by nine or fewer persons or only intermittently manned by any number of persons, the BPT effluent limitations guideline for sanitary waste required no discharge of floating solids. A "no floating solids" guideline also applied to domestic waste. BPT limitations on oil and grease in produced water allowed a daily maximum of 72 mg/l and a monthly average of 48 mg/l.

2. *BAT and BCT Effluent Limitations:* All permits issued after July 1, 1984, are required by section 301(b)(2) of the Act to contain effluent limitations for all categories and classes of point sources which: (1) Control toxic pollutants (40 CFR 401.15) through the use of Best Available Technology Economically Achievable (BAT), and (2) represent Best Conventional Pollutant Control Technology (BCT). BCT effluent limitations apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). In no case may BCT or BAT be less stringent than BPT. Permits must impose effluent limitations which control nonconventional pollutants by means of BAT not later than July 1, 1987.

BAT/BCT effluent limitations guidelines and New Source Performance Standards (NSPS) are currently under development and will be proposed in the near future for the Offshore Subcategory. In the absence of effluent limitations guidelines for the Offshore Subcategory, permit conditions must be established using Best Professional Judgment (BPJ) procedures (40 CFR 122.43, 122.44, and 125.3). This permit incorporates BAT and BCT effluent limitations based on the Agency's Best Professional Judgment. Previous BPJ determinations for offshore oil and gas exploratory operations were incorporated into the general permits for the Bering and Beaufort Seas (49 *FR* 23734, June 7, 1984) and for Norton Sound (50 *FR* 23578, June 4, 1985).

As required by section 304(b)(2)(B) of the Act, in developing the BPJ/BAT permit conditions, the Agency considered the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Director deemed appropriate.

The types of equipment and processes employed in exploratory drilling operations are well known to the Agency. Region 10 has issued numerous general and individual permits for such operations. The records for this permit and those earlier permits thoroughly discuss the types of equipment, facilities and processes employed in exploratory drilling operations. With regard to the engineering aspects of the application of various types of control techniques, there are no BAT permit limitations

based on installation of control equipment. All proposed BAT permit

prohibition of discharge, if necessary, to ensure this goal" (45 *FR* 65942, October

Discussions of the specific effluent limitations and monitoring requirements

of deck drainage, drilling muds, drill cuttings, and well treatment fluids

washers to meet the free oil limitation. The limitation on the maximum oil

waste streams, Region 10 has determined that the BCT effluent

based on installation of control equipment. All proposed BAT permit limitations can be achieved through product substitution, the technology basis for the limitations in this permit. Any costs of achieving the effluent limitations and any non-water quality environmental impacts were also evaluated. A discussion of such evaluations is presented below with respect to any limitation where applicable.

As required by section 304(b)(4)(b) of the Act, the Agency considered the same factors in determining BPJ/BCT permit conditions, but with one exception. Rather than considering "the cost of achieving such effluent reduction," any BCT determination includes "consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources." BCT effluent limitations cannot be less stringent than BPT; therefore, if the candidate industrial technology fails the BCT "cost test", BCT effluent limitations are set equal to BPT.

The Agency's evaluation of the BAT factors, as discussed above, is also applicable to BCT, as well as to the Agency's best professional judgment determinations of BPT in instances where there is no BPT effluent limitation guideline for a particular wastestream. Unlike the BAT permit limitations, there is one BCT limitation based on installation of control equipment. There is a 10 percent limitation on the oil content of cuttings, based on the efficiency of cuttings washers. With respect to the BCT "cost test," all BCT limitations are equal to the BPT effluent limitations guidelines or to the Region's best professional judgment determinations of BPT. Therefore, no incremental cost will be incurred.

B. Ocean Discharge Criteria.

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining the degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), and section 403 are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal" (45 *FR* 65942, October 3, 1980).

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a determination of unreasonable degradation cannot be made because of a lack of sufficient information, EPA must then determine whether a discharge will cause irreparable harm to the marine environment and whether there are reasonable alternatives to on-site disposal. To assess the probability of irreparable harm, EPA is required to make a determination that the discharger, operating under appropriate permit conditions, will not cause permanent and significant harm to the environment during a monitoring period in which additional information is gathered. If data gathered through monitoring indicate that continued discharge may cause unreasonable degradation, the discharge must be halted or additional permit limitations established.

The Regional Administrator has concluded that there is sufficient information to determine that exploratory oil and gas facilities operating under the effluent limitations and conditions in this general permit will not cause unreasonable degradation of the marine environment pursuant to the Ocean Discharge Criteria guidelines. Conditions imposed under section 403(c) are discussed below in Part IV.D., Requirements Based on the Ocean Discharge Criteria Evaluation.

C. Section 308 of the Clean Water Act.

Under section 308 of the Act and 40 CFR 122.44(i) the Director must require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. EPA has included several monitoring requirements in this permit, as listed in the table below.

IV. Specific Permit Conditions

A. Approach

The determination of appropriate conditions for each discharge was accomplished through:

(1) Consideration of technology-based effluent limitations to control conventional pollutants under BCT;

(2) Consideration of technology-based effluent limitations to control toxic and nonconventional pollutants under BAT; and

(3) Evaluation of the Ocean Discharge Criteria assuming conditions in parts (1) and (2) were in place.

Discussions of the specific effluent limitations and monitoring requirements derived from (1) through (3) appear below in Parts B. through D., respectively. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in the following table:

Discharge and permit condition	Statutory basis
Drilling muds and cuttings:	
Authorized muds and additives only	BAT.
No oil-based muds	BCT.
No diesel	BAT.
10% max. oil content of cuttings	BCT.
No free oil	BCT.
3 mg/kg cadmium and 1 mg/kg mercury in barite.	BAT.
Monitoring of metals and toxicity	Section 308.
Depth-related discharge rate limits	Section 403(c).
Monitor volume discharged	Section 308.
Inventory of added substances	Section 308.
Deck drainage:	
No free oil	BCT.
Monitor discharge rate	Section 308.
Sanitary wastes:	
No floating solids	BCT.
Chlorine 1.0 mg/1 (facilities with more than 10 people).	BCT.
Monitor discharge rate	Section 308.
Domestic wastes:	
No floating solids	BCT.
Monitor discharge rate	Section 308.
Miscellaneous discharges (Discharges 006 to 014 in the permit):	
No free oil	BCT.
Monitor discharge rate	Section 308.
Inventory of added substances	Section 308.
Test fluids:	
pH 6.5-8.5	BCT & Marine Water Quality Criteria.
No free oil	BCT.
Oil & grease limits: 48 mg/1 monthly avg., 72 mg/1 daily max.	BCT.
Monitor volume discharged	Section 308.
All discharges:	
No halogenated phenols, sodium chromate, sodium dichromate, or trisodium nitrilotriacetic acid.	BAT.
No floating solids	BCT.

B. BCT Requirements

1. *Oil and grease in test fluids:* Limited volumes of formation waters which are encountered during testing of the well are authorized for discharge as test fluids. Under BPT oil and grease in discharges of produced water were limited to a 48 mg/l monthly average and a 72 mg/l daily maximum based on oil/water separation technologies. Since formation waters may be present in test fluids, these limits are applied to the discharge of test fluids under BCT. This limitation is equal to BPT because Region 10 does not have technology performance data available at this time on which to base a more stringent limitation. As this limitation is equal to the BPT level of control, there is no incremental cost involved.

2. *Free oil and oil-based muds:* No discharge of free oil is permitted from discharges authorized by this permit. Region 10 has determined that the BPT effluent limitations guideline of no discharge of free oil from the discharge of deck drainage, drilling muds, drill cuttings, and well treatment fluids should apply to other discharges, including uncontaminated bilge water, uncontaminated ballast water, test fluids, desalination unit wastes, boiler blowdown, non-contact cooling water, excess cement slurry, blowout preventer fluid, fire control system test water; and mud, cuttings and cement at the seafloor. Thus, the no free oil limitation is Region 10's best professional judgment determination of BPT controls for these discharges. They have been subject to a no free oil limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation.

Under the draft permit, the discharge of oil-based drilling muds (with oil as the continuous phase and water as the dispersed phase) is prohibited since oil-based muds would violate the BCT effluent limitation of no discharge of free oil.

No technology performance data available to Region 10 indicate that more stringent standards are appropriate at this time. Region 10 has, therefore, set BCT effluent limitations equal to the BPT level of control. As such, these limitations impose no incremental costs.

The monitoring requirement for determining compliance with the effluent limitation on free oil is in most instances a visual observation of the receiving water. However, the Static Sheen Test is required for monitoring free oil in discharges with the greatest likelihood of oil contamination. These are: (1) Drilling muds and drill cuttings, with the Static Sheen Test required year-round, and (2) deck drainage and bilge water, with the Static Sheen Test required when ice is present on the receiving water. The Static Sheen Test on drilling muds must be conducted prior to bulk discharges. Thus, a violation of the limitation due to the discharge of oil-contaminated drilling muds can be prevented, something a visual observation of a sheen on the receiving water does not allow.

3. *Oil content of cuttings:* The draft general permit restricts the discharge of oil-contaminated cuttings by prohibiting the discharge of free oil (see Part IV.B.2) and by limiting the maximum mineral oil content of cuttings. The limitation of 10 percent by weight on oil content is based on the efficiency of currently available cuttings washers in removing oil from drill cuttings. Region 10 expects that if mineral oil-based drilling muds or water-based muds with high concentrations of mineral oil additives are used, drill cuttings would, at a minimum, have to be washed by cuttings washers to meet the free oil limitation. The limitation on the maximum oil content of drill cuttings has been imposed as an additional means of effectively controlling the discharge of oil from cuttings associated with these muds.

Region 10 expects that cuttings washers will routinely be required only for drilling operations which use mineral oil-based drilling muds or water-based muds with high concentrations of mineral oil additives, and not for all drilling operations. Due to the rare usage of such muds by exploratory drilling operations, very few, if any, Alaskan exploratory facilities will require the installation of cuttings washers. Any facility requiring a cutting washer to meet the 10 percent oil limitation is expected to already require a cutting washer to meet the BPT effluent limitation of no free oil. Therefore, there is no incremental cost involved beyond the cost of monitoring compliance, and the limitation passes the BCT cost test.

The permit requires an analysis of drill cuttings for oil content daily when oil-based drilling fluids or oil additives are used. Analysis is also required daily when drilling fluids could be contaminated with hydrocarbons from the formation. In addition, analysis is required immediately on any sample that has failed the daily Static Sheen Test if a discharge has occurred. Two alternative analytical methods for determining the oil content of drill cuttings are specified in the permit: (1) The soxhlet extraction procedure for oil and grease (as specified in 40 CFR Part 136), and (2) the American Petroleum Institute retort distillation procedure for oil.

4. *pH:* The pH of discharged test fluids (which may have a substantially different pH from that of the ambient receiving water) has been limited to a range of 6.5–8.5 at the point of discharge. In the Agency's best professional judgment, this limitation appropriately equals a BPT level of control. No more stringent standard has been identified by the Agency at this time. Therefore, the Agency is setting a BCT effluent limitation for the pH of test fluids equal to that of BPT. This limitation will ensure that pH changes greater than 0.2 pH unit will not occur beyond the edge of the 100-meter mixing zone [40 CFR 125.121(c)]. This requirement has been and is routinely complied with by operations under previous BPT permits and thus, reflects no cost incremental to BPT.

5. *Floating solids:* The BCT prohibition on floating solids is equal to the BCT level of control for sanitary wastes. As with the free oil limitations for other waste streams, Region 10 has determined that the BCT effluent limitations guideline of no discharge of floating solids from the discharge of sanitary wastes should apply to all other discharges as well. Thus, the no floating solids limitation is Region 10's best professional judgment determination of BPT limitations for these discharges. They have been subject to this limitation in previous permits issued by Region 10, and past practices have not resulted in violations of this limitation. No technology performance data available to Region 10 indicate that a more stringent standard is appropriate at this time. Therefore, Region 10 has determined that the BCT effluent limitation on floating solids from these discharges is equal to the BPT level of control. As such, the extension of this limitation to all discharges will involve no incremental cost.

6. *Chlorine:* The requirement of maintaining residual chlorine levels as close as possible to, but no less than 1 mg/1 in sanitary waste discharges for facilities manned by 10 or more people is a BCT determination equal to BPT. There is therefore no incremental cost to the industry.

C. BAT Requirements

1. *Diesel oil:* The discharge of muds which have been contaminated by diesel oil (i.e., those drilling muds which have contained diesel) or drill cuttings associated with these muds is prohibited. Diesel, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hydrocarbons, known to be highly toxic to marine organisms and to contain numerous toxic and nonconventional pollutants. While this limitation thereby controls the toxic as well as nonconventional pollutants present in diesel, the Agency's primary concern is to control the toxic pollutants. The pollutant "diesel oil" is being used as an "indicator" of the listed toxic pollutants present in diesel oil which are controlled through compliance with the effluent limitation (i.e., no discharge). The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

The Agency selected "diesel" as an "indicator" as an alternative to establishing limitations on each of the specific toxic and nonconventional pollutants present in the diesel-contaminated waste streams. The listed toxic pollutants found in various diesel oils include naphthalene, benzene, ethylbenzene, phenanthrene, toluene, fluorene, and phenol. Diesel oil may contain from 20 to 60 percent by volume

aromatic hydrocarbons. The light aromatic hydrocarbons, such as

which must be conducted onshore, possibly outside the State of Alaska,

and other potentially toxic metals which can occur as contaminants in some

fluids by allowing only the discharge of generic drilling muds (listed in Table 1

unreasonable amount of time. Interim authorizations may also require testing a

4. Other toxic and nonconventional compounds. Under the permit discharges

VOL 50 ISS 140 JL 22 1985 UMI

aromatic hydrocarbons. The light aromatic hydrocarbons, such as benzenes, naphthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products. Mineral oils, with their lower aromatic hydrocarbon content and lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. Diesel oil also contains a number of nonconventional pollutants, including polynuclear aromatic hydrocarbons such as methylnaphthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

The Region has determined that eliminating the discharge of drilling fluids contaminated with diesel oil will reduce the levels of toxic pollutants present in discharged fluids. Studies show that when the amount of diesel is reduced in drilling muds, the concentrations of toxic pollutants and the overall toxicity of the fluid generally is reduced. Available data clearly establish that diesel oils as a class contain significantly higher levels of toxic pollutants than do mineral oils as a class. It is reasonable and appropriate to conclude that BAT-level control of toxic pollutants (i.e., reduction in concentrations through substitution of mineral oil for diesel oil) will be achieved by regulating diesel oil as an indicator pollutant.

Region 10 has concluded that establishing effluent limitations for each of the seven toxic pollutants present in diesel oil is not economically or technically feasible at this time. The level achievable by BAT controls on the specific toxics can be calculated using available data on the three mineral oils which have been extensively characterized. However, the limited data on the many diesel and mineral oils, mud formulations, and the various additives used, and on the unquantified changes in toxic pollutant concentrations during drilling all frustrate an attempt to develop specific toxic pollutant effluent limitations at this time.

Not only is it infeasible to establish limitations on the specific toxic pollutants, but to comply with specific limitations on each of the toxic pollutants would be costly and technically complex. The analytical costs for specific pollutant analyses would be much greater than the cost of analyzing for diesel by gas chromatography alone. The high cost of compliance monitoring, which may include awaiting results of analyses, which must be conducted onshore, possibly outside the State of Alaska, also would be unwarranted. Either operators would have to delay discharge until monitoring results confirmed compliance or they would discharge and risk permit noncompliance. A permit limitation that prohibits the discharge of diesel oil is economically and technologically feasible and allows a determination of permit compliance prior to discharge.

The prohibition on the discharge of diesel is a technology-based BAT limitation based on product substitution. Low toxicity mineral oils are available as product substitutes for diesel oil, and do not impose unreasonable additional costs on industry. The Agency has relied primarily on the increased cost of mineral oil over diesel oil as a basis for this determination. For example, mineral oil costs Alaskan operators approximately $2.60 per gallon more than does diesel oil. The increased costs associated with using mineral oil rather than diesel oil for 50 barrels (2,100 gallons) of oil (the maximum amount generally expected in a concentrated spotting or "pill" formulation used to free stuck drill pipe) would therefore be equal to approximately $5,500. Since the frequency of differential sticking of drill pipe requiring the use of oil-based spotting formulations is low for exploratory operations (less than once per well on an average), this cost would not be incurred for each operation. The Agency has evaluated other costs associated with either diesel or mineral use in response to comments on the draft Norton Sound permit (50 FR 28589, Response to Comment 10). Both analyses show that the cost associated with the prohibition on the discharge of diesel oil clearly is economically achievable.

Region 10 has considered limiting "free oil," "oil-based drilling fluids," and "oil content of cuttings" as indicators of toxic pollutants. While the Agency has determined that such effluent limitations will control the discharge of toxic pollutants in these oils, it is unnecessary to designate these pollutants as indicators since the same levels of control have been established under BCT, which are equal to levels of control required by the BPT effluent limitations guidelines. Therefore, redundant limitations under BAT are not proposed for these pollutant parameters.

2. Mercury and cadmium in barite. The permit contains limitations of 1 mg/kg mercury and 3 mg/kg cadmium in barite, a major constituent of drilling muds. These restrictions are designed to limit the discharge of mercury, cadmium, and other potentially toxic metals which can occur as contaminants in some sources of barite. An identical limitation is included in the general permits for the Bering and Beaufort Seas and Norton Sound.

As discussed in the fact sheets for the above permits, the justification for the limitation under BAT is product substitution; i.e., Alaskan operators can substitute "clean" barite, which meets the above limitations, for contaminated barite which does not. Numerous offshore exploratory wells have been drilled in Alaska over the past year, and chemical analyses have shown that the barite used has not exceeded the limitations. Given that "clean" barite is available and that operators in the Bering and Beaufort Seas have been complying with an identical limitation, Region 10 believes that this limitation is both technologically feasible and economically achievable.

Region 10 has determined that it is impractical at this time to place the limitations on drilling mud until additional data are collected. Furthermore, if the limitation were placed on the drilling mud rather than on the barite, it would not be feasible for an operator to determine in advance if the discharge complied with the permit requirements since metals analyses must be conducted at commercial laboratories onshore. Such a requirement may impose costly and unreasonable delays while the analyses were being conducted.

EPA does recognize the possibility of changes in the available supply of "clean" barite. The draft permit contains a provision which would allow the Water Division Director the discretion to grant a waiver from the limitations on a case-by-case basis if the permittee (1) satisfactorily demonstrates that barite which meets the limitation is not available, and (2) provides results of analyses of the substitute barite. In determining the availability of "clean" barite under this provision, Region 10 will reasonably consider all relevant factors, including the cost of obtaining barite which meets the limitations. The Agency solicits comments and supporting data from those individuals who do not believe they can meet the above limitations. The Agency also solicits data indicating any increased costs that a permittee has incurred in meeting the barite limitations contained in the general permits for offshore drilling in the Beaufort and Bering Seas (49 FR 23734, June 7, 1984).

3. *Generic muds and authorized additives.* The draft permit limits the discharge of toxic substances in drilling fluids by allowing only the discharge of generic drilling muds (listed in Table 1 of the draft permit) and additives for which acceptable bioassay or chemical data are available. Permittees are required to certify in advance of discharge that only generic drilling muds and authorized additives will be discharged.

Permittees may discharge additives listed in Table 2 of the draft permit up to the specified concentrations without special permission. This table is the same as Table 2 in the Norton Sound general permit (50 *FR* 23578, June 4, 1985). The permit contains a provision (Table 2) which will allow the discharge of additives which are listed in Table 2 of subsequent Region 10 general permits, unless otherwise stated in the new permits. For operations under this permit, any additive receiving authorization in this manner will be evaluated according to the regional criteria used for this permit.

Any discharge of a generic mud which has been modified other than by addition of an additive listed in Table 2 requires submission of information demonstrating that it passes the criteria in Part II.C.1.d. of the permit or prior authorization by EPA, Region 10. Permittees may request authorization to discharge additives (including mineral oils) not listed in Table 2 by submitting appropriate information and bioassay data in advance of discharge. Region 10 will determine whether the use of the requested additives is likely to cause the mud system to be more toxic than Generic Mud No. 1, which is the base formulation which the Agency uses to determine acceptable toxicity levels for discharge of fluids. Other criteria (e.g., persistence and degradation), as appropriate, are also considered in the evaluation process. The proposed permit furthermore contains a provision (Part II.C.1.f. of the permit) which allows an exception for the discharge of mineral oil-containing muds which exceed the toxicity of Mud No. 1 if the least toxic available alternative is discharged.

In some cases, interim authorizations to discharge may be granted if preliminary bioassay data are submitted and the Region determines that additional bioassay testing or other analyses are required. Such testing may be required, for example, to examine possible cumulative or synergistic effects if the additive is to be used in combination with a number of other additives. Because the additional testing may take a considerable amount of time to conduct, interim authorization to discharge may be granted so that operations are not impaired for an unreasonable amount of time. Interim authorizations may also require testing a used drilling mud from a rig.

This approach to limiting toxicity is expected to control the discharge of listed toxic as well as nonconventional pollutants in drilling muds. For example, the toxicity of muds containing lubricants, including mineral oil products, may vary widely, and such additives may greatly increase the toxicity of the mud. Studies on diesel-contaminated drilling muds have shown toxicity to be strongly correlated with content of aromatic hydrocarbons, which include listed toxic pollutants. Some mineral oils also contain aromatic hydrocarbons which are listed toxics, such as fluorene, naphthalene, and phenanthrene. The toxicity of muds containing these oils is assumed to be caused, in part, by the listed toxic pollutants as well as by the nonconventional pollutants. Region 10 has determined that it is technically and economically infeasible to directly limit the toxic pollutants in drilling muds, as discussed in Part IV.C.1. Therefore, the Region has determined that the toxicity limitations (e.g., generic muds and approved additives) constitute a reasonable approach which is expected to control not only listed toxic pollutants, but other toxic substances (i.e., toxic nonconventional pollutants) as well.

The technology basis for this permit condition is product substitution; i.e., mud additives and components which would cause the toxicity of a mud system to exceed that of Generic Mud No. 1 can be replaced by less toxic mud additives and components.

Under section 308 of the CWA, compliance with this permit condition will be monitored in two ways: first, by requiring that permittees certify that only generic muds and authorized additives will be discharged; and second, by requiring that permittees submit an end-of-well inventory listing all chemicals and the amounts of each added to each mud system. In addition, permittees must analyze one sample from the end-of-well mud system for metals content and toxicity. The metals data will be used to verify that mercury and cadmium limits on barite are adequately controlling metal concentrations in used muds. The Drilling Fluids Toxicity Test, performed on the end-of-well mud system, will provide a comparison between the toxicity of used muds containing mixtures of additives and the bioassay data submitted on individual additives prior to discharge.

4. Other toxic and nonconventional compounds. Under the permit discharges of the following pollutants are prohibited: halogenated phenol compounds, trisodium nitrilotriacetic acid, sodium chromate, and sodium dichromate. The class of halogenated phenol compounds includes toxic pollutants, and sodium chromate and dichromate contain chromium; also a toxic pollutant. Trisodium nitrilotriacetic acid is a nonconventional pollutant. The discharge of these compounds was previously prohibited in the BPT general permits for the Beaufort Sea and Norton Sound (48 *FR* 54881, December 7, 1983) as well as in the BAT/BCT general permits for the Bering and Beaufort Seas and Norton Sound. These compounds are therefore subject to BAT limitations. Because operators complied with this provision in the BPT permit, there is no additional cost to the industry.

D. Requirements Based on the Ocean Discharge Criteria Evaluation

1. Drilling muds, cuttings, and washwater. Additional restrictions on these discharges are necessary to ensure no unreasonable degradation of the environment. Lease Sale 89 includes water depths between 30 and 3,200 meters. Discharge rate limitations on muds and cuttings have been established in the Ocean Discharge Criteria Evaluation process in order to allow adequate dispersion of the discharges. These maximum rates will ensure that acceptable toxicity levels will be met at the edge of the 100-meter mixing zone during open water conditions.

2. Other discharges (003–015). These discharges are adequately controlled by the limitations in Parts II.C.–F. of the draft permit to ensure no unreasonable degradation of the marine environment due to those discharges.

V. Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permit are excluded from the provisions of section 311. However, this permit does not preclude the institution of legal action or relieve permittees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil and hazardous materials which are covered by section 311 of the Act.

B. Endangered Species Act

Based on information in the revised Ocean Discharge Criteria Evaluation and in the Final Environmental Impact

Statement prepared for Federal Lease Sale 89, EPA has concluded that the discharges authorized by this general

imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act of 1980, 44

Reader Aids

Federal Register
Vol. 50, No. 140

VOL 50 ISS 140 JL 22 1985 UMI

Statement prepared for Federal Lease Sale 89, EPA has concluded that the discharges authorized by this general permit will neither jeopardize the continued existence of any endangered or threatened species nor adversely affect their critical habitat. EPA is requesting comments from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and will consider their comments in making the final permit decision. EPA will initiate consultation should new information reveal impacts not previously considered, should the activities be modified in a manner beyond the scope of the original opinion, or should the activities affect a newly listed species.

C. Coastal Zone Management Act

EPA has determined that the activities authorized by this general permit are consistent with local and state Coastal Management Plans. The proposed permit and consistency determination will be submitted to the State of Alaska for state interagency review at the time of public notice. The requirements for State Coastal Zone Management Review and approval must be satisfied before the general permit may be issued.

D. Marine Protection, Research and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit areas.

E. State Water Quality Standards and State Certification

No state waters are included in this permit.

F. Executive Order 12291

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act of 1980, 44 USC 3501 et seq. Most of the information collection requirements have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act. In addition, the environmental monitoring requirements pursuant to section 403(c) of the Clean Water Act in Part II.B. of this permit are similar to the monitoring requirements that were approved by OMB for the previously issued Beaufort Sea general NPDES permit (June 7, 1984; 49 *FR* 23734) and the Norton Sound general permit (50 *FR* 23578, June 4, 1985). The final general permit will explain how the information collection requirements respond to any OMB or public comments.

H. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 *FR* 5024 et seq. (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: July 17, 1985.

Signed:

Ernesta B. Barnes,

Regional Administrator, Region 10.

[FR Doc. 85-17345 Filed 7-19-85; 8:45 am]

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Reader Aids

Federal Register
Vol. 50, No. 140
Monday, July 22, 1985

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Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408
Code of Federal Regulations	
General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419
Laws	
Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Presidential Documents	
Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230
United States Government Manual	523-5230
Other Services	
Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212....1
27213-27408....2
27409-27570....3
27571-27812....5
27813-27926....8
27927-28092....9
28093-28190....10
28191-28362....11
28363-28554....12
28555-28756....15
28757-28894....16
28895-29202....17
29203-29366....18
29367-29628....19
29629-29934....22

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
305....28363

3 CFR
Administrative Orders:
Memorandums:
July 17, 1985....29631
Presidential Determinations:
No. 85-16 of July 12, 1985....29629
Executive Orders:
11888 (Amended by EO 12524)....27409
12470 (Revoked by EO12525)....28757
12523....26963
12524....27409
12525....28757
12526....29203
Proclamations:
5356....26961

5 CFR
771....26965
1201....28895
Proposed Rules:
532....28583, 28584

7 CFR
Ch. IV....27927
2....29367
52....26965, 29635
54....27571
226....26972
301....28366
400....26976
402....28367
908....27411, 27928, 28898
910....27813, 28372, 28555, 29626
911....28373
915....28373, 28556
916....27813, 28373
917....27813, 28373
918....28373
921....27411, 28373
922....28373
923....28373
924....28373
930....27213, 28373
944....28556
967....28373
979....26976
985....28373
991....26977, 27814
1040....27412
1136....29637
1421....29639
1427....26978
1435....27413
1941....27414
1944....27415
1945....27414, 27416
3015....28759
Proposed Rules:
Ch. IV....27971
Ch. X....27003
29....27288
51....27004
417....27601
800....28104
801....29689
802....29689
907....29405
908....29405
910....28105
920....27288
967....28210
999....28585
1124....27972
1240....28404
1427....29693
1930....28782
1944....28782
1965....28782

8 CFR
238....29641
316a....27816
Proposed Rules:
103....27289
341....28586
343a....28587

9 CFR
78....28899
91....27929, 29205
92....27928, 28557
94....28560, 28900
318....27573, 28374
Proposed Rules:
94....27973

10 CFR
9....27214
60....29641
Proposed Rules:
50....27006, 28815
440....29620

11 CFR
Proposed Rules:
110....29232

12 CFR
403....27215
611....27930
617....27931
723....27417
Proposed Rules:
561....27290, 28588
563....27290, 28588

571....27290, 28588
13 CFR
18 CFR
37....29655
23 CFR
825....29209
51....26987
103....27821

40 CFR
51....27892
405....27469
412....27469
2806....29798
2807....29798
2808....29798

571.....27290, 28588

13 CFR

121.....27418
302.....27419
Proposed Rules:
107.....29532
108.....27754

14 CFR

39.....26979, 27575, 27576, 27931–27983, 28093, 28094, 28561–28563, 28766, 29648–29651
71.....26980, 27934, 28564, 28565, 28900–28902
97.....27934, 29653
108.....27924, 28884
121.....29306
135.....29306
Proposed Rules:
39.....27009, 27012, 27601, 27602, 28815, 29694
71.....27013, 27014, 27528, 28588–28591, 28816, 28950, 29407
75.....27014
91.....28950

15 CFR

19.....27577
90.....28767
368–399 (See EO 12525).....28757, 29205
370.....29205
376.....27420, 29205
378.....29205
385.....29205
386.....29205
399.....27420
Proposed Rules:
303.....29232
911.....28816

16 CFR

3.....28095
4.....28095
13.....26981, 27578, 28374, 28902
453.....28062, 28081
703.....27936
Proposed Rules:
13.....28592, 28951, 29696, 29699

17 CFR

3.....28907
200.....28385, 29368
239.....27937
240.....27937, 27940, 28385
249.....27937
270.....27937, 28930
274.....27937, 29368
275.....29206
288.....26981, 27947
Proposed Rules:
210.....27973, 28953, 29409
229.....29409
230.....28404
239.....29409
240.....27829, 27976, 27981, 28106, 28210, 28219, 28404, 29409
250.....27981
259.....27981
270.....27982, 29409

18 CFR

37.....29655
157.....27816
389.....27816
Proposed Rules:
2.....28954
35.....27604
154.....28954
157.....28954
161.....28954
271.....28221
284.....28954
290.....27604

19 CFR

4.....26981
12.....27947
142.....27816
178.....27947
Proposed Rules
162.....27829
177.....27831

20 CFR

200.....27222
401.....28565
422.....28565
626.....27818
627.....27818
628.....27818
629.....27818
630.....27818
Proposed Rules:
404.....27615, 29435
416.....27615, 29435
674.....29606

21 CFR

101.....26984
173.....29208
176.....29657
179.....29658
436.....29209
510.....28395
520.....27818, 28768
558.....27421, 27422, 28768, 28931, 28932
812.....28932
1308.....28098, 28395
Proposed Rules:
Ch. 1, Subchapter C.....28594
81.....29702
109.....29233
110.....29233
146.....29702
170.....27294, 29235
201.....27016, 29702
211.....27016, 29702
225.....29233
226.....29233
357.....27552, 28595
433.....29702
500.....29233
509.....29233
514.....27016, 29702
559.....27016, 29702
561.....27452
610.....28595
660.....28595
1002.....27024, 29704

22 CFR

501.....27422
1502.....28932
1504.....28934

23 CFR

825.....29209
1325.....28191

24 CFR

200.....28197
203.....28197
885.....28197
3282.....28396

25 CFR

Proposed Rules:
61.....27456

26 CFR

1.....27222, 27231, 27427, 29369–29376
602.....27222, 27231, 29369, 29376
Proposed Rules:
1.....27297, 27456, 27457, 28409, 29435, 29436
51.....27621
602.....29436

27 CFR

4.....27819
170.....28572
Proposed Rules:
9.....28409

28 CFR

0.....28769
2.....28101
18.....28199
32.....27428
Proposed Rules:
30.....28955

29 CFR

70.....28306
1952.....27233, 28770, 29210, 29659
Proposed Rules:
33.....27298, 28956
89.....29606
1910.....27307

30 CFR

700.....28186
701.....28186
785.....28186
827.....28186
901.....29379
902.....28592
943.....28186
948.....28316, 28324
Proposed Rules:
56.....27566
57.....27566, 29437
700.....28180
701.....28180
785.....28180
817.....27910
827.....28180
913.....27025
917.....28222, 29235
926.....29235
935.....29437, 29438
936.....27461
944.....28107
948.....28343
950.....28595, 29438, 29704

31 CFR

4.....29221
51.....26987
103.....27821
500.....27435
505.....27435
515.....27435
520.....27435
535.....27435
540.....27435

32 CFR

Parts 1–39.....26987
199.....26988
642.....28573
657.....28573
706.....28398–28400
726.....28401

33 CFR

100.....27579, 28573, 29221–29223
110.....26988, 27580, 29224
117.....26989, 27582, 29670–29672
150.....26989
185.....27583, 29225
166.....26989
Proposed Rules:
110.....27622, 27623, 28596
117.....27026, 27029, 27624, 27832, 27990, 27991, 29236

34 CFR

19.....28101
304.....29328
425.....29352
426.....29352
431.....29352
432.....29352
Proposed Rules:
369.....28412
378.....28412

35 CFR

101.....26990
103.....26990
121.....26990

36 CFR

254.....29678
1200.....27196
1202.....27196
1228.....27951
1250.....27196

37 CFR

Proposed Rules:
1.....27030, 28596

38 CFR

1.....29226
3.....27584
21.....27825, 29674
Proposed Rules:
3.....28224
36.....27833

39 CFR

3.....29380
10.....27827
601.....28941
3001.....28144
Proposed Rules:
111.....27992
3001.....27308

40 CFR

51.....27892
52.....26991, 27244–27247, 28544, 29229, 29381, 29383
60.....27248
61.....27248
81.....28574
86.....27250, 29384
123.....28202
147.....28941, 28942
158.....28943
162.....28943
180.....28944–28946
260.....28702
261.....28702
262.....28702
264.....28702
265.....28702
266.....28702
270.....28702
271.....28702
280.....28702
419.....28516
600.....27172
761.....29170
763.....28530
Proposed Rules:
52.....27030, 27462, 28224, 28415, 28596, 28818, 29237, 29439
86.....28818
180.....27463, 28108, 28956, 28957
202.....27321
205.....27321
403.....29705
414.....29068
416.....29068
600.....27188

41 CFR

Chs. 1–49.....26987
101–4.....28402
101–17.....28577
101–40.....27951
101–47.....28402
105–54.....28203
105–63.....26992
201–1.....27142
201–2.....27142, 28208
201–8.....27142
201–11.....27142
201–16.....27142
201–20.....27142
201–21.....27142
201–22.....28208
201–23.....27142
201–24.....27142
201–26.....27142
201–30.....27142, 28208
201–31.....27142, 28208
201–32.....27142, 28208
201–38.....27142
201–39.....27142, 28208
201–40.....27142, 28208
201–45.....28208
Proposed Rules:
101–41.....27625, 27626

42 CFR

400.....28577
405.....27722
412.....27208, 27722
416.....28577
435.....28577
Proposed Rules:
23.....27465
405.....27469
412.....27469

43 CFR

2.....29230
5470.....28947
Public Land Orders:
5150 (Revoked in part by PLO 6607).....27827
5179 (Revoked in part by PLO 6607).....27827
5180 (Revoked in part by PLO 6607).....27827
5186 (Revoked in part by PLO 6607).....27827
6389 (Corrected by PLO 6608).....28208
6607.....27827
6608.....28208
Proposed Rules:
2800.....27322
5400.....29324
5440.....29324

44 CFR

64.....26993, 26994, 28947
Proposed Rules:
67.....27322
302.....27627, 28959

45 CFR

1180.....27584, 27586
Proposed Rules:
405.....27406
412.....27406
1620.....27326

46 CFR

153.....26996
Proposed Rules:
160.....27628
355.....29440

47 CFR

0.....27952
22.....27953
68.....27250, 29384
73.....27287, 27438, 27954, 29392, 29393
74.....29394
76.....27438, 29394
81.....27968
83.....27968, 29231
Proposed Rules:
Ch. I.....28418, 29440
73.....27629, 29446–29453
97.....29454

48 CFR

7.....27560
12.....27969
15.....27560, 28103
19.....27560
33.....27969
34.....27560
52.....27560, 27969
209.....28209
217.....29675
504.....26996
515.....28578
522.....28578
533.....26998
552.....27589, 28948, 29402
553.....27589
570.....27589
2801.....29798
2804.....29798
2806.....29798
2807.....29798
2808.....29798
2809.....29798
2810.....29798
2814.....29798
2815.....29798
2827.....29798
2830.....29798
2831.....29798
2834.....29798
2835.....29798
2852.....29798
6101.....27969, 29231
Proposed Rules:
208.....28227
252.....28227

49 CFR

571.....27451, 29676
Proposed Rules:
Ch. X.....27031
71.....28959
171.....28820
175.....28820
531.....29912
571.....27032, 27632, 27633, 28426, 28599
1132.....27834
1241.....29706

50 CFR

17.....26999, 29338–29345
215.....27914
285.....29403
611.....29681
658.....28103
672.....28580, 28581, 29681
674.....28103
Proposed Rules:
17.....27637, 27992, 28821, 28870–28878, 28959, 29238, 29900, 29901
20.....27638, 29706
611.....28960, 29240
630.....27470
642.....29709
650.....29240
651.....29241
655.....28109
662.....27470
663.....28960
675.....29240

LIST OF PUBLIC LAWS

Last List July 16, 1985.
This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.J. Res. 325/Pub. L. 99–66
To designate July 13, 1985, as "Live Aid Day". (July 17, 1985; 99 Stat. 164) Price $1.00

CFR CHECKLIST

Title	Price	Revision Date
400–End	12.00	Jan. 1, 1985

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	July 1, 1984

Title	Price	Revision Date
43 Parts:		
1–999	9.50	Oct. 1, 1984

VOL
50
ISS
140
JL
22
1985
UMI

CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$5.50	Apr. 1, 1985
3 (1984 Compilation and Parts 100 and 101)	7.50	Jan. 1, 1985
4	12.00	Jan. 1, 1985
5 Parts:		
1–1199	13.00	Jan. 1, 1984
1–1199 (Special Supplement)	None	Jan. 1, 1984
1200–End, 6 (6 Reserved)	7.50	Jan. 1, 1985
7 Parts:		
0–45	14.00	Jan. 1, 1985
46–51	13.00	Jan. 1, 1985
52	14.00	Jan. 1, 1985
53–209	14.00	Jan. 1, 1985
210–299	13.00	Jan. 1, 1985
300–399	8.00	Jan. 1, 1985
400–699	12.00	Jan. 1, 1985
700–899	14.00	Jan. 1, 1985
900–999	14.00	Jan. 1, 1985
1000–1059	12.00	Jan. 1, 1985
1060–1119	9.50	Jan. 1, 1985
1120–1199	8.00	Jan. 1, 1985
1200–1499	13.00	Jan. 1, 1985
1500–1899	7.50	Jan. 1, 1985
1900–1944	12.00	Jan. 1, 1985
1945–End	13.00	Jan. 1, 1985
8	7.50	Jan. 1, 1985
9 Parts:		
1–199	13.00	Jan. 1, 1985
200–End	9.50	Jan. 1, 1985
10 Parts:		
0–199	17.00	Jan. 1, 1985
200–399	9.50	Jan. 1, 1985
400–499	12.00	Jan. 1, 1985
500–End	14.00	Jan. 1, 1985
11	7.50	Jan. 1, 1985
12 Parts:		
1–199	8.00	Jan. 1, 1985
200–299	14.00	Jan. 1, 1985
300–499	9.50	Jan. 1, 1985
500–End	14.00	Jan. 1, 1985
13	13.00	Jan. 1, 1985
14 Parts:		
1–59	16.00	Jan. 1, 1985
60–139	13.00	Jan. 1, 1985
140–199	7.50	Jan. 1, 1985
200–1199	15.00	Jan. 1, 1985
1200–End	8.00	Jan. 1, 1985
15 Parts:		
0–299	6.50	Jan. 1, 1985
300–399	13.00	Jan. 1, 1985
400–End	12.00	Jan. 1, 1985
16 Parts:		
0–149	9.00	Jan. 1, 1985
150–999	10.00	Jan. 1, 1985
1000–End	13.00	Jan. 1, 1985
17 Parts:		
1–239	20.00	Apr. 1, 1985
240–End	13.00	Apr. 1, 1984
18 Parts:		
*1–149	12.00	Apr. 1, 1985
150–399	15.00	Apr. 1, 1984
400–End	7.00	Apr. 1, 1985
19	21.00	Apr. 1, 1985
20 Parts:		
1–399	8.00	Apr. 1, 1985
400–499	16.00	Apr. 1, 1985
500–End	18.00	Apr. 1, 1985
21 Parts:		
1–99	9.00	Apr. 1, 1985
100–169	11.00	Apr. 1, 1985
170–199	13.00	Apr. 1, 1985
200–299	4.25	Apr. 1, 1985
*300–499	20.00	Apr. 1, 1985
500–599	16.00	Apr. 1, 1985
600–799	6.50	Apr. 1, 1985
800–1299	10.00	Apr. 1, 1985
1300–End	5.50	Apr. 1, 1985
22	21.00	Apr. 1, 1985
23	14.00	Apr. 1, 1985
24 Parts:		
0–199	11.00	Apr. 1, 1985
200–499	19.00	Apr. 1, 1985
500–699	6.50	Apr. 1, 1985
*700–1699	13.00	Apr. 1, 1985
1700–End	9.00	Apr. 1, 1985
25	18.00	Apr. 1, 1985
26 Parts:		
§§ 1.0–1.169	21.00	Apr. 1, 1985
§§ 1.170–1.300	12.00	Apr. 1, 1985
§§ 1.301–1.400	7.50	Apr. 1, 1985
§§ 1.401–1.500	15.00	Apr. 1, 1985
§§ 1.501–1.640	12.00	[2] Apr. 1, 1984
§§ 1.641–1.850	11.00	Apr. 1, 1985
*§§ 1.851–1.1200	22.00	Apr. 1, 1985
*§§ 1.1201–End	22.00	Apr. 1, 1985
2–29	15.00	Apr. 1, 1985
30–39	9.50	Apr. 1, 1985
40–299	18.00	Apr. 1, 1985
300–499	11.00	Apr. 1, 1985
500–599	8.00	[1] Apr. 1, 1980
600–End	4.75	Apr. 1, 1985
27 Parts:		
1–199	18.00	Apr. 1, 1985
200–End	12.00	Apr. 1, 1984
28	13.00	July 1, 1984
29 Parts:		
0–99	14.00	July 1, 1984
100–499	6.50	July 1, 1984
500–899	14.00	July 1, 1984
900–1899	7.50	July 1, 1984
1900–1910	15.00	July 1, 1984
1911–1919	5.50	July 1, 1984
1920–End	14.00	July 1, 1984
30 Parts:		
0–199	13.00	July 1, 1984
200–699	5.50	July 1, 1984
700–End	13.00	July 1, 1984
31 Parts:		
0–199	8.00	July 1, 1984
200–End	9.50	July 1, 1984

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	July 1, 1984
1–39, Vol. II	19.00	July 1, 1984
1–39, Vol. III	18.00	July 1, 1984
40–189	13.00	July 1, 1984
190–399	13.00	July 1, 1984
400–629	13.00	July 1, 1984
630–699	12.00	July 1, 1984
700–799	13.00	July 1, 1984
800–999	9.50	July 1, 1984
1000–End	6.00	July 1, 1984
33 Parts:		
1–199	14.00	July 1, 1984
200–End	13.00	July 1, 1984
34 Parts:		
1–299	14.00	July 1, 1984
300–399	8.50	July 1, 1984
400–End	14.00	July 1, 1984
35	7.50	July 1, 1984
36 Parts:		
1–199	9.00	July 1, 1984
200–End	12.00	July 1, 1984
37	8.00	July 1, 1984
38 Parts:		
0–17	14.00	July 1, 1984
18–End	9.50	July 1, 1984
39	8.00	July 1, 1984
40 Parts:		
1–51	13.00	July 1, 1984
52	14.00	July 1, 1984
53–80	18.00	July 1, 1984
81–99	14.00	July 1, 1984
100–149	9.50	July 1, 1984
150–189	13.00	July 1, 1984
190–399	13.00	July 1, 1984
400–424	13.00	July 1, 1984
425–End	14.00	July 1, 1984
41 Chapters:		
1, 1–1 to 1–10	13.00	July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	July 1, 1984
3–6	14.00	July 1, 1984
7	6.00	July 1, 1984
8	4.50	July 1, 1984
9	13.00	July 1, 1984
10–17	9.50	July 1, 1984
18, Vol. I, Parts 1–5	13.00	July 1, 1984
18, Vol. II, Parts 6–19	13.00	July 1, 1984
18, Vol. III, Parts 20–52	13.00	July 1, 1984
19–100	13.00	July 1, 1984
101	15.00	July 1, 1984
102–End	9.50	July 1, 1984
42 Parts:		
1–60	12.00	Oct. 1, 1984
61–399	8.00	Oct. 1, 1984
400–End	18.00	Oct. 1, 1984
43 Parts:		
1–999	9.50	Oct. 1, 1984
1000–3999	14.00	Oct. 1, 1984
4000–End	8.00	Oct. 1, 1984
44	13.00	Oct. 1, 1984
45 Parts:		
1–199	9.50	Oct. 1, 1984
200–499	6.50	Oct. 1, 1984
500–1199	13.00	Oct. 1, 1984
1200–End	9.50	Oct. 1, 1984
46 Parts:		
1–40	9.50	Oct. 1, 1984
41–69	9.50	Oct. 1, 1984
70–89	6.00	Oct. 1, 1984
90–139	9.00	Oct. 1, 1984
140–155	9.50	Oct. 1, 1984
156–165	10.00	Oct. 1, 1984
166–199	9.00	Oct. 1, 1984
200–499	13.00	Oct. 1, 1984
500–End	7.50	Dec. 31, 1984
47 Parts:		
0–19	13.00	Oct. 1, 1984
20–69	14.00	Oct. 1, 1984
70–79	13.00	Oct. 1, 1984
80–End	14.00	Oct. 1, 1984
48 Chapters:		
1 (Parts 1–51)	13.00	Oct. 1, 1984
1 (Parts 52–99)	13.00	Oct. 1, 1984
2	13.00	Oct. 1, 1984
3–6	12.00	Oct. 1, 1984
7–14	14.00	Oct. 1, 1984
15–End	12.00	Oct. 1, 1984
49 Parts:		
1–99	7.50	Oct. 1, 1984
100–177	14.00	Nov. 1, 1984
178–199	13.00	Nov. 1, 1984
200–399	13.00	Oct. 1, 1984
400–999	13.00	Oct. 1, 1984
1000–1199	13.00	Oct. 1, 1984
1200–1299	13.00	Oct. 1, 1984
1300–End	3.75	Oct. 1, 1984
50 Parts:		
1–199	9.50	Oct. 1, 1984
200–End	14.00	Oct. 1, 1984
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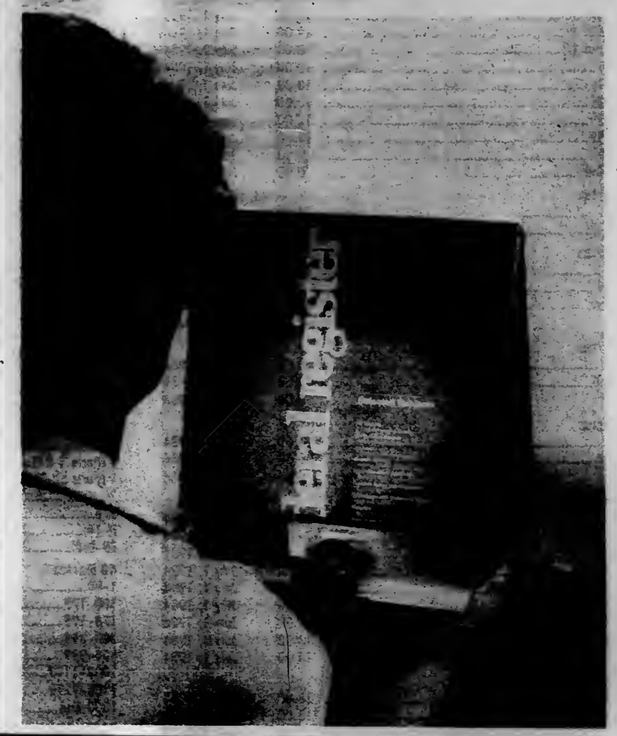

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VOL
50

ISS
140

JL
22

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VOL
50
ISS
141
JL
23
1985
UMI

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Tuesday
July 23, 1985

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VOL
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141
JL
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7-23-85
Vol. 50 No. 141

Tuesday
July 23, 1985

VOL
50

ISS
141

JL
23

1985

UMI

7-23-85
Vol. 50 No. 141
Pages 29935-30126

federal register

Tuesday
July 23, 1985

Selected Subjects

Aircraft
Federal Aviation Administration
Aviation Safety
Federal Aviation Administration
Claims
Railroad Retirement Board
Customs Duties and Inspection
Customs Service
Employment Taxes
Internal Revenue Service
Excise Taxes
Internal Revenue Service
Fishing
Fish and Wildlife Service
Flood Insurance
Federal Emergency Management Agency
Government Employees
Personnel Management Office
Health Care
Veterans Administration
Nuclear Power Plants and Reactors
Nuclear Regulatory Commission
Savings and Loan Associations
Federal Home Loan Bank Board

CONTINUED INSIDE

Selected Subjects

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Securities
Securities and Exchange Commission

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 50, No. 141
Tuesday, July 23, 1985

The President
PROCLAMATIONS
29935 Captive Nations Week (Proc. 5357)

Executive Agencies

Agriculture Department
See Federal Grain Inspection Service; Rural Electrification Administration.

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol; viticultural area designations:
29967 Cumberland Valley, MD and PA

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
30020 American Airlines, Inc., et al.
30029 Volkswagen of America, Inc., et al.

Commerce Department
See International Trade Administration.

Customs Service
RULES
29949 Conforming amendments (Trade and Tariff Act implementation, etc.)
NOTICES
30048 Privacy Act; systems of records
Tariff rate quotas:
30040 Fish

Defense Department
NOTICES
Explosives Safety Board:
29998 Ammunition and explosives safety standard; minimum distance requirements
Meetings:
29999 DIA Scientific Advisory Committee; cancellation

Education Department
NOTICES
Grants; availability, etc.:
29999 Pell grant program; electronic pilot
Postsecondary education:
29999 Guaranteed student loan and PLUS programs; special allowances

Employment and Training Administration
NOTICES
Adjustment assistance:
30032 American Nuclear Corp. et al.
30031 Burlington Industries, Inc., et al.
30033 Plastronics Co.
30030 Trade adjustment assistance for workers; instructions to State employment security agencies

Energy Department
See also Energy Information Administration; Hearings and Appeals Office, Energy Department.
NOTICES
Atomic energy agreements; subsequent arrangements:
30000 Switzerland and European Atomic Energy Community

Energy Information Administration
NOTICES
30002 Agency information collection activities under OMB review
Forms; availability, etc.:
30002 Coal program data collection; inquiry
30000 Natural gas, high cost; alternative fuel price ceilings and incremental price threshold

Environmental Protection Agency
PROPOSED RULES
Hazardous waste:
29992 Storage and treatment tank systems; correction
NOTICES
Air pollution control; new motor vehicles and engines:
30009 California pollution control standards; amendments
Meetings:
30010 National Drinking Water Advisory Council
30010 Science Advisory Board
Water pollution; discharge of pollutants (NPDES):
30010 Alaska OCS operations; correction

Equal Employment Opportunity Commission
NOTICES
30043 Meetings; Sunshine Act

Federal Aviation Administration
RULES
Aircraft products and parts, certification:
29945 Aerospatiale
PROPOSED RULES
Air traffic operating and flight rules:
30124 Nighttime VFR weather minimums
Airworthiness directives:
29988 Mooney Aircraft Corp.

Federal Communications Commission
NOTICES
30043 Meetings; Sunshine Act

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
29992 Illinois
NOTICES
Radiological emergency; State plans:
30011 Louisiana
30011 Texas
30011 West Virginia

Federal Grain Inspection Service
PROPOSED RULES
Administration:
29985 Fees for supervision of official services; correction

Federal Home Loan Bank Board
PROPOSED RULES

International Trade Administration
NOTICES

National Institutes of Health

Transportation Department

Federal Home Loan Bank Board
PROPOSED RULES
Federal Savings and Loan Insurance Corporation:
29985 Preferred stock as regulatory net worth

Federal Maritime Commission
NOTICES
30012 Agreements filed, etc. (2 documents)

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
30012 Gibson Investment Co.
30013 National Banc of Commerce Co. et al.
30043 Meetings; Sunshine Act

Fish and Wildlife Service
RULES
Sport fishing:
29972 Refuge specific fishing regulations

General Services Administration
RULES
Property management:
29972 Transportation documentation and audit; unused ticket refund procedures; effective date confirmation

Health and Human Services Department
See also Human Development Services Office; National Institutes of Health; Social Security Administration.
NOTICES
Meetings:
30013 Evaluation of Pain Commission

Hearings and Appeals Office, Energy Department
NOTICES
30004 Special refund procedures; implementation and inquiry

Human Development Services Office
NOTICES
Organization, functions, and authority delegations:
30014 Developmental Disabilities Administration

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service.

Internal Revenue Service
RULES
Employment taxes and collection of income taxes at source:
29964 Employee tip reporting and substantiation requirements; temporary
Excise taxes:
29959 Gas guzzler tax
PROPOSED RULES
Employment taxes and collection of income taxes at source:
29990 Employee tip reporting and substantiation requirements; cross-reference
NOTICES
Income taxes:
30041 Return electronic filing pilot

International Trade Administration
NOTICES
Countervailing duties:
29996 Carbon steel plate from Brazil
29997 Export trade certificates of review
Meetings:
29996 MCTL Implementation Technical Advisory Committee; cancellation
Scientific articles; duty free entry:
29994 Cornell University
29995 Stanford Linear Accelerator Center
29995 University of Kansas
29995 University of Maryland
29995 University of Utah
29997 Veterans Administration Medical Center et al.
Short supply determinations; inquiry:
29998 Open coil annealed rimmed steel and aluminum-killed cold-rolled steel sheet

International Trade Commission
NOTICES
30044 Meetings; Sunshine Act (3 documents)

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
30020 Genesee & Wyoming Industries, Inc.
Railroad services abandonment:
30020 Illinois Central Gulf Railroad Co.
30020 Southern Pacific Transportation Co.

Justice Department
See Antitrust Division; Prisons Bureau.

Labor Department
See also Employment and Training Administration; Occupational Safety and Health Administration.
NOTICES
30030 Agency information collection activities under OMB review

Land Management Bureau
NOTICES
Alaska native claims selection:
30019 Choggiung, Ltd.
30018, 30019 Gana-a 'Yoo, Ltd. (2 documents)
30018 Ingalik, Inc.
30018 Salamatof Native Association, Inc.
30017 Seth-de-ya-ah Corp.
30018 Unalakleet Native Corp.

Merit Systems Protection Board
NOTICES
30044 Meetings; Sunshine Act

Minerals Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
30019 Chevron U.S.A. Inc.
30019 Shell Offshore Inc.

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
29993 Air and hydraulic brake systems; comment period reopened

National Institutes of Health
NOTICES
Recombinant DNA molecules research:
30016 Comment analysis, availability

Nuclear Regulatory Commission
RULES
Production and utilization facilities, domestic licensing:
29937 Light water nuclear power plants; analysis of potential pressurized thermal shock events
NOTICES
Applications, etc.:
30033 Florida Power & Light Co.
30034 Houston Lighting & Power Co. et al.
30035 Indiana & Michigan Electric Co.
Meetings:
30036 Reactor Safeguards Advisory Committee; proposed schedule
30044 Meetings; Sunshine Act

Occupational Safety and Health Administration
NOTICES
Variance applications, etc.:
30033 ASARCO Inc.

Personnel Management Office
RULES
Absence and leave:
29937 Use of restored annual leave

Prisons Bureau
NOTICES
Environmental statements; availability, etc.:
30029 Federal Correctional Facility, McKean County, PA

Railroad Retirement Board
RULES
29957 Federal claims collection

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
29994 Oglethorpe Power Corp.

Securities and Exchange Commission
RULES
Securities:
29948 Bank municipal securities dealer registration application (Form MSD); Privacy Act statement
NOTICES
Self-regulatory organizations; proposed rule changes:
30038 Municipal Securities Rulemaking Board
30039 National Securities Clearing Corp.
30039 Pacific Clearing Corp. et al.
Self-regulatory organizations; unlisted trading privileges:
30037 Cincinnati Stock Exchange, Inc.
30038 Midwest Stock Exchange, Inc.
30038 Pacific Stock Exchange, Inc.

Social Security Administration
NOTICES
Social security; foreign insurance or pension systems:
30617 St. Lucia

Transportation Department
See also Federal Aviation Administration; National Highway Traffic Safety Administration.
NOTICES
Aviation proceedings; hearings, etc.:
30039 Wien Airlines
Meetings:
30040 Minority Business Resource Center Advisory Committee

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Customs Service; Internal Revenue Service.

United States Information Agency
NOTICES
President's International Youth Exchange Initiative:
30041 Organization index

Veterans Administration
PROPOSED RULES
Medical benefits:
29990 Breaking appointments, eligibility for payment of unauthorized medical services, etc.

Separate Parts in This Issue

Part II
30048 Department of the Treasury, Customs Service

Part III
30124 Department of Transportation, Federal Aviation Administration

Reader Aids
Additional information, including a list of public laws, telephone numbers, and findings aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

Federal Register

Presidential Documents

VOL 50 ISS 141 JL 23 1985

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5357 29935
5 CFR
630 29937
7 CFR
Proposed Rules:
800 29985
10 CFR
50 29937
12 CFR
Proposed Rules:
561 29985
563 29985
14 CFR
21 29945
Proposed Rules:
39 29988
91 30124
17 CFR
249 29948
19 CFR
4 29949
10 29949
19 29949
24 29949
103 29949
113 29949
134 29949
141 29949
143 29949
145 29949
148 29949
152 29949
162 29949
171 29949
173 29949
191 29949
20 CFR
200 29957
26 CFR
1 29959
31 29964
48 29959
138 29959
602 (2 documents) 29959, 29964
Proposed Rules:
31 29990
27 CFR
9 29967
38 CFR
Proposed Rules:
17 29990
40 CFR
Proposed Rules:
260 29992
262 29992
264 29992
265 29992
270 29992
41 CFR
101-41 29972
44 CFR
Proposed Rules:
67 29992
49 CFR
Proposed Rules:
571 29993
50 CFR
33 29972

Federal Register
Vol. 50, No. 141
Tuesday, July 23, 1985

Presidential Documents

Title 3—

The President

Proclamation 5357 of July 19, 1985

Captive Nations Week, 1985

By the President of the United States of America

A Proclamation

The unique and historic significance of our Nation has always derived from our role as a model of political freedom, social justice, and personal opportunity. While not a perfect Nation, we have offered to the world a vision of liberty. It is a vision that has motivated all our national endeavors and serves us yet as an anchor of conscience. The humanity and justice of our collective political life and the freedom and limitless opportunity in our personal lives are an inspiration for the peoples of the world, both for those who are free to aspire and for those who are not.

The uniqueness of our vision of liberty comes not only from its historical development, but also from the conviction that the benefits of liberty and justice rightfully belong to all humanity. Hostility to this fundamental principle still haunts the world, but our conviction that political freedom is the just inheritance of all nations and all people is firm. Our dedication to this principle has not been weakened by the sad history of conquest, captivity, and oppression to which so many of the world's nations have been subjected.

We are all aware of those many nations that are the victims of totalitarian ideologies, ruthless regimes, and occupying armies. These are the nations held captive by forces hostile to freedom, independence, and national self-determination. Their captivity and struggle against repression require a special courage and sacrifice. Those nations of Eastern Europe that have known conquest and captivity for decades; those struggling to save themselves from communist expansionism in Latin America; and the people of Afghanistan and Kampuchea struggling against invasion and military occupation by their neighbors: all require our special support. For those who seek freedom, security, and peace, we are the custodians of their dream.

Our Nation will continue to speak out for the freedom of those denied the benefits of liberty. We will continue to call for the speedy release of those who are unjustly persecuted and falsely imprisoned. So long as brave men and women suffer persecution because of their national origin, religious beliefs, and desire for liberty, the United States of America will demand that the signatories of the United Nations Charter and the Helsinki Accords live up to their obligations and respect the principles and spirit of those international agreements and understandings.

Each year we renew our resolve to support the struggle for freedom throughout the world by observing Captive Nations Week. It is a week in which all Americans are asked to remember that the liberties and freedoms which they enjoy as inherent rights are forbidden to many nations. It is a time to affirm publicly our conviction that, as long as the struggle from within these nations continues, and as long as we remain firm in our support, the light of freedom will not be extinguished. Together with the people of these captive nations, we fight against military occupation, political oppression, communist expansion, and totalitarian brutality.

The Congress, by joint resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the President to designate the third week in July as "Captive Nations Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of

Rules and Regulations

Federal Register

VOL 50 ISS 141 JL 23 1985 UMI

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning July 21, 1985, as Captive Nations Week. I invite the people of the United States to observe this week with appropriate ceremonies and activities to reaffirm their dedication to the international principles of justice and freedom, which unite us and inspire others.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of July, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-17805
Filed 7-19-85; 4:33 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 141
Tuesday, July 23, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

Absence and Leave

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: The Office of Personnel Management is amending its annual leave regulations to clarify the period in which restored annual leave may be used in certain situations. The change applies only to situations that exist after termination of an extended exigency of the public business when the amount of restored and accrued annual leave cannot be used within the 2 years specified in the current regulations.

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: James Matteson, (202) 632-4634.

SUPPLEMENTARY INFORMATION: Section 630.306(b) of Title 5, Code of Federal Regulations, provides that annual leave forfeited because of an exigency of the public business and restored under 5 U.S.C. 6304(d) must be scheduled and used not later than the end of the second full leave year following termination of the exigency. While this provision generally carries out congressional intent that there be ample time in which to use restored leave, it does not deal adequately with situations in which a prolonged exigency results in the accumulation of large amounts of restored leave that cannot be used in a 2-year period without disrupting normal operations.

To deal with such situations, we published an interim regulation to permit agencies to increase the time for affected employees to use restored annual leave after the termination of an extended exigency (50 FR 3314, January 24, 1985).

During the 60-day public comment period on the interim regulation, we received comments from one individual, one union, and one agency. The individual did not comment on the specifics of the interim regulation; rather, he commented on the procedure for declaring exigencies of the public business. These comments will be considered when we next revise regulations on that subject.

The union commented that the interim regulation was too narrow and suggested that the two-for-one formula be extended to *all* exigencies that last more than 1 year. When we published the interim regulation, we intended that it would apply only to those exigencies lasting for long periods of time under extreme circumstances. This intent is supported by the language of an congressional intent behind 5 U.S.C. 6304(d). Therefore, we have not adopted this suggestion.

The agency's comments made it apparent that the interim regulation is subject to more than one interpretation. Therefore, we have revised the interim regulation to clarify that the time period for use of restored leave following an extended exigency is 2 years for each calendar year, or part thereof, during which the exigency existed, *regardless of the number of years during the exigency in which the employee forfeited leave.* Because this interpretation is more generous than granting the additional period for each year during the exigency when leave was actually forfeited, we believe it is appropriate to further restrict the situations in which it may be applied. Therefore, we have revised the definition of "extended exigency" to specify that the exigency must last more than 3 calendar years.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will affect only Government employees.

List of Subjects in 5 CFR Part 630

Government employees and Employee benefit plans.

Office of Personnel Management.
Loretta Cornelius,
Acting Director.

Accordingly, the interim regulation published in Part 630 of Title 5, Code of Federal Regulations, on January 24, 1985 (50 FR 3314), is adopted as final, with the following revisions:

PART 630—ABSENCE AND LEAVE

1. The authority citation for Part 630 continues to read as follows:

Authority: 5 U.S.C. 6311, unless otherwise noted.

2. Section 630.309 is revised to read as follows:

§ 630.309 Time limit for use of restored annual leave—extended exigency of the public business.

(a) Annual leave restored under 5 U.S.C. 6304(d)(1)(B) because of an extended exigency, as defined in paragraph (b) of this section, must be scheduled and used within a time period that equals twice the number of full calendar years, or parts thereof, that the exigency existed. This time period begins at the beginning of the leave year following the leave year in which the exigency is declared to be ended.

(b) An "extended exigency" means an exigency of such significance as to—

(1) Threaten the national security, safety, or welfare;

(2) Last more than 3 calendar years;

(3) Affect a segment of an agency or occupational class; and

(4) Preclude subsequent use of both restored and accrued annual leave within the time limit specified in § 630.308.

[FR Doc. 85-17391 Filed 7-22-85; 8:45 am]
BILLING CODE 6325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Analysis of Potential Pressurized Thermal Shock Events

AGENCY: Nuclear Regulatory Commission.
ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations for light water nuclear

power plants to: (1) Establish a screening criterion related to the

decrease is dependent on the chemical composition of the vessel wall and weld

selected so that the risk from PTS events for reactor vessels with smaller RT

fracture mechanics calculations to uncertainties in the various input

when further safety analyses would be required, but expressed concern that by

Response: The Commission agrees that further analyses based upon better

VOL 50 ISS 141 JL 23 1985 UMI

power plants to: (1) Establish a screening criterion related to the fracture resistance of pressurized water reactor (PWR) vessels during pressurized thermal shock (PTS) events; (2) require analyses and schedule for implementation of flux reduction programs that are reasonably practicable to avoid exceeding the screening criterion; and (3) require detailed safety evaluations to be performed before plant operation beyond the screening criterion will be considered. These amendments are intended to produce an improvement in the safety of PWR vessels by identifying those corrective actions that may be required to prevent or mitigate potential PTS events.

EFFECTIVE DATE: July 23, 1985.

FOR FURTHER INFORMATION CONTACT: Roy Woods, Division of Safety Technology, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–4714.

SUPPLEMENTARY INFORMATION:

Background

Transients and accidents can be postulated to occur in pressurized water reactors (PWRs) that result in severe overcooling (thermal shock) of the reactor vessel, concurrent with high pressure. In these pressurized thermal shock (PTS) events, rapid cooling of the reactor vessel internal surface causes a temperature distribution across the reactor vessel wall. This temperature distribution produces a thermal stress on the reactor vessel with a maximum tensile stress at the inside surface of the vessel. The magnitude of the thermal stress varies with the rate of change of temperature, and with time during the transient, and its effect is compounded by coincident pressure stresses.

Severe reactor system overcooling events with pressurization of the reactor vessel (PTS events) are postulated to result from a variety of causes. These include system transients, some of which are initiated by instrumentation and control system malfunctions (including stuck open valves in either the primary or secondary system), and postulated accidents such as small break loss-of-coolant accidents, main steam line breaks, and feedwater line breaks.

As long as the fracture resistance of the reactor vessel material is relatively high, these events are not expected to cause vessel failure. However, the fracture resistance of the reactor vessel material decreases with the integrated exposure to fast neutrons during the life of a nuclear power plant. The rate of decrease is dependent on the chemical composition of the vessel wall and weld materials. If the fracture resistance of the vessel has been reduced sufficiently by neutron irradiation, severe PTS events could cause small flaws that might exist near the inner surface to propagate into the vessel wall. The assumed initial flaw might be enlarged into a crack through the vessel wall of sufficient extent to threaten vessel integrity and, therefore, core cooling capability.

The toughness state of reactor vessel materials can be characterized by a "reference temperature for nil ductility transition" (RT_{NDT}). At normal operating temperatures, vessel materials are quite tough and resistant to crack propagation. As the temperature decreases, the metal gradually loses toughness over a temperature range of about 100 °F. RT_{NDT} is a measure of the temperature range at which this toughness transition occurs. Its value depends on the specific material in the vessel wall and the integrated neutron irradiation received by the vessel. These effects are determined by destructive tests of material specimens. Correlations, based on tests of irradiated specimens, have been developed to calculate the shift in RT_{NDT} as a function of neutron fluence for various material compositions. The value of RT_{NDT} at a given time in a vessel's life is used in fracture mechanics calculations to determine whether assumed pre-existing flaws would propagate when the vessel is subjected to overcooling events.

The PTS issue is a concern only for PWRs. Boiling water reactors (BWRs) operate with a large portion of water inventory inside the pressure vessel at saturated conditions. Any sudden cooling will condense steam and result in a pressure decrease. Simultaneous conditions of high pressure and low temperature are considered to be improbable. Most BWRs also receive lower integrated fast neutron flux at the vessel inner wall, resulting in smaller RT_{NDT} shifts. BWRs are designed with a thinner-walled vessel, resulting in lower thermal stress intensities for postulated cracks.

On the basis of studies of severe overcooling events that have occurred, generic calculations of postulated PTS events that could occur, and vessel integrity calculations, the NRC staff has concluded that a value of RT_{NDT}[1] can be selected so that the risk from PTS events for reactor vessels with smaller RT_{NDT} values is acceptable. (The risk for vessels with higher values of RT_{NDT} might also be shown to be acceptable, but the demonstration would require detailed plant-specific evaluations and possibly modifications to existing equipment, systems, and procedures.) The staff recommended that a value for RT_{NDT} be established as a screening criterion that would determine the need for, and timing of, further plant-specific evaluations.

The staff's approach to selection of the RT_{NDT} screening criterion is described in detail in SECY–82–465.[2] In summary, the approach was to use a deterministic fracture mechanics algorithm to calculate the value of RT_{NDT} for which assumed pre-existing flaws in the reactor vessel would be predicted to initiate (grow deeper into the vessel wall) assuming occurrence of one of the severe overcooling events that have been experienced in U.S. PWRs. These "critical" values of RT_{NDT} were related to the expected frequency of the experienced severe overcooling events based on a limited data base, consisting of eight events in 350 reactor-years.

In addition, the staff considered a wide spectrum of postulated overcooling events that could occur. These events were grouped into categories, estimates were made of their expected frequency, and stylized characterizations of the temperature and pressure time-histories were developed for each event category. The estimates presented in detail in SECY–82–465 are based on a generic study of Westinghouse-designed PWR systems, and are considered also to be generally representative of PWR systems designed by Combustion Engineering. Because there are some significant differences between those designs and PWRs designed by Babcock & Wilcox that affect the characteristics and estimated frequencies of PTS events, information was also developed for the Babcock & Wilcox designs. This information is described in detail in Enclosure C to SECY–83–288 (July 15, 1983)[3]. It was concluded that the PTS risk for B&W plants is not significantly different from that of other PWRs. A probabilistic treatment of the fracture mechanics calculations was developed to gain insight into the sensitivity of the fracture mechanics calculations to uncertainties in the various input parameters. By combining the estimated frequencies of postulated events with the probabilistic fracture mechanics results, some estimates of the probability of vessel failure resulting from PTS events were developed. These estimates were used by the staff to better understand the residual risks inherent in the use of the screening criterion approach for further evalutions and resolution of the PTS issue.

On the basis of these studies, the NRC staff concluded the PWR reactor pressure vessels with conservatively calculated values of RT_{NDT} less than 270 °F for plate material and axial welds, and less than 300 °F for circumferential welds, present an acceptably low risk of vessel failure from PTS events.

[1] RT_{NDT} decreases with depth from the inside surface of an irradiated vessel's wall. This decrease is accounted for in vessel integrity analyses. As used in this document and in the screening criteria, RT_{NDT} is the peak value at the inside surface of the vessel.

[2] Copies of this document are available for public inspection and copying at the Public Document Room at 1717 H Street, NW. Washington, DC 20555.

[3] Copies of this document are available for public inspection and copying at the Public Document Room at 1717 H Street, NW. Washington, DC 20555.

Proposed Rule

On February 7, 1984, the Commission published a proposed rule in the **Federal Register** (49 FR 4498) that would: (1) Establish an RT_{NDT} screening criterion; (2) require licensees to submit present and projected values of RT_{NDT} (3) require early analysis and implementation of such fast neutron flux reduction programs as are reasonably practicable to avoid reaching the screening criterion; and (4) require plant-specific PTS safety analyses before a plant is within three calendar years of reaching the screening criterion, including analyses of alternatives to minimize the PTS problem. After consideration of the public comments received, the Commission has modified the proposed rule as discussed in the following section.

Comments on Proposed Rule

The Commission received twenty-two letters commenting on the proposed rule. Copies of those letters are available for public inspection and copying for a fee at the NRC Public Document Room at 1717 H Street, Washington, DC. Fourteen letters were from utilities (or from attorneys representing utilities), three from PWR Nuclear Steam Supply System manufacturers, one from an architect/engineering firm, and one from a group representing the nuclear industry. The remaining three letters were from members of the public, two of the three being from the same individual. There were a total of 181 individual comments, which are discussed by subject below.

Commission Approval To Exceed Screening Criterion

Comment: Eleven commenters agreed with the intended use of an RT_{NDT} screening criterion to determine if and when further safety analyses would be required, but expressed concern that by requiring Commission approval of these analyses before operation beyond the criterion, the proposed rule in fact established the RT_{NDT} values as operating limits. They recommended that the rule should be amended to allow continued operation unless the Commission specifically disapproves the required safety analyses.

Response: The Commission affirms that the purpose of the PTS screening criterion is to determine whether and when further plant-specific safety analyses are required. Its acceptability for that purpose is based on the Commission's judgment that the generic PTS studies already performed by the industry and the NRC staff provide reasonable assurance that operation of PWR pressure vessels with RT_{NDT} values below the screening criterion does not result in undue risk to the public health and safety because of the potential for PTS events. However, the existing generic studies do not in themselves provide this assurance for operation of individual pressure vessels with higher RT_{NDT} values, i.e., with lower fracture resistance. The Commission has concluded that detailed plant-specific analyses are required to provide this assurance. For those cases (expected to be relatively few) where licensees determine that the screening criterion will be exceeded before the end of the desired service life of the vessel, and who nevertheless wish to continue operation, the licensees clearly have a responsibility to provide the necessary basis for assuring the protection of the public health and safety prior to operation beyond the screening criterion. The Commission's responsibility is to review the licensee's submittals and reach a decision on whether continued operation is acceptable. The Commission recognizes that a timely decision on its part is essential to avoid placing an unfair and unacceptable economic penalty on the licensee, but has concluded that the requirement for prior Commission approval in the proposed rule is appropriate and consistent with its statutory responsibilities.

Comment: Eight commenters also recommended that if the required safety analysis are not accepted by the Commission, then the proposed rule requirement that any further request must be based on "modifications to equipment, systems and operation of the facility in addition to those previously proposed . . .," should be changed so that re-analyses based upon better methods or new information would also be acceptable.

Response: The Commission agrees that further analyses based upon better methods or new information should be an allowable alternative if the original required safety analyses were not approved by the Commission. The final rule (§ 50.61(b)(6)) has been changed to reflect this alternative.

Reference Temperature Definition and Calculational Method

Comment: Nine of the commenters noted that since the proposed rule prescribes a specific conservative method for calculation of RT_{NDT} for use as a screening criterion, there is a potential inconsistency with the term RT_{NDT} as used elsewhere (e.g., in the ASME Code and in Appendix G to 10 CFR Part 50). The commenters recommended that RT_{NDT} be defined the same as in these other documents, or that the results of the prescribed calculation (for purposes of the PTS rule) be given a different designation.

Response: The final rule has been changed to define the reference temperature used for comparison with the screening criterion, and calculated as prescribed by § 50.61(b) of the rule, as "reference temperature for pressurized thermal shock" (RT_{PTS}).

Comment: The commenters also recommended that the values for copper and nickel content and fluence in Equations 1 and 2 of § 50.61(b) be described as "best estimate" values and that the "Margin" term to be added to Equations 1 and 2 be defined as covering uncertainties in those quantities as well as the uncertainties in initial RT_{NDT} value and in the calculational procedure for RT_{PTS}.

Response: This change has been made in the final rule.

Comment: One of the commenters requested that the definition of "Reactor Vessel Beltline" in the proposed rule be made the same as that given in Appendix G to 10 CFR Part 50.

Response: The Commission notes that the definition is the same as that given in the latest revision of Appendix G that was published in the **Federal Register** May 27, 1983 (48 FR 24008).

Use of Other Reference Temperature Correlations and Probabilistic Fracture Mechanics

Comment: Nine commenters responded that the rule should clearly state that alternative means of calculating RT_{NDT} (other than those specified in the rule) are acceptable for use in the analyses required by the rule to show acceptability of operation above the screening criterion values. One commenter requested that use of

surveillance data be allowed in evaluating the reference temperature.

Seven commenters requested that it

early analyses to justify actions other than flux reductions.

Response: The rule does not preclude

detailed analyses should be required five years prior to exceeding the screening criterion, instead of the three

selected, allowing a conservative margin for safety and time for implementation of identified corrective actions before an

analyses be performed to identify any necessary corrective actions, well before the screening criterion is

is thoroughly verified by multiple checks. The flux reduction accomplished

surveillance data be allowed in evaluating the reference temperature.

Seven commenters requested that it should also be made clear within the rule that the use of probabilistic fracture mechanics (PFM) techniques are acceptable in establishing PTS-related risk when performing these analyses. Five commenters also suggested that it should be acceptable to use other RT_{NDT} (now called RT_{PTS}) correlations to show that a plant is below the RT_{PTS} screening criterion and hence that no analyses are required.

Response: The Commission clearly intends that licensees be free to provide any information relevant in performing the rule-required analyses to justify continued operation of the plant, This includes other RT_{NDT} correlations, surveillance data, and PFM techniques. The wording of the rule in paragraph 50.61(b)(4) has been changed to reflect this intent.

However, the final rule does not permit use of other RT_{PTS} correlations or surveillance data in determining whether or not a reactor vessel exceeds the screening criterion. The screening criterion was selected taking many uncertainties into account, including the perceived conservatism of the prescribed method for calculating RT_{PTS}.

Reporting of Changes in Reference Temperature Projections

Comment: Three commenters responded that the requirement to report new projected values of Reference Temperature when significant changes occur is unnecessary. They believe that the reporting requirements of Appendix G to 10 CFR Part 50 are adequate. One commenter suggested requiring re-reporting only if the changes would indicate that the screening RT_{PTS} would be exceeded before the expiration of the operating license.

Response: The Commission must be informed early of any trends in RT_{PTS} changes, to allow adequate time for any necessary actions leading to implementation of corrective actions at any plant. Therefore, the Commission continues to believe that the reporting requirement as written in the proposed rule is necessary, and has not changed the reporting requirement in the final rule.

Alternatives to Flux Reduction

Comment: Sixteen commenters responded that, for those plants projected to exceed the screening criterion, the bias toward flux reduction as the "preferred" corrective action should be eliminated, and that other options should be allowed, including early analyses to justify actions other than flux reductions.

Response: The rule does not preclude options other than flux reduction measures. The implementation schedule for flux reduction options may include consideration of other options proposed by the licensee provided those other options are thoroughly justified by the licensee on a time schedule that will allow Commission review and acceptance before the efficacy of flux reduction is precluded by the passage of time.

Guidance of Plant-Specific Analysis

Comment: Thirteen commenters responded that the guidance and acceptance criteria for the analyses required by the rule should be provided with the rule, or the rule should be delayed until they can be provided.

Response: The Commission believes that the rule addresses an important safety issue and should be promulgated without delay. The development of the guidance and acceptance criteria involves performance by the staff and its contractors of analyses of the type to be required later from some licensees. The performance of the analyses requires several sequential steps which cannot be significantly shortened, and the insights to be gained from these analyses are necessary before the staff can draft its guidance. Therefore, the Commission believes that the best course of action is to promulgate the rule now and provide the guidance and acceptance criteria in late 1985 or early 1986. This will be at least a decade before any licensee will need to begin performing the analyses for submittal three years before exceeding the RT_{PTS} criteria, based on the Commission's current understanding of the flux levels at all PWRs. In order to avoid difficulty for any licensee where this expectation is not fulfilled, the Commission has changed the final rule to require licensees to submit the required analyses three years before the plant is projected to exceed the screening criterion, or one year after issuance of the guidance and acceptance criteria, whichever is later.

If a licensee elects to perform analyses to justify alternatives to flux reduction prior to issuance of the final guidance and acceptance criteria, the staff will provide on request its best current judgement of what analyses are likely to be acceptable and what level of safety will be required.

Timing of Required Plant-Specific Analyses

The Commission invited public comments regarding whether the detailed analyses should be required five years prior to exceeding the screening criterion, instead of the three years in the proposed rule.

Comment: Eleven commenters responded with ten of the eleven stating that three years is preferable. The eleventh comment stated that a five year requirement would be useful to the extent that it would lead to earlier Commission reaction and a longer lead time for implementation, but also noted that "unless the NRC reaction is timely, the advantage will be lost."

Response: The Commission believes that three years allows adequate time for review and implementation of any necessary corrective actions. Therefore, the three year requirement has been retained in the final rule.

Necessity of PTS Rule

Comment: One commenter responded that the rule is not necessary and that its purpose could be accomplished with a generic letter or plant-specific action, since the lead plants have already been identified.

Response: The Commission evaluated alternatives to rulemaking prior to publication of the proposed rule. Plant-specific information is needed to determine whether or not corrective actions are needed, in sufficient time to allow implementation before PTS risk exceeds acceptable levels. The Commission believes a rule is the appropriate means to accomplish the above for all plants that may require action.

Adequacy of Bases for Proposed Rule

Comments were received from two individuals that expressed general concerns regarding the Commission's bases for the proposed rule. These individuals' various contentions are briefly noted below with the Commission's response.

Comments:

(1) Flux measurements and/or calculations are uncertain.

(2) Basis and assumptions of PTS rule are incorrect.

(3) There are other causes of embrittlement that are not considered by the PTS rule.

(4) Coupons used to monitor vessel steel embrittlement are not representative of the vessel material.

(5) PRA techniques are inadequate.

Response: When the NRC staff performed the studies upon which the PTS rule is based, it was recognized that there were many uncertainties involved in determination of risk due to PTS. The uncertainties were taken into account when the screening criterion was selected, allowing a conservative margin for safety and time for implementation of identified corrective actions before an acceptable level of safety is exceeded. The probabilistic risk analysis (PRA) and deterministic methods used and conclusions reached that risk is acceptable for vessels with RT_{PTS} below the screening criterion are discussed in SECY–82–465, SECY–83–288, and in the **Federal Register** Notice of Proposed Rulemaking (February 7, 1984).

Comment:

(6) The ability to detect cracks greater than ¼-inch in depth, and the "leak before break" principle, are relied upon in the resolution of Unresolved Safety Issue A–11, Reactor Vessel Materials Toughness.

Response: This comment is not relevant to the bases for the PTS rule since the existence of a non-detected, non-leaking crack was conservatively assumed in the PTS analyses.

Comment:

(7) The rule should apply to BWR's.

Response: The Commission does not believe that PTS is a significant safety concern for BWRs, and believes that the PTS rule should not be applied to BWRs. The several technical reasons for this (low probability of the event, lesser embrittlement due to shielding from larger amounts of water, and lower stress intensity due to a thinner vessel) are explained in the staff testimony given at the licensing board hearing for Limerick in response to contentions by the same commentor.[4]

Comments:

(8) The bases for the PTS rule come mostly from operating reactor data.

(9) The screening criterion in the PTS rule is not based on observed precursors.

Response: As explained in SECY–82–465, the PTS rule is based both on a study of PTS precursors that have actually occurred, and on analytical studies of more severe events that have not actually occurred.

Comments:

(10) Generic analyses used without verification for specific plants.

(11) Link between Control System Interactions and Pressurized Thermal Shock not properly included.

Response: The PTS rule establishes a screening criterion, with a conservative margin to allow for uncertainties, below which the Commission has concluded that PTS risk is acceptable for any PWR. The rule also requires that plant-specific analyses be performed to identify any necessary corrective actions, well before the screening criterion is exceeded. Those required analyses will be plant-specific and will be required to include items such as control system interactions.

Comment:

(12) The Commission's analyses had to assume the existence of flaws.

Response: This is correct. If no flaw exists, then there is no PTS problem. Therefore, the Commission's analysis made the conservative assumption of the existence of a flaw, the depth of which was chosen, for each analysis, to maximize the likelihood of vessel failure.

Comment:

(13) B&W reactors are more susceptible to PTS-related failure.

Response: Based on staff analysis, reported in Enclosure C to SECY–83–288, the Commission concluded that the PTS risk for B&W plants is not significantly different from that for other PWRs.

Comment:

(14) Pump seal failures are not accounted for.

Response: Pump seal failure is one postulated cause of a small Loss of Coolant Accident (LOCA) and was accounted for in the analyses on which the PTS rule is based.

Comment:

(15) Missiles might penetrate containment during a PTS event.

Response: The analysis on which the PTS rule is based assume that vessel failure and core melt is a serious safety threat and must be avoided with or without containment failure. Those analyses did not quantify the probability of containment failure. However, the screening criterion was set at a value sufficiently low to account for the perceived small probability that a PTS event might fail containment. The Commission's long-term studies of PTS include analyzing the possibility of containment failure, and it is expected that the analyses required by the PTS rule will also require each licensee to perform such evaluations before the screening criteria specified are exceeded.

Comment:

(16) Fuel maneuvers to lower the fluence invite licensee cheating.

Response: The type of "maneuvers" performed to lower fluence to the critical welds are not the day-to-day maneuvers evidently envisioned by the commentor. These "maneuvers" involve selection of a particular pattern for arranging various types of fuel with various burnups in the core. This is done every year to 18 effective full power months when the core is reloaded, and is thoroughly verified by multiple checks. The flux reduction accomplished is also verified both experimentally and analytically, and will be reviewed by the Commission.

Comment:

(17) Fracture mechanics calculations do not have an experimental basis. The largest vessel ever tested was ⅙th-scale, and it "burst at ⅓rd the pressure calculated using fracture mechanics considerations."

Response: The experimental and analytical bases for the Commission's fracture mechanics methods are thoroughly documented (for example, in SECY–82–465) and are generally accepted in the engineering community as adequately conservative. A recent ⅙th-scale vessel test, the first such vessel subjected to pressure and thermal stress, failed at a stress very close to the predicted stress.[5]

Comments on Supplementary Information Section of Notice of Proposed Rulemaking

Several comments were received that relate to the Supplementary Information section of the February 7, 1983 **Federal Register** Notice. These comments are discussed below.

Number of Reactors Expected to Remain in Below RT_{PTS} Criterion

Comments: Several commenters took issue with the possible implication of a statement made that most PWRs will exceed the RT_{NDT} criterion.

Response: The Commission agrees that the implication is incorrect, and notes that it currently projects that the majority of plants are not expected to exceed the criterion before the expiration of the operating license.

Conservatism of Rule

Comment: Eight of the commenters responded to the statement by Commissioners Asselstine and Gilinsky in the Supplementary Information section that numerous conservative factors, unconservative factors, and unknown factors in the PTS analyses need to be considered appropriately in the acceptance criteria being developed by the staff, and that a suitable margin of safety should be retained throughout the service life of the facility. The commenters felt that in light of recent work by Oak Ridge National Laboratory, Electric Power Research Institute, etc., the staff has adequately

[4] Limerick Licensing Board, Order dated November 15, 1983, Memorandum and Order Granting Applicant's Motion for Summary Disposition of Contention I–82, Docket Nos. 50–352–OL and 50–353–OL.

[5] Heavy Section Steel Technology Program, Semiannual Program Report, NUREG/CR–3744 Vol. 1, C.E. Pugle. Copies are available for public inspection and copying at the Public Document Room at 1717 H. Street, Washington, D.C. 20555.

considered all factors and the statement is unwarranted.

Response: The Commission believes

hardship to design to permit annealing, although one wrote, "As a practical matter, it is impossible to design for a

Commission to require use of new methods that would "break new

reactor vessel RT_{PTS} below the screening criterion, without awaiting possible

include a quantitative assessment of the PTS risk due to operation of the

additional staff guidance. However, should a licensee decide to perform a

considered all factors and the statement is unwarranted.

Response: The Commission believes that although considerable knowledge has been gained about PTS in the past two years, the previous statement by Commissioners Asselstine and Gilinsky remains valid.

Consideration of Possible License Extension

Comment: Several commenters viewed the statement in the Supplementary Information section regarding licensee consideration of the possibility of future license extension requests when evaluating flux reduction options, as premature, and recommended deletion.

Response: The rule does not explicitly require this consideration, but the Commission continues to believe that the potential for license extensions is a factor that licensees should consider.

Preferred Risk Reduction Actions

Comment: Several commenters recommended deletion of a statement in the Supplementary Information section that in the analysis of modifications in support of operation beyond the screening criterion, "[m]odifications to equipment or systems are preferable to reliance on procedure modifications."

Response: Since the statement could be interpreted as prejudging a regulatory decision, it has not been included in the Supplementary Information section of this rule.

Thermal Annealing Requirement in Appendix G to 10 CFR Part 50

Comment: Sixteen comments were received in response to the Commission's request for public comment on the merits of eliminating the thermal annealing requirements of 10 CFR Part 50, Appendix G (Fracture Toughness Requirements) paragraph IV.B., which states:

"Reactor vessels for which the predicted value of upper-shelf energy at end of life is below 50 ft-lb or for which the predicted value of adjusted reference temperature at end of life exceeds 200 °F (93 °C) must be designed to permit a thermal annealing treatment at a sufficiently high temperature to recover material toughness properties of ferritic materials of the reactor vessel beltline."

All of the commenters said this requirement was too restrictive and should be deleted. The most-cited reason was that annealing is only one of the possible actions and deletion would provide desirable flexibility to demonstrate acceptably low risk. None of the commenters said it was a hardship to design to permit annealing, although one wrote, "As a practical matter, it is impossible to design for a process that has not been technically developed." On the other hand, eight of the commenters urged that deletion "... should not in any way imply that a utility is prevented from using the thermal annealing process as an option to increase safety margin."

Response: The Commission accepts the comment that to require design for annealing if radiation damage is expected to be significant is too restrictive. The decision to anneal is largely an economic one, which should be left to the licensee. Paragraph IV.B was intended to alert applicants that annealing might someday need to be considered, to require that it be considered in the design phase if a significant level of radiation damage is expected, and to define that level. Yet, it appears that there have been few, if any, actual design features added to accommodate annealing. Other maintenance, inspection and repair operations place similar requirements on clearances and radiological hazards. Vessel expansion at the nozzles is not expected to exceed that experienced in operation at the design temperature (650 °F). The extra features on the surveillance program are referred to briefly in ASTM E 185, which is referenced in Appendix H to 10 CFR Part 50. Thus, it can be concluded that this paragraph has had little impact on the design of plants. Third, the 200 °F RT_{NDT}/50 ft-lb criteria have been misinterpreted in the past to mean that operation beyond those limits is unsafe, which is not true. For these reasons, the Commission is planning a separate rulemaking action to delete paragraph IV.B. of Appendix G, 10 CFR Part 50. The annealing alternative will remain in the regulation, as given in paragraph V.D. of Appendix G.

Fracture Mechanics Methodology To Be Used for Plant-Specific Analysis

Comment: One telephone comment was received regarding a perception that the Commission would encourage or require development and use of the newest fracture mechanics techniques for the required plant-specific PTS analyses.

Response: It is anticipated that the forthcoming staff guidance on the preparation of plant-specific PTS analyses will specify that the deterministic fracture mechanics techniques underlying the algorithms in the probabilistic fracture mechanics evaluations be conservative, standard methodologies that have been in use for some time. It is not the intent of the Commission to require use of new methods that would "break new ground", such as those which account for elastic-plastic deformation.

Explanation of the Rule Requirements

Paragraph (b)(2) of § 50.61 establishes an RT_{PTS}—based screening criterion, and presents the conservative method chosen by the staff for the calculation of the RT_{PTS} for the purpose of comparison with the screening criterion. The basis for selection of this method is presented in Appendix E of Enclosure A to SECY 82–465. Since the acceptability of the screening criterion was based on generic studies, and since the purpose of the criterion is to provide a defined and consistent threshold for initiating the submittal of plant-specific analyses, the rule § 50.61(b)(1) requires each licensee to assess the current and projected values of RT_{PTS} using the methodology described in paragraph (b)(2) of the rule. Although the Commission expects that alternative methods of determining RT_{NDT} may be justified for use in plant-specific evaluations of PTS events in the future, the rule requires that the prescribed conservative method for calculating RT_{PTS} be used to determine when the plant-specific evaluations must be performed.

Applicants for operating licenses are required to provide projected values of RT_{PTS} as part of the final safety analysis report as provided in the amendment to paragraph (b) of § 50.34, "Contents of Applications: Technical Information."

On the basis of information currently available, it appears that the RT_{PTS} of most reactor vessels will remain below the screening criterion throughout the service life. For other reactor vessels, fuel management programs could be instituted that would result in core configurations reducing neutron flux at critical locations, thereby slowing the increase of RT_{PTS} so that the screening criterion would not be exceeded. The Commission recognizes that further refinements in materials information, analyses of PTS event frequencies and scenarios, and plant-specific analyses of alternative measures to reduce PTS risk may provide a basis for the acceptability of continued operation with RT_{PTS} values in excess of the screening criterion. The preparation and review of such analyses and determination of their acceptability will require substantial time. However, the effectiveness of flux reduction programs depends on early implementation. The Commission has determined that reasonably practicable flux reduction programs should be implemented promptly where needed to maintain

reactor vessel RT_{PTS} below the screening criterion, without awaiting possible plant-specific determinations that higher values of RT_{PTS} are acceptable. Therefore, the rule § 50.61(b)(3) requires licensees with pressure vessels for which the reference temperature is projected to exceed the screening criterion before the expiration date of the operating license to submit an analysis of such flux reduction programs as are reasonably practicable to avoid exceeding the screening criterion, and a schedule for implementation of such programs. The NRC staff will review these submittals to confirm that reasonably practicable programs have been, or will be, implemented.

At the time of this submittal, or at a later time, licensees may submit additional plant-specific analyses to justify (by new information, improved analyses or evaluations of alternative measures) operation with less restrictive flux reduction programs in the future. The proposed schedule for implementation of any needed flux reduction program may reflect appropriately the possibility of such justification. However, it is the Commission's intent that the effectiveness of flux reduction programs that are needed to avoid, or to delay, reaching the screening criterion, and that are reasonably practicable, should not be reduced by delay in implementation, pending review of these analyses. The Commission expects that in evaluating the need for flux reduction programs, each licensee will consider the possibility that, in the future, the licensee may wish to seek approval of a license amendment to extend the expiration date of the license. Since consideration of protection against PTS events would be a factor in the Commission's decision on such a request, licensees should consider flux reduction programs that would prevent reaching the screening criterion by the end of the anticipated service life of the facility.

When a licensee determines, and the Commission agrees, that reasonably practicable flux reduction measures have been or will be implemented, and that the vessel RT_{PTS} is still projected to exceed the screening criterion before expiration of the operating license, then the rule (§ 50.61(b)(4)) requires the submittal of a plant-specific safety analysis. The analysis must include an assessment of the vessel fracture mechanics properties for the remainder of vessel life, including effects on PTS risk of possible changes in fuel loading patterns affecting the neutron flux at the vessel wall. The analysis must also include a quantitative assessment of the PTS risk due to operation of the particular plant. It must identify potential event sequences that contribute significantly to PTS risk. It must consider both the expected frequency of these event sequences and the conditional probability of vessel failure and subsequent core melt, given the occurrence of these event sequences, and identify what, if any, modifications to equipment, systems and operation are necessary to prevent potential failure of the reactor vessel as a result of postulated PTS events, if continued operation beyond the screening criterion is allowed. Finally, the analysis must estimate the effects of recommended corrective actions on PTS risk and must justify, partly on the basis of risk analysis, operation at RT_{PTS} values above the screening criterion after completion of corrective or mitigative actions.

The plant-specific analysis must be submitted substantially in advance of the projected time at which the screening criterion would be exceeded, to allow time for Commission review of the analysis and licensee implementation of any proposed modifications well in advance of reaching the screening criterion. It is the Commission's intent that the staff perform a timely review of these analyses so that decisions, regarding any necessary corrective actions, are made with allowance for sufficient time to implement corrective actions before the screening criterion is exceeded.

Section 50.61(b)(5) of the rule provides for Commission review of these analyses. The Commission must approve the analysis before the plant may operate at RT_{PTS} values above the screening criterion.

The staff is developing additional guidance on the content of the required plant-specific analysis and on the acceptance criteria the staff will use in reviewing the analysis. The staff expects this guidance to be available long before any licensee will be required to start such an analysis (based on estimated rates of RT_{PTS} increase and recent information regarding the efficacy of flux reduction techniques planned at several plants with high RT_{PTS} values). The rule requires submittal of the plant-specific analysis at least three years before the screening criterion would be exceeded or one year after staff issuance of the guidance and acceptance criteria regarding those analyses, whichever is later. No plant-specific analysis performed in response to the requirement of § 50.61(b)(4) should be started before issuance of this additional staff guidance. However, should a licensee decide to perform a plant-specific PTS safety analysis as part of its response to § 50.61(b)(3) in support of alternatives to, or implementation schedules for, flux reduction measures, the staff will meet, upon request, with the licensee to provide its best current guidance for such analysis.

Paragraph (b)(6) of § 50.61 provides that if the Commission concludes that the plant-specific analysis, including any plant modifications proposed, does not provide a basis for approval of operation at values of RT_{PTS} in excess of the PTS screening criterion for a given facility, then that facility may not be operated beyond the criterion unless the licensee requests and receives Commission approval based on additional modifications or new factors that would reduce the potential for failure of the reactor vessel due to PTS events.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3) (ii) and (iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule specifies minimum fracture toughness properties of irradiated pressure vessel materials to ameliorate the effects of PTS events on nuclear facilities licensed under the provisions of 10 CFR 50.21(b) and 10 CFR 50.22. The companies that own these facilities do not fall within the scope of the definition of "small entities" as set forth in the Regulatory Flexibility Act of the Small Business Size Standards in regulations issued by the Small Business Administration at 13 CFR Part 121.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget, approval number 3150–0011.

VOL 50 ISS 141 JUL 23 1985 UMI

VOL 50 ISS 141 JL 23 1985 UMI

Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H. Street, NW, Washington, DC 20555. Single copies of the analysis may be obtained from Mr. Karl Kniel, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–7359.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and record keeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.34 is amended by adding a new paragraph (b)(9) to read as follows:

§ 50.34 Contents of applications; technical information.

* * * * *

(b) * * *

(9) A description of protection provided against pressurized thermal shock events, including projected values of the reference temperature for reactor vessel beltline materials as defined in § 50.61 (b)(1) and (b)(2).

* * * * *

3. A new § 50.61 is added to read as follows:

§ 50.61 Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock Events.

(a) *Definitions.* For the purposes of this section:

(1) "ASME Code" means the American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section III, "Rules for the Construction of Nuclear Power Plant Components," edition and addenda as specified by § 50.55a, Codes and Standards.

(2) "Pressurized Thermal Shock Event" means an event or transient in pressurized water reactors (PWRs) causing severe overcooling (thermal shock) concurrent with or followed by significant pressure in the reactor vessel.

(3) "Reactor Vessel Beltline" means the region of the reactor vessel (shell material including welds, heat affected zones, and plates or forgings) that directly surrounds the effective height of the active core and adjacent regions of the reactor vessel that are predicted to experience sufficient neutron radiation damage to be considered in the selection of the most limiting material with regard to radiation damage.

(4) "Initial RT_{NDT}" means the reference temperature for a reactor vessel material as defined in the ASME Code, Paragraph NB–2331. RT_{NDT} means the reference temperature as adjusted for the effects of neutron radiation for the period of service in question.

(5) "RT_{PTS}" means the reference temperature calculated by the method given in paragraph (b)(2) of this section for use as a screening criterion.

(b) *Requirements.*

(1) For each pressurized water nuclear power reactor for which an operating license has been issued, the licensee shall submit projected values of RT_{PTS} (at the inner vessel surface) of reactor vessel beltline materials by giving values from the time of submittal to the expiration date of the operating license. The assessment must specify the bases for the projection, including the assumptions regarding core loading patterns. This assessment must be submitted by January 23, 1986, and must be updated whenever changes in core loadings, surveillance measurements, or other information indicate a significant change in projected values.

(2) The pressurized thermal shock (PTS) screening criterion is 270 °F for plates, forgings, and axial weld materials, or 300 °F for circumferential weld materials. For the purpose of comparison with this criterion, the value of RT_{PTS} for the reactor vessel must be calculated as follows. The calculation must be made for each weld and plate, or forging, in the reactor vessel beltline. For each material, RT_{PTS} is the lower of the results given by Equations 1 and 2.

Equation 1: $RT_{PTS} = I + M + [-10 + 470\ Cu + 350\ Cu\ Ni]\ f^{0.270}$

Equation 2: $RT_{PTS} = I + M + 283\ f^{0.194}$

(i) "I" means the initial reference temperature of the unirradiated material measured as defined in the ASME Code, Paragraph NB–2331. If a measured value is not available, the following generic mean values must be used: 0 °F for welds made with Linde 80 flux, and −56 °F for welds made with Linde 0091, 1092 and 124 and ARCOS B–5 weld fluxes.

(ii) "M" means the margin to be added to cover uncertainties in the values of initial RT_{NDT}, copper and nickel content, fluence and the calculational procedures. In Equation 1, M=48 °F if a measured value of I was used, and M=59 °F if the generic mean value of I was used. In Equation 2, M=0 °F if a measured value of I was used, and M=34 °F if the generic mean value of I was used.

(iii) "Cu" and "Ni" mean the best estimate weight percent of copper and nickel in the material. The source of these values must be included in the assessment. The relationship of the material, on which any measurements were made, to the actual material in the pressure vessel must be described.

(iv) "f" means the best estimate neutron fluence, in unit of 10^{19} n/cm² (E greater than or equal to 1 MeV), at the clad-base-metal interface on the inside surface of the vessel at the location where the material in question receives the highest fluence for the period of service in question.

(3) For each pressurized water nuclear power reactor for which the value of RT_{PTS} for any material in the beltline is projected to exceed the PTS screening criterion before the expiration date of the operating license, the licensee shall submit by April 23, 1986, an analysis and schedule for implementation of such flux reduction programs as are reasonably practicable to avoid exceeding the PTS screening criterion set forth in paragraph (b)(2). The schedule for implementation of flux reduction measures may take into account the schedule for submittal and anticipated Commission approval of detailed plant-specific analyses, submitted to demonstrate acceptable risk at values of RT_{PTS} above the screening limit due to plant modifications, new information or new analysis techniques.

(4) For each pressurized water nuclear power reactor for which the analysis required by paragraph (b)(3) of this section indicates that no reasonably practicable flux reduction program will prevent the value of RT_{PTS} from exceeding the PTS screening criterion before the expiration date of the operating license, the licensee shall submit a safety analysis to determine what, if any, modifications to equipment, systems, and operation are necessary to prevent potential failure of the reactor vessel as a result of postulated PTS events if continued operation beyond the screening criterion is allowed. In the analysis, the licensee may determine reactor vessel materials properties based on available information, research results, and plant surveillance data, and may use probabilistic fracture mechanics techniques. This analysis must be submitted at least 3 years before the value of RT_{PTS} as defined in paragraph (b)(2) of this section is projected to exceed the PTS screening criterion or by one year after issuance of the Commission Guidance and Acceptance Criteria for these analyses, whichever is later.

(5) After consideration of the licensee's analyses (including effects of proposed corrective actions, if any) submitted in accordance with paragraphs (b)(3) and (b)(4) of this section, the Commission may, on a case-by-case basis, approve operation of the facility at values of RT_{PTS} in excess of the PTS screening criterion. The Commission will consider factors significantly affecting the potential for failure of the reactor vessel in reaching a decision.

(6) If the Commission concludes, pursuant to paragraph (b)(5) of this section, that operation of the facility at value of RT_{PTS} in excess of the PTS screening criterion cannot be approved on the basis of the licensee's analyses submitted in accordance with paragraphs (b)(3) and (b)(4) of this section, the licensee must request and receive Commission approval prior to any operation beyond the criterion. The request must be based upon modifications to equipment, systems, and operation of the facility in addition to those previously proposed in the submitted analyses that would reduce the potential for failure of the reactor vessel due to PTS events, or upon further analyses based upon new information or improved methodology.

Dated at Washington, DC, this 17th day of July 1985.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 85–17463 Filed 7–22–85; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM–16; Special Conditions No. 25–ANM–7]

Special Conditions: Aerospatiale Model ATR–42 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.17 of the Federal Aviation Regulations (FAR) to Aerospatiale/Aeritalia, Toulouse, France, for a type certificate for the ATR–42 series airplane. The ATR–42 airplane will have novel or unusual design features associated with an automatic takeoff power control system (ATPCS) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. The ATPCS will allow the airplane to take off with less than maximum takeoff thrust approved for the airplane; and, if an engine fails, the system will automatically provide maximum takeoff thrust on the operating engine. These special conditions contain safety standards which the Administrator finds necessary to establish a level of safety equivalent to that provided by the regulations applicable to the ATR–42 series airplane because of the novel or unusual features.

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: James Walker, Policy and Procedures Branch, Transport Standards Staff, ANM–110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168; telephone (206) 431–2116.

SUPPLEMENTARY INFORMATION:

Background

In February of 1982, Aerospatiale Division of Avions, 316 Route De Bayonne, 31060 Toulouse Cedex 3, France, applied for a United States Import Type Certificate for its Model ATR–42 series airplane.

The Model ATR–42 is a high wing, twin-engine, pressurized transport category airplane having a maximum takeoff weight of 34,720 pounds. The airplane is equipped with two Pratt and Whitney PW–120 turbopropeller engines, each producing 2,000 shaft horsepower. The airplane has a maximum seating capacity for 50 persons, including the crew, and a maximum permissible altitude of 25,000 feet.

The design covered under the type certificate is the installation of an ATPCS. Automatic takeoff power control system special conditions issued to date for other airplanes require the ATPCS be designed to permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of power levers. The ATPCS system installed on the engines of the ATR–42 airplane contains an electronic fuel controller (EFC), which provides an automatic fixed speed increment increase in the event of an engine failure during takeoff. In the event of an engine failure, a signal from the ATPCS is transmitted to the EFC which up-trims the operating engine to the approved takeoff power. In the event of an ATPCS failure concurrent with engine failure, the crew would be required to advance the power lever to obtain the maximum power.

The type design of the ATR–42 series airplane with the automatic system installed contains a number of novel or unusual design features for which the applicable airworthiness requirements do not contain adequate or appropriate safety standards. Special conditions are necessary to provide a level of safety equal to that generally intended by the established certification basis and to support a finding by the Administrator that no feature or characteristic of the airplane with the automatic system installed makes it unsafe for the category in which certification is required. These special conditions specify limits on the maximum power increment which may be applied to the operating engines by the ATPCS, prescribe system reliability and status monitoring requirements, require provisions of manual selection of the maximum takeoff power approved for

the airplane under existing conditions, paragraphs C1 and C2 of the special on one model series of airplanes. It is

VOL 50 ISS 141 JL 23 1985 UMI

the airplane under existing conditions, prohibit approval of the system if the automatic or manual application of approved maximum takeoff power would result in an engine operating limit being exceeded, and require the installation of an independent engine failure warning system if the inherent characteristics of the airplane do not provide a clear warning to the crew.

Discussion of Comments

Notice of proposed special conditions No. SC–85–1–NM for the ATR–42 series airplane was published in the **Federal Register** on February 26, 1985 [50 FR 7791]. Only one person, the applicant, commented.

The applicant notes that the description in the preamble of the control operation for a simultaneous engine and ATPCS system failure event incorrectly states that crew action is required to deactivate the system to obtain maximum takeoff power. In fact, the only crew action to obtain maximum power for the ATR–42 in the failure event is to manually advance the engine power lever.

The FAA notes the correct operation method; however, paragraph E2(b) of the special conditions is not revised as this paragraph still remains applicable for either an automatic system override or a manual system. It is understood the ATR–42 engines do not have the limiters referred to in paragraph E2(b) and that the manual method is required to obtain the engine power increase.

Another comment expressed by the applicant is that the proposed reliability requirements in paragraphs C1 and C2 of the special conditions are too conservative. The applicant states that in addition to avoiding unnecessary costs due to system complexity, relaxation of these reliability criteria can reduce the need for pre-flight checks of the system and thus reduce flightcrew workload. In lieu of paragraphs C1 and C2, the applicant proposes replacing these paragraphs with the corresponding text of the French Special Condition BB 1 (Issue 2, Oct. 1984).

The FAA has determined that paragraphs C1 and C2 of the special conditions do provide the level of safety necessary to satisfy an equivalent safety finding on the issue of trading airplane performance for a calculated ATPCS reliability and to assure a minimum safety standard intended by the applicable regulations. The FAA notes the arguments of the commenter; however, it has been determined that the special conditions, as issued, are necessary for acceptance of a system that automatically increases power or thrust on operating engines when one engine fails during takeoff.

Type Certification Basis

The type certification basis for the Aerospatiale/Aeritalia ATR–42 series airplane with the ATPCS installed, to be incorporated in the type certificate, is Part 25 of the FAR, including Amendments 25–1 through 25–54; Part 36 of the FAR, including Amendments 36–1 through current amendment; § 21.29 of the FAR; SFAR 27, dated December 12, 1973, including Amendments 27–1 through current amendment; and the special conditions for and ATPCS contained herein.

The applicable airworthiness standards for import products are those regulations designated in accordance with § 21.29 and are know as the "type certification basis" for the airplane design. Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are now issued after public notice in accordance with §§ 11.28 and 11.29(b) effective October 14, 1980, and become part of the type certification basis in accordance with § 21.17(a)(2).

Conclusion:

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

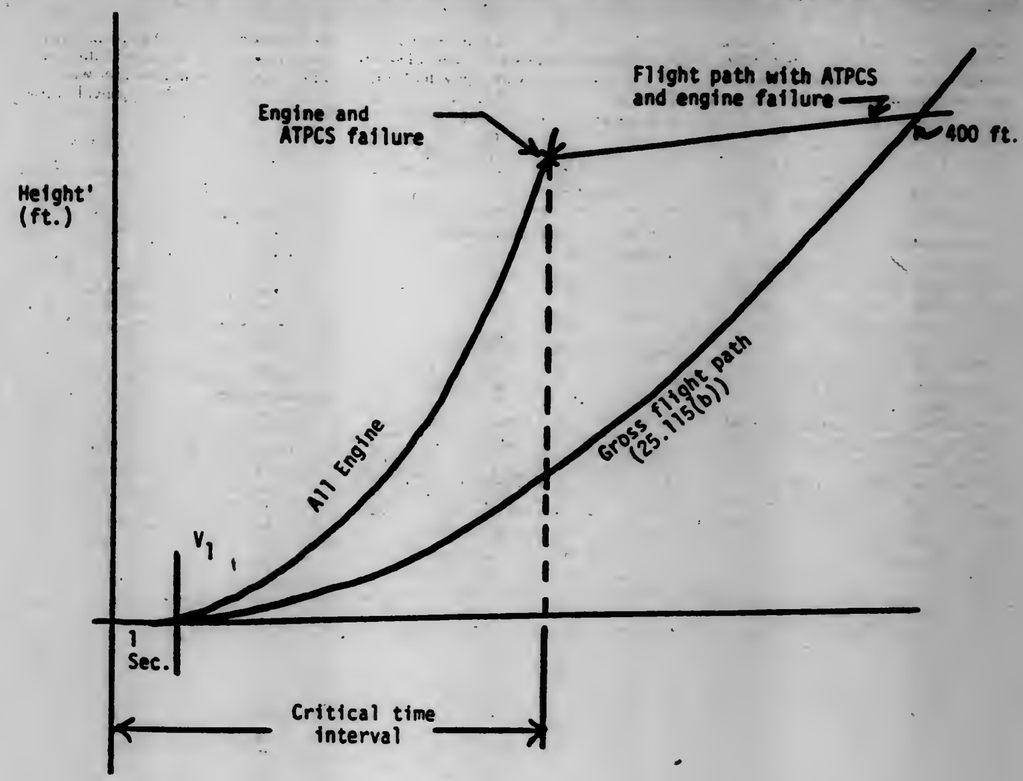
The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued to Aerospatiale/Aeritalia for the ATR–42 series airplane equipped with an automatic takeoff power control system (ATPCS):

(A) *General.* With the ATPCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in these special conditions, must be met without requiring any action by the crew to increase power.

(B) *Definitions.*—(1) *Automatic Takeoff Power Control System (ATPCS).* An ATPCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines to achieve scheduled power increase, and furnish cockpit information on system operation.

(2) *Critical Time Interval.* When conducting an ATPCS takeoff, the critical time interval is between V_1 minus 1 second and a point on the minimum performance, all-engine flight path where, assuming a simultaneous engine and ATPCS failure, the resulting minimum flight path thereafter intersects the Part 25 required gross flight path at not less than 400 feet from the takeoff surface. This definition is shown in the following graph.



(3) *Takeoff Power.* Notwithstanding the definition of "takeoff power" in Part 1 of the FAR, "takeoff power" means the horsepower obtained from each initial power setting approved for takeoff under these special conditions.

(C) *Performance Requirements.* The applicant must comply with the following performance and reliability requirements.

(1) An ATPCS system failure during the critical time interval must be shown to be improbable.

(2) The concurrent existence of an ATPCS failure and an engine failure during the critical time interval must be shown to be extremely improbable.

(3) All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATPCS system functioning.

(D) *Power Setting.* The initial takeoff power set on each engine at the beginning of the takeoff roll may not be less than:

(1) Ninety percent (90%) of the power level set by the ATPCS (the maximum takeoff power approved for the airplane under existing conditions);

VOL 50 ISS 141 JL 23 1985 UMI

(2) That required to permit normal operation of all safety related systems and equipment dependent upon engine power or power lever position; or

(3) That shown to be free of hazardous engine response characteristics when power is advanced from the initial takeoff power level to the maximum approved takeoff power.

(E) *Powerplant Controls.*—1. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATPCS system, including associated systems, may cause the failure of any powerplant function necessary for safety.

(2) The ATPCS must be designed to:

(a) Apply power on the operating engine, following an engine failure during takeoff, to achieve the selected takeoff power without exceeding engine operating limits;

(b) Permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of the power lever. For aircraft equipped with limiters that automatically prevent engine operating limits from being exceeded under existing conditions, other means may be used to increase the maximum level of power controlled by the power levers in the event of an ATPCS failure, provided the means:

(1) Is located on or forward of the power levers;

(2) Is easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers; and

(3) Meets the requirements of § 25.777, paragraphs (a), (b), and (c);

(c) Provide a means to verify to the flightcrew prior to takeoff that the ATPCS is in a condition to operate; and

(d) Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

(F) *Powerplant Instruments.* In addition to the requirements of § 25.1305:

(1) A means must be provided to indicate when the ATPCS is in the armed or ready condition; and

(2) If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATPCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

Issued in Seattle, Washington, on July 11, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-17390 Filed 7-22-85; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release No. 34-22208]

Technical Revision of Form MSD

AGENCY: Securities and Exchange Commission.

ACTION: Technical revisions of a form.

SUMMARY: The Commission is adding a Privacy Act Statement to Form MSD, the form used by bank municipal securities dealers to register with the Commission.

EFFECTIVE DATE: September 1, 1985.

FOR FURTHER INFORMATION CONTACT: Amy Natterson Kroll, Esq., Attorney-Advisor, (202) 272-2848, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

A. Technical Revision

Form MSD was adopted by the Commission in October 1975, pursuant to Section 15B of the Securities Exchange Act of 1934 which requires all municipal securities dealers to register with the Commission. Form MSD is the application used by bank municipal securities dealers that register with the Commission. The Commission is now amending the General Instructions of Form MSD to include a Privacy Act Statement, pursuant to 5 U.S.C. Section 552a(e)(3), informing bank municipal securities dealers that the information they are required to disclose on Form MSD will be used primarily for determining whether to grant or deny their registration and social security numbers, if furnished, will be used only to assist the Commission in identifying applicants. The statement also indicates that information supplied on Form MSD will be included in the Commission's public files and will be available for inspection by any interested person. Specifically, the statement indicates: (1) the Commission's authority to solicit information required on the Form MSD, (2) that disclosure of the information is mandatory, except for social security numbers, (3) the use of the information, including social security numbers, (4) the public availability of Form MSDs and the information they contain, (5) the unacceptability of a form which does not comply with the applicable disclosure requirements, (6) the absence of any finding by the Commission that an application has been filed correctly or contains true, current or complete information by the Commission upon acceptance of the application, and (7) that intentional misstatements or omissions of fact constitute federal criminal violations.

B. Administrative Procedure Act Considerations

The Commission has determined that the Administrative Procedure Act requirements of notice and public procedure are not applicable to this amendment pursuant to 5 U.S.C. Section 553(b).[1] The Commission finds that such notice and public procedure are impracticable and unnecessary because this amendment of Form MSD will impact neither the public nor the applicable industry. Rather, this technical amendment will merely inform applicants for registration as municipal securities dealers and their asociated persons that the Commission will use the information they provide in processing the application and that the information is available to the public upon registration. The Commission also finds good cause for this amendment to be made effective as of September 1, 1985 in order to insure that all Form MSDs available after such date include the appropriate Privacy Act Statement. This is necessary in order to comply with requirements of the Paperwork Reduction Act, as administered by the Office of Management and Budget.

Because this amendment to Form MSD is a technical amendment, requiring no notice or public procedure, the provisions of the Regulatory Flexibility Act do not apply.

C. Statutory Authority

The Securities and Exchange Commission, acting pursuant to the Exchange Act, particularly Sections 15, 15B, 17(a) 23(a) (15 U.S.C. 78*o*-4(a)(2), 78w(a)) hereby amends Chapter II, Title 17 of the Code of Federal Regulations adopting the following amendment to Section 249.1100.

[1] This section excepts rulemaking from the general notice and public procedure requirements when an agency, for good cause, finds that "notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest."

Lists of Subjects in 17 CFR Part 249

Privacy Act, Securities, Municipal securities dealers.

Text of Amendment

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 249 continues to read as follows:

Authority: The Securities Exchange Act of 1934, 15 U.S.C. 78a. *et seq.*

2. By adding paragraph M to the general instructions of Form MSD as follows:

§ 249.1100 Form MSD, application for registration as a municipal securities dealer pursuant to rule 15Ba2-1 under the Securities Exchange Act of 1934 or amendment to such application.

* * * * *

M. Under Sections 15, 15B(a), 17(a) and 23(a) of the Securities Exchange Act of 1934 and the Rules and Regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this form from applicants for registration as a municipal securities dealer (and persons associated with applicants). Disclosure of the information specified on this form is mandatory prior to processing of applications for registration as a municipal securities dealer, except social security numbers, disclosure of which is voluntary. The information will be used for the principal purpose of determining whether the Commission should grant or deny registration to an applicant; social security numbers, if furnished, will be used only to assist the Commission in identifying applicants and, therefore, in promptly processing applications. Information supplied on this form will be included routinely in the public files of the Commission and will be available for inspection by any interested person. A form which is not prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. Acceptance of this form, however, shall not constitute any finding that it has been filed as required or that the information submitted is true, current or complete. Intentional misstatements or omissions of fact constitute federal criminal violations. (See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a)).

By the Commission.

John Wheeler,

Secretary.

July 2, 1985.

[FR Doc. 85-17437 Filed 7-22-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 10, 19, 24, 103, 113, 134, 141, 143, 145, 148, 152, 162, 171, 173, and 191

[T.D. 85-123]

Conforming Amendments to the Customs Regulations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: In accordance with Customs policy of periodically reviewing its regulations to ensure that they are current, this document makes certain conforming changes which are necessary because of various executive, legislative, and administrative actions. Several of the changes in the document implement provisions of the Trade and Tariff Act of 1984. The changes merely conform the regulations to existing law or practice. They are nonsubstantive and essentially are procedural.

EFFECTIVE DATE: July 23, 1985.

FOR FURTHER INFORMATION CONTACT: Marvin M. Amernick, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to keep its regulations current, the Customs Service has determined that various executive, legislative, and administrative actions require conforming amendments to the Customs Regulations contained in Chapter 1, Title 19, Code of Federal Regulations (19 CFR Chapter 1). Following is a list of these actions, the affected sections of the regulations, and the necessary changes.

Discussion of changes

1. Section 204 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amends section 441(3), Tariff Act of 1930, as amended (19 U.S.C. 1441(3)), to add "vessels carrying passengers on excursions from the U.S. Virgin Islands to the British Virgin Islands and returning" to the list of types of vessels which are not required to make entry with Customs.

As footnote 5 of Part 4, Customs Regulations (19 CFR Part 4), corresponding to § 4.3, sets forth 19 U.S.C. 1441 in its entirety, the footnote is being amended to reflect the revision of subsection (3) of 19 U.S.C. 1441.

2. Section 4.7a, Customs Regulations (19 CFR 4.7a), contains instructions for completing the Cargo Declaration, Customs Form 1302. Although the form has a column for indicating the name of the shipper, such information has not been required. To comply with section 203 of Pub. L. 98-573, the Trade and Tariff Act of 1984, § 4.7a(c) is being amended to reflect this new instruction.

3. Section 206 of Pub. L. 98-573, the Trade and Tariff Act of 1984, amends section 466(e), Tariff Act of 1930, as amended (19 U.S.C. 1466(e)), to make the "special purpose vessel" exemption applicable to any U.S.-flag vessel subject to the vessel repair statute that arrives at a port of the U.S. two years or more after its last departure from a port in the U.S. The amendment further provides that this exemption will not apply to vessels designed and used primarily for transporting passengers and property if the vessel departed the U.S. for the sole purpose of obtaining equipment, parts, materials or repairs. Section 4.14(a)(2)(iii), Customs Regulations (19 CFR 4.14(a)(2)(iii)), is being amended to reflect this amendment to 19 U.S.C. 1466(e).

4. By T.D. 84-213, published in the Federal Register on October 19, 1984 (49 FR 41152), various parts of the Customs Regulations relating to the Customs bond structure were amended. One of the changes made by T.D. 84-213 was to amend § 4.34(h), Customs Regulations (19 CFR 4.34(h)), which concerns cargo undelivered at a foreign port and returned to the U.S., by making specific reference to a bond on Customs Form 301. It now has been discovered that paragraph (h) of § 4.34 contains the identical language as paragraph (g). Accordingly, § 4.34 is being amended by removing paragraph (h) and making the changes set forth in T.D. 84-213 to paragraph (g).

5. Item 808.00, Tariff Schedules of the United States (19 U.S.C. 1202), provided for the duty-free entry of both foreign-built containers in international traffic and of repair components for a particular container. Section 127, Trade and Tariff Act of 1984, amended Subpart C of Part 1 of Schedule 8, Tariff Schedules of the United States, to provide for the duty-free entry of repair components for any such container instead of for a particular container, and also for duty-free entry of accessories and equipment for any such container. Section 10.41a, Customs Regulations (19 CFR 10.41a), is being amended to reflect these changes.

6. It has been determined that the Declaration for Free Entry of Articles for Colleges, Religious Institutions, Etc. (Customs Form 3321), is no longer required in order for an importer of

articles for religious, educational, scientific, and other institutions, to obtain duty-free entry for the articles.

limit for all articles will be set initially at $1,000, with the option to increase it to $1,250 in the future. This change is

consignee, in its biennial certification, state reasons for requesting confidentiality of its identity and/or the

organizations in § 148.87(b), Customs

in property seized by the government.

1(b) of E.O. 12291, the regulatory

VOL 50 ISS 141 JL 23 1985 UMI

articles for religious, educational, scientific, and other institutions, to obtain duty-free entry for the articles. Accordingly, it is necessary to amend §§ 10.43, 10.44, 10.52, 10.75, and 145.36, Customs Regulations (19 CFR 10.43, 10.44, 10.52, 10.75, 145.36), which refer to the use of Customs Form 3321 to obtain duty-free entry, to reflect the discontinued use of this form.

7. Pub. L. 93–438, the Energy Reorganization Act of 1974, transferred to the Energy Research and Development Administration, all functions of the Atomic Energy Commission not specifically transferred to the Nuclear Regulatory Commission. Pub. L. 95–91, the Department of Energy Organization Act of 1978, transferred the functions of the Energy Research and Development Administration to the Department of Energy. Accordingly, § 10.102, Customs Regulations (19 CFR 10.102), which relates to the duty-free entry of articles for governmental agencies or offices, is being amended to delete reference to the abolished agency.

8. Section 115 of Pub. L. 97–446, amended section 321(a)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(A)), to provide that bona-fide gifts from persons in foreign countries to persons in the U.S. having an aggregate fair retail value in the country of shipment not exceeding $50, may enter the U.S. free of duty and tax and without making a Customs entry. In the case of articles sent from persons in the U.S. Virgin Islands, Guam, and American Samoa, the value is $100. Previously, the values were $25 and $40, respectively. Sections 10.152, 10.153 and 145.32, Customs Regulations (19 CFR 10.152, 10.153, 145.32), are being amended to reflect these changes.

9. Section 206 of Pub. L. 98–573, the Trade and Tariff Act of 1984, amended section 498(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1498(a)(1)), by increasing the informal entry limit from $250 to $1,250. However, it exempted all articles valued in excess of $250 classified in Schedule 3, parts of Schedule 7, and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated or any other article for which formal entry is required without regard to value. Under 19 U.S.C. 1498(a)(1), the Secretary of the Treasury may specify the exact amount of the informal entry limit. The limit may vary for different classes or kinds of merchandise or different classes of transactions. After thorough consideration of the issue, it has been determined that, with the exception of the specific exclusions, the informal limit for all articles will be set initially at $1,000, with the option to increase it to $1,250 in the future. This change is being reflected by amending §§10.173, 141.82, 143.21, 143.22, 143.23, 145.12, 145.35 and 145.41, Customs Regulations (19 CFR 10.173, 141.82, 143.21, 143.22, 143.23, 145.12, 145.35, 145.41).

10. By T.D. 84–109, published in the **Federal Register** on May 8, 1984 (49 FR 19447), § 10.183, Customs Regulations (19 CFR 10.183), relating to Civil Aircraft, was established. The sample form, entitled "BLANKET CERTIFICATION FOR CIVIL AIRCRAFT PARTS", which was included in § 10.183(d)(2), contains an incorrect reference to, "section 10.183, Customs Regulations (19 *U.S.C.* 10.183)." the correct reference should be to "§ 10.183, Customs Regulations (19 *CFR* 10.183)." Accordingly, § 10.183(d)(2) is being amended to correct the reference.

11. T.D. 84–213, published in the **Federal Register** on October 19, 1984 (49 FR 41152), amended § 19.14(d), Customs Regulations (19 CFR 19.14(d)), relating to the transfer of domestic spirits from the bonded premises of a distilled spirits plant to a bonded manufacturing warehouse, or for the transfer of domestic wines from a bonded wine cellar to a bonded manufacturing warehouse, by making specific reference to a bond on Customs Form 301. As amended, § 19.14(d) is an incomplete sentence. Accordingly, it is being further amended by adding the words "shall be required" at the end of the sentence.

12. Section 24.16(c), Customs Regulations (19 CFR 24.16(c)), relating to application and bond for overtime services performed by Customs officers, is being amended by removing an "s" at the end of the word "provisions". A bond only contains one provision to secure reimbursement.

13. Section 24.18(f), Customs Regulations (19 CFR 24.18(f)), regarding the reimbursable costs involved in preclearance of air travelers in a foreign country, incorrectly refers to § 24.15, Customs Regulations. Section 24.18(f) is being amended to correct the reference to § 24.16, Customs Regulations.

14. Section 103.11, Customs Regulations (19 CFR 103.11), contains a list of specific Customs Service records subject to disclosure. The list of administrative staff manuals and instructions in § 103.11(a) contains several obsolete publications. It is being revised and updated.

14a. Section 203 of Pub. L. 98–573, the Trade and Tariff Act of 1984, amends section 431 of the Tariff Act of 1930, as amended (19 U.S.C. 1431), by removing the requirement that an importer/consignee, in its biennial certification, state reasons for requesting confidentiality of its identity and/or the identity of its shipper. Accordingly, Customs is amending § 103.14, Customs Regulations (19 CFR 103.14), to reflect the changes made to 19 U.S.C. 1431. This change will relieve Customs of the requirement to make determinations regarding the legal sufficiency of importer/consignee claims for confidentiality.

15. Various parts of the Customs Regulations relating to the Customs bond structure were amended by T.D. 84–213, published in the **Federal Register** on October 19, 1984 (49 FR 41152). That document contained a typographical error. The title for the international carrier bond conditions in § 113.64(a), Customs Regulations (19 CFR 113.64(a)), is shown as "Agreement to Pay Penalties, Duties, Taxes, and Other Changes." The correct title is, "Agreement to Pay Penalties, Duties, Taxes, and Other Charges." Section 113.64(a) is being amended to make the correction.

16. Section 207 of Pub. L. 98–573, the Trade and Tariff Act of 1984, amended § 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), to provide that no exception shall be made for the country of origin marking of certain pipe and pipe fittings, compressed gas cylinders, and certain manhole rings or frames, covers, and assemblies thereof, by means of die stamping, cast-in-mold lettering, etching, or engraving, etc. Therefore, "Pipes, iron or steel, and pipe fitting of cast or malleable iron" must be removed from the J-list in § 134.33, Customs Regulations (19 CFR 134.33), which lists those articles which are excepted from the country of origin marking requirements of 19 U.S.C. 1304.

17. Customs Form 6061 and Customs Form 3299, were consolidated into a revised Customs Form 3299 to be used for the declaration for free entry of articles under item 817.00, Tariff Schedules of the United States (19 U.S.C. 1202).

Sectioin 148.77(b), Customs Regulations (19 CFR 148.77(b)), which relates to the entry of effects of persons on the termination of assignment to extended duty, or on an evacuation, is being amended to change the reference from Customs Form 6061 to Customs Form 3299.

18. Various Executive Orders relating to the designation of organizations as public international organizations entitled to certain privileges, exemptions, and immunities, necessitate the following changes to the list of such

organizations in § 148.87(b), Customs Regulations (19 CFR 148.87(b)).

(a) The Coffee Study Group (E.O. 10943) and the Southeast Asia Treaty Organization (E.O. 10866) are being removed because they no longer exist by E.O. 12033 of January 10, 1078.

(b) The first reference to the International Telecommunications Satellite Organization (INTELSAT) (E.O. 11718) is being removed because that E.O. granted limited privileges only. E.O. 11966 of January 19, 1977, revoked E.O. 11718. The second reference to INTELSAT by virture of E.O. 11966 remains as is on the list.

(c) By virtue of E.O. 12359 of April 22, 1982, the Multinational Force and Observers, and the International Food Policy Research Institute are added to the list. However, the International Food Policy Research Institute is not provided the privileges of section 2(a), section 2(b), section 2(c), that portion of the last clause of section 2(d) relating to official communications and section 7(b) of the International Organizations Immunities Act (22 U.S.C. 288a (a), (b), (c), the last clause of (d) and 288d(b)).

19. Section 152.105, Customs Regulations (19 CFR 152.105), referring to the use of deductive value for Customs purposes in determining the value of imported merchandise, incorrectly contains paragraph headings (h)(3)(a) and (b). These paragraph headings are being changed to read (h)(3)(i) and (h)(3)(ii).

20. Section 152.108, Customs Regulations (19 CFR 152.108), referring to unacceptable bases of appraisement for imported merchandise, incorrectly contains paragraphs numbered (1), (2), (3), (4), (5), (6) and (7). These paragraph headings are being changed to read (a), (b), (c), (d), (e), (f) and (g).

21. Section 213 of Pub. L. 98–573, the Trade and Tariff Act of 1984, amended several sections of the Tariff Act of 1930, as amended, relating to seizures and forfeitures. This causes changes in the administrative forfeiture limits and cost bond requirements contained in Part 162, Customs Regulations (19 CFR Part 162).

Previously, the value of property that could be seized and summarily forfeited to the government was $10,000. Now it is $100,000, except that there is no limit to the value of merchandise the importation of which is prohibited that can be summarily forfeited nor is there a limit to the value of vessels, vehicles, or aircraft used to import, export, transport or store any controlled substances, that can be summarily forfeited.

Previously, a bond for costs in the amount of $250 had to be filed with Customs by anyone claiming an interest in property seized by the government. Now the amount is $2500 or 10% of the value of the claimed property, whichever is lower, but not less than $250.

These changes are being reflected by amending §§ 162.43, 162.45, 162.46, 162.47 and 162.48, Customs Regulations (19 CFR 162.43, 162.45, 162.46, 162.47, 162.48).

22. Section 171.12, Customs Regulations (19 CFR 171.12), is being amended to conform with existing practice in regard to petitions for remission of forfeitures of conveyances. The regulations currently refer to seizure of a conveyance used *in connection with* the importation of illegal drugs or large amounts of firearms. Seizure of conveyances now takes place *after* the importation, exportation, transportation or storage of illegal drugs or firearms.

23. Section 212 of Pub. L. 98–573, the Trade and Tariff Act of 1984, amended § 520 of the Tariff Act of 1930, as amended (19 U.S.C. 520), to provide for the refund, prior to liquidation, of excess duties, fees, charges, or exactions, deposited or paid on an entry by reason of clerical error. Part 173, Customs Regulations (19 CFR Part 173), is being amended to include this new provision for correcting clerical errors.

24. Section 202 of Pub. L. 98–573, the Trade and Tariff Act of 1984, amended section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313), by establishing a new type of drawback called "same condition substitution drawback." It also extends direct identification same condition drawback to include drawback on packaging material used to package or repackage merchandise exported under this type of drawback.

Also, as a result of section 202, the tradeoff provision of drawbacks relating to petroleum has been extended to cover all merchandise under manufacturing drawback (19 U.S.C. 1313 (a) and (b)).

Several sections of Part 191, Customs Regulations (19 CFR Part 191), are being revised to reflect the changes made by section 202.

Inapplicability of Public Notice and Delayed Effective Date Provisions

Inasmuch as these amendments merely conform the Customs Regulations to existing law or practice, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12291

Because this document will not result in a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory analysis and review prescribed by the E.O. is not required.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act". That Act does not apply to any regulation, such as this, for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551, *et seq.*) or any other statute.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

In General

Customs duties and inspection, Imports, Exports.

19 CFR Part 4

Cargo vessels, Fishing vessels, Maritime carriers, Passenger vessels, Vessels.

19 CFR Part 10

Art, Wildlife, Packaging and containers.

19 CFR Part 19

Exports, Surety bonds, Warehouses.

19 CFR Part 24

Accounting.

19 CFR Part 103

Administrative practice and procedure, Freedom of information, Information.

19 CFR Part 113

Surety bonds.

19 CFR Part 134

Labeling, Packaging and containers.

19 CFR Part 141

Imports.

19 CFR Part 143

Imports.

19 CFR Part 145

Postal service.

19 CFR Part 148

Household goods, International Organizations, Military Personnel.

19 CFR Part 152

shipper's merchandise. When more than

Form 301, containing the bond

the declared intention at the time of importation.

and Development Administration" both

3. Section 19.14(d) is amended to read

VOL 50 ISS 141 JL 23 1985 UMI

19 CFR Part 152

Packaging and containers.

19 CFR Part 162

Administrative practice and procedures, Penalties, Seizures and forfeitures.

19 CFR Part 171

Administrative practice and procedure, Penalties, Seizures and forfeitures.

19 CFR Part 173

Administrative practice and procedure.

19 CFR Part 191

Drawback.

Amendments to the Regulations

Parts 4, 10, 19, 24, 103, 113, 134, 141, 143, 145, 148, 152, 162, 171, 173, and 191, Customs Regulations (19 CFR Parts 4, 10, 19, 24, 103, 113, 134, 141, 143, 145, 148, 152, 162, 171, 173, 191), are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

The general authority citation for Part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. 3, 2103 * * *.

1. Paragraph (3) of footnote 5 to § 4.3 is revised to read as follows:

§ 4.3 Vessels required to enter.

* * * * *

(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: *Provided,* That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: *Provided further,* That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.

3. Section 4.7a(c) is amended by inserting, between the second and third sentences, a new sentence to read as follows:

§ 4.7a Inward manifest; information required; alternative forms.

* * * * *

(c) *Cargo Declaration.* (1) * * *

The name of the shipper shall be set forth in the column calling for such information and on the same line where the bill of lading is listed for that shipper's merchandise. When more than one bill of lading is listed for merchandise from the same shipper, ditto marks or the word "ditto" may be used to indicate the same shipper. * * *

4. Section 4.14 is amended by revising § 4.14(a)(2)(iii) to read as follows:

§ 4.14 Foreign equipment purchases by, and repairs to, American vessels.

(a) * * *

(2) * * *

(iii) *Vessels outside U.S. for two years or more.*

(A) *Requirements for declaration and entry of dutiable items.* If a vessel which is documented with a registry, coastwise trade, or Great Lakes trade endorsement is operated in international or foreign waters two years or more after its last departure from the U.S., the only dutiable items are fish nets and nettings whenever purchased and any other items purchased or repairs made during the first six months after the vessel's last departure from the U.S. Under these circumstances, only those items (with the exception of fish nets and nettings) purchased and repairs made outside the U.S. during the first six months after the vessel's last departure from the U.S. shall be declared and entered. Fish nets and netting purchased or repaired outside the U.S. shall be declared and entered whether or not purchased or repaired during the first six months after departure.

(B) *Exception.* The provisions of § 4.14(a)(2)(iii)(A) do not apply to a vessel designed and used primarily for transporting passengers and property if such vessel departed the U.S. for the sole purpose of obtaining equipment, parts, materials, or repairs.

* * * * *

5. Section 4.34 is amended by removing paragraph (h) and by revising paragraph (g) to read as follows:

§ 4.34 Prematurely discharged, overcarried, and undelivered cargo.

* * * * *

(g) *Cargo undelivered at foreign port and returned to the U.S.* Merchandise shipped from a domestic port, but undelivered at the foreign destination and returned, shall be manifested as "Undelivered-to be returned to original foreign destination," if such a return is intended. The district director may issue a permit to retain the merchandise on board, or he may, upon written application of the steamship company, issue a permit on a Delivery Ticket, Customs Form 6043, allowing the merchandise to be transferred to another vessel for return to the original foreign destination. No charge shall be made against the bond on Customs Form 301, containing the bond conditions relating to international carriers set forth in section 113.64 of this chapter. The items shall be remanifested outward and an explanatory reference of the attending circumstances and compliance with export requirements noted.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE ETC.

1. The authority citation for Part 10 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1623, 1624:

a. Section 10.17 also issued under 19 U.S.C. 1401a, 1402;

b. Section 10.22 also issued under 19 U.S.C. 1304;

c. Sections 10.41, 10.41a, 10.107 also issued under 19 U.S.C. 1322;

d. Section 10.53 also issued under 18 U.S.C. 1521, *et seq.*

e. Section 10.59 also issued under 19 U.S.C. 1309, 1317;

f. Sections 10.61–10.64a also issued under 19 U.S.C. 1309;

g. Sections 10.62a, 10.65 also issued under 19 U.S.C. 1309, 1317, 1555, 1556, 1557, 1646a;

h. Sections 10.70, 10.71 also issued under 19 U.S.C. 1486;

i. Sections 10.80–10.83 also issued under 19 U.S.C. 1313 (e) and (i);

j. Sections 10.152, 10.153 also issued under 19 U.S.C. 1321;

k. Sections 10.171–10.178 also issued under 19 U.S.C. 2461 *et seq.*

l. Sections 10.191–10.198 also issued under 19 U.S.C. 2701 *et seq.*

2. Section 10.41a(a)(2) is revised to read as follows:

§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic; repair components.

(a)(1) * * *

(2) Repair components, accessories, and equipment for any container of foreign production which is an instrument of international traffic may be entered or withdrawn from warehouse for consumption without the deposit of duty if the person making the entry or withdrawal from warehouse files a declaration that the repair component was imported to be used in the repair of a container of foreign production which is an instrument of international traffic, or that the accessory or equipment is for a container of foreign production which is an instrument of international traffic. The district director must be satisfied that the importer of the repair component, accessory, or equipment had the declared intention at the time of importation.

* * * * *

3. Section 10.43 and the section heading are revised to read as follows:

§ 10.43 Duty-Free status.

(a) The district director may, at his discretion, require appropriate proof of duty-free status for articles for institutions claimed to be exempt from duty under items 850.10, 850.40, 850.70, 851.10, 851.20, 851.30, 851.40, 851.50, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) Appropriate proof may be a copy of the charter or other evidence of the character of the institution for the use of which the articles are imported.

§ 10.44 [Removed]

4. Part 10 is amended by removing § 10.44 and marking it "Reserved".

5. Section 10.52 is revised to read as follows:

§ 10.52 Painted, colored or stained glass windows for religious institutions.

When painted, colored, or stained glass windows or parts thereof, are claimed free of duty under item 850.30, Tariff Schedules of the United States (19 U.S.C. 1202), the district director may, at his discretion, require appropriate proof that the importation was designed by, and produced by or under the direction of, a professional artist, and that it is for the use of an institution established solely for religious purposes.

6. Section 10.75 is revised to read as folllows:

§ 10.75 Wild animals and birds; zoological collections.

When wild animals or birds are claimed to be free of duty under item 852.20, Tariff Schedules of the United States (19 U.S.C. 1202), the district director may, at his discretion, require appropriate proof that the animals or birds were specially imported pursuant to negotiations conducted prior to importation for the delivery of animals or birds of a named species meeting agreed specifications of reasonable particularity and that they are intended at the time of importation for public exhibition in a collection maintained for scientific or educational purposes and not for sale or for use in connection with any enterprise conducted for profit. That fact that an animal or bird may have been sent on approval shall not preclude free entry under item 852.20 when it is actually accepted as a part of the zoological collection and so exhibited.

§ 10.102 [Amended]

7. Section 10.102(b)(3) is amended by removing the words, "Energy Research and Development Administration" both places where they appear, and inserting, in their place, "Department of Energy".

§ 10.152 [Amended]

8. Section 10.152 is amended by removing "$25", and inserting, in its place, "$50", and by removing "$40", and inserting, in its place, "$100".

§ 10.153 [Amended]

9. Sections 10.153(b), (d)(2), (d)(3) and (f) are amended by removing "$25", and inserting, in its place, "$50", and by removing "$40", and inserting, in its place, "$100".

§ 10.173 [Amended]

10. Section 10.173 is amended by revising the heading of paragraph (a) to read, *"Shipments covered by a formal entry".* Paragraph (a) is further amended by deleting "$250", and inserting in its place, "$1,000 (except for articles valued in excess of $250 classified in Schedule 3; Parts 1, 4A, 7B, 12A, 12D, and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated)".

§ 10.183 [Amended]

11. The sample form in § 10.183(d)(2) is amended by removing "(19 U.S.C. 10.183)" and inserting, in its place, "(19 CFR 10.183)".

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The authority citation for Part 19 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624:

Section 19.1 also issued under 19 U.S.C. 1311, 1312, 1555, 1556, 1557, 1560, 1561, 1562;

Section 19.7 also issued under 19 U.S.C. 1555, 1556;

Section 19.11 also issued under 19 U.S.C. 1556,1562;

Section 19.15 also issued under 19 U.S.C. 1311;

Section 19.16 also issued under 19 U.S.C. 1311, 26 U.S.C. 5723, 5752;

Sections 19.17–19.25 also issued under 19 U.S.C. 1312;

Section 19.40(a) also issued under 19 U.S.C. 1450, 1499, 1623;

Sections 19.41–19.43 also issued under 19 U.S.C. 1499;

Section 19.44 also issued under 19 U.S.C. 1448;

Section 19.45 also issued under 19 U.S.C. 1551, 1565;

Section 19.48 also issued under 19 U.S.C. 1499, 1623;

Section 19.49 also issued under 19 U.S.C. 1484.

2. All other statutory authority cited at the end of various sections in Part 19 is removed.

3. Section 19.14(d) is amended to read as follows:

§ 19.14 Materials for use in manufacturing warehouse.

* * * * *

(d) *Domestic spirits and wines.* For the transfer of domestic spirits from the bonded premises of a distilled spirits plant to a bonded manufacturing warehouse, or for the transfer of domestic wines from a bonded wine cellar to a bonded manufacturing warehouse, a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, shall be required.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for Part 24 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, 31 U.S.C. 9701:

Section 24.1 also issued under 19 U.S.C. 197, 198, 1648;

Section 24.4 also issued under 19 U.S.C. 1623, 26 U.S.C. 5007, 5054, 5061, 7805;

Section 24.11 also issued under 19 U.S.C. 1485(d);

Section 24.12 also issued under 19 U.S.C. 1524, 46 U.S.C. 927;

Section 24.14 also issued under 19 U.S.C. 1;

Section 24.16 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1623, 46 U.S.C. 2111, 2112;

Section 24.17 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1458, 1524, 1557, 1582, 46 U.S.C. 2110, 2111, 2112;

Section 24.32 also issued under 5 U.S.C. 5562, 5563;

Section 24.36 also issued under 26 U.S.C. 6423.

§ 24.16 [Amended]

2. The third sentence of § 24.16(c) is amended by removing the "s" at the end of the word "provisions".

§ 24.18 [Amended]

3. Section 24.18(f) is amended by removing "§ 24.15" and inserting, in its place, "§ 24.16".

PART 103—AVAILABILITY OF INFORMATION

1. The authority citation for Part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 19 U.S.C. 66, 1624, 31 U.S.C. 9701.

2. All other statutory authority cited at the end of various sections in Part 103 is removed.

3. Section 103.11(a) is revised to read as follows:

§ 103.11 Specific Customs Service records subject to disclosure.

(a) *Administrative staff manuals and*

(iv) Each certification will be valid for a period of two (2) years from the date

place, "$1,000 (except for articles valued in excess of $250 classified in Schedule

Authority: 19 U.S.C. 66, 1201 (Gen. Hdnote 11); 1624.

Section 148.21 also issued under 19 U.S.C. 1461, 1462;

§ 103.11 Specific Customs Service records subject to disclosure.

(a) *Administrative staff manuals and instructions.* Except as exempted by § 103.12, all administrative staff manuals and instructions to staff that affect any member of the public, and indexes thereto, are available for public inspection and copying in the Customs Service public reference facilities (see § 103.1), including the following:

Forms Catalog. Customs and other agency forms currently available from the Customs Service.

Legal Precedent Retrieval System. The directory is a listing by selected keywords of all classification rulings issued since early 1974 that affect a substantial volume of imports or transactions or are of general interest or importance, and of all published classification rulings issued since August 31, 1963, including classification decisions, and classification rulings circulated within the Customs Service by the Customs Information Exchange and the Office of Regulations and Rulings. The directory also contains limited information on decisions and rulings pertaining to entry, value, drawback, marking, country of origin, and vessel repairs. The directory is maintained on microfiche and is continually updated. Duplicate microfiche are available for 15¢ each, through subscription or in individual sets. The costs of a set will depend upon the number of microfiche it contains.

Fines, Penalties, and Forfeitures Handbook. Collects in one document information relating to the total management of the fines, penalties, and forfeitures program.

Inspector Rate Book. A ready reference guide for inspection personnel. Contains an abbreviated Tariff Schedules of the United States and other reference material.

Customs Issuance System (CIS) Index. The index provides a brief description of circulars, manuals, legal rulings, decisions, and other Customs documents.

Operational Handbook of Other Agency Requirements Enforced by the U.S. Customs Service.

Customs Valuation under the Trade Agreements Act of 1979.

Fundamentals of Customs Tariff and Trade Operations Handbook. Material relating to the duties and responsibilities of import specialists: entry of merchandise, restrictions, prohibitions and other agency requirements, special trade programs, invoicing and related documentation, examination of merchandise, Customs valuation, tariff classification, liquidation, protests, and miscellaneous import specialist concerns.

* * * * *

4. Section 103.14(d)(1) is revised to read as follows:

§ 103.14 Information on vessel manifests and summary statistical reports.

* * * * *

(d) *Confidential treatment.* (1) *Inward manifest.* An importer or consignee may request confidential treatment of its name and address contained in inward manifests, to include identifying marks and numbers. In addition, an importer or consignee may request confidential treatment of the name and address of the shipper or shippers to such importer or consignee by using the following procedure:

(i) An importer or consignee, or authorized employee, attorney or official of the importer or consignee, must submit a certification (as described in subparagraph (ii) of this paragraph) claiming confidential treatment of its name and address. The name and address of an importer or consignee includes marks and numbers which reveal the name and address of the importer or consignee. An importer or consignee may file a certification requesting confidentiality for all its shippers.

(ii) There is no prescribed format for a certification. However, the certification shall include the importer's or consignee's Internal Revenue Service Employer Number, if available. There is no requirement to provide sufficient facts to support the conclusion that the disclosure of the names and addresses would likely cause substantial harm to the competitive position of the importer or consignee.

(iii) The certification must be submitted to the Disclosure Law Branch, Regulations Control and Disclosure Law Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2325, Washington, D.C. 20229.

(iv) Each initial certification will be valid for a period of two years from the date of receipt. Renewal certifications should be submitted to the Disclosure Law Branch at least 60 days prior to the expiration of the current certification. Information so certified may be copied, but not published, by the press during the effective period of the certification. An importer or consignee shall be given written notification by Customs of the receipt of its certification of confidentiality.

* * * * *

5. Section 103.14(d)(2) (iii) and (iv) are revised to read as follows:

§ 103.14 Information on vessel manifests and summary statistical reports.

* * * * *

(d) *Confidential treatment.* * * *

(2) *Outward manifest.* * * *

(iii) The certification must be submitted to the Disclosure Law Branch, Regulations Control and Disclosure Law Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2325, Washington, D.C. 20229.

(iv) Each certification will be valid for a period of two (2) years from the date of its approval.

* * * * *

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 is revised to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624. Subpart E also issued under 19 U.S.C. 1484.

§ 113.64 [Amended]

2. The heading to § 113.64(a), is amended by removing "Changes" and inserting, in its place, "Charges."

PART 134—COUNTRY OF ORIGIN MARKING

1. The authority citation for Part 134 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), 1304, 1624.

2. All other statutory authority cited at the end of various sections in Part 134 is removed.

§ 134.33 [Amended]

3. Section 134.33 is amended by removing "Pipes, iron or steel, and pipe fittings of cast or malleable iron (except cast iron soil pipe and fittings) T.D. 71–89.", from the list of articles excepted from country of origin marking requirements.

PART 141—ENTRY OF MERCHANDISE

1. The authority citation for Part 141 is revised to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

Subpart G also issued under 19 U.S.C. 1505

Section 141.1 also issued under 31 U.S.C. 3713

Section 141.4 also issued under 19 U.S.C. 1498

Section 141.19 also issued under 19 U.S.C. 1485, 1486

Section 141.20 also issued under 19 U.S.C. 1485, 1623

Section 141.66 also issued under 19 U.S.C. 1490, 1623

Section 141.69 also issued under 19 U.S.C. 1315

Section 141.89 also issued under 19 U.S.C. 1202 (Gen Hdnote 11), 1481

Section 141.90 also issued under 19 U.S.C. 1487

Section 141.112 also issued under 19 U.S.C. 1564

Section 141.113 also issued under 19 U.S.C. 1499, 1623

2. All other statutory authority cited at the end of various sections in Part 141 is removed.

§ 141.82 [Amended]

3. Section 141.82(d) is amended by removing "$250", and inserting, in its place, "$1,000 (except for articles valued in excess of $250 classified in Schedule 3; Parts 1, 4A, 7B, 12A, 12D, and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated)"

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. The authority citation for Part 143 is revised to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

2. All other statutory authority cited at the end of various sections in Part 143 is removed.

§ 143.21 [Amended]

3. Section 143.21(a) is amended by removing, "$250 in value", and inserting, in its place, "$1,000 in value (except for articles valued in excess of $250 classified in Schedule 3; Parts 1, 4A, 7B, 12A, 12D and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated)."

4. Section 143.21(b) is amended by removing, "$250", and inserting, in its place "$1,000".

5. Section 143.21(c) is amended by removing, "$250" and inserting, in its place "$1000". Paragraph (c) is further amended by adding the sentence, "This paragraph does not apply to shipments of articles valued in excess of $250 classified in items from Schedule 3; Parts 1, 4A, 7B, 12A, 12D, and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated."

6. Section 143.21(f) and (g) are amended by removing, "$250", and inserting, in its place, "$1,000".

§ 143.22 [Amended]

7. Section 143.22 is amended by removing "$250" and inserting, in its place, "$1,000".

§ 143.23 [Amended]

8. Section 143.23(d) is amended by removing "$250 in value" and inserting, in its place, "$1,000 in value (except for articles valued in excess of $250 classified in Schedule 3; Parts 1, 4A, 7B, 12A, 12D, and 13B of Schedule 7; items 772.30 and 772.35; and Parts 2 and 3 of the Appendix of the Tariff Schedules of the United States Annotated)".

PART 145—MAIL IMPORTATIONS

1. The authority citation for Part 145 is revised to read as follows:

Authority: 19 U.S.C. 66, 1201 (Gen. Hdnote 11); 1624.

Section 145.4 also issued under 18 U.S.C. 545, 19 U.S.C. 1618;

Section 145.11 also issued under 19 U.S.C. 1481, 1485, 1498;

Section 145.12 also issued under 19 U.S.C. 1315, 1484, 1498;

Sections 145.22–145.23 also issued under 19 U.S.C. 1501, 1514;

Section 145.31 also issued under 19 U.S.C. 1321;

Section 145.32 also issued under 19 U.S.C. 1321, 1498;

Sections 145.35–145.38, 145.41, also issued under 19 U.S.C. 1498;

Section 145.51 also issued under 19 U.S.C. 1305;

Section 145.54 also issued under 19 U.S.C. 1618.

2. All other statutory authority cited at the end of various sections in Part 145 is removed.

§ 145.12 [Amended]

3. Section 145.12(a)(2), is amended by removing "$250" and inserting, in its place, "$1,000".

4. Section 145.12(a)(3) is amended by removing "$250", both places where it appears, and inserting, in its place, "$1,000".

5. Section 145.12(b), is amended by removing "$250" and inserting, in its place, "$1,000".

6. Section 145.12(c) is amended by removing "$250" from the sub-section heading and from the paragraph, and inserting, in both places, "$1,000".

§ 145.32 [Amended]

7. Section 145.32 is amended by removing "$25", and inserting, in its place, "$50", and by removing "$40", and inserting, in its place, "$1,00".

§ 145.35 [Amended]

8. Section 145.35 is amended by removing "$250" and inserting, in its place, "$1,000".

§ 145.36 [Amended]

9. Section 145.36 is amended by removing, "on Customs Form 3321" from the last sentence.

§ 145.41 [Amended]

10. Section 145.41 is amended by removing "$250" and inserting, in its place, "$1,000".

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The authority citation for Part 148 is revised to read as follows:

Authority: 19 U.S.C. 66, 1498, 1624. The provisions of this part, except for Subpart C, are also issued under 19 U.S.C. 1202 (Gen. Hdnote 11);

Section 148.21 also issued under 19 U.S.C. 1461, 1462;

Sections 148.43, 148.51, 148.63, 148.64, 148.74 also issued under 19 U.S.C. 1321;

Section 148.87 also issued under 22 U.S.C. 288.

2. All other statutory authority cited at the end of various sections in Part 148 is removed.

§ 148.77 [Amended]

3. Section 148.77(b) is amended by removing "8061" and inserting, in its place, "3299".

§ 148.87 [Amended]

4. The list in § 148.87(b) is amended by making the following changes:

(a) The references to the "Coffee Study Group, E.O. 10943, May 19, 1961" and the "Southeast Asia Treaty Oranization, E.O. 10866, February 23, 1960" are removed.

(b) The first reference to the "International Telecommunications Satellite Organization (INTELSAT)—Limited privileges only, E.O. 11718, May 14, 1973" is removed.

(c) The list is further amended by inserting the following in appropriate alphabetical order:

§ 148.87 Officers and employees of, and representatives to public international organizations.

* * * * *

(b) * * *

Organization	Executive order	Date
International Food Policy Research Institute—Limited Privileges only.	12359	Apr. 22, 1982.
* * *	* * *	* * *
Multinational Force and Observers.	12359	Apr. 22, 1982.

PART 152—CLASSIFICATION AND APPRAISEMENT OF VALUE

1. The authority citation for Part 152 is revised to read as follows:

Authority: 19 U.S.C. 66, 1401a, 1500, 1502, 1624. Subpart B also issued under 19 U.S.C. 1315. Subpart C also issued under 19 U.S.C. 1503. Subpart D also issued under 19 U.S.C. 1202 (Gen. Hdnote 12).

Section 152.3 also issued under 19 U.S.C. 1499;

Sections 152.13, 152.24 also issued under 19 U.S.C. 1202 (Gen. Hdnote 7);

Sections 152.31–152.32 also issued under 19 U.S.C. 1401a

2. All other statutory authority cited at the end of various sections in Part 152 is removed.

3. Part 152 is amended in the following manner:

§ 163.45 [Amended]

4. The heading to § 162.45 is amended

limit in value of merchandise, the importation of which is prohibited, or in

§ 173.4a Correction of clerical error prior to liquidation.

[19 U.S.C. 1313(j) contains two paragraphs numbered (4). See first

(h) *Substitution same condition drawback.* If legal person X possesses

VOL 50 ISS 141 JL 23 1985 UMI

3. Part 152 is amended in the following manner:

§ 152.105 [Amended]

In § 152.105, paragraph headings (h)(3)(a) and (b) are changed to (h)(3)(i) and (ii), respectively.

§ 152.108 [Amended]

4. Part 152 is further amended by changing the paragraph headings in § 152.108 from (1), (2), (3), (4), (5), (6), and (7) to (a), (b), (c), (d), (e), (f) and (g), respectively.

PART 162—RECORDKEEPING, INSPECTION, SEARCH AND SEIZURE

1. The authority citation for Part 162 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624.

Subpart B also issued under 19 U.S.C. 1595;

Subpart G also issued under 19 U.S.C. 1466, 1584, 1592, 1613, 1618;

Section 162.3 also issued under 19 U.S.C. 1581;

Section 162.4 also issued under 39 U.S.C. 604, 605;

Section 162.5 also issued under 19 U.S.C. 1581, 49 U.S.C. 1509

Section 162.6 also issued under 19 U.S.C. 1461, 1467, 1498;

Section 162.7 also issued under 19 U.S.C. 482;

Section 162.21 also issued under 19 U.S.C. 482, 1581, 1582, 1602;

Section 162.22 also issued under 18 U.S.C. 546, 19 U.S.C. 1459, 1460, 1594, 1701, 1703–1708;

Section 162.32 also issued under 19 U.S.C. 1603, 1610;

Section 162.43 also issued under 19 U.S.C. 1606, 1608;

Section 162.44 also issued under 19 U.S.C. 1614;

Section 162.46 also issued under 19 U.S.C. 1609, 1611;

Section 162.47 also issued under 19 U.S.C. 1608;

Section 162.48 also issued under 19 U.S.C. 1612;

Section 162.49 also issued under 19 U.S.C. 5688;

Section 162.50 also issued under 19 U.S.C. 1611, 1705;

Section 162.61 also issued under 21 U.S.C. 592, 953, 957;

Section 162.62 also issued under 21 U.S.C. 592, 956;

Sections 162.63, 162.64 also issued under 21 U.S.C. 881, 966;

Section 162.65 also issued under 19 U.S.C. 1584, 21 U.S.C. 960, 961.

2. All other statutory authority cited at the end of various sections in Part 162 is removed.

§ 163.43 [Amended]

3. Section 162.43 is amended by removing paragraph (c).

§ 163.45 [Amended]

4. The heading to § 162.45 is amended by removing "$10,000" and inserting, in its place, "$100,000".

5. Section 162.45(a) is revised to read as follows:

§ 162.45 Summary forfeiture where value not over $100,000 Property other than Schedule 1 controlled substances. Notice of seizure and sale.

(a) *Contents.* The notice required by section 607, Tariff Act of 1930, as amended (19 U.S.C. 1607), of seizure and intent to forfeit and sell or otherwise dispose of according to law property not exceeding $100,000 in value, or any seized merchandise the importation of which is prohibited, or any seized vessel, vehicle or aircraft that was used to import, export, transport, or store any controlled substance, shall:

(1) Describe the property seized and in the case of motor vehicles, specify the motor and serial numbers;

(2) State the time, cause, and place of seizure;

(3) State that any person desiring to claim property must appear at a designated place and file with the district director within 20 days from the date of first publication of the notice a claim to such property and a bond in the sum of $2,500 or 10% of the value of the claimed property, whichever is lower, but not less than $250, in default of which the property will be disposed of in accordance with the law; and

(4) State the name and place of residence of the person to whom any vessel or merchandise seized for forfeiture under the navigation laws belongs or is consigned, if that information is known to the district director.

* * * * *

§ 162.45 [Amended]

5. Section 162.45(c) is amended by removing "$10,000" and inserting, in its place, "$100,000 (excluding merchandise, the importation of which is prohibited, and vessels, vehicles or aircraft used to import, export, transport or store and controlled substance, for which there is no value limit)"

§ 162.46 [Amended]

6. Section 162.46 is amended by removing "$10,000" from the section heading and inserting, in its place, "$100,000".

§ 162.47 [Amended]

7. Section 162.47(a) is amended in the following manner:

(a) The figure "$10,000" is removed and $100,000" is inserted in its place.

(b) Immediately after the word "value", insert "(however there is no limit in value of merchandise, the importation of which is prohibited, or in the value of vessels, vehicles or aircraft used to import, export, transport, or store any controlled substance, that may be seized and forfeited)."

8. Section 162.47(b) is amended by removing "$250" and and inserting, in its place, "$2,500 or 10% of the value of the claimed property, whichever is lower, but not less than $250,".

§ 146.48 [Amended]

9. Section 162.48 is amended by removing "$10,000" from the section heading and the text, and inserting, in those places, "$100,000".

PART 171—FINES, PENALTIES, AND FORFEITURES

1. The authority citation for Part 171 is revised to read as follows:

Authority: 19 U.S.C. 66, 1592, 1618, 1624.

Subpart C also issued under 22 U.S.C. 401, 46 U.S.C. 320, 2107.

Section 171.44 also issued under 40 U.S.C. 304j, 304k.

2. All other statutory authority cited at the end of various sections in Part 171 is removed.

3. Section 171.12(c) is revied to read as follows:

§ 171.12 Filing of petition.

* * * * *

(c) *Petitions for remission of forfeitures of certain conveyances.* Petitions for remission of forfeiture of a conveyance seized in connection with the illegal importation, exportation, transportation, or storage of any amount of heroin, 5 pounds or more of cocaine, 10 pounds or more of hashish, 250 pounds or more of other controlled substances, or with the illegal importation, exportation, or transportation of firearms in a quantity clearly in excess of personal use needs, shall be filed within 30 days from the date of mailing of the notice of fine, penalty or forfeiture incurred.

* * * * *

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

1. The authority citation for Part 173 is revised to read as follows:

Authority: 19 U.S.C. 66, 1501, 1520, 1521, 1624.

2. All other statutory authority cited at the end of the various section of Part 173 is removed.

3. Part 173 is amended by adding a new section, designated § 173.4a to read as follows:

§ 173.4a Correction of clerical error prior to liquidation.

Pursuant to § 520(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1520(a)(4)), the district director may, prior to liquidation of an entry, take appropriate action to correct a clerical error that resulted in the deposit or payment of excess duties, fees, charges, or exactions.

PART 191—DRAWBACK

1. The authority citation for Part 191 is revised to read as follows:

Authority: 5. U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1313, 1624.

Section 191.7 also issued under 19 U.S.C. 1514;

Section 191.8 also issued under 19 U.S.C. 1557;

Section 191.9 also issued under 18 U.S.C. 550;

Section 191.94 also issued under 19 U.S.C. 1309;

Sections 191.131(a), 191.133, 191.137, 191.139 also issued under 19 U.S.C. 1557;

Sections 191.162–191.166 also issued under 19 U.S.C. 81c.

2. All other statutory authority cited at the end of various sections of Part 191 is removed.

§ 191.2 [Amended]

3. Section 191.2(b) is amended by removing the period from the end of the section, and inserting, in its place, "or (j)(2)."

§ 191.4 [Amended]

4. Section 191.4(a)(9) is amended by revising the hearing to read, *Direct identification same condition drawback"*, and by adding a "(1)" after 313(j) and after 1313(j) in this section.

5. Sections 191.4(a)(10), (a)(11), and (a)(12) are renumbered §§ 191.4(a)(12), (a)(13), and (a)(14), respectively.

6. Part 191 is further amended by adding new §§ 191.4(a)(10) and (a)(11) to read as follows:

§ 191.4 Types of drawback.

(a) * * *

(10) *Substitution same condition drawback.* Drawback of duties is provided for in § 313(j)(3), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(3)), on merchandise fungible with imported merchandise when exported or destroyed under Customs supervision, provided all the conditions described under § 191.141(h) are complied with.

(11) *Packaging materials.* Drawback of duties is provided for in § 313(j)(4), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)(4)), on packaging material used to package or repackage merchandise exported with direct identification same condition drawback. (19 U.S.C. 1313(j) contains two paragraphs numbered (4). See first paragraph (4)).

§ 191.12 [Amended]

* * * * *

7. Section 191.12 is amended by removing "19 U.S.C. 1313(l)", and inserting, in its place, "19 U.S.C. 1313(m)".

8. Part 191 is further amended by adding a new § 191.27 to read as follows:

§ 191.27 Tradeoff.

(a) *Exchanged Merchandise.* To comply with §§ 191.22(a)(ii) and 191.32(a)(3), the use of domestic merchandise taken in exchange for imported merchandise of the same kind and quality shall be treated as use of the imported merchandise if no certificate of delivery (Customs Form 7543) is issued covering the imported merchandise. This provision shall be known as tradeoff and is authorized by section 313(k), Tariff Act of 1930, as amended (19 U.S.C. 1313(k)).

(b) *Requirements.* Tradeoff must occur between two separate legal entities, but it is not necessary that the entity exchanging the imported merchandise be the importer thereof. In addition, tradeoff must be a straight tradeoff of same kind and quality merchandise, with no additional payments of any type, including additional payment in kind.

(c) *Application.* Each would-be user of tradeoff, except those operating under a general drawback contract covering substitution, must apply to the Drawback and Bonds Branch, Office of Regulations and Rulings, Customs Headquarters, for a determination of whether the imported and domestic merchandise are same kind and quality. For those users manufacturing under substitution drawback, this request should be contained in the drawback proposal. For those users manufacturing under direct identification drawback, the request should be made by a separate letter. General drawback contracts covering substitution will be revised to provide for tradeoff.

§ 191.32 [Amended]

9. Section 191.32 is amended by removing paragraph (c). Section 191.32 is further amended by redesignating paragraphs (d) as (c), and (e) as (d), respectively.

10. Section 191.141 is amended by adding a new subparagraph (h) to read as follows:

§ 191.141 Same condition drawback.

* * * * *

(h) *Substitution same condition drawback.* If legal person X possesses imported merchandise (the designated merchandise) during some time interval in period A (defined below) and also possesses other merchandise fungible with it (the substituted merchandise) during the same or different time interval in period A, then 99 percent of the duty paid on the designated merchandise will be refunded as drawback, provided that:

(1) The designated merchandise was in the same condition as imported either at the time of substitution, the time X used it in manufacturing, or at the time X transferred it to another person, whichever occurs first;

(2) The substituted merchandise is in the same condition when exported or destroyed under Customs supervision as was the designated merchandise when imported;

(3) X does not issue a certificate of delivery covering the designated merchandise nor a certificate of manufacture and delivery covering articles manufactured or produced therefrom; and

(4) X maintains records to establish requirements, (1), (2), and (3) of this section and also complies with all relevant requirements of §§ 191.141 (a) through (g) of this chapter.

Period A (referred to above) begins when X receives the merchandise and ends three years after the importation of said merchandise.

William von Raab,
Commissioner of Customs.

Approved: June 13, 1985.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 85–17440 Filed 7–22–85; 8:45 am]

BILLING CODE 4820–02–M

RAILROAD RETIREMENT BOARD

20 CFR Part 200

Debt Collection

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby amends its regulations to provide for waiver of interest, penalties, and collection costs, as authorized by the Debt Collection Act of 1982, in connection with the collection of certain debts arising from erroneous benefit payments under the several Acts administered by the Board. The Debt Collection Act of 1982 requires the Board to charge interest on claims for money owed the Board, to assess the

penalties on delinquent debts, and to assess charges to cover the costs of processing claims for delinquent debts,

penalties, and administrative costs when it is determined that assessing such charges would be against equity

By Authority of the Board.
Beatrice Ezerski,

(A) The debt is paid within thirty days after the end of the period within which the debtor may request waiver of

tax is applicable to model types of 1980 and later model year automobiles that

manufacturer to establish not only that it was not

VOL 50 ISS 141 JL 23 1985 UMI

penalties on delinquent debts, and to assess charges to cover the costs of processing claims for delinquent debts. The Act permits, and in certain cases requires, an agency to waive the collection of interest, penalties, and charges. This new section contains the circumstances under which the Board may waive the collection of interest, penalties and charges which arise from benefit or annuity overpayments made under any of the Acts the Board administers.

EFFECTIVE DATES: July 23, 1985.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 (312) 751–4935 (FTS 387–4935).

SUPPLEMENTARY INFORMATION: The Board published this rule as a proposed rule on March 7, 1985, and invited public comment (50 FR 9285–9286). No comments were received by the Board on the proposed rule.

Section 11 of the Debt Collection Act of 1982 (Pub. L. 97–365) amended section 3(e) of the Federal Claims Collection Act of 1966 to provide that the head of an agency shall charge interest on claims owed the agency, assess penalties on delinquent debts, and assess charges to cover the costs of processing delinquent claims. Section 11 imposes a mandatory requirement that interest, penalties, and charges be assessed except as specifically provided in that section. Paragraphs (3) and (6) of the amended section 3(e) provide, respectively, for waiver of interest and penalties under agency regulations adopted in accordance with standards established by the Attorney General and the Comptroller General and for a thirty-day grace period within which payment may be made and no interest charged.

The amended § 200.6 implements the exception contained in the amended section 3(e)(6) of the Federal Claims Collection Act by establishing criteria for waiver in conformity with the standards adopted by the Attorney General and the Comptroller General and published as a final rule in the **Federal Register** on March 9, 1984. The new § 200.6 provides that interest must be waived if the underlying debt is paid within 30 days after notice of the debt or, where waiver of recovery of the overpayment is available, within 30 days after the expiration of the period within which the debtor may request waiver of recovery of the erroneous payment if no request is made or within 30 days after a decision denying waiver of recovery if such was requested. The new § 200.6 also provides for discretionary waiver of interest, penalties, and administrative costs when it is determined that assessing such charges would be against equity and good conscience or not in the best interests of the United States.

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no Regulatory Impact Analysis is required.

List of Subjects in 20 CFR Part 200

Claims, Employee benefit plans, Railroad employees, Railroad retirement, Railroad unemployment insurance, Debt collection.

PART 200—[AMENDED]

Title 20 CFR Chapter II, is amended as follows:

1. The authority citation for 20 CFR Part 200 is revised to read as follows:

Authority: 45 U.S.C. 231f(b)(5) and 45 U.S.C. 362, unless otherwise noted. Section 200.6 also issued under 31 U.S.C. 3717.

2. The table of contents for Title 20, Chapter II, Subchapter A, Part 200 is amended by adding at the end thereof the following: "200.6 Waiver of interest, penalties, and collection costs with respect to collection of certain debts."

3. A new § 200.6 is added to Subchapter A and reads as follows:

§ 200.6 Waiver of interest, penalties, and collection costs with respect to collection of certain debts.

(a) *Purpose.* The Debt Collection Act of 1982 requires the Board to charge interest on claims for money owed the Board, to assess penalties on delinquent debts, and to assess charges to cover the costs of processing claims for delinquent debts. The Act permits, and in certain cases requires, an agency to waive the collection of interest, penalties and charges under circumstances which comply with standards enunciated jointly by the Comptroller General and the Attorney General. Those standards are contained in 4 CFR 102.13. This section contains the circumstances under which the Board may waive the collection of interest, penalties and charges which arise from benefit or annuity overpayments made under any of the Acts the Board administers.

(b)(1) The Board shall waive the collection of interest under the following circumstances:

(i) When the debt is paid within thirty days after the date on which notice of the debt was mailed or personally delivered to the debtor;

(ii) When in any case where a decision with respect to waiver of recovery of the overpayment must be made,

(A) The debt is paid within thirty days after the end of the period within which the debtor may request waiver of recovery if no request is received within the prescribed time period; or

(B) The debt is paid within thirty days after the date on which notice was mailed to the debtor that his or her request for waiver of recovery has been wholly or partially denied if the debtor requested waiver of recovery within the prescribed time limit; however, regardless of when the debt is paid, no interest may be charged for any period prior to the end of the period within which the debtor may request waiver of recovery or, if such request is made, for any period prior to the date on which notice was mailed to the debtor that his or her request for waiver of recovery has been wholly or partially denied;

(iii) When, in the situations described in paragraphs (b)(1)(i) and (b)(1)(ii) of this section, the debt is paid within any extension of the thirty-day period granted by the Board;

(iv) With respect to any portion of the debt which is paid within the time limits described in paragraphs (b)(1)(i), (b)(1)(ii), or (b)(1)(iii) of this section; or

(v) In regard to any debt the recovery of which is waived.

(2) The Board may waive the collection of interest, penalties and administrative costs in whole or in part in the following circumstances:

(i) When collecting interest, penalty and administrative costs is against equity and good conscience; or

(ii) Where collecting interest, penalty and adminstrative costs is not in the best interests of the United States.

(c)(1) In making determinations as to when the collection of interest, penalty and administrative costs is against equity and good conscience the Board will consider evidence on the following factors:

(i) The fault of the overpaid individual in causing the underlying overpayment; and

(ii) Whether the overpaid individual in reliance on the incorrect payment relinquished a valuable right or changed his or her position for the worse.

(2) In rendering a determination as to when the collection of interest, penalties and charges is "not in the interest of the United States" the Board will consider the following factors:

(i) Whether the collection of interest, penalties and charges would result in the debt never being repaid; and

(ii) Whether the collection of interest, penalties and charges would cause undue hardship.

Dated: July 15, 1985.

By Authority of the Board.
Beatrice Ezerski,
Secretary of the Board.

[FR Doc. 85–17402 Filed 7–22–85; 8:45 am]
BILLING CODE 7905–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 48, 138 and 602

[T.D. 8036]

Income, Miscellaneous Excise, and Manufacturers and Retailers Excise Taxes, Temporary Excise Tax Regulations, Reporting and Recordkeeping Requirements; Gas Guzzler Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the gas guzzler tax, as provided by section 4064 of the Internal Revenue Code of 1954. Changes to the applicable tax law were made by the Energy Tax Act of 1978. These final regulations provide manufacturers of automobiles with the guidance needed to comply with that Act.

DATE: This Treasury decision applies to 1980 and later model year automobiles, and is effective July 23, 1985.

FOR FURTHER INFORMATION CONTACT: Robert H. Ginsburgh of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1980, the **Federal Register** published proposed amendments to the Excise Tax Regulations (26 CFR Part 48) under sections 4064 and 4222 of the Code, as well as temporary regulations containing the same rules. A public hearing was held on June 19, 1980. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision. These regulations supersede the temporary regulations issued under §§ 138.4064–1 and 138.4222–1.

Explanation of Provisions

The Energy Tax Act of 1978 imposes on the sale by a manufacturer of an automobile a tax determined in accordance with prescribed tables. The tax is applicable to model types of 1980 and later model year automobiles that have a fuel economy level below the applicable tax-free fuel economy level. A small manufacturer may apply to the Secretary for an alternate rate schedule by showing that it is not feasible for that manufacturer to meet the tax-free fuel economy level.

Determination of Fuel Economy

The proposed regulations provided for determination of fuel economy in accordance with testing and calculation procedures (weighted 55 percent urban cycle and 45 percent highway cycle) utilized by the Environmental Protection Agency Administrator. One comment requested that the urban fuel economy level be used for purposes of the tax. No change was made, however, since section 4064 clearly states that a weighted urban-highway figure should be used. Another comment noted that no provision dealt with the issue of how the fuel economy estimates calculated by the Environmental Protection Agency should be rounded for purposes of determining which model types are subject to the tax. It was suggested that the figures should be rounded to the nearest one-half mile per gallon increments since the tax is imposed in whole number of miles per gallon increments (*e.g.*, "at least 16 but less than 17" miles per gallon). The regulations were changed to provide that rounding is to be done to the nearest .1 mile per gallon, the rounding rule used by the Environmental Protection Agency. One comment expressed at the public hearing inquired as to the tax status of an automobile that is sold, under certain circumstances, before the time the Environmental Protection Agency has made a determination of fuel economy for the model type. The final regulations provide that the sale of such automobile will be taxable if it is ultimately determined that the fuel economy level of the model type of such automobile is within the taxable range.

The regulations on determining fuel economy value have also been revised to take into account the rule requiring recalculation of fuel economy values that was promulgated by the Environmental Protection Agency.

Alternate Rate Schedule for Small Manufacturers

Section 4064(d) allows a small manufacturer to apply to the Secretary for an alternate rate schedule upon a showing that it is not feasible for that manufacturer to meet the tax-free fuel economy level. The proposed regulations required a small manufacturer to establish not only that it was not economically feasible for that manufacturer to meet the tax-free fuel economy level, but also that the granting of an alternate rate schedule would serve a public policy purpose. The proposed regulations prescribed the public policy considerations that would be taken into account by the Secretary in deciding whether to grant an alternate rate schedule to a small manufacturer. One comment objected to the provision in the regulations that would make the availability of the alternate rate schedule dependent upon the public policy considerations. The comment pointed out that the small manufacturer provision provided in section 4064(d) was modeled after a similar provision provided in the Energy Policy and Conservation Act of 1975 ("EPCA"), which prescribes "fleet-wide average standards" and allows small manufacturers to seek an exemption from those standards. It noted that the National Highway Traffic Safety Administration ("NHTSA"), the agency administering EPCA, had interpreted the EPCA small manufacturer provision to allow an exemption from those standards without taking into account public policy considerations of the type prescribed in the proposed regulations under the gas guzzler tax. Although the small manufacturer provision provided in EPCA is similar to the provision provided in section 4064(d), it does not mean that those provisions must be given the same interpretation. EPCA and the Energy Tax Act of 1978 are different statutes that reflect different legislative concerns. In the case of the gas guzzler tax, the Ways and Means Committee Report (H.R. Rep. No. 95–496, Part III, 95th Cong., 1st Sess., 48–49 (1978)) made it clear that Congress was adopting the tax in addition to the existing EPCA system and that:

> The committee believes that it is important for the tax to be highly visible to indicate to consumers that there is a serious energy problem and that the Congress has taken action to deal with it. When the consumer sees the amount of the gas guzzler tax shown on the car invoice, he will realize he is paying a premium (which, in many cases, is substantial) to purchase an inefficient car. Thus, consumers would be provided with a financial and, perhaps, psychological incentive to purchase more fuel-efficient automobiles.
>
> The committee also feels that if individuals are to be permitted to purchase inefficient cars and detract from the conservation effort made by most others, they should as a matter of equity pay a considerable premium (in the form of a gas guzzler tax) for this privilege.

Although section 4064(d) grants the Secretary discretion to prescribe an

alternate rate schedule, that discretion is to be exercised only within the

Drafting Information

The principal author of this regulation

§ 1.1016–5 Miscellaneous adjustments to basis.

The tax is—	

addition of readily attachable components, such as mirrors or tire and

VOL 50 ISS 141 JL 23 1985 UMI

alternate rate schedule, that discretion is to be exercised only within the boundaries of the policy guidelines prescribed in the legislative history of the tax. Accordingly, the provisions in the proposed regulations regarding small manufacturers have not been changed in the final regulations.

Tax-Free Sales of Emergency Vehicles

Finally, section 4064(b)(1)(C) provides that emergency vehicles are not included in the definition of automobile and, accordingly, are not subject to the gas guzzler tax. The proposed regulations required registration under section 4222 in order for those vehicles to be sold tax free. One comment suggested adopting a procedure in lieu of registration that would allow a manufacturer under certain circumstances to make tax-free sales of vehicles for resale by the purchaser (dealer) to a second purchaser for emergency use. That suggestion was not adopted because there is no statutory authority for extending tax-free sales of emergency vehicles to resales. Furthermore, such a rule would create administrative and compliance problems. The comment also complained that there was no method prescribed for credit or refund of the gas guzzler tax when a vehicle is sold tax paid and resold for emergency use. The final regulations retain the registration procedure to ensure that only proper sales of emergency vehicles are made. A provision was added, however, to the final regulations to make it clear that a refund or credit of the gas guzzler tax may be obtained if a vehicle is sold tax paid and resold for emergency use under section 4064(b)(1)(C).

Special Analyses

The Commissioner of Internal Revenue has determined that a Regulatory Impact Analysis is not required because this final rule is not a major rule under Executive Order 12291. Because the notice of proposed rulemaking relating to this final rule was published prior to January 1, 1981, the provisions of the Regulatory Flexibility Act do not apply to this final rule.

Paperwork Reduction Act

The Collection of information requirements contained in this regulation has been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of this regulation is Robert H. Ginsburgh of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 1.1001–1—1.1102–3

Income taxes, Gain and loss, Basis, Nontaxable exchanges.

26 CFR Part 48

Agriculture, Arms and munitions, Coal, Excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires.

26 CFR Part 138

Buses, Excise taxes, Motor vehicles, Energy Tax Act of 1978.

26 CFR Part 602

OMB control numbers, Paperwork Reduction Act, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1, 48, 138, and 602 are amended as follows:

PART 138—[AMENDED]

Paragraph 1. The authority citation for Part 138 continues to read as follows:

Authority: 26 U.S.C. 7805 and section 231 (b) and (c) of the Energy Tax Act of 1978 (Pub. L. 95–618; 92 Stat. 3174).

§§ 138.4064–1 and 138.4222–1 [Removed]

Par. 2. Sections 138.4064–1 and 138.4222–1 are removed.

PART 602—[AMENDED]

Par. 3. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table, "§ 48.4064–1(d) (5) and (6) . . . 1545–0014."

PART 1—[AMENDED]

Par. 5. The authority citation for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805.* * *

Par. 6. Section 1.1016–5 is amended by adding a new paragraph (u) at the end thereof to read as follows:

§ 1.1016–5 Miscellaneous adjustments to basis.

* * * * *

(u) *Gas guzzler tax.* In the case of an automobile upon which the gas guzzler tax was imposed, the basis shall be reduced as provided in section 1016 (d).

PART 48—[AMENDED]

Par. 7. The authority citation for Part 48 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; * * * § 48.4064–1(b)(3) also issued under 26 U.S.C. 4064(b)(1)(C)(iii); § 48.4064–1(d)(3)(iii) also issued under 26 U.S.C. 4064(d)(1); § 48.4064–1(d)(5) also issued under 26 U.S.C. 4064(d)(2).

Par. 8. The following new § 48.4064–1 is added immediately after § 48.4063–3:

§ 48.4064–1 Gas guzzler tax.

(a) *General rule*—(1) *In general.* Section 4064 imposes on the sale by the manufacturer of an automobile a tax determined in accordance with the tables in section 4064(a) (1) through (7), and in paragraph (a)(2) of this section. The tax is applicable to model types of 1980 and later model year automobiles that have a fuel economy level below the applicable tax-free fuel economy level. Paragraph (b) of this section defines the following terms: sale, manufacturer, automobile, model year, model type, fuel economy, and fuel. Paragraph (c) of this section contains rules relating to the determination of fuel economy. Paragraph (d) of this section contains a special rule for certain small manufacturers. Paragraph (e) of this section contains rules relating to the tax-free sales of emergency vehicles.

(2) *Tables.* (i) In the case of a 1980 model year automobile:

If the fuel economy of the model type in which the automobile falls is:

Miles per gallon:	The tax is—
At least 15	0
At least 14 but less than 15	$200
At least 13 but less than 14	300
Less than 13	550

(ii) In the case of a 1981 model year automobile:

If the fuel economy of the model type in which the automobile falls is:

Miles per gallon:	The tax is—
At least 17	0
At least 16 but less than 17	$200
At least 15 but less than 16	350
At least 14 but less than 15	450
At least 13 but less than 14	550
Less than 13	650

(iii) In the case of a 1982 model year automobile:

If the fuel economy of the model type in which the automobile falls is:

Miles per gallon:	The tax is—
At least 18.5	0
At least 17.5 but less than 18.5	$200
At least 16.5 but less than 17.5	350
At least 15.5 but less than 16.5	450
At least 14.5 but less than 15.5	600
At least 13.5 but less than 14.5	750
At least 12.5 but less than 13.5	950
Less than 12.5	1,200

(iv) In the case of a 1983 model year automobile:

If the fuel economy of the model type in which the automobile falls is:

Miles per gallon:	The tax is—
At least 19	0
At least 18 but less than 19	$350
At least 17 but less than 18	500
At least 16 but less than 17	650
At least 15 but less than 16	800
At least 14 but less than 15	1,000
At least 13 but less than 14	1,250
Less than 13	1,550

(v) In the case of a 1984 model year automobile:

If the fuel economy of the model type in which the automobile falls is:

Miles per gallon:	The tax is—
At least 19.5	0
At least 18.5 but less than 19.5	$450
At least 17.5 but less than 18.5	600
At least 16.5 but less than 17.5	750
At least 15.5 but less than 16.5	950
At least 14.5 but less than 15.5	1,150
At least 13.5 but less than 14.5	1,450
At least 12.5 but less than 13.5	1,750
Less than 12.5	2,150

(vi) In the case of a 1985 model year automobile:

If the fuel economy of the model type in which the automobile falls is:

Miles per gallon:	The tax is—
At least 21	0
At least 20 but less than 21	$500
At least 19 but less than 20	800
At least 18 but less than 19	800
At least 17 but less than 18	1,000
At least 16 but less than 17	1,200
At least 15 but less than 16	1,500
At least 14 but less than 15	1,800
At least 13 but less than 14	2,200
Less than 13	2,650

(vii) In the case of a 1986 or later model year automobile falls is:

Miles per gallon:	The tax is—
At least 22.5	0
At least 21.5 but less than 22.5	$500
At least 20.5 but less than 21.5	650
At least 19.5 but less than 20.5	850
At least 18.5 but less than 19.5	1,050
At least 17.5 but less than 18.5	1,300
At least 16.5 but less than 17.5	1,500
At least 15.5 but less than 16.5	1,850
At least 14.5 but less than 15.5	2,250
At least 13.5 but less than 14.5	2,700
At least 12.5 but less than 13.5	3,200
Less than 12.5	3,850

(3) *Liability for tax.* The tax imposed by section 4064 is payable by the manufacturer making the sale. An automobile sold before the time a determination of fuel economy is made for the model type (as defined in paragraph (b)(6) of this section) is subject to tax if it is subsequently determined that the fuel economy level of that model type of automobile is within the taxable range (see paragraph (a)(1) of this section).

(b) *Definitions*—(1) *Sale.* Sale includes the use (within the meaning of section 4218) or the first lease (within the meaning of section 4217(e)) of an automobile by the manufacturer.

(2) *Manufacturer.* The term "manufacturer" has the same meaning assigned to such term under § 48.0–2(a)(4). The term "manufacturer" includes a producer or importer. An importer is a person who imports an automobile whether or not in connection with a trade or business.

(3) *Automobile.* The term "automobile" means any four-wheeled vehicle—

(i) Propelled by an engine powered by fuel;

(ii) Manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails);

(iii) Rated at 6,000 pounds gross vehicle weight or less; and

(iv) Requiring no further manufacturing operations to perform its intended function, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations, such as painting. For this purpose, gross vehicle weight means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle. An automobile does not include a nonpassenger automobile as defined in regulations in effect on November 9, 1976 (49 CFR 523.5 (1978)), which were prescribed by the Secretary of Transportation for section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001). In addition, an automobile does not include the following: any vehicle sold for use and used primarily as an ambulance or combination ambulance-hearse; any vehicle sold for use and used by the United States or by a State or local government primarily for police or other law enforcement purposes; or any vehicle sold for use and used primarily for firefighting purposes.

(4) *Model year.* The term "model year" means the manufacturer's annual production period (as determined by the Administrator of the Environmental Protection Agency) which includes January 1 of any particular calendar year. If the manufacturer has no annual production year, the model year is the calendar year.

(5) *Model type.* The term "model type" means a particular class of automobile, as determined by regulations in effect on November 9, 1978 (40 CFR 600.002–79(a)(19) (1978)), which were prescribed by the Administrator of the Environmental Protection Agency.

(6) *Fuel economy.* The term "fuel economy" means the average number of miles traveled by an automobile per gallon of fuel consumed, rounded to the nearest .1 mile per gallon. The fuel economy for any model type is determined by the Environmental Protection Agency (as determined in accordance with the procedures provided in paragraph (c) of this section). For this purpose, the fuel economy is a combined (urban-highway weighted average) mileage figure estimated in connection with the determination (or redetermination) of general label value (fuel economy information displayed on a sticker that is affixed to new automobiles) mandated under section 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006) and regulations thereunder (40 CFR Part 600).

(7) *Fuel.* The term "fuel" means gasoline and diesel fuel.

(c) *Determination of fuel economy.* For purposes of this section, the fuel

economy for any model type is determined (or redetermined) in accordance with the testing and consideration set forth in paragraph (d)(3)(ii) of this section. If a small United States' need to conserve energy. The Commissioner (or his delegate),

(4) *Duration of determination.* A determination under this paragraph does

(7) *Processing of applications.* If a manufacturer's application is found not

before the flush material appearing immediately after paragraph (a)(5), to

VOL 50 ISS 141 JL 23 1985 UMI

economy for any model type is determined (or redetermined) in accordance with the testing and calculation procedures utilized by the Environmental Protection Agency Administrator for model year 1975 (weighted 55 percent urban cycle and 45 percent highway cycle), or any other procedures (yielding comparable results) established by the Administrator. The Environmental Protection Agency's determination (or redetermination) of a model type's fuel economy is made at the time the general label fuel economy value is calculated (or recalculated). This determination (or redetermination) is conclusive for purposes of this section. A redetermination of a model type's fuel economy value shall be effective only with respect to those automobiles for which the manufacturer is required (or is permitted and chooses) under Environmental Protection Agency regulations to affix labels with the recalculated general label fuel economy value.

(d) *Special rule for small manufacturers—(1) In general.* A small manufacturer (as defined in subparagraph (2)(i) of this paragraph) may apply for a determination that it is not feasible for that manufacturer to meet the statutory tax-free fuel economy level for the model year, with respect to all automobiles produced by that manufacturer, or with respect to a particular model type. For this purpose, the Commissioner (or his delegate) will make a determination of maximum feasible fuel economy level with respect to the automobiles that are the subject of the determination, but only after consultation with the Secretary of Energy, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency (or their delegates) to obtain their views. A finding that it is not feasible for the manufacturer to meet the statutory tax-free fuel economy level will be made by the Internal Revenue Service if the maximum feasible fuel economy level (as defined in subparagraph (3)(i) of this paragraph) of the automobiles that are the subject of the determination is lower than the statutory tax-free fuel economy level for those automobiles. If it is determined that it is not feasible for a small manufacturer to meet the statutory tax-free fuel economy level, the Secretary (or his delegate) has the discretion to grant to the manufacturer the alternate rate schedule prescribed in paragraph (d)(3)(iii) of this section in lieu of the applicable statutory tax table prescribed in section 4064(a). The decision whether to grant the alternate rate schedule shall be based on the consideration set forth in paragraph (d)(3)(ii) of this section. If a small manufacturer for which an alternate rate schedule under this paragraph (d) is applicable sells an automobile to an importer, the alternate rate schedule applies to the sale by the importer of such automobile if such automobile is of the model year and type to which such alternate schedule applies.

(2) *Definitions—*(i) *manufacturer.* A small manufacturer is any manufacturer who produced (whether or not in the United States) fewer than 10,000 automobiles in the second model year preceding the affected model year (the model year for which the determination under this paragraph is being made), and who can reasonably be expected to produce (whether or not in the United States) fewer than 10,000 automobiles in the affected model year.

(ii) *Manufacturer.* For purposes of this paragraph, the term "manufacturer" does not include a person who is only an importer, but does include a producer of automobiles outside the United States who is also an importer.

(iii) *Members of a controlled group.* For purposes of this paragraph, persons who are members of a controlled group of corporations (as defined in section 1563(a) of the Internal Revenue Code, except that "more than 50 percent" is substituted for "at least 80 percent" each place it appears in section 1563(a)) are treated as one manufacturer.

(3) *Basis for determination—*(i) *Maximum feasible fuel economy level.* For purposes of this paragraph, the maximum feasible fuel economy level is determined by taking into account the same factors used in determining the maximum feasible fuel economy level under section 502(e) of the Motor Vehicle Information and Cost Savings Act (as amended) and the regulations thereunder in effect on November 9, 1978. (Those regulations for small manufacturers are prescribed in 49 CFR Part 525 (1978).) In making this determination, the Commissioner (or his delegate) will consult with the National Highway Traffic Safety Administration of the Department of Transportation.

(ii) *Decision to grant alternate rate schedule.* In deciding whether to grant an alternate rate schedule, the Secretary (or his delegate) will consider whether the use (in the United States) of the automobile serves an important public policy (*e.g.*, providing public transportation or transportation for the handicapped) that overrides the United States' need to conserve energy. The manufacturer has the burden of demonstrating that the public policy consideration involved overrides the United States' need to conserve energy. The Commissioner (or his delegate), after consultation with the Secretary of Energy, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency (or their delegates), will review the information submitted by the manufacturer and report findings and recommendations to the Secretary (or his delegate).

(iii) *Alternate rate schedule and tax.* If an alternate rate schedule is granted, the maximum feasible fuel economy level shall be deemed to be the statutory tax-free fuel economy level. Accordingly, a tax is imposed only on automobiles sold that fail to meet the deemed tax-free fuel economy level. The alternate rate schedule shall be determined by substituting the maximum feasible fuel economy level for the tax-free fuel economy level in the applicable statutory tax table set forth in section 4064(a), and by substituting for the miles per gallon amount prescribed in that applicable table an amount that is the tax-free level decreased by one mile per gallon increments, while keeping the same corresponding tax amount prescribed in the applicable table. The rule for determining an alternate rate schedule may be illustrated by the following example:

Example. Manufacturer X, a small manufacturer of automobiles specifically designed to accommodate disabled passengers, applied for a determination that it is not feasible for X to meet the statutory tax-free fuel economy level for a particular model type of X's 1982 model year automobiles. It was determined that the maximum feasible fuel economy level for that model type was 15 miles per gallon. The Secretary decided to grant X an alternate rate schedule. The alternate rate schedule for the model type would be as follows:

If the fuel economy of the automobile is:

	The tax is—
Miles per gallon:	
At least 15	0
At least 14 but less than 15	$200
At least 13 but less than 14	350
At least 12 but less than 13	450
At least 11 but less than 12	600
At least 10 but less than 11	750
At least 9 but less than 10	950
Less than 9	1,200

Thus, if X's 1982 automobiles of that model year and type attain only 12 miles per gallon (because X fails to modify them to reach the maximum feasible fuel economy level before they are sold), the tax imposed upon the sale of each automobile is $450 (instead of the $1,200 tax (see the applicable statutory tax table set forth in section 4064(a)(3)), which would have been imposed had no alternate rate schedule been prescribed).

(4) *Duration of determination.* A determination under this paragraph does not apply to more than three model years.

(5) *Requirements for application.* Each application for a determination under this section must—

(i) Identify the model year or years, and particular model type or types for which a determination is requested;

(ii) (A) In the case of an application for model year 1980, be submitted not later than May 8, 1980;

(B) In case of an application for model year 1981, be submitted not later than 9 months before the beginning of that model year or March 10, 1980, whichever is later;

(C) In the case of an application for model year 1982 or any subsequent model year, be submitted not later than 9 months before the model year;

(iii) Be submitted in three copies to: Commissioner of Internal Revenue, Attention: Associate Chief Counsel (Technical), 1111 Constitution Avenue, NW., Washington, D.C. 20224;

(iv) Be written in the English language;

(v) Set forth the full name, address, and title of the official responsible for preparing the application;

(vi) State whether the applicant is a member of a controlled group of corporations (as defined in paragraph (d) (2) (iii) of this section);

(vii) State the total number of automobiles manufactured (whether or not in the United States) by the applicant (or the controlled group of corporations in the case where the applicant is a member of the group) in the second model year immediately preceding each affected model year and the total number of automobiles likely to be manufactured in the affected model year;

(viii) Set forth the same information required by an application pursuant to section 502 (c) of the Motor Vehicle Information and Cost Savings Act (as amended) and the regulations thereunder (see 49 CFR Part 525 (1978)) and state whether or not the applicant under this paragraph has also made an application pursuant to such Act; and

(ix) Set forth the reasons why an alternate rate schedule should be granted under paragraph (d) (3) (ii) of this section.

(6) *Update of application.* A manufacturer making an application under this section must update the application when a material change of circumstances occurs or material information not available at the time of applying becomes available. The manufacturer must also furnish any further information that may be required by the Internal Revenue Service.

(7) *Processing of applications.* If a manufacturer's application is found not to contain the information required by this paragraph, the applicant will be informed of the areas of insufficiency. The application will not receive further consideration until the required information is submitted. Each applicant will be informed in writing whether an application has been granted or denied.

(e) *Tax-free sales of emergency vehicles—*(1) *In general.* The tax imposed by section 4064 (a) shall not apply to vehicles sold by a manufacturer for use and used (i) primarily as an ambulance or combination ambulance-hearse, (ii) by the United States or by a State or local government primarily for police or other law enforcement purposes, or (iii) primarily for fire-fighting purposes. A vehicle may be sold tax-free by the manufacturer under this paragraph only in those cases where the sale is made directly to a purchaser for an emergency use prescribed in this subparagraph. In order to effect tax-free sale, the requirements of section 4222 and the regulations thereunder must be met.

(2) *Credit or refund.* Where tax is paid on the sale of a vehicle, but the vehicle is used or resold for an emergency use prescribed in subparagraph (1) of this paragraph, a claim for refund of the tax paid on such sale may be filed by the manufacturer on Form 843, or a credit may be taken on a subsequent return, in accordance with the provisions of sections 6402 (a) and 6416 (a) and § 48.6416 (a)–1.

Par. 9. Section 48.4217–1 is amended by adding a new sentence at the end thereof to read as follows:

§ 48.4127–1 Lease considered as sale.

* * * However, in the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the term includes only the first lease (excluding any renewal or extension of the lease) of such automobile by the manufacturer.

Par. 10. Section 48.4217–2 is amended by adding a new paragraph (i) at the end thereof to read as follows:

§ 48.4217–2 Limitation on amount of tax applicable to certain leases.

* * * * *

(i) *Cross-reference.* In the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the foregoing provisions of this section shall not apply. See section 4217 (e) for the rules relating to the payment of the gas guzzler tax.

Par. 11. Section 48.4221–1 is amended by adding a new sentence immediately before the flush material appearing immediately after paragraph (a)(5), to read as follows:

§ 48.4221–1 Tax-free sales; general rule.

(a) *In general.* * * *

(5) * * * Subparagraphs (4) and (5) of this paragraph do not apply to the tax imposed by section 4064. * * *

* * * * * *

Par. 12. Paragraph (a) of § 48.4221–5 is amended by revising the first sentence to read as follows:

§ 48.4221–5 Tax-free sale of articles to State and local governments for their exclusive use.

(a) *In general.* An article (excluding an automobile subject to tax under section 4064) subject to tax under Chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(4) and this section, to a State or local government for the exclusive use of such State or local government. * * *

* * * * * *

Par. 13. Paragraph (a) of § 48.4221–6 is amended by revising the first sentence to read as follows:

§ 48.4221–6 Tax-free sales of articles to nonprofit educational organizations.

(a) *In general.* An article (excluding an automobile subject to tax under section 4064) subject to tax under Chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(5) and this section, to a nonprofit educational organization for its exclusive use. * * *

* * * * * *

Par. 14. Paragraph (d) of § 48.4222(d)–1 is revised to read as follows:

§ 48.4222(d)–1 Registration in the case of certain other exemptions.

* * * * * *

(d) Tax-free sales on or after March 10, 1980, under section 4064(b)(1)(C) (relating to emergency vehicles). Both the vendor and vendee (other than a State or local government) must be registered.

* * * * * *

Par. 15. Paragraph (b) of § 48.6416(b)–2 is amended by adding a new sentence immediately after the first sentence to read as follows:

§ 48.6416(b)–2 Tax payments deemed to be overpayments by reason of certain uses, sales, or resales.

* * * * * *

(b) *Uses, sales, and resales giving rise to right of refund or credit.* * * * However, subparagraphs (3) and (4) of this paragraph do not apply in the case

of any tax paid under section 4064.

* * *

D.C. 20224 (Attention: CC:LR:T) (202–566–3297, not a toll-free call).

respect to the treatment of 50-percent stockholders as nonemployees

Commissioner of Internal Revenue has determined that this temporary rule is

(h) *Lowering the percentage to be used.* See paragraph (h) of § 31.6053–3T.

(2) *Time and manner for petition to have percentage reduced—*(i) *In general.*

of any tax paid under section 4064.

* * * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: June 24, 1985.

Ronald A. Pearlman,
Assistant Secretary of the Treasury.

[FR Doc. 85-17267 Filed 7-22-85; 8:45 am]
BILLING CODE 4830-01-M

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26 CFR Parts 31 and 602

[T.D. 8039]

Employment Taxes and Collection of Income Tax at Source; OMB Control Numbers Under the Paperwork Reduction Act; Employee Tip Reporting and Substantiation Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to employee tip reporting and substantiation requirements. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules Section of this issue of the Federal Register. The temporary regulations reflect amendments to the Internal Revenue Code of 1954 with respect to tipped employees made by section 1072 of the Tax Reform Act of 1984 and provide guidance to employers and employees with respect to the new provisions.

DATES: The regulations contained in this document in § 31.6053-3(h) and § 31.6053-3T(h) with respect to a lower allocation-of-tips percentage are to be effective on and after July 18, 1984. The provisions of § 31.6053-3(j)(g)(9) and §31.6053-3T(j)(9) relating to the definition of a large food or beverage establishment apply to taxable years beginning after December 31, 1982, and are effective after December 31, 1982. The substantiation requirements contained in § 31.6053-(b)(5), § 31.6053-3T(b)(5), and § 31.6053-4T generally apply to tips received on or after October 1, 1985, and are effective after September 30, 1985. The amendment to Part 602 is effective July 23, 1985.

FOR FURTHER INFORMATION CONTACT: Gail H. Morse of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Under current law, all employees who receive cash tips of $20 or more in a calendar month are required to report such tips to their employers for purposes of income, social security, and railroad retirement tax withholding requirements. To increase compliance with this requirement, the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) provided rules which, under certain circumstances, require large food and beverage establishments to file an information report setting forth an allocation of tip amounts. Generally, whenever the employees of a large food or beverage establishment fail to report to their employer tips aggregating 8 percent or more of the gross receipts of an establishment, the employer must allocate to the employees (as tips for purposes of section 6053(c)) an amount equal to the difference between 8 percent of the establishment's gross receipts and the aggregate amount of tips reported by the employees. The Secretary of the Treasury is authorized to reduce the allocation figure based on a showing by an employer that the tip rate for its particular establishment was lower than 8 percent. Under the provisions enacted in TEFRA, the rate could not be lower than 5 percent. The TEFRA rules were amended by section 1072 of the Tax Reform Act of 1984 (the Act) (98 Stat. 1052, 26 U.S.C. 6053 note) to allow a majority of employees to petition for a reduced allocation rate and to permit a minimum allocation rate of 2 percent. In addition, the Act provides that for purposes of determining whether an establishment normally employed more than 10 employees and thus was a large food or beverage establishment, an individual who owns 50 percent of more in value of the stock of a corporation operating a food or beverage establishment is not considered an employee of such establishment. The Act also directed the Secretary to promulgate regulations with respect to recordkeeping requirements applicable to tipped employees.

The temporary regulations contained herein would provide guidance to employers and employees with respect to the provisions of section 1072 of the Act.

Explanation of Provisions

The temporary regulations reflect amendments to section 6053 with respect to the reduction of the minimum allocation rate from 5 percent to 2 percent (§ 31.6053-3T(h)(1)) and with respect to the treatment of 50-percent stockholders as nonemployees (§ 31.6053-3T(j)(9)).

In addition, the temporary regulations provide rules with respect to employee-originated petitions for a reduction in the tip allocation rate. Section 31.6053-3T(h)(2) provides that employee-originated petitions must be consented to by a majority of employees, which, for this purpose, means more than one-half of the directly tipped employees employed by the establishment at the time the petition is filed. Further requirements of employee-originated petitions are set forth in § 31.6053-3T(h)(2)(iii), including a requirement that employers provide (in confidence) certain information to the district director.

In addition to the general recordkeeping requirements applicable to all taxpayers, these temporary regulations, in response to the congressional mandate to promulgate regulations with respect to recordkeeping requirements applicable to tipped employees, provide rules specifically applicable to tipped employees. Under the temporary regulations, an employee is required to maintain sufficient evidence to establish the amount of tip income received by the employee during a taxable year. The temporary regulations provide that sufficient evidence consists of either (i) a daily record, or (ii) other evidence of the tip income received which is as credible and as reliable as a daily record (§ 31.6053-4T). The daily record or other evidence may not be sufficient evidence if there are facts and circumstances which indicate that the employee received a larger amount of tip income (§ 31.6053-4T).

The effective date for these substantiation regulations is October 1, 1985. However, under the general recordkeeping provisions of section 6001 and the regulations thereunder tipped employees are required, for periods prior to that date, to have books and records adequate to substantiate the amount of tip income received. Substantiation considered sufficient as provided in these temporary regulations will also be considered sufficient for such prior periods.

Regulatory Flexibility Act; Executive Order 12291; Paperwork Reduction Act of 1980

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. The reporting requirements added by this document have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. The reporting requirements have been approved by OMB.

Drafting Information

The principal author of these temporary regulations is Gail H. Morse of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects

26 CFR Part 31

Employment taxes, Income taxes, Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding.

26 CFR Part 602

OMB control numbers, Paperwork Reduction Act, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 31 and Part 602 are amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority for Part 31 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Sections 31.6053-3T and 31.8053-4T are also issued under section 1072 of Pub. L. 98-369, 98 Stat. 1052; and 26 U.S.C. 6001.

Par. 2. Section 31.6053-3 is amended by revising paragraphs (b)(5), (h), and (j)(9) to read as set forth below:

§ 31.6053-3 Reporting by certain large food or beverage establishments with respect to tips.

* * * * * *

(b) *Employer statement to employees.* * * *

(5) See paragraph (b)(5) of § 31.6053-3T.

* * * * * *

(h) *Lowering the percentage to be used.* See paragraph (h) of § 31.6053-3T.

* * * * * *

(j) *Definitions.* * * *

(9) *More than 10 employees on a typical business day.* See paragraph (j)(9) of § 31.6053-3T.

* * * * * *

Par. 3. A new § 31.6053-3T is added immediately following § 31.6053-3 to read as follows:

§ 31.6053-3T Reporting by certain large food or beverage establishments with respect to tips. (Temporary)

(a) [Reserved]

(b) *Employer statement to employees*—(1)-(4) [Reserved]

(5) *Employee reporting of tip income.* Regardless of whether an employee receives an allocation under section 6053(c) and § 31.6053-3, the employee is required to report as income on his or her Federal income tax return all tips received. For tips received before October 1, 1985, an employee must be able to substantiate the amount of reported tip income as provided in section 6001 and the regulations thereunder. For tips received on or after October 1, 1985, an employee must be able to substantiate the amount of reported tip income as provided in § 31.6053-4T. The Internal Revenue Service may determine that a tipped employee received a larger amount of tip income than is reflected by the employee's allocation.

(c)-(g) [Reserved]

(h) *Lowering the percentage to be used*—(1) *In general.* On and after July 18, 1984, an employer or a majority of the employees (as defined in paragraph (h)(2)(iii) of this section) of an employer may petition the district director for the internal revenue district in which the employer's establishment is located to have the percentage of gross receipts that is used to determine the amount to be allocated under section 6053(c)(3)(A) and paragraph (d) of § 31.6053-3 reduced from 8 percent to the percentage that the petitioning employer or employees believe to be the actual percentage of the amount of the establishment's gross receipts that reflects the amount of tips. The district director may thereafter reduce the percentage of gross receipts used to determine the amount to be so allocated to the percentage that the district director determines to be the proper estimate of the actual percentage of gross receipts constituting tips. The district director, however, may not reduce the percentage below 2 percent. For the rules in effect prior to July 18, 1984, see 26 CFR 31.6053-3(h) (Rev. as of April 1, 1984).

(2) *Time and manner for petition to have percentage reduced*—(i) *In general.* The petition shall be in writing and shall include sufficient information to allow the district director to estimate with reasonable accuracy the actual tip rate of the establishment. For example, such information might include the charged tip rate, the type of establishment, menu prices, the location of the establishment, the amount of "self-service" required, the days and hours open for business, and whether the customer receives the check from or pays the server for the meal.

(ii) *Employer petitions.* In the case of employer-originated petitions, the employer has the burden of supplying sufficient information to allow the district director to estimate with reasonable accuracy the actual tip rate of the establishment. The employer also shall attach to the petition copies of Form 8027 (if any) filed for the establishment for the 3 immediately preceding calendar years.

(iii) *Employee petitions.* (A) In the case of employee-originated petitions, a majority of the employees of an establishment must consent to the petition. A majority for purposes of this paragraph is more than one-half of all the directly tipped employees (within the meaning of paragraph (j)(12) of § 31.6053-3) employed by the establishment at the time the petition is filed. In the case of a single petition for certain multi-establishment employers (see paragraph (h)(4) of this section), more than one half of the aggregate directly tipped employees (at the time the petition is filed) of the establishments covered by the petition must consent. The petition filed with the district director must state the total number of directly tipped employees employed by the establishment (or establishments) and the number of the directly tipped employees consenting to the petition.

(B) The petitioning employees have the burden of supplying sufficient information to allow the district director to estimate with reasonable accuracy the actual tip rate of the establishment to the extent they possess such information. If the employer possesses relevant information, the employer must provide such information to the district director upon the request of the petitioning employees or district director. Employees who file a petition under this paragraph must promptly notify their employer of the petition. Promptly upon receipt of such notification, their employer must submit to the district director copies of the Form 8027 (if any) filed for the

establishment for the 3 immediately preceding calendar years. Any

(9) *More than 10 employees on a typical business day.* An employer shall

Par. 4. A new § 31.6053-4T is added immediately after § 31.6053-3T to read

amounts that were added to a check by customers as a tip and paid over to the

Bureau of Alcohol, Tobacco and Firearms

may petition ATF to establish a grape-

VOL 50 ISS 141 JL 23 1985 UMI

establishment for the 3 immediately preceding calendar years. Any information supplied by the employer during the petitioning process shall not be disclosed by the Internal Revenue Service to any employees of the employer nor to representatives of such employees.

(3) *Effective date for reduced percentage.* The district director shall determine the term for which the reduced percentage is to be effective. At the end of such term, the reduced percentage shall cease to apply unless previously extended by the district director for the district in which the large food or beverage establishment is located. In no event shall the reduced percentage be applied to payroll periods before the date the petition described in paragraph (h)(2) of this section is filed unless the establishment is a new business (as described in paragraph (i) of § 31.6053–3). In the case of a new business or a petition for reduction filed prior to September 30, 1983, the district director may allow the approved reduced percentage to be applied retroactively to the first day of the calendar year of the petition. Until such time as the employer is notified in writing by the district director of approval of a reduction, the employer must continue to use 8 percent of gross receipts for purposes of complying with section 6053(c) and this section.

(4) *Single petition for certain multi-establishment employers.* An employer (including a single employer as defined in section 52 (a) or (b)) or a majority of the employees of such employer may use a single petition for two or more of the employer's establishments if such establishments are essentially the same type of business, the petitioning employer or employees have made a good faith determination that the tip rates at such establishments are essentially the same, and the establishments are located in the same internal revenue region. Single petitions shall include the names and locations of the establishments for which a reduction is requested and the information required by paragraph (h)(2) of this section for a typical establishment. A single petition for multi-establishments located within an internal revenue region shall be filed with the district director for the internal revenue district in which the greatest number of the establishments included in the petition are located. If there is an equal number of establishments located in two or more internal revenue districts the employer or employees petitioning may choose the district to which the petition is sent.

(i) [Reserved]

(j) *Definitions*—(1)–(8) [Reserved]

(9) *More than 10 employees on a typical business day.* An employer shall be considered to have normally employed more than 10 employees on a typical business day during a calendar year if one-half of the sum of the average number of employee hours worked per business day during the calendar month in which the aggregate gross receipts from food or beverage operations were the greatest plus the average number of employee hours worked per business day during the calendar month in which the aggregate gross receipts from food or beverage operations were the least, is greater than 80 hours. The average number of employee hours worked per business day during a month shall be computed by dividing the total number of hours worked during the month by all employees of the employer who are employed in a food or beverage operation by the average of the number of days during the month that each food or beverage operation at which such employees worked was open for business. If an employer operates both a food or beverage operation and a nonfood or beverage operation, and one or more of his or her employees work for both operations, the employer may make a good faith estimate of the number of hours such employees worked for each operation in a given month. Similarly, in cases where one or more of an employer's employees work for more than one of such employer's food or beverage operations, a good faith estimate may be made of the number of hours such employees worked for each operation in a given month. For purposes of this subparagraph, employees who are employed in a food or beverage operation include all employees of the operation, not just food or beverage employees. The employees of an employer shall include all employees at all food or beverage operations who, along with the employees of such employer, would be treated as employees of a single employer under section 52 (a) or (b) (as in effect on September 3, 1982) and the regulations thereunder. For example, if an employer at a food or beverage operation is a member of a controlled group of corporations, then all employees of all corporations which are members of such controlled group of corporations shall be treated as employed by each such employer for purposes of this paragraph. However, an individual who owns 50 percent or more in value of the stock of a corporation operating an establishment shall not be treated as an employee of any establishment owned by the corporation.

Par. 4. A new § 31.6053–4T is added immediately after § 31.6053–3T to read as follows:

§ 31.6053–4T Substantiation requirements for tipped employees. (Temporary)

(a) *Substantiation of tip income*—(1) *In general.* An employee shall maintain sufficient evidence to establish the amount of tip income received by the employee during a taxable year. A daily record maintained by the employee (as described in paragraph (a)(2) of this section) shall constitute sufficient evidence. If the employee does not maintain a daily record, other evidence of the amount of tip income received during the year, such as documentary evidence (as described in paragraph (a)(3) of this section), shall constitute sufficient evidence, but only if such other evidence is as credible and as reliable as a daily record. However, notwithstanding any other provision of this paragraph (a)(1), a daily record or other evidence that is as credible and as reliable as a daily record may not be sufficient evidence if there are facts or circumstances which indicate that the employee received a larger amount of tip income. Moreover, oral statements of the employee, without corroboration, cannot constitute sufficient evidence.

(2) *Daily record.* The daily record shall state the employee's name and address, the employer's name, and the establishment's name. The daily record shall show for each work day the amount of cash tips and charge tips received directly from customers or from other employees, and the amount of tips, if any, paid out to other employees through tip sharing, tip pooling or other arrangements and the names of such employees. The record shall also show the date that each entry is made. Form 4070A, *Employee's Daily Record of Tips,* may be used to maintain such daily record. The daily record of tips received by an employee shall be prepared and maintained in such manner that each entry is made on or near the date the tip income is received. A daily record made on or near the date the tip income is received has a high degree of credibility not present with respect to a record prepared subsequent thereto when generally there is a lack of accurate recall. An entry is made "near the date the tip income is received" if the required information with respect to tips received and paid out by the employee for the day is recorded at a time when the employee has full present knowledge of those receipts and payments.

(3) *Documentary evidence.* Documentary evidence consists of copies of any documents that contain (i) amounts that were added to a check by customers as a tip and paid over to the employee or (ii) amounts that were paid by a customer for food or beverages with respect to which tips generally would be received by the employee. Examples of documentary evidence are copies of restaurant bills, credit card charges, or charges under any other arrangement (see § 31.6053–3(j)(4)) containing amounts added by the customer as a tip.

(b) *Retention of records.* Records maintained under this section shall be kept at all times available for inspection by authorized internal revenue officers of employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

(c) *Effective date.* The substantiation requirements of this §31.6053–4T shall be effective for tips received on or after October 1, 1985. For the rules in effect prior to October 1, 1985, see section 6001 and the regulations thereunder. Substantiation considered sufficient as provided in this § 31.6053–4T will also be considered sufficient for tips received before October 1, 1985.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by inserting in the appropriate places in the table "§ 31.6053–3T and § 31.6053–4T . . . 1545–0065."

* * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: July 12, 1985.

J. Roger Mentz,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85–17456 Filed 7–18–85; 4:06 pm]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–210; Notice No. 559]

Establishment of Cumberland Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is establishing in portions of the States of Maryland and Pennsylvania an American viticultural area known as "Cumberland Valley." This final rule is the result of a petition filed jointly by Charles M. Webster, a grower of wine grapes in Sharpsburg, Maryland, and Robert W. Ziem, the proprietor of a Vineyard and bonded winery in Downsville, Maryland.

The establishment of the Cumberland Valley viticultural area and the use of the name as an appellation of origin in the labeling and advertising of wine allows the proprietor of a winery to designate the area as the locale in which grapes used in the production of a wine are grown and enables the consumer to identify and to differentiate between that wine and other wines offered at retail.

EFFECTIVE DATE: This final rule is effective August 26, 1985.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Coordinator, FAA, Wine and Beer Branch, Room 6237, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in Title 27, Code of Federal Regulations, Part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added to Title 27 a new Part 9 providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1) defines an American viticultural area as a delimited grape growing region distinguishable by geographical features. Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition shall include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish features of the proposed area from surrounding areas;

(d) A description of the specific boundary of the proposed viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and,

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundary prominently marked.

Petition

In December 1982, ATF received the petition submitted by Mr. Webster and Mr. Ziem for the establishment of a viticultural area in Washington County, Maryland, to be known as "Cumberland Valley, Maryland." ATF's initial examination of the U.S.G.S. maps and the Washington County, Maryland, soil survey submitted with the petition indicated that the area for which the petition was submitted is more commonly known as the Hagerstown Valley, a portion of the larger Cumberland Valley which extends north above the Mason-Dixon Line, the geopolitical boundary between the States of Maryland and Pennsylvania. In light of this determination, the petitioners agreed to amend the petition to include the portions of the Cumberland Valley which are located in Franklin and Cumberland counties in Pennsylvania and to petition for the name "Cumberland Valley." In Notice No. 559 published in the **Federal Register** of February 28, 1985, ATF proposed the establishment of the Cumberland Valley viticultural area.

Comments

ATF received three comments during the comment period which closed April 29, 1985. All three commenters support the proposal to establish the viticultural area. One commenter, a proprietor of a bonded winery located in the vicinity of Shippensburg, Pennsylvania, states that the historical reference to Cumberland Valley is evidenced by the number of schools and businesses which include "Cumberland Valley" in their names.

Another comment, submitted by the Office of the Secretary of Agriculture of the State of Pennsylvania states the

the earliest settlers who came from Cumberland County, England. In 1751

1,600 feet above the valley floor and include South Mountain (2,145 feet) to

moisture holding capacity whereas the mountains which border to the west

the Berks soil along creek beds is not

Cumberland County, Pennsylvania

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Another comment, submitted by the Office of the Secretary of Agriculture of the State of Pennsylvania states the Cumberland Valley has been a locally and nationally recognized designation for this area since Colonial times and that use of this name continues to this day, both in common reference, and in the names of a host of agricultural, industrial, commercial and social organizations ranging from the Cumberland Valley Cooperative to the Cumberland Valley School District. This commenter describes the area of the Cumberland Valley as "located generally between South Mountain on the southeast and Blue Mountain and adjacent ridges of the Appalachian Mountains on the northwest, and by the Susquehanna and Potomac rivers on the northeast and southwest, respectively."

ATF received no comments expressing opposition to the proposal.

The Cumberland Valley

The Cumberland Valley is an 80-mile long valley which bends in a northeasterly direction from the Potomac River in Washington County, Maryland, to the Susquehanna River in Cumberland County, Pennsylvania. The valley is bordered on the southeast by South Mountain, which is the northernmost extension of the Blue Ridge Mountains, and on the northwest by the Allegheny Mountain complex. The principal streams that drain the valley are Conococheague Creek and Antietam Creek, tributaries of the Potomac River, and Conodoguinet Creek and Yellow Breeches Creek, tributaries of the Susquehanna River. The land drained by these streams shares similar geological history, topographical features, soils, and climatic conditions.

The boundary of the proposed viticultural area encompasses approximately 1,200 square miles or 765,000 acres. The petitioners state that within the Cumberland Valley there are approximately 60 acres devoted to the cultivation of wine grapes and there are three bonded wineries. Due to the effects of soil, drainage, rainfall, frost and winter kill, the areas of this valley which are devoted to viticulture consist primarily of high terraces along the north bank of the Potomac River, hills and ridges in the basin of the valley, and upland areas along the slopes of South Mountain.

Name

The name "Cumberland Valley" is well established by the petition. The area is known locally and nationally by the name "Cumberland Valley" and use of this name is well documented. The name was given to the valley in 1736 by the earliest settlers who came from Cumberland County, England. In 1751 the name was formally adopted when the northeast part of the valley was named Cumberland County and the City of Carlisle (PA) was named for its counterpart in Cumberland County, England. Today, numerous references to the name of the valley are made in industrial, business and organizational names.

Geography

The Cumberland Valley viticultural area consists of a large elongated intermountain valley and the immediately surrounding upland areas. Mountains of the Allegheny Mountain complex form the western and northern portions of the boundary of the viticultural area and South Mountain, the northernmost extension of the Blue Ridge Mountain complex, forms the southern and eastern portions of the boundary. The southwestern and northeastern portions of the boundary are, respectively, the northeast bank of the Potomac River in Maryland and the southwest bank of the Susquehanna River in Pennsylvania. The valley is approximately 80 miles long from river to river. Its width is approximately 20 miles along the Potomac River (MD), approximately 24 miles at the Mercersburg-Waynesboro (PA) corridor, approximately 12 miles near Shippensburg (PA), and narrows to approximately 8 miles at Harrisburg (PA) along the Susquehanna River.

Distinguishing Characteristics

The viticultural area is distinguished geographically from surrounding areas by its topography, geology and soils, and to a lesser extent by climatological characteristics.

Topography

The topography of the basin of the Cumberland Valley is nearly level. The basin of the valley is a gently rolling plain which at its western edge along the Potomac River is approximately 300 feet above sea level and which over a distance of approximately 80 miles gradually ascends to an average elevation of 600 feet above sea level and then descends to an altitude of 300 feet above sea level along the Susquehanna River. The valley floor has some areas of higher elevation, i.e., lowlying hills and ridges.

The portions of the boundary to the northwest, north and southeast are higher due to the slopes of the mountains. The ridges and peaks of these mountains range from 1,000 feet to 2,100 feet above sea level. The areas of higher elevation range from 700 feet to 1,600 feet above the valley floor and include South Mountain (2,145 feet) to the south and east of the valley floor, the Bear Pond Mountains (2,062 feet), Cove Mountain (1,582 feet), and Kittatinny Mountain (2,056 feet) to the west and Blue Mountain to the north (2,000 feet). Most of the land above 1,000 feet in elevation along the southeastern portion of the boundary and above 700 feet in elevation along the northern and western portions of the boundary is stoney and unsuitable for agriculture, and consequently, remains forested.

Geology

The Cumberland Valley is an example of a mountain landscape that has been formed by erosion during a long interval of geologic time and that has reached a condition of dynamic equilibrium in which the adjustment between the landforms and the rocks beneath is nearly complete.

The Cumberland Valley is a segment of the Great (Limestone) Valley, a long and fertile lowland trough, underlain by Cambrian and Ordovician limestone and shale, that extends along the axis of the Appalachian Highlands from the State of Alabama north into Canada. It is geologically well defined by South Mountain to the south and east and by the Allegheny Mountains to the west and north. The segment of the Great Valley lying to the northeast of the Cumberland Valley is known as the Lebanon Valley and the segment lying to the southwest is known as the Shenandoah Valley.

Soil Characteristics

The topography and soils of the Cumberland Valley result from the geology of the area. The valley is a limestone bed that has been weathered to a gently rolling plain. The valley lies at approximately 600 feet above sea level between low mountains that rise to an elevation of about 2,000 feet above sea level and belong to the easternmost fringes of the Appalachian Mountains. The mountains to the west, north and south of the valley are formed of sedimentary, metamorphic sedimentary, and igneous rocks while the valley is composed almost entirely of limestone.

The soils found in the Cumberland Valley are typical of those derived from limestone. The Shenandoah and Lebanon valleys, respectively to the southwest and northeast, are contiguous segments of the Great (Limestone) Valley and bear soil characteristics similar to those of the Cumberland Valley. The soils in these valleys are deep, well drained, generally alkaline, and highly productive with a high moisture holding capacity whereas the mountains which border to the west, north and south, have soils generally of associations which are not as productive, deep, or well drained and which are acidic.

The General Soil Map of Pennsylvania, prepared by the Pennsylvania State University in collaboration with the Soil Conservation Service of the U.S. Department of Agriculture, and the General Soil Map of Maryland, prepared by the University of Maryland in collaboration with the Soil Conservation Service of the U.S. Department of Agriculture, show that the soils suitable for agriculture in the Cumberland Valley can, in fact, be used to delineate the basin of the valley from the surrounding highlands.

Data from the soil surveys for Washington County in Maryland and the counties of Franklin and Cumberland in Pennsylvania strongly support carrying the Cumberland Valley appellation all the way from the Potomac River to the Susquehanna River.

The major soil associations found in the three counties which make up the Cumberland Valley are Berks, Hagerstown and Murrill and are distributed within the total land area of each county as follows:

Name of county	Soil associations (in acres)			Area (in acres)
	Berk	Hagerstown	Murrill	
Washington (MD)	15,000	136,000	19,000	295,680
Franklin (PA)	150,000	154,000	43,500	482,880
Cumberland (PA)	61,000	58,000	12,700	335,000
Totals	226,000	348,000	75,200	1,113,360

Washington County, Maryland

Soils of the Waynesboro association are found almost entirely on the high terraces along the Potomac River. The Waynesboro soils consist of very old, acid alluvium, mostly gravelly, which have been eroded from highland areas and deposited in rather thick beds above the Potomac River. These soils are well-drained, deep and medium-textured, but require liming in order to be productive for grapegrowing.

Soils of the Berks association have differences in capability depending upon underlying rock formations which can be either limestone (alkaline) or other than limestone (acidic). Berks soils require periodic liming in order to be productive. Berks soils found on slopes hold less moisture than Berks soils found along the beds of creeks which drain the basin of the valley. However, the Berks soil along creek beds is not used for the cultivation of fruit.

Soils of the Murrill association are underlain by limestone and are influenced by limestone materials. These soils are used generally for farming with emphasis on dairying and other livestock enterprises. There are orchards and vindyards on the somewhat higher intermediate slopes where air drainage is better. These soils occur on the lowest western slopes of South Mountain from the Pennsylvania line southward almost to Rohrersville, Maryland. These soils are also on the lowest western slopes of Elk Ridge from near Porterstown, Maryland, southward to the Potomac River; in a small isolated area just north of Antietam, Maryland; and in a large area on the lowest eastern slopes of Fairview Mountain from the Pennsylvania line southward beyond Clear Spring and southeastward to the Potomac in the vicinity of Two Locks.

Soils of the Hagerstown-Duffield-Frankstown association occupy most of the main basin of the Great (Limestone) Valley that crosses Washington County between South Mountain and Fairview Mountain. These are the dominant soils which made up more than 90 percent of soils in the valley in Washington County and are the most important in its agricultural economy which lies chiefly in corn, small grains, hay crops, dairying, breeding of livestock, and fruit.

Franklin County, Pennsylvania

The land area of Franklin County, Pennsylvania, is located primarily in the Great Limestone Valley.

The principal soil associations in Franklin County are: Hagerstown-Duffield, Murrill-Laidig and Weikert-Berks-Bedington.

The deep and well drained Hagerstown-Duffield soils make up about 32 percent of the land in the county and are found in the limestone valleys which are dedicated to crops, fruit, hay, and pasture.

The Murrill-Laidig association consists of deep, well-drained, gently sloping to moderately steep soils formed in colluvium on the foot slopes and benchlike areas on mountainsides. Nearly all of the soils of this association have been cleared and are used for crops, hay, pasture and fruit. They are among the best in Franklin County for farming.

Soils of the Weikert-Berks-Bedington association are shallow to deep, well-drained soils formed in materials weathered from shale and interbedded shale, siltstone and sandstone and are found in the valleys where crops are planted.

Cumberland County, Pennsylvania

Although the soils in Cumberland County have been surveyed, the report of the survey has not yet been published. The Soil Conservation Service in Carlisle, Pennsylvania, furnished field data and a preliminary map which shows continuation into Cumberland County of the major soil types found in Washington and Franklin counties. The Hagerstown type soil (limestone) continues all the way to the floodplain of the Susquehanna River and the Murrill colluvial fans (sandstone over limestone) continue along the slopes of South Mountain.

Climatological Characteristics

Climate is a feature which differentiates the Cumberland Valley from surrounding areas. Because of the location of the Allegheny Mountain complex to the west and north and South Mountain to the south, as well as the movement of warm, moist air northward from the Gulf of Mexico over the basin of the Great (Limestone) Valley, the climate, including average temperature and precipitation, is relatively uniform throughout the Cumberland Valley.

The valley lies in an area of prevailing westerly winds which originate in the interior of North America. Warm, moist air from the Gulf of Mexico flows northward along the basin of the Great (Limestone) Valley into the Cumberland Valley. In addition, the Atlantic Ocean to the east is a modifying factor and an occasional source of warmth and moisture. These conditions give a "Humid Continental" type of climate, typical of the Middle Atlantic States. Most weather systems that affect this area originate in Canda or on the Central Plains of the United States, are caught up in the prevailing westerly flow aloft, move eastward over the Appalachian Mountains, and lose moisture in the form of precipitation over the basin of the valley.

By the time an air mass has passed over the Appalachian chain, it is considerably modified in both temperature and moisture. After cooling and losing moisture while traversing the mountains, an air mass tends to warm and at least partly replenish its moisture supply over the valley. Orographic uplift along the windward side of South Mountain, which forms the eastern portion of the border of the proposed viticultural area, results in increased cloudiness and the greatest precipitation along this eastern ridge. Annual temperatures generally average near 53°F over the Cumberland Valley but at

higher elevations along the western and eastern borders average two to three

and valley temperatures reach into the nineties about 30 times during summer

(3) Commercial wineries—one in the Maryland portion of the area and two in

Paragraph 1. The authority citation for 27 CFR Part 9 continues to read as

(17) "Steelton Quadrangle", edition of 1963, photo-revised 1972.

(5) Then southeasterly along Porterstown Road to its intersection

higher elevations along the western and eastern borders average two to three degrees lower. Precipitation also follows topographical features; the annual average is 40 inches in the western mountain and valley region and approximately 45 inches in the South Mountain region. The lower totals along the western border are due to the drying of the air mass over the mountains farther west and the lack of a moisture source.

Average temperature and precipitation are relatively consistent throughout the valley. In addition to the data obtained by the petitioners from weather stations within and outside the proposed boundary of the petitioned area, ATF found evidence presented in the notices and Treasury decisions for the Catoctin, Lancaster Valley, and Shenandoah Valley viticultural areas that documents the climatological differences between the Cumberland Valley and surrounding areas.

The climate of the Catoctin viticultural area which lies to the south of the Cumberland Valley has an average annual rainfall of 36–42 inches, temperatures of 50–55 degrees F., and a frost-free season of 160–170 days. The Lancaster Valley viticultural area to the southeast of the Cumberland viticultural area has an average annual rainfall of 40–42 inches, temperatures of 55–60 degrees F., and a frost-free season of 170–180 days. The Shenandoah Valley viticultural area to the southwest of the Cumberland Valley has an average annual rainfall of 34–38 inches, temperatures of 54–56 degrees F., and a frost-free season of 150–160 days.

The petitioners cite data from three weather stations of the National Oceanic and Atmospheric Administration, U.S. Department of Commerce, specifically, the stations at Chewsville (elev. 640 feet) located near Hagerstown (MD) at the southern end of the valley, Chambersburg (PA) located centrally (elev. 570 feet), and Carlisle (PA) located in the northeastern end of the valley (elev. 465 feet). These stations show average temperatures ranging from 51.6 °F to 53.4 °F, total precipitation from 34.9" to 39.8", and degree growing days of 3,050 at Chewsville, 2,890 at Chambersburg, and 3,150 at Carlisle. The average annual temperature is 52° Fahrenheit with the coldest month being January (32° Fahrenheit) and the warmest month being July (75° Fahrenheit). Based upon data recorded at Chambersburg, annual precipitation averaging 38.25 inches occurred fairly evenly throughout the 30-year period from 1931 to 1960.

In summer, several periods of hot and humid weather are observed, however, and valley temperatures reach into the nineties about 30 times during summer. On the average, daytime highs reach the middle to upper eighties and nighttime lows are near 60°. Temperatures in the mountains are lower.

Freezing temperatures have not been experienced during summer in the valley. Cloud cover is at a minimum in summer; the valley receives more than 60 percent of the available sunshine, and nights are generally clear.

The prevailing wind is from the southwest and averages 8 miles per hour. Rainfall is generally adequate but dry periods of 2 to 3 weeks duration are sometimes experienced. Summer rainfall is usually in the form of afternoon and evening thundershowers, which occur on an average of 24 days during the months of June, July and August.

The length of the growing season is fairly consistent over the valley and averages 160 to 170 days. Frost occurs as late as mid-May and as early as mid-September. A shorter growing season exists in the mountains. About 57 percent of the annual precipitation falls during spring and summer.

The Climatological characteristics of the Cumberland Valley and surrounding areas may be summarized as follows:

Name of area	Temperature degrees Fahrenheit	Rainfall inches	Frost-free days
Mountains (west).	48 to 50	40	Less than 160
Mountains (north).	48 to 50	40	Do.
South Mountain.	49 to 52	45	Do.
Catoctin	50 to 55	36 to 42	160 to 170.
Cumberland Valley.	51 to 54	34 to 40	Do.
Shenandoah Valley.	54 to 56	34 to 38	150 to 160.
Lancaster Valley.	55 to 60	40 to 42	170 to 180.

Boundary

The boundary of the Cumberland Valley viticultural area is found on 32 United States Geological Survey maps of the 7.5 minute series, scale 1:24,000. The boundary is described in § 9.105.

Viticulture in the Area

The following statistics were developed from information (not necessarily in the petition) available to ATF:

(1) Total acreage in the area—approximately 765,000 acres.

(2) Commercial vineyards (winegrapes)—approximately 20 acres in Maryland and approximately 40 acres in Pennsylvania.

(3) Commercial wineries—one in the Maryland portion of the area and two in the Pennsylvania portion.

Grapes grown commercially for winemaking are mainly *vitis Labrusca* and *vitis Labrusca-vitis vinifera* crosses (French hybrids). Only a few *vitis vinifera* varieties are grown commercially in the area.

Compliance with Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The notice of proposed rulemaking which resulted in this final rule contained a certification under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b), that if promulgated as a final rule, it would not have a significant economic impact on a substantial number of small entities. Therefore, the requirement contained in the Regulatory Flexibility Act (5 U.S.C. 603, 604) for a final regulatory flexibility analysis does not apply to this final rule.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, Wine.

PART 9—AMERICAN VITICULTURAL AREAS

27 CFR Part 9 is amended as follows:

Paragraph 1. The authority citation for 27 CFR Part 9 continues to read as follows:

Authority: August 29, 1935, Chapter 814, sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205), unless otherwise noted.

Par. 2. The Table of sections in 27 CFR Part 9 is amended by adding § 9.105 to Subpart C to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

* * * * *

Sec.
§ 9.105 Cumberland Valley.
* * * * *

Par. 3. Subpart C is amended by adding § 9.105 which reads as follows:

§ 9.105 Cumberland Valley.

(a) *Name.* The name of the viticultural area described in this section is "Cumberland Valley."

(b) *Approved maps.* The appropriate maps for determining the boundary of the Cumberland Valley viticultural area are the following 32 U.S.G.S. topographical maps of the 7.5 minute series:

(1) "Williamsport Quadrangle", edition of 1969.
(2) "Shepherdstown Quadrangle", edition of 1978.
(3) "Keedysville Quadrangle", edition of 1978.
(4) "Middletown Quadrangle", edition of 1953, photo-revised 1979.
(5) "Myersville Quadrangle", edition of 1953, photo-revised 1971.
(6) "Smithsburg Quadrangle", edition of 1953, photo-revised 1971.
(7) "Waynesboro Quadrangle", edition of 1944, photo-revised 1968 and 1973.
(8) "Iron Springs Quadrangle", edition of 1953, photo-revised 1968 and 1973.
(9) "Scotland Quadrangle", edition of 1944, photo-revised 1968 and 1973.
(10) "Caledonia Park Quadrangle", edition of 1944, photo-revised 1968 and 1973.
(11) "Walnut Botton Quadrangle", edition of 1952, photo-revised 1969 and 1977.
(12) "Dickinson Quadrangle", edition of 1952, photo-revised 1969 and 1977.
(13) "Mount Holly Springs Quadrangle", edition of 1952, photo-revised 1968 and 1973.
(14) "Carlisle Quadrangle", edition of 1952, photo-revised 1968 and 1973.
(15) "Mechanicsburg Quadrangle", edition of 1952, photo-revised 1968 and 1973.
(16) "LeMoyne Quadrangle", edition of 1963, photo-revised 1972.
(17) "Steelton Quadrangle", edition of 1963, photo-revised 1972.
(18) "Harrisburg West Quadrangle", edition of 1969, photo-revised 1974.
(19) "Wertzville Quadrangle", edition of 1952, photo-revised 1968 and 1973.
(20) "Sherman's Dale Quadrangle", edition of 1952, photo-revised 1968 and 1973.
(21) "Landisburg Quadrangle", edition of 1952, photo-revised 1969 and 1977.
(22) "Andersonburg Quadrangle", edition of 1952, photo-revised 1969 and 1977.
(23) "Newville Quadrangle", edition of 1952, photo-revised 1969 and 1975.
(24) "Newburg Quadrangle", edition of 1966, photo-revised 1973.
(25) "Doylesburg Quadrangle", edition of 1966, photo-revised 1973.
(26) "Roxbury Quadrangle", edition of 1966, photo-revised 1973.
(27) "Fannettsburg Quadrangle", edition of 1966, photo-revised 1973.
(28) "St. Thomas Quadrangle" edition of 1944, photo-revised 1968 and 1973.
(29) "McConnellsburg Quadrangle", edition of 1944, photo-revised 1968 and 1973.
(30) "Mercersburg Quadrangle", edition of 1943, photo-revised 1968 and 1973.
(31) "Clear Spring Quadrangle", edition of 1955, photo-revised 1971.
(32) "Hedgesville Quadrangle", edition of 1979.

(c) *Boundary.* The Cumberland Valley viticultural area is located in Washington County in west-central Maryland and Franklin and Cumberland counties in south-central Pennsylvania. The boundary is as follows:

(1) Starting immediately west of the Town of Williamsport in Washington County, Maryland, at Lock 45 of the Chesapeake & Ohio (C&O) Canal National Historical Park and the confluence of the Potomac River and Conococheague Creek (see Williamsport Quadrangle), the boundary proceeds in a southeasterly direction along the perimeter of the park on the northeastern bank of the Potomac River to the confluence of Antitam Creek and the Potomac River;

(2) Then southeast of Limekiln Road which runs along the perimeter of the park from Antietam Creek to the intersection of Limekiln Road and Harpers Ferry Road;

(3) Then northeasterly a straight line approximately two miles to the 952-foot summit of Hawk's Hill;

(4) Then northerly on a straight line approximately 2.5 miles to the intersection of Red Hill Road and Porterstown Road;

(5) Then southeasterly along Porterstown Road to its intersection with Mount Briar—Trego Road;

(6) Then southerly along Mount Briar—Trego Road to its intersection with Millbrook Road;

(7) Then east along Millbrook Road to its intersection with State Route 67, approximately 0.5 mile north of Rohersville, Maryland;

(8) Then directly east approximately 1.25 miles in a straight line to the 1,000-foot contour line of South Mountain;

(9) Then in a north northeasterly direction along the 1,000-foot contour line of South Mountain in Washington County, Maryland, and Franklin and Cumberland counties in Pennsylvania to the point on South Mountain where the 1,000-foot contour line crosses State Hollow Road (Rt. 233);

(10) Then north along Rt. 233 to the point where it crosses the 750-foot contour of South Mountain;

(11) Then east along the 750-foot contour line of South Mountain to the point southwest of the Mount Holly Springs Reservoir where Cold Spring Run, a tributary of Yellow Breeches Creek, crosses the 750-foot contour line, approximately 3 miles southwest of the town of Mount Holly Springs, Pennsylvania;

(12) Then east northeast in a straight line approximately seven miles to Center Point Knob, elev. 1050 feet, approximately two miles southeast of Boiling Springs, Pennsylvania (see Mechanicsburg Quadrangle);

(13) Then continuing east northeast in a straight line approximately six miles to the point where U.S. Rt. 15 crosses Yellow Breeches Creek, approximately one mile east of Williams Grove, Pennsylvania;

(14) Then east and northeast in a meandering line along the north bank of Yellow Breeches Creek to its confluence with the Susquehanna River;

(15) Then north along the west bank of the Susquehanna River, which forms the western portion of the corporate boundary line of the City of Harrisburg, Pennsylvania, to the point where the 300-foot contour line and the west bank of the Susquehanna River meet;

(16) Then directly west to the 700-foot contour line of Blue Mountain overlooking the Susquehanna River;

(17) Then along the 700-foot contour line of Blue Mountain as it meanders west and around McClures Gap;

(18) Then along the 700-foot contour line of Blue Mountain to the point where the 700-foot contour line crosses State Rt. 233;

(19) Then northeast along Rt. 233 through Doubling Gap to the 1,000-foot

perimeter of the C&O National Historical Park to the point of beginning.

DEPARTMENT OF THE INTERIOR

that requires annual publication of refuge fishing regulations has become a costly administrative burden and has

withdrawn from this rule because the refuge has never been opened to sport

requirements relating to the annual publication of refuge-specific fishing

(19) Then northeast along Rt. 233 through Doubling Gap to the 1,000-foot contour line of Blue Mountain;

(20) Then in a generally southwesterly direction along the 1,000-foot contour line of Blue Mountain into Franklin County to the point where the 1,000-foot contour line meets the roadbed of the Pennsylvania Turnpike, Interstate 76;

(21) Then along the roadbed of the Pennsylvania Turnpike to the east entrance of the Blue Mountain Tunnel;

(22) Then in a straight line approximately 6.5 miles to the intersection of State Rt. 533 and the 1,000-foot contour line of Blue Mountain, approximately one mile west northwest of Upper Strasburg, Pennsylvania;

(23) Then southwest along the 1,000-foot contour line of Blue Mountain to and along the 1,000-foot contour line of Broad Mountain;

(24) Then along the 1,000-foot contour line as it meanders along and around Broad Mountain and Front Mountain to the point where the 1,000-foot contour line crosses Wilson Run near Franklin Furnace, Pennsylvania;

(25) Then southwest in a straight line approximately 3.5 miles to Parnell Knob, elev. 2060 feet;

(26) Then west northwest in a straight line approximately four miles to the point where the 1,000-foot contour line crosses Township Run near Cape Horn on Cove Mountain, approximately two miles north northwest of Fort Loudon, Pennsylvania;

(27) Then southwest along the 1,000-foot contour line of Cove Mountain into and out of Cove Gap;

(28) Then along the 1,000-foot contour line of Cove Mountain and Two Top Mountain in Franklin County, Pennsylvania, and Sword Mountain and Fairview Mountain in Washington County, Maryland, to the point on Fairview Mountain where the 1,000-foot contour line intersects the National Road (U.S. Rt. 40);

(29) Then west along U.S. Rt. 40 approximately 0.5 mile to the intersection of U.S. Rt. 40 and Cove Road;

(30) Then south in a straight line from the intersection of U.S. Rt. 40 and Cove Road approximately 1.25 miles to the intersection of McCoys Ferry Road and State Rt. 56;

(31) Then south along McCoys Ferry Road to the perimeter of the C&O Canal National Historical Park along the Potomac River;

(32) Then southeast along the perimeter of the C&O National Historical Park to the point of beginning.

Signed: January 17, 1985.

W.T. Drake,

Acting Director.

Approved: June 28, 1985.

Edward T. Stevenson,

Deputy Assistant Secretary (Operations).

[FR Doc. 85-17452 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-31-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

Unused Ticket Refund Procedures; Completion of Review by the Office of Management and Budget

AGENCY: Office of the Comptroller, GSA.

ACTION: Confirmation of effective date.

SUMMARY: This general notice advises the public that a decision has been made by the Office of Management and Budget (OMB) regarding the final rule on unused ticket refund procedures published in the **Federal Register** on January 8, 1985 (50 FR 938), and submitted to OMB for review, as published in the **Federal Register** on March 12, 1985 (50 FR 9908) and confirms the effective date. OMB has determined that this rule is not subject to the Paperwork Reduction Act because it does not impose any information collection burden on the public.

The General Services Administration (GSA) urges those members of the carrier industry that may have problems meeting requirements of § 101-41.210-5a to contact GSA to discuss mutually satisfactory alternative arrangements, as outlined in § 101-41.210-5c.

EFFECTIVE DATE: Therefore, the provisions published at 50 FR 938 became effective on January 8, 1985.

ADDRESS: Requests should be addressed to: Thomas P. Wolf, Director, Office of Transportation Audits (BW), General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, (202) 786-3000.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, 202-786-3014.

Dated: July 17, 1985.

Raymond A. Fontaine,

Comptroller.

[FR Doc. 85-17451 Filed 7-22-85; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Refuge-Specific Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is revising sections of 50 CFR Part 33 by deleting the provision that requires the issuance of special fishing regulations on an annual basis and by amending § 33.1 to more accurately describe the Service's authority to permit fishing on national wildlife refuges. Also, the term "special regulations" is replaced by a more appropriate term "refuge-specific regulations." Refuge-specific fishing regulations are codified for certain national wildlife refuges.

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (telephone 202-343-4311).

SUPPLEMENTARY INFORMATION: 50 CFR Part 33 contains the provisions that govern fishing on national wildlife refuges. Fishing is regulated on refuges for two basic reasons: (1) To properly manage the fishery resource, and (2) to protect other refuge values. On many refuges, the Service policy of adopting State fishing regulations is an adequate way of meeting these objectives, but on other refuges it is necessary for the Service to issue fishing regulations in addition to State regulations to ensure that the Service meets its management responsibilities.

Section 33.3 contains the provision that requires the publication of fishing regulations for a given refuge on an annual basis. These regulations are generally limited to one season and historically have not been permanently codified in Title 50 of the Code of Federal Regulations (50 CFR). The Service implemented this provision in 1960 when the Department of the Interior revised and reorganized 50 CFR. Since then, the number of refuges on the list of areas open to sport fishing has doubled. Also, the authority to issue these regulations has been centralized in the Office of the Assistant Secretary for Fish and Wildlife and Parks to ensure the standardization of these refuge fishing regulations throughout the National Wildlife Refuge System. For these reasons, the provision in § 33.3 that requires annual publication of refuge fishing regulations has become a costly administrative burden and has adversely affected their timely issuance. Therefore, the Service is deleting this provision and issuing the refuge-specific fishing regulations listed in this rule. Once these regulations are codified, they will remain in place and control fishing activities on a given refuge unless and until they are amended by subsequent regulations published in the **Federal Register**.

The fishing regulations that have been developed for individual refuges are referred to as "special regulations" in Part 33. These "special regulations" are similar in effect to any other regulation governing an activity or use on national wildlife refuges, and they have no "special" value as the term implies. Therefore, the Service is making a technical amendment to change the term "special regulations" in Part 33 to "refuge-specific regulations" to clarify the fact that these fishing regulations govern individual fishing programs on particular refuges.

This rulemaking contains refuge-specific fishing regulations only for refuges that have been opened in previous rulemakings and does not add any refuges to the list of those open to sport fishing. This rulemaking represents an administrative technical amendment that is designed to place the regulations governing fishing on refuges in the Code of Federal Regulations. In the absence of such refuge-specific fishing regulations, fishing on national wildlife refuges open to this activity is permitted subject to State law and regulations and the provisions of 50 CFR Part 33.

Section 33.1 deals with the Service's authority to permit sport fishing by the public. The Service is amending this section to more accurately detail its responsibilities as mandated by the National Wildlife Refuge System Administration Act, as amended (NWRSAA), and the Refuge System Recreation Act (RSRA).

On February 20, 1985, at 50 FR 7079, the Service published a proposed rule to amend portions of 50 CFR Part 33 as noted above and in the section entitled "Section-by-Section Analysis." Technical and administrative changes have been made to several of the refuge-specific fishing regulations proposed in the February 20 rulemaking. Most of these modifications reflect minor corrections in the times or areas in which fishing activities are permitted on individual refuges. Some wording changes were also made, for clarity. In addition, regulations proposed in the February 20 rulemaking for Oxbow National Wildlife Refuge (NWR) are withdrawn from this rule because the refuge has never been opened to sport fishing. Regulations for J.N. "Ding" Darling NWR and Monomoy NWR are included in this rule but did not appear in the proposed rule. These two refuges have been open to sport fishing for eight and 24 years, respectively, and their fishing programs were subject to public review when they were opened. Furthermore, although the fishing regulations contained herein for J.N. "Ding" Darling NWR and Monomoy NWR were not published in the proposed rule, the public has been made aware of the regulations in the past through the use of refuge signs and brochures, per 50 CFR 25.31.

Section-by-Section Analysis

Section 33.1 Public fishing authorization. This paragraph will be amended by adding, as an introductory statement, the Service's responsibility to determine if sport fishing is compatible with the purposes for which the refuge was established prior to opening the refuge to this activity. A statement to this effect more accurately reflects the Service's responsibilities as mandated by the NWRSAA and the RSRA than the sentence in the paragraph that now states, "However, wildlife refuge areas will be opened to sport fishing only when a determination has been made that such activity is not detrimental to the objectives for which the area was established." This sentence will be deleted from the section.

Section 33.2 General regulations. The term "special regulations" will be replaced by "refuge-specific regulations" in paragraph (e) for the purposes of clarity. Also, the last sentence in paragraph (e) that states that special regulations are not codified will be replaced by one that states that refuge-specific fishing regulations are codified in §§ 33.5 through 33.54.

A new paragraph will be added to the section, that will list the approved information collection requirements related to sport fishing regulations.

Section 33.3 Procedure for publication of special regulations. The terms "special regulations" and "special fishing regulations" will be replaced wherever they are used in this section by the term "refuge-specific fishing regulations."

Paragraph (a) of this section will be revised to permit the issuance of refuge-specific fishing regulations for a refuge at the time of publication of the opening of that refuge to sport fishing. Paragraph (h) will be revised to include fish wherever wildlife is mentioned.

Paragraphs (b) and (e) will be deleted because these provisions contain requirements relating to the annual publication of refuge-specific fishing regulations. Also, the statement that special regulations are not codified will be deleted from paragraph (g).

Section 33.5 Special regulations; sport fishing; for individual wildlife refuge areas. This section has traditionally contained all the special regulations for sport fishing on refuges. The Service is amending this section to contain only those refuge-specific fishing regulations for national wildlife refuges in the State of Alabama and adding sections 33.6 through 33.54 for the remaining States. Thus, the refuge-specific fishing regulations for national wildlife refuges in a particular State will be listed in a separate section of Part 33. (Although § 33.6 has been reserved for Alaska, fishing on national wildlife refuges in Alaska is permitted in accordance with State fishing regulations. There are no refuge-specific regulations for these refuges.)

Responses to Comments Received

It is the policy of the Service, whenever practicable, to afford the public an opportunity to participate in the Service's rulemaking process. Accordingly, the February 20 proposed rule had a 30-day comment period. Two written comments were received from organization's in response to the proposed rulemaking. Substantive comments are outlined and responded to below:

Issue 1: One commenter wanted to know whether the lack of refuge-specific regulations for Great Swamp NWR indicated that the Service feels State regulations are adequate in meeting the refuge's objectives.

Service Response: No regulations were proposed for Great Swamp NWR because the refuge has never been opened to sport fishing (see § 33.4, List of Open Areas: Sport Fishing).

Issue 2: One commenter preferred a more liberal fishing season than the July 20 through September 21 season proposed for Edwin B. Forsythe NWR.

Service Response: This season was proposed for a portion of the refuge's Brigantine Division known as William Vogt Pool. The restricted season is designed to prevent undue disturbance to nesting and migrating waterfowl and other migratory birds using the area. There is very little demand for fishing within the Pool's impoundments.

Issue 3: One commenter found the proposed prohibition on the possession of fish and minnows for use as bait at the Edwin B. Forsythe NWR of questionable value.

Service Response: The Service agrees and this restriction has been eliminated for the final rule.

Newton Corner, Massachusetts 02158; telephone (617) 965-5100.

Sec.

33.38 North Dakota. [Reserved]

regulation governing fishing on the wildlife refuge area. Regulations for a

Service Response: The Service agrees and this restriction has been eliminated for the final rule.

Conformance With Statutory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and the public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the Refuge System Administration Act authorizes the Secretary of the Interior, under such regulations as he may prescribe, to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations and access when he determines that such uses are compatible with the major purposes for which such areas were established.

The Refuge Recreation Act authorizes the Secretary of the Interior to administer the refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act.

Fishing plans are developed for each fishing program on a refuge prior to the opening of the refuge to fishing. In some cases refuge-specific fishing regulations are included as a part of the fishing plans to ensure the compatibility of the fishing programs with the purposes for which the affected national wildlife refuges were established. Compliance with the Refuge Administration and Refuge Recreation Acts is ensured when the fishing plans are developed, and the determinations required by these Acts are made prior to the addition of the refuge to the list of areas open to sport fishing in 50 CFR. Also, refuge-specific fishing regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of the refuge. The changes in the general provisions governing fishing on national wildlife refuges and the refuge-specific fishing regulations contained in this rulemaking do not significantly alter the existing use of national wildlife refuges.

Stephen J. Lewis, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C., is the primary author of this rulemaking document.

Information regarding the conditions that apply to individual refuge fishing programs and a map of the refuge are available at refuge headquarters. This information can also be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below. Anglers should contact the refuge manager for further information regarding public use on a specific refuge so that they are aware of all the restrictions related to public use on a particular refuge.

Region 1—California, Hawaii, Idaho, Nevada, Oregon and Washington:
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Multnomah Street, Portland, Oregon 97232; telephone (503) 231–6214.
Region 2—Arizona, New Mexico, Oklahoma and Texas:
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; telephone (505) 766–2324.
Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin:
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; telephone (612) 725–3507.
Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Puerto Rico, Tennessee and the Virgin Islands:
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street SW, Atlanta, Georgia 30303; telephone (404) 221–3538.
Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia:
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; telephone (617) 965–5100.
Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming:
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80255; telephone (303) 234–4606.
Region 7—Alaska:
Assistant Regional Director—Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; telephone (907) 786–3542.

Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB as cited below:

Type of information collection	*OMB approval No.*
Off-road vehicle permit applications	1018–0041
Special use permits	1018–0046

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

Environmental Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" (FES 76–59) was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1977 (41 FR 51131). Fishing plans are developed for each fishing program on a refuge prior to the opening of the refuge to fishing. Compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) is ensured when the fishing plans are developed, and the determinations required by these Acts have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The Service is deleting its requirement for annual publication of refuge-specific fishing regulations and is codifying these regulations in 50 CFR. As described above, the elimination of this administrative burden will benefit the Federal government and affected individuals. These actions will not significantly alter existing refuge fishing programs and, therefore, are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions.

Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in cost of prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will

List of Subjects in 50 CFR Part 33

Fishing, National wildlife refuge system, Wildlife refuges.

PART 33—[AMENDED]

For the reasons set forth in the preamble, Part 33, Subchapter C, Chapter I of Title 50 Code of Federal Regulations, is amended as set forth below:

1. The Table of Contents for Part 33 is revised to read as follows:

Subpart A—General Provisions

Sec.
33.1 Opening of wildlife refuge areas to fishing.
33.2 General regulations and information collection requirements.
33.3 Procedure for publication of refuge-specific fishing regulations.
33.4 List of open areas; sport fishing.

Subpart B—Refuge-Sapecific Regulations for Sport Fishing

33.5 Alabama.
33.6 Alaska. [Reserved]
33.7 Arizona.
33.8 Arkansas.
33.9 California.
33.10 Colorado. [Reserved]
33.11 Connecticut. [Reserved]
33.12 Delaware. [Reserved]
33.13 Florida.
33.14 Georgia.
33.15 Hawaii. [Reserved]
33.16 Idaho.
33.17 Illinois.
33.18 Indiana.
33.19 Iowa.
33.20 Kansas. [Reserved]
33.21 Kentucky. [Reserved]
33.22 Louisiana.
33.23 Maine.
33.24 Maryland.
33.25 Massachusetts.
33.26 Michigan.
33.27 Minnesota.
33.28 Mississippi.
33.29 Missouri.
33.30 Montana.
33.31 Nebraska.
33.32 Nevada.
33.33 New Hampshire. [Reserved]
33.34 New Jersey.
33.35 New Mexico.
33.36 New York.
33.37 North Carolina.
33.38 North Dakota. [Reserved]
33.39 Ohio. [Reserved]
33.40 Oklahoma.
33.41 Oregon.
33.42 Pennsylvania.
33.43 Rhode Island. [Reserved]
33.44 South Carolina.
33.45 South Dakota. [Reserved]
33.46 Tennessee.
33.47 Texas.
33.48 Utah. [Reserved]
33.49 Vermont.
33.50 Virginia.
33.51 Washington.
33.52 West Virginia. [Reserved]
33.53 Wisconsin.
33.54 Wyoming. [Reserved]

2. The authority citation for Part 33 is revised to read as follows:

Authority: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.

3. Sections 33.1—33.4 are designated as Subpart A—General Provisions.

3a. Section 33.1 is revised to read as follows:

Subpart A—General Provisions

§ 33.1 Opening of wildlife refuge areas to fishing.

Wildlife refuge areas may be opened to sport fishing only after a determination is made that this activity is compatible with the purposes for which the refuge was established. In addition, the sport fishing program must be consistent with principles of sound fishery management and otherwise be in the public interest. The opening or closing of wildlife refuge areas to fishing is subject to the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). Lands acquired as "waterfowl production areas" are open to sport fishing subject to the provisions of State laws and regulations and the pertinent provisions of Parts 25 through 31 of this subchapter: *Provided,* that fishing or entry on all or any part of individual areas may be temporarily suspended by posting upon occasions of unusual or critical conditions of, or affecting, land, water, vegetation or fish and wildlife populations.

4. Section 33.2 is amended by revising the section title and paragraph (e), and by adding a new flush paragraph following paragraph (e), to read as follows:

§ 33.2 General regulations and information collection requirements.

* * * * * *

(e) Each person shall comply with the provisions of any refuge-specific regulation governing fishing on the wildlife refuge area. Regulations for a particular wildlife refuge are available at its headquarters office. In addition, refuge-specific fishing regulations are codified in §§ 33.5 through 33.54.

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB under the OMB approval numbers cited:

Type of information collection	*OMB approval No.*
Off-road vehicle permit applications	1018–0041
Special use permits	1018–0046

These regulations impose no new reporting or record keeping requirements that must be cleared by OMB. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities that require recreational uses be compatible with the primary purposes for which the areas were established. The information is used to award benefits. A response is mandatory to obtain a benefit.

5. Section 33.3 is revised to read as follows:

§ 33.3 Procedure for publication of refuge-specific fishing regulations.

(a) Refuge-specific fishing regulations are issued only at the time of or after the opening of a wildlife refuge area to sport fishing.

(b) Refuge-specific fishing regulations may contain the following items:
(1) Fish species that may be taken,
(2) Seasons,
(3) Creel limits,
(4) Methods of fishing,
(5) Description of areas open to fishing, or
(6) Other provisions as required.

(c) Refuge-specific fishing regulations will not liberalize existing State laws or regulations.

(d) Refuge-specific fishing regulations are subject to change and the public is invited to submit suggestions and comments for consideration at any time.

(e) Refuge-specific fishing regulations are initially published in the daily issue of the **Federal Register** and are codified in 50 CFR 33.5 through 33.54.

(f) Refuge-specific fishing regulations may be amended as needed when unpredictable changes occur in fish and wildlife populations, habitat conditions

or in other factors affecting a refuge's fish and wildlife resources.

6. Section 33.4 is amended by revising

portions of Martinez Lake and Fergerson Lake are closed to entry from October 1 to March 1.

(1) Fishing is permitted from March 1 through October 31 except as posted and as follows: Fishing is permitted

Fishing and frogging are permitted from February 1 through October 15.

(i) *Salton Sea National Wildlife*

(1) Fishing is permitted during daylight hours on all areas of the refuge except the management impoundments and

designated areas of the refuge subject to the following conditions:

VOL
50
ISS
141
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or in other factors affecting a refuge's fish and wildlife resources.

6. Section 33.4 is amended by revising the introductory paragraph to read as follows:

§ 33.4 List of open areas; sport fishing.

Sport fishing is authorized on the following wildlife refuge areas in accordance with the provisions of §§ 33.1, 33.2, and 33.5 through 33.54.

* * * * *

7. A new Subpart B is added consisting of § 33.5, which is revised, and §§ 33.6 through 33.54 which are added to read as follows:

Subpart B—Refuge-Specific Regulations for Sport Fishing

§ 33.5 Alabama.

(a) *Choctaw National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted during daylight hours only.

(b) *Eufaula National Wildlife Refuge.* Fishing, frogging and turtle trapping are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing, frogging and turtle trapping are permitted year-round in all refuge waters contiguous with the Walter F. George Reservoir.

(2) Fishing, including bowfishing, is permitted from March 1 through October 31 during daylight hours only in all refuge impoundments and waters other than the Walter F. George Reservoir.

§ 33.6 Alaska. [Reserved]

§ 33.7 Arizona.

(a) *Cibola National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during respective State seasons in the channelized portions of the Colorado River in Zone I, Zone II, and the Old River Channel of the Colorado River.

(2) Fishing is permitted from March 15 through Labor Day in Cibola Lake and the channelized portion of the Colorado River in Zone III.

(b) *Havasu National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Designated portions of Topock Marsh are closed to all entry from October 1 through January 31.

(c) *Imperial National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Designated portions of Martinez Lake and Fergerson Lake are closed to entry from October 1 to March 1.

§ 33.8 Arkansas.

(a) *Big Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only from March 1 through October 31 with the following exceptions: Bank fishing is permitted at any time in the area around Floodway Dam south of the Highway 18 bridge, and fishing during daylight hours only from nonmotorized boats and boats with electric motors is permitted in the Sand Slough—Mud Slough Area from November 1 through the end of February.

(2) The use of limb lines and toxic chemical containers for jug fishing is not permitted.

(3) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(b) *Felsenthal National Wildlife Refuge.* Fishing, frogging and the taking of turtles are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is not permitted in the waterfowl sanctuary area during the waterfowl hunting season with the exception of the main channel of the Ouachita River and the borrow pits along Highway 82.

(2) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(c) *Holla Bend National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Fishing is permitted from March 1 through October 31.

(d) *Wapanocca National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 15 through September 30 during daylight hours only.

(2) Only boats with motors 10 horsepower or less are permitted on Wapanocca Lake.

(3) The use of live carp, shad, buffalo, and goldfish for bait is not permitted.

(4) The use of yo-yos, jugs, drops, trotlines and all commercial fishing tackle is not permitted.

(e) *White River National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through October 31 except as posted and as follows: Fishing is permitted year-round in Jacks Bay, LaGrue Bayou, Moon Lake next to Highway 1, the portion of Indian Bay south of Highway 1, and those borrow ditches located adjacent to the west bank of the portion of the White River Levee north of the Arkansas Power and Light Company powerline right-of-way.

(2) A permit is required for the use of any fishing tackle other than hook and line.

(3) Trotlines must be reset when receding water levels expose them and cannot be left unattended. The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(4) Frogging is permitted from the beginning of the State season through October 31. The use of bow and arrow for taking bullfrogs is not permitted.

§ 33.9 California.

(a) *Antioch Dunes National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Vehicle access is limited to designated parking areas and foot access is limited to designated trails and fishing areas.

(2) Fishing is permitted year-round from one hour before sunrise to one hour after sunset.

(b) *Cibola National Wildlife Refuge.* (Refer to regulations for Arizona, Cibola NWR in § 33.7.)

(c) *Colusa National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Fishing and frogging are permitted from February 1 through October 15.

(d) *Delevan National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Fishing and frogging are permitted from February 1 through October 15.

(e) *Havasu National Wildlife Refuge.* (Refer to regulations for Arizona, Havasu NWR in § 33.7.)

(f) *Imperial National Wildlife Refuge.* (Refer to regulations for Arizona, Imperial NWR in § 33.7.)

(g) *Modoc National Wildlife Refuge.* Fishing is permitted only on Dorris Reservoir subject to the following condition: Fishing is not permitted during the migratory waterfowl hunting season.

(h) *Sacramento National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition:

Fishing and frogging are permitted from February 1 through October 15.

(i) *Salton Sea National Wildlife Refuge.* Fishing is permitted only on that portion of the refuge inundated by the Salton Sea subject to the following condition: Only boat fishing is permitted.

(j) *San Francisco Bay National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing from designated shoreline trail fishing areas and from the Dumbarton and Ravenswood Piers is permitted during the hours posted at the piers and refuge headquarters.

(2) Fishing and all other public entry is not permitted in the entire Mowry Slough from March 15 through June 15.

(3) The upper reaches of Mallard Slough are closed to fishing and all other public entry from March 1 through August 31.

(k) *San Luis National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only from one-half hour before sunrise to one-half hour after sunset.

(2) The use of boats is not permitted.

§ 33.10 Colorado. [Reserved]

§ 33.11 Connecticut. [Reserved]

§ 33.12 Delaware. [Reserved]

§ 33.13 Florida.

(a) *J. N. "Ding" Darling National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in refuge waters except in the Mangrove Head Pond, Tower Pond, and Tarpon Bay Slough at the Bailey Tract.

(2) Crabbing is permitted with the use of dip nets only; lines, traps, and bait are not permitted.

(b) *Lake Woodruff National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only.

(2) The use of snatch hooks is not permitted in refuge impoundments.

(3) The use of airboats is not permitted.

(c) *Loxahatchee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours on all areas of the refuge except the management impoundments and those areas marked by sign as closed to public entry or to fishing.

(2) Only the use of rods and reels or poles and lines is permitted and this fishing equipment must be attended at all times.

(3) Commercial fishing and the taking of frogs or turtles is not permitted.

(4) The possession or use of trotlines, gigs or other fishing devices not described above is not permitted.

(d) *Merritt Island National Wildlife Refuge.* Fishing, crabbing, clamming, oystering and shrimping are permitted on designated areas of the refuge subject to the following conditions:

(1) A permit is required for night fishing.

(2) The daily limit for the Kennedy Athletic Recreational Site (K.A.R.S.) Marina in the Banana River and the Eddy Creek "trout hole" in Mosquito Lagoon is 20 fish during the period from November 15 through March 31.

(3) Fishing lines must be attended at all times.

(e) *St. Marks National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours.

(2) The use of boats with motors of 10 horsepower or less is permitted on the St. Marks Unit only from March 15 through October 15.

(f) *St. Vincent National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours.

(2) Only nonmotorized boats and boats with electric motors are permitted.

(3) The use of live minnows as bait is not permitted.

§ 33.14 Georgia.

(a) *Blackbeard Island National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Freshwater fishing is permitted from March 15 through October 25 from sunrise until one-half hour after sunset.

(2) Only nonmotorized boats and boats with electric motors are permitted.

(3) The use of live minnows as bait is not permitted.

(4) Boats may not be left on the refuge overnight.

(b) *Eufaula National Wildlife Refuge.* (Refer to regulations for Alabama, Eufaula NWR in § 33.5.)

(c) *Okefenokee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The use of boats with motors larger than 10 horsepower is not permitted.

(2) The use of live minnows as bait is not permitted.

(3) Only the use of pole and line or rod and reel is permitted.

(d) *Piedmont National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from May 1 through September 30 during daylight hours only.

(2) The creel limit for black bass is five.

(3) Only the use of pole and line or rod and reel is permitted.

(4) The use of live minnows as bait is not permitted.

(5) Nonmotorized boats and boats with electric motors are permitted only in Pond 2A and Allison Lake.

(e) *Savannah National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on refuge impoundments from March 1 through October 25.

(2) Fishing is permitted from boats into tidal creeks from February 1 through October 25.

(3) Fishing is permitted from sunrise until one-half hour after sunset.

(4) Only nonmotorized boats and boats with electric motors are permitted on impounded waters.

(5) Boats may not be left on the refuge overnight.

§ 33.15 Hawaii. [Reserved]

§ 33.16 Idaho.

(a) *Bear Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Boats are not permitted in fishing areas.

(b) *Deer Flat National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) During the waterfowl hunting season, fishing is permitted only within the area bounded by the water's edge extending to a point 200 yards lakeward in fishing Areas A and B on the Lake Lowell Sector.

(2) Nonmotorized boats are permitted throughout the year except during the waterfowl hunting season when they are restricted to that area within the area bounded by the water's edge extending to a point 200 yards lakeward in fishing

Areas A and B on the Lake Lowell Sector.

(3) Motorized and nonmotorized boats are permitted throughout the year on A-41 pond from March 15 through September 30.

(3) Ice fishing is permitted when ice conditions are safe.

(2) Only cotton limb lines are permitted.

(3) Fishing, crabbing, crayfishing, and

the following conditions: Anglers must

Areas A and B on the Lake Lowell Sector.

(3) Motorized and nonmotorized boats are permitted from one-half hour before sunrise to one-half hour after sunset from April 15 through September 30.

(4) Shoreline fishing is not permitted on the islands of the Snake River Sector from February 1 through May 31.

(c) *Kootenia National Wildlife Refuge.* Fishing is permitted only on Myrtle Creek subject to the following condition: Only bank fishing and nonmotorized boats are permitted.

§ 33.17 Illinois.

(a) *Chautauqua National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) All refuge waters are open to fishing from December 15 through October 15 during daylight hours. From October 16 through December 14 during daylight hours, fishing is permitted in the posted area that extends one-eighth of a mile around the recreation area, along Goofy Ridge Ditch, along the cross dike, and in all waters within the Public Hunting Area.

(2) Bank fishing is permitted only along the cross dike, at the Recreation Area and at Boatyard No. 3, as posted.

(3) The use of boats with motors of 10 horsepower or less is permitted on the waters of Lake Chautauqua.

(4) Private boats must be removed from refuge waters overnight or moored at either Boatyard No. 3 or the Recreation Area.

(b) *Crab Orchard National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Areas I and III are open to fishing year-round. Within these areas, specifically Devils Kitchen Lake and Little Grassy Lake, the use of boats with motors larger than 10 horsepower is not permitted. Floating trotlines and jug fishing are not permitted during daylight hours in the area west of the closed portion boundary line in Crab Orchard Lake (Zone 1) from Memorial Day through Labor Day.

(2) In Area II: Bank fishing is permitted from Wolf Creek Road and Highway 148 causeways during daylight hours; sport and jug fishing are permitted from Wolf Creek Road causeway west to the closed portion boundary line (Crab Orchard Lake Zone 2); sport and jug fishing are permitted from Wolf Creek Road causeway east (Crab Orchard Lake Zone 3) from March 15 through September 30 during daylight hours only; and bank fishing is permitted during daylight hours in the A–41 pond from March 15 through September 30.

(3) The minimum size limit for largemouth black bass taken from Crab Orchard Lake is 14 inches.

(c) *Mark Twain Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in the Big Timber Division at all times.

(2) Fishing is permitted in the Louisa Division from February 1 until the start of the Iowa waterfowl hunting season with the exception of certain designated areas adjacent to the Port Louisa Road that are open through December 31.

(3) Fishing is permitted in the Upper, Middle and Lower Pools of the Batchtown Division, Calhoun County, Illinois, from December 15 through October 15.

(4) Fishing is permitted in the southern portion of Swan Lake on the Calhoun Division, Calhoun County, Illinois, from December 15 through October 15. Fishing is permitted in the upper section of Swan Lake (man-made ditch at Six Mile Island to the northern refuge boundary) at all times.

(5) Fishing is permitted in the Keithsburg Division from January 1 until the start of the Illinois waterfowl hunting season. Bank fishing at the Spring Slough access is permitted year-round.

(6) Fishing is permitted year-round on the Bear Creek Unit of the Gardner Division. On the remainder of the Gardner Division, fishing is permitted from February 1 through September 30.

(7) The Clarence Cannon and Delair Divisions of the refuge are closed to fishing.

(8) Fishing is permitted in the Gilbert Lake Division from January 1 through October 15 and December 15 through December 31.

(d) *Upper Mississippi River Wild Life and Fish Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions: Fishing on the Spring Lake Close Area, Carroll County, Illinois, is not permitted from October 1 through the last day of the Illinois waterfowl season.

§ 33.18 Indiana.

(a) *Muscatatuck National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on Stanfield Lake from designated bank areas and from nonmotorized boats from May 15 through October 15 and when ice conditions permit ice fishing.

(2) Only fishing with rod and reel or pole and line is permitted.

(3) Ice fishing is permitted when ice conditions are safe.

(4) The minimum size limit for largemouth black bass taken from refuge waters is 14 inches.

(5) Fishing is permitted during daylight hours only.

§ 33.19 Iowa.

(a) *De Soto National Wildlife Refuge.* Fishing is permitted in De-Soto Lake subject to the following conditions:

(1) Ice fishing is permitted from January 1 through the end of February when conditions are safe.

(2) Motor- or wind-driven conveyances are not permitted on the lake from January 1 through the end of February.

(3) The use of portable ice fishing shelters is permitted on a daily basis from January 1 through the end of February.

(4) Only the use of pole and line or rod and reel is permitted from April 15 through September 30 with the exception that archery and spear fishing are permitted only for nongame fish from April 15 to September 30.

(5) Fishing with more than two lines or with more than two hooks on each line is not permitted.

(6) The use of trotlines and float lines is not permitted.

(7) Digging or seining for bait or taking frogs is not permitted.

(8) Minimum length limits are required as posted.

(b) *Mark Twain National Wildlife Refuge.* (Refer to regulations for Illinois, Mark Twain NWR in § 33.17.)

(c) *Union Slough National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 15 through September 30.

(2) The use of boats, canoes or other floating devices is not permitted.

(d) *Upper Mississippi Wild Life and Fish Refuge.* (Refer to regulations for Illinois, Upper Mississippi Wild Life and Fish Refuge in § 33.17.)

§ 33.20 Kansas. [Reserved]

§ 33.21 Kentucky. [Reserved]

§ 33.22 Louisiana.

(a) *Bogue Chitto National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(2) Only cotton limb lines are permitted.

(b) *Catahoula National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in Cowpen Bayou year-round during daylight hours only.

(2) Fishing is permitted in the Duck Lake Impoundment from March 1 through October 31 during daylight hours only.

(3) Only nonmotorized boats and boats with electric motors are permitted in Cowpen Bayou.

(4) Only nonmotorized boats and boats with motors of 10 horsepower or less are permitted in the Duck Lake Impoundment and adjacent waters. Boat launching is permitted from designated boat ramps only.

(5) Only the use of pole and line or rod and reel is permitted.

(c) *D'Arbonne National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(2) Only cotton limb lines are permitted.

(d) *Delta National Wildlife Refuge.* Fishing, shrimping and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing, shrimping and crabbing are permitted only during daylight hours.

(2) Only shrimping trawls of 16 feet or less are permitted.

(e) *Lacassine National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through October 15 during daylight hours only.

(2) Only boats with motors totaling 25 horsepower or less are permitted in Lacassine Pool.

(f) *Sabine National Wildlife Refuge.* Fishing, crabbing, crayfishing, and shrimp cast netting are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing, crabbing and shrimp cast netting are permitted year-round from the bank of the Highway 27 canal road during daylight hours only.

(2) Fishing, crabbing and shrimp cast netting are permitted during daylight hours only in the Grand and Lambert Bayous of East Cove except during the State waterfowl hunting seasons.

(3) Fishing, crabbing, crayfishing, and shrimp cast netting are permitted in refuge waters, only than those noted above, from March 1 through October 15 during daylight hours only.

(4) The crabbing, crayfishing, and shrimp netting creel limit is 96 quarts or 100 pounds of crab, crayfish, and/or shrimp per vehicle. Users must leave the area after they have reached their limit.

(5) Boats with motors totaling 25 horsepower or less are permitted on refuge impoundments. Boating access into open marsh and ponds is restricted to paddling or push-poling the boat. There are no horsepower restrictions for boats using refuge canals, bayous or lakes.

(g) *Upper Ovachita National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(2) Only cotton limb lines are permitted.

§ 33.23 Maine.

(a) *Moosehorn National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The use of nonmotorized boats only is permitted on Bearce, Conic, and Cranberry Lakes.

(2) Fishing is permitted during daylight hours only.

§ 33.24 Maryland.

(a) *Blackwater National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and crabbing are permitted from April 1 through October 1 during daylight hours only.

(2) All fish and crab lines must be attended.

(3) Boat launching from refuge lands is not permitted.

(4) The use of airboats is not permitted on refuge waters.

§ 33.25 Massachusetts.

(a) *Great Meadows National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted along the Concord River, Sudbury River, Heard Pond, and ponds in the West Bedford Area during daylight hours only.

(2) Only foot access is permitted.

(b) *Monomoy National Wildlife Refuge.* Fishing is permitted in designated areas of the refuge subject to the following conditions: Anglers must be actively fishing between sunset and sunrise.

(c) *Parker River National Wildlife Refuge.* Saltwater fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Saltwater fishing is permitted on the ocean beach only.

(2) A permit is required for night fishing and for the use of over-the-sand surf-fishing vehicles.

§ 33.26 Michigan.

(a) *Seney National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Ice fishing.

(i) Fishing is permitted from January 1 through the end of February during daylight hours only.

(ii) Ice shanties, houses or shelters are not permitted on F Pool.

(iii) Snowmobiles or all-terrain vehicles are not permitted.

(2) Summer fishing.

(i) Fishing is permitted from July 1 through September 30 during daylight hours only.

(ii) Fishing is permitted on the Snow Pools from Memorial Day through September 30.

(iii) Fishing is permitted on the Creighton, Driggs and Manistique Rivers, Walsh Creek west of the Walsh Ditch and the Walsh Ditch south to its entry into the C–3 Pool.

(iv) Only bank fishing is permitted in refuge pools.

(v) Access to the Driggs and Creighton Rivers, Walsh Creek and Walsh Ditch is limited to canoes without motors and to foot traffic along these watercourses.

§ 33.27 Minnesota.

(a) *Big Stone National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing from nonmotorized boats is permitted only on the Minnesota River Channel Canoe Trail as designated by signs.

(2) Bank fishing only is permitted on refuge pools and open marshes.

(3) Ice fishing shelters must be removed from the refuge following each day's fishing activities.

(b) *Minnesota Valley National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Only bank fishing is permitted.

(c) *Rice Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from May 1 through November 30.

Fishing in May Pond and Fox Pond is permitted in accordance with posted

(2) Only bank fishing is permitted in the areas north of Brown Dike and east

(3) Fishing is not permitted within 150 feet of headgates.

(3) Airboats are not permitted.

(b) *Mattamuskeet National Wildlife*

be marked so that they are clearly visible to boaters.

VOL
50
ISS
141
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23
1985
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(1) Fishing is permitted from May 1 through November 30.

(2) Fishing from nonmotorized boats is permitted only in designated areas.

(d) *Sherburne National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on the St. Francis River only.

(2) Nonmotorized boats are permitted only on designated areas of St. Francis River and must be launched from designated access points.

(e) *Tamarac National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in North Tamarac Lake and Pine Lake during the State fishing season.

(2) Fishing is permitted in Two Island, Wauboose, Lost and Blackbird Lakes from the first day of the State fishing season through Labor Day.

(3) Bank fishing is permitted only in an area 50 yards on either side of the Ottertail River Bridges on County Roads No. 26 and No. 126.

(f) *Upper Mississippi Wild Life and Fish Refuge.* (Refer to regulations for Illinois, Upper Mississippi Wild Life and Fish Refuge in § 33.17.)

§ 33.28 Mississippi.

(a) *Hillside National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on all refuge waters year-round except for any borrow pond along the Corps of Engineers Hillside flood control levee that is designated as closed by signs.

(2) Frogging is permitted on all refuge waters during the State bullfrog season.

(3) Trotlines are not permitted in borrow ponds.

(4) Commercial fishing is not permitted.

(b) *Noxubee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted from March 1 through October 31.

§ 33.29 Missouri

(a) *Mark Twain National Wildlife Refuge.* (Refer to regulations for Illinois, Mark Twain NWR in § 33.17.)

(b) *Mingo National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours year-round in all waters west of Ditch 6 and in all other refuge waters from March 15 through September 30. Fishing in May Pond and Fox Pond is permitted in accordance with posted regulations.

(2) Only nonmotorized boats are permitted.

(3) Nongame fish may be taken for personal use by nets and seines. All nets must be plainly labeled with the name and address of the user. Trammel and gill nets must be attended at all times. (All other nets may be left set and unattended but not for more than 24 hours.) Game fish may not be possessed by persons using nets or seines on the refuge.

(c) *Squaw Creek National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fish, amphibians, reptiles and crustaceans may only be taken with hand-held pole and line or rod and reel.

(d) *Swan Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through October 15 during daylight hours only.

(2) Only nonotorized boats are permitted on refuge waters with the exception that the use of motors of 10 horsepower or less is permitted on Silver Lake.

§ 33.30 Montana.

(a) *Red Rock Lakes National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted from the third week of June through the end of the general State fishing season.

§ 33.31 Nebraska.

(a) *De Soto National Wildlife Refuge.* (Refer to regulations for Iowa, De Soto NWR in § 33.19.)

§ 33.32 Nevada.

(a) *Pahranagat National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round in Upper Pahranagat Lake, North Marsh, Middle Pond, and Lower Lake.

(2) Only nonmotorized boats and boats with electric motors are permitted on Upper Pahranagat Lake, Middle Pond, and Lower Lake year-round.

(3) Boats are not permitted on North Marsh.

(b) *Ruby Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from one hour before sunrise until two hours after sunset.

(2) Only bank fishing is permitted in the areas north of Brown Dike and east of the Collection Ditch with the exception that fishing by wading and from personal flotation devices is permitted in Unit 21 and portions of Unit 10.

(3) Only artificial lures may be used in the Collection Ditch and the associated springs that are open to fishing.

§ 33.33 New Hampshire. [Reserved]

§ 33.34 New Jersey.

(a) *Edwin B. Forsythe National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Saltwater fishing is permitted from the beach on Holgate Peninsula and Little Beach Island with the exception of those areas posted as closed.

(2) Fishing is permitted along the South Dike of the William Vogt Pool from July 20 through September 21 during daylight hours.

(3) South Dike anglers may park at the headquarters and south town parking areas only.

§ 33.35 New Mexico.

(a) *Bitter Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 1 through October 15.

(2) Fishing is permitted only in Pools 5, 6, 7, 15, and 16.

(3) Fishing is permitted from one hour before sunrise until one hour after sunset.

(4) The use of boats is not permitted.

(b) *Bosque del Apache National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from the Saturday of Memorial Day weekend through September 30.

(2) Fishing is permitted from one-half hour before sunrise until one-half hour after sunset.

(3) Frogging and the use of trotlines, spears, bows and arrows, boats and other flotation devices are not permitted.

(c) *Maxwell National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from the last Saturday in February through the Sunday nearest October 16.

(2) Boats are permitted only on Lake 13 and Lake 14 and only during the fishing season.

(3) Fishing is not permitted within 150 feet of headgates.

§ 33.36 New York.

(a) *Elizabeth A. Morton National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only on the beach and in areas not designated as closed.

(2) Fishing is permitted only during daylight hours.

(b) *Iroquois National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours.

(2) Fishing is permitted from July 15 through September 30 and from December 1 through the end of February with the exception that fishing is permitted at all times in Feeder Canal and Oak Orchard Creek.

(3) Ice fishing is permitted on Ringneck, Schoolhouse and Center Marshes only from December 15 through the last day of February when conditions are safe.

(4) The use of boats or other flotation devices is not permitted with the exception that nonmotorized boats may be used on Oak Orchard Creek from Knowlesville Road to the cable across the creek approximately two miles downstream.

(5) Boats, structures or other equipment must be removed from the refuge after the completion of the day's fishing activities.

(c) *Wertheim National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Shore and boat fishing is permitted on that portion of the Carmans River between Sunrise and Montauk Highways.

(2) Only boat fishing is permitted from Montauk Highway south to the mouth of the Carmans river.

(3) Fishing is permitted only during daylight hours.

(4) Spearfishing and taking of baitfish and frogs is not permitted.

§ 33.37 North Carolina.

(a) *MacKay Island National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only from March 15 through October 15 with the exception that bank fishing is permitted in Corey's Ditch and the canal adjacent to the Knotts Island Causeway year-round.

(2) All fishing lines must be attended.

(3) Airboats are not permitted.

(b) *Mattamuskeet National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and crabbing are permitted from March 1 through November 1 from one-half hour before sunrise to one-half hour after sunset.

(2) Bank fishing and crabbing are permitted year-round along the Highway 94 Causeway and in the immediate vicinity of the Lake Landing water control structure, the Outfall Canal water control structure, and Central Canal Bridge.

(3) Herring (alewife) dipping is permitted from the canal banks and water control structures in the immediate vicinity of Waupoppin Canal, Outfall Canal and Lake Landing Canal from March 1 through May 15 from one-half hour before sunrise until 10:00 p.m.

(4) All crabbing equipment must be attended.

(5) Airboats are not permitted.

(c) *Pee Dee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 1 through October 15.

(2) Fishing is permitted only during daylight hours.

(3) Only nonmotorized boats and boats with electric motors are permitted on Arrowhead Lake and Andrews Pond.

(4) Only the use of pole and line or rod and reel is permitted.

(5) The use of live minnows as bait is not permitted.

§ 33.38 North Dakota. [Reserved]

§ 33.39 Ohio. [Reserved]

§ 33.40 Oklahoma.

(a) *Salt Plains National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) The northern portion of Great Salt Plains Reservoir is closed.

(2) Fishing is permitted from April 15 through October 15.

(3) The use of firearms for taking frogs is not permitted.

(4) Trotlines must be attended daily and removed when fishing is completed.

(5) Trotlines are not permitted within 500 feet of the shoreline of the Jet Recreation Area.

(6) Posts used to secure or anchor trotlines must reach a minimum of two feet above the water surface and must be marked so that they are clearly visible to boaters.

(7) The use of any metallic posts or stakes to secure or anchor trotlines is not permitted.

(8) Taking any type of bait from refuge lands or waters is not permitted.

(b) *Sequoyah National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are not permitted in the posted area located south of Vian Creek to Tuff Ramp and north along the western shore of Sally Jones Lake to the mouth of Horton Slough from January 1 through February 15 and October 1 through December 31.

(2) Fishing and frogging are not permitted in the Sandtown Bottom area from one hour after sunset to 4:00 a.m.

(3) The use of firearms for taking frogs is not permitted.

(c) *Tishomingo National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are permitted on all refuge waters from March 1 through September 30 except as noted below in (3).

(2) Bank fishing and frogging are permitted in the immediate area of the refuge headquarters boat launching ramp, Goose Pen Pond, Dick's Pond, Big Sandy Creek, Bell Creek and Rock Creek from October 1 through the last day of February.

(3) All refuge waters are closed to fishing during the special fall deer hunts.

(4) The use of trotlines, juglines, throwlines and other set tackle is permitted only in Cumberland Pool of Lake Texoma and the Washita River from March 1 through September 30, and set tackle must be removed from these waters by October 1.

(5) The use of firearms for taking frogs is not permitted.

(d) *Washita National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are permitted from March 15 through October 14 with the exception that the eastern shore of Foss Reservoir from the Lakeview Recreation Area to the Pitts Creek Recreation Area and the eastern bank of Pitts Creek are open to bank fishing and frogging year-round.

(2) Access to fishing and frogging is permitted only from the McClure, Riverside, Owl Cove, Pitts Creek and Lakeview Recreation Areas and by boat from Foss Reservoir.

(3) Boats and other flotation devices are not permitted on refuge waters from October 15 through March 14.

designated areas of the refuge subject to the following condition: Fishing is permitted from March 1 through

(1) Fishing is permitted only during daylight hours in non-state-controlled

(1) Fishing is permitted in refuge pools and reservoirs from March 1 through

(3) The use of trotlines, setlines, bows and arrows, gigs, or spears is not

§ 33.48 Utah. [Reserved]

VOL 50 ISS 141 JL 23 1985 UMI

(3) Boats and other flotation devices are not permitted on refuge waters from October 15 through March 14.

(4) Trotlines must be attended daily and must be removed when fishing is completed.

(5) Taking any type of bait from refuge lands and waters is not permitted.

(6) The use of firearms for taking frogs is not permitted.

(e) *Wichita Mountains Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fish may be taken only with pole and line or rod and reel except that in Elmer Thomas Lake only, nongame fish may be taken with any technique permitted by State regulations.

(2) Taking any type of bait from refuge lands or waters is not permitted.

(3) Taking of frogs and turtles is not permitted.

§ 33.41 Oregon.

(a) *Cold Springs National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through September 30.

(2) Bank fishing only is permitted from October 1 through the last day of February.

(3) Only nonmotorized boats and boats with electric motors are permitted.

(b) *Deer Flat National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Shoreline fishing is not permitted on the islands of the Snake River Sector from February 1 through May 31.

(c) *Hart Mountain National Antelope Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted only in Rock Creek, Guano Creek, and Warner Pond.

(d) *Klamath Forest National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Bank fishing is permitted in the borrow ditches adjacent to the Silver Lake Highway and along the shoreline of Wocus Bay.

(2) The use of boats is not permitted.

(e) *Malheur National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during the State trout season.

(2) Boats are not permitted with the exception that nonmotorized boats are permitted on Krumbo Reservoir.

(f) *McKay Creek National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted from March 1 through September 30.

(g) *Umatilla National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on refuge impoundments and ponds from May 16 through September 30. Other refuge waters (Columbia River and its backwaters) are open in accordance with State regulations.

(2) Only nonmotorized boats and boats with electric motors are permitted on refuge impoundments and ponds.

(h) *Upper Klamath National Wildife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in Pelican Bay, Recreation Creek, Crystal Creek, Odessa Creek, Thomas Creek, Pelican Cut and that portion of Upper Klamath Lake located on the east side of the refuge.

(2) Motorized boats shall not exceed 10 miles per hour in any stream, creek or canal and on that portion of Pelican Bay west of a line beginning at designated points on the north shore of Pelican Bay one-fourth mile east of Crystal Creek and extending due south to the opposite shore of the lake.

(i) *William L. Finley National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on Muddy Creek from the beginning of the State trout season in April through October 31.

(2) The use of boats is not permitted.

§ 33.42 Pennsylvania.

(a) *Erie National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours.

(2) Boats without motors are permitted 3,000 feet (to the buoyline) above the Pool 9 dike from the second Saturday in June through September 15.

(3) Ice fishing is permitted on Pools K and 9 when conditions are safe.

(4) Only minnows may be taken as bait from refuge lands and waters and a special use permit is required for taking minnows.

(5) A permit is required to take turtles.

(6) The taking of frogs is not permitted.

(b) *Tinicum National Environmental Center.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours in non-state-controlled areas.

(2) Boats are not permitted.

(3) Bow fishing is not permitted.

(4) A permit is required to take turtles.

(5) The taking of frogs is not permitted.

§ 33.43 Rhode Island. [Reserved]

§ 33.44 South Carolina.

(a) *Cape Romain National Wildife Refuge.* Fishing, crabbing, and shell fishing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through September 30 during daylight hours only.

(2) Only nonmotorized boats and boats with electric motors are permitted.

(3) The use of cast nets from Moores Landing Pier is not permitted.

(b) *Carolina Sandhills National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through September 30 with the exception that fishing is permitted year-round in Lake Bee, Lynches River and the Black Creek Bridge Areas on State Road 33, State Road 145, Highway 1 and Wire Road.

(2) Fishing is permitted only during daylight hours.

(3) Only bank fishing is permitted with the exception that nonmotorized boats and boats with electric motors are permitted in Martins Lake, Lake Bee, Lake 16, Lake 17 and May's Lake.

(4) Fish baskets, nets, set hooks and trotlines are not permitted.

(c) *Santee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on inland ponds only during daylight hours except as posted.

(2) Fishing is permitted in Cantey Bay, Black Bottom, Savannah Branch and refuge ponds and impoundments from March 1 through September 30.

(d) *Savannah National Wildlife Refuge.* (Refer to regulations for Georgia, Savannah NWR in § 33.14.)

§ 33.45 South Dakota. [Reserved]

§ 33.46 Tennessee.

(a) *Cross Creeks National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in refuge pools and reservoirs from March 1 through October 31 during daylight hours only.

(2) Boat fishing is permitted at any time on Lake Barkley waters.

(3) Trotlines, limb lines, jugs and slat baskets are not permitted in refuge pools and reservoirs.

(4) Taking of frogs is not permitted.

(5) Boats are restricted to "slow speed/minimum wake" on all refuge pools.

(b) *Hatchie National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only.

(2) Only nonmotorized boats and boats with electric motors are permitted.

(3) Fishing is permitted only with pole and line or rod and reel.

(c) *Lake Isom National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 15 through October 15 during daylight hours only.

(2) Only boats with motors of 10 horsepower or less are permitted.

(d) *Lower Hatchie National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted with pole and line or rod and reel only.

(e) *Reelfoot National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on the Long Point Unit (north of Upper Blue Basin) from March 15 through October 15 and on the Grassy Island Unit (south of the Upper Blue Basin) from the day following the closing day of the winter waterfowl hunting season through the day preceding the opening day of the fall waterfowl hunting season.

(2) Fishing is permitted only during daylight hours.

(3) Only boats with motors of 10 horsepower or less are permitted.

§ 33.47 Texas.

(a) *Anahuac National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Boats and other flotation devices are not permitted on inland waters. Boats may be launched from the refuge into East Bay.

(2) Fishing is permitted only with pole and line, rod and reel or hand-held line.

(3) The use of trotlines, setlines, bows and arrows, gigs, or spears is not permitted in inland waters.

(b) *Aransas National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 15 through October 15 from sunrise to sunset.

(2) Boat launching from refuge lands is not permitted.

(3) Access by foot to bays is permitted only at designated entry points.

(c) *Brazoria National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing in inland waters is permitted only in Nick's Lake, Salt Lake, and Lost Lake.

(d) *Hagerman National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are permitted from April 1 through September 30.

(2) Frogs may be taken only by dip net, hands, gigs, or hook and line.

(3) Trotlines must be attended daily and removed when fishing is completed.

(4) Fishing is not permitted from bridges and roadways.

(e) *Laguna Atascosa National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is only permitted by pole and line, rod and reel, or hand-held line. Bait may be taken with cast nets.

(2) Crabs may be taken only with dip net, setline, hand-held line, gig or crab trap.

(f) *McFaddin National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing in inland waters is permitted only with pole and line, rod and reel, or hand-held line.

(2) The use of trotlines, setlines, bows and arrows, gigs, or spears is not permitted in inland waters.

(g) *San Bernard National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing in inland waters is permitted on the refuge portions of Cowtrap Lake and Cedar Lake only.

(h) *Texas Point National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following condition: Fishing in inland waters is permitted only with pole and line, rod and reel, or hand-held line.

§ 33.48 Utah. [Reserved]

§ 33.49 Vermont.

(a) *Missisquoi National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted only from refuge lands along Lake Champlain and the Missisquoi River.

§ 33.50 Virginia.

(a) *Back Bay National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing access from refuge headquarters is permitted only by foot, bicycle, and hand-launched boat.

(2) Launching trailered boats in the refuge headquarters area is not permitted.

(b) *Chincoteague National Wildlife Refuge.* Fishing, crabbing and clamming are permitted on designated areas of the refuge subject to the following conditions:

(1) Sport fishing, crabbing and clamming are permitted in salt water areas and in that portion of Swan Cove adjacent to Beach Road. All other refuge ponds, impoundments and channels are closed to these activities.

(2) Traps and crab pots must be attended.

(3) A permit is required to remain on the refuge after normal closing hours.

(c) *Great Dismal Swamp National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Boat fishing is permitted in Lake Drummond and in the Feeder Ditch on the east side of the lake during daylight hours only.

(2) Bank fishing is not permitted.

(3) All fishing lines must be attended.

(4) A permit is required for vehicular access to the boat ramp on Interior Ditch Road on the west side of Lake Drummond from April 1 through June 15.

§ 33.51 Washington.

(a) *Columbia National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Only nonmotorized boats are permitted on the chain of lakes extending from Soda Lake through Upper Hampton and on Crab Creek and its impoundments.

(2) Motorized boats are permitted on all other refuge waters open to fishing.

(b) *McNary National Wildlife Refuge.* Fishing is permitted on designated areas of the McNary, Hanford Islands and

Strawberry Island Divisions of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours.

(2) Fishing and frogging are only permitted during daylight hours.

(1) Fishing is permitted only in Sprague and Goose Pools including their

Proposed Rules

Federal Register
Vol. 50, No. 141

VOL 50 ISS 141 JL 23 1985 UMI

Strawberry Island Divisions of the refuge subject to the following conditions:

(1) Fishing is permitted on the Hanford Islands and Strawberry Island Divisions from August 1 through September 30.

(2) Fishing is not permitted on the McNary Division during the migratory waterfowl hunting season.

(3) The use of boats and other flotation devices is not permitted on the McNary Division.

(c) *Ridgefield National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are only permitted from March 1 through September 30.

(2) Fishing and frogging are only permitted during daylight hours.

(d) *Umatilla National Wildlife Refuge.* (Refer to regulations for Oregon, Umatilla NWR in § 33.41.)

§ 33.52 West Virginia. [Reserved]

§ 33.53 Wisconsin.

(a) *Horicon National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 15 through September 15.

(2) Only bank fishing is permitted.

(b) *Necedah National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only in Sprague and Goose Pools including their outlets as far south as Sprague-Mather Road.

(2) Fishing is permitted from December 15 through March 15 and from June 1 through September 15.

(3) Nonmotorized boats are permitted.

(c) *Upper Mississippi River Wild Life and Fish Refuge.* (Refer to regulations for Illinois, Upper Mississippi River Wild Life and Fish Refuge in § 33.17.)

§ 33.54 Wyoming. [Reserved]

Dated: June 28, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-17403 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 50, No. 141
Tuesday, July 23, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Fees for Supervision of Official Services

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects typographical errors appearing in a proposed rule of Fees for Supervision of Official Services that appeared at page 28104 in the Federal Register of Wednesday, July 10, 1985 (50 FR 28104). This action is necessary to correct typographical errors in Schedule C, Table 2, Fees assessed by the Service.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, S.W., Washington, DC, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: In Federal Register docket 85-16374 beginning on page 28104 in the issue of Wednesday, July 10, 1985, the following correction should be made:

§ 800.71 [Corrected]

TABLE 2, (1) Official weighing services, line item, (iv) Ship (per carrier),[3] under column heading Class X, 57.40 should read 49.20; line item (v) All other lots (per lot or part lot), under column heading Class X, 0.35 should read 0.30.

Dated: July 18, 1985.

K.A. Gilles,

Administrator.

[FR Doc. 85-17457 Filed 7-22-85; 8:45 am]

BILLING CODE 3410-EN-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561 and 563

[No. 85-505]

Preferred Stock as Regulatory Net Worth

Date: June 21, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is proposed to revise its regulations concerning the use of non-permanent preferred stock as regulatory net worth. First, the Board is proposing to allow preferred stock that is redeemable to the option of the issuer to be included as regulatory net worth only if the security form of the preferred stock has been approved by the FSLIC prior to issuance of the security and the form of the security states that no redemption may be made if, after giving effect to such redemption, the insured institution would fail to meet its regulatory net-worth requirement. Second, the Board is proposing to allow mandatorily redeemable preferred stock to be included as regulatory net worth only if an application to include such preferred stock has been filed with and approved by the FSLIC. In addition, the proposal would require that mandatorily redeemable preferred stock be subject to an amortization schedule which would reduce the amount of such preferred stock that may be included as regulatory net worth based on the time remaining to require redemption. Finally, the Board is proposing to explicitly prohibit any insured institution from including as regulatory net worth any capital instrument or security issued by the insured institution if such capital instrument or security is owned by a service corporation or other subsidiary controlled by the issuing insured institution.

DATE: Comments must be received by September 17, 1985.

ADDRESS: Director, Information Services Section, Office of the Secretariat, Federal Home Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be publicly available at this address.

FOR FURTHER INFORMATION CONTACT: James H. Underwood, Attorney, Corporate and Securities Division, Office of General Counsel, (202) 377-6649, or Francis M. Passarelli, Deputy Director, Office of Examinations and Supervision, (202) 377-6493, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: By Resolution No. 85-292, dated April 18, 1985 (50 FR 20550; May 17, 1985), the Board adopted a final rule concerning the issuance and use of subordinated debt as regulatory net worth. In that rulemaking proceeding, and earlier, in the resolution proposing the revisions to the net-worth and subordinated debt regulations, Resolution No. 84-680, dated November 30, 1984 (49 FR 47498; December 5, 1984), the Board indicated that it did not consider subordinated debt to be the equivalent of permanent capital stock and retained earnings for purposes of satisfying the Board's minimum net-worth requirement since subordinated debt is a non-permanent liability that must be repaid upon maturity. Upon further consideration of the items that are eligible to be included in regulatory net worth, the Board has preliminarily concluded that 12 CFR 561.13 should be further revised to distinguish between permanent preferred stock and non-permanent preferred stock as regulatory net worth.

The current regulation permits permanent preferred stock to be included as regulatory net worth without limitation, which is consistent with the accounting treatment permitted under generally accepted accounting principles ("GAAP"). The Board does not propose to make any changes regarding permanent preferred stock except to clarify in the text of the regulation that treasury shares of permanent preferred stock (and other types of equity securities) will not be includable as net worth, which is consistent with prior interpretations and policy of the Board. Similarly, the proposed revisions would not alter the current regulation's prohibition of the inclusion of preferred stock which is redeemable at the option of the holder as regulatory net worth.

The treatment of preferred stock that is redeemable at the option of the issuer and preferred stock that is required to be redeemed by the issuer would, however, be revised by this proposal.

First, the proposal would specify that the security form of preferred stock that is redeemable at the option of the issuer

The final revision that the Board is proposing to § 561.13 would provide that any capital instrument of security issued

(2) If the Board were to determine that less than fifty-percent ownership

Lists of Subjects in 12 CFR Parts 561 and 563

be included as net worth without limitation if it would otherwise qualify

be obtained either before or after the

VOL 50 ISS 141 JL 23 1985 UMI

First, the proposal would specify that the security form of preferred stock that is redeemable at the option of the issuer must be approved pursuant to 12 CFR 563.1, which requires that the security form be approved by the Corporation prior to its issuance. In addition, the security form would be required to include a statement that no redemption may be made if, after giving effect to such redemption, the issuing insured institution would fail to meet its net-worth requirement under 12 CFR 563.13. The Board believes that the proposed revision to § 561.13 concerning the form of preferred-stock securities that are redeemable at the option of the issuer would ensure that no redemptions are made in violation of § 561.13 and that the investing public is aware of the regulatory restrictions of the redemption of the preferred stock.

The second revision to § 561.13 proposed by the Board would change the net-worth treatment of preferred stock that is required to be redeemed by the issuing insured institution. The Board believes that mandatorily redeemable preferred stock, in terms of the degree of protection if affords the FSLIC, is substantially similiar to other non-permanent capital instruments with a fixed maturity or redemption date. For that reason, the Board is proposing to require the written approval of the Board to include mandatorily redeemable preferred stock as regulatory net worth and to require that such preferred stock be subject to an amortization schedule which reduces the amount of the outstanding preferred stock that can be included as net worth based on the time remaining to required redemption. The Board believes that this proposed revision would appropriately recognize that preferred stock with mandatory redemption features does not provide the FSLIC with the same degree of protection as permanent capital stock, and would ensure that all non-permanent capital instruments with a fixed maturity or redemption date are treated consistently.

The Board is also proposing to adopt a new § 563.7–5 to set forth the criteria for review of applications for approval of mandatorily redeemable preferred stock as regulatory net worth. The provisions of proposed § 563.7–5 are substantially similar to § 563.8–1 and are intended to provide a basis for the Board's review of the financial condition of the issuing institution and the terms and conditions of the mandatorily redeemable preferred stock to ensure that inclusion of the preferred stock as regulatory net worth would result in a decrease in risk to the FSLIC.

The final revision that the Board is proposing to § 561.13 would provide that any capital instrument of security issued by an insured institution that is held by a service corporation or other subsidiary directly or indirectly controlled by an insured institution must be excluded from the issuing insured institution's regulatory net worth in reports filed with the Board. This proposal is intended to formalize the Board's current policy concerning the treatment of capital instruments or securities of an insured institution that qualify as regulatory net worth that are held by a service corporation or other subsidiary that is controlled by the insured institution. The Board notes that under GAAP, insured institutions would be required to report their holdings in majority-owned subsidiaries on a consolidated basis, which would result in any equity securities of the parent institution held by the subsidiary being netted against the parent institution's equity. Under the Board's regulatory reporting procedures however, the parent institution reports its investment in its service corporation by the "equity method of accounting", which could result in an overstatement of an insured institution's net worth if the service corporation or other subsidiary has invested in capital instruments or securities issued by the parent insured institution. It has always been the Board's position that the regulatory reporting procedures utilized by insured institutions should not be employed to overstate an insured institution's regulatory net worth, and the proposed revision would explicitly prohibit such a result by disallowing net-worth treatment for capital securities of the parent held by the subsidiary.

The Board notes that the proposal does not define what percentage of ownership of a service corporation or other subsidiary would constitute control for purposes of determining whether capital instruments or securities held by a service corporation or other subsidiary of the insured institution should be excluded from the insured institution's regulatory net-worth. Further, the proposal would not necessarily prohibit net worth treatment by the parent of capital securities held by other entities such as partnerships or trusts that are controlled by the insured institution. In that regard, the Board is particularly interested in receiving comments on the following issues:

(1) For purposes of this proposal, what percentage of ownership or other tests should be used to determine when an insured institution is in control of a service corporation or other subsidiary?

(2) If the Board were to determine that less than fifty-percent ownership constituted control, should the percentage of a capital instrument or security issued by the insured institution that is excluded from the insured institution's regulatory net worth be based on the insured institution's percentage of ownership of the service corporation or other subsidiary?

(3) Should the proposed prohibition be expanded to include not only service corporations and other subsidiaries but any entity in which the insured institution has an equity investment?

The Board notes that pursuant to this rulemaking proceeding, it could adopt in a final rule new net-worth requirements that would be applied to all non-permanent preferred stock, both prospective and outstanding issuances. The Board, however, does not believe, if it adopted the new restrictions substantially as proposed, that it would be appropriate to impose these restrictions on non-permanent preferred stock which was issued by insured institutions prior to today's action. Thus, the proposed rule would specifically grandfather non-permanent preferred stock which was issued in conformity with § 561.13 prior to the date this proposed rule is published in the **Federal Register**.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to institutions whose accounts are insured by the FSLIC.

3. *Impact of the proposed rule on small institutions.* The proposed rule would restrict the use of non-permanent preferred stock as regulatory net worth by small institutions.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rules.* There are no alternatives that would be less burdensome that the proposal in addressing the concerns expressed in the supplementary information set forth above.

Lists of Subjects in 12 CFR Parts 561 and 563

Insurance of accounts, Savings and loan associations.

Accordingly, the Board hereby proposes to amend Parts 561 and 563 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

1. The authority citations for 12 CFR Parts 561 and 563 would continue to read:

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 1 and 5, 48 Stat. 128 and 132, as amended (12 U.S.C. 1462 and 1464); sec. 409, 94 Stat. 160, sec. 5A, 47 Stat. 736, as amended (12 U.S.C. 1464); secs. 401, 402, 403, 405, 406, 407, 48 Stat. 1255, 1256, 1257, 1259, 1260, as amended (12 U.S.C. 1724, 1725, 1726, 1729, 1730). Reorg. Plan No. 3 of 1974, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071; sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425a).

2. Amend § 561.13 by revising paragraph (a); redesignating paragraph (d) as paragraph (f); and adding new paragraphs (d) and (e); as follows:

§ 561.13 Regulatory net worth.

(a) The term "regulatory net worth" means the sum of all reserve accounts (except specific or valuation reserves), retained earnings, permanent common stock, permanent preferred stock, non-permanent preferred stock issued prior to July 23, 1985, mutual capital certificates (issued pusuant to § 563.7–4 of this chapter), securities which constitute permanent equity capital in accordance with generally accepted accounting principles (if approved by the Corporation), appraised equity capital (as defined in § 563.13(c) of this chapter), and any other nonwithdrawable accounts of an insured institution (excluding any treasury shares held by the insured institution): *Provided,* that for any non-permanent instrument qualifying as regulatory net worth under this paragraph, either (1) the remaining period to maturity or required redemption (or time of any required sinking fund or other prepayment or reserve allocation, with respect to the amount of such prepayment or reserve) is not less than one year, or (2) the redemption or prepayment is only at the option of the issuing insured institution and such payments would not cause the insured institution to fail or continue to fail to meet its net-worth requirement under § 563.13 of this chapter; and *Provided further,* that capital stock may be included as net worth without limitation if it would otherwise qualify but for either (i) a provision permitting redemption, in the event of a merger, consolidation, or reorganization approved by the Corporation where the issuing institution is not the survivor, or (ii) a provision permitting a redemption where the funds for redemption are raised by the issuance of permanent stock.

* * * * *

(d) The term "regulatory net worth" also includes:

(1) Preferred stock that is redeemable at the option of the issuer which was issued after July 23, 1985: *Provided,* that the form of the security is approved pursuant to § 563.1 of this subchapter and states that no redemption may be made by the issuing insured institution if, after giving effect to such redemption, the insured institution would fail to meet its net-worth requirement under § 563.13 of this subchapter;

(2) Mandatorily redeemable preferred stock which is issued pursuant to § 563.7–5 of this subchapter, or was issued after July 23, 1985, and was approved in writing by the Corporation for inclusion as net worth: *Provided,* that unless otherwise approved by the Corporation in writing, mandatorily redeemable preferred stock issued after July 23, 1985, may be included as net worth only in accordance with the schedule set forth in paragraph (c)(1) of this section and consistent with the provisions of paragraphs (c) (2) and (3) of this section.

(e) Notwithstanding paragraphs (a), (b), (c), and (d) of this section, the term "regulatory net worth" does not include any capital instrument or security which may be included as regulatory net worth pursuant to any of those paragraphs if such capital instrument or security is held by a service corporation or other subsidiary directly or indirectly controlled by the insured institution, unless such inclusion is specifically approved by the Corporation in writing.

PART 563—OPERATIONS

3. Add new § 563.7–5 to read as follows:

§ 563.7–5 Mandatorily redeemable preferred stock.

(a) *General.* No insured institution shall issue mandatorily redeemable preferred stock pursuant to this section or amend the terms of such preferred stock unless it has obtained written approval of the Corporation. Approval of the issuance under this section, in order to qualify as regulatory net worth under § 561.13 of this subchapter, may be obtained either before or after the preferred stock is issued, but no approval shall be granted unless the issuance of preferred stock and the form and manner of filing of the application are in accordance with the provisions of this section.

(b) *Eligibility requirements.* In determining whether the Corporation will process an application by an insured institution for approval of the issuance of mandatorily redeemable preferred stock pursuant to this section, the Corporation will consider the following factors:

(1) Whether the issuance of such preferred stock by the applicant is authorized by applicable law and regulation and is not inconsistent with any provision of the applicant's charter, constitution, or bylaws;

(2) Whether, in the opinion of the Corporation, the overall policies, condition, and operation of the applicant do not afford a basis for supervisory objection to the application. Bases for supervisory objecton may include the following:

(i) Net worth, without regard to the amount of any mandatorily redeemable preferred stock to be included in net worth, does not meet the requirements of § 563.13;

(ii) Scheduled items exceed 2.5 percent of specified assets;

(iii) Losses have not been offset by specific reserves to the extent required pursuant to § 563.17–2;

(iv) Actual and anticipated income from operations, after distribution of earnings to the holders of savings accounts, payment of dividends on outstanding equity securities and payment of interest on borrowings but before income taxes, is not demonstrably sufficient for payment of dividends and redemption price, discount, and related expenses of the proposed issues; and

(3) Whether the issuance of such securities by the applicant in the transaction and any related transactions will result in a transfer of risk from the Corporation to parties other than insured institutions.

(c) *Application form; supporting information.* An application for approval of the issuance of mandatorily redeemable preferred stock by an insured institution pursuant to this section shall be in the form prescribed by the Corporation. Such application and instructions may be obtained from the Supervisory Agent. Information and exhibits shall be furnished in support of the application in accordance with such instructions, setting forth all of the terms and provisions relating to the proposed

issue and showing that all of the requirements of this section have been or will be met.

(f) *Additional requirements.* The Corporation may impose on the

ACTION: Notice of proposed rulemaking (NPRM).

regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be

assemblies. Mooney Aircraft Corporation has issued the following: (1) Service Bulletin S/B M20–229, dated

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

VOL 50 ISS 141 JL 23 1985 UMI

issue and showing that all of the requirements of this section have been or will be met.

(d) *Requirements as to securities.* Mandatorily redeemable preferred stock issued pursuant to this section shall meet all of the following requirements unless one or more of such requirements, not including paragraph (d)(1)(i) of this section which is not eligible for waiver, are waived by the Corporation.

(1) *Form of certificate.* Each certificate evidencing mandatorily redeemable preferred stock issued by an insured institution pursuant to this section shall:

(i) Bear on its face, in bold-face type, the following legend: "This security is not a savings account or deposit and it is not insured by the Federal Savings and Loan Insurance Corporation";

(ii) Clearly state that the security is unsecured and is not eligible as collateral for any loan by the issuing institution: and

(iii) State or refer to a document stating that no redemption, other than scheduled redemptions, may be made by the issuer if after giving effect to such redemption the institution would fail to meet the net-worth requirements of § 563.13;

(2) *Limitation as to term.* No mandatorily redeemable preferred stock issued by an insured institution pursuant to this section shall have an original period to required redemption of less than seven years. During the first six years that such a security is outstanding, the total of all required purchase-fund payments, required reserve allocations and required redemptions with respect to the portion of such six years as have elapsed shall at no time exceed the original redemption price thereof multiplied by a fraction the numerator of which is the number of years which have elapsed since the issuance of the security and the denominator of which is the number of years covered by the original period to required redemption.

(e) *Filing of application.* The application for approval of the issuance of mandatorily redeemable preferred stock under this section shall be filed with the Corporation by transmitting the original and two copies of the application and all supporting documents to the Supervisory Agent. As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the applicant is located or any other officer or employee of such Bank designated by the Board as agent of the Corporation, as provided by § 501.10 or § 501.11 of this chapter.

(f) *Additional requirements.* The Corporation may impose on the applicant such requirements or conditions with regard to the securities or the offering or issuance thereof as it may deem necessary or desirable for the protection of purchasers, the applicant, or the Corporation.

(g) *Limitation on offering period.* Following the date of approval of the application by the Corporation, the institution shall have an offering period of not more than one year in which to complete the sale of the mandatorily redeemable preferred stock issued pursuant to this section. The Corporation may in its discretion extend such offering period if a written request showing good cause for such extension is filed with it not later than 30 days before the expiration of such offering period or any previous extension thereof.

(h) *Reports.* Within 30 days after completion of the sale of the mandatorily redeemable preferred stock issued pursuant to prior approval under this section, the institution shall transmit a written report to the Supervisory Agent stating the number of purchasers, the total dollar amount of securities sold, and the amount of net proceeds received by the institution.

(i) *Delegations.* The Director of the Office of Examinations and Supervision with the concurrence of the General Counsel or their designees, are authorized to approve any mandatorily redeemable preferred stock applications filed pursuant to this section if they are in compliance with regulatory requirements, unless they are of the opinion that the application involves policy considerations which warrant formal consideration by the Corporation.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-17226 Filed 7-22-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-25-AD]

Airworthiness Directives; Mooney Aircraft Corporation Models M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K and M22 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Mooney Aircraft Corporation Models M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K and M22 airplanes. This AD would require inspection of fuel tanks and fuel filler cap assemblies and establish periodic inspection of the filler cap assemblies. Water can be trapped in the fuel bays due to improper fuel tank sealant application and the fuel filler cap assemblies can have improper sealing characteristics allowing water leakage into the wing fuel tanks. These inspections and modification of the tanks will preclude fuel contamination which could be detrimental to satisfactory engine operation.

DATES: Comments must be received on or before August 26, 1985.

ADDRESSES: Mooney Aircraft Corporation Service Bulletins (S/Bs) M20-229 and M20-230 both dated April 10, 1985, applicable to this AD may be obtained from Mooney Aircraft Corporation, Post Office Box 72, Kerrville, Texas 78028-0072, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 85-CE-25-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Billy R. Parker, Airplane Certification Branch, ASW-150, Federal Aviation Administration, Post Office Box 1689, Forth Worth, Texas; Telephone (817) 877-2449.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-CE-25-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received reports on certain Mooney Model M20 and M22 airplanes which indicate that deterioration of fuel tank filler cap seals (O-rings) has allowed leakage of water into the wing fuel tanks and that improper fuel tank sealant application can result in water being entrapped between wing fuel bay ribs. There have been a number of accidents and incidents in which water in the fuel was determined to be a causal factor. Prior to an FAA audit conducted last year, the manufacturer did not have detailed tank sealing requirements for production airplanes which identified critical rib drain holes within the fuel tanks that must be open after tank sealing, nor were there any manufacturer's service instruction available for resealing of fuel tanks after field modifications. The combination of water entering the wing fuel tanks through fuel filler ports and the entrapment of such water and/or other contaminants in the fuel tanks could result in engine fuel supply contamination when airplanes are maneuvered in certain ways. The applicable service or maintenance manuals do not require inspection of fuel tank sealing applications or fuel filler cap assemblies nor had any service bulletins been issued regarding required inspections of the subject fuel tanks and fuel filler caps.

The National Transportation Safety Board (NTSB) has recommended to the FAA that an AD be issued to: (1) Inspect fuel tank filler cap assemblies for deterioration of sealing components to assure proper sealing and (2) require necessary action to eliminate the potential for water entrapment in the fuel tanks. In addition, the NTSB recommended that the manufacturer be required to generate a service bulletin concerning the inspection and maintenance of the fuel tank filler cap assemblies. Mooney Aircraft Corporation has issued the following: (1) Service Bulletin S/B M20-229, dated April 10, 1985, describing inspection and maintenance procedures which will restore and ensure continued sealing capability of the fuel tank filler cap assemblies, and (2) Service Bulletin S/B M20-230, dated April 10, 1985, requiring the inspection of fuel tank sealing application to ensure all required wing rib fuel drain holes are open to prevent water entrapment.

The FAA has examined the available information relating to the issuance of the NTSB safety recommendation and the aforementioned service bulletins and agrees that rulemaking action is appropriate. Since the condition described is likely to exist or develop in other airplanes of the same design, the AD would require initial and repetitive inspections of the fuel tank filler cap assemblies and a one-time inspection of the fuel tank sealant application on certain Mooney Model M20 and M22 series airplanes. The FAA has determined there are approximately 7800 airplanes affected by the proposed AD. The cost of compliance with the proposed AD is estimated to be $328 per airplane. The total cost is estimated to be $2,558,400 to the private sector. The cost is so small that compliance with the proposal will not have a significant financial impact on any small entities owning affected airplanes.

Therefore, I certify that this action: (1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Mooney Aircraft Corporation: Applies to Models M20B, M20C, M20D, M20E, M20F, M20G, M20J, M20K and M22 (all Serial Numbers (S/N)) airplanes certificated in any category.

Compliance: Required as indicated, after the effective date of this AD, unless already accomplished.

To preclude fuel contamination and water entrapment in the fuel tanks accomplish the following:

(a) For Models M20B, M20C, M20D, M20E, M20F, M20G (all S/N), M20J (S/N 24-001 through 24-1498), M20K (S/N 25-0001 through 25-0854) and M22 (all S/N) airplanes, within the next 100 hours time-in-service (TIS) after the effective date of this AD, visually inspect all fuel tank bays and rib stations in accordance with the instructions contained in Mooney S/B M20-230, dated April 10, 1985. Repair all discrepancies found prior to further flight.

(b) For Models M20C (S/N 2823 through 20-1258), M20D (S/N 201 through 280), M20E, M20F, M20G, M20J, M20K and M22 (all serial numbers) airplanes, within the next 100 hours TIS after the effective date of this AD, and each 100 hours TIS thereafter, visually inspect the fuel tank filler cap assemblies in accordance with the instructions contained in Mooney S/B M20-229, dated April 10, 1985. Repair all discrepancies found prior to further flight.

(c) For Models M20J (S/N 24-1499 and on) and M20K (S/N 25-0855 and on) airplanes that have had any fuel tank resealed after initial installation at the factory, within the next 100 hours TIS after the effective date of this AD visually inspect all fuel tank bays and rib stations in accordance with the instructions contained in Mooney S/B M20-230 dated April 10, 1985. Repair all discrepanices found prior to further flight.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) The intervals between the repetitive inspections required by Paragraph (b) of this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance on the airplane.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Airplane Certification Branch, ASW-150, Federal Aviation Administration, Southwest Region, Post Office Box 1689, Fort Worth, Texas 76101.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Mooney Aircraft Corporation, Post Office Box 72, Kerrville, Texas 78028-0072 or FAA, Office of Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on July 11, 1985.

Edwin S. Harris,

SUPPLEMENTARY INFORMATION:

Background

The Temporary regulations in the

from other offices of the Internal Revenue Service and Treasury Department participated in developing

Administration when appointments are broken by persons under medical treatment. If such a patient fails to keep a second appointment, without at least

services required would not have been reasonable, sound, wise, or practicable.

VOL 50 ISS 141 JL 23 1985 UMI

Issued in Kansas City, Missouri, on July 11, 1985.

Edwin S. Harris,

Acting Director, Central Region.

[FR Doc. 85-17388 Filed 7-22-85; 8:45 am]

BILLING CODE 4810-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[LR-162-84]

Employee Tip Reporting and Substantiation Requirements; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary employment tax regulations relating to the reporting and substantiation requirements applicable to tipped employees. The text of the temporary regulations serve as the comment document for this notice of proposed rulemaking.

DATES:

Proposed Effective Date

The proposed amendments with respect to a lower allocation-of-tips percentage would be effective on and after July 18, 1984. The provisions relating to the definition of a large food or beverage establishment would apply to taxable years beginning after December 31, 1982, and would be effective after December 31, 1982. The substantiation requirements would generally apply to tips received on or after October 1, 1985, and would be effective after September 30, 1985.

Dates for Comments and Requests for a Public Hearing

Written comments and requests for a public hearing must be delivered or mailed by September 23, 1985.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-162-84) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Gail H. Morse of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3297, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Employment Tax Regulations (26 CFR Part 31) under section 6053.

For the text of the temporary regulations see T.D. published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the addition to the regulations.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written requests to the commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**. The collection of information requirements contained herein have been submitted for OMB review under the Paperwork Reduction Act, and comments on them should be sent to the Office of Information and Regulatory Affairs of OMB, Attn: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests persons submitting comments to OMB to also send copies of the comments to the Service.

Drafting Information

The principal author of these proposed regulations is Gail H. Morse of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 85-17455 Filed 7-18-85; 4:06 pm]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Services

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration is amending its medical regulations, (38 CFR Part 17) to more clearly reflect the specific action that the Department of Medicine and Surgery will take when a patient breaks a medical appointment, and to more accurately define the eligibility requirements for claims filed for VA payment of unauthorized medical services. The costs allowed for unauthorized repairs to certain prosthetic items are increased also. The amendments will more clearly define the prerequisite for the benefits.

DATES: Comments must be received on or before August 22, 1985. It is proposed to make this amendment effective 30 days after publication of final regulations.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed regulation to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, of the above address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until September 6, 1985.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein, (202) 389-3785.

SUPPLEMENTARY INFORMATION: Section 628 of Title 38 United States Code authorizes the Administrator, subject to regulations the Administrator shall prescribe, to reimburse veterans for certain medical expenses. The proposed amendments to 38 CFR Part 17 more precisely define the prerequisites for this benefit, and will increase the costs allowed for the repair of certain prosthetic items. In addition, editorial changes are made to more clearly define action to be taken by the Veterans Administration when appointments are broken by persons under medical treatment.

The Administrator has determined that this amendment to VA regulations is considered nonmajor under the criteria of Executive Order 12291 on Federal Regulation. It will not have an annual effect on the economy of $100 million or more; it will not result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will it have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Administrator of Veterans Affairs certifies that this amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA (Regulatory Flexibility Act), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603-604. The reason for this certification is that this change will regulate only the eligibility of individuals to these benefits.

(The catalog of Federal Domestic Assistance Program numbers are: 64.009, 64.011 and 64.013)

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: June 18, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

38 CFR Part 17, MEDICAL, is amended as follows:

1. Section 17.61 and the heading preceding the title of the section are revised to read as follows:

Breaking Appointments

§ 17.61 Refusal of treatment by unnecessarily breaking appointments.

A patient under medical treatment who breaks an appointment without a reasonable excuse will be informed that breaking an additional appointment will be deemed to be a refusal to accept VA treatment. If such a patient fails to keep a second appointment, without at least 24 hours notice, such action will be deemed as a refusal to accept VA treatment. Thereafter, no further treatment will be furnished until a new application is filed, and the veteran has agreed to cooperate by keeping appointments. Treatment will not be discontinued until the treating physician has reviewed the treatment files, concurred in the action and signed a statement to this effect in the record. Consideration will be given to the veteran's ability to make a rational decision concerning the need for medical care and/or examination. The veteran will be advised of the final decision. Nothing in this section will be construed to prevent treatment for an emergent condition that may arise during or subsequent to this action. Where an appointment is broken without notice and satisfactory reasons are advanced for breaking the appointment and circumstances were such that notice could not be given, the patient will not be deemed to have refused treatment.

(38 U.S.C. 4115)

2. In § 17.80, paragraphs (a) and (c) are revised to read as follows:

§ 17.80 Payment or reimbursement of the expenses of hospital care and other medical services not previously authorized.

* * * * *

(a) *For veterans with service-connected disabilities.* Care or services not previoualy authorized were rendered to a veteran in need of such care or services: (1) For an adjudicated service-connected disability; (2) for nonservice-connected disabilities associated with and held to be aggravating an adjudicated service-conneced disability; (3) for *any disability* of a veteran who has a total disability permanent in nature resulting from a service-connected disability (does not apply outside of the States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico); (4) for any illness, injury or dental condition in the case of a veteran who is participating in a rehabilitation program under 38 U.S.C. Ch. 31 and who is medically determined to be in need of hospital care or medical services for any of the reasons enumerated in § 17.48(g). (38 U.S.C. 624, 628); and

* * * * *

(c) *When Federal facilities are unavailable.* VA or other Federal facilities were not feasibly available, and an attempt to use them beforehand or obtain prior VA authorization for the services required would not have been reasonable, sound, wise, or practicable, or treatment had been or would have been refused.

(38 U.S.C. 624, 628, 4115)

3. In § 17.81, the introductory paragraph and paragraph (b) are revised to read as follows:

§ 17.81 Payment or reimbursement of the expenses of repairs to prosthetic appliances and similar devices furnished without prior authorization.

The expenses of repairs to prosthetic appliances, or similar appliances, therapeutic or rehabilitative aids or devices, furnished without prior authorization, but incurred in the care of an adjudicated service-connected disability (or, in the case of a veteran who is participating in a rehabilitation program under 38 U.S.C. Ch. 31 and who is determined to be in need of the repairs for any of the reasons enumerated in § 17.48(g)) may be paid or reimbursed on the basis of a timely filed claim, if

(38 U.S.C. 628)

* * * * *

(b) The costs were reasonable, except that where it is determined the costs were excessive or unreasonable, the claim may be allowed to the extent the costs were deemed reasonable and disallowed as to the remainder. In no circumstances will any claim for repairs be allowed to the extent the costs exceed $125.

(38 U.S.C. 628, 4115)

4. In § 17.84, paragraphs (a) and (d) are revised to read as follows:

§ 17.84 Where to file claims. * * *

(a) *For services rendered in the U.S.* Claims for the expenses of care or services rendered in the United States, including the Territories or possessions of the United States, should be filed with the Chief, Outpatient Service or Clinic Director of the VA facility designated as a clinic of jurisdiction which serves the region in which the care or services were rendered, and (38 U.S.C. 4115)

* * * * *

(d) *For services rendered in other foreign countries.* Claims for the expenses of care or services rendered in other foreign countries may be filed with the American Embassy or consulate in the country where services were provided. Claims will be developed and forwarded to the VA Medical Center, Washington, D.C., for final action. Claims may be submitted directly to the VA Medical Center, Washington, D.C., if

VOL 50 ISS 141 JL 23 1985 UMI

the veteran has returned to the United States before having had a chance to contact the appropriate Embassy or Consulate.

(38 U.S.C. 4115)

* * * * *

5. In § 17.85, paragraph (c) is removed and paragraph (b) is revised to read as follows:

§ 17.85 Timely filing.

* * * * *

(b) In the case of care or services rendered prior to a VA adjudication allowing service-connection:

(1) The claim must be filed within 2 years of the date the veteran was notified by the VA of the allowance of the award of service-connection.

(2) VA payment may be made for care related to the service-connected disability received only within a 2-year period prior to the date the veteran filed the original or reopened claim which resulted in the award of service-connection but never prior to the effective date of the award of service-connection within that 2-year period.

(3) VA payment will never be made for any care received beyond this 2-year period whether service connected or not.

(c) [Removed]

(38 U.S.C. 4115)

[FR Doc. 85-17395 Filed 7-22-85; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 262, 264, 265, and 270

[WH-FRL-2868-7]

Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule: correction.

SUMMARY: The Environmental Protection Agency (EPA) is today announcing a correction in the preamble of the proposed rule for hazardous waste storage and treatment tanks, that appeared in the Federal Register of Wednesday, June 26, 1985, [50 FR 26444–26504]. This action is necessary in order to correct a typographical error of the date terminating the public comment period.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, DC, or William J. Kline, Office of Solid Waste (WH-565A), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 382-7917.

SUPPLEMENTARY INFORMATION: In the Federal Register of Wednesday, June 26, 1985, on page 26493, column two, first full paragraph, "September 24, 1985" is corrected to read "August 26, 1985."

Dated: July 16, 1985.

Jack W. McGraw,

Acting Assistant Administrator.

[FR Doc. 85-17412 Filed 7-22-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E. O. 12127.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ILLINOIS	
Union County (unincorporated areas)	
Mississippi River:	
At southern county boundary	*358
About 1.95 miles upstream of confluence of Big Muddy River	*371
Maps available for inspection at the Assessor's Office, Union County Courthouse, Jonesboro, Illinois.	
Send comments to Honorable Wilburn R. Gibbs, Chairman, Union County Board, Union County Courthouse, Jonesboro, Illinois 62952.	

Issued: July 10, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-17406 Filed 7-22-85; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 70-27; Notice 28 and Docket 83-07; Notice 3]

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Proposed rule, reopening of period for public comment.

SUMMARY: This notice grants four requests for extension of the period to submit written comments on an agency notice on brake burnish. The period for comment is exended by 135 days.

DATES: Comments on Docket No. 70-72; Notice 27 and Docket No. 83-07; Notice 2 must be received by November 19, 1985.

ADDRESS: Comments should refer to the docket and notice numbers and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. (Docket Room hours 8 a.m.-4 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Kratzke, Office of Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Telephone (202) 426-2992

SUPPLEMENTARY INFORMATION: On May 23, 1985 (50 FR 21313), NHTSA issued a supplemental notice of proposed rulemaking (SNPRM) seeking comments on a proposal to amend the agency's braking standards by modifying the brake burnish procedures. Comments were requested by July 8, 1985. General Motors, International Harvester, Motor Vehicle Manufacturers Association and PACCAR have timely requested an extension of the period to comment on the SNPRM.

GM said that the current 45 day comment period is not sufficient to allow it to evaluate the effect of the alternative procedures on the multitude of brake systems it uses. GM said that it plans to test several vehicle configurations to determine the effects of the proposed changes. It noted that its testing resources are also being committed to testing related to the agency's recent proposal on truck/tractor air brake timing compatability. GM requested the agency to allow for a total of 180 days to comment on the notice. The other petitioners offered similar reasons for an extension of the comment period, but they requested an extension to May 14, 1986.

The Agency recognizes that additional manufacturing testing would assist the agency in determining which of the proposed alternatives should be adopted in the final rule. At the same time, the agency believes that the testing can be accomplished in less time than sought by three of the petitioners. The agency has decided to grant GM's request and is therefore reopening the comment period for this notice to provide a total of 180 days to comment, starting from the date of the May notice.

(15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.50 nd 501.8)

Issued on July 17, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-17393 Filed 7-22-85; 8:45 am]

BILLING CODE 4910-59-M

VOL 50 ISS 141 JL 23 1985 UMI

Notices

Federal Register
Vol. 50, No. 141
Tuesday, July 23, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Oglethorpe Power Corp.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA's Environmental Policies and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact with respect to a proposed project by Oglethorpe Power Corporation (OPC). The project consists of construction of a 230 kV transmission line from Alpharetta, Georgia, in Fulton County to Woodstock, Georgia, in Cherokee County, modifications to the Alpharetta Substation and acquisition of and modifications to the Woodstock Substation.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and OPC's Borrower's Environmental Report (BER) may be reviewed in the Office of the Chief, Distribution and Transmission Engineering Branch, Southeast Area—Electric, Room 0262, South Agriculture Building, REA, Washington, D.C. 20250, telephone (202) 382–8436, or at the Office of OPC (Mr. F. F. Stacy, Jr., Manager), 2100 East Exchange Place, Tucker, Georgia 30085–1349, telephone (404) 496–7600.

SUPPLEMENTARY INFORMATION: REA has reviewed OPC's BER and has determined that it represents an accurate assessment of the environmental impacts of the proposed project. The proposed project will consist of approximately 22 kilometers (14 miles) of 230 kV line, acquisition of the Woodstock Substation and modification of the Woodstock and Alpharetta substations to accommodate this line. REA determined that the proposed project is not likely to affect any threatened or endangered species or critical habitat; it will have no effect on any property listed or eligible for listing in the National Register of Historic Places; it will not occur in wetland; will have no effect upon any river section in the Nationwide Inventory of Wild and Scenic Rivers; will not occur in a coastal barrier and will not directly affect the coastal zone.

The proposed substation expansion will not occur in a floodplain, or on any prime farmland or forestland.

The proposed transmission line will cross approximately 2,955 meters (9,700 feet) of floodplain. There is no practicable alternative to locating in a floodplain and all practicable means to minimize harm will be taken. Some of the floodplains can be spanned completely. Others will have some poles placed in floodplains, but most of the floodplain in the right-of-way will be spanned. Since the proposed line will be single pole construction, no adverse effects to the floodplain are anticipated.

The proposed transmission line will cross approximately 5,544 meters (12,200 feet) of prime farmland and 14,081 meters (46,200 feet) of prime forestland. Much of the prime farmland can be spanned and can remain in production, but the forestland in the right-of-way will be taken out of production for the life of the project. The proposed project will convert prime forestland and a small amount of prime farmland to other uses, but there is a demonstrated significant need for and no practicable alternative to the proposed action.

Alternatives to an aerial 230 kV transmission line were considered, such as no action, direct current, load management and energy conservation, and underground transmission. Alternative connection plans to supply power to Woodstock and alternative routes from Alpharetta to Woodstock were considered also.

Based upon OPC's BER and supporting documents, REA prepared an EA concerning the proposed project and its impacts. In accordance with REA's 7 CFR Part 1794, OPC advertised and requested comments on the environmental aspects of the proposed project. REA held two public meetings in Alpharetta, Georgia, to obtain comments on this project. Numerous oral and written comments were received. The written comments are an appendix to the EA and all environmental concerns are addressed in the EA or BER. It is believed that the environmental concerns raised in comments can be avoided or minimized by careful project design, construction and mitigation. REA concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

An environmental impact statement is not necessary. This program is listed in the Catalog of Federal Domestic Assistance as 18.850–Rural Electrification Loans and Loan Guarantees.

Dated: July 17, 1985.

Harold V. Hunter,

Administrator.

[FR Doc. 85–17477 Filed 7–22–85; 8:45 am]

BILLING CODE 3412–15–M

DEPARTMENT OF COMMERCE

International Trade Administration

Cornell University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 84–095. Applicant: Cornell University, Ithaca, NY 14853. Instrument: Viscoelastometer, Model DDV–II–C. Manufacturer: Toyo Baldwin Co., Japan. Intended use: See notice at 50 FR 9475.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of measuring forces at least one order of magnitude lower than comparable domestic instruments for research on high modulus fibers and thin polymer films. The National Bureau of Standards advises in its memorandum dated May 15, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–17472 Filed 7–22–85; 8:45 am]

BILLING CODE 3510–DS–M

Stanford Linear Accelerator Center; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85–146. Applicant: Stanford Linear Accelerator Center, Stanford, CA 94305. Instrument: Streak Camera, Model IMACON 500 with Accessories. Manufacturer: Hadland Photonics, Ltd., United Kingdom. Intended use: See notice at 50 FR 19430.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a resolving power of 2 picoseconds for the detection of ultra-fast occurring events. The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use. We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–17470 Filed 7–22–85; 8:45 am]

BILLING CODE 3510–DS–M

The University of Utah; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. Docket No. 85–151. Applicant: The University of Utah, Salt Lake City, UT 84112. Instrument: Magnetometer, Model RS–232. Manufacturer: Molspin Ltd., United Kingdom. Intended use: See notice at 50 FR 19430.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactued in the United States.

Reasons: The foreign instrument provides: (1) Variable integration times of 6 and 24 seconds with a sensitivity for 24 seconds better than 10^{-4} ampere per meter and (2) in situ operation at remote sites. The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–17471 Filed 7–22–85; 8:45 am]

BILLING CODE 3510–DS

University of Kansas; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision if made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85–055. Applicant: University of Kansas, Lawrence, KS 66045. Instrument: Mass Spectrometer System with Gas Chromatograph and Data System, Model ZAB–HS. Manufacturer: VG Analytical Ltd., United Kingdom, Intended use: See notice at 50 FR 1261.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) a resolution up to 100,000 (10 percent valley definition), (2) mass range to 2000 atomic mass units (amu) at full accelerating potential (8000 volts) and up to 8000 amu at lower accelerating potentials, and (3) a scan spee of 0.5 seconds per decade below mass 1000. The National Institutes of Health advises in its memorandum dated May 7, 1985, that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Material)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–17474 Filed 7–22–85; 8:45 am]

BILLING CODE 3510–DS–M

University of Maryland; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision if made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 84–294R. Applicant: University of Maryland, Baltimore, MD 21201. Instrument: Time-resolved Spectrofluorometer, Model 199S. Original notice of this resubmitted application was published in the Federal Register of Ocrober 5, 1984.

Comments: None received.

VOL
50
ISS
141
JL
23
1985
UMI

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument operates in the nanosecond to millisecond range, with pulsed light mode providing time-correlated single photon counting. The National Institutes of Health advises in its memorandum dated May 7, 1985, that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus or equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

[FR Doc. 85-17473 Filed 7-22-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-008]

Carbon Steel Plate From Brazil; Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Terminate Suspended Countervailing Duty Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Terminate Suspended Countervailing Duty Investigation.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty case on carbon steel plate from Brazil. The review covers the period from September 7, 1982. The petitioner and the other domestic interested parties to this proceeding have notified the Department that they are no longer interested in the countervailing duty case. These affirmative statements of no interest provide a reasonable basis for the Department to terminate the suspended investigation. Therefore, we intend to terminate the suspended investigation. The termination will apply to all carbon steel plate entered, or withdrawn from warehouse, for consumption on or after September 7, 1982. Interested parties are invited to comment on these preliminary results and tentative determination to terminate.

EFFECTIVE DATE: September 7, 1982.

FOR FURTHER INFORMATION CONTACT: Peggy Clarke or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 39394) a notice of suspension of countervailing duty investigation on carbon steel plate from Brazil.

In a letter dated May 1, 1985, United States Steel Corporation, the petitioner in this proceeding, informed the Department that it was no longer interested in the case and stated its support of termination of the suspended investigation. The Department received similar letters from the other domestic interested parties to the proceeding, Bethlehem Steel Corporation, Republic Steel Corporation, Inland Steel Corporation, Jones & Laughlin Corporation, National Steel Corporation, and Cyclops Steel Corporation. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may terminate a suspended countervailing duty investigation that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of Brazilian carbon steel plate. The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shapes; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615 and 607.9400 of the Tariff Schedules of the United States Annotated ("TSUSA"); and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.1100 of the TSUSA. Semi-finished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot-rolling are not included. The review covers the period from September 7, 1982.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statements of no interest in continuation of the countervailing duty case on carbon steel plate from Brazil provide a reasonable basis for termination of the suspended investigation.

Therefore, we tentatively determine to terminate the suspended investigation on this product effective September 7, 1982. The current requirements of the agreement suspending the investigation will continue until publication of the final results of this review.

Interested parties may submit written comments on these preliminary results and tentative determination to terminate within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on termination, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to terminate, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: July 17, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-17467 Filed 7-22-85; 8:45 am]

BILLING CODE 3510-DS-M

MCTL Implementation Technical Advisory Committee; Cancelled Meeting

Agency: International Trade Administration, Commerce.

Federal Register Citation of Previous Announcement: 50 FR 27330 July 2, 1985

Previously Announced Time and Date of the Meeting: 9:30 a.m., July 25, 1985

Changes in the Meeting: Cancelled

Dated: July 18, 1985.

Milton M. Baltas,

Director of Technicol Programs, Office of Export Administration.

[FR Doc. 85-17489 Filed 7-22-85; 8:45 am]

BILLING CODE 3510-DT-M

Applications for Amendment to Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Department of Commerce has received 22 applications for amendments to Export Trade Certificates of Review. This notice summarizes the conduct for which the amendments are sought.

ADDRESS: The Department requests public comments on the applications. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230 Comments should be received by August 12, 1985.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. Ths is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The certificate of review previously issued to each of the applicants for this amendment contains the following disclaimer:

This certificate does not apply to sales to the United States Government or to any sale more than half the cost of which is borne by the United States Government.

On January 11, 1985, the Department of Commerce and the Department of Justice issued a second edition of "Guidelines for the Issuance of Export Trade Certificates of Review," 50 FR 1786. Section V. (D.) of the revised Guidelines sets out the agencies' views on the applicability of a certificate of review to export sales involving the U.S. Government. Under the revised Guidelines, certificates may be issued with the following, less restrictive disclaimer:

The application of this certificate to conduct in export trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)," 50 FR 1786 (January 11, 1985).

The following certificate holders have applied for an amendment to their certificate of review to replace the old disclaimer language with the new disclaimer language that the agencies have agreed is appropriate:

International Development Institute, 750 13th Street, S.E. Washington, D.C. 20003, Application #83-00001

U. S. Farm-Raised Fish Trading Company, Inc., 550 High Street, P.O. Box 34, Jackson, Mississippi 39205, Application #83-00004

Intex International Trading Company, 199 South Beach Avenue, P.O. Box 288, Old Greenwich, Connecticut 06870, Application #83-00008

International Trailer Sales, Inc., 17000 Kentucky Road, Independence, Missouri 64050, Application #83-00009

Trade Development Corporation of Chicago, 2049 Century Park East, Suite 416, Los Angeles, California 90067, Application #83-00012

U. S. Export & Trading Company, P. O. Box 1698, Carlsbad, California 92008, Application #83-00024

SOR, Inc., P.O. Box 591, Olathe, Kansas 66061, Application #83-00027

Micro Products Company, 20 North Wacker Drive, Chicago, Illinois 60606, Application #83-00034

VEXTRAC, Ltd., 600 World Trade Center, Norfolk, Virginia 23510, Application #83-00036

Farmers' Rice Cooperative, P.O. Box 696, West Sacremento, California 95691, Application #84-00005

Fleetwood International, Inc., 88 Pine Street, New York, New York 10005, Application #84-00006

United Export Trading Company, Inc., 1605 W. Olympic Boulevard, Suite 900, Los Angeles, California 90015, Application #84-00008

Opti-Copy, Inc., 10930 Lackman Road, Lenexa, Kansas 66219, Application #84-00009

Equinomics, Inc, International Trade Mart Building, Suite 2317, New Orleans, Louisiana 70130, Application #84-00013

The Aries Group, Ltd., 1745 Jefferson Davis Highway, Suite 404, Arlington, Virginia 22202, Application #84-00014

AEON International Corporation, 360 Seventh Avenue, Marion, Iowa 52302, Application #84-00015

Carolina Western, Inc., P.O. Box 2524, Rutledge Lake Road, Greenville, South Carolina 29602, Application #84-00016

Alco World Trade, Inc., 8181 NW 36th Street, Suite 4, Miami, Florida 33166, Application #84-00018

Great Agassiz Basin Export Trading Company, 112 North University Drive, Suite 385, Fargo, North Dakota 58102, Application #84-00022

Gerhardt's Inc., 819 Central Avenue, P.O. Box 10161, Jefferson, Louisiana 70181, Application #84-00024

N.B. Carson & Company, Inc., 4636 Broadway, Cleveland, Ohio 44127, Application #84-00027

Bariston, Inc., 223 Derby Street, Salem, Massachusetts 01970, Application #84-00028

Each applicant listed above has requested and will receive expedited review pursuant to 15 CFR 325.8.

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(a) which requires the Secretary of Commerce to publish in the **Federal Register** a summary of applications submitted under the Act.

Dated: July 18, 1985.

James V. Lacy,

Director, Office of Export Trading Company Affairs.

[FR Doc. 85-17479 Filed 7-22-85; 8:45 am]

BILLING CODE 3510-DR-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85-127. Applicant: Richard L. Roudebush, VA Medical Center, Indianapolis, IN 46202. Instrument: Electron Microscope, Model H-300 with Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended Use: See notice at 50 FR 15596. Instrument ordered: September 11, 1984.

Docket No. 85-134. Applicant: Fred Hutchinson, Cancer Research Center, Seattle, WA 98104.

Instrument: Electron Microscope, Model JEM-100SX with Water Recirculator. Manufacturer: JEOL, Ltd., Japan. Intended Use: See notice at 50 FR 18898. Instrument Ordered: January 8, 1985.

VOL
50
ISS
141
JL
23
1985
UMI

Docket No. 85–135. Applicant: Montana State University, Bozeman, MT 59717. Instrument: Electron Microscope, Model EM 10 CA with Accessories. Manufacturer: Carl Zeiss Inc., West Germany. Intended Use: See notice at 50 FR 15597. Instrument ordered: January 25, 1985.

Docket No. 85–139. Applicant: Dwight David Eisenhower Army Medical Center, Fort Gordon, GA 30905–5650. Instrument: Electron Microscope, Model JEM–100CXII with Accessories. Manufacturer: JEOL Co., Ltd., Japan. Intented use: See notice at 50 FR 18898. Application Received by Commissioner of Customs: March 22, 1985.

Docket No. 85–147. Applicant: University of Illinois at Chicago, Chicago, IL 60612. Instrument Electron Microscope, Model H–600–2 with Accessories. Manufacturer: Hitachi, Japan. Intended use: See notice at 50 FR 19430. Instrument ordered: August 1, 1984.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the intruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or of any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–17476 Filed 7–22–85; 8:45 am]

BILLING CODE 3510–DS

Short Supply Determination on Open Coil Annealed Rimmed Steel and Aluminum-Killed Cold-Rolled Steel Sheet; Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to open coil annealed rimmed steel and aluminum-killed cold-rolled steel sheet used in the manufacture of aperture masks for television screens.

DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Joseph A. Spetrini, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, D.C. 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, D.C. 20230, Room 3709, (202) 377–1102.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the United States of America for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods or other relevant factors), an additional tonnage shall be allowed for such category or sub-category . . ."

We received a short supply request for the following products:

(1) Aluminum-killed cold-rolled sheet, in coils, conforming to AISI standard C 1001. The dimensions of the steel in question are: a) 24.0 inches in width by 0.0060 inch in thickness; b) 19.0 inches in width by 0.006 inch in thickness; and c) 19.0 inches in width by 0.0068 inch in thickness. Weight per coil may range from 3,300 to 6,600 pounds.

(2) Open coil annealed rimmed steel, conforming to AISI standard C 1001. The dimensions of the steel in question are: a) 19 inches in width by 0.006 inch in thickness; and b) 24.5 inches in width by 0.006 inch in thickness. Weight per coil may range from 3,300 to 6,600 pounds. These products are used in the manufacture of aperture masks for television screens.

Commerce already has requested comments and sent out detailed questionnaires regarding aluminum-killed cold-rolled sheet meeting similar dimensional requirements pertinent to a request under the U.S.-European Communities (EC) steel trade arrangement. (See Federal Register notice, May 20, 1985, page 20822.) It is presumed that comments received under the May 20, 1985 **Federal Register** notice relating to aluminum-killed cold-rolled sheet from the EC also apply to aluminum-killed cold-rolled sheet requested from Japan as described in (1) above. If this is not the case, interested parties should submit supplementary comments under this notice as soon as possible and no later than ten days from publication of this notice.

Parties interested in commenting on open coil annealed rimmed steel as described in 2) above should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clarely so label the business proprietary portion of the submission and also include with it a submission without proprietary information which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

C. Christopher Parlin,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85–17475 Filed 7–22–85; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Explosives Safety Board

ACTION: Notice.

SUMMARY: Pursuant to Title 10 U.S.C., Article 172, the Department of Defense Explosives Safety Board announces its decision to change the distance allowed from selected explosives facilities to inhabited buildings in sparsely populated areas. The current Ammunition and Explosives Safety Standard (DoD 6055.9–STD)[1] requires a separation of at least 1,250 feet between any inhabited building and an explosives facility containing from 101 to 30,000 pounds of mass detonating explosives. As the quantity of these explosives increases above 30,000 pounds, the required separation distance increase. The change will require a minimum distance of 900 feet from an explosives facility, containing from 101 to 11,400 pounds of mass detonating explosives, to an inhabited building in a sparsely populated area. A sparsely populated area is defined as one having no more than 25 persons in an area bounded by the sides of a 45 degree angle, with the vertex at the potential exposion site (PES), and the 900 and 1,250 foot arcs from that PES. There is no change to the minimum distance requirements to populous locations. The current regulation unduly restricts the use of storage facilities for small quantities of ammunition wher the hazard is small as a result of the low density of population exposed to the PES, and differs from NATO explosives safety principles which acknowledge the low risk. This change will: Take into consideration storage of relatively small amounts of explosives in sparsely populated areas, more closely align U.S. and NATO explosives safety principles, reduce the cost of storing limited amounts of ammunition, and permit establishment of certain explosives facilities in locations that are not currently usable as storage sites.

DATE: August 7, 1985.

FOR FURTHER INFORMATION CONTACT: The Department of Defense Explosives Safety Board, 2461 Eisenhower Avenue, Alexandria, VA 22331–0600, telephone (202) 325–8624.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 18, 1985.

[FR Doc. 85–17425 Filed 7–22–85; 8:45 am]

BILLING CODE 3810–01–M

[1] Copies may be obtained, if needed, from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Defense Intelligence Agency Scientific Advisory Committee; Cancellation of Close Meeting

AGENCY: Defense Intelligence Agency Scientific Advisory Committee.

ACTION: Notice of Cancellation of Closed Meeting.

SUMMARY: Notice is hereby given that the closed meeting of the DIA Scientific Advisory Committee Microelectronics and Computers Panel, scheduled for July 16, 1985, that was announced in the **Federal Register** on Thursday, May 16, 1985 (Vol 50, FR 20477) has been cancelled.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20301 (202/373–4930).

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 18, 1985.

[FR Doc. 85–17407 Filed 7–22–85; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Invitation To Participate and Closing Date for Participation in Pell Grant Electronic Pilot

AGENCY: Department of Education.

ACTION: Notice of invitation to participate in the Pell Grant Electronic Pilot and notice of closing date for submission of requests to participate.

SUMMARY: The Secretary invites postsecondary institutions participating in the Pell Grant Program and those financial aid services that process Pell Grant awards for such institutions to participate in the Pell Grant Electronic Pilot. To participate in the Electronic Pilot, an institution or financial aid service must have computer and communications equipment which will be capatible with the Electronic Pilot network and be capable of developing the software necessary to receive, process, and transmit data in formats that will be used by the Department.

Closing Date for Requests to Participote: An institution or financial aid service wishing to participate in the Electronic Pilot must submit a request to the Secretary, with a listing of the computer equipment currently owned or leased by the institution or financial aid service that would be available for use with the Electronic Pilot data exchange network, on or before August 22, 1985.

Documents Delivered by Mail: Requests should be addressed to Bill Bush or Jerry Hicks, Room 4624, ROB–3, Office of Student Financial Assistance, Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. These documents must be received on or before August 22, 1985.

Documents Delivered by Hand: Requests may be delivered by hand to Bill Bush or Jerry Hicks, Room 4624, ROB–3 [7th and D Streets, S.W.], Washington, D.C. 20202. The Division of System Design and Development will accept these hand-delivered documents between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays, and Federal holidays.

Requests will not be accepted after 4:30 p.m., August 22, 1985.

Program Information: In order to receive a Pell Grant award, a student must submit a valid Student Aid Report to the institution. The Student Aid Report is generated by the Federal application processing system based on information that the student reported on his or her financial aid application. The Student Aid Report contains the family contribution figure (Student Aid Index) used to make the Pell Grant award, as well as the household and financial information for the student's family that was used to calculate that figure.

Frequently the information on the initial Student Aid Report must be corrected by the student, either because of a keypunch error, or because the information reported on the application was inaccurate. The Pell Grant Electronic Pilot Project is a project under which Pell Grant applicants can correct or verify information contained on their Student Aid Reports through computer facilities at those institutions or financial aid services that participate in the project. In contrast, students attending institutions that do not participate in the project and do not contract with a financial aid service that participates in the project must make the corrections directly on their Student Aid Reports and mail the Reports back to the Secretary. Participation in this project by institutions and financial aid services is strictly voluntary.

FOR FURTHER INFORMATION CONTACT: Bill Bush or Jerry Hicks, telephone (202) 245–8012.

(Catalog of Federal Domestic Assistance No. 84.063, Pell (Basic) Grant Program)

Dated: July 18, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 85–17478 Filed 7–22–85; 8:45 am]

BILLING CODE 4000–01–M

Guaranteed Student Loan Program and Plus Program; Special Allowance for Quarter Ending June 30, 1985

AGENCY: Department of Education.

ACTION: Notice of Special Allowance for Quarter Ending June 30, 1985.

The Assistant Secretary for Postsecondary Education announces a special allowance to holders of eligible loans made under the Guaranteed Student Loan Program (GSLP) or the

PLUS Program. This special allowance is provided for under section 438 of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1087–1). Except for loans subject to section 438(b)(2)(B) of the Act, 20 U.S.C. 1087–1(b)(2)(B), for the quarter ending June 30, 1985, the special allowance will be paid at the following rates:

[In percentage]

	Applicable interest rate	Annual special allowance rate	Special allowance rate percent for quarter ending June 30, 1985
GSLP loans or PLUS loans made prior to Oct. 1, 1981	7	4.375	1.09375
	9	2.375	0.59375
GSLP loans or PLUS loans made on or after Oct. 1, 1981	7	4.28	1.07
	8	3.28	0.82
	9	2.28	0.57
	12	0.00	0.00
	14	0.00	0.00

The Assistant Secretary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate by making the following four calculations:

(a) *Step 1.*

Determine the average bond equivalent rate of the 91-day Treasury bills auctioned during the quarter for which this notice applies;

(b) *Step 2.*

Subtract from that average the applicable interest rate (7, 8, 9, 12, or 14 percent) of loans for which a holder is requesting payment;

(c) *Step 3.*

(1) Add 3.5 percent to the remainder; and

(2) In the case of loans made before October 1, 1981, round the sum upward to the nearest one-eighth of one percent;

(d) *Step 4.*

Divide the resulting percent in Step 3 (either (c)(1) or (c)(2), as applicable) by four.

FOR FURTHER INFORMATION CONTACT: Nancy Eakin, Program Specialist, or Larry Oxendine, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 245–2475.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: July 18, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85–17492 Filed 7–22–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

International Atomic Energy Agreements; Switzerland; Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve U.S. approval of:

a. The transfer of 120 kilograms of plutonium from the COGEMA reprocessing plant in Cap-La-Hague, France, to the ALKEM fabrication plant in the Federal Republic of Germany and then to Switzerland for use in the Beznau I and II power reactors. This subsequent arrangement is designated as RTD/SD(EU)–44.

b. The transfer of 80 kilograms of plutonium from the COGEMA reprocessing plant in Cap- La- Hague, France, to the ALKEM fabrication plant in the Federal Republic of Germany and then to Switzerland for use in the PROTEUS research reactor. This subsequent arrangement is designated as RTD/SD(EU)–45.

These subsequent arrangements will take effect no sooner than fifteen (15) days after the date of publication of this notice, and after fifteen (15) days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), are submitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House. The two time periods referred to above shall run concurrently.

Dated: July 16, 1985.

For the Department of Energy.

Joseph F. Salgado,

Under Secretary.

[FR Doc. 85–17428 Filed 7–22–85; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective August 1, 1985. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, SW., Room BE–034, Washington, DC 20585, Telephone: (202) 252–6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on April 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in section III.

State	Dollars per million Btu's
Alabama	3.31
Arizona [1]	3.44
Arkansas [1]	3.37
California	3.34
Colorado [2]	3.43
Connecticut [1]	3.53
Delaware [1]	3.63
Florida	3.37
Georgia [1]	3.49
Idaho [2]	3.43
Illinois [1]	3.56
Indiana	3.52
Iowa [1]	3.44
Kansas [1]	3.44
Kentucky [1]	3.56
Louisiana	3.23
Maine	3.53
Maryland	3.54
Massachusetts	3.51
Michigan [1]	3.56
Minnesota	3.39
Mississippi [1]	3.49
Missouri [1]	3.44
Montana [2]	3.43
Nebraska [1]	3.44
Nevada [1]	3.44
New Hampshire	3.52
New Jersey	3.50
New Mexico [1]	3.37
New York [1]	3.63
North Carolina [1]	3.49
North Dakota [1]	3.44
Ohio	3.43
Oklahoma [1]	3.37
Oregon [1]	3.44
Pennsylvania	3.62
Rhode Island [1]	3.53
South Carolina	3.48
South Dakota [1]	3.44
Tennessee [1]	3.49
Texas	3.24
Utah [2]	3.43
Vermont [1]	3.53
Virginia [1]	3.49
Washington [1]	3.44
West Virginia [1]	3.58
Wisconsin [1]	3.58
Wyoming [2]	3.43

[1] Region based price as required by FERC Interim Rule, issued on April 2, 1981, in Docket No. RM–79–21.

[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during May 1985 was $31.23 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective August 1, 1985, is $7.00 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of March 1985, April 1985, and May 1985.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) Calculation of Volume-Weighted Average Price

The prices which will become effective August 1, 1985, (shown in section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, March 1985, April 1985, and May 1985. Reported prices for sales in March 1985 were adjusted by the percent change in the nationwide volume-weighted average price from March 1985 to May 1985. Prices for April 1985 were similarly adjusted by the percent change in the nationwide volume-weighted average price from April 1985 to May 1985. The volume-weighted 3-month average of the adjusted March 1985 and April 1985, and the reported May 1985 prices were then computed for each State.

(2) Adjustment for Price Variation

States were grouped into the regions identified by the FERC (see section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form and adjusted weighted average price for the State.

(3) Calculation of Ceiling Price

The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropirate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of March 1985, April 1985, and May 1985. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) Lag Adjustment

The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

VOL 50 ISS 141 JL 23 1985 UMI

VOL 50 ISS 141 JL 23 1985 UMI

national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending July 15, 1985, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of May 1985. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A	*Region B*
Connecticut	Delaware
Maine	Maryland
Massachusetts	New Jersey
New Hampshire	New York
Rhode Island	Pennsylvania
Vermont	

Region C	*Region D*
Alabama	Illinois
Florida	Indiana
Georgia	Kentucky
Mississippi	Michigan
North Carolina	Ohio
South Carolina	West Virginia
Tennessee	Wisconsin
Virginia	

Region E	*Region F*
Iowa	Arkansas
Kansas	Louisiana
Missouri	New Mexico
Minnesota	Oklahoma
Nebraska	Texas
North Dakota	
South Dakota	

Region G	*Region H*
Colorado	Arizona
Idaho	California
Montana	Nevada
Utah	Oregon
Wyoming	Washington

Issued in Washington, DC, July 18, 1985.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 85-17537 Filed 7-19-85; 11:34 am]

BILLING CODE 6450-01-M

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: In an effort to improve the efficiency of its information resource management program, the Energy Information Administration (EIA) is in the process of consolidating most of its approved information collections (forms) into program packages, primarily by fuel type.

Following this Notice is a list containing the names of the program packages submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). Included in the list are the names of each package, the requested expiration dates, and the individual forms contained in each package. For each form in a package, the following items are shown: (1) The EIA collection number and title, (2) the current OMB control number, and (3) the current OMB approval expiration date. Once approved by OMB, the collections in each package will have the same expiration date.

Prior to the expiration date of each of these consolidated program packages, EIA will continue its practice of publishing requests for comments in the **Federal Register**, allowing the public ample time to comment on proposed extensions or modifications to EIA data collections. For example, a **Federal Register** notice soliciting comments on proposed changes to the collections included in the Petroleum Supply Reporting System was published April 3, 1985 (50 FR 13275). (Similar **Federal Register** notices for the Coal Program and the Oil and Gas Reserves program are currently being prepared and will be published in the near future.)

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Data Collection Services Division (DCSD), Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-2308

Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Wasington, DC 20503, (202) 395-7313.

SUPPLEMENTARY INFORMATION: Copies of supporting documents sent to OMB may be obtained from Mr. Gross. Comments and questions about this request should be directed to Mr. Broussalian of OMB at the address shown above.

If you anticipate commenting on these submissions, but find that time to prepare these comments will prevent you doing so promptly, please advise Mr. Broussalian of your intent as early as possible.

Issued in Washington, DC., July 17, 1985.

Yvonne M. Bishop,

Director, Statistical Standards.

DOE No.	Title	OMB control No.	Expiration date	CFR citation
	Petroleum Supply Program Package			
EIA-800	Weekly Refinery Report	19050069	01/31/86	
EIA-801	Weekly Bulk Terminal Stocks Report	19050070	01/31/86	
EIA-802	Weekly Product Pipeline Report	19050071	01/31/86	
EIA-803	Weekly Crude Oil Stocks Report	19050073	01/31/86	
EIA-804	Weekly Imports Report	19050072	01/31/86	
EIA-805 [1]	Weekly Shipments from Puerto Rico to the United States Report			
EIA-806 [2]	Weekly Crude Watch Report	19050132	06/31/85	
EIA-810	Monthly Refinery Report	19050027	01/31/86	
EIA-811	Monthly Bulk Terminal Report	19050028	01/31/86	
EIA-812	Monthly Product Pipeline Report	19050029	01/31/86	
EIA-813	Monthly Crude Oil Report	19050030	01/31/86	
EIA-814	Monthly Imports Report	19050151	01/31/86	
EIA-815 [1]	Monthly Shipments from Puerto Rico to the United States Report	19050109	01/31/86	
EIA-816	Monthly Natural Gas Liquids Report	19050019	01/31/86	
EIA-817	Monthly Tanker and Barge Movement Report	19050067	09/30/85	
EIA-818 [3]	International Energy Agency Imports/Stocks-at-Sea Report	19050087	01/31/86	
EIA-820	Annual Refinery Report	19050121	07/31/85	
EIA-825	Petroleum Facility Operator Identification Survey			
	Coal Program Package			
EIA-1	Weekly Coal Monitoring Report—General Industries (Standby Form)	19050112	11/30/85	

DOE No.	Title	OMB control No.	Expiration date	CFR citation
EIA-3	Quarterly Coal Consumption Report—Manufacturing Plants	19050115	12/31/85	
EIA-4	Weekly Coal Monitoring Report—Coke Plants (Standby Form)	19050113	11/30/85	
EIA-5	Coke Plant Report—Quarterly	19050003	12/31/85	
EIA-5A	Coke Plant Report—Annual Supplement	19050013	01/31/86	
EIA-6	Coal Distribution Report	19050005	03/31/86	
EIA-7A	Coal Production Report	19050004	06/31/86	
EIA-7A(SUPP)	Coal Production Report (Supplement)	19050150	09/30/86	
EIA-20	Weekly Coal Monitoring Report of Coal-Burning Electric Utilities (Standby Form)	19050114	11/30/85	
EIA-97	Boiler Order Report	19050123	12/31/86	
	Natural Gas Program Package			
EIA-176	Annual Report on Natural Gas and Supplemental Gas Supply and Disposition	19050147	03/31/86	
EIA-191	Underground Natural Gas Storage Report	19050026	09/30/86	
EIA-627	Annual Quantity and Value of Natural Gas Report	19050122	03/31/86	
EIA-857	DOE Monthly Report on Natural Gas Purchases and Deliveries to Consumers	19050157	09/30/87	
	End Use Program Package			
EIA-141	National Survey of Fuel Purchases for Vehicles—Purchase Log and Supplementary Questionnaire	19050068	01/31/86	
EIA-429	National Survey of Fuel Purchases For Vehicles—Background Questionnaire	19050086	01/31/86	
EIA-457A	Residential Energy Consumption Survey—Housing Unit Record Sheet	19050092	06/31/86	
EIA-457B	Residential Energy Consumption Survey—Household Questionnaire	19050092	06/31/86	
EIA-457C	Residential Energy Consumption Survey—Rental Agents	19050092	06/31/86	
EIA-457D	Residential Energy Consumption Survey—Quarterly Survey of Fuel Oil Households	19050092	06/31/86	
EIA-457E	Residential Energy Consumption Survey—Electric Utilities	19050092	06/31/86	
EIA-457F	Residential Energy Consumption Survey—Natural Gas Suppliers	19050092	06/31/86	
EIA-457G	Residential Energy Consumption Survey—Fuel Oil Supplier Form	19050092	06/31/86	
EIA-457H	Residential Energy Consumption Survey—Liquid Petroleum Gas Suppliers	19050092	06/31/86	
EIA-788C	Nonresidential Building Energy Consumption Survey—Energy Supplier Forms	19050145	04/30/85	
	Electric Power Program Package			
EIA-101	Monthly Residential, Commercial, and Industrial Electric Bill Data for the United States Bureau of Labor Statistics—Price Indexes.	19050129	09/30/87	
EIA-213	Typical Net Monthly Bills	19050045	11/30/86	
EIA-412	Annual Report of Public Electric Utilities	19050136	07/31/85	
EIA-714	Annual Electric Power System Report	19050140	12/31/87	
EIA-759	Monthly Power Plant Report	19050130	02/28/86	
EIA-826	Electric Utility Company Monthly Statement	19050144	03/31/87	
EIA-860	Annual Electric Generator Report	19050158	12/31/87	
EIA-861	Annual Electric Utility Report	19050159	12/31/87	
	Petroleum Marketing Program Package			
EIA-14	Refiners' Monthly Cost Report	19050125	04/30/86	
EIA-782A	Monthly Petroleum Product Sales Report	19050141	06/31/85	
EIA-782B	Reseller-Retailer's Monthly Petroleum Product Sales Report	19050139	12/31/86	
EIA-782C	Monthly Report of Petroleum Products Sold into States for Consumption	19050140	06/31/85	
EIA-821	Annual Fuel Oil and Kerosene Sales Report	19050016	09/30/86	
EIA-856	Monthly Foreign Crude Oil Acquisition Report	19050156	03/31/87	

[1] Completed by less than 10 respondents and therefore does not require OMB approval.
[2] Formerly the EIA-739, Weekly Crude Watch Report.
[3] Formerly the EIA-142, International Energy Agency Imports/Stocks-at-Sea Report.

[FR Doc. 85-17429 Field 7-22-85; 8:45 am]

BILLING CODE 6450-01-M

Coal Program Data Collection Forms; Solicitation of Comments

AGENCY: Energy Information Administration, DOE.

ACTION: Solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy solicits comments concerning the coal program data collection forms and the extension of the Office of Management and Budget approval of these forms for 3 years. (See Section II, "Current Action," for a list of these forms and proposed minor modifications to these collections.)

DATES: Written comments must be received within 30 days of the publication of this notice.

ADDRESS: Send comments to Harriet M. Tarver, at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the proposed forms and instructions, contact: Harriet M. Tarver, Coal Division, Energy Information Administration, EI-521, Department of Energy, Mail Stop 2F-021, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-9723.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Comment Procedure

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93-275), and the Department of Energy (DOE) Organization Act (Pub. L. 95-91), the Energy Information Administration (EIA) is obliged to publish, and otherwise make available to the public, high-quality statistical data that reflect national and regional coal activity as accurately as possible. To meet this responsibility, as well as internal DOE requirements that are dependent on accurate data, the EIA conducts statistical surveys that encompass each significant coal activity in the U.S.

II. Current Actions

In keeping with DOE's mandated responsibilities, the EIA proposes a 3 year extension of the following coal program data collection forms:

EIA-1, Weekly Coal Monitoring Report—General Industries and Blast Furnaces (Standby form)—to be implemented only in case of a supply disruption.

EIA-3, Quarterly Coal Consumption Report—Manufacturing Plants.

EIA-4, Weekly Coal Monitoring Report—Coke Plants (Standby form)—to

VOL
50
ISS
141
JUL
23
1985
UMI

be implemented only in case of a supply disruption.

EIA–5, Coke Plant Report—Quarterly.

EIA–5A, Coke Plant Report—Annual Supplement.

EIA–6, Coal Distribution Report (Quarterly).

EIA–7A, Coal Production Report (Annual).

EIA–7A, (Supplement), Coal Production Report (Supplement) (Biennial).

EIA–20, Weekly Telephone Survey of Coal Burning Utilities (Standby form)—to be implemented only in case of a supply disruption.

EIA–97, Boiler Order Report (Quarterly).

The EIA proposes a change to Form EIA–7A to add the requirement that mines producing less than 10,000 short tons during the year report their total production for the year in Section II C.6. column (1). Currently, these mines check a box to indicate that they produce less than 10,000 tons. Other than this one additional data element, these mines will not have to provide any data beyond their previous reporting requirements. This will allow EIA to identify total production by all mines directly from Form EIA–7A.

Also, EIA proposes to change its policy for releasing selected coal data as follows:

The data elements on Forms EIA–7A and EIA–7A (Supplement) identified below will not be treated as confidential by EIA in the future. These data elements are considered readily available and in the public domain.

Form EIA–7A Non-confidential Data Elements:

a. Total production quantity.

b. Coal beds mined.

Form EIA–7A (Supplement) Non-confidential Data Elements:

a. Total shipments quantity.

b. Coal shipments by method of transportation.

c. For rail shipments—name of railroad and total quantity shipped by rail and quantity shipped by unit train.

d. For water shipments—name of waterway, name of barge company, and quantity shipped.

e. Quantity of coal prepared by method and by type of equipment used.

f. Indication of consumer categories receiving coal shipments (but quantity, quality, and price data will be treated as confidential information).

The following information is provided as a restatement of EIA's current disclosure policy:

1. The responding company's name and address, the mine or plant type (i.e. underground, surface, preparation plant, SIC code) and location (state, county, and/or coal-producing district) will be released upon request in the form of a full or partial list of respondents for each of the EIA coal data collection surveys. This policy is based on the fact that these data are publicly available from other sources and therefore not considered to be confidential.

2. The information contained on Forms EIA–1, 3, 4, 5, 5A, 6, 7A, 7A (Supplement) and 97, other than that described above, will be kept confidential to the extent that it satisfies the criteria set forth in the Freedom of Information Act (FOIA) exemption for trade secrets and confidential commercial information and DOE regulations implementing the FOIA, and is prohibited from public release by the Trade Secrets Act, 18 U.S.C. § 1905.

Upon receipt of a request for disclosure of this information under the FOIA, the DOE shall, in accordance with procedures and criteria provided in 10 CFR 1004.11, make a final determination whether the information is exempt from disclosure. To assist us in this determination, respondents should demonstate to the DOE that their information constitutes trade secrets or commercial or financial information whose release would be likely to cause substantial harm to their company's competitive position. A letter accompanying the submission that explains (on an element-by-element basis, if possible) the reasons why the information would be likely to cause the respondent substantial competitive harm if released to the public would aid in this determination.

Requests from other Federal agencies for information from these forms shall be evaluated in accordance with the DOE Policy on the Disclosure of Individually Identifiable Energy Information in the Possession of the EIA [45 FR 59812 (1980)]. Information concerning coal supplies (stocks) from Forms EIA–1, 3, 4, 5, 6, and 7A are subject to disclosure to state agencies under certain limited conditions and provided that the state agrees to maintain the confidential nature of the data.

Except as otherwise provided by law, the information will also be made available in response to an order of a Court of competent jurisdiction, or upon written request, to the Congress, any committee of Congress, the General Accounting Office, or other congressional agencies authorized by law to receive such information.

3. All data on Form EIA–20 will continue to be treated as non-confidential because this form collects data from coal-fired electric power plants and all electric utility survey data are considered to be in the public domain.

III. Comment Procedure

Written Comments

The EIA invites the public to comment on these proposed changes and provides the following guidelines to assist in preparation of responses.

If you are a data provider:

1. How many hours, including time for research, computation, preparation, and administrative review, will it take your firm to complete and submit each form relevant to your firm?

2. How many hours will your firm require in subsequent years of reporting?

3. Estimate the cost to respond to the forms, including direct and indirect costs associated with the data collection. Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP, and other administrative costs.

4. Are there any changes to any of the forms that you would recommend?

5. Do you know of other sources of similar information? If yes, please identify these sources.

If you are a data user:

1. Do you use data at the levels of aggregation that are available using the forms? (i.e., do the products, frequency, market categories, and geography reflect your needs?

2. Are there alternative sources of data? Do you now use them? What are their deficiencies?

3. How could the forms be improved to better meet your specific data needs?

Comments or summaries of comments will be included in EIA's submission to the Office of Management and Budget and will become a matter of public record.

EIA is also interested in receiving comments concerning the need to continue the collection of the data required on these forms.

Issued in Washington DC, on July 19, 1985.

Yvonne M. Bishop,

Director, Statistical Standards Energy Information Administration.

[FR Doc. 85–17466 Filed 7–22–85; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

St. James Resources Corp. and Kingston Oil Supply: Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $228,335.71 and $546.00 obtained as a result of Consent Orders that the DOE entered into with St. James Resources Corporation and Kingston Oil Supply, both reseller-retailers of petroleum products. St. James is located in Boston, Massachusetts; Kingston Oil Supply is in Port Ewen, New York.

DATE AND ADDRESS: Applications for refund of a portion of the St. James or Kingston consent order funds must be received within 90 days of publication of this notice in the **Federal Register**. All applications should refer to Case Number HEF–0100 or HEF–0109 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Walter Marullo, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The decision relates to two consent orders entered into by St. James Resources Corporation (St. James) and Kingston Oil Supply (Kingston). The St. James consent order settled possible pricing violations in the firm's sale of No. 2 heating oil to customers during the period May 1, 1974 through June 30, 1976; the Kingston consent order settled alleged pricing violations in the firm's sale of No. 4 residual fuel oil to its customers during the period of November 1, 1973 through December 31, 1974. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the St. James and Kingston, consent order funds was issued on May 16, 1985. 50 FR 23505 (June 4, 1985).

Today's Decision sets forth final procedures and standards that the DOE has formulated to distribute the contents of two escrow accounts funded by St. James and Kingston pursuant to the respective consent orders. In the case of St. James, the DOE has decided that the consent order funds should be distributed in two stages. In the first stage, OHA finds that a portion of the consent order fund should be distributed to 78 first purchasers after each has filed an application for refund. In the event that money remains in the St. James escrow account after all first-stage claims have been disposed of, the DOE will determine an alternative plan for distributing these funds. The DOE has also determined that the $546 in the Kingston consent order fund should be distributed to one purchaser after he has filed an application for refund. The purchasers in these cases were identified by DOE audits and were allotted funds based on presumptions of injury which the DOE has utilized in past proceedings. In both cases, however, applications for refund will also be accepted from purchasers not identified by the DOE audits.

As the Decision and Order published with this Notice indicates, applications for refunds may now be filed by customers who purchased petroleum products from St. James or Kingston during the respective audit periods. Applications will be accepted provided they are received no later than 90 days after publication of this Decision and Order in the **Federal Register**. The specific information required in an application for refund is set forth in the Decision and Order.

Dated: July 11, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 11, 1985.

Decision and Order of the Department of Energy

Special Refund Procedures

Names of Firms: St. James Resources Corporation and Kingston Oil Supply.

Date of Filing: October 13, 1983.

Case Numbers: HEF–0100 and HEF–0109.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, on October 13, 1983, the Economic Regulatory Administration (ERA) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA). The petition requests that the OHA formulate and implement procedures for the distribution of funds received in connection with consent order that ERA entered into with St. James Resources Corporation (St. James) and Kingston Oil Supply (Kingston).

I. Background

Each of these firms is a "reseller" of "covered products" as those terms were defined in 10 CFR 212.31. St. James's main office is in Boston, Massachusetts; Kingston is located in Port Ewen, New York. A DOE audit of each firm's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. Subsequently each firm entered into a consent order with DOE. Each consent order refers to ERA's allegations of overcharges, but notes that no findings of violation were made. Each consent order also states that the subject firm does not admit that it committed any such violations. A brief discussion of other pertinent matters covered by each consent order follows.

The St. James consent order covers the period May 1, 1974 though June 30, 1976. The DOE audit alleges that during that period, the firm committed possible pricing violations amounting to $228,335.71 with respect to its sales of No. 2 heating oil. In order to settle all claims and disputes between St. James and DOE regarding the firm's sales of No. 2 heating oil during the audit period, St. James and the DOE entered into the consent order on March 20, 1980. According to the St. James consent order, the firm agreed to deposit $228,335.71, including interest, into an interest-bearing escrow account for ultimate distribution by DOE. The consent order funds were paid in full on March 20, 1980.

In the Kingston case, the DOE audit revealed possible pricing violations with respect to sales of No. 4 residual fuel oil during the November 1, 1973 through December 31, 1974 audit period. In order to settle all claims and disputes between Kingston and DOE regarding these sales, Kingston and the DOE entered into the consent order of August 7, 1981, in which the firm agreed to make refunds amounting to $78,000 (including interest). Since the audit in this case identified the allegedly overcharged end-user purchasers, Kingston made direct refunds to its customers. One customer, however, could not be located. Therefore, Kingston placed this purchaser's refund of $546.00 in an interest-bearing escrow account for ultimate distribution by DOE.

On May 16, 1985, a Proposed Decision and Order (PD&O) was issued which set forth a tentative plan for the distribution of the St. James and Kingston consent order funds. 50 FR 23505 (June 4, 1985). The PD&O stated that the basic purpose of a special refund proceeding is to make restitution for injuries which were probably suffered as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we tentatively determined to rely, in part, on the information contained in the ERA audit files. The PD&O states that this approach is warranted based upon our experience in prior Subpart V cases where all or most of the purchasers of the firm's products are identified in the

VOL 50 ISS 141 JUL 23 1985 UMI

audit file, *see e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). Under such circumstances, a more precise determination with respect to the identity of the parties allegedly overcharged in the first instance was possible. At the same time, we recognized that there may have been other purchasers not identified by the ERA audit who may have been injured as a result of St. James's pricing practices during the audit period that would be entitled to a portion of the consent order funds.[1] Therefore, procedures by which such purchasers could establish a refund claim in this proceeding were also proposed.

A copy of the PD&O was published in the **Federal Register** and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to each purchaser identified in the ERA audit file.[2] While none of St. James' or Kingston's customers filed comments on the proposed procedures, comments were filed on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island and West Virginia. These comments, however, discuss the distribution of any residual funds in a subsequent proceeding. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the St. James and Kingston refund proceedings. This Decision sets forth the information that a St. James or Kingston customer should submit in an Application for Refund in order to establish eligibility for a portion of the consent order funds. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by the States' comments concerning the disposition of any funds remaining after all the meritorious first-Stage claims have been paid.[3]

[1] Regarding the Kingston case, we stated that since the funds in the escrow account represented overcharges to a customer who could not be located, we would conclude the first stage in the Kingston proceeding and reserve this customer's refund for distribution in a secnd stage proceeding. *See* discussion *infra*.

[2] Some of the copies of the PD&O which were mailed to the identified purchasers were returned unclaimed. We attempted to contact these purchasers, but we were unable to do so. As a result, copies of this Final Decision and Order cannot be sent to these purchasers. However, each may still submit an application for refund.

[3] Furthermore, these comments were not only filed long after the expiration of the comment period, but they also have virtually no bearing on this proceeding. As we have stated previously, we request that states participate only in those cases were they can demonstrate a significant interest and in which they can participate in a meaningful and constructive way. *See* August 1, 1984 letter to Johanna McCully-Bonner, Assistant Attorney General for Texas, in reference to request to participate in sixty-six proceedings. We note that in this instance there is no apparent connection between the violations alleged in this proceeding and the interests of the above-mentioned states and their citizens. The petroleum products in these cases were sold in New England and the State of New York.

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the OHA of fashion procedures to distribute refunds *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement* 8 DOE ¶ 82,597 (1981).

A. Refunds to Identified Purchasers

In the PD&O we stated that during the St. James audit, seventy-eight first purchasers were identified as having allegedly been overcharged. In the case of the Kingston audit, the alleged overcharges under discussion in this decision were attributable to purchases made by a single firm. We know that the DOE audit files do not necessarily provide conclusive evidence as to the identity of possible refund recipients or the refund that may be appropriate. However, the information contained in the audit files may reasonably be used for guidance. *See Armstrong and Associates/City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). In *Marion* we stated that "the information contained in the . . . audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach. *Marion* at 88,031. In previous cases of this type, we have proposed that the funds in the escrow account be apportioned either among the customers identified by the audit or to their downstream purchasers. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Brown Oil Co.*, 12 DOE ¶ 85,028 (1984). The first purchasers identified by the audit, along with the share of settlement funds allotted to each by ERA, are listed in Appendices A and B.

Identification of first purchasers is only the initial step in the distribution process. We must also determine whether these first purchasers were actually injured, or whether any part of the alleged overcharges were passed on. As we stated in the PD&O, we will adopt certain presumptions in order to determine a purchaser's level of injury and thereby distribute the escrow accounts in these cases. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). We will adopt presumptions in this case in order to permit claimants to participate in the refund process without disproportionate expense, and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Therefore, as in previous special refund procedures, in this case we will adopt a presumption that claimants seeking small refunds were injured by St. James' or Kingston's pricing practices.

There are a variety of reasons for adopting this presumption. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expense involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure certainly can be time-consuming and expensive. In the case of small claims, the cost to the firm of gathering this factual information, and the cost to OHA of analyzing it, may exceed the expected refund amount. Failure to adopt simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows OHA to process a large number of routine refund claims quickly, and to use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from St. James and Kingston and were in the chain of distribution where the alleged overcharges occurred. Therefore, they were affected by the alleged overcharges, at least intially. The presumption eliminates the need for a claimant to submit, and the OHA to analyze, detailed proof of what happened downstream of that initial impact.

Under the small claim presumption which we will adopt, a claimant who is a reseller or retailer would not be required to submit any additional evidence of injury if its refund claim is based on purchases below a threshold level. Other refund decisions have expressed the threshold either in terms of purchase volumes or dollar amounts. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would more readily facilitate disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. This case merits the same approach. Several factors determine the value of the threshold below which a claimant is not required to submit any further evidence of injury beyond volumes purchased. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In these cases, where the consent order fund is small, the refund amount is fairly low, and the time period of the consent order is many years past, establishing a threshold of $5,000 would be reasonable. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984), and cases cited therein. In the PD&O we stated that after analysis of the information in the record, it appears that 73 of St. James' customers listed in Appendix A and the one Kingston customer listed in Appendix B, made small purchases of the respective firms' products. However, as we also stated, the refunds authorized for five St. James customers are larger than the amount which a firm may be entitled to receive under the small claims presumption we will adopt.

On the basis of the considerations discussed above, we will distribute a portion of the escrow funds to the first purchasers listed in Appendix A who file refund applications, in the amounts specified, plus accrued interest to date. The share of the escrow fund which the listed purchasers in Appendix A may receive represents 100 percent of the amount each was allegedly overcharged, and is consistent with the terms of the St. James consent order, which settled for 100 percent of the total amount of alleged overcharges identified by the audit. In order to actually receive a refund each customer will still be required to file an application for refund. (*See* discussion *infra*).

However, since the refunds allotted to five of St. James' reseller customers are larger than $5,000—and therefore larger than a "small claim"—we will require each of these firms to make a specific demonstration of injury prior to receiving the full refund allotted to it in Appendix A.[4] As in previous special refund cases, we will ask these firms to show that they did not pass the effects of St. James' alleged regulatory violations through to their own customers. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). While there are a variety of means by which they could make this showing, these firms should generally demonstrate that at the time they purchased St. James products, market conditions would not permit them to pass the alleged overcharges on to their own customers in the form of higher prices. In addition, the firms must show that they maintained a "bank" of unrecovered costs in order to demonstrate that they did not subsequently recover these costs by increasing their prices. The maintenance of a bank will not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co.*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

In addition, we have no other information regarding the identity or location of the last 11 purchasers listed in Appendix A and are unable to distribute refunds to them. However, we will contact St. James and publish notice of this Decision and Order in the **Federal Register** in an effort to reach these purchasers. We will accept information regarding the identity and present locations of these purchasers for a period of 90 days following publication in the **Federal Register** of notice of this final Decision and Order.

In the PD&O we also stated that based on the information available to us, we were unable to distribute the Kingston consent order funds to the purchaser listed in Appendix B. According to our records, this customer, Rubin's Hotel, was sold, and Mr. David Rubin, the owner at the time of the alleged violation, left no forwarding address.[5] Since publication of the PD&O, however, Mr. Rubin has contacted this office. Therefore, we will distribute the Kingston escrow funds to Mr. Rubin in the amount specified, plus accrued interest to date, after he has filed an application for refund. (*See* discussion *infra*.)

B. Refunds to Other Purchasers

As discussed, this Decision concerns the distribution of the entire $228,335.71 that St. James deposited into the escrow account, plus accrued interest to date. Since the refunds tentatively allotted to identified purchasers total only $117,023.88, the remaining portion of the St. James consent order funds may be distributed among direct purchasers other than those identified by the ERA audit, and downstream purchasers, who may have been injured by the alleged overcharges. To assist other potential claimants in deciding whether to apply for a refund, we proposed to utilize the small claim presumption discussed above and, in addition, to adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by St. James during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that the impact of the alleged overcharge on it was greater than the pro rata amount determined by the volumetric presumption. *See, e.g., Sid Richardson Carbon & Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984), and cases cited therein at 88,164.

Using a volumetric approach in this proceeding means that a portion of the St. James consent order amount would be allocated to each gallon of product which a successful claimant purchased from St. James. The average per gallon refund, or volumetric refund amount, in this proceeding is $0.005828 per gallon.[6]

[4] These five firms are: Decker & Simmons; Emerson Coal & Oil Company; Ingle & Son; Atlantic Coal & Oil Company; Avon Coal & Oil, Inc.

[5] *See* copy of August 18, 1961 letter which Mr. Arthur P. Motckin, President of Kingston Oil Supply Corp., sent to Mr. Samuel Borenkind, Esq., Counsel for Kingston.

[6] This per gallon factor is computed by dividing the $228,335.71 available for distribution under the

Continued

VOL 50 ISS 141 JL 23 1985 UMI

Potential applicants that were not identified by the ERA audit of St. James may use this volumetric figure to estimate the refund to which they may be entitled. Previous experience with Subpart V proceedings indicates that to the extent such other purchasers come forward as first-stage refund claimants, they would be either resellers (including retailers) or end-users. As we stated above, in order to qualify for a refund, resellers generally would be required to establish that they absorbed the alleged overcharges. However, those reseller claimants applying for a refund under $5,000 will not be required to demonstrate injury. *See* discussion, *supra*.

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), and cases cited therein. We have concluded that end-users of St. James petroleum products need only document their purchase volumes from St. James to make a sufficient showing that they were injured by the alleged overcharges. As we indicated in the PD&O, if additional meritorious claims are filed, we will adjust the figures listed in the Appendix accordingly. Actual refunds will be determined only after analyzing all appropriate claims.[7]

Finally, as we indicated in the PD&O, we will establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the modest benefits of restitution in those situations. *See, e.g., Uban, supra* at 85,225. *See also* 10 CFR 205.286(b).

III. Applications for Refund

We have concluded that the procedures described in the PD&O represent the best means available for distributing the St. James and Kingston consent order funds. No comments were received objecting to the refund procedures proposed in the PD&O. Accordingly, for the reasons stated in the PD&O we will implement these proposals. We shall now accept applications for refunds from customers who purchased petroleum products from St. James and Kingston during the audit period. As proposed, the consent order funds will be distributed to the firms that the ERA alleged in its audit were overcharged by St. James or Kingston, provided each files an application, as well as to other eligible customers of St. James who apply for a refund.

In order to receive a refund each claimant will be required to submit with its application, either a schedule of its monthly purchases of petroleum products from St. James or Kingston or a statement verifying that it purchased petroleum products from St. James or Kingston and is willing to rely on the data in the audit file. Claimants must indicate, as well, whether they have previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying these proceedings.

Purchasers not identified by the ERA audit will be required to provide specific information as to the date, place, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. A purchaser must indicate, as well, how it used the St. James or Kingston product, *i.e.*, whether it was a reseller or ultimate consumer. Each applicant must also state whether there has been a change in ownership of the firm since the audit period, and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund.

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should refer to Case Number HEF–0100 (St. James) or HEF–0109 (Kingston) and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

It is therefore ordered that:

(1) Applications for refunds from the funds remitted to the Department of Energy by St. James Resources Corporation pursuant to the consent order executed on March 20, 1980, may not be filed.

(2) Applications for refunds from the funds remitted to the Department of Energy by Kingston Oil Company pursuant to the consent order executed on August 7, 1981, may now be filed.

(3) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

(4) This is a final order of the Department of Energy.

Dated: July 11, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A

First purchasers	Portion of settlement amount [1]
St. James Resources Corporation	
Aggregate, Post Office Box 181, Palmerton, PA 18071	$753.87
Atlantic Coal & Oil Co., 77 Pilsudski Street, Providence, RI 02909	10,620.57
Avon Coal & Oil, Inc., 175 Main Street, Avon, MA 02322	11,470.78
B&M Fuel Co., Iron Horse Park, North Billerica, MA 01862	201.14
Beaver Coal & Oil Co., 200 Broadway, Norwood, MA 02062	958.43
Billman, 222 North 2nd Street, Catawissa, PA 17820	145.95
Blackstone Fuel, 112 Magill, Pawtucket, RI 02860	76.50
Boyd Oil, Main Street, Contoocook, NH 03229	163.50
C. J. Thibodeaux & Company, Post Office Box 4660, Houston, TX 77210–4660	510.61
Cleghorn Oil, 25 Pratt Street, Post Office Box 913, Fitchburg, MA 01420	2,555.50
Curtis Oil Company, Inc., 431 Pine Way, East Weymouth, MA 02189	250.27
David B. Simmons, Decker & Simmons, RD1, Box 50, Sussex, NJ 07464	8,434.66
Dennis K. Burke, Inc., 410 Beacham Street, Chelsea, MA 02150	684.90
Elman Fuel Co., 171 Walnut Street, Hartford, CT 06101	3,951.78
Emerson Coal & Oil Co., 572 East Street, Post Office Box 117, East Weymouth, MA 02189	9,218.95
Fields Oil Heat Service, 5830 Sullivan Trail, Easton, PA 18042	3,140.57
Gibbs Oil Co., 40 Lee Burbank Highway, Revere, MA 02151	2,985.19
Glen Petroleum Corp., Fish Island, North Bedford, MA 01730	800.21
Global Petroleum, 800 South Street, Waltham, MA 02254	2,752.58
Grimes Oil Company, Inc., 165 Norfolk Street, Boston, MA 02124	827.28
Grove Oil Service, 610 Laurel Hill Avenue, Cranston, RI 02920	324.47
Haffner, Parker Fuel, Post Office Box 1822, Shavertown, PA 18708	4,521.02
Haz Standard, 962 North Laurel Street, Hazleton, PA 18201	112.91
Heller, Main Street, Wapwallopen, PA 18660	241.29
Holliston Oil, 22 Exchange Street, Holliston, MA 01746	32.26
Hopedale Coal & Ice Co., Inc., Hope Street, Hopedale, MA 01747	1,470.42
Ingle & Son, Circuit Street, Hanover, MA 02339	8,590.07
J.R. Williams, 132 Carpenterville Road, Phillipsburg, NJ 08865	184.79
Jay Fuel, 279 Clark Road, Post Office Box 723, Brookline, MA 02147	34.13
Jenny Oil Company, Inc., 6 Vine Street, Middleboro, MA 02346	143.74
Raymond Pare, L&A Fuel, 15 Orchard Circle, Lewiston, ME 04240	1,602.25
Lenza Oil Terminals, 205 Lexington, Waltham, MA 02154	61.76
Lincoln, 420 Mountain Avenue, Middlesex, NJ 08846	1,550.70
Manbeck, Post Office Box 57, Schuylkill Haven, PA 17972	290.83
Charles H. Mantz, 65 2nd Street, Stetington, PA 18080	10.79
Frank Swett, Marvo Oil Co., 18 Myrthle Avenue Fitchburg, MA 01420	1,940.16
McCoy Coal & Oil, 213 Broad Street, Cumberland, RI 02864	1,429.16
Metropolitan Petroleum, 500 Neponset Avenue, Boston, MA 02122	201.13
George Mizhir & Sons, Post Office Box 38, Winchedon, MA 01475	389.70
Mystic Fuel, Inc., Post Office Box 55, Stoneham, MA 02180, Attn: Carol Romanski	10.83
Needham Oil Company, Inc., 355 Chestnut Street, Needham, MA 02192	556.15
Nightingale, 25 Adams Street, Braintree, MA 02184	3,568.93
Northeast Petroleum Corp., 295 Eastern Avenue, Chelsea, MA 02150	2,788.30
Oil Service Co., 200 Boylston Street, Newton, MA 02167	813.61
Parker Lane Winn Co., 957 Main Street, Winchester, MA 01890	68.35
People's Fuel & Trucking, Inc., 73 City Hall Avenue, Gardner, MA 01440	130.24
Peschel, 66 Belvedere Avenue, Oxford, NJ 07836	18.46
Petco Coal and Oil, South Windsor Road, South Royalton, VT 05068	126.34
Pioneer Oil, 450 Southbridge Street, Worcester, MA 01810	141.32
Previtt Oil Company, Inc., 1199 East Street, Dedham, MA 02026	57.49
Quincy Adams Coal & Oil Co., Inc., 360 Bridge Street, North Weymouth, MA 02191	872.47
Sears Fuel, Mr. Mahlon W. Walker, 17 Grant Street, Plymouth, MA 02360	3,325.74
Sherman Brothers Heating Co., Inc., 1305 Pleasant Street, East Weymouth, MA 02189	94.91
Shupe, 1631 Spring Garden Street, Easton, PA 18042	27.41
Supreme Petroleum, Post Office Box 756, Somerville, NJ 08876	79.56
Terry Oil, 96 Main Street, Hopkinton, MA 01748	1,048.41
Town River Oil Co., 289 Middle Street, East Weymouth, MA 02189	366.38
Trinty Oil, Inc., 133 Leland Street, Framingham, MA 01701	4,074.10

[1] Does not include interest. Actual refunds will include the interest which has accrued on these amounts since DOE received the St. James consent order funds on March 20, 1980.

APPENDIX B.—KINGSTON OIL SUPPLY

First purchaser	Portion of settlement amount
David Rubin, 13984 Horseshoe Trace, West Palm Beach, FL 33414	$546.00

[FR Doc. 85–17430 Filed 7–22–85; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–2868–9]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Scope of Waiver of Federal Preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its test procedures for 1985 and subsequent model year diesel-powered passenger cars, light-duty trucks amd medium-duty vehicles equipped with periodically regenerating particulate trap oxidizer systems. The amendments were adopted to account for the fluctuating emissions from these trap systems, and thus to yield more representative particulate emissions test reaults. I find these amendments to be within the scope of previous waivers of Federal preemption granted to California for its particulate standards and accompanying enforcement procedures. Since these amendments are within the scope of these waivers, a public hearing or comment period to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will become final at the expiration of this 30-day period.

DATES: Any objection to the findings in this notice must be filed within 30 days of the date of this notice; otherwise, at the expiration of this 30-day period these findings will become final. Upon the receipt of any timely objection, EPA will consider scheduling a public hearing in a subsequent **Federal Register** notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Donald E. Zinger, Acting Director, Manufacturers Operations Division (EN–340–F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of the California amendments at issue in this notice, a decision document containing an explanation of my determination, and documents used in arriving at this determination, are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, SW., Washington, DC 20460 (Docket EN–85–07). Copies of the decision document can be obtained from EPA's manufacturers Operations Division by contacting Mr. Bergovoy as noted below.

FOR FURTHER INFORMATION CONTACT: Richard Bergovoy, Attorney/Advisor, Manufacturers Operation Division (EN–340–F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–2522.

SUPPLEMENTARY INFORMATION: I have determined that CARB's amendments are within the scope of a waiver of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] Specifically, the amendments supplement certification testing procedures for diesel-powered vehicles in order to make possible more representative

[1] 49 FR 18887 (May 3, 1984).

APPENDIX A—Continued

First purchasers	Portion of settlement amount [1]
Union Coal & Oil Co., 743 North Main Street, Leominster, MA 01453	168.44
W.H. Riley & Son, Inc., 448 Broadway, Tauton, MA 02780	894.20
Wakefield Public Works, Wakefield, MA 01880	3,582.85
Walters, Oil, 1000 Bushkill Drive, Easton, PA 18042	3,344.30
Wildcat, 237 Lunenburg Street, Fitchburg, MA 01420	1,793.06
Purchasers with no available address	
Ciro's Oil	$984.67
Cornish	89.94
Energy Collab	1,027.89
F.L.F. Oil Co.	375.86
Frable	1,883.53
Gaffredo	514.85
Niles	398.07
R. Petro Products	37.01
R. Hein	89.57
Sentinel Oil	210.12
Shellock	55.98

[1] Does not include interest. Actual refunds will include the interest which has accrued on these amounts since DOE received the St. James consent order funds on March 20, 1980.

APPENDIX B.—KINGSTON OIL SUPPLY

First purchaser	Portion of settlement amount
David Rubin, 13984 Horseshoe Trace, West Palm Beach, FL 33414	$546.00

[FR Doc. 85–17430 Filed 7–22–85; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–2868–9]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Scope of Waiver of Federal Preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its test procedures for 1985 and subsequent model year diesel-powered passenger cars, light-duty trucks amd medium-duty vehicles equipped with periodically regenerating particulate trap oxidizer systems. The amendments were adopted to account for the fluctuating emissions from these trap systems, and thus to yield more representative particulate emissions test reaults. I find these amendments to be within the scope of previous waivers of Federal preemption granted to California for its particulate standards and accompanying enforcement procedures. Since these amendments are within the scope of these waivers, a public hearing or comment period to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will become final at the expiration of this 30-day period.

DATES: Any objection to the findings in this notice must be filed within 30 days of the date of this notice; otherwise, at the expiration of this 30-day period these findings will become final. Upon the receipt of any timely objection, EPA will consider scheduling a public hearing in a subsequent **Federal Register** notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Donald E. Zinger, Acting Director, Manufacturers Operations Division (EN–340–F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of the California amendments at issue in this notice, a decision document containing an explanation of my determination, and documents used in arriving at this determination, are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, SW., Washington, DC 20460 (Docket EN–85–07). Copies of the decision document can be obtained from EPA's manufacturers Operations Division by contacting Mr. Bergovoy as noted below.

FOR FURTHER INFORMATION CONTACT: Richard Bergovoy, Attorney/Advisor, Manufacturers Operation Division (EN–340–F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–2522.

SUPPLEMENTARY INFORMATION: I have determined that CARB's amendments are within the scope of a waiver of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] Specifically, the amendments supplement certification testing procedures for diesel-powered vehicles in order to make possible more representative

[1] 49 FR 18887 (May 3, 1984).

St. James consent order by 39,178,666 gallons, which represents St. James' total sales of all covered products during the consent order period.

[7] Purchasers identified in the ERA audit of St. James as having allegedly been overcharged may also submit information to show that they are entitled to larger refunds than those indicated in Appendix A.

VOL 50 ISS 141 JL 23 1985 UMI

particulate measurements from cars equipped with periodically regenerating particulate trap oxidizer systems. The new test procedures permit CARB to calculate a correction factor to account for the fact that the emissions test cycle is 11 miles long, but that periodically regenerating trap oxidizers release accumulated particulates once every 40 to 80 miles. The amended procedures require extra emissions tests to measure the vehicle in both the regeneration and non-regeneration modes.

These changes do not affect California's determination that its standards are, in the aggregate, at least as protective as Federal standards, raise no new issues regarding previous EPA waiver decisions, and do not affect the consistency of California's requirements with respect to section 202(a) of the Act. A full explanation of my determination is contained in a decision document, which may be obtained from EPA as noted above.

Since these amendments are included within the scope of previously granted waivers of Federal preemption, a public hearing to consider them is not necessary. The public has not had an opportunity to comment in advance of this determination. Therefore, my determination on these amendments will become final at the expiration of 30 days following publication of this notice, unless an objection is filed and a public hearing is scheduled.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect. Under section 307(b) of the Act, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication.

This action is not a rule for the purposes of Executive Order 12291, 46 FR 13193 (February 19, 1981). It does not "implement, interpret, or prescribe law or policy." Therefore it is not subject to review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Additionally, a Regulatory Impact Analysis is not being prepared under the executive order for this "within the scope" determination since it is not a rule.

This action also is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), because EPA is not required to undergo prior "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small entities.

Dated: July 18, 1985.

Charles N. Freed,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 85-17438 Filed 7-22-85; 8:45 am]

BILLING CODE 6560-50-M

[OW-10-FRL-2865-4]

Draft General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf and in State Waters of Alaska; Cook Inlet/Gulf of Alaska

Correction

In the document beginning on page 28974 in the issue of Wednesday, July 17, 1985, make the following correction:

On page 28985, the file line was omitted and should have appeared as follows:

[FR Doc. 85-16941 Filed 7-16-85; 8:45 am]

BILLING CODE 1505-01-M

[OW-FRL-2868-6]

National Drinking Water Advisory Council; Open Meeting

Under section 10(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held at 8:30 a.m. on August 8, 1985, and at 8:00 a.m. on August 9, 1985, at the EPA Headquarters, Room 3906 Mall Area, 401 M Street, SW., Washington, DC 20460. Council subcommittees will be meeting at EPA Headquarters on August 7, 1985.

The purpose of the meeting is to provide the Council with an update on the development of the Revised Primary Drinking Water Regulations and the Amendments to the Safe Drinking Water Act. Additional agenda items will include a status on the Underground Injection Control Program and the Pesticide Survey.

This meeting will be open to the public. The Council encourages the hearing of public statements and will allocate a portion of its meeting time for public participation. Oral statements will be limited to five minutes. It is preferred that there be one presenter for each statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 382-5533. The petition should include the topic of the proposed statement, the petitioner's telephone number and should be received by the Council before August 2, 1985.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at the Council meeting and will be part of the permanent meeting record.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The telephone number is: Area Code 202/382-5533.

Dated: July 12, 1985.

Henry L. Longest II,

Acting Assistant Administrator for Water.

[FR Doc. 85-17411 Filed 7-22-85; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-2868-8]

Science Advisory Board; Environmental Health Committee; Acute Effects Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Acute Effects Subcommittee of the Science Advisory Board will be held on August 15-16, 1985, in Conference Room 3906-3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, DC. The meeting will start at 9:00 a.m. on August 15, 1985, and adjourn no later than 4:30 p.m. on August 16, 1985. The purpose of the meeting is to review a draft document, prepared by the Office of Toxic Substances, which describes criteria for listing chemical substances of concern for acute exposures.

For additional information on the draft document, please contact Dr. Edward A. Klein by phone at (202) 382-3790 or by mail to: TSCA Assistance Office (TS-799), 401 M Street, SW., Washington, DC, 20460. The meeting will be open to the public. Any member of the public wishing to attend, to present information to the Subcommittee, or to obtain further information, should contact either Dr. Daniel Byrd, Executive Secretary to the Subcommittee, or Mrs. Brenda Johnson, by telephone at (202) 382-2552 or by mail to: Science Advisory Board (A-101F), 401 M Street, SW., Washington, DC 20460, no later than c.o.b. Tuesday, August 13, 1985.

Dated: July 15, 1985.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 85-17413 Filed 7-22-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket: FEMA-REP-4-WV-1]

Receipt of Radiological Emergency Response Plans; Pennsylvania

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government plans, the State of West Virginia has submitted its radiological emergency plans to the FEMA Regional Office. These plans support nuclear power plants which impact on West Virginia, and include the plans of a county which is near the Duquesne Light Company's Beaver Valley Power Station located in Shippingport, Pennsylvania.

DATE: Plans received: June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Paul P. Giordana, Regional Director, Federal Emergency Management Agency Region III, Liberty Square Building, 105 South 7th Street, Philadelphia, Pennsylvania 19106.

Notice: In support of the Federal requirement for emergency response plans, FEMA has established a Rule describing its procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to this FEMA Rule (44 CFR 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness," the State Radiological Emergency Plan for West Virginia and Hancock County, a portion of which is located within the ten-mile EPZ of the Beaver Valley Power Station, has been received by the Federal Emergency Management Agency Region III.

Copies of the Plan are available for review at the FEMA Region III Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 934 pages in the document, reproduction fees are $.10 a page payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Paul Giordana, Regional Director, at the above address within thirty days of this Federal Register notice.

Dated: July 10, 1985.

Paul P. Giordana,

Regional Director.

[FR Doc. 85-17426 Filed 7-22-85; 8:45 am]

BILLING CODE 6718-01-M

[Docket No.: FEMA-REP-6-TX-1]

The Texas State Emergency Management Plan Site-Specific to the Comanche Peak Steam Electric Station

ACTION: Certification of FEMA Findings and Determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR 350, the State of Texas submitted its plans relating to the Comanche Peak Steam Electric Station to the Director of FEMA Region VI on June 10, 1982, for FEMA review and approval. On February 5, 1985, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with section 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Comanche Peak Steam Electric Station, an evaluation of the joint exercise conducted on December 14, 1983, in accordance with section 350.9 of the FEMA rule, and a public meeting held on January 24, 1984, to discuss the site-specific aspects of the State and local plans around the Comanche Peak Steam Electric Station in accordance with section 350.10 of the FEMA rule. In addition the Regional Director submitted an addendum dated October 12, 1984, that considered the revision of plans and preparedness. This last evaluation reported that the remaining outstanding deficiences have been resolved.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that the State and local plans and preparedness of the Comanche Peak Steam Electric Station are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The adequacy of the public alert and notification system has been verified by FEMA in accordance with the joint Nuclear Regulatory Commission/FEMA criteria set forth in NUREG-0654/FEMA-REP-1, Rev. 1, Appendix 3, and in the "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants" (FEMA-43).

FEMA will continue to review the status of offsite plans and preparedness associated with the Comanche Peak Steam Electric Station in accordance with section 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-6-TX-1 maintained by the Regional Director, FEMA Region VI, Federal Center, Denton, Texas 76201.

Dated: July 15, 1985.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85-17406 Filed 7-22-85; 8:45 am]

BILLING CODE 6718-01-M

[Docket No.: FEMA-REP-6-LA-2]

The Louisiana Peacetime Radiological Response Plan Site-Specific to Waterford III Steam Electric Station

ACTION: Certification of FEMA Findings and Determination.

In Accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Louisiana submitted its plans relating to the Waterford III Steam Electric Station to the Director of FEMA Region VI on June 10, 1982, for FEMA review and approval. On April 3, 1985, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is review of the State and local plans around the Waterford III Steam Electric Station, an evaluation of the joint exercise conducted on February 8, 1984, in accordance with § 350.9 of the FEMA rule, and a public meeting held on May 3, 1983, to discuss the site-specific aspects of the State and local plans around the Waterford III Steam Electric Station in accordance with § 350.10 of the FEMA rule. In addition, the Regional Director submitted an addendum dated March 6, 1985 that considered revisions in plans and preparedness. This last evaluation reported that the remaining outstanding deficiencies have been resolved.

VOL 50 ISS 141 JL 23 1985 UMI

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Waterford III Steam, Electric Station are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission/FEMA criteria in NUREG–0654/FEMA–REP–1, Rev. 1, and in the "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants" (FEMA–43).

FEMA will continue to review the status of offsite plans and preparedness associated with the Waterford III Steam Electric Station in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA–REP–6–LA–2 maintained by the Regional Director, FEMA Region VI, Federal Center, Denton, Texas 76201.

Dated: July 15, 1985.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85–17423 Filed 7–22–85; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212–010286–005.

Title: Italy-U.S.A. North Atlantic Pool Agreement.

Parties:

Costa Armatori, S.p.A.
Jugolinija
Zim Israel Navigation Company, Ltd.
Farrell Lines, Inc.
Sea-Land Service, Inc.
Medamerica Express Service
Nedlloyd Lines

Synopsis: The proposed amendment would modify the agreement to clarify the scope of the agreement, revise the withdrawal provisions and make certain nonsubstantive changes to the language of the agreement. It would delete "Italia" Societa Per Azioni di Navigazione, S.p.A. as a party to the agreement, add Nedlloyd Lines and the joint service Medamerica Express Service ("Italia" Societa Per Azioni di Navigazione, S.p.A. is a member of the joint service) as parties to the agreement. It would also revise the pool shares, pool period, definition of "pool cargo" and the penalties for earnings in excess of maximum pool shares.

By Order of the Federal Maritime Commission.

Dated: July 18, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–17488 Filed 7–22–85; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 226–010783.

Title: Equipment Interchange Agreement Between Orient Overseas Container Line, Ltd. and Totem Ocean Trailer Express, Inc.

Parties:

Orient Overseas Container Line, Ltd.
Totem Ocean Trailer Express, Inc.

Synopsis: The proposed agreement would permit the parties to exchange empty and loaded equipment in connection with a nonexclusive transshipment agreement between the parties involving shipments moving between Alaska and the Far East.

Agreement No: 217–010784.

Title: Transamerican Steamship Corporation/The National Shipping Company of Saudi Arabia Space Charter Agreement.

Parties:

Transamerican Steamship Corporation (TSC)
The National Shipping Company of Saudi Arabia (NSCSA)

Synopsis: The proposed agreement would permit TSC to charter space on the vessels of NSCSA and to utilize related equipment in connection with the carriage of cargo in the trade from U.S. Atlantic and Gulf Coast ports and from inland and coastal points in the United States via such ports to ports and inland and coastal points on the Red Sea.

Agreement No: 218–010785.

Title: Nonexclusive Transshipment Agreement Between Orient Overseas Container Line, Ltd. and Totem Ocean Trailer Express, Inc.

Parties:

Orient Overseas Container Line, Ltd.
Totem Ocean Trailer Express, Inc.

Synopsis: The proposed agreement would establish a non-exclusive, intermodal transshipment arrangement between the parties in the trade between points in Alaska and points in the Far East, with transshipment at Seattle or Tacoma, Washington.

By Order of the Federal Maritime Commission.

Dated: July 18, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–17487 Filed 7–22–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Gibson Investment Co.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1)) of the Board's Regulation Y (12 CFR 225.23(a)(1) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 12, 1985.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Gibson Investment Company,* Gibson, Iowa; to engage *de novo* directly in the activity of making commercial and real estate loans, both direct and indirect, by purchasing overlines from banks, including its subsidiary bank, and to retain the commercial lending activity it has already conducted. These activities would be conducted in the state of Iowa.

Board of Governors of the Federal Reserve System, July 17, 1985.

James AcAfee,

Associate Secretary of the Board.

[FR Doc. 85–17420 Filed 7–22–85; 8:45 am]

BILLING CODE 6210–01–M

National Banc of Commerce Co. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 14, 1985.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *National Banc of Commerce Company,* Charleston, West Virginia; to acquire 100 percent of the voting shares of The First National Bank of Belle, West Virginia.

2. *Rappahannock Bankshares, Inc.,* Washington, Virginia; to become a bank holding company by acquiring 66.67 percent of the voting shares of The Rappahannock National Bank of Washington, Washington, Virginia.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Commercial Bancshares, Inc.,* Jasper, Alabama; to acquire 100 percent of the voting shares or assets of First Commercial Bank, Birmingham, Alabama, a *de novo* bank.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Lena Bancorp, Inc.,* Lena, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Lena State Bank, Lena, Illinois.

D. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *General Bancshares Corporation,* St. Louis, Missouri; to acquire 100 percent of the voting shares or assets of The Hillsboro National Bank, Hillsboro, Illinois through the merger of its parent, HNB Bancorp, Inc., Hillsboro, Illinois and General Bancshares Corporation of Illinois, Belleville, Illinois, a wholly-owned subsidiary of Applicant.

2. *Lake Hamilton Enterprises, Inc.,* Little Rock, Arkansas; to acquire 96.88 percent of the voting shares or assets of The Bank of Harrisburg, Harrisburg, Arkansas.

3. *Oblong Banchsares, Inc.,* Oblong, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Oblong, Oblong, Illinois.

E. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Security North Corporation,* Amarillo, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Banccentral, Amarillo, Texas.

Board of Governors of the Federal Reserve System, July 17, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–17421 Filed 7–22–85; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Commission on the Evaluation of Pain; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: This notice announces the schedule and proposed agenda of the forthcoming meeting of the Commission on the Evaluation of Pain (the Commission). This notice also describes the purpose, structure, and termination date of the Commission.

DATE: General session—August 8, 1985, 8:30 a.m. to 5:00 p.m. General session—August 9, 1985, 8:30 a.m. to 5:00 p.m.

ADDRESS: National Academy of Sciences, 2101 Constitution Avenue, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Nancy Dapper, Executive Director, Commission on the Evaluation of Pain, Room 118, Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235; (301) 597–1597.

SUPPLEMENTARY INFORMATION: The Commission is established and governed by the provisions of section 3(b) (1) through (6) of the Social Security Disability Benefits Reform Act of 1984 (Pub. L. 98–460). The purpose of the Commission is to conduct a study

VOL
50
ISS
141
JL
23
1985
UMI

concerning the evaluation of pain in determining under Titles II and XVI of the Social Security Act whether an individual is under a disability. The study is to be conducted in consultation with the National Academy of Sciences.

The study will consist of expert testimony and a review of research data regarding how pain should be considered in making disability determinations under Titles II and XVI. The Commission may engage technical assistance in order to carry out its function.

The Commission is to submit a report, consisting of the findings of the study and any recommendations, to the Secretary of Health and Human Services (the Secretary) who in turn is to submit the report to the Committee on Way and Means of the House of Representatives and to the Committee on Finance of the Senate.

The statute provides that the Commission terminate on December 31, 1985. This is also the deadline for the Secretary to submit the report.

The Secretary has appointed the members of the Commission in accordance with the provisions of the statute. This notice announces the second working meeting of the Commission. The Commission is chaired by Kathleen M. Foley, M.D.

This meeting is open to the public. Anyone wishing to submit his or her views for consideration by the Commission should send them to the Executive Director of the Commission at her address shown above.

A transcript of the Commission meeting will be made available to the public on an at-cost-of-duplication basis. The transcript can be ordered from the Executive Director of the Commission.

Agenda

August 8, 1985

8:30 a.m.—General session of expert testimony and research data presentations.
5:00 p.m.—Adjourn general session.

August 9, 1985

8:30 a.m.—General session of (1) continued expert testimony and research data presentations, (2) discussions on the agenda, priorities, and date of the next meeting, and (3) writing assignments.
5:00 p.m.—Adjourn the meeting.

Dated: July 17, 1985.

Nancy J. Dapper,

Executive Director, Commission on the Evaluation of Pain.

[FR Doc. 85-17424 Filed 7-22-85; 8:45 am]

BILLING CODE 4190-11-M

Office of Human Development Services

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Administration on Developmental Disabilities, HHS.

ACTION: Notice of Change to Statement of Organization, Functions, and Delegations of Authority.

SUMMARY: This notice amends Part D of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Office of Human Development Services (OHDS), as published in the **Federal Register** on October 27, 1983 (48 FR 49697) to: (1) Establish a Management Services Staff office; (2) change the title of the "Division of Program Operations" to "Program Operations Division" and revise its functions; and (3) change the title of the "Division of Program Development and Demonstrations" to "Program Development Division" and revise its functions.

EFFECTIVE DATE: August 8, 1985.

FOR FURTHER INFORMATION CONTACT: Casimer Wichlacz, Deputy Commissioner, Administration on Developmental Disabilities.

The changes are as follows:

1. Part D, Chapter DF, "The Administration on Developmental Disabilities", as published in the **Federal Register** on October 27, 1983 (48 FR 49697), is to be deleted in its entirety and replaced by the following:

DF.00 Mission. The Administration on Developmental Disabilities (ADD) is the principal OHDS component established to enable States to increase the provision of quality services to persons with developmental disabilities through the design and implementation of a comprehensive and continuing State Plan. This plan makes optimal use of all existing Federal and State resources for the provision of treatment, services and habilitation in the least restrictive environment and provides assurance for the protection of rights of all individuals with developmental disabilities.

ADD advises the Assistant Secretary for Human Development Services on the formulation, development, and implementation of policies affecting developmentally disable persons. Reviews legislation and other policies affecting developmentally disabled persons. Acts as an advocate to assure the rights of handicapped persons. Serves as a clearinghouse and resource for information for service providers at the national, regional, State and local levels in the development of policies and programs to reduce or eliminate physical, mental, social and environmental barriers experienced by developmentally disabled persons. Supports and encourages programs or services to prevent developmental disabilities.

DF.10 Organization. The Administration on Developmental Disabilities is under the direction of the Commissioner, who reports directly to the Assistant Secretary for Human Development Services. The Administration on Developmental Disabilities consists of:

Office of the Commissioner
Management Services Staff
Program Operations Division
Program Development Division
Regional Offices of the Administration on Developmental Disabilities, Regions III, VI, VII, and IX

DF.20 Functions. Office of the Commissioner provides executive leadership and direction to ADD. Establishes goals and objectives for programs for developmentally disabled persons; directs the administration of formula and discretionary grant programs of the Developmental Disabilities Assistance and Bill of Rights Act of 1984, Pub. L. 98-527. Provides technical assistance and initiates policy relative to the provision of services to persons with developmental disabilities under the ADD authorizing statute; serves as advisor to the Assistant Secretary on programs, issues and problems affecting handicapped individuals and on the concerns of developmentally disabled persons. Assures consideration of the rights and needs of the developmentally disabled and other handicapped individuals in Human Development Services program planning and policy development.

Serves as a focal point on matters and issues concerning developmentally disabled persons for the various OHDS Regional Offices, the Commissioner/ADD, other ADD Divisions, and other OHDS Headquarters staff. Facilitates interagency program coordination and program integration to meet the needs of developmentally disabled persons. Formulates policies affecting the developmentally disabled and identifies services to promote independence, productivity, community integration and to assure their rights and entitlements. Coordinates with OHDS Regional Administrators on program issues and progress affecting their region and coordinates Developmental Disabilities (DD) Program objectives requiring involvement of other OHDS programs at the regional level.

Reviews and analyzes reports and makes contacts with governmental and non-governmental agencies and individuals to secure necessary information for policy development.

Identifies administrative, legislative and regulatory changes or developments necessary for the application of effective and consistent Federal policy for persons with developmental disabilities.

B. Management Services Staff plans, coordinates, and controls ADD policy, planning, and management activities. Manages the development of legislative proposals, regulations and policies for ADD. Develops and recommends the implementation of policies in coordination and consultation with the Office of Policy and Legislation (OPL), OHDS.

In coordination with OPL and the Office of Management Services (OMS), in the Office of Human Development Services, monitors the execution of program plans consistent with the Department's requirements and OHDS procedures. Formulates budget and legislative plans consistent with Departmental and ADD requirements.

Coordinates the reporting by ADD units to the Department of Health and Human Services/OHDS management system, including reports on short-range initiatives. Develops reports on the overall ADD program that are required by the Department and the Congress.

Tracks financial status of all program and salaries and expenses accounts and provides financial data to the Commissioner. Provides funds control for program and salaries and expenses accounts to include making fund commitments, obligations, and reconciliation of accounts with the Department's accounting system. Furnishes assistance to program specialists on Departmental financial management and on development of ADD fiscal and budget procedures; coordinates with appropriate HDS staff offices in carrying out these functions. Performs audit coordination activities for ADD audits, assuring appropriate response and coordination with HDS.

Provides a wide range of management and administrative services in support of all ADD programs and activities. Expedites the progress of all procurements and personnel actions. Serves as the ADD Executive Secretariat, controlling the flow of correspondence, including coordination of Freedom of Information Act requests. Coordinates with appropriate OHDS units in implementing administrative requirements and procedures.

In coordination with the Office of Public Affairs/OHDS, developments a strategy for increasing public awareness of the needs of developmentally disabled persons and programs designed to meet their needs.

Oversees all ADD data collection, information, maintenance, and preparation of final reports on program data. Carries out special projects, including gathering information and assisting in preparation of briefings and reports. Coordinates preparation of the ADD statistical budget submission and related OMB forms clearance activities.

C. Program Operations Division is responsible for the development of Federal guidelines, criteria and procedures which govern delivery of services authorized by the Act under the Basic State Grants Program and the Protection and Advocacy Grants Program. Provides coordination and guidance for programs applicable to individuals with developmental disabilities.

Develops procedures and methods for monitoring and analysis of State Plans under the Basic State Grants Program to assure consistent application of ADD policies and procedures. Carries out routine and special analysis of State Plans. Monitors the Basic State Grants Program and Protection and Advocacy Grants Program, developing reports on progress, accomplishments and problems; preparing recommendations for actions that will further the ADD program goals and objectives; and, initiates action to resolve identified problems.

Advises Commissioner on trends, issues, and progress; contributes to the development and implementation of long and short range plans, goals, and objectives. Develops strategies and designs for joint reviews of State Plans of other Federal/State program services. Identifies potential areas for development of interagency agreements and jointly funded service initiatives for State program services. Serves as the focal point for the initiation, execution, administration, monitoring and follow-up of interagency agreements and resulting activities.

Provides administrative and committee management support to the National Council on the Handicapped and other Federal commissions or interagency committees established by statute or administrative policy. Plans and coordiantes special conferences involving Federal and non-Federal agencies.

Provides program and administrative guidance to ADD Regional staff on matters pertaining to the Basic State Grants Program and the Protection and Advocacy Grants Program. Maintains liaison and routine communication with the ADD Regional Offices to facilitate the flow of information between Central Office and the Regional Offices concernig State developmental disabilities activity and to assist the Commissioner in maximization of program quality. Assists in the identification and resolution of policy and program issues. Develops and maintains a comprehensive information base on programs and activities for developmentally disabled persons on a national basis, as well as individual State profiles.

Manages a task force on the placement of persons with developmental disabilities in competitive employment. Directs the planning and supervises the development of this special initiative. Coordinates Federal efforts in this area with the private business sector.

D. Program Development Division provides program development services, including program evaluation, environmental reform, specialized services initiatives, and demonstration projects. Provides direction to assist applicants for discretionary grants and contracts authorized under the Act; reviews discretionary grants for the Commissioner; facilitates State review and comment on applications for discretionary grants and contracts; makes recommendations to the Commissioner on requests for discretionary grants and contracts and assists in monitoring and evaluating national level discretionary grants.

Plans for and implements experimental program services based on feedback from State and local organizations on program needs. Formulates and prepares annual demonstration, and evaluation plans. Coordinates and administers the University Affiliated Facilities (UAF's) activities, and develops quality assurance criteria for the UAF Program.

Originates cross-cutting research, demonstration and evaluation initiatives with other units of ADD, OHDS, HHS, and other governmental Departments.

Develops and initiates guidelines, issuances and actions with team participation by other units of ADD, OHDS, HHS and other governmental agencies to fulfill the mission and goals of the Developmental Disabilities Assistance and Bill of Rights Act.

Works with the Small and Disadvantaged Business Utilization Specialist in the Office of Equal Opportunity and Civil Rights to identify minority-owned firms that have capabilities to perform contracts and advises such firms about ADD programs.

VOL 50 ISS 141 JL 23 1985 UMI

In liaison with HDS/OMS and the Office of Program Development (OPD), is responsible for discretionary grants and contracts management, technical assistance, and training activities. Reviews and analyzes data and information regarding developmental disabilities programs and services, and coordinates the dissemination of project results and information to other interested agencies and the public.

Serves as liaison with national consumer organizations representing developmentally disabled constituents; advising the Commissioner on matters and concerns of consumer representative groups, including inter-governmental representatives; provides liaison activity between national organizations and program administrative offices; and provides coordination on consumer representatives' involvement in planning and program policy direction for the ADD program.

Coordinates national program trends with other OHDS programs and HHS agencies. Studies, reviews and analyzes other Federal programs providing services applicable to developmentally disabled persons for the purpose of integrating and coordinating programs.

Provides leadership and staff support for a Task Force on Board and Care. This includes providing administrative and technical supervision of staff assigned to the Task Force by other Federal agencies and serving as the focal point for the Department for information on board and care to public and private agencies and the general public. Develops guidelines and promotes the adoption of appropriate standards for institutions and service providers in the area of board and care.

Serves as the focal point for activities and ADD requirements in support of the Decade of the Disabled.

F. The Regional Offices of the Administration on Developmental Disabilities are located in Regions III, VI, VII, and IX. The areas designated by the standard Federal Regions are covered by the ADD Regional Offices as follows: Regions I, II, and III by Region III; Regions IV and VI by Region VI; Regions V, VII, and VIII by Region VII; and Regions IX and X by Region IX. Each office, under the direct supervision of the Regional Administrator, serves as the administrative focus between the Central Office and State and local governments and other organizations for the consideration of program issues and policies affecting service needs and rights of developmentally disabled persons.

Provides information for and contributes to the development of national policy for the developmental disabilities program. Establishes goals and objectives for the area served based on national policy and program priorities of ADD. In collaboration with Regional Administrators, provides direction and coordination on the implementation of the developmental disabilities program and advises the Commissioner, Administration on Developmental Disabilities, regarding issues which hamper efforts to implement the developmental disabilities program.

Works with State and local program administrators and public officials to promote developmental disabilities programs and services provided under the Act. Reviews, for compliance with Federal requirements, and approves developmental disabilities State plans, amendments and annual reports. Assists States and local governments, as requested, in the development and operation of the Basic State Grant Program and the State Protection and Advocacy Systems.

Recommends successful practices and/or takes positive action which will facilitate efforts of States to fill gaps in their programs.

Provides assistance to applicants for discretionary grants and contracts authorized under the Act. Makes recommendations for approval or disapproval of discretionary grants and contracts. Assists in monitoring and evaluating University Affiliated Facilities (UAFs) grants and special projects of national significance.

Interprets statutes and regulations consistent with policy guidance of the Central Office. Insures adherence by recipients of funds to program objectives, applicable policy, regulations and procedures as set forth by ADD and OHDS. Assists agencies and grantees in interpreting policy and assists in the resolution of specific operational issues.

Collaborates with the OHDS Regional Director, Office of Fiscal Operations, in planning the conduct of financial reviews. Makes decisions on approval, referral, or disallowances of claims for Federal financial participation, and reviews estimates, budget projections, and reports of expenditure for the formula grant programs and grants to UAFs and Satellite Centers.

Coordinates ADD program activities with other programs of OHDS and other Federal programs at the Regional and State levels to enhance regional assistance for programs for the developmentally disabled. Advises on opportunities for coordination between and among other Federal program services. Analyzes programs for developmentally disabled persons funded by States through other Federal-State programs in the area served.

Consults with Regional Administrators on the planning and implementation of cross-cutting program initiatives concerning developmentally disabled persons across OHDS programs in their area relative to children, youth and families, the aging, and Native Americans. Develops and promotes linkages between the DD program and other Federal/State program services in the States through leadership in the development, design, and implementation of comprehensive program service plans.

Dated: July 17, 1985.

Approved:

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 85-17422 Filed 7-22-85; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

Recombinant DNA Research; Availability of Analysis of Public Comments

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: A previous **Federal Register** notice (50 FR 14794-14796, April 15, 1985) announced the availability for public comment of the Environmental Assessment and Finding of No Significant Impact (EA-FONSI) dated January 21, 1985, "concerning the application to the National Institutes of Health (NIH), under the NIH Guidelines for Research Involving Recombinant DNA Molecules, of Drs. Steven Lindow and Nickolas Panopoulos of the University of California, Berkeley, to field test ice-nucleation-minus bacteria prepared by recombinant DNA techniques for purposes of biological control of frost damage to plants." In addition, the April 15, 1985, notice requested "comments on the need for a programmatic Environmental Impact Statement in connection with NIH approvals of proposals to release into the environment organisms containing recombinant DNA molecules." In response to the April 15, 1985, notice, fifteen letters were received. These letters were analyzed in a June 19, 1985, memorandum from Dr. Bernard Talbot, Deputy Director, National Institute of Allergy and Infectious Diseases, to Dr. James Wyngaarden, Director, NIH. This notice announces the availability of that June 19, 1985, memorandum, which is described below.

ADDRESS: The June 19, 1985, memorandum is available upon a request to the NIH Office of Recombinant DNA Activities (ORDA), Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20205.

FOR FURTHER INFORMATION CONTACT: Dr. William J. Gartland, ORDA, Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-6051.

SUPPLEMENTARY INFORMATION: The June 19, 1985, memorandum, mentioned above, analyzes the letters received using the following structure:

Analysis of Comments on January 21, 1985, EA-FONSI
- Comments Praising the EA-FONSI
- Comments Criticizing the EA-FONSI
- Additional Comments and Response to Comments on EA-FONSI

Analysis of Comments on Need for Programmatic EIS
- Comments Indicating a Programmatic EIS is Not Required
- Comment Indicating the Need for a Programmatic EIS "Is Unlikely to Be Resolved in the Near Future"
- Comment Indicating a Programmatic EIS is Required
- Response to Comments on Requirement for Programmatic EIS

Comments and Response to Comments on Adequacy of April 15, 1985, **Federal Register** Notice.

Based on the analysis of the comments, thirteen recommendations were made. On July 2, 1985, Dr. James Wyngaarden, Director, NIH, concurred with each of the thirteen recommendations. Among the recommendations are: Specific changes to be made in the January 21, 1985, EA-FONSI which provide further clarification of the safety of the proposed field test; a reaffirmation of the adequacy of the EA-FONSI; a reaffirmation of the Finding of No Significant Impact; and a finding that a programmatic Environmental Impact Statement is not needed at this time.

Three attachments to the June 19, 1985, memorandum are: a copy of the January 21, 1985, EA-FONSI; a copy of the April 15, 1985, **Federal Register** notice; and copies of the public comments received.

Dated: July 15, 1985.

James B. Wyngaarden, M.D.,

Director, National Institutes of Health.

[FR Doc. 85-17397 Filed 7-22-85; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

St. Lucia; Finding Regarding Foreign Social Insurance or Pension System

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Finding Regarding Foreign Social Insurance or Pension System—St. Lucia.

Finding: Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecuitve months. This prohibition does not apply to such an individual where one of the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through (t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that, subject to certain residency requirements of section 202(t)(11), the prohibition against payment shall not apply to any individual who is a citizen of a country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) Permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Secretary of Health and Human Services has delegated the authority to make such a finding to the Commissioner of Social Security. The Commissioner has redelegated that authority to the Director of the International Policy Staff. Under that authority the Director of the International Policy Staff has approved a finding that St. Lucia, beginning August 4, 1984, has a social insurance system of general application which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) Permits United States citizens who are not citizens of St. Lucia to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside St. Lucia.

Accordingly, it is hereby determined and found that St. Lucia has in effect, beginning August 4, 1984, a social insurance system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

This revises our previous finding (published March 12, 1982 at 47 FR 10911), that St. Lucia does not have in effect a social security insurance or pension system which meets the requirements of section 202(t)(2) of the Social Security Act.

FOR FURTHER INFORMATION CONTACT: Roy G. Hatch, Room 1104 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-6122.

Dated: July 16, 1985.

(Catalog of Federal Domestic Assistance Programs No. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.805 Social Security—Survivors Insurance)

Elizabeth K. Singleton,

Director, International Policy Staff.

[FR Doc. 85-17404 Filed 7-22-85; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14897-B]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611 (1976), will be issued to Seth-de-ya-ah Corporation, containing approximately 1,635 acres. The lands involved are within T. 2 N., R. 10 W., and T. 3 N., R. 10 W., Fairbanks Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907)*271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until August 22, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the

requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-17442 Filed 7-22-85; 8:45 am]

BILLING CODE 4130-JA-M

[F-14832-A2]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Ingalik, Incorporated for approximately 55 acres. The lands involved are located at Anvik, Alaska, within T. 30 N., R. 58 W., Seward Meridian.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the TUNDRA TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 22, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (906), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-17443 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-JA-M

[F-14858-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Gana-a 'Yoo, Limited for approximately 537 acres. The lands involved are located at Galena, Alaska, within T. 9 S., R. 10 E., Kateel River Meridian,

A notice of the decision will be published once a week for four (4) consecutive weeks, in the TUNDRA TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 22, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication

[FR Doc. 85-17444 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-JA-M

[F-14852-A2]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Secs. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Unalakleet Native Corporation for approximately 19,654 acres. The lands involved are in the vicinity of Unalakleet.

Kateel river Meridian, Alaska (Partially Surveyed)

T. 18 S., R. 9 W.
T. 19 S., R. 9 W.
T. 19 S., R. 10 W.
T. 20 S., R. 11 W.
T. 21 S., R. 11 W.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the NOME NUGGET. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 22, 1985. to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-17445 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-698-B]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Secs. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, will be issued to Salamatof Native Association, Inc., for 151.99 acres. The lands involved are within the East Foreland Lighthouse Reserve, located in T. 7 N., R. 12 W., Seaward Meridian.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. (907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 22, 1985 to file an appeal. However, parties receiving services by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANSCA Adjudication.

[FR Doc. 85-17447 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-JA-M

[F-14872-B]

Alaska Native Claims Selection

In accordance with Departmental regulations 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611 (1976), will be issued to Gana-a 'Yoo, Limited for approximately 1,470 acres. The lands involved are within T. 11 S., R. 2 E., Kateel River Meridian, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 22, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-17449 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6659-B2]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Choggiung Ltd., for approximately 229 acres. The lands involved are:

A portion of lot 16 of U.S. Survey No. 4985, T. 14 S., R. 56 W., Seward Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until August 22, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 Fed. Reg. 6371, February 21, 1984) shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-17450 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-JA-M

Minerals Management Service

Development Operations Coordination Document; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc., has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 1240, Block 51, South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Leeville, Louisiana.

DATE: The subject DOCD was deemed submitted on July 12, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 15, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-17400 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Shell Offshore Inc., Unit Operator of the High Island Block 160 Federal Unit Agreement No. 14-08-0001-2891, submitted on July 3, 1985, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the High Island Block 160 Federal unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other

VOL 50 ISS 141 JL 23 1985 UMI

interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: July 15, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-17399 Filed 7-22-85; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30674]

Genesee & Wyoming Industries, Inc.; Control Exemption; Dansville and Mount Morris Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343 the acquisition of control of Dansville and Mount Morris Railroad Company by Genesee and Wyoming Industries, Inc., subject to standard employee protection.

DATES: This decision is effective on July 23, 1985. Petitions to reopen must be filed by August 12, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30674 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) James B. Gray, Jr., Harter, Secrest, & Emery, 700 Midtown Tower, Rochester, NY 14604

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of full decision, write to T.S. InfoSystems, Inc. Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5401.

Decided: July 15, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85-17417 Filed 7-22-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-12 (Sub-93)]

Southern Pacific Transportation Company; Abandonment; in St. Martin Parish, LA; Findings

The Commission has issued a certificate authorizing Southern Pacific Transportation Company to abandon its 13.04-mile rail line between St. Martinville (milepost 5.66) and Breaux Bridge (milepost 18.70) in St. Martin Parish, LA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 85-17418 Filed 7-22-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-126X)]

Illinois Central Gulf Railroad Co.; Abandonment Exemption; Bolivar and Coahoma Counties, MS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by the Illinois Central Gulf Railroad Company of 20 miles of track in Bolivar and Coahoma Counties, MS, subject to standard labor protective conditions.

DATES: This exemption will be effective on August 22, 1985. Petitions to stay must be filed by August 2, 1985. Petitions for reconsideration must be filed by August 12, 1985.

ADDRESSES: Send pleadings referring to Docket No. AB-43 (Sub-No. 126X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Richard M. Kamowski, Esq., 233 N. Michigan Avenue, Chicago, IL 60601

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: July 11, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Andre, Sterrett, Simmons, Lamboley and Strenio. Commissioner Simmons was absent and did not participate.

James H. Bayne,

Secretary.

[FR Doc. 85-17419 Filed 7-22-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. American Airlines, Inc., et al.; Proposed Final Judgment and Competitive Impact Statement; Consent Decree

Notice is hereby given, pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C 16(b)-(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement (CIS) have been filed with the United States District Court for the Northern District of Texas in *United States of America* v. *American Airlines, Inc., et al.*, CA 3-83-0325-D. The Complaint in this case alleged that defendants Robert L. Crandall and American Airlines attempted to monopolize the provision of airline passenger services for airline travelers beginning, ending, or connecting their trips at Dallas/Fort Worth International Airport (DFW) in violation consisted of an attempt by defendent American, acting through its president, defendent Crandall, to control prices on the affected DFW routes by asking the president of Braniff Airways to raise Braniff's prices and by assuring him that American's prices would be increased proportionately.

The proposed Final Judgment enjoins defendant American from discussing the pricing of airline passenger services with other airline carriers except when necessary to implement legitimate joint activites specified in the proposed Final Judgment.

The proposed Final Judgment also enjoins defendant Crandall from discussing the pricing of airline passenger services with the management employees of any other airline carrier.

Crandall is also required to consult with a company lawyer before communicating with officials of any other airline carrier, and to make notes of all such conversations as well as any discussions with American's vendors and creditors pertaining to other airlines' fares. These notes must be made available to the Department on request.

Public comment is invited within the staturory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Elliott M. Seiden, Chief, Transportation Section, Antitrust Division, P.O. Box 481, Washington, D.C. 20530, (202) 724-6349.

Joseph H. Widmar,

Director of Operatiogs, Antitrust Division.

U.S. District Court for the Northern District of Texas—Dallas Division

[CA3-83-0325-D]

Filed: July 12, 1985.

United States of America, Plaintiff, v. *American Airlines, Inc., and Robert L. Crandall*, Defendants.

Stipulation and Proposed Final Judgment

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the attached form may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stripulation, this Stipulation shall be of no effect whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the Plaintiff: Charles F. Rule, *Acting Assistant Attorney General;* Joseph H. Widmar, *Director, Office of Operations;* Elliott M. Seiden, *Chief, Transportation Section;* James R. Weiss, *Assistant Chief, Transportation Section;*

For the Defendants: Robert E. Cooper, Gibson, Dunn & Crutcher, 333 South Grand Avenue, Los Angeles, CA 90071, *Counsel for American Airlines, Inc. and Robert L. Crandall;* Cecil E. Munn, Cantey, Hanger, Gooch, Munn, & Collins, 1600 First National Bank Building, Fort Worth, TX 76039; Joseph A. Tate, Schnader, Harrison, Segal & Lewis, 1600 Market Street, Philadelphia, PA 19103, *Counsel for Robert L. Crandall;* John L. Hauer, Akin, Gump, Strauss, Hauer & Feld, 4100 First City Center, 1700 Pacific Avenue, Dallas, TX 75201.

U.S. District Court for the Northern District of Texas—Dallas Division

[Civil Action No. CA 3-83-0325-D]

Filed: July 12, 1985.

United States of America, Plaintiff, v. *American Airlines, Inc., and Robert L. Crandall*, Defendants.

Final Judgment

Plaintiff, United States of America, having filed its Complaint in this action on February 23, 1983, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting thereto. The Complaint states a claim upon which relief may be granted against each defendant under section 2 of the Sherman Act, 15 U.S.C. 2.

II

As used herein, the term:

(A) "Communication" means a statement, comment, question, or answer, that may take place in person, in writing, or over the telephone;

(B) "Scheduled communication" means a communication that has been previously arranged for a particular time or place;

(C) "Group discussion" means a communication in which at least three (3) people are participating;

(D) "Management employee" means any employee whose corporate title is "chief executive officer," "chief operating officer," "president," "senior vice president," "vice president," "assistant vice president," or any employee whose duties are functionally equivalent to an employee with one of these titles, and any other employee who has a decision-making role, whether or not other persons must also play a role in order for a final decision to be reached, in the process by which a scheduled airline passenger carrier sets, determines, modifies, or cancels a fare for the provision of scheduled airline passenger service;

(E) "Scheduled airline passenger carrier" means a firm or business that provides scheduled airline passenger service;

(F) "Scheduled airline passenger service" means the provision, at regular times and over regular routes, of air transportation to individuals traveling between an origin city and a destination city; and

(G) "City-pair" means the set of two cities consisting of the origin city and the destination city between which scheduled airline passenger service is provided.

III

This Final Judgment applies to each defendant. Regarding defendant American Airlines, Inc. (hereinafter "American"), this Final Judgment also applies to its Board of Directors, officers, employees, agents, subsidiaries, successors and assigns. This Final Judgment also applies to all other persons in active concert or participation with either of the defendants and who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant American shall required, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the provision of scheduled airline passenger service, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with this Court.

V

Defendant American shall provide written notice to the plaintiff no later than thirty (30) days before the effective date of any action whereby defendant American: (1) Changes its name; (2) liquidates or otherwise ceases operation; (3) is acquired by or becomes a subsidiary of another firm. Defendant American also shall provide written notice to plaintiff no later than fifteen (15) days after it declares bankruptcy or

VOL 50 ISS 141 JUL 23 1985 UMI

estimates or acquires a subsidiary whose business activities are among those covered by this Final Judgment.

VI

Defendant Robert L. Crandall shall provide written notice to the plaintiff no later than thirty (30) days after the effective date of any action whereby defendant Crandall accepts or assumes employment in any position with any firm, other than American, that provides scheduled airline passenger service.

VII

Defendant American is enjoined and restrained for a period of five years from discussing, referring to, or mentioning fares or fare structures of any scheduled airline passenger carrier, including American, in a communication with any scheduled airline passenger carrier other than American, except under the following conditions, exceptions, or circumstances:

(A) When necessary to establish, implement, or modify a joint fare with another scheduled airline passenger carrier;

(B) When necessary to establish, implement, or modify a fare for air transportation between the United States and a foreign country, between foreign countries, or within a foreign country, under the auspices of the International Air Transport Association ("IATA");

(C) When necessary to establish, implement, or modify participation by a scheduled airline passenger carrier in American's Advantage frequent flyer program, or by American in another carrier's frequent flyer program;

(D) When necessary to maintain the intergity of the data base of American's SABRE computerized reservations system or to mainain the integrity of American's information contined in the data base of a computerized reservations system used by a scheduled airline passenger carrier other than American;

(E) When necessary, in the event of a cancelled flight, oversale, or other operational emergency, to arrange for transportation of American's passengers on another carrier, or another carrier's passengers on American;

(F) When necessary to develop tour, convention, special event or other group travel arrangements, as long as the discussion is limited to fares for airline passenger services on routes not served by American and the discussion is otherwise consistent with applicable federal and state laws; or

(G) After American has received an explicit written assurance from the Assistant Attorney General in charge of the Antitrust Division of the U.S. Department of Justice that the Antitrust Division has no present intention to prosecute the specific discussions and conduct in which American proposes to engage.

VIII

Defendant American shall:

(A) Inform its employees about the substance of this Final Judgment no later than thirty (30) days following its entry;

(B) Provide the members of its Board of Directors, its management employees and its other employees with responsibilities affected by this decree with a copy of this Final Judgment, a written explanation of its terms and conditions, and written directions to abide by its terms and conditions, no later than thirty (30) days following entry of this Final Judgment or following appointment or employment; and

(C) Submit an affidavit to the Assistant Attorney General in charge of the Antitrust Division setting forth the fact and manner of compliance with section VIII(B) no later than sixty (60) days following the entry of this Final Judgment and annually thereafter for the five years duration of this Final Judgment.

IX

In addition to the provisions of section VII hereof, defendant Robert L. Crandall is enjoined and restrained for a period of two years from directly or indirectly discussing, referring to or mentioning fares or fare structures of any scheduled airline passenger carrier, including American, in a communication with a member of the Board of Directors or management employee of any scheduled airline passenger carrier other than American.

X

Prior to any scheduled communication relating to any aspect of the airline industry between defendant Robert L. Crandall and a member of the Board of Directors or management employee of a scheduled airline passenger carrier other than American, defendant Robert L. Crandall shall, for a period of two years, review with an attorney from the Office of the General Counsel of American the subject matter of the proposed communication and the advisability of having counsel present during the communication.

XI

Defendant Robert L. Crandall shall, for a period of two years, maintain written notes of all communications relating to any aspect of the airline industry that he has with any member of the Board of Directors or management employee of any scheduled airline passenger carrier other than American, in accordance with the following terms, conditions, and exceptions:

(A) Each communication governed by this section XI shall be reflected in a separate note;

(B) Each note must be made as contemporaneously as reasonably practicable to the communication that it describes, but in no event later than 48 hours following each communication;

(C) Each note must contain, at a minimum, the following information:

(1) The names, known airline affiliations, and known positions or title of all persons participating in or present during the communication;

(2) The date, location, time and approximate duration of the communication;

(3) The form of the communication, *e.g.*, in person, in writing, by telephone; and

(4) A description of all subject matters relating to the airline industry or to the business of any scheduled airline passenger carrier that were discussed, referred to, or mentioned during the communication;

(D) If during any communication governed by this section XI, fares or fare structures were discussed by anyone participating in the communication, then the note for that communication must set forth a detailed description of the substance of that aspect of the communication and must also indicate which participants made which comments;

(E) With respect to any communication regarding any aspect of the airline industry made or heard by defendant Robert L. Crandall at a speech or presentation, or group discussion immediately before or after such a speech or presentation, at which a member of the Board of Directors or management employee of any scheduled airline passenger carrier other than American is present who is known by Robert L. Crandall at the time of the communication to hold such a position, the requirements of paragraphs (C) and (D) of this section XI shall not apply and instead the following terms, conditions, and exceptions shall apply:

(1) Each such note must contain, at a minimum, the following information:

(a) The date, location, time and approximate duration of the speech or presentation;

(b) A brief description of the subject matter, or subject matters, of the speech or presentation; and

(c) The entity or organization that provided the forum or sponsored the speech or presentation;

(2) Notwithstanding anything contained in this paragraph (E) of this section XI, any communication (other than a speech or presentation) between defendant Robert L. Crandall and any president, chief executive officer, or chief operating officer of any scheduled airline passenger carrier other than American that is otherwise governed by any part of this section XI must be reported in full compliance with the provisions of paragraphs (C) and (D), if the position of that officer is known to defendant Robert L. Crandall at the time of the communication;

(F) With respect to any communication regarding any aspect of the airline industry made or heard by defendant Robert L. Crandall during a meeting of the Air Transport Association, the requirements of this Section XI shall not apply only if counsel for the Association is present and minutes of the meeting are kept.

(G) Defendant Robert L. Crandall shall review each note with an attorney from the Office of the General Counsel of American as soon as reasonably practicable following each communication, but in any event no later than one (1) week following each communication;

(H) The notes shall be maintained by defendant Robert L. Crandall in his office at the corporate headquarters of American;

(I) Defendant Robert L. Crandall shall permit the Department of Justice to inspect the notes upon reasonable notice, and when the Department so requests, shall make the notes available for inspection by the Department at a mutually convenient location in Washington, D.C.; and

(J) Defendant Robert L. Crandall shall submit an affidavit to the Assistant Attorney General in charge of the Antitrust Division every three (3) months attesting to the fact that he has complied with the terms of this Final Judgment, that the notes requried by this section XI are accurate and complete, and that he has reviewed each note with counsel for American.

XII

For a period of two years, whenever defendant Robert L. Crandall has any communication with representatives of any of American's vendors, suppliers, creditors or lenders during which there is any discussion, reference, or mention of the fares or fare structures of any scheduled airline passenger carrier other than American, then Robert L. Crandall must indicate the facts surrounding that communication in the notes described in section XI above, and in accordance with the requirements set forth in subsections (A) through (D) of that section.

XIII

Defendants American and Robert L. Crandall are enjoined and restrained from soliciting, requesting, or authorizing any person to engage in conduct that, if done by defendants, would violate any provision of this Final Judgment.

XIV

If defendant Robert L. Crandall leaves the employment of American and later assumes employment with another scheduled airline passenger carrier, the obligations of defendant Crandall specified in sections IX, X, XI, and XII of this Final Judgment will remain obligations that he must meet subject to the modification that, regarding defendant Crandall only, all instances of the name "American" contained in this Final Judgment will be changed to the name of the new scheduled airline passenger carrier with which defendant Crandall assumes employment. Defendant American will continue to be bound by all applicable provisions of this Final Judgment.

XV

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters;

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested;

(C) No information or documents obtained by the means provided in this section XV shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law; and

(D) If at the time information or documents are furnished by a defendant to the plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by the plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

XVI

The Final Judgment will expire on the fifth (5th) anniversary of its date of entry or, with respect to any particular provision, on any earlier date specified.

XVII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XVIII

Entry of this Final Judgment is in the public interest. Entered on this —— day of ———, 1985.

United States District Judge.

U.S. District Court for the Northern District of Texas—Dallas Division

[CA3–83–0325–D]

Filed: July 12, 1985.

United States of America, plaintiff, v. *American Airlines, Inc., and Robert L. Crandall*, defendants.

VOL 50 ISS 141 JL 23 1985 UMI

Competitive Impact Statement

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On February 23, 1983, the United States filed a civil antitrust Complaint in the United States District Court for the Northern District of Texas under section 4 of the Sherman Act (15 U.S.C. 4) to enjoin defendants, American Airlines, Inc. and Robert L. Crandall from continuing or renewing violations of § 2 of the Sherman Act as amended (15 U.S.C. 2).

The defendant American Airlines, Inc. (hereinafter "American") is a wholly-owned subsidiary of AMR Corporation and is in the principal business of providing scheduled airline passenger and freight services. American's principal business office is located in Fort Worth, Texas. The defendant Robert L. Crandall at the time of the Complaint was president of American. Defendant Crandall is currently Chairman of American's Board of Directors and is American's chief executive. His office is located at American's headquarters in Fort Worth.

The Complaint alleges that on or about February 1, 1982, the defendants, American and Robert L. Crandall, unlawfully attempted joint and collusive monopolization between American and Braniff Airways, Inc. (hereinafter "Braniff") of scheduled airline passenger service in a number of the city pairs served by both carriers at the Dallas-Fort Worth Internation Airport (DFW). The Complaint alleges that the unlawful attempt to monopolize consisted of an attempt by defendant Robert L. Crandall, acting in his capacity as the president of American, to cause Howard Putnam, who at the time of the Complaint was president and chief executive officer of Braniff, to raise the prices charged by Braniff by means of a direct oral request to Mr. Putnam that Braniff do so cupoled with Mr. Crandall's assurance that American would follow.

The instant case was filed to achieve the following purposes: (1) To terminate defendants' unlawful attempts to monopolize airline passenger services, and (2) to prevent any further attempt at monopolization of airline passenger services. Consistent with these objectives, the Complaint sought a judgment by the Court that the defendants had attempted to monopolize trade and commerce in violation of § 2 of the Sherman Act. The Complaint sought an order to enjoin defendant American from discussing or communicating with any other company that provides scheduled airline passenger service any matter related to the pricing of such service and to enjoin defendant Robert L. Crandall for a period of two years from serving as president, chief executive officer or in any other position having pricing responsibility or authority with any company providing scheduled airline passenger service. Similarly, the Complaint sought an order enjoining American for a period of two years from employing Robert L. Crandall as the president, chief executive officer or in any other position having pricing responsibility.

II

Description of Practices Giving Rise to the Alleged Violations

The following describes the practices or events giving rise to the alleged violation of the Sherman Act. This description is made in sufficient detail to permit understanding of the relief provided in the proposed Final Judgment. At the same time, this description refrains from revealing matters that occurred before a grand jury that investigated possible violations of the Sherman Act in the provision of airline passenger services in the Dallas-Fort Worth area. Disclosure of such matters without a showing of particularized need would violate Rule 6(e) of the Federal Rules of Criminal Procedure.

A. Trade and Commerce

The trade and commerce alleged in the Complaint as the subject of defendants' attempt to monopolize is the provision at regular times and over regular routes of air transportation to individuals traveling between an origin city and a destination city when that travel involved DFW as the traveler's beginning, ending or connecting point on a city-pair route. The city pair means the origin city and the destination city between which scheduled airline passenger service is provided.

In February of 1982, American and Braniff were engaged in the provision of scheduled airline passenger service in competition with one another in numerous city pairs. In 1981 and 1982, American and Braniff served many of the same city pairs to and from DFW on a nonstop basis. In addition, both served many of the same city pairs for which a connection at DFW was necessary.

DFW is one of the largest airports in the United States. By February of 1982, both American and Braniff had established and maintained extensive hubbing operations centered at DFW. Many major airline passenger carriers structure the supply of their services around airports in network configurations or complexes called hubs. The term derives from the fact that routes of an airline maintaining a hub operation resemble the hub and spokes of a wheel with the airport, such as DFW, as the hub and the routes to other cities radiating outward like spokes. By hubbing the carrier can gather passengers from many points and concentrate them at the hub location at a number of times during the day. The carrier can then arrange connections for those passengers to many other locations. Thus, hubbing allows a carrier to serve many city pairs that might not independently support nonstop service, e.g., from a small city in Texas to New York City.

In 1981 and early 1982, the hubs of both Braniff and American at DFW consisted of "feeder" routes and "trunk" routes. Many of the feeder routes originated at cities in Texas, Oklahoma or Louisiana. Many of Braniff's and American's passengers then connected at DFW to the respective carrier's "trunk" routes en route to cities generally located a further distance from DFW. Generally, "feeder" routes are shorter haul, thin routes, with few passengers destined to or coming from any one city. By offering connections at the hub airport to many destinations at approximately the same time, hubbing carriers can carry on one "feeder" flight many passengers with different destinations. Thus, these routes provide feed traffic to long haul "trunk" routes and vice versa.

This feed traffic permitted American and Braniff to offer more long haul destinations and to operate their long haul trunk routes with more passengers per flight than either carrier could have by providing only service originating or terminating at DFW without the benefit of feed traffic. For another carrier to have entered the DFW nonstop and connecting city-pair markets and compete successfully with either American or Braniff, entry would have been required on a number of routes to replicate the feed advantages available to Braniff and American because of their DFW hub systems.

The extent to which an entering or expanding carrier needed a similar hubbing operation to compete effectively with Braniff and American magnified the effect of other entry barriers at DFW. For example, at the time of the alleged attempt to monopolize and continuing until at least September 1983, air traffic control capacity at many airports was limited as a result of the August 3, 1981 strike by the Professional Air Traffic Controllers Organization. The Federal Aviation Administration (FAA), through a series of regulations known generally as Special Federal Aviation Regulations (SFARs) No. 44. *et seq.*, formalized the imposition of restrictions on the number of allowable carrier landings per hour, i.e., slots, at approximately 22 of the nation's larger airports, including DFW. The Complaint alleges that the limited availability of slots acted as a significant barrier to entry for any carrier seeking to enter or expand service in any significant number of city pairs where the origin, destination or connecting airport is slot-constrained. In particular, the Complaint alleges the slot-constraints at DFW prevented any carrier from adding or expanding service at DFW by more than several city pairs or frequencies, making it difficult for the other carrier to capture the efficiencies afforded American and Braniff by their DFW hubs.

There were potentially other barriers to a carrier's successful entry or expansion at DFW. The unavailability of gate or terminal space may act as an entry barrier. This is particularly so when the entering carrier needs enough gate space to develop its own feed traffic to compete successfully with the airport's hub carriers. At the time of the conduct alleged in the Complaint, all constructed terminal and gate space at DFW was in use. While DFW had space for addtional construction, there is significant lagtime between the approval of construction and utilization of a gate facility.

Another potential entry barrier at DFW related to American's SABRE system. American developed a computer reservations system called SABRE in the late 1970's. SABRE is in use in approximately 90 percent of the travel agencies in the Dallas-Fort Worth area and about 40 percent of the nation's travel agencies. At the time of the conduct alleged in the complaint, SABRE's display of carriers' flights for sale by the travel agent was biased in favor of the host American and to a lesser extent for cohosts. Braniff was a cohost. Entering and expanding carriers needed access to SABRE and visibility on SABRE to compete effectively in city pairs with DFW as one point on the flight. SABRE thus acted as an impediment to a carrier entering or expanding at DFW if the carrier could not acquire sufficient visibility on the SABRE system.

B. The Alleged Conduct

The Complaint alleges that on or about February 1, 1982, the defendants, acting through American's chief executive officer, Robert L. Crandall, with specific intent, unlawfully attempted to join in collusive monopolization with Braniff of scheduled airline passenger service in a number of the city pairs served by the DFW hub. Defendants effectuated this attempt to monopolize during a telephone conversation with Braniff's Chief Executive Officer, Howard Putnam, during which conservation, defendant Crandall proposed that both carriers raise their fares by 20%.

In the fall of 1981, Braniff, faced with continuing heavy losses, attempted to create a market niche for itself by becoming a low fare carrier. Accordingly, in November 1981 Braniff lowered its fares significantly. American matched Braniff's fares to prevent losing great numbers of passengers to Braniff. According to the company's own reports, by matching Braniff's low fares, American lost approximately $12 million per month in December 1981 and January 1982. In that context, defendant Crandall, the Complaint alleges, told his rival at Braniff that both carriers could exist at DFW and "there ain't no room for Delta." He also reminded Braniff's president that Eastern and Delta co-existed in Atlanta for many years. Then defendant Crandall suggested that his rival raise fares by 20% and assured Putnam that American would follow and raise its prices. Putnam refused defendant Crandall's offer.

The Complaint alleges that defendant Crandall's conversation with his rival illustrates his specific intent to control the pricing of airline passenger services in DFW city-pair markets and that, had Braniff's chief executive accepted the offer, there would have been an immediate creation of market power, i.e., the power to control prices by American and Braniff in numerous city-pair routes involving DFW.

Because American and Braniff had dominant market shares and over a ninety percent share on many city-pair routes involving DFW and because entry was difficult due to American's and Braniff's hubs coupled with DFW slot-constraints, scarce DFW gate facilities, and SABRE bias, any price-fixing agreement between Braniff and American would have created sustainable market power without threat of entry by carriers offering lower fares on any significant number of city pairs.

C. Market Changes Since the Complaint Was Filed

Since the filing of the Complaint in February 1983, the market structure for travelers enplaning, deplaning or stopping at DFW has changed. Braniff has substantially reduced its service and presence at DFW. On May 13, 1982, Braniff filed for protection from creditors under Chapter 11 of the Bankruptcy Code. A reorganized Braniff began services to nineteen destinations from DFW in March 1984. Late in 1984, however, Braniff dropped service to ten of those destinations.

On the other hand, Amercian has substantially increased its presence at DFW following Braniff's bankruptcy in May 1982. In February 1982, American's share of enplanements at DFW was approximately 46 percent, followed by Braniff with 30 percent and Delta with 14 percent of DFW enplanements. Data for the first quarter of 1985 show that American accounted for 59 percent of all DFW enplanements during the period compared with Delta's 21.8 percent and Braniff's four percent of DFW enplanements.

American continues to enlarge its DFW hub and spoke operations, enabling it to serve more routes and to offer greater frequencies than competitors lacking such an extensive hub. Currently, American flies to approximately 85 cities nonstop from DFW with about 300 departures per day during peak seasons while its most significant DFW challenger, Delta, flies to only about 40 cities with about 125 departures per day. Additionally, the American Eagle program, in which American provides connecting service with local commuter carriers, has increased American's feed potential at DFW.

Formalized FAA slot-constraints are no longer an entry barrier at DFW. In the fall of 1983, the FAA removed DFW from the list of slot-constrained airports. This does not mean, however, that air traffic control capacity at DFW is necessarily sufficient to accommodate unlimited entry during the most popular landing times.

The Civil Aeronautics Board recently enacted industry-wide rules to eliminate bias in computer reservations systems, including American's SABRE. The rules went into effect in November 1984 and are overseen by the Department of Transportation. The Antitrust Division will continue to monitor the rules' ability to restore airline competition displaced by biased computer reservations systems. It is too soon after the rules' implementation, however, to determine

VOL 50 ISS 141 JL 23 1985 UMI

the extent to which SABRE continues to be an impediment to entry in airline passenger services at DFW.

As noted above, the unavailability of airport gate and terminal space to accommodate expanding or entering carriers can be a barrier to entry in much the same way that slot-constraints are; that is, it may be difficult to obtain sufficient space at an airport to develop a hub operation that can challenge the airport's major hub carriers who possess the advantages of feed traffic. In 1982, at the time of the conduct alleged in the Complaint, American held slightly more than one-third of the total DFW gate space. American has since constructed additional DFW gates and, at the end of 1984, American acquired nine additional DFW gates from Braniff. American now controls nearly one-half of the total gates available at DFW.

D. Defendants

The Complaint names two defendants, American Airlines, Inc., a wholly-owned subsidiary of AMR, Inc., organized and existing under the laws of the state of Delaware and Robert L. Crandall, American's current Chairman of its Board of Directors. Both American's and Crandall's principal business office is at 4200 American Boulevard, Fort Worth, Texas.

III

Explonation of the Proposed Judgment

The United States and the defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment provides that the entry of the Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of fact under the provisions of section (e) of the Antitrust Procedures and Penalties Act. The proposed Final Judgment may not be entered until the Court determines that entry is in the public interest.

A. Prohibited Conduct

1. *Overview.* The proposed Final Judgment addresses the dangerous probability of joint monopolization presented by the conduct allegedly engaged in by defendants and the subject of this Complaint. There is a dangerous probability that an attempt jointly to monopolize air transportation might be successful when airline executives meet or otherwise engage in communications about fares or fare structures in the airline industry and when the carriers together would have substantial market power in one or a number of city pairs. In those situations the continuation of competition in air transportation may be dependent upon one executive's refusal to a suggestion made by another carrier's executive. The Final Judgment, therefore, focuses on the discussions which defendants engage in with executives of other airline carriers.

2. *Specific Sections of the Proposed Final Judgment.*—a. *Section VII.* Section VII prohibits American from discussing the pricing of airline services with other scheduled airline passenger carriers except in particular situations specified in the Final Judgment. The exceptions are designed for those occasions when, as part of its legitimate airline business, American must discuss fares with employees of other airline carriers and the discussions are unlikely to have anticompetitive potential.

The proposed Final Judgment sets forth with particularity those situations where discussions about fares between American and other airline carrier representatives may take place. They are as follows: First, fare discussions are allowed when required to implement joint fares with other carriers. Joint fares are fares for interline connecting service where the separate segments of a city pair are provided by different carriers. Joint fares allow two carriers to provide one fare and ticket for the passenger who desires or needs to take one carrier to a connecting point and switch to another carrier before reaching the final destination. By developing joint fares, carriers can offer additional service that may compete with nonstop and online connecting service. Joint fares, thus, may enhance consumer welfare. At the same time, discussions on joint fares are unlikely to be anticompetitive because they do not require discussing fares for competitive service on any one city pair.

Second, American is allowed to discuss fares with other carriers when the discussion is necessary to implement fares in foreign air transportation. Discussions about foreign fares are allowed by statute and also by this Final Judgment if the discussions are in accord with procedures established by the United States Department of Transportation, pursuant to 49 U.S.C. 412 and 414.

Third, American is allowed to discuss fares with other carriers to the extent such discussion is necessary to implement another scheduled airline passenger carrier's participation in American's frequent flyer program or American's participation in another carrier's frequent flyer program. Such discussions may be necessary to determine the percentage of a bonus fare that will be repaid to the host carrier for participation in that carrier's frequent flyer program. Such discussions are unlikely to lead to competitive problems because the discussion must be limited to that which is necessary to implement participation in the frequent flyer programs.

Fourth, section VII(D) provides an exception for those occasions when it may be necessary for American to relay and receive correct fare information from other carriers for purposes of maintaining the integrity of the airlines' computer reservations systems.[1] There may be situations when, for example, one carrier's submission of data for display on the system is unclear and the carriers must discuss the discrepancy to assure a correct listing. Therefore, an exception to the prohibited conduct is made for those discussions which are necessary for the accuracy of the data base systems.

Fifth, section VII(E) provides that the general injunction against discussing fares will not apply on those rare occasions when a carrier must cancel a flight due to an operational emergency and must arrange for the transportation of its ticketed passengers on another carrier. These inter-airline discussions about fares are permitted when necessary to determine the fares at which the other carrier's passengers will be carried.

Sixth, section VII(F) allows American to discuss with other airlines special, one-time discounted fare packages for convention, tour or special event proposals if American and the other carrier are not discussing fares for city pair service both carriers provide. Such special event fare discounting is likely to benefit consumers.

Finally, section VII(G) provides that if other situations arise when American must discuss fares or fare structures with other airline carriers, American may notify the Antitrust Division and request a written assurance from the Assistant Attorney General in charge of the Antitrust Division that the Division would not prosecute the specific discussions and conduct at issue. If it appears that the benefits of the proposed conduct would more likely outweigh consumer welfare losses, and American, accordingly, has received written approval from the Antitrust Division, the prospoed discussions may take place.

[1] Most airlines list flights and fares of other carriers in their own internal reservations systems and airline vendors of computer reservations systems, such as American, include the flights and fares of most other carriers in the systems they sell to travel agents.

b. *Section IX.* Section IX prohibits defendant Crandall from directly or indirectly discussing, referring to, or mentioning airline fares or fare structures with board members or management employees of other scheduled airline passenger carriers. Defendant Crandall is strictly enjoined from such discussions and may not participate as can other American employees in discussions permitted specifically by the exceptions in Section VII(A)–(F).

The term management employee, as defined by the Judgment, includes the officers of the company at the level of chief executive or chief operating officer, president, senior vice president, vice president, and assistant vice president. Management employee, as defined in the proposed Judgment, also includes all employees who have a decision-making role in pricing the airline's services. *See* Section II, Definitions.[2]

Section IX seeks to eliminate the opportunity for defendant Crandall to attempt to monopolize jointly or to monopolize jointly with any other scheduled airline passenger carrier by obtaining joint control airline prices.

c. *Section X.* Section X requires defendant Crandall to discuss with an American Airline's attorney the subject matter of any proposed communication about the airline industry that Crandall has scheduled with a management employee of another airline carrier. This provision is designed to assure that in those circumstances with a high potential for anticompetitive discussions or communications violative of this proposed Final Judgment, Crandall will have previously spoken with counsel and may have counsel present during the communication.

d. *Section XI.* Section XI requires Crandall to maintain for two years a written record of all his communications with other airline industry executives. These written notes must contain a separate entry for each such communication and the identification of the communicant. Moreover, the written record must indicate the date, location and time of the communication, the form of the communication and must contain a brief description of the subject matters relating to the airline industry that were discussed. In addition, if ther is a discussion about airline fares of fare structures, Crandall's written notes must contain a detailed description of that part of the conversation and must indicate which participants made which comments. The record must be made within 48 hours following the communication and must be reviewed with an attorney from American no later than one week following the communication. Furthermore, defendant Crandall must submit an affidavit to the Assistant Attorney General in charge of the Antitrust Division every three months attesting that he has complied with the terms of the judgment and that his written record is accurate and complete.

There may be occasions when Crandall must attend an industry speech or presentation or is involved in group discussions before or after the speech when matters relating to the airline industry are discussed and when it would be extremely difficult to follow the reporting requirements of section XI(A)–(D). In those situations, section XI(E) provides that Crandall need only record the date, location, time and duration of the speech, a brief description of the subject matter of the speech or presentation, and the entity or organization that provided the forum for the speech or presentation. Even at a speech or presentation, however, section XI provides that if defendant Crandall has a conversation with a president or chief executive officer of another airline carrier, the conversation must be separately recorded as required by section XI(A)–(D).

Section XI is designed to discourage conversations with other airline executives that may have a high potential for anticompetitive results. This section is not designed to prevent defendant Crandall from communicating with other airline executives on matters related to the airline industry when those conversations are unlikely to have anticompetitive potential. Section XI is also designed to allow the Department of Justice to review defendant Crandall's communications with other airline executives to deter anticompetitive communications and to take appropriate action, if necessary, to eliminate any anticompetitive effects in their incipiency.

e. *Section XII.* Section XII requires defendant Crandall to include in his written record of communications with other airline exectives a written record of his communication with American's vendors or suppliers, creditors or lenders if there has been any discussion with those parties about the fares or fare structures of any other scheduled airline passenger carrier. This section is designed to discourage discussions about the fares of competitors with supplies and lenders used by both American and the competitor. That is, section XII seeks to deter defendant Crandall from attempting to control prices jointly with other carriers indirectly through discussions with vendors or lenders of both carriers. The provision seeks to prevent, for example, a situation where Crandal could suggest to one of American's lenders that the competitive, low fares of another carrier were preventing American from business success, and that it would be, therefore, in the supplier's or lender's interest to encourage the other carriers to raise prices. To deter such anticompetitive discussions, this provision requires that should Crandall participate in any of these discussions, written notes must be made. Section XII also seeks to provide the Antitrust Division with information to eliminate the anticompetitive effects of such discussions in their incipiency.

g. *Section XIII.* Section XIII enjoins American and Robert Crandall from soliciting, requesting, or authorizing other persons to engage in conduct that, if done by defendants, would violate any provision of this judgment. This section is designed to prevent defendants American and Robert Crandall from indirectly engaging in conduct that they are prohibited from doing directly.

h. *Section XIV.* Section XIV provides that those sections of the proposed Final Judgment that apply solely to Crandall stay with defendant Crandall should be later assume employment with another airline carrier during the two-year duration of those terms of the decree. Thus, the obligations of defendant Crandall specified in sections IX, X, XI, and XII of the Final Judgment will remain his obligations with the modification that those aspects of his obligations relating to his employer will be his new employer instead of American. Even if defendant Crandall leaves the employ of American, defendant American will continue to be bound by all applicable provisions of the Final Judgment.

3. *Affirmative Obligations.* Sections IV, V, VIII, and XV of the proposed Final Judgment impose a number of affirmative obligations upon the defendants. Section IV requires American, as a condition of the sale or other disposition of all, or substantially

[2] The injunction in section IX and the requirements set forth in Sections X and XI relating to defendant Crandall's communications with employees of other airline carriers are limited to the other carrier.s management employees rather than all employees. This limitation is not intended to condone conversations about prices between defendant Crandall and lower-level employees of other airlines. Rather, the limitation acknowledges that airline carriers are corporations with many employees whose responsibilities are unrelated to the setting of airline prices and that only those employees with management responsibilities could actually implement anticompetitive proposals.

VOL 50 ISS 141 JL 23 1985 UMI

all of its airline passenger services assets, that the acquiring party agree to be bound by the provisions of this proposed Final Judgment and that the agreement be filed with the Court. Section IV seeks to assure that the terms of the proposed Final Judgment will not be circumvented by sale of the company.

Section V requires that defendant American provide written notice to the Antitrust Division no later than thirty (30) days before American changes its name, liquidates or ceases operations, or becomes acquired by or becomes a subsidiary of another firm. American must also give the Antitrust Division notice within fifteen (15) days after it declares bankruptcy, or establishes or acquires subsidiary whose business activities are among those covered by the Judgment. The purpose of this section is to ensure that the plaintiff will have notice of any such transactions so that the government can take appropriate action to protect its interests in securing compliance with this Judgment.

Section VIII requires defendant American to inform its employees about the substance of the Final Judgment, within 30 days of its entry. Section VIII additionally requires defendant American to furnish a copy of the Judgment within 30 days of its entry to American's Board of Directors, its management employees as defined in the Judgment and other employees with responsibilities affected by the decree and to provide them a written explanation of the Judgment's terms and conditions and instructions to abide by its terms and conditions. New board members, management employees and other employees affected by the decree must be given a copy of the Final Judgment and a written explanation and instructions concerning the decree. Section VIII also requires defendant American to submit an affidavit to the Antitrust Division attesting that it has initially complied with Section VIII and in what manner it has complied. Defendant American must annually thereafter attest that it has complied with section VIII with respect to new board members and employees.

Section XV places an obligation on American to cooperate with the plaintiff's efforts to monitor compliance with the proposed Judgment. Defendant American must permit duly authorized representatives of the Department of Justice access to inspect and copy documents at its principal office.

Under section XV(B), defendant American must provide written reports, under oath, if requested, with respect to compliance matters. Section XV(A)(2) requires that American permit the Department of Justice to interview its officers, employees, and agents regarding subjects covered by the Judgment.

4. *Obligations of the United States.*—a. *Section XV(C).* Under Section XV(C) the Department of Justice is barred from divulging information obtained under section XV to anyone except a duly authorized representative of the Executive Branch of the United States government. Such disclosure is not barred, however, in any legal proceedings to which the plaintiff is a party or for the purpose of securing compliance with the Final Judgment or as otherwise provided by law.

b. *Section XV(D).* Under section XV(D) each defendant may assert a claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure when such defendant provides to the Justice Department information or documents required under the compliance provisions of the Final Judgment. If any defendant asserts such a claim, the plaintiff will provide the defendant with 10 days notice prior to disclosing such material.

B. Scope of the Proposed Judgment

1. *Duration of the Judgment—Section XVI.* Except as otherwise provided, the proposed Final Judgment will remain in effect for a period of five (5) years from the date of entry. Time durations of less than the five year period, i.e., a two year period, are provided for in those provisions specifically addressed to defendant Crandall. This is because the Complaint sought injunctive provisions of only two-years duration for defendant Crandall and because affirmative obligations are imposed on Crandall which require him to keep a written record of certain of his communications. The specific provisions that have time limitations of two years are the following: Sections IX, X, XI, and XII.

2. *Persons Bound by the Judgment—Section III.* Section III of the proposed Final Judgment provides that its terms shall apply to the defendants and to American's subsidiaries, sucessors, assigns, officers, directors, employees, and agents, and to all other persons in active concert or participation with either of the defendants and who received actual notice of this Final Judgment by personal service or otherwise.

3. *Effect of the Proposed Judgment on Competition.* The proposed Judgment is intended to prevent the defendants from continuing any attempts jointly to monopolize or jointly monopolizing airline passenger service with other airline carriers on any one city pair or collection of city pairs. The Judgment is intended to ensure that defendants will comply with the provisions of the antitrust laws. The proposed Judgment seeks to ensure that opportunities for attempts at joint monopolization of the type alleged in the Complaint be eliminated. That is, the proposed Judgment seeks to ensure that opportunities for competition in the provision of airline passenger services not be hindered because of communications about fares between defendants and other carriers. The affirmative obligations of the decree are designed to assure that American's management is aware of the obligations under the decree in order to avoid a repetition of the behavior that allegedly occurred.

The Department of Justice believes that the proposed Final Judgment contains adequate provisions to prevent further violations by the defendants of the type upon which the Complaint is based. The Department believes that disposition of the lawsuit without further litigation is appropriate because the proposed Judgment should be as effective in eliminating opportunities for a recurring violation of the type alleged in the Complaint as would the relief originally requested. Given the relief proposed in this Judgment, the additional expense of litigation would not result in additional public benefit.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured in his or her business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action. Under the provisions of section 5(a) of the Clayton Act, 15 U.S.C. 16(a), this Final Judgment has no *prima facie* effect in any subsequent private lawsuits that may be brought against these defendants.

V

Procedures Available for Modification of the Proposed Consent Judgment

As provided by the Antitrust Procedures and Penalties Act, any person who wishes to comment upon the proposed Final Judgment may submit written comments to Elliott M. Seiden, Chief, Transportation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice which remains free to withdraw its consent to the proposed Judgment at any time prior to entry of the Judgment if it should determine that some modification is necessary.

VI

Alternatives to the Proposed Consent Judgment

The proposed Final Judgment differs from the relief sought in the Complaint. The government initially sought to have defendant Crandall barred for two years from employment with an airline in a position of authority over the airline's pricing. Defendant Crandall exhibited a disregard for the antitrust laws if, as alleged in the Complaint, during his conversation with Braniff's Putnam, Crandall ignored Putnam's warning that they should not be talking about prices and responded that he and Putnam could talk about anything they wanted to talk about. Defendant Crandall's alleged disregard of the antitrust laws led the Antitrust Division to seek his debarment from the leadership of any company in the airline industry. The airline industry, because each separate city-pair market is likely to have few participants, is readily susceptible to monopolistic or joint monopolistic behavior if there are barriers to entry in the markets.

This proposed Final Judgment does not restrict defendant Crandall's employment with an airline, as sought in the Complaint, but is designed to remove opportunities for defendant Crandall to repeat the alleged conduct or to attempt, in some other way, to jointly control airline markets with other carriers. The plaintiff believes that the proposed Judgment provides sufficient protection from repetition of the alleged or similar conduct that it is unnecessary, in this instance, to expend the substantial additional resources of trial to seek to prohibit Crandall's employment in the airline industry.

The Department considered prohibiting American from soliciting or consummating agreements with other carriers not to compete in the context of negotiating sales, transfers or leases of properties and facilities of American Airlines, such as gates at congested airports. It was determined that such relief should not be included. First, it was not closely related to the behavior that was the essence of the violation charged in the Complaint. Second, limited non-competition agreements are not necessarily anticompetitive. For these reasons, the considered relief was rejected.

VII

Determinative Materials

There are no materials or documents which the Government regards as determinative in formulating this proposed Judgment. Therefore, none are being filed with this Competitive Impact Statement pursuant to section B of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

Respectfully submitted,

Anne E. Blair,

Michael H. Simon,

R. Timothy Slattery,

Attorneys, U.S. Department of Justice, P.O. Box 481, Washington, D.C. 20530, (202) 724-6469.

[FR Doc. 85-17491 Filed 7-22-85; 8:45 am]

BILLING CODE 4410-01-M

Proposed Termination of Final Judgment; United States v. Volkswagen of America, Inc.

Notice is hereby given that Volkswagen of America, Inc. ("VWoA"), Riviera Motors, Inc. ("Riviera"), and World-Wide Volkswagen Corp. ("World-Wide"), have filed with the United States District Court for the District of New Jersey a motion to terminate the final judgment in *United States* v. *Volkswagen of America, Inc.*, Civil No. 1232-57, and the Department of Justice ("Department"), in a stipulation also filed with the Court, has consented to termination of the judgment, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The complaint in this action, filed in 1957, alleged, as amended, that VWoA, its independent regional distributors, and its U.S. franchised Volkswagen dealers were engaged in a resale-price-maintenance conspiracy to the effect that the distributors would sell Volkswagen automobiles and parts to the dealers at wholesale prices fixed by VWoA and the dealers would sell to purchasers at retail prices also fixed by VWoA. The Final Judgment filed on May 7, 1962, enjoins VWoA and its 14 U.S. distributors, all of whom were named as defendants, from requiring any Volkswagen distributor or dealer to adhere to any specified or suggested price in selling Volkswagen automobiles and parts. Of the 14 U.S. Volkswagen distributors named as defendants in the complaint only two—World-Wide Volkswagen Corp. and Riviera Motors, Inc.—still survive as independent entities.

The Department has filed with the Court a memorandum setting forth the reasons the Department believes that termination of the Final Judgment would serve the public interest. Copies of the complaint, the Final Judgment, the motion papers of VWoA, Riviera, and World-Wide, the stipulation containing the Government's consent to that motion, the Government's memorandum, and all further papers filed with the Court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, United States Department of Justice, Tenth Street and Pennsylvania Avenue NW., Washington, D.C. 20530 (telephone: 202-633-2481), and at the Office of the Clerk of the United States District Court for the District of New Jersey, United States Court House and Post Office, Third Floor, Federal Square, Newark, New Jersey 07102. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the Final Judgment to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to Ralph T. Giordano, Chief, New York Office, Antitrust Division, Department of Justice, 26 Federal Plaza, Room 3630, New York, New York 10278 (telephone: 212-264-0383).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85-17490 Filed 7-22-85; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Prisons

Intent To Prepare Draft Environmental Impact Statement (DEIS) for the Construction of a Federal Correctional Facility, Lafayette Township, McKean County, PA

AGENCY: Federal Bureau of Prisons, Justice.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY:

1. Proposed Action: The U.S. Department of Justice, Federal Bureau of

VOL 50 ISS 141 JL 23 1985 UMI

Prisons has determined that a new medium security prison with an adjacent satellite camp is needed in its system. A 192.62-acre tract of land at the McKean County Industrial Park near Bradford, Pennsylvania is being evaluated for the site of the facility. The proposal calls for the construction of a 550-bed facility to house medium security inmates and a 150-bed satellite camp housing minimum security inmates. Approximately 60–70 acres would be required for road access, inmate housing, administration and program spaces and service and support facilities. In addition, exercise areas would be included in the needed acreage.

2. In the process of evaluating the tract of land, the following aspects will receive a detailed examination: Wetlands, threatened and endangered species, cultural resources, unique and prime farmlands, and socioeconomic impacts.

3. Alternatives: In developing the DEIS, the options of no action and alternatives sites for the proposed facility will be fully and thoroughly examined.

4. Scoping Process: A number of meetings have been held with area officials and concerned citizens. Additional meetings including at least one public meeting will be held during the last week of July and the first part of August, 1985.

5. DEIS Preparation: The DEIS should be available for public review and comment in August or September, 1985.

6. Address: Questions concerning the proposed action and the DEIS can be answered by: Mary S. Galey, Project Manager, Facilities Development and Operations, U.S. Bureau of Prisons, 320 First Street, NW., Washington, D.C. 20534, Telephone: (202) 272–6871.

Dated: June 17, 1985.

Mary S. Galey,

Acting Chief, Office of Facilities Development and Operations, Federal Bureau of Prisons, Department of Justice.

[FR Doc. 85–17401 Filed 7–22–85; 8:45 am]

BILLING CODE 4410–05–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The (OMB) and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB shuld advise Mr. Larson of this intent at the earliest possible date.

Collection of Information in Current Rules

Mine Safety and Health Administration
Rock Burst Detection Plan (30 CFR 57.3035)
On occasion
Businesses and other for profit; small businesses or organizations
6 respondents; 72 hours

Requires metal and nonmetal mine operators to develop a rock burst detection plan within 90 days after a rock burst has been experienced. Plans are required to be made available to MSHA inspectors and are used by the mine operator for work assignments to assure miner safety and to schedule correction work.

Extension

Employment and Training Administration
Annual State WIN Plans
1205–0214; ETA RC 16
Annual
State or local governments
30 respondents; 2,310 hours; no forms

The State WIN Plan is the basic planning and management tool utilized by the national and regional offices to ensure State compliance with legislation, regulation and national office goals. It is the vehicle for providng allocation levels to State agencies. Respondents are State staff.

Signed at Washington, D.C. this 18th day of July 1985.

Paul E. Larson,

Departmental Clearance.

[FR Doc. 85–17482 Filed 7–22–85; 8:45 am]

BILLING CODE 4510–30/4510–43–M

Employment and Training Administration

Trade Adjustment Assistance for Workers; General Administration Letter No. 10–85, Change 1

Public Law 98–369—the Deficit Reduction Act of 1984—amended the Trade Act of 1974 to enable workers to receive up to 26 additional weeks of trade readjustment allowance (TRA) by beginning the additional 26-week period with the first week the worker is in training, if such training was applied for in a timely manner and is approved after the last week of basic TRA entitlement, and to increase the maximum amount payable for job search allowances and maximum lump sum amount payable for relocation allowances from $600 to $800. The amendments became effective July 18, 1984.

On May 23, 1985, the Department of Labor issued General Administration Letter No. 10–85 which provided operating instructions to all State employment security agencies for implementing the amendments in Pub. L. 98–369. The GAL was published in the

Federal Register on June 11, 1985. (FR Vol. 50, No. 112, page 24598).

Based on comments and suggestions received by the Department during the public comment period on the proposed rule implementing the amendments, the Department agreed that the December 18, 1983 date in proposed rule 20 CFR 635.65(a) is not required by statute and will be deleted in the final rule. Therefore the operating instruction in Paragraphs 5(a) of GAL 10–85 was amended by deleting the December 18, 1983 date. The revised operating instructions are contained in General Administration Letter No. 10–85, Change 1, which is published below.

Dated: July 15, 1985.

Roberts T. Jones,

Acting Deputy Assistant Secretary of Labor.

U.S. Department of Labor, Employment and Training Administration, Washington, D.C. 20213

Classification: TRA.
Correspondence symbol: TET.
Date: July 10, 1985.
Expiration date: June 30, 1986.

Directive: General Adminstration Letter No. 10–85, Change 1.

To: All State Employment Security Agencies.

From: Barbara Ann Farmer, Acting Administrator, Office of Regional Management.

Subject: Role of State Employment Security Agencies in Implementing Amendments to the Trade Act of 1974 in the Deficit Reduction Act of 1984.

1. *Purpose.* To advise SESA officials of a revision to the operating instructions issued in the GAL 10–85, dated May 23, 1985, for implementing amendments to the Trade Act of 1974 in sections 2671 and 2672 of the Deficit Reduction Act of 1984 (Pub. L. 98–369).

2. *Reference.* Trade Act of 1974 (Pub. L. 93–618). Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Deficit Reduction Act of 1984 (Pub. L. 98–369) and GAL 10–85.

3. *Background.* GAL 10–85 was based on the supplemental proposed rule to 20 CFR Part 635, implementing the Deficit Reduction Act amendments to the Trade Act, published in the Federal Register on April 15, 1985 (FR Vol. 50, No. 72, page 14720). A copy of the proposed rule was attached to GAL 10–85.

Paragraph 5(a) in the GAL provided that up to 26 additional weeks of TRA for training could begin with the first week of TRA for training could begin with the week of such training if the training was approved after the last week of entitlement to basic TRA. The claimant had to apply for the training within 210 days after the certification under which the claimant was covered or, if later, within 210 days after the date of the claimant's first separation. Additionally, according to paragraph 5(a), to be eligible for the additional weeks of TRA under the operating instructions the claimant was required to have filed a timely bona fide application for training on or after December 18, 1983, and to have had the application approved on or after July 18, 1984.

Based on comments and suggestions received by Department during the public comment period on the proposed rule, the Department agreed that the December 18, 1983 date is not required by the statute and made the decision to delete the date from § 635.65(a) of the final regulations. This date would have prohibited workers who filed a timely bona fide application for training on or before December 18, 1983 from qualifying for the 26 additional weeks of TRA payments.

The revised operating instructions with the December 18, 1983 date deleted are presented below.

4. *Basic Provisions of the New Amendments.*

(a) *Duration of TRA.* Section 233(a)(3) of the Trade Act of 1974 is revised to permit workers to receive up to 26 additional weeks of TRA payments in the 26-week period that begins with the first week of such training, if the training is approved after the last week of entitlement to basic TRA otherwise payable to the individual.

To be eligible under this provision an individual must make a bona fide application for such training within 210 days after the certification under which the individual is covered or, if later, within 210 days after the date of the individual's first total or partial separation.

To be eligible to receive additional weeks of TRA beginning the first week of such training a worker must have filed a timely bona fide application for training which was approved on or after July 18, 1984.

(b) *Job Search Allowance.* The total job search allowances paid to an individual under a certification may not exceed $800 (previously $600) providing the inividual filed a timely application for job search allowance that is approved on or after July 18, 1984. The total allowances approvable before that date may not exceed $600.

(c) *Relocation Allowance.* The lump sum payment for relocation, equal to 3 times the individual's average weekly wage, may not exceed $800 (previously $600) providing the worker filed timely for relocation allowance that is approved on or after July 18, 1984.

5. *Action Required.* SESAs should implement the amendments to the Trade Act in sections 2671 and 2672 of the Deficit Reduction Act of 1984, immediately by taking the following actions:

(a) Inform appropriate SESA staff that the December 18, 1983 date in the operating instructions has been deleted and that all workers who filed timely bona fide applications for training may qualify for additional weeks of TRA under the revised operating instructions.

(b) Notify all TAA eligibility workers who might be affected by the change of the provisions of the new legislation and the potential impact on their TRA benefits while in training.

(c) Make necessary adjustments in benefits payable.

6. *Effective Date.* These amendments to Chapter 2—Adjustment Assistance for Workers, of Title II of the Trade Act of 1974 became effective July 18, 1984.

7. *Regulations.* Regulations published in the Federal Register as a final rule will take precedence over GAL 10–85 and this Change 1.

8. *Inquiries.* Inquiries should be directed to appropriate regional office.

[FR Doc. 85–17480 Filed 7–22–85; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period July 8, 1985–July 12, 1985.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

VOL 50 ISS 141 JL 23 1985 UMI

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–15,862; Burlington Industries, Inc., Blended Fabric Div., Lincolnton, NC

TA–W–15,780; Jenkins Brothers Corp., Bridgeport, CT

TA–W–15,844; Philips ECG, Inc., Seneca Falls, NY

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–15,942; Colorado Westmoreland, Inc., Orchard Valley Mine, Paonia, CO

Aggregate U.S. imports of bituminous coal are negligible.

TA–W–15,970; Uranerz USA, Inc., Casper, WY

The uranium mined by the subject firm was incidental to research activities, and was not marketed.

TA–W–15,962; International Jensen, Inc., Schiller Park, IL

The worker firm does not produce an article as required for certification under section 222 of Trade Act of 1974.

Affirmative Determinations

TA–W–15,897; Pester Refining Co., El Dorado, KS

A certification was issued covering all workers of the firm separated on or after January 1, 1985

TA–W–15,823; USM Corp., Unit Sole Div., Kenton, TN

A certification was issued covering all workers of the firm separated on or after March 13, 1984 and before January 13, 1985.

TA–W–15,828; Indiana Glass Co., Dunkirk, IN

A certification was issued covering all workers of the firm separated on or after October 1, 1984

TA–W–15,865; Tennessee Fan Co., Fayetteville, TN

A certification was issued covering all workers of the firm separated on or after March 7, 1984 and before January 1, 1985.

TA–W–15,881; Boyd Lumber Corp., Tonasket, WA

A certification was issued covering all workers of the firm separated on or after February 26, 1984 and before December 31, 1984

TA–W–15,900; Tennessee Chemical Co., Copperhill Co., Copperhill, TN

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–15,883; Ellen Tracy, Inc., Carlstadt, NJ

A certification was issued covering all workers of the firm separated on or after February 7, 1984.

TA–W–15,899; Teledyne Amco, Mohnton, PA

A certification was issued covering all workers of the firm separated on or after March 27, 1984

TA–W–15,855; Tally Togs, Inc., Hoboken, NJ

A certification was issued covering all workers of the firm separated on or after August 15, 1984 and before February 1, 1985.

TA–W–15,954; J & K Values, Inc., Newark, NJ

A certification was issued covering all workers of the firm separated on or after April 11, 1984 and before December 31, 1984

TA–W–15,814; East Point Seafood Co., South Bend, WA

A certification was issued covering all workers of the firm separated on or after March 18, 1984

TA–W–15,885; Hoover-NSK Bearing Co., Wayne, NJ

A certification was issued covering all workers of the firm separated on or after February 1, 1985.

TA–W–15,779; General Electric Co., Mobile Communications Div., Lynchburg, VA

A certification was issued covering all workers engaged in employment related to the production of cellular mobile telephone separated on or after November 1, 1984.

I hereby certify that the aforementioned determinations were issued during the period July 8, 1985–July 12, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Streets NW., Washington, D.C. during normal business hours or will be mailed to persons who write to the above address.

Dated: July 16, 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85–17483 Filed 7–22–85; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 2, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 2, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 15th day of July 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Nuclear Corp., Gas Hills Project (wkrs)	Gas Hills, WY	7/3/85	6/28/85	TA–W–16,136	Uranium mining.
Burlington Industries, Inc. (workers)	Vinton, VA	7/5/85	6/24/85	TA–W–16,137	Nylon and impression fabrics.
Burlington Industries, Inc., Klopman Fabrics Div. (workers)	Hurt, VA	7/5/85	7/2/85	TA–W–16,138	Finishes cloth.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Church & Dwight Co., Inc. (USWA)	Solvay, NY	7/8/85	7/1/85	TA–W–16,139	Baking soda.
Consolidation Coal Co., 4 States Mine #20 (UMWA)	Marion County, WV	7/1/85	6/27/85	TA–W–16,140	Coal mining.
Consolidation Coal Co., Nailler Mine #79 (UMWA)	Marion County, WV	7/1/85	6/27/85	TA–W–16,141	Coal mining.
Cross Country Clothes, Egypt Plant (wkrs)	Whitehall, PA	6/27/85	6/24/85	TA–W–16,142	Men's suits and sport jackets.
Emhart, USM Machinery Group (UERMWA)	Beverly, MA	7/8/85	6/26/85	TA–W–16,143	Shoe making machinery and insertion of electronic components.
Franchesca Fashions (workers)	Hialeah, FL	7/8/85	6/12/85	TA–W–16,144	Girls fashions.
Plasma-Therm, Inc. (IBEW)	Kresson, NJ	7/2/85	6/25/85	TA–W–16,145	Computer hardware.
Union Carbide Corp., Carbon Products Div. (workers)	Lawrenceburg, TN	6/28/85	6/24/85	TA–W–16,146	Carbon brick.
Alpha Sintered Metals, Inc. (company)	Ridgway, PA	6/28/85	6/25/85	TA–W–16,147	Powder metal parts.
Bearfoot Corp. (URW)	Wadsworth, OH	6/28/85	6/24/85	TA–W–16,148	Rubber auto parts.
Bethlehem Steel Corp., Wire Rope Div. (USWA)	Williamsport, PA	7/3/85	6/25/85	TA–W–16,149	Wire rope.
Great Western Sugar Co., Kemp Factory (workers)	Goodland, KS	7/1/85	6/25/85	TA–W–16,150	Beet sugar.
International Shoe Co. (workers)	Windsor, MO	6/28/85	6/17/85	TA–W–16,151	Non rubber footwear.
Jerold Corp. (company)	Smithfield, NC	7/5/85	7/1/85	TA–W–16,152	Sewing contractor—jackets and blazers—men and women.
North Country Leatherworks, Inc. (workers)	East Rochester, NH	7/1/85	6/21/85	TA–W–16,153	Leather handbags and accessories.
Peerless Sportswear Co., Inc. (ILGWU)	So. Boston, MA	6/28/85	6/24/85	TA–W–16,154	Jackets, slacks, skirts—women.
Phar-Shar Manufacturing Co. (workers)	Leitchfield, KY	6/28/85	6/24/85	TA–W–16,155	Coats—womens.

[FR Doc. 85–17484 Filed 7–22–85; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–15,765]

Plastronics Co., Milwaukee, WI; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Plastronics Company, Milwaukee, Wisconsin plant. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–15,765; Plastronics Company, Milwaukee, Wisconsin (June 28, 1985).

Signed at Washington, D.C. this 15th day of July 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85–17485 Filed 7–22–85; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

[V–85–3A]

Temporary Variance and Interim Order; ASARCO Inc.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: (1) Notice of application for temporary variance and interim order; (2) Grant of Interim order.

SUMMARY: This notice is to correct an inadvertent error made in the **Federal Register** publication of the ASARCO Incorprated application for a temporary variance and interim order and the grant of interim order (50 FR 24961, June 14, 1985). The Docket Number was stated as (V–85–3) which is incorrect. The correct Docket Number is (V–85–3A) as it appears above.

The Docket Number, previously published as "(V–85–3)" is corrected to read: "(V–85–3A)".

Signed at Washington, D.C. this 12th day of July, 1985.

Patrick R. Tyson,

Acting Assistant Secretary of Labor.

[FR Doc. 85–17481 Filed 7–22–85; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

Florida Power & Light Co.; Order Modifying Licenses to Confirm Additional Licensee Commitments on Emergency Response Capability

I

Florida Power and Light Company (Turkey Point Plant, Units 3 and 4) (the licensee) is the holder of Facility Operating License Nos. DPR–31 and DPR–41 which authorize the operation of the Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) at steady-state power levels not in excess of 2200 megawatts thermal. The facilities are pressurized water reactors (PWRs) located in Dade County, Florida.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

The licensee responded to Generic Letter 82–33 by letter dated April 15, 1983. By letters dated May 5, May 20, July 25, 1983, January 30 and February

VOL 50 ISS 141 JL 23 1985 UMI

14, 1984, the licensee modified several dates as a result of negotiations with the NRC staff. In these submittals, the licensee made commitments to complete the basic requirements. The licensee's commitments included (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. The staff found that these dates were reasonable and achievable dates for meeting the Commission requirements and concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On February 23, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed the licensee's Commitments.

IV

The February 23, 1984, Order stated that for those requirements for which the licensee committted to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the February 23, 1984 Order, as supplemented by the licensee's letter dated May 10, 1985, the licensee provided the implementation schedules for Regulatory Guide 1.97 requirements.

The attached Table summarizing the licensee's schedular commitments for the above item was developed by the NRC staff from the information provided by the licensee. The staff reviewed the licensee's May 10, 1985 letter and discussed the dates with the licensee. The schedules are based on upcoming refueling outages which are necessary to implement the required modifications and changes.

The NRC staff finds that these dates are reasonable and achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of the licensee's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

V

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, It is hereby ordered, effective immediately, that license Nos. DPR–31 and DPR–41 are modified to provide that the licensee shall:

Implement the specific items described in the Attachment to this ORDER in the manner described in the licensee's submittal noted in Section IV herein no later than the dates in the Attachment.

Extension of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

IV

The licensee or any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section V of this Order.

This Order is effective upon issuance.

Dated in Bethesda, Maryland this 15th day of July 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

TURKEY POINT PLANT.—LICENSEE'S ADDITIONAL COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirements	Licensee's completion schedule (or status)
1. Regulation Guide 1.97—Application to Emergency Response Facilities	3b. Implement (installation or upgrade) requirements	Unit 3—Startup Cycle 10 refueling (approx. June 30, 1985). Unit 4—Startup Cycle 11 refueling (approx. March 31, 1986).

[FR Doc. 85–17462 Filed 7–22–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. STN 50–498 OL; STN 50–499 OL; ASLBP No. 79–421–07 OL]

Houston Lighting and Power Co. et al.; Continuation of Evidentiary Hearings

July 17, 1985.

Before Administrative Judges Charles Bechhoefer, Chairman, Dr. James C. Lamb, Frederick J. Shon. In the matter of Houston Lighting and Power Company, et al. (South Texas Project Units 1 and 2).

Following the hearing sessions described in the Notice of Evidentiary Hearings, dated May 29, 1985 (50 FR 23564–65, June 4, 1985), hearings will continue (to the extent necessary) on July 29–August 3, 1985, August 5–9, 1985, and August 13–16, 1985, at the University of Houston Law School, University Park, Room 215, Teaching Unit II, 4800 Calhoun, Houston, Texas 77004. The hearings will be held from 9:00 a.m. to 6:00 p.m. each day, except that the sessions on Monday, July 29, 1985 and Tuesday, August 13, 1985, will commence at 9:30 a.m., the session on Saturday, August 3, 1985, will conclude by approximately 1:00 p.m., and the sessions on Friday, August 9, 1985 and Friday, August 16, 1985, will extend until approximately mid-afternoon.

Dated at Bethesda, Maryland this 17th day of July, 1985.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 85–17460 Filed 7–22–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–315 and 50–316]

Indiana & Michigan Electric Co.; Order Modifying License To Confirm Additional Licensee Commitments on Emergency Response Capability

I

Indiana and Michigan Electric Company (IMEC) (D.C. Cook Nuclear Plant Unit Nos. 1 and 2) (the licensee) is the holder of Facility Operating License Nos. DPR–58 and DPR–74 which authorizes the operation of the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) at steady-state power levels not in excess of 3250 and 3411 megawatts thermal, respectively. The facilities are pressurized water reactors (PWRs) located in Berrien County, Michigan.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans and phased implementation and integration of emergency response activities including training.

III

IMEC responded to Generic Letter 82–33 by letter dated April 15, 1983. By letters dated August 2, 1983, January 30, 1984, and February 10, 1984, IMEC provided additional information and dates as a result of negotiations with the NRC staff. In these submittals, IMEC made commitments to complete the basic requirements by providing either a completion date for the item or an intermediate date for providing a commitment to a completion date. The intermediate dates (status dates) were based on IMEC target completion dates for the item.

On June 12, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed IMEC's Commitments.

IV

The June 12, 1984, Order stated that for those requirements for which IMEC committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the June 12, 1984 Order, IMEC's letters dated September 28, 1984, February 28 and April 29, 1985 provided completion schedules for the following requirements:

1. Safety Parameter Display System (SPDS).	1b. SPDS fully operational and operators trained.
2. Detailed Control Room Design Review (DCRDR).	2b. Submit a summary report to the NRC including a proposed schedule for implementation.
4. Upgrade Emergency Operation Procedures (EOPs).	4b. Implement the upgraded EOPs.
5. Emergency Response Facilities.	5a. Technical Support Center. 5b. Operations Staging Area. 5c. Emergency Response Facility.

The attached Table summarizing IMEC's schedular commitments for the above items was developed by the NRC staff from the information provided by IMEC. The NRC staff finds that these dates are reasonable and achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of IMEC's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

V

Accordingly, pursuant to Sections, 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, It is hereby ordered, effective immediately, That license DPR–20 is modified to provide that the licensee shall:

Implement the specific items described in the Attachment to this ORDER in the manner described in IMEC's submittals noted in Section IV herein no later than the dates in the Attachment.

Extension of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

VI

Any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section V of this Order.

This Order is effective upon issuance.

Dated in Bethesda, Maryland this 12th day of July, 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

VOL 50 ISS 141 JL 23 1985 UMI

DONALD C. COOK NUCLEAR PLANT.—LICENSEE'S ADDITIONAL COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirements	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1b. SPDS fully operational and operators trained	December 1985.
2. Detailed Control Room Design Review (DCRDR)	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	Do.
4. Upgrade Emergency Operating Procedures (EOPs)	4b. Implement the upgraded EOPs	Do.
5. Emergency Response Facilities Fully Functional	5a. Technical Support Center	Complete. [1]
	5b. Operations Staging Area	Complete.
	5c. Emergency Response Facility	Complete. [1]

[1] SPDS to be installed and operational December 1985.

[FR Doc. 85–17461 Filed 7–22–85; 8:45 am]
BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published June 17, 1985 (50 FR 25133). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk(*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the August 1985 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3265, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

Joint Waste Management and Procedures and Administration, July 30, 1985, Washington, DC. The Subcommittee will review the ACRS Role in the Civilian High-Level Radioactive Waste Management Program.

Reactor Radiological Effects, July 31, 1985, Washington, DC. The Subcommittee will review INPO's Radiation Protection Program, particularly as it relates to a similar and related NRC program.

Emergency Core Cooling Systems, July 31, 1985, Washington, DC. The Subcommittee will: continue the review of the proposed revision to Appendix K of 10 CFR 50.46; discuss implementation of General Electric, 10 CFR Part 50 Appendix K analysis effort; discuss RCP trip issue resolution; and discuss NPR's ECCS-related issues of ongoing concern.

Class 9 Accidents, August 1, 1985, Washington, DC. The Subcommittee will continue its discussion of the draft NUREG–0956, "Source Term Reassessment" with the NRC Staff.

Class 9 Accidents, August 2, 1985, Washington, DC. The Subcommittee will discuss with the NRC Staff and IDCOR the status of programs related to extending the results of the reference plants and how this relates to the ACRS recommended search for outliers program.

Qualification Program for Safety-Related Equipment, August 6, 1985, Washington, DC. The Subcommittee will discuss NRC Staff resolution of USI A–46, "Seismic Qualification of Equipment in Operating Plants."

Long Range Plan for NRC, August 7, 1985, Washington, DC. The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics under discussion are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years. The outline of a comprehensive long range plan being developed by the EDO and OPE will also be reviewed.

GESSAR II, August 7, 1985, Washington, DC. The Subcommittee will continue its review of GESSAR II for a Final Design Approval applicable to future plants.

Joint ECCS and Fluid Dynamics, August 27, 1985, Washington, DC. The Subcommittees will: (1) Review the status of hydrodynamic loads issue for plants with Mark I–III containment; (2) review AEOD report on Interfacing LOCAs; and (3) review the USI A–43, "Containment Emergency Sump Performance" resolution proposal.

Metal Components, September 4 and 5, 1985, Washington, DC. The Subcommittee will review Regulatory Guide 1.99, Revision 2 and other related concerns, and discuss the status of the NDT of piping program and the HSST program.

Reactor Operations, September 9, 1985, Washington, DC. The Subcommittee will discuss recent operating experiences.

Regulatory Activities, September 10, 1985, Washington, DC. The Subcommittee will review: (1) Regulatory Guide 1.23, Revision 1, "Meteorological Measurement Programs for Nuclear Power Plants," (2) proposed Regulatory Guide (Task No. IC 609–5), "Criteria for Power, Instrumentation, and Control Portions of Safety Systems," and (3) Regulatory Guide 1.105, Revision 2, "Instrument Setpoints for Safety-Related Systems" (tentative).

Long Range Plan for NRC, September 11, 1985, Washington, DC. The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics to be discussed are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years.

River Bend, September 11, 1985, Washington, DC. The Subcommittee will review Gulf States Utilities Company's application for a full power operating license.

Joint Structural Engineering and Seismic Design of Piping, September 23 and 24, 1985, Washington, DC. The Subcommittee will review the status of research programs on containment integrity, seismic margins, piping reliability, and other related matters.

Reliability Assurance (Valves), October 8, 1985, Washington, DC. The Subcommittee will continue discussions on valve reliability. A risk perspective on valve performance will be sought. Also to be studied is the importance of valves from a safety standpoint.

Long Range Plan for NRC, October 9, 1985, Washington, DC. The Subcommittee will continue discussions on developing comments on a long range plan for the NRC. Topics to be discussed are primarily technical issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years.

Advanced Reactors, Date to be determined (August/September), Washington, DC. The Subcommittee will discuss the proposed policy for regulation of advanced nuclear power plants.

Human Factors, Date to be determined (August/September), Washington, DC. The Subcommittee will explore methods for deciding what actions should be automated in nuclear power plant operation.

Decay Heat Removal Systems, Date to be determined (September, tentative), Washington, DC. The Subcommittee will continue the review of NRR resolution position for USI A–45.

ECCS, Date to be determined (September/October), Palo Alto, CA. The Subcommittee will continue the review of the joint NRC/B&WOG/EPRI/B&W joint IST Program. A visit is planned to the EPRI Stanford Research Institute facilities supporting this Program.

Joint Reactor Radiological Effects and Fire Protection, Date to be determined (October), Washington, DC. The Subcommittee will review the increased N–16 radioactivity and fire protection problems in using hydrogen addition to BWRs to reduce IGSCC.

Scram Systems Reliability (formerly ATWS), Date to be determined (October), Washington, DC. The Subcommittee will continue the review of the status of ATWS Rule implementation effort and related issues.

Quality and Quality Assurance In Design and Construction, Date to be determined (October, tentative), Washington, DC. The Subcommittee will: (1) Review the final Rule on the "Important to Safety Issue", and (2) be briefed on the "NRC Quality Assurance Program Implementation Plan."

Reliability and Probabilistic Assessment, Date to be determined (Fall, tentative), Washington, DC. The Subcommittee will review the probabilistic risk assessment for Millstone 3.

ACRS Full Committee Meeting

August 8–10, 1985: Items are *tentatively* scheduled.

*A. *Davis-Bessie Nuclear Power Station*—briefing regarding evaluation of recent loss of steam generator feedwater.

*B. *San Onofre Nuclear Plant Unit No. 1*—review of systematic evaluation report.

*C. *General Electric Standard Safety Analysis Report (GESSAR II)*—continue ACRS review for an FDA for this type of facility.

*D. *Alvin W. Vogtle Nuclear Plant Units 1 and 2 (tentative)*—review request for an operating license for this facility.

*E. *Indian Point Nuclear Station*—discuss implementation of probabilistic risk assessment for this nuclear station.

*F. *NRC Long Range Plan*—review proposed long range plan for NRC regulatory activities.

*G. *Seismic Qualification of Equipment in Operating Nuclear Power Plants*—discuss USI A–46 regarding methodology to quality equipment in operating nuclear plants to function during and following seismic events.

*H. *NRC Maintenance and Surveillance Program Plan*—review proposed NRC program plan.

*I. *NRC General Design Criteria*—review proposed changes in NRC General Design Criteria (10 CFR Part 50, Appendix A—General Design Criteria for Nuclear Power Plants).

*J. *Inspection Program of the NRC Office of Inspection and Enforcement*—briefing regarding inspection activities of the NRC Office of Inspection and Enforcement (tentative).

*K. *NRC Regulatory Program regarding Management and Disposal of Radioactive Wastes*—discuss proposed ACRS participation in the NRC regulatory program regarding management and disposal of radioactive wastes.

*L. *ACRS Effectiveness*—Report of ACRS Panel on ACRS effectiveness and participation in NRC regulatory activities.

*M. *ACRS Subcommittee Activities*—the members will hear and discuss reports of designated ACRS subcommittees regarding current activities, including proposed changes in 10 CFR Part 50, Appendix K—ECCS evaluation; radiation protection program of INPO; and reliability of scram breakers in nuclear power plant safety systems.

*N. *Future Activities*—discuss anticipated ACRS subcommittee activities and proposed topics for ACRS consideration.

*O. *Activities of ACRS Members*—the activities of members as nongovernment employees will be discussed (tentative).

September 12–14, 1985—Agenda to be announced.

October 10–12, 1985—Agenda to be announced.

Dated: July 17, 1985.
John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 85–17464 Filed 7–22–85; 8:45 am]
BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

July 16, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

El Torito Restaurants, Inc.
Common Stock, $0.01 Par Value, (File No. 7–8499)
Flight Safety Int'l, Inc.
Common Stock, $0.10 Par Value, (File No. 7–8500)
La Quinta Motor Inns
Common Stock, $0.10 Par Value, (File No. 7–8501)
Redman Industries
Common Stock, $1.00 Par Value, (File No. 7–8502)
Saul (B.F.) Real Estate Inv. Trust
Shares of Beneficial Interest (SBI), (File No. 7–8503)
Supermarkets General Corp.
Common Stock, $1.00 Par Value, (File No. 7–8504)
Tonka Corp.
Common Stock, 0.66 2/3 Par Value, (File No. 7–8505)
Technicom Int'l Inc.
Common Stock, $0.01 Par Value, (File No. 7–8506)

These securities are listed and registered on one of more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 6, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such

VOL 50 ISS 141 JL 23 1985 UMI

applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17431 Filed 7-22-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

July 16, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Crutcher Resources
Common Stock, $100 Par Value, (File No. 7-8507)
Pall Corporation
Common Stock, $.25 Par Value, (File No. 7-8508)
Robins (A.H.) Company
Common Stock, $1.00 Par Value, (File No. 7-8509)
Loral Corporation
Common Stock, $.25 Par Value, (File No. 7-8510)
International Flavors & Fragrances
Common Stock, $1.25 Par Value, (File No. 7-8511)
Becton, Dickinson Company
Common Stock, $1.00 Par Value, (File No. 7-8512)
Rorer Group, Inc.
Common Stock, N Par Value, (File No. 7-8513)
McGraw-Edison Co.
Common Stock, $1.00 Par Value, (File No. 7-8514)
Applied Magnetics Corporation
Common Stock, $.10 Par Value, (File No. 7-8515)
Banc One Corporation
Common Stock, No Par Value, (File No. 7-8516)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction report system.

Interested persons are invited to submit on or before August 6, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17432 Filed 7-22-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

July 16, 1985.

The above named national security exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Philip Morris Companies, Inc. (Holding Company)
Common Stock, $1.00 Par Value, (File No. 7-8496)
Phillips Petroleum Company
Series A Adjustable Preferred Stock, (File No. 7-8497)
Freeport-McMoRan Gold Company
Common Stock, $.10 Par Value (File No. 7-8498)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 6, 1985, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17433 Filed 7-22-85; 8:45 am]

BILLING CODE 8010-01-M

(Release No. 34-22254; SR-MSRB-85-12)

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Municipal Securities Rulemaking Board

The Municipal Securities Rulemaking Board ("MSRB") on May 15, 1985, submitted copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to increase the fee each municipal securities dealer is required to pay to the MSRB, based on its placement of new issue municipal securities. The purpose of the fee is to provide a continuing source of revenue to defray the costs and expenses of operating the Board and administering its activities.

This proposed rule change has become effective, pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons submitting written comments should file six copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-MSRB-85-12.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and any subsequent amendments also will be available at the principal office of the MSRB.

For the Commission, by the Division of Market Regulation pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Dated: July 17, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-17434 Filed 7-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22247; File No. SR-NSCC-85-6]

Self-Regulatory Organizations; National Securities Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

On June 21, 1985, the National Securities Clearing Corporation ("NSCC") filed with the Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The Commission is publishing this notice to solicit public comment on the proposal.

Currently, NSCC's CNS Projection Report contains a tear-off portion which Members use to submit Exemptions.[1] NSCC intends to eliminate the use of a tear-off section on its CNS Projection Report and instead, to supply Members with Exemption forms. Accordingly, the proposal eliminates the reference in NSCC's written procedures to a tear-off portion of the CNS Projection Report for submission of Exemptions.

NSCC believes that because the proposal merely changes one of the formats which Members can use to submit CNS Exemptions, it does not affect NSCC's ability to safeguard securities and funds in its custody or control or for which it is responsible. NSCC believes, therefore, that the proposal is consistent with section 17A of the Act.

NSCC's proposal has become effective under section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days from the date the proposal was filed, however, the Commission may summarily abrogate the proposal if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Copies of all documents related to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C., and at NSCC's principal offices.

Written data, views and arguments concerning the proposal are invited within 21 days from the date this notice is published in the **Federal Register.** Please file six copies of comments, referring to File No. SR-NSCC-85-6, with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, by August 13, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 17, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-17435 Filed 7-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22244; File Nos. SR-PCC-85-03 and SR-PSDTC-85-04]

Self-Regulatory Organizations; Pacific Clearing Corp. and Pacific Securities Depository Trust Co.; Proposed Rule Changes

Pacific Clearing Corporation ("PCC") and Pacific Securities Depository Trust Company ("PSDTC") (together, "PCC/PSDTC") on June 3, 1985, submitted proposed rule changes to the Commission under Section 19(b)(1) of the Securities Exchange Act of 1934. Amendments to the proposals were filed on July 2, 1985. The Commission is publishing this notice to solicit comments on the proposals.

PCC/PSDTC's proposed rule changes, as amended, would require bank participants to provide PCC/PSDTC with certain periodic financial statements already filed with the banks' respective state or federal banking authorities.[1] PCC/PSDTC currently require financial reports from broker-dealer participants, but not bank participants. Under the proposals, bank participants would be required to file with PCC/PSDTC their balance sheets, income statements and statements of changes in equity capital.[2]

PCC/PSDTC believe that the proposals are consistent with section 17A of the Act because they would enable PCC/PSDTC to improve their monitoring processes and therefore would facilitate the clearance and settlement of securities transactions and the safeguarding of securities and funds. Specifically, PCC/PSDTC believe that they would obtain more information about their bank participants' financial condition by requiring those participants to submit quarterly financial reports. PCC/PSDTC believe that these reports would enable them to improve their evaluation of the financial risks faced by PCC/PSDTC and their participants.

Copies of all documents relating to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. and at PCC/PSDTC's principal offices.

To assist the Commission in determining whether to approve the proposals or to institute disapproval proceedings, the Commission invites public comment on the proposals. Please refer to File Nos. SR-PCC-85-03 and SR-PSDTC-85-04 and file six copies of comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, by August 13, 1985.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: July 16, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-17436 Filed 7-22-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of New Wien Airlines, Inc. d/b/a/ Wien Airlines for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 85-7-44), Docket 43060.

SUMMARY: The Department is directing all interested persons to show cause why it should not issue an order finding New Wien Airlines, Inc. d/b/a Wien Airlines fit, transferring the certificate of public convenience and necessity issued to Wien Air Alaska, Inc., by Order 82-12-131 to New Wien, for authority to engage in scheduled interstate and

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[1] Under NSCC's continuous net settlement system, daily projection reports show participants' settlement obligations for the following day. Short positions in securities will be settled automatically through deliveries from participants' depository accounts unless a participant "exempts" the short position (*i.e.*, unless a participant directs NSCC not to settle the short position or a portion of it).

[1] The reports required under PCC/PSDTC's proposals are already prepared by their bank participants and filed with the appropriate state or federal regulatory authorities. Thus, PCC/PSDTC believe that the submission of these reports to PCC/PSDTC would not impose any significant additional regulatory or administrative burdens on bank participants.

[2] PCC Rule II, Section 4(b); PCC Rule XIII, Section 2; PSDTC Rule 2, Section 4(b); and PSDTC Rule 10, Section 2 authorize PCC/PSDTC to require participants to provide information relating to their financial condition.

overseas air transportation, and cancelling the domestic all-cargo service certificate issued to Wien Air Alaska, Inc., by Order 78-1-86.

DATES: Persons wishing to file objections shall do so no later than August 6, 1985; answers to objections shall be filed no later than August 16, 1985.

ADDRESSES: Objections and answers to objections should be filed in Docket 43060 and addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590, and should be served upon the persons listed in Attachment B to the order.

FOR FURTHER INFORMATION CONTACT: Juliana M. Winters, (202) 426-7631, Office of Aviation Enforcement and Proceedings, or Linda L. Lundell, (202) 755-3812, Office of Aviation Operations, Special Authorities Division, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The complete text of Order 85-7-44 is available from our Documentary Services Division at the address above. Persons outside the metropolitan area may send a postcard request for Order 85-7-44 to that address.

Dated: July 17, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-17416 Filed 7-22-85; 8:45 am]

BILLING CODE 4910-62-M

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held August 22, 1985, at 10:00 a.m., at the Los Angeles Airport Marriott Hotel, 5855 West Century Boulevard, Los Angeles, California. The agenda for the meeting is as follows:

—Status of MBRC programs
—WBE initiative

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Minority Business Resource Center, 400 7th Street, SW, Washington, D.C. 20580, telephone (202) 426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on July 17, 1985.

Amparo B. Bouchey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 85-17415 Filed 7-22-85; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 85-122]

Fish; Tariff-Rate Quota for Calendar Year 1985

AGENCY: Customs Service, Treasury.

ACTION: Announcement of the quota quantity on certain fish for Calendar Year 1985.

SUMMARY: The tariff-rate quota for fish pursuant to item 110.55 (TSUS) for the 1985 Calendar Year is 56,822,178 pounds.

EFFECTIVE DATES: The 1985 tariff-rate quota is applicable to fish described in item 110.50, TSUS, which are entered, or withdrawn from warehouse, for consumption during Calendar Year 1985.

FOR FURTHER INFORMATION CONTACT: William J. Wagner, III, Head, Quota Section, General Programs Branch, Duty Assessment Division, Office of Commercial Operations, U.S. Customs Service, Washington, D.C. 20229, (202) 556-8592.

SUPPLEMENTARY INFORMATION: This tariff-rate quota for fish is equal to 15 percent of the average aggregate apparent annual consumption in the United States of fish, fresh, chilled or frozen, fillets, steaks, and sticks of cod, cusk, haddock, hake, pollock, and rosefish, for the 3 preceding years, as provided for in Headnote 1, part 3A Schedule 1, and item 110.50, TSUS.

It has been determined that the average aggregate consumption for Calendar Years 1982 through 1984 was 378,814,524 pounds. Therefore, the quota quantity for fish, item 110.50, TSUS for Calendar Year 1985 is 56,822,178 pounds.

William von Raab,

Commissioner of Customs.

U.S. Production, Entries of American Fisheries, and Imports for Consumption of: Fresh or frozen fillets, steaks and sticks of cod, haddock, hake, pollock, cusk and rosefish.

POUNDS—1982-1984

Year	Production	Entries of American fisheries	Imports of consumption	Total [1]
1982	[2] 70,994,000		280,198,145	351,192,145
1983	[2] 79,812,000		295,143,139	374,955,139
1984	104,800,000		305,496,287	410,296,287
Total	255,606,000		880,837,571	1,136,443,571
3-year average			378,814,523	
15% of 3-year average			56,822,178	
Quarterly quotas for 1985:				
1st			14,205,544	
2nd			14,205,544	
3rd			14,205,545	
4th			14,205,545	
Yearly total			56,822,178	

[1] Apparent consumption as provided in Headnote 1 and item 110.50, Part 3A Schedule 1, TSUS.
[2] Production figures for 1982 and 1983 were revised by National Fisheries Service, U.S. Department of Commerce by letter dated March 21, 1985.
[3] The 1984 import figure is as shown on computer records on January 2, 1985, for the period ending December 31, 1984.

Source: Production from National Marine Fisheries Service, U.S. Department of Commerce, entries of American Fisheries by U.S. International Trade Commission from records of the U.S. Department of Commerce; imports for consumption from records of U.S. Customs Service, Department of the Treasury.

Fish

	Jan. to Mar. 1984
Canada	40,653,292
Total other countries	36,226,379
Grand total	76,879,671
	April to June 1984
Canada	54,521,687
Total other countries	32,129,708
Grand total	77,651,395
	July to Sept. 1984
Canada	50,638,093
Total other countries	34,867,379
Grand total	85,505,472
	Oct. to Dec. 1984
Canada	33,832,259
Total other countries	31,627,490
Grand total	65,459,749
Yearly total	305,496,287

[FR Doc. 85-17439 Filed 7-22-85; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

1986 Individual Income Tax Return Electronic Filing Pilot

AGENCY: Internal Revenue Service, Treasury.

ACTION: Electronic filing pilot.

SUMMARY: A growing number of tax preparation firms use computers to prepare individual income tax returns. To take advantage of this trend, the Internal Revenue Service (IRS) is planning to conduct a pilot of electronic filing in 1986. In this pilot, qualified automated return preparers will electronically transmit tax year 1985 individual income tax returns to the IRS. The pilot will be limited to refund returns prepared for taxpayers in the Phoenix, Arizona; Cincinnati, Ohio; and Raleigh-Durham-Fayetteville, North Carolina metropolitan areas.

Electronic filing eliminates most of the manual processes required to handle paper returns. Thus, IRS expects to reduce by two to three weeks the time required to issue refunds on electronically filed returns. However, this result of more rapid refunds cannot be guaranteed by IRS because, as with any return, errors made by the taxpayer, the preparer or the IRS, may cause delays.

Interested firms that prepare returns in the three metropolitan pilot sites should write to the Assistant Commissioner (Planning, Finance and Research), IRS, 1111 Constitution Avenue, NW, Washington, D.C. 20224, Attn: Electronic Filing Project, or alternatively call the Project Office at (202) 566-7541, for detailed requirements that must be met to qualify for participation in this pilot. As a basic requirement, firms should have at least two years of experience in the automated preparation of tax returns. Firms wishing to be considered for participation in this pilot must apply to the Service by September 12, 1985.

John L. Wedick, Jr.,

Assistant Commissioner (Planning, Finance and Research).

[FR Doc. 85-17486 Filed 7-22-85; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

President's International Youth Exchange Initiative

The United States Information Agency (USIA) announces the establishment of an international youth exchange organization index.

Purpose

USIA intends to conduct a series of limited solicitations during fiscal year 1986, whereby specific organizations will be invited to submit proposals in competition for exchange projects initiated by USIA. For each project, the Agency will identify organizations that are deemed competent to implement the project and solicit proposals from them to conduct the exchanges. Organizations will be chosen for consideration from a list maintained by USIA for this purpose. This list will be known as the index. It is anticipated that the index will facilitate the grant review process for this year's grants competitions by enabling all organizations to submit basic documentation at one time, rather than with each proposal submitted, as in the past. This announcement is not a request for proposals.

Eligibility

Youth exchange organizations may be listed in the index by submitting program information and a uniform set of documents as outlined below. Inclusion in the index does not guarantee selection in any limited solicitation, nor even an invitation to submit a proposal. It also does not signify any degree of US Government approval for an organization or its programs. Organizations must be incorporated not-for-profit in the United States and the focus of their activities should be international youth exchange or youth service. The term youth in this context refers to individuals aged 15-25. Organizations that have current grants under the President's International Youth Exchange Initiative may find it advisable to participate in this exercise in order to guarantee that USIA has up-to-date information on the full breadth of each organization's program. Although the index listing is not a requirement for being considered for a request for proposals, it will be the principal source of information for USIA in determining whether an organization might be interested in a given project.

Documentation for the Index

The Youth Exchange Staff of USIA will distribute a form to facilitate this collection of data. Organizations may request the form by writing to the address at the end of this announcement. The data includes the following:

Name of organization.
Address and phone number.
Date of incorporation.
Previous legal names, if any.
Names and titles of key officers (chief executive, program, and financial officers) in the central office.
Total institutional annual budget.

American regional offices:

Number and location.
Number of paid employees in each.
Number of volunteers attached to each.

Affiliates abroad:

Number and location of affiliates.
Profit/not-for-profit status of each.
Number of paid staff in each.
Number of volunteers attached to each.

Brief description of the program or programs currently conducted by your organization; information should include at a minimum:

Project type (e.g., year long academic homestay program) and title (e.g., Americans Overseas).
Duration of each exchange program (e.g., academic year—9 months).
Nature of program, including the standard age range of participants and significant activities (e.g., American youth aged 15-19 are placed in high schools abroad, stay with host families, receive orientation for two weekends during the 3 months prior to departure, etc.)
Tuition, program fee, or cost.

Quantitative data:

The number of participants, outbound and inbound, for each program for the 1985 calendar year or the 1985-86 academic year by country.
The number of participants for any program that is ongoing but which may be in hiatus during 1985 (e.g., the organization may have been conducting exchanges with Brazil for several years, but had no exchanges in 1985).
The number of years that your organization has been active in each country where you conduct exchanges.

This data is critcial to the intended use of the index.

Additionally the following documents should be enclosed with the form:

Articles of incorporation and evidence of legal changes of name.
Proof of tax exempt status.
List of the organization's board of directors or similar governing body.
The latest annual report and current audited financial statement.

VOL
50
ISS
141
JL
23
1985
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Statement whether organization has J–1 visa designation. If not, a description of type of visa used to bring foreign participants to the United States.

Organizations interested in being considered for grants must supply the following documents related to anti-discrimination and equal employment opportunity:

1. A statement of assurance of equal employment opportunity and compliance, signed by a responsible officer of the organization.
2. Data describing the employment profile of the organization by sex, minority status, age and handicap.
3. A copy of any existing Affirmative Action Plan of the organization, if there are more than 50 employees.

The information and documentation described above should be received in USIA no later than August 31, 1985. Please address all correspondence on this matter to: Youth Exchange Staff, Room 255, USIA, 301 Fourth Street, SW., Washington, D.C. 20547. For further information call (202) 485–7299.

Dated: July 18, 1985.

Ronald L. Trowbridge,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 85–17394 Filed 7–22–85; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 141
Tuesday, July 23, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Communications Commission	2
Federal Reserve System	3
International Trade Commission	4, 5, 6
Merit Systems Protection Board	7
Nuclear Regulatory Commission	8

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time), Monday, July 29, 1985.

CHANGE IN THE MEETING: 9:30 a.m. (eastern time), Tuesday, July 30, 1985. The closed session will be held immediately following the open session.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634–6748.

This Notice Issued July 19, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 85–17563 Filed 7–19–85; 2:18 p.m.]

BILLING CODE 6750–06–M

2

FEDERAL COMMUNICATIONS COMMISSION

July 18, 1985.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 25, 1985, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No. and Subject

General—1—Title: Report and Order to allocate spectrum for the provision of a new Radiodetermination Satellite Service (RDSS). Summary: The FCC will consider an amendment to the Table of Frequency Allocations to provide allocations for radiodetermination satellite service.

Private Radio—1—Title: Amendment of Part 90 Subpart M of the Commission's Rules Governing the Application Processing Procedures for the 800 MHz Private Land Mobile Band. Summary: The Commission is adopting a Report and Order to amend its rules governing the application processing procedures for the 800 MHz and land mobile band to encourage the expansion of fully loaded trunked systems.

Common Carrier—1—Title: Western Union Application for Review of Order Authorizing RCA American Communications to Modify its Space Stations in the 12/14 GHz Bands. Summary: The Commission will consider arguments made by Western Union that a decision by the Common Carrier Bureau on January 25, 1985 authorizing RCA American to increase the power of its traveling-wave tube amplifiers on certain of its satellites was in error.

Common Carrier—2—Title: Western Union Telegraph Company Petitions for Reconsideration of the 1983 Authorizations to Construct, Launch and Operate Space Stations in the Domestic Fixed-Satellite Service. Summary: The Commission will consider arguments made by Western Union that the Commission's decision (94 FCC 2d 467 (1983) not to permit Western Union to substitute a new satellite system for one that was abandoned was erroneous.

Common Carrier—3—Title: Petition for Reconsideration by Advanced Business Communications, Inc. Summary: The Commission will consider arguments made by ABCI that the Commission's decision, released February 27, 1985, which declared ABCI's space station authorizations null and void was in error. Title: Application for Review by Rainbow Satellite, Inc. Summary: The Commission will consider arguments made by Rainbow that a decision by the Common Carrier Bureau released February 14, 1985 which declared Rainbow's space station authorizations null and void was in error. Title: Applications for Review by United States Satellite Systems, Inc. Summary: The Commission will consider arguments made by USSSI that a decision by the Common Carrier Bureau relesed February 14, 1985, which declared USSSI's space station authorizations null and void was in error.

Common Carrier—4—Title: Licensing Space Stations in the Domestic Fixed-Satellite Service (CC Docket No. 85–135). Summary: The Commission will consider revisions to Part 25 of the rules and other matters pertaining to the qualifications of domestic fixed-satellite applicants.

Common Carrier—5—Title: Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service. Summary: The Commission will consider an orbit assignment plan for new and previously authorized space stations.

Common Carrier—6—Title: *Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry).* Summary: the Commission will consider whether to institute a new Computer Inquiry rulemaking proceeding proposing revision of the Second Computer Inquiry ("Computer II") treatment of enhanced and non-communications services, and to address related issues that have arisen in the past, including: protocol conversion; colocation issues integrated services digital networks (ISDN); voice message storage services; and the Computer II (but not Part 68) treatment of network channel termingating equipment (NCTE). Title: Report and Order regarding the establishment of satellite systems providing international communication services CC Docket No. 84–1299, and Memoranda Opinions and Orders regarding the applications filed by Orion Satellite Corporation, International Satellite Inc., RCA American Communications, Inc., Cygnus Satellite Corporation, and Pan American Satellite Corporation. Summary: The Commission will consider whether to issue a Report and Order regarding the establishment of satellite systems which would provide international communications services. The Commission will also consider whether to issue Memoranda Opinions, Orders and Authorizations on the five applications filed by Orion Satellite Corporation, International Satellite, Inc., RCA American Communications, Inc., Cygnus Satellite Corporation, and Pan American Satellite Corporation.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–17513 Filed 7–19–85; 10:46 am]

BILLING CODE 6712–01–M

3

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS.

TIME AND DATE: 3:30 p.m., Thursday, July 18, 1985.

The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

VOL 50 ISS 141 JL 23 1985 UMI

Date: July 18, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17548 Filed 6-19-85; 12:10 pm]

BILLING CODE 6210-01-M

4

INTERNATIONAL TRADE COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 3:00 p.m., July 22, 1985.

CHANGES IN THE MEETING: The meeting originally scheduled to be held on Monday, July 22, 1985, has been rescheduled to begin at 10:00 a.m., on Thursday, July 25, 1985.

In conformity with 19 CFR 201.37(b), Commissioners Stern, Liebeler, Eckes, Lodwick, and Rohr determined by unanimous vote that Commission business requires the change in date, affirmed that no earlier announcement of the change was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-17446 Filed 7-19-85; 3:23 pm]

BILLING CODE 7020-02-M

5

INTERNATIONAL TRADE COMMMISSION

[USITC SE-85-31]

TIME AND DATE: At 11:00 a.m., Friday, August 2, 1985.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints.
5. Investigation 731-TA-270 [Preliminary] (64 KDRAM components from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-17579 Filed 7-19-85; 3:37 pm]

BILLING CODE 7020-02-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-28A and 29A]

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 4:00 p.m., Tuesday, July 16, 1985 and 11:00 a.m., Friday, July 19, 1985.

CHANGES IN THE MEETING:

The following item is deleted from the agenda for Tuesday, July 16, 1985:

Item 5—Investigation 337-TA-185 (Rotary wheel printing systems)—briefing and vote.

and the following item is added to the agenda for Friday, July 19, 1985:

Item 4—Investigation 337-TA-185 (Rotary wheel printing systems)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-17578 Filed 7-19-85; 3:37 pm]

BILLING CODE 7020-02-M

7

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 2:30 p.m., Thursday, August 8, 1985.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. *Channel* v. *Department of Transportation*, MSPB Docket No. CH07318510332.
2. *Murphy* v. *Department of Transportation*, MSPB Docket No. CH07318410464.
3. *Meyer* v. *Department of Transportation*, MSPB Docket No. NY07318510206.
4. *Vowell* v. *Office of Personnel Management*, MSPB Docket No. AT07318510337.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

Dated: July 18, 1985.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 85-17496 Filed 7-19-85; 10:06 am]

BILLING CODE 7400-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of July 22, 29, August 5, and 12, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of July 22

Tuesday, July 23

2:30 p.m.
Discussion on Threat Level and Physical Security (Closed—Ex. 1)

Wednesday, July 24

10:00 a.m.
Briefing on Accident Source Term Reassessment (Public Meeting)

1:30 p.m.
Briefing on Davis-Besse (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Policy Statement on Confidentiality (tentative)
b. Disposition of Hearing Request Regarding Materials License Amendment for Kerr-McGee Sequoyah Fuels Facility (tentative)
c. Limerick Generating Station, Units 1 & 2, Immediate Effectiveness Review (tentative)

Friday, July 26

10:00 a.m.
Briefing by Georgia Power (Vogtle) on Operational Readiness Review Pilot Program (Public Meeting)

2:00 p.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)

Week of July 29—Tentative

Mondoy, July 29

2:00 p.m.
Discussion of DOE High Level Waste Management Program (Public Meeting)

Tuesday, July 30

10:00 a.m.
Continuation of 5/15 Briefing on Proposed Revision of Part 20 (Public Meeting)

2:00 p.m.
Discussion—Possible Vote on Full Power Operating License for Diablo Canyon-2 (Public Meeting)

Wednesday, July 31

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

2:00 p.m.
Discussion of Proposed Station Blackout Rule (Public Meeting)

Thursday, August 1

10:00 a.m.
Briefing on Safety Goal Evaluation Plan (Public Meeting)

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of August 5—Tentative

Thursday, August 8

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of August 12—Tentative

Thursday, August 15

11:00 a.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Briefing by Executive Branch (Closed—Ex. 1) was held on July 12.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

Julia Corrado,

Office of the Secretary.

[FR Doc. 85-17580 Filed 7-19-85; 3:05 pm]

BILLING CODE 7590-01

federal register

Tuesday
July 23, 1985

Part II

Department of the Treasury

Customs Service

Privacy Act of 1974, Notices of Systems of Records

VOL 50 ISS 141 JL 23 1985 UMI

DEPARTMENT OF THE TREASURY

Customs Service

Privacy Act of 1974: Periodic Publication of all Privacy Act Systems of Records

The Department of the Treasury is systematically republishing all of its systems of records notices. This notice updates the information for the systems of records maintained by the U.S. Customs Service. The notices for these systems of records were last published by the Federal Register in the Privacy Act Issuances 1984 Compilation, pages 714–767.

The Department has eliminated Appendix AA which listed blanket-type routine uses. The applicable routine uses now appear in each system of records. All other changes are editorial in nature and consist principally of address changes, revision of organizational titles, and transfer of functions. None of the changes require an altered system report as prescribed by 5 U.S.C. 552a(o).

The U.S. Customs Service has deleted 10 systems of records for the reasons noted below.

Dated: July 15, 1985

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

Deletions

CS .124—Inspector Training Quarterly Checklist Forms and Inspector Correspondence Course Enrollment Forms (Obsolete)
CS .253—Vehicle Microfiche File (Not a Customs system of records)

The following systems contain no personal information and are not Privacy Act Systems of Records:

CS .103—Firearms Qualification
CS .111—I.D. Cards
CS .113—Import Specialist Activities—Investigation Referrals
CS .114—Import Specialist Activities—Laboratory Samples
CS .115—Import Specialist Seminars
CS .116—Import Specialist—220 Visits, Region IX
CS .135—Legal Case Inventory System
CS .160—Operations Officer's (Classification and Value) Work Accomplishments

Table of Contents

CS .001—Acceptable Level of Competence, Negative Determination
CS .002—Accident Reports
CS .269—Accounts Payable Voucher File
CS .005—Accounts Receivable
CS .009—Acting Customs Inspector (Excepted)
CS .014—Advice Requests (Legal) (Pacific Region)
CS .021—Arrest, Seizure, Search Report, and Notice of Penalty File
CS .022—Attorney Case File
CS .285—Automated Index of Central Enforcement Files
CS .270—Background—Record of Non-Customs Employees
CS .028—Baggage Declaration
CS .067—Bank Secrecy Act Reports File
CS .030—Bankrupt Parties-in-Interest
CS .031—Bills Issued Files
CS .032—Biographical Files (Headquarters)
CS .271—Cargo Security Record System
CS .037—Cargo Security File
CS .040—Carrier File
CS .041—Cartmen or Lightermen
CS .042—Case and Complaint File
CS .043—Case Files (Regional Counsel—South Central Region)
CS .044—Certificates of Clearance
CS .045—Claims Act File
CS .046—Claims Case File
CS .049—Claims (Receivable and Payable)
CS .050—Community Leader Survey
CS .051—Complaints Against Customs Personnel
CS .053—Confidential Source Identification File
CS .054—Confidential Statements of Employment and Financial Interests
CS .056—Congressional and Public Correspondence
CS .057—Container Station Operator Files
CS .058—Cooperating Individual Files
CS .061—Court Case File
CS .064—Credit Card File
CS .272—Currency Declaration File (IRS Form 4790)
CS .287—Customs Automated Licensing Information System (CALIS)
CS .069—Customhouse Brokers File
CS .077—Disciplinary Action and Resulting Grievance or Appeal Case Files
CS .078—Disclosure of Information File
CS .081—Dock Passes
CS .277—Drivers License File
CS .278—Early Implementation System
CS .273—Employee Debts
CS .083—Employee Relations Case Files
CS .090—Equipment Record File
CS .092—Exit Interview
CS .093—Federal and New York State Licenses for Commercial Importation of Alcoholic Beverages
CS .095—Fines, Penalties and Forfeiture Control and Information Retrieval System
CS .098—Fines, Penalties and Forfeiture Records
CS .099—Fines, Penalties and Forfeiture Files (Supplemental Petitions)
CS .100—Fines, Penalties and Forfeiture Records (Headquarters)
CS .105—Former Employees
CS .109—Handicapped Employee File
CS .112—Immediate Delivery Violation Record
CS .274—Importer, Brokers, Carriers, Individuals and Sureties Master Files
CS .122—Information Received File
CS .123—Injury Notice
CS .125—Intelligence Log
CS .127—Internal Security Records System
CS .128—Investigations Program Analysis
CS .129—Investigations Record System
CS .130—Investigative Program Analysis
CS .133—Justice Department Case File
CS .136—Liquidated Damage Cases, Prior Violators
CS .137—List of Vessel Agents Employees
CS .138—Litigation Issue Files
CS .140—Lookout Notice
CS .144—Mail Protest File
CS .148—Military Personnel and Civilian Employees' Claims Act File
CS .268—Military Personnel and Civilian Employees' Claims Act File
CS .151—Motor Vehicle Accident Reports
CS .152—Motor Vehicle Operator's Identification Card
CS .153—Motor Vehicle Operator's I.D. Card and Record
CS .155—Narcotics Suspect File
CS .156—Narcotics Violator Files
CS .159—Notification of Personnel Management Division when an employee is placed under investigation by the Office of Internal Affairs
CS .193—Operating Personnel Folder Files
CS .161—Optional Retirement List
CS .162—Organization (Customs) and Automated Position Management System (COAPMS)
CS .163—Outside Employment Requests
CS .165—Overtime Earnings
CS .170—Overtime Reports
CS .172—Parking Permits File (New York Region)
CS .175—Patrol Division Daily Activity Report
CS .180—Payroll Record of Employees NOT covered by the Automated System
CS .182—Penalty Case File
CS .186—Personnel Search
CS .190—Personnel Case File
CS .194—Personnel/Payroll System
CS .284—Personnel Verification System
CS .196—Preclearance Costs
CS .197—Private Aircraft/Vessel Inspection Reporting System
CS .201—Property File—Non-Expendable
CS .206—Regulatory Audits of Customhouse Brokers
CS .207—Reimbursable Assignment System
CS .208—Restoration of Forfeited Annual Leave Cases
CS .209—Resumes of Professional Artists
CS .210—Revocation of I.D. Privileges and "Cash Basis Only" for Reimbursable Services List
CS .211—Sanction List
CS .212—Search, Arrest, Seizure Report
CS .214—Seizure File
CS .215—Seizure Report File
CS .217—Set Off Files
CS .219—Skills Inventory Records
CS .220—Supervisory Notes and Files
CS .224—Suspect Persons Index
CS .226—Television System
CS .227—Temporary Importation Under Bond
CS .228—Temporary Importation Violation Record
CS .232—Tort Claims Act File
CS .234—Tort Claims Act File
CS .238—Training and Career Individual Development
CS .239—Training Records
CS .243—Travel Payment System
CS .244—Treasury Enforcement Communications System
CS .249—Uniform Allowances—Unit Record
CS .251—Unscheduled Overtime Report
CS .252—Valuables shipped Under the Government Losses in Shipment Act
CS .257—Violator's Card File
CS .258—Violator's Case Files
CS .260—Warehouse Proprietor Files
CS .262—Warnings to Importers in lieu of penalty

Treasury/Customs .001

SYSTEM NAME:

Acceptable Level of Competence, Negative Determination-Treasury/Customs.

SYSTEM LOCATION:

Personnel Management Division, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee of U.S. Customs Service Northeast Region, who receives a negative determination regarding acceptable level of competence.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, Social Security number, position description, grade, and correspondence containing specific reasons for negative determination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in locked file cabinets.

RETRIEVABILITY:

The records are filed by the individual's name.

SAFEGUARDS:

Direct access is limited to the Director and five employees of the Personnel Division. In addition to being stored in locked cabinets, the area in which these records are stored is locked during non-duty hours and the building is guarded by uniformed security police.

RETENTION AND DISPOSAL:

Records are retained until the employee leaves the Customs Service.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information is furnished by the employee, employee's supervisor and the Federal Employee Appeals Authority.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .002

SYSTEM NAME:

Accident Reports-Treasury/Customs.

SYSTEM LOCATION:

Logistics Management Division, Southeast Region, 99 SE 5th Street, Miami, FL 33131; Logistics Management Division, U.S. Customs Service, 211 Main Street, San Francisco, CA 94105.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee of Southeast Region who has had an accident on Government property or in an official vehicle since 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Standard Government forms dealing with accidents and personal injuries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended. Executive Order 11807 and Section 19 of Occupational Health & Safety Act of 1970; 5 U.S.C. 8101–8150, 8191–8193.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose to employee's beneficiary in event of death following the accident or injury or to employee's agent in case of disability. (b) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (f) To provide information to third parties during the course of an investigation to the extent necessary to

VOL 50 ISS 141 JL 23 1985 UMI

obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case folder is maintained in an unlocked drawer in chronological order by date.

RETRIEVABILITY:

Each case is identified by employee name and date of accident.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Logistics Management Division within the Southeast Region Headquarters Building. During non-working hours the room in which the metal container is located is locked.

RETENTION AND DISPOSAL:

Accident Record files are retained in accordance with the Records Disposal Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Logistics Management Division, Southeast Region, Headquarters, 99 S.E. 5th Street; Logistics Management Specialist, Logistics Management Division, U.S. Customs Service, 211 Main Street, San Francisco, CA 94105.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information originates with employees who have been injured and/or have been involved in accidents during the exercise of their official duties. Also included are witness reports and statements, the employees' supervisors' statements and doctors' reports.

Treasury/Customs .269

SYSTEM NAME:

Accounts Payable Voucher File-Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, U.S. Customs Service, South Central Region, 1440 Canal Street, New Orleans, LA 70112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All South Central Region personnel to whom travel and other disbursements are made. All individuals who provide goods and services to the South Central Region.

CATEGORIES OF RECORDS IN THE SYSTEM:

Invoices and travel/other vouchers and supporting disbursements schedules.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in unlocked file cabinets.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Usage limited to Regional personnel; cabinets are located in rooms which are locked during non-working hours.

RETENTION AND DISPOSAL:

In accordance with Records Control Manual; records are disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, U.S. Customs Service, South Central Region, 1440 Canal Street, New Orleans, LA 70112.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Invoices and travel/other vouchers submitted by the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .005

SYSTEM NAME:

Accounts Receivable Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110; Financial Management Division, District and Ports, 99 SE 5th Street, Miami, FL 33131; U.S. Customs Service, Financial Management Division, Increase and Refund Section, 6 World Trade Center, New York, NY 10048; Financial Management Division, U.S. Customs Service, South Central Region, 1440 Canal Street, New Orleans, LA 70112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons owing money for Customs duties and services and money owed to persons for overpayment of excessive duties and services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and documentation of telephone calls with debtors and creditors or their representatives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored in file folders which are contained in an unlocked metal file cabinet.

RETRIEVABILITY:

The file is retrieved by the name of the individual which is kept in alphabetical order within the work area of the Collection Section.

SAFEGUARDS:

The files are located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

RETENTION AND DISPOSAL:

The file is retained until collection or refund is effected and two (2) years thereafter, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, MA 02110; Director of Financial Management, 99 S.E. 5th Street, Miami, FL 33131; Regional Commissioner, U.S. Customs Service, 6 World Trade Center, New York, NY 10048; Financial Management Division, U.S. Customs Service, South Central Region, 1448 Canal Street, New Orleans, LA 70112.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in the system is obtained from data gathered from the automated billing system and ports of entry.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .009

SYSTEM NAME:

Acting Customs Inspector (Excepted)—Treasury/Customs.

SYSTEM LOCATION:

Personnel Management Division, Regional Commissioner of Customs, 55 East Monroe Street, Suite 1501, Chicago, IL 60603, and Offices of the District Directors, North Central Region, Chicago, IL; Inspection and Control Division, U.S. Customs Service, Southwest Region, 500 Dallas Street, Suite 1240, Houston, TX 77002; Office of the District Director, San Diego, CA; Offices of the Port Directors, San Ysidro, CA; Calexico, CA; Tecate, CA; Andrade, CA; San Diego Barge Office; and the Offices of the Patrol Division, San Diego, CA; San Ysidro, CA; Calexico, CA; Tecate, CA; (see Customs Appendix A.); U.S. Customhouse, P.O. Box 111, District Director's Office, St. Albans, VT 05478; Office of the District Director, P.O. Box 2112, San Juan, PR 00903.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or members of other Federal agencies who are designated by the District Directors as Customs Inspectors (Excepted).

CATEGORIES OF RECORDS IN THE SYSTEM:

System has name, Social Security number, rank or grade and duty station of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

CF 55 forms kept in manila folders in file cabinet.

RETRIEVABILITY:

Filed alphabetically.

SAFEGUARDS:

During non-working hours the offices and/or buildings in which records are located are locked.

RETENTION AND DISPOSAL:

Until individual transfers or designation is cancelled. Form is then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division; North Central Region, 55 E. Monroe Street, Chicago, IL 60603; Director, Inspection and Control Division, U.S. Customs Service, Southwest Region, 500 Dallas, Suite 1240, Houston, TX 77002; District Director, Port Directors, and Division Directors, within the San Diego Customs District (see Appendix A.); District Direction, U.S. Customs Service, St. Albans, VT 05478, District Director, P.O. Box 2112, San Juan, PR 00903.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual and his or her agency.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .014

SYSTEM NAME:

Advice Requests (Legal) (Pacific Region)—Treasury/Customs.

SYSTEM LOCATION:

Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subject of any request for legal advice by another office within Customs, another Government agency, or the private individual himself. An example would be a requested by a District Director for advice as to whether or not a violation of a Customs law for which a penalty may be assessed has occurred.

CATEGORIES OF RECORDS IN THE SYSTEM:

Intra-agency or inter-agency memoranda and reports of investigation and other documents submitted by the requesting office for use in handling the request. Correspondence from the private individual submitting the request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Reorganization Plan No. 1 of 1950; Treasury Department Order No. 165, Revised, as amended; Reorganization Plan No. 1 of 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or

VOL 50 ISS 141 JL 23 1985 UMI

other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal file cabinet.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name of the individual who is the subject of the request and in the alphabetical file folder within the metal file cabinet by the name of the individual who is the subject of the request.

SAFEGUARDS:

The metal file cabinet described above is maintained within the area assigned to the Office of the Regional Counsel within the Federal Building. During non-working hours the room in which the metal file cabinet is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

Request for legal advice files are retained until there is no longer any space available for them within the metal file cabinet, at which time files are transferred to the Federal Record Center or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Counsel, 211 Main Street, San Francisco, CA 94105.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information comes from the memoranda or correspondence from the office or individual requesting the advice and from any supporting documents that office or individual may transmit.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .021

SYSTEM NAME:

Arrest/Seizure/Search Report and Notice of Penalty File-Treasury/Customs.

SYSTEM LOCATION:

Office of the District Director of Customs, Room 228, United States Customs Service, 335 Merchant Street, Honolulu, HI 96813.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are suspected of attempting to smuggle, or have smuggled, merchandise or contraband into the United States; individuals who have undervalued merchandise upon entry into the United States; vessels and aircraft which have been found to be in violation of Customs laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals, vessels, aircraft, identifying factors; nature of violation or suspected violation; circumstances surrounding violation or suspected violation; date and place of violation or suspected violation; and on-site disposition actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each report is assigned a case number and filed accordingly in a locked, metal file located in the Office of the Director of Patrol.

RETRIEVABILITY:

Each report is identified in a manual alphabetical card file by the name of the individual, vessel or aircraft.

SAFEGUARDS:

In addition to being stored in a locked metal cabinet, these records are located in a locked room, the keys of which are controlled and issued only to authorized personnel.

RETENTION AND DISPOSAL:

These records are retained for one year (1) or until action has been completed.

SYSTEM MANAGER(S) AND ADDRESS:

District Director of Customs, U.S. Customs Service, Post Office Box 1641, Honolulu, HI 96806.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .022

SYSTEM NAME:

Attorney Case File-Treasury/Customs.

SYSTEM LOCATION:

Office of Regional Commissioner of Customs, 100 Summer Street, Boston, MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are parties in litigation with the United States Government or sub-units, or employees or officers thereof, in matters which affect or involve the U.S. Customs Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Seizure reports, investigative reports, Customs forms and documents relative to the case, petitions for relief, decisions on petitions, other background information relating to the litigation, motions, orders, etc., filed in connection with the litigation; investigative reports relative to an individual's economic ability to pay a claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in file folders.

RETRIEVABILITY:

Records indexed by name of private individual involved in the litigation.

SAFEGUARDS:

Open case files maintained in file cabinets with access by Regional Counsel and his staff only; closed case files maintained in locked cabinet with keys retained by Regional Counsel and his staff only.

RETENTION AND DISPOSAL:

Retained until there is no longer any space available within metal cabinets, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Commissioner of Customs, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files is received from U.S. Customs employees, reports of investigation, Customs penalty case files, other Government agencies, parties involved in litigation, banks and credit bureaus, administrative proceedings regarding disciplinary action taken against Customs Service employees, Equal Opportunity complaints, denials of tort claims, denials of information under the Freedom of Information Act, and from other parties' information pertinent to the litigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3). (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .285

SYSTEM NAME:

Automated Index to Central Enforcement Files-Treasury/Customs.

SYSTEM LOCATION:

Office of Border Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Known violators of U.S. Customs laws. (2) Convicted violators of U.S. Customs and/or drug laws in the United States and foreign countries. (3) Suspected violators of U.S. Customs or other related laws. (4) Private yacht masters and pilots arriving in the U.S. (5) Individuals filing official U.S. Government forms 4790 (Currency and Monetary Instruments Reporting), 4789 (Currency Transaction Report), 90.22–1 (Foreign Banking Act Report).

CATEGORIES OF RECORDS IN THE SYSTEM:

A listing of Memoranda of Information Received, Reports of Investigations; Search/Arrest/Seizure Reports, Currency and Monetary Instrument Reports, Currency Transaction Reports, reports on Foreign Banking transactions, reports on Fines, Penalties, and Forfeitures, reports required by Private Aircraft Reporting System, reports required by the Private Yacht Reporting System, reports on vessel violations, Investigation Program Analyst (IPA) reports relating to an individual, various other correspondence (letter, memoranda, etc.), which relates to an individual in the Treasury Enforcement Communications System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Treasury Department Order No. 165, Revised, as amended. Authority for the collection and maintenance of the report included in the system is: 19 U.S.C. 1603; 19 U.S.C. 1431; 19 U.S.C. 1624; 19 U.S.C. 66; 31 CFR Part 103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to

opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc and tape, microfiche.

RETRIEVABILITY:

Name, personal identification numbers, Customs case number, document's central file number.

SAFEGUARDS:

(1) All Central Files users must have a full field background investigation. (2) The "need to know" principle applies. (3) Procedural and physical safeguards are utilized such as accountability and receipt records, guard patrolling restricted areas, alarm protection systems, special communication security. (4) Access is limited to all Office of Investigations terminals and all Law Enforcement Systems Division Headquarters and San Diego terminals.

RETENTION AND DISPOSAL:

Records will be maintained in the Automated Index to Central Enforcement files for as long as the associated document or microfiche is retained. Records will be destroyed by erasure of the magnetic disc and by burning or shredding the microfiche.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Border Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H), and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Customs .270

SYSTEM NAME:

Background-Record File of Non-Customs Employees-Treasury/Customs.

SYSTEM LOCATION:

Offices of District Directors, North Central Region, Chicago IL 60603, for addresses. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past non-Customs personnel requiring a background investigation to gain admittance to restricted U.S. Customs premises.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of background investigations, names, addresses, Social Security numbers and date and place of birth, etc. of non-Customs employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in file cabinets in each District Director's office within the North Central Region, Chicago, IL 60603.

RETRIEVABILITY:

Each file is identified by the name of the non-Customs employee.

SAFEGUARDS:

The file cabinets are maintained within the area assigned to the District Director. During nonworking hours the room and/or building in which the file cabinet is located is locked.

RETENTION AND DISPOSAL:

Employee name data is retained during the period the non-Customs employee requires admittance to restricted areas.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, as appropriate in the North Central Region, Chicago, IL 60603.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this file originates from the individual non-Customs employee working for a private contractor who requires admittance to restricted U.S. Customs premises, from reports of background investigation which include interviews of Customs personnel and private parties and from other Customs internal documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Customs .028

SYSTEM NAME:

Baggage Declaration-Treasury/Customs.

SYSTEM LOCATION:

Located at the District and Port Directors' offices in the Ogdensburg, New York district. (Northeast Boston).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons required to make a written baggage declaration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, items declared and value.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (e) To provide information to the news media in accordance with guidelines contained in 28 C.F.R. 50.2 which relate to an agency's functions relating to civil and criminal proceedings.(f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders in file cabinet.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Available to authorized Customs personnel only.

RETENTION AND DISPOSAL:

Free entry declarations are retained for three (3) years then destroyed. Dutiable declarations are retained for three years at the port, seven years at the Federal Record Center, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

District and Port Directors.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The individual who files the baggage declaration.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .067

SYSTEM NAME:

Bank Secrecy Act Reports File-Treasury/Customs.

SYSTEM LOCATION:

Computerized Records; U.S. Customs Service, Law Enforcement Center, 1301 Constitution Avenue, NW., Washington, D.C. 20229; Treasury Enforcement Communications System, San Diego, CA, with computer terminal access in various Customs and IRS regional offices. Originals: 4790's—Customs ports of entry or departure; 4789's—Internal Revenue Service, Ogden, UT; 90.22–1's—Customs Headquarters, Washington, D.C.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Listing of individuals who filed Form 4790 (Currency and Monetary Instrument Report), Form 4789 (Currency Transaction Report), and Form 90.22–1 (Foreign Banking Account Report).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individuals and other entities filing the above-referenced forms, reports of the owners of monetary instruments, the amounts and kinds of currency or other monetary instruments transported, reported, or in foreign banking accounts, accounts numbers, addresses, personal identifiers, dates of birth, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 5311 *et seq;* 31 CFR Part 103, 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relations to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes (original 4790's are stored at the appropriate Customs port of entry or departure, original 4789's are stored by IRS in Ogden, UT, and original 90 22–1's are stored at Customs Headquarters in Washington, D.C.).

RETRIEVABILITY:

By name and other unique identifiers.

SAFEGUARDS:

Procedural and physical safeguards are utilized such as accountability and receipt access, guards patrolling the area, restricted access and alarm protection systems, special communication security, etc.

RETENTION AND DISPOSAL:

Indefinte.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229

VOL 50 ISS 141 JL 23 1985 UMI

VOL 50 ISS 141 JL 23 1985 UMI

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual. (See 5 U.S.C. 552a (e)(4)(G) and (f)(1).)

RECORD ACCESS PROCEDURE:

This system of records may not be accessed under the Privacy Act for the Purpose of inspection.

CONTESTING RECORD PROCEDURES:

Since this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual and those records, if any, cannot be inspected, the system may not be accessed under the Privacy Act for the purpose of contesting the content of the record.

RECORD SOURCE CATEGORIES:

This system contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Customs .030

SYSTEM NAME:

Bankrupt Parties-in-Interest—Treasury/Customs.

SYSTEM LOCATION:

Regional Headquarters in Southwest Region, U.S. Customs Service, 500 Dallas Street, Suite 1280 Houston, TX 77002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals indebted to U.S. Customs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listed by name, address, port of service, bill number, and dollar amount of delinquent receivables.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 89–508, the "Federal Claims Collection Act of 1966;" 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (e) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cases are maintained in file folders at work site.

RETRIEVABILITY:

Alphabetical order by name.

SAFEGUARDS:

These cases are placed in locked cabinets during non-working hours. The building is guarded by uniformed security police.

RETENTION AND DISPOSAL:

As satisfaction is received, cases are closed. Records are maintained per Records Control Manual FIS–4 No. 124.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, 500 Dallas St., Suite 1265, Houston, TX 77002.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The source of information is obtained from individuals, bankruptcy courts, Customhouse brokers, and sureties.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .031

SYSTEM NAME:

Bills Issued Files—Treasury/Customs.

SYSTEM LOCATION:

Regional Commissioner of Customs, Suite 1501, 55 East Monroe, Street, Chicago, IL 60603.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom bills have been issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence received from or sent to individuals in relation to bills issued by the United States Customs Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (e) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual alphabetical file folders in file cabinet.

RETRIEVABILITY

Access by name of individual.

SAFEGUARDS:

The file cabinet is maintained in the offices of the Regional Commissioner, North Central Region, Chicago, IL. During non-working hours the room/building in which the file is located is locked. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Correspondence is maintained for a period of three (3) years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Commissioner of Customs, Room 1501, 55 East Monroe Street, Chicago, IL 60603.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information consists of copies of letters or memoranda issued to or received from individuals. Records of phone calls and copies of documents related to the individual's transaction.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .032

SYSTEM NAME:

Biographical Files (Headquarters)—Treasury/Customs.

SYSTEM LOCATION:

Public Information Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and the Regional Public Information offices located at the addresses listed in Customs Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

General biographical records are maintained on all Customs employees for new release and public information purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

General biographical information including home address, date and place of birth, educational background, work experience, honors and awards, hobbies, and other information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in file cabinets in the Public Information Division at Customs Headquarters.

RETRIEVABILITY:

File folders are identified by the name of the person and are filed in alphabetical order.

SAFEGUARDS:

The office in which the records are located is locked during non-working hours and the building is guarded by uniformed guards.

RETENTION AND DISPOSAL:

Files are retained during the individual's tenure as an employee of the Customs Service, after which the files are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Public Information Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The individual involved, Customs personnel officers and co-workers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .037

SYSTEM NAME:

Cargo Security File-Treasury/Customs.

SYSTEM LOCATION:

Special Agent in Charge, Room 350, Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, MI 48226; Special Agent in Charge, Room 210, 55 Erieview Plaza, Cleveland, OH 44114.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Longshoremen, Customs Bonded Warehouse employees, licensed Cartmen employees and other persons having access to cargo.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, place of employment, residence, criminal records, date of birth, Social Security numbers, photographs, descriptions and other identifying data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has

requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in loose-leaf binders and cross indexed index cards showing license numbers are kept in a metal box. They are kept in the communications room for rapid access.

RETRIEVABILITY:

Names of companies and individuals can be retrieved by checking the loose-leaf binders kept in an alphabetical listing. License plate numbers are listed in numerical sequence on index cards.

SAFEGUARDS:

The records are kept in a room within the office which is locked when not in use. Keys are available only to employees, and are not accessible to persons other than employees. Employees having access to the room have received a security background investigation and clearance. The offices are located in buildings with guards, and admittance is controlled by sign-in, sign-out sheets after regular hours.

RETENTION AND DISPOSAL:

Information remains in the system until no longer needed. The records are disposed of by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Special Agent In Charge, Room 350, Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, MI 48226; Special Agent in Charge, Room 210, 55 Erieview Plaza, Cleveland, OH 44114.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Customs .271

SYSTEM NAME:

Cargo Security Record System-Treasury/Customs.

SYSTEM LOCATION:

District Director, 600 South Street, New Orleans, LA 70130; District Director, P.O. Box 2748, Mobile, AL 36601.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Drivers of motor vehicles of licensed cartmen and lightermen; properties and operators of each class of Customs bonded warehouse and their employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record on drivers of motor vehicles contain information relating to personal statistical data, physical characteristics, history of past employments, previous five years residences, alias (if any), citizenship, military records, criminal record other than traffic violations, use of narcotic drugs, and photograph. Name of operator of bonded warehouse and employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder with Customs Form 3078, Customs Form 73, Photographs, and correspondence; For bonded warehouses, file folder contains Customs Form 3581 and names, addresses, and Social Security number of all employees; all stored in metal file cabinet. Alphabetical list of current I.D. cards issued on drivers retained in file folder and stored in desk drawer.

RETRIEVABILITY:

By individual name or corporate name.

SAFEGUARDS:

Unlocked metal file cabinet and desk drawer of customes employee; building secured after hours.

RETENTION AND DISPOSAL:

Information on drivers is retained an in active file until revoked or cancelled. After revocation or cancellation, the information folder is placed in an inactive file for a period of five years, after which time the records are disposed of in accordance with the General Services Administration Records Disposal Manual. Information on proprietor bonded warehouse operators and employees is retained on file until Customs bonded operations cease and are discontinued, then are maintained in an inactive file for a period of three years. Final disposition is in accordance with the GSA Records Disposal Manual.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, 600 South Street, New Orleans, LA 70130; District Director, P.O. Box 2748, Mobile, AL 36601.

NOTIFICATION PROCEDURES:

See Customs Appendix A.

RECORD ACCESS PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information is obtain from applicant (individual or corporation) and from reports of investigation on drivers obtained from Regional Director, Investigations, U.S. Customs Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act Pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .040

SYSTEM NAME:

Carrier File-Treasury/Customs.

SYSTEM LOCATION:

Located in the Office of the District Director, Terminal Island, San Pedro, CA; Office of the District Director, San Diego, CA; Offices of the Post Directors, Los Angeles International Airport, Los Angeles, CA; Room 130 U.S. Customhouse, Terrace and International Streets, Nogales, AZ, 85621; San Ysidro, CA; Tecate, CA; Calexico, CA; Andrade, CA; San Diego Barge Office; and the Offices of the Customs Patrol Division, San Diego CA; San Ysidro, CA; Calexico, CA; Tecate, CA; see Customs Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers or owners, employees, associates of Customs Bonded Carriers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, Social Security number, place of birth and other information relating to officers, Associates, employees, etc., of Bonded Carriers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended, and the Customs Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relates to an agency's functions relating to civil and criminal proceedings. (e) To provided information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folder in file cabinet.

RETRIEVABILITY:

Filed by name of company or individual.

SAFEGUARDS:

Building locked during non-working hours.

RETENTION AND DISPOSAL:

Records retained until obsolete, then destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, Port Directors, and Division Directors within the San Diego Customs District; District Director, Terminal Island, San Pedro, CA, and Port Director, Los Angeles International Airport, Los Angeles District; District Director, U.S. Customhouse, Nogales, AZ 85621. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Customs Bonded Carriers' employees and correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury Customs .041

SYSTEM NAME:

Cartmen or Lightermen-Treasury/Customs.

SYSTEM LOCATION:

Customs ports, districts, and regional offices. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms who have applied for or hold a license as a bonded cartman or lighterman and individuals employed by cartman or lightermen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Customs Service memoranda and related materials regarding applications for licenses and identification cards, reports of investigations for approving these licenses and identification cards and card files showing outstanding identification cards and their location. Files also include fingerprint cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies reponsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil,

VOL 50 ISS 141 JL 23 1985 UMI

criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained in a metal file cabinet in the office maintaining the system, or on magnetic disc.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name of the licensed cartman or lighterman and in the alphabetical file folder by the name of the licensed cartman or lighterman. Each employee's record is filed in a manual alphabetical card file cross-referenced with company names.

SAFEGUARDS:

The file is placed in a metal file cabinet at the work site. At locations where work is not performed on a 24-hour basis the work area is locked and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Files are reviewed at least once a year at which time cancelled I.D. cards may be removed. Closed CF 3078's may also be removed, but normally are held for approximately three years in case a new application is received from the same company or transferred to another company after a new investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Port Directors, District Directors, and Regional Commissioners of the U.S. Customs Service. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), e(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/Customs .042

SYSTEM NAME:

Case and Complaint File-Treasury/Customs.

SYSTEM LOCATION:

Office of the Regional Counsel, U.S. Customs Service, North Central Region, 55 E. Monroe Street, Room 1417, Chicago, IL 60603.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual initiating a court case or against whom a court case is brought; any individual involved in a personnel action, either initiating a grievance, discrimination complaint, or unfair labor practice complaint against the U.S. Customs Service or against whom a disciplinary or other adverse action is initiated; claimants or potential claimants under the Federal Tort Claim Act; individuals involved in accidents with U.S. Customs Service employees; U.S. Customs Service employees involved in accidents; persons seeking relief from fines, penalties and forfeitures and restoration of proceeds from the sale of seized and forfeited property; requesters under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The System contains the individual's name, the type of case, the uniform filing guide number, the Regional Counsel's office file number, by whom the matter was referred, the district where the action originated, if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each alphabetical card is inserted in a metal file drawer.

RETRIEVABILITY:

Each card is identified alphabetically by the individual's name described in Category of Individual and the filing is alphabetically used by last name.

SAFEGUARDS:

The metal filing drawer containing the alphabetical cards described above is maintained within the area assigned to the Office of the Regional Counsel, North Central Region at 55 E. Monroe Street, Chicago, IL 60603. During non-working hours, the room in which the metal filing drawer is located is locked and access to the building is controlled at all times by uniformed guards with a check-in system for employees. Only employees of the Regional Counsel's office and authorized building personnel have keys to the building.

RETENTION AND DISPOSAL:

These files are retained until there is no longer space available for them within the metal filing drawer at which time the oldest cards for closed files will be transferred to the storage area within the confines of the office. The storage area is a large area containing cardboard boxes and metal storage cabinets, unable to be locked.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Counsel of Customs, Room 1417, United States Customs Service, 55 E. Monroe Street, Chicago, IL 60603.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained on these cards originates with the initiation of any action by an individual which is channeled through the Regional Counsel's office. Additional information is identifying information for locating the particular case file relating to the court case, personnel action, tort claim, relief petition, or request under the Freedom of Information Act.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .043

SYSTEM NAME:

Case Files (Regional Counsel-South Central Region)—Treasury/Customs.

SYSTEM LOCATION:

The system is located at 1440 Canal Street, New Orleans, LA 70112, Office of the Regional Counsel, South Central Region, United States Customs Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) The first category of individuals on whom records are maintained in the system includes employees who have filed adverse actions, equal employment opportunity complaints, and grievances within the South Central Region; employees who have filed tort claims under the Military Personnel and Civilian Employees Act; employees of the Regional Counsel's staff with regard to travel, training, evaluations, and other related personnel records; and applications for employment submitted to the Office of the Regional Counsel by prospective employees; (2) The second category of individuals on whom records are maintained in the system includes those individuals not employed by the agency who have filed equal employment opportunity complaints; tort claims under the Federal Tort Claims Act; tort claims filed under the Small Claims Act; individuals who have outstanding Customs bills submitted for collection; individuals, corporations, partnerships, and proprietorships who have filed supplemental petitions on fines, penalties, and forfeitures within the South Central Region; files relating to individuals, corporations, partnerships, and proprietorships upon whom criminal case reports are prepared pending litigation and prosecution for violation of 19 U.S.C. 1305, 18 U.S.C. 542, 18 U.S.C. 545, 18 U.S.C. 549, 18 U.S.C. 1001, 18 U.S.C. 496, and 18 U.S.C. 371; on individuals, corporations, partnerships, and proprietorships who have filed supplemental petitions submitted in civil and technical violations for 19 U.S.C. 1592, 19 U.S.C. 1453, 19 U.S.C. 1448, 19 U.S.C. 1584, irregular deliveries, shortages and overages; and miscellaneous civil and technical violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained in the system are personnel actions; tort claims; collection efforts; supplemental petitions for fines, penalties, and forfeitures case in the South Central Region; criminal case reports for pending litigation and prosecution of cases in the South Central Region; supplemental petitions for civil and technical violations committed within the South Central Region; and employment applications for positions in the Office of the Regional Counsel, South Central Region.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are currently maintained in alphabetical file folders which are filed in two steel filing cabinets in the Office of the Regional Counsel, South Central Region, and they are maintained under lock and key outside the ordinary business hours.

RETRIEVABILITY:

Records maintained by the Office of the Regional Counsel, South Central Region, are retrievable by identifying the character of the record (i.e., adverse action, grievance, tort claim, criminal case), then by comparable statute or regulation, and then alphabetically by name and identifier. In addition, each case file is similarly identified on the alphabetical file folder within the steel filing cabinet.

SAFEGUARDS:

(a) The steel filing cabinets described above are maintained within the area assigned to the Office of the Regional Counsel, 1440 Canal Street, New Orleans, LA 70112. During non-working hours the room in which the locked steel cabinets are located is locked, and access to the building is controlled at all times by uniformed guards; (b) The policies and practices of the Office of the Regional Counsel regarding access controls are that only members of the staff of the Office of the Regional Counsel have access to the records maintained by the office.

RETENTION AND DISPOSAL:

Individual records are placed into a file of closed cases by category as stated above, and within each category by name. The oldest closed cases are forwarded to the Federal Records Center in accordance with the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The agency official responsible for the system of records maintained by the Office of the Regional Counsel is the Regional Counsel, South Central Region, United States Customs Service, 1440 Canal Street, New Orleans, LA 70112.

NOTIFICATION PROCEDURE:

See Appendix A.

RECORD SOURCE CATEGORIES:

The categories of sources of records in this system are the individual himself and files compiled by the United States Customs Services by using employers, other government agency resources, financial institutions, educational institutions attended, and previous employers. Additional information in these files is also derived from reports of investigation regarding the enforcement of civil or criminal statutes, administrative proceedings regarding disciplinary action taken against Customs Service employees, equal opportunity complaints, investigations of tort claims, the processing of inter-office memoranda information requested under the Freedom of Information Act, and the investigation regarding the collection of debts due the Government

VOL 50 ISS 141 JL 23 1985 UMI

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .044

SYSTEM NAME:

Certificates of Clearance—Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Northeast Region, Boston, MA who have transferred, retired or resigned.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documented detailed information on an "in-house" prepared form indicating that the employee has returned all Government property in his personal possession and that the employee has cleared all debts owing to Customs such as unearned uniform allowances and travel advances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored in file folders by District and name of employee in a metal file cabinet in the work area of the Payment Section.

RETRIEVABILITY:

The file is retrievable by District and name of employee.

SAFEGUARDS:

The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security policy and only authorized persons are permitted entry to the building.

RETENTION AND DISPOSAL:

The files are kept for 10 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in the system originates at the District where the individual is employed.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .045

SYSTEM NAME:

Claims Act File-Treasury/Customs.

SYSTEM LOCATION:

Office of the Regional Counsel, Room 7422, New Federal Building, 300 N. Los Angeles Street, Los Angeles, CA 90053.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Customs employees who have filed, or may file claims under the Military Personnel and Civilian Employees' Claim Act of 1964 for damage to or loss of personal property incident to their service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 240–243; 31 CFR Part 4; Treasury Department Administrative Circular No. 131, August 19, 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to any inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified alphabetically in the file folder within the metal container by the name of the person who has filed or may file a claim.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the New Federal Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest closed files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Counsel, Room 7422, New Federal Building, 300 N. Los Angeles Street, Los Angeles, CA 90053.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with a Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor. Where a claim is not filed, the information is limited to the investigative reports of damage to or loss of personal property of a Customs employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .046

SYSTEM NAME:

Claims Case File-Treasury/Customs.

SYSTEM LOCATION:

Office of Regional Commissioner of Customs, 100 Summer Street, Boston, MA 02110; Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105; Office of the Regional Counsel, Suite 1220, 500 Dallas Street, Houston, TX 77002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Parties who have filed claims for damage or injury against the Government, or against whom the Government has a claim for damage or injury in matters which affect or involve the U.S. Customs Service; private individuals or Government employees who are involved in the incident which gave rise to the claim.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports relative to the circumstances of the claim (including accident reports provided by Customs personnel, agents' investigative reports, correspondence between Customs and the claimant or his representative); reports relative to an individual's ability to pay a claim for damages.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Reorganization Plan No. 1 of 1950; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in file folders.

RETRIEVABILITY:

Records indexed by name of private individual making a claim or against whom a claim is made; cross-referenced file with name of Government employee, if any, involved.

SAFEGUARDS:

Open case files maintained in file cabinets with access by Regional Counsel and his staff only; closed case files maintained in locked cabinet with keys retained by Regional Counsel and staff only.

RETENTION AND DISPOSAL:

Retained until there is no longer any space available within metal cabinets, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Commissioner of Customs, 100 Summer Street, Boston, MA 02110; Regional Counsel, 211 Main Street, San Francisco, CA 94105; Regional Counsel, Suite 1220, U.S. Customs Service, 500 Dallas Street, Houston, TX 77002.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files is received from U.S. Customs employees, reports of investigation, credit checks, private individuals involved in the claims, other Governmemt agencies and other individuals with pertinent information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .049

SYSTEM NAME:

Claims (Receivable and Payable)—Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have presented claims for payments by Customs or one involved in debts due Customs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documented detailed information concerning the claims or debts involved in each case and related financial data on individuals involved in the debt or claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored in file folders maintained in a metal file cabinet under the physical security of the Chief, Accounting Branch of the Financial Management Division.

RETRIEVABILITY:

The file is retrieved by the name of the individual on subject matter.

SAFEGUARDS:

The files are located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

RETENTION AND DISPOSAL:

The files on unusual cases are kept as long as needed or reference; routine cases are destroyed.

VOL 50 ISS 141 JL 23 1985 UMI

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in the system is obtained from the Personnel Department and the Payroll Data Center.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .050

SYSTEM NAME:

Community Leader Survey-Treasury/Customs.

SYSTEM LOCATION:

Equal Employment Opportunity Officer, U.S. Customs Service, Southwest Region, 500 Dallas Street, Suite 1240, Houston, TX 77002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The names, titles, and organization of persons who may be construed to be occupying a community leadership role and who may be in a position to furnish information or have some influence in regard to the equal employment opportunity program area.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of a card index of the names, titles, and organization of community leaders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

An alphabetical card listing filed in a metal file cabinet.

RETRIEVABILITY:

Listed and filed alphabetically.

SAFEGUARDS:

The metal file cabinet described above is maintained within the area assigned to the Equal Employment Opportunity Officer. During non-working hours this office area is locked and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

To be useful, this information file must be kept current. Non-current files will be destroyed locally.

SYSTEM MANAGER(S) AND ADDRESS:

Equal Employment Opportunity Officer, U.S. Customs Service, Southwest Region, 500 Dallas Street, Suite 1240, Houston, TX 77002.

NOTIFICATION PROCEDURES:

See Customs Appendix A.

RECORD ACCESS PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information included in these files is developed from local agencies (city, county, state, and Federal) and from local civil organizations.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .051

SYSTEM NAME:

Complaints Against Customs Personnel—Treasury/Customs.

SYSTEM LOCATION:

Director, District Patrol Division, 600 South Street, New Orleans, LA 70130; Director, District Patrol Division, Room 213, International Trade Center, 250 N. Water Street, Mobile, AL 36602.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past employees of the Patrol Division and U.S. Customs Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters and official government memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Reorganization Plan No. 1 of 1950; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (e) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained in file folders and stored in locked metal cabinets.

RETRIEVABILITY:

File folders for this system are filed according to Customs filing code system.

SAFEGUARDS:

File is maintained in locked, metal file cabinet, the keys of which are controlled by the custodian of the files. Those departmental officials who may occasionally be granted access consistent with their positions have been cleared by a full field background investigation and granted appropriate security clearance for critical sensitive positions. During non-working hours, the room housing the metal cabinets is locked.

RETENTION AND DISPOSAL:

Complaints against Customs Personnel files are normally destroyed by shredding after one (1) year. If there are any pending complaints, the file may be kept until the case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, District Patrol Division, 600 South Street, New Orleans, LA 70130.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates from any Federal, state or local law enforcement agencies or individuals, from any private business or individuals who may have any complaints against Customs personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .053

SYSTEM NAME:

Confidential Source Identification File-Treasury/Customs.

SYSTEM LOCATION:

Components of this system are located in the Office of Investigations, U.S. Customs Service Headquarters, and the Office of Management Integrity, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and the offices of the Area Directors (Management Integrity) located in New York, Chicago, Los Angeles and Miami. Their addresses are as follows: 6 World Trade Center, Room 502, New York, NY 10048; 55 E. Monroe Street, Suite 1539, Chicago, IL 60603; 300 N. Los Angeles Street, Los Angeles, CA 90053; and 99 SE 5th Street, Miami, FL 33131.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (sources) supplying confidential information to the U.S. Customs Service, Office of Investigations and Office of Management Integrity.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains some or all of the following information: name (actual or assumed), source (identifying) number, date number assigned, address, citizenship, occupational information, date and place of birth, physical description, photograph, miscellaneous identifying number such as Social Security number, driver's license number, FBI number, passport number, Customs Form 4621 documenting information received from confidential source, amount and date of monetary payment made to source for information supplied, criminal record, copy of driver's license, and copy of alien registration care.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 1619; and 16 U.S.C. Chapter 27.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in locked cabinets. Access during working hours is limited to authorized personnel.

RETRIEVABILITY:

Office of Investigations and Office of Management Integrity—The name of each source is filed in both alphabetical order and by location of the submitting office.

SAFEGUARDS:

In addition to being stored in secure metal cabinets with government approved locks, the files are located in closely watched rooms of the Office of Investigations and the Office of Management Integrity. Headquarters, and in the four Area Director (Management Integrity) offices. Personnel maintaining the files are selected for their reliability, among other qualities, and afforded access only after having been cleared by a full field investigation. During non-working hours the rooms in which the records are located are locked and access to the building is controlled by uniformed security guards.

RETENTION AND DISPOSAL:

The Office of Investigations destroys a file when it no longer has any utility by either shredding or burning; the Office of Management Integrity reviews files annually for relevance and necessity, and when a file no longer has any utility, it is destroyed either by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW, Washington, D.C. 20229, for those components of the system maintained by the Office of Investigations; Director, Internal Security Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and Area Directors (Management Integrity) located in the four U.S. Customs areas for those components of the system maintained by the Office of Management Integrity.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Customs .054

SYSTEM NAME:

Confidential Statements of Employment and Financial Interests—Treasury/Customs.

SYSTEM LOCATION:

Located in the Regional office or Personnel Management Division, U.S. Customs Service, of each region and headquarters, according to Customs Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those employees as listed in Treasury Personnel Manual Chapter 735 Subpart C, Section 0.735–320, Customs Appendix A, and the currently effective edition of Customs Circular PER–2–PER (Subject: Personnel; Departmental Rules of Conduct and Requirements Concerning Financial Statement).

CATEGORIES OF RECORDS IN THE SYSTEM:

Form TD 3087, Confidential Statement of Employment and Financial Interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose

VOL 50 ISS 141 JL 23 1985 UMI

pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in locked safe.

RETENTION AND DISPOSAL:

Records are destroyed two (2) years after employee leaves a position in which a statement is required, or two (2) years after the employee leaves the agency, whichever is earlier.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229, or appropriate Regional Principal Field Officer.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Individuals required to submit Form TD 3087.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .056

SYSTEM NAME:

Congressional and Public Correspondence File—Treasury/Customs.

SYSTEM LOCATION:

Support Staff, Office of Inspection and Personnel Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those persons sending letters of inquiry or complaint concerning Customs activities and procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming correspondence, the agency's reply, and related materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence records are maintained in file folders and on cards.

RETRIEVABILITY:

Correspondence records are identified by the name of the person making inquiry or complaint. The cards are then filed alphabetically.

SAFEGUARDS:

Access to the records is granted only to authorized Customs personnel. During non-working hours the room in which the records are located in locked and access to the building is controlled by uniformed security police.

RETENTION AND DISPOSAL:

The records are maintained from two to five years and then destroyed or retired to the Federal Records Center as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Office Manager, Support Staff, Office of Inspection and Director, Personnel Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Correspondence and related records and materials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .057

SYSTEM NAME:

Container Station Operator Files—Treasury/Customs.

SYSTEM LOCATION:

Offices of District Directors, North Central Region, Chicago, IL (see Customs Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past container station operators and employees that require an investigation and related information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of investigations, application and approval or denial of bond to act as container station operator and other Customs Service memoranda. Names, addresses, Social Security numbers, and dates and places of birth of persons employed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Customs Regulations, Part 19.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information

to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in file cabinets in each District Director's office within the North Central Region, Chicago, IL.

RETRIEVABILITY:

Each file is identified by the name of the container station operator.

SAFEGUARDS:

The file cabinets are maintained within the area assigned to the District Director. During non-working hours, the room and/or building in which the file cabinet is located is locked.

RETENTION AND DISPOSAL:

These files are disposed of in accordance with the Treasury Records Control Manual. Employee name data retained for period of employment with container station operator.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, each district within the North Central Region, Chicago, IL. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this file originates from the individual applicant for container station operator bond, from reports of investigation and other Customs memoranda.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .058

SYSTEM NAME:

Cooperating Individual Files-Treasury/Customs.

SYSTEM LOCATION:

These files are located in regional and local Customs Patrol Offices within the United States. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons providing confidential information to the U.S. Customs Service Patrol Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include: assumed names; actual names; code numbers; addresses; telephone numbers; physical descriptions; miscellaneous identifying numbers such as Social Security numbers, driver's license number, etc., date individual's record was established; amount and date of reward paid for information supplied.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All files and indices relating to cooperating individuals are stored in metal file cabinets secured with combination locks in a government secured building.

RETRIEVABILITY:

The name of each coperating individual is filed in alphabetical order by assumed name and by actual name. The indices are maintained in the same alphabetical order and are also cross-referenced by the Patrol Division alpha numeric code number. All other identifying data is used for verification of identity rather than method of retrieval.

SAFEGUARDS:

In addition to being stored in secure metal cabinets with government approved locks, the metal files are kept locked when not in use and located in a closely watched room of the Patrol Division. Personnel maintaining the files are selected for their reliability among other qualities, and they are afforded access only after having been cleared by a full field investigation. The files are given the same treatment as material classified as Secret. During duty hours, Patrol Divison personnel maintain visual control and during off-duty hours the area containing the files is locked.

RETENTION AND DISPOSAL:

Retention periods have been established for records contained in the file in accordance with the Treasury Records Control Manual. When a file no longer has any utility, it is destroyed either by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Regional Patrol Director in Regional Customs Patrol Offices; the District Patrol Director in District Patrol Offices; and the Supervisory Customs Patrol Officer in suboffices of District Customs Patrol. (See Customs Appendix A.)

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .061

SYSTEM NAME:

Court Case File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Regional Counsel, Room 7422, New Federal Building, 300 N. Los Angeles Street, Los Angeles, CA 90053; Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105; Office of the Regional Counsel, U.S. Customs Service, North Central, Region, 55 E. Monroe Street, Room 1417, Chicago, IL 60603.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are parties in litigation with the United States Government or subunits or employees or officers thereof, in matters which affect or involve the United States Customs Service.

VOL 50 ISS 141 JL 23 1985 UMI

CATEGORIES OF RECORDS IN THE SYSTEM:

Court documents with exhibits, reports of investigations, Internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2676, 19 U.S.C. 1603, E.O. 6166. 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified by the name of the person against whom the Government has initiated the litigation, or by the name of the person who initiated the litigation against the Government.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Regional Counsel. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest closed files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Counsel, Room 7422, United States Customs Service, 300 N. Los Angeles Street, Los Angeles, CA 90053; Regional Counsel, U.S. Customs Service, 211 Main Street, San Francisco, CA 94105; Regional Counsel, Room 1417, U.S. Customs Service, 55 E. Monroe Street, Chicago, IL 60603.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with a request by a District Director to the appropriate United States Attorney that he institutes suitable judicial action to enforce the forfeiture of merchandise and vehicles, or the value thereof, which had been imported or used in violation of the Customs laws, and upon which final administration action has taken place. Information in this file also originates with the filing of a complaint by a private person against the Government, and by the filing of a complaint by the Government against private persons or former employees to enforce the collection of debts due the Government. Information in the files is also derived from reports of investigation regarding the enforcement of civil or criminal statutes and denial of tort claims.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .064

SYSTEM NAME:

Credit Card File—Treasury/Customs.

SYSTEM LOCATION:

Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Headquarters Customs Service Employees to whom national gasoline credit cards and Hertz/Avis automobile rental cards have been issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

Credit card numbers, names, and signatures of employees to whom credit cards have been issued, and the date of issuance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Alphabetically by name or by credit card number.

RETRIEVABILITY:

A portion of the index cards are identified by the name of the person to whom the credit card was issued in the case of credit cards which have been permanently assigned to higher level Customs Service officers and such index cards are filed alphabetically. The remainder of the index cards relate to credit cards which are issued to Customs Service officers or employees on a one-transaction basis, and these index cards are filed by the applicable credit card number.

SAFEGUARDS:

The metal cabinet in which the index cards are placed is locked, and the room in which the metal cabinet is located is locked during non-working hours. The building is guarded by uniformed security police, and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Index cards filed alphabetically by name are retained during the period that the officials named thereon are in possession of the credit cards, and these index cards are disposed of when the officials are no longer in possession of the credit cards. Index cards filed by credit card number are retained until all signature lines have been used, at which time these index cards are discarded.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Headquarters Support Branch, Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from Customs Service records and is also furnished by the officers or employees to whom the credit cards have been issued.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .272

SYSTEM NAME:

Currency Declaration File (IRS Form 4790)—Treasury/Customs

SYSTEM LOCATION:

One or more offices of District Directors of Customs or suboffices under the District Director's jurisdiction (for addresses of District Directors, see Customs Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals departing from or entering the country who filed IRS Form 4790.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, identifying number, birthdate, address, citizenship, visa date and place, immigration alien number, kinds and amounts of monetary instruments, address in the United States or abroad, passport number and country, and arrival or departure information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 1101; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Form 4790 is maintained in a file folder or binder in an open storage rack.

RETRIEVABILITY:

They are indexed and filed by name in the folder or binder.

SAFEGUARDS:

The office and building are locked during non-working hours.

RETENTION AND DISPOSAL:

The records are retained from one to five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors of Customs.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information on the IRS Form 4790 originates from the individual or Customs agent reporting the bringing in or taking out of currency or monetary instruments exceeding 5,000 dollars.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .287

SYSTEM NAME:

Customs Automated Licensing Information System (CALIS)-Treasury/Customs.

SYSTEM LOCATION:

ADP Branch, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms who have applied for or been granted licenses in the New York Region as customhouse brokers, or as bonded cartmen or lightermen, and officers, employees and associates of licensed customhouse brokers or licensed bonded cartmen or lightermen; individuals who have applied for or been granted approval to act as container station operators or bonded warehouse proprietors, firms which have applied for approval or been approved as container stations or bonded warehouses, and officers, employees and associates of approved container stations or approved bonded warehouses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security numbers, dates of birth, and other pertinent data extracted from Reports of Investigation, Regulatory Audit reports, Treasury Enforcement Communications System entries, and Search, Arrest, and Seizure Reports, information obtained from informants, reports from or to other law enforcement bodies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 1621; 19 CFR Part 111, 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 1561; 19 CFR Part 112; 19 CFR Part 19; 19 U.S.C. 1556.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To disclose information to foreign governments in accordance with formal or informal international agreements. (e) To provide information to a congressional office in response to an inquiry made at the request of the

VOL 50 ISS 141 JL 23 1985 UMI

individual to whom the record pertains. (f) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (g) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (h) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc.

RETRIEVABILITY:

Records can be retrieved by name or personal identification numbers and by employer's name and employer's identification numbers.

SAFEGUARDS:

Access to the office where records are maintained is controlled at all times. A password is required to gain access to records in the computer. The office where the records are maintained is locked during non-working hours. The records are available to those personnel in Operational Analysis and other appropriate Customs personnel on a "need to know" basis.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes, and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Operational Analysis Officer, U.S. Customs Service, 6 World Trade Center, Room 748, New York, NY 10048.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed under the Privacy Act for the purpose of inspection.

CONTESTING RECORD PROCEDURES:

Since this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual and those records, if any, cannot be inspected, the system may not be accessed under the Privacy Act for the purpose of contesting the content of the record.

RECORD SOURCE CATEGORIES:

This system contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Customs .069

SYSTEM NAME:

Customhouse Brokers File-Treasury/Customs.

SYSTEM LOCATION:

Office of the Chief Counsel, Entry, Licensing and Restricted Merchandise Branch, Entry Procedures and Penalties Division; U.S. Customs Service Headquarters, 1301 Constitution Avenue NW., Washington, D.C. 20229, and Customs regional, district and port offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Licensed customhouse brokers, employees of customhouse brokers, individuals or firms who have applied for a broker's license.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Customs Service memoranda and related material regarding proposed administrative disciplinary action against customhouse brokers for violation of the regulations governing the conduct of their business; broker applications and related material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 1641; 19 CFR Part 111; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container, or on magnetic disc.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name of the customhouse broker and in the alphabetical file folder within the metal container by the name of the customhouse broker.

SAFEGUARDS:

The files described above are maintained in Customs Service Buildings. During non-working hours the room in which the files are located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

Customhouse broker files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Record Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel; Director, Entry Procedures and Penalties Divisions, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229, Customs regional commissioners, district directors, and port directors.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS CATEGORIES:

The information contained in these files originates from audits of or investigations into the conduct of customhouse brokers' businesses, applications for licenses, references as to character, court records, and local credit reporting services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .077

SYSTEM NAME:

Disciplinary Action and Resulting Grievance or Appeal Case Files-Treasury/Customs.

SYSTEM LOCATION:

Located in the Personnel Management Division of each Region and Headquarters, and in District, Port, and appropriate post of duty offices. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees on whom disciplinary action is pending or has occurred.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on such action as leave restriction letters, reprimands, suspension, adverse actions, etc., and resulting grievance or appeal by employee. Copies of correspondence, management requests for assistance, evidentiary materials on which action is contemplated, proposed or taken, regulatory material, examiners' reports, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in manila folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in a locked file and stampled "For Official Use Only".

RETENTION AND DISPOSAL:

Records are maintained for five years and then transferred to Federal Records Center where they are maintained for fifteen years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, in each region and Headquarters, or appropriate managerial official in employee's district, port, or post of duty. (See Custom Appendix A.)

RECORD SOURCE CATEGORIES:

Supervisors and supervisory records and notes; evidentiary materials supporting planned, proposed, or accomplished actions; grievance letters submitted by employee, grievance examiner, etc.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .078

SYSTEM NAME:

Disclosure of Information File-Treasury/Customs.

SYSTEM LOCATION:

Office of Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, MD 21202; Office of the Regional Counsel, U.S. Customs Service, North Central Region, 55 E. Monroe Street, Room 1417, Chicago, IL 60603; Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting access to information pursuant to the Freedom of Information Act or any other statute, regulation, directive or policy to disclose such information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests, information, records, documents, internal Customs Service memoranda, or memoranda from other agencies and related materials regarding disclosure of the information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552, 31 CFR Part 1, 19 CFR Part 103, 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified in the file folder within the metal container by the name of the person requesting disclosure.

VOL 50 ISS 141 JL 23 1985 UMI

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the Customhouse. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

Customhouse broker files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, MD 21202; Regional Counsel, Room 1417, U.S. Customs Service, 55 E. Monroe Street, Chicago, IL 60603; Regional Counsel, 211 Main Street, San Francisco, CA 94105.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates from the requests for information filed with the Customs Service which may pertain to any information contained in the files of the U.S. Customs Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs 00.081

SYSTEM NAME:

Dock Passes-Treasury/Customs.

SYSTEM LOCATION:

District Director's office, U.S. Customs Service, 228 Federal Building, 335 Merchant Street, Honolulu, HI 96813.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consulate staff members, brokers, private individuals, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form lists following information: pass number; port; date of issue; name of individual; organizational affiliation; expiration date of pass; and vessel name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 x 5 card box loose leaf binder.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Building locked during non-working hours.

RETENTION AND DISPOSAL:

Retained until expiration.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, U.S. Customs Service, 228 Federal Building, 335 Merchant Street, Honolulu, HI 96813.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Individual applicants.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .277

SYSTEM NAME:

Drivers License File-Treasury/Customs.

SYSTEM LOCATION:

Logistics Management Division, U.S. Customs Service, 211 Main Street, San Francisco, CA 94105.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information furnished by employee before being issued a government drivers license. It may also include information from National Driver Register Service if they have any information on the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose to National Driver Register Service to determine whether they have any information on the individual which would concern the employee's suitability for receiving a government drivers license. (b) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained on Standard Form 47 (physical fitness inquiry for motor vehicle operators) and Treasury Form 2770 (application for motor vehicle operator's ID card and operator's record). These forms are kept in a desk file.

RETRIEVABILITY:

Each set of forms for a particular employee is numbered and those numbers are shown on an index sheet as pertaining to the particular employee.

SAFEGUARDS:

The desk in which the records are kept is within an office which is locked during non-working hours.

RETENTION AND DISPOSAL:

Forms are retained in this system in accordance with the requirements of the Treasury Records Control Manual. Forms of past employees who were issued drivers licenses are periodically destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Logistics Management Specialist, Logistics Management Division, U.S. Customs Service, 211 Main Street, San Francisco, CA 94105.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with, and consists solely of, information supplied by the applicants on forms SF-47 and form 2770. There is a possibility that in the future there will be a response from the National Driver Register Service on a particular applicant. At the present time there are none in this system of records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury Customs .278

SYSTEM NAME:

Early Implementation System (EIS)-Treasury/Customs.

SYSTEM LOCATION:

The Computer is located at 1301 Constitution Avenue, Washington, D.C. 20229. Computer terminals are located at Customhouses and ports throughout the United States and at U.S. Customs Headquarters, Washington, D.C. (For addresses of Customhouses, see Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Customs Service employees and individuals involved in the import trade.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system data base is comprised of commodity and merchandise processing information relating to Customs administration of trade laws. Certain portions contain no information about individuals. These are the Tariff Schedules of the United States Annotated (TSUSA) file, country file, criteria file for the selection of routine items, Team TSUSA file, district port file, and the entry master file. The following system files may contain information about U.S. Customs Services employees and/or individuals/companies involved in the import trade. (1) Authorized Terminals Users File: Contains randomly established five-digit identification codes and passwords assigned to Customs Service employees authorized to use the system. The file consists of the names and identification of all Customs Service employees using the remote terminals to input information into the system. It does not contain Social Security numbers. The degree of access to the system varies according to the users responsibilities in the system. (2) Importer/Broker/Consignee Bond File: Records consist of importer of record number, importer name, type of importation bond, expiration date, and surety code. The importer of record number is used as the method of accessing the file. The number is assigned by any one of three code formats according to availability and the following hierarchy. The first choice is the IRS Employer Identification Number (EIN). The vast majority of importers have the EIN because of the business necessity of it. The second alternative is the Social Security number (SSN). The third alternative is a Customs-assigned number. This file is referenced during entry processing to verify that the individual or company making entry is authorized to import and is properly bonded. (3) Broker File: A record consists of a three-digit Customs-assigned Customhouse broker number (non-SSN) and the broker name. The file is referenced during entry processing to validate the broker number and to prepare and distribute the Broker ID Performance Report to the individual or company concerned. The subject of the report is compliance with the entry filing requirements under the immediate delivery program. Information is disclosed only to the party-of-record. (4) Surety File: A record consists of a three-digit surety code (non-SSN) assigned by the Customs Accounting Division and the surety name. The file is referenced during entry processing to validate these surety codes. No information on surety company affairs is collected or disseminted in the system. (5) Liquidator File: A record consists of a Customs-assigned three-digit liquidator identification (non-SSN) and a Customs employee's name. The employee's liquidator code is input into the system as a means of maintaining quality control and an audit trial on entries liquidated. (6) Manufacturer File: The file contains only a three-digit manufacturer code number (non-SSN) and manufacturer name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 66, 1448, 1481, 1483, 1484, 1505, and 1624.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose to the Bureau of the Census by providing magnetic tapes containing foreign trade data. (b) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic Disc.

RETRIEVABILITY:

By identification codes and/or name.

SAFEGUARDS:

Access to computer area is controlled by a security pass arrangement and personnel not connected with the operation of the computer are prohibited from entering. The building security is protected by a uniformed guard. At the ports of processing, terminal rooms are under close supervision during working hours and locked after close of business. The system security officer issues a unique private five digit identification code to each authorized user. The codes are changed periodically to enhance security. All computer terminals are key-locked when not in use. Access to the Customers computer from other than system terminals is prohibited by hardware controls. Users must input a unique identification code during the terminal log-in procedure to gain access to the system. The identification code is not printed or displayed at the port of processing. The system validates the user ID by transaction type, thereby limiting a system user's access to information on a "need to know" basis. A listing of identification codes of authorized users can be printed only at the computer room site by request of the security officer.

RETENTION AND DISPOSAL:

Files are periodically up-dated to reflect changes, etc., and are disposed of

VOL 50 ISS 141 JL 23 1985 UMI

in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Business Systems Division, Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229, is responsible for all data maintained in the files.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The system data base is limited to data about individuals and/or companies incidental to the conduct of foreign trade and required by the Customs Service in administering the tariff laws and regulations of the United States. No information concerning any individual's or company's importation activity, bonds status, and compliance or noncompliance with Customs Regulations will be disclosed for non-authorized purposes to any person other than the party-of-record upon receipt of a written request.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .273

SYSTEM NAME:

Employee Debts-Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees involved in transfer within the Government for which the Government is pursuing collection for overpayment of travel expenses or overpayment for maintaining uniforms.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records reflecting the documents involved in the overpayment and correspondence with the employee involved and his representative.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored in a file folder located in a file cabinet under the physical security of the Operating Accountant.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

RETENTION AND DISPOSAL:

The file is retained until the debt is collected and then destroyed. Unusual cases are retained as a reference for similar type cases.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in the system originates from the employee, other Regions of Customs, and the Payment Section of the Financial Management Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .083

SYSTEM NAME:

Employee Relations Case Files—Treasury/Customs.

SYSTEM LOCATION:

Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records maintained on all individuals who have requested assistance in a problem, such as, Office of Workers' Compensation Programs (OWCP), leave, health and life insurance, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of correspondence. Copies of initiating correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in a locked file.

RETENTION AND DISPOSAL:

Maintained for period of time employee remains with Customs. Records destroyed upon separation of employee.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Individuals and offices depending on problem.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .090

SYSTEM NAME:

Equipment Record File—Treasury/Customs.

SYSTEM LOCATION:

Office of the District Director, United States Customs Service, 40 South Gay Street, Baltimore, MD 21202; Patrol Office, Room 15, 40 South Gay Street, Baltimore, MD 21202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees in the Baltimore District to whom equipment is assigned.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals and type and identifying numbers of equipment signed out (including non-expendable property, weapons etc.).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File cards and folders located in metal containers.

RETRIEVABILITY:

Cards are filed alphabetically by names of those to whom equipment is assigned.

SAFEGUARDS:

File cards and folders are located in unlocked metal containers. The building is guarded by uniformed security police who control access to the building.

RETENTION AND DISPOSAL:

Records are retained in accordance with the requirements of the Treasury Records Control Manual

SYSTEM MANAGER(S) AND ADDRESS:

Office of the District Director of Customs, 40 South Gay Street, Baltimore, MD 21202.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Property Officer and personnel to whom equipment is assigned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .092

SYSTEM NAME:

Exit Interview—Treasury/Customs.

SYSTEM LOCATION:

Personnel Management Division, in each Region and Headquarters. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees terminating from the Customs Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, position, time in grade and position, time with Customs, organization designation, supervisor's name and answers to various questions about employment with Customs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Forms are kept in manila folders.

RETRIEVABILITY:

By organization or by name.

SAFEGUARDS:

Locked office.

RETENTION AND DISPOSAL:

Retained in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division. (See location above.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information obtained from departing employee and Employee's supervisor.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

VOL 50 ISS 141 JL 23 1985 UMI

Treasury/Customs 00.093

SYSTEM NAME:

Federal & New York State licenses for commercial importation of alcoholic beverages—Treasury/Customs.

SYSTEM LOCATION:

Area Director, New York Seaport Area, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All companies and individuals who have filed import licenses for alcoholic beverages with this office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Licenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File cabinets.

RETRIEVABILITY:

Alphabetical listing.

SAFEGUARDS:

Office locked at end of day.

RETENTION AND DISPOSAL:

Retained in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Commissioner (Area Director, New York Seaport Area).

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Individuals who have applied for an alcoholic beverage license.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .096

SYSTEM NAME:

Fines, Penalties and Forfeiture Control and Information Retrieval System—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Office of Regulations and Rulings, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and businesses who have been fined, penalized or have forfeited merchandise because of violations of Customs and/or related laws or breaches of bond conditions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals and business names, address, personal identifying numbers, date and type of violation, parties entitled to legal notice or who are legally liable, case information, bond and petition information, and actions (administrative) taken by U.S. Customs. Also included are actions taken by violator prior to the disposition of the penalty or liquidated damage case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Magnetic disc and tape, (2) Hard copy Customs Form 5955a (Notice of Liquidated Damages Incurred and Demand for Payment) and Customs Form 151 Search/Arrest/Seizure Report.

RETRIEVABILITY:

Individual's name or case number.

SAFEGUARDS:

All inquiries are made by officers with a full field background investigation on a "need to know" basis only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

RETENTION AND DISPOSAL:

A maximum of 10 years. Erasure of disc/tapes and shredding and/or burning of hard copy customs form 5955a.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Customs Form 5955a (Notice of Penalty or liquidated Damages Incurred and Demand for Payment) and CF 151 (Search/Arrest/Seizure Report) prepared by Customs Employees at the time and place where the violation has occurred.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .098

SYSTEM NAME:

Fines, Penalties and Forfeitures Records-Treasury/Customs.

SYSTEM LOCATION:

Customs district offices. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms who have been administratively charged with violations of Customs laws and regulations and other laws and regulations enforced by the Customs Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Entry documentation, notices, investigative reports, memoranda, petitions, recommendations, referrals and dispositions of fines, penalties and forfeiture cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended. 19 U.S.C. 66, 1618, 1624; 19 CFR Parts 171 and 172.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counselor witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (c) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in folders in file cabinets and safes.

RETRIEVABILITY:

The records are filed either by the name of the individual or chronologically with a cross reference index by the name of the individual.

SAFEGUARDS:

During non-working hours, the records are maintained in locked rooms, locked buildings and buildings guarded by uniform guards.

RETENTION AND DISPOSAL:

The records are retained for three to five years after which they are either destroyed or forwarded to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors of Customs (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information and representations supplied by importers, brokers and other agents pursuant to the entry and processing of merchandise or in the clearing of individuals or baggage through Customs. Information also includes information gathered pursuant to Customs investigations of suspected or actual violations of Customs and related laws and regulations and recommendations and information supplied by other agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .099

SYSTEM NAME:

Fines, Penalties, and Forfeiture Files (Supplemental Petitions)—Treasury/Customs.

SYSTEM LOCATION:

Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105; Office of the Regional Counsel, Room 7422, New Federal Building, 300 North Los Angeles Street, Los Angeles, CA, 90053; Office of the Regional Counsel, U.S. Customs Service, North Central Region, 55 E. Monroe Street, Room 1417, Chicago, IL 60603.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed supplemental petitions for relief from fines, penalties and forfeitures assessed for violations of the laws and regulations administered by Customs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Petitions and supplemental petitions and other documents filed by the individual; reports of investigation concerning the fine, penalty or forfeiture; and documents relating to the internal review and consideration of the request for relief and decision thereon.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Reorganization Plan No. 1 of 1965. 19 U.S.C. 1618; 19 CFR Parts 171 and 172.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclosure to the Department of Justice or an individual United States Attorney to assist that Department or United States Attorney when suit is filed by the Government in civil prosecution of the fine, penalty or forfeiture; (b) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal file cabinet.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name of the petitioner and in the alphabetical file folder within the metal file cabinet by the name of the petitioner.

VOL 50 ISS 141 JL 23 1985 UMI

SAFEGUARDS:

The metal file cabinet described above is maintained within the area assigned to the Office of the Regional Counsel within the Federal Building. During non-working hours the room in which the metal file cabinet is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

Supplemental petition files are retained until there is no longer any space available for them within the metal file cabinet, at which time the oldest files may be transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Counsel, 211 Main Street, San Francisco, CA 94105; Regional Counsel, Room 7422, U.S. Customs Service, 300 N. Los Angeles Street, Los Angeles, CA 90053; Regional Counsel, Room 1417, U.S. Customs Service, 55 East Monroe Street, Chicago, IL 60603.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information contained in these files is obtained from the individual petitioning for relief and from the District Director of Customs within whose jurisdiction the fine, penalty or forfeiture action lies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a, (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs 00.100

SYSTEM NAME:

Fines, Penalties and Forfeiture Records (Headquarters)—Treasury/Customs.

SYSTEM LOCATION:

Penalties Branch, Entry Procedures and Penalties Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on persons who have been administratively charged with violating Customs and related laws and regulations and on persons who have applied for awards of compensation for providing information regarding such violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Entry documentation, notices, investigative and other reports, memoranda of information received, petitions, recommendations, referrals and dispositions of fines, penalties and forfeiture cases and applications for awards of compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 66, 1618, 1624; 19 CFR Parts 171 and 172.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are kept in file cabinets in the central file room of the Entry Procedures and Penalties Division at U.S. Customs Service Headquarters.

RETRIEVABILITY:

The records are filed chronologically with a case number given to each file. The records are retrievable by means of an alphabetical card index system by names of individuals charged with a violation.

SAFEGUARDS:

The records are maintained in the U.S. Customs Service Headquarters building which is guarded by security police. During non-working hours, the central file room is locked and the building is guarded by security police.

RETENTION AND DISPOSAL:

The records are generally retained for five years after closing of the case. The records are then forwarded to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Penalties Branch, Entry Procedures and Penalties Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information and representations supplied by importers, brokers and other agents pursuant to the entry and processing of merchandise or in the clearing of individuals or baggage through Customs. Information also includes information gathered pursuant to Customs investigations of suspected or actual violations of Customs and related laws and regulations and recommendations and information supplied by other agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .105

SYSTEM NAME:

Former Employees-Treasury/Customs.

SYSTEM LOCATION:

Laboratory Division, Room 1508, 630 Sansome Street, San Francisco, CA 94111.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All past employees of the Customs Laboratory.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains copies of personnel action notices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in a metal file cabinet.

RETRIEVABILITY:

The record is filed alphabetically by name.

SAFEGUARDS:

The file is stored in a metal file cabinet in a private inner office of a government building protected by 24-hour guard service with limited access. The file is only used on a "need to know" basis and only by the laboratory employees.

RETENTION AND DISPOSAL:

Retained in accordance with the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Laboratory Division, U.S. Customs Service, 630 Sansome Street, Room 1508, San Francisco, CA 94111.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information contained in personnel action files.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .109

SYSTEM NAME:

Handicapped Employee File—Treasury/Customs.

SYSTEM LOCATION:

Personnel Management Division, Regional Commissioner of Customs, 55 East Monroe Street, Suite 1501, Chicago, IL 60603

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees identified as handicapped.

CATEGORIES OF RECORDS IN THE SYSTEM:

Indicates employee's home and organizational location and various physical and mental handicaps, infirmities and conditions. Also shows veteran's preference

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

List.

RETRIEVABILITY:

Lists employees alphabetically by district.

SAFEGUARDS:

None at present and none required.

RETENTION AND DISPOSAL:

Employee's name removed from list at time of termination.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Date furnished by employee and employee's physician.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .112

SYSTEM NAME:

Immediate Delivery Violation Record—Treasury/Customs.

SYSTEM LOCATION:

Fines, Penalties and Forfeiture Section, Room 102, United States Customhouse, 2nd and Chestnut Streets, Philadelphia, PA 19106.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons qualified to obtain release of imported merchandise under the immediate delivery privilege.

CATEGORIES OF RECORDS IN THE SYSTEM:

The record reveals the individuals' or Customhouse broker's name, case number assigned and date, amount of penalty incurred, mitigated sum or remission and date closed. The record results in a summary of repetitive violations by anyone individual, firm, or Customhouse broker and disciplinary action toward reduction or elimination of violations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301: Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at

VOL 50 ISS 141 JL 23 1985 UMI

the request of the individual to whom the record pertains. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Immediate Delivery Record Cards are filed alphabetically in an unlocked metal file cabinet.

RETRIEVABILITY:

Each record card is filed alphabetically within the metal cabinet.

SAFEGUARDS:

The metal cabinet described above is maintained within the area assigened to the Fine, Penalties and Forfeiture section in Room 102 of the Customhouse, Philadelphia, PA; during non-working hours, access to the building and area of storage is controlled by uniformed guards.

RETENTION AND DISPOSAL:

Immediate Delivery Record cards are retained at location three (3) years; then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

District Director of Customs, Room 102, U.S. Customhouse, 2nd and Chestnut Street's Philadelphia, PA 19106.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained on these cards originates from liquidated damage cases instituted for failure to timely file entries and pay duty.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .274

SYSTEM NAME:

Importer, Brokers, Carriers, Individuals and Sureties Master Files-Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, 99 S.E. 5th Street, Miami, FL 33131.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Brokers, Importers, Individuals, Carriers, and Sureties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of correspondence incoming and outgoing, copies of bonds, entries, bills, data center listings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in an unlocked drawer within a metal file cabinet.

RETRIEVABILITY:

Alphabetical by name appearing on correspondence.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Financial Management, 99 S.E. 5th Street, Miami, FL 33131.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Correspondence, Customs Service Data Center, Districts and Ports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .122

SYSTEM NAME:

Information Received File-Treasury/Customs.

SYSTEM LOCATION:

District Patrol Division, Room 200, United States Customhouse, La Marina, Old San Juan, PR 00901; Office of the Director, Regional Patrol, 600 S. Street, New Orleans, LA 70130; Office of the District Director, 880 Front Street, San Diego, CA 92318; Offices of the Port Directors, San Ysidro, CA., Tecate, CA., Calexico, CA., Andrade, CA; San Diego Barge Office, Offices of the Customs Patrol Division, San Diego, CA., San Ysidro, CA., Calexico, CA., Tecate, CA; Los Angeles Region. Office of the Director, District Patrol, 600 S. Street, New Orleans, LA 70130; Director, District Patrol Division, Room 213, International Trade Center, 250 N. Water Street, Mobile, AL 36602; U.S. Customs Air Support Branch, Patrol Division PM-TUM, Homestead Air Force Base, Homestead, FL 33030; Intelligence Support Staff (Pacific Region), Room 7514, 300 N. Los Angeles Street, Los Angeles, CA 90053; District Patrol, 300 Ferry Street, Terminal Island, San Pedro, CA 90731; District Patrol, International and Terrace Streets, P.O. Box 670, Nogales, AZ 85621; Customs Patrol, Room 7N-FB-05, 301 W. Congress, Tucson, AZ 85701.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons in whom Customs and/or other government agencies are interested from a law-enforcement and/or security point of view.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, alias, date of birth or age, personal data, addresses, home and business telephone number, occupation, background information, associations, license number and registration number of vehicle, vessel and/or aircraft, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where

the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information petinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are kept in a locked metal cabinet.

RETRIEVABILITY:

Records are filed within a metal file.

SAFEGUARDS:

The files are located within an office that is locked during non-working hours. The building is guarded by uniformed Customs guards, and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Files are retained for a period of three (3) years after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, District Patrol Division, United States Custom Service, Room 200, La Marina, Old San Juan, PR 00901; Director, District Patrol Division, 600 S. Street, New Orleans, LA 70130; Chief, Air Support Branch, U.S. Customs Service, Patrol Division, PM-TUM, Homestead Air Force Base, Homestead, FL 33030; Director, Regional Patrol, 600 S. Street, New Orleans, LA 70130; District Director, Port Directors, and Division Directors within the San Diego Customs District: Intelligence Support Staff (Pacific Region), Room 7514, 300 N. Los Angeles Street, Los Angeles, CA 90053; District Patrol, 300 Ferry Street, Terminal Island, San Pedro, CA 90731; District Patrol, International and Terrace Streets, P.O. Box 670, Nogales, AZ 85621; Customs Patrol, Room 7N-FB-05, 301 W. Congress, Tucson, AZ 85701 (see Customs Appendix A).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .123

SYSTEM NAME:

Injury Notice—Treasury/Customs.

SYSTEM LOCATION:

Each Logistics Management Division in each regional Headquarter Office (see Customs Appendix A for addresses) and all offices of the District Director, North Central Region, Chicago, IL.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who sustain an injury in performance of duty as an employee of U.S. Customs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, home address, organization, place of injury, date and hour of injury, dependents, occupation, cause of injury, nature of injury, statement of witness, supervisor's report of injury.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 19 and 24 of the Occupational Safety and Health Act of 1970; 84 Statute 1609, 1614, 29 U.S.C. 668, 673 and the provisions of Executive Order 11807.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose to the Department of Labor for that agency's official use. (b) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (c) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained on CA forms. The CA forms are filed in a loose leaf, alphabetical binder and placed in a metal file container.

RETRIEVABILITY:

Each CA form is identified by the name of the injured employee and filed alphabetically in a binder.

SAFEGUARDS:

The binder is placed within a metal file container located within an office that is locked during non-working hours. The building is guarded by uniformed security personnel and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Notice of injury reports are maintained in the employee's OPF and disposed of in accordance with the Treasury Records Control Manual. Copies maintained by the systems manager are maintained at location for two years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Each Director, Logistics Management Division, in each Customs Regional Headquarters (see Appendix A for address), each District Safety Officer, North Central Region, Chicago, IL (see Customs Appendix A for addresses of District Directors).

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with and consists solely of information supplied by the injured employee, his supervisor, appropriate witness and attending physician on CA forms.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .125

SYSTEM NAME:

Intelligence Log—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Air Support Branch, Patrol Division, PM-TUM, Homestead Air Force Base, Homestead, FL 33030.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are believed to be involved in activities which constitute.

VOL 50 ISS 141 JL 23 1985 UMI

or may develop into, possible violation of Customs and related laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Customs Service memoranda and related materials regarding the activities of individuals, vessels, or aircraft believed to be involved in acts which are contrary to Customs and related laws.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The intelligence log is maintained within a security area.

RETRIEVABILITY:

A manual, master card index, is maintained for the entire system. This index includes name and/or numerical identifier.

SAFEGUARDS:

The information files and master card index are located within an office which is locked during non-working hours. The building is guarded by U.S. Air Force Military Police and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

These files are retained until such time that it has been determined that there is no longer a need for their existence, at which time the oldest files are destroyed under Customs supervision.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Air Support Branch, Patrol Division, U.S. Customs, PM-TUM, Homestead Air Force Base, Homestead, FL 33030.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/Customs .127

SYSTEM NAME:

Internal Security Records System-Treasury/Customs.

SYSTEM LOCATION:

Internal Security Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229; Tort Claim Investigation Files, Information relating to investigations, and index card files at each Office of Management Integrity Office. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past employees, applicants for positions that require an investigation, and others that are principals or others in an investigation, or integrity issue.

CATEGORIES OF RECORDS IN THE SYSTEM:

Security clearance records; background, tort claim, integrity investigation and related information and other Customs related investigations including individuals involved in accidents under investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (e) To provide information to the news media in accordance with guidelines contained in 28 C.F.R. 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Investigative records are maintained on microfiche and in file folders and stored in metal security cabinets secured by government approved three-position, combination locks. Security clearance records are stored on magnetic tape with a manual back-up system.

RETRIEVABILITY:

A manual, master card index is maintained for the entire system. This index includes name and/or numerical identifier.

SAFEGUARDS:

In addition to being stored in secure metal containers with government approved, combination locks, the metal containers are located in locked rooms, the keys of which are controlled and issued to the custodians of the files. The security specialists and administrative personnel who maintain the files are

selected for their experience and afforded access only after having been cleared by a full field background investigation and granted appropriate security clearances for critical sensitive positions. Those departmental officials who may occasionally be granted access consistent with their positions to employ and concur in the granting of security clearances have also been investigated prior to filling critical-sensitive positions.

RETENTION AND DISPOSAL:

With exception of tort claim investigations, the file records are maintained as long as the subject of the investigation is employed by the U.S. Customs Service and for one (1) year after the subject terminates employment. The files are then transferred to the Federal Records Center. Tort Claim investigations are retained for five (5) years after the close of the investigation and then destroyed. Once files are transferred, they are retained for the following periods of time by the Federal Records Center and then destroyed: Background investigations—25 years, Conduct and special inquiry investigations—15 years, & Equal Employment Opportunity investigations—10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Internal Security, U.S. Customs Service Headquarters, 1301 Constitution Avenue NW., Washington, D.C. 20229.

RECORD SOURCE CATEGORIES:

Sources of information are: Employers; educational institutions; police; government agencies; credit bureaus; references; neighborhood checks; confidential sources; medical sources; personal interviews; military, financial, citizenship, birth and tax records; and the applicants or employee's personal history and application forms.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H), and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(2) and (k)(5).

Treasury/Customs .128

SYSTEM NAME:

Investigations Program Analysis—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Office of Investigations, 1301 Constitution Avenue, NW., Washington, D.C. 20229; 1719 West End Building, Room 303, Nashville, TN 37203.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents assigned to Office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of cases assigned to individual agent showing date assigned, status, date closed, time spent on case, arrests, dispositions of arrests, seizures, penalties, and recoveries, if any. An inventory of types of cases handled by an agent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is contained in a printout.

RETRIEVABILITY:

Information is retrieved from the printout by case number, name of agent, and date by month and year.

SAFEGUARDS:

During non-working hours the room in which the above described printouts are located is locked.

RETENTION AND DISPOSAL:

The files are disposed of in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information furnished by Customs Special Agents.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .129

SYSTEM NAME:

Investigations Record System—Treasury/Customs.

SYSTEM LOCATION:

All Office of Investigations offices located within each Customs Service Region in the United States and within each Office of Investigations office located in a foreign country. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on individuals who may bear some necessary relevance to investigations conducted within the scope of authority of the Office of Investigations, United States Customs Service. The categories include but are not limited to: (1) Known violators of U.S. Customs laws. (2) Convicted violators of U.S. Customs and/or drug laws in the U.S. and foreign countries. (3) Fugitives with outstanding warrants, Federal or State. (4) Suspect violators of U.S. Customs or other related laws. (5) Victims of violations of the U.S. Customs or related laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

The subject records may contain any identifying or other relevant information on subject individuals which might relate to the following categories of investigations: Smuggling Investigations Branch—Smuggling, Diamonds & Jewelry; Smuggling, Liquor; Smuggling, Narcotics; Smuggling, All Other; Prohibited Importations; Navigation, Airplane and Vehicle Violations; Neutrality Violations; Illegal Exports. Regulatory Investigations Branch—Baggage Declaration Violations; Customhouse Brokers and Customs Attorneys; Applications for Licenses; Theft, Loss, Damage and Shortage; Irregular Deliveries; All Other Criminal Cases; Currency Violations. Special Investigations Branch—Organized Crime; Personnel Derelictions; Other Departments, Bureaus and Agencies; Federal Tort Claims; Personnel Background Investigations. Technical Investigations Branch—Undervaluation and False Invoicing; Petitions for Relief; Verification Investigations Branch—Drawback; Marking of Merchandise; Customs Bonds; Customs Procedures;

VOL 50 ISS 141 JL 23 1985 UMI

Collections of Duties and Penalties; Trademarks and Copyrights; Foreign Repairs to Vessels and Aircraft. Foreign Investigations Branch: Classification; Market Value: Dumping; Countervailing Duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 2072; Title 19, United States Code; Title 18, United States Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in both hard copy files and on microfiche which are placed in locked metal containers.

RETRIEVABILITY:

The record system is indexed on 3 × 5 file cards by the individual's name and/or identification number and by the investigative case numbers to which the information relates. The hard copy and microfiche records are retrieved by means of the investigative case numbers.

SAFEGUARDS:

All records are held in steel cabinets and are maintained according to the requirements of the United States Customs Records Manual and the United States Customs Security Manual. Access is limited by visual controls and/or a lock system. During normal working hours, files are either attended by responsible Office of Investigations employees or the file area is restricted. The office in which the records are located is locked during non-working hours and the building is patrolled by uniformed security guards.

RETENTION AND DISPOSAL:

The index cards, the hard copies and microfiche records are retained in accordance with standard Customs Service record retention and disposal procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW, Washington, D.C. 20229.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Customs .130

SYSTEM NAME:

Investigative Program Analysis—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Office of Investigations, 1301 Constitution Avenue, NW, Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Customs Special Agents and Operations Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case assignment information such as case number, case hours, court hours, case description and disposition, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Magnetic tape. (2) Manual files maintained by the Office of Investigations field officer.

RETRIEVABILITY:

By name and Social Security Number of subject Customs Officer.

SAFEGUARDS:

On a "need-to-know" basis to Office of Investigations personnel only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communication security, etc.

RETENTION AND DISPOSAL:

The records are disposed of in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Supervisory Customs Special Agents when making case assignments to Special Agents or Operations Officers on foreign assignments.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .133

SYSTEM NAME:

Justice Department Case File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Regional Counsel, Northeast Region, 100 Summer Street, Boston, MA 02110; Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Ave., NW., Washington, D.C., 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are parties in litigation with the United States Government or subunits or employees or officers thereof, in matters which affect or involve the United States Customs Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Litigation report requests and responses thereto, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 507; 19 U.S.C. 1603; E.O. 6166; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose to the Department of Justice or directly to United States Attorneys upon request to assist in representing the interests of the Government, the agency or officer or employee involved in the litigation, or to other agencies involved in the same or similar litigation. (b) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified in the file folder within the metal container.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Counsel. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

The files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Counsel, Northeast Region, 100 Summer Street, Boston, MA 02110; Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C., 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with the request from the Department of Justice or directly from a United States Attorney or other Government agency or officer which results in a communication regarding the particular case. Information in this file is also derived from reports of investigation regarding the enforcement of civil or criminal statutes or regulations, administrative proceedings or any matter affecting or involving the United States Customs Service or its officers or employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .136

SYSTEM NAME:

Liquidated Damage Cases; Prior Violators—Treaury/Customs.

SYSTEM LOCATION:

Office of the District Director, Fines and Penalties Office, U.S. Customs Service, 2 India Street, Boston, MA 02109, and Office of the District Director, Fines and Penalties Office, U.S. Customs Service, P.O. Box 111, St. Albans, VT 05478.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prior violators of Customs Laws: e.g. Customhouse brokers, individual TIB violators, liquidated damage cases only.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number, type of violation and frequency of past violations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

VOL 50 ISS 141 JL 23 1985 UMI

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on 3 x 5 index cards and in file folders.

RETRIEVABILITY:

Alphabetically; by name.

SAFEGUARDS:

In locked file cabinet when not in use.

RETENTION AND DISPOSAL:

Boston District files are kept for two years and then destroyed on site. St. Albans District files are kept for five (5) years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Fines and Penalties Officer, U.S. Customhouse, Boston, MA 02109. Fines and Penalties Officer, Post Office and Customhouse Building, St. Albans, VT 05478.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information is received from the individual at the time the violation occurs and from penalty notices which are issued in the Penalties section. Also, the Office of Investigations provides any information developed during its investigation.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .137

SYSTEM NAME:

List of Vessel Agents Employees—Treasury/U.S. Customs.

SYSTEM LOCATION:

Offices of District Directors, North Central Region, Chicago, IL (see Customs Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons employed by Vessel agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security numbers, and dates and places of birth of persons employed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Open file.

RETRIEVABILITY:

Alphabetical listing of employees by vessel agent name.

SAFEGUARDS:

The file described is maintained in the Offices of the District Directors in North Central Region, Chicago, IL. During non-working hours the room/building in which the file is located is locked. Access limited to authorized Customs personnel.

RETENTION AND DISPOSAL:

Employee name retained for period of employment with vessel agent agency.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, as appropriate, in North Central Region, Chicago, IL (see Location above).

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Submission of data by importing carrier or his agent.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .138

SYSTEM NAME:

Litigation Issue Files-Treasury/Customs.

SYSTEM LOCATION:

Office of Assistant Chief Counsel, Customs Court Litigation, Second Floor, 26 Federal Plaza, New York, NY 10007.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Parties in litigation before the United States Customs Court (or subunits or employees or officers thereof), and other individuals with knowledge of the issues in controversy, e.g., trade witnesses, foreign or domestic manufacturers, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Litigation report requests and responses thereto, reports of investigations, Internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 1514–1516; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose to the Department of Justice upon request to assist that Department in representing the interests of the Government, or agency involved in the litigation. (b) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each issue file is inserted in a numerical file folder (according to issue) which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each issue filed is cross-indexed in the following card files: (a) By name of party-plaintiff; (b) by issue; and, (c) by titles of decided cases.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Assistant Chief Counsel within the Federal Building. At all times the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Record Center.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel, Customs Court Litigation, Second Floor, 26 Federal Plaza, New York, NY 10007.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with the receipt of protest reports (based on information supplied by the subject individuals or by their authorized agents or attorneys) from the various Districts and/or litigation report requests from the Department of Justice which result in a written report to that Department regarding the facts of the particular case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .140

SYSTEM NAME:

Lookout Notice-Treasury/Customs.

SYSTEM LOCATION:

Lookout files are maintained in Offices of the District and Port Directors and the District and Local offices of the Patrol Division. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Suspected violators of laws enforced by Customs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, height, weight, and any other information available on the individual at the time the notice is instituted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The notice is printed on regular paper and then copied and stored within a file box.

RETRIEVABILITY:

Alphabetically, by name.

SAFEGUARDS:

Stored in locked filing cabinet and access is limited to administrative personnel.

RETENTION AND DISPOSAL:

Retained for two years and then destroyed on site.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Comissioner of Customs, Regional Director of Investigations, Regional Patrol Director at appropriate Region. (See Customs Appendix A.)

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .144

SYSTEM NAME:

Mail Protest File-Treasury/Customs.

SYSTEM LOCATION:

Foreign Mail Branch, 2200 NW. 72 Avenue, Miami, FL 33166; District Director of Customs: 3180 Bladensburg Rd., NE., Washington, D.C. 20018; 620 East 10th Avenue, Anchorage, AK 99501; 215 1st Avenue North, Great Falls, MT 59401; 335 Merchant, Honolulu, HI 96813; 511 NW. Broadway, Portland, OR 97209; 555 Battery Street, San Francisco, CA 94126; 909 First Avenue, Seattle, WA 98714.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed formal protest of the amount of duty assessed against mail parcels.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, invoices, and other pertinent documents pertaining to protests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

VOL 50 ISS 141 JL 23 1985 UMI

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in file folders within a metal file cabinet.

RETRIEVABILITY:

Records are retrievable by name or protest number.

SAFEGUARDS:

Access is limited to appropriate personnel and the office is locked during non-working hours.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

District Director of Customs: 77 SE. 5th Street, Miami, FL 33131; 3180 Bladensburg Road, NE., Washington, D.C. 20018; 620 East 10th Avenue, Anchorage, AK 99501; 215 1st Avenue North, Great Falls, MT 59401; 335 Merchant, Honolulu, HI 96813; 511 NW. Broadway, Portland, OR 97209; 555 Battery Street, San Francisco, CA 94126; 909 First Avenue, Seattle, WA 98714.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Source information is from the sender, the addressee, the Customs value records, and the manufacturer of the item.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .148

SYSTEM NAME:

Military Personnel and Civilian Employees' Claims Act File-Treasury/Customs.

SYSTEM LOCATION:

Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229; Office of the Regional Counsel, Room 125, U.S. Customhouse, 40 S. Gay Street, Baltimore, MD 21202; Regional Counsel, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons filing claims under the Military Personnel and Civilian Employees' Claims Act of 1964.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 240–243; 31 CFR Part 4; Treasury Department Administrative Circular No. 131, August 19, 1965; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name of the person who filed the claim and alphabetically in the file folder within the metal container by the name of the person who filed the claim.

SAFEGUARDS:

The metal container described above is maintained within the Customs Service Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229; Regional Counsel, U.S. Customhouse, 40 S. Gay Street, Baltimore, MD 21202; Regional Counsel, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appenix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with the Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .268

SYSTEM NAME:

Military Personnel and Civilian Employees' Claims Act File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Regional Counsel, Suite 1220, 500 Dallas Street, Houston, TX 77002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Customs employees filing claims under the Military Personnel and Civilian Employees' Claims Act of 1964.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 240–243; 31 CFR Part 4; Treasury Department Administrative Circular No. 131, August 19, 1965; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified alphabetically in the file folder within the metal container by the name of the person who filed the claim.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Regional Counsel (12th floor), 500 Dallas Street, Houston, TX 77002. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed security guards provided by the lessor.

RETENTION AND DISPOSAL:

These files are retained until closed at which time the closed files are transferred to the Director, Logistics Management Division, Office of the Regional Commissioner, Houston, TX, for ultimate transportation to the Federal Record Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Counsel, Suite 1220, United States Customs Service, 500 Dallas Street, Houston, TX 77002.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with the Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .151

SYSTEM NAME:

Motor Vehicle Accident Reports—Treasury/Customs.

SYSTEM LOCATION:

Each Logistics Management Division, in each Customs Regional Headquarters (see Customs Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Customs Employee involved in an automobile accident while on official duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security number, home address, telephone number, age, title, date of accident, place of accident, make, year, license number of vehicles, description of accident, information on driver of other vehicle.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Administrative Circular No. 131, dated August 19, 1965, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (e) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer in a metal file cabinet.

RETRIEVABILITY:

Each case file is identified in a file folder identified by the name of the Customs employee involved in the automobile accident.

SAFEGUARDS:

The metal file cabinet described above is maintained within the area assigned to the Regional Safety Coordinator within the office of the Regional Commissioner of Customs. Access to the building during non-working hours is controlled.

RETENTION AND DISPOSAL:

Files are maintained at location for two years and then transferred to the Federal Records Center where they are retained for four years.

SYSTEM MANAGER(S) AND ADDRESS:

Each Director, Logistics Management Division in each Regional Headquarters (see Customs Appendix A for addresses).

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in these files originates from the employee involved in the automobile accidents, police report and report of investigation conducted by the Office of Internal Affairs.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .152

SYSTEM NAME:

Motor Vehicle Operator's Identification Card—Treasury/Customs.

SYSTEM LOCATION:

District Director, 600 South Street, New Orleans, LA 70130; District Director, P.O. Box 2748, Mobile, AL 36601; Regional Commissioner, 1440 Canal Street, New Orleans, LA 70112.

VOL 50 ISS 141 JL 23 1985 UMI

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Customs employees in the South Central Region whose official duties require the use and operation of an agency-owned vehicle or a government-owned vehicle leased from General Service Motor Vehicle Pool.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on file contain the following information: Name, address, place and date of birth, statement of physical fitness, results of examination on driving capability, summary of past driving record, record of summonses, arrests, and accidents during past five years, record of safe driving awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On SF-47 and Treasury Department Form 2770 in appropriate file.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Unlocked file cabinet in locked office.

RETENTION AND DISPOSAL:

Forms are maintained for the period in which the individual is employed in the Customs Service, or until revoked. Upon separation or revocation, forms are removed from active file and placed in an inactive file for a period of three years, after which time the cards are disposed of as provided in GSA's General Records Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, 600 South Street, New Orleans, LA 70130; District Director, P.O. Box 2748, Mobile, AL 36601; District, Logistics Management Division, 1440 Canal Street, New Orleans, LA 70112.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

All information contained on SF-47 and TD Form 2770 is obtained directly from employee.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .153

SYSTEM NAME:

Motor Vehicle Operators I.D. Card and Record-Treasury/Customs.

SYSTEM LOCATION:

Room 102, Federal Building, 511 N.W. Broadway, Portland, OR 97209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of Portland District authorized to drive government vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, position, driving record of employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in index card file. Stored in unlocked metal cabinet.

RETRIEVABILITY:

Information is on cards, indexed alphabetically by name of individual.

SAFEGUARDS:

The office and building are locked during non-working hours.

RETENTION AND DISPOSAL:

Retained two years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, Federal Building, Room 198, 511 NW. Broadway, Portland, OR 97209.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information furnished by employee and his supervisors. Accident reports.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .155

SYSTEM NAME:

Narcotics Suspect File-Treasury/Customs.

SYSTEM LOCATION:

Customs Patrol Office, U.S. Customhouse, 40 S. Gay Street, Baltimore, MD 21202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Known violators of Federal narcotics laws. Suspected violators of Federal narcotics laws. Associates of known and suspected violators. Informants and other persons of interest to patrol officers in the performance of their duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Criminal and civil case files; information of possible violators, informant files, known suspect files, and files of information of interest to patrol officers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency,

maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's function relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in file folders and stored in metal file cabinets which are located in locked or occupied offices which are located in locked and guarded Federal Buildings.

RETRIEVABILITY:

A manual master card index is maintained for the entire system. This index includes name and/or numercial identifier.

SAFEGUARDS:

In addition to being stored in secure metal containers, the containers are maintained in offices which are either occupied or locked at all times. These offices are located in locked Federal buildings.

RETENTION AND DISPOSAL:

The file records are maintained in accordance with the disposal requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Baltimore Patrol Division, U.S. Customhouse, 40 S. Gay Street, Baltimore, MD 21202.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .156

SYSTEM NAME:

Narcotic Violator File-Treasury/Customs.

SYSTEM LOCATION:

Fines, Penalties and Forfeitures Office, District Director of Customs, Room 603, U.S. Federal Building, 111 West Huron Street, Buffalo, NY 14202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have been found in possession of any controlled substance within the Buffalo District.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetized cross reference of violators names and the associated case numbers assigned to these individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Open card file (3×5) is kept in metal flip file.

RETRIEVABILITY:

Narcotic violator case files are cross-referenced by a 3×5 alphabetized card which contains both name and case number.

SAFEGUARDS:

Open card file is kept in the Fines, Penalties and Forfeitures Office which is locked after working hours. During working hours, a staff person is always in the office. The building is under 24-hour guard.

RETENTION AND DISPOSAL:

File system has a purge date of two years after which cross reference cards are destroyed and case numbered file is no longer accessible by name of the individual.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, United States Customs Service, Room 603, 111 West Huron Street, Buffalo, NY 14202.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in these files is obtained from Search/Arrest and Seizure Reports transmitted to the Fines, Penalties and Forfeitures Office by ports and stations within the District.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .159

SYSTEM NAME:

Notification of Personnel Management Division when an employee is placed under investigation by the Office of Internal Affairs—Treasury/Customs.

SYSTEM LOCATION:

Personal Management Division, 500 Dallas Street, Houston, TX 77002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees who are suspected of misconduct.

VOL
50
ISS
141
JL
23
1985
UMI

CATEGORIES OF RECORDS IN THE SYSTEM:

A written or telephone notification made by the Office of Internal Affairs that an investigation has been opened on an individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Notifications provided by the Office of Internal Affairs are maintained in a file folder and stored in a metal security cabinet equipped with a lock.

RETRIEVABILITY:

The file contains the name of the employee; therefore, retrievability is by the individual's name.

SAFEGUARDS:

A metal container, described above, is maintained the area assigned to Personnel Management in the One Allen Center Building. During non-working hours, the room in which the metal container is kept is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

The name file is retained until notification has been received that the investigation has been canceled or on receipt of a report of investigation from the Office of Internal Affairs.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, 500 Dallas Street, Houston, TX 77002.

RECORD SOURCE CATEGORIES:

The only source of notification that an employee has been placed under investigation is the Regional Director, Internal Affairs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .193

SYSTEM NAME:

Operating Personnel Folder Files—Treasury/Customs.

SYSTEMS LOCATION:

Files are located in Headquarters, Regional, District, Port and other post of duty offices throughout the Customs Service depending upon post of duty of employee. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees, present.

CATEGORIES OF RECORDS IN THE SYSTEM:

In addition to the appropriate Personnel offices, records are also maintained by district, post, or other post of duty management on personnel matters and biographical data such as, but not limited to name, Social Security number, awards, letters of appreciation, promotions, step increases, memoranda, forms and materials related to hiring, address, pay, transfer and separation, service time, salary, phone, education, society memberships, publications, skills, chronological work history, position descriptions, reports of discussions held with employee regarding performance, copies of letters written to employee concerning performance, overtime hours, seniority status, leave, overtime earnings, productivity, locator card information, and related employment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose to the public for employment and salary verification upon request. (b) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, and/or on index cards, and/or ledgers, and/or magnetic tape and disc.

RETRIEVABILITY:

Records are indexed by name, or Social Security number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in secured rooms with limited access. For automated records, procedural and physical safeguards are utilized, such as, accountability and receipt records, restricted access.

RETENTION AND DISPOSAL:

When the employee leaves the Customs Service through transfer or other separation, the file will immediately be forwarded to the office maintaining the Official Personnel Folder other than exact duplicates of papers already so filed. The file and its contents will then be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division in each Region or Headquarters, or managerial official in appropriate posts of duty of employee or Headquarters. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from employee, from personnel actions as noted in official personnel folders, and from supervisor.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .161

SYSTEM NAME:

Optional Retirement List-Treasury/Customs.

SYSTEM LOCATION:

Personnel Management Division, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees who are eligible for optional retirement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of mandatory retirement, and service computation date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in a locked file cabinet.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Accessible only to the Personnel Officer. The area in which these records are stored is locked during non-working hours, and the building is guarded by uniformed security police.

RETENTION AND DISPOSAL:

Records are retained for two years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information is obtained from the Employees Service Record Report.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .162

SYSTEM NAME:

Organization (Customs) and Automated Position Management System (COAPMS)—Treasury/Customs.

SYSTEM LOCATION:

Personnel Management Division, U.S. Customs Service, Washinton, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Customs employees by organizational entity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position control number and other personnel data such as Social Security number, date of birth, name, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on Mag-tape.

RETRIEVABILITY:

Records are indexed by organizational segment, code, position control number, and name.

SAFEGUARDS:

Limited access.

RETENTION AND DISPOSAL:

Records are maintained on Mag-tapes until employee separation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

COAPMS is composed of four basic inputs—CF–105—Position Change Form—presently prepared by the Headquarters Personnel Branch and operating offices; Post of Duty Codes-established by the Accounting Division; Ceilings-established by the Budget Division; and CF–112–a Request for PPBS Code and Standard Abbreviation of Position. In addition to these four sources, the IRS payroll tape has many inputs—1150, 1125, 50, 52, union dues, etc., and Accounting tape K from IRS.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

VOL 50 ISS 141 JL 23 1985 UMI

Treasury/Customs .163

SYSTEM NAME:

Outside Employment Requests-Treasury/Customs.

SYSTEM LOCATION:

Located in the Personnel Management Division of each Region and Headquarters and/or appropriate District, Port, or post of duty office of employee making request.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees engaged in outside employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Outside employment request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

CF–3031 kept in manila folder.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Locked file cabinet or limited access offices.

RETENTION AND DISPOSAL:

Until disengagement from outside employment or employee separation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division in each regional office and Headquarters and/or appropriate managerial official in each port or district of employee.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Employee submission of Form CF–3031.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .165

SYSTEM NAME:

Overtime Earnings-Treasury/Customs.

SYSTEM LOCATION:

Inspection and Control Division, San Francisco District, 555 Battery Street, Room 111, San Francisco, CA 94126; Inspection and Control Division, Pacific Region, 300 N. Los Angeles Street, Los Angeles, CA 90012; Los Angeles District, Airport Division, Los Angeles International Airport, 5758 W. Century Boulevard, Los Angeles, CA 90045; District Director, 300 S. Ferry Street, Terminal Island, San Pedro, CA 90731; District Director, International and Terrace Streets, P.O. Box 670, Nogales, AZ 85621; San Diego Barge Office; Offices of the Port Directors; San Ysidro, CA; Andrade, CA; Calexico, CA; Douglas, AZ; Las Vegas, NV; Lochiel, AZ; Lukeville, AZ; Naco, AZ; Oxnard, CA; Phoenix, AZ; San Luis Obispo, CA; San Luis, AZ; Sasabe, AZ; Tecate, CA; Tucson, AZ. Office of the Regional Commissioner, North Central Region, Inspection and Control Division, 55 E. Monroe Street, Suite 1501, Chicago, IL 60603; and District Directors Offices: Chicago, IL; Pembina, ND; Detroit, MI; Minneapolis, MN; Cleveland, OH; St. Louis, MO; Duluth, MN; Milwaukee, WI. Chief Inspector, 1790 W. Port Boulevard, Miami, FL 33132; Port Director of Customs, Port Everglades, FL; Port Director of Customs, West Palm Beach, FL; Director, Airport Operations, Miami International Airport; Office of the Supervisory Warehouse Officer, U.S. Customhouse, Room 103, 2nd and Chestnut Streets, Philadelphia, PA 19106; U.S. Custom Service, Honolulu International Airport, Honolulu, HI 96819.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Inspection and Control employees participating in overtime assignments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and the total current monetary earnings computed to the nearest dollar.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information is kept on a visible chart board and the information on earnings is constantly changing.

RETRIEVABILITY:

The individual's name appears alphabetically.

SAFEGUARDS:

The room where the records are kept is locked at other than regular working hours.

RETENTION AND DISPOSAL:

The information on each employee constantly changes and is maintained as long as the employee is working in the overtime system.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisory Customs Inspector, Station 1, U.S. Customs Service, 555 Battery Street, Room 111, San Francisco, CA 94126; Supervisory Customs Inspector, I & C, Pacific Region, 300 N. Los Angeles Street, Room 7508, Los Angeles, CA 90012; Director (Airport) Los Angeles International Airport, 5758 W. Century Blvd., Los Angeles, CA 90045; District Director, 300 S. Ferry Street, Terminal Island, San Pedro, CA 90731; District Director, International and Terrace Streets, P.O. Box 670, Nogales, AZ 85621; San Diego Barge Office; Port Directors: San Ysidro, CA; Andrade, CA; Calexico, CA; Douglas, AZ; Las Vegas, NV; Lochiel, AZ; Lukeville, AZ; Naco, AZ; Oxnard, CA; Phoenix, AZ; San Luis Obispo, CA; San Luis, AZ; Sasabe, AZ; Tecate, CA; Tucson, AZ; Director, Inspection and Control Division, North Central Region, 55 E. Monroe Street, Suite 1501, Chicago, IL 60603; District Directors: Chicago, IL; Pembina, ND; Detroit, MI; Minneapolis, MN; Cleveland, OH; St. Louis, MO; Duluth, MN; Milwaukee, WI; District Director of Customs, 77 S.E. 5th Street, Miami, FL 33131; District Director of Customs, U.S. Customhouse, 2nd and Chestnut Streets, Philadelphia, PA

19106; District Director of Customs, U.S. Customs Service, Honolulu, HI 96819.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information is obtained from actual overtime earnings made by each employee in the system.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .170

SYSTEM NAME:

Overtime Reports-Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Office of Investigations, South Central Region. RDI, 1440 Canal Street, New Orleans, LA 70112; SAC, 600 South Street, Room 444, New Orleans, LA 70130; SAC, P.O. Box 1704, Mobile, AL 36601; RA, 1719 West End Building, Room 303, Nashville, TN 37203.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Special Agents in region certified to receive premium compensation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Numbers of hours worked by Special Agents over and above the normal 40-hour week.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These forms are maintained in file folders in a locked filing cabinet.

RETRIEVABILITY:

Files are kept in alphabetical order.

SAFEGUARDS:

During non-working hours the rooms in which the above described containers are located are locked.

RETENTION AND DISPOSAL:

These files are destroyed three years after Special Agent leaves agency or office.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director, Investigations, U.S. Customs Service, Office of Investigations, 1440 Canal Street, New Orleans, LA 70112; Special Agent in Charge, Office of Investigations, 600 South Street, Room 444, New Orleans, LA 70130; Special Agent in Charge, U.S. Customs Service, Office of Investigations, P.O. Box 1704, Mobile, AL 36601; Resident Agent, U.S. Customs Service, Office of Investigations, 1719 West End Building, Room 303, Nashville, TN 37203.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with, and consists solely of information supplied by employees.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .172

SYSTEM NAME:

Parking Permits File (New York Region)—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Assistant Regional Commissioner (Administration), 6 World Trade Center, New York, NY 10048; Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Ave., NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Organizational units and persons holding parking permits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of person issued parking permit, and number of parking spots assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Sevice Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Office locked at night.

RETENTION AND DISPOSAL:

Retained until changed.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Commissioner of Customs, U.S. Customs Service, 6 World Trade Center, New York, NY 10048; Chief, Headquarters Support Branch, Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information is compiled when parking permit is assigned.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .175

SYSTEM NAME:

Patrol Division Daily Activity Report—Treasury/Customs.

SYSTEM LOCATION:

Offices of the Patrol Division, Chicago District, Detroit District and Pembina District, North Central Region, Chicago, IL. (See Customs Appendix A.)

VOL 50 ISS 141 JL 23 1985 UMI

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals employed as Customs Patrol Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Patrol Division folder maintained by Director, Patrol, by name to record work performance on a daily basis of each individual Patrol Officer. Also, individual record of scheduled overtime, sick or annual leave hours.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual activity records are maintained in file folders stored in a locked metal file cabinet.

RETRIEVABILITY:

Each folder is filed alphabetically by an individual's name.

SAFEGUARDS:

File folders are kept in a locked metal file cabinet which is located in an office that is locked during non-working hours.

RETENTION AND DISPOSAL:

Folders are maintained for the duration of an employee's service with the Patrol Division, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisory Customs Patrol Officers, Chicago District, Detroit District and Pembina District, North Central Region, Chicago, IL. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in this record system originates from reports of Customs Patrol Officers involving records of their daily patrol activities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .180

SYSTEM NAME:

Payroll Record of Employees Not Covered By The Automated System—Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records of various types of earnings and taxes withheld from employees who are not covered by the automated payroll system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Recorded detail of earnings and taxes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is placed in a file folder maintained in an unlocked file cabinet located within the Payment Section work area.

RETRIEVABILITY:

Each file is identified by the name of the individual

SAFEGUARDS:

The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

RETENTION AND DISPOSAL:

The files are retained for two years on the premises and then sent to the Federal Records Center where they are retained for three years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs, Appendix A.

RECORD SOURCE CATEGORIES:

The information in the system originates from the individual's preparation of his travel voucher and compensation forms.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .182

SYSTEM NAME:

Penalty Case File-Treasury/Customs.

SYSTEM LOCATION:

Office of Regional Commissioner of Customs, 100 Summer Street, Boston, MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have submitted supplemental petitions in relation to penalties, claims for liquidated damages or forfeitures of property which are being processed by the U.S. Customs Service, Northeast Region and which have been referred to the Regional Commissioner of Customs, Northeast Region.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Reports relative to the circumstances of an alleged violation (including any Customs forms or documents relating to the incident, agents' investigative reports, seizure reports); (b) Reports relative to an individual's economic interest in a penalty case; (c) Investigative reports relative to claims made in petitions for relief; (d) Recommendations made by other Government agencies that have an interest in the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name of alleged violator.

SAFEGUARDS:

Open case files maintained in file cabinets with access by Regional Counsel and his staff only; closed case files maintained in locked file cabinet with keys retained by Regional Counsel and his staff only.

RETENTION AND DISPOSAL:

Retained until there is no longer any space available within metal cabinets, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Commissioner of Customs, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Exemption below.

RECORD SOURCE CATEGORIES:

The information contained in these files is received from U.S. Customs employees, reports of investigation, petitions for relief, other Government agencies with an interest in the case and members of the general public who have pertinent information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/Customs .186

SYSTEM NAME:

Personal Search-Treasury/Customs.

SYSTEM LOCATION:

Office of the Director, District Patrol, 600 South Street, New Orleans, LA 70130; District Director and Director, District Patrol Division, International Trade Center, 250 N. Water Street, Mobile, AL 36602; all Ports, North Central Region, Chicago, IL; U.S. Customs Service, Honolulu International Airport, Honolulu, HI 96819; Ports of Entry, Nogales, AZ (District).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals indicating unlawful or suspicious activity that might result in a Customs violation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, phone number, place of business, physical description, associates, vessel, automobile, or aircraft identified with, make, year, license number and registration of vehicles, area of activity, method of operation and other relevant and necessary information on individuals suspected of activity contrary to law.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in standard Customs file folders in locked metal cabinets.

RETRIEVABILITY:

System indexed by identifying file number and manually retrieved.

SAFEGUARDS:

File maintained in locked metal file cabinet, the keys of which are controlled by the Custodian of the files. Those departmental officials who may occasionally be granted access, consistent with their positions, have been cleared by a full field background investigation and granted appropriate security clearance for critical sensitive positions. During non-working hours, the room housing the metal cabinets is locked.

RETENTION AND DISPOSAL:

Negative Search Reports are destroyed after a 5 year period. Method of disposal is shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, District Patrol Division, 600 South Street, New Orleans, LA 70130; District Directors/Port Directors as applicable, in North Central Region, Chicago, IL; District Director of Customs, P.O. Box 2748, Mobile, AL 36601; District Director of Customs, U.S. Customs Service, Honolulu, HI 96819; Port Directors at the various ports of entry in the Nogales, AZ (District).

VOL 50 ISS 141 JL 23 1985 UMI

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with, and consists solely of information supplied by the individual being searched and the patrol officer doing the search.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .190

SYSTEM NAME:

Personnel Case File-Treasury/ Customs.

SYSTEM LOCATION:

Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229; Office of the Regional Counsel, U.S. Customs Service, North Central Region, 55 E. Monroe Street, Room 1417, Chicago, IL 60603; Regional Counsel of Customs, 6 World Trade Center, New York, NY 10048; Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Customs Service employees against whom disciplinary action has been proposed or taken, who have filed grievances, and who have filed complaints under the Equal Opportunity (EO) Program, in most cases where administrative proceedings have been instituted.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigation into alleged employee misconduct, internal Customs Service memoranda recommending disciplinary action, documents relating to the institution or conduct of disciplinary proceedings, documents relating to the filing and administrative disposition of formal and informal grievances and documents relating to the filing and administrative disposition of EO complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code; Title 5, Code of Federal Regulations; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose to the Office of Personnel Management (OPM) in connection with administrative hearings and to the Department of Justice in connection with court proceedings resulting from appeals from decisions rendered at the administrative level. (b) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted alphabetically in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name of the person, and each case file is similarly identified in alphabetical order within the metal container.

SAFEGUARDS:

The metal container described above is maintained within the Customs Service Building. During non-working hours, the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Record Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229; Regional Counsel of Customs, Room 1417, U.S. Customs Service, 55 E. Monroe Street, Chicago, IL 60603; Regional Counsel of Customs, New York, NY 10048; Regional Counsel of Customs, 211 Main Street, San Francisco, CA 94105.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files results from investigations into alleged misconduct on the part of Customs Service employees, recommendations from appropriate Customs Service field personnel that disciplinary proceedings be instituted against Customs Service employees, the filing of grievances by Customs Service employees, the filing of EO complaints by Customs Service employees, the statements of Customs Service employees including the employees who are directly affected by the administrative proceedings, and statements or other information provided by private non-governmental individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/Customs .194

SYSTEM NAME:

Personnel/Payroll System-Treasury/ Customs.

SYSTEM LOCATION:

Located in Personnel and Financial Management Divisions of each region and headquarters. Computerized

through a Servicing Data Processing Center. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Customs employees, present and former.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personnel data maintained primarily in the Official Personnel Folder and Payroll information such as name, Social Security number, grade, series, step, organizational codes, tax withholding information, bond purchase and issuance, emergency salaries, overtime and holiday pay, optional payroll deductions, other deductions, and all payroll information. Also in this system are records of time and attendance and leave.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (f) To disclose to furnish another Federal agency information to effect inter-agency salary offset. (g) To disclose to furnish another Federal agency information to effect inter-agency administration offset. However no IRS obtained address shall be disclosed to another Federal agency. (h) To disclose to furnish a consumer reporting agency information to obtain commercial credit reports. (i) To disclose to furnish a debt collection agency information for debt collection services. Current mailing addresses acquired from the Internal Revenue Service which become a part of this system are routinely released to consumer reporting agencies to obtain credit reports and to debt collection agencies for collection services. Routine users outside the Department are other federal agency personnel offices; the Office of Personnel Management; U.S. Department of Labor. Office of Employee Compensation; State unemployment offices; union representatives, arbitrators, and other third-parties who have responsibilities under a Customs Service-union contract or E.O. 11491, as amended, for the administration of the Federal labor-management relations program as described in the routine use; creditors; federal agencies; consumer reporting agencies to obtain credit reports; debt collection agencies; Members of Congress; next-of-kin; and voluntary guardian and other representative or successor in interest.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a (b)(12) and Section 3 of the Debt Collection Act of 1982; Debt information concerning a Government claim against an individual is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and Section 3 of the Debt Collection Act of 1982 (Pub. L. 97–365), to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on mag-tape and computer printout.

RETRIEVABILITY:

Records are indexed by name or Social Security number.

SAFEGUARDS:

Records are maintained in locked files, secured rooms, or limited access.

RETENTION AND DISPOSAL:

Individual records are not in system after separation; Official Personnel Records of separated employees either are sent to new agency or to Records Center. Time and attendance records are maintained six (6) years or until after audit, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Directors, Personnel and Financial Management Division in each region and headquarters.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information is obtained from Official Personnel Folders employee management, time and attendance, and leave records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .196

SYSTEM NAME:

Preclearance Costs-Treasury/ Customs.

SYSTEM LOCATION:

Financial Management Division, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Customs Inspectors and Foreign Service employees of the North Central Region, who are stationed at Toronto and Montreal, Canada.

CATEGORIES OF RECORDS IN THE SYSTEM:

Salaries, living allowances and benefits paid to employees who are stationed at Toronto and Montreal, Canada.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential

VOL
50
ISS
141
JL
23
1985
UMI

violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (e) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored in a file folder within two metal file cabinets in the work area of the Budget Section.

RETRIEVABILITY:

The file is identified as the "Pre-clearance Record" which contains the names of all employees listed in alphabetical order with corresponding costs associated with each employee.

SAFEGUARDS:

The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

RETENTION AND DISPOSAL:

The files are kept for three (3) years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in the system is obtained from the Bi-weekly Comprehensive Payroll Listing, Treasury Form 2979, supplied by the Payroll Data Center.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .197

SYSTEM NAME:

Private Aircraft/Vessel Inspection Reporting System-Treasury/Customs.

SYSTEM LOCATION:

Office of Border Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Names of pilots and vessel masters arriving in the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and personal identifiers of pilots, vessel masters, and owners of vessels with appropriate registration and/or documentation numbers and characteristics, and arrival dates at port of entry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc and tape storage; microfiche.

RETRIEVABILITY:

By individual name, private aircraft/vessel registration number; vessel name.

SAFEGUARDS:

All inquiries are made by officers with full field background investigation on a "need to know" basis only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

RETENTION AND DISPOSAL:

The records are periodically up-dated to reflect changes and maintained as long as needed, then destroyed. (Minimum of five years for aircraft arrival reports.)

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Border Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Proposed Customs Form 178 (Private Aircraft Inspection Report) which will be prepared by Customs officers, unnumbered forms prepared by vessel masters or owners who report their arrival to a United States port of entry, and other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k) (2).

Treasury/Customs .201

SYSTEM NAMES:

Property File-Non-Expendable-Treasury/Customs.

SYSTEM LOCATION:

Offices of District Directors, North Central Region, Chicago, IL (see Customs Appendix A); Logistics Management Division, U.S. Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229; Office of the District Director, San Diego, CA; Offices of the Port Directors: San Ysidro, CA; Tecate, CA; Calexico, CA; Andrade, CA; San Diego Barge Office, and the Offices of the Customs Patrol Division, San Diego, CA; San Ysidro, CA; Calexico, CA; Tecate, CA; District Directors Office, Entry Control Section (see Customs Appendix A); United States Customs Service, Room 228, Federal Building, 335 Merchant Street, Honolulu, HI 96813; Logistics Management Division, Southeast Region; U.S. Customs Service, 99 SE. 5th Street, Miami, FL 33131; Federal Building, Room 198, 511 NW. Broadway, Portland, OR 97209; Office of District Director, Administrative Officer, United States Customs Service, 555 Battery Street, Room 318, San Francisco, CA 94126.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees issued non-expendable property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Receipts for badges, cap insignias, bonded warehouse keys, identification cards, Government driver's licenses, firearms and other non-expendable property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Locked file cabinet.

RETRIEVABILITY:

Folders identified by individual's name.

SAFEGUARDS:

During non-working hours the room/building in which the file is located is locked. Access limited to authorized Customs personnel.

RETENTION AND DISPOSAL:

Until employee separates/transfers. Transfer to National Personnel Records Center (NPRC), (CPR), St. Louis, MO; thirty (30) days after employee is separated.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors in the North Central Region, Chicago, IL; Director, Logistics Management Division, U.S. Customs Service, Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229; District Director, Port Directors, and Division Directors within the San Diego Customs District (see Customs Appendix A); Chief, Headquarters Support Branch, Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229; Local Property Officer, Room 228, Federal Building, Entry Control Section, 335 Merchant Street, Honolulu, HI 96813; Director, Logistics Management Division, United States Customs Service, Southeast Region, 99 SE. 5th Street, Miami, FL 33131; District Director, Federal Building, Room 198, 511 NW. Broadway, Portland, OR 97209; Administrative Officer, U.S. Customs Service, 555 Battery Street, Room 318, San Francisco, CA 94126.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system consists of receipts of employees receiving non-expendable property.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .206

SYSTEM NAME:

Regulatory Audits of Customhouse Brokers-Treasury/Customs.

SYSTEM LOCATION:

Division of Regulatory Audit, United States Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and at each of the nine regional offices of Regulatory Audit (see Customs Appendix A for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons licensed to conduct customhouse brokerage business pursuant to 19 U.S.C. 1641.

CATEGORIES OF RECORDS IN THE SYSTEM:

Audit reports of custom housebroker accounts and records; correspondence regarding such reports; Congressional inquiries concerning customhouse broker and disposition made of such inquiries; names of officers of customhouse brokerage firms, license numbers and dates issued and district covered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 1641; 19 CFR Part III. 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, wher the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent

VOL 50 ISS 141 JL 23 1985 UMI

necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each customhouse broker file is inserted in alphabetical order by name of the firm in one of nine regional file folders which are filed in an unlocked drawer within a metal file cabinet. Duplicate copies are maintained at Customs Service Headquarters.

RETRIEVABILITY:

Each broker file is identified on alphabetical file locator cards which contain the name and address of the broker, the region and district in which he operates, and the number of the file drawer. In addition each regional office maintains its own alphabetical file, containing the above information, for broker activities within their region.

SAFEGUARDS:

The files described above are maintained within the area assigned to the Regulatory Audit Division within the Customs Service Building. During non-working hours, the room in which the files are located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

Customhouse broker files are retained until there is no longer any space available for them at which time the oldest files are destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Regulatory Audit Division, United States Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229. Regional Director, Regulatory Audit Division at each of the nine regional offices (see Customs Appendix A for addresses).

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates from audits conducted by the regional Regulatory Audit staff, of customhouse brokers' businesses. The audits may be supplemented with information furnished by the Office of the Chief Counsel, Office of Investigations, and the Office of Regulations and Rulings. These audits include examinations of brokers business records, including all financial books of accounts, check books, and financial statements. In the event that the broker is engaged in various business enterprises such as freight forwarding and insurance, and these financial records are commingled with those financial records relating to the brokerage business, it would be necessary to examine the other business records to complete the audit.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .207

SYSTEM NAME:

Reimbursable Assignment System-Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs Service employees who perform reimbursable services and parties in interest for whom reimbursable services are performed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number or importer of record number assigned by the Customs Service, listings of reimbursable overtime assignments of Customs employees, bills and refund checks issued to parties in interest, travel expenses incurred by Customs employees in connection with the reimbursable services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 261, 267, and 1451; 19 CFR 24.16 and 24.17; 5 U.S.C. 301; Treasury Department Order No. 165; Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to any inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive regaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained in a computerized system utilizing magnetic tape storage techniques.

RETRIEVABILITY:

The information in this system is retrieved by the individual's Social Security number or by the individual's importer of record number.

SAFEGUARDS:

Procedural and physical safeguards are utilized such as accountability and receipt access, guards patrolling the area, restricted access and alarm systems.

RETENTION AND DISPOSAL:

The records in this system are retained in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Accounting Division, U.S. Customs Service Headquarters, 1301 Constitution Ave, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with the receipt of a request, for reimbursable services form the party in interest. In addition, information in this system is derived from Customs Form 5106 (Notification of Importer's Number/Application for Importer's Number) which is filed with the Customs Service by the importer, and from Customs Form 6082 (Work Ticket) which is filed by the Customs Inspector who performed the reimbursable services.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .208

SYSTEM NAME:

Restoration of Forfeited Annual Leave Cases-Treasury/Customs.

SYSTEM LOCATION:

Located in the Personnel Management Division of each region and Headquarters according to list in Customs Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the U.S. Customs Service who have applied for restoration of forfeited annual leave.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee applications for restoration of leave. Management decisions on employee applications for restoration of leave. Applicable regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in manila folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in locked files.

RETENTION AND DISPOSAL:

Records are retained in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, in each region and Headquarters.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Evidential materials supporting employee applications for restoration of forfeited annual leave. Evidential materials supporting management decisions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .209

SYSTEM NAME:

Resumes of Professional Artists-Treasury/Customs.

SYSTEM LOCATION:

Area Director, New York Seaport Area, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional Artists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Artist's name and professional art background.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Alphabetical listing.

SAFEGUARDS:

Filing cabinet, office locked at end of the day.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Area Director New York Seaport Area, 6 World Trade Center, New York, NY 10048.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Resume information provided by artist.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .210

SYSTEM NAME:

Revocation of I.D. Privileges and "Cash Basis Only" for Reimbursable Services List—Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, Districts and Ports, 99 SE 5th Street, Miami, FL 33131.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporate and Individual Brokers, Importers, Carriers, and Private Individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Corporations and individuals in financial difficulty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

VOL 50 ISS 141 JL 23 1985 UMI

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in an unlocked drawer within a metal file cabinet.

RETRIEVABILITY:

Alpha File in Manila Folder by Month.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked.

RETENTION AND DISPOSAL:

These files are retained as prescribed by CAD Regulations or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Financial Management. 99 SE 5th Street, Miami, FL 33131.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Generated in house by Accounting Personnel from delinquent bill listings and open file of outstanding bills. Additionally, feedback from Districts and Ports on bankrupt firms and from Regulatory Audit Division on firms in financial difficulty or under investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .211

SYSTEM NAME:

Sanction List-Treasury/Customs.

SYSTEM LOCATION:

Regional Commissioner of Customs, Suite 1501, 55 E. Monroe Street, Chicago, IL 60603.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are indebted to the United States Government for bills that are unpaid and past due.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing is issued monthly showing individual's name and address plus number and amount of unpaid and past due bills.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each sanction list is stored in a file drawer or in an unlocked file cabinet.

RETRIEVABILITY:

Each aanction list is identified by month and year of issuance.

SAFEGUARDS:

The file cabinet described above is maintained within the area assigned in the Customs Office. During non-working hours the room and/or building in which the file cabinet is located is locked.

RETENTION AND DISPOSAL:

Retained in Customs Office for minimum of one year. Disposal in accordance with Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Commissioner of Customs, Suite 1501, 55 E. Monroe Street, Chicago. IL 60603.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this listing is secured from CF 6084 and 6084A, Miscellaneous Bill Form issued to each individual and correspondence files maintained for individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .212

SYSTEM NAME:

Search/Arrest/Seizure Report-Treasury/Customs.

SYSTEM LOCATION:

Patrol Division Offices of the U.S. Customs Service. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have or may have violated a law of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, alias, date of birth, age, personal data, addresses, home and business telephone numbers, occupation, background information, associations, license number and registration number of vehicle, vessel and/or aircraft, mode of entry of individual or contraband, fingerprints, pictures, declaration forms, cash receipts, receipt for seized goods, all other forms pertinent to the case, such as Notice to Master, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case is placed in a folder which is filed in a numerical order according to the assigned case file number. These files are kept in a locked metal cabinet.

RETRIEVABILITY:

The above-mentioned case file numbers are cross-indexed by name to such numbers, and cards are filed alphabetically within a metal file box.

SAFEGUARDS:

The metal file cabinet and the metal file box are located within an office that is locked during non-working hours. The building is guarded by uniformed customs guards, and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

These cases are retained for a period of three years after which they are destroyed together with related index cards.

SYSTEM MANAGER(S) AND ADDRESS:

Director, District Patrol Division. (See Customs Appendix A.)

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .214

SYSTEM NAME:

Seizure File-Treasury/Customs.

SYSTEM LOCATION:

Patrol Divislon, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Ships masters, ships crew members, longshoremen, vessels, private aircraft, private vessels, individuals from whom seizures have been made, or upon whom Memoranda of Information Received have been written.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memoranda of Information Received, which are reports from law enforcement agencies of suspects or arrests. Reports of Seizures by Customs, other information indicating violators or suspected violators.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila files within metal file cabinets.

RETRIEVABILITY:

Alphabetical; for aircraft or car by number; by seizure number; by name of individual.

SAFEGUARDS:

Room has a 24-hour guard and is locked.

RETENTION AND DISPOSAL:

Seizure files are maintained for three years after final disposition. Memoranda of Information Received are maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Patrol Division, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .215

SYSTEM NAME:

Seizure Report File-Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Mail Facility, Room 416, 1675–7th Street, Oakland, CA 94615.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom prohibited merchandise is addressed.

VOL 50 ISS 141 JL 23 1985 UMI

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, property description; estimated foreign value, duty, domestic value, circumstances of seizure, sender, section of law violated, delivery to San Francisco seizure clerk.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, cirminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law procedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained on Customs Form 5955 Seizure Reports, Customs Form 6043—Delivery Ticket, and Customs Form 151—Search/Arrest/Seizure Report. These forms are placed within file folders which are located in a metal file cabinet.

RETRIEVABILITY:

Each Seizure Report and Delivery Ticket (stapled together) are identified by the name of the person to which the seized items are addressed and the names are filed alphabetically by fiscal year.

SAFEGUARDS:

The file folders are placed within a metal cabinet which is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Last three fiscal-year records are kept in a file cabinet in the office. Three fiscal years prior are kept in boxes in the detention area.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Surface Mail Section. See location above.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with and consists of information obtained from mail shipments.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .217

SYSTEM NAME:

Set Off Files-Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, 99 SE. 5th Street, Miami, FL 33131.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Importer of Record, customhouse broker, parties in interest.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, identification number, copies of refund checks and copies of set off bills.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in an unlocked drawer within a metal file cabinet.

RETRIEVABILITY:

File folders with individual's name annotated with set off.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked.

RETENTION AND DISPOSAL:

These files are retained as prescribed by GAD Regulations or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Financial Management, 99 SE. 5th Street, Miami, FL 33131.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

District Directors, Port Directors, Import Control Officers, External Auditors and Other Customs Employees.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .219

SYSTEM NAME:

Skills Inventory Records-Treasury/Customs.

SYSTEM LOCATION:

Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained in this system on Customs personnel in grades GS–13 and above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data elements to provide a complete skills profile of the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on a Customs Form 121 and Mag-tape.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in locked file and limited access to computer system.

RETENTION AND DISPOSAL:

Records are maintained until separation of an employee from the Customs Service.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

CF–121 which is prepared by the employee.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .220

SYSTEM NAME:

Supervisory Notes and Files SF–7B,-Treasury/Customs.

SYSTEM LOCATION:

Records are located with the immediate supervisor or at the immediate supervisor's operating office. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

SF–7B card contains identical information to that contained on SF–7 card; in addition it can have attached or separately-maintained supervisory notes concerning an employee's performance on-the-job, conduct, counseling sessions, training recommended or taken, awards granted, emergency contact information, job assignments, to be used for administration resource purposes in recommending or authorizing discipline, recognition, assignment of performance rating, training, job assignments, leave requests, and/or similar matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in manila folders or special file cabinets.

RETRIEVABILITY:

Records are indexed by organizational code and name.

SAFEGUARDS:

Records are stored in lockable metal filing cabinets or in a secured room. Alternative storage facilities may be employed provided they furnish an equivalent or greater degree of physical security.

RETENTION AND DISPOSAL:

Records are retained while employee is employed, and are destroyed upon separation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, in each Regional Office and in Headquarters. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

(See Customs Appendix A.)

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Form SF–50, Employee and employee's supervisors.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .224

SYSTEM NAME:

Suspect Persons Index-Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs District Officers located at the following addresses: 620 E. 10th Avenue, Anchorage, AK 99501; 215 1st Avenue, North, Great Falls, MT 59401; 335 Merchant, Honolulu, HI 96813; 511 NW. Broadway, Portland, OR 99209; 555 Battery Street, San Francisco, CA 94126; First and Marion Streets, Seattle, WA 98714.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons suspected of violation of Customs Laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and related file number.

VOL 50 ISS 141 JL 23 1985 UMI

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in folders and stored in a metal file cabinet.

RETRIEVABILITY:

The office and building are locked during non-working hours.

SAFEGUARDS:

Alphabetical by use of cross index.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Records Disposal Manual.

SYSTEM MANAGER(S) AND ADDRESS:

District Director of Customs. See location above.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to U.S.C. 552a (k)(2).

Treasury/Customs .226

SYSTEM NAME:

Television System-Treasury/Customs.

SYSTEM LOCATION:

Office of Port Director, U.S. Border Station, San Ysidro, CA 92073.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons involved in incidents related to search and subsequent disturbance while entering the United States from Mexico.

CATEGORIES OF RECORDS IN THE SYSTEM:

An audio-video cassette recording of persons being escorted into, as well as inside, the business offices of the Customs area of the Port of Entry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended, and the Customs Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevent enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Audio-video cassette.

RETRIEVABILITY:

By subject's name, date, and time.

SAFEGUARDS:

Cassettes are under control of Port Director and released only to the courts when subpoenaed or when requested to be reviewed by subject and his attorney.

RETENTION AND DISPOSAL:

All cassettes with incidents are retained for six months. Those on which some action may be taken are retained for one year or close of the case. Cassettes are reusable. Therefore, erasure occurs when new recording takes place.

SYSTEM MANAGER(S) AND ADDRESS:

Port Director, U.S. Border Station, San Ysidro, CA 92073.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Audio-video recording of persons being escorted into the Customs area.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .227

SYSTEM NAME:

Temporary Importation Under Bond (TIB) Defaulter Control System—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Office of Enforcement Support, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been denied T.I.B. privileges because of failure to pay outstanding liquidated damages.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, personal identifying numbers and characteristics, address, company and case description, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Magnetic disc and tape storage; (2) Hard copy; (3) Microfiche files.

RETRIEVABILITY:

Indexing is by violator name.

SAFEGUARDS:

All inquiries are made by officers with full field background investigations on a "need to know" basis only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Customs officers completing Customs Form 164 (TECS–TIB Defaulter Control).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .228

SYSTEM NAME:

Temporary Importation Violation Record—Treasury/Customs.

SYSTEM LOCATION:

Fines, Penalties and Forfeitures Section, Room 102, U.S. Customhouse, Second and Chestnut Streets, Philadelphia, PA 19106.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons making importations against Temporary Importation Bonds.

CATEGORIES OF RECORDS IN THE SYSTEM:

The record reveals the individual's or customhouse broker's name, case number assigned and date, amount of penalty incurred, mitigated sum or remission and date closed. The record results in a summary of repetitive violations by any one individual, firm or customhouse broker and disciplinary action toward reduction or elimination of violations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301: Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Temporary Importation Record Cards are filed alphabetically in an unlocked metal file cabinet.

RETRIEVABILITY:

Each record card is filed alphabetically within the metal cabinet.

SAFEGUARDS:

The metal cabinet described above is maintained within the area assigned to the Fines, Penalties and Forfeitures Section in Room 102, of the Customhouse, Philadelphia, PA; during non-working hours, access to the building and area of storage is controlled by uniformed guards.

RETENTION AND DISPOSAL:

Temporary Importation Record Cards are retained at location for three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

District Director of Customs, Room 102, U.S. Customhouse, Second and Chestnut Streets, Philadelphia, PA 19106.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

VOL 50 ISS 141 JL 23 1985 UMI

RECORD SOURCE CATEGORIES:

The information contained on the cards originated from liquidated damage cases instituted for failure to comply with T.I.B. provision.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .232

SYSTEM NAME:

Tort Claims Act File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Regional Counsel, Room 7422, New Federal Building, 300 N. Los Angeles Street, Los Angeles, CA 90053; Office of the Regional Counsel, Room 125, U.S. Customhouse, 40 S. Gay Street, Baltimore, MD 21202; Regional Counsel of Customs, 6 World Trade Center, New York, NY 10048; Office of the Regional Counsel, U.S. Customs Service, North Central Region, 55 E. Monroe Street, Room 1417, Chicago, IL 60603; Office of Regional Counsel, Suite 1220, 500 Dallas Street, Houston, TX 77002; Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private persons who have filed or may file claims under the Federal Tort Claims Act for property damage or personal injury allegedly caused by a wrongful or negligent act or omission on the part of a Customs Service employee while acting within the scope of his employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of Investigation regarding accidents involving Customs employees, documents relating to the administrative handling of the claims filed thereon, and documents submitted by the claimant in support of the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2672, *et seq*; 28 CFR 14.1, *et seq*; 31 CFR 3.1, *et seq*; Treasury Department Administrative Circular No. 131, dated August 19, 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified in the alphabetical file folder within the metal container by the name of the person who has filed or may file a claim.

SAFEGUARDS:

During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

Tort claim files are retained until there is no longer any space available for them within the metal container, at which time the oldest closed files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Counsel, Room 7422, United States Customs Service, 300 N. Los Angeles Street, Los Angeles, CA 90053; Regional Counsel, Room 125, U.S. Customhouse, 40 S. Gay Street, Baltimore, MD 21202; Regional Counsel, U.S. Customs Service, 6 World Trade Center, New York, NY 10048; Regional Counsel of Customs, Room 1417, U.S. Customs Service, 55 E. Monroe Street, Chicago, IL 60603; Regional Counsel, Suite 1220, U.S. Customs Service, 500 Dallas Street, Houston, TX 77002; Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with a Standard Form 95 (Claim for Damage or Injury) which is completed and filed with the Customs Service by the claimant. Using these forms as a basis, investigations are conducted by authorized Customs Service investigative personnel in order to determine the facts surrounding the claims. During these investigations information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the claims. When a claim is not filed, the information is limited to the investigative reports of the property damage or personal injury.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2).

Treasury/Customs .234

SYSTEM NAME:

Tort Claims Act File-Treasury/Customs.

SYSTEM LOCATION:

Offices of the District Directors, North Central Region, Chicago, IL 60603. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals presenting claims of damage to personal property resulting from Customs activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Written damage claims supported by estimates, bills, claim forms and internal Customs Service memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 CFR Part 3; 5 U.S.C. 301; Treasury Department Order No. 165. Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide

information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Filed in cabinets in the District Directors offices.

RETRIEVABILITY:

Folders filed in alphabetical sequence.

SAFEGUARDS:

File cabinets are located within the area assigned in the Customs office. During non-working hours the room in which the cabinets are located is locked.

RETENTION AND DISPOSAL:

Retained in District Directors offices for three years then transferred to the Federal Record Center for seven years and three months prior to destruction.

SYSTEM MANAGER(S) AND ADDRESS:

District Director as appropriate in the North Central Region, Chicago, IL. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with a written claim submitted by the claimant, as well as information supplied on Standard Form 95 and internal Customs memoranda.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .236

SYSTEM NAME:

Training and Career Individual Development Plans—Treasury/Customs.

SYSTEM LOCATION:

Located in the Personnel Management Division of each region and headquarters and/or district, ports, and post of duty of employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All U.S. Customs employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained on training or other development activities completed and/or planned for individual employees, whether for programs such as Executive Development or Upward Mobility, or other special emphasis development programs. Records also include such things as, but not limited to skills, abilities, education, experience, career plans and goals, and other related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are located in file folders, and/or official personnel folder.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in locked file or office.

RETENTION AND DISPOSAL:

Records are retained until separation or until employee is no longer part of a special emphasis program.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division, in each region and headquarters.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information is obtained from the employee and supervisors.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .239

SYSTEM NAME:

Training Records—Treasury/Customs.

SYSTEM LOCATION:

Personnel Management Division of each region and headquarters. Also located in districts, ports, and posts of duty.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees who have completed training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Certificates of completion of training courses, memoranda documenting successful completion of training assignments, grades assigned by educational institutions when appropriate, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on file cards, on Training forms, or on Mag-tape.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in a locked file or room, or with limited access.

RETENTION AND DISPOSAL:

Records are maintained for up to three years after employee separates from the Service.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Management Division in each Region or Headquarters, or managerial official in appropriate posts of duty of employee.

VOL 50 ISS 141 JL 23 1985 UMI

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Information for this file is obtained from supervisors, managers, instructors, educational institutions, and/or training facilities such as the Office of Personnel Management, Department of the Treasury, etc.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .243

SYSTEM NAME:

Travel Payment System-Treasury/Customs.

SYSTEM LOCATION:

Located in Financial Management Divisions of each region and headquarters. (See Appendix A for addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs Service employees who travel on official business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel authorizations, travel vouchers, and travel advance records, which contain the employee's name, residence, place and mode of travel, travel dates, month of travel advance, expenses incurred, amount of travel advance, amount of advance outstanding and division code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (c) To disclose records are also used from this system of records to furnish another federal agency information to effect inter-agency salary offset; (d) To disclose to furnish another federal agency information to effect inter-agency administrative offset. However, no IRS obtained address shall be disclosed to another federal agency; (e) To disclose to furnish a consumer reporting agency information to obtain commerical credit reports; (f) and to disclose to furnish a debt collection agency information for debt collection services. Current mailing addresses acquired from the Internal Revenue Service which become a part of this system are routinely released to consumer reporting agencies to obtain credit reports and to debt collection agencies for collection services.

Routine users outside the Department are other federal agency personnel offices: The Office of Personnel Management, U.S. Department of Labor, Office of Employees Compensation; State unemployment offices; union representatives, arbitrators, and other third-parties who have responsibilities under a Customs Service-union contract or E.O. 11491, as amended, for the administration of the Federal labor-management in relations program as described in the routine use; creditors; Federal agencies; consumer reporting agencies to obtain credit reports; debt collection agencies; Members of Congress; next-of-kin; and voluntary guardian and other representative or successor in interest.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a (b)(12) and Section 3 of the Debt Collection Act of 1982: Debt information concerning a Government claim against an individual is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and Section 3 of the Debt Collection Act of 1982 (Pub. L. 97-365), to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained on index cards placed within a file box, in file folders or on separate sheets of paper within a metal container and in a computer system utilizing magnetic disc storage techniques.

RETRIEVABILITY:

The information is filed alphabetically by the name of the traveling individual; each file folder is placed within the metal container alphabetically by the name of the traveling individual to whom it pertains; the separate sheets of paper are grouped in disbursement schedule number sequence by consecutive numbers and dates showing a listing of payments to travelers; the computer records are retrieved by the accounting number assigned by the Customs Service for each separate travel transaction.

SAFEGUARDS:

The room in which this system of records is located is locked during non-working hours, the building is guarded by uniformed security police, and only authorized persons are permitted within the building.

RETENTION AND DISPOSAL:

The records in this system are retained and disposed of in accordance with the requirements of the Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Directors, Financial Management Divisions in each region and headquarters. (See Appendix A for addresses.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system is derived from information supplied by the traveling individual and from organizational and accounting information maintained by the Customs Service.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .244

SYSTEM NAME:

Treasury Enforcement Communications System (TECS)—Treasury/Customs.

SYSTEM LOCATION:

Office of Border Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Violators or suspected violators of U.S. Customs or related laws (some of whom have been apprehended by Customs officers); (2) Individuals who are suspected of, or who have been arrested for, thefts from international commerce; (3) Convicted violators of U.S. Customs and/or drug laws in the United States and foreign countries: (4) Fugitives with outstanding warrants—Federal or state; (5) Victims of U.S. Customs law violations; (6) Masters associated, in the capacity of ship agent or representative, with vessels in actual or suspected violation of U.S. Customs and related laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Every possible type of information which contributes to effective law enforcement may be maintained in this system of records. Records include but are not limited to records pertaining to known violators, wanted persons, lookouts (temporary and permanent), and document reference records, vessel names and search results. Information about individuals includes but is not limited to name, alias, date of birth, address, physical description, various identification numbers (i.e., seizure number), details and circumstances of a search, arrest, or seizure, case information such as merchandise and values, methods of theft, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuring the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc and tape, microfiche, and hard copy (I.e. Customs Form 153).

RETRIEVABILITY:

By name (individual or master, owner, or agent name when concerning vessel violation profile); unique identifiers, identification numbers (i.e., personal, seizure number, system identification number); cargo location code or vessel name.

SAFEGUARDS:

(1) All officers making inquiries have had a full field background investigation and are given information on a "need to know" basis only. (2) Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

RETENTION AND DISPOSAL:

Review is accomplished by Customs officers each time a record is retrieved and on periodic basis to see if it should be retained or modified. Since both temporary and permanent records are maintained, period of retention will vary with type of record entered. A complete review of each record in system is made annually at Headquarters. (3) The records are disposed of by erasure of magnetic tape or disc, and by shredding and/or burning of hard copy documents.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Border Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Customs .248

SYSTEM NAME:

Uniform Allowances-Unit Record-Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, 99 SE 5th Street, Miami, FL 33131; Management Services Branch, Administration Division, District Director, San Juan, PR 00903; Financial Management Division, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Customs Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name-Record of Uniform Allowance Payments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in an unlocked drawer within a metal file cabinet.

RETRIEVABILITY:

Alphabet by name. Appropriation Accounting Document Number.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours, the room in which the metal container is located is locked and access to the building is controlled by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained as prescribed by GAD Regulations or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Direction of Financial Management, 99 SE 5th Street, Miami, FL 33131; District Director, U.S. Customs Service, P.O. Box 2112, Old San Juan, PR 00903; Director, Financial Management Division, U.S.

VOL 50 ISS 141 JL 23 1985 UMI

Customs Service, 100 Summer Street, Boston, MA 02110.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

From Memoranda received from Districts. Data Transcribed from Payment Vouchers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .251

SYSTEM NAME:

Unscheduled Overtime Report (Customs Form 31)—Treasury/Customs.

SYSTEM LOCATION:

Director, Office of Operations, 6 World Trade Center, Room 508, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents assigned to the office of Regional Director of Investigations authorized to receive unscheduled overtime remuneration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customs Form 31 enumerates the nature of overtime performed, the number of hours and the date on which the overtime was performed and the case number of investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (b) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained on CF 31, the forms are contained within a file folder and are placed in a metal file cabinet.

RETRIEVABILITY:

By name.

SAFEGUARDS:

The file cabinet is maintained within the area assigned to the Regional Director of Investigations, New York, within the Customhouse. During non-working hours the complex in which the file is located is locked and access to the building is controlled at all times by uniform guards.

RETENTION AND DISPOSAL:

The forms are destroyed after three (3) years.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director of Investigations. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates from the Special Agent who performs the unscheduled overtime.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .252

SYSTEM NAME:

Valuables Shipped Under the Government Losses in Shipment Act-Treasury/Customs.

SYSTEM LOCATION:

District Director of Customs, 610 S. Canal Street, Chicago, IL 60607.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees collecting and transmitting funds to cashier for deposit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, collection document serial numbers, amount of collection.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 300.30, Customs Accounting Manual; 5 U.S.C. 134f; 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Filed in folders with the individual's name appearing at the top thereof in a file cabinet.

RETRIEVABILITY:

Each record folder is filed by name of individual.

SAFEGUARDS:

The cabinet described above is maintained within the area assigned in the Customs office. During non-working hours the area in which the cabinet is located is secured.

RETENTION AND DISPOSAL:

Retained from three years and then forwarded to FRC for seven years retention.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, as appropriate, in the North Central Region, Chicago IL.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Data submitted by individual Customs employee involved.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .257

SYSTEM NAME:

Violators Card File-Treasury/Customs.

SYSTEM LOCATION:

Office of District Director, U.S. Customs Service, U.S. Customhouse, 101 E. Main Street, Norfolk, VA 23510.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons or firms who have violated any law administered by the U.S. Customs Service within the Norfolk District.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual or firm, case number and date and section of law violated. This information is obtained from Customs Forms, 151 and 5955–A.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as Amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each card is filed alphabetically in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each manual alphabetical card file is identified by the name of the person or firm who has violated any law administered by the U.S. Customs Service within the Norfolk District.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to Fines, Penalties & Forfeitures Officer within the U.S. Customshouse. During non-working hours the room in which the metal container is located is locked. Security for the building is maintained by General Services Administration (GSA).

RETENTION AND DISPOSAL:

Cards are reviewed periodically and those pertaining to firms no longer in business are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

District Director of Customs, U.S. Customshouse, 101 E. Main Street, Norfolk, VA 23510.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files is derived from Customs Form 151 (Search/Arrest/Seizure Report) and Customs Form 5955–A (Notice of Penalty or Liquidated Damages Incurred and Demand for Payment) which are prepared by the Customs Service.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs .258

SYSTEM NAME:

Violator's Case Files-Treasury/Customs.

SYSTEM LOCATION:

District Director of Customs, U.S. Customs Service, Main and Stebbins Street, St. Albans, VT 05478.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in smuggling, filing false invoices, documents or statements, violators of Customs bonds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name and address, Social Security number and physical description; alias, occupation, type of violation, previous record, driver's license, passport number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and 3 x 5 index cards.

RETRIEVABILITY:

Alphabetized by name of individual and local control number.

SAFEGUARDS:

Files are under the supervision of Fines, Penalties and Forfeitures Officer from 8 a.m. to 5 p.m., Monday through Friday. All other hours, office remains locked.

RETENTION AND DISPOSAL:

Files are maintained in the office of the Fines, Penalties, and Forfeitures Officer for a period of five years. At the conclusion of this period, they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, U.S. Customs Service, St. Albans, VT 05478.

VOL 50 ISS 141 JL 23 1985 UMI

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/Customs .260

SYSTEM NAME:

Warehouse Proprietor Files—Treasury/Customs.

SYSTEM LOCATION:

Offices of District Directors, North Central Region, Chicago, IL 60603. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past warehouse proprietors and employees that require an investigation and related information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of investigations, application and approval or denial of bond to act as warehouse proprietor and other Customs Service Memoranda. Names, addresses, Social Security numbers, and dates and places of birth of persons employed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Customs Regulations, Part 19, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in file cabinets in each District Director's office within the North Central Region, Chicago, IL 60603.

RETRIEVABILITY:

Each file is identified by the name of the warehouse proprietor.

SAFEGUARDS:

The file cabinets are maintained within the area assigned to the District Director. During non-working hours the room and/or building in which the file cabinet is located is locked.

RETENTION AND DISPOSAL:

Employee name date retained for period of employment with warehouse proprietor

SYSTEM MANAGER(S) AND ADDRESS:

District Director, as appropriate in the North Central Region, Chicago, IL 60603. (See Customs Appendix A.)

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The information in this file originates from the individual applicant for warehouse proprietor's bond, from reports of investigation, and other Customs Memoranda.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4) (G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/Customs .262

SYSTEM NAME:

Warnings to Importers in lieu of penalty—Treasury/Customs.

SYSTEM LOCATION:

Located in the Office of the District Director, 880 Front Street, San Diego, CA 92318; Offices of the Port Directors, U.S. Border Station, San Ysidro, CA 92073; P.O. Box 189, Tecate, CA 92080; P.O. Box 632, Calexico, CA 92231; 235 Andrade Road, Winterhaven, CA 92283; Andrade, CA; San Diego Barge Office; and the Offices of the Customs Patrol Division, San Diego, CA; San Ysidro, CA; Calexico, CA; Tecate, CA. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms in violation of Customs' laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Brief record of violation and warning.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on 5 x 7 cards.

RETRIEVABILITY:

Alphabetically indexed.

SAFEGUARDS:

Not accessible to other than Customs officers.

RETENTION AND DISPOSAL:

The records are disposed of in accordance with the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

District Director, Port Directors, and Division Directors within the San Diego Customs District. (See Customs Appendix A.)

NOTIFICATION PROCEDURES:

See Customs Appendix A.

RECORD ACCESS PROCEDURE:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs Appendix A.

RECORD SOURCE CATEGORIES:

Customs Officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs 00.284

SYSTEM NAME:

Personnel Verification System (PVS)—Treasury/Customs.

SYSTEM LOCATION:

Office of the Comptroller, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and Regional Offices of the U.S. Customs Service. (See Customs Appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authorized Customs personnel and non-Customs personnel who have received authorization to use the Regional Communications Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual identifiers including but not limited to name, office address, home address, office telephone number, home telephone number, badge number, Social Security number, radio call sign, page number, organization, and unit.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Alphabetic or numerical listings or card files. (2) microfiche. (3) magnetic disc and tapes. (4) other electronic storagemedia.

RETRIEVABILITY:

By name, call sign, paging number, Social Security number, badge number, organizational code.

SAFEGUARDS:

Records are located in controlled access areas with alarm protection systems. Offices are staffed 24 hours a day, seven days a week.

RETENTION AND DISPOSAL:

Records are maintained in the system until such time as the individual is no longer authorized usage of the Regional Communications Center. Disposal is by erasure of disc/tapes, shredding and/or burning of listings or card files, and burning of microfiche.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of the Comptroller, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Access Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Customs Appendix A.

RECORD SOURCE CATEGORIES:

The sources include but are not limited to (1) the individual to whom the record relates; (2) internal Customs Service records; (3) Personnel Verification Sheet.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Customs 00.285

SYSTEM NAME:

Automated Index to Central Enforcement Files.

SYSTEM LOCATION:

Office of Border Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Known violators of U.S. Customs laws. (2) Convicted violators of U.S. Customs and/or drug laws in the United States and foreign countries. (3) Suspected violators of U.S. Customs or other related laws. (4) Private yacht masters and pilots arriving in the U.S. (5) Individuals filing official U.S. Government forms 4790 (Currency and Monetary Instruments Reporting), 4789 (Currency Transaction Report), 90.22–1 (Foreign Banking Act Report).

CATEGORIES OF RECORDS IN THE SYSTEM:

A listing of Memoranda of Information Received, Reports of Investigations; Search/Arrest/Seizure Reports, Currency and Monetary Instrument Reports, Currency Transaction Reports, reports on Foreign Banking transactions, reports on Fines, Penalties, and Forfeitures, reports required by Private Aircraft Reporting System, reports required by the Private Yacht Reporting System, reports on vessel violations, investigation Program Analyst (IPA) reports relating to an individual, various other correspondence (letter, memoranda, etc.), which related to an individual in the Treasury Enforcement Communications System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Treasury Department Order No. 165, revised, as amended. Authority for the collection and maintenance of the report included in the system is: 19 U.S.C. 1603; 19 U.S.C.

1431; 19 U.S.C. 1624; 19 U.S.C. 66; 31 CFR Part 103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc and tape, microfiche.

RETRIEVABILITY:

Name, personal identification numbers, Customs case number, document's central file number.

SAFEGUARDS:

(1) All Central Files users must have a full field background investigation. (2) The "need to know" principle applies. (3) Procedural and physical safeguards are utilized such as accountability and receipt records, guard patrolling restricted areas, alarm protection systems, special communication security. (4) Access is limited to all Office of Investigations terminals and all Law Enforcement Systems Division Headquarters and San Diego terminals.

RETENTION AND DISPOSAL:

Records will be maintained in the Automated Index to Central Enforcement files for as long as the associated document or microfiche is retained. Records will be destroyed by erasure of the magnetic disc and by burning or shredding the microfiche.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Border Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Customs 00.267

SYSTEM NAME:

Customs Automated Licensing Information System (CALIS).

SYSTEM LOCATION:

ADP Branch, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms who have applied for or been granted licenses in the New York Region as customhouse brokers, or as bonded cartmen or lightermen, and officers, employees and associates of licensed customhouse brokers or licensed bonded cartmen or lightermen; individuals who have applied for or been granted approval to act as container station operators or bonded warehouse proprietors, firms which have applied for approval or been approved as container stations or bonded warehouses, and officers, employees and associates of approved container stations or approved bonded warehouses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security numbers, dates of birth, and other pertinent data extracted from Reports of Investigation, Regulatory Audit reports, Treasury Enforcement Communications System entries, and Search, Arrest, and Seizure Reports, information obtained from informants, reports from or to other law enforcement bodies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 1621; 19 CFR Part 111, 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 1561; 19 CFR Part 112; 19 CFR Part 19; 19 U.S.C. 1556.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To disclose information to foreign governments in accordance with formal or informal international agreements. (e) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (f) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relete to an agency's functions relating to civil and criminal proceedings. (g) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (h) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc.

RETRIEVABILITY:

Records can be retrieved by name or personal identification numbers and by employer's name and employer's identification numbers.

SAFEGUARDS:

Access to the office where records are maintained is controlled at all times. A password is required to gain access to records in the computer. The office where the records are maintained is locked during non-working hours. The records are available to those personnel in Operational Analysis and other appropriate Customs personnel on a "need to know" basis.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes, and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Operational Analysis Officer, U.S. Customs Service, 6 World Trade Center, Room 748, New York, NY 10048.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

This system of records may not be accessed under the Privacy Act for the purpose of inspection.

CONTESTING RECORD PROCEDURES:

Since this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual and those records, if any, cannot be inspected, the system may not be accessed under the Privacy Act for the purpose of contesting the content of the record.

RECORD SOURCE CATEGORIES:

This system contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

United States Customs Service

Appendix A

Notification procedure: Requests by an individual to be notified if the system of records contains records pertaining to him shall be in writing and directed to the Director, Regulation Control and Disclosure Law Division, Office of Regulations and Rulings, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229, or to the Regional Commissioner of the region in which the records are located (see Appendix A). The requester will be notified in writing of the procedures to be followed. Where the request is presented in person, the requester shall present adequate identification to establish his identity, and a comparison of his signature and those in the records may be made where the records contain the necessary signature.

If an individual can provide no suitable documents for identification, he may be required to make a signed statement asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine up to 5,000 dollars.

Where the request is not presented in person, it shall be accompanied by a notarized statement executed by the requester asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine up to 5,000 dollars. A comparison of his signature and those in the records may be made where the records contain the necessary signature.

Record access procedures: Requests by an individual to be notified how he can gain access to a record pertaining to him contained in a system of records, and how he can contest its content shall be in writing and directed to the Director, Regulations Control and Disclosure Law Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229 or to the Regional Commissioner of the region in which the records are located (see Appendix A). The requester will be notified in writing of the procedures to be followed.

Where the request is presented in person, the requester shall present adequate identification to establish his identity, and a comparison of his signature and those in the records may be made where the records contain the necessary signature.

If an individual can provide no suitable documents for identification, he may be required to make a signed statement asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine up to 5,000 dollars.

Where the request is not presented in person, it shall be accompanied by a notarized statement executed by the requester asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine up to 5,000 dollars. A comparison of his signature and those in the records may be made where the records contain the necessary signature.

Addresses of Headquarters, U.S. Customs Service, Regional Commissioners of Customs, Regional Directors (Internal Affairs), District Directors of Customs, and Customs Office of Investigations field offices:

U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.
Regional Commissioner of Customs, 100 Summer Street, Boston, MA 02110, (617) 223–7506.
Regional Commissioner of Customs, 55 E. Monroe Street, Chicago, IL 60603, (312) 353–4731.
Regional Commissioner of Customs, 500 Dallas Street, Houston, TX 77002, (713) 226–4893.
Regional Commissioner of Customs, 300 N. Los Angeles Street, Los Angeles, CA 90053, (213) 688–5900.
Regional Commissioner of Customs, 99 S.E. 5th Street, Miami, FL 33131, (305) 350–5952.
Regional Commissioner of Customs, 1440 Canal Street, New Orleans, LA 70112, (504) 589–6324.
Regional Commissioner of Customs, 6 World Trade Center, New York, NY 10048, (212) 466–4444.

Office of Internal Affairs field offices:

Regional Director (Internal Affairs), 100 Summer Street, Boston MA 02110.
Regional Director (Internal Affairs), 6 World Trade Center, New York, NY 10048.
Regional Director (Internal Affairs), P.O. Box 3201, Miami, FL 33101.
Regional Director (Internal Affairs), 1440 Canal Street, New Orleans, LA 70112.
Regional Director (Internal Affairs), 500 Dallas Street, Houston, TX 77002.
Regional Director (Internal Affairs), 55 East Monroe Street, Chicago, IL 60603.
Regional Director (Internal Affairs), P.O. Box 951, Main Post Office, Los Angeles, CA 90053.

Customs District Offices: (Note: New York has Area Directors instead of District Directors.)

(Pacific Region) Anchorage, AK 99501/620 E. 10th Avenue, (907) 271–4043.
(Northeast Region) Baltimore, MD 21202/103 S. Gay Street, (301) 962–2666.
(Northeast Region) Boston, MA 02109/2 India Street, (617) 223–6598.
(Northeast Region) Bridgeport, CT 06609/120 Middle Street, (203) 579–5605.
(Northeast Region) Buffalo, NY 14202/111 W. Huron Street, (716) 846–4375.
(Southeast Region) Charleston, SC 29402/Box 876, (803) 724–4312.
(North Central Region) Chicago, IL 60607/610 S. Canal Street, (312) 353–6100.

VOL 50 ISS 141 JL 23 1985 UMI

(North Central Region) Cleveland, OH 44114/6th Floor, Plaza Nine Bldg., 55 Erieview Plaza, (216) 522–4284.
(North Central Region) Detroit, MI 48226/Room 200, Patrick V. McNamara Bldg., 477 Michigan Ave., (313) 226–3177.
(North Central Region) Duluth, MN 55802/Room 209, Federal Bldg., (218) 727–6682.
(Southwest Region) El Paso, TX 79985/Bldg. B, Room 134, Bridge of the Americas (P.O. Box 9516), (915) 543–7435.
(Southwest Region) Galveston, TX 77553/P.O. Box 570 (713) 763–1211.
(Pacific Region) Great Falls, MT 59401/215 1st Avenue, North, (406) 453–7631.
(Pacific Region) Honolulu, HI 96813/335 Merchant Street, (808) 546–3115.
(Southwest Region) Houston, TX 77052/701 San Jacinto Street, (713) 226–4316.
(Southwest Region) Laredo, TX 78040/Mann Road and Santa Maria Streets, (512) 723–2956.
(Pacific Region) Los Angeles/Long Beach/300 S. Ferry Street, San Pedro, CA 90731 (213) 548–2441.
(Southeast Region) Miami, FL 33131/77 S.E. 5th Street, (305) 350–5791.
(North Central Region) Milwaukee, WI 53202/628 East Michigan Street, (414) 291–3924.
(North Central Region) Minneapolis, MN 55401/110 South Fourth Street, (612) 725–2317.
(South Central Region) Mobile, AL 36602/250 North Water Street, (205) 690–2106.
(South Central Region) New Orleans, LA 70130/600 South Street, (504) 589–6353.
(New York Region) New York: New York Seaport Area, New York, NY 10048, Customhouse, 6 World Trade Center, (212) 466–5617. Kennedy Airport Area, Jamaica, NY 11430, Seaboard World Building, Room 178, (212) 995–7063. Newark Area, Airport International Plaza, Room 210A, Newark, NJ 07114, (201) 645–3760.
(Pacific Region) Nogales, AZ 85621/International & Terrace Streets, (602) 287–4955.
(Northeast Region) Norfolk, VA 23510/101 East Main Street, (804) 441–6546.
(Northeast Region) Ogdensburg, NY 13669/127 North Water Street, (315) 393–0660.
(North Central Region) Pembina, ND 58271/Post Office Bldg. (701) 825–6201.
(Northeast Region) Philadelphia, PA 19106/2nd & Chestnut Streets, (215) 597–4605.
(Southwest Region) Port Arthur, TX 77640/5th & Austin Avenue, (713) 983–6271.
(Northeast Region) Portland, ME 04112/312 Fore Street, (207) 780–3326.
(Pacific Region) Portland, OR 97209/511 N.W. Broadway & Glisan Streets, (503) 221–2865.
(Northeast Region) Providence, RI 02903/24 Weybosset Street, (401) 528–4384.
(Northeast Region) St. Albans, VT 05478/Main & Stebbins Streets, (802) 524–6527.
(North Central Region) St. Louis, MO 63105/120 S. Central Avenue, (314) 425–3134.
(Southeast Region) St. Thomas, VI 00801/P.O. Box 510) (809) 774–2530.
(Pacific Region) San Diego, CA 92318/880 Front Street, (714) 293–5394.
(Pacific Region) San Francisco, CA 94128/555 Battery Street, (415) 556–4340.
(Southeast Region) San Juan, PR 00903/(P.O. Box 2112) (809) 723–2091.
(Southeast Region) Savannah, GA 31401/1 East Bay Street, (912) 232–4321.
(Pacific Region) Seattle, WA 98174/909 First Avenue, (206) 442–5491.
(Southeast Region) Tampa, FL 33602/301 S. Ashley Drive, (813) 228–2381.
(Northeast Region) Washington, D.C. 20018/3180 Bladensburg Road, NE., (202) 566–8511.
(Southeast Region) Wilmington, NC 28401/2094 Polk Street, (919) 343–4601.

Office of Investigations field offices

(Northeast Region)—Boston

Office of Regional Director of Investigations, Suite 1828, 100 Summer St., Boston, MA 02110.
Office of Resident Agent, P.O. Box 368, Derby Line, VT 05830.
Special Agent In Charge, P.O. Box 400, Houlton, ME 04730.
Resident Agent, P.O. Box 4728, Portland, ME 04112.
Office of Special Agent In Charge, 127 N. Water St., Ogdensburg, NY 13669.
Office of Resident Agent, Federal Building, Suite 301, 150 Court St., New Haven, CT 06510.
Office of Special Agent In Charge, U.S. Federal Building, Room 1206, 111 West Huron, Buffalo, NY 14202.
Office of Special Agent In Charge, P.O. Box 68, Rouses Point, NY 12979.

(New York Region)—New York

Office of Regional Director of Inv., U.S. Customs Service, Room 508, 6 World Trade Center, New York, NY 10048.
Office of Special Agent In Charge, Airport International Plaza, Suite 400, Routes 1 and 9 South, Newark, NJ 07114.
Office of Special Agent In Charge, J.F.K. International Airport, Inter. Arrival Bldg., 160–19 Rockaway Blvd., Jamaica, NY 11434.

(Northeast Region)—Baltimore

Office of Regional Director of Inv., Room 810, U.S. Appraisers Stores Bldg., 103 South Gay Street, Baltimore, MD 21202.
Office of Resident Agent, 701 West Broad Street, Room 301, Falls Church, Virginia 22046.
Office of Special Agent In Charge, Room 201, U.S. Customhouse, 2nd & Chestnut Streets, Philadelphia, PA 19106.
Office of Resident Agent, Room 2236, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.
Office of Special Agent In Charge, 201 U.S. Customhouse, Norfolk, VA 23510.

(Southeast Region)—Miami

Office of Regional Director of Inv., 99 S.E. 5th Street, Miami, FL 33131.
Office of Resident Agent, 701 Clematis Street, Room 253, West Palm Beach, FL 33401.
Office of Special Agent In Charge, P.O. Box 1516, Tampa, FL 33601.
Office of Resident Agent, 2831 Talleyrand Avenue, Jacksonville, FL 32206.
Office of Special Agent In Charge, Drawer A, Savannah, GA 31408.
Office of Resident Agent, 1585 Phoenix Boulevard, Suite 5, Atlanta, GA 30349.
Office of Special Agent In Charge, P.O. Box 898, Wilmington, NC 28401.
Office of Special Agent In Charge, U.S. Customs Service, P.O. Box S–1272, Old San Juan PR 00902.
Office of Resident Agent, P.O. Box 127, Ponce Playa, PR 00731.
Office of Resident Agent, U.S. Customhouse, P.O. Box 3226, Marina Station, Mayaguez, PR.
Office of Special Agent In Charge, P.O. Box 698, Charlotte-Amalie, St. Thomas, VI.
Office of Resident Agent, P.O. Box 1801-Christiansted, St. Croix, VI.

(South Central Region)—New Orleans

Office of Regional Director of Inv., 1440 Canal Street, New Orleans, LA 70112.
Office of Special Agent In Charge, 108 Decatur, New Orleans, LA 70130.
Office of Special Agent In Charge, International Trade Center, P.O. Box 1704, Mobile, AL 36601.
Office of Resident Agent, 1717 West End Building, Room 322, Nashville, TN 37203.

(Southwest Region)—Houston

Office of Regional Director of Inv., Suite 1380, 500 Dallas Street, Houston, TX 77002.
Office of Resident Agent, Suite 210, 700 Paredes Ave., Brownsville, TX 78521.
Office of Resident Agent, P.O. Drawer 1169, Del Rio, TX 78440.
Office of Resident Agent, 1200 Main Street, Suite 705, Main Tower Bldg., Dallas, TX 75202.
Office of Special Agent In Charge, P.O. Box 2128, Laredo, TX 78041.
Office of Resident Agent, P.O. Box 828, Eagle Pass, TX 78852.
Office of Resident Agent, Room 205A, 320 N. Main St., McAllen, TX 78501.
Office of Resident Agent, 1802 N.E. Loop 410, Suite 302, San Antonio, TX 78217.
Office of Special Agent In Charge, P.O. Box 10719, El Paso, TX 79997.
Office of Resident Agent, 721 19th Street, Room 404, Denver, CO 80202.

(Pacific Region)—Los Angeles

Office of Regional Director of Inv., 300 South Ferry Street, Room 2037, Terminal Island, San Pedro, CA 90731.
Office of Special Agent In Charge, P.O. Box 1385, Nogales, AZ 85621.
Office of Resident Agent, P.O. Box 5752, Suite 200, First Federal Savings Bldg., 350 West 16th Street, Yuma, AZ 85364.
Office of Resident Agent, P.O. Box 1078, 1704 10th St., F Glenn Bldg., Douglas, AZ 85607.
Office of Resident Agent, Room 328, Amerco Towers, 2721 North Central Avenue, Suite 1000, Phoenix, AZ 85004.
Office of Resident Agent, P.O. Box 2911, Tucson, AZ 85701.
Office of Special Agent In Charge, P.O. Box 187, San Ysidro, CA 92173.
Office of Resident Agent, P.O. Box 1510, Calexico, CA 92231.

(Pacific Region)—San Francisco

Office of Regional Director of Inv., 211 Main Street, San Francisco, CA 94105.
Office of Special Agent In Charge, 4100 Federal Office Building, 909 First Avenue, Seattle, WA 98174.
Office of Resident Agent, P.O. Box 1360, Blaine, WA 98230.
Office of Special Agent In Charge, P.O. Box 199, Anchorage, AK 99510.
Office of Special Agent In Charge, 1380 12th Avenue So., Great Falls, MT 59405.
Office of Special Agent In Charge, 300 Ala Moana Blvd., Room 6127, P.O. Box 50104, Honolulu, HI 96850.
Office of Special Agent In Charge, P.O. Box 2841, Portland, OR 97208.

(North Central Region)—Chicago

Office of Regional Director of Inv., 55 E. Monroe Street, Suite 1423, Chicago, IL 60603.
Office of Special Agent In Charge, 628 East Michigan Street, Room 208, Milwaukee, WI 53202.

Office of Special Agent In Charge, 120 South Central Ave., Suite 440, St. Louis, MO 63105.
Office of Special Agent In Charge, Plaza Nine, 55 Erieview Plaza, Room 210, Cleveland, OH 44114.
Office of Resident Agent, P.O. Box 1035, Fountain Square Station, Cincinnati, OH 45201.
Office of Resident Agent, P.O. Box 41809, Weir Cook Airport, Indianapolis, IN 46241.
Office of Special Agent In Charge, Room 350, Patrick V. McNamara Bldg., 477 Michigan Ave., Detroit, MI 48226.
Office of Special Agent In Charge, P.O. Box 192, Pembina, ND 58271.
Office of Special Agent In Charge, 212 Third Avenue, Room 154, Federal Building, Minneapolis, MN 55401.

[FR Doc. 85–17242 Filed 7–22–85; 8:45 am]
BILLING CODE 4810-22-M

VOL
50

ISS
141

JL
23

1985

UMI

federal register

Tuesday
July 23, 1985

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Nighttime VFR Weather Minimums; Proposed Rule

VOL
50
ISS
141
JL
23
1985
UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 24722; Notice No. 85-14]

Nighttime VFR Weather Minimums

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to standardize the nighttime weather minimums for VFR flight in all airspace, controlled or uncontrolled. Requirements for ceiling, visibility, and distance from clouds would be the same as presently exist for controlled airspace. This amendment would minimize the risks inherent in flying during reduced ceiling and visibility.

DATE: Comments must be received on or before September 23, 1985.

ADDRESSES: Comments on the proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24722, 800 Independence Avenue SW., Washington, D.C. 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Burton Chandler, Airspace—Rules and Aeronautical Information Division, ATO-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24722." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

In response to former FAA Administrator Helms' challenge that the aviation community take a more active role in issues concerning the FAA and the agency's response to aviation problem, a panel of 13 representatives from general aviation was formed for the purpose of recommending regulatory and nonregulatory ways by which the FAA could increase its positive influence on general aviation safety.

Short and long range goals were considered, where short range referred to recommendations that could be acted on immediately and would have an impact within 1 to 3 years. Long range referred to recommendations that could be implemented within 12 to 18 months and would have an impact within 3 to 10 years.

Under the chairmanship of Mr. John W. Olcott, Editor and Associate Publisher of *Business and Commercial Aviation Magazine*, a panel (known informally as the General Aviation Safety Panel) was constituted to include knowledgeable representatives from each major constituency within the general aviation community, as listed below:

Mr. James N. Baker, President, Baker Flying Service
Mr. Max E. Bleck, President and CEO, Piper Aircraft Corporation
Mr. John V. Brennan, President & COO, U.S. Aviation Underwriters, Inc.
Mr. Richard L. Collins, Editor, *Flying Magazine*
Mr. John H. Enders, President, Flight Safety Foundation, Inc.
Mr. Gabriel Hartl, Executive Director, Air Traffic Control Association
Dr. Richard McFarland, Avionics Engineering Center, Ohio University
Mr. John J. Sheehan, Planning Officer, Technical Policy and Plans, Aircraft Owners and Pilots Association
Mr. Preston Parish, Vice Chairman, The Upjohn Company, (Chairman, NBAA Safety & Awards Comm.)
Mr. Paul Poberezny, President, Experimental Aircraft Association, Inc.
Mr. Archie Trammell, Executive Vice President, AOPA Air Safety Foundation
Mr. A. L. Ueltschi, President & Chairman, Flight Safety International, Inc.
Mr. John W. Olcott, Editor and Associate Publisher, *Business and Commercial Aviation*

General Aviation Safety Panel Recommendation Pertaining to the Proposal

The comprehensive plan contains a recommendation to the FAA which is the subject of this NPRM.

Weather

The panel, therefore, unanimously recommend that for fixed wing aircraft, the weather minimums for all airspace, controlled or uncontrolled, at night be standardized at the requirements for ceiling, visibility, and distance from clouds that presently exist for controlled airspace. The rules for special VFR would remain unchanged.

The Current Rule

Flight visibility and distance from cloud criteria outside controlled airspace in most cases are less than for flight within controlled airspace. No provision exists to prescribe different weather minimums for a nighttime operation. For example, when 1,200 feet or less above the surface (regardless of mean sea level (MSL) altitude) within controlled airspace, flight visibility must be 3 statute miles. Required distance from clouds is 500 feet below, 1,000 feet above, and 2,000 feet horizontal. VFR flight outside controlled airspace requires 1 statute mile flight visibility and requires that distance of flight from clouds simply be clear of clouds.

When more than 1,200 feet above the surface but less than 10,000 feet MSL, within controlled airspace, flight visibility must be 3 statute miles. Required distance from clouds is 500 feet below, 1,000 feet above, and 2,000 feet horizontal. Outside controlled airspace, the requirement is 1 statute mile flight visibility and a distance from clouds of 500 feet below, 1,000 feet above, and 2,000 feet horizontal.

When more than 1,200 feet above the surface and at or above 10,000 feet MSL, flight visibility must be 5 statute miles. Required distance from clouds is 1,000 feet below, 1,000 feet above, and 1 mile horizontal.

The Proposal

Data compiled by the National Transportation Safety Board (NTSB) indicates that weather is a cause or factor in about 40 percent of fatal accidents within general aviation. Of equal significance is the fact that the classification "pilot-inadequate preflight preparation or planning" is the leading cause or factor in nonfatal accidents (12 percent) and a cause or factor in about 13 percent of fatal accidents. Often, the specific area where preparation and planning were lacking was related to weather.

Where accidents involve weather-related causes or factors, the mishap is more likely to result in a fatality. Of the 10 leading causal factors attributed to nonfatal accidents in 1979, for example, only one—unfavorable wind conditions—explicitly referred to weather. In accidents involving fatalities, however, 4 of the 10 leading causal factors related directly to weather.

Low ceiling typically is a leading causal factor in fatal accidents. In 1979, for example, it was a cause or factor in 25 percent of all fatal accidents; no other causal factor was more prevalent in mishaps involving fatalities. The second most frequent citation was "pilot-continued VFR flight into adverse weather conditions" (19 percent of 1979's fatal accidents). "Weather-fog" was the fourth most often cited causal factor (18 percent) after "pilot-failed to obtain/maintain flying speed" (19 percent). "Weather-rain" was the ninth of 10 leading causal factors for 1979 (7 percent).[1]

Since two other top 10 causal factors in fatal accidents—"pilot-inadequate preflight preparation or planning" and "pilot-improper inflight decisions or planning"—often involve the gathering or use of weather information, in fact six of the 10 leading causal factors for the year 1979 involved weather in some form.

Although specific data for 1979 are used here for emphasis (since 1979 was the year in which the lowest number of fatal accidents occurred for the period 1967 to 1980, the last year for which the panel had detailed breakdowns of data), the results presented do not vary appreciably from other years and are applicable for the present time.

To address the problems presented by low ceilings not related to IFR pilots descending below landing minimums, the panel analyzed 5 years of NTSB records of fatal accidents (1976 through 1980) where the NTSB cited the pilot for continuing visual flight rules (VFR) flight into adverse weather. The panel was particularly interested in the number of accidents that occurred where the reported ceiling was 1,000 feet or less.

During the period 1976 through 1980, 60 percent of fatal, continued VFR accidents occurred with a ceiling of 1,000 feet or less and 16 percent occurred with a ceiling of over 2,000 feet. The ceiling was unknown in 24 percent of the records. Among the accidents where the reported ceiling is 2,000 feet or less (hence the type of accident most likely to be directly related to low ceilings as opposed to some other factor such as extreme turbulence or thunderstorms), over 80 percent of the mishaps occurred with a ceiling of 1,000 or less.

Further analysis of 1980 data for fatal accidents where the pilot continued VFR flight into adverse weather conditions shows that the failure or inability to follow instrument flight rules (IFR) procedures in the presence of adverse weather was present in 95 percent of the accidents and that over 50 percent of the accidents occurred at night, even though only about 5 to 10 percent of VFR flying by general aviation pilots occur at night.

The 1980 data agree quite well with the results of an NTSB study entitled, "Special Study of Fatal, Weather-Involved General Aviation Accidents, 1964-1972."

The panel concluded that pilots should be encouraged to avoid marginal VFR conditions, where marginal is defined as any weather conditions with ceiling 1,000 feet or below and visibility 3 miles or less. Furthermore, pilots should be encouraged to obtain an instrument rating and use it whenever marginal VFR or lower conditions exist.

The suggestion was made that weather minimums for VFR flight should be standardized at 1,000 foot ceiling and 3 miles visibility for all airspace, controlled and uncontrolled. Such standardization, it was argued, would place emphasis on the risks inherent in flying with reduced ceilings and visibility.

Several members of the panel emphasized, however, that under certain conditions, the right to fly in 1 mile visibility and clear of the clouds could be exercised safely provided a pilot were able to detect cloud heights and visibility before the weather deteriorated to instrument meteorological conditions (IMC). Furhermore, they stated that detecting the onset of IMC before penetrating low ceilings and fog was very difficult, if not impossible, at night in conditions of reduced ceilings and visibility.

Economic Impact

This proposal would change the conditions of visibility and cloud cover under which it would be permissible to operate VFR during hours of darkness. The proposed conditions are more restrictive than the present regulation.

The benefits and costs of this proposal are difficult to quantify. In general, the benefits are expected to exceed costs, and this conclusion is supported by the fact that the proposal to change the regulation originated from the conclusions of a public panel, rather than from an FAA regulatory initiative.

The panel report contains statistical backup for the regulatory proposal. In addition to relying on the general data reviewed by the panel, FAA conducted a detailed review of a sample year of general aviation accidents. For purposes of the analysis, FAA reviewed briefs of fatal accidents involving weather as a cause or factor in 1977. The year 1977 was selected primarily because the total number of general aviation accidents was on the high side of the average "650 to 700" per year cited by the panel as a kind of "constant" for the decade of the 1970's.

In the sample year, there were 258 fatal accidents involving weather as a cause or factor. After eliminating accidents for the obvious reasons of hour of day, type of operation, and visibility or ceiling factors, there were 19 accidents involving 36 fatalities. This is a relevant data base for establishing benefits of the proposal. Effectiveness of the regulation is difficult to estimate, since the record is clear that present standards are frequently breached. If there is 100 percent effectiveness, and the 1977 history is taken as reasonable approximation of an average year, then the benefit of the rule would be approximately $23.4 million annually, if only the value of the 36 lives saved is counted. This estimate uses a 1983 value of life of $650,000, based on updated factors from an FAA study.

The cost of this proposal can only be estimated in a speculative fashion. In 1983 there were approximately 3.5 million night hours flown under visual meteorological conditions. The only hours which would be limited by the proposal would be those VFR operations

[1] Causal factors total more than 100 percent due to the assignment or more than one cause or factor to an accident.

VOL 50 ISS 141 JL 23 1985 UMI

which occurred within controlled airspace and within the visibility and cloud cover criteria affected. This is likely to be a small percentage of the total hours in any given year.

While it is speculative, FAA estimates that the maximum cost of this proposal is in the area of $19 million per year. This is based on an estimated delay to 175,000 trips, delaying 2.5 persons per trip for two hours, and assumes a delay cost of $21.50 per hour. Thus, FAA believes that maximum benefits exceed maximum costs. While this conclusion is somewhat speculative, it is supported by the fact that the regulatory proposal originated from a public panel rather than from an FAA regulatory initiative, and if costs were perceived to exceed benefits, it is unlikely that a public panel would recommend the change to VFR criteria.

As required under the Regulatory Flexibility Act, the FAA evaluated the impact of the proposed rule on small entities, or small commercial and public enterprises. The proposed rule applies only to flights conducted VFR in uncontrolled airspace at night. Because commercial and business-owned general aviation aircraft are virtually universally equipped for IFR operation, only an extremely small number of flights would be cancelled or delayed as a result of the proposed minimums. Commercial and business operators who conduct VFR flights in uncontrolled airspace by necessity constitute only a small fraction of the number of operators affected by the proposal. Therefore, it is certified that under the criteria of the Regulatory Flexibility Act, this regulation, at promulgation, will not have a significant economic impact on a substantial number of small entities. For the reasons given earlier in the preamble, the FAA has determined that this is not a major regulation as defined in Executive Order 12291. The FAA has determined that this action is nonsignificant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots Air traffic control, Liquor, Narcotics, Pilots, Airspace, Air transportation, Cargo, Smoking, Airports, Airworthiness directives and standards.

The Proposed Revision

PART 91—GENERAL OPERATING AND FLIGHT RULES

Accordingly, the Federal Aviation Administration proposes to amend Part 91 Federal Aviation Regulations (14 CFR Part 91) as follows:

1. The authority for Part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 21, 1983).

2. Section 91.105 is amended by revising paragraphs (a) and (b)

§91.105 Basic VFR weather minimums.

(a) Except as provided in §§ 91.105(b) and 91.107, no person may operate an aircraft under VFR when the flight visibility is less, or at a distance from clouds that is less than that prescribed for the corresponding altitude in the following table:

Altitude	Flight visibility (statute miles)	Distance from clouds
1,200 feet or less above the surface (regardless of MSL altitude):		
Within controlled airspace.	3	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Outside controlled airspace (day).	1	Clear of clouds.
Outside controlled airspace (night).	3	500 feet below, 1,000 feet above, 2,000 feet horizontal.
More than 1,200 feet above the surface but less than 10,000 feet MSL:		
Within controlled airspace.	3	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Outside controlled airspace (day).	1	500 feet below, 1,000 feet above, 2,000 feet horizontal.
Outside controlled airspace (night).	3	500 feet below, 1,000 feet above, 2,000 feet horizontal
More than 1,200 feet above the surface and at or above 10,000 feet MSL.	5	1,000 feet below, 1,000 feet above, 1 mile horizontal.

(b) When the visibility is less than 1 mile during day hours or less than 3 miles during night hours, a helicopter may be operated outside controlled airspace at 1,200 feet or less above the surface if operated at a speed that allows the pilot adequate opportunity to see any air traffic or other obstruction in time to avoid a collision.

* * * * *

Issued in Washington, D.C., on April 22, 1985.

Daniel F. Creedon,

Acting Director, Air Traffic Operations Service.

[FR Doc. 85-17389 Filed 7-22-85; 8:45 am]

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Federal Register
Vol. 50, No. 141
Tuesday, July 23, 1985

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Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212	1
27213-27408	2
27409-27570	3
27571-27812	5
27813-27926	8
27927-28092	9
28093-28190	10
28191-28362	11
28363-28554	12
28555-28756	15
28757-28894	16
28895-29202	17
29203-29366	18
29367-29628	19
29629-29934	22
29935-30126	23

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305 ... 28363

3 CFR

Administrative Orders:

Memorandums:

July 17, 1985 ... 29631

Presidential Determinations:

No. 85-16 of July 12, 1985 ... 29629

Executive Orders:

11888 (Amended by EO 12524) ... 27409

12470 (Revoked by EO12525) ... 28757

12523 ... 26963

12524 ... 27409

12525 ... 28757

12526 ... 29203

Proclamations:

5356 ... 26961

5357 ... 29935

5 CFR

630 ... 29937

771 ... 26985

1201 ... 28895

Proposed Rules:

532 ... 28583, 28584

7 CFR

Ch. IV ... 27927

2 ... 29367

52 ... 26965, 29635

54 ... 27571

226 ... 26972

301 ... 28366

400 ... 26976

402 ... 28367

908 ... 27411, 27928, 28898

910 ... 27813, 28372, 28555, 29628

911 ... 28373

915 ... 28373, 28556

916 ... 27813, 28373

917 ... 27813, 28373

918 ... 28373

921 ... 27411, 28373

922 ... 28373

923 ... 28373

924 ... 28373

930 ... 27213, 28373

944 ... 28556

967 ... 28373

979 ... 26976

985 ... 28373

991 ... 26977, 27814

1040 ... 27412

1136 ... 29637

1421 ... 29639

1427 ... 26978

1435 ... 27413

1941 ... 27414

1944 ... 27415

1945 ... 27414, 27416

3015 ... 28759

Proposed Rules:

Ch. IV ... 27971

Ch. X ... 27003

29 ... 27288

51 ... 27004

417 ... 27601

800 ... 28104, 29985

801 ... 29689

802 ... 29689

907 ... 29405

908 ... 29405

910 ... 28105

920 ... 27288

967 ... 28210

999 ... 28585

1124 ... 27972

1240 ... 28404

1427 ... 29693

1930 ... 28782

1944 ... 28782

1965 ... 28782

8 CFR

238 ... 29641

316a ... 27816

Proposed Rules:

103 ... 27289

341 ... 28586

343a ... 28587

9 CFR

78 ... 28899

91 ... 27929, 29205

92 ... 27928, 28557

94 ... 28560, 28900

318 ... 27573, 28374

Proposed Rules:

94 ... 27973

10 CFR

9 ... 27214

50 ... 29937

60 ... 29641

Proposed Rules:

50 ... 27006, 28815

440 ... 29620

11 CFR

Proposed Rules:

110 ... 29232

12 CFR

403 ... 27215

611 ... 27930

617 ... 27931

723 ... 27417

VOL 50 ISS 141 JL 23 1985 UMI

Proposed Rules:
561.....27290, 28588, 29965
563.....27290, 28588, 29965
571.....27290, 28588

13 CFR

121.....27418
302.....27419

Proposed Rules:
107.....29532
108.....27754

14 CFR

21.....29045
39.....26979, 27575, 27576, 27931-27933, 28093, 28094, 28561-28563, 28766, 29648-29651
71.....26980, 27934, 28564, 28565, 28900-28902
97.....27934, 29653
108.....27924, 28884
121.....29306
135.....29306

Proposed Rules:
39.....27009, 27012, 27601, 27602, 28815, 29694, 29966
71.....27013, 27014, 27528, 28568-28591, 28816, 28950, 29407
75.....27014
91.....28950, 30124

15 CFR

19.....27577
90.....28767
368-399 (See EO 12525).....28757, 29205
370.....29205
376.....27420, 29205
378.....29205
385.....29205
386.....29205
399.....27420

Proposed Rules:
303.....29232
911.....28816

16 CFR

3.....28095
4.....28095
13.....26981, 27578, 28374, 28902
453.....28062, 28081
703.....27936

Proposed Rules:
13.....28592, 28951, 29696, 29699

17 CFR

3.....28907
200.....28385, 29368
239.....27937
240.....27937, 27940, 28385
249.....27937, 29948
270.....27937, 28930
274.....27937, 29368
275.....29206
288.....26981, 27947

Proposed Rules:
210.....27973, 28953, 29409
229.....29409
230.....28404
239.....29409
240.....27829, 27976, 27981, 28106, 28210, 28219, 28404, 29409
250.....27981
259.....27981
270.....27982, 29409

18 CFR

37.....29655
157.....27816
389.....27816

Proposed Rules:
2.....28954
35.....27604
154.....28954
157.....28954
161.....28954
271.....28221
284.....28954
290.....27604

19 CFR

4.....26981, 29949
10.....29949
12.....27947
19.....29949
24.....29949
103.....29949
113.....29949
134.....29949
141.....29949
142.....27816
143.....29949
145.....29949
148.....29949
152.....29949
162.....29949
171.....29949
173.....29949
178.....27947
191.....29949

Proposed Rules
162.....27829
177.....27831

20 CFR

200.....27222, 29957
401.....28565
422.....28565
626.....27818
627.....27818
628.....27818
629.....27818
630.....27818

Proposed Rules:
404.....27615, 29435
416.....27615, 29435
674.....29606

21 CFR

101.....26984
173.....29208
176.....29657
179.....29658
436.....29209
510.....28395
520.....27818, 28768
558.....27421, 27422, 28768, 28931, 28932
812.....28932
1308.....26098, 28395

Proposed Rules:
Ch. I, Subchapter C.....28594
81.....29702
109.....29233
110.....29233
146.....29702
170.....27294, 29235
201.....27016, 29702
211.....27016, 29702
225.....29233
226.....29233
357.....27552, 28595
433.....29702
500.....29233
509.....29233
514.....27016, 29702
559.....27016, 29702
561.....27452
610.....28595
660.....28595
1002.....27024, 29704

22 CFR

501.....27422
1502.....28932
1504.....28934

23 CFR

825.....29209
1325.....28191

24 CFR

200.....28197
203.....28197
885.....28197
3282.....28396

25 CFR

Proposed Rules:
61.....27456

26 CFR

1.....27222, 27231, 27427, 29369-29376, 29959
31.....29964
48.....29959
138.....29959
602.....27222, 27231, 29369, 29376, 29959, 29964

Proposed Rules:
1.....27297, 27456, 27457, 28409, 29435, 29436
31.....29690
51.....27621
602.....29436

27 CFR

4.....27819
9.....29967
170.....28572

Proposed Rules:
9.....28409

28 CFR

0.....28769
2.....28101
18.....28199
32.....27428

Proposed Rules:
30.....28955

29 CFR

70.....28306
1952.....27233, 28770, 29210, 29659

Proposed Rules:
33.....27298, 28958
89.....29606
1910.....27307

30 CFR

700.....28186
701.....28186
765.....28186
827.....28186
901.....29379
902.....28592
943.....28186
948.....28316, 28324

Proposed Rules:
56.....27566
57.....27566, 29437
700.....28180
701.....28180
785.....28180
817.....27910
827.....28180
913.....27025
917.....28222, 28235
926.....29235
935.....29437, 29438
936.....27461
944.....28107
948.....28343
950.....28595, 29436, 29704

31 CFR

4.....29221
51.....26987
103.....27621
500.....27435
505.....27435
515.....27435
520.....27435
535.....27435
540.....27435

32 CFR

Parts 1-39.....26987
199.....26988
642.....28573
657.....28573
706.....26366-26400
726.....28401

33 CFR

100.....27578, 28573, 29221-29223
110.....26989, 27596, 29224
117.....26989, 27582, 29670-29672
150.....26989
165.....27583, 29225
166.....26989

Proposed Rules:
110.....27622, 27623, 28596
117.....27026, 27029, 27624, 27832, 27990, 27991, 29236

34 CFR

19.....28101
75.....29326
76.....29326
304.....29326
425.....29352
426.....29352
431.....29352
432.....29352

Proposed Rules:
369.....28412
376.....28412

35 CFR

101.....26990
103.....26990
121.....26990

36 CFR

254.....29673

1200.....27196
1202.....27196
1228.....27951
1250.....27196

37 CFR

Proposed Rules:
1.....27030, 28596

38 CFR

1.....29226
3.....27584
21.....27825, 29674

Proposed Rules:
3.....28224
17.....29990
36.....27833

39 CFR

3.....29380
10.....27827
601.....28941
3001.....28144

Proposed Rules:
111.....27992
3001.....27308

40 CFR

51.....27892
52.....26991, 27244-27247, 28544, 29229, 29381, 29383
60.....27248
61.....27248
81.....28574
86.....27250, 29384
123.....28202
147.....28941, 28942
158.....28943
162.....28943
180.....28944-28946
260.....28702
261.....28702
262.....28702
264.....28702
265.....28702
266.....28702
270.....28702
271.....28702
280.....28702
419.....28516
600.....27172
761.....29170
763.....28530

Proposed Rules:
52.....27030, 27462, 28224, 28415, 28596, 28598, 28818, 29237, 29439
86.....28818
180.....27463, 28108, 28956, 28957
202.....27321
205.....27321
260.....29992
262.....29992
264.....29992
265.....29992
270.....29992
403.....29705
414.....29068
416.....29068
600.....27188

41 CFR

Chs. 1-49.....26987
101-4.....28402
101-17.....28577
101-40.....27951
101-41.....29972
101-47.....28402
105-54.....28203
105-63.....26992
201-1.....27142
201-2.....27142, 28208
201-8.....27142
201-11.....27142
201-16.....27142
201-20.....27142
201-21.....27142
201-22.....28208
201-23.....27142
201-24.....27142
201-26.....27142
201-30.....27142, 28208
201-31.....27142, 28208
201-32.....27142, 28208
201-38.....27142
201-39.....27142, 28208
201-40.....27142, 28208
201-45.....28208

Proposed Rules:
101-41.....27625, 27626

42 CFR

400.....28577
405.....27722
412.....27208, 27722
416.....28577
435.....28577

Proposed Rules:
23.....27465
405.....27469
412.....27469

43 CFR

2.....29230
5470.....26947

Public Land Orders:
5150 (Revoked in part by PLO 6607).....27827
5179 (Revoked in part by PLO 6607).....27827
5180 (Revoked in part by PLO 6607).....27827
5186 (Revoked in part by PLO 6607).....27827
6389 (Corrected by PLO 6608).....28208
6607.....27827
6608.....28208

Proposed Rules:
2800.....27322
5400.....29324
5440.....29324

44 CFR

64.....26993, 26994, 28947

Proposed Rules:
67.....27322, 29992
302.....27627, 28959

45 CFR

1180.....27584, 27586

Proposed Rules:
405.....27406
412.....27406
1620.....27326

46 CFR

153.....26996

Proposed Rules:
160.....27628
355.....29440

47 CFR

0.....27952
22.....27953
68.....27250, 29384
73.....27287, 27438, 27954, 29392, 29393
74.....29394
76.....27438, 29394
81.....27968
83.....27968, 29231

Proposed Rules:
Ch. I.....28418, 29440
73.....27629, 29446-29453
97.....29454

48 CFR

7.....27560
12.....27969
15.....27560, 28103
19.....27560
33.....27969
34.....27560
52.....27560, 27969
209.....28209
217.....29675
504.....26996
515.....28578
522.....28578
533.....26998
552.....27589, 28948, 29402
553.....27589
570.....27589
2801.....29798
2804.....29798
2806.....29798
2807.....29798
2808.....29798
2809.....29798
2810.....29798
2814.....29798
2815.....29798
2827.....29798
2830.....29798
2831.....29798
2834.....29798
2835.....29798
2852.....29798
6101.....27969, 29231

Proposed Rules:
208.....28227
252.....28227

49 CFR

571.....27451, 29676

Proposed Rules:
Ch. X.....27031
71.....28959
171.....28820
175.....28820
531.....29912
571.....27032, 27632, 27633, 28426, 28599, 29993
1132.....27834
1241.....29706

50 CFR

17.....26999, 29338-29345
33.....29972
215.....27914
285.....29403
611.....29681
658.....28103
672.....28580, 28581, 29681
674.....28103

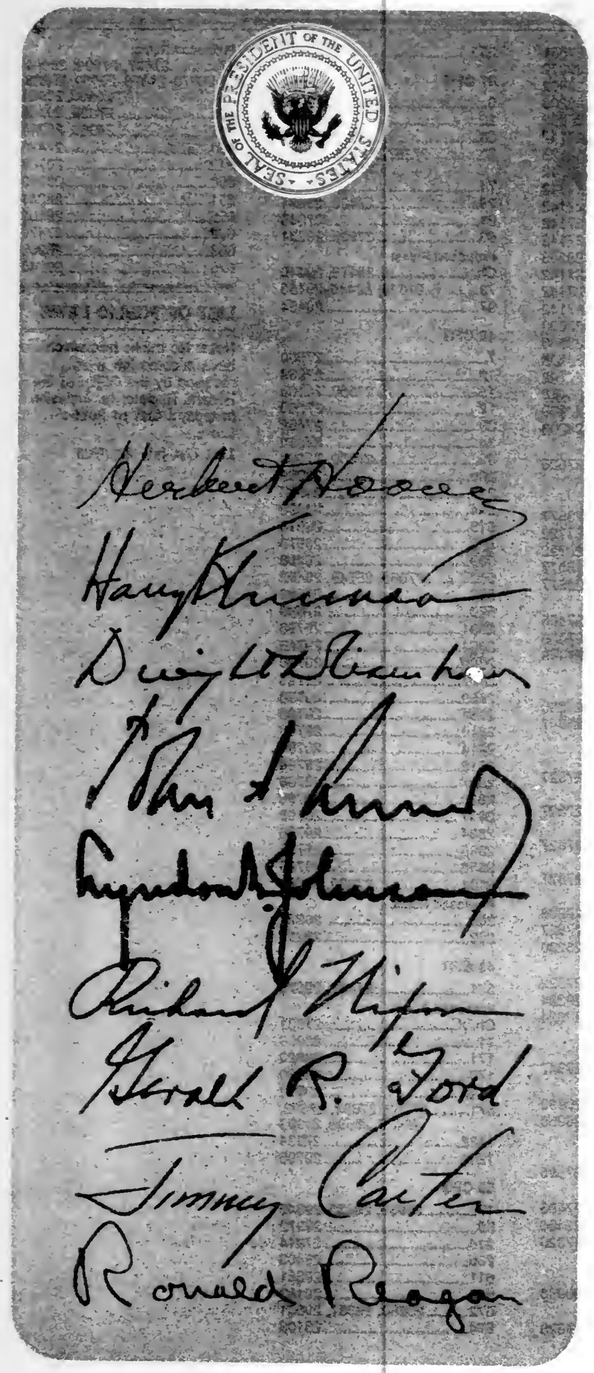
Proposed Rules:
17.....27637, 27992, 28821, 28870-28878, 28959, 29238, 29900, 29901
20.....27638, 29706
611.....28960, 29240
630.....27470
642.....29709
650.....29240
651.....29241
655.....28109
662.....27470
663.....28960
675.....29240

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List July 22, 1985

VOL
50
ISS
141
JL
23
1985
UMI



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(Book I) ..... Out of print
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(Book II) $18.00
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(Book I) ..... Out of print
1966
(Book II) $20.00
1967
(Book I) $19.00
1967
(Book II) ..... Out of print
1968–69
(Book I) $20.00
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(Book I) $23.00
1976–77
(Book II) ..... Out of print
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(Book III) $22.00

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(Book I) $23.00
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(Book II) $22.00
1978
(Book I) $24.00
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(Book II) $25.00
1979
(Book I) $24.00
1979
(Book II) $24.00
1980–81
(Book I) $21.00
1980–81
(Book II) $22.00
1980–81
(Book III) $24.00

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(Book I) ..... Out of print
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(Book II) $25.00
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(Book I) $31.00

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VOL
50

ISS
141

JL
23

1985

UMI

VOL
50
ISS
142
JL
24
1985
UMI

7-24-85
Vol. 50 No. 142

federal register

Wednesday
July 24, 1985

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VOL
50
ISS
142
JL
24
1985
UMI

7-24-85
Vol. 50 No. 142
Pages 30127-30260

federal register

Wednesday
July 24, 1985

Selected Subjects

Administrative Practice and Procedure
Federal Grain Inspection Service
Immigration and Naturalization Service

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Biologics
Food and Drug Administration

Commodity Futures
Commodity Futures Trading Commission

Copyright
Copyright Office, Library of Congress

Cotton
Agricultural Marketing Service

Drugs
Food and Drug Administration

Electric Power Rates
Federal Energy Regulatory Commission

Endangered and Threatened Species
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

CONTINUED INSIDE

VOL
50
ISS
142
JL
24
1985
UMI

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Selected Subjects

Food Additives
Food and Drug Administration

Food Grades and Standards
Agricultural Marketing Service

Income Taxes
Internal Revenue Service

Marketing Agreements
Agricultural Marketing Service

Medical Devices
Food and Drug Administration

Milk Marketing Orders
Agricultural Marketing Service

Mortgage Insurance
Housing and Urban Development Department

Natural Gas
Federal Energy Regulatory Commission

Pesticides and Pests
Environmental Protection Agency

Radio Broadcasting
Federal Communications Commission

Television Broadcasting
Federal Communications Commission

Contents

Federal Register
Vol. 50, No. 142
Wednesday, July 24, 1985

The President
PROCLAMATION
30127 Space Exploration Day (Proc. 5358)

Executive Agencies

Agricultural Marketing Service
RULES
Cotton:
30131 Research and promotion; supplemental assessment
PROPOSED RULES
Milk marketing orders:
30204 Eastern Ohio-Western Pennsylvania
30203 Southern and Central Illinois
30200 Raisins produced from grapes grown in California
30199 Tomatoes, fresh; grade standards

Agriculture Department
See also Agricultural Marketing Service; Federal Crop Insurance Corporation; Federal Grain Inspection Service; Food and Nutrition Service; Soil Conservation Service.
NOTICES
30215 Agency information collection activities under OMB review

Arts and Humanities, National Foundation
NOTICES
30250 Agency information collection activities under OMB review (3 documents)
Meetings:
30251 Design Arts Advisory Panel

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
30218, 30219 Procurement list, 1985; additions and deletions (2 documents)

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
RULES
30135, 30140 Contract market rule review procedures (2 documents)

Consumer Product Safety Commission
NOTICES
30255 Meetings; Sunshine Act

Copyright Office, Library of Congress
RULES
30169 Office organization, and information provision procedures

Employment and Training Administration
NOTICES
Federal-State unemployment compensation program:
30249 Unemployment insurance program letters; work-training and work-relief exemption interpretation

Energy Department
See Federal Energy Regulation Commission.

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
30172 Chlorothalonil
PROPOSED RULES
Toxic substances:
30213 2-Ethylhexanoic acid; testing requirements; correction
NOTICES
Pesticides; emergency exemption applications:
30233 Fluridone
Toxic and hazardous substances control:
30234 Interagency Testing Committee; responses, etc.; 1,2-dibromo-4-(1, 2-dibromoethyl) cyclohexane; correction

Federal Aviation Administration
RULES
30134 Transition areas
PROPOSED RULES
30206 Control zones and transition areas

Federal Communications Commission
RULES
Radio broadcasting:
30187 Noncommercial, educational FM broadcast stations; reception protection for TV channel 6 broadcasts; correction
Television stations; table of assignments:
30187 Puerto Rico
PROPOSED RULES
Communications equipment:
30213 Low power communication devices operation; extension of time
NOTICES
30234 Agency information collection activities under OMB review
30234 Rulemaking proceedings; petitions filed, granted, denied, etc. (2 documents)

Federal Crop Insurance Corporation
NOTICES
30215 Claim for indemnity; current interest rates

Federal Deposit Insurance Corporation
NOTICES
30255 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Flood elevation determinations:
30173 Louisiana et al.
NOTICES
Radiological emergency planning and preparedness:
30258 Potassium iodide distribution around nuclear power sites for use as a thyroidal blocking agent; Federal policy; correction

VOL
50
ISS
142
JL
24
1985
UMI

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
30141 Rate of return on common equity for public utilities; generic determination; rehearing
Natural gas companies (Natural Gas Act):
30141 Btu measurement adjustments; refund procedures; rehearing, etc.
PROPOSED RULES
Electric utilities (Federal Power Act):
30207 Rate of return on common equity for public utilities; generic determination
NOTICES
Electric rate and corporate regulation filings:
30221 Centel Corp.-Kansas et al.
Environmental statements; availability, etc.:
30222 City Mills Co. et al.
30222 Deyle, Charles A., et al.
Hearings, etc.:
30221 Algonquin Gas Transmission Corp. et al.
30222 Central Maine Power Co.
30223 East Bay Municipal Utility District et al.
30223 El Paso Electric Co.
30223 Granite State Gas Transmission, Inc.
30224 Idaho Power Co.
30224 Mississippi River Transmission Corp.
30224 Northwest Central Pipeline Corp.
30225 Rauniker, Inc.
Natural gas certificate filings:
30227 ANR Pipeline Co. et al.
30225 Trunkline Gas Co. et al.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
30219 Air Products Manufacturing Corp. et al.

Federal Grain Inspection Service
RULES
Administration:
30129 Fees for official services performed by agencies

Federal Maritime Commission
NOTICES
30234 Agreements filed, etc.

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
30235 Bank of New England Corp. et al.
30235 Bankers Trust New York Corp.
30236 Louisiana Bancshares, Inc.
30255 Meetings; Sunshine Act

Fish and Wildlife Service
RULES
Endangered and threatened species:
30188 Colorado squawfish and woundfin

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
30152 Furazolidone, aerosol powder
Food additives:
30147 Adjuvants, production aids, and sanitizers; decanoic and octanoic acid, sodium 1-octanesulfonate, and isopropyl alcohol
30148 Adjuvants, production aids, and sanitizers; poly[(6-morpholino-s-triazine-2,4-diyl)[(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]]
30144 Paper and paperboard components, and polymers; acrylic plastics
30146 Polymers hexanedioic acid polymer with 1,3-benzenedimethanamine, etc.
30145 Polymers; polyarylsulfone resins
GRAS or prior-sanctioned ingredients:
30149 Vitamin D
Medical devices:
30153 Hearing aids; technical data amendments
PROPOSED RULES
Biological products:
30211 Allergenic products; additional standards
Human drugs:
30210 Chlorofluorocarbon propellants; essential uses
NOTICES
Food additive petitions:
30236 Angus Chemical Co.; correction
30237 B.F. Goodrich Co.; correction
Medical devices; premarket approval:
30236 Bausch & Lomb Inc.; correction

Food and Nutrition Service
NOTICES
Child nutrition programs:
30216 Child care food program; national average minimum value of donated foods

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; Social Security Administration.
NOTICES
Organization, functions, and authority delegations:
30236 Management Analysis and Systems Office

Health Care Financing Administration
RULES
Medicare:
30172 Hospital inpatient services, prospective payments; redesignation of rules; correction
NOTICES
30237 Privacy Act; systems of records; correction

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
30237 Health system agency grants; health service area population determinations
30238 Health education assistance loan (HEAL) program; interest rates

Housing and Urban Development Department
RULES
Mortgage and loan insurance programs:
30154 Maximum mortgage limits for high-cost areas

Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
30133 Field officers; powers and duties; issuance of subpoenas

Indian Affairs Bureau
NOTICES
Judgment funds; plans for use and distribution:
30239 Mescalero Apache Tribe
30239 San Pasqual Band

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

Internal Revenue Service
RULES
Income taxes:
30160 Foreign corporations, etc.; information returns

International Trade Administration
NOTICES
Scientific articles; duty free entry:
30217 University of Rochester et al

International Trade Commission
NOTICES
Import investigations:
30244 Aircraft industries, U.S. commuter and business; competitive assessment
30246 Aramid fiber
30247 Fabric and expanded neoprene laminate from Japan
30242 Fluidized bed combustion systems
30245 Lime oil from Peru
30247 Molded pulp egg filler flats from Canada
30245 Nonrubber footwear
30242 Porch, patio, and lawn gliders
30243 Spring retainers for garage door hardware
30245 Thin sheet glass from Switzerland, Belgium, and West Germany
30243 Welded carbon steel pipes and tubes from India, Taiwan, Turkey, and Yugoslavia

Interstate Commerce Commission
RULES
Practice and procedure:
30188 Pleading and applications, filing; correction
NOTICES
30255, 30256 Meetings; Sunshine Act (3 documents)
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
30248 Aluminum Co. of America
30248 Burlington Northern Inc.

Justice Department
See Immigration and Naturalization Service.

Labor Department
See Employment and Training Administration.

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
30240 Green River-Ham Fork Federal coal region, CO and WY
Exchange and opening of public lands:
30239 California
Meetings:
30241 Roswell District Grazing Advisory Board
Oil and gas leases:
30241 Utah (2 documents)
Survey plat filings:
30242 Montana
Wilderness areas; characteristics, inventories, etc.:
30240 Montana
Withdrawal and reservation of lands:
30240 Oregon

Library of Congress
See Copyright Office, Library of Congress.

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
30195 Ocean salmon off coasts of Washington, Oregon, and California
30195 Pacific Coast groundfish
30198 Western Pacific spiny lobster; interim
NOTICES
Permits:
30218 Marine mammals
30218 Marine mammals; correction

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
30251 Arkansas Power & Light Co. et al.
30251 Consumers Power Co.
30252 Regulatory guides; issuance, availability, and withdrawal

Social Security Administration
RULES
Organization and procedures:
30144 Information and records availability; procedures and appeals; correction

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
30217 Little Lost River, ID

Transportation Department
See Federal Aviation Administration.

Treasury Department
See also Internal Revenue Service.
NOTICES
Notes, Treasury:
30253 X-1987 series

Separate Parts in This Issue

Part II
30258 Federal Emergency Management Agency

Reader Aids
Additional information, including a list of public laws, telephone numbers, and findings aids, appears in the Reader Aids section at the end of this issue.

VOL
50
ISS
142
JL
24
1985
UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5358 30127

7 CFR
800 30129
1205 30131
Proposed Rules:
51 30199
989 30200
1032 30203
1036 30204
1050 30203

8 CFR
287 30133

14 CFR
71 30134
Proposed Rules:
71 30206

17 CFR
1 (2 documents) 30135, 30140

18 CFR
37 30141
154 30141
Proposed Rules:
37 30207

20 CFR
401 30144

21 CFR
176 30144
177 (3 documents) 30144-30146
178 (2 documents) 30147, 30148
182 30149
184 30149
524 30152
801 30153
Proposed Rules:
2 30210
680 30211

24 CFR
201 30154
203 30154
234 30154

26 CFR
1 30160
602 30160

37 CFR
201 30169
202 30169

40 CFR
180 30172
Proposed Rules:
798 30213
799 30213

42 CFR
405 30172
412 30172

44 CFR
67 30173

47 CFR
73 (2 documents) 30187
Proposed Rules:
15 30213

49 CFR
1104 30188
1105 30188
1151 30188
1152 30188
1155 30188
1160 30188
1180 30188

50 CFR
17 30188
661 30195
663 30195
681 30198

Federal Register
Vol. 50, No. 142
Wednesday, July 24, 1985

Presidential Documents

Title 3—

The President

Proclamation 5358 of July 20, 1985

Space Exploration Day, 1985

By the President of the United States of America

A Proclamation

Sixteen years ago, on July 20, 1969, American Astronauts sent a message to Earth: "The Eagle has landed." In a dramatic and compelling moment in history, the first humans had reached solid ground beyond our own planet.

To understand Earth systems we must understand our solar system and the universe beyond. Remotely controlled satellites have been sent on missions to Mars, Saturn, and Jupiter. If all goes well, the outer planets Uranus and Neptune will be studied as the Voyager spacecraft passes by in 1986 and 1989, respectively. Within the next year or so the first comet rendezvous are planned (Giacobini-Zinner and Halley), the powerful Hubble Space Telescope will be placed in orbit, and the Galileo Mission to Jupiter will be launched. Scientists around the world eagerly anticipate the results.

The space shuttle continues to demonstrate and expand its capabilities with each successive flight. Within the past year, satellites have been launched from the shuttle's bay, repaired in space, and retrieved and returned to Earth for repair. We have conducted missions in which a European-designed and built scientific laboratory—Spacelab—has flown in the shuttle bay's gravity-free environment during which data in a wide range of disciplines have been acquired, materials tested, and chemical reactions monitored.

Under NASA's direction, the next logical step in America's space program—the space station—is being planned, with development scheduled for the latter part of this decade. When it becomes operational in the early to mid-1990s, the space station will be a catalyst for expanding the peaceful uses of space for scientific, industrial, and commercial gain. The station will serve as a laboratory for materials processing and industrial and scientific research; as a permanent observatory for astronomy and Earth observations; as a storage and supply depot; and as a base from which to service other satellites or satellite clusters that will form the world's first space-based industrial park. Japan, Europe, and Canada have joined with us in partnerships that are designed to serve all our long-term interests.

Space exploration is little more than a quarter century old. In that brief period, more has been learned about the cosmos and our relation to it than in all the preceding centuries combined. The ever-increasing knowledge gained from peaceful space exploration, and the uses to which that knowledge is put, potentially benefit all those aboard Spaceship Earth. The spirit of July 20, 1969, lives on.

In recognition of the achievements and promise of our space exploration program, the Congress, by Senate Joint Resolution 154, has designated July 20, 1985, as "Space Exploration Day" and authorized and requested the President to issue a proclamation to commemorate this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim July 20, 1985, as Space Exploration Day. I call upon the people of the United States to observe the occasion with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of July, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 85-17750
Filed 7-23-85; 11:59 am]
Billing code 3195-01-M

VOL 50 ISS 142 JL 24 1985 UMI

Rules and Regulations

Federal Register
Vol. 50, No. 142
Wednesday, July 24, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Fees for Official Services Performed by Agencies

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: In compliance with the requirement for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) is revising its regulations under the United States Grain Standards Act, as amended, concerning the Fees for Official Services Performed by Agencies. This final rule will revise the approval requirements for agency fees and add or restate certain conditions for determining if the fees are reasonable and nondiscriminatory. In addition, it will require that fee schedules include fees for all official services which agencies are delegated or designated the authority to perform, and that fee schedules be prepared in a standard format. These changes clarify, update, and restate certain provisions so as to facilitate use of the regulations.

EFFECTIVE DATE: August 23, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. The action has been classified as nonmajor because it does not meet the criteria for major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and section 3504(h) of this Act, the information collection and recordkeeping requirements contained in this final rule have been approved by OMB. No comments concerning these requirements were received during the comment period.

Final Action

The review of the regulations concerning fees for official services performed by agencies included a determination of the continued need for and consequences of the regulations. An objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and the regulations are consistent with FGIS policy and authority. FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. However, in the October 17, 1984, Federal Register (49 FR 40582), FGIS proposed certain revisions to the regulations. FGIS received seven comments to the proposed rule which allowed 60 days for public comment. FGIS proposed to revise § 800.70 by:

1. Amending paragraph (b) *Approval required* by removing the provision for interim approval of certain fee schedules, adding the requirement that only fees which meet the requirements stated in this section may be charged by an agency, and adding a general provision for case-by-case exceptions to the fee schedule approval requirements.

When the curent regulation was promulgated on March 11, 1980, an exception provision was established to provide interim approval of all agency fee schedules which were in effect on March 11, 1980. Since then, all agencies have received approval of their revised fee schedules. Therefore, this exception clause is no longer necessary.

Currently, § 800.70 provides that only fees which are approved as reasonable and nondiscriminatory may be charged by an agency. However, in reaching this determination, there are certain criteria used in applying these two standards in § 800.70 which are considered during the review for approval process. FGIS is clarifying this section to state that agency fees must meet all the requirements of § 800.70 as a condition for approval.

FGIS recognizes that all agencies may not be able to meet all of the requirements unconditionally. Therefore, FGIS is also amending the regulations to grant case-by-case exceptions to the requirements of § 800.70 if the proposed exception can be justified by the agency, and if a determination is made that the agency's fees are reasonable and nondiscriminatory. The proposed language is clarified in this final rule to specify that an agency must show good cause. These provisions reflect more clearly the Service's policy for approving agency fee schedules.

2. Adding a new paragraph (c)(4), requiring that fees be supported by sufficient information showing how they were developed. Such information is needed by FGIS to help determine whether the fees are reasonable.

3. Amending paragraph (e) *Schedule of fees to be established* by adding the requirement that fee schedules include fees for all official services which agencies are delegated or designated the authority to perform, and be in a standard format in accordance with instructions issued by the Service.

Currently, many agencies provide fees only for services which are customarily requested in their geographic area. When an applicant requests an official service which is not addressed in an agency fee schedule, the agency must revise its fee schedule and request FGIS approval of the proposed revision. Some fee revision requests woud be eliminated if each agency were required to provide a fee for all official services

VOL
50
ISS
142
JL
24
1985
UMI

which the agency is delegated or designated the authority to perform. This requirement will promote consistency among agency fee schedules and will make the schedules more informative to applicants for official services.

At present, there is not a standard fee schedule format. The inconsistencies in format among agency fee schedules impede understanding and cause misinterpretations of the fees and charges. A standard fee schedule format will provide a needed degree of consistency and clarity. Additionaly, FGIS' review of agency fee schedules would be made easier if all agencies used a standard fee schedule format.

4. Amending paragraph (f) *Request for approval of fees* by changing the request for approval time requirement to not less than 30 days in advance of the proposed effective date for the fees. Currently, agencies are required to submit requests for approval of new or revised fees to FGIS not less than 60 days in advance of the proposed effective date for the fees. However, unanticipated workload changes often require agencies to request that fee schedule revisions be effective in less than 60 days from the date of the request. FGIS proposed 30 days as representing a more reasonable time period. However, based on comments received, FGIS is retaining the current 60-day request for approval time requirement. Also, the sentence referring to case-by-case exceptions to the approval time requirement is not needed because FGIS is granting case-by-case exceptions to the requirements of § 800.70 under paragraph (b)(2).

5. Miscellaneous non-substantive grammatical and format changes are being made to § 800.70 to clarify and facilitate the use of the regulations.

The commenters, in general, supported the proposed changes. However, concern was expressed in three specific areas.

In response to the provision requiring that fees be supported by sufficient information showing how they were developed, one commenter stated that this regulation would create an additional burden on agencies which attempt to amend fee schedules. The commenter questioned the value of such fee development information to FGIS as a criterion for determining reasonable fees and the propriety of FGIS to determine what is a reasonable return on investments for a private business.

FGIS was not proposing a new requirement to be a condition for agency fee schedule approval. The current regulation requires that all fee schedule approval requests shall show in detail how the fees were developed. As such, this regulation does not impose an additional burden on agencies which attempt to amend fee schedules, as the commenter suggests. This information assists in determining whether an agency's fees are reasonable, thereby justifying fee revision requests. It also provides sufficient data upon which FGIS can ascertain whether approval of a particular fee schedule is appropriate. However, FGIS does not make determinations as to what a reasonable return on investments for a private business is. As such, the commenter's concern as to information usage in this area is unnecessary.

Four commenters opposed the provision which would have changed the request for approval time requirement from 60 days to 30 days in advance of the fee effective date. The commenters stated that a 30-day request for approval time requirement in advance of the fee effective date would not provide users of agencies' services with adequate advance notification to make necessary operational planning and budget decisions. One of the commenters also suggested that FGIS should require that fee schedule revisions become effective no sooner than 30 days after being approved by FGIS. Further, the same four commenters stated that FGIS should require agencies to provide advance notice of all fee changes to users of the agencies' services. Two of those commenters suggested that FGIS should require agencies to notify customers concurrently with any request for FGIS approval of revised fees. The other two commenters suggested that FGIS should require agenices to notify customers at least 90 days before fee revisions become effective.

FGIS proposed a 30-day period to assist agencies in meeting unanticipated workload changes which made the agencies request exceptions to the 60-day advance approval time requirement. Some comments received expressed concern with respect to applicants' advance notification to make their own necessary operational planning and budget decisions. In view of these concerns, FGIS is retaining the present 60-day approval time requirement. However, agencies still may, for good cause shown, request an exception to this requirement. The 60-day period will continue to afford agencies a longer period of time in which to inform applicants for service of proposed or approved fee schedule changes.

In any event, FGIS did not propose any requirement that agencies be required to notify applicants for service in advance of any proposed or approved fee changes. Therefore, any such amendment would not be appropriate in this final rule. Good business practice would seem to dictate that agencies notify their customers of fee changes reasonably in advance of fee changes and as such this matter may more appropriately be left to such practices due to the many variables involved in revising fee schedules.

One commenter opposed the reasonable fee criterion that fees be assessed on the basis of the average cost of performing the same or similar services at all locations served by the agency because of reasonable agency costs that differ depending upon location and their inequitable impact on users of official services. The commenter suggested that the regulations should allow the agency to assess fees on the basis of the average costs of performing the same or similar service at all locations serviced by the agency or to assess fees based on the cost of performing the service at individual specified service points.

The commenter seems to suggest that the current regulations require agencies to assess the identical total charges from all applicants for same or similar services at all locations served by the agency. However, there are variables which agencies may consider when formulating fees, such as workload fluctuations at specified service points and time and travel expenses incurred at locations away from specified service points. The current regulations are intended to assure that agencies assess the same base fee for the same or similar services at all locations within their geographic boundaries. However, the FGIS Instruction which implements these regulations permits agencies to assess minimum fees in order to gurarantee cost recovery at all locations served by the agency. Also, agencies may assess additional charges to applicants to cover expenses for time and travel at locations away from specified service points. Accordingly, the current regulations and related Instruction take into consideration the variable expenses incurred by agencies and as such do not foster an inequitable distribution of costs to applicants within an agency's geographic boundaries, as the comment suggests. Therefore, the commenter's suggestion that agencies be allowed to choose between assessing fees based on average costs or on individual specified service point costs would not be appropriate.

One comment addressed FGIS' fees and was not relevant to the regulations on fees for official services performed by agencies.

Based on the comments received and all other information available, FGIS is revising § 800.70 of the regulations as follows:

1. Amending paragraph (b) by removing the provision for interim approval of certain fee schedules, adding the requirement that only fees which meet the requirements stated in this section may be charged by an agency, and adding a general provision for case-by-case exceptions to the fee schedule approval requirements. These provisions reflect more clearly the Service's policy for approving agency fee schedules.

2. Adding a new paragraph (c)(4), requiring that fees be supported by sufficient information showing how they were developed. Such information is needed by FGIS to help determine whether the fees are reasonable.

3. Amending paragraph (e) by adding the requirement that fee schedules shall include fees for all official services which agencies are delegated or designated the authority to perform, and be in a standard format in accordance with instructions issued by the Service. These changes will provide a needed degree of consistency and clarity.

4. Removing the sentence under paragraph (f) which refers to case-by-case exceptions to the approval time requirement. Paragraph (b)(2) will establish provisions for case-by-case exceptions to the requirements of § 800.70.

5. Making miscellaneous non-substantive grammatical and format changes to clarify and facilitate the use of the regulations.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

PART 800—GENERAL REGULATIONS

Fees

Accordingly, 7 CFR Part 800 of the regulations is amended by revising § 800.70 (b), (c), (d), (e)(1), and (f)(1) to read as follows:

The authority citation for Part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

§ 800.70 Fees for official services performed by agencies.

* * * * *

(b) *Approval required.*—(1) *Restriction.* Only fees that meet the requirements stated in this section and are approved by the Service as reasonable and nondiscriminatory may be charged by an agency.

(2) *Exceptions.* For good cause shown by an agency, the Administrator may grant case-by-case exceptions to the requirements in this section, provided that a determination is made that the agency fees would be reasonable and nondiscriminatory.

(c) *Reasonable fees.* In determining if an agency's fees are reasonable, the Service will consider whether the fees: (1) Cover the estimated total cost to the agency of (i) official inspection services, (ii) Class X or Class Y weighing services, (iii) inspection equipment testing services, and (iv) related supervision and monitoring activities performed by the agency; (2) Are reasonably consistent with fees assessed by adjacent agencies for similar services; (3) Are assessed on the basis of the average cost of performing the same or similar services at all locations served by the agency; and (4) Are supported by sufficient information which shows how the fees were developed.

(d) *Nondiscriminatory fees.* In determining if fees are nondiscriminatory, the Service will consider whether the fees are collected from all applicants for official service in accordance with the approved fee schedule. Charges for time and travel incurred in providing service at a location away from a specified service point shall be assessed in accordance with the approved fee schedule.

(e) *Schedule of fees to be established.* (1) Each agency shall establish a schedule of fees for official services which the agency is delegated or designated the authority to perform. The schedule shall be in a standard format in accordance with the instructions. Such schedules may include fees for nonofficial services provided by the agency, but they shall be clearly identified and will not be subject to approval by the Service.

* * * * *

(f) *Request for approval of fees.*—(1) *Time requirement.* A request for approval of a new or revised fee shall be submitted to the Service not less than 60 days in advance of the proposed effective date for the fee. Failure to submit a request within the prescribed time period may be considered grounds for postponment or denial of the request.

* * * * *

(Approved by the Office of Management and Budget under control number 0580–0012)

Dated: July 9, 1985.

Kenneth A. Gilles,

Administrator.

[FR Doc. 85–17543 Filed 7–23–85; 8:45 am]

BILLING CODE 3410–EN–M

Agricultural Marketing Service

7 CFR Part 1205

Supplemental Cotton Research and Promotion Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Cotton Board Rules and Regulations by increasing the supplemental assessment levied on upland cotton to finance a cotton research and promotion program. The change is based on the Cotton Board's recommendation to the Secretary of Agriculture that the supplemental per bale assessment be increased to six-tenths of one percent of the value of the cotton from the present rate of four-tenths of one percent. Additional funds will be used to offset the effects of increased costs and competition from synthetic fibers and foreign produced cotton, and to sustain the effectiveness of the research and promotion program.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: Naomi Hacker, Chief, Research and Promotion Staff, Cotton Division, AMS, USDA, Washington, DC 20250, 202/447–2259.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order.

William T. Manley, Deputy Administrator, AMS has certified that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (i) Contributions to the support of the cotton research and promotion program are voluntary since cotton producers are entitled to a complete refund of assessments collected; (ii) the assessment will not affect the competitive position or market access of small entities in the cotton industry; (iii) the benefits of the cotton research and promotion program (stimulation of consumer demand for cotton, increased market share for cotton products) accrue to all U.S. cotton producers regardless of size or degree of support for the program; and (iv) the supplemental assessment is directly related to the current market value of the bale of cotton.

VOL
50
ISS
142
JL
24
1985
UMI

Since the harvesting of the 1985 cotton crop begins in July, it is necessary to implement the increased assessment less than 30 days after the publication date to insure that a uniform rate of assessment is levied on all of the cotton handled throughout 1985. Accordingly, under the administrative provisions of 5 U.S.C. 553, good cause is found for making this action effective upon publication.

Background

The Cotton Research and Promotion Act of 1966 (7 U.S.C. 2101 *et seq.*) and the implementing Order provide for the operation and funding of a producer financed cotton research and promotion program designed to maintain and expand markets for U.S. cotton. The program is administered by a 19-member Cotton Board, appointed by the Secretary of Agriculture, which represents cotton producers in each cotton-producing state. The Cotton Board reviews research, advertising, sales, promotion and development projects and related budgets developed by Cotton Incorporated, a contracting organization established to carry out such projects (7 CFR 1205.328). The Board makes recommendations concerning these projects and budgets to the Secretary of Agriculture who has final budget approval authority.

A per-bale assessment is collected from the producer by the first buyer of the cotton and transmitted to the Cotton Board to be used to finance research and promotion projects. Cotton producers are entitled to a full refund of assessments collected from them (7 CFR 1205.520). Initially, the Cotton Research and Promotion Act of 1966 (Act) authorized a flat $1 per bale assessment. On July 14, 1976, the Act was amended (7 U.S.C. 2106(e)) to authorize a supplemental assessment to be collected in addition to the existing levy of $1 per bale that was not to exceed one percent of the value of the cotton. The Cotton Board recommended that the supplemental assessment rate be fixed at four-tenths of one percent of the value of the cotton starting with the 1977 crop (41 FR 50270). It also recommended that the Order be amended to enable the Cotton Board, with the approval of the Secretary, to increase or decrease the rate of the supplemental assessment for subsequent crops. Any such adjustment would be within the one percent limit.

These recommendations were subject to approval in a producer referendum as described in Section 8 of the Act (7 U.S.C. 2107). The referendum was conducted during the period December 13–17, 1976. The proposed amendments to the Order were approved and published in the **Federal Register** January 26, 1977 (42 FR 4813). The Cotton Board Rules and Regulations were subsequently amended to implement the supplemental assessment of four-tenths of one percent of the value of cotton effective July 15, 1977 (42 FR 35974).

Proposed Rule

The Cotton Board's recommendation to increase the supplemental assessment to six-tenths of one percent of the value of each bale of cotton was published as a proposed rule in the June 19, 1985 **Federal Register** at 50 FR 25425.

The Cotton Board's basis for recommending the increase is that additional funding for program activities as carried out by Cotton Incorporated is necessary to strengthen cotton's competitive position and to maintain and expand markets and uses for United States upland cotton. Even though the supplemental assessment is directly related to the current value of a bale of cotton, the ratio between the value of cotton and increased program costs has reduced available funds in real terms to pay for advertising, sales, research, promotion and development activities. For example, the purchasing power of the advertising dollar dropped from $1 in 1978 to 46 cents in 1984 and an estimated 41 cents in 1985. This reduced purchasing power has diminished the Cotton Board's ability to effectively fund, maintain, or expand program activities that are needed more than ever in view of increased competition from foreign growths and synthetics.

Because the basic assessment of $1 per bale of cotton handled will remain unchanged, the net effect of the increase in the supplemental assessment is to raise the average per-bale collection from approximately $2.15 to $2.75. Without the increase, severe program cutbacks would result in 1986. Also, the projected additional revenue generated by the increase will provide for a reasonable reserve and contribute to greater program funding stability from year to year.

Further, the increasing costs which need to be matched with increased funding are costs attributed to the projects carried out by Cotton Incorporated, and are not reflective of the Cotton Board's costs of administration.

Comments

Comments on the proposed rule were solicited from interested parties until July 9, 1985.

Thirteen farm organizations in cotton-producing states, the National Cotton Council, representing all segments of the cotton industry, and one individual cotton producer expressed support for the increase.

Two farm organizations in a cotton producing state and four individual cotton producers have stated they are not in favor of the increase.

Generally, the views expressed in favor of the proposal are covered in the following excerpts from three of the letters of support:

—"We realize that the current cotton economy is stressed and producers are hard pressed with increasing costs. However, in the long range it is essential to maintain a viable, effective research and promotion program to help reduce costs and develop new markets for our cotton products."

—"This additional funding is needed now more than ever due to increased costs and foreign competition and will help cotton compete with other fibers and foreign grown cotton in today's very competitive markets."

—"Inflation has eroded the funds available to the point that not only the advertising impressions are cut drastically but other essential functions are being curtailed."

Two cotton producer associations oppose the proposed increase because economic conditions are currently unfavorable for cotton producers, and because of concern over whether an increase might trigger increased refunds.

One association commented,

—"While the need for funding, and perhaps additional funding, is recognized, it is felt that the timing of this increase is especially poor. Given the present economic plight of the cotton farmer, an additional expense is simply unacceptable, no matter how desirable the increase in funding might be."

Another association cautioned,

—"Producers already are in dire financial straits and no relief is in sight. Therefore, we are concerned that increasing the producer's contribution to CI from about $2.15 to $2.75 per bale might result in a higher level of refund requests, more than offsetting the higher gross receipts."

Two producers stated that the increase would result in withdrawal of support for the program.

Final Rule

A majority of the comments, including those of the major cotton industry association, were in support of the proposed increase, and the Department recognizes the need for additional funds to assure the continuity and effectiveness of the research and promotion program. Therefore, after carefully evaluating the comments and all other relevant factors, the Department has decided to approve the Cotton Board's recommendation to increase the supplemental research and promotion assessment. The Cotton Board rules and regulations are being amended pursuant to the enabling provision in the Order (7 CFR 1205.331(b)). This amendment will not alter or limit a producer's right to obtain a refund of any assessment levied against his or her cotton.

Paragraph (b) of § 1205.510, Levy of assessment, is amended to state that the supplemental assessment shall be levied at the rate of six-tenths of one percent of the value of cotton, instead of four-tenths of one percent. This change is made in the narrative text of paragraph (b) and in the footnote to the assessment chart set forth in the same paragraph.

In addition, the assessment chart is amended by changing the figures in the column headed "Supplemental assessment dollars per bale". The changes reflect the proposed increase in the supplemental assessment. The assessment chart is used to calculate the per bale assessment levied on the current value of cotton converted to a fixed amount per bale. Use of this chart provides a simple and orderly procedure for calculating the assessment by collecting handlers who do not have computerized accounting systems.

This final rule differs from the proposed rule in one respect. The proposed rule stated that the increased assessment would be levied on cotton harvested and ginned on and after July 1, 1985. This was incorrect since the comment period for the proposed rule did not expire until July 9, 1985. The final rule, as amended, states that the increased assessment will be levied on cotton harvested and ginned on and after July 24, 1985.

As required by 1 CFR 18.20 (46 FR 1762, January 22, 1981), the following are the indexing terms for this regulation:

List of Subjects in 7 CFR Part 1205

Cotton, Administrative practice and procedure, Research and promotion, Cotton Board, Producer assessments, Producer refunds.

PART 1205—[AMENDED]

Accordingly, Part 1205 of Chapter II, title 7 of the Code of Federal Regulations is amended as shown.

1. The authority citation for Part 1205 continues to read as follows:

Authority: Sec. 15, 80 Stat. 285, 7 U.S.C. 2114; Sec. 7, 80 Stat. 281, 7 U.S.C. 2106.

2. Section 1205.510 is amended by revising paragraph (b) to read as follows:

§ 1205.510 Levy of assessment.

* * * * *

(b) A supplemental assessment for cotton research and promotion in addition to the $1 per bale assessment provided in paragraph (a) of this section, is hereby levied on each bale of upland cotton harvested and ginned on and after July 24, 1985 except cotton consumed by any governmental agency from its own production. The supplemental assessment shall be levied at the rate of six-tenths of one percent of: (1) The current value of cotton multiplied by the number of pounds of lint cotton or (2) the current value of cotton converted to a fixed amount per bale as reflected in the following assessment chart:

Assessment Chart [1]

Current value (cents per pound)	Supplemental assessment, dollars per bale
.00 to 9.99	.15
10.00 to 19.99	.45
20.00 to 29.99	.75
30.00 to 39.99	1.05
40.00 to 49.99	1.35
50.00 to 59.99	1.65
60.00 to 69.99	1.95
70.00 to 79.99	2.25
80.00 to 89.99	2.55
90.00 to 99.99	2.85
100.00 to 109.99	3.15
110.00 to 119.99	3.45

[1] Assessment is calculated on 6/10 of 1 percent of the midpoint of each 10¢ increment, based on a 500 lb bale and converted to a fixed amount per bale.

* * * * *

Dated: July 22, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-17669 Filed 7-23-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 287

Field Officers; Powers and Duties

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule sets forth procedures for the issuance of subpoenas in connection with criminal and civil investigations and other immigration proceedings. The rule specifies the categories of Immigration and Naturalization officials who may issue subpoenas. The subpoena powers of immigration judges are not affected by this rule.

EFFECTIVE DATE: August 23, 1985.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3048

For Specific Information: Michael J. Heilman, Associate General Counsel, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-2620

SUPPLEMENTARY INFORMATION: This final rule revises current regulations relating to the issuance of subpoenas by Service officers. It authorizes District Directors, Deputy District Directors, Chief Patrol Agents, Deputy Chief Patrol Agents, Officers-in-Charge, Patrol Agents in Charge, Supervisory Criminal Investigators (Anti-Smuggling) and Regional Directors, Office of Professional Responsibility, to issue subpoenas in the context of criminal or civil investigations and other immigration proceedings. The subpoena-issuing authority of immigration judges is not affected by this rule. For the sake of clarity, however, this rule separates the provisions relating to subpoena-issuance by Service officials from those relating to issuance by immigration judges.

Notice of proposed rulemaking was published March 26, 1985, at 50 FR 11680 with a thirty day comment period. Only one comment was received. The commenter opposed the proposed rule and questioned the extent to which the subpoena-issuing authority was to be delegated. This comment was considered, and it was determined that adequate safeguards exist to prevent abuse of this authority.

Subsection (b)(1) is revised to make it consistent with subsection (b)(2), which describes the contents of a subpoena.

Additional categories of issuing officials have been added to the final rule: Regional Directors of the Office of Professional Responsibility, Patrol Agents in Charge and Supervisory Criminal Investigators (Anti-Smuggling). The proposed rule inadvertently omitted these categories of officials.

VOL 50 ISS 142 JL 24 1985 UMI

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant impact on a substantial number of small entities.

This rule is not a major rule as defined in section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 287

Administrative practice and procedure, Authority delegation, Crime, Immigration, Immigration and Nationality Act, Law enforcement officers, Subpoena.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 287—FIELD OFFICERS: POWERS AND DUTIES

1. The authority citation for Part 287 continues to read as follows:

Authority: Secs. 103 and 287 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1357).

2. Section 287.4 is revised to read as follows:

§ 287.4 Subpoena.

(a) *Who may issue*—(1) *Criminal or civil investigations.* All District Directors, Deputy District Directors, Chief Patrol Agents, Deputy Chief Patrol Agents, Officers-in-Charge, Patrol Agents in Charge, Supervisory Criminal Investigators (Anti-Smuggling) and Regional Directors, Office of Professional Responsibility, may issue a subpoena requiring the production of records and evidence for use in criminal or civil investigations.

(2) *Proceedings other than naturalization proceedings*—(i) *Prior to commencement of proceedings.* All District Directors, Deputy District Directors, Chief Patrol Agents, Deputy Chief Patrol Agents, and Officers-in-Charge, may issue a subpoena requiring the attendance of witnesses or the production of documentary evidence, or both, for use in any proceeding under this chapter, other than under Part 335 of this Chapter, or any application made ancillary to the proceeding.

(ii) *Subsequent to commencement of any proceeding.* (A) In any proceeding under this chapter, other than under Part 335 of this chapter, and in any proceeding ancillary thereto, an immigration judge having jurisdiction over the matter may, upon his/her own volition or upon application of a trial attorney, the alien, or other party affected, issue subpoenas requiring the attendance of witnesses or for the production of books, papers and other documentary evidence, or both.

(B) *Application for subpoena.* A party applying for a subpoena shall be required, as a condition precedent to its issuance, to state in writing or at the proceeding, what he/she expects to prove by such witnesses or documentary evidence, and to show affirmatively that he/she has made diligent effort, without success, to produce the same.

(C) *Issuance of subpoena.* Upon being satisfied that a witness will not appear and testify or produce documentary evidence and that the witness' evidence is essential, the immigration judge shall issue a subpoena.

(D) *Appearance of witness.* If the witness is at a distance of more than 100 miles from the place of the proceeding, the subpoena shall provide for the witnesses' appearance at the Service office nearest to the witness to respond to oral or written interrogatories, unless the Service indicates that there is no objection to bringing the witness the distance required to enable him/her to testify in person.

(b) *Form of subpoena.* All subpoenas shall be issued on Form I–138.

(1) *Criminal or civil investigations.* The subpoena shall command the person or entity to which it is addressed to attend and to give testimony at a time or place specified. A subpoena shall also command the person or entity to which it is addressed to produce the books, papers, or documents specified in the subpoena. A subpoena may direct the taking of a deposition before an officer of the Service.

(2) *Proceedings other than naturalization proceedings.* Every subpoena issued under the provisions of this section shall state the title of the proceeding and shall command the person to whom it is directed to attend and to give testimony at a time and place specified. A subpoena shall also command the person to whom it is directed to produce the books, papers, or documents specified in the subpoena. A subpoena may direct the making of a deposition before an officer of the Service.

(c) *Service.* A subpoena issued under this section may be served by any person, over 18 years of age not a party to the case, designated to make such service by the District Director, Deputy District Director, Chief Patrol Agent, Deputy Chief Patrol Agent, Patrol Agent in Charge, Officer-in-Charge, Supervisory Criminal Investigator (Anti-Smuggling), and Regional Director, Office of Professional Responsibility, having administrative jurisdiction over the office in which the subpoena is issued. Service of the subpoena shall be made by delivering a copy thereof to the person named therein and by tendering to him/her the fee for one day's attendance and the mileage allowed by law by the United States District Court for the district in which the testimony is to be taken. When the subpoena is issued on behalf of the Service, fee and mileage need not be tendered at the time of service. A record of such service shall be made and attached to the original copy of the subpoena.

(d) *Invoking aid of court.* If a witness neglects or refuses to appear and testify as directed by the subpoena served upon him/her in accordance with the provisions of this section, the officer issuing the subpoena shall request the United States Attorney for the district in which the subpoena was issued to report such neglect or refusal to the United States District Court and to request such court to issue an order requiring the witness to appear and testify and to produce the books, papers or documents designated in the subpoena. If the subpoena was issued by an immigration judge, he/she shall request the District Director in the district in which the subpoena was issued to take the action referred to in the previous sentence in the event the witness neglects or refuses to appear and testify as directed by the subpoena served upon him.

Dated: July 10, 1985.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 85–17589 Filed 7–23–85; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AWP–13]

Establishment of the Indian Springs Air Force Auxiliary Filed (AFAF), Indian Springs, NV, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a new Transition Area at Indian Springs AFAF, Indian Springs, Nevada, (1at. 36°34'58.8" N., long. 115°40'31.6" W.). This transition area is necessary to provide sufficient controlled airspace to accommodate the established TACAN instrument approaches. This action provides legal discription for future charting.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Hawthorne, California 90261; telephone number (213) 536–6649.

SUPPLEMENTARY INFORMATION:

History

On May 9, 1985, the Federal Aviation Administration proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a Transition Area at Indian Springs AFAF, Indian Springs, Nevada, to provide sufficient controlled airspace to accommodate the established TACAN instrument approaches. This action will provide legal discription for charting. Interested partles were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Handbook 7400.6 dated January 2, 1985.

The Rule

This amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) will provide controlled airspace to accommodate aircraft executing the published TACAN Runway 8 and TACAN Runway 26 instrument approach procedure to Indian Springs AFAF. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 is revised to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Indian Springs Air Force Auxiliary Field Transition Area, Indian Springs, Nevada—[New]

"That airspace extending upward from 700 feet above the surface within a 5.5 miles arc of Indian Springs Air Force Auxiliary Field (AFAF), (lat. 36°34'58.8" N., long. 115°40'31.6" W.); from a point lat. 36°33'37" N., long.115°34'50" W.; to lat. 36°35'00" N., long. 115°46'28" W.; direct to a point lat. 36°35'00" N., long. 115°37'00" W.; thence to the point of beginning."

Issued in Los Angeles, California on July 9, 1985.

H.C. McClure,

Director, Western-Pacific Region.

[FR Doc. 85–17540 Filed 7–23–85; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Contract Market Rule Review Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending regulation 1.41 to provide that certain routine changes in contract market rules relating to terms and conditions of futures or option contracts will be deemed approved by the Commission pursuant to section 5 a(12) of the Commodity Exchange Act either at the time such changes are adopted by a contract market, or ten days after receipt by the Commission of a proposed change. Specifically, changes in indices other than stock indices in which futures or option contracts are traded, changes in trading hours, changes in trading months, changes in particular contract terms established by independent third parties, and other types of changes which may be designated at a later date will be deemed approved by the Commission, provided that they satisfy conditions set forth in the amendments now being adopted by the Commission. In addition, the Commission is amending regulation 1.41a to delegate to the Director of the Division of Trading and Markets and to the Director of the Division of Economic Analysis, or their respective delegees, authority to determine whether particular contract market submissions are consistent with the provisions of these amendments.

EFFECTIVE DATE: August 23, 1985.

FOR FURTHER INFORMATION CONTACT: John C. Lawton, Attorney/Advisor, Division of Trading and Markets, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–8955 or (202) 254–6990, respectively.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12), provides that all rules [1] of a contract market which relate to terms and conditions [2] in futures or option

[1] Commission regulation 1.41(a)(1) defines "rule" of a contract market to mean:

Any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof.

[2] Commission regulation 1.41(e)(2) defines "terms and conditions" to mean:

Any definition of the trading unit or the specific commodity underlying a contract for the future delivery of a commodity or commodity option contract, specification of settlement or delivery standards and procedures, and establishment of buyers' and sellers' rights and obligations under the contract. Terms and conditions shall be deemed to include provisions relating to the following:

(i) Quality or quantity standards for a commodity and any applicable exemptions or discounts;

(ii) Trading hours, trading months and the listing of contracts;

(iii) Minimum and maximum price limits and the establishment of settlement prices;

(iv) Position limits and position requirements;

(v) Delivery points and locational price differentials;

(vi) Delivery standards and procedures, including alternatives to delivery and applicable penalties or sanctions for failure to perform;

(vii) Settlement of the contract; and

(viii) Payment or collection of commodity option premiums or margins.

VOL
50
ISS
142
JL
24
1985
UMI

contracts traded on or subject to the rules of such a contract market must be submitted to the Commission for its prior approval. The Commission has recognized, however, that certain contract market proposals relating to terms and conditions (in particular, proposals relating to the composition and valuation of stock indices) do not usually require review and therefore may appropriately merit treatment which is different from that which is normally afforded contract market rule changes. 48 FR 49003, 49007 (October 24, 1983). Thus, the Commission has established procedures to expedite the implementation of such rule changes. *See* Commission regulation 1.41(h).

The Commission now has determined that it is appropriate to adopt similar procedures for additional types of changes in contract terms and conditions. The Commission has identified several categories of routine contract market rule amendments which, when kept within clearly defined and previously approved bounds, are unlikely to be inconsistent with any provision of the Act or regulations. Expedited implementation of such routine, non-controversial rule changes will provide exchanges with greater flexiblity in conducting their operations. In addition, the simplified procedures will conserve resources, both at the Commission and at the exchanges.

The instant amendments apply to the following categories of terms and conditions: (1) Changes in the composition, computation, or method of selection of indices, other than stock indices, in which a contract market is designated to trade futures contracts or options on futures contracts; (2) changes in lists of banks, brokers, dealers or other entities which provide price or cash market information to a contract market for purposes of computing cash settlement prices or a cash price series, or for defining deliverable supply; (3) changes in trading hours; (4) changes in trading months; (5) changes in grades or standards which are established, selected or calculated by independent third parties and which are incorporated by reference as terms of a contract; and (6) other types of changes which the Commission may specify, either in a contract designation or by separate written notification, as appropriate for similar expedited treatment. Each of these matters is discussed in greater detail below.

II. Amendments to Regulations 1.41 and 1.41a

As mentioned above, current regulation 1.41(h) provides an expedited procedure for changes in the composition, computation or method of stock selection of a stock index in which a contract market is designated to trade futures contracts or options on such futures contracts. New paragraph (i) establishes a similar expedited procedure for changes in the composition, computation or method of selection of other types of indices in which a contract market is designated to trade futures contracts or options. Such indices, for example, may be compilations of government statistics or of price quotations on a physical or non-physical commodity. As with changes in stock indices, changes in these indices will be deemed approved at the time such a change is adopted by a contract market, provided certain conditions are satisfied. First, the index must be compiled by an independent third party whose business relates to the collection or dissemination of price information and which was not formed solely for the purpose of compiling an index for use in connection with a futures or option contract.[2] Second, the change must be consistent with a rule of the contract market which has been approved by the Commission for this purpose which specifically defines or establishes standards governing the composition, computation or method of selection of the index.[4] Third, the contract market must provide the Commission with written notice of the change within five days of adoption by the contract market.

If the Commission determines that a change submitted pursuant to new paragraph (i) is not consistent with the requirements of the paragraph, the Commission will notify the contract market of the inconsistence within ten days.[5] Such a change will be treated as having been filed pursuant to Commission regulation 1.41(b) and therefore shall cease to have any effect as of the exchange's receipt of such notice from the Commission until approved by the Commission pursuant to the usual approval procedures under section 5a(12) of the Act and regulation 1.41(b).[6]

New paragraph (j) of regulation 1.41 provides that certain changes in lists of banks, brokers, dealers or other entities which provide price or cash market information to a contract market for purposes of computing cash settlement prices or a cash price series, or for defining deliverable supply will be deemed approved by the Commission at the time such changes are adopted by a contract market. Examples of this type of provision include cash settlement contracts having a settlement price determined by averaging the price quotations of persons on the approved list, or physical delivery contracts which have interest rate caps or a ranking of the quality of deliverable instruments established by such a polling procedure.

To be approved under this paragraph, again a change must be consistent with a rule of the contract market which has been approved previously by the Commission for this purpose and which establishes standards or criteria for the persons or entities qualifying for the list. In addition, the Commission must be given written notice of the change within three days after the changes are adopted by the contract market. The Commission believes that such changes, which are initiated by the exchanges themselves, can be provided to the Commission more expeditiously than the changes covered in paragraph (i) above, which are initiated by third parties.

Because market conditions may change abruptly, it may become necessary for a contract market to add or delete participants on very short notice. In this regard, changes in survey lists are similar to changes in indices and changes in trading hours, and differ from the other types of changes addressed by the instant amendments. The Commission believes that once it has approved a general rule establishing standards or criteria for inclusion on such lists, it is not necessary to require the usual rule review procedures for each addition to or deletion from such lists. Therefore, like changes in indices and changes in trading hours, and unlike the other categories, changes in survey lists subject to certain conditions will be deemed approved at the time of adoption by a contract market. Again, if the Commission determines that a change submitted under this paragraph is not consistent with the requirements of the paragraph, the Commission will notify the contract market of the inconsistency within ten days and such a change will be treated as having been filed pursuant to Commission regulation 1.41(b).

Paragraph (k) applies to changes in trading hours between 7:00 a.m. and 6:00 p.m. local time in the city where the contract market is located. The Commission believes that in most instances such changes would not be inconsistent with any provision of the Act or the Commission's regulations and, accordingly, that those changes do not require the level of review provided under the Commission's usual § 1.41(b) procedures. Therefore, changes in trading hours will be deemed approved at the close of business one business day after receipt by the Commission.

The Commission reserves the right, however, to suspend the effectiveness of a change submitted under this paragraph and to take review of the change under regulation 1.41(b). If the Commission takes such action it will notify the contract market within ten days after receipt by the Commission of the change. Although the Commission does not anticipate that it would take such action often, there may be instances where a change in trading hours could raise concerns under the Act necessitating review. For example, if trading hours were expanded so that market sensitive information, previously released outside trading hours, were to be released during trading hours, this could raise questions concerning the pricing of the contract or of market manipulation.

New paragraphs (l)–(n) of regulation 1.41 provide that changes of the types described in categories (4)–(6) above will be effective ten days after the Commission receives written notice of the change, unless the Commission notifies the contract market within the ten-day period that the submission does not comply with the relevant provisions of those paragraphs. In the event of such notification, the submission will become subject to the usual rule review procedures.

Paragraph (l) applies to changes in trading months which (i) are consistent with a previously approved rule of the contract market governing the listing of trading months, (ii) do not list a month more than 18 months in the future, and (iii) do not list a month outside the currently established cycle.[7] These conditions limit exchange discretion to well-defined bounds and retain the usual review procedure for more significant changes in the listing of contract months. For example, suppose at the time of contract market designation a rule were approved permitting the listing of a total of six trading months in the March quarterly cycle but that the contract market initially listed only three trading months. The contract market would thereafter be permitted to list up to three additional months in the March cycle following the procedures of paragraph (l). If the contract market wished to list a seventh trading month in this cycle, however, it would be required to submit the proposal under the usual § 1.41(b) procedures. Similarly, if the contract market wished to list a month falling outside the March cycle the usual § 1.41(b) procedures would apply.[8]

Paragraph (m) applies to changes in grades or standards of commodities on which futures or option contracts are based, where those grades or standards are established, selected or calculated by independent third parties and are incorporated by reference as terms of a contract. Thus, the specifications of the contract are intended to change as the third party makes changes. To be approved under this paragraph, the change must be consistent with a rule of the contract market which has been approved by the Commission for this purpose. In addition, the grade or standard must be established, selected or calculated by an independent third party for purposes other than solely for use in connection with a futures or option contract. For example, standards set by Colonial Pipeline are incorporated by reference into various petroleum product contracts. The Commission believes that typically it is not necessary to follow the usual rule review procedures for changes in such technical areas when the changes are made by independent third parties for purposes not related solely to use in a futures or option contract.

Paragraph (n) authorizes the Commission to designate additional types of changes in terms and conditions for expedited treatment. This paragraph is intended to provide the Commission with a mechanism for efficiently dealing with other categories of rule changes which may arise in the future and for which special treatment is deemed appropriate. Under this paragraph, the Commission may notify a contract market of the applicability of the special procedure at the time of contract market designation or at any other appropriate time. In the notification, the Commission will specify the conditions governing the applicability of this paragraph to the particular contract. Following such notification, any change which is consistent with the terms of the notification will become effective as provided by the Commission in its notification. In most instances, the procedure followed in paragraphs (l) and (m) is likely to be adopted (*i.e.*, effective ten days after receipt, unless the Commission informs the contract market otherwise during the ten-day period). In some instances, however, the Commission may find the procedure followed in paragraph (i) and (j) appropriate (*i.e.*, effective at the time of adoption by a contract market unless the Commission informs the contract market of an inconsistency within ten days of receipt of notice of the change). The Commission retains the right to alter or revoke the applicability of this paragraph to a particular contract at any time.

In light of new paragraphs (i)–(m), the Commission is adopting three technical amendments to existing paragraph (h) of regulation 1.41. One amendment changes the requirement that contract market notification of changes be "prompt" to a requirement that such

[2] This provision would permit the development of new indices to be used in connection with futures or option contracts where such indices are an outgrowth of an independent third party's ongoing business operations and where the new indices are subject to the same controls and standards previously established by the third party in its business operations. For example, the Standard and Poor's 100 Index did not exist prior to the development of options and futures contracts on that index. The fact that this index did not exist previously, however, did not diminish the objectivity and independence of this index as far as the Commission was concerned, for this new index was subject to the same standards and controls as the Standard and Poor's 500 Index, which did exist prior to the development of a futures contract on that index and was developed for uses other than as a basis for an option or futures contract.

[4] In order to qualify for the expedited procedure provided for in this paragraph (i), a contract market must, of course, have in place a rule specifically defining or establishing standards governing the composition, computation or method of selection of the index. Such a rule must be approved by the Commission, either at the time the contract is designated, or at a later time pursuant to the usual procedure established by section 5a(12) of the Act and Commission regulation 1.41(b). Similar general rules are required in order to be eligible for the expedited procedures set forth in paragraphs (j) and (l)-(o). In some instances, contract markets already may have such general rules in place. Rules which have previously been approved under section 5a(12) of the Act or are effective pursuant to regulation 1.53 need not be resubmitted, but notice that the exchange intends to use such a rule under these provisions must be provided to the Commission before the exchange begins to use these procedures.

[5] Time limits established by the rules the Commission is adopting today which apply to actions by the Commission may, as with existing §§ 1.41(b) and 1.41(c), be satisfied by deposit of the notification in the United States mail or by other means of written communication within the specified period. Limits which apply to actions by contract markets require receipt of the written notification by the Commission at its Washington, D.C., headquarters within the specified period.

[6] Such an event should be rare since the rules eligible for treatment under this section and the following sections are routine rule amendments instituted pursuant to a more general enabling rule. The Commission reiterates that the expedited procedures now being adopted by the Commission are not available if a rule amendment departs in any way from the standard contemplated in the general enabling rule. The contract markets must assume responsibility for assuring that a rule amendment submitted pursuant to this procedure is appropriate for such treatment

[7] For purposes of this paragraph, the Commission intends to include trading month cycles which were not explicitly approved by the Commission but which remain in effect pursuant to Commission regulation 1.53.

[8] The new procedure created by paragraph (1) will not affect the treatment of months which are listed automatically pursuant to an established cycle. For example, when the spot month expires, a new contract is automatically listed at the distant end of the cycle. Such listings are not required to be submitted for Commission approval.

VOL
50
ISS
142
JL
24
1985
UMI

notification be "within five days." Another amendment requires that changes submitted under regulation 1.41(h) be clearly labeled as such. The final amendment adds a sentence making it explicit that changes in the composition, computation, or method of stock selection of a stock index which are inconsistent with the provisions of paragraph (h) will be subject to the usual approval procedures under section 5a(12) of the Act. These amendments simply conform the procedures under paragraph (h) to those of paragraphs (i)–(n) and are consistent with existing Commission practice under paragraph (h). 48 FR 49003, 49007 (October 24, 1983).

Finally, the Commission is adding a new paragraph (a)(5) to regulation 1.41a. This amendment delegates to the Director of the Division of Trading and Markets and to the Director of the Division of Economic Analysis, or their respective delegates, authority to determine whether changes submitted under paragraphs (h)–(n) of regulation 1.41 are inconsistent with the relevant provisions of those paragraphs and to notify contract markets if such submissions are to be subject to the usual review procedures under section 5a(12).

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in adopting rules, consider their impact on small businesses. The RFA defines the term "rule" to mean "any rule for which the agency publishes a general notice of proposed rulemaking pursuant to [5 U.S.C.] 553(b) . . ." Since, as noted below, the Commission is not required to publish a notice of proposed rulemaking in regard to the rule amendments to §§ 1.41 and 1.41(a) pursuant to § 553(b), a flexibility analysis of these amendments is not required. *See* § 601(2). *See also* §§ 603 and 604.[*]

B. Paperwork Reduction Act

Commission regulations 1.41 and 1.41a previously have been issued control numbers, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) The amendments to those rules being adopted herein establish no new paperwork requirements. The Office of Management and Budget has been so notified and a copy of this **Federal Register** notice has been provided to that agency.

C. Notice and Comment

The Administrative Procedure Act, 5 U.S.C. 553(b), requires in most instances that a notice of proposed rulemaking be published in the **Federal Register** and that opportunity for comment be provided when an agency promulgates new regulations. Section 553(b) sets forth an exception, however, for rules of agency organization, procedure or practice. The instant amendments provide expedited procedurea for the approval of certain contract market rules. The Commission has determined that these amendments are technical and relate to internal Commission procedure and therefore that notice and comment is not required.

Section 553(b) also sets forth an exception to the requirement of notice and opportunity for public comment when the Commission for good cause finds such notice and public comment are unnecessary or contrary to the public interest. The Commission finds that notice and public comment on the rule changes announced herein are unnecessary because the changes are technical in nature and do not limit any person's substantive rights. The changes do not establish any new obligations under the Act. On the contrary these changes simplify compliance with the Act by reducing contract markets' existing obligations under section 5a(12) thereof. Furthermore the Commission finds that delay of the implementation of these rules would be contrary to the public interest because this would delay the effectiveness of contract market rules in which very limited discretion is exercised, and because it would delay the Commission's efforts to reduce its expenditures of resources in reviewing rules submissions from contract markets.

List of Subjects in 17 CFR Part 1

Commodity exchanges, Contract market rules, Rule review procedures. Delegated authority.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in particular, sections 4c, 5a and 8a thereof, 7 U.S.C. 6c, 7a and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations by revising §§ 1.41 and 1.41a as follows:

[*] A flexibility analysis would not be required in any case in this matter, since the amendments would affect contract markets, which the Commission previously has determined are not "small entities" for purposes of the RFA. Thus, these rule amendments would not have a significant economic impact on a substantial number of "small entities." *See* § 605(b).

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for Part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 12a, 13a, 13a–1, 19, and 21 unless otherwise noted.

2. Section 1.41 is amended by revising paragraphs (h)(1) and (h)(2), and by adding paragraphs (h)(1)(iv), (i), (j), (k), (l), (m), and (n) to read as follows:

§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.

* * * * *

(h) * * *

(1) * * *

(iii) The contract market provides the Commission with written notice of the change within five days after the change is adopted by the contract market; and

(iv) The contract market labels the written notice as being submitted pursuant to paragraph (h) of this section.

(2) The Commission will, within ten days after receipt by the Commission of notice of a change in the composition, computation, or method of stock selection of a stock index, notify the contract market making that submission if it appears that the change is not consistent with the definition of the composition of, or standards governing, the stock index which has been approved by the Commission. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(i) *Other index contracts.* (1) Notwithstanding the provisions of paragraph (b) of this section, all changes in the composition, computation, or method of selection of an index other than a stock index in which a contract market is designated to trade futures or option contracts shall be deemed approved by the Commission at the time such changes are adopted by a contract market if:

(i) The index is compiled by an independent third party whose business relates to the collection or dissemination of price information and which was not formed solely for the purpose of compiling an index for use in connection with a futures or option contract;

(ii) The change is consistent with a rule of the contract market which has been approved by the Commission for this purpose, which specifically defines or establishes standards governing the composition of the index upon which designated futures or commodity options are authorized to trade;

(iii) The contract market provides the Commission with written notice of the change within five days after the change is adopted by the contract market; and

(iv) The contract market labels the written notice as being submitted pursuant to paragraph (i) of this section.

(2) The Commission will, within ten days after receipt by the Commission of notice of a change in the composition, computation, or method of selection of an index, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(j) *Survey lists.* (1) Notwithstanding the provisions of paragraph (b) of this section, all changes in lists of banks, brokers, dealers or other entities which provide price or cash market information to a contract market for purposes of computing cash settlement prices or a cash price series, or for defining deliverable supply, shall be deemed approved by the Commission at the time such changes are adopted by a contract market if:

(i) The change is consistent with a rule of the contract market which has been approved by the Commission for this purpose and which establishes standards or criteria for the persons or entities which qualify for the list;

(ii) The contract market provides the Commission with written notice of the change within three days after the change is adopted by the contract market; and

(iii) The contract market labels the written notice as being submitted pursuant to paragraph (j) of this section.

(2) The Commission will, within ten days after receipt by the Commission of notice of a change in such a list, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(k) *Trading hours.* (1) Notwithstanding the provisions of paragraph (b) of this section, all changes in trading hours which do not permit trading to open before 7:00 a.m. or close after 6:00 p.m. local time in the city where the contract market is located shall be deemed approved by the Commission at the close of business one business day after written notice of such a change is received by the Commission if:

(i) The change is not inconsistent with any provision of the Act or the Commission's regulations; and

(ii) The contract market labels the written notice as being submitted pursuant to paragraph (k) of this section.

(2) The Commission will, within ten days after receipt by the Commission of notice of a change in trading hours, notify the contract market making the submission if it appears that the change is not consistent with some provision of the Act or the Commission's regulations. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(l) *Trading months.* (1) Notwithstanding the provisions of paragraph (b) of this section, all changes in trading months shall be deemed approved by the Commission ten days after written notice of such a change is received by the Commission if:

(i) The change is consistent with a rule of the contract market governing the listing of trading months which has been approved by the Commission;

(ii) The change does not provide for the listing of a trading month more than 18 months in the future;

(iii) The change does not provide for the listing of a trading month outside the currently established cycle of trading months; and

(iv) The contract market labels the written notice as being submitted pursuant to paragraph (l) of this section.

(2) The Commission will, within ten days after receipt by the Commission of notice of a change in the listing of trading months, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(m) *Contract terms established by independent third parties.* (1) Notwithstanding the provisions of paragraph (b) of this section, changes in grades or standards of commodities on which futures or options contracts are based, which are established, selected or calculated by independent third parties and which are incorporated by reference as terms of a contract, shall be deemed approved by the Commission ten days after written notice of such a change is received by the Commission if:

(i) The grade or standard is established, selected or calculated by an independent third party for purposes other than solely for use in connection with a futures or options contract;

(ii) The change is consistent with a rule of the contract market which has been approved by the Commission for this purpose, and with the Act and the Commission's regulations; and

(iii) The contract market labels the written notice as being submitted pursuant to paragraph (m) of this section.

(2) The Commission will, within ten days after receipt by the Commission of notice of such a change, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(n) *Other changes.* (1) Notwithstanding the provisions of paragraph (b) of this section, changes in the terms and conditions of a futures or option contract other than those changes specified in paragraphs (h)–(m) of this section shall be deemed approved by the Commission at such time as the Commission shall specify if:

(i) The Commission notifies the contract market in writing, at the time of contract market designation, or such other time as the Commission may deem appropriate, that certain changes in terms and conditions may be submitted pursuant to the provisions of this paragraph;

(ii) The change is consistent with standards established by the Commission in its notification to the contract market of the applicability of this paragraph, and with the Act and the Commission's regulations; and

(iii) The contract market labels the written notice as being submitted pursuant to paragraph (n) of this section.

(2) The Commission will within ten days after receipt by the Commission of notice of a change submitted pursuant to this paragraph, notify the contract market making the submission if it appears that the change is not consistent with standards established by the Commission. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(3) The Commission may at any time alter or revoke the applicability of this paragraph to any particular contract.

3. Section 1.41a is amended by removing the words "Division of Economics and Education" from the section heading and from paragraphs (a), (b) and (c) and inserting in their

VOL
50
ISS
142
JL
24
1985
UMI

place the words "Division of Economic Analysis" and by adding paragraph (a)(5) to read as follows:

§ 1.41a Delegation of authority to the Directors of the Division of Trading and Markets and the Division of Economic Analysis to process certain contract market rules.

(a) * * *

(5) Pursuant to §§ 1.41(h)–(n) to determine whether contract market rules submitted pursuant to section 5a(12) of the Act and the provisions of §§ 1.41(h)–(n) comply with the provisions of §§ 1.41(h)–(n), as applicable, and, if not, to notify the submitting contract market that such rules are therefore subject to the procedures specified in section 5a(12) of the Act and § 1.41(b).

* * * * * *

Issued in Washington, D.C. on July 18, 1985, by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 85–17535 Filed 7–23–85; 8:45 am]

BILLING CODE 6351–01–M

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17 CFR Part 1

Contract Market Rule Review Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rule.

SUMMARY: The Commission is amending § 1.41b of its rules to delegate to the staff additional authority to approve proposed exchange rules where the rules are terms and conditions of a contract and are substantially identical to a rule of another contract market which has been approved previously by the Commission, or where the proposed rule is consistent with a stated Commission policy or interpretation.

EFFECTIVE DATE: August 23, 1985.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Thomas L. Sweat, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K. Street NW., Washington, D.C. 20581. Telephone (202) 254–6990; (202) 254–8955, respectively.

SUPPLEMENTARY INFORMATION:

On October 19, 1983 the Commission adopted Rule 1.41b, 17 CFR 1.41b (1984). Commission Rule 1.41b delegates to the Directors of the Divisions of Trading and Markets and Economic Analysis, with the concurrence of the Office of the General Counsel, the Commission's authority to approve, pursuant to section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12), ("Act") two classes of proposed exchange rules. These categories of rule amendments are proposed exchange rules which relate to terms and conditions of a contract but which are non-material, or routine material amendments that are anticipated to be updated under a previously approved exchange rule.[1]

In delegating this authority the Commission stated that:

> These rules, by their nature, tend to be straight forward and are unlikely to raise significant legal or policy issues. The Commission therefore does not believe that the above-referenced classes of rules necessitate an inflexible adhesion to the procedures currently established for the affirmative rule review process. The Commission is, accordingly, modifying its regulations to facilitate implementation of these types of rules by the contract markets. Specifically, the Commission is delegating to the Directors of the Divisions of Trading and Markets and Economics and Education, to be exercised by either Director (or their designees), with the concurrence of the General Counsel, the authority to affirmatively approve certain non-material or anticipated, routine material amendments to "terms and conditions."

48 FR at 49005.

The Commission's experience with this procedure has been good. Although the majority of proposed exchange rule amendments do not fit within these two categories, this delegated procedure does result in some savings of time and Commission resources. Moreover, the increased timeliness of Commission action on these routine changes benefits the exchange by making the overall process of Commission review more efficient. The Commission believes that the benefits of this system can be extended to other categories of rules, resulting in a similar increased savings in the time and resources needed to approve such rules.[2]

The two additional categories of rules that the Commission is including in this delegation of its approval authority are: (1) proposed exchange rules that are substantially identical to a rule of another contract market that has previously been approved by the Commission, and (2) proposed exchange rules which are consistent with a previously established, specific standard or policy set by the Commission.

The first category includes rules submitted by various contract markets which may be similar because of Commission requirements or because of the similarity between certain contracts. For example, a Commision rule may require all exchanges to adopt specified rules. Or, two exchanges may have futures contracts in the same commodity and may voluntarily keep the terms and conditions consistent in order to aid arbitrage between them. In either example, once the Commission has approve one contract market's proposed rule, the staff, pursuant to this delegation, may approve rules of other contract markets which are substantially identical to the first rule approved by the Commission.

The second category of rules for which the Commission's approval authority is being delegated are those proposed exchange rules which are consistent with specific Commission policies or interpretations. For example, the Commission has formulated a formal policy on quality and locational price differentials. All proposed exchange rules which clearly meet the criteria set forth in that policy statement could be approved by the staff under this delegation. In this connection, it can be expected that the Commission will strive to formulate policies concerning the most common types of rule amendments.[3]

Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* requires that agencies, in adopting rules, consider their impact on small businesses. Analysis of the final rule amendments to § 1.41b is not required, however, because the rule relates only to internal procedure and the Commission previously has determined that contract markets are not "small entities" for purposes of the RFA.[4] Accordingly, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, certifies that these rules will not have a significant economic impact on a substantial number of small entities.

[1] A third category, rules which authorize the listing of option contract expirations that terminate after the three year designation of an option contract market ends, was subsequently added by the Commission. 48 FR 12518 (March 25, 1983).

[2] The Commission elsewhere in this **Federal Register** is also adopting amendment to Commission Rule 1.41, 17 CFR 1.41 which grant prior approval to certain classes of routine contract market rule amendments at the time of their adoption. In addition, the Commission is also adopting rules which provide that other categories of exchange rules are approved automatically ten days after submission to the Commission for its review, absent any contrary action. These amendments were adopted to expedite further the exchange rule review process.

[3] It should be noted that the policies or interpretations to which this delegation applies do not include Guideline No. 1, 17 CFR Part 5; Appendix A, or Guideline No. 2, Comm. Fut. L. Rep. (CCH) ¶ 6430, p. 8210. These Guidelines are general statements of the designation requirements under the Act and were not intended to provide specific guidelines for the exercise of the staff's discretion.

[4] 47 FR 18619 (April 30, 1982).

B. Paperwork Reduction Act

The amendments to Commission Rule 1.41b being adopted herein establish no new paperwork requirements pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Office of Management and Budget has been so notified and a copy of this **Federal Register** notice has been provided to that agency.

C. Notice and Comment

Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), requires in most instances that a notice of proposed rulemaking be published in the **Federal Register** and that opportunity for comment be provided when an agency promulgates new regulations. Section 553(b) sets forth an exception, however, for rules of agency organization, procedure or practice. These amendments delegate the Commission's authority to approve certain proposed contract market rules. The Commission has determined that these amendments relate to Commission procedure and therefore notice and comment is not required.

List of Subjects in 17 CFR Part 1

Commodity exchanges; Contract market rules, Rule review procedures, Delegated authority.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in particular, sections 5a and 8a thereof, 7 U.S.C. 7a and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations by revising § 1.41b as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for Part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 12a, 13a, 13a-1, 19, and 21 * * *

2. Section 1.41b is amended by revising paragraphs (a)(2) and (3) and by adding new paragraphs (a)(4) and (5) to read as follows:

§ 1.41b Delegation of authority to the Director of the Division of Trading and Markets and the Director of the Division of Economic Analysis.

(a) * * *

(2) Reflect routine modifications that are expressly required or anticipated by the specific terms of a contract market rule (such as the specification of delivery grades, growths or differentials, the listing of trading months or the modification of trading hours);

(3) Authorize the listing, in accordance with rules of the contract market which have been approved by the Commission, of option contracts that expire after the termination of the designation of that board of trade as a contract market for the trading of commodity options;

(4) Are substantially identical to a rule of another contract market which has been approved previously by the Commission pursuant to section 5a(12) of the Act; or

(5) Are consistent with a specific, stated policy, or interpretation of the Commission.

* * * * *

Issued in Washington, D.C. on July 16, 1985 by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 85–17536 Filed 7–23–85; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket Nos. RM84–15–001 Through –004]

Generic Determination of Rate of Return on Common Equity for Public Utilities

Issued: July 19, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for purpose of further consideration.

SUMMARY: On May 20, 1985, the Federal Energy Regulatory Commission (Commission) issued a final rule establishing a generic rate of return on common equity for public utilities.

In this order the Commission grants rehearing of its decision solely for the purpose of further consideration.

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8015.

SUPPLEMENTARY INFORMATION: On May 20, 1985, the Federal Energy Regulatory Commission (Commission) issued a final rule establishing a generic rate of return on common equity for public utilities. Generic Determination of Rate of Return on Common Equity for Public Utilities, 50 FR 21802 (May 29, 1985) (to be codified at 18 CFR 37).

On June 19, 1985, the Commission received four petitions for rehearing of this final rule. To have sufficient time to consider the issues raised in these petitions, the Commission grants rehearing of its final rule solely for the purpose of further consideration. This order is effective on the date of issuance. This action does not constitute a grant or denial of any petition on its merits, either in whole or part. As provided in § 385.713 of the Commission's Rules of Practice and Procedure (18 CFR 385.713), no answers to these petitions will be entertained by the Commission because this order does not grant rehearing on any substantive issue.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17448 Filed 7–23–85; 8:45 am]

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18 CFR Part 154

[Docket Nos. RM84–6–015 Through 028 Order No. 399–B]

Refunds Resulting From Btu Measurement Adjustments

Issued: July 18, 1985.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on Remand and on Petitions for Rehearing and Reconsideration; final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is implementing the court's decision in *Interstate Natural Gas Association of America* v. *Federal Energy Regulatory Commission*, 756 F.2d 166 (D.C. Cir. 1985) (INGAA–II), by vacating the offset mechanism required by Order No. 399–A, 49 FR 46,353 (Nov. 26, 1984), and by granting five petitions for rehearing. The Commission otherwise denies all other petitions for rehearing, reconsideration and stay of Order No. 399–A.

EFFECTIVE DATE: The reporting requirements in ordering paragraph (F) of this order and in new § 154.38(h)(3)(viii) of the Commission's

VOL
50
ISS
142
JL
24
1985
UMI

regulations are effective September 23, 1985. If OMB's approval and control number have not been received before that date, the Commission will issue a notice temporarily suspending the effective date. The remainder of this order is effective August 23, 1985.

FOR FURTHER INFORMATION CONTACT: Frederick W. Peters, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–9115.

SUPPLEMENTARY INFORMATION:

Order on Direction of the Court Vacating, in Part, Order No. 399–A, and on Petitions for Rehearing and Reconsideration

Issued: July 18, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is implementing the court's decision in *Interstate Natural Gas Association of America* v. *Federal Energy Regulatory Commission*,[1] by vacating the offset mechanism required by Order No. 399–A [2] and by granting five petitions for rehearing. The Commission otherwise denies all other petitions for rehearing, reconsideration and stay of Order No. 399–A.

II. Background

On November 20, 1984, the Commission issued Order No. 399–A, which granted rehearing in part of Order No. 399.[3] Order Nos. 399 and 399–A implemented the decision of *Interstate Natural Gas Association of America* v. *Federal Energy Regulatory Commission* [4] by establishing refund procedures for overcharges resulting from adjustments to the calculation of the Btu content of gas sold under the Natural Gas Policy Act of 1978 (NGPA). On March 5, 1985, the United States Court of Appeals for the District of Columbia directed the Commission to vacate the portion of Order No. 399–A that required first sellers to offset Btu refunds against costs permitted under section 110 of the NGPA.[5] Order No. 399–A also permitted first sellers to seek a waiver of that portion of a first seller's refund obligation to the extent it is attributable to royalty interest owners and is uncollectible. The Commission received nine timely petitions for rehearing of Order No. 399–A.[6]

III. Discussion

A. The Court's Decision Prohibiting the Offset of Section 110 Allowances

The Court of Appeals quoted with approval the Commission's rationale in Order No. 399 for disallowing the offset of Btu refund obligations and section 110 charges. The court directed the Commission to vacate the offset portion of Order No. 399–A.[7]

As required by Order No. 399–A, many first sellers offset hundreds of millions of dollars of Btu refund obligations against uncontested section 110 charges in payment of Btu refunds. The Commission is now reversing that order, consistent with the instructions of the United States Court of Appeals.[8]

Those first sellers that paid the Btu refund obligation by offsetting section 110 charges must now pay the Btu refund obligation in full.[9] Refunds must be made by August 30, 1985.[10] In all cases, interest accrues on the amount to be refunded until the date of payment, in accordance with Order No. 399.[11] In addition, interstate and intrastate pipelines are required to file refund reports similar to those required in Order Nos. 399 and 399–A. These additional reports are necessary to better monitor the payment of refunds by first sellers and interstate pipelines.

B. Refund Obligations Attributable to Royalty Interest Owners

Memphis Light, Gas and Water Division, (Memphis) protests the Commission's assertion of authority in Order No. 399–A to waive payment by first sellers of that portion of a Btu refund obligation attributable to royalty interest owners that is uncollectible. Memphis argues that the Commission lacks authority to waive the imposition of strict liability for the refund on first sellers. Alternatively, Memphis argues that there is no reason to waive this refund obligation because it derives from a first seller's payment of excessive royalties.

In Order No. 399, first sellers were made guarantors of payment of the portion of the Btu refund obligation attributable to royalty interest owners, primarily because the first seller, not royalty interest owners, collected prices in excess of NGPA ceiling prices. On review, the Commission still believes it has discretion to waive payment of those portions of the refund obligation attributable to royalty interest owners, if the first seller demonstrates that the refund is uncollectible.[12] As stated in Order No. 399–A, the Commission will consider requests for a waiver on a case-by-case basis.[13]

C. Responsibility of Operators

Order No. 399 designated the operator as the one responsible for repayment of the entire refund for the time period it operated a well.[14] Specifically, the order required operators to notify all of the working interest owners of their refund obligations and to collect the refunds and pay them over to the pipelines. In addition, the Commission required operators to pay refunds owed by a defaulting working interest owner.

The Indicated Producers complain about the imposition of strict liability on a first seller that is the operator of a well for those refunds that are attributable to other working interest owners. They argue that an operator should not have to serve as a guarantor of refunds from other working interest owners that default on their portion of the refund.

The Commission recognizes that each working interest owner is a first seller and individually liable for the refund attributable to its interest in a well during the time the refund obligation accrued, as well as that portion of its refund obligation attributable to royalty interest owners. But, after further consideration of the issue, the Commission still believes it is necessary to designate the operator as the one responsible for the payment of the entire refund for the time period that the operator operated a well in order to facilitate expeditious refunds as required by the court in *INGAA–I* and *INGAA–II*.

D. Other Issues

Pitts Oil Company, Sage Energy Company, and Clayton W. Williams, Jr., Co. filed a petition requesting reconsideration of the same issues on which they sought rehearing of Order No. 399, asserting that Order No. 399–A and its predecessors failed to articulate a reasoned explanation for requiring refunds to implement the court's decision in *INGAA–I*.

As discussed in Order No. 399–A, the Commission believes that substantial equitable considerations support a discretionary order of refunds. Primarily, the consumers who paid excessive gas prices because of the incorrect measurement of the Btu content of that gas should benefit through the refund of overcharges. In any event, the opinion of the Court of Appeals in INGAA–II leaves no doubt that refunds were required to implement that Court's earlier decision in INGAA–I.[15]

To the extent petitioners have raised issues other than discussed above, the Commission believes those issues were previously considered and fully addressed in prior orders in this proceeding.

IV. Effective Date and Clearance by the Office of Management and Budget

The refund reporting requirements established in this rule are information collection requirements under the Paperwork Reduction Act [16] and subject to Office of Management and Budget (OMB) approval.[17] Hence, the reporting requirements established in paragraph (F) below and § 154.38(h)(3)(viii) of the Commission's regulations are effectiye September 23, 1985. If OMB clearance has not been received by this effective date, the Commission will issue a notice temporarily suspending the effective date of the refund reporting requirements. The remaining portions of this order are effective August 23, 1985.

V. The Commission Orders

(A) That portion of Order No. 399–A that required the offset of Btu refund obligations and section 110 charges is vacated, and those petitions for rehearing that requested this relief are granted.

(B) First sellers must make refund payments for those amounts of Btu refund obligations that were previously paid by means of offsetting section 110 charges, by August 30, 1985, in accordance with Order No. 399.

(C) The parties to the first sale transaction may choose the methods of payment of this refund, except that pipelines and first sellers may not offset Btu refunds and production-related costs permitted under section 110 of the NGPA. Those pipelines that have already begun to collect refunds by using billing adjustments without the consent of the seller can continue this method of payment only if the seller agrees. If the parties cannot agree, payment must be made in a lump-sum cash payment.

(D) Interest on Btu refunds must be calculated in accordance with § 154.102(c) and (d) of the Commission's regulations, except that any interest on Money paid into escrow is the actual interest accrued in the escrow account on the amount required to be refunded.

(E) Any filing fee applicable to a request for a waiver, as described herein, is waived.

(F) By October 15, 1985, interstate and intrastate pipelines must file sellers that made refunds, the refunded amounts that each pipeline has received, separately stated for each first seller, and indicating the principal amount and interest; and (2) the first sellers that have not made refunds, and the refund amounts due but not received by the pipeline, for each first seller, separately stating the principal amount and interest due from each first seller and the reason for nonpayment. Intrastate pipelines must file a copy of this report with the state regulatory agency having jurisdiction over such pipeline.

(G) All other petitions for rehearing, reconsideration, extension of time, and stay of Order No. 399–A are denied.

(H) In consideration of the foregoing, Part 154, Chapter I, Title 18, of the Code of Federal Regulations, is amended as set forth below.

List of Subjects in 18 CFR Part 154

Natural gas.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 154—[AMENDED]

1. The authority citation for Part 154 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Administrative Procedure Act, 5 U.S.C. 551–557 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Federal Power Act, 16 U.S.C. 791a–828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1976).

2. In § 154.38(h), paragraph (h)(3)(viii) is redesignated as paragraph (h)(3)(ix), and a new paragraph (h)(3)(viii) is added to read as follows:

§ 154.38 Composition of rate schedule.

* * * * *

(h) *Pipeline recovery of Btu measurement adjustments.* * * *

(3) * * *

(viii) The pipeline must submit, not later than October 15, 1985, a refund report describing, for each source from which Btu refunds are obtained, those refunds received or paid (including deferred amounts paid) since filing the report under paragraph (h)(3)(vii) of this section. For those refunds subject to this paragraph, this report should show all

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[1] Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission, 756 F.2d 166 (D.C. Cir. 1985) (INGAA–II).

[2] Refunds Resulting from Btu Measurement Adjustments, 49 FR 46,353 (Nov. 26, 1984).

[3] Refunds Resulting from Btu Measurement Adjustments, 49 Fed. Reg. 37,735 (Sept. 26, 1984) (issued Sept. 20, 1984) (Final Rule).

[4] 716 F.2d 1 (D.C. Cir. 1983), *cert. denied*, 104 S. Ct. 1618 (1984) (INGAA–I) (charges for gas must be determined by measurement of Btu's (British thermal units) under "wet" conditions rather than the "as delivered" basis promulgated by the Commission).

[5] *See* N.1, *supra*. 18 CFR 271.1104(e) (1984); *see generally*, Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act, 48 Fed. Reg. 5152 (Feb. 3, 1983) (Order No. 94–A) (Final Rule and Order on Rehearing of Order No. 94). Appeal pending *sub. nom.*, Texas Eastern Transmission Corp., *et al.* v. Federal Energy Regulatory Commission, No. 83–4390 (argued March 8, 1985, 5th Cir.).

[6] American Paper Institute, Inc., Industrial Users (*i.a.*, Process Gas Consumers Group and American Iron & Steel Institute), Florida Cities, Pitts Oil Company, *et al.*, Stauffer Chemical Company, Associated Gas Distributors, Memphis Light, Gas & Water Division, BTA Oil Producers, and a group of Indicated Producers.

The Commission also received five rquests for an extension of the deadline for large first sellers to make refunds and a request to modify the refund procedures. The Commission did not extend the deadline, or modify the refund procedures, because the petitions failed to present sufficient grounds for an extension.

In addition, five petitioners sought a stay or Order No. 399–A. These requests were not granted because the Commission did not believe "justice so require[d]," 5 U.S.C. 705 (1982).

[7] INGAA–II, *supra*, at 171. The American Paper Institute, Industrial Users, Florida Cities, the Associated Gas Distributors and Stauffer Chemical Company objected to the requirement that first sellers' undisputed billings to pipeline-purchasers for section 110 allowances be offset against the first sellers' Btu refund obligation. Since the Court of Appeals' decision has afforded these petitioners the relief they sought in their petitions for rehearing, the Commission grants these petitions.

[8] The mandate issued May 20, 1985, the date of the Court of Appeals denial of the "Indicated Producers" motion for a stay. On June 3, 1985, Chief Justice Burger denied a petition for stay of the mandate.

[9] This refund payment may be in the form of one or more cash payments, or in the form of billing adjustments (if such billing adjustments are agreed to by the first seller), or a combination of these methods, as long as full payment is made by August 30, 1985.

[10] The disallowance of offsets does not affect the right of first sellers to defer payment of that portion of the Btu refund obligation attributable to royalty interest owners until actually collected or until November 5, 1986, whichever occurs first.

[11] The Indicated Producers argue that pipelines should pay the same interest rate on section 110 charges as the interest rate applicable to the Btu refunds. This issue is also mooted by the decision in INGAA–II because Btu refunds must be paid separately and distinct from section 110 charges. In any event, the interest rate applicable to Btu refunds was set by the Commission based upoo public policy considerations. In contrast, the interest rate for section 110 charges is set by contract. For this reason, these interest rates may differ.

[12] *See* Consumer Federation of America v. FPC, 515 F.2d 347, 359 (D.C. Cir. 1975).

[13] As established in Order No. 399–A, to the extent a filing fee exists for such a waiver, the Commission is waiving this filing fee.

[14] 49 FR 37,735, 37,740 (Sept. 26, 1984).

[15] INGAA–II, *supra* at 171.

[16] 44 U.S.C. 3501–3520 (1982).

[17] 5 CFR Part 1320 (1985).

the information enumerated in paragraph (h)(3)(iv).

* * * * *

3. In § 154.38(h), newly-redesignated paragraph (h)(3)(ix) is amended by removing the phrase "paragraphs (h)(3)(vi) and (vii)", and inserting, in its place, the phrase "paragraphs (h)(3)(vi), (vii), and (viii)".

[FR Doc. 85–17512 Filed 7–23–85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 401

Availability of Information and Records to the Public; Procedures and Appeals

Correction

In FR Doc. 85–16639 beginning on page 28585 in the issue of Monday, July 15, 1985, make the following correction on page 28568: In the second column, the section number "§401.501" should read "§401.510".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Parts 176 and 177

[Docket No. 84F–0030]

Indirect Food Additives: Paper and Paperboard Components; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of acrylic plastics as components of articles intended for use in contact with food. This action responds to a petition filed by the B.F. Goodrich Co.

DATES: Effective July 24, 1985; objections by August 23, 1985.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of March 13, 1984 (49 FR 9472), FDA announced that a petition (FAP 4B3773) had been filed by the B.F. Goodrich Co., 500 South Main St., Akron, OH 44318, proposing that the food additive regulations be amended to provide for the safe use of the semirigid and rigid acrylic and modified acrylic plastics listed in 21 CFR 177.1010 as components of articles intended for use in contact with food.

Section 177.1010 now states that semirigid and rigid acrylic and modified acrylic plastics may be safely used as articles intended for use in contact with food, but it does not provide for the use of acrylic polymers as components of articles. The present amendment will allow the polymers listed in § 177.1010 to be used as components of articles in addition to use as whole articles intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the Federal Register of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before August 23, 1985, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on the objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 176

Food additives; Food packaging; Paper and paperboard.

21 CFR Part 177

Food additives; Polymeric food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, Parts 176 and 177 are amended as follows:

1. The authority citation for 21 CFR Parts 176 and 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

2. Part 176 is amended in § 176.170(b)(2) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * *	* *
Acrylic and modified acrylic polymers.	Complying with § 177.1010 of this chapter.
* * *	* *

* * * * *

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

3. Part 177 is amended in § 177.1010 by revising the introductory paragraph, the introductory texts of paragraphs (a) and (b), and paragraph (d) and by adding new paragraph (f) to read as follows:

§ 177.1010 Acrylic and modified acrylic plastics, semirigid and rigid.

Semirigid and rigid acrylic and modified acrylic plastics may be safely used as articles intended for use in contact with food, in accordance with the following prescribed conditions. The acrylic and modified acrylic polymers or plastics described in this section also may be safely used as components of articles intended for use in contact with food.

(a) The optional substances that may be used in the formulation of the semirigid and rigid acrylic and modified acrylic plastics, or in the formulation of acrylic and modified acrylic components of articles, include substances generally recognized as safe in food, substances used in accordance with a prior sanction or approval, substances permitted for use in such plastics by regulations in Parts 170 through 189 of this chapter, and substances identified in this paragraph. At least 50 weight-percent of the polymer content of the acrylic and modified acrylic materials used as finished articles or as components of articles shall consist of polymer units derived from one or more of the acrylic or methacrylic monomers listed in paragraph (a)(1) of this section.

* * * * *

(b) The semirigid and rigid acrylic and modified acrylic plastics, in the finished form in which they are to contact food, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature as determined from Tables 1 and 2 of § 176.170(c) of this chapter, shall yield extractives not to exceed the following, when tested by the methods prescribed in paragraph (c) of this section. The acrylic and modified acrylic polymers or plastics intended to be used as components of articles also shall yield extractives not to exceed the following limitations when prepared as strips as described in paragraph (c)(2) of this section:

* * * * *

(d) In accordance with current good manufacturing practice, finished semirigid and rigid acrylic and modified acrylic plastics, and articles containing these polymers, intended for repeated use in contact with food shall be thoroughly cleansed prior to their first use in contact with food.

* * * * *

(f) The acrylic and modified acrylic polymers identified in and complying with this section, when used as components of the food-contact surface of an article that is the subject of a regulation in this part and in Parts 174, 175, 176, and 178 of this chapter, shall comply with any specifications and limitations prescribed by such regulation for the article in the finished form in which it is to contact food.

Dated: July 16, 1985.

John M. Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17531 Filed 7–23–85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 177

[Docket No. 84F–0329]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polyarylsulfone resins intended for use in contact with food. This action responds to a petition filed by Union Carbide Corp.

DATES: Effective July 24, 1985; objections by August 23, 1985. The Director of the Federal Register approves the incorporation by reference of certain publications at § 177.1560 effective on July 24, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary J. Stephens, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 17, 1984 (49 FR 40670), FDA announced that a petition (FAP 4B3823) had been filed by Union Carbide Corp., P.O. Box 670, Bound Brook, NJ 08805, proposing that Part 177 (21 CFR Part 177) of the food additive regulations be amended to provide for the safe use of polyarylsulfone resins intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 FR Part 25) have been replaced by a rule published in the Federal Register of April 26, 1985 (50 CFR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before August 23, 1985, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any

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particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Incorporation by reference, Polymeric food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Subpart B is amended by adding new § 177.1560 to read as follows:

§ 177.1560 Polyarylsulfone resins.

Polyarylsulfone resins (CAS Reg. No. 79293–56–4) may be safely used as articles or components of articles intended for use in contact with food, at temperatures up to and including normal baking temperatures, in accordance with the following prescribed conditions:

(a) *Identity.* Polyarylsulfone resins are copolymers containing not more than 25 percent of oxy-*p*-phenylene-oxy-*p*-phenylenesulfonyl-*p*-phenylene polymer units and not less than 75 percent of oxy-*p*-phenylenesulfonyl-*p*-phenylene-oxy-*p*-phenylenesulfonyl-*p*-phenylene polymer units. The copolymers have a minimum reduced viscosity of 0.40 deciliter per gram in 1-methyl-2-pyrrolidinone in accordance with ASTM method D2857–70 (Reapproved 1977), "Standard Test Method for Dilute Solution Viscosity of Polymers," which is incorporated by reference. Copies may be obtained from the American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103, or may be examined at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20408.

(b) *Optional adjuvant substances.* The basic polyarylsulfone resins identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic copolymers. These optional adjuvant substances may include substances permitted for such use by regulations in Parts 170 through 179 of this chapter, substances generally recognized as safe in food, substances used in accordance with a prior sanction of approval, and substances named in this paragraph and further identified as required:

Substances	Limitations
Sulfolane	Not to exceed 0.15 percent as residual solvent in the finished basic resin.

(c) *Extractive limitations.* The finished polyarylsulfone resin when extracted for 2 hours with the following solvents at the specified temperatures yields total extractives in each extracting solvent not to exceed 0.008 milligram per square centimeter of food-contact surface: distilled water at 121 °C (250 °F), 50 percent (by volume) ethyl alcohol in distilled water at 71.1 °C (160 °F), 3 percent acetic acid in distilled water at 100 °C (212 °F), and *n*-heptane at 65.6 °C (150 °F).

Note.—In testing the finished polyarylsulfone resin use a separate test sample for each required extracting solvent.

Dated: July 16, 1985.

John M. Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17527 Filed 7–23–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 177

[Docket No. 84F–0315]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of hexanedioic acid polymer with 1,3-benzenedimethanamine as a modifier for polyethylene phthalate polymers intended for use in contact with food. This action responds to a petition filed on behalf of Toyobo Co.

DATES: Effective July 24, 1985; objections by August 23, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 28, 1984 (49 FR 38362), FDA announced that a petition (FAP 4B3818) had been filed on behalf of Toyobo Co., Ltd., c/o 2347 Paddock Lane, Reston, VA 22091, proposing that the food additive regulations be amended to provide for the safe use of hexanedioic acid polymer with 1,3-benzenedimethanamine as a modifier for polyethylene phthalate polymers in 21 CFR 177.1630 intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before August 23, 1985, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a

hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Polymeric food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 177.1630 by alphabetically inserting a new item in paragraph (e)(4)(v) to read as follows:

§ 177.1630 Polyethylene phthalate polymers.

* * * * *

(e) * * *

(4) * * *

List of Substances and Limitations

(v) Modifiers:

* * * * *

Hexanedioic acid polymer with 1,3-benzenedimethanamine (CAS Reg. No. 25718–70–1) meeting the specifications in § 177.1500(b), item 10, when tested by the methods given in § 177.1500(c). The modifier is used in polyethylene terephthalate at a level not to exceed 30 percent by weight of the polyethylene terephthalate.

Chloroform-soluble extractives shall not exceed 0.08 milligram/centimeter ^{2} (0.5 milligram/inch ^{2}) of food-contact surface of the modified polyethylene terephthalate article when exposed to the following solvents at temperatures and times indicated:

(*a*) Distilled water at 49 °C (120 °F) for 24 hours;

(*b*) *n*-Heptane at 49 °C (120 °F) for 24 hours;

(*c*) 8 percent ethyl alcohol at 49 °C (120 °F) for 24 hours.

For use in contact with all types of foods except (*a*) those containing more than 8 percent alcohol, or (*b*) those at temperatures over 49 °C (120 °F).

* * * * *

Dated: July 16, 1985.

John M. Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17533 Filed 7–23–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 84F–0152]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of decanoic acid, octanoic acid, sodium 1-octanesulfonate, and isopropyl alcohol for use on food-processing equipment and utensils, as components in sanitizing solutions. This action responds to a petition filed by Economic Labs., Inc.

DATES: Effective July 24, 1985; objections by August 23, 1985.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HRA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 5, 1984 (49 FR 23242), FDA announced that a food additive petition (FAP 4H3794) had been filed by Economics Labs., Inc., Osborn Bldg., St. Paul, MN 55102, proposing that § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) be amended to provide for the safe use of decanoic acid, octanoic acid, sodium 1-octanesulfonate, and isopropyl alcohol as components in a sanitizing solution for use on food-processing equipment and utensils. These components are presently regulated under § 178.1010(b)(27) for use on dairy processing equipment only.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before August 23, 1985, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading

VOL 50 ISS 142 JL 24 1985 UMI

of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

§ 178.1010 [Amended]

2. In § 178.1010 *Sanitizing solutions* by removing the last sentence in paragraph (b)(27).

Dated: July 16, 1985.

John M. Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17526 Filed 7–23–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 178

[Docket No. 84F–0054]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly[(6-morpholino-s-triazine-2,4-diyl)[(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene[(2,2,6,6-tertramethyl-4-peperidyl)imino]] as a light stabilizer for polyolefins. This action responds to a petition filed by American Cyanamid Co.

DATES: Effective July 24, 1985; objections by August 23, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 20, 1984 (49 FR 10364), FDA announced that a petition (FAP 4B3780) had been filed by American Cyanamid Co., One Cyanamid Plaza, Wayne, NJ 07470, proposing that § 178.2010 (21 CFR 178.2010) be amended to provide for the safe use of poly[(6-morpholino-s-triazine-2,4-diyl)[(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a light stabilizer for polyolefins.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before August 23, 1985, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 178.2010(b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * *
Poly[(6-morpholino-s-triazine-2,4-diyl)[(2,2,6,6-tetramethyl-4-piperidyl)imino]hexamethylene [(2,2,6,6-tetramethyl-4-piperidyl)imino]] (CAS Reg. No. 82451–48–7).	For use only: 1. At levels not to exceed 0.3 percent by weight of polypropylene complying with § 177.1520(c) of this chapter, items 1.1,1.2, and 1.3, and of ethylene polymers complying with § 177.1520(c) of this chapter, items 2.1, 2.3, and 3.1, whose specific gravity is not less than 0.94. The finished polymers are to contact food only under conditions of use D, E, F, and G described in Table 2 of § 176.170(c) of this chapter.

Substances	Limitations
	2. At levels not to exceed 0.3 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 2.1, 2.3, and 3.1, whose specific gravity is less than 0.94, and of olefin polymers complying with items 3.3., 3.4, 3.5, and 4.0. The finished polymers are to contact food in articles having a volume of at least 18.9 liters (5 gallons) only under conditions of use D, E, F, and G described in Table 2 of § 176.170(c) of this chapter.
* * *	* * *

Dated: July 16, 1985.

John M.Taylor,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17528 Filed 7–23–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 182 and 184

[Docket No. 82N–0089]

Vitamin D; Affirmation of GRAS Status With Specific Limitations as a Direct Human Food Ingredient

AGENCY: Food and Drug Adminstration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that vitamin D (when adden to food as crystalline vitamin D_2, crystalline vitamin D_3, vitamin D_2 resin, and vitamin D_3 resin) is generally recognized as safe (GRAS) with specific limitations as a direct human food ingredient. The safety of this ingredient as a food nutrient has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective August 23, 1985. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1950 effective on August 23, 1985.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 19, 1983 (48 FR 16695), FDA published a proposal to affirm that two forms of vitamin D, ergocalciferol (crystalline vitamin D_2) and cholecalciferol (crystalline vitamin D_3), are generally recognized as safe (GRAS) with specific liminations for use as direct human food ingredients in conventional food [1] and infant formula. FDA published the proposal in accordance with the announced review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review, mutagenic evaluations, and the report of the Select Committee on GRAS Substances (the Select Committee) on vitamin D_2 and vitamin D_3 are available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of the crystalline forms of vitamin D_2 and vitamin D_3, FDA gave public notice that it was unaware of any prior-sanctioned food uses for these ingredients other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of these ingredients recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate. FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for these ingredients were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for uses of these ingredients under conditions different form those set forth in this final rule has been waived.

In the proposal, FDA expressed concern about the fact that the 1971 National Academy of Sciences/National Research Council (NAS/NRC) food ingredient survey reported that the total amount (poundage) of vitamin D_2 and vitamin D_3 available for use in food in 1970 was far in excess of the amount needed to fortify foods. Although NAS/NRC additionally reported that its survey on vitamin D_2 and vitamin D_3 did not differentiate between use in human food, in animal feed, or in dietary supplements, and probably contained inaccuracies such as failure to account for dilution of multiple strength solutions, FDA was concerned that extreme overages of this vitamin may be used in food. The agency was also concerned that impure vitamin D resins may be used in food and that there may be insufficient safety data available to support their use. The agency therefore requested specific comments on whether resinous forms of vitamin D are used in food and on the magnitude of any overages of the vitamin that are used.

Fourteen comments were received in response to the proposal. Nine comments were from manufactures of food or food ingredients, two comments were from trade associations, two comments were from universities, and one comment was from a consulting food chemist. A summary of these comments and the agency's responses to them follow:

1. Seven comments responded to the request in the proposal for information on the use of vitamin D resins in food. One comment from a food company stated that it uses only crystalline vitamin D that meets the specifications of the Food Chemicals Codex, 3d Ed. (1981). The six remaining comments indicated that vitamin D resins are currently used in food and requested that the proposal be modified to permit their continued use. These comments stated that vitamin D resins have been used in food since the 1940's, and that no safety problems have been associated with their use. The comments provided information on the methods of manufacture of vitamin D resins and information on their inactive vitamin D isomers and other impurities. One comment claimed that some of the animal studies included in the Select Committee's report were actually conducted on vitamin D resins.

FDA has reviewed the information submitted by these comments and agrees that vitamin D resins may safely be used as alternative sources of vitamin D in food. The comments have provided information demonstrating that the vitamin D resins are manufactured by the same methods that are used to synthesize the crystalline forms of the vitamin, except that the resins are not purified to their crystalline forms. The major impurities found in the resins are unreacted provitamins (ergosterol and 7-dehydrocholesterol), lumisterol, and tachysterol, with minor amounts of other photochemical products. FDA finds that the presence of these impurities in the resins is not harmful. These impurities

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

VOL
50
ISS
142
JL
24
1985
UMI

are the same products that are formed in animals when animals are exposed to sunlight (Ref. 1), and at the levels at which vitamin D is added to food, the impurities will be present in food in amounts that are extremely small, much lower even than the amounts that occur naturally in animals. The agency is therefore modifying the proposal to permit vitamin D_2 and vitamin D_3 resins to be added to foods as alternatives to the crystalline forms of these vitamins.

2. One comment responded to the agency's request for information about the amounts of vitamin D that are being added to foods. The comment did not provide any specific information but acknowledged that it is often necessary to add 25 percent or more vitamin D than is declared on the label to offset losses of the vitamin that may occur during the processing or the storage of food. The comment also acknowledged that overages that are added may result in a higher amount of vitamin D in food products than is declared on the label. The comment, however, did not favor establishment of an upper limit for either the amount of vitamin D added to food or the amount actually remaining in the food. The comment stated that there are many technological problems associated with the use of vitamin D in foods, and it therefore recommended that the agency allow food processors to determine the appropriate amount of overage for each food product.

As indicated in the proposal, FDA is aware that overages of vitamin D are added to foods to offset losses of the vitamin that may occur during processing or storage. The agency is also aware that vitamin D will be more stable in some foods than others, and that there is considerable variation in the expected shelf life of vitamin D in foods. The agency further recognizes that food manufacturers and processors face technical problems in mixing small amounts of vitamin D in foods (usually 0.1 part per million or less) and assaying for these small amounts of the vitamin. Finally, the agency is aware that these problems vary depending upon such factors as whether the food product is a liquid or solid.

Based on these factors, FDA concludes that it cannot establish an upper limit on the amount of vitamin D that can be added in the processing of a particular food. Food manufacturers must determine for their own products, on a case-by-case basis, the amount of vitamin D that will be lost in the processing and in the storage of a particular food before it is delivered for consumer purchase. For the use of vitamin D to be GRAS under the regulation that FDA is adopting, however, the amount of the vitamin that remains in the food at the time it is available for consumer purchase must be within the specific limitation that FDA has established for the applicable food category.

FDA is therefore not making any change in the regulation based upon this issue.

3. Four comments requested that the proposed regulations be modified to permit the interchangeable use of vitamin D_2 and vitamin D_3 in the food categories listed for each of these ingredients. The comments stated that it has been common industry practice to use either vitamin D_2 or vitamin D_3 as a source of vitamin D in foods, and that there is no safety reason to permit only vitamin D_2 for use in breakfast cereals and grain products, as provided in the proposal.

FDA agrees that at current consumption levels, there is no significant difference in the safety of vitamin D_2 and vitamin D_3, and that in most food applications, these substances may be used interchangeably as sources of vitamin D. The agency has therefore modified § 184.1950 (21 CFR 184.1950) to permit the interchangeable use of vitamin D_2 and vitamin D_3 under the specific conditions established in this regulation.

To make clear that crystalline vitamin D_2, crystalline vitamin D_3, and the less pure resinous forms of these vitamins may be used interchangeably in food, the agency has decided not to issue separate regulations affirming the GRAS status of vitamin D_2 and vitamin D_3. Instead, the agency is issuing a single regulation that affirms the GRAS status of vitamin D and that makes clear that crystalline vitamin D_2, crystalline vitamin D_3, vitamin D_2 resin, or vitamin D_3 resin may all be used as a food source of the vitamin within the specific conditions of use established in the regulation.

4. Two comments asserted that the proposal was incomplete regarding the processing and method of manufacture for vitamin D_3. The comments stated that vitamin D_3 is not only obtained from fish liver oil but is also produced from cholesterol obtained from fish oils, wool grease, lanolin, and the brains and spinal cords of animals. According to the comments, the cholesterol is chemically converted to 7-dehydrocholesterol, which in turn is irradiated with ultraviolet light to produce vitamin D_3 (cholecalciferol). One of these comments objected to the inclusion of any methods of manufacture for either vitamin D_2 or vitamin D_3 in the GRAS affirmation regulation. The comment argued that the inclusion of manufacturing methods in the regulation will inhibit development of new methods.

FDA agrees that vitamin D_3 may be safely produced by the method of manufacture described in these comments, and the agency has therefore modified the regulation to incorporate this method. However, the agency does not agree that the regulation should not contain a description of any methods of manufacture. FDA has historically included methods of manufacture in its GRAS affirmation regulations.

In the Federal Register of December 7, 1976 (41 FR 53600), the agency made clear that the descriptions of methods of manufacture included in GRAS affirmation regulations are not intended to inhibit the development of new methods or to inhibit modifications in the methods of manufacture that are included in the regulations. FDA includes methods of manufacture in GRAS affirmation regulations to define as thoroughly as possible the composition of the ingredient that has been evaluated and affirmed as GRAS (21 CFR 184.1(a)) and to differentiate it from other possible versions of the ingredient that the agency has not affirmed as GRAS.

Manufacturers who modify a method or develop a new method of manufacture will be able to determine, by comparing the new method with the methods set forth in the regulation, whether the new method introduces impurities that may require a new evaluation of the safety of the substance. Methods of manufacture also supplement the food-grade specifications for an ingredient because inclusion of these methods helps to identify potential impurities in GRAS ingredients that may not be included in their food-grade specifications.

A description of manufacturing methods is necessary in this regulation because specifications have not yet been established for the resin forms of vitamin D2 and vitamin D3.

5. Two comments objected to the adoption of specific limitations on the use of vitamin D in foods. The comments stated that food manufacturers have acted responsibly in adding vitamin D to foods, and that FDA should continue to grant flexibility to food manufacturers in using vitamin D in foods. One of the comments also stated that it is unnecessarily burdensome to petition FDA to adopt new food uses for vitamin D.

FDA disagrees with these comments. The agency's GRAS affirmation

proposal on vitamin D stated that both FDA and the Select Committee have concluded that "* * * It is not possible to determine, without additional data, whether a significant increase in consumption of vitamin D2 and vitamin D3 would constitute a dietary hazard." This conclusion makes clear the agency's and the Select Committee's concern about expanded food uses of vitamin D. The basis for this concern is the small margin of safety between the total amount of vitamin D that is added to food and the amount of the vitamin that can produce toxic effects in humans.

FDA finds that specific limitations on the use of vitamin D in food are necessary to assure that total dietary exposure to this ingredient does not increase significantly. In addition, the agency concludes that the concern about the margin of safety for this ingredient establishes an appropriate basis for requiring food manufacturers to petition the agency for GRAS affirmation or food additive approval for new food uses of this vitamin, and that adoption of such uses should not be left only to the judgment of individual food manufacturers. FDA also points out that its decision to adopt specific limitations for the use of vitamin D in food is consistent with its adoption of specific limitations for other GRAS ingredients about which the agency has had similar concerns.

FDA also does not agree that petitioning the agency for new uses of vitamin D is unnecessarily burdensome. As indicated above, the agency concludes that a petition for new food uses of vitamin D is necessary so that the agency can assure that total dietary exposure will not increase significantly, and that any increase in exposure is safe.

6. One comment, from a company that manufactures breakfast cereals, requested that FDA affirm the GRAS status of breakfast cereals that contain 100 percent of the U.S. Recommended Daily Allowance (U.S. RDA) per 1 ounce serving (1,410 International Units (IU) per 100 grams (g)). The comment stated that there is no evidence that vitamin D is unsafe when used at this level. The comment also stated that in 1981, the company reduced the amount of vitamin D in two of its breakfast cereals from 100 percent of the U.S. RDA to 50 percent of the U.S. RDA per ounce.

FDA is not affirming that the use of vitamin D at the suggested levels in breakfast cereals is GRAS. As indicated in the proposal, FDA estimates that average lifetime exposure to vitamin D, based upon those uses included in the proposal, is 200 to 300 IU per day for individuals between the ages of 2 and 65 years. This average lifetime estimate includes 25 IU per day for breakfast cereals. On the other hand, it is apparent that many individuals consume multiple servings of breakfast cereal fortified with vitamin D, and that their consumption exceeds the average intake to a significant degree. Data from the Nationwide Food Consumption Survey (Ref. 2) demonstrate that some individuals in all age groups beginning at 9 years of age or older consume more than 100 g of ready-to-eat cereal per day. For these individuals, the risk posed by increases in vitamin D levels in breakfast cereals to 705 or 1,410 IU per 100 g, as requested in this comment, is unknown. The agency therefore concludes that it cannot affirm the GRAS status of these levels of use of vitamin D without additional data demonstrating that such uses are safe.

The agency further concludes that it is the responsibility of this cereal manufacturer to demonstrate the safety of its products, and that the comment is in error in its assertion that FDA should affirm the GRAS status of these uses of vitamin D because there is no evidence to demonstrate that they are unsafe. For these reasons, the agency is maintaining the limitation of 350 IU per 100 g as the maximum level of use for vitamin D in breakfast cereals.

The agency also points out in response to the comment that cereal products that contain 705 IU vitamin D per 100 g (equivalent to 50 percent of the U.S. RDA) are foods for special dietary use, as defined in 21 CFR 101.9(a)(2). FDA does not consider these products to be conventional foods, and therefore they are not covered by this regulation.

7. Five comments requested that the proposal be modified to include certain special dietary foods and enteral formulas. The comments urged that the proposal be expanded to include such products as formulated liquid diets, meal replacements, dry diet mixes, fortified drinks and mixes, and diet bars. Two of these comments requested that the maximum level for vitamin D in these special dietary foods and enteral formulas be set at 250 IU per 100 grams, as served. One of these comments submitted food labels from some of the products.

FDA has inspected the food labels that were submitted and has carefully considered whether it has sufficient information on these products to evaluate the safety of these uses of vitamin D. The agency finds that many of the products referred to in the comments, such as weight control milk beverages and flavorings for milk, were included in the proposal under the food category milk products, as described in 21 CFR 170.3(n)(31). The level of use of vitamin D in these products is within the maximum level of use included in § 184.1450(c)(1).

However, the agency finds that enteral formulas and the other products discussed in these comments are not included in the 43 food categories identified as conventional foods in 21 CFR 170.3(n), and that the use of vitamin D in these types of products was not evaluated by the Select Committee. The agency further finds that the comments do not provide appropriate information on the amount of vitamin D contained in these products, dietary serving (portion) size for these products, or the amount of these products that will be ingested daily. The agency cannot evaluate the safety of the use of vitamin D in these products without this information. FDA is, therefore, not including these uses in this final rule.

If manufacturers of special dietary foods and enteral formulas wish to have the GRAS affirmation regulation for vitamin D amended to include use of vitamin D in their products, they should submit, in accordance with 21 CFR 170.30, a GRAS affirmation petition providing specific information on the amount of vitamin D that is contained in their products and the amount of the product that will be ingested daily.

Because no food-grade specifications exist for vitamin D_2 and vitamin D_3 resins at the present time, the agency will work with the Committee on Food Chemicals Codex of the National Academy of Sciences to develop acceptable specifications for these resins. If acceptable specifications are developed, the agency will incorporate them into this regulation at a later date. Until specifications are developed, FDA has determined that the public health will be adequately protected if vitamin D resins comply with their descriptions in the regulation and are of a purity suitable for their intended use in food (21 CFR 184.1(b)).

The agency has made editorial changes in § 184.1950(a) (1) and (2) to reflect the fact that vitamin D_2 and vitamin D_3 are made b ultraviolet irradiation of provitamin D_2 and provitamin D_3.

The agency has previously determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. FDA has not received any new information or comments that would alter its previous determination.

VOL
50
ISS
142
JL
24
1985
UMI

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency had determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, the agency has previously considered the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by that Order. FDA has not received any new information or comments that would alter its previous determination.

The agency's findings of no economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

References

The following information has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Hirsh, A.L., "Vitamin D," *In* "Encyclopedia of Chemical Technology," Kirk-Othmer, 3d ed., John Wiley and Sons, Inc., New York, 1984, Vol. 24, pp. 186–216.

2. "Foods Commonly Eaten by Individuals: Amount per Day and per Eating Occasion," E.M. Pao, K.H. Fleming, P.M. Guenther, S.J. Mickle, p. 200, March 1982. (Available from Superintendent of Documents, Government Printing Office, Washington, DC 20402, as S/N 001–000–04267–0.)

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients; Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. The authority citation for Part 182 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10.

2. Part 182 is amended:

§ 182.8950 [Removed]

a. By removing § 182.8950 *Vitamin D_2*.

§ 182.8953 [Removed]

b. By removing § 182.8953 *Vitamin D_3*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. The authority citation for Part 184 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10.

4. Part 184 is amended by adding new § 184.1950 to read as follows:

§ 184.1950 Vitamin D.

(a) Vitamin D is added to food as the following food ingredients:

(1) Crystalline vitamin D_3 ($C_{28}H_{44}O$, CAS Reg. No. 50–14–6), also known as ergocalciferol, is the chemical 9,10-seco(5Z,7E,22E)-5,7,10(19),22-ergostatetraen-3-ol. The ingredient is produced by ultraviolet irradiation of ergosterol isolated from yeast and related fungi and is purified by crystallization.

(2) Crystalline vitamin D_3 ($C_{27}H_{44}O$, CAS Reg. No. 67–97–0), also known as cholecalciferol, is the chemical 9,10-seco(5Z,7E,)-5,7,10(19)-cholestatrien-3-ol. Vitamin D_3 occurs in and is isolated from, fish liver oils. It is also manufactured by ultraviolet irradiation of 7-dehydrocholesterol produced from cholesterol. It is purified by crystallization. Vitamin D_3 is the vitamin D form that is produced endogenously in humans through sunlight activation of 7-dehydrocholesterol in the skin.

3. Vitamin D_2 resin and vitamin D_3 resin are the concentrated forms of irradiated ergosterol (D_2) and irradiated 7-dehydrocholesterol (D_3) that are separated from the reacting materials in paragraphs (a) (1) and (2) of this section. The resulting products are sold as food sources of vitamin D without further purification.

(b) Vitamin D_2 and vitamin D_3 as crystals meet the specifications of the Food Chemicals Codex, 3d Ed. (1981), pp. 344 and 345, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. FDA is developing food-grade specifications for vitamin D_2 resin and vitamin D_3 resin in cooperation with the National Academy of Sciences. In the interim, these resins must be of a purity suitable for their intended use.

(c)(1) In accordance with § 184.1(b)(2), the ingredients are used in food as the sole source of added vitamin D only within the following specific limitations:

Category of food	Maximum levels in food (as served)	Functional use
Breakfast cereals, § 170.3(n)(4) of this chapter.	350 (IU/100 grams).	Nutrient supplement, § 170.3(o)(20) of this chapter.
Grain products and pastas, § 170.3(n)(23) of this chapter.	90(IU/100 grams)	Do.
Milk, § 170.3(n)(30) of this chapter.	42 (IU/100 grams)	Do.
Milk products, § 170.3(n)(31) of this chapter.	89 (IU/100 grams)	Do.

(2) Vitamin D may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

(3) Vitamin D may be used in margarine in accordance with § 166.110 of this chapter.

(d) Prior sanctions for these ingredients different from the uses established in this section do not exist or have been waived.

Effective date. This regulation is effective August 23, 1985.

Dated: July 2, 1985.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 85–17525 Filed 7–23–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Furazolidone Aerosol Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the correct specifications for a previously approved furazolidone aerosol powder product.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: Frank G. Pugliese, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4500.

SUPPLEMENTARY INFORMATION: On February 3, 1966, FDA approved, by letter, Norwich-Eaton's NADA 32–319 for a 4 percent furazolidone aerosol spray for cattle for treating bacterial eye infections and for dogs and horses for preventing or treating bacterial infections of superficial wounds. By letter of October 31, 1979, FDA approved a 10 percent formulation to replace the 4 percent formulation. FDA codified the approval in 21 CFR 524.1005 in the **Federal Register** of July 25, 1980 (45 FR 49543). However, the regulation failed to reflect the amended specification for the Norwich-Eaton product. The sponsorship of NADA 32–319 was subsequently transferred to SmithKline Animal Health Products (see 48 FR 28983; June 24, 1983). This document revises 21 CFR 524.1005 to reflect the currently approved specifications for that products.

List of Subjects in 21 CFR Part 524

Animal drugs, topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 524 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 524.1005 is amended by revising paragraphs (a) and (b) to read as follows:

§ 524.1005 Furazolidone aerosol powder.

(a) *Specifications.* The product contains either 4 or 10 percent furazolidone in inert dispersing agent and propellant.

(b) *Sponsors.* (1) See No. 000007 in § 510.600(c) of this chapter for use of the 10 percent product as in paragraph (c)(2)(i) through (iii) of this section.

(2) See No. 017135 for use of the 4 percent product as in paragraph (c)(2)(iv) of this section.

* * * * *

Dated: July 18, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–17534 Filed 7–23–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 801

[Docket No. 84N–0148]

Medical Devices; Hearing Aids; Technical Data Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the technical data sections of the agency's regulation on hearing aid devices' professional and patient labeling to incorporate by reference an updated standard.

DATES: Effective January 20, 1986. The Director of the Office of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 801.420 on January 20, 1986.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 14, 1984 (49 FR 32402), FDA proposed to amend its hearing aid regulation (21 CFR 801.420) to refer to the American National Standards Institute's (ANSI) updated ANSI S3.22–1982 (ASA 7–1982), "American National Standard Specification of Hearing Aid Characteristics." This updated standard is a modified version of ANSI S3.22–1976 (ASA 7–1976) which is incorporated by reference into § 801.420(c)(4) (approved by the Office of Management and Budget under control number 0910–0171).

The final rule amends § 801.420(c)(4) by incorporating by reference into the regulation the updated standard, ANSI S3.22–1982 ASA 7–1982). The final rule also requires that the User Instructional Brochure or other labeling accompanying the hearing aid include, as a minimum, the appropriate values or information for the technical data specified in § 801.420(c)(4)(i) through (xii), as those elements are defined or used in ANSI S3.22–1982 (ASA 7–1982). The final rule does not affect any other provision of § 801.420.

Comments

FDA received two comments on the proposed rule. One comment supported FDA's updating of § 801.420(c), stating that the revisions reflect timely and important scientific advances in the measurement and fitting of hearing aids. Another comment supported the proposed revisions, but argued that FDA's assessment of the economic effects of the proposed rule underestimated the cost of complying with the revisions. In the proposed rule, the agency determined that maximum cost of meeting the revised regulation for a manufacturer or distributor would be $1,000 (see 49 FR 32402). The comment claimed that $2,600 is a more realistic cost of compliance. The comment argued that compliance with the revision would require purchasing new program modules and reprogramming presently utilized testing equipment. The comment also argued that incorporating the revised technical test data into the hearing aid labeling would require costly, burdensome reprinting of labeling. For these reasons, the comment suggested that FDA could better ensure an inexpensive transition by providing a 360-day delayed effective date for the final rule, rather than the 180-day delayed effective date prescribed by FDA in the preamble to the proposed rule.

FDA disagrees with the latter comment. FDA has carefully reevaluated its assessment of the economic effect of the rule but continues to believe that only minor changes in testing procedures will be necessary. Essentially, all testing changes can be accomplished satisfactorily with existing equipment. Only § 801.420(c)(4)(ix), which establishes a tolerance level to minimize errors in measuring battery current drain in the hearing aid, might obligate persons that develop the brochure or labeling to purchase new testing equipment. As ANSI S3.22–1982 applies this section, a worst-case condition would require the developer to purchase a milliameter, an inexpensive accessory costing about $50. Because manufacturers will perform the testing and develop the user instructional brochures, FDA believes that it is highly unlikely that any distributor will need to purchase new equipment.

Additionally, FDA disagrees that any costly revisions of the User Instructional Brochure or of other labeling are necessary. Therefore, FDA concludes that a 6-month delayed effective date is adequate time for manufacturers to revise the User Instructional Brochure,

VOL 50 ISS 142 JL 24 1985 UMI

or separate labeling that accompanies the device to incorporate the updated procedures for determining technical data values, provided in these documents.

FDA concludes that its original worst-case total cost estimate of slightly more than $1 million is unchanged and reaffirms its initial determination that the rule does not require a regulatory impact analysis under Executive Order 12291. Further, in accordance with section 605(b) of the Regulatory Flexibility Act, FDA concludes that the final rule will not have a significant economic impact on a substantial number of small entities, including small businesses. Even if the agency were to accept the comment's cost figure of $2,600 per company, this would not be a substantial impact on small businesses.

List of Subjects in 21 CFR Part 801

Incorporation by reference, Labeling, Medical devices, Over-the-counter devices, Prescription devices, Requirements for specific devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 801 is amended as follows:

PART 801—LABELING

1. The authority citation for Part 801 is revised to read as follows:

Authority: Sec. 701, 52 Stat. 1055–1056 as amended (21 U.S.C. 371) unless otherwise noted; 21 CFR 5.10, § 801.420 also is issued under secs. 201(h), (k), (m), and (n), 502, 519, 520(e), 704, 52 Stat. 1041 as amended, 1050–1051 as amended, 67 Stat. 477 as amended, 90 Stat. 564–565, 567, 575 (21 U.S.C. 321(h), (k), (m), and (n), 352, 360i, 360j(e), 374).

2. In § 801.420(c)(4) by revising the second and third sentences to read as follows:

§ 801.420 Hearing aid devices; professional and patient labeling.

* * * * *

(c) * * *

(4) * * * The determination of technical data values for the hearing aid labeling shall be conducted in accordance with the test procedures of the American National Standard Specification of Hearing Aid Characteristics, ANSI S3.22–1982 (Revision of S3.22–1978) (ASA 7–1982), which is incorporated by reference. Copies are available from the American National Standards Institute, 1430 Broadway, New York, NY 10018, or are available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

Dated: July 2, 1985.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 85-17532 Filed 7-23-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-85-1540; FR-2127]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice is the annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act and their applicable limits. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices and notice of the determination is published in the **Federal Register**.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: For single family: Brian Chappelle, Director, Single Family Development Division, Room 9270; telephone (202) 755–6720. For manufactured homes: Christopher Peterson, Director, Office of Title I Insured Loans, Room 9160; telephone (202) 755–6880; 451 Seventh Street, S.W., Washington, D.C. 20410. (Telephones are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1701–1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

The Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98–181, November 30, 1983) (the 1983 Act) further amended HUD's insuring authority. Of particular interest here are: (1) the authorization to insure condominiums in high-cost areas at the same levels as the high-cost limits for one-family residences insured under section 203(b) of the National Housing Act; and (2) the authorization to increase maximum loan limits under the Title I loan insurance program for combination manufactured home and lot loans and for individual lot loans in high-cost areas, so long as the percentage increase in the maximum loan limit does not exceed the percentage increase made to a one-family resident in the area authorized under section 203(b) of the NHA.

The Department implemented these provisions of the 1983 Act in related documents published in the **Federal Register** on April 11, 1984 (see 49 FR 14332, 14335, 14336), effective May 22, 1984. These documents amended the Department's rules to codify the procedure of announcing high-cost mortgage limits for single-family residences, condominiums, combination manufactured homes and lots and manufactured home lots by notice in the **Federal Register** (see the April 11, 1984 documents, amending 24 CFR 201.1504, 203.18b, 203.29, 234.27, and 234.49). In addition, the documents codified the procedure whereby a party may request an alternative mortgage limit (see the same sections cited above).

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features. (See 49 FR 21520.) First, there was no separate listing for condominium units, since these limits are not the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost limits for combination manufactured homes and lots and individual lots, and specified the special high-cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alaska, Guam and Hawaii. And, third, it made changes to the list based on a new definition of "metropolitan area".

On December 6, 1984 (49 FR 47657) and May 8, 1985 (50 FR 19341), the Department published amendments to the "high-cost" mortgage amounts that added additional areas and further increased the limits of several previously designated high-cost areas.

This Document

In this document, the Department publishes its entire list of high-cost areas with applicable mortgage limits. It incorporates the updates published on December 6, 1984 (49 FR 47657) and May 8, 1985 (50 FR 19341).

In addition, it adds the following new high-cost areas, with applicable limits: Hamilton County, IN; Hendricks County, IN; Johnson County, IN; Marion County, IN; Lafayette Parish, LA; Feller County, CO; Fargo-Moorhead, ND–MN MSA; Sedgwick County, KS; Minnehaha County, SD; Lincoln County, SD; Pennington County, SD; Meade County, SD; Lowndes County, MS; and Galveston County, TX.

It further increases the limits for the following existing high-cost areas; Hillsborough County, NH; Bristol County, MA; Essex County, MA; Middlesex County, MA; Norfolk County, MA; Plymouth County, MA; Suffolk County, MA; Worcester County, MA; Fairfield County, CT; New Haven County, CT; Litchfield County, CT; Richmond-Petersburg, VA MSA; Salt Lake City-Ogden, UT MSA; and Phoenix, AZ MSA.

These high-cost limits are effective July 24, 1985 and supersede other published amounts in effect, to the extent they are inconsistent with figures appearing in this document.

The listing of high-cost areas appears in two parts. Part I explains high-cost limits for mortgatges insured under Title I of the National Housing Act. Part II lists each high-cost area, with applicable limits for single family residences (including condominiums) insured under sections 203(b), 234(c) and 214 of the National Housing Act.

List of Subjects

24 CFR Part 201

Fire prevention, Health facilities, Historic preservation, Home improvement, Loan programs—housing and community development, Manufactured homes, Reporting and recordkeeping requirements.

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 234

Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, the Department publishes the revised dollar limitations as follows:

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):

To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, the first entry, Bristol County, MA, has a one-family limit of $90,000. The combination home and lot loan limit for Bristol County is $90,000×.80, or $72,000.

B. Section 2(b)(1)(E): Lot only (excluding Alaska, Guam and Hawaii):

To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, the first entry, Bristol County, MA, has a one-family limit of $90,000. The lot only loan limit for Bristol County is $90,000×.20, or $18,000.

C. Section 2(b)(2). Alaska, Guam and Hawaii limits:

The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes: $56,700. ($40,500×140%).

2. For combination manufactured homes and lots: $75,600. ($54,000×140%).

3. For lots only: $18,900. ($13,500×140%).

II. Title II

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
Region I				
HUD FIELD OFFICE: BOSTON OFFICE				
Bristol County	$90,000	$101,300	$122,650	$142,650
Essex County				
Middlesex County				
Norfolk County				
Plymouth County				
Suffolk County				
Worcester County				
Berkshire County	$72,200	$81,300	$98,800	$114,000
Franklin County				
Hampden County				
Hampshire County				
Barnstable County	$90,000	$101,300	$122,650	$142,650
Dukes County				
Nantucket County				
Providence County	$72,200	$81,300	$98,800	$114,000
Kent County				
Newport County	$90,000	$101,300	$122,650	$142,650
Washington County				
Bristol County				
Fairfield County	$90,000	$101,300	$122,650	$142,650
Litchfield County				
New Haven County				
Hartford County	$79,800	$89,850	$108,200	$126,000
Middlesex County				
New London County				
Tolland County				
Other Areas	$71,800	$80,900	$98,300	$113,400
HUD FIELD OFFICE: MANCHESTER OFFICE				
Hillsborough County	$72,350	$81,500	$98,050	$114,300
Rockingham County				
Region II				
HUD FIELD OFFICE: CARIBBEAN OFFICE				
San Juan, PR PMSA				
Barceloneta Municipio	$87,100	$98,100	$119,200	$137,500
Bayamon Municipio				
Canovanas Municipio				
Carolina Municipio				
Catano Municipio				
Corozal Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guaynabo Municipio				
Humacao Municipio				
Juncos Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Manati Municipio				
Naranjito Municipio				
Rio Grande Municipio				
San Juan Municipio				
Toa Alta Municipio				
Toa Baja Municipio				
Trujillo Alto Municipio				
Vega Alta Municipio				
Vega Baja Municipio				
Caguas, PR PMSA				
Aguas Buenas Municipio	$79,400	$89,450	$108,700	$125,400
Caguas Municipio				
Cayey Municipio				
Cidra Municipio				
Gurabo Municipio				
San Lorenzo Municipio				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits 1-family and condominium unit	2-family	3-family	4-family
Mayaguez, PR MSA				
Anasco Municipio	$79,650	$89,700	$109,000	$125,800
Cabo Rojo Municipio				
Hormigueros Municipio				
Mayaguez Municipio				
San German Municipio				
Ponce, PR MSA				
Juana Diaz Municipio	$81,700	$92,000	$111,800	$129,000
Ponce Municipio				
HUD FIELD OFFICE: NEW YORK OFFICE				
New York, NY PMSA				
Bronx County	$90,000	$101,300	$122,650	$142,650
Kings County				
New York County				
Putnam County				
Queens County				
Richmond County				
Rockland County				
Westchester County				
Nassau-Suffolk, NY PMSA				
Nassau County	$90,000	$101,300	$122,650	$142,650
Suffolk County				
HUD FIELD OFFICE: ALBANY OFFICE				
Albany County	$85,500	$96,300	$117,000	$135,000
Saratoga County				
Schenectady County				
Dutchess County	$90,000	$101,300	$122,650	$142,650
Ulster County				
Onondaga County	$84,350	$95,000	$115,400	$133,200
HUD FIELD OFFICE: NEWARK OFFICE				
Bergen-Passaic, NJ PMSA				
Bergen County	$90,000	$101,300	$122,650	$142,650
Passaic County				
Jersey City, NJ PMSA				
Hudson County	$90,000	$101,300	$122,650	$142,650
Middlesex-Somerset-Hunterdon, NJ PMSA				
Hunterdon County	$90,000	$101,300	$122,650	$142,650
Middlesex County				
Somerset County				
Monmouth-Ocean, NJ PMSA				
Monmouth County	$90,000	$101,300	$122,650	$142,650
Newark, NJ PMSA				
Essex County	$90,000	$101,300	$122,650	$142,650
Morris County				
Sussex County				
Union County				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits 1-family and condominium unit	2-family	3-family	4-family
HUD FIELD OFFICE: CAMDEN OFFICE				
Atlantic City, NJ MSA				
Atlantic County	$89,000	$100,000	$121,000	$141,000
Cape May County				
Monmouth-Ocean, NJ PMSA				
Ocean County	$90,000	$101,300	$122,650	$142,650
Trenton, NJ MSA				
Mercer County	$88,500	$77,000	$93,500	$106,000
Wilmington, DE-NJ-MD PMSA				
Salem County, NJ	$70,200	$79,100	$96,100	$110,900
HUD FIELD OFFICE: BUFFALO OFFICE				
Monroe County	$71,250	$80,250	$97,500	$112,000
Region III				
HUD FIELD OFFICE: PHILADELPHIA OFFICE				
Chester County, PA	$90,000	$101,300	$122,650	$142,650
Delaware County, PA	$78,850	$88,800	$107,900	$124,500
Montgomery County, PA	$77,450	$87,200	$105,950	$122,250
HUD FIELD OFFICE: WASHINGTON, DC OFFICE				
Washington, DC-MD-VA MSA				
District of Columbia	$90,000	$101,300	$122,650	$142,650
Montgomery County, MD				
Prince Georges County, MD				
Alexandria City, VA				
Arlington County, VA				
Fairfax County, VA				
Falls Church City, VA				
Loudon County, VA				
Manassas City, VA				
Manassas Park City, VA				
Prince William County, VA				
HUD FIELD OFFICE: BALTIMORE OFFICE				
Washington, DC-MD-VA MSA				
Charles County, MD	$90,000	$101,300	$122,650	$142,850
Calvert County, MD				
Frederick County, MD				
Baltimore, MD MSA (part)				
Howard County	$90,000	$101,300	$122,650	$142,650
Anne Arundel County				
Baltimore, MD MSA (part)				
Baltimore City	$81,400	$91,700	$111,400	$128,550

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits 1-family and condominium unit	2-family	3-family	4-family
Baltimore County				
Carroll County				
Harford County				
Queen Anne's County				
Wilmington, DE-NJ-MD PMSA				
Cecil County, MD	$70,200	$79,100	$96,100	$110,900
Other Areas:				
Worcester County, MD	$71,250	$80,250	$97,500	$112,500
HUD FIELD OFFICE: RICHMOND OFFICE				
Washington, DC-MD-VA MSA				
Stafford County, VA	$90,000	$101,300	$122,650	$142,650
Richmond-Petersburg, VA MSA				
Charles City County	$72,200	$81,300	$98,800	$114,000
Chesterfield County				
Colonial Heights City				
Dinwiddie County				
Goochland County				
Hanover County				
Henrico County				
Hopewell City				
New Kent County				
Petersburg City				
Powhatan County				
Richmond City				
Norfolk-VA Beach-Newport News, VA MSA				
Chesapeake City	$78,500	$88,450	$107,450	$124,000
Gloucester County				
Hampton City				
James City County				
Newport News City				
Norfolk City				
Poquoson City				
Portsmouth City				
Suffolk City				
Virginia Beach City				
Williamsburg City				
York County				
HUD FIELD OFFICE: WILMINGTON OFFICE				
Wilmington, DE-NJ-MD PMSA				
New Castle County, DE	$70,200	$79,100	$96,100	$110,900
Region IV				
HUD FIELD OFFICE: COLUMBIA OFFICE				
Charleston-North Charleston, SC MSA				
Berkeley County	$80,500	$90,500	$110,000	$127,500
Charleston County				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits 1-family and condominium unit	2-family	3-family	4-family
Dorchester County				
Greenville-Spartanburg, SC MSA				
Greenville County	$72,900	$82,100	$99,700	$115,100
Pickens County				
Spartanburg County				
Charlotte-Gastonia-Rock Hill, NC-SC MSA (part)				
York County, SC	$76,000	$85,500	$104,000	$120,500
HUD FIELD OFFICE: GREENSBORO OFFICE				
Raleigh-Durham, NC MSA				
Durham County	$75,800	$85,350	$103,700	$119,700
Franklin County				
Orange County				
Wake County				
Charlotte-Gastonia-Rock Hill, NC-SC MSA				
Cabarrus County	$76,000	$85,500	$104,000	$120,500
Gaston County				
Lincoln County				
Mecklenburg County				
Rowan County				
Union County				
Other Areas:				
Guilford County	$74,550	$83,950	$102,050	$117,750
FIELD OFFICE: ATLANTA OFFICE				
Atlanta, GA MSA				
Barrow County	$85,250	$96,000	$116,650	$134,600
Butts County				
Cherokee County				
Clayton County				
Cobb County				
Coweta County				
De Kalb County				
Douglas County				
Fayette County				
Forsyth County				
Fulton County				
Gwinnett County				
Henry County				
Newton County				
Paulding County				
Rockdale County				
Spalding County				
Walton County				
HUD FIELD OFFICE: BIRMINGHAM OFFICE				
Mobile, AL MSA				
Baldwin County	$75,000	$84,000	$102,500	$118,000
Mobile County				
Montgomery, AL MSA				
Autauga County				
Elmore County				
Montgomery County				
Birmingham, AL MSA				
Blount County	$69,550	$76,300	$95,150	$109,800
Jefferson County				
St. Clair County				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits 1-family and condominium unit	2-family	3-family	4-family
Shelby County				
Walker County				
HUD FIELD OFFICE: LOUISVILLE OFFICE				
Cincinnati, OH-KY-IN PMSA (part)				
Boone County, KY	$80,750	$90,950	$110,500	$127,600
Campbell County, KY				
Kenton County, KY				
Other Areas:				
Fayette County	$85,500	$96,300	$117,000	$135,000
HUD FIELD OFFICE: MEMPHIS OFFICE				
Memphis, TN-AR-MS MSA				
Shelby, TN	$87,750	$98,850	$120,100	$138,600
Tipton County, TN				
HUD FIELD OFFICE: NASHVILLE OFFICE				
Nashville, TN MSA				
Cheatham County	$75,000	$84,000	$102,500	$118,000
Davidson County				
Dickson County				
Robertson County				
Rutherford County				
Sumner County				
Williamson County				
Wilson County				
HUD FIELD OFFICE: JACKSON OFFICE				
Jackson, MS MSA				
Hinds County	$76,000	$85,800	$104,000	$120,000
Madison County				
Rankin County				
Memphis, TN-AR-MS MSA				
Desoto County, MS	$87,750	$98,850	$120,100	$138,600
Other Areas:				
Lowndes County	$70,200	$79,100	$96,100	$110,900
HUD FIELD OFFICE: CORAL GABLES OFFICE				
Ft. Lauderdale-Hollywood-Pompano Beach, FL PMSA				
Broward County	$79,700	$88,700	$107,700	$124,300
Miami-Hialeah, FL PMSA				
Dade County	$81,800	$92,100	$111,900	$129,100
West Palm Beach-Boca Raton-Delray Beach, FL MSA				
Palm Beach County	$79,700	$89,800	$109,100	$125,900

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits 1-family and condominium unit	2-family	3-family	4-family
Other Areas:				
Collier County	$76,000	$85,500	$103,500	$120,000
Monroe County	$80,750	$90,950	$110,500	$127,600
HUD FIELD OFFICE: TAMPA OFFICE				
Sarasota, FL MSA				
Sarasota County	$76,100	$85,700	$104,100	$120,100
Tampa-St. Petersburgh-Clearwater, FL MSA				
Hernando County	$71,500	$80,500	$97,900	$112,900
Hillsborough County				
Pasco County				
Pinellas County				
HUD FIELD OFFICE: JACKSONVILLE OFFICE				
Jacksonville, FL MSA				
Clay County	$72,800	$82,000	$99,600	$114,900
Duval County				
Nassau County				
St. Johns County				
HUD FIELD OFFICE: ORLANDO OFFICE				
Orlando, FL MSA				
Orange County	$72,800	$82,000	$99,600	$114,900
Osceola County				
Seminole County				
Region V				
HUD FIELD OFFICE: MINNEAPOLIS-ST. PAUL OFFICE				
Minneapolis-St. Paul, MN MSA				
Anoka County	$80,000	$101,300	$122,650	$142,650
Carver County				
Chisago County				
Dakota County				
Hennepin County				
Isanti County				
Ramsey County				
Scott County				
Washington County				
Wright County				
St. Cloud, MN MSA				
Benton County	$68,500	$77,000	$93,500	$108,000
Sherburne County				
Stearns County				
Fargo-Moorhead, ND-MN MSA				
Clay County	$77,900	$87,750	$106,600	$123,000
HUD FIELD OFFICE: MILWAUKEE OFFICE				
Minneapolis-St. Paul, MN MSA				
St. Croix County, WI	$80,000	$101,300	$122,650	$142,650
Milwaukee, WI PMSA				
Milwaukee County	$77,800	$87,800	$106,460	$122,650

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
Ozaukee County Washington County Waukesha County Madison, WI Dane County	$70,800	$79,750	$96,900	$111,800
HUD FIELD OFFICE: CHICAGO OFFICE				
Chicago, IL PMSA Cook County DuPage County McHenry County Lake County, IL PMSA Lake County	$87,250	$98,300	$119,400	$137,800
Joliet, IL PMSA Grundy County Will County	$87,250	$98,300	$119,400	$137,800
Aurora-Elgin, IL PMSA Kane County Kendall County	$87,250	$98,300	$119,400	$137,800
St. Louis, MO–IL PMSA Monroe County, IL	$85,500	$96,300	$117,000	$135,000
East St. Louis-Belleville, IL PMSA Clinton County, IL St. Clair County, IL	$85,500	$96,300	$117,000	$135,000
HUD FIELD OFFICE: DETROIT OFFICE				
Detroit, MI PMSA Lapeer County Livingston County Macomb County Monroe County Oakland County St. Clair County Wayne County	$75,300	$84,800	$103,000	$116,900
Ann Arbor, MI PMSA Washtenaw County	$78,800	$86,500	$105,100	$121,250
HUD FIELD OFFICE: CLEVELAND OFFICE				
Cleveland, OH PMSA Cuyahoga County Geauga County Lake County Medina County	$75,400	$84,900	$103,100	$119,000
HUD FIELD OFFICE: COLUMBUS OFFICE				
Columbus, OH MSA Delaware County Fairfield County Franklin County Licking County Madison County Pickaway County Union County	$81,100	$91,400	$111,000	$128,100

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
HUD FIELD OFFICE: CINCINNATI OFFICE				
Cincinnati, OH–KY–IN PMSA (part) Clermont County, OH Hamilton County, OH Warren County, OH Hamilton-Middletown, OH PMSA Butler County	$80,750	$90,950	$110,500	$127,500
HUD FIELD OFFICE: INDIANAPOLIS OFFICE				
Cincinnati, OH–KY–IN PMSA (part) Dearborn County, IN Other Areas: Hamilton County Hendricks County Johnson County Marion County	$80,750	$90,950	$110,500	$127,500
	$80,750	$90,950	$110,500	$127,500
Region VI				
HUD FIELD OFFICE: DALLAS OFFICE				
Dallas, TX PMSA Collin County Dallas County Denton County Ellis County Kaufman County Rockwall County Sherman-Denison, TX MSA Grayson County	$90,000	$101,300	$122,650	$142,650
	$78,000	$88,000	$106,500	$124,000
HUD FIELD OFFICE: FORT WORTH OFFICE				
Ft. Worth-Arlington, TX PMSA Johnson County Parker County Tarrant County	$90,000	$101,300	$122,650	$142,650
HUD FIELD OFFICE: HOUSTON OFFICE				
Houston, TX PMSA Brazoria County Ft. Bend County Harris County Liberty County Montgomery County Waller County Other Areas: Galveston County	$90,000	$101,300	$122,650	$142,650
	$90,000	$101,300	$122,650	$142,650
HUD FIELD OFFICE: LUBBOCK OFFICE				
Amarillo, TX MSA Potter County	$68,500	$77,000	$93,500	$106,900

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
Randall County Lubbock, TX MSA Lubbock County	$70,000	$78,500	$95,500	$110,500
Midland, TX MSA Midland County	$70,000	$78,500	$95,500	$110,500
HUD FIELD OFFICE: SAN ANTONIO OFFICE				
Austin, TX MSA Hays County Travis County Williamson County San Antonio, TX MSA Bexar County Comal County Guadalupe County Corpus Christi, TX MSA Nueces County San Patricio County	$90,000	$101,300	$122,650	$142,650
	$82,750	$93,250	$113,250	$130,700
	$70,000	$78,500	$95,500	$110,500
HUD FIELD OFFICE: LITTLE ROCK OFFICE				
Memphis, TN–AR–MS MSA Crittenden County, AR	$87,750	$99,850	$120,100	$138,600
HUD FIELD OFFICE: OKLAHOMA CITY OFFICE				
Oklahoma City, OK MSA Canadian County Cleveland County Logan County McClain County Oklahoma County Pottawatomie County	$72,800	$82,000	$99,600	$114,950
HUD FIELD OFFICE: NEW ORLEANS OFFICE				
Baton Rouge, LA MSA Ascension Parish East Baton Rouge Parish Livingston Parish West Baton Rouge Parish New Orleans, LA MSA Jefferson Parish Orleans Parish St. Bernard Parish St. Charles Parish St. John the Baptist Parish St. Tammany Parish Other Areas: Lafayette Parish	$78,000	$85,600	$104,000	$120,000
	$76,000	$85,600	$104,000	$120,000
	$76,000	$85,600	$104,000	$120,000

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
HUD FIELD OFFICE: SHREVEPORT OFFICE				
Shreveport, LA MSA Bossier Parish Caddo Parish	$75,500	$85,000	$103,300	$119,200
HUD FIELD OFFICE: ALBUQUERQUE OFFICE				
Albuquerque, NM MSA Bernalillo County	$76,500	$96,000	$104,000	$121,000
HUD FIELD OFFICE: TULSA OFFICE				
Tulsa, OK MSA Creek County Osage County Rogers County Tulsa County Wagoner County	$82,500	$92,900	$112,900	$130,300
Region VII				
HUD FIELD OFFICE: KANSAS CITY OFFICE				
Kansas City, MO PMSA Cass County, MO Clay County, MO Jackson County, MO Lafayette County, MO Platt County, MO Ray County, MO Kansas City, KS PMSA Johnson County, KS Leavenworth County, KS Miami County, KS Wyandotte County, KS	$81,600	$91,900	$111,700	$128,900
	$81,600	$91,900	$111,700	$128,900
HUD FIELD OFFICE: ST. LOUIS OFFICE				
St. Louis, MO–IL PMSA St. Louis City Franklin County Jefferson County St. Charles County St. Louis County	$85,500	$96,300	$117,000	$135,000
HUD FIELD OFFICE: DES MOINES OFFICE				
Des Moines, IA MSA Dallas County Polk County Warren County Omaha, NE–IA MSA (part) Pottawattamie County, IA	$69,300	$78,000	$94,850	$109,450
	$78,800	$88,750	$107,800	$124,400
HUD FIELD OFFICE: OMAHA OFFICE				
Omaha, NE–IA MSA (part) Douglas County, NE	$78,800	$88,750	$107,800	$124,400

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
Sarpy County, NE Washington County, NE				
HUD FIELD OFFICE: TOPEKA OFFICE				
Sedgwick County, KS	$76,000	$85,500	$103,500	$120,500
Region VIII				
HUD FIELD OFFICE: DENVER OFFICE				
Denver, CO PMSA Adams County Arapahoe County Denver County Douglas County Jefferson County Boulder-Longmont, CO PMSA Boulder County State of Colorado: Elbert County Grand County Routt County Teller County Other Areas	$90,000	$101,300	$122,650	$142,650
	$90,000	$101,300	$122,650	$142,650
	$83,900	$94,500	$114,850	$132,500
	$80,750	$90,950	$110,500	$127,500
	$90,000	$101,300	$122,650	$142,650
	$80,750	$90,950	$110,500	$127,500
	$71,800	$80,900	$98,300	$113,400
HUD FIELD OFFICE: HELENA OFFICE				
State of Montana	$75,500	$84,000	$102,500	$118,000
HUD FIELD OFFICE: SALT LAKE CITY OFFICE				
Salt Lake City-Ogden, UT MSA Davis County Salt Lake County Weber County	$80,450	$90,800	$110,100	$127,050
HUD FIELD OFFICE: CASPER OFFICE				
State of Wyoming	$75,000	$84,000	$102,500	$118,000
HUD FIELD OFFICE: FARGO OFFICE				
Fargo-Moorhead, ND–MN MSA Cass County, ND	$77,900	$87,750	$106,600	$123,000
HUD FIELD OFFICE: SIOUX FALLS OFFICE				
Minnehaha County Lincoln County Pennington County Meade County	$75,000	$84,000	$102,500	$118,000
Region IX				
HUD FIELD OFFICE: LOS ANGELES OFFICE				
Los Angeles Office Metro and Non-Metro Areas: Los Angeles County	$90,000	$101,300	$122,650	$142,650

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
San Luis Obispo County Santa Barbara County Ventura County				
HUD FIELD OFFICE: SAN FRANCISCO OFFICE				
San Francisco Office Metro and Non-Metro Areas Alameda County Contra Costa County Del Norte County Humboldt County Lake County Marin County Mendocino County Monterey County Napa County San Benito County San Francisco County San Mateo County Santa Clara County Santa Cruz County Solano County Sonoma County	$90,000	$101,300	$122,650	$142,650
HUD FIELD OFFICE: FRESNO OFFICE				
Fresno Office Metro and Non-Metro Areas Fresno County Kern County Kings County Madera County Mariposa County Merced County Stanislaus County Tulare County	$90,000	$101,300	$122,650	$142,650
HUD FIELD OFFICE: SACRAMENTO OFFICE				
Sacramento Office Metro and Non-Metro Areas Alpine County Amador County Butte County Calaveras County Colusa County El Dorado County Glenn County Lassen County Modoc County Nevada County Placer County Plumas County Sacramento County San Joaquin County Shasta County Sierra County Siskiyou County Sutter County Tehama County	$90,000	$101,300	$122,650	$142,650

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
Trinity County				
Tuolumne County				
Yolo County				
Yuba County				
HUD FIELD OFFICE: SAN DIEGO OFFICE				
San Diego Office Metro and Non-Metro Areas				
Imperial County	$90,000	$101,300	$122,650	$142,650
San Diego County				
HUD FIELD OFFICE: SANTA ANA OFFICE				
Metro Areas:				
Orange County	$90,000	$101,300	$122,650	$142,650
Riverside County				
San Bernardino County				
Non-Metro Areas:				
Inyo County	$75,000	$84,000	$102,500	$116,000
Mono County				
HUD FIELD OFFICE: LAS VEGAS OFFICE				
Las Vegas, NV MSA				
Clark County	$90,000	$101,300	$122,650	$142,650
State of Nevada				
Non-Metro Areas:				
Lincoln County	$75,000	$84,000	$102,500	$118,000
Nye County (part)				
HUD FIELD OFFICE: RENO OFFICE				
Reno, NV MSA				
Washoe County	$89,500	$101,000	$122,000	$142,000
State of Nevada				
None-Metro Areas:				
Carson City County	75,000	$84,000	$102,500	$118,000
Churchill County				
Douglas County				
Elko County				
Esmeralda County				
Eureka County				
Humbolt County				
Lander County				
Lyon County				
Mineral County				
Nye County (part)				
Pershing County				
Storey County				
White Pine County				
HUD FIELD OFFICE: PHOENIX OFFICE				
Phoenix, AZ MSA				
Maricopa County	$90,000	$101,300	$122,650	$142,650

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
HUD FIELD OFFICE: TUCSON OFFICE				
Tucson, AZ MSA				
Pima County	$90,000	$101,300	$122,650	$142,650
HUD FIELD OFFICE: HONOLULU OFFICE				
State of Hawaii				
Metro and Non-Metro Areas	$135,000	$151,950	$183,950	$213,950
Territory of Guam	$101,250	$114,000	$138,000	$160,500
Region X				
HUD FIELD OFFICE: SEATTLE OFFICE				
Seattle, WA PMSA				
King County	$87,750	$98,850	$120,100	$138,600
Snohomish County				
Tacoma, WA PMSA				
Pierce County	$75,300	$84,800	$103,050	$118,900
Yakima, WA MSA				
Yakima County	$72,000	$81,500	$99,000	$114,000
Bremerton, WA MSA				
Kitsap County	$80,200	$90,350	$109,750	$126,650
HUD FIELD OFFICE: PORTLAND OFFICE				
Portland, OR PMSA				
Clackamas County	$81,600	$91,900	$111,600	$128,800
Multnomah County				
Washington County				
Yamhill County				
Vancouver, WA PMSA				
Clark County, WA	$81,600	$91,900	$111,600	$128,800
HUD FIELD OFFICE: ANCHORAGE OFFICE				
State of Alaska				
All Areas	$135,000	$151,950	$183,950	$213,950
HUD FIELD OFFICE: SPOKANE OFFICE				
Richland-Kennewick-Pasco, WA MSA				
Benton County	$72,000	$81,500	$99,000	$114,000
Franklin County				
Spokane, WA MSA				
Spokane County	$72,000	$81,500	$99,000	$114,000
HUD FIELD OFFICE: BOISE OFFICE				
Boise City, ID MSA				
Ada County	$75,000	$84,000	$102,500	$118,000

Dated: July 18, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-17539 Filed 7-23-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8040]

Information Returns Required of Certain Foreign-owned Corporations, and Information Returns Required of United States Persons With Respect to Certain Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to information returns required of United States persons with respect to certain foreign corporations, and information returns required of certain foreign-owned corporations with respect to transactions with related corporations, under sections 6038 and 6038A, respectively, of the Internal Revenue Code of 1954. These regulations set forth the requirements for who must report, the information required to be reported, the time and manner for filing the information returns, and penalties for failure to report information. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982. These regulations provide the public with the guidance needed to comply with that Act.

DATES: Effective August 24, 1985. The amendments under section 6038 with respect to penalties are applicable for information required with respect to annual accounting periods of the foreign corporations ending after September 3, 1982. The remaining amendments under setion 6038 are applicable for taxable years beginning after August 23, 1985. The amendments under section 6038A are applicable for taxable years beginning after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Charles C. Saverude of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, (Attention: CC:LR:T) (202-566-3323, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On December 19, 1983, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 6038 and 6038A of the Internal Revenue Code of 1954 (48 FR 56076). These amendments were proposed to conform the regulations to changes made to section 6038 and the addition of section 6038A by sections 338 and 339 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 631). A public hearing was held on March 29, 1984. After consideration of all comments regarding the proposed amendments, the amendments as set forth below are adopted by this Treasury decision.

Discussion of Comments and Changes From Proposed Amendments

Sections 1.6038-2 and 1.6038A-1

Two commentors suggested that a reporting person who has "substantially complied" with the reporting rules should not be penalized for errors or omissions. In both § 1.6038-2 and § 1.6038A-1, an explicit statement to that effect is not needed because "substantial compliance," as well as other factors, may be considered in determining whether reasonable cause existed for failure to furnish some information if a penalty for such a failure is asserted. However, a provision relating to "substantial compliance" has been retained, slightly modified for clarification, in § 1.6038-2(k)(3), and the same language has been added to § 1.6038A-1(f)(3)(ii) for foreign-owned corporations. The Service anticipates that the broad range of estimates and descriptions allowed in § 1.6038A-1 for reporting of transactions will prevent most inadvertent errors from causing a technical violation if the reporting corporation has made a reasonable effort to comply.

The filing requirements for information returns under sections 6038 and 6038A have also been changed to require that duplicate returns be filed with the Philadelphia Service Center. This will facilitate use of the information in a centralized statistical analysis program (in addition to its use in audits), without the delays and additional costs to the Service of sorting, duplicating, and transferring the information received in the regional service centers for a second use in Philadelphia.

Section 1.6038-2

One comment criticized the proposal to allow other information to be required by forms. The commentor suggested that any requirement to provide additional information should be subject to notice and public comment procedures. The regulation has been modified to allow changes in the form or manner in which the prescribed information is to be reported, or to allow some items of information to be deleted, by the form, without allowing the form to require additional information.

Section 1.6038A-1

Changes have been made in paragraphs (a) and (b) to allow a group of corporations filing a consolidated income tax return to file Form 5472 on a consolidated basis, and to eliminate reporting with respect to transactions within the group. However, a reporting corporation (or group) is still required to file separately with respect to each related corporation with which it has transactions. Two commentors suggested that it might be easier to file one form (or one computer listing) for all related-corporation transactions, with details attached on a company-by-company basis if necessary. In the Service's view, adoption of that suggestion would not significantly reduce any burden of compliance, but it would reduce the usefulness of the information to the Service.

Two commentors suggested that the Service not require annual reporting of information, but rather collect it on a sample basis. This suggestion has not been adopted. Other commentors suggested that information reporting should not be required under section 6038A when a transaction must also be reported under section 6038. This suggestion has been adopted in paragraph (a)(3).

Paragraph (b)(1), defining "reporting corporation," contains an exception from reporting for corporations having no income subject to U.S. taxation. Several commentors felt that the exception should be clarified and expanded in various ways. That exception has been revised to include more situations in which reporting may not be particularly useful to the Internal Revenue Service. Banks are now excepted from reporting, as are other foreign corporations having no income except income subject to withholding or exempt from tax under the provisions of an income tax treaty.

A sentence has been added to the example in paragraph (b)(2), defining control to explain that control is attributed directly rather than proportionately, once the 50 percent ownership threshold is met.

Paragraph (b)(3) has been changed to clarify that the term "foreign person" includes a foreign government or government agency.

The definition of "related corporation" has been narrowed to eliminate reporting of transactions between corporations that join in filing a consolidated income tax return.

In paragraph (c)(1), several items of information concerning the related corporation have been deleted in response to comments that the information required was overly burdensome or not readily available to the reporting corporation. All of the items of information listed in the proposed regulations were carefully considered, and those items that are retained have been determined to be the information most necessary to the Internal Revenue Service. One commentor suggested that some of the required information may be unavailable to the reporting corporation. Inability to obtain information may be reasonable cause for failure to provide that information. If the reporting corporation shows reasonable cause for failure to provide any information, paragraph (f)(3) provides procedures for avoiding imposition of penalties.

Paragraph (c)(2) has been revised to allow the form to change the manner in which information is reported without allowing it to require new information.

In response to comments that the reporting of transactions in exact amounts would be extremely burdensome, unnecessary, and subject to potentially severe penalties for monor errors, paragraph (c)(2) has been revised to allow reporting by reasonable estimates. The term "reasonable estimate" is defined in paragraph (c)(2)(iv), providing permissible percentages of variation and a simple method for reporting small amounts, as well as allowing a reporting corporation to show by facts and circumstances that its estimates were reasonable, if not within the ranges provided.

Two comments suggested that more types of reportable service transactions were listed in paragraph (c)(2)(i)(E) than in § 1. 6038-2 (f)(11)(iv), producing a reporting burden that would discriminate against foreign-owned corporations in violation of income tax treaties. While the Service does not agree that the difference in reporting requirements would violate income tax treaty provisions, this item has nonetheless been changed to duplicate the services listed in § 1.6038-2 to avoid any appearance of discrimination.

One commentor requested that the regulations provide guidance with respect to the method for reporting amounts loaned or borrowed. In response to this, a new sentence has been added at the end of paragraph

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(c)(2)(i) to provide a method for reporting those amounts, and to allow that method to be changed by forms.

A suggestion that banking transactions entered into on behalf of customers should be excluded from the information to be reported has not been adopted because banks have been excluded from reporting in general. A similar suggestion was made to exclude transactions by brokers and insurance companies on behalf of customers. This suggestion has not been adopted.

The requirements in paragraph (c)(2)(ii) for reporting transactions involving non-monetary consideration or no consideration have been revised to allow more flexibility in the manner in which transactions may be described. A description may be provided for a single transaction or a group of similar or related transactions. While a description should include all property and services transferred, the essential requirement is that it include sufficient information from which to determine the substance and size of the transaction. In reporting the value of these transactions, the reasonable estimate rules (discussed above) apply. These liberalized requirements are intended to permit one fairly brief description to be used to report a pattern of transactions for which no individual records are kept because the transactions are considered too insignificant to require compensation or because they are performed on a reciprocal basis. Also, a sentence has been added at the end of paragraph (c)(2)(ii) to clarify that description of transactions under that subdivision are not required merely because the transaction involves a transfer of some intangible property in connection with tangible property for which monetary consideration is paid or received. A transaction fitting that description may be reported under paragraph (c)(2)(i), which only requires the reporting of a dollar amount.

In paragraph (c)(2)(iii), the exception for transactions that are not required to be reported has also been expanded and simplified, and now includes nonrecognition transactions, such as like-kind exchanges under section 1031.

Two comments stated that reporting of amounts in U.S. dollars, with exchange rates used, would be irrelevant, unnecessary and unduly burdensome in light of constantly changing exchange rates. It is precisely because of changing exchange rates that the rates used are relevant and necessary. Since a rate of exchange must be used in order to translate one currency into another, the reporting corporation will always have this information.

One commentor suggested that these information returns should not be due until 6 months after the reporting corporation's income tax return is filed. The information returns are required to be filed with the income tax return because they will be used with the income tax return to determine certain areas for which closer examination may be appropriate during an audit. Separate filing would require the Internal Revenue Service to match these information returns with the reporting corporation's tax returns. Therefore, the suggestion has not been adopted.

A few commentors proposed that no reporting should be required for past years, or that reports for those years should be made in an abbreviated fashion. These final regulations require reporting for all taxable years beginning after December 31, 1983. Reporting is not required for taxable years beginning before January 1, 1984. The reasonable estimate rule for reporting amounts of transactions should help to reduce the burden of compiling information on past transactions. Information returns for taxable years ending before July 24, 1985 must be filed by November 21, 1985, or, if later, with the reporting corporation's tax return for the same taxable year.

Paragraph (f)(1) has been revised to clarify that the penalty for failure to furnish information only applies once with respect to each related corporation for each year that a report is required. Suggestions that a "substantial compliance" exception should be added to the penalty provisions have been adopted, as discussed previously. In addition, the "reasonable estimate" provisions of the reporting requirements operate, in effect, quite similarly to the substantial compliance provision to prevent imposition of a penalty if a reporting corporation has complied with those requirements. Another commentor suggested that the regulations should provide specific guidelines for determining reasonable cause for failing to provide information, for the purpose of avoiding the penalty provided. For example, the comment suggested that a reporting corporation would not know and would not be able to determine whether it was dealing with a related corporation, and therefore the regulations should provide rules specifically excepting that reporting corporation from the penalty provisions. The final regulations do not include any specific guidelines or exceptions for determining whether a failure to provide information was due to reasonable cause. This determination must be based on the facts and circumstances of each individual case. Specific guidelines may be helpful in some cases but not in others because a failure may be due to reasonable cause under some facts but not under other similar facts.

Certification of Nonapplicability of Regulatory Flexibility Act of 1980 and Executive Order 12291

The Secretary of the Treasury has certified that these regulations will not have a significant economic impact on a substantial number of small entities and are, therefore, not subject to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6). Accordingly, a Regulatory Flexibility Analysis is not required and has not been prepared. These regulations will generally only affect United States persons that have significant holdings in foreign corporations and certain foreign-owned corporations that have transactions with related corporations. The Commissioner of Internal Revenue has determined that these regulations are not major regulations subject to Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required and has not been prepared.

Paperwork Reduction Act

The collection of information contained in these regulations has been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 1545–0805.

Drafting Information

The principal author of these regulations is David J. Dean of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service.

However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects

26 CFR §§ 1.6001–1 through 1.6109–2

Income taxes, Administration and procedure, Filing requirements.

26 CFR Part 602

OMB control numbers, Paperwork Reduction Act.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 and Part 602 are amended as follows:

PART 1—[AMENDED]

Income Tax Regulations

Paragraph 1. The authority cite for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805, 26 U.S.C. 6038 and 26 U.S.C. 6038A. • • •

Sections 1.6038–2 and 1.6038A–1 also issued under 26 U.S.C. 6038 and 6038A.

Par. 2. Section 1.6038–2 is revised to read as follows:

§ 1.6038–2 Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations beginning after December 31, 1962.

(a) *Requirement of return.* Every U.S. person shall make a separate annual information return with respect to each annual accounting period (described in paragraph (e) of this section) beginning after December 31, 1962, of each foreign corporation which that person controls (as defined in paragraph (b) of this section) for an uninterrupted period of 30 days or more during such annual accounting period. Such information shall not be required to be furnished, however, with respect to a corporation defined in section 1504(d) of the Code which makes a consolidated return for the taxable year. The return shall be made, with respect to annual accounting periods ending with or within the United States person's taxable year, on—

(1) Form 2952 if such taxable year ends before December 31, 1982,

(2) Form 5471 if such taxable year ends on or after December 31, 1983, or

(3) Either Form 5471 or Form 2952 if such taxable year ends on or after December 31, 1982 and before December 31, 1983.

(b) *Control.* A person shall be deemed to be in control of a foreign corporation if at any time during that person's taxable year it owns stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or more than 50 percent of the total value of shares of all classes of stock of the foreign corporation. A person in control of a corporation which, in turn, owns more than 50 percent of the combined voting power, or of the value, of all classes of stock of another corporation is also treated as being in control of such other corporation. The provisions of this paragraph may be illustrated by the following example:

Example. Corporation A owns 51 percent of the voting stock in Corporation B. Corporation B owns 51 percent of the voting stock in Corporation C. Corporation C in turn owns 51 percent of the voting stock in Corporation D. Corporation D is controlled by Corporation A.

(c) *Attribution rules.* For the purpose of determining control of domestic or foreign corporations the constructive ownership rules of section 318(a) shall apply except that:

(1) Stock owned by or for a partner or a beneficiary of an estate or trust shall not be considered owned by the partnership, estate, or trust when the effect is to consider a United States person as owning stock owned by a person who is not a United States person;

(2) A corporation will not be considered as owning stock owned by or for a 50 percent or more shareholder when the effect is to consider a United States person as owning stock owned by a person who is not a United States person; and

(3) If 10 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, section 318(a)(2)(C) shall apply.

The constructive ownership rules of section 318(a) apply only for purposes of determining control as defined in paragraph (b) of this section.

(d) *U.S. person.* For purposes of section 6038 and this section, the term "United States person" has the meaning assigned to it by section 7701(a)(30) of the Code, except that—

(1) With respect to a corporation organized under the laws of the Commonwealth of Puerto Rico, such term does not include an individual who is a bona fide resident of Puerto Rico, if a dividened received by such individual during the taxable year from such corporation would be excluded from gross income under section 933(1),

(2) With respect to a corporation organized under the laws of the Virgin Islands, such term does not include an individual who is a bona fide resident of the Virgin Islands and whose income tax obligation under subtitle A (relating to income taxes) of the Code for the taxable year is satisfied pursuant to section 28(a) of the Revised Organic Act of the Virgin Islands, approved July 22, 1954 (48 U.S.C. 1842), by paying tax on income derived from all sources both within and outside the Virgin Islands into the treasury of the Virgin Islands,

(3) With respect to a corporation organized under the laws of Guam or the Northern Mariana Islands, such term does not include an individual who is a bona fide resident of Guam or the Northern Mariana Islands, respectively, and who is relieved of liability for income tax to the United States under section 935(c)(3) of the Code or section 601 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94–241), respectively, for such individual's taxable year referred to in paragraph (e) of this section, and

(4) With respect to a corporation organized under the laws of any possession of the United States (other than Guam, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands), such term does not include an individual who is a bona fide resident of such possession for the entire taxable year and whose income derived from sources within any possession of the United States is not, by reason of section 931(a), includible in gross income under subtitle A (relating to income taxes) of the Code for the taxable year.

An individual for whom an election under section 6013 (g) or (h) is in effect shall, subject to the exceptions contained in this paragraph (d), be considered a United States person for purposes of section 6038 and this section.

(e) *Period covered by return.* The information required under paragraphs (f) and (g) of this section with respect to a foreign corporation shall be furnished for the annual accounting period of the foreign corporation ending with or within the United States person's taxable year. For purposes of this section, the annual accounting period of a foreign corporation is the annual period on the basis of which that corporation regularly computes its income in keeping its books. The term "annual accounting period" may refer to a period of less than one year, where, for example, the foreign income, war profits, and excess profits taxes are determined on the basis of an accounting period of less than one year as described in section 902(c)(2). If more than one annual accounting period ends with or within the United States person's taxable year, separate annual information returns shall be submitted for each annual accounting period.

(f) *Contents of return.* The return on Form 2952 or Form 5471 shall contain so much of the following information, and in such form or manner, as the form shall prescribe with respect to each foreign corporation:

(1) The name, address, and employer identification number, if any, of the corporation;

(2) The principal place of business of the corporation;

(3) The date of incorporation and the country under whose laws incorporated;

(4) The name and address of the foreign corporation's statutory or

VOL
50
ISS
142
JL
24
1985
UMI

resident agent in the country of incorporation;

(5) The name, address, and identifying number of any branch office or agent of the foreign corporation located in the United States;

(6) The name and address of the person (or persons) having custody of the books of account and records of the foreign corporation, and the location of such books and records if different from such address;

(7) The nature of the corporation's business and the principal places where conducted;

(8) As regards the outstanding stock of the corporation—

(i) A description of each class of the corporation's stock, and

(ii) The number of shares of each class outstanding at the beginning and end of the annual accounting period;

(9) A list showing the name, address, and identifying number of, and the number of shares of each class of the corporation's stock held by, each United States person who is a shareholder owning at any time during the annual accounting period 5 percent or more in value of any class of the corporation's outstanding stock;

(10) For the annual accounting period, the amount of the corporation's:

(i) Current earnings and profits;

(ii) Foreign income, war profits, and excess profits taxes paid or accrued;

(iii) Distributions out of current earnings and profits for the period; and

(iv) Distributions other than those described in paragraph (f)(10)(iii) of this section and the source thereof: and

(11) A summary showing the total amount of each of the following types of transactions of the corporation, which took place during the annual accounting period, with the person required to file this return, any other corporation controlled by that person, or any United States person owning at the time of the transaction 10 percent or more in value of any class of stock outstanding of the foreign corporation, or of any corporation controlling that foreign corporation:

(i) Sales and purchases of stock in trade;

(ii) Purchases of tangible property other than stock in trade;

(iii) Sales and purchases of patents, inventions, models, or designs (whether or not patented), copyrights, trademarks, secret formulas or processes, or any other similar property rights;

(iv) Compensation paid and compensation received for the rendition of technical, managerial, engineering, construction, scientific, or like services;

(v) Commission paid and commissions received;

(vi) Rents and royalties paid and rents and royalties received;

(vii) Amount loaned and amounts borrowed (except open accounts resulting from sales and purchases reported under other items listed in this paragraph (f)(11) that arise and are collected in full in the ordinary course of business);

(viii) Dividends paid and dividends received;

(ix) Interest paid and interest received; and

(x) Premiums received for insurance or reinsurance.

For purposes of paragraph (f)(11) of this section, if the United States person is a bank, as defined in section 581, or is controlled within the meaning of section 368(c) by a bank, the term "transactions" shall not, as to a corporation with respect to which a return is filed, include banking transactions entered into on behalf of customers; in any event, however, deposits in accounts between a foreign corporation, controlled (within the meaning of paragraph (b) of this section) by a United States person, and a person described in paragraph (f)(11) of this section and withdrawals from such accounts shall be summarized by reporting end-of-month balances.

(g) *Financial statements.* The following information with respect to the foreign corporation shall be attached to and filed as part of the return required by this section:

(1) A statement of the corporation's profit and loss for the annual accounting period;

(2) A balance sheet as of the end of the annual accounting period of the corporation showing—

(i) The corporation's asset;

(ii) The corporation's liabilities; and

(iii) The corporation's net worth; and

(3) An analysis of changes in the corporation's surplus accounts during the annual accounting period including both opening and closing balances.

The information listed in this paragraph (g) shall be prepared in conformity with generally accepted accounting principles, and in such form and detail as is customary for the corporation's accounting records.

(h) *Method of reporting.* All amounts furnished under paragraphs (f) and (g) of this section shall be expressed in United States currency with a statement of the exchange rates used. All statements submitted on or with the return required under this section shall be rendered in the English language.

(i) *Time and place for filing return.* Returns on Form 2952 or Form 5471 required under paragraph (a) of this section shall be filed with the United States person's income tax return on or before the date required by law for the filing of that person's income tax return. District directors and directors of service centers are authorized to grant reasonable extensions of time for filing returns on Form 2952 or Form 5471 in accordance with the applicable provisions of § 1.6081–1 of this chapter. An application for an extension of time for filing a return of income shall also be considered as an application for an extension of time for filing returns on Form 2952 or Form 5471.

(j) *Two or more persons required to submit the same information*—(1) *Return jointly made.* If two or more persons are required to furnish information with respect to the same foreign corporation for the same period, such persons may, in lieu of making separate returns, jointly make one return. Such joint return shall be filed with the income tax return of any one of the persons making such joint return.

(2) *Persons excepted from furnishing information*—(i) *Conditions.* Any person required to furnish information under this section with respect to a foreign corporation need not furnish that information provided all of the following conditions are met:

(A) Such person does not directly own an interest in the foreign corporation;

(B) Such person is required to furnish the information solely by reason of attribution of stock ownership from a United States person under paragraph (c) of this section; and

(C) The person from whom the stock ownership is attributed furnishes all of the information required under this section of the person to whom the stock ownership is attributed.

(ii) *Illustrations.* The rule of this paragraph (j)(2) is illustrated by the following examples:

Example (1). A, a U.S. person owns 100 percent of the stock of M, a domestic corporation. A also owns 100 percent of the stock of N, a foreign corporation organized under the laws of foreign country Y. A, in filing the information return required by this section with respect to N Corporation, in fact furnishes all of the information required of M Corporation with respect to N Corporation. M Corporation need not file the information.

Example (2). X, a domestic corporation owns 100 percent of the stock of Y, a domestic corporation, Y Corporation owns 100 percent of the stock of Z, a foreign corporation. X Corporation is not excused by this paragraph (j)(2) from filing information with respect to Z Corporation because X Corporation is deemed to control Z Corporation under the provisions of paragraph (b) of this section without recourse to the attribution rules in paragraph (c) of this section.

(3) *Statement required.* Any United States person required to furnish information under this section with his return who does not do so by reason of the provisions of paragraph (j)(1) or (j)(2) of this section shall file a statement with his income tax return indicating that such liability has been (or, in the case of a joint return made under paragraph (j)(1) of this section, will be) satisfied and identifying the return with which the information was or will be filed and the place of filing.

(k) *Failure to furnish information*—(1) *Dollar amount penalty*—(i) *In general.* If any person required to file Form 2952 or Form 5471 under section 6038 and this section fails to furnish any information described in paragraphs (f) and (g) of this section within the time prescribed by paragraph (i) of this section, such person shall pay a penalty of $1,000 for each annual accounting period of each foreign corporation with respect to which such failure occurs.

(ii) *Increase in penalty for continued failure after notification.* If a failure described in paragraph (k)(1)(i) of this section continues for more than 90 days after the date on which the district director mails notice of such failure to the person required to file Form 2952 or Form 5471, such person shall pay a penalty of $1,000, in addition to the penalty imposed by section 6038(b)(1) and paragraph (k)(1)(i) of this section, for each 30-day period (or fraction thereof) during which such failure continues after such 90-day period has expired. The additional penalty imposed by section 6038(b)(2) and this paragraph (k)(1)(ii) shall be limited to a maximum of $24,000 for each failure.

(iii) *Effective date.* The penalty imposed by section 6038(b) and this paragraph (k)(1) shall apply with respect to information for annual accounting periods ending after September 3, 1982.

(2) *Penalty of reducing foreign tax credit*—(i) *Effect on foreign tax credit.* Failure of a United States person to furnish, in accordance with the provisions of this section, any return or any information in any return, required to be filed for a taxable year under authority of section 6038 on or before the date prescribed in paragraph (i) of this section may affect the application of section 901 as provided in paragraph (k)(2)(ii) of this section and may affect the application of sections 902 and 960 as provided in paragraph (k)(2)(iii) of this section. Such failure may affect the application of sections 902 and 960 to any such United States person which is a corporation or to any person who acquires from any other person any portion (but only to the extent of such portion) of the interest of such other person in any such foreign corporation.

(ii) *Application of section 901.* In the application of section 901 to a United States person referred to in paragraph (k)(2)(i) of this section, the amount of taxes paid or deemed paid by such person for any taxable year, with or within which the annual accounting peroid of a foreign corporation for which such person failed to furnish information required under this section ended, may be reduced by 10 percent. However, no tax reduced under paragraph (k)(2)(iii) of this section or deemed paid under section 904(c) shall be reduced under the provisions of this paragraph (k)(2)(ii).

(iii) *Application of sections 902 and 960.* In the application of sections 902 and 960 to a United States person referred to in paragraph (k)(2)(i) of this section for any taxable year, the amount of taxes paid or deemed paid by each foreign corporation for the accounting period or periods for which such person was required for the taxable year of the failure to furnish information under this section may be reduced by 10 percent. The 10-percent reduction is not limited to the taxes paid or deemed paid by the foreign corporation with respect to which there is a failure to file information but may apply to the taxes paid or deemed paid by all foreign corporations controlled by that person. In applying subsections (a) and (b) of section 902, and in applying subsection (a) of section 960, the reduction provided by this paragraph (k)(2) shall not apply for purposes of determining the amount of accumulated profits in excess of income, war profits, and excess profits taxes.

(iv) *Reduction for continued failure after notice.* (A) If the failure referred to in paragraph (k)(2)(i) of this section continues for more than 90 days after the date on which the district director mails notice of such failure to such United States person, then the amount of the reduction referred to in paragraph (k)(2) (ii) and (iii) of this section may be 10 percent plus an additional 5 percent for each 3-month period, or fraction thereof, during which such failure continues after the expiration of such 90-day period.

(B) No taxes shall be reduced under this paragraph (k)(2) more than once for the same failure. Taxes paid by a foreign corporation when once reduced for a failure shall not be reduced again for the same failure in their status as taxes deemed paid by a corporate shareholder. Where a failure continues, each additional periodic 5-percent reduction, referred to in paragraph (k)(2)(iv)(A) of this section, shall be considered as part of the one reduction.

(v) *Limitation on reduction of foreign tax credit.* The amount of the reduction under this paragraph (k)(2) for each failure to furnish information with respect to a foreign corporation as required under this section shall not exceed the greater of:

(A) $10,000, or

(B) The income of the foreign corporation for its annual accounting period with respect to which the failure occurs. For purposes of this section if a person is required to furnish information with respect to more than one foreign corporation, controlled (within the meaning of paragraph (b) of this section) by that person, each failure to submit information for each such corporation constitutes a separate failure.

(vi) *Offset for dollar amount penalty imposed.* The total amount of the reduction or reductions which, but for this paragraph (k)(2)(vi), may be made under this paragraph (k)(2) with respect to any separate failure, shall not exceed the maximum amount of such reductions which may be imposed, reduced (but not below zero) by the amount of the dollar amount penalty imposed by paragraph (k)(1) of this section with respect to such separate failure.

(3) *Reasonable cause*—(i) For purposes of section 6038 (b) and (c) and this section, the time prescribed for furnishing information under paragraph (i) of this section, and the beginning of the 90-day period after mailing of notice by the district director under paragraph (k)(1)(ii) and (k)(2)(iv)(A) of this section, shall be treated as being not earlier than the last day on which reasonable cause existed for failure to furnish the information.

(ii) To show that reasonable cause existed for failure to furnish information as required by section 6038 and this section, the person required to report such information must make an affirmative showing of all facts alleged as reasonable cause for such failure in a written statement containing a declaration that it is made under the penalties of prejury. The statement must be filed with the district director for the district or the director of the service center where the return is required to be filed. The district director or the director of the service center shall determine whether the failure to furnish information was due to reasonable cause, and if so, the period of time for which such reasonable cause existed. In the case of a return that has been filed as required by this section except for an omission of, or error with respect to, some of the information required, if the

VOL
50
ISS
142
JL
24
1985
UMI

person who filed the return establishes to the satisfaction of the district director or the director of the service center that the person has substantially complied with this section, then the omission or error shall not constitute a failure under this section.

(4) *Other penalties.* The information required by section 6038 and this section must be furnished even though there are no foreign taxes which would be reduced under the provisions of this section, and even though the information required may not affect the amount of any tax due under the Internal Revenue Code. For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207 of the Code.

(5) *Illustrations.* The provisions of this paragraph may be illustrated by the following examples.

Example (1). M, a domestic corporation owns 100 percent of the stock of N, a foreign corporation. Both M and N use the calendar year as a taxable year and annual accounting period, and all of the following events occur in or with respect to the 1980 taxable year. The dividend from N is the only dividend from a foreign corporation received by M during the taxable year, and the foreign taxes listed are the only foreign taxes paid or deemed paid by M and N for the taxable year. On March 15, 1981, M filed its income tax return and paid its income tax, but M did not file Form 2952 with respect to N's 1980 annual accounting period. On June 1, 1981, the district director mailed notice to M of M's failure to file Form 2952 with respect to N. On November 30, 1981, M filed a complete Form 2952 with respect to N's 1980 annual accounting period.

(a) Gains, profits, and income of N	$100,000
(b) Foreign tax paid by N with respect to such gains, profits, and income	40,000
(c) Reduction of foreign tax paid by N (for purposes of M's section 902 deemed paid credit) resulting from M's failure to file information with respect to N as required under section 6038(a) and this section: failure to file within the time prescribed in paragraph (i) of this section, 10-percent reduction; continued failure for one additional 3-month period after 90-day period after notice mailed, 5-percent reduction; total reduction, 15 percent ($40,000 times 15 percent)	6,000
(d) Foreign tax paid by N after section 6038(c)(1)(B) reduction	34,000
(e) Dividend paid by N to M	45,000
(f) Accumulated profits of N as defined in section 902(c)(1) (determined without regard to the section 6038(c)(1)(B) reduction)	100,000
(g) Accumulated profits of N as described in section 902(a) (determined without regard to the section 6038(c)(1)(B) reduction)	60,000
(h) For purposes of the section 902 credit, M is deemed to have paid the same proportion of foreign taxes paid (reduced as provided under section 6038(c)) with respect to the accumulated profits described in section 902(a) (determined without regard to the reduction provided under section 6038(c)) as the amount of the dividend (determined without regard to section 78) bears to such amount of accumulated profits	25,500

$(45,000 \div 60,000) \times 34,000 = 25,500$

M must include $25,500 in gross income as a dividend under the provisions of section 78 of the Code. This example illustrates that the reductions in foreign taxes paid by the foreign corporation provided under section 6038(c) are taken into account in determining the amount included in gross income of the domestic corporation under section 78 of the Code as foreign taxes deemed paid, but such reductions are not taken into account in computing accumulated profits for purposes of determining the portion of foreign taxes deemed paid with respect to a particular dividend. The dollar amount penalty imposed by section 6038 (b) and paragraph (k)(1) of this section does not apply with respect to information for annual accounting periods ending before September 4, 1982, and therefore does not apply to M with respect to M's failure to file Form 2952 in this example.

Example (2). The facts are the same as in example (1) except that all of the events occur in or with respect to the 1982 taxable year. On March 15, 1983, M filed its income tax return and paid its income tax, but M did not file Form 2952 or Form 5471 with respect to N's 1982 annual accounting period. On June 1, 1983, the district director mailed notice to M of M's failure to file Form 2952 or Form 5471 with respect to N. On November 30, 1983, M filed a complete Form 5471 with respect to N's 1982 annual accounting period. Under paragraph (k)(1)(i) of this section, M is subject to a penalty of $1,000. Under paragraph (k)(1)(ii) of this section, that penalty is increased by $4,000 because the failure continued for 92 days (three full 30-day periods and a fraction of a fourth 30-day period) after the end of the 90-day period following mailing of the notice by the district director bringing M's dollar amount penalty under paragraph (k)(1) of this section to $5,000. For purpose of determining the foreign tax credit available to M, there may be imposed a reduction of foreign tax paid by N of $6,000, which would be the total of reductions under paragraph (k)(2) of this section with respect to M's failure to file under section 6038 for N's 1982 annual accounting period, before application of paragraph (k)(2)(vi) of this section. Under said paragraph (k)(2)(vi), the amount of the foreign tax reduction imposed is reduced by the amount of the dollar amount penalty, leaving a foreign tax reduction penalty of $1,000 which may be imposed in addition to the $5,000 dollar amount penalty. If imposed, the $1,000 tax reduction would then be applied in the calculation of taxes deemed paid by M under section 902 as in example (1), item (c), (d), and (h).

Par. 3 There is added after § 1.6038–2 the following new section.

§ 1.6038A–1 Information returns required of certain foreign-owned corporations.

(a) *Requirement of return*—(1) *In general.* Every corporation which at any time during its taxable year is a reporting corporation (described in paragraph (b)(1) of this section) shall make a separate annual information return on Form 5472 with respect to each related corporation (described in paragraph (b)(4) of this section) with which such reporting corporation has had any transaction of the types listed in paragraph (c)(2) of this section during such taxable year.

(2) *Consolidated returns.* If a reporting corporation is a member of an affiliated group of corporations filing a consolidated income tax return, it may join in filing information returns on Form 5472 on a consolidated basis. A consolidated Form 5472 shall be filed by the common parent corporation and shall be accompanied by a copy of the group's Form 851 (Affiliations Schedule), indicating which members listed thereon are reporting on the Form 5472. A member is not required to join in filing a consolidated Form 5472 merely because other members of the group choose to file one or more Forms 5472 on a consolidated basis.

(3) *Exception.* Notwithstanding paragraph (a)(1) of this section, a reporting corporation is not required to make a return of information on Form 5472 with respect to a related corporation for a taxable year for which a U.S. person that controls the reporting corporation makes a return of information on Form 5471 that is required under section 6038 and § 1.6038–2, if that return contains information required under § 1.6038–2 (f)(11) with respect to the transactions between the reporting corporation and the related corporation for that taxable year.

(b) *Definitions*—(1) *Reporting corporation*—(i) *In general.* For purposes of section 6038A and this section, a corporation is a reporting corporation if—

(A) It is a domestic corporation or is a foreign corporation engaged in a trade or business within the United States, and

(B) It is a controlled (as defined in paragraph (b)(2) of this section) by a foreign person.

(ii) *Exceptions.* Notwithstanding paragraph (b)(1)(i) of this section, a corporation is not a reporting corporation if—

(A) It has had no transactions of the types listed in paragraph (c)(2) during the taxable year with any related corporation,

(B) It has no gross income (determined without reference to losses) for the taxable year subject to United States taxation, other than a withholding tax under section 881 of the Code, or

(C) Its sole trade or business in the United States is a banking, financing, or similar business, as defined in § 1.864–4(c)(5)(i).

(iii) *Consolidated returns.* For purposes of paragraph (c)(1)(iv) of this section only, in the case of a group of reporting corporations filing a consolidated information return under this section the term "reporting corporation" means the common parent corporation (as shown on Form 851).

(2) *Control* (i) *Generally.* A corporation shall be deemed to be controlled by a foreign person if at any time during that corporation's taxable year such foreign person owns stock possessing at least 50 percent of the total combined voting power of all classes of outstanding stock of the corporation entitled to vote, or stock possessing at least 50 percent of the total value of outstanding shares of all classes of stock of the corporation. A corporation that is controlled (by this same test) by another corporation, which in turn, is controlled by a foreign person, is also treated as being controlled by such foreign person. The provisions of this paragraph (b)(2)(i) are illustrated by the following example:

Example F, a foreign person, owns 50 percent of the voting stock of X, a domestic corporation. X owns 50 percent of the total value of shares of all classes of stock of Y, also a domestic corporation. Y is controlled by F for purposes of section 6038A and this section. Thus, control is attributed directly under section 6038A (c)(1) and this section, rather than proportionately (as is stock ownership under section 318(a)(2) and paragraph (b)(2)(ii) of this section).

(ii) *Attribution rules.* For the purpose of determining ownership of stock of domestic or foreign corporations under section 6038A and this section, the constructive ownership rules of section 318(a) shall apply, except that section 318(a)(2)(C) shall be applied by substituting the phrase "10 percent" for the phrase "50 percent".

(3) *Foreign person.* For purposes of section 6038A and this section, a foreign person is—

(i) Any individual who is not a citizen or resident of the United States, but not including any individual for whom an election under section 6013 (g) or (h) is in effect;

(ii) Any individual who is a citizen of any possession of the United States but is not otherwise a citizen of the United States and is not a resident of the United States;

(iii) Any partnership, association, company, or corporation which is not created or organized in the United States or under the law of the United States or any State thereof;

(iv) Any foreign trust or foreign estate, as defined in section 7701(a)(31); or

(v) Any foreign government (or agency or instrumentality thereof).

(4) *Related corporation.* For purposes of section 6038A and this section, a related corporation is any corporation which is a member of the same controlled group (as defined in paragraph (b)(5) of this section) as the reporting corporation. The term "member" shall include any component member, excluded member, or additional member (as defined in section 1563(b)) of the controlled group. However, the term "related corporation" does not include any corporation filing a consolidated income tax return with the reporting corporation.

(5) *Controlled group.* For purposes of section 6038A and this section, the term "controlled group" has the meaning given to such term by § 1563(a), except that—

(i) Section 1563(a)(1) shall be applied by substituting the term "at least 50 percent" for the them "at least 80 percent" each time it appears;

(ii) Section 1563(a)(2)(B) shall be applied by substituting the term "at least 50 percent" for the term "more than 50 percent" each time it appears; and

(iii) Section 1563(a)(4), (b)(2)(C), and (e)(3)(C) shall not apply.

(c) *Contents of return*—(1) *The related corporation.* The return on Form 5472 shall contain such information as the form shall prescribe, with respect to each related corporation (whether foreign or domestic) with which the reporting corporation has had a transaction of the types listed in paragraph (c)(2) of this section during its taxable year, relating to:

(i) The name and address of the corporation;

(ii) The nature of the corporation's business or businesses and the principal place or places where conducted;

(iii) Each country in which the corporation treats itself as resident for purposes of the tax laws of the country; and

(iv) The relationship of the reporting corporation to the related corporation (such as reporting corporation controls related corporation, reporting corporation is controlled by related corporation, or reporting and related corporations are under common control).

(2) *Transactions with related foreign corporations*—(i) *Transactions for which monetary consideration was paid or received.* If the related corporation is a foreign corporation, the return on Form 5472 shall contain, with respect to transactions (other than transactions excepted by paragraph (c)(2)(iii) of this section) of the reporting corporation with the related corporation, in such form or manner as the form shall prescribe, a summary showing a reasonable estimate of the total dollar amount of each of the following types of transactions for which monetary consideration (U.S. currency and/or foreign currency) was the sole consideration paid or received, during the taxable year of the reporting corporation:

(A) Sales and purchases of stock in trade;

(B) Sales and purchases of tangible property other than stock in trade;

(C) Rents and royalties paid and received (other than amounts reported under paragraph (c)(2)(i)(D) of this section);

(D) Sales, purchases, and amounts paid and received as consideration for the use of intangible property such as copyrights, designs, fomulas, inventions, models, patents, processes, trademarks, and other similar property rights;

(E) Consideration paid and received for the rendition of technical, managerial, engineering, construction, scientific, or like services;

(F) Commissions paid and received;

(G) Amounts loaned and borrowed (except open accounts resulting from sales and purchases reported under other items listed in this paragraph (c)(2)(i) that arise and are collected in full in the ordinary course of business

(H) Interest paid and received;);

(I) Premiums paid and received for insurance and reinsurance.

Amounts required to be reported under paragraph (c)(2)(i)(G) of this section shall be reported as monthly averages or outstanding balances at the beginning and end of the taxable year, as the form shall prescribe.

(ii) *Transactions involving nonmonetary consideration or no consideration.* If the related corporation is a foreign corporation, the return on

VOL
50
ISS
142
JL
24
1985
UMI

Form 5472 shall contain a description of any transaction, or group of transactions, listed in paragraph (c)(2)(i) of this section (other than transactions excepted by paragraph (c)(2)(iii) of this section), of the reporting corporation with the related corporation, for which any consideration paid or received was other than monetary consideration described in paragraph (c)(2)(i) of this section, or for which no consideration was paid or received. A description required under this paragraph (c)(2)(ii) shall include sufficient information from which to determine the substance and approximate size of the transaction or group of transactions, and should include—

(A) A description of all property (including monetary consideration), rights, or obligations transferred from the reporting corporation to the related corporation and from the related corporation to the reporting corporation,

(B) A description of all services performed by the reporting corporation for the related corporation and by the related corporation for the reporting corporation, and

(C) A reasonable estimate of the fair market value or a statement of the nature and importance of such property (other than money), rights, obligations, or services.

A transaction for which the entire consideration paid or received by one party was monetary consideration is not required to be described under this paragraph (c)(2)(ii) even though the transaction involved the transfer of both tangible and intangible property, as long as the transfer of the intangible property was related and incidental to the transfer of the tangible property (e.g., a right to warranty services).

(iii) *Exception.* This paragraph (c)(2) shall not apply to any transaction if neither party to the transaction is a United States person (as defined in section 7701(a)(30)) and the transaction—

(A) Does not give rise to any recognized income or gain which is from sources within the United States or which is effectively connected with the conduct of a trade or business within the United States, and

(B) Does not give rise to any expense, loss, or other deduction properly allocable or apportionable to such income.

(iv) *Reasonable estimate defined*—(A) *Estimate within 25 percent of actual amount.* Any amount reported under this section is considered a reasonable estimate if such amount is at least 75 percent and not more than 125 percent of the actual amount to which the amount reported relates.

(B) *Other estimates.* If any amount reported under this section fails to meet the reasonable estimate of paragraph (c)(2)(iv)(A) of this section, the reporting corporation may, nevertheless, show that such amount is a reasonable estimate by making an affirmative showing of relevant facts and circumstances in a written statement containing a declaration that it is made under the penalties of perjury. The statement must be filed with the district director or the director of the service center where the reporting corporation's income tax return and the return on Form 5472 were filed. The district director or the director of the service center shall determine whether the amount reported was a reasonable estimate.

(v) *Small amounts.* If any actual amount required to be reported under this section does not exceed $66,667, the amount may be reported as "$50,000 or less."

(vi) *Accrued payments and receipts.* For purposes of this section, in the case of an accrual basis taxpayer, the terms "paid" and "received" shall include accrued payments and receipts, respectively.

(d) *Method of reporting.* All statements required on or with the return on Form 5472 under this section shall be rendered in the English language. All amounts of consideration or value required to be reported under this section shall be expressed in terms of United States currency, with a statement of any exchange rates used.

(e) *Time and place for filing returns*—(1) *In general.* Returns on Form 5472 required under this section shall generally be filed with the reporting corporation's income tax return for the same taxable year, and the due date (including extensions) for filing that income tax return is the due date for filing Form 5472. However, if a reporting corporation's income tax return is not timely filed (including extensions), the return on Form 5472 shall be filed with the Internal Revenue Service Center with which the reporting corporation's income tax return is required to be filed, and shall be filed on or before the date required by law (including extensions of time) for filing of such income tax return.

(2) *Taxable years ending before July 24, 1985.* Returns on Form 5472 required under this section for any taxable year ending before July 24, 1985 shall be filed either with the reporting corporation's income tax return or with the Internal Revenue Service Center or the district director with which the reporting corporation's income tax return has been filed. Returns on Form 5472 for such taxable years shall be filed on or before November 21, 1985, or, if later, with the reporting corporation's income tax return for the same taxable year on or before the date required by law (including extensions of time) for the filing of such income tax return.

(3) *Duplicate filing required.* The reporting corporation shall file a duplicate copy of each Form 5472 (at the same time as the original copy is filed) with the Internal Revenue Service Center, Philadelphia, PA 19255.

(f) *Penalty for failure to furnish information*—(1) *In general.* If a corporation required to file Form 5472 under section 6038A and this section fails to furnish any information required under paragraph (c) of this section with respect to any related corporation, within the time prescribed by paragraph (e) of this section, such corporation shall pay a penalty of $1,000 for each taxable year with respect to which such information is not timely reported. This penalty shall only be imposed on a reporting corporation once for each related corporation for each taxable year for which a failure to furnish information occurs. For purposes of this paragraph (f)(1), each member of a group of corporations filing a consolidated information return is a separate reporting corporation.

(2) *Increase in penalty for continued failure after notification.* If a failure described in paragraph (f)(1) of this section continues for more than 90 days after the date on which the district director mails notice of such failure to the reporting corporation, that corporation shall pay a penalty of $1,000, in addition to the penalty imposed by section 6038A(d)(1) and paragraph (f)(1) of this section, for each 30-day period (or fraction thereof) during which such failure continues after such 90-day period has expired. The additional penalty imposed by section 6038A(d)(2) and this paragraph (f)(2) shall be limited to a maximum of $24,000 for such continuing failure.

(3) *Reasonable cause*—(i) For purposes of section 6038A(d) and this section, the time prescribed for furnishing information under paragraph (e) of this section, and the beginning of the 90-day period after mailing of notice by the district director under paragraph (f)(2) of this section, shall be treated as being not earlier than the last day on which reasonable cause existed for failure to furnish the information.

(ii) To show that reasonable cause existed for failure to furnish information as required by section 6038A and this section, the reporting corporation must make an affirmative showing of all facts alleged as reasonable cause for such failure in a written statement containing a declaration that it is made under the penalties of perjury. The statement must be filed with the district director for the district or the director of the service center where the return is required to be filed. The district director or the director of the service center shall determine whether the failure to furnish information was due to reasonable cause, and if so, the period of time for which such reasonable cause existed. In the case of a return that has been filed as required by this section except for an omission of, or error with respect to, some of the information required, if the person who filed the return establishes to the satisfaction of the district director or the director of the service center that the person has substantially complied with this section, then the omission or error shall not constitute a failure under this section.

(4) *Other penalties.* The information required by section 6038A and this section must be furnished even though it may not affect the amount of any tax due under the Internal Revenue Code. For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207 of the Code.

(g) *Effective date.* This regulation is effective for taxable years beginning after December 31, 1963.

PART 602—[AMENDED]

Par. 4. The authority for Part 602 is as follows:

Authority: 26 U.S.C. 7805.

Par. 5. Section 602.101(c) is amended by inserting in the appropriate place in the table § 1.6038–2 . . . 1545–0805" and "1.6038A–1 . . . 1545–0805".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: July 2, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–17458 Filed 7–23–85; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 201 and 202

[Docket RM 84–3]

Office Organization and Procedures in Providing Information

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is amending 37 CFR Parts 201 and 202, concerning Office organization and procedures in providing information. In view of the 1976 revision of the Copyright Act, the citation of the statutory authority for Parts 201 and 202 of the Copyright Office Regulations is being amended. Section 201.1 has been amended to give the addresses to which various kinds of requests to the Copyright Office should be directed. Section 201.2 explains the general information that can be obtained from the Copyright Office and prescribes the conditions under which records, correspondence, and deposit material may be inspected and copied.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (202) 287–8380.

SUPPLEMENTARY INFORMATION:

1. Statutory authority. The statutory authority under which Parts 201 and 202 have been promulgated has been amended to cite the relevant section in the Copyright Act of 1976 and to give the correct citation in the statutes at large.

2. Mailing addresses. Section 201.1 presently directs that all mail and other communications be sent to the Register of Copyrights at one address. This remains the address to be used when submitting applications for registration of claims to copyright, documents for recordation, and the vast majority of communications with the Copyright Office. However, for more expeditious handling of certain kinds of requests, the Copyright Office asks that those communications be sent directly to the particular Division or Section responsible for responding to the request. The Copyright Office has amended § 201.1 to include the additional addresses.

3. Information given by the Copyright Office. Section 201.2(a)(1) presently states that the Office does not give "legal opinions or advice." This has been interpreted and applied by the Office to mean that it will not act as an attorney for members of the general public. The Office does not give *specific* advice whether certain conduct actually constitutes copyright infringement. With respect to administration of the Copyright Act in general, however, the Copyright Office must and does, interpret the Act. The courts, of course, are the final arbiters of what the law means. The wording of the present regulation is misleading and could be misinterpreted to mean that the Office has no authority to give opinions or define legal terms in the Act. This would be contrary to the opinions in a number of cases in which courts have accorded weight to Office interpretations. In order to clarify its position, the Office has amended § 201.2(a) by adding a new paragraph (3) as follows:

(3) In the administration of the Copyright Act in general, the Copyright Office interprets the Act. The Copyright Office, however, does not give specific legal advice on the rights of persons, whether in connection with particular uses of copyrighted works, cases of alleged foreign or domestic infringement, contracts between authors and publishers, or other matters of a similar nature.

4. Inspection and copying of records. Section 201.2(b) is amended to reflect the Copyright Office's policy regarding public use of in-process files.

"In-process files" are those which the Copyright Office makes for its own immediate internal use in connection with pending applications for registration or the recordation of documents and which are preliminary to the completion of the public record. These files include the Receipt-in-Process Records, Correspondence Management System Records, accounting files, open unfinished business files (U.B.), and other files of a similar nature. These files are maintained and are constantly used to facilitate the internal administrative operations of the Office in processing applications for registration and recording documents. They are not a part of the records that are required by section 705 of the Copyright Act to be open to public inspection.

As a general policy the regulations deny *direct* public access to in-process files and any of the areas where they are kept. A procedure is provided, however, whereby *information* contained in the in-process files may be obtained by anyone, following payment of applicable fees, upon request to the Information and Reference Division.

The regulations provide as an exception to the general policy of denying direct public access to in-process files that in the case of pending applications for registration and their

VOL
50
ISS
142
JL
24
1985
UMI

accompanying deposits, access will be afforded without charge upon request of the copyright claimant or his/her authorized representative to those applications and deposits that were submitted for registration within the twelve month period immediately preceding the request. Likewise, access will be afforded to pending documents for recordation upon the request of at least one of the persons who executed the document or by an authorized representative of that person. These requests must be presented in the Public Information Office.

Requests for certain information contained in pending applications and documents may be made by anyone and the information will be supplied, following payment of applicable fees.. The request should be made to the Certifications and Documents Section.

5. Correspondence. A significant amendment is proposed in § 201.2(c)(1). Consistent with Copyright Office practices under the Freedom of Information Act since 1978, the amended regulation makes correspondence directly relating to rejected applications for registration and documents for which recordation was refused records that are open to public inspection.

6. Requests for copies. The Copyright Office has amended § 201.2(d)(1) to specify more precisely the information to be given when requests for copies of records are made. The regulations would retain the same conditions that must be presently satisfied when copies of copyright deposits are requested, but the proposed amendment of § 201.2(d)(2)(i) makes clear that the written authorization may also be made by the owner of any of the exclusive rights in the copyright as long as it can be documented in writing that the transfer of ownership occurred. The remaining subsections in § 201.2(d)(2) have minor non-substantive changes in wording. Section 201.2(d)(3) is new. It specifies that in responding to a request for a reproduction of a phonorecord the Office will provide "proximate reproduction," and reserves to the Office the right to substitute a monaural reproduction for a stereo, quadraphonic, or any other type of fixation of the work accepted for deposit.

* * * * *

These amendments have been issued as final regulations, effective immediately, without public comment, since they concern Office organization and procedures and are not substantive in nature. Moreover, the changes are either technical, or clarify or confirm previously announced policies regarding access to Office in-process files.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[1]

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Acting Register of Copyrights has determined that the regulations will have no significant impact on small businesses.

List of Subjects in 37 CFR Parts 201 and 202

Copyright, Copyright office.

In consideration of the foregoing, Parts 201 and 202 of 37 CFR Chapter II are amended in the manner set forth below.

PART 201—[AMENDED]

To the authority citation for Part 201 is revised to read as follows:

Authority: Sec. 702, 90 Stat. 2541; 17 U.S.C. 702, * * *

2. Section 201.1 is revised to read as follows:

§ 201.1 Communications with the Copyright Office.

(a) *In general.* Mail and other communications shall be addressed to the Register of Copyrights, Library of Congress, Washington, D.C. 20559.

(b) *Inquiries to Licensing Division.* Inquiries about filings related to the four compulsory licenses (17 U.S.C. 111, 115, 116, and 118) should be addressed to the Licensing Division, LM–454, Copyright Office, Library of Congress, Washington, D.C. 20557.

[1] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17]," except with respect to the making of copies of copyright deposits). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA–FOIA requirements.

(c) *Copies of records or deposits.* Requests for copies of records or deposits should be addressed to the Certifications and Documents Section, LM–402, Copyright Office, Library of Congress, Washington D.C. 20559.

(d) *Search of records.* Requests for searches of registrations and recordations in the completed catalogs, indexes, and other records of the Copyright Office should be addressed to the Reference and Bibliography Section, LM–450, Copyright Office, Library of Congress, Washington, D.C. 20559.

3. Section 201.2 is revised to read as follows:

§ 201.2 Information given by the Copyright Office.

(a) *In general.* (1) Information relative to the operations of the Copyright Office is supplied without charge. A search of the records, indexes, and deposits will be made for such information as they may contain relative to copyright claims upon application and payment of the statutory fee. The Copyright Office, however, does not undertake the making of comparisons of copyright deposits to determine similarity between works.

(2) The Copyright Office does not furnish the names of copyright attorneys, publishers, agents, or other similar information.

(3) In the administration of the Copyright Act in general, the Copyright Office interprets the Act. The Copyright Office, however, does not give specific legal advice on the rights of persons, whether in connection with particular uses of copyrighted works, cases of alleged foreign or domestic copyright infringement, contracts between authors and publishers, or other matters of a similar nature.

(b) *Inspection and copying of records.* (1) Inspection and copying of completed records and indexes relating to a registration or a recorded document, and inspection of copies or identifying material deposited in connection with a completed copyright registration may be undertaken in the Certifications and Documents Section. Since some of these materials are not stored on the immediate premises of the Copyright Office, it is advisable to consult the Certifications and Documents Section to determine the length of time necessary to produce the requested materials.

(2) It is the general policy of the Copyright Office to deny direct public access to in-process files and to any work (or other) areas where they are kept. Likewise, direct public use of computer terminal intended to access the automated equivalents of these files is not permitted.

(3) Information contained in Copyright Office in-process files may be obtained by anyone upon payment of applicable fees and request to the Information and Reference Division, in accordance with the following procedures:

(i) In general, all requests by the public for information in the in-process and open unfinished business files should be made to the Certifications and Documents Section, which upon receipts of applicable fees will give a report that provides the following for each request:

(A) the date(s) of receipt of: (*1*) The application(s) for registration that may have been submitted and is (are) in process; (*2*) the document(s) that may have been submitted for recordation and is (are) in process; (*3*) the copy or copies (or phonorecords) that may have been submitted; (B) the title of the work(s); and (C) the name of the remitter.

(ii) Such searches of the in-process files will be given priority to the extent permitted by the demands of normal work flow of the affected sections of the Copyright Office.

(4) Access will be afforded as follows to pending applications for registration, the deposit material accompanying them, and pending documents for recordation that were submitted within the twelve month period immediately preceding the request for access: (i) in the case of applications for registration and deposits accompanying them, upon the request of the copyright claimant or his/her authorized representative, and (ii) in the case of documents, upon the request of at least one of the persons who executed the document or by an authorized representative of that person. These requests should be made to the Public Information Office, and the review of the materials will be permitted there. No charge will be made for this service.

(5) In exceptional circumstances, the Register of Copyrights may allow inspection of pending applications and open correspondence files by someone other than the copyright claimant, upon submission of a written request which is deemed by the Register to show good cause for such access and establishes that the person making the request is one properly and directly concerned. The written request should be addressed to the General Counsel of the Copyright Office, Department DS, Washington, D.C. 20540.

(6) In no case will direct public access be permitted to any financial or accounting records.

(7) The Copyright Office maintains administrative staff manuals referred to as its "Compendium of Office Practices I" and "Compendium of Office Practices II" for the general guidance of its staff in making registrations and recording documents. The manuals, as amended and supplemented from time to time, are available for purchase from the National Technical Information Service (Compendium I) and the Government Printig Office (Compendium II). They are also available for public inspection and copying in the Certifications and Documents Section.

(c) *Correspondence.* (1) Official correspondence, including preliminary applications, between copyright claimants or their agents and the Copyright Office, and directly relating to a completed registration, a recorded document, a rejected application for registration, or a document for which recordation was refused is available for public inspection. Requests for reproductions of the correspondence shall be made pursuant to paragraph (d) of this section.

(2) Correspondence, application forms, and any accompanying material forming a part of a pending application are considered in-process files and access to them is governed by paragraph (b) of this section.

(3) Correspondence, memoranda, reports, opinions, and similar material relating to internal matters of personnel and procedures, office administration, security matters, and internal consideration of policy and decisional matters including the work product of an attorney, are not open to public inspection.

(4) The Copyright Office will return unanswered any abusive or scurrilous correspondence.

(d) *Requests for copies.* (1) Requests for copies of records should include the following:

(i) A clear identification of the type of records desired (for example, additional certificates of registration, copies of correspondence, copies of deposits).

(ii) A specification of whether the copies are to be certified or uncertified.

(iii) A clear identification of the specific records to be copied. Requests should include the following specific information, if possible: (A) the type of work involved (for example, novel, lyrics, photograph); (B) the registration number; (C) the year date or approximate year date of registration; (D) the complete title of the work; (E) the author(s) including any pseudonym by which the author may be known; and (F) the claimant(s); and (G) if the requested copy is of an assignment, license, contract, or other recorded document, the volume and page number of the recorded document.

(iv) If the copy requested is an additional certificate of registration, include the fee. The Certifications and Documents Section will review requests for copies of other records and quote fees for each.

(v) The telephone number and address of the requestor.

(2) Requests for certified or uncertified reproductions of the copies, phonorecords, or identifying material deposited in connection with a copyright registration of published or unpublished works in the custody of the Copyright Office will be granted only when one of the following three conditions has been met:

(i) The Copyright Office receives written authorization from the copyright claimant of record or his or her designated agent, or from the owner of any of the exclusive rights in the copyright as long as this ownership can be demonstrated by written documentation of the transfer of ownership.

(ii) The Copyright Office receives a written request from an attorney on behalf of either the plaintiff or defendant in connection with litigation, actual or prospective, involving the copyrighted work. The following information must be included in such a request: (A) The names of all the parties involved and the nature of the controversy; (B) the name of the court in which the actual case is pending or, in the case of a prospective proceeding, a full statement of the facts of the controversy in which the copyrighted work is involved; and (C) satisfactory assurance that the requested reproduction will be used only in connection with the specified litigation.

(iii) The Copyright Office receives a court order for reproduction of the deposited copies, phonorecords, or identifying material of a registered work which is the subject of litigation. The order must be issued by a court having jurisdiction of the case in which the reproduction is to be submitted as evidence.

(3) When a request is made for a reproduction of a phonorecord, such as an audiotape or cassette, in which either a sound recording or the underlying musical, dramatic, or literary work is embodied, the Copyright Office will provide proximate reproduction. The Copyright Office reserves the right to substitute a monaural reproduction for a stereo, quadraphonic, or any other type of fixation of the work accepted for deposit.

PART 202—REGISTRATIONS OF CLAIMS TO COPYRIGHT

4. The authority citation for Part 202 is revised to read as follows:

VOL 50 ISS 142 JL 24 1985 UMI

Authority: Sec. 702, 90 Stat. 2541, 17 U.S.C. 702.

Dated: July 17, 1985.

Donald C. Curran,

Acting Register of Copyrights.

[FR Doc. 85-17538 Filed 7-23-85; 8:45 am]

BILLING CODE 1401-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[FRL-2869-4; PP 3E2939/R778]

Pesticide Tolerance of Chlorothalonil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide chlorothalonil and its metabolite in or on the raw agricultural commodity cranberries. This regulation to establish a maximum permissible level for residues of chlorothalonil in or on cranberrries was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on July 24, 1985.

ADDRESS: Written objections, identified by the document control number [PP 3E2939/R778], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of June 27, 1985 (50 FR 26592), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 3E2939 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of Massachusetts, New Jersey, Washington, and Wisconsin proposing the establishment of a tolerance for the combined residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite 4 hydroxy-2,5,6-(trichloroisophthalonitrile) in or on the raw agricultural commodity cranberries at 5.0 parts per million (ppm).

The pesticide is considered useful for the purpose for which the tolerance is sought. There are no regulatory actions pending against the continued registration of the pesticide. Based on the data submitted and evaluated, discussed in the proposed rule, the Agency has determined that the establishment of the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 17, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.275 is amended by adding and alphabetically inserting the raw agricultural commodity cranberries to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * * *	
Cranberries	5.0
* * * * * *	

[FR Doc. 85-17622 Filed 7-23-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 412

[BERC-317-F]

Medicare Program; Prospective Payment System for Hospital Inpatient Services; Redesignation of Rules; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rules.

SUMMARY: This document corrects §412.4(a)(1) of the Medicare rules by restoring content that was unintentionally omitted when the prospective payment rules were redesignated.

FOR FURTHER INFORMATION CONTACT: Luisa V. Iglesias, (202) 245-0383.

SUPPLEMENTARY INFORMATION: In FR Doc. 85-6604, published on March 29, 1985, beginning on page 12740, we used the text of 42 CFR 405.470(c)(1) as it appeared in the October 1, 1983 issue of the Code of Federal Regulations, and redesignated it as § 412.4(a)(1). We overlooked the fact that § 405.470(c)(1) had been revised by final rules published on January 3, 1984 (49 FR 314) to include reference to leave of absence from the hospital.

Accordingly, in 42 CFR 412.4, the introductory statement of paragraph (a) is reprinted without change, and paragraph (a)(1) is corrected to reflect the January 3, 1984 revision, to read as follows:

§ 412.4 Discharges and transfers.

(a) *Discharges.* A hospital inpatient is considered discharged when any of the following occurs:

(1) The patient is formally released from the hospital. (Release of the patient to another hospital as described in paragraph (b) of this section, or a leave of absence from the hospital, will not be recognized as a discharge for the purpose of determining payment under the prospective payment system.)

* * * * * *

Dated: July 17, 1985.

Peter D. Gness,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-17572 Filed 7-23-85; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations; Louisiana et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are determined for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The modified base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
LOUISIANA	
Gretna (City), Jefferson Parish (FEMA Docket No. 6588)	
Mississippi River: Entire shoreline within community	*18
Rainfall-Runoff:	
Intersection of Burmaster Street and Hancock Street; Intersection of Cook Street and Pratt Street; Intersection of Porter Avenue and Palfrey Street; Intersection of Willow Drive and 11th Street	*1.5
Intersection of New England Street and Stumpf Boulevard; Intersection of Bolton Avenue and Linda Court; Intersection of Derbes Street and Gretna Boulevard	*-2
Intersection of 25th Street and Long Avenue; Intersection of Hero Drive and 33rd Street; Intersection of Claire Avenue and Park Drive; Intersection of Oregon Avenue and Trenton Lane	*-3
Maps available for inspection at the City Hall, Gretna, Louisiana.	
Kenner (City), Jefferson Parish (FEMA Docket No. 6588)	
Lake Pontchartrain: Entire shoreline in Kenner back to levee	*+15
Mississippi River: Entire shoreline within community	*+21
Rainfall-Runoff Ponding: Various locations throughout community	*-3.5-*+9
Maps available for inspection at the City Hall, Kenner, Louisiana.	
MISSOURI	
Unincorporated areas of St. Louis County (FEMA Docket No. 6614)	
Antire Creek:	
Mouth at Meramec River	*447
Just upstream of Private Road (about 4500 feet upstream of mouth)	*454
At southern county boundary	*484
Little Antire Creek:	
Mouth at Antire Creek	*478
At southern county boundary	*527
Bonhomme Creek:	
About 1,450 feet upstream of mouth	*463
About 1.0 mile upstream of Pond Road	*668
Butler Hill Creek:	
Just downstream of Meramec Bottom Road	*417
About 4,100 feet upstream of Wells Road	*447
Lemay Creek:	
Mouth at Butler Hill Creek	*417
About 1.2 miles upstream of mouth	*430
Caulks Creek:	
Mouth at Bonhomme Creek	*467
About 1.1 miles upstream of Clayton Road	*606
Shotwell Creek:	
Mouth at Caulks Creek	*509
Just upstream of Ridgley Woods Road	*548
West Branch Caulks Creek:	
Mouth at Caulks Creek	*503
About 3,000 feet upstream of Christmas Valley Road	*598
Wilson Tributary:	
Mouth at Caulks Creek	*473
Just downstream of Wilson Avenue	*488
Coldwater Creek:	
Mouth at Missouri River	*437
Just downstream of Burlington Northern railroad	*459
Just upstream of Burlington Northern railroad	*470
About 0.5 mile upstream of confluence of Lawn-view Creek	*505
Lawnview Creek:	
About 0.7 mile upstream of mouth	*511
About 1.1 miles upstream of mouth	*517
New Halls Ferry Creek:	
Mouth at Coldwater Creek	*488
Just downstream of New Halls Ferry Road	*502
Just upstream of New Halls Ferry Road	*507
About 2,200 feet upstream of New Halls Ferry Road	*510
Creve Coeur Creek:	
Just upstream of Creve Coeur Lake (about 1.4 miles downstream of Creve Coeur Mill Road)	*459
About 2,400 feet downstream of Baxter Road	*528
About 2,800 upstream of Baxter Road	*569
Creve Coeur Creek Tributary:	
Mouth at Creve Coeur Creek	*464
Just downstream of Fee Fee Road	*479
Just upstream of Fee Fee Road	*485
Just downstream of Ross Avenue	*502
Fernridge Creek:	
Mouth at Smith Creek	*478
About 200 feet upstream of Bellerive Estates Drive	*494
Maryville Creek:	
Mouth at Creve Coeur Creek	*486
Just downstream of St. Lukes Hospital Drive	*489
Just upstream of St. Lukes Hospital Drive	*501
About 1,300 feet upstream of Conway Road	*503
Smith Creek:	
Mouth at Creve Coeur Creek	*476
About 1,750 feet upstream of Ladue Road	*488
Dunn Creek:	
About 1,750 feet downstream of Dunn Road	*486
About 1,000 feet upstream of Ville Maria Lane	*487
Fee Fee Creek:	
About 2,300 feet downstream of Creve Coeur Mill Road	*457
Just downstream of Borman Drive	*510
Just upstream of Borman Drive	*516
Just downstream of Villadorado Drive	*518
About 1,000 feet upstream of Villadorado Drive	*523
Dorsett Tributary:	
Mouth at Fee Fee Creek	*468
Just upstream of Ameling Road	*475
About 600 feet upstream of Bush Creek Way	*495
East Tributary Fee Fee Creek:	
Mouth at Fee Fee Creek	*467
About 1.0 mile upstream of Lackland Road	*536

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Midland Creek:	
Mouth at Fee Fee Creek	*475
Just downstream of Adie Road	*529
North Tributary Midland Creek:	
Mouth at Midland Creek	*492
Just downstream of Fee Fee Road	*497
Fenton Creek:	
Just downstream of State Highway 141	*428
Just downstream of Greenmar Drive	*476
Just upstream of Greenmar Drive	*487
Just downstream of Green Knoll Drive	*495
Just upstream of Green Knoll Drive	*501
Fishpot Creek:	
About 1.5 miles downstream of Hanna Road	*432
Just downstream of Big Bend Road	*481
Just upstream of Big Bend Road	*490
Just downstream of Big Bend Woods Drive	*491
Just upstream of Big Bend Woods Drive	*498
About 800 feet upstream of Sulphur Springs Road	*425
Flat Creek:	
Just downstream of Eureka and Allenton Road	*477
About 0.6 mile upstream of Eureka and Allenton Road	*487
Forby Creek:	
About 0.25 mile downstream of Forby Road	*488
About 225 feet upstream of Vinetree Lane	*538
Fox Creek:	
About 1.25 miles downstream of Burlington Northern railroad	*461
Just downstream of State Highway 100	*585
Fishrock Creek:	
Mouth at Fox Creek	*522
About 2,700 feet upstream of mouth	*551
Hollow Tributary:	
Mouth at Fox Creek	*578
About 1.7 miles upstream of mouth	*669
Little Fox Creek:	
Mouth at Fox Creek	*505
At western county boundary	*551
Grand Glaize Creek:	
About 0.6 mile downstream of Quinette Road	*434
About 0.25 mile upstream of Braeshire Drive	*473
Glaize Creek:	
Mouth at Grand Glaize Creek	*457
Just upstream of State Highway 100	*462
About 0.7 mile upstream of Weidmann Road	*504
Sugar Creek:	
Mouth at Grand Glaize Creek	*441
About 1,950 feet upstream of Barrett Station Road	*443
Grand Glaize East Creek:	
Mouth at Grand Glaize Creek	*453
About 0.6 mile upstream of Barrett Station Road	*487
Grand Glaize West Creek:	
Mouth at Grand Glaize East Creek	*460
About 2,850 feet upstream of mouth	*471
Gravois Creek:	
Just upstream of Weber Road	*421
About 2,000 feet upstream of Gravois Road	*500
Mehlville Creek:	
Mouth at Gravois Creek	*446
Just upstream of Lemay Ferry Road	*457
About 2,800 feet upstream of Lemay Ferry Road	*467
St. George Creek:	
Mouth at Gravois Creek	*436
About 2,400 feet upstream of Lemons Drive	*472
Sappington Creek:	
Mouth at Gravois Creek	*479
Just downstream of Baptist Church Road	*522
Just upstream of Baptist Church Road	*530
Just downstream of Briarstone Drive	*538
Union Creek:	
Mouth at Gravois Creek	*457
About 2,200 feet upstream of mouth	*470
Hamilton Creek:	
Mouth at Meramec River	*438
About 0.25 mile upstream of Glencoe Road (upstream crossing)	*573
Carr Creek:	
Mouth at Hamilton Creek	*438
About 2.7 miles upstream of mouth	*562
Kiefer Creek:	
Mouth at Meramec River	*434
About 1.25 miles upstream of the upstream crossing of Kiefer Creek Road	*529
Spring Branch:	
Mouth at Kiefer Creek	*445
Just upstream of St. Paul Road	*539
Mackenzie Creek:	
At eastern county boundary	*425
About 1.0 mile upstream of Resurrection Cemetery Road	*490
Maline Creek:	
About 1.8 mile downstream of Halls Ferry Road	*449
About 0.85 mile upstream of Lucas and Hunt Road	*465
Black Jack Creek:	
Mouth at Maline Creek	*451
Just downstream of Hall Avenue	*478
Just upstream of Dunn Road	*493
Just downstream of Netherton Driver	*494
Dellwood Creek:	
Mouth at Black Jack Creek	*462
About 0.4 mile upstream of Clairmont Drive	*486
Halls Ferry Creek:	
Mouth at Black Jack Creek	*476
Just downstream of Sugarpine Drive	*496
Just upstream of Sugarpine Drive	*501
Marlgney Creek:	
Mouth at Mississippi River	*420
Just downstream of Telegraph Road	*440
Jefferson Barracks Creek:	
Mouth at Marlgney Creek	*427
About 3,000 feet upstream of mouth	*442
Mattese Creek:	
Mouth at Meramec River	*417
Just downstream of Rock Tunnel	*427
Just upstream of Rock Tunnel	*435
Just downstream of Interstate 55	*452
Just upstream of Little Rock Road	*458
Just downstream of Tesson Ferry Road	*544
West Tributary Mattese Creek:	
Mouth at Mattese Creek	*451
Just downstream of Interstate 55	*464
Just upstream of Interstate 55	*481
About 4,700 feet upstream of Interstate 55	*517
Mill Creek:	
About 1,900 feet upstream of mouth	*439
Just downstream of Old Jamestown Road	*449
Just upstream of Old Jamestown Road	*454
About 0.6 mile upstream of Old Jamestown Road	*459
Sugar Tributary:	
Mouth at Mississippi River	*419
About 4,000 feet upstream of mouth	*437
Tavern Creek:	
At western county boundary	*529
About 1.0 mile upstream of county boundary	*578
Tyson Hollow:	
Mouth at Meramec River	*435
About 0.5 mile upstream of Burlington Northern railroad	*461
Watkins Creek:	
Mouth at Mississippi River	*434
About 200 feet downstream of the downstream crossing of Dunn Road	*436
About 400 feet upstream of the downstream crossing of Interstate 270	*443
Just downstream of Claudine Drive	*496
Wildhorse Creek:	
Mouth at Missouri River	*472
Just downstream of County Highway T	*575
Just upstream of County Highway T	*580
Just downstream of Questover Canyon Subdivision Road	*613
Williams Creek:	
Just upstream of Burlington Northern railroad	*433
Just downstream of Lochmoor Drive	*474
Just upstream of Lochmoor Drive	*479
At southern county boundary	*544
East Tributary Williams Creek:	
Mouth at Williams Creek	*470
Just upstream of Hillsboro Road	*478
About 3,400 feet upstream of Hillsboro Road	*512
North Tributary Williams Creek:	
Mouth at Williams Creek	*433
About 3,450 feet upstream of Meramec Station Road	*440
Meramec River:	
Mouth at Mississippi River	*417
At western county boundary	*465
Mississippi River:	
At confluence of Meramec River	*417
At confluence of Missouri River	*436
Missouri River:	
Mouth at Mississippi River	*436
At western county boundary	*474
Northeast Branch River Des Peres: Within community	*543

Maps available for inspection at the Department of Highways and Traffic, St. Louis County Government Center, 7900 Forsyth Boulevard, Clayton, Missouri.

MONTANA

Stillwater County (unincorporated areas) (FEMA Docket No. 6592)

Butcher Creek: 125 feet upstream from center of Cemetery Road	*4,224
East Rosebud: 100 feet upstream from center of State Highway 78	*4,475
Fiddler Creek: 130 feet upstream from center of County Road	*5,137
Fishtail Creek: 100 feet upstream from State Highway 419	*4,576
Ingersoll Creek: 125 feet upstream from center of upstream crossing of Ingersoll Creek Road	*4,926
Rosebud Creek: 65 feet upstream from center of Grove Street	*4,033
Sheep Creek: 70 feet downstream from center of Church Street	*4,039
Side Channel West Fork Stillwater River: Center of downstream crossing of State Highway 419	*4,815
Stillwater River:	
25 feet downstream from center of Firemans Road	*3,624
Center of State Highway 420	*4,439
West Fork Stillwater River: Center of State Highway 419	*4,846
West Rosebud Creek: Center of State Highway 419	*4,446

Maps available for inspection at the County Planning Office, Stillwater County, Courthouse, 4th Floor, Columbus, Montana.

NEW YORK

Rosendale (Town), Ulster County (FEMA Docket No. 6588)

Rondout Creek:	
Downstream corporate limits	*28
New York State Thruway (upstream side)	*39
Downstream crossing State Route 213 (upstream side)	*56
James Street (upstream side)	*65
Upstream crossing State Route 213 (upstream side)	*95
Wallkill River:	
Approximately 125 feet downstream of Perrine's Bridge Road	*182
New York State Thruway (upstream side)	*185
Upstream corporate limits	*187

Maps available for inspection at the Town Hall, Main Street, Rosendale, New York.

TEXAS

Mansfield (City), Tarrant County (FEMA Docket No. 6625)

Walnut Creek:	
At downstream corporate limits	*538
At confluence of Ragland Branch	*555
At Ragland Road (upstream side)	*565
Confluence of Hogpen Branch	*573
Walnut Creek Drive (upstream side)	*584
Southern Pacific Railroad (upstream side)	*591
Confluence of Willow Branch	*596
Upstream corporate limits	*609
Ragland Branch:	
At confluence with Walnut Creek	*555
Approximately 1,800 feet upstream of Ragland Road	*580
Hogpen Branch:	
Confluence with Walnut Creek	*573
Country Club Drive (upstream side)	*584
Debbie Lane (upstream side)	*609
U.S. Route 287 (Southbound) (upstream side)	*634
Spur 496 Mansfield Highway (upstream side)	*665

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Watson Branch:	
Confluence with Walnut Creek	*577
House Road (upstream side)	*619
Approximately 120 feet downstream of FM 157	*638
Pond Branch:	
At confluence with Walnut Creek	*585
Dallas Street (upstream side)	*606
Nichols Branch:	
At confluence with Walnut Creek	*591
Approximately 2,500 feet upstream of Newt Patterson Road	*607
Willow Branch:	
Confluence with Walnut Creek	*596
Approximately 600 feet upstream of corporate limits	*603
Low Branch:	
Downstream corporate limits	*538
Seeton Road (upstream side)	*561
Southern Pacific Railroad (upstream side)	*580
Mitchell Mansfield Road (upstream side)	*592
Approximately 600 feet upstream of upstream corporate limits	*617

Maps available for inspection at the City Hall, 1305 East Broad Street, Mansfield, Texas.

UTAH

Draper (City), Salt Lake County (FEMA Docket No. 6599)

Willow Creek (West): 50 feet upstream from the center of the Denver and Rio Grande Western Railroad	*4,409
Willow Creek (East): Intersection of 1500 East Street and 12500 South Street (Lauritz Avenue)	*4,561
Corner Canyon Creek:	
70 Feet upstream from the center of the Denver and Rio Grande Western Railroad	*4,384
30 Feet upstream from the center of the Draper Irrigation Canal	*4,563

Maps available for inspection at City Hall, 12441 South 900 East, Draper, Utah.

Murray (City), Salt Lake County (FEMA Docket No. 6592)

Big Cottonwood Creek: Intersection of Vagabond Drive and Nashua Street	*4,264
Little Cottonwood Creek: Center of Myrtle Street, 200 feet east of its intersection with State Street (U.S. Highway 89, 91, and Alternate 50)	*4,276

Maps available for inspection at City Hall, 5461 South State, Murray, Utah.

Salt Lake County (Unincorporated Areas) (FEMA Docket No. 6592)

Jordan River:	
200 feet downstream from the center of Redwood Road	*4,215
A point 100 feet west of the center of Jordan River, approximately 2,400 feet downstream from the center of Redwood Road	*4,210
Emigration Creek:	
70 feet upstream from the center of Skycrest Lane	*5,295
30 feet upstream from the center of Burr Fork Road	*5,807
Burr Fork: At the confluence with Emigration Creek and Killyon Canyon	*5,885
Parleys Creek: 40 feet from the upstream end of the culvert under Interstate Highway 215	*4,595
Mill Creek:	
Intersection of Highland Drive (State Highway 152) and Murphys Lane	*4,407
85 feet upstream from the center of 2300 East Street	*4,604
Big Cottonwood Creek:	
50 feet downstream from the center of Kingsrow Drive	*4,335
60 feet upstream from the center of Holladay Cottonwood Road	*4,640
Little Cottonwood Creek:	
40 feet upstream from the center of the East Jordan Canal	*4,452
10 feet upstream from the center of Oak Creek Drive	*4,657
Dry Creek:	
120 feet upstream from the center of 700 East Street (State Highway 71)	*4,491
25 feet upstream from the center of Dimple Dell Road	*5,017
Willow Creek: 200 feet upstream from the upstream end of the culvert under 11700 South Street (located in the City of Sandy)	*4,897

Maps available for inspection at Public Works Department, Flood Control and Water Quality Division, 2033 South State Street, Salt Lake City, Utah.

Sandy City (City), Salt Lake County (FEMA Docket No. 6592)

Dry Creek: 50 feet upstream from the center of the Jordan and Salt Lake City Canal	*4,409
Willow Creek:	
80 feet upstream from the center of Hidden Valley Club Drive	*4,601
80 feet upstream from the center of Kathy Drive	*4,791

Maps available for inspection at City Hall, 800 East 100 North, Sandy, Utah.

South Jordan (City) Salt Lake County (FEMA Docket No. 6592)

Dry Creek: 40 feet upstream from center of 10,000 South Street	*4,359
Willow Creek: 40 feet upstream from center of Galena Canal	*4,350

Maps available for inspection at City Hall, 1600 West 10400 South, South Jordan, Utah.

South Salt Lake (City) Salt Lake County (FEMA Docket No. 6592)

Mill Creek: 30 feet downstream from the center of 300 East Street	*4,257
Shallow Flooding: Center of the ramp from southbound Interstate Highway 15 to eastbound 2100 South Street, 50 feet along the ramp from 2100 South Street	*4,227

Maps available for inspection at City Hall, 2500 South State Street, South Salt Lake, Utah.

WEST VIRGINIA

Vienna (City), Wood County (FEMA Docket No. 6625)

Ohio River:	
9th Street (extended)	*612
39th Street (extended)	*613
Pond Run:	
At downstream corporate limits	*612
Approximately .18 mile upstream of 28th Street bridge	*623
Tributary A:	
At downstream corporate limits	*613
Approximately 620 feet upstream of downstream corporate limits	*617

Maps available for inspection at the City Building, 609 29th Street, Vienna, West Virginia.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Autaugaville (Town), Autauga County (FEMA Docket No. 6648)	
Swift Creek:	
About 600 feet downstream of State Highway 14	*151
About 1.0 mile upstream of State Highway 14	*152
White Water Creek:	
About 900 feet downstream of dam	*151
About 1,450 feet upstream of State Highway 14	*154
Yellow Water Creek:	
About 1,500 feet downstream of State Highway 14	*151
About 2,000 feet upstream of State Highway 14	*154

Maps available for inspection at City Hall, Autaugaville, Alabama.

Unincorporated areas of Autauga County (FEMA Docket No. 6648)

Alabama River:	
Just upstream of confluence of Mulberry Creek	*131
At eastern county boundary	*161
Autauga Creek:	
At mouth	*159
About 0.7 mile upstream of Illinois Central Gulf Railroad	*278
Bear Creek:	
At mouth	*154
About 3.6 miles upstream of confluence of Haney Branch	*220
Breakfast Creek:	
At mouth	*211
About 75 feet downstream of County Highway 57	*236
Just upstream of County Highway 57	*244
About 250 feet downstream of County Highway 59	*306
About 100 feet upstream of County Highway 59	*316
About 0.6 mile upstream of County Highway 59	*337
Haney Branch:	
At mouth	*159
About 0.6 mile upstream of Farm Road	*211
Noland Creek:	
At mouth	*158
About 1.2 miles upstream of confluence of Rogers Branch	*304
Rogers Branch:	
At mouth	*248
About 0.7 mile upstream of Farm Road	*393
Swift Creek:	
At confluence with Alabama River	*151
About 3.6 miles upstream of State Highway 14	*180
About 3.0 miles downstream of U.S. Highway 82	*232
About 700 feet upstream of Illinois Central Gulf Railroad	*280
White Water Creek:	
At confluence with Swift Creek	*151
About 1.7 miles upstream of State Highway 14	*177
Yellow Water Creek:	
At confluence with Swift Creek	*151
About 1.4 miles upstream of State Highway 14	*155

Maps available for inspection at the Autauga County Courthouse, Prattville, Alabama.

ARKANSAS

Bono (City), Craighead County (FEMA Docket No. 6649)

Whaley Slough Ditch:	
At downstream corporate limits	*256
Upstream side of St. Louis-San Francisco Railroad	*262
Middle Drain:	
At confluence with Whaley Slough Ditch	*262
At upstream corporate limits	*277

Maps available for inspection at 103 College, Bono, Arkansas.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
COLORADO	
Aspen (City), Pitkin County (FEMA Docket No. 6649)	
Roaring Fork River:	
75 feet upstream from the center of Cemetery Lane	*7,709
75 feet upstream from the center of East Cooper Avenue (State Highway 82)	*7,938
Castle Creek: 90 feet upstream from the center of West Hallam Street (State Highway 82)	*7,837
Maroon Creek: 40 feet downstream from the center of State Highway 82	*7,777
Maps available for inspection at the Engineering Department, 130 South Galena, Aspen, Colorado.	
Winter Park (Town), Grand County (FEMA Docket No. 6645)	
Fraser River: 20 feet upstream from the center of Idlewild Road	*8,742
Vasquez Creek: 50 feet upstream from the center of U.S. Highway 40	*8,774
Little Vasquez Creek: Intersection of stream and the center of Viking Drive	*8,945
Mary Jane Creek: 100 feet upstream from confluence with Fraser River	*9,182
Cooper Creek: 10 feet upstream from center of Lagoon Road	*8,989
Leland Creek: 90 feet downstream from the center of the Denver and Rio Grande Western Railroad	*8,744
Maps available for inspection at Planning Department, 78 884 U.S. Highway 40, Winter Park, Colorado.	
DISTRICT OF COLUMBIA	
Washington (FEMA Docket No. 6604)	
Potomac River:	
Downstream corporate limits	*11
Confluence of Anacostia River	*11
Downstream side of Richmond Fredericksburg and Potomac Railroad	*12
Confluence of Rock Creek	*16
Upstream side of Key Bridge	*19
Approximately .75 mile upstream of Key Bridge	*21
Approximately 1.7 miles upstream of Key Bridge	*26
Approximately 1.0 mile downstream of Chain Bridge	*32
Upstream corporate limits	*43
Anacostia River:	
Confluence with Potomac River	*11
Upstream side of CONRAIL bridge	*12
Upstream side of Metro Orange Line	*14
Upstream corporate limits	*16
Rock Creek:	
Confluence with Potomac River	*16
Downstream side of P Street	*30
Confluence of creek along Normanstone Drive	*41
Upstream side of 2nd upstream crossing of National Zoo Roadway	*57
Confluence of Broad Branch	*74
Upstream side of second upstream crossing of Beach Drive above confluence of Broad Branch	*92
Upstream side of Rapids bridge	*107
Approximately .4 mile downstream of Joyce Road	*124
Downstream side of Joyce Road	*150
Confluence of Pinehurst Run	*165
Upstream corporate limits	*181
Creek along Normanstone Drive:	
Confluence with Rock Creek	*41
Downstream side of 1st upstream crossing of Normanstone Drive	*81
Downstream side of 29th Street	*84
Downstream side of 30th Street	*101
Approximately 200 feet upstream of 5th upstream crossing of Normanstone Drive	*124
Approximately 225 feet upstream of 8th upstream crossing of Normanstone Drive	*150
East Creek A:	
Downstream corporate limits	*165
Approximately 1,000 feet upstream of corporate limits	*168
Approximately 0.4 mile upstream of corporate limits	*170
East Creek B:	
Upstream side of Glennbrook Road	*240
Approximately 700 feet upstream Glennbrook Road	*263
Upstream side of 5th upstream Dirt Driveway	*283
Approximately 830 feet upstream of 5th upstream Dirt Driveway	*315
Fort Dupont Creek:	
Approximately 100 feet upstream of Chassie System	*24
Approximately 50 feet downstream of Minnesota Avenue	*29
Broad Branch:	
Approximately .57 mile upstream of confluence with Rock Creek	*102
Approximately 850 feet downstream of Grant Road	*122
Downstream side of Grant Road	*147
Downstream side of 27th Street	*170
Approximately 800 feet upstream of 27th Street	*181
Watts Branch:	
Confluence with Anacostia River	*14
Downstream side of Kenilworth Avenue	*20
Upstream side of 48th Street	*40
Upstream side of 55th Street	*67
Downstream side of 61st Street	*85
Downstream side of Southern Avenue	*94
Melvin Hazen Branch:	
Approximately 400 feet upstream of Connecticut Avenue	*208
Approximately .27 mile upstream of Connecticut Avenue	*215
Approximately .4 mile upstream of Connecticut Avenue	*247
Fenwick Branch:	
Confluence with Rock Creek	*175
Confluence of Tributary of Fenwick Branch	*190
Approximately .5 mile upstream of confluence with Rock Creek	*198
Approximately .7 mile upstream of confluence with Rock Creek	*211
Upstream corporate limits	*235
Tributary to Fenwick Branch:	
Confluence with Fenwick Branch	*190
Approximately .27 mile upstream of confluence with Fenwick Branch	*210
Approximately .48 mile upstream of confluence with Fenwick Branch	*232
Pope Branch:	
Upstream side of Fairlawn Avenue	*20
Approximately 250 feet downstream of Branch Avenue	*41
Approximately 200 feet upstream of Branch Avenue	*59
Approximately .33 mile upstream of Branch Avenue	*95
Approximately .63 mile upstream of Branch Avenue	*153
Pinehurst Run:	
Upstream side of Oregon Avenue	*208
Approximately 0.3 mile upstream of Oregon Avenue	*230
Approximately 0.6 mile upstream of Oregon Avenue	*252
Barnaby Run:	
Downstream corporate limits	*24
Downstream side of South Capitol and Southern Avenue	*42
Upstream corporate limits	*49
Oxon Run:	
Downstream corporate limits	*22
Upstream side of Atlantic Avenue	*47
Downstream side of Wheeler Road	*69
Approximately 0.5 mile upstream of Wheeler Road	*85
Upstream corporate limits	*107
Maps available for inspection at the Department of Consumer and Regulatory Affairs, Building and Land Regulation Administration, 614 H Street, N.W., Washington, D.C., and the Martin Luther King Library, 9th G Streets, N.W., Washington, D.C.	
FLORIDA	
Cinco Bayou (Town), Okaloosa County (FEMA Docket No. 6645)	
Choctawhatchee Bay: Within community	*6
Maps available for inspection at Town Hall, 35 Kelly Avenue (Cinco Bayou), Fort Walton Beach, Florida.	
Ft. Walton Beach (City), Okaloosa County (FEMA Docket No. 6645)	
Santa Rosa Sound:	
Along shoreline from about 600 feet south of intersection of Miramar Circle and Miracle Strip Parkway to about 500 feet southwest of intersection of Hood Avenue and Brooks Street	*8
At shoreline about 1,000 feet southwest of intersection of Driftwood Avenue and Miracle Strip Parkway	*9
Choctawhatchee Bay:	
About 400 feet south of intersection of Mooney Road and Unwood Road	*5
Along shoreline of Negro Bayou	*5
Along shoreline of Cinco Bayou from Smack Point to about 300 feet east of Nebraska Avenue	*5
Along shoreline from east of intersection of Beach View Drive North East and Marshall Drive to about 2,000 feet southwest	*5
Along shoreline of Cinco Bayou west of Nebraska Avenue	*8
At intersection of Hughes Street North East and Walton Drive	*6
At intersection of Pryor Road and Brooks Street	*7
Along shoreline from east of intersection of Marshall Drive and Beach View Drive North East to about 1,500 feet north	*7
Along shoreline from Smack Point to about 400 feet southeast of intersection of Brooks Street and Bay Drive	*10
Maps available for inspection at City Hall, P.O. Box 4009, Fort Walton Beach, Florida.	
Gulf Breeze (City), Santa Rosa County (FEMA Docket No. 6645)	
Santa Rosa Sound:	
About 2,000 feet north of Deer Point	*6
Along shoreline from Fair Point to State Road 399	*8
Along shoreline from State Road 399 to the eastern corporate limits	*9
Pensacola Bay:	
Along shoreline from about 1,000 feet northnortheast of intersection of Highpoint Drive and Madrid Avenue to the eastern corporate limits	*5
Along shoreline from about 1,000 feet east of Fair Point to about 1,000 feet north-northeast of intersection of Highpoint Drive and Madrid Avenue	*6
Maps available for inspection at City Hall, Gulf Breeze, Florida.	
Mary Esther (City), Okaloosa County (FEMA Docket No. 6645)	
Santa Rosa Sound:	
About 400 feet southwest of intersection of West Miracle Strip Parkway and Cristobel Road	*6
About 200 feet north of shoreline along Magnolia Avenue	*7
Along western corporate limits from about 150 feet north of shoreline to U.S. Highway 98	*7
Along shoreline from western corporate limits to Magnolia Avenue	*8
Along shoreline from Magnolia Avenue to eastern corporate limits	*9
Maps available for inspection at City Hall, 195 Christobal Road, North, Mary Esther, Florida.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Milton (City), Santa Rosa County (FEMA Docket No. 6648)	
Blackwater River:	
Just downstream of Louisville and Nashville Railroad	*9
About 0.56 mile upstream of U.S. Route 90	*14
Blackwater Bay: Along Blackwater River about 0.66 mile downstream of Louisville and Nashville Railroad	*11
Maps available for inspection at the City Hall, 601 Alabama Street, Milton, Florida.	
Niceville (City), Okaloosa County (FEMA Docket No. 6648)	
Swift Creek:	
About 400 feet downstream of State Road 20	*5
About 4,200 feet upstream of State Road 20	*10
Turkey Creek:	
At mouth	*5
About 6,000 feet upstream of State Road 85	*10
Choctawhatchee Bay:	
Along shoreline of Shirk Bayou	*5
At mouth of Mill Creek	*5
At shoreline of Rocky Bayou at State Road 20 bridge	*5
Along shoreline of Rocky Bayou at mouth of Bolton Branch	*7
At shoreline of Boggy Bayou about 650 feet west of intersection of Bay Shore Drive and Cross Street	*7
At shoreline of Boggy Bayou just west of intersection of Bay Shore Drive and 27th Street	*8
Maps available for inspection at the City Building, 208 North Partin Street, Niceville, Florida 32578.	
Unincorporated Areas of Okaloosa County (FEMA Docket No. 6648)	
Yellow River:	
About 1.5 miles downstream of confluence of Mulligan Creek	*28
About 0.65 mile upstream of confluence of Davis Mill Creek	*78
Shoal River:	
At mouth	*50
About 2,900 feet upstream of confluence of Bends Creek	*88
Garnier Creek:	
At mouth	*5
About 2.8 miles upstream of State Road 189	*41
Lightwood Knot Creek:	
At mouth	*5
About 2.73 miles upstream of confluence of West Branch	*50
West Branch:	
At mouth	*10
About 1.27 miles upstream of mouth	*24
Swift Creek:	
About 4,480 feet downstream of State Route 285	*8
About 3,800 feet downstream of State Route 285	*10
Gulf of Mexico:	
About 1,000 feet south of the intersection of U.S. Route 98 and Benning Drive	*4
Along southern shoreline of Santa Rosa Island from the western county boundary to about 1,000 feet south of the intersection of Amberjack Drive and Santa Rosa Boulevard	*7
Along southern shoreline of Santa Rosa Island from about 1.0 mile west of East Pass to about 4.1 miles east of East Pass	*9
Santa Rosa Sound:	
Along southern shoreline from western county boundary to Miracle Strip Parkway bridge over The Narrows	*8
Along northern shoreline from western county boundary to about 2.8 miles east of western county boundary	*9
Choctawhatchee Bay:	
Along southern shoreline from the eastern county boundary to Indian Bayou	*3
At Grass Lake	*3
Along shoreline of Rocky Bayou east of State Road 20	*5
At Bens Lake Outlet	*8
Along shoreline of Cinco Bayou west of State Road 85	*8
About 200 feet south of the intersection of North View Drive and South View Drive	*8
About 600 feet south of the intersection of Sherwood Drive and Elsenham Road	*8
Maps available for inspection at the Planning and Zoning Office, 10 First Avenue, Ft. Walton Beach, Florida.	
Sanibel (C), Lee County (FEMA Docket No. 6645)	
Gulf of Mexico:	
Approximately 5,000 feet north of intersection of Gulf Pines Drive and White Ibis Drive	*8
Intersection of Lost Colony Road and Wulfert Road	*8
Intersection of Dixie Beach Boulevard and Angel Drive	*9
Approximately 2,500 feet north of intersection of Sanibel-Captiva Road and J.N. "Ding" Darling Memorial Wildlife Refuge Drive	9
Intersection of Bay Drive and Bailey Road	*9
Approximately 1,350 feet north of intersection of Sanibel-Captiva Road and Tarpon Bay Road	*9
Along south shoreline from southern end of Bowman's Beach Road to Rabbit Road	*15
Along south shoreline from Blind Pass to the southern end of Bowman's Beach Road	*18
Along south shoreline from Rabbit Road to Tarpon Bay Road	*17
Along south shoreline from Tarpon Bay Road to intersection of Lindgren Boulevard and Sand Dollar Drive	*19
Along south shoreline from intersection of Lindgren Boulevard and Sand Dollar Drive to east end of Sanibel Island at Point Ybel	*20
Maps available for inspection at the City Hall, City of Sanibel, 800 Dunlop Road, Sanibel, Florida.	
Santa Rosa County (Unincorporated Areas), (FEMA Docket No. 6645)	
Blackwater River:	
Just downstream of Louisville and Nashville Railroad	*9
About 14.3 miles upstream of U.S. Route 90	*39
East Bay River:	
At mouth	*7
At eastern county boundary	*15
Escambia River:	
Just downstream of confluence of White River	*9
About 15.8 miles upstream of State Road 184	*35
Yellow River:	
About 3.7 miles downstream of State Road 87	*10
About 15.3 miles upstream of State Road 87	*31
Escambia Bay:	
At eastern shoreline of Escambia Bay about 2.0 miles south of mouth of Trout Bayou	*6
At mouth of Escambia River	*13
East Bay:	
At southern shoreline of East Bay about 2 miles east of Redfish Point	*4
At mouth of Tom King Bayou	*11
Gulf of Mexico:	
Along southern shoreline of Santa Rosa Island from about 2,500 feet west of eastern county boundary to eastern county boundary	*7
Along southern shoreline of Santa Rosa Island from about 3,500 feet east of intersection of State Road 399 and State Road 87 to about 2,500 feet west of eastern county boundary	*8
Blackwater Bay:	
At Grassy Point	*7
At Marquis Basin	*9
Just upstream of Interstate 10	*14
Santa Rosa Sound:	
About 500 feet west of intersection of Southside Road and City Road 191	*8
Along northern shoreline of Santa Rosa Sound from the eastern end of Southside Road to the eastern county boundary	*9
Maps available for inspection at the Santa Rosa Administrative Center, 1099 Bagdad Highway, Room 202, Milton, Florida.	
Shalimar (City), Okaloosa County (FEMA Docket No. 6645)	
Choctawhatchee Bay:	
About 550 feet west of intersection of Shalimar Drive and Richbourg Avenue	*5
About 300 feet northeast of intersection of Shalimar Drive and Tinney Trail	*6
Along shoreline of Garnier Bayou from about 400 feet south of State Road 85 to about 250 feet west of Old Ferry Road at corporate limits	*7
Along shoreline of Garnier Bayou from about 300 feet southwest of intersection of Shalimar Drive and 12th Street to State Road 85	*7
Along shoreline of Garnier Bayou from northern corporate limits to about 300 feet southwest of intersection of Shalimar Drive and 12th Street	*8
Along shoreline of Garnier Bayou from State Road 85 to about 400 feet south of State Road 85	*8
Along shoreline of Garnier Bayou from about 250 feet west of Old Ferry Road at corporate limits to southwest corporate limits	*8
Maps available for inspection at City Hall, P.O. Box 815, Shalimar, Florida.	
Valparaiso (City), Okaloosa County (FEMA Docket No. 6645)	
Turkey Creek:	
About 2,000 feet upstream of mouth	*6
About 6,800 feet upstream of mouth	*10
Choctawhatchee Bay:	
Along shoreline of Tom's Bayou	*5
Along shoreline of Boggy Bayou from intersection of East View Avenue and Shore Drive to intersection of Mansfield Street and John Sims Parkway	*5
About 2,500 feet south of end of Grandview Avenue	*5
At shoreline east of intersection of Georgia Avenue and Grand View Avenue	*5
At shoreline east of and of Grand View Avenue	*7
At shoreline east of intersection of Southview Avenue and Bay Shore Drive	*7
Maps available for inspection at City Hall, P.O. Box 296, Valparaiso, Florida.	
IDAHO	
Gooding (City), Gooding County (FEMA Docket No. 6645)	
Little Wood River: Intersection of 7th Avenue and Idaho Street	*3,589
Maps available for inspection at City Hall, 308 5th Avenue, West, Gooding, Idaho	
Gooding County (Unincorporated Areas) (FEMA Docket No. 6645)	
Little Wood River: 50 feet upstream of center of 7th Avenue	*3,547
Snake River: Intersection of U.S. Highway 30 and center of Snake River	*2,861
Maps available for inspection at Gooding Courthouse, Gooding, Idaho	
Shoshone (City), Lincoln County (FEMA Docket No. 6645)	
Little Wood River: Intersection of North Edith Street and East 6th Street	*3,969
Maps available for inspection at City Hall, 207 South Rail Street, West, Shoshone, Idaho	
ILLINOIS	
Unincorporated Areas of Adams County (FEMA Docket No. 6648)	
Tributary No. 2:	
At mouth	*576
About 0.9 miles upstream of mouth	*634

VOL 50 ISS 142 JL 24 1985 UMI

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Mississippi River:	
About 10.1 miles downstream of confluence of Mill Creek	*475
About 4.0 miles upstream of Lock and Dam No. 20	*495
Emery Creek:	
About 0.5 mile downstream of State Street	*589
Just downstream of State Street	*598
Curtis Creek:	
At mouth	*485
About 200 feet downstream of State Route 96	*625
About 0.9 miles upstream of State Route 96	*660
Cedar Creek:	
About 0.59 mile downstream of 5th Street	*487
About 0.20 mile upstream of 12th Street	*553
Tributary No. 3:	
About 1,000 feet downstream of Burlington Northern Railroad	*606
About 0.43 miles upstream of 30th Street	*632
Maps available for inspection at the County Clerks Office, Adams County Courthouse, Quincy, Illinois.	
Brown County (unincorporated areas) (FEMA Docket No. 6645)	
Illinois River:	
At downstream of County Boundary	*447
At upstream County Boundary	*448
Maps available for inspection at the County Clerks Office, County Courthouse, Mt. Sterling, Illinois.	
Unincorporated Areas of Cass County (FEMA Docket No. 6648)	
Illinois River:	
About 13.2 miles downstream of State Route 100 (downstream county boundary)	*447
About 10.5 miles upstream of State Route 100 (upstream county boundary)	*450
Maps available for inspection at the County Office, County Clerks Courthouse, Virginia, Illinois.	
East Cape Girardeau (Village), Alexander County (FEMA Docket No. 6648)	
Mississippi River:	
About 0.6 mile downstream of State Route 146	*355
About 0.8 mile upstream of State Route 146	*356
Maps available for inspection at the Witz Village Barbecue Restaurant, East Cape Park, East Cape, Illinois.	
Unincorporated Areas of Greene County (FEMA Docket No. 6648)	
Illinois River:	
About 3.0 miles downstream of State Route 100	*440
About 4.9 miles upstream of Illinois Central Gulf Railroad	*443
Hurricane Creek South:	
At mouth	*441
About 300 feet upstream of Bluff Street	*452
Maps available for inspection at the Office of the Supervisor of Assessments, Greene County Courthouse, Carrollton, Illinois.	
Gulfport (V), Henderson County (FEMA Docket No. 6645)	
Mississippi River:	
About 0.9 mile upstream of U.S. Highway 34	*535
About 0.3 mile downstream of Burlington Northern railroad	*534
Maps available for inspection at the Village Hall, Rt. #1, Box G-62, Carman, Illinois.	
Mattoon (City), Coles County (FEMA Docket No. 6648)	
Kickapoo Creek:	
About 0.32 miles downstream 6th Street	*702
About 450 feet upstream of Lake Land Boulevard	*711
Maps available for inspection at the City Courts Office, City Hall, 209 North 19th Street, Mattoon, Illinois.	
Unincorporated Areas of McLean County (FEMA Docket No. 6642)	
Little Kickapoo Creek:	
Just upstream of County Route 34	*750
Just downstream of Norfolk Southern Railway	*809
Just upstream of Norfolk Southern Railway	*820
Just downstream of Lincoln Street	*824
Sugar Creek:	
Just upstream of Six Points Road	*731
Just downstream of Interstate 55	*736
Just upstream of Washington Street	*744
Just downstream of Conrail (near White Oak Road)	*747
Just upstream off Illinois Central Gulf Railroad near Vernon Avenue	*786
Just downstream of Airport Road	*808
Goose Creek:	
Just upstream of West Oakland County Road	*743
Just downstream of Illinois Central Gulf Railroad	*756
Just upstream of Illinois Central Gulf Railroad	*767
Just downstream of Morris Avenue	*774
Skunk Creek:	
At mouth	*745
Confluence of East and West Tributary Skunk Creek	*757
West Branch Sugar Creek:	
About 900 feet upstream of mouth	*756
About 2550 feet upstream of mouth	*760
Maps available for inspection at the County Building and Zoning Department, McLean County Courthouse, 202 West Main Street, Room 201, Bloomington, Illinois.	
Pleasant Hill (V), Pike County (FEMA Docket No. 6645)	
Mississippi River:	
About 1.2 miles upstream of Lock and Dam No. 24	*458
About 2.3 miles upstream of Lock and Dam No. 24	*459
Maps available for inspection at the City Hall Building, 104 West Quincy Street, Pleasant Hill, Illinois.	
Unincorporated Areas of Schuyler County (FEMA Docket No. 6648)	
Illinois River:	
At confluence of La Moine River	*448
About 2,400 feet upstream of confluence of Wilson Creek	*452
Maps available for inspection at the County Clerks Office, Schuyler County Courthouse, Rushville, Illinois.	
Sun River Terrace (V), Kankakee County (FEMA Docket No. 6645)	
Kankakee River: Within community	*611
Maps available for inspection at the Kankakee County Regional Planning Commission, Courthouse Annex, Kankakee, Illinois.	
INDIANA	
Milltown (Town), Crawford & Harrison Counties	
Blue River:	
About 0.51 mile downstream of Main Street	*546
About 0.55 mile unstream of Norfolk Railway	*553
Maps available for inspection at the Clerks Office, 330 Harrison Avenue, Milltown, Indiana. Send comments to Honorable Joyce Brisco, President, Town of Milltown, P.O. Box 96, Milltown, Indiana 47145.	
KANSAS	
New Cambria (City), (FEMA Docket No. 6648)	
Saline River:	
About 0.64 mile upstream of confluence with Smoky Hill River	*1,197
About 1.08 miles downstream of Union Pacific Railroad	*1,199
Smoky Hill:	
At confluence of Saline River	*1,197
About 2.70 miles upstream of confluence of Saline River	1,199
Maps available for inspection at the City Building, New Cambria, Kansas.	
KENTUCKY	
Elkhorn City (C), Pike County (FEMA Docket No. 6645)	
Russel Fork:	
About 0.55 mile downstream of Chessie System	*770
About 1.2 miles upstream of Center Street (east crossing)	*617
Maps for inspection at City Hall, Elkhorn City, Kentucky.	
Selyersville (C), Magoffin County (FEMA Docket No. 6645)	
Licking River:	
About 1.2 miles downstream of Licking Avenue	*852
About 700 feet upstream of Mountain Parkway	*862
State Road Fork: Within community	856
Burning Fork:	
At mouth	*857
About 740 feet upstream of Ward Road	*859
Maps available for inspection at City Hall, Selyersville, Kentucky.	
LOUISIANA	
East Baton Rouge Parish (FEMA Docket No. 6645)	
Indian Bayou:	
Confluence with Upper White Bayou	*95
Approximately 0.73 mile downstream of Port Hudson-Pride Road	*96
Upstream side of Port Hudson-Pride Road	*102
Approximately 0.73 mile upstream of Port Hudson-Pride Road	*105
Baker Canal:	
Upstream side of Kansas City Southern Railroad	*63
Downstream City of Baker Corporate limits	*56
Upper Cypress Bayou:	
At City of Baker corporate limits	*76
At confluence of South Canal	*79
South Canal:	
At confluence with Upper Cypress Bayou	*79
At confluence of Upper White Bayou	*83
Upper White Bayou:	
At confluence with South Canal	*83
At downstream Zachary corporate limits	*91
Approximately 75 feet downstream of Illinois Central Gulf Railroad	*99
Hub Bayou:	
At confluence with Amite River	*61
Approximately 1.3 miles upstream of State Highway 37	*72
Approximately 0.5 mile downstream of Hubbs Road	*76
Shoe Creek Tributary No. 1:	
At confluence with Shoe Creek	*54
Approximately 1,200 feet downstream of Hooper Road	*60
Blackwater Bayou Tributary No. 1:	
At confluence with Blackwater Bayou	*62
Upstream side of Core Lane	*70
Upstream side of McCullough Road	*78
Blackwater Bayou Tributary No. 2:	
At confluence with Blackwater Bayou	*69
Upstream side of Blackwater Road	*74
Approximately 1,100 feet upstream of Private Road	*76
Amite River:	
At confluence with Comite River	*42
Upstream side of Morgan Road (extended)	*47
At confluence of Hub Bayou	*61
Draughans Creek:	
At confluence with Comite River	*44
Approximately 1,300 feet downstream of Greenwell Springs Road	*47
Approximately 100 feet upstream of Greenwell Springs Road	*51
Approximately 2 miles upstream of Greenwell Springs Road	*62
Beaver Bayou:	
At confluence with Comite River	*45
Approximately 50 feet upstream of Greenwell Springs Road	*53
Approximately 25 feet upstream of Wax Road	*62
Upstream side of Hubbs Road	*76
Shoe Creek:	
At confluence with Comite River	*48
At confluence of Shoe Creek Tributary No. 1	*54
At Ben Dickey Drive (extended)	*59
Monte Sano Bayou:	
Approximately 100 feet downstream of Illinois Central Gulf Railroad	*48
Upstream side of Interstate Route 110	*54
Confluence with Gibbens Lateral North	*64
Engineer Depot Canal:	
Downstream side of Sarasota Drive	*45
Upstream side of Sherwood Forest Boulevard	*53
Wards Creek:	
Upstream side of Government Street	*48
Upstream side of North Street	*52
Approximately 1,062 feet upstream of Fairfield Avenue	*54
Robert Canal:	
At confluence with Robert Canal Tributary No. 1	*53
Upstream side of Ford Avenue	*56
Robert Canal Tributary No. 1:	
At confluence with Robert Canal	*53
Approximately 1,200 feet upstream of Homewood Drive	*55
Bayou Duplantier Corporation Canal:	
Upstream side of Lee Drive	*27
At Louisiana State University parking lot access road	*26
Dawson Creek:	
Downstream side of College Drive	*29
Upstream side of Acadian Thruway	*32
Approximately 1,270 feet upstream of Clay Cut Road	*37
Honey Cut Bayou:	
At confluence with Amite River	*37
Approximately 250 feet upstream of O'Neal Lane	*41
Downstream side of Old Hammond Road	*42
Bayou Fountain Tributary No. 1:	
Upstream side of Fulmer Skipwith Road	*17
Approximately 0.9 mile upstream of Highland Road	*27
North Branch Wards Creek:	
Confluence with Wards Creek	*29
Downstream side of Florida Boulevard	*53
Jones Creek:	
At confluence with Amite River	*31
Downstream side of Lobdell extension	*52
Downstream side of Airline Highway	*54
Maps available for inspection at the Parish Police Jury, Parish Courthouse, Baton Rouge, Louisiana.	•
MAINE	
Cumberland (Town), Cumberland County (FEMA Docket No. 6645)	
Casco Bay:	
Shoreline at Ebb Tide Drive (extended)	*10
Shoreline at Town Landing Road (extended)	*12
Shoreline at Pine Lane (extended)	*15
Shoreline at Seacore Road (extended)	*13
Shoreline at Stonaway Road (extended)	*13
Entire west shoreline of Great Chebeague Island	*10
Shoreline at Soule Road (extended)	*12
Shoreline at Central Landing	*11
Shoreline at South Shore Road (extended)	*14
Shoreline approximately 1,500' south of South Shore Road (extended)	*20
Entire east shoreline of Sturdivant Island	*12
Entire west shoreline of Sturdivant Island	*10
Entire shoreline of Basket Island	*10
Entire shoreline of Upper Green Islands	*10
Entire shoreline of Crow Island (North)	*9
Entire shoreline of Crow Island (South) within community	*15
Entire east shoreline of Hope Island	*13
Entire west shoreline of Hope Island	*10
Entire shoreline of Sand Island	*9
Entire shoreline of Rogues Island	*9
Entire shoreline of Bates Island	*9
Entire shoreline of West Brown Cow Island	*9
Northeast shoreline of Jewell Island	*15
Shoreline at Punchbowl Cove of Jewell Island	*20
Entire west shoreline of Jewell Island within community	*9
Maps available for inspection at the Office of Mr. Robert Littlefield, Code Enforcement Officer, Cumberland, Maine.	
MARYLAND	
Fruitland (City), Wicomico County (FEMA Docket No. 6626)	
Tuxents Branch:	
At downstream corporate limits	*9
At upstream side of Covered Bridge Road	*18
At upstream side of South Camden Avenue	*21
Slab Bridge Creek:	
At downstream corporate limits	*22
At upstream corporate limits	*22
Sharps Creek (tidal flooding from Wicomico River):	
At downstream corporate limits	*6
Approximately 1,900' upstream of corporate limits	*8
Maps available for inspection at the Fruitland City Hall, Fruitland, Maryland.	
Indian Head (Town), Charles County (FEMA Docket No. 6640)	
Potomac River:	
Entire shoreline of Potomac River within community	*6
Entire shoreline of Mattawoman Creek within community	*8
Maps available for inspection at the Indian Head Town Hall, 1107 Strauss Avenue, Indian Head, Maryland.	
Kent (County) (FEMA Docket No. 6649)	
Chesapeake Bay:	
Shoreline at Cedar Point	*10
Shoreline at Wilson Point	*10
Entire shoreline of Shore Cove	*7
Shoreline at Napley Green Road (extended)	*11
Shoreline at Allari Lane (extended)	*11
At confluence with Tavern Creek	*11
Shoreline at Tolchester Beach Road	*12
Shoreline west of end of Barnhardt Boulevard	*12
Shoreline at Worton Point	*13
Shoreline at Meeks Point	*13
Shoreline at Howell Point	*14
Sassafras River:	
Shoreline at confluence with Chesapeake Bay	*14
Approximately 2.2 miles upstream of confluence with Chesapeake Bay, approximately 250 feet south of shoreline	*11
Approximately 0.70 mile upstream of confluence of Gut Marsh	*14
Downstream side U.S. Route 301 bridge	*11
Chester River:	
At confluence of Hail Creek	*10
Shoreline at Bells Bar Point	*8
At confluence of Grays Inn Creek	*7
Shoreline at State Route 661 (extended)	*7
At confluence of Dam Creek	*7
Shoreline at Collins Road (extended)	*7
At confluence of Morgan Creek	*8
Shoreline at State Route 290	*8
Shoreline at confluence of Mills Branch	*10
Downstream corporate limits of Town of Millington	*13
At confluence of Andover Branch	*16
Radcliffe Creek:	
At confluence with Chester River	*7
Upstream side of State Route 20	*12
At confluence with Subdivision Tributary	*16
Upstream side of Conrail bridge	*46
Approximately 240 feet upstream of Mary Morris Road	*65
West Fork Tributary to Radcliffe Creek:	
At confluence with Radcliffe Creek	*20
Upstream side of Steward Road	*34
Upstream side Mary Morris Road	*64
East Fork Tributary to Radcliffe Creek:	
At confluence with Radcliffe Creek	*19
Upstream side of CONRAIL bridge	*39
Approximately 0.93 mile upstream of confluence with Radcliffe Creek	*50
Tributary No. 1:	
At confluence with West Fork Tributary to Radcliffe Creek	*45
Upstream side of Mary Morris Road	*64
Subdivision Tributary:	
At confluence with Radcliffe Creek	*16
Upstream side of Kennedy Drive	*34
East Fork Langford Creek:	
State Route 446 (extended)	*7
Downstream side of Langford-Brices Mill Road	*9
Approximately 60 feet downstream of Chestertown Fairlee Road	*24
Approximately 0.85 mile upstream of Chestertown Fairlee Road	*31
Upstream side of Stockton Startt Road	*49
East Fork Langford Creek Tributary:	
At confluence with East Fork Langford Creek	*37
At upstream side of Pond Dam	*48
Swan Creek:	
At confluence with The Haven	*9
Approximately 0.5 mile upstream of confluence with The Haven	*8
Upstream side of Swan Creek Road	*8
Approximately 60 feet downstream of Remington Pond Dam	*23
Jaggard Pond Tributary:	
At confluence with Swan Creek	*8
At Jaggart Pond Dam	*14
Second Tributary:	
At confluence with Swan Creek	*10
At Farm Pond Dam	*23
Tavern Creek:	
At confluence with Chesapeake Bay	*11
0.5 mile upstream of confluence with Chesapeake Bay	*8
At Swan Creek Road	*8
Upstream side of most downstream Pond Dam	*11
Approximately 0.72 mile upstream of most upstream Pond Dam	*21
Grays Inn Creek:	
Entire shoreline from confluence with Chester River to approximately 4.55 miles upstream of confluence with Chester River	*7
Approximately 0.19 mile upstream of Rock Hill Road	*12
Grays Inn Creek Tributary:	
At confluence with Grays Inn Creek	*7
Approximately 0.36 mile upstream of Eastern Neck Island Road	*8
Cypress Branch:	
At confluence with Chester River	*16
At State Route 291	*16
Maps available for inspection at the Planning Office, County Courthouse, Chestertown, Maryland.	
Kitzmiller (Town), Garrett County (FEMA Docket No. 6640)	
North Branch Potomac River:	
Approximately .38 mile downstream of most downstream corporate limits	*1,583
Upstream side of State Route 38	*1,609
Approximately .59 mile upstream of State Route 38	*1,630
Maps available for inspection at the Kitzmiller Town Hall, Kitzmiller, Maryland.	
MASSACHUSETTS	
Chilmark (Town), Dukes County (FEMA Docket No. 6640)	
Vineyard Sound:	
Entire shoreline within community	*12
Area approximately 200' west of Harlock Pond Road (extended)	*9
Atlantic Ocean:	
Shoreline at West Trsbury-Chilmark corporate limits	*12
Shallow flooding area approximately 1,000' west of West Trsbury-Chilmark	#1
Shallow flooding area at southern end of Pasture Road	#1

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
South shore of Chilmark Pond	*8
Shallow flooding dune area seaward of Chilmark Pond	#1
Shoreline at Wequobsque Cliffs	*25
Shallow flooding area seaward of Stonewall Pond	#1
Shallow flooding dune area along Squibnocket Road	#2
Shoreline at Squibnocket Point	*28
Shoreline approximately 1.2 miles southeast of Gay Head-Chilmark corporate limits	*18
Shoreline approximately 0.3 miles southeast of Gay-Chilmark corporate limits	*11
Shallow ponding area approximately 0.7 miles southeast of Gay Head-Chilmark corporate limits	*15
Menemsha Pond:	
Shoutwest shore of Menemsha Pond	*10
Shoreline at Abels Neck Road North Branch (extended)	*11
Eastern shore of Edys Island	*9
Tisbury Great Pond:	
South shore of Tisbury Great Pond	*8
Shoreline at Quansoo Road (extended)	*10
Tiasquam River:	
Shoreline at confluence with Town Cove	*10
Shoreline approximately 1,000' south of South Road	*9
Shoreline approximately 600' south of South Road	*8
Town Cove: Entire shoreline within community	*10
Squibnocket Pond:	
South shore of Squibnocket Pond	*8
North shore of Squibnocket Pond	*9
Maps available for inspection at the Town Hall, Chilmark, Massachusetts.	
Gay Head (Town), Dukes County (FEMA Docket No. 6640)	
Vineyard Sound:	
Shoreline approximately 2,200 feet north of intersection of Lighthouse Road and South Road	*12
Shoreline approximately 625 feet north of intersection of Lobsterville Road and West Road	*9
Atlantic Ocean:	
Shoreline approximately .75 mile northwest of Old South Road (extended)	*15
Entire shoreline of Lily Pond	*8
Shoreline of Old South Road (extended)	*13
Dune areas along Atlantic Ocean shoreline	#1
Shoreline approximately .75 mile southeast of Old South Road (extended)	*12
Squibnocket Pond:	
Western and northern shoreline within community	*9
Southern shoreline within community	*8
Menemsha Pond:	
Shoreline at Lobsterville Road (extended)	*11
Shoreline at confluence of stream connecting Squibnocket Pond with Menemsha Pond	*10
Maps available for inspection at the Town Hall, Gay Head, Massachusetts.	
Newburyport (City), Essex County (FEMA Docket No. 6645)	
Atlantic Ocean:	
Shoreline at southeastern corporate limits	*14
At Woodbridge Island	*9
Shoreline at Ocean Avenue (extended)	*12
Shallow flooding within community	#1
Merrimack River:	
Shoreline at Jefferson Street (extended)	*9
At Deer Island bridge	*10
At confluence of Artichoke River	*13
Lower Artichoke Reservoir shoreline within community	*13
Upper Artichoke Reservoir: Entire shoreline within community	*14
Maps available for inspection at the Community Development Department, City Hall, Pleasant Street, Newburyport, Massachusetts.	
Quincy (City), Norfolk County (FEMA Docket No. 6649)	
Furnace Brook:	
Upstream of first crossing of Furnace Brook Parkway	*11
At confluence with Cunningham Brook	*39
Upstream side of Crescent Street	*50
Approximately 850 feet upstream of Hayden Street	*81
Town Brook:	
Upstream side of Elm Street	*12
Upstream side of Water Street	*90
Upstream of second crossing of Conrail	*34
Cunningham Brook:	
At confluence with Furnace Brook	*39
Downstream side of Stedman Street	*39
Quincy Bay:	
Shoreline at Monmouth Street (extended)	*11
Shoreline at Sunrise Road (extended)	*17
Shoreline at Ashworth Street (extended)	*15
Shoreline at Bromfield Street (extended)	*15
Sheetflow between Brunswick Street and Bay Street	#2
Shoreline at Hobomack Road (extended)	*18
Sheetflow between Webster Street and Channing Street along Quincy Shore Drive	#2
Dorchester Bay:	
Shoreline at Shoreham Street (extended)	*11
Shoreline at Victory Road (extended)	*15
Fore River:	
Confluence with Town River Bay	*15
Shoreline at Washington Street bridge	*14
At Edge Water Drive and Rock Island Road intersection	*12
Town River Bay:	
Confluence with Fore River	*15
Shoreline at Roach Street	*12
Shoreline at Delano Avenue (extended)	*13
Shoreline at Cherry Street (extended)	*16
Maps available for inspection at the Office of Planning and Community Development, City Hall, Quincy, Massachusetts.	
West Tisbury (Town), Dukes County (FEMA Docket No. 6640)	
Atlantic Ocean:	
Shoreline 2,000' west of Big Homer Pond Road (extended)	*12
Shoreline at Big Homer Pond Road (extended)	*11
Shoreline 500' west of Butlers Pond Road (extended)	*13
Shoreline at Butlers Pond Road (extended)	*14
Area 600 feet west of intersection of Little Homer Pond Road and Jeannie Athearn Road	*8
Entire shoreline of Homer Pond	*9
Shallow Flooding Area:	
Dune area 600' east of western corporate limits	#1
Dune area 1,400' east of western corporate limits	#2
Tisbury Great Pond:	
Shoreline 1,650' south of intersection of Tiah Cover Road and Bush Point Road	*8
Shoreline at Clam Point Road (extended)	*10
Tiasquam River:	
Approximately 1,000' south of South Road	*9
Approximately 200' south of South Road	*9
Vineyard Sound:	
Shoreline at Paul Point	*13
Blackwater Brook approximately 400' north of Lamberts Cove Road crossing	*9
Maps available for inspection at the Town Hall, West Tisbury, Massachusetts.	
MINNESOTA	
Buffalo (City), Wright County (FEMA Docket No. 6648)	
Buffalo Lake: At shoreline	*922
Maps available for inspection at the City Hall, 212 Central Avenue, Buffalo, Minnesota 55313.	
Redwood County (Unincorporated Areas), (FEMA Docket No. 6648)	
Minnesota River:	
About 2.5 miles downstream of County Highway 11	*823
About 1.1 miles upstream of County Highway 7	*874
Maps available for inspection at the Redwood County Courthouse, Redwood Falls, Minnesota.	
MONTANA	
Anaconda-Deer Lodge County (Unincorporated Areas) (FEMA Docket No. 6649)	
Warm Springs Creek:	
At center of North Cable Road	*5,364
150 feet upstream of Interstate Highway 90	*4,818
Maps available for inspection at the Office of Disaster Emergency Services, 800 South Main, Anaconda, Montana.	
Richland County, (Unincorporated Areas) (FEMA Docket No. 6649)	
Lone Tree Creek: 150 feet upstream from the center Fourteenth Street (County Route 488)	*1,936
Maps available for inspection at County Surveyer's Office, 221 5th Street, SW, Sidney, Montana.	
Sidney (City), Richland County (FEMA Docket No. 6649)	
Lone Tree Creek: 120 feet downstream from center of Ninth Avenue Southwest	*1,945
Maps available for inspection at the Richland County Surveyer's Office, 221 5th Street, SW, Sidney, Montana.	
NEVADA	
Churchill County (Unincorporated Areas), (FEMA Docket No. 6649)	
Carson River: At intersection of Carson River and center of U.S. Alternate 95/U.S. Highway 50 (Reno Highway)	*3,972
Maps available for inspection at Building Department, 190 West 1st Street, Fallon, Nevada.	
NEW JERSEY	
Bloomingdale (Borough), Passaic County (Docket No. 6640)	
Pequannock River:	
At downstream corporate limits	*214
Downstream side of most downstream crossing of New York Susequehanna and Western Railroad	*240
Upstream side of most downstream crossing of Paterson-Hamburg Turnpike	*256
Downstream side of Park Access Road	*278
Upstream side of downstream crossing of Main Street	*297
Approximately 110' upstream of most upstream crossing of New York Susquehanna and Western Railroad	*402
Upstream side of most upstream crossing of Paterson-Hamburg Turnpike	*428
At upstream corporate limits	*435
Cold Spring Brook:	
At confluence with Pequannock River	*364
Downstream side of Macopin Road	*398
At downstream side of dam at downstream end of Cold Spring Lake	*401
At upstream side of dam at downstream end of Cold Spring Lake	*420
At downstream side of dam at downstream end of Star Lake	*510
Approximately 150' upstream of Star Lake Road	*532
At upstream side of West Shore Road	*541
At upstream side of Glen Wild Avenue	*570
Approximately 600' upstream of Glen Wild Avenue	*593
Van Dam Brook:	
At confluence with Pequannock River	*249
Approximately 50' upstream of Union Avenue	*255
At downstream side of Oak Street	*263

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 430' downstream of Knolls Road	*278
Approximately 50' upstream of Knolls Road	*319
Approximately 520' upstream of Knolls Road	*322
Oakwood Lake Brook:	
At confluence with Pequannock River	*309
Approximately 270' upstream of Paterson-Hamburg Turnpike	*321
At downstream side of dam at downstream end of Oakwood Lake	*341
At downstream side of Roy Avenue	*358
At downstream side of Glen Wild Avenue	*373
Tributary to Van Dam:	
At confluence with Van Dam Brook	*251
Approximately 590' upstream of Walnut Street	*252
Tributary 1 to Posts Brook:	
At downstream corporate limits	*221
At downstream side of dam at downstream end of Lower Morse Lake	*228
At upstream side of Buena Vista Road	*244
At upstream side of dam at downstream end of Lake Ioecoe	*265
At downstream side of dam at downstream end of Glen Wilde Lake	*345
Tributary 2 to Posts Brook:	
At downstream corporate limits	*243
Downstream of dam at Lake Ioecoe	*256
Maps available for inspection at the Bloomingdale Clerk's Office, Borough Hall, Bloomingdale, New Jersey.	
Burlington (City), Burlington County (FEMA Docket No. 6650)	
Delaware River:	
Entire shoreline within community	*11
Entire shoreline of Assiscunk Creek within community	*11
Maps available for inspection at the City Hall, 432 High Street, Burlington, New Jersey.	
Butler, Borough, Morris County (FEMA Docket No. 6640)	
Pequannock River:	
Downstream corporate limits	*263
Upstream side of Main Street (1st downstream crossing)	*298
Upstream side of Main Street (2nd downstream crossing)	*331
Downstream side of Patterson Hamburg Turnpike	*368
Upstream side of New York Susquehanna and Western Railroad (3rd upstream crossing)	*402
Upstream corporate limits	*435
Stonehouse Brook:	
Confluence with Pequannock River	*295
Upstream side of High Street	*330
Downstream Side of Boonton Avenue	*348
Upstream side of Valley Road	*385
Approximately 450 feet downstream of State Route 23	*420
Approximately 100 feet downstream of State Route 23	*439
Confluence with Tributary to Stonehouse Brook	*500
Approximately .4 mile upstream of confluence with Tributary to Stonehouse Brook	*610
Maps available for inspection at the Butler Borough Hall, One Ace Road, Butler, New Jersey.	
Oakland (Borough), Bergen County (FEMA Docket No. 6640)	
Ramapo River:	
At downstream corporate limits	*209
At upstream face of West Oakland Avenue	*220
At upstream face of Lenape Lane	*230
At upstream corporate limits	*239
Allerman Brook:	
At confluence with Crystal Lake	*227
At upstream face of U.S. Route 202	*257
At upstream face of State Route 208	*279
At most upstream access road	*303
At corporate limits	*326
Tributary 1 to Ramapo River:	
At confluence with Ramapo River	*211
At downstream face of dam	*223
At upstream face of U.S. Route 202	*232
Approximately 760 feet upstream of U.S. Route 202	*239
Tributary 2 to Ramapo River:	
At downstream corporate limits	*248
Just upstream of Iroquois Avenue	*338
Approximately 440 feet upstream of Andrew Avenue	*356
Maps available for inspection at the Oakland Municipal Building, Oakland, New Jersey.	
Old Bridge (Township), Middlesex County (FEMA Docket No. 6625)	
Tennents Brook:	
Upstream side of Bordentown Avenue	*12
Approximately 190' upstream of First Golf Course Road	*24
Upstream side of U.S. Rute 9	*35
Ireaick Brook:	
Approximately 50' upstream of Riverdale Avenue Dam	*18
Approximately 350' upstream of Old Bridge-Englishtown Road	*24
Upstream side of Birch Street	*31
Approximately 1,075' downstream of Pleasant Valley Road	*50
Barclay Brook:	
At confluence with Matchaponix Brook	*35
Approximately 370' downstream of Old Bridge-Englishtown Road	*39
Approximately 140' downstream of Hawkins Road	*50
At upstream corporate limits	*74
Deep Run:	
At Water Works Road	*12
Approximately 40' upstream of State Route 516	*14
Approximately 300' upstream of U.S. Route 9	*42
At upstream corporate limits	*57
South River:	
At Bordentown Avenue	*12
At Duhernal Lake Dam	*12
At confluence of Matchaponix Brook	*15
Matchaponix Brook:	
At confluence with South River	*15
Downstream side of Texas Road State Route 520	*33
Approximately 80' downstream of Old Bridge-Englishtown Road	*50
At upstream corporate limits	*58
Raritan Bay:	
At Garden State Parkway over Cheesequake Creek	*12
At State Route 35 over Margaret Creek	*13
At State Route 35 ovr Cheesequake Creek	*15
At Ocean Boulevard over Whale Creek	*15
Along entire shoreline	*18
Maps available for inspection at the Old Bridge Township Engineer's Office, Township Hall, 1 Old Bridge Plaza, Old Bridge, New Jersey.	
Pompton Lakes, Borough, Passaic County (FEMA Docket No. 6645)	
Pequannock River:	
At downstream corporate limits	*186
At upstream side of Riverdale Road	*190
At upstream corporate limits	*214
Ramapo River:	
At downstream corporate limits	*186
At upstream side of Pompton Lakes Dam	*207
At upstream corporate limits	*209
Posts Brook:	
At confluence with Wanaque River	*203
At upstream side of Broad Street	*207
At breached dam below Lower Twin Lake	*211
Acid Brook:	
At confluence with Ramapo River	*207
Approximately 125' upstream of Lakeside Avenue	*213
At upstream side of North Legion Street	*221
Approximately 420' above Dupont Place	*224
Lower Twin Lake:	
Entire shoreline within community	*211
Maps available for inspection at the Municipal Clerk's Office, Pompton Lakes Municipal Building, 25 Lenox Avenue, Pompton Lakes, New Jersey.	
Raritan (Township), Hunterdon County (FEMA Docket No. 6625)	
Neshanic River:	
At downstream corporate limits	*121
Upstream side of Everitts Road	*124
Upstream side of Kuhl's Road	*136
First Neshanic River:	
At confluence with Neshanic River	*136
Upstream side of U.S. Route 202 (State Route 31)	*153
Downstream side of Dayton Road	*160
Approximately 460 feet upstream of Dayton Road	*162
Second Neshanic River:	
At confluence with Neshanic River	*136
Upstream Black River and Western Railroad	*144
Downstream side of Johanna Farms Road	*170
Approximately 950 feet upstream side of Sergeantsville-Flemington Road	*239
Third Neshanic River:	
At confluence with Neshanic River	*135
Upstream side of Everitts Road	*150
At upstream corporate limits (downstream Easton Trenton Turnpike	*161
Walnut Brook:	
At confluence with First Neshanic River	*153
60 feet downstream of Private Drive	*170
Upstream side of Mine Street	*189
Approximately 50 feet upstream of Capner Street	*224
Route 202 Tributary:	
At confluence with South Branch Raritan River	*102
Downstream side of Dory Dilts Road	*120
Downstream side of Vorhees Corner Road	*142
Upstream side of Vorhees Corner Road	*150
Bushkill Brook:	
At confluence with South Branch Raritan River	*107
Approximately 100 feet upstream of Black River and Western Railroad	*113
Downstream side of Flemington Junction Road	*126
Upstream side of State Route 31	*130
Approximately 1,160 feet upstream of State Route 31	*134
Assiscong Creek:	
Upstream side of Conrail	*117
Downstream side of State Route 31	*160
Approximately 100 feet upstream of Old Clinton Road	*205
Upstream side of Private Drive (adjacent to Chapelview Drive)	*250
Downstream side of 4th upstream Private Drive	*278
Downstream side of 5th upstream Private Drive	*363
South Branch Raritan River:	
At downstream corporate limits	*97
At confluence of Route 202 Tributary	*102
Downstream side of Black River and Western Railroad	*107
Upstream side of Conrail crossing	*111
Downstream side of Flemington White House Road	*115
Maps available for inspection at the Raritan Township Municipal Building, South Main Street, Flemington, New Jersey.	
Riverdale (Borough), Morris County (FEMA Docket No. 6640)	
Pequannock River:	
Approximately 300' downstream of downstream corporate limits	*187
Downstream side of Paterson-Hamburg Turnpike (1st downstream crossing)	*201
Upstream side of Conrail	*213
Downstream side of New York Susquehanna and Western Railroad	*240
At upstream corporate limits	*263
Maps available for inspection at the Riverdale Clerk's Office, Borough Hall, Riverdale, New Jersey.	
South Brunswick, Township of, Middlesex County (FEMA Docket No. 6645)	
Lawrence Brook:	
Corporate limits at confluence of Ireland Brook	*55
Upstream side of Davidsons Mill Road	*57

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Upstream side of Dam, located just upstream of Riva Avenue	*65
Upstream side of Deans Lane	*67
Upstream side of Georges Road	*72
At Conrail crossing, just upstream of Dayton Road	*89
Trib. to Lawrance Brook:	
At Confluence with Lawrence Brook	*72
Downstream of Deans Lane	*83
Great Ditch:	
At confluence with Lawrence Brook	*70
Approximately 1270' upstream of confluence with Lawrence Brook	*75
Ireland Brook:	
At confluence with Lawrence Brook	*55
Upstream side of Fresh Ponds Road	*71
Upstream side of Dunhams Corner Fresh Ponds Road	*75
Upstream corporate limits	*81
Oakeys Brook:	
At confluence with Lawrence Brook	*55
Upstream side of Davidsons Mill Road	*83
Upstream side of U.S. Route 130	*90
Upstream side of downstream crossing of Conrail	*93
Upstream side of Dam	*100
Upstream side of U.S. Route 1	*107
Upstream side of Kroy Drive	*117
Downstream side of Henderson Road	*131
Trib. to Oakeys Brook:	
At confluence with Oakeys Brook	*105
Upstream side of Black Horse Lane	*110
Upstream side of Henderson Road	*129
Approximately 970' upstream of Henderson Road	*133
Cow Yard Brook:	
At confluence with Oakeys Brook	*93
Upstream side of Black Horse Lane	*99
Approximately 525' upstream of Deans Lane	*106
Six Mile Run Branch:	
Downstream corporate limits	*148
Upstream side of Langley Road	*161
Upstream side of Stillwell Road (upstream crossing)	*179
Approximately 1213' upstream of Stillwell Road	*192
Trib. to Six Mile Run Branch:	
At confluence with Six Mile Run Branch	*162
Upstream side of Sand Hills Road	*179
Approximately .4 mile upstream of Sand Hills Road	*204
Millstone River:	
Upstream side of State Route 27 at downstream corporate limits	*56
Upstream corporate limits	*57
Heathcote Brook:	
Upstream side of State Route 27 at downstream corporate limits	*56
Upstream side of Ridge Road	*61
Upstream side of U.S. Route 1	*71
At confluence of Switzgable Brook	*80
Upstream side of New Road	*124
Approximately 100' upstream of most upstream dam	*181
Switzgable Brook:	
At confluence with Heathcote Brook	*80
At New Road	*81
Heathcote Brook Branch:	
At confluence with Heathcote Brook	*72
At U.S. Route 1	*76
Carters Brook:	
At confluence with Heathcote Brook	*63
Upstream side of Raymond Road	*82
Approximately .2 mile downstream of Old Road	*180
Upstream corporate limits	*214
Trib. to Carters Brook:	
At confluence with Carters Brook	*82
At State Route 27	*113
Trib. to Heathcote Brook:	
At confluence with Carters Brook	*63
Upstream side of Brook Drive East	*89
Upstream corporate limits	*97
Devils Brook:	
Downstream corporate limits	*84
Upstream side of Culver Road	*93
Upstream side of Hay Press Road	*94
Shallow Brook:	
Downstream corporate limits	*81
Upstream side of Rowland Road	*85
First upstream corporate limits at U.S. Route 130 crossing	*108
At second upstream corporate limits	*110
At most upstream corporate limits	*126
Ten Mile Run:	
At downstream corporate limits	*137
Upstream side of New Road	*153
Approximately 260' downstream of Hastings Road	*172
Trib. No. 1 to Ten Mile Run:	
At confluence with Ten Mile Run	*140
Approximately 75' upstream of New Road	*156
Upstream side of Allstone Road	*178
Trib. No. 2 to Ten Mile Run:	
At confluence with Ten Mile Run	*148
Upstream side of Rumson Road	*162
Approximately 330' downstream of Kendall Road	*172

Maps are available for inspection at the Engineer's office, Municipal Building, Monmouth Junction, New Jersey.

NEW YORK

Blooming Grove (Town), Orange County (FEMA Docket No. 6640)

Moodna Creek:	
At downstream corporate limits	*282
Downstream side of Gatequay Farm Road	*302
Upstream side of New York Route 94	*318
Upstream side of Farm Road	*321
At confluence of Cromline Creek & Otter Kill	*322
Otter Kill:	
At confluence with Moodna Creek	*322
At upstream corporate limits	*322
Cromline Creek:	
At confluence with Moodna Creek	*322
Approximately 300 feet upstream of Cherry Hill Road	*330
At confluence of Seely Brook	*348
Seely Brook:	
At confluence of Cromline Creek	*348
Upstream side of Hulsetown Road	*367
Upstream side of New York Route 94	*417
At upstream corporate limits	*428
Satterly Creek:	
At downstream corporate limits	*315
Upstream side of Horton Road	*337
Upstream side of Toro Hill Road	*351
Downstream side of 2nd upstream dam	*440
Upstream side of Peddler Hill Road	*516
Approximately 380 feet upstream of Museum Village Road	*589
Satterly Creek Tributary #5:	
At confluence with Satterly Creek	*348
Upstream side of Prospect Road (first crossing)	*357
Upstream side of 2nd upstream dam	*401
Approximately 80 feet upstream of Prospect Road (2nd crossing)	*464
Perry Creek:	
At downstream corporate limits	*313
Upstream side of Felter Road	*403
Upstream side of second upstream dam	*483
Upstream side of Mountain Lodge Road	*513
Approximately 25 feet upstream of Clove Road	*526

Maps available for inspection at the Washingtonville Town Hall, Washingtonville, New York.

Herrings (Village), Jefferson County (FEMA Docket No. 6648)

Black River:	
Downstream corporate limits	*664
Downstream side of Herrings Dam	*668
Upstream corporate limits	*686

Maps available for inspection at the Village Fire Hall, Herrings, New York.

Lansing (Town), Tompkins County (FEMA Docket No. 6640)

Cayuga Lake: Entire shoreline within community	*366

Maps available for inspection at the Lansing Town Hall, Route 34, Lansing, New York.

Nanticoke (Town), Broome County (FEMA Docket No. 6640)

East Branch Nanticoke Creek:	
Downstream corporate limits	*975
Upstream side of Kenyon Road bridge	*997
Approximately 0.74 mile downstream of most upstream crossing of State Route 26	*1,009
Upstream side of State Route 26	*1,035
Approximately 1.5 miles upstream of most upstream crossing of State Route 26	*1,146
Approximately 3.0 miles upstream of most upstream crossing of State Route 26	*1,253
Tributary A to East Branch Nanticoke Creek:	
At confluence with East Branch Nanticoke Creek	*994
Approximately 0.26 mile upstream of confluence with East Branch Nanticoke Creek	*1,036
Approximately 100' downstream of Leslville Road	*1,090
Tributary B to East Branch Nanticoke Creek:	
At confluence with East Branch Nanticoke Creek	*1,037
Approximately 0.26 mile upstream of confluence with East Branch Nanticoke Creek	*1,064
West Branch Nanticoke Creek:	
Downstream corporate limits	*1,050
Approximately .042 mile downstream of Cherry Valley Hill Road	*1,070
Upstream side of Cherry Valley Hill Road	*1,081
Upstream side of Phillips Road	*1,129
Approximately 0.58 mile upstream of Phillips Road	*1,148

Maps available for inspection at the Nanticoke Town Hall, Maine, New York.

Norwich (City), Chenango County (FEMA Docket No. 6648)

Chenango River:	
Confluence of Canasawacta Creek	*992
Approximately 100 feet upstream of Hale Street	*995
Approximately 100 feet upstream of State Route 23	*1,002
Approximately 100 feet west of CONRAIL at northern corporate limits	*1,006
Canasawacta Creek:	
Confluence with Chenango River	*992
Approximately 50 feet upstream of State Route 12	*996
Upstream side of West Main Street	*1,018
Upstream side of Pleasant Street	*1,028
Approximately 200 feet downstream of State Route 23	*1,037
Most upstream corporate limits	*1,045

Maps available for inspection at the City Hall, East Main Street, Norwich, New York.

Nyack (Village), Rockland County (FEMA Docket No. 6645)

Hudson River: Entire shoreline within community	*8

Maps available for inspection at the Building Inspector's Office and the Clerk's Office, Village Hall, 12 North Broadway, Nyack, New York.

Yorktown (Town), Westchester County (FEMA Docket No. 6640)

Shrub Oak Brook:	
At downstream corporate limits	*389
Upstream side of Taconic State Parkway	*423
Approximately 1,100 feet upstream of State Route 6	*426
Shrub Oak Brook Tributary 1:	
At confluence with Shrub Oak Brook	*421
Approximately 0.5 mile upstream of Old Yorktown Road	*426
Hallocks Mill Brook:	
At downstream corporate limits	*367
Downstream side of Hungry Horse Hollow Drive	*406
Upstream side of Ridge Street	*435
Approximately 0.5 mile upstream of State Route 202 & 35	*463
Hallocks Mill Brook Tributary 1:	
At confluence with Hallocks Mill Brook	*381
Upstream side of Highbrook Avenue	*406
At upstream corporate limits	*440

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Hallocks Mill Brook Tributary 2:	
At confluence with Hallocks Mill Brook	*422
Approximately 785 feet downstream of Granite Springs Road	*448
Approximately 715 feet upstream of Granite Springs Road	*473
Saw Mill Creek:	
At confluence with New Croton Reservoir	*199
Approximately 460 feet upstream of State Route 118	*237
Approximately 0.4 mile upstream of State Route 118	*310
Approximately 1,200 feet downstream of Locke Avenue	*343
Approximately 125 feet upstream of Locke Avenue	*390

Maps available for inspection at the Town Engineer's Office, Town Hall, 363 Underhill Avenue, Yorktown Heights, New York.

Warwick (Town), Orange County (FEMA Docket No. 6640)

Longhouse Creek:	
Approximately [illegible] mile downstream of Buttermilk Falls Road	*746
Upstream of Buttermilk Falls Road	*771
Approximately .33 mile upstream of Buttermilk Falls Road	*883
Upstream side of Cascade Lake Road	*933
Downstream side of Cascade Lake Dam	*1,036
Upstream side of Cascade Lake Dam	*1,053
Upstream corporate limits	*1,086
Pochuck Creek:	
At Glenwood Road	*389
Upstream side of Newport Road	*391
Approximately .69 mile upstream of Newport Road	*392
Upstream corporate limits	*393
Stony Creek:	
At confluence with Wheeler Creek	*415
Upstream side of dam	*429
Upstream side of Union Corners Road	*457
Approximately .71 mile upstream of Union Corners Road	*474
Trout Brook:	
At downstream corporate limits	*641
Upstream side of Lower Middle School Road	*685
Upstream side of Oak Hill Road	*732
Approximately .54 mile upstream of Oak Hill Road	*864
Wawayanda Creek:	
Downstream corporate limits	*417
Upstream side of Ryerson Road	*431
Upstream side of Covered Bridge Road	*459
Approximately .86 mile upstream of Covered Bridge Road	*473
Upstream side of Bairds Road	*485
Upstream side of Sandfordville Road	*502
Upstream side of Pelton Road	*505
Most downstream corporate limits of Village of Warwick	*507
Most upstream corporate limits of Village of Warwick	*521
Upstream side of Wisner Road	*522
At Old State Street	*523
Approximately 300' upstream of upstream corporate limits	*525
Wawayanda Creek Diversion Channel:	
At confluence with Wawayanda Creek	*522
Upstream side of State School Road	*523
At confluence of Wickham Lake	*523
Wheeler Creek:	
At confluence with Quaker Creek	*367
Approximately .56 mile upstream of confluence with Quaker Creek	*390
Approximately .41 mile downstream of wheeler Road	*398
Upstream side of Wheeler Road	*406
At confluence of Stony Creek	*415
Wallkill River:	
At confluence of Rutgers Creek	*387
Upstream corporate limits	*390
Quaker Creek:	
Approximately .30 mile downstream of Pulaski Highway	*384
At confluence of Wheeler Creek	*387
Approximately 570 feet upstream of corporate limits	*389
Black Meadow Creek:	
Approximately .25 mile downstream of corporate limits	*480.
Approximately 520' upstream of corporate limits	*481
Browns Creek:	
Approximately 400' downstream of corporate limits	*447
Approximately 750' upstream of corporate limits	*449
Greenwood Lake:	
Entire shoreline within community	*622

Maps available for inspection at the Warwick Town Hall, Warwick, New York.

NORTH CAROLINA

Seybore (Town), Pamlico County (FEMA Docket No. 6648)

Atlantic Ocean/Pamlico Sound/Bay River: Within community	*8
North Prong Bay River: Within community	*8
South Prong Bay River: Within community	*8

Maps available for inspection at the Pamlico County Courthouse, Bayboro, North Carolina.

Bertie County (Unincorporated Areas), (FEMA Docket No. 6646)

Atlantic Ocean/Albermarle Sound/Chowan River: Along shoreline from the northern county boundary to about 0.8 mile downstream of the U.S. Highway 17 bridge	*8
Albermarle Sound/Batchelor Bay:	
At Black Walnut Point	*7
At Morgan Swamp	*8
Cashie River:	
About 1.7 miles downstream of SR 1301	*11
About 1.6 miles upstream of U.S. Highway 13	*15
About 2400 feet downstream of SR 1206	*80
About 2100 feet upstream of SR 1206	*95
Cashie River Tributary:	
About 1.6 miles downstream of NC 11	*49
Just downstream of NC 11	*60
Just upstream of NC 11	*85
Just upstream of SR 1201	*71
Cashie Swamp:	
Just downstream of SR 1204	*72
Just upstream of NC 308	*80
Chiska Creek:	
At confluence with Cashie River	*15
Just upstream of SR 225	*20
About 0.5 mile upstream of NC 308	*48
Cricket Swamp:	
At confluence with Salmon Creek	*13
Just upstream of NC 45	*14
Eastmost Swamp:	
At confluence with Salmon Creek	*13
Just downstream of SR 1354	*44
Eastmost Swamp Tributary No. 1:	
At confluence with Eastmost Swamp	*30
Just upstream of SR 1355	*36
Eastmost Swamp Tributary No. 2:	
At confluence with Eastmost Swamp	*33
Just upstream of NC 45	*42
Eastmost Swamp Tributary No. 3:	
At confluence with Eastmost Swamp	*36
Just downstream of SR 1354	*45
Jacks Branch:	
About 2500 feet downstream of SR 1120	*54
Just downstream of NC 11	*70
Salmon Creek:	
At confluence with Chowan River	*7
At confluence of Cricket Swamp	*13
Unnamed Tributary No. 1:	
At confluence with Salmon Creek	*9
Just downstream of NC 45	*11
Just upstream of U.S. Highway 17	*22
Unnamed Tributary No. 2:	
At confluence with Unnamed Tributary No. 1	*22
Just upstream of U.S. Highway 17	*36

Maps available for inspection at the County Courthouse, Dundee Street, Windsor, North Carolina.

Unincorporated Areas of Camden County (FEMA Docket No. 6648)

Albemarle Sound: Along shoreline from about 2 miles south of Miles Point to Camden Point	*7
Intracoastal Waterway:	
Along shoreline of Indiantown Creek from SR 1147 to U.S. Highway 158	*8
Along Crooked Creek shoreline from the mouth of SR 1107	*7
Along shoreline from Camdem Point to confluence of Crooked Creek	*7
Pasquotank River:	
Along shoreline from about 1.2 miles upstream of SR 1205 to about 0.3 mile west of intersection of Whitehall Road and Holly Drive	*8
Along Sawyers Creek downstream of SR 1203	*8
About 0.2 mile west of intersection of NC 343 and SR 1139	*8
Along shoreline from about 1.0 mile upstream of Treasure Point to about 2.0 miles south of Miles Point	*7
Along Areneuse Creek from mouth to NC 343	*7
At confluence of Raymond Creek	*7
Along Portlohonk downstream of SR 1148	*7

Maps available for inspection at the County Courthouse, Camdem, North Carolina.

Holden Beach (Town), Brunswick County (FEMA Docket No. 6648)

Atlantic Ocean:	
Along southern shoreline of Intracoastal Waterway from Boyd Street to Halstead Street	*13
Along shoreline from western corporate limits to Scotch Bonnet Drive	*20

Maps available for inspection at the Town Hall, Holden Beach, North Carolina.

Long Beach (Town), Brunswick County (FEMA Docket No. 6648)

Atlantic Ocean:	
About 300 feet south of Ocean Highway from eastern corporate limits to 25th Street West	*12
Along Yacht Drive from eastern corporate limits to 27th Street West	*12
At confluence of Elizabeth River with Intracoastal Waterway	*14
Along shoreline	*19

Maps available for inspection at the Town Hall, Long Beach, North Carolina.

Manteo (Town), Dare County (FEMA Docket No. 6648)

Roanoke Sound:	
Along Corporate Carolina Limits west of Virginia Dare Road	*9
Along Ananias Dare Street about 1600 feet from the intersection with Queen Elizabeth Avenue	*10

Maps available for inspection at the Town Hall, Manteo, North Carolina

Ocean Isle Beach (Town), Brunswick County (FEMA Docket No. 6648)

Atlantic Ocean:	
At north end of NC 904 bridge over Intracoastal Waterway	*13
At intersection of Craven and Concord Streets	*13
Along southern shoreline of Intracoastal Waterway north of Shallotte Sound	*15
Along shoreline	*20

Maps available for inspection at the Town Hall, Ocean Isle Beach, North Carolina.

Oriental (Town), Pamlico County (FEMA Docket No. 6648)

Atlantic Ocean/Pamlico Sound/Neuse River: Within extraterritorial limits	*8
Morris Creek: Within extraterritorial limits	*8

Maps available for inspection at the Pamlico County Courthouse, Bayboro, North Carolina.

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Pasquotank County (Unincorporated Areas), (FEMA Docket No. 6648)	
Little River:	
Just downstream of SR 1197	*7
About 1.44 miles upstream from U.S. Highway 17	*10
Atlantic Ocean/Albemarle Sound/Little River:	
At the intersection of SR 1115 and SR 1116	*5
At Hobbs Landing	*5
At mouth of Halls Creek	*7
Atlantic Ocean/Knobbs Creek: Just downstream of SR 1332 bridge over Knobbs Creek	*7
Atlantic Ocean/Albemarle Sound/Pasquotank River:	
Entire shoreline of Goat Island	*6
At the intersection of SR 1101 and SR 1116	*6
At mouth of Bettys Creek	*6
At the intersection of SR 1203 and SR 1204	*7
Maps available for inspection at the County Courthouse, Elizabeth City, North Carolina.	
Southport (City), Brunswick County (FEMA Docket No. 6648)	
Intracoastal Waterway/Cape Fear River:	
Just downstream of SR 1526 bridge over Prices Creek	*10
At confluence of Dutchman Creek	*14
Bonnetts Creek:	
Just upstream of Brown Street	*10
About 950 feet upstream of Brown Street	*11
Bonnetts Creek Tributary:	
At confluence with Bonnetts Creek	*11
Just upstream of Leonard Street	*19
Maps available for inspection at the Town Hall, Southport, North Carolina.	
Sunset Beach (Town), Brunswick County (FEMA Docket No. 6648)	
Atlantic Ocean:	
At intersection of Sunset Boulevard and Main Street	*13
At intersection of Canal Avenue and Shore Line Drive	*13
Along Calabash River shoreline from NC 179 to about 1.75 miles upstream	*13
At south end of Sunset Boulevard bridge over Intracoastal Waterway	*15
Along shoreline	*20
Maps available for inspection at the Town Hall, Sunset Beach, North Carolina.	
Stonewall (Town) Pamlico County, (FEMA Docket No. 6648)	
Atlantic Ocean/Pamlico Sound/Bay River/South Prong Bay River: Along shoreline of Bay River from about 0.9 mile upstream of confluence with Trent Creek to western corporate limits	*8
Atlantic Ocean/Pamlico Sound/Bay River/Trent Creek: Along shoreline of Trent Creek and Alligator Creek	*7
Maps available for inspection at the Pamlico County Courthouse, Bayboro, North Carolina.	
Vandemere (Town), Pamlico County (FEMA Docket No. 6648)	
Atlantic Ocean/Pamlico Sound/Bay River: Within community	*8
Maps available for inspection at the Pamlico County Courthouse, Bayboro, North Carolina.	
Yaupon Beach (Town), Brunswick County (FEMA Docket No. 6648)	
Atlantic Ocean:	
At the intersection of Norton Street and Ocean Drive	*12
At the intersection of NC 133 and Oak Island Drive	*12
At the intersection of NC 133 and northern corporate limits	*14
Along shoreline	*19
Maps available for inspection at the Town Hall, Yaupon Beach, North Carolina.	

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
NORTH DAKOTA	
Harwood (Township), Cass County (FEMA–6648)	
Sheyenne River: 100 feet upstream of the centerline of Interstate Highway 29	*892
Maps available for inspection at Township Hall, Route 1, Harwood, North Dakota.	
Reed (Township), Cass County (FEMA Docket No. 6648)	
Sheyenne River: 100 feet upstream of the centerline of County Highway 17	*895
County Drain 21: At the confluence with Sheyenne River	*898
Maps available for inspection at Township Hall, Rural Route 2, Fargo, North Dakota.	
OHIO	
Carey (V), Wyandot County (FEMA Docket No. 6645)	
Spring Run:	
At confluence of Dry Run	*810
Just upstream of Conrail (upstream crossing)	*826
Dry Run:	
Just upstream of East Findlay Street	*810
About 1700 feet upstream of East Findlay Street	*814
Brown Ditch:	
At confluence with Spring Run	*815
About 1475 feet upstream of North Vance Street	*819
Shallow Flooding: Near crossing of Conrail and East North Street	#1
Maps available for inspection at the Municipal Building, 127 North Vance Street, Carey, Ohio.	
Springfield (City), Clark County, (FEMA Docket No. 6648)	
Mad River:	
At confluence of Mill Creek	*903
About 0.52 mile upstream of U.S. Route 68	*909
Buck Creek:	
At mouth	*906
About 0.55 mile upstream of Belmont Avenue	*954
Maps available for inspection at the City Building, 76 East High Street, Springfield, Ohio.	
OREGON	
Cottage Grove (City), Lane County (FEMA Docket No. 6645)	
Coast Fork Willamette River: 120 feet upstream from the center of State Highway 99	*631
Row River: 1350 feet northeast of the intersection of Davidson Avenue and Row River Cutoff Road	*641
Silk Creek: 100 feet west along Anthony Avenue from its intersection with M Street	*645
Maps available for inspection at the Planning Department, 400 Main, Cottage Grove, Oregon.	
Gold Beach (City), Curry County (FEMA Docket No. 6640)	
Rogue River: 50 feet upstream from the center of U.S. Highway 101	*20
Maps available for inspection at City Hall, 510 South Elmsburg Avenue, Gold Beach, Oregon 97444.	
PENNSYLVANIA	
North Bethlehem (Township), Washington County (FEMA Docket No. 6640)	
Little Chartiers Creek:	
Approximately 1,700' downstream of Simmons Road	*1,026
Upstream side of State Route 477	*1,056
At U.S. Route 40	*1,078
Maps available for inspection at the residence of Henrietta Goodwin, Township Secretary, Scenery Hill, Pennsylvania.	

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Waynesboro (Borough), Franklin County (FEMA Docket No. 6645)	
West Branch Antietam Creek:	
Approximately 225' downstream of most downstream corporate limits	*600
At upstream side of West Main Street	*608
Approximately 100' upstream of most upstream corporate limits	*612
East Branch Antietam Creek:	
At downstream side of South Welty Road	*599
At upstream corporate limits	*603
Approximately 1,275' upstream of upstream corporate limits	*608
Red Run:	
At confluence with East Branch Antietam Creek	*599
At upstream side of Baer Road	*607
Approximately 800' upstream of Baer Road	*610
Maps available for inspection at the Municipal Building, 57 East Main Street, Waynesboro, Pennsylvania.	
TERRITORY OF GUAM	
(FEMA Docket No. 6648)	
Harmon Sink: Intersection of Marine Drive (Route 1) and Simon Sanchez Street	*93
Tgamuning Drainageway: Intersection of the stream and the center of Serenu Avenue	*8
Agana River:	
Intersection of the stream and the center of the Marine Drive (Route 1)	*11
Center of West Soledad Avenue, 160 feet west of its intersection with Aspinall Avenue	*10
Fonte River: 100 feet upstream from the center of Marine Drive (Route 1)	*12
Asan River: Intersection of the stream and the center of Asan Ocean View Drive (Route 1)	*14
Calacag River: 520 feet upstream from the center of the Ramona Street	*14
Taguag River: 330 feet upstream from the center of Marine Drive (Route 1)	*9
Masso River:	
Intersection of the stream and the center of Assumption Drive	*16
Center of Marian Peling Street, 140 feet east of its intersection with Tuncap Street	*9
Togcha River:	
Intersection of the stream and the center of Marine Drive (Route 2)	*12
Center of North Perino Street, 800 feet north of its intersection with Chalan Obispo Olano	*9
Salinas River: Intersection of the stream and the center of Marine Drive (Route 2)	*11
Finile Creek: 500 feet upstream from the center of Marine Drive (Route 2)	*11
Gaan River: 50 feet upstream from the center of Marine Drive (Route 2)	*11
Auau Creek: 1050 feet upstream from the center of Marine Drive (Route 2)	*11
Chaligan Creek: 430 feet upstream from the center of Marine Drive (Route 2)	*10
Taleyfac River: 30 feet upstream from the center of Marine Drive (Route 2)	*11
Umatac River: 40 feet upstream from the center of South San Dinisio Drive (Route 4)	*10
Madog River: 30 feet upstream from the confluence with Laolao River and Umatac River	*18
Laolao River: 460 feet upstream from the confluence with Umatac River and Madog River	*20
Geus River: 25 feet downstream from the center of Espinosa Avenue	*50
Manell River: 50 feet northeast along Joutan Lane from the intersection of Joutan Lane and Chalan Canton Tasi (Route 4)	#2
Unnamed Stream 1M: 520 feet upstream from the center of Chalan Canton Tasi (Route 4)	*8
Unnamed Stream 2M: 850 feet upstream from the center of Chalan Canton Tasi (Route 4)	*8
Inarajan River: 900 feet upstream from the center of Pale Duenas Street (Route 4)	*9
Agana Bay: Intersection of Tan Marian Cotta Loop and Trankilo Street	*8
Asan Bay: 130 feet north of the intersection of Asan Ocean View Drive and Ramona Street	*10
Piti Bay: Intersection of Marina Drive (Route 1) and J. Sn. Quenga Street	*10

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Agat Bay: Intersection of Marina Drive (Route 2) and Uiseng Road	*11
Umatac Bay: 150 feet downstream from the center of South San Dinisio Drive	*10
Cocos Lagoon: Intersection of Chalan Canton Tasi (Route 4) and Quinene Road	*8
Inarajan Bay: Intersection of Satan Avenue and Farnasyan Street	*8
Maps available for inspection at Department of Civil Defense, Emergency Services Office, Aguana, Guam.	
TEXAS	
Azle (City), Tarrant County (FEMA Docket No. 6648)	
Ash Creek:	
At confluence with Eagle Mountain Lake	*857
Upstream of State Route 199	*881
Upstream of FM 1707	*702
Westline Road (extended)	*706
Paschal Branch:	
At confluence with Ash Creek	*861
Upstream side of State Route 199	*876
At corporate limits	*880
Reynolds Branch:	
At confluence with Ash Creek	*861
At corporate limits just upstream of Silvercreek-Azle Road	*886
Walnut Creek:	
At confluence with Eagle Mountain Lake	*857
At corporate limits just upstream of FM 730	*867
Approximately 700' upstream of FM 730	*868
Eagle Mountain Lake: The entire shoreline within community	*857
Maps available for inspection at Azle City Hall, Azle, Texas.	
Baytown (City), Harris & Chambers Counties (FEMA Docket No. 6640)	
Cedar Bayou (C100–00–00):	
At confluence with Galveston Bay (F200–00–00)	*12
Approximately 2,000' downstream of State Route 146	*14
At upstream corporate limits	*16
Cary Bayou (C112–00–00):	
At confluence with Cedar Bayou (C100–00–00)	*15
At furthest upstream corporate limits	*20
Goose Creek (C100–00–00):	
At confluence with San Jacinto River (G103–00–00)	*12
At confluence of East Fork Goose Creek (C105–00–00)	*13
Approximately 200' upstream of Baker Road	*21
At upstream corporate limits approximately 1,400' south of Interstate Route 10	*28
East Fork Goose Creek (C105–00–00):	
At confluence with Goose Creek	*13
Downstream side of Baker Road	*16
Approximately 150' upstream of Lynchburg-Cedar Bayou Road	*25
Approximately 2,300' upstream of Lynchburg-Cedar Bayou Road	*28
Spring Gully (C200–00–00):	
At confluence with San Jacinto River (G103–00–00)	*12
Downstream side of Interstate Route 10	*15
At upstream corporate limits	*31
Pine Gully (C101–00–00):	
At confluence with Cedar Bayou (C100–00–00)	*12
Approximately 1 mile upstream of Tri-Cities Beach Road	*12
Burnett Bay:	
At confluence of Spring Gully	*15
Southern side of Shreck Avenue at intersection with Bayshore Drive	*18
Crystal Bay:	
Shoreline at West Bayshore Drive (extended)	*16
Southern side of Crow Avenue—approximately 250' east of intersection with Bayshore Drive	*16
Scott Bay:	
Shoreline on southeast side of Mapleton Avenue	*16
Shoreline on southwest side of Bayway Drive approximately 1,500' southeast of intersection with Park Drive	*15

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
San Jacinto River:	
Shoreline at Oklahoma Avenue (extended)	*15
At confluence of Goose Creek (D100–00–00)	*15
Approximately 125' northeast of intersection of State Routes 146 and 201	*12
Black Duck Bay:	
Shoreline at intersection of Maryland and Missouri Streets	*15
Approximately 110' southwest of intersection of Missouri Street and State Route 201	*12
Tabbs Bay:	
Shoreline at confluence with Goose Creek	*15
Approximately 925' west of Lee Drive (extended)	*13
Galveston Bay:	
Shoreline at Cedar Bayou Lake Drive (extended)	*19
At confluence of Cedar Bayou	*12
Maps available for inspection at the City Hall, Baytown, Texas.	
Haslet (City), Tarrant County (FEMA Docket No. 6640)	
Buffalo Creek:	
At downstream corporate limits	*657
Approximately 1,850 feet upstream of upstream corporate limits	*661
Henrietta Creek:	
At downstream corporate limits	*657
At upstream side of Harmon Road	*665
Approximately .45 mile upstream of Harmon Road	*670
Approximately .47 mile downstream of upstream corporate limits	*677
At upstream corporate limits	*685
Approximately 1,100 feet upstream of upstream corporate limits	*693
Stream HEN–1:	
At confluence with Henrietta Creek	*666
At corporate limits	*667
Stream HEN–2:	
At confluence with Henrietta Creek	*684
At upstream side of Keller-Haslet Road	*690
Approximately 800 feet upstream of upstream corporate limits	*703
Stream HEN–2A:	
At confluence with Stream HEN–2	*700
At upstream side of Avondale-Haslet Road	*703
Approximately .64 mile upstream of Avondale-Haslet Road	*720
At upstream corporate limits	*734
Maps available for inspection at the Haslet City Hall, First and Main Streets, Haslet, Texas.	
Hurst (City), Tarrant County (FEMA Docket No. 6640)	
Little Bear Creek:	
Approximately 550' below downstream corporate limits	*597
At downstream corporate limits	*598
At upstream corporate limits	*612
Calloway Branch:	
At downstream corporate limits	*513
At upstream side of State Route 10	*518
At upstream side of Arcadia Street	*540
At upstream corporate limits	*549
Walker Branch:	
At downstream corporate limits	*513
At upstream side of State Route 10	*518
At upstream side of Redbud Drive	*532
At upstream side of Cheryl Avenue	*549
Approximately 100' upstream of upstream corporate limits	*567
Lorean Branch:	
At downstream corporate limits	*503
At upstream side of Hurstview Drive (downstream crossing)	*520
At upstream side of Hurstview Drive (upstream crossing)	*540
At upstream side of Bedford-Euless Road	*558
At upstream side of Harwood Road	*574
Approximately 200' downstream of Grapevine Highway	*587
Sulphur Branch:	
Approximately 125' downstream of downstream corporate limits	*461

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
At upstream side of State Route 10	*489
Approximately 250' upstream of upstream corporate limits	*494
Valley View Branch:	
At downstream corporate limits	*502
At upstream side of Oak Drive	*534
At upstream side of Cheryl Avenue	*550
At upstream side of Pleasant View Drive	*577
At upstream corporate limits	*591
Stream WB–1:	
At confluence with Valley View Branch	*587
Downstream side of Harwood Road	*594
Walker Branch: At upstream corporate limits near Interstate Route 820	#2
Valley View Branch: Along Harwood Drive near State Route 121	#
Maps available for inspection at the Hurst City Hall, 1505 Precinct Line Road, Hurst, Texas.	
La Porte (City), Harris County (FEMA Docket No. 6648)	
Galveston Bay (F200–00–00): Entire shoreline within community	*17
San Jacinto River (G103–00–00):	
Corporate limits located approximately 400' northeast of Marker Drive and corporate limits in northern section of community	*12
Shoreline of Upper San Jacinto Bay within community	*15
Shoreline of Lower San Jacinto Bay within community	*13
Taylors Bayou (A104–00–00):	
At corporate limits	*11
Approximately .53 mile upstream of corporate limits	*11
Big Island Slough (B106–00–00):	
Downstream corporate limits	*16
Upstream side of Fairmont Parkway	*18
Upstream side of Spencer Highway	*20
At North P Street	*23
Willow Springs Bayou (B112–00–00):	
Downstream corporate limits	*21
Upstream corporate limits	*28
Tributary 1.78 to Willow Springs Bayou (B112–02–000):	
Confluence with Willow Springs Bayou (B112–00–00)	*23
At Corporate limits	*25
Little Cedar Bayou:	
At Old State Route 146	*13
Downstream side of Fairmont Parkway	*16
Approximately 900 feet upstream of East Main Street	*28
Upstream side of Southern Pacific Railroad	*21
Maps available for inspection at the Building Official's Office, Fairmont Parkway, La Porte, Texas.	
North Richland Hills (City), Tarrant County (FEMA Docket No. 6648)	
Big Fossil Creek:	
Downstream side of Beaudeay Avenue	*512
At Onyac Drive North (Extended)	*523
At downstream side of St. Louis—Southwestern Railroad	*540
Stream BF–6:	
At downstream corporate limits	*524
Approximately 150' upstream corporate limits, at limit of flooding affecting community	*549
Stream BF–7:	
At confluence with Big Fossil Creek	*535
Approximately 1,130' upstream confluence with Big Fossil Creek	*536
Calloway Branch:	
Approximately 375' downstream of corporate limits at Glenview Drive, at limit of flooding affecting community	*555
At upstream side of Interstate Route 820	*582
At upstream side of Holiday Lane	*602
At upstream side of Chapman Drive	*625
Approximately 50' downstream of Starnes Road	*658
Stream CB–1:	
AT Confluence with Calloway Branch	*603
Approximately 250' upstream of Hewitt Street	*656
Sheet Flow Area: North of Bogart Drive	* #

VOL 50 ISS 142 JL 24 1985 UMI

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Stream CB-1 Diversion:	
At confluence with Calloway Branch	*606
At confluence with Stream CB-1	*613
Stream CB-2:	
At confluence with Calloway Branch	*617
Upstream side of Hightower Drive	*646
Approximately 100' downstream of Starnes Road	*670
Little Bear Creek:	
Corporate limits at Precinct Line Road	*612
At upstream side of Davis Boulevard	*633
At upstream corporate limits	*661
Stream LB-1:	
At confluence with Little Bear Creek	*622
At downstream side of Davis Boulevard	*648
Stream LB-2:	
At confluence with Little Bear Creek	*629
At downstream side of Shady Grove Road	*663
Mackey Creek:	
At downstream side of State Route 26	*533
At upstream side of Onyac Drive North	*556
At upstream side of Glenview Drive	*583
Approximately 100' downstream of Riviera Drive	*604
Mackey Creek, Diversion North:	
At confluence with Big Fossil Creek	*513
At confluence with Mackey Creek, Diversion South	*532
Mackey Creek, Diversion South:	
Approximately 540' downstream of downstream corporate limits, at limit of flooding affecting community	*513
At confluence with Mackey Creek	*539
Singing Hills Creek:	
Approximately 1,200' upstream of confluence with Big Fossil Creek, at limit of flooding affecting community	*541
At Old Mill Circle (Extended), at limit of flooding affecting community	*581
Walker Branch:	
At State Routes 121/183, at limit of flooding affecting community	*567
At upstream side of Cardinal Lane	*609
Approximately 150' downstream of Hightower Drive	*636
Stream WKB-1:	
At confluence with Walker Branch	*607
At upstream side of Cardinal Lane	*623
Maps available for inspection at the City Hall, 7301 Northeast Loop 820, North Richland Hills, Texas.	
Olney (City), Young County (FEMA Docket No. 6645)	
Salt Creek:	
Approximately 800 feet upstream of confluence of Mud Creek	*1,174
Upstream side of State Route 119	*1,179
Approximately 400 feet upstream of Avenue C	*1,187
Mud Creek:	
Corporate limits located just downstream of State Route 79	*1,175
Approximately 150 feet upstream of Spring Creek Road	*1,187
Approximately 800 feet upstream of most upstream corporate limits	*1,196
Maps available for inspection at City Hall, 201 East Main Street, Olney, Texas.	
Springtown (City), Parker and Wise Counties (FEMA Docket No. 6649)	
Dry Branch:	
At downstream corporate limits	*843
At upstream corporate limits	*844
Walnut Creek:	
At downstream corporate limits	*824
At confluence of Browders Creek	*828
Approximately 100 feet upstream of FM 51	*853
Approximately 550 feet upstream of upstream corporate limits	*878
Browders Creek:	
At confluence with Walnut Creek	*828
Approximately 100 feet upstream of State Route 199	*849
Approximately 50 feet upstream of FM 1542	*866
Approximately 1,000 feet upstream of State Route 51	*877

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Stream WCLSP)-1:	
At confluence with Walnut Creek	*853
At corporate limits	*859
Maps available for inspection at City Hall, Springtown, Texas.	
VERMONT	
Brattleboro (City), Windham County (FEMA Docket No. 6648)	
Connecticut River:	
At downstream corporate limits	*229
At upstream corporate limits	*239
West River:	
At confluence with Connecticut River	*236
Approximately 1 mile upstream of Interstate Route 91	*240
At upstream corporate limits	*259
Whetstone Brook:	
At confluence with Connecticut River	*233
Approximately 200' upstream of Elm Street	*264
Approximately 300' upstream of Interstate Route 91 (south)	*340
Upstream side of Guilford Street	*410
Upstream side of George F. Miller Drive	*443
Upstream side of Country Drive	*505
Approximately 100' upstream of Sunset Lake Road	*544
Ames Hill Brook:	
At confluence with Whetstone Brook	*454
Approximately 120' upstream of State Route 9	*467
Upstream side of Abbott Road	*596
Upstream side of Hinesburg Road	*641
Approximately 75' upstream of Ames Road (most upstream crossing)	*710
Maps available for inspection at the office of Christine Hart, Brattleboro Town Planner, Brattleboro, Vermont.	
VIRGINIA	
Dayton (Town), Rockingham County (FEMA Docket No. 6625)	
Cooks Creek:	
At downstream corporate limits	*1,202
Approximately 200 feet upstream of State Route 701 (second crossing)	*1,208
At northwest corporate limits	*1,221
Sunset Heights Branch:	
At confluence of Cooks Creek	*1,203
Approximately 240 feet upstream corporate limits	*1,208
Maps available for inspection at the Dayton Municipal Building, Dayton, Virginia.	
WEST VIRGINIA	
Bancroft (Town), Putnam County (FEMA Docket No. 6648)	
Kanawha River: Entire shoreline within community	*582
Maps available for inspection at the Town Hall, Bancroft, West Virginia.	
Buffalo (Town), Putnam County (FEMA Docket No. 6648)	
Kanawha River:	
At downstream corporate limits	*573
At upstream corporate limits	*574
Cross Creek:	
At confluence with Kanawha River	*573
At upstream corporate limits	*573
Maps available for inspection at the Town Hall, Buffalo, West Virginia.	
Poca (Town), Putnam County (FEMA Docket No. 6648)	
Kanawha River:	
At downstream corporate limits	*583
At upstream corporate limits	*584
Pocatalico River:	
At confluence with Kanawha River	*583
At upstream corporate limits	*583
Maps available for inspection at the Town Hall, Poca, West Virginia.	

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Winfield (Town), Putnam County (FEMA Docket No. 6650)	
Kanawha River:	
At downstream corporate limits	*579
At upstream corporate limits	*580
Maps available for inspection at the Town Hall, Winfield, West Virginia.	
WISCONSIN	
Dallas (Village), Barron County (FEMA Docket No. 6648)	
Upper Pine Creek:	
About 700 feet downstream of confluence of Bass Creek	*1,046
Just downstream of Mill Dam	*1,048
Just upstream of Mill Dam	*1,055
About 4,000 feet upstream of Dallas Street	*1,056
Bass Creek:	
At mouth	*1,047
At divergence from Upper Pine Creek	*1,055
East Branch Upper Pine Creek:	
At confluence with Upper Pine Creek	*1,055
About 1,050 feet downstream from 3rd Avenue	*1,056
Maps available for inspection at the Village President's office, Village Hall, Dallas Street, Dallas, Wisconsin.	
Shawano County (Unincorporated Areas), (FEMA Docket No. 6648)	
Oconto River:	
At downstream county boundary	*757
At upstream county boundary	*774
Pensaukee River:	
At county boundary	*773
Just downstream of Nichols Drive	*784
Wolf River:	
Just upstream of County Highway CCC	*791
Just downstream of Shawano Dam	*798
Just upstream of Shawano Dam	*804
Just downstream of Upper Shawano Dam	*810
Just upstream of Upper Shawano Dam	*821
At upstream county boundary	*821
Red River:	
About 2.5 miles downstream of County Highway A	*830
Just downstream of Geider Road	*878
Just upstream of Weed Dam	*899
Just downstream of Morgan Road	*935
Duchess Creek:	
At mouth	*804
About 1.8 miles upstream of County Highway H	*817
Tributary to Duchess Creek:	
At mouth	*809
Just downstream of County Highway H	*812
East Unnamed Tributary to Shawano Lake:	
At mouth	*804
Just downstream of State Highway 22	*813
West Unnamed Tributary to Shawano Lake:	
At mouth	*804
Just downstream of Shady Lane	*811
Washington Lake: Entire shoreline	*804
Loon Lake: Entire shoreline	*806
Lulu Lake: Entire shoreline	*808
Shawano Creek-Shawano Lake: Within community	*804
Rose Brook:	
At mouth	*797
About 1.7 miles upstream of Rose Brook Road	*816
Shioc River:	
About 1300 feet downstream of County Highway W	*790
About 2200 feet upstream of County Highway W	*799
Middle Branch Emberrass River:	
Just upstream of Caroline Dam	*901
About 4.0 miles upstream of Caroline Dam	*932
South Branch Embarrass River:	
At mouth	*902
About 1700 feet upstream of County Highway M (near Caroline)	*905
About 3400 feet downstream of Lenz Road	*943
About 700 feet upstream of County Highway M (near Tigerton)	*956
North Branch Embarrass River:	
Just upstream of Grant Road	*853

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
About 4400 feet upstream of North Town Line Road	*900
Just upstream of County Highway D	*845
Just downstream of Tilleda Dam	*947
About 2900 feet upstream of Tilleda Dam	*960
About 3000 feet downstream of Regina Road	*1,100
North Branch Embarrass River:	
Just downstream of Regina Road	*1,114
Just upstream of Regina Road	*1,126
About 3000 feet upstream of Regina Road	*1,127
Embarrass River:	
At county boundary	*801
About 0.3 miles upstream of State Highway 22	*808
About 1200 feet downstream of County Highway D	*836
Just upstream of Stoney Hill Road	*847
About 2.6 miles upstream of Stoney Hill Road	*851
About 3800 feet downstream of County Highway G	*890
Just upstream of County Highway G	*895
South Branch Pigeon River:	
At county boundary	*933
About 0.6 miles upstream of Tauferner Road	*987
South Branch Pigeon River Tributary:	
At mouth	*857
About 0.9 mile upstream of Chicago and Northwestern Railroad (upstream crossing)	*983
Tributary to South Branch Pigeon River Tributary:	
At mouth	*958
Just downstream of Nero Dam	*997
Maps available for inspection at the Zoning Administrative Office, Shawano County Courthouse, 311 North Main Street, Shawano, Wisconsin 54166.	
Wilton (V), Monroe County (FEMA Docket No. 6645)	
Kickapoo River:	
About 0.4 mile downstream of South Water Street	*955
About 0.52 mile upstream of Walker Street	*979
Maps available for inspection at the Village President's Office, Village Hall, Main & Center, Wilton, Wisconsin.	

Issued: July 10, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-17405 Filed 7-23-85; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 20735; RM-1301, et al.]

Changes in the Rules Relating to Noncommercial, Educational FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: These corrections to the *Memorandum Opinion and Order* relating to noncommercial, educational FM broadcast stations are necessary because the original printing contained erroneous information.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Kathryn S. Hosford, Mass Media Bureau, (202) 632-9660
Michael Lewis, Mass Media Bureau, (202) 632-9660

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Erratum

In the matter of changes in the rules relating to noncommercial, educational FM Broadcast Stations; Docket No. 20735, RM-1301, RM-1974, RM-2655.

The *Memorandum Opinion and Order* in the above entitled proceeding (FCC 85-328, Mimeo 35929) adopted June 20, 1985, released June 27, 1985, published July 9, 1985 (50 FR 27954), IS CORRECTED as follows:

1. In paragraph 61 of the text, the Commission's action is changed from "effective up adoption" to "effective upon adoption"

2. In Appendix C, 47 CFR 73.525, Table B in paragraph (d)(1), the effective radiated powers (kW) for NCE-FM Channel 203 should changed from "2.9" to "3.1" and channel 214 should change from "46.7" to "46.8"

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-17519 Filed 7-23-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-32]

TV Broadcast Stations in Arecibo, PR et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF TV Channel *62 to San Juan, Puerto Rico, as a replacement for noncommercial educational UHF TV Channel *74, at the request of Fundacion E Educacion Cristiana, Inc.

EFFECTIVE DATE: August 16, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Memorandum Opinion and Order

In the Matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Arecibo, Cayey, *San Juan*, Utuado, Puerto Rico); MM Docket No. 84-32.

Adopted: June 26, 1985.
Released: July 10, 1985.

By the Chief, Policy and Rules Division.

1. By a *Report and Order*, 50 FR 1227, published January 10, 1985, the Commission, on its own motion, amended the Table of Television Assignments for Puerto Rico to reflect the reallocation of the spectrum between 806 and 947 MHz (Channels 70-83) for land mobile use. Since no party stated an interest in applying for Channel *62, which would have been assigned as a replacement for noncommercial educational Channel *74 at San Juan, the *Report and Order* deleted the channel without assigning a substitute channel.

2. On January 28, 1985, the Fundacion E Educacion Cristiana, Inc. ("petitioner") filed a petition for reconsideration requesting that Channel *62 be assigned to San Juan, stating that it would apply for the channel. Channel *62 can be assigned to San Juan, in compliance with a site restriction of 21.6 miles east to avoid a short-spacing to a construction permit issued to Station WUSA, Channel 58 at Caguas, Puerto Rico.[1]

3. In view of the interest expressed, we believe the public interest would be served by assigning Channel *62 to San Juan as it could provide that community with its second noncommercial educational service. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective August 16, 1985, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below, to read as follows:

City	Channel No.
San Juan, PR	2+, 4--, *6+, 18, 24, 30, and *62.

[1] The Association of Maximum Service Telecasters, Inc. filed comments pointing out that the site restriction of 15 miles east for Channel *62 at San Juan, as stated in the *Notice*, was insufficient.

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–17520 Filed 7–23–85; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1104, 1105, 1151, 1152, 1155, 1160, and 1180

[Ex Parte No. 449]

Filing of Pleadings and Applications

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: At 48 FR 34474, July 29, 1983, the Commission published rules reflecting centralization of certain functions and responsibility of the Office of the Secretary for the receipt and docketing of all formal applications, petitions and subsequent pleadings filed in such proceedings. That notice contained an omission, which this notice corrects.

FOR FURTHER INFORMATION CONTACT: Kathleen M. King (202) 275–7428.

SUPPLEMENTARY INFORMATION: The amendatory instructions in the notice appearing at 48 FR 34474 are corrected by adding an additional instruction (15) to follow instruction (14) appearing on page 34476 to read as follows:

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

§ 1180.25 [Amended]

(15) Paragraph (f)(2) of § 1180.25 is amended by removing footnote 3.

James H. Bayne,

Secretary.

[FR Doc. 85–17558 Filed 7–23–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Experimental Population Status for Certain Introduced Populations of Colorado Squawfish and Woundfin

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: The U.S. Fish and Wildlife Service will introduce Colorado squawfish (*Ptychocheilus lucius*) and woundfin (*Plagopterus argentissimus*) into the Gila River drainage in Arizona and determine these populations to be "nonessential experimental" populations according to section 10(j) of the Endangered Species Act of 1973. Section 10(j) of that Act authorizes "experimental" populations of endangered species to be treated as if they were threatened.

The Service has much more discretion in devising a management program for threatened species than for endangered species, especially on matters regarding regulated taking. Accordingly, a special rule to allow take in accordance with State and Tribal law is established for these nonessential experimental populations. In addition, section 10(j) authorizes such experimental populations to be determined to be "nonessential" to the survival of the species; a nonessential experimental population is not subject to the protection of 7(a)(2) of the Act, but instead is treated under section 7 as a species proposed for listing. In the past, these fishes were widespread in the State of Arizona where they occurred in several river drainages. This action is being taken in an effort to reestablish populations of Colorado squawfish and woundfin within their historic range.

DATES: The effective date of this rule is August 23, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., P.O. Box 1306, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. Conrad Fjetland, Assistant Regional Director, U.S. Fish and Wildlife Service, Albuquerque, New Mexico 87103 (505/766–2323 or FTS 474–2323) or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act Amendments of 1982, Pub. L. No. 97–304, became law on October 13, 1982. Among the significant changes made by the 1982 Amendments was the creation of a new Section 10(j) which established procedures for the designation of specific populations of listed species as "experimental populations." Regulations implementing the experimental population provisions were published on August 27, 1984 (49 FR 33885). Under authorities in the Endangered Species Act (ESA) previous to the 1982 Amendments, the Service was permitted to translocate populations into unoccupied portions of a listed species' historic range when it would foster the conservation and recovery of the species. Local opposition to translocation efforts, however, severely handicapped the effectiveness of translocation as a management tool. This opposition stemmed from concerns regarding the restrictions and prohibitions on private and Federal activities affecting endangered species under sections 7 and 9 of the Act. Under section 10(j) of the 1982 Amendments, past and future translocated populations established outside the current range, but within the species' historic range, may now be designated at the discretion of the Service as "experimental." Such a designation will increase the Service's flexibility to manage these translocated populations because the Amendments provide that such experimental populations of species which are otherwise listed as endangered may be treated as threatened. The Service has much more discretion in devising management programs for threatened species than for endangered species, especially on matters regarding regulated taking. Moreover, experimental populations found to be "nonessental" to the continued existence of the species in question would not be afforded protection under section 7(a)(2) of the Act, which requires Federal agencies to refrain from activities which are likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat. The individual organisms comprising the designated experimental population will be removed from an existing source or donor population only after it has been determined that their removal itself will not violate section 7(a)(2) of the ESA and complies with the permit requirements in section 10(a)(1)(A) and (d). The two species of fishes included in this determination are Colorado squawfish (*Ptychocheilus lucius*) and woundfin (*Plagopterus argentissimus*), both of which are currently listed as endangered. Donor populations for both species will come from stocks at Dexter National Fish Hatchery, and their use has been addressed under the permit and section 7 consultation for the hatchery. Dexter NFH has already demonstrated the ability to produce sufficient squawfish for the reintroduction effort, but has been less successful with woundfin production. If the Service is unable to produce the required numbers of woundfin artificially, additional adult woundfin will be gathered from the Virgin River as discussed in the Woundfin Recovery Plan. A section 7 consultation on the possible removal from the wild was completed on March 5, 1985. The biological opinion found that such removal will not jeopardize the species if the fish are removed from the intermittent stream area immediately below the Washington and Mesquite water diversions. Woundfin below these diversions become stranded and die when the river is diverted for irrigation.

Colorado squawfish were once widespread, occupying the entire Colorado River system including the Gila River system in Arizona. Squawfish were also present in tributaries of the Gila River, including the Salt, Verde, and San Pedro Rivers and likely several others. The last specimen known from Arizona waters was collected in the early 1950's and extensive sampling subsequent to that date has failed to locate specimens anywhere within the State of Arizona. The reasons for the decline of the Colorado squawfish are dewatering, dams, and competition with exotic species of fish. However, good habitat remains in the stream areas selected for the reintroduction of the Colorado squawfish and there is a good likelihood that it will become reestablished in these areas. Establishment of experimental populations of Colorado squawfish will make a significant contribution to the recovery of the species and will therefore further its conservation. The Colorado Squawfish Recovery Plan calls for reintroduction of the species into selected streams in the lower basin where the species formerly occurred. The stock of Colorado squawfish to be reintroduced will come from an existing captive-bred population and will not result in the removal of any individuals from the wild population.

Woundfin were originally distributed in the mainstream Colorado, Gila, Salt, and Virgin Rivers. Dams and dewatering have made most of these habitats unsuitable, while exotic species, especially red shiners (*Notropis lutrensis*), have outcompeted woundfin in the few remaining flowing streams. Only the Virgin River continues to maintain a woundfin population. The Service proposes to reintroduce individuals from Dexter National Fish Hatchery to stock the experimental populations. If insufficient woundfin are produced at Dexter, additional adult woundfin will be removed from the Virgin River as discussed in the Woundfin Recovery Plan. The Woundfin Recovery Plan calls for reintroduction into central Arizona streams where this species formerly occurred. The stream areas selected for reintroduction of the woundfin contain good habitat for this species, and the likelihood that these experimental populations will become established is good. If these experimental populations are successful they will make a significant contribution to the recovery of the woundfin. The release of these experimental populations will further the conservation of the species.

Summary of Comments and Recommendations

In the April 10, 1984, proposed rule (49 FR 14149) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in *The Arizona Republic* in Phoenix, Arizona, on April 25, 1984, which invited general public comments. Seventeen comments were received and are discussed below. No public hearing was requested or held.

Seven letters were received in support of the proposal. Three others expressed support of the experimental population concept, but had some reservations or requested specific changes in the proposal. Four letters were received in opposition to the proposal. Two letters received requested information, and another had no comments. Summaries of the comments and questions in these letters follow:

1. Support for the proposal was received from the American Society of Ichthyologists and Herpetologists, the Desert Fishes Council, and Arizona State University.

2. The Arizona Office of Economic Planning and Development had no comments on the proposal.

3. Two law firms responded to the proposal, one requested a copy of the draft Environmental Assessment, and the other requested copies of all comments which the Service received regarding the proposal. The requested information was sent.

4. The U.S. Forest Service supports the proposal. They submitted the following comments and questions regarding the Environmental Assessment (EA) for this action: (*C*=comment, *A*=Service response) *C.* Who will sign the Decision Notice? *A.* This final rule is signed by the Assistant Secretary of the Interior for Fish and Wildlife and Parks. *C.* Is the issue of the EA to determine the proper classification of the two species? If so, the effects of different classifications should be discussed. *A.* The issue of this EA is the proper classification of reintroduced populations of these two species. Additional clarification of the effects of different classifications has been added to the EA. *C.* The statement, in the EA, that without these reintroductions one or both of these species could become extinct in the forseeable future, is a direct contradiction to the designation of these populations as nonessential to the survival of the species. *A.* The Service agrees with this comment and has changed the wording to more accurately reflect Service intent. *C.* The Forest Service feels that they should be more involved in a cooperative preparation of the EA. *A.* The basic responsibility of preparing the EA rests with the Service. However, the Service has cooperated with the Forest Service by obtaining that agency's input in preparing the EA.

5. The U.S. Bureau of Reclamation supports the proposal and offered to help in monitoring the reintroduced populations. They expressed some doubt about the probability of success of some of the reintroductions due to habitat factors. They noted that some downstream movement could occur over dams during periods of unusually high flow, and asked that it be specified that any such fish retain their nonessential experimental status. This has been clarified in the rule. They also expressed concern over the effect of squawfish reintroductions on bald eagle food habits. The Service's response is that although the squawfish is a top fish predator, it successfully coexisted for thousands of years with the bald eagle. Razorback suckers are also being reintroduced into the Salt and Verde Rivers, and if successful, will provide added food for the eagles. If the squawfish reintroduction is successful, it is believed that the overall effect will also benefit the eagles. A Section 7 consultation on this effect was completed on January 11, 1985. The

VOL
50
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142
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biological opinion found that both fish species would be affected positively by the proposed action, as would the bald eagle.

6. The Arizona Game and Fish Department supports the proposal, however they feel recovery of these species would be better served by designation of these populations as essential experimental. They also noted that the recommended sites were being further evaluated in the summer 1984. The Service's response is that biologically, the survival of neither species will be dependent upon the survival of the reintroduced populations and loss of the reintroduced populations will not further jeopardize these species. Wild populations of both species appear to be stable and there are no immediate threats to that stability. Thus, nonessential designation seems more appropriate.

7. The U.S. Bureau of Land Management supports the concept of reintroduction of nonessential experimental populations of endangered species. However, they requested a change in the special rule to allow for "taking of the species incidental to activities that are otherwise lawful," to remove Section 9 prohibitions that might restrict development activities. This provision has been added to the special rule; however, taking of these species will be under the regulatory control of the State of Arizona and the White Mountain and San Carlos Apache Indian Tribes. Violation of applicable State and Tribal laws will also be a violation of the Endangered Species Act. BLM also submitted the following questions pertaining to the proposal: (*Q*-question, *A*-Service response) *Q.* Under what circumstances is informal consultation required? *A.* Informal conference is required when a Federal agency proposes to take, fund, or authorizes an action which is likely to jeopardize the continued existence of the Colorado squawfish or the woundfin. Consultation is not required for nonessential experimental populations, only an informal conference. *Q.* Do these experimental nonessential populations count toward eventual recovery and delisting? *A.* Yes. *Q.* How long will the experimental reintroduction period be, and how will its success or failure be measured? *A.* The rule sets forth a 10-year reintroduction program; however, the experimental designation will remain on these populations until each species is delisted. Success or failure will be determined by monitoring carried out by the State of Arizona. *Q.* Will woundfin reintroductions be terminated if the source population in the Virgin River is significantly reduced? *A.* Culturing woundfin at Dexter National Fish Hatchery has not succeeded as well as has squawfish culturing, but continues to improve. If Dexter is unable to produce sufficient number of woundfin, they will be taken from the Virgin River as described in the Woundfin Recovery Plan. These fish are normally trapped below irrigation diversion structures and lost when these reaches of the streams dry. The Section 7 consultation on the possibility of removal of wild stocks from the Virgin River for reintroduction concluded that such removal would not jeopardize the species. Continued monitoring of the woundfin in the Virgin River will assure that removal does not significantly reduce the population. *Q.* Under what circumstances, and how, would nonessential populations be reclassified as essential? *A.* The entire concept of the nonessential experimental designation is to assure private and governmental entities that Federal regulatory controls will be relieved on reintroduced populations. Nothing in the 1982 Amendments expressly discusses changing a designation from nonessential to essential. However, the implementing regulations do note the Congressional intent, as indicated in the House Report accompanying the Amendments, to be: "Regulations [to establish the experimental population designation or designate experimental populations] should be viewed as an agreement among the Federal agencies, the State fish and wildlife agencies and any landowners involved. Changes in the regulations should only be made after close consultation with all of the affected parties." (H.R. Rep. No. 567, 97th Cong., 2nd Sess. 34, 1982). The only action that might make the Service consider a change from a nonessential to an essential designation would be the loss of all or a significant portion of the wild populations. However, even in that extreme case, such a decision would require a rulemaking procedure involving extensive contact with Federal and State agencies, interested parties and affected landowners, publication in the **Federal Register**, and a public meeting if appropriate (50 CFR 17.81). BLM also requested that meetings be scheduled between affected land management agencies, State and county governments, and the public to discuss the reintroductions and the implementation of the action. Notification of the proposal was widespread in Arizona and the Service believes that a series of meetings were not needed on this rule since all interested parties are well informed about the proposed action. The Service has made every effort to answer BLM's questions both in writing and in person. The Service is satisfied that the regulatory requirements of section 10(j) of the Act and 50 CFR 17.81 have been satisfied.

8. The Arizona Department of Water Resources supports the concept of experimental reestablishment of these two species. However, they oppose the reintroduction of these species in any areas where there are proposed water projects contemplated at this time. The Service's response is that virtually all stretches of major streams in Arizona, including the Gila, Verde, Hassayampa, and San Francisco Rivers, have been contemplated for water development projects. Many of those projects will never be developed because the water of these systems is already fully committed. Others will be developed further to use existing water rights, but it is difficult to predict when and where which alternative of which project will be built. It is possible that projects built in the areas where reintroduced populations of woundfin and squawfish exist would have detrimental effects on those populations. However, the success of this reintroduction effort will be based on achieving a widespread population base for these species so that detrimental effects in a localized area will not appreciably reduce their overall chances for successful reestablishment.

9. The New Mexico Department of Game and Fish opposes the proposal. They submitted the following comments pertaining to the proposal: (*C*=comment, *A*=Service response) *C.* They were not contacted in the development of the proposal. *A.* Although the Service did not directly contact New Mexico Department of Game and Fish, that Department was contacted by the Arizona Game and Fish Department. Arizona requested New Mexico's input into the development of the proposal, but received no reply. It was assumed that New Mexico had no comments on the program, presumably because the reintroductions are unlikely to affect New Mexico. *C.* The upper Gila River woundfin transplant sites are not within historic range. *A.* The known historic ranges of many southwestern species, including the woundfin, are not well defined as historical collections were not always made in a thorough manner. The woundfin was collected in the Gila River drainage as far upstream as the Gila-Salt confluence. It was also collected up to 3400 feet elevation in the Verde River, about the same elevation as the Gila River reaches near the Arizona-New Mexico border. Although historical collection records from the upper Gila River are extremely spotty, there were no barriers or known habitat considerations which would have precluded woundfin from existing in those areas upstream from the Gila-Salt confluence, and it is reasonable to believe that woundfin were once spread throughout acceptable habitats in the Gila River drainage as they were in the Verde, River. This assumption is accepted by Minckley (1973 and 1979) and is accepted by State of Arizona biologists. *C.* The spikedace, another member of the tribe Plagopterini, which is a New Mexico listed species and a Federal candidate species, is found in the upper Gila River in New Mexico and may be adversely affected by the introduction of the woundfin. *A.* The spikedace is presently found in the Gila River only as far downstream as 20 miles above the New Mexico/Arizona State line, which is a separation of at least 20 miles, 3 low-head dams and an intermittent section of river from the proposed woundfin reintroduction site. In addition, the woundfin and spikedace historically coexisted in portions of the middle Gila River. Historic records show that both woundfin and spikedace were found in the Gila River near the confluence with the Salt River. The woundfin and a close relative of the spikedace, the Virgin River spinedace, still coexist in the Virgin River. *C.* The red shiner, an exotic fish, is presently found in the Gila and San Francisco Rivers at the reintroduction sites. This fish has been implicated in the decline of the woundfin through competitive interaction. *A.* The Service agrees that the presence of red shiner in the Gila and San Francisco Rivers is undesirable regarding the success of woundfin reintroductions, and their presence was considered in the selection of recommended sites. Although replacement of the woundfin by red shiner has been noted by Minckley and Deacon (1968) and by the Woundfin Recovery Plan (1984), it is not certain whether the replacement is due to competition or to habitat changes. Woundfin and red shiner have coexisted in the lower Virgin River for at least the past 10 years, indicating that such coexistence may be possible under the right conditions. Nearly every stream within historic range of the woundfin has been invaded by the red shiner, and removal of the shiner from selected reintroduction sites would be virtually impossible at worst and temporary at best. Therefore, reintroduction sites were chosen for habitat conditions favorable to woundfin with the assumption that under such conditions the woundfin can successfully resist displacement by the red shiner. Dr. W.L. Minckley, in a study of the Gila River complex done in 1979 for BLM, recommended: "The Gila River mainstream within its box canyon is considered as a prime site for reestablishment of woundfin, and it should be given priority for any program considered." *C.* The woundfin introduced into the Gila and San Francisco Rivers will migrate upstream into New Mexico and will revert to endangered status there. *A.* It is unlikely that woundfin will migrate into New Mexico. In the Gila River there are three low-head irrigation dams just inside the New Mexico border; the most downstream of which is one mile east of the State line and is 6 feet high. The second is 5 miles east of the State line and is 4 feet high. These dams form insurmountable barriers to upstream movement of woundfin unless they are purposefully carried over them by man. On the San Francisco River no natural or manmade barrier exists; however, high elevation and other habitat considerations make the San Francisco River in New Mexico marginal habitat for the woundfin. In the unlikely case that woundfin do make their way into New Mexico, this rule provides for nonessential experimental status for all populations in the Gila basin, including any individuals which spread upstream or downstream from the immediate transplant site. Migration of experimental populations outside of the area of reintroduction does not change their designation unless they mix with wild populations that are fully protected. *C.* No habitat management plan has been done for the reintroduction sites. *A.* The Woundfin Recovery Plan calls for preparation of habitat management plans for reintroduction sites as "soon as potential transplant sites are approved." However the recovery plan did not consider the use of nonessential experimental populations. The experimental nonessential designation is being used for these populations in order to minimize Federal regulations and restrictions. Therefore it is not appropriate for the Service to require the preparation of habitat management plans for these sites. Biologically, such plans are desirable; however, the decision whether such plans are implemented or not is up to the agency, organization, or individual who owns or administers the land. *C.* The regulations implementing experimental population designations have not been finalized and New Mexico feels that the experimental designation of squawfish and woundfin should be deferred until such finalization. *A.* The regulations for experimental populations have been finalized, and were published in the Federal Register on August 27, 1984. *C.* New Mexico feels that their experience concerning the transplant of the endangered whooping crane has shown that the Service cannot be trusted to live up to any agreements that are not legally binding. *A.* The Service regrets that the State of New Mexico feels that it was not treated fairly in the matter of the whooping crane, but does not think that those misunderstandings should prevent valid recovery efforts for other endangered and threatened species in New Mexico and bordering portions of other States.

10. Mobil Alternative Energy Inc. stated that they believe nonessential experimental populations are a valid recovery method. Other comments and questions submitted by them and the Service's responses follow: *Q.* What protection would the nonessential experimental populations receive under sections 7(a) (1) and (4) of the Act? *A.* Section 7(a)(1) applies to these experimental populations. It states in part that . . . "All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act." The reintroduction of these species is obviously a conservation program for their recovery. Specific additional conservation measures are not required by section 7(a)(1). The protection provided under section 4 is discussed under the "Protective Regulations" portion of this rule. *Q.* Would formal or informal consultation be necessary for nonessential experimental populations on agency or industry projects, and what limitations would there be on commitment of resources? *A.* On nonessential experimental populations only an informal conference is required, and only if Federal action, authorization or funding is involved. This may lead to recommendations, but not to the imposition of mandatory restrictions. *Q.* Will conservation or recovery plans be developed for these and other Lower Colorado River basin species? *A.* Both of these species already have approved recovery plans. No plans for other species are currently being considered except for an overall document being prepared by the Lower Colorado River

VOL
50
ISS
142
JL
24
1985
UMI

Coordination Group to tie together the various reintroduction efforts, both planned and underway. Management plans for the reintroduced populations may be written, if suitable. *Q.* Should the nonessential status of these populations ever be changed to essential, what would be the protection afforded them, and what factors could cause such a change? *A.* The Service's response is the same as found under paragraph 7. Additionally, it is noted that an "essential" experimental population has full protections under section 7(a)(2). A change from "nonessential" to an "essential" classification would not necessarily change any of the section 9 protections that apply to the experimental populations. *Q.* Will data gathered during the reintroduction and monitoring of these nonessential experimental populations be used to upgrade the status of these populations to essential or endangered if the populations fail to establish themselves successfully? *A.* No. Data gathered during monitoring will be used to determine the success of the reintroduction efforts and to provide the data necessary to delist the species, but not to provide additional protection. *Q.* If the reintroduction efforts are a success will the increased population numbers be used to delist the species? *A.* The success of such reintroductions is part of the criteria set forth in the recovery plans for downlisting and delisting these species. *Q.* Mobil asked that these comments and answers be incorporated into the rule and that it be republished as a proposal prior to finalization. *A.* The Service feels that the incorporation of information answering questions received and of changes requested is sufficient to address the concerns of Mobil and other interested parties, and that reproposal would delay the reintroduction effort unnecessarily. The major concern of Mobil appears to be the potential for change in the status of these populations from nonessential to essential or endangered status, and that these populations will be used to force mandatory restrictions on their operations. As the answers to their submitted questions indicate, such problems are not likely to arise. The nonessential experimental status is specifically designed to avoid such restrictions and to allow for recovery efforts for this species with a minimum effect on agencies, industry, and individuals.

11. Phelps Dodge Corporation submitted comments both from their Morenci Branch and from their Western General Office. Both oppose this proposal. They feel that the proposal has an "overwhelming potential" to seriously jeopardize their Morenci copper mining and processing operation and significantly impair or terminate implementation of flood control plans on the Gila and San Francisco Rivers due to the potential for the nonessential experimental populations to be upgraded and critical habitat designated at some time in the future. They believe that reintroductions should not occur in any areas where "probable designation of critical habitat could directly or indirectly jeopardize the economic well-being of the human species on the scale of counties." In addition, they feel that the proposed reintroduction site in the San Francisco River is unsuitable due to the presence of red shiner. The Service's response to the question of upgrading the status for these populations is given in paragraph 7. Upgrading of the population in the San Francisco River to essential or endangered would occur only under very extreme circumstances and critical habitat could only be designated for the woundfin in the San Francisco if that upgrade were to occur. Such designation would be subject to publication of the proposal in the Federal Register and to extensive discussions with affected organizations, groups, and individuals. Since the purpose of the nonessential experimental status was specifically to reduce restriction on agencies, industries and landowners, it would be self-defeating to propose this nonessential designation with the idea in mind of changing it in order to restrict those exact activities it was designed not to restrict. Flood control in the San Francisco and Gila Rivers may be a valid need; however, the Service believes that such future projects can be arranged to the satisfaction of all parties involved, and that nonessential experimental populations such as these should not conflict with such projects. The Phelps Dodge Morenci operation would not be jeopardized by these reintroductions because no binding restrictions could be placed on them. The Service's response to the question of red shiner is given in paragraph 9. Phelps Dodge's comments and questions were also answered directly by letter.

12. The White Mountain Apache Tribe opposes the proposal. The Tribe's objections are based upon the following comments: *C.* The Service failed to contact the Tribe during preparation of the porposal. *A.* The Tribe was not contacted prior to the proposal publication. The purpose of a proposal is exactly that—to contact the involved parties and solicit their comments, questions, information, and input. The possibility of reintroduction of squawfish into the Salt River was discussed with the Tribe several years ago, and the incorporation of the experimental population concept into the 1982 Amendments to the Act was in part a result of those discussions. *C.* The Service failed to address, in the special rule, the fact that State law has no jurisdiction over hunting and fishing on federally recognized Indian reservations, and that Arizona State license requirements and regulations do not apply within the Fort Apache Indian Reservation. Regulation of wildlife and fish on lands of the White Mountain Apache Tribe are under the jurisdiction of Tribal law. *A.* The special rule has been changed to cover applicable Tribal as well as State laws and regulations. *C.* The Tribe objects to the Statement containted in the proposal, pertaining to water rights on the Salt River, that: "Salt River Project, a private water district supplying water to metropolitan Phoenix owns most of the water rights." They point out there is presently ongoing litigation in State and Federal courts in respect to all of the water in the Salt River basin, and that the White Mountain Apache Tribe claims "prior and paramount" rights to waters in the Salt River pursuant to the Winter's Water Rights Doctrine. *A.* The Service recognizes that such litigation is in progress. The statement in question has been removed from the final rule. The Tribe's objections were also responded to directly by letter.

13. The Salt River Project supports the proposal. They expressed concern over the effect of the squawfish reintroductions in the Salt and Verde Rivers and Tonto Creek on feeding of nesting bald eagles. They recommend a section 7 review of the proposal. The Service's response to this concern is the same as found in paragraph 5.

Status of Reintroduced Populations

The reintroduced populations of Colorado squawfish and woundfin are designated as nonessential experimental populations according to the provisions of the 1982 Amendments to the Endangered Species Act. Nonessential experimental population status, plus the special rule for State or Tribal regulation of take, for the reintroduced Colorado squawfish and woundfin means that they will be subject to providions of sections 7(a) (1) and (4) of the Act and the special rule. These sections authorize Federal agencies to establish programs furthering conservation of listed species and also require Federal agencies to informally confer with the Service regarding actions which are likely to jeopardize the continued existence of the species. The restrictions on Federal agency activity in section 7(a)(2) will not apply. Justification for the "nonessential" status for the introduced experimental populations of Colorado squawfish and woundfin is as follows:

1. *Colorado squawfish.* Populations of this species are still viable in portions of the Green, Colorado, and Yampa Rivers in the upper basin. In addition, sufficient brood stock is available at Dexter NFH to produce millions of fry. Techniques for propagating and rearing this species have been developed and are in place. Reintroduction is a recovery action designed to increase the number of populations, rather than to prevent their further decline. The loss of these captive-reared specimens will not reduce the likelihood of the survival of Colorado squawfish in the wild.

2. *Woundfin.* The population in the Virgin River is relatively stable and the habitat is moderately secure. Fish numbers vary with amounts of springtime flows and irrigation practices that dewater portions of the stream, but the recovery team sees no near-future significant alteration for the Virgin River habitat. Woundfin are being held at Dexter National Fish Hatchery (NFH), and recent attempts to spawn them have been successful. These hatchery reared stocks will be used for reintroduction. If such stocks are insufficient then woundfin will be taken from the Virgin River for reintroduction. Any fish taken from the wild will be taken from adults trapped below irrigation water diversion structures. These fish normally die when the river is diverted and the stream bed dries. Therefore, the loss of the reintroduced populations will not reduce the likelihood of the survival of the woundfin in the wild. This reintroduction is an action to increase the numbers of populations of woundfin rather than an attempt to prevent their further decline.

Successful reintroduction of squawfish and woundfin may result in individuals or populations being displaced or migrating upstream or downstream from the reintroduction site. These fish would retain their nonessential experimental status. All woundfin or squawfish encountered in the Gila River drainage will derive from these reintroduced populations and as such will have a status of nonessential experimental.

Protective Regulations

Section 4(d) provides for issuance by the Secretary of protective regulations for species listed as threatened. Such regulations shall be issued when deemed "necessary and advisable to provide for the conservation of such species" and they can apply any of the prohibitions in section 9(a)(1) for endangered species of fish and wildlife to threatened species. This final rule establishes a special rule for these nonessential experimental populations. This special rule provides that regulation of taking in these populations will be governed under applicable State and Tribal laws and regulations. The State will regulate direct taking of the species through the requirement of State collecting permits. The Service has concluded that the State collection permit system is adequate to protect the species from excessive taking. A separate Federal permit system is not required to address the potential threats to the species.

Indian tribal laws require fishing licenses and limits on all fish taken. No regulations currently exist for squawfish and woundfin since none are presently found on reservation lands; however, the listed Apache trout, which is present on reservation land, is protected by tribal law.

The special rule acknowledges that incidental take of species by State and tribal-licensed recreational fishermen is not a significant threat to the species. Therefore, under this rule, incidental take would not be a violation of the Act if the fishermen returned the individual fish taken to its habitat.

Location of Reintroduced Populations

All of the sites selected for reintroduction of Colorado squawfish and woundfin are totally isolated from existing populations of these species. The nearest population of Colorado squawfish is above Lake Powell in the Green and Colorado Rivers, an upstream distance of at least 800 miles, 6 mainstream dams and 200 miles of dry riverbed from the selected release site. Woundfin are similarly isolated (450 miles distant, 200 miles of dry streambed and 5 mainstream dams from the selected release site). All reintroduction sites are within the probable historic range of these species.

Colorado Squawfish

1. *Arizona: Gila County.* Salt River from Roosevelt Dam upstream to U.S. Highway 60 bridge.

2. *Arizona: Gila and Yavapai Counties.* Verde River from Horseshoe Dam upstream to Perkinsville.

The lower segments of large streams which flow into these two sections of river may, from time to time, be inhabited by Colorado squawfish. Downstream movement of squawfish in these areas will be restricted by dams and upstream movement is limited by lack of suitable habitat.

Woundfin

1. *Arizona: Gila and Yavapai Counties.* Verde River from backwaters of Horseshoe Reservoir upstream to Perkinsville.

2. *Arizona: Graham and Greenlee Counties.* Gila River from backwaters of San Carlos Reservoir upstream to the Arizona/New Mexico State line.

3. *Arizona: Greenlee County.* San Francisco River from its junction with the Gila River upstream to the Arizona/New Mexico State line.

4. *Arizona: Gila County.* Tonto Creek, from Punkin Center upstream to Gisela.

5. *Arizona: Yavapai County.* Hassayampa River, from Red Cliff upstream to Wagoner.

The movement of woundfin beyond these areas will be limited to the lower portion of larger tributaries where suitable habitat exists. Downstream movement is limited by dams, reservoirs, and dry streambed. Upstream movement from these areas is restricted due to the absence of suitable habitat. Upstream areas are too cold and the gradient is too steep to support populations of woundfin.

Management

The Service and the Arizona Game and Fish Department plan to initiate reintroduction as soon as possible. Present plans call for annual stocking for the next 10 years. The first stocking of Colorado squawfish could consist of as many as 100,000 individuals. These could be distributed in approximately equal numbers between the 2 sites identified above. All of the fish will come from the hatchery stock which was spawned and reared in the Dexter National Fish Hatchery in Dexter, New Mexico. Future Colorado squawfish stock will also come from the hatchery. The first stocking of woundfin will consist of at least 5,000 individuals which will be distributed among the 5 areas identified above based on the available habitat in each area. Woundfin for stocking will also come from hatchery stock at Dexter National Fish Hatchery, if possible, but may also come from the Virgin River if Dexter is unable to produce sufficient numbers. Wild fish will be removed from localities in the Virgin River that traditionally become intermittent during the irrigation season, and will not exceed 25,000 fish.

The reintroducted populations will be checked annually to determine their condition. A seining survey will be used to determine population expansion or

VOL
50
ISS
142
JL
24
1985
UMI

contraction, reproductive success, and general health condition of the fish. This monitoring effort complies with the Service's regulatory requirements. These experimental populations of squawfish and woundfin will be treated as threatened species under all provisions of the Act other than section 7 (except for subsection (a)(1) thereof), under which they will be treated as proposed species. No person may take fish from these experimental populations, except that individual fish of these populations may be taken in accordance with applicable State or Tribal Law.

National Environmental Policy Act

An Environmental Assessment under NEPA has been prepared and is available to the public at the Albuquerque Regional Office of Endangered Species, U.S. Fish and Wildlife Service (see ADDRESSES). This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that this is not a major action under Executive Order 12291 and certifies that this action will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These determinations are based on a Determination of Effects that is available at the Service's Regional Office in Albuquerque, New Mexico (see ADDRESSES). That Determination of Effects concluded that these rules will have no effect on any actions now allowed or on any proposed actions presently under consideration. The rule does not contain any information, collection, or recordkeeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Literature Cited

Minckley, W.L. 1973. Fishes of Arizona. Arizona Department of Game and Fish. Phoenix. 293pp.

Minckley, W.L., and J.E. Deacon. 1968. Southwestern fishes and the enigma of "endangered species". Science 159:1424–2432.

Minckley, W.L., M.R. Sommerfield, et al. 1979. Resource inventory for the Gila River Complex, Eastern Arizona. USDI Bureau of Land Management. Final report, contract YA–512–CT6–2166.

Authors

The principal authors of this rule are James Williams and Peter G. Poulos, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2760).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (18 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following in alphabetical order under FISHES (following the existing entry) to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Squawfish, Colorado	*Ptychocheilus lucius*	U.S.A. (AZ, CA, CO, NM, NV, UT, WY), Mexico.	Salt and Verde River drainages, AZ.	XN		NA	17.84(b)
Woundfin	*Plagopterus argentissimus*	U.S.A. (AZ, NV, UT)	Gila River drainage, AZ, NM.	XN		NA	17.84(b)

3. Add the following special rule to Part 17 by adding a new § 17.84(b) as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(b) Colorado squawfish (*Ptychocheilus lucius*) and woundfin (*Plagopterus argentissimus*).

(1) The Colorado squawfish and woundfin populations identified in paragraph (6) below are experimental, nonessential populations.

(2) No person shall take the species, except in accordance with applicable State or Tribal fish and wildlife conservation laws and regulations in the following instances:

(i) For educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act; or

(ii) Incidental to otherwise lawful activities, provided that the individual fish taken, if still alive, is immediately returned to its habitat.

(3) Any violation of applicable State or Tribal fish and wildlife conservation laws or regulations with respect to the taking of this species (other than incidental taking as described in paragraph (b)(2)(ii) of this section) will also be a violation of the Endangered Species Act.

(4) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State or Tribal fish and wildlife laws or regulations.

(5) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (b) (2) through (4) of this section.

(6) All of the sites for reintroduction of Colorado squawfish and woundfin are totally isolated from existing populations of these species. The nearest population of Colorado squawfish is above Lake Powell in the Green and Colorado Rivers, an upstream distance of at least 800 miles including 6 mainstream dams, and 200 miles of dry riverbed. Woundfin are similarly isolated (450 miles distant, 200 miles of dry streambed and 5 mainstream dams). All reintroduction sites are within the probable historic range of these species and are as follows:

Colorado Squawfish

(i) *Arizona: Gila County.* Salt River from Roosevelt Dam upstream to U.S Highway 60 bridge.

(ii) *Arizona: Gila and Yavapai Counties.* Verde River from Horseshoe Dam upstream to Perkinsville.

The lower segments of large streams which flow into these two sections of river may, from time to time, be inhabited by Colorado squawfish. Downstream movement of squawfish in these areas will be restricted by dams and upstream movement is limited by lack of suitable habitat.

Woundfin

(i) *Arizona: Gila and Yavapai Counties.* Verde River from backwaters of Horseshoe Reservoir upstream to Perkinsville.

(ii) *Arizona: Graham and Greenlee Counties.* Gila River from backwaters of San Carlos Reservoir upstream to Arizona/New Mexico State line.

(iii) *Arizona: Greenlee County.* San Francisco River from its junction with the Gila River upstream to the Arizona/New Mexico State line.

(iv) *Arizona: Gila County.* Tonto Creek, from Punkin Center upstream to Gisela.

(v) *Arizona: Yavapai County.* Hassayampa River, from Red Cliff upstream to Wagoner.

The movement of woundfin beyond these areas will be limited to the lower portion of larger tributaries where suitable habitat exists. Downstream movement is limited by dams, reservoirs, and dry streambed. Upstream movement from these areas is restricted due to the absence of habitat. Upstream areas are too cold and the gradient is too steep to support populations of woundfin.

(7) The reintroduced populations will be checked annually to determine their condition. A seining survey will be used to determine population expansion or contraction, reproduction success, and general health condition of the fish.

Dated: June 27, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–17398 Filed 7–23–85; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 50458–5048]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the non-Indian commercial salmon fishery in the fishery conservation zone (FCZ) between Cape Alava, Washington, and Leadbetter Point, Washington, effective on filing of this notice with the Office of the Federal Register, because the quota for coho salmon has been taken. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Washington Department of Fisheries (WDF) that the commercial fishery quota of 78,500 coho salmon for the area was reached by midnight, July 18. The intended effect is to conserve the coho salmon fishery resource.

EFFECTIVE DATE: Closure of the FCZ between Cape Alava, Washington, and Leadbetter Point, Washington, to commercial salmon fishing is effective 0001 hours, Pacific Daylight Time, July 19, 1985.

ADDRESS: Data and other information relevant to this action have been compiled in aggregate form and are available for public review at the Northwest Region, NMFS, 7600 Sand Point Way NE., Building 1, Seattle, Washington, from 8:00 a.m. to 4:30 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten 206–526–6150.

SUPPLEMENTARY INFORMATION: The regulations implementing the framework amendment for the ocean salmon fisheries (49 FR 43679, October 31, 1984) specify at § 661.21(a)(1) that when a quota for the commercial or the recreational fishery, or both, for any salmon species during any period open to fishing in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the Federal Register, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached.

The 1985 season for the non-Indian commercial fishery for all salmon species in the FCZ between Cape Alava, Washington, and Leadbetter Point, Washington, is July 15 through the earliest of July 31 or attainment of a 78,500 coho quota or a 16,100 chinook quota (50 FR 18672, May 2, 1985). Based on the most recent catch and effort information supplied by WDF, the non-Indian commercial fishery catch in the area reached the 78,500 coho salmon quota by midnight, July 18, when WDF acted to close State waters and to prohibit further landings after a grace period of 48 hours (midnight, July 20) for landings in Washington ports. Oregon prohibits troll landings in Oregon ports from this area after midnight, July 19, 1985. The Secretary therefore issues this notice to close the non-Indian commercial fishery in the FCZ between Cape Alava, Washington, and Leadbetter Point, Washington, effective on the filing of this notice with the Office of the Federal Register. This notice does not apply to the treaty Indian troll fishery in the same area or other fisheries which may be operating in other areas.

The Regional Director consulted with the Pacific Fishery Management Council and WDF regarding this closure.

Other Matters

This action is taken under the authority of § 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

Dated: July 19, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85–17606 Filed 7–19–85; 4:46 am]

BILLING CODE 3510–22–M

50 CFR Part 663

[Docket No. 41155–4175]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of fishing restriction and boundary revision, and request for comments.

SUMMARY: NOAA issues this notice (1) establishing restrictions to reduce further the levels of fishing in 1985 for widow rockfish taken off the coasts of Washington, Oregon, and California, and (2) changing the management boundary for the *Sebastes* complex of

VOL
50
ISS
142
JL
24
1985
UMI

rockfish, and seeks public comment on these actions. These actions are authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and are intended (1) to reduce the probability of a fishery closure on widow rockfish before the end of the year (2) to minimize the negative impacts of current fishing restrictions on the fishing community of Coos Bay, Oregon.

DATES: The trip limit for widow rockfish will be effective at 0001 hours Pacific Daylight Time (PDT), July 21, 1985. Change to the management area for the *Sebastes* complex will be effective at 0001 hours PDT, September 1, 1985. These actions will remain in effect until modified, superseded, or rescinded. Comments on both actions will be accepted through August 8, 1985.

ADDRESSES: Submit comments on these actions to Mr. Rolland A. Schmitten, Director, Nortwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98175; or Mr. E.C. Fullerton, Director, Southwest Region, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: R.A. Schmitten at 206–526–6150, E.C. Fullerton at 213–548–2575, or the Pacific Fishery Management Council at 503–221–6352.

SUPPLEMENTARY INFORMATION: Implementing regulations for the Pacific Coast Groundfish Fishery Management Plan at §§ 663.22. and 663.23 provide for inseason adjustments of fishing levels by notice published in the **Federal Register.** This action supersedes those provisions in the notice (50-FR 18668, May 2, 1985) which limited landings of widow rockfish (*Sebastes entomelas*) and the *Sebastes* complex of rockfish (all species of rockfish in the Scorpaenidae family except widow rockfish, Pacific ocean perch (S. Alutus). Shortbelly rockfish (*S. jordani*), and *Sebastolobus* species of rockfishes). The provisions for Pacific ocean perch (50 FR 18668, May 2, 1985) and for sablefish (*Anoplopoma fimbria*) (50 FR 2851, January 15, 1985) remain in effect.

The Pacific Fishery Management Council (Council) reviewed the progress of the groundfish fishery at its July 1985 meeting in Los Angeles, California. The Council's recommendations for the remainder of 1985 and actions taken by the Secretary on those recommendations are presented below. Because the vast majority of groundfish caught off Washington, Oregon, and California are taken from the fishery conservation zone (FCZ) 3–200 nautical miles offshore, all groundfish taken in ocean waters off Washington, Oregon, and California and retained or landed in violation of these restrictions will be treated as though they were taken in the FCZ, the same as in 1984.

1. Lower Trip Limits for Widow Rockfish

Council Recommendation: The Council recommended that a trip limit of 3,000 pounds (with no limit on the number of trips) should replace the current trip limit (30,000 pounds once a week with no limit on landings less than 3,000 pounds).

Rationale: The coastwide optimum yield quota (OY) for widow rockfish in 1985 is 9,300 metric tons, the same as in 1984, but 26 percent above the 1985 allowable biological catch (ABC) of 7,400 mt. When OY is reached, further landings of this species will be prohibited.

In 1985, trip limits were set in January—30,000 pounds once a week or 60,000 pounds once every two weeks—and revised in April—the bi-weekly trip limit provision was deleted. Also in April, the Council announced its intent to restrict the target fishery on widow rockfish severely if 90 percent of the OY were landed before the Council meeting on July 10, in which case the trip limit would be reduced to 3,000 pounds or 10 percent of all fish on board, whichever is less, if more than 1,000 pounds of widow rockfish were on board. However, 90 percent of OY was not projected to be reached until July 14 and at its July 10 meeting the Council recommended and adopted a trip limit of 3,000 pounds, which is simpler to implement from both an enforcement and compliance standpoint. This limit is intended to virtually eliminate target fishing on widow rockfish, while allowing small incidental catches to be landed, slowing the achievement of OY, minimizing discards, and enabling small markets for this species to be supplied as long as possible in 1985. If no action were taken, OY would be reached and the fishery closed in early August.

Secretarial Action: The Secretary concurs with the Council's recommendation and announces—

(1) No more than 3,000 pounds (round weight) of widow rockfish may be taken and retained, or landed, per vessel per fishing trip.

(2) These restrictions apply to all widow rockfish taken and retained in ocean waters (0–200 nautical miles) offshore of, or landed in, Washington, Oregon, and California.

(3) Landing of widow rockfish in the pink shrimp and spot and ridgeback prawn fisheries are governed by the regulations at § 663.28.

2. Shift in Fishing Boundaries for Sebastes Complex

Council Recommendation: The Council recommended that the boundary that currently separates the two trip limits for the *Sebastes* complex should be shifted about 30 miles to the north, from Cape Blanco, Oregon, at 42°50′ N. latitude to the north jetty of Coos Bay, Oregon, at 43°22′ N. latitude. Current trip limits are: North of Cape Blanco—15,000 pounds of the *Sebastes* complex, of which no more than 5,000 pounds may be yellowtail rockfish (*S. flovidus*), with only one landing a week above 3,000 pounds unless biweekly or twice-weekly landing options have been chosen; south of Cape Blanco—40,000 pounds per trip with no limit on the number of trips. No other change to the trip limits for the *Sebastes* complex was recommended.

Rationale: Yellowtail rockfish, found predominantly off Washington and northern Oregon, is the only species found to be biologically stressed in the multispecies *Sebastes* complex. Consequently two different area trip limits were set for this complex. The trip limit north of Cape Blanco was designed to reduce landings of yellowtail rockfish and alleviate stress on that stock. The southern, more liberal limit, which does not severely restrict normal fishing practices, was necessary to discourage a large effort shift to southern waters and thus avoid excessive harvest of other species in the complex. These limits also require that if more than 3,000 pounds of *Sebastes* complex is caught on one side of the line and possessed on the other during a fishing trip, fishermen must have notified the Oregon Department of Fish and Wildlife before leaving port on that trip. If this notification is not made, the more restrictive trip limit applies.

Coos Bay fishermen testified that these provisions caused an undue burden, the boundary at Cape Blanco is approximately 30 miles south of Coos Bay. The productive fishing grounds just south of Cape Blanco have unpredicticable weather that can rapidly become dangerous or unsuitable for fishing. As a result, fishermen may leave Coos Bay with the expectation of a 40,000 pound trip only to find unfishable conditions in the southern area. If they fish north of Cape Blanco on their return, the northern limit applies and the fuel and time spent traveling south to Cape Blanco is a large expense relative to the earnings from the trip.

Moving the line from Cape Blanco to the north jetty of Coos Bay will simplify and enhance the operations of fishermen whose *Sebastes* fishing grounds are predominantly in the vacinity of Cape Blanco. Fishermen will be able to land more of the *Sebastes* complex if the more liberal 40,000 pound trip limit is extended north to Coos Bay and the problem of not recovering expenses if unable to fish south of Cape Blanco will be alleviated. Fishermen also will have fewer transboundary declarations to make since they infrequently will fish for the *Sebastes* complex north of Coos Bay.

The Council considered these factors, hearing additional testimony that there is no known biological reason to deny this change because the amount of yellowtail rockfish taken between Coos Bay and Cape Blanco is negligible. If in place for the entire year, this 30-mile change in areas could reduce the harvest guideline for the northern area by about 800 metric tons. However, because Coos Bay is not at a statistical reporting boundary, recomputation of the harvest guideline and adjustment of the computerized data system cannot be accomplished immediately. Therefore, this line change cannot occur before September 1, 1985. Because the line change is expected to have a minimal impact on the resource and will benefit the fishery, the Council recommended moving the management line to the north jetty of Coos Bay on September 1, 1985. Changes to the harvest guideline for the *Sebastes* complex and the appropriate placement of the line, including the possibility of placing it at Cape Falcon, Oregon (at 45°46′N. latitude) will be considered for the 1986 season when the Council meets in Seattle, Washington, in November.

Secretarial Action: The Secretary concurs with the Council's recommendations and herein repeats in full for the convenience of fishermen the trip limit provisions published in the **Federal Register** (50 FR 18668 May 2, 1985) only changing "Cape Blanco" to "Coos Bay", as follows—

(1) *Definitions.*

(a) *Sebastes* complex means all rockfish managed by the FMP except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*S. entomelas*), shortbelly rockfish (*S. jordani*), and *Sebastolobus* species of rockfish (which includes idiot rockfishes). The *Sebastes* complex includes yellowtail rockfish (*Sebastes flavidus*).

(b) "One-week period" means seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(c) "Two-week period" means 14 consecutive days beginning at 0001 hours Sunday and ending 2400 hours Saturday, local time.

(d) All weights are round weights, the weight of the whole fish.

(2) *General.*

(a) These restrictions apply to all fish of the *Sebastes* complex taken and retained in ocean waters (0–200 nautical miles) offshore of, or landed in, Washington, Oregon, and California.

(b) There is no limit on the number of landings under 3,000 pounds of the *Sebastes* complex allowed per week.

(c) It will be presumed that all fish of the *Sebastes* complex which are possessed or landed north of the north jetty at Coos Bay, Oregon (43°22′N. latitude), hereafter referred to as Coos Bay, were caught north of Coos Bay unless compliance with paragraph (3) can be demonstrated.

(3) *Operating both north and south of Coos Bay in a trip.* Unless compliance with this paragraph can be demonstrated, fishing for any groundfish species during a single fishing trip must occur either north or south, but not on both sides of Coos Bay if more than 3,000 pounds of the *Sebastes* complex is landed from that trip. The vessel owner or operator must notify the State of Oregon before leaving port on a fishing trip of intent to fish in one area and possess or land in the other, in which case fishing may occur both north and south of Coos Bay. If fishing occurs both north and south of Coos Bay during a single fishing trip, then the restrictions on the *Sebastes* complex caught north of Coos Bay apply.

This notification, submitted by telephone or in writing, should be made to the Oregon Department of Fish and Wildlife, Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 97365, telephone 503–867–4741; or P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515, between 8:00 a.m. and 4:30 p.m., and other times at 503–269–5000 or 503–269–5999; or 53 Portway Street, Astoria, OR 97103, telephone 503–325–2462.

(4) *Restrictions on the Sebastes complex caught north of Coos Bay.* (a) *Weekly trip limit.* Except for the biweekly and twice weekly trip limits provided in paragraphs (4)(b) and (4)(c), no more than 15,000 pounds of the *Sebastes* complex, including no more than 5,000 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip in a one-week period north of Coos Bay. Only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in that one-week period.

(b) *Biweekly trip limit.* If the appropriate agency is notified as required by this paragraph, up to 30,000 pounds of the *Sebastes* complex, including no more than 10,000 pounds of yellowtail rockfish, may be taken and retained, possessed or landed, per vessel per fishing trip in a two-week period north of Coos Bay. Only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in that two-week period, and only if compliance with this paragraph can be demonstrated. The vessel owner or operator must notify the fishery agency of the State where the fish will be landed in order to make one landing of the *Sebastes* complex above 3,000 pounds every *two* weeks, which obligates the vessel owner and operator to use only the biweekly trip limit unless rescinded in writing.

The State of Oregon or California must receive a written notice declaring intent to use the biweekly limits before the first day of the first two-week period in which such landings are to occur; the notice is binding for entire one-month periods (two consecutive two-week periods). This notice of intent may be canceled by notifying the appropriate State in writing prior to the two-week period in which this rescission is to occur. The State of Washington must receive written notice declaring intent to use the biweekly limits postmarked at least seven days before the first day of the first two-week period in which such landings are to occur. This notice of intent may be canceled by notifying the State in writing postmarked at least seven days before the calendar month in which this rescission is to occur.

Notifications must be submitted to the Oregon Department of Fish and Wildlife, Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 97365, telephone 503–867–4741; P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515, between 8:00 a.m. and 4:30 p.m., and other times at 503–269–5000 or 503–269–5999; 53 Portway street, Astoria, OR 97103, telephone 503–325–2462; or to the Washington Department of Fisheries, 115 General Administration Building, Olympia, WA 98504; or to the California Department of Fish and Game, Branch Office, 619 Second Street, Eureka, CA 95501.

(c) *Twice weekly trip limit.* If the appropriate agency is notified as required by this paragraph, up to 7,500 pounds of the *Sebastes* complex, including no more than 3,000 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip north of Coos Bay. Only two landings of the *Sebastes* complex above 3,000 pounds may be made per vessel in a one-week period, and only if compliance with this

VOL 50 ISS 142 JL 24 1985 UMI

paragraph can be demonstrated. The vessel owner or operator must notify the fishery agency of the State where the fish will be landed in order to make two landings of the *Sebastes* complex above 3,000 pounds in a one-week period, which obligates the vessel owner and operator to use only the twice weekly trip limit unless rescinded in writing.

The State of Oregon or California must receive a written notice declaring intent to use the twice weekly limits before the first day of the first one-week period in which such landings are to occur; the notice is binding for entire one-month periods (defined as two consecutive two-week periods). This notice of intent may be canceled by notifying the appropriate State in writing prior to the one-week period in which this rescission is to occur. The State of Washington must receive a written notice declaring intent to use the twice-weekly limits postmarked at least seven days before the first day of the first one-week period in which such landings are to occur. This notice of intent may be canceled by notifying the State in writing postmarked at least seven days prior to the calendar month in which this rescission is to occur. Notifications must be submitted to the same addresses given in paragraph (4)(b) of this section for biweekly trip limits.

(5) *Restrictions on the Sebastes complex caught south of Coos Bay.*

No more than 40,000 pounds of the *Sebastes* complex may be taken and retained, possessed, or landed, per vessel per fishing trip south of Coos Bay. There is no limit on the number of landings allowed per week of the *Sebastes* complex caught south of Coos Bay.

Other Fisheries

These limits for widow rockfish and the *Sebastes* complex apply to vessels of the United States, including those vessels delivering groundfish to foreign processors. Retention of these species by foreign processing vessels is limited by separate incidental retention allowances established under 50 CFR 611.70.

U.S. vessels operating under an experimental fishing permit issued under § 663.10 also are subject to these restrictions except as may be otherwise specified in the permits.

Landings of groundfish in the pink shrimp and spot and ridgeback prawn fisheries are governed by regulations at § 663.28.

Classification

The determination to impose these fishing restrictions is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until the end of the comment period.

These actions are taken under the authority of §§ 663.22 and 663.23, and are in compliance with Executive Order 12291. The actions are covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice of action reducing fishing levels in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to the public interest. If current fishing rates continue, the optimum yield quota for widow rockfish will be reached by the end of 1985. Prompt action to lower those fishing rates is necessary to reduce the probability of year-end closure of the widow rockfish fishery in 1985. Consequently, further delay of this action is impracticable and contrary to the public interest, and this action therefore is taken in final form effective July 21, 1985. However, prior comment will be accepted before moving the *Sebastes* complex management line north to Coos Bay.

The public has had opportunity to comment on these actions at the Groundfish Select Group, Groundfish Management Team, and Council meetings in April, June, and July 1985 that generated the management actions endorsed by the Council and the Secretary. Further public comments will be accepted for 15 days after publication of this notice in the **Federal Register**.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: July 19, 1985.

Carmen J. Blondin,

Deputy Assistant Admininstrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-17560 Filed 7-19-85; 12:50 pm]

BILLING CODE 3510-22-M

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50 CFR Part 681

[Docket No. 50460-5060]

Western Pacific Spiny Lobster Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: The Secretary of Commerce (Secretary) extends an emergency rule now in effect to resolve an enforcement problem for spiny lobsters in the Western Pacific. It defines a legal-sized spiny lobster by a tail-width measurement and eliminates any tolerance for undersized spiny lobsters. The intended effect is to make it easier to enforce the regulations and monitor the landings of spiny lobsters.

DATES: Suspension of the definition of *Tail width* in § 681.2 and of § 681.21 (a) and (b) is extended from July 24, 1985, to October 22, 1985. The effective date of the emergency definition of *Tail width* and of § 681.21(c) is extended from July 24, 1985, to October 22, 1985.

FOR FURTHER INFORMATION CONTACT: Robert T.B. Iverson, 808-955-8831.

SUPPLEMENTARY INFORMATION: Under section 305(e) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency rule (50 CFR 18264, April 30, 1985) amending the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region and its implementing regulations. This rule defined the tail-width measurement to be used to determine a legal-sized spiny lobster and eliminated the existing 15 percent tolerance for undersized lobsters in the catch. The previous method of measuring spiny lobsters proved unworkable and some fishermen were deliberately taking undersized lobsters up to the tolerance limit, as described in the preamble to the emergency rule. Public comments were invited on this rule for 30 days after filing. No comments were received.

The Western Pacific Fishery Management Council has voted to extend this emergency rule for an additional 90 days, since the conditions requiring the original emergency rule still exist.

The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided for in section 8(a)(1) of that order. This rule is being reported to the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 681

Fish, Fisheries, Reporting requirements.

Dated: July 19, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-17559 Filed 7-19-85; 12:51 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 142
Wednesday, July 24, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Fresh Tomatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action would amend the voluntary United States Standards for Grades of Fresh Tomatoes. Industry representatives have requested that the grade standards be amended to change the size requirements and the generic size designations. Adoption of the requested changes would provide industry with size designations in line with current sizing capabilities.

DATE: Comments must be received on or before September 23, 1985.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2069, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: David L. Priester, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5410.

SUPPLEMENTARY INFORMATION: This rule had been reviewed under USDA Procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It would not result in an annual effect on the economy of $100 million or more. There would be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It would not result in significant effects on competition, employment, investments, productivity, innovations, the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The voluntary United States Standards for Grades of Fresh Tomatoes were last amended in March 1976. Industry representatives have requested that the standards be amended to change the size requirements and the generic size designations.

	Minimum diameter	Maximum diameter
Current		
Extra small	1 9/32	2 2/32
Small	2 1/32	2 5/32
Medium	2 5/32	2 17/32
Large	2 13/32	2 25/32
Extra large	2 21/32	3 1/32
Maximum large	3 1/32	
Proposed		
Small	2 5/32	2 17/32
Medium	2 5/32	2 25/32
Large	2 17/32	2 29/32
Extra large	2 25/32	3 1/32
Maximum large	3 1/32	

The recent introduction of commercially important varieties that tend to be characteristically oblong as opposed to the more spherical shape of traditional varieties is presenting difficulties in sizing to meet size requirements. Adoption of the proposed changes would significantly lessen this difficulty and promote more uniform trading practices.

This proposal would also add to the combination grade (U.S. No. 1—U.S. No. 2) the provision that individual containers shall not have more than 10 percent less than the percentage of the U.S. No. 1 grade specified. This provision was unintentionally omitted in a prior amendment of the standards. The reference to USDA's color photo Visual Aid TM-L-1 would be updated.

List of Subjects in 7 CFR Part 51

Agricultural commodities.

PART 51—[AMENDED]

Acordingly, it is proposed that 7 CFR Part 51 be amended as follows:

1. **The authority citation for 7 CFR Part 51 continues to read as follows:**

Authority: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622-1624.

Subpart—United States Standards for Grades of Fresh Tomatoes.

§ 51.1859 [Amended]

2. Section 51.1859 Table I would be revised to read as follows:

* * * * *

TABLE I

Size designations	Inches		Millimeters	
	Minimum diameter [1]	Maximum diameter [2]	Minimum diameter [1]	Maximum diameter [2]
Small	2 5/32	2 17/32	55	59
Medium	2 5/32	2 17/32	57	65
Large	2 17/32	2 25/32	64	71
Extra large	2 25/32	32 1/32	70	80
Maximum large	3 1/32		87	

[1] Will not pass through a round opening of the designated diameter when tomato is placed with the greatest transverse diameter across the opening.
[2] Will pass through a round opening of the designated diameter in any position.

§ 51.1860 [Amended]

4. Section 51.1860 paragraph (d) would be revised to read as follows:

* * * * *

(d) U.S.D.A. VISUAL AID TM-L-1 (Color photo classification chart), which illustrates the color classifications set forth above, may be purchased from the John Henry Co., Lansing, Michigan or it may be viewed either at the Agricultural Marketing Service, Fruit and Vegetable Division, Washington, D.C. or at any of its field offices.

§ 51.1861 [Amended]

5. Section 51.1861 paragraph (b)(2)(iv) would be added to read as follows:

* * * * *

(b) * * *

(2) * * *

(iv) No part of any tolerance shall be allowed to reduce for the lot as a whole the percentage of U.S. No. 1 grade specified in the combination grade and, individual containers shall not have more than ten percent less than the

VOL
50
ISS
142
JL
24
1985
UMI

percentage of U.S. No. 1 grade specified: Provided, that the entire lot averages within the percentage specified.

* * * * *

Done in Washington, D.C. on: July 19, 1985.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 85-17542 Filed 7-23-85; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 989

Raisins Produced From Grapes Grown in California; Establishment of Incoming Weight Dockage and Weight Adjustment Systems for Certain Seedless Raisins, and Addition of Incoming and Outgoing Grade Standards for Cluster Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on the proposed establishment of: (1) A weight dockage system for certain seedless raisins which do not meet incoming maturity requirements, to mitigate the impact of tighter requirements scheduled to take effect August 1, 1985; (2) a weight adjustment system, based on moisture content, for certain seedless raisins to foster the delivery of drier raisins; and (3) incoming and outgoing grade standards for Cluster Seedless raisins to increase consumer confidence in this relatively new product. These proposals were recommended by the Raisin Administrative Committee (Committee), which works with the USDA in administering the order.

DATE: Comments must be received by August 7, 1985.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2069, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Telephone Number (202) 447-5053.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposal will not have a significant economic impact on a substantial number of small entities.

This proposal would amend Subpart—Supplementary Regulations (7 CFR 989.210—989.221) by revising § 989.210 and by adding §§ 989.211, 989.212, and 989.213 to establish (1) a weight dockage system for Grade B or better maturity[1] and (2) a weight adjustment system for moisture for certain seedless raisins delivered by producers to packers. It would also amend Subpart—Quality Control (7 CFR 989.701–989.702) by revising §§ 989.701 and 989.702 to establish incoming and outgoing quality standards for Cluster Seedless raisins. These subparts are operative pursuant to the marketing agreement and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order, hereinafter referred to collectively as the "order", are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Authority for the following proposals is contained in §§ 989.58 and 989.59 of the order.

Last year changes were made in the incoming grade standards for raisins delivered by producers to packers contained in § 989.701 and the grade standards for packed raisins contained in § 989.702 to make the California raisin industry more quality competitive with foreign producers, and to increase user acceptance of California raisins (49 FR 33992). One of those changes, starting November 15, 1985, requires packed Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, Golden Seedless, and Monukka raisins to contain at least 70 percent Grade B or better maturity raisins. The current Grade B or better standard for packed raisins is 82.5 percent. Beginning August 1, 1985, raisin lots of those varietal types delivered by producers to packers must contain a minimum of 50 percent Grade B or better maturity raisins. Raisin lots containing less than 50 percent Grade B or better maturity raisins would be off-grade and could not be acquired by raisin packers except for reconditioning or disposition as off-grade raisins.

To alleviate the impact on producers as much as possible in delivering raisins to packers, the Committee has now proposed a weight dockage system for Grade B or better maturity for those raisins delivered failing to meet the new incoming standard. Under the proposal, raisin packers could acquire lots of those varietal types of raisins with 40 to 49.9 percent Grade B or better maturity without reconditioning, but the net weight of the deliveries would be docked 2 percentage points in weight for each one percentage point the Grade B or better maturity content is less than 50 percent. The weight reduction of the lot would approximate the weight of the raisins needed to be removed from the lot by the packer during normal processing for the balance of the lot to meet the new 70 percent Grade B or better maturity taking effect on November 15, 1985. Deliveries determined to have less than 40 percent Grade B or better maturity would be off-grade and thus would have to be disposed of by the packer as off-grade, reconditioned, or returned to the producer. If these raisins were acquired under a dockage system, packers would experience higher than normal yield losses, and greater processing costs in obtaining a product that would meet the 70 percent Grade B or better maturity for packed raisins.

No changes were proposed in the incoming standards for substandard raisins[2] of those varietal types. The current tolerance for substandard raisins is 5 percent with a dockage system prescribing a 1 percent weight deduction for each 1 percent substandard in excess of 5.1 percent up to 10 percent. Deliveries with more than 10 percent are off-grade and require reconditioning before they can be acquired by packers. In the absence of reconditioning, the raisins are returned to the producer, or disposed of by packers as off-grade raisins.

The amount of dockage under the proposed dockage system for Grade B or better maturity and the system currently in effect for substandard raisins would operate concurrently under the proposal. Dockage for both categories would be calculated and the highest dockage would be applied to the net weight of the producers deliveries.

The proposed weight adjustment system for moisture is intended to encourage raisin producers to deliver

[1] For the purposes of this document Grade B or better maturity raisins are raisins which are well-matured or reasonably well-matured as defined in the U.S. Standards for Grades of Processed Raisins (7 CFR 52.1841–52.1858).

[2] For the purposes of this document, substandard raisins are raisins which are less than fairly well-matured as defined in the United States Standards for Grades of Processed Raisins (7 CFR 52.1841–52.1858).

drier Natural (sun-dried) Seedless and Monukka raisins to packers (i.e., in the 10 to 14 percent moisture range). The industry has found that higher maturity raisins of these varietal types with a moisture level in excess of 14 percent tend to sugar if held in storage for extended periods of time. Sugaring is an undesirable condition in raisins because the raisins feel gritty, rather than soft and pliable, when eaten. Increasing the storage life of raisins is important to the industry because of the industry's current burdensome supply situation and the potential for continued large productions in the immediate future. This situation will result in raisins being held for longer periods of time in the industry's reserve pools.

Under this system, growers delivering lots of raisins containing 14.1 through 16.0 percent moisture would be docked 2 pounds of raisins per ton for each 1/10 percent moisture in excess of 14 percent. Growers delivering raisins with 12.0 through 13.9 percent moisture, would receive a weight credit of 2 pounds of raisins per ton for each 1/10 percent moisture under 14.0 percent. Raisins with a moisture percentage of 10.0 through 11.9 percent would receive a weight credit of 40 pounds per ton. The weight of raisins containing less than 10 percent moisture would not be docked or adjusted because such raisins are difficult to hydrate, damage in processing, and result in increased packer processing costs. There would be no dockage or adjustment on raisins containing 14 percent moisture.

The moisture adjustment calculations will be made when applicable prior to the application of substandard or Grade B or better maturity dockage.

Last year, the Committee exempted 10 tons of Cluster Seedless raisins from all order requirements pursuant to § 989.60 of the order. Cluster Seedless raisins are sun-dried Thompson Seedless grapes which are marketed unstemmed and left in bunches. About 3 to 4 tons were marketed under this exemption. Experiments were conducted to determine the grade and condition standards which could be applied to Cluster Seedless raisins. As a result of marketing experience gained last year, and experimentation on quality requirements, 100 tons were approved for exemption from volume controls for the 1985 season. However, the Committee recommended that incoming and outgoing standards for Cluster Seedless raisins should be established under the order to assure consumers of a quality product and help expand markets for this new product. Also, this would allow the industry another year's experience before recommending standards to the Department to be established in the United States Standards for Processed Raisins.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, and California.

1. The authority citation for 7 CFR Part 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 989.210 of Subpart—Supplementary Regulations (7 CFR 989.210–989.221) is revised to read as follows:

Subpart—Supplementary Regulations

§ 989.210 Handling of varietal types of raisins acquired pursuant to a weight dockage and/or weight adjustment (moisture) system.

(a) *General.* A handler may acquire as standard raisins lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Sultana, Zante Currant and Muscat (including other raisins with seeds) raisins under the weight dockage and/or weight adjustment (moisture) provisions described in §§ 989.211, 989.212, and 989.213. The creditable weight of each lot of raisins acquired in this manner shall be that obtained by multiplying the net weight of the raisins in the lot by the applicable factor(s) from the appropriate dockage and/or weight adjustment (moisture) table(s) included in those sections.

(b) *Free and reserve tonnage percentages.* Whenever free and reserve percentages are designated for raisins of the varietal types specified in paragraph (a) of this section for a crop year, such percentages shall be applicable to the creditable weight of any lot of such raisins acquired by a handler pursuant to a weight dockage and/or weight adjustment (moisture) system.

(c) *Reserve tonnage.* A handler may hold as reserve tonnage raisins, any lot, or portion thereof, of raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage and/or weight adjustment (moisture) system: *Provided,* That only the creditable weight of such lot, or portion thereof, may be applied by the Committee against the handler's reserve tonnage obligation.

(d) *Assessments.* Assessments on any lot of raisins of the varietal types specified in paragraph (a) of this section acquired by a handler pursuant to a weight dockage and/or weight adjustment (moisture) system shall be applicable to the free tonnage portion of the creditable weight of such lot.

(e) *Payments for services on reserve tonnage.* Payment to a handler for services performed by him with respect to reserve tonnage raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage and/or weight adjustment (moisture) system shall be made on the basis of the creditable weight of such lot and at the applicable rate specified for such services in § 989.401 of Subpart—Schedule of Payments.

(f) *Identification.* Any lot of raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage and/or weight adjustment (moisture) system shall be so identified by the inspection service affixing to one container on each pallet, or to each bin, in such lot, a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed to the container or bin until the raisins are processed or disposed of as natural condition raisins. The control card shall only be removed by, or under the supervision of an inspector of, the inspection service, or authorized Committee personnel.

(g) *Application of dockage and/or weight adjustment (moisture) factor(s).* The weight adjustment factor for moisture shall be applied to the net weight of raisins acquired, prior to application of the dockage factor for substandard or maturity. A lot of raisins acquired which may be subject to both a substandard and maturity dockage factor shall have only the highest of the two dockage factors applied to determine the creditable weight.

3. A new § 989.211 is added to Subpart—Supplementary Regulations (7 CFR 989.210–989.221) to read as follows:

§ 989.211 Weight adjustment (moisture) system.

(a) *General.* Natural (sun-dried) Seedless, and Monukka raisins containing from 14.1 percent through 16.0 percent moisture or from 10.0 percent through 13.9 percent moisture may be acquired by a handler under a weight adjustment system. The creditable weight of each lot of raisins acquired under this adjustment system shall be obtained by multiplying the net weight of the raisins in the lot by the applicable factor prescribed in paragraph (b) or (c) of this section.

(b) *Adustment table for Natural (sun-dried) Seedless and Monukka raisins with 14.1 percent through 16.0 percent moisture:*

Percent moisture	Adjustment factor
16.0	.980
15.9	.981
15.8	.982
15.7	.983
15.6	.984
15.5	.985
15.4	.986
15.3	.987
15.2	.988
15.1	.989
15.0	.990
14.9	.991
14.8	.992
14.7	.993
14.6	.994
14.5	.995
14.4	.996
14.3	.997
14.2	.998
14.1	.999
14.0	1.000

NOTE.—No adjustment for deliveries at 14 percent and in excess of 16 percent.

(c) *Adjustment table for Natural (sun-dried) Seedless and Monukka raisins with 10.0 percent through 13.9 percent moisture:*

Percent moisture	Adjustment factor
14.0	1.000
13.9	1.001
13.8	1.002
13.7	1.003
13.6	1.004
13.5	1.005
13.4	1.006
13.3	1.007
13.2	1.008
13.1	1.009
13.0	1.010
12.9	1.011
12.8	1.012
12.7	1.013
12.6	1.014
12.5	1.015
12.4	1.016
12.3	1.017
12.2	1.018
12.1	1.019
12.0–10.0	1.020

NOTE.—No adjustment for deliveries at 14 percent and below 10 percent.

4. A new § 989.212 is added to Subpart—Supplementary Regulations (7 CFR 989.210—989.221) to read as follows:

§ 989.212 Substandard docket.

(a) *General.* Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless and Monukka raisins containing from 5.1 through 10.0 percent, by weight, of substandard raisins may be acquired by a handler under a weight dockage sysem. A handler also may, subject to prior agreement, acquire as standard raisins any lot of Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins containing more than 12 percent, by weight, of substandard raisins under a dockage system. The creditable weight of each lot of raisins acquired under the substandard dockage system shall be obtained by multiplying the applicable net weight or créditable weight (weight determined by applyng the applicable weight adjustment factor for moisture), of the lot of raisins by the applicable dockage factor from the appropriate dockage table prescribed in paragraph (b) or (c) of this section.

(b) *Substandard dockage table applicable to Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins.*

Percent substandard	Dockage factor
5.5 or less	(')
5.1	.999
5.2	.998
5.3	.997
5.4	.996
5.5	.995

(') No dockage.
NOTE.—Percentages in excess of the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage for the preceding increment. No dockage for deliveries in excess of 10 percent substandard.

(c) *Substandard dockage table applicable to Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins.*

Percent substandard	Dockage factor
12.0 or less	(')
12.1	.999
12.2	.998
12.3	.997
12.4	.996
12.5	.995

(') No dockage.
NOTE.—Percentage in excess of the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage factor for the preceding increment.

5. A new § 989.213 is added to Subpart—Supplementary Regulations (7 CFR 989.210–989.221) to read as follows:

§ 989.213 Maturity dockage.

(a) *General.* Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins containing from 40.0 through 49.9 percent, by weight, of well-matured or reasonably well-matured raisins may be acquired by a handler under a weight dockage system. the creditable weight of each lot of raisins acquired under the maturity dockage system shall be obtained by multiplying the applicable net weight or creditable weight (weight determined by applying the applicable weight adjustment factor for moisture) of the lot of raisins by the applicable dockage factor from the dockage table prescribed in paragraph (b) of this section.

(b) *Maturity dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins.*

Percent well-matured or reasonably well-matured	Dockage factor
50.0 or more	(')
49.9	.998
49.8	.996
49.7	.994
49.6	.992
49.5	.990
49.4	.988
49.3	.986
49.2	.984
49.1	.982
49.0	.980

(') No dockage.
NOTE. Percentages less than the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .002 less than the dockage factor for the preceding increment. No dockage shall apply to lots of raisins containing 39.9 percent or less well-matured or reasonably well-matured raisins.

6. The preamble of § 989.701 and § 989.701(a) of Subpart—Quality Control (7 CFR 989.701–989.702) are revised to read as follows:

Subpart—Quality control

§ 989.701 Minimum grade and condition standards for natural condition raisins.

Effective pursuant to § 989.58, raisins meeting the varietal standards hereinafter set forth shall be considered as standard raisins and those failing to meet such standards shall be considered as off-grade raisins. Where the raisins in any lot consist of two or more varietal types commingled within their containers, the lot shall be considered as a mixed lot and as standard raisins if they meet for each defect the most restrictive requirements for the varietal types of raisins comprising the lot. In the event layered Muscats (including other raisins with seeds) or Cluster Seedless raisins are commingled within their containers with loose Muscats (including other raisins with seeds) or loose Cluster Seedless raisins respectively, the entire lot shall be considered as loose Muscats (including other raisins with seeds) or Natural (sun-dried) Seedless raisins. The raisins shall be considered as standard raisins if the lot as a whole meets the minimum standards for loose Muscats (including other raisins with seeds) or Natural (sun-dried) Seedless raisins: *Provided,* That with respect to the requirements peculiar to a varietal type such as possessing characteristic color, flavor, or odor, the raisins shall be considered as meeting such requirements if they have been properly prepared as raisins. In each category, only those raisins which have been properly dried and cured in original natural condition, are free from active infestation, and are in such condition that they are capable of being received, stored, and packed without undue deterioration or spoilage. shall be considered as storable raisins.

(a) *Natural (sun-dried) Seedless and Monukka raisins.* Natural condition Natural (sun-dried) Seedless and Monukka raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall have a normal characteristic color, flavor, and odor of properly prepared raisins; (3) shall contain not more than 5 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes), and shall also contain at least 50 percent well-matured or reasonably well-matured raisins; (4) shall not exceed 16 percent moisture as determined by the dried fruit moisture tester method, except that there shall be no maximum moisture content for Cluster Seedless raisins; and (5) shall be of such quality and condition as can be expected to withstand storage as provided in the order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee, and that with respect to Cluster Seedless raisins, in addition to the above requirements the raisins shall be fairly free from shattered (or loose end) berries, and be uniformly cured; shall contain 30 percent or more "2 Crown" or larger size berries; and shall be of such quality and condition that when processed in accordance with good commercial practice will, except for moisture content, meet the minimum standards for processed raisins established by the Committee.

* * * * *

7. Section 989.702(g) of Subpart—Quality Control (7 CFR 989.701–989.702) is revised and a new § 989.702(h) is added to read as follows:

§ 989.702 Minimum grade standards for packed raisins.

* * * * *

(g) *Cluster Seedless raisins.* (1) *Description.* Raisins referred to as "Cluster Seedless raisins" means the raisins have not been detached from the main bunch. Cluster Seedless raisins shall at least meet the requirements of Grade B prescribed in this paragraph. The processed raisins are prepared from clean, sound, dried grapes; are stored or cleaned, or both, and are washed with water to assure a wholesome product.

(2) *Grades.* (i) Grade A is a quality of Cluster Seedless raisins that have similar varietal characteristics; have a good typical color; have a good characteristic flavor; are uniformly cured and show development characteristics of raisins prepared from well-matured grapes; contain not more than 23 percent, by weight, of moisture; that not less than 30 percent, by weight, of the raisins, exclusive of stems and branches, are "2 Crown" size or larger and meet the additional requirements as outlined in the table in subparagraph (2)(iv) of this paragraph.

(ii) Grade B is the quality of the Cluster Seedless raisins that have similar varietal characteristics; have a reasonably good typical color; have a good characteristic flavor; are uniformly cured and show characteristics of raisins prepared from reasonably well-matured grapes: contain not more than 23 percent, by weight, of moisture; that not less than 30 percent, by weight, of raisins, exclusive of stems and branches, are "2 Crown" size or larger and meet the additional requirements as outlined in the table in subparagraph (2)(iv) of this paragraph.

(iii) Substandard is the quality of Cluster Seedless raisins that fail to meet the requirements of Grade B.

(iv) Allowances for defects in Cluster Seedless raisins:

Defects	Marketing order grade A	Marketing order grade B
	Maximum (percent by weight)	
Sugared	5	10
Discolored, damaged, or moldy. Provided these limits are not exceeded:	5	7
Damaged	3	4
Moldy	2	3
Substandard Development and Undeveloped.	2	5
Shattered (or loose) individual berries and small clusters of 2 or 3 berries each.	Practically free	Reasonably free
	Appearance or edibility of product.	
Slightly discolored or damaged by fermentation or any other defect not described above.	May not be affected	May not be more than slightly affected
Grit, sand, or silt	None of any consequence may be present that affects the appearance or edibility of the product.	

(h) A handler may grind raisins which do not meet the minimum grade standards prescribed in paragraph (a) through (g) of this section because of mechanical damage or sugaring, into a raisin paste.

Dated: July 18, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 85-17544 Filed 7-23-85; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1032 and 1050

Milk in the Southern Illinois and Central Illinois Marketing Areas; Proposed Suspension of Certain Provisions of the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain diversion provisions of the Southern Illinois and Central Illinois orders that relate to how much milk may be moved directly from farms to nonpool plants and still be priced under the orders. The proposed action would remove the limits on such movements of milk under each of the orders during August 1985. The action was requested by Prairie Farms Dairy, Inc., a cooperative association that represents producers who supply each of the markets. The cooperative contends that the action is necessary to assure the efficient disposition of an increasing supply of milk production by producers who have regularly supplied the fluid milk needs of the respective markets.

DATE: Comments are due not later than July 31, 1985.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk price under the orders and thereby receive the benefits that accrue from such pricing.

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Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the orders regulating the handling of milk in the Southern Illinois and Central Illinois marketing areas is being considered for the month of August 1985:

1. In 7 CFR Part 1032 (Sourthern Illinois) in § 1032.13(b)(2), the words "on any day during the months of May, June, and July during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer".

2. In 7 CFR Part 1050 (Central Illinois):

a. In § 1050.13(d)(1), the words "During May, June and July".

b. In § 1050.13, paragraphs (d) (2) (3), (4) and (5).

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the **Federal Register**. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures to make the suspension effective for August 1985.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove the limits on the amount of milk that may be moved directly from farms to nonpool plants and still be priced under the Southern Illinois and Central Illinois orders during August 1985. During August, such movements of milk to nonpool plants under the Southern Illinois order are limited to not more than 12 days' production of a producer. Under the Central Illinois order, diversions to nonpool plants may not exceed the number of days of production that is received at pool plants, provided that the total quantity of producer milk diverted does not exceed 35 percent of the amount of milk physically received at pool plants.

The suspension was requested by Prairie Farms Dairy, Inc., a cooperative association that supplies milk to handlers regulated under each of the orders. The cooperative association contends that the action is necessary to assure the efficient disposition of an increasing supply of milk to nonpool manufacturing plants for use in manufactured products. The cooperative indicates that milk production is significantly above year-earlier levels and that a greater proportion of the available milk supplies will have to be shipped to manufacturing plants than can be accommodated under the current diversion provisions of the orders. The cooperative indicates that a relaxation of the diversion provisions will permit the efficient disposition of available milk supplies during August and provide market participants with sufficient time to evaluate the production and sales relationships for the markets to make appropriate marketing adjustments prior to September. In the absence of a suspension action, it is likely that costly and inefficient movements of milk would have to be made solely for the purpose of pooling the milk of dairy farmers who have regularly supplied the fluid milk needs of the respective markets.

List of Subjects in 7 CFR Parts 1032 and 1050

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Parts 1032 and 1050 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended ; U.S.C. 601–674).

Signed at Washington, D.C., on July 18, 1985.

Eddie F. Kimbrell,

Deputy Administrator Commodity Services.

[FR Doc. 85–17584 Filed 7–23–85; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1036

[Docket No. AO–179–A49]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider several proposals to amend the Eastern Ohio-Western Pennsylvania milk order. The principal proposals would establish a single Class I price differential throughout the marketing area and within Pennsylvania at the present Zone 2 price level and reduce the pooling requirements for cooperative balancing plants. Other proposals would relax certain requirements related to the limits on the amount of milk that may be moved directly from producer farms to nonpool manufacturing plants and allow temporary revision of pooling requirements for pool supply and cooperative balancing plants when temporary aberrations occur in the market's supply-demand conditions. Proponents contend that the modifications are needed to reflect changed marketing conditions.

DATE: The hearing will convene at 9:30 a.m. on August 7, 1985.

ADDRESS: The hearing will be held at the Holiday Inn Strongsville, 15471 Royalton Road, Strongsville, Ohio 44136, (212) 238–8800.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Holiday Inn Strongsville, 15471 Royalton Road, Strongsville, Ohio 44136, beginning at 9:30 a.m., on August 7, 1985, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96–354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties, subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Proposal No. 1 would eliminate the present pricing zones of the marketing area. However, the proposal does not open for consideration at the hearing any changes in the presently defined marketing area.

List of Subjects in 7 CFR Part 1036

Milk Marketing Orders, Milk, Dairy products.

The authority citation for Part 1036 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Milk Marketing, Inc.

Proposal No. 1

Amend § 1036.2, *Eastern Ohio-Western Pennsylvania marketing area.* by deleting "Zone 1" in paragraph (a), "Zone 2" in paragraph (b), "Zone 3" in paragraph (c), and "Zone 4" in paragraph (d).

Proposal No. 2

Amend § 1036.7(b), *Pool Plant*, to provide that:

The percentages specified in this paragraph may be increased or decreased by up to 10 percentage points by the director of the Dairy Division if he/she finds that such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision either on his/her own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and invite data, views or arguments in favor of or in opposition to the proposed revision.

* * * * *

Proposal No. 3

Amend § 1036.7 by deleting the present provisions of paragraph (d) and substituting the following:

Section 1036.7 Pool plant.

* * * * *

(d) A plant(s) operated by a cooperative association, if, during the month, 35 percent or more of the producer milk of members of the association is delivered to distributing pool plants or to nonpool plants when a Class II or Class III classification is not requested. Deliveries for qualification purposes may be made directly from the farm or by transfer from such association's plant. The 35 percent delivery requirement may be met for the current month or it may be met on the basis of deliveries during the preceding 12 month period ending with the current month.

(1) In order for such plant(s) to attain pool status they must also:

(i) Be approved by a duly constituted health authority to handle milk for fluid consumption;

(ii) Have pool status requested by the cooperative association;

(iii) Not qualify as a pool plant under this or any other Federal order as a distributing plant or a supply plant.

(2) The delivery requirements in this paragraph may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if he/she finds that such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision on either his/her own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and invite date, views, or arguments in favor of or in opposition to the proposed revision.

* * * * *

Proposal No. 4

In § 1036.7, suspend the language in the first sentence of paragraph (d) that reads "is not less than 65 percent in any month of September through April and not less than 50 percent in any other month" until the proceeding on proposal No. 3 is completed.

Proposal No. 5

In § 1036.13, revise paragraphs (f)(1)(ii) and (f)(2)(ii) to read as follows:

Section 1036.13 Producer milk.

* * * * *

(f)(1)(ii) The plant operator may divert an aggregate quantity of milk of producers not exceeding 40 percent of the producer milk received at or diverted from such pool plant.

(f)(2)(ii) The cooperative association may divert an aggregate quantity of milk not exceeding 40 percent of the producer milk that the cooperative association causes to be delivered to pool plants or diverted therefrom.

* * * * *

Proposal No. 6

In § 1036.50(a) change "$1.85" to "$1.80."

Proposal No. 7

Revise § 1036.52 *Plant location adjustments for handlers* by deleting paragraph (a) and changing "At a plant outside the marketing area," to "At a plant outside of Pennsylvania and outside the marketing area," in the beginning of paragraph (b) of that section.

Proposed by National Farmers Organization

Proposal No. 8

In § 1036.7 revise paragraph (d) to read as follows:

(d) A plant(s) operated by a cooperative association if during the month 40 percent or more of the producer milk of members of the association is delivered to pool distributing plants either directly from the farm or by transfer from such association's plant(s), subject to the following conditions:

(1) The cooperative requests pool status for such plant(s);

(2) The 40 percent delivery requirement may be met for the current month or it may be met on the basis of delivery during the preceding 12 month period ending with the current month;

(3) The plant is approved by a duly constituted health authority to handle milk for fluid consumption; and

(4) The plant does not qualify as a pool plant pursuant to paragraph (a) or (b) of this section or pursuant to similar provisions of another Federal order applicable to a distributing plant or supply plant.

Proposal No. 9

In § 1036.7 add a new paragraph (f) to read as follows:

(f) The percentage requirement in paragraphs (b) and (d) of this section may be adjusted monthly by the Secretary in multiples of 5 percentage points: *Provided*, that the adjusted percentage shall not exceed the lesser of the average total Class II and Class III utilization during the immediately preceding 12 months or 50 percent.

Proposal No. 10

In § 1036.13 revise the beginning of paragraphs(e) and (f) to read as follows:

(e) During March through August . . .;

(f) During September through February except December . . .

VOL 50 ISS 142 JL 24 1985 UMI

Proposal No. 11

In § 1036.13 revise paragraph (f) subparagraph (2) to read as follows:

(2) In any month of September through November and January through February a cooperative association may divert an aggregate quantity of milk not exceeding 40 percent of the producer milk that the cooperative association caused to be physically received at or diverted from pool plants during the month.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 12

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, C. Mack Endsley, P.O. Box 30128, Cleveland, Ohio 44130, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangement may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Eastern Ohio-Western Pennsylvania Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on July 19, 1985.

William T. Manley,

Deputy Administrator, Marketing Program.

[FR Doc. 85-17583 Filed 7-23-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWP-27]

Proposed Alteration and Redefinition of the Control Zone and Transition Area, Lihue, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter and redefine the control zone and transition area at Lihue, Hawaii. The realignment of the controlled airspace is required to contain all IFR operations at Lihue Airport, Lihue, Hawaii. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before August 31, 1985.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, AWP-530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007.

The official docket may be examined in the Office of the Western-Pacific Regional Counsel, Room 6W14, at 15000 Aviation Boulevard, Hawthorne, California.

An informal docket may be examined during normal business hours at the Airspace and Procedures Branch, Room 6E4, at the above address.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Hawthorne, California 90261; telephone (213) 536-6649.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submiting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWP-27." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above, both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, 15000 Aviation Boulevard, Hawthorne, California 90261. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide realignment of the Lihue Airport, Lihue, Hawaii, Control Zone and the Lihue, Hawaii, Transition Area to accommodate aircraft executing IFR arrival and departure operations at Lihue Airport, Lihue, Hawaii. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.8A dated January 2, 1985.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the FAR as follows:

1. The authority citation for Part 71 is revised to read as follows:

Authority: 49 U..C. 1348(a) and 1354(a); 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.171 is amended as follows:

Lihue Airport, Lihue, Hawaii, Control Zone—[Revised]

"Within a 5-mile radius of Lihue Airport (lat. 21°58'46" N., long. 159°20'31" W.); beginning at lat. 21°54'30" N., long. 159°22'20" W.; thence clockwise to lat. 22°03'00" N., long. 159°22'00" W.; to lat. 22°06'30" N., long. 159°21'00" W.; to lat. 22°05'20" N., long. 159°15'30A" W.; to lat. 21°57'00" N., long. 159°16'40" W.; to lat. 21°50'20" N., long. 159°15'30" W.; to lat. 21°49'20" N., long. 159°22'00" W.; thence to the point of beginning."

3. Section 71.181 is amended as follows:

Lihue Airport, Lihue, Hawaii, Transition Area—[Revised]

"That airspace extending upward from 700 feet above the surface beginning at lat. 22°03'30" N., long. 159°15'30" W.; thence clockwise via the 8-mile radius circle of the Lihue Airport (lat. 21°58'46" N., long. 159°20'31" W.); to lat. 21°53'20" W., long. 159°15'50" W.; to lat. 21°57'00" N., long. 159°16'40" W.; thence to the point of beginning."

Issued in Los Angeles, California on July 9, 1985.

H.C. McClure,

Director, Western Pacific Region.

[FR Doc. 85-17541 Filed 7-23-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM85-19-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities; Proposed Rulemaking

Issued: July 19, 1985.

AGENCY: Federal Energy Regulatory Commission; DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission hereby institutes a proceeding under Part 37 of its regulations. The purpose of this proceeding is to determine an estimate of the average cost of common equity for the jurisdictional operations of public utilities for the year ending June 30, 1985 and a quarterly indexing procedure to establish benchmark rates of return on common equity for use in individual rate cases.

DATES: Any person wishing to participate in this proceeding must file a notice of intent by August 2, 1985. Initial comments addressing the issues in this proceeding are due on or before August 30, 1985 and reply comments are due on or before September 30, 1985.

ADDRESSES: All filings should reference Docket No. RM85-19-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8015.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is instituting the second annual proceeding under Part 37 of its regulations. In this proceeding, the Commission will determine (1) the average cost of common equity for the jurisdictional operations of public utilities[1] for the year ending June 30, 1985 (hereinafter "base year") and (2) a quarterly indexing procedure to establish benchmark rates of return on common equity for use in individual rate cases. These determinations will be advisory only.

[1] The term "public utility" and "electric utility" are used interchangeably.

II. Background

In July 1984, the Commission amended its regulations by adding procedures for determining benchmark rates of return on common equity for jurisdictional electric utilities and for applying them in individual cases.[2] Essentially the procedures provide that the Commission have annual proceedings to determine the average cost of common equity and a method for updating this cost estimate quarterly until the next proceeding.

The benchmark rates of return established in the first two annual proceedings are advisory only. They should provide guidance to parties and serve as a point of departure for the Commission in setting allowed rates of return. The record in each case will determine the weight accorded these rates of return.

The benchmark rates of return resulting from the third annual proceeding, however, will be given the status of a rebuttable presumption. In other words, it will be presumed that the allowed rate of return in an individual rate case should be the benchmark rate of return in effect at the time of filing. The three conditions under which the benchmark may be rebutted are (1) a showing of significantly different than average risk, (2) a settlement by the parties based on a different rate of return, or (3) a finding of undue discrimination requiring a different rate of return.

These procedures are intended to produce more accurate and consistent rate of return decisions, to involve the Commission on an ongoing basis in a consideration of the financial and operating circumstances of the industry, and, ultimately, to reduce the resources devoted to this issue by applicants, intervenors and the Commission.

The Commission concluded its first annual proceeding in Docket No. RM84-15-000 with the issuance of Order No. 420.[3] In that proceeding, the Commission estimated that the average cost of common equity for the jurisdictional operations of public utilities during the year ending June 30, 1984 was 15.31 percent. The Commission also chose a quarterly indexing procedure for updating the cost of common equity and establishing benchmark rates of return. Using its quarterly indexing procedure,

[2] Generic Determination of Rate of Return on Common Equity for Electric Utilities, 49 FR 29,946 (July 25, 1984) (Docket No. RM80-36-000) (Final Rule) (Order No. 389) (issued July 18, 1984).

[3] Generic Determination of Rate of Return in Common Equity for Public Utilities, 50 FR 21,802 (May 29, 1985) (Docket No. RM84-15-000) (Final Rule) (Order No. 420) (issued May 20, 1985).

VOL 50 ISS 142 JL 24 1985 UMI

the Commission then estimated the cost of common equity for the first calendar quarter of 1985 at 14.46 percent. This rate is the basis for the "advisory" benchmark rate of return applicable to rate filings made during July 1985. The quarterly indexing procedure will also be used to determine "advisory" benchmark rates of return applicable to rate filings made through January of 1986.

The Commission now wishes to estimate the cost of common equity for the "base year" ending June 30, 1985 and to reaffirm or modify the quarterly indexing procedure adopted in the first annual proceeding. The base year cost estimate will provide the basis for the quarterly "advisory" benchmark rates of return applicable to rate filings made from February of 1986 through January of 1987. Also, by comparing this cost estimate with the cost of common equity estimates calculated by using the current quarterly indexing procedure, the Commission can evaluate the reasonableness of its indexing procedure.

For this second proceeding, the Commission proposes:[4]

(1) To place primary reliance on the discounted cash flow (DCF) method for estimating the market required rate of return on common equity;

(2) To use an industry average flotation cost adjustment (reflecting issuance costs only) to the market required rate of return; and

(3) To use a quarterly indexing procedure based on changes in the median dividend yield for a sample of 100 electric utilities.

III. Discussion

A. Market Required Rate of Return

The Commission proposes to place primary reliance on the discounted cash flow (DCF) method for estimating the market required rate of return on common equity. In particular, the Commission proposes to rely on the following constant growth DCF model to determine the average market required rate of return for electric utilities for the year ended June 30, 1985:[5]

$$K = \frac{D_0 (1+.5g)}{P_0} + g$$

Where

K = market required rate of return

$\frac{D_0}{P_0}$ = current dividend yield (current annual dividend rate divided by current market price)

g = dividend growth rate

$(1+.5g)$ = dividend adjustment factor for quarterly dividend payments

The Commission believes that the adjustment to the current dividend rate embodied in this model best approximates the average amount of dividends paid to (and received by) investors during the first year. In this way, it reasonably adjusts the continuous version of the DCF model for the reality of quarterly dividend payments.

The Commission also proposes that the following procedures be used to compute the dividend yield for the base year estimate of the market required rate of return as well as for the quarterly indexing procedure.[6]

First, the Commission proposes to use the same sample of 100 electric utilities used in its first annual proceeding for three reasons.[7] First, the sample is representative of the electric utility industry as a whole. Second, the relevant price and dividend data are generally available for all of these companies. Finally, the data is readily accessible from more than one source.

Second, the Commission proposes to continue using the following screening criteria in each quarterly calculation to ensure that the data for each company is available and that it can reasonably be employed in a mechanical fashion without producing distorted statistics. That is, companies will be dropped from the sample if:

(i) The company's common stock, through merger or other action, no longer is publicly traded, or

(ii) The company has decreased or omitted a common dividend payment in the current or prior three quarters, or

(iii) The Commission determines on a case-by-case basis that some other occurrence causes the dividend yield for that company to be substantially misleading and bias the resulting quarterly average.

The first screen ensures data availability. If a company is no longer publicly traded, it will not have a current market price (and yield). The second screen eliminates companies whose data would probably be inappropriate in a constant growth DCF model. The third screen gives the Commission the discretion to further eliminate atypical companies when necessary.

The Commission further proposes that the appropriate dividend yield for the industry average cost determination be the median dividend yield for the 100 company sample.[8] The rationale for using the median is based on one of the objectives of the generic approach being to minimize adjudication of the rate of return issue. The Commission believes that the distribution of dividend yields (and, by inference, the distribution of the cost of common equity) for electric utilities is skewed rather than symmetrical. Under this circumstance, the dividend yields (and, presumably, the cost of common equity) for a greater number of utilities is closer to the median than the mean. The median evenly splits utilities so that 50% have dividend yields above the median and 50% have dividend yields below. The Commission also believes that, compared to the mean, the median is less likely to be affected by extreme values in the data.[9]

In computing the dividend yield for each company, the Commission proposes that the dividend rate be the "indicated dividend rate," which is the last declared quarterly dividend times four. This rate approximates the rate at which most companies are paying dividends. The price used in the calculation would be the simple average of the three monthly high and low prices for the quarter. This provides a reasonable estimate of the average price at which the individual stocks were sold during the quarter. The Commission proposes that the median of the quarterly dividend yields for the sample utilities calculated in this manner be used for the base year cost determination and for the quarterly indexing procedure. Of course, the base year cost would use the average of four quarterly dividend yields.

In estimating the (constant) growth rate that would apply to the base year determination of the cost of common equity and serve as a basis for the fixed parameters in the quarterly indexing procedure, the Commission proposes to rely primarily on a fundamental analysis type of approach. That is, it intends to examine and evaluate the two components of dividend growth: Growth from retention of earnings (br) and growth from sales of new common stock (sv).[10] The Commission also intends to look at other methods for estimating the expected growth, including non-constant growth rates, but primarily as corroboration for its basic evaluation using of fundamental analysis.

The Commission requests comments on the above proposals. Are there reasons for the Commission to depart from placing primary reliance on the DCF method? Are the proposals for the model chosen and for determining the components reasonable?

Commenters are especially directed to provide estimates of the market required rate of return using the proposed DCF model and to support all estimates with corroborative evidence. To the extent that alternative models are proposed, commenters are requested to provide a comprehensive explanation of the method and major assumptions used to derive its estimate of the market required rate of return.

B. Flotation Costs

The Commission believes that the utilities should be compensated only for issuance expenses, that is, the out-of-pocket expenses for underwriting, legal work and publishing. This represents a continuation of the Commission's existing policy on flotation costs.[11] The Commission also believes that any adjustment to the market required rate of return should reflect recovery of only the average annual costs, that is, only the costs associated with new stock issues. In addition, it belives that an industry average adjustment to the market required rate is the best way of dealing with these costs since they have a relatively small quantitative impact, the adjustment is subject to forecasting errors, and overrecovery and underrecovery of these costs by individual utilities are offset over time.

The Commission proposes to estimate the adjustment to the required rate of return for flotation costs using the following formula:

$$k^* = \frac{fs}{(1+s)}$$

Where:

k^* = flotation cost adjustment to required rate of return

f = industry average flotation cost as a percent of offering price

s = proportion of new equity expected to be issued annually to total common equity

This formula estimates an adjustment that reflects the average annualized amount of flotation costs incurred by utilities. The resulting adjustment factor would be added to the required rate of return as determined above.

The Commission requests that commenters submit estimates of the parameters in the above formula for estimating the appropriate flotation cost adjustment to the market required rate of return for the base year ending June 30, 1985.

C. Jurisdictional Risk Issue

In the first annual proceeding, the Commission found the record inconclusive on the issue of risk in jurisdictional vis-a-vis retail electric operations. It stated:

> Lower regulatory risks were suggested by some commenters primarily by reference to the relatively high overall ratings, given to the Commission by two investment firms, Merrill Lynch and Salomon Brothers, and by a review of specific Commission policies, such as construction work in progress and tax normalization. On the other hand, the Commission recognizes that regulatory risk may be offset by other types of risks and that it may be a type of risk that can be eliminated through diversification within a portfolio of other stocks.[12]

The Commission further found that no commenter presented a reasonable basis for determinig the appropriate adjustment, if there is a risk difference.

The Commission requests that commenters provide evidence on the issue of whether there is a difference in risk, an estimate of the difference in the cost of common equity due to such difference, if any, between jurisdictional and retail electric operations and an explanation of how that estimate was derived.

D. Quarterly Indexing Procedure

In Docket No. RM84-15-000, the Commission amended Part 37 of its regulations to include § 37.9 which is a quarterly indexing procedure for determining benchmark rates of return on common equity for the jurisdictional operations of electric utilities. The Commission proposes to adopt the same procedure for the current proceeding and requests comments on any changes that would improve the procedure.

In summary, the adopted indexing procedure ties the cost of common equity to changes in utility dividend yields. The benchmark rates of return are set equal to the cost of common equity except where the quarter-to-quarter change in the cost is greater than 50 basis points. The initial benchmark rate established in each annual proceeding, however, will not be subject to the 50 basis point cap.

The dividend yield index is set as the median dividend yield for the 100 company sample for the most recent calendar quarter prior to the period to which the benchmark is intended to apply. The procedures for determining the median dividend yield are the same as those described above with reference to the estimation of the base year cost of common equity. This dividend yield will be used in a formula whose parameters are determined through the base year cost determination. The formula is essentially the DCF model referred to above, adjusted for flotation costs:

$k = a(y) + b$

Where

k = average cost of common equity

$y = \frac{D_0}{P_0}$ = current dividend yield (current dividend rate divided by current market price),

a = 1 + .5g or one plus one-half the growth rate (to adjust the current dividend yield for quarterly dividend payments), and

b = the expected dividend growth rate (g, assumed constant between annual proceedings) plus adjustments for flotation costs and jurisdictional risks, where appropriate.

Commenters are invited to offer changes to any and all aspects of this quarterly indexing procedure.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (Act) requires Federal agencies to consider whether the rule, if promulgated, will have a "significant economic impact on a substantial number of small entities." Nearly all of the jurisdictional utilities which must comply with the rule proposed here are too large to be considered "small entities" within the

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[4] Commenters are urged to review the final rule in the first annual proceeding, n. 3, above, for more discussion of the rationale for these proposals.

[5] This is consistent with Order No. 420, 50 FR 21,802, 21,804. However, the Commission does not wish to restrict commenters from presenting other approaches. Other methods can provide useful corroborative evidence. Further, the Commission does not want to foreclose consideration of improvements in existing alternatives or any new and innovative analyses as may be developed in the future.

[6] Order No. 420, 50 FR 21,802, 21,806.

[7] *Id.* at 21,831.

[8] In Docket No. RM84-15-000, the Commission estimated the median dividend yield for each of the four quarters of the base year and then averaged them for the year. The Commission proposes to adopt this same procedure in this proceeding.

[9] Order No. 420, 50 FR 21,802, 21,814.

[10] Growth from retained earnings, or internal growth, is a function of the expected return on common equity (r) and the expected retention ratio (b). Growth from common stock sales, or external growth, is a function ofhow much stock is expected to be sold (s) and at what price relative to book value (v).

[11] Order No. 420, 50 FR 21,802, 21,806. The Commission invites commenters to address other types of flotation costs in their comments to this proceeding. The Commission notes that, in Docket No. RM80-15-000, it found the record inconclusive on the existence of market pressure and market break costs and rejected any adjustment for such costs.

[12] 50 FR 21,802, 21,809.

VOL 50 ISS 142 JL 24 1985 UMI

meaning of the Act.[13] Also, since the utilities regulated by the Commission hold exclusive selling rights within their service areas and are presumed to be natural monopolies, they dominate their respective fields of operation and cannot be considered to be "small entities" as the term is defined in the Act. The Commission certifies, therefore, that the Act is not applicable to this rule because it will not affect a "substantial number of small entities."

V. Comment Procedures

Interested persons are invited to submit written comments on the issues presented in this notice to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any person wishing to participate in this proceeding should file a notice of intent by August 2, 1985. Each person submitting a notice of intent should include his or her name and address and also the name, mailing address and telephone number of one person to whom communications concerning the notice may be addressed. The Commission will establish a service list of those persons who submit such notices of intent and send it to everyone on the list.

Initial comments are due on or before August 30, 1985 and reply comments are due on or before September 30, 1985. So as to conserve time and avoid unnecessary expense, the Commission urges persons with similar interests to file joint comments. Comments should refer to Docket No. RM85–19–000 on the outside of the envelope and all documents submitted to the Commission. Fourteen conformed copies should be submitted along with the original. Participants are also requested to send a copy of their initial and reply comments to everyone else on the service list. Written comments will be placed in the Commission's public files and will be available for public inspection during regular business hours at the Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 (202/357–8055).

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Rate of Return.

[13] The Act defines a "small entity" as a small business, a small not-for-profit enterprise, or a small governmental jurisdiction. 5 U.S.C. 601(6) (1982). A "small business" is defined, by reference to Section 3 of the Small Business Act, as an enterprise which is "independently owned and operated and which is not dominant in its field of operation." 15 U.S.C. 632(a) (1982).

(Federal Power Act, 16 U.S.C. 792–825r (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982))

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18, Code of Federal Regulations.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17446 Filed 7–23–85; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 2

[Docket Nos. 84P–0231 and 84P–0268]

Chlorofluorocarbon Propellants in Self-Pressurized Containers; Proposed Essential Uses

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to add to the list of products containing a chlorofluorocarbon for an essential use metered-dose nitroglycerin human drugs and metered-dose cromolyn sodium human drugs, both administered by oral inhalation. The agency is taking this action in response to citizen petitions submitted by the manufacturers of these two products. Each manufacturer requested that its product be added to the list of uses considered essential and established that its product provides unique health benefits unavailable without the use of a chlorofluorocarbon.

DATE: Comments by September 23, 1985.

ADDRESS: Written comments to the Docket Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ed Fatha, Center for Drugs and Biologics (HFN–364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION:

I. Background

Under § 2.125 (21 CFR 2.125), any food, drug, device, or cosmetic in a self-pressurized container that contains a chlorofluorocarbon propellant for a nonessential use is adulterated or misbranded, or both, under the Federal Food, Drug, and Cosmetic Act (the act). This prohibition is based on scientific research indicating that chlorofluorocarbons may reduce the amount of ozone in the stratosphere and thereby increase the amount of ultraviolet radiation reaching the earth. An increase in ultraviolet radiation may increase the incidence of skin cancer, change the climate, and produce other adverse effects of unknown magnitude on humans, animals, and plants.

Section 2.125(d) exempts from the adulteration and misbranding provisions of § 2.125(c) certain products containing chlorofluorocarbon propellants which FDA determines provide a unique health benefit that would not be available without the use of a chlorofluorocarbon. These products are referred to in the regulation as essential uses of chlorofluorocarbon and are listed in § 2.125(e).

Under § 2.125(f), a person may petition the agency to request additions to the list of uses considered essential. To demonstrate that the use of a chlorofluorocarbon is essential, the petition must be supported by an adequate showing that: (1) there are no technically feasible alternatives to the use of a chlorofluorocarbon in the product; (2) the product provides a substantial health, environmental, or other public benefit unobtainable without the use of the chlorofluorocarbon; and (3) the use does not involve a significant release of chlorofluorocarbons into the atmosphere or, if it does, the release is warranted by the benefit conveyed.

II. Petitions Received by FDA

FDA has received two petitions requesting additions to the list of chlorofluorocarbon uses considered essential. These two petitions, submitted under § 2.125(f) and Part 10 (21 CFR Part 10), are on file and may be seen in the Dockets Management Branch (address above).

One petition was submitted by William H. Rorer, Inc. It requests that § 2.125(e) be amended to include metered-dose glyceryl trinitrate human drugs administered by oral inhalation as an essential use of chlorofluorocarbon. Because the "established name" for glyceryl trinitrate is nitroglycerin, the latter name will be used in this document. The petition contains a discussion supporting the position that there are no technically feasible alternatives to the use of chlorofluorocarbon in the product. The petition states that only a chlorofluorocarbon can result in a product that is stable and that dispenses the required number of doses with acceptable accuracy, reproducibility, and uniformity. In addition, the petition states that the use of a chlorofluorocarbon propellant is much less flammable than the highly flammable hydrocarbon propellant. The petition also states that the product provides a substantial health benefit that would not be obtainable without the use of the chlorofluorocarbon. In this regard, the petition contains data to support the use of this product by an angina pectoris patient. The petition contends that the delivery system and convenient size of the product would allow the patient to easily use the product and obtain quick relief during an attack without having to open a bottle and fumble with small tablets. The petition also asserts that the use of this product would not involve a significant release of chlorofluorocarbon propellants into the atmosphere because only 49.25 milligrams (mg) would be released per dosage.

The second petition was submitted by Fisons Corp. This petition requests that § 2.125(e) be amended to include metered-dose cromolyn sodium human drugs administered by oral inhalation. The petition contains a detailed discussion supporting the position that there are no technically feasible alternatives to the use of chlorofluorocarbon in the product. It includes data showing that the turbo-inhaler delivery system currently being marketed requires considerable skill to use, making it unsuitable for adults suffering poor inspirational capacity, handicapped and elderly patients, as well as for small children. In addition, the petition asserts that other delivery systems, such as a hand-operated pump, or compressed or other gases could not provide as safe and uniform dispersal of the drug in proper size particles as a chlorofluorocarbon propellant. Also, the petition states that the product provides a substantial health benefit that would not be obtainable without the use of a chlorofluorocarbon. In this regard, the petition contains data to support the use of the product as a prophylactic agent by a wide range of asthma patients, including the handicapped, the elderly, and young children. Further, the petition states that the aerosol formulation would result in a substantial decrease in total drug exposure to the patient. The petition also asserts that metered-dose cromolyn sodium drug product would not result in a significant release of chlorofluorocarbon propellants into the atmosphere because less than 136.6 mg would be released per dosage.

III. FDA's Review of the Petitions

Based on its review of the petitions, the agency tentatively agrees that the use of metered-dose nitroglycerin and metered-dose cromolyn sodium provide special benefits for angina pectoris patients and asthmatic patients, respectively. Further, FDA tentatively agrees that the benefits these products provide would be unavailable without the use of chlorofluorocarbons. Therefore, FDA proposes to amend § 2.125(e) to include metered-dose nitroglycerin human drugs administered by oral inhalation and metered-dose cromolyn sodium human drugs administered by oral inhalation as essential uses of chlorofluorocarbon propellants.

IV. Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has carefully analyzed the regulatory impact and regulatory flexibility of the proposed rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). The proposed rule would merely add two drug products to the list of products containing a chlorofluorocarbon as essential uses, thereby permitting the manufacturing and marketing of these drug products. Therefore, the agency has determined that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act.

Interested persons may, on or before September 23, 1985. Submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 2

Administrative practice and procedure, Cosmetics, Drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 2 be amended as follows:

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

1. The authority citation for 21 CFR Part 2 continues to read as follows:

Authority: Sec. 701, 52 Stat. 1055–1056 as amended (21 U.S.C. 371), unless otherwise noted.

2. In § 2.125 by adding new paragraph (e)(10) and (11) to read as follows:

§ 2.125 Use of chlorofluorocarbon propellants in self-pressurized containers.

* * * * * *

(e) * * *

(10) Metered-dose nitroglycerin human drugs administered by oral inhalation.

(11) Metered-dose cromolyn sodium human drugs administered by oral inhalation.

* * * * * *

Dated: July 1, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–17530 Filed 7–23–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 680

[Docket No. 84N–0349]

Additional Standards for Miscellaneous Products; Allergenic Products; Proposed Amendment of Additional Standards

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the additional standards for allergenic products by adding a reference in the additional standards to the potency test requirement applicable to all biological products under the general biological products standards. The proposed amendment would be consistent with the reference in the additional standards for allergenic products to other testing requirements in the general biological regulations, such as identity, safety, and sterility testing. The proposed amendment also provides by regulation for the use of potency testing of allergenic products based on official potency standards, as such standards become available. FDA is also proposing to remove from its regulations the specific potency test procedure for short ragweed pollen extracts.

DATES: Written comments by September 23, 1985.

VOL
50
ISS
142
JL
24
1985
UMI

FDA is proposing that any final rule based on this proposal be effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: M. Christine Anderson, Center for Drugs and Biologics (HFN–853), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–496–4204.

SUPPLEMENTARY INFORMATION: The additional standards for specific biological products are prescribed under 21 CFR Parts 620 through 680. The additional standards for allergenic products under 21 CFR Part 680 contain specific requirements that supplement the general requirements for all biological products under 21 CFR Part 610 and the current good manufacturing practice requirements under 21 CFR Parts 210 and 211. Sections 610.1 and 610.10 of the general biological regulations require that manufacturers perform a potency test on each lot of licensed biological product before it is released for commercial distribution.

FDA is proposing to amend the additional standards for allergenic products by adding to § 680.3 *Tests* new paragraph (e) *Potency.* Section 680.3 already requires that allergenic products meet the general biological testing provisions of 21 CFR Part 610 as those provisions concern identity, safety, and sterility testing. For consistency, proposed new § 680.3(e) would refer to the general potency requirements under § 610.10. Proposed new § 680.3(f) would refer to the recordkeeping requirements related to the tests performed under § 680.3.

Historically, FDA has permitted manufacturers to label allergenic products with an unstandardized potency level based on a simple weight of allergen to volume of extracting fluid ratio (W/V) or a determination of the protein nitrogen units (PNU) in each lot of manufactured product. Those allergenic products that have potency levels based on W/V or PNU must include the phrase "no U.S. Standard of Potency" on the label. The W/V or PNU determinations are not reliable measures of biological or allergenic activity. FDA believes, consistent with the recommendations of the Panel on Review of Allergenic Extracts (50 FR 3112; January 23, 1985), that these designations should be replaced as soon as practicable by a designation that reflects allergenic activity.

Thus far, only hymenoptera venom extracts and short ragweed pollen extracts have been standardized for potency and their allergenic activity determined by all manufacturers of the products. However, approximately 1,800 to 2,000 generic allergenic products are marketed. Therefore, FDA believes that it is impractical to codify a description of each new specific potency test procedure for a product as the procedure is developed, such as the procedure in § 680.4 for short ragweed pollen extract. Because the standardization of each class of licensed biological product is a major task for both FDA and manufacturers of allergenic products, the agency has conducted workshops on standardization to assist manufacturers in the development of potency procedures for their products (see 45 FR 76251 and 48 FR 52772). Those workshops have included discussion of methods of protein measurement, radial immunodiffusion tests, radioallergosorbent tests, isoelectric focusing, and skin testing. FDA will consider conducting more workshops when they are needed to assist manufacturers in performing specific potency tests for allergenic products.

Under proposed § 680.3(e), FDA would require that the potency of allergenic products be based on the standardization of an allergenic component or other active ingredient of the product. After the standardized procedure has been discussed in one or more workshops, has appeared in scientific publications, or has been discussed with individual manufacturers, the Director, Office of Biologics Research and Review, Center for Drugs and Biologics, would notify each affected manufacturer in writing of the new standardized procedure. This notification would allow a reasonable time period for manufacturers to begin potency testing based on the new procedure or revisions to an existing standardized procedure and to obtain FDA's approval for conforming amendments to the product license application, including those for appropriate potency labeling and lot release requirements based on the standard. Proposed § 680.3(e) does not affect the applicability of § 610.9 *Equivalent methods and processes* to the potency test requirements for allergenic products (see 49 FR 15186; April 18, 1984). Under § 610.9, manufacturers may present evidence to FDA, in the form of a product license amendment, for use of an equivalent potency test method that will provide equal or greater assurances of safety, purity, potency, and effectiveness of the allergenic product than the assurances provided by any standardized test method.

As shown above, when FDA adopts an official standardized potency test method for an allergenic product, each licensed manufacturer must submit to FDA, and FDA approve, appropriate amendments to its license application showing that the recommended method (or an approved alternative method) is used and that labeling is revised if necessary. When FDA adopts such a standardized official potency test, FDA intends to publish in the **Federal Register** a notice of availability of the official recommended method, under procedures established at 21 CFR 10.90(b10).

Section 680.4 requires the standardization of short ragweed pollen extracts based on a determination of the quantity of the major allergen (antigen E) that is present in each lot of the product. The method for performing antigen E testing is included in each manufacturer's license application. Section 680.4 is the only codified requirement for a specific standardized potency test for an allergenic product. Because FDA is proposing new § 680.3(e) and (f), FDA is proposing to remove § 680.4 *Short ragweed pollen extracts.* This codified requirement for one product would be unnecessary, because the antigen E requirements for short ragweed pollen extracts would be replaced by the requirements in proposed § 680.3(e).

At the time any final rule is published based on this proposed rule, FDA would make available its recommended test procedures for short ragweed pollen extracts as authorized in 21 CFR 10.90(b)(10) of its administrative practices and procedures regulations. The recommended test procedures would be in a document entitled "Docket No. 84S–0344 Recommended Methods for Short Ragweed Pollen Extracts" available for public examination at the Dockets Management Branch (address above). FDA also advises that if the codified requirements for short ragweed pollen extracts are removed from the regulations, short ragweed pollen extract, or any mixed product containing short ragweed pollen extract as a component, will continue to be subject to the requirements of the present § 680.4, because the present antigen E requirements will be the official potency test requirements for short ragweed pollen extracts authorized under § 680.3(e) and such testing now is required by product licensing procedures.

Pertinent background data, on which the agency relies in proposing these amendments, have been furnished to those persons known to be interested in manufacturing allergenic products, and a copy is on public display in the Dockets Management Branch. These data include in vitro and skin test procedures that are being used or that are presently being considered by FDA for use as official potency tests.

The agency has determined pursuant to 21 CFR 25.24(c)(10) (April 26, 1985; 50 FR 16636) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required. (A final rule revising FDA's policy and procedures under the National Environmental Policy Act was published in the **Federal Register** of April 26, 1985 (50 FR 16636).)

Paperwork Reduction Act

Section 680.3 contains collection of information requirements already submitted to and approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980. The requirements of § 680.3 express the requirements of 21 CFR 211.165, 211.167, 211.188, and 211.194 (OMB control number 0910–0139), as those requirements apply to allergenic products tests. Organizations and individuals desiring to submit comments on the collection of information requirements should direct them to FDA's Dockets Management Branch and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., Rm. 3208, Washington, DC 20503, Attn: Bruce Artim.

FDA has examined the regulatory impact and regulatory flexibility implications of the proposed regulations in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, FDA is proposing to identify in the additional standards for allergenic products the potency test requirement under § 610.10 and the requirements in various sections in Parts 210 and 211 that apply to all licensed biological products. Therefore, the immeidate effect of the proposed rule is neutral, i.e., it neither adds nor removes requirements from the standards for any biological product. Only when official potency standards become available for a specific allergenic product would the proposed rule have an impact on any of the 18 licensed manufacturers of allergenic products. When a potency standard becomes available, the official potency test would be based on the standard. Proposed paragraphs (e) and (f) of § 680.3 thus specify how the already existing general requirements for testing potency and recording the results can be met with respect to allergenic products. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

Interested persons may, on or before Septemer 23, 1985, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 680

Biologics.

Therefore, under the Public Health Service Act and under the authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 680 be amended as follows:

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

1. The authority citation for 21 CFR Part 680 is revised to read as follows:

Authority: Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262); 21 CFR 5.10.

2. In § 680.3 by reserving paragraph (d) and adding new paragraphs (e) and (f) to read as follows:

§ 680.3 Tests.

* * * * *

(d) [Reserved]

(e) *Potency.* The potency of each lot of each Allergenic Product shall be determined as prescribed in § 610.10 of this chapter. When a specific allergen of a product becomes standardized and upon written notification to manufacturers by the Director, Office of Biologics Research and Review, the Official potency test shall be a determination of the quantity of standardized allergen or other active ingredient in the product.

(f) *Records.* The records related to the testing requirements of this section shall be prepared and maintained as required by §§ 211.165, 211.167, 211.188, and 211.194 of this chapter (OMB control number 0910–0139).

§ 680.4 [Removed]

3. By removing § 680.4 *Short ragweed pollen extracts.*

Dated July 2, 1985.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 85–17529 Filed 7–23–85; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 798 and 799

[OPTS–42065; FRL–TSH–FRL 2818–1]

2-Ethylhexanoic Acid, Proposed Test Rule

Correction

In FR Doc. 85–11589 beginning on page 20678 in the issue of Friday, May 17, 1985, make the following corrections:

1. On page 20680, in the first column, in the second complete paragraph, in the thirteenth line, "pumpted" should read "pumped".

2. On page 20680, in the second column, in the third complete paragraph, in the sixth line, "1 o 2" should read "1 to 2".

3. On page 20680, in the third column, in the twenty-seventh line, "0.01 θg/Kg/" should read "0.01 μg/Kg/".

4. On page 20681, in the second column, in the fourth line, "Storage tank cars" should read "Storage tanks, tank cars".

5. On page 20691, in the first column, in amendatory instruction number 2, "Part 79" should read "Part 799".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 85–129; RM–4427]

Operation of Low Power Communication Devices in the 1.6–10MHz Band; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: The FCC extends the time to file reply comments on the Notice of Proposed Rule Making in Gen. Docket 85–129 concerning the amendment of 47 CFR Part 15 to allow the operation of low power communication devices in the 1.6 to 10 MHz band in response to a

VOL
50
ISS
142
JL
24
1985
UMI

petition filed by the Knogo Corporation (RM–4427). The intended effect is to provide the public additional time to properly respond to comments filed on the Notice since most raise technical issues of certain complexity.

DATES: Reply comments are now due by July 23, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Liliane M. Volcy, Office of Science & Technology, Washington, D.C. 20554, tel: (202) 653–8247.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Rule Making was published in the **Federal Register** on May 9, 1985, 50 FR 19551.

Order Extending Time To File Reply Comments

In the matter of the amendment of Part 15 of the Commission's Rules to permit the operation of low power communication devices in the 1.6–10 MHz band; Gen. Docket 85–129, Rm–4427.

Adopted: July 9, 1985.
Released: July 15, 1985.
By the Chief Scientists.

1. On May 1, 1985, the Commission released a *Notice of Proposed Rule Making (Notice)* in this proceeding. The *Notice* specified filing deadlines of June 24, 1985, for comments and July 9, 1985, for reply comments.

2. Pursuant to 47 CFR 1.46(b), the Knogo Corporation (Knogo), on July 3, 1985 requested a two-week extension of the deadline for filing reply comments. Knogo asserts that there is insufficient time to properly respond to the comments filed on the *Notice*, especially since most comments raise technical issues of certain complexity.

3. We recognize the concern of Knogo and that additional time may be needed to gather relevant information in order to respond adequately to all comments. Because of the importance of this proceeding, and our desire to have the most definitive response possible, an extension of time to July 23, 1985, for filing reply comments is hereby ordered, pursuant to the authority granted by 47 CFR 0.241(d).

Robert S. Powers,
Chief Scientist.

[FR Doc. 85–17521 Filed 7–23–85; 8:45 am]
BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 50, No. 142
Wednesday, July 24, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 19, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable: (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies, (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Marketing Service
Sweet Cherries grown in designated counties in Washington,
Market Order 923
On occasion
Farms; Businesses or other for-profit; 203 responses; 63 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Animal and Plant Health Inspection Service
Request for Reimbursable Overtime Services
PPQ Form 192
On occasion
Individuals or households; Businesses or other for-profit; Non-profit institutions; 2,000 responses; 166 hours; not applicable under 3504(h)
L. M. Sedgwick, Jr. (301) 436–8584

New

• Agricultural Marketing Service
Marketing Agreement for Vegetables Grown in Texas
One-time reporting
Farms; Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 110 responses; 11 hours; not applicable under 3404(h)
Charles W. Porter (202) 447–2615

• Economic Research Service
December 1985 Agricultural Work Force Supplement
Biennially
Individuals or households; 57,000 responses; 1,550 hours; not applicable under 3504(h)
Robert Coltrane (202) 786–1536

Revision

• Agricultural Marketing Service
Onions Grown in Idaho and Malheur County, Oregon, Marketing Order No. 958
On occasion; Biennially
Farms; Businesses or other for-profit; 747 responses; 113 hours; not applicable under 3504(h)
Charles W. Porter (202) 447–2615

• Agricultural Marketing Service
Cotton Research and Promotion Act
Cotton Board Forms
On occasion; Monthly; Annually
Farms; Businesses or other for-profit; 59,800 responses; 6,765 hours; not applicable under 3504(h)
Naomi Hacker (301) 447–2259

• Agricultural Marketing Service
Marketing Order No. 946 (Potatoes Grown in the State of Washington)
On occasion; Monthly; Annually
Farms; Businesses or other for-profit; 1,332 responses; 215 hours; not applicable under 3504(h)
Kurt J. Kimmel, (202) 447–2036

Jane A. Benoit,
Departmental Clearance Officer.

FR Doc. 85–17582 Filed 7–23–85; 8:45 am]
BILLING CODE 3410–01–M

Federal Crop Insurance Corporation

[Doc. No. 2591S]

Claim for Indemnity; Interest Payments

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of Current Interest Rate.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes, for the information of the general public, this notice of the current interest rate to be computed on indemnity payments not made within a specified time under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: This notice, and the interest rate cited herein, is effective beginning July 1, 1985, and ending on December 31, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This notice provides, for the information of all interested parties, the current interest rate to be applied by FCIC to late paid indemnities, and is applicable from July 1, 1985, to December 31, 1985.

Background

Although FCIC attempts to make all indemnity payments within 30 days of the filing of a proper claim, data processing backlog and the need for further investigation have on some occasions, delayed payment past the targeted date. FCIC believes, on those occasions where the delay is due to procedural requirements of FCIC and through no fault of the insured, that FCIC should pay interest on the net

VOL
50
ISS
142
JL
24
1985
UMI

amount eventually found to be due the insured.

The interest payment, as outlined herein, will be effective for the second half of the 1985 crop year, beginning on July 1, 1985.

Pursuant to section 12 of the Contract Disputes Act the Secretary of the Treasury is responsible for computing and publishing the interest rate to be used in cases under that Act.

The interest rate established by the Secretary of the Treasury (as published in the **Federal Register** on July 3, 1985 at 50 FR 27525) for the six-month period beginning July 1, 1985 and ending December 31, 1985, and applicable by FCIC to late paid indemnities to policyholders during the period, beginning July 1, 1985 is 10⅜% (ten and three eighths) per centum per annum.

Dated: July 16, 1985.

Approved by:

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 85-17550 Filed 7-23-85; 8:45 am]

BILLING CODE 3410-08-M

Food and Nutrition Service

National Average Minimum Value of Donated Foods for the Period July 1, 1985, Through June 30, 1986

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods or, where applicable, cash in lieu thereof, to be given in the 1986 school year for each lunch served by schools participating in the National School Lunch Program or as commodity schools and for each lunch and supper served by institutions participating in the Child Care Food Program.

EFFECTIVE DATE: July 1, 1985.

FOR FURTHER INFORMATION CONTACT: Beverly King, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22303, (703) 756-3660.

SUPPLEMENTARY INFORMATION: This action, which implements mandatory provisions of sections 6(e), 14(f), and 17(h) of the National School Lunch Act (the Act), has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512. It has been classified as "nonmajor", because it meets none of the three criteria in the Executive Order; the action will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs, and will not have a significant impact on competition, employment, productivity, innovation, or the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirements of Pub. L. 96-354, the Regulatory Flexibility Act of 1980. Robert E. Leard, Administrator, Food and Nutrition Service, has determined that it will not have a significant economic impact on a substantial number of small entities. The purpose of the action is to notify States of the level of donated-food assistance to be provided during the 1986 school year.

This notice imposes no new reporting and recordkeeping provisions that are subject to Office of Management and Budget review.

Section 6(e) of the Act establishes the national average value of donated-food assistance to be given to States for each lunch served in the National School Lunch Program at 11.00 cents per meal. This amount is subject to annual adjustment as of July 1 of each year to reflect changes in the Price Index for Food Used in Schools and Institutions. Section 17(h) of the Act provides that the same value of assistance in donated foods for school lunches shall also be established for lunches and suppers served in the Child Care Food Program. Notice is hereby given that the national average minimum value of donated foods or cash in lieu thereof, per lunch under the National School Lunch Program (7 CFR Part 210) and per lunch and supper under the Child Care Food Program (7 CFR Part 226) shall be 11.75 cents for the period July 1, 1985, through June 30, 1986.

The Price Index for Food Used in Schools and Institutions is computed on the basis of five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oil). Each component is weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month simple average value of this Price Index for March, April and May. The three-month average of the Price Index decreased by 1.6 percent, from a revised value of 265.0 for March, April and May of 1984 to an initial value of 260.8 for the same three months in 1985. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 1985, through June 30, 1986, will be 11.75 cents per meal. This constitutes a .25 per lunch decrease over the rate in effect for the 1985 school year. This small drop in the level of assistance can largely be attributed to falling producer prices in the meat, poultry, and fish category. The March-May 1985 Price Index for this category, which comprises about half the Index, fell by 5.0 percent between 1984 and 1985.

Section 14(f) of the Act provides that commodity-only schools shall be eligible to receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(e) of the Act and national average payment established under section 4 of the Act. Such schools are eligible to receive up to 5 cents of this value in cash for processing and handling expenes related to the use of such foods. Commodity-only schools are defined in section 12(d)(8) of the Act as "schools which do not participate in the school lunch program under this Act but which receive commodities made available by the Secretary for use in nonprofit lunch programs".

In interim regulations published on April 15, 1982 (47 FR 15978-86) to implement the provisions of section 14(f), it was indicated that the term "commodity shcools" will be used for such schools instead of "commodity-only schools".

For the 1986 school year, commodity schools shall be eligible to receive donated-food assistance valued at 24.25 cents for each lunch served. This amount is based on the sum of the section 6(e) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 1986 announced by the Department on July 9, 1985 (50 FR 27995). The section 4 factor for commodity schools does not include the 2-cents per lunch increase for lunches served in the second preceding year free or at reduced prices, since that increase is applicable only to schools participating in the National School Lunch Program.

(Catalog of Federal Domestic Assistance Nos. 10.550, 10.555, and 10.558)

Authority: Secs. 6, 14 and 17 of the National School Lunch Act, as amended, 42 U.S.C. 1755, 1762a, 1766.

Dated: July 18, 1985.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 85-17571 Filed 7-23-85; 8:45 am]

BILLING CODE 3410-30-M

Soil Conservation Service

Little Lost River Flood Control RC&D Measure Plan and Environmental Impact Statement, Idaho

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of Availability of a Record of Decision.

FOR FURTHER INFORMATION CONTACT: Stanley N. Hobson, State Conservationist, Soil Conservation Service, 304 North 8th Street, Rm. 345, Boise, Idaho 83702, telephone (208) 334-1601.

Notice: Stanley N. Hobson, responsible Federal official for projects administered under the provisions of Pub. L. 87-703, (16 U.S.C. 590 a-f,q.) in the State of Idaho, is hereby providing notification that a record of decision to proceed with the installation of the Little Lost River Flood Control RC&D measure plan is available. Single copies of this record of decision may be obtained from Stanley N. Hobson at the above address.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: July 16, 1985.

James N. Habiger,

Acting State Conservationist.

[FR Doc. 85-17515 Filed 7-23-85; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 6:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket No. 85-228. Applicant: University of Rochester, 70 Goler House, Rochester, NY 14620. Instrument: Electron Microscope, Model EM 902 with Accessories. Manufacturer: Carl Zeiss Inc., West Germany. Intended use: The instrument will be used for investigations in the field of neurosciences with concentrated efforts on the identification, localization, and quantitation of neurotransmitters (norepinephrine, dopamine, serotonin, enkephalins, substance P, GABA, acetylcholine, and others) and their receptors. Application received by Commissioner of Customs: June 17, 1985.

Docket No. 85-229. Applicant: The Ohio State University, 484 W. 12th Avenue, Columbus, OH 43210. Instrument: STEM-SE attachments with Ion Getter Pumps. Manufacturer. Carl Zeiss, West Germany. Intended use: The articles are accessories to an existing electron microscope which is to be used for studies of a variety of different groups of microoganisms and a number of toxic metals such as cadmium, mercury and chromium the interaction between the biologic system and the heavy metals either at the surface of the cell or inside the cell structure will be investigated Application received by Commissioner of Customs: June 17, 1985.

Docket No. 85-230. Applicant: Columbia University, Department of Biological Sciences, 500 Fairchild Building, New York, NY 10027. Instrument: ASID 10 Scanning Image Observation Device and TV Camera System. Manufacturer: JEOL, Inc., Japan. Intended use: The articles are electron microscope attachments These attachments will be used to increase the capabilities of the microscope in performing biological research. In particular, the reconstruction of nervous tissue from serial electron micrographs will be enhanced by these attachments by allowing the alignment of serial sections in the machine before they are photographed. Application received by Commissioner of Customs: June 17, 1985

Docket No. 85-231. Applicant: University of Maryland, Department of Zoology, College, Park, MD 20742. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer. Carl Zeiss, West Germany. Intended use: The instrument is intended to be used for the investigation of the molecular basis of membrane excitability, particularly the voltage gating merchanism. Many important biological processes function because of the existence of excitable membranes. In order to understand how excitable membranes function, it is necessary to understand how an electric field controls or gates these membrane channels. Application received by Commissioner of Customs: June 17, 1985.

Docket No. 85-232. Applicant: LDS Hospital (Intermountain Health Care, Inc.), Eighth Avenue & C Street, Salt Lake City, UT 84143. Instrument: Electron Microscope, Model JEM-100SX with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended use: The instrument will be used to examine various types of biological specimens during the following clinical uses:

(1) Transmission electron microscopy to establish diagnosis in human diseases.

(2) Research on the ultrastructural alterations occurring in the lungs of experimental animals and man with acute respiratory distress syndrome.

(3) Studies of the alterations of macrophage cell surfaces occurring during macrophage activation and participation in tumor killing.

In addition, the instrument may be used as an educational tool for pathology residents and research fellows. Application received by Commissioner of Customs: June 19, 1985.

Docket No. 85-233. Applicant: The University of South Carolina, Department of Chemistry, Columbia, SC 29208. Instrument: Interferometer, Model IZMO5. Manufacturer: Bomem, Canada. Intended use: The instrument will be used in experiments involving the recording of the low frequency infrared spectra of some vinyl methoxy molecules and substituted allyl balides in the vapor phase at a resolution of 0.002 cm^{-1}. The objective will be to analyze the data in order to determine the potential function governing the asymmetric internal rotation in these molecules. In addition, the instrument will be used in various chemistry courses to instruct Ph.D. students in analyzing high resolution fourier transform spectra, and interpreting the results. Application received by Commissioner of Customs: June 24, 1985.

Docket No. 85-234. Applicant: University of Massachusetts, Amherst, Polymer Science & Engineering Department, GRT Room 701, Amherst, MA 01003. Instrument: Electron Microsope, Model JEM-2000FX. Manufacturer: JEOL, Ltd., Japan. Intended use: The instrument is intended to be used for studies of synthetic and natural polymers and composites utilizing polymers as a basic component. Examples include polyethylene fibers and films, biaxial formed polypropylene, polydiacetylene, polyparaphenylene benzobisthiazole fibers, polyparaxylene single crystals, synthetic phospholipids and PEEK-graphite, epoxy-PBT, nylon-PBT

VOL
50
ISS
142
JL
24
1985
UMI

composites. These materials cover a wide range of structures from amorphous (e.g. epoxies) to single crystal (e.g. polyparaxylene). The instrument will also be used for graduate level instruction and research in the Department of Polymer Science and Engineering and as part of the Materials Research Laboratory. In addition, the instrument will be used in short courses to teach the basic principles of electron microscopy as they apply to a wide range of research topics in materials science. Application received by Commissioner of Customs: June 24, 1985.

Docket No. 85-235. Applicant: University of Washington, Seattle, WA 98195. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use: Studies of biological tissue, particularly nervous tissue, including brain and nerves. Experiments to be conducted will include: visualization of substructural elements associated with neural development and degeneration; fine structural effects on brain cells of mercury poisoning; identification of neural and cell processes associated with induced neurological disease conditions such as epilepsy and characterization of the ultrastructural basis of neurotransmitter localization in normal brain and after surgical manipulation. Application received by Commissioner of Customs: June 25, 1985.

Docket No. 85-236. Applicant: University of Colorado Health Sciences Center, 4200 E. 9th Avenue, Denver, CO 80262. Instrument: Electroencephalographic Power Spectral Analyzer, Model CME-100. Manufacturer: Japan Systems, Inc., Japan. Intended use: The instrument is intended to be used for both clinical and basic research. The three protocols to be pursued are (1) monitoring power spectra EEG while progressively reducing cerebral blood flow through exsanguination as followed by hydrogen clearance electrodes in a rabbit model, (2) monitoring power spectral EEG during acute focal cerebral ischemia treated with hyperdynamic therapy in a simian model and (3) monitoring patients in the OR during acute clamping of the carotid artery for many different surgical procedures such as endarterectomy and base of skull surgeries. Application received by Commissioner of Customs; June 25, 1985.

Docket No. 85-237. Applicant: University of Pennsylvania, Department of Biology/G7, 217 Leidy Labs, Philadelphia, PA 19104-4288. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use: The instrument is intended to be used in general experiments relating to the structure and function of muscle fiber. Application received by Commissioner of Customs: June 27, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-17522 Filed 7-23-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit; Brent S. Stewart, Hubbs Marine Research Institute

On May 14, 1985, notice was published in the **Federal Register** (50 FR 20119) that an application had been filed by Brent S. Steward (P278B) Hubbs Marine Research Institute, 1700 South Shores Road, San Diego, California 92109 for a Scientific Research Permit to take up to sixty (60) Pacific harbor seals (Phoca vitulina richardii) annually for four (4) years.

Notice is hereby given that on July 17, 1985 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731

Dated: July 17, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-17555 Filed 7-23-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; Correction

Notice was published in the **Federal Register** on July 8, 1985 (50 FR 27840) that an application had been issued to Montreal Zoological Park to take California sea lions for public display in Canada as authorized by the Endangered Species Act. The notice is corrected to read:

On April 12, 1985, notice was published in the **Federal Register** (50 FR 14409) that an application had been filed by Montreal Zoological Park for a permit to take marine mammals for the purpose of public display.

Notice is hereby given that on June 27, 1985 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 17, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-17556 Filed 7-23-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1985; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1985 a service to be provided by workshops for other severely handicapped.

EFFECTIVE DATE: July 24, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Addition to the Procurement List of the service listed below was published in the **Federal Register** on April 18, 1985 (50 FR 15474). Two comments were received in response to this notice. One commenter, the current contractor, indicated that the proposed addition represented ten percent of the firm's annual sales, and that only a small percentage of its income was from private sector contracts. Another commenter confirmed the impact on the current contractor and its inability to penetrate the private sector market. The Committee considered the comment received as well as other pertinent information and determined that the addition of this service to the Procurement List would not cause severe impact on the current contractor.

Addition

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the service listed.

c. The action will result in authorizing small entities to provide the service procured by the Government.

Accordingly, the following service is hereby added to Procurement List 1985:

Janitorial/Custodial, Naval Resale and Support Office, Fort Wadsworth, Staten Island, New York

C.W. Fletcher,

Executive Director.

[FR Doc. 85-17564 Filed 7-23-85; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1985; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1985 a commodity to be produced by workshops for the blind and other severely handicapped.

Comments must be received on or before: August 28, 1985.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

Addition

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1985, October 19, 1984 (49 FR 41195):

Commodity

Cloth, Abrasive: 5350-00-187-6296

C. W. Fletcher,

Executive Director.

[FR Doc. 85-17146 Filed 7-23-85; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. QF85-585-000, etc.]

Air Products Manufacturing Corp. et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

July 18, 1985.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Air Products Manufacturing Corp.

[Docket No. QF85-585-000]

On July 1, 1985, Air Products Manufacturing Corp., (Applicant) of P.O. Box 538, Allentown, Pennsylvania 18105, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Pasadena, Texas. It will consist of a gas turbine generating unit with supplementally fired waste heat recovery boiler. The steam output will be utilized for chemical processes at the Pasadena facility. The primary energy source of the facility will be natural gas. The electric power production capacity will be 3.8 MW. The facility will be installed by December 1985.

2. Baldwin Park Unified School District

[Docket No. QF85-589-000]

On July 5, 1985, Baldwin Park Unified School District, (Applicant) of 3699 N. Holly Avenue, Baldwin Part, California 91706, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Baldwin Park High School, Baldwin Park, California. It will consist of a reciprocating engine/generator unit. Heat recovered from the engine exhaust and cooling jacket water will be used to heat the school swimming pool. The electric power production capacity of the facility will be 67.2 kW. The primary energy source will be natural gas. The installation of the facility will begin in August 1985.

3. Baldwin Park Unified School District

[Docket No. QF85-590-000]

On July 5, 1985, Baldwin Park Unified School District, (Applicant) of 3699 N. Holly Avenue, Baldwin Park, California 91706, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Sierra Vista High School, Baldwin Park California. It will consist of a reciprocating engine/generator unit. Heat recovered from the engine exhaust and cooling jacket water will be used to heat the school swimming pool. The electric power production capacity of the facility will be 67.2 kW. The primary energy source will be natural gas. The installation of the facility will begin in August 1985.

4. Munson Geothermal, Inc.

[Docket No. QF85-591-000]

On July 3, 1985, Munson Geothermal, Inc., (Applicant) of Field Office, Suite F, 162 Hubbard Way, Reno Nevada 89502, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

VOL
50
ISS
142
JL
24
1985
UMI

The 10 MW Brady project will be located about 60 miles east of Reno in churchill County, Nevada. The facility will use a binary cycle to generate electric power from a liquid dominated geothermal resource as a primary energy source. The applicant is scheduled to initially install 6 MW of which 20 percent will be owned by Hydra-Co Enterprises Ltd., a subsidiary of Niagara Mohawk Power Company.

5. Onsite Energy

[Docket No. QF85-560-000]

On June 24, 1985, Onsite Energy (Applicant), of 10951 Sorrento Valley Road, Suite II-S, San Diego, California 92121 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Capistrano by the Sea Hospital & Clinic at San Diego, California. The facility will contain a reciprocating engine generator and heat recovery unit. The thermal energy will be used in space and water heating and also in the absorption chillers for air conditioning. The primary energy source will be natural gas. The electric power production capacity of the facility will be 60 kW. The facility is expected to be operational on August 1, 1985.

6. Thermo Electron Energy Systems

[Docket No. QF85-566-001]

On June 24, 1985, Thermo Electron Energy Systems (Applicant), of 101 First Avenue, Waltham, Massachusetts 02254, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Conway, New Hampshire and will consist of a solid fuel boiler and condensing steam turbine/generators. The primary source of energy will be biomass in the form of wood waste and whole tree chips. The electric power production capacity of the facility will be 12,000 kW. Approximately 108 million kilowatt-hours of energy will be produced annually.

7. Thermo Electron Energy Systems

[Docket No. QF85-567-001]

On June 24, 1985, Thermo Electron Energy Systems (Applicant), of 101 First Avenue, Waltham, Massachusetts 02254, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Troy, New Hampshire and will consist of a solid fuel boiler and condensing steam turbine/generators. The primary source of energy will be biomass in the form of wood waste and whole tree chips. The electric power production capacity of the facility will be 12,000 kW. Approximately 106 million kilowatt-hours of energy will be produced annually.

8. Thermo Electron Energy Systems

[Docket No. QF85-568-001]

On June 24, 1985, Thermo Electron Energy Systems (Applicant), of 101 First Avenue, Waltham, Massachusetts 02254, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Fitzwilliam, New Hampshire and will consist of a solid fuel boiler and condensing steam turbine/generators. The primary source of energy will be biomass in the form of wood waste and whole tree chips. The electric power production capacity of the facility will be 12,000 kW. Approximately 108 million kilowatt-hours of energy will be produced annually.

9. Thermo Electron Energy Systems

[Docket No. QF85-569-001]

On June 24, 1985, Thermo Electron Energy Systems (Applicant), of 101 First Avenue, Waltham, Massachusetts 02254, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Antrim, New Hampshire and will consist of a solid fuel boiler and condensing steam turbine/generators. The primary source of energy will be biomass in the form of wood waste and whole tree chips. The electric power production capacity of the facility will be 12,000 kW. Approximately 108 million kilowatt-hours of energy will be produced annually.

10. Thermo Electron Energy Systems

[Docket No. QF85-570-001]

On June 24, 1985, Thermo Electron Energy Systems (Applicant), of 101 First Avenue, Waltham, Massachusetts 02254, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Bethlehem, New Hampshire and will consist of a solid fuel boiler and condensing steam turbine/generators. The primary source of energy will be biomass in the form of wood waste and whole tree chips. The electric power production capacity of the facility will be 12,000 kW. Approximately 108 million kilowatt-hours of energy will be produced annually.

11. Thermo Electron Energy Systems

[Docket No. QF85-579-001]

On June 24, 1985, Thermo Electron Energy Systems (Applicant), of 101 First Avenue, Waltham, Massachusetts 02254, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Campton, New Hampshire and will consist of a solid fuel boiler and condensing steam turbine/generators. The primary source of energy will be biomass in the form of wood waste and whole tree chips. The electric power production capacity of the facility will be 12,000 kW. Approximately 108 million kilowatt-hours of energy will be produced annually.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17499 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-672-000]

Algonquin Gas Transmission Corp., Complainant, v. Distrigas Corp. and Distrigas of Massachusetts Corp., Respondents; Complaint

July 17, 1985.

Take notice that on June 28, 1985, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts, 02135, filed in Docket No. CP85-672-000 a complaint pursuant to sections 4, 5, 7, 8, and 15 of the Natural Gas Act and section 385.206 of the Commission's Regulations (18 CFR 385.206). Algonquin requests that all matters relating to compliance with a floor-price condition in temporary certificates issued to Distrigas of Massachusets Corporation (DOMAC), as well as all matters relating to the operation of the condition, be set for expedited hearing and that the Commission require DOMAC to file and serve on all parties in Docket Nos. CP85-487-000 and CP85-488-000, within three days, a full report showing in detail how it has implemented the floor-price condition imposed by the Commission. Algonquin's requests are more fully set forth in the complaint that is on file with the Commission and open to public inspection.

On May 9, 1985, in Docket Nos. CP85-487-000 and CP85-488-000, 31 FERC ¶ 61,166, the Commission issued temporary certificates to DOMAC to make distress sales of imported Algerian liquefied natural gas (LNG) at negotiated rates in order to alleviate an excess supply of LNG in its storage tanks in Everett, Massachusetts. The temporary certificates expire on September 30, 1985. The temporary certificates impose floor and ceiling prices on DOMAC. A floor price was adopted "[b]ecause of [the Commission's] concern that [the sale] may result in unfair competition with other gas suppliers of DOMAC's potential customers . . . ." The temporary certificates further require that DOMAC submit a report requiring, among other things, indentification of the purchasers and DOMAC's sale price.

On June 7, 1985, DOMAC filed a report that stated that it sold LNG to three customers. The principal LNG sale customer was Boston Gas Company (Boston Gas). Algonquin states that the contract between DOMAC and Boston Gas reveals that Boston Gas will purchase some or all of DOMAC's excess LNG at a price one cent per MMBtu below the price on a daily basis of the alternative gas supply Bonton Gas would otherewise purchase. Algonquin further states that the alternative gas supply mentioned in the DOMAC-Boston Gas contract is gas from Algonquin. As a result, Algonquin claims, it is harmed because its sales are displaced by DOMAC's LNG sale. Algonquin alleges that there is no information in the report filed by DOMAC that would permit the Commission to verify DOMAC's compliance with the floor-price condition of the temporary certificates.

Any person desiring to be heard or to make any protest with reference to said complaint shall on or before July 29, 1985, file with the Federal Energy Regulatory Commission, Washington, DC, 20428, a motion to interevene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. DOMAC's and Distrigas Corporation's answer to the complain shall also be due on or before July 29, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17503 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-622-000, etc.]

Centel Corporation-Kansas et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

I. Centel Corporation-Kansas

[Docket No. ER85-622-000]

July 18, 1985.

Take notice that on July 5, 1985 Centel Corporation-Kansas (Centel) tendered for filing a revised Rate Service Schedule 85-D for Off-Peak Service to generating and distribution municipals (the Firm Municipals).

This filing is a supplement to Docket No. ER85-375-000 as filed on March 18, 1985. This filing does not change the requested additional Revenue of $809,094 which was the basis for the $8,090.94 filing fee as filed and paid.

Comment date: July 30, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Maine Yankee Atomic Power Company

[Docket No. ES85-46-000]

July 16, 1985.

Take notice that on June 28, 1985, Maine Yankee Atomic Power Company, (the "Company") tendered for filing an application, pursuant to Section 204 of the Federal Power Act, seeking authority to issue on or before August 1, 1986, Bank Notes and Commercial Paper maturing one year or less after the date of issuance in an aggregate principal amount not exceeding $21,000,000 outstanding at any time.

Comment date: July 26, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of New Mexico

[Docket No. ER83-298-003]

July 18, 1985.

Take notice that on July 1, 1985, Public Service Company of New Mexico (PNM) tendered for filing a refund report. PNM said that it did not collect any amounts from the City of Gallup, New Mexico in excess of the settlement rates under Service Schedule B, and thus it did not owe, nor did it pay, any refunds.

Comment date: July 29, 1985, in accordance with Standard Paragraph H at the end of this notice.

4. Utah Power and Light

[Docket Nos. ER83-427-003, ER83-428-002, and EL85-16-000]

July 18, 1985.

Take notice that on July 1, 1985, Utah Power and Light Company tendered for filing six copies of a Revised Compliance Report which supplement Utah Power and Light Company's Compliance Report filed on November 26, 1984, with respect to Brigham City Corporation, Nephi City Corporation and Town of Levan.

The revised Compliance Filing reflects adjustments made to resolve the protest filed by the above customers on December 19, 1984. The additional amounts paid to Nephi City and the Town of Levan were shown as credits on their billings, copies of which are

VOL
50
ISS
142
JL
24
1985
UMI

enclosed. The adjustment for Brigham City was paid by Check No. 279731 on March 13, 1985.

Comment date: July 29, 1985, in accordance with Standard Paragraph H at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17497 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-50-000]

Central Maine Power Co.; Application for Authority to Issue Bank Notes and Commercial Paper

July 12, 1985.

Take notice that on June 28, 1985, Central Maine Power Company (Applicant) filed an application, pursuant to section 204 of the Federal Power Act, seeking authority to issue on or before August 1, 1986, Bank Notes and Commercial Paper maturing one year or less after the date of issuance in an aggregate principal amount not exceeding $105,800,000 outstanding at any time.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Commission, 825 North Capitol Street NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 26, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17500 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 3968-003 and 8975-000]

Charles A. Doyle and Rick Bosetti; Availability of Environmental Assessment and Finding of No Significant Impact

July 19, 1985.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for exemptions listed below and have assessed the environmental impacts of the proposed developments.

Project No.	Project Name	State	Water body	Nearest town	Applicant
3968-003	Montgomery Creek	CA	Montgomery Creek	Montgomery Creek	Charles A. Doyle.
8975-000	Silver Springs	CA	Silver Springs	Big Bend	Rick Bosetti.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17505 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8519-000 etc;]

City Mills Co. et al.; Availability of Environmental Assessment and Finding of no Significant Impact

July 19, 1985

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town	Applicant
8519-000	City Mills	GA	Cattahoochee	Columbus	City Mills Company.
9000-000	Morrow Dam	MI	Kalamazoo River	Comstock	STS Consultants LTD.
			Licenses		
7883-001	Weston Dam	NH	Upper Ammonoosuc	Groveton	Powerthouse Systems.
8789-000	Cummings Dam	NH	Mascoma River	Lebanon	Sandell Development Corporation.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environemnt. Therefore, environmental impact statements will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NW., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17504 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4414-001]

East Bay Municipal Utility District et al.; Surrender of Preliminary Permit

July 19, 1985.

Take notice that East Bay Municipal Utility District, Calaveras County, Calaveras County Water District, and Calaveras Public Utility District, Permittees for the Upper Mokelumne River (Railroad Flat Dam Site) Project, FERC No. 4414, have requested that their preliminary permit be terminated. The preliminary permit for Project No. 4414 was issued on October 25, 1982, and would have expired on September 30, 1985. The project would have been located on South Fork and Middle Fork Mokelumne River in Calaveras County, California.

The Permittees filed the request on June 24, 1985, and the preliminary permit for Project No. 4414 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sundary or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following the day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17506 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES85-51-000]

El Paso Electric Co., Notice of Application

July 12, 1985.

Take notice that on July 2, 1985, El Paso Electric Company filed an application with the Federal Energy Regulatory Commission (Commission) seeking authority, pursuant to section 204 of the Federal Power Act, to borrow up to $20,000,000 principal amount pursuant to a five-year unsecured term loan for the purpose of refunding existing indebtedness of the Company, such Term Loan proposed to be consummated in September 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 31, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17501 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-4-4-000 and TA85-4-4-001]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

July 17, 1985.

Take notice that on July 11, 1985, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021 tendered for filing with the Commission the following revised tariff sheet pursuant to the purchased gas cost adjustment provision in its FERC Gas Tariff, First Revised Volume No. 1 containing adjusted changes in rates for effectiveness on July 1, 1985:

Substitute Eleventh Revised Sheet No. 7

Granite State states that it filed its regular purchased gas cost adjustment on June 4, 1985 for effectiveness on July 1, 1985, which has been accepted, subject to certain conditions. According to Granite State, since it made its filing, several changes occurred that have the effect of further reducing its cost of gas, effective July 1, 1985. One of its suppliers, Consolidated Gas Transmission Corporation made an out-of-period purchased gas cost adjustment filing on June 13, 1985 for effectiveness on July 1. (Docket Nos. TA85-2-22-000, *et al.*) Also, according to Granite State, it has arranged for two (2) advantageous purchases of gas under special marketing programs that will reduce its average cost of gas. Further, Granite State states that it estimated the July 1, 1985 effective rate of another supplier, Boundary Gas, Inc., and later information available on June 24, 1985 resulted in a lower rate than originally estimated.

It is stated that the filing is made pursuant to the purchased gas cost adjustment provision in section XIX of the General Terms and Conditions of its tariff. Granite State further states that the rate changes are applicable to wholesale sales to its two affiliated distribution company customers: Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities). According to Granite State, the effect of the proposed gas cost adjustments is a decrease of $11,030,556 annually in rates for sales to Bay State and a decrease of $2,112,915 annually for sales to Northern Utilities.

Granite State also tendered for filing the following revised tariff sheets in its FERC Gas Tariff, Original Volume No. 2, for effectiveness September 1, 1985:

Third Revised Sheet No. 17
Third Revised sheet No. 27

According to Granite State, the foregoing tariff sheets are filed pursuant to the authority granted in the certificate authorization issued in *Granite State Gas Transmission, Inc.* 21 FERC ¶ 61,199 (1982) that authorized Granite State to track changes in the rate of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) under Rate Schedule T-130 pursuant to which Tennessee renders a transportation service for Granite State. Granite State further states that Tennessee has submitted a settlement in Docket Nos. RP80-97, *et al.* which, *inter alia*, provides for a reduction in its Rate Schedule T-130 rate that Granite State proposes to track in the above tendered tariff sheets.

According to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All such motions or protests should be filed on or before July 25, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

VOL 50 ISS 142 JL 24 1985 UMI

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17508 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[EL85-38-000]

Idaho Power Co.; Petition for Declaratory Order

July 18, 1985.

Public notice is given that Idaho Power Company (IPC) filed a petition for a declaratory order with the Federal Energy Regulatory Commission on November 27, 1984. The petition seeks a Commission order approving an agreement between IPC and the State of Idado that would define water rights held by IPC at the following licensed hydropower projects on the Snake River and its tributaries: FERC Project Nos. 18 (Twin Falls), 503 (Swan Falls), 1975 (Bliss), 2955 (C.J. Strike), 2061 (Lower Salmon), 2726 (Upper and Lower Malad), 2777 (Upper Salmon), and 2778 (Shoshone Falls).

A dispute has arisen over the extent of IPC's water rights for these projects. In particular, the issue was raised by the Governor of the State of Idaho in the relicensing proceedings for the Swan Falls Project No. 503. Under the terms of that license, issued December 22, 1982 (21 FERC ¶ 62,519) the Governor was given an opportunity to submit recommendations for placing conditions in the license for water management purposes. The Governor subsequently recommended that the Swan Falls license be conditioned so as to allow subordination of the project water rights for the benefit of future upstream agricultural irrigation uses consistent with the State Water Plan approved in 1977. That plan would provide for the eventual withdrawal of water from the Snake River to a level that would reduce the minimum daily flow to 3,300 cubic feet per second. IPC opposed the request.

The State of Idaho, through the Governor and the Attorney General, later came to an agreement with IPC that the parties believe will assure a sufficient supply of water IPC's licensed projects and at the same time subordinate water rights in excess of this level to future beneficial upstream uses. The agreement was dated October 25, 1984, and filed with the Commission as an attachment to the petition for declaratory order referred to above. The petition requests the Commission to declare that the agreement between the parties would be in the public interest.

Two motions to intervene and a protest have been filed with respect to the petition. On January 9, 1985, the National Marine Fisheries Service (NMFS) requested intervention and stated that is was unclear how the agreement would affect instream flows for improved migration, spawning and rearing of salmon and steelhead, including but not limited to the system-wide Water Budget flows provided under the Fish and Wildlife Program of the Northwest Power Planning Council. On January 18, 1985, the Golden Eagle Audubon Society filed a resolution urging the Commission to reject the agreement to subordinate IPC's water rights at Swan Falls and to conduct a detailed environmental analysis thereof, including the individual and cumulative effects. On April 1, 1985, the Idaho Natural Resources Legal Foundation, Inc. (INRLF) filed a motion to intervene on generally the same grounds as those expressed by NMFS. NMFS and INRLF were granted intervention by operation of the Commission's regulations 15 days after their submittals.

Anyone may file comments, protests, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214 (1984). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intevene in accordance with the Commission's rules may become a party to the proceeding. All comments, protests or motions to intervene must be filed with the Commission on or before August 30, 1985. Any filing must bear in all capital letters the title "COMMENTS", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Docket No. of this notice. Send the documents to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC, 20426. A copy of any motion to intervene must also be served on IPC and the above-named intervenors. The petition for declaratory order is available in the Commission's public files. A copy may also be obtained from IPC.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17502 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-171-000]

Mississippi River Transmission Corp. Petition for Authority To Institute Special Billing Procedure and for Waiver of PGA Procedures

July 17, 1985.

Take notice that on July 10, 1985, Mississippi River Transmission Corporation (MRT) transmitted for filing its Petition for Authority to Institute Special Billing Procedure and for Waiver of PGA Procedures. MRT states that the purpose of the special billing procedure is to recover from its customers Order No. 94 "production-related costs" made to its pipeline suppliers.

It is said the special billing procedure is necessary to avoid undesirable market distortions and inequitable allocation of costs among MRT's customers. MRT proposes to invoice the Order 94 retroactive costs based on the ratio of each customer's purchases during the retroactive period to the total of all customer purchases from MRT during that period. Payments to MRT would be made in either lump sum or under an optional, twelve month billing procedure.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of this chapter. All such motions or protests must be filed on or before July 25, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17509 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-39-000]

Northwest Central Pipeline Corp., Petition for Exemption and Interim Relief

Issued: July 17, 1985.

On June 13, 1985, Northwest Central Pipeline Corporation (Northwest Central) filed with the Director, Office of Pipeline and Producer Regulation, pursuant to section 206(d) of the Natural Gas Policy Act of 1978 and § 282.206(b) of the Commission's regulations, a petition for exemption from the Commission's incremental pricing regulations issued under section 201 of the NGPA. Northwest Central requests an interim and permanent exemption from its obligation under Title II of the NGPA to impose incremental pricing surcharges for nonexempt natural gas which it sells to the Bareco Division of Petrolite Corporation (Petrolite). Petrolite purchases gas from Northwest Central for boiler fuel use in the manufacture of food-grade microcrystalline and paraffin waxes at its Barnsville, Oklahoma plant.

In support of its request for interim relief, Northwest Central states that the incremental pricing surcharge levied on Petrolite will cause that company's gas cost to rise above the price offered by Northwest Central's competition, Transok Pipeline Company, which is not subject to the Commission's incremental pricing program. Northwest Central states that Petrolite has indicated it will purchase gas based upon the lowest available cost. As a result, Northwest Central alleges that without an exemption from the requirements of incremental pricing, it could lose the sales currently being made to Petrolite and that the loss of such sales will force Northwest Central's high-priority customers to bear a greater portion of its fixed costs. Interim relief was granted by order of the Director issued on July 15, 1985, in this docket.

The procedures applicable to the conduct of this proceeding are set forth in Rules 1101-1117 (Subpart K) of the Commission's rules of practice and procedure. Any person desiring to participate in this proceeding must file a motion to intervene in accordance with Rule 1105. All motions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17510 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3553-004]

Rauniker, Inc.; Surrender of Exemption From Licensing

July 19, 1985.

Take notice that Rauniker, Inc., Exemptee for the Lowell Water Power Project No. 3553, requested by letter dated June 11, 1985, that its exemption be terminated because the financial market makes the project infeasible, and that the project is located in an area with a low cost, coal fired power base with surplus capacity. The exemption was issued on September 24, 1982, and an extension of time of six months was granted on May 9, 1984, and December 18, 1984, which required construction of the project to start by September 20, 1984, and March 20, 1985, respectively, pursuant to Article 3 of the exemption. The project would have been located on Spring River and Shoal Creek in Cherokee County, Kansas. No construction of the project works has been performed, and no conditions are needed concerning the restoration of Federal and non-Federal lands pursuant to § 4.95(b) of the Commission's regulations.

The Exemptee filed the request on June 21, 1985, and the exemption for Project No. 3553 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17507 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-577-014 et al.]

Trunkline Gas Company et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP85-577-014]

July 19, 1985.

Take notice that on June 12, 1985, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-577-014 a request pursuant to Section 7 of the Natural Gas Act and Section 157.205 of the Regulations under the Natural Gas Act for authorization to make an off-system sale of natural gas. It is explained that the request is pursuant to authorization received in the Commission's order issued October 29, 1984, in Docket No. CP84-577-000, authorizing a sales for take-or-pay relief program (STOPR), all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Applicant proposes to make an off-system sale of gas to Long Island Lighting Company (Long Island Lighting), a local distribution company. Pursuant to the terms of a service agreement dated May 28, 1985, between Applicant and Long Island Lighting, Applicant would deliver up to 85,000 Mcf of gas per day, on an interruptible basis, to Transcontinental Gas Pipe Line Corporation (Transco), for the account of Long Island Lighting, at an existing point of interconnection between Applicant and Transco at Ragley, Beauregard Parish, Louisiana, it is stated. It is indicated that Transco would then transport the gas to Long Island Lighting.

Applicant indicates that Long Island Lighting would use the gas for system supply for resale within its service area. It is stated that the sales price which Long Island Lighting would pay Applicant is $2.8417 per dt equivalent of gas. It is stated that the sales price consists of Applicant's average cost of gas, the GRI surcharge, and an added margin pursuant to the authorization in the STOPR order.

It is stated that the service is conditioned upon the availability of capacity sufficient to provide service without detriment to Applicant's existing customers. The term of the service under the authorization sought herein would be from the date of the first delivery, with termination to coincide with the expiration under the STOPR program, it is indicated.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP85-657-000]

July 17, 1985.

Take notice that on June 27, 1985, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP85-657-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Derby Refining Company (Derby) under the certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Arkla proposes to transport from Pope and Johnson Counties, Arkansas, up to 3,575 Mcf of gas per peak day, 2,405 Mcf per average day, and 877,825 Mcf per year for use in Derby's industrial plant near Wichita, Kansas. Arkla states that the terms of the proposed transportation service is until May 1, 1986.

VOL 50 ISS 142 JUL 24 1985 UMI

Arkla states that it would charge the currently applicable transportation rate in accordance with its ECOSHARE Transportation Rate Schedule or Rate Schedule No. TRG–1, FERC Gas Tariff, First Revised Volume No. 2. The transportation agreement provides for initial rates of 34.84 cents per MMBtu for transportation under Rate Schedule TRG–1 of released gas delivered in Arkla's gathering facilities, 53.38 cents per MMBTu for transportation of other gas delivered into Arkla's gathering facilities, and 34.84 cents per MMBtu for transportation of gas delivered into Arkla's transmission system.

Arkla also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Arkla would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

Panhandle Eastern Pipe Line Company

[Docket No. CP85–659–000]

July 19, 1985.

Take notice that on June 28, 1985, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85–659–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Harbison-Walker Refractories (Harbison-Walker) under its certificate issued in Docket No. CP83–83–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in its request on file with the Commission and open to public inspection.

Panhandle requests authority to transport gas on behalf of Harbison-Walker pursuant to a transportation agreement dated May 14, 1985, among Panhandle, Harbison-Walker and East Ohio Gas Company (East Ohio). Panhandle indicates that the agreement provides for Panhandle to receive a transportation quantity of up to 750 Mcf of gas per day, on an interruptible basis, at an existing point of interconnection between Panhandle and Graham Oil and Gas, Ltd.—Drilling Partnership 80 B., *et al.*, (Seller) in Dewey County, Oklahoma. Panhandle states that it would then transport and redeliver such gas, less a four percent reduction for fuel, to East Ohio at an existing point of receipt in Maumee, Ohio and that East Ohio in turn would make ultimate delivery to Harbison-Walker for its end use at its facilities in Windham, Ohio. Panhandle proposes to provide the requested service for a term expiring on the earlier of eighteen months from the date of the contract (May 14, 1985) or the termination date of authorization pursuant to Subpart F of 18 CFR Part 157.

Panhandle also requests flexible authority to add or delete sources of supply or receipt/delivery points if such altered service is on behalf of the same end-user, at the same end-user location, within the maximum daily and annual volumes authorized in this docket. Panhandle indicates that following the addition or deletion of any gas supplies or receipt or delivery points, it will file with the Commission certain information within thirty (30) days following the implementation of such changes.

Panhandle states that it would charge Harbison-Walker the rates provided by its Rate Schedule OST, including the Gas Research Institute surcharge. Panhandle estimates that the annual volume, peak day volume and average day volume of gas would be 270,000 Mcf, 750 Mcf and 750 Mcf, respectively, and that the volumes represent the total gas requirements for Harbison-Walker's plant.

Panhandle has submitted a letter from East Ohio indicating that it has sufficient capacity to transport the gas without detriment to its other customers and a statement from the producer-supplier indicating that the gas to be transported was not committed or dedicated to interstate commerce prior to November 8, 1978, and that the sale price does not exceed the maximum lawful price under the Natural Gas Policy Act of 1978.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company, A Division of Tenneco Inc.

[Docket No. CP85–108–001]

July 19, 1985.

Take notice that on June 24, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85–108–001 an amendment to its pending application filed November 13, 1984, in Docket No. CP85–108–000 pursuant to section 7(c) of the Natural Gas Act so as to reflect certain changes in the proposed construction and operation of pipeline and appurtenant facilities in offshore and onshore Texas, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Tennessee states that in its application filed in Docket No. CP85–106–000, it proposed to construct and operate approximately 65 miles of 24-inch mainline extending from an interconnection on Tennessee's mainline system in Refugio County, Texas, to a terminus in Mustang Island Block 847 (MU 847). Tennessee also proposed to construct three laterals extending from the proposed offshore mainline.

Tennessee's amended application states that in order for it to take into account certain adjustments in the location and estimates of gas supply in the Texas Offshore Pipeline System (TOPS) area, it now proposes to construct and operate approximately 61 miles of 20-inch pipeline extending from its Texas system in Refugio County, Texas, via MU 847 to its terminus in MU A–31. Tennessee also proposes to acquire from Tenneco Oil Company (TOC), at a total cost of $64,000, two eight-inch risers which would be installed in MU 847 are prefabricated onshore. It is stated that this would reduce the cost of installation of the risers and reduce future risk of damage from barges and supply vessels since onshore installation permits internal attachment to the platforms versus external attachment when the work is done after the platforms are in place offshore.

Tennessee further states that the proposed facilities are required to attach reserves in at least 21 offshore blocks in the North Padre and Mustang Island areas of offshore Texas in which TOC, Amoco Production Company, Pennzoil Producing Company, and Gulf Oil Company have interests. It is also stated that Tennessee and TOC have entered into a letter of intent whereby gas produced from TOC's leases would be committed for purchase and transportation in TOPS. In addition to the above interests, Tennessee states that Sonat Exploration Company and Phillips Petroleum Company (Phillips) have discovered natural gas and are developing MU 791 and Exxon Corporation and Phillips have discovered natural gas and are developing MU 886. It is explained that Tennessee is also negotiating for the purchase of these interests.

Tennessee estimates that the blocks in the TOPS area contain proven and risk adjusted potential reserves of 520,600,000 Mcf of gas with a maximum annual deliverability of 241,900 Mcf per day. It is indicated that the proposed facilities, including two laterals proposed to be constructed later under Tennessee's blanket certificate authorization in Docket No. CP82–413–000 are designed with a maximum capacity of 285,000 Mcf per day. The estimated cost of the system, it is explained, is $51,657,000 and the facilities would be ready for service during 1986–1987 winter heating season, a period which would coincide with a decline in Tennessee's system supplies. Tennessee states that it would finance the estimated cost of facilities initially from general funds and/or borrowing under its revolving credit agreement.

Comment date: August 9, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. United Gas Pipe Line Company

[Docket No. CP85–496–000]

July 19, 1985.

Take notice that on May 7, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85–496–000, as supplemented June 7, 1985, and June 28, 1985, a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas on behalf of Bishop Pipeline Corporation (Bishop), which is acting as an agent for Allied Corporation-Chemical Sector (Allied), to be used for low-priority boiler fuel by Allied at its Chesterfield plant located in Hopewell, Virginia, under its cetificate issued in Docket No. CP82–430–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request, as supplemented, on file with the Commission and open to public inspection.

United proposes to transport up to 7,500 Mcf of natural gas per day on behalf of Bishop. It is stated that United would receive the gas at the interconnection of United's and Bishop's facilities in St. Martin Parish, Louisiana. United would redeliver such gas for Bishop's account at the interconnection of United's and Columbia Gulf Transmission Corporation's (Columbia Gulf) facilities in Vermilion Parish, Louisiana. It is also stated that Columbia Gas Transmission Company (Columbia Gas) would receive the gas from Columbia Gulf and redeliver it to Commonwealth Pipeline and Commonwealth Services, the distributor serving Allied. United states that it would charge Bishop 11.09 cents per Mcf as set forth in United's Rate Schedule IT.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not with drawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17496 Filed 7–23–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP85–621–000, et al.]

ANR Pipeline Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP85–621–000]

July 17, 1985.

Take notice that on June 17, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP85–621–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation of natural gas for various end-users, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to continue fifteen transportation services originally commenced under Sections 157.205 and 157.209 of the Commission's Regulations. ANR proposes to continue the transportation services through December 31, 1986.

ANR proposes to continue the transportation services listed below:

Name of end-user	Prior notice authorization	Proposed transportation volumes (Mcf per day)
Gulf States Utilities	CP84–121–000	50,000
Bethlehem Steel Corp., Inc.	CP84–172–000	65,000
ARMCO, Inc.	CP84–305–000	42,000
Gen Corp	CP84–347–000	3,000
3M Corp	CP84–288–000	7,000
Westvaco Corp	CP84–301–000	4,500
Gates Rubber Co	CP84–353–000	500
Briggs, a Division of the Celotex Corp	CP84–413–000	1,000
Sohio Chemical Co	CP84–453–000	50,000
Union Texas Petroleum Corp	CP84–548–000	15,000
Anchor Glass Corp	CP84–576–000	3,500
Fostoria Glass Container Corp	CP84–695–000	1,000
Sohio Oil Co	CP84–727–000	12,000
Vulcan Materials Co	CP85–45–000	14,000
Butler Manufacturing Co	CP85–371–000	500

ANR states that it would charge rates provided by its Rate Schedule EUT–1. ANR also indicates that transportation service by other pipelines is required to move the gas from the seller to the end-user. ANR requests waiver of § 284.122(b)(1) of the Commission's

Regulations on behalf of all third party intrastate shippers to permit the transportation services by ANR to be accomplished. ANR also advises that the local distribution companies providing complementary transportation service would do so pursuant to appropriate state authority.

Comment date: August 7, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Columbia Gas Transmission Corporation

[Docket No. CP84-458-001]

July 17, 1985.

Take notice that on June 28, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-458-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue to transport natural gas on behalf of Mead Corporation (Mead) under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

By request noticed on June 20, 1984 in Docket No. CP84-458-000, pursuant to the prior notice and protest procedure set forth in § 157.205 of the Commission's Regulations, Columbia was authorized to transport up to 2.2 billion Btu equivalent of natural gas per day through May 1, 1985 to Mead's Chillicothe, Ohio, plant.

Columbia Transmission proposes to continue the above-described transportation through October 31, 1985 on the same terms and conditions as the existing transportation authority.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Columbia Gas Transmission Corporation

[Docket No. CP84-607-001]

July 17, 1985.

Take notice that on July 9, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-607-001 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue the transportation of natural gas on behalf of Yenkin-Majestic Paint Corporation (Yenkin-Majestic) under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

By request noticed on August 10, 1984, in Docket No. CP84-607-000, pursuant to the prior notice and protest procedure set forth in § 157.205, Columbia was authorized to transport up to 70 million Btu equivalent of natural gas per day through May 31, 1985, to Yenkin-Majestic's Columbus, Ohio, plant, subject to Columbia's Rate Schedules TS-1 and/or TS-2, as applicable.

Columbia proposes to continue the above-described transportation through October 31, 1985, pursuant to a May 3, 1985, gas transportation agreement on the same terms and conditions as originally authorized in Docket No. CP84-607-000.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Columbia Gas Transmission Corporation

[Docket No. CP85-666-000]

July 17, 1985.

Take notice that on July 1, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP85-666-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon two storage observation wells, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia proposes to abandon Well No. H-110 in Dundee storage field located in Schuyler County, New York. Columbia states that the well has been used for observation purposes since 1954, is in deteriorated condition and is no longer required for the operation of Dundee storage field. Columbia also proposes to abandon Well No. 4206 in Pavonia storage field located in Ashland County, Ohio. Columbia states that it has been requested by the Board of Commissioners of Ashland County, Ohio, to plug Well No. 4206 due to a landfill project in the area surrounding this well. Columbia states that the well has been used for pressure observation purposes for several years and is no longer required for the operation of Pavonia Storage Field. Neither of the above wells would be replaced, it is stated.

Comment date: August 7, 1985, in accordance with Standard Paragraph F at the end of this notice.

5. Columbia Gas Transmission Corporation.

[Docket No. CP85-688-000]

July 16, 1985.

Take notice that on July 10, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP85-688-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Genstar Stone Products, Div. of FLintkote Co., Subsidiary of Genstar Products (Genstar) under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 1 billion Btu equivalent of natural gas per day for Genstar through October 31, 1985. Columbia states that the gas to be transported would be purchased from Raines Oil & Gas Corporation (Raines) and would be used as process gas in Genstar's Cockeysville, Maryland, plant.

Columbia states that it would receive up to 1 billion Btu equivalent of natural gas per day delivered into its pipeline system at an existing interconnection in Morgan County, Ohio, and would redeliver such gas to Baltimore Gas & Electric Company, the distribution company serving Genstar.

Columbia states that it would charge one of the following rates in its Rate Schedule TS-1 of its FERC Gas Tariff for the transportation service: (1) 29.93 cents per Mcf for gas received from receipt points other than Leach, Kentucky, provided the volumes are within the distributor's total daily entitlements (TDE), and (2) 41.27 cents per million Btu for gas received from receipt points other than Leach, Kentucky, if the volumes are in excess of the seller's customers' TDEs. Columbia further states it would retain 2.43 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas. In addition, Columbia states it would collect the General R&D Funding Unit of the Gas Research Institute for all quantities transported under the transportation arrangement.

Columbia also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Genstar. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Columbia would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 30, 1985, in accordance with Standard Paragraph G at the end of this notice.

6. K N Energy, Inc.

[Docket No. CP85-661-000]

July 17, 1985.

Take notice that on June 28, 1985, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP85-661-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate sales taps for the delivery of natural gas to certain end users under its certificate issued in Docket Nos. CP83-140-000, CP83-140-001 and CP83-140-002 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

K N proposes to construct and operate three sales taps to end users located along its jurisdictional pipeline as identified below:

Customer	Location of tap	Approximate quantity to be sold (Mcf)		End use of gas
		Peak day	Annual	
Resident/Occupant 85-42 Wick Grain Company	Lane Co., Kansas	2	120	Domestic.
Resident/Occupant 85-43 Hubert Stucius	Thayer Co., Nebraska	2	120	Do.
Resident/Occupant 85-44 Phyllis K. Rueb	Cheyenne Co., Kansas	2	120	Do.

K N states that the proposed sales taps are not prohibited by its existing tariffs and that the additional taps would not have a significant impact on K N's peak day and annual deliveries. It is asserted that the natural gas delivered and sold by K N to the various end users would be priced in accordance with the currently filed rate schedules authorized by the applicable state or local regulatory body having jurisdiction.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

7. Natural Gas Pipeline Company of America

[Docket No. CP85-654-000]

July 18, 1985.

Take notice that on June 27, 1985, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP85-654-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authority to transport natural gas for Olin Corporation (Olin) under the certificate issued in Docket No. CP82-402-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural proposes to transport up to 3.5 billion Btu equivalent of natural gas per day on an interruptible basis for Olin. Natural proposes to render the service until the earlier of an effective date of a final rule in Docket No. RM85-1-000, or until October 31, 1985. Natural states that Olin has entered into a gas sales agreement to purchase gas from Panhandle Trading Company and that such gas was not committed or dedicated to interstate commerce on November 8, 1978. Natural would receive natural gas for the account of Olin at an interconnection of facilities between Natural and Panhandle Eastern Pipe Line Company in Moultrie County, Illinois and transport and redeliver such gas for Olin's account at an existing interconnection of facilities between Natural and Northern Illinois Gas Company in Livingston County, Illinois for ultimate redelivery to Olin's plant in Joliet, Illinois, it is explained. Olin will use the gas for the processing of Phosphate products it is stated. Natural states that it would retain 0.7 percent of the volumes received to compensate for gas lost and unaccounted for and for gas used as fuel. Natural also requests flexibile authority to add and/or delete sources of gas and/or receipt points in performance of the service. Natural states that any changes made under the flexible authority would be on behalf of the same end-user, at the same end-use location, and would remain within the levels requested herein.

Natural would charge Olin a transportation charge of 2.8 cents per million Btu received for Olin's account plus the Gas Research Institute's surcharge, it is explained.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. Panhandle Eastern Pipe Line Company

[Docket No. CP85-640-000]

July 17, 1985.

Take notice that on June 24, 1985, Panhandle Eastern Pipe Line Company (Panhandle Eastern), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-640-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Reinforced Plastics Division of DiversiTech General Inc. (Reinforced Plastics) under the certificate issued in Docket No. CP83-83 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle Eastern proposes to transport up to 2,000 Mcf of natural gas per day on an interruptible basis for Reinforced Plastics for 18 months should the Commission extend the end-user transportation program beyond June 30, 1985. Panhandle Eastern indicates that the gas to be transported would be purchased from Yankee Resources, Inc. (Yankee) and that it would receive said volumes at its Union Texas Chaney Dell plant in Major County, Oklahoma and Phillips Kingfisher plant in Kingfisher County, Oklahoma. Panhandle Eastern states it would transport and deliver said volumes, less a 4 percent retainer to Indiana Gas Company (Indiana Gas) in Grant County, Indiana. Panhandle Eastern further states that Indiana Gas would make ultimate delivery of said volumes to Reinforced Plastics for use in its boilers in its Marion, Indiana, facility.

Panhandle Eastern states that it commenced this transportation service on May 1, 1985 under the automatic authorization of section 157.209 of the Natural Gas Policy Act of 1978. Panhandle Eastern indicates that it would charge Reinforced Plastics 42.0 cents for each Mcf of natural gas transported with existing contract demand (CD) and 87.0 cents for each Mcf that exceeds that volume, which is in accordance with its Rate Schedule On-System Transportation System (OST). In addition, Reinforced Plastic would pay a Gas Research Institute surcharge, if applicable, it is stated.

Panhandle Eastern also requests flexible authority to add or delete receipt/delivery points associated with

sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Panhandle Eastern would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

9. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP85-622-000]

July 17, 1985.

Take notice that on June 17, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-622-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of the National Railroad Passenger Corporation (Amtrak), an industrial end-user, under the certificate issued in Docket No. CP82-413-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport up to 3,120 MMBtu equivalent of natural gas per day on an interruptible basis for Amtrak for a term which is being negotiated. Tennessee indicates that the gas to be transported would be purchased from P&O Falco, Inc., and that it would receive said gas at its Lakeside dehydration purchase meter station in Chautauqua County, New York. Tennessee would transport the gas to The Southern Connecticut Gas Company (Southern Connecticut) at Tennessee's Trumbull sales meter station in Fairfield County, Connecticut. Southern Connecticut would transport the gas to Amtrak's New Haven Connecticut, maintenance yard for use as steam and electric power generation.

Tennessee indicates that it would charge Amtrak 17.14 cents for each Mcf of natural gas transported which is in accordance with its Rate Schedule ITEU. In addition, Amtrak would pay a Gas Research Institute surcharge, if applicable. Further Tennessee states that it would retain 3.10 percent of the volumes it receives for its system use, gas lost and unaccounted for.

Tennessee also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Amtrak. The flexible authority requested is to apply only to points related to sources of gas supply, and not to delivery points in the market area. Tennessee will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not increase those quantities.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

10. Texas Gas Transmission Corporation

[Docket No. CP85-623-000]

July 17, 1985.

Take notice that on June 17, 1985, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP85-623-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for an eligible end-user under the certificate issued in Docket No. CP82-407-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Assuming the Commission extends the blanket end-user program, Texas Gas requests authorization to transport beyond the primary term ending June 30, 1985, to October 31, 1985, up to 3.2 billion Btu of low-priority natural gas per day on an interruptible basis on behalf of Indiana Gas Company, Inc. (Indiana Gas), as agent for United States Gypsum Company (U.S. Gypsum), for ultimate delivery to U.S. Gypsum at its Shoals, Indiana, plant. Texas Gas states that it is possible for 1,168,000 million Btu of low-priority gas to be transported on an annual basis.

Texas Gas proposes to charge for its service the rate provided in its Rate Schedule TSC 3 for Rate Schedule G sales customers on file with the Commission, which is currently 21.90 cents, and the legally effective GRI surcharge of 1.25 cents.

Texas Gas indicates that the proposed transportation would be rendered through the use of existing facilities.

Texas Gas also indicates that the gas would be used for manufacture of wallboard and the calcinning of gypsum rock in U.S. Gypsum's Shoals, Indiana, plant. U.S. Gypsum has purchased its gas supplies from EnTrade Corporation, in a first sale, and such gas was not dedicated to interstate commerce on November 8, 1978, it is explained.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

11. Texas Gas Transmission Corporation

[Docket No. CP85-631-000]

July 17, 1985.

Take notice that on June 21, 1985, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP85-631-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of United Cities Gas Company (United Cities), as agent for Goodyear Tire and Rubber Company (Goodyear), under the certificate issued in Docket No. CP82-407-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport beyond the primary term ending June 30, 1985, to October 31, 1985, up to 6,000 MMBtu equivalent of natural gas per day, on an interruptible basis, for ultimate delivery to Goodyear at its Union City, Tennessee, plant. Goodyear is said to estimate its average daily requirement for this gas to be 3,000 MMBtu and to estimate its annual requirement for this gas to be 1,000,000 to 1,400,000 MMBtt.

Texas Gas proposes to charge for its service the rate provided in its Rate Schedule TSC 2 for Rate Schedule G sales customers, which is currently 19.50 cents, and the GRI surcharge of 1.25 cents.

Texas Gas indicates that the proposed transportation by Texas Gas would be rendered through the use of existing facilities.

Texas Gas also indicates that the gas would be used for process steam (boiler fuel for fire manufacturing) in Goodyear's Union City plant. Goodyear has purchased its gas supplies from UCG Energy Corporation, it is explained.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

12. Texas Gas Transmission Corporation

[Docket No. CP85-632-000]

July 17, 1985.

Take notice that on June 21, 1985, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP85-632-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Memphis Light, Gas and Water Division (Memphis), as agent for Ralston Purina Company (Ralston Purina), under the certificate issued in Docket No. CP82-407-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport beyond the primary term ending June 30, 1985, to October 31, 1985, up to 3,000 MMBtu equivalent of natural gas per day, on an interruptible basis, for ultimate delivery to Ralston Purina at its Memphis, Tennessee plant. The gas would be used for drying, process heat, and steam, it is explained. It is said to be possible for 1,095,000 MMBtu of gas to be transported on an annual basis.

Texas Gas proposes to charge for its service the rate provided in its Rate Schedule TSC 1 for Rate Schedule G sales customers which is currently 16.26 cents, and the GRI surcharge of 1.25 cents.

Texas Gas indicates that the proposed transportation would be rendered through the use of existing facilities.

Ralston Purina is said to have purchased the gas from Bishop Pipeline, an intrastate pipeline.

Comment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

13. Transcontinental Gas Pipe Line Corporation

[Docket No. CP85-677-000]

July 17, 1985.

Take notice that on July 5, 1985, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1296, Houston, Texas 77251, filed in Docket No. CP85-677-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport end-user gas on behalf of Lithium Corporation of America (Lithium) under the authorization issued in Docket No. CP82-426-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco proposes to transport on a peak day 3,900 dt equivalent; on an average day 2,600 dt equivalent; and on an annual basis 910,000 dt equivalent of gas for use at Lithium's chemical manufacturing plant in Bessemer City, North Carolina (Bessemer plant), for a term expiring October 31, 1985. It is stated that the natural gas to be transported would be purchased from GHR Energy Corporation (GHR), and would be used for process fuel and boiler fuel. It is stated that Transco would receive the gas at (1) the existing interconnection with GHR at Agua Dulce, Nueces County, Texas, (2) the existing interconnection with Valero Transmission Company in LaSalle County, Texas, (3) the existing interconnection with GHR at Miranda Prospect, Duval County, Texas and (4) the tailgate of the Katy Exxon gas plant in Waller County, Texas, and would redeliver on an interruptible basis, equivalent quantities (less quantities retained for compressor fuel and line loss make-up) to existing points of delivery with Public Service of North Carolina (Public Service). In turn, Public Service would redeliver such gas to the Bessemer plant.

Transco states that it would charge Lithium the currently applicable transportation rate in accordance with its Rate Schedule T-II, FERC Gas Tariff, Second Revised Volume No. 1. In addition, Transco states that it would apply its current transportation policy to the subject transportation which, among other things, requires that Lithium periodically provide Transco with affidavits which state that the subject transportation is not displacing sales which Transco would otherwise make under any of its firm sales rate schedules.

Transco states that Lithium is considering alternatives in the sources of supply of natural gas for delivery to the Bessmer plant. Transco further states that such modifications may involve different suppliers and/or changes in receipt/delivery points, but would not involve any increase in peak day, average day or annual volumes to be transported by Transco. Transco also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Transco will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Transco asserts that any changes made pursuant to such flexible authority would be on behalf of the same end user, Lithium, for use at the same end-use locations and would remain within

daily and annual volume levels proposed herein.

Coment date: September 3, 1985, in accordance with Standard Paragraph G at the end of this notice.

14. Trunkline Gas Company

[Docket No. CP85-665-000]

July 16, 1985.

Take notice that on July 1, 1985, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-665-000 a request pursuant to § 157.205 of the Commission's regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Allied Corporation, Chemical Sector (Allied) under the certificate issued in Docket No. CP83-84-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Trunkline proposes to transport up to 1,500 Mcf of natural gas per day for Allied through the earlier of (1) eighteen months from the effective date of transportation agreement, (2) termination of authorizations as provided by Subpart F of 18 CFR Part 157, or (3) termination of the agreement by either of the parties. Trunkline states that the gas to be transported would be purchased from Bishop Pipeline Corporation (Bishop) and would be used for boilers, calciners, dryer, incinerator and miscellaneous process use in Allied's plant in Metropolis, Illinois.

Trunkline indicates that it would receive up to 1,500 Mcf of natural gas per day delivered into its pipeline system at existing interconnections with Bishop's designees in Goliad and Hidalgo Counties, Texas and St. Mary Parish, Louisiana, and would then redeliver such gas to United Cities Gas Company (United Cities) a jurisdictional customer of Trunkline, in Massac County, Illinois. It is stated that United Cities would then deliver the gas to Allied's Metropolis, Illinois plant.

Trunkline states that it would charge Allied a rate set forth in Trunkline's Rate Schedule IT, which is currently (1) 32.85 cents per Mcf for gas received in Golaid County, Texas, (2) 40.75 cents per Mcf for gas received in Hidalgo County, Texas, and (3) 24.95 cents for gas received in St. Mary Parish, Louisiana. Trunkline indicates that these rates include the General R & D Funding Unit of the Gas Research Institute.

Trunkline also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Allied. The flexible

VOL 50 ISS 142 JL 24 1985 UMI

authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Trunkline would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 30, 1985, in accordance with Standard Paragraph G at the end of this notice.

15. United Gas Pipe Line Company

[Docket No. CP85-629-000]

July 17, 1985.

Take notice that on June 20, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85-629-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing transportation of natural gas for Arco Oil and Gas Company, a Division of Atlantic Richfield Company (Arco), on an interruptible basis, under a gas transportation agreement dated January 25, 1985, all as more fully set forth in the application on file with the Commission and open to public inspection.

The agreement is said to provide for Arco to cause delivery of an aggregate total quantity of 6,000 Mcf of natural gas per day to United from various sources located in Panola County, Texas, through existing facilities. United would transport and redeliver the gas for Arco to an existing interconnection between the facilities of United and Arco near Southern Natural Gas Company's 10-inch Carthage line in Carthage Field, Panola County, Texas. United is proposing to transport the gas for a primary term ending January 15, 1987, and year to year thereafter.

United states that for each Mcf redelivered, United will charge Arco an amount equal to United's type I Rate (Rate Schedule IT) which includes a component for gas consumer in the operation of United's pipeline system. Currently, such rate is 11.09 cents per Mcf.

Comment date: August 7, 1985, in accordance with Standard Paragraph F at the end of this notice.

16. United Gas Pipe Line Company

[Docket No. CP85-649-000]

July 17, 1985.

Take notice that on June 26, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85-649-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the consolidation of deliveries presently made at two delivery points to Zapata Haynie Corporation (Zapata) in Moss Point, Mississippi, to deliver the total volume at one point and for permission and approval to abandon the other points, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United proposes to deliver a maximum daily quantity of 2,700 Mcf of gas to Zapata at the Moss Point delivery point instead of 1,500 Mcf at Moss Point and 1,200 Mcf at the Fish Meal delivery point. It is stated that the Fish Meal delivery point was used to serve a processing plant owned by Seacoast Products, Inc., which has now been acquired by Zapata. It is further stated that Zapata has requested, in a letter dated February 5, 1985, that United consolidate the two delivery points and eliminate the unnecessary facilities at the Fish Meal point.

United explains that the metering facilities would be removed at a cost of $1,200, with a salvage value of $2,145. It is asserted that the proposed abandonment would not result in a termination of service to any United's customers.

Comment date: August 7, 1985, in accordance with Standard Paragraph F at the end of this notice.

17. Westar Transmission Company, a Division of Cranberry Pipeline Corporation

[Docket No. CP82-396-001

July 17, 1985.

Take notice that on June 28, 1985, Westar Transmission Company, a Division of Cranberry Pipeline Corporation (Westar), P.O. Box 90, Amarillo, Texas 79189, filed in Docket No. CP82-396-001 a petition to amend the order issued October 8, 1982, in Docket No. CP82-396-000 pursuant to Section 7 of the Natural Gas Act so as to substitute Westar Transmission Company, a Division of Cranberry Pipeline Corporation, as the certificate holder in the docket in place of Westar Transmission Company, a Division of Pioneer Corporation (Pioneer), in order to reflect the change in ownership of the underlying Hinshaw facilities. Westar also requests that the Commission carry forward to it from Pioneer the Hinshaw exemption under Section 1(c) of the Natural Gas Act authorized by the Commission for Pioneer. The proposals are more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Westar states that effective September 29, 1984, the assets of Pioneer were acquired by Cranberry Pipeline Corpration and that Pioneer was redesignated Westar.

It is stated that by order issued October 8, 1982, the Commission issued to Pioneer a certificate under Section 7(c) of the Natural Gas Act and § 284.222 of the Commission's Regulations granting Pioneer blanket authorization with respect to its West Texas System to transport, sell and assign natural gas in interstate commerce as if Pioneer were an intrastate pipeline under the Natural Gas Policy Act of 1978. It is asserted that the Commission determined in that order that Pioneer is a Hinshaw pipeline exempt from the Commission's jurisdiction under section 1(c) of the NGA.

Comment date: August 7, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17511 Filed 7-23-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180680; FRL-2868-5]

Florida Department of Agriculture and Consumer Services; Receipt of Application for Emergency Exemption To Use Fluridone; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a request for an emergency exemption from the Florida Department of Agriculture and Consumer Services (hereafter referred to as "Applicant") to use the unregistered herbicide fluridone in 333 acres of Hygrophila-infested drainage and flood control canals. EPA is soliciting comment before making a decision whether or not to grant the exemption.

DATE: Comments must be received on or before August 8, 1985.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180680," should be submitted by mail to:

By mail: Jim Tompkins, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716 B, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-1192).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit the use of the herbicide fluridone (CAS 59756-60-4) in Hygrophila-infested drainage and flood control canals in Florida. Information in accordance with 40 CFR 166 was submitted as part of this request.

The Applicant claims that Hygrophila (*Hygrophila polysperma* (Roxb)) has been rapidly expanding its range and developing increasingly troublesome infestations in the drainage and flood control canals of South Florida since 1980. The dense infestations which form when Hygrophilia grows under East Coast conditions severely restrict the operation and effectiveness of the flood control systems of the affected water management districts by clogging drainage canals and closing pump intake passages. The water management areas affected by the Hygrophilia infestations protect densely populated residential areas in South Florida. During periods of heavy rainfall, the almost instantaneous response of the drainage system is essential to prevent flooding in densely populated residential areas. Last year, several thousand dollars of structural damage was done to pumping stations due to mats of Hygrophilia on intake screens.

The Applicant states that laboratory studies indicate that currently registered herbicides are not highly effective in controlling Hygrophila. Field applications of diquat and endothall have only suppressed to a degree the Hygrophilia infestations and have not led to acceptable control of the problem. Control by mechanical equipment is not satisfactory because only a minor amount of the growth can be removed, and there are no rights-of-way for passage of machinery in urban areas. In addition, fragments are broken off the parent plants, each of which can develop into a new plant and spread the problem to adjacent areas.

The Applicant proposes to use a single application of four pounds active ingredient per treated acre or a split treatment of two applications at a rate of two pounds active ingredient per treated acre to control Hygrophila. The products Sonar AS (4 lbs. a.i./gal) or Sonar 5P (2 lbs. a.i./40 pound container), manufactured by Elanco Products Company, a Division of Eli Lilly and Company, is proposed to be used.

The use season is from June through November. The areas to be treated in the proposed program would be man-made drainage and flood control canals in the following water management districts: Broward County Water Management Division (40 acres), Central Broward Drainage District (10 acres), Coral Springs Improvement District (52 acres), Hollywood Reclamation District (6 acres), Lake Worth Drainage District (150 acres), Old Plantation Water Control District (50 acres), and South Florida Water Management District (25 acres).

Fluridone is currently an unregistered pesticide. A request for registration of Sonar for management of aquatic weeds in fresh water ponds, lakes, reservoirs, drainage canals, irrigation canals and rivers is currently pending before the Agency.

This notice does not constitute a decision by EPA on the application itself. Use of an unregistered chemical

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway Arlington, VA.

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

VOL
50
ISS
142
JL
24
1985
UMI

under section 18 of FIFRA has been determined to be of national interest and therefore, the Agency has decided that public notice and opportunity for public comment pursuant to 40 CFR 166.10 is called for as a part of the informal adjudication for specific exemptions. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before August 8, 1985, and should bear the identifying notation "OPP–180680." All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The comment period has been shortened in order to allow the Agency to make a timely decision regarding this application.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption request by Florida.

Dated: July 12, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–17410 Filed 7–23–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–42064; FRL–2809–6]

1,2-Dibromo-4-(1,2-Dibromoethyl)Cyclohexane; Response to the Interagency Testing Committee

Correction

In FR Doc. 85–11121 beginning on page 19460, in the issue of Wednesday, May 8, 1985, make the following corrections:

(1) On page 19464, in the second column, in the first complete paragraph, in the first line, the last figure should read "0.146".

(2) On page 19464, in the second column, in the second complete paragraph, in the fourteenth line, the last word should read "sperm".

(3) On page 19464, in the second column, in the third complete paragraph, in the seventh and eight lines, the material in parentheses should read "(Refs. 43 through 47)".

(4) On page 19465, in the third column, in paragraph (30), at the end of the last line, add "1952.".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1527]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

July 12, 1985.

The following listings of petitions for reconsideration and clarification filed in Commission rulemaking proceedings is published pursuant to CFR § 1.429(e). Oppositions to such petitions for reconsideration and clarification must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: AT&T Earnings on Interstate and Foreign Service During 1978. (CC Docket No. 79–187)
Filed by: Daniel I. Davidson & Joseph Van Eaton, Attorneys for Telecommunications Research and Action Center of 7–1–85. David S. Sather & Robert B. McKenna, Attorneys for The Mountain State Telephone and Telegraph Company, Northwestern Bell Telephone Company & Pacific Northwest Bell Telephone Company, on 7–3–85.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–17514 Filed 7–23–85; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

July 16, 1985.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of these submissions are available from Doris Peacock, FCC, (202) 632–7513. Comments should be sent to David Reed, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503 (202) 395–7231.

OMB No.: 3060–0054
Form No.: FCC 820
Title: Application for Exemption from Ship Radio Station Requirements
Action: Extension
Estimated Annual Burden: 200 Respondents; 400 Hours.

OMB No.: 3060–0020
Form No.: FCC 406
Title: Application for Ground Station Authorization in the Aviation Services
Action: Extension
Estimated Annual Burden: 3,071 Respondents; 3,839 Hours

OMB No.: 3060–0104
Form No.: FCC 572
Title: Temporary Permit to Operate a Part 90 Radio Station
Action: Extension
Estimated Annual Burden: 66,400 Recordkeepers; 6,640 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–17517 Filed 7–23–85; 8:45 am]

BILLING CODE 6712–01–M

Clarification of Pleading Cycle for Petitions for Reconsideration of Special Access Cost Order

On June 19, 1985, a listing of Petitions for Reconsideration filed in rulemaking proceedings was published in the **Federal Register** (Report #1519, 50 FR 25463). That listing erroneously included a petition for reconsideration of the March 8, 1985 Special Access Cost Order in CC Docket No. 83–1145, Phases I and II, Part I, filed by Satellite Business Systems (SBS). Previous notice of this petition had been published on May 22, 1985, 50 FR 21118. This earlier notice explained that SBS's petition had been inadvertently omitted from an even earlier listing of petitions for reconsideration, published on May 10, 1985, 50 FR 19805. The pleading cycle established for oppositions in the May 10 notice remains unchanged. Oppositions were due on May 28, 1985. No other pleading cycle has been established.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–17518 Filed 7–23–85; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217–010612–001.
Title: Linabol–CSAV Vessel/Space Charter Agreement.
Parties:
Lineas Navieras Bolivianas
Compania Sud Americana de Vapores
Synopsis: The proposed amendment would modify the agreement to provide that the parties shall maintain separate general agents, but may solicit and book cargoes through common subagents in the United States. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: July 19, 1985.

Mary F. Whitmore,

Assistant to the Secretary.

[FR Doc. 85–17604 Filed 7–23–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank of New England Corp. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and §225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 15, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of New England Corporation,* Boston, Massachusetts; to acquire through its subsidiary BNE Holding Corporation, Boston, Massachusetts, 100 percent of the voting shares of Maine National Corp., Portland, Maine, thereby indirectly acquiring Maine National Bank, Portland, Maine.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens Bancorp of Lawrence,* Moulton, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Bank, Moulton, Alabama.

2. *Great American Corporation,* Baton Rouge, Louisiana; to acquire 100 percent of the voting shares of State Bank & Trust Company of Golden Meadow, Golden Meadow, Louisiana.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F & M Merger Corporation,* Kaukauna, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of WCB Corporation, Omro, Wisconsin, thereby indirectly acquiring Winnbago County Bank, Omro, Wisconsin.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222;

1. *Crown Bancshares, Inc.,* San Antonio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Crown Bank, N.A., San Antonio, Texas, a *de novo* bank.

2. *Thornton Bancshares, Inc.,* Thornton, Texas; to become a bank holding company by acquiring 99.166 percent of the voting shares of First State Bank, Thornton, Texas.

Board of Governors of the Federal Reserve System, July 18, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–17552 Filed 7–23–85; 8:45 am]

BILLING CODE 6210–01–M

Bankers Trust New York Corp.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 16, 1985.

A. **Board of Governors of the Federal Reserve System,** William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Bankers Trust New York Corporation,* New York, New York; to engage through its subsidiary, BT Futures Corp., New York, New York, in the activities of the execution and clearance of stock index futures contracts and options thereon, and other financially-related index futures contracts that are now or may be offered from time to time on the major commodity exchanges, for nonaffiliated persons. This application may be inspected at the Federal Reserve Bank of New York. These activities have been approved by Board Order as permissible for bank holding companies. *J.P. Morgan & Co. Incorporated,* 71 Federal Reserve Bulletin 751 (1985).

Board of Governors of the Federal Reserve System, July 18, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–17553 Filed 7–23–85; 8:45 am]

BILLING CODE 6210–01–M

VOL 50 ISS 142 JL 24 1985 UMI

Louisiana Bancshares, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 13, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Louisiana Bancshares, Inc.*, Baton Rouge, Louisiana; to engage *de novo* through its subsidiary, Louisiana National Mortgage Company, St. Tammany, Louisiana, in the activity of acquiring, selling, and servicing loans.

Board of Governors of the Federal Reserve System, July 18, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17554 Filed 7-23-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority

Part A, Office of the Secretary, of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services is amended. Chapter AMM (Office of Management Analysis and Systems) as last amended at 49 FR 35423 on September 7, 1984, and Chapter AMN (Office of Finance) as last amended at 49 FR 35424 on September 7, 1984 are amended to reflect the transfer and renaming of the Division of Financial Systems Applications from the Office of Finance to the Office of Management Analysis and Systems. The changes to these chapters are as follows:

(1) Chapter AMN—

(a) Amend Section AMN 10, Organization, by deleting "Division of Financial Systems Applications (AMN 4)."

(b) Amend Section AMN.20, Functions, by deleting, in its entirety, Subsection 4.

(2) Chapter AMM—

(a) Amend Section AMM.20, Functions, by adding the following paragraph to Subsection AMM.20B, Office of Computer and Information Systems:

(d) Division of Systems Applications is responsible for:

(1) Designing, developing, implementing, and maintaining assigned computer-based system applications. This includes, for example, the Departmental Accounting System, the Departmental Payment Management System, and related subsystems, software, and procedures for Departmentwide use.

(2) Assuring that applications are properly integrated where feasible to improve the timeliness and accuracy of administrative and management information, and to promote efficient and effective use of resources.

(3) Developing and recommending policies for managing the design, development, modification, and maintenance of assigned computer-based systems and the acquisition of associated resources.

(4) Developing and maintaining systems specifications and software, and supporting the users/program sponsors in the acquisition of the software and hardware necessary to meet approved Departmental requirements.

(5) Performing all data base management and administration functions for assigned systems.

(6) Assuring the physical and data security of assigned systems, and conducting risk analyses as necessary.

(7) Serving as a technical expert an adviser to the Operating Divisions, the Staff Divisions, and the Regions on the computer aspects (hardware, data base systems, software, telecommunications) of administrative and management information systems.

(8) Supporting users/program sponsors in the development and maintenance of near and long-term ADP plans for the development and operation of assigned systems.

Dated: July 16, 1985.

John J. O'Shaughnessy,

Assistant Secretary for Management and Budget.

[FR Doc. 85-17571 Filed 7-23-85; 8:45 am]

BILLING CODE 4110-60-M

Food and Drug Administration

[Docket No. 85F-0234]

Angus Chemical Co.; Filing of Food Additive Petition

Correction

In FR Doc. 85-16208 appearing on page 28033 in the issue of Tuesday, July 9, 1985, make the following correction: In the second column, in the first line, "suspervisions" should read "suspensions".

BILLING CODE 1505-01-M

[Docket No. 85M-0290]

Bausch & Lomb, Inc.; Premarket Approval of Bausch & Lomb ® Sensitive Eyes ™ Daily Cleaner

Correction

In FR Doc. 85-16209 beginning on page 28033 in the issue of Tuesday, July 9, 1985, make the following corrections:

1. On page 28033, in the third column, in the first complete paragraph, in the second line, "19076" should read "1976".

2. On page 28034, in the second column, in the first paragraph, in the fourth line, "360(h)" should read "360j(h)".

BILLING CODE 1505-01-M

[Docket No. 85F-0233]

B.F. Goodrich Co.; Filing of Food Additive Petition

Correction

In FR Doc. 85-16207 appearing on page 28034 in the issue of Tuesday, July 9, 1985, make the following correction: In the second column, in the **SUMMARY**, in the tenth line, remove the word "and".

BILLING CODE 1505-01-M

Health Care Financing Administration

Proposed Amendment to System of Records; Privacy Act of 1974; Correction

AGENCY: Health Care Financing Administration, HHS.

In FR Doc. 85-15779, on page 27361, in the issue of Tuesday, July 2, 1985, middle column, first complete paragraph, tenth line, change 47 FR 45698 (1982) to read 49 FR 49942 (1984).

Dated: July 16, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85-17493 Filed 7-23-85; 8:45 am]

BILLING CODE 4120-03-M

Public Health Service

Health Resources and Services Administration; Grants

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice regarding grants to Health Systems Agencies (HSAs)—Determination of Population of Health Service Areas.

SUMMARY: This notice provides the population figures the Department will use when it determines the amount of grants to health systems agencies.

SUPPLEMENTARY INFORMATION: Section 1516 of the Public Health Service Act (added by the National Health Planning and Resources Development Act of 1974, Pub. L. 93-641 and the Health and Resources Development Amendments of 1979, Pub. L. 96-79), authorizes the Secretary of Health and Human Services to make grants (hereinafter referred to as "planning grants") to health systems agencies to assist them in meeting their costs of operation. The amount of the planning grant to each health systems agency is determined in accordance with a formula set forth in amended section 1516, and is based upon a determination by the Secretary of the population of the health service area to be served by each agency. The governing regulations, at 42 CFR 122.205, provide that the Secretary will determine the population of the areas based upon the latest available estimate from the Department of Commerce, and will publish annually, in the **Federal Register** a list of health service areas and their populations. The populations of the health service areas are to be published prior to the final allocation of funds in each fiscal year.

In accordance with the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) the Governors of ten States (Alabama, Florida, Indiana, Kentucky, Louisiana, Maine, Missouri, Nebraska, South Dakota, and Texas) have requested and received approval from the Secretary for their States to be designated under section 1536 of the Act. Therefore, the attached population figures exclude the HSAs in these States since they have been eliminated in accordance with section 1536. Additionally, pursuant to section 1536 of the Act, certain States (Hawaii and Rhode Island), do not health service areas established within them or health systems agencies designated for them, but are nonetheless eligible to receive planning grants under section 1516 based in part upon their population. This Notice sets forth the populations of Hawaii and Rhode Island as of July 1, 1982, on the same basis as for health service areas.

The Secretary of Health and Human Services has determined, for purposes of the determination of planning grants for health systems agencies for Fiscal Year 1985, that the population of the health service areas and the areas designated under section 1536 are to be derived from the population counts for the countries and incorporated places based on the Bureau of Census, Publication Series P-26, Number 82-1-SC through 82-50-SC, "1982" Population Estimates for Counties and Incorporated Places," for July 1, 1982. The population counts for Puerto Rico and he outlying areas are based on the Bureau of Census, Publication Series P-25, Number 960, "Estimates of Puerto Rico and the Outlying Areas," for July 1, 1983. These population reports furnish the latest available census population counts for the population of States by counties, incorporated places, and selected minor jurisdictions which are on a comparable, uniform, and consistent basis as needed for the derivation of population totals for health service areas. Data from the Department of Treasury, Office of Revenue Sharing, "Census Tribal Population List", were used to make adjustments of the population of health service areas in Arizona and the health service area that includes portions of Arizona, New Mexico, and Utah.

Accordingly, as described above, the Secretary has made the following determination of the populations of the health service areas and areas designated under section 1536.

Dated: July 17 1985.

John H. Kelso,

Acting Administrator.

HEALTH SERVICE AREA POPULATIONS [1] FOR PURPOSES OF DETERMINATION OF PLANNING GRANTS

Health service area	Population
Alaska:	
1	55,832
2	302,589
3	91,851
Arizona:	
1	1,744,885
2	713,251
3	200,842
4 Incl. UT #—4,732 and NM #2—60,853	132,972
5	158,095
Arkansas:	
1	728,141
2	577,288
3	505,705
4	482,773
California:	
1	693,385
2	1,334,421
3	667,905
5	1,818,088
6	875,536
7	1,329,283
8	693,701
9	1,386,358
10	668,783
12	1,707,571
13	2,013,801
14	2,058,508
Colorado: 2	637,642
Connecticut:	
2	801,481
3	585,878
4	801,039
5	488,988
Delaware: 1	588,885
District of Columbia: 1536	623,000
Georgia:	
2	574,289
3	2,405,793
4 Incl. SC #5—106,359	676,272
5 Incl. AL #2—47,303	835,798
dHawaii: 1536	997,842
Idaho: 1	974,916
Illinois:	
1	581,073
2	710,281
3	581,143
4	798,027
5	647,810
6	2,987,144
7	2,940,850
8	883,022
9	498,158
10 Incl. IA #3—203,390	444,838
11	585,520
Iowa:	
1	2,710,069
(3) See IL #10	
Kansas:	
2	603,865
3	837,480
Maryland:	
1	337,835
2	584,276
3	844,363
4	2,191,238
5	301,369
Massachusetts:	
1	799,934
2	684,846
3	495,040
4	2,099,701
5	1,042,553
6	631,352
Michigan:	
1	4,560,322

VOL 50 ISS 142 JL 24 1985 UMI

HEALTH SERVICE AREA POPULATIONS [1] FOR PURPOSES OF DETERMINATION OF PLANNING GRANTS—Continued

Health service area	Population
2	693,594
3	776,016
4	1,096,763
5	579,321
6	762,980
7	326,381
8	316,206
Minnesota:	
(1) See ND #2	
2 (Incl. WI 3 #7—139,594	480,160
(3) See ND #3	
4	464,372
5	2,037,467
6	526,461
Mississippi: 1	2,567,290
Montana: 1	804,301
Nevada:	
1	366,649
2	510,757
New Jersey:	
1	1,293,172
2	1,956,278
3	559,026
4	2,072,480
5	1,531,174
New Mexico:	
1	1,312,653
(2) See AZ #4	
New York:	
1	1,640,127
2	1,204,886
3	1,397,012
4 Incl. PA #8—106,368	420,735
5	1,358,257
6	1,934,103
7	7,086,096
8	2,601,652
North Caroline:	
1	1,040,361
2	1,134,713
3	1,025,375
4	841,972
5	915,495
6	1,058,156
North Dakota:	
2 Incl. MN #1—160,970	307,302
3 Incl. MN #3—203,047	411,643
Ohio:	
1	1,495,518
2	1,106,532
3	412,840
4	1,015,944
5	1,631,981
6	731,657
7	845,231
8	655,951
9	2,152,283
10	741,483
Oklahoma: 1	3,211,613
Oregon:	
1	1,165,561
2	1,147,312
3	360,492
Pennsylvania:	
1	3,689,426
2	945,164
3	806,861
4	1,438,387
5	755,056
6	2,870,723
(8) See NY #4	
9	500,259
Rhode Island: 1536	953,773
South Carolina:	
1	839,160
2	886,274
3	640,476
4	738,464
(5) See GA #4	
Tennessee:	
1 Incl. VA #6—91,102	515,061
2	865,932
4	1,543,199
6	867,106

HEALTH SERVICE AREA POPULATIONS [1] FOR PURPOSES OF DETERMINATION OF PLANNING GRANTS—Continued

Health service area	Population
Utah:	
1	1,558,747
(2) See AZ #4	
Vermont: 1	518,846
Virginia:	
1	708,108
2	1,164,327
3	1,164,893
4	874,827
5	1,375,980
(6) See TN #1	
Washington:	
1	2,633,244
2	614,644
3	505,751
4	529,427
Wisconsin:	
1	839,603
2	1,765,208
5	605,351
6	408,123
(7) See MN #2	
American Samoa: 1536	34,500
Guam: 1536	116,400
Mariana Islands: 1537	18,200
Puerto Rico: 1536	3,267,000
Trust Territory: 1536	124,000
Virgin Islands: 1536	103,800

[1] Population for the United States based on Bureau of the Census, Current Population Reports, Series P-26, No. 82-SC, population estimates as of July 1, 1982. Population for Puerto Rico and the outlying areas is based on the Bureau of the Census, Current Population Reports, Series P-25, No. 960, population estimates as of July 1, 1983.

[FR Doc. 85-17524 Filed 7-23-85; 8:45 am]

BILLING CODE 4160-15-M

Health Education Assistance Loan Program; "Maximum Interest Rates for Quarter Ending September 30, 1985 and Rate of Insurance Premium"

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professionals schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 128) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending September 30, 1985, two interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11⅞ percent. Using the regulatory formula (45 CFR 128.13(a) (2) and (3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (7.78 percent), and rounding the result (11.28 percent) upward to the nearest ⅛ percent (11⅜ percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rage of the 4 quarters ending September 30, 1985 is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 11⅞ percent for the quarter ending December 31, 1984; 11¾ percent for the quarter ending March 31, 1985; and 12 percent for the quarter ending June 30, 1985.

2. For fixed rate loans executed during the period of July 1, 1985 through September 30, 1985, and for variable rate loans executed after January 27, 1981, the interest rate is 11⅜ percent. Using the regulatory formula (42 CFR 60.13(a)(3)), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (7.78 percent); adding 3.50 percent (11.28 percent); and rounding that figure to the next higher one-eight of 1 percent (11⅜ percent).

B. Section 60.14(b) of the regulations provides that the date of the insurance premium shall not exceed 2 percent per year of the loan principal and that the Secretary will announce the rate of the insurance premium on a quarterly basis through a notice published in the **Federal Register.**

The Secretary announces that for the period ending September 30, 1985, the rate of the insurance premium continues to be 2 percent per year of the loan principal for loans executed through the HEAL program.

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: July 17, 1985.

John H. Kelso,

Acting Administrator.

[FR Doc. 85-17523 Filed 7-23-85; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

For the Use and Distribution of the Mescalero Apache Tribe Indian Judgment Funds in Docket 89-79L Before the United States Claims Court

July 11, 1985.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indians Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on November 2, 1984 in satisfaction of the award granted to the Mescalero Apache Tribe before the United States Claims Court in Docket 89-79L. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated February 11, 1985 and was received (as recorded in the *Congressional Record*) by the Senate on February 25, 1985, and by the House of Representatives on March 7, 1985. The plan became effective on June 9, 1985 as provided by the 1973 Act, as amended by Pub. L. 97-458, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

For the Use of the Judgment Funds Awarded to the Mescalero Apache Tribe in Docket 89-79L before the United States Claims Court

The funds appropriated on November 2, 1984, in satisfaction of a judgment granted to the Mescalero Apache Tribe in Docket 89-79L by the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used as herein provided.

The Mescalero tribal governing body shall utilize the funds to apply on loans from the First Interstate Bank and the Sierra Blanca Ski Enterprises. Any funds remaining shall be utilized by the tribal governing body on a budgetary basis for operating expenses or for social and economic programs subject to the approval of the Secretary of the Interior.

None of the funds made available under this plan for programming shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such households or members would otherwise be entitled under the Social Security Act or, except for benefits in excess of $2,000, any Federal or federally assisted programs.

Hazel E. Elbert,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-17598 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-02-M

Plan for the Use and Distribution of the San Pasqual Band's Judgment Funds in Docket 80-A Before the United States Claims Court

July 11, 1985.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claim Commission or Court of Claims to any Indian tribe. Funds were appropriated on January 3, 1984, in satisfaction of the award granted to the San Pasqual Band of Indians before the United States Claims Court in Docket 80-A. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated December 31, 1984, and was received (as recorded in the *Congressional Record*) by the Senate on January 25, 1985, and by the House of Representatives on January 21, 1985. The plan became effective on April 27, 1985, as provided by the 1973 Act, as amended by Pub. L. 97-458, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

The funds of the San Pasqual Band appropriated January 3, 1984, in Docket 80-A before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as follows:

Per Capita Payment Aspect

Eighty (80) percent of the funds shall be distributed in the form of per capita payments by the Secretary of the Interior (hereinafter the "Secretary") in sums as equal as possible to all tribal members born on or prior to and living on the effective date of this plan.

Programing Aspect

Twenty (20) percent of the funds, and any amount remaining from the per capita payment provided above, shall be invested by the Secretary and utilized by the tribal governing body on a budgetary basis, subject to the approval of the Secretary, for tribal social and economic development programs.

General Provisions

The per capita shares of living, competent adults shall be paid directly to them. The shares of decreased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. The shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended.

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs.

Hazel E. Elbert,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-17597 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[CA 14313]

Exchange of Public and Private Lands in Trinity and Humboldt Counties and Order Providing for Opening of Public Lands; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and order providing for opening of public lands.

SUMMARY: The purpose of this exchange was to acquire non-Federal lands within the Six Rivers National Forest for more effective management by the Forest Service U.S. Department of Agriculture. The land acquired in this exchange will be opened to such forms of disposition as may be by law by made of national forest lands. The public interest was well served through completion of this exchange.

EFFECTIVE DATE: June 19, 1985.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978-4815.

VOL 50 ISS 142 JL 24 1985 UMI

SUPPLEMENTARY INFORMATION: The United States issued an exchange conveyance document to Paul Orban on June 19, 1985, under the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), for the following described land:

Humboldt Meridian, California

T. 1 S., R. 5 E.,
Sec. 10, NE¼NW¼ and N½NE¼;
Sec. 15, NW¼SW¼.

Comprising 160 acres of private land in Humboldt County.

In exchange for these lands, the United States acquired the following described land from Paul Orban:

Humboldt Meridian, California

T. 1 S., R. 6 E.,
Sec. 5, SW¼SW¼;
Sec. 8, W½NW¼ and NW¼SW¼.

Comprising 160 acres of public land in Trinity County.

Upon acceptance of title to the private land describe above, they became part of the Six Rivers National Forest and are subjet to all the laws, rules, and regulations applicable thereto.

At 10 a.m. on August 23, 1985, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the land should be addressed to the Forest Supervisor, Six Rivers National Forest, 507 F Street, Eureka, CA 95501.

Dated: July 15, 1985.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

[FR Doc. 85-17596 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-40-M

Public Information Request for the Green River-Hams Fork Federal Coal Region, Colorado and Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management wishes to determine leasing interest in all areas available for further leasing consideration within the Green River-Hams Fork Federal Coal Region.

DATE: Public input is welcome through October 1, 1985.

ADDRESS: Public input should be submitted to the Chief, Branch of Solid Minerals, Bureau of Land Management (CO-921), 2020 Arapahoe Street, Denver, Colorado 80205.

FOR FURTHER INFORMATION CONTACT: Kenneth Smith, Branch of Solid Minerals, Bureau of Land Management (CO-921), at the above address, telephone (303) 294-7139.

SUPPLEMENTARY INFORMATION: By Federal Register notice on May 13, 1985, the Bureau of Land Management requested re-expressions of coal leasing interest on the coal tracts under leasing consideration in the *Draft Environmental Impact Statement, Green River-Hams Fork Federal Coal Region, Round Two, August 1983.* In response, the Bureau received re-expressions of interest for some of the tracts and unsolicited expressions of interest for additional tracts. In order to fully assess the leasing interest through the region, the Bureau would like to know the degree to which additional leasing interest exists beyond the existing tracts. The public, therefore, is invited to indicate regional leasing interest where areas are available for leasing considerations. Those parties that submitted letters in response to the May 13, 1985, notice do not need to provide additional input, unless their interest changes.

The areas available for leasing consideration are set out in Bureau land use plans. The Bureau's Rawlins, Rock Springs and Craig District Offices can supply these plans for the region.

Information received in response to this notice will be furnished to the Green River-Hams Fork Regional Coal Team. The team is expected to review this information in the development of Federal coal leasing recommendations for the Secretary of the Interior, provided that the Secretary decides to continue coal activity planning under the Federal Coal Management Program.

Kannon Richards,

State Director.

[FR Doc. 85-17594 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-JB-M

Montana; Decision To Drop Sleeping Giant, MT, From Wilderness Study Status

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Decision to Drop Sleeping Giant, Montana from Wilderness Study Status.

SUMMARY: This action is based on a Solicitor's Opinion dated March 18, 1982, which advised that lands acquired by exchange or other acquisition authority after October 21, 1976, are not subject to section 603 of FLPMA, BLM Wilderness Study. Therefore, the Sleeping Giant area (Inventory Number MT-075-111) is not subject to Wilderness and will not be further studied for wilderness.

SUPPLEMENTARY INFORMATION: The Sleeping Gian unit originally consisted of 11 scattered parcels of public land totalling 6,858 acres. Intermixed with the public land were privately owned and State of Montana owned parcels. As the contiguous federal lands were less than 5,000 acres, the area was dropped from further wilderness review in the Intitial Inventory of August 1979. with the culmination of a land exchange that transferred to federal control 5,718 acres of privately owned land located in the Sleeping Giant area, and the need to clarify the wilderness review of the area for the ongoing Headwaters Resoruce Management Plan, BLM chose to initiate an intensive inventory of Sleeping Giant.

The inventory was announced in the Federal Register Vol. 46: No. 142: July 24, 1981, and completed in August 1981. Further study, however, was dependent on a forthcoming Interior Department Solicitor's Opinion on the issue of wilderness study on post-FLPMA acquired lands. The March 16, 1982, opinion stated that BLM was not required to conduct wilderness review on lands acquired after October 21, 1976, the date of FLPMA. The Sleeping Giant area will not be studied further for wilderness. For further information, contact Jack McIntosh, Butte District Manager, 106 N. Parkmont, P.O. Box 3388, Butte, Montana 59701; telephone: (406) 494-5059.

Marvin LeNoue,

Acting Stote Director.

July 15, 1985.

[FR Doc. 85-17593 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-DN-M

[OR-39055]

Oregon; Proposed Withdrawal and Reservation of Lands and Opportunity for Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army has filed an application to withdraw approximately 380 acres of public land for the U.S. Army Central Oregon Test Facility. This notice closes the land to surface entry and mining, but not mineral leasing, pending final action on the application.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (Telephone: 503-231-6905).

SUPPLEMENTARY INFORMATION: On June 27, 1985, a petition was filed by the Department of the Army to withdraw the following described public lands from settlement, sale location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Willamette Meridian

T. 15 S., R. 14 E.,
Sec. 31, SE¼ and the portion of the E½SW¼ lying easterly of the easterly right-of-way line of the Frank McCaffery County Road.
T. 18 .S, R. 13 E.,
Sec. 11, SE¼.

The areas described aggregate approximately 380 acres in Crook and Deschutes Counties, Oregon.

The purpose of the proposed withdrawal is to protect the Central Oregon Test Facility of the U.S. Army Electronics Research and Development Command involving two separate parcels located near Bend and Redmond in central Orgeon.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The application will be processed in accordance with the regulations aet forth in Title 43 CFR Part 2300.

For a period of 90 days from the date of publication of this notice, in the Federal Register, the lands will be segregated as specified above unless the application is rejected or the withdrawal is approved to that date. The temporary uses which will be permitted during the segregative period are leases, licenses, permits, and disposal of mineral or vegetative resources other than under the mining laws.

Dated: July 15, 1986.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals.

[FR Doc. 85-17597 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-33-M

Roswell District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Roswell District Advisory Board Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Roswell District Grazing Advisory Board.

DATE: Wednesday, August 21, 1985, beginning at 10:00 a.m. A public comment period will be held following the last agenda item.

Location: BLM Roswell District Office, 1717 West Second St., Roswell, NM 88201.

FOR FURTHER INFORMATION CONTACT: Dave L. Mari, Associate District Manager or Guadalupe G. Martinez, Public Affairs Specialist, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201 (505) 622-9042.

SUPPLEMENTARY INFORMATION: The proposed agenda will include: (1) Wilderness Update; (2) Recommendation of FY 86 Range Improvement Projects; (3) Status of FY 85 Range Improvement Projects; (4) East Roswell Grazing Decisions Update; (5) Slide Presentation—Prescribed Burn; (6) Antelope Habitat Study; and (7) Expenditure of 8100 funds. The meeting is open to the public. Interested persons may make oral statements to the Board during the public comment period or may file written statements. Anyone wishing to make an oral statement should notify the Associate District Manager by August 12, 1985. Summary minutes will be maintained in the District Office and will be available for public inspection during regular business hours within 30 days following the meeting. Copies will be available for the cost of duplication.

Francis R. Cherry, Jr.,

District Manager.

[FR Doc. 85-17592 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-FB-M

[U-44429]

Utah; Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; Duchesne County

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of competitive oil and gas lease U-44429 for lands in Duchesne County, Utah, was timely filed and required rentals and royalties accuring from March 1, 1985, the date of termination, have been paid.

The lessee has agreed to new terms for rentals at rates of $10 per acre and royalties at rates of not less than 16⅔ percent, computed on a sliding scale 4 percentage points over the competitive royalty schedule attached to the lease. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U-44429 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate this lease, effective March 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-17495 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-DQ-M

Utah; Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; San Juan County

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease U-53174 for lands in San Juan County, Utah, was timely filed and required rentals and royalties accruing from March 1, 1985, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U-53174 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective March 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-17495 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-DQ-M

VOL
50
ISS
142
JL
24
1985
UMI

Montana; Filing of Plats of Survey

AGENCY: Bureau of Land Management, Montana State Office.

ACTION: Notice of Filing of Plats of Survey.

SUMMARY: Plats of survey of the lands described below accepted June 7, 1985, were officially filed in the Montana State Office effective 8 a.m. on June 28, 1985.

Principal Meridian, Montana

T. 31 N., R. 31 E.

The plat represents the dependent resurvey of a portion of the seventh Auxiliary Guide Meridian East, through Township 31 North, a portion of the north boundary, and a portion of the subdivisional lines; and the survey of the subdivision of sections 5 and 6, Township 31 North, Range 31 East, Principal Meridian, Montana. The area described is in Phillips County.

Principal Meridian, Montana

T. 30 N., R. 37 E.

The plat represents the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines; and the survey of the subdivision of sections 2 and 11, Township 30 North, Range 37 East, Principal Meridian, Montana. The area described is in Valley County.

These surveys were executed at the request of the Lewistown District Office for the Administrative needs of the Bureau.

EFFECTIVE DATE: June 28, 1985.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: July 8, 1985.

Richard A. Dickman,

Acting Chief, Branch of Records.

[FR Doc. 85-17551 Filed 7-23-85; 8:45 am]

BILLING CODE 4310-DN-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-213]

Certain Fluidized Bed Combustion Systems; Grant of Respondents' Application for Interlocutory Review of Administrative Law Judge's Order No. 4, Denial of Complainant's and the Commission Investigative Attorney's Applications for Interlocutory Review of Order No. 4, and Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Grant of respondents ASEA STAL Inc., and ASEA STAL AB's (collectively referred to as Stal Laval) application to review Order No. 4, denial of complainant's Wormser Engineering, Inc. (Wormser) and the Commission investigative attorney's (IA) applications to review Order No. 4 and termination of investigation.

SUMMARY: The Commission granted Stal Laval's application for review of those portions of the administrative law judge's (ALJ) Order No. 4 relating to the question of the effect of an agreement to arbitrate disputes arising under a license on the Commission's exercise of jurisdiction in this investigation. The Commission denied Stal Laval's request for oral argument on this issue. The Commission denied Wormser's and the IA's applications for review of the issue of whether the Commission can find patent infringement and grant a remedy on the basis of a contract for sale and imminent importation of an identifiable product. The Commission determined to terminate this investigation.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of General Counsel, telephone 202-523-0189.

SUPPLEMENTARY INFORMATION: On January 10, 1985, the Commission voted to institute the above-captioned investigation to determine whether there was a violation of section 337 in the unlawful importation into the United States of certain fluidized bed combustion systems, or in their sale, by reason of alleged: (1) Infringement of claims 1, 4, 5, or 8 of U.S. Letters Patent 4,279,205; (2) infringement of claims 1, 2, 4, or 5 of U.S. Letters Patent 4,303,023; (3) misappropriation of trade secrets, and (4) fraudulent inducement to enter into a license agreement, the effect or tendency of which is to destroy or substantially injure an efficiently and economically operated industry in the United States and/or prevent the establishment of such an industry.

On February 11, 1985, respondents ASEA STAL Inc., and ASEA STAL AB (collectively referred to as Stal Laval) filed a motion to dismiss the investigation for lack of subject matter jurisdiction and the existence of an agreement to subject all disputes concerning the licensing agreement at issue to arbitration. The IA and complainant Wormser opposed the motion.

The ALJ considered Stal Laval's motion for dismissal as a motion for summary determination, and on March 21, 1985, denied the motion. Order No. 4. All three parties to the investigation sought permission to request interlocutory review of Order No. 4. On April 15, 1985, the ALJ granted the motions and stated that any party may file an application for review of Order No. 4 pursuant to § 210.70(b) of the Commission's rules.

Stal Laval, Wormser, and the IA all filed requests for review of at least portions of Order No. 4. Stal Laval sought review on the arbitration and jurisdictional issues and requested that the Commission hear oral argument on these issues. Wormser and the IA sought review on the issue of whether the Commission can find patent infringement and grant a remedy based upon a contract for sale and imminent importation of an identifiable product.

The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.51 and 210.70(b) of the Commission's Rules of Practice and Procedure. (49 FR 46123 (Nov. 23, 1984); to be codified at 19 CFR 210.51 and 210.70(b)).

Copies of the Commission's Action and Order, the ALJ's orders and all other nonconfidential documents files in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. The Commission's opinion in this matter will be issued shortly.

By order of the Commission.

Issued: July 18, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-17567 Filed 7-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigative No. 337-TA-219]

Certain Porch, Patio and Lawn Gliders; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Sa'Di Bros. Co., Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 16, 1985.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: July 19, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-17565 Filed 7-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-220]

Certain Spring Retainers for Garage Door Hardware; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Settlement Agreement and Terminating the Investigation

AGENCY: International Trade Commission.

ACTION: Decision not to review initial determination granting respondent's motion to terminate the investigation on the basis of a settlement agreement.

SUMMARY: The Commission has determined not to review the presiding officer's initial determination (ID) (Order No. 5) granting respondent's motion (Motion No. 220-3) to terminate the investigation on the basis of a settlement agreement. The ID, which was issued on June 11, 1985, terminates the investigation with respect to LCB Industries (LCB), the only respondent, and, therefore, terminates the entire investigation.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0079.

SUPPLEMENTARY INFORMATION: On May 31, 1985, respondent LCB moved for the termination of the investigation on the basis of a settlement agreement. Complainants Halco Spring & Manufacturing Co., Inc. and Holmes-Hally Industries filed a notice of concurrence joining the motion on June 3, 1985. The Commission investigative attorney also joined the motion on June 3, 1985. No petitions for review or comments from Government agencies or the public were received.

Authority for the Commission's action is contained in Commission rule 210.53 (49 FR 46123 (Nov. 23, 1984); to be codified at 19 CFR 210.53).

Copies of the ID and other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Issued: July 12,

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-17577 Filed 7-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-251 through 253 (Preliminary) and 731-TA-271 through 274 (Preliminary)]

Certain Welded Carbon Steel Pipes and Tubes From India, Taiwan, Turkey, and Yugoslavia

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigations Nos. 701-TA-251, 252, and 253 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India, Turkey, and Taiwan, respectively, of certain welded carbon steel pipes and tubes [1] which are alleged to be subsidized by those countries. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by August 30, 1985.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-271, 772, 273 and 274 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India, Turkey, Taiwan, and Yugoslavia, respectively, of certain welded carbon steel pipes and tubes [1] which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by August 30, 1985.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Judith Zeck (202-523-0339), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

[1] For purposes of these investigations, the term "certain welded carbon steel pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, 0.375 inch or more but not over 16 inches in outside diameter, provided for in items 610.3206, 610.3209, 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 of the *Tariff Schedules of the United States Annotated (TSUSA)*. Prior to Apr. 1, 1984, these pipes and tubes were provided for in TSUSA items 610.3206, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244 and 610.3247.

VOL 50 ISS 142 JL 24 1985 UMI

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on July 16, 1985, by counsel for the individual producer members of the subcommittees on standard and line pipe of The Committee on Pipe and Tube Imports.

Participation in the Investigation

Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on August 7, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Judith Zeck (202–523–0339) not later than August 5, 1985 to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before August 12, 1985, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: July 19, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17566 Filed 7–23–85; 8:45 am]

BILLING CODE 7020–02–M

[332–204]

Competitive Assessment of the U.S. Commuter and Business Aircraft Industries

AGENCY: International Trade Commission.

ACTION: Scheduling of public hearing and postponement of deadline for filing written submissions.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lakomirak, Machinery & Equipment Division, Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202–523–0131).

SUPPLEMENTARY INFORMATION:

Background

The Commission instituted the investigation on its own motion for the purpose of gathering information on the competitive position of the U.S. and foreign commuter and business aircraft industries. The study will assess the impact of the growing competition from imports on the U.S. commuter and business aircraft industries, explore the related development of further competition in overseas markets, and examine the steps taken in response to this increased competition.

Public Hearing

A public hearing in connection with investigation No. 332–204 has been scheduled for 10:00 a.m., on August 27, 1985, to be continued on August 28, 1985, if required, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C., 20436, not later than the close of business (5:15 p.m.), August 13, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs. The deadline for filing prehearing briefs is August 15, 1985.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested parties are invited to submit written statements concerning the investigation. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by Commission, written statements should be received no later than August 15, 1985. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Posthearing briefs must be submitted not later than the close of business on September 3, 1985. A signed original and 14 true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.6 of the Commission's Rules (19 CFR 201.8).

Hearing-impaired persons are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

Notice of the Commission's institution of the investigation was published in the

Federal Register of January 23, 1985 (50 F.R. 3036).

Issued: July 15, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17576 Filed 7–23–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 303–TA–16 (Preliminary)]

Lime Oil From Peru

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or that the establishment of an industry in the United States is materially retarded,[2] by reason of imports from Peru of lime oil, provided for in item 452.38 of the Tariff Schedules of the United States, which are allegedly subsidized by the Government of Peru.

Background

On May 29, 1985, a petition was filed with the Commission and the Department of Commerce on behalf of Parman Kendall, Inc., Goulds, FL, alleging that an industry in the United States is materially injured or threatened with material injury by reason of duty-free imports from Peru of lime oil which are subsidized by the Government of Peru. Accordingly, effective May 29, 1985, the Commission instituted preliminary countervailing duty investigation No. 303–TA–16 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 5, 1985 (50 FR 23778). The conference was held in Washington, DC, on June 21, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission's determination in this investigation was made in an open "Government in the Sunshine" meeting held on July 10, 1985.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 15, 1985. The views of the Commission are contained in USITC Publication 1723 (July 1985), entitled "Lime Oil from Peru: Determination of the Commission in Investigation No. 303–TA–16 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: July 17, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17570 Filed 7–23–85; 8:45 am]

BILLING CODE 7020–02–M

[Report to the President on Investigation No. TA–201–55]

Nonrubber Footwear

Determination

On the basis of information developed during the course of investigation No. TA–201–55, the Commission determines that footwear, provided for in terms 700.05 through 700.45, inclusive 700.56, 700.72 through 700.83, inclusive, and 700.95 of the Traffic Schedules of the United States (hereafter referred to as nonrubber footwear), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.[1]

Background

The Commission instituted the present investigation effective December 31, 1984, following receipt of a resolution by the Senate Committee of Finance. The Committee's resolution requested an investigation under section 201(b)(1) of the Trade Act of 1974 to determine "whether increasing imports of nonrubber footwear are a substantial cause of serious injury or the threat thereof to the domestic industry producing a like or directly competitive product." The Committee's resolution, and this investigation, cover all footwear provided for in items 700.05 through 700.45, inclusive 700.56, 700.72 through 700.83 inclusive, and 700.95 of the Tariff Schedules of the United States.

The Commission gave notice of this investigation and of a public hearing to be held in connection with the investigation by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 30, 1985 (50 FR 4278). A public hearing was held in Washington, DC, on April 16–18, 1985, and all persons who requested the opportunity were permitted to appear in person or through counsel.

This report is being furnished to the President in accordance with section 201(d)(1) of the Trade Act. The information in the report was obtained from fieldwork and interviews by members of the Commission's staff, responses to Commission questionnaires, information from other Federal agencies, testimony at the public hearing, briefs submitted by interested parties, the Commission's files, and other sources.

The Commission transmitted its determination in this investigation to the President on July 1, 1985. The views of the Commission are contained in USITC Publication 1717 (July 1, 1985), entitled "Nonrubber Footwear: Report to the President on Investigation No. TA–201–55 Under Section 201 of the Trade Act of 1974."

Issued: July 1, 1985.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17569 Filed 7–23–85; 8:45 am]

BILLING CODE 7020–02–M

[731–TA–127, 128, and 129 (Preliminary) (Remand)]

Thin Sheet Glass From Switzerland, Belgium, and the Federal Republic of Germany

Determination

Based upon the petition filed in Investigations Nos. 731–TA–127–129 (Preliminary),[1] the Commission

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[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury.

[1] Commissioners Eckes, Lodwick, and Rohr determine that such footwear is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. Chairwoman Stern and Vice Chairman Liebeler determine that such footwear is being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

[1] Pursuant to the order of the U.S. Court of International Trade (CIT) in Jeannette Sheet Glass Corp. v. United States, 607 F. Supp. 123 (1985), the Commission has made its redetermination consistent with the standards set forth in Republic Steel Corp. v. United States, 591 F. Supp. 640 (1984), *motion for reconsideration denied*, —F. Supp.—, slip op. 85–27 (March 11, 1985). Thus, we have based our determinations solely on the allegations contained in the petition.

VOL 50 ISS 142 JL 24 1985 UMI

determines[2] that as of May, 1983, the date of the Commission's initial determination regarding thin sheet glass from Belgium, Switzerland and the Federal Republic of Germany, there is a reasonable indication that an industry in the United States producing regular quality thin sheet glass in materially injured or threatened with material injury by reason of imports allegedly sold at less than fair value (LTFV). The determination in this matter is made pursuant to the order of the U.S. Court of International Trade entered March 22, 1985, in *Jeannette Sheet Glass Corp.* v. *United States*.[3]

Background

On March 16, 1983, counsel for Jeannette Sheet Glass Corp. filed a petition with the Commission and the Department of Commerce alleging that imports of thin sheet glass from Switzerland, Belgium, and the Federal Republic of Germany are being sold in the United States at LTFV, and that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Accordingly, effective March 16, 1983, the Commission instituted preliminary investigations under section 733(a) of the Act (19 U.S.C. 1673b(a)).

On May 2, 1983, the Commission[4] determined that there was no reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of regular quality thin sheet glass from Belgium, Switzerland, and the Federal Republic of Germany.[5] On May 17, 1983, Jeannette Sheet Glass Corp. appealed the Commission's determinations to the U.S. Court of International Trade (CIT).

On March 22, 1985, the CIT remanded the case to the Commission and ordered the Commission to (1) reconsider its preliminary negative determinations respecting material injury and threat of material injury in conformity with the standard for preliminary determinations set forth in *Republic Steel* and in conformity with the court's decision in this case, and (2) report its findings and redeterminations to the court within thirty days after the date of entry of the order.

In conformity with the court's order, the Commission has applied the *Republic Steel* standard and considered whether the petition raises the possibility of material injury or threat of material injury.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on July 12, 1985. The views of the Commission are contained in USITC Publication 1727 (July 1985), entitled "Thin Sheet Glass from Switzerland, Belgium, and The Federal Republic of Germany: Determinations of the Commission in Investigations Nos. 731–TA–127, 128, and 129 (Preliminary) (Remand) Under the Tariff Act of 1930, Together With the Petition Filed in These Investigations."

Issued: July 19, 1985.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17568 Filed 7–23–85; 8:45 am]

BILLING CODE 7020–02–M

[2] Vice Chairman Liebeler, Commissioner Lodwick, and Commission Rohr did not participate in the Commission's prior investigation.

[3] Chairwoman Stern affirms her earlier decision that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of this sheet glass from Belgium, Switzerland and the Federal Republic of Germany allegedly sold at less than fair value. Chairwoman Stern notes, however, that she based her prior determinations on the record as a whole that was developed during that investigation.

[4] Commissioners Eckes and Haggart.

[5] Commissioner Stern dissenting.

[Investigation No. 337–TA–194]

Certain Aramid Fiber; Commission Decision To Review Initial Determination and Affirm Administrative Law Judge; Schedule for Filing of Written Submissions on Remedy, the Public Interest, and Bonding; Extension of Administrative Deadline for Completion of Investigation

AGENCY: International Trade Commission.

ACTION: Commission Decision to Review Initial Determination and Affirm Administrative Law Judge.

SUMMARY: Notice is hereby given that the Commission determined to review a portion of the presiding administrative law judge's (ALJ) initial determination (ID) that there is a violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation. The Commission determined to review the ID and affirm the ALJ with respect to his determination that U.S. Letters Patent 3,767,756 (the '756 patent) is valid. The Commission determined not to review the remainder of the ID. Thus the Commission has concluded that there is a violation of section 337 in this investigation.

Authority: The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and in §§ 210.52–210.56 of the Commission's Rules of Practice and Procedure. (49 FR 46123 (Nov. 23, 1984); to be codified at 19 CFR 210.53–210.56).

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, United States International Trade Commission, telephone 202–523–0189.

SUPPLEMENTARY INFORMATION: On May 9, 1985, the presiding administrative law judge (ALJ) issued an initial determination (ID) finding that there is a violation of section 337 of the Tariff Act of 1930 in the unauthorized importation into the United States, and in the sale of certain aramid fibers manufactured abroad by a process which, if practiced in the United States, would infringe claim 13 of the '756 patent, with the tendency to substantially injure an industry, efficently and economically operated, in the United States.

On June 3, 1985, respondents AKZO N.V., ENKA B.V., ARAMIDE MAATSCHAPPIJ v.o.f., and AKZONA, Inc. (collectively referred to as Akzo) filed a petition for review of this ID. Complainant E.I. Du Pont de Nemours and Company (Du Pont) and the Commission investigative attorneys (IA) filed responses opposing Akzo's petition for review on June 10, 1985. The Commission did not receive any comments from Government agencies.

Written Submissions

Inasmuch as the Commission has found that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United Staters and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered. In addition, the parties making written submissions should address the following issues: (1) Should any exclusion order that the Commission may issue cover articles incorporating aramid fiber produced abroad by means of a process that infringes the '756 patent, (2) possible procedures for identifying such articles, and (3) any other potential problems in enforcing such an order. In addition, written submissions should address the issue of whether a hearing before the ALJ and/or the Commission is necessary on the issues of remedy, the public interest, and bonding.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond which should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submission addressing the issues of remedy, the public interest, and bonding. Written submissions on remedy, the public interest, and bonding must be filed not later than the close of business on the day which is fourteen (14) days after publication of this notice in the **Federal Register**. Reply written submissions must be filed not later than the close of business on the day which is twenty-one (21) days after publication of this notice in the **Federal Register**.

Extension of Administrative Deadline

The Commission has previously declared this investigation more complicated and extended the administrative deadline by 10 weeks, i.e., until August 1, 1985, 49 FR 4618 (1984). Because of the relatively short time remaining before expiration of that deadline and the need to make findings on the remedy, public interest, and bonding issues, the Commission has extended the administrative deadline for completion of this investigation to October 1, 1985.

Commission Hearing

The Commission will decide whether a public hearing is necessary in this investigation after reviewing the written submissions on remedy, the public interest, and bonding.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadline stated above. Any persons desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the ALJ. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of May 23, 1984.

Copies of the Commission's Action and Order, its Opinion, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Issued: July 15, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17575 Filed 7–23–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–206 (Final)]

Fabric And Expanded Neoprene Laminate From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Japan of fabric and expanded neoprene laminate, provided for in items 335.81, 335.82, 359.50, and 359.60 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective March 15, 1985, following a preliminary determination by the Department of Commerce that imports of fabric and expanded neoprene laminate from Japan were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 24, 1985 (50 FR 16165). The hearing was held in Washington, DC, on June 11, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 12, 1985. The views of the Commission are contained in USITC Publication 1721 (July 1985), entitled "Fabric and Expanded Neoprene Laminate from Japan: Determination of the Commission in Investigation No. 731–TA–206 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: July 16, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17573 Filed 7–23–85; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairwoman Stern and Vice Chairman Liebeler dissenting.

[Investigation No. 731–TA–201 (Final)]

Molded Pulp Egg Filler Flats From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States is not materially injured, nor threatened with material injury, nor is the establishment of an industry in the United States materially

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

VOL 50 ISS 142 JL 24 1985 UMI

retarded, by reason of imports from Canada of molded pulp egg filler flats, classified under item 256.70 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective January 16, 1985, following a preliminary determination by the Department of Commerce that imports of molded pulp egg filler flats from Canada were sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 21, 1985 (50 FR 7238). A notice revising the Commission's schedule for the conduct of the investigation was published in the **Federal Register** of March 6, 1985 (50 FR 4135). The hearing was held in Washington, DC, on June 13, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 15, 1985. The views of the Commission are contained in USITC Publication 1724 (July 1985), entitled "Molded Pulp Egg Filler Flats from Canda: Determination of the Commission in Investigation No. 731–TA–201 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation.

Issued: July 16, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17574 Filed 7–23–85; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. MC–F–16291]

Aluminum Company of America—Continuance in Control—Rea Magnet; Corrected Notice [1]

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Aluminum Company of America (Alcoa), a non-carrier holding company and Rea Magnet Wire Company, Inc. (Rea Magnet), a wholly-owned subsidiary which seeks initial carrier authority under Docket No. MC–183733, have filed a petition for exemption under 49 U.S.C. 11343(e) to allow Alcoa to continue in control of Rea Magnet upon Rea Magnet obtaining motor carrier status. Alcoa presently controls four short-line railroads, the Bauxite and Northern Railway Company, the Massena Terminal Railroad Company, the Point Comfort and Northern Railway Company, and the Rockdale Sandow & Southern Railroad Company as well as two motor carriers, the Buckeye Molding Company (Buckeye) (No. MC–153900) and the Penn Way Trucking Company (Penn Way) MC–180522). Approval for Alcoa's existing control of Buckeye and Penn Way was obtained in prior proceedings docketed as Nos. MC–F–15741 and MC–F–16017 respectively. As a result of Alcoa's continued control of Rea Magnet, once the latter becomes a regulated carrier, Alcoa will then be in control of seven common carriers. Continuance in control of a carrier, by a person that is not a carrier but that controls any number of carriers, may be carried out only under Commission regulation or under an exemption from regulation. See 49 U.S.C. 11343(a)(5) 11343(e).

DATES: Comments must be received by August 2, 1985.

ADDRESSES: Send comments (an original plus 10 copies) referring to Docket No. MC–F–16291 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representative: Paula J. Jesion, Esq., Sullivan & Associates, 180 North Michigan Avenue, Suite 1700, Chicago, IL 60601.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Alcoa and Rea Magnet seek exemption under 49 U.S.C. 11343(e) and the Commission's regulation in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property, Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

A copy of the petition may be obtained from petitioners' representative, or it may be inspected at the Washington, DC office of the Interstate Commerce Commission during normal business hours.

Decided: July 19, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85–17628 Filed 7–23–85; 8:45 am]

BILLING CODE 7035–01–M

[1] This Corrected Notice clarifies the dates for filing comments.

[Docket No. MC–F–16372]

Burlington Northern Inc.—Control Exemption—Monkem Company, Inc.; Corrected Notice [1]

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Burlington Northern Inc. (BNI), a noncarrier holding company which controls Burlington Northern Railroad Company (BNRR), a class I railroad, Burlington Northern Motor Carriers (BNMC), a wholly-owned noncarrier subsidiary of BNI, and Monkem Company, Inc. (Monkem) a motor carrier subject to Commission regulation, have filed a petition for exemption under 49 U.S.C. 11343(e) in connection with an agreement between BNMC and Monkem under which Monkem would become a wholly-owned subsidiary of BNMC. As a result of the transaction BNI would control two common carriers: Monkem and BNRR. Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers may be carried out only under Commission regulation or under an exemption from regulation. *See* 49 U.S.C. 11343(a)(5) and 11343(e).

DATE: Comments must be received by August 2, 1985.

ADDRESSES: Send comments (an original plus 10 copies) referring to Docket No. MC–F–16372 to:.

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and

(2) Petitioner's representative: Herbert J. Martin, Esq., Crowell & Moring, 1100 Connecticut Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: BNI, BNMC, and Monkem seek exemption under 49 U.S.C. 11343(e) and the Commission's regulation in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemption Filed by Motor Carriers of Property Under 49 U.S.C. 11343, 367 I.C.C. 113 (1983)*, 47 FR 53303 (November 24, 1982).

A copy of the petition may be obtained from petitioners' representative, or it may be inspected at the Washington, DC office of the Interstate Commerce Commission during normal business hours.

Decided: July 19, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85–17627 Filed 7–23–85; 8:45 am]

BILLING CODE 7035–01–M

[1] This corrected notice clarifies the dates for filing comments.

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program Unemployment Insurance Program Letter Interpreting the Work-Training and Work-Relief Exemption

Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA) requires, as one of several conditions for certain tax credits to employers, that employees of State and local government entities and certain nonprofit organizations be covered by State unemployment insurance (UI) laws. However, section 3309(b)(5), FUTA permits exemptions from this mandatory coverage for participants in unemployment work-relief and work-training programs.

Since this exemption was enacted in Federal law, issues and questions have arisen in several States as to what constitutes an unemployment work-relief or work-training program. We have addressed those issues and questions as they arose several times over the years.

However, in recognition of the need for a more formal statement of the criteria, the Department proposes to issue an Unemployment Insurance Program Letter (UIPL). Comments on the UIPL may be submitted in writing on or before 45 days from the date of publication of this Notice in the **Federal Register.**

Submit comments to Carolyn M. Golding, Director, Unemployment Insurance Service, U.S. Department of Labor, Room 7112, Patrick Henry Building, 601 "D" Street, NW., Washington, D.C. 20213.

Dated: July 17, 1985.

Roberts T. Jones,

Acting Deputy Assistant Secretary of Labor.

CLASSIFICATION: UI.
CORRESPONDENCE SYMBOL: TEURL.
Expiration Date: March 31, 1987.

Directive: Unemployment Insurance Program Letter No.
To: All State Employment Security Agencies
From: Barbara Ann Farmer Acting Administrator for Regional Management
Subject: Interpretations of section 3309(b)(5), FUTA, Work-Relief or Work-Training Program Exceptions to Section 3304(a)(6)(A), FUTA, Coverage Requirement

1. *Purpose.* To provide an interpretation of section 3309(b)(5) of the Federal Unemployment Tax Act Act (FUTA) which permits an exception to coverage requirements of section 3304(a)(6)(A), FUTA, for services performed as part of an unemployment work-relief or work-training program by individuals receiving such work-relief or work-training.

2. *References.* Sections 3304(a)(6)(A), 3309(a), 3309(b)(5), 3306(c)(7), and 3306(c)(8) of the Federal Unemployment Tax Act (FUTA).

3. *Background.* Section 3304(a)(6)(A), FUTA, requires State unemployment insurance (UI) laws to provide for coverage of services to which section 3309(a)(1), FUTA, applies. Section 3309(a)(1), FUTA, applies to services performed for certain nonprofit organizations and to practically all services for State and local government entities, with certain permitted exceptions to both requirements. Section 3309(b)(5), FUTA, states one of those exceptions. If an unemployment work-relief or work-training program is assisted or financed in whole or in part by any Federal agency or an agency of a State or a political subdivision of a State, then services performed as part of such programs by individuals receiving work-relief or work-training *may* be exempted by State law from the mandatory UI coverage requirement. States are not precluded from covering such services; they are simply not required to provide such coverage in their laws as a condition for conformity with section 3304(a)(6)(A), FUTA.

Over the years, questions have arisen many times about what constitutes a work-relief or work-training program for purposes of this exemption. State legislation has sometimes presented potential issues based on an incomplete understanding of the work-relief exemption. It is apparent that an interpretation of the exemption provided by section 3309(b)(5), FUTA, is needed.

4. *Interpretation.* As Federal law provides, an unemployment work-relief or work-training program must be assisted or financed in whole or in part by a Federal or State agency or a political subdivision of a State before services performed by individuals receiving such work relief or work training may be exempted from coverage.

A. In order to qualify for the exemption provided by section 3309(b)(5), FUTA, an unemployment work-relief or work-training program must have as a minimum the following characteristics:

(1) There is an employer-employee relationship which is not based on normal economic considerations;

(2) Qualifications for the jobs take into account as indispensable factors the economic and social status of the applicants;

(3) The products or services are secondary to providing financial assistance, training, or work-experience to individuals to relieve them of their unemployment or povery, or to reduce their dependence upon various measures of relief, even though the work may be meaningful or serve a useful public purpose, and

(4) The program is financed or assisted in whole or in part by a Federal agency or a State or a political subdivision thereof.

B. Such an unemployment work-relief or work-training program will also have one or more of the following characteristics:

(1) The wages, hours, and conditions of work are not necessarily commensurate with those prevailing in the locality for similar work;

(2) The jobs did not, or rarely did, exist before the program began (other than under similar programs);

(3) The services furnished, if any, are in the public interest and are not otherwise provided by the employer or its contractors; and

5. *Action Required.* State employment security agencies should take the actions appropriate to assure that the State's UI law is consistent with Federal requirements as interpreted herein.

6. *Inquiries.* Direct questions to the appropriate regional office.

[FR Doc. 85-17546 Filed 7-23-85; 8:45 am]
BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities; Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before August 23, 1985.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Service Offices, Room 202, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506 (202) 786-0233 or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, D.C. 20503 (202) 935-7316.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Offices, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506 (202) 786-0233 from whom copies of the form and supporting documents are available.

SUPPLEMENTARY INFORMATION:

Category: Extension of OMB Expiration Date
Title: NEH Performance Reporting Requirements
Form Number: n/a
Frequency of Collection: Varies—Occasional, Quarterly, Semi-Annually and Annual
Respondents: All NEH Grantees
Use: Provide information on project expeditures
Estimated Number of Respondents: 3,000 maximum
Estimated Hours for Respondents to Provide Information: 3

This entry is not subject to 44 U.S.C. 3504(h).

Susan Metts,
Acting Director of Administration.

[FR Doc. 85-17561 Filed 7-23-85; 8:45 am]
BILLING CODE 7536-01-M

National Endowment for the Humanities; Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before August 23, 1985.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506 (202) 786-0233 or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, D.C. 20503 (202) 395-7316.

FOR FURTHER INFORMATION CONTACT: Ms. Foreman, National Endowment forf the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania, Avenue, NW., Washington, D.C. 20506 (202) 786-0233 from who copies of the form and supporting documents are available.

SUPPLEMENTARY INFORMATION:

Category: Extension of OMB Expiration Date
Title: NEH Final Financial Status Report
Form Number: n/a
Frequency of Collection: Occasional (at end of grant)
Respondents: All NEH Institutional Grantees, at their option
Use: Provide information on project expenditures
Estimated Number of Respondents: 3,000 maximum
Estimated House of Respondents to Provide Information: 1

This entery is not subject to 44 U.S.C. 3504 (h).

Susan Metts,
Acting Director of Administration.

[FR Doc. 85-17562 Filed 7-23-85; 8:45 am]
BILLING CODE 7536-01-M

National Endowment for the Humanities; Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endownment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted August 23, 1985.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Managment Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506 (202) 786-0233 or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, D.C. 20503 (202) 395-7316.

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C 20506 (202) 786-0233 from whom copies of the form and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: New
Title: Office of Preservation Guidelines and Application Instructions
Form Number: Not Applicable
Frequency of Collection: Collection occur twice yearly, according to application deadlines. (Once per application)
Respondents: Humanities institutions and individuals applying for funding for projects involving the preservation of research resources in the humanities
Use: To describe and to justify the preservation objectives and methodologies used in a project so that competing applications for funding can be evaluated in the peer review process.
Estimated Number of Respondents: 110
Estimated Hours for Respondents to Provide Information: 38

Susan Metts,
Acting Director of Administration.

[FR Doc. 85-17448 Filed 7-23-85; 8:45 am]
BILLING CODE 7536-01-M

Design Arts Advisory Panel (Overview Section) meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Overview Section) to the National Council on the Arts will be held on August 8, 1985, from 9:00 a.m.-5:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of the meeting will be open to the public on August 8, 1985, from 9:30 a.m.-2:00 p.m. and from 3:00 p.m.-5:00 p.m. The topics for discussion will be Budget History, FY 85 Projects, Five-Year Plan and FY 87 Guidelines.

The remaining session of this meeting on August 8, 1985, from 2:00 p.m.-3:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of the section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 19, 1985.

[FR Doc. 85-17547 Filed 7-23-85; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-269 et al.]

Arkansas Power and Light Co. (Arkansas Nuclear One, Unit No. 1) et al; Request for Action Under 10 CFR 2.206

Notice is hereby given that, by a Petition dated June 11, 1985, John F. Doherty requested issuance of an order under 10 CFR 2.202 to the licensees of the following Babcock and Wilcox facilities to show cause why the operating licenses for those facilities should not be suspended or revoked until the problem identified in IE Information Notice 85-38 is resolved: Arkansas Nuclear One, Unit No. 1; Rancho Seco Nuclear Generating Station; Crystal River Unit No. 3 Nuclear Generating Plant; Oconee Nuclear Station, Units Nos. 1, 2 and 3; and Three Mile Island Nuclear Station, Unit 1. The IE Notice concerned loose parts which had been found to obstruct certain control rod drive mechanisms at the Davis-Besse facility of the Toledo Edison Company.

The Petition is being treated pursusnt to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the local public document room for each affected facility as follows:

Arkansas Nuclear One, Unit No. 1, Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801
Rancho Seco Nuclear Generating Station, Sacramento City-County Library, 828 I Street, Sacramento, California
Crystal River Unit No. 3 Nuclear Generating Plant, Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida
Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina
Three Mile Island Nuclear Station, Unit No. 1, Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburgh, Pennsylvania 17126

Dated at Bethesda, Maryland, this 17th day of July 1985.

For the Nuclear Regulatory Commission.

Harold R. Denton,
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-17585 Filed 7-23-85; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co. (Big Rock Point Plant); Exemption

I

The Consumers Power Company (the licensee) is the holder of Facility Operating License No. DPR-6 which authorizes the operation of the Big Rock Point Plant, located in Charlevoix County, Michigan. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.44(c)(3)(iii) of 10 CFR Part 50 requires, among other things, that high point vents be provided for the reactor coolant system, for the reactor vessel head, and for other systems required to maintain adequate core cooling if the accumulation of noncondensible gases would cause the loss of function of these systems. Section 50.44(c)(3)(iii) requires that these vents be provided by the end of the first scheduled outage beginning after July 1, 1982 and that the outage be of sufficient duration to permit required modifications. The existing Reactor Depressurization System (RDS) at Big Rock Point is capable of venting both the reactor coolant system and the reactor vessel. However, the emergency condenser at Big Rock Point is the highest point of the reactor coolant system and would not function if it were filled with noncondensible gases. By letter dated July 1, 1982, Consumers Power Company notified the NRC that high point vents had been installed on the emergency condenser, that preoperational testing had not been completed, and that further analysis had shown the usefulness of high point vents to be limited.

Subsequently, by letter dated April 19, 1983, the licensee requested an exemption to 10 CFR 50.44(c)(3)(iii) such that the required schedule for installation of the high point vents would be extended for the Big Rock Point Plant. The licensee also asked for an exemption from the requirement to install high point vents on the emergency condenser. The schedular exemption was granted by the NRC on August 12, 1983, and extended the

VOL
50
ISS
142
JL
24
1985
UMI

schedule for installation of high point vents until the first scheduled outage which begins after the completion of the Systematic Evaluation Program Integrated Assessment for Big Rock Point. This exemption now addresses the need to install high point vents at Big Rock Point.

The licensee's April 19, 1983 submittal gave the following explanation of why high point vents on the emergency condenser should not be required for Big Rock Point based upon the unique design of the plant.

10 CFR 50.44(c)(3)(iii) and NUREG–0737, Item II.B.1 require that remotely operated high point vents be provided for systems required to maintain adequate core cooling following small-break LOCA's if the accumulation of non-condensible gases would cause the loss of function of these systems, e.g., isolation condensers. At Big Rock Point, the emergency condenser is used for heat removal in the case of loss of the normal condenser, e.g., a loss of off-site power. However, the emergency condenser is not used, nor is any credit taken for its use, following core uncovery and actuation of the reactor depressurization system (RDS). . . . A small-break LOCA results in actuation of the RDS. For accidents that result in generation of non-condensible gases, the RDS would vent these gases to the containment building. The RDS and post-incident system provide the heat removal capability in this situation. The emergency condenser is not needed, or is not designed to be used during core damage situations in which the RDS is actuated.

The NRC reviewed the licensee's justification during the Big Rock Point Integrated Assessment. In order to generate significant amounts of hydrogen, the reactor core must become uncovered for a substantial period of time. After venting of noncondensibles, the emergency condenser could still not be used to cool the core unless reactor water level was restored to cover the core and system pressure remained high so that steam temperatures were substantially higher than emergency condenser shell side cooling water. Since the Big Rock Point Plant has no high pressure injection system, there is little possibility of recovering reactor water level while reactor coolant system pressure remains high since the low head core spray pumps could not inject water into the system at pressure. In accidents of this type at Big Rock Point, the reactor depressurization system (RDS) would be actuated to vent the primary system to the containment building. The RDS is single-failure proof and consists of four separate vent paths, three of which must function to reduce pressure rapidly enough to assure that the low pressure core spray pumps can provide adequate core cooling. However, the actuation of any one of the four values would vent all noncondensibles from the reactor vessel and reactor coolant system. The opening of a single valve would ultimately reduce reactor pressure to the point at which the core spray pumps could provide cooling water, but some core damage would have already occurred. Thus, the staff agrees with the licensee's conclusion that the emergency condenser is not likely to be useful in accidents which might result in the generation of noncondensible gas. The staff concludes that an exemption to 10 CFR 50.44(c)(3)(iii) should be granted such that the installation of high point vents on the emergency condenser is not required at Big Rock Point.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby grants an exemption from the requirement of 10 CFR 50.44(c)(3)(iii) that high point vents be installed on the emergency condenser.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (July 8, 1985, 50 FR 27865).

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 17th day of July 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing.

[FR Doc. 85–17586 Filed 7–23–85; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, CE 407–4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Criticality Safety for Handling, Storing, and Transporting LWR Fuel Outside Reactors" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to provide guidance on procedures acceptable to the NRC staff for preventing criticality accidents in operations involving light water reactor fuel outside reactors. This draft guide endorses ANSI/ANS–8.17–1984, "Criticality Safety Criteria for the Handling, Storage, and Transportation of LWR Fuel Outside Reactors."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, by September 20, 1985.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 18th day of July 1985.

Guy A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 85–17587 Filed 7–23–85; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 22–85]

Treasury Notes of July 31, 1987, Series X–1987

Washington, July 18, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,250,000,000 of United States securities, designated Treasury Notes of July 31, 1987, Series X–1987 (CUSIP No. 912827 SM 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1 The Notes will be dated July 31, 1985, and will accrue interest from that date, payable on a semiannual basis on January 31, 1986, and each subsequent 6 months on July 31 and January 31 through the date that the principal becomes payable. They will mature July 31, 1987, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, July 24, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, July 23, 1985, and received no later than Wednesday, July 31, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent

VOL 50 ISS 142 JL 24 1985 UMI

to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, July 31, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, July 29, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Wednesday, July 31, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-17545 Filed 7-23-85; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 142
Wednesday, July 24, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1
Federal Deposit Insurance Corporation	2
Federal Reserve System	3
Interstate Commerce Commission	4-6

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Tuesday, July 23, 1985.

LOCATION: Room 456, Westwood Towers Building, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: FY 87 priorities.

The Commission will continue its consideration of the Fiscal Year 87 priorities.

The Commission decided that agency business required holding this meeting without the normal advance notice.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Sheldon D. Butts,

Deputy Secretary.

July 19, 1985.

[FR Doc. 85-17603 Filed 7-19-85; 4:29 pm]

BILLING CODE 6350-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is herby given that at 4:38 p.m. on Thursday, July 18, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Eskridge State Bank, Eskridge, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, July 18, 1985; (2) accept the bid for the transaction submitted by Flint Hills Bank of Eskridge, Eskridge, Kansas, a newly-chartered state nonmember bank; (3) approve the applications of Flint Hills Bank of Eskridge, Eskridge, Kansas, for Federal deposit insurance and for consent to purchase certain assets and assume the liability to pay deposits made in Eskridge State Bank, Eskridge, Kansas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) Adopt a resolution making funds available for the payment of insured deposits made in the First National Bank of Darrouzett, Darrouzett, Texas, which was closed by the Senior Deputy Comtroller for National Operations, Office of the Comtroller of the Currency, on Thursday, July 18, 1985.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a close meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5) U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 19, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-17659 Filed 2-22-85; 2:43 pm]

BILLING CODE 6714-01-M

3

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 11:00 a.m., Monday, July 29, 1985,

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computers within the Federal Reserve System.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17602 Filed 7-19-85; 4:28 pm]

BILLING CODE 6210-01-M

4

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, July 30, 1985.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: FY 1987 Budget.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275-7252.

James H. Bayne,

Secretary.

[FR Doc. 85-17601 Filed 7-19-85; 4:27 pm]

BILLING CODE 7035-01-M

5

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 2:00 p.m., Wednesday, July 31, 1985.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: Ex Parte 320 (Sub-No. 3), Product and Geographic Competition.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren,

VOL
50
ISS
142
JL
24
1985
UMI

Office of Public Affairs. Telephone: (202) 275–7252.

James H. Bayne,

Secretary.

[FR Doc. 85–17600 Filed 7–19–85; 4:27 pm]

BILLING CODE 7035-01-M

6

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, July 31, 1985.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: Ex Parte 445 (Sub-No. 1)—Intramodal Rail Competition.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275–7252.

James H. Bayne,

Secretary

[FR Doc. 85–17599 Filed 7–19–85; 4:27 pm]

BILLING CODE 7035-01-M

federal register

Wednesday
July 24, 1985

Part II

Federal Emergency Management Agency

Federal Policy on Distribution of Potassium Iodide Around Nuclear Power Sites for Use as a Thyroidal Blocking Agent; Notice

VOL
50
ISS
142
JL
24
1985
UMI

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Policy on Distribution of Potassium Iodide Around Nuclear Power Sites for Use as a Thyroidal Blocking Agent

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Issuance of Federal Policy—correction.

SUMMARY: The Federal Radiological Preparedness Coordinating Committee (FRPCC) is publishing this notice to provide guidance to State and local agencies responsible for radiological emergency planning and preparedness regarding the distribution of potassium iodide for use as a thyroidal blocking agent by the general public in the vicinity of nuclear power plants. The Federal Emergency Management Agency (FEMA) chairs the FRPCC, thereby assuming the responsibility for this publication.

In FR Doc. 85–14810 beginning on page 25624 in the issue of Thursday June 20, 1985, the statement of Federal Policy was inadvertently not included. The complete policy is stated herein. In addition, a portion of the Supplementary Information has been deleted because it was inconsistent with previously published Food and Drug Administration policy.

FOR FURTHER INFORMATION CONTACT: Gerard W. Smith, Technological Hazards Division, Office of National and Technological Hazards Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, D.C. 20472 202–646–2869.

SUPPLEMENTARY INFORMATION:

Background

This guidance on distribution of potassium iodide as a thyroidal blocking agent to the general public in the vicinity of nuclear power plants is part of a Federal interagency effort coordinated by the Federal Emergency Management Agency (FEMA) for the Federal Radiological Preparedness Coordinating Committee (FRPCC). FEMA issued a final regulation in the Federal Register of March 11, 1982, (47 FR 10758), which reflected governmental reorganizations and reassigned agency responsibilities for radiological incident emergency response planning. 44 CFR 351 A responsibility assigned to the Department of Health and Human Services (HHS) and in turn delegated to the Food and Drug Administration (FDA) is the responsibility to provide guidance to State and local governments on the use of radioprotective substances and prophylactic use of drugs (e.g. potassium iodide) to reduce radiation dose to specific organs including dosage and projected radiation exposures at which such drugs should be used.

In the Federal Register of June 29, 1982 (47 FR 28158), FDA published recommendations for State and local agencies regarding the projected radiation dose to the thyroid gland at which State and local health officials should consider the use of potassium iodide.

The guidance published here contains the rationale on the use of potassium iodide for emergency workers and institutionalized individuals. It also incorporates the considerations that should be made in deciding to implement the distribution and use of potassium iodide for the general population. The decisions on distribution and use of potassium iodide for thyroidal blocking to protect the public health and safety resides with the State and, in some cases, local health authorities. It suggests that any decision by State and local authorities to use potassium iodide should be based on the site environment and conditions at the time of an emergency for the specific operating commercial nuclear power plant and should include detailed plans for distribution, administration, and medical assistance.

The Federal position with regard to the predistribution or stockpiling of potassium iodide for use by the general public is that it should not be required.

Policy on Distribution of Potassium Iodide Around Nuclear Power Sites for Use as a Thyroidal Blocking Agency

The purpose of this document is to provide Federal policy and guidance with regard to distribution of potassium iodide (KI) and its usage as a thyroid blocking agent around operating nuclear power sites. The issue has been addressed in terms of two components of the population that might require or desire potassium iodide use: (1) Emergency workers and institutionalized individuals, and (2) general population. This guidance is advisory to State and local governments who, within the limits of their authority, should consider these recommendations in the development of emergency plans and in determining appropriate actions to protect the general public. In summary, the policy recommends the stockpiling or distribution of KI during emergencies for emergency workers and institutionalized persons, but does not recommend requiring predistribution or stockpiling for the general public. The bases for these recommendations are given below. It is recognized, however, that options on the distribution and use of KI rests with the States, and hence, the policy statement permits State and local governments, within the limits of their authority, to take measures beyond those recommended or required nationally.

The U.S. Nuclear Regulatory Commission (NRC) and the *Federal Emergency Management Agency (FEMA) have already issued guidance* to State and local authorities as well as licensees of operating commercial nuclear power plants in NUREG–0654/FEMA–REP–1, Rev. 1, *recommending* the *stockpiling* and *distribution* during emergencies of KI for thyroidal blocking *to emergency workers* and to *institutionalized individuals.* That recommendation is endorsed as an available protective action in the event of an incident at a nuclear power plant. Thyroid blocking for emergency workers and institutionalized individuals was recommended because:

(1) These individuals would be more likely to be exposed to the radioiodine in an airborne radioactive release from the plant in the event of an accident;

(2) The number of individuals involved at any site is relatively small and requires a limited supply of KI that can be readily distributed;

(3) The storage, distribution, and administration of KI can be readily controlled;

(4) The known sensitivity to potassium iodide of this limited number of individuals can be reviewed; and

(5) These individuals can be readily monitored for adverse side effects by medical personnel.

The Federal position with regard to the predistribution or stockpiling of potassium iodide for use by the general public is that it should not be required. While valid arguments may be made for the use of KI, the preponderance of information indicates that a nationwide requirement for the predistribution or stockpiling for use by the general public would not be worthwhile. This is based on the ability to evacuate the general population and the cost effectiveness of a nationwide program which has been analyzed by the NRC and DOE National Laboratories (NUREG/CR–1433). While the use of KI can clearly provide additional protection in certain circumstances, the assessment of the effectiveness of KI and other protective actions and their implementation problems indicates that the decision to use KI (and/or other protective actions) should be made by the States and, if appropriate, local authorities on a site specific basis.

It is important to stress that the use of potassium iodide in a radiation emergency is not a panacea in that it does not block the uptake of other radionuclides and does not protect against external radiation. Furthermore, its use needs to be balanced against the cost and effectiveness of other protective measures such as sheltering and evacuation. This recommendation is made in full recognition of the potential positive effects of the drug, action by the FDA permitting KI over-the-counter sales, and the authority of State and local health officials to elect to distribute and use the drug based on the specific needs of individual sites.

The use of KI is effective as a thyroidal blocking agent in reducing accumulation by the thyroid gland of radioiodine which has entered the body through inhalation or ingestion. Radioiodine accumulation in the thyroid can be reduced to less than 10 percent of what it would be without a blocking agent by a daily oral intake of (130 milligrams for adults, 65 milligrams for infants) KI providing administration is started before or immediately after the exposure to the radioiodine, and treatment continues for at least 48 hours beyond the time of the last exposure. This effectiveness decreases to less than 50 percent blocking of the radioiodine uptake, if administration of the KI is delayed until 4 hours after an acute ingestion or inhalation.

It is recognized that the *options on distribution and use* of KI for thyroidal blocking to protect the public health and safety *resides with* the *State* and, *in some cases, local health authorities.* Therefore, with the exception of Federal agency and utility personnel, the decision for use of KI during an actual emergency by the general public is the responsibility of these authorities. In deciding whether to distribute and use KI for the general population, *these authorities must consider a number of factors.*

One of the considerations in deciding whether to implement the distribution and use of KI for the general population is that KI blocking effectively reduces the radiation exposure of only the thyroid gland. While this is an important contribution to the health and safety of the individual, it is not nearly as effective as measures which protect the total body of the individual from radioactivity. Both in-place sheltering and precautionary evacuations can reduce the exposure to the thyroid and total body. The use of KI for thyroidal blocking is not an effective means by itself for protecting individuals from the radioactivity in an airborne release resulting from a nuclear power plant accident and, therefore, should only be considered in conjunction with sheltering, evacuation, or other protective methods.

The Food and Drug Administration (FDA) has evaluated the medical and radiological risks of administering KI for thyroidal blocking under these emergency conditions and has concluded that it is safe and effective and has approved over-the-counter sale of the drug for this purpose. FDA guidance states that risks from the short term use of relatively low doses of KI for thyroidal blocking in a radiation emergency are outweighed by the risks of radioiodine induced thyroid nodules or cancer at a projected dose to the thyroid gland of 25 rem or greater. Since FDA has authorized the nonprescription sale of KI, it is *legally available to individuals who,* based on their own personal analysis, *choose to have the drug immediately available.*

Other considerations and problems to be evaluated by the State and local authorities in deciding whether to institute this program include: (1) Whether the KI should be distributed to the population before an accident occurs or as soon as possible after an accident occurs; (2) whether the risks of exposure to radioactivity will be lower if the evacuation of the general population is initiated or if the general population is sheltered and the administration of KI initiated; (3) how the KI will be distributed during the emergency; (4) what medical assistance will be available to assist the individuals who may have some adverse reaction to KI; (5) how medical authorities will advise the population to take KI and under what circumstances this advice will be given; (6) if KI is predistributed, what assumptions should be made about its actual availability and use in the event of an incident; (7) how the authorities will provide KI to transient populations; and (8) whether use of other respiratory protection (e.g., dust masks, or breathing through wet towels) may be equally effective, especially in conjunction with sheltering.

In summary, the use of KI to prevent radioidine from accumulating in the thyroid gland can be an effective ancillary protective action during a nuclear power plant accident. However, many factors make stockpiling and/or pre-distribution to the general public questionable. Whether KI should be stockpiled and distributed to the general public around a particular site depends on local conditions. Additionally, decisions on its use or the use of alternative protective measures during an emergency depends on accident and environmental conditions that may prevail at the time. Any decision by State and local authorities to use KI should be based on the conditions and site environment for the specific operating commercial nuclear power plant and should include detailed plans for distribution, administration, and medical assistance. The following reference are intended to assist State and local authorities in decisions related to use of KI.

1. National Council on Radiation Protection and Measures (NCRP), Protection of the Thyroid Gland in the Event of Releases of Radioiodine. NCRP Report No. 55, August 1, 1977.

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Richard W. Krimm,

Chairman, Federal Radiological Preparedness Coordinating Committee.

[FR Doc. 85–17171 Filed 7–23–85; 8:45 am]

BILLING CODE 6718–01–M

VOL
50
ISS
142
JL
24
1985
UMI

Reader Aids

Federal Register
Vol. 50, No. 142
Wednesday, July 24, 1985

INFORMATION AND ASSISTANCE

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212	1
27213-27408	2
27409-27570	3
27571-27812	5
27813-27926	8
27927-28092	9
28093-28190	10
28191-28362	11
28363-28554	12
28555-28756	15
28757-28894	16
28895-29202	17
29203-29366	18
29367-29628	19
29629-29934	22
29935-30126	23
30127-30260	24

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305	28363

3 CFR

Administrative Orders:

Memorandums:

July 17, 1985	29631

Presidential Determinations:

No. 85-16 of July 12, 1985	29629

Executive Orders:

11888 (Amended by EO 12524)	27409
12470 (Revoked by EO12525)	28757
12523	26963
12524	27409
12525	28757
12526	29203

Proclamations:

5356	26961
5357	29935
5358	30127

5 CFR

630	29937
771	26965
1201	28895

Proposed Rules:

532	28583, 28584

7 CFR

Ch. IV	27927
2	29367
52	26965, 29635
54	27571
226	26972
301	28366
400	26976
402	28367
800	30129
908	27411, 27928, 28896
910	27813, 28372, 28555, 29628
911	28373
915	28373, 28556
916	27813, 28373
917	27813, 28373
918	28373
921	27411, 28373
922	28373
923	28373
924	28373
930	27213, 28373
944	28556
967	28373
979	26976
985	28373
991	26977, 27814
1040	27412
1136	29637
1205	30131
1421	29639
1427	26978
1435	27413
1941	27414
1944	27415
1945	27414, 27416
3015	28759

Proposed Rules:

Ch. IV	27971
Ch. X	27003
29	27288
51	27004, 30199
417	27601
800	28104, 29965
801	29689
802	29689
907	28405
908	29405
910	28105
920	27288
967	28210
989	30200
999	28585
1032	30203
1036	30204
1050	30203
1124	27972
1240	28404
1427	29693
1930	28782
1944	28782
1965	28782

8 CFR

238	29641
287	30133
316a	27816

Proposed Rules:

103	27289
341	28586
343a	28587

9 CFR

78	28699
91	27929, 29205
92	27928, 28557
94	28560, 28900
318	27573, 28374

Proposed Rules:

94	27973

10 CFR

9	27214
50	29937
60	29641

Proposed Rules:

50	27006, 28815
440	29620

VOL 50 ISS 142 JL 24 1985 UMI

11 CFR

Proposed Rules:
110 ... 29232

12 CFR

403 ... 27215
611 ... 27930
617 ... 27931
723 ... 27417

Proposed Rules:
561 ... 27290, 28588, 29985
563 ... 27290, 28588, 29985
571 ... 27290, 28588

13 CFR

121 ... 27418
302 ... 27419

Proposed Rules:
107 ... 29532
108 ... 27754

14 CFR

21 ... 29945
39 ... 26979, 27575, 27576, 27931–27933, 28093, 28094, 28561–28563, 28766, 29648–29651
71 ... 26980, 27934, 28564, 28565, 28900–28902, 30134
97 ... 27934, 29653
108 ... 27924, 28884
121 ... 29306
135 ... 29306

Proposed Rules:
39 ... 27009, 27012, 27601, 27602, 28815, 29694, 29988
71 ... 27013, 27014, 27526, 28588–28591, 28816, 28950, 29407, 30206
75 ... 27014
91 ... 28950, 30124

15 CFR

19 ... 27577
90 ... 28767
368–399 (See EO 12525) ... 28757, 29205
370 ... 29205
376 ... 27420, 29205
378 ... 29205
385 ... 29205
386 ... 29205
399 ... 27420

Proposed Rules:
303 ... 29232
911 ... 28816

16 CFR

3 ... 28095
4 ... 28095
13 ... 26981, 27578, 28374, 28902
453 ... 28062, 28081
703 ... 27936

Proposed Rules:
13 ... 28592, 28951, 29696, 29699

17 CFR

1 ... 30135, 30140
3 ... 28907
200 ... 28385, 29368
239 ... 27937
240 ... 27937, 27940, 28385
249 ... 27937, 29948
270 ... 27937, 28930
274 ... 27937, 29368
275 ... 29206
288 ... 26981, 27947

Proposed Rules:
210 ... 27973, 28953, 29409
229 ... 29409
230 ... 28404
239 ... 29409
240 ... 27829, 27976, 27981, 28106, 28210, 28219, 28404, 29409
250 ... 27981
259 ... 27981
270 ... 27982, 29409

18 CFR

37 ... 29655, 30141
154 ... 30141
157 ... 27816
389 ... 27816

Proposed Rules:
2 ... 28954
35 ... 27604
37 ... 30207
154 ... 28954
157 ... 28954
161 ... 28954
271 ... 28221
284 ... 28954
290 ... 27604

19 CFR

4 ... 26981, 29949
10 ... 29949
12 ... 27947
19 ... 29949
24 ... 29949
103 ... 29949
113 ... 29949
134 ... 29949
141 ... 29949
142 ... 27816
143 ... 29949
145 ... 29949
148 ... 29949
152 ... 29949
162 ... 29949
171 ... 29949
173 ... 29949
178 ... 27947
191 ... 29949

Proposed Rules
162 ... 27829
177 ... 27831

20 CFR

200 ... 27222, 29957
401 ... 28565, 30144
422 ... 28565
626 ... 27818
627 ... 27818
628 ... 27818
629 ... 27818
630 ... 27818

Proposed Rules:
404 ... 27615, 29435
416 ... 27615, 29435
674 ... 29606

21 CFR

101 ... 26984
173 ... 29208
176 ... 29657, 30144
177 ... 30144–30148
178 ... 30147, 30148
179 ... 29658
182 ... 30149
184 ... 30149
436 ... 29209
510 ... 28395
520 ... 27818, 28768
524 ... 30152
558 ... 27421, 27422, 28768, 28931, 28932
801 ... 30153
812 ... 28932
1308 ... 28098, 28395

Proposed Rules:
Ch. 1, Subchapter C ... 28594
2 ... 30210
81 ... 29702
109 ... 29233
110 ... 29233
146 ... 29702
170 ... 27294, 29235
201 ... 27016, 29702
211 ... 27016, 29702
225 ... 29233
226 ... 29233
357 ... 27552, 28595
433 ... 29702
500 ... 29233
509 ... 29233
514 ... 27016, 29702
559 ... 27016, 29702
561 ... 27452
610 ... 28595
660 ... 28595
680 ... 30211
1002 ... 27024, 29704

22 CFR

501 ... 27422
1502 ... 28932
1504 ... 28934

23 CFR

825 ... 29209
1325 ... 28191

24 CFR

200 ... 28197
201 ... 30154
203 ... 28197, 30154
234 ... 30154
885 ... 28197
3282 ... 28396

25 CFR

Proposed Rules:
61 ... 27456

26 CFR

1 ... 27222, 27231, 27427, 29369–29376, 29959, 30160
31 ... 29964
48 ... 29959
138 ... 29959
602 ... 27222, 27231, 29369, 29376, 29959, 29964, 30160

Proposed Rules:
1 ... 27297, 27456, 27457, 28409, 29435, 29436
31 ... 29990
51 ... 27621
602 ... 29436

27 CFR

4 ... 27819
9 ... 29967
170 ... 28572

Proposed Rules:
9 ... 28409

28 CFR

0 ... 28769
2 ... 28101
18 ... 28199
32 ... 27428

Proposed Rules:
30 ... 28955

29 CFR

70 ... 28306
1952 ... 27233, 28770, 29210, 29659

Proposed Rules:
33 ... 27298, 28956
89 ... 29606
1910 ... 27307

30 CFR

700 ... 28186
701 ... 28186
785 ... 28186
827 ... 28186
901 ... 29379
902 ... 28592
943 ... 28186
948 ... 28316, 28324

Proposed Rules:
56 ... 27566
57 ... 27566, 29437
700 ... 28180
701 ... 28180
785 ... 28180
817 ... 27910
827 ... 28180
913 ... 27025
917 ... 28222, 29235
926 ... 29235
935 ... 29437, 29438
936 ... 27461
944 ... 28107
948 ... 28343
950 ... 28595, 29438, 29704

31 CFR

4 ... 29221
51 ... 26987
103 ... 27821
500 ... 27435
505 ... 27435
515 ... 27435
520 ... 27435
535 ... 27435
540 ... 27435

32 CFR

Parts 1–39 ... 26987
199 ... 26988
642 ... 28573
657 ... 28573
706 ... 28398–28400
726 ... 28401

33 CFR

100 ... 27579, 28573, 29221–29223
110 ... 26988, 27580, 29224
117 ... 26989, 27582, 29670–29672
150 ... 26989
165 ... 27583, 29225
166 ... 26989

Proposed Rules:
110 ... 27622, 27623, 28596
117 ... 27026, 27029, 27624, 27832, 27990, 27991, 29236

34 CFR

19 ... 28101
75 ... 29328
76 ... 29328
304 ... 29328
425 ... 29352
426 ... 29352
431 ... 29352
432 ... 29352

Proposed Rules:
369 ... 28412
376 ... 28412

35 CFR

101 ... 26990
103 ... 26990
121 ... 26990

36 CFR

254 ... 29673
1200 ... 27196
1202 ... 27196
1228 ... 27951
1250 ... 27196

37 CFR

201 ... 30169
202 ... 30169

Proposed Rules:
1 ... 27030, 28596

38 CFR

1 ... 29226
3 ... 27584
21 ... 27825, 29674

Proposed Rules:
3 ... 28224
17 ... 29990
36 ... 27833

39 CFR

3 ... 29380
10 ... 27827
601 ... 28941
3001 ... 28144

Proposed Rules:
111 ... 27992
3001 ... 27308

40 CFR

51 ... 27892
52 ... 26991, 27244–27247, 28544, 29229, 29381, 29383
60 ... 27248
61 ... 27248
81 ... 28574
86 ... 27250, 29384
123 ... 28202
147 ... 28941, 28942
158 ... 28943
162 ... 28943
180 ... 28944–28946, 30172
260 ... 28702
261 ... 28702
262 ... 28702
264 ... 28702
265 ... 28702
266 ... 28702
270 ... 28702
271 ... 28702
280 ... 28702
419 ... 28516
600 ... 27172
781 ... 29170
763 ... 28530

Proposed Rules:
52 ... 27030, 27462, 28224, 28415, 28596, 28598, 28818, 29237, 29439
86 ... 28818
180 ... 27463, 28108, 28956, 28957
202 ... 27321
205 ... 27321
260 ... 29992
262 ... 29992
264 ... 29992
265 ... 29992
270 ... 29992
403 ... 29705
414 ... 29068
416 ... 29068
600 ... 27188
798 ... 30213
799 ... 30213

41 CFR

Chs. 1–49 ... 26967
101–4 ... 28402
101–17 ... 28577
101–40 ... 27951
101–41 ... 29972
101–47 ... 28402
105–54 ... 28203
105–63 ... 26992
201–1 ... 27142
201–2 ... 27142, 28208
201–8 ... 27142
201–11 ... 27142
201–16 ... 27142
201–20 ... 27142
201–21 ... 27142
201–22 ... 28208
201–23 ... 27142
201–24 ... 27142
201–26 ... 27142
201–30 ... 27142, 28208
201–31 ... 27142, 28208
201–32 ... 27142, 28208
201–38 ... 27142
201–39 ... 27142, 28208
201–40 ... 27142, 28208
201–45 ... 28208

Proposed Rules:
101–41 ... 27625, 27626

42 CFR

400 ... 28577
405 ... 27722, 30172
412 ... 27208, 27722, 30172
416 ... 28577
435 ... 28577

Proposed Rules:
23 ... 27465
405 ... 27469
412 ... 27469

43 CFR

2 ... 29230
5470 ... 28947

Public Land Orders:
5150 (Revoked in part by PLO 6607) ... 27827
5179 (Revoked in part by PLO 6607) ... 27827
5180 (Revoked in part by PLO 6607) ... 27827
5186 (Revoked in part by PLO 6607) ... 27827
6389 (Corrected by PLO 6608) ... 28208
6607 ... 27827
6608 ... 28208

Proposed Rules:
2800 ... 27322
5400 ... 29324
5440 ... 29324

44 CFR

64 ... 26993, 26994, 28947
67 ... 30173

Proposed Rules:
67 ... 27322, 29992
302 ... 27627, 28959

45 CFR

1180 ... 27584, 27586

Proposed Rules:
405 ... 27406
412 ... 27406
1620 ... 27326

46 CFR

153 ... 26996

Proposed Rules:
160 ... 27628
355 ... 29440

47 CFR

0 ... 27952
22 ... 27953
68 ... 27250, 29384
73 ... 27287, 27438, 27954, 29392, 29393, 30187
74 ... 29394
76 ... 27438, 29394
81 ... 27968
83 ... 27968, 29231

Proposed Rules:
Ch. I ... 28418, 29440
15 ... 30213
73 ... 27629, 29446–29453
97 ... 29454

48 CFR

7 ... 27560
12 ... 27969
15 ... 27560, 28103
19 ... 27560
33 ... 27969
34 ... 27560
52 ... 27560, 27969
209 ... 28209
217 ... 29675
504 ... 26996
515 ... 28578
522 ... 28578
533 ... 26998
552 ... 27589, 28948, 29402
553 ... 27589
570 ... 27589
2801 ... 29798
2804 ... 29798
2806 ... 29798
2807 ... 29798
2808 ... 29798
2809 ... 29798
2810 ... 29798
2814 ... 29798
2815 ... 29798
2827 ... 29798
2830 ... 29798
2831 ... 29798
2834 ... 29798
2835 ... 29798
2852 ... 29798
6101 ... 27969, 29231

Proposed Rules:
206 ... 28227
252 ... 28227

49 CFR

571 ... 27451, 29676
1104 ... 30188
1105 ... 30188
1151 ... 30188
1152 ... 30188
1155 ... 30188
1160 ... 30188
1180 ... 30188

Proposed Rules:
Ch. X ... 27031
71 ... 28859
171 ... 28820
175 ... 28820
531 ... 29812
571 ... 27032, 27632, 27633, 28426, 28599, 29993
1132 ... 27834
1241 ... 29706

50 CFR

17 ... 26999, 29336–29345, 30188
33 ... 29972
215 ... 27914
285 ... 29403
611 ... 29681
658 ... 28103
661 ... 30195
663 ... 30195
672 ... 28580, 28581, 29681
674 ... 28103
681 ... 30198

Proposed Rules:
17 ... 27637, 27992, 28821, 28870–28878, 29059, 29238, 29800, 29801
20 ... 27638, 29706
611 ... 28980, 29240
630 ... 27470
642 ... 29708
650 ... 29240
651 ... 29241
655 ... 28109
662 ... 27470
663 ... 28980
675 ... 29240

LIST OF PUBLIC LAWS

Last List July 22, 1985
This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

S.J. Res. 154/Pub. L. 99–67
To designate July 20, 1985, as "Space Exploration Day". (July 19, 1985; 99 Stat. 165)
Price: $1.00

H.R. 1373/Pub. L. 99-68
To designate the wilderness in the Point Reyes National Seashore in California as the Phillip Burton Wilderness. (July 19, 1985; 99 Stat. 166)
Price: $1.00

VOL
50
ISS
142
JL
24
1985
UMI

VOL
50

ISS
142

JL
24

1985

UMI

VOL
50
ISS
143
JL
25
1985
UMI

7-25-85
Vol. 50 No. 143

federal register

Thursday
July 25, 1985

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VOL
50

ISS
143

JL
25

1985

UMI

7-25-85
Vol. 50 No. 143
Pages 30261-30410

federal register

Thursday
July 25, 1985

Selected Subjects

Anchorage Grounds
Coast Guard
Animal Drugs
Food and Drug Administration
Authority Delegations (Government Agencies)
Securities and Exchange Commission
Aviation Safety
Federal Aviation Administration
Bridges
Coast Guard
Hazardous Waste
Environmental Protection Agency
Imports
Agriculture Department
Marketing Agreements
Agricultural Marketing Service
Medical Devices
Food and Drug Administration
Privacy
Air Force Department
Surface Mining
Surface Mining Reclamation and Enforcement Office

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

VOL 50 ISS 143 JL 25 1985 UMI

Contents

Federal Register
Vol. 50, No. 143
Thursday, July 25, 1985

Agricultural Marketing Service
RULES
30263 Almonds grown in California
30262 Oranges (Valencia) grown in Arizona and California

Agriculture Department
See also Agricultural Marketing Service; Food Safety and Inspection Service; Forest Service.
RULES
Import quotas and fees:
30261 Dairy products import licenses; fee assessment

Air Force Department
PROPOSED RULES
30283 Privacy Act; general exemptions

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
30295 Alcohol, Drug Abuse, and Mental Health Advisory Board

Army Department
NOTICES
Senior Executive Service:
30290 Performance Review Boards; membership

Centers for Disease Control
NOTICES
Grants and cooperative agreements:
30298 Acquired Immunodeficiency Syndrome (AIDS); community-based demonstration and innovative projects for prevention and risk reduction, etc.
30295 Acquired Immunodeficiency Syndrome (AIDS); human T-lymphotropic viruses type III (HTLV-III) transmission studies

Coast Guard
RULES
Anchorage regulations:
30269 Louisiana
Drawbridge operations:
30269 New Jersey
30270 Washington
Merchant marine officers and seamen:
30274 Licensing of Federal pilots; effective date
Regattas and marine parades:
30268 Toledo Formula I Grand Prix
PROPOSED RULES
Drawbridge operations:
30284 Louisiana
30285 Massachusetts
NOTICES
Meetings:
30325 Marine transportation of oil field wastes

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Defense Department
See also Air Force Department; Army Department.
NOTICES
Meetings:
30289, 30290 DIA Scientific Advisory Committee (2 documents)

Environmental Protection Agency
RULES
Hazardous waste:
30271 Identification and listing; exclusions
PROPOSED RULES
Pesticides tolerances in animal feeds:
30277 Thiodicarb; correction
NOTICES
Meetings:
30290 FIFRA Scientific Advisory Panel; correction
Toxic and hazardous substances control:
30290 Premanufacture exemption applications; correction (2 documents)

Farm Credit Administration
NOTICES
30330 Meetings; Sunshine Act

Federal Aviation Administration
RULES
Airworthiness directives:
30264 Cessna
30265 Transition areas
PROPOSED RULES
30276 Transition areas

Federal Communications Commission
NOTICES
Hearings, etc.:
30290 Turner Broadcasting/CBS Inc. transfer
Meetings:
30291 ITU Mobile Services World Administrative Radio Conference

Federal Deposit Insurance Corporation
NOTICES
30330 Meetings; Sunshine Act (2 documents)

Federal Election Commission
NOTICES
30331 Meetings; Sunshine Act

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
30326 Dade County, FL
30326 Fairfield County, CT
30326 Juneau, AK

Federal Maritime Commission
NOTICES
30291 Agreements filed, etc.
Freight forwarder licenses:
30292 ABC Freight Forwarders, Inc., et al.
30292 Gemini Export Service, Inc., et al.

30331 Meetings; Sunshine Act

Federal Reserve System
NOTICES
30292 Agency information collection activities under OMB review
Bank holding company applications, etc.:
30292 Susquehanna Bancshares, Inc., et al.
30293 U.S. Bancorp
30331 Meetings; Sunshine Act

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
30267 Ivermectin injection
30267 National Environmental Policy Act; implementation; reporting and recordkeeping requirements
PROPOSED RULES
Medical devices:
30277 Implanted intracerebral/subcortical stimulator for pain relief
NOTICES
Human drugs:
30300 Drug substances, manufactured; submitting supporting documentation in drug applications; draft guideline; availability and inquiry; extension of time

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
30264 Imported products; refused entry; correction

Forest Service
NOTICES
Environmental statements; availability, etc.:
30287 Routt National Forest, CO
Power line construction grant easements:
30286 Cleveland National Forest, CA
Wilderness areas:
30287 Sawtooth National Recreation Area, ID; hearing

General Accounting Office
NOTICES
30293 Bid protest; procurements by Architect of the Capitol; notice of review

General Services Administration
RULES
Acquisition regulations (GSAR):
30274 Competition in contracting requirements, etc., correction
NOTICES
30293 Agency information collection activities under OMB review
Telecommunications standards:
30294 Data terminal equipment and circuit-terminating equipment; general purpose 37-position and 9-position interface; adoption; interim

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Centers for Disease Control; Food and Drug Administration; Health Resources and Services Administration.

Health Resources and Services Administration
NOTICES
Health service areas redesignation, etc.:
30301 Illinois

Indian Affairs Bureau
NOTICES
30301 Agency information collection activities under OMB review

Interior Department
See Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Countervailing duties:
30287 Canned tuna from Philippines

International Trade Commission
NOTICES
30308 Agency information collection activities under OMB review

Interstate Commerce Commission
RULES
Practice and procedure:
30275 Revision and redesignation of rules of practice; technical amendments
NOTICES
30309 Agency information collection activities under OMB review
Railroad operation, acquisition, construction, etc.:
30309 Louisiana & Arkansas Railway Co.
Railroad services abandonment:
30308 Seaboard System Railroad Co.

Justice Department
See also Juvenile Justice and Delinquency Prevention Office.
NOTICES
30309 Privacy Act; systems of records

Juvenile Justice and Delinquency Prevention Office
NOTICES
Grants and cooperative agreements:
30312 Missing children and homeless youth; law enforcement agencies policies and practices, national study; reissuance
30310 Missing Children's Assistance Act program priorities

Labor Department
See Occupational Safety and Health Administration.

Land Management Bureau
NOTICES
Alaska native claims selection:
30307 Chignik River Ltd.
30306 Eklutna, Inc.
30307 Far West, Inc.
30307 NANA Regional Corp., Inc.
Exchange of lands:
30306 Arizona; correction

Meetings:
30305 Canon City District Advisory Council
30305 Idaho Falls District Grazing Advisory Board
30303 Miles City District Grazing Advisory Board
30301 Moab District Grazing Advisory Board
30302 National Public Lands Advisory Council
Sale of public lands:
30306 Arizona; correction
30305 Arkansas
30303 Oklahoma (2 documents)
30306 Utah
Survey plat filings:
30307 California
30305 New Mexico (2 documents)
Withdrawal and reservation of lands:
30304 Arizona
30304 Arizona; correction
30302 Wyoming

Minerals Management Service
NOTICES
Outer Continental Shelf operations:
30308 Leasing maps and official protraction diagrams; availability

National Aeronautics and Space Administration
NOTICES
Meetings:
30318 Space and Earth Science Advisory Committee

National Labor Relations Board
NOTICES
30331 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
30289 South Atlantic Fishery Management Council

National Science Foundation
NOTICES
Meetings:
30319 DOE/NSF Nuclear Science Advisory Committee

Nuclear Regulatory Commission
NOTICES
30319 Agency information collection activities under OMB review
Applications, etc.:
30319 Indiana & Michigan Electric Co.
30319 University of Lowell

Occupational Safety and Health Administration
NOTICES
State plans; standards approvals, etc.:
30317 Utah

Postal Rate Commission
RULES
Practice and procedure:
30271 Domestic Mail Classification Schedule, publication; correction

Railroad Retirement Board
NOTICES
30321 Agency information collection activities under OMB review

Securities and Exchange Commission
RULES
Organization, functions, and authority delegations:
30266 Market Regulation Division, Director
NOTICES
Applications, etc.:
30321 FundsNet, Inc.
30322 ImmunoGenetics, Inc.
30322 Southwestern Electric Power Co.
30323 Tultex Corp.
Self-regulatory organizations; unlisted trading privileges:
30322 Midwest Stock Exchange, Inc.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Abandoned mine land reclamation program:
30402 Subsidence insurance program grants
Permanent and interim regulatory programs:
30406 Unsuitable surface coal mining areas, fragile lands and historic lands definition
Permanent program submission:
30282 Wyoming; comment period reopened

Trade Representative, Office of United States
NOTICES
Import quotas and exclusions, etc.:
30320 Alloy tool steel products; warehouse withdrawal determination
30321 Specialty steel and alloy tool steel products

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration
RULES
Organization, functions, and authority delegations:
30275 Federal Highway and Urban Mass Transportation Administrators; interstate highway system and emergency highway relief funds
NOTICES
30324 Agency information collection activities under OMB review
Aviation proceedings; hearings, etc.:
30325 Island Air Express

Treasury Department
NOTICES
30334 Privacy Act; systems of records

United States Information Agency
NOTICES
Art objects, importation for exhibition:
30327 Treasure House of Britain: Five Hundred Years of Private Patronage and Art Collecting

Veterans Administration
NOTICES
30328 Agency information collection activities under OMB review
30327 Privacy Act; computer matching program

Separate Parts in This Issue

Part II
30334 Department of the Treasury, Office of the Secretary

VOL 50 ISS 143 JL 25 1985 UMI

Part III
30402 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Part IV
30408 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Reader Aids
Additional information, including a list of public laws, telephone numbers, and findings aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
6.....30261
908.....30262
981.....30263

9 CFR
327.....30264

14 CFR
39.....30264
71.....30265
Proposed Rules:
71.....30276

17 CFR
200.....30266

21 CFR
25.....30267
522.....30267
556.....30267
Proposed Rules:
561.....30276
882.....30276

30 CFR
Proposed Rules:
762.....30408
887.....30402
950.....30282

32 CFR
Proposed Rules:
806b.....30283

33 CFR
100.....30268
110.....30268
117 (2 documents).....30268, 30269
Proposed Rules:
117 (2 documents).....30284, 30285

39 CFR
3001.....30271

40 CFR
261.....30271

46 CFR
10.....30274

48 CFR
552.....30274
570.....30274

49 CFR
1.....30275
1000.....30275
1011.....30275
1100.....30275
1101.....30275
1160.....30275

Rules and Regulations

Federal Register
Vol. 50, No. 143
Thursday, July 25, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Section 22 Dairy Import Quotas; Assessment of Fees for Administering Import Licenses

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the regulations (7 CFR 6.20–6.32) governing the importation under license of certain dairy articles which are subject to quotas proclaimed under the authority of section 22 of the Agricultural Adjustment Act of 1933, as amended, to provide for the assessment of a fee to reimburse the Department of Agriculture for the costs of administering the licensing system.

EFFECTIVE DATE: August 26, 1985.

FOR FURTHER INFORMATION CONTACT: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Room 6616 South Building, Department of Agriculture, Washington, D.C. 20250, (202) 447–5270.

SUPPLEMENTARY INFORMATION:

Background

Regulations promulgated by the Department of Agriculture and codified at 7 CFR 6.20–6.32 provide for the issuance of licenses to importers of certain dairy articles which are subject to quotas proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624). Those dairy articles may only be entered into the United States by or for the account of a person or firm to whom such licenses have been issued and only in accordance with the terms and conditions of such licenses and the regulations.

The licenses are issued on a calendar year basis and each license authorizes the license holder to import a specified quantity and type of dairy article from a specified country. The use of licenses by the license holder to import dairy articles is monitored by the Department of Agriculture and the U.S. Customs Service.

Section 501, Pub. L. 82–137, 65 Stat. 290, as amended (31 U.S.C. 9701), commonly referred to as the Independent Offices Appropriation Act (the "IOAA"), provides that it is the sense of Congress that each service or thing of value provided by an agency of the U.S. Government is to be self-sustaining to the extent possible. Section 501 of the IOAA authorizes agencies to prescribe regulations establishing a charge for a service or thing of value provided by the agency. Circular A–25 (September 23, 1959), as amended, issued by the Bureau of the Budget, the predecessor to the Office of Management and Budget, provides that executive agencies should recover the cost of services or benefits provided to persons by the agency.

The dairy import licensing system administered by the Department of Agriculture confers special benefits to the license holder above and beyond those which accrue to the public at large. It has been determined that the public interest would be served by the establishment of a fair and equitable fee to be charged license holders to reimburse the Department of Agriculture for the costs of staff services rendered in processing applications for licenses, computer equipment and operations necessary to provide dairy import licenses to importers and to ensure that quota articles are entered only in accordance with such licenses, supervisory hours devoted to management of the licensing system and other miscellaneous costs involved in administration of the dairy import licensing system.

Therefore, this rule implements section 501 of the IOAA and Circular A–25 by providing for the assessment of fees on licenses issued to licensees to import dairy articles in order to cover the cost to the Department of Agriculture of the administration of the dairy import licensing system. Under this rule, the Licensing Authority shall determine the amount of the fee to be charged per license each year based upon the cost of administering the dairy import licensing system for the prior calendar year.

To the extent practicable, the fee for each license will be announced by the Licensing Authority no later than July 31 of the year preceding the year for which the fee is to be charged and will be set out in a notice filed with the **Federal Register** detailing the basis of the fee.

Discussion of Comments

A proposed rule amending 7 CFR Part 6, Subpart—section 22 Import Quotas (7 CFR 6.20–6.32), was published in the **Federal Register** on May 15, 1985 (50 FR 20220). A 30-day comment period ended on June 14, 1985. Three letters containing comments were submitted to USDA regarding the proposed rule. All of the comments were considered in preparing this final rule.

Section 6.33 License Fee.

All three comments received were opposed to the charging of the fee on a per-license-issued basis. Two of these comments suggested that the total cost of administering the licensing system be divided by the total pounds of all the quotas to determine a cents per pound cost for issuing the licenses. The cents per pound could then be applied to the size of the license thereby giving the fee for that license. The third comment felt that an allocation of costs on a per-license-issued basis was particularly burdensome on small importers. A two tier fee system was suggested whereby a licensee receiving one unit of license, such as 10,000 pounds, would pay a flat rate while holders of larger licenses of more than one unit would pay a substantially higher fee.

After review of these comments, it has been determined that the final rule should not be changed to provide for the charging of the fee on a per pound basis or in accordance with the two tier system suggested. The purpose of the fee established by this rule is to reimburse the Department of Agriculture for the costs of the administration of the dairy import licensing system. A fee charged on the basis of the amount of pounds of quota articles approved for each licensee would not closely reflect the costs incurred by the Department on behalf of a particular licensee since the costs of processing one license with a large quota amount could be less expensive than the costs of processing

VOL 50 ISS 143 JL 25 1985 UMI

several licensees for another licensee with an equivalent quota amount. A fee charged for each license issued, without regard to the quota amount involved, will be fair and equitable since such charge will ensure that the fee charged each licensee will closely reflect the cost incurred by the Department on behalf of that licensee. Furthermore, the cost per license is not expected to be high enough to burden small importers. However, the method of fee allocation will be kept under review by the Department.

One change has been made in the final rule. Section 6.33(b) of the proposed rule provided that the fee would be announced by the Licensing Authority no later than July 31 of the year preceding the year for which the fee is to be assessed. This announcement was designed to ensure that persons applying for licenses would be aware of the license fee to be charged prior to issuance of the licenses. However, since this final rule will not be effective prior to July 31 and since the requisite information necessary to calculate costs of administering the licensing system may not always be available by July 31 of each year, section 6.33(b) of the final rule has been changed to provide that, to the extent practicable, the Licensing Authority will announce the fee prior to July 31 of the year preceding the year for which the fee is to be assessed.

No other changes have been made in the final rule.

Rulemaking Matters

This final rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major" since the final rule will not have any of the significant effects specified in those documents.

Furthermore, to the extent, if any, that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) apply to this rule, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

An evaluation of the impact of this rule on the environment was made and, based on this evaluation, it has been determined that this action is not a major federal action and will have no foreseeable adverse effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this final rule.

Final Rule

List of Subjects in 7 CFR Part 6

Section 22, Imports, Import quotas, dairy products.

PART 6—[AMENDED]

Accordingly, 7 CFR Part 6, Subpart—section 22 Import Quotas is amended as follows:

1. The authority citation for 7 CFR Part 6, Subpart—section 22 Import Quotas, is revised to read as follows:

Authority: Sec. 3, Pub. L. 897, 80th Cong., 2nd Sess., 62 Stat. 1248, as amended (7 U.S.C. 624); Secs. 701, 703, Pub. L. 96–39, 93 Stat. 268, 272; Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202; Sec. 501, Pub. L. 82–137, 65 Stat. 290, as amended (31 U.S.C. 9701), unless otherwise noted.

2. 7 CFR Part 6, Subpart—section 22 Import Quotas, is amended by adding a new § 6.33 to read as follows:

§ 6.33 License fee.

(a) A fee will be charged for each license issued to a person by the Licensing Authority to reimburse the Department for the costs of administering the licensing system under this regulation.

(b) The fee for each license will be determined by dividing the cost of administering the licensing system (determined in accordance with paragraph (c) of this section) by the average number of licenses issued per year for the three years immediately preceding the year for which the fee is to be assessed. To the extent practicable, the fee will be announced by the Licensing Authority no later than July 31 of the year preceding the year for which the fee is to be assessed. The fee will be set out in a notice filed with the Federal Register.

(c) The Licensing Authority shall determine the costs (both incurred and estimated) of administering the licensing system for the calendar year preceding the year for which the fee is to be charged using the following criteria:

(1) The cost of staff and supervisory hours devoted directly to administering the licensing system;

(2) The cost of the computer on-line entry system used to administer the licensing system; and

(3) Other miscellaneous costs directly related to administering the licensing system.

(d) The fee each license is due upon the date of issuance of the license and must be paid by the licensee no later than May 15 of the year for which the license is issued or such date as may be specified in the announcement issued by the Licensing Authority in accordance with paragraph (b) of this section. The fee for any license issued after April 15 of any year must be paid by the licensee no later than 30 days from the date of issuance of the license. Fee payments shall be made by check or money order payable to the Treasurer of the United States.

(e) If the fee for a license is not paid by the licensee by the final payment date, (1) the authority of the licensee to import any article under such license held by the licensee will be automatically suspended by the Licensing Authority until the fee has been paid or arrangements satisfactory to the Licensing Authority have been made for the payment of such fee, and (2) the licensee's eligibility for licenses to enter any article will be subject to revocation and suspension in accordance with § 6.29 (b)(3).

Signed this 19th of July 1985.

John R. Block,

Secretary of Agriculture.

[FR Doc. 85–17681 Filed 7–24–85; 8:45 am]

BILLING CODE 3410–10–M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 353, Amdt. 1; Valencia Orange Reg. 354]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Amendment 1 of Regulation 353 increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 19–25, 1985. Regulation 354 establishes the quantity of such fruit that may be shipped to market during the period July 26–August 1, 1985. The amendment and regulation are needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATE: Regulation 353, Amendment 1 (§ 908.653) is effective for the period July 19–July 25, 1985. Regulation 354 (§ 908.654) is effective for the period July 26–August 1, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

These rules have been reviewed under USDA procedures and Executive Order 12291 and have been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

The amendment and the regulation are issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions are based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

The amendment and the regulation are consistent with the marketing policy for 1984–85. The committee met publicly on July 16, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges for the specified weeks. The committee reports the demand for Valencia oranges has improved, and prices are stable.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because there is insufficient time between the date when information upon which these regulations are based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment and the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the amendment and regulation and their effective dates.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. The authority citation for Part 7 CFR Part 908 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 908.653 is added to read as follows:

§ 908.653 Valencia Orange Regulation 353.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 19, 1985, through July 25, 1985, are established as follows:

(a) *District 1:* 280,000 cartons;

(b) *District 2:* 420,000 cartons;

(c) *District 3:* Unlimited cartons.

3. Section 908.654 is added to read as follows:

§ 908.654 Valencia Orange Regulation 354.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 26, 1985, through August 1, 1985, are established as follows:

(a) *District 1:* 273,000 cartons;

(b) *District 2:* 427,000 cartons;

(c) *District 3:* Unlimited cartons.

Dated: July 19, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–17621 Filed 7–24–85; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 981

Handling of Almonds Grown in California; Changes in Administrative Rules and Regulations Concerning Roadside Stands and Quality Control

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds a new section to the administrative rules and regulations established under the Federal marketing order for California almonds to clarify the term "at retail at a roadside stand" used in § 981.13 of the order. This change will give the almond industry clear-cut standards for use in enforcing the order's roadside stand exemption. This rule also changes the quality control provisions of the administrative rules and regulations to extend the date by which handlers of California almonds must dispose of their inedible 1984 crop almonds from July 31, 1985 to August 31, 1985. This change will give handlers additional time to process the record large 1984 crop.

EFFECTIVE DATE: July 25, 1985.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (5 U.S.C. 553). Clarification of the term "at retail at a roadside stand" is intended to provide the Almond Board of California with standards to use in determining which growers with roadside stand sales are exempt under the Federal marketing order for California almonds. The Almond Board of California should have the opportunity to utilize these standards as soon as possible.

The change in the date by which handlers must dispose of their inedible 1984 crop almonds should be made effective as soon as possible so that handlers can plan their forthcoming operations. This change provides handlers with additional flexibility with which to process their 1984 crop almonds.

Notice of this action was published in the May 29, 1985, issue of the Federal Register (50 FR 21853), and interested persons were afforded an opportunity to submit written comments through June 13, 1985. At the request of the California Farm Bureau, the comment period was reopened (50 FR 25994) through June 26, 1985. One comment was received in favor of the proposals.

This final rule adds a new § 981.413 to Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 50 FR 16451 and 24174) and amends § 981.442(a)(5) of that subpart. Section 981.413 is issued pursuant to § 981.13 of the marketing agreement and Order No. 981 (7 CFR 981), both as amended, regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." Section 981.442(a)(5) is issued under § 981.42(a) of the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions taken herein are based on two unanimous recommendations of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

VOL
50
ISS
143
JL
25
1985
UMI

Section 981.13 of the order currently exempts from the definition of "handlers"any grower who sells only almonds of his/her own production at retail at a roadside stand of his/her own operation. This action adds a new § 981.413 to the administrative rules and regulations established under the order to clarify the term "at retail at a roadside stand." Pursuant to this action, exempt retail sales at roadside stands are limited to sales for home use which are not intended for resale and which are not in excess of 100 pounds net kernel weight to any one customer per day. Sales of almonds at certified farmers' markets in compliance with Section 1392 of the regulations of the California Department of Food and Agriculture also are construed as "roadside" sales for the purpose of § 981.13 where these two conditions are met.

The Board believes that this clarification is needed because at present there is no limitation on the quantity of almonds eligible for the roadside stand sales exemption. Some growers reportedly are selling truckloads of almonds at roadside stands and claiming the exemption. These large sales cannot be regarded as retail sales and therefore, should not be exempt. This action will provide the Board with definitive standards by which to determine which growers with roadside stand sales are exempt from the handler requirements of the order.

Section 981.42(a) of the order and § 981.442(a)(4) of the administrative rules and regulations currently require handlers to report to the Board the weight of inedible kernels in each variety of almonds they receive. This weight must be accumulated during processing and delivered to the Board or Board-accepted crushers, feed manufacturers, or feeders. Section 981.442(a)(5) currently requires that this disposition obligation must be met no later than July 31 succeeding the crop year in which the obligation was incurred.

This action amends § 981.442(a)(5) to extend the date by which handlers must dispose of their inedible 1984 crop almonds from July 31, 1985, to August 31, 1985. The Board believes that this change is needed to give handlers an additional month to process the record large 586.1 million pound 1984 almond crop. The change applies to 1984 crop almonds only.

After consideration of all relevant matter presented, including the Board's recommendation, the favorable comment received, and other available information, it is further found that to change Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 50 FR 16451 and 24174) by adding a new § 981.413 and by amending § 981.442(a)(5) will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 981

Marketing Agreements and Orders, Almonds, California.

PART 981—[AMENDED]

1. The authority citation for 7 CFR Part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Section 981.413 is added to Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 50 FR 16451 and 24174), and § 981.442(a)(5) of that subpart is amended as follows:

2. A new § 981.413 is added to read as follows:

§ 981.413 Roadside stand exemption.

The term "at retail at a roadside stand" as used in § 981.13 shall be defined to mean sales for home use and not for resale which are not in excess of 100 pounds net kernel weight to any one customer per day. Sales of almonds at certified farmers' markets in compliance with Section 1392 of the regulations of the California Department of Food and Agriculture shall be construed as "roadside" sales for the purpose of § 981.13 where these conditions are met.

§ 981.442 [Amended]

3. The last sentence in § 981.442(a)(5) is amended by changing the period to a colon and inserting immediately thereafter the following: "*Provided*, That for 1984 crop almonds, that date shall be August 31."

Dated: July 19, 1985.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 85–17620 Filed 7–24–85; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 83–040C]

Importation of Meat and Poultry Products; Refused Entry Product

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published in the **Federal Register** on May 13, 1985, establishing new procedures for handling imported products to decrease the likelihood that "refused entry" meat and poultry products will enter into the United States.

FOR FURTHER INFORMATION CONTACT: Irwin Dubinsky, Acting Director, Policy Office, Policy and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6735.

SUPPLEMENTARY INFORMATION: On May 13, 1985, the Food Safety and Inspection Service published a final rule in the **Federal Register** (50 FR 19906) amending certain sections under Parts 327 and 381 of the Federal meat and poultry products inspection regulations.

This document corrects an error appearing on page 19907 of the May 13, 1985, **Federal Register** which listed the incorrect section number and heading for the regulation under Part 327. The correct section number and heading should read: § 327.13 Foreign products offered for importation; reporting of findings to customs; handling of articles refused entry.

All other information contained in the final rule remains unchanged.

Done at Washington, DC, on: July 17, 1985.

L. L. Gast,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 85–17618 Filed 7–24–85; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–CE–26–AD; Amdt. 39–5106]

Airworthiness Directives; Cessna Model T303 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), AD 85–11–05, applicable to Cessna Model T303 airplanes and codifies the corresponding emergency AD letter dated May 31, 1985, into the **Federal Register**. This AD requires installation of a placard prohibiting flight into known icing until the rudder is modified per Cessna Single Engine Service Bulletin MEB85–7, Revision 1, dated June 28, 1985.

EFFECTIVE DATE: July 31, 1985, to all persons except those to whom it has already been made effective by priority letter from the FAA dated May 31, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Single Engine Service Bulletin MEB85–7, Revision 1, dated June 28, 1985, applicable to this AD may be obtained from the Cessna Aircraft Company Customer Services, P.O. Box 1521, Wichita, Kansas 67201. A copy of the information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas W. Haig, Aerospace Engineer, FAA, ACE–120W, Room 100, 1801 Airport Road, Wichita, Kansas 67209; Telephone (316) 946–4409.

SUPPLEMENTARY INFORMATION: This AD is necessary because reports have been received of rudder vibration during flights in icing conditions on Cessna Model T303 airplanes. While the Model T303 airplane is flutter free for non-icing conditions, an instability between the fin and rudder is predicted by analysis when ice build-up occurs to the extent that it disturbs the airflow over the rudder. Even though this instability is not predicted to be violent or explosive, the FAA has determined that since there is a potential flutter situation with these airplanes, they should not be operated in conditions conducive to flutter onset. The AD, therefore, requires the immediate installation of a placard prohibiting flight into known icing conditions until the rudder is modified per the kit identified in Cessna Single Engine Service Bulletin MEB85–7, Revision 1, dated June 28, 1985, on these T303 airplanes on which the Cessna known icing equipment is installed (as listed in the Equipment List in the Airplane Flight Manual). This service bulletin was not called out in the emergency AD letter because it was not available at that time. However, since the service kit has been subsequently developed, the service bulletin incorporating it is now being included in the codified release of the AD as an alternate means of compliance.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority mail letter dated May 31, 1985. The AD became effective immediately to these individuals upon receipt of that letter and is identified as AD 85–11–05. Since the unsafe condition described therein may still exist on other Cessna Model T303 airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of the Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed may be obtained by contacting the Rules Docket at the location under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Cessna: Applies to Cessna Model T303 (serial numbers T30300001 thru T30300315) airplanes certificated in all categories.

Compliance: Required before further flight, unless already accomplished.

To prevent possible flutter of the vertical stabilizer that could cause the loss of the vertical stabilizer and/or airplane control, accomplish the following:

(a) Fabricate and install adjacent to the anti-ice system switches the following placard using letters of a minimum 0.10 inch in height:

"FLIGHT INTO KNOWN ICING PROHIBITED" and operate the airplane in accordance with this limitation.

(b) Insert a copy of this AD in front of the airplane limitation section in the Airplane Flight Manual.

(c) The requirements of paragraphs (a) and (b) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 43.9.

(d) The placard required in paragraph (a) may be removed and flight into known icing conducted for those airplanes on which the Cessna known icing equipment is installed (as listed in the Equipment List in the Airplane Flight Manual) when the rudder is modified in accordance with Cessna Single Engine Service Bulletin MEB85–7, Revision 1, dated June 28, 1985.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Cessna Aircraft Company Customer Services, Post Office Box 1521, Wichita, Kansas 67201, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on July 31, 1985, to all persons except those to whom it has already been made effective by priority letter from the FAA dated May 31, 1985, and is identified as AD 85–11–05.

Issued in Kansas City, Missouri, on July 16, 1985.

Edwin S. Harris,

Acting Director, Central Region.

[FR Doc. 85–17610 Filed 7–24–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket Number 85–ACE–05]

Revocation of Transition Area—Humboldt, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Humboldt, Nebraska, transition area. It was anticipated that instrument approaches would be made to the Humboldt, Nebraska, Municipal Airport utilizing the Pawnee City VORTAC as a navigational aid. The transition area was established based on this VORTAC. However, traffic data indicates that no instrument approaches

VOL 50 ISS 143 JL 25 1985 UMI

have been made into the Humboldt Municipal Airport for the past two years. Therefore, the transition area is unnecessary.

EFFECTIVE DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Dale R. Carnine, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: The City of Humboldt, Nebraska, has taken action to abandon one of their two runways, and to eliminate all runway lights. Also, traffic data indicates that no instrument approaches were made into Humboldt during 1983 and 1984. Therefore, the transition area is no longer necessary and is being revoked. Accordingly, the FAA hereby releases that airspace below 700 feet above the ground level for other than instrument flight operations. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A, dated January 2, 1985.

Discussion of Comments

On Page 19949 of the Federal Register dated May 13, 1985, the FAA published a Notice of Proposed Rulemaking, which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the transition area at Humboldt, Nebraska. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received a a result of the Notice of Proposed Rulemaking.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending Section 71.181 as follows:

§ 71.181 [Amended]

Humboldt, Nebraska

Revoke transition area.

This amendment becomes effective at 0901 GMT September 26, 1985.

Issued in Kansas City, Missouri, on July 16, 1985.

Edwin S. Harris,
Director, Central Region.

[FR Doc. 85-17612 Filed 7-24-85; 8:45 am]
BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-22246]

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules governing delegation of authority in order to allow the Director of the Division of Market Regulation to affirm determinations of the Securities Investor Protection Corporation (SIPC) that certain broker-dealers are not members of SIPC and to extend the time period for acting on SIPC determinations.

EFFECTIVE DATE: August 26, 1985.

FOR FURTHER INFORMATION CONTACT: France Maca, Esq., Division of Market Regulation (202) 272-2789.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today announced the amendment, effective thirty days after publication in the **Federal Register**, of its rules under the Securities Exchange Act of 1934 (the "Act")(15 U.S.C. 78a et seq. as amended) governing delegation of authority to the Director of the Division of Market Regulation (17 CFR 200.30-3). The amendment authorizes the Director of the Division of Market Regulation to affirm determinations made by SIPC, pursuant to section 3(a)(2)(A)(i) of the Securities Investor Protection Act of 1970 ("SIPA"), that certain broker-dealers are not members of SIPC and to extend for a period not exceeding 90 days from the date of filing of such determinations by SIPC the period during which the determinations must be affirmed, reversed or amended.

Discussion

Section 3(a)(2) of SIPA provides that, with certain exceptions, all broker-dealers registered pursuant to section 15(b) of the Securities Exchange Act of 1934 are members of SIPC. One of those exceptions is for broker-dealers whose "principal business, in the determination of SIPC, taking into account business of affiliated entities, is conducted outside the United States and its territories and possessions." Pursuant to section 3(a)(2)(B), SIPC must then file its determination with the Commission. Under section 3(a)(2)(B), the Commission, within thirty days of SIPC's filing, or within such longer period as the Commission may designate of not more than ninety days after the date of SIPC's filing if it finds such longer period to be appropriate and publishes its reasons for so finding, must "consistent with the public interest and the purposes of [SIPA], affirm, reverse, or amend [SIPC's determination]."

The Commission believes that (1) extension of the time frame in which to act on SIPC's determinations that a broker-dealer conducts its business outside the United States, its territories and possessions and therefore is not a SIPC member and (2) affirmation of SIPC's determinations would not raise significant policy issues. Moreover, Commission review results in additional delays and expenditures of time and resources by the Commission and its staff. Therefore, the Commission believes it appropriate to delegate to the Director of the Division of Market Regulation the authorty to affirm SIPC's determinations that certain broker-dealers are not SIPC members and to extend the time period for acting on SIPC's determinations.

The Commission finds that there will be no burden on competition imposed by the amendment not necessary or appropriate in furtherance of the Act. Furthermore, the Commission finds that the foregoing action relates solely to agency management, procedures and practice, and accordingly, that notice and prior publication for comment under the Administrative Procedure Act (5 U.S.C. 553) are not necessary. This action, taken pursuant to 15 U.S.C. 78d-1, as amended, becomes effective thirty days after publication in the **Federal Register.**

List of Subjects in 17 CFR Part 200

Administrative practice and procedures, Freedom of information, Privacy, Securities.

The Securities and Exchange Commission, pursuant to the Act, and particularly sections 2 and 23 thereof (15 U.S.C. 78b and 78w), the Delegation of Functions Act, (15 U.S.C. 78d-1), hereby adopts an amendment to 17 CFR 200.30-3.

Text of Amendment

The Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; INFORMATION AND REQUESTS

1. The authority citation for Part 200 is revised to read as follows:

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, Secs. 38, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11.

Sec. 200.30-3(e) is also issued under Sec. 2, 89 Stat. 97, as amended (15 U.S.C. 78b).

2. By redesignating paragraph (e) of § 200.30-3 as paragraph (f) and adding new paragraph (e) as follows:

§ 200.30-3 Delegation of Authority to Director of Division of Market Regulation.

* * * * *

(e) With respect to the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. 78aaa, et. seq., pursuant to Section 3(a)(2)(B) of the Securities Investor Protection Act of 1970, to (1) extend for a period not exceeding 90 days from the date of the filing of the determination by the Securities Investor Protection Corporation ("SIPC") that a registered broker-dealer is not a SIPC member because it conducts its principal business outside the United States and its territories and possessions, the period during which the Commission must affirm, reverse or amend any determination by SIPC and (2) affirm such determination filed by SIPC.

* * * * *

By the Commission.

John Wheeler,
Secretary.

July 17, 1985.

[FR Doc. 85-17709 Filed 7-24-85; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 25

[Docket No. 79N-0335]

National Environmental Policy Act; Policies and Procedures; OMB Approval of Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Office of Management and Budget (OMB) has approved the collection of information requirements concerning its regulations governing environmental impact considerations. The agency is amending those regulations to reflect OMB's approval.

EFFECTIVE DATE: July 25, 1985.

FOR FURTHER INFORMATION CONTACT: John C. Matheson, Center for Veterinary Medicine (HFV-310), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1880.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 26, 1985 (50 FR 16636), FDA revised its regulations governing environmental impact considerations (21 CFR Part 25). In that document (50 FR 16656), FDA announced that it had submitted the final rule to OMB for approval of the collection of information requirements contained in §§ 25.23(c), 25.31a, 25.31c, and 25.31e.

OMB has approved the collection of information requirements under OMB control number 0910-0190. This document announces OMB's approval.

Because these amendments are nonsubstantive, notice and public procedure and delayed effective date are unnecessary (5 U.S.C. 553b (B) and (d)).

List of Subjects in 21 CFR Part 25

Environmental impact statements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 25 is amended as follows:

PART 25—ENVIRONMENTAL IMPACT CONSIDERATIONS

1. The authority citation for 21 CFR Part 25 continues to read as follows:

Authority: Sec. 701, 52 Stat. 1055-1056 as amended (21 U.S.C. 371); secs. 351, 354-361, 58 Stat. 702 as amended (42 U.S.C. 262, 263b-264); sec. 102(2)(C), 83 Stat. 853 (42 U.S.C. 4332); 40 CFR Parts 1500-1508; Executive Order 11514 as amended by Executive Order 11991; Executive Order 12114, unless otherwise noted.

§§ 25.23, 25.31a, 25.31c, 25.31e [Amended]

2. In § 25.23 *Actions that are excluded from the requirement to prepare an environmental assessment*, § 25.31a *Environmental assessment for proposed approval of FDA-regulated products—Format 1*, § 25.31c *Environmental assessment format for extramural contracts, grants, or other research agreement—Format 3*, and § 25.31e *Environmental assessment for destruction of condemned, enjoined, detained, or recalled articles—Format 5* by adding at the end of each section the parenthetical statement "(Collection of information requirements approved by the Office of Management and Budget under control number 0910-0190.)"

Dated: July 19, 1985.

Marvin H. Shumate,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17733 Filed 7-23-85; 11:32 am]
BILLING CODE 4160-01-M

21 CFR Parts 522 and 556

Animal Drugs, Feeds, and Related Products; Ivermectin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories providing for safe and effective use of IVOMEC ™ (ivermectin) injection in reindeer for treatment and control of warbles. The regulations are also amended to establish the tolerance and safe concentrations for drug residues in edible reindeer tissue.

EFFECTIVE DATE: July 25, 1985.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co. Inc., Rahway, NJ 07065, filed supplemental NADA 128-409 providing for subcutaneous use of IVOMEC ™ (ivermectin) injection in reindeer for treatment and control of warbles (*Oedemagena tarandi*). The supplement incorporates data and information in Public Master File (PMF)

VOL 50 ISS 143 JL 25 1985 UMI

3895, for which a notice of availability of certain safety, effectiveness, and environmental data for use in support of NADA's concerning use of ivermectin in reindeer published in the Federal Register of December 24, 1984 (49 FR 49941). The drug is currently approved for intramuscular use in horses and subcutaneous use in cattle (21 CFR 522.1192).

The supplemental NADA is approved. The regulations are amended to reflect the approval and to establish a tolerance for the marker residue and safe concentrations for total residues of ivermectin in edible reindeer tissue. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), filed under PMF 3895. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the Federal Register of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(4).

List of Subjects

21 CFR Part 522

Animal drugs, Injectable.

21 CFR Port 556

Animal drugs, Foods, Residues.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. In § 522.1192 by revising the heading of paragraph (a)(2) and adding new paragraph (d)(3) to read as follows:

§ 522.1192 Ivermectin injection.

(a) * * *

(2) *Cattle and reindeer.* * * *

* * * * * *

(d) * * *

(3) *Reindeer*—(i) *Amount.* 10 milligrams per 50 kilograms (110 pounds) body weight.

(ii) *Indications for use.* It is used in reindeer for treatment and control of warbles (*Oedemagena tarandi*).

(iii) *Limitations.* For subcutaneous use only. Not for intramuscular use. Do not treat reindeer within 56 days of slaughter. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR Part 556 is revised to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 556.344 [Amended]

4. In § 556.344 *Ivermectin*, by changing "cattle" to "cattle and reindeer" wherever it appears.

Dated: July 18, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85–17651 Filed 7–24–85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09–85–18]

Special Local Regulations: Toledo Formula I Grand Prix

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Toledo Formula I Grand Prix. This event will be held on the Maumee River on 31 August 1985 from 10:00 a.m. (EDT) until 4:30 p.m. on 01 September 1985. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 31 August 1985 and terminate on 01 September 1985.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The application to hold this event was not received until July 12, 1985, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and LCDR A.R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Arts Commission of Greater Toledo will sponsor the Toledo Formula I Grand Prix to be conducted on the Maumee River on 31 August and 01 September 1985. This event will have an estimated 25 Formula I outboard racers which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Toledo, OH).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46(c)(5) and 33 CFR 100.35.

2. Part 100 is amended to add a temporary section 100.35–0918 to read as follows:

§ 100.35–0918 Toledo Formula I Grand Prix.

(a) *Regulated Area:* That portion of the Maumee River lying between the Cherry Street Bridge and the Anthony Wayne Bridge.

(b) *Special local Regulations:* (1) The above area will be closed to all vessel navigation or anchorage from 10:00 AM (EDT) until 5:00 PM on 31 August 1985 and from 1:45 PM to 4:30 PM on 01 September 1985.

(2) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(3) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) This section is effective from 10:00 AM (EDT) on 31 August 1985 until 4:30 PM on 01 September 1985.

Dated: July 18, 1985.

B.K. Schaeffer,

Captain, U.S. Coast Guard, Chief of Staff, Ninth Coast Guard District.

[FR Doc. 85–17703 Filed 7–24–85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD8–85–02]

Anchorage Ground, Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the anchorage regulations on the Lower Mississippi River by establishing a permanent anchorage in the vicinity of Kenner, Louisiana, called the Lower Kenner Bend Anchorage. This action is necessary to provide needed additional anchorage space for deep draft vessels.

EFFECTIVE DATE: August 26, 1985.

FOR FURTHER INFORMATION CONTACT: LCDR L.L. Hereth, Port Safety Officer, Captain of the Port, New Orleans, LA, U.S. Coast Guard, 4640 Urquhart Street, New Orleans, LA 70117, Tel: (504) 589–7118.

SUPPLEMENTARY INFORMATION: On April 16, 1985, the Coast Guard published a notice of proposed rulemaking in the Federal Register for these regulations (50 FR 14940). Interested persons were requested to submit comments. No comments were received.

Drafting Information

The drafters of these regulations are LTJG K.D. Christopher, project officer, c/o Commander, Eighth Coast Guard District (mps) and LT R.M. Wallar, project attorney, Eighth Coast Guard District Legal Office.

Discussion of Comments

No comments were received on the notice of proposed rulemaking. The Coast Guard believes, however, that, because of a considerable increase in commercial development on the Lower Mississippi River the establishment of the Lower Kenner Bend Anchorage is needed to increase anchorage space. In addition, establishing the Lower Kenner Bend Anchorage will reduce overcrowding of the anchorages between New Orleans and Baton Rouge. The greater the occupancy of the anchorage, the closer together vessels must anchor. Because of the limited maneuverability of most merchant vessels, the risk of accident increases as vessels anchor closer to each other.

Six comments were received on the Invironmental Assessment: five statements of no objection and one statement of no objection with the stipulation that no cargo operations be conducted at the anchorage. The Coast Guard proposed establishing the Lower Kenner Bend Anchorage in the interests of navigation safety. The control of "nuisance" factors arising from cargo transfer operations such as noise or dust should be regulated and controlled at the local or state level.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This anchorage is not expected to have any significant effect on navigation and therefore it is determined that the impact will be minimal. It is believed, however, that any economic impacts provided by this regulation are expected to be positive as the establishment of this anchorage should decrease vessel transit time and facilitate midstream cargo operations.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

PART 110—[AMENDED]

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471; 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. In § 110.195, paragraph (a) is amended by redesignating paragraphs (a)(17) through (a)(29) as (a)(18) through (a)(30) and by adding a new paragraph (a)(17), to read as follows:

§ 110.195 Mississippi River below Baton Rouge, LA including South and Southwest Passes.

(a) * * *

(17) Lower Kenner Bend Anchorage. An area 0.8 miles in length along the right descending bank of the river, 700 feet wide, extending from mile 113.5 to mile 114.3 above Head of Passes.

* * * * * *

Dated: July 15, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 85–17696 Filed 7–24–85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD3 84–33]

Drawbridge Operation Regulations; Mantua Creek, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Consolidated Rail Corporation (CONRAIL), and New Jersey Department of Transportation (NJ DOT), the Coast Guard is changing the regulations governing the Mantua Creek railroad and Route 44 highway drawbridges, respectively. Both bridges cross Mantua Creek at Paulsboro, New Jersey. This change permits both bridges to open on advance notice at all times from December through the last day of February. This change is being made because of minimal openings during the

VOL 50 ISS 143 JL 25 1985 UMI

applicable periods. This action will relieve the bridge owners of the burden of having a person constantly available to open the draws and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on August 26, 1985.

FOR FURTHER INFORMATION CONTACT: Williams C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

SUPPLEMENTARY INFORMATION: On April 4, 1985, the Coast Guard published proposed rules (50 FR 13389) concerning this amendment. The Commander, Third Coast Guard District, also published the proposal as a Public Notice dated April 17, 1985. In each notice interested persons were given until May 20, 1985 to submit comments.

Drafting Information

The drafters of this notice are Lucas A. Dlhopolsky, project manager, and Mary Ann Arisman, project attorney.

Discussion of Comments

One oral and three written comments were received. The proposed rule would have allowed the CONRAIL railroad bridge to open on four hours advance notice from 11 p.m. to 7 a.m. from March through November and would have permitted both bridges to open on four hours notice at all times from December through the last day of Feburary.

The person making the oral response indicated that the mariners using the marina and boating ramp upstream of the railroad bridge would have their access to the Delaware River restricted by implementation of the 11 p.m. to 7 a.m. restrictions from March through November. It was stated that during the period of April through October, 22 boats are moored at the marina located between the two bridges and that on the weekend some 20 to 40 additional boats make use of the launching facility at this marina. Boats have, on many occasions, experienced mechanical difficulty or heavy weather and have been delayed returning or have requested assistance from the marina after 11:00 p.m. The bridge opening logs for the railroad bridge for 1983 show 7 openings during the 11 p.m. to 7 a.m. time period between March and November. However, this does not present an accurate record of vessel traffic as the logs and statements by the draw tenders also indicate that the railroad bridge was normally left in the open position from about noon until 3 a.m daily. Based on the comments received and the fact that the bridge is closed only for a few trains per day, The Coast Guard is not implementing the proposed four-hour advance notice requirement from 11 p.m. to 7 a.m. during the recreational boating season.

One respondent objected to the draw tender being taken off the Route 44 (ALT 130) bridge and two others wanted full time draw tender service on both bridges so that the public could use the creek whenever they wished. The Route 44 bridge presently is not manned from 11:00 p.m. to 7:00 a.m. all year round because of limited bridge use during these hours. In addition, this bridge is upstream of the marina which generates most of the recreational vessel traffic and it has a vertical clearance of five feet at mean high water. This rulemaking would not alter the existing provision requiring four hours notice from 11 p.m. to 7 a.m. for the Route 44 bridge but would permit the owners of both bridges to open them only on four hours notice at all times from December through February when the waterway is normally frozen or has limited use. Mariners can still obtain openings upon four hours notice during this period. The CONRAIL bridge logs for 1983 show 12 openings from December through February. The logs for the Route 44 bridge show there were only four openings between 1982 and 1984 from December through February and all were in 1982. This number of openings does not warrant the constant presence of a draw tender at either bridge during the winter months especially since openings can be obtained by providing the four hours notice. Accordingly, the winter advance notice requirements for both bridges is being implemented as proposed.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this regulation has been found to be so minimal that a full regulatory evaluation is unnecessary. This is because the waterway is used only by recreational vessels and these regulations will provide for their reasonable needs. The regulations will also provide for the reasonable needs of the recreational boat marinas located between the two bridges. Vessels operating outside the months the draws would open on signal will be required to give advance notice to receive an opening. This is not expected to pose a major inconvenience or significantly impact such vessels due to the infrequency of such openings. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority:—33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.729 is revised to read as follows:

§ 117.729 Mantua Creek.

(a) The draw of the CONRAIL railroad bridge, mile 1.4 at Paulsboro, shall open on signal except, that from December 1 to March 1 the draw shall open on signal at all times upon four hours notice.

(b) The draw of the S.R. 44 bridge, mile 1.7, at Paulsboro, shall open on signal from March 1 through November 30 from 7 a.m. to 11 p.m., and shall open on signal at all other times upon four hours notice.

Dated: July 15, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 85-17698 Filed 7-24-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD13 85-01]

Drawbridge Operation Regulations; Duwamish Waterway at Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the King County Department of Public Works, the Coast Guard is changing the regulations governing the Fourteenth (Sixteenth) Avenue South highway bridge across the Duwamish Waterway, mile 3.8, at Seattle, Washington, by changing morning closed period times to conform with changes in peak flows of vehicular traffic. This change is being made because peak periods of vehicular traffic have shifted slightly since the original closed periods were established. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on August 26, 1985.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch (Telephone: (206) 442-5864).

SUPPLEMENTARY INFORMATION: On March 14, 1985 the Coast Guard published proposed rules (50 FR 10250) concerning this amendment. The Commander, Thirteenth Coast Guard District, also published the proposal as a public notice dated March 27, 1985. In each notice interested persons were given until April 29, 1985 to submit comments.

Drafting Information

The drafters of this notice are: John E. Mikesell, project officer, and Lieutenant Commander Judith M. Hammond, project attorney.

Discussion of Comments

There were no responses to the Federal Register notice. One response was received to the public notice. The response, from a Federal agency, offered no objection to the proposed change.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. With an average of only five openings a day, the extension of the existing morning closed period by one-half hour is expected to have little or no economic impact on vessels using the waterway. Over a three-month period, only nine openings occurred during the period from 6:30 a.m. to 7:00 a.m., an average of three openings per month. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 Code of Federal Regulations is amended as follows:

1. The authority citation for Part 117 continues to as follows:

Authority: 33 U.S.C. 499; and 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.1041(a)(2) is revised to read as follows:

§ 117.1041 Duwamish Waterway.

(a) * * *

(2) The draws of the Fourteenth (Sixteenth) Avenue South highway bridge, mile 3.8, need not be opened for the passage of vessels from 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

* * * * * *

Dated: July 2, 1985.

R.R. Garrett,

Captain, U.S. Coast Guard, Commander, 13th Coast Guard District, Acting.

[FR Doc. 85-17701 Filed 7-24-85; 8:45 am]

BILLING CODE 4910-14-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM85-1]

Publication of Domestic Mail Classification Schedule; Rulemaking; Correction

Issued July 18, 1985.

AGENCY: Postal Rate Commission.

ACTION: Final rule; correction.

SUMMARY: On July 10, 1985 (50 FR 28144-78), the Postal Rate Commission published a final rule providing for publication of the Domestic Mail Classification Schedule (DMCS). The Commission is issuing corrections to that rule.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 1333 H Street, NW., suite 300, Washington, D.C. 20268 (telephone: 202/789-6840).

SUPPLEMENTARY INFORMATION: On June 28, 1985, the Commission issued a Final Rule providing for publication of the DMCS. In FR Doc. 85-15992, make the following changes.

1. Page 28148, ninth line of § 200.0105aii change "recongnized" to "recognized."

2. Page 28153, first line of § 300.044 insert "may" between "Third-class mail" and "contain."

3. Page 28155 first line of § 400.022a change "subection" to subsection."

4. Page 28156, sixth line of text of § 400.0232, change "price" to "piece."

5. Page 28157, § 400.060e, change "Insured delivery" to "special delivery."

6. Page 28161, title of classification schedule SS-13, change "CLASSIFICATION SCHEDULE SS-31—PARCEL AIRLIFT (PAL)" to "CLASSIFICATION SCHEDULE SS-13—PARCEL AIRLIFT (PAL)."

7. Page 28166, Rate Schedule 100-First Class Mail, line 3 of footnote 1, change "A mailing fee of $50 must be paid" to "A mailing fee of $ must be paid."

8. Page 28167, Rate Schedule 200—Second-Class Mail: Regular Rate Publications, Outside County, change "Per piece: Less Editorial factor of content[2]" to "Per Piece: Less Editorial Factor of ¢ per each 1% Editorial Content.[2]"

9. Page 28168, Rate Schedule 204—Second-Class Mail: Science of Agriculture, change "Per piece: Less Editorial factor of content[2]" to "Per Piece: Less Editorial Factor of ¢ per each 1% Editorial Content.[2]"

10. Page 28169, Rate Schedule 207—Second-Class Mail Commingled Nonsubscriber and Nonrequester. change "Per piece: Less editorial factor of content[3]" to "Per Piece: Less Editorial Factor of ¢ per each 1% Editorial Content.[2]"

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 85-17648 Filed 7-24-85; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR 261

[SW-FRL-2869-3]

Identification and Listing of Hazardous Waste; Mobile Incineration System

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today granting a final exclusion for the solid wastes that will be generated by EPA's Mobile Incineration System located in McDowell, Missouri, from the list of hazardous wastes contained in 40 CFR § 261.31. This action responds to a delisting petition submitted under 40 CFR §§ 260.20 and 260.22 to exclude a waste on a "site-specific basis" from the hazardous waste list. The effect of this action is to exclude those wastes generated by EPA's Mobile Incineration System from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: July 25, 1985.

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ADDRESS: The public docket for this final exclusion is located in Room S–212, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information, contact Dr. Doreen Sterling, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 475–6775.

SUPPLEMENTARY INFORMATION: On June 5, 1985, EPA proposed to exclude certain wastes generated by EPA's Mobile Incineration System located in McDowell, Missouri, from the list of hazardous wastes (See 50 FR 23721). This proposed rule was in response to a petition submitted by EPA's Releases Control Branch (RCB), located in Edison, N.J., (pursuant to 40 CFR 260.20 and 260.22) to exclude these wastes from hazardous waste control. The RCB argued that the wastes did not meet the criteria for which they were orginally listed. The petitioner also has provided information in order for the Agency to consider whether any other toxicants are present in the waste at levels of regulatory concern.[1] In addition, RCB further provided data to demonstrate that the wastes do not exhibit any of the hazardous waste characteristics.

The purpose of today's action is to make final that proposal, effective immediately. More specifically, today's rule allows this facility to manage these wastes as non-hazardous, pursuant to the conditions specified below (See also 50 FR 23721).

I. Environmental Protection Agency (Releases Control Branch)

A. Proposed Exclusion

The Environmental Protection Agency's Releases Control Branch (RCB), located in Edison, New Jersey, has petitioned the Agency to exclude from the list of hazardous wastes the process wastewater, the rotary kiln ash, the filter media generated from a cleanable high efficiency air filter (CHEAF) particulate scrubber, and other solids [2] removed from the wastewater which will be generated during the field demonstration of EPA's Mobile Incineration System (MIS) at the Denney Farm site in McDowell, Missouri. These wastes are presently listed as EPA Hazardous Waste Nos. F020, F023, F026, F027 and F028. Approximately 450,000 gallons of wastewater and 1200 tons of total solids are expected to be generated during the field demonstration of the MIS.

RCB claimed that the wastewater and other solids generated during the trial burn of the MIS did not meet the criteria for which the waste was listed nor contained any additional toxic constituents which could cause the waste to be hazardous. RCB also claimed that the waste did not exhibit any of the characteristics of a hazardous waste. RCB further claimed that the waste that will be incinerated during the field demonstration was of the same origin as the waste incinerated during the trial burn and, consequently, the resultant wastewater and other solids generated during the field demonstration will also be non-hazardous. To support their claim, RCB submitted: (1) Documentation that the waste incinerated during the trial burn and the waste that will be incinerated during the field demonstration were derived from the same source, (2) a detailed description of the MIS, (3) characterization data on the material incinerated during the trial burn, and (4) analytical results on the wastewater and solids generated during the trial burn. RCB reported that neither CDDs, CDFs[3] nor any other toxic organic constituent were detected in the wastewater or solids generated during the trial burn of the MIS. Based on the data submitted by the petitioner, however, the Agency was unable to determine whether mercury, selenium, or chromium could present a hazard in the wastewater or solids; mercury leachate analyses were not performed and the detection limit used for selenium analyses was too high. For chromium, the EP results were highly variable.

The Agency, therefore, proposed to grant an exclusion to RCB for the residues (including process wastewater) that will be generated during the field demonstration of EPA's MIS at the Denney Farm site in McDowell, Missouri, provided the wastewater and solids were tested using the EP toxicity test for mercury, selenium and chromium before disposal and that levels of these metals be below the levels proposed by the Agency.

B. Agency Response to Public Comments

Two comments were received regarding our proposed decision to exclude the hazardous waste generated by EPA's Mobile Incineration System located in McDowell, Missouri, from the list of hazardous wastes contained in 40 CFR 261.31. One commenter first commended EPA's Releases Control Branch for its work in advancing incineration technology and for preparing the Petition for Exclusion. The commenter, however, has concerns regarding the interpretation of the regulations which led to the petition being submitted. More specifically, the commenter does not believe that incinerator residue (*i.e.*, the scrubber water) is derived from the listed waste but rather *results from* the incineration of the wastes. In particular, they argue that the scrubber water exhibits fundamentally different chemical and physical properties than the organic wastes which are incinerated; in addition, they argue that the scrubber water (comprised primarily of water and sodium or calcium chloride) bears no structural relationship to the hydrocarbons which are incinerated. Consequently, they believe there is no basis to say that the scrubber water is derived from the listed waste. The commenter also believes that the delisting process creates unreasonable restrictions on the operation of incinerators; they believe that few persons would be willing to incinerate dioxin-containing wastes if they must go through the delisting process. Therefore, they request that our interpretation that incineration residues are "derived from listed wastes" be modified so as to provide more incentive for these wastes to be incinerated.

We disagree with the commenter that the residues from the incineration process are not "derived from" the process. See, for example, 45 FR at 33096, May 19, 1980, where we state "Paragraph (c) establishes a similar rule with respect to solid wastes generated by . . . . treatment—including leachate and treatment residues . . . . and incinerator ash. Here, too, it is reasonable to assume that these wastes, which are *derived from* hazardous waste, are themselves hazardous." The Agency cannot accept the commenter's argument that the residues are different in composition and structural relationship and thus are not considered "derived from". If the commenter

[1] The Hazardous and Solid Waste Amendments of 1984 require the Agency in evaluating delisting petitions to consider all factors (including additional constituents) for which there is a reasonable basis to believe that their presence could cause the waste to be hazardous.

[2] The other solids include particulates collected from the secondary combustion chamber and sludge which is collected from the air pollution control equipment sumps and from the clarifier on the process water purge steam treatment system. The carbon filters are not included in the other solids category and hence are not a subject of this notice.

[3] CDDs/CDFs—all isomers of tetra-, penta-, and hexachloro-dibenzo-p-dioxins and -dibenzofurans, respectively.

believes that the wastes are different (and more importantly, non-hazardous), the Agency has provided a mechanism to exclude these wastes from regulatory control—namely, the delisting process.

The commenter believes that this progress requires extensive analysis and considerable time for regulatory review. We believe that normally such precautions need be taken to ensure their proper management. Nevertheless, based on the information provided by RCB and other incineration facilities, we are considering modifying the hazardous waste rules to designate as hazardous (rather than acute hazardous) wastes derived from the incineration or thermal treatment of certain dioxin-containing waste. These residues would still be considered hazardous, and subject to general waste management standards, but they would not be subject to the special management standards for most dioxin-containing wastes. Such a change should encourage (or at least not discourage) persons from incinerating dioxin-containing wastes.

The second commenter, although supporting the Agency's action proposing to delist the wastes from the MIS, expressed concern that the Agency is establishing "benchmarks" for evaluating future delisting petitions in three areas:

1. A 99.9999% Destruction and Removal Efficiency (DRE) (six 9s) for *all* constituent wastes, dioxin as well as other.

2. Minimum heat values of 14,500 Btu/lb.

3. Continuous monitoring for carbon monoxide (CO), carbon dioxide (CO_2), oxygen (O_2) and nitric oxides (NO_x).

The Agency does not view the above specifications as minimum requirements for future delisting but rather as specific conditions that must be maintained by the MIS in order to comply with their hazardous waste incinerator permit. The six 9s DRE is based upon the incineration of Principal Organic Hazardous Constituents (POHCs) of equivalent or higher thermal stability than CDDs and CDFs; this level of destruction and removal is only required for dioxin wastes and not other RCRA hazardous wastes. The minimum heat value of 14,500 Btu/lb. and continuous monitoring of CO, CO_2, O_2, and NO_x are conditions placed on the MIS to ensure compliance with the six 9s DRE and also with existing air quality standards. These conditions will not automatically be specified for all future delisting petitions.

C. Final Agency Decision

The Agency believes that RCB has successfully demonstrated that the MIS has effectively destroyed the CDDs, CDFs, and other toxic organic constituents present in the waste. The Agency does not at this point have enough information to determine the hazardousness of the wastewater and solids with respect to chromium, selenium, and mercury. Normally, the Agency would require additional testing before making a decision. Based on the extreme toxicity of CDDs and CDFs, the evidence that the MIS has effectively destroyed these constituents in the waste, and the fact that the MIS does not have enough wastewater storage capacity to continue incineration operations without discharge of the wastewater (for which an exclusion is necessary), the Agency believes that in this instance, it is an environmentally sound decision to grant an exclusion on a one-time basis with conditions to ensure that the wastes are found not to have mercury, selenium or chromium at levels of concern prior to disposal.

The conditions of the exclusion are as follows:

(1) MIS's performance must be continuously monitored in order to ensure efficient destruction of the wastes, (*i.e.*, comply with test burn parameters as specified in the MIS permit).

(2) A grab sample must be taken of each tank of wastewater generated during the field demonstration and tested using the EP toxicity test for mercury, selenium, and chromium. If mercury, selenium, and chromium EP leachate test results do not exceed 0.03, 0.14, and 0.68 ppm, respectively, the wastewater will be considered non-hazardous.

(3) Grab samples must be taken from each drum of ash or soil and composited daily. A core sample must also be collected from each CHEAF roll. An EP toxicity test must be performed on these samples and the leachate analyzed for mercury and selenium. If mercury leachate values do not exceed 0.044 ppm in the ash and CHEAF media and selenium values do not exceed 0.22 ppm in the ash and CHEAF media, those respective wastes will be considered non-hazardous. Analyses for mercury, selenium, and chromium would be performed according to the methodology specified in the test methods manual, SW–846. If RCB can demonstrate through representative sampling (on a minimum of 10 samples) that the selenium, mercury, and chromium leachate levels generated from the solids are below the levels established in the contingencies specified in (2) and (3) above, the Agency may propose to eliminate these conditions.

The EP leachate values specified above are based on the volume of the waste and the use of the VHS model (50 FR 7896–7900, February 26, 1985). Although the VHS model is not as yet final, the Agency does not believe that any changes in the model made in response to comments would change the Agency's decision to grant this exclusion.

In the June 12, 1985, correction notice (50 FR 24657), the Agency stated that our decision to delist these wastes would apply to all wastes generated (*i.e.*, incineration residues) after June 5, 1985. Upon reflection, the Agency has determined that the exclusion should not be effective until this final rule is published. This will have no effect on this exclusion since the RCB does not expect to burn the dioxin-containing waste and, thus, generate the incineration residues until a final decision is reached.

II. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions to the regulations take effect six months after promulgation. The purpose of this requirement is to allow persons handling hazardous waste sufficient lead time to perpare to comply with major new regulatory requirements. Today's amendment, however, reduces, rather than increases, the existing requirements for persons generating hazardous waste. If the amendments promulgated today do not become effective for six months after promulgation, there would be an unnecessary disruption in the MIS's operation. In light of the hardship that would be imposed by an effective date six months after promulgation and the fact that such a deadline is not necessary to achieve the purpose of Section 3010, EPA believes it is appropriate to make this rule effective immediately. In addition, for the reasons stated above, EPA believes that under 5 U.S.C. 553(d) this rule may be made effective immediately.

III. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at a specific facility from EPA's list of hazardous wastes.

thereby enabling the facility to treat its waste as non-hazardous.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 602–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

V. List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: July 18, 1985.

Jack W. McGraw,

Acting Assistant Administrator.

For the reasons set out in the preamble, 40 CFR Part 261 is to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. of 1976, as amended (42 U.S.C. 6905, 6912(a), 6912, and 6922).

2. In Appendix XI, add the following wastestreams in alphabetical order:

Appendix XI—Wastes Excluded Under §§ 260.20 and 260.22.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
EPA's Mobile Incineration System.	Denney Farm Site; McDowell, MO.	(a) Wastes excluded from non-specific sources: Process wastewater, rotary kiln ash, CHEAF media, and other solids (except spent activated carbon) (EPA Hazardous Waste Nos. F020, F022, F023, F026, F027, and F028) generated during the field demonstration of EPA's Mobile Incinerator at the Denney Farm Site in McDowell, Missouri, after July 25, 1985, so long as: (1) the incinerator is functioning properly; (2) a grab sample is taken from each tank of wastewater generated and the EP leachate values do not exceed 0.03 ppm for mercury, 0.14 ppm for selenium, and 0.68 ppm for chromium; and (3) a grab sample is taken from each drum of soil or ash generated and a core sample is collected from each CHEAF roll generated and the EP leachate values of daily composites do not exceed 0.044 ppm in ash or CHEAF media for mercury or 0.22 ppm in ash or CHEAF media for selenium.

[FR Doc. 85–17623 Filed 7–24–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 10

[CGD 77–064]

Licensing of Pilots; Manning of Vessels—Pilots

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction of effective date.

SUMMARY: On June 24, 1985, the Coast Guard published a Final Rule at 50 FR 26106 regarding the licensing of pilots, effective July 24, 1985. Section 10.07–9(e) provides that if an individual holding a first class pilot's license or endorsement does not satisfactorily complete a physical examination within 90 days prior to the anniversary date of the issuance of the license, the license or endorsement is invalid as of the anniversary date and the individual may not operate under the authority of that license or endorsement until a physical examination has been completed. The 90 day provision was intended to provide flexibility in scheduling physical examinations in recognition of the employment practices in the merchant marine.

In order to provide sufficient time to schedule and complete a physical examination within 90 days prior to the anniversary date of the issuance of the license without undue hardship to license holders, the effective date for § 10.07–9(e) is delayed to January 1, 1986.

Holders of a pilot license or endorsement with an anniversary date after January 1, 1986, must satisfactorily complete a physical examination within 90 days prior to that anniversary date.

The effective date for the final rule appearing in column one of page 26106 of the Federal Register issue of June 24, 1985, is corrected to read as follows:

EFFECTIVE DATE: July 24, 1985, except for § 10.07–9(e) which is effective January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke, Office of Merchant Marine Safety (G–MVP/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–2985.

Dated: July 23, 1985.

J.W. Kime,

Commodore, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85–17806 Filed 7–23–85; 4:12 pm]

BILLING CODE 4910–14–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 552 and 570

[APD 2800.12 CHGE 12]

General Services Administration Acquisition Regulation; Competition in Contracting Act

Correction

In FR Doc. 85–16048, beginning on page 27589 in the issue of Friday, July 5, 1985, make the following corrections:

1. On page 27590, in the first column, in section 552.270–2, the first word in the tenth line of the GSAR provision should read "offers".

2. On page 27593, in the first column, the number of the last subpart heading in the table of sections for Part 570 should read "570.7".

3. Also on page 27593, in the second column, in section 570.101, the first word in the third line of paragraph (c) should read "interests".

4. On page 27597, in the first column, in section 570.502, the third word in the seventh line of paragraph (b)(3)(ii) should read "firm".

5. On page 27598, in the second column, in section 570.602–2, the fourth word in the eighth line of paragraph (c)(3) should read "of".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–203]

Organization and Delegation of Powers and Duties; Fiscal Year 1985 Interstate Cost Estimate

AGENCY: Office of the Secretary; DOT.

ACTION: Final rule.

SUMMARY: This amendment delegates to the Administrators of the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA) all functions vested in the Secretary by Public Law 98–229 apportioning certain funds for construction of the Interstate Highway System in Fiscal Year 1985 and increasing amounts available for emergency highway relief. These all relate to matters administered by FHWA and UMTA.

DATE: The effective date of this amendment is March 9, 1984.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C–50, Department of Transportation, Washington, DC (202) 426–4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

This statute approves the Interstate Cost Estimate factors necessary to apportion $2 billion in Interstate construction funds and approves the Interstate Substitution Cost Estimate factors necessary to apportion $330 million in Interstate transfer funds for highway and transit projects. Also, it provides an additional $150 million for fiscal year 1984 in emergency relief highway funds. All of these functions are being delegated to FHWA, except the authority to apportion funds for Interstate substitute transit projects, which is being delegated to UMTA.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies).

PART 1—[AMENDED]

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. The authority citation for 49 CFR Part 1 continues to read as follows:

Authority: Secs. 3, 9, Department of Transportation Act (49 U.S.C. 1652 and 1657(e)), unless otherwise noted.

2. Section 1.48 is amended by adding a new paragraph (bb), and the introductory text of the section is repeated for the convenience of the reader, to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

The Federal Highway Administrator is delegated authority to—

* * * * *

(bb) Carry out the functions vested in the Secretary by Pub. L. 98–229, 98 Stat. 55, insofar as it relates to apportioning certain funds for construction of the Interstate Highway System in Fiscal Year 1985, apportioning certain funds for Interstate substitute highway projects, and increasing amounts available for emergency highway relief.

3. Section 1.51 is amended by adding at the end thereof a new paragraph (n), and the introductory text of the section is repeated for the convenience of the reader, to read as follows:

§ 1.51 Delegations to Urban Mass Transportation Administrator.

The Urban Mass Transportation Administrator is delegated authority to exercise the functions vested in the Secretary by:

* * * * *

(n) Section 2 of Pub. L. 98–229, 98 Stat. 55, insofar as it relates to apportioning certain funds for Interstate substitute transit projects.

Issued in Washington, DC, on July 1, 1985.

Elizabeth H. Dole,

Secretary of Transportation.

[FR Doc. 85–17035 Filed 7–24–85; 8:45 am]

BILLING CODE 4910–62–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1000, 1011, 1100, 1101 and 1160

[Ex Parte No. 55 (Sub-55)]

Revision and Redesignation of Rules of Practice; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; technical amendments.

SUMMARY: At 47 FR 49534, November 1, 1982, the Commission published rules revising and redesignating all of its procedural regulations governing the conduct of formal cases which come before it for decision. That document contained inadvertent errors and omissions which this document corrects by making technical amendments as set forth below.

FOR FURTHER INFORMATION CONTACT: Kathleen M. King, (202)275–7428.

SUPPLEMENTARY INFORMATION: Title 49 of the CFR Parts 1000, 1011, 1100, 1101 and 1160 are amended as follows:

PART 1000—THE COMMISSION

§ 100.735–19 [Amended]

1. In § 1000.735–19, the words "Appendix C of the Rules of Practice of the Commission (Part 1100 of the chapter)" are revised to read "§ 1102.2."

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

§ 1011.7 [Amended]

2. In § 1011.7(d), the reference to "§ 1133.3(a)" is revised to read "§ 1113.3(b)(1)."

PART 1100—GENERAL PROVISIONS

§ 1100.2 [Amended]

3. In § 1100.2, the reference to "Parts 1100–1119" in the first sentence is corrected to read "Parts 1100–1129."

PART 1101—DEFINITIONS AND CONSTRUCTION

§ 1101.2 [Amended]

4. In § 1101.2, the last sentence in paragraph (b) is revised to read as follows: See 49 CFR Part 1011, Commission Organization; Delegations of Authority.

PART 1160—HOW TO APPLY FOR OPERATING AUTHORITY

§ 1160.61 [Amended]

5. In § 1160.61, the CFR reference in the last sentence of paragraph (a) is revised to read "49 CFR 1104.2."

James H. Bayne,

Secretary.

[FR Doc. 85–17557 Filed 7–24–85; 8:45 am]

BILLING CODE 7035–01–M

VOL 50 ISS 143 JL 25 1985 UMI

Proposed Rules

Federal Register
Vol. 50, No. 143
Thursday, July 25, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-ACE-07]

Proposed Designation of Transition Area—Minneapolis, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to designate a 700-foot transition area at Minneapolis, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Minneapolis City County Airport, Minneapolis, Kansas, utilizing the Salina VORTAC as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATE: Comments must be received on or before August 30, 1985.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Discussion

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Minneapolis, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Minneapolis, Kansas, City County Airport utilizing the Salina VORTAC as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Minneapolis, Kansas, at and above 700 feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation, and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR), and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A, dated January 2, 1985.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Part 71

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.65.

2. By amending Section 71.181 as follows:

Minneapolis, Kansas

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Minneapolis City County Airport (Latitude 39°05'41"N; Longitude 97°43'13"W); within five miles either side of the Salina, Kansas VORTAC 341° radial extending from 10 NM SE of the airport to the 6.5 mile radius area, excluding that portion which overlies the Salina, Kansas, transition area.

Issued in Kansas City, Missouri, on July 16, 1985.

Edwin S. Harris,
Director, Central Region.

[FR Doc. 85-17611 Filed 7-24-85; 8:45 am]
BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP OH5275, 3H5378/P369; PH-FRL 2859-5]

Thiodicarb; Proposed Tolerances

Correction

In FR Doc. 85-16086 beginning on page 27452 in the issue of Wednesday, July 3, 1985, make the following corrections:

1. On page 27452, in the second column, under **SUPPLEMENTARY INFORMATION,** in the third paragraph, in the third line, "Methomuyl" should read "methomyl".

2. On page 27455, in the second column, in the table, the heading in the third column should read "Sm".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. 85M-0056]

Neurological Devices; Premarket Approval of the Implanted Intracerebral Subcortical Stimulator for Pain Relief

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; opportunity to request change in classification..

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the implanted intracerebral/subcortical stimulator for pain relief, a medical device. The agency also is summarizing its proposed findings on: (1) the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the statute's approval requirements, and (2) the benefits to the public from the use of the device. In addition, FDA is announcing an opportunity for interested persons to request the agency to change the classification of the device based on new information.

DATES: Comments by September 23, 1985; requests for a change in classification by August 9, 1985.

ADDRESS: Written comments or requests for a change in classification are to be submitted to the Docket Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert F. Munzner, Center for Devices and Radiological Health (HFZ-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

SUPPLEMENTARY INFORMATION:

Background

Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) requires the classification of medical devices into one of three regulatory classes: Class I, general controls; class II, performance standards; of class III, premarket approval. As a general rule, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295), and devices marketed on or after that date that are substantially equivalent to such devices, have been, or are being, classified by FDA. For the sake of convenience, this preamble refers to both the devices that were on the market before May 28, 1976, and the substantially equivalent devices that were marketed on or after that date as "preamendments devices."

Sections 501(f), 513, and 515(b) of the act (21 U.S.C. 351(f), 360c, and 360e(b)), taken together, establish as a general requriement that a preamendments device that FDA has classified into class III is subject, in accordance with section 515 of the act, to premarket approval. (As an alternative procedure for premarket approval, section 515(f) of the act provides for development of a PDP, the last stage of which is for FDA to declare that a PDP has been completed.) A preamendments class III device may be commercially distributed without a filed PMA or a notice of completion of a PDP until 90 days after FDA's promulgation of a final rule requiring premarket approval for the device. Also, such a device is exempt from the investigational device exemption (IDE) regulations (21 CFR Part 812) until the date stipulated by FDA in the final rule requiring premarket approval for that device. A device that was not in commercial distribution before May 28, 1976, or that has not been found by FDA to be substantially equivalent to such a device, is requried to have an approved PMA or a declared completed PDP in effect before it may be marketed.

Section 515(b)(2)(A) of the act provides that a proceeding for the promulgation of a final rule to require premarket approval shall be initiated by publication of a notice of proposed rulemaking containing: (1) The proposed rule, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed rule and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice either denying the request or announcing its intent to initiate a proceeding to reclassify the deivice under section 513(e) of the act. If FDA does not initiate such a proceeding, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, promulgate a final rule to requrie premarket approval, or publish a notice terminating the proceeding. If FDA terminates the proceeding, FDA is required to initiate a proceeding to reclassify the device under section 513(e) of the act, unless the reason for termination is that the deivce is a banned device under section 516 of the act (21 U.S.C. 360f).

If a proposed rule to require premarket approval for a preamendments device is make final, section 501(f) of the act mandates that a PMA or a notice of completion of a PDP for any such device be filed within 90 days of the date of promulgation of the final rule, or 30 months after final classification of the device, whichever is later. If a PMA or a notice of completion of a PDP for such a device is not filed by the later of the two dates, commerical distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or a notice of

VOL 50 ISS 143 JL 25 1985 UMI

completion of a PDP has not been filed, and there is not any IDE in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334). Shipment of the device in interstate commerce will be subject to injunction under section 302 of the act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333).

The act does not permit an extension of the 90-day period after promulgation of a final rule within which an application or notice is requried to be filed. The House Report on the amendments states that "the thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval." H. Rept. 94–853, 94th Cong., 2d Sess. 42 (1976).

Classification of the Implanted Intracerebral/Subcortical Stimulator for Pain Relief

In the **Federal Register** of September 4, 1979 (44 FR 51772), FDA issued a final rule (21 CFR 882.5840) classifying the implanted intracerebral/subcortical stimulator for pain relief into class III. The preamble to the proposal to classify the device (43 FR 55720; November 28, 1978) included the recommendation of the Neurological Devices Panel (formerly the Neurological Device Section of the Respiratory and Nervous System Devices Panel) (the Panel), an FDA advisory committee, regarding the classification of the device. The Panel's recommendation included a summary of the reasons the device should be subject to premarket approval and identified certain risks to health presented by the device. The Panel also recommended under section 513(c)(2)(A) of the act that a high priority for the application of section 515 of the act be assigned to the implanted intracerebral/subcortical stimulator for pain relief. The preamble to the final rule classifying the device advised that the earliest date by which a PMA for the device (or a notice of completion of a PDP) could be required was May 28, 1982, or 90 days after promulgation of a rule requiring premarket approval for the device, whichever occurred later.

In the **Federal Register** of September 6, 1983 (48 FR 40272), FDA published a notice of intent to initiate proceedings to require premarket approval of 13 preamendments class III devices assigned a high priority by FDA for the application of premarket approval requirements. Among other things, the notice describes the factors FDA takes into account in establishing priorities for initiating proceedings under section 515(b) of the act for promulgating final rules requiring that preamendments class III devices have approved PMA's or declared completed PDP's. Using these factors, FDA has determined that the implanted intracerebral/subcortical stimulator for pain relief, identified in § 882.5840(a), has a high priority for initiating a proceeding to require premarket approval. Accordingly, FDA is commencing a proceeding under section 515(b) of the act to require that the implanted intracerebral/subcortical stimulator for pain relief have an approved PMA or a PDP that has been declared completed.

Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is proposing to require that a PMA or a notice of completion of a PDP be filed with the agency for the implanted intracerebral/subcortical stimulator for pain relief within 90 days after promulgation of any final rule based on this proposal. An applicant whose device was in commercial distribution before May 28, 1976, or has been found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing the implanted intracerebral/subcortical stimulator for pain relief during FDA's review of the PMA or notice of completion of the PDP. FDA intends to review any PMA for the device within 180 days, and any notice of completion of a PDP for the device within 90 days, of the date of filing. FDA cautions that under section 515(d)(1)(B)(i) of the act, FDA may not enter into an agreement to extend the review period for a PMA unless the agency finds that "* * * the continued availability of the device is necessary for the public health."

FDA intends that, under § 812.2(d), the preamble to any final rule based on this proposal will stipulate that as of the date on which a PMA or notice of completion of a PDP is required to be filed, the exemptions in § 812.2(c) (1) and (2) from the requirements of the IDE regulations for preamendments class III devices will cease to apply to any implanted intracerebral/subcortical stimulator for pain relief: (1) Which is not legally on the market on or before that date or (2) which is legally on the market on or before that date but for which a PMA or notice of completion of a PDP is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA or a notice of completion of a PDP for the implanted intracerebral/subcortical stimulator for pain relief is not filed with FDA within 90 days after the date of promulgation of any final rule requiring premarket approval for the device, commercial distribution of the device will be required to cease. The device may be distributed for investigational use only if the requirements of the IDE regulations regarding significant risk devices are met. The requirements for significant risk devices include submitting an IDA application to FDA for its review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued. FDA, therefore, cautions that IDE applications should be submitted to FDA at least 30 days before the end of the 90-day period to avoid interrupting investigations.

Description of Device

The implanted intracerebral/subcortical stimulator for pain relief is a device that applies electrical current to subsurface areas of the brain to treat severe intractable pain. The device consists of an implanted radiofrequency (RF) receiver, electrodes that are placed within the brain, a pocket-sized external RF transmitter, and an external coil (antenna). The RF pulses are transmitted via the antenna through the skin to the subcutaneously placed RF receiver, which converts the RF energy to electrical impulses. The impulses are delivered via lead wires to the electrodes in the brain.

The electrodes are implanted in the brain through a burr hole in the skull. The receiver is implanted under the skin through an incision. A tunnel is made beneath the skin to accommodate the lead wires that extend from the receiver to the electrodes.

Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the implanted intracerebral/subcortical stimulator for pain relief to have an approved PMA or a declared completed PDP, and (2) the benefits to the public from the use of the device.

Degree of Risk

Damage to neural tissue. The electrical current used for stimulation and the presence of the electrode may cause injury to brain tissue. Charge densities used to treat patients cannot

be determined from published reports of clinical studies. Animal studies indicate that by using low charge densities, electrical injury to brain tissue can be minimized. Mortimer et al. studied the effects of electrical stimulation on the blood brain barrier of cats and concluded that the upper limit for safe stimulation is 0.05 watt per square inch when biphasic electrical pulses are used (Ref. 24). Pudenz investigated the degree of neural damage caused by electrically stimulating the cerebral cortex of cats. The author found that some amount of neural damage is consistently produced if the charge per phase of the stimulus pulse is 0.45 microcoulomb (μC) or greater (Ref. 27). Recently, Yuen et al. found that neural damage in the cerebral cortex of cats increased proportionally as the charge density per phase increased over the range of 40 to 400 μC per square centimeter per phase (Ref. 39).

Two authors have published studies of autopsy material taken from patients who had been implanted with deep brain stimulators. Gybels et al. reported on a series of five cancer patients who were followed for 2 weeks to 17 months (average 7 months) after implantation (Ref. 14). All patients showed histological reactions to the electrode, including necrosis, mesenchymal reactions, glial reactions, and inflammatory reactions with giant cells. Three of the five patients were autopsied after 6 to 17 months, and showed chromatolysis of neurones in the target area and mild gliosis. These histological reactions were atrtibuted to chronic stimlation. Boivie and Meyerson reported pathological findings in a group of five cancer patients autopsied 3 weeks to 17 months after implantation (Ref. 8). In four of these patients, small lesions resembling old infarcts were observed along the electrode tracks. The lesions were characterized by slight gliosis and mild neuronal reactions extending 0.5 to 0.7 millimeter (mm) beyond the track. A thin fibrous sheath surrounded the electrode tracks in three of the four patients. The results of the very small studies by Gybels et al. (Ref. 14) and by Boivie and Meyerson (Ref. 8) indicate that histological reaction to the presence of the electrodes may be mild. These studies, however, reported findings on a total of only 10 patients.

Several undesirable neurological effects have been reported in patients treated with deep brain stimulation. Dieckmann and Witzmann reported lesions in the target points in 3 of 46 patients (7 percent) (Ref. 12). Coagulated brain tissue was removed with an electrode from a fourth patient. The authors attribute their finding to "inappropriate" (i.e., continuous) stimulation by the patients. Richardson and Akil, in their study of long-term effects of stimulation of the periventricular gray matter, reported fogging of blurring of vision in five of eight patients (63 percent) (Ref. 33). In a second series of 30 patients, these same authors reported emotional changes, vertigo, and hemiparesis in 7 patients (23 percent) (Ref. 31). Mundinger and Salamao reported oculomator or other undesirable paresthesias and focal seizures in 3 of 32 patients (9 percent) (Ref. 25). Plotkin reported contralateral paresthesias in 1 of 48 patients (2 percent) which persisted even after removal of the electrodes (Ref. 26). Ray and Burton reported major motor seizures in 1 of 28 patients (4 percent) (Ref. 28).

Surgical complications. Implantation of the device requires two operations. In the first one, burr holes are cut into the skull under the local anesthetic. Electrodes are inserted stereotaxically through the holes in the skull and placed into selected areas of the brain (target points). X-rays are used to verify the placement of the electrodes. The wires from the electrodes extend through the scalp and are attached directly to the stimulator. If the stimulation is not effective when current is applied, the electrodes are moved to target points that are effective. Alternatively, new electrodes may be inserted. When effective stimulation is achieved, a second operation is performed under general anesthesia to implant the receiver and the lead wires.

Complications may occur because of these surgical procedures. Because implantation surgery involves the brain, the complications are usually serious. Inserting an electrode into the brain can puncture blood vessels. Intraventricular hemorrhage has been reported in up to 5 percent of patients (Refs. 12, 17, 25, and 26). Several authors have reported infections, including meningitis, in 3 to 4 percent of their patients (Refs. 2, 12, 17, and 26). Richardson and Akil, however, reported meningitis in 3 of 30 patients (10 percent) (Ref. 31). An additional patient in this group had an "infected device." Ray and Burton, in a series of 22 patients, reported 1 death during surgery, but did not give any information about the rate of infection (Ref. 28).

Electrode migration. Implanted electrodes can spontaneously move from their original position, or they can be dislodged by a blow to the head. Electrode movement may cause damage to brain tissue or produce stimulation of other areas of the brain which may result in undesirable neurological effects. Additional surgical procedures may be required to remove and replace or to reposition electrodes that have moved from the original target points.

Several authors have reported electrode migration in 2 to 17 percent of their patients (Refs. 2, 12, 17, 25, 28, 28, 31, 33, and 37). Turnbull et al. reported electrode dislodgement in 3 of 18 patients (17 percent) (Ref. 37). In one of these patients, dislodgement resulted in aberrant motor responses, permanent sensory deficits, and seizures.

Tolerance. Tolerance to stimulation may develop (Refs. 17, 23, 26, and 31) and has been reported to occur in 30 percent of patients in whom the device was implanted (Ref. 35). Such patients require ever-increasing periods of stimulation to relieve their pain. Continuous stimulation has been reported to cause damage to brain tissue (Ref. 20).

Patients who become tolerant to deep brain stimulation will also demonstrate tolerance to pharmacological opiates. When such tolerance occurs, the patient will not be able to relieve his or her pain with electrical stimulation or with narcotic analgesics. There is evidence, however, that discontinuance of stimulation for a period of time in conjunction with oral administration of L-tryptophan may reverse this tolerance (Refs. 16, 19, 28, 30, and 35).

Skin erosion. Erosion of the skin can occur in the scalp over the area where the electrodes exit from the cranium or can occur over the site of the receiver.

Erosion has been stated by Shiner to be a significant problem (Ref. 35). Adams and Hosobuchi consider erosion of hardware through the scalp to be the most troublesome source of infection (Ref. 2). They reported that scalp erosion necessitated removal of the entire device in 3 of 39 patients (8 percent).

Cerebrospinal fluid leakage. Cerebrospinal fluid (CSF) may leak out where electrode wires pass through the dura. CSF leakage is a risk common to devices implanted in the central nervous system (Refs. 10, 11, and 20). CSF leakage requires reoperation to correct the condition.

Tissue toxicity. The surface material of the implanted receiver, lead wires, or electrodes may not be biocompatible. There have not been any reports of patient injuries due to improper materials used in the device. Although the types of materials used in the device are generally thought to be biocompatible, it is possible that contaminants may be introduced during the manufacture of the device, or that some of the materials may have

VOL
50
ISS
143
JL
25
1985
UMI

unknown constituents that can cause subtle changes that have not been recognized in the reported studies.

Benefits of the Device

The implanted intracerebral/subcortical stimulator for pain relief has been reported to provide relief from peripheral chronic pain syndromes resulting from carcinomas, failed low backs, nerve entrapments, and phantom limb syndromes (Refs. 8, 14, 17, 25, 26, 28, 31, 32, 35, and 37). Cooper et al. treated six patients and reported that deep brain stimulation may reverse chronic neurologic deficits such as hemiparesis, dystonia, torticollis, tremor, speech impairments, and epilepsy (Ref. 9). Heath et al. reported using up to 125 stainless steel or silver ball electrodes per patient in 75 patients with schizophrenia, epilepsy, depression, Parkinson's disease, narcolepsy, and intractable pain of various etiologies; clinical results, however, were not discussed (Ref. 15).

Some investigators have reported successful treatment of pain of central origins, e.g., thalamic syndromes, brain stem infarction, and spinal cord injury (Refs. 25 and 32). Other authors, however, have concluded that the device is probably not beneficial in treating central pain (Refs. 26, 29, and 39).

The most frequently used stimulation targets are the periventricular gray region near the posterior wall of the third ventricle, the periaqueductal gray region, and the sensory nuclei of the thalamus. Following the discovery that naloxone would reverse stimulation-produced analgesia, Akil et al. demonstrated that endogenous opiates are released into the fluid of the third ventricle following stimulation of the periventricular gray region (Refs. 6 and 7). Further, Hosobuchi et al. demonstrated a 50 to 300 percent increase in *Beta*-endorphins with stimulation of the periaqueductal gray region (Ref. 18).

Although electrical stimulation of both the periaqueductal gray and periventricular gray matter appears to produce opiate-mediated analgesia, stimulation in these areas may produce unpleasant or intolerable side effects. For example, Richardson and Akil observed that stimulation of periaqueductal gray matter may produce feelings of smothering, blurred vision, nausea, or vertigo (Refs. 30, 32, and 33). Thoden et al. discovered that stimulation of the medial thalamus may produce unpleasant paresthesias, headache, increased pain, or nausea (Ref. 36). Some researchers have reported pain relief with stimulation within the internal capsule (Refs. 2, 3, and 17), although there is not any indication that endogenous opiates are produced when this area is stimulated (Refs. 18, 23, and 38).

Reports on the incidence of beneficial effects from electrical stimulation of the brain vary greatly. Success rates of 70 to 80 percent were reported in studies conducted by Richardson and Akil (Ref. 33), Plotkin (Ref. 26), Turnbull et al. (Ref. 37), Mundinger and Salamao (Ref. 25), and Ray and Burton (Ref. 28), whereas Gybels reported only one "good" result in eight patients (Ref. 13). Gybels et al. later reported one "good" result in a series of five patients (Ref. 14). Criteria for assessing patient improvement are not consistent from study to study, and many authors do not describe patient evaluation methods. For these reasons, the success rates reported in various studies may not be comparable.

It has been shown that the location of the stimulating electrode is critical (Ref. 1), and it was initially suggested that the discrepancy between Gybels' results in five patients (Ref. 14) and the results reported in other studies could be explained by small differences in electrode position. However, Gybels et al. obtained autopsy material from the five patients on which they reported in 1980 (Ref. 14). Anatomical and pathological examinations revealed that the electrodes were accurately positioned in the target points in four of these five patients; yet only one of the five patients had obtained good pain relief during the study.

Patient selection. Patient selection is an important factor in predicting benefit from the implanted intracerebral/subcortical stimulator for pain relief. Several investigators used a morphine saturation test to screen potential patients. Plotkin reports that if morphine produces analgesia in a patient, and naloxone reverses the effect, there is a good probability that the patient will benefit from deep brain stimulation (Ref. 26). Plotkin's report of successful treatment of 38 of 48 patients tends to support this position. Seven of the 10 patients whose treatment was unsuccessful had not been screened by the morphine test. When they were tested after failing at deep brain stimulation, the responses of all seven patients indicated that they were not good candidates for the procedure.

Discussion of Risks and Benefits

The electrodes of the implanted intracerebral/subcortical stimulator for pain relief have to penetrate the brain. Published reports indicate that there is a substantial risk of hemorrhage which could result in death or physical disruption of brain tissue. In turn, such disruption could resutl in permanent neurological deficits such as seizures, hemiparesis, visual impairment, emotional changes, nausea, vertigo, or undesirable paresthesias. Meningitis has been reported as a serious complication of the procedure. Migration of the electrodes from the original target area can render the device ineffective and may damage other brain tissue. As a result, additional surgery may be required to replace, remove, or reposition the electrodes.

It cannot be determined from the published literature whether the stimulation current being applied with the device is safe for neural tissue. Coagulation of brain tissue and production of lesions in target points have been reported to be the result of continuous electrical stimulation with the intracerebral/subcortical stimulator for pain relief.

Although several authors have attempted to explain the highly variable clinical results obtained with the device, the question of the effectiveness of the device has not been resolved (Refs. 8 and 14). Animal studies have revealed a number of areas in the brain which could produce analgesia (Refs. 1, 4, 5, 21, and 22). Published reports, however, indicate that there is not any consensus as to which target point, when stimulated, will provide the best pain relief. Meyerson reports that the medio-basal part of the posterior thalamus is the preferred site (Ref. 23). Thoden et al. prefer the medial thalamus (Ref. 36). Plotkin and others have found that periventricular gray matter provides the best pain relief (Refs. 12, 26, 30, and 33). Adams and Hosobuchi have used the internal capsule (Ref. 2). Hosobuchi now favors use of the periaqueductal gray matter (Ref. 16), even though Richardson concluded in 1977 that stimulation of this area produced noxious and intolerable side effects (Ref. 30).

Plotkin as well as Richardson has concluded that pain secondary to the damaged central nervous system or deafferentation (e.g., thalamic syndromes) does not respond well to deep brain stimulation (Refs. 26 and 29). Adams, however, reports that thalamic or pseudothalamic syndrome or paraplegia pain is relieved by this treatment (Ref. 3). Two investigators reported effective treatment of conditions other than intractable chronic pain with deep brain stimulation (Refs. 6 and 7). These findings have not been reported by others.

FDA believes that use of the implanted intracerebral/subcortical stimulator carries a significant risk of hemorrhage and permanent damage to brain tissue which can result in permanent, debilitating, or fatal neurological complications. This risk appears to be inherent in the implantation procedure. Damage to brain tissue caused by the stimulating current has been reported, and FDA believes that proper stimulation parameters for the device have not been established. Damage to brain tissue also has been reported as a result of electrode migration. Although two small studies, each with five patients, indicate that histological damage resulting from the physical presence of the electrode may be minor, FDA believes that additional pathological data are required to determine the probable extent of tissue reaction.

Published reports indicate that the implanted intracerebral/subcortical stimulator may provide pain relief for selected patients, but that the device may not be suitable for treating certain patients or all types of pain. FDA believes that additional data are required to explain the variable clinical results obtained to date with the device.

FDA classified the implanted intracerebral/subcortical stimulator for pain relief into class III because insufficient information existed to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device or to establish a performance standard to provide such assurance. FDA has weighed the probable benefits to health from the use of the device and believes that the studies discussed throughout this document present evidence of significant risks associated with the use of the device and raise questions about whether probable benefits from use of the device outweigh the risk of illness or injury from such use. Accordingly, FDA believes that the implanted intracerebral/subcortical stimulator for pain relief should undergo premarket approval to establish conditions of use that will minimize risks to patients and to determine whether the risks of using the device are balanced by the benefits to the patient.

Opportunity to Request a Change in Classification

Before requiring the filing of a PMA or a notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(A)(iv) of the act and § 860.132 of FDA's regulations governing classification of devices (21 CFR 860.132) to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. The legal standard governing reclassification under section 513(e) of the act and § 860.123 is discussed in detail in the preambles to FDA's proposed rules to reclassify daily wear spherical contact lenses consisting of rigid gas permeable plastic materials and daily wear optically spherical (soft) contact lenses from class III into class I (47 FR 53402, 53411; November 26, 1982).

A request for a change in the classification of the implanted intracerebral/subcortical stimulator for pain relief is to be in the form of a reclassification petition containing the information required by § 860.123, including new information relevant to the classification of the device, and shall, under section 515(b)(2)(B) of the act, be submitted by August 9, 1985.

The agency advises that to assure timely filing of any such petition, any request should be submitted to the Dockets Management Branch (address above) and not to the address provided in § 860.123(b)(1). If a timely request for a change in classification of the implanted intracerebral/subcortical stimulator for pain relief is submitted, the agency will by September 23, 1985, after consultation with the appropriate FDA advisory committee and by an order published in the Federal Register, either deny the request or give notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and § 860.130 of the regulations.

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VOL 50 ISS 143 JL 25 1985 UMI

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Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

FDA has examined the economic consequences of this proposed rule in accordance with the criteria in section 1(b) of Executive Order 12291 and has found that the proposal would not be a major rule as specified in the Order. The agency believes that only three small firms will be affected by this proposed rule. Therefore, the agency certifies under the Regulatory Flexibility Act (Pub. L. 96–354) that the proposed rule would not have a significant economic impact on a substantial number of small entities. An assessment of the economic impact of any final rule based on this proposal has been placed on file in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 882

Medical devices, Neurological devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 882 be amended as follows:

PART 882—NEUROLOGICAL DEVICES

1. The authority citation for 21 CFR Part 882 is revised to read as follows:

Authority: Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)); 21 CFR 5.10; §§ 882.5820(c) and 882.5840(c) also issued under secs. 501, 515, 520(g), 52 Stat. 1049–1050 as amended, 90 Stat. 552–559, 569–571 (21 U.S.C. 351, 360e, 360j(g)).

2. In § 882.5840 by adding a new paragraph (c), to read as follows:

§ 882.5840 Implanted intracerebral/subcortical stimulator for pain relief.

* * * * *

(c) *Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required.* A PMA or a notice of completion of a PDP is required to be filed with FDA on or before (date to be 90 days after date of promulgation of final rule) for any implanted intracerebral/subcortical stimulator for pain relief that was in commercial distribution before May 28, 1976, or that has on or before (date to be 90 days after date of promulgation of final rule) been found to be substantially equivalent to an implanted intracerebral/subcortical stimulator for pain relief that was in commercial distribution before May 28, 1976. Any other implanted intracerebral/subcortical stimulator for pain relief shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

Interested persons may, in or before September 23, 1985, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Interested persons may, on or before August 9, 1985, submit to the Dockets Management Branch written requests to change the classification of the implanted intracerebral/subcortical stimulator for pain relief. Two copies of any requests are to be submitted, except that individuals may submit one copy. Comments or requests are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 26, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–17652 Filed 7–24–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Proposed Modifications to the Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on modified portions of the Wyoming permanent regulatory program. On November 28, 1984 (49 FR 46755), OSM announced a public comment period and procedures for requesting a public hearing on the substantive adequacy of a proposed amendment to the Wyoming permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) submitted by Wyoming on October 2, 1984. The amendment submitted by Wyoming consisted of proposed provisions to implement a blaster training, examination and certification program as required by 30 CFR Part 850. OSM is reopening the comment period to allow the public an opportunity to comment on revised material relating to the proposed amendment submitted by Wyoming on July 2, 1985.

DATE: Written comments not received on or before 4:00 p.m. on August 26, 1985 will not necessarily be considered.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644; Telephone: (307) 261–5824.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William Thomas, Director, Casper Field Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

Copies of the revised material submitted by Wyoming and other relevant documents are available for review at the Casper Field Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSM Casper Field Office listed above or one of the following:

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240

Wyoming Department of Environmental Quality, Land Quality Division, Herschler Office Building, 122 W. 25th Street, Cheyenne, Wyoming 82002

SUPPLEMENTARY INFORMATION: The general background on the permanent regulatory program, the State program approval process, the Wyoming program, and the conditional approval can be found in the Secretary's Findings and conditional approval published in the November 26, 1980 Federal Register (45 FR 78637).

On October 12, 1984, the State of Wyoming submitted to OSM an amendment to its approved permanent regulatory program. The amendment submitted by the Wyoming Department of Environmental Quality, Land Quality Division was proposed provisions to implement a blaster training, examination and certification program as required by 30 CFR Part 850.

The November 28, 1984 Federal Register announced receipt of the proposed modification by OSM as well as a public comment period. In that some notice, OSM announced that a public hearing would be held only if requested. No requests were received and no hearing was held.

On March 5, 1985, the State of Wyoming was notified of three issues that were identified as a result of OSM's review of the October 12, 1984 submission. The three areas of concern were as follows: Improper use of an oral examination to test certain potential blasters; inadequate provisions concerning the blasters responsibility to maintain certification; and a typographical error.

In the course of revising the proposed blaster certification program, the State of Wyoming received additional comments as a result of the State's public comment period. The comments necessitated revisions to the proposed regulations which required concurrance by the Wyoming Environmental Quality Council (EQC). Due to the above development, the State, on April 2, 1985, requested that OSM delay action on processing the Wyoming blaster certification amendment until EQC approval was granted.

On July 2, 1985, Wyoming submitted a revised blaster certification program in response to OSM's concerns of March 5, 1985, and comments received during the State's public comment period. The revised material is intended to replace the material submitted to OSM on October 12, 1984. Therefore, OSM is reopening the comment period in order to allow the public an opportunity to review and comment on the revised material submitted to OSM by the State on July 2, 1985.

Specifically, OSM is seeking comment on whether the revised program amendment submitted by Wyoming on July 2, 1985, satisfies the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17 and is no less effective than the Federal regulations.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 19, 1985.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 85–17645 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Regulation 12–35]

Privacy Act of 1974; Air Force Privacy Act Program

AGENCY: Department of the Air Force (DAF), DOD.

ACTION: Proposed rule.

SUMMARY: The Air Force proposes two new general exemption rules to be added to the existing exemption rules for its systems of records to the Privacy Act of 1974. These new rules are for system F125 AF A, Correction and Rehabilitation Records, for that portion located at the 3320th Correction and Rehabilitation Squadron, and system F125 ATC A, Management Information and Research System (MIRS). Notices for these systems were published in the Federal Register on 21 June 1985 beginning at 50 FR 25745. An exemption is needed since these records pertain to individuals who are in confinement or rehabilitation at an Air Force or Federal correctional facility as a result of conviction by courts martial for violation of federal law. These exemptions will only be applicable during the period the individual is in confinement or rehabilitation.

DATE: Comments must be received on or before August 26, 1985.

ADDRESS: Comments should be sent to HQ USAF/DAQD, Pentagon, Washington, DC 20330–5024.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAQD(S), the Pentagon, Washington, DC, telephone: (202) 694–3431.

SUPPLEMENTARY INFORMATION: These systems of records, which contain law enforcement, confinement and rehabilitation records, will be exempted from certain portions of the Privacy Act of 1974, Title 5, United States Code, section 552a(j)(2), but only for the period while the individual is confined or in rehabilitation under the jurisdiction of the 3320th Correction and Rehabilitation Squadron.

List of Subjects in 32 CFR Part 806b

Privacy.

PART 806b—AIR FORCE PRIVACY ACT PROGRAM

This proposed amendment, if adopted will revise 806b.10 of Title 32, CFR to read as follows:

VOL 50 ISS 143 JL 25 1985 UMI

§ 806b.10 General and specific exemptions claimed.

(a) General Exemptions. The following systems of records are exempt under 5 U.S.C. 552a(j)(2):

(1) Counterintelligence Operations and Collections Records, F124 AF A.

(2) Criminal Records, F124 AF C.

(3) Incident Investigation Files, F125 AF SP E.

(4) Investigative Support Records, F124 AF D.

(5) Correction and Rehabilitation Records, F125 AF A (that portion maintained by the 3320th Correction and Rehabilitation Squadron, but only for the period the individual is confined or in rehabilitation at an Air Force or Federal correctional facility).

(6) Management Information and Research System (MIRS), F125 ATC A (but only for the period the individual is confined or in rehabilitation at an Air Force or Federal correctional facility).

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 22, 1985.

[FR Doc. 85-17690 Filed 7-24-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 8-85-14]

Drawbridge Operation Regulation; Tickfaw River, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is considering a change to the regulation governing the operation of the swing span bridge over the Tickfaw River, mile 7.2 on LA22 at Killian, Livingston Parish, Louisiana. The change would require that at least four hours advance notice be given for an opening of the draw between 11 p.m. and 7 a.m. Outside these hours, the bridge would continue to open on signal. Presently, the draw is required to open on signal at all times. This proposal is being made because of the infrequent requests for opening the draw during the proposed advance notice period. This action should relieve the bridge owner of the burden of having a person constantly available at the bridge to open the draw from 11 p.m. to 7 a.m., while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before September 9, 1985.

ADDRESS: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are Perry Haynes, project officer,and Steve Crawford, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 5.0 feet above high water and 6.9 feet above water. Navigation through the bridge consists of shrimp/fish boats, pleasure craft and houseboats. Data submitted by the LDOTD show that this traffic through the bridge is infrequent during the proposed advance notice period, as follows:

(1) In 1984, between 11 p.m. and 7 a.m., the proposed advance notice period, there were 48 bridge openings—an average of 4.0 openings per month or an average or one opening every eight days. In 1983, for the same time period, there were 52 bridge openings—an average of one opening every seven days.

Considering the few openings involved, the Coast Guard feels that the current on site attendance at the bridge between 11 p.m. and 7 a.m. is not warranted and that the bridge can be placed on four hours advance notice for an opening during that period. This will provide relief to the bridge owner, while still providing for the reasonable needs of navigation. Outside this eight hour period, the bridge would continue to open on signal.

The advance notice for opening the draw would be given by placing a collect call at any time to the LDOTD District Office in Hammond, Louisiana, telephone (504) 345-7390. From afloat, this contact may be made by radiotelephone through a public coast station.

The LDOTD recognizes that there may be an unusual occasion to open the bridge on less than four hours notice for an emergency or to operate the bridge on demand for an isolated but temporary surge in waterway traffic, and has commited to doing so if such an event should occur.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034: February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that very few vessels pass this bridge during the proposed advance notice period, as evidenced by the 1984 and 1983 opening statistics which show that between 11 p.m. and 7 a.m. the bridge averaged one opening about every seven or eight days. These few vessels can reasonably give four hours advance notice for a bridge opening by placing a collect call to the bridge owner at any time. Mariners requiring the bridge openings are mainly repeat users of the waterway and scheduling their arrival at the bridge at the appointed time during the proposed advance notice period should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.506 is revised to read as follows:

§ 117.506 Tickfaw River.

The draw of the S22 bridge, mile 7.2 at Killian, shall open on signal; except that, from 11 p.m. to 7 a.m. the draw shall open on signal if at least four hours notice is given. During the advance notice period, the draw shall open on less than four hours notice for an emergency and shall open on signal should a temporary surge in waterway traffic occur.

Dated: July 12, 1985.

Clyde T. Lusk, Jr.,

Rear Adminral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 85-17699 Filed 7-24-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 1-85-3R]

Drawbridge Operation Regulations; Charles River, MA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: Existing regulations require that the highway bridge at mile 1.0 and the railroad bridge at mile 0.8 be opened on signal, except that between 6:15 a.m. and 9:10 a.m. and between 4:15 p.m. and 7:40 p.m., except Sundays and legal holidays observed in the locality, the draws need not be opened for the passage of vessels. The proposed amendment would fix the afternoon closure period between 3:15 p.m. and 6:30 p.m. for the highway bridge and between 4:15 p.m. and 6:30 p.m. for the railroad bridge.

DATE: Comments must be received on or before September 9, 1985.

ADDRESS: Comments should be submitted to and will be available for examination between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays, at the Office of the Commander (or), First Coast Guard District, 150 Causeway Street, Boston, MA, 02114-1396 (617-223-0645).

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, Boston, MA 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identifying the bridge and give reasons for their concurrence with or for any recommended change in the proposal.

The Commander, First Coast Guard District will evaluate all comments received and decide on the final course of action. The proposed regulations may be changed in light of the comments received.

Drafting Information: The principal persons involved in drafting this proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant Commander James M. Collin, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Proposed Regulations: The time of peak afternoon vehicular traffic over the Metropolitan District Commission's Msgr. McGrath Highway bridge occurs between 3:15 p.m. and 6:30 p.m. The existing afternoon closure period for the bridge (4:15 p.m. to 7:40 p.m.) is no longer effective as the bridge must be opened for navigation during the first hour of the peak traffic period. Railroad operations peak between 4:30 p.m. and 6:30 p.m. This is a shorter period than the closure permitted by existing regulations (4:15 p.m. to 7:40 p.m.).

The proposed amendment would shorten the closure periods of the highway and the railroad bridge and increase the unrestricted use of the waterway for the boating interests on the Charles River.

Economic Assessment and Certification: These proposed regulations have been reviewed under the provision of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5-22-80). As explained above, an economic evaluation has not been made since its impact is expected to be minimal. In accordance with sec. 605(b) of the Regulatory Flexibility Act, it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR 117

Bridges

Proposed Regulations: In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33 Code of Federal Regulations as follows:

PART 117—DRAWBRIDEGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499, 49 CFR 1.46, and 33 CFR 1.05-1(g).

2. Section 117.591 is amended by revising paragraphs (c) and (e) to read as follows:

§ 117.591 Charles River.

* * * * *

(c) The draws of the Massachusetts Bay Transportation Authority railroad bridge, mile 0.8 at Boston, shall open on signal; except that from 6:15 a.m. to 9:10 a.m. and 4:15 p.m. to 6:30 p.m., excluding Sundays and legal holidays observed in the locality, the draws need not be opened for the passage of vessels.

* * * * *

(e) The draw of the Metropolitan District Commission bridge, mile 1.0 at Boston, shall open on signal; except that, from 6:15 a.m. to 9:10 a.m. and 3:15 p.m. to 6:30 p.m. excluding Sundays and legal holidays observed in the locality, the draw need not be opened for the passage of vessels.

* * * * *

Dated: July 12, 1985.

[FR Doc. 85-17702 Filed 7-24-85; 8:45 am]

BILLING CODE 4910-14-M

VOL 50 ISS 143 JL 25 1985 UMI

Notices

Federal Register
Vol. 50, No. 143
Thursday, July 25, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Land Uses; Permits for Electric Power Transmission

Notice of decision to grant easement for power line construction through the Cleveland National Forest. This decision is effective July 18, 1985. Notice of Availability of the FEIS (EIS No. 830608) was published in the Federal Register Vol. No. 228, page 53163, Friday, November 25, 1984.

The Regional Forester for the Pacific Southwest Region of the United States Forest Service, Department of Agriculture, has issued a decision to grant an easement to the Southern California Edison Company (SCE) across National Forest lands in Orange and Riverside counties in California, for the purpose of constructing, operating, and maintaining a proposed 500 KV power transmission line from Valley Substation near Hemet, California to Serrano Valley Substation near Orange, California.

Record of Decision, Forest Service, Pacific Southwest Region, Davers-Valley 500 KV, Serrano-Valley 500 KV and Serrano-Villa Park 220 KV Transmission Line Project, Cleveland National Forest, Orange and Riverside Counties, California

Decision

This is my decision to grant an easement to the Southern California Edison Company (SCE) across National Forest lands for the purpose of constructing, operating, and maintaining a 500 KV power transmission line from Valley Substation near Hemet, California to Serrano Substation near Orange, California. This decision is in response to an application for an easement submitted by SCE on November 5, 1981 (CPUC A 59982) and is based on public need as demonstrated by the SCE, and as reported in a joint environmental impact statement/report (FEIS/FEIR) prepared by the California Public Utilities Commission (CPUC) and the Forest Service dated August, 1984. The right-of-way is 6.56 miles in length and includes 127.4 acres of National Forest land.

The Valley-Serrano line is a portion of a 500 KV line that is planned for construction from Devers Substation in Riverside County to Serrano Substation in Orange County. Within the Valley-Serrano portion of the line potentially crossing National Forest lands, four basic alternative corridors were analyzed, plus the alternative of not permitting a power transmission corridor. The corridors are identified as the Canyon, Proposed, Buildable and the Hoeger routes. Detailed descriptions and maps illustrating the alternatives may be found in the FEIS/FEIR, and the Decision and Order issued by the CPUC on October 3, 1984. The CPUC, in responding to the SCE application for a license for powerline construction, has joined with the Forest Service in conducting the environmental analysis on National Forest lands. Following the State of California administrative process regarding licensing for powerlines, the CPUC has issued a Decision and Order (October 3, 1984) for a license to SCE for the CPUC Environmentally Preferred route, which includes the Proposed alternative across the Cleveland National Forest.

The Proposed alternative was considered the best and environmentally preferred alternative, when compared with the others because:

1. The Canyon route had fire safety and geologic problems so severe that they were considered factors of overriding concern. While there were some positive benefits to this route from the standpoint of reduced conflict with proposed developments and aesthetics, the overriding concerns make it an unacceptable alternative.
2. The Proposed route is preferred over both the Hoeger and Buildable routes because the Hoeger and Buildable routes both parallel Santiago Canyon, a visually sensitive area.
3. The Proposed route is preferred over the Hoeger and Buildable routes because it affects less structures, particularly in the zones nearest the powerline.
4. Even though the Hoeger and Buildable avoid much of the western edge of the Temescal Valley, the Proposed route is preferred because it would significantly affect fewer existing and pending land use developments than the other routes.
5. The Proposed route has fewer severe impacts on visually sensitive areas than the Hoeger or Buildable routes and is therefore preferrable from the standpoint of aesthetics.
6. The proposed route crosses fewer miles and impacts fewer acres of National Forest land than either the Hoeger or Buildable routes.

The Proposed route is the best and environmentally preferred alternative, but the Forest Service considers both the Proposed and Buildable routes as acceptable when related solely to effects on National Forest land. The CPUC, as a result of their procedure to determine the best overall route, have certified the Proposed route. Granting a right-of-way across National Forest lands on the Proposed route is consistant with the license issued by the CPUC, and with National Forsest Land Use Plans.

Copies of the Final Environmental Statement are available for review at the CPUC Offices, 350 McAllister St., Room 5060, San Francisco, CA 94102 and in Los Angeles at 107 South Broadway; Forest Service offices in Corona, San Diego, and San Francisco; at the SCE business offices in the vicinity of the proposed project; and at public libraries in Riverside and Orange Counties.

All practical means to mitigate environmental effects on National Forest resources have been identified and disclosed in the FEIS/FEIR. The location of the corridor per ae, within and adjacent to the National Forest, is a primary mitigation action. Within the corridor on National Forest land, exact tower siting, use of helicopters for construction and maintenance (in lieu of building roads for access), and use of non-specular materials mitigate key watershed and visual effects. Mitigation measures identified in the FEIS/FEIR will be required as a condition of the right-of-way document.

This decision is subject to administrative review in accordance with the provisions of 36 CFR 211.18.

The right-of-way will be granted no sooner than August 30, 1985.

Dated: July 18, 1985.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 85-17607 Filed 7-24-85; 8:45 am]

BILLING CODE 3410-11-M

Sawtooth National Recreation Area Wilderness Study Area; Report Hearing Announcement

Notice is hereby given that a public hearing will be held, beginning at 7:30 p.m., August 29, 1985, at the Canyon Springs Inn, 1357 Blue Lakes Blvd. North Twin Falls, Idaho. The hearing concerns a proposal for future management of approximately 390,000 acres of undeveloped and unimproved area within the Sawtooth National Recreation Area, Sawtooth National Forest. The area is within Custer, Blaine, and Boise Counties in the State of Idaho.

A description of the proposal is contained within the Draft Environmental Impact Statement for the Sawtooth National Forest Land and Resource Management Plan, which can be obtained from the Forest Supervisor.

The public hearing is being held in addition to five public meetings on the Plan to meet the requirements of Pub. L. 92-400, which established the Sawtooth National Recreation Area in 1972.

Individuals and organizations may express their views orally at the hearing, or may submit written comments by October 5 for inclusion in the official record. Written comments should be sent to the Forest Supervisor at 1525 Addison Avenue East, Twin Falls, Idaho 83301, (208) 737-3200.

Dated: July 15, 1985.

William H. McCrum,

Deputy Regional Forester Administration.

[FR Doc. 85-17641 Filed 7-24-85; 8:45 am]

BILLING CODE 3410-11-M

Proposed Rock Creek/Muddy Creek Reservoir Site, Routt National Forest, CO, Intent To Prepare an Environmental Impact Statement

In response to receipt of a Special Use Application from the Colorado River Water Conservation District, the U.S. Department of Agriculture, Forest Service, will prepare an Environment Impact Statement (EIS) for a proposal to construct and operate a reservoir on the Yampa Ranger District of the Routt National Forest. Agency scoping meetings have identified alternate sites located on private and Bureau of Land Management lands near Kremmling, Colorado.

At present, 5 alternatives will be studied in detail in the EIS. These are:

(1) No Action.

(2) Muddy Creek Site near Kremmling, Colorado, with 100,000 acre feet total storage capacity and 2,100 surface acres.

(3) Muddy Creek Site near Kremmling, Colorado, with 40,000 acre feet total storage capacity and 1,050 surface acres.

(4) Rock Creek Site near Gore Pass on State Highway 134 with 54,000 acre feet total storage capacity and 1,150 surface acres.

(5) Rock Creek Site near Gore Pass on State Highway 134 with 70,000 acre feet total storage capacity and 1,350 surface acres.

The Bureau of Land Management, Bureau of Reclamation, Army Corps of Engineers, and the Colorado Division of Wildlife are cooperating agencies in the preparation of this Environmental Impact Statement. Additional cooperating agencies may be named. Other Federal, State, and local agencies; potential developers; and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

The Forest Supervisor will hold public meetings at the following locations:

Wednesday, July 31, 1985, 7:30 p.m., Kremmling, CO., Community Fair Grounds, east end of town just off Highway 40 in large white metal building

Thursday, August 1, 1985, 7:30 p.m., Yampa, CO., Ladies Aid Hall, 1 block east of library

Friday, August 2, 1985, 3:00 p.m., Lakewood, CO., Denver Federal Center, 6th Ave. & Kipling, Building 20, Bureau of Reclamation Conference Room, 2nd floor, Corridor E 2400.

Jack Weissling, Forest Supervisor, Routt National Forest, is responsible for environmental analysis and documentation on the project and will be the responsible official if a special use permit is issued for a site on the Routt National Forest.

James Torrence, Regional Forest, Rocky Mountain Region, will be the responsible official for an authorizing easement provided the site is on National Forest System lands.

Knnon Richards, State Director, Bureau of Land Management, will be the responsible official for an authorizing easement provided the site is located on public lands.

The draft EIS is expected to be completed by June 1986 ready for public review. The final EIS is scheduled to be completed by November of 1986.

Written comments should be sent to Jack Weissling, Forest Supervisor, Routt National Forest, 29587 West U.S. 40, Suite 20, Steamboat Springs, Colorado 80487, by August 31, 1985.

Questions about the proposed action and EIS should be directed to Jim Jaminet, Recreation and Lands Forester, Routt National Forest, Yampa Ranger District, phone 303-638-4516.

Dated: July 19, 1985.

Jack Weissling,

Forest Supervisor, Routt N.F.

[FR Doc. 85-17670 Filed 7-24-85; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-565-001]

Canned Tuna From the Philippines; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Final results of Administrative Review of Countervailing Duty Order.

SUMMARY: On March 8, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on canned tuna from the Philippines. The review covers the period August 1, 1983, through December 31, 1983, and 22 programs.

We gave interested parties an opportunity to comment on the preliminary results. After considering all of the comments received, we determine the total bounty or grant during the period of review to be 0.23 percent *ad valorem*, a rate the Department considers to be *de minimis*.

EFFECTIVE DATE: July 25, 1985.

FOR FURTHER INFORMATION CONTACT: Peggy Clarke or Christopher Beach, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 1985, the Department of Commerce ("the Department") published in the Federal Register (50 FR 9474) the preliminary results of its administrative review of the countervailing duty order on canned tuna from the Philippines (48 FR 50134, October 31, 1983). The Department has

VOL
50
ISS
143
JL
25
1985
UMI

now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Philippine tuna packed and preserved in any manner, not in oil, in airtight containers. Such merchandise is currently classifiable under items 112.3020, 112.3040, and 112.3400 of the Tariff Schedules of the United States Annotated.

The review covers the period August 1, 1983, through December 31, 1983, and 22 pregrams: (1) An exemption from import taxes (Article 48(f) of the Ornibus Investments Code); (2) an income tax deduction for labor and raw materials (Aritticle 48(b) of the Code); (3) tax credit for indirect taxes (Article 48(a) of the Code); (4) export packing credits; (5) an income tax deduction for overseas offices (Article 49(f)); (6) an income tax deduction for new brand names (Articles 48(e) and 49(g)); (7) an income tax deduction for export traders (Article 49(d)); (8) an income tax deduction for financial assistance (Article 49(e)); (9) government bank loans (Article 51); (10) private bank loans (Article 52); (11) equity investment by insurance companies (Article 52); (12) employee equity investment (Article 53); (13) tax credits for net local content; (14) tax credits for net local value; (15) preferential loan guarantees; (16) government equity investment; (17) foreign equity investment; (18) various financial services by the Export Credit Insurance and Guarantee Corporation; (19) various financial and marketing assistance by the Institute for Export Development; (20) an offsetting export tax; (21) preferential access to foreign exchange; and (22) World Bank import funding.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received received written comments from the Tuna Canners Association of the Philippines, the Government of the Republic of the Phlippines, and the Association of Food Industries Tuna Group ("the respondents"), and from Starkist, Inc., a domestic producer.

Comment 1: Starkist argues that the Department's chosen benchmark for comparing export packing credits to the cost of alternative non-subsidized financing is incorrect because: (1) Apparently without reason, the Department used a short-term interest rate for lower-cost secured loans; (2) the benchmark rate appears inappropriately to include subsidized or preferential loans; and (3) the Department's simple average of monthly rates does not capture the true differential between the preferential and commercial loans, because the benchmark rates are not weighted to reflect the disproportionate levels of export packing credits taken in various months.

Department's Position: The Department's practice in establishing a benchmark for short-term preferential loans is to use a national average of interest rates charged by banks to borrowers of average creditworthiness for comparible financing. Because export packing credits are based on exporters' presentation of letters of credit, we compare them to other short-term secured loans.

In establishing a benchmark, we looked at several alternatives: The weighted-average of short-term secured loans as reported in the Philippine Central Bank's annual report; an average of individual banks' prime rates published in Philippine newspapers; and the prime rate from Morgan Guaranty's *World Financial Markets*. We rejected the prime rates because they were not applicable to borrowers of average creditworthiness. The Central Bank rate is an average from several Philippine banks weighted by the volume of their individual lendings in each month. Although, we cannot know with certainty that the banks reported accurate figures to the Central Bank, nor that the reported rates did not include subsidized loans, our practice is to use a national average of all comparable commercial financing, preferably from a published source. Given the existing information, we believe that the rates published by the Central Bank are the most reliable estimates available of the cost of comparable commercial borrowing.

Finally, we do not agree that we should weight our annual commercial average by the volume of preferential borrowing in each month. Doing so would make our average benchmark a hypothetical industry specific, rather than national, average. Further, we did not find any indication that the exporters took a disproportionate share of the export packing credits in any particular months of the year.

Comment 2: Starkist argues that the Department's methodology understates the export packing credits' *ad valorem* benefit by using as the denominator "five-twelfths of the exports for the year," instead of the lower actual exports during the period of review.

Department's Position: We disagree. We do not have monthly export figures for the companies. The available Census Bureau import statistics (from the IM 146s) are not comparable because they are based on the date of entry into the United States rather than on the date of export from the Philippines. There may be significant lags between the two dates. It is therefore reasonable to use our calculated average. Further, the Department found nothing to indicate that more or less tuna was shipped during the review period than during the rest of the year.

Comment 3: Starkist argues that the Department has allowed the respondents to skew the results in their favor by converting their sales in dollars to pesos using an inappropriate average annual official exchange rate. Starkist explains that the black market rate was higher than the official exchange rate in 1983; and that to use the average annual official exchange rate favors the respondents.

Department's Position: The Department used either the exchange rate at which the companies recorded their sales or, if the companies recorded their exports in dollars, it used an official average exchange rate for the year. To the extent that we have used an average rate and the petitioner criticizes that practice, it is true that exchange rates did fluctuate over the year. However, all programs were allocated over the full year (or a portion of the year). Therefore, the Department properly used an average exchange rate.

In general, the Department prefers to use, as we did in this case, an exchange rate that reflects actual commercial practice in the country under examination. Moreover, using the official rate for calculating the average rate does not favor the respondents. The black market rate was higher (*i.e.*, more pesos to the dollar). Thus, if we used this to convert the sales figures to pesos those peso sales would be larger. Since these sales figures are our denominators when calculating the *ad valorem* benefit, a larger peso figure would lower the *ad valorem* benefit, not increase it as Starkist believes.

Comment 4: Starkist argues that the Department inadaquately examined the priority-access foreign exchange program instituted in 1983 by the Philippine government. The Department should have gone beyond merely aksing whether or not the program was used in the review period, and determined that the program provided a countervailable benefit in a later period. The Department should have included the program in establishing a deposit rate in this review for future entries.

Department's Position: The Department did examine the foreign exchange program and found that canned tuna exporters did not use the program during the review period. While the program came into existence in 1983, it was not in effect until 1984. Further, Circular 1030, effective October 15, 1984, repealed the program. Since the program was not used during the review period and no longer exists, there is no reason to consider it for either assessment or cash deposit purposes in this review. We will consider the program in any review of 1984, if one is requested.

Comment 5: Starkist argues that because the Government of the Philippines no longer collects an export tax of 2 percent *ad valorem*, tuna exporters receive a *de facto* subsidy which the Department should countervail.

Department's Position: The Philippine government's asserted purpose for this export tax, specifically for canned tuna, was to offset any potential countervailable subsidy received by exporters. However, we did not accept the tax as an offset to our calculated net subsidy, and therefore are not concerned with its non-collection.

Comment 6: Starkist argues that the Department's review of only a five month period is inappropriate and should be expanded to cover a full year of entries. The five months covered by the review took place during the height of a financial crisis in the Philippines. The atypical nature of the period would lead to the establishment of an inappropriate duty deposit rate.

Department's Position: Neither the Congress, in the Tariff Act, nor the Department, in the Commerce Regulations, has stipulated the length of a review period. Generally, the Department attempts to review a 12 month period because company books and government statistics are maintained on that basis. However, because the first review period begins with a particular event (suspension of liquidation) the Department may review less that 12 months to ensure that the time period established for that review and future reviews will coincide with respondents' books and records.

Comment 7: The respondents argue that the Department erred is using, as a benchmark for the export packing credits, the weighted/average interest rate for secured loans of one year or less published by the Philippine Central Bank (*see also* Comment 1). The rate is based on data from only eight of the country's 34 banks. The loan portfolios of those eight may not be representative of all 34. The reported data may not be reliable even for those eight. Further, the published rate is an average for all types of loans with maturities of less than one year to all borrowers. Such an average neither reflects that fact that export packing credits have an initial maturity of 90 days, nor that banks establish commercial lending rates based on their experience with particular borrowers. In the absence of a representative national average rate, the Department must use the average interest rate on all short-term loans, other that export packing credts, for all tuna companies verified during the review period. The Department has already verified all necessary information.

Department's Position: We disagree. It is the Department's policy to use a national average interest rate whenever possible for short-term loans. In the original investigation, the Department used an industry-specific rate because a national average interest rate was not available. The benchmark interest rate now selected by the Department is based on the most reliable information available. Further, we note that the rate published in the Central Bank's Annual Report is consistent with the other available published interest rates. Since there is no consistency in the terms of the export packing credits, the Department believes that the weighted-average interest rate for all short-term secured loans is the most comparable benchmark available.

Comment 8: Respondents argue that the Department erroneously included Purefoods in its calculation of the benefit from the exemption from import taxes (Article 48(f) of the Code). As the Department verified, the benefit Purefoods received under this program was for meat processing, not tuna canning. Therefore, the Department should adjust its calculations for this program accordingly.

Department Position: We agree and have corrected our calculations. The Department now finds the benefit from this program to be 0.02 percent *ad valorem*.

Final Results of Review

After considering all of the comments received, we determine the total bounty or grant to be 0.23 percent *ad valorem* for the period of review. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*.

The Department will instruct the Customs Service not to assess countervailing duties for shipments of the merchandise entered, or withdrawn from warehouse, for consumption on or after August 16, 1983, the date of the preliminary affirmative determination (48 FR 37051), and exported on or before December 31, 1983.

The Department will instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Traffic Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 19, 1985

C. Christopher Parlin,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-17655 Filed 7-24-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will convene a public meeting in Charleston, SC, August 19–22, 1985, to discuss the Billfish, Snapper-Grouper, and Swordfish Fishery Management Plans; budget matters; election of officers, as well as other fishery management business. A detailed agenda will be available to the public around August 12. For further information contact David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571–4366.

Dated: July 22, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 85-17631 Filed 7-24-85; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub.

VOL 50 ISS 143 JL 25 1985 UMI

L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: September 11, 1985, 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Lt Col Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on future initatives in emergency planning

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 22, 1985.

[FR Doc. 85–17688 Filed 7–24–85; 8:45 am]

BILLING CODE 3810–01–M

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Scientific Advisory Committee has been scheduled as follows:

DATES: Thursday & Friday, September 12–13, 1985, 9:00 a.m. to 5.00 p.m. each day.

ADDRESS: The DIAC, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Lt Col Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 19, 1985.

[FR Doc. 85–17689 Filed 7–24–85; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Performance Review Board; Membership

ACTION: Notice.

SUMMARY: Notice is hereby given of the name of an additional member of the Performance Review Boards for the Department of Army for 1985.

EFFECTIVE DATE: July 18, 1985.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon, Washington, DC 20310–0300 (202) 697–2204.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executive's performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Publication of this notice corrects the notice published in 50 FR, No. 133, dated July 11, 1985, page 28244, to account for additions to the membership of those boards previously published.

The additional member of the Performance Review Board for the U.S. Army Materiel Command is:

1. Brigadier General Leo J. Pigaty, Deputy Commanding General, U.S. Army Troop Support Command.

Carol D. Smith,

Chief, Senior Executive Service Office.

[FR Doc. 85–17608 Filed 7–24–85; 8:45 am]

BILLING CODE 3710–92–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59720; FRL–2855–9]

Certain Chemicals Premanufacture Notices

Corrections

In FR Doc. 85–15580 appearing on page 26840 in the issue of Friday, June 28, 1985, make the following corrections:

1. In the first column, in the **SUMMARY**, in the first line, "Section (a)(1)" should read "Section 5(a)(1)".

2. In the second column, under **Y 85–98**, in the first line, "Industiries" should read "Industries".

BILLING CODE 1505–01–M

[OPTS–59719; FRL–2852–6]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 85–14879 beginning on page 25777 in the issue of Friday, June 21, 1985, make the following corretions:

1. On page 25780, in the first column, under **P85–1072**, in the eighth and ninth lines, "–0.5 to –1.0 Kg" should read "~0.5 to ~1.0 Kg".

2. On page 25780, in the first column, under **P85–1074**, in the ninth line, "2192.2" should read "2191.2".

BILLING CODE 1505–01–M

[OPP–00207; PH–FRL–2853–7]

Partially Closed Meeting of FIFRA Scientific Advisory Panel

Correction

In FR Doc. 15104, beginning on page 25783, in the issue of Friday, June 21, 1985, make the following correction:

On page 25783, third column, ninth and tenth lines from the bottom of the page, "items 2 and 3" should read "item 2".

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

Hearings In Turner Broadcasting/CBS Inc. Transfer

July 11, 1985.

The Commission has before it an application filed by Turner Broadcasting System (TBS) for transfer of control of CBS Inc. (CBS), petitions to deny the application filed by CBS and several others, oppostions to the petitions to deny filed by TBS and others, and replies to those oppositions.

To facilitate review of this matter and to allow the Commission an opportunity to explore further the issues raised in the pleadings, the Commission will conduct hearings on August 1–2, 1985, following the schedule set forth below. Hearings will be held in the meeting room, 1919 M St. NW. Room 856. These presentations will neither constitute nor substitute for an evidentiary hearing to the extent one might be required by the Communications Act. Parties are asked to give particular attention in their presentations to the following issues:

1. Does TBS possess the requisite financial qualifications with respect to the proposed transfer?

2. What, if any, substantial and material facts are disputed by the parties as to the financial showings made by TBS?

3. What Commission rules or policies as to diversity of information sources or other related policies or rules are affected by the proposed transfer?

4. What, if any, substantial and material facts are disputed by the parties as to the issues raised in Question No. 3?

5. What Commission policies or rules respecting economic competition are affected by the proposed transfer of control?

6. What, if any, substantial and material facts are disputed by the parties as to the issues raised in Question No. 5?

The schedule for the hearings is as follows:

August 1

CBS 10:00 a.m.–11:00 a.m.
TBS 11:00 a.m.–noon
CBS Affiliates 2:00 p.m.–3:00 p.m.
Nonaffiliated Parties in Support of Turner 3:00 p.m.–4:00 p.m.

August 2

Nonaffiliated Parties in Support of CBS Opposition 9:00 a.m.–10:00 a.m.
Joint CBS/TBS Panel and Summary by CBS and TBS 10:30 a.m.–12:15 p.m.

CBS, TBS, and the CBS Affiliates are invited to make opening statements of 20 minutes each during their initial time periods. These parties are free during the hearings to refer particular questions to spokespersons other than counsel in the case. The CBS Affiliates are asked to elect one or two spokespersons for their group and that individual or those individuals will be invited to make opening statements of 20 minutes total duration. CBS and TBS will be given 10 minutes each to make concluding statements during the final scheduled session. All others who have filed in this proceeding and who wish to appear on the "Nonaffiliated Parties" panels should submit a request in writing to William Tricarico, Secretary, FCC, by close of business July 22, 1985. By subsequent Public Notice, these parties will be advised of the time allotted to each.

Parties making formal statements in the hearings are asked to submit written texts of their statements to the Secretary's Office by close of business July 30, 1985. The Commission will utilize the format generally applied to oral arguments, i.e., formal time-keeping will be observed, and parties may be questioned by Commissioners during their presentations.

Questions concerning this Public Notice should be referred to Roy Stewart at (202) 632–6993 or Alan Aronowitz at (202) 632–6357.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–17661 Filed 7–24–85; 8:45 am]

BILLING CODE 6712–01–M

Federal Advisory Committee for the 1987 ITU World Administrative Radio Conference for the Mobile Services; Meeting Place

July 19, 1985.

The third meeting of the Federal Advisory Committee for the 1987 Mobile World Administrative Radio Conference will be held on Tuesday, October 1, 1985, at 9:30 a.m. in the Commission Meeting Room 856, 1919 M Street, NW., Washington, D.C.

The meeting agenda is:

1. Approval of meeting agenda.

2. Approval of the summary record of the May 28, 1985, meeting.

3. (a) Discussion of agenda adopted by the ITU Administrative Council for the 1987 Mobile WARC.

(b) Review of Steering Group action assigning agenda items to Ad Hoc Groups for study and development of draft proposals.

4. Progress reports from Ad Hoc Group Chairman including future work plans.

5. Other business.

6. Selection of next meeting date.

Anyone desiring further information should contact Gordon Hempton, FCC/PRB at (202) 632–7073. These meetings are open to the public.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–17660 Filed 7–24–85; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010025–006.
Title: Red Sea Rate Agreement.
Parties:
Barber Blue Sea Line
Maersk Line
Nedlloyd Lijnen, B.V. (S.A.G.)
Synopsis: The proposed amendment would eliminate any restrictions against service contracts and space charters with non-members pertaining to the carriage of cars and light vehicles. The parties have requested a shortened review period.

Agreement No.: 213–010786.
Title: Costa/Transatlantica Space Charter and Sailing Agreement.
Parties:
Costa Armatori S.p.A.
Compania Transatlantica Espanola, S.A.
Synopsis: The proposed agreement would permit the parties to schedule sailings and charter space on each others vessels for the transportation of cargo between ports in Italy, France, Spain (including the Canary Islands) and Portugal, on the one hand, and ports in Puerto Rico, on the U.S. Gulf Coast and U.S. Atlantic Coast south of and including Jacksonville, Florida, on the other hand; and between interior or coastal points served via such ports.

Agreement No.: 228–010787.
Title: Equipment Interchange Agreement Between A. P. Moeller-Maersk Line and Totem Ocean Trailer Express, Inc.
Parties:
A. P. Moeller-Maersk Line.
Totem Ocean Trailer Express, Inc.
Synopsis: The proposed agreement would permit the parties to exchange empty and loaded equipment in connection with a nonexclusive transshipment agreement between the parties involving cargo moving between Alaska and the Far East.

Agreement No.: 218–010788.
Title: Nonexclusive Transshipment Agreement Between A. P. Moeller-Maersk Line and Totem Ocean Trailer Express, Inc.
Parties:
A. P. Moeller-Maersk Line.
Totem Ocean Trailer Express, Inc.
Synopsis: The proposed agreement would establish a nonexclusive transshipment arrangement between the parties in the trade between points in Alaska and points in the Far East, with transshipment at Seattle or Tacoma, Washington.

VOL 50 ISS 143 JL 25 1985 UMI

By order of the Federal Maritime Commission.

Dated: July 22, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-17666 Filed 7-24-85; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

ABC Freight Forwarders, Inc., 7130 NW. 36th Avenue, Miami, FL 33147. Officers: Nancy J. Blomquist, President/Director. Brian C. Blomquist, Vice President/Director

Global Freight Forwarding, Inc., 4 Park Avenue, New York, NY 10016. Officers: Burgi Ertel, President/Director. Richard Essebag, Secretary/Treasurer. Anthony Collette, Director

Richard Hamilton Simpson dba The Simpson Company, 1515 Circle Court, Mt. Pleasant, SC 29444

By the Federal Maritime Commission.

Dated: July 22, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-17667 Filed 7-24-85; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No.: 1944
Name: Gemini Export Service, Inc.
Address: P.O. Box 520686, Miami, FL 33152
Date Revoked: July 5, 1985
Reason: Failed to maintain a valid surety bond

License No.: 764
Name: Overseas Forwarders, Inc.
Address: 29 Broadway, Suite 1607, New York, NY 10006
Date Revoked: July 15, 1985
Reason: Voluntarily requested revocation.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 85-17668 Filed 7-24-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

July 19, 1985.

Background

Notice is hereby given of the submission of proposed information collection(s) to the Office of management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (Title 44 U.S.C. Chapter 35) and under OMB regulations on Controlling Paperwork Burdens on the Public (5 CFR Part 1320). A copy of the proposed information collection(s) and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3822)

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for OMB Approval to Implement

1. Report title: Criminal Referral Form
Agency form number: FR 2230
OMB Docket number: 7100-0212
Frequency: Event-generated
Reporters: State member banks, bank holding companies and Edge and Agreement Corporations
Small businesses are affected.

General description of report: This information collection is voluntary (12 U.S.C. 248(a)(1), 625, and 1844(c)) and is given confidential treatment (5 U.S.C. 552a(2), 5 U.S.C. 552(b)(7)).

This report has been jointly designed by the federal financial institutions supervisory agencies, the Department of Justice, and the F.B.I. It is needed to detect and to track suspected criminal misconduct in financial institutions.

Board of Governors of the Federal Reserve System, July 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17640 Filed 7-24-85; 8:45 am]

BILLING CODE 6210-01-M

Susquehanna Bancshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the Offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 15, 1985.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to acquire 100 percent of the voting shares of The Citizens National Bank of Greencastle, Greencastle, Pennsylvania; and to merge with FNT Bancorp, Inc., Sunbury, Pennsylvania, thereby indirectly acquiring First National Trust Bank, Sunbury, Pennsylvania.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *City Financial Corp. of Tampa*, Tampa, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of City Bank of Tampa, Tampa, Florida, a *de novo* bank.

2. *NKB, Inc.*, North Miami Beach, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of The Skylake State Bank, North Miami Beach, Florida.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Tri City Bankshares Corporation*, Oak Creek, Wisconsin; to retain 2.28 percent of the voting shares of First National Bank of Eagle River, Eagle River, Wisconsin.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *United New Mexico Financial Corporation*, Albuquerque, New Mexico; to acquire 100 percent of the voting shares of Gallup Bancshares, Inc., Gallup, New Mexico, thereby indirectly acquiring First State Bank of Gallup, Gallup, New Mexico.

Board of Governors of the Federal Reserve System, July 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17638 Filed 7-24-85; 8:45 am]

BILLING CODE 6210-01-M

U.S. Bancorp; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 13, 1985.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon; to engage *de novo* directly in data processing activities by providing the use of hardware and software to other financial institutions, including banks, to facilitate switching of transactions between network members. Such services will be offered to other institutions only under written agreements.

Board of Governors of the Federal Reserve System, July 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17639 Filed 7-25-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Procurements by Bid Protest

AGENCY: General Accounting Office.

ACTION: Notice of review of bid protests regarding procurements by the Architect of the Capitol.

SUMMARY: On December 20, 1984, the General Accounting Office published in the **Federal Register** (49 FR 49,917) its Bid Protest Regulations, effective January 15, 1985. This notice advises that the Architect of the Capitol has agreed to have the General Accounting Office consider protests concerning his procurements under § 21.11 of the Bid Protest Regulations.

EFFECTIVE DATE: July 25, 1985.

FOR FURTHER INFORMATION CONTACT: James W. Vickers, Managing Attorney, General Accounting Office, 441 G Street, NW., Washington, D.C. 20548; telephone (202) 275-9740.

SUPPLEMENTARY INFORMATION: Pursuant to § 21.11, "Nonstatutory Protests", the General Accounting Office may consider protests concerning procurements by agencies of the government other than federal agencies as defined in § 21.0(b) if the agency agrees in writing to have its protests decided by the General Accounting Office.

The Architect of the Capitol has advised the General Accounting Office that he wishes our Office to consider protests concerning his procurements.

Charles A. Bowsher,

Comptroller General of the United States.

[FR Doc. 85-17615 Filed 7-24-85; 8:45 am]

BILLING CODE 1610-10-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget; Application of Eleemosynary Institution

AGENCY: Office of Policy and Management Systems, GSA.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) requests the Office of Management and Budget (OMB) to review an existing information collection.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Audrey Harris, Office of Property Management (703-557-1234).

SUPPLEMENTARY INFORMATION:

a. *Purpose.* GSA Form 18 is required to request the donation of forfeited distilled spirits, wine, or malt beverages. It is used to determine an institution's eligibility to receive such donations under 26 U.S.C. 5688(a).

b. *Annual reporting burden.* Respondents and responses 40, hours 10.

c. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3007, GS Building, Washington, DC 20405 (202-566-0666).

Dated: July 16, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-17671 Filed 7-24-85; 8:45 am]

BILLING CODE 6820-24-M

VOL 50 ISS 143 JL 25 1985 UMI

Federal Telecommunications Standards

AGENCY: Office of Information Resources Management, General Services Administration.

ACTION: Notice of adoption of standard.

SUMMARY: The purpose of this notice is to announce the adoption of an Interim Federal Telecommunications Standard (INT–FED–STD). INT–FED–STD 1031, "Telecommunications: General Purpose 37-Position and 9-Position Interface Between Data Terminal Equipment and Data Circuit-terminating Equipment" is approved by the General Services Administration for optional use by Federal agencies and will be published.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Greene, Office of Technology and Standards, National Communications System, telephone (202) 692–2124.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of telecommunications standards for NCS interoperability and the computer-communication interface.

2. On August 10, 1984, a notice was published in the **Federal Register** (49 FR 32115) that a proposed draft Interim Federal Telecommunication Standard entitled "Telecommunications: General Purpose 37-Position and 9-Position Interface Between Data Terminal Equipment and Data Circuit-terminating Equipment" was being proposed for optional Federal use.

3. The justification package, as approved by the National Security Council, was presented to GSA by NCS with a recommendation for adoption of the standard. These data are a part of the public record and are available for inspection and copying at the Office of Technology and Standards, National Communications System, Washington, DC 20305–2010.

4. The approved Interim Federal Standard adopts Electronic Industries Association (EIA) Standard RS–449, "General Purpose 37-Position and 9-Position Interface for Data Terminal Equipment and Data Circuit-terminating Equipment Employing Serial Binary Data Interchange" for optional use by Federal agencies. EIA Standard RS–449 specifies the functional and mechanical interface characteristics for data terminal equipment (DTE) and data circuit-terminating equipment (DCE) used primarily in data communication applications over analog telecommunications networks.

5. Interested parties may purchase the standard from GSA, acting as agent for the Superintendent of Documents. Copies are for sale at the GSA Specifications Unit (WFSIS), Room 6039, 7th and D Streets SW. Washington, DC 20407; telephone (202) 472–2205.

Dated: June 10, 1985.

Frank J. Carr,

Assistant Administrator, Office of Information Resources Management.

Interim Federal Standard: INT–FED–STD 1031

Date: May 29, 1985.

Announcing an Interim Federal Standard, "Telecommunications: General Purpose 37-position and 9-position Interface Between Data Terminal Equipment and Data Circuit-terminating Equipment".

Authority. Federal Standards in the "telecommunications" area are developed by the Office of the Manager, National Communications System. These Federal Standards are approved and issued by the General Services Administration pursuant to the Federal Property and Administrative Services Act of 1949, as amended. The use of INT–FED–STD 1031 is optional for all Federal agencies. It is expected that this interim standard will be replaced with a new standard conforming to Integrated Services Digital Network (ISDN) procedures and utilizing the 8-position Common Physical Interface as soon as a mature international standard evolves in this area.

Name of Standard. "Telecommunications: General Purpose 37-position and 9-position Interface Between Data Terminal Equipment and Data Circuit-terminating Equipment"

Description. INT–FED–STD 1031 adopts Electronic Industries Association (EIA) Standard RS–449, General Purpose 37-position and 9-position Interface for Data Terminal Equipment and Data Circuit-terminating Equipment Employing Serial Binary Data Interchange". EIA Standard RS–449 specifies the functional and mechanical interface characteristics for data terminal equipment (DTE) and data circuit-terminating equipment (DCE) used primarily in data communication applicants over analog telecommunications networks.

Objectives

Interoperability. To facilitate interoperability between telecommunications facilities and systems of the Federal Government and compatibility of these facilities and systems, at the computer-communications interfaces, with data processing equipment.

Application. An "Interim Federal Standard" is a potential Federal standard issued in temporary form for optional use by all Federal agencies. This standard is optional and may be used by all Federal agencies in the design and procurement of DTEs and DCEs used in data communication applications over analog telecommunications networks.

Referenced Documents. The following documents of the issue in effect on the date of invitation for bids or request for proposals form a part of this standard to the extent specified herein:

(a) Electronic Industries Association (EIA) Standard RS–449, General Purpose 37-position and 9-position Interface for Data Terminal Equipment and Data Circuit-Terminating Equipment Employing Serial Binary Data Interchange.

(b) EIA Industrial Electronic Bulletin No. 12, Application Notes on Interconnection Between Interface Circuits Using RS–449 and RS–232–C.

(c) Federal Standard (FED–STD) 1020A, Telecommunications: Electrical Characteristics of Balanced Voltage Digital Interface Circuits.

(d) Federal Standard (FED–STD) 1030A, Telcommunications: Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits.

Basic Requirements. With the inclusion of the additional requirements listed below, this standard adopts in its entirety EIA Standard RS–449. Pursuant to the requirements of Federal Standards 1020A and 1030A, the electrical characteristics of balanced and unbalanced line generators and receivers of DTEs and DCEs shall be as specified in EIA standards RS–422 and RS–423 respectively.

Additional Requirements. Depending on the specific application, DTEs and DCEs compliant with this standard must also comply with one of the following additional requirements.

(a) For applications where interoperation is required with equipment conforming to EIA Standard RS–232–C, generators on all Category I circuits shall conform to Federal Standard 1030A and the provisions described by EIA Industrial Electronics Bulletin No. 12 shall be met.

(b) For applications where interoperation is required with equipment conforming to MIL–STD–188C or MIL–STD–188–100 (unbalanced low level interface), generators on all Category I circuits shall conform to Federal Standard 1030A (MIL–STD–188–114, unbalanced circuits) and shall have an option which will allow changing the signal sense from the negative mark to positive mark.

(c) For all new applications where a transition capability from either RS–232–C or MIL–STD–88C/MIL–STD–188–100 is not required, all provisions of RS–449 apply. Category I circuits may implement either FED–STD 1020A or FED–STD 1030A as prescribed in 6.11 of RS–449. When FED–STD 1020A is employed for MIL–STD–188 applications, the additional provisions of MIL–STD–188–114 shall apply.

Effective Date. Federal agencies may use this interim standard effective immediately. This interim standard will be automatically cancelled effective January 1, 1989 unless reconfirmed.

Preparing Activity. National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

[FR Doc. 85–17676 Filed 7–24–85; 8:45 am]

BILLING CODE 6630–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Alcohol, Drug Abuse, and Mental Health Advisory Board; Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces establishment by the Secretary of Health and Human Services, on July 2, 1985, of the following advisory committee:

Designation: Alcohol, Drug Abuse, and Mental Health Advisory Board.

Purpose: The Board shall periodically assess the national needs for alcoholism, alcohol abuse, drug abuse, and mental health services and the extent to which those needs are being met by the State, local, and private programs, and programs, receiving funds under Title V and Part B of Title XIX of the Public Health Service Act. The Board shall provide advice to the Secretary and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, respecting these activities to assist in guiding national strategies aimed at the amelioration of alcohol, drug abuse, and mental health problems.

Expiration date' This charter is effective through July 2, 1987.

Dated: July 22, 1985.

Donald Ian Macdonald, M.C.,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 85–17649 Filed 7–24–85; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Cooperative Agreements; Studies of the Transmission of Human T-Lymphotropic Viruses Type III (HTLV-III) Among Prostitutes, Select Heterosexual Populations, and Recipients of Blood Transfusion From HTLV-III Seropositive Blood Donors; Availability of Funds for Fiscal Year 1985

The Center for Disease Control (CDC) announces that funds are available for Fiscal Year 1985 for competitive applications for cooperative agreements for collaborative studies in the following areas: I. Determination of the prevalence of HTLV–III antibody in a population of female prostitutes; II. Definition of the spread of HTLV–III infection in selected populations of heterosexuals; and III. A study of recipients of blood transfusion from HTLV–III seropositive blood donors. These studies are authorized by section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. The Catalogue of Federal Domestic Assistance Number is 13.118. Eligible applicants are described for each cooperative agreement.

I. Objectives and Collaborative Activities for a Study of the Transmission of HTLV–III Among Prostitutes

A. Objectives

1. To determine the prevalence of HTLV–III infection, as measured by HTLV–III antibody, among female prostitutes. For purposes of this study, a female prostitute is considered to be a woman who has provided sexual services for money or other consideration to males in the past twelve (12) months.

2. To correlate seropositivity with behavioral characteristics among female prostitutes.

B. Cooperative Activities

1. Recipient Activities

a. Design and conduct a study to measure the prevalence of HTLV–III infection in a population of female prostitutes. Prepare a statistical sampling design and determine sample size needed to obtain meaningful results.

b. Design and establish a data-management system for the study.

c. Identify, locate, and enroll an appropriate sample of female prostitutes who are willing to participate in a study to measure the extent of HTLV–III infection in this population. Participants should be obtained from several different sources, such as sexually transmitted disease clinics, practices of physicians known to treat prostitutes, etc.

d. Interview for sexual and drug use history, provide physical examinations for AIDS, and obtain serologic specimens from all study participants.

e. Provide or arrange for counseling of participants based on their serologic test results and clinical findings.

f. Analyze data and publish study results.

2. Centers for Disease Control Activities

a. Assist in the development of the protocol, the design of the study, training of interviewers, and pretesting of instruments.

b. Assist in designing a data management system.

c. Perform all or a portion of the laboratory tests.

d. Assist in data analysis and in the presentation of study findings.

Eligible Applicants

Eligible applicants are the official public health agencies of State, city, county, city-county, district and territorial governments, and other public and private organizations which are able to enroll female prostitutes and conduct follow-up activities.

Reports

Progress reports will be submitted by the recipient on a quarterly basis for the first year, due 30 days after each quarter, and semiannually, due 30 days after semiannual period, thereafter. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

Approximately $250,000 will be available to fund 1–3 cooperative agreements. Applications should be submitted for a 1-year budget period and 2-year project period. Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above

VOL 50 ISS 143 JL 25 1985 UMI

may vary and are subject to change due to budgetary uncertainties. Cooperative agreement funds may be used to support personnel and to purchase supplies and services directly related to conducting a study of the prevalence of HTLV–III infection among female prostitutes. Funds may not be used to support construction or renovation costs.

Evaluation and ranking of applications will be based on the following factors;

1. The ability of the applicant to enroll and conduct follow-up activities on an appropriate sample of female prostitutes from different sources such as sexually transmitted disease (STD) clinics and the practices of physicians known to treat prostitutes.

2. The details of how the applicant plans to develop and implement a study of female prostitutes, describing how the women will be identified and enrolled and follow-up meaures.

3. A plan that will protect the rights of individual study participants and encourage their participation in the study.

4. Understanding of study objectives and the purpose of the cooperative agreement.

5. Description of current activities in HTLV–III research and how current activities will be applied to achieving the objectives of the study.

6. The size, qualifications, and time allocation of the proposed staff and the availability of facilities to be used during the study.

7. How the project will be administered.

8. A proposed schedule for accomplishing the activities of the cooperative agreement, including time frames.

II. Objectives and Collaborative Activities for a Study to Define the Spread of HTLV–III Infection in Selected Populations of Heterosexuals

A. Objectives

1. To ascertain the prevalence of HTLV–III infection in populations of heterosexual adults who are not known to be at increased risk for AIDS (e.g., persons who are not intravenous drug users or hemophiliacs or who were not born in countries with an increased incidence of AIDS).

2. To determine the risk factors for HTLV–III infection in heterosexual individuals who are HTLV–III seropositive

B. Cooperative Activities

1. Recipient Activities

a. Design and conduct a study to determine the prevalence of HTLV–III infection in a population of heterosexual adults.

b. Identify, locate and test for HTLV–III antibody a population of heterosexual adults who agree to participate in a study to measure the extent of HTLV–III infection in this population. These persons should not have been born in a country with an increased incidence of AIDS and should not have a history of hemophilia or intravenous drug use.

c. For seropositive persons, provide physical examinations, obtain serum for repeat serologic testing by ELISA and Western blot methods and interview for AIDS risk factors. Classify these persons into a mutually exclusive hierarchy that includes persons who report belonging to known risk groups, persons whose sexual partners belong to known risk groups, and persons with "no identified risk."

d. For persons who are repeatedly seropositive and have "no identified risk," reinterview to elicit other behavioral characteristics, such as sexual activity, occupation, and contact with AIDS patients, that could be risk factors for HTLV–III infection. Obtain similar interviews from seronegative "control" patients who have been matched by age and sex with the seropositive patient. Necessary sample size should be discussed in the proposal and appropriate statistical power calculations presented.

e. With the cooperation of patients who are repeatedly seropositive and have no apparent risk factors for HTLV–III infection, provide serologic testing and physical examinations to all known sexual partners.

f. Design and establish a data management system for the study.

g. Provide or arrange for counseling for participatants based on the findings of the study.

h. Analyze all data from the study and publish findings.

2. Centers for Disease Control Activities

a. Assist in the development of the study protocol and the design of the interview instrument, including training and pretesting as necessary by the applicant.

b. Assist in designing a data management system.

c. Provide reference laboratory testing, if needed.

d. Assist in data analysis and in the presentation of study findings.

Evaluation and ranking of applications will be based on the following factors:

1. The ability of the applicant to screen heterosexual adults for HTLV–III antibody and find an adequate number of persons who are repeatedly seropositive, but have "no identified risk" for infection. It may be necessary to use high-volume facilities, such as clinics for sexually transmitted diseases on blood banks, to achieve this sample size.

2. The details of how the applicant plans to develop and implement a study of HTRLV–III infection in a population of heterosexuals describing how they will be identified and enrolled and follow-up measures.

3. The applicant's understanding of the study objectives and the prupose of the cooperative agreement.

4. The applicant's current activities in HTLV–III research and how they will be applied to achieving the objectives of the study.

5. The size qualifications, and time allocation of the proposed staff and the availability of facilities to be used during the study.

6. How the project will be administered.

7. A proposed schedule for accomplishing the activities of the cooperative agreement including time frames.

Eligible Applicants

Eligible applicants are the official public health agencies of State, city, county, city-county, district and territorial governments, and other public, private and non-profit organizations which are able to enroll and follow a population of heterosexuals.

Reports

Progress reports will be submitted by the recipient on a quarterly basis for the first year, due 30 days after each quarter, and semiannually, due 30 days after semiannual period, thereafter. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

Approximately $225,000 will be available to fund 1–2 cooperative agreements. Applications shuld be submitted for a 1-year budget period and 2-year project period. Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funs. Funding estimates outlined above may very and are subject to change due to budgetary uncertainties.

Cooperative agreement funds may be used to supoort personnel and to purchase supplies and services directly related to conducting a study of the spread of HTLV-III infection in selected populations of heterosexuals. Funds may not be used to support construction or renovation costs.

III. Objectives and Collaborative Activities for a Study of Recipients of Blood Components from Donors Subsequently Found Seropositive for Antibody to HTLV–III in a Blood Bank Screening Program

A. Objectives

1. To determine the risk of HTLV–III infection in persons transfused with blood or blood products of donors subsequently found reactive on HTLV–III ELISA testing of two or more serum specimens.

2. To determine if the result of the (a) ELISA assay, (b) Western blot assay, and (c) HTLV–III culture of the donor may be predictive of the degree for risk of HTLV–III transmission to previous recipients.

B. Cooperative Activities

1. Recipient Activities

a. Design and conduct a study of the transmission of HTLV–III infection from repeatedly reactive donors to recipients of blood transfusions derived from previous donations. Prepare a statistical sampling design and determine sample size needed to obtain meaningful results.

b. Identify, contact, and enroll an appropriate number of blood donors repeatedly reactive on HLTV–III ELISA testing of at least two serum specimens obtained at different times.

c. Identify, contact, and enroll an appropriate number of living recipients of blood who received transfusion during the 2-year period prior to the laboratory identification of these seropositive donors.

d. Interview, provide physical examinations, and obtain blood specimens from recipients.

e. Perform laboratory tests, including the Western Blot analysis, T-lymphocyte subsets, and lymphocyte culture for HTLV–III on al specimens found positive by ELISA in both donors and recipients.

f. Design and establish a data management system for the study.

g. Provide or arrange for counseling for participants based on the findings of this study.

h. Analyze data and publish study results.

2. Centers for Disease Control Activities

a. Assist in the development of the study protocol, in the design of the study instrument, and in pretesting as is necessary by the applicant.

b. Perform all or a portion of the laboratory studies.

c. Assist in designing a data management system.

d. Assist in data analysis and in the presentation of study results.

Eligible Applicants

Eligible applicants are public or non-profit organizations that operate blood collection centers that are able to identify blood donors repeatly reactive on HTLV–III ELISA testing.

Reports

Progress reports will be submitted by the recipient on a quarterly basis for the first year, due 30 days after each quarter, and semiannually, due 30 days after semiannual period, thereafter. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

Approximately $60,000 will be available to fund 1 cooperative agreement. Applications should be submitted for a 1-year budget period and 2-year project period.

Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change due to budgetary uncertainties. Cooperative agreement funds may be used to support personnel and to purchase supplies and services directly related to conducting a study of recipients of blood components from donors subsequently found seropositive for antibody to HTLV–III in a blood bank screening program. Funds may not be used to support construction or renovation costs.

Evaluation and ranking of applications will be based on the following factors:

1. The ability of the applicant to identify an appropriate number of blood donors found repeatedly reactive on HTLV–III ELISA testing on two separate serum specimens.

2. The details of how the study will be implemented, describing how the recipients will be contacted, enrolled and followed.

3. The ability to perform required laboratory analysis including Western blot testing, lymphocyte subsets, and culture for HTLV–III or to demonstrate an adequate system of specimen transfer to the CDC.

4. The applicant's understanding of the study objectives and the purpose of the cooperative agreement.

5. The applicant's current activities in HTLV–III research and their relationship with other investigators in the areas who may participate in the project.

6. The size, qualifications, and time allocation of the proposed staff and the availability of facilities to be used during the study.

7. How the project will be administered.

8. A proposed schedule for accomplishing the activities of the cooperative agreement including time frames.

Content of Application

All applications must include a separate narrative for each study which summarizes:

1. The background and need for project support, including information that relates to factors by which the applications will be evaluated.

2. The objectives of the proposed project which are consistent with the purpose of the cooperative agreement and which are measurable and time phased.

3. The methods which will be used to accomplish the objectives. Of special importance in Study No. I will be the methods utilized to identify, contact, and enroll female prostitutes into the study. In Study No. II, special importance will be attached to the methods utilized in enrolling heterosexual adults who are not known to be at risk for AIDS. In Study No. III, the ability of the blood bank to enlist the cooperation of donors and recipients to participate in a study of this nature is considered crucial to the success of the study.

4. The methods which will be used to evaluate the success of study components.

5. Any other information that will support the request for assistance.

Submission of Applications

The original and one copy of the application must be submitted on or before 4:30 p.m. (e.d.t.) August 12, 1985, to Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia, 30305.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a

VOL
50
ISS
143
JL
25
1985
UMI

commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

3. Late Applications—Applications which do not meet the criteria in either paragraphs 1. or 2. immediately above are considered late applications and will not be considered in the current competition.

Applications are not subject to the review requirements of the National Health Planning and Resources Development Act of 1974, as amended, and are not subject to Intergovernmental review pursuant to Executive Order 12372.

Information on application procedures, copies of application forms, and other material may be obtained from Nancy Bridger, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Altanta, Georgia 30305, or by calling (404) 262–6575 or FTS 236–6575. Technical assistance may be obtained from the following individuals: Project No. I, William W. Darrow, Ph. D.; Project No. II, Harold W. Jaffe, M.D.; Project No. III, John W. Ward, M.D; AIDS Activity, Center for Infectious Diseases, Center for Disease Control, Atlanta, Georgia 30333, telephone (404) 329–3162 or FTS 236–3162.

Dated: July 16, 1985.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85–17328 Filed 7–24–85; 8:45 am]

BILLING CODE 4160-18-M

Cooperative Agreements for; Community-Based Demonstration Project for Acquired Immunodeficiency Syndrome (AIDS) Prevention and Risk Reduction and Innovative Projects for AIDS Risk Reduction; Availability of Funds for Fiscal Year 1985

Introduction

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1985 for competitive applications for cooperative agreements in the following two areas: I. Community-Based Demonstration Project for Acquired Immunodeficiency Syndrome (AIDS) Prevention and Risk Reduction and II. Innovative Projects for AIDS Risk Reduction. These projects are authorized by section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. The Catalog of Federal Domestic Assistance Number is 13.118.

Background

The acquired immunodeficiency syndrome continues to grow as a major public health problem in the United States. Through June 1985, more than 11,000 cases have been reported and more than 5,400 persons have died from AIDS. The virus (Human T-Lymphotrophic Virus-Type III (HTLV–III)) that causes AIDS is transmitted sexually, through contaminated needles, through blood and blood components, and perinatally. A serologic test for HTLV–III antibody has been developed, and its use on donated blood and plasma will decrease the risk of AIDS for transfusion recipients and hemophiliacs. However, these two groups account for only 2 percent of reported AIDS cases. In the absence of an AIDS vaccine or therapy, the basis for AIDS prevention in other groups is a thorough understanding of the risk factors for HTLV–III infection and efforts to change the behaviors which contribute to those factors. Significant gaps still exist in the understanding to risk factors for HTLV–III infection, and the behaviors which contribute to those factors are complex and difficult to change.

I. Information Specific to Community-Based Demonstration Project for AIDS Prevention and Risk Reduction

A. Purpose

The purpose of this comprehensive community-based demonstration project for AIDS prevention and risk-reduction is to design, implement, and evaluate an intensive program in a well-defined geographic/political subdivision to:

1. Determine the prevalence of HTLV–III infection in high-risk groups;
2. Determine the prevalence of HTLV–III infection in the general population;
3. Determine the current level of knowledge of HTLV–III infections and attitudes concerning AIDS among groups at risk;
4. Assess current risk-associated behavior among such high-risk populations as homosexuals and intravenous drug users;
5. Promote and carry out multifaceted educational programs intended to persuade individuals to take action to remain uninfected, and prevent transmission to others, if infected;
6. Promote and carry out programs to counsel seropositive and seronegative individuals;
7. Document steps taken to implement multifaceted education and counseling programs;
8. Evaluate programmatic efforts to prevent the spread of HTLV–III infection and change risk-associated behavior;
9. Provide learning opportunities for other State and local personnel that are planning, implementing, or evaluating AIDS health education/risk reduction programs.

B. Cooperative Activities

1. Recipient Activities

a. Design and conduct seroprevalence studies to determine the prevalence of HTLV–III infection in groups at risk and in the general population.

b. Design and conduct studies to determine current knowledge of HTLV–III infection and attitudes concerning AIDS among groups at risk as well as baseline data on risk-associated behaviors of individuals within these groups.

c. Develop and distribute written and audiovisual materials with accurate information on AIDS, risk factors, prevention guidelines, and community resources available.

d. Develop, promote, and conduct programs, presentations, group discussions, and other activities designed to promote awareness of AIDS risk situations and support for prevention measures.

e. Promote and carry out programs to counsel seropositive and seronegative individuals.

f. Repeat studies to document whether and to what extent changes in the understanding of AIDS risk factors and risk-associated behaviors have occurred.

g. Repeat seroprevalence study to monitor changes in the prevalence of HTLV–III infection in groups at risk.

h. Monitor trends in other illnesses which are sensitive indicators of behavior change in populations at risk (e.g. reportable sexually transmitted infections, hepatitis B, and non-A, non-B).

i. Evaluate and revise programmatic efforts in reaction to changes in behavior and infection with HTLV–III.

j. Provide information and insight for use in the development of curricula and other learning opportunities to train personnel from other State and local programs.

2. Centers for Disease Control Activities

a. Collaborate in the design of the initial and followup seroprevalence studies for HTLV–III infection in groups at risk and in the general population.

b. Collaborate in the design of the initial and followup studies of individuals at risk, and provide consultation regarding data-collection instruments and procedures.

c. Participate in the analysis of information gathered from studies.

d. Provide up-to-date scientific information regarding the natural history of AIDS, sensitivity and specificity of serologic tests, and national program for the prevention of AIDs and the transmission of HTLV–III infections.

e. Provide on-site technical involvement in planning, operating, and evaluating prevention activities.

f. Develop course curricula, training materials, job aids, and other learning opportunities to train personnel from other State and local programs.

C. Eligible Applicants

Eligible applicants are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa, which have reported at least 75 cases of AIDS meeting the CDC surveillance case definition:

1. Presence of reliably diagnosed disease at least moderately indicative of underlying cellular immune deficiency (e.g., Kaposi's sarcoma in patients who are less than 60 years of age or patients with *Pneumocystis carinii* pneumonia or other opportunistic infections); and
2. Absence of known causes of underlying immune deficiency and of any other reduced resistance reported to be associated with the disease.

D. Availability of Funds

Approximately $400,000 to $500,000 will be available in Fiscal Year 1985 to fund one cooperative agreement. It is expected that the initial cooperative agreement award will begin on or about September 30, 1985, and will be funded for 12 months in a 1- to 4-year project period. Continuation awards within the project period will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

E. Review and Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. The applicant's understanding of AIDS prevention activities and the purpose of the cooperative agreement.
2. The ability of the applicant to identify experienced, qualified personnel and a satisfactory description of how they will supervise, coordinate, and operate the program.
3. The establishment of objectives which are consistent with the stated purpose of the cooperative agreement, and which are specific, measurable and time phased.
4. Evidence of the ability of the applicant to generate community cooperation and support for AIDS prevention activities and maintain close collaboration and working relationships with activities and maintain close collaboration and working relationships with community-based organizations serving the interests of groups at risk for AIDS.
5. The quality and scope of the applicant's current activities in AIDS information and education.
6. The quality to the applicant's proposed plan to determine current prevalence and knowledge of HTLV–III infection in groups at risk as well as how the applicant will assess current risk-associated behavior of individuals within these groups.
7. The quality of the applicant's proposed plan to promote behaviors designed to persuade individuals to remain uninfected, and prevent transmission to others if infected.
8. The soundness and potential operational impact of the overall approach.
9. An evaluation plan which specifies the method and instruments of measurement to be used.
10. The willingness to participate in technology transfer to personnel from other States and local communities.
11. The capability or plan of the applicant to maintain maximum confidentiality of all records related to clinical laboratory results on individuals and/or studies with personal identifiers.
12. The extent to which the budget is reasonable and consistent with the intended use of the cooperative funds.

II. Information Specific to Innovative Projects for Aids Risk Reduction

A. Purpose

The purpose of the innovative projects for AIDS risk-reduction is to stimulate the development of unique and innovative approaches for the prevention of HTLV–III transmission, and to evaluate the effectiveness of these approaches. The approaches to be developed should be directed toward persons infected with HTLV–III, or at risk of acquiring such infection. These persons include homosexual and bisexual men, heterosexual persons with at least one infected sex partner, women of child-bearing age with evidence of infection, users of intravenous drugs, or others potentially at risk.

Applicants may focus on components of innovative risk-reduction approaches, such as targeted education for individuals and groups at high risk of AIDS and other sexually transmitted diseases, techniques to motivate individuals to act according to information they receive, and other creative aspects of risk-reduction behavior.

The social setting for which the proposed innovative risk reduction approaches might be developed could include individuals, small groups, or larger units of analysis.

B. Cooperative Activities

1. Recipient Activities

a. Assess levels of knowledge, personal beliefs, and/or recent experiences regarding exposures to persons with AIDS, life-style changes, and HTLV–III infections in the population to be studied.

b. Select a sample of the population for more intensive study of the proposed risk-reduction approach.

c. Design and implement an innovative risk-reduction program and report the number of individuals who participate.

d. Measure knowledge, attitudes, behavioral intentions and behaviors before, during, and after participation in the risk reduction program.

e. Compare knowledge, attitudes, behavioral intentions and/or self-reported behaviors of the individuals who participate and those who do not (a control group).

2. Centers for Disease Control Activities

a. Collaborate in the design of the study, and provide consultation regarding data-collection instruments and procedures, data analysis of information gathered, and preparation of a final report.

b. Provide up-to-date scientific information regarding the natural history of HTLV–III, sensitivity and specificity of serologic tests, and other aspects of preventing transmission of HTLV–III infections.

C. Eligible Applicants

Eligible applicants are the official public health agencies of State and local governments (including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa) and other public or nonprofit private community organizations, educational institutions

VOL 50 ISS 143 JL 25 1985 UMI

or other organizations that can demonstrate the capability to work in close cooperation with State or local health departments on the prevention and control of AIDS.

D. Availability of Funds

Approximately $600,000 to $700,000 will be available in Fiscal Year 1985 to fund two to three cooperative agreements ranging from approximately $200,000 to $300,000. It is expected that the initial cooperative agreements will begin on or about September 30, 1985, and will be funded for 12 months in a 1- or 3-year project period. Continuation awards within the project period will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

E. Review and Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Evidence of the applicant's understanding of the objectives of HTLV–III prevention activities, and the rationale for innovative risk-reduction proposals.

2. Successful outcomes from the applicant's involvement in previous projects designed to prevent HTLV–III infections, other infections transmitted sexually, or other lifestyle related health problems.

3. Evidence of the ability of the applicant to generate community cooperation and support for AIDS prevention research activities and maintain close collaboration and working relationships with community-based organizations serving the interests of groups at risk for AIDS.

4. The extent to which technical expertise in the following areas is available: HTLV–III antibody testing, research design, and data analysis.

5. Evidence that a qualified and experienced research team will be available to test hypotheses.

6. The selection of an appropriate study population and an adequate description of the characteristics of the population to be investigated.

7. A clear statement of objectives consistent with the stated purpose of the cooperative agreement and which are specific, measurable, and time phased.

8. Demonstration that the proposed approach will achieve objectives.

9. Demonstration that proposed project has potential for interrupting transmission of HTLV–III.

10. The adequacy of the evaluation plan to detect effects of the proposed project to reduce transmission of HTLV–III and document the impact of the program.

11. The extent to which the budget is reasonable and consistent with the intended use of the cooperative funds.

Information Applicable to Cooperative Agreement Programs in I. and II. Above

Reporting Requirements—Progress reports are required on a quarterly basis and are due 30 days after the end of each quarter. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

Guidelines for Application Narrative—Applications must include a narrative which details the following:

A. The background and need for project support, including information that relates to factors by which the applications will be evaluated.

B. The objectives of the proposed project which are consistent with the purpose of the cooperative agreement and which are measurable and time phased.

C. The methods which will be used to accomplish the objectives.

D. The methods which will be used to evaluate the success of the project.

E. Any other information that will support the request for assistance.

F. Fiscal information, including narrative justification, pursuant to utilization of awarded funds in a manner consistent with the purpose and objectives of the project.

Submission of Applications—The original and two copies of the application must be submitted to Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 321, Atlanta, Georgia, 30305, on or before 4:30 p.m. (e.d.t.) August 30, 1985.

A. *Deadline:* Applicantions shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

B. *Late Applications:* Applications which do not meet the criteria in A. 1. or 2. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

C. *Review Requirements:* Applications are not subject to the review requirements of the National Health Planning and Resources Development Act of 1974, as amended, and are not subject to Intergovernmental review pursuant to Executive Order 12372.

D. *Where to Obtain Additional Information:* Information on application procedures, copies of application forms, and other material may be obtained from Nancy Bridger, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Room 321, Atlanta, Georgia 30305, or by calling (404) 262–6575 or FTS 236–6575. Technical assistance may be obtained from Willard Cates, M.D., M.P.H., Division of Sexually Transmitted Diseases, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329–2552 or FTS 236–2552.

Dated: July 19, 1985.

William E. Muldoon,

Director, Office of Program Support Centers for Disease Control.

[FR Doc. 85–17644 Filed 7–24–85; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 85D–0108]

Draft Guideline for Submitting Supporting Documentation in Drug Applications for the Manufacture of Drug Substances; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice: extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period for the notice announcing the availability of a draft guideline "Draft Guideline for Submitting Supporting Documentation in Drug Applications for the Manufacture of Drug Substances." FDA is taking this action in response to a request from a foreign pharmaceutical firm for an extension of the comment period.

DATE: Comments by August 26, 1985.

ADDRESS: Requests for a copy of the draft guideline and written comments regarding the draft guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Buford Poet, Center for Drugs and Biologics (HFN–102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4330.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 25, 1985 (50 FR 16350), FDA issued a notice announcing the availability of a draft guideline entitled "Draft Guideline for Submitting Supporting Documentation in Drug Applications for the Manufacture of Drug Substances." The guideline is intended to furnish pharmaceutical manufacturers with guidance in submitting to FDA adequate information on the production and control of new drug substances.

FDA is making the draft guideline available for public comment to assist it in developing a final guideline. The guideline is one of several guidelines that FDA is developing to provide assistance to pharmaceutical firms in implementing the revisions of the new drug and antibiotic regulations, published in the **Federal Register** of February 22, 1985 (50 FR 7452), and the proposed revisions of the investigational new drug regulations, published in the **Federal Register** of June 9, 1983 (48 FR 26720).

In response to the notice of availability, FDA received a request for a 30–day extension of the comment period.

FDA has determined that its schedule for issuing the guideline in final form would not be unduly delayed by a 30-day extension of the comment period, and that such an extension to receive additional comments would be in the public interest. Accordingly, the period for submission of comments is extended to August 26, 1985.

Interested persons may, on or before August 26, 1985, submit written comments on the draft guideline to the Dockets Management Branch (address above). These comments will be considered in determining whether further amendments to or revisions of the draft guideline are warranted. Comments should be in two copies, except that individuals may submit single copies, identified with the docket number found in brackets in the heading of this document. The draft guideline and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Requests for a single copy of the draft guideline should be sent to the Dockets Management Branch.

Dated: July 19, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–17650 Filed 7–22–85; 2:23 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Redesignation of Illinois Health Service Area 7 and 8

Agency: Health Resources and Services Administration, Public Health Service, HHS.

For Further Information Contact: John F. Belin, Director, Division of Agency Operations and Management, BHMORD, 5600 Fishers Lane, Room 9A–19, Rockville, Maryland 20857, 301–443–6680.

Action: This notice announces the decision by the Secretary of Health and Human Services upon reconsideration of the decision announced in the **Federal Register** on August 13, 1984 (49 FR 32259) denying a request by the Governor of Illinois that the boundaries of Illinois health service areas 7 and 8 be revised by removing DuPage County from area 7 and adding it to area 8. The decision by the Secretary is to approve the Governor's redesignation request.

Accordingly, effective on September 13, 1985, the boundaries of Illinois health service areas 7 and 8 are revised as follows:

Illinois

Health service area 7 is the geographic area comprised of Suburban Cook County. Health service area 8 is the geographic area comprised of the following counties: DuPage, Kane, Lake, and McHenry.

The effective date of September 13, 1985, has been chosen for ease of administration, since the current grant under section 1516 of the Act for the Suburban Cook/DuPage Health Systems Agency, Inc., will expire on September 12.

Dated: July 19, 1985.

John H. Kelso,

Acting Administrator, HRSA.

[FR Doc. 85–17614 Filed 7–24–85; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collections Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. Ch. 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contracting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made with 30 days directly to the Budget Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone number (202) 395–7313.

Title: Financial Assistance and Social Services Program (25 CFR 20).

Abstract: These forms request financial, demographic and employment information on clientele for the purpose of determining eligibility to receive financial assistance. These forms allow the Bureau worker to determine the degree of unmet need and arrange for a money payment.

Bureau Form Numbers: 5–6601, 5–6603, 5–6604, 5–6605, 5–1201B

Description of Respondents: Individuals whose needs have not been met and some form of subsistence is required.

Annual Response: 284,124

Annual Burden Hours: 20,982

Bureau Clearance Officer: Cathie L. Martin (202) 343–3574

John W. Fritz,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 85–17673 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Moab District Grazing Advisory Board; Meeting

July 18, 1985.

AGENCY: Bureau of Land Management, Moab, Interior.

ACTION: Moab District Grazing Advisory Board Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Moab District Grazing Advisory Board will be held on August 28, 1985. The meeting will begin at 10:30 a.m. in the conference room of the

VOL 50 ISS 143 JL 25 1985 UMI

Bureau of Land Management District Office at 82 East Dogwood, Moab, Utah 84532.

The agenda for the meeting will include:

1. Grazing Advisory Board's Prioritization of Allotment Project Packages.
2. Status of the Grand Resource Management Plan.
3. Update on the San Juan Resource Area's Planning Efforts.
4. Discussion of Actual Use Reports.
5. Progress Report on the San Rafael Soil/Vegetation Inventory.
6. Update on the Grazing Fee Status.
7. Update on the BLM/USFS Interchange.

The meeting is open to the public. Interested persons may make oral statements to the Board between 2 p.m. and 3 p.m. on August 28, 1985 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532, by August 23, 1985.

Summary minutes of the Board meeting will be maintained in the District Office and will be available within thirty (30) days following the meeting.

Kenneth V. Rhea,

Acting District Manager.

[FR Doc. 85-17636 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-DQ-M

[W-0248350]

Wyoming; Proposed Continuation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes a 434.63 acre withdrawal for the Meeks Cabin Dam and Reservoir continue for an additional 100-year term. The lands remain closed to surface entry and the mining laws. They have been and will remain open to mineral leasing.

DATE: Comments should be received by October 23, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoning State Office, (307) 772-2089.

The Bureau of Reclamation proposes that the existing withdrawal made by Public Land Order 3511, dated December 7, 1964, be continued for an additional 100-year term, pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following described lands:

Sixth Principal Meridian

Wasatch National Forest

T. 12 N., R. 117 W.,
Sec. 10, NE¼SE¼SE¼, S½SE¼SE¼;
Sec. 14, W½NW¼NE¼, NW¼, W½SW¼, W½E½SW¼, N½NE¼NE¼SW¼;
Sec. 22, E½E¼ of lot 1, E½NE¼, E½E½NE¼SE¼.

The area described contains 434.63 acres in Uinta County.

The purpose of the withdrawal is to protect the capital investments for the Meeks Cabin Dam and Reservoir and the recreational areas. The withdrawal segregates the lands from surface entry and the mining laws, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

David J. Walter,

Acting State Director.

[FR Doc. 85-17637 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-22-M

National Public Lands Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet August 22-24, 1985, at the Owyhee Plaza Hotel, 1109 Main Street, Boise, Idaho. The meeting hours will be 8:00 a.m. to 5:00 p.m., on Friday, the 23rd, and 8:00 a.m. to 12:00 noon on Saturday, the 24th. On Thursday, August 22, Council members will participate in a field tour of BLM-managed lands in Western Idaho. The proposed agenda for the meeting is:

Friday, August 23: Morning: The State view of public land management in Idaho: Discussion of BLM/Forest Service Grazing Fee Study; Panel discussion on BLM's Wilderness Program; Meeting of Council subcommittees (Renewable Resources, Lands, Energy and Minerals, and Administrative/Legislative). Afternoon: Public Statement Period; Report on previous Council resolutions and discussion of agenda for future Council meetings; meeting of Council subcommittees.

Saturday, August 24: Morning: Final meetings of Council subcommittees; Discussion of subcommittee recommendations and passing of Council resolutions.

All meetings of the Council will be open to the public. Opportunity will be provided for members of the public to make oral statements to the Council, beginning at 1:00 p.m., Friday, August 23. Speakers should address specific national public lands issues on the meeting Agenda and are encouraged to submit a copy of their written testimony prior to oral delivery. Please send written comments by August 16 to the Bureau of Land Management's Idaho State Office at the address listed below. Depending on the number of people who wish to address the Council, it may be necessary to limit the length of oral presentations.

DATES: August 23 and 24—Council Meeting. August 23—Public Statements.

ADDRESS: Copies of public statements should be mailed by August 16 to: Director, Idaho State Office (912), Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Washington, D.C. Office, BLM, telephone (202) 343-2054; or Kris Long, Public Affairs Specialist, Idaho State Office, BLM, telephone (208) 334-1406.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of the Interior through the Director, Bureau of Land Management, regarding policies and programs of a national scope related to public lands and resources under the jurisdiction of BLM.

July 19, 1985.

Robert F. Burford,

Director.

[FR Doc. 85-17619, Filed 7-25-85; 8:45 am]

BILLING CODE 4310-84-M

Miles City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the Miles City District Grazing Advisory Board will meet Sept. 9, 1985, at 10 a.m. in the conference room at the Miles City District Resource Area Office, Bureau of Land Management, Miles City Plaza, Miles City, Montana.

Agenda for meeting includes: Fiscal Year 1986 Range Improvement Projects, Range Improvement methods and permittee contributions, Interchange Proposal, Weed Control Program, and Omnibus Range Bill progress.

The meeting is open to the public and oral or written statements may be made for consideration by the board. Summary minutes of the meeting will be maintained in the Miles City District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact District Manager, Miles City District, BLM, P.O. Box 940, Miles City, Montana 59301.

Ray Brubaker,

District Manager.

July 18, 1985.

[FR Doc. 85-17642 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-DN-M

[(NM 56609 (OK)), (NM 56610), (NM 56612 (OK))]

Public Land Sale in Coal, LeFlore and Pittsburg Counties, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of Public Land Encompassing 1.95 Acres in Coal, LeFlore, and Pittsburg Counties, Oklahoma.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2743, 43 U.S.C. 1701) at no less than the appraised fair market value:

Tract	Legal description	Acres	Value
	Coal County (CO)		
CO-3	T. 1 S., R. 10 E., I.M., sec. 14: Lehigh Townsite, block 328, lot 6.	0.32	$2.50
	LeFlore County (LF)		
LF-1	T. 5 N., R. 26 E., I.M., sec. 19: Heavener Townsite, block 60.	.08	2.50
LF-9	T. 9 N., R. 25 E., I.M., sec. 20: lot 1.	0.56	25.00
	Pittsburg County (PT)		
PT-11	T. 5 N., R. 16 E., I.M., sec. 6: NW¼SE¼ (within).	1.09	150.00

Aggregating 1.95 acres.

The identified tracts are being offered at direct sale to the following adjoining land owners at the indicated appraised fair market value:

Tract	Name	Residence
CO-3	Leonard E. Linton	Lehigh, OK.
LF-1	John Bateman	Heavener, OK.
LF-9	Hercel Hickman	Panama, OK.
PT-11	Ralph D. Lalli	Krebs, OK.

The identified parties are the only adjoining land owners and they control all legal access to these tracts. The tracts will be incorporated into the agricultural operations of these land holders. The tracts will be disposed of if the offer to purchase the land is refused by the adjoining land holders.

The proposed sale is consistent with the Bureau's planning system and the FLPMA of 1976. Public interest will be served by disposition of these isolated tracts that are difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department or agency.

The lands will not be offered for sale until 60 days after the date of this notice. Patents, when issued, will contain the following reservations:

1. All minerals (or partial or specific mineral interests, where applicable) shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this Bureau of Land Management office.
2. The sale of the lands will be subject to all valid existing rights and reservations of record.

For a period of 45 days after the date of issuance of this Notice, interested parties may submit comments to the District Manager, Tulsa District Office, 6136 East 32nd Place, Tulsa, Oklahoma, 74135. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

ADDRESS: Comments and suggestions should be sent to: District Manager, Bureau of Land Management, Tulsa District Office, 6136 East 32nd Place, Tulsa, OK 74135.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, telephone (405) 231-5491.

Jim Sims,

District Manager.

[FR Doc. 85-17633 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-FB-M

[NM 56613 (OK)]

Public Land Sale in Latimer County, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of Public Land Encompassing 77.82 Acres in Latimer County, Oklahoma.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2743, 43 U.S.C. 1701) at no less than the appraised fair market value of $19,500.00:

Tract	Legal description	Acres plus accretions
	Latimer County (LT)	
LT-2 and LT-3	T. 6 N., R. 21 E., I.M., sec. 31, NE¼SW¼, and lot 3.	77.82

The proposed sale is consistent with the Bureau's planning system and the FLPMA of 1976. Public interest will be served by disposition of these isolated tracts that are difficult and uneconomical to manage as part of the public lands, and are not suitable for management by another Federal department or agency.

Patents, when issued, will contain the following reservations:

1. All minerals (or partial or specific mineral interests, where applicable) shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this Bureau of Land Management office.
2. The sale of the lands will be subject to all valid existing rights and reservations of record.
3. The tracts will be subject to a floodplain restriction under Executive Order 11988.
4. The successful bidder agrees that he takes the real estate subject to the existing grazing use of Mr. Vernon D. Lyons, holder of grazing authorization

VOL 50 ISS 143 JL 25 1985 UMI

No. 0757. The rights of Mr. Lyons to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. 0757 shall cease on February 28, 1991. The successful bidder is entitled to receive annual grazing fees from Mr. Lyons in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the Federal Register.

The patent to parcel number LT-2 (section 31) will contain a wetland protection patent restriction. The type, location, and size of the wetland will appear in the patent as well as the following restrictive language:

In accordance with section 209 of the FLPMA of 1976, 43 U.S.C. 1718 (1976) and section 4 of Executive Order 11990 (1978), 3 Code of Federal Regulations 121 (1978), the patentee's use of the patented lands is restricted as follows:

1. Restrictions on use of wetlands contained in applicable Federal, state, or local wetlands regulations are incorporated hereby as if set forth fully herein.

2. The patentee may not use the patented land, or authorize its use, in such a manner that would directly or indirectly result in an adverse alteration of the wetland characteristics or category of that portion of the lands identified above as wetlands.

The patent restrictions are binding upon the patentee and his successors, heirs, and assigns.

The identified tracts will be sold under modified competitive bidding procedures. Bidding will be restricted to the adjacent land owners. The designated bidders for the identified tracts are as follows: Mr. C.C. Gillespie, Mr. C.D. Hague, Mr. Wayne Grogan, Ms. Vera N. Melone, Mr. Vernon D. Lyons, Jeffie Cannon Estate, Mr. Kenneth T. Gwin, Mr. Elmer Lyons, Mr. Jefferson D. Reed, Mr. Vern Mendenhall, and Mrs. Florence Johnston. Federal law requires that bidders be United States citizens or, in the case of a corporation, subject to the laws of any state of the United States. Bidders (adjacent land owners) will also be required to submit a deed with their bid in order to show proof of ownership to adjacent lands. Failure to submit bids by any of the above named bidders shall constitute a waiver of such right. Modified competitive bidding procedures are being used to recognize historical land uses, consideration for the lack of legal access to these tracts, and the needs of adjacent land owners.

The tracts offered for disposal will be sold by sealed bid. Sealed written bids will be considered only if received by the Bureau of Land Management, Oklahoma Resource Area Headquarters, 200 N.W. Fifth Street, Room 548, Oklahoma City, Oklahoma, 73102, prior to 10:00 a.m., Monday, September 23, 1985. The tract numbers should be printed on the lower left hand corner of the mailing envelope (example, Land Sale—Tract LT-2 and LT-3). Each written sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Department of the Interior, Bureau of Land Management, for at least twenty percent of the amount bid. The written, sealed bids will be opened and publicly declared at the beginning of each sale. If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be the highest bid shall be by supplemental sealed bids.

Once a high bid is accepted, the successful bidder shall sumbit the remainder of the full bid price within 180 days of the sale. Failure to pay the full bid price within 180 days shall result in cancellation of the sale of the tracts, and the deposit shall be forfeited and disposed of as other receipts of sale. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

If Tracts LT-2 and LT-3 are not sold to the identified adjacent land owners, they will be available for sale by sealed bid on a first come basis for a period of three months, beginning on September 26, 1985 and ending at the close of business on December 26, 1985.

DATE: For a period of 46 days after the date of issuance of this Notice, interested parties may submit comments to the District Manager, Tulsa District Office, 6136 East 32nd Place, Tulsa, Oklahoma, 74135. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

ADDRESS: Comments and suggestions should be sent to: District Manager, Bureau of Land Management, Tulsa District Office, 6136 East 32nd Place, Tulsa, OK 74135.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, telephone (405) 231-5491.

Jim Sims,

District Manager.

[FR Doc. 85-17632 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-FB-M

[A 997]

Arizona; Partial Cancellation of Withdrawal Application

July 19, 1985.

The Bureau of Reclamation, Department of the Interior, filed withdrawal application A 997 on May 12, 1967, which was published July 18, 1967 as FR Doc. 67-8213 on Pages 10518 and 10519. This application is hereby cancelled insofar as it affects the following described lands:

Gila and Salt River Meridian, Arizona

T. 5 N., R. 1 E.,
Sec. 23, S½N½NE¼, S½NE¼, NW¼;
Sec. 24, W½W½SW¼NW¼.

The area described contains 290 acres in Maricopa County, Arizona.

The lands have been classified pursuant to the Recreation and Public Purposes of Act of June 14, 1926, 44 Stat. 741, as amended; 43 U.S.C. 869 et seq., as the result of the filing of Application A 17979 by the Maricopa County Flood Control District. The land will continue to be segregated from settlement, sale, location, or entry under the public land laws, including the mining laws (30 U.S.C. Ch. 2), but not the mineral leasing laws.

Any questions concerning these lands should be directed to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027, telephone number (602) 863-4464.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-17683 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-32-M

[A-19365]

Arizona; Proposed Withdrawal and Reservation of Public Lands; Correction

In FR Doc. 85-14347 appearing at pages 24947-48 in the issue of Friday, June 14, 1985, third column, third line under T. 2 N., R. 22 W., is corrected to read:

Sec. 19, E½NE¼, SW¼NE¼, SE¼.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

July 19, 1985.

[FR Doc. 85-17682 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-32-M

Colorado; Canon City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Canon City District Advisory Council will be held on Wednesday and Thursday, August 21 and 22, 1985. The council will meet from 1 p.m. to 5 p.m. on August 21, at the Holiday Inn, 333 Santa Fe Avenue in Alamosa, Colorado. A field trip will be conducted on August 22, departing the Holiday Inn at 8 a.m to view mining activities and range management issues on public lands. The tour will conclude at approximately 2 p.m. The public is invited to participate on the tour but must arrange their own transportation. The meeting agenda will include:

1. Protested decisions in the Northwest Resources Area Resource Management Plan/Environmental Impact Statement.
2. Proposed BLM-FS Interchange.
3. Northeast Resource Area Special Review of Realty actions.
4. Fire Management
5. Budget outlook for the 1986 fiscal year.
6. Reports by Area Managers on current programs.
7. Public presentations to the Council (open invitation).

The meeting is open to the public. Persons interested may make oral presentations to the Council between 1:30 p.m. and 2:30 p.m. Wednesday, August 21, 1985 or they may file written statements for the Council's consideration.

The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

ADDRESS: Anyone wishing to make a presentation to the Council orally or in writing are requested to notify the District Manager, Bureau of Land Management, P.O. Box 311, 3080 East Main, Canon City, Colorado 81212 by August 19, 1985.

SUPPLEMENTARY INFORMATION: Summary minutes of the meeting will be available for public inspection and reproduction during regular working hours at the District Office approximately 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Glenn Wallace, (303) 275-0631.

Donnie R. Sparks,

District Manager.

[FR Doc. 85-17687 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-JB-M

New Mexico; Filing of Plat of Survey

July 15,1985.

The plats of survey described below were officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on July 15, 1985.

The survey of the Santa Cruz Spring Tract in Townships 15, 16 and 17 North, ranges 6 and 7 East, New Mexico Principal Meridian, New Mexico, under Group 842 NM.

This survey was requested by the Area Director, Bureau of Indian Affairs, Albuquerque, New Mexico.

The plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-17684 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-FB-M

New Mexico; Filing of Plat of Survey

July 18, 1985.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on July 18, 1985.

The dependent resurvey of a portion of the Seventh Standard Parallel North, in Range 12 West, a portion of the subdivisional lines and the subdivision of sections 26 and 35, Township 29 North, Range 12 West, New Mexico Principal Meridian, New Mexico, under Group 831 NM.

This survey was requested by the District Manager, Albuquerque, New Mexico.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 85-17685 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-FB-M

Idaho Falls District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Meeting of the Idaho Falls District Grazing Advisory Board.

SUMMARY: The Idaho Falls District Grazing Advisory Board will meet Thursday, August 29, 1985. Notice of this meeting is in accordance with Pub. L. 92-463. The meeting will begin at 9 a.m., at the Idaho Falls BLM Office, 940 Lincoln Road in Idaho Falls. The meeting is open to the public; public comments on agenda items will be accepted from 11:00 to 11:45 a.m.

Agenda items for the meeting include:

1. Idaho Falls District activities update.
2. Discussion and Decisions on 1986 Range Projects.
3. A review of the Big Butte, Blizzard Mt. and Elbow Allotment Management Plans.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) within 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: O'dell A. Frandsen, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401; Telephone: (208) 529-1020.

O'dell A. Frandsen,

District Manager.

July 19, 1985.

[FR Doc. 85-17678 Filed 7-24-85; 8:45 am]

BILLING CODE 4310-GG-M

Realty Action; Non-Competitive Sale of Public Land in Baxter County, AR

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice of Realty Action—Non-competitive Sale, Public Lands, Baxter County, Arkansas.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale under the provisions of section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than fair market value. The appraised fair market value will be available no less than 30 days prior to sale date.

5th Principle Meridian

T. 20 N., R. 12 W.,
Sec. 10, W½, W½, SW¼, NW¼, NE¼, SE¼.

The described land aggregate .625 acres in Baxter County, Arkansas.

The land is being offered as a direct sale to the adjacent landowner. Sale of this land will not occur until at least 60 days after the date of this notice. The subject land is located in northern Arkansas in Baxter County. The land is a small isolated parcel not suitable for management by other Federal agencies.

The land is difficult and uneconomic for the Bureau to manage. The proposed sale is consistent with the Bureau's planning system. Terms and conditions: The terms and conditions applicable to the sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, or remove same under applicable law and regulations;

2. The sale of these lands will be subject to all valid existing rights and reservations of record.

Publication of this Notice will segregate the subject land from all appropriations under the public land laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent, or 18 months from the date of this Notice, or upon publication of a Notice of Termination.

Detailed information concerning the sale, including the environmental assessment and land report, is available for review at the BLM office listed below.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the District Manager, Jackson District Office, P.O. Box 11348, Jackson, Mississippi 39213. Comments will be evaluated by the District Manager, who may vacate or modify this Realty Action. Telephone: (601) 960–4405.

Donald L. Libbey,

District Manager.

[FR Doc. 85–17680 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–PP–M

[A–20346–D]

Realty Action; Exchange of Public Lands, Apache County, AZ

Correction

In FR Doc. 85–10051 beginning on page 16360 in the issue of Thursday, April 25, 1985, make the following corrections:

1. On page 16360, in the second column, in T. 11 N., R. 28 E., Sec. 18, "lots 3" should read "lot 3".

2. On the same page, in the same column, in T. 12 N., R. 29 E., in Sec. 12, in the second line, "SE¼SE¼" should read "SE¼SW¼"; and in Sec. 21, at the top of the third column, in the second line, "W½SE¼" should read "W½SW¼".

BILLING CODE 1505–01–M

[A 20236]

Noncompetitive Sale—Public Land in Gila County, AZ

Correction

In FR Doc. 85–15306 appearing on page 26413 in the issue of Wednesday, June 26, 1985, make the following corrections:

1. The Postal Service abbreviation for Arizona in the leading is corrected to read "AZ".

2. In the third column, in the eighth line, "near" should read "year".

BILLING CODE 1505–01–M

[U–54549, U–54550, U–54551]

Sale of Public Lands in Washington County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under Section 203 of the Federal Land Policy and Management Act of 1976 (43 USC 1713) public land described as follows is proposed for sale by competitive bidding at no less than the appraised fair market value:

Legal description	Acres	Appraised value	Parcel
T. 37 S., R. 16 W., SLB&M			
Sec. 3, NE¼SE¼, S½SE¼	120	$12,000	1
Sec. 8:			
NE¼NE¼	40	10,000	2
SW¼NE¼	40	10,000	3
SE¼NE¼	40	10,000	4
Sec. 9, NW¼NW¼	40	10,000	5
Sec. 10, W½NW¼	80	14,000	6
Sec. 10, N½NE¼, SE¼NE¼	120	12,000	7
Sec. 11, NW¼	160	16,000	8
Total acres	640		

The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

DATES: Comments should be submitted to the address listed below by September 16, 1985. The sale will be held on September 24, 1985 at 10:00 a.m.

ADDRESS: Detailed information concerning the sale, including bidding procedures, is available at the Beaver River Resource Area Office, 444 South Main, Cedar City, Utah 84720 (801) 586–2458. The sale will be held at the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.

2. There is reserved to the United States, a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 USC 945.

3. Title transfer will be subject to valid existing rights.

4. Pursuant to CFR 2711.1–3, the sale of parcels 1, 7 and 8 will be conditioned upon continued grazing by the current permittee (Alma Holt) until February 28, 1989, which is the expiration date of this current grazing permit.

5. If the tract of public land is not sold pursuant to this notice, it will remain available for sale on a continuing basis until sold or until withdrawn from the market.

Any comments or objections received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Dated: July 18, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85–17679 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–DQ–M

[AA–6661–A, AA–6661–B, AA–6661–D]

Alaska Native Claims Selections

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Eklutna, Inc. for approximately 11,605 acres. The lands involved are:

Seward Meridian, Alaska

T. 16 N., R. 1 E.
T. 16 N., R. 2 E.
T. 16 N., R. 1 W.
T. 14 N., R. 2 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 26, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–17662 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–JA–M

[AA–6652–J]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, will be issued to Far West, Inc. for approximately 3,360 acres. The lands involved are in the vicinity of Chignik.

Seward Meridian, Alaska (Unsurveyed)

T. 47 S., R. 57 W.
T. 42 S., R. 58 W.
T. 42 S., R. 59 W.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the *Anchorage Times*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 26, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–17663 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–JA–M

[AA–6655–A2]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Chignik River Limited for approximately 1,280 acres. The lands involved are in the vicinity of Chignik Lake.

Seward Meridian, Alaska (Unsurveyed)

T. 44 S., R. 61 W.
T. 46 S., R. 61 W.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the *Anchorage Daily News*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 26, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–17664 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–JA–M

[F–14851–J, F–14851–K]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, will be issued to NANA Regional Corporation, Inc., successor in interest to Deering Ipnatchiak Corporation for approximately 3,015 acres. The lands involved are in the vicinity of Deering.

Kateel River Meridian, Alaska (Surveyed)

T. 8 N., R. 17 W.
T. 8 N., R. 18 W.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the *Tundra Times*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 26, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–17665 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–JA–M

[C–10–85]

California; Notice of Filing of Plat of Survey

July 11, 1985.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Calaveras County

T. 6 N., R. 14 E.

2. This supplemental plat of the N½, sec. 32, T. 6 N., R. 14 E., Mount Diablo Meridian, California, showing amended lottings, created by the cancellation of the mineral segregation surveys of the Fox Quartz Claim, the South Extension Q.C. lodes and the Good Luck lode of M.S. 6519, is based upon the plat approved December 10, 1923, the plat accepted April 27, 1939, and the mineral survey record, was accepted May 29, 1985.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

VOL 50 ISS 143 JL 25 1985 UMI

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85–17677 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–40–M

Minerals Management Service

Approval of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following revised Outer Continental Shelf Official Protraction Diagrams, approved on the dates indicated, are available at the Minerals Management Service, Pacific OCS Region, Los Angeles, California. In accordance with Title 30, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic area represented.

OUTER CONTINENTAL SHELF PROTRACTION DIAGRAMS

Description	Revised Date
Channel Islands Area, CA.:	
Map No. 6A	Oct. 25, 1984.
Map No. 6B	Do.
Map No. 6C	Do.
Map No. 6D	Do.
Map No. 6E	Do.
NI 11–10, San Clemente	Feb. 8, 1985.

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Public Information Room, Attn: Frieda Star, Minerals Management Service, Pacific OCS Region, 1340 West Sixth Street, Los Angeles, CA 90017. Checks or money orders should be made payable to the Department of the Interior—Minerals Management Service.

William E. Grant,

Regional Director.

[FR Doc. 85–17635 Filed 7–25–85; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of information collection: The proposed information collection is for use by the Commission in connection with investigation No. 332–216, Competitive Assessment of the U.S. Forging Industry, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

SUMMARY OF PROPOSALS:

(1) Number of forms submitted: three
(2) Title of form: Competitive Assessment of the U.S. Forging Industry—Questionaries for U.S. Producers, Importers, and Purchasers
(3) Type of request: new
(4) Frequency of use: nonrecurring
(5) Description of respondents: firms which produce, import, or purchase forged products
(6) Estimated number of respondents: 364
(7) Estimated total number of hours to complete the forms: 9,060
(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional information or comment: Copies of the proposed form and supporting documents may be obtained from Dennis Rapkins, (USITC, tel. no. 202–523–0438). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: Francine Picoult, Office of Information and Regulatory Affairs, Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent within two weeks of the date this notice appears in the **Federal Register**. Ms. Picoult's telephone number is 202–395–7231. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436).

By order of the Commission.

Issued: July 22, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–17700 Filed 7–24–85; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 151X)]

Seaboard System Railroad Co.; Abandonment Exemption in Claiborne County, TN; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon approximately 2.50 miles of rail line between mileposts CV–220.00 and CV–222.50, near Cumberland Gap in Claiborne County, TN.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that no overhead traffic moves over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective August 24, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by August 5, 1985 and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by August 14, 1985 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, Seaboard System Railroad, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: July 16, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85–17630 Filed 7–24–85; 8:45 am]

BILLING CODE 7035–01–M

Agency Information Collection Activities Under OMB Review

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275–6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Revision
Bureau/Office: Bureau of Accounts
Title of Form: Record Retention Regulations
OMB Form No.: 3120–0121
Agency Form No.: None
Frequency: Record Keeping (no report due)
Respondents: Record keeping requirements of large carriers
No. of Respondents: 3,398
Total Burden Hrs.: 33,980

James H. Bayne,

Secretary.

[FR Doc. 85–17629 Filed 7–24–85; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30639 (Sub-No. 1)]

Louisiana & Arkansas Railway Co.; Construction Exemption in Jefferson Parish, LA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the Lousiana & Arkansas Railway Company from the requirements of 49 U.S.C. 10901 in connection with the construction and operation of a line of railroad and connecting tracks in Jefferson Parish, LA.

DATES: This exemption is effective on July 24, 1985. Petitions to reopen must be filed by August 13, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30639 (Sub-No. 1) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's Representative: William J. Wochner, 301 W. 11th Street, Kansas City, MO 64105.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write toT.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll-free (800)–424–5403.

Decided: July 10, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85–17628 Filed 7–24–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 8–85]

Privacy Act of 1974; Notice of a Modified System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Legal Policy, Department of Justice, will modify a system of records last published on December 9, 1981, in **Federal Register** Volume 46, page 60333, and identified as the "United States Judges Record System, JUSTICE/OLP–002." Specifically, the Office of Legal Policy proposes to add new routine uses.

The new routine uses will permit disclosure to members of the judicial branch of the Federal Government; to any civil or criminal law enforcement authorities; to officials and employees of the White House or any Federal agency; to Federal, State, and local licensing agencies or associations; and in a proceeding before a court or adjudicative body. The new routine uses, which are more fully described in the system notice reprinted below, have been italicized for public convenience.

Address and submit any comments to Thomas F. O'Leary, Assistant Director, General Services Staff, Room 6314, Justice Management Division, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530 by August 26, 1985.

Since the new routine uses are compatible with the purposes for which this system is maintained, the Department will not be submitting a report to the Office of Management and Budget and the Congress.

Dated: May 20, 1985.

W. Lawrence Wallace,

Acting Assistant Attorney General for Administration.

JUSTICE/OLP–002

SYSTEM NAME:

United States Judges Records System

SYSTEM LOCATION:

Office of the Legal Policy United States Department of Justice: 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system encompasses every United States Judge except those appointed to the United States Court of Military Appeals and Tax Court.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of records folders which may contain up to five sections. The personnel section contains general, personnel-type information and includes such items as biographical sketches, oaths of office, copies of commissions, nomination letter, qualifications statements, letters of recommendation, and copies of notification of appointment. The character section contains completed or portions of on-going background investigations and matters related thereto. The Congressional section contains Congressional and other political type recommendations regarding appointment. The complaint section contains correspondence from individuals or groups complaining about officer holders. The protest section contains correspondence, if any exists, protesting the appointment of candidates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are maintained pursuant to 5 U.S.C 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Generally, these records are used only for internal Department of Justice purposes. Prior to appointment, routine uses would include those specified for the Presidential Appointee Candidate Record System.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of

VOL 50 ISS 143 JL 25 1985 UMI

a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use of the National Archives and records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Release of information to the Judicial Branch of the Federal Government: Information may disclosed to members of the judicial Branch of the Federal Government in response to a specific request where disclosure appears relevant to the authorized function of the recipient judicial office of the court.

Release of information to civil or criminal law enforcement agencies: Information may be disclosed to any civil or criminal law enforcement agency, whether Federal, State, local, or foreign, which requires information relevant to a civil or criminal investigation.

Release of information to agencies regarding the hiring or retention of employees: Information may be disclosed to officials and employees of the White House or any Federal agency which requires information relevant to an agency decision concerning the hiring, appointment, or retention of an employee; the issuance of a security clearance; the execution of a security or suitability investigation; the classification of a job; or the issuance of a grant or benefit.

Release of information to Federal, State, and local licensing agencies: Information may be disclosed to Federal, State, and local licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

Release of information before a court or adjudicative body: Information may be disclosed in a proceeding before a court or adjudicative body before which the Office of Legal Policy is authorized to appear when (a) the Office of Legal Policy, or any subdivision thereof, or (b) any employee of the Office of Legal Policy in his or her official capacity, or (c) any employee of the Office of Legal Policy in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (d) the United States, where the Office of Legal Policy determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the Office of Legal Policy to be arguably relevant to the litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in paper folders.

RETRIEVABILITY:

Information is retrieved by use of the name of the judge, as these records are filed alphabetically.

SAFEGUARDS:

These records are maintained in cabinets stored in a locked room.

RETENTION AND DISPOSAL:

The personnel section of the folders of United States Supreme Court Judges are sent to the National Archives upon the death of the judge. All other sections are retained indefinitely as are the entire records folders of all other United States Judges.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Office of Legal Policy, United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address all inquiries to the System Manager. These records will be exempted from subsections (d)(1) and (e)(1) of section 552a, Title 5, United States Code, by the Attorney General under the authority of 5 U.S.C. 552a(k)(5) to the extent therein permitted.

RECORD ACCESS PROCEDURES:

A request for access to non-exempt portions of records from this system should be directed orally or in writing to the System Manager. When requests are in writing, the envelope and letter should be marked 'Privacy Access Request.'

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Non-exempt sources of information contained in this system include the general public, organizations, associations, the subjects of the records themselves, government agencies as appropriate, and other interested parties.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

[FR Doc. 85-17674 Filed 7-24-85; 8:45 am]

BILLING CODE 4410-01-M

Office of Juvenile Justice and Delinquency Prevention

Missing Children's Assistance Act Final Program Priorities

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of final program, Priorities for Missing Children's Assistance Act.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing its final program priorities for making grants and contracts under the Missing Children's Assistance Act, Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974, for Fiscal Year 1985.

FOR FURTHER INFORMATION CONTACT: Michelle Easton, Coordinator, Missing Children's Program, Office of Juvenile Justice and Deliquency Prevention, 633 Indiana Avenue NW., 20531, (202) 724-7655.

SUPPLEMENTARY INFORMATION:

Responsibility for establishing annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 406 of the Missing Children's Assistance Act rests with the Administrator of the Office of Juvenile Justice and Deliquency Prevention. As required by the Act, the Administrator announced his proposed program priorities on May 10, 1985, and accepted public comments on these priorities for sixty days. The proposed funding priorities were established as required by the Missing Children's Assistance Act, in consultation with the Missing Children's Advisory Board appointed by the Attorney General. The Administrator is now announcing the establishment of the final Funding priorities.

The final Funding priorities follow:

1. National Incidence Study to Determine the Numbers of Missing Children. This study will attempt to determine for a given year the number of children reported missing. This will include children who are missing because they are victims of abductions, including victims of stranger abductions, victims of parental abductions, and other kinds of abductions. The study will also attempt to determine the number of children who are missing because they are runaways, because they are "throwaways", because their whereabouts are unkown to their legal custodians for even a short period of time, or for other reasons. The study will also attempt to determine how many of these types of missing children are recovered each year.

2. National Study of Law Enforcement Agencies Policies and Practices regarding Missing Children and Homeless Youth.

This will be a comprehensive national study of Law Enforcement Agencies' Practices used to handle missing and homeless children cases.

The study is designed to identify the most effective police methods of handling reports, investigations and follow up on missing and homeless children, and to complement other forthcoming initiatives in the Missing Children's Assistance Act Programs.

3. Assistance to the Federal Law Enforcement Training Center at Glynco for a Training Program for Handling Missing and Exploited Children Cases.

Funds from the Missing Children's Assistance Act appropriation will be used to assist in the development of the curriculum on missing and exploited children taught at Glynco. Model investigative practices for law enforcement officers will be taught at Glynco with an emphasis on sighting specific police department examples of successful applications.

4. Research.

The following three areas will be explored:

A. The relationship between missing and abducted children and sexual exploitation.

B. The psychological consequences of abduction and sexual exploitation.

C. The child victim as witness.

After a thorough assessment of the research that currently exists, the research that is currently being done and the research that is being planned, specific projects in these areas will be announced.

Addition to Proposed Funding Priorities

5. Training Program for Practitioners Involved with missing and exploited children.

This program will be designed to educate and train practitioners in community agencies, institutions and organizations on all aspects of the issue of Missing and Exploited Children.

6. Assistance to State Clearinghouses for Missing and Exploited Children.

This program will provide a small amount of funds to states which have legislatively established state operated clearinghouses. These will be small one time awards for two years, designed to encourage states to establish clearinghouses and to operate data collection systems in a uniform manner. Compilation of accurate and relevant statistics and cooperation with the National Center for Missing and Exploited Children and other OJJDP-sponsored research initiatives will be among the responsibilities required of those states which receive the Federal assistance.

7. Assistance to Private Voluntary Organizations.

This will be a competition designed to award one-time grants to nonprofit private organizations working on the issue of missing and exploited children. These are groups that are engaged in education activities, prevention activities, information dissemination activities, materials collection activities and other activities related to Missing and Exploited Children.

Deletion from Proposed Funding Priorities

Deleted from the Proposed Funding Priorities published on May 10, 1985 is technical assistance to private voluntary organizations for their operation and management. This assistance will not be funded by the Administrator under the authority of section 406(a) of The Missing Children's Assistance Act but rather under section 404(b) of the Missing Children's Assistance Act and therefore is no longer listed as a Funding priority for purposes of the notice.

Discussion of Comments

The proposed Program Priorities for the Missing Children's Assistance Act were published in the Federal Register on May 10, 1985 (50 FR 19817). Written comments were received from some 25 National, Regional, and Local organizations and individuals within the 60 day comment period. All comments have been considered by the OJJDP in the issuance of these final program priorities. A majority of the respondents commented very favorably upon the proposed priorities.

The following is a summary of the substantive comments and the response by OJJDP.

1. National Incidence Study

The comments about this study were very positive. Several commentators stressed the importance of clearly defining, delineating and identifying the various types and categories of missing children prior to undertaking the survey.

Responses: OJJDP intends to carefully consider and evaluate all aspects of the design of the Incidence Study prior to the start of the study. OJJDP will seek expert advice on the many involved in doing this study including: sampling design and procedures which will maximize chances of locating an incident and from which reliable national estimates of the incidence and prevalence of missing children in the population can be developed, best methods for the implementation of the survey; legal and ethical issues to consider in the administration of the survey; as well as more precise definitions of the categories of missing children.

2. Law Enforcement Assistance

Comment: One commentator was concerned that law enforcement agencies do not keep much information on runway children, and that such information is kept informally rather than entered into computer data bases.

Response: The nature of information law enforcement agencies keep on runaways and how they keep it is one of the items that the national study of law enforcement policies and practices will determine. To date no such national survey has been conducted of the law enforcement role in identification, location and recovery of missing children. The statutory definition of missing children is interpreted to include runaway children since they are assumed to be a risk of exploitation. By focusing primarily on local law enforcement agencies practices for handling missing children (including runaways, homeless youth, parental abduction and kidnapping, stranger abduction and kidnapping, potential accident victims, lost children, and others,) we anticipate having for the first time empirically-based information which can be used in formulating recommendations for improvements in police practices.

Comments: Several commentators noted that in addition to the information the police practices survey will be

VOL 50 ISS 143 JL 25 1985 UMI

gathering, there is also a need for more training of law enforcement in handling of missing and exploited children cases.

OJJDP had added to the Funding priorities the training of practitioners involved in the issue of missing and exploited children. This is listed above as Funding Priority 5.

3. Research

Comments: Several commentators mentioned areas within the three general research areas listed in the proposed Funding priorities on which they believe OJJDP should concentrate.

Response: OJJDP is currently conducting assessments of research currently being done, research that has already been completed, and research planned in order to determine the appropriate focus and research strategy for each of the three funding priority areas. Public comments on the proposed funding priorities are being carefully considered now, and will be considered concurrently with the results of the assessments.

Comment: Several commentators expressed concern the OJJDP coordinate with other federal agencies in order in minimize the possibility of duplication in areas of research.

Response: OJJDP assessments of research in the three designated areas are intended to insure that new research builds on previous studies; to eliminate the possibility of such duplication, and to maximize opportunities for collaboration.

4. Technical Assistance to PVO's

The Administrator has determined that technical assistance to Private Voluntary Organizations will not be a Funding priority under section 406 (a) of the Missing Children's Assistance Act. The Adminstrator intends to fund such a technical assistance program under section 404 (b) of the Missing Children's Assistance Act.

Comments: Several commentators expressed concern that assistance to private organizations would be given only in the form of technical assistance rather than through grants.

Response: The Administrator has added a funding priority of grant assistance to private voluntary organizations. This is listed above as Funding priority number 7.

5. Other Comments on Proposed Funding Priorities

Comments: Several commentators was concerned that the proposed priorities did not address prevention/education programs.

Response: The final priorities listed above include State Clearinghouses, grants to private voluntary organizations, as well as training programs and will have a substantial impact in the prevention/education area.

Comments: Several commentators expressed concern that the proposed Funding priorities did not address specifically enough issues regarding runaways, throwaways, homeless youth and street youth.

Response: Title III of the OJJFP Act addresses this population. In addition the statutory definition of missing children in section 403 of the Missing Children's Assistance Act covers in large part the above listed categories of missing children. Consequently where appropriate, a project or program for missing children will include these categories of missing children.

Dated: July 18, 1985.

Approved:

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 85-17653 Filed 7-24-85; 8:45 am]

BILLING CODE 4410-18-M

National Study of Law Enforcement Agencies' Policies and Practices Regarding Missing Children and Homeless Youth

AGENCY: Office of Juvenile Justice and Deliquency Prevention (OJJDP), Justice.

ACTION: Notice of reissuance of solicitation for applications originally issued on June 14, 1985, (Vol. 50 FR 24915), to conduct a comprehensive national study of law enforcement agencies' practices regarding the handling of missing children and homeless youth. This study is being undertaken in order to guide future training, technical assistance and public education programs addressing the problems of missing children and homeless youth.

SUMMARY: The Office of Juvenile Justice and Deliquency Prevention (OJJDP), pursuant to sections 404(b)(3) and 406(a)(5) of the Juvenile Justice and Deliquency Prevention Act of 1974, as amended, is sponsoring a comprehensive national study of law enforcement agencies' policies and procedures for handling reports of missing children and for identifying and recovering children and youth who may be missing, or, homeless and at risk of exploitation.

Public agencies and *private not-for-profit* organizations which can demonstrate the capability to design and carry out this study are invited to submit applications to enter into a cooperative agreement with the OJJDP.

OJJDP will select the applicant which presents the most cost effective and innovative approach, and which best demonstrates the organizational capability, knowledge of and experience in the field of applied research in the area of law enforcement policy and research relating to missing children. The project period is for up to twenty-four months, during which three distinct surveys of law enforcement practices will be conducted. Applicants are invited to present alternative design strategies to that proposed in this solicitation. Applicants are encouraged to present cost-competitive proposals.

Summary of changes: Pursuant to statutory provisions (section 406(a)) which restrict the Administrator from making grants to or entering into contracts with profit-making organizations, such organizations are not eligible to be primary recipients of this cooperative agreement. Participation by profit-making organizations is permissible only as contractors to other eligible applicants, provided that adequate justification for their involvement be presented.

The project period has been extended from eighteen months up to twenty-four months and time frames have been modified to reflect this change. The budget amount has been eliminated to encourage the submission of comprehensive, cost-competitive proposals. The deadlines for submission of applications has been extended to August 30, 1985, and for receipt of letters of intent from those still intending to submit applications is August 9, 1985.

I. Introduction and Background

The problem of missing children has become a focus of national concern because it is a problem of national proportions. It is estimated that hundreds of thousands of children are missing from their homes each year for varying periods of time. While most of these children eventually return home, many become victims of physical or sexual abuse and in some cases even homicide.

The U.S. Congress took important steps to address this problem by passing the Missing Children Act in 1982 and, in 1984, the Missing Children's Assistance Act Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. In June 1984, the National Center for Missing and Exploited Children (NCMEC) was established as part of the Federal government's commitment to the issue of missing children.

The NCMEC serves as a clearinghouse of information and assistance concerning missing children and the criminal and sexual exploitation of children. Nationwide awareness campaigns are conducted to let families know what to do if a child is missing. Through its toll free number (1-800-843-5678), the Center helps coordinate information on missing and exploited children, which may lead to the location and recovery of a missing child. The Center is linked to the FBI's National Crime Information Center's Missing Person File (NCIC/MPF). The Center also provides training for law enforcement personnel to assist them in recognizing when a runaway is a victim of abuse, and how to obtain help for that child. It helps law enforcement agencies to understand the link between the runaway child and the crimes of theft, drug abuse, prostitution and pornography.

In order to maximize the effectiveness of the Missing Children's Act and the National Center for Missing and Exploited Children, it is necessary to overcome some of the prevalent problems facing national efforts of law enforcement, citizen groups and private organizations in responding to the problem. The following impediments present significant challenges in understanding the nature and extent of the problem itself and identification of effective strategies to respond to it:

1. Fragmented and incomplete sources of information on missing children nationwide;
2. Lack of uniformity in defining "missing children" for purposes of law enforcement intervention;
3. Inconsistencies within and across jurisdictions in term of follow-up of particular missing children cases such as parental kidnapping, runaways and homeless youth; and
4. Lack of profiles on the types of missing children themselves, the circumstances of their disappearance, and their experiences while missing.

II. Research Strategy

In response to the Congressional mandate to establish annual research, demonstration and service strategies for making grants and contracts pursuant to section 406 of the Missing Children's Assistance Act, the Administrator of the OJJDP has established program priorities which have been announced in this edition of the Federal Register.

A. Overall Strategy

This solicitation to conduct a National Study of Law Enforcement Agencies Policies and Practices for Handling Missing Children and Homeless Youth is the first component of this comprehensive strategy of research, program development and technical assistance. It is intended to identify the most effective police methods of handling reports, investigations and follow-up and to complement other initiatives that are forthcoming.

The other major research projects include:

1. National Incidence Study to Determine the Actual Numbers of Missing Children. This will study determine for a given year the number of children under the age of 18 who are reported missing, including the numbers of such children who are victims of abductions by strangers, parental kidnappings and the number of children who are recovered each year. It will also determine the number of children whose whereabouts are unknown to their legal custodians because they are runaways, or missing for other reasons. It is anticipated that this effort, which will survey households, will gather important data regarding the numbers and characteristics of all incidents of missing children—both those reported and unreported—and should provide valuable information on the circumstances and the duration of the absences, the child's experience, and assistance to the youth and family.

2. The Relationship between Missing and Abducted Children and Sexual Exploitation. Following an assessment of the literature on sexual exploitation of children, a research project will be undertaken to gather more factual information of the correlation between missing children and their risk of sexual exploitation and its consequences.

3. Psychological Consequences of Abduction and Sexual Exploitation of Children. Research is needed in this area to identify effective methods for treating children who have been victims of abduction and sexual exploitation and for helping the parents and child return to normalcy after the event.

4. The Child Victim as Witness. Children are serving more frequently as witnesses in trials of their accused abductors and abusers. Research is needed on the effectiveness of children as witnesses, the negative effects of the proceeding on children as well as other aspects of the child victim as witness.

B. Proposed Strategy for the National Study of Law Enforcement Agencies' Policies and Practices for Handling Missing Children and Homeless Youth

The following *proposed* research strategy for conducting the National Study of Law Enforcement Agencies' Policies and Practices for Handling Missing Children and Homeless Youth is offered as one potential means for accomplishing the goals and objectives of this research (See section III of the solicitation.) Applicants are invited to present alternative strategies which promise to achieve the objective of the research. Therefore, where specific numbers of sites or cases are proposed herein, applicants should comment on the feasibility and suitability of these target numbers and, if needed, offer viable alternatives which will enhance the likelihood of getting reliable, comprehensive and representative information within the timeframes and resource limitations of the project

The Law Enforcement Study is designed to be conducted in three sequential phases.

Phase I: Phase I will begin with a national mail survey which will provide the broadest geographic coverage but the least level of detail on actual law enforcement practices. In this phase it is anticipated that a nationally representative sample of *at least 500* full service law enforcement agencies will be selected for survey. The types of information to be gathered are discussed below in section III.A. of this solicitation. The results of this phase will serve two purposes: to provide general descriptive data on law enforcement policies, procedures and preliminary estimates of the numbers of reported missing children's cases; and, to guide the selection of jurisdictions in subsequent phases of the research. Applicants will be asked to identify types of questions that would yield productive information in this phase of the research.

Phase II: The second phase should begin by the ninth month of the project period. This phase will consist of on-site interviews with personnel from *up to* 100 law enforcement agencies in the initial sample. The second sample of agencies should be chosen to reflect a wide range of police practices, geographic characteristics and rates of missing children reports based upon the initial data from Phase I. The specific kinds of information sought in this phase, are outlined in section III.B., and will be more detailed than the first phase. For successful implementation of this phase two major considerations need to be addressed in the application: (1) The ability of the interviewer to obtain both cooperation from the department and reliable data on actual practices; and (2) the need to develop data collection instruments that capture actual practices within the juridiction and allow for cross-jurisdictional comparison of decision-making.

VOL 50 ISS 143 JL 25 1985 UMI

Phase III: While the focus of Phases I and II is almost exclusively the law enforcement agency and its practices, Phase III will focus on the missing children cases themselves within the context of the operating policies and procedures. Ten law enforcement jurisdictions will be selected for participation in the study. This phase will involve intensive case-tracking of all calls and reports of missing children, regardless of whether a call meets the operational criteria for an official investigation. For example, a call which involves a report by a parent that a 13 year old son has been missing for eight hours and whose whereabouts is unknown would become part of the data base for follow-up. Even if there is a 24-hour requirement for police intervention in such cases, this case would be followed to determine the eventual return of the youth and circumstances surrounding his disappearance and recovery. The purpose of this component is to provide documentation on all cases reported to the police and to establish profiles of youth and their experience. Interviews with families and the youth are expected to build a systematic, prospective data base on missing children cases. This component will be designed to complement data collection of the National Incidence Study described in section II.A. It will also be correlated with survey efforts by the Department of Health and Human Services, Administration for Children, Youth and Families, of its Runaway and Homeless Youth Program.

It is anticipated that the ten jurisdictions will be identified and case tracking will commence *no later* than Spring of 1987 and continue to allow for sufficient time to elapse (up to six months) to follow at least two hundred cases per jurisdiction. The type of information to be gathered is outlined in section III C. of the solicitation. Of critical importance to this phase is the cooperation and commitment of the local law enforcement agencies selected and the persons involved in on-site data collection. Applicants will be asked to address this issue in their proposal.

A major factor in studying law enforcement agencies' practices through the methods described above is the sensitivity of jurisdictions regarding the identity of the agency and the individuals and families cooperating with the research. It is the position of this agency that all questionnaires, interviews and other data gathered from law enforcement agencies through this study will remain confidential. Reports on the results will be written so as not to divulge the sources of specific location of information. Those agencies that have been identified as having exemplarly policies and procedures, community relations, training and other programs will be the only exceptions to this policy. These will be so noted only with the expressed permission of the appropriate executive official in the jurisdiction. Data collected on individual subjects of research, such as missing children and family members are subject to 28 CFR Part 22 Confidentiality of Identifiable Research and Statistical Information.

III. Program Goals and Objectives

Goals of the National Study are: To systematically describe the role of law enforcement agencies both in responding to reports of missing children and in the identification and recovery of these children. This comprehensive national study will focus primarily on local law enforcement agencies' practices including their utilization of state and federal information resources such as the National Crime Information Center/ Missing Persons File (NCIC/MPF) and the Unidentified Deceased File (UDF). The scope of the study includes law enforcement's handling of all categories of missing children as well as homeless youth. It is expected that the knowledge gained from this study will contribute to our understanding of the extent and nature of the problem of missing children nationwide and to help identify effective responses at the Federal, State and local level to missing children and homeless youth.

Objectives: To achieve these goals several objectives have been identified which are specifically related to the three components of the study which will be carried out in sequential phases.

A. Phase I: National Mail Survey of 500 Law Enforcement Agencies

1. To document and describe existing policies and practices of law enforcement agencies with respect to handling reports of missing children, particularly in the area of record keeping—i.e., classification; definitions; recording, case management and validation procedures; reporting to other agencies, etc.

2. To identify operational criteria for (1) classification of missing children reports; and (2) law enforcement responses to various categories of missing children by age and suspected reasons for the child's disappearance.

3. To estimate national incidence of the number of missing children reported to law enforcement agencies for a given year from this national representative sample of law enforcement agencies by type of case.

4. To determine the level of utilization of the Missing Persons File and the Unidentified Deceased File in the NCIC for both recording and recovery of missing children; and to determine to what extent state or local statutes or regulations mandate the use of such resources.

5. To determine the level of awareness and utilization of the National Center for Missing and Exploited Children (NCMEC) resources for reporting and seeking leads and the locating and recovery of missing children and apprehension of their abductors.

6. To identify potential impediments to law enforcements' ability to recover and return missing children to their families, particularly runaways.

a. Runaways,
b. Homeless youth,
c. Parential adbuction/kidnapping,
d. Stranger abduction/kidnapping,
e. Potential accident victims,
f. Lost children; and
g. Other.

3. To collect more detailed information on actual law enforcement practices related to the identification, location, apprehension, custody, and return of missing children (listed above), with particular attention to those runaways who apparently have not been reported missing (chronic runaways, throwaways) and homeless youth.

4. To solicit recommendations from police regarding ways in which current policies and procedures could be improved to overcome obstacles to investigation, location, recovery, etc. of missing children within and across jurisdictions.

5. To identify law enforcement agencies which have established effective working/operational relationships with other public and private sector agencies in the identification, protection and recovery of missing children.

6. To better understand the role of the missing person function within the law enforcement bureaucracy in order to improve the responsiveness of law enforcement personnel to reports of missing children; or, to improve public awareness of the limitations of the law enforcement agency's capability in responding to such reports.

The purpose of this second component is to develop a more systematic body of data on actual investigative practices along with an understanding of the reasons for such practices. This information will be very useful in the implementation of recommendations from the overall study; as well as in training and technical assistance.

C. Phase III: Intensive Case-Tracking in Ten Law Enforcement Agencies

1. To establish profiles of each of the categories of missing children in terms of:

a. Characteristics of the youth reported missing;
b. Characteristics of the event (duration, type, distance away etc.);
c. Official response and recording; and
d. Child's experience while away in terms of exploitation, protection, means of sustenance, etc.

2. To "observe" law enforcement procedures for the identification, location, protection and recovery of missing children, including the use of state and national information networks, as well as private service agencies.

The purpose of the Phase III component of the national survey is to create a multi-jurisdicitional baseline of information on all reports of missing children in selected jurisdictions for purposes of comparison with conventional wisdom in the field, and if possible, for documenting the effectiveness of various methods for achieving a high rate of safe recoveries, investigating and locating of missing children. In addition, the design of the data collection instruments for tracking and follow-up of the cases will complement those in the National Incidence Study in order to generate a large sample of comparable cases for descriptive and analytical purposes, and particularly for comparing profiles of reported and unreported cases of missing children.

IV. Major Responsibilities of the Successful Applicant

The organization selected to conduct this research project will be responsible for all aspects of the successful implementation and completion of all functions and activities of the study, whether carried out directly or contracted to other organizations or individuals, and, for the development of all products.

The successful applicant will be responsible for:

A. Activities and Functiions

1. Developing a comprehensive research design for all phases of the study project as outlined in this solicitation including:

a. Uniform definitions of terminology consistent with the legislation for all survey instruments and interviews;
b. A sampling plan for each component;
c. Data collection instruments and protocols for each;
d. Pre-testing data collection instruments and protocols; and
e. Data analysis plans.

2. Identifying criteria for the selection of the 100 interview sites and the 10 intensive case-tracking sites.

3. Funding and managing the ten intensive site's data collection efforts.

4. Collecting data on all facets of the study with specific plans for:

a. Assuring a high response rate for the national mail survey;
b. Gaining access to law enforcement personnel for Phase II onsite interviews and to records and information in Phase III.
c. Selection and training of on-site interviewers and case-tracking data collectors, and other measures to assure uniformity and quality control in the data collection process; and
d. Receipt, editing and maintaining the confidentiality of data.

5. Convening two meetings of an Advisory Group composed of not more than four experts in the fields of research, law enforcement policy development, and missing children, for the purpose of reviewing research plans and activities.

6. Preparing all quarterly financial and progress reports required by this agency.

B. Products

The following products will be developed by the research organization:

1. An advance report on the findings of the Phase I mail survey within two months of completion of the Phase I survey;

2. An advance report on the findings of the on-site Phase II interview survey within two months of the completion of the Phase II survey;

3. An advance report on the findings from Phase III within two months of the completion of the Phase III survey;

4. A comprehensive final report on the entire study within 24 months of the award date which is suitable for nationwide dissemination.

5. In addition to the specified reports, up to three special issues papers on topics to be identified in the application and developed subject to the approval of OJJDP.

6. Preparation of public use data tapes with all potential identifiers stripped, and with full documentation suitable for secondary analysis.

7. All programmatic quarterly progress reports.

As a cooperative agreement—as opposed to a grant or contact—the OJJDP will work collaboratively with the recipient and will approve major decisions throughout the course of the project including the final research design and methodology, definitions of terminology, criteria for site selection, advisory board members, subjects of topical reports, etc. Any and all sole source subcontracting in excess $10,000 (with the exception of clerical support services) by the successful applicant is subject to prior agency approval.

V. Eligibility Requirements

Applications are invited from public agencies and private not-for-profit organizations only. For-profit organizations are not eligible for funding under Title IV Missing Children's Assistance Act and therefore will not be considered for receipt of the cooperative agreement as a single applicant or as a co-applicant with another eligible organization.

Applicant organizations may choose to submit joint proposals with other organizations as long as one organization is designated in the application as the applicant and any co-applicants are designated as such. Together co-applicants must meet the eligibility requirements specified in A. and B.

The applicant must have experience in the following areas in order to be eligible for consideration:

A. Prior experience in the design and implementation of national surveys on law enforcement policies, procedures and practices; and

B. Demonstrated knowledge of the issues associated with law enforcements' handling cases of missing children, runaways, homeless youth and victimization of children in general.

The applicant must have the management and financial capability to effectively implement a project of this size and scope. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

VI. Project Period

A. *One cooperative agreement will be awarded.*

B. *The initial period for the project is up to 24 months.* Based on the need for and the availability of funds, the performance of the cooperative agreement recipient, a six months supplemental may be awarded. The funding level for the extension period would be based upon the scope of the work desired.

VII. Application Requirements

All applicants must submit a completed Standard Form 424,

VOL
50
ISS
143
JL
25
1985
UMI

Application for Federal Assistance (SF 424), including a program narrative, a detailed budget, and a budget narrative. All applications must include the following information outlined in this section VII of the solicitation in Part IV, Program Narrative of the application. The program narrative shall not exceed 70 double-spaced pages in length.

In submitting applications which contain more than one organization, the relationships among the parties must be set forth in the application. As a general rule, organizations which describe their working relationship in the development of products and the delivery of services as primarily cooperative or collaborative in nature will be considered as co-applicants. Those organizations which are primarily procuring services or products from another organization would not be considered as co-applicants. In the event of a co-applicant submission, one co-applicant must be designed as the payee to receive and disburse project funds and be responsible for the supervision and coordination of the activities of the other co-applicants. Under this arrangement each organization would agree to be jointly and severally responsible for all project funds and services. Each co-applicant must sign the SF-424 and indicate their acceptance of the conditions of joint and several responsibility with the other co-applicants.

Applications which include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $10,000.

A. Organizational Capability

Applicants must demonstrate that they are eligible to compete for this cooperative agreement on the basis of the eligibility criteria established in section V. of this solicitation.

I. Organizational Experience

Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in section V above. Applicants must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of this initiative. Applicants are invited to submit prior survey and other work products.

2. Financial Capability

In addition to the assurances provided in Part V, Assurances (SF-424), applicants must also demonstrate that their organization has or can establish fiscal controls and accounting procedures which assure that Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received federal funds will be asked to submit a copy of the Office of Justice Assistance, Research and Statistics (OJARS) Accounting System and Financial Capability Questionnaire (OJARS Form 7120/1). Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. Other applicants may be requested to submit this form. *All* questions are to be answered regardless of instructions (section C.1.b. note). The CPA certification is required *only* of those applicants who have not previously received Federal funding.

B. Realization of Research Strategy, Goals and Objectives

Applicants shall concisely present proposed strategy for conducting this study which demonstrates that it has a high probability of attaining the goals and objectives of the research within the parameter set forth in the solicitation. Applicants must demonstrate their understanding and ability to carry out the program design by providing a clear and concise Preliminary Research Design and Program Implementation Plan to carry out the functions and activities of the project. As specified in section VII.B, the Plan must address organizational, methodological, substantive, coordination, administrative and budget issues and must include the following components:

I. Preliminary Research Design

This section of the application will be the principal means for the applicant to demonstrate their substantive knowledge of survey research, law enforcement organizations, and missing children. Applicants must:

a. Present a concise discussion of the major substantive—i.e., legal, administrative, implementation, etc.—issues affecting law enforcement's response to missing children and homeless youth and how this research program can make a contribution to resolving those issues.

b. Present a preliminary research design including a discussion of sampling criteria and plans for each of the three phases of the study; identification of critical issues for consideration and inclusion in the design of the data collection instruments and protocols for each component. Applicants must specifically address the issues raised in Section II.B.

c. Discuss anticipated products and indicate how the major substantive issues addressed by this study will be incorporated in the research products.

2. Implementation Plan

Applicants shall describe how they will allocate the available resources to implement the strategy presented in their application. Applicants must develop an implementation plan which addresses the activities and functions described in section IV.A. Major Responsibilities of the Successful Applicant. The plan must include:

a. An annotated organizational chart depicting the roles and describing the responsibilities of key organizational/functional components;

b. A list of key personnel responsible for managing and implementing the three major components of the program. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. This documentation and individuals' resumes may be submitted as appendices to the application.

c. A concise discussion of the coordination, data access and administration issues related to the program design and how their proposal would address these issues.

d. A detailed time-task plan for the 24-month project period, clearly identifying major milestones. This must include designation of organizational responsibility and a schedule for the completion of the products identified in section IV.B.

C. Budget

Applicants shall provide a 24-month budget with a detailed justification for all costs, including the bases for computation of these costs. Applications submitted by Co-applicants and/or those containing contracts(s) must include detailed budget for each organization's expenses. Applicants should highlight innovative, cost-effective measures of their proposal.

VIII. Procedures and Criteria for Selection

All applications will be evaluated and rated based on the extent to which they meet the following weighted criteria. Applications will be reviewed in terms of their responsiveness to the specifications in the solicitation, their organizational capability to achieve the goals and objectives of the study, their attention to substantive issues in the design and their innovativeness in responding to strategic issues in the implementation of the study.

A. Organizational Capability (10 Points)

The extent and quality of organizational experience in the design and implementation of national studies of law enforcement policies, procedures and actual practices. Special consideration will be given to experience in research associated with the handling of missing children, runaways, homeless youth and child victimization in general.

The presence and extent of adequate fiscal controls and accounting procedures to ensure that the applicant can effectively implement a project of this size and scope, and the ensure the proper disbursal and accounting of federal funds.

B. Project Staff (15 Points)

The extent and relevance of the experience and qualifications of staff identified to manage and implement this initiative, including staff to be hired through contracts. The clarity and appropriateness of position descriptions, required qualifications and selection criterial relative to the specific functions set out in the preliminary research design and implementation plan.

C. Preliminary Research Design (35 Points)

Responsiveness of the proposal to issues related to the research strategy. Proposals will be evaluated in terms of their understanding of both the substantive issues and the goals and objectives of the study; the clarity, comprehensiveness, appropriateness and innovativeness of their preliminary research design and sampling plan for accomplishing the objectives of this initiative; and , the potential utility of research products. Particular attention will be paid to the presentation of critical issues for consideration and inclusion in the design of data collection instruments for each component. Special consideration will be given for innovative responses to the data collection issues raised in section II.B.

D. Implementation Plan (20 Points)

Appropriateness of allocation of resources to accomplish the goals and objectives of the study within the 24-month project period. Particular attention will be paid to the clarity and reasonableness of the time-task plan which identifies organizational, and individuals' roles and responsibilities for the completion of significant tasks and development of products.

E. Budget (20 Points)

Applicants must include a 24-month budget with a detailed narrative justifying the costs as specified in section VII.D. Applications will be rated based on the cost-competitiveness, completeness, reasonableness and appropriateness of the budget in relation to the tasks to be accomplished.

Applications will be evaluated by a peer review panel. The application which receives the highest total score on the above criteria will be recommended for funding to the Administrator, OJJDP, provided that required changes in the application can be successfully negotiated. The final decision will be made by the OJJDP Administrator.

IX. Deadline for Submission of Applications

One signed original and three copies of the application must be mailed or delivered to the Office of Juvenile Justice and Delniquency Prevention (OJJDP), Room 782, 633 Indiana Avenue, NW, Washington, D.C. 20531, by 5:30 p.m. on August 30, 1985. Those applications mailed to the above address must be postmarked on or before August 30, 1985 by the U.S. Postal Service. The necessary forms for applications may be obtained by writing to OJJDP. Those who have already received the original application kit do not need another one. Questions regarding the solicitation may be directed to Barbara Allen-Hagen, 202/724-5929.

A Notification of Intent to apply for this program is included in the application kit, which can be obtained at the above address. Organizations which intend to submit applications are requested to return a completed Notification of Intent to OJJDP at the above address by August 9, 1985. The submission of this notification is optional and is for the purposes of estimating the workload associated with review of applications and for notifying potential applicants of any supplemental information related to the preparation of their applications. *Those who have already indicated their intent to apply need not resubmit this form.*

X. Civil Rights Compliance

A. All recipients of OJJDP assistance, including any contractors, must comply with the non-discrimination requirements of the Juvenile Justice and Deliquency Prevention Act of 1974 as amended; Title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR Part 42, Subparts C, D, E, and G.)

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights Compliance (CRC) of the Office of Justice Programs.

C. Applicants shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under any grant award.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 85-17654 Filed 7-24-85; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Utah State Standards; Approval

I. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1973, notice was published in the Federal Register (38 FR 1178) of the approval of the Utah Plan and adoption of Subpart E to Part 1952

VOL 50 ISS 143 JL 25 1985 UMI

containing the decision. The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee coordination,

2. Publication in the Utah Bulletin, available for public review, and

3. Provision of certified copies of Rules and Regulations or Standards to the Office of the State Archivist.

OSHA regulations (29 CFR 1953.22 and 1953.23) require that states respond to the adoption of new or revised permanent federal standards by state promulgation of comparable standards within six months of OSHA publication in the **Federal Register**, and within 30 days for emergency temporary standards. Although adopted state standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in Part 1953, they are enforceable by the state prior to federal review and approval. By letter dated May 10, 1985, from Douglas J. McVey, Administrator, Utah Occupational Safety and Health Division, to Byron R. Chadwick, OSHA Regional Administrator, the state submitted rules and regulations in response to federal OSHA's Appendix B to Commercial Diving Standards (Guidelines to Scientific Diving), Subpart T of General Industry Standards (29 CFR Part 1910: Educational/Scientific Diving, 50 FR 1046–1050, January 9, 1985).

The above adoptions of federal standards have been incorporated in the State Plan, and are contained in the Utah Occupational Safety and Health Rules and Regulations for General Industry, as required by Utah Code annotated 1943, Title, 63–46–1. In addition, the standards were published in the Utah Bulletin, available for public review. No public comments were received, so no hearings were held.

State standards for 29 CFR Part 1910, Subpart T Appendix B (Guidelines to Scientific Diving), were adopted by the Industrial Commission of Utah, Archives File number 7835, and became effective on May 20, 1985 pursuant to Title 35–9–6, Utah Code annotated 1953. The state Appendix B to the Commercial Diving Standards (Guidelines for Scientific Diving) is identical to the federal standard action, with the only exception being paragraph numbering.

2. Decision

The above state standard has been reviewed and compared with the relevant federal standard, and OSHA has determined that the state standard is identical to the federal standard, and accordingly should be approved.

3. Location of Supplement for Inspection and Copying

A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; Utah State Industrial Commission, UOSHA Offices at 160 East 300 South, Salt Lake City, Utah 84111; and the Office of State Programs, Room N–3476, 200 Constitution Avenue NW, Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Utah State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of state law which permitted public comments, and further public participation would be repetitious.

This decision if effective July 25, 1985.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (U.S.C. 667)).

Signed in Denver, Colorado this 30th day of May, 1985.

Byron R. Chadwick,

Regional Administrator.

[FR Doc. 85–17658 Filed 7–24–85; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85–47]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee, Space Station Task Force.

DATE AND TIME: August 19–23, 1985, 8:30 a.m. to 5 p.m.

ADDRESS: Stanford University, Building 320, Room 320, Stanford, CA 94305.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Sade, Code E, NASA Headquarters, Washington, DC 20546 (202/453–1430).

SUPPLEMENTARY INFORMATION: The Space Station Task force was established under the NAC Space and Earth Science Advisory Committee to counsel NASA on plans for the work in progress on the scientific utilization of the new capabilities which will be afforded by the Space Station, including the relationship of these plans to the existing space science program. This advice includes periodic updates of scientific requirements on Space Station hardware and operations and interaction with contractors during the definition phase of Space Station development. The Task Force is chaired by Dr. Peter Banks and is composed of 23 other members who will meet with about 60 invited participants and certain NASA personnel.

The meeting will be open to the public up to the seating capacity of the room (approximately 150 persons, including Task Force members and invited meeting participants). Visitors will be requested to sign a visitor's register.

Type of Meeting: Open.

Agenda:

August 19, 1985

8:30 a.m.—Registration and General Welcome.
8:45 a.m.—Task Force Activities Update.
9:30 a.m.—Team Activities at Summer Study.
10:30 a.m.—Science Planning for Space Station Era.
1 p.m.—Discipline Team Meetings.
3:15 p.m.—Interdisciplinary Team Meetings.
5 p.m.—Adjourn.

August 20, 1985

8:30 a.m.—Current Space Station Status (Configuration, Evolution, Platforms, Operations).
1 p.m.—Discipline Team Meetings.
3:15 p.m.—Interdisciplinary Team Meetings.
5 p.m.—Adjourn.

August 21, 1985

8:30 a.m.—General Discussion: Small, Adoptive Science.
10:30 a.m.—Discipline Teams.
2:30 p.m.—Interdisciplinary Teams.
5 p.m.—Adjourn.

August 22, 1985

8:30 a.m.—General Discussion: Science Operations.
10:30 a.m.—Discipline Teams.
2:30 p.m.—Interdisciplinary Teams.
5 p.m.—Adjourn.

August 23, 1985

8:30 a.m.—Team Meetings.
1 p.m.—Team Presentations.
5 p.m.—Adjourn.

Dated: July 19, 1985.

Richard L. Daniels,

Deputy Director, Logistics Management, and Information Programs Division, Office of Management.

[FR Doc. 85–17609 Filed 7–24–85; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

DOE/NSF Nuclear Science Advisory Committee; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee.

Date and Time: August 9, 1985, 9:00 am–6:00 pm.

Place: Room 540, National Science Foundation, 1800 G Street NW, Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Dr. Harvey B. Willard, Head, Nuclear Science Section, National Science Foundation, Washington, D.C. 20550, 202/357–7993.

Summary Minutes: May be obtained from Ms. Susan Klear, Physics Division, National Science Foundation, Washington, D.C. 20550.

Purpose of Committee: To provide advice on a continuing basis to both DOE and NSF on the management of and long range planning for basic nuclear science in the United States.

Agenda: August 9, 1985, 9:00 am–6:00 pm. Opening remarks by the Chairman, remarks by Federal officials, report from the Solar Neutrino Subcommittee, discussion of the report, and other business.

M. Rebecca Winkler,

Committee Management Officer.

July 22, 1985.

[FR Doc. 85–17617 Filed 7–25–85; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–223 SP]

University of Lowell; Memorandum Cancelling Prehearing Conference and Terminating Proceeding

Before Administrative Judges Herbert Grossman, Chairman, Richard F. Cole, Ernest F. Hill. In the matter of University of Lowell, (Training & Research Reactor), Docket No. 50–223 SP, ASLBP No. 85–509–02 SP, July 19, 1985, memorandum and order.

On February 14, 1984, the University of Lowell (Licensee) timely filed an application for renewal of its Facility Operating License No. R–125 for an additional 30 years. The license is for the operation of a training and research reactor located on the campus of the university in Lowell, Massachusetts.

On March 29, 1985, the NRC published a notice in the **Federal Register** offering an opportunity to the Licensee and any other person whose interest might be affected by the renewal of the license to file a written petition for leave to intervene by April 29, 1985, 50 FR 12666.

By petition for leave to intervene, dated April 29, 1985, filed with the NRC, John F. Doherty sought to intervene in this proceeding. No other petitions for leave to intervene have been received.

On May 6, 1985, this Atomic Safety and Licensing Board was established to rule on petitions for leave to intervene and to preside over the proceeding in the event that a hearing is ordered. 50 FR 19827 (May 10, 1985).

We issued an Order on June 20, 1985, subsequently published in the **Federal Register**, setting a prehearing conference for August 1–2, 1985, to consider Mr. Doherty's petition. The public was invited to attend. 50 FR 26423, June 26, 1985.

Subsequently, by letter dated July 11, 1985, Mr. Doherty withdrew his petition for leave to intervene. His withdrawal leaves no petition before this Board and no issues to be heard. Consequently, there is no need or occasion for the previously scheduled prehearing conference or for subsequent evidentiary hearings.

Order

For all of the foregoing reasons, and based upon a consideration of the entire record in this matter, it is, this 19th day of July 1985

Ordered

1. That the prehearing conference scheduled for August 1–2, 1985 is *cancelled;* and

2. That this proceeding, begun with establishment of this Board on May 6, 1985, is *terminated.*

Board members, Administrative Judges Richard F. Cole and Ernest F. Hill join in this Order.

Bethesda, Maryland, July 19, 1985

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 85–17711 Filed 7–24–85; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: State Agreements Program.

3. The form number, if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Agreement States.

6. An estimate of the number of responses: 1,000.

7. An estimate of the total number of hours needed to complete the requirement: 10,000.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: NRC will continue to survey Agreement States to obtain comprehensive information of the materials regulatory program in the U.S. Section 274(j) of the Atomic Energy Act requires the Commission to periodically review agreements and actions taken by the States to ensure they remain adequate and compatible and comply with other requirements of the Act.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 22d day of July 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 85–17710 Filed 7–24–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–315]

Indiana and Michigan Electric Co., Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is

considering issuance of amendment to Facility Operating License No. DPR–58, issued to Indiana and Michigan Electric Company (the licensee), for operation of the Donald C. Cook Nuclear Plant, Unit No. 1 located in Berrien County, Michigan.

By letters dated July 18 and July 19, 1985, as supplemented by letter dated July 3, 1985, the licensee submitted an application to amend the D.C. Cook Unit No. 1 Technical Specifications to reflect revised heatup, cooldown, and low temperature (cold) overpressure protection through twelve effective full power years of reactor operation. The current Technical Specifications cover nine effective full power years of reactor operation. Unit 1 is currently shut down for the first 10 year inspection; the revised Technical Specifications will be required for startup. The February 14, 1985 submittal, noticed March 27, 1985 (50 FR 12146), was a submittal for the subject of revised heat-up, cooldown only and is superseded by this notice for Unit 1.

As a result of the Commission's review and discussions with the licensee on the original application dated February 14, 1985, it was determined that revision to the application would be required. Once it was realized that a revision was necessary, submission of a completely new submittal for Unit 1 proceeded on a priority basis. The licensee submitted a proposed revision, dated July 18, 1985, to the amendment application for heatup and cooldown and the related proposed application dated July 19, 1985 on cold over-pressurization. The licensee's revised submittals were not filed earlier because it was only recently discovered that the changes to the application would be significant. This revision revises the heatup and cooldown curves in the conservation direction and revises the cold over-pressurization similarly.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The proposed revision reflects conservative values of the Reference Nil-Ductility Transition Temperature (RT_{NDT}) for the reactor vessel and provides a margin of safety which complies with the fracture toughness requirements of 10 CFR 50 Appendix G.

Therefore, as a result of these considerations the Commission has made a proposed determination that the amendment request involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in the licensee not starting up the plant on the now scheduled date of August 10, 1985.

Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public document.

If the proposed determination becomes final, an opportunity for a hearing will be published in the Federal Register at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does not involve significant hazards consideration, a notice of opportunity for a prior hearing will be published in the Federal Register and, if a hearing is granted it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to Steven A. Varga, Chief of Operating Reactors Branch No. 1, by collect call to 301–492–8035 or submitted in writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch. All comments received by August 9, 1985, 5:00 p.m., will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Bethesda, Maryland, this 23rd day of July, 1985.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 85–17819 Filed 7–24–85; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Determination Regarding the Withdrawal From Warehouse of Certain Alloy Tool Steel Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice permits the withdrawal from warehouse for consumption of not more than one-half ton of alloy tool steel plate, presently subject to quota.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Maria T. Springer, Office of the United States Trade Representative, (202) 395–4946.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233), provides for the temporary imposition of increased tariffs and quantititive restrictions on certain stainless steel an alloy steel imported into the United States. Headnote 10(d), part 2A of the Appendix to the Tariff Schedules of the United States (TSUS) authorizes the U.S. Trade Representative to adjust the restraint level for any such steel to be exceeded during any restraint period.

Accordingly, I have determined that an amount not to exceed one-half ton of the following alloy tool steel plate, provided for in Tariff Schedules of the United States (TSUS) item 926.22, may be entered for consumption or withdrawn from Customs bonded warehouse, in excess of the restraint level provided for the period July 20, 1985–October 19, 1985 for the "Other" foreign country category:

Alloy tool steel plate, 3.660 inches in thickness, 72 inches in width, and 120 inches in length, containing, in addition to iron, each of the following elements by weight in the amount specified:

Carbon: not less than 0.95 percent, and not more than 1.05 percent;
Chromium: not less than 4.75 percent, and not more than 5.50 percent;
Manganese: not more than 1.00 percent;
Phosphorous: not more than 0.030 percent;
Sulphur: not more than 0.030 percent;
Silicon: not more than 0.50 percent;
Vanadium: not less than 0.15 percent; and not more than 0.50 percent;
Molybdenum: not less than 0.90 percent, and not more than 1.40 percent.

In addition, an identical amount shall be deducted from the quota quantity allocated to the "Other" foreign country category for TSUS 926.22 for the restraint period October 20, 1985–January 19, 1986. This determination supersedes the provision of the notice of October 20, 1983 (48 FR 4888), to the extent inconsistent herewith.

Michael B. Smith,

Deputy U.S. Trade Representative.

[FR Doc. 85–17693 Filed 7–24–85; 8:45 am]

BILLING CODE 3190–01–M

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice establishes country allocations of the quotas presently applicable to imports of certain specialty steel and alloy tool steel products and makes modifications in the Tariff Schedules of the United States to implement changes in the import relief program. The notice provides separate allocations within the stainless steel bar, stainless steel rod, and the alloy tool steel categories for Brazil, within the stainless bar and the alloy tool steel categories for Mexico, and within the stainless steel bar category for Korea.

EFFECTIVE DATE: July 20, 1985.

FOR FURTHER INFORMATION CONTACT: Maria T. Springer, Office of the United States Trade Representative, (202) 395–4946.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233), provided for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel products imported into the United States, pursuant to Section 203 of the Trade Act of 1974. Proclamation 5074 authorizes the U.S. Trade Representative to take such actions and perform such functions for the United States as may be necessary to administer and implement the relief, including negotiating orderly marketing agreements and allocating quota quantities on a country-by-country basis. The U.S. Trade Representative is also authorized to make modifications in the Tariff Schedules of the United States (TSUS) headnote or items proclaimed by the President in order to implement such actions.

Pursuant to the above authority, the U.S. Trade Representative has determined that the quota quantities should be reallocated to provide country allocations for certain steel products for Brazil, Mexico, and the Republic of Korea.

In conformity with the above, subpart A, part 2 of the Appendix to the TSUS is modified as follows:

(1) Item 926.12 is modified to add to the country allocations, in alphabetical order, "Brazil", "Mexico", and "The Republic of Korea", and also to add corresponding quota quantities of "570" short tons, "450" short tons, and "40" short tons, respectively, for the period July 20, 1985 through October 19, 1985, and for the period October 20, 1985 through January 19, 1986. Item 926.12 is further modified by changing the quota quantity for "Other" countries to "1,113" short tons for the period July 20, 1985 through October 19, 1985 and to "1,115" short tons for the period October 20, 1985 through January 19, 1986.

(2) Item 926.17 is modified to add "Brazil" to the country allocations, and also to add corresponding quota quantity of "330" short tons for the period July 20, 1985 through October 19, 1985 and for the period October 20, 1985 through January 19, 1986. Item 926.17 is further modified by changing the quota quantity for "Other" countries to "1,894" short tons for the period July 20, 1985 through October 19, 1985 and to "1,896" short tons for the period October 20, 1985 through January 19, 1986.

(3) Item 926.22 is modified to add to the country allocations, in alphabetical order, "Brazil", and "Mexico", and also to add corresponding quota quantities of "270" short tons and "75" short tons, respectively, for the period July 20, 1985 through October 19, 1985 and for the period October 20, 1985 through January 19, 1986. Item 926.22 is further modified by changing the quota quantity for "Other" countries to "1,589" short tons for the period July 20, 1985 through October 19, 1985 and to "1,591" short tons for the period October 20, 1985 through January 19, 1986.

Michael B. Smith,

Deputy U.S. Trade Representative.

[FR Doc. 85–17694 Filed 7–24–85; 8:45 am]

BILLING CODE 3190–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of proposal(s):

(1) Collection title: Employee Representatives' Status and Compensation Reports.

(2) Form(s) submitted: DC–2a, DC–2.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: On occasion, annually.

(5) Respondents: Individuals or households, business or other for-profit.

(6) Annual responses: 85.

(7) Annual reporting hours: 37.

(8) Collection description: Benefits are provided under the Railroad Retirement Act for individuals who are employee representatives as defined in section 1 of that Act. The collection obtains information on the status of such individuals and their compensation.

Additional information or comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6880), Office of Mangement and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 85–17675 Filed 7–24–85; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–8106]

FundsNet, Inc.; Issuer Delisting; Application To Withdraw From Listing and Registration

July 18, 1985.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the Common Stock, $.01 Par Value, of FundsNet, Inc. ("Company") from listing

VOL 50 ISS 143 JL 25 1985 UMI

and registration on the Boston Stock Exchange, Inc. ("Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

FundsNet is requesting such withdrawal in order to list its securities in the NASDAQ National Market System and, therefore, wishes to remove its security from listing and registration on the Exchange.

Any interested person may, on or before August 8, 1985 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17706 Filed 7-24-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8568]

ImmunoGenetics, Inc.; Issuer Delisting; Application To Withdraw From Listing and Registration

July 18, 1985.

The above name issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the Common Stock, $.01 Par Value, of ImmunoGenetics, Inc., ("Company") from listing and registration on the Boston Stock Exchange, Inc. ("Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company is withdrawing its Common Stock from listing on the Exchange because it finds that the NASDAQ National Market System provides the Common Stock with sufficient liquidity to meet the Company's requirements and, therefore, the Company wishes to remove its security from listing and registration on the Exchange.

Any interested person may, on or before August 3, 1985 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17705 Filed 7-24-85; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

July 22, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(F)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Freeport-McMoRan Energy Partners, Ltd.
Depositary Receipts for Depositary Units, (File No. 8422)
AZP Group, Inc.
Common Stock, $2.50 Par Value, (File No. 7-8423)
American Building Maintenance Industries (Delaware)
Common Stock, No Par Value, (File No. 7-8424)
Ensearch Exploration Partners, Ltd.
Common Stock, $2.50 Par Value, (File No. 7-8425)
Atlantic Richfield Company (Delaware)
Common Stock, $2.50 Par Value, (File No. 7-8426)
Atlantic Richfield Company (Delaware)
$2.80 Cumulative Convertible Preferred Stock, $2.50 Par Value, (File No. 7-8427)
Fansteel, Inc.
Common Stock, $5 Par Value, (File No. 7-8428)
Transco Exploration Partners, Ltd.
Depositary Units, (File No. 7-8429)
FoxMeyer Corporation
Common Stock, $.10 Par Value, (File No. 7-8430)
Glendale Federal Savings and Loan Association
$1.00 Par Value, (File No. 7-8431)
Northrop Corporation (Delaware)
Common Stock, $1.00 Par Value, (File No. 7-8432)
Morrison-Knudsen Corporation (Delaware)
Common Stock, $1.00 Par Value, (File No. 7-8432)
Morrison-Knudsen Corporation (New)
Common Stock, $10.00 Par Value, (File No. 7-8433)
Dlevepak Corporation (New)
Common Stock, $1.00 Par Value, (File No. 7-8434)
First Pennsylvania Corporation
Convertible Depositary Preferred Stock, No Par Value, (File No. 7-8435)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 12, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17707 Filed 7-24-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23768; 70-7121]

Southwestern Electric Power Co; Proposed Tender Offer and Issuance and Sale of First Mortgage Bonds

July 19, 1985.

Southwestern Electric Power Company ("Southwestern"), P.O. Box 21106, Shreveport, Louisiana 71156, a subsidiary of Central and South West Corporation, a registered holding company, has filed an application—declaration with the Commission subject to sections 6(a), 7, 9(a), 10 and 12(c) of the Public Utility Holding Company Act of 1935 and Rules 42 and 50 thereunder.

Southwestern has outstanding $60 million of 15¼% First Mortgage Bonds, Series Q, due April 1, 2011 ("1981 Bonds"), and $70 million of its 15½% First Mortgage Bonds, Series R, due May 1, 2012 ("1982 Bonds") (collectively "Old Bonds"). The 1981 Bonds and 1982 Bonds may not be redeemed at a lower cost of money prior to April 1, 1986 and May 1, 1987, respectively.

Southwestern believes that, based on current market conditions, a refunding of the Old Bonds would benefit its ratepayers by reducing the present interest costs to Southwestern. Although the Old Bonds cannot be called due to refunding restrictions, it is possible to repurchase for cash a substantial portion of the Old Bonds through a tender offer (the "Tender Offer") to the holders.

Southwestern has not determined when the Tender Offer will be made. The Tender Offer prices will include a premium over market price and the first general redemption price after the expiration of the refunding restriction of the Old Bonds (112.73% for the 1981 Bonds and 112.42% for the 1982 Bonds). Southwestern believes that a Tender Offer for the 1981 bonds could be successfully made at approximately 117% of the principal amount, plus accrued interest. The Tender Offer price must be determined shortly before the Tender Offer commences. The actual prices will be based on a number of factors, including the coupon rate of the Old Bonds, the date of expiration of the refunding protection on the Old Bonds (on which date the Company, depending on then prevailing interest rates, may be presumed to call the Old Bonds), the call price on such expiration date and the present market for similar bonds. Based upon limited information available to the company, the 1981 Bonds and 1982 Bonds have recently bid at prices of 116.19% to 115.71% and 120.30% to 118.94% of the principal amount thereof, respectively.

Southwestern proposes to retain Salomon Brothers, Inc. as its tender agent and dealer-manager for the Tender Offer. As dealer-manager, Salomon Brothers, will not be obligated to purchase or sell any of the Old Bonds but will act merely as the Southwestern's agent in disseminating the offer and receiving responses thereto. The dealer-manager's fee will be $2.50 per $1000 principal amount of Old Bonds tendered, a solicitation fee of $1.50 per $1000 principal amount of Old Bonds ($195,000), plus reimbursement of out of pocket expenses in an amount not to exceed $20,000. In addition, the Southwestern will reimburse the dealer-manager for its attorney fees not to exceed $15,000.

It is estimated that Southwestern could issue up to approximately $150,000,000 aggregate principal amount of first mortgage bonds ("New Bonds") at an interest rate of approximately 11.50%, in order to fund the pruchase of the tendered Old Bonds. This would result in an annual reduction in interest costs to the company of approximately $1,356,000, including the amortization of the premuim to be paid on the Old Bonds over the life of the New Bonds, for a total interest savings of $35,300,000. This calculation assumes that 100% of the principal amount of the Old Bonds are acquired pursuant to the Tender Offer and is therefor subject to variation.

The price to be paid to Southwestern (exclusive of any accured interest which will be added to such price) will not be less than 98%, nor more than 101.75%, of the principal amount of the New Bonds, and it is anticipated that they will be redeemable at any time after five years from issue if it is part of a refunding at an effecitve interest cost lower than that of the particular series. The New Bonds will be offered by competitive Bidding in one or more series with up to a 30-year maturity period.

It is anticipated that such New Bonds would be issued prior to commencement of the Tender Offer. Since it will not be possible to predict exactly the amount of Old Bonds which will be tendered or the exact Tender Offer price at the time the New Bonds are offered, Southwestern may be required to pay a portion of the purchase price of tendered Old Bonds from internally generated funds or available short-term borrowings.

The New Bonds will be issued and secured by Southwestern's Mortgage ("Indenture"), and authenticated under the Indenture against available unused net expenditures for bondable property of the Company, which unused net expenditures aggregated approximately $693,000,000 at March 1, 1985, and previously retired first mortgage bonds.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 12, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit, or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing if ordered, and will receive a copy of any notice or order issued in this matter.

After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17708 Filed 7-24-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8016]

Tultex Corp.; Issuer Delisting; Application To Withdraw From Listing and Registration

July 18, 1985.

The above name issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the Common Stock, $1.00 Par Value, of Tultex Corporation, ("Company") from listing and registration on the American Stock Exchange, Inc. ("Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Tultex Corporation states that it would not be in the best interests of the Company for its Common Stock to be listed on both the American Stock Exchange and the New York Stock Exchange due to the direct and indirect costs of such a dual listing and the potential fragmenting of the market for its Common Stock and, therefore, wishes to remove its security listing and registration on the Exchange.

Any interested person may, on or before August 8, 1985 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17704. Filed 7-24-85; 8:45 am]

BILLING CODE 8010-01-M

VOL 50 ISS 143 JL 25 1985 UMI

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB June 19, 1985–July 12, 1985

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation, during the period June 19, 1985–July 12, 1985 to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street SW., Washington, D.C. 20590, telephone (202) 426–1887, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from June 19, 1985–July 12, 1985:

DOT No: 2590
OMB No: New
By: Federal Railroad Administration
Title: New Locomotive Certification (Noise Compliance Regs.)
Form: None
Frequency: Recordkeeping
Respondents: Locomotive manufacturers
Need/Use: 49 CFR 210.27 requires that locomotive manufacturers certify that each model has been tested in accordance with EPA noise emission standards and that such certification be identified by a permanent badge in the locomotive.

DOT No: 2591
OMB No: Consolidated Numbers 2132–0515, 0516, 0518, 0519, 0508, 0523
By: Urban Mass Transportation Administration
Title: Section 19 (Title VI) as it Applies to UMTA Grant Programs
Forms: N/A
Frequency: Annually—On Occasion
Respondents: State or Local Governments and business or other for profit organizations.
Need/Use: The information collection will enable UMTA to determine grantees' compliance with Title VI and ensure that beneficiaries are not discriminated against in the distribution of transportation services/benefits. The civil rights programmatic requirements per the Section 19 regulation will be submitted by transit systems, State DOT's, local governments and planning agencies.

DOT No: 2592
OMB No: 2130–0520
By: Federal Railroad Administation
Title: Stencilling Report Mark, Car Number, etc., on Freight Cars
Forms: None
Frequency: Recordkeeping
Respondents: Railroads
Need/Use: Reporting marks and car numbers are stencilled on all freight cars for identification.

DOT No: 2593
OMB No: 2115–0506
By: U.S. Coast Guard
Title: Declaration of Inspection
Form: None
Frequency: On Occasion
Respondents: The person-in-charge of transferring oil and hazardous liquid cargoes between vessels and facilities.
Need/Use: Coast Guard personnel checks Declarations of Inspection to ensure required procedures have been followed and to determine culpability in spill and accident investigations. Not keeping these records would result in a significant increase in pollution with persons-in-charge either not knowing their responsibilities (in the case of foreign nationals working on foreign ships) or not following all the proper procedures.

DOT No: 2594
OMB No: 2106–0037
By: Office of the Secretary of Transportation
Title: Part 326—Procedures for Bumping Subsidized Air Carriers from Eligible Points
Forms: None
Frequency: On Occasion
Respondents: Airlines
Need/Use: Part 326 sets procedures under which an airline receiving subsidy for serving a community may be replaced by another carrier offering to provide better service or service at a lower subsidy cost. These procedures are needed to implement sections 419 (a) and (b)(8) of the Federal Aviation Act.

DOT No: 2595
OMB No: 2106–0039
By: Office of the Secretary of Transportation
Title: Part 297—Foreign Air Freight Forwarder and Foreign Cooperative Shippers Association
Forms: CAB 297A
Frequency: On Occasion
Respondents: Foreign indirect cargo carriers
Need/Use: CAB Form 297A is a simplified application form for foreign indirect cargo carriers that provides basic information (name, address, phone, applicant's country of citizenship and percent ownership of person's owning 10 percent or more of the applicant's stock). It relieves them from certain provisions of the Act and provides for simplified reporting.

DOT No: 2596
OMB No: 2106–0034
By: Office of the Secretary of Transportation
Title: Part 324—Procedures for Compensating Air Carriers for Losses
Form(s): None
Frequency: On Occasion
Respondents: Air carriers
Need/Use: Part 324 sets the procedures for compensating an air carrier for financial losses incurred for complying with a board order to continue to provide essential air service to a community under section 419(a)(6) of the Airline Deregulation Act of 1978 (P.L. 95–504).

DOT No: 2597
OMB No: New
By: National Highway Traffic Safety Administration
Title: Impact of Public Information and Education Campaign on Driver Perception of Motor Vehicle Accident Injury Risk and Emergency Medical Services Awareness
Forms: None
Frequency: On Occasion
Respondents: Ind/households
Need/Use: PI&E campaign involves a public information and education campaign to increase public knowledge and appropriate use of the EMS system. Two telephone surveys will be used for the test and comparison sites. One will measure public knowledge and awareness of EMS; the other changes in morbidity of MVA victims.

DOT No: 2598
OMB No: 2115–0010
By: U.S. Coast Guard
Title: Recreational Boating Accidents Reports
Forms: CG–3865
Frequency: On Occasion
Respondents: Operators of recreational boats
Need/Use: This requirement is needed and used by the Coast Guard's Office of Boating, Public and Consumer Affairs to identify possible manufacturer defects in boats of equipment. It is also needed to develop safe boating education programs and to publish statistics in accordance with 46 U.S.C. 6102.

DOT No: 2599
OMB No: 2132–0500 (Section 16(b)(2))
By: Urban Mass Transportation Administration
Title: Section 18 and 16(b)(2) Program requirements
Forms: SF–269 and SF–424
Frequency: Annual, on Occasion. Semi-annually
Respondents: State or Local Government
Need/Use: The information collected is used by UMTA's Regional Offices to determine eligibility for grant benefits and ensures compliance with Federal requirements. The information is also used by UMTA Headquarters for program management and evaluation.

DOT No: 2600
OMB No: 2125–0008
By: Federal Highway Administration
Title: Unit Maintenance Cost Index
Forms: FHWA–1521
Frequency: Annually
Respondents: State Highway agencies
Need/Use: For the Federal Highway Administration to develop national cost trends for labor, material, and equipment rental rates, and to assist State highway agencies in preparing maintenance budgets.

DOT No: 2601
OMB No: 2125–0529
By: Federal Highway Administration
Title: Preparation and Execution of Project Agreement and Modifications
Forms: PR–2, PR–2A, PR–2–1
Frequency: On Occasion
Respondents: State Highway agencies
Need/Use: To formally document mutual responsibilities of Federal and State officials for Federal-aid highway projects in order to commence Federal project approval and subsequent State management.

Issued in Washington, D.C. on July 19, 1985.

Jon H. Seymour,
Acting Assistant Secretary for Administration.

[FR Doc. 85–17656 Filed 7–24–85; 8:45 am]
BILLING CODE 4910–62–M

Fitness Determination; Jeffrey K. Beeston, d/b/a Island Air Express

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination—Order 85–7–50, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Jeffrey K. Beeston, d/b/a Island Air Express is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards.

Responses

All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Special Authorities Division, Room 6420, Department of Transportation, 400 7th Street, SW. Washington, D.C. 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than August 12, 1985.

FOR FURTHER INFORMATION CONTACT: Linda L. Lundell, Special Authorities Division, Department of Transportation, 400 7th Street SW., Washington, D.C. 20590 (202) 755–3812.

SUPPLEMENTARY INFORMATION: The complete text of Order 85–7–50 is available from the Documentary Services Division, Room 4107, 400 7th Street, S.W., Washington, D.C. 20590. Persons outside the metropolitan area may send a postcard request for Order 85–7–50 to that address.

Dated: July 22, 1985.

Matthew V. Scocozza,
Assistant Secretary for Policy and International Affairs.

[FR Doc. 85–17657 Filed 7–24–85; 8:45 am]
BILLING CODE 4910–62–M

Coast Guard

[CGD 85–056]

Marine Transportation of Oil Field Wastes; Public Meeting

The Eighth Coast Guard District is sponsoring a public meeting to discuss problems associated with the application of existing vessel inspection and oil pollution regulations to the transportation and handling of oil field wastes (containing oil and/or other hazardous wastes) such as drill cuttings, waste or spent drilling mud, wastes from pit cleanup, and production wastes including basic sediment and water (BS & W).

46 United States Code (U.S.C.), section 2101 states "(20) 'oil' includes oil of any type or in any form including petroleum fuel oil, sludge, oil refuse, and oil mixed with waste except for dredge spoil." Therefore, these wastes are "oil" as defined. They are not always transported in tank vessels authorized to carry combustible, flammable or hazardous liquids. They are being transported in uninspected vessels, i.e., open hopper barges, and not handled in compliance with the various 33 CFR oil pollution regulations. It is alleged by industry that some of these products do not lend themselves to compliance with existing rules because of high viscosity and the necessity of handling some of the waste material as if it was a solid.

The purpose of the meeting is to determine what and how much of this type of waste is being transported via marine mode and to review existing rules for necessity and adequacy for such transportation and handling. The meeting will be held in late August or early September 1985 in New Orleans. The specific time and place will be announced at a later date. Representatives from the Commandant, U.S. Coast Guard and the Eight Coast Guard District Office will be present. The agenda for the meeting consists of the following items:

1. Call to order.

VOL
50
ISS
143
JL
25
1985
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2. Opening remarks and solicitation of current, on-going methods of maritime transportation and handling oil field waste.
3. Public comment.
4. Closing remarks.
5. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statement, but no later than the day before the meeting, members of the public shall submit in writing, to Commander, Eighth Coast Guard District (mvs), Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130 the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide their name, address, and if applicable, the organization they are representing. Any member of the public may submit a written statement at any time.

Additional information may be obtained from Commander D.R. Carlberg, USCG, c/o Commander, Eighth Coast Guard District (mvs), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, telephone (504) 589–6271.

It is requested that members of the public who are planning on attending contact Commander Carlberg by August 8, 1985.

July 10, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 85–17695 Filed 7–24–85; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Fairfield County, CT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a draft environmental impact statement will be prepared for a proposed highway project in Fairfield County, Connecticut.

FOR FURTHER INFORMATION CONTACT: David R. Billings, Environmental Engineer, Federal Highway Administration, 1 Hartford Square West, South Building, Hartford, Connecticut 06114, Telephone (203) 722–2437 or James F. Sullivan, Director, Office of Environmental Planning, Connecticut Department of Transportation, 24 Wolcott Hill Road, Wethersfield, Connecticut 06109, Telephone (203) 566–5704.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Connecticut Department of Transportation, will prepare a draft environmental impact statement (DEIS) on a proposal to construct Route 25 in Fairfield County, Connecticut.

The purpose of the DEIS is to analyze environmental impacts which may occur as a result of implementation of the project and to gain input relating to the alternatives under consideration. The DEIS will consider the alternatives of (1) Do-Nothing, (2) Improve Existing Facilities, and (3) Various Expressway and Arterial locations.

The proposed construction will begin at Route 111 in Trumbull and extend notherly to I-84 in Newtown. This project has an extensive history of coordination with Federal, State, local, and regional agencies and organizations. A feasibility study was completed in late 1984 for this project. The feasibility identifies the major environmental issues associated with this project. Since the full range of issues relating to this project have been identified, formal scoping meetings are not deemed necessary at this time.

Agencies, organizations and individuals interested in submitting comments or questions on the proposed action should contact the FHWA or the Connecticut Department of Transportation at the address provided above before 45 days from this publication date.

Dated: July 19, 1985.

James J. Barakos,

Division Administrator.

[FR Doc. 85–17634 Filed 7–24–85; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Dade County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Dade County, Florida.

FOR FURTHER INFORMATION CONTACT: R.V. Robertson, District Engineer, Federal Highway Administration, 227 N. Bronough St., Room 2015, Tallahassee, Florida 32301. Telephone: (904) 681–7231.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, will prepare an EIS for a proposal to improve State Road 5 (US–1) in Dade County. The proposed improvement will provide for the multi-laning and reconstruction of US–1 from 123rd Street to 203rd Street, a distance of approximately five miles.

Alternatives under consideration include: (1) Upgrading US–1 from 4 to 6 lanes from 123rd to 151st Street and 4 to 8 lanes from 151st Street to 203rd Street. (2) This alternate provides the same number of mainline lanes as alternate (1); however, this alternate would carry the cross streets over US–1 and the Florida East Coast Rail Lines.

Federal, State, and local agencies have contributed early coordination comments through the A–95 process. Additionally, a project planning team developing this project will contact State, Federal, county, and local agencies for information relative to land use planning, water quality analysis, and local planning needs. Public information meetings will be held during the development of this EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. A formal scoping meeting is not planned for this project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the Federal Highway Administration at the address provided above.

Issued on: July 18, 1985.

James E. St. John,

Assistant Division Administrator, Tallahassee, Florida.

[FR Doc. 85–17643 Filed 7–24–85; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Juneau, AK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notive to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project. The project would be located within the boundary of the City and Borough of Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Tom Neunaber, Field Operations Engineer, Federal Highway Administration, P.O. Box 1648, Juneau, Alaska 99801 or; Art Dunn, Project Environmental Coordinator, Alaska Department of Transportation and Public Facilities (DOT&PF), P.O. Box 1467, Juneau, Alaska 99802.

SUPPLEMENTARY INFORMATION: The FHWA, is cooperation with the ADOT&PF, will prepare an EIS on a proposed extension of North Douglas Highway, or Douglas Island, northwest of Juneau, Alaska. The highway extension is necessary to open up lands on the weat side of Douglas Island for development.

The proposed extension would begin at a point approximately 2,000 ft. before the end of existing highway and continue south to Point Hilda approximately 8.4 miles. The Department's preferred alternative would be a 14- ft.-wide gravel access road. Widening of the road to a 28-ft. two-lane paved facility and further expansion to a four-lane, limited access facility would take place as future funding becomes available.

Alternatives to the proposed action include: (1) No action; (2) the same development scenario as the department's preferred alternative, but on a more direct alignment with greater possibility of impacts to wetlands and an anadromous fish stream; (3) development on the preferred alignment at such time that funds are available for construction of the 28-ft. paved section, with future expansion to the 4-lane; (4) development on the more direct alignment at such time that funds are available for construction of the 28-ft. paved section, with future expansion to the 4-lane.

Federal, State, and local organizations, land owners, and the general public have been contracted, and will continue to be invited to participate in the development of the Draft Environmental Impact Statement (DEIS). Information meetings to discuss impacts to the natural, social, and economic environments will be held during the DEIS development. A formal Public Hearing, following established Federal Highway Administration (FHWA) guidelines will be held after FHWA approval of the DEIS. Due to extensive prior coordination with affected agencies, and the public, no formal scoping meeting is planned for this project.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on:

Barry F. Morehead,

Division Administrator, Federal Highway Administration, Juneau, Alaska.

[FR Doc. 85–17672 Filed 7–24–85; 8:45 am]

BILLING CODE 4910-22-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 FR 57600, December 27, 1982), I hereby determine that the objects to be included in the exhibit, "The Treasure House of Britain: Five Hundred Years of Private Patronage and Art Collecting" (including in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between The National Gallery of Art and the British Council. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about November 3, 1985, to on or about March 16, 1986, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: July 22, 1985.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 85–17691 Filed 7–24–85; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

VETERANS ADMINISTRATION

Privacy Act of 1974; Report of New Matching Program

AGENCY: Veterans Administration.

ACTION: Notice of Matching Program—Verification of Veterans Administration Professional Licensure and Registration Records.

SUMMARY: The Veterans Administration is providing notice that the Office of Inspector General will conduct a series of computer matches of VA records of physicians, dentists and other health care professionals with Federal, State, local and private organizations maintaining licensure and registration records.

The goal of these matches is to verify that physicians, dentists, podiatrists, optometrists, and psychologists employed or utilized by the agency are holding current, unrestricted licenses to practice and that nurses and pharmacists are registered in a State.

This notice supersedes the Report of New Matching Program published in the Federal Register on May 2, 1985 (50 FR 18761).

DATES: It is anticipated the matches will commence approximately July 1985.

ADDRESS: Interested individuals may comment on the proposed matches by writing to the Assistant Inspector General for Policy, Planning and Resources (53), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT: Mr. Jack H. Kroll, Assistant Inspector General for Policy, Planning and Resources (53), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, area code 202–389–5297.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: July 19, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Report of Matching Program

Veterans Administration Records of Physicians, Dentists and Other Health Care Professional/License and Registration Records of Federal, State, Local and Private Organizations

a. *Authority:* The Inspector General Act of 1978, Public Law 95–452.

b. *Program Description:*

(1) *Purpose:* The Office of Inspector General (OIG) plans to match lists of full and part-time physicians, dentists, podiatrists, optometrists, psychologists, nurses and pharmacists employed by the Veterans Administration (VA), as well as consultants, attendings and fee-basis medical practitioners utilized by the VA to provide health care, with the

license and registration records of pertinent Federal, State and local agencies (hereafter referred to as government agencies) and with certain private organizations such as the American Medical Association and the Federation of State Medical Boards of the United States, Inc.

Title 38, United States Code, Section 4105, specifies that any person to be eligible for appointment as a physician, dentist, podiatrist, optometrist, psychologist, nurse or pharmacist in the VA Department of Medicine and Surgery must hold the appropriate degree from a college, university or school approved by the Administrator of Veterans Affairs, have completed an internship satisfactory to the Administrator in the case of physicians and psychologists, and be licensed, certified or registered to practice their profession in a State. The matches will verify that these health care professionals employed or utilized by the VA possess current, unrestricted licenses or are currently registered in a State. For purposes of this computer matching program, "State" means any of the fifty States, the District of Columbia and the Commonwealth of Puerto Rico.

(2) *Procedures:* The initial match to be conducted under the terms of this notice will be with an organization having nationwide records of medical licenses; for example, the Federation of State Medical Boards of the United States, Inc. The VA OIG will perform the match using extracts of three VA systems of records consisting of names, dates of birth and social security numbers and records in a similar format provided by the participating organization. In the event of a "hit", i.e., the determination through the matching program that a license to practice or State registration has expired, or has been suspended, restricted or revoked, the identity of the individual will be confirmed. Before the information is forwarded to the Chief Medical Director for consideration of appropriate personnel action the Office of Inspector General will, to the extent practicable, screen hits appropriately to determine if a valid license exists in another state and/or if the reason for restriction of a license is significant to VA employment. When needed to confirm the identities of individuals who may be listed in the records of a government agency or private organization, the OIG will request that additional information be furnished or the OIG may release additional identifying data to the participating organization in accordance with published routine uses. Where there are reasonable grounds to believe there has been a violation of criminal law, the matter will be investigated and referred for prosecutive consideration.

If the program demonstrates the effectiveness of matching VA records with the license or registration records of a government agency or private organization as a means of identifying VA employees or other health care professional who do not have current, unrestricted licenses, or current registration, the Inspector General may direct that additional matches be conducted. In conducting the matching program the OIG will request that participating government agencies and private organizations provide computerized excerpts containing the names, dates of birth, social security numbers and status of the licenses or registration of health care professionals. If a law or rule prohibits a government agency or private organization from furnishing a computerized extract of its records, the OIG will submit computerized tapes or records containing only names, dates of birth and social security numbers of the VA records to be matched. The loan of any VA records to a government agency or private organization for matching purposes will be in accordance with OMB Matching Guidelines which require the recipient to agree to the following: That the source matching file will remain the property of the VA and will be returned to the OIG at the end of the matching program (or destroyed as appropriate); that the file will be used and accessed only to match the files previously agreed to; that the file will not be used to extract information concerning "non-hit" individuals for any purpose; and that the file will not be duplicated or disseminated within or outside the matching agency unless authorized in writing by the VA OIG.

c. *Records to be Matched:* Lists extracted from the following systems of records will be matched with the license and registration records of government agencies and private organizations:

(1) Individuals Submitting Invoices/Vouchers for Payment-VA (13VA047) (Privacy Act Issuances, 1982/83 Comp., Vol. V, pp. 1150–1151).

(2) Patient Fee Basis Medical and Pharmacy Records-VA (23VA136) (Privacy Act Issuances, 1982/83 Comp., Vol. V, pp. 1156–1157).

(3) Personnel and Accounting Pay System-VA (27VA047) (Privacy Act Issuances, 1982/83 Comp., Vol. V, pp. 1159–1160).

The disclosure of information from these systems of records, for the purpose of the matching program, is permitted by published routine uses.

d. *Period of Match:* Intermittently from approximately July 1985. The matching may be cyclical or may be repeated periodically.

e. *Safeguards:* Records used in the matches and data generated as a result, will be safeguarded from unauthorized disclosure. Access will be limited to those persons who have a need for the information in order to conduct the matches or follow-up actions. All of the material will be stored in locked containers when not in use. The matching files to be used in this project will remain under the control of the OIG and will be returned to the Department of Medicine and Surgery and Office of Budget and Finance or destroyed upon completion of the match. The matching file will be used and accessed only to match files in accordance with this notice; will not be used to extract information concerning "non'hit" individuals for any purpose; and will not be disseminated outside the OIG unless authorized by the Chief Medical Director or the Director, Office of Budget and Finance.

f. *Retention and Disposition:* Records not resulting in "hits" will be destroyed by burning, shredding or electronic erasing within two months of the completion of the individual match. Records resulting in "hits" will be retained by either the OIG or the Department of Medicine and Surgery until the completion of any necessary administrative or legal action and will then be disposed of in accordance with approved records control schedules and/or approved disposition authority from the Archivist of the United States.

[FR Doc. 85–17648 Filed 7–24–85; 8:45 am]
BILLING CODE 8320-01-M

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a reinstatement and lists and following information: (1) The Department or Staff Office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202) 389–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place NW., Washington, D.C. 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 19, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Reinstatement

1. Office of Information Management and Statistics
2. Certification of Inability to Pay Transportation Costs
3. VA Form 70–2323
4. Annually
5. Individuals or households
6. 552,500 responses
7. 73,667 hours
8. Not applicable.

[FR Doc. 85–17647 Filed 7–24–85; 8:45 am]
BILLING CODE 8320-01-M

VOL 50 ISS 143 JL 25 1985 UMI

Sunshine Act Meetings

Federal Register
Vol. 50, No. 143
Thursday, July 25, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Farm Credit Administration	1
Federal Deposit Insurance Corporation	2, 3
Federal Election Commission	4
Federal Maritime Commission	5
Federal Reserve System	6
National Labor Relations Board	7

1

FARM CREDIT ADMINISTRATION

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Federal Farm Credit Board ("Federal Board") scheduled to be held on the first Monday of August 1985, as specified in 12 CFR 604.325(a).

DATES AND TIMES: The meeting is scheduled as follows: Monday, August 5—8:00 a.m. to 4:30 p.m., and Tuesday, August 6—8:00 a.m. to 4:30 p.m.

ADDRESS: Federal Farm Credit Board Meeting, Farm Credit Banks of Louisville, 201 West Main Street, Louisville, KY 40202.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Federal Farm Credit Board, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703-882-4010).

SUPPLEMENTARY INFORMATION: Parts of this meeting the Federal Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

Monday, August 5, 1985

*1. Executive Session
2. Approval of Minutes
3., Review of Agenda
4. Reports of Board Members
5. Governor's Report
(a) FCCA Articles of Incorporation and Bylaw Changes
(b) Rabobank Directors visit, September 26
(c) Project 1995 Update
**(d) Recommendations of second Callagher Report
***(e) Status of Litigation Cases Involving the FCA
6. Strategies for Leadership Agenda Items
7. Office of Examination and Supervision Report
**(a) Status Report on Serious Problem Banks
**(b) Status Report on Implementation of Contingency Plans
**(c) FCA Supervisory Reports
(d) St. Paul Proposal for Minimum Financial Viability Standards

Tuesday, August 6, 1985

8. Regulation Changes
Final: Section 615.5320-Banks for Cooperatives' Earnings
Proposed: Sections 615.5135, 615.5140, 615.5141, and 615.5142-Investments
9. Office of Administration Report
(a) Economic Report
(b) Legislative Report
(c) Budget Performance Report
10. FCS Building Association
11. Other Items
(a) 1986 Calandar
(b) National Farm Credit Directors Conference, Jackson Hole, Wyoming, Spetember 16-19, 1985
12. *1:00 p.m.*—Joint Meeting with Farm Credit Board of Louisville.

*Closed Session—exempt pursuant to 5 USC 552b(c)(2).
**Closed Session—exempt pursuant to 5 USC 552b(c)(8) and (9).
***Closed Session—exempt pursuant to 5 USC 552b(c)(10).

Dated: July 23, 1985.

Donald E. Wilkinson,
Governor.

[FR Doc. 85-17752 Filed 7-23-85; 2:37 pm]
BILLING CODE 6705-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, July 29, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Sumary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: July 22, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 85-17742 Filed 7-23-85; 11:37 am]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, July 29, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to purchase assets and assume liabilities:

Century Bank and Trust Company, Somerville, Massachusetts, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Massachusetts Teachers Association Credit Union, Boston, Massachusetts, a non-FDIC-insured institution.

Request for modification of a previously issued order in connection with applications for consent to purchase assets and assume liabilities and establish eleven branches:

Equibank, Latrobe, Pennsylvania, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in five branches of First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and six branches of Atlantic Financial Federal, Bala-Cynwyd, Pennsylvania, a non-FDIC-insured institution, and to establish those eleven offices as branches of Equibank.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Penn Square Bank, National Association, Oklahoma City, Oklahoma

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Liquidation:

Memorandum re: Quarterly Report for Actions Approved Under Delegated Authority as of March 31, 1985

Discussion Agenda:

Memorandum and resolution re: Proposed amendments to Part 330 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage," which would require disclosure in the account records of banks the identities of each person having a beneficial ownership interest in brokered deposit accounts.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: July 22, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 85-17743 Filed 7-23-85; 11:37 am]
BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 30, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, August 1, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor.)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Sunshine Act regulations and procedures (11 CFR Parts 2 and 3.)
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-523-4065.

Majorie W. Emmons,
Secretary of the Commission.

[FR Doc. 85-17724 Filed 7-23-85; 10:13 am]
BILLING CODE 6715-01-M

5

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: July 18, 1985, 50 FR 29286.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: July 24, 1985, 10:00 a.m.

CHANGE IN THE MEETING: Addition of the following item to the closed session.

4. Agreement No. 202-010689-005: Modification of the Transpacific Westbound Rate Agreement to restrict the offering of service contracts by the conference and the member lines.

Bruce A. Dombrowski,
Acting Secretary.

[FR Doc. 85-17749 Filed 7-23-85; 11:46 am]
BILLING CODE 6730-01-M

6

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10:00 a.m., Wednesday, July 31, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 23, 1985.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 85-17809 Filed 7-23-85; 3:55 pm]
BILLING CODE 6210-01-M

7

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 10:00 a.m., Thursday, August 8, 1985.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Part of this meeting will be closed to the public. The rest of the meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portion closed to the public: Board Cases.
Portion open to the public: Case handling procedures.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254-9430.

Dated, Washington, D.C., 23, July 1985.

By direction of the Board.

Robert Volger,
Acting Executive Secretary, National Labor Relations Board.

[FR Doc. 85-17768 Filed 7-23-85; 1:02 pm]
BILLING CODE 7545-01-M

VOL
50

ISS
143

JL
25

1985

UMI

federal register

Thursday
July 25, 1985

Part II

Department of the Treasury

Office of the Secretary

Privacy Act of 1974; Notices of Systems of Records

VOL 50 ISS 143 JL 25 1985 UMI

DEPARTMENT OF THE TREASURY

Office of the Secretary

Privacy Act of 1974: Periodic Publication of All Privacy Act Systems of Records

The Department of the Treasury is systematically republishing all of its systems of records notices. This notice updates the information for the systems of records maintained by the following constituent units of the Department:

Bureau of Alcohol, Tobacco, and Firearms
Comptroller of the Currency
Bureau of Engraving and Printing
Federal Law Enforcement Training Center
Financial Management Service (formerly BGFO)
United States Mint
Bureau of the Public Debt
United States Savings Bonds Division
United States Secret Service

The notices for these systems of records were last published by the **Federal Register** in the Privacy Act Issuances 1984 Compilation, pages 704 through 714, 767 through 787, and 836 through 850.

The Department has eliminated Appendix AA which listed blanket-type routine uses. The applicable routine uses now appear in each system of records. All other changes are editorial in nature and consist principally of address changes, revision of organizational titles and transfer of functions. None of the changes require an altered system report as required by 5 U.S.C. 552a(o).

A total of 13 systems were deleted in this publication. One system was added and three systems were revised for the reasons noted below.

Dated: July 15, 1985.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

Revisions

Bureau of the Public Debt

The following three systems were revised to include provisions of the Debt Collection Act and were published on August 12, 1983 (48 FR 36722).

BPD .001—Personnel and Administrative Records
BPD .002—United States Savings—Type Securities
BPD .003—United States Securities (Other than Savings—Type Securities)

Addition

Comptroller of the Currency

CC .015—Chain Banking (published on April 23, 1985, 50 FR 16037)

Deletions

Bureau of Engraving and Printing

BEP .003—Continuation of Pay Record (now included as a part of .005—Compensation Claims)
BEP .013—Employee Locator (covered under Office of the Secretary OS .193—Employee Locator and Automated Directory System)
BEP .019—Identification Files (now included as a part of .027—Programmable access and Security System [PASS])

The following five systems are covered under Treasury OS .002—Treasury Payroll Information System:

BEP .024—Payroll Records
BEP .030—Project Rest (Reporting Employment Statistics in Treasury) Minority Statistics
BEP .031—Reemployment Information Record
BEP .032—Retention Register
BEP .033—Roster of Bureau of Engraving Employees

Financial Management Service

FMS .004—Freedom of Information Requests (no longer filed by name or individual identifier)
FMS .006—Identification Files on Individuals cashing Treasury checks (obsolete)
FMS .009—Postal Savings Deposits (New legislation for submitting claims, Public Law 98-359, July 13, 1984, effective July 13, 1985)

United States Mint

Mint .004—Confidential Statements of Financial Interest (covered under OPM/GOVT—8)
Mint .017—Equal Employment Opportunity Complaint Counseling Records (covered under EEOC/GOVT—1)

Table of Contents

Bureau of Alcohol, Tobacco and Firearms

ATF .001—Administration Record System
ATF .002—Correspondence Record System
ATF .003—Criminal Investigation Report System
ATF .004—Fiscal Record System
ATF .005—Freedom of Information Requests
ATF .006—Internal Security Record System
ATF .007—Personnel Record System
ATF .008—Regulatory Enforcement Record System
ATF .009—Technical and Scientific Services Record System

Office of the Comptroller of the Currency

CC .004—Consumer Complaint Information System
CC .010—Federal Bureau of Investigation Report Card Index
CC .012—Feedom of Information Index and Log
CC .013—Enforcement and Compliance Information System
CC .014—Investigation Files/Employee Reference File
CC .015—Chain Banking
CC .221—Professional Qualifications Records for Municipal Securities Principals and Municipal Securities Representatives
CC .300—Administrative Personnel System
CC .310—Fiscal Personnel System
CC .320—General Personnel System
CC .500—Chief Counsel's Management Information System
CC .501—Unclaimed Property System

Bureau of Engraving and Printing

BEP .002—Personal Property Claim File
BEP .004—Counseling Records
BEP .005—Compensation Claims
BEP .006—Debt Files
BEP .009—Employee Arrest Record
BEP .012—Employee Index File
BEP .014—Employee's Production Record
BEP .015—Executive Profiles
BEP .016—Employee Suggestions
BEP .018—Police Uniform Control Account
BEP .020—Industrial Truck Licensing Records
BEP .021—Investigative Files
BEP .022—Monthly Equal Employment Opportunity
BEP .023—Motor Vehicle Licensing Records
BEP .027—Programmable Access Security System (PASS)
BEP .029—Petition of Election
BEP .035—Tort Claims (Against the United States)
BEP .037—Union Index
BEP .038—Unscheduled Absence Record
BEP .040—Freedom of Information and Provacy Acts Requests
BEP .041—Record of Discrimination Complaints
BEP .042—Informal EEO Complaint Processing Records
BEP .043—Parking Program Records
BEP .044—Personnel Security Files and Indices

Federal Law Enforcement Training Center

FLETC .001—FLETC Payroll System
FLETC .002—FLETC Trainee Records and FLETC Instructor Records
FLETC .003—FLETC Confidential Financial Records
FLETC .004—FLETC Employee Records

Financial Management Service

FMS .001—Administrative Records
FMS .002—Payment Issue Records for Regular Recurring benefit payments
FMS .003—Claims and Inquiry Records on Treasury Checks, U.S. Currencies, and International Claimants
FMS .005—Personnel Records
FMS .007—Payroll and Pay Administration
FMS .008—Personnel Security Records
FMS .010—Records of Accountable Officers' authority with Treasury
FMS .011—Individual Retirement Cards
FMS .012—Precomplaint Counseling and Complaint Activities

United States Mint

Mint .002—Applicants for, and the Former Members of the Assay Commission
Mint .003—Cash Receivable Accounting Information System
Mint .005—Current Employee Security Identification Record
Mint .006—Employee and Former Employee Travel and Training Accounting Information System
Mint .007—Employee, Former Employee and Visitors Compensation Records

Mint .009—Employee—Supervisor Performance, Evaluation Counseling and Time and Attendance
Mint .010—Examination Reports of Coins Forwarded to Mint from U.S. Secret Service
Mint .011—General Correspondence
Mint .012—Investigatory Files on Theft of Mint Property
Mint .013—Numismatic Coin Operations System
Mint .014—Purchases, Sales, Exchange and Assays of Precious Metals
Mint .015—Redemption of Uncurrent or Mutilated Coins
Mint .016—Grievances, Union/Agency Negotiated

Bureau of the Public Debt

BPD .001—Personnel and Administrative Records
BPD .002—United States Savings—Type Securities
BPD .003—United States Securities (Other than Savings—Type Securities)

United States Savings Bonds Division

USSBD .001—Savings Bonds Division
USSBD .002—Savings Bonds Sales Promotion/Volunteer
USSBD .003—Savings Bonds Sales Record System

United States Secret Service

USSS .001—Administrative Operations Information System
USSS .002—Criminal Investigation Information System
USSS .003—Financial Management Information System
USSS .004—Freedom of Information Request System
USSS .005—Legal Counsel Record System
USSS .006—Non-Criminal Investigation Information System
USSS .007—Protection Information System
USSS .008—Public Affairs Record System
USSS .009—Training Information System

BILLING CODE: 4710-25-M

Treasury/ATF .001

SYSTEM NAME:

Administrative Record System—Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Branch, Room 4406, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present employees of the Bureau of ATF. (2) Former employees of the Bureau of ATF. (3) Claimants againts the Bureau of ATF.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Accident Report—non-vehicle. (2) Accident Report—vehicle. (3) Accountability records for Government property. (4) Credit card purchases. (5) Disability reports. (6) Fatality reports. (7) Motor pool records. (6) Injury reports. (9) Motor vehicle operator's records. (10) Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Federal Claims Collection Act. (2) Federal Employees Compensation Act. (3) Federal Property and Administration Services Act of 1949, as amended. (4) Federal Tort Claims Act. (5) Military Personnel and Federal Employees Claim Act. (6) Occupational Safety and Health Act of 1970. (7) Small Claims Act. (8) 5 U.S.C. 1302, 3301, 3302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (a) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order. (b) Any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to an administrative matter. (c) Appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit. (d) A court, magistrate or administrative tribunal in the course of presenting evidence; counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings. (e) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (f) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (g) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers.

RETRIEVABILITY:

Records are retrievable by name of individual.

SAFEGUARDS:

Direct access restricted to personnel in Department of the Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis or where "a right to access" is established, and to others upon verification of the substance and propriety of the request. Stored in lockable metal file cabinents in rooms locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Services Administration General Records Schedules Numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms records control schedules numbers 101 and 201 and disposed of by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Division Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Requests may be delivered personally to Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

RECORD ACCESS PROCEDURES:

Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC. Requests may be delivered personally to Room 4406 Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Appeals of determinations refusing amendment of records should be addressed to Privacy Act Appeal, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Appeals may be delivered personally to Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CONTESTING RECORD PROCEDURES:

See Access above.

VOL 50 ISS 143 JL 25 1985 UMI

RECORD SOURCE CATEGORIES:

(1) Administrative records. (2) Claimants. (3) Doctors. (4) Employee records. (5) Fiscal records. (6) Former employees of the Bureau of ATF. (7) Former employers. (8) General Services Administration. (9) Individuals who have information relevant to claims. (10) Inspections records. (11) Internal Investigation reports. (12) Police reports. (13) Present employees of the Bureau of ATF. (14) Supervisors. (15) Witnesses.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/ATF .002

SYSTEM NAME:

Correspondence Record System—Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Branch, Room 4406, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who correspond with the Bureau requesting information relating to Bureau personnel. (2) Persons who correspond with the Bureau requesting information relating to Bureau activities. (3) Persons who correspond with the Bureau requesting rulings, interpretations, or technical and scientific matters of a general nature. (4) Persons who correspond with others and whose correspondence is referred to ATF for response. (5) Persons referred to in correspondence with the Bureau. (6) Authors and publishers of technical and scientific matters relating to Bureau activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with individuals who contact the Bureau requesting information relating to Bureau personnel and/or activities, Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (a) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order. (b) Any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to an administrative, fiscal or personnel mater. (c) Appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit. (d) A court, magistrate or administrative tribunal in the course of presenting evidence, counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings. (e) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (f) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers.

RETRIEVABILITY:

Records are retrieved by name, subject matter and date of correspondence.

SAFEGUARDS:

Transmitted to routine users on a "need to know" basis. Stored in lockable file cabinets in rooms locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Services Administration General Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director (Congressional and Media Affairs), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Requests may be delivered personally to Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

RECORD ACCESS PROCEDURES:

Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Requests may be delivered personally to Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Appeals of determinations refusing amendment of records should be addressed to: Privacy Act Appeal, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Appeals may be delivered personally to Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Persons who correspond with the Bureau on general, technical or scientific matters.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/ATF .003

SYSTEM NAME:

Criminal Investigation Report System—Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Components of this record system are geographically dispersed throughout Bureau of Alcohol, Tobacco and Firearms' field offices. A list of field offices is available by writing to the Chief, Disclosure Branch, Room 4406, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Criminal offenders or alleged criminal offenders acting alone or in concert with other individuals and suspects who have been or are under investigation for a violation or suspected violation of laws enforced by the Bureau. (2) Criminal offenders or alleged criminal offenders acting alone or in concert with individuals who have been referred to the Bureau of Alcohol, Tobacco and Firearms by other law enforcement agencies, governmental units and the general public. (3) Informants. (4) Persons who come to the attention of the Bureau in the conduct of criminal investigations. (5) Persons who have been convicted of a crime punishable by imprisonment for a term exceeding one year and who have applied for relief from disabilities under Federal law with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and explosives and whose disability was incurred by reason of such conviction. (6) Victims of crimes. (7) Witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records containing information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) Records containing information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable to an individual; (c) Records containing reports identifiable individual compiled at various stages of the process of enforcement of criminal laws from arrest or indictment through release from supervison; (d) Records compiled and maintained by the Bureau as generally described in (a), (b), and (c) above including the following: (1) Abandoned property reports. (2) ATF Criminal Investigation Reports (not resulting informal prosecution reports). (3) ATF referrals to foreign, Federal, state, and local law enforcement agencies. (4) Chief and Regional Counsel opinions. (5) Contemporaneous investigative notes. (6) Criminal investigatory correspondence from and to foreign, Federal, state and local law enforcement agencies. (7) Criminal intelligence information on individuals suspected to be violating ATF laws and regulations. (8) Documentary proof of defendant's criminal record; identify; or lack or registration of N.F.A. (as amended) firearm(s). (9) FBI Criminal Record Reports. (10) Fingerprints and palmprints. (11) Fugitive arrest warrants. (12) Handwriting exemplars. (13) Index cards, violation and reputation. (14) Illicit liquor and raw material surveys. (15) Laboratory reports of evidence analysis. (16) Memoranda of expected testimony of witnesses. (17) Organized crime members violating or suspected of violating ATF laws. (18) Parole and pardon reports. (19) Personal histories (address, employment, social security number, financial background, physical description, etc.). (20) Photographs. (21) Purchase of evidence records. (22) Records of electronic surveillance by ATF. (23) Records received in response to summons and subpoenas. (24) Reliefs from disability. (25) Reports of interview with witnesses. (26) Search warrants and affidavits for search warrants. (27) Seized property reports. (28) Significant criminals, armed and dangerous, firearms, explosives, liquor, and wagering. (29) Special agent's daily activity diary (accessible by date only). (30) State and local law enforcement criminal investigative reports. (31) Statements of defendants. (32) Statements of witnesses. (33) Summons and subpoenas issued pursuant to criminal investigations. (34) Voice prints. (35) Wagering tax suspected violators. (36) Warning and demand letters. (37) Criminal violation reports (a formal report compiling all or portions of the foregoing for prosecutive purposes).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 26 U.S.C. Chapters 35 and 40. (2) 26 U.S.C. Chapters 51 and 52. (3) 26 U.S.C. Chapter 53, as amended. (4) 26 U.S.C. Chapters 61 through 80, as amended. (5) 27 U.S.C. Chapter 8, as amended (Federal Alcohol Administration Act). (6) 18 U.S.C. Chapter 40. (7) 18 U.S.C. Chapter 44. (8) 18 U.S.C. Chapter 59. (9) 18 U.S.C. App. 1201–1203 (Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title III of the Gun Control Act of 1968). (10) 22 U.S.C. section 414, (Mutual Security Act of 1954, as amended). (11) 5 U.S.C. sections 901 and 903, 5 U.S.C. App. (Reorganization Plan of 1950), Treasury Order 221, 5 U.S.C. section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of this system is to suppress traffic in illicit untaxpaid distilled spirits; to enforce the Federal laws relating to the illegal possession and use of firearms, destructive devices, explosives, explosive matrials, and wagering activities; and to assist Federal, state, local and foreign law enforcement agencies in reducing crime and violence. A record in this system may be disclosed as a routine use to: (a) Employees of other government agencies when required or authorized to be released by statute, regulations or Executive Order. (b) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (c) Appropriate Federal, state, local and foreign agencies for the purpose of enforcing and investigating administrative, civil or criminal laws relating to the hiring or retention of an employee; issuance of security clearance, license, contract, grant or other benefit. (d) A court, magistrate, or administrative tribunal in the course of presenting evidence; counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) INTERPOL and similar criminal intelligence gathering organizations for the purpose of identifying and suppressing the activities of international and national criminals and terrorists. (f) Appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (g) Insurance companies making determinations regarding claims in cases that the Bureau has conducted or is conducting an arson investigation. (h) A congressional office in response to an inquiry of the individual to whom the record pertains. (i) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (j) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored on magnetic tape at ADP Division, Technical and Scientific Services Branch of Bureau Headquarters and at the IRS Data Center, Detroit, MI. Records are stored in on-line mass computer storage at San Diego, CA (Treasury Enforcement Communications System).

RETRIEVABILITY:

Records are retrievable by name, date of birth, social security number, unique identifier, investigation number, serial

VOL 50 ISS 143 JL 25 1985 UMI

number of firearm, or a combination of any of these; plus date and geographical location of incident giving rise to investigation.

SAFEGUARDS:

Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Services Administration General Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning. Records on tape or on-line mass storage are disposed of by deguassing.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director (Law Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a (e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempted from compliance with the provisions of 5 U.S.C. 552a(e)(4)(H).

CONTESTING RECORD PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempted from compliance with the provisions of 5 U.S.C. 552a((e)(4)(H).

RECORD SOURCE CATEGORIES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a(e)(4)(I).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Exempt under 5 U.S.C. 552a(j) and 31 CFR 1.36.

Treasury/ATF .004

SYSTEM NAME:

Fiscal Record System—Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Branch, Room 4406, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present employees. (2) Former employees. (3) Recipients of rewards. (4) Vendors furnishing goods and services to the Bureau.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Advance of Funds. (2) Agreements. (3) Contracts. (4) Designated Agents or recommended Designated Agents. (5) Designated timekeepers and alternates. (6) Employee pay records. (7) Purchase orders. (8) Payment vouchers. (9) Time and attendance records. (10) Travel and moving vouchers. (11) Travel request and authorization. (12) Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. sections 901 and 903, 5 U.S.C. App. (Reorganization Plan No. 26 of 1950), Treasury Order 221; 5 U.S.C. section 301. (2) Executive Order 6166 (amended).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (a) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order. (b) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (c) Any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to an administrative, fiscal or personnel matter. (d) Appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit. (e) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (f) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (g) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored on magnetic tape at the IRS Data Center, Detroit, MI.

RETRIEVABILITY:

Records are retrievable by name, date of birth, social security number, employee identification number, or a combination of any of these four.

SAFEGUARDS:

Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis or where "a right to access" is established, and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Services Administration General Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms records Controls Schedules numbers 101 and 201 and disposed of by shredding or burning. Records stored on tapes, discs or in on-line mass storage, are disposed of by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Fiscal Division, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Requests may be delivered personally to Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

RECORD ACCESS PROCEDURES:

Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Requests may be delivered personally to Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Appeals of determinations refusing amendment of records should be addressed to: Privacy Act appeal, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Appeals may be delivered personally to Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

(1) Former employees of the Bureau of ATF. (2) IRS Data Center. (3) Present employees of the Bureau of ATF. (4) Surviving spouse of deceased personnel. (5) Vendors of necessary goods and services for operations of Bureau of ATF.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/ATF .005

SYSTEM NAME:

Freedom of Information Requests—Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are requesting information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence pursuant to the Freedom of Information Act, internal processing documents and memoranda, referrals and copies of requested records, and Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Freedom of Information Act, 5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (a) To disclose information to other agencies when required for coordination of response or referral. (b) To disclose information to the Department of Justice for defending law suits. (c) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

By name of requester(s) and date of request.

SAFEGUARDS:

Filed in filing cabinet and released only to individuals with legitimate right to review.

RETENTION AND DISPOSAL:

In accordance with the provisions of the Act and Departmental records management procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Disclosure Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

See System manager.

RECORD ACCESS PROCEDURES:

See System manager.

CONTESTING RECORD PROCEDURES:

See System manager.

RECORD SOURCE CATEGORIES:

Individuals who make Freedom of Information Act requests. Federal officials responding to Freedom of Information Act requests and documents from official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/ATF .006

SYSTEM NAME:

Internal Security Record System—Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present employees of the Bureau of ATF. (2) Former employees of the Bureau of ATF. (3) Applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Records containing investigative material compiled for law enforcement purposes including reports relating to: (a) Conduct of employees. (b) Integrity of employees. (2) Records containing investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information including reports relating to security clearances of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 201, Executive Order 10450, Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is used to assure the Bureau Director, the Department of the Treasury, and the public that the Bureau is taking strong and vigorous steps to maintain the highest standards of integrity, loyalty, conduct, and security among Bureau personnel. When a criminal investigation results in a compilation of information contained in this system, the information so compiled shall be transferred to the ATF Criminal Investigation Report System and shall become a part of that system for all purposes of the Privacy Act of 1974. A record in this system may be disclosed as a routine use to: (a) Employees of other government agencies when required or authorized to be released by statute, regulations or Executive Order. (b) Third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (c) Appropriate Federal, State, local and foreign agencies for the purpose of enforcing and investigating administrative, civil or criminal law relating to the hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit. (d) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) Appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of

VOL 50 ISS 143 JL 25 1985 UMI

an indication of a violation or potential violation of civil or criminal law or regulation. (f) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (g) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (h) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Center.

RETRIEVABILITY:

Records are retrievable by name.

SAFEGUARDS:

Direct access restricted to personnel in Department of the Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis and to others upon verification of the substance and propriety of the request. Stored in lockable metal file cabinets in room locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Services Administration General Records Schedules Numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director (Internal Affairs), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a(e)(4)(G).

RECORD ACCESS PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a(e)(4)(H).

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

(1) Employees of this Bureau. (2) Internal Investigative report forms. (3) Witnesses. (4) Informants. (5) Federal, state and local enforcement agencies. (6) Employers. (7) Educational institutions. (8) Credit agencies. (9) Neighbors. (10) References. (11) Professional Organizations. (12) Other government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions exempt under 5 U.S.C. 552a(k) (relating to security clearances) and 5 U.S.C. 552a(k)(2) (relating to conduct and integrity) and 31 CFR 1.36.

Treasury/ATF .007

SYSTEM NAME:

Personnel Record System—Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. A list of field offices is available by writing to the Chief, Disclosure Branch, Room 4406, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Present Employees of the Bureau of ATF. (2) Former Employees of the Bureau of ATF. (3) Applicants for employment with ATF.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Allotment and Dues. (2) Annual Tax Reports. (3) Applicants for employment. (4) Applications for reassignment. (5) Awards, honors, and fellowship records. (6) Classification appeal records. (7) Death claim records. (8) Educational history. (9) Employee indebtedness records. (10) Employees qualified as Grievance Examiners. (11) Employee Suggestions. (12) Employee history. (13) Employee relations case file. (14) Equal employment opportunity case file. (15) Health maintenance records. (16) Insurance records. (17) Military history. (18) Occupational injuries, disabilities, and Worker's Compensation Records. (19) Official personnel folder. (20) Outside employment and identification numbers, business or professional records. (21) Outside employment. (22) Outside financial interests. (23) Overtime and/or Premium Pay records. (24) Performance evaluation records. (25) Personal history. (26) Position description records. (27) Promotion/Selection Certificates Records. (28) Property custody records. (29) Retirement records. (30) Security clearance records. (31) Statement of career goals. (32) Supervisory or managerial potential records. (33) Temporary assignments and details. (34) Time application reports and records. (35) Training record. (36) U.S. Savings Bond participation records. (37) Upward mobility applications. (38) Vehicle accidents. (39) Withholding tax records. (40) Work schedule records. (41) Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. Chapter 29, Subchapter II. (2) 5 U.S.C. Chapters 31 and 33. (3) 5 U.S.C.Chapter 43. (4) 5 U.S.C. Chapter 45. (5) 5 U.S.C. Chapter 51. (6) 5 U.S.C. Chapter 55, subchapter III. (7) 5 U.S.C. Chapter 61. (8) 5 U.S.C. Chapter 75. (9) 5 U.S.C. Chapter 83. (10) 5 U.S.C. Section 301. (11) 5 U.S.C. 4503. (12) 5 U.S.C. Sections 5101–5115. (13) 5 U.S.C. Sections 7151–7154. (14) 5 U.S.C. Section 7901. (15) Pub. L. 92–261 (Equal Employment Act of 1972). (16) Pub. L. 93–579. (17) Federal Employees Compensation Act. (18) Occupational Safety and Health Act of 1970. (19) Executive Order 10561. (20) Executive Order 11222. (21) Executive Order 11476. (22) Executive Order 11491.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (a) Employees of government agencies when required or authorized to be released by statute, regulations or Executive Order. (b) Any third party, to the extent necessary, to collect relevant information from the third party, provided that the information is needed by the Bureau to render a decision in regard to a personal matter. (c) Appropriate Federal, state, local or foreign agencies responsible for enforcing administrative, civil, or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit. (d) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) Unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (f) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (g) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored on magnetic tape at the IRS Data Center, Detroit, MI. Records are stored in on-line mass computer storage at San Diego, CA (Treasury Enforcement Communications System).

RETRIEVABILITY:

Records are retrievable by name, date of birth, social security number, employee identification number, or a combination of any of these four.

SAFEGUARDS:

Direct access restricted to personnel in the Department of the Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis or where "a right to access" is established, and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Services Administration Genral Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding, burning or by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a(e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 522a(e)(4)(H).

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

(1) Administrative Records. (2) Applicants for employment with Bureau. (3) Acquaintances. (4) Business and professional associates. (5) Creditors (6) Criminal records. (7) Educational institutions attended. (8) Employee records. (9) Equal Employment Opportunity Commission. (10) Financial institutions. (11) Fiscal records. (12) Former employees. (13) Former employers. (14) Inspection records. (15) Internal investigation reports. (16) Internal Revenue Service. (17) Military records. (18) Outside employers. (19) Physicians. (20) Police reports. (21) Position classification specialists. (22) Psychiatrists. (23) References. (24) Supervisors. (25) Training officers. (26) Unions, accredited. (27) U.S. Civil Service Commission. (28) Witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Exempt under 5 U.S.C. 552a(k) and 31 CFR 1.36.

Treasury/ATF .008

SYSTEM NAME:

Regulatory Enforcement Record System—Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226. Components of this system of records are also geographically dispersed throughout ATF's regional and field offices. A list of field offices is available by writing to the Chief, Disclosure Branch, Room 4406, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have been issued permits or licenses, have filed applications with ATF, or have registered with ATF as: (a) Brewers. (b) Claimants for refund, abatement, credit, allowance or drawback of excise or special occupational taxes. (c) Collectors of firearms or ammunition. (d) Importers or wholesalers of beer, wine or distilled spirits; distillers, rectifiers, bottlers, or warehousemen of distilled spirits; or Wine producers. (e) Individuals who produce, receive, blend, store or treat wine or distilled spirits for experimental or research purposes. (f) Individuals who establish experimental distilled spirits plants. (g) Liquor bottle manufacturers. (h) Manufacturers of stills. (i) Manufacturers, importers, or dealers of firearms or ammunition. (j) Manufacturers, importers, dealers, or users of explosive materials. (k) Manufacturers, proprietors of export warehouses or importers of tobacco produces. (l) Non-beverage drawback claimants. (m) Operators of pilot brewing plants. (n) Possessors of stills and related equipment. (o) Proprietors of vinegar plants, fruit—flavor concentrate plants or class 6 bonded warehouses. (p) Proprietors of bonded wine cellars, Bonded wineries, tax paid wine bottling houses, or bonded wine warehouses. (q) Reprocessors or rebottlers of specially denatured spirits. (r) Retailers of beer, wine or distilled spirits. (s) Users of tax-free alcohol, dealers or users of specially denatured spirits, or recoverers of specially denatured or completely denatured spirits. (t) Individuals who establish alcohol fuel plants. (u) Exporters of beer, wine and distilled spirits subject to drawback. (2) Individuals who are employed by businesses engaged in the activities specified in paragraph 1 and who are officers, directors, holders of 10 percent or more of the outstanding stock, designated agents, or responsible persons. (3) Individuals who are not qualified to engage in any of the activities listed in paragraph 1, but who are assessed excise or special occupational taxes. (4) Individuals who submit Offers in Compromise.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing investigative material compiled for law enforcement purposes which may consist of the following: (1) Abstracts of offers in compromise. (2) Administrative law judge decisions. (3) Assessment records: (a) Notices of proposed assessments. (b) Notices of shortages or losses. (c) Notices to IRS to assess taxes. (d) Recommendation for assessments. (4) Claim records: (a) Claims. (b) Letters of claim rejection. (c) Sample reports. (d) Supporting data. (e) Vouchers and schedules of payment. (5) Comments on proposed rulemakings. (6) Complaints from third parties. (7) Correspondence concerning records in this system and related matters. (8) Financial statements. (9) Inspection and investigation reports. (10) Joint demands on principals and sureties for payment of excise tax liabilities. (11) Letters of reprimand. (12) Lists of permittees and licensees. (13) List of officers, directors and principal stockholders. (14) Mailing lists and addressograph plates. (15) Notices of delinquent reports. (16) Offers in compromise. (17) Operation records:

VOL 50 ISS 143 JL 25 1985 UMI

(a) Operating reports. (b) Reports of required inventories. (c) Reports of thefts or losses of firearms—who maintains records. (d) Reports of thefts of explosive materials—who maintains records. (e) Transaction records. (f) Transaction reports. (18) Orders of revocation, suspension or annulment of permits or licenses. (19) Regional and Chief Counsel opinions and memoranda. (20) Reports of violations. (21) Permit status records. (22) Qualifying records: (a) Access authorizations. (b) Advertisement records. (c) Applications. (d) Bonds. (e) Business histories. (f) Criminal records. (g) Diagrams of premises. (h) Educational histories. (i) Employment histories. (j) Environmental records. (k) Financial data. (l) Formula approvals. (m) Label approvals. (n) Licenses. (o) Notices. (p) Permits. (q) Personal references. (r) Plant profiles. (s) Plant capacities. (t) Plats and plans. (u) Registrations. (v) Sample reports. (w) Signature authorities. (x) Special permissions and authorizations. (y) Statements of process. (23) Show cause orders. (24) Tax records: (a) Control cards relating to periodic payment and prepayment of taxes. (b) Excise and special tax returns. (c) Notices of tax discrepancy or adjustment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 26 U.S.C. 5172. (2) 26 U.S.C. 5271(b)(1). (3) 26 U.S.C. 5356. (4) 26 U.S.C. 5401. (5) 26 U.S.C. 5417. (6) 26 U.S.C. 5502(b). (7) 26 U.S.C. 5511(3). (8) 26 U.S.C. 5521(a). (9) 26 U.S.C. 5179(a). (10) 26 U.S.C. 204(c). (11) 26 U.S.C. 5105. (12) 26 U.S.C. 5275. (13) 26 U.S.C. 5301(b). (14) 26 U.S.C. 5132. (15) 26 U.S.C. 5042(a)(2). (16) 26 U.S.C. 7011. (17) 26 U.S.C. 5712. (18) 18 U.S.C. 923(a). (19) 18 U.S.C. 923(b). (20) 18 U.S.C. 843(a). (21) 22 U.S.C. 414. (22) 26 U.S.C. 4401(a). (23) 26 U.S.C. 6001. (24) 26 U.S.C. 6011(a). (25) 26 U.S.C. 5001. (26) 26 U.S.C. 5021–5023. (27) 26 U.S.C. 5041. (28) 26 U.S.C. 5051. (29) 26 U.S.C. 6201. (30) 26 U.S.C. 5008. (31) 26 U.S.C. 5044. (32) 26 U.S.C. 5056. (33) 26 U.S.C. 5705. (34) 26 U.S.C. 6423(b). (35) 26 U.S.C. 5009(a). (36) 26 U.S.C. 5006(a). (37) 26 U.S.C. 5055. (38) 26 U.S.C. 5062(c). (39) 26 U.S.C. 5106. (40) 26 U.S.C. 5131(c). (41) 26 U.S.C. 5064. (42) 26 U.S.C. 7122. (43) 27 U.S.C. 207. (44) 18 U.S.C. 843(d). (45) 18 U.S.C. 923(f). (46) 27 U.S.C. 204(e). (47) 26 U.S.C. 5312(a). (48) 26 U.S.C. 5042(a)(3). (49) Reorganization Act of 1949, 5 U.S.C. Sections 901 *et seq.*; Revenue Act of 1951, Section 616; Treasury Department Order 221 (37 FR 11696, dated June 19, 1972). (50) 5 U.S.C. 301. (51) 26 U.S.C. 5181.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of this system is to determine suitability, eligibility or qualifications of individuals who are engaged or propose to engage in activities regulated by ATF; achieve compliance with laws under ATF's jurisdiction; assure full collection of revenue due from legal industries; eliminate commercial bribery, consumer deception and other improper trade practices in the distilled spirits, beer and wine industries; interact with Federal, state and local governmental agencies in the resolution of problems relating to industrial development, revenue protection, public health, ecology, and other areas of joint jurisdictional concern. When a criminal investigation results a compilation of information contained in this system of records, the information shall be transferred to the Treasury ATF—Criminal Investigation Report System and shall become part of that system for all purposes of the Privacy Act of 1974. A record in the system may be disclosed as a routine use to: (a) Employees of other governmental agencies when required or authorized to be released by statute, regulations or Executive Order. (b) Any third party to the extent necessary to collect or verify information pertinent to the Bureau's decision to grant, deny or revoke a license or permit; to initiate or complete an investigation of violations or alleged violations of laws and regulations administered by the Bureau. (c) Appropriate Federal, state, local or foreign agencies for the purpose of enforcing administrative, civil or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit. (d) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) INTERPOL and similar national and international intelligence gathering organizations for the purpose of identifying international and national criminals involved in consumer fraud, revenue evasion or crimes. (f) Foreign governments in accordance with formal or informal international agreements. (g) Appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (h) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (i) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in filing cabinets; card forms in card filing cabinets; and on magnetic tapes or microfiche at IRS Service Centers, ATF Headquarters, or Department of the Treasury.

RETRIEVABILITY:

Records are retrievable by name, permit or license number, or by document locator number.

SAFEGUARDS:

Direct access restricted to personnel in the Department of Treasury in the performance of their duty. Transmitted to routine users on a "need to know" basis and others upon verification of the substance and propriety of the request. Stored in file cabinets in rooms locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Services Administration General Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding, burning or by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 522a(e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 522a(e)(4)(H).

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

(1) Acquaintances. (2) Bureau Personnel. (3) Business and Professional Associates. (4) Creditors. (5) Criminal Records. (6) Financial Institutions. (7) Former Employers. (8) Internal Revenue Service. (9) Military Records. (10) Physicians. (11) Psychiatrists. (12) References. (13) Police Reports. (14) Witnesses. (15) Federal Law Enforcement Agencies. (16) State Law Enforcement Agencies. (17) Local Law Enforcement Agencies. (18) State Regulatory Agencies. (19) Federal Regulatory Agencies. (20) Local Regulatory Agencies. (21) Chief Counsel's Opinions. (22) Regional Counsel's Opinions. (23) Chief Counsel's Memoranda. (24) Regional Counsel's Memoranda. (25) Field Investigation Reports. (26) Third Parties.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Exempt under 5 U.S.C. 552a(k)(2) and 31 CFR 1.36.

Treasury/ATF .009

SYSTEM NAME:

Technical and Scientific Services Records System—Treasury/ATF.

SYSTEM LOCATION:

Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. Components of this record system are geographically dispersed throughout Bureau of Alcohol, Tobacco and Firearms' field offices. A list of field offices is available by writing to the Chief, Disclosure Branch, Room 4406, 1200 Pennsylvania Avenue NW., Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Applicants to register firearms under the National Firearms Act. (2) Applicants for Surplus Military Firearms under the Director of Civilian Markmanship Program. (3) Importers of implements of war as defined under the Mutual Security Act of 1954 and the Arms Export Control Act of 1976. (4) Licensed importers registered under the Mutual Security Act of 1954 and the Arms Export Control Act of 1976 (5) Manufacturers of National Firearms Act who are exempt from payment of Special (Occupational) tax provisions. (6) Non-Bureau chemists certified to make analysis of alcoholic beverages. (7) Persons involved in explosives tagging and detection program. (8) Registered owners of National Firearms Act firearms. (9) Special (Occupational) taxpayers as defined under Title II of the Gun Control Act of 1968. (10) Victims of explosives. (11) Individuals involved in Government funded research projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Alterations of registered National Firearms Act firearms. (2) Applications for surplus military firearms. (3) Applications to register firearms and destructive devices under the National Firearms Act. (4) Applications to import articles on the United States Munitions list. (5) Blueprints. (6) Certifications of payment of Special (Occupational) tax payments. (7) Changes of address for owner of firearms registered under the National Firearms Act. (8) Claims for erroneous Special (Occupational) taxes payments. (9) Descriptions of Inventions. (10) Delinquency notices regarding proof of importation of National Firearms Act firearms. (11) Explosive reports. (12) Non-Bureau chemists' statements of qualification. (13) Patent information. (14) Registrations of firearms and destructive devices under the National Firearms Act. (15) Registration of war trophy firearms. (16) Requests and authorizations for temporary movement and/or temporary storage of National Firearms Act firearms. (17) Technical and scientific data. (18) Transaction records concerning National Firearms Act firearms. (19) Trade secrets. (20) United States Government contracts to manufacturers of National Firearms Act firearms. (21) Chief Counsel and Regional Counsel memoranda and opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 18 U.S.C. Chapter 40. (2) 18 U.S.C. Chapter 44. (3) 18 U.S.C. Section 3056. (4) 26 U.S.C. Sections 6001 (a), 5001, 5008, 5009 (a), 5006 (a), 5021–5023, 5041, 5042 (a)(2), 5051, 5053, 5056, 5062 (c), 5705, 6201, 6423 (b), 5105, 5106, 5131 (c), 5132, 5172, 5172 (b)(1), 5275, 5301 (b), 5356, 5401, 5417, 5502 (b), 5511 (3), 5521 (a), 5179 (a), 5712, 7011. (5) 27 U.S.C. Sections 204 (c). (6) 26 U.S.C. Chapter 35. (7) Executive Order 10973, as amended by Executive Order 11432.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of this system is to provide technical and scientific support and expertise to Criminal and Regulatory Enforcement activities of the Bureau; to other Federal, state, local and foreign law enforcement agencies; and to industries involved in activities regulated by the Bureau. When a criminal investigation results in a compilation of information contained in this system, the information so compiled shall be transferred to the ATF Criminal Investigation Report System and shall become a part of that system for all purposes of the Privacy Act of 1974. A record in this system may be disclosed as a routine use to: (a) Employees of other governmental agencies when required or authorized to be released by statute, regulations or Executive Order. (b) Any third party to the extent necessary to collect or verify information pertinent to the Bureau's decision to grant, deny or revoke a license or permit; to initiate or complete an investigation of violations or alleged violations of laws and regulations administered by the Bureau. (c) Appropriate Federal, state, local or foreign agencies, for the purpose of enforcing administrative, civil, criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, grant or other benefit. (d) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) INTERPOL and similar national and international intelligence gathering organizations for the purpose of identifying international and national criminals involved in consumer fraud, revenue evasion or crimes. (f) Foreign governments in accordance with formal or informal international agreements. (g) Appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (h) Insurance companies making determinations regarding claims in cases that the Bureau has conducted or is conducting an arson investigation. (i) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (j) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records stored in file folders in filing cabinets; on 3 x 5 and 5 x 8 cards stored in card file cabinets; on microfilm reels; magnetic tape reels and discs; and on keypunch cards.

RETRIEVABILITY:

Records are retrievable by name, by unique identifier, control number, serial number of National Firearms Act firearms.

SAFEGUARDS:

Stored in file cabinets locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Services Administration Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning. Records stored on tape discs or on-line mass storage are disposed of by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552(e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a(e)(4)(H).

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

(1) Individuals. (2) Companies. (3) Corporations. (4) Firearms Licensees. (5) Explosive Licensees. (6) Explosive Permittees. (7) Bureau personnel. (8) Federal law enforcement agencies. (9) State law enforcement agencies. (10) Local law enforcement agencies. (11) Foreign law enforcement agencies. (12) Federal Regulatory agencies. (13) State Regulatory agencies. (14) Local Regulatory agencies. (15) Non-Bureau Chemists.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Exempt under 5 U.S.C. 552a(k)(2) and 31 CFR 1.36.

BILLING CODE 4810-31-M

Treasury/Comptroller .004

SYSTEM NAME:

Consumer Complaint Information System (CCIS)—Treasury/Comptroller.

SYSTEM LOCATION:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219. Components of the CCIS are geographically dispersed throughout six (6) district offices. (See addresses listed in Appendix of OCC District Offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who file complaints against banks either directly or through second parties, e.g. attorneys, Congressional representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records are maintained in three general categories: correspondence; computer tapes; and hard copies of computer generated reports. Data contained in these records are: The name and address of the complainant or their representative; the name and charter number of bank; the date of incoming letter; the date letter received by the OCC; numerical codes identifying the nature of the complaint, the source of the complaint, and the type of resolution; the name of person assigned to examine the complaint; the resolution date; and, if appropriate, the amount of reimbursement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1, 12 U.S.C. 9, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Sanitized copies of the files may be used in response to Congressional inquiries on specific subjects. Hard copy computerized reports are used to monitor the system, provide data for the Annual Report to Congress and inquiries from other agencies, public and private.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in active use are stored in file cabinets in the processing office. Resolved complaints are stored in the office having primary responsibility for the subjects banks, generally the field office. Complaints against banks with over one billion dollars in assets are stored in the appropriate district office. Complaints which appeal the district office's resolution are stored in Central Files in the Washington Office. Active computer tapes are secured in the Information Systems and Technology Division and the computerized reports are stored in file cabinets.

RETRIEVABILITY:

Correspondence records are retrieved from appropriate office using the bank and complainant's name. Other records are retrieved using the complainant's name or the identification number assigned to each complaint.

SAFEGUARDS:

Entrance to the floors where active complaint files are located is a controlled access system. Computer tapes are also located in a controlled access location. Inactive files are located in locked file rooms.

RETENTION AND DISPOSAL:

(a) Consumer complaint correspondence generating administrative action is part of the permanent bank record set that is retained at OCC for three calendar years, then transferred to Washington National Records Center and offered to National Archives Records Service when 20 years old. (b) Consumer complaints of a routine nature are held for three years, transferred to WNRC, and destroyed when seven years old. (c) Computer tapes and one record copy of reports are retained in OCC for three years, then transferred to WNRC, and offered to NARS when 20 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Consumer Examinations Division, Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219.

NOTIFICATION PROCEDURE:

Individuals may write or call the Director of Consumer Examinations Division to obtain this information. They must provide their name, address, name of subject bank, complaint identification number, if available, and the approximate date. The requesting individual will only be provided an affirmative or negative answer. If additional information is requested, procedures under access must be followed.

RECORD ACCESS PROCEDURES:

Access to a record can be requested by writing to the Director of Communications, Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CONTESTING RECORD PROCEDURES:

Decisions by the district offices can be appealed to the Director of Consumer Examinations Division. Such an appeal is the final level of administrative action available to persons filing Complaints.

RECORD SOURCE CATEGORIES:

The initial source is from the person filing a complaint against a national bank. Subsequent sources are from bank correspondence, bank files, or from reports based on on-site examinations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Comptroller .010

SYSTEM NAME:

Federal Bureau of Investigation Report Card Index—Treasury/Comptroller.

SYSTEM LOCATION:

Comptroller of the Currency, 6th Floor, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have been involved in or associated with unlawful activity respecting national banking associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of alphabetized indices of the names of individuals involved in or associated with unlawful activity respecting national banks and a cross-reference to pertinent Federal Bureau of Investigation Reports relating thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. sections 21, 481, 1818, and 1829, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(A) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to foreign governments in accordance with formal or informal international agreements. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File cabinet.

RETRIEVABILITY:

The records are retrieved by the name of the individual.

SAFEGUARDS:

Records are retained by the Enforcement and Compliance Division. Within the Division, access to the file is limited to the attorneys and the support staff. During non-working hours the Division office is locked and only Division personnel have access to the office.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Enforcement and Compliance Division, Law Department, Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, date of employment or similar information).

RECORD ACCESS PROCEDURES:

Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CONTESTING RECORD PROCEDURES:

Submit requests to the Director, Public Affairs, at the address above.

RECORD SOURCE CATEGORIES:

Information and names obtained from F.B.I. logs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3)(4), (d)(1)(2)(3)(4), (e)(1)(2)(3)(4), (G), (H), and (I), (e) (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (h)(2).

Treasury/Comptroller .012

SYSTEM NAME:

Freedom of Information Index and Log—Treasury/Comptroller.

SYSTEM LOCATION:

Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons making request under the Freedom of Information Act (FOIA).

CATEGORIES OF RECORDS IN THE SYSTEM:

List of names of persons making requests under the Freedom of Information Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1 and 12 U.S.C. 9, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

No requests for this information are made outside of the Office of the Comptroller of the Currency or the Department of the Treasury.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File cabinet.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Unlocked file cabinet.

RETENTION AND DISPOSAL:

Records are updated periodically to reflect changes and are maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

VOL 50 ISS 143 JL 25 1985 UMI

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency Office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, date(s) of employment or similar information).

RECORD ACCESS PROCEDURES:

Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CONTESTING RECORD PROCEDURES:

Submit requests to the Director, Communications at the above address.

RECORD SOURCE CATEGORIES:

Persons making requests under Freedom of Information Act.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Comptroller .013

SYSTEM NAME:

Enforcement and Compliance Information System—Treasury/Comptroller.

SYSTEM LOCATION:

Comptroller of the Currency, 6th Floor, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities involved in actual or suspected fraudulent activities, and bank directors, officers and shareholders named in administrative enforcement actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information identifying the individual, describing the known or suspected criminal activity or enforcement action in which the individual is involved or named, giving the bank name and location, and where applicable, the law enforcement agency to which referred, date referred, indicating if a grand jury subpoena has been issued, indicating other action taken, and identifying the OCC attorney. The name of the individual is the only identifier used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 481, 1818, 1820.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide the Department of Justice with periodic reports which indicate the number, place and individual identity of outstanding potential criminal violations of the law which have been referred to the Department. (b) To provide the Comptroller of the Currency's offices with statistical information and thereby enable it to respond to general information requests from the Congress. (c) To disclose information to foreign governments in accordance with formal or informal international agreements. (d) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (e) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be maintained in general correspondence files, files of enforcement actions, in card files and on computer discs.

RETRIEVABILITY:

All records will be indexed by bank name and location. In addition, records on computer discs will be indexed by name of individual, known or suspected criminal code provision violated.

SAFEGUARDS:

Correspondence files are stored in the Comptroller's Central File room and may only be retrieved by authorized personnel. Enforcement files are accessible only to authorized personnel. Card files will be stored in lockable file cabinets. Computer discs will be accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Enforcement and Compliance Division, Law Department, Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219.

NOTIFICATION PROCEDURE:

This system is exempt from notification requirements under 5 U.S.C. 552a(k)(2) of the Act as relating to investigatory material compiled for law enforcement purposes.

RECORD ACCESS PROCEDURES:

Same as notification above.

CONTESTING RECORD PROCEDURES:

Same as notification above.

RECORD SOURCE CATEGORIES:

Examinations of national banks by national bank examiners; investigations performed by agency attorneys and notifications from the Department of Justice, other Federal and State law enforcement agencies, and other Federal and State bank regulatory agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Components of this system have been designated as exempt from 5 U.S.C. 552a (j)(4). To the extent that the exemption render 5 U.S.C. 552a(j)(4) does not apply, the exemption under 5 U.S.C. 552a(k)(2) applies.

Treasury/Comptroller .014

SYSTEM NAME:

Investigation Files/Employee Reference File—Treasury/Comptroller.

SYSTEM LOCATION:

Comptroller of the Currency, Human Resources Division, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employee of Comptroller of the Currency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Compilation of material for a determination regarding Security Clearance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1 and 12 U.S.C. 9; 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Locked steel file cabinets and a safe with combination lock.

RETRIEVABILITY:

Filed in alphabetical order.

SAFEGUARDS:

Combination locks are changed once a year and only security-cleared employees within the Human Resources Division have access.

RETENTION AND DISPOSAL:

Materials are retained for three months after employee leaves and the records are disposed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Comptroller for Management Resources, Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system. (2) Identify the category and type of records sought. (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

RECORD ACCESS PROCEDURES:

Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CONTESTING RECORD PROCEDURES:

Submit requests to the Director, Communications at the above address.

RECORD SOURCE CATEGORIES:

The information contained in these records was provided by subject of the record—employers, co-workers, friends, neighbors and associates, and finances.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system have been designated as exempt from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5).

Treasury/Comptroller .015

SYSTEM NAME:

Chain Banking Organizations System—Treasury/Comptroller.

SYSTEM LOCATION:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW, Washington, DC 20219; 1211 Avenue of the Americas, Suite 4250, New York, NY 10036; Peachtree Cain Tower, Suite 2700, 229 Peachtree Street, Atlanta, GA 30303; Sears Tower, Suite 5750, 233 South Wacker Drive, Chicago, IL 60606; 2345 Grand Avenue, Suite 700, Kansas City, MO 64108; 1201 Elm Street, Suite 3800, Dallas, TX 75270; 50 Fremont Street, Suite 3900, San Francisco, CA 94105.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who directly, indirectly, or in concert with others, own and/or control a chain banking organization.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Chain Banking Organizations System consists of word processing and microprocessing programs which perform editing, updating and reporting functions on two types of data: (1) Name of an individual (or group of individuals acting in concert) that owns or controls a chain banking organization and (2) information concerning individual chain banks, such as: name, location, charter number, charter type, date of last examination, percentage of outstanding stock owned by controlling individual or group and, if applicable, name of intermediate holding entity and percentage of it held by controlling individual or group.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1, 12 U.S.C. 481, 12 U.S.C. 1817(j).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPORES OF SUCH USES:

The System may be used: (1) To disclose information about specific chain banking organizations to other financial institution supervisory authorities for: (a) Coordination of examining resources when the chain banking organization is composed of banks or financial institutions subject to multiple supervisory jurisdiction; (b) coordination of evaluations and analysis of the condition of the consolidated chain group; (c) coordination of supervisory, corrective or enforcement actions. (2) To disclose information to the extent provided by law or regulation and as necessary to report any apparent violations of law to appropriate law enforcement agencies. (3) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (4) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (5) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (6) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in a computer data base and on computer floppy disks or hard copy printouts stored in file cabinets.

RETRIEVABILITY:

All retrievable records are indexed by district location, state, alphabetically by surname of the individual(s) and/or entity controlling the chain banking organization.

SAFEGUARDS:

Access to records in electronic storage systems is restricted by user identification procedures and passwords which limit access to authorized employees of the Office. Computer disks and hard copy printouts will be stored in locked file cabinets when the Office is vacant.

RETENTION AND DISPOSAL:

Records are generally maintained in electronic storage disks in an on-line capacity until needed. Certain records are archived in off-line storage. All records, including those in printout form, are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW, Washington, DC 20019. District Offices—The Deputy Comptroller for each District is responsible for assuring the accuracy and routine maintenance of that portion of the System applicable to the district.

NOTIFICATION PROCEDURE:

Individuals who wish to be notified if they are named in the system shall submit a signed, written request to the appropriate District Office (or to the System Manager at the address listed). The request must contain: (1) The requester's name and address; (2) the name of the system of records; and (3)

VOL 50 ISS 143 JL 25 1985 UMI

the name and location of the bank(s) which they control individually or in concert with others.

In order to avoid excessive delay and unneeded correspondence, individuals requesting notification should simultaneously request access to records pertaining to them.

RECORD ACCESS PROCEDURES:

Portions of this system of records may be accessed under the Privacy Act for purposes of inspection by identified controlling individuals for the express purpose of verifying that their controlling relationships are accurately recorded.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest a record in the system must submit a signed written request to the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

The requests should contain: (1) The name and address of the individual contesting the record; (2) the name of the system of records; (3) the name and location of the chain bank(s) which they reportedly control individually or in concert with others; and (4) the specific information being contested and the reason for contesting (it is believed to be inaccurate, irrelevant, incomplete, etc.).

RECORD SOURCE CATEGORIES:

Information that identifies chain banking groups primarily is gathered from: (1) Examination reports and related materials; (2) regulatory filings; and (3) Change in Bank Control Notices filed pursuant to 12 U.S.C. 1817(j).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Comptroller .221

SYSTEM NAME:

Professional Qualifications Records for Municipal Securities Principals and Municipal Securities Representatives—Treasury/Comptroller.

SYSTEM LOCATION:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW, Washington, DC 20219. Records stored in computerized files are maintained off-premises at the National Association of Securities Dealers, 1735 K Street NW, Washington, DC 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are or seek to be associated with a municipal securities dealer which is a national or District of Columbia bank, or a department, division, or subsidiary of any such bank, in the capacity of municipal securities principals or municipal securities representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain identifying information, detailed educational and occupational histories, certain professional qualifications examination information, disciplinary histories, and information concerning the termination of employment of individuals covered by the system. Identifying information includes names, address history, date and place of birth, and may include Social Security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 15B(c)(5), 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)(5), 78q and 78w) and the general authority of the National Banking Laws, 12 U.S.C. 1 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in these records may be subject to the following uses: (a) Referral to the appropriate governmental authority, whether Federal, State, local, or foreign, or to the appropriate self-regulatory organization, of such information as may indicate a violation or potential violation of law, regulation or rule. (b) Referral to the appropriate court, magistrate, or administrative law judge of such information as may be relevant to proceedings before any such court of judicial officer. (c) Disclosure of such information as may aid in the resolution of any action or proceeding: (1) In which the Federal securities or banking laws are at issue; (2) In which the propriety of any disclosure of information contained in the system is at issue; or (3) To which the Comptroller of the Currency or a past or present member of its staff is a party or otherwise involved in an official capacity. (d) Disclosure to a Federal, State, local, or foreign governmental authority, or to a self-regulatory organization, of such information as may be necessary to obtain from such authority or organization additional information concerning the qualifications of an individual covered by the system. (e) Disclosure of such information as may be necessary to respond to a request from a Federal, State, local, or foreign governmental authority, or from a self-regulatory organization, for information needed in connection with the issuance of a license, granting of a benefit, or similar action by such authority or ogranization affecting an individual covered by the system. (f) Disclosure of such information as may be necessary to respond to any Congressional inquiry undertaken at the request of an individual covered by the system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on magnetic media.

RETRIEVABILITY:

Records are indexed by name of individual.

SAFEGUARDS:

File folders are stored in lockable metal cabinets and computer memory discs are accessed only by Authorized Personnel.

RETENTION AND DISPOSAL:

Records are updated periodically to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Investment Securities Division, 490 L'Enfant Plaza East SW, Washington, DC 20219.

NOTIFICATION PROCEDURE:

Inquiries, including name and date and place of birth, should be addressed to the System Manager. Inquirers may be required to include a notarized statement attesting to identity.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure above.

RECORD SOURCE CATEGORIES:

Those individuals and municipal securities dealers described in the section entitled "Categories of Individuals Covered by the System," provide the bulk of the information in the system. Additional input is provided by Federal, State, local, and foreign governmental authorities, and by self-regulatory organizations, which regulate the securities industry.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Comptroller 300

SYSTEM NAME:

Administrative Personnel System—Treasury/Comptroller.

SYSTEM LOCATION:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219. Components of this system are geographically dispersed throughout six (6) district offices. Contact District Offices for addresses of field offices within their jurisdiction. (See addresses listed in Appendix of OCC District Offices.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment related administrative records. This system contains in house control type information about employees. The type of records found within this system are: List of individuals who are issued drivers' licenses, building passes, credit or identification cards, parking permits, accountable property and travel documents; lists of individuals who perform specialized duties (building wardens, relocation teams, safety officers, and civil defense officers); reports about individuals who are involved in accidents while employed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

General Authority—12 U.S.C. 1 and 9, 5 U.S.C. 301. Specific authority is derived from a number of laws, regulations and Executive Orders. Individuals wishing to obtain more detailed information should write to the Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (1) The Office of Personnel Management (OPM) for the purpose of complying with regulations issued by the CSC; (2) the General Services Administration (GSA) for the purpose of complying with regulations issued by the GSA; and (3) the Department of Labor for the purpose of investigating claims for work related injuries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, magnetic tape, lists and forms.

RETRIEVABILITY:

Records are retrieved primarily by name (filed alphabetically by category of records); secondary identifiers are used to assure accuracy (date of birth, social security number or employee identification number).

SAFEGUARDS:

Records are stored in lockable cabinets or secure rooms; access is limited to officials who have a need for the information; employees are trained to make only authorized disclosures.

RETENTION AND DISPOSAL:

Personnel-type records are retained for thirty (30) days after termination. All other records are retained and destroyed in accordance with published disposition and retention schedules. Individuals wishing more detailed information should write to the Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Comptroller for Management Resources, 490 L'Enfant Plaza, SW, Washington, DC 20219.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where last employed; (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

RECORD ACCESS PROCEDURE:

Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CONTESTING RECORD PROCEDURES:

Submit requests to the Director, Communications at the above address.

RECORD SOURCE CATEGORIES:

The information in these records was provided by or verified by the subject of the record, employers and co-workers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Comptroller 310

SYSTEM NAME:

Fiscal Personnel System—Treasury/Comptroller.

SYSTEM LOCATION:

Office of the Comptroller of the Currency, Finance and Planning Division, 490 L'Enfant Plaza, SW, Washington, DC 20219. Components of this system are geographically dispersed throughout six (6) district offices. (See addresses listed in Appendix of OCC District Offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is typically identified as payroll or disbursement type records and contains information about employees. The types of records found within this System are: Award, allowance, salary, fund advancement justification and disbursement records; personnel information; leave information; payroll deductions for taxes, life and health insurance, financial institutions, retirement funds and charitable groups.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

General authority—12 U.S.C. 1 and 9, 5 U.S.C. 301. Specific authority is derived from a number of laws, regulations and Executive Orders. Individuals wishing to obtain more detailed information should write to the Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (1) The Office of Personnel Management (OPM) for the purpose of complying with regulations issued by the OPM; (2) the General Services Administration (GSA) for the purpose of complying with regulations issued by GSA; (3) the General Accounting Office for the purpose of conducting audits; and (4) entities designated to receive payroll deductions, to grant insurance agencies for the purpose of determining eligibility for unemployment benefits, related to delinquent taxes; and (5) in judicial proceedings, garnishment wages for child support or alimony.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, magnetic media and reports. Disbursement records are stored at the Federal Records Center.

RETRIEVABILITY:

Records are retrieved primarily by name (filed alphabetically), secondary identifiers are used to assure accuracy (date of birth, Social Security number, or employee identification number).

SAFEGUARDS:

Records are stored in lockable cabinets or secure rooms; access is limited to officials who have a need for the information; employees are trained to make only authorized disclosures.

RETENTION AND DISPOSAL:

Personnel-type records are retained for 30 days after termination. Disbursement records are retained indefinitely. Individuals wishing more detailed information should write to the Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Comptroller for Systems and Financial Management, 490 L'Enfant Plaza, SW, Washington, DC 20219.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency Office where last employed; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

RECORD ACCESS PROCEDURES:

Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CONTESTING RECORD PROCEDURES:

Submit request to the Director, Communications, at that address above.

RECORD SOURCE CATEGORIES:

The information contained in these records was provided by or verified by the subject of the record, employers and co-workers.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Comptroller 320

SYSTEM NAME:

General Personnel System—Treasury/Comptroller.

SYSTEM LOCATION:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219. Components of this system are geographically dispersed throughout six (6) District Offices. (See addresses listed in Appendix of OCC District Offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment related biographical and performance material. This category of records is typically identified as personnel type records and contains data about employees including applicants. The type records found within this category include: Performance evaluations; educational, employment, medical and military histories; locator and emergency contact information; dependent and beneficiary information; physical and qualification descriptions; financial interest statements; personal and family assets, liabilities and other interests in business enterprises.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

General authority—12 U.S.C. 1 and 9, 5 U.S.C. 301. Specific authority is derived from a number of laws, regulations and Executive Orders. Individuals wishing to obtain more detailed information should write to the Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record in this system may be disclosed as a routine use to: (1) The Office of Personnel Management (OPM) for the purpose of complying with regulations issued by the OPM; (2) the Veterans Administration (VA) for the purposes of determining veterans preference and pension benefits; (3) the Equal Employment Opportunity Commission for the purpose of providing minority information and case reports; (4) respond to requests from labor organizations for names of employees and identifying information; (5) the Department of Labor for the purpose of reporting health and safety matters; (6) the General Services Administration (GSA) for the purpose of complying with regulations issued by GSA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, magnetic media, microfiche, printouts, lists and forms.

RETRIEVABILITY:

Records are retrieved primarily by name (filed alphabetically by category of records). Secondary identifiers are used to assure accuracy (date of birth, Social Security number or employee identification number).

SAFEGUARDS:

Records are stored in lockable cabinets or secure rooms; access is limited to officials who have a need for the information; employees are trained to make only authorized disclosures.

RETENTION AND DISPOSAL:

Most personnel-type records are retained for thirty (30) days after termination, at which time they are transferred to the Federal Records Center or destroyed. Some records are retained for varying periods of time in accordance with Federal Personnel Manual Regulations. Individuals wishing more detailed information should write to the Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Comptroller for Management Resources, 490 L'Enfant Plaza, SW, Washington, DC 20219.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where last employed or where application for employment was made; (4) Provide at least two secondary identifications (date of birth, employee identification number, dates of employment or similar information).

RECORD ACCESS PROCEDURE:

Director, Communications, 490 L'Enfant Plaza, SW, Washington, DC 20219.

CONTESTING RECORD PROCEDURES:

Submit requests to the Director, Communications, at that address above.

RECORD SOURCE CATEGORIES:

The information contained on these records was provided or verified by the subject of the record, employers, co-workers, friends, neighbors and associates listed as references, financial and educational institutions.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/Comptroller 500

SYSTEM NAME:

Chief Counsel's Management Information System—Treasury/Comptroller.

SYSTEM LOCATION:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219. Physical components of this system are also located in regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested information or action from the Law Department of the Comptroller of the Currency and individuals referenced in documents received by the Law Department in the course of the Agency's bank supervisory functions.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Chief Counsel's Management Information System consists of four primary modules: (1) The Work Assignment Control module; (2) The Case Tracking module; (3) The Litigation Support module; and (4) The Legal Research module. Information contained in the system includes, inter alia, name of the author and/or correspondent and the organization to which the author/correspondent belongs, the date of the correspondence, the city, state and region in which correspondent organization is located, the work type, the bank involved, and the subject.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1, 12 U.S.C. 9, 12 U.S.C. 481, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issurance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in computer data banks, computer tapes and printouts, and in file cabinents.

RETRIEVABILITY:

All records are indexed on a variety of data fields including correspondent name and location, bank name and location, subject, statutory provisions, and date.

SAFEGUARDS:

All records are indexed through computer indices. Only employees within the Law Department with proper user identification and passwords have access to the computer banks. Employees are trained to make authorized disclosures only to those individuals who have a need for the information. Passwords and user IDs are changed frequently.

RETENTION AND DISPOSAL:

Records are generally maintained in the on-line data bank until it is determined that on-line access is not required. Thereafter the records are archived in an off-line storage system. Records in file cabinets are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Assistant to the Chief Counsel, Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219, (202) 447-1896.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in the system or to gain access to records maintained in the system must submit a request containing the following elements: (1) Identity of the record system; (2) identity of the category type of records sought; (3) the location of the Comptroller of the Currency Office where the record might be stored; and (4) at least two items of secondary identification (date of birth, employee identification number, dates of employment, or similar information). The system contains records which are exempt under 5 U.S.C. 552a(j)(2) or 552a(k)(2).

RECORD ACCESS PROCEDURES:

Same as Notification, above.

CONTESTING RECORD PROCEDURES:

Same as Notification, above. Requests should be submitted to: Director, Public Affairs, Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, DC 20219.

RECORD SOURCE CATEGORIES:

Materials received by the Law Department from various sources including, inter alia, persons involved in sending inquiries to the Law Department and documents received by the Law Department in the course of the Agency's bank supervisory function. The CCMI contains certain records which have been designated as exempt from certain provisions of the Privacy Act.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a(c)(3)(4), (d)(1)(2)(3)(4), (e)(1)(2)(3)(4), (G), (H), and (I), (e) (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

Treasury/Comptroller 501

SYSTEM NAME:

Unclaimed Property System—Treasury/Comptroller.

SYSTEM LOCATION:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed claims in connection with the disposition of unclaimed property in the possession or custody of the Office and individuals who are referenced in those claims.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Unclaimed Property System consists of approximately twenty-five (25) series of programs and includes, inter alia: (1) Ledgers containing information obtained from receivers of the banks including: (a) The names, locations and charter numbers of the banks, (b) names of bank customers identified as the last known owners of the unclaimed property, (c) a description of the types of property recovered from the banks; (2) claims forms, letters and other written correspondence, documents, records or memoranda

VOL 50 ISS 143 JL 25 1985 UMI

submitted by claimants seeking possession of the property; and (3) internal memoranda, letters, reports, records of telephone calls and inquiries, appraisals, invoices, and other miscellaneous internal Office records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 1, 12 U.S.C. 216, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in a computer data base and in file cabinets.

RETRIEVABILITY:

All records are indexed on a variety of data fields including: (1) The name of the claimant; (2) the name of the bank customer; (3) the charter number and claimant account number; and (4) the name and charter number of the closed bank.

SAFEGUARDS:

All records are indexed through computer indices. Only employees with the Office with proper user identification and passwords will have access to the computer. The file cabinets will be locked when the Office is vacant.

RETENTION AND DISPOSAL:

Records are generally maintained in the on-line data base until it is determined that on-line access is not required. Thereafter the records are archived in off-line storage. Records in the file cabinets are to be maintained indefinitely. The records, however, will be reviewed periodically to determine if any of them can be safely discarded.

SYSTEM MANAGER(S) AND ADDRESS:

Project Manager, Claims Processing Unit, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW, Washington, DC 20219; (202)287-4475.

NOTIFICATION PROCEDURE:

Individuals who wish to be notified if they are named in the system of records or gain access to records maintained in this system must submit a written request containing the following: (1) Identity of the record system; (2) Identity of the category and type of record sought; (3) The location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Individuals seeking notification may be required to include a notarized statement attesting to identity.

RECORD ACCESS PROCEDURES:

Requests should be submitted to: Director, Public Affairs, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

CONTESTING RECORD PROCEDURES:

See record access procedures, above.

RECORD SOURCE CATEGORIES:

(1) Information received from claimants in connection with the Office's disposition of unclaimed property; and (2) information provided to the Office by receivers of national banks and banks in the District of Columbia that were closed before and during the 1930's.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

BILLING CODE 4810-33-M

Treasury/BEP .002

SYSTEM NAME:

Personal Property Claim File—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW., Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian officers and employees of the Bureau of Engraving and Printing, former employees and their survivors having claim for damage to or loss of personal property incident to their service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains investigative and adjudication documents relative to personal property damage claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Military Personnel and Civilian Employees' Claims Act of 1964, as amended, Pub. L. 88-558.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access is limited to Office of Legal Counsel staff.

RETENTION AND DISPOSAL:

Retained three years after case is closed, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Legal Counsel, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Individuals having claim for damage to or loss of personal property.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .004

SYSTEM NAME:

Counseling Records—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Street, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees whose actions or conduct warrants counseling.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence relative to counseling information and follow-up reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Locked in file cabinets; access is limited to Administrator.

RETENTION AND DISPOSAL:

Retained for one year after close of file, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Industrial Relations, Attn: Employee Counseling Services Program, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Individual employee.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .005

SYSTEM NAME:

Compensation Claims—Treasury/BEP.

SYSTEM LOCATION:

Safety and Occupational Health Division, Office of Industrial Relations, Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of Engraving and Printing employees incurring work-connected injuries or illnesses, who make claims under Federal Employee Compensation Act for medical expenses, continuation of pay or disability.

CATEGORIES OF RECORDS IN THE SYSTEM:

All pertinent documentation, including investigative reports, medical reports, forms, letters to BEP Office of Financial Management authorizing continuation of pay, Labor Department reports, etc. relative to work-connected injuries or illnesses of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Employees Compensation Act, as amended, Pub. L. 93-416.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To disclose information to foreign governments in accordance with formal or informal international agreements. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (7) To provide information to unions recognized as exclusive bargaining representatives

VOL 50 ISS 143 JL 25 1985 UMI

under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (8) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder.

RETRIEVABILITY:

Name and date of injury.

SAFEGUARDS:

Locked file cabinets; access is limited to Safety Managers and Compensation Claims staff.

RETENTION AND DISPOSAL:

Retained for a period of employment plus 30 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Health Unit Daily Report, Notification of Public Health Service Recommendations, private medical providers, Safety and Occupational Health Division Reports, Employee's supervisors reports, and information provided by employee.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .006

SYSTEM NAME:

Debt Files (Employees)—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Bureau of Engraving and Printing employees on whom debt complaints are received.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains employee's name, complaint information, court judgement, counseling efforts, receipts, and final disposition of complaint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Personnel Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To disclose information to foreign governments in accordance with formal or informal international agreements. (e) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains (f) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (g) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (h) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Maintained in locked cabinets; access is limited to Employee and Labor Relations Branch personnel.

RETENTION AND DISPOSAL:

Retained for two years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th and C Street, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets; SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Employees, Complaints, and Court Judgements.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .009

SYSTEM NAME:

Employee Arrest Record—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Bureau of Engraving and Printing employees who have been arrested.

CATEGORIES OF RECORDS IN THE SYSTEM:

Telephone conversation memo for file regarding arrest information supplied by the Office of Security.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for

enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To disclose information to foreign governments in accordance with formal or informal international agreements. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (7) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C 7111 and 7114. (8) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Maintained in locked cabinets; access is limited to Employee and Labor Relations Division personnel.

RETENTION AND DISPOSAL:

Retained until conviction, acquittal or termination of employment, then destroyed within 90 days.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets. SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Office of Security and police records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .012

SYSTEM NAME:

Employee Index File—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Supply Inventory Management Branch Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains employee name, address, phone number, Social Security number, cost center number, position, grade, and date of employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 x 5 Cards.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Kept on supervisors desk; access is limited to Inventory Management Branch personnel.

RETENTION AND DISPOSAL:

Destroyed upon separation of employee from Branch.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Materials Management, Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Inventory Management Branch Employees.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .014

SYSTEM NAME:

Employee's Production Record—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current Bureau of Engraving and Printing employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains employee's name, dates, work hours, record of production, history of work assignments, training, work performance, and progress reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 4103 and 4302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative

VOL 50 ISS 143 JL 25 1985 UMI

tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in data entry diskettes, file folders and production books.

RETRIEVABILITY:

Indexed by name, work code number and cross-referenced by project number.

SAFEGUARDS:

Maintained in locked cabinets or desks; access is limited to personnel having a "need-to-know."

RETENTION AND DISPOSAL:

Retained three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Legal Counsel; Equal Employment Opportunity staff; Chief, Office of Financial Management; Chief, Office of Industrial Relations; Chief, Office of Currency and Stamp Printing; Chief, Office of Engraving; Chief Office of Security; Chief, Office of Stamp Processing and Surface Printing; Chief, Office of Engineering; Chief, Office of Research and Technical Services; Manager, Production Management staff, Program Analysis and External Affairs staff; Office of Currency Standards; Chief, Office of Currency Production and Stamp Printing; Chief, Office of Quality Assurance; Chief, Office of Management and Systems. Address: Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Information furnished by employee, developed by supervisor or by referral document.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .015

SYSTEM NAME:

Executive Profiles—Treasury/BEP.

SYSTEM LOCATION:

Office of Security, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains vital personal information about high-level Bureau executives and their families. These executives who occupy high-level and/or sensitive positions may be targets for criminal extortion, kidnapping or other violent acts. The individuals to be covered by the system are designated by the Director, Bureau of Engraving and Printing, and are participating in the program voluntarily.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains personal information about key Bureau employees, their spouses, children or other persons in the household. The employees' neighbors or other persons who might have knowledge of family members' locations are listed with addresses and phone numbers. Also included are fingerprints, samples of handwriting, and photographs of any residences and automobiles owned by the key employee and/or their families.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 11490, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder in a sealed envelope.

RETRIEVABILITY:

By name or position of employee.

SAFEGUARDS:

Locked file cabinet; access is limited to Office of Security staff for update purposes and to Law Enforcement officials for emergency use.

RETENTION AND DISPOSAL:

Retained during employees' tenure with Bureau, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Security, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Designated key personnel on a voluntary basis.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .016

SYSTEM NAME:

Employee Suggestions—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Bureau of Engraving and Printing employees submitting suggestions under the incentive award program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains employee's suggestion, reviewer evaluation and final disposition information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. 4502(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where

the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulations. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in locked file cabinets; access is limited to Training and Career Development Division personnel and employee's supervisor.

RETENTION AND DISPOSAL:

Retained for three years following date of submission, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Office, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURE:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Individual employee, employee's supervisor and review committee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .018

SYSTEM NAME:

Police Uniform Control Account—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All uniformed police force personnel of the Bureau of Engraving and Printing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains the officer's name, badge number, rank, employment anniversary date, current inventory of police's uniform, history of uniform issuance, activity and current dollar balance of police's uniform allowance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5901–5903.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

8 x 10½ Ledger sheets in a notebook.

RETRIEVABILITY:

Alphabetical by officer's name.

SAFEGUARDS:

Access is limited to Chief, Office of Security, Head, Police Services Branch, and the Uniform Control Clerk. Maintained in a locked file cabinet.

RETENTION AND DISPOSAL:

Retained for one year after separation from Police Services, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Security, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Police Force Personnel of the Bureau of Engraving and Printing.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .020

SYSTEM NAME:

Industrial Truck Licensing Records—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of Engraving and Printing employees designated to operate self-propelled material and/or machinery handling equipment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of employee physical examination, testing, license number and issue date for purpose of operating one or more types of material handling equipment used within the Bureau of Engraving and Printing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder and Card file.

RETRIEVABILITY:

By Name.

SAFEGUARDS:

Locked file cabinet, access is limited to Safety Division staff.

RETENTION AND DISPOSAL:

Destroyed three years after license revocation.

VOL 50 ISS 143 JL 25 1985 UMI

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Supply and Transportation Division, Office of Materials Management, Bureau of Engraving and Printing; 14th and C Street, SW, Washington, DC 20228.

NOTIFICATION PROCEDURES:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURE:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Supervisor's request, results of physical examination, and data obtained during training or practical tests.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .021

SYSTEM NAME:

Investigative Files—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, Separated Bureau Employees, Employee Applicants, Visitors to the Bureau, News-Media Correspondents, Contractor and Service Company Employees (Current and Separated).

CATEGORIES OF RECORDS IN THE SYSTEM:

Category: Security Files, Personnel Clearance Requests, Case Files, Bank Shortage Letters, Contractors Files, Currency Discrepancy Reports, Intelligence Files, Stamp Discrepancy Reports, Case Records, Correspondence from the Public concerning Security Matters, Security Files Reference Record, Employee Indebtedness Record, Type of Information; Character references, Police force reports, Previous employment verifications, newspaper articles, Social Security numbers, Laboratory reports to include handwriting results and latent fingerprint examination, Law enforcement criminal and subversive record checks, Court records, Security registers, Residency information, Reports of shortages or thefts of Bureau products including subsequent investigations, Personnel records of various types, Fingerprint card. Photograph, Names of individuals including those at contractor plants who worked on a shortage involving Bureau products, Credit checks, Background investigation reports conducted by Office of Personnel Management, Bureau of Engraving and Printing, the Internal Revenue Service and other Federal Investigative Agencies, Disciplinary action recommended and/or received, Military record forms and extracted information, List of Bureau employees granted security clearances, Processes served, i.e. summons, subpoenas, warrants, etc., Personnel security case numbers, dates—case opened and closed, and recommendations, Certificate of Security Clearance, Reports of violations of Bureau regulations and procedures, Bureau visitor control documents, Correspondence relating to individuals, Claims of indebtedness from firms and collection agencies and other sources, and assorted documents, Tape-recorded testimony, Type of Information: Bureau investigation reports, Information supplied by Law Enforcement agencies, Applicant interview record, Anonymous tips concerning Bureau employees, Official investigative statements, Names of those requesting security assistance and report of the assistance rendered, other pertinent Governmental records, education records and information, Date of Birth and physical description of individual in the flies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450 and implementing Treasury and Bureau Regulations and 31 U.S.C. 427.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To disclose information to foreign governments in accordance with formal or informal international agreements. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (7) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (8) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File Folders, 3 x 5 Index Cards, 5 x 8 Index Cards, Loose-leaf Binders, Ledger, Recording Tape, and Microfiche.

RETRIEVABILITY:

Numerically by case number and year, alphabetically by name and Social Security number, and alphabetically by Company name.

SAFEGUARDS:

Access is limited to Office of Security staff and maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Destroyed within 90 days following notification that an applicant for employment was not hired; or, upon notification of employee's death, or, within five years after separation or transfer of incumbent employee; or, five years after expiration of contractual relationship.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Security, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

The sources of the information are the individual concerned and information supplied by Federal, State and local investigative agencies, credit bureaus, financial institutions, court records, educational institutions, and individuals contacted concerning the person being investigated.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4) (I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

Treasury/BEP .022

SYSTEM NAME:

Monthly Equal Employment Opportunity Activity Report—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Minority and female employees receiving significant appointments and promotions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and Position of Promotion or Appointment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Affirmative Action Plan for Fiscal Year 1980 (5-year plan), Title VII, Civil Rights Law, as amended of 1964.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (2) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (3) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (4) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Cross-referenced by month and employee's name.

SAFEGUARDS:

Access is limited to Bureau Equal Employment Opportunity staff and is maintained in locked combination safe.

RETENTION AND DISPOSAL:

Retained five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Office of the Director, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURE:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Personnel Action Records maintained by supervisor.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .023

SYSTEM NAME:

Motor Vehicle Licensing Records—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of Engraving and Printing employees designated to operate passenger vehicles, trucks, and/or vans for Bureau business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of employee physical examination, testing, license number and issue date for purpose of operating passenger and/or truck vehicles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder and card file.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Kept in locked file cabinets; access is limited to Manager, Supply and Transportation Division.

VOL 50 ISS 143 JL 25 1985 UMI

RETENTION AND DISPOSAL:

Retained three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Supply and Transportation, Office of Materials Management, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Pringing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Supervisor's request, results of physical examination, and data obtained during training or practical tests.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .027

SYSTEM NAME:

Programmable Access Security System (PASS)—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of Engraving and Printing Employees, Bureau of the Public Debt Employees, Contractor and Service Company Employees or Official Visitors to each of the aforementioned Bureaus. (Does not include visitors to the Bureau of Engraving and Printing Public Tour.)

CATEGORIES OF RECORDS IN THE SYSTEM:

A. *BEP Employees:* Name, Social Security number, Date of Birth, Height, Weight, Eye Color, Office, Division, Branch, Unit, Badge number, Picture, Grade, Work shift, Access level, Personal Entry Code, Position Sensitivity, Security Clearance, Supervisory Status, Locker number, Home phone number, Office phone extension, Time and Location of each passage through a Security Control Point, Automobile License Numbers, and Car Pool Participation.

B. *Public Debt Employees:* Name, Social Security number, Date of Birth, Height, Weight, Eye Color, Office, Division, Branch, Unit, Badge number, Picture, Grade, Work shift, Access level, Personal Entry Code, Security Clearance, Office phone extension and Time and Date of each passage through a Security Control Point. License numbers and Car Pool Participation.

C. *Contractors Issued Non-Escort Badges:* Name, Date of Birth, Height, Weight, Eye Color, Contractor Name, Contractor Number, Automobile License numbers, Position, Office phone extension, Bureau Sponsor, Badge Application Form Number, Work shift, Access level, Security Clearance, Badge number, Time and Date of each passage through a Security Control and Picture.

D. *Official Visitors Issued Badges:* Name, Company Name, Company Phone, Bureau Sponsor, Bureau Telephone Extension, Contract Number, Nature of Visit, Vehicle Color, Vehicle Type, Vehicle License Number, Driver, Passengers, Type of Visitor, Visitor's Identification Number, and Time and Date of each passage through a Security Control Point.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 321, Executive Order 11652.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To disclose information to foreign governments in accordance with formal or informal international agreements. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (7) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (8) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media, Ledgers, Paper Tapes, Computer Printouts, Cross Reference Badge Listings, File Folders, and Loose-leaf Binders.

RETRIEVABILITY:

Numerical by PASS/Badge Number, alphabetically by last name, and appropriate index by subject.

SAFEGUARDS:

Maintained in locked cabinets in a locked room: access is limited to Office of Security staff. On line CRT Terminals installed in locked Computer Room and in two (2) 24-hour manned Police Offices. Access to these terminals is limited to Office of Security staff and Supervisory Police Personnel. Passwords further limit the extent of Access to Computer Stored Information. Bureau Managers and Supervisors have access to printouts pertaining to their Subordinate Employees.

RETENTION AND DISPOSAL:

Retention period is for seven years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Security, Bureau of Engraving and Printing; 14th and C Streets, SW, Washingtin, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

The individual concerned, his/her supervisor, or an official of the individual's firm or agency.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .029

SYSTEM NAME:

Petition of Election—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Listing of empolyees eligible for inclusion within the union bargaining for recognition.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical listing of eligible employees to include position title and occupational codes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose information compiled and furnished to the United States Department of Labor, Labor-Management Services Administration in order to supervise the election; (2) and disclose to the petitioning Union and unions recognized to verify eligibility of voters at the poll. (3) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (5) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By Union Title.

SAFEGUARDS:

Maintained in a locked cabinet; access is limited to Labor Management Relations staff and designated Union Representatives as required.

RETENTION AND DISPOSAL:

Retained until superseded or cancelled, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Position Description file and Personnel Manpower file.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .035

SYSTEM NAME:

Tort Claims (Against the United States)—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and/or organizations making claim for money damage against the United States for injury to or loss of property or personal injury or death caused by neglect, wrongful act, or omission of a Bureau of Engraving and Printing employee while acting within the scope of his office or employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains investigative and adjudication documents relative to personal injury and/or property damage claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Tort Claims Act, Title 28 U.S.C. 2672, Pub. L. 89–506.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecutng the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the dislosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access is limited to Office of Legal Counsel staff.

RETENTION AND DISPOSAL:

Retained three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Legal Counsel, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Individual or organization's claim and/or investigative reports.

VOL 50 ISS 143 JL 25 1985 UMI

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .037

SYSTEM NAME:

Union Index—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Name and Title of designated Union officials to include the President, Vice-President, Secretary, Treasurer, and Stewards.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of recognized Union officials by title, bargaining unit, and jurisdiction.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (2) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (3) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By Union Title.

SAFEGUARDS:

Maintained in locked file; access is limited to Labor-Management Relations staff and Management officials as required.

RETENTION AND DISPOSAL:

Retained during the period of recognition of the Union, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Provided by recognized unions.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .038

SYSTEM NAME:

Unscheduled Absence Record—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Bureau of Engraving and Printing employees who have had unscheduled absences.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains chronological documentation of unscheduled absences.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (5) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (6) To provide information to third porties during the course of an investigation to the extent Necessary to obtain information pertient to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Kept in locked file cabinets; access to these records is restricted to Supervisor and authorized timekeeping personnel.

RETENTION AND DISPOSAL:

Retain for one year following separation or transfer, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Individual employee's time and attendance records, and his/her supervisor.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .040

SYSTEM NAME:

Freedom of Information and Privacy Acts Requests—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are requesting information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence pursuant to the Freedom of Information and Privacy Acts; internal processing documents and memoranda, referrals and copies of requested records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Freedom of Information Act, 5 U.S.C. 552, 31 CFR Part 1, and Privacy Act of 1974, 5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (3) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

By name of requester(s) and date of request.

SAFEGUARDS:

Filed in filing cabinet and released only to individuals with a legitimate right to review.

RETENTION AND DISPOSAL:

Retained for two years after date of reply, or four years after final determination, if appealed, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Program Analysis and External Affairs staff, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Individuals who make Freedom of Information and/or Privacy Act requests. Federal officials responding to Freedom of Information and/or Privacd Act requests and documents from official records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .041

SYSTEM NAME:

Record of Discrimination Complaints—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have initiated discrimination complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data developed as a result of inquiry by the person making the allegation of discrimination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11478.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose to EEOC to adjudicate discrimination complaints. These records and information in the records may be used: (2) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders. Locked in combination safe.

RETRIEVABILITY:

By name and case number.

SAFEGUARDS:

Access is limited to Complainants, Equal Employment Opportunity Staff, Equal Employment Opportunity Investigator; maintained in locked combination safe.

RETENTION AND DISPOSAL:

Retained four years after resolution, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Equal Opportunity Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

VOL 50 ISS 143 JL 25 1985 UMI

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Individual employees who have discrimination complaints.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .042

SYSTEM NAME:

Informal EEO Complaint Processing Records—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who register informal EEO complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains information and data developed through counseling sessions and appropriate inquiries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11478.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To disclose to EEO Complaint Investigator to perform investigations. These records and information in the records may be used: (2) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (7) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Locked in a combination-lock safe. Access is limited to EEO Specialists and Counselors.

RETENTION AND DISPOSAL:

Retained four years after resolution of case, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Equal Opportunity Office, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Street, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual complainants and other employees and supervisors necessary to make an appropriate inquiry.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .043

SYSTEM NAME:

Parking Program Records—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau, Non-bureau personnel who have applied for parking privileges.

CATEGORIES OF RECORDS IN THE SYSTEM:

Parking space applicant information—shows applicant's name and address, vehicle model and year, vehicle license number, work hours, work component, home/work phone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

5 x 8 card file and lettersize file folders.

RETRIEVABILITY:

Alphabetically by applicant and parking space number.

SAFEGUARDS:

Access is limited to Office of Security staff and maintained in locked office.

RETENTION AND DISPOSAL:

Destroyed upon change in, or revocation of parking assignment.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Security, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See notification above.

CONTESTING RECORD PROCEDURES:

See notification above.

RECORD SOURCE CATEGORIES:

Parking permit applicants.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BEP .044

SYSTEM NAME:

Personnel Security Files and Indices—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, 14th and C Streets, SW, Washington, DC 20228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employee applicants, current and former Bureau employees, contractor and service company employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative information related to personnel investigations conducted by the Bureau of Engraving and Printing Security office and other Federal, State, and local Agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (2) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (3) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (4) To disclose information to foreign governments in accordance with formal or informal international agreements. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (7) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (8) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File Folders; 3 x 5" Index cards, and Microfiche.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Access is limited to Office of Security staff and records are maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Destroyed within 90 days following notification that an applicant for employment was not hired; or upon notification of employee death; or within five years after separation or transfer of incumbent employee; or five years after expiration of contractual relationship.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Security, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

NOTIFICATION PROCEDURE:

Disclosure Officer, Bureau of Engraving and Printing; 14th and C Streets, SW, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual employee and information supplied by other Federal Investigative Agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4) (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5).

Treasury/FLETC .001

SYSTEM NAME:

FLETC Payroll System—Treasury/FLETC.

SYSTEM LOCATION:

FLETC, Office of Resource Management, Building 94, Glynco, GA 31524.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person paid directly from FLETC Funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

All payroll records including Standard Forms 50 and 52, leave status, and training authorizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Order No. 217, dated July 1, 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To disclose information to foreign governments in accordance with formal or informal international agreements. (e) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (f) To provide information to the news media in accordance with guidelines contained in 28 C.F.R. 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (g) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (h) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

VOL 50 ISS 143 JL 25 1985 UMI

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files, microfiche, and computer. The computer is part of the Treasury Personnel Payroll Information System (TPPIS) and is located in the old Mint Building in Johnstown, Pennsylvania. Access to the computer is through a terminal located in Building 94, Glynco, Georgia.

RETRIEVABILITY:

Social Security Number.

SAFEGUARDS:

Physical Security, personnel screening and security checklist are all utilized to prevent unauthorized disclosure of records.

RETENTION AND DISPOSAL:

Retained and disposed in accordance with the GSA General Records Schedule. For more information contact: Records Retention Officer, FLETC, Building 94, Glynco, GA 31524.

SYSTEM MANAGER(S) AND ADDRESS:

FLETC, Office of Resource Management, Administration Building, Glynco, GA 31524.

NOTIFICATION PROCEDURE:

The individual must provide full name, date of birth, dates of employment with, or date of application of employment to the Center to: FLETC, Office of Resource Management, Administration Building, Glynco, GA 31524.

RECORD ACCESS PROCEDURES:

By formal letter to the System Manager.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Personnel documents and payroll documents computed by the Treasury Payroll Personnel Information System.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FLETC .002

SYSTEM NAME:

FLETC Trainee Records and FLETC Instructor Records—Treasury/FLETC.

SYSTEM LOCATION:

Buildings—46, 68, 94, 210, and 262, Glynco, GA 31524.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who officially attends a formal FLETC training program and all instructors engaged in teaching the FLETC training programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Trainee records: personal background information supplied by the trainee; grades and performance or conduct evaluations, student advisory form and relevant public health records. Instructor records: personal background information supplied by the instructor, and teaching qualifications. All records described in this system are other than records described and reported by the Office of Personnel Management on behalf of all agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 5 U.S.C. 4101–4118, Executive Order 11348, Treasury Order No. 217 (Revision 1), dated July 1, 1970 and Memorandum of Understanding for the Sponsorship and Operation of the Consolidated Federal Law Enforcement Training Center, dated September 30, 1070.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure upon request to the individual's parent agency, to a prospective Federal employer, and to other government officials involved in training or research. These records and information in the records may be used: (a) To disclose to the Office of Personnel Management concerning pay, leave, benefits, retirement deductions, and other information necessary for OPM to carry out its government-wide personnel management functions. (b) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance or a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To disclose information to foreign governments in accordance with formal or informal international agreements. (f) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (g) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (h) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (i) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media and tape, paper files, and microfilm.

RETRIEVABILITY:

Name, class number, and Social Security number.

SAFEGUARDS:

Access to these systems of records will be controlled by software and hardware procedures. Software will be used to ensure, in all technically-feasible ways, that data cannot be made available to unauthorized persons. User-identifiers and passwords will be used where feasible to protect the data. Physical security will protect all terminals, magnetic disc and tapes files from access by unauthorized persons. Offices will be locked except when authorized persons are present.

RETENTION AND DISPOSAL:

Computer print-out records are destroyed within six months of production. All other records are retained and disposed in accordance with the GSA General Records Schedule. For more information contact: Records Retention Officer, FLETC, Building 94, Glynco, GA 31524.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director (Resource Management), Office of Resource Management, Administration Building, FLETC, Glynco, GA 31524.

NOTIFICATION PROCEDURE:

The individual must provide full name, social security number, date of birth, parent agency, type of course and approximate dates of attendance to the System Manager.

RECORD ACCESS PROCEDURES:

By written request to the System Manager.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

The trainee himself and members of the staff responsible for grading, rating or evaluating the trainee. Instructors—the instructor himself and staff members responsible for upgrading the instructor's teaching qualifications.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FLETC .003

SYSTEM NAME:

FLETC Confidential Financial Records—Treasury/FLETC.

SYSTEM LOCATION:

FLETC, Building 94, Glynco, GA 31524.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees in positions where the basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action on contracting or procurement. Specifically, all officials (GS–15 and above); Deputy Assistant Director (Special Training Faculty), Deputy Assistant Director (Resource Management), Administrative Services Officer; Chief (Training Support Division), Procurement Officer, Supervisory General Engineer, Facility Manager, Financial Operations Officer, Contract Administrator, Contract Specialist, Deputy Assistant Director (Criminal Investigator Program), Deputy Assistant Director (Police Program), AIRS Program Manager, Deputy Assistant Director (Police Investigator Faculty).

CATEGORIES OF RECORDS IN THE SYSTEM:

All information required by or releated to employment and financial interest of GS–12 and above employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Personnel Manual Chapter 735 and Executive Order 11222.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide certification to the Office of Personnel Management that Statements of Employment and Financial Interests are on file for each employee and special Government employees required to submit such statement under the regulations of the employing agency. Also, information for the agency head only to be disclosed upon his determination or that of the Chairman of the Office of Personnel Management for good cause shown. These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To disclose information to foreign governments in accordance with formal or informal international agreements. (e) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (f) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (g) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (h) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Physical security, personnel screening and security checklist are all utilized to prevent unauthorized disclosure of records.

RETENTION AND DISPOSAL:

Retained and updated annually and destroyed by shredding at the departure of employee from FLETC rolls.

SYSTEM MANAGER(S) AND ADDRESS:

Director, FLETC, Administration Building, Glynco, GA 31524.

NOTIFICATION PROCEDURE:

The individual must provide full name, date of birth, dates of employment with the Center to: Director, FLETC, Administration Building, Glynco, GA 31524.

RECORD ACCESS PROCEDURES:

By formal letter to the System Manager.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

The employer on whom the record is maintained.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FLETC .004

SYSTEM NAME:

FLETC Employee Records—Treasury/FLETC. (Personnel Records Schedule. Health records. Training records. Vehicle records. Equal Employment Opportunity records. Locator records. Identification records. Equipment control records. Property pass files. Lost, stolen, and found files. Key files.)

SYSTEM LOCATION:

For personnel records: FLETC Buildings numbered 18, 28, 29, 68, 94, 200, 205, 210, 221, 252, 262 and 141. For health, training, vehicle, locator and identification records: FLETC, Building 94. For Equal Employment Opportunity Records. FLETC Buildings numbered 94, 252 and 262. For Equipment Control records: Property pass files—FLETC, Building 28. Lost, stolen and found files—FLETC, Building 94. Key files—

VOL 50 ISS 143 JL 25 1985 UMI

FLETC, Building 200. All buildings are located at Glynco, GA 31524.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, Past Employees, Employees Prospects, Contract Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel, Health, Training, Vehicle Registration, Equal Employment Opportunity, locator Cards, Identification Records, and Equipment Control Rosters, consisting of records other than those described and reported by the Office of Personnel Management on behalf of all agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 5 U.S.C. 4101 *et seq;* Executive Order No. 11348, dated April 20, 1967, Treasury Order 217 (Revision 1), dated July 1, 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the individual's parent agency and Federal regulatory agencies on a "need to know" basis which include the Department of Labor, Department of Health and Human Services, Merit Systems Protection Board, Federal and Labor Relations Authority, Equal Employment Opportunity Commission and the Office of Personnel Management concerning pay, leave, benefits, retirement deductions, and other information necessary for OPM to carry out its government-wide personnel management functions. These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information; which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To disclose infomation to foreign governments in accordance with formal or informal international agreements (e) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (f) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and cirminal proceedings. (g) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (h) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files and computer.

RETRIEVABILITY:

Name, Social Security number, or position.

SAFEGUARDS:

Physical security, personnel screening and security checklists are all used to prevent unauthorized disclosure of records.

RETENTION AND DISPOSAL:

Disposition as prescibed by the Schedules attached to Treasury Directives Manual Chapter TD 80, Section 05. B, 5–12–76, except for health records covered by the General Service Administration's General Records Schedule 1 (GRS 1).

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director (Resource Management), Building 94, FLETC, Glynco, GA 31524.

NOTIFICATION PROCEDURE:

The individual must provide full name, date of birth, and dates of employment with the Center to the System Manager.

RECORD ACCESS PROCEDURES:

By written request to the System Manager.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

The employee on whom the record is maintained, prior employers, and FLETC.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

BILLING CODE 4810-32-M

Treasury/FMS .001

SYSTEM NAME:

Administrative Records—Treasury/ Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Liberty Loan Building, Room 163, 401 14th Street, SW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Service personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Civil Defense Cards. (2) Motor Vehicles Drivers Permits. (3) Motor Vehicle Accident Reports. (4) Parking Permits. (5) Distribution List of individuals requesting various Treasury publications. (6) Treasury Credentials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records (a) To disclose information to FEMA and other concerned agencies on holders of Civil Defense Cards. (b) To disclose information to GSA for drivers permits, parking permits, accident reports and credentials. (c) To disclose information to GPO for servicing public on Treasury publications. (d) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (e) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforecement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (f) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (g) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (h) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (i) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (j) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hardcopy.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Locked containers.

RETENTION AND DISPOSAL:

(1) Civil Defense Cards—destroy upon resignation, retirement or transfer; Hold-Individual no longer assigned relocation duties. (2) Motor Vehicle Drivers Permits—destroy 3 years from date of separation or 3 years after rescission of authorization. (3) Distribution List—destroy when superseded. (4) Motor Vehicle Accident Reports—indefinitely. (5) Parking permits and Treasury Credentials—destroy upon retirement, resignation or transfer.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Facilities Manager Financial Management Service, U.S. Department of the Treasury, Treasury Annex No. 1, Room 112, Pennsylvania Avenue and Madison Place, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be sent to the Disclosure Officer at above address in Room 112. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Service personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FMS .002

SYSTEM NAME:

Payment issue records for regular recurring benefit payments—Treasury/ Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Washington, DC 20226. Records maintained in Financial Centers in seven Regions: Austin, TX; Birmingham, AL; Chicago, IL; Kansas City, MO; Philadelphia, PA; San Francisco, CA; and Washington, DC. Also maintained in all Federal Centers by GSA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Beneficiaries of Title II of the Social Security Act.

(2) Beneficiaries of Title XVI of the Social Security Act.

(3) Beneficiaries of the Civil Service Retirement System.

(4) Beneficiaries of the Railroad Retirement System.

(5) Beneficiaries of the Foreign Service Retirement System.

(6) Holders of Series H and HH Bonds (interest payment).

CATEGORIES OF RECORDS IN THE SYSTEM:

Payment issue records for regular recurring benefit payments showing name, check number and symbol, or other identification, address, account number, payment amount, and date of issuance for each of the categories of individuals listed above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 6166, dated June 10, 1933.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose information for payment verification to the Bankers, industry, Federal investigative agencies, Departments, and agencies for whom payments are made and payees. (b) To disclose information to Banking industry for payment verification. (c) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (d) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (e) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (f) To disclose information to foreign governments in accordance with formal or informal international agreements. (g) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (h) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (i) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (j) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

VOL 50 ISS 143 JL 25 1985 UMI

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfilm—magnetic tape for categories of individuals 1 through 6.

RETRIEVABILITY:

By account number

SAFEGUARDS:

Computer password system, card-key entry system, limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Disclosure Officer, Financial Management Service, U.S. Department of the Treasury, Treasury Annex No. 1, Room 112, Pennsylvania Avenue and Madison Place, NW., Washington, D.C. 20226.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer at above address. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Vouchers certifications by Departments and agencies for whom payments are made.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FMS .003

SYSTEM NAME:

Claims and Inquiry Records on Treasury checks, U.S. currencies, and International claimants—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Payees and holders of Treasury checks. (2) Claimants awarded benefits under War Claims Act and International Claims Settlement Act of 1949. (3) Holders of Mutilated Currency.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Treasury check claim file: Treasury check, claim of payee with name and address, settlement action taken. (2) Awards for claims for losses sustained by individuals. (3) Mutilated currency claim file: Mutilated currency, name of bank assisting claim of individual, settlement action taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; (1) For Treasury check claims—31 U.S.C. 71 with delegation of authority from Comptroller General of the United States. (2) International claims—50 U.S.C. 2012; 22 U.S.C. 1627, 1641, 1642. (3) Mutilated currency claims—31 CFR Part 100.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose information about check claims to endorsers concerning checks for which there is liability, Federal agencies, State and local law enforcement agencies, General Accounting Office, Congressional offices and media assistance offices on behalf of payee claimants. (b) Claimants, banks, state and local enforcement agencies: When processing Mutilated Currency claims—to disclose information to the Internal Revenue Service for claims of 5,000 dollars or more. (c) To disclose information and International Claims to claimants (awardees) and their representatives; Foreign Claims Settlement Commission, and Congressmen. (d) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (e) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (f) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (g) To disclose information to foreign governments in accordance with formal or informal international agreements. (h) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (i) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (j) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (k) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Claim file folders, Card checks, microfilm, and/or magnetic media. (2) Correspondence files. (3) Claim file folders.

RETRIEVABILITY:

(1) Name of payee and check number and symbol. (2) Alpha cross-reference to case number. (3) Name of claimant or alpha reference to claim number.

SAFEGUARDS:

Secured files in secured building.

RETENTION AND DISPOSAL:

(1) Claim files and checks, six years seven months; Microfilm, indefinitely. (2) Correspondence files, seven years. (3) Claim file folders, as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Disclosure Officer, Financial Management Service, U.S. Department of the Treasury, Liberty Loan Building, Room 520, 401 14th Street, SW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for graining access or contesting records should write to: Disclosure Officer, Room 112, Personnel Office, U.S. Department of the Treasury, Treasury Annex No. 1, Madison Place and Pennsylvania Avenue, Washington, DC 20226. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

(1) Individual payees of Treasury checks, endorsers of Treasury checks, investigative agencies, contesting claimants. (2) Awards certified to Treasury for payment by Foreign Claims Settlement Commission.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FMS .005

SYSTEM NAME:

FMS Personnel Records—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, Treasury Annex No. 1, Room 112, Pennsylvania Avenue and Madison Place, NW, Washington, DC 20226. FMS location—ICC Building, 1201 Constitution Avenue, NW, Washington, DC; Treasury Annex No. 1; and Premier Building, 1725 I Street, NW, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Employees of Service (Separated employees—in certain cases) and applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Official Personnel Folder. (2) Personnel Roster. (3) Logs of SF–52's. (4) Locator Cards. (5) Chronological Journal File. (6) Service Record Card (SF–7). (7) Correspondence File. (8) Written Verifications of Employment. (9) Summary of Training (Card File). (10) Training Course Nominations. (11) Evaluation of Training Program. (12) Tuition Assistance Files. (13) GED Test Scores. (14) Senior Executive Service Development File. (15) Management Development File. (16) Position Listings. (17) Position Descriptions with Evaluation Statements. (18) Personnel Management Evaluation Survey Reports. (19) Position Maintenance Reviews. (20) Applicant Supply File. (21) Suitability File. (22) Incentive Awards Record. (23) Request for Certification File. (24) Merit Promotion File. (25) Exist Interview File. (26) Performance File. (27) Statistical Reports, retrievable by name. (a) Personnel Status Report. (b) Monthly Retiree Report. (c) Monthly EEO report. (d) Direct Hire Authority Report. (e) Registers Worked File. (f) Statements of Employment and Financial Interest. (g) Other similar files or registers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10561, dated September 13, 1954, Federal Personnel Manual, and Title 5 U.S.C. Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To disclose information to foreign governments in accordance with formal or informal international agreements. (e) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (f) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (g) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (h) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy and Magnetic Storage.

RETRIEVABILITY:

Alphabetically by name; also in some instances by organization, then Social Security number.

SAFEGUARDS:

Secured building, secured room, and locked cabinets. Non-FMS access is limited to investigators from OPM, etc., members of Fair Employment staff and Union officials.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with General Services Administration Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Officer, Financial Management Service, U.S. Department of the Treasury, Treasury Annex No. 1, Room 112, Pennsylvania Avenue and Madison Place, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the

VOL
50
ISS
143
JL
25
1985
UMI

U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Applicant Personnel Action Forms (SF–50), SF–171 (Completed by applicant), Payroll Actions References, Educational Institutions, etc.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FMS .007

SYSTEM NAME:

Payroll and Pay Administration—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Washington, D.C. 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Employees of the Service and Separated Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Offical Payroll Folder. (a) Levy and Garnishment Records. (b) SF–1192, Savings Bond Authorization. (c) SF–1198, Allotment of Pay to Saving Account. (d) Copies of SF–50, Notification of Personnel Action. (e) Withholding Tax Exemptions. (f) Copy of Health Benefit Designation. (g) Copy of Life Insurance Forms. (h) Payroll Change Slips. (i) Combined Federal Campaign Designations. (j) Copy of SF–1150. (2) Time and Attendance Reports (TUS–430), (a) SF–71 Request for Leave. (b) Court Leave Documents. (c) Request for Advancement of Leave. (3) Payroll Comprehensive Listing. (a) Current Payment Information. (b) Record of Leave Earned and Used. (c) All Deductions from Pay. (d) Personnel Information such as Grade, Step, Salary, Title, Date of Birth, Social Security Number, Veterans Preference, Tenure, etc. (4) Payroll Control Registers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5—Pay, Leave and Allowances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to Federal Agencies and to State and Local Agencies for tax purposes. (b) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To disclose information to foreign governments in accordance with formal or informal international agreements. (f) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (g) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (h) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (i) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy, microfiche, and magnetic media.

RETRIEVABILITY:

By Social Security number.

SAFEGUARDS:

Secured building, secured room and locked cabinets.

RETENTION AND DISPOSAL:

Records are stored, maintained and disposed of in accordance with General Services Administration Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Disclosure Officer, Financial Management Service, U.S. Department of the Treasury, Treasury Annex No. 1, Room 112, Pennsylvania Avenue and Madison Place, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

From individual Services employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FMS .008

SYSTEM NAME:

Personnel Security Records—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, Pennsylvania Avenue and Madison Place, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for position in the Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Results of full field investigations, national agency checks and written inquiries, and other limited investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C., Chapter 73, Executive Order 10450, as amended, and Treasury Order 82.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To grant clearances for employees to occupy non-sensitive and sensitive positions. Users: Federal Agencies, Federal, State and Local Law Enforcement Agences. (b) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To disclose information to foreign governments in accordance with formal or informal international agreements. (f) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (g) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (h) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (i) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are hard copy, and/or magnetic media.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Stored in a safe cabinet secured with a combination lock. Access to the records is restricted to key personnel who have been granted clearances to occupy critical-sensitive positions.

RETENTION AND DISPOSAL:

The records on employees are retained by the Service during their employment. The records on applicants not selected and separated employees are returned to the investigating agency.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Review Division, 613 Matomic Building, U.S. Treasury, FMS, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Sources are applicants, employers, former employers, references, fellow workers, neighbors, educational authorities, military records, police and criminal records, credit records and others as required.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FMS .010

SYSTEM NAME:

Records of Accountable Officers' authority with Treasury—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Regional Directors. (2) Certifying Officers. (3) Agent Cashiers. (4) Designated Agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained on the above listed accountable officers showing the designation or removal of the officer to act in the specified capacity pursuant to a proper authorization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 6166, dated June 10, 1933.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose to Banking institutions, Federal Reserve Banks, and Government agencies for verification of information on authority of accountable officers to determine propriety of actions taken by such individuals. (b) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (d) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (e) To

VOL 50 ISS 143 JL 25 1985 UMI

disclose information to foreign governments in accordance with formal or informal international agreements. (f) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (g) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (h) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (i) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card files.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Held in secured buildings. Regional Directors' files are locked.

RETENTION AND DISPOSAL:

As long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Disclosure Officer, Financial Management Service, U.S. Department of the Treasury, Room 112, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Government Departments and Agencies requiring services of Treasury Department for issuance and payment of Treasury checks.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FMS .011

SYSTEM NAME:

Individual Retirement Cards, SF 2806—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Department of the Treasury, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual retirement cards maintained to record annual contribution to the Retirement Fund of each employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8707; 5 CFR Parts 831, 102.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (e) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (f) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card, and/or magnetic media.

RETRIEVABILITY:

By name.

SAFEGUARDS:

All persons requesting information are screened.

RETENTION AND DISPOSAL:

Retained for tenure of employment then transferred to Office of Personnel Management (OPM) or other Government agency.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Officer, Financial Management Service, U.S. Department of the Treasury, Room 112, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury concerning requirements of this Department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Service Personnel Office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/FMS .012

SYSTEM NAME:

Pre-complaint Counseling and Complaint Activities—Treasury/Financial Management Service.

SYSTEM LOCATION:

Financial Management Service, U.S. Treasury Department, Premier Building, Room 1104, 1725 I Street, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees seeking services of EEO Counselors

CATEGORIES OF RECORDS IN THE SYSTEM:

Monthly pre-complaint activity reports from seven Financial Centers and Headquarters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7154, 42 U.S.C. 200e—16, Executive Order 11478, and 5 CFR Part 713.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department of the Treasury.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File cabinet.

RETRIEVABILITY:

Filed by station and date of receipt.

SAFEGUARDS:

Staff supervision is maintained during the day. Records are kept locked in the files.

RETENTION AND DISPOSAL:

Reports destroyed at the end of four years.

SYSTEM MANAGER(S) AND ADDRESS:

EEO Officer, Financial Management Service, Premier Building, Room 1104, 1725 I Street, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be addressed to the Disclosure Officer. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

RECORD SOURCE CATEGORIES:

Monthly submissions by Financial Centers and Headquarters.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

BILLING CODE: 4810-35-M

Treasury/United States Mint .002

SYSTEM NAME:

Applicants for and the Former Member of the Assay Commission—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, Office of the Director, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of public who sought appointment by President to Assay Commission and their sponsors or endorsers, and members of former Commissions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographies of candidates and correspondence with applicants, sponsors and endorsers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 363.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose information to Federal officials outside the agency responsible for processing selection. (b) To provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Accessible only to appropriate agency and other Federal officials. Secured Files.

RETENTION AND DISPOSAL:

Retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Marketing, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

NOTIFICATION PROCEDURE:

Same as listed under System Manager. Individuals are required to furnish their names.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Administrative Programs Division, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information submitted voluntarily by general public and Congressional or other endorsers and sponsors.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint .003

SYSTEM NAME:

Cash Receivable Accounting Information System—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220; United States Mint, Independence Mall, Philadelphia, PA 19106; United States Mint, 320 West Colfax Avenue, Denver, CO 80240; United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; United States Bullion Depository, West Point, NY 10996; United States Bullion Depository, Fort Knox, KY 40121.

VOL 50 ISS 143 JL 25 1985 UMI

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the United States Mint and the general public who have: (a) Served on jury duty when employed by the United States Mint. (b) Paid for lost Government property belonging to the Mint. (c) Purchased numismatic items from Mint sales outlets. (d) Have obtained travel advances.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Receivables due from Mint employees and former employees who have served on jury duty or received witness fees. (2) Receivables due from Mint employees, former employees and general public for lost Government property, assay sample work and cash sales of over-the-counter numismatic items. (3) Receivables due from Mint employees and former employees who have outstanding travel advances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5537 (Fees for jury service); 31 U.S.C. 369 (Sale of numismatic items).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose information pertaining to cash receivables and debts owed the Government to accounting offices, managers, supervisors and government officials.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Documents.

RETRIEVABILITY:

Name or number substitute.

SAFEGUARDS:

Storage in filing cabinets with access by authorized accounting personnel.

RETENTION AND DISPOSAL:

General records control schedule, GAO rules and regulations, United States Mint Records Control Schedule; are destroyed in accordance with General Services Administration regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Financial Manager, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220; Budget and Accounting Officer, United States Mint, Independence Mall, Philadelphia PA 19106; Budget and Accounting Officer, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Budget and Accounting Officer, United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; Chief, Accounting Division, United States Bullion Depository, West Point, NY 10996; Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Same as included in System Manager. An employee or former employee is required to show an identification such as: (a) Employee identification. (b) Driver's license. (c) Other means of identification including social security number and date of birth.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Mint employees and appropriate agency officials.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint .005

SYSTEM NAME:

Current Employee Security Identification Record—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, Independence Mall, Philadelphia, PA 19106; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; United States Bullion Depository, West Point, NY 10996; United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current United States Mint employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Security information system used to verify proper admittance to restricted areas within the Mint facilities detailed under "LOCATION". The card record (Mint Form 8925) names the employee; provides date and place of birth; descriptive data on height, weight, hair and eyes; office and division in which employed; along with photograph and signature of the employee. The record also indicates approval by facility management for the issuance of personal identification to the employee, which is subsequently carried by the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 318–318c. Treasury Department Order No. 177–25, dated August 8, 1973.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Record is 5" x 8" card filed in Kardex Binder or circular-type index system.

RETRIEVABILITY:

Alphabetical by name.

SAFEGUARDS:

Maintained in secure area by Security Force officers.

RETENTION AND DISPOSAL:

Records are retained until separation of the employee and are destroyed upon termination in accordance with General Services Administration rules and regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer (Coordinator), Treasury Department, United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220; Security Officer (Facility Manager), United States Mint, Independence Mall, Philadelphia, PA 19106; Security Officer (Facility Manager), United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Security Officer (Facility Manager), United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; Security/Safety Officer (Facility Manager), United States Bullion Depository, West Point, NY 10996; Security Officer (Facility Manager), United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Same as shown under System Manager. An employee is free to examine his card record upon request, after properly identifying himself as the employee of record. The following would be used to prove identity: (a) Employee identification. (b) Driver's license. (c) Other acceptable personal documents.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Mint Security Officer, United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Personal information provided by employee himself/herself and identification approval by management staff.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint .006

SYSTEM NAME:

Employee and Former Employee Travel and Training Accounting Information System—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220; United States Mint, Independence Mall, Philadelphia, PA 19106; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; United States Bullion Depository, West Point, NY 10996; United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the United States Mint who have engaged in travel and training.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) SF 1166 Voucher and Schedule of Payments with supporting documents such as: (a) SF 1012 Travel Voucher. (b) SF 1083 Application and Account for Advance of Funds. (2) Travel Authorities. (3) Government Travel Request SF 1169. (4) Request, Authorization, Agreement and Certification of Training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 41 (Training) and Chapter 57 (Travel).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose information pertaining to travel and training information to accounting offices, personnel offices, managers, supervisors, and government officials. (b) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the records pertain.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper Documents.

RETRIEVABILITY:

Name or number substitute.

SAFEGUARDS:

Storage in filing cabinets with access by authorized accounting personnel.

RETENTION AND DISPOSAL:

General Records Control Schedule, GAO rules and regulations, United States Mint Records Control Schedule; are destroyed in accordance with General Services Administration regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Financial Manager, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220; Budget and Accounting Officer, United States Mint, Independence Mall, Philadelphia, PA 19106; Budget and Accounting Officer, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Budget and Accounting Officer, United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; Chief, Accounting Division, United States Bullion Depository, West Point, NY 10996; Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Same as included in System Manager. An employee or former employee is required to show an identification such as: (a) Employee identification. (b) Driver's license. (c) Other names of identification including social security number and date of birth.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

United States Mint employees and appropriate agency officials.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint .007

SYSTEM NAME:

Employee, Former Employee and Visitors, Occupational Safety and Health, Accident and Injuries Records; and Claims for Injuries or Damage Compensation Records—Treasury/United States Mint.

SYSTEM LOCATION:

Location and Category of Records Maintained: United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220—Accident/Injury/Illness Records, Vehicle Accident, and Claims against the Government; United States Mint, Independence Mall, Philadelphia, PA 19106—Accident/Injury/Illness Records, Health Records, Motor Vehicle Accident Data, Claims against the Government, Safety Equipment Logs, and Operators Training/Licensing; United States Mint, 320 West Colfax Avenue, Denver, CO 80204—Accident/Injury/Illness Records, Health Records, Motor Vehicle Accident Data, Claims against the Government, Safety Equipment Logs, and Operators Licensing; United States Assay Office, 155 Hermann Street, San Francisco, CA 94102—Accident/Injury/Illness Records, Health Records, Motor Vehicle Accident Data, Claims against the Government, Safety Equipment Logs, and Operators Training/Licensing; United States Bullion Depository, West Point, NY 10996—Accident/Injury/Illness Records, Health Records, Motor Vehicle Accident Data, Claims against the Government,

VOL 50 ISS 143 JL 25 1985 UMI

Safety Equipment Logs; United States Bullion Depository, Fort Knox, KY 40121—Accident/Injury/Illness Records, Motor Vehicle Accident Data, Claims against the Government.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Mint employees, former employees and visitors to Mint offices and facilities, reporting accidents and injuries occurring on Federal Government property or in areas immediately adjacent to Government property, for which potential liability exists due to local laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

(See Location.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 668; E.O. 11807, 28 U.S.C. 2680 *et seq*; 31 CFR Part 3, 31 U.S.C. 240–243; 31 CFR Part 4.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose information in these records may be provided to appropriate agency officials and officials of the following other Federal agencies responsible for the administration of relevant programs or the evaluation, adjudication, litigation and settlement of claims by or against the Government: (a) To disclose information to the Department of Labor. (b) To disclose information to the Department of Justice. (c) To disclose information to the General Accounting Office. (d) To disclose information to the Office of Personnel Management: (e) To disclose information to the Social Security Administration. (2) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Locked containers in Safety Health Office available to authorized personnel only.

RETENTION AND DISPOSAL:

Records are retained in accordance with General Records Control Schedules, and United States Mint Records Control Schedules; are destroyed in accordance with General Services Administration rules and regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, OSHA/EPA Staff, Treasury Department, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220; Safety Officer, United States Mint, Independence Mall, Philadelphia, PA 19106; Safety Manager, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Safety Manager, United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; Security/Safety Officer, United States Bullion Depository, West Point, NY 10996; Administrative Officer, United States Bullion Depository, Fort Know, KY 40121.

NOTIFICATION PROCEDURE:

Same as included in System Manager. An employee or former employee is required to show an identification such as: (a) Employee identification. (b) Driver's license. (c) Other means of identification including social security number and date of birth.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Employees, supervisors, medical staff, general public, and visitors to the facilities of the United States Mint.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint .009

SYSTEM NAME:

Employee—Supervisor Performance, Evaluation, Counseling and Time and Attendance Records—Treasury/United States Mint.

SYSTEM LOCATION:

United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220; United States Mint, Independence Mall, Philadelphia, PA 19106; United States Bullion Depository, West Point, NY 10996; United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Mint employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information necessary for managers and supervisors to effectively carry out supervisory responsibilities. Included are such records as: copies of personnel actions, performance appraisal including production and control, disciplinary actions, overtime reports, tardiness reports, work assignments, training reports, applications for employment, home addresses, leave reports, employee awards. (Supervisors maintain varying combinations of the above records. Some supervisors may maintain all or none of the above records depending upon the nature and size of the operation or organization and the number of individuals supervised.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and FPM Supplement 990–1, Section 3.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (b) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (c) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents maintained in folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Stored in file cabinets and desks of supervisors.

RETENTION AND DISPOSAL:

Retained as long as employee is under their supervision.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Directors and Director's Staff, United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220; Superintendent, United States Mint, Independence Mall, Philadelphia, PA 19106; Superintendent, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Officer-in Charge, United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; Officer-in-Charge, United States Bullion Depository, West Point, NY 10996; Officer-in-Charge, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Same as listed under System Manager. Employee or former employee is required to show identification such as: I.D. card, driver's license.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

Contest: See Access above.

RECORD SOURCE CATEGORIES:

Employees; previous employers; and appropriate agency officials.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint. 010

SYSTEM NAME:

Examination reports of coins forwarded to Mint from U.S. Secret Service—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals from whom U.S. Secret Service has seized coins suspected to be counterfeit or fraudulently altered.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports prepared for U.S. Secret Service regarding the examination of the questioned coin or coins by United States Mint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 331, 485, 486, 489, 490 and 491.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records and information in the records may be used: (a) To disclose information to U.S. Secret Service and other Federal agencies charged with detecting counterfeit or altered coins and the enforcement of Federal counterfeiting statutes. (b) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are kept in locked metal file cabinets in area accessible only to authorized agency officials.

RETENTION AND DISPOSAL:

Retained in accordance with United States Mint Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Technology, United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

NOTIFICATION PROCEDURE:

Assistant Director for Technology, United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

RECORD ACCESS PROCEDURES:

Chief Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

United States Secret Service.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

As authorized by 5 U.S.C. 552a (j) and (k), this system is exempt from the following provisions, subsections (c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f) of 5 U.S.C. 552a.

Treasury/United States Mint .011

SYSTEM NAME:

General Correspondence—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, Judiciary Square, 633 3rd Street, NW, Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public, Members of Congress, agency officials and other Federal agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming correspondence and replies pertaining to the mission, function and operation of the United States Mint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 251, 253.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

VOL 50 ISS 143 JL 25 1985 UMI

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name of correspondent.

SAFEGUARDS:

Maintained in limited access area available only to appropriate agency officials.

RETENTION AND DISPOSAL:

In accordance with the General Services Administration's General Records Control Schedule and the United States Mint Records Control Schedule. Destroyed in accordance with General Services Administration regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220. Superintendent, United States Assay Office, 155 Hermann Street, San Francisco, CA 94102.

NOTIFICATION PROCEDURE:

See System Manager for addresses to which inquiries may be addressed and addresses at which the individual may present a request as to whether a system contains records pertaining to himself/herself. The individual must supply his/her name.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above

RECORD SOURCE CATEGORIES:

The general public, Members of Congress, agency and other Federal officials.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint .012

SYSTEM NAME:

Investigatory Files on Theft of Mint Property—Treasury/Mint.

SYSTEM LOCATION:

United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mint employees and members of public suspected of the theft of Government property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, location of Mint facility, and theft item.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 332, 641.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Files are kept in a locked metal file cabinet in an area accessible to authorized agency officials.

RETENTION AND DISPOSAL:

Retained in accordance with United States Mint Records Control Schedule; are destroyed in accordance with General Services Administration rules and regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Mint Security Officer, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

NOTIFICATION PROCEDURE:

See System Manager above.

RECORD ACCESS PROCEDURES:

Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

United States Mint and other Law enforcement officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

As authorized by 5 U.S.C. 552a (j) and (k), this system is exempt from the following provisions, subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of 5 U.S.C. 552a.

Treasury/United States Mint .013

SYSTEM NAME:

Numismatic Coin Operations System (NUCOS) Records; Customer Mailing List, Order Processing Records, for Coin Sets, Medals and Numismatic Items, and records of undelivered orders—Treasury/Mint.

SYSTEM LOCATION:

United States Assay Office, 155 Hermann Street, San Francisco, CA 94102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers for numismatic items.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, order history of customers purchasing numismatic items and of individuals who wish to receive notification of numismatic offerings by the Mint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 324g, 324h, 369, 391(d); Pub. L. 89–81, Pub. L. 92–228; 31 CFR Part 92.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department of the Treasury.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape, discs, paper and cards.

RETRIEVABILITY:

Name, customer number or order number.

SAFEGUARDS:

CRT, password protection; only designated persons may request

computer generated reports. Access to any information pertaining to any individuals' name is limited to only those individuals requiring the information to accommodate handling of transactions with the customers. Separation of functions; source documents maintained in one division and programming systems in another.

RETENTION AND DISPOSAL:

In accordance with General Services Administration's General Records Control Schedule and the United States Mint Records Control Schedule; are destroyed in accordance with General Services Administration regulations. Order cards are retained two weeks; reports three months, they are then shredded. Customer names and addresses are maintained as long as they are active.

SYSTEM MANAGER(S) AND ADDRESS:

Officer-in-Charge, United States Assay Office, 155 Hermann Street, San Francisco CA 94102.

NOTIFICATION PROCEDURE:

Individuals should supply order number as provided on order card or copy of both sides of cancelled check; customer number which appears on pre-punched order cards or on face of check.

RECORD ACCESS PROCEDURE:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Members of the public, appropriate agency officials, and General Services Administration.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint .014

SYSTEM NAME:

Purchases, Sales, Exchange and Assays of Precious Metals—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220; United States Mint, Independence Mall, Philadelphia, PA 19106; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; United States Bullion Depository, West Point, NY 10996.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

General public and Government agencies who had precious metal transactions with the United States Mint.

CATEGORIES OF RECORDS IN THE SYSTEM:

Bar schedules, deposit tickets, reports on special assays, records of sales and purchases of precious metals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 327, 328, 335, 358, 360, 361, 362, 405a–1, 733 and 734; 31 CFR Parts 90 and 92.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records and information in the records may be used: (a) To disclose information pertaining to the sale, purchase, exchange or assay of precious metal to appropriate agency officials and appropriate officials of the General Service Administration. (b) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and computer magnetic tapes.

RETRIEVABILITY:

Name or assay number.

SAFEGUARDS:

Metal file cabinet with locks and secured area available to authorized personnel only.

RETENTION AND DISPOSAL:

United States Mint Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Financial Manager, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220; Budget and Accounting Officer, United States Mint, Independence Mall, Philadelphia, PA 19106; Budget and Accounting Officer, United States Mint, 320 West Colfax Avenue, Denver, CO 80204; Budget and Accounting Officer, United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; Chief, Accounting Division, United States Bullion Depository, West Point, NY 10996.

NOTIFICATION PROCEDURE:

Same as included in System Manager. Member of the general public or Government agency is required to produce proper identification to satisfy the Sytem Manager.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

Same as Access above.

RECORD SOURCE CATEGORIES:

General public; agency officials; and other Federal agencies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint .015

SYSTEM NAME:

Redemption of Uncurrent or Mutilated Coins—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, Independence Mall, Philadelphia, PA 19106.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

General public, financial institutions, and other Government agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of names, addresses and reference numbers pertaining to those submitting mutilated or uncurrent coins for exchange.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 317c; 31 CFR Part 100.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of

VOL 50 ISS 143 JL 25 1985 UMI

an indication of a violation or potential violation of civil or criminal law or regulation. (b) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (d) To disclose information to foreign governments in accordance with formal or informal international agreements. (e) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (f) To provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings. (g) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (h) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents.

RETRIEVABILITY:

By name or reference number.

SAFEGUARDS:

Metal file cabinet with lock.

RETENTION AND DISPOSAL:

Retained in accordance with United States Mint Records Control Schedule; are destroyed in accordance with General Services Administration rules and regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Budget and Accounting Officer, United States Mint, Independence Mall, Philadelphia, PA 19106.

NOTIFICATION PROCEDURE:

See System Manager. Individual is required to supply name and if available reference and/or settlement number.

RECORD ACCESS PROCEDURES:

For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

General public, Financial institutions and other Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/United States Mint .016

SYSTEM NAME:

Grievances. Union/Agency Negotiated—Treasury/United States Mint.

SYSTEM LOCATION:

United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220; United States Mint, Independence Mall, Philadelphia, PA 19106; United States Mint, 320 West Colfax Avenue, Denver, CO 80204; United States Assay Office, 155 Hermann Street, San Francisco, CA 94102; United States Bullion Depository, West Point, NY 10996; United States Bullion Depository, Fort Knox, KY 40121.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the United States Mint.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to employee grievances filed under provisions of negotiated grievance procedures, including decision of appropriate third parties where applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 11491, 11616, 11636 and 11838; negotiated agreements between Mint and exclusively recognized labor unions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (a) To disclose an employee grievance to an arbitrator, and an appeal to the Federal Labor Regulations Council. (b) To disclose information to appropriate officials of the Department of Labor during the course of a grievance or arbitration. (c) To provide information or disclose to the appropriate Federal agency in connection with civil litigation involving the United States Mint. (d) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (e) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings. (f) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (g) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders or binders.

RETRIEVABILITY:

These records are filed by the names of the individuals on whom they are maintained or by the subject of the grievance.

SAFEGUARDS:

Access to and use of these records are limited to those agency officials whose official duties require such access.

RETENTION AND DISPOSAL:

Retained in accordance with the United States Mint Records Control Schedules; are destroyed in accordance with General Services Administration rules and regulations.

SYSTEM MANAGER(S) AND ADDRESS:

For current and former employees: Personnel Officer, United States Mint, Department of the Treasury, Judiciary Square Building, 633 3rd Street, NW, Washington, DC 20220. Personnel Officer United States Mint, Independence Mall, Philadelphia, PA 19106. Personnel Officer, United States Mint, 320 West Colfax Avenue, Denver, CO 80204. Personnel Officer, United States Assay Office, 155 Hermann Street, San Francisco, CA 94102. Administrative Officer, United States Bullion Depository, West Point, NY 10996. Administrative Officer, United States Bullion Depository, Fort Knox, KY 40121.

NOTIFICATION PROCEDURE:

Individuals who have filed a grievance are aware of that fact and have been provided a copy of the record. They may, however, contact the Personnel Officer indicated above regarding the existence of such records pertaining to them. It is necessary to furnish information sufficient to verify the identity of the requester such as full name, date of birth, a brief description of the grievance and the approximate date of submission.

RECORD ACCESS PROCEDURES:

Individuals who have filed a grievance about a decision or determination made by an agency or about conditions existing in an agency already have been provided a copy of the record. The contest, amendment, or correction of a grievance record is permitted during the prosecution of the grievance to whom the record pertains. However, after a grievance case has been closed, an individual may gain access to, or contest the official copy of the grievance record by writing the appropriate Personnel Officer indicated above. Individuals should provide their name, date of birth, a brief description of grievance and the approximate date of submission.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

The sources of these records are indicated below. (a) Individual to whom the record pertains. (b) Agency officials. (c) Affidavits or statements from employee(s). (d) Testimonies of witnesses. (e) Official documents and correspondence relating to the grievance.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

BILLING CODE: 4810-37-M

Treasury/BPD .001

SYSTEM NAME:

Personnel and Administrative Records—Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt: Washington, DC; Parkersburg, WV; Ravenswood, WV. Federal Records Center: St. Louis, MO.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past, present, and prospective employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

All personnel records are not mentioned in this system, but maintained at the Bureau, are considered to belong to the Office of Personnel Management and will be reported by that agency. (1) Personnel Folders (Temporary side): Contain the following types of records or information apart from official records, but which may duplicate or supplement official records: Pre-employment records and vouchers; orientation records: Requests for personnel action; requests for training; performance evaluation records; letters of reference; debt correspondence; correspondence between an employee and the personnel office; disciplinary action papers; duplicate copies of personnel actions; payroll, leave, and retirement benefits data; compensation forms and reports relating thereto; tax check records; reduction-in-force data; requests for outside employment; merit promotion applications; and credit and employment verification. (2) Locator File: Contains the employee's office and home address and telephone numbers, emergency notification information, and indication of permission or denial to disclose this information upon inquiry. (3) Applications for Employment File: Contains inquiries concerning employment, applicants' resumes, and correspondence. (4) Career Development Program for Lower Level Employees (CADE) Files: Contain, but are not limited to, all pertinent information, such as applications, vouchers, correspondence, developmental plans, and appraisal forms of candidates for the program. (5) Security Investigation Files: Contain background information and the results of investigations conducted by Internal Revenue Service, U.S. Secret Service, or other federal agencies, on Bureau attorneys and certain other employees. (6) Awards Case Files: Contain reports and background data concerning awards for employees. (7) Informal Equal Employment Opportunity Complaint Files: Contain records of informal EEO complaints and discussions thereon which have not reached the level of formal complaints. (8) Administrative Grievance Files: Contain informal or formal grievance complaints and background documentation. (9) General Correspondence Files: Contain inquiry and reply letters and documentation concerning general administrative, policy, transactional, and personnel matters. (10) Union-related Files: Contain formal, informal, contractual, and administrative grievance complaints; background documentation; and reports of union dues participation. (11) Merit Promotion Files: Contain records of competitive promotion actions, including, but not limited to, vacancy announcements, candidates considered, assessments of candidates, and disposition of applications. (12) Exit Interview Files: Contain records of an employee's critique of the Bureau, final interview, and supervisors' recommendations. (13) Suitability Files: Contain information documenting the suitability for employment of prospective and current employees, such as arrest records, National Agency checks, and background information. (14) Budget Files: (a) Employee Travel Records File: Contains travel vouchers, authorizations, and receipts for travel which an employee performed in connection with official business and which is reimbursable by government funds. (b) Comprehensive Listing of Employee Master File: Contains salary, grade, leave, retirement, health-life insurance, tax, payroll deduction, and other information. (c) Time and Attendance Records: Contain the daily posting of an employee's leave and attendance. (15) Medical Records File: Contains pre-appointment and fitness-for-duty medical reports and records. (16) Employee Relations Files: Contain, but are not limited to, retirement and compensation information. (17) Confidential Financial Statements File: Contains personal financial statements required by certain employees as defined in the Department's Minimum Standards of Conduct. (18) Classification Appeals File: Contains statements and pertinent information relating to the adjudication of an appeal. (19) History of Employment File: Contains service record cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C.; Federal Personnel Manual; and Executive Order 11478, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

A record or information from a record maintained in this system of records may be disclosed as a routine use: (1) To disclose information to the Office of Personnel Management or the Merit Systems Protection Board upon authorized request; (2) To disclose information to other federal agencies for the purpose of their hiring; (3) To

VOL 50 ISS 143 JL 25 1985 UMI

disclose information to other federal agencies, state unemployment agencies, and others when necessary for employee compensation; (4) To disclose information to contractors of the Department for the purpose of processing personnel and pay records; (5) To disclose information to creditors or potential creditors to verify debt complaints or employment data; (6) To disclose information to next-of-kin, voluntary guardians, and other representative or successor in interest of a deceased or incapacitated employee or former employee; (7) To disclose information to other federal agencies to effect salary or administrative offset for the purpose of collecting a debt; (8) To disclose information to a consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service to obtain credit reports; (9) To disclose information to a debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services; (10) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (11) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (12) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena; (13) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, arbitrators, and other parties responsible for the administration of the federal labor-management program if needed in the performance of their authorized duties; (14) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; and (15) To provide to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Debt information concerning a Government claim against an employee is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media, paper, and microform.

RETRIEVABILITY:

By name, and in some cases, Social Security number.

SAFEGUARDS:

Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied by officers and responsible employees of the Bureau who are subject to the Bureau's personnel screening procedures and to the Treasury Department Code of Conduct. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures.

RETENTION AND DISPOSAL:

Records are maintained in accordance with GSA and OPM retention schedules. All records are destroyed by incineration, maceration, or shredding. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

For administrative records—Commissioner, Bureau of the Public Debt, Washington, D.C. 20239. For personnel records—Director, Division of Personnel Management, Bureau of the Public Debt, Washington, D.C. 20239.

NOTIFICATION PROCEDURE:

Address administrative inquiries and initial requests for correction of records to: Privacy Act Request, Commissioner, Bureau of the Public Debt, Washington, D.C. 20239, (202) 376-4307. Address personnel inquiries and initial requests for correction of records to: Privacy Act Request, Director, Division of Personnel Management, Bureau of the Public Debt, Washington, D.C. 20239, (202) 447-1297; or Privacy Act Request, Personnel Officer, Savings Bond Operations Office, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106, (304) 420-6143.

RECORD ACCESS PROCEDURES:

Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR Part 1, Subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request but will be answered to the extent possible.

REQUESTS FOR ACCESS TO RECORDS:

(1) A request for access to records should be in writing, signed by the individual concerned, and in order for the Privacy Act procedures to apply, clearly indicate that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) The request must specify the Bureau system of records within which the desired records are located as well as the categories of records within the system. These categories are set out in the applicable system of records description. (3) Requests for records concerning a deceased or incapacitated individual should be accompanied either by evidence of the requester's appointment as legal representative of the estate or the individual or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual. (4) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR Part 1, Subpart C.

Requests for correction of records: (1) A request by an individual for correction of records should be in writing, be signed, and, in order for the Privacy Act procedures to apply, state that the request is made pursuant to the Privacy Act of 1974. (2) The request for correction should specify: (a) the dates of records in question, (b) the specific records alleged to be incorrect, (c) the correction requested, and (d) the reasons therefor. (3) The request must include any available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request

for correction of records must be in writing, be signed by the individual involved, and, in order for the Privacy Act procedures to apply, state that it is made pursuant to the Privacy Act of 1974. (2) All appeals must, to be handled under the Privacy Act procedures, be delivered to the address set forth for submission of appeals within 35 days of the individual's receipt of the initial denial of the requested correction. (3) All appeals must also specify: (a) the records to which the appeal relates, (b) the date of the initial request made for correction of the records, and (c) the date that the initial denial of the request for correction was received. (4) All appeals must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence. (5) Appeals should be addressed to the Commissioner, Bureau of the Public Debt, Washington, DC 20239, or as otherwise provided in the applicable appendix to 31 CFR Part 1, Subpart C.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" and "Record Access Procedures."

RECORD SOURCE CATEGORIES:

Information on records in the system is furnished by the individuals listed in "Categories of Individuals" or their authorized representatives, by creditors, by supervisors, medical personnel, other employees, or as the result of security investigations.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BPD .002

SYSTEM NAME:

United States Savings-Type Securities—Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt: Washington, DC 20239; Parkersburg, WV 26106; and Ravenswood, WV 26164. Federal Reserve Banks and Branches located at: Atlanta, GA; Baltimore, MD; Birmingham, AL; Boston, MA; Buffalo, NY; Charlotte, NC; Chicago, IL; Cincinnati, OH; Cleveland, OH; Dallas, TX; Denver, CO; Detroit, MI; El Paso, TX; Jacksonville, FL; Helena, MT; Houston, TX; Kansas City, MO; Little Rock, AR; Louisville, KY; Los Angeles, CA; Memphis,TN; Miami, FL; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Oklahoma City, OK; Omaha, NE; Philadelphia, PA; Pittsburgh, PA; Portland, OR; Richmond, VA; Salt Lake City, UT; San Antonio, TX; San Francisco, CA; Seattle, WA; and St. Louis, MO. Federal Records Centers located at: Waltham, MA; New York, NY; Bayonne, NJ; Philadelphia, PA; Mechanicsburg, PA; Washington, DC; East Point, GA; Chicago, IL; Dayton, OH; Kansas City, MO; St. Louis, MO; Fort Worth, TX; Denver, CO; San Bruno, CA; Laguna Niguel, CA; and Seattle, WA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former owners of, claimants to, persons entitled to, and inquiries concerning United States savings-type securities and interest thereon—including, but not limited to, United States Savings Bonds, Savings Notice, Retirement Plan Bonds, and Individual Retirement Bonds.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Issuance: Records relating to registration, issuance, and correspondence in connection with issuance of savings-type securities. (2) Holdings: Records documenting ownership, status, payments by date and account numbers, and inscription information; interest activity; correspondence in connection with notice of change of name and address; non-receipt or over- and underpayments of interest and principal; and numerical registers of ownership. Such records include information relating to savings-type securities held in safekeeping in conjunction with the Department's program to deliver such securities to the owners or persons entitled. (3) Transactions (redemptions, payments, and reissues): Records, which include securities transaction requests; interest activity; legal papers supporting transactions; applications for disposition or payment of securities and/or interest thereon of deceased or incapacitated owners; records of retired securities; and payment records. (4) Claims: Records including correspondence concerning lost, stolen, destroyed or mutilated savings-type securities; bonds of indemnity; legal documents supporting claims for relief; and records of caveats entered. (5) Inquiries: Records of correspondence with individuals who have requested information concerning savings-type securities and/or interest thereon.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3101 *et seq.* and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

A record or information from a record maintained in this system of records may be disclosed as a routine use: (1) To disclose information to agents or contractors of the Department for the purpose of administering the public debt of the United States; (2) To disclose information to next-of-kin, voluntary guardian, legal representative or successor in interest of a deceased or incapacitated owner of securities and others entitled to the reissue, distribution, or payment for the purpose of assuring equitable and lawful disposition of securities and interest; (3) To disclose information to either co-owner for bonds registered in that form or to the beneficiary for bonds registered in that form, provided that acceptable proof of death of the owner is submitted; (4) To disclose information to the Internal Revenue Service for the purpose of facilitating collection of the tax revenues of the United States; (5) To disclose information to the Department of Justice in connection with lawsuits to which the Department of the Treasury is a party or to trustees in bankruptcy for the purpose of carrying out their duties; (6) To disclose information to the Veterans Administration and selected veterans publications for the purpose of locating owners or other persons entitled to undeliverable bonds held in safekeeping by the Department; (7) To disclose information to other Federal agencies to effect salary or administrative offset the purpose of collecting debts; (8) To disclose information to a consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service, to obtain credit reports; (9) To disclose information to a debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services; (10) To disclose information to contractors conducting Treasury-sponsored surveys, polls, or statistical analyses relating to the marketing or administration of the public debt of the United States; (11) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (12) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena; and (13) To provide information to a congressional office in response to an inquiry made at the

VOL 50 ISS 143 JL 25 1985 UMI

request of the individual to whom the record pertains.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Debtor information is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored in their original form in file cabinets, as information in electronic media, or on microform.

RETRIEVABILITY:

Information can be retrieved alphabetically by name, bond serial numbers, or, in some cases, numerically by social security number. In the case of securities, except Series G savings bonds, registered in more than one name, information relating thereto can only be retrieved by the name, or, in some cases, the social security number of the first-named co-owner.

SAFEGUARDS:

Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied either by officers and responsible employees of the Department who are subject to personnel screening procedures and to the Treasury Department Code of Conduct or by agents of the Department who are required by the Department to maintain proper control over records while in their custody. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures.

RETENTION AND DISPOSAL:

Records of holdings, forms, documents, and other legal papers which constitute the basis for transactions susequent to original issue are maintained for such time as is necessary to protect the legal rights and interests of the United States Government and the persons affected, or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Service, General Services Administration. All records are destroyed by shredding, incineration, or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, Bureau of the Public Debt, Washington, D.C. 20239

NOTIFICATION PROCEDURE:

Address inquiries and initial requests for correction of records to: Privacy Act Request, Assistant Commissioner, Savings Bond Operations Office, Bureau of the Public Debt, Parkersburg, WV 26106, (304) 420–6402. Inquiries should include the full name, social security number, address, and security serial number(s), if known.

RECORD ACCESS PROCEDURES:

Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR Part 1, Subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request but will be answered to the extent possible.

Requests for access to records: (1) A request for access to records must be in writing, signed by the individual concerned, and in order for the Privacy Act procedures to apply, clearly indicate that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) The request must specify the Bureau system of records within which the desired records are located as well as the categories of records within the system. These categories are set out in the applicable system of records description. (3) In the case of requests for information concerning holdings of securities, the type of security involved (e.g., Series E and EE savings bonds, Series H and HH savings bonds, savings notes, retirement plan bonds) must be specified. Additionally, the request should, to the extent possible, specify: The approximate date of issue, serial number(s), exact form of registration, social security number and address. Requests which do not furnish all or some of the above information will be complied with to the extent possible, but maybe subject to the requirement that additional identifying evidence be furnished. (4) Requests for information concerning records of holdings of securities, except Series G savings bonds registered in co-ownership form, must be accompanied by the name and, wherever possible, the social security number of the first-named co-owner. Requests for information concerning securities registered in beneficiary form must also be accompanied by the name and social security number of the owner thereof and, if made by the beneficiary, must be accompanied by proof of death of the registered owner. (5) Requests for records of holdings or other information concerning a deceased or incapacitated individual should be accompanied either by evidence of the requester's appointment as legal representative of the estate or the individual or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual. (6) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR Part 1, Subpart C.

Requests for correction of records: (1) A request by an individual for correction of records should be in writing, be signed, and, in order for the Privacy Act procedures to apply, state that the request is made pursuant to the Privacy Act of 1974. (2) The request for correction should specify: (a) The dates of the prior correspondence with the Bureau concerning the records in question; (b) the specific records alleged to be incorrect; (c) the correction requested; and (d) the reasons therefor. (3) The request must include any available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, be signed by the individual involved and, in order for the Privacy Act procedures to apply, state that it is made pursuant to the Privacy Act of 1974. (2) All appeals must, to be handled under the Privacy Act procedures, be delivered to the address set forth for submission of appeals within 35 days of the individual's receipt of the initial denial of the requested correction. (3) All appeals must specify: (a) The records to which the appeal relates, (b) the date of the initial request made for correction of the records, and (c) the date that initial denial of the request for correction was received. (4) All appeals must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence. (5) Appeals should be addressed to the Commissioner, Bureau of the Public Debt, Washington, D.C. 20239, or as otherwise provided in the applicable appendix to 31 CFR Part 1, Subpart C.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" and "Record Access Procedures."

RECORD SOURCE CATEGORIES:

Information on records in this system is furnished by the individuals or their authorized representatives as listed in "Categories of Individuals" and issuing agents for securities or is generated within the system itself.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/BPD .003

SYSTEM NAME:

United States Securities (Other than Savings-Type Securities)—Treasury/BPD.

SYSTEM LOCATION:

Bureau of the Public Debt: Washington, D.C. 20239; Parkersburg, WV 26106; and Ravenswood, WV 26164; Federal Reserve Banks and Branches located at: Atlanta, GA; Baltimore, MD; Birmingham, AL; Boston, MA; Buffalo, NY; Charlotte, NC; Chicago, IL; Cincinnati, OH; Cleveland, OH; Dallas, TX; Denver, CO; Detroit, MI; El Paso, TX; Jacksonville, FL; Helena, MT; Houston, TX; Kansas City, MO; Little Rock, AR; Louisville, KY; Los Angeles, CA; Memphis, TN; Miami, FL; Minneapolis, MN; Nashville, TN; New Orleans, LA; New York, NY; Oklahoma City, OK; Omaha, NE; Philadelphia, PA; Pittsburgh, PA; Portland, OR; Richmond, VA; Salt Lake City, UT; San Antonio, TX; San Francisco, CA; Seattle, WA; and St. Louis, MO. Federal Records Centers located at: Waltham, MA; New York, NY; Bayonne, NJ; Philadelphia, PA; Mechanicsburg, PA; Washington, DC; East Point, GA; Chicago, IL; Dayton, OH; Kansas City, MO; St. Louis, MO; Fort Worth, TX; Denver, CO; San Bruno, CA; Laguna Niguel, CA; and Seattle, WA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former owners of, subscribers to, claimants to, persons entitled to, and inquirers concerning United States Treasury Securities (except savings-type securities) and interest thereon and such securities for which the Treasury acts as agent and interest thereon—including, but not limited to, Treasury Bonds, Notes and Bills; Adjusted Service Bonds; Armed Forces Leave Bonds; and Federal Housing Administration Debentures.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Issuance: Records relating to tenders, bids, subscriptions, advices of shipment, requests (applications) for original issue, and correspondence concerning erroneous issue and non-receipt of securities. (2) Holdings: Records of ownership and interest activity on registered or recorded United States securities (other than savings-type securities); change of name and address notices; correspondence concerning errors in registration or recordation; non-receipt or over-and underpayments of interest and principal; records of interest activity; records of unclaimed accounts; and letters concerning the New York State tax exemption for veterans of World War I. (3) Transactions (redemptions, payments, reissues, transfers, and exchanges): Records which include securities transaction requests; legal papers supporting transactions; applications for transfer, disposition, or payment of securities of deceased or incompetent owners; records of Federal estate tax transactions; certificates of ownership covering paid overdue bearer securities; records of erroneous redemption transactions; records of retired securities; and payment records. (4) Claims: Records including correspondence concerning lost, stolen, destroyed, or mutilated United States securities (other than savings-type securities) or securities for which the Treasury acts as agent and interest coupons thereon; bonds of indemnity; legal documents supporting claims for relief; and records of caveats entered. (5) Inquiries: Records of correspondence with individual who have requested information concerning United States Treasury securities (other than savings-type securities) or securities for which the Treasury acts as agent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3101 *et seq.* and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

A record or information from a record maintained in this system of records may be disclosed as a routine use: (1) To disclose information to agents or contractors of the Department for the purpose of administering the public debt of the United States; (2) To disclose information to next-of-kin, voluntary guardian, legal representative or successor in interest of a deceased or incapacitated owner of securities and others entitled upon transfer, exchange, distribution, or payment for the purpose of assuring equitable and lawful disposition of securities and interest; (3) To disclose information to any of the owners if the related securities are registered or recorded in the names of two or more owners; (4) To disclose information to the Internal Revenue Service for the purpose of facilitating the collection of the tax revenues of the United States; (5) To disclose information to the Department of Justice in connection with lawsuits to which the Department of the Treasury is a party or to trustees in bankruptcy for the purpose of carrying out their duties; (6) To disclose information to the Veterans Administration when it relates to the holdings of Armed Forces Leave Bonds to facilitate the redemption or disposition of these securities; (7) To disclose information to other Federal agencies to effect salary or administrative offset for the purpose of collecting debts; (8) To disclose information to a consumer reporting agency, including mailing addresses obtained from the Internal Revenue Service, to obtain credit reports; (9) To disclose information to a debt collection agency, including mailing addresses obtained from the Internal Revenue Service, for debt collection services; (10) To disclose information to contractors conducting Treasury-sponsored surveys, polls, or statistical analyses relating to marketing or administration of the public debt of the United States; (11) To disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license; (12) To disclose to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena; and (13) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Debtor information is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt.

VOL 50 ISS 143 JL 25 1985 UMI

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored in their original form in file cabinets, as information in electronic media, or on microform.

RETRIEVABILITY:

Information can be retrieved by Social Security or account number, or, in some cases, alphabetically by name or numerically by security serial number. In the case of securities registered in more than one name, information relating thereto can generally only be retrieved by Social Security number or by the name of the first-named owner.

SAFEGUARDS:

Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied either by officers and responsible employees of the Department who are subject to personnel screening procedures and to the Treasury Department Code of Conduct or by agents of the Department who are required by the Department to maintain proper control over records while in their custody. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in a meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures.

RETENTION AND DISPOSAL:

Records of holdings, forms, documents, and other legal papers which constitute the basis for transactions subsequent to original issue are maintained for such time as is necessary to protect the legal rights and interests of the U.S. Government and the persons affected, or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Service, General Services Administration. All records are destroyed by shredding, incineration, or maceration. Records in electronic media are electronically erased using accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Commissioner, Bureau of the Public Debt, Washington, D.C. 20239.

NOTIFICATION PROCEDURE:

Address inquiries and initial requests for correction of records to: Privacy Act Request, Assistant Commissioner, (Securities and Accounting Service), Bureau of the Public Debt, Washington, D.C. 20239, (202) 447-9862. Inquiries should include the full name, social security number, address, and security serial number(s), if known.

RECORD ACCESS PROCEDURES:

Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR Part 1, Subpart C). Requests which do not comply fully with these procedures may result in noncompliance with the request but will be answered to the extent possible.

Requests for access to records: (1) A request for access to records must be in writing, signed by the individual concerned, and, in order for the Privacy Act procedures to apply, clearly indicate that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) The request must specify the Bureau system of records within which the desired records are located as well as the categories of records within the system. These categories are set out in the applicable system of records description. (3) In the case of requests for information concerning records of holdings of securities, the type of security involved (e.g., Treasury Notes, Armed Forces Leave Bonds, Adjusted Service Bonds) must be specified. Additionally, the request should, to the extent possible, specify: The loan and issue, approximate date of issue, denomination, serial number(s), exact form of registration, social security number, and address. Requests which do not furnish some or all of the latter information will be complied with to the extent possible but may be subject to the requirement that additional identifying evidence be furnished. (4) Requests for records of holdings of securities registered in the name of more than one person should include the name and, wherever, possible, social security number of the first-named owner. (5) Requests for records of holdings or other information concerning a deceased or incapacitated individual must be accompanied either by evidence of the requester's appointment as legal representative of the estate or the individual or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual. (6) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR Part 1, Subpart C.

Requests for correction of records: (1) A request by an individual for correction of records should be in writing, be signed, and, in order for the Privacy Act procedures to apply, state that the request is made pursuant to the Privacy Act of 1974. (2) The request for correction should specify: (a) The dates of the prior correspondence with the Bureau concerning the records in question, (b) the specific records alleged to be incorrect, (c) the correction requested, and (d) the reasons therefor. (3) The request must include any available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) An appeal from an initial denial of a request for correction of records must be in writing, be signed by the individual involved, and, in order for the Privacy Act procedures to apply, state that it is made pursuant to the Privacy Act of 1974. (2) All appeals must, to be handled under the Privacy Act procedures, be delivered to the address set forth for submission of appeals within 35 days of the individual's receipt of the initial denial of the requested correction. (3) All appeals must specify: (a) The records to which the appeal relates, (b) the date of the initial request made for correction of the records; and (c) the date that initial denial of the request for correction was received. (4) all appeals must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence. (5) Appeals should be addressed to the Commissioner, Bureau of the Public Debt, Washington, D.C. 20239, or as otherwise provided in the applicable appendix to 31 CFR Part 1, Subpart C.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" and "Record Access Procedures."

RECORD SOURCE CATEGORIES:

Information contained in records in the system is furnished by the individuals or their authorized representatives as listed in "Categories of Individuals," or is generated within the system itself.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/USSBD .001

SYSTEM NAME:

Savings Bonds Employee Records System—Treasury/USSBD.

SYSTEM LOCATION:

Savings Bonds Division, Department of the Treasury, 1111 20th Street, NW, Washington, DC 20226.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of USSBD.

CATEGORIES OF RECORDS IN THE SYSTEM:

Appeal and Grievance Records, Applicant Supply Files, Case Actions, Employee Earning Statements, Employee Financial Statements, Equal Employment Opportunity Files, Incentive Awards and Reports, Itineraries, Locator Cards, Medical Records, Merit Promotion, Motor Vehicle Records, Payroll, Performance Evaluation, Personal Investigation, Position Control, Reduction in Force File, Register of Separation and Transfer, Retirement Cards, Time and Attendance Records, Tort Claims, Training Records and Reports, Travel Vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Department Order No. 13 established the Division of Savings Bonds under the Office of the Fiscal Assistant Secretary, dated April 1941.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record or information from a record maintained in this system of records may be disclosed as a routine use when: (1) Providing employee information to other Federal Personnel offices when an employee is under consideration for a position with that Agency. (2) Helping a Federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the Bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit. (3) Providing information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (4) To disclose to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records in Personnel, with the exception of card files, are stored in metal correspondence files, indexed by individual names and numbers. Files are maintained in separate offices according to the nature or content of data.

RETRIEVABILITY:

Storage of financial information is maintained on computer printouts supplied by Bureau of Mint. Time and attendance reports and travel vouchers of employees are stored in separate files and are accessible by name and Social Security number.

SAFEGUARDS:

Files are accessible to Personnel employees and are locked at the close of each day.

RETENTION AND DISPOSAL:

Records pertaining to personal historical data are maintained for two years and are then sent to the Federal Records Center. Less important records are destroyed after the two-year period. All payroll and time and attendance records are retained between audit periods (normally two years) and then destroyed by shredding. Travel vouchers are maintained on file for three years after audit and then sent to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, Department of the Treasury, Savings Bonds Division, 1111 20th Street, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

Records that are housed by the Savings Bonds Division are not of a nature that would warrant strict guidelines for accessibility.

RECORD ACCESS PROCEDURES:

See System manager and Notification above. An individual may request access to his/her record or any information pertaining to him/her by merely notifying the office or officer in charge. The individual, however, must be under the supervision of a Savings Bonds Officer during the entire time he/she has this information in his/her possession.

CONTESTING RECORD PROCEDURES:

Contested information should be specified, and the reasons(s) for contesting the record listed. See System Manager above.

RECORD SOURCE CATEGORIES:

Data accumulated in the record system at Savings Bonds are gathered from the individual and/or from sources directly connected with the employee's appointment.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system are exempted elsewhere in the Federal Register.

Treasury/USSBD .002

SYSTEM NAME:

Savings Bonds Sales Promotion/Volunteer Record System—Treasury/USSBD.

SYSTEM LOCATION:

Savings Bonds Division, Department of the Treasury, 1111 20th Street, NW, Washington, DC 20226; and/or Regional and Branch Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bond Tellers, Campaign Managers, Campaign Nominees, Committee Volunteer Lists and Contacts, General Correspondence, Geographical Chairmen, Governmental Biographical Sketches, Honorary Chairmen, Individual Volunteer Lists, Mailing Lists—General and Labor, Major Corporation Executives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative lists and related detail.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Department Order No. 13 established the Division of Savings Bonds under the Office of the Fiscal Assistant Secretary, dated April 1941.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

There are no disclosures outside the Department for this records system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Mailing lists are accessible to employees and stored on addressograph plates. Other correspondence and materials are filed in the regular correspondence file cabinets and permanently retained.

VOL 50 ISS 143 JL 25 1985 UMI

RETRIEVABILITY:

Records are indexed by year, volunteer position and name, and are retrievable by those identifiers.

SAFEGUARDS:

Records that are housed by the Savings Bonds Division are not of a nature that would warrant strict guidelines for accessibility.

RETENTION AND DISPOSAL:

Records are maintained as long as needed and updated as necessary.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Department of the Treasury, Savings Bonds Division, 1111 20th Street, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

An individual may request access to his/her record at any time by notifying the officer in charge. The individual, however, must be under the supervision of a Savings Bonds Officer during the entire time the information is in his/her possession.

RECORD ACCESS PROCEDURES:

See System Manager and Notification above.

CONTESTING RECORD PROCEDURES:

Contested information should be specified, and the reason(s) for contesting the record listed. See System Manager above.

RECORD SOURCE CATEGORIES:

Data accumulated in the record system at Savings Bonds Division are gathered from the individual and/or from sources directly connected with the volunteer's appointment.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/USSBD .003

SYSTEM NAME:

Savings Bonds Sales Record System—Treasury/USSBD.

SYSTEM LOCATION:

Savings Bonds Division, Department of the Treasury, 1111 20th Street, NW, Washington, DC 20226; and/or Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Blue Ribbon Target Cards, Blue Ribbon Target Status Control Sheets, Field Call Reports, Itineraries, Net-Saver Reports, Payroll-Savings Reporting Procedures Forms, Progress Summaries, Time and Attendance Reports, Training Reports, Work Plans, State-County Chairmen, State and Volunteer Fund Lists, "Take stock in America" Records, Telephone calls, Volunteer Bio's.

CATEGORIES OF RECORDS IN THE SYSTEM:

Routine lists and administrative details associated with sales.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Treasury Department Order No. 13 established the Division of Savings Bonds under the Office of the Fiscal Assistant Secretary, dated April 1941.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

There are no disclosures for this system of records outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records of this nature are filed in large notebooks and are indexed according to individual names, regions, areas and states.

RETRIEVABILITY:

Records are retrievable under indexes indicated above.

SAFEGUARDS:

Records do not warrant tight security.

RETENTION AND DISPOSAL:

High priority records are kept as long as needed, records of lower priority are destroyed after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Sales Operations, Department of the Treasury, Savings Bonds Division, 1111 20th Street, NW, Washington, DC 20226.

NOTIFICATION PROCEDURE:

An individual may request access to his/her record or any information pertaining to him/her by merely notifying the office or officer in charge. The individual, however, must be under the supervision of a Savings Bonds Officer during the entire time he/she has this information in his/her possession.

RECORD ACCESS PROCEDURES:

See System Manager and Notification above.

CONTESTING RECORD PROCEDURES:

Contested information should be specified, and the reason(s) for contesting the record listed. See System Manager and Notification above.

RECORD SOURCE CATEGORIES:

Data accumulated in the sales record system at Savings Bonds Division are gather from the individual and/or from sources directly connected with the employee's appointment.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

BILLING CODE 4810-25-M

Treasury/USSS .001

SYSTEM NAME.

Administrative Operations Information System—Treasury/USSSS

SYSTEM LOCATION:

U.S. Secret Service (Headquarters), 1800 G Street, NW, Washington, DC 20223. Components of the Administrative Operations Information System are geographically dispersed throughout Secret Service field offices. (See below, United States Secret Service, Appendix A, listing the addresses of Secret Service offices.) U.S Secret Service Uniformed Division, 1310 L Street, NW, Washington, DC 20005. Treasury Police Force, Main Treasury Building, Washington, DC 20220. Presidential Protective Division, U.S. Secret Service, Room 12, Executive Office Building, 17th and Pennsylvania Avenue, NW, Washington, DC 20500. Vice-Presidential Protective Division, U.S. Secret Service, Executive Office Building, Room 295, Washington, DC 20500. Dignitary Protective Division, U.S. Secret Service, 1310 L Street, NW, Washington, DC 20005. Protective Vehicle Division, U.S. Sercet Service, 1310 L Street, NW, Washington, DC 20005. Johnson Protective Division, U.S. Secret Service, Stonewall, TX 78671. Ford Protective Division, U.S. Secret Service, P.O. Box 955, Rancho Mirage, CA 92270. Technical Security Division, Executive Office Building, Washington, DC 20500. Carter Protective Division, U.S. Secret Service, P.O. Box 308, Plains, GA 31780. Western Protective Division, Westlake Village, CA 91361.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who are now or were Secret Service employees; (b) Individuals, contractors, and vendors, etc., who are presently doing or previously did business with the Secret Service; (c) Claimants against the Service under the Federal Tort Claims Act and the Military Personnel and Federal Employees Claims Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records containing information on issuance of Secret Service equipment and accountable government property; (b) Records containing procurement

negotiations, contracts, agreements, etc., with the Secret Service; (c) Records containing information on past, present and future administrative correspondence with individuals, contractors, vendors, etc., who have or plan to enter into contractual agreements with the Secret Service; (d) Records on vehicle accidents, injuries, fatalities; (e) Records on motor vehicle operators in the Secret Service; (f) Statement of employment and financial interests of certain Secret Service employees required under Treasury Department standards of conduct.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority of this System is contained in Title 40 and 41 of the U.S. Code, other rules and regulations where applicable; 5 U.S.C. 301; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of this System are as follows: (a) Referral of information of U.S. Treasury, GAO, OMB, GSA, Department of Justice and other Federal, state, and local governments regarding purchases, contracts, and anticipated purchases and contracts of the Secret Service; (b) To provide administrative services for the Secret Service and maintain administrative records as required by law; (c) To use in the adjudication of any claim for or against the Secret Service; (d) Referral to individuals, contractors, vendors, etc., for the purpose of inquiries relating to or confirmation of orders and purchases.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are contained in file folders.

RETRIEVABILITY:

Records may be retrieved by name and/or numbers.

SAFEGUARDS:

(1) File jackets and indices are secured by alarms and other internal security devices in locked rooms with guards on duty on an around the clock basis. Access is available only to employees responsible for records management and operational employees who have a need for such information, each of whom holds a top secret security clearance; (2) The file jackets and the master file indices in Secret Service field offices are located in locked filing cabinets and in locked rooms when Secret Service employees are not on duty. Access to the system is limited to employees of the Secret Service holding top secret security clearances.

RETENTION AND DISPOSAL:

The file jackets and indices are retained in accordance with mandatory GSA General Records Schedules 3, 4, 8, 10, 11, 13, & 23. Disposal is by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Administration, U.S. Secret Service, 1800 G Street, NW., Washington, DC 20223.

NOTIFICATION PROCEDURE:

Any individual who wishes to present a request as to whether this system contains records pertaining to him/her should address his/her inquiry to: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW., Room 720, Washington, DC 20223.

RECORD ACCESS PROCEDURE:

Any individual wishing to obtain information on the procedures for gaining access to and contesting records should contact: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

(a) Individuals who are presently or were Secret Service employees; (b) Individuals, corporations, companies, contractors, etc., previously engaged or presently engaged in business with the Secret Service; (c) Claimants.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/USSS .002

SYSTEM NAME:

Treasury/USSS—Criminal Investigation Information System.

SYSTEM LOCATION:

(a) United States Secret Service, 1800 G Street, NW, Washington, DC 20223. (b) Components of this System are geographically dispersed throughout Secret Service field offices. (See below United States Secret Service Appendix A listing the addresses of Secret Service field offices.) (c) Treasury Police Force, Room 1044, Main Treasury Building, Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who have been or are currently the subject of a criminal investigation by the U.S. Secret Service in connection with the performance by that agency of its authorized criminal investigative functions; (b) Individuals who are payees, registered owners or endorsers of stolen or lost obligations and other securities of the United States; (c) Individuals who are witnesses, complianants, informants, suspects, defendants, fugitives, released prisoners, correspondents, organized crime figures, and victims of crimes who have been identified by the Secret Service in the conduct of criminal investigations or by information supplied by other law enforcement agencies, government units, and the general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records containing information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) Records containing information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; (c) Records containing reports identifiable with an individual compiled at various stages of the process of enforcement of criminal laws from arrest or indictment through release from supervision; (d) Records containing investigatory material compiled for law enforcement purposes, including but not limited to, handwriting exemplars; laboaratory analyses of inks and papers; handwriting analysis; petitions for the remission of forfeitures; notice of non-receipt of Treasury drafts; affidavits of forged endorsements; opinions of the examiner of questioned documents; certificates by owners of U.S. registered securities concerning forged requests for payments or assignments; applications for relief on account of loss, theft, or destruction of U.S. Savings Bonds or checks; photographic reproductions of obligations and other securities of the United States; contraband items; claims against the United States for the proceeds of government checks and bonds; and reports necessary for the settlement of check and bond claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The criminal investigative authority of the U.S. Secret Service is contained in 18 U.S.C. 3056.

VOL 50 ISS 143 JL 25 1985 UMI

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of this System are as follows: (a) Referral to Federal, state, and local governments, foreign and domestic, having prosecutive and civil law enforcement functions for use by attorneys, magistrates, and judges; and parole and probation authorities for the purpose of prosecuting, sentencing, and determining the parole and probation status of criminal offenders or suspected criminal offenders; (b) Referral to personnel of other Federal, state and local law enforcement agencies, foreign and domestic , for the purpose of developing information on subjects involved in Secret Service criminal investigations and assisting other law enforcement agencies in the investigation and prosecution of violations of the criminal laws which those agencies are responsible for enforcing; (c) Referral to personnel of Federal, state, and local governmental agencies, where such referral is considered reasonably necessary for the purpose of furthering Secret Service efforts to investigate the activities of and apprehend criminal offenders and suspected criminal offenders; (d) Referral to personnel of Federal, state, and local governmental agencies, foreign and domestic, where there is a showing of reasonable necessity to obtain such information to accomplish a valid law enforcement purpose; (e) Referral to employees and officials of financial and commercial business firms and to private individuals of identifying information pertaining to actual or suspected criminal offenders where such referral is considered reasonably necessary for the purpose of furthering Secret Service efforts to investigate the activities of and apprehend criminal offenders and suspected criminal offenders; (f) Records maintained in this System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (g) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (h) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (i) Disclosures to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (j) Disclosures of information relating to criminal and civil proceedings to the news media in accordance with the guidelines contained in 28 CFR 50.2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records comprising this System of the U.S. Secret Service are contained in file jackets. Portions of the indices and information contained in the records are programmed into a magnetic media maintained at Headquarters, U.S. Secret Service, 1800 G Street, NW, Washington, DC 20223.

RETRIEVABILITY:

This system is indexed alphabetically by name at Headquarters, in the field master and magnetic media indices. Access to the physical files containing records is by case number obtained from the alphabetized name indices.

SAFEGUARDS:

(1) The field jackets and indices containing of the records of this System are secured by alarms, and other internal security devices, in locked rooms with guards on duty on an around-the-clock basis. Access to the records is available only to employees responsible for records management and operational employees with a "need to know," each of whom have top secret security clearances; (2) The file jackets and the master field indices comprising this System in Secret Service Field Offices and the Treasury Police Force are located in locked filing cabinets and in locked rooms when Secret Service employees are not on duty. Access to the system is limited to employees of the Secret Service and the Treasury Police Force holding top secret security clearances.

RETENTION AND DISPOSAL:

The retention schedule for records comprising this System is as follows: (1) All Field Judicial cases, 20 years; (2) Non-judicial criminal investigative cases (except non-judicial check and bond cases), 10 years; (3) Non-judicial check claim and bond forgery cases, 5 years; (4) Administrative files of an investigative nature, 5 years; (5) All other files and records the disposition of which is not otherwise specified, 5 years; (6) Investigations for other districts, 2 years; (7) Receipts for counterfeits and contraband, 2 years; (8) Investigation Control Forms, Indefinite; (9) Arrest History Forms, Indefinite; (10) Headquarters Criminal Investigative case files, 50 years; (11) Disposal of records contained in this System is by burning, shredding, maceration, and pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Investigations, U.S. Secret Service, 1800 G Street, NW., Washington, DC 20223.

NOTIFICATION PROCEDURE:

In accordance with the provisions of 5 U.S.C. 552a (j) and (k), the Director of the U.S. Secret Service has exempted this System from compliance with the provisions of 5 U.S.C. 552a(e)(4)(G).

RECORD ACCESS PROCEDURES:

In accordance with the provisions of 5 U.S.C. 552a (j) and (k), the Director of the U.S. Secret Service has exempted this System from compliance with the provisions of 5 U.S.C. 552a(e)(4)(H).

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

In accordance with the provisions of 5 U.S.C. 552a (j) and (k) the Director of the U.S. Secret Service has exempted this System from compliance with the provisions of 5 U.S.C. 552a(e)(4)(I).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I), of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k).

Treasury/USSS .003

SYSTEM NAME:

Treasury/USSS—Financial Management Information System.

SYSTEM LOCATION:

(a) U.S. Secret Service, 1800 G Street, NW., Washington, DC 20223; (b) Component of this System are geographically dispersed throughout Secret Service field offices (See below United States Secret Service, Appendix A listing the addresses of Secret Service field offices.); (c) U.S. Secret Service Uniformed Division, 1310 L Street, NW. Room 210, Washington, DC 20005; (d) Treasury Police Force, Room 1044, Main Treasury Building, Washington, DC 20220; (e) Special Serivces Division, U.S. Secret Service, Building 216, Washington Navy Yard, Washington, DC 20374; (f) Presidential Protective Division, U.S. Secret Service, Room 1, Executive Office Building, 17th and Pennsylvania Avenue, NW., Washington, DC 20500; (g) Vice-Presidential Protective Division, U.S. Secret Service, Room 295, Executive Office Building, Washington, DC 20500; (h) Dignitary Protection Division, U.S. Secret Service, 1310 L Street, NW., Washington, DC 20005; (i) Candidate Nominee Protective Division, Room 834, 1800 G Street, NW., Washington, DC 20223; (j) Johnson Protective Division, U.S. Secret Service, P.O. Box 927, Stonewall, TX 78671; (k) Ford Protective Division, U.S. Secret Service, P.O. Box 955, Rancho Mirage, CA 92270; (l) Carter Protective Division, P.O. Box 308, Plains, GA 31780–0308; (m) Technical Security Division, Room 482, Executive Office Building, Washington, DC 20500; (n) Western Protective Division, 2660 Townsgate Road, 270 Village Park, Westlake Village, CA 91361.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who are now, or were previously, Secret Service employees; (b) Individuals, contractors, vendors, etc., who are presently doing business with or previously did business with the Secret Service; (c) Individuals who are involved in or were previously involved in tort claims with the Secret Service; (d) Individuals who are or previously were involved in payments (accounts receivable) with the Secret Service; (e) Individuals who have been recipients of Awards.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records containing information compiled for the purpose of pay, travel, property damage, expenses incurred other than travel, and retirement annuities and taxes; (b) Records containing information of accounts receivable and payable, involving Secret Service employees and other persons; (c) Records containing information of tort claims dealing with Secret Service property, concerning payment and accounts receivable; (d) Records containing information on the expenditures, anticipated expenditures, and budget studies of the Secret Service; (e) Records of time and attendance of work.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Authority is contained in 31 U.S.C. Sections 68, 484, 952, and 1801 thru 1806, and 5 U.S.C. 5514, and 21 U.S.C. 2415.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of the records contained in this System are as follows: (a) Referral to the Internal Revenue Service, U.S. Treasury, GAO, OPM and other Federal agencies dealing with the payment and collection of monies concerning Secret Service employees; (b) Referral to the Internal Revenue Service, U.S. Treasury Department, OPM, GAO and other Federal agencies dealing with the payment, collection and audit of monies concerning persons who have financial dealings with the Secret Service; (c) To establish and maintain a means of gaining statistical information needed to answer inquiries from other Federal, state and local governments and Congress; (d) To establish a reporting system to Treasury, Office of Management & Budget, the General Accounting Office, and Congress of Secret Service expenditures; (e) To establish a means of payments to contractors and vendors for purchasers made by Secret Service; (f) Records maintained in this System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (g) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (h) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (i) Disclosures to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records comprising this System are contained in files, microfilm and/or microfiche. Portions of the indices and information contained in this System are programmed into a magnetic media maintained at Headquarters.

RETRIEVABILITY:

This System is indexed by name and/or numbers. Access is by name and/or number.

SAFEGUARDS:

(1) The file jackets, indices and magnetic medias containing the record systems located at U.S. Secret Service Headquarters are secured by alarms and other internal security devices in locked rooms with guards on duty on a 24-hour basis; (2) Access to the records is available only to employees responsible for records management and operational employees who have a need for such information, each of whom hold a top secret security clearance; (3) The file jackets and/or indices comprising this System in Field offices and Protective divisions are located in locked filing cabinets and in locked rooms when Secret Service employees are not on duty. Access is limited to employees holding top secret Security Clearances.

RETENTION AND DISPOSAL:

The retention schedule for records comprising this System are as follows: (1) Automated accounting systems, Foreign Disbursement file and paid files

VOL 50 ISS 143 JL 25 1985 UMI

are retained for six years; (2) Accounts receivable systems maintained for four years unless they are not liquidated; (3) Systems for holiday, overtime hour and other pay adjustments, enter on duty information, resignations, retirements, reassignments, etc., are held indefinitely; (4) Records on personnel actions, leave, change of station, bonds, health benefits and insurance policies, bank deposits, allotments, etc., are held for six months. (5) All other records are retained in accordance with mandatory GSA. General Records Schedules 5, 6, & 7. Disposal of records contained in this System is by burning, mulching, or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Administration, 1800 G Street, NW, Washington, DC 20223.

NOTIFICATION PROCEDURE:

Any individual who wishes to present a request as to whether this system contains a record pertaining to him/her should address his/her inquiry to: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

RECORD ACCESS PROCEDURES:

Any individual who wishes to obtain information on the procedures for gaining access to and contesting records should contact: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

(a) Individuals who are presently or were previously Secret Service employees; (b) Individuals who are presently or were service contractors or suppliers with the Secret Service; (c) Individuals who are presently or were previously involved in tort claims with the Secret Service; (d) Individuals who are presently or were previously involved in collections and dispersement with the Secret Service; (e) Internal Revenue Service; (f) Surviving spouse of deceased personnel.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/USSS .004

SYSTEM NAME:

Freedom of Information Request System—Treasury/USSS.

SYSTEM LOCATION:

United States Secret Service, 1800 G Street, NW, Washington, DC 20223.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or organizations who have requested information under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Correspondence relating to requests for information; (b) Documents relevant to appeals and lawsuits under the Freedom of Information Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority is contained in 5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) Records may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that Agency, or for the purpose of consulting with that Agency as to the propriety of access or correction; (b) Records may be disseminated to any appropriate Federal, state, local, or foreign Agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records comprising this System are maintained in file jackets.

RETRIEVABILITY:

The file jackets and indices are indexed numerically and alphabetically.

SAFEGUARDS:

The file jackets and indices are secured in filing cabinets in locked rooms. Access to the records is available only to employees responsible for the management of the system and operational employees who have a need for such information, each of whom have a top secret security clearance.

RETENTION AND DISPOSAL:

All files and indices are destroyed five years after the date of last entry. Disposal is by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

NOTIFICATION PROCEDURE:

Any individual wishing to present a request as to whether this system contains records pertaining to him/her should address his/her inquiry to: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

RECORD ACCESS PROCEDURES:

Any individual who wishes to obtain information on the procedures for gaining access to and contesting records should contact: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

Individuals or organizations requesting information pursuant to the Freedom of Information Act.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/USSS .005

SYSTEM NAME:

Treasury/USSS—Legal Counsel Record System.

SYSTEM LOCATION:

Office of Legal Counsel, United States Secret Service, 1800 G Street, NW. Washington, DC 20223.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who have filed administrative claims involving an employee of the U.S. Secret Service; (b) Any individual who is involved in litigation against the U.S. Secret Service; (c) Individuals who have filed a petition for remission of forfeiture of equipment that was seized from them during an investigation and/or arrest by the U.S. Secret Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Copies of administrative claims involving employees of the U.S. Secret Service, responses and legal proceedings in those cases where litigation is involved in administrative claims; (b) Any type of legal document, including complaints, summaries, and litigation reports that are prepared for the Department of Justice at their request; (c) Petitions for remission of forfeiture of seized equipment; (d) Records concerning requests for information regarding the use of reproductions of obligations of the United States including bonds, checks, coins, coupons, currencies (U.S. and foreign), fractional notes, postage stamps (U.S. and foreign), postal money orders, and postmarks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 3056; 28 U.S.C. 2672 (Federal Tort Claims Act); 18 U.S.C. 471–509.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of the records contained in the Legal Counsel Record System are as follows: (a) Administrative claims may be routinely sent to the Department of Justice to the Attorneys who will represent the Secret Service in any possible litigation. The purpose of sending administrative claims to these attorneys is to assist them in preparation of litigation involving the Secret Service; (b) Legal records are routinely used in preparation for litigation proceedings against the U.S. Secret Service. Litigation reports are routinely sent to the Department of Justice at their request for assistance in preparation of the litigation proceedings. The purpose of such referrals is to assist the Department of Justice in the preparation of litigation concerning the U.S. Secret Service; (c) Files concerning requests for information regarding the use of reproductions of Government obligations are used in responding to general requests from the public or for requests for interpretation of legality with the Department of Justice and Postal authorities; (d) Records maintained in this System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (e) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (f) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (g) Disclosures to a Federal agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records comprising this System are contained in file jackets.

RETRIEVABILITY:

This System is indexed chronologically for administrative claims, petitions for remission and requests for information regarding reproductions. Access to the physical files containing litigation records is by name.

SAFEGUARDS:

The file jackets are secured in a locked room with guards on duty on an around-the-clock basis. Access to the records is available only to employees responsible for record management and operational employees who have a need for such information, each of whom holds a top secret security clearance.

RETENTION AND DISPOSAL:

The retention schedule is as follows: (1) All judicial case records are retained for a period of 20 years; (2) Administrative claims, petitions for remission, and requests for information are retained indefinitely. Any disposal is by shredding and/or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Legal Counsel, U.S. Secret Service, 1800 G Street, NW, Room 842, Washington, DC 20223.

NOTIFICATION PROCEDURES:

Any individual who wishes to present a request as to whether the system contains records pertaining to him/her should address his/her inquiry to: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

RECORD ACCESS PROCEDURES:

Any individual wishing to obtain information on the procedures and gaining access to and contesting records should contact: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

(a) Administrative claims are filed by those individuals who believe that they have a claim against the U.S. Secret Service; (b) Individuals who are involved in legal proceedings against the U.S. Secret Service. All litigation reports are initiated by Office of Legal Counsel, U.S. Secret Service; (c) Individuals and organizations who have petitioned for remission of forfeiture of seized equipments; (d) Requests for information regarding the use of reproductions from Secret Service field offices, the general public, and from professional organizations.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/USSS .006

SYSTEM NAME:

Non Criminal Investigation Information System—Treasury/USSS.

SYSTEM LOCATION:

(a) United States Secret Service, 1800 G Street, NW, Washington, DC 20223. (b) Components of this System are geographically dispersed throughout Secret Service field offices in the United States, Puerto Rico, and one foreign country. (See below, United States Secret Service Appendix A, listing the addresses of Secret Service field offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who are applicants for employment with the U.S. Secret Service and other bureaus of the Department of the Treasury; (b) Individuals who are employees of the U.S. Secret Service and other bureaus of the Department of the Treasury holding security clearances granting access to classified documents and records; (c) Individuals who have filed administrative claims with the Secret Service and other bureaus of the Department of the Treasury under the Federal Tort Claims Act or who have been involved in automobile accidents

VOL 50 ISS 143 JL 25 1985 UMI

or other incidents involving employees of the Secret Service and other bureaus of the Department of the Treasury resulting in tort claims against such individuals; (d) Individuals involved in investigations required in the administration of the Government Losses in Shipment Act, the Gold Reserve Act, and the Silver Purchase Act; (e) Individuals who are employees of the Secret Service and other bureaus of the Department of the Treasury who have been accused of misconduct in the performance of their duties, or who have been the subject of a complaint involving the performance of their official functions; (f) Individuals who are the subject of investigations or supply information to investigative agents conducting special investigations relating to the performance by the Secret Service of its statutory and regulatory functions.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Record containing investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information; (b) Records containing investigatory material compiled for law enforcement purposes, including but not limited to, reports of investigators relating to claims under the Federal Tort Claims Act; Government Losses in Shipment Act; the Gold Reserve Act and the Silver Purchase Act; and employee misconduct or malfeasance; (c) Records containing reports or statement of investigators, witnesses, complainants, claimants and correspondents associated with identifiable individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority is contained in 18 U.S.C. 3056; Executive Order 10450 and Treasury Order 82 (revised January 17, 1973); and Treasury Order 173–1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of the records contained in this System are as follows: (a) Referral to the Department of Justice and other Federal agencies for administrative, civil, or other legal proceedings to be used by personnel officials, attorneys, administrative law officers, and judges; (b) Referral to personnel of other Federal, state and local governmental agencies, foreign and domestic, for the purpose of developing or confirming information on individuals involved in non-criminal investigations conducted by the Secret Service; (c) Referral to personnel of private institutions and to private individuals for the purpose of confirming and/or determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information; and for the purposes of furthering the efforts of the Secret Service to investigate the activities of individuals related to or involved in non-criminal civil and administrative investigations; (d) Referral to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for the purpose of determining suitability, eligibility, or qualifications for employment with or access to classified information in such other agency or instrumentality; (e) Records maintained in the Non-Criminal Investigation Information System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (f) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (g) Disclosures and/or responses to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to the decision on the matter; (h) Disclosures of information relating to civil proceedings to the news media in accordance with the guidelines contained in 28 CFR 50.2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records comprising this System of the U.S. Secret Service are contained in file jackets. Portions of these indices and information contained in this System are programmed into a magnetic media maintained at Headquarters.

RETRIEVABILITY:

This System is indexed alphabetically by name in the Headquarters, Inspection, field master, and magnetic media indices. Access to the physical files is by case number obtained from the name indices.

SAFEGUARDS:

(1) The file jackets and indices are secured by alarms and other internal security devices in locked rooms with guards on duty on an around-the-clock basis. Access to the records is available only to employees responsible for record management and operational employees who have a need for such information, each of whom holds a top secret security clearance; (2) The file jackets and the master field indices comprising this System in field offices are located in locked filing cabinets and in locked rooms when employees are not on duty. Access to the system is limited to employees holding top secret security clearances.

RETENTION AND DISPOSAL:

The retention schedule is as follows: (1) All judicial case records are retained for a period of twenty years; (2) Applicant security and background investigation records of Secret Service employees are retained for twenty years after retirement or separation of the employee from Secret Service employment; (3) Applicant investigation records relating to employees of Bureaus of the Treasury Department other than the Secret Service, are retained for twenty years; (4) All other records, the disposition of which are not otherwise specified, are retained for five (5) years. Disposal: Disposal of records is by burning, shredding, maceration, and pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Directors, Office of Investigation and Office of Inspection, 1800 G Street, NW, Washington, DC 20223.

NOTIFICATION PROCEDURE:

The Director of the U.S. Secret Service has exempted this System from the provisions of 5 U.S.C. 552a(e)(4)(G).

RECORD ACCESS PROCEDURES:

The Director of the U.S. Secret Service has exempted this System from the provisions of 5 U.S.C. 552a(e)(4)(H).

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

The Director of the U.S. Secret Service has exempted this System from the provisions of 5 U.S.C. 552a(e)(4)(I).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF TI. ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k).

Treasury/USSS .007

SYSTEM NAME:

Protection Information System—Treasury/USSS.

SYSTEM LOCATION:

(a) United States Secret Service, 1800 G Street, NW, Washington, DC 20223. (b) Presidential Protective Division, U.S. Secret Service, Room 1, Executive Office Building, 17th and Pennsylvania Avenue, NW, Washington, DC 20500. (c) Vice-Presidential Protection Division, U.S. Secret Service, Room 295, Executive Office Building, Washington, DC 20500. (d) Dignitary Protective Division, U.S. Secret Service, 1310 L Street, NW, Washington, DC 20005. (e) Protective Vehicle Division, U.S. Secret Service, 1310 L Street, NW, Suite 400, Washington, DC 20005. (f) Johnson Protective Division, U.S. Secret Service, P.O. Box 927, Stonewall, TX 78671. (g) Ford Protective Division, U.S. Secret Service, P.O. Box 955, Rancho Mirage, CA 92270. (h) U.S. Secret Service Uniformed Division, Room 210, 1310 L Street, NW, Washington, DC 20005. (i) Treasury Police Force, Room 1040, Main Treasury Building, Washington, DC 20220. (j) Technical Security Division, Room 572, Executive Office Building, Washington, DC 20500. (k) Carter Protective Division, U.S. Secret Service, P.O. Box 308, Plains, GA 31780. (l) Western Protective Division, Westlake Village, CA 91361. (m) Components of this System are geographically throughout Secret Service field offices. (See below, United States Secret Service Appendix A, listing the addresses of Secret Service field offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who have been or are currently the subject of a criminal investigation by the U.S. Secret Service or another law enforcement agency for the violation of certain criminal statutes relating to the protection of persons or the security of properties; (b) Individuals who are the subjects of investigative records and reports supplied to the Secret Service by Federal, state, and local law enforcement agencies, foreign and domestic; other governmental agencies; private institutions and individuals for evaluation by the Secret Service in connection with the performance by that agency of its authorized protective functions; (c) Individuals who are the subjects of non-criminal protective and background investigations by the Secret Service and other law enforcement agencies where the evaluation of such individuals, in accordance with criteria established by the Secret Service, indicates a need for such investigations; (d) Individuals who are granted ingress and egress to areas secured by the Secret Service, or to areas in close proximity to persons protected by the Secret Service, including but not limited to invitees, passholders, tradesmen, law enforcement, maintenance and service personnel; (e) Individuals who have attempted or solicited unauthorized entry into areas secured by the Secret Service; individuals who have sought an audience or contact with persons protected by the Secret Service or who have been involved in incidents or events which relate to the protective functions of the Secret Service; (f) Individuals who are witnesses, protectees, suspects, complainants, informants, defendants, fugitives, released prisoners, and correspondents who have been identified by the Secret Service or from information supplied by other law enforcement agencies, governmental units, private institutions, and members of the general public in connection with the performance by the Secret Service of its authorized protective functions.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records containing information complied for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) Records containing information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; (c) Records containing reports relative to an individual compiled at various stages of the process of enforcement of certain criminal laws from arrest or indictment through release from supervision; (d) Records containing information supplied by other Federal, state, and local law enforcement agencies, foreign and domestic; other governmental agencies; private institutions and persons concerning individuals who, because of their activities, personality traits, criminal or mental history, or history of social deviancy, may be of interest to the Secret Service in connection with the performance by that agency of its protective functions; (e) Records containing information compiled for the purpose of identifying and evaluating individuals who may constitute a threat to the safety of persons or security of areas protected by the Secret Service; (f) Records containing information compiled for the purpose of background investigations of individuals, including but not limited to, passholders, tradesmen, maintenance and service personnel who have access to areas secured by or who may be in close proximity to persons protected by the Secret Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The protective authority is contained in 18 U.S.C. 3056 and Section 1 of Pub. L. 90–331, (18 U.S.C. 871; 18 U.S.C. 1751). The protective and security authority of the U.S. Secret Service Uniformed Division is contained in 3 U.S.C. 202 and of the Treasury Police Force in Treasury Orders issued by the Secretary of the Treasury pursuant to the provisions of Reorganization Plan Number 26 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses are as follows: (a) Referral to the Department of Justice and other Federal, state and local governmental agencies having a prosecutive function for the use of attorneys, magistrates, and judges; and parole and probation authorities for the purpose of prosecuting, sentencing, and determining the parole and probation status of criminal offenders or suspected criminal offenders; and for civil and other proceedings involving Secret Service Protective functions; (b) Referral to personnel of other Federal, state and local law enforcement agencies, foreign and domestic, for the purpose of developing information on subjects involved in Secret Service protective investigations and evaluations and for the purpose of protective intelligence briefings of personnel of other law enforcement and governmental agencies assisting the U.S. Secret Service in the performance of its protective functions;

VOL 50 ISS 143 JL 25 1985 UMI

(c) Referral to personnel of Federal, state, and local governmental agencies, foreign and domestic, where such referrals are considered reasonably necessary for the purpose of furthering Secret Service efforts to investigate the activities of those persons considered to be of protective interest; (d) Referral to personnel of Federal, state, and local law enforcement agencies and other governmental agencies, foreign and domestic, where there is a showing of a reasonable need to accomplish a valid enforcement purpose; (e) Referral to personnel of private institutions and to private individuals of identifying information pertaining to actual or suspected criminal offenders or other individuals considered to be of protective interest for the purpose of furthering Secret Service efforts to evaluate the danger such individuals pose to persons protected by that agency; (f) Records maintained in the Protection Information System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (g) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (h) Disclosures and/or responses to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (i) Disclosures of information relating to criminal and civil proceedings to the news media in accordance with the guidelines contained in 28 CFR 50.2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records comprising this System are contained in file jackets and into a magnetic media maintained at Headquarters. This System is indexed alphabetically by name. (See Location Section of this notice and United States Secret Service Appendix A.)

RETRIEVABILITY:

This System is indexed alphabetically by name. Access to the physical files is by case number.

SAFEGUARDS:

(1) The file jackets and indices are secured by alarms and other internal security devices in locked rooms with guards on duty on an around-the-clock basis. Access to the records is available only to employees responsible for record management and operational employees who have a need for such information, each of whom holds a top secret security clearance. (2) The file jackets and the master field indices in field offices are located in locked filing cabinets and in locked rooms when employees are not on duty. Access to the system is limited to employees of the Secret Service holding top secret Security Clearances.

RETENTION AND DISPOSAL:

The retention schedule for records is as follows: (1) All judicial case records are retained for a period of twenty years. In cases where periodic checkups are conducted in protective intelligence cases, the retention period is computed from the date of the final checkup. In the event of a protective intelligence subject's death, the file is routinely destroyed immediately. Otherwise, these files are maintained for a period of twenty years; (2) All other protective intelligence case records including protective surveys and non-judicial protective intelligence cases are routinely retained for a period of five years; (3) Administrative records and files on all types of physical protective activities are retained for a period of two and five years respectively; (4) Disposal of records contained in this System is by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Protective Research, U.S. Secret Service, 1800 G Street, NW, Washington, DC 20223.

NOTIFICATION PROCEDURE:

In accordance with the provisions of 5 U.S.C. 552a (j) and (k) the Director of the U.S. Secret Service has exempted this System from the provisions of 5 U.S.C. 552a(e)(4)(G).

RECORD ACCESS PROCEDURES:

In accordance with the provisions of 5 U.S.C. 552a (j) and (k) the Director of the U.S. Secret Service has exempted the System from the provisions of 5 U.S.C. 552a(e)(4)(H).

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

In accordance with the provisions of 5 U.S.C. 552a (j) and (k) the Director of the U.S. Secret Service has exempted this System from the provisions of 5 U.S.C. 552a (e)(4)(I).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(2), (c)(3), (c)(4), (d), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k).

Treasury/USSS .008

SYSTEM NAME:

Public Affairs Record System—Treasury/USSS.

SYSTEM LOCATION:

U.S. Secret Service, 1800 G Street, NW, Washington, DC 20223.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Persons who are private citizens who correspond requesting information relating to the Secret Service; (b) Persons who are members of the news media, authors and publishers requesting information about the secret Service; (c) Members of Congress who make inquiries with the Secret Service; (d) Persons who are recipients of the Secret Service Honor Award, who have received recognition from or assisted the Secret Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Records of inquiries received from the general public, the communication media and the press relative to Secret Service activities; (b) Records of awards presented by the Secret Service; (c) Records of Congressional inquiries and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 3056 and Treasury Department Order Number 173–3, dated October 29, 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses are as follows: (a) Disclosures and/or responses from members of Congress and/or the general public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records comprising this System are maintained in file folders.

RETRIEVABILITY:

Records are filed alphabetically and chronologically.

SAFEGUARDS:

The files are secured in locked filing cabinets in locked rooms, with guards on duty on an around-the-clock basis. Access is available only to employees responsible for management of the system and operational employees who have a need for such information, each of whom holds a top secret security clearance.

RETENTION AND DISPOSAL:

Records in this system are maintained in accordance with mandatory General Services Administration, Records Schedule 14, Items 1–8.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant to the Director, Office of Public Affairs, U.S. Secret Service, 1800 G Street, NW, Washington, DC 20223.

NOTIFICATION PROCEDURE:

Any individual who wishes to present a request as to whether this system contains records pertaining to him/her should address his/her inquiry to: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

RECORD ACCESS PROCEDURES:

Any individual wishing to obtain information on the procedure for gaining access to and contesting records should contact: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

(a) The general public, the news media and members of Congress who correspond with the Secret Service; (b) Persons who have received awards or honors from the Secret Service.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/USSS .009

SYSTEM NAME:

Training Information System—Treasury/USSS.

SYSTEM LOCATION:

(a) U.S. Secret Service, Office of Training, 1310 L Street, NW, Washington, DC 20005. (b) Treasury Police Force, Main Treasury Building, 1500 Pennsylvania Avenue, NW, Washington, DC 20220. (c) James J. Rowley Training Center, Beltsville, MD 20705.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals who are now or were Secret Service employees, officers of the U.S. Secret Service Uniformed Division or the Treasury Police Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing the type and dates of training programs of the U.S. Secret Service employees, officers of the U.S. Secret Service Uniformed Division or the Treasury Police Force, including course control documents and lesson plans for classes conducted by the Office of Training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 3056.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses are as follows: None. Disclosures are not made outside of the Agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are filed alphabetically.

SAFEGUARDS:

This System records are secured in locked rooms with alarms when employees are not on duty. Access is available only to employees responsible for management of the records and operational employees who have a need for such information, each of whom holds a top secret security clearance.

RETENTION AND DISPOSAL:

Records are currently maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant to the Director, Office of Training, U.S. Secret Service, 1310 L Street, NW, Washington, DC 20005.

NOTIFICATION PROCEDURE:

Any individual who wishes to present a request as to whether this system contains records pertaining to him/her should address his/her inquiry to: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

RECORD ACCESS PROCEDURES:

Any individual wishing to obtain information on the procedures for gaining access to and contesting records should contact: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, NW, Room 720, Washington, DC 20223.

CONTESTING RECORD PROCEDURES:

See access above.

RECORD SOURCE CATEGORIES:

(a) Individuals who are now or were Secret Service employees, officers of the U.S. Secret Service Uniformed Division and the Treasury Police Force officers; (b) Individuals from other Federal, state and local law enforcement agencies.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix—A

U.S. Secret Service field offices:

Western Bank Building, 505 Marquette Street, NW, Suite 1700, Albuquerque, NM 87102, (505) 766–3336.

550 Investment Building, 601 Rockwell Avenue, Cleveland, OH 44114, (216) 522–4365.

Equitable Building, 100 Peachtree Street, NE, Atlanta, GA 30303, (404) 221–6111.

Strom Thurmond Federal Bldg., 1835 Assembly Street, Suite 1425, Columbia, SC 29201, (803) 765–5446.

Federal Office Building, 300 East 8th Street, Suite 972, Austin, TX 78701, (512) 482–5103.

411 Federal Office Building, 85 Marconi Boulevard, Columbus, OH 43215, (614) 469–7370.

U.S. Courthouse, Room 7100, 101 W. Lombard Street, Baltimore, MD 21201, (301) 962–2200.

1100 Commerce Street, Room 6E3, Dallas, TX 75242, (214) 767–8021.

500 Building, 500 South 22nd Street, Suite 203, Birmingham, AL 35233, (205) 254–1144.

1660 Lincoln Street, Suite 1430, Denver, CO 80264, (303) 844–3027.

470 Atlantic Avenue, Boston, MA 02110, (617) 223–6698.

Federal Building & U.S. Courthouse, Room 317, 231 Lafayette Blvd; Detroit, MI 48226, (313) 226–6400.

VOL
50
ISS
143
JL
25
1985
UMI

Federal Building, Room 1208, 111 West Huron Street, Buffalo, NY 14202, (716) 846–4401.

Pershing Building West, Room 301, 400 Rio Bravo Street, El Paso, TX 79902, (915) 541–7546.

1 Valley Square, Suite 910, Charleston, WV 25301, (304) 347–5188.

Gerald R. Ford Federal Bldg. & U.S. Courthouse, 110 Michigan St; NW, Grand Rapids, MI 49503, (616) 456–2276.

226 Skeens Building, 4530 Park Road, Charlotte, NC 28209, (704) 523–9583.

300 Ala Moana Boulevard; Room 6309, Honolulu, HI 96850, (808) 546–5637.

219 S. Dearborn Street, Suite 742, Chicago, IL 60604, (312) 353–5431.

Federal Office & Courts Building, Room 6216, 515 Rusk Street, Houston, TX 77002, (713) 229–2755.

Federal Office Building, 550 Main Street, Cincinnati, OH 45202, (513) 684–3585.

575 N. Pennsylvania Street, Suite 211, Indianapolis, IN 46204, (317) 269–6444.

656 North State Street, Suite 201, Jackson, MS 39201, (601) 960–4436.

7820 Arlington Expresway, Suite 500, Jacksonville, FL 32211, (904) 724–4530.

500 Camp Street, New Orleans, LA 70130, (504) 589–4041.

811 Grand Avenue, Kansas City, MO 64142, (816) 374–5022.

6 World Trade Center, Room 623, New York, NY 10048–0953, (211) 466–4400.

Savers Federal Bldg; 320 W. Capitol, Suite 640, Little Rock, AR 72201, (501) 378–6241.

Federal Building, Room 400, 200 Granby Mall, Norfolk, VA 23510, (810) 441–3200.

300 N. Los Angeles Street, Room 4324, Los Angeles, CA 90012, (213) 688–4830.

200 Northwest Fifth Street, Suite 926, Oklahoma City, OK 73102, (405) 231–4476.

Post Office Building, Room 439, Louisville, KY 40201, (502) 582–5171.

Old Federal Bldg; 106 S. 15th Street, Room 905, Omaha, NE 68102, (402) 221–4671.

167 North Main Street, Suite 831, Memphis, TN 38103, (901) 521–3568.

Room 408–410, D Bldg; 58 bis, Rue la Boetie, American Embassy, Paris 8, France, (75008) 296–1202.

8375 Northwest 53rd Street, Suite 201, Miami, FL 33166, (305) 591–3600.

600 Arch Street, 7256 Federal Bldg; Philadelphia, PA 19106, (215) 597–0600.

517 East Wisconsin Avenue, Room 572, Milwaukee, WI 53202, (414) 291–3587.

Room 2041, Federal Building, 230 North 1st Avenue, Phoenix, AZ 85025, (602) 261–3556.

110 South 4th Street, 218 U.S. Courthouse, Minneapolis, MN 55401, (612) 349–3800.

1000 Liberty Avenue, Room 835, Pittsburgh, PA 15222, (412) 644–3384.

107 Saint Francis Street, Suite 3300, Mobile, AL 36602, (205) 690–2851.

121 Southwest Salmon Street, Suite 1330, Portland, OR 97204, (503) 221–2162.

801 Broadway Street, U.S. Courthouse 658, Nashville, TN 37203, (615) 251–5841.

44 Washington Street, Providence, RI 02903, (401) 331–6456.

60 Evergreen Place, East Orange, NJ 07018, (201) 645–2334.

400 North Eighth Street, Room 10–006, Richmond, VA 23240, (804) 771–2274.

150 Court Street, Room 318, New Haven, CT 06510, (203) 865–2449.

650 Capitol Mall, Suite 8045, John E. Moss Federal Building, Sacramento, CA 95814, (916) 440–2413.

1114 Market Street, Room 924, St. Louis, MO 63101, (314) 425–4238.

234 Summit Street, Room 305, Teledo, OH 43604, (419) 259–6434.

350 South Street, Salt Lake City, UT 84101, (801) 524–5910.

1800 G Street, NW, Washington, DC 20223, (202) 535–5100.

727 E. Durango, Room A602, San Antonio, TX 78206, (512) 229–6175.

880 Front Street, Suite 4–5–1, San Diego, CA 92188, (619) 293–5640.

450 Golden Gate Avenue, San Francisco, CA 94102, (415) 556–6800.

Federal Office Building, Room 539, 5th Floor, Chalos E. Chardon Avenue, San Juan, PR 00918, (809) 753–4539.

Post Office Building, Room 304, Washington and Linden Streets, Scranton, PA 18501, (717) 346–5871.

915 Second Avenue, Seattle, WA 98174, (206) 442–5495.

920 W. Riverside Avenue, Spokane, WA 99201, (509) 456–2532.

600 East Monroe Street, Suite 210, Springfield, IL 62701, (217) 492–4033.

100 S. Clinton Street, U.S. Federal Building, Room 1371, Syracuse, NY 13260, (315) 423–5338.

700 Twiggs Street, Suite 740, Tampa, FL 33602, (813) 228–2636.

[FR Doc. 85–17387 Filed 7–24–85; 8:45 am]
BILLING CODE 4810–42–M

federal register

Thursday
July 25, 1985

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 887

Abandoned Mine Land Reclamation Program; Proposed Rule

VOL
50
ISS
143
JL
25
1985
UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 887

Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: The Department of the Interior's fiscal year 1985 continuing appropriations resolution (HR Res. 648—Pub. L. 98–473) provided for the establishment of self-sustaining, individually administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved under section 503 of the SMCRA. These States are, at the present time, the following: Alabama, Alaska, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Missouri, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Texas, Utah, Virginia, West Virginia, and Wyoming.

In order to implement the amendment and provide for grants to eligible States for subsidence insurance programs, the Office of Surface Mining must define certain terms contained in the amendment language and discussed in the section on "Discussion of Issues" contained below and provide for procedures for administering grants to the States.

DATES: Written comments: Accepted until 5:00 p.m. (Eastern standard time) on or before August 26, 1985.

Public hearings: Held on request only.

Public meetings: Held on request only.

ADDRESSES: Written comments: Hand deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C.; or mail to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 5315 L, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jim Fary, Office of Surface Mining, Division of Abandoned Mine Land Reclamation, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, or telephone 202–343–7960.

SUPPLEMENTARY INFORMATION:

Public Commenting Procedures.

Written Comments

Written comments should be specific, pertain only to the issues proposed for this rulemaking and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see **"ADDRESSES"**). Comments received after the time indicated under **"DATES"** or at locations other than Washington, D.C., may not necessarily be considered or be included in the Administrative Record for the final rulemaking.

Public Hearings

Persons wishing to request a public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT". If only one person requests a public hearing, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written requests in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons present in the audience who wish to comment have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss the issues involved in this proposed rulemaking may request a meeting at any of the OSM offices listed in **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record Room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

Background

The Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87, 30 U.S.C.A. 1201, et seq., was enacted to establish a nationwide program to protect the environment from the adverse effects of surface coal mining activities, and to promote the reclamation of mined areas left without adequate reclamation prior to August 3, 1977, the date of enactment, 30 U.S.C.A. 1201(a)(h). The SMCRA, as formulated, is a complex, comprehensive and broadly remedial regulatory statute intended to govern the conduct and impact of present day coal mining operations.

In addition, Congress recognized that a serious problem existed because of past mining practices, and that a substantial source of funding was needed to support rehabilitation programs to reclaim vast areas of lands affected by these practices. H.R. Rept. 95–218, 95th Cong., 1st Sess. 135–140 (1977). The SMCRA established the Abandoned Mine Reclamation Fund, 30 U.S.C.A. 1231, to help pay for the restoration of land harmed by past coal mining activities. The reclamation fund derives its revenue from a fee levied on current coal production. All operators of coal mining operations subject to the provisions of SMCRA must pay to the Secretary of the Interior, for deposit in the Fund, a reclamation fee of 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mining or 10 per centum of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee for lignite coal is at a rate of 2 per centum of the value of the coal at the mine, or 10 cents per ton, whichever is less. Regulations implementing the abandoned mine land reclamation program were published on October 25, 1978 (43 FR 49932–49952) and revised on June 30, 1982 (47 FR 28574–28604) and codified in 30 CFR Chapter VII, Subchapter R.

Discussion of Issues

Congress included language in section 324 of HR Res. 648—Pub. L. 98–473 that amended section 401(c)(1) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 91 Stat. 456, 30 USC 1231. Section 401(c)(1) is now amended to read:

(c) Moneys in the fund may be used for the following purposes:

(1) reclamation and restoration of land and water resources adversely affected by past coal mining, including but not limited to reclamation and restoration of abandoned surface mine areas, abandoned coal processing areas, and abandoned coal refuse disposal areas; sealing and filling abandoned deep mine entries and voids; planting of land adversely affected by past coal mining to prevent erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by coal mine drainage including restoration

of stream beds, and construction and operation of water treatment plants; prevention, abatement, and control of burning coal refuse disposal areas and burning coal in situ; prevention, abatement, and control of coal mine subsidence; and establishment of self-sustaining, individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved in accordance with Section 503 of this Act, provided that funds used for this purpose shall not exceed $3,000,000 of the funds made available to any State under section 402(g)(2) of this Act.

In order to implement the Congressional direction that OSM provide for grants to eligible States for the establishment of self-sustaining, individual State administered programs to insure private property against damages caused by land subsidence from underground coal mining, OSM is proposing to amend 30 CFR Subchapter R to establish a new Part 887 (Subsidence Insurance Program Grants).

Proposed Part 887 would consist of the following:

Proposed § 887.1 (Scope)—Indicates that the purpose of the proposed rule is to set forth procedures for grants to States having an approved State reclamation plan for the establishment, administration, or operation of self-sustaining individual State administered programs.

Proposed § 887.3 (Authority)—Provides authority for the Director of OSM to approve or disapprove applications for grants up to a total amount of $3,000,000 for reach State with an approved State reclamation plan provided that moneys are available in the State share of the Abandoned Mine Land Reclamation Fund. This provision gives the Director of OSM the flexibility of making a one-time grant of $3,000,000 or a series of grants up to a total amount of $3,000,000. This flexibility is necessary because some eligible States do not have sufficient funds in their State share of the AMLR Fund at the present time to support funding a grant at the $3,000,000 level. This provision will then allow these States the latitude to request funds for subsidence insurance programs over a period of years so as not to exhaust their capacity to continue to receive grants provided for in 30 CFR Part 886 necessary to support their State AML Reclamation Programs.

Proposed § 887.5 (Definitions)—Since certain essential terms used in the legislation establishing subsidence insurance programs have not been defined, OSM, in order to implement the Congressional direction, is proposing the following definitions:

Establishment—is defined to mean either the development of a subsidence insurance program or the operation or administration of a subsidence insurance program. By defining "establishment" to mean operation and administration of a program as well as development of a new program, OSM is implementing the Congressional intent found in the legislative history of the amendment. Senator Byrd, the sponsor of the amendment indicated (Congression Record—Senate of October 2, 1984 at p. S 12691) that the amendment would permit States to use a portion of their AMLR funds to operate subsidence insurance programs.

Private Property—is defined to mean any or all of the following: dwellings and improvements, commercial and industrial structures, utilities, underground structures such as sewers, pipes, wells, and septic systems, sidewalks and driveways and land. This inclusive definition will allow the States the greatest latitude to deign subsidence insurance programs to meet their specific local and State needs. States are given the authority to specify the extent of insurance coverage needed for their specific sudsidence insurance programs. The extent of the coverage provided by each State will be directly related to the type of program each State elects to operate. For example, one State may want to provide extensive coverage for land, structures, commercial, residential, private utilities for the full replacement value. Another State may want to put in place a program that pays only for a portion of structural damage.

Self-sustaining—means that a subsidence insurance program maintains an insurance rate structure which is designed to be actuarially sound. Actuarial soundness implies that funds are sufficient to cover expected losses and expenses including a reasonable allowance for underwriting services and contingencies. Self-sustaining shall not preclude the use of funds from other non-Federal sources.

State administered—is defined to mean a subsidence insurance program administered either directly by a State agency or for a State through a State authorized commission, board, contractor, such as an insurance company, or other entity subject to State direction.

This grant program is intended only to provide seed money for the creation of State programs which will be administered solely by the participating States. Neither the establishment or operation of those programs will give rise to any further Federal responsibility.

Proposed § 887.11 (Eligibility for Grants)—Provides that only States with approved reclamation plans under 30 CFR Part 884 are eligible to receive grants for subsidence insurance programs provided the State has sufficient funds in its State share of the AMLR Fund.

Proposed § 887.12 (Coverage and Amount of Grants)—Subsection (a) provides that moneys granted may be used to cover costs to the grantee agency for services and materials obtained from other State and Federal agencies or local jurisdictions according to OMB Circular A–87. Subsection (b) provides that grant applications must contain narrative statements describing how the subsidence insurance program is "State administered" and how the funds requested will achieve a self-sustaining individual State administered program to insure private property against subsidence resulting from underground coal mining. These narrative statements are necessary in order to evaluate the grant application's objectives relative to the purposes for which the subsidence insurance program was established. Subsection (c) provides that grants cannot exceed a total of $3,000,000 per State. This provision allows each State the flexibility to request grant funds as needed or as available in their State share of the AMLR Fund up to a total of $3,000,000. Grant funds can be used for all eligible and necessary expenses related to establishment, administration, and operation of a subsidence insurance program, including payments to other State agencies for services provided in establishing and administering the Program.

Subsection (d) provides that moneys granted may not be used for lands that are ineligible for reclamation funding under Title IV of SMCRA. Specifically, this provision would exclude payments from granted funds for subsidence damage caused by all active mining, mines abandoned or inadequately reclaimed after August 3, 1977, and noncoal mining. In addition, granted funds cannot be used to pay for the actual construction costs of housing or for damages to public property.

Subsection (e) provides that insurance premiums shall be considered program income and must be used to further eligible subsidence insurance program objectives in accordance with the Uniform Administrative Requirements for Grants to States and Local Governments, OMB Circular A–102,

attachment E. The purpose of this subsection is to clarify for the States how to account for moneys received as insurance premiums.

Proposed § 887.13 (Grant Period)—Establishes the grant funding period to be no longer than eight years. Eight years was chosen in order to allow sufficient time for granted funds to be utilized in operating the subsidence insurance program.

Proposed § 887.13 (Grant Administrative Requirements and Procedures)—Incorporated by reference the rules applicable to State reclamation grants. This incorporation provides for consistency and uniform treatment of grants under the AMLR program.

Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

These proposed rules would not result in significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets; nor would they increase costs or prices for consumers, individual industries, Federal, State, Tribal or local governmental agencies or geographic regions.

There would be no significant demographic effects, direct cost, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Since the information collection requirement contained in the proposed rules involve fewer than 10 respondents annually, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by OMB.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) on this rule that reached the conclusion that this rule should not significantly affect the quality of the human environment. The EA is on file in the OSM Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C.

List of Subjects in 30 CFR Part 887

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 28, 1985.

J. Steven Griles,

Deputy Assistant Secretary, Land and Minerals Management.

For the foregoing reasons, OSM proposes to amend 30 CFR Chapter VII Subchapter R to provide a new Part as follows:

1. Part 887 is added as follows:

PART 887—SUBSIDENCE INSURANCE PROGRAM GRANTS

Sec.
887.1 Scope.
887.3 Authority.
887.5 Definitions.
887.10 Information collection.
887.11 Eligibility for grants.
887.12 Coverage and amount of grants.
887.13 Grant period.
887.15 Grant administration requirements and procedures.

Authority: Sec. 324 (H] Res. 648–Pub. L. 98–473), that amended Sec. 401(c)(1), Pub. L. 95–87, 91 Stat. 456 (30 U.S.C. 1231).

§ 887.1 Scope.

This part sets forth procedures for grants to States having an approved State reclamation plan for the establishment, administration and operation of self-sustaining individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining.

§ 887.3 Authority.

The Director is authorized to approve or disapprove applications for grants up to a total amount of $3,000,000 for each State with an approved State reclamation plan provided moneys are available under section 872.11(b)(2) of this chapter and section 402(g)(2) of Pub. L. 95–87.
(30 U.S.C. 1232).

§ 887.5 Definitions.

As used in this Part—

Establishment—means either the development of a subsidence insurance program or the administration or operation of a subsidence insurance program.

Private Property—means any or all of the following: dwellings and improvements, commercial and industrial structures, utilities, underground structures such as sewers, pipes, wells and septic systems, sidewalks and driveways and land.

Self-sustaining—means maintaining an insurance rate structure which is designed to be actuarially sound. Actuarial soundness implies that funds are sufficient to cover expected losses and expenses including a reasonable allowance for underwriting services and contingencies. Self-sustaining shall not preclude the use of funds from other non-Federal sources.

State Administered—means administered either directly by a State agency or for a State through a State authorized commission, board, contractor, such as an insurance company, or other entity subject to State direction.

§ 887.10 Information collection.

Since the information collection requirement contained in 30 CFR 887.12 has fewer than 10 respondents per year, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by OMB.

§ 887.11 Eligibility for grants.

A State is eligible for grants under this part if it has a State reclamation plan approved under Part 884 of this chapter and if it has funds available under section 872.11(b)(2) of this chapter and section 402(g)(2) of Pub. L. 95–87 (30 U.S.C. 1232).

§ 887.12 Coverage and amount of grants.

(a) An agency may use moneys granted under this part to develop, administer, and operate a subsidence insurance program to insure private property against damages caused by subsidence resulting from underground coal mining. The moneys may be used to cover costs to the agency for services and materials obtained from other State and Federal agencies or local jurisdictions according to OMB Circular A–87. If otherwise allowed by law or Federal regulation, moneys granted may be used to cover capitalization requirements and initial reserve requirements as mandated by applicable State law.

(b) The grant application shall contain the following:

(1) A narrative statement describing how the subsidence insurance program is "State administered," and

(2) A narrative statement describing how the funds requested will achieve a self-sustaining individual State administered program to insure private property against subsidence resulting from underground coal mining.

(c) Grants funded under this part cannot exceed a total of $3,000,000 per State.

(d) Moneys granted may not be used for lands that are ineligible for reclamation funding under Title IV of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87).

(e) Insurance premiums shall be considered program income and must be used to further eligible subsidence insurance program objectives in accordance with the Uniform Administrative Requirements for Grants to States and Local Governments, OMB Circular A–102, attachment E.

§ 887.13 Grant period.

The grant funding period shall not exceed eight years from the time the grant is approved by OSM. Unexpended funds remaining at the end of any grant period shall be returned according to OMB Circular A–102, attachment E.

§ 887.15 Grant administration requirements and procedures.

The requirements and procedures for grant administration set forth for State reclamation grants in Part 886 of this chapter shall be used for subsidence insurance grants.

[FR Doc. 85–17453 Filed 7–24–85; 8:45 am]
BILLING CODE 4310–05–M

VOL 50 ISS 143 JL 25 1985 UMI

VOL
50

ISS
143

JL
25

1985

UMI

federal register

Thursday
July 25, 1985

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 762

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Definitions of Fragile and Historic Lands; Proposed Rule

VOL 50 ISS 143 JL 25 1985 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 762

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Definitions of Fragile Lands and Historic Lands

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing a rule to modify the definitions of "fragile lands" and "historic lands" to comply with a settlement agreement authorized by the U.S. Distric Court for the District of Columbia on December 3, 1984. The Secretary of the Interior agreed to suspend the then-existing definitions of fragile lands and historic lands and to propose a rule in the Federal Register amending 30 CFR 762.5 by defining fragile lands and historic lands so that only a finding of "significant damage" from surface coal mining operations is required for lands to be classified as fragile or historic. Therefore, neither irreparable nor permanent harm need be caused for an unsuitability determination to be made. This means that proponents of an unsuitability petition will no longer be required to show that surface coal mining will cause irreparable or permanent damage to the lands. Only a showing of significant damage will be required to classify lands as fragile or historic, upon consideration of an unsuitability petition.

DATES: *Written comments:* Must be received before 5:00 p.m. eastern daylight time on or before October 3, 1985.

Public Hearings

Upon request, OSM will hold public hearings on the proposed rule in Washington, D.C.; Denver, Colorado; and Knoxville, Tennessee, at 9:30 a.m. local time on September 26, 1985. Upon request, OSM also will hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington at times and on dates to be announced prior to the hearings. OSM will accept requests for public hearings until 5:00 p.m. eastern daylight time on September 12, 1985.

ADDRESSES: *Written Comments:* Hand-deliver to the Office of Surface Mining, Administrative Record, Room 5124B, 1100 L Street, NW., Washington, D.C.; or mail to the Office of Surface Mining, Administrative Record, Room 5124B–L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public Hearings

Department of the Interior Auditorium, 18th and C Streets, NW., Washington, D.C.; Brooks Towers, 2d Floor Conference Room, 1020 15th Street, Denver, Colorado; and the Hyatt House, 500 Hill Avenue, SE., Knoxville, Tennessee. The addresses for any hearings scheduled in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington, will be announced prior to the hearings.

Requests for Public Hearings

Submit in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT"** by the time specified under **"DATES."**

FOR FURTHER INFORMATION CONTACT: Stann Chase, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; telephone: 202–343–5587 (commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, be confined to issues pertinent to the proposed rule, and explain the reason for any recommended change. Where practicable, commenters should submit five copies of their comments (see **"ADDRESSES"**).

Comments received after the close of the comment period (see **"DATES"**) may not be considered or included in the Administrative Record for the final rule.

Public Hearings

OSM will hold public hearings on the proposed rule on request only. The times, dates, and addresses scheduled for the hearings at three locations are specified previously in this notice (see **"DATES"** and **"ADDRESSES"**). The times, dates, and addresses for the hearings at the remaining locations have not yet been scheduled but will be announced in the Federal Register at least 7 days prior to any hearings which are held at these locations.

Any person interested in participating at a hearing at a particular location should notify Stann Chase (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing of the desired hearing location by 5:00 p.m. eastern daylight time on September 5, 1985. If no one has contacted Mr. Chase to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSM in preparing appropriate questions to clarify issues, OSM also requests that persons who plan to testify submit to OSM at the address previously specified for the submission of written comments (see **"ADDRESSES"**) an advance copy of their testimony.

II. Background

Introduction

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act, Pub. L. 95–87) sets forth the general regulatory requirements governing surface coal mining and reclamation operations and the surface impacts of underground coal mining. In 1979, OSM implemented or clarified many of the general requirements of the Act and established performance standards under 30 CFR Chapter VII of its permanent regulatory program. On September 14, 1983 (48 FR 41312), the Secretary of the Interior promulgated rules amending its permanent regulatory program with respect to 30 CFR Part 762, which set forth the procedures for implementing Section 522 of the Act for designating lands as unsuitable for all or certain types of surface coal mining operations. Among other things, the September 14, 1983, rules revised the definitions of "fragile lands" and "historic lands" in § 762.5 by incorporating an irreparable damage standard into the definitions. The effect of the change was to require a petitioner to show that fragile lands or historic lands would suffer irreparable damage or would be destroyed.

The September 14, 1983, rules were challenged by the Plaintiff Citizen and Environmental Organizations in Round III of *In re: Permanent Surface Mining Litigation II,* Civil Action No. 79–1144 (D.D.C. 1984). On December 3, 1984, the court issued an order approving an agreement between the Plaintiff Citizen and Environmental Organizations and the Defendant Secretary of the Interior that withdrew these issues from litigation.

Under the terms of the agreement, the Secretary agreed to suspend the definitions of fragile lands and historic lands at 30 CFR Part 762. The Federal Register notice suspending the definitions was published on January 3, 1985 (50 CFR 257). This notice further implements the agreement by proposing to amend the definitions of fragile lands and historic lands to require only a finding of *significant* damage. This is in contrast to the 1983 rule which required a finding of irreparable or permanent damage before lands would meet the definition's standard.

III. Discussion of Proposed Rule

Part 762—Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations

Section 762.5 Definitions: Fragile Lands and Historic Lands

OSM proposes to modify the definitions of fragile lands and historic lands as areas where surface coal mining operations could result in *significant* damage to natural, ecologic, scientific, esthetic, historic, or cultural resources.

The proposed definitions, which require a showing of significant damage, are in contrast to the definitions at 30 CFR 762.5 (1983) that were suspended on January 3, 1985 (50 CFR 257), and required that irreparable damage to, or destruction of, the stated resources could result from surface coal mining operations before an area could be classified as fragile or historic land. Consequently, the proposed definitions of fragile lands and historic lands would require only a showing that surface coal mining operations could cause significant damage in order for an area to be classfied as fragile or historic if it contains the requisite resources.

The only other proposed change is editorial. The first sentence of the definition of historic lands is revised to make it parallel in construction to the first sentence of the definition of fragile lands.

Effect in Federal Program States

The rules proposed today, if adopted, would be applicable through cross-referencing in those States with Federal programs. This includes Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. Comments are specifically solicited as to whether unique conditions exist in any of these States relating to this proposal which should be reflected either as changes to the national rules or as State-specific amendments to any or all of the Federal program.

IV. Procedural Matters

Federal Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order 12291

The Department of the Interior (DOI) has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule would not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) on the impacts on the human environment of this proposed rulemaking.

This EA is on file in the OSM Administrative Record at the address listed in the **"ADDRESSES"** section of this preamble. An EA on the final rule will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule.

List of Subjects in 30 CFR Part 762

Coal mining, Historic preservation, Monuments and memorials, National forests, National parks, Surface mining, Underground mining, Wildlife refuges.

Accordingly, it is proposed to amend 30 CFR Part 762 as follows:

Dated July 1, 1985.

J. Steven Griles

Deputy Assistant Secretary for Land and Minerals Management.

PART 762—CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

1. The authority citation for Part 762 is revised to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*), unless otherwise noted.

2. In § 762.5, the definitions of "fragile lands" and "historic lands" are revised to read as follows:

§ 762.5 Definitions.

For purposes of this Part: *Fragile lands* means areas containing natural, ecologic, scientific, or esthetic resources that could be significantly damaged by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may result in flooding, environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under section 522(e) of the Act and Part 761 of this chapter, if those areas have characteristics requiring additional areal protection or if the buffer zone itself contains fragile resources.

Historic lands means areas containing historic, cultural, or scientific resources that could be significantly damaged by surface coal mining operations. Examples of historic lands include archeological and paleontological sites, sites listed on or eligible for listing on a State or National Register of Historic Places, National Historic Landmark sites, sites having religious or cultural significance ot native Americans or religious groups, and sites for which historic designation is pending.

* * * * * *

[FR Doc. 85–17616 Filed 7–24–85; 8:45 am]

BILLING CODE 4310–05–M

VOL 50
ISS 143
JL 25
1985
UMI

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Federal Register
Vol. 50, No. 143
Thursday, July 25, 1985

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
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Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212....1
27213-27408....2
27409-27570....3
27571-27812....5
27813-27926....8
27927-28092....9
28093-28190....10
28191-28362....11
28363-28554....12
28555-28756....15
28757-28894....16
28895-29202....17
29203-29366....18
29367-29628....19
29629-29934....22
29935-30126....23
30127-30260....24
30261-30410....25

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
305....28363

3 CFR
Administrative Orders:
Memorandums:
July 17, 1985....29631
Presidential Determinations:
No. 85-16 of July 12, 1985....29629
Executive Orders:
11888 (Amended by EO 12524)....27409
12470 (Revoked by EO12525)....28757
12523....26963
12524....27409
12525....28757
12526....29203
Proclamations:
5356....26961
5357....29935
5358....30127

5 CFR
630....29937
771....26965
1201....28895
Proposed Rules:
532....28583, 28584

7 CFR
Ch. IV....27927
2....29367
6....30261
52....26965, 29635
54....27571
226....26972
301....28366
400....26976
402....28367
800....30129
908....27411, 27928, 28898, 30262
910....27813, 28372, 28555, 29628
911....28373
915....28373, 28556
916....27813, 28373
917....27813, 28373
918....28373
921....27411, 28373
922....28373
923....28373
924....28373
930....27213, 28373
944....28556
967....28373
979....26976
981....30263
985....28373
991....26977, 27814
1040....27412
1136....29637
1205....30131
1421....29639
1427....26978
1435....27413
1941....27414
1944....27415
1945....27414, 27416
3015....28759
Proposed Rules:
Ch. IV....27971
Ch. X....27003
29....27288
51....27004, 30199
417....27801
800....28104, 29985
801....29689
802....29689
907....29405
908....29405
910....28105
920....27288
967....28210
989....30200
999....28585
1032....30203
1036....30204
1050....30203
1124....27972
1240....28404
1427....29693
1930....28782
1944....28782
1965....28782

8 CFR
238....29641
287....30133
316a....27816
Proposed Rules:
103....27289
341....28586
343a....28587

9 CFR
78....28899
91....27929, 29205
92....27928, 28557
94....28560, 28900
318....27573, 28374
327....30264
Proposed Rules:
94....27973

10 CFR
9....27214
50....29937
60....29641
Proposed Rules:
50....27006, 28815
440....29620

11 CFR
Proposed Rules:
270....27937, 28930
274....27937, 29368
178....30147, 30148
179....29658
27 CFR

110....26988, 27580, 29224, 30268
117....26989, 27582, 29670
260....28702
261....28702, 30271
5470....28947
Public Land Orders:
2804....29798
2806....29798

11 CFR

Proposed Rules:
110.....29232

12 CFR

403.....27215
611.....27930
617.....27931
723.....27417

Proposed Rules:
561.....27290, 28588, 29985
563.....27290, 28588, 29985
571.....27290, 28588

13 CFR

121.....27418
302.....27419

Proposed Rules:
107.....29532
108.....27754

14 CFR

21.....29945
39.....26979, 27575, 27576, 27931–27933, 28093, 28094, 28561–28563, 28766, 29648–29651, 30264
71.....26980, 27934, 28564, 28565, 28900–28902, 30134, 30265
97.....27934, 29653
108.....27924, 28884
121.....29306
135.....29306

Proposed Rules:
39.....27009, 27012, 27601, 27602, 28815, 29694, 29988
71.....27013, 27014, 27528, 28586–28591, 28816, 28950, 29407, 30206, 30276
75.....27014
91.....28950, 30124

15 CFR

19.....27577
90.....26767
368–399 (See EO 12525).....28757, 29205
370.....29205
376.....27420, 29205
378.....29205
385.....29205
386.....29205
399.....27420

Proposed Rules:
303.....29232
911.....26816

16 CFR

3.....28095
4.....28095
13.....26981, 27578, 28374, 28902
453.....28062, 28081
703.....27936

Proposed Rules:
13.....28592, 28951, 29696, 29699

17 CFR

1.....30135, 30140
3.....28907
200.....28385, 29368, 30266
239.....27937
240.....27937, 27940, 28385
249.....27937, 29948
270.....27937, 28930
274.....27937, 29368
275.....29206
288.....26981, 27947

Proposed Rules:
210.....27979, 28953, 29409
229.....29409
230.....28404
239.....29409
240.....27821, 27976, 27981, 28106, 28210, 28219, 28404, 29409
250.....27981
259.....27981
270.....27962, 29409

18 CFR

37.....29655, 30141
154.....30141
157.....27816
389.....27816

Proposed Rules:
2.....28954
35.....27604
37.....30207
154.....28954
157.....28954
161.....28954
271.....28221
284.....28954
290.....27604

19 CFR

4.....26981, 29949
10.....29949
12.....27947
19.....29949
24.....29949
103.....29949
113.....29949
134.....29949
141.....29949
142.....27818
143.....29949
145.....29949
148.....29949
152.....29949
162.....29949
171.....29949
173.....29949
178.....27947
191.....29949

Proposed Rules
162.....27829
177.....27831

20 CFR

200.....27222, 29957
401.....28565, 30144
422.....28565
626.....27818
627.....27818
628.....27818
629.....27818
630.....27818

Proposed Rules:
404.....27615, 29435
416.....27615, 29435
674.....29606

21 CFR

25.....30267
101.....26984
173.....29208
176.....29657, 30144
177.....30144–30146
178.....30147, 30148
179.....29658
182.....30149
184.....30149
436.....29209
510.....28395
520.....27818, 28768
522.....30267
524.....30152
558.....30267
556.....27421, 27422, 28768, 28931, 28932
801.....30153
812.....28932
1308.....28098, 28395

Proposed Rules:
Ch. 1, Subchapter C.....28594
2.....30210
81.....29702
109.....29233
110.....29233
146.....29702
170.....27294, 29235
201.....27016, 29702
211.....27016, 29702
225.....29233
226.....29233
357.....27552, 28595
433.....29702
500.....29233
509.....29233
514.....27016, 29702
559.....27016, 29702
561.....27452, 30276
610.....28595
660.....28595
680.....30211
882.....30278
1002.....27024, 29704

22 CFR

501.....27422
1502.....28932
1504.....28934

23 CFR

825.....29209
1325.....28191

24 CFR

200.....28197
201.....30154
203.....28197, 30154
234.....30154
885.....28197
3282.....28396

25 CFR

Proposed Rules:
61.....27456

26 CFR

1.....27222, 27231, 27427, 29369–29376, 29959, 30160
31.....29964
48.....29959
138.....29959
602.....27222, 27231, 29369, 29376, 29959, 29964, 30160

Proposed Rules:
1.....27297, 27456, 27457, 28409, 29435, 29436
31.....29990
51.....27621
602.....29436

27 CFR

4.....27819
9.....29967
170.....28572

Proposed Rules:
9.....28409

28 CFR

0.....28769
2.....28101
18.....28199
32.....27428

Proposed Rules:
30.....28955

29 CFR

70.....28306
1952.....27233, 28770, 29210, 29659

Proposed Rules:
33.....27298, 28956
89.....29606
1910.....27307

30 CFR

700.....28186
701.....28186
785.....28186
827.....28186
901.....29379
902.....28592
943.....28189
948.....28316, 28324

Proposed Rules:
56.....27566
57.....27566, 29437
700.....28180
701.....28180
762.....30408
785.....28180
817.....27910
827.....28180
887.....30402
913.....27025
917.....28222, 29235
926.....29235
935.....29437, 29438
936.....27461
944.....28107
948.....28343
950.....28595, 29436, 29704, 30282

31 CFR

4.....29221
51.....26987
103.....27821
500.....27435
505.....27435
515.....27435
520.....27435
535.....27435
540.....27435

32 CFR

Parts 1–39.....26987
199.....26988
642.....28573
657.....28573
706.....28398–28400
726.....28401

Proposed Rules:
806b.....30283

33 CFR

100.....27579, 28573, 29221–29223, 30268

110.....26988, 27580, 29224, 30268
117.....26989, 27582, 29670–29672, 30268, 30269
150.....26989
165.....27583, 29225
166.....26989

Proposed Rules:
110.....27622, 27623, 28596
117.....27026, 27029, 27624, 27832, 27990, 27991, 29236, 30284, 30285

34 CFR

19.....28101
75.....29328
76.....29328
304.....29328
425.....29352
426.....29352
431.....29352
432.....29352

Proposed Rules:
369.....28412
376.....28412

35 CFR

101.....26990
103.....26990
121.....26990

36 CFR

254.....29673
1200.....27196
1202.....27196
1228.....27951
1250.....27196

37 CFR

201.....30169
202.....30169

Proposed Rules:
1.....27030, 28596

38 CFR

1.....29226
3.....27584
21.....27825, 29674

Proposed Rules:
3.....28224
17.....29990
36.....27833

39 CFR

3.....29380
10.....27827
601.....28941
3001.....28144, 30271

Proposed Rules:
111.....27992
3001.....27308

40 CFR

51.....27892
52.....26991, 27244–27247, 28544, 29229, 29381, 29383
60.....27248
61.....27248
81.....28574
86.....27250, 29384
123.....28202
147.....28941, 28942
158.....28943
162.....28943
180.....28944–28946, 30172
260.....28702
261.....28702, 30271
262.....28702
264.....28702
265.....28702
266.....28702
270.....28702
271.....28702
280.....28702
419.....28516
600.....27172
761.....29170
763.....28530

Proposed Rules:
52.....27030, 27462, 28224, 28415, 28596, 28598, 28818, 29237, 29439
86.....28818
180.....27463, 28108, 28956, 28957
202.....27321
205.....27321
260.....29992
262.....29992
264.....29992
265.....29992
270.....29992
403.....29705
414.....29068
416.....29068
600.....27188
798.....30213
799.....30213

41 CFR

Chs. 1–49.....26987
101–4.....28402
101–17.....28577
101–40.....27951
101–41.....29972
101–47.....28402
105–54.....28203
105–63.....26992
201–1.....27142
201–2.....27142, 28208
201–8.....27142
201–11.....27142
201–16.....27142
201–20.....27142
201–21.....27142
201–22.....28208
201–23.....27142
201–24.....27142
201–26.....27142
201–30.....27142, 28208
201–31.....27142, 28208
201–32.....27142, 28208
201–38.....27142
201–39.....27142, 28208
201–40.....27142, 28208
201–45.....28208

Proposed Rules:
101–41.....27625, 27626

42 CFR

400.....28577
405.....27722, 30172
412.....27208, 27722, 30172
416.....28577
435.....28577

Proposed Rules:
23.....27465
405.....27469
412.....27469

43 CFR

2.....29230
5470.....28947

Public Land Orders:
5150 (Revoked in part by PLO 6607).....27827
5179 (Revoked in part by PLO 6607).....27827
5180 (Revoked in part by PLO 6607).....27827
5186 (Revoked in part by PLO 6607).....27827
6389 (Corrected by PLO 6608).....28208
6607.....27827
6608.....28208

Proposed Rules:
2800.....27322
5400.....29324
5440.....29324

44 CFR

64.....26993, 26994, 28947
67.....30173

Proposed Rules:
67.....27322, 29992
302.....27627, 28959

45 CFR

1180.....27584, 27586

Proposed Rules:
405.....27406
412.....27406
1620.....27326

46 CFR

10.....30274
153.....26996

Proposed Rules:
160.....27628
355.....29440

47 CFR

0.....27952
22.....27953
68.....27250, 29384
73.....27287, 27438, 27954, 29392, 29393, 30187
74.....29394
76.....27438, 29394
81.....27968
83.....27968, 29231

Proposed Rules:
Ch. I.....28418, 29440
15.....30213
73.....27629, 29446–29453
97.....29454

48 CFR

7.....27560
12.....27969
15.....27560, 28103
19.....27560
33.....27969
34.....27560
52.....27560, 27969
209.....28209
217.....29675
504.....26996
515.....28578
522.....28578
533.....26998
552.....27589, 28948, 29402, 30274
553.....27589
570.....27589, 30274
2801.....29798
2804.....29798
2806.....29798
2807.....29798
2808.....29798
2809.....29798
2810.....29798
2814.....29798
2815.....29798
2827.....29798
2830.....29798
2831.....29798
2834.....29798
2835.....29798
2852.....29798
6101.....27969, 29231

Proposed Rules:
208.....28227
252.....28227

49 CFR

1.....30275
571.....27451, 29676
1000.....30275
1011.....30275
1100.....30275
1101.....30275
1104.....30186
1105.....30186
1151.....30186
1152.....30186
1155.....30186
1160.....30188, 30275
1180.....30186

Proposed Rules:
Ch. X.....27031
71.....29959
171.....28820
175.....28820
531.....29912
571.....27032, 27632, 27633, 28426, 28599, 29993
1132.....27634
1241.....29706

50 CFR

17.....26999, 29336–29345, 30186
33.....29972
215.....27914
285.....29403
611.....29681
658.....28103
661.....30195
663.....30195
672.....28580, 28581, 29681
674.....28103
681.....30196

Proposed Rules:
17.....27637, 27992, 28821, 28870–28878, 29959, 29238, 29800, 29801
20.....27638, 29706
611.....29960, 29240
630.....27470
642.....29709
650.....29240
651.....29241
655.....28109
662.....27470
663.....29960
675.....29240

LIST OF PUBLIC LAWS

Last List July 24, 1985
This is a continuing list of public bills from the current

session of Congress which have become Federal laws.

session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

S. 1455/Pub. L. 99–69

To extend the authority to establish and administer flexible and compressed work schedules for Federal Government employees. (July 22, 1985; 99 Stat. 167) Price: $1.00

H.J. Res. 198/Pub. L. 99–70

Providing for appointment of Barnabas McHenry as a citizen regent of the Board of Regents of the Smithsonian Institution. (July 22, 1985; 99 Stat. 168) Price: $1.00

VOL 50 ISS 143 JL 25 1985 UMI

VOL
50

ISS
143

JL
25

1985

UMI

VOL
50
ISS
144
JL
26
1985
UMI

7-26-85
Vol. 50 No. 144
Pages 30411-30692

federal register

Friday
July 26, 1985

Selected Subjects

Air Transportation
Customs Service
Animal Diseases
Animal and Plant Health Inspection Service
Antibiotics
Food and Drug Administration
Authority Delegations (Government Agencies)
Agriculture Department
Aviation Safety
Federal Aviation Administration
Fisheries
National Oceanic and Atmospheric Administration
Grant Programs—Education
Education Department
Grant Programs—Housing and Community Development
Farmers Home Administration
Grants Administration
Commerce Department
Hunting
Fish and Wildlife Service
Imports
Animal and Plant Health Inspection Service
Marketing Agreements
Agricultural Marketing Service

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Selected Subjects

Navigation (water)
Engineers Corps

Nuclear Materials
Nuclear Regulatory Commission

Public Assistance Programs
Indian Affairs Bureau

Reporting and Recordkeeping Requirements
Commodity Futures Trading Commission

Contents

Federal Register
Vol. 50, No. 144
Friday, July 26, 1985

Agricultural Marketing Service
PROPOSED RULES
30489 Grapes (Tokay) imported or grown in California
30429 Tomatoes, fresh; grade standards; correction

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Foreign Agricultural Service; Forest Service; Soil Conservation Service.
RULES
Organization, functions, and authority delegations:
30411 Transportation Office

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
30413 Cattle from Canada
Interstate transportation of animals and animal products (quarantine):
30412 Equine infectious anemia; official testing laboratories; procedures for denying and withdrawing approval
Swine health protection:
30414 Enforcement; State status; removal of Arkansas and Louisiana; interim rule affirmed

Arts and Humanities, National Foundation
NOTICES
Meetings:
30545 Humanities Panel; date changes
30545 Music Advisory Panel

Commerce Department
See also International Trade Administration; National Oceanic and Atmospheric Administration.
RULES
30418 Audit requirements for State and local governments; interim
NOTICES
Meetings:
30492 Economic Advisory Board

Commodity Futures Trading Commission
PROPOSED RULES
30450 Contract markets, futures commission merchants, and clearing members and traders; reporting and recordkeeping requirements

Comptroller of Currency
NOTICES
30557 Privacy Act; systems of records

Customs Service
PROPOSED RULES
Air commerce:
30455 General revision
NOTICES
30558 Carrier media bearing data or instructions for use in data processing equipment, imported; valuation

Defense Department
See Defense Nuclear Agency; Engineers Corps; Navy Department.

Defense Nuclear Agency
NOTICES
Meetings:
30497 Scientific Advisory Group on Effects

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
30533 McNeilab Inc.
30533 Medicine Shoppe

Education Department
PROPOSED RULES
Postsecondary education:
30674 Student assistance; application information verification
NOTICES
Grants; availability, etc.:
30498 Bilingual vocational programs
30497 Graduate and professional opportunity fellowships program

Employment and Training Administration
NOTICES
Adjustment assistance:
30535 Anaconda Minerals Co. et al.

Employment Standards Administration
NOTICES
30582 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (AL, CT, DC, IN, MD, MO, MT, NY, OH, OK, PA, RI, and VA)

Energy Department
See Federal Energy Regulatory Commission; Western Area Power Administration.

Engineers Corps
PROPOSED RULES
30479 Permit regulations; artificial reefs

Environmental Protection Agency
RULES
Toxic substances:
30423 Asbestos abatement projects; correction
Toxic substances:
30423 Ethyltoluenes, trimethylbenzenes, and C9 aromatic hydrocarbon fraction; testing requirements; correction
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
30481 Ammonium polyphosphate; correction
NOTICES
Environmental statements; availability, etc.:
30519 Agency statements; comment availability

30520 Agency statements; weekly receipts
Pesticide registration, cancellation, etc.:

30508 Southwestern Gas Pipeline, Inc., et al.
30510 Texas Gas Transmission Corp.

Indian Affairs Bureau

30520 Agency statements; weekly receipts
Pesticide registration, cancellation, etc.:
30513 Gylco, Inc.; correction
30513 Hyponex Co., Inc.; correction
Toxic and hazardous substances control:
30513, 30516 Premanufacture notices receipts (2 documents)
30513 Premanufacture notices receipts; correction
30517 Southeast Chicago; testing requirement rule for toxic chemical substances and mixtures; citizens' petition denied
Water pollution; discharge of pollutants (NPDES):
30564 Gulf of Mexico

Farmers Home Administration
PROPOSED RULES
Loan and grant programs:
30429 Rural housing; housing preservation grant program

Federal Aviation Administration
RULES
Airworthiness directives:
30416 Alexander Schleicher
30417 Hartzell
30418 Control zones
PROPOSED RULES
Airworthiness directives:
30448, 30449 Hughes Helicopters, Inc.; withdrawn (2 documents)
30449 Secur Aiglon
Airworthiness standards, etc.:
30447 Cabin interior materials in transport category airplanes; flammability standards; comment period reopened

Federal Deposit Insurance Corporation
NOTICES
30560 Meetings; Sunshine Act (3 documents)

Federal Emergency Management Agency
PROPOSED RULES
Preparedness:
30481 Civil defense; State and local emergency management assistance; emergency operations plans; correction
NOTICES
Disaster and emergency areas:
35020 California
Radiological emergency; State plans:
30521 Tennessee

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
30503 Illinois Power Co. et al.
Environmental statements; availability, etc.:
30502 Redding, CA
Hearings, etc.:
30501 ANR Pipeline Co.
30501 Cooley, Marjorie Linder, et al.
30504 Kansas Gas & Electric Co.
30501 Municipal Electric Utilities Association of New York State et al.
30507 Mustang Fuel Corp.
30507 Panhandle Eastern Pipe Line Co.
30509 Southwestern Electric Power Co.
30508 Southwestern Gas Pipeline, Inc., et al.
30510 Texas Gas Transmission Corp.
30510 THC Pipeline Co.
30511, 30512 Transcontinental Gas Pipe Line Corp. (3 documents)
30512 Trunkline Gas Co.
Natural Gas Policy Act:
30502, 30510 Well category determinations, etc. (2 documents)

Federal Maritime Commission
NOTICES
30521 Agreements filed, etc.

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
30522 Green Mountain Financial Services Corp. et al.

Fish and Wildlife Service
RULES
Endangered and threatened species:
30423 Mancos milk-vetch; correction
Migratory bird hunting:
30424 Seasons, limits, and shooting hours; establishment, etc.
NOTICES
30524 Peregrine falcon; emergency exemption

Food and Drug Administration
PROPOSED RULES
Human drugs:
30478 Antibiotic drugs; nystatin tablets; revision of disintegration standard
NOTICES
Food for human consumption:
30523 Surimi-based seafood products, labeling; compliance policy guide, availability
Human drugs:
30523 Lupron Injection

Foreign Agricultural Service
NOTICES
Meetings:
30492 Agricultural Export Enhancement Advisory Group

Forest Service
NOTICES
Environmental statements; availability, etc.:
30492 Custer National Forest, MT

Health and Human Services Department
See also Food and Drug Administration; Human Development Services Office.
NOTICES
30522 Agency information collection activities under OMB review

Housing and Urban Development Department
RULES
Low income housing:
30423 Waiver authority; CFR correction

Human Development Services Office
NOTICES
Meetings:
30524 Federal Council on Aging

Indian Affairs Bureau
PROPOSED RULES
Human services:
30688 Financial assistance and social services program

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Reclamation Bureau.

International Trade Administration
NOTICES
Antidumping:
30493 Circular welded carbon steel pipes and tubes from Thailand
Countervailing duties:
30493 Refrigeration compressors from Singapore
Meetings:
30495 Semiconductor Technical Advisory Committee

Interstate Commerce Commission
NOTICES
30560 Meetings; Sunshine Act
Motor carriers:
30532 Compensated intercorporate hauling operations; intent to engage in
Railroad operation, acquisition, construction, etc.:
30532 Consolidated Rail Corp.

Justice Assistance Bureau
NOTICES
Grants; availability, etc.:
30664 Criminal justice discretionary grant program

Justice Department
See Drug Enforcement Administration; Justice Assistance Bureau; Juvenile Justice and Delinquency Prevention Office.

Juvenile Justice and Delinquency Prevention Office
NOTICES
Grants and cooperative agreements:
30533 Missing children and homeless youth; law enforcement agencies policies and practices, national study; reissuance; correction

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Pension and Welfare Benefit Programs Office.
NOTICES
30534 Agency information collection activities under OMB review

Land Management Bureau
NOTICES
Exchange of lands:
30525 Arizona
30525 California

Minerals Management Service
NOTICES
30526 Agency information collection activities under OMB review
Meetings:
30528 Outer Continental Shelf Advisory Board
Outer Continental Shelf; development operations coordination:
30526 Conoco Inc.
30527 Corpus Christi Oil & Gas Co.
20527 ODECO Oil & Gas Co.
30528 Pennzoil Co.
Outer Continental Shelf operations:
30526 Underwater welding of offshore structures and pipelines; workshop

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
30427 High seas salmon off Alaska
PROPOSED RULES
Fishery conservation and management:
30481 Gulf of Alaska groundfish
NOTICES
Meetings:
30496 Emergency striped bass research study
30496 Pacific Fishery Management Council (2 documents)

Navy Department
NOTICES
Environmental statements; availability, etc.:
30497 Stapleton-Fort Wadsworth Complex, NY

Nuclear Regulatory Commission
RULES
Financial protection requirements and indemnity agreements:
30415 Spent reactor fuel stored at a reactor site different than where it was generated
PROPOSED RULES
Byproduct material, domestic licensing
30616 Medical use; requirements
Practice rules:
30446 Adjudications; disclosure or nondisclosure of information; special procedures for resolving conflicts; extension of time
NOTICES
Applications, etc.:
30545 Baltimore Gas & Electric Co.
30546 California Polytechnic State University
30548 Duke Power Co.
30549 Omaha Public Power District
30550 Virginia Electric & Power Co. et al.
Environmental statements; availability, etc.:
30547 University of Michigan
Operating licenses, amendments; no significant hazards considerations:
30551 Bi-weekly notices

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
30561 Meetings; Sunshine Act
Power plan amendments:
30654 Northwest conservation and electric power plan; inquiry

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
30535 Crawford Fitting Co. et al.

30543 Local Union No. 731, International Brotherhood

Separate Parts in This Issue

Rules and Regulations

Federal Register

30543 Local Union No. 731, International Brotherhood of Teamsters, et al.

Postal Rate Commission
NOTICES
30561 Meetings; Sunshine Act

Postal Service
NOTICES
30561 Meetings; Sunshine Act (2 documents)

Reclamation Bureau
NOTICES
Contract negotiations:
30528 Quarterly status tabulation of water service and repayment

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
30552 Chicago Board Options Exchange, Inc.
30551 National Association of Securities Dealers, Inc.
30553 Philadelphia Stock Exchange, Inc.

Small Business Administration
NOTICES
30554 Agency information collection activities under OMB review
Applications, etc.:
30555 Chestnut Capital International II
30555 Enterprise Venture Capital Corp.
30556 First New York Small Business Investment Co.
30556 Magna Pacific Investment Inc.
Disaster loan areas:
30554 California
30555 Pennsylvania
30554 Intergovernmental review of agency programs and activities; correction

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
30492 Muskrat Lake Basin Watershed, ND

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
30496 China

Transportation Department
See Federal Aviation Administration.

Treasury Department
See also Comptroller of Currency; Customs Service.
NOTICES
30557 Agency information collection activities under OMB review

United States Information Agency
NOTICES
30559 Agency information collection activities under OMB review

Western Area Power Administration
PROPOSED RULES
30447 Boulder Canyon Project; power sale charges; extension of time
NOTICES
Non-federal participation planning investigation, etc.:
30512 Spring Canyon Pumped Storage Project, AZ

Separate Parts in This Issue

Part II
30564 Environmental Protection Agency

Part III
30582 Department of Labor, Employment Standards Administration, Wage and Hour Division

Part IV
30616 Nuclear Regulatory Commission

Part V
30654 Pacific Northwest Electric Power and Conservation Planning Council

Part VI
30664 Bureau of Justice Assistance, Department of Justice

Part VII
30674 Department of Education

Part VIII
30688 Bureau of Indian Affairs, Department of the Interior

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
2 30411
Proposed Rules:
51 30429
926 30489
944 30489
1944 30429

9 CFR
75 30412
92 30413
166 30414

10 CFR
140 30415
Proposed Rules:
2 30446
30 30616
31 30616
32 30616
35 30616
40 30616
904 30447

14 CFR
39 (2 documents) 30416, 30417
71 30418
Proposed Rules:
25 30447
39 (3 documents) 30448, 30449
121 30447

15 CFR
6a 30418

17 CFR
Proposed Rules:
16 30450
17 30450
18 30450

19 CFR
Proposed Rules:
6 30455
122 30455

21 CFR
Proposed Rules:
449 30476

24 CFR
899 30423

25 CFR
Proposed Rules:
20 30688

33 CFR
Proposed Rules:
322 30479
325 30479

34 CFR
Proposed Rules:
668 30674

40 CFR
763 30423
799 30423
Proposed Rules:
180 30481

44 CFR
Proposed Rules:
302 30481

50 CFR
17 30423
20 30424
674 30427
Proposed Rules:
672 30481

Rules and Regulations

Federal Register
Vol. 50, No. 144
Friday, July 26, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegation of Authority

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: This document revises the delegation of authority from the Secretary of Agriculture and general officers of the Department to reflect the transfer of the Traffic Management Branch, Transportation and Storage Division, Agricultural Stabilization and Conservation Service to the Office of Transportation.

EFFECTIVE DATE: July 26, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Martin F. Fitzpatrick, Director, Office of Transportation, U.S. Department of Agriculture, Room 1405 Auditor's Bldg., 14th Street and Independence Avenue SW., Washington, D.C. 20250 (202–447–3963).

SUPPLEMENTARY INFORMATION: The Traffic Management Branch, Transportation and Storage Division, Agricultural Stabilization and Conservation Service (ASCS) has had the responsibility for developing and recommending policies and programs for inland transportation with respect to USDA and CCC-owned commodities under USDA programs and those in which USDA participates; analyzing freight rate proposals, rules and regulations pertaining to USDA–CCC shipments; recommending revisions of current procedure and contract provisions with respect to such transportation; providing technical advice; maintaining the Department Tariff Library and providing liaison with the trade and other interested groups.

The Office of Transportation (OT) has had the responsibility to coordinate all transportation policy for USDA. OT is also responsible for representing the interests of agriculture and rural communities in the United States in order to ensure the availability of an adequate, efficient, and economical transportation system, domestically and internationally, to meet the needs of agriculture and rural development in the United States.

To further strengthen the Department's ability to manage its transportation responsibilities, the Secretary has determined that the traffic management program should be part of OT. Accordingly, the traffic management program functions are being assigned to the Assistant Secretary for Marketing and Inspection Services and to the Director, OT. The Department believes that this delegation will enable OT to serve other agencies and the public more efficiently.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of E.O. 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act and thus, it is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—[AMENDED]

1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by revising paragraphs (d)(3) and (d)(5) and by adding new paragraphs (d)(7) and (d)(8), to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * * *

(d) * * *

(3) Apply results of economic research and operations analysis to evaluate transportation issues and to recommend revisions of current procedures.

* * * * * *

(5) Coordinate Department programs of education, information, loans and grants in the area of agriculture transportation including providing technical advice and assistance to other USDA agencies.

* * * * * *

(7) Cooperate with other Departmental agencies in the development and recommendation of policies for inland transportation of USDA and CCC-owned commodities in connection with USDA programs.

(8) Maintain the Department Tariff Library and provide transportation rates and accessorial charges for various commodities to other USDA agencies.

* * * * * *

Subpart F—Delegation of Authority by the Assistant Secretary for Marketing and Inspection Services

3. Section 2.52 is amended by revising paragraphs (a)(3) and (a)(5) and by adding new paragraphs (a)(7) and (a)(8), to read as follows:

§ 2.52 Director, Office of Transportation.

(a) * * *

(3) Apply results of economic research and operations analysis to evaluate transportation issues and to recommend revisions of current procedures.

* * * * * *

(5) Coordinate Department programs of education, information, loans and grants in the area of agriculture transportation including providing technical advice and assistance to other USDA agencies.

* * * * * *

(7) Cooperate with other Departmental agencies in the development and recommendation of policies and programs for inland transportation of USDA and CCC-owned commodities in connection with USDA programs.

(8) Maintain the Department Tariff Library and provide transportation rates

and accessorial charges for various commodities to other USDA agencies.

pending the completion of the

SUPPLEMENTARY INFORMATION:

is the official test for determining whether horses, asses, ponies, mules,

its review process required by Executive

List of Subjects in 9 CFR Part 75

and accessorial charges for various commodities to other USDA agencies.

For Subpart C:

Dated: July 22, 1985.

John R. Block,

Secretary of Agriculture.

For Subpart F:

Dated: July 22, 1985.

Karen K. Darling,

Assistant Secretary for Marketing and Inspection Services.

Concur:

Dated: July 22, 1985.

Richard W. Goldberg,

Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 85-17741 Filed 7-25-85; 8:45 am]

BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

9 CFR Part 75

[Docket No. 85-072]

Equine Infectious Anemia; Procedures for Denying and Withdrawing Approval of Laboratories

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations in 9 CFR Part 75 to establish procedures for denying and withdrawing approval of laboratories to conduct official tests for equine infectious anemia. This action is necessary to provide a mechanism to help ensure that all approved laboratories actually are in the business of conducting official tests and that only laboratories meeting the requirements set forth for approved laboratories are included as approved laboratories.

EFFECTIVE DATE: August 26, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. C. A. Gipson, Special Diseases Staff, VS, APHIS, USDA, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8321.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 75 (referred to below as the regulations), among other things, contain provisions concerning the interstate movement of horses, asses, ponies, mules, and zebras found to be affected with equine infectious anemia (referred to below as EIA), also known as swamp fever.

The regulations in § 75.4(b)(1) provide that the Agar gel immuno-diffusion test is the official test for determining whether horses, asses, ponies, mules, and zebras are affected with EIA. The official test for EIA is required to be conducted in a laboratory approved by the Deputy Administrator, Veterinary Services. Under the provisions of § 75.4(b)(1), a laboratory will be approved by the Deputy Administrator after determining that the laboratory:

(i) has adequately trained technical personnel assigned to conduct the test, (ii) uses USDA licensed antigen, (iii) follows standard test protocol, (iv) meets check test proficiency requirements, and (v) reports all test results to State and Federal animal health officials.

A document published in the **Federal Register** on May 31, 1985 (50 FR 23137-23138), proposed to amend the regulations by specifying procedures for denying or withdrawing approval of laboratories to conduct official EIA tests. These procedures are set forth in the regulatory text portion of this document. The document of May 31, 1985, invited the submission of written comments on or before July 1, 1985. No comments were received. Based on the rationale set forth in the proposal, the regulations are amended as proposed.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action will not have an effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required under Executive Order 12291.

It is not anticipated that a significant number of laboratories will be affected by this rule. In addition, conducting official EIA tests is not the primary business activity of any laboratory in the United States. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 75

Animal diseases, Horses, Quarantine, Transportation, Equine, Dourine, Equine infectious anemia, Contagious equine metritis.

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

Accordingly, the regulations in 9 CFR Part 75 are amended as follows:

1. The authority citation for Part 75 is revised to read as set forth below and the authority citations following all the sections in Part 75 are removed:

Authority: 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134-134h; 7 CFR 2.17, 2.51, and 371.2(d).

2. A new paragraph (d) is added to § 75.4 to read as follows:

§ 75.4 Notice relating to existence of equine infectious anemia (swamp fever), official test and conditions of interstate movement of reactors.

* * * * *

(d) The Deputy Administrator may deny approval of any laboratory to conduct the official test upon a determination that the laboratory does not meet the criteria for approval under this part and at any time may withdraw approval of any laboratory to conduct the official test upon a determination that any of the requirements for approval under this part are not complied with. In the case of denial, the operator of the laboratory will be informed of the reasons for the action and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action in accordance with the rules of practice which shall be adopted for the proceeding. In the case of a withdrawal, before such action is taken, the operator of the laboratory will be informed of the reasons for the proposed action and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal shall become effective pending final determination in the proceeding when the Deputy Administrator determines that such action is necessary to protect the public health, interest, of safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the laboratory. In the event of oral notification, written confirmation shall be given to the operator of the laboratory as promptly as circumstances allow. This withdrawal shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Deputy Administrator. In addition to withdrawal of approval when the requirements for approval are not complied with, approval will be automatically withdrawn by the Deputy Administrator when the operator of any approved laboratory notifies the National Veterinary Services Laboratories in Ames, Iowa, in writing, that the laboratory no longer conducts the official test.

Done at Washington, D.C., this 23rd day of July 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85-17812 Filed 7-25-85; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 85-045]

Cattle From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations in 9 CFR Part 92 concerning the importation into the United States of cattle from Canada by designating the Canadian provinces of Alberta, Manitoba, and Saskatchewan as brucellosis certified free provinces and by allowing cattle classified as cattle from brucellosis certified free provinces of Canada to enter into the United States at certain existing ports of entry. It has been determined that this action is necessary to relieve restrictions on the importation of certain cattle from Canada since it has been determined that these provinces are free of brucellosis. This document also amends the regulations by deleting certain provisions which allowed cattle of the beef breeds raised under range conditions in the western provinces of Canada to meet the brucellosis certification requirements for importation into the United States on an individual animal basis. It has been determined that this action is necessary to help prevent the importation into the United States of cattle infected with brucellosis.

EFFECTIVE DATE: August 26, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Allan A. Furr, Import/Export Animals and Products Staff, VS, APHIS, USDA, Room 848, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8530.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations) regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases. Section 92.20 of the regulations contains specific provisions concerning the importation into the United States of cattle from Canada.

In a document published in the **Federal Register** on March 21, 1985 (50 FR 11374-11376), the Department proposed to amend the regulations by (1) adding the provinces of Alberta, Manitoba, and Saskatchewan to the list of brucellosis certified free provinces of Canada; (2) by adding the existing Canadian border ports of Raymond, Opheim, and Sweetgrass, Montana; and Pembina, Portal, and Dunseith, North Dakota; to the list of United States ports of entry through which cattle to be imported into the United States from brucellosis certified free provinces of Canada may be shipped; and (3) by deleting certain provisions which allowed cattle of the beef breeds raised under range conditions in the western provinces of Canada to meet the brucellosis certification requirements for importation into the United States on an individual animal basis.

The document of March 21, 1985, invited the submission of written comments on or before April 22, 1985. The two comments that were received raised issues concerning vaccination of cattle imported from Canada. These issues were not raised by the proposal. Therefore, these comments were not considered as a part of this rulemaking. Further, based on the rationale set forth in the proposal, the regulations are amended as proposed.

Executive Order 12291 and Regulatory Flexibility Act

This rule has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will not have an effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

As a result of the adoption of this rule, no significant change is anticipated in the number of cattle imported into the United States from Canada or in the cost of importing cattle into the United States from Canada.

Based on the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, the regulations in 9 CFR Part 92 are amended as follows:

1. The authority citation for Part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 92.1(w) is revised to read:

§ 92.1 Definitions.

* * * * *

(w) *Brucellosis certified free provinces of Canada.* Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland (including Labrador), Nova Scotia, Prince Edward Island, and Saskatchewan, known in Canada as brucellosis accredited free provinces.

* * * * *

§ 92.20 [Amended]

3. In the first sentence of paragraph (c)(1) of § 92.20, "paragraph (c)(4), or paragraph (c)(6)" is changed to "paragraph (c)(3), or paragraph (c)(5)".

4. In the fourth sentence of paragraph (c)(1) of § 92.20 "in accordance with paragraph (c)(3) of this section" is changed to "issued or endorsed by a salaried veterinarian of the Canadian Government showing them to have been tested for brucellosis with negative results within 30 days preceding their offer for entry".

5. In paragraph (c)(2) of § 92.20, "paragraph (c)(4), or paragraph (c)(6)" is changed to "or paragraph (c)(5)".

6. The sixth sentence of paragraph (c)(2) of § 92.20 is changed to: "Cattle to

be imported into the United States from

List of Subjects in 9 CFR Part 166

Act are enforced in Louisiana and

prevent the dissemination of certain

location. One method of storing spent

fuel will be stored to maintain financial

be imported into the United States from brucellosis certified free provinces of Canada shall be (A) moved entirely within the boundaries of the brucellosis certified free provinces of Canada from the farm of origin directly to the United States ports of entry of Eastport, Idaho; Houlton, Maine; Raymond, Opheim, and Sweetgrass, Montana; Pembina, Portal, and Dunseith, North Dakota; and Blaine, Sumas, Lyndon, and Oroville, Washington; or (B) such cattle shall be moved in a vehicle sealed with Canadian Governments seals."

7. Paragraph (c)(3) of § 92.20 is removed.

8. Paragraphs (c)(4), (c)(5), (c)(6), and (c)(7) of § 92.20 are redesignated as paragraphs (c)(3), (c)(4), (c)(5), and (c)(6) respectively.

9. In redesignated paragraph (c)(3) of § 92.20, "paragraph (c)(3), or paragraph (c)(6)" is changed to "or paragraph (c)(5)".

10. In the second proviso of redesignated paragraph (c)(3)(i) of § 92.20, "paragraphs (c)(1), (3), and (4)(i)" is changed to "paragraphs (c)(1) and (c)(3)(i)".

11. In redesignated paragraph (c)(3)(ii) of § 92.20, "paragraph (c)(4)(i)" is changed to "paragraph (c)(3)(i)" both places that "paragraph (c)(4)(i)" appears.

12. In redesignated paragraph (c)(4) of § 92.20, "paragraph (c)(6)" is changed to "paragraph (c)(5)".

13. In redesignated paragraph (c)(5) of § 92.20, "paragraphs (c)(1), (2), (3) and (4)(i)" is changed to "paragraphs (c)(1), (c)(2), and (c)(3)(i)".

Done at Washington, D.C., this 23rd day of July 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85-17811 Filed 7-25-85; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 166

[Docket No. 85-074]

Swine Health Protection Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of Interim Rule.

SUMMARY: This document affirms the interim rule which removed Louisiana from the list of States that have primary enforcement responsibility under the Swine Health Protection Act (the Act). This amendment was made pursuant to a request from Louisiana. The intended effect of this amendment is to help ensure that certain requirements for the feeding of garbage to swine under the Act are enforced in Louisiana and thereby help prevent the dissemination of certain swine diseases.

This document also affirms the interim rule which removed Arkansas from the list of States that do not have primary enforcement responsibility under the Act, but, under cooperative agreements with APHIS, issue licenses to persons desiring to operate a treatment facility for garbage that is to be treated and fed to swine. Arkansas no longer issues such licenses. With the change affirmed by this document, APHIS is the entity that issues licenses for facilities eligible to be licensed in Arkansas. The removal of Arkansas from the list of such States was necessary to inform interested persons that Arkansas no longer issues such licenses.

EFFECTIVE DATE: July 26, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. John L. Williams, Special Diseases Staff, VA, APHIS, USDA, Room 820, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8487.

SUPPLEMENTARY INFORMATION:

Background

The "Swine Health Protection Provisions" regulations (contained in 9 CFR Part 166 and referred to below as the federal regulations) were established pursuant to the Swine Health Protection Act (set forth in 7 U.S.C. 3801 *et seq.* and referred to below as the Act.) These authorities contain provisions regulating the treatment of garbage to be fed to swine and the feeding thereof in order to prevent the introduction into and dissemination in the United States of certain diseases of swine. The Act, except for authority for certain emergency actions, provides that the provisions of the Act and federal regulations are to be enforced only in States that do not have primary enforcement responsibility under the Act.

A document published in the **Federal Register** on May 2, 1985 (50 FR 18632-18633) amended the regulations with respect to Louisiana and Arkansas.

Louisiana

Pursuant to a request from Louisiana and pursuant to the requirements of Section 10(a) of the Act, the document of May 2, 1985, removed Louisiana from the list of States that have primary enforcement responsibility under the Act. The intended effect of this amendment is to help ensure that certain requirements for the feeding of garbage to swine under the Act are enforced in Louisiana and thereby help prevent the dissemination of certain swine diseases.

Arkansas

Pursuant to authority in the Act, APHIS enters into cooperative agreements with some States that do not have primary enforcement responsibility under the Act to allow such States to issue licenses to persons desiring to operate a treatment facility for garbage that is to be treated and fed to swine. The document of May 2, 1985, also removed Arkansas from the list of States in § 166.14(d) which issue licenses under cooperative agreements with APHIS but do not have primary enforcement responsibility under the Act. With this change APHIS became the entity that issues such licenses for facilities eligible to be licensed in Arkansas.

Comments and Basis for Amendments

The interim rule became effective upon publication. Comments were solicited for 60 days following publication. No comments were received. The factual situation which was set forth in the interim rule still provides a basis for the amendments.

Executive Order 12291 and Regulatory Flexibility Act

This action is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, States, or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The amendments affirmed by this document will not cause significant changes in requirements for affected persons.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 166

African Swine Fever, Animal diseases, Foot-and-Mouth Disease, Hog Cholera, Hogs, Garbage, Swine Vesicular Disease, Vesicuolar Exanthema of Swine.

PART 166—SWINE HEALTH PROTECTION

Accordingly, the interim rule amending § 166.14 of 9 CFR 166, published in the **Federal Register** at 50 FR 18632-18633 on May 2, 1985, is adopted as a final rule.

Authority: 7 U.S.C. 3802, 3803, 3804, 3808, 3809, 3811; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 23rd day of July 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85-17808 Filed 7-25-85; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

Financial Protection Requirements and Indemnity Agreements; Indemnification of Spent Reactor Fuel Stored at a Reactor Site Different Than the One Where It Was Generated

AGENCY: Nuclear Regulatory Commission.

ACTION: Exercise of discretionary statutory authority.

SUMMARY: The Commission has decided to exercise its discretionary statutory authority under the Price-Anderson Act and again extend Government indemnity to spent reactor fuel stored at a particular reactor site different than the one where it was generated. Absent this action by the Commission, this spent reactor fuel would not have been covered by Government indemnity in the event of a nuclear incident at the site where this spent fuel was stored and where the reactors involved have the same licensee.

FOR FURTHER INFORMATION CONTACT: Mr. Ira Dinitz, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-9884.

SUPPLEMENTARY INFORMATION: Most operating reactor licensees have increased, or are planning to increase, the capacity of their onsite spent fuel storage pools. In some instances where the capacity of the storage pools at the reactor site cannot be increased sufficiently to meet the licensee's needs, fuel storage may be sought at another location. One method of storing spent fuel away from the reactor from which it is discharged is to store it in the spent fuel pool of another of the same licensee's reactors but at a different site.

The Commission has received a request from Duke Power Company to authorize and indemnify this type of activity. The Duke Power request is for Commission authorization permitting Duke to store spent fuel discharged from its Oconee Units 1, 2, and 3 at its McGuire Unit 2 reactor. Duke is seeking Price-Anderson indemnity protection for all such storage of spent fuel at the distant reactor location. The Commission considered and approved similar requests by Carolina Power and Light Company in August 1977 and Duke Power Company in November 1982 (See **Federal Register** Notice 42 FR 44615 and 46 FR 55024).

Under the Price-Anderson Act (section 170 of the Atomic Energy Act of 1954, as amended (the Act)), financial protection and government indemnity are *mandatory* for production and utilization facilities, such as reactors, licensed under section 103 and section 104 of the Act. This financial protection and indemnity covers the "licensed activity" which encompasses not only possession and operation of the reactor facility itself but also certain ancillary activities including (1) possession of the new fuel (containing special nuclear material) being stored on-site for use in the reactor and (2) on-site storage of spent fuel following irradiation at that reactor. Mandatory indemnification does not extend to the fuel when it is stored at another reactor site.

Possession of spent fuel away from the facility where it was generated, i.e., at a location where it is not used in connection with the operation of the facility, is not a part of the ancillary activity of possession and operation of the facility where the spent fuel is to be stored. As a result, after being transferred from the reactor site where it was generated to some other site, possession of such spent fuel must be licensed under other provisions of the Act which authorize licenses for possession and use of the special nuclear and byproduct material and would not be subject to the mandatory indemnity requirements of the Act providing that the Commission require financial protection of and indemnify reactor (and other production and utilization facility) licensees. Accordingly, no indemnity protection automatically would be afforded spent fuel stored away from the facility where it is produced or used. To indemnify this spent fuel, the Commission must require the licensee at whose facility the spent fuel will be stored to maintain financial protection and to be indemnified by exercising its *discretionary* authority under section 170 of the Act. For the purposes of Price-Anderson coverage, this exercise of discretionary authority would result in treating spent fuel produced at one reactor site but stored at a different site the same as spent fuel stored at the site of the reactor where it was produced. Thus, irradiated fuel generated by a reactor at one site whether stored by itself in the spent fuel pool of a reactor at a different site or commingled with the second reactor's irradiated fuel in that reactor's spent fuel pool would be covered by financial protection and indemnity.

The NRC believes that it would not be desirable to have a situation where spent fuel generated by one reactor and stored in the spent fuel pools of a second reactor at a different site would be unindemnified while the spent fuel produced by the second reactor and stored at the same site would be indemnified. If indemnity coverage were not extended to the spent fuel generated by the first reactor but stored at the site of a second reactor and if an accident occurred involving the fuel storage pool it would be virtually impossible to determine whether indemnified or unindemnified spent fuel caused the accident.

In view of the foregoing, the Commission has decided to exercise its discretionary authority under section 170 of the Atomic Energy Act of 1954, as amended, and will modify Duke's indemnity agreement at the McGuire's facility to permit the storage of Oconee's irradiated fuel at McGuire. As required in 10 CFR 140.9, the Commission is publishing this amendment, which would redefine the term "the radioactive material" in Article I, paragraph 9 in the McGuire Indemnity Agreement B-83, to read as follows:

The radioactive material means source, special nuclear and byproduct material which (1) is used, was used or will be used in, or is irradiated, was irradiated or will be irradiated by, the nuclear reactors licensed under NPF-9 and NPF-17 or (2) was used in, or was irradiated in the nuclear reactors licensed under DPR-38, DPR-47, and DPR-55 and subsequently is transported to the site of the nuclear reactors licensed under NPF-9 and NPF-17 for the purpose of storage or (3) which is produced as a result of operation of the nuclear reactors licensed under NPF-9 and NPF-17.

This amendment relates to changes in an indemnity agreement incorporated into a 10 CFR Part 50 license. Accordingly, this amendment meets the eligibility critria for categories exclusion

set forth in 10 CFR 51.22(c)(10)(i). Pursuant to 10 CFR 51.22(b), no

New England Executive Park, Burlington, Massachusetts 01803, and

as appropriate, will be prepared and placed in the regulatory docket

Issued in Burlington, Massachusetts on July

propeller Part Number C-3-( ) blade

Interested persons have been afforded

set forth in 10 CFR 51.22(c)(10)(i). Pursuant to 10 CFR 51.22(b), no environmental impact statement nor environment assessment need be prepared in connection with the issuance of this amendment.

(5 U.S.C. 552; Pub. L. 83–703, 68 Stat. 919 as amended by Pub. L. 85–256, 71 Stat. 576, as amended (42 U.S.C. 2210).

Dated at Bethesda, Maryland, this 22nd day of July 1985.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 85–17817 Filed 7–25–85; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–ANE–7; Amdt. 39–5097]

Airworthiness Directives: Alexander Schleicher Model ASK–21 Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective to all known U.S. owners and operators of certain Alexander Schleicher Model ASK–21 gliders by individual letters. The AD requires a one time inspection and enlargement, if necessary, of the wheel box cutout in the fuselage. The AD is needed to prevent structural damage and aileron control problems caused by interference of the wheel fairing with the wheel box cutout.

DATES: Effective July 25, 1985, to all persons except those persons to whom it was made immediately effective by Priority Letter AD No. 85–06–07, issued March 26, 1985, which contained this amendment.

Compliance required prior to next flight after the effective date of this AD, unless already accomplished.

Incorporation by Reference—Approved by the Director of the **Federal Register** on July 25, 1985.

ADDRESSES: The applicable technical note may be obtained from Alexander Schleicher, Segelflugzeugbau, D–6416 Poppenhausen, Federal Republic of Germany.

A copy of the technical note is contained in Rule Docket 85–ANE–7, in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between the hours of 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Munro Dearing, Brussels Aircraft Certification Office, AEU–100, Europe, Africa, and Middle East Office, Federal Aviation Administration, 40 American Embassy, 1000 Brussels, Belgium, telephone 513.38.30 X2710, or Terry Fahr, Boston Aircraft Certification Office, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7103.

SUPPLEMENTARY INFORMATION: On March 26, 1985, Priority Letter AD No. 85–06–07 was issued and made effective immediately to all known U.S. owners and operators of certain Alexander Schleicher Model ASK–21 gliders. The AD requires a one time inspection, and enlargement, if necessary, of the wheel box cutout in the fuselage. AD action was necessary of these gliders since the wheel box cutout in the fuselage may not have been correctly enlarged. This could cause structural damage during wheel retraction when the rear edge of the wheel fairing contracts the wheel box cutout. Also the fouled gear could loosen a rib during a hard landing and cause aileron control problems.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual priority letters issued March 26, 1985, to all known U.S. owners and operators of certain Alexander Schleicher Model ASK–21 gliders. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and [14 CFR 11.89] 49 CFR 1.47.

2. By adding the following new AD:

Alexander Schleicher: Applies to Model ASK–21 Gliders, S/Ns 21194 through 21228, certificated in all categories.

Compliance is required prior to next flight.

To prevent the main wheel fairing from (1) causing structural damage to the fuselage wheel well box cutout and (2) loosening a rib during a hard landing causing aileron control problems, accomplish the following:

Inspect the wheel box cutout in the fuselage for clearance, and modify if necessary, in accordance with Actions 1 through 5 of Alexander Schliecher ASK–21 Technical Note No. 17, dated October 1, 1984, or an FAA-approved equivalent.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, AEU–100, Europe, Africa, and Middle East Office, FAA c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30 X2710.

Alexander Schleicher ASK–21 Technical Note No. 17, dated October 1, 1984, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Alexander Schleicher, Segelflugzeugbau, D–6416 Poppenhausen, Federal Republic of Germany. This document also may be examined at the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except Federal holidays, between the hours of 8:00 a.m. and 4:30 p.m.

This amendment becomes effective July 25, 1985, to all persons except those persons to whom it was made immediately effective by Priority Letter AD No. 85–06–07, issued March 26, 1985, which contained this amendment.

Issued in Burlington, Massachusetts on July 2, 1985.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 85–17717 Filed 7–25–85; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 84–ANE–24; Amdt. 39–5098]

Airworthiness Directives; Hartzell ( )HC–( )( )(X,V) Series Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection or replacement of certain blade clamp assemblies on Hartzell ( )HC–( )( )(X,V) series propellers within the next 12 months or by the next overhaul after the effective date of this AD. The AD is needed to prevent failure of certain propeller blade clamp assemblies which could result in blade separation and severe unbalance.

DATES: *Effective*—September 27, 1985.

Compliance required within the next 12 months or by the next overhaul, after the effective date of this AD, whichever occurs first, unless already accomplished.

Incorporation by Reference—Approved by the Director of the Federal Register on September 27, 1985.

ADDRESSES: The applicable service document may be obtained from Hartzell Propeller Products Division, TRW Aircraft Components Group, 350 Washington Ave., Piqua, Ohio 45356.

A copy of the service document is contained in the Rules Docket, Office of Regional Counsel, FAA, Attn: Rules Docket No. 84–ANE–24, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Alpiser, Chicago Aircraft Certification Office, ACE–140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7130.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD requiring inspection or replacement of certain blade clamp assemblies on Hartzell ( )HC–( )( )(X,V) series propellers was published in the **Federal Register** on March 22, 1985 (50 FR 11512).

The proposal resulted from a determination that certain Hartzell propeller Part Number C–3–( ) blade clamp assemblies are susceptible to cracks in either the grease fitting hole or in the area of the inner bearing support housing radius which can result in possible blade loss. Since this condition is likely to exist or develop on other blade clamp assemblies of the same type design, the NPRM proposed inspection or replacement of certain blade clamp assemblies.

Blade clamp assemblies with serial numbers ranging from 0 through D5293, generally produced prior to 1959 and which have a grease fitting hole located approximately one-half inch from the clamp parting line, must be removed from service. Blade clamp assemblies with serial numbers ranging from D5294 through K6336, generally produced between 1959 and 1980 and having a grease fitting hole located approximately one inch from the clamp parting line, must be inspected for defects and removed from service if defects are observed. Clamp assemblies on which no serial numbers are readable or which have mismatched serial numbers on each clamp half must be removed from service.

A 5 year malfunction or defect computer run shows that there were 20 reports of blade clamp failures of which at least 3 resulted in blade separation. Hartzell Propeller has issued Service Bulletins Nos. 126B and 127B and Instruction No. 159A to address the corrective action described in this document. It is estimated that an average of 2.5 manhours per blade clamp assembly will be required to comply with this AD. The cost of a replacement blade clamp assembly is approximately $500. Therefore, the cost to replace the clamps on a two blade propeller will approximate $500 per blade X 2+$35/hr. X 5 hrs. labor=$1175 per propeller. The cost to inspect and reuse the blade clamp assemblies on a two blade propeller will approximate $35/hr. X 5 hrs. labor=$175 per propeller. It is estimated that 5000 two blade propellers will require clamp replacement making the total cost for the fleet approximately $5,875,000. Because clamp assemblies manufactured since 1959 only require inspection, it is unlikely that a fleet operator would have more than one or two propellers that require clamp replacement. Additionally, compliance with this AD is a one-time cost, and any additional cost associated with blade clamp replacement would be part of normal maintenance. Therefore, the FAA has determined that this proposed AD will not have a significant economic impact on a substantial number of small entities.

Interested persons have been afforded an opportunity to participate in the making of this amendment. The comment period closed May 21, 1985. Two comments were received:

One commenter concurred with the proposal. A second commenter recommended that the compliance time be changed from at next overhaul or by January 1, 1986, whichever occurs first, to within the next 12 months or by the next overhaul after the effective date of this AD, whichever occurs first. In response to this comment, the compliance time was changed to within the next 12 months or by the next overhaul after the effective date of this AD, whichever occurs first. This was done to accommodate logistical requirements and a determination was made by the FAA that safety would not be derogated. Therefore, this amendment will be adopted substantially as proposed with a minor change that is relieving in nature.

Conclusion

As described in **SUPPLEMENTARY INFORMATION**, the FAA has determined that this regulation is not considered to be major under Executive Order 12291, or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). I certify that this is not a "major rule" under Executive Order 12291; is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Propellers, Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and [14 CFR 11.89]; 49 CFR 1.47

2. By adding the following new AD:

Hartzell Propeller Products Division: Applies to all Hartzell Model [illegible]

DATES: Interim Rule: Effective July 26,

must be received on or before July 30,

§ 8a.1 Purpose.

Hartzell Propeller Products Division: Applies to all Hartzell Model ( )HC–( )( )(X,V) series propellers with Hartzell Part Number C–3–( ) blade clamp assemblies.

Compliance is required within the next 12 months or by the next overhaul after the effective date of this AD, whichever occurs first, unless already accomplished.

To prevent propeller blade clamp failure, accomplish the following:

(a) Replace all propeller blade clamp assemblies which have serial numbers ranging from 0 through D5293 with airworthy clamp assemblies.

(b) Replace all propeller blade clamp assemblies which have mismatching serial numbers on each clamp half or which have unreadable serial numbers with airworthy clamp assemblies.

(c) Magnetic particle inspect all blade clamp assemblies which have serial numbers ranging from D5294 through K6336 in accordance with Hartzell Service Instruction No. 159A dated May 13, 1985, or FAA approved equivalent. Replace all defective clamp assemblies with airworthy clamp assemblies.

Note.—Blade clamp assemblies with serial numbers subsequent to K6336 are not affected by this AD.

Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, Central Region.

Hartzell Service Instruction No. 159A dated May 13, 1985, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain a copy upon request to Hartzell Propeller Products Division, TRW Aircraft Components Group, 350 Washington Avenue, Piqua, Ohio 45356. This document also may be examined at the Office of Regional Counsel, FAA, Attn: Rules Docket No. 84–ANE–24, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective on September 27, 1985.

Issued in Burlington, Massachusetts, on July 5, 1985.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 85–17718 Filed 7–25–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 85–ANE–06]

Control Zone; Portsmouth, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the description of the Portsmouth, New Hampshire Control Zone so as to provide protected airspace for aircraft executing a new Nondirectional Radio Beacon (NDB) Approach to the Littlebrook Airpark, Elliot, Maine.

EFFECTIVE DATE: 0901 G.m.t., October 6, 1985.

FOR FURTHER INFORMATION CONTACT: Stanley E. Matthews, Manager, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone (617) 273–7139.

SUPPLEMENTARY INFORMATION:

History

On April 8, 1985, the FAA proposed to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Portsmouth, New Hampshire Control Zone so as to provide protected airspace for Instrument Flight Rules aircraft executing a new NDB Approach to the Littlebrook Airpark, Elliot, Maine. [50 FR 13819].

Interested parties were invited to participate in this Rulemaking Proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in this Notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations changes the description of the Portsmouth, New Hampshire Control Zone so as to provide protected airspace for Instrument Flight Rules aircraft executing a new NDB Approach to the Littlebrook Airpark, Elliot, Maine.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under this criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97–449, January 12, 1983]; [14 CFR 11.69]; 49 CFR 1.47.

2. By amending § 71.171 as follows:

Portsmouth, New Hampshire Control Zone [Amended]

"within a 5 mile radius of the Littlebrook Airpark, Elliot, ME. (Lat. 43°08'35" N., Long. 70°46'22" W.) and within 2 miles each side of the 152° True (168° Mag.) bearing of the Rollings NDB (Lat. 43°13'12" N., Long. 70°49'43" W.) extending from the 5 mile radius of Littlebrook Airpark to the Rollings NDB."

Issued in Burlington, Massachusetts, on July 15, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85–17719 Filed 7–25–85; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 8a

[Docket No. 50695–5095]

Audit Requirements for State and Local Governments

AGENCY: Department of Commerce.

ACTION: Interim final rule with request for comments.

SUMMARY: The Department of Commerce proposes to implement the requirements for auditing State and local governments as required by the Single Audit Act of 1984, Pub. L. 98–502. This regulation is meant to improve audits of Federal aid programs to State and local governments. The rule establishes audit requirements for State and local governments that receive Federal aid, and defines the Department's responsibilities for implementing and monitoring these requirements.

DATES: Interim Rule: Effective July 26, 1985; comments must be received on or before July 30, 1985.

ADDRESS: Comments may be mailed to Mr. Robert M. McNamara, Room 6018, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Robert M. McNamara, 202–377–5817; W. Dan Haigler, 202–377–0142.

SUPPLEMENTARY INFORMATION: The Department of Commerce proposes to implement the requirements for auditing State and local governments as required by the Single Audit Act of 1984, Pub. L. 98–502. The Act establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

This is not a major rule within the meaning of Section 1 Executive Order 12291. It will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because this rule relates to public property, loans, grants, benefits and contracts, it is exempt from the requirements of notice and opportunity to comment on the 30-day delayed effective date (5 U.S.C. 553(a)(2)). No other law requires that notice and opportunity for comment be given of this rule.

Accordingly, the Department's General Counsel has determined and so certified to the Office of Management and Budget, that dispensing with notice and opportunity for comment is consistent with the Administrative Procedure Act and other relevant laws.

Since notice and opportunity to comment are not required to be given for this rule under Section 553 of the Administrative Procedure Act or any other law, no initial or final Regulatory Flexibility Analysis has to be or will be prepared for purposes of the Regulatory Flexibility Act.

Although this rule is exempt from the 30-day delayed effective date and is being issued in interim form, effective upon publication in the Federal Register, public comments are invited and should be sent to the address listed in the "address" section above. Comments must be received on or before July 30, 1985, to be considered in issuing the final rule. All comments received will be shared with other Federal agencies issuing rules pursuant to the Single Audit Act of 1984.

Relationship to OMB Circular A–128: The proposed rule is identical to the Circular in substantive content. For purposes of clarity consistent with this rulemaking effort, however, terminology has been changed where applicable and the format has been changed slightly.

For instance, the words "rule" and "Department" have been substituted for "Circular" and "Federal agency(ies)," respectively, where appropriate. Substitutions of a similar nature have been made where necessary.

In addition, the attachment to the Circular listing the criteria applicable to major Federal financial assistance programs has been included in the definition section under "Major Federal Assistance Programs."

Paperwork Reduction Act: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 2507), approval for any applicable reporting and recordkeeping requirements of the Single Audit Act of 1984 and OMB Circular A–128 are being sought already by OMB from the Office of Information and Regulatory Affairs.

List of Subjects in 15 CFR Part 8a

Grants program, Grants administration, Loan programs, Intergovernmental relations.

For the reasons set out in the preamble, Part 8a is being added to 15 CFR Subtitle A to read as follows:

PART 8a—AUDIT REQUIREMENTS FOR STATE AND LOCAL GOVERNMENTS

Sec.

8a.1 Purpose.
8a.2 Background.
8a.3 Policy.
8a.4 Definitions.
8a.5 Scope of audit.
8a.6 Frequency of audit.
8a.7 Internal control and compliance reviews.
8a.8 Subrecipients.
8a.9 Relation to other audit requirements.
8a.10 Cognizant agency responsibilities.
8a.11 Illegal acts or irregularities.
8a.12 Audit report.
8a.13 Audit resolution.
8a.14 Audit workpapers and reports.
8a.15 Audit costs.
8a.16 Sanctions.
8a.17 Auditor selection.
8a.18 Small and minority audit firms.

Authority: Single Audit Act of 1984, Pub. L. 98–502, (31 U.S.C. 7501, et seq.); OMB Circular A–128, Audits of State and Local Governments.

§ 8a.1 Purpose.

Pursuant to the Single Audit Act of 1984, Pub. L. 98–502, this part established audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

§ 8a.2 Background.

The Single Audit Act builds upon earlier efforts to improve audits of Federal aid programs. The Act requires State and local governments that receive $100,000 or more a year in Federal funds to have an audit made for that year.

§ 8a.3 Policy.

The Single Audit Act requires the following:

(a) State or local governments that receive $100,000 or more a year in Federal financial assistance shall have an audit made in accordance with this rule.

(b) State or local governments that receive between $25,000 and $100,000 a year shall have an audit made in accordance with this Part, or in accordance with Federal laws and regulations governing the programs they participate in.

(c) State or local governments that receive less than $25,000 a year shall be exempt from compliance with the Act and Federal audit requirements. These State or local governments shall be governed by aduit requirements prescribed by State or local law or regulation.

(d) Nothing in this paragraph exempts State or local governments from maintaining records of financial assistance or from providing access to such records to Federal agencies, as provided in Federal law or in Circular A–102, "Uniform requirements for grants to State of local governments."

§ 8a.4 Definitions.

For the purpose of this part, the following definitions from the Single Audit Act apply:

(a) "Cognizant agency" means the Federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in paragraph 8a.10 of this rule.

(b) "Federal financial assistance" means assistance provided by the Department in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals. It includes awards received directly from the Department, or directly

through other units of State or local governments.

Total expenditures of Federal financial assistance for all programs	Major Federal assistance

accordance with statutory requirements

(b) *Compliance Review.* The Law also

(iii) The principle compliance

carry out its overall responsibilities, the

VOL 50 ISS 144 JL 26 1985 UMI

through other units of State or local governments.

(c) "Federal agency" has the same meaning as the term 'agency' in Section 551(1) of Title 5, United States Code.

(d) "Generally accepted accounting principles" has the meaning specified in the generally accepted government auditing standards.

(e) "Generally accepted government auditing standards" means the *"Standards For Audit of Government Organizations, Programs, Activities, and Functions*, developed by the Comptroller General, dated February 27, 1981.

(f) "Independent auditor" means:

(1) A State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or

(2) A public accountant who meets such independence standards.

(g) "Internal controls" means the plan of organization and methods and procedures adopted by management to ensure that:

(1) Resource use is consistent with laws, regulations, and policies;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data are obtained, maintained, and fairly disclosed in reports.

(h) "Indian Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(i) "Local government" means any unit of local government within a State, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of government, and any other instrumentality of local government.

(j) "Major Federal Assistance Program," for State or local governments having Federal assistance expenditures between $100,000 and $100,000,000, means any program for which Federal expenditures during the applicable year exceed the larger of $300,000, or 3 percent of such total expenditures.

Where total expenditures of Federal assistance exceed $100,000,000, the following criteria apply:

Total expenditures of Federal financial assistance for all programs		Major Federal assistance program means any program that exceeds
More than	But less than	
$100 million	$1 billion	$3 million.
$1 billion	$2 billion	$4 million.
$2 billion	$3 billion	$7 million.
$3 billion	$4 billion	$10 million.
$4 billion	$5 billion	$13 million.
$5 billion	$6 billion	$16 million.
$6 billion	$7 billion	$19 million.
Over $7 billion		$20 million.

(k) "Public accountants" means those individuals who meet the qualifications standards included in generally accepted government auditing standards for personnel performing government audits.

(l) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any instrumentality thereof, and any multi-State, regional or interstate entity that has governmental functions and any Indian Tribe.

(m) "Subrecipient" means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of Federal financial assistance.

§ 8a.5 Scope of audit.

The Single Audit Act provides that:

(a) The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

(b) The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives $25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

(c) Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this Part. However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of OMB Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

(d) The auditor shall determine whether:

(1) The financial statements of the government, department, agency or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(3) The organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program.

§ 8a.6 Frequency of audit.

Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987.

§ 8a.7 Internal control and compliance reviews.

The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations.

(a) *Internal Control Review.* In order to provide this assurance, the auditor must make a study and evaluation of internal control systems used in administering Federal assistance programs. The study and evaluation must be made whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the recipient's system for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

(b) *Compliance Review.* The Law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major Federal assistance program.

(1) In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.

(2) The review must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(i) In making the test of transactions, the auditor shall determine whether:

(A) the amounts reported as expenditures were for allowable services, and

(B) the records show that those who received services or benefits were eligible to receive them.

(ii) In addition to transaction testing, the auditor shall determine whether:

(A) matching requirements, levels of effort and earmarking limitations were met,

(B) Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and

(C) amounts claimed or used for matching were determined in accordance with OMB Circular A-87, "Cost principles for State and local governments," and Attachment F of OMB Circular A-102, "Uniform requirements for grants to State or local governments."

(iii) The principle compliance requirements of the largest Federal aid programs may be ascertained by referring to the *Compliance Supplement for Single Audits of State and Local Governments*, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

§ 8a.8 Subrecipients.

State or local governments that receive Federal financial assistance and provide $25,000 or more of it in a fiscal year to a subrecipient shall:

(a) Determine whether State or local subrecipients have met the audit requirements of this part and whether subrecipients covered by Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations," have met that requirement;

(b) Determine whether the subrecipient spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with this Part, OMB Circular A-110, or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

(c) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

(d) Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

(e) Require each subrecipient to permit independent auditors to have access to the records and financial statement as necessary to comply with this part.

§ 8a.9 Relation to other audit requirements.

The Single Audit Act provides that an audit made in accordance with this Part shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides the Department with information and assurance it needs to carry out its overall responsibilities, the Department shall rely upon and use such information. However, the Department shall make any additional audits which are necessary to carry out its responsibilities under Federal law and regulations. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication.

(a) The provisions of this part do not limit the authority of the Department to make, or contract for audits and evaluations of Federal financial assistance programs, nor does it limit the authority of the Inspector General or other Federal audit officials.

(b) The provisions of this Part do not authorize any State or local government or subrecipient thereof to constrain the Department, in any manner, from carrying out additional audits.

(c) The Department, when making or contracting for audits in addition to the audits made by recipients pursuant to this Part shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

§ 8a.10 Cognizant agency responsibilities.

The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this part.

(a) The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local governments and their subdivisions. Other Federal agencies may participate with an assigned cognizant agency in order to fulfill the cognizant responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

(b) A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this rule.

(2) Provide technical advice and liaison to State and local governments and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local

law enforcement and prosecuting

systems must identify the organization's

(g) Recipients of more than $100,000 in

VOL 50 ISS 144 JL 26 1985 UMI

law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in this Part. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies of repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to this rule, so that the additional audits build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

§ 8a.11 Illegal acts or irregularities.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also § 8a.12(a)(3) for the auditor's reporting responsibilities.) The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

§ 8a.12 Audit reports.

Audit reports must be prepared at the completion of the audit. Reports serve many needs of State and local governments as well as meeting the requirements of the Single Audit Act.

(a) The audit report shall state that the audit was made in accordance with the provisions of this Part. The reports shall be made up of at least:

(1) The auditor's report on financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance, showing the total expenditures for each Federal assistance program as identified in the *Catalog of Federal Domestic Assistance*. Federal programs or grants that have not been assigned a catalog number shall be identified under the caption "other Federal assistance."

(2) The auditor's report on the study and evaluation of internal control systems must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weakness identified as a result of the evaluation.

(3) The auditor's report on compliance containing:

(i) A statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

(ii) Negative assurance on those items not tested;

(iii) A summary of all instances of noncompliance; and

(iv) An indentification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

(b) The three parts of the audit report may be bound into a single report, or presented at the same time as separate documents.

(c) All fraud abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with § 8a.12(f).

(d) In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

(e) The reports shall be made available by the State or local government for public inspection within 30 days after the completion of the audit.

(f) In accordance with generally accepted government audit standards, report shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Subrecipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent within 30 days after the end of the audit period unless a longer period is agreed to with the cognizant agency.

(g) Recipients of more than $100,000 in Federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and followup with State or local governments that have not submitted required audit reports.

(h) Recipients shall keep audit reports on file for three years from the date of their issuance.

§ 8a.13 Audit resolution.

(a) As provided in § 8a.10, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

(b) Resolution shall be made within six months after receipt of the report by Federal departments and agencies. Corrective action should proceed as rapidly as possible.

§ 8a.14 Audit workpapers and reports.

Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

§ 8a.15 Audit costs.

The cost of audits made in accordance with the provisions of this Part are allowable charges to Federal assistance programs.

(a) The charges may be considered a direct cost of an allocated indirect cost, determined in accordance with the provisions of OMB Circular A-87, "Cost Principles for State and local governments."

(b) Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost.

§ 8a.16 Sanctions.

The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with this part. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropriate sanctions including:

(a) Withholding a percentage of assistance payments until the audit is completed satisfactorily,

(b) Withholding or disallowing overhead costs, and

(c) Suspending the Federal assistance agreement until the audit is made.

§ 8a.17 Auditor selection.

In arranging for audit services State and local governments shall follow the procurement standards prescribed by Attachment O of OMB Circular A-102, "Uniform requirements for grants to State and local governments." The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence.

§ 8a.18 Small and minority audit firms.

Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Part. Recipients of Federal assistance shall take the following steps to further this goal:

(a) Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

(b) Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

(c) Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

(d) Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

(e) Encourage contracting with consortiums of small audit firms as described in paragraph (a) of this section when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

(f) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

Dated: July 19, 1985.

Sonya Stewart,

Director, Office of Finance and Federal Assistance.

[FR Doc. 85-17805 Filed 7-25-85; 8:45 am]

BILLING CODE 3610-FE-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 899

Waiver Authority

CFR Correction

In Title 24 of the Code of Federal Regulations, Parts 700 to 1699, revised as of April 1, 1985, Part 899 was inadvertently omitted. The omitted text, as it should have appeared, is set forth below.

PART 899—WAIVER AUTHORITY

§ 899.101 Waivers.

(a) *Basic Provision.* Upon determination of good cause, the Secretary of Housing and Urban Development may, subject to statutory limitations, waive any provision of this chapter. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

(b) *Reservation of authority by the Secretary.* The authority under subsection A is reserved to the Secretary and no delegation of this waiver authority shall be effective unless executed subsequent to the June publication date.

(Sec. 201(b), Housing and Community Development Act of 1974 (42 U.S.C. 1437); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

[41 FR 22814, June 7, 1976, as amended at 49 FR 6715, Feb. 23, 1984]

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS-62044; FRL 2848-9]

Asbestos Abatement Projects

Correction

In FR Doc. 85-16089 beginning on page 28530 in the issue of Friday, July 12, 1985, make the following correction:

On page 28540, second column, in § 763.124(a), sixth line, insert the following after the word "asbestos": "abatement project using employees not covered by the OSHA asbestos"

BILLING CODE 1505-01-M

40 CFR Part 799

[OPTS-42034B; TSH-FRL 2815-4]

Identification of Specific Chemical Substance and Mixture Testing Requirements; Ethylbenzenes, Trimethylbenzenes, and the C9 Aromatic Hydrocarbon Fraction

Correction

In FR Doc. 85-11590 beginning on page 20662 in the issue of Friday, May 17, 1985, make the following corrections: On page 20675, in the table, in the first column, under NTIS publication No., in the first entry, "PB 83" should read "PB 82"; and in the third entry "PB 83" should read "PB 84"

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Determine Astragalus Humillimus To Be Endangered

Correction

In FR Doc 85-15390, beginning on page 26568, in the issue of Thursday, June 27, 1985, make the following correction: On page 26572 in the table contained in § 17.12(h), the scientific name under the family Fabaceae is corrected to read "Astragalus humillimus".

BILLING CODE 1505-01-M

50 CFR Part 20

final rulemaking is the fourth in a series

need for better survey information

implemented Yukon-Kuskokwim Delta

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VOL
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50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Selecting Open Season Dates for Hunting Migratory Game Birds in Alaska, Puerto Rico and the Virgin Islands for the 1985–86 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e. the outside limits for dates and times when shooting may begin and end, and the number of birds that may be taken and possessed) from which wildlife conservation agency officials in Alaska, Puerto Rico and the Virgin Islands may select season dates for hunting certain migratory birds during the 1985–86 season. Selected season dates will then be transmitted to the U.S. Fish and Wildlife Service (hereinafter the Service) for publication in the **Federal Register** as amendments to §§ 20.101 and 20.102 of 50 CFR Part 20.

DATES: Effective on July 26, 1985. Season selections due from Alaska, Puerto Rico and the Virgin Islands by July 26, 1985.

ADDRESS: Season selections from Alaska, Puerto Rico and the Virgin Islands are to be mailed to: Director (FWS/MBMO), Rm 3252 U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Public documents may be inspected in the Service's Office of Migratory Bird Management, Room 536, Matomic Building, 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. (202 254–3207).

SUPPLEMENTARY INFORMATION: On March 14, 1985, the Service published for public comment in the **Federal Register** (50 FR 10276) a proposal to amend 50 CFR 20, with a comment period ending June 20, 1985. That document dealt with the establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K of 50 CFR Part 20, including frameworks for Alaska, Puerto Rico and the Virgin Islands. A supplemental proposed rulemaking appeared in the **Federal Register** on June 4, 1985 (50 FR 23459) and another on July 5, 1985 (50 FR 27638). The July 5 document contained no information relevant to Alaska, Puerto Rico and the Virgin Islands. This final rulemaking is the fourth in a series of proposed and final rulemaking documents for migratory bird hunting regulations and deals specifically with final frameworks for the 1985–86 season from which wildlife conservation agency officials in Alaska, Puerto Rico and the Virgin Islands may select season dates for hunting certain migratory game birds. These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Public Hearing

A public hearing was held in Washington, D.C., on June 20, 1985, as announced in the **Federal Register** dated March 14, 1985 (50 FR 10276). The public was invited to participate in the hearing and/or submit written statements.

Presentations at Public Hearing

Dr. James C. Bartonek, Pacific Flyway Representative, described measures taken by the Service to restore numbers of five populations of geese that nest in Alaska and have undergone recent declines. Significant restrictions on the sport harvest were initiated in 1984 and additional measures will be required for some populations this season. The Yukon-Kuskokwim Delta Goose Management Plan provides for monitoring, verification, and enforcement of harvest restrictions by subsistence hunters and addresses harvest problems while the birds are on their summering grounds. Preliminary reports on breeding conditions for all five kinds of geese sugggest poor production in Alaska with a possibility of a poor fall flight similar to that of last year.

Comments Received at Public Hearing

Ms. Jennifer Lewis, representing the Humane Society of the United States (HSUS) and the World Society for the Protection of Animals (WSPA), reviewed the concerns expressed last year, in regard to Puerto Rico, about hunting harvest kill of columbids and waterfowl, lack of data on both hunted and nonhunted species, and limited law enforcement efforts to protect resident and migrant species. She commended the Service for taking steps to close the season in 1984 on the Caribbean and American coot (to protect Caribbean coots) and for a meeting held with Puerto Rico Department of Natural Resources (DNR) personnel to review past and current biological studies, hunting problems, and the population status of columbids and waterfowl. Ms. Lewis noted more work is needed in 1985 and future years and stressed the need for: better survey information, long-term breeding biology studies of both hunted and nonhunted species, hunter surveys and banding studies, increased habitat acquisition, and improved law enforecement. She asserted that given the serious lack of data and the low populations of resident species, there is no justification for a split waterfowl season and recommended the Service close the season on columbids and waterfowl to allow time for needed studies and to eliminate further risk of reducing populations. She noted environmental assessments need be prepared on these (resident) species.

Response. In response to Ms. Lewis' recommendation for a closed season on columbids and waterfowl, the Service notes the hunting regulations proposed for Puerto Rico contain restrictive measures including closed seasons on selected species and areas that are closed to hunting to protect certain columbids, waterfowl and the Puerto Rican parrot. There is no information to indicate that any species in Puerto Rico is being adversely affected by the split waterfowl hunting season or dove and pigeon hunting season offered. Population and harvest surveys, breeding studies of certain resident species, and enforcement of hunting regulations are currently used to appraise and direct management programs. The Service is presently working cooperatively with Puerto Rico DNR personnel to further these programs. The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" addresses the general question of sport hunting of migratory birds in the United States (including Puerto Rico). In view of the FES, the protection afforded by closed seasons and closed areas and the current management efforts underway, the Service does not agree environmental assessments are needed or required.

Dr. Albert M. Manville, II, representing Defenders of Wildlife, recommended that restrictions be taken in Alaska to further reduce harvest of five goose populations that have been declining. Additionally, he recommended that those geese be protected during their reproductive period from disturbances by man.

Response. Pending information on this year's production of those species of geese that nest in Alaska and that have been declining in numbers, additional restrictive measures are likely to be taken for some, but not all, geese. The Service believes that the recently implemented Yukon-Kuskokwim Delta Goose Management Plan addresses the concerns of Dr. Manville about providing better protection to those geese nesting and summering on the Yukon-Kuskokwim Delta.

Mr. John M. Anderson, representing the National Audubon Society, expressed support for the recently developed Yukon-Kuskokwim Delta Goose Managment Plan.

Written Comments Received

Interested persons were given until June 20, 1985, to comment on the March 14 proposed rulemaking. They were also invited to participate in the June 20 public hearing. Since responding to comments in June 4, 1984, **Federal Register** (50 FR 23459), no additional comments were received on the proposed regulations frameworks for Alaska, Puerto Rico, and the Virgin Islands.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act." and ". . . by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered and threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical."

The Service initiated section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 18, 1985, Mr. Conrad A. Fjetland, Acting Chief, Office of Endangered Species, gave a biological opinion that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. Examples of such consideration include closures of designated areas in Puerto Rico for the Plain pigeon (*Columba inornota wetmorei*) and the Puerto Rican parrot (*Amazona vittata*), and in Alaska for the Aleutian Canada goose (*Branta canadensis leucoporeia*).

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated March 14, 1985, (at 50 FR 10282) the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Memorandum of Law

In the **Federal Register** dated March 14, 1985, (at 50 FR 10282), the Service stated that it planned to publish its Memorandum of Law for the 1985–86 migratory bird hunting regulations with its first final rulemaking.

Memorandum of Law. Section 4 of Executive Order 12291 requires that certain determinations be made before any final major rule may be approved. Section 4(a) specifies that the regulation must be clearly within the authority of law and consistent with congressional intent, and that a memorandum of law be provided to support that determination. Also, the agency must state that the factual conclusions upon which the law is based have substantial support in the agency record and that full attention has been given to public comments in general, and to comments of persons directly affected by the rule in particular.

The development of the annual migratory bird hunting regulations is provided for under section 3 of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711). Such regulations have been promulgated annually since 1918. They appear in 50 CFR Part 20, Subpart K. Congressional support for the development of these rules and ancillary activities involved in their development are reflected in the U.S. Fish and Wildlife Service's budget. Among these activities are biological surveys, hunter activity and harvest surveys, research investigations, law enforcement, and administrative costs associated with the development and publication of the proposed and final rules. Many other Service activities, such as the acquisition and management of habitats for migratory birds, indirectly assist in maintaining the migratory bird resource at levels which allow reasonable sport hunting harvest.

In developing its annual hunting rules for 1985–86, the Service has published three proposed rules for public comment and conducted one public hearing to facilitate public input into the rulemaking process. Five additional proposed and final rulemakings, and another public hearing, are included in the remaining schedule for establishing the annual hunting regulations for 1985–86. Dozens of public comments summarized and responded to in **Federal Registers** listed in the preamble of this document describe the Service's consideration of the impacts of its proposed rules on the public. Many of these comments originated from affected State conservation agencies, while others were submitted by the affected public. In general, the comments strongly supported the Service's initial or supplementary regulatory proposals. Comments which do not support proposed Service action have been adequately addressed. Additional public comments are invited and will be addressed in subsequent **Federal Register** documents. The complete administrative record, including copies of public comments, is available for inspection at the Office of Migratory Bird Management.

Consequently, the Department has determined that is has fulfilled requirements of section 4 of Executive Order 12291 and the Migratory Bird Treaty Act in developing the 1985–86 migratory bird hunting regulations which are adequately supported by the Service's records.

Regulations Promulgation

Final Regulations Frameworks for Selecting Open Season Dates for

Outside Dates: Puerto Rico may select

endangered species under the

VOL 50 ISS 144 JL 26 1985 UMI

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemaking was published March 14, 1985, the Service established what it believed was the longest period possible for public comment. In doing this, the Service recognized that at the period's close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the governments of Alaska, Puerto Rico, and the Virgin Islands would have insufficient time to select their season dates, shooting hours, and limits; to communicate those selections to the Service; and finally establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service, under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and special closures, from which officials of the Alaska Department of Fish and Game, Puerto Rico Department of Natural Resources, and the Virgin Islands Department of Conservation and Cultural Affairs may select open season dates. Upon receipt of season selections from Alaska, Puerto Rico and Virgin Islands officials, the Service will publish in the **Federal Register** final rulemaking amending 50 CFR 20.101 and 20.102 to reflect seasons, limits, and shooting hours for these areas for the 1985–86 season.

The Service therefore finds that "good cause" exists, within the terms of 5, U.S.C. 553(d)(3) of the Administrative Procedure Act and these frameworks will, therefore, take effect immediately upon publication.

Authorship

The primary author of this final rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Final Regulations Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1985–1986

Outside Dates: Between September 1, 1985, and January 26, 1986, Alaska may select seasons on waterfowl, snipe and cranes, subject to the following limitations:

Shooting hours: One-half hour before sunrise to sunset daily.

Hunting seasons:

Ducks, geese and brant—107 consecutive days in each of the following: North Zone (State Game Management Units 11–13 and 17–26); Gulf Coast Zone (State Game Management Units 5–7, 9, 14–16, and 10—Unimak Island only); Southeast Zone (State Game Management Units 1–4); Pribilof and Aleutian Islands Zone (State Game Management Unit 10—except Unimak Island); Kodiak Zone (State Game Management Unit 8). The season may be split without penalty in the Kodiak Zone. *Exception:* The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

Snipe and sandhill cranes—An open season concurrent with the duck season.

Daily Bag and Possession Limits:

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be greater white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily bag limit of 4 and a possession limit of 8 Emperor geese.

Brant—A daily bag limit of 4 and a possession limit of 8.

Common snipe—A daily bag limit of 8 and a possession limit of 16.

Sandhill cranes—A daily bag limit of 3 and a possession limit of 6.

Final Regulations Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1985–86

Shooting hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons:

Outside Dates: Puerto Rico may select hunting seasons between September 1, 1985, and January 15, 1986, as follows:

Hunting Seasons: Not more than 60 days for Zenaida, mourning, and white-winged doves, and scaly-naped pigeons.

Daily Bag and Possession Limits: Not to exceed 10 doves of the species named herein, singly or in the aggregate, and not to exceed 5 scaly-naped pigeons.

Closed Areas:

Municipality of Culebra and Desecheo Island—closed under Commonwealth regulations.

Mona Island—closed in order to protect the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as "Paloma cabeciblanca."

El Verde Closure Area—consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. The purpose of this closure is to afford protection to the Puerto Rican parrot (*Amazona vittata*) presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Areas consisting of all of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, sougth on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Plain pigeon (*Columba inornata wetmorei*), locally known as "Paloma Sabanera," which is present in the above locale in small numbers and is presently listed as an endangered species under the Endangered Species Act of 1973.

Common Ground dove (*Columbina passerina*)—stone dove, tobacco dove, rola, tortolita (protected).

Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

Ducks

Outside Dates: Between December 1, 1985, and January 31, 1986, the Virgin Islands may select a duck hunting season as follows.

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks.

Daily Bag and Possession Limits: Not to exceed 4 daily and 8 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the White-cheeked pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*), which are protected by the Commonwealth of Puerto Rico.

Common moorhens—Not to exceed 6 daily and 12 in possession; the season is closed on purple gallinules (*Porphyrula martinica*).

Common snipe—Not to exceed 6 daily and 12 in possession.

Coots—There is no open season on coots, i.e. common coots (*Fulica americana*) and Caribbean coots (*Fulica caribaea*).

Closed Areas: No open season for ducks, common moorhens, and common snipe is prescribed in the Municipality of Culebra and on Desecheo Island.

Final Regulations Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in the Virgin Islands, 1985–86

Shooting Hours: Between one-half hour before sunrise and sunset daily.

Doves and Pigeons

Outside Dates: The Virgin Islands may select hunting seasons between September 1, 1985, and January 15, 1986, as follows.

Hunting Seasons: Not more than 60 days for Zenaida doves and scaly-naped pigeons throughout the Virgin Islands.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves and 5 scaly-naped pigeons.

Closed Seasons: No open season is prescribed for ground or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain Birds

Zenaida dove (*Zenaida aurita*)—mountain dove.

Bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected).

Dated: July 12, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–17731 Filed 7–25–85; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

[Docket No. 50694–5094]

High Seas Salmon Fishery Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial salmon fishing season in the fishery conservation zone (FCZ) off Southeast Alaska for chinook salmon and prohibits commercial fishing for all salmon in a small area of the FCZ. This action is necessary to conserve the chinook salmon stocks that contribute to the Alaska, British Columbia, Washington, Oregon, and Idaho salmon fisheries. The intent of this action is to ensure that the harvest of chinook salmon does not exceed the limit imposed by the Pacific Salmon Treaty. This action complements similar actions on the commercial troll fishery in waters managed by the State of Alaska.

DATES: This notice is effective at 0001 hours Alaska Daylight time (ADT), July 23, 1985, and will expire at 2400 hours ADT, September 20, 1985. Public comments are invited until August 23, 1985.

ADDRESSES: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the 30-day public comment period, the data upon which this notice is based will be available for public inspection from 0800 to 1630 hours ADT Monday through Friday at the NMFS Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Aven M. Andersen (Fishery Management Biologist, NMFS), 907–586–7229.

SUPPLEMENTARY INFORMATION: This notice implements a provision of the regulations implementing the Pacific Salmon Treaty and the Fishery Management Plan for the High Seas Salmon Fishery (FMP). The FMP was developed and amended by the North Pacific Fishery Management Council. The regulations (50 CFR Part 674) govern the salmon fisheries in the FCZ off the coast of Alaska east of 175° east longitude. They were issued under section 7(a) of Pub. L. 99–5, the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 *et seq.*), and section 305 of the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 et seq.).

Chapter 3 of Annex IV of the Pacific Salmon Treaty limited the 1985 harvest by all fisheries in southeast Alaska to 283,000 chinook salmon. On June 18, 1985, NMFS issued a final rule to announce that limit and set fishing periods for the 1985 commercial troll fishery in the FCZ (50 FR 25247).

Section 674.23 of the regulations provides that the Secretary may modify the fishing periods and areas by publishing a notice in the **Federal Register**. Any such modification must be based on a determination by the Director of the Alaska Region of NMFS (Regional Director) that (a) the condition of the salmon species is "substantially different from the condition anticipated in the FMP" and (b) this difference requires a modification of the fishing times and areas to adequately conserve that salmon species. The regulations also specify the factors the Regional Director may consider. The regulations also specify that the Secretary must consult with the Alaska Department of Fish and Game before he makes his modifications.

In view of these requirements, the Regional Director (acting on behalf of the Secretary) has consulted with the

Proposed Rules

VOL 50 ISS 144 JL 26 1985 UMI

Alaska Department of Fish and Game (ADF and G). Also, he has reviewed the information on the 1985 salmon fishery to date, has determined that the chinook stocks in 1985 are substantially depressed from the condition anticipated in the FMP, and has determined that this difference in stock condition requires that the commercial troll salmon fishery in the FCZ be stopped from harvesting chinook salmon after midnight on July 22, 1985. Finally, he has determined that to keep the incidental hooking and release of chinook to as low a level as practicable during the fishery for other salmon, it is necessary to close one small area of the FCZ to all commercial salmon fishing.

Counts, estimates, and forecasts of harvested chinook salmon by ADF & G show that the commercial salmon troll fishery will have harvested 111,300 chinook salmon through July 22, 1985; that number includes 23,000 taken in the winter troll fishery (October 1, 1984, to April 15, 1985). In addition, the commercial net fisheries in southeast Alaska are expected to harvest about 20,000 chinook and the sport fisheries, about 22,000. Combined, these predictions total 241,300 chinook, or 21,700 less than the limit of 263,000 imposed by the Pacific Salmon Treaty. After the actual harvests have been tabulated, if the total falls considerably short of the limit, the troll fishery will be allowed to harvest the remainder before the troll season closes on September 20, 1985.

Because a substantial number of chinook salmon will be caught and released when fishermen harvest the other species of salmon and because a high proportion of the released chinook will die, the Regional Director and ADF & G decided to close certain areas known to have high concentrations of chinook salmon to all commercial salmon fishing. This decision supports a provision of the chinook annex of the Pacific Salmon Treaty (Annex IV, chapter 3, paragraph 1(e)) that both nations shall ensure that they minimize all sources of induced fishing mortality of chinook in 1985.

The entire area of the FCZ is closed to commercial fishing for chinook salmon. In addition, the area known as the Outer Fairweather Grounds is closed to commercial fishing for *all* salmon species. This area is roughly rectangular and is bounded on the northwest by Loran C line 7960–Y–29800, on the southeast by Loran C line 7960–Y–29150, on the northeast by Loran C line 7960–X–14560, and on the southwest by Loran C line 7960–X–14400, as shown on NOAA chart #16016. We are using these Loran C lines as boundaries at the request of the fishermen. This closed area is also defined by lines connecting the following points:

58°46.7′ N. lat., 138°54.5′ W. long.
58°15.9′ N. lat., 137°21.5′ W. long.
57°50.0′ N. lat., 138°19.5′ W. long.
58°24.5′ N. lat., 139°48.8′ W. long.; and
58°46.7′ N. lat., 138°54.5′ W. long.

The closures will become effective after this notice has been filed for public inspection with the Office of the Federal Register and has been publicized for 48 hours through procedures of ADF & G as prescribed under § 674.23(b)(2).

Section 674.23(b)(3) requires the Secretary to accept and consider public comments for 30 days after the effective date of notices like this one, which did not provide an opportunity for the public to comment before it became effective. The aggregated data upon which these closure are based are available for public inspection at the address given above. If comments are received, the Secretary will reconsider the necessity of the action and will publish another notice in the **Federal Register** either confirming this notice's continued effect, modifying it, or rescinding it, unless the notice has already expired.

Classification

This action is exempt from the requirements of Administrative Procedure Act, the Regulatory Flexibility Act, and Executive Order 12291 because, as is expressly provided in section 7(a) of Pub. L. 99–5, it involves a foreign affairs function. It contains no requirement for collecting information for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 674

Fisheries, Fishing, Reporting and recordkeeping requirements.

(16 U.S.C. 3631 *et seq.*; 16 U.S.C. 1801 et seq.)

Dated: July 23, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 85–17827 Filed 7–23–85; 4:58 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 50, No. 144
Friday, July 26, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Fresh Tomatoes

Correction

In FR Doc. 85–17542 beginning on page 30199 in the issue of Wednesday, July 24, 1985, make the following correction:

On page 30199, third column, in § 51.1859, in the table, under "Inches—Maximum diameter" in the fourth entry, "$32^{1}\!/_{32}$" should read "$3^{1}\!/_{32}$".

BILLING CODE 1505–01–M

Farmers Home Administration

7 CFR Part 1944

Housing Preservation Grant Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) is publishing for public comment proposed regulations for the Housing Preservation Grant (HPG) program authorized by Section 533 of the Housing Act of 1949, as amended by section 522 of Title V of the Housing Urban-Rural Recovery Act of 1983 (Pub. L. 98–181).

The HPG program is intended to provide rehabilitated and repaired homeownership and rental units for low- and very low-income families in rural areas. Grants are to be made to nonprofit and public entities to establish and operate a rehabilitation and repair program The grant funds provided will reduce the construction costs to homeowners or rental unit owners, thereby making units affordable and available to very low- and low-income families. Cost reduction may be achieved by a variety of financial assistance mechanisms, including deferred payment loans, interest reduction on private lending, low interest direct loans, direct grants, etc., based on need of the recipient, cost of repair and rehabilitation, and repayment ability.

This action is needed to implement the HPG program as mandated by Congress for the homeowner aspect of the HPG program. FmHA intends to implement the rental repair and rehabilitation portion of HPG after gaining experience with this initial phase of the program.

DATES: Comments must be received on or before September 24, 1985.

ADDRESSES: Submit written comments in duplicate to: Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, 14th and Independence Avenue SW., Washington, D.C. 20250. All written comments will be available for public inspection during regular work hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under §3504(*h*) of the Paperwork Reduction Act of 1980. Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: John H. Pentecost, Senior Loan Officer, Multi-Family Housing Processing Division, FmHA, USDA, Room 5341 South Agriculture Building, Washington, D.C. 20250; Telephone: (202) 382–8963 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be "nonmajor" because there will not be an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not create any significant recordkeeping and reporting burdens or substantially increase costs to the Government and the public. The impact on proposed budget levels is dependent upon funding levels provided by Congress. Congress has provided a total of $20 million for the program through September 30, 1985.

The FmHA programs and projects which are affected by this instruction will be subject to intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities," (available in any FmHA office).

The Housing Preservation Grant Program does not have a Catalog of Federal Domestic Assistance number at this time. The number will be published in the final rule.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, Environmental Program. It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an environmental impact statement is not required.

Dwight O. Calhoun, Acting Associate Administrator, has determined that the proposed action will not have a significant impact on a substantial number of small entities because the relatively narrow scope of the program and the limited amount of current funds available which will restrict the number of applicants eligible to participate in the program. FmHA anticipates funding for FY 1985 to provide resources for less than 100 grantees in the program nationwide.

Alternatives for Implementation

FmHA considers the Housing Preservation Grant (HPG) program to be basically composed of two parts: (1) A single-family homeowner repair and rehabilitation program similar to FmHA Sections 502 and 504 programs in intent, except operated by a public or nonprofit entity; and (2) a multi-family repair and rehabilitation program where the grantee may provide loan or grant assistance to rental unit owners for up to 75 percent of the project's costs. The latter aspect of HPG is similar to the

Rental Rehabilitation program, operated by the Department of Housing and

year compliance period with the rental

end-recipients (i.e. the very low and low

program provides administrative

rehabilitation work, such work shall be

International, Inc.; and supplemented by

VOL 50 ISS 144 JL 26 1985 UMI

Rental Rehabilitation program, operated by the Department of Housing and Urban Development (HUD) as a demonstration program for 2 years and implemented on April 20, 1984.

FmHA has considered three options for implementing the HPG program:

A. Implement a comprehensive homeowner and rental repair program.

B. Implement a homeowner repair program, holding the rental program implementation until FmHA has developed the rehabilitation standards for Section 515, Rural Rental Housing.

C. Implement the homeowner repair program, permitting rental repair on a case-by-case basis.

FmHA has selected option B as the quickest aspect of the program to implement. Program regulations are similar to the mutual self-help and the technical and supervisory assistance programs which are familiar to the Agency's field staff. The rental program will be developed consistent with the Agency's quality and performance criteria for moderate rehabilitation when additional HPG resources become available. Since no tenant subsidies are available through FmHA for the program and HUD's rental rehabilitation program includes tenant subsidies for project feasibility to service low- and very low-income families, FmHA will coordinate with HUD to receive setasides from its voucher program when implementing the rental portion of HPG.

Respondents to the proposed rule are asked to provide FmHA information on the following areas to assist in developing the procedures for rental rehabilitation. The law provides specific requirements on this aspect of the program which control both applicants/grantees and FmHA in its administration. Respondents are encouraged to address the following questions:

1. What demand is there for a federal rental and/or cooperative housing rehabilitation program? What size rental/cooperative properties would best be served by the HPG program? What is the average unit cost for such rehabilitation?

2. Section 533(b)(4) speaks of "comparable assistance . . . designed to reduce the costs of such repair and rehabilitation." FmHA does not interpret this provision to include tenant subsidies along the line of HUD's Section 8 of FmHA's rental assistance program. What "comparable assistance" for rental projects is appropriate which will make rental costs affordable for very low- and low-income persons?

3. Section 533(e)(1)(A) requires an owner of rental or cooperative housing to enter into an agreement to assure a 5-year compliance period with the rental provisions of the law. FmHA proposes to use a certification or delegation of responsibility to the grantee to accomplish this. Respondents are asked to comment on this requirement and provide FmHA with samples of certification or delegations that might be used for this purpose. Are there other alternatives available?

4. The provisions of section 533(e)(1)(B)(i) appears to permit refinancing of rental property. FmHA intends not to permit refinancing or restructing of debt on rental properties unless the property is in need of substantial rehabilitation. With the limited funding available, is this a feasible approach or is it too limiting for potential rental property owners striving to keep rental units available for low- and very-low income persons?

5. HUD's approach to rental rehabilitation provides for a tenant subsidy through Section 8 or housing vouchers as well as lower debt service with a construction subsidy. FmHA's HPG program links with HUD for voucher payments under section 533(a) only for displacees. What non-federal tenant subsidies are available to potential grantees to maintain unit affordability for very-low and low income persons?

Need for Government Action and FmHA's Objectives

FmHA is implementing the HPG program at this time pursuant to the recently passed legislation and because funds have been appropriated in the amount of $20 million for use through September 30, 1985. The HPG program provides an opportunity to expand the rate of upgrading rural housing conditions by using local public agencies and private nonprofit organizations to run rehabilitation programs. Instead of FmHA administering such a program for individual very low and low-income families, the HPG grantee is primarily responsible for the selection, funding and inspection process. The HPG program has been designed to have sufficient flexibility to adapt to local conditions and rehabilitation needs, without sacrificing overall quality of the end product: the decent and affordable home for a person or family with limited resources.

The Agency's objective in implementing the HPG program is to establish a grant making process that results in the selection of grantees most capable of assisting very-low and low-income families rehabilitate and repair their homes. The proposed rule establishes the framework of eligible end-recipients (i.e. the very low and low income homeowners), permitted rehabilitation and administration activities, and the process for selection. The rule also outlines the process for allocation of funds, transfer of funds to grantees and monitoring of fund use and grantee activities. The proposed grant agreement is also published.

FmHA desires public comment on the proposed rule and requests respondents to address these additional questions:

1. What is the minimum level of HPG funds necessary to initiate and operate a feasible HPG Homeowner program for one year? For two years?

2. What is a reasonable time table for applicant submission, including HPG program development and public comment, and if selected, what start-up time is needed?

Responses to these questions will assist FmHA in fund allocation and in preparing FmHA field staff to administer the program.

Background Information

Section 522 of the Housing Urban-Rural Recovery Act of 1983 (Pub. L. 98-181) amended the Housing Act of 1949 by adding section 533, Housing Preservation Grants. Reviewers of the proposed rule are encouraged to read the law as they prepare comments on the rule since the law is detailed and prescriptive. FmHA has developed the HPG regulations in accordance with the provisions of the law, providing supplementary guidance where necessary. The Agency's intent is to initiate a straight-forward repair and rehabilitation program for homeowners, moving with the more complex area of rental rehabilitation at a later time. The Agency expects applicants to present feasible approaches to homeowner rehabilitation, and has left sufficient flexibility for applicants to adapt HPG to meet the needs of their communities, credit availability and leveraging potential. Critical sections of the proposed rule are discussed in the following sections:

General Policies

As stated in the law, the purpose of the program is to provide assistance to very-low and low-income families for repair and rehabilitation of their living units. This is to be done through a third party, or grantee, which will administer the HPG program. The grantee must set up a local financial assistance program for homeowners to meet the costs of repair and rehabilitation work and a process to assure that such work is properly performed and then to report accomplishments to FmHA. The program provides administrative resources up to 20 percent of the total grant to defray the direct and indirect costs associated with the grantee's operation of the HPG program.

The policies also reflect FmHA intention to encourage leveraging of other resources to complement limited HPG funds and to use the program in more rural areas. FmHA will select cost effective approaches to the HPG program and provides as much latitude as possible for grantees in designing their program with the intent of serving the most number of very-low and low-income families.

Definitions

"Adequate housing." Section 533(b)(6) provides that HPG funds be used to "raise health and safety conditions to meet those specified in section 509(a)." The same law that created HPG amended section 509(a) to require the agency to accept locally adopted voluntary national building codes as well as minimum property standards (MPS). Accordingly, HPG assisted units must meet a rigorous rehabilitation standard by having all repair work brought up to local codes and meet FmHA thermal standards. FmHA is currently revising its regulation on MPS and codes to comply with the provisions of section 509(a); those revisions should be in effect to coincide with the publication of the final HPG regulations.

"Applicant or grantee" and "organization." Section 533(a) provides that eligible grantees include "private nonprofit organizations, Indian tribes, general units of local government, counties, States, and consortium of other eligible grantees." FmHA has defined each grantee type, including a definition for a "consortium." This term is new to FmHA as is the concept of how such an entity would operate an HPG program. In this regard, FmHA proposes to simplify its relationship with such a group by limiting the Agency's contact to either one designated member of the consortium or an agreed upon third party. The regulation uses the example of a council of governments. FmHA perceives the designated member to function on behalf of the grantee and not as a conduit for HPG resources to each of the other members.

"Housing preservation" this generic term is defined as those repair and rehabilitation activities necessary to remove essential health and safety hazards as well as improve the living environment. It is not intended to be interpreted in the "historic preservation" sense of restoration to original, but upgraded, condition. However, if historic properties are selected for rehabilitation work, such work shall be completed in a manner that supports national historic preservation objectives.

Applicant Eligibility and Authorized Representative

FmHA has listed the characteristics and capabilities it requires of applicants and the Agency expects to have the applicant designate a representative for consistent coordination with FmHA. Such representatives must be a member of the entity operating the repair/rehabilitation program and cannot be a contractor or developer who would benefit from the grant award. For example, a nonprofit organization may be an authorized representative for a county government but may not then become a recipient of funds, either directly or indirectly after the grant award.

Homeowner Eligibility

FmHA has provided the broadest possible interpretation of "homeowner" in order to encompass a variety of ownership conditions of potential recipients. As presented, it is the grantee's responsibility to assure and document homeownership as part of its responsibilities in administering the HPG program. Respondents are invited to identify other forms of homeownership that meet the intent of the program.

Repair and Rehabilitation Activities

As discussed above, all repair and rehabilitation activities must meet locally adopted building codes, FmHA Thermal Standards and FmHA Development Standards. Development standards are considered to be any of the following codes and standards:

1. *Standards prescribed by FmHA for each State.*

2. *Voluntary national model building codes* (model codes). Nationally recognized codes which address the health and safety aspects of buildings and related structures. They include:

(A) CABO One and Two family Dwelling Code, published by the Council of American Building Officials; supplemented by the Electrical Code for One and Two Family Dwellings, NFPA 70A, published by the National Fire Protection Association.

(B) BOCA Basic/National Building Code, published by the Building Officials and Code Administrators International, Inc.

(C) Standard Building Code, supplemented by the Standard Mechanical Code and Standard Plumbing Code, all published by the Southern Building Code Congress International, Inc.; and supplemented by the National Electrical Code, published by the National Fire Protection Association.

(D) Uniform Building Code, supplemented by the Uniform Mechanical Code and Uniform Plumbing Code, all published by the National Electrical Code, International Conference of Building Officials; and supplemented by the National Electrical Code, published by the National Fire Protection Association.

3. *Minimum Property Standards (MPS).* The Department of Housing and Urban Development (HUD) Minimum Property Standards (MPS), they include:

(A) MPS for One and Two Family Dwellings, HUD Handbook 4900.1 [24 CFR Part 200, Subpart S, § 200.929(b)(1)].

(B) MPS for Multi-family Housing, HUD Handbook 4910.1 [24 CFR Part 200, Subpart S, § 200.929(b)(2)].

The applicant is reponsible for identifying the development standard it will use and may not mix code standards except for historic properties. As discussed above, FmHA will be publishing as a separate document its implementation of section 509(a) of the Housing Act of 1949, from which this requirement stems.

In addition, all units assisted under HPG must meet FmHA thermal standards in Exhibit D of Subpart A of Part 1924 of this chapter.

The proposed regulations then proceed to list major repair activities that may be undertaken as well as those which may be undertaken if done in conjunction with the major activities. The purpose of identifying both types of activities is to stress that the HPG program is not to be used for solely cosmetic or maintenance types of repair, or, in any event, for refinancing or for construction of a new unit.

Administrative activities:

The law permits administrative expenses by including it as a selection criterion under section 533(d)(3). FmHA proposes to limit administration funds for HPG to not exceeding 20 percent of a grant amount and, with the selection criterion of administrative costs, to encourage grantees to use even less of their HPG funds for administrative purposes. This provision permits applicants to leverage other resources for administrative purposes and thereby enhance their chances for selection.

The Agency recognizes that many rural housing organizations eligible to receive HPG assistance may need administration resources. However, the Agency believes that at least 80 percent of the limited HPG resources must be used directly to benefit very low- and

low-income families. Good grantee program administration is needed and

Other Administrative Requirements

would be available to the State for use

Limitation on Grantee Selection

This section was discussed under

approved, is part of the Grant Agreement.

Therefore, as proposed, Subpart N is added to Part 1944 of Chapter XVIII,

VOL
50
ISS
144
JL
26
1985
UMI

low-income families. Good grantee program administration is needed and FmHA believes that the 20 percent administrative cost ceiling will encourage grantees to use its administrative resources wisely, leading to administrative efficiency without sacrificing quality.

The proposed regulations identify unacceptable activities for use of HPG funds. These are consistent with current Agency policies and OMB circular requirements.

Term of Grant

The proposed rule permits a variable grant period up to two years. This flexibility will allow grantees and FmHA to negotiate a term that is reasonable for the level of grant funds available for the HPG project. FmHA believes a two-year period is best in terms of project administration, paperwork burden, and project development and execution.

However, should demand for the program nationwide exceed available resources, FmHA may have to reduce the term of grants and each project's grant request in order to comply with section 533(c)(2) of the law. This section states: "Unless there is only one eligible grantee in a State, a single grantee may not receive more than 50 per centum of a State's allocation." FmHA interprets this provision in the regulations under § 1944.680. If the agency receives two or more acceptable applications in each state, the one year term may be necessary nationwide. If demand is somewhat limited, the two year term for most grantees should be possible.

Project Income

Project income during the grant period falls under the requirements of OMB circulars A–102 and A–110, and must be used to further the purposes of the HPG program. Income also includes amounts recovered which must be reused for HPG purposes.

Project income after completion of the grant is to be considered miscellaneous income to the grantee and FmHA encourages its use for continuing repair and rehabilitation activities.

Equal Opportunity Requirements

The proposed regulations cross reference to FmHA's equal opportunity requirements in FmHA regulations, Subpart E of Part 1901. These regulations require equal opportunity and affirmative action on the part of the grantee in providing HPG assistance to very low- and low-income families.

Other Administrative Requirements

HPG activities that affect historic properties are required by law and FmHA regulations to be reviewed under a separate process and work performed to different standards. The provisions in the proposed regulations follow Section 533(i), which is prescriptive in approach.

Environmental review processes for HPG are also somewhat unique due to the nature of the program and the grantees flexibility in program operation. Unlike HUD's Community Development Block Grant and Rental Rehabilitation programs, HPG does not include a delegation of environmental process to grantees. Accordingly, FmHA must assure compliance with its environmental policies for all actions under HPG. The HPG proposed regulations provide for a two step process based on the general environmental provisions contained in Subpart G of Part 1940. First, applicants are to provide general environmental information on the area(s) in which they propose to operate the HPG program and include a process for an environmental review of each unit to be assisted as part of their statement of activity in their preapplication. Second, where a specific housing unit falls within the need for an environmental assessment, the grantee will work with FmHA to resolve any environmental issue before funds are used for that housing unit.

Consultation With Local Governents and Public Comment

This section describes the process for public comment and coordination with local governments required by section 533(d)(2) of the law as well as by Executive Order 123772 for state clearinghouse review.

Allocation of HPG funds to States

FmHA will allocate available HPG fund to states as provided by section 533(c)(1) and may hold a reserve in the National Office for additional distribution to states that may not have sufficient resources under the formula allocation to fund feasible projects. FmHA's intent is to provide resources to each state consistent with the allocation process, which distributes funds based on a formula reflecting need, while providing a reasonable level of funds for feasible projects *and* complying with the provision of not funding any one grantee more than 50 percent of the allocation if more than one eligible grantee applies in the State (section 533(c)(2)).

In accordance with the law, after funding decisions are made for HPG, any remaining balance of HPG funds would be available to the State for use under the section 504 program.

Preapplication Procedure

This section contains the process and information required for a submission of a preapplication to FmHA. The preapplication is to contain the basic outline of the applicant's proposal for its HPG program. As such, it is also the primary document for project review and selection by FmHA. The information provided will reflect how the applicant will operate its HPG program and accomplish its HPG objectives. Respondents to this proposed rule are encouraged to review carefully both this section and the section on project selection. FmHA believes that the information requested with the preapplication is necessary for review under the project selection criteria and will lead to selection of the best qualified applicants with the best thought-through HPG proposal.

Preapplication Submission Deadline

FmHA proposes to establish deadlines for submission of preapplications. This will enable FmHA to compare all preapplications submitted in the shortest period of time and to select the best for funding. FmHA also proposes to establish fairly tight review timeframes for FmHA's staff so that funding decisions are made promptly. Obligation of funds for HPG projects must be made early enough so that any remaining funds can be used for the section 504 rural housing rehabilitation program prior to the end of the fiscal year when funds will lapse. For Fiscal Year 1985, FmHA will publish the deadline with publication of the final rule. That deadline will be 30 to 60 days after publication of final rule since all HPG funds now available must be obligated prior to September 30, 1985.

Project Selection

Project selection, as proposed, is a two step process. First, applicants filing a preapplication must be determined eligible and their proposed program in compliance with the HPG regulations. Then, the preapplication are evaluated against the project selection criteria. The selection criteria in the proposed regulations is that prescribed by section 533(d)(3) of the law and includes criteria to compare applicant experience and capacity. As noted, the information submitted with the preapplication will be sufficient to adequately and fairly evaluate the preapplications.

Limitation on Grantee Selection

This section was discussed under fund allocation.

Application Submission

Applicants selected by FmHA through the preapplication process will be promptly notified and requested to submit a formal application. The application submission is the final step in the process for selection of a grantee. If the application is acceptable and meets the requirements set forth in the regulations, the State Director may approve the project and obligate funds for the applicant.

Should the preapplication not be selected, FmHA will provide the reasons for its rejection and the applicant will have an opportunity to appeal FmHA's decision under the appeal procedure set forth in the Agency's regulations in Subpart B of Part 1900.

Grant Approval and Requesting HPG Funds

These sections cover the approval process, what happens if, at this point, a project is disapproved, and how funds are disbursed. As proposed in the regulations, applicants may choose to have grant funds advanced monthly, quarterly or annually for program activities and no less frequently than quarterly for administrative purposes. The applicant is responsible for identifying how it wishes to draw grant funds in its application which will be approved or modified by FmHA in its review and approval process.

Reporting Requirements

Section 533(j) of the law requires FmHA to report to Congress on progress made under the HPG projects funded. FmHA proposes a standard quarterly reporting format for grantees which should provide appropriate information for such a report and enable the Agency to track grantee progress in meeting their program objectives. At this time, the Agency sees a narrative report as being sufficient to meet the requirements. At some point in the future, FmHA may develop a report form for the program that will facilitate computer analysis.

Extending and Revising Grant Agreements

This section outlines the process for extensions and/or revisions to grant agreements and the conditions for a time extension. Revisions to the statement of activities may occur with a change in local conditions that affect the operation of the HPG program. Such changes will be attached to the statement of activities which, when approved, is part of the Grant Agreement.

Additional Grants

FmHA sees a benefit in permitting a successful grantee to continue its operation as long as its program is operating smoothly and meets local demand. FmHA also perceives that a new applicant may serve areas of relatively greater need or have a more efficient delivery and financing concept than an existing grantee seeking refunding. This section addresses this subject and proposes a slight modification to the selection criteria for existing grantees that would not permit monopolization of grant funds.

Grant Evaluation, Closeout, Suspension, and Termination

This section briefly covers topics that are covered more thoroughly in the grant agreement. Of particular interest to FmHA is the final project summary report and project audit. The summary report is important for FmHA's mandated report to Congress and the final audit is critical to both grantee and FmHA: to the grantee as a final clearance of use of funds; to FmHA as a check on the monitoring and progress reports as well as HPG fund accountability.

Exception Authority

FmHA proposes an exception authority which will permit necessary exceptions to programs regulations when and if required and if not in conflict with the law.

Exhibits

Exhibit A is the Grant Agreement. Respondents to the proposed rule are encouraged to review the Agreement as a critical aspect of the regulations. Exhibit B is the extension/revision to the Grant Agreement. Exhibit C details FmHA staff responsibilities and review and approval processes. FmHA does not plan to publish Exhibit C in the final rulemaking. It is administrative in scope and deals with internal management of the program. Material relevant to both FmHA and grantees is contained and/or duplicated in the main body of the regulations. Respondents are asked to review this exhibit as well and advise us as to the benefit or lack thereof for its publication in the **Federal Register** as part of the final regulations.

List of Subjects in 7 CFR Part 1944

Grant programs—Housing and community development, Home improvement; Loan programs—Housing and community development; Nonprofit organizations, and Rural housing.

Therefore, as proposed, Subpart N is added to Part 1944 of Chapter XVIII, Title 7, Code of Federal Regulations, and reads as follows:

PART 1944—HOUSING

Subpart N—Housing Preservation Grants

Sec.
1944.651 General.
1944.652 Policy.
1944.653 Objective.
1944.654–1944.655 [Reserved]
1944.656 Definitions.
1944.657 [Reserved]
1944.658 Applicant eligibility.
1944.659 [Reserved]
1944.660 Authorized representative of the HPG applicant and FmHA point of contact.
1944.661 Homeowner eligibility for HPG assistance.
1944.662–1944.663 [Reserved]
1944.664 Repair and rehabilitation activities.
1944.665 Supervision and inspection of rehabilitation and repair work.
1944.666 Administrative activities and policies.
1944.667 [Reserved]
1944.668 Term of grant.
1944.669–1944.670 [Reserved]
1944.671 Project income.
1944.672 Equal opportunity requirements.
1944.673 Other administrative requirements
1944.674 Consultation with local governments and public comment.
1944.675 Allocation of HPG funds to States and unused HPG funds.
1944.676 Preapplication procedure.
1944.677 [Reserved]
1944.678 Preapplication submission deadline.
1944.679 Project selection criteria.
1944.680 Limitation on grantee selection.
1944.681 Application submission.
1944.682 Grant approval and requesting HPG funds.
1944.683 Reporting requirements.
1944.684 Extending grant agreements and modifying statements of activities.
1944.685 [Reserved]
1944.686 Additional grants.
1944.687 [Reserved]
1944.688 Grant evaluation, closeout, suspension and termination.
1944.689 [Reserved]
1944.690 Exception authority.
1944.691–1944.700 [Reserved]
Exhibit A—Housing Preservation Grant Agreement
Exhibit B—Amendment to Housing Preservation Grant Agreement
Exhibit C—Administrative Instructions for FmHA Field Offices

Subpart N—Housing Preservation Grants

§ 1944.651 General.

(a) This subpart sets forth the policies and procedures for making grants under section 533 of the Housing Act of 1949, 42 U.S.C. 1490(m), to provide funds to

eligible applicants to conduct housing preservation programs benefiting very

§§ 1944.654—1944.655 [Reserved]

§ 1944.656 Definitions.

persons or interests for purposes other than making gains or profits for the

this regulation and the grant agreement, OMB Circular A–102 (Uniform

(2) An undivided or divided interest in the property to be repaired when not all

accepted by FmHA under Subpart A of Part 1924 of this chapter or the

eligible applicants to conduct housing preservation programs benefiting very low- and low-income rural residents. Program funds cover part or all of the cost of providing assistance to rural housing homeowners for loans, grants, interest reduction payments or other assistance that will reduce the cost of repair and rehabilitation. Such assistance will be used by the homeowner to remove or correct health or safety hazards of their home to meet applicable development standards or make needed repairs to improve the general living conditions of the resident(s).

(b) The Farmers Home Administration (FmHA) will provide Housing Preservation Grant (HPG) assistance to applicants responsible for providing assistance to eligible homeowners without discrimination because of race, color, religion, sex, national origin, age, marital status, or physical or mental handicap if such person has capacity to contract.

§ 1944.652 Policy.

(a) The policy of FmHA is to provide housing preservation grants to eligible applicants to operate a program which finances repair and rehabilitation to single family housing for very low- and low-income homeowners. Applicants are expected to:

(1) Coordinate and leverage funding for the repair and rehabilitation of such housing with local housing and community development organizations and/or activities; and

(2) Focus the program to rural areas and smaller communities so it serves very low- and low-income families.

(b) FmHA intends to permit grantees considerable latitude in program design and administration. The forms or types of assistance must provide the greatest long term benefit to the greatest number of persons residing in housing needing repair and rehabilitation.

(c) Repairs and rehabilitation activities affecting properties on or eligible for listing on the National Register of Historic Places will be accomplished in a manner that supports national historic preservation objectives as specified in § 1944.673(b) of this subpart.

§ 1944.653 Objective.

The objective of the HPG program is to upgrade substandard housing owned and occupied by very low- and low-income rural persons. Grantees will provide eligible homeowners with financial assistance through loans, grants, interest reduction payments or other comparable financial assistance for necessary repairs and rehabilitation.

§§ 1944.654—1944.655 [Reserved]

§ 1944.656 Definitions.

References in this subpart to County, District, State, National and Finance Offices and to County Supervisor, District Director, State Director, and Administrator refer to FmHA offices and officials and should be read as prefaced by FmHA. Terms used in this subpart have the following meanings:

(a) *Adequate housing.* A housing unit of size and design which meets the specific needs of low-income families and which meets the standard prescribed under § 1944.664(a) of this subpart.

(b) *Applicant or grantee.* Any eligible organization which applies for or receives HPG funds under a grant agreement.

(c) *Grant agreement.* The contract between FmHA and the applicant which sets forth the terms and conditions under which HPG funds will be made available. (See Exhibit A of this subpart.)

(d) *Very low-income.* An adjusted annual income that does not exceed the very low-income limit according to size of household as established by the Department of Housing and Urban Development (HUD) for the county or Metropolitan Statistical Area (MSA) where the property is located. Maximum very low-income limits are set forth in Exhibit C of Subpart A of Part 1944 of this chapter.

(e) *Low-income.* An adjusted annual income that does not exceed the "lower" income limit according to size of household as established by HUD for the county or MSA where the property is or will be located. Maximum low-income limits are set forth in Exhibit C of Subpart A of Part 1944 of this chapter.

(f) *Adjusted annual income.* As defined under Section 1944.2 (b) of Subpart A of Part 1944 of this chapter.

(g) *Organization.* (1) A State or political subdivision or public nonprofit corporation authorized to receive and administer HPG funds;

(2) An Indian tribe, band, group, nation, including Alaskan Indians, Aleuts, Eskimos and any Alaskan Native Village, of the United States which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512);

(3) A private nonprofit corporation which local representation from the area being served that is owned and controlled by private persons or interests and is organized and operated by private persons or interests and is organized and operated by private persons or interests for purposes other than making gains or profits for the corporation, is legally precluded from distributing any gains or profits to its members, and is authorized to undertake housing development activities; or

(4) A consortium of units of general local governments or private nonprofit organizations which is otherwise eligible to receive and administer HPG funds and which meets the following conditions:

(i) Be comprised of units of general local government or private nonprofit corporations that are close together, located in the same state, and serve areas eligible for FmHA housing assistance; and

(ii) Have executed an agreement among its members designating one participating unit of local government or private nonprofit corporation as the applicant or designating a legal entity (such as a Council of Governments) to be the applicant.

(h) *Rural area.* The definition in § 1944.10 of Subpart A of Part 1944 of this chapter applies.

(i) *Housing preservation.* Repairs and rehabilitation activities to remove health and safety hazards or make major repairs needed to improve the general living environment of the occupant. Repairs and rehabilitation activities will meet FmHA Thermal Standards and applicable development standards recognized by FmHA in Subpart A of Part 1924 of this chapter. Properties included on or eligible for inclusion on the National Register of Historic Places are subject to the conditions of 1944.673(b) of this subpart.

(j) *Homeowner.* For the purpose of the HPG program, a homeowner is one who can meet the conditions of ownership under § 1944.661 of this subpart.

§ 1944.657 [Reserved]

§ 1944.658 Applicant eligibility.

To be eligible to receive a grant, the applicant must:

(a) Be an organization as defined in § 1944.656 (f) of this subpart.

(b) Have the necessary background and experience with proven ability to perform responsibly in the field of low-income rural housing development, repair, and rehabilitation, or other business management or administrative experience which indicates an ability to operate a program providing repair and rehabilitation financial assistance;

(c) Legally obligate itself to administer HPG funds, provide an adequate accounting of the expenditure of such funds in compliance with the terms of this regulation and the grant agreement, OMB Circular A–102 (Uniform Requirements for Grants to State and Local Education, Hospitals, and other Nonprofit Organizations, Uniform Administrative Requirements) as appropriate which are available in any FmHA office, and comply with the grant agreement and FmHA regulations; and

(d) If the applicant is engaged in or plans to become engaged in any other activities, provide sufficient evidence and documentation that it has adequate resources, including financial resources, to carry on any other program or activities to which it is committed without jeopardizing the success and effectiveness of its HPG project.

§ 1944.659 [Reserved]

§ 1944.660 Authorized representative of the HPG applicant and FmHA point of contact.

(a) FmHA will deal only with authorized representatives designated by the HPG applicant. If the authorized representative is a third party, the representative must have no pecuniary interest in any of the following as they would relate in any way to the HPG grant: the award of any engineering, architectural, management, administration, or construction contracts; purchase of any furnishings, fixtures or equipment; or purchases and/or development of land.

(b) FmHA has designated the District Office as the point of initial contact for all matters relating to the HPG program and as the office generally responsible for the administration of HPG projects. However, the State Director may, based on total program size or complexity of a particular applicant, elect to process applications and service the program at the State Office or any other FmHA office in the applicant's service area with the capacity to provide the necessary reviews and servicing.

§ 1944.661 Homeowner eligibility for HPG assistance.

The homeowners assisted by HPG must be the owner-occupant, at least one year prior to the time of assistance, of a single family dwelling that is located in a rural area and is in need of repairs and rehabilitation. Each homeowner is required to submit evidence of ownership for retention in the grantee files. This evidence may be a photostatic copy of the instrument evidencing ownership. Grantees may require certification or additional information from the homeowner, or may seek advice from their attorney.

(a) The following will satisfy or fulfill this requirement of ownership:

(1) Full marketable title.

(2) An undivided or divided interest in the property to be repaired when not all of the owners are occupying the property. HPG assistance may be made in such cases when:

(i) The occupant has been living in the house for at least 10 years prior to the date of requesting assistance; and

(ii) The grantee has no reason to believe the occupant's position of owner/occupant will be jeopardized as a result of the improvements to be made with HPG funds; and

(iii) In the case of a loan, the co-owner(s) will also sign the security instrument.

(3) A leasehold interest in the property to be repaired. When the potential HPG recipient's "ownership" interest in the property is based on the leasehold interest, the lease must be in writing and a copy must be included in the grantee's file. The unexpired portion of the lease must not be less than five years and must permit the recipient to make modifications to the structure without increasing the recipient's lease cost.

(4) A life estate, with the right of present possession, control, and beneficial use of the property.

(5) Land assignments may be accepted as evidence of ownership only for Indians living on a reservation, when historically the permits have been used by the Tribe and have had the comparable effects of a life estate.

(b) The following items may be accepted as evidence of ownership if a recorded deed cannot be provided:

(1) Any legal instrument, whether or not recorded, which is commonly considered evidence of ownership.

(2) Evidence that the HPG recipient is listed as the owner of the property by the local taxing authority and that real estate taxes, if any, for the property are paid by the recipient.

(3) Affidavits by others in the community that the recipient has occupied the property as the apparent owner for a period of not less than 10 years, and is generally believed to be the owner.

§§ 1944.662—1944.663 [Reserved]

§ 1944.664 Repair and rehabilitation activities.

(a) Grantees under HPG are responsible for providing loans, grants or comparable assistance to homeowners to remove or correct health or safety hazards or make needed repairs to improve the living environment of the resident(s). HPG repair and rehabilitation activities shall meet FmHA Thermal Standards and applicable development standards accepted by FmHA under Subpart A of Part 1924 of this chapter or the requirements of § 1944.673(b) if the property to be repaired is listed on or eligible for the National Register of Historic Places.

(b) Authorized repair and rehabilitation activities include but are not limited to:

(1) Installation and/or repair of sanitary water and waste disposal systems, together with related plumbing and fixtures, which will meet local health department requirements.

(2) Payment of reasonable connection or other fees for utilities (i.e., water, sewer, electricity or gas).

(3) Energy conservation measures such as:

(i) Insulation; and

(ii) Combination screen-storm windows and doors.

(4) Repair or replacement of the heating system including the installation of alternative systems such as woodburning stoves or space heaters, when appropriate and if local codes permit.

(5) Electrical wiring.

(6) Repair of, or provision for, structural supports.

(7) Repair or replacement of the roof.

(8) Replacement of severely deteriorated siding, porches, or stoops.

(9) Alterations of the unit's interior or exterior to provide greater accessibility for any handicapped family members.

(10) For properties listed on or eligible for the National Register of Historic Places, activities associated with conforming repair and rehabilitation activities to the standards and/or design comments resulting from the consultation process contained in § 1944.673 of this subpart.

(11) Necessary repairs to manufactured homes or mobile homes provided:

(i) The recipient owns the home and the site on which the home is situated and has occupied that home on that site for at least one year prior to receiving HPG assistance; and

(ii) The manufactured home or mobile home is on a permanent foundation or will be put on a permanent foundation with HPG funds. A permanent foundation will be in accordance with the requirements of Exhibit J to Subpart A of Part 1924 of this chapter.

(12) Additions to any dwelling (conventional, manufactured or mobile) only when it is clearly necessary to remove health hazards to the occupants.

(13) Payment of incidental homeowner expenses directly related to accomplishing authorized acitivities such as fees for credit reports, surveys,

title clearance, loan closing, inspections, and architectural or other technical services.

property having a unit value of $1,000 or more, acquired with HPG funds, will be specifically identified to FmHA in

§ 1944.667 [Reserved]

§ 1944.668 Term of grant.

(3) When such a unit requiring an

parish and/or township governments of

undertake a HPG program and to

VOL
50
ISS
144
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title clearance, loan closing, inspections, and architectural or other technical services.

(c) HPG funds may be used to make changes to the dwelling for cosmetic or convenience purposes when such work is not the primary purpose, the percentage of funds to be used for such purposes does not exceed *25* percent of the total funding, and such work is combined with improvements listed as eligible under paragraph (b) of this section. Cosmetic and convenience changes might include, but are not limited to the following:

(1) Painting;
(2) Paneling;
(3) Carpeting;
(4) Improving clothes closets or shelving;
(5) Improving kitchen cabinets;
(6) Air conditioning; or
(7) Landscape plantings.

(d) HPG funds may not be used to:

(1) Assist in the construction of a new dwelling.

(2) Refinance any debt or obligation of the borrower/grantee other than obligations incurred for eligible items covered by this section entered into after date of agreement with HPG grantee.

(3) Repair or rehabilitate any property located in the Coastal Barrier Resources System as designated by the Coastal Barrier Resource Act.

§ 1944.665 Supervision and inspection of rehabilitation and repair work.

Grantees are responsible for supervising all rehabilitation and repair work financed with HPG assistance. All HPG work must be inspected by a disinterested third party, such as local building and code enforcement officials. If there are no such officials serving the area where HPG activities will be undertaken, the grantee may use qualified contract or fee inspectors.

§ 1944.666 Administrative activities and policies.

Grant funds are to be used primarily for housing repair and rehabilitation activities. Use of grant funds for administration is a secondary purpose and must not exceed 20 percent of the HPG funds awarded to the grantee.

(a) Administrative expenses may include:

(1) Payment of resonable salaries or contracts for professional, technical, and clerical staff actively assisting in the delivery of the HPG project.

(2) Payment of necessary and reasonable office expenses such as office rental, supplies, utilities, telephone services, and equipment. (Any item of nonexpendable personal property having a unit value of $1,000 or more, acquired with HPG funds, will be specifically identified to FmHA in writing.

(3) Payment of necessary and reasonable administrative costs such as workers' compensation, liability insurance, and the employer's share of Social Security and health benefits. Payments to private retirement funds are permitted if the grantee already has such a fund established and ongoing.

(4) Payment of reasonable fees for necessary training of grantee personnel.

(5) Payment of necessary and reasonable costs for an audit upon expiration of the grant agreement.

(6) Other reasonable travel and miscellaneous expenses necessary to accomplish the objectives of the specific HPG grant which were anticipated in the individual HPG grant proposal and which have been approved as eligible expenses at the time of grant approval. This may include contract of fee inspection where necessary pursuant to § 1944.665 of this subpart.

(b) HPG administrative funds may not be used for:

(1) Preparing housing development plans and strategies except as necessary to accomplish the specific objectives of the HPG project.

(2) Substitution for any financial support which would be available from any other source.

(3) Hiring personnel to perform construction.

(4) Buying property of any kind from families receiving assistance from the grantee under the terms of the HPG.

(5) Paying for or reimbursing the grantee for any expense or debts incurred before FmHA executes the grant agreement.

(6) Paying any debts, expenses, or costs which should be the responsibility of the individual families receiving HPG assistance outside the costs of repair and rehabilitation.

(7) Any type of political activities prohibited by OMB Circular A–122.

(8) Other costs including contributions and donations, entertainment, fines and penalties, interest and other financial costs unrelated to the HPG assistance to homeowners, legislative expenses and any excess of cost from other grant agreements.

(c) Advice concerning ineligible costs may be obtained from the State Office as part of the HPG application review or when a proposed cost appears ineligible.

(d) The grantee may not charge fees or accept any compensation or gratuities from HPG recipients for the grantee's technical services under this program.

§ 1944.667 [Reserved]

§ 1944.668 Term of grant.

HPG projects may be funded under the terms of a Grant Agreement for a period of up to two years commencing on the date of execution of the Agreement by the State Director. Term of the project will be based upon HPG resources available for the proposed project and the accomplishability of the applicant's proposal within one or two years. Applicants requesting a two year term may be asked to develop a feasible one year program if sufficient funds are not available for a two year program.

§ 1944.669—1944.670 [Reserved]

§ 1944.671 Project income.

(a) Project income during the grant period from loans made to homeowners is governed by OMB Circular A–102 or A–110 available in any FmHA office. All income, including amounts recovered by the grantee due to breach of agreements between the grantee and the HPG recipient must be used under (and in accordance with) the requirements of the HPG program.

(b) Grantees are encouraged to establish a program which reuses income from loans after the grant period for continuing repair and rehabilitation activities.

§ 1944.672 Equal opportunity requirements.

The policies and regulations contained in Subpart E of Part 1901 of this chapter apply to grantees under this subpart.

§ 1944.673 Other administrative requirements.

The following policies and regulations apply to grants made under this subpart:

(a) Subpart G of Part 1940 of this chapter regarding Environmental Assessments.

(1) To comply with Subpart G of Part 1940, applicants for HPG assistance will submit Form FmHA 1940–20, "Request for Environmental Information," on the geographical areas proposed to be served by the HPG program.

(2) In general, rehabilitation of existing single family houses is exempt from an environment assessment. However, if such units are located in floodplain or wetland, or are eligible for or listed on the National Register of Historic Places, an environmental assessment may be required. Applicants must include in their application a process for identifying specific housing repair or rehabilitation units that require an environment assessment.

(3) When such a unit requiring an environmental assessment is proposed for HPG assistance, the grantee will immediately contact the FmHA office designated to service the HPG grant and work with that office in preparing an environmental assessment and otherwise complying with Subpart F of Part 1940.

(b) The policies and regulations contained in Subpart F of Part 1901 of this chapter regarding historical and archaeological properties.

(1) In addition, the grantee may not initiate any rehabilitation activity which would affect an historic property, defined as a property that is included or is eligible for inclusion on the National Register of Historic Places, unless:

(i) Such activity will reasonably meet the standards for rehabilitation issued by the Secretary of Interior and the appropriate State historic preservation officer is afforded an opportunity to comment on the specific rehabilitation plans; or

(ii) The Advisory Council on Historic Preservation is afforded an opportunity to comment on cases for which the grantee, in consultation with the State historic preservation officer, determines that the proposed rehabilitation activity cannot reasonably meet such standards or would adversely affect historic property.

(2) Consultation procedures regarding historic properties will be accomplished on both the program and project level.

(i) In developing preapplications, applicants must request the views of their appropriate State Historic Preservation Officer (SHPO). This will be done by providing the SHPO with a copy of the proposed Statement of Activities.

(ii) Proposed sites for repair and rehabilitation work must be reviewed in accordance with § 1944.673(a) of this subpart. Any mitigation measures or operating agreements reached in the accomplishment of paragraph (b)(2)(i) of this section can serve as a replacement for individual site reviews as long as the site work will be accomplished in accordance with the agreement and the grantee so documents this in the case file and monitors such work for proper compliance.

(c) The policies, guidelines and requirements of OMB Circular Nos. A–102, and A–110, and A–122 apply to the acceptance and use of housing preservation grant funds.

§ 1944.674 Consultation with local governments and public comment.

(a) In preparing its Statement of Activity, the applicant is responsible for consulting with leaders from the county, parish and/or township governments of the area where HPG activities will take place for the purpose of assuring that the proposed HPG program is beneficial and does not duplicate current activities. Indian nonprofit organization applicants should obtain the written concurrence of the Tribal governing body in lieu of the concurrence of the county governments.

(b) The applicant must make its statement of activities available to the public for comment. The applicant must announce the availability of its Statement of Activities for review in a newspaper of general circulation in the project area and allow at least 15 days for comment.

(c) The HPG program is subject to 7 CFR Part 3015, Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities." See FmHA Instruction 1940–J, available in any FmHA office.

§ 1944.675 Allocation of HPG funds to States and unused HPG funds.

(a) The Administrator will allocate rehabilitation grant funds for use in each State on the basis of a formula, using the most current available information and using the average of the ratios between:

(1) The population of the rural areas in that State and the population of the rural areas of all States;

(2) The extent of poverty in the rural areas in that State and the extent of poverty in the rural areas of all States; and

(3) The extent of substandard housing in the rural areas of that State and the extent of substandard housing in the rural areas of all States.

(b) The Administrator may reserve a portion of the available funds for HPG in a National Office pool for States needing additional funds for feasible, acceptable projects.

(c) Any funds which are allocated to a State but uncommitted to grantees will be transfered to the State Office in a timely manner and be used for authorized purposes under Section 504 of the Housing Act of 1949, as amended.

§ 1944.676 Preapplication procedure.

(a) All applicants will file an original and two copies of Form AD–621, "Preapplication for Federal Assistance," and supporting information outlined in subparagraph (b) of this section with the appropriate FmHA office. A preapplication packet including Form AD–621 is available in all FmHA District and State Offices.

(b) All preapplications shall be accompanied by the following information which FmHA will use to determine the applicant's eligibility to undertake a HPG program and to determine whether a grant will be awarded.

(1) A statement of activities proposed by the applicant for its HPG program, including:

(i) A complete discussion of the type of and conditions for financial assistance for repair and rehabilitation;

(ii) The process for selecting recipients of HPG assistance, determining repair and rehabilitation needs of the unit, assessing potential environmental constraints (per § 1944.673(a) of this subpart), performing the necessary work, and monitoring/inspecting work performed;

(iii) The development standard the applicant will use for the repairs and rehabilitation work;

(iv) The time schedule for completing the program;

(v) The staffing required to complete the program;

(vi) The estimated number of very low- and low-income minority and nonminority families the applicant will assist with HPG funds;

(vii) The area(s) to be served by the HPG program;

(viii) Annual estimated budget for the program year based on the financial needs to accomplish the objectives outlined in the proposal. The budget should include proposed direct and indirect administrative costs, such as personnel, fringe benefits, travel, equipment, supplies, contracts, and other costs categories, detailing those costs for which the grantee proposes to use the HPG grant separately from non-HPG resources, if any. The applicant's budget should also include a schedule (with amounts) of how the applicant proposes to draw HPG grant funds, i.e., monthly, quarterly, lump sum for program activities, etc.

(ix) A brief description of the accounting system to be used;

(x) The method of evaluation to be used by the applicant to determine the effectiveness of its program which encompasses the requirements for quarterly reports to FmHA per §1944.683(b) of this subpart;

(xi) The sources and estimated amounts of other financial resources to be obtained and used by the applicant for both HPG activities and housing development and/or supporting activities;

(xii) The use of program income, if any; and

(xiii) Any other information necessary to explain the HPG program.

(2) Complete information about the applicant's experience and capacity to

carry out the objectives of the proposed HPG program;

(3) Evidence of the applicant's legal

(d) The applicant is to make its Statement of Activity available to the

assistance provided by the proposed HPG program, in order to:

§ 1944.682 Grant approval and requesting HPG funds.

shall submit an original and two copies

the State Director will recommend

VOL 50 ISS 144 JL 26 1985 UMI

carry out the objectives of the proposed HPG program;

(3) Evidence of the applicant's legal existence, including, in the case of a private nonprofit organization, a copy of, or an accurate reference to, the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence; certificate of incorporation for other than public bodies: evidence of good standing from the State when the corporation has been in existence one year or more; the names and addresses of the applicant's members, directors, and officers. If other organizations are members of the applicant-organization, or the applicant is a consortium, the names, addresses, and principal purpose of the other organizations and, if a consortium, documentation showing compliance with § 1944.566(g)(4) of this subpart.

(4) For a private nonprofit entity, the most recent audited statement and a current financial statement dated and signed by an authorized officer of the entity showing the amounts and specific nature of assets and liabilities together with information on the repayment schedule and status of any debt(s) owed by the applicant. If the applicant is an organization being assisted by another private nonprofit organization, the same type of financial statement should also be provided by that organization.

(5) A brief narrative statement which includes information about the area to be served and the need for improved housing (including both percentage and actual number of both low-income and low-income minority families and substandard housing), the need for the type of repair and rehabilitation assistance being proposed, the anticipated use of HPG resources for historic properties, the method of evaluation to be used by the applicant in determining the effectiveness of its efforts (as related to paragraph (b)(1) of this section), and any other information necessary to specifically address the selection criteria in § 1944.679 of this subpart.

(6) A list of other activities the applicant is engaged in and expects to continue, a statement as to any other funding, and whether it will have sufficient funds to assure continued operation of the other activities for at least the period of the HPG grant agreement.

(c) An applicant must submit written statements reflecting compliance with § 1944.674(a) of this subpart on consultations between local government(s) and the applicant.

(d) The applicant is to make its Statement of Activity available to the public for comment prior to submission to FmHA pursuant to § 1944.674(b) of this subpart. The preapplication must contain a description of how this was accomplished as well as a synopsis of comments received and how the comments were addressed.

(e) An original and one copy of Form FmHA 1940–20, as well as a description of the applicant's process for determining whether an individual property requires an environment assessment per § 1944.673(a) of this subpart.

(f) An original and one copy of Form FmHA 400–1, "Equal Opportunity Agreement," and Form FmHA 400–4, "Assurance Agreement."

§ 1944.677 [Reserved]

§ 1944.678 Preapplication submission deadline.

Dates governing the invitation and review of HPG preapplications will be published annually in the Federal Register. Preapplications received after the date specified in the Federal Register will not be considered for funding in that fiscal year and will be returned.

§ 1944.679 Project selection criteria.

(a) Grant applicants must meet all the following criteria:

(1) Provide a financially feasible program of repair and rehabilitation assistance as defined in § 1944.664(b) of this subpart;

(2) Serve eligible rural areas with a concentration of substandard housing for households with very low- and low-income;

(3) Be an eligible applicant entity as defined in § 1944.658 of this subpart; and

(4) Meet the requirements of consultation and public comment per § 1944.674 of this subpart.

(b) For applicants meeting the requirements listed in subparagraph (a) of this section, FmHA will use the criteria in this paragraph in the selection of grant recipients. Each preapplication and its accompanying statement of activities will be evaluated on the extent to which:

(1) The repair and rehabilitation activities will assist persons of very low- and low-income who lack adequate shelter, with priority given to applicants who propose to assist the maximum number of persons and families with very low income;

(2) The repair and rehabilitation activities include the participation of other public or private organizations in providing assistance, in addition to the assistance provided by the proposed HPG program, in order to:

(i) Lower the cost of such activities to very low- and low-income families; or

(ii) Provide for the leveraging of available funds to supplement the proposed HPG program;

(3) The proposed program will be undertaken in rural areas identified by FmHA as having populations below 10,000 or in remote parts of other rural areas (i.e, rural areas not contained in Metropolitan Statistical Areas with less than 10,000 population);

(4) The repair and rehabilitation activities may be expected to result in achieving the greatest degree of repair or improvement for the least cost per unit or dwelling;

(5) The program will minimize displacement;

(6) The program will alleviate overcrowding in rural residences inhabited by very low- and low-income families;

(7) The program will minimize the use of grant funds for administrative purposes, i.e., less than 20 percent of grant funds.

(8) The applicant has demonstrated its capacity in administering its programs and past performance reflecting such capacity in administering selected housing programs;

(9) The applicant is currently effective in assisting very low and low-income families obtain adequate housing; and

(10) The applicant will have the capacity to implement its proposed time schedule for starting and completing the HPG program and each phase thereof.

§1944.680 Limitation on grantee selection.

After all preapplications have been reviewed under the selection criteria and if more than one preapplication has met the criteria of § 1944.679(a) of this subpart, the State Director may not approve more than fifty percent of the State's allocation to a single applicant.

§ 1944.681 Application submission.

(a) Applicants selected by FmHA will be advised to submit a full application in an original and two copies of Form AD–623, "Application for Federal Assistance (Nonconstruction Programs)," and provide additional information if necessary. Instructions on submission and timing will be provided by FmHA.

(b) Applicants not selected by FmHA will be so notified and advised of their appeal rights under Subpart B of Part 1900 of this chapter.

§ 1944.682 Grant approval and requesting HPG funds.

(a) Grant approval is the process by which FmHA determines that all applicable administrative and legal conditions for making a grant have been met, the Grant Agreement is signed, and funds obligated for the HPG project. The FmHA District Office responsible for servicing and monitoring the HPG applicant's program will review the application submission. If acceptable and if the District Office is prepared to recommend the application to the State Office for approval, the applicant will sign a Form FmHA 1940–1, "Request for Obligation of Funds." and Exhibit A of this subpart, the Housing Preservation Grant Agreement. If the application is approved by the State Director, the applicant will be sent a copy of the executed Grant Agreement and Form FmHA 1940–1. Should the State Director attach any conditions to the Agreement that must be satisfied prior to the applicant receiving any HPG funds, the Agreement and the conditions will be returned to the applicant for acceptance and acknowledgement on the Agreement prior to execution by the State Director.

(b) The application may be disapproved before execution of the grant agreement if the applicant is no longer eligible, the proposal is no longer feasible, or the applicant requests cancellation of its project. Except when the applicant requests cancellation, FmHA will document its findings and advise the applicant of its appeal rights under Subpart B of Part 1900 of this chapter.

(c) With the executed Grant Agreement and Form FmHA 1940–1, FmHA will send the approved applicant (now the "grantee") copies of Standard Form 270, "Request for Advance or Reimbursement." The grantee must submit an original and two copies of Standard Form 270 to the District Office advances or reimbursements must be in accordance with the grantee's budget and Statement of Activity, including any amendments, prior approved by FmHA. Requests for reimbursement or advances must be at least 30 calendar days apart.

(d) If the grantee fails to submit required reports pursuant to § 1944.683 of this subpart or is in violation of the Grant Agreement, FmHA may suspend HPG reimbursements and advances or terminate the grant in accordance with § 1944.688 of this subpart and the Grant Agreement.

§ 1944.683 Reporting requirements.

(a) Standard Form 269, "Financial Status Report," is required of all grantees on a quarterly basis. Grantees shall submit an original and two copies of the report to the designated FmHA servicing office. Reports will be submitted no later than February 15, April 15, July 15 and October 15 while the grant agreement is in effect.

(b) Quarterly performance reports shall be submitted by grantees with the SF–269, "Financial Status Report," in an original and two copies. The quarterly report should relate the activities during the report period to the project's objectives and analyze the effectiveness of the program. As part of the grantee's preapplication submission, as required by § 1944.676(b) of this subpart, the grantee established the objectives of its HPS program, including its method of evaluation to determine its effectiveness. Accordingly, the report should include, but need not be limited to, the following:

(1) The following specific information for each unit assisted:

(i) Income category of the homeowner (very low or low);

(ii) Cost, major repairs, amount financed by HPG and/or other sources of funds;

(iii) Type of financing provided (interest subsidy, direct loan, etc.); and

(iv) Results of implementing the environmental process contained in § 1944.673 of this subpart.

(2) A comparison of actual accomplishments to the objectives set for that period, including:

(i) The number of very low- and low-income, minority and nonminority families assisted in obtaining adequate housing by the HPG program through repair and rehabilitation; and

(ii) The average cost of assistance provided to homeowners.

(3) Reasons why, if established objectives are not met.

(4) Problems, delays, or adverse conditions which will materially affect attainment of the HPG grant objectives, prevent the meeting of time schedules or objectives, or preclude the attainment of program work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or comtemplated and any Federal assistance needed to relieve the situations.

(5) Objectives established for the next reporting period, sufficiently detailed to identify the type of assistance to be provided, the number and type of faimilies to be assisted, etc.

(c) The grantee should be prepared to meet with the District Office to discuss its quarterly report shortly after submission.

(d) If the reports indicates unsatisfactory progress or the grantee is not meeting its established objectives, the State Director will recommend appropriate action to resolve the indicated problem(s). If appropriate corrective action is not taken by the grantee, the State Director has the discretion to not authorize further advances by suspending the project in accordance with § 1944.688 of this subpart and the Grant Agreement.

§ 1944.684 Extending grant agreements and modifying statements of activities.

(a) All requests extending the original grant agreement of modifying the HPG program's statement of activities must be in writing. Such requests will be processed through the District Director. The State Office will respond to the applicant within 30 days of receipt of the request in the State Office.

(b) An extension of a grant beyond the project term may be granted by the State Director when:

(1) There are grant funds remaining and the grantee requests an extension of the grant period to the ending date of the Grant Agreement;

(2) The grantee has demonstrated its ability to conduct their program in accordance with the terms of its grant agreement and in a manner satisfactory to FmHA;

(3) The Grantee is likely to complete the goals outlined in the initial proposal, or

(4) The District Director recommends continuation of the grant until the grantee has expended all of the remaining grant funds.

(c) Modification of the statement of activities, such as revising the processes the grantee follows in operating the HPG program, may be approved by the State Director when the modifications are for eligible purposes per §§ 1944.664 and 1944.666 of this subpart and the program will continue to serve the geographic area originally approved. The grantee will submit its proposed revisions together with the necessary supporting information to FmHA.

(d) Exhibit B, "Amendment to Housing Preservation Grant," will be used for all extensions and modifications.

§ 1944.685 [Reserved]

§ 1944.686 Additional grants.

An additional HPG grant may be made to a grantee when it has achieved or nearly achieved the goals established for the previous grant. The grantee must file a new application for HPG funds that will be processed similar to an initial applications and compared under the project selection criteria to others submitted at the time. Preference may be given to an existing grantee where there is a continuing need for the

program in the area currently being served by the existing grant, the

requirements of this subpart not

"Cost Principles for Nonprofit

title 31 of the Code of Federal Regulations,

12. If the grant exceeds $100,000,

schedules required and any FmHA assistance

VOL 50 ISS 144 JUL 26 1985 UMI

program in the area currently being served by the existing grant, the program has local public and community support, and the grantee has fully complied with the HPG requirements contained herein.

§ 1944.687 [Reserved]

§ 1944.688 Grant evaluation, closeout, suspension and termination.

(a) Grant evaluation will be an ongoing activity performed by both the grantee and FmHA. The grantee will perform self-evaluations by preparing quarterly performance reports in accordance with § 1944.683 of this subpart. FmHA will also review all reports prepared and submitted by the grantee in accordance with the grant agreement and this subpart.

(b) Within forty-five (45) calendar days after the grant ending date, the grantee will complete closeout procedures as specified in the grant agreement.

(1) The grantee will complete a final Standard Form 269 and a final performance report upon termination or expiration of the grant agreement. The final performance report will serve as the last quartely report.

(2) The grantee will have an audit performed upon termination or completion of the project in accordance with OMB Circular A–102 or or A–110. As part of their final report, the grantee will address and resolve all audit findings.

(c) The grant can be suspended or terminated before the grant ending date for the causes specified in the grant agreement. No further grant funds will be advanced when grant suspension or termination procedures have been initiated in accordance with the grant agreement. Grantees may be reimbursed for eligible costs incurred prior to the effective date of the suspension or termination. Grantees are prohibited from incurring additional obligations of funds after notification, pending corrective action by the grantee. FmHA may allow necessary and proper costs that the grantee could not reasonably avoid during the period of suspension provided they are for eligible HPG purposes.

(d) Applicants will have the opportunity to appeal a suspension or termination under FmHA's appeal procedures, Subpart B of Part 1900 of this chapter.

§ 1944.689 [Reserved]

§ 1944.690 Exception authority.

The Administrator of the Farmers Home Administration may, in individual cases, make an exception to any requirements of this subpart not required by the authorizing statute if the Administrator finds that application of such requirement would adversely affect the interest of the Government, or adversely affect the accomplishment of the purposes of the housing preservation grant program, or result in undue hardship by applying the requirement. The Administrator will exercise this exception authority only at the request of the State Director. The State Director will submit the request supported by information demonstrating the adverse impact, citing the particular requirement involved, recommending proper alternative courses of action, and outlining how the adverse impact could be mitigated.

§§ 1944.691–1944.700 [Reserved]

Exhibit A—Housing Preservation Grant Agreement

This Agreement dated ——— is between ——— (name), ——— (address), (grantee), organized and operating under ——— (authorizing State statute), and the United States of America acting through the Farmers Home Administration (FmHA). FmHA agrees to grant a sum not to exceed $——— subject to the terms and conditions of this Agreement; provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to FmHA. The Housing Preservation Grant (HPG) Statement of Activities approved by FmHA, and attached hereto, shall commence within 10 days of the date of execution of this agreement by FmHA and be completed by ——— (dated). FmHA may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of this Grant Agreement of FmHA regulation related hereto. The grantee may appeal adverse decisions in accordance with the FmHA Appeal Procedures contained in Subpart B of Part 1900 of this chapter.

In consideration of said grant by FmHA to the Grantee, to be made pursuant to Section 533 of the Housing Act of 1949, Housing Preservation Grant (HPG) program, the grantee will provide such a program in accordance with the terms of this Agreement and applicable FmHA regulations.

PART A *Definitions:*

1. "Beginning date" means that date this agreement is executed by FmHA and costs can be incurred.

2. "Ending date" means the date when all work under this agreement is scheduled to be completed. It is also the latest date grant funds will be provided under this agreement, without an approved extension.

3. "Disallowed costs" are those charges to a grant which the FmHA determines cannot be authorized in accordance with applicable Federal costs principles contained in Circular 74–4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments," and OMB Circular A–122, "Cost Principles for Nonprofit Organizations," and other conditions contained in this Agreement and OMB Circular A–102 and A–110, as appropriate.

4. "Grant closeout" is the process by which the grant operation is concluded at the expiration of the grant period or following a decision to terminate the grant.

5. "Termination" of the grant means the cancellation of Federl assistance, in whole or in part, at any time before the date of completion.

PART B *Terms of agreement:*

FmHA and grantee agree:

1. All grant activities shall be limited to those authorized in Subpart N of 7 C.F.R. 1944.

2. This Agreement shall be effective when executed by both parties.

3. The HPG activities approved by FmHA shall commence and be completed within the dates indicated above, unless earlier terminated under paragraph B 18 below or extended.

4. Grantee shall carry out the HPG activities and process as described in the approved Statement of Activities which is made a part of this Agreement. Grantee will be bound by the activities and processes set forth in the Statement of Activities and the further conditions set forth in this Agreement. If the Statement of Activities is inconsistent with the Agreement, the latter will govern. a change of any activities and processes must be in writing and must be signed by the FmHA State Director or his or her delegated representative.

5. Grantee shall use grant funds only for the purpose and activities approved by FmHA in the HPG budget. Any uses not provided for in the approved budget must be approved in wiriting by FmHA in advance.

6. If the Grantee is a private nonprofit corporation, expenses charged for travel or per diem will not exceed the rates paid FmHA employees for similar purposes. If the grantee is a public body, the rates will be those that are allowable under the customary practice in the government of which the grantee is a part; if none are customary, the FmHA rates will be the maximum allowed.

7. Grant funds will not be used for any of the following:

(a) To pay obligations incurred before the effective date of this Agreement.

(b) To pay obligations incurred after the grant termination or ending date.

(c) Entertainment purposes.

(d) To pay for capital assets, the purchase of real estate or vehicles, improvement or renovation of grantee's office space, or repair or maintenance of privately owned vehicles.

(e) Any other purpose specified in §§ 1944.664(d) and § 1944.666(b) of this subpart.

(f) Administrative expenses exceeding 20% of HPG grant funds.

8. Grant funds shall not be used to substitute for any financial support previously provided or assured from any other source.

9. Disbursal of grants will be governed as follows:

(a) In accordance with Treasury Circular 1075 (fourth revision) Part 205, Chapter II of

title 31 of the Code of Federal Regulations, grant funds will be provided by FmHA as cash advances on an as needed basis not to exceed one advance every 30 days. The advance will be made by direct Treasury check to the grantee. The financial management system of the recipient organization shall provide for effective control over and accountability for all Federal funds as stated in OMB Circular A–102 (42 FR 45828, September 12, 1977) for State and local governments and OMB Circular A–110 (41 FR 32016, July 30, 1976) for nonprofit organizations.

(b) Cash advances to the grantee shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the Grantee in carrying out the purpose of the planned project. The timing and amount of cash advances shall be as close as administratively feasible to the actual disbursements by the grantee for direct program costs (as identified in the grantee's Statement of Activity and budget and fund use plan) and proportionate share of any allowable indirect costs.

(c) Grant funds should be promptly refunded to the FmHA and redrawn when needed if the funds are erroneously drawn in excess of immediate dirbursement needs. The only exceptions to the requirement for prompt refinding are when the funds involved:

(i) Will be disbursed by the recipient organization within seven calendar days from the date of the Treasury check, or

(ii) Are less than $10,000 and will be disbursed within 30 calendar days from the date of the Treasury check.

(d) Grantee shall provide satisfactory evidence to FmHA that all officers of the Grantee organization authorized to receive and/or disburse Federal funds are covered by satisfactory fidelity bonds sufficient to protect FmHA's interests.

10. The grantee will submit performance and financial reports as indicated below to the appropriate FmHA District Office.

(a) As needed, but not more frequently than once every 30 calendar days, an original and 2 copies of Standard Form 270, "Request for Advance or Reimbursement."

(b) Quarterly (not later than January 15, April 15, July 15, and October 15 of each year), an original and 2 copies of Standard Form 269, "Financial Status Report," and a quarterly performance report in accordance with § 1944.683 of this subpart.

(c) Within forty-five (45) days after the termination or expiration of the Grant Agreement, an original and 2 copies of Standard Form 269, and a final performance report which will include a summary of the project's accomplishments, problems, and planned future activities of the grantee for HPG. Final reports may serve as the last quarterly report.

(d) FmHA may require performance reports more frequently if deemed necessary.

11. In accordance with FMC 74–4, Attachment B, compensation for employees will be considered reasonable to the extent that such compensation is consistent with that paid for similar work in other activities of the State or local government.

12. If the grant exceeds $100,000, cumulative transfers among direct cost budget categories totaling more than 5 percent of the total budget must have prior written approval by the District Director.

13. Results of the program assisted by grant funds may be published by the grantee without prior review by FmHA, provided that such publications acknowledge the support provided by funds pursuant to the provisions of Title V of the Housing Act of 1949, as amended, and that five copies of each such publication are furnished to the District Director.

14. Grantee certifies that no person or organization has been employed or retained to solicit or secure this grant for a commission, percentage, brokerage, or contingent fee.

15. No person in the United States shall, on the grounds of race, creed, color, sex, marital status, age, national origin, or mental or physical handicap, be excluded from participating in, be denied the proceeds of, or be subject to discrimination in connection with the use of grant funds. Grantee will comply with the nondiscrimination regulations of FmHA contained in Subpart E of Part 1901 of this chapter.

16. In all hiring or employment made possible by or resulting from this grant, the grantee: (a) Will not discriminate against any employee or applicant for employment because of race, creed, color, sex, marital status, national origin, age, or mental or physical handicap, and (b) will take affirmative action to insure that employees are treated during employment without regard to their race, creed, color, sex, marital status, national origin, age, or mental or physical handicap. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In the event grantee signs a contract related to this grant which would be covered by any Executive Order, law, or regulation prohibiting discrimination, grantee shall include in the contract the "Equal Employment Clause" as specified by Form FmHA 400–1.

17. The grantee accepts responsibility for accomplishing the HPG program as submitted and included in the Statement of Activities. The grantee shall also:

(a) Endeavor to coordinate and provide liaison with State and local housing organizations, where they exist.

(b) Provide continuing information to FmHA on the status of grantee HPG programs, projects, related activities, and problems.

(c) The grantee shall inform FmHA as soon as the following types of conditions become known:

(i) Problems, delays, or adverse conditions which materially affect the ability to attain program objectives, prevent the meeting of time schedules or goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated, new time schedules required and any FmHA assistance needed to resolve the situation.

(ii) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.

18. Grant closeout and termination procedures will be as follows:

(a) Promptly after the date of completion or a decision to terminate a grant, grant closeout actions are to be taken to allow the orderly discontinuation of grantee activity.

(i) The grantee shall immediately refund to FmHA any uncommitted balance of grant funds.

(ii) The grantee shall furnish to FmHA within 45 calendar days after the date of completion of the grant a Standard Form 269 and all financial, performance, and other reports required as a condition of the grant, including an audit report.

(iii) The grantee shall account for any property acquired with HPG grant funds, or otherwise received from FmHA.

(iv) After the grant closeout, FmHA retains the right to recover any disallowed costs which may be discovered as a result of an audit.

(b) When there is reasonable evidence that the grantee has failed to comply with the terms of this Agreement, the State Director can, on reasonable notice, suspend the grant pending corrective action or terminate the grant pursuant to paragraph (c) below. In such instances, FmHA may reimburse the grantee for eligible costs incurred prior to the effective date of the suspension or termination and may allow all necessary and proper costs which the grantee could not reasonably avoid. FmHA will withhold further advances and grantees are prohibited from further obligating grant funds, pending corrective action.

(c) Grant termination will be based on the following:

(i) *Termination for couse.* This grant may be terminated in whole, or in part, at any time before the date of completion, whenever FmHA determines that the grantee has failed to comply with the terms of this Agreement. The reasons for termination may include, but are not limited to, such problems as:

(A) Failure to make reasonable and satisfactory progress in attaining grant objectives.

(B) Failure of grantee to use grant funds only for authorized purposes.

(C) Failure or grantee to submit adequate and timely reports of its operation.

(D) Violation of any of the provisions of any laws administered by FmHA or any regulation issued thereunder.

(E) Violation of any nondiscrimination or equal opportunity requirement administered by FmHA in connection with any FmHA programs.

(F) Failure to maintain an accounting system acceptable to FmHA.

(ii) *Termination for convenience.* FmHA or the grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions,

including the effective date and, in case of partial termination, the portion to be

(i) The property shall be appropriately identified in the grant or otherwise made

cost of the orginal project or program to the

those shown in the accounting records shall be investigated to determine the causes of the

Comptroller General of the United States, or any of their duly authorized representatives

amended, 42 U.S.C. 1471 et. seq., and related regulations, and that all rights granted to

VOL 50 ISS 144 JL 26 1985 UMI

including the effective date and, in case of partial termination, the portion to be terminated.

(d) FmHA shall notify the grantee in writing of the determination and the reasons for and the effective date of the suspension or termination in accordance with § 1900.53 of Subpart B of Part 1900 of this chapter.

19. Upon any default under its representatives or agreements set forth in this instrument, the grantee, at the option and demand of FmHA, will, to the extent legally permissible, repay to FmHA forthwith the grant funds received with interest at the rate of five per centum per annum from the date of the default. The provisions of this Grant Agreement may be enforced by FmHA, at its option and without regard to prior waivers by it or previous defaults of the grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State Courts, as may be deemed necessary by FmHA to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

20. Extension of this Grant Agreement and/or modifications of the Statement of Activities may be approved by FmHA provided, in its opinion, the extension and/or modification is justified and there is a likelihood that the grantee can accomplish the goals set out and approved in the Statement of Activities during the period of the extension and/or modifications as specified in § 1944.686 of this subpart.

PART C *Grantee agrees:*

1. To comply with property management standards for expendable and nonexpendable personal property established by Attachment N of OMB Circular A–102 or Attachment N of OMB Circular A–110 for State and local governments or nonprofit organizations respectively. "Personal property" means property of any kind except real property. It may be tangible—having physical existence—or intangible—having no physical existence, such as patents, inventions, and copyrights. "Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A grantee may use its own definitions of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above. "Expendable personal property" refers to all tangible personal property other than nonexpendable personal property. When nonexpendable tangible personal property is acquired by a grantee with project funds, title shall not be taken by the Federal Government but shall vest in the grantee subject to the following conditions:

(a) Right to transfer title. For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, FmHA may reserve the right to transfer title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(i) The property shall be appropriately identified in the grant or otherwise made known to the Grantee in writing.

(ii) FmHA shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If FmHA fails to issue disposition instructions within the 120 calendar day period, the grantee shall apply the standards of paragraph 1(c) below.

(iii) When FmHA exercises its right to take title, the personal property shall be subject to the provisions for federally owned nonexpendable property discussed in paragraph 1(a)(iv) below.

(iv) When title is transferred either to the Federal Government or to a third party and the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(b) Use of other tangible nonexpendable property for which the grantee has title.

(i) The grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When it is no longer needed for the original project or program, the grantee shall use the property in connection with its other Federally sponsored activities, in the following order of priority:

(A) Activities sponsored by FmHA.

(B) Activities sponsored by other Federal agencies.

(ii) Shared use. During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the Grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by FmHA; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by FmHA. User charges should be considered if appropriate.

(c) Disposition of other nonexpendable property. When the grantee no longer needs the property, the property may be used for other activities in accordance with the following standards:

(i) Nonexpendable property with a unit acquisition cost of less than $1,000. The grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(ii) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The grantee may retain the property for other use provided that compensation in made to FmHA or its successor. The amount of compensation shall be computed by applying the precentage of Federal participation in the cost of the orginal project or program to the current fair market value of the property. If the grantee has no need for the property and the property has further use value, the grantee shall request disposition instructions from the original Grantor agency. FmHA shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR) to the General Services Administration by FmHA to determine whether a requirement for the property exists in other Federal agencies. FmHA shall issue instructions to the grantee no later than 120 calendar days after the grantee request and the following procedures shall govern:

(A) If so instructed or if disposition instructions are not issued within 120 calendar days after the grantee's request, the grantee shall sell the property and reimburse FmHA an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the orginial project or program. However, the grantee shall be permitted to deduct and retain from the Federal shares $100 or ten percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(B) If the grantee is instructed to dispose of the property other than as described in paragraph 1 (a)(iv) above, the grantee shall be reimbursed by FmHA for such costs incurred in its disposition.

(C) The grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:

(*1*) Property records shall be maintained accurately and shall include:

(*a*) A description of the property.

(*b*) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(*c*) Sources of the property including grant or other agreement number.

(*d*) Whether title vests in the grantee or the Federal Government.

(*e*) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(*f*) Percentage (at the end of the budget Year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government).

(*g*) Location, use, and condition of the property and the date the information was reported.

(*h*) Unit acquisition cost.

(*i*) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value when a grantee compensates the Federal agency for its share.

(*2*) Property owned by the Federal Government must be marked to indicate Federal ownership.

(*3*) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any difference between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(*4*) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the grantee shall promptly notify FmHA.

(*5*) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(*6*) When the grantee is authorized or required to sell the property, proper sales procedures shall be established which will provide for competition to the extent practicable and result in the highest possible return.

(*7*) Expendable personal property shall vest in the grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the grantee shall retain the property for use of nonfederally sponsored activities, or sell it, but must in either case compensate the Federal Government for its share. The amount of compensation Shall be computed in the same manner as nonexpendable personal property.

2. To provide a financial management system which will include:

(a) Accurate, current, and complete disclosure of the financial reqults of each grant. Financial reporting will be on an accrual basis.

(b) Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effecting control over and accountability for all funds, property, and other assets. Grantee shall adequately safeguard all such assets and shall assure that they are solely for authorized purposes.

(d) Accounting records supported by source documentation.

3. To retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after the submission of the final Project Performance report pursuant to Part B(9)(c) of this Agreement except in the following situations:

(a) If any litigation, claim, or audit is commenced before the expiration of the three year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(b) Records for nonexpendable property acquired by FmHA, the three year retention requirement is not applicable.

(c) When records are transferred to or maintained by FmHA, the three year retention requirement is not applicable.

Microfilm copies may be substituted in lieu of original records. FmHA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the grantee which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts, and transcripts.

4. To provide information as requested by FmHA concerning the grantee's actions in soliciting citizen participation in the application process, including published notice of public meetings, actual public meetings held, and content of written comments received.

5. Not encumber, transfer, or dispose of the property or any part thereof, furnished by FmHA or acquired wholly or in part with HPG funds without the written consent of FmHA except as provided in Part C 1 of this Agreement.

6. To provide FmHA with such periodic reports of grantee operations as may be required by authorized representatives of FmHA.

7. To execute Form FmHA 400–1, "Equal Opportunity Agreement," and to execute any other agreements required by FmHA to implement the civil rights requirements.

8. To include in all contracts in excess of $100,000 a provision for compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, 42 U.S.C. § 1875C–9 as amended. Violations shall be reported to FmHA and the Regional Office of the Environmental Protection Agency.

9. That no member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom, but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

10. That all nonconfidential information resulting from its activities shall be made available to the general public on an equal basis.

11. That the purpose for which this grant is made may complement, but shall not duplicate programs for which monies have been received, are committed, or are applied for from other sources, public and private.

12. That the grantee shall relinquish any and all copyrights and/or privileges to the materials developed under this grant, such material being the sole property of the Federal Government. In the event anything developed under this grant is published in whole or in part, the material shall contain notice and be identified by language to the following effect: "The material is the result of tax-supported research and as such is not copyrightable. It may be freely reprinted with the customary crediting of the source."

14. That the grantee shall abide by the policies promulgated in OMB Circular A–102, Attachment O, or OMB Circular A–110, Attachment O, as applicable, which provides standards for use by Grantees in establishing procedures for the procurement of supplies, equipment, and other services with Federal grant funds.

15. That it is understood and agreed that any assistance granted under this Agreement will be administered subject to the limitations of Title V of the Housing Act of 1949 as amended, 42 U.S.C. 1471 et. seq., and related regulations, and that all rights granted to FmHA herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the assistance, and protect FmHA's financial interest.

16. Standard of Conduct. No employee, officer or agent of the grantee shall participate in the selection, award or administration of a contract in which Federal funds are used where, to the knowledge of such employee, officer or agent, the employee, officer or agent or such person's immediate family members, partners or any organization in which such person or such person's immediate family award or administration of the contract, or when such person is negotiating or has any arrangement concerning future employment. The recipient's officers, employees or agents shall neither solicit not accept gratuities, favors or anything of monetary value from landlords or developers of rental or ownership housing projects or other persons receiving HPG assistance.

PART D *FmHA agrees:*

1. That it may assist grantee, within available appropriations, with such technical and management assistance as needed in coordinating the Statement of Activities with local officials, comprehensive plans, and any State or area plans for improving housing for very low- and low-income households in the area in which the project is located.

2. That at its sole discretion, FmHA may at any time give any consent, deferment, subordination, release, satisfaction, or termination of any or all of grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be: (a) Advisable to further the purposes of the grant or to protect FmHA's financial interests therein, and (b) consistent with the statutory purposes of the grant and the limitations of the statutory authority under which it is made and FmHA's regulations.

This Agreement is subject to current FmHA regulations and any future regulations not inconsistent with the express terms hereof. Grantee has caused this Agreement to be executed by its duly authorized ———, properly attested to and its corporate seal affixed by its duly authorized ———.

Attest: Grantee:

By ———

(Title)

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By ———

(Title)

Date of Execution of Grant Agreement by FmHA:

ATTACHED STATEMENT OF ACTIVITIES IS MADE PART OF THIS AGREEMENT

Exhibit B—Amendment to Housing Preservation Grant Agreement

This Amendment between ——— herein called "Grantee," and the United States of America acting through the Farmers Home

Administration, Department of Agriculture, herein called "FmHA," hereby amends the Housing Preservation Grant Agreement

cooperatively with other Federal and State agencies in addressing the housing needs of

(b) Request clarifications from the District Office if necessary.

Form AD–623. State Offices will send a copy to the District Office.

(B) *State Office Processing and Approval*

the applicant is determined to no longer be

Administration, Department of Agriculture, herein called "FmHA," hereby amends the Housing Preservation Grant Agreement executed by said parties on ———,19——, hereinafter called the "Agreement."

Said Agreement is amended by extending the Agreement to ———, 19——, and/or by making the following changes noted in the attachments hereto: (List and identify proposal and any other documents pertinent to the grant which are attached to the Amendment.)

Grantee has caused this Agreement to be executed by its duly authorized ——, properly attested to and its corporate seal affixed by its duly authorized ———.

Attest: Grantee:
By ———

(Title)

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION:
By ———

(Title)

Date of Execution of Amendment to Grant Agreement by FmHA:

Exhibit C—Administrative Instructions for FmHA Field Offices Regarding Their Responsibilities in the Administration of the Housing Preservation Grant

I. *Overall Guidance.*

(A) The State and District Offices will maintain for distribution to potential applicants, upon request, a supply of preapplication packets consisting of:

1. Form FmHA AD–621, "Preapplication for Federal Assistance."
2. Form FmHA 400–1, "Equal Opportunity Agreement."
3. Form FmHA 400–4, "Assurance Agreement."
4. Form FmHA 1940–20, "Request for Environmental Information."
5. Subpart N or Part 1944 of this Chapter, "Housing Preservation Grants."

(B) The State Office should decide whether the program will be operated out of the State Office entirely or the District Offices. If operated out of the State Office, the State Office will be responsible for the District Office tasks outlined below. If operated out of District Offices:

1. The preapplication must be submitted to the District Office serving the area in which the applicant proposes to operate the Housing Preservation Grant program. If the applicant proposes to operate in more than one District Office's area, the State Director will designate a specific District Office to serve the applicant.
2. The State Office will refer all requests for assistance in completing the preapplication to the appropriate District Office.

(C) Beyond the responsibilities of the State Office in the selection of grantees and the administration of the program, the HPG program provides an opportunity for the State Director to give priority to applicants serving the rural areas of greatest need for rehabilitation and repair activities as well as encourage the use of the program cooperatively with other Federal and State agencies in addressing the housing needs of the residents of a proposed HPG service area. Therefore, the State Office should be prepared, before receipt of preapplications, to advise District Directors, potential applicants, and other Federal and State agencies which part(s) of the State has the greatest need for the HPG program. Proposals which are clearly inappropriate and do not meet the basic selection criterion criteria of § 1944.679(a) of this subpart should not be encouraged due to the complexity of the preapplication submission.

II. *Preapplication.*

(A) *District Office processing of preapplications.*

(1) The District Director with whom the preapplication is filed will review the preapplication, From AD–621, and the other supporting information from the applicant submitted pursuant to § 1944.676 of this subpart. The District Director will also:

(a) Complete any required environmental review procedures as specified in Subpart G of Part 1940 of this chapter and attach it to the application.

(b) Prepare a review of the project in accordance with Subpart F of Part 1901 of this chapter and attach it to the preapplication.

(2) All District Directors receiving informational copies of the preapplication should submit their comments within five working days to the District Director with whom the preapplication is filed.

(3) The District Director receiving the original preapplication will provide written comments to be attached to the preapplication. These comments will, at a minimum, address the following items:

(a) Whether the area to be covered by the project is a "rural area" as defined in Subpart A of Part 1944 of this chapter.

(b) The District Director's knowledge of the applicant's past history.

(c) The need for the proposed activity, and its relationship to FmHA housing activities anticipated in the District.

(d) Appropriateness and applicability of this proposal for FmHA funding.

(e) Extent of citizen involvement in development of the preapplication, particularly the involvement of minority and/or low-income groups.

(f) All other critheria specified in § 1944.679 of this subpart.

(4) The original and one copy of the preapplication, together with the District Director's written comments and recommendations, will be forwarded to the State Director within 15 calendar days from the deadline for receipt of completed preapplications.

(B) *State Office processing of preapplications.*

(1) Upon receipt of a preapplication, the State Office will review and evaluate the preapplication and accompanying documents and the District Director's comments in accordance with the project selection criteria of § 1944.679 of this subpart and the procedures outline below:

(a) Review preapplications for completeness and adequacy.

(b) Request clarifications from the District Office if necessary.

(c) Evaluate the proposals in light of § 1944.679(a) of this subpart to establish applicant eligibility and select the proposal(s) under the project selection criteria in § 1944.679(b) of this subpart. Selection is a competition process and applicants best meeting the selection criteria should be asked to prepare a full application.

(d) Provide written comments to be attached to the preapplication(s) justifying the selection(s) and addressing the items in § 1944.679 of this subpart.

(e) Return the preapplication(s) not selected by the State Office to the appropriate District Office with reasons noted for nonselection. The District Director will forward to the applicant a letter of denial and notice of appeal rights under Subpart B of Part 1900 of this chapter.

(2) In accordance with § 1944.675 of this subpart, State Offices will be advised of the allocation of HPG funds. States may request additional funds from the National Office Reserve if the State's allocation is not sufficient to fund its two higest priority rated preapplications or additional highly rated preapplications.

(3) The State Office will also:

(a) Make a determination of the environmental impact of the overall HPG program on Form FmHA 1940–21, "Environmental Assessment for Class I Action," Form FmHA 1940–22, Environmental Checklist for Categorical Exclusions," or Class II Environmental Assessment under Subpart B of Part 1940 of this subpart or complete an Environmental Impact Statement, if required.

(b) Prepare an historical and archaeological assessment in accordance with § 1901.255(b) and (c) of Subpart F of Part 1901 of this chapter.

(c) Review comments received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Agriculture Programs and Activities," (see FmHA Instruction 940–J), and the comments and recommendations of the County Office(s), District Office(s),and the State Office.

(4) Concurrently the State Office will obtain an opinion from the Regional Office of the General Counsel (OGC) on the applicant's legal existence and authority to conduct the proposed program.

(5) Within 30 calendar days of receipt by the State Office or 45 calendar days of the closing date for receipt of preapplications, whichever is shorter, preapplications will be reviewed for completeness and compliance with this subpart and evaluated in accordance with the project selection criteria of § 1944.679 of this subpart. For preapplications which are selected, and for which funds are available, the State Director will issue Form AD–622, "Notice of Preapplication Review Action" and request the applicant to prepare Form AD–623, "Application for Federal Assistance (Nonconstruction Programs)," for submission to the District Office. The request will include instructions to the applicant for preparation of the full application as well as a copy of Form AD–623. State Offices will send a copy to the District Offices.

(6) The State Director will notify other applicants that their preapplications were not selected using Form AD–622, "Notice of Preapplication Review Action," and advise them of their appeal rights under Subpart B of Part 1900 of this chapter.

III. *Application.*

(A) *District Office Processing of Application.*

(1) After receipt of Form AD–622, the applicant will submit an application in an original and 2 copies on Form AD–623, and provide whatever additional information is requested to the District Office within 30 calendar days.

(2) Upon receipt of an application Form AD–623, by the District Office, a docket shall be assembled which will include the following:

(a) Form AD–621 and the information submitted in accordance with § 1944.676 of this subpart.

(b) Form AD–622.

(c) Any comments received in accordance with 7 CFR Part 3015 Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities." See FmHA Instruction 1940–J.

(d) Form AD–623.

(e) OGC legal determination made pursuant to paragraph II B 3 of this exhibit.

(f) Housing Preservation Grant Agreement.

(g) Form FmHA 1940–1, "Request for Obligation of Funds."

(h) Form FmHA 400–1, "Equal Opportunity Agreement."

(i) Form FmHA 400–4, "Assurance Agreement."

(j) Form FmHA 1940–20, "Request for Environmental Information."

(k) Form FmHA 1940–22, "Environmental Checklist for Categorical Exclusions," Form FmHA 1940–21, "Evironmental Assessment for Class I Actions" or Exhibit H, Subpart G of Part 1940 entitled, "Environmental Assessment for Class II Actions," or an Environmental Impact Statement, if required.

(l) The historical and archaeological assessment.

(m) The detailed budget for the agreement period based upon the needs outlined in the proposal and the comments and recommendations by FmHA.

(3) The District Office will review the docket to determine whether the application complies with these regulations and is consistent with the information and supporting documents submitted with the preapplication and any comments and recommendations of the State Office.

(4) If major problems occur during the development of the docket, the District Office will call upon the State Office for assistance.

(5) If a grant is recommended, Form FmHA 1940–1 and the Grant Agreement will be prepared by the District Office and forwarded to the applicant for signature as authorized in its authorizing resolution. Exhibit A, Grant Agreement, is a part of the HPG regulations.

(6) When Form FmHA 1940–1 and the Grant Agreement are received from the applicant and signed by the applicant, the docket will be forwarded to the State Director.

(B) *State Office Processing and Approval Actions.*

(1) The State Office will review the docket submitted by the District Office. If acceptable for State Director's approval, the following actions will be taken in the order listed:

(a) The State Director, or the State Director's designee, will authorize the request for obligation of HPG funds through the State Office terminal, furnishing the appropriate security identification code. Failure to furnish the security code will result in rejection of the obligation request.

(b) The individual making the request will record the date and time of the request and sign Section 43 of Form FmHA 1940–1.

(i) The terminal operator should use the State Office terminal to verify the obligation date by use of the ADPS status inquiry function (option 3 on the ADPS menu screen). If funds were not available for the project, the terminal generator will immediately advise the State Director.

(ii) The State Office will not submit the Form FmHA 440–57, to Finance Office for HPG grants.

(iii) Form FmHA 1940–1 will not be mailed to the Finance Office.

(c) The State Office will provide a completed Exhibit A to FmHA Instruction 2015–C to the Director of Legislative Affairs and Public Information Staff in the National Office and recommend that the project announcement be released under FmHA Instruction 2015–C.

(d) When the State Office determines that applicable administrative actions have been completed, the Grant Agreement (Exhibit A) will be executed by the State Director. An executed original of the Grant Agreement shall be sent to the District Director.

(e) An executed Form FmHA 1940–1 will be sent to the applicant along with a copy of the executed Grant Agreement with the approved statement of activities on or before the date set for obligation.

(i) The actual date of applicant notification will be entered on the original of Form FmHA 1940–1 and the original of the form will be included as a permanent part of the file.

(ii) Standard Form 270, "Request for Advance or Reimbursement," will be sent to the applicant for completion and return to FmHA.

(f) Upon receipt from the grantee of a properly completed SF–270, Form FmHA 440–57 will be completed and the State Office will request the check through the State Office terminal system in accordance with State Instructions.

(2) If the State Director disapproves the project at this stage in the processing, it should be based on new information about the applicant's eligibility and/or project feasibility. The State Office will fully document its findings and follow the appeal procedure in Subpart B of Part 1900 of this chapter.

(3) If it is determined that a project will not be funded or if major changes in the scope of the project are made after release of the approval announcement, the procedure under § 2015.102(c) of FmHA Instruction 2015–C will be followed.

(4) An approved grant may be canceled before execution of the Grant Agreement if the applicant is determined to no longer be eligible, the proposal is no longer feasible, or the applicant requests cancellation. Cancellation will be accomplished as follows:

(a) The District Director will prepare Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation," in an original and two copies (three copies if the HPG check has been received in the District Office from the disbursing office.) Form FmHA 1940–10 will be sent to the State Director (original and two copies with the check if the Treasury check is being canceled) with the reasons for requesting cancellation.

(b) If the State Director approves the request for cancellation he/she will forward the original request for cancellation (original and one copy of Form FmHA 1940–10 with the check if the Treasury check is being canceled) to the Finance Office.

(c) The District Director will notify the applicant of the cancellation and, unless the applicant requested the cancellation, its right to appeal under Subpart B of Part 1900 of this chapter.

IV. *Requesting HPG checks.*

A. The initial advance of HPG grant funds may not be requested simultaneously with the terminal request for obligation of the grant funds. The check for the initial advance should be requested through the State Office terminal system after the obligation date provided by the status inquiry function.

B. All advances will be requested only after receipt of Standard Form 270 from the grantee. The amount requested must be in accordance with the applicant's budget and statement of activity, including amendments, as approved by FmHA. Standard Form 270 will not be submitted more frequently than once every 30 calendar days. In no case will additional funds be advanced if the grantee fails to submit required reports or is in violation of the Grant Agreement.

C. FmHA may not hold HPG checks longer than 20 calendar days and only that long if necessary to obtain the necessary reports from the grantee. After 20 calendar days, the check must be returned to the Finance Office to be reissued when needed and the applicant advised in writing of the reasons for not receiving their funds.

V. *Grant monitoring.*

A. Each grant will be monitored by FmHA to ensure that the grantee is complying with the terms of the grant and that the HPG project activity is completed as approved. Ordinarily, this will involve FmHA's review of quarterly and final reports submitted by the grantee pursuant to § 1944.683 of this subpart.

B. These reports will be initially reviewed by the District Office to determine satisfactory progress. The District Office will meet with the grantee quarterly after receipt of the progress report to discuss the report and to resolve any problems. The original and one copy of the reports with comments and recommendations on the following areas will be forwarded to the State Office within 15 calendar days of receipt:

(1) The accuracy of the information submitted as to number of units assisted, the

(2) Where the grantee finds that the unit is so located that it needs an environmental

NUCLEAR REGULATORY COMMISSION

For the Nuclear Regulatory Commission.
Samuel J. Chilk,

Regulations held on July 1, 1985, in Las Vegas, Nevada, Mr. Thomas A. Hine,

Independence Avenue, SW., Washington, D.C. 20591. All comments

(1) The accuracy of the information submitted as to number of units assisted, the cost of assistance, and the type of recipients;
(2) The accomplishment of quarterly objectives and the accuracy of the grantee's schedule.
(3) The grantee's performance in implementing environmental and historic preservation processes of § 1944.673 of this subpart.
(4) The type of assistance provided, if necessary, to the grantee to help accomplish the objectives; and
(5) Any recommendations for modifying or amending the statement of activities to reflect grantee activities.

C. The State Office will work closely with the District Office and the grantee to assure adequate HPG performance. The State Office should assist the District Office, as appropriate, in resolving any problems or taking advantage of favorable funding or program opportunities. The State Office will review the reports, comments, and recommendations forwarded by the District Office within fifteen calendar days of receipt.

(1) If the reports indicate satisfactory progress, the State Office will forward a copy to the National Office with all review comments or suggestions and return the original to the District Office and the remaining copy to the grantee through the District Office with a copy of the comments or recommendations.

(2) If the reports indicate unsatisfactory progress, the State Director will recommend appropriate action to resolve the indicated problem(s). In accordance with §§ 1944.683 and 1944.688 and the Grant Agreement, the State Director has the discretion to suspend or terminate the grant where the progress of the project is unsatisfactory. The State Director will notify the grantee in writing through the District Director of a decision to suspend or terminate the grant, providing the grantee with the reasons for such action, possible corrective measures the grantee may take, and the effective date of the action. FmHA will also advise the grantee of its appeal rights under Subpart B of Part 1900 of this chapter.

(3) A copy of the unsatisfactory report and the memorandum returning it will be forwarded to the National Office together with the State Director's decision, comments, and recommendations, as appropriate.

VI. *Environmental Process After Grant Approval.*

A. Applicants will provide environmental information on the area to be served by the HPG program on Form FmHA 1940-20 as part of the their preapplication. In addition, applicants will include in their Statement of Activities their process for assessing whether an individual property requires an assessment because it is located in a floodplain or wetland or is eligible for or listed on the National Register of Historic Places.

B. Grantees are responsible for making an initial environmental review of each unit to be provided HPG assistance.

1. Where there is no wetland or floodplain location involved, or potential impact on an historic property, the grantee must so document in the recipient's file.

(2) Where the grantee finds that the unit is so located that it needs an environmental assessment, the grantee will advise FmHA under § 1944.673(a)(3) of this subpart, and assist FmHA in preparing an environmental assessment. The property to receive HPG assistance will be handled similar to a Section 502 loan, even though the financing will be from the HPG grantee. The grantee may be required, if further site information is needed, to prepare and submit an FmHA Form 1944-20 for the property, with the grantee being the "applicant". FmHA will then prepare the appropriate assessment outlined in Subpart G of Part 1940 of this chapter, working with the grantee to develop alternative actions as appropriate.

(3) Upon completion of the FmHA assessment, the grantee will be advised of appropriate action to comply with the results of the assessment. A copy of FmHA's assessment will be given to the grantee for filing in the recipient's file. FmHA will maintain a copy of the review and related correspondence in the HPG file in the servicing office.

VII. *Extending Grant Agreements and Modifying Statements of Activities.*

A. If request for a grant extension is approved under § 1944.684 of this subpart, the State Director will authorize the District Director to amend the ending date of the Grant Agreement and revise the budget, if necessary, on behalf of the Government.

B. If grantee requests any modifications to the Statement of Activities for the HPG program under § 1944.684 of this subpart, the grantee will submit the modified Statement of Activities, and HPG budget if appropriate, together with any information necessary to justify its requests. Such requests will be submitted to the State Director through the FmHA servicing office which will review and recommend approval if it concurs with the modifications.

C. Exhibit B to this subpart shall be executed upon approval of an extension of the grant period, or significant change in either the project budget or the approved HPG processes contained in the Statement of Activities.

D. If an extension or modification is not approved, the State Director will notify the applicant in writing of the decision and advise the applicant of the appeal procedures under Subpart B of Part 1900.

E. Additional grants to the HPG recipient will be considered and processed competitively, similar to an initial grant as provided in § 1944.686 of this subpart. Upon approval, a new grant agreement will be required and the grant will be coded as an initial grant on Form FmHA 1940-1.

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Dated: March 19, 1985.

Dwight O. Calhoun,
Acting Associate Administrator, Farmers Home Administration.

[FR Doc. 85-17748 Filed 7-25-85; 8:45 am]
BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Adjudications; Special Procedures for Resolving Conflicts Concerning the Disclosure or Nondisclosure of Information; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On May 22, 1985 (50 FR 21072), the Nuclear Regulatory Commission published proposed amendments to its rules of practice to provide special procedures for resolving conflicts concerning the disclosure or nondisclosure of information relating to an NRC investigation or inspection not yet concluded or which would reveal the identity of a confidential informant and deemed relevant and material to an adjudication. The notice provided a 60-day period for public comment expiring on July 22, 1985. Two interested parties have requested a thirty day extension of time. Based on the significance of the issues involved and other factors, the NRC has decided to extend the comment period to August 23, 1985.

DATE: The extended comment period expires August 23, 1985. Comments received after that date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before that date.

ADDRESSES: Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street, NW., Washington, D.C. between 8:15 a.m. and 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Jane R. Mapes, Senior Regulations Attorney, Regulations Division, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone: (301) 492-8695.

Dated at Washington, D.C., this 23rd day of July, 1985.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 85-17818 Filed 7-25-85; 8:45 am]
BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Western Area Power Administration

10 CFR Part 904

Delay in Comment Period on Proposed General Regulations for the Charges for the Sale of Power From the Boulder Canyon Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of a Delay in Comment Period on Proposed General Regulations for the Charges for the Sale of Power From the Boulder Canyon Project.

SUMMARY: The Boulder City Area Office of the Western Area Power Administration (Western) published the proposed "General Regulations for the Charges for the Sale of Power from the Boulder Canyon Project," 10 CFR Part 904 (proposed General Regulations) in the **Federal Register** (50 FR 20732) on May 17, 1985. Interested parties were invited to submit comments concerning the proposed General Regulations to the Boulder City Area Office of Western on or before July 15, 1985.

On July 1, 1985, in response to a request by the current and proposed Boulder Canyon Project allottees, Western announced a 90-day delay in the public process on the proposed General Regulations. As a result of the 90-day delay in the public process, the deadline for comments concerning the proposed General Regulations has been extended.

DATES: All comments concerning the proposed General Regulations should be submitted on or before October 1, 1985.

ADDRESS: All written comments concerning the proposed General Regulations should be sent to: Mr. Thomas A. Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005.

SUPPLEMENTARY INFORMATION: On June 27, 1985, Western received a letter from the Colorado River Commission on Nevada on behalf of the Boulder Canyon Project renewal contractors and proposed Uprating Program allottees, requesting a 90-day delay in the public process on the proposed General Regulations. At the public comment forum on the proposed General Regulations held on July 1, 1985, in Las Vegas, Nevada, Mr. Thomas A. Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, read a letter dated July 1, 1985, addressed to Mr. Jack Stonehocker, Colorado River Commission of Nevada, from Western, granting a 90-day delay in the public process on the proposed General Regulations. The delay was granted in order to resolve the concerns expressed by Mr. Stonehocker on behalf of the parties involved.

It is Western's intent to consider all recommendations made by the parties involved for the formulation of the proposed General Regulations. If necessary, Western will publish revised proposed General Regulations in the **Federal Register** and hold a second comment forum on the proposed General Regulations.

Issued at Golden, Colorado, July 12, 1985.
William H. Clagett,
Administrator.

[FR Doc. 85-17757 Filed 7-25-85; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No. 24594, Notice No. 85-10A]

Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM) reopening of comment period.

SUMMARY: This notice announces the reopening of the comment period for Notice of Proposed Rulemaking (NPRM) No. 85-10, which invites comments relative to amending Parts 25 and 121 of the Federal Aviation Regulations (FAR) to upgrade the fire safety standards for cabin interior materials in transport category airplanes. This reopening is necessary to afford all interested parties an opportunity to present their views on the proposed rulemaking.

DATES: Comments must be received on or before September 9, 1985.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24594, 800 Independence Avenue SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. All comments must be marked: Docket No. 24594. Comments may be inspected in Room 916 weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Regional Counsel (ANM-7), FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be inspected in the Office of the Regional Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Richard Nelson, Regulations Branch, Transport Standards Staff, ANM-110, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2121.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in Notice No. 85-10 (50 FR 15038; April 16, 1985) are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments, in duplicate, to the Rules Docket address above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in Notice No. 85-10 may be changed in light of comments received. All comments will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24594." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of Notice No. 85-10 by submitting a request

to the Federal Aviation Administration, Office of Public Affairs, Attention:

The Withdrawal

airworthiness directive which, if

14 CFR Part 39

VOL 50 ISS 144 JL 26 1985 UMI

to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center (APA-430), 800 Independence Avenue SW., Washington, D.C. 20591; or by calling (202) 426-8058. Communications must identify Notice No. 85-10. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

On April 8, 1985, the FAA issued Notice No. 85-10 (50 FR 15038; April 16, 1985), which provided a 90-day comment period, closing on July 15, 1985. In that notice the FAA proposed to amend Parts 25 and 121 of the FAR to upgrade the fire safety standards for cabin interior materials in transport category airplanes by: (1) Establishing new fire test criteria for type certification; (2) requiring that the cabin interiors of airplanes manufactured after a specified date and used in air carrier service comply with these new criteria; and (3) requiring that the cabin interiors of all other airplanes type certificated after January 1, 1958, and used in air carrier service comply with these new criteria upon the first replacement of the cabin interior.

The FAA invited interested persons to submit comments and suggestions as to future action regarding this rulemaking. Since Notice No. 85-10 was published, several requests have been received for extension of the comment period from persons wishing more time in which to study the proposal and to prepare comments. Also, subsequent to the notice, the FAA Technical Center and an industry trade association have completed a series of tests to assess the reproducibility of the specified test method among various laboratories. Based on that series of tests, the FAA Technical Center has recommended certain adjustments in test procedures and acceptance criteria, including: (1) Adjustment of the specimen exposure heat flux from 5 W/CM^2 to 3.5 W/CM^2; (2) elimination of the oxygen depletion method of measuring heat release, leaving only the thermopile method; (3) adjustment of the pass/fail criteria for total heat release over the first two minutes of sample exposure from 40 to 65 kilowatt-minutes per square meter; and (4) inclusion of a requirement for a peak heat release rate of 65 kilowatts per square meter. These recommendations are contained in a memorandum report dated July 11, 1985, from the Manager of the Fire Safety Branch, ACT-350, to the manager of the Regulations Branch, ANM-112. A copy of this memorandum report has been placed in the Rules Docket for public inspection and comment.

Reopening of Comment Period

In consideration of the need for public participation in determining future action regarding this rulemaking, the FAA concludes that the comment period should be reopened.

Accordingly, the comment period for Notice No. 85-10 is reopened for an additional 45 days.

Conclusion

This document reopens the comment period on an NPRM to afford the public and industry with additional time in which to review and respond to this notice. The FAA has determined that this document involves a proposed regulation which is considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). This document is not major as defined in Executive Order 12291. The FAA certifies that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 25

Aviation safety, Aircraft, Air transportation, Safety, Tires.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.45)

Issued in Seattle, Washington, on July 12, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-17714 Filed 7-25-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-ASW-45]

Airworthiness Directive; Hughes Helicopters, Inc., Model 269C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) which proposed the adoption of an airworthiness directive (AD) that would have required the removal from service of certain main rotor blades which were modified without FAA design approval and used on Hughes Helicopters, Inc., Model 269C helicopters. The NPRM was prompted by the possibility of main rotor imbalance if one abrasion strip separated from the main rotor blades during flight. Upon further consideration and in light of additional findings, the FAA has determined that the proposed AD is not required and, accordingly, the proposed airworthiness directive is being withdrawn.

FOR FURTHER INFORMATION CONTACT: Jerry Sullivan, Aerospace Engineer, Airframe Section, Western Aircraft Certification Office, Northwest Mountain Region, FAA, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007, telephone (213) 536-6166.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which, if adopted, would have required that 38 specific Hughes Helicopters, Inc., Model 369 main rotor blades be removed from service until restored to original or other FAA-approved type design was published in the **Federal Register** on January 15, 1985 (50 FR 2059). Comments were requested from the public. The comment period closed March 1, 1985. No comments were received. The FAA arranged for specimens of the subject questionable main rotor blade/abrasion strip bond modification to be analyzed. The specimens were found to meet the original manufacturer's material and process specification with what are considered to be relatively minor variations.

Based on the findings stated above, the FAA has determined that the proposed AD is not justified and the NPRM is being withdrawn. The withdrawal of the NPRM does not preclude the FAA from issuing similar notices in the future, nor does it commit the FAA to any course of action in the future.

Since this withdrawal of an NRPM will have no impact and may be made effective in less than 30 days, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will have no significant economic impact on small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration withdraws a proposal to amend § 39.13 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

2. By withdrawing the proposed airworthiness directive, Docket No. 84-ASW-45, published in the **Federal Register** on January 29, 1985 (50 FR 3917).

Issued in Fort Worth, Texas, on July 5, 1985.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85-17716 Filed 7-25-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-ASW-44]

Airworthiness Directive; Hughes Helicopters, Inc., Model 369 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) which proposed the adoption of an airworthiness directive (AD) that would have required the removal from service of certain main rotor blades which were modified without FAA design approval and used on Hughes Helicopters, Inc., Model 369 series helicopters. The NPRM was prompted by the possibility of main rotor imbalance if one abrasion strip separated from the main rotor blade during flight. Upon further consideration and in light of additional findings, the FAA has determined that the proposed AD is not required and, accordingly, the proposed airworthiness directive is being withdrawn.

EFFECTIVE DATE: Not applicable.

FOR FURTHER INFORMATION CONTACT: Jerry Sullivan, Aerospace Engineer, Airframe Section, Western Aircraft Certification Office, Northwest Mountain Region, FAA, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007, telephone (213) 536-6166.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which, if adopted, would have required that 13 specific Hughes Helicopters, Inc., Model 269C main rotor blades be removed from service until restored to original or other FAA-approved type design was published in the **Federal Register** on January 29, 1985 (50 FR 3917). Comments were requested from the public. The comment period closed February 25, 1985. No comments were received. The FAA arranged for specimens of the subject questionable main rotor blade/abrasion strip bond modification to be analyzed. The specimens were found to meet the original manufacturer's material and process specifications with that are considered to be relatively minor variations.

Based on the findings stated above, the FAA has determined that the proposed AD is not required and the NPRM is being withdrawn. The withdrawal of the NPRM does not preclude the FAA from issuing similar notices in the future, nor does it commit the FAA to any course of action in the future.

Since this withdrawal of an NPRM will have no impact and may be made effective in less than 30 days, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will have no significant economic impact on small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration withdraws a proposal to amend § 39.13 of the FAR as follows:

1.The authority citation for Part 39 continues to read as follow:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 49 CFR 11.89.

2. By Withdrawing the proposed airworthiness directive, Docket No. 84-ASW-44, published in the **Federal Register** on January 15, 1985 (50 FR 2059).

Issued in Fort Worth, Texas, on July 2, 1985.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85-17715 Filed 7-25-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-ANE-24]

Airworthiness Directives; Secur Aiglon (Formerly l'Aiglon) Model 343 Safety Belts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require a modification of Secur Aiglon (formerly l'Aiglon) type 343, 343A, 343B, and 343C buckles used on Model 343 safety belts. The proposed AD is needed to prevent any possible blockage and failure to unlock the belt. This NPRM is consistent with the manufacturer's service bulletin (SB) which was made mandatory by French Airworthiness Authority (DGAC) AD 84-73-(AB).

DATES: Comments must be received on or before October 8, 1985.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Office of the Regional Counsel, Attn: Docket No. 85-ANE-24, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803 or delivered in duplicate to the above address, to Room 311.

Comments delivered must be marked: Docket No. 85-ANE-24.

Comments may be inspected at Room 311 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

The applicable SB may be obtained from Anjou Aeronautique, Avenue de l'Osier, 49125 Tierce, France.

A copy of the applicable SB is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, New England Region, Room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Ted T. Ebina, Brussels Aircraft Certification Office, AEU-100, 15 Rue de la Loi, B-1040 Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the

proposed rule. The proposal contained in this notice may be changed in the

The Proposed Amendment

SUMMARY: The Commission is proposing amendments to Parts 16 and 17 of its

large traders required under 17 CFR Part 18.[1]

media using a format and coding structure approved by the Commission

Government. GAO's report used case studies of reporting requirements placed

proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 85-ANE-24". The post card will be date/time stamped and returned to the commenter.

The DGAC has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a modification needed on the safety belts to correct jamming of the buckle in the locked position. An incident had indicated that the belt buckle restraint system may become jammed, prevent unlocking of the belt buckle, and entrap the occupant if it is fastened in a certain manner.

Since the condition is likely to exist or develop on other safety belts of the same design, an AD is proposed that would require a modification of type 343, 343A, 343B, and 343C belt buckle fitted on Secur Aiglon Model 343 safety belts.

Conclusion

The FAA has determined that this proposed regulation involves 30,000 safety belts at an approximate labor cost of $12.50 per belt. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety, Incorporation by reference.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me the FAA proposes to amend Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

2. By adding the following new AD:

Secur Aiglon: Applies to Secur Aiglon (formerly l'Aiglon) Model 343 safety belts equipped with type 343, 343A, 343B, 343C buckles installed in, but not limited to, Aerospatiale SA360C helicopters.

Compliance is required as indicated unless already accomplished.

To prevent any possible blockage and failure to unlock the belt, accomplish the following:

Within the next 90 days after the effective date of this AD, modify the belt buckle in accordance with the repair instructions specified in Secur Aiglon SB No. TRW 1 dated April 27, 1984, or later FAA approved revision.

Note.—Incorporation of the SB which repairs the defective buckle, constitutes terminating action for this AD.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, AEU-100, 15 Rue de la Loi, B-1040, Brussels, Belgium, telephone 513.38.30.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, AEU-100, 15 Rue de la Loi, B-1040, Brussels, Belgium, may adjust the compliance time specified in this AD.

The FAA will request the permission of the Federal Register to incorporate by reference the manufacturer's SB identified and described in this document.

Issued in Burlington, Massachusetts on July 18, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-17720 Filed 7-25-85; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 16, 17, and 18

Reporting Requirements for Contract Markets, Futures Commission Merchants, Clearing Members and Traders

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing amendments to Parts 16 and 17 of its regulations which are intended to provide the Commission with important surveillance data on a more timely basis. Proposed amendments to Part 16 would require that exchanges submit data under rules 16.00, 16.01 and 16.02 to the Commission by 12:00 noon on the business day following the day to which the information pertains. Currently the time of day for exchange submissions is not specified. Under the proposed amendments to Part 17, all futures commission merchants (FCM's), clearing members and foreign brokers would be required to submit the information specified under rule 17.00(a) in machine readable form unless otherwise directed by the Commission or its designee. FCM's and foreign brokers which are exempt from automated reporting and which mail reports would have to mail such reports not later than the day covered by the report.

The Commission is also proposing clarifying amendments to rule 16.06 which requires a contract market promptly to inform the Commission of errors and omissions in data it has provided to the Commission and to rule 18.04 concerning information provided by large traders on CFTC Form 40.

DATES: Comments must be submitted on or before September 24, 1985.

ADDRESS: Comments should be sent to the: Commodity Futures Trading Commission, 2033 K St., NW., Washington, D.C. 20581. Attn: Secretariat.

FOR FURTHER INFORMATION CONTACT: Lamont Reese, Associate Director, Market Surveillance Section, Division of Economic Analysis, 2033 K Street, NW., Room 507, Washington, D.C. 20581. 202-254-3310.

SUPPLEMENTARY INFORMATION: The Commission has established a comprehensive reporting system through which it receives data for both futures and options markets. These data are necessary for the purposes of market surveillance which include prevention of market manipulation and congestion and enforcement of speculative limits, and for research and market analysis programs. The system includes reports from contract markets concerning options and futures data required under 17 CFR Part 16; reports from FCM's clearing members and foreign brokers concerning futures positions and transactions of large traders required under 17 CFR Part 17; and reports from large traders required under 17 CFR Part 18.[1]

I. Proposed Amendments to Part 16

Under Part 16 of the Regulations, each contract market provides information concerning the futures and options positions and transactions of members of its clearing organization, 17 CFR 16.00; futures and options trading volume, open contracts and prices, 17 CFR 16.01; large option trader reports, 17 CFR 16.02; and month-end reports, 17 CFR 16.04. These data are supplied by the contract markets in both hard copy and machine readable form. Upon receipt of the machine readable data, the Commission processes the data and updates its data base. Because of the large volume of data involved, this update can only be made once a day.

Currently, a contract market must submit the data required under rules 16.00, 16.01 and 16.02 on the business day following the day to which the information pertains. The rules, however, do not specify a time of day by which the data must be provided. (See 17 CFR 16.00(b), 16.01(d), and 16.02(b).) Data are received routinely from the exchanges at any time from noon until the close of business. When the data are received near or at the close of business, they are not timely for market surveillance purposes, and there is insufficient time to include the data in the daily update to the data base. The Commission must then forgo use of these data for another 24 hour period.

In view of the above, the Commission is proposing to amend rules 16.00(b), 16.01(d) and 16.02(b) to require that the exchanges provide the information required under rules 16.00(a), 16.01(a)(b) and 16.02(a) in both hard copy and machine readable form by 12:00 noon of the business day following the day to which the information pertains.[2]

The Commission is also proposing clarifying amendments to rule 16.06, 17 CFR 16.06 (1984), under which contract markets must notify the Commission of omissions or errors in the data supplied under Part 16. The proposed amendments to § 16.06 would require that corrections to errors and omissions in reports filed in machine readable form under Part 16 be provided on Commission compatible data processing media using a format and coding structure approved by the Commission or its designee. The contract markets have an obligation at all times to provide the Commission with accurate reports. The Commission recognizes, however, that because of the time limitations for submitting Part 16 data, contract markets may not have resolved all data problems and in fact there may be further adjustments. The Commission expects that contract markets will maintain a program designed to detect errors or omissions and promptly provide corrections to the Commission.

II. Proposed Amendments to Part 17

Commission rule 17.00 requires each FCM, clearing member and foreign broker to submit daily series '01 reports to the Commission concerning special accounts.[3] These reports must show reportable futures positions, exchanges of futures for cash and delivery notices issued or stopped for such accounts.

Under § 17.03 of the regulations, 17 CFR 17.03 (1984), any FCM or clearing member may provide the information required under rule 17.00 on Commission compatible data processing media or updated, Commission-supplied computer printouts using a format and coding structure approved by the Commission. Five firms currently supply daily series '01 information on magnetic tape.[4] These five firms report approximately 11 percent of all daily '01 information.

The Commission's experience with receiving information in machine readable form indicates that it improves data collection and saves time, money, and effort for both the Commission and respondents. The improvement in the data collection results from higher levels of accuracy in the data due to a reduction in transcription and key punch errors and the fact that machine readable data are available to the Commission on a more timely basis.

In a 1983 report to the Committee on Government Operations, House of Representatives, the Comptroller General (GAO) confirmed the Commission's experience.[5] The Committee on Government Operations requested that the GAO identify, in selected agencies, where information technology could improve economy and efficiency in the transfer of data from private businesses to the Federal Government. GAO's report used case studies of reporting requirements placed on businesses by the Departments of Health and Human Services and Commerce and by the Commodity Futures Trading Commission.

In its case study of the Commission's reporting system, GAO contacted 19 firms which in total reported an average of 4,215 accounts daily. Only two of the 19 firms reported data in a machine readable form. GAO found tha 12 of the remaining 17 firms were capable of or interested in reporting their data in machine readable form.[6] Each of these firms either had in-house capability or used a service bureau which has the capability to report on magnetic media on its behalf.

In terms of benefits, GAO found that although some firms would realize savings, the primary benefit to respondents resulted from efficiency of operation. With respect to the Commission, the GAO found that government-cost-savings potential was evident, and that automated submissions to the CFTC would eliminate time-consuming steps in processing data and significantly improve surveillance through more timely data.[7] In light of its own experience and GAO's findings, the Commission is proposing that information required under rule 17.00 be provided to the Commission in machine readable form by FCM's, foreign brokers and clearing members.

The proposed amendments to § 17.00 specifically provide that an FCM, foreign broker or clearing member submit information in machine readable form that is compatible with the Commission's data processing system using a format and coding structure specified in new paragraph 17.00(g). Paragraph 17.00(g) allows reporting only on 1600 BPI magnetic tape with EBCDIC encoded card images and a standard IBM label unless otherwise approved by the Commission or its designee. The paragraph also specifies record formats and definitions for various fields on the tape. The information which must be provided on tape includes a five digit number assigned by the Commission to the FCM, foreign broker or clearing member, the account number assigned by the respondent to a special account, contract market identifier, report date and the position and transaction information currently specified in paragraph 17.00(a)(2) of the regulations. The rules concerning interest in or control of several accounts contained in

[1] Traders are considered large in futures if they own or control a position which exceeds certain levels established by the Commission. See 17 CFR 15.00(b)(1) and 15.03(a).

[2] The Commission is also proposing amendments to rules 16.00(b), 16.01(d), 16.02(b) and 16.04(b) to reflect accurately the types of magnetic media which are compatible with the commission data processing system. These include only magnetic tape and diskettes.

[3] A special account is defined in rule 15.00(c) of the Commission's regulations to mean any commodity futures or option account in which there is a reportable position, 17 CFR 15.00(c) (1984).

[4] A sixth firm is in the process of automating their reporting system.

[5] Report to the Committee on Government Operations, House of Representatives of the United States, GAO/GGD-83-89, April 11, 1983.

[6] *Ibid* p. 21.

[7] *Ibid* pp. 22-23.

§§ 17.00 (b) and (c) and the methods for reporting positions on a net or a gross

Such entities may request that the Commission permit them to provide the

futures and/or options trading accounts. Paragraph (5), (8) and (9) of rule 18.04(a)

purposes of the RFA. Thus, pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)),

2. § 16.000 is proposed to be amended by revising paragraph (b) as follows:

day following that to which the information pertains at the Regional

VOL 50 ISS 144 JL 26 1985 UMI

§§ 17.00 (b) and (c) and the methods for reporting positions on a net or a gross basis contained in §§ 17.00 (d) and (e), as well as the assignment of account numbers specified in § 17.01(a), will apply reporting by manual means.[8] The Commission welcomes specific comments from interested persons on the availability of these data in machine readable form and the cost and feasibility of transferring the data into the required format.

In proposing this amendment, the Commission anticipates that most if not all FMC's and clearing members are technologically able to comply with it, either through their own in-house data processing system or through the independent service bureaus which many FCM's and clearing members employ. Many foreign brokers may also be able to comply with these requirements. In a number of instances foreign brokers are affiliated with domestic firms which are FCM's and/or clearing members. The Commission believes that these domestic affiliates could provide a means through which the foreign brokers report series '01 information in an automated manner. Some daily series '01 reports of foreign brokers currently are reported in this fashion. Nevertheless, the Commission recognizes that in certain circumstances the respondents may not be able to comply with automated reporting requirements. Accordingly, the Commission has proposed a limited exemption in new rule 17.03 for the reporting entities who are technologically unable to meet the requirement that the information be provided in machine readable form.[9]

[8] The Commission would also like to clarify its rules with respect to assigning numbers to special accounts and is seeking comment concerning the desirability of amending § 17.01(a) to allow the use of two account numbers. Rule 17.01(a) requires that if a number is assigned to a special account for reporting futures information to the Commission, the same number must be used for reporting options information to the exchange. The number assigned for reporting futures information must be numeric. If a trader becomes reportable in options and is not reportable in futures, FCM's, clearing members and foreign brokers may report non-numeric account numbers to the exchange. However, if the account subsequently becomes reportable in futures, under current regulations, the account number will have to be changed. Alternatively in such cases, the Commission could allow the use to two account numbers, a non-numeric number for reporting options information to the exchange and a numeric account number for reporting futures information to the Commission.

[9] The Commission is proposing to delete current rule 17.03 which allows FCM's of clearing members to report data in machine readable form at their discretion.

Such entities may request that the Commission permit them to provide the information required under proposed rule 17.00 using series '01 reporting forms or Commission supplied computer printouts.

The Commission is also proposing to amend rule 17.02 specifying the place for, and time of, filing reports. Currently the Commission requires that series '01 reports and Form 102's be filed at the Commission office in the city in which the contract market involved in the reported transactions is located. The Commission recognizes that some FCM's or clearing members may have centralized data processing units and that it therefore may be more efficient for some firms to report all data in an automated fashion to a single Commission office. The Commission intends, therefore, to give instructions to respondents on a case-by-case basis concerning the office at which they must file reports. The Commission is proposing the amend rule 17.02 accordingly. The Commission is also proposing that the time for filing automated reports remain the same as that which currently applies to manual reporting—9:00 a.m. local time for the city in which the reports are filed.

The Commission is further proposing to delete rule 17.02(b) which allows foreign brokers to mail series '01 reports on a weekly basis, 17 CFR 17.02(b) (1984). If a foreign broker cannot comply with the Commission's requirement for automated reporting and obtains an exemption under proposed rule 17.03, the Commission is proposing to require that the foreign broker mail series '01 reports to the Commission not later than the day of the report. In certain market situations the Commission has found that weekly reporting by foreign brokers is not sufficient. The Commission believes that this proposed requirement will further its goals of receiving necessary surveillance data on a timely basis and of providing parity of treatment between domestic and foreign market participants. FCM's which mail series '01 reports are currently subject to this proposed requirement, 17 CFR 17.02(a)(2) (1984).

III. Proposed Amendments to Part 18

Regulation 18.04 requires each reportable trader to file with the Commission a "Statement of Reporting trader" on CFTC Form 40, 17 CFR 18.04 (1984). The Form 40 provides certain biographical information about the trader as well as information concerning the Trader's financial interest in organizations which trade futures and/or options and the trader's control over futures and/or options trading accounts. Paragraph (5), (8) and (9) of rule 18.04(a) set forth that the trader shall report certain information concerning the following:

(a) Persons whose accounts are controlled by the reporting trader, 17 CFR 18.04(a)(5);

(b) Persons who guarantee or who have a financial interest of 10% or more in the account of the trader, 17 CFR 18.04 (a)(8); and

(c) Accounts which the reporting trader guarantees or in which the trader has a financial interest of 10% or more. 17 CFR 18.04(a)(9).

The use of the term "account" in each of the above instances may be ambiguous and, if interpreted to mean a direct interest in a specific account, may deny the Commission information regarding important relationships involving financial interest or control between two or more persons who trade options or futures. The Commission is therefore proposing to modify the language in paragraph 18.04(a) (5), (8) and (9) to reflect more accurately its intentions.

In another area, paragraphs 18.04(b) (3) and 18.04(c) (8) request information concerning a trader's use of futures and/or options markets for hedging in conjunction with cash marketing activity. In a number of instances, certain traders which on the basis of other information appear to be commercial firms have stated that they do not use the options or futures markets for hedging because they did not understand these particular questions on the CFTC Form 40. To avoid this misunderstanding, the Commission is proposing clarifying amendments to paragraphs 18.04(b)(3) and 18.04(c)(8). If adopted, the CFTC Form 40 would be changed to reflect the language used in the amended regulations.

IV. Other Related Issues

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") requires that agencies, in proposing rules, consider the impact of those rules on small business. These amendments affect large traders, futures commission merchants and other similar entities. The Commission has defined "small entities" as used by the Commission in evaluating the impact of its rule in accordance with the RFA, 47 FR 18618–18621 (April 30, 1982). In that statement, the Commission concluded that large traders and futures commission merchants are not considered to be small entities for

purposes of the RFA. Thus, pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comments from any firm which believes that these rules would have a significant economic impact upon its operations.

B. Paperwork Reduction Act

Pursuant to the provisions of the Paperwork Reduction Act of 1980, the Office of Management and Budget has assigned for use control numbers 3038–0007 and 3038–0009 to the regulations which appear herein and to the series '01 reports and Forms 103, 40 and 102.

Interested members of the public may obtain a complete copy of the information collections relating to the rules contained herein by contacting Joseph Salazar at (20) 254–8735. Persons wishing to comment on the Paperwork Reduction Act implications of the proposed rule change are asked to send a copy of their comments to Mr. Salazar at the Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, and to the OMB desk officer for the agency, Katie Lewin, Office of Information and Regulatory Affairs, Office Management and Budget, Washington, D.C. 20503.

List of Subjects

17 CFR Part 16

Commodity futures, Reports by Contract Markets, Reporting and recordkeeping requirements.

17 CFR Part 17

Brokers, Commodity futures, Reporting and recordkeeping requirements, Reports by Futures Commission Merchants, Members of Contract Markets and Foreign Brokers.

17 CFR Part 18

Commodity futures, Reporting and recordkeeping requirements, Reports by Traders.

In consideration of the foregoing, the Commission is proposing to amend Parts 16, 17 and 18 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 16—REPORTS BY CONTRACT MARKETS

1. The authority citation for Part 16 continues to read as follows:

Authority: Sec. 5, 8a, 42 Stat. 1000, 49 Stat. 1500, 88 Stat. 1392; (7 U.S.C. 7, 12a)

2. § 16.000 is proposed to be amended by revising paragraph (b) as follows:

§ 16.00 Clearing member reports.

* * * * *

(b) Form and manner of reporting; time and place of filing reports. Unless otherwise approved by the Commission or its designee, the information required by paragraph (a) of this section shall be submitted in hard copy form and on compatible data processing magnetic tapes or magnetic diskettes using a format and coding structure approved in writing by the Commission or its designee. Unless otherwise instructed by the Commission or its designee, such information shall be submitted by 12:00 noon on the business day following the day to which the information pertains at the Regional Office of the Commission having local jurisdiction with respect to such contract market.

3. § 16.01 is proposed to be amended by revising paragraph (d) as follows:

§ 16.01 Trading Volume, Open Contracts and Prices

* * * * *

(d) Reports to the Commission. Unless otherwise approved by the Commission or its designee, the information specified in paragraphs (a) and (b) of this section shall be submitted to the Commission on compatible data processing magnetic tapes or magnetic diskettes, using a format and coding structure approved in writing by the Commission or its designee. Unless otherwise instructed by the Commission or its designee, such information shall be submitted by 12:00 noon on the business day following the day to which the information pertains at the Regional Office of the Commission having local jurisdiction with respect to such contract market.

4. § 16.02 is proposed to be amended by revising paragraph (b) as follows:

§ 16.02 Large Option Trader Reports

* * * * *

(b) Form and manner of reporting. The information required by paragraph (a) of this section shall be submitted in hard copy form and on compatible data processing magnetic tapes or magnetic diskettes, using a format and coding structure approved in writing by the Commission or its designee. For options on futures and for options on physicals that are settled in cash, such information shall be compiled weekly as of the close of business on Tuesday, or Monday if Tuesday is a holiday, or more frequently than weekly as the Commission may direct. Unless otherwise instructed by the Commission or its designee, the information shall be submitted by 12:00 noon on the business day following that to which the information pertains at the Regional Office of the Commission having local jurisdiction with respect to such contract market.

5. § 16.04 is proposed to be amended by revising paragraph (b) as follows:

§ 16.04 Month-end reports.

* * * * *

(b) Form and manner of reporting; time and place of filing reports. Unless otherwise approved by the Commission or its designee, the information required by paragraph (a) of this section shall be submitted in hard copy form and on compatible data processing magnetic tapes or magnetic diskettes using a format and coding structure approved in writing by the Commission or its designee, such information shall be submitted not later than the fifth business day following the day to which the information pertains at the Regional Office of the Commission having local jurisdiction with respect to such contract market.

6. § 16.06 is proposed to be revised to read as follows:

§ 16.06 Errors or omissions.

Contract Markets shall file with the Commission on compatible data processing media using a format and coding structure approved by the Commission or its designee, corrections to errors or omissions in data previously filed with the Commission pursuant to §§ 16.00, 16.01, 16.02 or 16.04.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

7. The authority citation for Part 17 continues to read as follows:

Authority: 7 U.S.C. 6a, 6c, 6f, 6g, 6i, 7 and 12a, unless otherwise noted.

8. § 17.00 is proposed to be amended by revising in paragraph (a)(1) and adding new paragraphs (a)(3) and (g) as follows:

§ 17.00 Information to be Furnished by Futures Commission Merchants, Clearing Members and Foreign Brokers.

(a) *Special Accounts-reportable futures positions, delivery notices and exchanges of futures for cash.* (1) Each futures commission merchant, clearing member and foreign broker shall submit a report to the Commission for each business day with respect to all Special Accounts carried by the futures commission merchant, clearing member or foreign broker, except for accounts carried on the books of another futures

commission merchant on a fully disclosed basis. Except as otherwise

05 O–T–DELIVERY–MONTH—PIC 9(4).
05 O–T–LONG–POSITION—PIC 9(6).

notices issued (stopped) are reported in

12. § 18.04 is proposed to be amended

(iii) Futures or options markets used.

Branch, U.S. Customs Service, 1301

VOL 50 ISS 144 JL 26 1985 UMI

commission merchant on a fully disclosed basis. Except as otherwise authorized by the Commission or its designee, such report shall be made on Commission compatible data processing media in accordance with the format and coding provisions set forth in paragraph (a) of this section. The report shall show each reportable futures position separately for each contract market and for each future, in each special account as of the close of the market on the day covered by the report and, in addition, the quantity of exchanges of futures for physicals and the number of delivery notices issued for each such account by the clearing organization of a contract market and the number stopped by the account.

* * * * *

(3) Information provided by means of data processing media must also be accompanied by a complete and accurate printout of information, which shall be submitted by the future commission merchant, foreign broker or clearing member if a sole proprietorship, by a general partner of a futures commission merchant, foreign broker or clearing member which is a partnership, by the chief executive officer of a futures commission merchant, foreign broker or clearing member which is a corporation, or by a person designated by the futures commission merchant, foreign broker or clearing member for such purpose provided such designee has been identified as such in writing to the Commission.

* * * * *

(g) *Media and file characteristics.* (1) Except as otherwise approved by the Commission or its designee, information shall be provided on unblocked, nine track, 1600 BPI magnetic tape with EBCDIC encoded card images using a standard IBM label.

(2) All required records shall be submitted together in a single file. Each record will be 80 characters long. Specific record formats are given below as a set of Cobol Language descriptions. There are two different record descriptions. The file must begin with a Type I record identifying the sequence of type II records that follow as series '01 data.

(3) The required records are as follows:

```
01 O-T-Type I RECORD:
   05 Filler—PIC X(10) VALUE "X 01 REG".
   05 O-T-REPORT-DATE—PIC X (6).
   05 Filler—PIC X (64) VALUE "Spaces."
01-O-T-TYPE II RECORD:
   05 O-T-REPORTING-FIRM-NUMBER—
      PIC 9(5).
   05 O-T-REPORT-DATE—PIC 9(6).
   05 O-T-ACCOUNT-NUMBER—PIC 9(12).
   05 O-T-COMMODITY-CODE—PIC 9(6).
   05 O-T-DELIVERY-MONTH—PIC 9(4).
   05 O-T-LONG-POSITION—PIC 9(6).
   05 O-T-SHORT-POSITION—PIC 9(6).
   05 FILLER—PIC X (16) VALUE "Spaces"
   05 O-T-NOTICES -ISSUED—PIC 9(5).
   05 O-T-NOTICES-STOPPED—PIC 9(5).
   05 O-T-BUY-XFC—PIC 9(4).
   05 O-T-SELL-XFC—PIC 9(4).
   05 FILLER—PIC X (1) VALUE "Spaces".
```

(4) Field definitions for each record are as follows:

(i) *Reporting Firm Number.* A five digit number assigned by the Commission to each FCM, clearing member and foreign broker which reports series '01 data.

(ii) *Report Date.* The date on which the reported positions were held by traders. Dates are encoded in a YYMMDD format where YY is the last 2 digits of the year, MM is the month and DD is the date with a leading 0 of month and days 1–9.

(iii) *Account Number.* A unique identifier assigned by the reporting firm to each special account. The field is 0 filled with account number right justified. Assignment of the account number is subject to the provisions of §§ 17.00(b) and (c) and 17.01(a).

(iv) *Commodity Code.* A six character identifier assigned by the CFTC to identify uniquely a contract traded on a specific exchange. The code is in CCCMMS format where CCC identifies the commodity, MM identifies the exchange and S distinguishes between two or more contracts specifying delivery of the same commodity on the same exchange.

(v) *Delivery Month.* The year and month of delivery specified in the contract in YYMM format. YY is the last two digits of the year and MM specifies the month with a leading 0 for months 1–9.

(vi) *Long (Short) Position.* Reportable long (short) position (if any) in the special account held on the contract market as of the close of business on the report date specified in the same record. Long (short) positions are reported in contracts except for the grains and soybeans. In the grains and soybeans, long (short) positions are reported in thousand bushels (000 omitted). The long (short) position in right justified with the field zero filled. Positions are reported on a net or gross basis in accordance with the provisions of paragraphs (d) and (e) of this section.

(vii) *Notices Issued (Stopped).* Delivery notices issued by the clearing organization of a contract market on behalf of a special account (stopped by the account) on the report date. Notices issued (stopped) are reported in contracts except for the grains and soybeans. In the grains and soybeans, notices issued (stopped) are reported in thousand bushels (000 omitted). Notices issued (stopped) are right justified, and the field zero filled.

(viii) *Buy (Sell) XFC's.* The quantity of long contracts opened and/or short contracts liquidated (short contracts opened and/long contracts liquidated) as a result of an exchange of futures for physicals. Buy (Sell) XFC's are reported in contracts except for the grains and soybeans. In the grains and soybeans, Buy (Sell) XFC's are reported in thousand bushels (000 omitted).

9. § 17.02 is proposed to be revised to read as follows:

§ 17.02 Place and Time of Filing Reports.

The reports required to be filed by futures commission merchants, clearing members and foreign brokers under §§ 17.00 and 17.01 shall be filed at a Commission office in accordance with instructions by the Commission or its designee. The reports required under §§ 17.00 and 17.01 shall be filed by futures commission merchants, clearing members and foreign brokers with the appropriate Commission office on the business day following the day for which the reports are filed and not later than 9:00 am local time for the city in which the reports are filed, or at such other time as instructed by the Commission. If a foreign broker or futures commission merchant, other than a clearing member, files manual reports under §§ 17.00 and 17.01 and does not have an office in the city in which the appropriate Commission office is located, such reports may be transmitted to the appropriate Commission office by mail. Each report transmitted by mail must be mailed no later than the report date.

10. § 17.03 is proposed to be revised to read as follows:

§ 17.03 Reporting by Means other than Data Processing Media.

Reports required under § 17.00 may be made on series '01 forms or updated Commission supplied computer printouts at the discretion of the Director of the Division of Economic Analysis upon a showing that the futures commission merchant, clearing member or foreign broker technologically is not able to provide the information in the form required by § 17.00.

PART 18—REPORTS BY TRADERS

11. The authority citation for Part 18 continues to read as follows:

Authority: 7 U.S.C. 6a, 6c, 6f, 6g, 6i and 12a unless otherwise noted.

12. § 18.04 is proposed to be amended by revising paragraphs (a)(5), (a)(8), (a)(9), (b)(3), and (c)(6) as follows. The introductory texts of paragraphs (a)(b), and (c) are shown for the convenience of the reader and remain unchanged.

§ 18.04 Statement of Reporting Trader.

* * * * *

(a) Information to be furnished by all traders in Part A of the Form 40 shall include:

* * * * *

(5) The name and address of each person whose options or futures trading is controlled by the reporting trader.

* * * * *

(8) The names and locations (city and state) of persons who guarantee futures or options trading accounts of the reporting trader or who have a financial interest of 10 percent or more in the reporting trader or the accounts of the reporting trader.

(9) The following information concerning other options or futures trading accounts which the reporting trader guarantees or other futures or options traders or accounts in which the reporting trader has a financial interest of 10 percent or more:

(i) The names of traders for whom the reporting trader guarantees accounts or in which the reporting trader has a financial interest;

(ii) The names of the accounts which the reporting trader guarantees or in which the reporting trader has a financial interest; and

(iii) The names and locations of the brokerage firms at which the accounts are carried.

* * * * *

(b) Information to be furnished in Part B of the Form 40 shall include:

* * * * *

(3) The following information if a trader makes transactions or holds positions in a futures or options contract where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel, and the transactions or positions are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise:

(i) Commercial activity associated with use of the options or futures market (*e.g.*, production, merchandising or processing of a cash commodity, asset/liability risk management by depository institutions, security portfolio risk management, etc.)

(ii) Physical commodities underlying use of the futures or options markets.

(iii) Futures or options markets used.

* * * * *

(c) Information to be furnished in Part C of the Form 40 shall include:

* * * * *

(6) The following information if a trader makes transactions or holds positions in a futures on options contract where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel and the transactions or positions are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise:

(i) Commercial activity associated with use of the options or futures market (*e.g.*, production, merchandising or processing of a cash commodity, asset/liability risk management by depository institutions, security portfolio risk management, etc.)

(ii) Physical commodities underlying use of the futures or options markets.

(iii) Futures or options markets used.

* * * * *

Issued in Washington, D.C., on July 17, 1985 by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 85-17427 Filed 7-25-85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 6 and 122

Air Commerce Regulations; Entry and Clearance of Aircraft and Transportation of Persons and Cargo by Aircraft

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed revision.

SUMMARY: As part of the general revision of the Customs Regulations, Customs is proposing to revise its rules relating to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft. This proposed revision sets forth the general Customs requirements applicable to all air commerce. It follows a new format and includes changes or additions in language to clarify the current provisions and to make some minor substantive changes.

DATE: Comments must be received on or before October 24, 1985.

ADDRESS: Comments (preferably in triplicate) may be addressed to, and inspected at, the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2428, Washington, D.C. 20229. Comments relating to the information collection aspects of the proposal should be addressed to the Regulations Control Branch, as noted above, and also the Office of Information and Regulatory Affairs, Attention: Desk officer for U.S. Customs Service, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: John A. Mathis, Carrier Rulings Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5706).

Operational Aspects: Joseph E. O'Gorman, Office of Inspection and Control, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8151).

SUPPLEMENTARY INFORMATION:

Background

Customs has undertaken to review and revise selected parts of the Customs Regulations contained in Chapter 1, Title 19, Code of Federal Regulations (19 CFR Chapter I), with the objective of reducing and/or eliminating, to the fullest extent possible, obsolete and unnecessary regulatory requirements. This action was mandated by the Regulatory Flexibility Act, and by the Treasury Department Regulatory Flexibility Review Plan which appeared in the Federal Register on April 14, 1982 (47 FR 16033). As stated in a notice published by Customs in the Federal Register on June 10, 1983 (48 FR 26831), Part 6, Customs Regulations (19 CFR Part 6), is one of those which has been scheduled for revision under the Treasury plan. Accordingly, the revised Part 6, redesignated as Part 122, proposes to set forth all air commerce regulations administered by Customs in a clearly stated new format, which incorporates both current provisions and substantive changes. The major changes from the present regulations are deletion of the requirement that American-flag aircraft report foreign repairs and pay duty (a provision of the Trade Agreements Act of 1979), and the inclusion of a subpart dealing with requirements relating to aircraft liquor kits. The proposal also contains amendments to the regulations dealing with overflight exemptions and reporting requirements which appeared in a notice of proposed rulemaking published in the Federal Register on April 1, 1985 (50 FR 12819).

Additionally, amendments necessitated by the recent revision of

3. Proposed § 122.11(c) is a rephrasing of present § 6.12(e)

excepted aircraft arriving from outside

Subpart E—Aircraft Entry and Entry Documents

15. Proposed § 122.47(d) is based upon present § 6.7(f).

4. Proposed § 122.52(c) is based upon the last two sentences of present

VOL 50 ISS 144 JL 26 1985 UMI

Additionally, amendments necessitated by the recent revision of the Customs bond structure (T.D. 84–213), published in the Federal Register on October 19, 1984 (49 FR 41152), have been incorporated into this proposal.

Revised Part 122 would be divided into 16 subparts. Following is a discussion of the proposed major changes in each of the subparts.

Subpart A—Scope and General Definitions and Provisions

1. Proposed § 122.1 is new and would set forth in general terms the geographic applicability of the revised part.
2. Proposed § 122.2(a) would substitute the statutory definition of "aircraft" from 49 U.S.C. 1301(5), for the present narrower definition of "civil aircraft."
3. Proposed § 122.2(b) is unchanged from present § 6.1(e).
4. Proposed § 122.2(c) would revise § 6.1(g) by substituting the word "agent" for the phrase "authorized person (authorized agent of an owner or operator)."
5. Proposed § 122.2(d) is new and would clarify the difference between commercial and non-commercial (private and public) flights.
6. Proposed § 122.2(e) would clarify § 6.1(h).
7. Proposed § 122.2(f) is new and defines, for the first time, a "landing rights airport."
8. Proposed § 122.2(g) is a rephrasing of present § 24.16.
9. Proposed § 122.2(h) is new and defines "private aircraft."
10. Proposed § 122.2(i) is new and defines "public aircraft."
11. Proposed § 122.2(j) is new and defines "residue cargo." The definition is loosely derived from present § 6.9(a).
12. Proposed § 122.2(k) is a rephrasing of present § 6.1(f).
13. Proposed § 122.2(l) would combine present § 6.1(b) and (c) and include Puerto Rico in the definition of "United States."
14. Proposed § 122.3 is unchanged from present § 6.10.
15. Proposed § 122.4 is a rephrasing of present § 6.6(b).
16. Proposed § 122.5 is a rephrasing of present § 6.6(a).
17. Proposed § 122.6 would significantly revise the specific requirements for reproduction of Customs forms found in present § 6.6(a).

Subpart B—International Airports

1. Proposed § 122.11(a) would rephrase present § 6.12(a), (b) and (d).
2. Proposed § 122.11(b) is a rephrasing of present § 6.12(c).
3. Proposed § 122.11(c) is a rephrasing of present § 6.12(e).
4. Proposed § 122.12(a) is a restatement of present § 6.12(f).
5. Proposed § 122.12(b) is a restatement of present § 6.12(g).
6. Proposed § 122.12(c) is a restatement of present § 6.12(h).
7. Proposed § 122.12(d) is a restatement of present § 6.12(i) with deletion of the reference to "Area."
8. Proposed § 122.12 is unchanged from present § 6.13.

Subpart C—Private Aircraft

1. Proposed § 122.21 is new and would make the subpart applicable to all private aircraft.
2. Proposed § 122.22 would make the landing requirements in proposed § 122.31 applicable to private aircraft.
3. Proposed § 122.23(a) is new and is based upon definitions found in the Department of Transportation regulations relating to exemptions for air taxi operations (14 CFR Part 298).
4. Proposed § 122.23(b), (c), (d), and (e) is a restatement of present § 6.14(a).
5. Proposed § 122.23(f) is new and would state that the final responsibility for giving adequate advance notice of arrival is that of the aircraft commander.
6. Proposed § 122.24(a) and (b) is a restatement of present § 6.14(b) and (g).
7. Proposed § 122.25(a), (b), (c) and (d) is a restatement of present § 6.14(f).
8. Proposed § 122.26 is new and would exempt private aircraft from entry and clearance requirements.
9. Proposed § 122.27 partially is new and partially a restatement of present § 148.5. It would set forth the documentation necessary for declaring baggage and cargo upon arrival of a private aircraft, as well as documentation and requirements for departing with certain cargo not for hire.
10. Proposed § 122.28 is based upon present § 148.32 and relates to a U.S. resident returning a private aircraft to the U.S. which has been taken abroad for non-commercial purposes.
11. Proposed § 122.29 is new and would set forth the changes and procedures relating to overtime services rendered by Customs in connection with an arriving private aircraft. The proposed section is based in part upon present § 24.16.
12. Proposed § 122.30 is based upon present §§ 6.10 and 6.11, and would list other regulatory requirements applying to private aircraft.

Subpart D—Landing Requirements

1. Proposed § 122.31(a) contains a complete rewording and restructuring of present § 6.2(b)(1), and would set forth reporting requirements for all non-excepted aircraft arriving from outside the U.S. Exceptions would appear in proposed § 122.31(b).
2. Proposed § 122.31(b) is based upon present § 6.2(b)(3).
3. Proposed § 122.31(b)(1) is based upon present § 6.2(b)(1), and would set forth the procedures for giving notice of arrival, and would permit reporting by radio or other means.
4. Proposed § 122.31(c)(2) is based upon present § 6.2(b)(2).
5. Proposed § 122.31(d) is based upon present § 6.2(b)(4).
6. Proposed § 122.31(e) is based upon present § 6.2(b)(5).
7. Proposed § 122.31(f) is based upon the second sentence of present § 6.2(b)(1).
8. Proposed § 122.31(g) is based upon present § 6.2(b)(1), and names the aircraft commander as the person responsible for providing adequate advance notice of arrival.
9. Proposed § 122.32 is based upon the first sentence of present § 6.2(a).
10. Proposed § 122.33 is based upon the second sentence of present § 6.2(a). The proposed revision adds reference to two other sections relating to alternative landing sites.
11. Proposed § 122.34 is based upon the last three sentences of present § 6.2(a).
12. Proposed § 122.35 is based upon present § 6.2(h).
13. Proposed § 122.36 is based upon present § 6.2(b)(6).
14. Proposed § 122.37 is based upon present § 6.2(h).
15. Proposed § 122.38(a) is based upon the first sentence of present § 6.2 (e) and (f), and includes the purpose for a permit or special license.
16. Proposed § 122.38(b) is based upon current § 6.2 (e) and (f), and includes the instructions for applying for a permit or special license.
17. Proposed § 122.38(c) is based upon present § 6.2(g).
18. Proposed § 122.38(d) is based upon present § 6.2 (e) and (f), and provides exceptions for the need to obtain a permit or special license for each arrival or departure.
19. Proposed § 122.38(e) is based upon the second sentence of present § 6.2(e) and the first sentence of present § 6.2(f).
20. Proposed § 122.38(f) is based upon present § 6.2 (e) and (f).
21. Proposed § 122.38(g) is new and is based upon Customs Circular INS–2–EV, dated 12/14/61, and provides the procedure for requesting automatic renewal of permits and special licenses.

Subpart E—Aircraft Entry and Entry Documents

1. Proposed § 122.41 is based upon present §§ 6.3(a), 6.4 (a) and (b), and 6.9(c).
2. Proposed § 122.42 (a) and (b) is based upon present §§ 6.3(b) and 6.4(c).

Note.—Much of the remainder of Subpart E is based upon present § 6.7. It covers all of the various forms required for entry. The proposed revision is structured so that each required form is treated in a separate section.

3. Proposed § 122.43 (a) and (c) is based upon present § 6.7 (a) and (b).
4. Proposed § 122.43(b) is based upon Customs Circular AIR–4–ICS, dated 1/24/68, and would permit entry upon presentation of an air cargo manifest in lieu of a general declaration.
5. Proposed § 122.44 is new and is based upon Customs Circular BAG–3–CO (AIR–4–AIR), 8/9/65. It states that aircraft crewmembers arriving from a foreign area must file a crew baggage declaration as provided in Subpart G, Part 148, Customs Regulations (19 CFR Part 148).
6. Proposed § 122.45 is based upon present § 6.7(b)(1) and would substitute "crew list" for "crew manifest.".
7. Proposed § 122.45(d) is based upon Customs Circular BAG–3–CO, 8/9/65, and sets forth requirements for crewmembers returning as passengers.
8. Proposed § 122.46(a) is based upon the last sentence of present § 6.7(b)(2). The qualifying phrase "for any aircraft required to enter by § 122.41" is added.
9. Proposed § 122.46(b) is based upon the last sentence of present § 6.7(b)(2), as well as Customs Circular AIR–4–ICS, dated 1/24/68. The proposed section includes cross-reference to Subpart G, Part 148, Customs Regulations (19 CFR Part 148).
10. Proposed § 122.46(c) is based upon the second and third sentences of present § 6.7(b)(2). The reference to "attached list" is replaced by "crew purchase list."
11. Proposed § 122.47(a) is based upon present § 6.7(f).
12. Proposed § 122.47(b) is based upon present § 6.7(f).
13. Proposed § 122.47(c)(1) is based upon present § 6.7(b)(3)(v).
14. Proposed 122.47(c)(2) is based upon present § 6.7(b)(3) (v) and (vi), and includes major changes. The proposal specifies that "other domestic supplies" may be omitted from the stores list when an appropriate statement appears on the manifest or stores list. Further, the present statement "Aircraft of scheduled airline" is deleted, thus being made applicable to all aircraft required to enter.
15. Proposed § 122.47(d) is based upon present § 6.7(f).

Note.—Proposed § 122.48 is taken from present § 6.7(b)(3). Subparagraphs (v) and (vi) are included in proposed § 122.47(c).

16. Proposed § 122.48(a) is based upon present § 6.7(b)(3), and the phrase "for any aircraft required to enter under § 122.41" is added for clarification.
17. Proposed § 122.48(b) is based upon present § 6.7(b)(3). There is no substantive change except as concerns the requirement that company mail be listed on the cargo manifest.
18. Proposed § 122.48(c)(1) is based upon present § 6.7(b)(3)(i).
19. Proposed § 122.48(c)(2) is based upon present § 6.7(b)(3)(ii).
20. Proposed § 122.48(c)(3) is based upon present § 6.7(b)(3)(iii), with the words "duty free" inserted for clarity.
21. Proposed § 122.48(d) is based upon present § 6.7(b)(3)(vii), as amended by T.D. 84–128, published in the Federal Register on June 4, 1984 (49 FR 23038).
22. Proposed § 122.48(e) is new and is based upon Customs Circular AIR–7–IEI, dated 1/31/72. This section deals with accompanied baggage in transit.
23. Proposed § 122.49(a) is based upon present § 6.7(h) (1) and (2).
24. Proposed § 122.49(b) is based upon present § 6.7(h) (1) and (3), as well as § 4.12(a). The present sections were combined and put in outline form, making it unnecessary to continually refer back to Part 4, Customs Regulations (19 CFR Part 4), to check the applicability of the vessel regulations to aircraft.
25. Proposed paragraphs (c), (d), (e), and (f) of § 122.49 are based upon present §§ 6.7(h) and 4.12. The comments relating to proposed § 122.49(b) apply to these paragraphs as well.

Note.—All reference to the applicability of the vessel repair statute (19 U.S.C. 1466) to repairs made to aircraft, currently reflected in § 6.7(d) and (e), are deleted in proposed Part 122 due to enactment of the Trade Agreements Act of 1979 (Title 6, Pub. L. 96–39) which relieved aircraft from the duty provisions of 19 U.S.C. 1466.

Subpart F—Permit To Proceed

1. Proposed § 122.51 is based upon present § 6.2(d)(3). The word "civil" is deleted and the phrase "passengers carried for hire or merchandise" is replaced by the word "commercial."
2. Proposed § 122.52(a) is based upon present § 6.2(d)(3). The word "civil" is deleted, and the term "commercial aircraft" replaces the term "international traffic."
3. Proposed § 122.52(b) is based upon present § 6.2(d)(3).
4. Proposed § 122.52(c) is based upon the last two sentences of present § 6.2(d)(3). The term "international traffic" has been changed to "commercial aircraft."
5. Proposed § 122.52(d) is based upon present § 6.2(d)(3)(ii), footnote 1, and upon T.D. 55603(1), dated 3/4/60.
6. Proposed § 122.53 is new and is based upon the Federal Aviation Administration regulations (14 CFR 121.153).
7. Proposed § 122.54(a) and (b) is based upon present § 6.2(d)(1). The term "or agent" is added to paragraph (b), and necessary information is listed for inclusion on Customs Form 7507 (Permit to Proceed).
8. Proposed § 122.54(c) is based upon present § 6.2(d)(1).
9. Proposed § 122.54 (d), (e), and (f) is based upon present § 6.2(d)(1).
10. Proposed § 122.54(g) is based upon present § 6.2(d)(2).

Subpart G—Clearance of Aircraft and Permission To Depart

1. Proposed § 122.61(a) is based upon present § 6.3(c), and includes a general statement covering all aircraft except public and private.
2. Proposed § 122.62 (a), (b), and (c) is based upon the third, fourth, and fifth sentences of present § 6.3(c), and names those aircraft not otherwise required to clear.
3. Proposed § 122.63(a) is based upon present § 6.5(c), and the term "authorized person" is changed to "agent" as defined in proposed § 122.2(c).
4. Proposed § 122.63(b) is based upon present § 6.5(c).
5. Proposed § 122.64 is based upon present § 6.3(d), and is basically a restatement of proposed § 122.63 (a) and (b), but deals with aircraft not using procedure outlined therein.
6. Proposed § 122.65 is new and would provide a specific time limit within which cleared aircraft must depart.

Subpart H—Documents Required in Clearance and Permission To Depart

1. Proposed § 122.71 is based upon present § 6.8(a) and rephrases the telephonic clearance procedures, added to the regulations by T.D. 82–92 published in the Federal Register on May 14, 1982 (47 FR 20750).
2. Proposed § 122.72 is based upon present § 6.8(a).
3. Proposed § 122.73 is based upon present § 6.8(b) and T.D. 82–92, and deals with the form and preparation of air cargo manifests.
4. Proposed § 122.74(a) is based upon present § 6.8(a) and the regulations of

the Bureau of The Census (15 CFR 30.24). The term "Customs officer in

provision for crew purchases and stores lists, as well as alternate procedures for

"authorized person" is replaced by the word "agent", and reference to

16. Proposed § 122.117(c)(1) is based upon present § 6.20(c) and deals with

36. Proposed § 122.120(e) is based upon present § 6.23(b) and details the

3. Proposed § 122.163 is based upon present § 6.22(e).

the Bureau of The Census (15 CFR 30.24). The term "Customs officer in charge" is changed to "district director."

5. Proposed § 122.74(b) is based upon present § 6.8(a). The term "Customs officer in charge" is changed to "district director."

6. Proposed § 122.74(c) is based upon present § 6.8(a) and 15 CFR 30.24(a).

7. Proposed § 122.74(c)(1) is based upon present § 6.8(a) and 15 CFR 30.24(a), and deals with shipments to foreign countries.

8. Proposed § 122.74(c)(2) is based upon present § 6.8(e) and 15 CFR 30.24(a)(1), and deals with shipments to and from Puerto Rico.

9. Proposed § 122.74(c)(3) is based upon present § 6.8(a) and 15 CFR 30.24(a)(1), and deals with shipments to U.S. possessions.

10. Proposed § 122.74(d) is based upon present § 6.8(e). The phrase "or all required cargo documents will be filed within the 7-day bond period" is added.

11. Proposed § 122.75(a) (1) and (2) is based upon present § 6.8(e) and 15 CFR 30.21(b), and deals with the contents of a complete air cargo manifest.

12. Proposed § 122.75(b) is based upon the third and fourth sentences of present § 6.8(e).

13. Proposed § 122.76 is based upon present § 6.8(a) and 15 CFR 30.1, and sets forth the requirements for Shipper's Export Declarations.

14. Proposed § 122.77 is based upon present § 6.8(d).

15. Proposed § 122.78 is based upon present § 6.8(c). The phrase "cargo manifest" replaces "outward manifest."

16. Proposed § 122.79(a) is based upon present §§ 6.5(b) and 6.3(c), and deals with shipments to U.S. possessions, other then Puerto Rico.

17. Proposed § 122.79(b) is based upon present §§ 6.5(b) and 6.3(c), and deals with manifest requirements on direct flights to Puerto Rico.

18. Proposed § 122.80 is based upon present § 6.8(e), and deals with verification by Customs of statements made on shipping records.

Subpart I—Residue Cargo Procedures

1. Proposed § 122.81 is based upon present § 6.9(a).

2. Proposed § 122.82 is based upon the present §§ 6.9(a), 4.85(a), 113.13a (a) and (b), and 113.61, and details the bond requirement for aircraft seeking a permit to proceed while carrying residue cargo.

3. Proposed § 122.83(a) is based upon present § 6.9(b), footnote 6. The term "area" is deleted, and the phrase "an authorized person" is replaced by the word "agent."

4. Proposed § 122.83(b) is based upon present § 6.9(b), and includes a provision for crew purchases and stores lists, as well as alternate procedures for unlisted items.

5. Proposed § 122.83(c) is based upon present § 6.9(b). The clarifying phrase "An abstract general declaration and manifest need not be filed at the last domestic port of discharge" is added.

6. Proposed § 122.83(d) is based upon present § 6.9(b), and relates to the contents of a permit to proceed. The word "agent" replaces the phrase "authorized person", and the phrase "Customs officer in charge" replaces "appropriate Customs officer."

7. Proposed § 122.83(e) is based upon present § 6.9, and includes a reproduction of Customs Form 7512–C, Permit to Proceed.

8. Proposed § 122.83(f) is based upon present § 6.9(b). The phrase "The documents presented by the aircraft commander or authorized person when applying for clearance shall be delivered to the aircraft commander" is replaced by ". . . must be delivered to aircraft commander or agent." The word "agent" replaces the phrase "authorized person."

9. Proposed § 122.84 (a) and (b) is based upon present § 6.9(c).

10. Proposed § 122.84(c) is based upon present § 6.9(c). The proposal provides that declarations are to be detached by Customs.

11. Proposed § 122.84(d) is based upon present § 6.9(c), and deals with departure from an intermediate airport.

12. Proposed § 122.85 is based upon present § 6.9(d). It deals with arrival at the final airport.

13. Proposed § 122.86 is new and is based upon Customs Circular AIR-7-EV, dated 11/23/59. It deals with the substitution of aircraft under the residue cargo procedures.

14. Proposed § 122.87 is based upon § 6.9(e).

Subpart J—Transportation in Bond and Merchandise in Transit

1. Proposed § 122.91 is based upon present § 6.15(a).

2. Proposed § 122.92(a) and (b) is based upon present § 6.15(b)(1) and (2).

3. Proposed § 122.92(c) is based upon present § 6.15(b)(3).

4. Proposed § 122.92(d) is based upon present § 6.15(b)(4).

5. Proposed § 122.92(e) is based upon present § 6.15(b)(5), and the phrase "aircraft of the same line" is changed to "aircraft of the same airline".

6. Proposed § 122.92(f) is based upon the first sentence of present § 6.15(b)(6).

7. Proposed § 122.92(g) is based upon second sentence of present § 6.15(b)(6).

8. Proposed § 122.93(a) is based upon present § 6.15(c) The word "port" is changed to "airport", the phrase "authorized person" is replaced by the word "agent", and reference to appropriate Customs forms in inserted.

9. Proposed § 122.93(b) is based upon present § 6.15.

10. Proposed § 122.94(a) is based upon present § 6.16.

11. Proposed § 122.94(b) is based upon present § 6.16, and the phrase "authorized person" is replaced by the word "agent.

12. Proposed § 122.95 is based upon footnote 9 of present § 6.15(a).

Subpart K—Accompanied Baggage in Transit

1. Proposed § 122.101 and 122.102 are new and are based upon Customs Circular AIR–7–IEI, dated 1/31/72. These sections deal with entry and inspection of accompanied baggage in transit.

Subpart L—Transit Air Cargo Manifest (TACM) Procedures

1. Proposed § 122.111 is based upon present § 6.17.

2. Proposed § 122.112(a), (b) and (c) is based upon the definition portion of present § 6.17.

3. Proposed § 122.112(d) is based upon present § 6.18(a), and defines the use of the transit air cargo manifest.

4. Proposed § 122.113 is based upon present § 6.18(a), and discusses the form for transit air cargo manifest procedures.

5. Proposed § 122.114(a) is based upon last sentence of present § 6.18(a), and Customs Circular AIR–7–EV, dated 5/8/62.

6. Proposed § 122.114(b) is based upon the first sentence of present § 6.18(b).

7. Proposed § 122.114(b)(2) is based upon the second sentence of present § 6.18(b).

8. Proposed § 122.114(c) is based upon present § 6.18(d).

9. Proposed § 122.114(d) is based upon present § 6.18(f), and deals with the number of manifest copies required.

10. Proposed § 122.114(e) is based upon present § 6.18(e) and deals with corrections to the route shown on the original manifest.

11. Proposed § 122.115 is based upon present § 6.18(e) and Customs Circular AIR–7–EV, dated 5/8/62. The section deals with labeling of cargo.

12. Proposed § 122.116 is based upon present § 6.19.

13. Proposed § 122.117(a)(1) is based upon the first sentence of present § 6.20(c).

14. Proposed § 122.117(a)(2) is based upon the second sentence of present § 6.20(c).

15. Proposed § 122.117(b) is based upon present § 6.20(b) and (d).

16. Proposed § 122.117(c)(1) is based upon present § 6.20(c) and deals with responsibility for direct exportation of transit air cargo.

17. Proposed § 122.117(c) is based upon the fourth sentence of present § 6.20(c).

18. Proposed § 122.117(c)(3) is based upon the last sentence of present § 6.20(c).

19. Proposed § 122.117(d) is based upon present § 6.20(c) and deals with receipts for split shipments.

20. Proposed § 122.118(a) is based upon present § 6.24(a). All material in the present section following the phrase "in the United States" is deleted and the words "under this section" are added.

21. Proposed § 122.118(b) is based upon present § 6.21(c).

22. Proposed § 122.18(c) is based upon present § 6.24 (b) and (c).

23. Proposed § 122.118(d) is based upon present § 6.24(g) with the phrase "air carrier" being replaced by the word "airline."

24. Proposed § 122.118(f) is based upon Customs Circular AIR–7–CO, dated 3/17/65. It concerns the exportation of post-entered air cargo.

25. Proposed § 122.118(g) is based upon present § 6.24(d).

26. Proposed § 122.119(a) is based upon present § 6.22(a).

27. Proposed § 122.119(b) is based upon present § 6.21(a).

28. Proposed § 122.119(c) is based upon present § 6.22(a) and Customs Circular TRA–1–IMS, dated 7/15/68.

29. Proposed § 122.119(d) (1) and (2) is based upon present § 6.22 (c) and (d), and deals with failure to deliver transit air cargo in a timely fashion.

30. Proposed § 122.119(e), is based upon present § 6.22(a) and deals with the transfer of cargo between carriers.

31. Proposed § 122.120(a) is based upon present § 6.23(a) and establishes the authority for transporting cargo to another port for exportation.

32. Proposed § 122.120(b)(1) is based upon the first sentence of present § 6.23(a). The phrase "may be" is changed to "shall."

33. Proposed § 122.120(b)(2) is based upon the second sentence of present § 6.23(c). The phrase "when the goods are ready for lading" is replaced by the phrase "when transit air cargo is ready for lading."

34. Proposed § 122.120(c) is based upon present § 6.21(b), and deals with the time limit for delivery of transit air cargo for exportation.

35. Proposed § 122.120(d) is based upon present § 6.23 and sets forth new procedures for using Customs Form 7512–C.

36. Proposed § 122.120(e) is based upon present § 6.23(b) and details the requirements for presentation of the carrier manifest copy.

37. Proposed § 122.120(f) is based upon the first sentence of present § 6.23(c).

38. Proposed § 122.120(g) is based upon present § 6.23(e).

39. Proposed § 122.120(h) is based upon present § 6.23(d). The phrase "these documents (including the clearance copies of transit air cargo manifest)" is replaced by the phrase "the exportation and clearance copies of transit air cargo manifests."

40. Proposed § 122.120(i) is based upon present § 6.23(h).

41. Proposed § 122.120(j) is based upon present § 6.23(h) and deals with cargo laden on more than one aircraft of the same airline.

42. Proposed § 122.120(k) is based upon present § 6.23(g).

Subpart M—Aircraft Liquor Kits

Note.—Proposed §§ 122.131 through 122.137, the aircraft liquor kit provisions, do not appear in Part 6, Customs Regulations. The procedures outliend in the proposed subpart are of general applicability and appear by virtue of the requirements of Pub. L. 89–487 (5 U.S.C. 1002). The subpart is based upon Customs Circular AIR–7–AIR, dated 6/16/64.

Subpart N–Flights to and From the U.S. Virgin Islands

1. Proposed § 122.141 is a new definition section, inserted to help clarify the subpart.

2. Proposed § 122.142 is based upon present § 6.25(a).

3. Proposed § 122.143 is based upon present § 6.25(b).

4. Proposed § 122.144(a)(1) is based upon present § 6.25(c)(1).

5. Proposed § 122.144(a)(2) is based upon present § 6.25(c)(2).

6. Proposed § 122.144(b) is based upon present § 6.25(c)(3).

7. Proposed § 122.144(c) is based upon present § 6.25(c)(4).

8. Proposed § 122.144(d) is based upon present § 6.25(c)(5).

9. Proposed § 122.144(d)(1) is based upon present § 6.25(c)(5)(i).

10. Proposed § 122.144(d) (2), (3), and (4) is based upon present § 6.25(c)(5)(ii).

Subpart O—Public Aircraft

1. Proposed § 122.151 is new and is based upon present § 4.5, government vessels.

Subpart P—Penalties

1. Proposed § 122.161 is based upon present § 6.10.

2. Proposed § 122.162 is based upon present § 6.7(b).

3. Proposed § 122.163 is based upon present § 6.22(e).

4. Proposed § 122.164 is based upon present § 6.23(g).

5. Proposed § 122.165 is new and is based upon Customs Circular AIR–4–CR, date 11/12/72. It concerns the Air Cabotage statute, 49 U.S.C. 1508(b). U.S.C. 1508(b).

Editorial Changes

Throughout the revision, numerous editorial changes have been made to clarify and simplify the language contained in the present air commerce regulations in Part 6.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Regulatory Flexibility Act

Pursuant to the provisions of section 606(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, et seq.), it is certified that this proposed revision will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Paperwork Reduction Act

This document is subject to section 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96–511. Public comments relating to the information collection aspects of the proposal should be addressed to the Office of Management and Budget and to Customs at the addresses set forth in the ADDRESS portion of this document.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and

Rulings, Customs Headquarters. However, personnel from other Customs

122.49 Correction of air cargo manifest.

Subpart M—Aircraft Liquor Kits

122.131 Application

(2) An owner or operator of a non-scheduled airline, by power of attorney.

the U.S., for final delivery in a foreign area.

the reverse side of the official form may be omitted.

Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 122

Air carriers, Air transportation, Aircraft, Airports, Cuba, Freight.

PART 6—AIR COMMERCE REGULATIONS [REMOVED]

It is proposed to amend Chapter I of title 19, Code of Federal Regulations, by removing Part 6 (19 CFR Part 6).

It is proposed to further amend Chapter I of title 19, Code of Federal Regulations, by adding a new part, Part 122, to read as folows:

PART 122—AIR COMMERCE REGULATIONS

Subpart A—Scope and General Definitions and Provisions

Sec.
122.1 Scope.
122.2 General definitions.
122.3 Other Customs laws and regulations.
122.4 Availability of forms.
122.5 English language required.
122.6 Reproduction of Customs forms.

Subpart B—International Airports

122.11 Designation as international airport.
122.12 Operation of international airports.
122.13 List of international airports.

Subprt C—Private Aircraft

122.21 Application.
122.22 Notice of arrival.
122.23 Special reporting requirements for private aircraft arriving from areas south of the U.S.
122.24 Landing requirements.
122.25 Exemption from special landing requirements.
122.26 Entry and clearance.
122.27 Documents required.
122.28 Private aircraft taken abroad by U.S. residents.
122.29 Overtime services.
122.30 Other Customs laws and regulations.

Subpart D—Landing Requirements

122.31 Notice of arrival.
122.32 Aircraft required to land.
122.33 Place of first landing.
122.34 Landing rights airport.
122.35 Emergency or forced landing.
122.36 Responsibility of aircraft commander.
122.37 Precleared aircraft.
122.38 Permit and special license to unlade and lade.

Subpart E—Aircraft Entry and Entry Documents

122.41 Aircraft required to enter.
122.42 Aircraft entry.
122.43 General declaration.
122.44 Crew baggage declaration.
122.45 Crew list.
122.46 Crew purchase list.
122.47 Stores list.
122.48 Air cargo manifest.
122.49 Correction of air cargo manifest.

Subpart F—Permit to Proceed

122.51 Aircraft of domestic origin registered in the U.S.
122.52 Aircraft of foreign origin registered in the U.S.
122.53 Aircraft of foreign registry chartered or leased to U.S. air carriers.
122.54 Aircraft of foreign registry.

Subpart G—Clearance of Aircraft and Permission to Depart

122.61 Aircraft required to clear.
122.62 Aircraft not otherwise required to clear.
122.63 Scheduled airlines.
122.64 Other aircraft.
122.65 Failure to depart.

Subpart H—Documents Required for Clearance and Permission To Depart

122.71 Aircraft departing with no commercial export cargo.
122.72 Aircraft departing with commercial export cargo.
122.73 Air cargo manifest.
122.74 Incomplete (pro forma) manifest.
122.75 Complete manifest.
122.76 Shipper's Export Declarations and inspection certificates.
122.77 Clearance certificate.
122.78 Entry or withdrawal for exportation or for transportation and exportation.
122.79 Shipments to U.S. possessions.
122.80 Verification of statement.

Subpart I—Residue Cargo Procedures

122.81 Application.
122.82 Bond requirements.
122.83 Forms required.
122.84 Intermediate airport.
122.85 Final airport.
122.86 Substitution of aircraft.
122.87 Other statutes.

Subpart J—Transportation in Bond and Merchandise in Transit

122.91 Application.
122.92 Procedure at port of origin.
122.93 Procedure at destination or exportation airport.
122.94 Certificate of landing for exportation.
122.95 Other provisions.

Subpart K—Accompanied Baggage in Transit

122.101 Entry of accompanied baggage.
122.102 Inspection of baggage in transit.

Subpart L—Transit Air Cargo Manifest (TACM) Procedures

122.111 Application.
122.112 Definitions.
122.113 Form for transit air cargo manifest procedures.
122.114 Contents.
122.115 Labeling of cargo.
122.116 Identification of manifest sheets.
122.117 Requirements for transit air cargo transport.
122.118 Exportation from port of arrival.
122.119 Transportation to another U.S. port.
122.120 Transportation to another port for exportation.

Subpart M—Aircraft Liquor Kits

122.131 Application.
122.132 Sealing of aircraft liquor kits.
122.133 Stores list required on arrival.
122.134 When airline does not have in-bond liquor storeroom.
122.135 When airline does have in-bond liquor storeroom.
122.136 Outgoing stores list.
122.137 Certificate of use.

Subpart N—Flights to and From the U.S. Virgin Islands

122.141 Definitions.
122.142 Flights between the Virgin Islands and a foreign area.
122.143 Flights from the U.S. to the Virgin Islands.
122.144 Flights from the Virgin Islands to the U.S.

Subpart O—Public Aircraft

122.151 Public aircraft of the U.S. or foreign countries.

Subpart P—Penalties

122.161 In general.
122.162 Failure to notify and explain differences in air cargo manifest.
122.163 Transit air cargo traveling to U.S. ports.
122.164 Transportation to another port for exportation.
122.165 Air cabotage.

Authority: 5 U.S.C 301, 19 U.S.C. 66, 1624, 1644, 49 U.S.C. 1509.

Subpart A—Scope and General Definitions and Provisions

§ 122.1 Scope.

The regulations in this part relate to the entry and clearance of aircraft, and the transportation of persons and cargo by aircraft, and are applicable to all air commerce. They do not apply to Guam, Midway, American Samoa, Wake, Kingman Reef, and Johnston Island and other insular possessions not specified herein. They do apply to the U.S. Virgin Islands as stated in subpart N (§§ 122.141–122.144).

§ 122.2 General definitions

The following definitions apply in this part, unless otherwise stated:

(a) *Aircraft.* An "aircraft" is any device now known, or hereafter invented, used, or designed for navigation or flight in the air.

(b) *Aircraft commander.* An "aircraft commander" is any person serving on an aircraft who is in charge of has command of its operation and navigation.

(c) *Agent.* An "agent" is any person who is authorized to act for or in place of:

(1) An owner or operator of a scheduled airline by written authority; or

(2) An owner or operator of a non-scheduled airline, by power of attorney, the authority to act shall be in writing and satisfactory to the district director.

(d) *Commercial aircraft.* A "commercial aircraft" is any aircraft transporting passengers and/or cargo for some payment of other consideration, including money or services rendered.

(e) *International airport.* An "international airport" is any airport designated by:

(1) The Secretary of the Treasury or the Commissioner of Customs as a port of entry for aircraft arriving in the U.S. from any place outside thereof and for the merchandise carried on such aircraft;

(2) The Attorney General as a port of entry for aliens arriving on such aircraft; and

(3) The Secretary of Health and Human Services as a place for quarantine inspection.

(f) *Landing rights airport.* A "landing rights airport" is any airport, other than an international airport, at which flights from a foreign area may be allowed to land.

(g) *Preclearance.* "Preclearance" is the tentative examination and inspection of air travelers and their baggage, at the request of an airline, at foreign places where Customs personnel are stationed for that purpose. Preclearance may be used only for passengers and their baggage.

(h) *Private aircraft.* A "private aircraft" is any aircraft engaged in a personal or business flight to or from the U.S. which is not:

(1) Carrying passengers and/or cargo for commercial purposes;

(2) Leaving the U.S. in ballast to lade passengers and/or cargo in a foreign area for commercial purposes; or

(3) Returning to the U.S. in ballast after leaving with passengers and/or cargo for commercial purposes;

(i) *Public aircraft.* A "public aircraft" is any aircraft owned by, or under the complete control of, the U.S., its agencies, or any foreign nation. This definition applies if the aircraft is:

(1) Manned entirely by members of the armed forces or civil service of such government, or by both;

(2) Transporting only property of such government, or passengers traveling on official business of such government; or

(3) In ballast.

(j) *Residue cargo.* "Residue cargo" is any cargo on board an aircraft arriving in the U.S. from a foreign area if the:

(1) Final delivery airport in the U.S. is not the port of arrival; or

(2) Cargo remains on board the aircraft and travels from port to port in the U.S., for final delivery in a foreign area.

(k) *Scheduled airline.* A "scheduled airline" is any individual, partnership, corporation or association:

(1) Engaged in air transportation under regular schedules to, over, away from, or within the U.S.; and

(2) Holding a Foreign Air Carrier Permit or a Certificate of Public Convenience and Necessity, issued by the Civil Aeronautics Board.

(l) *United States.* the "U.S." means the territory of the several States, the District of Columbia, and Puerto Rico, including the territorial waters and overlying airspace.

(m) *Place.* The term "place", as used in this Part, means anywhere outside of the airspace of the United States.

§ 122.3 Other Customs laws and regulations.

Except as otherwise provided for in this part, and insofar as such laws and regulations are applicable, aircraft arriving or having arrived from any foreign port or place, and the persons and merchandise, including baggage, carried thereon, shall be subject to the laws and regulations applicable to vessels arriving or having arrived from any foreign port or place, to the extent that such laws and regulations are administered by Customs.

§ 122.4 Availability of forms.

The forms mentioned in this part may be purchased from the district director at a port of entry. A small number of each form is set aside by each district director for free distribution and official use.

§ 122.5 English language required.

A translation in the English language shall be attached to the original and each copy of any form or document written in a foreign language.

§ 122.6 Reproduction of Customs forms.

(a) *Specifications.* The Customs forms mentioned in this part may be printed by private parties if the same size, wording, arrangement, style and size of type, and quality and color of paper are used.

(b) *Exceptions.* District directors may accept privately printed copies of the General Declaration (Customs Form 7507) and air cargo manifest (Customs Form 7509) which are different from the official forms. The private forms shall include all information required on the official forms. The differences allowed are:

(1) *General Declaration.* Customs Form 7507 may be printed in several languages, so long as the form includes an English version. The instructions on the reverse side of the official form may be omitted.

(2) *Air cargo manifest.* Customs Form 7509 may be changed to allow for additional information used by the airline.

Subpart B—International Airports

§ 122.11 Designation as international airport.

(a) *Procedure.* International airports, as defined in § 122.2(e), will be designated after due investigation to establish the fact that a sufficient need exists in any particular district or area to justify such designation and to determine the airport best suited for such purpose. In each case, a specific airport will be chosen, rather than a general area or district. International airports will be publicly owned, unless circumstances require otherwise.

(b) *Withdrawal of designation.* The designation as an international airport may be withdrawn for any of the following reasons:

(1) The amount of business clearing through the airport does not justify maintenance of inspection equipment and personnel;

(2) Proper facilities are not provided or maintained by the airport;

(3) The rules and regulations of the Federal Government are not followed; or

(4) Some other location would be more useful.

(c) *Providing office space to the Federal Government.* Each international airport shall provide, without cost to the Federal Government, proper office and other space for the sole use of Federal officials working at the airport. A suitable paved loading area shall be supplied by each airport at a place convenient to the office space. The loading area shall be kept for the use of aircraft entering or clearing through the airport.

§ 122.12 Operation of international airports.

(a) *Entry, clearance and charges.* International airports are open to all aircraft for entry and clearance at no charge. Charges may be made by the airport when commercial or private aircraft use the airport:

(1) For taking on or discharging passengers or cargo; or

(2) As a base for other commercial or private operations.

(b) *Servicing of aircraft.* when an aircraft enters or clears through an international airport, it shall be promptly serviced by airport personnel solely on the basis of order of arrival or readiness for departure. Servicing charges shall not be greater than the

schedule of charges in effect at the airport in question. A copy of the

Location	Name

place of first landing, as specified in

§ 122.25 Exemption from special landing

registration number for the aircraft;

(a) *Repairs.* Repairs made in a foreign

schedule of charges in effect at the airport in question. A copy of the schedule of charges shall be posted in a prominent place at the offices of Federal agencies at the airport.

(c) *Federal Aviation Administration rules.* Internatonal airports shall follow and enforce any requirements for airport operations, including airport rules, that are set out by the Federal Aviation Administration.

(d) *Additional requirements.* Additional requirements may be put into effect at a particular airport as the needs of the district served by the airport demand.

§ 122.13 List of international airports.

The following is a list of international airports of entry designated by the Secretary of the Treasury without time limit.

Location	Name
Akron, Ohio	Akron Municipal Airport.
Albany, N.Y.	Albany County Airport.
Baudette, Minn.	Baudette International Airport.
Bellingham, Wash.	Bellingham International Airport.
Brownsville, Tex.	Brownsville International Airport.
Burlington, Vt.	Burlington International Airport.
Calexico, Calif.	Calexico International Airport.
Caribou, Maine	Caribou Municipal Airport.
Chicago, Ill.	Midway Airport.
Cleveland, Ohio	Cleveland Hopkins International Airport.
Cut Bank, Mont.	Cut Bank Airport.
Del Rio, Tex.	Del Rio International Airport.
Detroit, Mich.	Detroit City Airport.
Detroit, Mich.	Detroit Metropolitan Wayne County Airport.
Douglas, Ariz.	Bisbee-Douglas International Airport.
Duluth, Minn.	Duluth International Airport.
Duluth, Monn.	Sky Harbor Airport.
Eagle Pass, Tex.	Eagle Pass Municipal Airport.
El Paso, Tex.	El Paso International Airport.
Fort Lauderdale, Fla.	Fort Lauderdale-Hollywood International Airport.
Friday Harbor, Wash.	Friday Harbor Seaplane Base.
Grand Forks, N.Dak.	Grand Forks International Airport.
Great Falls, Mont.	Great Falls International Airport.
Havre, Mont.	Havre City-County Airport.
Houlton, Maine	Houlton International Airport.
International Falls, Minn.	Falls International Airport.
Juneau, Alaska	Juneau Municipal Airport.
Juneau, Alaska	Juneau Harbor Seaplane Base.
Ketchikan, Alaksa	Ketchikan Harbor Seaplane Base.
Key West, Fla.	Key West International Airport.
Laredo, Tex.	Laredo International Airport.
Massena, N.Y.	Richards Field.
McAllen, Tex.	Miller International Airport.
Miami, Fla.	Chalk Seaplane Base.
Miami, Fla.	Miami International Airport.
Minot, N.Dak.	Minot International Airport.
Nogales, Ariz.	Nogales International Airport.
Ogdensburg, N.Y.	Ogdensburg Harbor.
Ogdensburg, N.Y.	Ogedneburg International Airport.
Oroville, Wash.	Dorothy Scott Airport.
Oroville, Wash.	Dorothy Scott Seaplane Base.
Pembina, N.Dak.	Pembina Municipal Airport.
Portal, N.Dak.	Portal Municipal Airport.
Port Huron, Mich.	St. Clair County International Airport.
Port Townsend, Wash.	Jefferson County International Airport.
Rainier, Minn.	Rainer International Seaplane Base.
Rochester, N.Y.	Rochester-Monroe County Airport.
Rouses Pont, N.Y.	Rouses Point Seaplane Base.
San Diego, Calif.	San Diego International Airport (Lindbergh Field).
Sandusky, Ohio	Griffing-Sandusky Airport.
Sault Ste. Marie, Mich.	Sault Ste. Marie City-County Airport.
Seattle, Wash.	King County International Airport.
Seattle, Wash.	Lake Union Air Service (Seaplanes).
Tampa, Fla.	Tampa International Airport.
Tucson, Ariz.	Tuscon International Airport.
Watertown, N.Y.	Watertown New York International Airport.
West Palm Beach, Fla.	Palm Beach International Airport.
Williston, N.Dak.	Sloulin Field International Airport.
Wrangell, Alaska	Wrangell Seaplane Base.
Yuma, Ariz.	Yuma International Airport.

Subpart C—Private Aircraft

§ 122.21 Application.

This subpart applies to all private aircraft as defined in § 122.2(h). All other provisions of this part do not apply to private aircraft, except where stated in this subpart.

§ 122.22 Notice of arrival.

When arriving in the U.S. from a foreign area, all private aircraft not covered by § 122.23 shall given advance notice of arrival as required in § 122.31.

§ 122.23 Private aircraft arriving from areas south of the U.S.

(a) *Private aircraft defined.* For the purpose of this section, "private aircraft" means all aircraft except public aircraft and those aircraft operated, on a regularly published schedule, pursuant to a certificate of public convenience and necessity or foreign aircraft permit issued by the Civil Aeronautics Board, or its successor, the Department of Transportation, authorizing interstate, overseas air transportation, and those aircraft with a seating capacity of more than 30 passengers or a maximum payload capacity of more than 7,500 pounds which are engaged in air transportation for compensation or hire on demand. (See 49 U.S.C. 1372 and 14 CFR Part 298).

(b) *Advance report of penetration of U.S. airspace via Gulf and Atlantic Coasts.* All private aircraft arriving in the U.S. via the Gulf of Mexico and Atlantic Coasts from a place in the Western Hemisphere south of 30 degrees north latitude, from any place in Mexico, from the U.S. Virgin Islands, or (notwithstanding the definition of "United States" in § 122.2(l) from Puerto Rico, shall furnish a notice of intended arrival to Customs at the nearest designated airport to the point of crossing listed in § 122.24(b) for the first landing in the U.S.

(c) *Notice of arrival.* Aircraft covered by this section shall give advance notice of arrival to Customs not less than 1 hour before crossing the U.S. border or coastline.

(d) *Notice procedures.* Advance notice of arrival shall be given at the intended place of first landing, as specified in paragraph (f) of this section, either:

(1) Through Federal Aviation Administration flight notification procedures (see International Flight Information Manual, Federal Aviation Administration; or

(2) To the district director or Customs officer in charge.

(e) *Contents of notice.* The advance notice of arrival shall include the following:

(1) Aircraft registration number;
(2) Name of aircraft commander;
(3) Number of U.S. citizen passengers;
(4) Number of alien passengers;
(5) Place of last foreign departure;
(6) Estimated time and location of crossing U.S. border/coastline.
(7) Estimated time of arrival.
(8) Name of intended U.S. airport of first landing, as listed in § 122.24, unless an exemption has been granted under § 122.25.

(f) *Responsibility for notice.* The aircraft commander has the final responsibility for giving adequate advance notice of arrival, regardless of the method of notice used.

§ 122.24 Landing requirements.

(a) *In general.* Private aircraft arriving in the U.S. from a foreign area shall follow the landing requirements set out in §§ 122.23 and 122.36.

(b) *Special requirements.* All private aircraft required to give advance notice of arrival under § 122.23 shall land for Customs processing at the following airport which is nearest to the point of crossing the U.S. border or coastline, unless an exemption has been granted under § 122.25.

Location	Name
Beaumont, Tex.	Jefferson County Airport.
Brownsville, Tex.	Brownsville International Airport.
Calexico, Calif.	Calexico International Airport.
orpus Christi, Tex.	Corpus Christi International Airport.
Del Rio, Tex.	Del Rio International Airport.
Douglas, Ariz.	Bisbee-Douglas International Airport.
Eagle Pass, Tex.	Eagle Pass Municipal Airport.
El Paso, Tex.	El Paso International Airport.
Fort Lauderdale, Fla.	Fort Lauderdale Executive Airport.
Fort Lauderdale, Fla.	Fort Lauderdale-Hollywood International Airport.
Fort Pierce, Fla.	St. Lucie County Airport.
Houston, Tex.	Wiliam P. Hobby Airport.
Key West, Fla.	Key Wet International Airport.
Laredo, Tex.	Laredo International Airport.
McAllen, Tex.	Miller International Airport.
Miami, Fla.	Miami International Airport.
Miami, Fla.	Ops-Locka Airport.
New Orleans, La.	New Orleans International Airport (Moisant Field).
New Orleans, La.	New Orleans Lakefront Airport.
Nogales, Ariz.	Nogales International Airport.
Presidio, Tex.	Presidio-Lely International Airport.
San Diego, Calif.	Brown Field.
San Diego, Calif.	San Diego International Airport (Lindbergh Field).
Tampa, Fla.	Tampa International Airport.
Tucson, Ariz.	Tucson International Airport.
West Palm Beach, Fla.	Palm Beach International Airport.
Yuma, Ariz.	Yuma International Airport.

§ 122.25 Exemption from special landing requirements.

(a) *Request.* An owner or aircraft commander required to give advance notice of arrival under § 122.23 may request an exemption from the special landing requirements in § 122.24. An exemption permits the aircraft to land at any airport in the U.S. staffed by Customs. Aircraft traveling under an exemption shall still follow advance notice and general landing rights requirements.

(b) *Procedure.* An exemption request shall be made to the district director at the airport of first landing at which Customs processing is desired. The request shall be submitted:

(1) At least 30 days before the anticipated first arrival if the request is for an exemption covering a number of flights over a period of one year; or

(2) At least 15 days before the anticipated arrival if the request is for a single flight.

(c) *Content of request.* A request for exemption from the special landing requirements shall include the following information:

(1) Aircraft registration number;

(2) Identity of the aircraft (make, model number, color and type, such as turboprop, reciprocating, helicopter, etc.);

(3) A statement that the aircraft is equipped with a functioning transponder which will be in use during overflight.

(4) Names, addresses, and dates of birth of owners of the aircraft (if the aircraft is being operated under a lease, the name and address of the lessee, in addition to that of the owner);

(5) Names, addresses, and dates of birth of all crewmembers;

(6) Names, addresses, and dates of birth of usual or potential passengers to the extent possible;

(7) Description of usual or anticipated cargo or baggage;

(8) Description of company's' usual business activity, if aircraft is company-owned;

(9) Name of intended airport of first landing in the U.S.;

(10) Foreign places from which the flight(s) will begin;

(11) Detailed reasons for overflight exemption, stated in terms of savings in cost and time, safety considerations, and convenience.

(d) The owner or aircraft commander or a private aircraft granted an exemption from the landing requirement shall:

(1) Notify Customs of a change of Federal Aviation Administration registration number for the aircraft;

(2) Notify Customs of the sale of the aircraft;

(3) Notify Customs of changes of usual or anticipated pilots or crewmembers, as specified in paragraph (c)(5) of this section. One pilot or crewmember as identified in paragraph (c)(5) of this section shall be present on every flight to maintain exemption status. The notifications specified in this paragraph shall be given to Customs within 5 working days of the change or sale, or before a flight for which there is an exemption, whichever occurs earlier.

§ 122.26 Entry and clearance.

Private aircraft, as defined in § 122.2(h), are not required to enter or to clear.

§ 122.27 Documents required.

(a) *Crewmembers and passengers.* Crewmembers and passengers on a private aircraft arriving in the U.S. shall make baggage declarations as set forth in Part 148 of this Chapter. An oral declaration of articles acquired in foreign areas shall be made, unless a written declaration on Customs Form 6059–B is found necessary by inspecting officers.

(b) *Cargo.* (1) On arrival, cargo and unaccompanied baggage not carried for hire aboard a private aircraft may be listed on a baggage declaration on Customs Form 6059–B, and shall be entered. If the cargo or unaccompanied baggage is not listed on a baggage declaration, it shall be entered in the same manner as cargo carried for hire into the U.S.

(2) On departure, when a private aircraft leaves the U.S. carrying cargo not for hire, the Bureau of Census (15 CFR Part 30) and the Export Administration (15 CFR Parts 368–399) regulations shall be followed. A foreign landing certificate or copy of a foreign Customs entry is required as proof of exportation if the cargo includes:

(i) Merchandise valued at more than $100.00; or

(ii) More than one case of alcoholic beverages withdrawn from a Customs bonded warehouse or otherwise in bond for direct exportation by private aircraft.

§ 122.28 Private aircraft taken abroad by U.S. residents.

An aircraft belonging to a resident of the U.S. which is taken to a foreign area for non-commercial purposes and then returned to the U.S. by the resident shall be admitted under the conditions and procedures set forth in § 148.32 of this chapter.

(a) *Repairs.* Repairs made in a foreign area which are incidental to the use of the aircraft abroad are not subject to duty. Incidental repairs under this section means a repair which was not anticipated before the aircraft left the U.S.

(b) *Equipment.* Equipment or accessories acquired in a foreign area and imported separately are subject to payment of duty. Equipment or accessories not incidental to use of the aircraft abroad are also subject to duty.

(c) *Assessment.* Any repairs made to, or equipment and accessories installed on, a private aircraft which are not incidental to the use of the aircraft abroad are subject to the duty rate at which the aircraft would be dutiable if imported.

(d) *Entry.* Entry on a baggage declaration or on a regular entry shall be made if the repair, equipment or accessory is subject to duty.

§ 122.29 Overtime services.

(a) *Application.* Private aircraft arriving in the U.S. and requiring Customs services to be performed outside the regular hours of duty are subject to overtime charges. The overtime charges to be assessed against the operator of a private aircraft in connection with each arrival are limited to a maximum of $25.

(b) *Procedure.* An application must be made on Customs Form 3171 to receive overtime services. The application shall be supported by a bond on Customs Form 301, containing the bond conditions set forth in subpart G of Part 113 of this chapter, or a cash deposit, and may be effective up to one year. See § 24.16(c) of this chapter.

§ 122.30 Other Customs laws and regulations.

Sections 122.3 and 122.161 apply to private aircraft.

Subpart D—Landing Requirements

§ 122.31 Notice of arrival.

(a) *Application.* All aircraft entering the U.S. from a foreign area shall give advance notice of arrival. Exceptions to this requirement are found in paragraph (b) of this section. When a private aircraft enters the U.S. from a foreign area in the Western hemisphere south of the U.S., advance notice shall be given as stated in § 122.23.

(b) *Exception—(1) Scheduled aircraft of a scheduled airline.* Advance notice is not required for aircraft of a scheduled airline arriving under a regular schedule. The regular schedule shall have been filed with the district director for the district in which the first

landing is made. Scheduled airlines shall also submit a copy of their

shall be at an international airport (see

(1) Travelling from airport to airport in

§ 122.32 Permit and special license to unlade and lade.

(g) *Automatic renewal.* An aircraft which has a bond on Customs Form 301

the general declaration, whether or not cargo is on board. The air cargo

VOL 50 ISS 144 JL 26 1985 UMI

landing is made. Scheduled airlines shall also submit a copy of their schedules to the Regional Commissioner of the region in which the scheduled aircraft will land. This notice shall be given 30 days before the effective date of the schedule.

(2) *Public aircraft.* Public aircraft are covered by Subpart O.

(c) *Giving notice of arrival—Procedure.* The commander of an aircraft covered by this section shall give the advance notice of arrival. Notice shall be given to the district director at or nearest the place of first landing, either:

(i) Directly by radio or other method; or

(ii) Through Federal Aviation Administration flight notification procedure (see International Flight Information Manual, Federal Aviation Administration).

(2) *Reliable facilities.* When reliable means for giving notice are not available (for example, when departure is from a remote place) a landing shall be made at a place where notice can be sent. This shall be done before coming into the U.S. If necessary, radio equipment may be used to give required notice.

(d) *Contents of notice.* The advance notice of arrival shall state:

(1) Type of aircraft and registration number;

(2) Name of aircraft commander;

(3) Place of last foreign departure;

(4) International airport of intended landing or other place at which landing has been authorized by Customs;

(5) Number of alien passengers;

(6) Number of citizen passengers; and

(7) Estimated time of arrival.

(e) *Time of notice.* Notice of arrival shall be sent and received far enough in advance to allow inspecting officers to reach the place of first landing of the aircraft.

(f) *Notice to other Federal agencies.* When advance notice is received, the district director shall inform any other Federal agency connected with landing.

(g) *Responsibility of aircraft commander.* The aircraft commander has the responsibility for giving adequate advance notice of arrival, regardless of the method of notice used.

§ 122.32 Aircraft required to land.

Any aircraft coming into the U.S., including Puerto Rico, from an area outside the U.S., is required to land, unless exempted by the Federal Aviation Administration, Washington, D.C.

§ 122.33 Place of first landing.

The first landing of an aircraft entering the U.S. from a foreign area shall be at an international airport (see § 122.13, International airports). Permission to land at another place may be given under § 122.34 (Landing rights airport) or § 122.35 (Emergency or forced landing).

§ 122.34 Landing rights airport.

(a) *Permission to Land.* Permission to land at a landing rights airport may be given as follows:

(1) *Scheduled flight.* The scheduled aircraft of a scheduled airline may be allowed to land at a landing rights airport. Permission is given by the regional commissioner of the region in which first landing is made.

(2) *Other aircraft.* All other aircraft may be allowed to land at a landing rights airport by the district director at the port of entry or station nearest the first place of landing.

(3) *Addition flights, charters or changes in schedule:*

(i) *Scheduled aircraft.* If a new carrier plans to set up a new flight schedule, or an established carrier makes changes in its approved schedule, landing rights may be granted by the regional commissioner.

(ii) *Additional or charter flight.* If a carrier or charter operator wants to begin operating or to add flights, application shall be made to the district director for landing rights. All requests shall be made not less than 48 hours before the intended time of arrival, except in emergencies. If the request is oral, it shall be put in writing before or at the time or arrival.

(4) *Emergency or forced landing.* Permission to land is not required for an emergency or forced landing (see § 122.35).

(b) *Notice to Federal agencies.* If an aircraft is given permission to land at a landing rights airport, the Customs officer who granted the landing rights shall notify the Public Health Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, and any other interested Federal agency at once.

(c) *Payment of expenses.* The owner, operator or person in charge of the aircraft shall pay any added charges for inspecting the aircraft, passengers, employees and merchandise when landing rights are given. When permission to land is given to scheduled aircraft of a scheduled airline, no inspection charge is made except for the overtime expenses of Customs officers. (see § 24.16 of this chapter).

§122.35 Emergency or forced landing.

(a) *Application.* This section applies to emergency or forced landings made by aircraft:

(1) Travelling from airport to airport in the U.S. under a permit to proceed (see §§ 122.52, 122.54 and 122.83(d)), or a Customs Form 7509 (see § 122.113); or

(2) Coming into the U.S. from a foreign area.

(b) *Notice.* When an emergency or forced landing is made, notice shall be given:

(1) To the Customs officer at the intended place of first landing, nearest international airport, or nearest port of entry, as soon as possible;

(2) By the aircraft commander, other person in charge, or aircraft owner, who shall make full report of the flight and the emergency or forced landing.

(c) *Passengers and crewmembers.* The aircraft commander or other person in charge shall keep all passengers and crewmembers in a separate place at the landing area until Customs officers arrive. Passengers and crewmembers may be removed if necessary for safety, or for the purpose of contacting Customs officers.

(d) *Merchandise and baggage.* The aircraft commander or other person in charge shall keep all merchandise and baggage together and unopened at the landing area until Customs officers arrive. The merchandise and baggage may be removed for safety or to protect property.

(e) *Mail.* Mail may be removed from the aircraft, but shall be delivered at once to an officer or employee of the Postal Service.

§ 122.36 Responsibility of aircraft commander.

If an aircraft lands in the U.S. and inspection officers have not arrived, the aircraft commander shall hold the aircraft, and any merchandise or baggage on the aircraft for inspection. Passengers and crewmembers shall be kept in a separate place until inspection officers arrive.

§ 122.37 Precleared aircraft.

(a) *Application.* This section applies when aircraft carrying precleared crew, passengers and baggage or merchandise makes an unscheduled or unintended landing at an airport in the U.S.

(b) *Notice.* The airline commander or agent shall give written notice to the Customs office at:

(1) The intended place of unlading; and

(2) The place of preclearance.

(c) *Time of notice.* Notice shall be given within 7 days unless other arrangements have been made in advance between the carrier and the district director.

§ 122.38 Permit and special license to unlade and lade.

(a) *Application.* A permit and/or special license to unlade passengers, baggage, and merchandise, or to lade baggage and merchandise, may be issued at any airport.

(1) *Permit to unlade and lade.* A permit is necessary to obtain Customs supervision of unlading and lading during official Customs duty hours.

(2) *Special license to unlade and lade.* A special license is necessary under this section to obtain Customs supervision of unlading and lading at any time not within official Customs duty hours.

(b) *Procedure.* The application for a permit and/or special license to unlade and lade shall be made on Customs Form 3171. An application will not be granted unless supported by a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, or a cash deposit, unless this requirement is waived under § 122.38(c). A request for a permit may be included with a request for a special license. Application shall be made to the district director for the district in which the unlading or lading will take place.

(c) *Waiver.* To insure prompt and orderly clearance of the aircraft, passengers, baggage, or merchandise, the district director may waive the requirement under § 122.38(b) that a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, or a cash deposit, be furnished, if he is convinced that the revenue is protected and that all Customs requirements are satisfied.

(d) *Term permit and term special license.* A separate application for a permit and/or special license is not required for each arrival or departure when:

(1) An aircraft is covered by a term permit or a term special license; or

(2) Local arrangements have been made to notify Customs before services are needed.

The notice to Customs shall include the specific kind of service requested, and the exact time it will be needed.

(e) *Separate applications.* If the aircraft is not covered by a term permit or a term special license, and arrangements for notice to Customs have not been made, a separate application for a permit and/or a special license shall be made for arrival and departure.

(f) *Other statutes.* A permit or special license will not be issued, and any term permit or term special license already issued will be revoked, if the carrier does not follow the employee list and terminal facilities requirements of § 4.30 of this chapter.

(g) *Automatic renewal.* An aircraft which has a bond on Customs Form 301 containing the appropriate bond set forth in Subpart G of Part 113 of this chapter, on file may request automatic renewal of a permit and/or special license. The request shall be for successive annual periods which conform to the automatic renewal periods of the airline's consolidated bond. An application for automatic renewal will be approved by the district director unless specific reasons exist for non-approval. If a request for automatic renewal is not approved, the district director shall notify the airline, and shall set out the reasons for the denial. To apply for automatic renewal, item 10 on Customs Form 3171 shall be changed by adding the following words after the period of time indicated:

And automatic annual renewal thereof for so long as the bond is renewed and remains in effect.

Subpart E—Aircraft Entry and Entry Documents

§ 122.41 Aircraft required to enter.

All aircraft coming into the U.S. from a foreign area shall make entry under Subpart E except:

(a) Public and private aircraft; and

(b) Aircraft traveling from airport to airport in the U.S. under Subpart I, relating to Residue Cargo Procedures.

§ 122.42 Aircraft entry.

(a) *By whom.* Entry shall be made by the aircraft commander or an agent.

(b) *Place of entry*—(1) *First landing at International airport.* Entry shall be made at the international airport at which first landing is made.

(2) *First landing at another airport.* If the first landing is not at an international airport, the aircraft commander or an agent shall make entry at the nearest international airport or port of entry, unless some other place is allowed for the purpose.

(c) *Delivery of forms.* When the aircraft arrives, the aircraft commander or agent shall deliver any required forms to the Customs officer at the place of entry at once.

§ 122.43 General declaration.

(a) *When required.* A general declaration, Customs Form 7507, shall be filed for all aircraft required to enter under § 122.41 (Aircraft required to enter).

(b) *Exception.* Aircraft arriving directly from Canada on a flight beginning in Canada and ending in the U.S. need not file a general declaration to enter. Instead, an air cargo manifest (see § 122.48) may be filed in place of the general declaration, whether or not cargo is on board. The air cargo manifest shall state the following:

I certify to the best of my knowledge and belief that this manifest contains an exact and true account of all cargo on board this aircraft.

Signature ______________________

Aircraft Commander or Agent

(c) *Form.* The general declaration shall be on Customs Form 7507 or on a privately printed from prepared under § 122.6. The form shall contain all required information, unless the information is given in some other manner under Subpart E.

§ 122.44 Crew baggage declaration.

When an aircraft enters the U.S. form a foreign area, aircraft crewmembers shall file a crew baggage declaration as provided in Subpart G, Part 148 of this chapter.

§ 122.45 Crew list.

(a) *When required.* A crew list shall be filed by all aircraft required to enter under § 122.41.

(b) *Exception.* No crew list is required for aircraft arriving directly from Canada on a flight beginning in Canada and ending in the U.S. Instead, the total number of crewmembers may be shown on the general declaration.

(c) *Form.* The crew list shall show the full name (last name, first name, middle initial) of each crewmember, either:

(1) On the general declaration in the column headed "total Number of Crew"; or

(2) On a separate, clearly marked document.

(d) *Crewmembers returning as passengers.* Crewmembers of any aircraft returning to the U.S. as passengers on a commercial aircraft from a trip on which they were employed as crewmembers shall be listed on the aircraft general declaration or crew list.

§ 122.46 Crew purchase list.

(a) *When required.* A crew purchase list shall be filed with the general declaration for any aircraft required to enter under § 122.41.

(b) *Exception.* A crew purchase list is not required when an aircraft arrives directly from Canada on a flight beginning in Canada and ending in the U.S. If a written crew declaration is required for the aircraft under Subpart G of Part 148 of this chapter (Crewmember Declarations and Exemptions), it shall be attached to the air cargo manifest, along with the number of any written crew declarations.

(c) *Form.* When a crewmember enters articles for which a written crew

foreign country on the same through flight. Any cargo manifest already on

(e) *Accompanied baggage in transit.* This section applies when accompanied

that evidence to support the explanation of the discrepancy will be retained in the

aircraft has been paid on a prior arrival,

§ 122.53 Aircraft of foreign registry

(c) *Form.* When a crewmember enters articles for which a written crew declaration is not required (see Subpart G, Part 148 of this chapter), the articles shall be listed next to the crewmember's name on the general declaration, or on the attached crew purchase list. Articles listed on a written crew declaration need not be listed on the crew purchase list if:

(1) The crew declaration is attached to the general declaration, or to the crew list which in turn is attached to the general declaration; and

(2) The statement "Crew purchases as per attached crew declaration" appears on the general declaration or crew list.

§ 122.47 Stores list.

(a) *When required.* A stores list shall be filed for all aircraft required to enter under § 122.41.

(b) *Form.* The aircraft stores shall be listed on the cargo manifest or on a separate list. If the stores are listed on a separate list, the list must be attached to the cargo manifest. The statement "Stores List Attached" must appear on the cargo manifest.

(c) *Contents*—(1) *Required listing.* The stores list shall include all of the following:

(i) Alcoholic beverages, cigars, cigarettes and narcotic drugs, whether domestic or foreign;

(ii) Bonded merchandise arriving as stores;

(iii) Foreign merchandise arriving as stores; and

(iv) Equipment which must be licensed by the Secretary of State (see § 122.48(b)).

(2) *Other articles.* In the case of aircraft of scheduled airlines, other domestic supplies and equipment (if not subject to license) and fuel may be dropped from the stores list if the statement "Domestic supplies and equipment and fuel for immediate flight only, except as noted" appears on the cargo manifest or on the separate stores list. The stores list shall be attached to the cargo manifest.

(d) *Other statutes.* Section 446, Tariff Act of 1930 as amended (19 U.S.C. 1446), which covers supplies and stores kept on board vessels, applies to aircraft arriving in the U.S. from any foreign area.

§ 122.48 Air cargo manifest.

(a) *When required.* An air cargo manifest for all cargo on board shall be filed together with the general declaration for any aircraft required to enter under § 122.41.

(b) *Exception.* A cargo manifest is not required for merchandise, baggage and stores arriving from and departing for a foreign country on the same through flight. Any cargo manifest already on board may be inspected. Any arms, ammunition or implements of war on board which must be licensed by the Secretary of State shall be listed on the cargo manifest. Company mail shall be listed on the cargo manifest.

(c) *Form.* The cargo manifest shall be on Customs Form 7509, except when the use of Customs Form 5119A or 7523 is required.

(1) *Customs Form 7509.* When this form is used, it shall contain all required information. A more complete description of the cargo shipped under air waybills may be included by attaching a copy of each air waybill to the cargo manifest. The statement "Cargo as per air waybills attached" shall appear on the cargo manifest when this is done. Each air waybill number shall also be listed on the cargo manifest.

(2) *Custom Form 5119A.* This form may be used as the cargo manifest when the value of the cargo on board is not greater than $1000.00.

(3) *Customs Form 7523.* This form may be used as the cargo manifest when the cargo on board may be entered duty free as described on the form.

(d) *Unaccompanied baggage.* Unaccompanied baggage arriving in the U.S. under a check number from any foreign country by air and presented timely to Customs may be authorized for delivery by the carrier after inspection and examination without preparation of an entry, declaration, or being manifested as cargo. Such baggage must be found to be free of duty or tax under any provision of Schedule 8, Tariff Schedules of the United States (19 U.S.C. 1202), and cannot be restricted or prohibited. Unaccompanied checked baggage not presented timely to Customs or presented timely and found by Customs to be dutiable, restricted, or prohibited shall be shown on the cargo manifest in columns under the following headings:

Check No.	description of package	Where from	Destination

On the right of the foregoing columns two blank columns, one headed "Name of examining officer" and on the right thereof another headed "Disposition," shall be provided on the cargo manifest for the use of Customs officers. Unaccompanied unchecked baggage arriving as air express or freight shall be manifested as other air express or freight.

(e) *Accompanied baggage in transit.* This section applies when accompanied baggage enters into the U.S. in one aircraft and leaves the U.S. in another aircraft. When passengers do not have access to their baggage during the flight, the baggage is considered cargo and shall be listed on Customs Form 7509, Air Cargo Manifest.

§ 122.49 Correction of air cargo manifest.

(a) *Shortages*—(1) *Reporting.* Shortages (merchandise listed on the manifest but not found) shall be reported to the district director by the aircraft commander or agent. The report shall be made;

(i) On a Customs Form 5931, filled out and signed by the importer and the importing or bonded carrier; or

(ii) On a Customs Form 5931, filled out and signed by the importer alone under § 158.3 of this chapter; or

(iii) On a copy of the cargo manifest, which shall be marked "Shortage Declaration," and must list the merchandise involved and the reasons for the shortage.

(2) *Time to file.* Shortages shall be reported within the time set out in Part 158 of this chapter, or within 30 days of aircraft entry.

(3) *Evidence.* To avoid penalties, the aircraft commander or agent shall supply adequate proof of the claim that:

(i) Shortage merchandise was not imported, or was properly disposed of; or

(ii) That corrective action was taken. This proof shall be kept in the carrier file for one year from the date of aircraft entry.

(b) *Overages*—(1) *Reporting.* Overages (merchandise found but not listed on the manifest) shall be reported by the aircraft commander or egent to the district director. The report must be made:

(i) On a Customs Form 5931; or

(ii) On a separate copy of the cargo manifest which is marked "Post Entry" and lists the overage merchandise and the reason for the overage.

(2) *Time to file.* Overages shall be reported within 30 days of aircraft entry.

(3) *Evidence.* Satisfactory proof of the reasons for the overage shall be kept on file by the carrier for one year from the date of the report.

(c) *Statement on cargo manifest.* When the air cargo manifest is used to report shortages or overages, the Shortages Declaration or Post Entry must include the signed statement of the aircraft commander or agent as follows:

I declare to the best of my knowledge and belief that the discrepancy described herein occurred for the reason stated. I also certify that evidence to support the explanation of the discrepancy will be retained in the carrier's files for a period of at least one year and will be made available to Customs on demand.

Signature _____

Aircraft Commander or Agent

(d) *Notice by district director.* The district director shall immediately notify the aircraft commander or agent of any shortages or overages that were not reported by the aircraft commander or agent. Notice shall be given by sending a copy of Customs Form 5931 to the aircraft commander or agent, or in any other appropriate way. Once notice is received, the aircraft commander or agent shall make a satisfactory reply within 30 days of entry of the aircraft or receipt of the notice, whichever is later.

(e) *Correction not required.* A correction in the manifest is not required when:

(1) The district director is satisfied that the difference between the quantity of bulk merchandise listed on the manifest, and the quantity unladen, is the usual difference caused by absorption or loss of moisture, temperature, faulty weighing at the airport, or other such reason; and

(2) The marks or numbers on merchandise packages are different from the marks or numbers listed on the cargo manifest for those packages if the quantity and description of the merchandise is given correctly.

(f) *Statutes applicable.* When an aircraft arrives in the U.S. from a foreign area with merchandise and unaccompanied baggage for which a manifest must be filed, sections 440 (concerning post entry) and 584 (concerning manifest violations), Tariff Act of 1930, as amended (19 U.S.C. 1440, 1584), apply.

Subpart F—Permit To Proceed

§ 122.51 Aircraft of domestic origin registered in the U.S.

After Customs inspection of the aircraft, passengers, baggage and merchandise at the entry airport, commercial aircraft of domestic origin registered in the U.S. may be allowed to proceed to other airports in the U.S. without permit.

§ 122.52 Aircraft of foreign origin registered in the U.S.

(a) *Application.* This section applies to commercial aircraft (as defined in § 122.2(d)) of foreign origin registered in the U.S. and arriving in the U.S. from a foreign area.

(b) *Aircraft entered as an imported article.* When an aircraft covered by this section in entered as an imported article, and any applicable duty for the aircraft has been paid on a prior arrival, it may be allowed to proceed as other than an imported article. This is allowed when the aircraft commander files a declaration that states the:

(1) Port where entry was made;

(2) Date duty, if any, was paid.

(3) Number of the entry.

(c) *Aircraft not entered as imported article.* (1) *Treatment as other then an imported article.* A commercial aircraft covered by this section which has not been entered as an imported article may travel from airport to airport in the U.S. without payment of duty. Each commercial aircraft shall proceed under a permit on Customs Form 7507 or 7509, as provided in § 122.54. Treatment of the aircraft as other than an imported article shall continue for so long as the aircraft:

(i) Is used only for commercial purposes between the U.S. and foreign areas; and

(ii) Will leave the U.S. for a foreign destination in commercial use or in ballast.

(2) *Treatment as an imported article.* Any aircraft covered by this section which was not entered as an imported article shall make entry if it: is withdrawn from commercial use between the U.S. and foreign areas; or

(ii) Is used in the U.S. in a way not reasonably related to efficient commercial use of the aircraft between the U.S. and foreign areas.

(d) *Aircraft damage and duty payment*— (1) *Substantial damage to commercial aircraft.* If an accident causes substantial damage to a commercial aircraft, no entry or duty payment is required for any part of the wreckage.

(2) *Less than substantial damage and export.* If an accident does not cause substantial damage to a commercial aircraft, salvageable parts of the wrecked aircraft may be exported. In this circumstance, the aircraft, as a whole or in part, is not considered to be withdrawn from commercial use and is not subject to entry or to duty as imported merchandise.

(3) *Less than substantial damage and no export.* If an accident does not cause substantial damage to a commercial aircraft and the wrecked aircraft, or any salvageable part of it, is not exported, then:

(i) Entry is required to be made for the damaged aircraft or any salvageable part of it; and

(ii) A duty payment, if applicable, based on the condition of the aircraft following the accident, is required.

§ 122.53 Aircraft of foreign registry chartered or leased to U.S. air carriers.

Aircraft of foreign registry leased or chartered to a U.S. air carrier, while being operated by the U.S. air carrier under the provisions of the Federal Aviation Administration regulations (14 CFR 121.153), shall be treated as U.S. registered aircraft under this subpart.

§ 122.54 Aircraft of foreign registry.

(a) *Application.* For any commercial aircraft of foreign registry arriving in the U.S., the aircraft commander or agent shall file for a permit to proceed when the aircraft:

(1) Is not an imported article; and

(2) Is ferried (proceeds in ballast) from the airport of first arrival to one or more airports in the U.S. (For permit to proceed with residue cargo, passengers, or crewmembers for release in the U.S., see Subpart I of this Part).

(b) *Permit to proceed.* The permit to proceed shall be filed on Customs Form 7507 by the carrier or its agent. Customs Form 7509 may be used if the aircraft arrives directly from Canada on a flight beginning in Canada and ending in the U.S. Either form shall show the following information:

(1) Type of aircraft;

(2) Nationality and registration number of aircraft;

(3) Name and country of aircraft manufacturer;

(4) Name of aircraft commander;

(5) Country from which aircraft arrived;

(6) Name and location of airport where permit to proceed is given;

(7) Date permit to proceed is given;

(8) Name and location of airport to which aircraft is proceeding;

(9) Purpose of stay in the U.S.;

(10) Signature of Customs officer giving permit.

(c) *Permit on board.* The permit to proceed shall be kept on board the aircraft while in the U.S.

(d) *Intermediate airports.* For each airport at which the aircraft lands, the Customs officer, or airport manager if there is no Customs officer present, shall note on the permit:

(1) The name and location of the airport;

(2) The date and arrival time;

(3) The purpose of the visit;

(4) The name and location of the next airport to be visited; and

(5) The date and time of departure.

(e) *Final airport.* The permit to proceed shall be given to the appropriate Customs officer at the airport of final clearance for a foreign destination. Before clearance is given, the Customs officer shall make sure that

the aircraft was properly inspected by Customs in the U.S.

transport outside of the U.S. The clearance applies only to the

undertake any necessary examination of the aircraft and cargo.

the district director before the aircraft will be cleared.

waybill numbers. The statement "Cargo as per export Declarations Attached"

§ 122.78 Entry or withdrawal for exportation or for transportation and

VOL 50 ISS 144 JL 26 1985 UMI

the aircraft was properly inspected by Customs in the U.S.

(f) *Port of Issue.* The permit to proceed shall be returned after final clearance to the district director at the port where the permit was issued, to be kept on file.

(g) *Enforcement.* Once the permit to proceed has been issued for an aircraft, the district director at the port of issue must receive notice that the aircraft has made final clearance. If notice is not received within 60 days, the district director shall report the matter to the Customs agent in charge of the area for investigation.

Subpart G—Clearance of Aircraft and Permission To Depart

§ 122.61 Aircraft required to clear.

All aircraft, except public and private aircraft, leaving the U.S. for a foreign area are required to clear if:

(a) Carrying passengers and/or mechandise for hire; or

(b) Taking abroad or discharging passengers and/or merchandise for hire in a foreign area.

This includes any aircraft used by members of air travel clubs. Foreign aircraft traveling under a permit to proceed shall also clear.

§ 122.62 Aircraft not otherwise required to clear.

(a) *Bureau of the Census.* Under Bureau of the Census Regulations (15 CFR part 30.1), aircraft not required to clear by § 122.61 shall obtain permission to depart if carrying mechandise from the U.S. to Puerto Rico or from Puerto Rico to the U.S.

(b) *Bureau of Internotionol Commerce.* Aircraft leaving the U.S. for a foreign area must be cleared by Customs if a validated license from the Office of Export Administration (Department of Commerce) is required for the aircraft under the Export Control Regulations (15 CFR Part 370). Aircraft are not required to clear if the Secretary of Commerce issues a permit allowing departure without clearance.

(c) *Department of State.* Aircraft not covered by Export Control Regulations are subject to the Department of State export licensing authority as set out in 22 CFR Parts 121,123. Such aircraft may leave the U.S. only with the proper Department of the State license.

§ 122.63 Scheduled airlines.

The aircraft commander or agent shall request clearance or permission to depart for aircraft covered by this subpart.

(a) *Clearance at other than airport of final departure.* Aircraft may clear at each airport where merchandise and/or passengers are taken on board for transport outside of the U.S. The clearance applies only to the merchandise and passengers boarding at each place. Clearance shall be requested at the Customs port of entry (whether or not an international airport) nearest to the place where merchandise and/or passengers are taken on board.

(b) *Clearance at final departure airport.* Clearance or permission to depart may be requested at the Customs port of entry (whether or not an international airport) nearest the last departure airport, unless some other place is chosen by the district director.

§ 122.64 Other aircraft.

Clearance or permission to depart shall be requested for aircraft covered by this subpart by the aircraft commander or agent. The request must be made to the district director at the Customs port of entry (whether or not an international airport) nearest the final departure airport, unless some other place is designated by the district director.

§ 122.65 Failure to depart.

Once an aircraft has been cleared or given permission to depart, the aircraft commander or agent shall report to the district director if departure is delayed or cancelled. The report shall be made within 72 hours after the aircraft received clearance or permission to depart.

Subpart H—Documents Required for Clearance and Permission To Depart

§ 122.71 Aircraft departing with no commercial export cargo.

(a) *Application.* This section applies to aircraft departing for foreign territory with no export cargo.

(1) Such aircraft may clear by telephone in advance with the district director nearest the departure place if departing empty or carrying only:

(i) Passengers for hire; or

(ii) Non-commercial cargo for which shipper's export declarations are not rquired.

(2) If not cleared by telephone, an air cargo manifest containing the following statement, signed by the aircraft commander or agent, shall be submitted to Customs:

I declare that there is no cargo on board this aircraft

Signed _____

(Aircraft Commander or Agent)

(b) *Timeliness.* The request for telephone clearance must be received by the Customs officer in charge with sufficient time remaining before departure to ensure that Customs may undertake any necessary examination of the aircraft and cargo.

(c) *Documentation.* When clearance is granted by telephone, the aircraft commander is not required to file the documents required by this subpart.

§ 122.72 Aircraft departing with commercial export cargo.

This section applies when an aircraft leaves the U.S. for any foreign area. An air cargo manifest and any required Shipper's Export Declarations shall be filed for all cargo on the aircraft, and for the aircraft itself if exported as merchandise. See § 122.79 for special requirements for shipments to U.S. possessions.

§ 122.73 Air Cargo manifest.

(a) *Form.* The air cargo manifest shall be on Customs Form 7509, and shall show all information required. The following statement shall appear on the form:

I declare that all statements contained in this manifest, including the account of the cargo on board this aircraft, are complete, exact, and true to the best of my knowledge.

Signed _____

(Aircraft Commander or Agent)

(b) *Preparation and filing.* The aircraft commander or agent shall file two copies of the air cargo manifest with the district director of the departure airport. Three copies of the air cargo manifest shall be filed if the aircraft is covered by § 122.77(b). The air cargo manifest must be filed in:

(1) Complete form, with all required Shipper's Export Declarations (see § 122.75); or

(2) Incomplete form (pro forma) under § 122.74.

§ 122.74 Incomplete (pro forma) manifest.

(A) *Application.* Clearance or permission to depart may be given to an aircraft by the district director before a complete manifest or all required Shipper's Export Declarations have been filed, if a proper bond is filed.

(b) *Exceptions.* An incomplete manifest will not be accepted:

(1) During any time covered by a proclamation of the President that a state of war exists between foreign nations; or

(2) If the aircraft is departing on a flight from the U.S. directly or indirectly to a foreign area in the country groups listed W, Y, or Z in the Export Regulations of the Bureau of International Commerce (15 CFR Part 370, Supplement No. 1).

In both cases, a complete air cargo manifest and all required Shipper's Export Declarations shall be filed with the district director before the aircraft will be cleared.

(c) *Filing under bond.* An incomplete set of documents may be filed only when accompanied by the proper bond. Under the bond, a complete set of documents shall be filed within whichever of the following time periods is appropriate:

(1) *Shipments to foreign countries.* All required Shipper's Export Declarations and a complete air cargo manifest shall be filed by the airline not later than the fourth business day after clearance (when clearance is required) or departure (when clearance is not required) of the aircraft.

(2) *Shipments to and from Puerto Rico.* For shipments between the U.S. and Puerto Rico, the complete manifest (when required) and all Shipper's Export Declarations shall be filed by the airline not later than the seventh business day after departure.

(3) *Shipments to U.S. Possessions.* For shipments between the U.S. or Puerto Rico and possessions of the U.S., a complete manifest and all required Shipper's Export Declarations shall be filed by the airline not later than the seventh business day after departure. See § 122.79.

(d) *Declaration required.* A declaration shall be made on the incomplete manifest that:

(1) All required documents will be filed within the four-day bond period; or

(2) All required documents will be filed within the seven-day bond period.

Once all documents have been filed, a statement as required by § 122.75(b) shall be made.

§ 122.75 Complete manifest.

(a) *Contents.* A complete air cargo manifest shall list all cargo laden, and show for each item the air waybill number, or marks and numbers on packages and the type of goods carried. When an item does not require a Shipper's Export Declaration, it shall be noted on the air cargo manifest.

(1) *Shipments on an air waybill.* A copy of each air waybill on which shipments are listed may be attached to the air cargo manifest, and the number of the air waybill may be listed on the air cargo manifest. The statement "Cargo as per Air Waybill Attached" must appear on the air cargo manifest when this is done.

(2) *Direct departure.* This subsection applies only to direct departures of shipments requiring a Shipper's Export Declaration. A copy of each declaration may be attached to the air cargo manifest, and the number of each declaration shall be listed on the air cargo manifest in the column for air waybill numbers. The statement "Cargo as per export Declarations Attached" must appear on the manifest when this is done.

(b) *Statement required.* When all required documents are ready for filing, the following statement must appear on the air cargo manifest or on the general declaration form when an air cargo manifest is not required:

Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried in this flight except that listed on the cargo manifest.

When an incomplete set of documents has been filed and is later completed, the following statement shall accompany the Shipper's Export Declarations and any required air cargo manifests:

Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried on aircraft No. ———, Flight No. ——— cleared direct for ———, on ——— except cargo listed on any cargo manifest required to be filed for such flight.

Airline _____

Authorized Agent _____

§ 122.76 Shipper's Export Declarations and inspection certificates.

At the time of clearance, the aircraft commander or agent shall file with the district director at the departure airport any Shipper's Export Declarations required by the Bureau of Census (see § 122.62(a)). The aircraft commander or authorized agent also shall deliver a proper export inspection certificate issued by the Veterinary Service, Animal and Plant Inspection Service, Department of Agriculture (9 CFR Part 91), to the Customs officer in charge at the time of departure of any aircraft carrying horses, mules, asses, cattle, sheep, swine or goats.

§ 122.77 Clearance certificate.

(a) *Aircraft departing from the U.S.* One copy of the air cargo manifest shall be used as a clearance certificate when endorsed by the district director to show that clearance is granted.

(b) *Scheduled aircraft.* When a scheduled aircraft clears at an airport which is not the airport at or nearest the place of final take-off from the U.S., two copies of the air cargo manifest shall be filed. One copy shall be used as a clearance certificate when endorsed at the port by the district director at the port where clearance is obtained, and the second copy shall be attached to the first or use at later U.S. ports.

§ 122.78 Entry or withdrawal for exportation or for transportation and exportation.

When a shipment is exported under an entry or withdrawal for exportation, or for transportation and exportation, the air cargo manifest, the air waybill, or the consignment note attached to the manifest shall clearly show for each entry or withdrawal the:

(a) Number;

(b) Date; and

(c) Class of entry or withdrawal, as follows:

(1) Transportation and exportation;

(2) Withdrawal for transportation and exportation;

(3) Immediate exportation;

(4) Withdrawal for exportation; or

(5) Withdrawal for transportation.

The name of the port where the entry or withdrawal was filed, if not the port where merchandise is laden for exportation, shall also appear on the air cargo manifest.

§ 122.79 Shipments to U.S. possessions.

(a) *Other than Puerto Rico.* An air cargo manifest shall be filed for aircraft transporting cargo between the U.S. and U.S. possessions. Shipper's Export Declarations are not required for shipments from the U.S. or Puerto Rico to the U.S. possessions, except to the U.S. Virgin Islands or from a U.S. possession and destined to the U.S., Puerto Rico or another U.S. possession.

(b) *Puerto Rico.* This subsection applies when an aircraft carries merchandise on a direct flight between the U.S. and Puerto Rico. If the requirements contained in Subpart I, Residue Cargo Procedures, have been satisfied, an air cargo manifest is required only for;

(1) Merchandise transported as cargo for which a Shipper's Export Declaration is not required; or

(2) Cargo for which a Shipper's Export Declaration cannot be filed on time. (See 15 CFR 30.21).

Any required air cargo manifest or Shipper's Export Declarations shall be filed with the district director at the departure place.

§ 122.80 Verification of statement.

Customs officers may verify any of the statements required under this subpart by examining the shipping records of the airline involved.

Subpart I—Residue Cargo Procedures

§ 122.81 Application.

(a) *Aircraft arriving with cargo.* Aircraft arriving in the U.S. from a foreign area with cargo, shown on the

manifest to be traveling to other airports in the U.S. or foreign areas, may proceed An abstract general declaration and manifest need not be filed at the last carrying residue cargo, a numbered Customs Form 7512 C shall be filled out

§ 122.85 Final airport.

When an aircraft enters at the last of this chapter). Each copy shall be signed by the carrier or agent

(g) *Warning labels.* The carrier shall supply and attach the warning label, as

manifest to be traveling to other airports in the U.S. or foreign areas, may proceed under the provisions of this Subpart.

(b) *Aircraft arriving with no cargo.* Aircraft arriving in the U.S. from a foreign area with no cargo on board, and requesting immediate clearance, may proceed if a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, has been filed and covers the aircraft.

§ 122.82 Bond requirements.

A bond on Customs Form 306 containing the bond provisions set forth in Subpart G of Part 113 of this chapter, shall be filed before an aircraft is given a permit to proceed with residue cargo under this subpart. The bond shall be filed in the correct amount with the district director at the entry airport.

(a) *Traveling general declaration and manifest.* When applying for clearance from an airport or place of entry in the U.S., the aircraft commander or agent shall file a traveling general declaration and manifest. The traveling general declaration and manifest is one certified copy of the original inward general declaration, and each air cargo manifest required when the aircraft entered. This includes air waybills that were part of the manifest.

(b) *Attachments to traveling general declaration and manifest*—(1) *Crew purchase and stores list.* The crew purchase and stores list, if required when the aircraft enters under §§ 122.46 and 122.47, shall be attached to the traveling general declaration and manifest.

(2) *Crew purchases not listed on a crew purchase list.* A crew member's declaration shall be attached to the traveling general declaration and manifest if:

(i) Crew purchases are listed on a crew declaration, Customs Form 5129, instead of on the crew purchase list, under § 122.46(c)(2); and

(ii) The crew member has not left the airport with his or her purchases at the first entry port.

The crew member's declaration must be attached at the port where the articles list on the declaration receive clearance.

(c) *Abstract general declaration and manifest.* The abstract general declaration and manifest is one copy of the general declaration, and one copy of each manifest (including air waybills) covering residue cargo:

(1) Not yet cleared by Customs or other Federal agency; and

(2) To be discharged at another domestic or foreign airport.

An abstract general declaration and manifest need not be filed at the last domestic port of discharge.

(d) *Permit to proceed.* A permit to proceed from one domestic airport to another shall be filed by the aircraft commander or agent with the Customs officer in charge at the clearance airport. The permit to proceed shall include a declaration by the aircraft commander or agent, which shall be signed on entry at the next domestic airport. The permit to proceed and declaration shall state substantially the following:

Permit To Proceed From One Airport to Another

Airport of Departure _____
Date _____
Permission is hereby given aircraft _____
to proceed to _____
_____
(Next Domestic Airport)

The Aircraft which has arrived from and is destined to the places shown in the general declaration, is proceeding to such places of destination to discharge residue cargo, passengers, or crew members and their purchases, as listed in the attached manifest. Bond was given at the airport of arrival for the cargo retained on board. Items of cargo manifested for delivery at this airport appear to have been landed. Number of crew members not cleared by Public Health Service for: Quarantine ——; medical examination of aliens ——. Number of passengers not cleared by Public Health Service for: Quarantine ——; medical examination of aliens ——.
Number of crew members not cleared by Customs. _____
Number of passengers not cleared by Customs. _____
Number of pieces of cargo no cleared. ——
_____
(Customs Officer and Title)

Declaration on Entry of Aircraft at Following Airport

Airport of Arrival _____
Date _____

I, ——, commander or authorized agent of the aircraft identified in this document, declare and guarantee that there were not, when such aircraft departed from the airport of ——, nor have been since, nor now are, any more or other goods, wares, or merchandise on board than was stated in the attached manifests.

_____
(Signature and Title)

The permit to proceed and declaration must be stamped, mimeographed or printed on:

(1) The abstract general declaration;

(2) The traveling general declaration when an abstract general declaration is not required; or

(3) A separate sheet of paper.

(e) *Permit to proceed to nonscheduled aircraft.* For each permit to proceed issued to a nonscheduled aircraft carrying residue cargo, a numbered Customs Form 7512–C shall be filled out and filed. The number on the form shall be placed in the upper right hand corner of the permit to proceed. The original copy of Customs Form 7512–C shall be forwarded to the Data Center by the issuing port and the duplicate must be attached to the permit and given to the aircraft commander. When the aircraft arrives at the final port, the aircraft commander shall deliver the permit to proceed and Customs Form 7512–C (duplicate) to Customs.

(f) *Use of form.* When all of the documents required by this section are in order, the permit to proceed shall be dated and signed by the appropriate Customs officer at the clearance airport. One copy of the permit to proceed shall be delivered to the aircraft commander or agent with the other required documents, for filing at the next international airport.

§ 122.84 Intermediate airport.

(a) *Application.* The provisions of this section apply at any U.S. airport to which an aircraft proceeds with residue cargo, and passengers, or crewmembers and their purchases not cleared by Customs. They do not apply to aircraft arriving at the last domestic port of discharge.

(b) *Entry.* When an aircraft at the next airport, the aircraft commander or agent shall make entry by filing the:

(1) Abstract general declaration and manifest;

(2) Traveling general declaration and manifest; and

(3) Permit to proceed.

The Declaration on Entry of Aircraft at Following Airport, found on the permit to proceed, shall be properly signed before filing for entry.

(c) *Crew declarations.* The declarations and entries, Customs Form 5129, of any crewmembers who leave the aircraft with their purchases at the intermediate airport shall be detached from the traveling general manifest. The declaration and entries are to be detached by the appropriate Customs officer and are kept at the airport.

(d) *Departure.* When the aircraft leaves an intermediate airport carrying residue cargo, and passengers or crewmembers and their purchases are not yet cleared by Customs or an other interested Federal agency, the procedure is the same as at the first arrival airport. All documents required by this section, except those detached under § 122.84(c), shall be returned to the aircraft commander or agent for filing at the next entry airport.

§ 122.85 Final airport.

When an aircraft enters at the last domestic airport of discharge, the traveling general declaration and manifest shall be filed with Customs and kept at the airport. No abstract general declaration and manifest is required.

§ 122.86 Substitution of aircraft.

(a) *Applicotion.* The residue cargo procedure applies when an airline must substitute aircraft to reach a destination due to weather conditions or operational factors.

(b) *Clearance and entry.* Clearance and entry of substitute aircraft is required as provided in this subpart for other aircraft.

(c) *Identification.* An identification of all substitute aircraft shall be clearly made on all clearance and entry documents.

(d) *Transporting cargo*—(1) *Forwarding.* The carrier may forward all cargo which arrived on one aircraft by transferring it to another aircraft of the same airline to complete the inbound flight. The transfer shall be done under Customs supervision.

(2) *Conditions.* All of the residue cargo from more than one inbound flight of an airline may be laden on one substitute aircraft of the airline. The substitute aircraft shall finish the inbound transport of the residue cargo. No other cargo may be laden on the substitute aircraft.

§ 122.87 Other statutes.

Section 4.85 of the chapter, relating to vessels with residue cargo for domestic ports, applies to aircraft residue cargo, except as stated in the subpart.

Subpart J—Transportation in Bond and Merchandise in Transit

§ 122.91 Application.

This subpart applies to the transportation in bond of merchandise arriving in the U.S. by aircraft and entered:

(a) For immediate transportation to another airport without appraisement; or

(b) For transportation through the U.S. and later exportion by aircraft.

§ 122.92 Procedure at port of origin.

(a) *Forms required*—(1) *Customs Form 7512.* Customs Form 7512 shall be used for both entry and manifest. Three copies of the form are required at the port of origin for merchandise for immediate transportation without appraisement. Four copies of the form are required when merchandise for transportation and exportation is entered. (See also, §§ 18.11 and 18.20(a) of this chapter). Each copy shall be signed by the carrier or agent.

(2) *Customs Form 7512–C.* The "Origin" copy of Customs Form 7512–C shall be filed with Customs Form 7512. It shall be dated and its number and date shall be placed on all copies of Customs Form 7512.

(b) *Delivery of Customs form to carrier*—(1) *Merchandise entered for immediate transportation without appraisement.* When merchandise is entered for immediate transportation without appraisement, two copies of Customs Form 7512, and the duplicate copy of Customs Form 7512–C shall be delivered to the carrier.

(2) *Merchandise entered for transportation and exportation.* When merchandise is entered for transportation and exportation, one copy of Customs Form 7512 and one copy of Customs Form 7512–C shall be delivered to the carrier.

(3) *After delivery.* Once the forms are delivered, they shall accompany the merchandise to the port of destination or exportation.

(c) *Receipt and supervision.* The agent of a bonded air carrier shall give a receipt for any merchandise delivered to it for transportation in bond.

(d) *Split shipment*—(1) *Departure within 24 hours.* Merchandise covered by a single entry and manifest (Customs Form 7512) may be sent to the destination airport on one or more aircraft. A separate manifest for each aircraft is not required if the whole shipment is sent within a single 24-hour period.

(2) *Departure not within 24 hours.* When any part of a shipment is sent more than 24 hours after the first part was sent, the entry and manifest copy which accompanies the first shipment shall state that the rest of the shipment will follow by separate aircraft. A single manifest shall be prepared for each part of the shipment sent by separate aircraft. The manifest shall be used as notice of each arrival at the destination airport.

(e) *Transhipment.* Merchandise sent under bond may be transferred at an intermediate airport to one or more aircraft of the same airline. This may be done without Customs supervision and notice of the transfer is not required. When merchandise covered by one entry and manifest is transferred to more than one aircraft, paragraph (d) of this section applies.

(f) *Sealing not required.* The sealing of aircraft, aircraft compartments carrying bonded merchandise, or the cording and sealing of bonded packages carried by the aircraft, is not required.

(g) *Warning labels.* The carrier shall supply and attach the warning label, as described in § 18.4(e) of this chapter, to each bonded package.

§ 122.93 Procedure at destination or exportation airport.

(a) *Delivery to district director.* When a bonded shipment arrives at the destination airport, the aircraft commander or agent shall deliver one copy of the entry and manifest (Customs Form 7512) covering the shipment to the district director of that airport as notice of arrival. If the shipment was sent by separate aircraft more than 24 hours after the first part of the shipment was sent, then a manifest for each part of the shipment shall be delivered to the district director.

(b) *Delivery to consignee.* When the merchandise is sent under an entry for immediate transportation without appraisal, one copy of the manifest covering the merchandise shall be delivered by the carrier to the consignee. This copy is used to make entry, and may also be used as a carrier certificate as provided in § 141.11(a)(4) of this chapter.

§ 122.94 Certificate of lading for exportation.

(a) *Required filing.* This section applies to merchandise entered for transportation and exportation by aircraft. A certificate of lading for exportation, Customs Form 7512 (see § 122.93 of Subpart J) or Customs Form 7520 shall be filed when the merchandise reaches the final departure airport. Either form shall be filled out and signed at the place where aircraft clearance for the merchandise is given. Customs Form 7512–C (duplicate) shall also be submitted at this time.

(b) *Clearance not at place of final departure.* Whenever an aircraft is cleared at a place other than the place of final departure from the U.S., the aircraft commander or agent shall:

(1) Promptly report arrival of any bonded merchandise for export to the Customs officer in charge at that place; and

(2) Submit to the Customs officer in charge the certificate received at the place the merchandise was taken on board. The clearance certificate is kept by the Customs officer in charge until departure.

This procedure shall be followed at each place of landing before final departure.

§ 122.95 Other provisions.

Part 18 of this chapter (Transportation in Bond and Merchandise in Transit) applies to the transportation of

merchandise under this subpart unless stated otherwise.

air or surface movement to the port of

(2) Four copies for transit air cargo

manifest, clearly signed and dated if

(b) *Time.* Transit air cargo shall be

license must be placed under

merchandise under this subpart unless stated otherwise.

Subpart K—Accompanied Baggage in Transit

§ 122.101 Entry of accompanied baggage.

Passengers who enter the U.S. on one aircraft and depart to a foreign area on another aircraft with accompanying baggage shall either:

(a) Submit their baggage to Customs for inspection; or

(b) Arrange with the importing carrier for the baggage to be processed under regular in transit procedures. When passengers choose not to have access to their baggage while in the U.S., the baggage shall be listed on the Air Cargo Manifest as provided in § 122.48 of this chapter.

§ 122.102 Inspection of baggage in transit.

(a) General baggage in transit may be inspected upon arrival, while in transit, and upon exportation. Carriers shall present in-transit baggage for inspection at any time found necessary by the district director.

(b) *Before delivery to passenger.* In-transit baggage shall be presented to a Customs officer for inspection and clearance before the baggage can be delivered to a passenger while in the U.S.

Subpart L—Transit Air Cargo Manifest (TACM) Procedures

§ 122.111 Application.

Cargo (including manifested baggage) which arrives and is transported under Customs control in, through or from the U.S. may be transported in bond under this subpart. If cargo is not transported under this subpart, it shall be transported under other provisions of this chapter. (See Subparts I and J of this part, and Parts 18 and 123 of this chapter).

§ 122.112 Definitions.

The following definitions apply in this subpart:

(a) *Transit air cargo.* "Transit air cargo" is cargo, including manifested baggage, transported under the requirements of this subpart;

(b) *Port of arrival.* The "port of arrival" is the port in the U.S. where imported cargo must be documented for further transportation under this subpart;

(c) *Transfer or transferred.* "Transfer or transferred" means the document change of cargo to transit air cargo for transportation. The terms also include the physical movement of the cargo from one carrier to another, and thereafter by air or surface movement to the port of destination;

(d) *Transit air cargo manifest.* "Transit air cargo manifest" is used in this subpart as the shortened title for the transportation entry and transit air cargo manifest.

§ 122.113 Form for transit air cargo manifest procedures.

A manifest on Customs Form 7509 is required to transport cargo as transit air cargo. The words "Transportation Entry and Transit Air Cargo Manifest" shall be printed, stamped or marked on the form and on all copies of the form required for transit air cargo movement.

§ 122.114 Contents.

(a) *Form duplicates original manifest.* Each transit air cargo manifest shall be a duplicate of the sheet presented as part of the cargo manifest for the aircraft on which the cargo arrived in the U.S.

(b) *Number of shipments shown on manifest—(1) Shipments from one country.* Each transit air cargo manifest sheet may list:

(i) Only air cargo shipments from one exporting country, with the name shown in the heading; or

(ii) The name of the exportation country for each shipment, shown in the "Nature of Goods" column.

(2) *Shipment to the same port.* A single transit air cargo manifest may list only those shipments manifested at the port of arrival for:

(i) The same Customs port of destination;

(ii) The same Customs port for later exportation; or

(iii) Direct exportation from the port of arrival.

(c) *Information required.* Each air cargo manifest sheet shall show:

(1) The foreign port of lading;

(2) The date the aircraft arrived at the port of arrival;

(3) Each U.S. port where Customs services will be necessary due to transit air cargo procedures; and

(4) The final port of destination in the U.S., or the foreign country of destination, for each shipment. The foreign country destination shown on the manifest must be the final destination, as shown by airline shipping documents, even though airline transport may be scheduled to end before the shipment arrives at the final destination.

(d) *Number of copies.* The transit air cargo manifest shall be supplied as follows:

(1) Three copies for transit air cargo exported directly from the port of arrival;

(2) Four copies for transit air cargo moving from the port of arrival to a port of destination in the U.S.; and

(3) Five copies for transit air cargo moving from the port of arrival to another U.S. port for exportation.

(e) *Corrections.* When corrections in the route shown on the original manifest for the cargo are required at the port of arrival to make a manifest sheet, workable as a transit air cargo manifest, the district director at the port of arrival may allow the corrections.

§ 122.115 Labeling of cargo.

A warning label, as required by § 18.4(e) of this chapter, shall be attached to all transit air cargo not directly exported from the port of arrival, before the cargo leaves the port of arrival.

§ 122.116 Identification of manifest sheets.

When the original cargo manifest for the aircraft on which the cargo arrives is presented by the aircraft commander or agent at the port of arrival, a manifest number will be given to the aircraft entry documents by Customs. The number given shall be used by the airline to identify all copies of the transit air cargo manifest. All copies of the manifest shall be correctly numbered before cargo will be released from the port of arrival as transit air cargo.

§ 112.117 Requirements for transit air cargo transport.

(a) *Transportation—(1) Port to port.* Transit air cargo may be carried to another port only when a receipt is given, as provided in § 122.117(b). The receipt may be given only by an airline which:

(i) Is a common carrier for the transportation of bonded merchandise; and

(ii) Has the required Customs bond on file.

(2) *Exportation from port of arrival.* Transit air cargo may be exported from the port of arrival only when covered by a bond on Customs Form 301, containing the bond conditions set forth in subpart G of Part 113 of this chapter, as provided in § 18.25 of this Chapter.

(b) *Receipt—(1) Requirements.* When air cargo is to move from the port of arrival as transit air cargo, a receipt shall be given. The receipt shall be made by the airline responsible for transport or export within the lay order period, or by an authorized extension period (see § 4.37 of this chapter).

(2) *Contents.* The receipt shall appear on each copy of the transit air cargo manifest, clearly signed and dated if required, in the following form:

Received the cargo listed herein for delivery to Customs at the port of destination or exportation shown above, or for direct exportation.

Name of Carrier (or Exporter) _____

Attorney or Agent of Carrier (or Exporter) —

Date _____

(c) *Responsibility for transit air cargo—(1) Direct exportation.* The responsibility of the airline exporting transit air cargo for direct exportation begins when a receipt, as provided in § 122.117(b), is presented to Customs.

(2) *Other than direct exportion.* When the transit air cargo is not for direct exportation, the responsibility of the airline receiving the cargo begins when a receipt, as provided in § 122.117(b), is presented to Customs.

(3) *Carting.* When carting is used to deliver transit air cargo to receiving airlines, the importing airline is responsible for the cargo under its own bond until a receipt is filed by the receiving airline. This does not apply when the carting is done under Part 112 of this chapter, at the expense of the parties involved.

(4) *Importing airlines.* An importing airline which has qualified as a carrier of bonded merchandise, whether registered in the U.S. or a foreign area, may:

(i) Give a receipt for the air cargo;

(ii) File an appropriate bond; and

(iii) Deliver the cargo to an authorized domestic carrier for in-bond transportation from the port of arrival. The importing carrier's bond covers the transportation.

(d) *Split shipments.* A receipt shall be given by one airline for all of the cargo shipments listed on one transit air cargo manifest sheet. Cargo shipments so listed shall be transported from the port of arrival on one aircraft or carrier unless the use of more than one aircraft or carrier would be allowed:

(1) By § 122.92(d) under a single combined entry and manifest;

(2) By § 122.118(d); or

(3) By § 122.119(e), permitting the use of a surface carrier for transport.

Otherwise, all shipments on the transit air cargo manifest shall be separately documented and transported under the regular procedures for transportation of merchandise in bond (See Subpart J).

§ 122.118 Exportation from port of arrival.

(a) *Application.* Transit air cargo may be transferred for exportation from any port of arrival under this section. The district director may require any supervision necessary to enforce the regulations of other Federal agencies.

(b) *Time.* Transit air cargo shall be exported from the port of arrival within 10 days from the date the exporting airline receives the cargo.

(c) *Transit air cargo manifest copies.* Three copies of the transit air cargo manifest shall be filed with Customs.

(1) *Review copy.* The importing airline shall file a copy of each transit air cargo manifest sheet covering any cargo shipment that will be transferred for direct exportation. This filing shall be made as soon as the exporting airline has been chosen. The exporting airline need not give receipt of the review copy for the cargo to be transferred, but the name of the exporting airline shall be placed on the copy.

(2) *Exportation copy.* The exportation copy shall be filed by the exporting airline when clearance documents are presented to Customs.

(3) *Clearance copy.* The clearance copy shall be filed with the exporting aircraft's clearance documents.

The exportation and clearance copies shall show the exporting aircraft's receipt for the cargo, number, flight number, and the date.

(d) *Direct export on different aircraft.* Transit air cargo shipments which are listed on one aircraft transit air cargo manifest sheet may be directly exported on different aircraft of the exporting airline. When this occurs, an additional copy of the transit air cargo manifest shall be filed for each shipment or group of shipments transported in other aircraft. Each copy of the transit air cargo manifest shall be clearly marked to show which shipment or shipments listed are covered by the manifest copy.

(e) *Direct export by another airline.* When shipments listed on one transit air cargo manifest sheet are not exported from the same port on the same airline, separate export entries on Customs Form 7512, as required by § 18.25 of this chapter, shall be filed.

(f) *Post entered air cargo.* Air cargo not listed on the manifest (i.e., overages) which has been post entered under § 122.49(b) may be exported from the port of origin under this subpart. Four copies of the air cargo manifest, Customs Form 7509, marked "Post Entry", shall be provided. All requirements of § 122.44(b) and of this section shall be followed in using this procedure.

(g) *Review.* The review copy of the transit air cargo manifest sheets must be reviewed by Customs as required for the carrier manifest copy in § 122.120(g). The reviewing officer shall take the proper action if a license is necessary for any cargo. The exporting airline shall be notified that any transit air cargo which is not covered by the required license must be placed under constructive Customs custody in a special area of the airline's terminal until the license is obtained.

§ 122.119 Transportation to another U.S. airport.

(a) *Application.* Air cargo shipments may be transferred for transportation as transit air cargo from the port of arrival to another port in the U.S. under this section. The district director of the port of arrival may require Customs supervision of the transfer.

(b) *Time.* Transit air cargo traveling to a final port of destination in the U.S. shall be delivered to Customs at its destination within 15 days from the date the receiving airline gives the receipt for the cargo at the port of arrival.

(c) *Transit air cargo manifest copies.* Three copies of the transit air cargo manifest, and two copies of Customs Form 7512–C (original and duplicate) shall be filed by the airline giving a receipt for moving the cargo shipments to destination.

(1) *Permit copy.* This copy is used and kept by Customs at the port of arrival.

(2) *Customs Form 7512–C (duplicate).* This copy accompanies the transit air cargo to the port of destination.

(d) *Failure to deliver on time—(1) Procedure.* If transit air cargo does not arrive at the destination port on time, the district director at the port of arrival shall take action as provided isn §§ 18.6 and 18.8 of this chapter. When Customs Form 3861 is used by the district director for reporting, the amount of duty or tax due shall not be indicated on the form when the amount is uncertain. Instead, the amount of tax and duty shall be decided at the port of arrival on the basis of information:

(i) On Customs Form 3861;

(ii) On the permit copy kept at the port of arrival; and

(ii) obtained from the carriers as necessary. The district director at the port of arrival shall notify the airline that gave a receipt for the cargo that there has been a failure to deliver.

(2) *Responsibility of airline.* When the airline that gave a receipt for the cargo receives notice of discrepancies, the airline shall answer within 90 days of the date of such notice to the district director at the port of arrival. The answer shall provide any information or documents related to value and description of the cargo involved that the receipting airline and the importing airline can produce.

(e) *Port of arrival to port of destination.* When an aircraft arrives at the port of arrival with cargo to be carried as transit air cargo, the cargo

may be transferred to another carrier for surface movement to the port of destination. The transfer is allowed

(ii) *Exportation and clearance copies.* Two copies marked separately as

7512–C are required for each cargo shipment listed:

(c) *Seals to be used.* Aircraft liquor kits shall be sealed with U.S. Customs

crew members under Customs supervision.

immediately report to the distirct director any:

VOL 50 ISS 144 JL 26 1985 UMI

may be transferred to another carrier for surface movement to the port of destination. The transfer is allowed under the following conditons:

(1) The importing airline's bond must cover the transfer and surface movement;

(2) The description of the cargo on the transit air cargo manifest must be complete;

(3) The entire shipment listed in the transit air cargo manifest must be shipped from the port of arrival to the port of destination by the same surface movement; and

(4) Section 122.114(b) must be followed.

§ 122.120 Transportation to another port for exportation.

(a) *Application.* Air cargo may be transferred as transit air cargo at the port of arrival for transportation to another port in the U.S. and later exportation under this section.

(b) *Supervision*—(1) *From port of arrival to exportation port.* The district director at the port of arrival may order may supervision found necessary for the transfer of transit air cargo for transportation to another port for export.

(2) *At exportation port.* Customs shall be notified far enough in advance to be able to make any required supervision of the lading of cargo, and any other Federal agency checks, when transit air cargo is ready for lading on the exporting aircraft.

(c) *Time.* Transit air cargo covered by this section shall be delivered to Customs at the port of exportation within 15 days from the date of receipt by the forwarding airline.

(d) *Transit air cargo manifest copies.* Five copies of the transit air cargo manifest and a Customs Form 7512–C (original and duplicate) shall be filed with Customs.

(1) *Port of arrival.* Two copies of the transit air cargo manifest, marked separately as "permit" and "control" copies, and Customs Form 7512–C (original) shall be filed with Customs at the port of arrival. Filing shall be made when the arriving aircraft enters, or before the lay order period ends, by the airlines which gives receipt to transport the cargo from the port of arrival to the port of destination.

(2) *Port of exportotion.* Three copies of the transit air cargo manifest shall be filed at the port of exportation.

(i) *Carrier manifest copy.* The carrier manifest copy shall be attached to the listing of cargo shipments and submitted when the cargo arrives at the exportation port.

(ii) *Exportation and clearance copies.* Two copies marked separately as "exportation" and "clearance" copies, shall be filed with Customs at the exportation port.

(e) *Delivery to exporting airline.* When the transit air cargo arrives at the exportation port, it may be delivered directly to the exporting carrier, together with the exportation and clearance copies. The name of the exporting carrier shall be clearly noted on the carrier manifest copy, which shall be delivered to Customs.

(f) *Storage by exporting airline.* The exporting carrier shall keep all cargo listed on the transit air cargo manifest in one storage space. The storage space shall be separate from the area in which special shipments which require a license under § 122.120(g) are stored.

(g) *Export license*—(1) *Review.* The Customs officer shall review the carrier manifest copy of the transit air cargo manifest to make sure that the export licensing requirements of other Federal agencies have been followed.

(2) *Information Inadequate.* If the manifest information is not enough for Customs to determine that a license or other requirement applies, then the transit air cargo shall be checked by examination, or by inspection of the air waybills or attached invoices.

(3) *When License or Other Requirement Applies.* The exporting airline shall be notified at once if Customs finds that the shipment cannot be exported without a license or other approval. The shipment shall then be put under constructive Customs custody in a special area set aside for the shipment in the exporting airline's cargo terminal.

(h) *Filing of exportation and clearance copies*)—(1) *Information.* When filed with Customs, the exportation and clearance copies of the tansit air cargo manifest shall each show the aircraft:

(i) number;

(ii) flight number; and

(iii) the date.

(2) *Filing.* The exporting airline shall file the exportation and clearance copies before the aircraft that carries the transit air cargo departs. The clearance copies shall be grouped together and not mixed in with other outward manifest sheets. The exportation copies shall be grouped together, and kept separate from the outward clearance documents.

(i) *Cargo not laden at same airport by same airline*—(1) *Procedure.* If all the cargo listed on one transit air cargo manifest sheet is not laden for exportation from the same U.S. airport by the same airline, then separate entries on Customs Forms 7512 and 7512–C are required for each cargo shipment listed:

(i) for transportation and exportation under Subpart J of this part; or

(ii) for direct exportation under § 18.25 of this chapter.

(j) *Cargo laden on more than one aircraft of same airline.* When any cargo shipment listed on the same transit air cargo manifest must be exported on more than one aircraft of the same airline, § 122.118(d) applies.

(k) *Failure to deliver.* If all or part of the cargo listed on the transit air cargo manifest is not accounted for with an exportation copy within 40 days, the district director at the port of arrival shall take action as provided in § 122.119(d).

Subpart M—Aircraft Liquor Kits

§ 122.131 Application.

(a) *Liquor and tobacco.* Subpart M applies to:

(1) Duty-free and tax-free liquor and tobacco; and

(2) Duty-paid and tax-paid liquor and tobacco which has been placed in the same liquor kit as duty-free and tax-free liquor and tobacco.

(b) *Aircraft.* Subpart M applies to all commercial aircraft on domestic or foreign flights operating into, from and between U.S. airports, which are carrying:

(1) Duty-free and tax-free liquor and tobacco withdrawn from bond under § 309 of the Traiff Act of 1930, as amended (19 U.S.C. 1309); or

(2) Other liquor or tobacco on which duty or taxes have not been paid.

This includes any aircraft carrying duty-free and tax-free liquor under 19 U.S.C. 1309, or other Federal law, although the aircraft is not required to enter, clear or report arrival.

§ 122.132 Sealing of aircraft liquor kits.

(a) *Sealing Required.* Aircraft liquor kits shall be sealed on board the aircraft by crewmembers before the aircraft lands in the U.S. The liquor kits shall be under seal while on the ground unless taken to an authorize airline in-bond liquor storeroom.

(b) *Exception.* When an aircraft is traveling between airports in the U.S., in a trade for which duty-free and tax-free liquor is used during flight, sealing the liquor kits on board during transporting stopovers is not required if:

(1) The liquor kits are kept on board the aircraft;

(2) The district director finds that sealing is not required for revenue protection.

(c) *Seals to be used.* Aircraft liquor kits shall be sealed with U.S. Customs serially numbered, orange colored, button-type seals, or other approved seals. The airline shall use seals supplied by an approved manufacturer, as provided in Part 24 of this chapter. A small number of seals may be obtained from the district director.

(d) *Removing seals.* When sealed liquor kits are on board any aircraft that is on the ground, the Customs seals may be broken only by:

(1) A customs officer; or

(2) Authorized airline personnel, in an authorized airline in-bond liquor storeroom.

(e) *Resealing.* When a Customs officer breaks the seal of a liquor kit to check the contents, the action shall be recorded on the liquor kit stores list, and the liquor kit must be resealed with an uncolored button seal.

§ 122.133 Stores list required on arrival.

(a) *When required, contents.* Three copies of an incoming stores list shall be prepared for each liquor kit on board before an aircraft lands. The incoming stores shall state for each type of liquor and bottle size the:

(1) Number of full bottles;

(2) Number of partially filled bottles; and

(3) Total number of bottles.

If the carrier chooses not to state the type of liquor for each size bottle, any duty or taxes assessed for any shortage shall be set at the highest rate available for the alcoholic beverages in the kit.

(b) *Disposition of stores list copies.* One copy of the incoming stores list shall be placed in the liquor kit before it is sealed. The remaining two copies shall be used as follows:

(1) One copy of the stores list shall be filed with the inward cargo manifest; and

(2) One copy shall be kept for filing with the outward cargo manifest if the liquor kit was laden for export.

(c) *For aircraft not required to enter and/or clear.* If an aircraft is not required to enter and/or clear:

(1) One copy of the stores list shall be given to the Customs officer upon arrival; and

(2) One copy shall be kept to be given to the Customs officer before departure of the aircraft.

(d) *When stores list not prepared.* When a complete stores list is not prepared before landing, liquor kits must be sealed on board, and the seal number shall be recorded on the stores list. When the aircraft lands, the liquor shall be taken at once to the Customs office and the stores list shall be completed by crew members under Customs supervision.

§ 122.134 When airline does not have in-bond liquor storeroom.

(a) *Handling of liquor kits.* An aircraft may land at an airport where the airline involved does not have an authorized in-bond liquor storeroom. When this occurs, the liquor kits, under any supervision found necessary by the district director, may be:

(1) Kept on board the aircraft;

(2) Removed and replaced upon the aircraft, or

(3) Removed and replaced aboard another aircraft.

(b) *Sealing of kits.* Aircraft liquor kits covered by this section shall remain sealed until departure. Customs officers may remove the seal to check the contents of the liquor kits, but shall reseal the kits as provided in § 122.132(e).

(c) *Restocking.* Additional amounts of duty-free and tax-free liquor and tobacco obtained in the U.S. shall be laden in a separate container on any aircraft covered by § 122.134. The lading shall be done under any supervision the district director finds necessary. The additional liquor and tobacco shall be shown on separate outward stores lists.

§ 122.135 When airline does have in-bond liquor storeroom.

(a) *Restocking.* Liquor kits on board the aircraft landing at an airport where the airline involved has an authorized in-bond liquor storeroom may be restocked in the storeroom.

(b) *Inventory record.* Each authorized airline in-bond liquor storeroom shall keep an inventory record in a form that satisfies the district director. The inventory record shall account for the receipt and use of all aircraft liquor and tobacco stores on which duty and/or tax has not been paid.

(c) *Airline employees.* Any airline which has an authorized in-bond liquor store room at an airport shall give the district director;

(1) A list of names of all airline employees authorized to break Customs seals on liquor kits in the in-bond liquor storeroom; and

(2) signature samples of the authorized employees.

(d) *Opening of aircraft liquor kits.* Aircraft liquor kits received in an authorized storeroom shall be opened only by authorized airline employees, or by Customs officers.

(e) *Contents of liquor kits.* The employees who break the seals on aircraft liquor kits shall check the contents at once. The employees shall immediately report to the distirct director any:

(1) Evidence of seal tampering;

(2) Difference between the seal numbers on the liquor kits and those recorded on the stores list; and

(3) Differences in quantity as shown on the stores list.

(f) *Handling the liquor kits*—(1) *Partial bottles.* Partial bottles of liquor may be removed from incoming liquor kits and kept in the in-bond liquor storeroom to be destroyed or combined with other partial bottles. This may be done under Customs supervision. The costs of Customs supervision shall be paid by the airline.

(2) *Exportation.* The contents of incoming liquor kits may be commingled to restock outbound liquor kits. The commingling must take place in the airline in-bond liquor storeroom, using liquor bottles on which the seal has not been broken.

(3) *Sealing.* All liquor kits shall be sealed as provided in § 122.132(a) before removal from the in-bond liquor storeroom. All seal numbers shall be listed on an outgoing stores list.

§ 122.136 Outgoing stores list.

(a) *Preparation.* Two copies of a serially numbered outgoing stores list shall be prepared by the airline for all liquor and tobacco withdrawn from bonded or non-tax paid stock and added to liquor kits. The outgoing stores, list shall show the total number of bottles for each type liquor, the brand, and the size of each bottle.

(b) *Use of Copies.* The two copies of the outgoing stores list shall be used as follows:

(1) One copy shall be placed and kept in the outgoing kits until the aircraft leaves the U.S.; and

(2) One copy must be filed either with the outgoing cargo manifest (for aircraft required to clear) or with Customs before departing, as provided in § 122.133(c). In both cases, the third copy of the inward stores list shall be filed with the outgoing stores list. (See § 122.133(c)).

§ 122.137 Certificate of use.

Any liquor or tobacco withdrawn from the in-bond storeroom and shown on the outgoing stores list shall be recorded, when exported, on a certificate of use prepared by the airline.

Subpart N—Flight to and From the U.S. Virgin Islands

§ 122.141 Definitions.

Under Subpart N, the following definitions apply:

(a) *United States.* The term "U.S." includes the several States, the District

arrives in the U.S. from the U.S. Virgin Islands, the aircraft commander must be

Aircraft time chartered by the U.S. Government or a foreign government

(d) *Knowledge.* A penalty may be assessed for differences in a manifest

Headquarters since certain limited domestic transportation by foreign civil

PARALLEL REFERENCE TABLE—Continued

VOL 50 ISS 144 JL 26 1985 UMI

(a) *United States.* The term "U.S." includes the several States, the District of Columbia and Puerto Rico.

(b) *Foreign area.* The term "foreign area" means any area other than the several States, the District of Columbia and Puerto Rico.

§ 122.142 Flights between the U.S. Virgin Islands and a foreign area.

(a) *Aircraft arriving in the U.S. Virgin Islands.* Aircraft arriving in the Virgin Islands from a place other than the U.S. are governed by the provisions of this part which apply to aircraft arriving in a State from a foreign area.

(b) *Aircraft leaving the U.S. Virgin Islands.* Aircraft leaving the U.S. Virgin Islands for a place other than the U.S. are governed by the provisions of this part that apply to aircraft leaving a State for a foreign area.

§ 122.143 Flights from the U.S. to the U.S. Virgin Islands.

(a) *In general.* Aircraft on flights from the U.S. to the Virgin Islands are governed by the provisions of this part that apply to aircraft on a flight between two States.

(b) *Bureau of the Census.* When Bureau of the Census regulations (15 CFR Part 30) apply to aircraft carrying merchandise to the U.S. Virgin Islands from the U.S., permission to depart must be obtained from the district director. Permission to depart shall not be given unless:

(1) A complete manifest and Shipper's Export Declarations as required by 15 CFR Part 30 are filed; or

(2) An incomplete manifest under 15 CFR 30.24 is filed and the complete manifest and Shipper's Export Declarations are filed within 7 business days after departure.

§ 122.144 Flights from the U.S. Virgin Islands to the U.S.

(a) *Aircraft not inspected*—(1) *On departure.* Aircraft leaving the U.S. Virgin Islands for the U.S. are governed by the provisions of this part that apply to aircraft leaving the U.S. for a foreign area.

(2) *On arrival.* Aircraft departing from the Virgin Islands and arriving in the U.S. are governed by the provisions of this part that apply to aircraft arriving in a State from a foreign area.

(b) *Supervision.* When aircraft are inspected by customs in the U.S. Virgin Islands, the district director may order any supervision found necessary to protect the revenue and enforce the laws administered by Customs. This includes the collection of duty and taxes on articles bought in the U.S. Virgin Islands.

(c) *Procedure.* When an aircraft that was inspected in the U.S. Virgin Islands arrives in the U.S. from the U.S. Virgin Islands, the aircraft commander must be able to give evidence of the inspection to Customs on request. Evidence of the inspection shall be given in the following manner:

(1) A certificate on Customs Form 7507 shall be presented for aircraft registered in the U.S. and:

(i) Of domestic origin; or

(ii) Of foreign origin, if duty has been paid and the aircraft is proceeding in ballast, or with cargo and/or passengers solely from the U.S. Virgin Islands. Two copies of the certificate shall be given to the inspecting officers in the U.S. Virgin Islands by the aircraft commander. The certificate shall be marked with the port and date of inspection, and must be signed by the inspecting officer. The original of the certificate must be returned to the aircraft commander, who must keep the certificate for a reasonable time after the end of the flight to the U.S. If requested, the certificate shall be presented to Customs. The certificate may be destroyed or disposed of after a reasonable time at the discretion of the aircraft commander or agent.

(2) A permit to proceed on Customs Form 7507 shall be presented for aircraft registered in the U.S. which are:

(i) of foreign origin;
(ii) not duty paid; and
(iii) proceeding in ballast.

The permit to proceed, as required by § 122.57, shall be marked with the port and date of inspection, and shall be signed by the inspecting officer in the U.S. Virgin Islands.

(3) A permit to proceed on Customs Form 7507 shall be presented for aircraft registered in a foreign country and proceeding in ballast. The permit to proceed, as required by § 122.56, shall be marked with the port and date of inspection, and shall be signed by the inspecting officer in the U.S. Virgin Islands.

(4) A permit to proceed, or other document, shall be filed as required under Subpart I of this part for an aircraft carrying residue cargo and/or passengers. The permit to proceed shall be marked with the port and date of inspection, and it must be signed by the inspecting officer in the U.S. Virgin Islands.

Subpart O—Public Aircraft

122.151 Public aircraft of the U.S. or foreign countries.

(a) *Report of arrival, entry and clearance.* No report of arrival, entry or clearance is required for any public aircraft of the U.S. or a foreign country when used exclusively in governmental service and not carrying passengers or merchandise for commercial purposes. Aircraft time chartered by the U.S. Government or a foreign government and government owned aircraft engaged in the carriage of persons or property for commercial purposes are not considered public aircraft.

(b) *Manifest.* The commander of any public aircraft arriving from abroad with cargo on board shall file a manifest, in duplicate, listing all such cargo. The original manifest shall be filed with the district director within 48 hours after arrival of the aircraft. The duplicate copy shall be made available to the discharging inspector at the airport.

(c) *Other agency requirements*—(1) *Agriculture.* The Department of Agriculture has the authority to inspect any aircraft arriving in the U.S. pursuant to Title 7, United States Code, Section 150ff.

(2) *Department of Defense.* All civilian or military aircraft operated by or for the Department of Defense are subject to the requirements of Department of Defense Regulations 5030.49-R, Section III, chapter 7.

Subpart P—Penalties

§ 122.161 In general.

Any person who violates any Customs requirements stated in Part 122, or any regulation that applies to aircraft under § 122.3, is subject to a civil penalty of $500.00. Any aircraft used as part of such violation is subject to seizure or forfeiture, as provided in the Customs laws. A penalty or forfeiture may be mitigated under Part 171 of this chapter.

§ 122.162 Failure to notify and explain differences in air cargo manifest.

(a) *Application.* Penalties shall be assessed when differences in an air cargo manifest (overages or shortages) are discovered and:

(1) The required notice and explanation are not made in time;

(2) The district director is not satisfied that the differences were caused by clerical error or other mistake;

(3) There has been a loss of revenue to the U.S.; or

(4) The district director is not satisfied that there was a valid reason for delay in reporting any differences.

(b) *Definition.* Under this section, "clerical error or other mistake" means a non-negligent, inadvertant, or typographical mistake, made when the manifest is prepared, assembled or submitted.

(c) *Repeated differences.* When repeated differences are found in manifests filed by the same person, it may be determined that the differences were a result of negligence and not clerical error or other mistake.

(d) *Knowledge.* A penalty may be assessed for differences in a manifest that are unknown to the aircraft commander or owner.

§ 122.163 Transit air cargo traveling to U.S. ports.

(a) *Application.* When transit air cargo is traveling from the port of arrival to another U.S. port under § 122.119, a liability shall be assessed, as set out in § 18.8 of this Chapter if there has been:

(1) Shortage in delivery;
(2) Irregular delivery; or
(3) Non-delivery.

(b) *Liabilities assessed.* The liabilities assessed under this section are imposed as liquidated damages under a carrier's bond. The basis for assessing the liquidated damages is the value of the merchandise.

(c) *Value of merchandise.* The district director determines the value of merchandise for assessment purposes. Valuation is based on:

(1) Any data or documents available to the airline which gave a receipt for the transit air cargo, and available to the importing airline relating to the description and value of the cargo; and

(2) Other information available to the district director relating to the same or similar merchandise. If the data or documents required by this section are not submitted within 90 days of the date requested, the district director shall determine value on the basis of other information available to him. The transit air cargo manifest does not reflect value.

§ 122.164 Transportation to another port for exportation.

When transit air cargo is traveling from the port of arrival to another U.S. port for later exportation, any liquidated damages for shortages or irregular delivery shall be assessed as provided in § 122.163.

§ 122.165 Air cabotage.

The air cabotage law (49 U.S.C. 1508(b)) prohibits the transportation of persons, property, or mail for compensation or hire between points of the U.S. in a foreign civil aircraft. The term "foreign civil aircraft" includes all aircraft that are not of U.S. registration except those foreign-registered aircraft leased or chartered to a U.S. air carrier and operated under the authority of regulations issued by the Department of Transportation, 14 CFR 121.153, and those aircraft used exclusively in the service of any government. Customs officers detecting possible violations shall report the matter to Headquarters, Attention: Carrier Rulings Branch. Liability should not be assessed under 49 U.S.C. 1471 pending instructions from Headquarters since certain limited domestic transportation by foreign civil aircraft is permitted under regulations issued by the Civil Aeronautics Board (14 CFR Part 375).

William von Raab,
Commissioner of Customs.

Approved: June 13, 1985.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PARALLEL REFERENCE TABLE

[This table shows the relationship of sections in revised Part 122 to Superseded Part 6]

Revised section	Superseded section
122.1	New.
122.2(a)	New.
122.2(b)	6.1(e).
122.2(c)	6.1(g).
122.2(d)	New.
122.2(e)	6.1(h).
122.2(f)	New.
122.2(g)	Based on 19 CFR 24.18.
122.2(h)	New.
122.2(i)	New.
122.2(j)	New.
122.2(k)	6.1(f).
122.2(1)	6.1 (b), (c).
122.3	6.10
122.4	6.6(b).
122.5	6.6(a).
122.6	6.6(a).
122.11(a)	6.12 (a), (b), (d).
122.11(b)	6.12(c).
122.11(c)	6.12(e).
122.12(a)	6.12(f).
122.12(b)	6.12(g)
122.12(c)	6.12(h).
122.12(d)	6.12(i).
122.13	6.13
122.21	New.
122.22	New.
122.23(a)	New.
122.23 (b), (c), (d), (e)	6.14(a).
122.23(f)	New.
122.24 (a), (b)	6.14 (b), (g).
122.25 (a), (b), (c), (d)	6.14(f).
122.26	New.
122.27	Based on 19 CFR 148.5.
122.28	Based on 19 CFR 148.32.
122.29	New.
122.30	6.10 and 6.11.
122.31(a)	6.2(b)(1).
122.31(b)	6.2(b)(3).
122.31(b)(1)	6.2(b)(1).
122.31(c)(2)	6.2(b)(2).
122.31(d)	6.2(b)(4).
122.31(e)	6.2(b)(5).
122.31(f)	6.2(b)(1).
122.31(g)	6.2(b)(1).
122.32	6.2(a).
122.33	6.2(a)
122.34	6.2(a).
122.35	6.2(h).
122.36	6.2(b)(6).
122.37	6.2(h).
122.38(a)	6.2 (e), (f).
122.38(b)	6.2 (e), (f).
122.38(c)	6.2(g).
122.38(d)	6.2 (e), (f).
122.38(e)	6.2 (e), (f).
122.38(f)	6.2 (e), (f).
122.38(g)	New. Based on Customs Circular INS-2-EV, dated Dec. 14, 1961.
122.41	6.3(a), 6.4 (a), (b) and 6.9(c).
122.42 (a), (b)	6.3(b) and 6.4(c).
122.43 (a), (c)	6.7 (a), (b).
122.43(b)	New. Based on Customs Circular AIR-4-ICS, dated Jan. 24, 1968.

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to Superseded Part 6]

Revised section	Superseded section
122.44	New. Based on Customs Circular BAG-3-CO (AIR-4-AIR), dated Aug. 9, 1965.
122.45	6.7(b)(1).
122.45(d)	New. Based on Customs Circular BAG-3-CO (AIR-4-AIR), dated Aug. 9, 1965.
122.46(a)	6.7(b)(2).
122.46(b)	6.7(b)(2). Also based on Customs Circular AIR-4-ICS, dated Jan. 24, 1968.
122.46(c)	6.7(b)(2).
122.47(a)	6.7(f).
122.47(b)	6.7(f).
122.47(c)(1)	6.7(b)(3)(v).
122.47(c)(2)	6.7(b)(3)(V), (vi).
122.47(d)	6.7(f).
122.48 (a), (b), (c), (d)	6.7(b)(3).
122.48(e)	New. Based on Customs Circular ATR-7-IEI, dated Jan. 31, 1972.
122.49(a)	6.7(h) (1), (2).
122.49 (b), (c), (d), (e), (f)	6.7(h) (1), (3). Also based on 19 CFR 4.12(a).
122.51	6.2(d)(3).
122.52 (a), (b), (c)	6.2(d)(3).
122.52(d)	6.2(d)(3)(ii). Also based on T.D. 55063(1), dated Mar. 4, 1960.
122.53	New. Based on 14 CFR 121.153.
122.54 (a), (b), (c), (d), (e), (f)	6.2(d)(1).
122.54(g)	6.2(d)(2).
122.61(a)	6.3(c).
122.62 (a), (b), (c)	6.3(c).
122.63 (a), (b)	6.5(c).
122.64	6.3(d).
122.65	New.
122.71	6.8(a).
122.72	6.8(a).
122.73	6.8(b). Also based on T.D. 82-92, dated Mar. 22, 1982.
122.74(a)	6.8(a). Also based on 15 CFR 30.24.
122.74(b)	6.8(a).
122.74(c)	6.8(a). Also based on 15 CFR 30.24(a).
122.74(c)(1)	6.8(a). Also based on 15 CFR 30.24 (a).
122.74(c)(2)	6.8(e). Also based on 15 CFR 30.24(a)(1).
122.74(c)(3)	6.8(a). Also based on 15 CFR 30.24(a)(1).
122.74(d)	6.8(e).
122.75(a) (1), (2)	6.8(e). Also based on 15 CFR 30.21(b).
122.75(b)	6.8(e).
122.76	6.8(a). Also based on 15 CFR 30.1.
122.77	6.8(d).
122.78	6.8(c).
122.79 (a), (b)	6.3(c) and 6.5(b).
122.80	6.8(e).
122.81	6.9(a).
122.82	6.9(a). Also based on 19 CFR 4.85(A), 19 CFR 113.13a (a), (b) and 19 CFR 113.61.
122.83 (a), (b), (c), (d)	6.9(b).
122.83(e)	6.9.
122.83(f)	6.9(b).
122.84(a), (b), (c), (d)	6.9(c).
122.85	6.9(d).
122.86	New. Based on Customs Circular AIR-7-EV, dated Nov. 23, 1959.

VOL

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to Superseded Part 6]

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to Superseded Part 6]

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in Part 6 to

SUPPLEMENTARY INFORMATION: At the request of a manufacturer, FDA is

an existing technical provision to provide a less stringent requirement,

Dated: July 19, 1985

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to Superseded Part 6]

Revised section	Superseded section
122.87	6.9(e).
122.91	6.15(a).
122.92 (a), (b)	6.15(b), (1), (2).
122.92(c)	6.15(b)(3).
122.92(d)	6.15(b)(4).
122.92(e)	6.15(b)(5).
122.92 (f), (g)	6.15(b)(6)
122.93(a)	6.15(c).
122.93(b)	6.15.
122.94 (a), (b)	6.16.
122.95	6.15(a).
122.101	New. Based on Customs Circular AIR-7-IEI, dated Jan. 31, 1972.
122.102	New. Based on Customs Circular AIR-7-IEI, dated Jan. 31, 1972.
122.111	6.17.
122.112 (a), (b), (c)	6.17.
122.112(d)	6.18(a).
122.113	6.18(a).
122.114(a)	6.18(a). Also based on Customs Circular AIR-7-EV, dated May 8, 1962.
122.114(b)	6.16(b).
122.114(b)(2)	6.18(b).
122.114(c)	6.18(d).
122.114(d)	6.18(f).
122.114(e)	6.18(e).
122.115	6.18(e). Also based on Customs Circular AIR-7-EV, dated May 8, 1962.
122.116	6.19.
122.117(a)	6.20(c).
122.117(b)	6.20 (b), (d).
122.117 (c), (d)	6.20(c).
122.118(a)	6.24(a).
122.118(b)	6.21(c).
122.118(c)	6.24 (b), (c).
122.118(d)	6.24(g).
122.118(e)	New. Based on 19 CFR 18.25.
122.116(f)	New. Based on Customs Circular AIR-7-CO, dated Mar. 17, 1965.
122.118(g)	6.24(d).
122.119(a)	6.22(a).
122.119(b)	6.21(a).
122.119(c)	6.22(a). Also based on Customs Circular TRA-1-IMS, dated July 15, 1968.
122.119(d)	6.22 (c), (d).
122.119(e)	6.22(a).
122.120(a)	6.23(a).
122.120(b)(1)	6.23(a).
122.120(b)(2)	6.23(c).
122.120(c)	6.21(b).
122.120(d)	6.23.
122.120(e)	6.23(b).
122.120(f)	6.23(c).
122.120(g)	6.23(e).
122.120(h)	6.23(d).
122.120 (i), (j)	6.23(h).
122.120(k)	6.23(g).
122.131 through 122.137	New. Based on Customs Circular AIR-7-AIR, dated June 16, 1964.
122.141	New definition section.
122.142	6.25(a).
122.143	6.25(b).
122.144(a)(1)	6.25(c)(1)
122.144(a)(2)	6.25(c)(2)
122.144(b)	6.25(c)(3).
122.144(c)	6.25(c)(4).
122.144(d)	6.25(c)(5).
122.151	New. Based on 19 CFR 4.5.
122.161	6.10.
122.162	6.7(h).
122.163	6.22(e)
122.164	6.23(g).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to Superseded Part 6]

Revised section	Superseded section
122.165	New. Based on Customs Circular AIR-4-CR, dated Nov. 12, 1972.

PARALLEL REFERENCE TABLE

[This table shows the relationship of sections in Part 6 to revised Part 122]

Superseded section	Revised section
6.1 (b), (c)	122.2(1)
6.1(e)	122.2(b).
6.1(f)	122.2(k).
6.1(g)	122.2(c).
6.1(h)	122.2(e).
6.2(a)	122.32, 122.33, 122.34.
6.2(b)	122.31.
6.2(b)(6)	122.36.
6.2(d)(1)	122.54 (a) through (f).
6.2(d)(2)	122.54(g).
6.2(d)(3)	122.51 and 122.52.
6.2 (e), (f)	122.38 (a), (b), (d), (e) and (f).
6.2(g)	122.38(c).
6.2(h)	122.35 and 122.37.
6.3(a)	122.41.
6.3(b)	122.42 (a), (b).
6.3(c)	122.61(a),122.62 (a), (b), (c) and 122.79(a).
6.3(d)	122.64.
6.4 (a) and (b)	122.41.
6.4(c)	122.42(b).
6.5 (b), (c)	122.63 (a), (b) and 122.79(b).
6.6(a)	122.5 and 122.6.
6.6(b)	122.4.
6.7(a)	122.43(a).
6.7(b)	122.43(c), 122.45, 122.46 (a), (b), (c) and 122.47(c).
6.7(f)	122.47 (a), (b), and (d).
6.7(h)	122.49, and 122.162.
6.8(a)	122.71, 122.72, 122.74 (a), (b), and (c) (1) and (3), and 122.76.
6.6 (b)	122.73.
6.6(c)	122.78.
6.8(d)	122.77.
6.6(e)	122.74(c)(2), 122.74(d), 122.75(a), (1) and (2), 122.75(b) and 122.80.
6.9(a)	122.61 and 122.62.
6.9(b)	122.83.
6.9(c)	122.84.
6.9(d)	122.65.
6.9(e)	122.67.
6.10	122.3, 122.30 and 122.161.
6.11	122.30.
6.12 (a), (b), (d)	122.11(a)
6.12(c)	122.11(b).
6.12(e)	122.11(c).
6.12 (f), (g), (h), (i)	122.12.
6.13	122.13.
6.14(a)	122.23 (b), (c), (d), (e).
6.14 (b), (g)	122.24 (a), (b).
6.14(f)	122.25.
6.15(a)	122.91 and 122.95.
6.15(b)	122.92.
6.15(c)	122.93.
6.16	122.94.
6.17	122.111 and 122.112(a), (b), (c)
6.18(a)	122.112(d), 122.113, and 122.114(a)
6.18(b)	122.114(b).
6.18(d)	122.114(c).
6.18(e)	122.114(e).
6.18(f)	122.114(d).
6.19	122.116.
6.20 (b), (d)	122.117(b).
6.20(c)	122.117 (a), (c), and (d).
6.21(a)	122.119(b).
6.21(b)	122.120(c).
6.21(c)	122.118(b).
6.22(a)	122.119 (a), (c), and (e).
6.22 (c), (d)	122.119(d).
6.22(e)	122.163.
6.23(a)	122.120 (a) and (b)(1).
6.23(b)	122.120(e).
6.23(c)	122.120 (b)(2) and (f).
6.23(d)	122.120(h) .
6.23(e)	122.120(g) .
6.23(g)	122.120(k) and 122.164.
6.23(h)	122.120 (i), (j).
6.24(a)	122.118(a).
6.24 (b), (c)	122.118(c).
6.24(d)	122.118(g).
6.24(g)	122.118(d).
6.25(a)	122.142.
6.25(b)	122.143.
6.25(c)(1)	122.144(a)(1).
6.25(c)(2)	122.144(a)(2).
6.25(c)(3)	122.144(b).
6.25(c)(4)	122.144(c).
6.25(c)(5)	122.144(d).

[FR Doc. 85-17770 Filed 7-25-85; 8:45am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 449

[Docket No. 85N-0136]

Nystatin Tablets; Revision of Disintegration Standard

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations by revising the disintegration standard for nystatin film-coated tablets. This action will assure better quality control of this product.

DATES: Comments by September 24, 1985; request for an informal conference by August 26, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: At the request of a manufacturer, FDA is proposing to amend the antibiotic drug regulations by revising the disintegration standard for nystatin film-coated tablets from 30 minutes to 2 hours.

The disintegration test for film-coated tablets (21 CFR 436.212(e)(1)) measures the rate of disintegration of this dosage form by immersion in simulated gastric fluid for the time specified in the individual monograph (regulation). The monograph providing for nystatin tablets specifies a disintegration time period of 30 minutes for film-coated tablets. If the tablets have not disintegrated in 30 minutes, they do not meet the standard for disintegration.

The manufacturer contends that the current disintegration standard is unnecessarily stringent for nystatin film-coated tablets because the availability of nystatin is necessary only in the intestine for the treatment of intestinal candidiasis. The manufacturer noted that the monograph providing for nystatin tablets specifies a disintegration standard of 2 hours for plain-coated tablets that are used for the same treatment. Thus, the manufacturer believes that a disintegration standard of 2 hours for nystatin film-coated tablets would also be sufficient to give adequate assurance of nystatin's availability in the intestine.

FDA has reviewed the manufacturer's request and has tentatively concluded that a disintegration standard of 30 minutes is unnecessarily stringent for nystatin film-coated tablets. Therefore, FDA is proposing that the disintegration standard of 2 hours be established for nystatin film-coated tablets.

In addition, FDA is proposing to amend the regulation (monograph) for nystatin tablets by deleting (1) the provision for the plan-coated tablets because they are no longer marketed, and (2) the reference to film-coated tablets containing a starch filler because all nystatin tablets currently marketed fit this description.

The agency has determined under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has considered the economic impact of this proposed rulemaking and has determined that it does not require a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). Specifically, the proposal would refine an existing technical provision to provide a less stringent requirement. Accordingly, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

Interested persons may, on or before September 24, 1985, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before August 26, 1985, submit to the Dockets Management Branch (address above) a request for an informal conference. The participants in an informal conference, if one is held, will have until September 24, 1985, or 15 days after the day of the conference, whichever is later, to submit their comments.

List of Subjects in 21 CFR Part 449

Antibiotics, Antifungal.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 449 be amended as follows:

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR Part 449 is revised to read as follows:

Authority Secs. 507, 701, 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371); 21 CFR 5.10.

2. In § 449.150a by revising paragraph (a)(1) to read as follows:

§ 449.150a Nystatin tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin tablets are tablets composed of nystatin and suitable and harmless buffer substances, diluents, binders, lubricants, colorings, and flavorings. Each tablet contains 500,000 units of nystatin. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. The loss on drying is not more than 8 percent. The tablets shall desintegrate within 2 hours. The nystatin used conforms to the standards prescribed by § 449.50(a)(1).

* * * * *

Dated: July 19, 1985

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 17732 Filed 7-25-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 322 and 325

National Fishing Enhancement Act

AGENCY: Corps of Engineers, Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: The proposed changes are to implement the National Fishing Enhancement Act of 1984 (Pub. L. 98-623). Procedures implementing the authority to assess civil penalties, as provided by the Act, will be proposed at a later date.

DATE: Comments must be submitted on or before September 24, 1985.

ADDRESS: Office of the Chief of Engineers, ATTN: DAEN-CWO-N, Washington, D.C. 20314-1000.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Pierce or Mr. Burt Paynter, Regulatory Branch, (202) 272-0199.

SUPPLEMENTARY INFORMATION: We are hereby issuing a proposed rule which governs the regulatory program of the Corps of Engineers. The major changes of these regulations are to implement the National Fishing Enhancement Act of 1984 (Pub. L. 98-623). Many of these procedures are verbatim from the statute. We will review all comments and determine whether any changes are necessary.

The National Fishing Enhancement Act of 1984 also authorized the Secretary of the Army to assess a civil penalty on any person who, after notice and an opportunity for a hearing, is found to have violated any provision of a permit issued for an artificial reef. Procedures for implementing such civil penalties will be proposed at a later date.

Environmental Documentation: We have determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Appropriate environmental documentation is prepared for all permit decisions.

Part 322—Permits for Structures or Work in or Affecting Navigable Waters

PART 322—PERMITS FOR STRUCTURES OR WORK IN OR

If the district engineer decides that the applicant's provisions are not consistent

(8) If the activity would involve the construction or placement of an artificial

1985. Revised CPG 1-8 with a revised title as shown in the proposed regulation

conservation policy, and introduce a definition of directed fishing. Each

Part 322—Permits for Structures or Work in or Affecting Navigable Waters of the United States

Section 322.2(g): This section adds the definition of the term "artificial reefs" from the National Fishing Enhancement Act and clarifies what activities or structures the term does not include.

Section 322.2(h): This section adds the definition of the term "outer continental shelf" from Outer Continental Shelf Land Act.

Section 322.5(b): This section is a new section establishing procedures to comply with the National Fishing Enhancement Act of 1984. The specific provisions are taken directly from the statute.

Part 325—Processing of Department of the Army Permits

Section 325.1(d)(8): This is a new section requiring an applicant to include provisions for siting, constructing, monitoring and managing of the artificial reef as part of his application for a permit.

Determinations Under Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Army has determined that the revisions to its regulations do not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12291. The Department of the Army certifies, pursuant to section 605(b) of the Regulatory Flexibility Act of 1980, that these regulations will not have a significant economic impact on a substantial number of entities.

Note 1.—The term "he" and its derivatives used in these regulations are generic and should be considered as applying to both male and female.

List of Subjects

33 CFR Part 322

Continental shelf, Navigation.

33 CFR Part 325

Administrative practices and procedure, Environmental protection, Navigation.

Dated: July 12, 1985.

Robert K. Dawson,

Acting Assistant Secretary of the Army (Civil Works).

Accordingly, the Department of the Army is amending 33 CFR Parts 322 and 325 as set forth below:

PART 322—PERMITS FOR STRUCTURES OR WORK IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

1. The authority cite for Part 322 continues to read as follows:

Authority: 33 U.S.C. 403.

1. Section 322.2 is amended by adding new paragraphs (g) and (h) as follows:

§ 322.2 Definitions.

* * * * *

(g) The term "artificial reef" means a structure which is constructed or placed in the navigable waters of the United States or in the waters overlying the outer continental shelf for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities. The team does not include activities or structures, such as wing deflectors, bank stabilization, grade stabilization structures, or low flow key ways, all of which may be useful to enhance fisheries resources.

(h) The term "outer continential shelf" means all submerged lands lying seaward and outside of the area of lands beneath the three mile territorial seas, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

2. Section 322.5 is amended by adding a new paragraph (b), previously reserved, as follows:

§ 322.5 Special policies.

* * * * *

(b) *Artificial Reefs.* (1) When considering an application for an artificial reef, as defined in 33 CFR 322.2(g), the district engineer will review the applicant's provisions for siting, constructing, monitoring, operating, maintaining, and managing the proposed artificial reef and shall determine if those provisions are consistent with the following standards:

(i) The enhancement of fishery resources to the maximum extent practicable;

(ii) The facilitation of access and utilization by United States recreational and commercial fishermen;

(iii) The minimization of conflicts among competing uses of the navigable waters or waters overlying the outer continential shelf and of the resoures in such waters;

(iv) The minimization of environmental risks and risks to personal health and property;

(v) Generally accepted principles of international law; and

(vi) The prevention of any unreasonable obstructions to navigation.

If the district engineer decides that the applicant's provisions are not consistent with these standards, he shall deny the permit. If the district engineer decides that the provisions are consistent with these standards, and if he decides to issue the permit after the public interest review, he shall make the provisions part of the permit.

(2) In addition, the district engineer will consider the National Artificial Reef Plan developed pursuant to Section 204 of the National Fishing Enhancement Act of 1984, and if he decides to issue the permit, will notify the Secretary of Commerce of any need to deviate from that plan.

(3) The district engineer will comply with all coordination provisions required by a written agreement between the DOD and the Federal agencies relative to artificial reefs. In addition, if the district engineer decides that further consultation beyond the normal public commenting process is required to evaluate fully the proposed artifical reef, he may initiate such consultation with any Federal agency, State or local government, or other interested party.

(4) The district engineer will issue a permit for the proposed artifical reef only if the applicant demonstrates, to the district engineer's satisfaction, that he hold unambiguous title to the artifical reef construction materials, and that he is financially able to assume responsibility for all damages which may arise with respect to the artificial reef and for which that applicant may be liable. The permittee and his insurer will be liable, to the extent determined under applicable law, for all damages which may arise with respect to the artificial reef unless those damages result from activities required to be undertaken by the terms and conditions of the permit. The permittee must be acting in compliance with those terms and conditions for this exception from liability to apply.

* * * * *

PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

4. The authority cite for Part 325 continues to read as follows:

Authority: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344; 33 U.S.C. 1413.

5. Section 325.1 is amended by adding a new paragraph (d)(8) as follows:

§ 325.1 Applications for permits.

* * * * *

(d) * * *

(8) If the activity would involve the construction or placement of an artificial reef, as defined in 33 CFR 322.2(g), in the navigable waters of the United States or in the waters overlying the outer continential shelf, the application must include provisions for siting, constructing, monitoring, and managing the artificial reef.

* * * * *

[FR Doc. 85-17454 Filed 7-25-85; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300132; PH-FRL 2853-9]

Ammonium Polyphosphate; Tolerance Exemption

Correction

In FR Doc. 85-15102 beginning on page 26388 in the issue of Wednesday, June 26, 1985, make the following correction: On page 26389, in the second column, in § 180.1001, "(D) * * *" should read "(d) * * *".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 302

Civil Defense; State and Local Emergency Management Assistance Program (EMA); Correction

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Corrections to proposed rule.

SUMMARY: This document modifies certain document references in a proposed rule appearing on July 5, 1985 at 50 FR 27627.

FOR FURTHER INFORMATION CONTACT: Edward E. Sergent, Office of Emergency Management Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202-646-3509).

SUPPLEMENTARY INFORMATION: Items 2 and 3 of the Notice of Proposed Rulemaking (see first column p. 27628) would among other matters add to paragraphs (n) and (o) of 44 CFR 302.2 references to Civil Preparedness Guides and Appendices to such Guides. These references to Guide materials contain errors. There is a similar reference to a rescinded Guide in item 8 in the revision to § 302.5(i). Additionally, there are references in item 6 to CPG 1-8 and to CPG 1-8A. The latter document is proposed to be distributed September 1, 1985. Revised CPG 1-8 with a revised title as shown in the proposed regulation is scheduled to be distributed September 15, 1985.

Therefore, the Notice of Proposed Rulemaking which appears in the **Federal Register** of July 5, 1985 at 50 FR 27627 is corrected in the following manner:

(a) Item 2 is revised to read: in section 302.2, paragraph (n) is amended by removing the entire parenthetical phrase at the end of the paragraph and adding "(See CPG 1-32, Financial Assistance Guidelines)".

(b) Item 3 is revised to read: In section 302.2, paragraph (o) is amended by removing the entire parenthetical phrase at the end of the paragraph and adding "(See CPG 1-32, Financial Assistance Guidelines)".

(c) Item 8 is revised by deleting from proposed paragraph (i) of section 302.5 "and CPG 2-12, 'Financial Guidelines for State Comprehensive Cooperative Agreements'."

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85-17727 Filed 7-25-85 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 50720-5120]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 14 to the Fishery Management Plan for Groundfish of the Gulf of Alaska. The seven measures proposed in this amendment will allocate the sablefish resource to prevent potential gear conflicts and ground preemptions, establish a new starting date for the harvest of sablefish, reduce optimum yeilds to prevent overfishing of certain groundfish species, define a new regulatory district to provide NMFS with more timely catch information with which to make inseason management decisions regarding rockfish species, provide a flexible method for establishing prohibited species catch limits for Pacific halibut, revise the reporting system for catcher/processors, implement the NMFS habitat conservation policy, and introduce a definition of directed fishing. Each measure is intended to respond to biological, ecological, or socioeconomic problems that have been identified by the fishing industry and the management agencies. Implementation of these measures is necessary for conservation and management of the groundfish resources and for the orderly conduct of the fishery.

DATE: Written comments must be received on or before September 9, 1985.

ADDRESSES: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. Copies of the amendment, the environmental assessment, and the regulatory impact review/initial regulatory flexibility analysis may be obtained by contacting the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, 907-274-4563.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fishery in the fishery conservation zone (FCZ) of the Gulf of Alaska is managed under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented December 1, 1978 (43 FR 52709, November 14, 1978).

Prior to 1984, the Council would receive proposals to amend the FMP during any of its scheduled meetings. At its April 1984 meeting, the Council adopted a policy whereby proposals for amendments would be received only once a year. Proposals contained in Amendment 14 were requested by the Council in September 1984 with a deadline set at December 7, 1984. By the deadline, over thirty proposals were submitted to the Council, which then instructed its Plan Team to review and rank each proposal. At its Febraury 1985 meeting, the Council reviewed the recommendations of the Plan Team, the Scientific and Statistical Committee (SSC), and the Advisory Panel (AP), and selected six proposals for inclusion in Amendment 14. Other proposals were identified for development and consideration for inclusion in a future amendment. The Council directed its Plan Team to analyze the biological, ecological, and socioeconomic impacts of each of the six proposals and

alternatives to each, as required by the National Environmental Policy Act of 1969 and other applicable laws. The

vessels fished in 1984, harvesting 95 percent of the total domestic harvest of

fishery in the Eastern Regulatory Area, starting in 1986 (Table I). It also makes

members that some pot vessel operators have invested substantial funds in

Delaying the season starting date has the effect of providing safer weather

worldwide harvest of pollock. The

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alternatives to each, as required by the National Environmental Policy Act of 1969 and other applicable laws. The Plan Team then prepared drafts of an environmental assessment and a regulatory impact review. The Council reviewed these documents at its March 26–29, 1985, meeting and added a seventh proposal—sablefish seasons—in response to requests from the fishing industry. The Council then released these documents for public review, and invited comments from the interested public, fishing associations, and government agencies until May 3, 1985. In response to comments received, the Plan Team revised the draft analyses for consideration by the Council at its May 21–24, 1985, meeting. At that meeting, the Council reviewed the analyses, heard further public comment, and voted to recommend that the Secretary implement its preferred alternatives for the seven parts of Amendment 14.

Description of and reasons for each part of Amendment 14 follow:

1. *Allocate sablefish among gear types.* Legal commercial fishing gear used in the directed domestic sablefish fishery is limited to hook-and-line gear, pots, and trawls; sablefish quotas are allocated among the legal gear categories by regulatory area, and a schedule for phasing out pot gear is established.

The Magnuson Act encourages domestic development of fishery resources. The Alaska fishing industry has responded by rapidly increasing effort in the sablefish fishery off Alaska, creating jobs for hundreds of fishermen and providing economic growth to Alaska and Pacific Northwest fishing communities. Development of the sablefish resource has been undertaken principally by fishermen using hook-and-line gear, although regulations implementing the FMP did not prevent the use of other types of gear used in the harvest of any groundfish species.

Many domestic fishermen operating in the FCZ of Alaska use hook-and-line gear when targeting on sablefish because they are experienced in the halibut fishery which employs only hook-and-line gear and because little modification of this type of fishing gear is necessary on vessels moving from one fishery to the other.

Pots have been used periodically in the sablefish fishery off Alaska since the mid-1970s. In 1973, 42 percent of the total domestic harvest of 90 metric tons (mt), or 38 mt, was taken by one vessel fishing pots. Since then, no more than six pot vessels have fished in the Gulf during any one season. Since 1973, hook-and-line vessels have dominated the fishery. As many as 200 hook-and-line vessels fished in 1984, harvesting 95 percent of the total domestic harvest of sablefish taken off Alaska, or 7,128 mt. Directed fishing for sablefish using trawls and gillnets has been minimal to date.

In 1982 the sablefish optimum yield (OY) was fully harvested by U.S. fishermen in the Southeast Outside District. In 1983, the OY was again harvested by U.S. fishermen in this district and in the East Yakutat District. In 1984, the OY was harvested by U.S. fishermen for the first time in both the Eastern and Central Regulatory Areas of the Gulf of Alaska. With this achievement came the realization that the sablefish resource would be insufficient to accommodate all users.

This fact became apparent in the Southeast Alaska fishery during the first two months of 1985. Historically, the Southeast Alaska sablefish fishery did not begin until spring, when weather and fishing conditions improved and the fish had recovered from spawning. In January 1985, however, three large vessels began fishing for sablefish using pot gear. Pot gear is set within a narrow depth range (250–500 fathoms), as is hook-and-line gear. Fishing was good and the catch by pot gear was abut 34 percent of the combined Southeast-East Yakutat District OY. When the pot vessels left the area to unload their catch, some pots were stored on the grounds, preempting the grounds and creating a potential for gear conflicts. When hook-and-line gear, which is relatively lightweight, becomes entangled with the heavier pot gear, the hook-and-line gear breaks and is ofter lost. Gear conflicts are likely between these two gear types since fishing is concentrated along the narrow shelf edge. Hook-and-line fishermen testified to the Council that the presence of just one or two vessels using pot gear can preempt a substantial area, forcing hook-and-line fishermen to move to avoid gear loss. Pots lost or stored on the fishing grounds over a long period of time can also contribute to this problem.

As an interim solution, the Council voted at its February 1985 meeting to request the Secretary to implement an emergency rule under section 305(e) of the Magnuson Act that would prohibit the use of pots in the directed sablefish fishery in the Eastern Regulatory Area. The Secretary implemented the emergency rule (50 FR 12809, April 1, 1985), to be effective until June 25, 1985.

After considering extensive public testimony and receiving recommendations from the AP and SSC, the Council adopted this measure, which makes hook-and-line gear the only legal gear type for the directed sablefish fishery in the Eastern Regulatory Area, starting in 1986 (Table I). It also makes hook-and-line and trawl gear the only legal gear types for the directed sablefish fishery in the Central Regulatory Area, starting in 1987, and in the Western Regulatory Area, starting in 1989. The measure establishes a schedule for phasing out the use of pot gear in the Central and Western Regulatory Areas, by which pot gear may harvest sablefish in the Central Regulatory Area in 1986, and in the Western Regulatory Area in 1986, 1987, and 1988.

The measure also allocates the sablefish OYs among the gear types. In the Eastern Regulatory Area, 95 percent of the OY is allocated to hook-and-line gear; the remaining 5 percent is allocated to trawl gear as a bycatch to support target fisheries for other species. In the Central Regulatory Area in 1986, 55, 25, and 20 percent of the OY is allocated to hook-and-line, pot, and trawl gear, respectively. When pot gear is phased out of the Central Regulatory Area in 1987, the portion of the sablefish OY for that area that is allocated to pot gear in 1986 will be reallocated to hook-and-line gear; the share allocated to trawl vessels will remain at 20 percent. In the Western Regulatory Area in 1986, 1987, and 1988, 55, 25, and 20 percent of the OY is allocated to hook-and-line, pot, and trawl gear, respectively. When pot gear is phased out of the Western Regulatory Area in 1989, the portion of the sablefish OY for that area that is allocated to pot gear during those three years will be allocated to hook-and-line gear; the share allocated to trawl gear will remain at 20 percent.

This schedule for phasing out pot gear and allocating the sablefish OYs among the gear types was determined by the Council in recognition of several important factors. These included the historical economic dependence of hook-and-line vessels on the sablefish fishery, their development of the market in a fishery that was largely foreign-dominated until 1983, and the problems of grounds preemption and potential for gear conflicts between hook-and-line and pot gear. The Council's choice was the result of extensive debate and was consistent with a recommendation from the AP. The Council's decision to ban pot gear in the Eastern Regulatory Area, starting in 1986, reflects the traditional dependence by Southeast Alaska communities on the sablefish hook-and-line fishing industry. The one-year and three-year schedules for phasing out pot gear in the Central and Western Regulatory Areas reflect the concerns voiced by the public and certain AP members that some pot vessel operators have invested substantial funds in converting their vessels to pot gear and that sufficient time is needed to convert to the use of other gear for sablefish fishing or for entry into some other fishery.

TABLE I.—PERCENTAGES OF SABLEFISH ALLOCATED BY YEAR AMONG HOOK-AND-LINE (H&L), POT, AND TRAWL GEAR USERS FOR EACH REGULATORY AREA IN THE GULF OF ALASKA

	1986	1987	1988	1989	1990
Eastern:					
H&L	95	(1)	(1)	(1)	(1)
Pot	0	(1)	(1)	(1)	(1)
Trawl	5	(1)	(1)	(1)	(1)
Central:					
H&L	55	80	(2)	(2)	(2)
Pot	25	0	(2)	(2)	(2)
Trawl	20	20	(2)	(2)	(2)
Western:					
H&L	55	55	55	80	(3)
Pot	25	25	25	0	(3)
Trawl	20	20	20	20	(3).

[1] 1987 and subsequent years—same as 1986.
[2] 1988 and subsequent years—same as 1987.
[3] 1990 and subsequent years—same as 1989.

The proposed Council action is also intended to provide sufficient bycatch amounts of sablefish to trawl vessels conducting fisheries on other target species.

2. Change the starting date for the directed sablefish fishery. The current season starting date for all groundfish, including sablefish, is January 1. This measure changes the starting date for the directed sablefish fishery from January 1 to April 1. Comments received from the fishing industry indicate that a later starting date is desirable for reasons of vessel safety, quality of sablefish product, and a fair start for commercial vessels of all sizes. A similar winter closure was adopted by the State of Alaska in 1959. It remained in effect until 1977 when it was rescinded to allow U.S. vessels to compete more effectively with the foreign trawl fleet operating off Southeast Alaska. However, inclement weather conditions are frequent during the late winter months, rendering fishing unsafe for the many smaller vessels that make up a portion of the fleet operating of Southeast Alaska and Kodiak Island. These vessels are now forced to compete disadvantageously with the larger vessels, which are less affected by inclement weather. Because of increased fishing effort during the late winter months the OYs are now being achieved much earlier than in previous years. For example, in 1985 the combined OYs for the Southeast and East Yakutat Districts were reached on April 21; in 1984 they were reached on June 29.

Delaying the season starting date has the effect of providing safer weather conditions for smaller vessels and thus apportions the sablefish resource among a wider group of participants. Smaller vessels that are forced to remain in port when weather conditions are unsafe risk losing a share of the harvest to larger vessels that are able to remain at sea and harvest a greater share of the OY before smaller vessels are able to fully participate. Implementation of the April 1 starting date would give smaller vessels a better chance to participate before the OYs are reached.

A portion of the sablefish stock spawns in February and March. The flesh of the spawing fish is of poor quality and the fishermen refer to them as "jelly bellies." Some fishermen apparently discard the low quality fish at sea due to their lower value. Implementation of this season change will mitigate such wastage.

Before selecting the April 1 date, the Council considered the effects that a delay in the starting date for the directed sablefish fishery might have on the resource and the fishing industry. The April 1 date was selected, because if will (1) provide adequate fishing time to harvest the OY given the amount of effort employed in this fishery; (2) promote safety for the fleet; and (3) minimize the discard of sablefish in poor condition.

3. Establish lower optimum yields. New optimum yields by regulatory area are established for certain species as follows: pollock—Western/Central=305,000 metric tons (mt); Pacific ocean perch—Western=1,302 mt, Central=3,906; Atka mackerel—Central=500 mt, Eastern=100 mt; "other rockfish"—Gulf-wide=5,000 mt; and "other species"—Gulf-wide=22,460 mt.

At the request of the Council, these reduced OYs were impelemented by emergency rule under section 305(e) of the Magnuson Act (50 FR 29681, July 22, 1985). A full description of the reasons for the OY reductions can be found in the environmental assessment prepared for Amendment 14, which is available from the Council at the address above. Further amounts of reserves were apportioned to DAH and TALFF on July 17, 1985 (50 FR 29681, July 22, 1985).

The Council, in adopting the reduced OYs, considered the effects on prices that the reduced harvests might have. Assuming the entire 305,000 mt OY for pollock were caught, the 95,000 mt decrease from the present OY represents only 6.4 percent of the 1984 U.S. and foreign catch from the FCZ off Alaska and only 2.1 percent of the 1982 worldwide harvest of pollock. The amount of decrease is too small to influence price at any level. Data are not available to compare total reductions of the Pacific ocean perch, rockfish, and Atka mackerel OYs with worldwide catches, but any effects on world prices are believed to be insignificant.

The reductions are conservation measures and, to the extent that overfishing is prevented and some stocks are able to rebuild, the measure provides a benefit.

4. Define a new regulatory district. A new regulatory district—the Central Southeast District—between 56°00′ and 57°30′ N. latitude is established for purposes of better managing demersal shelf rockfish, which are part of the "other rockfish" category. The harvest of "other rockfish" in this new district is limited to 600 mt.

The category "other rockfish" includes about 25 species of *Sebastes* that are currently managed under a Gulf-wide OY. The maximum sustained yield (MSY) for this complex is based on amounts caught incidentally along the continental slope in the foreign trawl fishery for Pacific ocean perch between 1973 and 1976. The Gulf-wide OY has been set at the lower end of the MSY range, or 7,600 mt.

In November 1984 the Alaska Department of Fish and Game (ADF&G) submitted to the Plan Team a report on the rapidly expanding domestic fishery for bottom-dwelling (demersal) rockfish that occur in water less that 100 fathoms deep overlying the continental shelf off Southeast Alaska. Over 20 species of rockfish are regularly landed. Predominant species are yelloweye rockfish (*S. ruberrimus*), canary rockfish (*S. pinniger*), tiger rockfish (*S. nigrocinctus*), and rosethorn rockfish (*S. helvomaculatus*) in the 40–100 fathom depth zone and quillback rockfish (*S. moliger*), china rockfish (*S. nebulosus*) and copper rockfish (*S. caurinus*) in depths of less than 40 fathoms. Yelloweye rockfish and quillback rockfish are the primary target species. Longline gear is the predominant gear type and accounts for well over 90 percent of the harvest. That report pointed out that this fishery is targeting on a geograpically discrete species group. This fishery has grown from less than 64 mt (round weight) in 1970 to nearly 400 mt (round weight) in 1983. The round weight catch for 1984 doubled to approximately 800 mt.

Until recently, the majority of the landings were assumed to be from waters within State jurisdiction. However, aproximately 50 percent of the fishable grounds are within the FCZ.

Based on interviews with fishermen conducted by ADF&G in 1983 and 1984,

program can be developed. Hence, the risk of overfishing rockfish will be

gear has been employed. For example,

apportionment of PSC limits among gear

expected to remain at sea for periods of

are expected to occur with greater

VOL
50
ISS
144
JL
26
1985
UMI

Based on interviews with fishermen conducted by ADF&G in 1983 and 1984, approximately 25 percent of the landings were taken by vessels fishing only in the FCZ, 21 percent were taken by vessels fishing only within State waters, and the remaining 54 percent were taken by vessels that fished areas under both State and Federal jurisdiction.

Aging studies conducted in recent years conclude that rockfish are much longer-lived and slower-growing than early literature suggests. Many of the demersal species can live over 50 years and many do not reach maturity until after age 10. Because rockfish are extremly long-lived and slow-growing, the sustainable yield that can be taken from a stock is much lower than for a comparable biomass of faster-growing species such as pollock or cod. As a result, rockfish stocks can be easily and quickly overfished. Since information on appropriate harvest levels for the demersal shelf rockfish stocks in Southeastern Alaska is lacking, the risk of overharvesting this resource is great.

After reviewing the ADF&G rockfish issue paper, the Plan Team recommended in its November 1984 report to the Council that "other rockfish" category should be redefined to include three separate species groups: Slope rockfish, shelf pelagic rockfish, and shelf demersal rockfish. Further, the management of the shelf demersal category should be conducted in cooperation with the State of Alaska.

At the joint Alaska Board of Fisheries (Board) and Council meeting in early February 1985, ADF&G staff presented alternative management proposals for establishing a separate management category of shelf rockfish stocks in order to reduce the risk of overharvesting demersal shelf rockfish and to eliminate the possibility of harvesting the entire Gulf-wide OY in any one portion of the Gulf of Alaska.

After considering the ADF&G proposals, actions by the Alaska Board of Fisheries, public testimony, and recommendations from the AP and SSC, the Coucil voted to implement an OY of 600 mt for demersal shelf rockfish in waters between 56°00′ N. and 57°30′ N. latitude. The 600 mt quota will be subtracted from the "other rockfish" OY for the remainder of the Gulf of Alaska. Thus, the remainder of the "other rockfish" OY, or 4,400 mt, is available for harvest elsewhere in the management unit. A 600-mt OY in the newly established Central Southeast district for demersal shelf rockfish will allow for a fishery based on historical levels of fishing effort, but will limit further expansion of the fishery until a more comprehensive management program can be developed. Hence, the risk of overfishing rockfish will be mitigated.

The Council also approved language to be incorporated into the FMP that recognizes the State of Alaska's management regime for demersal shelf rockfish which is directed at managing these rockfish stocks within smaller management units than are provided for by the FMP. Such State regulations are in addition to and stricter than Federal regulations and are authorized by the FMP as long as they are (1) not in conflict with the management objectives of the FMP and are (2) limited to establishing smaller areas and quotas, which would result in a harvest of demersal shelf rockfish in each FMP management area at levels no greater than provided for by the FMP. Imposition of such State regulations is limited to vessels registered under the laws of the State of Alaska.

5. *Establish procedure for setting PSC limits for halibut.* A framework procedure is established for setting the prohibited species catch (PSC) limits for Pacific halibut in the joint venture and domestic trawl fisheries, the taking of which will result in a ban on the use of bottom trawl gear for the remainder of the fishing year.

Regulations implementing the FMP contain restrictions on foreign and domestic fishermen in the Western and Central Regulatory Areas that are designed to minimize the taking of halibut, an important commercial species to a separate domestic target fishery. Foreign fishermen are restricted to the use of off-bottom gear when trawling in the Western and Central Regulatory Areas from December 1 through May 31, a period when juvenile halibut are subject to high rates of incidental capture.

Domestic fishermen may use on-bottom gear during this period, but if the total take of Pacific halibut by domestic trawl operations in the Western or Central Areas reaches 29 or 52 mt, respectively, all further trawling by domestic fishermen is prohibited until June 1.

These PSCs were implemented in 1978 and at that time approximated one percent of the weight of Pacific cod expected to be taken by domestic fishermen in 1979 or soon thereafter. Domestic groundfish catches have increased annually since 1979 as market opportunities developed. Most of the increase is attributed to large quantities of pollock taken in joint venture fisheries operating in the Shelik Strait region of the Central Area. Relatively few halibut are taken in this fishery, however, because only off-bottom trawl gear has been employed. For example, in 1983 only about 4 mt of Pacific halibut were taken incidentally to a pollock catch of 132,000 mt. However, domestic catches of other groundfish species (primarily cod and flounder), that do involve a significant halibut bycatch, have also been increasing.

Regulations at § 672.20(d) require that all trawl-caught halibut must be released. Some of the halibut may survive, but survival varies with the type of operation. Observer data suggest very low survival in operations which involve the transfer of codends at sea and where the halibut cannot be released immediately; these operations are typically joint ventures or large freezer/processor operations. On the other hand, potential survival is relatively high in smaller shore-based trawl operations where the catch is typically sorted on deck and the halibut can be immediately released. The survival rate for halibut released from small shore-based trawlers fishing off British Columbia is estimated to be 50 percent.

Halibut have become more abundant in the Gulf of Alaska, and their greater prevalence has increased their potential catch rates in the trawl fisheries. Recognizing the probability of a greater incidental catch in the groundfish fisheries, the Council voted to request the Secretary to implement an emergency rule to increase the PSC limits for halibut to 270 mt and 768 mt in the Western and Central Areas, respectively, during December-May. Recognizing that few halibut are taken with off-bottom trawl gear, the Council also voted to request the Secretary to exempt users of off-bottom trawl gear from the restriction. The Secretary has implemented these requests by emergency regulation in 1984 and again in 1985 (49 FR 8616, March 8, 1984, and 49 FR 48049, December 10, 1984).

Recent data also suggest that halibut are vulnerable to trawls during periods other than the December-May period specified in the FMP. An annual PSC would provide protection for halibut during all seasons.

After considering the merits of the alternatives to provide protection for halibut without unduly restricting domestic groundfish fishermen, the Council adopted a framework procedure to allow the Secretary to establish annual management measures to control and limit the incidental halibut catch in joint venture and domestic trawl fisheries. These measures include (1) the establishment of halibut PSC limits; (2) the apportionment of PSC limits among regulatory areas or parts thereof; (3) the apportionment of PSC limits among gear types and/or individual operations; and (4) the designation of gear types and modes of operation to be either prohibited or permitted after a PSC limit has been reached. As soon as practicable after October 1 of each year and after consultation with the Council, the Secretary publishes in the **Federal Register** the proposed halibut PSC management measures for domestic and joint venture fisheries. The measures are based on criteria contained in the proposed § 672.20(e) below and comments are invited on the proposed PSC measures for 30 days. The Secretary, after considering comments received, then publishes final PSC measures in the **Federal Register** as soon as practicable after December 15 of each year. When the applicable share of PSC allocated to the domestic or joint venture fishery is reached, the Regional Director will, by notice published in the **Federal Register**, prohibit fishing with trawl gear other than off-bottom trawl gear for the rest of the year by the vessels and in the area to which the PSC limit applies; except that he may by such notice allow certain vessels to continue fishing with bottom trawl gear subject to the considerations listed in the proposed § 672.20(e)(2)(iv) below.

Imposing limits on the amounts of halibut that may be taken incidentally by domestic and joint venture fishermen will convey a benefit to halibut fishermen, who have earned as much as $30.5 million in recent years. It will also benefit groundfish fisheries by assuring that halibut PSCs are based on the best available annual information regarding the abundance of halibut and the distribution of the expected groundfish harvest. Thus, the groundfish fisheries will run less risk of being terminated as a result of out-of-date PSC limits.

6. Establish a weekly catch reporting system. A reporting system is established whereby applicants are required to indicate on their Federal groundfish permit applications whether their vessels are to be used for (1) harvesting/processing, (2) mothership processing, (3) harvesting only, or (4) support only. If vessel usage fits (1) or (2), vessel operators will be required to check in and out of regulatory areas or districts. Such harvesting /processing vessels and motherships that catch and hold, or receive and hold, groundfish for periods of 14 days or more will be required to submit a weekly catch report to the NMFS Regional Director, Alaska Region. Vessels that freeze or dry-salt their catches are considered to be in these categories. This requirement is directed at those vessels that are expected to remain at sea for periods of time sufficiently long that catch estimates are needed by fishery managers for inseason management decisions.

The objective of this proposal is to ensure that fishery managers receive timely estimates of catch by all domestic vessels so that fishery closure notices can be promptly issued when OYs are reached. With the recent rapid growth of the domestic fishing fleet, increasing importance is placed on timely reporting of domestic harvests to ensure that OYs are not exceeded. Vessels which deliver their catch to shore-based processors land their catch frequently enough to allow timely estimation of total catch under existing regulations. However, vessels which freeze, salt, or otherwise preserve their catch aboard can remain at sea for extended periods. These vessels are not currently required to report their catch until landing.

Some 25 catcher/processor vessels could be operating in the Gulf of Alaska in 1985. Based on past catcher/processor landing records, the combined hold capacity of these vessels is approximately 13,000 mt. Because OYs for some regulatory areas or districts are significantly smaller than this, these vessels are capable of harvesting entire OYs or significant portions of them on a single trip. Existing fishing regulations do not require reports of the catch aboard these vessels until landing. In addition, vessels are not required to notify fishery managers when they begin fishing operations. Since domestic groundfish fishing vessels are not marked for identification by enforcement overflights, the number of catcher/processor vessels actually fishing in any regulatory area is not known until they land. Without knowledge of effort levels, fishery managers are not able to make projections of catch aboard.

Delayed catch reporting by domestic motherships is also a problem. In these operations, catcher vessels without processing capability deliver their catch, usually by cod-end transfers, to a mothership which processes it. Current regulations at § 672.5 require an ADF&G fish ticket to be filled out each time a catcher vessel lands fish or delivers them to a mothership [processor] at sea, and require these fish tickets to be forwarded to ADF&G within 7 days of the date that fish were delivered. To date, domestic mothership operations have all occurred in sheltered waters with at least periodic access to U.S. mail service so that compliance with this requirement has been feasible. However, these mothership operations are expected to occur with greater frequency in the FCZ, where no method of filing the fish tickets with ADF&G within the 7-day period required by law is available.

With such large processing capacities and incresing numbers of catcher/processor and mothership vessels, the risks of overharvesting groundfish resources under the current system are high. Because of the delays in catch reporting under current regulations, groundfish resources could be significantly overharvested before fishery managers discover that OYs have been exceeded. Since many of the groundfish species concerned are slow-growing and long-lived, overharvesting can have considerable impacts on future production.

The Council considered the importance to NMFS of receiving timely catch information on which to make its inseason management decisions and the importance to the fishing industry of obtaining reasonably accurate projections of upcoming fishery closures. The Council then adopted a three-part proposal for the collection of additional information from catcher/processors and motherships. The first part requires the operators of catcher/processors and mothership to indicate on their applications for Federal fishing permits their capability and intent to preserve their catch at sea and to remain at sea for more than 14 days between landings. The second part requires them to notify the Regional Director of the date, hour, and position, 24 hours before starting and upon stopping fishing in a regulatory area. This requirement enables the NMFS and/or the Coast Guard to check compliance with fishery openings and closures and weekly catch report requirements, and to verify fishing effort by regulatory area. The third part requires each operator of a catcher/processor or mothership to provide the Regional Director a weekly written report of the amounts of groundfish caught by species or species group in metric tons by fishing area.

A definition of "directed fishing" is also proposed. The purpose of this definition is to establish a rebuttable presumption that when any species, stock, or other aggregation of fish comprises 20 percent or more of the catch, take, or harvest that results from any fishing over any period or time, such fishing was directed fishing for such fish during that period.

In addition, NMFS has prepared some minor changes to the information required from applicants for a Federal permit to fish for groundfish in the Gulf of Alaska. This information will allow

enforcement officials better to identify groundfish fishing vessels at sea and

First, the definition of "directed fishing" at § 672.2 is changed. The

environment as a result of this rule. A copy of the EA may be obtained from

3. In § 672.2, the following definition is added in proper alphabetical order to

under paragraph (d)(1) of this section of a change in the type of operations in

Director within one week of the end of the reporting period through such means

VOL 50 ISS 144 JL 26 1985 UMI

enforcement officials better to identify groundfish fishing vessels at sea and will improve NMFS's enforcement of the groundfish fishery regulations.

These proposals will allow NMFS to make informed and well-reasoned inseason management decisions on the adjustment of fishing areas and seasons and on the apportionment of surplus groundfish among the user groups. This is a conservation measure that is intended to optimize the harvest of any one species or species group and mitigate the risks of overfishing, thereby conveying a long-term benefit to the U.S. fishing industry.

7. Implement the NMFS habitat conservation policy. This part of amendment 14 modifies and adds sections to the FMP to address the habitat requirements of individual species in the Gulf of Alaska groundfish fishery. It describes the diverse types of habitat within the Gulf of Alaska, delineates the life stages of the groundfish species, identifies potential sources of habitat degradation and the potential risk to the groundfish fishery, and describes existing programs applicable to the area that are designed to protect, maintain, or restore the habitat of living marine resources. The amendment responds to the Habitat Conservation Policy of NMFS (48 FR 53142, November 25, 1983), which advocates consideration of habitat concerns in the development or amendment of FMPs and the strengthening of NMFS' partnerships with States and the councils on habitat issues.

The habitat policy is not implemented by a codified regulation. It serves as a framework within which to develop regulations specific to habitat conservation objectives. One such regulations was adopted by the Council and is proposed along with regulations implementing the other six parts of Amendment 14. It requires vessel operators to retrieve their own fishing gear and to make a reasonable attempt to retrieve any abandoned or discarded fishing gear that may encounter.

Incorporation of the NMFS habitat policy into the FMP will highlight the Council's concerns not only for the fishery resources under management, but also for the marine environment and the quality of the habitat in which resources live. The policy also gives the Council authority to consider and recommend the implementation of regulations designed to protect the integrity of the marine habitat.

NOAA has made changes to certain regulations, which were submitted by the Council, that pertain to reporting requirements.

First, the definition of "directed fishing" at § 672.2 is changed. The definition submitted by the Council reads "Directed fishing, with respect to any species, stock, or other aggregation of fish, means fishing that is intended or can reasonably be expected to result in the catching, taking, or harvesting of any significant quanity of such fish. It shall be a rebuttable presumption that, when any species, stock, or other aggregation of fish composes 20 percent or more of the catch, take, or harvest that results from any fishing over any period of time, such fishing was directed for such fish during that period." NOAA changes this definition to read as proposed so that the definition is more enforceable.

Second, the requirement that vessels check in and check out of regulatory areas or districts is changed to limit the requirement more specifically to only those vessels that are expected to remain at sea for periods of time sufficiently long that catch estimates are needed by fishery mangers for inseason management decisions. NOAA considers vessels that freeze or drysalt their catches to be in this category. The Council's requirement at § 672.5(a)(3) reads "The operator of any fishing vessel regulated under this part that retains any part of its catch of groundfish on board that vessel for a period of more than 14 days from the time it is caught shall, in addition to the requirements of paragraphs (a)(1) and (a)(2) of this section, meet the following requirements [i.e., the check-in and check-out requirements]. NOAA changes this requirement to read as proposed and makes this change in order to impose the requirement only on vessels that are not expected to land their catches frequently enough for fishery managers to obtain catch reports through ADF&G procedures.

Classification

This proposed rule is published under section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97-453, which requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of the amendment and regulations. At this time the Secretary has not determined that the amendment these regulations would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making these determinations, will take into account the data and comments received during the comment period.

The Council prepared an environmental assessment (EA) for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. A copy of the EA may be obtained from the Council at the address above.

The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) prepared by the Council. A copy of the RIR/IRFA may be obtained from the Council at the address above.

This rule, if approved, will have a significant beneficial economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. This determination is also based on the RIR/IRFA. These benefits have been discussed earlier in this document relative to each specific action.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. A request to collect this information has been submitted to the Office of Management and Budget for approval.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: July 23, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

For the reasons set out in the preamble, Part 672 is amended as follows:

1. The authority citation for Part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In the table of contents, new sections are added in proper order to read as follows:

Subpart B—Management Measures

Sec.

* * * * *

672.23 Seasons.

* * * * *

672.25 Disposal of fishing gear and other articles.

* * * * *

3. In § 672.2, the following definition is added in proper alphabetical order to read:

§ 672.2 Definitions.

* * * * *

Directed fishing, with respect to any species, stock or other aggregation of fish, means fishing that is intended or can reasonably be expected to result in the catching, taking, or harvesting of quantities of such fish that amount to 20 percent or more of the catch, take, or harvest, or to 20 percent or more of the total amount of fish or fish products on board at any time. It will be a rebuttable presumption that, when any species, stock, or other aggregation of fish comprises 20 percent or more of the catch, take, or harvest or 20 percent or more of the total amount of fish or fish products on board at any time, such fishing was directed fishing for such fish.

* * * * *

4. In § 672.4, paragraphs (b), (d), and (e) are revised to read as follows:

§ 672.4 Permits.

* * * * *

(b) *Application.* The vessel permit required under paragraph (a) of this section may be obtained by submitting to the Regional Director a written application containing the following information:

(1) The vessel's owner's name, mailing address, and telephone number;

(2) The name and the vessel;

(3) The vessel's U.S. Coast Guard documentation number or State registration number;

(4) The home port of the vessel;

(5) The type of fishing gear to be used, if any;

(6) The length and net tonnage of the vessel;

(7) The hull color of the vessel;

(8) The names of all operators and/or lessees of the vessel;

(9) Whether the vessel is to be used in fish harvesting or for support operations, including the receipt of fish from U.S. vessels at sea; and

(10) The signature of the applicant.

* * * * *

(d) *Notification of change.* (1) Except as provided in paragraph (d)(2) of this section, any person who has applied for and received a permit under this section must give written notification of any change in the information provided under paragraph (b) of this section to the Regional Director within 30 days of the date of that change.

(2) A permit issued under this section will authorize either harvesting or support operations, but not both. The notification to the Regional Director under paragraph (d)(1) of this section of a change in the type of operations in which that vessel is to engage must be completed before that vessel begins the new type of operation.

(e) *Duration.* A permit will continue in full force and effect through December 31 of the year for which it was issued, unless it is earlier revoked, suspended, or modified under Part 621 (Civil Procedures) of this chapter.

* * * * *

5. In § 672.5, a new paragraph (a)(3) is added to read as follows:

§ 672.5 Reporting requirements.

(a) * * *

(3) *Catcher/processor vessels.* (i) The operator of any fishing vessel regulated under this part who retains and freezes or dry-salts any part of its catch of groundfish on board that vessel must, in addition to the requirements of paragraphs (a)(1) and (a)(2) of this section, meet the following requirements:

(A) Twenty-four hours before starting and upon stopping fishing in a regulatory area or district, the operator of that vessel must notify the Regional Director of the date and hour in Greenwich mean time (GMT) and the regulatory area and district of such activity. No such operator may retain any part of that vessel's catch on board that vessel for a period of more than 14 days from the time it is caught unless the Regional Director has been notified as required under this paragraph during that period.

(B) When shifting fishing operations to a new area, the operator of that vessel must notify the Regional Director of the date and hour in GMT of the shift to to the new regulatory area and district, and the position of the new fishing activity. This notice must be delivered to the Regional Director within 48 hours of shifting.

(C) The notices required in paragraphs (a)(3)(i) (A) and (B) of this section should be sent by private or commercial communications facilities to the U.S. Coast Guard at Juneau, Alaska. Only if adequate private or commerical communications facilities have not been successfully contacted may the required notices be delivered via the closest Coast Guard communications station.

(D) After the first catch of groundfish by that vessel during that period and continuing until that vessel's entire catch has been off-loaded, the operator of that vessel must submit a weekly catch report for each weekly period, Sunday through Saturday, GMT, or for each portion of such a period, during which groundfish were caught. Catch reports must be sent to the Regional Director within one week of the end of the reporting period through such means as the Regional Director will prescribe upon issuing that vessel's permit under § 672.4 of this part. These reports must contain the following information:

(*1*) Name and radio call sign of vessel;

(*2*) Federal permit number of the Gulf of Alaska Groundfish fisheries;

(*3*) Month and days fished;

(*4*) The estimated round weight of all fish caught by that vessel during the reporting period by species or species group, rounded to the nearest one-tenth of a metric ton (0.1 mt), whether retained, discarded, or off-loaded;

(*5*) The regulatory area or district in which each species or species group was caught, in which an OY for that species or species group is specified; and,

(*6*) If any species or species groups were caught in more than one regulatory area or district during a reporting period, the estimated round weight of each, to the nearest 0.1 mt, by regulatory area or district.

(ii) The operator of any vessel regulated under this part who receives groundfish at sea from a fishing vessel regulated under this part must meet the following requirements:

(A) Twenty-four hours before starting and upon stopping the receipt of fish in any area, the operator of that vessel must notify the Regional Director of the date and hour in GMT and the regulatory area and district of such activity. No such operator may retain any part of that vessel's cargo of fish on board that vessel for a period of more than 14 days from the time it is received unless the Regional Director has been notified as required under this paragraph during that period.

(B) When shifting operations to a new area, the operator of that vessel must notify the Regional Director of the date and hour in GMT of beginning to receive fish in the new regulatory area and district, and the position of the new activity. This notice must be sent to the Regional Director within 48 hours of shifting.

(C) The notices required in paragraphs (a)(3)(i) (A) and (B) of this section should be delivered by private or commercial communications facilities to the U.S. Coast Guard at Juneau, who will relay them to the Regional Director. Only if adequate private or commerical communications facilities have not been successfully contacted may the required notices be delivered via the closest Coast Guard communications station.

(D) After the first receipt of groundfish by that vessel during that period and continuing until that vessel's entire

cargo of fish has been off-loaded, the operator of that vessel must submit a

(*1*) Name and radio call sign of vessel;

(*2*) Federal permit number of the Gulf

of the operator of the catching vessel, in which an OY for that species or species

the next year. A notice of these final halibut PSC limits will be published in

adherence to the prescribed conditions

9. A new § 672.25 is added to read as

cargo of fish has been off-loaded, the operator of that vessel must submit a weekly receipt report for each weekly period, Sunday through Saturday, GMT, or for each portion of such a period, during which groundfish were received at sea. Receipt reports must be sent to the Regional Director within one week of the end of the reporting period through such means as the Regional Director will prescribe upon issuing that vessel's permit under § 672.4 of this part. These reports must contain the following information:

(1) Name and radio call sign of vessel;

(2) Federal permit number of the Gulf of Alaska Groundfish fisheries;

(3) Month and days during which fish were received at sea;

(4) The estimated round weigth of all fish received at sea by that vessel during the reporting period by species or species group, rounded to the nearest 0.1 mt, whether retained, discarded, or off-loaded;

(5) The regulatory area or district in which each species or species group was caught, according to the statement of the operator of the catching vessel, in which an OY for that species or species group is specified; and,

(6) If any species or species groups were caught in more than one regulatory area or district during a reporting period, the estimated round weight of each, to the nearest 0.1 mt, by regulatory area or district.

6. In § 672.20, Table 1 in paragraph (a) and paragraph (e) are revised to read as follows:

§ 672.20 Optimum yield.

(a) * * *

TABLE 1.—OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF; DAH=DAP+JVP.

Species/species code area[1]	OY	DAH	DAP	JVP	Reserve	TALFF
Pollock 701:						
Western/Central	305,000	256,871	44,371	220,500	0	40,129
Eastern	16,600	13,280	13,280	0	3,320	0
Total	321,600	270,151	57,651	220,500	3,320	40,129
Pacific cod 702:						
Western	16,560	5,748	2,539	3,209	3,212	7,600
Central	33,540	24,332	19,901	4,431	6,608	2,600
Eastern	9,900	7,920	7,920	0	1,980	0
Total	60,00	38,000	30,360	7,640	11,800	10,200
Flounders 129:						
Western	10,400	8,320	7,398	922	1,680	200
Central	14,700	11,780	8,292	3,468	2,690	250
Eastern	8,400	8,720	6,720	0	1,680	0
Total	33,500	26,800	22,410	4,390	6,250	450
Pacific ocean perch[2] 780:						
Western	1,302	1,302	1,302	0	0	0
Central	3,906	3,906	3,906	0	0	0
Eastern	875	875	875	0	0	0
Total	6,083	6,083	6,083	0	0	0
Sablefish[3] 703:						
Western	1,670	1,670	1,670	0	0	0
Central	3,060	3,060	3,060	0	0	0
West Yakutat	1,680	1,680	1,680	0	0	0
East Yakutat	850–1,135	850–1,135	850–1,135	0	0	0
Southeast Outside	470–1,435	470–1,435	470–1,435	0	0	0
Total	7,330–8,980	7,330–8,980	7,330–8,980	0	0	0
Atka Mackerel 297:						
Western	4,678	3,742	50	3,692	836	100
Central	500	380	350	30	100	20
Eastern	100	80	80	0	20	0
Total	5,278	4,202	480	3,722	956	120
Other rockfish[4] 849:						
Gulf-wide	5,000	4,733	4,600	133	267	0
Thornyhead rockfish 749:						
Gulf-wide	3,750	3,00	2,990	10	700	50
Squid 509:						
Gulf-wide	5,000	4,000	3,990	10	950	50
Other species[5] 499:						
Gulf-wide	22,460	17,944	16,544	1,400	4,191	325

[1] See figure 1 of § 672.20 for description of regulatory areas and districts.
[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[3] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[4] The catefory "Other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote 2 above and *Sebastolobus* (thornyhead rockfish).
[5] The category "Other species" includes sculpins, sharks, skates, eulachon smelts, capelin, and octopus. The OY for "Other species" is equal to 5% of the target species

* * * * *

(e) *Halibut.* (1) If, during any year, the Regional Director determines that the catch of halibut for that year by U.S. vessels delivering their catch to foreign vessels (JVP vessels) or U.S. vessels delivering their catch to U.S. fish processors (DAP vessels) will reach the applicable prohibited species catch (PSC) limit for halibut established under paragraph (e)(2) of this section, he will publish a notice in the **Federal Register** prohibiting fishing with trawl gear other than off-bottom trawl gear for the rest of the year by the vessels and in the area to which the PSC limit applies, subject to paragraph (e)(3) of this section.

(2) (i) As soon as practiciable after October 1 of each year, the Secretary, after consultation with the Council, will publish a notice in the **Federal Register** specifying the proposed halibut PSC limits for JVP vessels and DAP vessels. Each halibut PSC may be apportioned among the regulatory areas and districts of the Gulf of Alaska. Public comments on the proposed halibut PSC limits will be accepted by the Secretary for 30 days after the notice is published in the **Federal Register.** The Secretary will consider all timely comments in determining, after consultation with the Council, the final halibut PSC limits for the next year. A notice of these final halibut PSC limits will be published in the **Federal Register** as soon as practicable after December 15 and will also be made available to the public by the Regional Director through other suitable means.

(ii) The Secretary will base the annual halibut PSC limits upon the following types of information:

(A) Estimated halibut bycatch in prior years;

(B) Expected changes in groundfish catch;

(C) Expected changes in groundfish biomass;

(D) Current estimates of halibut biomass and stock condition;

(E) Potential impacts of expected fishing for groundfish on halibut stocks and U.S. halibut fisheries;

(F) The methods available for and costs of reducing halibut bycatches in groundfish fisheries; and

(G) Other biological and socioeconomic information that affects the consistency of halibut PSC limits with the objectives of this part.

(iii) The Secretary may, by notice in the **Federal Register,** change the halibut PSC limits during the year for which they were specified, based on new information of the types set forth in paragraph (e)(2)(ii) of this section.

(iv) When the JVP or DAP vessels to which a halibut PSC limit applies have caught an amount of halibut equal to that PSC, the Regional Director may, by notice in the **Federal Register,** allow some or all of those vessels to continue to fish for groundfish using bottom-trawl gear under specified conditions, subject to the other provisions of this part. In authorizing and conditioning each continued fishing with bottom-trawl gear, the Regional Director will take into account the following considerations, and issue relevant findings:

(A) The risk of biological harm to halibut stocks and of socioeconomic harm to authorized halibut users posed by continued bottom trawling by these vessels;

(B) The extent to which these vessels have avoided incidental halibut catches up to that point in the year;

(C) The confidence of the Regional Director in the accuracy of the estimates of incidental halibut catches by these vessels up to that point in the year;

(D) Whether observer coverage of these vessels is sufficient to assure adherence to the prescribed conditions and to alert the Regional Director to increases in their incidental halibut catches; and

(E) The enforcement record of owners and operators of these vessels, and the confidence of the Regional Director that adherence to the prescribed conditions can be assured in light of available enforcement resources.

7. A new § 672.23 is added to read as follows:

§ 672.23 Seasons.

(a) Fishing for groundfish in the regulatory areas and districts of the Gulf of Alaska is authorized from January 1 to December 31, subject to the other provisions of this part, except as provided in paragraph (b) of this section.

(b) Directed fishing for sablefish with hook-and-line and pot gear in the regulatory areas and districts of the Gulf of Alaska is authorized from April 1 through December 31, subject to the other provisions of this part.

8. In § 672.24, the text is redesignated as paragraph (a), and a new paragraph (b) is added to read as follows:

§ 672.24 Gear limitations.

* * * * *

(b) *Sablefish gear restrictions and allocations.*—(1) *Eastern Area.* No person may use any gear other than hook-and-line and trawl gear in fishing for groundfish in the Eastern Area. No person may use any gear other than hook-and-line gear to engage in directed fishing for sablefish. When vessels using trawl gear have harvested as bycatch 5 percent of the OY for sablefish during any year, the Regional Director will close the Eastern Area to all fishing with trawl gear.

(2) *Central and Western Areas.* During 1986 in the Central Area, and during 1986, 1987 and 1988 in the Western Area, hook-and-line gear may be used to take up to 55 percent of the OY for sablefish; pot gear may be used to take up to 25 percent of that OY; and trawl gear may be used to take up to 20 percent of that OY. After the years specified above, hook-and-line gear may be used to take up to 80 percent of the sablefish OY in each area and trawl gear may be used to take up to 20 percent of that OY. When the share of the sablefish OY assigned to any type of gear for any year and any area or district under this paragraph has been taken, the Regional Director will close that regulatory area or district to all fishing for groundfish with the type of gear, subject to § 672.2(b) of this part. No person may use any gear other than hook-and-line, pot, or trawl gear in fishing for groundfish in these areas during the years specified above. After those years, no person may use any gear other than hook-and-line or trawl gear in fishing for groundfish in the Gulf of Alaska.

9. A new § 672.25 is added to read as follows:

§ 672.25 Disposal of fishing gear and other articles.

(a) *Intentionally discarded or abandoned gear.* No fishing vessel may intentionally discard or abandon fishing gear, net fragments, or other articles which could interfere with fishing activities or cause damage to fishery resources and other marine animals. Exception to this rule will be allowed in case of an emergency involving the safety of the ship and/or crew or when officially authorized to do so.

(b) *Encountered abandoned or discarded gear.* If abandoned or discarded fishing gear, net fragments, or any other article is encountered, or in the event of accidental or emergency placing of such an article into the FCZ, the operator of the vessel must make a reasonable attempt to recover the article or immediately report the incident to the appropriate official, giving the:

(1) Name of the reporting person and his vessel;

(2) Nature of the article;

(3) Location of the article; and

(4) Time and date of the incident.

[FR Doc. 85–17828 Filed 7–24–85; 8:45 am]
BILLING CODE 3510–22–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 926 and 944

Tokay Grapes Grown in San Joaquin County, Imports of Tokay Grapes; Proposed Handling Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites comments on a proposal that would set quality requirements for shipments of fresh California Tokay grapes and Tokay grapes imported into the United States. The proposed regulation would require that such grapes meet the minimum grade and size requirements for U.S. No. 1 Table grade, with an additional color requirement for the berries on the lower portion of the bunch. The proposal would also require domestically produced grapes to meet certain container marking requirements. These proposed actions are designed to assure domestic shipment and imports of ample supplies of grapes of acceptable quality and to promote orderly marketing in the interests of producers and consumers.

DATES: Comments must be received by August 2, 1985. The proposed effective

The proposal would require that

List of Subjects in 7 CFR Parts 926 and

(b) The Federal or Federal-State

CFR Part 51) and in accordance with the

exempt from the requirements of this

VOL
50
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144
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DATES: Comments must be received by August 2, 1985. The proposed effective date is August 8 through November 15, 1985.

ADDRESS: Interested persons are invited to submit written comments in duplicate to: Docket Clerk, Room 2069–S, F&V, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Comments should reference the date and page number of the **Federal Register** and will be made available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Williams J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Proposed California Tokay Grape Regulation 22 is issued under the marketing agreement. as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of fresh Tokay grapes grown in San Joaquin County, California. The agreement and order are effective under the Agricultrual Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Industry Committee, established under the order, and upon other information.

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, a Tokay Grape Import Regulation 4 is also proposed under Section 8e (7 U.S.C. 608e–1). This section requires that whenever specified commodities, including Table grapes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. The proposed grade and size requirements for imports of Tokay grapes are the same as those proposed grade and size requirements for domestically produced Tokay grapes.

The Tokay Grape Industry Committee met on June 25, 1985, and unanimously recommended grade, size, and container marking requirements for Tokay grapes grown in San Joaquin County, California, to be effective August 8 through November 15, 1985.

The proposal would require that shipments of Tokay grapes meet the minimum grade and size requirements specified in the U.S. No. 1 Table grade of the U.S. Standards for Grades of Table Grapes (European or Vinifera type), except that at least 30 percent, by count, of the berries in the lower 25 percent, by count, of each bunch shall show characteristic color. The proposal would also require that each container of California Tokay grapes bear a Federal-State Inspection Service lot stamp number in plain letters and figures on one outside end. The committee reports that the minimum grade and container marking requirements for grapes are necessary to maintain orderly marketing conditions by preventing the shipment of immature, poor quality, and excessively small fruit in fresh commercial marketing outlets. Shipment of such low quality fruit would disrupt orderly marketing and tend to depress prices of all grapes since low quality fruit undermines consumer confidence in the quality of all fruit sold in the market and discourages repeat purchases. The proposed grade requirements are consistent with the quality and size composition of the available crop and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers consistent with the declared policy of the act. Fruit not meeting these requirements could be sold within San Joaquin County, or utilized in processing outlets such as crushing.

Production of California Tokay grapes for the 1985 season is estimated by the committee at 136,800 tons, compared with production of 130,112 tons in 1984. In recent years approximately 10 percent of the crop has been shipped fresh. Tokay grapes not shipped fresh are utilized in crushing.

Interested persons may file comments on the proposed regulations by August 2, 1985. This is the maximum comment period which can be provided because the proposed rules must be in effect prior to the beginning of the shipping season which begins around August 8. The proposed requirements are the same as those which have been in effect for the past several years and such requirements are considered by the industry to be the minimum standards of quality necessary to assure orderly marketing of the crop. The proposed requirements were recommended by the committee at an open meeting on June 25, 1985, and no opposition was expressed at that meeting. All comments received by the Docket Clerk by July 31, 1985, will be considered prior to the issuance of any final rule.

List of Subjects in 7 CFR Parts 926 and 944

Marketing agreements and orders, Grapes, California, Fruits, Import regulations.

1. The authority citation for 7 CFR Parts 926 and 944 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. The proposals are to add §§ 926.323 and 944.604 to read as follows:

PART 926—[AMENDED]

§ 926.323 California Tokay Grape Regulation 22.

(a) During the period August 8, 1985, through November 15, 1985, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table grade, and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definitions.* "U.S. No. 1 Table grade" and "characteristic color" shall mean the same as in the United States Standards for Grades of Table Grapes (European or Vinifera type) (7 CFR 51.880—51.912).

PART 944—[AMENDED]

§ 944.604 Tokay Grape Import Regulation 4.

(a) *Applicability to imports.* Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, during the period August 8, 1985, through November 15, 1985, the importation into the United States of Tokay variety grapes is prohibited unless such grapes meet the grade and size specifications of U.S. No. 1 Table Grade, as set forth in the U.S. Standards for Grades of Table Grapes (European or Vinifera type) (7 CFR 51.880—51.912), and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch, which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color.

(b) The Federal or Federal-State Inspecation Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, and quality of Tokay grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an offical inspection certificate, issued by the respective service, applicable to the particular shipment of Tokay grapes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements may be reconditioned or exported. Any failed lot which is not exported shall be disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) *Minimum Quantity Exemption:* Any person may import up to 250 pounds of grapes in any one shipment exempt from the requirements of this section.

(f) It is determined that imports of Tokay grapes, during the effective time of this regulation, are in most direct competition with Tokay grapes grown in San Joaquin County, California, under M.O. 926 (7 CFR Part 926). The grade, size and quality requirements of this section are the same as those applicable to Tokay grapes grown in the San Joaquin County of California.

Dated: July 23, 1985.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–17807 Filed 7–25–85; 9:14 am]

BILLING CODE 3410–02–M

Notices

A limited number of seats will be available to the public on a first-come,

Tube Imports, requested that the Department postpone the due date for

suspending the countervailing duty investigation on certain refrigeration

VOL 50 ISS 144 JL 26 1985 UMI

Notices

Federal Register
Vol. 50, No. 144
Friday, July 26, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agriculture Service

Agriculture Export Enhancement Advisory Group; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App. I), the U.S. Department of Agriculture announces the following meeting, the holding of which is contingent upon timely establishment of the Agricultural Export Enhancement Advisory Group:

Name: Agricultural Export Enhancement Advisory Group.
Date: August 14, 1985.
Time: 2:00 p.m. to 4:00 p.m.
Place: U.S. Department of Agriculture.
Purpose: To provide advice on the administration of the Agricultural Export Enhancement Program.
Agenda: Review Progress of Export Enhancement Program
Type of Meeting: Closed
Reason for Closing: The premature disclosure of information about the proposed Agricultural Export Enhancement Program would likely significantly frustrate implementation of the proposed program.
Authority to Close Meeting: This determination that this meeting falls within exemption 9(b) of the Government in the Sunshine Act was made by the Secretary of Agriculture pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act.
Contact Person: Melvin E. Sims, General Sales Manager and Assistant Administrator 447-5173.

Done at Washington, D.C., this seventeenth day of July, 1985.

Melvin E. Sims,
Acting Administrator, FAS.
[FR Doc. 85-17712 Filed 7-23-85; 8:45 am]
BILLING CODE 3410-10-M

Forest Service

Montana; Custer National Forest Plan Draft Environmental Impact Statement.

AGENCY: Forest Service, USDA.

ACTION: Extension of public review period for the Custer National Forest Plan Draft Environmental Impact Statement.

SUMMARY: The period of public review for the Custer National Forest Draft Environmental Impact Statement has been extended until September 3, 1985.

ADDRESSES: Requests for further information should be addressed to: Dave Filius, Supervisor, Custer National Forest, P.O. Box 2556, Billings, MT 59103.

James E. Reid,
Acting Regional Forester.
[FR Doc. 85-17516 Filed 7-25-85; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Muskrat Lake Basin Watershed, ND; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Muskrat Lake Basin Watershed, Mountrail County, North Dakota.

FOR FURTHER INFORMATION CONTACT: August J. Dornbusch, Jr., State Conservationist, Soil Conservation Service, Third Street and Rosser Avenue, Bismarck, North Dakota, 58502, telephone 701-255-4011 ext. 421.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, August J. Dornbusch, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concern a plan for watershed protection. The planned works of improvement include land treatment measures on 8,030 acres of cropland to protect the resource base from deterioration and increase net income to the landowners.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting August J. Dornbusch, Jr.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials)

Dated: July 17, 1985.

L. Dean Stratton,
Deputy State Conservationist.
[FR Doc. 85-17722 Filed 7-25-85; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Tuesday, September 10, 1985, from 9:30 a.m. to 4:00 p.m. in Room 4830, Herbert C. Hoover Building, 14th Street and Constitution Avenue NW., Washington, DC 20230.

The Board was established by the Secretary of Commerce on January 13, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

- A review of the economic outlook by major sector.
- A discussion of the outlook for prices and employment and of strategies for sustaining noninflationary economic growth.

A limited number of seats will be available to the public on a first-come, first-served basis. Public participation will be limited to requests for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Mrs. Virginia R. Marketti, Confidential Assistant to the Under Secretary for Economic Affairs, Room 4838, Department of Commerce, Washington, DC 20230 (202) 377-3523.

Dated: July 22, 1985.

Sidney L. Jones,
Under Secretary for Economic Affairs.
[FR Doc. 85-17745 Filed 7-25-85; 8:45 am]
BILLING CODE 3510-18-M

International Trade Administration

[A-549-502]

Certain Circular Welded Carbon Steel Pipes and Tubes From Thailand; Postponement of Preliminary Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The preliminary antidumping duty determination involving certain circular welded carbon steel pipes and tubes from Thailand is being postponed until not later than September 26, 1985.

EFFECTIVE DATE: July 26, 1985.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 377-3965.

SUPPLEMENTARY INFORMATION: On March 20, 1985, we announced the initiation of an antidumping duty investigation to determine whether certain circular welded carbon steel pipes and tubes from Thailand are being, or are likely to be, sold in the United States at less than fair value (50 FR 12068). The notice stated that we would issue a preliminary determination by August 7, 1985.

As detailed in that notice, the petition alleged that imports from Thailand of certain circular welded carbon steel pipes and tubes are being, or are likely to be, sold in the United States at less than fair value.

On July 16, 1985, counsel for petitioner, the Committee on Pipe and Tube Imports, requested that the Department postpone the due date for the preliminary determination until not later than 210 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act).

Accordingly, the due date for preliminary determination in this investigation is hereby postponed. We intend to issue a preliminary determination not later than September 26, 1985.

This notice is published pursuant to section 733(c)(2) of the Act.

Dated: July 18, 1985.

C. Christopher Parlin,
Acting Deputy Assistant Secretary for Import Administration.
[FR Doc. 85-17735 Filed 7-25-85; 8:45 am]
BILLING CODE 3510-DS-M

[C-559-001]

Certain Refrigeration Compressors From the Republic of Singapore; Final Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of administrative review of suspension agreement.

SUMMARY: On February 13, 1985, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on certain refrigeration compressors from the Republic of Singapore. The review covers the period November 7, 1983, through December 31, 1983, and six programs.

We gave interested parties an opportunity to comment on the preliminary results. After review of all of the comments timely received, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: July 26, 1985.

FOR FURTHER INFORMATION CONTACT: Philip Otterness or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 6025) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on certain refrigeration compressors from Singapore (48 FR 51167, November 7, 1983). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Singaporean hermetic refrigeration compressors rated not over one-quarter horsepower. Such merchandise is currently classifiable under item 661.0900 of the Tariff Schedules of the United States Annotated. The review covers a producer, Matsushita Refrigeration Industries (Singapore) Pte. Ltd., and a related exporter, Matsushita Electric Trading (Singapore) Pte. Ltd. These two companies, along with the Government of Singapore, are the signatories to the suspension agreement. The review covers the period November 7, 1983, through December 31, 1983, and six programs: (1) An income tax exemption on export earnings as provided for in Part IV of the Economic Expansion Incentives Act; (2) grants received from the Skills Development Fund; (3) the Public Utilities Board surcharge exemption; (4) financing provided by the rediscount facility of the Monetary Authority of Singapore; (5) the payment of income taxes in installments; and (6) the payment of technical assistance fees.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received timely written comments from the petitioner, Tecumseh Products Company. We also received comments from the two signatory companies. Because we received those comments after the close of the comment period, we have not considered them in reaching these final results.

Comment 1: The petitioner argues that the "export sales value" used as the denominator by the Department in calculating the *ad valorem* benefit should be based on the f.o.b. price of the goods rather than the c.i.f., c. & i., c. & f. and f.o.b. prices recorded by Matsushita Electric. The petitioner argues that, if the Department calculates the benefit based on c.i.f., c. & i., c. & f., and f.o.b. prices and the duty is collected based only on the f.o.b. value of the merchandise, the amount collected will be less than the full value of the benefit to the product.

Department's Position: It is true a duty collected on the f.o.b. price of a product

should be based on a subsidy calculated using f.o.b. prices. However, in this case, the export payment is collected on

Department's calculations and are available under administrative

petitioner (decrease in energy use per unit of output, decrease in energy use

Comment 6: The petitioner questions the numerator used by the Department

a benefit in contravention of the suspension agreement

Dated: July 17, 1985.

should be based on a subsidy calculated using f.o.b. prices. However, in this case, the export payment is collected on a shipment-by-shipment basis by the Singapore government based on the sales price recorded on the invoice, whether f.o.b., c. & i., c. & f., or c.i.f. This method may undervalue or overvalue the benefit on an individual shipment, but it should represent the cumulative benefit on all shipments. However, since the export tax is collected only on shipments to the United States and the *ad valorem* subsidy rate is based on all export shipments, our calculation may not be completely accurate if the mix of the terms on the shipments to the United States differs significantly from the mix of the terms on shipments to other parts of the world. Our information indicates this is not the case, but we will re-examine the issue in the next requested administrative review.

Comment 2: The petitioner states that it orally requested, and we denied access to, the verification exhibits submitted by the respondents to the Department. The petitioner argues that such withholding of business proprietary data collected at verification excludes it from meaningful participation in the administrative review and is contrary to Congressional intent under section 777 of the Tariff Act.

Department's Position: The Department will only consider written requests for release of proprietary material under administrative protective order, submitted in accordance with the Department's regulations.

As a general practice, the Department does not release verification exhibits containing business proprietary information because the Department believes that the need for continued non-release outweighs the need of the person requesting the information. First, most documents reviewed during the verification include not only proprietary information needed to verify submitted figures but also proprietary information that is not relevant to the administrative review. Without some guarantee of non-release of photocopies of source materials used to verify questionnaire responses, companies involved in verifications might reasonably believe they had more to lose by allowing the Department to retain copies for its convenience than if they only allowed the Department to examine, but not copy, source documents during verification. Second, exhibits that the Department collects at verification are used only to substantiate figures submitted in the questionnaire response and subsequent arguments. The figures in the response are the basis of the Department's calculations and are available under administrative protective order. The withholding of these documents is in no way contrary to Congressional intent to allow petitioners access to materials necessary to obtain relief under the countervailing duty law.

Comment 3: the petitioner argues that two programs under the Skills Development Fund are countervailable because they are grant programs that do not operate by reference to tax laws. The petitioner relies on a decision of the Court of International Trade (*Bethlehem Steel Corporation* v. *United States* 590 F. Supp. 1237 (1984)) to support its view that the general availability criteria should not apply to such grant programs.

Department's Position: We disagree. We do not consider generally available programs to be countervailable. *See, Carlisle Tire and Rubber Co.* v. *United States*. 564 F. Supp. 834 (1983). The petitioner's reliance on *Bethlehem Steel* is misplaced since the court in that case upheld our determination that a generally available tax benefit is not countervailable. The court's further comments in *Bethlehem Steel* on general availability are dicta.

Comment 4: The petitioner states that, although the Public Utilities Board has three criteria for eligibility for exemption from its surcharge, the Board may exempt companies from the surcharge payment without meeting any of those three criteria. The petitioner argues that this demonstrates that the Public Utilities Board has a great deal of discretion in deciding which companies will or will not receive the surcharge exemption. Without the strict application of the same criteria to all companies, a program of this type cannot be termed generally available.

Department's Position: The petitioner relies on the verification report's reference to three criteria for eligibility for the surcharge exemption, but the report also indicates that these are not the only three criteria and that the meeting of other criteria can independently qualify a firm for the exemption. In fact, the Board's main goal through this program is to encourage energy efficiency, and if a company can demonstrate such efficiency or can show that it is working toward the goal of greater energy efficiency, the Board grants the exemption. We saw no evidence at verification that the Board granted exemptions for any reasons other than energy efficiency. The criteria, as outlined in the verification report and found in published sources, include not only the three alluded to by the petitioner (decrease in energy use per unit of output, decrease in energy use per dollar of output, or investment in energy-saving equipment equal to 15 percent or more of a company's annual earnings) but also include, for energy efficient firms, continuation of a high level of energy efficiency. The important point is that the Board uses energy efficiency as the overriding criterion for qualifying for the exemption and that it applies this criterion to all companies.

Comment 5: The petitioner claims that, in determining whether Matsushita Refrigeration's technical assistance fee payments to its Japanese parent were excessive (and therefore countervailable) reductions of the taxable income of the subsidiary, the Department did not adequately examine the extent to which the payments exceed the value of the assistance provided. Instead of analyzing the assistance provided to Matsushita Refrigeration for the fees paid, the Department relied on the Economic Development Board's approval of tax exempt status for the payments. The Department should have made the comparison itself.

Department's Positon: As pointed out in the verification report, not only the Economic Development Board but also the Inland Revenue Department reviews applications for tax exempt status for technical assistance fee payments. We reviewed the procedures used by both agencies. Though only the Economic Development Board can actually reject applications, the Inland Revenue Department has extensive records of existing royalty agreements and can disallow portions of amounts applied for if the portions are excessive when compared to other agreements.

At Matsushita Refrigeration, we also examined the types of assistance received by the company from its parent in return for its payments and the approximate costs to the parent company of that assistance. Contrary to the petitioner's concern that the payments were excessive, the records indicated that the technical assistance fees did not cover the costs of the assistance provided. In fact, the parent company has subsequently decided to increase the fee, and Matsushita Refrigeration has informed us that it has requested approval from the Singapore government for a tax exemption on this higher payment.

The Department has no evidence that the technical assistance fees paid by Matsushita Refrigeration are excessive or that the company is somehow using payments to disguise its true profitability.

Comment 6: The petitioner questions the numerator used by the Department in calculating the tax benefit under the Export Expansion Incentives Act. The petitioner points out that at verification the Department had to add Matsushita Electric's Malaysian sales, which were listed as domestic sales in the company's books, to the company's exports to arrive at the company's total exports as reported in the questionnaire response. The petitioner argues that the Department should have also checked to see if Malaysian sales were included in Matsushita Refrigeration's calculation of its export profit. Since the Department uses both these numbers to calculate the subsidy, the petitioner argues the Department could be undervaluing the subsidy if the numbers do not refer to the same number of goods.

Department's Position: The Department has no reason to believe that the export profits Matsushita Refrigeration reported in its tax returns did not include profits from exports to Malaysia. It would work to the detiment of Matsushita Refrigeration not to include such exports because it receives a tax exemption on 90 percent of its export profits. Finally, it should be noted that Matsushita Electric's manner of recording export and domestic sales was pointed out in the verification report simply to show how a number provided in the questionnaire response was derived.

Comment 7: The petitioner requests that the Department scrutinize the source of and reason for large sums listed in Matsushita Refrigeration's financial statements as money due from related companies. The petitioner suggests that those funds may represent an intra-company subsidy.

Department's Position: In the notes to its financial statements, Matsushita Refrigeration explains that amounts due from or to related companies reflect the fact that the company "purchases most of its raw materials and parts from, and sells substantially all its production through companies in the Matsushita Group." The petitioner made this allegation too late in the review for our consideration. If the petitioner wishes the Department to investigate those transactions further, it should raise the issue in a future review and should explain how such transactions might consititute countervailable subsidies under U.S. law.

Comment 8: The petitioner alleges that Matsushita Refrigeration's financial statements show that the company made use of accelerated depreciation charges. The petitioner feels the use of accelerated depreciation may constitute a benefit in contravention of the suspension agreement.

Department's Position: It is not clear from Matsushita Refrigeration's financial statement that the depreciation charges the petitioner refers to are actually accelerated depreciation or simply reflect a re-evaluation of the actual useful life of certain assets. The petitioner made this allegation too late for our consideration in this review. The Department will examine the issue in the next requested administrative review.

Final Results of the Review

After review of the comments received, the final results of the review are the same as the preliminary results. We determine the total bounty or grant to be 4.92 percent *ad valorem* for the review period.

The suspension agreement states that the Government of Singapore will offset completely with an export charge the net bounty or grant calculated by the Department. Following the methodology outlined in section B.4. of the agreement, the Department determines that, in order to reach a final export charge of 4.92 percent *ad valorem*, a negative adjustment of 0.94 percent *ad valorem* may be made to the provisional export charge of 5.86 percent established in the Department's notice of suspension of countervailing duty investigation. The Government of Singapore may refund this amount to the companies.

The Department will notify the Government of Singapore that the provisional export charge on all exports to the United States with Outward Declarations filed on or after the date of publication of this notice shall be 4.92 percent *od valorem*.

in addition, we determine that the two companies have complied with the terms of the suspension agreement, including the payment of the provisional export charge, for the period November 7, 1983, through December 31, 1983.

The agreement can remain in force only as long as shipments covered by the agreement account for at least 85 percent of imports of Singaporean refrigeration compressors into the United States. The companies accounted for 100 percent of imports into the United States of such refrigeration compressors during the review period.

This administrative review and notice are in accordance with section 751 of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 17, 1985.

C. Christopher Parlin,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-17747 Filed 7-25-85; 8:45 am]

BILLING CODE 3510-DS-M

Semiconductor Technical Advisory Committee; Partially Closed Meeting

Summary: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on January 5, 1984 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and place: August 27, 1985 at 9:30 a.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Ave., NW., Washington, D.C.

Agenda:

General Session

1. Opening remarks by the Chairman
   a. Summary of TAC chairmen's meeting
   b. Outline of 1985 TAC goals
2. Presentation of papers or comments by the public
3. Solicitation of inputs on needed area of commodity decontrol or relaxation of export controls
4. Old committee business
5. New committee business
6. Action items underway
7. Action items due at next meeting.

Executive Session

8. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and stategic criteria related thereto

Public participation: The General Session will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

Supplementary information: A Notice of Determination to close meeting or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217. For further information or copies of the minutes call 202-377-2583.

Dated: July 22, 1985.

Milton M. Baltas,

Executive Director, Pacific Fishery Management Council, 526 SW. Mill

published below to the Commissioner of Customs to be effective on July 23, 1985.

Acting Choirmon, Committee for the Implementation of Textile Agreements.

Programs, and the Department of Navy Policy for intergovernmental

Publication of the DSEIS is tentatively planned for October 1985. A Public

VOL 50 ISS 144 JL 26 1985 UMI

Dated: July 22, 1985.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 85-17746 Filed 7-25-85; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Emergency Striped Bass Research Study; Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service will hold a joint meeting to discuss programs on the Emergency Striped Bass Research Study as authorized by the amended Anadromous Fish Conservation Act (Pub. L. 96-118).

DATE: The meeting will convene on Wednesday, August 28, 1985, at 10:00 a.m., and will adjourn at approximately 4:00 p.m. The meeting is open to the public.

ADDRESS: Room 7000 A&B, Department of the Interior Building, C Street between 18th and 19th NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: David G. Deuel, Office of Resource Investigations, National Marine Fisheries Service, Wasington, DC 20235, Telephone: (202) 634-7466.

Dated: July 18, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

[FR Doc. 85-17414 Filed 7-25-85; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

A special public meeting of the Pacific Fishery Management Council's Salmon Plan Development Team will begin at 10 a.m., July 29, at the Council's office, 526 S.W. Mill Street, Portland, OR, to develop information and draft documents necessary for the evaluation of proposed amendments to the salmon fishery management plan. For further information, contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW. Mill Street, Portland, OR 97201; telephone: (503) 221-6352.

Dated: July 23, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[FR Doc. 85-17831 Filed 7-25-85; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service; NOAA, Commerce.

The Pacific Fishery Management Council will convene a public meeting via teleconference at 11 a.m., July 24, to review the coho harvest of the July 15-18 troll fishery off the coast of Washington, between Leadbetter Point and Cape Alava, to clarify the impact of that harvest on the coho quotas in the two remaining north of Cape Falcon troll fisheries. The Council will also review the first three weeks of the recreational salmon fishery north of Cape Falcon where a five-day-per-week fishery has been established to prolong the season.

Meeting rooms will be provided in two or three key locations within the region to allow members of the public to participate in the conference call. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW. Mill Street, Portland, OR 97201; telephone: (503) 221-6352.

Dated: July 23, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 85-17830 Filed 7-25-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the People's Republic of China

July 22, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 23, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On February 27, 1985 and April 1, 1985 notices were published in the **Federal Register** (50 FR 7947 and 12849) which established staged entry periods for cotton and wool textile products in Categories 313 (cotton sheeting), 317 (cotton twill and sateen), and 433 (men's and boys' wool suit-type coats), produced or manufactured in the People's Republic of China and exported, in the case of Categories 313 and 433, during the twelve-month period which began on February 28, 1984 and extended through February 27, 1985, and, in the case of Category 317, exported during the period which began on March 29, 1984 and extended through March 28, 1985. Inasmuch as it has been determined that these staged entry periods are no longer needed, they are being cancelled.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 55175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 22, 1985.

Commissioner of Customs,
Department of the Treasury. Washington, D.C. 20229

Dear Mr. Commissioner: To facilitate implementation of Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended between the Governments of the United States and the People's Republic of China, I request that, effective on July 23, 1985, you cancel the directives of February 22, 1985 and March 28, 1985 concerning cotton and wool textile products in Categories 313, 317 and 433, produced or manufactured in the People's Republic of China.

This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-17744 Filed 7-25-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Defense Nuclear Agency

Scientific Advisory Group on Effects (SAGE); Meeting

The Scientific Advisory Group on Effects (SAGE) will meet in closed session September 4 to September 6, 1985, at the Department of Energy, Nevada Operations Office, Las Vegas, Nevada. AGENDA: September 4 to September 6 (0830-1700): Presentations, discussions and executive session on issues related to the programs which support the Defense Nuclear Agency's underground test program. The presentations and discussions in the above cited agenda will focus on current and planned activities of the DNA in regards to the underground test program. Executive sessions will be held for the primary purpose of advising the Director, DNA, as to the adequacy of ongoing and planned activities. All planned presentations, discussions, and executive sessions may include classified defense information; therefore, under the provisions of sections 552b(c) (1) and (3), Title 5, U.S.C., this meeting is closed to the public.

Any additional information concerning the meeting may be obtained from: Lt. Col. Gary C. Gibson, USAF, Scientific Secretary, SAGE, Headquarters, Defense Nuclear Agency, Attn: DDST, Washington, D.C. 20305-1000.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-17753 Filed 7-2-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Draft Supplemental Environmental Impact Statement for the Proposed Northeast Surface Action Group Homeport Facility, Stapleton-Fort Wadsworth Complex, Staten Island, NY

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act, Title 40 CFR and the requirements of executive Order 12372, Intergovernmental Review of Federal Programs, and the Department of Navy Policy for intergovernmental coordination of land and facility plans, programs, and projects, the Navy announces its intention to prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for the proposed Northeast Surface Action Group Homeport Facility, Stapleton-Fort Wadsworth Complex, Staten Island, NY.

On October 20, 1984 and February 8, 1985 respectively, the Navy filed Draft and Final Environmental Impact Statements with the U.S. Environmental Protection Agency on the Navy's proposed homeport facility in Staten Island. The Secretary of the Navy decision on this project was published in the **Federal Register** on March 21, 1985.

The establishment of a Surface Action Group (SAG) homeport in Staten Island will require the relocation of approximately 2200 Navy families. The DEIS prepared for this project assumed that these families would disperse throughout the New York-New Jersey area. No one community would be impacted significantly by the relocation of these families. However, more in depth data on housing availability and affordability obtained by the Navy has revealed a potential housing shortage, particularly for junior enlisted personnel. In order to reduce this potential deficit in affordable housing units, the Navy is proposing to construct family housing at Fort Wadsworth. Additionally, Navy housing may also be constructed at Floyd Bennett Field in Brooklyn. The Navy is also investigating housing opportunities that may result from a direct Navy leasing program whereby the Navy enters a long term lease agreement(s) with private developer(s) who would build new housing for Naval personnel. These housing options will be fully documented in the DSEIS.

Also, the DSEIS will assess impacts that may result from additional real estate acquisition in the vicinity of the Stapleton waterfront site.

Land acquisition is proposed to offset the need for filling 2.6 acres of the harbor to realign the existing bulkhead. The Navy does not propose to create this upland but will seek additional real estate through acquisition. Additional land will reduce the need for the proposed multi-level parking structure.

Other changes that have been proposed include modification to the Waterfront Development Plan—notably the proposal to build one pier vice two (although a second pier could be added in the future) and changes in the Fort Wadsworth Development Plan, and they will be assessed in the DSEIS.

Publication of the DSEIS is tentatively planned for October 1985. A Public Hearing Schedule will be announced. Local and regional concerns over the Navy's proposed changes in the SAG Homeport project as described above will be considered carefully in the preparation of the scope of work under which the DSEIS will be prepared. Comments and concerns should be forwarded to: Commanding Officer, Northern Division, Naval Facilities Engineering Command, Bldg 77L, Naval Base, Philadelphia, Philadelphia, PA 19112. Atten: Code 09P.

Comments will be received until August 26, 1985. If further information is required in regard to this Notice of Intent, please contact Robet Ostermueller at 215-897-6262.

Dated: July 23, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 85-17785 Filed 7-25-85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Graduate and Professional Opportunity Fellowships Program; Application Notice for Fiscal Year 1986

This notice invites applications from institutions of higher education for grants to make fellowship awards under the Graduate and Professional Opportunity Fellowships Program (G*POP).

Authority for this program is contained in Part B of Title IX of the Higher Educaton Act of 1965, as amended.

(20 U.S.C. 1134d-1134g)

The Graduate and Professional Opportunity Fellowships Program provides grants to institutions of higher education to support fellowships for graduate and professional study to students who demonstrate financial need and who are predominantly from groups which are traditionally underrepresented in graduate and professional study areas of high national priority.

Closing date for transmittal of applications. An application for a grant must be mailed or hand delivered by October 1, 1985.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center,

Attention: 84.094B, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Program information: Each institution applying for new fellowships will be

(2) The Education Department General Administrative Regulations

curriculm materials, methods, or techniques for bilingual vocational

Program Information

Bilingual Vocational Materials,

Attention: 84.094B, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is enouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The application Control Center will accept a hand delivered application between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time), daily except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:00 p.m. on the closing date.

Availabe funds: The Administration's budget request for fiscal year 1986 does not include funds for the Graduate and Professional Opportunity Fellowships Program. However, applications are invited to allow for sufficient time to evaluate them and complete the grants process prior to the end of the fiscal year, should the Congress appropriate funds for this program. If funds are appropriated, the Congress will be asked again to enact legislation overriding the $75,000 minimum grant that can be made to an institution under secton 922 (b)(2) of the statute.

The Secretary will give first priority to providing continuation support for qualified students, who were awarded fellowships in a previous year and who are maintaining satisfactory progress as determined by the institution. See 34 CFR 649.11(a)(2) (i) and (ii).

Program information: Each institution applying for new fellowships will be ranked according to the selecton criteria set out in the regulations in 34 CFR 649.12 govering the Graduate and Professonal Opportunity Fellowships Program. Under these criteria, institutions may apply for new fellowships in up to six academic or professional areas of study, providing, among other criteria, that the choice of study area is justified by providing evidence of underrepresentation, and evidence of national need.

Generally, the Secretary makes only one-year grant awards to institutions allocated new fellowships. As provided in 34 CFR Part 649.11(a)(2) of the Department's regulations and subject to the availability of funds, continuation support for students to complete degree programs may be provided in the subsequent fiscal years.

These estimates do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations. The regulations for this program are contained in 34 CFR Part 649.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 20, 1985, and may be obtained by writing to the Division of Higher Education Incentive Programs (Graduate and Professional Opportunity Program, G*POP), U.S. Department of Education, (Room 3022, ROB–3), 400 Maryland Avenue, S.W. Washington, D.C. 20202. Telephone: 202–245–3253. (OMB 1840–0508)

Applications must be prepared and submitted in accordance with the regulations, funding criteria, instructions, and forms included in the program information packages. The program information package is only intended to aid applicants applying for a grant under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition.

The Secretary strongly urges that the narrative portion of the grant application be double-spaced and not exceed 40 pages in length.

Applicable regulations: The regulations applicable to this program include the following:

(1) The regulations governing the Graduate and Professonal Opportunity Fellowships Program, in 34 CFR Part 649.

(2) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

Further information: For further information contact Charles H. Miller/Barbara J. Harvey of the Division of Higher Education Incentive Programs (Graduate and Professional Opportunity Fellowships Program), U.S. Department of Education, (Room 3022, ROB–3), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: 202–245–3253.

(20 U.S.C. 1134d–1134g)

(Catalog of Federal Domestic Assistance No. 84.094B, Graduate and Professional Opportunity Fellowships Program)

Dated: July 23, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85–17781 Filed 7–25–85; 8:45 am]

BILLING CODE 4000–01–M

Office of Vocational and Adult Education

Bilingual Vocational Programs; Application

AGENCY: Application Notice for New Awards under the Bilingual Vocational Programs for Fiscal year 1986.

SUMMARY: Applications are invited for new projects for the Bilingual Vocational Training Program, Bilingual Vocational Instructor Training Program, and the Bilingual Vocational Materials, Methods, and Techniques Program for fiscal year 1986.

Authority for these programs is contained in section 441 of Part E, Title IV of the Carl D. Perkins Vocational Education Act, Pub. L. 98–524.

(20 U.S.C. 2441)

The purpose of awards for the Bilingual Vocational Training Program is to provide financial assistance for bilingual vocational education and training for individuals with limited English proficiency to prepare them for jobs in recognized occupations and new and emerging occupations.

The purpose of awards for the Bilingual Vocational Instructor Training Program is to provide financial assistance for conducting training for instructors of bilingual vocational education and training programs for individuals with limited English proficiency.

The purpose of awards for the Bilingual Vocational Materials, Methods, and Techniques Program is to provide financial assistance for the development of instructional and curriculum materials, methods, or techniques for bilingual vocational training for individuals with limited English proficiency.

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand delivered by September 9, 1985.

Applications Delivered by Mail

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.077A, for Bilingual Vocational Training; CFDA No. 84.099A, for Bilingual Vocational Instructor Training, and CFDA No. 84.100 for Bilingual Vocational Materials, Methods, and Techniques), 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

Applications that are hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted by the Application Control Center after 4:00 p.m. on the closing date.

Program Information

Bilingual Vocational Training Program

The following types of projects may be funded under this program:

(a) Bilingual vocational training projects for individuals who have completed or left elementary or secondary school and who are available for education in a postsecondary educational institution.

(b) Bilingual vocational education and training projects for individuals who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment.

(c) Training allowances for participants in bilingual vocational training projects.

Bilingual vocational training projects must include instruction in the English language to ensure that participants in that training will be equipped to pursue occupation in an English language environment.

In the Commonwealth of Puerto Rico, the Bilingual Vocational Training Program may provide for the needs of students of limited Spanish proficiency.

State agencies, local education agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and other nonprofit organizations specially created to serve individuals who normally use a language other than English are eligible to apply for awards under this program.

Bilingual Vocational Instructor Training

The following types of projects may be funded under this program:

(a) Preservice and inservice training for instructors, aides, counselors, or other ancillary personnel participating or preparing to participate in bilingual vocational training programs.

(b) Fellowships and traineeships for individuals participating in preservice or inservice training.

The Secretary does not make an award under this program unless the Secretary determines that the applicant has an ongoing vocational training program in the field in which participants will be trained and can provide instructors with adequate language capabilities in the language other than English to be used in the project.

State agencies and public and private nonprofit educational institutions are eligible to apply for awards under this program.

Bilingual Vocational Materials, Methods, and Techniques Program

The following types of projects may be funded under this program:

(a) Research in bilingual vocational training.

(b) The development of instructional and curriculum materials, methods, or techniques.

(c) Training projects to familiarize State agencies and training institutions with research findings and with successful pilot and demonstration projects in bilingual vocational education and training.

(d) Experimental, developmental, pilot, and demonstration projects.

State agencies, educational institutions, and nonprofit organizations are eligible to apply for awards under this program.

Selection Criteria

Applications for awards will be evaluated in accordance with the selection criteria contained in the proposed regulations (34 CFR 407, 408, and 409) for the Carl D. Perkins Act. As stated in the regulations, the Secretary may distribute a reserved 15 points among the criteria for each competition held. These 15 points have been assigned as follows:

(a) For the Bilingual Vocational Training Program: 5 points for *Plan of operation*, 5 points for *Program factors*, and 5 points for *Quality of key personnel*.

(b) For the Bilingual Vocational Instructor Training Program: 5 points for *Need* and 10 points for *Quality of key personnel*.

(c) For the Bilingual Vocational Materials, Methods, and Techniques Program: 10 points for *Quality of key personnel* and 5 points for *Evaluation plan*.

Projects may be proposed for a period of 18 months.

Intergovernmental Review

On June 24, 1983, the Secretary published final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) in the **Federal Register**. This implemented Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination

and review of proposed Federal financial assistance.

The Bilingual Vocational Materials, Methods, and Techniques Program for Bilingual Vocational Training, with average grants of $200,000 each and

(a) The regulations governing the three Bilingual Vocational Training

should be filed on or before August 21, 1985. Protests will be considered by the

section 203 or 205 of the Federal Power Act (16 U.S.C. 824b, 824d)

and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review of and comment on proposed Federal financial assistance.
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by; Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following are the current lists of States that have established a process, designated a single point of contact, and have selected these programs for review:

States To Review Program 84.077A, Bilingual Vocational Training

Alabama	New York
Arizona	North Dakota
Arkansas	Ohio
California	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	Rhode Island
Hawaii	South Carolina
Indiana	South Dakota
Iowa	Tennessee
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	West Virginia
Montana	Wyoming
Nebraska	Puerto Rico
Nevada	Virgin Islands
New Hampshire	Guam
New Jersey	Northern Mariana Islands
New Mexico	

States To Review Program 84.099A, Bilingual Vocational Instructor Training

Alabama	New Mexico
Arizona	New York
Arkansas	North Dakota
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
Florida	Pennsylvania
Hawaii	South Carolina
Indiana	South Dakota
Kansas	Texas
Louisiana	Utah
Maine	Vermont
Massachusetts	Virginia
Michigan	Washington
Missouri	Wyoming
Nebraska	Virgin Islands
Nevada	Guam
New Hampshire	Northern Mariana Islands
New Jersey	

The Bilingual Vocational Materials, Methods, and Techniques Program (84.100) is a new program, and States have not made a determination as to whether it will be included or excluded from review under the State review process.

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for these programs.

In States that have not established a process or chosen these programs for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by September 24, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (CFDA Nos. 84.077, 84.099, or 84.100), 40 Maryland Avenue, SW., Washington, DC 20202. Proof of mailing will be determined on the same basis as that used for applications.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds

Although grants under this program will be awarded during fiscal year 1986, this notice invites applications for funds from both the fiscal year 1985 appropriation and the fiscal year 1986 appropriation. Beginning with the fiscal year 1986 appropriation, the Department of Education has proposed to shift appropriations for this program from forward funding to a current-year basis.

The fiscal year 1985 funds have been appropriated. After awards are made to noncompeting continuations, the Department expects to have the following fiscal year 1985 funds available for new grants under this competition: approximately $1,800,000 for Bilingual Vocational Training, with average grants of $200,000 each and approximately $368,000 for Materials, Methods, and Techniques, with average grants of $150,000 each.

The Congress has not yet appropriated fiscal year 1986 funds. If, in appropriating these funds, the Congress accepts the Administration's proposed change to current-year funding, additional amounts will be available for new awards under this competition. With the requested 1986 appropriation, the following amounts will be available for new awards: approximately $4,500,000 for Bilingual Vocational Training, with average grants of $200,000 each; approximately $776,000 for Materials, Methods, and Techniques, with average grants of $150,000 each, and $553,000 for Bilingual Vocational Instructor Training, with average grants of $110,000 each.

These estimates do not bind the U.S. Department of Education to a specific number of grants, nor to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application Forms

Application forms and program information packages will be available on July 29, 1985. These packages may be obtained by writing to the Office Vocational and Adult Education, U.S. Department of Education, (Room 5028, Regional Office Building 3) 400 Maryland Avenue, SW., Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty-five pages.

The Secretary further urges that applicants not submit information that is not requested.

(The application form is approved by the Office of Management and Budget under control number 1830–0013)

Applicable Regulations

The following regulations apply to this program:

(a) The regulations governing the three Bilingual Vocational Training Programs, as proposed to be codified in 34 CFR Parts 400, 407, 408, and 409. The proposed regulations were published on January 25, 1985 (50 FR-3650–3653). Applicants should prepare their applications based on these proposed regulations. Applicants will be given an opportunity to amend or resubmit their applications if the final regulations are changed significantly from the proposed regulations.

(b) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, 78, and 79.

For Further Information

For further information, contact Ron Castaldi, Office of Vocational and Adult Education, U.S. Department of Education, (Room 5028, Regional Office Building 3) 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 245–2775.

(20 U.S.C. 347(a))

(Catalog of Federal Domestic Assistance Nos. 84.077 (Bilingual Vocational Training Program), 84.099 (Bilingual Vocational Instructor Training Program), and 84.100 (Bilingual Vocational Materials, Methods, and Techniques Program))

Dated: July 23, 1985.

Robert M. Worthington,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 85–17782 Filed 7–25–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Marjorie Linder Cooley v. Clifton Power Corp.; Complaint

July 22, 1985.

Take notice that on June 27, 1985 Marjorie Linder Cooley submitted for filing a complaint against Clifton Power Corporation pursuant to the Commission's Rule 206, 18 CFR 385.206. Mrs. Cooley seeks an order finding Clifton Power Corporation to be in violation of certain provisions of Parts II and III of the Federal Power Act, and of the Commission's regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 21, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17754 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL85–39–000]

Municipal Electric Utilities Association of New York State v. Consolidated Edison Company of New York, Inc.; Complaint

July 22, 1985.

Take notice that on July 5, 1985, Municipal Electric Utilities Association of New York State ("MEUA"), by and through its undersigned counsel and pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, submitted for filing its complaint against Consolidated Edison Company of New York, Inc. ("Con Edison").

MEUA stated in this complaint that Con Edison is in violation of section 203 of the Federal Power Act, 16 U.S.C. 824b, because it has leased or otherwise disposed of part of its facilities subject to the jurisdiction of the Commission, without first having secured an order of the Commission authorizing such transaction.

MEUA further stated that its customers are suffering substantial injury as a result of the Con Edison lease because Con Edison is obtaining thereby preference power properly allocable to MEUA members under the preference provisions of the Niagara Redevelopment Act, 16 U.S.C. 836.

MEUA also stated that the lease is not in the public interest.

Wherefore, MEUA requests that:

The Commission order Con Edison to show cause why the lease has not been submitted for review by the Commission.

The Commission initiate an evidentiary hearing to determine whether the lease is in the public interest.

The Commission order Con Edison to file all documents pertaining to the lease.

The Commission declare that the lease is not in the public interest and should not be approved pursuant to section 203 or 205 of the Federal Power Act (16 U.S.C. 824b, 824d).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 21, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17755 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–36–001]

ANR Pipeline Co.; Tariff Filing Pursuant to Order Approving Settlement Agreement

July 22, 1985.

Take notice that on July 17, 1985, ANR Pipeline Company (ANR) tendered for filing Second Substitute Second Revised Sheet No. 667A under Rate Schedule X–64 of First Revised Volume No. 2 of its F.E.R.C. Gas Tariff. This revised Sheet No. 667A is proposed to be effective January 1, 1985.

ANR states that the purpose of this filing is to reflect a settlement of Docket No. RP85–36–000 approved by a Federal Energy Regulatory Commission Letter Order issued June 18, 1985, in that it reflects the settled rate of $507,713 per month to the High Island Offshore System.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 1, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this

filing are on file with the Commission and are available for public inspection.

Council Chambers at 1313 California Street, Redding, California. The

Well, FERC JD Do. 80–21480; James Fiske #2 Well, FERC JD No. 80–22828 [Wasielewski

[Docket Nos. ER85–623–000,et al.]

3. Central Hudson Gas & Electric

Comment date: August 2, 1985, in

VOL 50 ISS 144 JL 26 1985 UMI

filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17791 Filed 7-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2828-001]

City of Redding, CA; Intent To Prepare Environmental Impact Statement and Notice of Scoping Session and Public Meeting

July 22, 1985.

The City of Redding, California, on February 19, 1982, filed an application for a license for the Lake Redding Power Project, FERC No. 2828, to be located on the Sacramento River in Shasta County, California. The new dam would be constructed about thirty feet downstream from, and replace, the existing Anderson Cottonwood Irrigation District Dam. The proposed project would be operated in a run-of-river mode with a minimum flow of 50 cubic feet per second spilled over the dam at all times. The new dam would increase the existing maximum normal water surface elevation 4.5 feet.

Public notice of the acceptance of the application by the Commission was issued on November 30, 1982, with January 27, 1983, as the due date for comments, protests, and motions to intervene. The application was also mailed to interested agencies for their review and comments. Motions to intervene by the California Department of Fish and Game and the U.S. Department of the Interior have been granted. The Commission staff issued a draft environmental assessment of the application on October 5, 1984, and circulated if for comment. The Commission staff has determined that issuance of a license for the proposed project would constitute a major federal action significantly affecting the quality of the human environment. The staff therefore intends to prepare an environmental impact statement (EIS) in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed in the EIS.

Scoping Session

Interested persons and agencies are invited to participate in a scoping meeting to identify and discuss the significant environmental impacts resulting from the proposed Lake Redding Project No. 2828. The scoping session will be convened by the Commission staff at 10:00 a.m. on August 20, 1985, in the Redding City Council Chambers at 1313 California Street, Redding, California. The purposes of the scoping session are to: (1) Present environmental issues, currently identified for treatment in the EIS, to the public and experts familiar with the proposed project; (2) receive information and views from the public and experts on the issues presented; (3) clarify the significance of issues; (4) identify additional issues for EIS treatment; and (5) identify issues that do not merit EIS treatment. Agencies and individuals with environmental expertise and concerns are encouraged to attend the scoping session and assist Commission staff with the determination of issues to be addressed in the EIS.

Public Hearing

Interested officials and members of the general public are invited to express their views about the proposed project and significant environmental impacts in a public hearing to be held at 7:00 p.m. on August 20, 1985, in the Redding City Council Chambers at 1313 California Street, Redding, California. The public hearings will be conducted by the Commission staff.

At the public hearing persons may give their statements orally or in writing. All statements will be recorded by a stenographer and will become part of the public files associated with this proceeding. In addition, the public record for this hearing will remain open until September 4, 1985, and anyone may submit written comments on these matters until that time. Comments should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should clearly show the project name and number (Project No. 2828-001) on the first page.

For further information, please contact James R. Kirby at (202) 376-9070.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17792 Filed 7-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP85-37-000]

Commonwealth of Pennsylvania, Department of Environmental Resources and Environgas Inc.; Petition To Reopen and Vacate Final Well Category Determinations

Issued: July 22, 1985.

In the matter of Commonwealth of Pennsylvania, Department of Environmental Resources, Section 102 Determinations, Environgas, Inc., Alvin Eliason #1 Well, FERC JD No. 80-21432; Richard Brunner #1 Well, FERC JD Do. 80-21480; James Fiske #2 Well, FERC JD No. 80-22636. J. Wasielewski #1 Well, FERC JD No. 80-42810.

Take notice that on July 1, 1985, the Commonwealth of Pennsylvania, Department of Environmental Resources (Pennsylvania), filed with the Commission pursuant to § 275.205 of the Commission's regulations a petition to reopen and vacate final well category determinations under section 102(c)(1)(B) of the Natural Gas Policy Act of 1978 (NGPA) for the wells listed in the caption of this order, each of which is located in the Summit Storage Field, Erie County, Pennsylvania. Environgas, Inc. is the owner and operator of the wells.[1]

Pennsylvania states that the wells do not qualify under section 102 of the NGPA because of the location of existing marker wells within the Summit Storage Field and that this information was inadvertantly omitted at the time the determinations were made.

The question of whether refunds, plus interest calculated under § 154.102(c) of the regulations, will be required is a matter which will be considered by the Commission in ruling on the subject petition.

Any person desiring to be heard or protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, not later than 30 days following publication of this notice in the Federal Register. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17793 Filed 7-25-85; 8:45 am]

BILLING CODE 6717-01-M

[1] Notices of Pennsylvania's determinations were received for the Alvin Eliason well on March 20, 1980, for the Richard Brunner well on March 20, 1980, for the James Fiske well on March 27, 1980, and for the J. Wasielewski well on June 26, 1980. Pursuant to § 275.202(a) of the Commission's regulations, these determinations became final 45 days following notification.

[Docket Nos. ER85-623-000,et al.]

Electric Rate and Corporate Regulation Filings; Illinois Power Co., et al.

July 22, 1985.

Take notice that the following filings have been made with the Commission:

1. Illinois Power Company

[Docket No. ER85-623-000]

Take notice that on July 11, 1985, Illinois Power Company ("Illinois Power") tendered for filing a maintenance agreement ("Agreement") supplementing the Interconnection Agreement, dated March 1, 1983, between Southern Illinois Power Cooperative ("SIPC") and Illinois Power.

Illinois Power indicates that this filing is made for the purposes of FERC approval of (1) a maintenance agreement between these two utilities for equipment at the Baldwin Power Plant Substation and (2) a Letter Agreement concerning the sharing of a microwave radio system of benefit to both utilities.

Illinois Power states that a copy of the filing was served upon SIPC and the Illinois Commerce Commission.

Comment date: August 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Central Hudson Gas & Electric Corporation

[Docket No. ER85-616-000]

Take notice that on July 11, 1985, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing its development of actual costs for 1984 related to transmission service provided from the Roseton Generating Plant to Consolidated Edison Company of New York, Inc. (Con Edison) and Niagara Mohawk Power Corporation (Niagara Mohawk) in accordance with the provisions of its Rate Schedule FERC No. 42.

The actual costs for 1984 amounted to $1.4004 per Mw.-day to Con Edison and $4.6661 per Mw.-day to Niagara Mohawk and are the basis on which charges for 1985 have been estimated.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1985 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison, Niagara Mohawk and the State of New York Public Service Commission.

Comment data: August 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas & Electric Corporation

[Docket No. ER85-617-000]

Take notice that on July 11, 1985, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing its development of actual costs for 1984 related to subsection service provided to Consolidated Edison of New York, Inc. (Con Edison) in accordance with the provisions of its Rate Schedule FERC No. 43.

Central Hudson indicates that the actual cost for 1984 amounted to $336,830 and will be the basis on which estimated charges for 1985 will be billed.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1985 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison and the State of New York Public Service Commission.

Comment date: August 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc.

[Docket No. ER85-621-000]

Take notice that on July 11, 1985, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing as an initial rate schedule a Lease and Operating Agreement dated February 28, 1985 between Con Edison and the County of Westchester acting by and through the County of Westchester Public Utility Service Agency ("Westchester"). The rate schedule provides for Westchester to pay a charge for use of Con Edison's facilities to sell and distribute hydroelectric power and energy to Westchester's customers (who are retail consumers of electricity) equal to the charges that would have been billed to such customers under Con Edison's retail electric rate schedule on file with the New York State Public Service Commission less Con Edison's fuel and purchased power costs reflected in such rate schedule.

Con Edison requests a waiver of notice requirements so that the rate schedule can be made effective as of July 1, 1985.

Con Edison states that copies of this filing have been served by mail upon Westchester and the Power Authority of the State of New York, from whom Westchester is purchasing the hydroelectric power and energy to be sold and distributed to Westchester's customers.

Comment date: August 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. The Cleveland Electric Illuminating Company

[Docket No. ER85-626-000]

Take notice that on July 12, 1985, the Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 22 MW of power from the 345 kv interconnection point on CEI's Ashtabula/Erie-West Line with Pennsylvania Electric Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on July 1, 1985.

Comment date: August 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Indiana & Michigan Electric Company

[Docket No. ER85-609-000]

Take notice that on July 8, 1985, American Electric Power Service Corporation (AEP) tendered for filing on behalf of its affiliate operating subsidiary Indiana and Michigan Electric Company (I&ME), which is an AEP affiliated operating subsidiary, Modification No. 13 dated May 31, 1985 to the Agreement dated January 2, 1977 between I&ME and the City of Richmond, Indiana (RP&L). The Commission has previously designated the 1977 Agreement as I&ME's Rate Schedule FERC No. 70.

Section 1 and 2 of Modification No. 13 provide for an increase in transmission demand rate for Short Term Power when I&ME is the supplying party to $0.46 per kilowatt per week and to $0.092 per kilowatt per day. Sections 3 and 4 increase the Limited Term Power and Transmission Service demand rates when I&ME is the supplying party to $2.00 per kilowatt per month. These proposed rates are the same as those which have been filed and accepted for filing by the Commission on behalf of I&ME. In addition, Section 5 of this Modification revises the Billing and Payment provisions of the 1977 Agreement to become consistent with the provisions presently used by the AEP system and have been accepted for filing by the Commission.

AEP requests an immediate effective date, which will allow AEP to offer similar services at similar rates to

electric utility systems interconnected with AEP affiliated operating

Comment date: August 2, 1985, in accordance with Standard Paragraph E

[Docket Nos. ER85-521-000 and ER85-522-000]

it is presently constructing the Wolf Creek station, and that Wolf Creek

credit to Wolf Creek rate base has, in

unopposed motion to intervene in

VOL 50 ISS 144 JL 26 1985 UMI

electric utility systems interconnected with AEP affiliated operating subsidiaries as established in previous AEP filings, and therefore requests waiver of this Commission's Notice requirements.

Copies of this filing were served upon RP&L, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Comment date: August 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Kansas Gas and Electric Company

[Docket No. ER84-136-004]

Take notice that on July 8, 1985, Kansas Gas and Electric Company tendered for filing the original and five (5) copies of the refund report for Chanute, Fredonia and Iola, Kansas in accordance with the Commission's letter order dated June 5, 1985. The refund amount reflects the settled rates for Service Schedule A under Docket No. ER84-136-000. There is no refund due Fredonia and Iola since they did not buy firm demand during the refund period.

The refund amounts include interest from the date payment was received through July 5, 1985 at the appropriate interest rate in accordance with 18 CFR 35.19(a).

Comment date: August 2, 1985, in accordance with Standard Paragraph H at the end of this notice.

8. Sierra Pacific Power Company

[Docket No. ER85-406-002]

Take notice that on June 21, 1985, Sierra Pacific Power Company, (Sierra) submitted for filing, in compliance with the Commission's suspension order of May 31, 1985, six (6) copies of original sheet No. 4A to Original Volume No. 1 which reflects the deletion of Sierra's proposed purchase power adjustment clause.

Comment date: August 2, 1985, in accordance with Standard Paragraph H at the end of this notice.

9. Union Electric Company

[Docket No. ER85-618-000]

Take notice that Union Electric Company, on July 11, 1985, tendered for filing a Letter Agreement dated May 31, 1985, between City of Columbia, Missouri, and Union Electric Company.

Union Electric states the purpose of the Letter Agreement is to revise the rate formula for Transmission Service.

Comment date: August 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. Washington Water Power Company

[Docket No. ER85-584-000]

Take notice that on June 27, 1985, Washington Water Power Company (WWP) tendered for filing a Firm Capacity and Energy Sales Agreement between WWP and Nevada Power Company. WWP states that this agreement provides for WWP to make capacity and energy sales to the Nevada Power Company transacted from purchases made available to WWP by reason of its contract with Arizona Public Service Company (APS), Wholesale Power Agreement, Contract No. 3124-040.00, designated as APS FERC Rate Schedule No. 84.

Comment date: August 2, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to bhe proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17789 Filed 7-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-521-000 and ER85-522-000]

Kansas Gas & Electric Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Ordering Summary Disposition, Granting Waivers, Establishing Hearing Procedures, and Consolidating Dockets

Issued July 19, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

On May 20, 1985, Kansas Gas and Electric Company (KG&E) tendered for filing in Docket No. ER85-521-000: (1) Proposed modifications to fuel adjustment clauses applicable to service to 12 full requirements customers,[1] 12 partial requirements customers,[2] and Kansas Electric Power Cooperative, Inc. (KEPCO)[3]; and (2) a request for waiver of section 35.14 of the Commission's regulations (18 CFR 35.14) to permit the company to retain the fuel cost savings which occur during the testing of new generating units. KG&E has also tendered for filing, in Docket No. ER85-522-000, a proposed agreement with KEPCO providing for the transmission of KEPCO's share of test energy from the Wolf Creek Generating Station (Wolf Creek).[4] The rate for transmission service is set at KG&E's incremental cost to provide transmission losses or 1 mill/kWh of total energy delivered, whichever is greater.[5] KG&E requests waiver of the notice requirements to permit the transmission agreement and the proposed modifications to the fuel adjustment clauses to become effective on June 1, 1985, when Wolf Creek is expected to begin testing.

In seeking a waiver of § 35.14 of the Commission's regulations and proposing modification to its fuel adjustment clause, KG&E requests that the fuel adjustment charges collected from the wholesale customers be determined as though energy provided by generating plants undergoing test operations were not available to KG&E for supply to such customers. The company represents that

[1] The Cities of Acradia, Arma, Blue Mound, Elsmore, Erie, Haven, La Harpe, Moran, Mount Hope, Mulberry, Oxford and Savonburg, Kansas.

[2] The Cities of Augusta, Burlington, Chanute, Coffeyville, Fredonia, Girard, Iola, Mulvane, Neodesha, Wellington and Winfield, Kansas, and Missouri Public Service Company.

[3] *See* Attachment for rate schedule designations.

[4] Wolf Creek is jointly owned by KG&E, KEPCO and Kansas City Power & Light Company (KCP&L). KG&E and KCP&L each own 47% of Wolf Creek while KEPCO owns the remaining 6%.

[5] Incremental cost is defined as fuel and O&M expenses plus 10%, not to exceed 2 mills/kWh.

it is presently constructing the Wolf Creek station, and that Wolf Creek is expected to begin an estimated three months of test operation soon, during which it will generate approximately 580 million kWh of test energy.

KG&E contends that since the output of Wolf Creek would become part of the energy supply to KG&E's system, the output and fuel consumption of KG&E's other generating units would be reduced substantially.[6] The company states that the savings due to test energy should not automatically flow through the fuel adjustment clauses to wholesale customers because it will not begin to recover its investment in Wolf Creek through rates until commercial operation. KG&E seeks to modify its fuel adjustments clause procedures to value the test energy at an amount equal to the displacement cost of fuel, *i.e.*, fuel costs related to the test energy if that test energy had not been available to serve customers' load. The displacement cost is, thus, the difference between actual costs and a reconstruction of costs without the test power. The company proposes to credit this amount to the investment cost of Wolf Creek. KG&E contends that this will result in valuing test energy at its "fair value" as required by the Uniform System of Accounts, Electric Plant Instructions, Section 3, Paragraph 18 (18 CFR Part 101). The company states that the proposed modifications will affect all wholesale customers entitled to firm power service on an equal basis except the Cities of Chanute, Fredonia and Iola.[7] KG&E states that it will maintain clear and detailed work papers from which the entire process can be verified by auditors.

Notice of the company's filings were published in the **Federal Register**,[8] with comments due on or before June 10, 1985. Kansas Municipal Untilities (Cities) filed timely motions to intervene in both dockets.

Cities request that KG&E's filing in Docket No. ER85-521-000 be suspended and that the company's petition for waiver of § 35.14 of the Commission's regulations be denied. Cities state that KG&E's petition for waiver of § 35.14 should be denied on the grounds that the company failed to submit detailed cost support data to justify the proposed amendments to fuel clauses or to enable the Commission to determine that the credit to Wolf Creek rate base has, in fact, been made. Cities allege that KG&E could, and should, have referred to rate base data filed in Docket No. ER85-461-000 (KG&E's current general rate increase under investigation) that presumably reflect the rate base credits at issue. Accordingly, Cities request that KG&E's filing in Docket No. ER85-521-000 be suspended and consolidated with Docket Nos. ER85-522-000 and ER85-461-000.

In their motion to intervene in Docket No. ER85-522-000, Cities request consolidation with Docket Nos. ER85-461-000 and ER85-521-000. They state that KG&E's transmission of inexpensive test-run nuclear energy under the terms of the proposed service schedule gives KEPCO a competitive advantage over Cities, but do not otherwise raise any specific issues regarding the filing.

On June 25, 1985, KG&E filed separate answers to Cities' motions to intervene in Docket Nos. ER85-521-000 and ER85-522-000. With respect to Docket No. ER85-521-000, KG&E agrees that no rate base offset has been reflected in its filing in Docket No. ER85-461-000 and that, if the Commission approves modifications to its fuel adjustment clauses, an adjustment to rate base will ultimately be required. KG&E contends, however, that the lack of a rate base adjustment at this time does not warrant denial of its request for waiver. KG&E opposes Cities, request for suspension; in the event that the Commission does suspend its filing, the company asks that the suspension be for a nominal period so that the rates become effective on June 1, 1985.[9] In support, KG&E states that, if the proposed modifications to the fuel adjustment clauses are suspended for five months, it will extend beyond the testing period and result in an irretrievable loss of revenues. The company does not oppose the consolidation of Docket No. ER85-521-000 with Docket No. ER85-461-000 so long as consolidation does not delay the effective date. In Docket No. ER85-522-000, KG&E opposes Cities' intervention and objects to consolidation of that docket with either ER85-461-000 or ER85-521-000, stating that the transmission of KEPCO's ownership share of test energy does not affect Cities.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely, unopposed motion to intervene in Docket No. ER85-521-000 serves to make Cities a party to the proceeding. Notwithstanding the company's opposition, we find that good cause exists to grant their motion to intervene, given their interest as customers of KG&E, in Docket No. ER85-522-000.

With respect to KG&E's proposed treatment of test energy in its fuel adjustment clauses, the Commission has previously accepted several similar applications by utilities, including one by KCP&L for its 47% share of test energy from Wolf Creek filed in Docket No. ER84-594-000. In *Pennsylvania Power & Light Co.*, Opinion No. 176, 23 FERC ¶ 61,395, we granted the company's request for waiver and approved its modifications to its fuel adjustment clauses. In that case, we found that, absent waiver of the fuel clause regulations, the current ratepayers would receive the benefits of the test energy in the form of decreased fuel costs while the future ratepayers would incur all the cost associated with the test energy through higher rates which result from inclusion of such cost in the CWIP account and ultimately in rate base. We concluded that, by allowing waiver of the regulations and crediting the fair value of test energy to the plant account, the future ratepayers who ultimately bear the costs associated with the facility undergoing testing will receive benefits through lower rates.

The situation in this case is similar, although not identical, to that in *Pennsylvania Power & Light Co.* Here, KG&E's wholesale customers have not been paying for the total carrying costs associated with Wolf Creek CWIP; thus, some retention of test energy savings by KG&E is appropriate. However, unlike *Pennsylvania Power & Light Co.*, KG&E's present rates (filed in Docket No. ER83-628-000) became effective on February 29, 1984, and include substantial amounts of CWIP investment in Wolf Creek (22.5% of test year balances). Thus, KG&E's wholesale customers have been paying higher rates since February 29, 1984, to compensate KG&E for part of its carrying costs on Wolf Creek. Therefore, we believe that the current customers should be given credit for some of the low-cost test energy that will be generated during the testing of Wolf Creek to reflect the portion of Wolf Creek carrying costs that have been recovered through rates. Accordingly, we shall grant waiver of the fuel clause regulations, accept KG&E's proposed modifications to its fuel adjustment clauses for filing, and suspend them.

[6] KG&E estimates that the reduction in the energy costs during the testing of Wolf Creek will be approximately $6.8 million on a total company basis due to avoided fuel and purchases power costs.

[7] KG&E's contracts with these cities preclude further rate changes under Service Schedule A until such contracts have terminated.

[8] 50 FR 23757 (1985).

[9] KG&E states that Wolf Creek was synchronized to the tranamission grid on June 13, 1985 and that, therefore, the filing should be made effective at least by that date.

We agree with Cities that KG&E has failed to demonstrate that its firm rates

KG&E rate schedules. Further, Cities do

shall be held concerning the justness

ATTACHMENT.—KANSAS GAS & ELECTRIC

[Docket Nos. TA85-3-28-000, 001]

filing have been calculated utilizing the

VOL 50 ISS 144 JL 26 1985 UMI

We agree with Cities that KG&E has failed to demonstrate that its firm rates have been designed to appropriately reflect the required reduction in Wolf Creek investment cost. KG&E's filed increased rates, which are under investigation in Docket No. ER85-461-000, do not reflect the requisite reduction of investment cost by the additional revenues that will be collected due to the modified fuel adjustment clauses. The rates submitted in Docket No. ER85-461-000 were filed less than a month before the proposed test energy clause, have an effective date tied to Wolf Creek's commercial operation date, and should therefore reflect a Wolf Creek investment net of retained test energy savings. Accordingly, we shall order summary disposition with respect to this issue. The precise level of the offset should be resolved at hearing and KG&E shall reflect the offset in the final compliance rates.

Our review of the company's filing in Docket No. ER85-521-000 and the pleadings indicates that the rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

In *West Texas Utilities Co.*, 18 FERC ¶ 61.189 (1982), we explained that where our preliminary examination indicates that the proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our examination suggests that the proposed rates filed in Docket No. ER85-521-000 may not yield substantially excessive revenues. Further, since maximum suspension would extend the effectiveness of the fuel adjustments beyond the testing stage and result in the company retaining none of the benefits of test energy, we believe that a nominal suspension is appropriate. We also believe, for this latter reason, that good cause exists to grant waiver of the notice requirements. Accordingly, we shall accept KG&E's submittal in Docket No. ER81-521-000, as modified by summary disposition, and suspend it for one day, to become effective as of June 2, 1985, subject to refund.

Based on our review of the company's proposed transmission agreement filed in Docket No. ER81-521-000, we find that the proposed rates will not produce excessive revenues. The proposed transmission rate is on file in other KG&E rate schedules. Further, Cities do not state what specific relief they seek and simply request consolidation with KG&E's ongoing rate case. While it is true that KEPCO will receive its ownership share of low cost test energy, and that such low cost test energy may give KEPCO a competitive advantage over Cities, this simply reflects the fact that KEPCO has assumed the cost and risk of constructing 6% of Wolf Creek. Under these circumstances, no reasonable grounds appear to warrant a hearing in this docket. Accordingly, we shall accept the transmission agreement for filing, without suspension or hearing, to become effective June 1, 1985.

We find that common questions of law and fact may be presented in Docket Nos. ER85-521-000 and ER 85-461-000. As a result, we shall consolidate those dockets for purposes of hearing and decision.

The Commission orders:

(A) Summary disposition is hereby ordered with respect to the required reduction of Wolf Creek investment cost by the additional revenues that will be collected due to the modified fuel adjustment clauses. KG&E shall file revised fuel clauses reflecting the offset in the final compliance rates at the conclusion of this proceeding.

(B) KG&E's request for waiver of § 35.14 of the Commission's regulations is hereby granted.

(C) KG&E's request for waiver of the notice requirements is hereby granted.

(D) KG&E is hereby ordered to file within thirty (30) days of the date of issuance of this order or the end of the testing of Wolf Creek, whichever is later, the accounting entries made to effect its treatment of test power, including a detailed explanation of the derivation of all figures.

(E) KG&E's proposed rates, as modified by summary disposition, in Docket No. ER85-521-000 are hereby accepted for filing and suspended for one day, to become effective June 2, 1985, subject to refund.

(F) KG&E's proposed transmission agreement in Docket No. ER85-522-000 is hereby accepted for filing without suspension or hearing to become effective June 1, 1985.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of KG&E's rates in Docket No. ER85-521-000.

(H) Docket Nos. ER85-521-000 and ER85-522-000 are hereby terminated. The evidentiary proceedings established herein are designated as Docket No. ER85-521-001.

(I) Docket No. ER85-521-001 is hereby consolidated with Docket No. ER85-461-001 for purposes of hearing and decision.

(J) The administrative law judge designated to preside in Docket No. ER85-461-001 shall determine procedures best suited to accommodate consolidation of Docket No. ER85-521-001 with the pending proceeding.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT.—KANSAS GAS & ELECTRIC COMPANY RATE SCHEDULE DESIGNATIONS

DOCKET NO. ER85-521-000

Designation	Other party
(1) Supplement No. 18 to Rate Schedule FPC No. 124.	City of Arcadia.
(2) Supplement No. 17 to Rate Schedule FPC No. 114.	City of Arma.
(3) Supplement No. 15 to Rate Schedule FPC No. 117.	City of Blue Mound.
(4) Supplement No. 14 to Rate Schedule FPC No. 120.	City of Bronson.
(5) Supplement No. 12 to Rate Schedule FPC No. 116.	City of Elsmore.
(6) Supplement No. 17 to Rate Schedule FPC No. 122.	City of Haven.
(7) Supplement No. 16 to Rate Schedule FPC No. 115.	City of La Harpe.
(8) Supplement No. 16 to Rate Schedule FPC No. 125.	City of Mindenmines.
(9) Supplement No. 15 to Rate Schedule FPC No. 118.	City of Moran.
(10) Supplement No. 15 to Rate Schedule FPC No. 123.	City of Mount Hope.
(11) Supplement No. 16 to Rate Schedule FPC No. 119.	City of Mulberry.
(12) Supplement No. 11 to Rate Schedule FPC No. 121.	City of Sevonburg.
(13) Supplement No. 6 to Rate Schedule FERC No. 159.	City of Erie.
(14) Supplement No. 8 to Rate Schedule FERC No. 157.	City of Oxford.
(15) Supplement No. 9 to Rate Schedule FERC No. 135.	City of Oxford.
(16) Supplement No. 10 to Rate Schedule FERC No. 152 (Supersedes Supplement No. 5).	Missouri Public Service Company.
(18) Supplement No. 21 to Rate Schedule FERC No. 151.	Kansas Electric Power Cooperative, Inc.
(19) Supplement No. 21 to Rate Schedule FPC No. 134 (Supersedes Supplement No. 9).	City of Augusta.
(20) Supplement No. 14 to Rate Schedule FERC No. 149 (Supersedes Supplement No. 5).	City of Coffeyville
(21) Supplement No. 14 to Rate Schedule FERC No. 154.	City of Mulvane.
(22) Supplement No. 14 to Rate Schedule FERC No. 153.	City of Neodesha.
(23) Supplement No. 19 to Rate Schedule FERC No. 156 (Supersedes Supplement No. 2).	City of Wellington.
(24) Supplement No. 14 to Rate Schedule FERC No. 155.	City of Winfield.
(25) Supplement No. 7 to Rate Schedule FERC No. 157.	City of Girard.

ATTACHMENT.—KANSAS GAS & ELECTRIC COMPANY RATE SCHEDULE DESIGNATIONS—Continued

Designation	Other party
(26) Supplement No. 12 to Rate Schedule FERC No. 144.	City of Burlington.

DOCKET NO. ER85-522-000

Designation	Description
Kansas Gas & Electric Company Rate Schedule FERC No. 161.	Test Energy Transmission Service Schedule.

[FR Doc. 85-17794 Filed 7-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST81-260-005]

Mustang Fuel Corp. Application for Approval of Revised Rates for Transportation of Gas Pursuant to § 284.123(b)(2) of the Commission's Regulations

July 19, 1985.

Take notice that on May 1, 1985, Mustang Fuel Corporation (Mustang), an Oklahoma intrastate pipeline company, filed in the above-captioned docket an application pursuant to Subpart C of Part 284 of the Commission's regulations for approval of a revised rate for the transportation of natural gas on behalf of El Paso Natural Gas Company (El Paso) in Docket No. CP82-206, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Mustang has proposed to charge El Paso 41.54 cents per Mcf, effective May 1, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17795 Filed 7-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-3-28-000, 001]

Panhandle Eastern Pipe Line Co.; Change in Tariff

July 22, 1985.

Take notice that on July 17, 1985 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Fifty-Second Revised Sheet No. 3-A
Twenty-Ninth Revised Sheet No. 3-B
Thirteenth Revised Sheet No. 3-C.1
Thirteenth Revised Sheet No. 3-C.2
Thirteenth Revised Sheet No. 3-C.3

The proposed effective date of these revised tariff sheets is September 1, 1985.

Panhandle states that these revised tariff sheets reflect a net decrease in the commodity PGA rate adjustment of (20.78¢) per Dt. This adjustment includes: (1) In the projected purchased gas cost a (0.42¢) per Dt. decrease component; (2) a (9.27¢) per Dt. decrease in the surcharge to recover the current deferred account balance at May 31, 1985 and related carrying charges; and (3) an (11.09¢) per Dt. decrease in the surcharge for the current period amortization of the deferred account balance at May 31, 1983, pursuant to Docket No. TA83-2-28-000.

In addition, the revised tariff sheets filed herewith reflect the termination, as of August 31, 1985, of the mechanism whereby customers, under certain conditions, could receive a 14¢ per dt reduction in the gas cost portion of the applicable commodity volume charges for all volumes delivered during the June 1 through August 31, 1985 period, as approved by the Commission's order dated May 31, 1985 in Docket Nos. TA85-2-28-000 and TA85-2-28-001. The customers could elect to participate in the interim reduction by not nominating or participating in the 10% contractual entitlement option provided for in the Commission's omnibus SMP order of September 26, 1984 in Docket No. CI83-269-000, *et al.* In accordance with Ordering Paragraph (B)(5) of the Commission's Order dated May 31, 1985 in Docket No. TA85-2-28-000, Panhandle is reflecting the credit of the full current PGA recovery rate to Account No. 191 for all sales during the June 1, 1985 through August 31, 1985 period in which the interim rate reduction was in effect.

Panhandle has included in this filing projected gas purchase volumes from its suppliers for the six-month period commencing September 1, 1985, as detailed in section 18.2, Schedule A. All projected gas costs for purchases from producer suppliers reflected in this PGA filing have been calculated utilizing the "historical cost" procedures consistent with the requirements of the Commission's PGA regulations.

Panhandle further states that the revised tariff sheets filed herewith also reflect net decreases of ($.01) and (0.14¢) to Panhandle's D_1 and D_2 demand rates, respectively.

Panhandle's previous PGA filing in Docket No. TA85-1-28-000 (March 1, 1985 PGA) included a line-item adjustment which projected a reduction in the cost of gas associated with its ongoing negotiations with its producer-suppliers during that PGA period, with respect to those suppliers that became deregulated at January 1, 1985. The Commission's Order issued February 28, 1985 in Docket Nos. TA85-1-28-000 and TA85-1-28-001, accepted this adjustment, subject to Panhandle assuming the risk of any undercollection that might result and the burden of showing why it should be permitted to recover any such undercollection. Panhandle acknowledges that the undercollection at-risk condition imposed by the Commission's February 28, 1985 Order remains in effect for the remainder of the March PGA period, that is, through August 31, 1985.

Inasmuch as the instant filing includes only the first 3 months of that period (March-May) Panhandle is unable to determine at this time the full impact of its renegotiation efforts related to this projected cost of gas reduction. Panhandle's next regularly scheduled PGA filing, to be effective March 1, 1986 will include the remaining 3 months of the March PGA period (June-August).

Therefore, Panhandle will be able to demonstrate in its next PGA filing, the effect of its renegotiation efforts and meet the burden of responsibility it has with respect to undercollections that occurred, if any, during the six-month period, when it can review the deferred account activities for the entire March through August 1985 period. The Commission has recognized this PGA timing dichotomy in a recent PGA order, where it reserved decision on the appropriateness of these type costs until it can review the Account No. 191 balances for the entire six-month period.

Trunkline Gas Company (Trunkline) is filing concurrently herewith revised rates in compliance with a letter order issued by the Commission on July 9, 1985 in Docket No. TA84-2-30-003 (PGA84-a). With respect to the pricing of its purchases from Trunkline, Panhandle has, during this PGA period, utilized Trunkline's interim rates which are currently in effect as further described below, subject to the outcome

of Trunkline's Docket No. RP83-93 *et al.* proceeding, and as adjusted for

had estimated (negative $5.4 million as compared to the estimated negative $4.4

protestants parties to the proceeding. Any person wishing to become a party

Washington, D.C. 20426, a motion to

will be considered by it in determining

therein must file a motion to intervene in

VOL 50 ISS 144 JL 26 1985 UMI

of Trunkline's Docket No. RP83–93 *et al.* proceeding, and as adjusted for compliance with the Commission's order of July 9, 1985.

On March 25, 1985 Trunkline filed revised tariff sheets to implement interim reduced rates which rates were approved by the Commission's letter order dated April 10, 1985 in Docket No. RP83–93–006, subject to restoration of the amount of the reduction if the Stipulation and Agreement in Docket No. RP83–93 (Phase I), *et al.* is disapproved or withdrawn. Accordingly, the reflection of Truckline's interim rates in the instant Panhandle PGA filing is dependent upon and coextensive with the duration of the interim Truckline rate reduction, and the outcome of Truckline's Docket No. RP83–93 proceeding.

Panhandle has also included in this filing a continuation of the three-year amortization of the deferred account balance at May 31, 1983 as approved in Docket No. TA83–2–28–000. Consistent with the Commission's Order dated August 31, 1983, Opinion No. 223 dated June 1, 1984, and Order on Rehearing dated July 25, 1984, no carrying charges on the amortized deferred account have been included herein. On September 11, 1984 Panhandle filed for court review of the Commission's Orders dated June 1, 1984 (Opinion No. 223) and July 25, 1984. This filing is being made without prejudice to Panhandle's claims as stated in its request for court review.

In accordance with the Commission's Order dated February 28, 1984 in Docket No. TA84–1–28–002 (March 1, 1984 PGA) Panhandle flowed-through during the twelve-month period ending February 28, 1985, refunds provided for in Article V, Section 4 of the Stipulation and Agreement in Docket No. RP82–58, which related to the Tax Normalization and related issues in Docket No. RP78–62 (Remand) and RP80–78.

In Docket No. TA85–1–28–000, *et al.* (March 1, 1985 PGA) Panhandle reflected the transfer of the estimated negative remaining balance at February 28, 1985 of approximately $4.4 million related to the tax normalization refund in Sub-Account 191.1008, to Sub-Account 191.1009. The Commission's Order dated February 28, 1985 accepted Panhandle's proposal but (1) required Panhandle to adjust its refund sub-account to reflect actual sales during the last three months of the amortization period and (2) required Panhandle to assume the risk of any underrecovery of its gas cost associated with this proposal.

Panhandle submits that since the actual balance at February 28, 1985 in Sub-Account 191–1008 was less than it had estimated (negative $5.4 million as compared to the estimated negative $4.4 million) that no undercollection occurred, due to the fact that the actual sales for the December 1984 through February 1985 were lower than the projected sales volumes. In accordance with the Commission's Order dated February 28, 1985, Panhandle has reflected in the instant filing the transfer of the actual negative remaining balance of approximately $5.4 million in Sub-Account 191.1008 to Sub-Account 191.1009. Likewise, the actual associated carrying charge balance has been transferred to the appropriate current sub-account.

Additionally, the revised tariff sheets filed herewith reflect Projected Incremental Pricing Surcharges in accordance with section 21 of the General Terms and Conditions of Panhandle's tariff.

In accordance with section 18 of the General Terms and Conditions of its tariff, Panhandle has estimated sales volumes for the six-month period, September 1, 1985 through February 28, 1986. A tabulation of these estimated sales volumes for the six-month period beginning September 1, 1985 is submitted herewith in section 18.2.

Panhandle's Schedule A included herein reflects costs under the Commission's Order No. 94–A for gas to be acquired by Panhandle during the six-month period commencing September 1, 1985. Panhandle will supply to the Commission within thirty days hereof, under separate cover, additional workpapers containing the information required under section 271.1104(f) of the Commission's Regulations for production-related costs reflected in this filing.

To the extent required, if any, Panhandle requests that the Commission grant such waivers as may be necessary for the acceptance of the tariff sheets submitted herewith to become effective September 1, 1985.

Copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 1, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17796 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ST80–7–002, et al.]

Southwestern Gas Pipeline, Inc., et al.; Extension Reports

July 19, 1985

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. The following symbols are used for transactions pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations: a "G(HT)", "G(HS)" or "G(HA)", respectively, indicates transportation, sale or assignments by a Hinshaw pipeline; a "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before August 19, 1985, file with the Federal Energy Regulatory Commission,

Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the associate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date [1]
ST80–7–002	Southwestern Gas Pipeline, Inc., P.O. Box 4000, The Woodlands, TX 77387.	Natural Gas Pipeline Co. of America	06–21–85	C	10–01–85	
ST82–10–002	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001.	Bay State Gas Co.	05–27–85	B	10–01–85	
ST82–164–002	Seagull Energy Corp., 1001 Fannin, Houston, TX 77002	El Paso Natural Gas Co	06–19–85	C	10–08–85	
ST82–298–002	Pacific Gas Transmission Co., 245 Market St., San Francisco, CA 94105.	Pacific Interstate Transmission Co.	06–24–85	G	10–01–85	
ST83–620–001	Arkansas Western Gas Co., P.O. Box 1408, Fayetteville, AR 72702.	Natural Gas Pipeline Co. of America	06–28–85	C	10–03–85	
ST83–728–001	Florida Gas Transmission Co., P.O. Box 1188, Houston, TX 77001.	Winnie Pipeline Co	06–19–85	B	09–19–85	
ST84–44–001	El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79978.	Endevco Pipeline Co	06–25–85	B	09–23–85	
ST84–51–001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001.	Transcontinental Gas Pipe Line Corp	06–19–85	G	09–26–85	
ST84–73–001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001.	Intrastate Gathering Corp	06–27–85	B	10–01–85	
ST84–83–002 [2]	Delta Natural Gas Co., Inc., Rt. 1, Box 30–A, Winchester, KY 40391.	Columbia Gas Transmission Corp	06–28–85	G(HT)	07–01–85	09–26–85

[1] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.
[2] These extension reports were filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.
NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 85–17798 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER85–534–000, et al.]

Southwestern Electric Power Co.; Order Accepting for Filing and Suspending Rates, Denying Waiver, Ordering Summary Disposition, Establishing Hearing Procedures, and Consolidating Dockets

Issued: July 22, 1985.

Before Commissioners: Raymond J. O'Conner, Chairman; A. G. Sousa and Charles G. Stalon.

On May 23, 1985, Southern Power Company (SWEPCO) submitted for filing a proposed rate increase for firm power service to the City of Bentonville, Arkansas (Bentonville).[1] SWEPCO provides service to Bentonville pursuant to a firm power agreement which provides for a formulary rate. Beginning with the in-service date of SWEPCO's Pirkey Unit No. 1, the firm power agreement provides for an annual true-up to recompute the prior year's rate based on actual cost data, including SWEPCO's actual earned return. The rate developed under the true-up will also become the interim rate to be charged until the next true-up. Based on SWEPCO's 1984 data, SWEPCO proposes to increase the common equity component from 15.7% to 18.75%. This would increase revenues by about $136,000. The firm power agreement provides that the revised rates will become effective on the first day of the month following the commercial operation date of SWEPCO's Pirkey Unit No. 1. SWEPCO states that Pirkey Unit No. 1 was placed in commercial operation on January 3, 1985, and, therefore, SWEPCO requests waiver of the notice requirements to permit an effective date of February 1, 1985.

Notice of the filing was published in the **Federal Register** [2] with comments, protests, or motions to intervene due on or before June 25, 1985. No comments were filed.

Discussion

In *Southwestern Electric Power Co.*, Docket No. ER85–468–000, 31 FERC ¶ 61,389 (1985) and *New England Power Co.*, Docket No. ER85–475–000 *et al.*, 31 FERC ¶ 61,378 (1985), we announced that, in the future, we would reject all filings which contain an automatic formula rate for return on common equity. Because SWEPCO's filing in this docket predates our orders in Docket Nos. ER85–468–000 and ER85–4745–000, we shall not reject SWEPCO's submittal in its entirety. However, we shall reject SWEPCO's return formula in this docket and accept for filing a rate which incorporates a fixed return on common equity of 18.75%, the current result of the formula. SWEPCO shall file an appropriate rate schedule within 30 days.

Our review of SWEPCO's submittal indicates that the rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary review indicates that proposed rates may be unjust and unreasonable and may yield substantially excessive revenues, as described in *West Texas*, we would generally impose a maximum suspension. Here, our preliminary review suggests that the rates in this docket may yield substantially excessive revenues. We shall therefore suspend SWEPCO's rates, as modified, for five months.

SWEPCO requests waiver of the notice requirements to permit an effective date of February 1, 1985. In support of the requested waiver, SWEPCO states that it tendered the filing as soon as practicable and that the customer supports the proposed waiver. SWEPCO knew at least by January 3, 1985 (the day the Pirkey Unit No. 1 became operational), that the agreement provided for a revised equity return; however, SWEPCO did not tender its filing until May 23, 1985. Consistent with the Commission's action in Docket Nos. ER85–424–000 and ER85–425–000 [3] we

[1] SWEPCO's submittal is designated as Supplement No. 8 to Rate Schedule FERC No. 60.

[2] 50 FR 24680 (1985).

[3] 31 FERC ¶ 61,286 (1985).

do not find that SWEPCO has demonstrated good cause for waiver

By the Commission.

Kenneth F. Plumb,

petition are on file with the Commission and are available for public inspection.

papers, as ordered by the Commission's

Louisiana Gathering System and the

[Docket No. TA85–4–29–000, 001]

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do not find that SWEPCO has demonstrated good cause for waiver and, therefore, we shall deny the company's request. Accordingly, we shall suspend SWEPCO's rates, as modified by summary disposition, for five months from sixty days after filing to become effective on December 23, 1985, subject to refund.

We find that common questions of law and fact may be presented in Docket Nos. ER85–424–001, ER85–425–001, ER85–468–001, and ER85–534–000. As a result, we shall consolidate this docket with Docket Nos. ER85–424–001, *et al.*, for purposes of hearing and decision.

The Commission orders:

(A) Summary disposition is hereby ordered, as noted in the body of this order, with respect to SWEPCO's proposed equity adjustment mechanism. SWEPCO is hereby ordered to file, within thirty (30) days of the date of this order, a revised rate schedule which establishes a fixed return on common equity of 18.75%.

(B) SWEPCO's request for waiver of the notice requirements is hereby denied.

(C) SWEPCO's proposed rates, as modified by summary disposition, are hereby suspended for five months from sixty days after filing to become effective on December 23, 1985, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of SWEPCO's rates.

(E) Subdocket –000 in Docket No. ER85–534–000 is hereby terminated, and Docket No. ER85–534–001 is assigned to the evidentiary hearing ordered herein.

(F) Docket Nos. ER85–424–001, ER85–425–001, ER85–468–001, and ER85–534–001 are hereby consolidated for purposes of hearing and decision.

(G) The presiding administrative law judge designated to preside in Docket Nos. ER85–424–001, *et al.* shall determine procedures best suited to accommodate consolidation of this docket with the pending proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17797 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP85–30–000]

State of West Virginia, Department of Mines, Oil and Gas Division, Section 108 Determination Consolidated Gas Transmission Corp., W. W. McDonald Land Co. No. 11212 Well, FERC JD No. 84–24582; Petition To Reopen and Vacate Final Well Category Determination and Request To Withdraw

July 22, 1985.

Take notice that on May 16, 1985, Consolidated Gas Transmission Corporation (Consolidated) filed with the Commission pursuant to § 275.205 of the Commission's regulations a petition to reopen and vacate a final well category determination under section 108 of the Natural Gas Policy Act of 1978 for the W. W. McDonald Land Co. No. 11212 well, located in Mingo County, West Virginia, and to withdraw its request for the determination. Notice of West Virginia's section 108 determination was received on March 14, 1984, and became final on April 28, 1984, 45 days following notification, pursuant to section 275.202(a) of the Commission's regulations. Consolidated states that based on production records, no basis exists for the section 108 determination.

The question of whether refunds, plus interest calculated under § 154.102(c) of the regulations, will be required is a matter which will be considered by the Commission in ruling on the subject petition.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, not later than 30 days following publication of the notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17799 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST85–1106–000]

THC Pipeline Co.; Petition for Approval of Fair and Equitable Rate

July 19, 1985.

Take notice that on June 10, 1985, THC Pipeline Company (THC), a Hinshaw pipeline subject to the jurisdiction of the Railroad Commission of Texas, filed in Docket No. ST85–1106–000 a petition pursuant to Subpart C of Part 284 of the Commission's regulations. The petition requests approval of a fair and equitable rate of 13.29 cents per Mcf or 12.9 cents per MMBtu for service under a blanket certificate issued in Docket No. CP85–107–000 for the transportation of natural gas through its system, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17800 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–141–002]

Texas Gas Transmission Corp.; Tariff Filing

July 19, 1985.

Take notice that on July 15, 1985, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Substitute Tariff Sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2, to become effective on November 1, 1985.

The tariff sheets are being submitted, under protest, with supporting work papers, as ordered by the Commission's "Order Accepting for Filing and Suspending Proposed Tariff Sheets Subject to Refund and Conditions, Rejecting Proposed Tariff Sheets and Granting Late Interventions," 31 FERC Para. 61,238. That Order directed Texas Gas to file revised tariff sheets in compliance with the Commission's interpretation of the *North Penn* methodology concerning its claimed working capital allowance for current gas in storage.

Copies of the filing were served upon the intervenors, jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 26, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17801 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP79–411–005]

Transcontinental Gas Pipe Line Corp; Petition To Amend

July 18, 1985.

Take notice that on July 10, 1985, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas, 77251, filed in Docket No. CP79–411–005 a petition to amend further the order issued December 3, 1979, in Docket No. CP79–411, pursuant to section 7(c) of the Natural Gas Act, so as to authorize an additional point of delivery for natural gas transported for the account of Northern Natural Gas Company, a Division of InterNorth, Inc. (Northern), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in Docket No. CP79–411 it was authorized to transport up to 150,000 Mcf of natural gas per day for the account of Northern. Petitioner further states it receives this gas at the interconnection of its Southwest Louisiana Gathering System and the tailgate of the separation plant of U-T Offshore System (UTOS) in Johnson's Bayou, Cameron Parish, Louisiana. Petitioner states that it then delivers equivalent quantities of natural gas for the account of Northern at one or more of the following: (1) The interconnection between the facilities of Petitioner and Northern at Northern's Starks Compressor Station located in Calcasieu Parish, Louisiana; (2) the interconnection between Petitioner and Florida Gas Transmission Company near Vinton, Calcasieu Parish, Louisiana; (3) the interconnection between Petitioner and Houston Pipe Line Company (HPL) at Katy, Waller County, Texas; (4) the interconnection between Petitioner and HPL at Fulshear, Fort Bend County, Texas; and (5) the interconnection between Petitioner and HPL at Bammel, Harris County, Texas. Petitioner states that this gas is purchased by Northern from eleven blocks located offshore Texas and Louisiana. Petitioner states further that this gas is transported to UTOS by High Island Offshore System.

Petitioner states that the proposed amendment will add a further delivery point at the interconnection between Petitioner and Louisiana Resources Company in Johnson's Bayou, Cameron Parish, Louisiana. Petitioner proposes to perform this transportation service under the terms and coditions of its Rate Schedule X–219.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 29, 1985, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or protest, in accordance with the requirements of Rule 214 or Rule 211, respectively, of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Commission's Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17790 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA85–4–29–000, 001]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

July 22, 1985.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on July 17, 1985, tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2. The sheets are proposed to become effective on September 1, 1985 and were filed in accordance with Article X of Transco's "Settlement Agreement As To Rates" approved by Commission order dated July 25, 1984 in Docket No. RP83–137. The revised tariff sheets reflect a "tracking" rate reduction of 0.3¢ per dt in the commodity rate or delivery charge of Transco's sales and long-haul transportation rate schedules.

Article X of the settlement agreement provides for adjustments to Transco's jurisdictional rates to give effect to inclusion in rate base of any decreases in the amount of Transco's outstanding advance payments after March 31, 1984. The rate reduction proposed is occasioned by a decrease of $12,381,587 in the advance payment balance of Transco from that which existed at December 31, 1984.

Transco further states that copies of the instant filing have been mailed to each of its customers, and State Commissions and other parties to Docket No. RP83–137.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 1, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17802 Filed 7–25–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT85–19–000]

First Substitute Forty-Seventh Revised Sheet No. 3–A—March 1, 1985

rates, adjusted to reflect the (1.96¢) per

letters of intent to participate. Listed below are all entities that have at this

Issued at Golden, Colorado, July 18, 1985.

4. In the second column, in the fifth

[Docket No. GT85-19-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

July 19, 1985.

Take notice that on July 15, 1985, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2. The tariff sheets are proposed to be effective August 15, 1985 with the exception of First Revised Sheet No. 233A which is proposed to be effective November 1, 1979.

Transco states that these tariff sheets are being filed in order to update Transco's tariffs by revising the Title Page (designating a new person to whom correspondence in regard to the tariff should be directed), Table of Contents, Preliminary Statement, System Maps, Index of Purchasers, etc. The cover pages of Rate Schedules X-213 and X-225 have been filed to change the name of Carolina Pipeline Company, Inc. to South Carolina Pipeline Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Fderal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 26, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17803 Filed 7-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-30-009]

Trunkline Gas Co.; Change in Tariff

July 22, 1985.

Take notice that on July 17, 1985 Trunkline Gas Company (Trunkline) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Description and Proposed Effective Date

Second Substitute Forty-Sixth Revised Sheet No. 3-A—September 1, 1984

First Substitute Forty-Seventh Revised Sheet No. 3-A—March 1, 1985

These revised tariff sheets are being filed at this time in compliance with a letter order issued by the Commission on July 9, 1985, in Docket No. TA84-2-30-003 (PGA84-a). In the July 9, 1985 order the Commission directed Trunkline to recompute its Deferred Purchased Gas Account (Account No. 191), eliminating an adjustment of $5,638,222 related to an exchange imbalance, and related carrying charges which occurred at the time Trunkline changed the basis of its PGA tariff from a unit of purchase to a unit of sales method.

The revised tariff sheets submitted herewith reflect this adjustment to Account No. 191, and related carrying charges, and are proposed to be effective September 1, 1984 and March 1, 1985, as further described below.

September 1, 1984

The September 1, 1984 revised tariff sheet reflects a reduced PGA rate adjustment of (1.96¢) per Dt. in Trunkline's applicable commodity and one-part rates.

This proposed rate reduction represents a downward revision of the PGA rate adjustment which became effective September 1, 1984 in Docket No. TA84-2-30-000, *et al.*, and is being filed at this time in compliance with the Commission's letter order dated July 9, 1985.

The instant filing reflecting these revisions results in: (1) A (1.95¢) per Dt. decrease in the surcharge to recover the current Deferred Account Balance at May 31, 1984 and (2) a (0.01¢) per Dt. decrease in the related carrying charges.

This change in Trunkline's September 1, 1984 rates also impacts the subsequent change in rates at March 1, 1985, as described below.

March 1, 1985

On March 25, 1985 Trunkline filed revised tariff sheets to implement interim reduced rates which were approved by the Commission's letter order dated April 10, 1985 in Docket No. RP83-93-006, subject to restoration of the amount of the reduction if the Stipulation and Agreement in Docket No. RP83-93 (Phase I), *et al.* is disapproved or withdrawn. Accordingly, the March 1, 1985 revised tariff sheet transmitted herewith is likewise dependent upon and coextensive with, the duration of the interim Trunkline rate reduction and the outcome of Trunkline's Docket No. RP83-93 proceeding.

The March 1, 1985 revised tariff sheet reflects Trunkline's interim settlement rates, adjusted to reflect the (1.96¢) per Dt. reduced PGA rate adjustment described above in connection with Trunkline's September 1, 1984 PGA.

Copies of this filing were served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 31, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17804 Filed 7-25-85; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Parties Indicating Interest in Spring Canyon Pumped Storage Project Arizona; Non-Federal Participation in Proposed Planning Investigation

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Parties Indicating Intent to Participate in Spring Canyon Pumped Storage Project, Arizona, Planning Investigation; Deadline for Letters of Intent.

SUMMARY: In accordance with the March 29, 1985, **Federal Register** notice (50 FR 12622-12623), the Bureau of Reclamation (Bureau) and Western Area Power Administration (Western) held a public information forum to explain the Spring Canyon Pumped Storage Project and the public access on April 23, 1985, at the Showboat Hotel, Las Vegas, Nevada. During the public information forum, Western explained that the public process was to seek to identify additional participants and to identify future needs for peaking power development in the Lower Colorado River Basin. The Bureau explained the planning investigation process and technical details of the proposed project, including the estimated costs. At the April 23 forum, any additional interested parties were asked to submit their letters of intent to participate. Listed below are all entities that have at this time expressed an intent to participate in this project. The planning cost for non-Federal participants is estimated to be $1,500 per megawatt (MW) of specified capacity. A firm estimate of the project planning cost will be developed prior to execution of the planning agreement. Non-Federal entities are expected to fund at least 50 percent of the project planning cost. Each entity will bear a share of such cost in proportion to the amount of capacity specified in its letter of intent. The United States' funding goal is 50 percent of the project planning costs which includes the specified amount of capacity for the United States and United States consideration, not yet determined, for the use of Federal property.

Non-Federal entity	Specified amount of capacity [1] (megawatt)
Arizona Electric Power Cooperative	20
Arizona Public Service Company	100
Citizens Utilities Company	20
Colton, City of	5
Colorado River Commission of NV	15
Imperial Irrigation District	25
Los Angeles Department of Water and Power	150
Nevada Power Company	250
Public Service Company of New Mexico	100
Riverside, City of	30
Salt River Project	200
San Diego Gas & Electric Company	200
Southern California Edison Company	250
Tucson Electric Power Company	200
Wellton-Mohawk Irrigation and Drainage District	5
Total (including U.S.)	1,870

[1] United States specified amount of capacity is 300 MW.

Letters of interest were also received from Electrical District Number One, Electrical District Number Three, and Pacific Gas and Electric Company with no specific levels of participation indicated: therefore, they have not been listed among entities intending to participate.

DATES: Any additional letters of intent to participate must be submitted to the address listed below within 30 days of the publication date of this notice. This will be the final opportunity to participate and failure to file the requested letters of intent will preclude participation.

ADDRESS: Any additional letters of intent to participate should be sent to: Mr. Thomas A. Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 293-8800.

Issued at Golden, Colorado, July 18, 1985.

William H. Clagett,

Administrator.

[FR Doc. 85-17756 Filed 7-25-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51578; TSH-FRL 2860-6]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 85-16143, beginning on page 27845, in the issue of Monday, July 8, 1985, make the folllowing correction:

On page 27846, second column, under the heading **P85-1119**, seventh line, "300,000" should read "30,000".

BILLING CODE 1505-01-M

[OPP-66120; FRL-2861-3]

Certain Pesticide Products; Intent To Cancel Registrations

Correction

In FR Doc. 85-16249, appearing on page 28121, in the issue of Wednesday, July 10, 1985, make the following correction:

In the table in the middle of the page, the entry with Registration No. 655-336, in the Product name column, "Prenton Sulfoxide" should read "Prenton Sulfoxide Technical".

BILLING CODE 1505-01-M

[OPP-30229A; FRL-2852-7]

Glyco Inc.; Approval of Pesticide Product Registrations

Correction

In FR Doc. 85-14866 appearing on page 26408 in the issue of Wednesday, June 26, 1985, make the following corrections:

1. In the first column, in the **SUMMARY**, the fifth line should read:

"Glycoserve™ Lad", which contain active.

2. In the second column, the eighth line should read:

Glycoserve™ and Glycoserve™ Lad.

3. In the second column, in the second paragraph, the second, third and fourth lines should read:

March 8, 1985 for Glycoserve™ (EPA Reg. No. 38906-6) and Glycoserve™ Lad (EPA Reg. No. 38906-5) for uses as a.

4. In the second column, in the fifth paragraph, in the second line, "provide" should read "provides".

5. In the third column, in the third line. "MC No. 2" should read "CM #2".

BILLING CODE 1505-01-M

[OPTS-51581; FRC-2869-8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty PMNs and provides a summary of each.

DATES: Close of Review Period:

P 85-1187, 85-1188 and 85-1189—October 9, 1985.

P 85-1190, 85-1191, 85-1192 and 85-1193—October 12, 1985.

P 85-1194, 85-1195, 85-1196, 85-1197, 85-1198, 85-1199, 85-1200, 85-1201, 85-1202, 85-1203, 85-1204, 85-1205, 85-1206, 85-1207, 85-1208, 85-1209, 85-1210, 85-1211, 85-1212, and 85-1213—October 13, 1985.

P 85-1214 and 85-1215—October 14, 1985.

P 85-1216—October 15, 1985.

Written comments by:

P 85-1187, 85-1188 and 85-1189—September 9, 1985.

P 85-1190, 85-1191, 85-1192 and 85-1193—September 12, 1985.

P 85-1194, 85-1195, 85-1196, 85-1197, 85-1198, 85-1199, 85-1200, 85-1201, 85-1202, 85-1203, 85-1204, 85-1205, 85-1206, 85-1207, 85-1208, 85-1209, 85-1210, 85-1211, 85-1212 and 85-1213—September 13, 1985.

P 85-1214 and 85-1215—September 14, 1985.

P 85-1216—September 15, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-51581]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection

Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT:

P 85-1190

Manufacturer. General Electric

Exposure. Manufacture and processing: dermal, a total of 2 workers,

Environmental Release/Disposal. Nil release to air with 1 to 2 kg/batch to

Eye—Non-irritant; Ames test: Non-mutagenic; Skin sensitization: non-

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg;

Agency, Rm. E-201, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

P 85-1187

Manufacturer. Confidential.
Chemical. (S) Polymer of di propylene glycol, 1,3 butylene glycol, tetra hydro phthalic anhydride, dibutyl tin oxide.
Use/Production. (G) Polymer for coating metal parts. Prod. range: 14,500-20,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 3 hrs/da, up to 7 da/yr.
Environmental Release/Disposal. 20 kg/batch incinerated and disposed of by landfill and publicly owned treatment works (POTW).

P 85-1188

Manufacturer. Confidential.
Chemical. (G) Substituted bis phenyl isobenzofuranone.
Use/Production. (G) Captive intermediate used in manufacturing a minor component for paper coatings. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Disposal by POTW.

P 85-1189

Manufacturer. Allied Corporation.
Chemical. (S) 2-Butanone, O,O'-(ethenyl methyl silylene(dioxime, (E-Z).
Use/Production. (S) Chain extender for silicone polymers used in industrial and construction applications. Prod. range: Confidential.
Toxicity Data. Acute oral: Between 2.0 and 3.0 mL/kg; Acute dermal: Between 0.5 and 2.0 mL/kg; Irritation: Skin—Severe, Ames Test: Negative; Skin sensitizer: Extreme sensitizer.
Exposure. Manufacture: dermal, a total of 8 workers, up to 8 hrs/da, up to <40 da/yr.
Environmental Release/Disposal. No release.

P 85-1190

Manufacturer. General Electric Company.
Chemical. (G) Reaction of products of polycarbonate and poly(butadiene styrene).
Use/Production. (S) Automotive, electrical appliances, business machines and other. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Release to land. Disposal by local, state and federal regulations.

P 85-1191

Manufacturer. Confidential.
Chemical. (G) Epoxy amine polymer.
Use/Production. (S) Component of matrix resin and adhesive for structural composites. Prod. range: Confidential.
Toxicity Data. Acute oral: Low order; Acute dermal: Low order; Irritation: Skin—Mild, Eye—Mild.
Exposure. Confidential.
Environmental Release/Disposal. 0.5 kg/batch released to air and land. Disposal by incineration and approved landfill.

P 85-1192

Manufacturer. Confidential.
Chemical. (G) Amine epoxy polymer.
Use/Production. (S) Component of matrix resin for manufacture and adhesives for structural composites. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. 0.5 kg/batch released to air and land. Disposal by incineration and approved landfill.

P 85-1193

Manufacturer. Confidential.
Chemical. (G) Epoxy amine polymer.
Use/Production. (S) Component of matrix resin and adhesive for structural composites. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. 0.5 kg/batch released to air and land. Disposal by incineration and approved landfill.

P 85-1194

Manufacturer. Essex Specialty Products, Inc.
Chemical. (G) Silylated isocyanate functional aliphatic polyurea lacquer.
Use/Production. (S) Site-limited intermediate for use in polymer in coating manufacture. Prod. range: 7,500-20,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 4 hrs/da.
Environmental Release/Disposal. No release.

P 85-1195

Manufacturer. Essex Specialty Products, Inc.
Chemical. (G) Partially silylated aliphatic isocyanate oligomer.
Use/Production. (S) Site-limited intermediate for use in polymer in coating manufacture. Prod. range: 1,125-3,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 4 hrs/da.
Environmental Release/Disposal. No release.

P 85-1196

Manufacturer. Essex Specialty Products, Inc.
Chemical. (G) Amino functional polysilane adduct.
Use/Production. (S) Site-limited intermediate for use in polymer in coating manufacture. Prod. range: 5,850-15,600 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 4 hrs/da.
Environmental Release/Disposal. No release.

P 85-1197

Manufacturer. Essex Specialty Products, Inc.
Chemical. (G) Hydroxyl terminated silylated isocyanate functional alipbatic polyurea lacquer.
Use/Production. (S) Industrial polymer for use in coating manufacture. Prod. range: 15,000-40,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 4 hrs/da.
Environmental Release/Disposal. No release.

P 85-1198

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Amine functional acrylic terpolymer.
Use/Production. (S) Industrial curing agent for epoxy coatings, fiberglass reinforced plastics, adhesives and flooring. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 10 workers, up to 3 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. Nil release to air with 1 to 2 kg/batch to land. Disposal by incineration and landfill.

P 85-1199

Manufacturer. Spencer Kellogg Division of Textron, Inc.
Chemical. (G) Polyurethane prepolymer resin.
Use/Production. (G) A polyurethane prepolymer resin to be used in an open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 85-1200

Manufacturer. Confidential.
Chemical. (S) 1,3 bis-(dimethyl stearyl ammonium chloride)-2-propanol.
Use/Production. (S) Consumer ingredient to be used in formulating conditioners for animal fur and an industrial specialty fabric softener. Prod. range: 50,000-1,500,000 kg/yr.
Toxicity Data. Irritation: Skin—Non-irritant, Eye—Mild.
Exposure. Manufacture: dermal, a total of 10 workers, up to 3 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. 50 kg/batch released to water. Disposal by POTW.

P 85-1201

Manufacturer. The Dow Chemical Company.
Chemical. (G) Cationic latex.
Use/Production. (G) Pigment/fiber binder. Prod. range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Moderate; 48 hr (Daphnid): 160 mg/L; 96 hr (Fathead minnow): 19 mg/L.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. Release to air and water. Disposal by incineration and navigable waterway after treatment.

P 85-1202

Manufacturer. Fritzsche Dodge and Olcott Inc.
Chemical. (S) 2-Naphthalenecarboxaldehyde, 5, 6, 7, 8-tetrahydro-1-methoxy-3, 5, 5, 8, 8-pentamethyl-.
Use/Production. (S) A consumer component of fragrance compounds which may find end use in household chemicals such as dish washing and laundry detergents, air fresheners, etc. Prod. range: 450-2,250kg/yr.
Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Not a primary irritant, Eye—Non-irritant; Ames test: Non-mutagenic; Skin sensitization: non-sensitizer; Maximization test: Non-irritant/non-allergic; Phototoxicity test: Non-phototoxic; Photo maximization assay: Non-allergic.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1203

Manufacturer. Fritzsche Dodge and Olcott Inc.
Chemical. (S) 1-Cyclopentene-1-propanol, beta, beta, 2-trimethyl-5-(1-methylethenyl)-, propanoate.
Use/Production. (S) A consumer component for fragrance compounds which may find end use in household chemicals such as dish washing and laundry detergents, air fresheners, etc. Prod. range: 450-2,250 kg/yr.
Toxicity Data. Acute oral: >5,000 g/kg; Irritation: Skin—Slight, Eye—Slight.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1204

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (S) Site-limited and industrial coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1205

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (S) Site-limited and industrial coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1206

Manufacturer. Confidential.
Chemical. (G) Blocked isocyanate homopolymer.
Use/Production. (S) Site-limited and industrial coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1207

Importer. Confidential.
Chemical. (G) [Bis(alkylphenylamino)-(xanthenyl)-isobenzofuranone][(alkylimidazolyl)methyl] deriv., (mixed salts).
Use/Import. (S) Paper dye. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Irritant, Eye—Practically non-irritant; Ames test: Weak mutagenic; LC_{50} 96 hr (Golden orfe): 147 mg/L.
Exposure. Use: a total of 4 workers, up to 3-4 hrs/da, up to 4-5 da, 6 times yr.
Environmental Release/Disposal. No data submitted.

P 85-1208

Importer. Confidential.
Chemical. (G) Cobalt acylate complex.
Use/Import. (G) Rubber bonding agent. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 85-1209

Importer. Confidential.
Chemical. (G) Cobalt acylate complex.
Use/Imports. (G) Rubber bonding agent. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 85-1210

Manufacturer. Chem-Fleur.
Chemical. (S) Benzoic acid, 2-[(3a,4,5,6,7,7a-hexahydro-5(or 6) methoxy-4,7-methanoindan)-methylidene] amino, methyl ester.
Use/Production. (S) An industrial and consumer aroma chemical for fragrances. Prod. range: 500-2,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 2 da/yr.
Environmental Release/Disposal. 10 to 20 kg/batch released to water. Disposal by POTW.

P 85-1211

Manufacturer. Chem-Fleur.
Chemical. (S) Benzoic acid, 2-(3-phenyl, butyidene) amino, methyl ester.
Use/Production. (S) An industrial and consumer aroma chemical for fragrances. Prod. range: 500-2,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 2 da/yr.
Environmental Release/Disposal. 10 to 20 kg/batch released to water. Disposal by POTW.

P 85-1212

Manufacturer. Chem-Fleur.

Chemical. (S) Benzoic acid, 2-[3-(4-methyl, cyclohex-3-

Toxicity Data. Acute oral: 5 g/kg; Irritation: Skin—Not a primary irritant,

Monday through Friday, excluding legal holidays.

Dated: July 19, 1985.
V. Paul Fuschini,

initiate a proceeding for the issuance, amendment, or repeal of a rule under

Agency denied the petition, it indicated

Chemical. (S) Benzoic acid, 2-[3-(4-methyl, cyclohex-3-enyl)butylidene]amino, methyl ester.
Use/Production. (S) An industrial and consumer aroma chemical for fragrances. Prod. range: 500–5,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 2 da/yr.
Environmental Release/Disposal. 10 to 20 kg/batch released to water. Disposal by POTW.

P 85–1213

Manufacturer. Confidential.
Chemical. (G) Polyurethane dispersion.
Use/Production. (G) An additive used in the building and construction industry. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 1 worker, up to 3 to 4 hrs/da.
Environmental Release/Disposal. 25 kg/day released to washout. Disposal by city sewer system.

P 85–1214

Manufacturer. Confidential.
Chemical. (G) Further clarification needed before information can be released to the public file.
Use/Production. (G) Intermediate reacted in another resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1215

Manufacturer. Confidential.
Chemical. (G) Further clarification needed before information can be released to the public file.
Use/Production. (S) Binder for transparent wood finishes. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1216

Manufacturer. J. M. Huber Corporation.
Chemical. (S) Silicon monoxide.
Use/Production. (S) Industrial strength reinforcing agent in organic and inorganic composite materials (e.g., plastics, metals, and ceramics) and in paints and coatings (e.g., field applied structural coatings, marine coatings, and heavy equipment coatings) and papers, felts and mats of compacted whiskers (e.g., filter media and preforms for production of composits). Prod. range: 72,000–185,000 kg/yr estimated.
Toxicity Data. Acute oral: 5 g/kg; Irritation: Skin—Not a primary irritant, Eye—Not a primary irritant; Inhalation: 0.172 g/m³.
Exposure. Manufacture: inhalation, a total of 18 workers, up to 4.5 hrs/da, up to 225 da/yr.
Environmental Release/Disposal. 1.1 to 11 kg/da released to air. Disposal by approved landfill.

Dated July 19, 1985.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 85–17764 Filed 7–25–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59724; FRL–2869–7]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of four such PMNs and provides a summary of each.

DATES: Close of Review Period:
Y 85–109—August 1, 1985.
Y 85–110 and 85–111—August 4, 1985.
Y 85–112—August 5, 1985.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M St., SW., Washington, DC 20460, (202–382–3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 85–109

Manufacturer. Confidential.
Chemical. (S) Polymer of: isophthalic acid, terephthalic acid, adipic acid, ethylene glycol, neopentyl glycol, 1,6 hexanediol and dibutyl tin oxide.
Use/Production. (G) Polymer for industrial metal costings. Prod. range: 90,000–180,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 3 hrs/da, up to 15 da/yr.
Environmental Release/Disposal. Released to air and land. Disposal by publicly owned treatment works (POTW) with 20 kg/batch incinerated.

Y 85–110

Manufacturer. The Upjohn Company.
Chemical. (G) Polyurethane resins.
Use/Production. (G) Industrial thermoplastic resin, Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation, a total of 4 workers.
Environmental Release-Disposal. Less than 20 kg released to land. Disposal by sanitary landfill.

Y 85–111

Importer. Huels Corporation.
Chemical. (G) Unsaturated polyester resin from dibasic acids and polyol.
Use/Import. (S) Industrial coatings and adhesives. Import range: 30,000–150,000 kg/yr.
Toxicity Data. Acute oral: (Male and female)—> 5,000 mg/kg. Irritation: Skin—Slight, Eye—Non-irritant; Ames test: Non-mutagenic.
Exposure. Processing and nse: dermal, inhalation and ocular.
Environmental Release/Disposal. No release.

Y 85–112

Manufacturer. Confidential.
Chemical. (G) Ethylene olefin terpolymer.
Use/Production. (G) Polymer compound for wire and cable jacketing, drip irrigation tubing and for miscellaneous industrial tubing. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation, a total of 30 workers, up to 8 hrs/da, up to 188 da/yr.
Environmental Release/Disposal. No release.

Dated: July 19, 1985.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 85–17762 Filed 7–25–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–211014A; FRL 2858–8]

Testing Requirement Rule for Certain Toxic Chemical Substances and Mixtures Found in Southeast Chicago Denial of Citizens' Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Denial of Citizens' Petition.

SUMMARY: This notice announces the decision of the Administrator of the Environmental Protection Agency to deny a citizens' petition filed under section 21 of the Toxic Substances Control Act (TSCA). Two groups, Citizens for a Better Environment and Irondalers Against the Chemical Threat, have petitioned EPA to issue a rule under section 4 of TSCA, requiring the scientific testing of certain toxic chemical substances and mixtures, which have been identified as environmental pollutants in Southeast Chicago, for their combined health and environmental effects.

FOR FURTHER INFORMATION CONTACT:
Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460. Toll-free: (800–424–9065). In Washington, D.C.: (544–1404). Outside the USA: (Operator–202–554–1404).

In EPA Region V, contact:
Mitchell J. Wrich, Chief, Toxic Materials Branch (5HT–16), Environmental Services Division, U.S. Environmental Protection Agency, Rm. 1680, 230 South Dearborn St., Chicago, Illinois 60604, (312) 353–2192.

ADDRESS: A copy of the petition and all related information, under docket number OPTS–211014A, is located in: Rm. E–107, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

This material is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2620 (a) and (b), provides that any person may petition the Administrator of EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under various sections of the Act. The Administrator may hold a public hearing or may conduct such investigation or proceeding as he deems appropriate in order to determine whether or not the petition should be granted. If the Administrator grants the petition, the Agency must promptly commence an appropriate proceeding. If the Administrator denies the petition, the reasons for denial must be published in the **Federal Register.** The petitioner may commence a civil action in a district court of the United States to compel the Administrator to initiate a rulemaking proceeding as requested in the petition. Any such civil action shall be filed within 60 days after the Administrator's denial of the petition or, if the Administrator fails to grant or deny the petition within 90 days after the petition is filed, within 60 days following expiration of the 90-day response period.

On July 17, 1984, EPA received a citizens' petition, under section 21 of TSCA, from Robert Ginsburg, Ph.D. (representing Citizens for a Better Environment) and Mary Ellen Montes (representing Irondalers Against the Chemical Threat). The petitioners requested that the Administrator (1) issue a rule under section 4(f)(2) and/or section 6(a) of TSCA, "to remedy the unreasonable risk of injury to health and the environment in the Southeast portion of the City of Chicago;" (2) prior to issuing a rule, conduct a "full field investigation" to determine the immediate and cumulative health effects of multiple toxic substances from multiple sources in air, land, and water in the Southeast Chicago area; and (3) use the authorities of TSCA "to assess and remedy the overall impact on public health and safety from the combined effects of exposure to the different pollutants," instead of "piecemeal enforcement and regulatory actions taken under other Federal statutes. . . ."

EPA issued a notice denying the petition which was published in the **Federal Register** of October 31, 1984 (49 FR 43764). The principal basis for the denial was that the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act can adequately address the issues raised by the petition and that these other acts are more appropriate than TSCA to address the majority of the environmental pollution problems caused by toxic chemicals in the Southeast Chicago area. Although the Agency denied the petition, it indicated in the administrative record that various environmental investigations would be undertaken to address the petitioners' concerns.

On April 23, 1985, EPA received another citizens' petition under section 21 of TSCA from the petitioners indicated above. This section petition presented five specific requests:

1. The petitioners requested that the Administrator determine the name and nature of business of each person and business entity in the Southeast Chicago area whose business includes the manufacture, distribution in commerce, processing, use or disposal of any one or more of the following "Identified Substances" detected in the air, water, and land of the area: coke oven emissions, benzene, chromium, arsenic, cadmium, nickel, toluene, xylene, acetone, copper, and lead.

2. The petitioners requested that the Administrator compel the persons and business entities identified above, to commence testing of the Identified Substances and such other chemical substance and mixtures, as soon as practicable, which testing shall include the following environmental and health effects:

(1) The cumulative effect over an extended period of time, of each Identified Substance individually and in combination with every other Identified Substance (i.e., benzene alone; benzene with chromium; benzene with chromium and arsenic, etc.);

(2) The synergistic/antagonostic effect of each Identified Substance in combination with every other Identified Substance, occurring at one time;

(3) The effect of multi-media exposure to each of the Identified Substances individually, and in combination with every other Identified Substance;

(4) The cumulative, synergistic/antagonistic and multi-media effect, as set forth above, for each and every other chemical substance and mixture which may create an unreasonable risk of injury to the residents' health or their environment, as determined by the Administrator, individually and in combination with each and every other Identified Substance and such other chemical substances and mixtures; and

(5) All other health and environmental effects set forth at section 4(b)(2)(A) of each of the Identified Substances and such other chemical substances and mixtures as so determined by the Administrator, individually and in combination with each and every other Identified Substance and such other chemical substances and mixtures.

3. The petitioners requested that the Administrator set reasonable deadlines

for the completion of all the environmental investigations resulting

summarize the present knowledge on the toxicity and testing of chemical

2. The public record for the previous

Resource Mgmt. Plan, Bitterroot.

requested that mitigation measures

for the completion of all the environmental investigations resulting from their first petition and of all other actions EPA may take as a result of the current petition.

4. The petitioners requested that the Administrator allow public participation and input with regard to any proposals resulting from the current petition and any actions undertaken as a result of their first petition.

5. The petitioners also requested "[t]hat the Administrator establish such other and further rules and orders as may be allowed under the Act which the Administrator deems appropriate to expeditiously result in the reduction of the health and environmental risks affecting this community."

II. The Administrator's Decision

EPA is denying this petition under section 21 of TSCA for the following reasons:

In order to issue a testing requirement rule under section 4 of TSCA, the Agency must specify standards for the development of the test data. These standards, which must be included in each testing requirement rule issued under section 4(a) of TSCA, are to be issued in order to assure that the resulting test data are "reliable and adequate" (See section 3(12)(B) of TSCA). However, no such standards exist at present for the testing of multiple chemicals for their toxicological interactions, and the state of the art in this area is insufficient for prescribing how the testing which the petitioners request should be conducted, or for assuring that the test data be reliable and adequate.

The Agency is aware of the importance of considering the potential added health and environmental risks posed by multiple chemical exposures, and has ongoing and planned activities to address this area of concern. EPA invited public comments on its "Proposed Guidelines for the Health Risk Assessment of Chemical Mixtures," as published in the **Federal Register** of January 9, 1985 (50 FR 1170). These guidelines, which are expected to be published in final form in the summer of 1985, will be useful for the assessment of cumulative risks posed by mixtures of toxic chemicals such as the ones cited by the petitioners; however, the available toxicity information for mixtures on which the guidelines are based does not allow for the estimation of synergistic or antagonistic effects. Following the recent review of these proposed guidelines by EPA's Science Advisory Board, a comprehensive technical support document is being prepared which will discuss and summarize the present knowledge on the toxicity and testing of chemical mixtures.

An ongoing major EPA research project, the Integrated Air Cancer Project, involves the performance of short-term mutagenicity and animal carcinogenicity tests on ambient air samples collected from simple and subsequently more complex air sheds. This effort will identify airborne carcinogens, determine which emission sources are the major contributors of carcinogens to ambient air, and improve the estimate of comparative human cancer risk from specific air pollution emission sources. Another long-range EPA research project, the Strategy for Assessment and Control of Complex Pollutant Mixtures, is still in the early planning stage and is being considered for funding; it is designed to develop and validate an approach for assessing and predicting potential health and ecological effects from complex pollutant mixtures and interactions. In a 1984 report to Congress, the National Advisory Environmental Health Sciences Council made recommendations on the research needs concerning multiple chemical exposures and toxicological interactions. (National Advisory Environmental Health Sciences Council. 1984. Report of the Third Task Force for Research Planning in Environmental Health Science. A Report to the Committee on Appropriations, United States House of Representatives, dated December 1984.) The report highlighted the many complexities of toxicological interactions and emphasized the need for "an orderly, systematic research approach with frequent analysis and redirection." The Agency believes that its research program addressing multiple chemical exposures is consistent with these recommendations.

In addition to requesting the issuance of testing requirement rules for multiple chemicals in combination with each other, the petitioners requested that EPA compel the testing of each of the 11 "Identified Substances" individually. This part of the petitioners' request is denied because the toxicological properties of these 10 substances and 1 mixture (coke over emissions) are already well documented, and therefore regulatory decisions concerning them can be made without requiring further testing.

For a number of reasons, EPA is also denying the petitioners' request concerning the identification of businesses in the Southeast Chicago area which are the sources of the 11 "Identified Substances." First, as the petition indicates, the Illinois Environmental Protection Agency (IEPA) has already identified 44 local businesses which emit pollutants into the air in the area of Southeast Chicago. Also, in response to that previous petition, EPA stated that it would conduct a variety of environmental investigations, including preparation of an inventory of probable emission sources. EPA Region V, together with EPA Headquarters staff, has initiated its effort to develop an emissions inventory for Southeast Chicago. The petitioners are invited to meet with EPA Region V staff to discuss this ongoing project.

The petitioners' requests for the setting of "reasonable deadlines" and for public participation are denied because those activities are not subject to petition under section 21 of TSCA, which states that "[a]ny person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 6, or 8 or an order under section 5(e) or 6(b)(2)." Although the setting of deadlines and the allowing of public participation are not among the enumerated petitionable items under section 21, the Agency invites the petitioners to meet with officials of EPA Region V in Chicago to discuss the progress of the various environmental investigations being undertaken as a result of their first petition. Also, the petitioners are invited to provide input with regard to the research efforts directed toward assessing the risks posed by multiple chemical exposures.

Concerning the petitioners' request for "such other and further rules and orders as may be allowed under the Act," EPA believes that the petitioners' concerns are being addressed by actions under the authority of statutes other than TSCA, as explained in the Agency's response to the first petition concerning Southeast Chicago (49 FR 43764).

III. Public Record

EPA has established a record for the decision denying this citizens' petition under section 21 of TSCA (docket control number OPTS-211014A). This record, along with a complete index, is available for inspection in the OTS Public Information Office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. E-107, 401 M St., SW., Washington, D.C. 20460. The public record contains basic information considered by the Agency in reaching this decision and includes:

1. This notice and the citizens' petition to which it responds.

2. The public record for the previous citizens' petition by the same petitioners.

3. Records of communications between EPA personnel concerning the development of the Agency's response to this petition.

4. Reports on the toxicological properties of the 11 "Identified Substances" cited in the petition.

Dated: July 18, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85-17761 Filed 7-25-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2870-2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 8, 1985 through July 12, 1985 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D-AFS-E65033-FL, Rating LO, Florida Nat'l Forests, Land and Resource Mgmt. Plan, FL. **SUMMARY:** EPA has no objections to the implementation of the preferred plan.

ERP No. D-AFS-E65034-AL, Rating LO, Alabama Nat'l Forests, Land and Resource Mgmt. Plan, AL. **SUMMARY:** EPA's review concludes that the proposed alternative is consistent with good environmental practices. Therefore, EPA lacks objection to the proposal as outlined.

ERP No. D-AFS-J61065-MT, Rating EC2, Hyalite-Porcupine Buffalo Horn Wilderness Study Areas, Designation and Mgmt., Gallatin Nat'l Forest, MT. **SUMMARY:** EPA is concerned with possible water quality degradation and soil erosion if the preferred alternative or any alternative involving timber harvesting and road construction is selected. Insufficient information has been provided to evaluate the impact of alternatives involving timber harvesting and road construction on water quality and soil erosion.

ERP No. D-AFS-J61066-00, Rating EC2, Blue Joint and Sapphire Montana Wilderness Study Act Areas, Land and Resource Mgmt. Plan, Bitterroot, Deerlodge and Salmon Nat'l Forests, MT and ID. **SUMMARY:** EPA is concerned with possible water quality degradation and soil erosion. Insufficient information is available to evaluate the impact of alternatives involving timber harvesting and road construction on these two environmental concerns.

ERP No. D-AFS-J65136-00, Rating EC2, Bitterroot Nat'l Forest, Land and Resource Mgmt. Plan, MT and ID. **SUMMARY:** EPA is concerned because the proposed alternative calls for an approximate ten percent increase in sediment production potential over baseline. EPA is concerned that unacceptable water quality degradation and soil erosion may occur. EPA believes a water quality monitoring and environmental impact evaluation effort should be included as part of the cost of harvesting timber and/or road construction.

ERP No. D-AFS-J65137-MT, Rating EC2, Gallatin Nat'l Forest, Land and Resource Mgmt. Plan, MT. EPA believes that the DEIS/Plan does not provide specific procedures to achieve water quality standards or describe monitoring practices to demonstrate compliance or identify problems. EPA also believes that the soil and water monitoring budget to evaluate water quality problems, verify compliance with water quality standards, and evaluate Best Management Practice (BMP) effectiveness is insufficient to ensure that unacceptable impacts are avoided. A four percent sedimentation rate increase forest wide is projected if the preferred alternative is implemented. EPA is concerned about the water quality impact of this sediment increase.

ERP No. D-BLM-J70002-WY, Rating EC2, Kemmerer Resource Area, Resource Mgmt. Plan, WY. **SUMMARY:** EPA's review has identified several concerns and recommendations for management as identified activities in relation to water quality standards, air quality, riparian and wetland areas, ground water, and rangeland ecosystem, and soils. A concern for fisheries and stream improvements has been expressed. additionally, EPA has requested additional impact analyses, and further description of BLM resource management requirements, resource conditions, best management practices, watershed planning, monitoring, and intergovernmental/public coordination.

ERP No. D-COE-C36058-NY, Rating LO, Saw Mill River Basin Flood Control Project, Construction, Nepera Park, NY. **SUMMARY:** EPA's review of the DEIS did not identify any potential environmental impacts requiring substantive changes to the preferred alternative. EPA requested that mitigation measures proposed in the DEIS be implemented to the greatest extent practicable and that measures to control turbidity in the river be employed in order to reduce potential environmental impacts to water quality from trace levels of toxic pollutants.

ERP No. D-COE-E30032-FL. Rating EC2, Palm Beach County Beach Erosion Control Project, FL. **SUMMARY:** EPA's review concludes that the potential for significant short- and long-term water quality degradation due to depositing fine textural material on a high energy shore face is one of the most obvious environmental concerns. EPA has some environmental concerns with the selection of borrow sites and requests additional information on same for evaluation as soon as it becomes available.

ERP No. D-COE-K36084-CA, Rating EO2, Lower San Joaquin River and Tributaries Flood Control, Channel Clearing and Modification, CA. **SUMMARY:** The EPA review identified potentially significant impacts to riparian habitat, fish, wildlife and water quality. EPA recommended mitigation to alleviate these potential impacts.

ERP No. RD-NOA-A91053-00, Rating LO, Taking of Marine Mammals Associated With Tuna Purse Seining Operations, 1986 Amendments to Regulations. **SUMMARY:** EPA has reviewed the DEIS and has no comment.

Final EISs

ERP No. F-AFS-F61009-MI, Manistee River Wild and Scenic Area Study, Designation, Manistee Nat'l Forest, MI. **SUMMARY:** EPA's review of the FEIS did not identify any significant environmental impacts requiring changes to the proposed project.

ERP No. FS-BLM-L65039-OR, Josephine and Jackson-Klamath Sustained Yield Units, Ten-Year Timber Mgmt. Plan, OR. **SUMMARY:** EPA made no formal comments. EPA reviewed the FEIS and has no objection to implementation of the preferred alternative as proposed.

ERP No. F-BLM-L65092-ID, Medicine Lodge Resource Area, Resource Mgmt. Plan, ID. **SUMMARY:** EPA made no formal comment. EPA reviewed the FEIS and found it to be satisfactory.

ERP No. F-COE-K30014-HI, Hilo Bayfront Beach Shoreline Improvements Study, HI. **SUMMARY:** The FEIS addresses the concerns EPA raised on the DEIS and adequately assesses the environmental impact of the proposed action.

ERP No. F-FHW-D40153-PA, Exton Bypass Linkage, Coatesville Downington Bypass, and US 202, Construction, PA.

SUMMARY: EPA recommended further study and reevaluation of the selected alternative due to the adverse wetland

Allowable Overdepth Removal and Advance Maintenance, Lake Borgne

September 3, 1985, Published FR 4-19-85—Review extended.

designated area. Public Assistance will be limited to damage resulting from major fires as defined by the Federal

DATE: Plans Received: July 12, 1985.

FEDERAL MARITIME COMMISSION

SUMMARY: EPA recommended further study and reevaluation of the selected alternative due to the adverse wetland impacts. EPA prefers the widen US 30 alternative. The selected alternative must also be reevaluated in consideration of Sec. 404 guidelines.

ERP No. F-FHW-K40144-CA, I-80 At-Grade Access Closure, Pedrick Road and Putah Creek, Construction, CA. **SUMMARY:** The FEIS addressed the concerns EPA raised on the DEIS.

ERP No. F-NRC-C06011-NY, Nine Mile Point Nuclear Station Unit 2, Operating License, Lake Ontario, NY. **SUMMARY:** The FEIS adequately responded to EPA's DEIS comments regarding potential impacts relating to groundwater, air quality, and human health. Radiological aspects were addressed in the FEIS and EPA concurs that the project will not adversely affect the environment. Thus, EPA lacks objections to the issuance of a license to operate this facility. EPA will review the Final Safety Analysis Report to assess NRC's information concerning groundwater aspects of the project.

ERP No. F-SFW-L64029-AK, Izembek Nat'l Wildlife Refuge, Mgmt. and Comprehensive Conservation Plan and Wilderness Review, AK. **SUMMARY:** EPA made no formal comment. EPA reviewed the FEIS and has no objection to implementation of the preferred alternative as proposed.

ERP No. F-UMT-L54002-WA, Downtown Seattle Transit Project, WA. **SUMMARY:** EPA made no formal comment. EPA reviewed the FEIS and found it to be satisfactory and responsive to comments.

Dated: July 23, 1985.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 85-17828 Filed 7-25-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2870-1]

Environmental Impact Statements; Availability

Responsible agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed July 15, 1985 through July 19, 1985 Pursuant to 40 CFR 1506.9

EIS No. 850301, DSuppl, COE, NB, Harlan County Lake Multiple Purpose Project, Continuing Operation and Maintenance, Harlan County, Due: September 9, 1985, Contact: Richard Lenning (816) 374-3245.

EIS No. 850302, Report, COE, LA Mississippi River-Gulf Outlet Navigation Channel, Operation and Maintenance, Allowable Overdepth Removal and Advance Maintenance, Lake Borgne Vicinity, St. Bernard and Claquemines Parishes, Contact: E. Scott Clark (504) 838-2521.

EIS No. 850303, Draft, CDB, NY, Rochester Science Park Development, Expansion and Replacement, CDBG, Monroe County, Due: September 9, 1985, Contact: William Andreas (716) 428-6895.

EIS No. 850304 Draft, SFW, AK Tetlin National Wildlife Refuge, Comprehensive Conservation Plan and Wilderness Designation, Due: November 1, 1985, Contact: William Knauer (907) 786-3399.

EIS No. 850305, Draft, NHT, REG, 1986 Model Year Passenger Cars, Average Fuel Economy Standards, Due: September 9, 1985, Contact: L. Robert Shelton (202) 755-8384.

EIS No. 850306, Final, BLM, CA, Amselco Colosseum Gold Mine Extraction and Milling Operation, Reopening and Expansion, Approval. San Bernardino County, Due: August 26, 1985, Contact: Roger Britton (619) 326-3896.

EIS No. 850307, Final, FAA, CA, John Wayne Airport, Expansion; Improvements and Land Acquisition Approval, Orange County, Due: August 26, 1985, Contact: James Wiggins (213) 536-6248.

EIS No. 850308, Draft, FHW, TN-20 Corridor Improvements, I-40 in Jackson to the west end of Dyersburg Bypass, Madison, Crockett and Dyer Counties, Due: September 9, 1985, Contact: Thomas Ptak (615) 251-5394.

EIS No. 850309, Final, DEA PRO, Cannabis Eradication on Federal Lands and Intermingled Forest and Rangelands, Continental United States, Due: August 26, 1985, Contact: Rodolfo Ramirez (202) 633-5628.

EIS No. 850310, Final, COE, NY, Newtown Creek Federal Navigation Channel Maintenance Project, Dredging and Ocean Disposal, Kings and Queens Counties, Due: August 26, 1985, Contact: Bob Will (212) 264-4662.

EIS No. 850311, Draft, AFS, UT, WY, Ashley National Forest, Land and Resource Management Plan, Due: October 25, 1985, Contact: Jack Watson (801) 789-1181.

EIS No. 850312, Draft, AFS, ID, Challis National Forest, Land and Resource Management Plan, Due: October 25, 1985, Contact: Gordan Reid (208) 879-2285.

Amended Notices

EIS No. 850145, Draft, AFS, MT, Deerlodge National Forest, Land and Resource Management Plan, Due: September 3, 1985, Published FR 4-19-85—Review extended.

EIS No. 850214, Draft, COE, FL, Occidental Wetland Phosphate Mining Operations, Dredge and Fill Permit, Section 404, Hamilton County, Due: August 5, 1985, Published FR 5-31-85—Review extended.

EIS No. 850274, Final, BLM, NV, Walker Resource Area, Mina and Walker Units, Land and Resource Management Plan, Due: August 9, 1985, Published FR 7-5-85—Review extended.

Dated: July 23, 1985.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 85-17829 Filed 7-25-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-739-DR]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-739-DR), dated July 18, 1985, and related determinations.

DATE: July 18, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 646-3616.

Notice

Notice is hereby given that, in a letter of July 18, 1985 the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the State of California resulting from grass, wildlands, and forest fires beginning on or about June 26, 1985, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area. Public Assistance will be limited to damage resulting from major fires as defined by the Federal Emergency Management Agency.

Pursuant to section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

City of Los Angeles and the Counties of Monterey, San Diego, San Luis Obispo, Santa Clara, Santa Cruz, and Ventura for Individual Assistance and Public Assistance.

Public Assistance will be provided as authorized by the President's declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-17728 Filed 7-25-85; 8:45 am]

BILLING CODE 6718-02-M

[Docket: FEMA-REP-4TN-2]

Tennessee Multi-Jurisdictional Emergency Response Plan for Watts Bar Nuclear Plant

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government plans, the State of Tennessee has submitted its radiological emergency plan to the FEMA Regional Office. These plans support nuclear power plants which impact on Tennessee and include those of local governments near the Tennessee Valley Authority's Watts Bar Nuclear Plant located in Rhea County, Tennessee.

DATE: Plans Received: July 12, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Major P. May, Regional Director, FEMA Region IV, 1371 Peachtree Street, NE, Atlanta, Georgia 30309, (404) 881-2400.

Notice

In support of the Federal requirement for emergency response plans, FEMA has a Rule describing its procedures for review and approval of State and local government's radiological emergency response plans. Pursuant to this FEMA Rule (44 CFR Part 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness," **Federal Register**, Volume 48, Number 189, page 44338, the *Tennessee Multi-Jurisdictional Emergency Response Plan For Watts Bar Nuclear Plant* was received by the Federal Emergency Management Agency Region IV Office.

Included are plans for local governments which are wholly or partially within the pluma exposure pathway emergency planning zone of the nuclear plant. For the Watts Bar Nuclear Plant plans are included for McMinn, Meigs and Rhea Counties.

Copies of the Plan are available for review at the FEMA Region IV office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 884 pages in the document; reproduction fees are $.10 a page payable with the request for copy.

Comments on the Plan may be submitted in wrting to Mr. Major P. May, Regional Director, at the above address within thirty days of this **Federal Register** notice.

FEMA Rule 44 CFR 350.10 also calls for a public meeting prior to approval of the plan. Details of this meeting were announced at least two weeks prior to the scheduled meeting and local radio and television stations were requested to announce the meeting. The required public meeting was held on October 30, 1984, at 7:00 p.m. at the Meigs County High School in Decatur, Tennessee. The meeting was announced in the *Daily Post—Athenian*, Athens, Tennessee, the *Dayton Herald*, Dayton, Tennessee, and the *Monroe County Advocate*, Sweetwater, Tennessee.

Dated: July 19, 1985.

Major P. May,

Regional Director.

[FR Doc. 85-17729 Filed 7-25-85; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-000150-078.

Title: Trans-Pacific Freight Conference of Japan/Korea.

Parties:
American President Lines, Ltd.
Barber Blue Sea Line
Hapag-Lloyd AG
Japan Line, Ltd.
Kawaski Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
Sea-land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would increase to $120,000 the amount of security required to be posted by each member to guarantee faithful performance of its obligations under the agreement. The parties have requested a waiver of the format requirements of the Commission's regulations and a shortened review period.

Agreement No.: 202-003103-079.

Title: Japan/Korea-Atlantic & Gulf Freight Conference.

Parties:
Barber Blue Sea Line
Japan Line, Ltd.
Kawaski Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
Mitsui O.S.K. Lines, Ltd.
A.P. Moller-Maersk Line
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
United States Lines, Inc.

Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York

Health Care Financing Administration

Subject: Early Periodic Screening

Food and Drug Administration

[Docket No. 85E-0268]

a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

period. To meet its burden, the petition must contain sufficient facts to merit an

Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would increase to $120,000 the amount of security required to be posted by each member to guarantee faithful performance of its obligations under the agreement. The parties have requested a waiver of the format requirements of the Commission's regulations and a shortened review period.

Dated: July 23, 1985.

By Order of the Federal Maritime Commission.

Mary F. Whitmore,

Assistant to the Secretary.

[FR Doc. 85-17810 Filed 7-25-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Green Mountain Financial Services Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 15, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Green Mountain Financial Services Corporation*, Wilmington, Delaware; to acquire 20.83 percent of the voting shares of The Green Mountain Bank, Winhall Township (Bondville), Vermont.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Commercial Bancshares, Inc.*, Jersey City, New Jersey; to acquire 100 percent of the voting shares of Lenape State Bank, West Deptford, New Jersey.

2. *Rock Financial Corporation*, North Plainfield, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of North Plainfield State Bank, North Plainfield, New Jersey.

C. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *The Notional Bancorp of Kentucky, Inc.*, Lexington, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Cynthiana, Cynthiana, Kentucky, and The First National Bank of Falmouth, Falmouth, Kentucky.

D. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Century Bancshares, Inc.*, Washington, D.C.; to become a bank holding company by acquiring 100 percent of the voting shares of Century National Bank, Washington, D.C.

E. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *People First Corporation*, Paducah, Kentucky; to acquire 100 percent of the voting shares of First Liberty Bank of Calvert City, Calvert City, Kentucky.

Board of Governors of the Federal Reserve System, July 22, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-17713 filed 7-25-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 19, 1985.

Health Care Financing Administration

Subject: Early Periodic Screening Diagnostic and Treatment Report—HCFA-420—Revision (0938-0291)

Respondents: State/local government

Subject: Provider Overpayment Report—HCFA-481—Existing Collection

Respondents: Businesses or other for-profit, non-profit institutions

Subject: Survey of Self-Insured Health Plans—HCFA-475—Revision (0938-0389)

Respondents: Businesses or other for-profit, non-profit institutions, small businesses or organizations

Subject: Peer Review Organization Semiannual Resources Allocation Report—HCFA-515—New

Respondents: Businesses or other for-profit institutions

Subject: Medicaid Management Information System Conditions of Approval and Reapproval and Procedures for Reductions of Federal Financial Participation 42 CFR 433.112, 433.116, and 433.117—HCFA-R-82—New

Respondents: State/local governments

OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Claimant's Statement when Request for Hearing is Filed and the Issue is Disability—HA-4486—Extension (0960-0316)

Respondents: Individuals

OMB Desk Officer: Judy A. McIntosh

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Dated: July 22, 1985.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-17767 Filed 7-25-85; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 85E-0268]

Determination of Regulatory Review Period for Purposes of Patent Extension; Lupron Injection

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for the human drug product, Lupron Injection, and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patient which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James C. Shehan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Lupron Injection, an injectable preparation of leuprolide acetate, which is indicated for the palliative treatment of advanced prostatic cancer in certain patients.

Based on the recent approval of Lupron Injectable, Abbott Laboratories applied for patent term restoration. FDA has determined that the applicable regulatory review period for Lupron Injection is 3,088 days. Of this time, 2,619 days were spent in the testing phase and 469 days were spent in the approval phase. These periods of time were derived from the following information.

1. *The date on exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective: October 27, 1976.* The applicant claimed September 23, 1976, as the date that commenced the testing phase. FDA received the exemption application on September 27, 1976. The exemption became effective, under FDA regulations (21 CFR 312.1(b)(4)), on October 27, 1976, 30 days after receipt of the claimed investigational exemption.

2. *The date the new drug application was initiolly submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act: December 28, 1983.* The applicant claimed April 15, 1983, as the date which commenced the approval phase. Only a presubmission of data was received by the agency at that time. The full application for new drug approval was received on December 28, 1983.

3. *The date the opplicotion wos opproved: April 9, 1985.* FDA has verified that the application (NDA 19-010) was approved on April 9, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 24, 1985, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 20, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation (See H. Rept. 857, Part 1, 98th Cong., 2nd Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 24, 1985.

Kenneth Flieger,

Acting Associate Commissioner for Health Affairs.

[FR Doc. 85-17887 Filed 7-25-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85D-0312]

Labeling of Surimi-Based Seafood Products; Availability of Policy

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the labeling policy for processed and/or blended seafood (surimi) products. This policy is stated in FDA Compliance Policy Guide 7108.16.

ADDRESS: Requests for single copies of FDA Compliance Policy Guide 7108.16 should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond E. Newberry, Center for Food Safety and Applied Nutrition (HFF-314), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0232.

SUPPLEMENTARY INFORMATION: FDA has been aware of an expanding trade in surimi-based seafood products in recent years. Some of these products are made to resemble and are promoted as substitutes for crabmeat, shrimp, lobster, scallops, and other natural seafoods. The labeling of these seafood products is of great concern not only to FDA but also to the National Marine Fisheries Service and the marine trade associations. Therefore, FDA, with the cooperation of all the interested parties, has developed a policy which addresses the acceptable labeling of surimi-based seafood products.

Surimi is a fish product which consists of minced fish meat (usually pollock)

5. The labeling of surimi-based products may contain a statement that

on August 14 and 15, 1985 from 9:30 am-4:30 pm and from 9:30 am-12:00 pm

Bureau of Land Management

The involved State lands within the

decision to exchange, are available for

Surimi is a fish product which consists of minced fish meat (usually pollock) which has been washed to remove fat and undesirable matter (such as blood, pigment, and odorous substances) and then mixed with cryoprotectants, such as sugar and or sorbitol, to ensure good frozen shelflife. Surimi may be blended with additional ingredients and additives (natural shellfish meat, shellfish flavoring, salt, water, etc.) and heat processed into fibrous, flaked, chunked, or composite-molded consumer products. These consumer products may or may not resemble specific types of seafood or seafood body parts and may or may not be frozen and/or breaded.

FDA is offering guidance as to the proper labeling for surimi-based seafood products in its issuance of Compliance Policy Guide 7108.16, which states the agency's policy as follows:

1. If the surimi-based product purports to be or is represented as any specific type of natural seafood, including shape or form representations, but is nutritionally inferior to that seafood, it must be labeled as imitation in accordance with 21 CFR 101.3. To date, FDA has not encountered any surimi-based product in which nutritional equivalency with a given seafood has been achieved.

2. An additional statement of product identity must appear on the principal display panel, such as "A Blend of Fish with _____." The blank is to be filled in with the common or usual name of the ingredient or component, such as "snow crab". Because the fish used in the surimi base has been decharacterized, the word "fish" is adequate for the statement of product identity. If an artificial flavor or color is added, the label must comply with 21 CFR 101.22.

3. The specific names of all seafoods used in the product must appear in the ingredient statement in descending order of predominance ("pollock" must be used rather than "white fish"; "snow crab" rather than "crab"). All other ingredients present must also be declared in descending order of predominance.

Note.—The intermediate surimi product usually contains sugar and/or sorbitol and phosphate compounds as cryoprotectants. These should be listed in the ingredient statement unless removed during the manufacturing process.

4. Products that are not purported or represented to be a specific type of seafood (or seafood body part) need not be labeled "imitation" and may lawfully be marketed, provided that the label properly reflects their composition.

5. The labeling of surimi-based products may contain a statement that the products may be used in recipes in place of natural seafood products. The statement should be general, such as "use like crabmeat, lobster, or shrimp in all seafood recipes."

Background information supporting this labeling policy is on file in the Dockets Management Branch (address above). Requests for single copies of FDA Compliance Policy Guide 7108.16 should reference the docket number found in brackets in the heading of this document and should be submitted in writing to the Dockets Management Branch.

Dated: July 22, 1985.

Marvin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17734 Filed 7-25-85; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Federal Council on the Aging; Meeting

Agency Holding the Meeting: Federal Council on the Aging.

Time and Date: The Federal Council on the Aging (FCA) is holding its August meeting in conjunction with the National Training Conference of the National Association of Area Agencies on Aging and the National Association of State Units on aging. The FCA regular business meeting will occur on August 14, from 9:30 am–12:30 pm, followed by a forum on the "Future of Health Care for Older Americans," from 2:00 pm–4:30 pm. The FCA will reconvene on August 15 from 9:30 am–12:00 pm for Committee meetings, followed by adjournment.

Place: Sheraton Washington Hotel, Warren Room, 2660 Woodley Road NW., Washington, DC 20008.

Status: The FCA portion of this meeting, to be held in the Warren Room, is open to the public.

Contact Persons: James Conroy/Rita Lowry, Room 4243, HHS North Building, 245–2451 for further information and clarification.

The Federal Council on the aging was established by the 1973 Amendments to the Older Americans Act of 1965 (P.L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–453, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will conduct a meeting on August 14 and 15, 1985 from 9:30 am–4:30 pm and from 9:30 am–12:00 pm respectively at the Sheraton Washington Hotel, Warren Room, 2660 Woodley Road, NW, Washington, DC.

The agenda will include a forum on "The Future of Health Care for Older Americans," with a panel comprised of "presenters" and "reactors" from the American Enterprise Institute, the American Association of Retired Persons, the American Medical Association, the Health Care Financing Administration, and aging network representatives (area agency director, state aging director, ombudsman, and an advisory council member), and will also include the FCA's regularly scheduled business and Committee meetings.

Dated: July 17, 1985.

Adelaide Attard,

Chairperson, Federal Council on the Aging.

[FR Doc. 85-17692 filed 7-25-85; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Peregrine Falcon; Emergency Exemption; Issuance

On July 16, 1985, a letter waiving the 30-day public comment period was issued to Mr. Bruce Haak, Eagle, Idaho (ref: PRT 696909), authorizing emergency action to enhance the survival of one male peregrine falcon (*Falco p. peregrinus*). This waiver was granted to allow the re-export of one peregrine falcon which was to be destroyed by the U.S. Department of Agriculture unless re-exported, because although it tested negatively for Newcastle's disease, it had been quarantined with birds that tested positively. The bird will be quarantined at Dubai Wildlife Research, Dubai, U.A.E., for 90 days.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist, that the health and life of the falcon is threatened and that no reasonable alternative to the proposed action is available to the applicant.

This emergency waiver is provided in accordance with the Endangered Species Act of 1973, as amended Pub. L. 94–359 (90 Stat. 911).

Dated: July 19, 1985.

R.K. Robinson,

Chief, Branch of Permits Federal Wildlife Permit Office.

[FR Doc. 85-17784 Filed 7-25-85; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[A-20347(A)]

Exchange of Public Land in Graham and Greenlee Counties, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Exchange of Public Land in Graham and Greenlee Counties, Arizona.

SUMMARY: Certain public lands within the following described townships have been determined to be suitable for disposal by exchange to the State of Arizona pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756; 43 U.S.C. 1716).

Selected Public Lands—Gila Box Group

Gila and Salt River Meridian, Arizona

T. 4 S., R. 30 E.
T. 5 S., R. 30 E.
T. 5 S., R. 31 E.

The involved public lands within the townships described above comprise 3,069.45 acres, more or less, in Greenlee County.

Selected Public Lands—Hackberry Group

Gila and Salt River Meridian, Arizona

T. 8 S., R. 29 E.
T. 9 S., R. 29 E.
T. 10 S., R. 29 E.
T. 8 S., R. 30 E.
T. 9 S., R. 30 E.
T. 10 S., R. 30 E.
T. 9 S., R. 31 E.
T. 10 S., R. 31 E.
T. 11 S., R. 31 E.

The involved public lands within the townships described above comprise 184 acres, more or less, in Greenlee County and 24,087.27 acres, more or less, in Graham County.

In exchange, the State of Arizona has offered lands in the following described townships to the United States.

Offered State Lands—Gila Box Group

Gila and Salt River Meridian, Arizona

T. 6 S., R. 28 E.
T. 5 S., R. 29 E.
T. 5 S., R. 30 E.

The involved State lands within the townships described above comprise 4,536.05 acres, more or less, in Greenlee County.

Offered State Lands—Hackberry Group

Gila and Salt River Meridian, Arizona

T. 7 S., R. 27 E.
T. 8 S., R. 27 E.
T. 9 S., R. 27 E.
T. 7 S., R. 28 E.
T. 8 S., R. 28 E.
T. 9 S., R. 28 E.
T. 10 S., R. 28 E.
T. 7 S., R. 29 E.
T. 8 S., R. 29 E.
T. 9 S., R. 29 E.

The involved State lands within the townships described above comprise 23,618.36 acres, more or less, in Graham County.

The above identified non-federal lands are being acquired to enhance resource management programs and continue the land tenure adjustment program prescribed in the land use plan. The overall exchange program will block up Federal and State-owned lands and consolidate ownership and management with the predominant land holder for the areas involved. The public interests will be well served.

The values of the lands to be exchanged are approximately equal and the acreages will be adjusted to equalize values upon completion of the final appraisal of the lands.

Patents for the public lands, when issued shall contain the following reservations:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A reservation to the United States of a right-of-way granted to the Arizona Department of Transportation under serial number PHX–080452 for a highway under the authority of the Act of November 9, 1921 (42 Stat. 212), affecting the NW¼NE¼SW¼, Section 6, T. 5 S., R. 30 E.

The public lands shall also be patented subject to all valid existing rights and the terms and conditions of the authorized uses.

The State lands, when conveyed to the United States, will be subject to such terms and conditions as are necessary to protect the permittees and lessees. The permittee/lessee will be able to either continue his/her use under the existing terms of the State's authorization or may be issued a new authorization by the Bureau of Land Management.

DATE: For a period of 45 days from date of publication in the **Federal Register** interested parties may submit comments to the Safford District Manager, 425 E. 4th Street, Safford, Arizona 85546. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange including the land use plan supporting this exchange and the environmental considerations reviewed in making this decision to exchange, are available for review at the Safford District Office.

Dated: July 19, 1985.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 85-17738 Filed 7-25-85; 8:45 am]

BILLING CODE 4310-32-M

[CA 16396]

Realty Action; Exchange of Public Lands in San Diego County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action-Exchange of Public Lands, CA 16396.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

T. 8 S., R. 4 W., SBM.,
Sec. 32: W½SE¼
Containing 80.00 acres.

In exchange, the Federal Government will acquire non-Federal land in San Diego County from Mr. Jack Stone, 5722 Skylark Place, La Jolla, California 92037. These lands are described as follows:

T. 18 S., R. 2 E., SBM.,
Sec. 7: SE¼
Sec. 17: NW¼NE¼, N½NE¼
Sec. 18: lot 1, N½NE¼, NE¼NW¼
Containing 441.11 acres ±.

The purpose of this exchange is to obtain non-Federal lands for use in Federal programs. This exchange conforms with the Southern California Metropolitan Project's Escondido Management Framework Plan/ Management Action Summary. The public interest will be well served by making this exchange. The values of the lands exchanged are approximately equal and the acreage will be adjusted and/or money will be used to equalize values upon completion of the final appraisal of the lands.

The terms and conditions applicable to this exchange are:

1. The non-Federal lands involve an exchange of the surface estate only; all minerals, together with the right to prospect for, mine and remove the minerals are already vested in the United States.

2. The Federal lands involve an exchange of the surface estate and the mineral estate; excepting geothermal resources, together with the right to prospect for, develop and utilize geothermal resources pursuant to the

Geothermal Steam Act of 1970 (84 Stat. 1566; 30 U.S.C. 101–1025).

Interior Department Desk Officer, Washington, D.C. 20503, telephone (202)

1st Qtr. _____
2nd Qtr. _____

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD

Cameron Area, offshore Louisiana. Proposed plans for the above area

Dated: July 16, 1985.

Geothermal Steam Act of 1970 (84 Stat. 1566; 30 U.S.C. 101–1025).

3. The Federal lands will have a reservation to the United States of a right-of-way for ditches or canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

The publication of this notice in the **Federal Register** shall segregate the public lands described herein from all other forms of appropriation and entry under the public land laws and the mining laws for a period of two years. The exchange is expected to be consummated before the end of that period.

Detailed information concerning this exchange, including the planning documents, environmental assessment and the land report is available for review at the Bureau of Land Management's California Desert District Office, 1695 Spruce Street, Riverside, California 92507.

The publication date of this notice will commence the 45 days comment period. For a period of 45 days after publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: July 12, 1985.

Wes Chambers,

Acting District Manager.

[FR Doc. 85–17686 Filed 7–25–85; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone (202) 395–7313; with copies to Mr. David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Projected Maximum Attainable Rate (MAR) of OCS Oil and Gas Production for Significant OCS Fields

Abstract: Respondents are required to provide to the Minerals Management Service (MMS) oil and gas production information and projections of future production rates. This information is used by MMS to determine the maximum attainable rate of production of crude oil and natural gas from significant OCS fields. This information is reported to Congress biennially.

Bureau Form Number: Form MMS–2013 (see attachment)

Frequency: Biennially

Description of Respondents: Lessees which operate significant fields on the Federal Outer Continental Shelf.

Annual Responses: 75

Annual Burden Hours: 900

Bureau Clearance Officer: Dorothy Christopher, (703) 435–6214

Dated: April 17, 1984.

John B. Rigg,

Associate Director for Offshore Minerals Management.

OMB Approval No. ———

Expiration Date ———

U.S. DEPARTMENT OF THE INTERIOR

Minerals Management Service

Projected Maximum Attainable Rate (MAR) of Oil and Gas Production for Significant OCS Fields

January 1, —— through December 31, ——.

1. Operator ———
2. Field Name ———
3. OCS Lease or Leases ———

4. For Each Lease or Group of Commonly Operated Leases Within the Field:

a. Expected Increase or Decrease in Number of Producing Oil and Gas Completions Over the Next 2 Years ———

b. Any Information, Constraining or Otherwise, Considered Pertinent to the MAR Determination ———

c. Estimated MAR for 2-Year Period. Either by Projected Curve (attached) or by Midpoint (or average) of Calendar Quarters:

☐ Initial ☐ Revision (indicate in "Remarks" reason for revision)

Calendar Year ———

1st Qtr. ———

2nd Qtr. ———

3rd Qtr. ———

4th Qtr. ———

Calendar Year ———

1st Qtr. ———

2nd Qtr. ———

3rd Qtr. ———

4th Qtr. ———

5. Remarks or Discussion ———

Signature ———

Date ———

The Paperwork Reduction Act Statement. This information is being collected and used to prepare the biennial report to the Congress on the availability of oil and natural gas on the Outer Continental Shelf. Response to this request is mandatory (43 U.S.C. 1865). Failure to report this information can result in a fine of not more than $10,000 for each day of continuance of such failure (43 U.S.C. 1350).

Form MMS–2013

[FR Doc. 85–17736 Filed 7–25–85; 8:45 am]

BILLING CODE 4310-MR

Announcement of an International Workshop on the Quality of Underwater Welding of Offshore Structures and Pipelines

AGENCY: Minerals Management Service, Interior.

ACTION: Announcement of an International Workshop on Underwater Welding.

SUMMARY: The Technology Assessment and Research Program of the Minerals Management Service will sponsor an international workshop on the quality of underwater welding of offshore structures and pipelines to assess the current state-of-the-art and to determine future research needs. The workshop will be conducted by the Center for Welding Research at the Colorado School of Mines, Golden, Colorado, on November 13–14, 1985.

FOR FURTHER INFORMATION CONTACT: Charles E. Smith, Research Program Manager, Minerals Management Service, MS 647, 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone 703–860–7865.

Dated: July 15, 1985.

Carolita Kallaur,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 85–17721 Filed 7–25–85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Conoco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0487, Block 119, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Cameron and Morgan City, Louisiana.

DATE: The subject was deemed submitted on July 15, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 17, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–17725 Filed 7–25–85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; Corpus Christi Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Corpus Christi Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5299, Block 163, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on July 15, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management section. *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Land Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this notice is to inform public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in § 250.34 of Title 30 of the CFR.

Dated: July 16, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–17726 Filed 7–25–85; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Development Operations Coordination Document; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 074, Block 20, South Pelto Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Dulac, Louisiana.

DATE: The subject DOCD was deemed submitted on July 16, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 18, 1985.

John L. Rankin,

Pursuant to the "Final Revised Public Participation Procedures" for water

repayment contract; Land

3. Calaveras County Water District,

VOL 50 ISS 144 JL 26 1985 UMI

Dated: July 18, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–17737 Filed 7–25–85; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf; Development Operatons Coordination Document; Pennzoil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Pennzoil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2115, Block 330, Eugene Island Area, offshore Louisiana. Proposed plans for the above area for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on July 15, 1985. Comments must be received within 15 days of the date of this year of this notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico, OCS Region, Minerals Managmeent Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44356, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0676.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available review. Additionally, this notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979. (44 CFR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: July 17, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–17723 Filed 7–25–85; 8:45 am]

BILLING CODE 4310–MR–M

Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board; Notice and Agenda of Meeting

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. Appendix I, and the Office of Management and Budget's Circular A–63 Revised.

The Scientific Committee of the OCS Advisory Board will meet on August 13 and 14, 1985, in the Conference Room (Room 602), Alaska Region, 949 East 36th Avenue, Anchorage, Alaska 99508.

The Scientific Committee will meet during the period 8:30 a.m. to 5 p.m. on both days.

Agenda for the meeting will include the following subjects:

- Environmental Studies Issues Related to Exploration, Development, and Production Activities;
- The Alaska Region Socioeconomic Studies Program; and
- Scientific Data and Information Exchange Between Industry and Federal Agencies.

The meeting of this committee is open to the public. Approximately 20 visitors can be accommodated on a first-come/first-served basis. All inquires concerning this meeting should be addressed to: Dr. Don Aurand, Chief, Branch of Environmental Studies (644), Minerals Management Service, Room 2528, U.S. Department of the Interior, 18th & C Streets, NW., Washington, DC 20240; telephone: (202) 343–7744.

Dated: July 19, 1985.

Richard B. Krahl,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 85–17740 Filed 7–25–85; 8:45 am]

BILLING CODE 4310–MR–M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Notice of Proposed Contractual Actions Pending Through September 1985

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426.20 of the rules and regulations published in the Federal Register December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of irrigation water in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcements of irrigation contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the Federal Register February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the seven Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during July, August, or September of 1985. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the addresses and telephone numbers given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Individual notice of intent to negotiate, and other appropriate announcements, are made in the Federal Register for those actions found to have widespread public interest. When this is the case, the date of publication is given.

Acronym Definitions Used Herein:

(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CVP) Central Valley Project
(P-SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act

Pacific Northwest Region: Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334–9011.

1. Boise Cascade Corporation, Columbia Basin Project, Washington; Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23531.

2. Five IDs, Boise Project, Idaho-Oregon; Irrigation repayment contract; 22,800 acre-feet of stored water in Arrowrock Reservoir.

3. Brewster Flat ID, Chief Joseph Dam Project, Washington; Amendatory repayment contract; Land reclassification of approximately 360 acres to irrigable; Repayment obligation to increase by $189,000.

4. Individual irrigators, M&I, and miscellaneous water users, Pacific Northwest Region, Idaho, Oregon and Washington; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Rogue River Basin water users, Rogue River Basin Project, Oregon; Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water per contractor for terms up to 40 years.

6. Willamette Basin water users, Willamette Basin Project, Oregon; Water service contracts; $1.25 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

7. Fifty-three Palisades Reservoir Spaceholders, Minidoka Project, Idaho-Wyoming; Contract amendments to extend term for which contract water may be subleased to other parties.

8. Cascade Reservoir water users, Boise Project, Idaho; Irrigation repayment contracts; 57,251 acre-feet of stored water in Cascade Reservoir.

9. Boise Water Corporation, Boise Project, Idaho; Short-term (2 years) M&I water service contract; up to 5,000 acre-feet annually from stored water in Lucky Peak Reservoir.

10. Thirty-two Jackson Lake Dam Spaceholders, Minidoka Project, Idaho-Wyoming; Repayment of costs associated with Safety-of-Dams modifications to Jackson Lake Dam.

11. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

12. Greater Wenatchee ID, Chief Joseph Dam Project, Washington; SRPA loan repayment contract; $6,576,000 proposed obligation.

Mid-Pacific Region: Bureau of Reclamation, (Federal Office Building) 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484–4680.

1. 2047 Drain Water Users Association, CVP, California; Water right settlement contract; FR notice published July 25, 1979, Vol. 44, Page 43535.

2. Tuolumne Regional Water District, CVP, California; Water service contract; 3,200 acre-feet from New Melones Reservoir.

3. Calaveras County Water District, CVP, California; Water service contract; 500 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

4. Individual irrigators, M&I, and miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Temporary Warren Act contracts to wheel nonproject water through project facilities for terms up to 1 year; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Pacheco Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

6. El Dorado ID, Sly Park Unit, CVP, California; D&MC contract to allow the District to accomplish the construction work with the remaining funds from the distribution system contract, and amend the Unit 4 portion of its existing repayment contract to pay interest on actual M&I use.

7. South San Joaquin ID and Oakdale ID, CVP, California; Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

8. San Luis Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

9. Mid-Valley Water Authority, CVP, California; Temporary water supplies up to 100,000 acre-feet.

10. Solano ID, Solano Project, California; Amendatory loan repayment contract providing for reconveyance and M&I water supply delivery.

11. City of Avenal, CVP, California; Amendment of existing water service contract to provide for furnishing project power to city canalside relift facilities and change the point of diversion.

12. Yuba County Water Agency, South County Irrigation Project, SRPA, California; Loan repayment contract, $18,500,000 proposed obligation.

13. ID's and similar water user entities; Amendatory repayment and water service contracts, including the amending of approximately 24 SRPA contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

14. United Water Conservation District, SRPA, California; Loan

repayment contract, $18,730,000 proposed obligation.

15. State of Hawaii, Molokai Project

Colorado; Water service contract; 9,200 acre-feet per year for M&I use; 72,200

District. Final proposed contract drafts available.

11. Rancho California Water District, Temecula, California; Contract for the

6. ID's and similar water user entities; Amendatory repayment and water

5. Green Mountain Reservoir, Colorado River Storage Project;

repayment contract, $18,730,000 proposed obligation.

15. State of Hawaii, Molokai Project, SRPA; Contract amendment to provide for use of facilities for M&I purposes.

16. Shasta Dam Area Public Utility District, CVP, California; Amendatory water service contract providing for increased M&I use to the district.

17. State of California, CVP, California; contract(s) for, (1) sale of interim water to the Department of Water Resources for use by the State Water Project Contractors, and (2) acquisition of conveyance capacity in the California Aqueduct for use by the CVP, as contemplated in the current draft of the Coordinated Operations Agreement.

18. Pixley ID, SRPA, California; Loan repayment contract, $12,300,000 proposed obligation.

19. Century Ranch Water Company, Inc., CVP, California; Orland exchange, M&I, and water right settlement contract.

20. Kaiser Development Company, CVP, California; Sacramento River water right contract; Suspension of agricultural contract and execution of M&I contract.

21. Madera ID, Madera Canal, CVP, California; Warren Act contract to convey and/or store nonproject Soquel water through project facilities.

22. Hills Valley ID, CVP, California; Amendatory water service contract, additional 400 acre-feet.

23. Tri-Valley Water District, CVP, California; Amendatory water service contract, additional 160 acre-feet.

24. County of Tulare, CVP, California; Amendatory water service contract, additional 1,908 acre-feet.

Upper Colorado Region: Bureau of Reclamation, P.O. Box 11568 (125 South State Street), Salt Lake City, UT 84147, telephone (801) 524–5495.

1. Individual irrigators, M&I, and miscellaneous water users, Upper Colorado Region, Utah, Wyoming, Colorado, and New Mexico; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. M&I water users, Navajo Unit, CRSP, New Mexico; Negotiate or amend long term contracts for M&I water with current long term and short term contractors or new contractors pursuant to Section II of P.L. 87–483 and Hydrologic Determination dated January 29, 1985.

3. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado; Water service contract; 9,200 acre-feet per year for M&I use; 72,200 acre-feet per year for irrigation.

4. La Plata Conservancy District, Animas-La Plata Project, New Mexico; Water service contract; 16,000 acre-feet per year for irrigation.

5. City of Farmington, Animas-La Plata Project, New Mexico; M&I water service contract; 19,700 acre-feet per year.

6. City of Aztec, Animas-La Plata, Project, New Mexico; M&I water service contract; 5,800 acre-feet per year

7. City of Bloomfield, Animas-La Plata Project, New Mexico; M&I water service contract; 5,300 acre-feet per year.

8. Central Utah Project, Bonneville Unit, Utah; Supplemental M&I repayment contract for 94,100 acre-feet per year; FR notice published August 22, 1980, Vol. 45, No. 165, page 56199. Final proposed draft contract available.

9. Central Utah Project, Bonneville Unit, Utah; $34,000,000 D&MC Contract—Duchesne River Area Canals rehabilitation to meet 1987 construction commitment. Repayment covered under executed repayment contract and by CRSP power revenues.

10. Dorchester Coal Company, Blue Mesa Reservoir, Colorado, Colorado River Storage Project; M&I water service contract, 400 acre-feet per year, for 40 years.

11. South Weber Water Improvement District, Weber Basin Project, Utah; Amendatory SRPA contract to extend payout period from 21 years to 40 years.

12. State of Wyoming, Seedskadee Project, Wyoming; Contract for repayment of reimbursable cost associated with the modification of Fontenelle Dam pursuant to the Reclamation Safety of Dams Amendments of 1984 (Pub. L. 98–404).

13. Miscellaneous water users, Upper Colorado Region, Blue Mesa Reservoir, Colorado River Storage Project, Colorado, M&I uses, 20-acre feet and less for 20-40 years.

14. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

15. M&I water users, Navajo Unit, Colorado River Storage Project, New Mexico; Negotiable repayment of reimbursable costs associated with the modification of Navajo Dam pursuant to the Reclamation Safety of Dam Act Amendment of 1984 (Pub. L. 98–404).

16. Bonneville Unit, Central Utah Project, Utah; Two repayment contracts for repayment of Jordan Aqueduct with Salt Lake County Water Conservancy District and the Metropolitan Water District. Final proposed contract drafts available.

17. Upper Yampa Water Conservancy District, Colorado; Repayment contract to repay a loan of $4,478,000 for the construction of Stagecoach Dam and Reservoir pursuant to the SRPA of 1956, Pub. L. 48–984, as amended.

18. Weber Basin Water Conservancy District, Weber Basin Project, Utah; Emergency Loan, Repair of A.V. Watkins Dam Embankment, $2,800,000.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 427 (Nevada Highway and Park Street), Boulder City, NV 89005, telephone (702) 293–8536.

1. Wellton-Mohawk Irrigation and Drainage District, Gila Project, Arizona; Amendatory D&MC contract for improvement of the Gila River within the district's boundaries; $6,000,000 of Federal funds to be utilized on a nonreimbursable basis pursuant to Pub. L. 98–396, August 21, 1984.

2. Agricultural and M&I water users, CAP, Arizona; Water service subcontracts; A certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

3. Elsinore Valley Municipal Water District, Elsinore, California; Contract for the repayment of a $7,158,000 SRPA loan.

4. Agricultural and M&I water users, CAP, Arizona; Contracts for repayment of Federal expenditures for construction of distribution systems.

5. Contracts with 5 agricultural entities located near the Colorado River in Arizona, Boulder Canyon Project; Water service contracts for up to 1,920 acre-feet per year total.

6. Gila River Indian Community, CAP, Arizona; Water service contract; Contract for delivery of up to 173,100 acre-feet per year.

7. Yuma-Mesa IDD, North Gila Valley ID, and Yuma ID, Gila Project, Arizona; Amendatory and supplemental contracts to conform to the provisions of Pub. L. 98–530.

8. Hillander "C" ID, Colorado River Basin Salinity Control Project, Yuma, Arizona; 5-year contract for 4,000 acre-feet per year from the Protective and Regulatory Pumping Unit.

9. Sunset Mobile Home Park, Boulder Canyon Project, Arizona; M&I water service contract for delivery of 30 acre-feet of water per year pursuant to recommendation of Arizona Department of Water Resources.

10. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

11. Rancho California Water District, Temecula, California; Contract for the repayment of a $20,940,000 SRPA loan.

12. Ak-Chin Indian Community, Maricopa, Arizona; Supplemental contract in accordance with the provisions of Pub. L. 98–530.

13. City of Needles, Needles, California; Contract for up to 10,000 acre-feet per year of surplus water from the Colorado River, permanent contract to be activated only during periods when surplus flows are available.

14. Gila River Indian Community, Arizona; Contract for the repayment of a $6,574,000 SRPA loan.

15. Lakeview City, Incorporated; Water delivery contract for up to 400 acre-feet per year from the Colorado River for M&I use; Contains provisions for increasing delivery up to 1,309 acre-feet to serve future development upon recommendation of the State of Arizona.

16. Water delivery contracts with the State of Arizona, the Bureau of Land Management, and several private entities which are in the process of being organized for a yet undetermined amount of Colorado River Water for M&I use. The purpose of these contracts is to afford legal status to various noncontractual water users within the State of Arizona.

17. Contract with the State of Arizona for a yet undetermined amount of Colorado River water for agricultural use and related purposes on State-owned land.

Southwest Region: Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378–5430.

1. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use.

2. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work.

3. Vermejo Conservancy District, Vermejo Project, New Mexico; Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Pub. L. 96–550.

4. Lavaca-Navidad River Authority, Palmetto Bend Project, Texas; Amendatory repayment contract to provide for increased payment for recreation.

5. Hidalgo County Irrigation District No. 1, Lower Rio Grande Valley, Texas; Supplemental SRPA loan contract for approximately $13,205,000. The contracting process is dependent upon final approval of the supplemental loan report.

6. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform with the Reclamation Reform Act of 1982 (Pub. L. 97–293).

Upper Missouri Region: Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, Montana 59103, Telephone (406) 657–6413.

1. Individual irrigators, M&I, and miscellaneous water users, Upper Missouri Region, Montana, Wyoming, North Dakota, and South Dakota; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota; Industrial water service contract; Up to 16,800 acre-feet of water annually; FR notice published May 5, 1982, Vol. 47, Page 19472.

3. Fort Shaw ID, Sun River Project, Montana; R&B loan repayment contract; Up to $1.5 million.

4. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

5. Oahe Unit, P–SMBP, South Dakota, Cancellation of master contract and participating and security contracts in accordance with Pub. L. 97–273 with South Dakota Board of Water and Natrural Resources Spink County and West Brown Irrigation Districts.

6. Owl Creek ID, Owl Creek Unit, P–SMBP, Wyoming; Amendatory water service contract to reflect water supply benefits being received from Anchor Reservoir.

Lower Missouri Region: Bureau of Reclamation, P.O. Box 25247 (Building 20, Denver Federal Center), Denver, Colorado 80225, telephone (303) 234–3327.

1. Almena ID No. 5, Almena Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1985.

2. Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Amendatory repayment contract for extension of the development period and revision of the repayment determination methodology.

3. Corn Creek ID, New Grattan Ditch Company, Earl Michael, Glendo Unit, P–SMBP, Wyoming, and Nebraska; Irrigation water service contracts.

4. Webster ID NO. 4, Webster Unit, P–SMBP, Kansas; Irrigation water service and repayment contract amendment to adjust payment due to reduced water supply, $970,816 outstanding.

5. Green Mountain Reservoir, Colorado-Big Thompson Project; Proposed contract negotiations for sale of water from the marketable yield to water users within the Colorado River drainage of western Colorado.

6. Individual irrigators, M&I, and miscellaneous water users, Lower Missouri Region, Southeastern Wyoming, Colorado, Nebraska, and northern Kansas; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

7. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado; Second round of proposed contract negotiations for sale of water from the regulatory capacity of Ruedi Reservoir.

8. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

9. Lower South Platte Water Conservancy District, Central Colorado Water Conservancy District, and the Colorado Water Resources and Power Development Authority, P-SMBP, Narrows Unit, Colorado; Water service contracts for repayment of costs and cost sharing agreement.

10. Kirwin ID No. 1, Kirwin Unit, P-SMBP, Kansas; Deferment of repayment obligation for 1985.

11. Kirwin ID No. 1, Kirwin Unit, P-SMBP, Kansas; Irrigation water service and repayment contract and Emergency Drought Act loan contract amendment to adjust payments due to reduced water supply, $866,231 outstanding.

12. Cedar Bluff ID No. 6, Cedar Bluff Unit, P-SMBP, Kansas; Deferment of repayment obligation for 1985.

13. Webster ID No. 4, Webster Unit, P-SMBP, Kansas; Deferment of repayment obigation for 1985.

14. Fryingpan-Arkansas Project, Colorado; East Slope Storage system consisting of Pueblo, Twin Lakes, and Turquoise Reservoir; Contract negotiations for long term storage contracts.

15. Twin Loups Reclamation District, P-SMBP, D&MC contract and a sole source contract for correction of initial construction deficiencies and monitoring during initial filling, priming and puddling activities of the project. Proposed contracts are to be $500,000 and $1,439,000, respectively.

16. Farwell Irrigation District, Nebraska; Request for D&MC contract for the correction of drainage and seep area on the project.

VOL 50 ISS 144 JL 26 1985 UMI

VOL 50 ISS 144 JL 26 1985 UMI

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(2) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(3) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(4) Written comments on a proposed contract or contract action must be submitted to the appropriate Bureau of Reclamation officials at locations and within time limits set forth in the advance public notices.

(5) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

(7) In the event modifications are made in the form of proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary.

Factors which shall be considered in making such a termination shall include, but are not limited to: (i) The significance of the impact(s) of the modification and (ii) the public interest which as been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties which requested the contract in response to the initial public notice.

Dated: July 22, 1985.

Robert A. Olson,

Acting Commissioner of Reclamation.

[FR Doc. 85-17730 Filed 7-25-85; 8:45am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, Ohio 43695-0799.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

i. LOF Glass Division, Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, Ohio 43695-0799; State of incorporation—Ohio

ii. Aeroquip Corporation, 300 South East Avenue, Jackson, Michigan 49203; State of incorporation—Michigan

iii. LOF Plastics Inc., 1150 Stephenson Highway, P.O. Box 3230, Troy, Michigan 48007-3230; State of incorporation—New Jersey

iv. Modern Tools Division, Libbey-Owens-Ford Company, 911 Matzinger Road, Toledo, Ohio 43695-0799; State of incorporation—Ohio

v. Vickers, Incorporated, 1401 Crooks Road, Troy, Michigan 48084; State of incorporation—Delaware

(1) Parent corporation and address of principal office: The Signal Companies, Inc., 11255 North Torrey Pines Road, La Jolla, CA 92037.

(2) Wholly-owned subsidiaries which will participate in the operations and State of incorporation:

Subsidiaries	State of Incorporation
Ampex Corporation	Alabama.
The Garrett Corporation	Delaware.
UOP Inc.	Do.
Kellogg Rust Inc.	Do.
Wheelabrator-Frye Inc.	Do.
MPB Corporation	Do.
CPS Engineering Corporation	Massachusetts.
Johnson Screens, Inc.	Delaware.
Sinclair & Valentine Company, Inc.	Do.
Frye Copysystems, Inc.	Do.
Neptune Measurement Company	Do.
Neptune Microfloc, Inc.	Oregon.
Wolverine, Inc.	Delaware.

1. Parent Corporation and address of principal office: Wickes Companies, Inc., 3340 Ocean Park Boulevard, Santa Monica, CA 90405.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) Wickes International Corporation, a Delaware Corporation

(ii) Howard Bros. Discount Stores, Inc. a Louisiana Corporation

(iii) Red Owl Stores, Inc., a Delaware Corporation

(iv) Snyder's Drug Stores, Inc., a Minnesota Corporation

(v) Southland Wholesale Distributors, Inc., A Louisiana Corporation

(vi) Wickes Europe, Inc., a Delaware Corporation

(vii) The Woman's Shop, Inc., a Texas Corporation

(viii) Woman's World Shops, Inc., a Delaware Corporation, and

(ix) Yorktowne, Inc., a Delaware Corporation.

James H. Bayne,

Secretary.

FR Doc. 85-17759 Filed 7-25-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30681]

Railroad Exemption; Consolidated Rail Corp.; Trackage Rights; Missouri Pacific Railroad Co.

Missouri Pacific Railroad Company (MP) has agreed to grant overhead trackage rights to Consolidated Rail Corporation (Conrail) between St. Elmo, and east St. Elmo, IL, over a segment of MP's line described as follows:

Beginning at the MP-Conrail property line, point X, near Conrail's Milepost 154, 1, E. St. Elmo, IL, to the MP-Conrail property line, point Y, near Conrail's Milepost 157, 5, St. Elmo, IL, a distance of approximately 3.4 miles.

The trackage rights will be effective July 14, 1985, or on such later date as MP and Conrail agree to, as evidenced by an exchange of letters.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: July 16, 1985.

By the Commission, Heber F. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-17758 Filed 7-25-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; McNeilab Inc.; Registration

By Notice dated May 16, 1985, and published in the Federal Register on May 23, 1985; (50 FR 21373), McNeilab Inc., DBA First State Chemical Company Inc., 803 East Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug and Schedule

Codeine (9050)—II
Oxycodone (9143)—II
Morphine (9300)—II
Thebaine (9333)—II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated July 18, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-17765 Filed 7-25-85; 8:45 am]

BILLING CODE 4410-09-M

Medicine Shoppe; Revocation of Registration

On April 3, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Medicine Shoppe of 206 Donelson Pike, Donelson, Tennessee 37214 (Respondent) proposing to revoke its DEA Certificate of Registration AM5562524. The proposed action was predicated on the conviction of Daniel C. Dickson, R.Ph., the owner and managing pharmacist of Respondent pharmacy, of four counts of felonies relating to controlled substances. A further basis for the proposed action was the material falsification of the renewal applications for registration of the Medicine Shoppe submitted in December 1981, 1982, 1983 and 1984, in which Mr. Dickson indicated that neither the applicant nor any officer, shareholder, partner or proprietor of the pharmacy had been convicted of a felony offense relating to controlled substances.

In a letter dated April 9, 1985, Mr. Dickson specifically waived Respondent's opportunity for a hearing and instead filed a written statement regarding his position on the matters of fact and law involved. 21 CFR 1301.54(c). The Acting Administrator has considered the entire investigation file in this matter, including Respondent's written statement, and hereby issues this final order based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Administrator finds that during 1980 and 1981, the Tennessee Bureau of Investigation Narcotics Division made numerous undercover purchases of controlled substances from Daniel Dickson, the owner and managing pharmacist of Respondent pharmacy. The controlled substances purchased included phentermine, propoxyphene and diazepam, all Schedule IV controlled substances, and a codeine combination product, which was a Schedule III controlled substance. Mr. Dickson dispensed these drugs without the authorization of a physician. On one occasion, Mr. Dickson stated that he had contacted the prescribing physician for authorization to refill a certain prescription. However, it was ascertained that no telephone calls had been received at the physician's office from Mr. Dickson.

On July 22, 1981, the Davidson County Grand Jury returned a 92 count indictment against Daniel Dickson charging him with dispensing controlled substances without authorization of a practitioner. On September 10, 1981, Dickson pled guilty to four counts of the 92 count indictment. These are felony offenses relating to controlled substances. DEA has consistently held that the registration of a corporate registrant may be revoked upon a finding that a natural person who is an owner, officer or key employee, or who has some responsibility for the operation of the registrant's controlled substance business, has been convicted of a felony offense relating to controlled substances. *Leonard S. Cohen, t/a Senate Drug Store,* Docket No. 72-5, 38 FR 9522 (1973); *Big-T Pharmacy, Inc.,* Docket No. 80-34, 47 FR 51830 (1982); *K & B Successors, Inc.,* Docket No. 82-15, 49 FR 34588 (1984). Therefore, there is a lawful basis for the revocation of Respondent's registration. 21 U.S.C. 824(a)(2).

The Acting Administrator finds an additional ground for revoking Respondent's DEA registration under 21 U.S.C. 824(a)(1) in that Daniel Dickson materially falsified the renewal applications for registration of Respondent pharmacy submitted in December 1981, 1982, 1983 and 1984. On each application, Mr. Dickson indicated a negative response to the question, "Has the applicant been convicted of a felony in connection with controlled substances under the state or federal law?"

In his letter dated April 19, 1985, responding to the Order to Show Cause, Mr. Dickson attempted to explain the material falsification of the applications by stating that his failures to indicate he was convicted of a controlled substance-related felony were "stupid errors." The Acting Administrator finds it difficult to believe that Mr. Dickson could have carelessly forgotten his felony convictions for four consecutive years.

The Administrator of DEA is charged with protecting the public from the illicit diversion of controlled substances. The Acting Administrator is not convinced Mr. Dickson will not continue his illegal practices. His failure to disclose his prior conviction indicates that he is not to be trusted.

Accordingly, having concluded that there is a lawful basis for the revocation of Respondent's registration, and having further concluded that under the facts and circumstances of this case the registration should be revoked, the Acting Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AM5562524, previously issued to Medicine Shoppe, be, and it hereby is revoked August 26, 1985.

Dated: July 22, 1985.

John C. Lawn,

Acting Administrator.

[FR Doc. 85-17766 Filed 7-25-85; 8:45 am]

BILLING CODE 4410-09-M

Office of Juvenile Justice and Delinquency Prevention

National Study of Law Enforcement Agencies' Policies and Practices Regarding Missing Children and Homeless Youth

Correction

In FR Doc. 85-17654, beginning on page 30312 in the issue of Thursday, July 25, 1985, make the following correction:

On page 30314, in the third column, the following text should appear between the paragraph designated "6." and the line "a. Runaways.":

Claims of extreme variation in law enforcement agencies' reactions to any particular revision they are interested in.

3,500 responses, 1,167 hours, 1 form

requires that when a certified WIN registrant refuses to participate in WIN, are identified in the Appendix to this notice. Upon receipt of these petitions Assistance, at the address shown below, not later than (August 5, 1985.)

Claims of extreme variation in law enforcement agencies' reactions to reports of missing children have been made with little documentation of actual practices. To date, no such national survey has been conducted of law enforcement's role in the identification, location and recovery of missing children. The first phase of the study should inform us about the extent to which varying definitions, case classification, record keeping procedures, etc., affect our ability to use official police reports as indicators of the national incidence of children reported missing and, to what extent various practices may impede or facilitate the process of recovery of missing children under varying circumstances.

The results of this survey and other information will be used to formulate the sampling strategy for the second phase of the study.

B. Phase II: Onsite Interviews with Personnel from up to 100 Law Enforcement: Agencies.

1. To verify responses from the mailed questionnaire obtained in Phase I;

2. To collect more detailed information from selected jurisdictions on actual investigative practices utilized by law enforcement agencies in responding to reports of missing children, with particular attention to the following types of reported cases:

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form
The title of the form.
The OMB and Agency form numbers, if applicable.
How often the form must be filled out.
Who will be required to or asked to report.
Whether small businesses or organizations are affected.
An estimate of the number of responses.
An estimate of the total number of hours needed to fill out the form.
The number of forms in the request for approval.
An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N 1301, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Bureau of Labor Statistics
CES Response Analysis Survey (RAS)
One-time survey
Nonagricultural establishments
655 responses; 175 hours; 1 form

The CES survey is one of the primary sources of employment, payroll, and hours information for the economy, with over 200,000 establishments providing payroll information each month. The RAS continues the Bureau's efforts to periodically review the payroll records of respondents to better match available records with CES definitions to improve data quality.

Mine Safety and Health Administration
A Demographic Survey of the Mining Industry Population
Nonrecurring
Businesses or other for-profit; small businesses or organizations
3,500 responses; 1,167 hours; 1 form

The survey will collect data from the mining industry and produce information on the population characteristics (e.g., job experience, job training, education) of the Nation's mine workers. This information will be used to improve accident data analysis, to improve and expand mine health and safety research, and to customize training and safety programs for specifically identified demographic sectors of the mining industry population.

Departmental Management, Women's Bureau
Women's Bureau Region III Women Veterans' Job Information Packet Evaluation Form
On occasion
Individuals or Households
2,174 responses; 435 hours; 1 form

The information will be used to make decisions about the content of the Women's Bureau Region III Women Veterans' Job Information Packet, the cost-effectiveness of a national distribution of the packet and the most effective dissemination strategy for the information. Affected public: recently discharged women veterans.

Revision

Employment Standards Administration
Homeworker Handbooks
1215–0013; WH–75, WH–75a
On occasion
Individuals or households; Businesses or other for-profit;
Non-profit institutions; Small businesses or organizations
11,250 responses; 22,500 hours; 2 handbooks

Homeworker handbooks provide information on hours worked and wages paid to homeworkers covered by the Fair Labor Standards Act. The handbooks are used to help insure that such workers receive the minimum and overtime wages to which they are entitled. The new WH–75a covers homeworkers in the knitted outerwear industry only.

Extension

Employment and Training Administration
Notice of Intended Deregistration
1205–0175; ETA RC 42
On occasion
Individuals or households
1,458 respondents; 18,225 hours; no forms

The Notice of Intended Deregistration is needed for consistency with due process as expressed by U.S. Supreme Court in Goldberg vs. Kelly. The Law requires that when a certified WIN registrant refuses to participate in WIN, either (1) notify the welfare agency to remove AFDC benefits or (2) allow the registrant to request a hearing.

Signed at Washington, D.C., this 23rd day of July, 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85–17833 Filed 7–25–85; 8:45 am]
BILLING CODE 4510-27/4510-43

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Amaconda Minerals Co., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearings, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than (August 5, 1985.).

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 5, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 22nd day of July 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of	Location	Date received	Date of petition	Petition No.	Articles produced
Anaconda Minerals Co., Nevada Moly Operations (workers).	Tonopah, NV	7/15/85	7/2/85	TA-W-16,156	Molybdenum sulfide.
Apparel 42, Inc. (workers)	Rickmann, TN	7/15/85	7/1/85	TA-W-16,157	Ladies' blouses.
Armco, Inc., Specialty Steel Div. (USWA)	Baltimore, MD	7/8/85	6/25/85	TA-W-16,158	Stainless steel ingots, billets, bar and wire products.
Carlle, Inc. (workers)	Connellsville, PA	7/11/85	7/1/85	TA-W-16,159	Mens and ladies sportswear.
Charles Weinstein Coat Co. (ACTWU)	Secaucus, NJ	7/10/85	7/5/85	TA-W-16,160	Ladies' coats.
Connellsville Sportswear Co., Inc. (ACTWU)	Connellsville, PA	7/2/85	6/25/85	TA-W-16,161	Mens and ladies' dress slacks.
Consolidation Coal Co. Dilworth Mine (UMWA)	Rices Landing, PA	7/9/85	7/1/85	TA-W-16,162	Metallurgical coal.
Eaton Corp. (workers)	Lincoln, IL	7/9/85	7/3/85	TA-W-16,163	Circuit breakers.
Mineral Fertilizer Co. (company)	North Salt Lake, UT	7/5/85	7/1/85	TA-W-16,164	Single superphosphate.
New Coast Factory, Inc. (ILGWU)	Highland Park, NJ	7/9/85	6/26/85	TA-W-16,165	Ladies' and children's coats.
Peerless Audio Manufacturing Corp. (workers)	Leominster, MA	7/15/85	7/10/85	TA-W-16,166	Loudspeaker drivers.
Rawlings Sporting Goods (workers)	St. Louis, MO	7/12/85	7/5/85	TA-W-16,167	Distribution of team sporting equipment.
Amax Nickel, Inc. (USWA)	Braithewaite, LA	7/2/85	6/27/85	TA-W-16,168	Nickel, cobalt, copper and ammonia sulfate.
Bestt Hants Corp. (ACTWU)	Hazleton, PA	6/26/84	6/26/85	TA-W-16,169	Men's shirts.
Cranston Print Works Co. (company)	Fletcher, NC	7/9/85	6/11/85	TA-W-16,170	Prints and finishes cotton and cotton polyester blended fabrics.
Crucible Specialty Steel, Div. of Colt Industries (USWA)	Syracuse, NY	7/2/85	6/25/85	TA-W-16,171	Tool steel, valve steel, stainless steel.
EG & G Rotron (company)	Orangeburg, SC	7/16/85	7/2/85	TA-W-16,172	Tubeaxial fans.
EG & G Rotron (company)	Woodstock, NY	7/16/85	7/2/85	TA-W-16,173	Tubeaxial fans.
General Refractories Corp. (USWA)	Clayburg, PA	7/2/85	6/27/85	TA-W-16,174	Silica refractory products.
ITT Grinnell Corp. Pipe Hanger Div. (United Assoc. of Journeymen Plumbers).	Warren, OH	7/15/85	7/1/85	TA-W-16,175	Industrial pipe hangers.
Martin Shirt Co., Inc. (ACTWU)	Shenandoah, PA	6/28/85	6/28/85	TA-W-16,176	Ladies' blouses.
Sperry New Holand (workers)	Lexington, NE	7/16/85	7/11/85	TA-W-16,177	Combines, farm equipment.
Timberland Cedar Products (workers)	South Bend, WA	7/2/85	6/4/85	TA-W-16,178	Shakes and shingles.

[FR Doc. 85–17832 Filed 7–25–85; 8:45 am]
BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Application No. D–4124 et al.]

Proposed Exemptions; Crawford Fitting Co. et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public

Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200

several related employers (the Crawford Companies) that were entered into prior

include five separately incorporated domestic manufacturing companies and

block the sale. The controlling stock interest resided with Raymond Rossman

purchase by one of the Crawford Plans, the Equipment would then be leased to a

equal to 6 percent of the original purchase price. The lessee holding the

Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Crawford Fitting Company Profit Sharing Trust and the Associated Profit Sharing Trusts of Several Related Corporations (the Crawford Plans) Located in Cleveland, Ohio

[Application No. D-4124]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set fortyh in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply: (1) To those leases of certain manufacturing equipment (the Equipment) between the Crawford Plans and the Crawford Fitting Company and several related employers (the Crawford Companies) that were entered into prior to June 1, 1980, and to the renewals of such leases (including renewals of leases previously covered by section 414(c) of the Act that were extended beyond June 30, 1984), to the extent that any such lease, when entered into, did not cause the affected plan to have more than 25 percent of its assets committed to such transactions; (2) effective April 9, 1975, to the purchase from and subsequent leaseback to the Toner Company (Toner) of certain real estate (the Property) by the Crawford Fitting Company Profit Sharing Trust (the CFC Trust); and (3) prospectively, to the cash sale of the Equipment and the Property by the respective Crawford Plans (which term includes the CFC Trust) to selected members of the Crawford Companies within 90 days of the grant of this proposed exemption, provided that, at all times, the amounts received by the Crawford Plans in the above described transactions represent(ed) no less than the fair market value at the time of such transactions.

Effective Dates: If the proposed exemption is granted, it will be effective January 1, 1975 with respect to the lease of the Equipment; April 9, 1975 with respect to the purchase and leaseback of the Property; and from the date of the grant of the exemption for the cash sale of the Equipment and the Property.

Summary of Facts and Representations

1. The application was submitted on behalf of the Crawford Companies which constitute a group of twenty corporations acting in concert with one another.[1] The Crawford Companies are the net result of a business enterprise which was initiated in 1947 by Fred A. Lennon (Lennon). Presently at least 50 percent of the stock of all but four of the Crawford Companies is owned singularly by Lennon or in combination by Lennon and various members of his family.[2] The Crawford Companies include five separately incorporated domestic manufacturing companies and two foreign affiliates. To supply these companies with various back-up services including the manufacturing of specialized parts, a number of additional entities were either developed or acquired. Both the manufacturing companies and their supplier affiliates utilize the Equipment in developing their respective products. The Equipment consists of screw machines which are used to shape metal bars or tubing and are employed in a wide variety of manufacturing procedures. Products manufactued by the above referenced entities are then sold to separately incorporated regional warehouses which, in turn, sell the products to independent local distributors.

2. Each of the respective corporate entities which make up the Crawford Companies has adopted a profit sharing plan qualified under section 401(a) of the Code. The Crawford Plans range in size from 8 to 348 participants. The assets of each of the Crawford Plans are currently managed by the Midwest Bank and Trust Company (Midwest) as trustee; however, the assets are not commingled for investment purposes. Midwest is a local financial institution having full investment discretion over the assets of the Crawford Plans. Neither Lennon nor any member of his family is an officer or director of Midwest. Lennon and an officer of one of the affiliated companies, F.J. Callahan (Callahan), had a combined minority stock interest in Midwest of approximately 8.75 percent on January 1, 1975. This combined minority stock interest increased to approximately 14 percent by 1982 although neither party owned 10 percent. The applicants represent that this stock ownership interest by Lennon and Callahan had a "*de minimus*" effect on operating policies of Midwest, and that they had no ability to influence the decision of Midwest in its capacity as fiduciary for the Crawford Plans. The inability of Lennon and Callahan to influence decisions of Midwest was evidenced by a decision of the Midwest Board of Directors in 1982 to approve the sale of Midwest's stock to another financial institution in the face of opposition by Lennon and Callahan which at one point was elevated to a threat of litigation to

[1] The entities which comprise the Crawford Companies include: Alfred Machine Co., Atlantic Co., Cajon Co., Central Swagelok Co., Colony Tool Co., Crawford Fitting Co., Eastern Swagelok Co., Falon Co., Impaction Co., Kenmore Research Co., Nupro Co., Pritchard Products Co., Snow Metal Products Co., Southern Swagelok Co., Swagelok Co., Toner Co., Western Swagelok Co., Whitney Co., Whitney Research Tool Co., Zalo Manufacturing Co.

[2] The applicant represents that four of the Crawford Companies are not parties in interest with respect to the employee benefit plans sponsored by the other member employers of the group. These companies are Alfred Machine Co., Atlantic Co., Snow Metal Products Co. and Whitney Research Tool Co. The applicant has reviewed the party in interest provisions and represents that no prohibited transaction exists with respect to any lease of the Equipment involving these companies except in the one situation where Atlantic Co. leased a piece of Equipment from the profit sharing plan which it sponsors. Accordingly, for purposes of the relief provided by this exemption the term "Crawford Companies" should not be read as including the above named companies with the limited exception of the one lease involving the Atlantic Co.

block the sale. The controlling stock interest resided with Raymond Rossman (Rossman), Chairman of the Board of Directors and Chief Executive Officer of Midwest and the Catholic Diocese of Cleveland, whose combined holdings exceeded 60 percent of the voting stock during the period of the subject transactions. Between 1970 and 1982, Callahan was a member of the Board of Directors of Midwest although he was not involved, on behalf of Midwest, in any of the transactions which are the subject of the exemption request. Additionally, the nine other members of Midwest's Board of Directors were unrelated either directly or indirectly to Lennon or Callahan. Over the years the Crawford Companies have used MIdwest, as well as other local financial institutions, to satisfy occasional short-term financing needs. These loans have always been repaid in strict accordance with their terms. At no time did the total percentage of outstanding loans to the Crawford Companies represent more than one percent of the outstanding commercial loans made by Midwest.

The documents implementing each of the Crawford Plans provided for the appointment of an advisory committee (the Committee (s)) comprised of senior officials of the respective Crawford Companies. The Committees are provided with the authority to construe the provisions of the applicable plan and trust documents and provide basic administrative functions. In addition, by the terms of the respective plans' trust agreements, the Committees have the power to require Midwest to seek prior approval of any specified type of investment which Midwest would otherwise choose to acquire for any of the Crawford Plans. The applicant states that the Committees have never taken any action to initiate the requirement that Midwest seek prior review in connection with the investment decision making process. Midwest represents that it has never considered the existence of this provision as compromising its unfettered flexibility to make investment decisions. Accordingly, Midwest has served, since the inception of the trust arrangement, with no active restriction on its investment discretion.

3. Midwest assumed its duties as trustee for the Crawford Plans in 1970. At that time, discussions between Midwest, principals of the Crawford Companies and members of the Committees for the respective profit sharing plans, resulted in an understanding that Midwest would consider investing assets of the Crawford Plans in the Equipment. After purchase by one of the Crawford Plans, the Equipment would then be leased to a particular employer of the Crawford Companies.[3]

This type of Equipment (screw machines) has a long useful life and it is not uncommon for a forty (40) year old machine to still be in service. As a result of these meetings, Rossman initiated his own study to determine the feasibility of effectuating such an investment program. Rossman personally interviewed representatives of National Acme (Acme), an unrelated manufacturing company for similar types of equipment, to obtain an understanding of the normal characteristics of equipment leases and obtained copies of the standardized lease forms utilized in the operation of their leasing program. Midwest then drafted its own lease document which implemented the terms and conditions utilized by Acme. Once Midwest had determined that such an investment program was in the interests of the participants in the Crawford Plans and that one of the Crawford Plans contained adequate liquidity that it did not wish to invest in Treasury Bills or other securities, Midwest contacted representatives of the Crawford Companies. Such inquiry was to ascertain whether any of the Crawford Companies were desirous of acquiring an additional piece of the Equipment. Midwest would then be sent information regarding the acquisition intentions of the Crawford Companies, including a list of the Equipment which such companies anticipated purchasing in the near future. Upon review, Midwest would approach the appropriate company and offer to have one of the Crawford Plans acquire the desired piece of equipment with the understanding that it would be immediately leased to such company. Midwest evaluated the terms of its standard lease document and made modifications, if necessary, to assure that each equipment lease satisfied the established standards for commercial reasonableness.

The leases were almost exclusively (90 percent) 5 years in term and provided for an annual rental payment equal to 24 percent of the purchase price of the particular piece of equipment purchased. At the expiration of the 5 year period such leases would be renewed at the option of the lessee on a year-to-year basis. The annual rent during the renewal period would be equal to 6 percent of the original purchase price. The leases involving the Equipment contained the following conditions considered to be safeguards for the Crawford Plans as lessors: (1) The Equipment shall remain the sole and exclusive property of the lessor plan and may not be transferred, delivered or sublet to any other person or corporation without the concurrence of the lessor plan; (2) the lessee shall be responsible at all times and at its own expense to maintain the Equipment in good and efficient working order and surrender the Equipment on expiration of the lease in such good order; (3) the lessee shall maintain, at its own expense, insurance for the actual value of the Equipment and pay all taxes and assessments which may be assessed against the Equipment; and (4) the lessee shall be prohibited from attaching the Equipment to any personal or real property without the prior approval of Midwest. Based on his positions on the Board of Directors of three machine tool manufacturers (unrelated to the Crawford Companies), Rossman had personal knowledge of the rate structure generally employed for similar equipment leases and utilized this expertise in determining that the rates which the Crawford Plans received equalled or exceeded normal commercial leasing rates.

4. Beginning in April of 1970 and continuing through August of 1981 the Crawford Plans acquired and leased a total of 209 machines to the Crawford Companies.[4] Of that number 138 were acquired and leased after January 1, 1975, the effective date of the fiduciary responsibility provisions of the Act. As a result of Midwest's intention to provide each of the Crawford Plans with a reasonably equivalent overall portfolio rate of return, several of the smaller plans developed substantial asset concentrations in equipment leases during some of the years involved. Rossman felt that such concentration did not violate the requirement for diversification because of his personal knowledge of the strong economic condition of the Crawford Companies and his experience in evaluating

[3] The purchase and leasing of the Equipment was represented as a good investment medium because of the longevity and rental income expectations normally associated with such equipment.

[4] The Department notes that a number of pieces of the Equipment were the subject of leases executed prior to July 1, 1974. The Department is not expressing an opinion whether such leases were covered under the transitional provisions of section 414(c) of the Act. Those leases satisfying the conditions contained therein require no relief until July 1, 1984; this notice, however, has the effect of proposing additioning relief for those transactions that extended beyond July 1, 1984 until the Equipment is sold.

equipment leasing transactions.[5] The Crawford Plans were in no way utilized as a device for effectuating the

the Crawford Companies, purchased the Property for $500,000 and immediately

lessees had a proven record of fulfilling their obligations and Midwest was

unrelated to any of the Crawford

program involving the leasing of the

Act. While this contact did not come

VOL 50 ISS 144 JL 26 1985 UMI

equipment leasing transactions.[5] The Crawford Plans were in no way utilized as a device for effectuating the acquisition of properties which the Crawford Companies could not otherwise afford. During the period in question the aggregate investment of the Crawford Plans in the Equipment represented less than 8.2 percent of the total value of equipment, machinery and other capital assets acquired by the Crawford Companies.

From the inception of the leasing arrangements involving the Equipment in 1970 to the present time, the Crawford Companies have abided by all of the terms of such leases, the Equipment has been kept in good working order and all monies due the Crawford Plans have been timely paid. There has been no instance when a Crawford Company has failed to renew a year-to-year lease on the Equipment which has been held for more than 5 years. Thus, none of the Crawford Plans has ever been in a position of having to dispose of a piece of the Equipment at the termination of a lease.

5. In early 1975, Rossman determined that the largest of the Crawford Plans, the CFC Trust, should diversify into the real estate market. Rossman identified the Property, a 3.95 acre parcel in Solon, Ohio, as suitable for purchase by the CFC Trust. While no appraisal of the Property was made, Rossman determined that a price of $500,000, an amount which was less than the purchase price paid by the then current owner of the Property, was fair market value based on his personal knowledge of real estate values for properties of comparable size and use within the same geographic area during this time period. Midwest had previously been a party to several real estate transactions in the subject area by virtue of having loaned mortgage money based on appraisals of certain real estate to be used as collateral for the mortgage loans. Rossman suggested that a more favorable price for the Property might be obtained if someone other than Midwest, as trustee for an unnamed client, approached the seller. Accordingly, it was decided that the principals of the Crawford Companies would negotiate the purchase of the Property. On April 9, 1975 Toner, one of the Crawford Companies, purchased the Property for $500,000 and immediately resold it to the CFC Trust for the same price. No commission was paid by the Plan in connection with the acquisition of the Property. The Property had been improved with an industrial building and an office wing which together contained approximately 27,0000 square feet of leasable space. On April 9, 1975, the office space (approximately 4,000 square feet) was leased to Falls Advertising Company (Falls), an unrelated party, on a 5 year net lease with an option for 5 additional years. The main shop area of the Property was leased on the same date to Toner under identical lease terms except Toner also agreed to pay all real estate taxes. In April of 1980 when the original 5 year leases expired, the CFC Trust continued to rent space in the Property to both Falls and Toner on a month-to-month basis.

Midwest was able to secure a rate of return on the Property equal to 14 percent of its acquisition cost at a time when a 12 percent return was considered market for similar types of property. Since its acquisition, the CFC Trust has had the Property reappraised several times and the rental terms have been modified so that the lease rate has at all times reflected a return of 14 percent of current appraised value.

6. The Committees, in overseeing the operation of the Crawford Plans, had always looked to Midwest and in-house counsel for confirmation that such plans were operated in conformance with applicable federal statutes. In May of 1980 a Federal banking audit identified a perceived prohibited transaction problem. However, transactions involving the leasing of the Equipment continued because of applicant decided to rely on the fact that representatives of the Department and the Internal Revenue Service (the IRS) were aware of the transactions based on audits conducted between 1978 and 1980 and had not objected to or suggested that the transactions represented violations of the prohibited transactions rules of the Act. The Crawford Companies, the Committees and Midwest claim no actual knowledge of the prohibited nature of the leasing transactions until May 27, 1981. On that date the Department formally notified the Committee of the CFC Trust of its position that the leasing transactions involving the Equipment and the Property constituted prohibited transactions. Upon being advised of these prohibited transactions, Midwest ceased engaging in additional leasing arrangements. However, since all of the lessees had a proven record of fulfilling their obligations and Midwest was concerned about the potential loss of a favorable income stream for the Plans, Midwest determined that it would not be in the best interests of the Crawford Plans to discontinue the existing leasing arrangements between the Crawford Plans and the Crawford Companies.

7. After reviewing the situation with Department representatives, the Committees, Midwest and the Crawford Companies developed a program that would serve as a basis for disentangling the Crawford Plans from the Crawford Companies through sales of the Equipment and the Property to such companies, and filed an application for exemption on January 18, 1983. The program calls for the obtaining of qualified independent appraisals for both the Property and the Equipment. All costs for such appraisals including commissions or other expenses incidental to the sale of the Equipment or the Property will be paid by parties other than the Crawford Plans.

It is the intention of the parties that once the fair market value of the Equipment is established, the Crawford Companies will purchase such for an amount which would equal the greater of (a) the current appraised value of the asset or (b) the book value for the asset as reflected on the financial records of the applicable profit-sharing plan. The applicant is aware that the IRS may characterize any payment which exceeds the appraised value of an asset as a form of indirect employer contribution. The applicant has reviewed the instances where such a differential may arise and compared the size of such differential to the covered payroll attributable to the profit-sharing plan in question. In each case, the recharacterization of the payment as a form of indirect contribution, coupled with the actual employer contributions fna forfeitures for the plan year would fall well within the limitations of section 415 of the Code. Mr. John Jelenic, President of Jelenic Machinery Company, was retained to appraise the Equipment. Mr. Jelenic has dealt in new and used automatic screw machines and the servicing of such equipment for 15 years. His appraisal, dated January 31, 1984, noted the current resale prices of each piece of Equipment owned by the Crawford Plans and its current book value as reflected on the financial records of the applicable profit-sharing plan. The appraisal for each piece of Equipment will be reviewed and updated prior to actual sale pursuant to this exemption, if granted. Mr. Jelenic is represented as being independent of and unrelated to any of the Crawford Companies, their principals or Midwest.

The Property which is currently owned by the CFC Trust and leased to Toner has also been appraised and will be sold for cash to one of the Crawford Companies. Mr. Stuart J. Satullo (Satullo), a senior member of the American Society of Appraisers, was retained to appraise the Property. Mr. Satullo determined that the market value of the Property as of January 23, 1984 was $735,000. The appraisal of the Property will be reviewed and updated prior to actual sale pursuant to this exemption, if granted. Mr. Satullo is represented as being independent of and unrelated to any of the Crawford Companies, their principals or Midwest.

These transactions would be effectuated within 90 days of the grant of this exemption request. Midwest, as the discretionary trustee for the Crawford Plans, has reviewed the terms of the proposed sales of the Equipment and the Property and has stated in writing that such transactions are appropriate and in the best interests of the participants and beneficiaries of the Crawford Plans (which term includes the CFC Trust).

8. In summary, the applicant represents that the statutory criteria contained in section 408(a) of the Act have been satisfied as follows:

(a) With respect to the retroactive leasing arrangements involving the Equipment—

(1) A bank trustee exercising its discretionary authority as a fiduciary, evaluated the investment program before the leasing arrangements commenced and determined it appropriate for the Crawford Plans. Such fiduciary also had decision making authority with respect to the Equipment to be purchased;

(2) The transactions between the Crawford Plans and the Crawford Companies commenced several years prior to the passage of the Act and constituted an established practice. These transactions were engaged in subsequent to January 1, 1975 with no actual knowledge of the prohibited nature of the leasing arrangements by either the Committees or Midwest;

(3) Midwest exercised its discretion over the leasing activities involving the Equipment in such a way as to ensure that the rates were competitive with leases of similar equipment by unrelated parties and that the terms of such leasing arrangements were protective of the lessors' interest in the Equipment; and

(4) Based on its contacts with the equipment manufacturing industry, Midwest believed that the investment program involving the leasing of the Equipment was protective and in the best interests of the participants and beneficiaries of the Crawford Plans.

(b) With respect to the retroactive purchase and leaseback of the Property—

(1) Based on its knowledge and experience in the real estate marketplace, Midwest determined that investment and leasing of improved real estate was appropriate for the CFC Trust;

(2) The price for the Property and the terms of the lease were approved by Rossman who determined the acquisition cost and lease terms to be fair market value and protective of the interests of the CFC Trust; and

(3) The Property was periodically appraised and the lease terms adjusted accordingly.

(c) With respect to the prospective program of disentanglement—

(1) It will be a one-time cash transaction which will provide the Crawford Plans with substantial liquidity for future investment;

(2) The sales of the Equipment and the Property will be for a price not less than fair market value as determined by qualified independent appraisers;

(3) All costs of appraisals, commissions, or other expenses incidental to the sales of the Equipment and the Property will be paid by parties other than the Crawford Plans; and

(4) Midwest has made a determination that such transaction would be in the interests of the Crawford Plans and their participants and beneficiaries.

Scope of Proposed Exemption

The applicants are seeking retroactive relief for all leasing transactions involving the Equipment and the Property. The applicants are also seeking prospective relief to permit the sale of the Equipment and the Property to the Crawford Companies. The Department has determined that, although significant safeguards appear to have existed, the proposal of retroactive relief is justified for only certain of the subject transactions. The Department offers the following as an explanation of the scope of proposed relief.

1. In reviewing the chronology of events for the subject leasing transactions, and upon considering the factors enunciated in ERISA Technical News Release No. 85–1 (issue January 22, 1985), it appears that as of May 1980, the applicants were put on notice as a result of a federal banking authority audit concerning the likelihood that the leasing transactions involving the Equipment represented violations of the Act. While this contact did not come from either the Department or the IRS, the agencies charged with primary enforcement responsibility of the Act, the advice should have caused the fiduciaries of the Crawford Plans to exercise due diligence in identifying the prohibited transactions and to take appropriate steps to seek an exemption or correct the transactions. Instead, the record suggests that such fiduciaries placed undue reliance on the failure of the Department or the IRS to object to the transactions as a basis for continuing the investment program of purchasing and leasing the Equipment. Accordingly, the Department is only proposing retroactive relief for transactions entered into between the effective date of the prohibited transaction provisions of the Act and May 31, 1980. The Department's proposal for retroactive relief would permit the continuation, including renewals, of leasing arrangements in effect on May 31, 1980. However, relief would not extend to any new leasing arrangements entered into after May 31, 1980 even though the Crawford Plans may have previously obligated themselves to purchase a piece of Equipment and tentatively agreed to a lease with one of the Crawford Companies. With respect to new leasing transactions involving the Equipment which occurred after May 31, 1980, the applicant represents that all applicable excise taxes will be paid within 90 days of the grant of this exemption.

2. The representations of the applicant indicate several of the Crawford Plans had substantial concentrations of assets committed to Equipment which was leased to the Crawford Companies. While it is apparent that Rossman wished to fairly allocate the income producing potential of the leases among all the Crawford Plans, and that the leasing program incorporated safeguards for the benefit of the lessor plans, the percentage of assets committed to these employer-related transactions by some of the Crawford Plans exceeded the tolerance level for diversification that has generally been applied by the Department in its consideration of individual exemption applications. Accordingly, the Department is only proposing relief to the extent that, when entered into, any lease involving the Equipment by any of the Crawford Plans did not cause the plan to have more than a total of 25 percent of its assets committed to such transactions. For purposes of applying this percentage ceiling, those leases that may have qualified for section 414(c) relief are to be aggregated with those

[5] The Department's authority to grant administrative relief under section 408(a) of the Act does not extend to the general standards of fiduciary conduct found in section 404(a)(1) of the Act. In particular, by this notice the Department makes no determination with respect to the requirement of section 404(a)(1)(C) that a fiduciary diversify the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

leasing arrangements involving the Equipment covered under the [illegible] Interests by the Plan to the Trustees. The [illegible] Code, by reason of section 4975(c)(1) (A)

Original Lease (the New Lease), [illegible] equivalent to those of an arm's-length [illegible] through (E) of the Code shall not apply

leasing arrangements involving the Equipment covered under the scope of this proposed exemption.

For Further Information contact: Paul R. Antsen of the Department, telephone (202) 523-8753. (This is not a toll-free number.)

Baker, Lieberman & Filios, D.D.S., P.C. Employees' Profit Sharing and Retirement Located in Rochester, New York

[Application No. D-5943]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of two partnership interests (the Interests) in Red River Associates (the Partnership) by the Plan to Drs. Kenneth I. Lieberman and Achilles M. Filios, parties in interest with respect to the Plan, provided that the terms of the proposed sale are as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 26 participants. The Plan had total assets of $746,092 as of December 31, 1983. The trustees of the Plan are Drs. Kenneth I. Lieberman and Achilles M. Filios (the Trustees). The Trustees are shareholders of Baker, Lieberman & Filios, D.D.S., P.C. (the Employer). The Employer is a professional service corporation engaged in the practice of general dentistry.

2. On December 14, 1983, the Trustees purchased the Interests at a price of $50,000 per unit from an unrelated party.[6] The Interests represent approximately 5 percent of the total interests outstanding in the Partnership. The Partnership was formed for the purpose of operating an AM/FM radio station in Grand Forks, North Dakota.

3. The applicant requests an exemption to allow the sale of the Interests by the Plan to the Trustees. The Trustees have determined that the Interests are not performing the goals of producing current income, plus capital appreciation, that had been anticipated. In fact, the Interests have shown a loss since their purchase. The December 31, 1984 financial statement for the Partnership shows the Plan's net loss for 1984 was $41,645. The Trustees have also determined that the Plan's continued holding of the Interests would produce lower returns than could be expected in comparison to other investments that could be made with the proceeds from the sale of the Interests. The sale will be for cash and the purchase price will be $50,000 per unit of the Interests. No commission or fees will be charged in connection with their proposed sale.

4. Mr. John B. Babcock of Ithaca, New York, is the largest investor in the Partnership and a consultant to the communications industry. Mr. Babcock, by letter of December 19, 1984, represents that the fair market value of the Interests is not greater than $50,000 per unit as of that date.

5. In summary, the applicant represents that the proposed transaction meets the statutory criteria for section 408 of the Act because:

(1) The Plan will be able to divest itself of assets that are not meeting the investment objectives which were sought at the time of their purchase;

(2) The Plan will receive at least fair market value for the Interests;

(3) No commissions or fees will be charged to the Plan in connection with the proposed transaction; and

(4) The Trustees have determined that the proposed transaction is in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Northwest Pump and Equipment Company Profit Sharing Plan and Employees' Trust (the Plan) Located in Portland, Oregon

[Application No. D-5953]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to a lease, effective July 1, 1984, of certain improved real property by the Plan to the Northwest Pump and Equipment Company (the Employer), the sponsor of the Plan, provided that such lease is on terms and conditions at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party.

Effective date: This exemption, if granted, will be effective July 1, 1984.

Summary of Facts and Representations

1. The Plan is a defined contribution pension plan with 44 participants and total assets of $1,741,371 as of December 31, 1984. The Employer is a Washington corporation engaged in sales and service of petroleum production equipment. The trustees of the Plan are two officers of the Employer (the Trustees).

2. Among the Plan's assets is certain improved real property (the Property) consisting of 30,500 square feet of commercially-zoned land improved with a warehouse and an office building located at 2003 and 2045 SE Ankeny Street and 2044 Burnside Street in Portland, Oregon. The Plan leases 19.1 percent of the office space in the Property to parties unrelated to the Plan. The remaining office space and all of the warehouse space in the Property (the Leased Space) is utilized by the Employer as its principal place of business. The Leased Space has been leased by the Employer from the Plan continuously since September 1, 1972 under a lease (the Original Lease) which was renewed and extended by its own terms on August 29, 1982 to expire June 30, 1984. The Employer represents that the Original Lease constituted a lease as defined under section 414(c)(2) of the Act and was therefore exempt until June 30, 1984 from the prohibitions of sections 406 and 407(a) of the Act.[7] As of December 13, 1983 the Property had a fair market value of $540,000, accordiang to Harold R. Wacker, MAI (Wacker), an independent professional real estate appraiser whose office is located in Portland, Oregon. The fair market value of the Leased Space, based on Wacker's appraisal, constitutes twenty-five percent of the assets of the Plan as value on December 31, 1984. The Employer is requesting an exemption for the continued leasing of the Leased Space by the Plan to the Employer after June 30, 1984 under a modification of the Original Lease (the New Lease), effective July 1, 1984, under the terms and conditions described herein.

3. The interests of the Plan for all purposes under the New Lease are represented by the Trust Department of the Pacific Western Bank (the Bank) of Portland, Oregon, to whom the Trustees have delegated total authority with respect to the Plan's interests in the Leased Space. The Bank represents that it has no busines relationship with the Employer. The New Lease is a triple net lease for an initial term of ten years commencing July 1, 1984, with a provision for up to two five-year extensions with approval of the Bank. Under the New Lease the Employer assumes responsibility for all taxes, all costs of maintenance and repair and full fire and extended coverage insurance on the Lease Space. The New Lease requires the Employer to indemnify the Plan and hold the Plan harmless against all claims, demands and liabilities resulting from the Employer's of the Leased Space. Rentals under the New Lease, payable monthly, were established as of July 1, 1984 for the first five years of the initial term, and were determined by the Bank, based upon Wacker's appraisal and the Bank's independent investigation of the fair market rental value of the Lease Space. The Bank represents that the initial rentals as so determined provided the Plan a return of no less than the fair market rental value of the Leased Space. The new Lease provides that on July 1, 1989 the fair market rental value of the Leased Space will be determined by a professional MAI appraiser selected by the Bank, and the rental commencing on such date for the remainder of the initial term shall be the fair market rental value as so determined. Rental during any renewal terms shall be determined in the same manner at the commencement of each renewal term.

4. The subject transaction, as described herein, has been reviewed and evaluated on behalf of the Plan by the Bank. The bank has detemined that the Plan's continued holding of the Property and the lease of the Leased Space to the Employer are in the best interests and protective of the Rlan. The Bank notes that the New Lease is of short duration, requiring mid-term rental review, reserving for the Bank adequate oversight of the rate of return provided by the Leased Space and allowing the Bank to refuse a renewal of the New Lease in the event of market changes necessitating alterations in the Plan's use of the Property. The Bank represents that all terms and conditions of the subject transaction are at least equivalent to those of an arm's-length transaction between unrelated parties and that some features of the transaction, such as triple net return and five-year rental review, surpass those to be expected in standard commercial leases between unrelated parties. The Bank will act on behalf of the Plan for all purposes related to the Leased Space, including the collection of rentals from the Employer and the pursuit of appropriate remedies, if necessary, on behalf of the Plan in the event of the Employer's default or other deficiency of performance.

5. In summary, the applicant represents that the critieria of section 408(a) of the Act are satisfied in the subject transaction because: (1) The interests of the Plan with respect to the Leased Space are represented by an independent fiduciary, the Bank, which has determined that the continued holding of the Property and the Employer's lease of the Leased Space under the New Lease are in the best interests and protective of the participants and beneficiaries of the Plan; (2) The New Lease provides the Plan a net return, insurance protection on its investment in the Lease Space, and no less than the fair market rental value of the Leased Space as periodically determined; (3) The New Lease is of short duration and reserves to the Bank the oversight of the Plan's rate of return on the Leased Space and the right to refuse a renewal of the New Lease in the event of market changes; and (4) The Bank has determined that the terms and conditions of the subject transaction are equivalent to and better than those which the Plan could obtain in dealing at arm's length in a standard commercial transaction with an unrelated party.

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Robert J. Bray, D.D.S., M.S., P.A. Profit Sharing Plan (the Plan) Located in Rochester, New York

[Application No. D-5884]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of a partnership interest (the Interest) in Red River Associates (the Partnership) by the Plan to Dr. Robert Bray, a party in interest with respect to the Plan provided that the terms of the sale are at least as favorable to the Plan as those obtainable in a similar transaction with an unrelated party on the date of its consummation.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 11 participants. The Plan had total assets of $130,623 as of December 31, 1983. The trustee of the Plan is Dr. Robert Bray (the Trustee). The Trustee is the sole shareholder of Robert J. Bray, P.A. (the Employer). The Employer is a professional service corporation engaged in the practice of general dentistry.

2. On December 14, 1983, the Trustee purchased the Interest at a price of $50,000 from an unrelated party. The Interest represents approximately 2.3 percent of the total interests outstanding in the Partnership and 38 percent of the total assets of the Plan. The Partnership was formed for the purpose of operating an AM/FM radio station in Grand Forks, North Dakota.

3. The application requests an exemption to allow the sale of the interest by the Plan to the Trustee. The Trustee has determined that the Interest is not performing the goals of producing current income, plus capital appreciation, that had been anticipated. In fact, the Interest has shown a loss since its purchase. The December 31, 1984 financial statement for the Partnership shows the Plan's net loss for 1984 was $20,823. The Trustee has also determined that the Plan's continued holding of the Interest would produce lower returns than could be expected in comparison to other investments that could be made with the proceeds from the sale of the Interest. The sale will be for cash and the purchase price will be $50,000. No commission or fees will be charged in connection with the proposed sale.

4. Mr. John B. Badcock of Ithaca, New York, is the largest investor in the Partnership and a consultant to the communications industry. Mr. Babcock, by letter dated December 19, represents that the fair market value of the Interest is not greater than $50,000 as of that date.

5. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408 of the Act because:

(1) The Pan will be able to divest itself of an asset that is not meeting the

[6] The Department notes that when the Interests were purchased in December 1983, Dr. Robert Baker was a partner of the Partnership. Dr. Baker is an owner of the Employer. The Department expresses no opinion as to the possible prohibited transaction involved in the Plan's purchase of the Interests and provides no exemptive relief for this transaction.

[7] In this proposed exemption, the Department expresses no opinion as to whether the Original Lease met the requirements of section 414(c)(2) of the Act.

investment objectives which were sought at the time of its purchase;

and finance committee which

M.A.I., unrelatred to Mr. Roth or the

in the interests of the plan and of its participants and beneficiaries and

notices stated that any interested person

Peter W. Burk Employee Pension

investment objectives which were sought at the time of its purchase;

(2) The Plan will receive at least fair market value for the Interest;

(3) No commissions or fees will be charged to the Plan in connection with the proposed transaction;

(4) The Plan will liquidate an asset which constitutes 38 percent of its total assets, thus permitting the Plan to diversify; and

(5) The Trustee has determined that the proposed transaction is in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Cone, Wegner, Nugent, Johnson, Hazouri & Roth, P.A. Profit Sharing Plan and Trust (the Plan) Located in Palm Beach, Florida

[Application No. D-6038]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale of a certain condominium unit (the Property) by the individually directed account (the Account) in the Plan of David Roth (Mr. Roth) to Mr. Roth, for the greater of the Property's fair market value or the Account's costs in acquiring and holding the Property.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 74 participants and assets of $4,364,457 as of November 30, 1984. The trustees of the Plan (the Trustees) are Albertus J. Cone, A. Ward Wagner and Charles Nugent, all of whom are stockholders and officers in Cone, Wagner, Nugent, Hazouri & Roth, P.A. (the Plan Sponsor). The Plan permits participants to direct the investment of their individual account balances in any manner that would not constitute a prohibited transaction or cause the Plan to lose its tax exempt status. As of November 30, 1984, the Account balance was $220,857 including the Property.

2. Mr. Roth is a stockholder and officer in the Plan Sponsor and a member of the investment management and finance committee which administers the Plan.

3. The Property is a rental condominium unit, number 910, 100 Ocean Trail Way in Jupiter, Florida. The Plan purchased the Property on behalf of the Account in November of 1981 for $136,346.78 from the builder, Compeau Corporation, which is unrelated to Mr. Roth or the Plan Sponsor. The applicant represents that the Property has been rented on a continual basis to unrelated parties, and all income and expenses attributable to the Property are applied to the Account. Since the purchase of the Property to November of 1984, the Account has spent $5,945 for improvements and shown a net profit of $8,456.64 on rentals.

4. The Trustees desire to remove the Property from the Plan for several reasons. The major reasons are to relieve the Trustees of the administrative burdens currently associated with the Property and to eliminate the risk of becoming tied up in a law suit in the event of personal injuries occuring on the Property. In addition, the applicant represents that the cost of adequate liability insurance reduces the financial attractiveness of the Property. The applicant represents that virtually all the other assets of the Plan and another retirement Plan sponsored by the Plan Sponsor are managed by professional investment managers. The only assets not managed by these professionals are a small checking account maintained in each Plan for current operating needs and the earmarked investments. The trustee committee has neither the ability nor the desire to manage the Plan assets. The only asset which requires active management at the present time is the Property. The Trustees could hire professional management for the Property, as they have with the other assets, but the Property is neither large enough nor profitable enough to justify the expense of professional management. The applicant also represents that there is currently a "glut" of ocean front condominiums in the Palm Beach area and that the value of the Property will not appreciate significantly in the near future. The proceeds of the sale will be invested in a more profitable manner.

5. Mr. Roth desires to retain the Property and wishes to purchase it from the Plan. He will pay cash at the greater of the Plan's costs in acquiring and holding the Property for its appraised fair market value. Mr. Roth will pay all expenses and fees associated with the transaction.

6. The Property was appraised on April 15, 1985 by Nathaniel J. Orr, M.A.I., unrelatred to Mr. Roth or the Plan Sponsor, as having a fair market value of $140,000. This represents approximately 3.3% of the Plan's assets and 63% of the Account's assets.

7. In summary, the applicant represents that the proposed transaction satisfies the criteria set forth in section 408(a) of the Act because: (a) The sale will be a one time transaction for cash; (b) the Plan will receive the greater of the appraised fair market value of the Property or the total costs incurred by the Plan in acquiring and holding it; (c) Mr. Roth will bear all the costs of the transaction; (d) the Trustees have determined that it is in the best interests and protective of the Plan and its participants and beneficiaries to sell the Property; and (e) Mr. Roth is the only person affected by the transaction and he desires that it be consummated.

Notice to Interested Person: Because Mr. Roth is the only participant in the Plan to be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days after the date of publication of this notice in the **Federal Register**.

For Further Information Contact: Mr. David Lurie of the Department, telephone (202) 523-8884. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible,

in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 23rd day of July, 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR. Doc. 85-17816, Filed 7-25-85; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 85-127; Exemption Application No. D-4482 et al.]

Grant of Individual Exemptions; Local Union 731, International Brotherhood of Teamsters, et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Local Union No. 731, International Brotherhood of Teamsters et al. (the Union) Located in Chicago, Illinois

[Prohibited Transaction Exemption 85-127; Exemption Application No. D-4482]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of an interest in a computer system by the Union to a group of related pension and welfare trust funds for $12,000, provided that this amount does not exceed the fair market value of the interest in the computer system on the date the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 21, 1985 at 50 FR 20980.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Peter W. Burk Employee Pension Benefit Plan for Sole Proprietorship Located in Waterloo, Iowa

[Prohibited Transaction Exemption 85-128; Exemption Application No. D-5229]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (e) of the Code, shall not apply to the loan by the Plan to Peter W. Burk of $22,000, under the terms described in the notice of proposed exemption, provided such terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party. Section 408(d)(1) of the Act provides that the Department lacks authority to grant an exemption under section 408(a) of the Act for the lending of any part of the corpus or the income of a plan to an owner-employee. Therefore, the Department cannot grant an exemption under Title I of the Act for the subject loan. However, the Department can grant an exemption under Title II of the Act, pursuant to section 4975 of the Code.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 7, 1985 at 50 FR 24065.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

LTV Corporation and Affiliates Consolidated Retirement Trust (the Trust) Located in Dallas, Texas

[Prohibited Transaction Exemption 85-129; Application No. D-5332]

Exemption

(a) *General Exemption.* The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to any party in interest transaction involving the purchase, ownership, sale, management, leasing and development of real property by the portion of the Trust maintained and managed by Thomas L. Karsten Associates (Karsten) and the LTV Corporation (LTV), the sponsor of the Trust, provided that the following conditions are met:

(1) The party in interest is not:

(i) Karsten, any person directly or indirectly controlling, controlled by or under common control with Karsten

(Controlled Person); any officer, director, or highly compensated employee (as defined in section

terms generally available in arm's-length transactions between unrelated parties;

Accordingly, the Department has determined not to hold a hearing. After

operate for the exclusive benefit of the employees of the employer maintaining

the Chairman published in the **Federal Register** of February 13, 1980, these

Meeting #26 to review Fellowships for College Teachers in American Literature

VOL 50 ISS 144 JL 26 1985 UMI

(Controlled Person); any officer, director, or highly compensated employee (as defined in section 4975(e)(2)(H) of the Code) of Karsten or any Controlled Person; any corporation, partnership, trust or unincorporated enterprise in which Karsten, any Controlled Person, or any officer, director or highly compensated employee (as defined above) of Karsten or any Controlled Person owns a 5% or more interest; or any corporation, partnership, trust, or unincorporated enterprise which owns a 5% or more interest in Karsten or any Controlled Person; or

(ii) LTV, any person directly or indirectly controlling, controlled by or under common control with LTV (LTV Controlled Person); any officer, director, or highly compensated employee (as defined in section 4975(e)(2)(H) of the Code) of LTV or any LTV Controlled Person; any cooperation, partnership, trust or unincorporated enterprise in which LTV, any LTV Controlled Person, or any officer, director or highly compensated employee (as defined above, of LTV or any LTV Controlled Person owns a 5% or more interest; or any corporation, partnership, trust, or unincorporated enterprise which owns a 5% or more interest in LTV or any LTV Controlled Person; or

(iii) Any person who exercises discretionary authority, responsibility or control or who provides investment advice with respect to the investment of Trust assets involved in the particular transaction;

(iv) The term "interest", as applied in subsections (1) (i) and (ii) above, means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation.

(B) The capital interest or the profits interest of the entity if the entity is a partnership, or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(v) A person is considered to own an interest held in any capacity if the person has or shares the authority—

(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose or to direct the disposition of such interest.

(2) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of Karsten and/or LTV, the terms of the transaction are not less favorable to the Trust than the terms generally available in arm's-length transactions between unrelated parties;

(3)(i) Karsten shall maintain for a period of six years from the date of each transaction mentioned above, records necessary to determine whether the conditions of this exemption have been met. The records above must be unconditionally available at their customary location for examination for purposes reasonably related to protecting rights of the participants of the Trust during normal business hours by:

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service;

(B) Any fiduciary of a plan participating in the Trust who has the authority to acquire or dispose of the interests of the plan in the investment fund subject to the management of Karsten, or any duly authorized employee or representative of such fiduciary; and

(C) Any participant or beneficiary of any plan which is funded by the Trust or any duly authorized representative of such participant or beneficiary.

(ii) None of the persons described in subdivision (i)(C) of this subpargraph (3) shall be authorized to examine LTV's or Karsten's trade secrets or commercial or financial information which is privileged, confidential or of a proprietary nature.

(b) *Specific Exemption for Transactions Involving Places of Public Accommodation.* The restrictions of sections 406(a)(1) (A) through (D) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the furnishing of services, facilities and any goods incidental thereto by a place of public accommodation which is or may be considered an asset of the Thrust to a party in interest with respect to the Trust if the services, facilities or incidental goods are furnished on a comparable basis to the general public, and if the requirements of subparagraph (a)(3) of this exemption are met.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 26, 1985 at 50 FR 7855.

Hearing Request: The Department received one request for a public hearing from a participant in the Trust. The participant's request did not raise any objections to the transactions for which an exemption is requested. Attempts to contact the commentator by telephone and mail have been unsuccessful. Accordingly, the Department has determined not to hold a hearing. After consideration of the entire record, the Department has determined to grant the exemption as proposed.

Effective Date: This exemption is effective January 8, 1983.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Retirement Plan for Employees of Holsum Bakery, Inc. (the Plan) Located in Phoenix, Arizona

[Prohibited Transaction Exemption 85–130; Exemption Application No. D–5773]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of certain real property by Holsum Bakery, Inc. (the Employer) to the Plan, and the leaseback of the real property by the Plan to the Employer provided the terms of the proposed transactions are as favorable to the Plan as those obtainable by the Plan in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 21, 1985 at 50 FR 20961.

For Further Information Contact: Linda H. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 23rd day of July, 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85–17815 Filed 7–25–85; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Opera-Musical Theater Professional Companies Section) to the National Council on the Arts will be held on August 13, 1985, from 9:00 a.m.–7:00 p.m., August 14–15, 1985, from 9:00 a.m.–6:00 p.m., and on August 16, 1985, from 9:00 a.m.–5:30 p.m. in Room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on August 13, 1985, from 9:00–9:30 a.m. for introductions, announcements, and updates.

The remaining sessions of this meeting on August 13, 1985, from 9:30 a.m.–7:00 p.m., August 14–15, 1985, from 9:00 a.m.–6:00 p.m., and on August 16, 1985, from 9:00 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: July 19, 1985.

John H. Clark,

Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–17739 Filed 7–25–85; 8:45 am]

BILLING CODE 7537–01–M

Humanities Panel Meetings; Change in Meeting Dates

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Changes in meeting dates.

SUMMARY: This is to announce that the dates for some of the Humanities Panel meetings to be held at the National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Washington, DC 20506 as announced in the **Federal Register** on July 16, 1985 at pages 28855–28856 have been changed as follows:

Meeting #6 to review Fellowships for College Teachers in Religious Studies has been changed from August 4, 1985 to August 5, 1985.

Meeting #7 to review Fellowships for College Teachers in Art and Music has been changed from August 5, 1985 to August 6, 1985.

Meeting #11 to review Fellowships for College Teachers in Foreign Languages and Literature has been changed from August 11, 1985 to August 12, 1985.

Meeting #13 to review Fellowships for College Teachers in American History has been changed from August 13, 1985 to August 14, 1985.

Meeting #15 to review Fellowships for College Teachers in Political Science has been changed from August 15, 1985 to August 16, 1985.

Meeting #19 to review Fellowships for College Teachers in World History has been changed from August 18, 1985 to August 19, 1985.

Meeting #21 to review Fellowships for College Teachers in Philosophy has been changed from August 20, 1985 to August 21, 1985.

Meeting #26 to review Fellowships for College Teachers in American Literature and Studies, Film, TV, and Theatre has been changed from August 25, 1985 to August 26, 1985.

Meeting #27 to review Fellowships for College Teachers in British Literature, Literary Criticism, Composition and Rhetoric has been changed from August 26, 1985 to August 27, 1985.

Meeting #29 to review Fellowships for College Teachers in Anthropology, Sociology, Education, and Psychology has been changed from August 28, 1985 to August 29, 1985.

The time and room numbers will remain the same.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 85–17771 Filed 7–25–85; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 and 50–318]

Baltimore Gas and Electric Co. (Calvert Cliffs Nuclear Power Plant Unit Nos. 1 and 2); Order Modifying License Confirming Additional Licensee Commitments on Emergency Response Capability

I

The Baltimore Gas and Electric Company (BG&E) is the holder of Facility Operating License Nos. DPR–53 and DPR–69 which authorize the operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, at steady-state power levels not in excess of 2700 megawatts thermal. The facility consists of two pressurized water reactors located in Calvert County, Maryland.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The requirements are set forth in NUREG–0737, "Clarification of TMI

Action Plan Requirements," and in Supplement 1 to NUREG–0737,

would provide timely upgrading of the

Accordingly, pursuant to sections 103,

intervene was filed following notice of

Dated at Bethesda, Maryland, this 19th of

Summary of Environmental Impacts as

VOL 50 ISS 144 JL 26 1985 UMI

Action Plan Requirements," and in Supplement 1 to NUREG–0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82–33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG–0737. In this letter, operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 20 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG–0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

BG&E responded to Generic Letter 82–33 by letter dated April 15, 1983. By letters dated July 22, 1983 and November 18, 1983, BG&E modified several dates as a result of negotiations with the NRC staff. In these submittals, BG&E made commitments to complete the basic requirements. BG&E's commitments included (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. The staff found that these dates were reasonable and achievable dates for meeting the Commission requirements and concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On June 14, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed BG&E's commitments.

IV

The June 14, 1984 Order stated that, for those requirements for which BG&E committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. The June 14, 1984 Order, as supplemented by BG&E's letters dated December 1, 1984 and June 19, 1985, provided completion schedules for the following requirements:

1. Regulatory Guide 1.97—Application to Emergency Response Facilities
1b. Implement (installation or upgrade) requirements.
2. Upgrade Emergency Operating Procedures (EOPSs)
2b. Implement the upgraded EOPs

The attached Table summarizing BG&E's schedular commitments for the above items was developed by the NRC staff from the information provided by BG&E. The staff reviewed BG&E's December 1, 1984 and June 19, 1985 letters and discussed the dates with the licensee.

The NRC staff finds these dates are reasonable and achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of BG&E's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

Accordingly, pursuant to sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, effective immediately, that licenses DPR–53 and DPR–69 are modified to provide that licensee shall:

Implement the specific items described in the Attachment to this Order in the manner described in BG&E's submittals noted in Section IV herein no later than the dates in the Attachment.

Extension of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

VI

The licensee or any person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the Federal Register. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in section V of this Order.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated in Bethesda, Maryland, this 16th day of July 1985.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Regulation.

CALVERT CLIFFS UNITS 1 AND 2 LICENSEE'S ADDITIONAL COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirements	Licensee's completion schedule
Regulatory Guide 1.97—Application to Emergency Response Facilities.	1b. Implement (installation or upgrade) requirements	Unit 1—Prior to startup following the Cycle 10 refueling outage (estimated to be Spring 1988). Unit 2—Prior to startup following the Cycle 9 refueling outage (estimated to be Fall 1986). December 1985.
2. Upgrade Emergency Operating Procedures (EOPs)	2b. Implement the upgraded EOPs	

[FR Doc. 85–17823 Filed 7–25–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–394]

California Polytechnic State University; Order Terminating Facility License

By application dated April 30, 1981, as supplemented by letter dated September 8, 1981, California Polytechnic State University (the licensee) requested authorization to dismantle the AGN–201 Training Reactor (the facility), a research reactor located on the campus in San Luis Obispo, California, and to dispose of the component parts in accordance with the plan submitted as part of the application, and to terminate Facility Operating License No. R–121. A "Notice of Proposed Issuance of Orders Authorizing Dismantling of Facility, Disposition of Components Parts, and Termination of Facility License" was published in the Federal Register on June 26, 1981 (46 FR 33148). No request for hearing or petition for leave to intervene was filed following notice of the proposed action. By Order dated October 6, 1981 the Commission authorized dismantling of the facility and disposal of component parts as proposed in the licensee's dismantling plan.

By letter dated January 30, 1985, the licensee indicated compliance with the dismantling and disposal plan and requested termination of the Facility Operating License No. R–121. The facility area has been inspected by a Nuclear Regulatory Commission Region V inspector. The inspection and radiation surveys confirm disposal of component parts in accordance with licensee's dismantling plan, that radiation levels meet the values defined in the dismantling plan, and that the area is, therefore, available for unrestricted access.

Accordingly, the Commission has found that the facility has been dismantled and decontaminated pursuant to the Commission's Order dated Octobver 6, 1981. Satisfactory disposition has been made of the component parts and fuel in accordance with the Commission's regulations in 10 CFR Chapter I, and in a manner not inimical to the common defense and security, or to the health and safety of the public. In accordance with 10 CFR Part 51, the Commission has determined that the issuance of this termination Order will have no significant impact. The Finding of No Significant Environmental Impact was published in the Federal Register on July 17, 1985 (50 29005).

For further details with respect to this action, see (1) the application for authorization to dismantle the facility and dispose of component parts and for termination of facility operating license dated April 30, 1981, as supplemented September 8, 1981 and January 30, 1985, (2) the Commission's Order Authorizing Dismantling of Facility and Disposition of Component Parts, dated October 6, 1981, and (3) the Commission's related Safety Evaluation, dated July 19, 1985. Each of these items is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

This termination Order is effective as of its date of issuance.

Dated at Bethesda, Maryland, this 19th of July 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr., Director,

Division of Licensing.

[FR Doc. 85–17820 Filed 7–25–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–2]

Finding of No Significant Environmental Impact Regarding Proposed Amendment to Facility Operating License No. R 28; University of Michigan

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. R–28 for the University of Michigan training and research reactor located on the campus in Ann Arbor, Michigan.

The amendment will renew the Operating License for twenty years from its date of issuance, in accordance with the licensee's application dated November 30, 1984, as supplemented. Opportunity for hearing was afforded by the Notice of Proposed Renewal of Facility License published in the Federal Register on January 15, 1985 at 50 FR 2115. No request for hearing or petition for leave to intervene was filed following notice of the proposed action.

Continued operation of the reactor will not require alteration of buildings or structures, will not lead to changes in effluents release from the facility to the environment, will not increase the probability or consequences of accidents, and will not involve any unresolved issues concerning alternative uses of available resources. Based on the foregoing and on the Environmental Assessment, the Commission concludes that renewal of the license will not result in any significant environmental impacts.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment of this action, dated May 15, 1985, and has concluded that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined not to prepare an Environmental Impact Statement for the proposed action.

Summary of Environmental Impacts as Described in the Environmental Assessment

The proposed action would authorize the licensee to continue operating the reactor in the same manner that it has been operated since 1957. The environmental impacts associated with the continued operation of the facility are discussed in an Environmental Assessment associated with this action. The Assessment concluded that continued operation of the reactor for an additional 20 years will not result in any significant environmental impacts on air, water, land or biota in the area, and that an Environmental Impact Statement need not be prepared. These conclusions were based on the following:

(a) The excess reactivity available under the technical specifications is insufficient to support a reactor transient generating enough energy to cause overheating of the fuel or loss of integrity of the cladding;

(b) At a thermal power level of 2 Mw, the inventory of fission products in the fuel cannot generate sufficient radioactive decay heat to cause fuel damage even in the hypothetical event of rapid total loss of coolant, and

(c) The hypothetical loss of integrity of the cladding of the maximum irradiated encapsulated fueled experiment will not lead to radiation exposures in the unrestricted environment that exceed guideline values of 10 CFR Part 20.

For further details with respect to this proposed action, see the application for license renewal dated November 30, 1984, as supplemented, the Environmental Assessment, and the Safety Evaluation Report prepared by the staff (NUREG–1138).

These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Copies of NUREG–1138 may be purchased by calling (202) 275–2060 or (202) 275–2171 or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, D.C. 20013–7982.

Dated at Bethesda, Maryland, this 22nd day of July 1985.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

and small break LOCAs, steamline breaks, and associated containment

Not later than fifteen (15) days prior to the first prehearing conference

based upon a balancing of the factors

emergency response facility operability,

staff from the information provided by

VOL 50 ISS 144 JL 26 1985 UMI

For the Nuclear Regulatory Commission.
Dennis M. Crutchfield,
Assistant Director for Safety Assessment, Division of Licensing.
[FR Doc. 85-17821 filed 7-25-85; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License No. NPF-9 and Facility Operating License No. NPE-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The proposed amendments would change Technical Specifications for McGuire Units 1 and 2 to allow operation at up to 100% rated power without the Upper Head Injection (UHI) Systems. The Specification for the gas pressure to be maintained within the ECCs cold leg injection accumulators would also be increased 155 psi.

By letter dated May 9, 1985, the licensee requested NRC approved of proposed changes associated with UHI systems deletion by cutting and capping of the penetrations at the upper head of the reactor vessel. The letter proposed amendments to delete Technical Specifications requiring UHI system maintenance, surveillance, and leakage verification and to modify Technical Specifications to reflect deletion of UHI related containment penetrations and associated conductor overcurrent protective devices, containment isolation valves, and system piping snubbers. The proposed Technical Specifications would also increase the operable range of the nitrogen gas cover-pressure of the ECCS cold leg injection accumulators from 430 and 484 psig to 585 and 639 psig. The proposed Technical Specifications would be changed in a manner which would allow existing specification requirements to remain in effect until implementation of plant modifications during refueling outages, (currently scheduled during the first half of 1986) whereupon the revisions would become effective.

The UHI system performs no function during normal operation but serves to mitigate accidents after they occur. In support of the proposed amendments, the licensee will provide appropriate reanalyses of accidents presented in FSAR Chapters 6 and 15, including large and small break LOCAs, steamline breaks, and associated containment analyses. The reanalyses are intended to demonstrate that the change would not result in exceeding operating limits established by 10 CFR 50.46, or other Commission regulations.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended, (the Act) and the Commission's regulations.

By August 26, 2985, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who had been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated May 9, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 22nd day of July 1985.

For the Nuclear Regulatory Commission.
Darl S. Hood,
Acting Chief, Licensing Branch No. 4 Division of Licensing.
[FR Doc. 85-17825 Filed 7-25-85; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District (Fort Calhoun Station, Unit No. 1); Order Modifying License Confirming Additional Licensee Commitment on Emergency Response Capability

I

Omaha Public Power District (the licensee or OPPD) is the holder of Facility Operating License No. DPR-40 which authorizes the operation of Fort Calhoun Station, Unit No. 1 (the facility) at steady-state power levels not in excess of 1500 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Washington County, Nebraska.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

OPPD responded to Generic Letter 82-33 by letter dated April 15, 1983. In this submittal, OPPD made commitments to complete the basic requirements. OPPD's commitments included (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. The staff found that these dates were reasonable and achievable dates for meeting the Commission requirements and concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On February 22, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed OPPD's commitments.

IV

The February 22, 1984, Order stated that for those requirements for which OPPD committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the February 22, 1984 Order, OPPD's letter dated April 1, 1985, provided a completion schedule for the following requirement:

3. Regulatory Guide 1.97—Application to Emergency Response Facilities
3b. Implement (installation or upgrade) requirements.

The attached Table summarizing OPPD's schedular commitment for the above item was developed by the NRC staff from the information provided by OPPD. The staff reviewed OPPD's April 1, 1985 letter and discussed the date with the licensee.

The NRC staff finds that this date is reasonable and achievable for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of OPPD's commitment is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, effective immediately, that license DPR-40 is modified to provide that the licensee shall:

Implement the specific item described in the Attachment to this Order in the manner described in the OPPD submittal noted in section IV herein no later than the date in the Attachment.

Extension of time for completing this item may be granted by the Director, Division of Licensing, for good cause shown.

The Licensee or any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the Federal Register. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in section V of this Order.

This Order is effective upon issuance.

Dated in Bethesda, Maryland, this 19th day of July 1985.

For the Nuclear Regulatory Commission.
Hugh L. Thompson, Jr.,
Director, Division of Licensing, Office of Nuclear Reactor Regulation.

FORT CALHOUN STATION, UNIT NO. 1 LICENSEE'S ADDITIONAL COMMITMENT ON SUPPLEMENT 1 TO NUREG-0737

also identify the specific aspect(s) of the subject matter of the proceeding as to

Nontimely filings of petitions for leave to intervene, amended petitions

Dated at Bethesda, Maryland, this 24th day of July 1985.

FORT CALHOUN STATION, UNIT NO. 1 LICENSEE'S ADDITIONAL COMMITMENT ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirements	Licensee's completion schedule (or status)
3/ Regulatory Guide 1.97—Application to Emergency Response facilities.	3b. Implement (installation or upgrade) requirements....	1987 Refueling Outage estimated to end May 31, 1987.

[FR Doc. 85-17822 Filed 7-25-85; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co., and the Old Dominion Electric Cooperative, North Anna Power Station, Units No. 1 and No. 2; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. NPF-4 and No. NPF-7, issued to Virginia Electric and Power Company, et al. (the licensee), for operation of the North Anna Power Station, Units No. 1 and No. 2 (NA-1&2) located in Louisa County, Virginia.

The amendments would revise the NA-1&2 Technical Specifications (TS) to increase the presently rated core power level of 2775 Megawatts thermal (MWt) to 2893 MWt in accordance with the licensee's application for amendments dated May 2, 1985. The proposed changes would allow NA-1&2 to operate at a Nuclear Steam Supply System (NSSS) power of 2905 MWt. The proposed changes would represent approximately a 4½ percent increase over the presently licensed core power rating or 2775 MWt. The proposed changes would increase the electrical power output for each unit by 32 Megawatts electrical (MWe). It is noted that the NA Updated Final Safety Analysis Report (UFSAR) analyses and accident evaluations were evaluated at the presently Engineered Safeguards Design Stretch Core Power Rating of 2900 MWt and a NSSS power rating of 2910 MWt. In order to maintain a consistent basis between information reported in the instant proposed amendment request and that reported by reference in the UFSAR, the licensee's evaluation of NSSS capability has also been performed at 2910 MWt. However, because of turbine generator limitations, the licensee's proposed request would allow operation at a NSSS rating of only 2905 MWt and core rating of 2893 MWt.

The scope of the licensee's review to support the proposed core uprate encompassed all aspects of the NA-1&2 NSSS design and operation affected by the increase. NSSS designs were reviewed to verify compliance at the increased power rating with licensing criteria and standards currently specified in the NA-1&2 operating licenses. In addition, a review was conducted by the licensee to identify any potential unreviewed safety question that might occur as a result of the increased power rating in accordance with 10 CFR 50.59. The structural design of NSSS equipment was reviewed to assure that compliance had been maintained at the increased power rating with industry codes and standards that applied when equipment was originally built. In addition, the review encompassed the verification that NSSS components and systems will continue to meet functional requirements specified in the FSAR at the increase power rating. Currently approved NRC analytical techniques were used for analyses performed at the increased power rating. Also, the definition of NSSS/Balance of Plant (BOP) safety related interfaces were reviewed for any impact at the increase in power rating. Based on the scope of review as outlined above, the licensee states that NA-1&2 are capable, in their present design configuration, of operating at the proposed core power rating of 2893 MWt and a NSSS power rating of 2905 MWt without violating any of the design criteria or safety limits specified in the NA-1&2 FSAR and currently required in Facility Operating Licenses NPF-4 and NPF-7 for NA-1&2, respectively.

Based on the above, the licensee states that the review for the proposed power increase has verified that the probability of a malfunction of NSSS equipment imporatant to safety previously evaluated in the FSAR will not be increased at the proposed power rating. Also, the consequences of a malfunction of NSSS equipment important to safety previously evaluated in the FSAR will not be increased at the proposed power rating. And, finally, the possibility of a malfunction of NSSS equipment important to safety different from any already evaluated in the FSAR is not created by operation at the proposed power rating.

A slight change in environmental impact can be expected at the proposed increase in power. However, the Environmental Report for NA-1&2 and the NRC's Final Environmental Impact Statements (FEIS) as amended have already addressed operation up to the stretch core power rating of 2900 MWt and a NSSS power rating of 2910 MWt. Thus, the licensee's proposed core power uprate to 2893 MWt and a NSSS power rating of 2905 MWt is enveloped by the already reviewed and approved NRC's FEIS.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By August 26, 1985, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intevention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should

also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri 800 342-6700). The Western Union operator should be given Datagram Identification number 3737 and the following message addressed to Edward J. Butcher: (Petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated May 2, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Dated at Bethesda, Maryland, this 18th day of July 1985.

Edward J. Butcher,
Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85-17824 Filed 7-25-85; 8:45 am]
BILLING CODE 7590-01-M

Bi-Weekly Notice; Applications and Amendments To Operating Licenses Involving No Significant Hazards Considerations; Correction

In FR Doc. 85-16998 beginning on page 29006 in the issue of Wednesday, July 17, 1985, make the following correction on page 29010:

In the second column, DELETE "Florida Power Corporation, et al.," and all text following the heading to near the bottom of the third column ending with "Local Public Document Room location: Crystal River Public Library, 66 NW First Avenue, Crystal River, Florida", inclusive.

This document was erroneously published in the Notice of Consideration of Issuance of Amendment To Facility License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing section of the report and should have been included in the Previously Published Notices of Consideration of Issuance of Amendments To Operating Licenses and Proposed No Significant Hazards Consideration Determination And Opportunity for Hearing section of the report. It will be re-published in the report scheduled for publication on July 31, 1985.

Dated at Bethesda, Maryland, this 24th day of July 1985.

For the Nuclear Regulatory Commission.

Edward J. Butcher,
Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85-17919 Filed 7-25-85; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-22256; File No. SR-NASD-85-4]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Extending Comment Period

The National Association of Securities Dealers, Inc. ("NASD") submitted on March 4, 1985, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to modify the definition of "representative" in Schedule C of the NASD's By-Laws. The proposal would amend the definition to include persons who are employed by certain non-broker-dealer organizations and who perform activities on behalf of members similar to those performed by registered representatives.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of Securities Exchange Act Release No. 22034 (May 13, 1985), 50 FR 20641 (May 17, 1985). In that release, the Commission requested public comment on the proposal within twenty-one days from the date of publication in the **Federal Register.**

Since the publication of this release, the Commission has received a number of requests to extend the deadline of this proposed rule's comment period to afford an additional opportunity for public comment. The Commission believes that such an extension is warranted because the proposal raises important issues affecting broker-dealers, banks, and other financial institutions. Moreover, the Commission believes additional opportunity for public comment is appropriate in light of the Commission's recent approval of Commission Rule 3b-9.[1]

Interested persons are invited to submit written data, views and arguments concerning the foregoing

[1] Securities Exchange Act Release No. 22285 (July 1, 1985), 40 FR 28385 (July 12, 1985). In general, Commission Rule 3b-9 requires a bank to conduct certain securities activities through a broker-dealer registered with the Commission.

proposed rule change. Persons making written submissions should file six

by the Market Performance Committee. The Committee will attempt to select

PAMMs shall have access to special telephones at their stations for the

changes is section 6(b)(5) of the

For the Commission by the Division of

(A) Self-Regulatory Organization's

proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 24, 1985.

For the Commission, by the Division of Market Regulation, pursuant to designated authority, 17 CFR 200.30.3(a)(12).

John Wheeler,
Secretary.
July 19, 1985.

[FR Doc. 85-17814 Filed 7-25-85; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-22260; File No. SR-CBOE-85-28]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.; Relating to a Pilot Program for a Performance Appointment System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 1, 1985 the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The Exchange files as a rule change the following pilot for a Performance Appointment Market Maker (PAMM) system. The pilot program would be for a period of six months at about six stations. A station is a location at a post on the trading floor, at which location one or more option classes are traded. The stations in the pilot will be selected by the Market Performance Committee. The Committee will attempt to select stations with different levels of trading volume.

To be eligible for a Performance Appointment market makers will have to meet certain criteria as determined by the Market Performance Committee. PAMMs will have special obligations and will receive special benefits as incentives. A Performance Appointment shall extend to all option classes at a station. The measurement period for selecting PAMMs will be the most recent two expiration cycles, in other words a six-month period.

The selection criteria of the Market Performance Committee will focus on in-person trading patterns. A PAMM is expected to be present at the post on a daily basis. A high percentage of a PAMM's in-person trades must be in his Performance Appointment option classes. A PAMM's pattern of trading must have a high degree of correlation with the overall patterns of trading for each series in the option classes involved. The Committee will also consider a PAMM's total contract volume, capitalization, ability to make markets in size, and disciplinary record.

A PAMM is expected to put up firm quotes and to make two-sided markets in all series of option classes in his Performance Appointment. A PAMM also is expected to trade far-term as well as near-term series, in-the-money series as well as out-of-the money series, puts as well as calls and to effect buy transactions as well as sell transactions. PAMMs will receive certain benefits as incentives.

To keep published quotes accurate, especially in inactive series, a PAMM may employ (without incurring a badge fee) a special clerk to update quotes. PAMMs collectively will be accountable for one contract on a disseminated market quote. Upon implementation of an automated updating system, PAMMs will be accountable for five contracts on a disseminated quote.

Because PAMMs must maintain current markets, even in illiquid options, PAMMs may match equally with the book at a bid or an offer. The combined total number of contracts done by a PAMM or PAMMs under this circumstance only can equal the total number of contracts done by the book.

PAMMs may be disadvantaged respecting trading in active option series when they are updating markets or trading in less active series; however, it is anticipated that PAMMs will be able to participate equally with other market makers and floor brokers in trades in their Performance Appointment option classes.

PAMMs shall have access to special telephones at their stations for the purpose of keeping in direct contact with member-firm trading departments to assist in facilitating the execution of orders at their stations. While a PAMM may not use the telephone to accept orders, he may use it to negotiate transactions. To assist in such negotiations (and to enable all market makers to make better markets) member requests for information regarding book depth will be channeled through the PAMM to the OBO.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Procedures of the Self-Regulatory Organization

The purpose of the Performance Appointment Market Maker System pilot is to enable the Exchange to experiment with and to refine a system that provides incentives to market markers who meet increased obligations. The pilot is expected to demonstrate that Performance Appointment Market Makers (PAMMs) will enhance the Exchange's ability to service its customers in the following ways: Increase the depth and liquidity of markets, create long-term commitments to options classes, generate greater flexibility in responding to varying market conditions, provide current quotes in all series and encourage a continuous commitment to trade all options series.

The Exchange expects increased competition in the options business, including competition involving specialist-based operations. To meet increased competition while continuing the market-maker system, which separate the roles of principal and agent, market makers must be enabled to take on additional obligations.

The Exchange believes that the proposed pilot will enhance its overall market-making capabilities and will serve to improve the mechanism of a free and open market, to maintain a fair and orderly market and to protect investors. For these reasons, the statutory basis for the proposed rule

changes is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule-change creates any burden on competition not necessary or appropriate under the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Formal comments on the rule-change filing were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 16, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,
Secretary.
July 19, 1985.

[FR Doc. 85-17824 Filed 7-25-85; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-22258; File No. SR-PHLX-85-18]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc., Relating to Margin Requirements

Comments requested within 21 days after the date of this publication.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 28, 1985, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. is proposing changes to Rule 722. The change provide for the ability of its organizations to accept from customers, escrow receipts or option guarantee letters in lieu of margin required on short call or put option contracts on an index stock group. The portion of the rule change permitting escrow receipts for short call index option positions is only being proposed for a one year pilot period.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B) and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Exchange's margin currently do not provide for a customer to carry, on a covered basis, short call or short put option contracts overlying an index stock group. Other exchanges' rules have permitted such, although pursuant to an escrow receipt or option guarantee letter whereby the bank or trust company issuing the escrow receipt for short call index option positions certifies that it (1) holds at least ten (10) qualified equity securities of a fixed aggregate dollar value at trade date and (2) that if agrees to meet the customer's settlement obligation upon assignment.

Although appropriate in theory, this approach has proven impractical in certain respects. Current recordkeeping and segregation system employed by issuing banks and trust companies are not adaptable to the "basket of securities" approach presently required. Further, resolution of assignments is complicated and delayed as no cash is readily available to the bank or trust company to meet cash settlement.

This rule change proposal significantly reduces these operational difficulties and provides for greater flexibility by reducing the number of equity securities required to cover each short call option contract to one or more stocks and also through permitting the use of cash and cash equivalents. The amendment to its margin rule to reflect the ability of its member organizations to accept from customers escrow receipts or option guarantee letters in lieu of margin required on short call option contracts on an index stock group is being proposed for a one year pilot period.

The rule change also would permit margin for short put option contracts, including a put on an index option and foreign currency option, to be met by escrow receipts collateralized by cash or cash equivalents valued at not less than 100% of the aggregate current exercise price of the put on the day the option is written. Other option exchanges currently permit the use of cash and cash equivalents to cover short put equity options and index options. In addition, to these changes, the Exchange is proposing certain amendments to its Rule 722 on margin accounts that would, in effect, merge all its option margin rules, including those on index options, into one rule for the convenience of its members.

The statutory basis for the proposed rule change is section 6(b)(5) under the

Securities Exchanges Act of 1934, in that the proposal will facilitate the use of

Dated: July 19, 1985.
John Wheeler,

Form Nos. SBA 1244 A&B
Frequency: On occasion

damage until the close of business on

Interest rates are:

(Catalog of Federal Domestic Assistance

VOL 50 ISS 144 JL 26 1985 UMI

Securities Exchanges Act of 1934, in that the proposal will facilitate the use of index options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement an Comments on the Proposed Rule Change Received From Member, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the file number in the caption above and should be submitted by August 16, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 19, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-17625 Filed 7-25-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting and Recordkeeping Requirement Submitted for OMB Review..

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the Federal Register that the agency has made such a submission.

DATE: Comments must be received on or before August 17, 1985. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible before the comment deadline.

Copies: Copies of forms, request for clearance (S.F. 83), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Richard Vizachero, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC. 20416, Telephone: (202) 653-8538

OMB Reviewer: David Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7231.

Information collections submitted for review:

Title: Disaster Home Loan Application
Form Nos. SBA 5C, 739
Frequency: On occasion
Description of Respondents: These forms are used to determine eligibility and credit worthiness of individual victims who seek federal assistance in a declared disaster
Annual Responses: 52000
Annual Burden Hours: 34684
Type of Request: Extension

Title: Application for Section 502/503 Loan
Form Nos. SBA 1244 A&B
Frequency: On occasion
Description of Respondents: Small businesses or organizations applying for a Section 502 or 503 loan
Annual Responses: 1,300
Annual Burden Hours: 4,225
Type of Request: Extension.

William Cline,

Acting Chief, Information Resources Management Branch.

[FR Doc. 85-17776 Filed 7-25-85; 8:45 am]

BILLING CODE 8025-01-M

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration (SBA).

ACTION: Correction to notice of action subject to intergovernmental review under Executive Order 12372.

SUMMARY: This corrects a notice published in the **Federal Register** on June 10, 1985 (50 FR 24335).

This correction changes the closing date for comments from September 30, 1985, to September 15, 1985. This will allow SBA to respond to comments before the September 30, 1985, date when the SBDC's are scheduled to be funded.

DATE: Effective July 26, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Johnnie L. Albertson, (202) 653-6768, Deputy Associate Administrator, SBDC Programs, U.S. Small Business Administration, Washington, D.C. 20416.

In FR Doc. 85-13834 appearing at page 24335 in the issue of Monday, June 10, 1985, in the first column, subheading titled DATE, change the date September 30, 1985, to read September 15, 1985.

Dated: July 18, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-17775 Filed 7-25-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2195]

California; Declaration of Economic Injury Disaster Loan Area

As a result of the President's major disaster declaration on July 18, 1985, I find that the City of Los Angeles and the Counties of Monterey, San Diego, San Luis Obispo, Santa Clara, Santa Cruz and Ventura constitute a disaster loan area because of damage from grass, wildlands and forest fires beginning on or about June 26, 1985. Eligible persons, firms and organizations may file applications for loans for physical

damage until the close of business on September 16, 1985, and for economic injury until April 18, 1986, at: Disaster Area 4 Office, Small Business Administration 77, Cadillac Drive, Suite 158, Sacramento, California 95825, or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	11.125

The number assigned to this disaster is 219505 for physical damage and for economic injury the number is 631700.

**This time period is subject to change in accordance with the requirements of the Federal budget.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 22, 1985.

Bernard Kulik,

Deputy Associate Admiistrator.

[FR Doc. 85-17774 Filed 7-25-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2194]

Pennsylvania; Declaration of Disaster Loan Area

Westmoreland County and the adjacent Counties of Butler, Fayette, and the Townships of Fawn and Harrison in Allegheny County in the State of Pennsylvania constitute a disaster area because of high winds and flooding which occurred on July 8-9, 1985. Applications for loans for physical damage may be filed until the close of business on September 19, 1985, and for economic injury until the close of business on April 19, 1986, at the address listed below. Diaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Building, 75 Spring Street SW., Suite 822, Atlanta, GA 30303 or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	11.125

The number assigned to this disaster is 219406 for physical damage and for economic injury the number is 631600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 19, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-17773 Filed 7-25-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0336]

Chestnut Capital International II Limited Partnership; Issuance of a Small Business Investment Company License

On January 17, 1985, a notice was published in the **Federal Register** (50 FR 2644) stating that an application has been filed by Chestnut Capital International II Limited Partnership, 45 Milk Street, Boston Massachusetts 02109 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1984)) for a license as a small business investment company.

Interested parties were given until close of business February 18, 1985, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01-0336 on July 10, 1985, to Chestnut Capital International II Limited Partnership to operate as a small business investment company.

Dated: July 16, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Linsberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-17780 Filed 7-25-85; 8:45 am]

BILLING CODE 8025-01-M

[Application License No. 03/03-0179]

Enterprise Venture Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations governing small business investment companies [13 CFR 107.102 (1985)] under the name of Enterprise Venture Capital Corporation (the Applicant), 227 Franklin Street, Suite 200, Johnstown, PA 15901 for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as Regulations promulgated thereunder.

The proposed officers, directors and 10 percent or more stockholders of the applicant are as follows:

Name	Title	Stock ownership (percent)
Gerald Mock, U.S. National Bank, Main & Franklin Sts., Johnstown, PA 15901.	President, Director.	
Gerald Swatsworth, Johnstown Bank & Trust, 534 Main Street, Johnstown, PA 15901.	Vice President, Director.	
Richard Edwards, Johnstown Saving Bank, Market at Main, Johnstown, PA 15909.	Secretary, Director.	
Thomas Zurilla, Glosser Bros., Inc., Franklin & Locust Sts., Johnstown, PA 15901.	Treasurer, Director.	
Ronald Cort, Citizen Bank, 1204 Graham Ave., Windber, PA 15963.	Director	
Richard Milan Uzelac, 134 Main Street, Conemaugh, PA 15909.	Director, Manager	
Stephen Gregory Zamias, 904 Sunnehanna Drive, Johnstown, PA 15905.	Director	
United States National Bank, Main and Franklin Sts. Johnstown, PA 15901.	Stockholder	22
Johnstown Bank & Trust Company, 532-534 Main Street, Johnstown, PA 15901.	Stockholder	15
Johnstown Saving Bank, Market at Main St. Johnstown, PA 15901.	Stockholder	10

The remaining 53 percent is owned by individuals banks and insurance companies none of whom own more than 10 percent.

The Applicant will begin operations with a capitalization of $1,000,000 and will be a source of both equity and debt

VOL

financing qualified small business concerns.

Names and addresses	Relationship of applicant	Percent of owner-

seq.) and the Rules and Regulations promulgated thereunder.

Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of the *Notice* will be published

Type of Review: New
Title: U.S. Income Tax Return of a

and Compliance Division, (202) 447-1818, Office of the Comptroller of the

financing qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit to SBA in writing relevant comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW. Washington DC 20416. A copy of this Notice shall be published in a newspaper of general circulation in the Johnstown, PA area.

Dated: June 28, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-17778 Filed 7-25-85; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 02/02-0486]

First New York Small Business Investment Co.; Application for a License To Operate as Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1985)), by First New York Small Business Investment Company (the Applicant). Suite 480, 20 Squadron Boulevard, New City, New York 10956, for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder. The formation and licensing of a limited partnership SBIC is subject to the provisions of § 107.4 of the SBA Regulations.

The general/limited partners and 10 percent of more limited partners of the Applicant are as follows:

Names and addresses	Relationship of applicant	Percent of ownership
Israel Mindick, 10 Hedassah Lane, Spring Valley, NY 10977.	General/Limited Partner.	10
Abraham Klein, 202 Avenue I, Brooklyn, NY 11230.	....do	20
Louis Dershin, 701 Herman Avenue, Franklin Square, Long Island, NY 11010.	Limited partner	10

There are eight additional limited partners each owning a less than 10 percent interest in the Applicant.

The Applicant will begin operations with a capitalization of $1,000,000 and will be a source of long term loan funds and equity capital for eligible small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the two general/limited partners and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416

A copy of this Notice will be published in a newspaper of general circulation in the New City, New York area.

Dated: July 15, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-17777 Filed 7-25-85; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-5302]

Magna Pacific Investment Inc.; Application for License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)) for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et. seq.*) and the Rules and Regulations promulgated thereunder.

Applicant: Magna Pacific Investment Inc.

Address: 977 North Broadway, Suite 301, Los Angeles, California

The proposed officers, directors, and shareholders of the Applicant are as follows:

Name	Position	Percent of class A stock
David Wong, 977 North Broadway, Suite 301, Los Angeles, California 90012.	Director/President	12.5
Howard Y. Wong, 977 North Broadway, Suite 301, Los Angeles, California 90012.	Director/Vice President.	12.5
Stewart C. Kwoh, 977 North Broadway, Suite 301, Los Angeles, California 90012.	Director/Secretary	12.5
Edward Yu, 977 North Broadway, Suite 301, Los Angeles, California 90012.	Director/Chief Financial Officer.	12.5
Jim Hung, 977 North Broadway, Suite 301, Los Angeles, California 90012.	Director	12.5
Joe Mah, 977 North Broadway, Suite 301, Los Angeles, California 90012.	....do	12.5
Warren G. Wong, 977 North Broadway, Suite 301, Los Angeles, California 90012.	....do	12.5
Melvin W. Wong, 977 North Broadway, Suite 301, Los Angeles, California 90012.	....do	12.5
Vernon L. Smythe, MD 1808 Niodrara Glenade, California.		[1] 10

[1] Class B.

The Applicant will being operations with $1,000,000 in private capital.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the funcitons and conducting the activities contemplated under the Act and will provide assistance solely to small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the geneal business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including profitability and financial soundness in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business

Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in the Los Angeles, California area.

Dated: July 16, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-17779 Filed 7-25-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: July 23, 1985.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue NW., Washington, D.C. 20220.

OMB Number: New
Form Number: None
Type of Review: New
Title: Supplemental Financial Statements
Clearance Officer: Eric Thompson (202) 447-1177, Comptroller of the Currency, 6th Floor, L'Enfant Plaza, Washington, D.C. 20219
OMB Reviewer: Robert Neal, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

OMB Number: 1545-0155
Form Number: IRS Form 3468
Type of Review: Revision
Title: Computation of Investment Credit

OMB Number: 1545-0219
Form Number: IRS Form 5884
Type of Review: Revision
Title: Jobs Credit

OMB Number: 1545-0231
Form Number: IRS Form 6478
Type of Review: Revision
Title: Credit for Alcohol Used As Fuel

OMB Number: New
Form Number: IRS Form 1120-FSC and Schedule P
Type of Review: New
Title: U.S. Income Tax Return of a Foreign Sales Corporation and Related Schedules, Schedule P-Computation of Transfer Price or Commission
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue NW., Washington, D.C. 20224
OMB Reviewer: Robert Neal, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Public Debt

OMB Number: 1535-0018
Form Number: PD Form 4882
Type of Review: Extension
Title: Application for United States Savings Bonds—Series EE
Clearance Officer: Peter Laugesen, (202) 376-4902, Bureau of the Public Debt, Room 445, 999 E. Street NW., Washington, D.C. 20226
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 85-17788 Filed 7-25-85; 8:45 am]

BILLING CODE 4810-25-M

Comptroller of the Currency

[Docket No. 85-9]

Privacy Act of 1974; Proposed Changes To A System of Records

AGENCY: Office of the Comptroller of the Currency, Treasury

ACTION: Notice of Proposed Change to System of Records entitled Enforcement and Compliance Information System.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, the Office of the Comptroller of the Currency [Office] gives notice of a change to the system of records entitled the Enforcement and Compliance Information System (System).

DATE: Comments must be received no later than August 26, 1985. If no comments are received, the changes to the system of records will become effective September 24, 1985.

ADDRESS: Comments should be sent to Docket No. 85-9, Communications Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, Attn: Lynnette Carter, (202) 447-1800.

FOR FURTHER INFORMATION CONTACT: Jane Rasmussen, Attorney, Enforcement and Compliance Division, (202) 447-1818, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Changes to the System

The names of bank directors, officers and shareholders named in administrative enforcement actions will be added to the System. Names of persons who have been the subject of criminal referrals by other federal financial institution regulatory agencies will also be added. Additional information will also be maintained in the System regarding criminal referrals. Where applicable, the law enforcement agency to which referred, indication of whether a grand jury subpoena has been issued, indication of other action taken, and the name of the OCC attorney handling the case will also be added to the System.

Purpose of System

The purpose of the system is to maintain a system of records containing names of persons who are suspected of crimes or who have been the subject of administrative enforcement actions. This information will be used to enhance the Office's ability to track criminal referrals, to analyze applications for bank charters and changes in bank control, and to evaluate proposed bank directors or officers. The System provides a method of tracking persons involved in actual or suspected fraudulent activities related to banks. In considering applications for charters for national banks, the Office must consider the general character of proposed management. Under the Change in Bank Control Act (12 U.S.C. 1818(j)(7)) the Comptroller may disapprove a proposed acquisition of a bank if the competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank. The System facilitates that consideration. Also, the Office may also use the system to evaluate proposed officers in problem banks.

Description of the System

The changed system will contain the names of persons who have been the subject of civil enforcement actions made by the Office, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration. It will also contain the names of persons who have

been the subject of criminal referrals made by these financial institution regulatory agencies.

release of information relating to civil and criminal proceedings.

e. To disclose information to third

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Components of this system have been

element for the data or instructions or for an information component. Because the GATT decision affirms the validity

of Article VII of the General Agreement on Tariffs and Trade (the Agreement)

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C.

VOL 50 ISS 144 JL 26 1985 UMI

been the subject of criminal referrals made by these financial institution regulatory agencies.

Date: July 18, 1985.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

Treasury/Comptroller 00.013

SYSTEM NAME:

Enforcement and Compliance Information System.

SYSTEM LOCATION:

Comptroller of the Currency, Sixth Floor, 490 L'Enfant Plaza, S.W. Washington, D.C. 20219.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities involved in actual or suspected fraudulent activities, and bank directors, officers and shareholders named in administrative enforcement actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information identifying the individual, describing the known or suspected criminal activity or enforcement action in which the individual is involved or named, giving the bank name and location, and where applicable, the law enforcement agency to which referred and date referred, indicating if a grand jury subpoena has been issued, indicating other actions, and identifying the OCC attorney. The name of the individual is the only identifier used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 481, 1818, and 1820.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide the Department of Justice with periodic reports which indicate the number, place and individual identity of outstanding potential criminal violations of the law, which have been referred to the Department.

b. To provide the Office of the Comptroller of the Currency with statistical information to respond to general information requests from the Congress.

c. To disclose information to foreign governments in accordance with formal or informal international agreements.

d. To disclose information to the news media in accordance with guidelines contained in 28 CFR 50.2 which covers release of information relating to civil and criminal proceedings.

e. To disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be maintained in general correspondence files, enforcement action files, in card files and on computer discs.

RETRIEVABILITY:

All records will be indexed by bank name and location. In addition, records on computer discs will be indexed by name of individual, and code provision known or suspected to be violated.

SAFEGUARDS:

Correspondence files are stored in the Office's central file room and may only be retrived by authorized personnel. Enforcement files are accessible only to authorized personnel. Card files will be stored in lockable file cabinets. Computer discs will be accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Enforcement and Compliance Division, Law Department, Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

NOTIFICATION PROCEDURE:

This system is exempt from notification requirements under 5 U.S.C. 552a(k)(2) of the Act as relating to investigatory material compiled for law enforcement purposes.

RECORD ACCESS PROCEDURE:

Same as Notification above.

CONTESTING RECORD PROCEDURES:

Same as Notification above.

RECORD SOURCE CATEGORIES:

Examination of national banks by national bank examiners; investigations performed by agency attorneys and notifications from the Department of Justice, other Federal and State law enforcement agencies, and other Federal and State bank regulatory agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Components of this system have been designated as exempt from 5 U.S.C 552a(j)(2). To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply, the exemption under 5 U.S.C. 552a(k)(2) applies.

[FR Doc. 85-17769 Filed 7-25-85; 8:45 am]

BILLING CODE 4810-33-M

Customs Service

[T.D. 85-124]

U.S. Valuation of Imported Carrier Media Bearing Data or Instructions for Use in Data Processing Equipment

AGENCY: Customs Service, Treasury.

ACTION: Notice of decision on valuation.

SUMMARY: This document advises that Customs has been, and will continue to value imported carrier media bearing data or instructions for use in data processing equipment exclusive of a value element for the data, instructions, or information component contained on such software. A recent decision by the Committee on Customs Valuation of the General Agreement on Tariffs and Trade (GATT) sanctioned the practice of valuing software either inclusive or exclusive of a value element for data, instructions, or information components. Customs has routinely been valuing software only on the value of the carrier medium, and will continue to use this practice.

FOR FURTHER INFORMATION CONTACT: Bruce N. Shulman, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION

Background

On September 24, 1984, the Committee on Customs Valuation of the General Agreement on Tariffs and Trade (GATT) adopted a decision regarding the customs valuation of carrier media bearing data or instructions for use in data processing equipment (reprinted as Annex A). The decision indicates that the merchandise which is the subject of the decision may be valued either inclusive or exclusive of a value element for the data or instructions. Prior to the adoption of the above decision, Customs had routinely valued the merchandise referred to in the GATT decision only on the value of the carrier medium plus other incidental costs (*e.g.*, recording charges), and exclusive of a valuation element for the data or instructions or for an information component. Because the GATT decision affirms the validity of the U.S. approach to the valuation of carrier media bearing data or instructions for use in data processing equipment, on February 28, 1985, Customs reaffirmed its prior position as set forth below:

On September 24, 1984, the GATT Valuation Committee adopted the attached decision. Customs has previously taken the position that the valuation of software (*i.e.*, data or instructions) recorded on carrier media be based only on a value for the carrier media itself and is not to include a value for an information component. Because the TSUS item under which such importations are most frequently classified (item 724.40, TSUS) carries a specific rate of duty, the valuation of software has been of little concern to Customs field personnel. However, in a small number of cases the valuation of software may become important, either because the TSUS item number under which it is classified carries an ad valorem rate of duty, or because it is not clear whether the merchandise involved is a form of software. Accordingly, we wish to reemphasize our previous position that software be valued only on the basis of the value of the carrier medium. In this regard, for valuation purposes carrier media bearing data or instructions (*i.e.*, software) does not include data or instructions recorded or encoded by means of integrated circuits, semiconductors and similar devices, or articles incorporating such circuits or devices. Likewise, the expression "data or instructions" is not to be interpreted as including sound, cinematic, or video recordings. In view of the above GATT decision, appropriate steps should be taken to ensure that Customs personnel continue their current practice of valuing computer software only on the basis of the value of the carrier media.

Accordingly, Customs will continue to value the merchandise which is the subject of the GATT decision exclusive of an element for the value of the data or instructions.

Annex A—General Agreement on Tariffs and Trade, Committee on Customs Valuation; Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment, Adopted by the Committee on 24 September 1984

The Committee on Customs Valuation Decides as Follows:

1. It is reaffirmed that transaction value is the primary basis of valuation under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Agreement) and that its application with regard to data or instructions (software) recorded on carrier media for data processing equipment is fully consistent with the Agreement.

2. Given the unique situation with regard to data or instructions (software) recorded on carrier media for data processing equipment, and that some Parties have sought a different approach, it would also be consistent with the Agreement for those Parties which wish to do so to adopt the following practice:

In determining the customs value of imported carrier media bearing data or instructions, only the cost or value of the carrier medium itself shall be taken into account. The customs value shall not, therefore, include the cost or value of the data or instructions, provided that this is distinguished from the cost or the value of the carrier medium.

For the purpose of this Decision, the expression "carrier medium" shall not be taken to include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices; the expression "data or instructions" shall not be taken to include sound, cinematic or video recordings.

3. Those Parties adopting the practice referred to in paragraph 2 of this Decision shall notify the Committee of the date of its application.

4. Those Parties adopting the practice in paragraph 2 of this Decision will do so on a most-favoured-nation (m.f.n.) basis, without prejudice to the continued use by any Party of the transaction value practice.

Robert P. Schaffer,

Acting Commissioner of Customs.

Approved: July 8, 1985.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 85-17760 Filed 7-25-85; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirement Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirement submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval and to publish a notice in the Federal Register notifying the public that such a submission has been made. USIA is requesting approval of a form that will be used to collect data on prospective grantees who will implement USIA youth exchange programs.

DATE: Comments must be received by August 30, 1985.

Copies: Copies of the request for clearance (SF-83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Charles N. Canestro, United States Information Agency, M/M, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 485-8678. And OMB review: Michael Weinstein, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, telephone (202) 395-4814.

SUPPLEMENTARY INFORMATION: Title: "International Youth Exchange Organization Index". This form will be provided to prospective grantees applying for USIA international youth exchange grants to facilitate the selection process. Data provided by youth exchange organizations will be retained by USIA for review upon receipt of subsequent grant applications, thus facilitating the process of evaluating candidates' qualifications for conducting youth exchange programs. Having data available to USIA grant application reviewers will eliminate the need for candidates to resubmit the same information with each new grant application.

Dated: July 22, 1985.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 85-17772 Filed 7-25-85; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 144

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and

PLACE: 1333 H Street, NW., Suite 300 (Conference Room),

present the quarterly summary of

Sunshine Act Meetings

Federal Register
Vol. 50, No. 144
Friday, July 26, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1-3
Interstate Commerce Commission	4
Pacific Northwest Electric Power and Conservation Planning Council	5
Postal Rate Commission	6
Postal Service	7, 8

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:31 p.m. on Friday, July 19, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A) (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Gilpin County Bank, Black Hawk, Colorado, which was closed by the State Bank Commissioner for the State of Colorado on Friday, July 19, 1985; (2) accept the bid for the transaction submitted by First Interstate Bank of Golden, National Association, Golden, Colorado; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Linn County State Bank, Linneus, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Friday, July 19, 1985; (2) accept the bid for the transaction submitted by United Missouri Bank of Linn County, Linneus, Missouri, a newly-chartered State nonmember bank; (3) approve the applications of United Missouri Bank of Linn County, Linneus, Missouri, for Federal deposit insurance, for consent to purchase certain assets of and assume the liability to pay deposits made in Linn County State Bank, Linneus, Missouri, and for consent to establish the sole branch of Linn County State Bank as a branch of United Missouri Bank of Linn County; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. John F. Downey, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c) (6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 22, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson.

Executive Secretary.

[FR Doc. 85-17866 Filed 7-24-85; 12:15 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, July 22, 1985, the Corporation's Board of Directors determined, on motion of Chairman Willam M. Isaac, seonded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven day's notice to the public, of the following matters:

Application of The Fifth Third Bank, Cincinnati, Ohio, a State member bank, for consent to purchase certain assets of an assume the liability to pay deposits made in the Delhi, Ohio, branch of Hunter Savings Association, Cincinnati, Ohio, a non-FDIC-insured institution.

Memprandum re: Awarding of a contract to ATTIS for telecommunciations system.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: July 23, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-17867 Filed 7-24-85; 12:16 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, July 22, 1985, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Commptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that they could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: July 23, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary

[FR Doc. 85-17868 Filed 7-24-85; 12:16 pm]

BILLING CODE 6714-01-M

4

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: Postponed from 9:30 a.m., Wednesday, July 31, 1985 until 10:00 a.m., Wednesday, September 11, 1985.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: Ex Parte 445 (Sub-No. 1)—Intramodal Rail Competition.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275-7252.

James H. Bayne,

Secretary.

[FR Doc. 85-17894 Filed 7-24-85; 2:35 pm]

BILLING CODE 7035-01-M

5

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

(Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIME AND DATE: 9:00 a.m., August 7-8, 1985.

PLACE: Council Offices, 850 SW. Broadway, Suite 1100, Portland, Oregan.

MATTERS TO BE CONSIDERED:

- Staff Presentation of Draft 1985 Power Plan and Council Consideration of Entering Rulemaking on the Draft.
- Staff Presentation of Issue Paper on Salmon and Steelhead Productivity Analysis.*
- Staff Presentation of Issue Paper on Strategies for Investments in Salmon and Steelhead Production.**
- Staff Presentation of Issue Paper on Resident Fish Substitutions for Salmon and Steelhead Losses.
- Council Business.

Public comment will follow each item.

*Fish and Wildlife items on the agenda will be taken up no sooner than 11:00 a.m., August 7. Deliberations on the draft 1985 plan could require that fish and wildlife items be taken up on August 8.

**Formerly titled "Issue Paper on Stock Selections".

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong, (503) 222-5161, or toll-free 1-800-222-3355 (Montana, Idaho or Washington) or 1-800-452-2324.

Edward Sheets,

Executive Director.

[FR Doc. 85-17845 Filed 7-24-85; 10:42 am]

BILLING CODE 000-00-M

6

POSTAL RATE COMMISSION

TIME AND DATE: 9:00 a.m., August 14, 1985.

PLACE: 1333 H Street, NW., Suite 300 (Conference Room)—Washington, D.C. 20268-0001.

STATUS: Open.

MATTERS TO BE CONSIDERED: Postal Rate Commission, Fiscal Year 1986 Budget.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, D.C. 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 85-17871 Filed 7-24-85; 12:21 pm]

BILLING CODE 7715-01-M

7

POSTAL SERVICE

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 9:30 a.m. on Monday, August 5, 1985, in Anchorage, Alaska, and at 8:00 a.m. on Tuesday, August 6, 1985, in the Federal Building, 701 C Street, Anchorage, Alaska. As indicated in the following paragraph, the August 5 meeting is closed to public observation. The August 6 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245-3734.

At its meeting on July 8, 1985, and by telephone on July 19, 1985, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for August 5. (See 50 FR 29042, July 17, 1985.)

Agenda

Monday Session—August 5, 1985, 9:30 a.m. (Closed)

1. Discussion of personnel matters.
2. Consideration of court ruling in *Griffin v. Carlin.*
3. Consideration of possible sale of the E-COM system.
4. Consideration of proposed procurement for mail sorting equipment.

Tuesday Session—August 6, 1985, 8:00 a.m. (Open)

1. Minutes of the Previous Meeting, July 8 and 10, 1985.
2. Remarks of the Postmaster General.
3. Quarterly Report on Financial Performance.
(Mr. Cummings, Senior Assistant Postmaster General, Finance Group, will present the quaterly summary of financial performance.)
4. Quarterly Report on Service Performance.
(Mrs. Strange, Deputy Postmaster General, will present the quarterly summary on service performance.)
5. Review of Legislative Matters and Government Relations.
(Mr. Johnstone, Assistant Postmaster General, Government Relations, will report on current legislative matters.)
6. Briefing on Alaska Mailhandling Operations.
7. Capital Investments:
a. Redding, California, General Mail Facility.
b. Denver CO, General Mail Facility.
(Mr. Caraveo, Regional Postmaster General, Western Region, will present the two proposed investments.)
8. Consideration of Tentative Agenda for September 5-6, 1985, in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 85-17848 Filed 7-24-85; 12:24 pm]

BILLING CODE 7710-12-M

8

POSTAL SERVICE

Vote to Close Meeting

By telephone vote on July 19, 1985 a majority of the members contacted and voting, the Board voted to add to the agenda for the closed session on Monday, August 5, 1985 (See 50 FR 29042, July 17, 1985), the following items:

(1) Consideration of a court ruling in *Griffin v. Carlin.*

(2) Consideration of possible sale of the E-COM system.

(3) Consideration of proposed procurement for mail sorting equipment.

As to the first item, the Board determined that pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of title 39 Code of Federal Regulations, consideration of the matter is exempt from the open meeting requirement of the Government in the Sunshine Act because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding. As to the second and third items, the Board determined that pursuant to section 552b(c)(9)(B) of title 5 United States Code, and § 7.3(i) of title 39 Code of Federal Regulations, the consideration of the matters are exempt from the open meeting requirements because the premature disclosure of information to be discussed would be likely to frustrate actions the Postal Service may wish to take regarding the sale of E-COM and the procurement of equipment.

In accordance with section 552b(f)(i) of title 5, United States Code, and § 7.6(a) of title 39 Code of Federal

Regulations, the General Counsel of the United States Postal Service has

VOL
50
ISS
144
JL
26
1985
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Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to sections 522b(c)(9)(B) and (10) of title 5 United States Code and § 7.3 (i) and (j) of title 39, Code of Federal Regulations.

David F. Harris,
Secretary.

[FR Doc. 85-17049 Filed 7-24-85; 12:24 pm]
BILLING CODE 7710-11-M

federal register

Friday
July 26, 1985

Part II

Environmental Protection Agency

Draft General NPDES Permit for Oil and Gas Operations in Portions of the Gulf of Mexico; Fact Sheet; Notice

ENVIRONMENTAL PROTECTION AGENCY

(1) Time: 7:00 p.m. Date: August 27, 1985. Council Chambers, City Hall, 1300

122.28). EPA may issue a single, general

2. The discharger is not in compliance with the terms and conditions of the

current general permits there are 1460 lease blocks with facilities discharging

II. Nature of Discharges From Oil and Gas Facilities Point Source Categories

VOL 50 ISS 144 JL 26 1985 UMI

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2867-9]

Draft General NPDES Permit for Oil and Gas Operations in Portions of the Gulf of Mexico; Fact Sheet

AGENCY: Environmental Protection Agency.

ACTION: Notice of Draft General NPDES Permit.

SUMMARY: The Regional Administrators of Regions IV and VI are proposing to issue a general NPDES permit, for certain discharges in the Offshore Subcategory of the Oil & Gas Extraction Point Source Category, which implements a best professional judgment (BPJ) determination of the best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT) effluent limitations for these discharges. This general NPDES permit will establish effluent limitations, prohibitions and other conditions on discharges from oil and gas facilities. The facilities covered by this draft permit are located in Federal waters in the Gulf of Mexico seaward of the outer boundary of the territorial seas as defined in the Clean Water Act, off the states bordering the Gulf of Mexico. This fact sheet sets forth the principal facts and the significant factual, legal, and policy questions considered in developing this draft permit. A copy of the draft permit is also being published today immediately after this fact sheet.

DATE: Comments must be received by October 7, 1985.

ADDRESS: Comments should be sent to:

Regional Administrator, Region VI, U.S. Environmental Protection Agency, 1201 Elm Street, InterFirst Two Building, Dallas, Texas 75270.

Regional Administrator, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365

FOR FURTHER INFORMATION CONTACT:

Region VI, Ms. Ellen Caldwell, Permits Branch (6W-PS) U.S. Environmental Protection Agency, 1201 Elm Street, InterFirst Two Building, Dallas, Texas 75270, Telephone (214) 767-2765

Region IV, Mr. Lloyd Wise, Facilities Performance Branch (4W), U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone (404) 881-4980

Hearings:

Four hearings regarding this draft permit and fact sheet have been scheduled by the Regions as follows:

(1) Time: 7:00 p.m. Date: August 27, 1985. Council Chambers, City Hall, 1300 Perdido, Room 1E04, New Orleans, Louisiana

(2) Time: 7:00 p.m. Date: August 29, 1985. Houston Lighting and Power Building, Lower Level, 611 Walker Street, Houston, Texas

(3) Time: 7:00 p.m. Date: September 4, 1985. Curtis Hixon Convention Center, 600 Ashley Drive, Tampa, Florida

(4) Time: 7:00 p.m. Date: September 6, 1985. Mobile Municipal Auditorium, 401 Auditorium Drive, Mobile, Alabama

The purpose of these public hearings is to receive written and oral comments from interested persons and the public on the draft permit proposed by EPA. The following is a summary of the procedures which will be followed at the hearings:

1. The Presiding Officer shall have the authority to open and conclude the hearing and to maintain order.

2. Any person appearing at the hearing may submit oral or written statements and data concerning the draft permit.

3. The Presiding Officer may set reasonable limits on the time allowed for oral statements.

Any written comments, requests for information, or requests for copies of the draft permit should be sent to the contact persons named above. The administrative record containing all documents relating to the permit is located at the above Regional addresses and is available for public inspection between 8:00 a.m. and 4:30 p.m. Monday through Friday, except holidays.

EPA's comments and public hearing procedures may be found at 40 CFR 124.10 and 124.12 (as amended at 49 FR 38051, September 26, 1984).

EPA will notify each person who has submitted written comments or requested notice of the final permit decision, of the decision on the final permit. A final permit decision means a final decision to issue, deny, modify, revoke or reissue, or terminate a permit.

FACT SHEET AND SUPPLEMENTARY INFORMATION

I. Background

A. General NPDES Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although such permits generally have been issued to individual dischargers, EPA's regulations authorize the issuance of general permits to categories of dischargers (40 CFR 122.28). EPA may issue a single, general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures. The Director of an NPDES permit program (in this case the Regional Administrator) is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;

2. Discharge the same types of wastes;

3. Require the same effluent limitations or operating conditions;

4. Require the same or similar monitoring requirements; and

5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

In addition, under EPA regulations (40 CFR 122.28(c)(1), the Regional Administrator is required to issue general permits covering discharges from offshore oil and gas facilities within the Region's jurisdiction. Where the offshore area includes areas, such as areas of environmental concern, for which separate permit conditions may be required, a separate individual or general permit may be required by the Regional Administrator.

As in the case of individual permits, violation of any condition of a general permit constitutes a violation of the Act and subjects the discharger to the penalties specified in section 309 of the Act. Any owner or operator authorized by this general permit may be excluded from coverage by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request, no later than 90 days after publication. Authorization to discharge under the applicable general permit will automatically expire upon issuance of an individual permit.

The Regional Administrator may require any person authorized by the final general permit to apply for and obtain an individual permit. In addition, any interested person may petition the Regional Administrator to take this action. However, an individual permit will not be issued for an oil or gas facility covered by the general permit unless it can be clearly demonstrated that inclusion under the general permit is inappropriate. The Regional Administrator may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(2). These criteria include:

1. The discharge(s) is a significant contributor of pollution;

2. The discharger is not in compliance with the terms and conditions of the general permit;

3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

4. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;

5. A Water Quality Management Plan containing the requirements applicable to such point sources is approved; or

6. The requirements listed in 40 CFR 122.28(a) and identified in the previous paragraphs are not met.

B. Oil and Gas Operations in the Gulf of Mexico

General permits were issued on April 3, 1981 under the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, (40 CFR Part 435) implementing best practicable control technology currently available (BPT) to cover the then existing facilities in Region VI operating in the Gulf of Mexico including:

1. Federal waters, (west of 87° 40' west longitude)

2. Territorial seas of the State of Texas, and

3. Territorial seas of the State of Louisiana.

These Permits were re-issued by Region VI through public notice in the **Federal Register** on September 15, 1983, and continued past their expiration date of June 30, 1984, by the Administrative Procedure Act for current lease operators that notified of their intent to be covered prior to June 30, 1984. Certain areas of biological concern were excluded from those general permits. The Regions are now proposing to issue one general permit that will also cover the areas excluded from the BPT general permit and expand the area of coverage for Federal waters to include all Federal waters (as defined in the Clean Water Act) in the Gulf of Mexico. This general permit for Federal waters has been written jointly by EPA Regions IV and VI because the permit area is within the jurisdiction of both Regions. Lease operators making notifications and reporting under the permit will send correspondence to either Region IV or Region VI, based on the location of the Federal or State lease. A demarcation line between Regions IV and VI has been established at the western boundary of Outer Continental Shelf lease areas identified as: Mobile, Viosca Knoll (north part), Destin Dome, Desoto Canyon, NG16-2 and NG16-5.

Based on notifications made by existing lease operators under the current general permits there are 1460 lease blocks with facilities discharging in Federal waters. Region VI has issued 11 individual permits for discharges adjacent to areas of biological concern in the Gulf and Region IV has issued 22 individual permits for Gulf oil and gas discharges. All 1493 lease blocks will be covered by this general permit along with any new lease blocks purchased after July 1, 1984 until the expiration date of this permit.

This draft permit applies to "new dischargers" and "existing sources" for all facilities in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category located within and discharging into Federal waters in the Gulf of Mexico. It does not apply to facilities located in the territorial seas located within 3 miles of the territorial seas baseline along the coast of any State. Separate permits for operations in the state waters of Texas and Louisiana will be issued by EPA shortly. Operations within the Alabama and Mississippi State waters will be permitted by these states. The Regional Administrators have determined that the permit conditions and effluent limitations in the draft permit contain sufficient pollution controls to allow one general permit to cover all Federal waters of the Gulf of Mexico.

The states of Texas and Florida own mineral rights to a distance of three marine leagues (approximately 10 statute miles) seaward of the baseline from which the territorial seas are measured. The Clean Water Act, however, authorized states to issue NPDES permits only within the three mile wide territorial seas, therefore this permit's boundary off Texas and Florida is the outer boundary of the territorial seas, not the boundary for federal oil and gas leases as defined by the Minerals Management Service.

This draft permit does not apply to "new sources" because under the NPDES regulations new sources are defined by the publication of new source performance standards (NSPS) under section 306 of the Clean Water Act and 40 CFR 122.2 and 122.29 (as amended September 26, 1984, 49 FR 37998). The Agency has not yet established NSPS for the oil and gas industry. When NSPS are established, either a separate general permit will be issued implementing those NSPS standards or this permit will be modified to incorporate the NSPS for "new sources". However, permittees are required under this proposed general permit to submit information with their notice of intent so that EPA may determine what facilities are new sources when necessary.

II. Nature of Discharges From Oil and Gas Facilities Point Source Categories

The Oil and Gas Extraction Point Source Category includes facilities engaged in field exploration, development, and production. Exploration includes drilling multiple wells to define a hydrocarbon reserve. Development is the process of drilling production wells and treating those wells to stimulate production. Production includes extraction of the hydrocarbon along with further stimulation or enhanced recovery. Depending on the subcategory involved, discharges can be divided into district types such as: Drilling fluids, drill cuttings, produced water, produced sands, deck drainage, sanitary wastes, domestic wastes, cooling water, discharges from desalinization units, blowout preventer fluid, fire control system test water, and uncontaminated ballast and bilge water. The proposed permit will authorize discharge from exploration, development, and production facilities.

A. Drilling Fluids

Drilling fluid is defined as any fluid sent down the hole, including drilling muds, gelling compounds, weighting agents, and any specialty products, from the time a well is begun until final cessation of drilling in that hole. Generally, two basic types of muds (water-based or oil-based) are used in drilling. Water-based muds usually are mixtures of fresh water or sea water with clays. Oil-based muds (invert emulsion muds or oil emulsion muds) are mixtures of diesel or mineral oil and clays with water or brine emulsified in the oil. Drilling fluids are used in both exploration and development drilling to maintain hydrostatic pressure control in the well, lubricate the drilling bit, and remove drill cuttings from the well. Oil-based muds are used for special drilling requirements such as tightly consolidated subsurface formations, water sensitive clays, and shales. Specific needs of a drilling program may also require additives to the drilling fluids.

B. Drill Cuttings

Drill cuttings are mineral particles generated by drilling into subsurface geologic formations. Drill cuttings are carried to the surface of the well with the circulation of the drilling fluids and separated from the fluids by solids separation equipment (screens and shakers) on the platform.

C. Produced Water ("Formation Water" or "Brine")

usually includes ethylene glycol. During periodic testing of the blowout

nine or fewer persons or only intermittently manned by any number of

employed in drilling and production operations. Concerning the factor of

prohibition of discharge, if necessary, to ensure this goal" (45 FR 65942, October

coastal socioeconomic development, land use changes to accommodate the

VOL 50 ISS 144 JL 26 1985 UMI

C. Produced Water ("Formation Water" or "Brine")

Produced water includes water and suspended particular matter brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations. Produced waters are generated primarily during the production phase of oil and gas operations with the amount generated dependent upon the method of recovery and the nature of the formation. Geologic formations contain different oil-water or gas-water mixtures which are produced at different times:

1. In some formations, water is produced with the oil and gas in the early stages of production;
2. In others, water is not produced until the formation has been significantly depleted; and
3. In still others, water is never produced.

Generally, older wells produce a higher percentage of water than new wells.

D. Produced Sands

Produced sands include sands and other solids removed from the produced waters.

E. Deck Drainage

Deck drainage includes all waste resulting from platform washings, deck washings, tank cleaning operations, and runoff from curbs, gutters, and drains including drip pans and work area drains.

F. Sanitary Wastes

Sanitary wastes include human body waste discharges from toilets and urinals.

G. Domestic Wastes

Domestic wastes include materials discharged from sinks, showers, laundries, and galleys. The galley discharge is waste food which is discharged after maceration.

H. Cooling Water

Cooling water means once-through, noncontact cooling water.

I. Desalinization Unit Discharge

Desalinization unit discharge means any wastewater associated with the process of creating fresh water from sea water.

J. Blowout Preventer Fluid

Blowout preventer fluid is used to actuate the hydraulic equipment installed at or near the mud line as required by the Minerals Management Service. The fluid is a mixture of 1 to 2% biodegradable oil in potable water, and usually includes ethylene glycol. During periodic testing of the blowout preventer, this fluid is released without treatment.

K. Fire Control System Test Water

This discharge is sea water released during the training and testing of personnel in fire protection. This water is discharged overboard without treatment.

L. Uncontaminated Ballast Water

Seawater is introduced into or removed from ballast water to maintain the proper ballast floater level and ship draft during drilling operations. No chemicals are introduced and uncontaminated ballast water is discharged without treatment.

M. Uncontaminoted Bilge Water

Seawater that seeps into the bilge of a vessel is discharged if it is uncontaminated.

III. Statutory Basis for Permit Conditions

Sections 301(b), 304, 308, 401, 402, and 403 of the Clean Water Act provide the basis for the permit conditions contained in the draft permit. The general requirements of these sections fall into three categories, which are described below. A discussion of the basis for specific permit conditions follows in Part IV.

A. Technology-Based Effluent Limitations

1. BPT Effluent Limitations

The Clean Water Act requires particular classes of industrial dischargers to meet effluent limitations established by EPA. EPA promulgated effluent limitations guidelines requiring Best Practicable Control Technology Currently Available (BPT) for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A) on April 13, 1979 (44 FR 22069).

BPT effluent limitations guidelines required "no discharge of free oil" for discharges of deck drainage, drilling muds, drill cuttings, and well treatment fluids. This limitation required that a discharge shall not cause a film or sheen upon or discoloration on the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (40 CFR 435.11(d)). The BPT effluent limitations guideline for sanitary waste required that the concentration of chlorine be maintained as close to 1 mg/1 as possible in discharges from facilities housing ten or more persons. For facilities continuously manned by nine or fewer persons or only intermittently manned by any number of persons, the BPT effluent limitations guideline required no discharge of floating solids. BPT limitations on oil and grease in produced water allowed a daily maximum of 72 mg/1 and a monthly average of 48 mg/1. BPT effluent limitations were incorporated into previous general permits issued for oil and gas facilities for the Gulf of Mexico (48 FR 41494, September 5, 1983).

2. BAT and BCT Effluent Limitations

All permits issued after July 1, 1984, are required by section 301(b)(2) of the Act to contain effluent limitations for all categories and classes of point sources which: (1) Control toxic pollutants (40 CFR 401.15) through the use of Best Available technology Economically Achievable (BAT), and (2) represent Best Conventional Pollutant Control Technology (BCT). BCT effluent limitations apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). In no case may BCT or BAT be less stringent than BPT. Permits in effect after July 1, 1987, must impose effluent limitations which control noncoventional pollutants by means of BAT.

BAT and BCT effluent limitations guidelines and New Source Performance Standards (NSPS) are currently under development and will be proposed in the near future for the Offshore Subcategory. In the absence of effluent limitations guidelines for the Offshore Subcategory, permit conditions must be established using Best Professional Judgment (BPJ) procedures (40 CFR 122.43, 122.44, and 125.3). This proposed permit incorporates BAT and BCT effluent limitations based on the Agency's Best Professional Judgment.

As required by section 304(b)(2)(B) of the Act, in developing the BPJ/BAT permit conditions, the Agency considered: The age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the Director deemed appropriate.

The type of equipment and processes employed in production and drilling operations are well known to the Agency. Region 6 has issued general and individual permits for such operations. The records for this permit and those earlier permits discuss the types of equipment, facilities and processes

employed in drilling and production operations. Concerning the factor of engineering aspects of the application of various types of control techniques, the only permit limitation based on installation of control equipment is the limitation on the oil content of produced water. All other new proposed permit limitations can be achieved through product substitution, the technology basis for the limitations in this permit. Any costs of achieving the effluent limitations and any non-water quality environmental impacts were also evaluated and a discussion of such evaluations is presented below with respect to any limitation where applicable.

As required by section 304(b)(4)(B) of the Act, the Agency considered the same factors in determining BPJ/BCT permit conditions, but with one exception. Rather than considering "the cost of achieving such effluent reduction," any BCT determination includes "consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources." BCT effluent limitations cannot be less stringent than BPT; therefore, if the candidate industrial technology fails the BCT "cost test", BCT effluent limitations are set equal to BPT.

The Agency's evaluation of the BAT factors, as discussed above, is also applicable to BCT, as well as to the Agency's best professional judgment determinations of BPT in instances where there is no BPT effluent limitation guideline for a particular waste stream. With respect to the BCT "cost test," all BCT limitations are equal to the BPT effluent limitations guidelines or to the Regions' best professional judgment determinations of BPT. Therefore, no incremental cost would be incurred.

B. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into marine waters located seaward of the inner boundary of the territorial seas be issued in accordance with guidelines for determining the degradation of the marine environment. These guidelines, referred to as the Ocean Discharge Criteria (40 CFR Part 125, Subpart M), and section 403 are intended to "prevent unreasonable degradation of the marine environment and to authorize imposition of effluent limitations, including a prohibition of discharge, if necessary, to ensure this goal" (45 FR 65942, October 3, 1980).

If EPA determines that the discharge will cause unreasonable degradation, an NPDES permit will not be issued. If a determination of unreasonable degradation cannot be made because of a lack of sufficient information, EPA must then determine whether a discharge will cause irreparable harm to the marine environment and whether there are reasonable alternatives to on-site disposal. To assess the probability of irreparable harm, EPA is required to make a determination that the discharger, operating under appropriate permit conditions, will not cause permanent and significant harm to the environement during a monitoring period in which additional information is gathered. If data gathered through monitoring indicate that continued discharge may cause unreasonable degradation, the discharge must be halted or additional permit limitations established.

The determination of unreasonable degradation must be based on the following factors: Quantities, composition, and potential for bioaccumulation or persistence of the pollutants discharged; potential transport of such pollutants; the composition and vulnerability of biological communities exposed to such pollutants; the importance of the receiving water area to the surrounding biological community; the existence of special aquatic sites; potential impacts on human health; impacts on recreational and commercial fishing; applicable requirements of approved Coastal Zone Management Plans; marine water quality criteria developed pursuant to section 304(a)(1) of the Act; and other relevant factors. A final Ocean Discharge Criteria Evaluation (ODCE) has been completed for those discharges in the area covered by this permit. The following is a summary of the ODCE.

The effects of drilling muds, cuttings, and produced waters when discharged in compliance with the proposed limitations are measured in terms of meters to hundreds of meters for chemical effects on benthic sediments or biological effects on bentic communities; and in terms of hundreds to a few thousands of meters for effects of suspended solid loads. The effect on biological populations in the water column is virtually negligible. All of these effects, singly, are local and ephemeral.

The major long-term effects are expressed as effects of the industry's coastal socioeconomic development, land use changes to accommodate the industry, and space/use conflicts. These effects are not a result of discharges and are not addressed in this document. They are presented and assessed in the NEPA process requiring Environmental Impact Statements on major federal actions, in this case the lease sales that are managed by the Department of Interior. The NEPA regulations, §§ 1502.20 and 1508.28, encourage "tiering" of environmental documents if there is to be subsequent environmental analysis at future stages of the project when potential impacts can be assessed with more certainty. This is generally the case with OCS oil and gas activities, which are subject to post-lease NEPA reviews at times when site-specific impacts can be identified. The Department of Interior, Minerals Management Service has an ongoing environmental studies program that funds pertient studies where information is needed to better assess potential impacts. DOI and EPA are currently working under a Memorandum of Understanding (MOU) which formalizes procedures for coordination in determining these data requirements and the type of information needed to address future Clean Water Act 403(c) Ocean Discharge Criteria assessments.

The Regional Administrators have concluded that, oil and gas facilities operating under the effluent limitations and conditions in this general permit will not cause unreasonable degradation of the marine environment pursuant to the Ocean Discharge Criteria guidelines.

C. Section 308 of the Clean Water Act

Under section 308 of the Act and 40 CFR 122.44(i) the Administrator must require a discharger to conduct monitoring to determine compliance with effluent limitations and to assist in the development of effluent limitations. EPA has proposed several monitoring requirements for the effluent limitations proposed in this permit, as listed in the table below.

IV. Specific Permit Conditions

A. Approach

The determination of appropriate conditions for each discharge was accomplished through:

(1) Consideration of technology-based effluent limitations to control conventional pollutants under BCT;

(2) Consideration of technology-based effluent limitations to control toxic and nonconventional pollutants under BAT; and

(3) Evaluation of the Ocean Discharge Criteria assuming conditions in parts (1)

fluids should apply to other discharges, including uncontaminated bilge water,

discharge of floating solids from the discharge of sanitary wastes should

benzenes, nappthalenes, and

costs Gulf operators $19,200 for

particulate phase, which discharged

(3) Evaluation of the Ocean Discharge Criteria assuming conditions in parts (1) and (2) were in place.

Discussions of the specific effluent limitations and monitoring requirements derived from (1) through (3) appear below in Parts B. through D., respectively. For convenience, these conditions and the regulatory basis for each are cross-referenced by discharge in the following table:

Discharge and permit condition	Statutory basis
Drilling muds:	
Authorized muds only	BAT.
No oil-based muds	BAT & BCT.
No diesel	BAT.
Discharge rate limitations	Section 403(c).
No free oil	BAT & BCT.
Toxicity limitation	BAT.
Monitor volume discharged	Section 308.
Inventory of added substances	Section 308.
Drill cuttings:	
No free oil	BAT & BCT.
No discharge if oil based muds used	BAT & BCT.
Monitor volume discharged	Section 308.
Deck drainage:	
No free oil	BAT & BCT.
Monitor discharge rate	Section 308.
Produced water:	
Oil & grease limits: 48 mg/l monthly avg., 72 mg/l daily max.	BCT.
Monitor volume discharged	Section 308.
Sanitary wastes:	
No floating solids	BCT.
Chlorine 1.0 mg/l (facilities With more than 10 people)	BCT.
Monitor discharge rate	Section 308.
Domestic wastes:	
No floating solids	BCT.
Monitor discharge rate	Section 308.
Miscellaneous discharges:	
No free oil	BAT & BCT.
Monitor discharge rate	Section 308.
Inventory of added substances	Section 308.
Well treatment and test fluids:	
Oil & grease limits: 48 mg/l monthly avg., 72 mg/l daily max.	BCT.
Monitor volume discharged	Section 308.
All discharges:	
No halogenated phenols	BAT.
No floating solids	BCT.

B. BCT Requirements

1. Oil and Grease in Produced Water

Under BPT, oil and grease in discharges of produced water were limited to a 48 mg/l monthly average and a 72 mg/l daily maximum based on oil/water separation technologies. This limitation is equal to BCT because the Regions do not have technology performance data available at this time on which to base a more stringent limitation. As this limitation is equal to the BPT level of control, there is no incremental cost involved. The discharge of oil is also controlled under BAT limits as discussed below.

2. Free Oil

No discharge of free oil is permitted from discharges authorized by this permit. The Regions have determined that the BPT effluent limitations guideline of no discharge of free oil from the discharge of deck drainage, drilling muds, drill cuttings, and well treatment fluids should apply to other discharges, including uncontaminated bilge water, uncontaminated ballast water, desalination unit wastes, non-contact cooling water, blowout preventer fluid, and fire control system test water. Thus, the no free oil limitation is the Regions best professional judgment determination of BPT controls for these discharges. No technology performance data available to the Regions indicate that a more stringent standard is appropriate at this time. For this permit, therefore, the Regions have proposed BCT effluent limitations equal to the BPT level of control and, as such, these proposed limitations impose no incremental costs.

The BCT effluent limitation on free oil for drilling muds is equal to the BPT limitation. The discharge of oil-based drilling muds (with oil as the continuous phase and water as the dispersed phase) is therefore prohibited since oil-based muds would violate the BCT effluent limitation of no discharge of free oil. Likewise, the prohibition on discharge of drill cuttings associated with oil-based drilling mud is based on the data which demonstrates that approximately nine percent by weight, oil is retained on cuttings after washing. The Regions have determined that this concentration of oil on cuttings will result in a violation of the BCT effluent limitations of no discharge of free oil. The monitoring requirement for determining compliance with the effluent limitation on free oil is a visual observation of the receiving water. Regions IV and VI are proposing the use of the visible sheen test in the draft permit. However, the Regions do recognize that EPA Region X has proposed and is using the static (laboratory) sheen test for certain discharges. EPA Headquarters is also studying the reproducibility of modifications to the static sheen test with the possibility of modifying the test as it has been use in the past by reducing the volume of mud required to be tested. When this study is completed and the results are evaluated, the static sheen test may be required for facilities covered by this permit. Regions IV and VI request comment on which test is appropriate for discharges of drilling muds and cuttings, the possible cost consequences of using the static sheen test, and any other pertinent comments or relevant information.

3. Floating Solids

The BCT prohibition on floating solids is equal to the BPT level of control for sanitary wastes. As with the free oil limitations for other waste streams, the Regions have determined that the BPT effluent limitations guideline of no discharge of floating solids from the discharge of sanitary wastes should apply to all other discharges as well. Thus, the no floating solids limitation is the Regions' best professional judgment determination of BPT limitations for these discharges. No technology performance data available to Regions IV and VI indicate that a more stringent standard is appropriate at this time. Therefore, the Regions have determined that the BCT effluent limitation on floating solids from these discharges is equal to the BPT level of control. As such, the extension of this limitation to all discharges will involve no incremental cost.

4. Chlorine

The requirement of maintaining residual chlorine levels as close as possible to, but no less than 1 mg/1 in sanitary waste discharges for facilities manned by 10 or more people is a BCT determination equal to BPT. There is therefore no incremental cost to the industry.

C. BAT Requirements

1. Diesel Oil

The discharge of muds which have been contaminated by diesel oil (i.e., those drilling muds which have contained diesel) or drill cuttings associated with these muds is prohibited. Diesel, which is sometimes added to a water-based mud system, is a complex mixture of petroleum hydrocarbons, known to be highly toxic to marine organisms and to contain numerous toxic and nonconventional pollutants. While this limitation thereby controls the toxic as well as nonconventional pollutants present in diesel, the Agency's primary concern is to control the toxic pollutants. The pollutant "diesel oil" is being used as an "indicator" of the toxic pollutants listed below present in diesel oil which are controlled through compliance with the effluent limitation (i.e., no discharge). The technology basis for this limitation is product substitution of less toxic mineral oil for diesel oil.

The Agency selected "diesel" as an "indicator" as an alternative to establishing limitations on each of the specific toxic and nonconventional pollutants present in the diesel-contaminated waste streams. The listed toxic pollutants found in various diesel oils include naphthalene, benzene, ethylbenzene, phenanthrene, toluene, flourene, and phenol. Diesel oil may contain from 20 to 60 percent by volume aromatic hydrocarbons. The light aromatic hydrocarbons, such as benzenes, nappthalenes, and phenanthrenes, constitute the most toxic major components of petroleum products. Mineral oils, with their lower aromatic hydrocarbon content and lower toxicity, contain lower concentrations of toxic pollutants than do diesel oils. Diesel oil also contains a number of nonconventional pollutants, including polynuclear aromatic hydrocarbons such as methylnaphthalene, dimethylnaphthalene, methylphenanthrene, and other alkylated forms of each of the listed toxic pollutants.

The Regions have determined that eliminating the discharge of drilling fluids contaminated with diesel oil will reduce the levels of toxic pollutants present in discharged fluids. Studies show that when the amount of diesel is reduced in drilling muds, the concentrations of toxic pollutants and overall toxicity of the fluid generally is reduced. Available data clearly establish that diesel oils as a class contain significantly higher levels of toxic pollutants than do mineral oils as a class. It is reasonable and appropriate to conclude that BAT-level control of toxic pollutants (i.e., reduction in concentrations through substitution of mineral oil for diesel oil) will be achieved by regulating diesel oil as an indicator pollutant. Regions IV and VI believe that the limitations achieved by product substitution represent the technically feasible and economically achievable BAT level of control for the various toxic pollutants to be controlled. Establishing limitations of these pollutant parameters as indicator pollutants avoids the costly and technically complex requirement of complying with specific limitations on each of the toxic pollutants. Monitoring and analyzing all waste streams to confirm compliance with specific effluent limitations for each of the toxic pollutants is not considered by the Regions to be economically justified at this time. Low toxicity mineral oils are available as product substitutes for diesel oil and do not impose unreasonable additional costs on industry.

In this permit proposal the Agency relied primarily on the lower effective cost of mineral oil over diesel oil as a basis for this determination. The Draft Diesel pill Monitoring Program prepared by EPA and the American Petroleum Institute gives data for comparative costs of using a diesel Pill and a mineral oil pill for Gulf of Mexico operators (page 5 Draft Diesel Pill Monitoring Program). For example, a mineral oil pill costs Gulf operators $19,200 for components; storage, and disposal, whereas a diesel pill would cost $28,500 if the operator takes part in the diesel pill monitoring program, and $116, 300 if the operator does not take part in the program. Therefore, operators would actually have a savings of several thousand dollars by using mineral oil in the Gulf rather than diesel oil for pill formulations for stuck drilling pipe.

2. Free Oil and Oil-Based Muds and Associated Cuttings

The free oil limitation is a BPT effluent limitations guideline for the major waste streams, and, as discussed above, the Regions have made a BPJ determination that it is an appropriate BPT effluent limitation for other minor waste streams. Therefore, no incremental costs are incurred by establishing the no free oil limitation as a BAT effluent limitation in this permit.

In addition, no oil-based muds may be discharged. The prohibition on the discharge of free oil for BPT effectively prohibited the discharge of oil-based drilling fluids. The limitation is also included under BAT to explicitly control the discharge of toxic and nonconventional pollutant components of the oils in oil-based muds and oil-contaminated cuttings.

3. Toxicity Effluent Limitation

Treatment to remove toxic pollutants from drilling fluids is not feasible because the only demonstrated treatment is designed to control the solids in drilling fluids by removing drill cuttings and other solids from the drilling fluid. In order to control toxic pollutants and nonconventional pollutants it is the best professional judgment that the type and concentration of these pollutants can most efficiently be controlled by establishing a toxicity limitation on the discharge of drilling fluids. The proposed permit will control the toxicity of discharged drilling fluids through two provisions. First, only drilling muds listed in Table 1 of the draft permit can be discharged (i.e., the discharge is restricted to an approved drilling fluids list (generic drilling fluids) which specifies concentration limits for the major components). This list includes the major water based drilling fluids for which EPA has extensive toxicity data.

Second, to control the toxicity of additives used in generic muds, the permit limits the total LC50 toxicity of any mud plus all the additives to that mud. A toxicity effluent limitation is proposed which establishes a maximum 96 hr LC50 value of 7,400 ppm (for *Mysidopsis bahia*) on the suspended particulate phase, which discharged drilling fluids cannot exceed.

In the Gulf of Mexico, individual permits have allowed the addition of drilling additives provided the permittee demonstrates that the additive does not increase the toxicity of the most toxic of the approved drilling fluid. This procedure requires the review of toxicity data by the permit writer and is unmanageable for the number of facilities covered by this permit.

The limitation is a 96 hr LC50 value of 7,400 ppm (for *Mysidopsis bahia*) on the suspended particulate phase of drilling fluid. This toxicity effluent limitation is based on the results of toxicity data for drilling fluids as determined by EPA. These data reveal that five percent mineral oil added to generic drilling fluid number eight yields a 96 hour LC50 value of 7,400 ppm (lower 95 percent confidence limit) suspended particulate phase using *Mysidopsis bahia* as the test organism.

Generic drilling fluid number eight is a common drilling fluid for the Gulf of Mexico and based on current data the five percent mineral oil is considered an adequate concentration to satisfy lubrication needs. Also, the toxicity test data indicate that the other generic drilling fluids will meet the proposed toxicity effluent limitation. This limit can be achieved through product substitution.

The toxicity effluent limitation will allow operators to discharge drilling fluid additives, which have been added to the generic drilling fluids, but the limitation will assure the selection of less toxic additives or minimal concentrations of the more toxic additives.

Consideration was given to requiring two toxicity effluent limitations; a lower LC50 for drilling fluids containing lubricants and a higher LC50 for drilling fluids with no lubricants. The Agency rejected this approach because it would in effect be giving an incentive, in the form of a more lenient toxicity limitation, for the discharge of lubricants. With only one toxicity limitation, which will allow lubricants to be discharged, there is no permit imposed incentive to use and discharge lubricants. The other single toxicity effluent limitation which the Regions considered is a 96 hour LC50 value of 30,000 ppm for the suspended particulate phase for *Mysidopsis bahia*. This LC50 represents the most toxic of the generic drilling fluids (Mud No. 1) without additives. This would be a reasonable toxicity effluent limitation if an additives approval process were proposed in the permit. Since this draft

permit does not establish an additives approval process, the Regions needed to generate data on the effectiveness of pill recovery.

15, 1983). This class of compounds is subject to BAT limitations. Because

2. Resulting from circumstances

discharges authorized by this general

VOL 50 ISS 144 JL 26 1985 UMI

permit does not establish an additives approval process, the Regions needed to establish a toxicity limitation that would allow the use of mineral oil lubricant. Therefore, the Regions selected the 7,400 ppm 96 hr LC50 suspended particulate phase with *Mysidopsis bahia*, as a limitation that would allow selective use of mineral oil, but also control the overall toxicity of the drilling fluid. Comments are solicited on the appropriate toxicity effluent limit to control the discharge.

4. Diesel Pill Monitoring Program

While the permit prohibits the discharge of drilling muds and cuttings contaminated with diesel oil, the permit also includes one exception to that prohibition. That exception provides that water-based drilling muds and associated cuttings may be discharged despite the presence of some residual diesel oil if the diesel oil was used as part of a diesel "pill" or "spotting fluid" to free stuck pipe *and* the operator participates and complies with EPA/API Diesel Pill Monitoring Program. A copy of the draft Program (dated January 1985) has been made a part of the Administrative Record for the draft permit.

The Diesel Pill Monitoring Program ("DPMP") has been developed by EPA's Industrial Technology Division cooperatively with the American Petroleum Institute to assist in evaluating the effectiveness of recovery of diesel oil from drilling muds when a diesel pill is used. Industry has requested that the discharge of diesel oil should be allowed when the diesel oil is the residual oil left in the mud following use of a diesel pill and stringent pill recovery techniques. The Agency currently has minimal information on the effectiveness of pill recovery. This fact coupled with the increasing availability of mineral oil pills has resulted in a prohibition of the discharge of any muds contaminated with diesel oil, including residual diesel oil from a pill. However, the Agency has determined that an opportunity should be made available to demonstrate whether a diesel pill can be effectively removed from a mud system after use. The Gulf of Mexico was selected for this study because of the large number and diversity of drilling operations. The Agency expects that a large number of operations will choose to use a substitute to a diesel oil pill and therefore not participate in the DPMP. For those operators that choose to use a diesel oil pill, the DPMP establishes stringent conditions for pill recovery, bioassay testing and monitoring to generate data on the effectiveness of pill recovery.

The DPMP requires that an operator who uses a diesel pill and intends to discharge the drilling muds, recover the diesel pill plus at least 50 barrels of drill muds from either side of the pill. These drilling muds and recovered pills may *not* be discharged; they must be transported to shore for disposal or reuse. The DPMP also requires the operator to purchase a special sampling kit and take samples of his drilling mud system prior to use and after recovery of the diesel pill, as well as samples of the pill formulation and diesel oil used the in pill. These samples must be sent to the laboratory specified in the DPMP for analysis including bioassay testing of the mud samples.

The DPMP will last one year from the issuance of this permit. EPA will evaluate the data from the DPMP to determine the effectiveness of pill recovery. Based on the conclusions of the DPMP, a permit modification will be proposed following the procedures of 40 CFR 124.5 to include a final provision regarding whether discharge of drill muds and cuttings following use of a diesel pill will be allowed, and if so under what conditions.

Any operator participating in the DPMP will be required to meet all permit limitations with the exception of the diesel oil prohibition (a mud system with residual diesel oil from the pill may be discharged) and the time of compliance with the toxicity limitation. Compliance with the toxicity limitation will be demonstrated by the sample taken of the mud system prior to use of the diesel pill rather than the end-of-well sample. When the prior-to-pill mud sample is used for toxicity compliance, the operator still must take and submit an end-of-well sample but it will not be used to determine compliance with the toxicity limitation. After conclusion of the DPMP and prior to permit modification, any operator using a diesel pill must continue to follow the DPMP requirements for pill removal and continue to comply with the toxicity limitations prior to use of the pill. They also will be required to contnue to submit an end-of-well sample but it will not be used to determine compliance.

5. Other Toxic Compounds

Under the draft permit discharge of the following pollutant would be prohibited: Halogenated phenol compounds. The class of halogenated phenol compounds includes toxic pollutants. The discharge of this compound was previously prohibited in the BPT general permits for the Western Gulf of Mexico (48 FR 41494, September 15, 1983). This class of compounds is subject to BAT limitations. Because operators complied with this provision in the BPT permit, there is no additional cost to the industry.

D. Requirements Based on the Ocean Discharge Criteria Evaluation

1. No Discharge in Areas of Biological Concern

The draft permit prohibits discharge in areas of biological concern, which are defined as locations identified by MMS as "no activity" or "live bottom". General permits previously issued for oil and gas facilities located in the Gulf of Mexico (48 FR 41494, September 15, 1983) designated specific lease blocks which were excluded from coverage by the general permits. These excluded lease blocks were based on the MMS designated "no activity" areas, however, these areas were not the same because the "no activity" locations are defined by isobaths encompassing topographic highs (banks) and lease blocks are surveyed plots defined by coordinates. Additional lease blocks were also excluded from coverage by the previous general permits which were not related to MMS "no activity" areas. These lease blocks were excluded from coverage based on a request from the National Marine Fisheries Services. This permit provides NPDES permit coverage for the formerly excluded areas because it controls the discharge to toxic pollutants to these potentially sensitive areas.

The no discharge requirement for areas of biological concern is necessary to ensure no unreasonable degradation of the environment.

2. Drilling Fluids Discharge Rate Limitation

A controlled discharge rate for drilling fluids is required within 2000 meters of areas of biological concern to ensure no unreasonable degradation of the environment. The discharge rate is based on establishing a toxicity criterion at a specific boundary, assuming a discharge at the permitted toxicity limit of 7,400 ppm 96 hr. LC50 suspended particulate phase with *Mysidopsis bahia*. A safety factor of 0.01 was used in consideration of chronic versus acute effects, test species sensitivity versus sensitivity of species *in situ*, and synergistic interactions. A factor of 35 was used to represent whole drilling fluid toxicity since the 7,400 limit is based on the suspended particulate phase. These two factors function to derive the safety factor as:

$$0.01 \times \frac{7400}{35}\ \text{ppm} = 2.1\ \text{ppm}$$

Dispersion ratios that were derived as a function of discharge rate and transport time were developed to calculate the discharge rate limitation as:

$$\text{Discharge rate (bbl/hr)} = 10^{[2\ \log(d(m))/10 - 2.26]}$$

This limitation assures that the toxicity criterion is met at the boundary of the areas of biological concern.

A maximum drilling fluids discharge rate of 1,000 barrels per hour is required because reliable dispersion data are available only up to this discharge rate.

3. Minimized Discharge of Cleaning Compounds

Surfactants, dispersants and detergents are used to clean up spills on drilling facilities to maintain safe working conditions. The permit requirement to minimize the discharge of these compounds is necessary to determine no reasonable degradation.

The Regional Administrators have determined that all discharges authorized by this permit will not cause unreasonable degradation of the marine environment.

V. Other Legal Requirements

A. State Certification

Section 301(b)(1)(C) of the Act requires that NPDES permits contain conditions which ensure compliance with applicable State water quality standards or limitations. Under section 401(a)(1) of the Act EPA may not issue a NPDES permit until the State in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law. State waters are not included within the area of coverage by the draft permit, therefore State certification is not required.

B. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. In the 1978 amendments to section 311, Congress clarified the relationship between this section and discharges permitted under section 402 of the Act. It was the intent of Congress that routine discharges permitted under section 402 be excluded from section 311. Discharges permitted under section 402 are not subject to section 311 if they are:

1. In compliance with a permit under section 402 of the Act:

2. Resulting from circumstances identified, reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Act, and subject to a condition in such permit; or

3. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act which are caused by events occurring within the scope of the relevant operating or treatment system.

To help clarify the relationship between discharges permitted under section 402 and section 311 discharges EPA has compiled the following list of discharges which it considers to be regulated under section 311 rather than under a section 402 permit. The list is not to be considered all-inclusive.

1. Discharges from a platform or structure on which oil or water treatment equipment is not mounted,
2. Discharges from burst or ruptured pipelines, manifolds, pressure vessels or atmospheric tanks,
3. Discharges from uncontrolled wells,
4. Discharges from pumps or engines,
5. Discharges from oil gauging or measuring equipment,
6. Discharges from pipeline scraper, launching, and receiving equipment,
7. Spills of diesel fuel during transfer operations,
8. Discharges from faulty drip pans,
9. Discharges from well heads and associated valves,
10. Discharges from gas-liquid separators, and
11. Discharges from flare lines.

C. The Endangered Species Act

The Endangered Species Act (ESA) and its implementing regulations (50 CFR Part 402) require that each Federal Agency shall ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modifications of their habitats.

The Minerals Management Service (MMS) has undertaken endangered species reviews including full consultation with the Department of Commerce, the National Marine Fisheries Service (NMFS) and the Department of the Interior, Fish and Wildlife Service (FWS), with respect to all oil and gas leasing in the general permit area for this permit. Based on information in the Ocean Discharge Criteria Evaluation, which summarizes the consultation, and in the Environmental Impact Statements prepared by MMS for the Gulf of Mexico, EPA has concluded that the discharges authorized by this general permit will neither jeopardize the continued existence of any endangered or threatened species nor adversely affect their critical habitat. EPA is requesting comments from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service and will consider their comments in making the final permit decision. EPA will initiate consultation should new information reveal impacts not previously considered, should the activities be modified in a manner beyond the scope of the original opinion, or should the activities affect a newly listed species.

D. The Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR Part 930) require that any federally licensed or permitted activity affecting the coastal zone of a State with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP (section 307(c)(3)(A) Subpart D). For facilities operating in Federal waters, a decision to require a consistency determination might arguably require a demonstration that the permitted discharge will affect the territorial seas or coastal waters of the approved State (44 FR 37142, June 25, 1979; 15 CFR 930.50). Since there are no applicants identified in the general permit process, EPA in effect becomes the applicant certifying consistency and submitting a general permit for consistency review to the appropriate State agency. EPA is submitting a copy of the draft permit along with the consistency certification to each State with a CZMP. (Louisiana, Mississippi, Alabama and Florida).

Formal State review of EPA's consistency certification begins at the time the State agency receives a copy of the certification along with the information required in 15 CFR 930.58.

E. The Marine Protection, Research and Sanctuaries Act

The Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. In addition the MPRSA establishes the Marine Sanctuaries Program implemented by the National Oceanic and Atmospheric Administration (NOAA), which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological or asthetic values.

Section 302(f) of MPRSA requires that

adaptive environmental assessment

mercenaria report number 2. seawater/

DRAFT PERMIT

those facilities to the receiving waters

pill removal, and additional data are

Section 302(f) of MPRSA requires that the Secretary of Commerce, after designation of a marine sanctuary, consult with other Federal agencies, and issue necessary regulations to control any activities permitted within the boundaries of the marine sanctuary. It also provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purpose of the marine sanctuaries program and/or can be carried out within its promulgated regulations. There are presently no existing marine sanctuaries in the Gulf of Mexico.

F. Economic Impact (Executive Order 12291)

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

G. The Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of this permit have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

H. The Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this general permit will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 et seq. (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: July 16, 1985.

Frances Phillips,

Deputy Regional Administrator, Acting Regional Administrator, EPA Region VI.

Dated: July 16, 1985.

Jack E. Ravan,

Regional Administrator, EPA Region IV.

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DRAFT PERMIT

Authorization to Discharge Under the National Pollutant Discharge Elimination System

[(FRL–2868–1 Permit No. GMG280000]

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et. seq; the "Act"), Operators of lease blocks in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category, located in lease areas seaward of the outer boundary of the territorial seas off the States bordering the Gulf of Mexico, are authorized to discharge to receiving waters named the Gulf of Mexico in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, and III hereof.

Operators of lease blocks within the general permit area who: (1) Fail to notify the Regional Administrator of their intent to be covered by this general permit, or (2) who have not received written notification from the Regional Administrator of their coverage by the general permit, are not authorized under this general permit to discharge from those facilities to the receiving waters named.

This permit does not authorize discharges from "new sources" as defined in 40 CFR 122.2.

This permit shall become effective on the date of final publication.

This permit and the authorization to discharge shall expire at midnight, 5 years from effective date.

Signed this ——day of ——, 1985

Myron O. Knudson, P.E.,

Director, Water Management Division (6W), Region VI.

Signed this——day of ——, 1985

Bruce R. Barrett,

Director, Water Management Division (4), Region IV.

Part I.—Requirements For NPDES Permits

Section A. Effluent Limitations and Monitoring Requirements

1. During the period beginning the effective date and lasting through the date of expiration the permittee is authorized to discharge Drilling Fluids.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitations	Monitoring requirements: Measurement frequency	Monitoring requirements: Sample type	Reported value(s)
Free oil	No free oil	Once/day [1]	Observation of sheen or film [2].	Number of days sheen or film observed.
Volume (barrels)		Once/month	Estimate	Monthly total.
Toxicity [3] 96-hour LC50	Not less than 7,400 ppm.	Once/well	Grab	96-hour LC50.
Discharge rate	1,000 barrels/hour	Once/hour [4]	Estimate	Maximum hourly rate.
Discharge rate [5], see figure 1 (areas of biological concern).		Once/hour [4]	Estimate	Maximum hourly rate.

[1] When discharging.
[2] Monitoring shall be accomplished by visual observation of the surface of the receiving water in the vicinity of the discharge.
[3] Suspended particulate phase with *Mysidopsis bahia* following approved test method. The sample shall be taken from beneath the shale shaker when maximum depth is reached. See Part III.
[4] Discharge locations equal to or less than 2000 meters from areas of biological concern and from the territorial seas of Mississippi and Alabama.

(a) *Generic Drilling Fluids.* Only authorized drilling fluids, as identified in Table 1 shall be discharged; however, additives are allowed subject to other limitations.

(b) *Oil Based Drilling Fluids Discharge Prohibition.* The discharge of oil-based drilling fluids, and inverse imulsion drilling fluids are prohibited.

(c) *Oil Contaminated Drilling Fluids Discharge Prohibition.* The discharge of drilling fluids which contain waste engine oil, cooling oil, gear oil, or any lubricants which have been previously used for purposes other than borehole lubrication, is prohibited.

(d) *Diesel Oil Discharge Prohibition.* If diesel oil is added to the drilling fluid, the drilling fluid may not be discharged uless:

1. The diesel oil is added in an attempt to free stuck pipe only and,

2. The diesel pill and at least 50 barrels of drilling fluid on either side is removed from the active drilling fluid system and not discharged to waters of the United States, and

3. Samples of the drilling fluid, after pill removal, and additional data are provided to EPA in accordance with the requirements of the Diesel Pill Monitoring Program.

Item 3. above will be effective for one year from the permit effective date. Thereafter, items 1. and 2. apply until this permit is modified following the procedures of 40 CFR 124.5.

If residual diesel oil is discharged in compliance with items 1. 2 and 3 above, the end of well toxicity testing will be required for reporting purposes only as part of the Diesel Pill Monitoring Program.

In all cases where a diesel spot is used the drilling fluid toxicity shall be monitored prior to spotting by following the procedures of this section A.1. The amount, brand name, and chemical description of any drilling fluid lubricant shall be reported for each well where spotting is required.

(e) *Drilling Fluids Additives Approval.* When a drilling fluids additivies approval programs is developed, the permittee shall discharge only drilling fluids and additives which are approved or alternatively shall continue to meet the toxicity effluent limitation if additives are discharged which have not been approved. Under no circumstances shall a disapproved additive, or an approved additive at greater than approved concentration, be authorized for discharge by this permit. Toxicity compliance monitoring shall be used for reporting purposes only if approved additives, at approved concentrations, are discharged.

(f) *Drilling Fluids Inventory.* The permittee shall maintain a precise chemical inventory of all constituents and their volume added downhole for each well. For each constituent the inventory shall specify the estimated maximum concentration in the discharged drilling fluid and the total volume or mass added downhole. Toxicity compliance monitoring shall be used for reporting purposes only if approved additives at approved concentrations are discharged.

(g) *Applicability.* All discharged drilling fluids, including those fluids adhering to cuttings must meet the limitations of this section A.1., except the discharge rate limitations do not apply during initial drilling i.e., before installation of the marine riser.

Figure 1.—Drilling Fluids Discharge Rate Graph

Drilling fluid discharges equal to or less than 2000 meters from specified areas shall comply with the discharge rate obtained from the graph below.

[3 log (d(m)/16) - 3.36]

TABLE 1.—AUTHORIZED DRILLING FLUIDS—Continued

Discharge and effluent characteristic	Discharge limitation	Monitoring requirements: Measurement frequency	Monitoring requirements: Sample type	Report value(s)

terminated for cause including, but not limited to, the following:

VOL 50 ISS 144 JL 26 1985 UMI

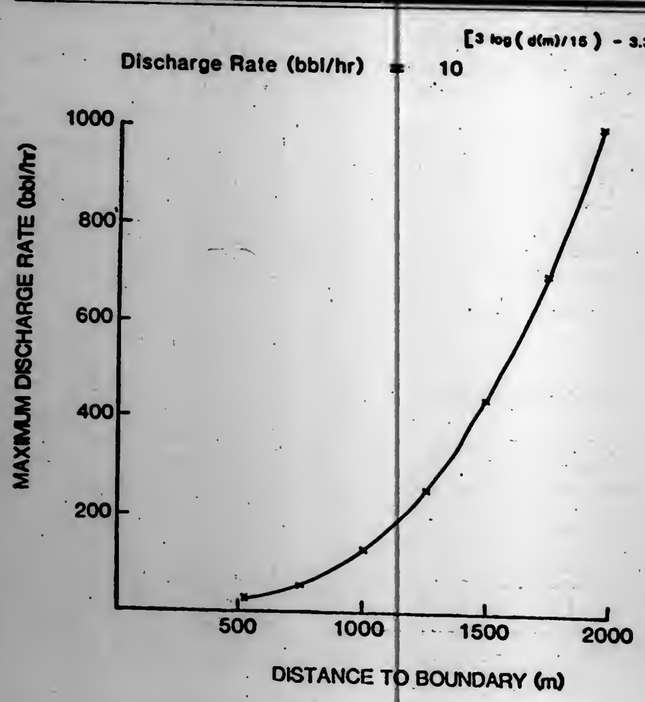

TABLE 1.—AUTHORIZED DRILLING FLUIDS

Components	Maximum allowable concentration (pounds per barrel)
1. *Seawater/Potassium/Polymer Mud:*	
KCl	50
Starch	12
Cellulose Polymer	5
Xanthum Gum Polymer	2
Drilled Solids	100
Caustic	3
Barite	450
Seawater	(1)
2. *Seawater/Lignosulfonate:*	
Attapulgite or Bentonite	50
Lignosulfonate	15
Lignite	10
Caustic	5
Barite	450
Drilled Solids	100
Soda Ash/Sodium Bicarbonate	2
Cellulose Polymer	5
Seawater	(1)
3 *Lime:*	
Lime	20
Bentonite	50
Lignosulfonate	15
Lignite	10
Barite	180
Caustic	5
Drilled Solids	100
Soda Ash/Sodium Bicarbonate	2
Freshwater	(1)
4. *Nondispersed:*	
Bentonite	15
Acrylic Polymer	2
Barite	180
Freshwater	(1)
5. *Spud* (Slugged intermittently with seawater):	
Attapulgite or Bentonite	50
Caustic	3
Cellulose Polymer	2
Drilled Solids	100
Barite	50
Soda Ash/Sodium Bicarbonate	2
Lime	2
Seawater	(1)
6. *Seawater Gel:*	
Attapulgite or Bentonite Clay	50
Caustic	3
Cellulose Polymer	2
Drilling Solids	100
Barite	50
Soda Ash/Sodium Bicarbonate	2
Lime	2
Seawater	(1)
7. *Lightly Treated Lignosulfonate Freshwater/Seawater:*	
Bentonite	50
Barite	180
Caustic	3
Lignosulfonate	6
Lignite	4
Cellulose Polymer	2
Drilling Solids	100
Soda Ash/Sodium Bicarbonate	2
Lime	2
Seawater to Freshwater Ratio	2 1 1
8. *Lignosulfonate Freshwater:*	
Bentonite	50
Barite	450
Caustic	5
Lignosulfonate	15
Lignite	10
Drilled Solids	100
Cellulose Polymer	2
Soda Ash/Sodium Bicarbonate	2
Lime	2
Freshwater	(1)

(1) As needed.
(2) Approximately.

TABLE 1.—AUTHORIZED DRILLING FLUIDS—Continued

Components	Maximum allowable concentration (pounds per barrel)
Drilled Solids	70

2. During the period beginning the effective date and lasting through the date of expiration the permittee is authorized to discharge Drill Cuttings.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent characteristic	Discharge limitation	Monitoring requirements: Measurement frequency	Monitoring requirements: Sample type	Reported value(s)
Free oil	No free oil	Once/day[1]	Observation of sheen or film.[2]	Number of days sheen or film observed.
Volume (barrels)		Once/month	Estimate	Monthly total.

[1] When discharging.
[2] Monitoring shall be accomplished by visual observation of receiving water surface in the vicinity of the discharge.

(a) *Cuttings From Oil Based Drilling Fluids Discharge Prohibition.* The discharge of cuttings, produced when using oil based or inverse emulsion drilling fluids, is prohibited.

3. During the period beginning the effective date and lasting through the date of expiration the permittee is authorized to discharge the effluents listed in the following table. Such discharges shall be limited and monitored by the permittee as specified below:

Discharge and effluent characteristic	Discharge limitation	Monitoring requirements: Measurement frequency	Monitoring requirements: Sample type	Report value(s)
Deck drainage:				
Volume (barrels)		Once/month	Estimate	Monthly total
Free Oil	No free oil	Once/day [1]	Observation of sheen or film.	Number of days sheen or film observed.
Produced water:				
Flow (MGD)		Once/month	Estimate	Monthly average.
Oil and grease	72 mg/l daily max. (48 mg/l monthly ave.) When sampled weekly.	Once/month	Grab [2]	Daily maximum.
Produced sand:				
Weight (lbs)		Once/month	Estimate	Monthly total
Free Oil	No free oil	Once/day	Observation of sheen or film.	Number of days sheen or film observed.
Well treatment fluids [3] Volume		Once/month	Estimate	Monthly total.
Sanitary waste [4] (continuously manned by 10 or more persons):				
Flow (MGD)		Once-month	Estimate	Monthly average.
Residual chlorine	1 mg/l [5]	Once/month	Grab	Concentration.
Sanitary waste (continuously manned by 9 or fewer persons or intermittently by any number): Solids	No floating solids	Once/day	Observation [6]	Number of days solids observed.
Domestic Waste: Solids	No floating solids	Once/day	Observation [6]	Number of days solids observed.
Cooling water, desalinization unit discharge, blowout preventer fluid, fire control system test water, uncontaminated ballast water, uncontaminated bilge water				
Free Oil	No free Oil	Once/day	Observation of sheen or film.	Number of days sheen or film observed.

[1] When discharging and facility is manned. Monitoring shall be accomplished during daylight by visual observation of the receiving water surface in the vicinity of the discharge.
[2] May be based on the arithmetic average of four grab results samples in the twenty-four hour period.
[3] No discharge except as part of produced water.
[4] Any facility which properly operates and maintains a marine sanitation device (MSD) that complies with pollution control standards and regulations under section 312 of the Act shall be deemed to be in compliance with permit limitations for sanitary waste. The MSD shall be tested yearly for proper operation and test results maintained at the facility.
[5] Each method CN-85-DPD approved. Minimum of 1 mg/l and maintained as close to this concentration as possible.
[6] Monitoring shall be accomplished during daylight by visual observation of the surface of the receiving water in the vicinity of sanitary and domestic waste outfalls. Observations shall be made following either the morning or mid-day meals and at a time during daylight and maximum estimate discharge.

Section B. Other Discharge Limitations

1. *Floating Solids or Visible Foam.* There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. *Halogenated Phenol Compounds.* There shall be no discharge of halogenated phenol compounds.

3. *Surfactants, Dispersants, and Detergents.* The discharge of surfactants, dispersants, and detergents shall be minimized except as necessary to comply with the safety requirements of the Minerals Management Service.

4. *Rubbish, Trash and Other Refuse.* The discharge of any solid material not in compliance with other parts of this permit is prohibited. Incineration residue from paper and plastic only is exempt from this prohibition.

5. *Areas of Biological Concern.* There shall be no discharge in areas of biological concern

Part II.—Standard Conditions for NPDES Permits

Section A. General Conditions

1. *Duty to Comply.* The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; or for requiring a permittee to apply for and obtain an individual NPDES permit.

2. *Penalties for Violations of Permit Conditions.* The Clean Water Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

3. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:

a. Violation of any terms or conditions of this permit;

b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or

c. A change in any condition that requires either a temporary or a permanent reduction or elimination of the authorized discharge; or

d. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

In accordance with regulations promulgated under section 403 (40 CFR 125.123(d)(4)) of the Clean Water Act, this permit shall be modified or revoked at any time if, on the basis of any new data, the Regional Administrator determines that continued discharges may cause unreasonable degradation of the marine environment.

This permit shall be modified, or a alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under section 301(b)(2)(C), and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or

b. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

4. *Toxic Pollutants.* Notwithstanding Section A, paragraph 3 above, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions

established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the

determination of concentration shall be the arithmetic average (weighted by

also is for essential maintenance to assure efficient operation. These

is final administrative action subject to judicial review.

Report (DMR) Form (EPA No. 3320-1). In addition, the annual average for each

or application. This period may be extended by request of the Regional

established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. *Civil and Criminal Liability.* Except as provided in permit conditions on "Bypassing" section B, paragraph 4.b. and "Upsets" section B, paragraph 5.b., nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

6. *Oil and Hazardous Substance Liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 331 of the Clean Water Act.

7. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Clean Water Act.

8. *Property Rights.* The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

9. *Severability.* The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

10. *Definitions.* The following definitions shall apply unless otherwise specified in this permit:

a. "Daily Discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day. "Daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that sampling day.

b. "Monthly Average" discharge limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

c. "Daily Maximum" discharge limitation means the highest allowable "daily discharge" during the calendar month.

Section B. Operation and Maintenance of Pollution Controls

1. *Proper Operation and Maintenance.* The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. *Need to Halt or Reduce not a Defense.* It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. *Duty to Mitigate.* The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

4. *Bypass of Treatment Facilities.* a. Definitions:

(1) "Bypass" means the international diversion of waste streams from any portion of a treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of section B, paragraphs 4.c. and 4.d. of this section.

c. Notice:

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in section D, paragraph 6 (24-hour notice).

d. Prohibition of bypass.

(1) Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The permittee submitted notices as required under section B, paragraph 4.c.

(2) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in section B, paragraph 4.d.(1).

5. *Upset Conditions.* a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of section B, paragraph 5.c. are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated; and.

(3) The permittee submitted notice of the upset as required in section D, paragraph 6.

(4) The permittee complied with any remedial measures required under section B, paragraph 3.

d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. *Removed Substances.* Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

Section C. Monitoring and Records

1. *Representative Sampling.* Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. *Monitoring Procedures.* Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

3. *Penalties for Tampering.* The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

4. *Reporting of Monitoring Results.* The operator of each lease block shall be responsible for submitting monitoring results for each facility within each lease block.

If there is more than one facility (platform, drilling ship, semisubmersible), the discharge shall be designated in the following manner:

101 for the first facility; 201 for the second facility; 301 for the third facility; etc.

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report (DMR) Form (EPA No. 3320-1). In addition, the annual average for each facility shall be reported and shall be the arithmetic average of all samples taken during the reporting year. The highest daily maximum sample taken during the reporting period shall be reported as the daily maximum concentration.

If any category of waste (discharge) is not applicable due to the type of operation (e.g. drilling, production) no reporting is required for that particular outfall. Only DMR's representative of the activities occurring need to be submitted. A notification indicating the type of operation should be provided with the DMR's.

The first report is due on the 28th day of the 13th month from the day this permit first becomes applicable to a permittee. Signed and certified copies of these and other reports required herein, shall be submitted to the Regional Administrator at the following address:

(a) For all lease blocks west of the western boundary of Outer Continental Shelf lease areas identified as: Mobile, Viosca Knoll (north part), Destin Dome, Desoto Canyon, NG16-2 and NG16-5.

Director, Water Management Division (6W), Region VI, U.S. Environmental Protection Agency, P.O. Box 50708, Dallas, Texas 75250

(b) For all lease blocks east of the line identified in (a) above.

Director, Water Management Division (4W), Region IV, U.S. Environmental Protection Agency, 345 Courtland Street N.E., Atlanta, Georgia 30365

5. *Additional Monitoring by the Permittee.* If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased monitoring frequency shall also be indicated on the DMR.

6. *Averaging of Measurements.* Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.

7. *Retention of Records.* The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Administrator at any time.

8. *Record Contents.* Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individual(s) who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. The individual(s) who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

9. *Inspection and Entry.* The permittee shall allow the Regional Administrator or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

Section D. Reporting Requirements

1. *Planned Changes.* The permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b) (48 FR 14153, April 1, 1983, as amended at 49 FR 38046, September 26, 1984); or

b. The alteration or addition could significantly change the nature or increase the quanity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR Part 122.42(a)(1) (48 FR 14153, April 1, 1983, as amended at 49 FR 38046, September 26, 1984).

2. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any

For locations identified in Part II.C.4. reporting to Region VI, the reports should be made to telephone number

similar policy or decision making functions for the corporation, or

information, including the possibility of fine and imprisonment for knowing violations.

(a) The discharge(s) is a significant contributor of pollution;

located in lease areas seaward of the outer boundary of the territorial seas.

VOL 50 ISS 144 JL 26 1985 UMI

2. *Anticipated Noncompliance.* The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. *Transfers.* This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

4. *Monitoring Reports.* Monitoring results shall be reported at the intervals and in the form specified in Section C, paragraph 5 (Monitoring).

5. *Compliance Schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

6. *Twenty-Four Hour Reporting.* The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

The following shall be included as information which must be reported within 24 hours:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit.

b. Any upset which exceeds any effluent limitation in the permit.

c. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Administrator in Part III of the permit to be reported within 24 hours.

For locations identified in Part II.C.4. reporting to Region VI, the reports should be made to telephone number (214) 767–2214. Locations reporting to Region IV should use telephone number (404) 881–4062. The Regional Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

7. *Other Noncompliance.* The permittee shall report all instances of noncompliance not reported under section D, paragraphs 4, 5, and 6, at the time monitoring reports are submitted. The reports shall contain the information listed in section D, paragraph 6.

8. *Changes in Discharges of Toxic Substances.* The permittee shall notify the Regional Administrator as soon as it knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, in a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR 122.42(a)(1) (48 FR 14153, April 1, 1983, as amended at 49 FR 38046, September 26, 1984).

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the "notification levels" described in 40 CFR 122.42(a)(2) (48 FR 14153, April 1, 1983, as amended at 49 FR 38046, September 26, 1984).

9. *Duty to Provide Information.* The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Regional Administrator upon request, copies of records required to be kept by this permit.

10. *Signatory Requirements.* All applications, reports, or information submitted to the Regional Administrator shall be signed and certified.

a. All permit applications shall be signed as follows:

(1) For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or

(ii) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively.

(3) For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

(i) The chief executive officer of the agency, or

(ii) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

b. All reports required by the permit and other information requested by the Regional Administrator shall be signed by a person described above or by a duly authorized representative of that person.

A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described above.

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

(3) The written authorization is submitted to the Regional Administrator.

c. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under the direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

12. *Availability of Reports.* Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of the Regional Administrator. As required by the Clean Water Act, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

13. *Penalties for Falsification of Reports.* The Clean Water Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance of noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by both.

Section E. Notification Requirements

1. *Commencement of Operations.* Written notification of commencement of operations, including the legal name and address of the operator, the lease block number assigned by the Department of Interior or, if none, the name commonly assigned to the lease area, and the number and type of facilities located within the lease block, shall be submitted:

(a) Within 45 days of the effective date of this permit, by operators of lease blocks whose facilities are discharging into the general permit area on the effective date of the permit,

(b) Fourteen days prior to the commencement of discharge by operators facilities commencing discharge subsequent to the effective date of this permit.

In addition to the information required above, lease operators with leases located within *2000* meters of areas of biological concern shall identify those leases within the notification.

2. *Termination of Operations.* Lease block operators shall notify the Regional Administrator upon the permanent termination of discharges from their facilities within the lease block.

Section F. Additional General Permit Conditions

1. *When the Regional Administrator May Require Application for an Individual NPDES Permit*

The Regional Administrator may require any person authorized by this permit to apply for and obtain an individual NPDES permit when:

(a) The discharge(s) is a significant contributor of pollution;

(b) The discharger is not in compliance with the conditions of this permit;

(c) A change has occurred in the availability of the demonstrated technology or practices for the control or abatement of pollutants applicable to the point sources;

(d) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(e) A Water Quality Management Plan containing requirements applicable to such point source is approved;

or

(f) The point source(s) covered by this permit no longer:

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring;

and

(5) In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual NPDES permits.

The Regional Administrator may require any operator authorized by this permit to apply for an individual NPDES permit only if the operator has been notified in writing that a permit application is required.

2. When an Individual NPDES Permit may be Requested.

(a) Any operator authorized by this permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The operator shall submit an application together with the reasons supporting the request to the Regional Administrator no later than (90 days after the publication).

(b) When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to the owner or operator is automatically terminated on the effective date of the individual permit.

(c) A source excluded from coverage under this general permit solely because it already has an individual permit may request that its individual permit be revoked, and that it be covered by this general permit. Upon revocation of the individual permit, this general permit shall apply to the source.

Part III

Section A. General Permit Area

The area covered by this general permit includes the Gulf of Mexico located in lease areas seaward of the outer boundary of the territorial seas.

Section B. Other Conditions

1. *Samples of Wastes.* If requested, the permittee shall provide EPA with a sample of any waste in a manner specified by the Agency.

2. *Toxicity Test.* The approved test method for permit compliance is identified as:

U.S. Environmental Protection Agency Industrial Technology Division. May 1985. Appendix 3–Drilling Fluids Toxicity Test Proposed Regulation for the Offshore Subcategory of the Oil and Gas Extraction Point Source Category.

Section C. Definitions

1. "Annual average" means the average of all discharges sampled and/or measured during a calendar year in which daily discharges are sampled and measured, divided by the number of discharges sampled and/or measured during such year.

2. "Cooling water" means once through non-contact cooling water.

3. "Deck drainage" means all waste resulting from platform washings, deck washings, and run-off from curbs, gutters, and drains including drip pans and wash areas.

4. "Desalinization unit discharge" means wastewater associated with the process of creating fresh water from seawater.

5. "Domestic waste" means discharges from galleys, sinks, showers, and laundries only.

6. "Drilling cuttings" means particles generated by drilling into subsurface geological formations.

7. "Drilling fluids" means any fluid sent down the hole, including drilling muds and any specialty products, from the time a well is begun until final cessation of drilling in that hole.

8. "Produced waters" means waters and particulate matter associated with oil and gas producing formations. Sometimes the terms "formation water" or "brine water" are used to describe produced water.

9. "Produced sands" means sands and other solids removed from the produced waters.

10. "Sanitary waste" means human body waste discharged from toilets and urinals.

11. The term "Territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

12. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of

which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids

Service, January, 1983. Final regional environmental impact statement, Gulf of

VOL
50
ISS
144
JL
26
1985
UMI

12. "Well completion and treatment fluids" means any fluids sent down the drill hole to improve the flow of hydrocarbons into or out of geological formations which have been drilled.

13. "Uncontaminated Ballast/Bilge Water" means seawater added or removed to maintain proper draft.

14. "Blow out preventer control fluid" means fluid used to actuate hydraulic equipment.

15. "Fire control system test water" means the water released during the training and testing of personnel in fire protection.

16. "Live bottom areas" means seagrass communities or those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or carols living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotope favors the accumulation of turtles, fishes, and other fauna.

17. "No activity zones" means those areas identified by the Minerals Management Service where no structures, drilling rigs, or pipelines will be allowed. Those zones are identified as lease stipulations in: U.S. Department of Interior. Minerals Management Service, January, 1983. Final regional environmental impact statement, Gulf of Mexico. Additional no activity areas may be identified by MMS during the life of this permit.

18. "Inverse emulsion drilling fluids" means an oil-base drilling fluid which also contains a large amount of water.

19. "Areas of biological concern" means locations identified by MMS as "no activity zones" or "live bottom areas".

20. "Spotting" means the process of adding a lubricant (spot) down hole to free stuck pipe.

[FR Doc. 85-17280 Filed 7-25-85; 8:45 am]

BILLING CODE 6335-01-M

federal register

Friday
July 26, 1985

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

General wage determination decisions are effective from their date of

Any person, organization, or

VOL 50 ISS 144 JUL 26 1985 UMI

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determinations

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama:	
AL85–1004	May 31, 1985.
AL85–1005	Do.
Connecticut: CT85–3023	June 7, 1985.
District of Columbia: DC84–3009.	Apr. 6, 1984.
Indiana: IN83–2072	Sept. 2, 1983.
Montana: MT83–5101	Feb. 18, 1983.
Ohio:	
OH83–5123	Dec. 2, 1983.
OH83–5124	Do.
OH83–5125	Dec. 23, 1983.
OH85–5026	May 24, 1985.
OH85–5028	June 21, 1985.
Oklahoma: OK85–4011	May 10, 1985.
Pennsylvania: PA84–3000	Jan. 13, 1984.
Rhode Island: RI84–3043	Nov. 30, 1984.
Virginia: VA82–3034	Dec. 3, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: (AL85–1006).	AL85–1003	Feb. 22, 1985.
Maryland: (MD85–3041).	MD83–3010	June 3, 1983.
Missouri: (MO85–4022).	MO84–4054	Sept. 14, 1984.
New York:		
NY83–3043 (NY85–3039)		Aug. 19, 1983.
NY84–3005 (NY85–3040)		Mar. 2, 1984.

Signed at Washington, D.C. this 19th day of July 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AL85-1004
Mod # 1
(50 FR 23248 - May 31, 1985)
Lawrence, Limestone & Morgan Counties, Alabama

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	$ 7.14	.12

DECISION NO. AL85-1005
Mod # 2
(50 FR 23247 - May 31, 1985)
Madison County, Alabama

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	$ 7.89	
LABORERS, GENERAL	4.78	

DECISION NO. DC84-3009-MOD. #18
(49 FR 13800-April 6, 1984)
DISTRICT OF COLUMBIA, MARYLAND-MONTGOMERY & PRINCE GEORGES COUNTIES, THE D.C. TRAINING SCHOOL, VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA & ARLINGTON & FAIRFAX COUNTIES

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
SHEET METAL WORKERS	16.31	3.83
ELEVATOR CONSTRUCTORS:		
Mechanics	15.805	3.29+a+b
Helper	11.06	3.29+a+b

(3)

DECISION NO. MT83-5101 - Mod. #8
(48 FR 7370 - February 18, 1983)
Statewide, Montana

	Basic Hourly Rates	Fringe Benefits
Change:		
CARPENTERS:		
Area 2:		
Carpentar	$12.73	2.76
Piledrivermen	12.98	2.76
Millwrights	13.73	2.76

DECISION NO. OK85-4011
MOD # 3(50 FR 19863-May 10 1985)

Alfalfa, Beckham, Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Roger Mills, Pottawatomie, Seminole, Stephens, Tillman, Washita, Woods, & Woodward Counties Oklahoma.

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS (Area IV)		
Carpenters	$11.20	
Millwrights	11.20	
Piledrivers	11.20	

DECISION NO. CT85-3023 - MOD. NO. 2
(50 FR 24109 - June 7, 1985)
Statewide, Connecticut

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; LATHERS; RESILIENT FLOOR LAYERS:		
BUILDING CONSTRUCTION:		
Area 1:		
Carpenters, Piledrivermen, Lathers and Resilient Floor Layers:	$15.75	$2.25
Millwrights:	16.50	2.30
Area 2:		
Carpenters, Piledrivermen, Lathers, Resilient Floor Layers:	15.47	2.25
Millwrights:	16.50	2.30
Area 3:	15.70	3.05
Area 4:	15.70	3.15
Area 5:	15.15	3.80
Area 6:		
Carpenters, Piledrivermen, Lathers, Resilient Floor Layers:	16.85	2.43
Millwrights:	16.85	2.43
RESIDENTIAL:		
Area 1:	14.75	3.05
HEAVY & HIGWAY CONSTRUCTION:		
Areas 1 & 2	15.58	2.55
Area 3:	15.10	3.05
Area 4:	14.40	3.80
Area 5:	14.45	3.80
Area 6:	15.75	2.43
ELECTRICIANS:		
Area 4	17.25	4.32+3%%
IRONWORKERS	18.50	6.88+i
PAINTERS		
Area 7:		
Brush	16.45	3.01
Rollers	16.95	3.01
Paperhangers, Taperd, eign, structural steel swing stage, swing scaffold, window jacks bosun chair, steam cleaning, sandblasting	17.45	3.01
Spray	19.61	3.01
Epoxy	17.81	3.01
Spray Epoxy	21.44	3.01
Projects of $75,000 or less		
Brush	15.45	3.01
Roller	15.95	3.01
Spray	16.70	3.01
Epoxy	15.95	3.01
TRUCK DRIVERS:		
Heavy & Highway Construction		
2-axle trucks and helpers	12.53	3.47
3-axle and 2-axle Ready Mix	12.63	3.47
3-axle Ready Mix	12.68	3.47
4-axle, and Heavy Duty Trailer up to 40 tons	12.73	3.47
4-axle Ready-Mix	12.78	3.47
Heavy Duty Trailers 40 tons and over	12.83	3.47

(4)

DECISION NO. IN83-2072 - Mod. #3
(48 FR 40079 - September 2, 1983)
Lake, LaPorte, Porter and St. Joseph Counties, Indiana

Change:	Basic Hourly Rates	Fringe Benefits
CARPENTERS:		
Heavy & Highway Construction:		
Area 2	$15.16	$2.65
CEMENT MASONS:		
Building Construction:		
Area 2	17.20	3.13
Area 4	17.50	2.81
Heavy and Highway Construction:		
Area 3	15.06	3.54
ELECTRICIANS:		
Area 1	17.30	3%+2.99
Area 2	18.19	14%
Area 3	17.90	16.5%
ELEVATOR CONSTRUCTORS:		
MECHANICS:		
Area 2	16.33	3.00+a
MECHANIC HELPERS:		
Area 2	70%JR	3.00+a
PROBATIONARY HELPERS:		
Area 2	50%JR	
IRONWORKERS:		
Area 1	17.60	4.57
Area 2	14.25	5.71
PAINTERS:		
Area 4:	12.66	2.18
PLASTERERS:		
Area 1	15.26	3.13
Area 3	17.50	2.81
PLUMBERS; PIPEFITTERS:		
Area 2	16.80	3.86
Area 3	16.08	3.00
ROOFERS:		
Area 1	17.11	3.60
Area 2:		
Composition	15.10	3.25
Slate & Tile	15.60	3.25
SHEET METAL WORKERS:		
Area 2	16.16	2.46

DECISION NO. RI84-3043 - MOD. #6
(49 FR 47171 November 30, 1984)
Statewide Rhode Island

CHANGE:

	Basic Hourly Rates	Fringe Benefits
CARPENTERS:		
Carpenters, Soft Floor, Piledrivermen:		
Building Construction	15.50	5.05
Residential Construction	12.40	5.05
Heavy & Highway	15.30	5.05
MILLWRIGHTS:	15.75	5.05
TRUCK DRIVERS:		
Building Construction:		
Dump truck and two-axle equipment drivers	14.24	2.8725
Trailer and three-axle equipment drivers	14.32	2.8725
Low bed trailer 24 ton rated capacity and over; 1 Beam trailers; Specialized earth moving equipment- Euclid Type	14.57	2.8725
Euclid type equipment over 35 ton capacity	14.82	2.8725

DECISION NO. VA82-3034-MOD. #11
(47 FR 54746-December 3, 1982)
The Cities of CHESAPEAKE, PORTSMOUTH, & VIRGINIA BEACH

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Ironworkers	13.75	2.85

DECISION NUMBER OH83-5123 - MOD. #6
(48 FR 54419 - December 2, 1983)
Mahoning & Trumbull Counties, Ohio

Change:	Basic Hourly Rates	Fringe Benefits
Elevator Constructors:		
Mechanics	$17.66	$3.29+ b+c
Helpers	70%JR	3.29+ b+c
Helpers (Prob.)	50%JR	
Painters:		
Brush; Hydro Jet Cleaning; Paperhangers (W/o Tools); Roller; Steamcleaning; Wall Washing; & Waterproofing	16.29	3.56
Spray	16.79	3.56
Epoxy-mastic (Brush & Roller)	17.19	3.56
Drywall Taping	16.44	3.56
Open Structural Steel	16.50	3.56
Paperhanging (W/Tools)	16.54	3.56
Dipping	16.59	3.56

DECISION NUMBER OH83-5124 - MOD. #7
(48 FR 54422 - December 2, 1983)
Lucas County, Ohio

Change:	Basic Hourly Rates	Fringe Benefits
Boilermakers	20.225	3.93
Electricians:		
Residential Up to & including 3 story apartments	12.00	2.24+ 3.3%
All Other Work:		
Electricians	20.00	2.24+ 3.3%
Cable Splicers	23.00	2.24+ 3.3%
Plasterers	17.52	2.46

DECISION NUMBER OH83-5124 (Cont'd)

Omit:	Basic Hourly Rates	Fringe Benefits
Laborers:		
Common	$14.08	$3.01
Plasterers' Tenders & Mixers	14.30	2.71
Add:		
Laborers:		
Common:		
Buildings 25,000 sq. ft. or less	11.12	3.01
Buildings over 25,000 sq. ft.	13.90	3.01
Plasterers' Tenders & Mixers	14.30	2.71

DECISION NUMBER OH83-5125 - MOD. #7
(48 FR 56893 - December 23, 1983)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio

Change:		
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:		
Area 3:		
Commercial Building:		
Carpenters	17.85	3.79
Line Construction:		
Area 3:		
Cable Splicers; Equipment Operators; & Linemen	22.28	1.00+ 3 1/2%
Truck Drivers (Winch) Groundmen	14.48	1.00+ 3 1/2%

DECISION NUMBER OH83-5125 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change:		
Painters:		
Area 3:		
Brush; Roller; Waterproofing; Paperhanging (W/o Tools); Wallwashing; Hydro Jet Cleaning; Steam Cleaning	$16.29	$3.56
Open Structural Steel	16.50	3.56
Paperhanging (W/Tools)	16.54	3.56
Spray	16.79	3.56
Epoxy-mastic (Brush or Roller)	17.19	3.56
Drywall Taping	16.44	3.56
Sheet Metal Workers:		
Area 3:		
Commercial Building	18.51	3.55
Residential	10.85	3.55

DECISION NUMBER OH85-5026 MOD. #2
(50 FR 21550 - May 24, 1985)
Statewide, Ohio

Change:		
Bricklayers & Stonemasons:		
Area 6	16.17	3.26
Carpenters & Piledrivermen:		
Area 2:		
Carpenters	15.15	3.14
Piledrivermen	15.82	3.14
Area 5:		
Carpenters	15.15	3.14
Piledrivermen	15.82	3.14
Area 15:		
Carpenters	17.85	3.79

DECISION NUMBER OH85-5026 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 18:		
Electricians	$20.00	3.3%+ 2.24
Cable Splicers	23.00	3.3%+ 2.24
Painters:		
Area 12:		
Brush; Roller; Tanks; Bridges; Hydro Jet Cleaning; & Steamcleaning	16.49	3.56
Pot Tender; Sandblasting; & Spray	17.19	3.56
TV, Radio, & Electrical Towers; Smoke Stacks	17.37	3.56
Epoxy-Mastic (Brush or Roller)	17.39	3.56
Epoxy-Mastic (Spray)	17.69	3.56
Pipefitters; Plumbers; & Steamfitters:		
Area 2	19.60	3.10
Area 3	18.86	3.32
Area 14	19.60	4.12
Line Construction:		
Area 11:		
Cable Splicers; Equipment Operators; Linemen	22.28	3%%+ 1.00
Groundmen; Truck Drivers (Winch)	14.48	3%%+ 1.00
Traffic Signal Work:		
Linemen; Operators	19.35	3%%+ 1.00
Groundmen	16.23	3%%+ 1.00
Omit:		
Painters:		
Area 18:		
Wage Rates & Area Description		
Footnote:		
g. 2 Paid Holidays: C and D		

DECISION NUMBER OH85-5028 - MOD. #2
(50 FR 25831 - June 21, 1985)
Adams, Allen,...Wood & Wyandot Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers:		
Area 2	$20.225	$3.93
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons:		
Area 4	16.17	3.26
Carpenters:		
Area 11	17.85	3.79
Electricians:		
Area 13:		
Electricians	20.00	3.3%+ 2.24
Cable Splicers	23.00	3.3%+ 2.24
Elevator Constructors:		
Area 3:		
Mechanics	17.49	3.29+ f&g
Helpers	70%JR	3.29+ f&g
Helpers (Prob.)	50%JR	
Area 5:		
Mechanics	17.66	3.29+ f&g
Helpers	70%JR	3.29+ f&g
Helpers (Prob.)	50%JR	
Area 6:		
Mechanics	21.42	3.29+ f&g
Helpers	70%JR	3.29+ f&g
Helpers (Prob.)	50%JR	
Glaziers:		
Area 5	15.60	1.21+h
Area 6	12.00	3.46
Painters:		
Area 10:		
Brush; Hydro-jet Cleaning; Paperhanging w/o Tools; Roller; Steam Cleaning; Wallwashing; & Waterproofing	16.29	3.56
Drywall Taping	16.44	3.56
Open Structurel Steel	16.50	3.56
Paperhanging (w/tools)	16.54	3.56
Spray	16.79	3.56

DECISION NUMBER OH85-5028 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change:		
Pipefitters; Plumbers; & Steamfitters:		
Area 2	$18.60	$3.10
Area 3	18.86	3.32
Area 13	19.60	4.12
Plasterers:		
Area 8:		
Plasterers	17.52	2.46
Drywall Tapers & Finishers	15.76	2.46
Sheet Metal Workers:		
Area 3	18.51	3.55
Laborers:		
Area 4:		
Group 1	14.37	2.70
Group 2	14.67	2.70
Group 3	15.02	2.70
Area 16:		
Group 1	12.77	3.00
Group 2	12.87	3.00
Group 3	13.12	3.00
Line Construction:		
Area 17:		
Cable Splicers; Linemen; & Equipment Operators	22.28	3%%+ 1.00
Truck Driver (Winch) Groundmen	14.49	3%%+ 1.00
Omit:		
Laborers:		
Area 20:		
Group 1	14.08	3.01
Group 2	14.30	2.71
Add:		
Laborers:		
Area 20:		
Group 1:		
Buildings 25,000 sq. ft. or less	11.12	3.01
Buildings over 25,000 sq. ft.	13.90	3.01
Group 2	14.30	2.71

DECISION #PA84-3000 ~ Mod. #10 (49 FR 1851 - January 13, 1984)	Basic Hourly Rates	Fringe Benefits
Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean, Mercer, Mifflin, Potter, Somerset, Venango, Warren, Washington, & Westmoreland Counties, Pennsylvania		
OMIT:		
TRUCK DRIVERS HEAVY & HIGHWAY CONSTRUCTION CLASSES ONE THROUGH TWELVE FOR ZONE ONE (Which includes the Counties of Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Centre, Clearfield, Crawford, Erie, Fayette, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington & Westmoreland).		
ADD:		
TRUCK DRIVERS (Heavy & Highway Construction): Zone 1 - Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Centre, Clearfield, Crawford, Erie, Fayette, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, & Westmoreland Counties:		
Pick-up Farm tractor (when pulling or hauling), Helpers, Warehouseman	$ 9.00[b]	19%
Single Axle Fork lift	11.00[b]	19%
Tri-axle Tandem axle & Tractor pulled Trailers	12.00[b]	19%
Specialty Vehicles Heavy off-the-road equipment (rated 45 tons and over), Lowboys	13.48[b]	19%

(9)

TRUCK DRIVERS (Cont'd.):	Basic Hourly Rates	Fringe Benefits
Partmen will be paid on basis of vehicle utilized.		
Dual Purpose Truck (when load has been loaded or unloaded with truck winch loading, hauling & unloading) will be paid according to axle of truck.		
FOOTNOTE 'b':		
Travel, with vehicle, to and from project site and company's office or yard will be at the federally established minimum wage rate of $ 3.35 per hour when a full eight hours of job site work is scheduled. (First trip in and last trip out daily, to a maximum of one hour each trip per day). Fringe benefit payments for this work will be based upon project site rate for similar vehicle.		

STATES: ALABAMA, ARKANSAS, FLORIDA (West of the Aucilla River), GEORGIA (West of the Aucilla and Ocumlgee Rivers within the boundsries of the Mobile District of the Corps of Engineers), KENTUCKY, LOUISIANA, MISSISSIPPI, TENNESSEE, and TEXAS.

DECISION NUMBER: AL85-1006 DATE: DATE OF PUBLICATION

Supersedes Decision Number AL85-1003 dated February 22, 1985 in 50 FR 7540

DESCRIPTION OF WORK: DREDGING PROJECTS (EXCLUDING SELF-PROPELLED HOPPER DREDGES) along the Gulf of Mexico Coast Area including the Mississippi River and its tributaries to the Ohio River.

DREDGES 16" & OVER:	Basic Hourly Rates	Fringe Benefits
Leverman	$ 6.10	
Dredge Tender Operator	5.14	
First Assistant Engineer	6.06	
Second Assistant Engineer	5.50	
Third Assistant Engineer	5.06	
Deckhand	3.88	
Shoreman	3.90	
Fireman	4.40	
Oiler	4.00	
Truck Driver	3.90	
Welder	5.47	
DREDGES UNDER 16":		
Leverman	4.25	
Dredge Tender Operator	3.60	
Deckhand	3.35	
Oiler	3.50	
Welder	3.80	

HYDRAULIC DREDGING:	Basic Hourly Rates	Fringe Benefits
First Cook	$ 3.90	
Second Cook	3.65	
Cook's Helper - Mess Person	3.35	
Janitor - Cabin Person	3.85	
Handyman	4.33	
DERRICK OPERATOR	5.38	
DOZER OPERATOR	5.53	
MARSH BUGGY DRAGLINE:		
Operator	6.70	
Oiler	6.33	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

(10)

SUPERSEDEAS DECISION

STATE: MARYLAND

COUNTIES: ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND, AND FOR HEAVY CONSTRUCTION FOR ALL OF THE ABOVE AND INCLUDING HARFORD & HOWARD COUNTIES, MARYLAND

DECISION NO.: MD 85-3041

DATE: DATE OF PUBLICATION

Supersedes Decision No. MD83-3010 dated June 3, 1983 in 48 FR 25100.

DESCRIPTION OF WORK: Building Construction (does not include single family houses and apartments up to and including 4-stories) and Heavy Construction Projects (does not include sewer and water lines)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.63	4.39
BOILERMAKERS	19.25	3.65
BRICKLAYERS	12.96	2.29
CARPENTERS, SOFT FLOOR LAYERS, MILLWRIGHTS, PILEDRIVERS, DIVERS AND DIVER'S TENDERS		
Zone 1 - Anne Arundel County (the City of Annapolis and that portion of the county south and east of the following line: beginning at Rte. 3 and the Petuxent River, north of Rte. 3 to the junction of Benfield Rd., then right on Benfield Rd. to the junction of Jumpers Hole Rd. left on Jumpers Hole Rd. to the junction of Ritchie Hwy., left on Ritchie Hwy. to the junction of Rte. 100, right on Rte. 100 to Rte. 177 and continuing in an easterly direction on Rte. 177 to Gibson Island):		
Carpenters and Soft Floor Layers	15.22	2.08
Millwrights	15.95	2.08
Piledriver	15.57	2.08
Divers	23.20	2.08
Diver's Tenders	16.53	2.08
Zone 2 - Anne Arundel (remainder of county), Baltimore, Baltimore City, Harford and Howard Counties:		
Carpenters, soft floor layers, resilient floor layers, & diver's tenders	13.45	2.56
Piledrivers	13.30	2.71
Divers	27.50	2.11
Millwrights	13.70	2.91
CEMENT MASONS	14.49	2.32
ELECTRICIANS	17.60	3.5%+ 3.50
ELEVATOR CONSTRUCTORS		
Mechanics	16.47	3.29+ a+b
Helpers	11.53	3.29+ a+b
Probationary Helpers	8.235	
GLAZIERS	14.48	4.14
IRONWORKERS		
Ironworkers, finishers, rodmen; pre-cast & prestress erectors	14.74	5.11
Fence Erectors	14.39	5.11
Sheeters	15.49	5.11
LABORERS, BUILDING & HEAVY (EXCLUDING TUNNEL CONSTRUCTION)		
General Laborers-Flaggers material handlers(except tenders), clean-up, janitors, turck checkers, watchmen	9.62	1.225
Construction Laborers - All laborers not otherwise classified	10.51	1.225
Semi-Skilled Laborers - Potmen, power tool operators, pipe layers, drillers, concrete laborers, signalmen, small machine operators, laser beam operators	10.93	1.225
Skilled Laborers - Burners, welders, nozzlemen, wagon drillers, powder men	11.19	1.225
LEAD BURNERS	17.35	3.30
LINE CONSTRUCTION:		
Linemen		
Zone 1 - From Baltimore City Hall to 45 miles (air line):		
Linemen, cable splicers, digging and equipment operators	17.50	3%+ 1.00
Truck Drivers	10.55	3%+ 1.00
Groundmen	10.15	3%+ 1.00
Linemen		
Zone 2 - Over 45 miles from Baltimore City Hall:		
Linemen, cable splicers, digging and equipment operators	17.75	3%+ 1.00
Truck Drivers	10.80	3%+ 1.00
Groundmen	10.40	3%+ 1.00
MARBLE SETTERS	12.58	1.72
MASON TENDERS:		
Mason tenders	10.65	1.225
Scaffold builders	10.90	1.225
PAINTERS:		
Anne Arundel County North of the Patuxent River:		
Brush, roller, spackling, taping, & wallcovering	13.30	2.29
Steel, spray, swinging stages, boatswain chair sand & waterblasting, steam cleaning & epoxies	14.05	2.29
Anne Arundel County South of the Patuxent River:		
Painters/Drywall Finishers:		
New Construction	11.50	2.74
Repaint/Remodeling	10.50	2.74
PLASTERERS	15.25	2.35
PLUMBERS	16.62	3.84
ROOFERS:		
Anne Arundel County: All areas south of the following line: From the point where Maryland Rte. 175 crosses into Anne Arundel County from Howard County, southeast on Hwy. No. 175 into Hwy No. 178 into Hwy No. 50, then to Hwy No. 2 to West Street, east to Bay Bridge Road and follow Bay Bridge Road to the bay		
Mopmen	15.44	1.69
Composition Roofers	14.72	1.69
Material Handlers	9.92	1.69
Remainder of Jurisdiction		
Roofers	11.85	2.85
SHEET METAL WORKERS	14.83	2.97

	Basic Hourly Rates	Fringe Benefits
SIGN ERECTORS	9.18	4%+d
SPRINKLER FITTERS:		
Baltimore City including a 10 mile radius beyond the city limits	17.40	3.23
Hartford & Howard Cos. and the remainder of Anne Arundel & Baltimore Counties	16.76	4.85
STEAMFITTERS	16.76	4.85
TILE & TERRAZZO WORKERS	13.86	2.07
TILE, MARBLE & TERRAZZO FINISHERS	11.10	1.00
TRUCK DRIVERS: BUILDING		
Euclid wagon and dumpsters	12.17	2.90+ a+h
Dropframe gooseneck and tailers	12.02	2.90+ a+h
Dump	11.75	2.90+ a+h
Pick-up	11.43	2.90+ a+h
TRUCK DRIVERS: HEAVY		
Euclid wagons & dumpsters	11.12	2.90+ a+h
Dropframe, gooseneck & trailers	10.96	2.90+ a+h
Dump; sweeper, boring machine & miscellaneous equipment; water trucks, fuel & lube trucks	10.70	2.90+ a+h
Pick-up	10.40	2.90+ a+h
POWER EQUIPMENT OPERATORS:		
Group I	16.23	3.10
Group II	14.57	3.10
Group III	13.81	3.10
Group IV	13.08	3.10
Group V	11.61	3.10
POWER EQUIPMENT OPERATORS (Paving, Site Clearance and Utilities):		
Group I	13.40	3.10
Group II	12.72	3.10
Group III	11.93	3.10
Group IV	10.48	3.10

BUILDING POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group I - Operators handling or setting steel, stone prestressed concrete or machinery. Tower cranes.

Group II - Backfiller, backhoe, batching plants, boat captain, cableway, case type hoe (with a front end bucket over 1-½ yds.), concrete mixing plants, concrete paver, crane, derrick boat, double concrete pump, dragline, Kimco type overhead loader, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds. and over), gradall, grader, hoist (2 active drums or more), multiple conveyor, pile drinving machine, power shovel, repair mechanic, shield, standard guage locomotive, trenching machine, tunnel mucking machine, twin engine scraper, welder, whirley rig. D-9 Dozer.

Group III - Asphalt spreader, bull float, case type backhoe (with a front end bucket 1-½ yds. and under), concrete mixer (with skip), concrete pump, concrete spreader, excavating scoop (under 25 yds.), finishing machine, front end tractor loader (under 1-3/4 yds.), hi-lift fork lift, longitudinal float, narrow guage locomotive, one drum hoist, power roller, bulldozer screeding machine, stone crusher, stone spreader, sub-grader, tractor with attachments (2 or more provided both attachments are being used).

Group IV - Caterpillar type tractor, compressor, elevator operator, firemen, fuel truck, grease truck, grot pump, light plant, mighty midget with compressor, single conveyor, space heaters, welding machines, well-drill, wellpoint system.

Group V - Deck hands, oilers (all types)

(PAVING, SITE CLEARANCE UTILITIES) POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group I - Backfiller, backhoe, batching plants, cableway, case type hoe (with a front end bucket over 1-½ yds.), concrete mixing plants, concrete paver, derrick, derrick boat, double concrete pump, dragline, elevating grader, excavating scoop (25 yds. and over), front end loader (1 - 3/4 yds. and over), grader, gradall, hoist (2 active drums or more), pile driving machine, power crane, power shovel, repair mechanic, standards guage locomotive, trenching machine, tunnel mucking machine, twin engine scoop, welder, whirley rig, D-9 dozer

Group II - Asphalt spreader, bull float, Case type hoe (with a front end bucket 1 - ½ yds. and under), concrete mixer (with a slip), concrete pump, concrete spreader, ditch-witch type trencher, excavating scoop (under 25 yds.) finishing machine, front end loader (under 1 - 3/4 yds.), grout pump, hi-lift, longitudinal float, narrow guage locomotive, one drum hoist, power roller, bulldozer, screeding machine, stone crusher, stone spreader, tractor with attachments (2 or more provided both attachments are being used); subgrader, well-drill

Group III - Compressors, conveyors, firemen, fuel truck, grease truck, light plants, mighty midget with compressor, space heaters, welding machines, wellpoint system

Group IV - Oilers (all types)

Unlisted classifiestions needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. MD85-3041

Welders - receive rates prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Christmas Eve; H-Good Friday.

FOOTNOTES:
a. Holidays: A through F.
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of the basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. Employee working Christmas Eve shall work 4 hours and receive 8 hours pay.
d. Holidays: A through F,H. Friday after Thanksgiving, and employee's birthday. vacation: One week per year after 1 year of service, 2 weeks after 3 years of service and 3 weeks after 10 years of service.
e. Holidays: A through F.
f. Employee with 1 year of service - 1 week's paid vacation; 2 - 3 weeks paid vacation, provided the employee has worked during the holiday week).
g. Holidays: A through H plus the employee's birthday; (provided the employee has worked one day and has been available for work during the holiday week).
h. Holidays: Employees with 1 year of service - 1 week paid vacation; 2 - 2 weeks paid vacation; 10 years - 3 weeks paid vacation.

SUPERSEDEAS DECISION

STATE: Missouri
DECISION NO.: MD85-4022
Supersedes Decision No. MD84-4054. dated September 14, 1984 in 49 FR 36233.
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

COUNTY: Pulaski
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.94	2.40
BOILERMAKERS	17.495	3.25
BRICKLAYERS, STONEMASONS & TILE LAYERS	14.50	1.00
CARPENTERS:		
Projects under $500,000.00	14.26	3.82
Projects $500,000.00 and over	14.76	3.82
CEMENT MASONS	15.28	1.95
ELECTRICIANS:		
Electricians	15.04	9% + 1.89
Cable Splicers	15.44	9% + 1.69
IRONWORKERS, STRUCTURAL, ORNAMENTAL, REINFORCING	16.075	3.40
LABORERS:		
Laborers, general	12.50	2.20
Plumbers laborers and mason tenders	12.75	2.20
Powderman	13.50	2.20
PAINTERS:		
Brush & roller	13.00	2.60
Taping, paperhanging & floor work	13.50	2.60
Spray, structural steel & sandblasting	14.25	2.60
PIPEFITTERS & PLUMBERS	19.85	6.08
SHEET METAL WORKERS	18.44	3%+3.10
TRUCK DRIVERS:		
GROUP 1	12.35	2.00
GROUP 2	12.75	2.00
GROUP 3	12.82	2.00
GROUP 4	12.87	2.00
GROUP 5	13.02	2.00
GROUP 6	13.85	2.00
ROOFERS	12.00	.66
PLASTERERS	17.195	3.03

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVER:		
Ft. Leonard Wood Only:		
GROUP 1	13.35	2.00
GROUP 2	13.50	2.00
GROUP 3	13.57	2.00
GROUP 4	13.62	2.00
GROUP 5	13.77	2.00
GROUP 6	14.10	2.00
POWER EQUIPMENT		
OPERATORS:		
GROUP I	16.32	4.04
GROUP II	16.32	4.04
GROUP III	15.02	4.04
GROUP III (a)	13.95	4.04
GROUP IV	14.57	4.04
GROUP IV (a)	13.49	4.04
GROUP V:		
(a)	17.02	4.04
(b)	17.67	4.04
(c)	18.32	4.04
(d)	19.07	4.04
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).		

Power Equipment Operators

Group I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted - 16 tons & over; crane locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other powers; pile driver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric, or other powers); switch boat; whirley

Group II - air tuggerw/air compressor; anchor-placing barge; asphalt spreader; athey force feeder loader (self-propelled); backfilling machine; boat operator-push boat or tow boat (jobsite); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer (such as mixermobile); compressors, two, not more than 50 ft. apart; compressor (when operator runs throttle); compressor-generator combination, compressor-pump combination; generators, two 30 KW or over, or any number developing over 30 KW; generator-pump combination; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pump-crete machine; concrete spreader; conveyor, large (not self-propelled), hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines,self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers,jackhammers and barco equipment - no engineer required); elevating grader; engineman, dredge; excavator or coverbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist; concrete and brick (brick cages or concrete skips operating in or on tower, towermobile, or similar equipment); hoist; stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-greene); mechanic, on job site; mixer, paving; mixer-mobile; mucking machine; pipe cleaning machine; pipe wrapping machines; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; plant power,-generating-job site; pumps, two self-powered over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or sub-grade; scoop, tractor drawn; spreader box; sub-grader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine automatic; automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

Group III - Conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; mixer two or more mixers of one bag capacityor less, air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor air (mounted on truck; concrete saw, self-propelled;curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist; one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity, mixer, if two or more mixers of one bag capacity or less are

Group III - (Cont'd): used by one employer on job an operator is required; mixer, with outside loader, 2 bag capacity or more; mixer, with side loader,regardless of size, not paver; oiler on dredge; oiler on truck crane pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck; scissor lift (used for hoisting); tractor, small wheel type 50 h.p. & under with grader blade & similar equipment

Group III(a) - Truck crane and dredge

Group IV - Boat operator-outboard motor (job site); conveyor (such as con-vay-it) regardlessof how used; oiler; sweeper, floor

Group IV(a) - Crawler type

Group V - (a) Air pressure, oiler engineer, operating under ten pounds (b) air pressure, oiler engineer operating over ten pounds (c) air pressure engineer operating under ten pounds (d) air pressure engineer operating over ten pounds (e) crane-piledriving and extracting; crane using rock socket tool; dragline - 7 cu. yds. & over; shovel, power - 7 cu. yds. and over; crane, climbing such as Linden); derrick, diesel, gas or electric hoisting material and erecting steel - 150' or more above ground; hoists, three or more drums; scoop,tandem; tractor, tandem crawler

Crane with boom (including jib), over 100' from pin to pin (add 1¢ per foot to maximum of $2.00) above basic rate for crane

Work in tunnel or tunnel shaft, .50¢ above base rate

TRUCK DRIVER CLASSIFICATION DEFINITIONS

GROUP 1 - Flat bed drivers; pick-ups and station wagons; tireman & station attendant; dump, aingle axle

GROUP 2 - Flat bed, tandem axle; dump, tandem; tank trucks, single axle

GROUP 3 - Agitator & transit-mix

GROUP 4 - Winch trucks; steel haulers, derrick & A-trucks; distributors drivers & operators; tank truck; tandem & semi-tractors; wheel tractors; oilers, greasers & mechanic helpers; heavy excavating & hauling euclids, dumpsters, etc.

GROUP 5 - Pork lifts & high lifts, etc., when unloading or carrying

GROUP 6 - Mechanics

SUPERSEDEAS DECISION

STATE: NEW YORK
DECISION NO.: NY85-3039
COUNTIES: BROOME & CHENANGO
DATE: DATE OF PUBLICATION
Supersedes Decision No. NY83-3043 dated August 19, 1983 in 48 FR 37801.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy (except water well drilling) & Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	18.70	3.41
BOILERMAKERS	18.93	2.25+ 10%
BRICKLAYERS:		
BROOME; CHENANGO (Twps. of Tyner, Oxford, Smithville Flats, Brisben, Genegantslet, Green, Coventry, Coventryville, West Bainbridge, North Afton and Afton):		
Bricklayers, Cement Masons, Plasterers, Stone Masons, Tile Setters, Terrazzo Workers, Marble Masons, Pointers, Caulkers & Tuckers	15.90	2.22
Cement Masons (Heavy & Highway)	14.16	2.65+a
CHENANGO (Remainder of County):		
Bricklayers, Cement Masons, Plasterers, & Stone Masons		
Total project cost under $300,000	15.36	3.29
Total project cost over $300,000	15.01	3.20
Marble Mason, Tile & Terrazzo Workers	14.61	3.20
Cement Masons (Heavy & Nighway)	13.71	3.10+a
CARPENTERS:		
BROOME; CHENANGO (Twps. of Afton and the Southwest portion of Greene):		
Carpenters & Soft Floor Layers	14.41	2.27
Millwrights & Piledrivermen (Buiiding)	14.66	2.27
Carpenters & Piledrivermen (Heavy & Highway)	15.12	2.025+b
CHENANGO (Remeinder of County):		
Carpenters, Dockbuilders, Millwrights & Piledrivermen	14.20	4.65
ELECTRICIANS:		
CHENANGO (Twps. of New Berlin & Sherburne):		
Electricians	16.27	3.26+ 3%
Cable Splicers	17.77	3.26+ 3%
BROOME; CHENANGO (Remainder of County):		
Electriciana	15.85	2.49+ 3%
Cable Splicers	18.00	2.49+ 3%
ELEVATOR CONSTRUCTORS: Within an 8 mile radius of Courthouse Square in Binghamton, excluding the city of Endicott:		
Mechanics	14.48	2.590+ c+d
Helpers	10.14	2.590+ c+d
Probationary Helpers	7.24	
GLAZIERS	10.92	1.68
IRONWORKERS:		
CHENANGO (Twps. of Smyrs, Sherburne, New Berlin, Columbus, Plymouth east of East Branch Creek & Norwich):		
Structural, Ornamental, Reinforcing, Rodmen, Riggers, Machinery Movers & Stone Derrickmen	14.03	3.62
Sheeter	14.28	3.62
Sheeter, Bucker-up	14.155	3.62
CHENANGO (Twps. of Lincklaen, Pitcher, Otselic, Pharsalia, Plymouth-west of West Branch Creek):		
Structural, Ornamental, Reinforcing, Rodmen,		
(19)		

DECISION NO. NY85-3039	Basic Hourly Rates	Fringe Benefits
IRONWORKERS CONT'D		
Riggers, Machinery Movers & Stone Derrickmen	16.55	6.15
Sheeter	16.10	6.15
Sheeter Bucker-up	15.97	6.15
BROOME; CHENANGO (Remainder of County):		
Structural, Ornamental, Reinforcing, Rodmen, Riggers, Machinery Movers, Fence Erector & Stone Derrickmen	14.55	2.75
Sheeters	14.80	2.75
Sheeters, Bucker-up	14.675	2.75
LABORERS (BUILDING):		
CHENANGO (Twps. of Columbus, New Berlin and Sherburne):		
Total project cost over $300,000:		
Group 1	11.70	2.77
Group 2	12.30	2.77
Group 3	13.80	2.77
Total project cost under $300,000:		
Group 1	10.18	2.77
Group 2	10.78	2.77
Group 3	12.28	2.77
BROOME; CHENANGO (Remainder of County)	13.32	2.30
LABORERS (HEAVY & HIGHWAY)		
CHENANGO (Twps. of Columbus, New Berlin and Sherburne):		
Class A	10.97	3.12+a
Class B	11.17	3.12+a
Class C	11.37	3.12+a
Class D	11.57	3.12+a
BROOME; CHENANGO (Remainder of County):		
Class A	12.04	2.05+a
Class B	12.24	2.05+a
Class C	12.44	2.05+a
Class D	12.64	2.05+a
LINE CONSTRUCTION		
Substations and switching structures; Pipe-type cable installation and maintenance jobs or projects; Railroad catenary installation and maintenance; Bonding of rails:		
Lineman; Technician	17.75	4.35+ +6.25%

Page 2	Basic Hourly Rates	Fringe Benefits
Cable splicer	19.525	4.35+f +6.25%
Groundman digging machine operator; dynamite man	15.975	4.35+f +6.25%
Groundman truck driver (tractor trailer unit)	15.088	4.35+f +6.25%
Mobile equipment operator; groundman truck driver; mechanic	13.464	4.35+f +6.25%
Groundman	10.098	4.35+f +6.25%
Overhead transmission line work (where no other work is or has been involved; Overhead & underground distrubution work:		
Lineman; Technician	16.83	4.35+f +6.25%
Groundman digging machine operator groundman dynamite man	15.147	4.35+f +6.25%
Groundman truck driver (tractor trailer unit)	14.306	4.35+f +6.25%
Groundman mobile equipment operator; groundman truck driver mechanic	13.464	4.35+f +6.25%
Groundman	10.098	4.35+f +6.25%
Overhead transmission line work (where other work is or has been involved):		
Lineman; Technician	19.61	4.35+f +6.25%
Groundman digging machine operator dynamite man	17.649	4.35+f +6.25%
Groundman truck driver (tractor trailer unit)	16.669	4.35+f +6.25%
Mobile equipment op.; Groundman truck driver; mechanic	15.688	4.35+f +6.25%
Groundman	10.098	4.35+f +6.25%
(20)		

DECISION NO. NY85-3039

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush Taper	11.25	1.85
Scaffold work over 39 ft.; Toothpick staging over 25 ft.; Epoxy-brush & roll	11.50	1.85
Paperhanger or vinyl hanger; Roller over 10 in. (except on floors); Sandblasting, steam-cleaning (acid or high pressure water); Power grinder with respirator	11.75	1.85
Structural steel (building); Spray; Steeple jack (over 100 ft.)	12.20	1.85
Epoxy - spray	12.50	1.85
Bridges	12.72	1.85
PLUMBERS & STEAMFITTERS	14.78	2.13
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):		
Class I	9.75	1.50+g
Class II	9.50	1.50+g
Class III	9.25	1.50+g
Class IV	9.00	1.50+g
Class V	8.70	1.50+g
Class VI	7.33	1.50+g
POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION):		
Group 1	16.52	4.60+g
Group II	15.95	4.60+g
Group III	14.32	4.60+g
Group IV	12.94	4.60+g
ROOFERS	14.35	2.19
SHEET METAL WORKERS:		
BROOME	14.95	2.19+ 3%
CHENANGO	17.12	4.95+ 3%
SPRINKLER FITTERS	16.92	3.23
TRUCK DRIVERS (HEAVY & HIGHWAY):		
Class 1	13.49	2.45+g
Class 2	13.54	2.45+g
Class 3	13.59	2.45+g
Class 4	13.74	2.45+g
Class [illegible]	13.69	2.45+g

WELDERS - Rate for craft to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

DECISION NO. NY85-3039

FOOTNOTES:

PAID HOLIDAYS: A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

a. Paid Holidays: B, C & D, provided the employee has been on the payroll the week before the holiday and works the day following the holiday.

b. Paid Holidays: C & D, provided the employee works his scheduled day before and his scheduled day after the holiday and is on the payroll in the payroll week in which the holiday falls.

c. Paid Holidays: A through F, plus the day after Thanksgiving.

d. Employer contributes 8% of basic hourly rate for 5 years or more of service and 6% of basic hourly rate for 6 months to 5 years as vacation pay credit.

e. Paid Holidays: A through F, provided the employee has worked the day before and the day after the holiday.

f. Paid Holidays: A through F, plus Washington's Birthday, Good Friday, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

g. Paid Holidays: A through F, provided the employee works the day before and the day after the holiday.

CLASSIFICATION DESCRIPTIONS

LABORERS (BUILDING CONSTRUCTION):

CHENANGO (Twpa. of Columbia, New Berlin, South New Berlin and Sherburne):

Group 1: Laborers, mortar mixer, plaster mixer, power buggy, asphalt worker, chipping hammer 12 lbs. and over, mechanical tamp operators, vibrator and chain saw operator, powder man, pipe layer, form and joint setter, concrete boot, gunite and sandblasting, epoxy handlers, wagon drill operator, air track drill, jackhammer operator.

Group 2: Blaster.

Group 3: Asbestos and toxic chemical removal.

LABORERS (HEAVY & HIGHWAY CONSTRUCTION):

CLASS A: Laborers, drill helpers, outboard and hand boats.

CLASS B: Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw operator on asphalt paver, water pump operator (1½" and single diaphram), nozzle (asphalt gunnite, seeding and sand-blasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C: All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D: Blasters, form setter, stone or granite curb setters.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):

CLASS I: Cranes with boom and jib, 175 feet and over

CLASS II: Cranes with boom and jib, 130 feet and over

CLASS III: Cranes with boom and jib, 100 feet and over

CLASS IV: Automatic fine grader, backhoe, cableway, caisson auger, cherry picker (straddle - mobile type), cherry picker (hydraulic crane) over 5 ton, not more than (4), crane, derrick, diesel power unit, dragline, excavators (gradall type, hydraulically operated), front end loader (4 cubic yards and over), high speed conveyors (in one line), piledriver, shovel, two and three drum hoist, vibro or sonic hammer controls (when not mounted by rig operator), tower crane

CLASS V: "A" frame truck (when used in setting of installation of material), bulldozer, carry-all scrapper, cherry picker (5 ton or under), compressor (300 cubic feet and over), concrete paver and mixer, (16S and over), concrete pump, core boring machine, machine, crop dryer (when used as heater), dinkey locomotive, elevator cage hoist, fork lift, full time welder on maintenance, front end loader (under 4 cubic yard), grease truck, high pressure boiler, one drum hoist, maintenance engineer, post hole digger, power grader, pumps (4 inch and over), roller, side boom, test boring machine, tractor mounted backhoe, trenching machine, two cage elevator hoist, tugger hoist, vibto. tamp, well drill, well point system

CLASS VI: Concrete mixer (under 16S), conveyor, (over 12 foot), firemen, hydraulic pumps, oiler, mechanical heaters (more than two (2) mechanical heaters), power driven welding machine (300 amp. and over, other than all electric - one welding machine under 300 amp. will not require an engineer unless in a battery), pump (under 4 inch), tractor (farm type), steam jenny

POWER EQUIPMENT OPERATORS (HEAVY AND HIGHWAY CONSTRUCTION):

Group I: Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubbertired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker, (over 5 tons capacity) concrete pump (8" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated)(gradall or similar), fork lift (factor rated 15 ft. and over), front end loader (4 c.y. and over), machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver (if second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel.

Group II: Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching plants, cherry picker (5 tons capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tract-or mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders (if another man is required to clean screen or to maintain the equipment, he shall be an oiler), locomotive, maintenance engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concreteplant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

Group III: A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grader and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

Group IV: Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 12 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), light plants, mulching machine, oiler, parapet-concrete or pavement grinder, power broom (towed), power heaterman, revinius widerner, shell winder, steam cleaner, tractor.

DECISION NO. NY85-3039

TRUCK DRIVERS (HEAVY & HIGHWAY CONSTRUCTION):

CLASS 1: Warehouseman, yardmen, truck helpers, pickups, panel trucks, flat-boy material trucks (straight jobs), single axle dump trucks, dumpsters, material checkers and receivers, greasers, truck tire-man, mechanic helpers and parts chaser.

CLASS 2: Tandems, batch trucks, mechanics and dispatcher.

CLASS 3: Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumperete type vehicles, truck mechanic.

CLASS 4: Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5: Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

SUPERSEDEAS DECISION

STATE: NEW YORK

COUNTIES: ALBANY, COLUMBIA, GREENE, FULTON, MONTGOMERY, RENSSELAER, SARATOGA, SCHENECTADY, SCHOHARIE, and WASHINGTON

DECISION NO. NY85-3040
DATE: Date of Publication
Supersedes Decision No. NY84-3005 dated March 2, 1984 in 49 FR 7911.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy Construction (except water well drilling), and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.60	2.36
BOILERMAKERS	18.93	3.381
BRICKLAYERS:		
Area 1:		
Bricklayers, Stone Masons, Marble Masons, Cement Masons, Plasterers, Pointers, Caulkers and Cleaners	14.80	4.01
Rehabilitation work on residential structures over 4 stories, defined to include demolition, repair and alteration on any existing structure which is intended for predominantly residential use	11.10	4.01
Marble, Tile & Terrazzo Workers	12.70	3.05
Cement Mason, Heavy & Highway	13.76	3.18
Area 2:		
Bricklayers, Stone Masons, Marble Masons, Cement Masons, Plasterers, Pointers, Caulkers, & Cleaners	14.73	3.05
Marble Tile & Terrazzo Workers	12.70	3.05
Cement Masons (Heavy & Highway)	13.76	3.18
CARPENTERS:		
Area 1:		
Carpenters, Drywall Installers, Soft Floor Layers & Lathers	15.77	2.52
Millwrights	16.27	2.32
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	11.83	2.52
Piledriverman & Dockbuilders	17.66	7.98+a
Divers	20.87	7.98
Divers Tenders	16.27	7.98
Heavy & Highway	15.08	2.665 +a
Area 2:		
Carpenters, Dockbuilders, Millwrights & Piledrivermen	15.00	4.55
Heavy & Highway	16.00	4.65+a
Area 3:		
Carpenters & Soft Floor Layers	13.27	2.045 +b
Millwrights & Piledrivermen	13.52	2.045+b
Heavy & Highway	15.095	2.045+a
Area 4:		
Carpenters	13.85	2.105 +c
Millwrights	14.10	2.105 +c
Piledrivermen	13.25	1.775 +c
Heavy & Highway	14.62	2.025 +a
ELECTRICIANS:		
Area 1	17.95	2.42+ 3%
Area 2	16.90	3.20+ 3%+d
Area 3		
Electricians	16.30	3.97+ 3%
Towers & Smokestacks Over 100'	16.95	3.97+ 3%
Over 30' above floor on toothpicks, structural steel, boatswain chair, and swing scaffold	16.45	3.97+ 3%
Shafts over 25' deep & tunnels over 50' long	19.14	3.97+ 3%
Area 4	15.37	5.05+ 4%

DECISION NO. NY85-3040	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS:		
Area 1:		
Elevator Constructors	15.76	3.58+ e+f
Helpers	11.03	3.58+ e+f
Probationary Helpers	7.88	
GLAZIERS	13.72	.93
IRONWORKERS:		
Area 1		
Structural, Ornamental, Reinforcing, Machinery Movers, Riggers, Rodmen, Fence Erectors & Stone Derrickmen	14.90	3.99
Sheeters	15.15	3.99
Sheeters, bucker-up	15.025	3.99
Rehabilitation work on residential structures over 4 stories, defined to include all work, including demolition, alteration and repair on any existing structure which is intended for predominantly residential use	11.175	3.99
Area 2:		
Structural, Ornamental, Reinforcing, Machinery Movers, Riggers, Rodmen, Fence Erectors & Stone Derrickmen	14.03	3.62
Sheeters	14.28	3.62
Sheeters, bucker-up	14.155	3.62
LABORERS (BUILDING):		
Area 1		
Group 1	13.40	2.71
Group 2	13.55	2.71
Group 3	13.575	2.71
Group 4	13.525	2.71
Group 5	13.65	2.71
Group 6	13.675	2.71
Group 7	13.875	2.71
Rehabilitation work on residential structures over 4 stories, defined alteration and repair on any existing structure which is intended for predominantly residential use:		
Group 1	10.05	2.71
Group 2	10.16	2.71
Group 3	10.18	2.71
Group 4	10.14	2.71
Group 5	10.24	2.71
Group 6	10.26	2.71
Group 7	10.41	2.71
Area 2		
Group 1	12.60	3.22
Group 2	12.75	3.22
Group 3	12.775	3.22
Group 4	12.825	3.22
Group 5	12.85	3.22
Group 6	12.875	3.22
Group 7	13.075	3.22
Rehabilitation work on residential structures over 4 stories, defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:		
Group 1	9.45	3.22
Group 2	9.56	3.22
Group 3	9.58	3.22
Group 4	9.61	3.22
Group 5	9.63	3.22
Group 6	9.65	3.22
Group 7	9.80	3.22
Area 3:		
Group 1	13.45	2.67
Group 2	13.30	2.67
Group 3	13.325	2.67
Group 4	13.375	2.67
Group 5	13.40	2.67
Group 6	13.425	2.67
Group 7	13.625	2.67
Rehabilitation work on residential structures over 4 stories, defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:		
Group 1	9.86	2.67
Group 2	9.98	2.67
Group 3	9.99	
Group 4	10.03	2.67
Group 5	10.05	2.67
Group 6	10.07	2.67
Group 7	10.22	2.67
Area 4:		
Group 1	10.64	2.70+g
Group 2	10.79	2.70+g
Group 3	11.04	2.70+g
Group 4	11.14	2.70+g

DECISION NO. NY85-3040	Basic Hourly Rates	Fringe Benefits
LABORERS (BUILDING) CONT'D		
Area 5:		
Group 1	14.20	3.70
Group 2	14.45	3.70
Group 3	15.20	3.70
Area 6:		
Group 1	14.77	3.25
Group 2	15.02	3.25
Group 3	15.17	3.25
LABORERS (HEAVY & HIGHWAY):		
Area 1:		
Group 1	13.14	2.70+h
Group 2	13.34	2.70+h
Group 3	13.54	2.70+h
Group 4	13.74	2.70+h
Area 2		
Group 1	12.04	3.20+h
Group 2	12.24	3.20+h
Group 3	12.44	3.20+h
Group 4	12.64	3.20+h
Area 3:		
Group 1	12.59	2.65+h
Group 2	12.79	2.65+h
Group 3	12.99	2.65+h
Group 4	13.19	2.65+h
Area 4:		
Group 1	10.89	3.20+h
Group 2	11.09	3.20+h
Group 3	11.29	3.20+h
Group 4	11.49	3.20+h
Area 5:		
Group 1	15.45	3.70+n
Group 2	15.70	3.70+n
Group 3	16.10	3.70+n
Area 6:		
Group 1	14.36	3.00+o
Group 2	14.61	3.00+o
Group 3	15.96	3.00+o
PAINTERS		
Area 1:		
Brush, Tapers	14.99	2.08
Spray	16.49	2.08
Sandblasting	16.09	2.08
Open Structural Steel work above 40' on swing scaffold, bosun chair, water towers, flag poles, window jacks; Epoxy coatings on interior of tanks and hoppers	15.49	2.08
Bridge and Water Towers	16.24	2.08
Area 2:		
Brush	11.60	1.85
Roller (handle extension exceeding 6 feet), Drywall taping, Vinyl wallcovering	11.85	1.88
Bridge structural steel and iron, Swing scaffold, Bosun chair Water Towers, Tanks		
Flagpoles, Window jacks Spray, Sandblasting and Water blasting	12.00	1.88
	12.10	1.88
Area 3		
Brush	15.54	2.83
Structural steel, Bridges, Towers, Fire escapes, Smokestacks, Flagpoles and other exposed areas 15 ft. or more in height, Swing stage, Window jacks Safety belts, Boatswain chair & Spray	16.54	2.83
PLUMBERS & STEAMFITTERS:		
Area 1	16.72	3.15
Area 2	15.11	4.35
Area 3	17.20	2.55
Area 4	15.15	2.60
POWER EQUIPMENT OPERATORS:		
BUILDING CONSTRUCTION:		
Group 1	14.91	4.75+i
Group 2	15.80	4.75+i
Group 3	16.31	4.75+i
Group 4	16.50	4.75+i
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:		
Group 1	11.18	4.75+i
Group 2	11.85	4.75+i

DECISION NO. NY85-3040

Page 4

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION (CONT'D)		
Group 3	12.23	4.75+i
Group 4	12.38	4.75+i
HEAVY & HIGHWAY CONSTRUCTION:		
Group 1	17.12	4.00+i
Group 2	16.55	4.00+i
Group 3	14.94	4.00+i
Group 4	13.52	4.00+i
ROOFERS:		
Area 1:		
Roofers	14.50	3.58
Pitch & Asbestos	15.00	3.58
Area 2	14.35	2.48
SHEET METAL WORKERS	16.87	3.24
Light commercial (40 tons or less of air conditioning and/or hearing; shopping centers - 20 tons or less of air conditioning per store; ventilation for kitchen hoods)	10.97	.30+m
Multiple family housing units where each individual family apartment is individually conditioned by a separate and independent unit or system	10.48	.30+m
SPRINKLER FITTERS	16.92	3.23
TRUCK DRIVERS:		
BUILDING CONSTRUCTION:		
Group 1	13.13	2.75+k
Group 2	13.40	2.75+k
HEAVY & HIGHWAY		
Group 1	13.19	2.75+k
Group 2	13.24	2.75+k
Group 3	13.29	2.75+k
Group 4	13.44	2.75+k
Group 5	13.59	2.75+k

WELDERS - Rate prescribed for craft to which the welding is incidental.

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

(29)

DECISION NY85-3040

Page 5

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: Substations and switching structures; Pipe type cable installation and maintenance jobs or projects; Railroad catenary installation and maintenance; Bonding of rails:		
Lineman; Technician	17.75	4.35+1 +6.25%
Cable splicer	19.525	6.35+1 +6.25%
Groundman digging machine operator; dynamite man	15.975	4.35+1 +6.25%
Groundman truck driver (tractor trailer unit)	15.088	4.35+1 +6.25%
Mobile equipment operator; groundman truck driver; mechanic	13.464	6.35+1 +6.25%
Groundman	10.098	4.35+1 +6.25%
Overhead transmission line work (where no other work is or has been involved; Overhead & underground distribution work:		
Lineman; Technician	16.83	6.35+1 +6.25%
Groundman digging machine operator; groundman dynamite man	15.167	4.35+1 +6.25%
Groundman truck driver (tractor trailer unit)	14.306	4.35+1 +6.25%
Groundman mobile equipment operator; groundman truck driver; mechanic	13.466	4.35+1 +6.25%
Groundman	10.098	4.35+1 +6.25%
Overhead transmission line work (where other work is or has been involved):		
Lineman; Technician	19.61	4.35+1 +6.25%
Groundman digging machine operator; dynamite man	17.649	4.35+1 +6.25%
Groundman truck driver (tractor trailer unit)	16.669	4.35+1 +6.25%
Mobile equipment operator; Groundman truck driver; mechanic	15.688	4.35+1 +6.25%
Groundman	10.098	4.35+1 +6.25%

(30)

DECISION NO. NY85-3040

a. Paid Holidays: Fourth of July and Labor Day, provided the employee works his scheduled day before and his scheduled day after the holiday and is on the payroll in the week in which the holiday falls.

b. Paid Holidays: Labor Day and Memorial Day, provided the employee is on the payroll the week before or the week after the holiday and works the day after the holiday.

c. Paid Holidays: Labor Day, provided the employee has been on the payroll the calender week or any day of the holiday week preceeding the holiday and works the day after the holiday.

d. Paid Holidays: Thanksgiving Day, provided the employee reports to work the day after the holiday.

e. Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and the day after Thanksgiving Day.

f. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

g. Paid Holidays: Labor Day and Memorial Day, provided the employee works his scheduled day before and his scheduled day after the holiday and is on the payroll in the payroll week in which the holiday falls.

h. Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

i. Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, provided the employee works the day before and the day after the holiday.

j. Election Time Off: Two hours off with pay on the first Tuesday after the first Monday in November, provided the employees are working on a job beyond 50 miles from the shop.

k. One week vacation after 1 year; 2 weeks vacation after 5 years.

l. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

m. Blue Cross or Blue Shield, Plan B, or equal

DECISION NO. NY85-3040

n. Paid Holidays: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Election Day, Christmas Day, provided employee is on the rolls prior to the holiday and works the first day following holiday.

o. New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, provided employee works on one day within the calendar week in which holiday falls.

Federal Register / Vol. 50, No. 144 / Friday, July 26, 1985 / Notices 30597

DECISION NO. NY85-3040

AREA DESCRIPTIONS

BRICKLAYERS:

AREA 1: ALBANY; COULUMBIA; FULTON; GREENE; MONTGOMERY; RENSSELAER; SARATOGA; SCHENECTADY; SCHOHARIE; WASHINGTON (Easton, Cambridge, White Creek, Jackson, Salem, Greenwich, Argyle, Hebron, Southern part of Fort Edward).

AREA 2: WASHINGTON (Kingsbury, Hartford, Granville, Fort Ann, Hampton, Whitehall, Dresden, Putnam).

CARPENTERS:

AREA 1: ALBANY; FULTON; MONTGOMERY (east of the center line of Route 10, but excluding the Palatine Bridge and Canajoharie area); RENSSELAER; SARATOGA (except the Twps. of Day, Hadley, Edinburg, Corinth and Moreau); SCHENECTADY; SCHOHARIE (except the Twps. of Sharon, Summit, Seward, Richmondville and Jefferson); WASHINGTON (Salem, Jackaon, Cambridge, White Creek, Easton).

AREA 2: COLUMBIA; GREENE; SCHOHARIE (Sharon, Summit, Seward, Richmondville, Jefferson).

AREA 3: MONTGOMERY (west of the center line of Route 10, and including the Palatine Bridge and Canajoharie area).

AREA 4: SARATOGA (Day, Hadley, Edinburg, Corinth, Moreau); WASHINGTON (Remainder of County).

ELECTRICIANS:

AREA 1: ALBANY (Entire county except the portion of Colonie Township north of a line drawn from the Hudson River along the south limits of Watervliet, northwest along the Troy-Shaker Rd., southwest along Fidlers Lane, north on Route 9 to Troy-Shaker Rd., north on Old Niskayuna Rd. to Sicker Rd., south to Troy-Shaker Rd., west to Vly Rd., southwest to State Highway 5, southeast to Karner Rd., southwest to Albany City limits, around the north City limits of Albany to Willow St., along Willow St. to U.S. 20, and along U.S. 20 to Schenectady County line); COLUMBIA; GREENE (north of a line following the south limits of the City of Catskill in a westerly direction from the Hudson River to Highway 23A, along 23A to the road following the Little West Kill and continuing along this road to Delaware County); RENNSELAER (City of Rennsselaer, East Greenbush, Nassau, Stephentown, Schodack).

DECISION NO. NY85-3040

AREA DESCRIPTIONS (CONTINUED)

AREA 2: ALBANY (Cities of Cohoes and Watervliet and surrounding area of Colonie Township east of a line drawn from the Mohawk River south on Buhrmaster Rd. to State Highway 7 and along Highway 7 to Albany-Shaker Rd.); RENSSELAER (Remainder of County); SARATOGA (east of a line from the Mohawk River along route 9, excluding Saratoga Springs, continuing along State Highway 9, including Corinth, continuing along County Rd. 10, County Rd. 7 and County Rd. 4, including Seward Bridge Power House, to and including the Village of Hadley); WASHINGTON.

AREA 3: ALBANY (Remainder of County); FULTON; MONTGOMERY; SARATOGA (Remainder of County); SCHENECTADY; SCHOHARIE.

AREA 4: GREENE (Remainder of County).

ELEVATOR CONSTRUCTORS:

AREA 1: Within a 5 1/2 mile radius of Albany City Hall (State and Eagle Streets)

IRONWORKERS:

AREA 1: ALBANY; COLUMBIA; FULTON (Broadalbin, Mayfield, Northampton, Bleeker, Johnstown); MONTGOMERY (Florida, Amsterdam, Glen, Charleston, Mohawk, Root); RENSSELAER; SARATOGA; SCHENECTADY; SCHOHARIE (except Sharon).

AREA 2: FULTON (Straford, Caroga, Oppenheim, Ephratah); MONTGOMERY (Palatine, Canajoharie, Minden, St. Johnsville); SCHOHARIE (Sharon).

LABORERS (BUILDING CONSTRUCTION):

AREA 1: ALBANY (North to First Avenue, City of Watervliet, west on First Avenue (south side), north on Lincoln Avenue (west side) to Watervliet-Shaker Rd. (Rt. 155, south side) to junction of Rt. 9, north on Rt. 9 (west side) to Crescent Bridge and Mohawk River); COLUMBIA (Stuyvesant, Stockport, Kinderhook, New Lebanon, Canaan, Ghent, Chatham, Austerlitz); GREENE (except Twp. of Catskill); RENSSELAER (North Greenbush, East Greenbush, Schodack, Nassau, Stephentown, City of Rensselaer).

DECISION NO. NY85-3040

AREA DESCRIPTIONS (CONTINUED)

AREA 2: ALBANY (The west side of the Hudson River, extanding westerly along the north side of First St., Watervliet, to one half mile of Rt. 9 to Shaker Rd., to Rt. 9, northerly to the north line of Albany County); RENSSELAER (Berlin, Sand Lake, Poestenkill, Schodack, Pittstown, Hoosick, Brunswick, Grafton, Peteraburg); SARATOGA (East side of Rt. 9, northerly along Rt. 9 to Malta, including all of the Twp. of Stillwater, continuing along the east shore of Saratoga Lake to the Saratoga city line, easterly, taking in all of Schuylerville); WASHINGTON.

AREA 3: FULTON (Bleeker, Mayfield, Northampton, Johnstown, Broadalbin, Perth); MONTGOMERY (Mohawk, Glen, Charleaton, Amsterdam, Florida); SARATOGA (except the Twps. of Saratoga, Stillwater, Half Moon and Waterford); SCHENECTADY; SCHOHARIE.

AREA 4: FULTON: Stratford, Caroga, Oppenheim, Ephrata); MONTGOMERY: (Minden, Palatine, Root, Canajoharie).

AREA 5: GREENE (Catskill).

AREA 6: COLUMBIA (Greenport, Claverack, Hillsdale, Livingston, Germantown, Taghkanic, Copake, Clermont, Gallatin, Ancram).

LABORERS (HEAVY & HIGHWAY CONSTRUCTION):

AREA 1: ALBANY (except Cities of Watervliet and Cohoes); COLUMBIA (Stuyvesant, Stockport, Kinderhook, New Lebanon, Canaan, Ghent, Austerlitz); GREENE (except Twp. of Catskill); RENSSELAER (North Greenbush, East Greenbush, Schodack, Nassau, Stephentown).

AREA 2: ALBANY (Cities of Watervliet and Cohoes); RENSSELAER (Berlin, Sand Lake, Poestenkill, Schaghticoke, Pittstown, Hoosick, Brunswich, Grafton, Petersburg); SARATOGA (Stillwater, Half Moon); WASHINGTON.

AREA 3: FULTON (Bleeker, Mayfield, Northampton, Johnstown, Broadalbin, Perth); MONTGOMERY (Mohawk, Glen, Charleston, Amsterdam, Florida); SARATOGA (except the Twps. of Saratoga, Stillwater, Half Moon and Waterford); SCHENECTADY; SCHOHARIE.

AREA 4: FULTON (Stratford, Oppenheim, Caroga, Ephrata); MONTGOMERY (St. Johnsville, Minden, Canajoharie, Palatine Root).

AREA 5: GREENE (Catskill).

DECISION NO. NY85-3040

AREA DESCRIPTIONS (CONTINUED)

AREA 6: COLUMBIA (Greensport, Claverack, Hillsdale, Livingston, Germantown, Taghkanic, Copake, Clermont, Gallatin, Ancram).

PAINTERS:

AREA 1: ALBANY; COLUMBIA (Stockport, Ghent, Austerlitz, Canaan, New Lebanon, Chatham, Kinderhook, Stuyvesant, Greenport); GREENE (Greenville, Coxsackie, Catskill, New Baltimore); FULTON (except Twps. of Northamption, Mayfield and Broadalbin); MONTGOMERY; RENSSELAER; SARATOGA (Clifton Park, Half Moon, Waterford), Galway, Milton, Charlton); SCHENECTADY; SCHOHARIE (except the Twps. of Sharon, Seward, Richmondville, Summit, Jefferson, Blenheim, Gilboa and the western half of Fulton).

AREA 2: FULTON (Northampton, Mayfield, Broadalbin); SARATOGA (Day, Hadley, Corinth, Stillwater, Saratoga, Northumberland, Noreau, Wilton, Saratoga Springs City, Greenfield, Edinburg, Providence, Ballston); WASHINGTON (Fort Edward, Argyle, Hebron, Granville, Hartford, Kingsbury, Fort Ann, Whitehall, Hampton, Dresden, Putnam).

AREA 3: COLUMBIA (Remainder of County); GREENE (Remainder of County).

PLUMBERS:

AREA 1: ALBANY; COLUMBIA; GREENE; RENSSELAER; SARATOGA (Half Moon, Stillwater, Waterford).

AREA 2: MONTGOMERY (Minden, Canajoharie).

AREA 3: FULTON; MONTGOMERY (Remainder of County); SARATOGA (Clifton Park, Charlton, Galway, Milton); SCHENECTADY; SCHOHARIE.

AREA 4: SARATOGA (Remainder of County); WASHINGTON.

ROOFERS:

AREA 1: ALBANY; COLUMBIA; FULTON; GREENE; MONTGOMERY; RENSSELAER; SARATOGA; SCHENECTADY.

AREA 2: SCHOHARIE.

DECISION NO. NY85-3040

CLASSIFICATION DESCRIPTIONS

LABORERS (BUILDING CONSTRUCTION):

AREAS 1, 2, & 3:

GROUP 1: Common Laborers.
GROUP 2: Pipelayers, mortar mixers (hand or machine), jackhammer operator, wellpointing, concrete vibrators, power driven buggies.
GROUP 3: Form setters (curb).
GROUP 4: Wagon drill operator.
GROUP 5: Acetylene burners.
GROUP 6: Demolition.
GROUP 7: Blasters.

AREA 4:

GROUP 1: Common Laborers.
GROUP 2: Pipelayers, mortar mixers, motor buggy (walk behind), walk-behind power high lift.
GROUP 3: Wagon drill operator.
GROUP 4: Blasters, form setters, mortor buggy (rider type).

AREA 5:

GROUP 1: Common laborers, mason tenders, mortar mixers, hod carriers, scaffold builders, concrete men, signalman, vibrator operator, poured gypsum roof work, wrecking, walking power buggy, landscaper, chipping hammer (air or electric 1" or under), operation and tending of all power driven hand fed mortar or concrete mixers, pumpcrete machines, plastering, fireproofing and accoustic pumps and mixers.

GROUP 2: Asphaltmen, pipelayers, air or electric jackhammer, air track, wagon, joy and jib drills, powdermen, gunnite, concrete saw, sandblasting, pressure blasting, barmen, chain saw operator, riding power buggy, vibro, barco, joy tamper or similar type tamper (air or gas), walk behind roller, granite curbing, all fork lifts and laser operations.

GROUP 3: Blasters, form setters, burner acetylene torch, Ingersoll Rand, heavy duty crawler-master type HCMZ, drill machine or equivalent, all wrecking work 50' or more above the ground.

AREA 6:

GROUP 1: General laborers, mason tenders, carpenter tenders, laborer stripping and cleaning forms, laborer grading and digging ditches, sweepers, cleaners.

DECISION NO. NY85-3040

CLASSIFICATION DESCRIPTIONS (CONTINUED)

GROUP 2: Hod carriers, plasterers' tenders, scaffold builders (padlock and self-supporting scaffold 14 ft. or under all runways), mortar mixers (machine and hand), concrete mixers (by machine under 21E), vibrators, form setters, asphalt rakers, handling reinforcement rods, drillers, jackhammer operator, signalman, gunniting, motorbugs, water pump 2" or under, barco machine, wreckers, paving breakers, power saw operators, other machine operators.

GROUP 3: Blasters, laser beam operator.

LABORERS (HEAVY & HIGHWAY):

AREAS 1, 2, 3, & 4:

GROUP 1: Laborers, drill tenders, outboard and hand boats.

GROUP 2: Bull float, chain saw, concrete aggregate bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw operator on asphalt paver, water pump operators (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

GROUP 3: All rock or drilling machine operators (except quarry master and similar type), acetylene torch operators, asphalt raker, powderman.

GROUP 4: Blasters, form setters, stone or granite curb setters.

AREA 5:

GROUP 1: Laborer, pitman, chuck tender, dump men, handling and distributing of drinking water, placing and maintenance of all flares, lights, barracades and all reflective type materials for traffic control.

GROUP 2: Concrete men, vibrator men, asphalt men, joint setter, signal men, mason tenders, mortar men, pipelayers, rip rap and dry stone layers, steel rod carriers, jackhammer, pavement breaker, wagon drill, air track, jub rig and joy drill operators, power buggy operators, gunnite and sandblasting, coal passers and other machine operators, sprayer and nozzle men on mulching and seeding machines, guard rail and fencemen, waterproofing, spraying and brushing of concrete for preservative purposes, all seeding and sod laying, all landscape work, grade checkers,

DECISION NO. NY85-3040

CLASSIFICATION DESCRIPTIONS (CONTINUED)

all bridge work, walk behind self-propelled power saw, walk behind rollers and tampers of all types, wrecking laborers (including barmen and burnermen), all sheeting and shoring, bit grinder, operator of form pin pullers and drivere, joint and jet sealers and filling and wiring of baskets for gabion walls, permanent sign man, sta-wall or similar type product, chain saw operator.

GROUP 3: Concrete finisher on highways, form setter, granite stone layer, Ingeraoll Rand heavy duty crawler-master type HCM2 or equivalent or any drill using a 4" or larger bit.

AREA 6:

GROUP 1: General laborers.

GROUP 2: Concrete men, signal man, mason tender, pipelayer, riprap and dry stone layer, asphalt worker, screed bar operator, jackhammerman, wagon driller, air-track operator, nippers, powderman, high scalers, power buggy operator, steel rod carrier, vibrator operator compactor, wrecking laborers, gunnite and sandblasting, water pumps 2" or under.

GROUP 3: Blaster, form setter, laser beam operator.

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):

GROUP I - Oiler, fireman and heavy-duty greaser, boilers, and steam generators, pump, vibrator, mortar mixer, air compressor, dust collector, welding machine, well point, mechanical heater, generators, temporary light plants, contrete pumps, electric submersible pump 4" and over, murphy type diesel generator, conveyor, elevators, concrete mixer and beltcrete power pack (belcrete system).

GROUP II - Bulldozer, push cat, tractor, traxcavator scraper, LeTourneau grader, form fine grader, road roller, blacktop roller, blacktop spreader, power brooms, sweepers, trenching machine, Barber Green loader, side booms, hydro hammer, concrete spreader, concrete finishing machine, high lift, fork lift, one drum hoist, power hoisting (single drum), hoist - two drum or more, three drum engine, power hoisting (two drum and over), two drum and swinging engine, three drum swing engine, hod hoist, A-L fram winches, core and well drillers (one drum), post hole digger, model CHB Vibro-Tamp or similar machine, batch bin and plant operator, dinkey locomotive, seeding and mulching machines.

DECISION NO. NY85-3040

CLASSIFICATION DESCRIPTIONS (CONTINUED)

GROUP III - Crane, hydraulic cranes, tower crane, locomotive crane, piledriver, cableway, derricks, whirlies, dragline, shover, backhoe, gradalls, power road grader, all CMI equipment, fornt-end rubber tire loader, tractor-mounted drill (quarry master), mucking machine, concrete central mix plant, concrete pump, belcrete system, automated asphal concrete plant and tractor road paver.

GROUP IV - Maintenance Engineer.

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION):

GROUP I - Automated concrete spreadr (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), black top plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated) (gradall or similar), fork lift (factory rated 15 ft. and over), front end loader (4 c.y. and over), head tower (sauerman or equal), hoist (2 or 3 drum), Holland loader, mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quad 9, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt-type loader, truck crane, truck or trailer mounted log chipper (self-feeder), tug operator (except manned rented equipment), tunnel shovel.

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated) and all concrete batching planta, cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity, concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders, L.C.M. work boat operator, locomotive, maintenance engineer/greaseman/welder, mixer (for stablized base self-propelled), monorall machine, plant engineer, pump crete, ready mix concrete plant, refrigation equipment (for soil stabilization), road widener, roller (all above subgrade), sea mule, tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - A-frame truck, ballast regulator (ride-on), compressors (4 not to exceed 2000 C.F.M. combined capacity; or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), dust collectors, generators, pumps, welding machines, light plants (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill core, electric pump used in conjunction

CLASSIFICATION DESCRIPTIONS (CONTINED)

with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), grout pump gunnite machine, hammers (hydraulic-self-propelled), hydra-spiker (ride-on), hydro-blaster water, post hole digger and post driver, power sweeper, roller (grade and fill), scarifier (ride-on spansaw (ride-on), sumbersible electric pump (when used in lieu of well point system), tamper (ride-on), tie extractor (ride-on), tie handler, tie inserter (ride-on), tie spacer (ride-on), track liner, tractor with towed accessories, vibrator compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), dust collectors, generators, pumps, welding machines, light plants (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (sel-propelled), fireman, form tamper, hydraulic pump (jacking system), light plants, mulching machine, oiler, parapet-concrete or pavement grinder, power broom (towed), power heaterman, Revinius widener, shell winder, steam cleaner, tractor.

TRUCK DRIVERS (BUILDING CONSTRUCTION):

GROUP 1: Straight, winch, transit mix on job site, road oilers, dump, panel, pick-up, water and fuel trucks on site (including nozzle.

GROUP 2: Euclid or similar equipment, lowboy or lowboy trailers.

TRUCK DRIVERS (HEAVY & HIGHWAY CONSTRUCTION):

GROUP 1: Pick-ups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters and receivers, greasers, truck tireman.

GROUP 2: Tandems, batch truck, mechanics.

GROUP 3: Semi-trailers, low-boy trucks, asphalt distributor trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic and fuel truck.

GROUP 4: Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self-loaded, straddle (ross) carrier, and self-contained concrete unit.

GROUP 5: Off-highway tandem back dump, twin engine equipment and double hitched equipment where not self-loaded.

(41)

[FR Doc. 85-17549 Filed 7-25-85; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
July 26, 1985

Part IV

Nuclear Regulatory Commission

10 CFR Parts 30, 31, 32, 35 and 40
Medical Use of Byproduct Material; Proposed Rule

VOL
50
ISS
144
JL
26
1985
UMI

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 31, 32, 35, and 40

Medical Use of Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to revise its regulations to modify the process for licensing and regulating the medical use of radioactive byproduct material. The proposed revision would primarily affect hospitals, clinics, and individual physicians.

By clarifying and consolidating all the essential radiation safety requirements that are now contained in the regulations, license conditions, regulatory guides, and staff positions, the proposed regulation provides a single source of requirements related specifically to medical use of byproduct materials. The proposed regulation also provides flexibility for licensees to update their day-to-day radiation safety procedures. The revision of the regulations would provide a more efficient method for regulating the medical uses of byproduct material.

DATE: Comment period expires November 18, 1985. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

ADDRESSES: Submit written comments and suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Copies of the preliminary regulatory analysis and the comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Single copies of the preliminary regulatory analysis and environmental impact assessment are available from Norman L. McElroy, Office of Nuclear Material Safety and Safeguard, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 427–4108.

FOR FURTHER INFORMATION CONTACT: Norman L. McElroy, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 427–4108.

SUPPLEMENTARY INFORMATION:

ByProduct Material in Medicine

Use for Patient Care

Radioactive materials are used in drugs in the field of nuclear medicine. Drugs labeled with radioisotopes are known as radiopharmaceuticals. In diagnostic nuclear medicine, patients receive these materials by injection, inhalation, or oral administration. Physicians use radiation detection equipment to visualize the distribution of a radioactive drug within the patient. Using this technology, it is possible to locate tumors, assess organ function, or monitor the effectiveness of a treatment. In therapeutic nuclear medicine, larger quantities of radiopharmaceuticals are administererd to treat hyperactive thyroid conditions and certain forms of cancer. An estimated 15 to 20 million nuclear medicine procedures are performed in this country annually.

Sealed radioactive sources that produce high radiation fields are used in radiation therapy to treat cancer. A radioactive source in a teletherapy machine can be adjusted to direct a radiation beam to the part of the patient's body to be treated. An estimated 2 million teletherapy treatments are performed annually by NRC licensees. Smaller, less radioactive sealed sources are designed to be implanted directly into a tumor area or applied on the surface of an area to be treated. This procedure is known as brachytherapy. NRC licensees perform approximately 10,000 brachytherapy treatments annually.

Sealed radioactive sources can also be used in machines that are used for diagnostic purposes. The source provides a beam of radiation that is projected through the patient. A device on the other side of the patient detects the amount or spatial distribution of radiation that goes through the patient. This can provide information about tissues within the patient. This is a relatively new development in the field of medicine and the NRC has no estimate of the number of these diagnostic procedures performed annually.

State and Federal Regulation

Twenty-seven states, known, as Agreement States, have assumed responsibility for regulating certain radioactive materials within their respective borders by agreement with the NRC. (This kind of agreement is authorized by the Atomic Energy Act.) They issue licenses for the medical use of byproduct material. In non-Agreement States, the NRC issues licenses to medical institutions (mostly hospitals and clinics) and to individual physicians. These licenses authorizes certain disgnostic and therapeutic uses of radioactive materiáls.

NRC's Regulatory Program

Policy Regarding the Medical Use of Byproduct Material

In a policy statement published in 1979 (44 FR 8242), the NRC noted that it regulates the medical use of byproduct material as necessary to provide for the radiation safety of workers and the general public, regulates the radiation safety of patients where justified by the risk to patients, and minimizes its intrusion into medical judgments affecting patients, and into other areas traditionally considered to be the practice of medicine. The NRC does have the authority to regulate the medicial use of byproduct material to protect the health and safety of patients, but also recognizes that physicians have the primary responsibility for the protection of their patients. NRC regulations are predicated on the assumption that properly trained and adequately informed physicians will make decisions in the best interest of their patients.

This revision retains NRC's current balance between adequate controls and avoidance of undue interference in medical judgments. Too much regulation could result in poorer health care delivery to patients. Insufficient regulation could result in the unwarranted or unsafe use of radiation.

Current Licensing Practice

The current regulations in 10 CFR Part 35, "Human Uses of Byproduct Material," provide for general and specific licenses for medical use.

The general license in current § 35.31 authorizes physicians to use small quantities of prepackaged, individual dosages of byproduct materials. Physicians simply submit a registration Form NRC–482 to NRC. A validated copy with a registration number is returned to the applicant.

Most medical institutions and physicians who use byproduct material need more byproduct material than can be permitted under the general license program. A specific license, which authorizes a larger inventory of byproduct material and a wider variety of uses, may be issued for one or more of six types of medical use, defined as Groups I–VI in the current § 35.100. Each group is comprised of a number of diagnostic or therapeutic procedures that have been grouped together because they require similar physician training and radiation safety

precautions for safe use. A separate specific license may also be issued for use of a teletherapy unit. Applications for a specific license are much more detailed than a general license application and actually contain the applicant's step-by-step radiation safety procedures, which are reviewed and approved individually by NRC.

The NRC has issued 650 general licenses, and in 1983 received seventeen new applications. NRC currently has about 2500 specific medical licensees (2200 hospitals and 300 physicians in private practice). In 1983, the NRC received 143 new applications for specific licenses, 647 license renewal applications, and 1,772 license amendment requests for a total of 2,562 licensing actions.

To help licensees design their radiation safety programs, the NRC has published many NUREG reports and regulatory guides that contain radiation safety guidance. These publications address three general areas: radiological health and safety, personnel training and experience, and facilities and equipment. Experience has shown that if licensees follow the guidance in the publications, the medical use of byproduct material generally poses no hazard to workers and the public.

Problems with Current Practice

The General License. The general license program is based on the fact that the quantities and forms of material that are authorized by a general license present a very low health risk. The NRC believes it is no longer efficient to issue medical general licenses. The tests authorized under § 35.31 have been superseded by newer procedures with greater diagnostic accuracy. These developments have been reflected by a significant decrease in applications for general licenses. As noted above, although NRC has on file 650 in-vivo general licenses under § 35.31, only seventeen new applications were received by NRC in 1983.

To determine the status of general license use, the staff performed a telephone survey of 10 percent of the current registrants. The survey results indicated that less than 9 percent of all the current registrants still use material under a general license; many are now using byproduct material under a specific license. Because of the low level of use of the general license, the NRC has concluded that it no longer serves a useful role in licensing the medical use of hyproduct material.

The Specific License. Because of the potential radiation hazard to workers and the public, the specific license program incorporates three regulatory features: case-by-case review of applications, on-site inspections, and periodic license renewals.

A major problem with the current licensing program is that radiation protection requirements are not located in one document. Requirements are scattered in the regulations, Inspection and Enforcement (IE) orders that modify a license or group of licenses, and in conditions attached to individual licenses. Suggestions for good practice are contained in NRC regulatory guides and technical reports (NUREG's). For example, Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," and NUREG–0267, "Principles and Practices for Keeping Occupational Radiation Exposure at Medical Institutions As Low As Reasonably Achievable," contain many recommendations that the NRC believes are important for the safe use of byproduct material. The revision of Part 35 incorporates those recommendations, and also corrects the piecemeal fashion in which the regulations have been amended over the years to address specific problems.

When preparing a specific license application for review under the current licensing program, the applicant must include sufficient information to assure NRC reviewers that byproduct material will be used safely. Applicants include, as an integral part of the application package, copies of their proposed step-by-step radiation safety procedures. In many cases, the procedures are edited versions of procedures described in Regulatory Guide 10.8.

When NRC receives the application, a licensing reviewer evaluates the applicant's training and experience, facility, equipment, and radiation safety procdures in detail. If the application is found to be incomplete or inadequate, a "deficiency letter" is sent to the applicant explaining what additional information is needed. Review of the application is not resumed until a written response from the applicant has been received. Staff studies indicate that about 40 percent of all applicants receive either a deficiency letter or a phone call for additional information. The need for deficiency letters stems from two sources. Guidance on what is needed to get a license is unclear and scattered in various documents. Application review practice must be conservative because the application and license comprise the basis for regulatory control. Deficiency letters are costly for the NRC and the applicant and greatly increase the time needed to complete licensing actions.

When the application, including any additional submitted information, is approved, the NRC issues a specific license that grants the authority for medical use of byproduct material in accordance with the program described in the application. Requirements in addition to those contained in the regulations are frequently incorporated in the license as conditions of use. Since the licensee must comply with conditions specified in the license, the license, rather than the regulations, is frequently used to regulate radiation safety in the day-to-day use of byproduct material.

The specific license is valid for five years. The license must be amended before methods of use or procedures may be added or changed, or before permitting additional physicians to use materials. Amendments to a specific license involve an application, review, and approval process similar to that for new licenses. Renewals are treated in the same manner as new license applications.

This regulatory process was appropriate during the evolution of the use of byproduct material in medicine. Radiation safety problems were not well defined, regulatory requirements had not caught up with developing technology, physician training curricula had not been established, and there were no formal training programs for nuclear medicine technologists. Therefore, it was necessary to regulate by reviewing each individual radiation safety program to ensure that the applicant had adequate personnel, facilities, and equipment.

Proposed Revision of the Regulatory Program

Overview

NRC intends to modify its regulation of the medical use of byproduct material. The Commission plans to revise the regulations to provide a single source of requirements specifically related to medical use of byproduct materials, and within the boundaries set by the regulations, allow medical licensees to modify their radiation safety procedures, facilities, and equipment so they can make prompt use of new safety methods and also meet new needs caused by changes in demand for various patient care services or in patient load. The proposed revision of 10 CFR Part 35 is consistent with the Commission's general policy on medical use of byproduct material issued February 9, 1979 (44 FR 8242). It states "NRC will continue to regulate the medical uses of radioisotopes, as necessary, to provide for the radiation

safety of workers and the general public."

reduces the amount of time NRC must spend reviewing procedures.) The

Officers, but would be a new requirement for qualified teletherapy

to comply with the regulations in Part 35 or in other parts of 10 CFR Chapter I

licensees who want to use the new material will have to submit a request

continue to review user training and experience. The NRC will review site-

VOL 50 ISS 144 JL 26 1985 UMI

safety of workers and the general public."

Codification of Requirements in the Regulations

NRC proposes to simplify regulation of medical licensees by incorporating all medical use requirements in 10 CFR Part 35. These regulations would become the primary means of regulating the medical use of byproduct material. General safety requirements for worker instruction, worker safety, noncompliance reports, and materials licensing that are in Parts 19, 20, 21, and 30 will also continue to apply to Part 35 licensees. The current license application process will be unchanged. The applicant prepares a complete Form NRC-313. That form asks for the following information: the name and mailing address of the applicant; the location of use; a person who can be contacted about the application; what materials are requested; the purpose (in this case, "medical use"); the training and experience of the authorized users and Radiation Safety Officer; the worker radiation safety training program; facilities and equipment; the radiation safety program; and waste management. Licensees would not face significant new regulatory burdens because, in most cases, these requirements are currently imposed as license conditions. Under the proposed revision, the license would authorize medical use of byproduct materials for specified types of use. A licensee's day-to-day uses would be controlled by the regulations. This would simplify inspections for NRC because inspectors would only need to be familiar with one set of regulations rather than a different set of license conditions and radiation safety procedures at each facility.

License Application, Issuance, and Authority and Responsibility

New revisions of Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," and Draft Regulatory Guide TM 608-4, "Guide for the Preparation of Licenses in Medical Teletherapy Programs," will contain instructions on the type and extent of information that must be submitted based on what byproduct materials the applicant has requested. They will also contain model procedures that the applicant can use to develop site-specific procedures. (Consistent with current practice, applicants will alternatively be allowed to simply certify that they will follow the model procedure developed by NRC staff with public comment and published in a regulatory guide to meet a certain requirement. This method significantly reduces the amount of time NRC must spend reviewing procedures.) The applicant mails the completed application, with application fee, to the NRC office identified on the form.

The NRC staff will continue to review the application to determine whether the applicant's radiation safety program is sufficient to meet the requirements of the regulations. After completing the review, if the applicant's program appears incomplete or inadequate, NRC will issue a deficiency letter that describes the apparent shortcomings in the applicant's program and requests clarification or correction. If the applicant's response to the deficiency letter is satisfactory (or if no deficiency letter was needed), the license will be issued.

Licensees will be free to modify their procedures after conducting a required internal review and approval process. At medical institutions, the Radiation Safety Committee would review and approve a modified procedure before it could be implemented. At non-institution facilities, the Radiation Safety Officer (RSO) and management would review and approve changes. This will allow each licensee to make prompt use of new safety methods and to adjust radiation safety procedures to meet new needs caused by changes in demand for patient care services or patient load. A list of radiation safety topics that should be considered when reviewing proposed changes will be published as an appendix in Regulatory Guide 10.8. The right to modify procedures does not relieve the licensee from the requirement to comply with the regulations. This regulatory scheme would *not* incorporate the current requirement that licensees use byproduct material in accordance with the statements made in the application.

This proposed regulatory program, which gives more discretionary authority, and concomitant responsibility, to the licensee, represents a change in the policy that has guided NRC's regulation of medical licensees for several years. The NRC particularly invites comment on whether this change is appropriate at this time, and whether or not it will benefit licensees, workers, and the public.

The proposed regulations require specific training and experience for the use of material in each use group. Proposed authorized user physicians and qualified teletherapy calibration experts (identified in current Part 35 as qualified experts) will have to submit summaries of their training and experience. This is currently required for authorized users and Radiation Safety Officers, but would be a new requirement for qualified teletherapy calibration experts, whose credentials are currently reviewed by the licensee. The staff will review those individuals' training and experience against the standards in the regulation before authorizing them to work under the license. (Also consistent with current practice, any individual who does not meet the standards may ask for an exemption from the training and experience requirements. The NRC staff will review the individual's training and experience with the assistance of its Advisory Committee on the Medical Use of Isotopes, and may issue the exemption as a license condition.)

Enforcement

Under this regulatory scheme, a licensee will be cited for failure to meet the requirements of the regulations or license conditions (which would list, for example, authorized users, locations of use, authorized methods of use, authorized byproduct material and inventory limits, and other site-specific limitations), failure to have on hand the written procedures required by the regulations, failure to follow the procedures on hand, failure to have the records required by the regulations, or failure to follow technically valid procedures (examples: Using an instrument that doesn't work, not determining instrument detection efficiency, not allowing an instrument enough time to respond, or making unsubstantiated assumptions in calculations). Use of material can be authorized either by license or by virtue of working under supervision; use without authorization would be a violation of the regulations and the Act, which would subject the user to an enforcement action.

Amendments

As mentioned above, under the current regulatory scheme, the licensee is required to handle material exactly according to the radiation safety procedures submitted with the application. The NRC frequently receives requests for permission to modify day-to-day radiation safety procedures. Because the regulations will now contain sufficient prescriptive and performance criteria on which to base enforcement actions, the NRC would allow a licensee to change its radiation safety procedures without preparing a formal amendment request, paying an amendment fee, and awaiting NRC approval. This would *not* relieve the licensee from the regulatory requirement to comply with the regulations in Part 35 or in other parts of 10 CFR Chapter I.

Four types of program changes will still require formal license amendments:

(1) *New users.* The NRC will review the training and experience of each proposed authorized user, Radiation Safety Officer, and qualified teletherapy calibration expert as described above before listing the individual on a license.

(2) *New type of use.* A licensee's request to add a type of use (for example, adding radiopharmaceutical therapy to a license that authorizes radiopharmaceuticals for imaging) to an existing license will be handled as a new application. The authorized user's training and experience will be reviewed for adequacy with respect to the new type of use, and procedures that must be submitted in support of the request will be reviewed for completeness and adequacy with respect to the new type of use before the amendment is issued.

(3) *New method of use.* Two developments may occur but only one type of license amendment will be needed:

(a) If a new radioactive material becomes available, and the radiation safety procedures needed for its safe use are identical to the procedures already established for an already established and authorized use (for example, a new imaging agent administered by intravenous injection), no license amendment will be required. Instead, the new material will be added by rulemaking to the list of materials in the appropriate use group specified in the regulations. The NRC will mail to licensees a notice that says those who are authorized to use material in that group may begin using the new material on the effective date of the final rule that adds the new material to the regulations.

(b) If a new radioactive material becomes available but its safe use depends on following a new procedure that current licensees have not submitted and NRC has not reviewed, two actions will be taken.

(i) The new material will be added by rulemaking to the appropriate use group in the regulations but authorization to use it will be limited to persons who were licensed after it was added to the use group and who have submitted the new procedure for review in their application packages.

(ii) NRC will mail to current licensees a notice that says they may apply for authorization to use the new material. With that notice, NRC will also supply a model procedure, which would become a new appendix in Regulatory Guide 10.8, for the new material. Those licensees who want to use the new material will have to submit a request for amendment which includes a proposed procedure that will be reviewed by NRC for completeness and adequacy.

(4) *New location of use.* Two types of amendment may be needed:

(a) A request to leave one location of use and begin working in a new location, for example when moving a private practice to a new office or when moving into a new hospital building, will have to be supported by a complete new application package.

(b) Some licensees receive packages, prepare radiopharmaceuticals, and package waste at a central facility, but actually use the byproduct material at satellite locations. This might be a mobile nuclear medicine service that provides diagnostic services at clients' facilities such as clinics, small hospitals, or nursing homes, or it may be a licensee that has a principal facility and outlying clinics. If the licensee has been approved to offer service at satellite locations, a request to add another satellite location will only have to identify the new location. (Due to the training, space, and equipment commitments needed for safety during therapy procedures, the NRC will generally not authorize licensees to perform therapies at satellite locations. This type of request will be handled on a case-by-case basis.)

Renewals

The NRC license is valid for five years. If a person wants to continue using byproduct material the license must be renewed. The renewal application must completely describe the entire radiation safety program just as a new application does. If a previously submitted radiation safety procedure, facility description, or equipment list still accurately reflects that part of the licensee's program, the renewal applicant may simply make a clear reference to the previous submission. If the licensee has changed a procedure, is using different areas of use, or is using different equipment, a complete new description of the particular procedure, area of use, or equipment must be submitted. The licensee may also take this opportunity to identify new authorized users or request authorization for new types or methods of use.

Summary of Changes Proposed in the Regulatory Program

In summary, the regulation will be amended to require that licensees meet standards that are currently imposed by license conditions. The NRC will continue to review user training and experience. The NRC will review site-specific radiation safety procedures for completeness and adequacy and issue deficiency letters if necessary, but will allow licensees to change procedures that were submitted in support of the application after conducting an internal radiation safety review of each change. However, the right to change procedures does not relieve the licensee from the requirement to comply with the regulations. Amendment requests will generally be reviewed just as new applications are reviewed, but they may incorporate by reference the original application and any previous amendments.

Notes

Word Usage

In preparing the proposed revision of Part 35, one goal was to remove language that might be misinterpreted. The following words used in the revision may require clarification.

1. *Licensee.* The person (individual, partnership, corporation, or agency) listed on the license as the "licensee" is responsible for compliance with regulations and license conditions. The licensee may effect compliance through full-time or part-time employees, contracts with consultants or service organizations, or other business arrangements. The word "licensee" is used throughout the regulation to stress the fact that, no matter which method is used, the licensee is legally responsible in case of non-compliance.

2. *Type of use* and *group.* In the current Part 35 there are six "groups" of use described in § 35.100. Each group is comprised of a set of medical procedures that require similar training and equipment for radiation safety purposes. The word "group" has not been used in the proposed revision in order to avoid confusion between the old and new Part 35. The revision uses the phrase "type of use" for this concept. Some types of use are amalgamations of old groups, and some types are new. The six types of use are: (1) Uptake, dilution, and excretion—Subpart D; (2) imaging and localization—Subpart E; (3) radiopharmaceutical therapy—Subpart F; (4) brachytherapy—Subpart G; (5) sealed sources for diagnosis—Subpart H; and (6) teletherapy—Subpart I.

3. *Method of use* and *procedure.* The word "procedure" is frequently used in supporting documentation for by product materials programs. Sometimes it refers to a specific set of steps that must be taken to effect an end, for example a procedure for ordering and

receiving packages. Sometimes it is used to indicate a type of medical

revision this concept of perfunctory examination is referred to as a "check."

be operable. If a piece of equipment is not operable or reliable, whether due to

under Part 33 that include medical use. They are issued to large medical/

Transition Policy for General Licensees

Transition Policy for Specific Licensees

VOL 50 ISS 144 JL 26 1985 UMI

receiving packages. Sometimes it is used to indicate a type of medical examination or treatment, for example a thyroid uptake study or a cesium implant therapy, without indicating the amount of byproduct material used or the specific steps taken in handling it. The word may also be used to indicate the number of patients cared for over a period of time, for example an average workload of fifteen procedures each day. In order to avoid confusion, the phrase "method of use" appears in the proposed revision. Each type of use is comprised of several methods of use. Each method of use should identify, explicitly or by context, the radionuclide, its chemical and physical form, method of administration, and purpose (diagnosis or therapy).

4. *Dose* and *dosage.* In pharmacy, the word "dose" is used to indicate the amount of chemical administered; in radiation biology it is used to indicate the amount of ionizing energy absorbed per unit mass; and in radiation safety it is used as a shorthand term to indicate a worker's exposure to radiation. In order to avoid confusion, the word "dosage" is used in the proposed revision to indicate quantities of radioactivity that are measured with the base unit Curie. The word dose is used to indicate quanities of radiation absorbed dose or doss equivalent that are measured with the base unit rad or rem.

5. *Record* and *report.* A record is a user-retrievable notation or complete document. It may consist of something as small as a check-mark on a form or something as extensive as a survey of a newly installed teletherapy unit with appended calculations to demonstrate compliance with the limits on exposure in uncontrolled areas. A report is a transfer of information which might be made face to face, by telephone, telegram, computer link, or hard copy transmittal.

6. *Test* and *check.* For many pieces of equipment, drafting committees comprised of industry experts have prepared standards of performance and complete calibration protocols. If a piece of equipment is subjected to the protocol in the calibration laboratory and meets all the standards, then the ability of the equipment to perform as expected in normal field use is assured. In the proposed revision this concept of complete examination is referred to as a "test." During field use it is common practice to subject a piece of equipment to a quick examination to determine whether it is working. This procedure does not examine all parameters of equipment performance. In the proposed revision this concept of perfunctory examination is referred to as a "check."

7. *Location of use, facility,* and *area of use.* The phrase "location of use" is used to describe the building or buildings (typically identified by a single street address) where byproduct material is used. The word "facility" connotes a room or contiguous rooms where byproduct material is used, such as a nuclear medicine clinic comprised of an office, an imaging room, and a dosage preparation and waste storage room. The phrase "area of use" connotes the space used by worker when performing a specific task connected with receiving, handling, or storing byproduct material.

8. *Chemical form.* The current regulation requires that if a radiopharmaceutical is used for indications other than those described in the package insert, the user must nevertheless follow instructions on chemical and physical form, dosage, and route of administration. The proposed revision has deleted the word chemical in its restatement of this requirement because to change the chemical form would be to create a radiopharmaceutical other than the one received from the authorized distributor. Deletion of this word in the proposed revision does not authorize Part 35 licensees to manufacture radiopharmaceuticals.

9. *Available for use.* In many cases the regulation states an equipment possession requirement because the piece of equipment is considered by experts to be an integral part of the radiation safety program. In a few cases the need for a piece of equipment is sporadic and normally scheduled weeks in advance. For example, a licensee who has a diagnostic sealed source in a device (see § 35.500) usually only needs a survey instrument when receiving or returning a radioactive source; there is no need to have the instrument on hand every day. The phrase "available for use" is intended to connote that the licensee either may possess equipment or contract for measurement services, but is not required to have regular day-to-day possession of the described equipment.

10. *Dedicated check source.* A long-lived radioactive source can be used to check the day-to-day constancy of an instrument. The *same* source (a "dedicated" source) must be used every day so that the user knows what reading to expect from the instrument. The source may also be used for other purposes.

11. *Operable.* The word "operable" is not used in the proposed regulation because every piece of equipment must be operable. If a piece of equipment is not operable or reliable, whether due to old or absent batteries, incomplete or improper maintenance, damage, inappropriate use, or improper use, it cannot be used to meet a regulatory requirement because there is no assurance that it accomplished the task for which it was used.

12. *Implement.* This verb is used with its ordinary definition, which is "to carry out, accomplish, or ensure fulfillment of."

13. *Promptly.* This word is used with its ordinary definition, which is "performed readily or immediately."

Record Retention

The Commission requires that licensees make and retain records as evidence of compliance with regulations and license conditions. A review of records during inspections is the least burdensome way that the Commission may be assured that the licensee has developed and implemented a radiation safety program. However, permanent retention of all required records, or retention between inspections, would be unreasonable and would run counter to recent guidance to regulatory agencies that was issued by the Office of Management and Budget. Therefore the Commission has, in the proposed revision, generally adhered to the following policy.

1. For recurring records that are created on a daily basis, for example end-of-day surveys, and for most non-recurring, sporadic, or periodic records, such as individual patient dosage measurements or survey instrument calibrations, the Commission has made a judgment that records retention for two years provides adequate evidence of compliance with requirements.

2. In a few cases a record is only created once or the Commission considers the record to be essential evidence of compliance with regulations that, if not followed, might cause an immediate discernible impact on a worker or member of the public (for example, requirements for the geometry test for a dose calibrator and the teletherapy dosimetry equipment calibration, respectively). In those cases the Commission has made a judgment that retention for the duration of use of the equipment or of the license is necessary.

Effect on Broad Licensees

In addition to the more common "group" licenses which the NRC issues that authorize by product material for uses described in the groups, the NRC has also issued about 100 broad licenses

under Part 33 that include medical use. They are issued to large medical/academic institutions that have had several years experience using radioactive materials.

About 50 of the medical use broad licenses that have been issued vest in each institution's Radiation Safety Committee the authority to permit medical practitioners to use byproduct material for both patient care and medical research, to permit individuals to use byproduct material for research in test tubes and animals, and to review the facilities and radiation safety procedures that these individuals will use. Before NRC issues a broad license it reviews the applicant's administrative and safety procedures, the training and experience of the Radiation Safety Officer and of each individual member of the Committee, and the standards and management procedures it will use when reviewing permit requests. This type of license is needed to allow for the orderly evolution of the medical sciences. The NRC will continue to review Committee member qualifications on a case-by-case basis because the size and individuality of each broad license program precludes the preparation of generic prescriptive qualifications. These licensees would be required to comply with the proposed prescriptive and performance criteria of Part 35, but would be exempted from the training and experience requirements of Subpart J and the authorized materials and authorized use restrictions in proposed §§ 35.49, 35.100, 35.200, 35.300, 35.400, and 35.500.

The other 50 medical broad licenses that have been issued are similar to the license described above, except that the Committee only has the authority to permit individuals to use material in test tube and animal research, and only authorizes medical use in accordance with the groups in current § 35.100. The NRC would continue to review the training and experience of medical practitioners before allowing them to use material for medical use. Because control of medical use in these cases is the same as that exercised over the more common group licensees, the basis for a determination of compliance will be the same as that described below for group licensees.

Because, whether at a group or broad license facility, teletherapy is separately licensed "for treatment of humans" and because the NRC reviews qualifications of proposed users and safety procedures, no significant inconsistencies with current teletherapy programs or new teletherapy programs are expected.

Transition Policy for General Licensees

The general license in current § 35.31 has been eliminated from the proposed regulations. In the future, all medical use will be specifically licensed. Current general licensees, all of whom are physicians, will receive a specific license that will be incorporated into NRC's filing system for keeping track of specific licensees. However, they will be limited to the methods of use described in the current § 35.31, and relieved, by license condition on a pre-printed license, from the requirements that are more burdensome than the current general licensee requirements. The only action general licensees will need to take is to respond affirmatively to an NRC notice that asks if they want to continue to have an NRC license that is limited to the methods of use authorized by the current general license.

The Commission proposes, under § 170.11(b), to continue to exempt these licensees from application and renewal fees as long as their programs are limited to the material uses described in current § 35.31. Under the new specific licensing system, former general licensees that want to make any changes in their programs, amend their licenses, or transfer them to other physicians, will have to apply under the new licensing scheme and will be subject to all the fees that apply to other specific licensees.

The Commission proposes to waive fees to former general licensees for the following reasons. General licensees do not now pay fees. About 90% of the 600 or so general licensees are inactive. Each year NRC receives only a very few requests for general licenses under § 35.31. There would be no NRC review time needed and only a minor NRC administrative cost to process these licenses. It would be unfair to charge these licensees the fees listed in 10 CFR Part 170, and it would be more costly for NRC to alter that fee structure than to grant the exemption.

The current Part 35 also grants a general license for in vitro work described in § 31.11 to group licensees without requiring that they submit an in vitro registration form. Under the proposed regulation, applicants would have to specifically request this authorization as a line item on their applications. Part 31 will be amended to continue the in vitro authorization for current medical licensees until their licenses are renewed. In either case, the use of § 31.11 materials within the inventory limits of that section will only be subject to the requirements of § 31.11.

Transition Policy for Specific Licensees

Under the current regulatory program, the license document with the appended application is used to regulate each individual licensee. Because the requirements in the proposed revision were taken from commonly used topical license conditions and regulatory guidance that most licensees have incorporated into their applications, the Commission does not expect any significant inconsistencies between current licensee radiation safety programs and radiation safety programs of applicants that apply after the effective date of the propsed regulations. Therefore, current licensees will normally be cited if they do not comply with the new regulations. However, because each current licensee's radiation safety program was reviewed individually and license conditions were tailored to meet the licensee's individual needs, there may be an occasional inconsistency between a license condition and the regulation (for example, a license may require survey instrument calibration biennially, but the proposed regulation would require calibration annually). There is no health and safety reason to undo these licenses to effect compliance with the regulation. To impose the regulation in addition to or in lieu of the license conditions would not provide for significant additional health and safety. The Commission therefore proposes to resolve possible temporary inconsistencies between license conditions and the regulation by providing in the regulation a transition period between the effective date of the final rule and the expiration date of each license. During this transition period, if there is an inconsistency between a provision in a license (issued prior to the regulation) and the regulation, the proposed regulation states that the license condition would take precedence over the regulation. Because the license conditions were reviewed from the perspective of overall safety and approved by the NRC, the inconsistency would not result in an increased risk to workers or the public.

In addition to the topical license conditions mentioned above (for example, sealed source leak test requirements, special bioassay requirements, radioactive patient surveys and release limits, or waste disposal restrictions), each specific license has an encompassing license condition that requires each licensee to possess and use licensed material in accordance with the statements, representations, and procedures contained in the license application and

in letters of clarification. Despite this encompassing condition, licensees would be allowed to make changes in

guides would be consolidated into a concise set of regulations. The

document, but this does not relieve them of the requirement to conduct their work

The word "medical institution" was added to identify organizations in which

Section 35.16 Application for license, amendment, or renewal.

of this part, the phrase "location of use"

VOL 50 ISS 144 JL 26 1985 UMI

in letters of clarification. Despite this encompassing condition, licensees would be allowed to make changes in their radiation safety programs; permissible changes would be restricted to those identified in § 35.36, and the licensee would have to conduct the internal review required by that section.

In the case of record retention, the regulation will generally take precedence because, in the past, the Commission has not offered much guidance on this topic. Many applicants have either not specified a period of retention or have incorporated a single, all encompassing record retention phrase "until the Commission authorizes their disposal," rather than shouldering the burden of justifying to NRC a shorter period. If a record is substantively the same as a record described in the proposed regulation and the licensee has not stated a retention period for that specific record, licensees could adopt the retention period stated in the final rulemaking. However, licensees would still have to comply with any record retention period required by a topical license condition or another Part (for example Part 20) of the regulations. (For example, surveys that provide the basis for occupational dose records or measurements of effluent release are governed by Part 20.)

NRC does not currently review qualified teletherapy calibration expert credentials, and does not identify the Radiation Safety Officer on the license. Under this proposal, NRC would begin to review their credentials and identify both of them just as it does now for authorized users. To add current licensees to this new scheme, licensees would be required to submit their credentials for review and approval when the next amendment or renewal request is required. These individuals would be identified on the next license amendment.

The NRC particularly requests public comment on this transition policy and would like to know if licensees envision problems of interpretation or compliance that the staff might not foresee.

Discussion of Proposed Regulations

The primary purpose in initiating this revision to the regulations is to simplify the regulatory process by providing licensees with a single source of requirements for the medical use of byproduct material. Radiation protection standards now contained in several existing regulations, Inspection and Enforcement orders that modify a single license or group of licenses, technical reports (NUREGs), standard conditions of licenses, and regulatory guides would be consolidated into a concise set of regulations. The requirements that apply to all licensees appear first, followed by the specific requirements for each of the six basic types of use.

In the proposed regulation, items of general information, general administrative requirements, and general technical requirements are addressed first in Subparts A through C, respectively. Subparts D through I contain the additional technical requirements that apply to licensees for each of the six new types of use. Subpart J lists the training and experience requirements, and Subpart K lists the penalties for violations of the regulations.

In order to maintain consistency among the various parts of NRC's regulations, conforming amendments have been made to the affected sections of Parts 30, 31, 32, and 40. These conforming amendments can be found immediately after the revised Part 35. A section-by-section discussion of the proposed revision of Part 35 follows.

Title

The title of Part 35 has been changed from "Human Uses of Byproduct Material" to "Medical Use of Byproduct Material" to better reflect the scope of the part.

Authority

This listing provides notice of the statutory basis for the regulations. It also provides notice that the NRC may initiate criminal prosecution of persons who knowingly and willfully do not comply with the prescriptive requirements issued under section 161b or the recordkeeping and reporting requirements issued under section 161o.

Subpart A—General Information

Section 35.1 Purpose and scope.

The regulations in this part apply to all persons licensed by the Commission to intentionally administer byproduct material or the radiation from byproduct material to humans, and to individuals working under their supervision.

Section 35.2 License required.

This section requires that persons have a license issued by the Commission or an Agreement State before they handle byproduct material for medical use. The Commission uses the specific licensing process to limit the use of byproduct material to persons who have the equipment, facilities, training, and experience needed to ensure its safe use. Individuals who are working under the supervision of an authorized user do not need a license document, but this does not relieve them of the requirement to conduct their work in accordance with requirements of the license and the regulations of this chapter. The licensee remains responsible for the noncompliance of such agents or employees, and may be subject to sanctions for their failure to comply.

Section 35.6 Information collection requirements: OMB Approval.

This section provides notice that the Office of Management and Budget has reviewed and approved the information collection requirements contained in this part.

Section 35.15 Definitions.

The term "Agreement State" applies to those states that have entered into an agreement with NRC to assume responsibility for regulating the use of byproduct material within their borders.

The word "ALARA" was added ton identify the acronym for the phrase "as low as reasonably achievable."

The term "area of use" was added to identify a place in which byproduct materials are received, used, or stored. The term is used in § 35.36 to authorize licensees to use byproduct materials in rooms, suites, or building wings not identified in the application.

The term "authorized user" was added to identify individuals who are identified by name on a license and who are authorized by the Commission or an Agreement State to administer byproduct material, or the radiation therefrom, to humans for medical care, and supervise its use by others.

The term "dentist" wa added to identify a group of practitioners licensed by the States who might use byproduct materials in their practice.

The term "medical use" was included to help identify the scope of this part. The word "intentional" was included in the definition to make it clear that occupational and nonoccupational exposures under the regulations of Part 20, accidental exposures, and unwanted exposures from other sources of radiation (e.g., nuclear powered cardiac pacemakers, smoke detectors, and radioactive waste) are not considered medical use. The phrase "in the practice of medicine in accordance with a license" was included to make it clear that NRC recognizes that States may have different difinitions of medical practice or different levels of control and that licensees should not interpret that NRC license as a pre-emption of State medical regulations or an attempt to direct the States' regulation of medical practice.

The word "medical institution" was added to identify organizations in which the radiation safety program depends on the cooperation of individuals from several different departments.

The word "management" was added to identify the individual responsible for defining the licensee's policies and allocating personnel, budget, and space resources.

The word "misadministration" was included to define those instances in which a mistake has been made in the medical use of byproduct material. The definitions are the same as those in the current § 35.41.

The term "mobile nuclear medicine service" was added to describe the transport of byproduct material for the purpose of offering diagnostic nuclear medicine services at addresses other than the principal business address of the licensee.

The word "output" was added to describe the amount of radiation in a teletherapy beam.

The word "physician" was included to identify individuals licensed by the States to practice medicine and therefore eligible to use byproduct meterial in the practice of medicine.

The word "podiatrist" was added to identify a group of practitioners licensed by the States who might use byproduct materials in their practice.

The term "qualified teletherapy calibration expert" was included to replace the term "qualified expert" which is used in the current § 35.24. The new term better reflects the training, experience, and responsibilities of the individual who is responsible for calibrating a licensee's teletherapy unit.

The term "Radiation Safety Officer" was added to identify the individual named on a license and who is responsible for managing the licensee's radiation safety program.

The term "sealed source" was included to identify byproduct material that is specially encapsulated to prevent leakage or escape during use and storage. It is the same definition as use in § 30.4.

The term "visiting authorized user" was added to identify individuals listed as authorized users on one license who, while working for another licensee on a temporary or occasional basis, use byproduct material under the restrictions of the temporary employer's license, which does not identify the visitor as an authorized user. This authorization is based on a frequently used topical license condition.

Section 35.16 Application for license, amendment, or renewal.

At an institution, only management may apply for a license; individual physicians would be listed on that license as authorized users. An individual physician may not apply for use within a medical institution (an organization that provides various medical services). This requirement reflects the need for coordination with other employees who may not be under the administrative control of the authorized user. For use sited outside a medical institution, such as for private practice or mobile service, any person may apply. An application must be filed on Form NRC–313 because it elicits information in an orderly manner that will allow for uniformity in application review procedures.

Teletherapy applications must be submitted separately because the scope and nature of information needed is much different than that needed for the other types of medical use. This requirement does *not* imply that the applicant should have two separate safety programs.

This section also reflects the Commission's decision to delegate to Regional Administrators some licensing functions which, until recently, were conducted in the headquarters. This program was described in **Federal Register** notices published May 27, 1982 (47 FR 23138), April 14, 1983 (48 FR 16030), May 9, 1984 (49 FR 19630), and April 15, 1985 (50 FR 14692).

Section 35.17 License amendments.

The Commission requires that the licensee obtain an amendment for any changes in the byproduct material program that might increase the potential for radiation exposure to workers and the general public, or make it difficult for the Commission to conduct its inspection program. The Commission has determined that certain changes are potentially significant for the following reasons and thus will require an amendment:

(1) The NRC must be assured that the licensee has adequate training and experience and facilities before authorizing a change in the type or method of medical use or amount of byproduct material used. Such a change might also indicate a need for increased inspection frequency.

(2) The use of byproduct material at an address not identified on the license would make it impossible for the Commission to make unannounced inspections. The Commission relies on the unannounced inspection to assure day-to-day compliance. For the purpose of this part, the phrase "location of use" refers to a building. (Moving from one room to another within a building would not constitute a change in location of use.)

(3) The Commission must be assured that the training and experience of Radiation Safety Officers, authorized users, and qualified teletherapy calibration experts is sufficient to assure that they are able to understand and follow regulations for the safe use of byproduct material.

Section 35.18 Notifications.

A notification requirement was added to require the licensee to notify the Commission if an authorized user, Radiation Safety Officer or qualified teletherapy calibration expert is no longer affiliated with the licensee's byproduct material program. Without this notice the NRC would not have assurance that the collective training and experience of the licensee's remaining personnel is adequate to ensure the safe use of byproduct material for all the types of use authorized by the license. The Commission has made a judgment that notification within 30 days is sufficient because technicians who have worked under the supervision of the authorized user can adequately ensure the safe receipt and proper storage of byproduct material. However, absence of an individual to oversee a byproduct material program may increase the probability of an accumulation of unused byproduct material or unauthorized use of material. This presents an unacceptable potential hazard.

Section 35.28 License issuance.

The Commission has selected a license term of five years. A shorter term would not benefit the public health and safety because past experience indicates that medical programs do not generally change significantly over that period of time. A shorter term may unduly interfere in patient care because the licensee would spend an inordinate amount of time requesting renewals. A longer term may occasionally result in unintentional abandonment of the license.

The applicant must use Form NRC–313 to provide for an orderly safety review of the applicant's program. The Commission will apply certain standards when reviewing an application so as to ensure that the safety of workers and the public will not be compromised if the license is granted. The staff must be assured that the applicant's proposed equipment and

facilities are adequate to protect health and minimize danger to life or property

In this proposed rulemaking the Commission has not required non-

21023), and as a final rule on September 13, 1982 (47 FR 40149).

assure that exposures remain ALARA considering the few program

locations where the licensee might not have clear and direct control over

material or different kinds of material

VOL 50 ISS 144 JL 26 1985 UMI

facilities are adequate to protect health and minimize danger to life or property (§ 30.33(a)(2)), and that the authorized users are qualified by training and experience to use the material for the purposes listed in the application in such a manner as to protect health and minimize danger to life or property (§ 30.33(a)(3)), and that applicant has established procedures adequate to assure that safe use of byproduct material.

Concerning fees, Congress has directed that agency services, such as licensing and inspection, must be self-sustaining to the extent possible.

Section 35.29 Specific exemptions.

As part of an application or amendment request, a person may request an exemption from any requirement of this part. The NRC occasionally receives requests for exemptions from procedural, equipment, or training standards. The Commission may allow the exemption if the applicant can show that it will not compromise the health and safety of workers and the public.

Subpart B—General Administrative Requirements

Section 35.30 ALARA program.

An ALARA program is a management tool needed to assure that all reasonable efforts are made to assure that safe use of byproduct material. (See 'Management Organization and Administration for ALARA' by Kathren, *Health Physics*, Vol. 42, No. 2, February 1982, p. 119–131, and 'Radiation Safety in a Nuclear Medicine Department,' by Gandsman et al., *Health Physics*, Vol. 38, No. 3, March 1980, p. 399–408.) In an institution many workers from different departments might be occasionally exposed to byproduct material. The Commission has made a judgment that a formal ALARA program is the only management tool that can ensure a cooperative effort to reduce individual and collective dose and ensure regular safety reviews. Specific requirements usually considered part of an ALARA program are required by §§ 35.31 amd 35.32.

The annual briefing of management by the Radiation Safety Officer on the byproduct material program is intended to assure that licensee management knows what kinds of byproduct material are used in which departments, which workers are involved, its use, the regulatory requirements that govern its use, and current and potential radiation safety problems. Management needs this information to ensure that its decisions do not inadvertently result in activities contrary to the regulations or license conditions.

In this proposed rulemaking the Commission has not required non-institutional licensees, such as one or a few physicians in private practice, to have a formal ALARA program because, for those licensees, the physician authorized user is usually also the Radiation Safety Officer, management, and the line manager. Hence, any formal ALARA report requirement would consist of the physician reporting to himself. However, the Commission would appreciate comments as to whether *all* medical licensees should have a formal ALARA program. If so, should small licensees conduct an internal annual review or should that review be conducted by someone who is not associated with the licensee's program on a day-to-day basis? Commenters are reminded that the exhortation in 10 CFR 20.1(c) to make every reasonable effort to maintain radiation exposures and releases of radioactive materials ALARA applies to medical licensees.

Section 35.31 Radiotion Safety Officer.

The Radiation Safety Officer is an individual with special expertise who is needed to coordinate the safe use of byproduct material in accordance with the license and the Commission's regulations.

Section 35.32 Radiation Safety Committee.

The proposed Part 35 requires institutional licensees to establish a Radiation Safety Committee to oversee the use of byproduct material. The committee is required because, in an institution, radiation safety for *all* workers (users and ancillary staff) and the public depends on the cooperation of employees from administratively separate departments. Without the benefit of committee discussion, authorized users may not be aware of radiation safety problems outside their own department that are caused by their patients, packages, or waste. The Committee's deliberations will provide management and authorized users with information that is needed to optimize allocation of resources available for radiation safety. A Committee is not required for licensees that are not medical institutions because such organizations generally do not have the multi-armed, multi-tiered management structure typical of medical institutions. In non-institutions the authorized user is likely to be part of management and a line supervisor for ancillary workers; therefore a formal committee structure would serve no useful purpose. A similar requirement was published as a proposed rule on April 9, 1979 (44 FR 21023), and as a final rule on September 13, 1982 (47 FR 40149).

Committee membership must include a physician identified on the institution's license as an authorized user or byproduct material for each type of use permitted by the license, the institution's Radiation Safety Officer, a representative of the institution's management, and a representative of the nursing service.

Institutions that only request a license for diagnostic sealed sources will be exempted from this requirement by license condition because the radiation safety program would not depend on the cooperation of individuals from several different departments. Packages would arrive infrequently, there would be no chance of contaminating an entire room or suite, no radioactive waste, no radioactive patients, and little chance of loss of material.

To assure the safety of workers and the public in light of site-specific exigencies, the Committee must review on the basis of safety: (1) The qualifications of each individual to be listed as an authorized user, and (2) each proposed method of use. In its reviews, the Committee should consider compliance with NRC regulations, special physical or chemical containment problems, the amount of byproduct material that will be used, and the relative hazard of the material, all in light of the licensee's facility and staff.

The Committee must review occupational exposures quarterly. A more frequent review would inappropriately emphasize normal and expected statistical variations in exposure data. A less frequent review would not provide for timely notice of unnecessary or unnecessarily high doses.

The quarterly review should be guided by two trigger levels for individual doses. The lower level would be a minimum level below which no action need be taken. Above the minimum level, the source of exposure should be determined and consideration given to methods of reducing the exposure rate. The higher level should trigger immediate intervention by the Radiation Safety Officer to reduce the exposure. The committee should review the appropriateness and completeness of the intervention, and should develop a permanent solution to maintain doses at a lower level.

The annual review of the safety program is needed to determine its adequacy in light of the current and projected use of all byproduct material. In the Commission's judgment, a review at least once each year is adequate to assure that exposures remain ALARA considering the few program adjustments typically made during any single year. More time between reviews might not permit the committee to make timely recommendations for reducing unnecessary worker, public, or patient exposure by, for example, changing space allocation, purchasing new equipment, or changing procedures.

Section 35.33 Requirement for authority and statement of responsibilities.

To ensure that material is used safely, the Radiation Safety Officer and Radiation Safety Committee need a clear statement of their duties from management so that questions about authority, responsibility, and jurisdiction do not keep these individuals from acting.

Section 35.34 Visiting authorized user.

The uninterrupted provision of medical care occasionally requires a visiting authorized user to work for a host licensee when its permanent staff may be unable to do so. This was allowed in the past by a standard license condition. If the licensee had a copy of another licensee's NRC license that listed the visitor as an authorized user, the visitor could work under the license for sixty days each year without requesting a license amendment. The scope of this concept has been expanded to allow NRC licensees to employ Agreement State authorized users. Because the visiting authorized user's training and experience has been reviewed for health and safety consideration by a regulatory agency, this short-term authorization will not pose an undue risk to public health and safety. The purpose of written permission is to assure that the required records have been reviewed and found complete.

When exercising this privilege, host licensees should identify each individual method of use authorized by their license, each individual method of use authorized by the visitor's license, and each individual method of use that the visitor will be allowed to do at the host facility. Note that in some cases the Agreement States' groups, schedules, or subparts do not correspond to those of the NRC. The visitor can only do those procedures authorized by *both* licenses.

Section 35.35 Mobile nuclear medicine service administrative requirements.

Mobile nuclear medicine service has been limited to diagnostic medical use because the inherent hazard of therapeutic amounts of byproduct material makes it unsuitable for use in locations where the licensee might not have clear and direct control over personnel, facilities, or equipment. The Commission will continue, on a case-by-case basis, to authorize provision of low level radiopharmaceutical therapy by mobile nuclear medicine services. These licensees are required to have a letter of permission from the management of each client to assure that the client management is aware of and in agreement with the medical use of byproduct material within the facility.

Mobile service may not be provided to licensed clients because, in case of a spill or dose rates above regulatory limits, the responsibility for corrective action may be clouded.

Section 35.36 Radiation safety program changes.

This section allows the licensee to make changes in the radiation safety program that was described in the application if the changes are within the requirements of the regulation. The purpose of this authorization is to allow the licensee to respond to changes in staff levels, available equipment, or patient load that may require reallocation of floor space, or to make changes that may be necessary for patient care, administrative, radiation safety, or economy needs. Before implementing any change, the licensee must make a record of safety matters that were considered when planning the change. The record will be used during unannounced inspections to determine whether the licensee has made changes that are contrary to the regulations, license conditions or orders, and during termination surveys to provide an indication of every area where material was used.

The Commission notes that this change in the current licensing process under which *all* radiation safety program changes must be approved by license amendment, recognizes that, in the end, public health and safety is based on three features: (1) NRC regulates who may use byproduct material for medical use by listing authorized users on the license; (2) NRC regulates the degree of hazard, balanced with medical needs, by only allowing certain chemical and physical forms for medical use; and (3) NRC regulates where byproduct material may be used to allow for unannounced inspections of licensee radiation safety programs. This proposal would retain those regulatory features by requiring licensees to receive a license amendment before using material for new clinical methods of use not permitted by the license; before permitting new authorized users to use material; before receiving more material or different kinds of material than permitted by the license; and before using material at locations not listed on the license. These are major changes in a licensee's radiation safety program for which a license amendment would still be required (see § 35.17). Under this proposal all other changes (such as selecting replacement equipment, re-arranging the nuclear medicine clinic, switching from one service contractor to another, or switching to an alternative equipment quality assurance procedure) would be minor changes.

The Commission would appreciate comments on this major/minor dividing line or threshold. Is this dividing line clear and complete? Are there other features that should be considered as major changes, or are some of these major changes really not important to health and safety? Is there some other dividing line, either fixed or flexible, that would clarify which changes are really not important to health and safety and may therefore be made by the licensee? Alternatively, should the Commission continue to require licensees to submit all radiation safety program changes for agency approval?

Section 35.37 Records and reports of misadministrations.

The proposed Part 35 retains the misadministration definitions and reporting and recordkeeping requirements of the current Part 35. A discussion of these requirements appears at 45 FR 31701, published May 14, 1980.

Although the Commission has not revised its misadministration reporting and recordkeeping requirements, it would like to take this opportunity to ask for public comment on these requirements based on the experience gained since the requirements were first published in final form five years ago. For both diagnostic and therapeutic misadministrations, are the current requirements adequate to protect the public health and safety or should they be made more or less stringent? Should the regulations require prompt notification of the patient who received the misadministration? Do the regulations provide the public with a clear notice of the Commission's role when there is misadministration? Should the Commission take enforcement action against licensees who misadminister by product material or radiation to patients? If so, what type of enforcement action should be taken?

Section 35.38 Supervision.

The authorized user is allowed to use byproduct material in the

economy and efficiency, the NRC uses voluntary national standards in its regulatory program if they provide

record of the assay results. This is required to ensure that the patient

Section 3.3.5.3 recommends a minimum detectable limit of 0.005 microcuries for

individual handling a vial of byproduct material

measure of safety for the general public,

VOL 50 ISS 144 JL 26 1985 UMI

Section 35.38 Supervision.

The authorized user is allowed to use byproduct material in the practice of medicine. Frequently, specific tasks may be delegated (under §§ 35.2(b) and 35.38) to individuals with less training and experience. However, it is necessary that a qualified individual instruct them, oversee their work on a frequent basis, and be available to promptly respond in unusual or emergency situations. The regulation requires that supervised individuals comply with instructions, procedures, and the regulations.

The NRC has not specified which tasks may be delegated to whom because the practice of medicine is regulated differently in each State and because medical services must also be responsive to each community's particular needs. The NRC particularly requests comment on whether special training elements should be clearly identified for certain tasks that are delegated or whether the general guidance is sufficient.

Section 35.49 Suppliers.

In order to authorize only the use of materials reviewed by the government for safety and effectiveness considerations, authorized users may use only byproduct material that has been manufactured and distributed under procedures that were reviewed for safety by the NRC, the Food and Drug Administration (FDA), or an Agreement State.

The NRC will continue its current practice of allowing, on a case-by-case basis, re-transfer of radiopharmaceuticals between Part 35 licensees if an applicant specifically requests an exemption from this section and shows the exemption is in the public interest.

Subpart C—General Technical Requirements

Section 35.50 Possession, use, calibration, and check of dose calibrators.

A dose calibrator is needed to ensure that the dosage of material given is the dosage that was prescribed. It must be tested for accuracy, the ability to exactly measure a specified quantity, and linearity, the ability to exactly measure a range of quantities. The requirements are generally consistent with the recommendations of the American National Standards Institute. (See ANSI N42.13–1978). Copies may be purchased by contacting Sales Department, American National Standards Institute, 1430 Broadway, New York, NY 10018. In the interest of economy and efficiency, the NRC uses voluntary national standards in its regulatory program if they provide adequate assurance of safety.) The activity levels of the accuracy check sources were chosen because a lower activity would invalidate the accuracy test due to expected statistical fluctuations, and a higher activity would present an unnecessary source of radiation exposure to workers. The radionuclides required reflect the fact that dose calibrators are not as accurate as might be expected for the photon energies commonly used for imaging (see "Joint NCDRH and State Quality Assurance Surveys in Nuclear Medicine," HHS Publication FDA 83–8209). The linearity test should only be done over the range between highest individual dosage measured and 10 microcuries to ensure that the dosage given is the dosage that was prescribed. It is not necessary to test for linearity for all amounts that might be measured, for example the first elution from a fresh generator or a multidose vial, because this would subject the worker to unnecessary radiation dose. Dosages below 10 microcuries cannot be accurately measured on a conventional dose calibrator because they are so tiny. Also, these dosages present only a trivial risk to the patient and therefore need not be so accurately measured. The geometry test assures that the shape of the syringe or vial containing the byproduct material does not affect the dosage measurement. The daily constancy check assures that the dose calibrator has worked consistently since it was last tested.

Licensees whose level or scope of use does not indicate need for a dose calibrator may request an exemption from this section. The request should be supported by a description of an alternative method that the licensee will use to measure radiopharmaceutical dosages.

Section 35.51 Calibration and check of survey instruments.

The 1000 mR/hr limit was chosen because that is the highest radiation exposure rate that is likely to be encountered in the medical environment. The calibration frequency and the other prescriptive and performance requirements in this section are generally consistent with ANSI N323–1978.

Section 35.53 Measurement of radiopharmaceutical dosages.

This section requires that the licensee assay the radioactivity of each radiopharmaceutical dosage before it is administered to a patient and keep a record of the assay results. This is required to ensure that the patient receives the intended dosage. The time at which the measurement must be made has been purposefully omitted to allow for flexibility in licensee's procedures.

A similar requirement was published as a proposed rule on September 1, 1981 (46 FR 43840). The comment period on the proposed rule expired November 30, 1981. The NRC is incorporating the dosage measurement proposal in this revision. The proposed Part 35 dosage measurement requirement differs from the 1981 proposal in its recordkeeping requirement. The Part 35 proposal requires the dosage measurement record to include the patient's name, and identification number if one has been assigned, and prescribed dosage. This information was not required by the 1981 proposal.

Section 35.58 Authorization for calibration and reference sources.

These sources are needed to check and test radiation instruments and to mark images. They represent a small radiation hazard in relation to the amount of radioactivity used in patient care. The activity level was chosen to allow licenses to have a range of sources with several energies and half-lives available.

Section 35.59 Requirements for possession of sealed sources and brachytherapy sources.

The user must follow the manufacturer's instructions because they have been reviewed for safety considerations by the Commission or an Agreement State.

The six-month test interval has been recommended by the National Council on Radiation Protection and Measurements (NCRP)[1] in Report No. 57, "Instrumentation and Monitoring Methods for Radiation Protection." More frequent testing is inconsistent with ALARA considerations because it would cause worker dose when making the test but provides only a slightly greater probability of funding a leaking source. The test procedures described are intended to maximize the probability of detecting contamination from a leaking source. Report No. 57,

[1] The National Council on Radiation Protection and Measurements (NCRP) is a nonprofit corporation chartered by Congress in 1964 to draft proposed recommendations on protection against radiation and on radiation measurements, quantities, and units, particularly those concerned with radiation protection. Copies of reports may be purchased by contacting NCRP Publications, P.O. Box 30175, Washington, DC 20014.

Section 3.3.5.3 recommends a minimum detectable limit of 0.005 microcuries for equipment used to measure leak test samples. This level is also consistent with the requirements of other parts of the current regulations (see, for example, §§ 31.5 and 34.25), and is only slightly higher than the minimum detectable activity exhibited by instrumentation available to licensees. The Commission has made a judgment that this level provides the most conservative detection level technically achievable at a reasonable cost. It is noted that this requirement would reduce the current permissible amount of detectable contamination from teletherapy sources ten-fold, from 0.05 microcuries to 0.005 microcuries for purpose of consistency.

The Commission has made a judgment that the exempted sources do not present a contamination hazard because of the small amount of radioactivity in the sources, the method in which they are constructed, or the small hazard of the byproduct material. To conduct a physical inventory more frequently than quarterly is inconsistent with ALARA exposure goals. To inventory less frequently may, in case of a misplaced source, allow an unacceptable radiation exposure to go on for too long without detection. The radiation survey assures that sources are safely stored.

Section 35.60 Syringe shields.

Syringes that contain byproduct material can be an external radiation source and should therefore be shielded at all times. In some cases the use of a shield when making an injection could interfere significantly with the injection. This would jeopardize patient benefit. In such cases the higher radiation exposure to the hands that is received by the technician who does not use a syringe shield is warranted. A shield need not be used when the risk of spoiling the injection is greater than the benefit of reduced worker exposure.

The NRC considered requiring the use of syringe shields when drawing individual dosages from multi-dose vials. That requirement is not included in this proposed revision because it appears that the increased handling required to remove the shield when measuring the dosage may actually increase radiation dose to the hands. However, the NRC is soliciting comments on whether syringe shields should be used when drawing individual dosages.

Section 35.61 Vial shields.

A vial radiation shield can significantly reduce the radiation exposure to the fingers and hands of an individual handling a vial of byproduct material.

Section 35.62 Syringe labels, and § 35.63 Vial shield labels.

Some misadministrations have been caused by accidentally transposing vials or syringes. The proper labelling of containers will help to avoid this type of mistake.

Section 35.70 Surveys for contamination and ambient radiation exposure rate.

Since radiopharmaceuticals are frequently handled, it is plausible that a syringe or some radioactive waste may be misled. This would result in unnecessary radiation exposure to workers and the public. The exposure rate survey will bring this to the attention of workers. The weekly exposure rate survey of waste storage areas will ensure that exposure rates in that area will be monitored so that special steps can be taken if greater than average use of radiopharmaceuticals results in higher than average exposure rates in the waste storage area.

The Commission knows that a removable contamination wipe test made several days after spillage of a short-lived radiopharmaceutical will probably not detect any contamination. The periodic contamination survey serves as a check of workers' physical control of radiopharmaceuticals. If contamination is found, it indicates that controls or safety measures may be inadequate or are not always being used.

Section 35.75 Release of patients containing radiopharmaceuticals or permanent implants.

A patient whose body contains byproduct material is a source of external radiation and can be a source of radioactive contamination. The patient should not be released from the clinic or hospital until the residual radioactivity in the patient is at an acceptable level. The Commission proposes to allow patient release limits based on residual activity in the patient or exposure rate at a specified distance from the patient at the licensee's option. The 30 millicuries burden limit is based on a recommendation of the NCRP and current licensing practice. The 6 mR/hr at one meter limit is based on the exposure rate from 30 millicuries of iodine-131, the most commonly used therapeutic radiopharmaceutical; some individuals believe that the exposure rate is more relevant and easier to measure. The Commission believes that either limit provides an adequate measure of safety for the general public, and that further reductions in public exposure are not reasonably achievable considering the cost and potential for deterimental effect from an unnecessarily long hospital confinement.

Section 35.80 Mobile nuclear medicine service technical requirements.

The Commission has limited radiopharmaceutical transportation by these licensees to unit dosage and multi-dose vials of prepared radiopharmaceuticals.

The Commission did not authorize transportation of generators because they are needed by persons who do not have daily access to prepared radiopharmaceuticals. That lack of access would be contrary to the geographic proximity required by § 35.38.

The service must remove all radioactive waste generated during the use of byproduct material at a client location of use because the Commission has no assurance that the client is equipped to safely receive and process radioactive waste. Because there is no assurance that the licensee can control access to areas of use while working in a facility that is under another person's administrative control, client facilities should be considered as unrestricted areas, and the licensee must therefore constantly exercise physical control of byproduct material.

Equipment checks are needed to assure the proper function of equipment after transport and before byproduct material is handled. A survey is needed to assure that all byproduct material has been removed from the client location of use. The mobile nuclear medicine service must carry a calibrated survey meter to monitor exposure and contamination in case of any accident that may result in a release of byproduct material.

Section 35.90 Storage of volatiles and gases.

Some radiopharmaceuticals present an inhalation or immersion source (e.g., volatile iodine-131 and xenon-133 respectively). The chance of exposure can be reduced by storing these materials in a fume hood or multiple barriers (such as a folded plastic bag within a folded plastic bag).

Section 35.92 Decay-in-storage.

For most hospital radiopharmaceutical waste, decay to background levels is essentially complete over a period of days or months. The waste disposal requirements of § 20.301, directed

primarily at longer half-lived material,

The Commission notes that the FDA is

Subpart E—Imaging and Localization

receiving an undesired 4.5 microcuries of molybdenum-99. The molybdenum

the current §§ 35.100 (d) and (e). The drugs have been approved for medical

their release to unrestricted areas may result in potentially lethal radiation

VOL 50 ISS 144 JL 26 1985 UMI

primarily at longer half-lived material, are not necessary for short half-lived radiopharmaceutical waste. Therefore, short half-lived waste can be exempted from the requirements of § 20.301. A decay period of ten half-lives was chosen because it represents a thousand-fold reduction in radioactivity. This ensures that, in most cases, byproduct material will have decayed to levels below those in § 30.71, which are quantities that, under certain ordinary conditions, are exempt from a requirement for a specific license. The regulation would only allow decay-in-storage for radioactive material with a half-life of 65 days or less because storage for the required ten half-lives would be in excess of 650 days and more appropriately considered permanent storage. (Consistent with current practice, the Commission will consider, on a case-by-case basis, requests to decay longer-lived material or to decay for fewer half-lives.) Waste must be monitored to assure that long-lived waste was not accidentally mixed with short-lived waste and that no waste has been added to the container since it was sealed. When the waste is monitored, neither the waste nor the survey instrument may have any radiation shielding because it might hide the presence of long-lived byproduct material in the waste. The requirement to remove or obliterate radiation labels is in § 20.203(f)(4) and is included here for completeness. Generator columns must be individually monitored because they contained larger amounts of radioactivity and also may have small amounts of long-lived contaminants.

Subpart D—Uptake, Dilution, and Excretion

Section 35.100 Use of radiopharmaceuticals for uptake, dilution and excretion studies, and § 35.200 Use of radiopharmaceuticals, generators, and reagent kits for imaging and localization studies (§ 35.200 is also discussed later).

Drugs approved for human use by the FDA have a label or package insert that specifies the FDA-approved use, physical form, route of administration, and dosage range. NRC relies primarily on FDA's determination of a radioactive drug's safety and effectiveness when it is used according to the package insert. By restricting the physician to the FDA-approved physical form, route of administration, and dosage range, NRC assures the safety of the public while allowing the physician flexibility regarding the choice of the clinical procedure.

The Commission notes that the FDA is considering a change in its regulations for reviewing the safety of investigational new drugs and new uses of approved drugs (see 48 FR 26720, published June 9, 1983). The Commission may revise its regulations regarding investigational new drugs and new uses of approved drugs after reviewing FDA's final rulemaking.

The FDA also authorizes the Radioactive Drug Research Committee (RDRC) at an institution to review and approve the use of radioactive materials for medical use research purposes. The Commission believes that the guidelines used by the FDA when reviewing the credentials of the RDRC members, and the guidelines that the FDA requires the RDRC to use when evaluating research proposals, are adequate to assure the safety of workers and the public without unduly restricting medical research. Therefore, the Commission will continue to allow, on a case-by-case basis, licensees to administer radiopharmaceuticals authorized by an RDRC in accordance with FDA regulations. This authorization was not included in the regulation because only a few licensees request it.

The radiopharmaceuticals listed in § 35.100 were taken from those listed in the current §§ 35.31 and 35.100(a). Those listed in § 35.200 were taken from current §§ 35.100 (b) and (c). Mercury-203 was not included in the proposed revision because the Commission believes that there are other radiopharmaceuticals available that provide equivalent diagnostic information with much less radiation dose to the patient.

Manufacturers are currently distributing generally licensed radiopharmaceuticals under a license issued pursuant to § 32.70. If this revision is adopted by the Commission, these manufacturers would have to apply for a license amendment to distribute radiopharmaceuticals pursuant to § 32.72.

Section 35.120 Possession of survey instrument.

A low level survey instrument is needed to check areas of use for contamination. Since the total amount of radioactivity used for uptake, dilution, and excretion studies is relatively small, the Commission does not believe the licensee needs an ionization survey instrument to measure dose rates.

Subpart E—Imaging and Localization

Section 35.200 Use of radiopharmaceuticals, generators, and reagent kits for imaging and localization studies.

Xenon-133 as a gas or as saline solution has been added to this group. Manufacturers are currently distributing the product under a license issued pursuant to Part 30. If this revision is adopted by the Commission, these manufacturers would have to apply for a license amendment to distribute xenon pursuant to § 32.72.

Through continuing medical research, new uses may be found for existing approved radiopharmaceuticals. These new uses, which may require a different dosage, route of administration, or physical form, may not appear on the manufacturer's label or package insert instructions. It was such a situation that resulted in a petition filed by Dr. George V. Taplin (Docket No. PRM–35–1) requesting an exemption for Tc–99m pentetate as an aerosol for lung function studies. A proposed rule was published on April 13, 1982 (47 FR 15798). The comment period on this proposed rule expired June 14, 1982, and 35 comments were received. The NRC adopted the rule in final form without change on February 4, 1983 (48 FR 5217); the preamble of the final rule also described how to apply for future exemption requests. The NRC is incorporating this regulation into this revision of Part 35 without soliciting public comment because of the recentness of the rulemaking and because there are no substantive changes to the rule as adopted.

Section 35.204 Permissible molybdenum-99 concentration.

Technetium-99m is produced when molybdenum-99 undergoes radioactive decay. When the technetium is separated from the molybdenum, unwanted molybdenum may appear as a contaminant in the technetium solution. The permissible concentration of molybdenum-99 was chosen to be consistent with the permissible concentration listed in the United States Pharmacopeia (USP), the nationwide standard for all pharmaceuticals used in the practice of medicine. It is the judgment of the Commission that the USP standard provides an adequate level of safety and to require a different standard would be confusing and unproductive. Since diagnostic dosages of technetium-99m are generally 30 millicuries or less, the maximum permissible level of molybdenum-99 in such a dosage would result in a patient

receiving an undesired 4.5 microcuries of molybdenum-99. The molybdenum would be taken up primarily by the liver. The dose to the liver would be about 0.2 rads as a result of the molybdenum concentration. The Commission has made a judgment that, by holding the permissible concentration to the required level, the resulting radiation dose is insignificant compared to the radiation dose which would be received by the patient due to the administration of the technetium.

The licensee that elutes the generator must measure and keep a record of the molybdenum concentration. Persons who receive prepared radiopharmaceuticals do not have to make this measurement because the person who prepared it would have made the measurement (see the conforming amendment to § 30.34).

Section 35.205 Control of aerosols and gases.

The Commission believes that a system that provides for the collection or controlled dispersal of aerosols and gases is needed to reduce exposure to workers and the public. If control is by dispersal in the atmosphere, licensees should note §§ 20.105 and 20.106, which limit the amount of radioactivity in the effluent stream.

Unlike solid and liquid byproduct materials authorized by this part, gases usually cannot be contained or recovered after a spill. To reduce exposure to workers and the public after a spill, exhaust and dispersal in the atmosphere is commonly used. However, because conventional room ventilation rates are seldom sufficient to clear spilled gas in a timely fashion, the licensee must follow special, room-specific safety measures in case of a gas spill. When making the required exhaust calculation, the licensee must assume that the largest single gas container handled in the area is completely spilled, and may use either ambient or emergency air exhaust rates.

Section 35.220 Possession of survey instruments.

The licensee needs a low level survey instrument to check for contamination and an ionization type instrument to measure dose rates in areas where large amounts of radioactive material are stored.

Subpart F—Radiopharmaceuticals for Therapy

Section 35.300 Use of radiopharmaceuticals for therapy.

The radiopharmaceuticals listed in § 35.300 were taken from those listed in the current §§ 35.100 (d) and (e). The drugs have been approved for medical use by the FDA.

Section 35.310 Safety instruction, and § 35.410 Safety instruction.

In the hospital setting, the use of byproduct material presents special training problems which are not addressed in Part 19 because they are unique to the medical environment. For example, visitor control in a hospital cannot be accomplished by physical barriers which might impede the delivery of emergency medical care to patients. After administration, the byproduct material is contained in an ambulatory human.

Therefore, the Commission has made a judgment that worker instruction in addition to that required by Part 19 is necessary. (This parallels special instruction required, for example, for radiographers and radiographers' assistants pursuant to § 34.31 of the Commission's regulations.)

Section 35.315 Safety precautions.

Because of the special contamination hazards of radiopharmaceutical therapy patients, a private room with private sanitary facilities is needed to protect members of the public, who might be visiting nearby patients, from unnecessary exposure to radiation. The RSO must be notified in case of the patient's death or medical emergency in order to determine whether special contamination control procedures must be implemented.

Section 35.320 Possession of survey instruments.

The licensee needs a low level survey instrument to check for contamination and an ionization type instrument to measure dose rates in areas where large amounts of radioactive material are stored.

Subpart G—Sources for Brachytherapy

Section 35.400 Use of sources for brachytherapy.

This section identifies brachytherapy sources that may be used for medical use. The list was taken from the current § 35.100(e), which is a list of sources commonly used for patient care.

Section 35.404 Release of patients treated with temporary implants.

A responsibility of the Commission is to restrict the movement of byproduct material when the public exposure would be increased. Brachytherapy sources for temporary implants have high levels of radiation, and remain radioactive for a long period of time. Loss of control of these sources and their release to unrestricted areas may result in potentially lethal radiation exposure to members of the public. The Commission has made a judgment that temporary confinement of the implant patient is necessary to ensure public safety. Section 35.404 requires that the licensee prevent the patient from leaving the hospital or clinic until all temporary implant sources have been removed. The records required by this section may be amalgamated with the records required by § 35.406; there is no need for duplication.

Section 35.406 Brachytherapy sources inventory.

Because of the particular hazard of brachytherapy sources due to their high activity and small size, the Commission believes that an inventory procedure that requires a physical count and a radiation survey log entry each time sources are handled with help to ensure that if a source is misplaced its absence will quickly become apparent to the licensee, which can then promptly begin a search for the source.

Section 35.415 Safety precautions.

Because of the high exposure rates around implant patients, a private room is needed to protect members of the public, who might be visiting nearby patients, from unnecessary exposure to radiation. The RSO must be notified in case of the patient's death or medical emergency to ensure that control of implant sources is retained.

Section 35.420 Possession of survey instrument.

The licensee needs a high level survey instrument to measure exposure rates in storage areas around a patient's room, and to check to be sure all sources have been removed from the patient before release from confinement.

Subpart H—Sealed Sources for Diagnosis

Section 35.500 Use of sealed sources for diagnosis

This is a new type of use group established to incorporate the recent development of medical devices that use a sealed source of byproduct material to create a beam of ionizing radiation. These devices are now available to persons licensed to use materials listed in § 35.100(f). Because the devices represent a lower level of hazard than the other sources in that group, the Commission has determined that these devices should comprise a new group.

Section 35.520 Availability of survey instrument.

be notified in an emergency. The Commission believes this is also an

Section 35.621 Radiation monitoring device.

compared to the response of the other systems. If each system measures the

due to source radioactive decay. To ensure accurate dose delivery, the

source leakage radiation levels for several years as license conditions.

VOL 50 ISS 144 JL 26 1985 UMI

Section 35.520 Availability of survey instrument.

The licensee needs a survey instrument to measure the exposure rates around a packaged sealed source that was just received or that is to be returned to the manufacturer, and to survey for contamination in case of an accident that might have compromised the intergrity of the sealed source. However, because a source exchange is an infrequent and scheduled event, and because a hazardous accident would be a very rare occurrence, the Commission believes that it is sufficient, for safety purposes, to require the licensee to make arrangements to borrow or rent an instrument or contract with a measurement service when measurements are necessary.

Subpart I—Teletherapy

Section 35.600 Use of a sealed source in a teletherapy unit.

This is a new type of use group established to deal with a well-established type of use. Safety measures that now apply to all licensees within this group have been used over the years and are reflected in these proposed regulations.

Section 35.605 Maintenance and repair restrictions, and § 35.645 Five-year inspection (§ 35.645 is also discussed later).

These sections provide notice that only specially licensed persons may maintain, adjust, or repair teletherapy units because this type of work requires special training and equipment in order to be done safely. This work is licensed under Part 30 of the Commission's regulations.

Section 35.606 Amendments.

Amendments are required for items identified in paragraphs (a) through (e) because any change described in these paragraphs could easily result in an increase in radiation levels in excess of the levels authorized in § 20.105. The service of a qualified teletherapy calibration expert is an essential element in ensuring the safe use of a teletherapy unit. The Commission has made a judgment that only an individual with special training and experience can determine the operating characteristics of the licensee's teletherapy unit and should therefore be identified on the license.

Section 35.610 Safety instructions.

Emergency instructions must be posted to remind individuals of the proper steps to be taken in case of an emergency and to identify individuals to be notified in an emergency. The Commission believes this is also an appropriate place to remind workers that it is important to ensure that only the patient is in the room before turning the unit on. The reminder is necessary because it is possible that when two workers are stationed on one teletherapy unit one worker may inadvertently turn the unit on when the other worker is still in the treatment room, or a worker may turn the unit on to check its operation after a patient or co-worker has entered the treatment room without telling the worker at the control console.

The special instruction for teletherapy workers is needed because this is the one type of medical use of byproduct material in which a worker or member of the public could receive a high, whole body dose in a matter of minutes if the source were not used safely.

Section 35.615 Doors, interlocks, and warning systems.

NCRP Report No. 57, "Instrumentation and Monitoring Methods for Radiation Protection," on page 42, states that a survey of a new teletherapy facility must determine that . . .". All entrances into the irradiation room or other high radiation areas are provided with barriers equipped with interlocks that are not dependent on the operation of a single circuit, and that will interrupt radiation production when the barrier is opened." There have been incidents in irradiation facilities in which personnel were unnecessarily exposed to radiation because door interlocks or alarms were intentionally bypassed for convenience. See, for example, cases 19, 21, and 28 in NUREG/BR-0001, "Case Histories of Radiography Events," vol. 1, 1980. If the interlocks and warning systems had not been bypassed, personnel would not have been irradiated. The Commission, however, has made a judgment that the dual warning system of a door interlock and a radiation monitor in the teletherapy room obviates the need for the dual circuit door interlock recommended in the report.

The beam condition indicator light will indicate to workers about to enter the room whether the unit is turned on or off.

Section 35.620 Possession of survey instrument.

The licensee needs a survey instrument on hand as a backup room monitoring device in case the radiation monitoring device fails.

Section 35.621 Radiation monitoring device.

The radiation monitoring device is needed to indicate radiation levels in the teletherapy room if the interlocks or the warning systems fail. Individuals may be unnecessarily exposed following the failure of the source retraction mechanism coupled with a failure of the primary beam condition indicator system. Therefore, § 35.621 requires licensees to install a permanent radiation monitor in each teletherapy room, to check its operation before using the teletherapy unit, and to use portable survey instrument or personal audible alarm dosimeter if the monitor is inoperable. Similar requirements were published as a proposed rule on April 28, 1982 (47 FR 18131), and were adopted in a final rule published January 18, 1983 (48 FR 2116).

Section 35.622 Viewing system.

If a patient moved during a therapy administration, this could result in a radiation dose to healthy tissue and no dose to the treatment area. Therefore, a viewing system is needed to monitor the orientation of the patient and the teletherapy unit to assure the prescribed application of radiation.

Section 35.630 Dosimetry equipment.

Dosimetry equipment is needed to measure radiation output. In order to help assure accuracy the equipment must be calibrated. The equipment requirements are the same as the current §§ 35.22 and 35.23. This section also contains the proposed resolution of the petition filed by the American Association of Physicists in Medicine, Petition Docket No. PRM 35-2 (see 47 FR 4311, January 29, 1982). Currently, regulations require that primary dosimetry equipment be calibrated every two years. The petitioner requested that this two year requirement be relaxed to four years if, two years after calibration, the primary dosimetry system is intercompared with a system that was calibrated within the past two years, and the results of the intercomparison indicate that the calibration factor used to convert an instrument reading to a dose measurement had not changed by more than two percent. (Intercomparison meetings are occasionally scheduled by several qualified teletherapy calibration experts within a geographic area. Each expert takes a dosimetry system of *similar* metrological quality to the meeting. Each dosimetry system in turn is exposed to the same radiation dose from a teletherapy unit. The response of each dosimetry system can then be compared to the response of the other systems. If each system measures the same radiation dose in rads, this provides assurance that each system is working properly. Note that when instruments of *different* metrological quality are exposed to the same rediation dose, it is referred to as a comparison rather than an intercomparison.) This suggestion has been incorporated into these proposed regulations. The petitioner also asked that the licensee be required to make quarterly constancy checks to assure the consistency of operation of the dosimetry system. The Commission did not incorporate this suggestion because it is not aware of any scientific study that shows that such checks, when made with currently available equipment, are capable of detecting small but significant changes in calibration. Therefore, the Commission has no basis to assume that periodic constancy checks would necessarily provide increased assurance of proper operation.

Section 35.632 Full calibration measurements.

Full calibrations are needed to ensure that the given dose is the same as the prescribed dose. The required frequency of full calibrations remains unchanged from that of the current Part 35. The test for timer accuracy has been clarified to include on-off error. The accuracy of localization devices that are used to position the teletherapy patient has been added to minimize the risk of unintentional irradiating healthy tissue. The function of mechanical and electrical interlocks that are used to limit the directions in which the beam can be aimed, and thereby reduce the exposure rate in uncontrolled areas, has also been added. The licensee need no longer perform all measurements with a calibrated dosimetry system. Instead, the calibrated dosimetry system need only be used for one representative measurement, and then a relative exposure rate measurement system can be used to complete the calibration. This would allow for use of computer-controlled dosimetry systems that are capable of making precise relative measurements but are not suitable for making absolute output measurements.

The Commission proposes to allow licensees to use either the currently required calibration procedure or a new procedure that was recently published. The new procedure is generally considered more scientifically rigorous, but the Commission believes that either procedure provides an adequate measure of teletherapy dose rate.

The exposure rate from a radioactive source goes down as time progresses due to source radioactive decay. To ensure accurate dose delivery, the regulation requires that licensees mathematically take this into account in calculating patient doses. The regulation requires that the licensee use time periods of not longer than one month when making decay calculations. This will ensure that the actual dose does not differ from the calculated dose by more than one percent due to this decay error.

Section 35.633 Periodic spot-checks, and § 35.642 Safety checks for teletherapy facilities.

A monthly spot-check is required by § 35.22 of the current regulations to ensure that the teletherapy unit is giving the expected radiation dose. The following changes from current requirements have been made. Timer accuracy has been clarified to include on-off error. The accuracy of localization devices has been added. Error in either may result in incorrect administration of radiation. The qualified teletherapy calibration expert must review the results of the spot-check measurements within fifteen days, and must notify the licensee in writing of the results of the monthly check, to assure the licensee and the Commission that the check results were reviewed by a qualified individual. The Commission has made a judgment that a response period of less than fifteen days would be unreasonably expensive.

A requirement to check certain safety systems in the teletherapy facility has been added. These checks are needed to assure that safety systems required by other sections of the regulations are working properly. They need not be performed by the qualified teletherapy calibration expert. Devices that are not working must be promptly repaired in order to assure safety in the teletherapy facility. In case of failure of the viewing system, the regulation would allow the physician to decide whether treatments should be interrupted. This would *not* relieve the licensee from the requirement to promptly repair the viewing system. The regulation would require that the teletherapy unit not be used in case of door interlock failure because that is the mechanism that protects workers and the public from unintentional irradiation. However, the Commission invites comment as to whether additional administrative procedures or personal supervision would provide an acceptable balance of worker safety and medical use needs.

Section 35.641 Radiation surveys for teletherapy facilities.

The Commission has used these maximum and average permissible source leakage radiation levels for several years as license conditions. They are consistent with guidance from the NCRP in its Report No. 33, "Medical X-ray and Gamma-ray Protection for Energies up to 10 MeV-Equipment Design and Use," Section 4.2.2. The Commission has made a judgment that they are sufficiently restrictive to keep exposures as low as reasonably achievable. The required location of the collimators during the head leakage survey is a new specification. It is based on the fact that, for individuals who receive most of their radiation dose from working around a source in the "off" position, the collimators will normally be at the setting used for the last treatment.

Section 35.643 Modification of teletherapy unit or room before beginning a treatment program.

The section is needed to require that licensees take prompt action to reduce exposure rates in uncontrolled areas that may be caused by errors in design or construction of the teletherapy facility.

Section 35.644 Reports of teletherapy surveys, checks, tests, and measurements.

Given the potential for high exposure to workers and the public from improperly installed teletherapy units, the radiation survey information required by § 35.644 is needed to assure that teletherapy units have been properly installed and are sufficiently shielded to ensure compliance with the exposure limits of Part 20.

Section 35.645 Five-year inspection.

Many licensees replace teletherapy sources at five year intervals. Requiring a mechanical check at five year intervals helps to assure that the source exposure mechanism is in good working order and will not stick in the exposed position. The mechanic who exchanges sources and inspects units can remove the source, inspect the drawer mechanism, and then install the new source. More frequent checks would require greater time near a very radioactive source. Less frequent checks would not be sufficient to assure the continuous proper operation of the exposure mechanism. The identification information in the record is needed to establish which unit was inspected, when, and by whom. The remaining information is needed so the Commission may determine that the inspection was of sufficient depth to assure the health and safety of workers and the public.

Subpart J—Training and Experience Requirements

Sections 35.900(b), 35.910(b), 35.920(b), 35.930(b), 35.940(b), 35.941(b), 35.950(b),

nuclear medicine training programs for physicians. These three boards

Conforming Amendment

New Section Number	Origin	New Section Number	Origin

VOL 50 ISS 144 JL 26 1985 UMI

Subpart J—Training and Experience Requirements

A combination of theoretical and practical training and experience is necessary to assure the safe use of byproduct material. The criteria in this subpart were developed by the staff with the advice of the Advisory Committee on the Medical Use of Isotopes (ACMUI). The requirements for the Radiation Safety Officer have not been published before. The requirements for authorized users are similar to those published as an amendment to Appendix A of Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," in the Federal Register on December 2, 1982 (47 FR 54376). The requirements for the qualified teletherapy calibration expert are similar to those required of a qualified expert pursuant to the current § 35.24.

Consistent with current practice, if individuals do not meet the training and experience standards, the NRC will review their credentials with regard to the materials requested and these standards and make authorizations on a case-by-case basis.

The Commission has received and is reviewing suggested altenative training standards for some methods of use. The review is being handled as a separate project. If any changes in training standards come out of that project, they will be published for public comment and incorporated into this subpart or elsewhere, as appropriate.

Sections 35.900(a), 35.910(a), 35.920(a), 35.930(a), 35.940(a), 35.941(a), 35.950(a), 35.960(a), and 35.961(a), concerning certification.

The Commission has made a judgment that in some cases, certification by an appropriate professional board provides proof of adequate training and experience because the criteria which must be met to attain certification are more stringent than the training and experience required by the Commission.

Section 35.900(c) Authorized user as a Radiation Safety Officer.

The training and experience required by the Commission includes safety considerations for the byproduct material that the authorized user may use. Therefore, authorized users are qualified to oversee the safe use of byproduct material that they are authorized to use pursuant to the conditions of the license.

Sections 35.900(b), 35.910(b), 35.920(b), 35.930(b), 35.940(b), 35.941(b), 35.950(b), 35.960(b), and 35.961(b) Training and experience.

The criteria identified in these sections were developed by the staff with the assistance of the ACMUI over the past several years. The Commission has made a judgment that, for each type of use, the training and experience described is necessary to ensure the safe use of byproduct material. The duration of training and experience is usually specified in classroom (not credit) hours. Training may be received as part of a formal program at an accredited university, at a proprietary school, from an equipment or radiopharmaceutical manufacturer, or elsewhere. NRC will carefully review this information before listing an individual on a license. Supervised work experience must be received at an institution under an authorized user preceptor because usually only such an individual is qualified to teach the clinical use of byproduct material, and, if the experience were not received at an institution, the student would be less likely to receive experience with all the methods of use commonly used or all the management problems associated with the safe handling of byproduct material.

Sections 35.910(c) and 35.920(c) Integrated programs.

The Accreditation Council for Graduate Medical Education (ACGME) reviews and approves training programs for physicians. Approval of these training programs is based, in part, on adequate radiation safety content. The Commission has made a judgment that individuals who have successfully completed an approved training program have received sufficient training and experience to use byproduct material safely.

Sections 35.901 and 35.970 Current Radiation Safety Officers and Authorized users.

The staff has reviewed and found acceptable the training and experience of each individual who is currently listed as a Radiation Safety Officer or an authorized user. Further review of the credentials of these individuals is unnecessary.

Section 35.971 Physician training exception.

In addition to the ACGME, the American Board of Radiology, the American Board of Osteopathic Radiology, and the American Board of Nuclear Medicine review and approve nuclear medicine training programs for physicians. These three boards independently arrived at the conclusion that, while currently acceptable, a three month training program may not allow sufficient time in the future to provide the training and experience needed to develop a satisfactory level of expertise in nuclear medicine, including radiation safety. All three boards and the ACGME have therefore extended their training programs to six months duration for those who begin their training after June 30, 1984. The Commission has made a judgment that, in the meantime, individuals who have successfully completed an approved three month training program have received sufficient training and experience to use byproduct material safely.

Section 35.972 Recentness of Training.

Radiation safety regulations and practices may be expected to change with time. The Commission has made a judgment that training received within the five years preceding submittal of an application is sufficiently up-to-date to assure the safe use of byproduct material. If an individual received training more than five years before the application and has not had continuing involvement in the field, training must be repeated.

Subpart K—Enforcement

Section 35.990 Violations.

This section gives notice that the Commission will initiate legal proceedings if necessary to enforce requirements.

Section 35.999 Resolution of conflicting requirements during transition period.

As discussed before, to allow for an orderly transition from licenses granted under the present regulations to licenses granted under the new regulations, if there is a conflict between the final rule and a licensee's radiation safety program as described in the statements, representations, and procedures submitted in support of the license request, and if the license was issued before the effective date of the final rule and has not been renewed, the requirements and authorizations of the licensee's radiation safety program will take precedence over the final rule. However, if the licensee exercises its right to make a radiation safety program change as authorized under § 35.36, the changed procedure must be in accord with the revised regulation.

Conforming Amendment

Section 31.11 General license for use of byproduct material for certain in vitro clinical or laboratory testing.

Many medical use licensees now use byproduct material for in vitro work under the provisions of current §§ 31.11 and 35.14(c). The proposed conforming amendment grandfathers them. In the future, new and renewal applicants will have to specifically request permission to use § 31.11 materials as a separate line item on their applications. The use of materials listed in § 31.11 within the inventory limits of that section will only be subject to the requirements of that section; consistent with current regulations, the use of materials listed in § 31.11 will *not* be subject to the requirements of Parts 19, 20, 21, and 35 except for the Mock Iodine-125 disposal, loss or theft, and notification clause of § 31.11(f).

Derivation Table

The following derivation table identifies the origin of each section of the proposed regulations. Sources of the proposed regulations include 10 CFR Parts 19, 30, and 35, Federal Register Notices (FR), frequently used license conditions, licensing staff policy, current regulatory guides (RG), Office of Inspection and Enforcement bulletins, the United States Pharmacopeia, and new text prepared by staff.

New Section Number	Origin
Subpart A—General Information	
35.1 Purpose and scope	35.1 revised.
35.2 Licenses required	35.2 revised.
35.8 Reporting recordkeeping, and application requirements: OMB Approval.	New text.
35.15 Definitions:	
Agreement State	20.3.
ALARA	Acronym.
Authorized users	Term used on licenses.
Dentist	New term.
Medical institution	Do.
Management	Do.
Medial use	35.3(a) revised.
Misadministration	35.41.
Mobile nuclear medicine service.	New term.
Output	Do.
Physician	35.3(b) revised.
Podiatrist	New term.
Qualified teletherapy calibration expert.	Do.
Radiation Safety Officer	Term used on licenses.
Sealed source	30.4(r) verbatim.
Visiting authorized user	New term; similar to "visiting authorized user" license condition.
35.16 Application for license, amendment, or renewal.	35.4 revised.
35.17 License amendments	New text; compare 30.36.
35.19 Notifications	New text.
35.28 License issuance	New text; compare 30.36.
35.29 Specific exemptions	New text; compare 30.11.
Subpart B—General Administrative Requirements	
35.30 ALARA program	New text; see RG 10.8 Appendix O revised.
35.31 Radiation Safety Officer	RG 10.8.
35.32 Radiation Safety Committee.	35.11(b) revised.
35.33 Requirements for authority and statement of responsibilities.	New text.
35.34 Visiting authorized user	License condition.
35.35 Mobile nuclear medicine service administrative requirements.	Licensing policy.
35.36 Radiation safety program changes.	New text.
35.37 Records and reports of misadministrations.	35.42.
35.38 Supervision	Expanded from RG 10.8 p. 3.
35.49 Suppliers	35.14 revised.
Subpart C—General Technical Requirements	
35.50 Possession, use, calibration, and check of dose calibrators.	RG 10.8 Appendix D2 revised, and new text.
35.51 Calibration and check of survey instruments.	RG 10.8 Appendix D1 revised, and new text.
35.53 Measurement of radio pharmaceutical dosages.	Proposed rulemaking 35.15 (46 FR 43940; September 1, 1981).
35.58 Authorization for calibration and reference sources.	35.14(d) revised.
35.59 Requirements for possession of sealed sources.	35.14(e)(1)(i), 35.14(f) revised.
35.60 Syringe shields	Inspection and Enforcement letter April 16, 1979.
35.61 Vial shields	Inspection and Enforcement letter April 16, 1979.
35.62 Syringe labels	New text.
35.63 Vial shield labels	Do.
35.70 Surveys for contamination and ambient radiation exposure rate.	RG 10.8 Appendix I revised.
35.75 Release of patients containing radiopharmaceuticals or permanent implants.	New text.
35.80 Mobile nuclear medicine service technical requirements.	Licensing policy.
35.90 Storage of volatiles and gases.	RG 10.8 Appendix M revised.
35.92 Decay-in-storage	License condition.
Subpart D—Uptake, Dilution, and Excretion	
35.100 Use of radiopharmaceuticals, for uptake, dilution, and excretion studies.	35.31 and 35.100 (I) revised.
35.120 Possession of survey instrument.	RG 10.8 page 5.
Subpart E—Imaging and Localization	
35.200 Use of radiopharmaceuticals, generators, and reagent kits, for imaging and localization studies.	35.100 (II) and (III) revised.
35.204 Permissible molybdenum-99 concentration.	US Pharmacopeia.
35.205 Control of aerosols and gases.	RG 10.8 Appendix M revised.
35.220 Possession of survey instruments.	RG 10.8 page 5.
Subpart F—Radiopharmaceuticals for Therapy	
35.300 Use of radiopharmaceuticals for therapy.	35.100 (IV) and (V) revised.
35.310 Safety instruction	19.12 revised.
35.315 Safety precautions	RG 10.8 Appendix K.
35.320 Possession of survey instruments.	RG 10.8 page 5.
Subpart G—Sources for Brachytherapy	
35.400 Use of sources for brachytherapy.	35.100 (VI) revised.
35.404 Release of patients treated with temporary implants.	35.14(b)(5)(vii) revised.
35.406 Brachytherapy sources inventory.	RG 8.18 page 8.
35.410 Safety instruction	19.12 revised.
35.415 Safety precautions	RG 10.8 Appendix L.
35.420 Possession of survey instruments.	New text.
Subpart H—Sealed Sources for Diagnosis	
35.500 Use of sealed sources for diagnosis.	New text.
35.520 Availability of survey instrument.	New text.
Subpart I—Teletherapy	
35.600 Use of a sealed source in a teletherapy unit.	New text.
35.605 Maintenance and repair restrictions.	License condition.
35.606 Amendments	New text.
35.610 Safety instruction	License condition and new text.
35.615 Doors, interlocks, and warning systems.	License condition.
35.620 Possession of survey instrument.	New text.
35.621 Radiation monitoring device.	35.25 (48 FR 2116; Jan. 18, 1983).
35.622 Viewing system	License condition.
35.630 Dosimetry equipment	35.22, 35.23 revised.
35.632 Full calibration measurements.	35.21 revised.
35.633 Periodic spot-checks	35.22 revised and license condition.
35.641 Radiation surveys for teletherapy facilities.	License condition.
35.642 Safety checks for teletherapy facilities.	License condition.
35.643 Modification of teletherapy unit or room before beginning a treatment program.	New text.
35.644 Reports of teletherapy surveys, checks, tests and measurements.	License condition.
35.645 Five-year inspection	License condition.
Subpart J—Training and Experience Requirements	
35.900 Radiation Safety Officer	New text.
35.901 Training for experienced Radiation Safety Officer.	Do.
35.910 Training for uptake, dilution, and excretion studies.	Do.
35.920 Training for imaging and localization studies.	Revision of Federal Register Notice (47 FR 53476; Dec. 2, 1982).
35.930 Training for therapeutic use of radiopharmaceuticals.	Revision of Federal Register Notice (47 FR 53476; Dec. 2, 1982).
35.940 Training for therapeutic use of brachytherapy sources.	Revision of Federal Register Notice (47 FR 53476; Dec. 2, 1982).
35.941 Training for ophthalmic use of strontium-90.	Revision of Federal Register Notice (47 FR 53476; Dec. 2, 1982).
35.950 Training for use of sealed sources for diagnosis.	New text.
35.960 Training for teletherapy	Revision of Federal Register Notice (47 FR 53476; Dec. 2, 1982).
35.961 Training for qualified teletherapy calibration expert.	35.24 revised.
35.970 Training for experienced authorized users.	New text.
35.971 Physician training in a three month program.	Do.
35.972 Recentness of training	Revision of Federal Register Notice (47 FR 53476; Dec. 2, 1982).
Subpart K—Enforcement	
35.980 Violations	New text.
35.999 Resolution of conflicting requirements during transition period.	Do.

Administrative Statements

Finding of No Significant Environmental Impact: Availability

The Commission is proposing to completely revise the regulations

governing the medical use of byproduct material. The Commission has

in accordance with section 605(b) of the Regulatory Flexibility Act of 1980, the

impact should notify the Commission of this in a comment that indicates:

1. 10 CFR Part 35 is revised to read as follows:

Subpart F—Radiopharmaceuticals for Therapy

Authority: Secs. 81, 161, 182, 183, 68 Stat.

VOL 50 ISS 144 JL 26 1985 UMI

governing the medical use of byproduct material. The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that promulgation of this regulation is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The radiation levels and release of byproduct material authorized by this proposed revision are consistent with the Commission's other regulations and internationally accepted standards. Most radiation experts agree that levels and releases that are within these regulations and standards will not have a significant effect on the quality of the human environment. The assessment analyzes the possible impact of release of radioactive patients, the transportation of byproduct material for medical use, storage, and control of aerosols and gases, waste disposal by decay-in-storage, and dose rates outside teletherapy rooms. The environmental assessment and finding of no significant impact on which this determination is based are available for public inspection at the NRC Public Document Room, 1717 H Street NW, Washington, DC. Single copies of the evironmental assessment and finding of no significant impact are available from Mr. McElroy (See "For further information contact:" heading).

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW, Washington, DC Single Copies of the analysis may be obtained from Mr. McElroy (see "For further information contact:" heading).

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted as indicated in the ADDRESSES heading.

Regulatory Flexibility Certification

Based on the information available at this stage of the rulemaking proceeding, in accordance with section 605(b) of the Regulatory Flexibility Act of 1980, the Commission certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The NRC has issued approximately 2500 medical licenses under 10 CFR Part 35. Of these, approximately 2200 are held by institutions, and approximately 300 by individual physicians. Most of the institutional licensees are community hospitals. The Small Business Administration size standards, 13 CFR Part 121, (49 FR 5037; February 9, 1984) classify a hospital or physician's office as a small entity if its average gross annual receipts do not exceed $3.5 million. Under these size standards, some NRC medical licensees could be considered "small entities" for purposes of the Regulatory Flexibility Act.

The number of medical licensees that would fall into the small entity category does not constitute a substantial number for purposes of the Regulatory Flexibility Act.

The primary objective of the proposed rule is to simplify the medical licensing process by consolidating requirements without lessening the protection necessary for public health and safety. This will be accomplished through incorporation of frequently used license conditions into the regulations and the elimination or modification of requirements that are not essential to the protection of public health and safety. These steps will make it easier for a licensee to determine what is required to obtain a license and what is required of licensees. Therefore, there should not be a significant economic impact on these small entities.

The Commission has prepared a preliminary regulatory analysis for this proposed regulation which contains information concerning the anticipated economic effect of this regulation on licensees and presents the basis for the Commission's belief that the proposed regulation would not result in significant additional costs to any licensees. It is available for public inspection in the NRC Public Document Room at 1717 H Street NW., Washington, DC. Single copies are available from Mr. McElroy (see "For further information contact:" heading).

Because of the widely differing conditions under which licensees covered by this proposed regulation operate, the Commission specifically seeks public comment from small entities. Any small entity subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission of this in a comment that indicates:

(1) The licensee's size in terms of annual income or revenue, number of employees and, if the licensee is a treatment center, the number of beds and patients treated annually;

(2) How the proposed regulation would result in a significant economic burden on the licensee as compared to that on a larger licensee;

(3) How the proposed regulations could be modified to take into account the licensee's differing needs or capabilities;

(4) The benefits that would be gained or the detriments that would be avoided to the licensee, if the proposed regulations were modified as suggested by the Commenter; and

(5) How the regulation, as modified, would still adequately protect public health and safety.

List of Subjects

10 CFR Part 30

Byproduct material, Government contracts, Intergovernmental relations, Isoptes, Nuclear materials, Penalty, Radiation Protection, Reporting and recordkeeping requirements.

10 CFR Part 31

Byproduct material, Labeling, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 32

Byproduct materials, Labeling, Nuclear materials, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 35

Byproduct material, Drugs, Health devices, Health professions, Incorporation by reference, Medical devices, Nuclear materials, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Government contracts, Hazardous materials—transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, Uranium.

Under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553 the NRC is proposing to adopt the following revision of 10 CFR Part 35 and the following amendments to 10 CFR Parts 30, 31, 32, and 40.

1. 10 CFR Part 35 is revised to read as follows:

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

Sec.

Subpart A—General Information

35.1 Purpose and scope.
35.2 License required.
35.8 Information collection requirements: OMB approval.
35.15 Definitions.
35.16 Application for license, amendment, or renewal.
35.17 License amendments.
35.18 Notifications.
35.28 License issuance.
35.29 Specific exemptions.

Subpart B—General Administrative Requirements:

35.30 ALARA program.
35.31 Radiation Safety Officer.
35.32 Radiation Safety Committee.
35.33 Requirement for authority and statement of responsibilities.
35.34 Visiting authorized user.
35.35 Mobile nuclear medicine service administrative requirements.
35.36 Radiation safety program changes.
35.37 Records and reports of misadministrations.
35.38 Supervision.
35.49 Suppliers.

Subpart C—General Technical Requirements

35.50 Possession, use, calibration, and check of dose calibrators.
35.51 Calibration and check of survey instruments.
35.53 Measurement of radiopharmaceutical dosages.
35.58 Authorization for calibration and reference sources.
35.59 Requirements for possession of sealed sources and brachytherapy sources.
35.60 Syringe shields.
35.61 Vial shields.
35.62 Syringe labels.
35.63 Vial shield labels.
35.70 Surveys for contamination and ambient radiation exposure rate.
35.75 Release of patients containing radiopharmaceuticals or permanent implants.
35.80 Mobile nuclear medicine service technical requirements.
35.90 Storage of volatiles and gases.
35.92 Decay-in-storage.

Subpart D—Uptake, Dilution, and Excretion

35.100 Use of radiopharmaceuticals for uptake, dilution, and excretion studies.
35.120 Possession of survey instrument.

Subpart E—Imaging and Localization

35.200 Use of radiopharmaceuticals, generators, and reagent kits for imaging and localization studies.
35.204 Permissible molybdenum-99 concentration.
35.205 Control of aerosols and gases.
35.220 Possession of survey instruments.

Subpart F—Radiopharmaceuticals for Therapy

35.300 Use of radiopharmaceuticals for therapy.
35.310 Safety instruction.
35.315 Safety precautions.
35.320 Possession of survey instruments.

Subpart G—Sources for Brachytherapy

35.400 Use of sources for brachytherapy.
35.404 Release of patients treated with temporary implants.
35.406 Brachytherapy sources inventory.
35.410 Safety instruction.
35.415 Safety precautions.
35.420 Possession of survey instrument.

Subpart H—Sealed Sources for Diagnosis

35.500 Use of sealed sources for diagnosis.
35.520 Availability of survey instrument.

Subpart I—Teletherapy

35.600 Use of a sealed source in a teletherapy unit.
35.605 Maintenance and repair restrictions.
35.606 Amendments.
35.610 Safety instruction.
35.615 Doors, interlocks, and warning systems.
35.620 Possession of survey instrument.
35.621 Radiation monitoring device.
35.622 Viewing system.
35.630 Dosimetry equipment.
35.632 Full calibration measurements.
35.633 Periodic spot-checks.
35.641 Radiation surveys for teletherapy facilities.
35.642 Safety checks for teletherapy facilities.
35.643 Modification of teletherapy unit or room before beginning a treatment program.
35.644 Reports of teletherapy surveys, checks, tests, and measurements.
35.645 Five-year inspection.

Subpart J—Training and Experience Requirements

35.900 Radiation Safety Office.
35.901 Training for experienced Radiation Safety Officer.
35.910 Training for uptake, dilution, and excretion studies.
35.920 Training for imaging and localization studies.
35.930 Training for therapeutic use of radiopharmaceuticals.
35.940 Training for therapeutic use of brachytherapy sources.
35.941 Training for ophthalmic use of strontium-90.
35.950 Training for use of sealed sources for diagnosis.
35.960 Training for teletherapy.
35.961 Training for qualified teletherapy calibration expert.
35.970 Training for experienced authorized users.
35.971 Physician training in a three month program.
35.972 Recentness of training.

Subpart K—Enforcement

35.990 Violations.
35.999 Resolution of conflicting requirements during transition period.

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273): §§ 35.2, 35.17, 35.30 (a) and (b), 35.31 (a) and (b), 35.32, 35.33, 35.34(a), 35.36(a), 35.38, 35.49, 35.50 (a)–(d), 35.51 (a)–(d), 35.53 (a) and (b), 35.59 (a)–(c), (e)(1), (g) and (h), 35.60, 35.61, 35.62, 35.63, 35.70 (a)–(f), 35.75, 35.80 (a)–(e), 35.90, 35.92(a), 35.100(b), 35.120, 35.200 (b) and (c), 35.204 (a) and (b), 35.205, 35.220, 35.310(a), 35.315, 35.320, 35.400, 35.404(a), 35.408 (a) and (c), 35.410(a), 35.415, 35.420, 35.500, 35.520, 35.605, 35.608, 35.610 (a) and (b), 35.615, 35.620, 35.621 (a)–(d), 35.621 (f) and (g), 35.622, 35.630 (a) and (b), 35.632 (a)–(f), 35.633 (a)–(i), 35.641 (a) and (b), 35.642 (a) and (b), 35.643 (a) and (b), 35.645 (a) and (b), 35.900, 35.910, 35.920, 35.930, 35.940, 35.941, 35.950, 35.960, 35.961, 35.970, and 35.971 are issued under sec. 161b, 68 Stat. 948 as amended (42 U.S.C. 2201(b)); and §§ 35.18, 35.30(c), 35.31(b), 35.32(b), 35.33(b), 35.34 (a) and (c), 35.35(b), 35.36(b), 35.37 (a)–(d), 35.50(e), 35.51(e), 35.53(c), 35.59 (d) and (e)(2), 35.59 (g) and (i), 35.70(g), 35.80(f), 35.92(b), 35.204(c), 35.310(b), 35.315(b), 35.404(b), 35.408 (b) and (d), 35.410(b), 35.415(b), 35.610(c), 35.621(e), 35.630(c), 35.632(g), 35.633(j), 35.641(c), 35.642(c), 35.643(c), 35.644 and 35.645(c) are issued under sec. 161o, 68 Stat. 950 as amended (42 U.S.C. 2201(o)).

Subpart A—General Information

§ 35.1 Purpose and scope.

This part prescribes requirements and provisions for the medical use of byproduct material and for issuance of specific licenses authorizing the medical use of this material. These requirements and provisions provide for the protection of the public health and safety. The requirements and provisions of this part are in addition to, and not in substitution for, others in this chapter. The requirements and provisions of Parts 19, 20, 21, 30, 71, and 170 of this chapter apply to applicants and licensees subject to this part unless specifically exempted.

§ 35.2 License required.

(a) No person shall manufacture, produce, acquire, receive, possess, use, or transfer byproduct material for medical use except in accordance with a specific license issued by the Commission or an Agreement State and as allowed in paragraph (b) of this section.

(b) An individual may receive, possess, use, or transfer byproduct material in accordance with the regulations in this chapter under the supervision of an authorized user as provided in § 35.38, unless prohibited by license condition.

§ 35.8 Information collection requirements: OMB approval.

(3) A radiopharmaceutical or radiation by a route of administration

instructions in Regulatory Guide 10.8

(e) If the applicant is located in a

§ 35.29 Specific exemptions.

§ 35.31 Radiation Safety Officer

VOL 50 ISS 144 JL 26 1985 UMI

§ 35.8 Information collection requirements: OMB approval.

(a) The Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements in this part under control number 3150–.

(b) The approved information collection requirements contained in this part appear in §§ 35.16, 35.17, 35.18, 35.30(c), 35.31(b), 35.32(a), 35.33(b), 35.34(c), 35.35(b), 35.36, 35.37(a)–(d), 35.50(e), 35.51(e), 35.53(c), 35.59 (d), (e), (g), and (i), 35.62, 35.63, 35.70(g), 35.80(f), 35.92(b), 35.204(c), 35.310, 35.315, 35.404(b), 35.406, 35.410(b), 35.606, 35.610, 35.621(e), 35.630(c), 35.632(g), 35.633 (e), and (j), 35.641(c), 35.642(c), 35.643(c), 35.644, and 35.645(c).

§ 35.15 Definitions.

"Agreement State" means any State with which the Commission or the Atomic Energy Commission has entered into an effective agreement under subsection 274b of the Atomic Energy Act of 1954, as amended.

"ALARA" means as low as reasonably achievable.

"Area of use" means a portion of a physical structure that has been set aside for the purpose of receiving, using, or storing byproduct material.

"Authorized user" means a physician, dentist, or podiatrist who is identified as an authorized user on a Commission or Agreement State license that authorizes the medical use of byproduct material.

"Dentist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry on humans.

"Management" means the chief executive officer.

"Medical Institution" means an organization in which several medical disciplines are practiced.

"Medical use" means the intenational internal or external administration of byproduct material, or the radiation therefrom, to human beings in the practice of medicine in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

"Misadministration" means the administration of:

(1) A radiopharmaceutical or radiation from a sealed source other than the one intended;

(2) A radiopharmaceutical or radiation to the wrong patient;

(3) A radiopharmaceutical or radiation by a route of administration other than that intended by the prescribing physician;

(4) A diagnostic dosage of a radiopharmaceutical differing from the prescribed dosage by more than 50 percent;

(5) A therapeutic dosage of a radiopharmaceutical differing from the prescribed dosage by more than 10 percent; or

(6) A therapeutic radiation dose from a sealed source such that errors in the source calibration, time of exposure, and treatment geometry result in a calculated total treatment dose differing from the final prescribed total treatment dose by more than 10 percent.

"Mobile nuclear medicine service" means the transportation and medical use of byproduct material.

"Output" means the exposure rate, dose rate, or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

"Physician" means a medical doctor or doctor of osteopathy licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine.

"Podiatrist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry on humans.

"Qualified teletherapy calibration expert" means the individual identified as the qualified teletherapy calibration expert on a Commission license.

"Radiation Safety Officer" means the individual identified as the Radiation Safety Officer on a Commission license.

"Sealed source" means any byproduct material that is encased in a capsule designed to prevent leakage or escape of the byproduct material.

"Visiting authorized user" means an authorized user who is not identified on the license of the host.

§ 35.16 Application for license, amendment, or renewal.

(a) For use sited in a medical institution, only the institution's management may apply. For use not sited in a medical institution, any person may apply.

(b) An application for a license for medical use of byproduct material as described in §§ 35.100, 35.200, 35.300, 35.400, and 35.500 of this part must be made by filing an original and one copy of Form NRC–313, "Application for Materials License." For guidance in completing the form, refer to the instructions in Regulatory Guide 10.8 Revision 2, "Guide for the Preparation of Applications for Medical Programs." A request for a license amendment or renewal may be submitted as an original and one copy in letter format.

(c) An application for a license for medical use of byproduct material as described in § 35.600 of this part must be made by filing an original and one copy of Form NRC–313. For guidance in completing the form, refer to the instructions contained in Regulatory Guide 10.—, "Guide for the Preparation of Applications for Teletherapy Programs." A request for a license amendment or renewal may be submitted as an original and one copy in letter format.

(d) An applicant shall mail the completed request as directed below.

(1) If the applicant is a Federal agency in Region I or is located in Connecticut, the District of Columbia, Delaware, Maine, Massachusetts, New Jersey, Pennsylvania, or Vermont, it shall mail or deliver the completed application form to U.S. Nuclear Regulatory Commission, Region I, Material Licensing, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(2) If the applicant is a Federal agency in Region II or is located in Virginia, West Virginia, Puerto Rico, or the Virgin Islands, it shall mail or deliver the completed application form to U.S. Nuclear Regulatory Commission, Region II, Material Licensing Section, 101 Marietta Street, Suite 2900, Atlanta, Georgia 30323.

(3) If the applicant is a Federal agency in Region III or is located in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, or Wisconsin, it shall mail or deliver the completed application form to U.S. Nuclear Regulatory Commission, Region III, Material Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

(4) If the applicant is a Federal agency in Region IV or is located in Oklahoma, Montana, South Dakota, or Wyoming, it shall mail or deliver the completed application form to U.S. Nuclear Regulatory Commission, Region IV, Material Licensing Section, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

(5) If the applicant is a Federal agency in Region V or is located in Alaska, Hawaii, or Guam, it shall mail or deliver the completed application form to U.S. Nuclear Regulatory Commission, Region V, Material Licensing Section, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596.

(e) If the applicant is located in a State, territory, or possession that is not mentioned in paragraphs (d) (1) through (5) of this section, it shall:

(1) Mail the completed application form to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or

(2) Deliver the completed application form to the Commission offices at:

(i) 1717 H Street NW., Washington, DC, or

(ii) 7915 Eastern Avenue, Silver Spring, Maryland.

§ 35.17 License amendments.

A licensee shall apply for and must receive a license amendment:

(a) Before it uses byproduct material for a method or type of medical use not permitted by the license issued under this part;

(b) Before it permits anyone, except a visiting authorized user described in § 35.34, to work as an authorized user under the license;

(c) Before it changes Radiation Safety Officers or Qualified Teletherapy Calibration Experts;

(d) Before it receives byproduct material in excess of the amount authorized on the license; and

(e) Before it adds to or changes the location or locations of use or mailing address identified on the license.

§ 35.18 Notifications.

A licensee shall notify the Commission by letter within thirty days when an authorized user, Radiation Safety Officer, or Qualified Teletherapy Calibration Expert, permanently discontinues performance of duties under the license. It shall mail the report to the appropriate address identified in § 35.16.

§ 35.28 License issuance.

The Commission shall issue a license for the medical use of byproduct material for a term of five years if:

(a) The applicant has filed Form NRC–313 "Application for Materials License" in accordance with the instructions in § 35.16;

(b) The applicant has paid any applicable fee as provided in Part 170 of this chapter;

(c) The Commission finds the applicant equipped and committed to observe the safety standards established by the Commission for the protection of the public health and safety; and

(d) The applicant meets the requirements of Part 30 of this chapter.

§ 35.29 Specific exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are othewise in the public interest.

Subpart B—General Administrative Requirements

§ 35.30 ALARA program.

(a) Each medical institution licensee shall implement a program to maintain individual and collective dose equivalents as low as reasonably achievable.

(b) To satisfy the requirement of paragraph (a) of this section:

(1) Management, the Radiation Safety Officer, and all authorized users must participate in the establishment, implementation, and operation of the program as required by the regulations or requested by the Radiation Safety Committee.

(2) The program must include an annual review by the Radiation Safety Committee of the types and amounts of byproduct material used, occupational dose reports or summaries, and continuing education and training for all personnel who work with or in the vicinity of byproduct material. The purpose of the review is to ensure that individuals make every reasonable effort to maintain individual and collective occupational dose as low as reasonably achievable, taking into account the state of technology, and the cost of improvements in relation to benefits.

(c) A licensee shall retain a written description of the ALARA program for the duration of the license. The written description must include:

(1) A commitment by management to keep individual and collective occupational dose as low as reasonably achievable;

(2) A requirement that the Radiation Safety Officer brief management once each year on the byproduct material program;

(3) Personnel exposure investigational levels that, when exceeded, will initiate an investigation by the Radiation Safety Officer of the cause of the exposure; and

(4) Personnel exposure investigational levels that, when exceeded, will initiate a prompt investigation by the Radiation Safety Officer of the cause of the exposure and a consideration of actions that might be taken to reduce the probability or recurrence.

§ 35.31 Radiation Safety Officer.

(a) A licensee shall appoint a Radiation Safety Officer responsible for implementing the radiation safety program. The licensee, through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's byproduct material program.

(b) The Radiation Safety Officer shall:

(1) Investigate overexposures, accidents, spills, losses, thefts, unauthorized receipts, uses, transfers, and disposals, and other deviations from approved radiation safety practice and implement corrective actions as necessary;

(2) Establish and implement written policy and procedures for:

(i) Authorizing the purchase of byproduct material;

(ii) Receiving and opening packages of byproduct material;

(iii) Storing byproduct material;

(iv) Keeping an inventory record of byproduct material;

(v) Using byproduct material safely;

(vi) Taking emergency action if control of byproduct material is lost;

(vii) Performing periodic radiation surveys;

(viii) Performing checks of survey instruments and other safety equipment;

(ix) Disposing of byproduct material;

(x) Training personnel who work in or frequent areas where byproduct material is used or stored;

(xi) Keeping a copy of all records and reports required by the Commission regulations, a copy of these regulations, a copy of each licensing request and license and amendments, and the written policy and procedures required by the regulations.

(3) For medical use not at a medical institution, approve or disapprove radiation safety program changes with the advice and consent of management; and

(4) For medical use at a medical institution, assist the Radiation Safety Committee in the performance of its duties.

§ 35.32 Radiation Safety Committee.

Each medical institution licensee shall establish a Radiation Safety Committee to oversee the use of byproduct material. Management may establish more than one committee to meet these responsibilities.

(a) Each Committee must meet the following administrative requirements:

(1) Membership must consist of at least three individuals and must include an authorized user of each type of use

permitted by the license, the Radiation Safety Officer, a representative of the

(8) Establish a table of investigational levels for occupational dose that

(b) Mobile nuclear medicine service

(b) Within 15 days after an initial

(2) Review the supervised individual's

(2) Test each dose calibrator for

VOL 50 ISS 144 JL 26 1985 UMI

permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer. Other members may be included as the licensee deems appropriate.

(2) The Committee must meet a least quarterly.

(3) To establish a quorum and to conduct business, one-half of the Committee's membership must be present, including the Radiation Safety Officer and the management's representative.

(4) The minutes of each Radiation Safety Committee meeting must include:

(i) The date of the meeting;

(ii) Members present;

(iii) Members absent;

(iv) Summary of deliberations and discussions;

(v) Recommended actions and the numerical results of all ballots; and

(vi) ALARA program reviews described in § 35.30(b)(2).

(5) The Committee must provide each member with a copy of the meeting minutes, and retain one copy for the duration of the license.

(b) To oversee the use of licensed material, the Committee must:

(1) Be responsible for monitoring the institutional program to maintain individual and collective doses as low as reasonably achievable;

(2) Review, on the basis of safety and with regard to the training and experience standards in Subpart J of this part, and approve or disapprove any individual who is to be listed as an authorized user, the Radiation Safety Officer, or Qualified Teletherapy Calibration Expert before submitting a license application or request for amendment or renewal;

(3) Review on the basis of safety and approve or disapprove each proposed method of use of byproduct material;

(4) Review on the basis of safety, and approve with the advice and consent of the Radiation Safety Officer and the management representative, or disapprove procedures and radiation safety program changes;

(5) Review quarterly, with the assistance of the Radiation Safety Officer, occupational radiation exposure records of all personnel working with byproduct material;

(6) Review quarterly, with the assistance of the Radiation Safety Officer, all incidents involving byproduct material with respect to cause and subsequent actions taken;

(7) Review annually, with the assistance of the Radiation Safety Officer, the byproduct material program; and

(8) Establish a table of investigational levels for occupational dose that, when exceeded, will initiate investigations and considerations of action by the Radiation Safety Officer.

§ 35.33 Requirement for authority and statement of responsibilities.

(a) A licensee shall provide the Radiation Safety Officer, and at a medical institution the Radiation Safety Committee, sufficient authority and organizational freedom to:

(1) Identify radiation safety problems;

(2) Initiate, recommend, or provide solutions; and

(3) Verify implementation of solutions.

(b) A licensee shall establish in writing the authorities, duties, responsibilities, and radiation safety activities of the Radiation Safety Officer, and at a medical institution the Radiation Safety Committee.

§ 35.34 Visiting authorized user.

(a) A licensee may permit any visiting authorized user to use licensed material for medical use under the terms of the licensee's license for sixty days each year if:

(1) The visiting authorized user has the prior written permission of the licensee's management and, if the use occurs on behalf of an institution, the institution's Radiation Safety Committee;

(2) The licensee has a copy of a Commission or Agreement State license that identifies the visiting authorized user by name as an authorized user for medical use; and

(3) Only those procedures for which the visiting authorized user is specifically authorized by a Commission or Agreement State license are performed by that individual.

(b) A licensee need not apply for a license amendment in order to permit a visiting authorized user to use licensed material as described in paragraph (a) of this section.

(c) A licensee shall retain copies of the records specified in this section for two years after the visiting authorized user's last use of licensed material unless the visiting authorized user has been listed as an authorized user on the licensee's license.

§ 35.35 Mobile nuclear medicine service administrative requirements.

(a) The Commission will only license mobile nuclear medicine service in accordance with Subparts D, E and H of this part and § 31.11 of this chapter to serve clients who do not have a Commission or Agreement State license for the materials listed in those Subparts.

(b) Mobile nuclear medicine service licensees shall retain for the duration of service a letter signed by the management of each location where services are rendered that authorizes use of byproduct material.

§ 35.36 Radiation safety program changes.

(a) A licensee may change the radiation safety procedures and equipment that are used to meet regulatory requirements and that were described in the application for license, renewal, or amendment. The licensee may also receive, use, and store licensed material (except teletherapy sources) in areas of use that were not identified in the application for license, renewal, or amendment.

(b) A licensee shall retain for the duration of the license a record of each change. The record must include the effective date of the change, a copy of the old and new radiation safety procedures, equipment descriptions, or area floor plans, the reason for the change, a summary of radiation safety matters that were considered before making the change, the signature of the Radiation Safety Officer, and the signatures of the affected authorized users and of management or, in a medical institution, the Radiation Safety Committee's chairman and the management representative.

§ 35.37 Records and reports of misadministrations.

(a) When a misadministration involves any therapy procedure, the licensee shall notify by telephone the appropriate NRC Regional Office listed in Appendix D of Part 20 of this chapter. The licensee shall also notify the referring physician of the affected patient and the patient or a responsible relative (or guardian), unless the referring physician agrees to inform the patient or believes, based on medical judgment, that telling the patient or the patient's responsible relative (or guardian) would be harmful to one or the other, respectively. These notifications must be made within 24 hours after the licensee discovers the misadministration. If the referring physician, patient, or the patient's responsible relative or guardian cannot be reached within 24 hours, the licensee shall notify them as soon as practicable. The licensee is not required to notify the patient or the patient's responsible relative or guardian without first consulting the referring physician; however, the licensee shall not delay medical care for the patient because of this.

(b) Within 15 days after an initial therapy misadministration report to NRC, the licensee shall report, in writing, to the NRC Regional Office initially telephoned and to the referring physician, and furnish a copy of the report to the patient or the patient's responsible relative (or guardian) if either was previously notified by the licensee under paragraph (a) of this section. The written report must include the licensee's name; the referring physician's name; a brief description of the event; the effect on the patient; the action taken to prevent recurrence; whether the licensee informed the patient or the patient's responsible relative (or guardian), and if not, why not. The report must not include the patient's name or other information that could lead to identification of the patient.

(c) When a misadministration involves a diagnostic procedure, the licensee shall notify, in writing, the referring physician and the appropriate NRC Regional Office listed in Appendix D of Part 20 of this chapter. Licensee reports of diagnostic misadministrations are due within 10 days after the end of the calendar quarters (defined by March, June, September and December) in which they occur. These written reports must include the licensee's name; the referring physician's name; a description of the event; the effect on the patient; and the action taken to prevent recurrence. The report should not include the patient's name or other information that could lead to identification of the patient.

(d) Each licensee shall retain for ten years a record of each misadministration. The record must contain the names of all individuals involved in the event (including the physician, allied health personnel, the patient, and the patient's referring physican), the patient's social security number, a brief description of the event, the effect on the patient, and the action taken to prevent recurrence.

(e) Aside from the notification requirement, nothing in this section shall affect any rights or duties of licensees and physicians in relation to each other, patients, or responsible relatives (or guardians).

§ 35.38 Supervision.

A licensee who permits the receipt, possession, use, or transfer of byproduct material by an individual under the supervision of an authorized user as allowed by § 35.2(b) shall:

(a)(1) Instruct the supervised individual in the principles of radiation safety appropriate to that individual's use of byproduct material;

(2) Review the supervised individual's use of byproduct material and the records kept to reflect this use;

(3) Require the authorized user to be immediately available by telephone to the supervised individual; and

(4) Require the authorized user to be able to be physically present and available to the supervised individual on one hour's notice. The supervising authorized user need not be present for each use of byproduct material.

(b) Require the supervised individual receiving, possessing, using or transferring byproduct material under § 35.2(b) to:

(1) Follow the instructions of the supervising authorized user;

(2) Follow the procedures established by the Radiation Safety Officer; and

(3) Comply with the regulations of this part and the license conditions with respect to the use of byproduct material.

§ 35.49 Suppliers.

A licensee may use for medical use only:

(a) Byproduct material manufactured, labeled, packaged, and distributed in accordance with a license issued pursuant to the regulations in Part 30 and § 32.72, 32.73, or 32.74 of this chapter or the equivalent regulations of an Agreement State;

(b) Reagent kits that have been manufactured, labeled, packaged, and distributed in accordance with an approval by the Commission pursuant to § 32.73 or an Agreement State under equivalent regulations for the preparation of radiopharmaceuticals for medical use; and

(c) Teletherapy sources manufactured and distributed in accordance with a license issued pursuant to Part 30 of this chapter or the equivalent regulations of an Agreement State.

Subpart C—General Technical Requirements

§ 35.50 Possession, use, calibration, and check of dose calibrators.

(a) A medical use licensee authorized to administer radiopharmaceuticals shall have in its possession a dose calibrator and use it to measure the amount of activity administered to each patient.

(b) A licensee shall:

(1) Check each dose calibrator for constancy with a dedicated check source at the beginning of each day of use. To satisfy the requirement of this paragraph, the check must be done on a frequently used setting with a sealed source of not less than 10 microcuries of radium-226 or 50 microcuries of any other photon-emiyting radionuclide;

(2) Test each dose calibrator for accuracy upon installation and at least annually thereafter by assaying at least two sealed sources containing different radionuclides whose activity the manufacturer has determined within 5 percent of its stated activity, whose activity is at least 10 microcuries for radium-226 and 50 microcuries for any other photon-emitting radionuclide, and at least one of which has a principal photon energy between 100 keV and 500 keV;

(3) Test each dose calibrator for linearity upon installation and at least quarterly thereafter over the range of its use between the highest dosage that will be administered and 10 microcuries; and

(4) Test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator.

(c) A licensee shall also perform appropriate checks and tests required by this section following adjustment or repair of the dose calibrator.

(d) A licensee shall mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 10 microcuries and shall repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.

(e) A licensee shall retain a record of each check and test required by this section for two years unless directed otherwise. The records required in paragraphs (b)(1) through (b)(4) of this section must include:

(1) For paragraph (b)(1), the model and serial number of the dose calibrator, the identity of the radionuclide contained in the check source, the date of the check, the activity measured, and the initials of the individual who performed the check;

(2) For paragraph (b)(2), the model and serial number of the dose calibrator, the model and serial number of each source used and the identity of the radionuclide contained in the source and its activity, the date of the test, the results of the test, and the signature of the Radiation Safety Officer;

(3) For paragraph (b)(3), the model and serial number of the dose calibrator, the calculated activities, the measured activities, the date of the test, and the signature of the Radiation Safety Officer; and

(4) For paragraph (b)(4), the model and serial number of the dose calibrator, the configuration of the source measured, the activity measured for

each volume measured, the date of the test, and the signature of the Radiation Safety Officer.

radionuclide to verify that the dosage does not exceed 10 microcuries;

(c) To satisfy the leak test requirements of this section, the licensee

(g) A licensee in possession of a sealed source or brachytherapy source

§ 35.70 Surveys for contamination and ambient radiation exposure rate

(2) the activity in the patient is less

VOL 50 ISS 144 JL 26 1985 UMI

each volume measured, the date of the test, and the signature of the Radiation Safety Officer.

§ 35.51 Calibration and check of survey instruments.

(a) A licensee shall calibrate the survey instruments used to show compliance with this part before first use, annually, and following repair.

(b) To satisfy the requirements of paragraph (a) of this section, the licensee shall:

(1) Calibrate all scale readings up to 1000 milliroentgens per hour with a radiation source;

(2) Calibrate two readings on each scale that must be calibrated; and

(3) Conspicuously note on the instrument the apparent exposure rate from a dedicated check source as determined at the time of calibration, and the date of calibration.

(c) To satisfy the requirements of paragraph (b) of this section, the licensee shall:

(1) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 10 percent; and

(2) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 20 percent if a correction chart or graph is conspicuously attached to the instrument.

(d) A licensee shall check each survey instrument for proper operation with the dedicated check source before and after each use. The licensee is not required to keep records of these checks.

(e) The licensee shall retain a record of each calibration required in paragraph (a) of this section for two years. To satisfy the requirements of this paragraph, the record must include:

(1) A description of the calibration procedure; and

(2) A description of the source used and the certified exposure rates from the source, and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, and the signature of the individual who performed the calibration.

§ 35.53 Measurement of radiopharmaceutical dosages.

A licensee shall:

(a) Assay before medical use the activity of each radiopharmaceutical dosage that contains more than 10 microcuries of a photon-emitting radionuclide;

(b) Assay before medical use the activity of each radiopharmaceutical dosage with a desired activity of 10 microcuries or less of a photon-emitting radionuclide to verify that the dosage does not exceed 10 microcuries;

(c) Retain a record of the measurements required by this section for two years. To satisfy this requirement, the record must contain the:

(1) Generic name, trade name, or abreviation of the radiopharmaceutical, its lot number, and expiration dates and the radionuclide;

(2) Patient's name and identification number if one has been assigned;

(3) Prescribed dosage and activity of the dosage at the time of measurement, or a notation that the total activity is less than 10 microcuries;

(4) Date and time of the measurement; and

(5) Initials of the individual who made the measurement.

§ 35.58 Authorization for calibration and reference sources.

Any person authorized by § 35.2 for medical use of byproduct material may receive, possess, and use the following byproduct material for check, calibration, and reference use:

(a) Sealed sources manufactured and distributed by a person licensed pursuant to § 32.74 of this chapter or equivalent Agreement State regulations and that do not exceed 6 millicuries each;

(b) Any byproduct material listed in §§ 53.100 or 35.200 with a half-life not longer than 100 days in individual amounts not to exceed 15 millicuries;

(c) Any byproduct material listed in §§ 35.100 or 35.200 with a half-life longer than 100 days in individual amounts not to exceed 200 microcuries each; and

(d) Technetium–99m in individual amounts not to exceed 50 millicuries.

§ 35.59 Requirements for possession of sealed sources and brachytherapy sources.

(a) A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer, and shall maintain the instructions for the duration of source use in a legible form convenient to users.

(b) A licensee in possession of a sealed source shall:

(1) Test the source for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six months before transfer to the licensee; and

(2) Test the source for leakage at intervals not to exceed six months or at other intervals approved by the Commission or an Agreement State and described in the label or brochure that accompanies the source.

(c) To satisfy the leak test requirements of this section, the licensee must:

(1) Take a wipe sample from the sealed source or from the surfaces of the device in which the sealed source is mounted or stored on which radioactive contamination might be expected to accumulate or wash the source in a small volume of detergent solution and treat the entire volume as the sample;

(2) Take the teletheraphy source test sample when the source is in the "off" position; and

(3) Measure the sample so that the leakage test can detect the presence of 0.005 microcuries of radioactive material on the sample.

(d) A licensee shall retain leakage test records for two years. The records must contain the model number, and serial number if assigned, of each source tested, the identity of each source radionuclide and its estimated activity, the measured activity of each test sample expressed in microcuries, a description of the method used to measure each test sample, the date of the test, and the signature of the Radiation Safety Officer.

(e) If the leakage test reveals the presence of 0.005 microcurie or more of removable contamination, the licensee shall:

(1) Immediately withdraw the sealed source from use and store it in accordance with the requirements in Parts 20 and 30 of this chapter; and

(2) File a report within five days of the leakage test with the appropriate Nuclear Regulatory Commission Regional Office listed in Appendix D of Part 20 of this chapter, with a copy to Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, describing the equipment involved, the test results, and the action taken.

(f) A licensee need not perform a leakage test on the following sources:

(1) Sources containing only byproduct material with a half-life of less than 30 days;

(2) Sources containing only byproduct materials as a gas;

(3) Sources containing 100 microcuries or less of beta or gammae-mitting material or 10 microcuries or less of alpha-emitting material;

(4) Sources stored and not being used. The licensee shall, however, test each such source for leakage before any use or transfer unless it has been leakage-tested within six months before the date of use or transfer; and

(5) Seeds of iridium-192 encased in nylon ribbon.

(g) A licensee in possession of a sealed source or brachytherapy source shall conduct a quarterly physical inventory of all such sources in its possession. The licensee shall retain each inventory record for five years. The inventory records must contain the model number of each source, and serial number if one has been assigned, the identity of each source radionuclide and its estimated activity, the location of each source, and the signature of the Radiation Safety Officer.

(h) A licensee in possession of a sealed source or brachytherapy source shall survey with a low range survey meter quarterly all areas where such sources are stored. This does not apply to teletherapy sources in teletheraphy units or sealed sources in diagnostic devices.

(i) A licensee shall retain a record of each survey required in paragraph (h) of this section for two years. The record must include the date of the survey, a plan of each area that was surveyed, the measured exposure rate at several points in each area expressed in millirem per hour, the model number and serial number of the survey instrument used to make the survey, and the signature of the Radiation Safety Officer.

§ 35.60 Syringe shields.

(a) A licensee shall keep syringes that contain byproduct material to be administered in a radiation shield.

(b) A licensee shall require each individual who prepares a radiopharmaceutical kit to use a syringe radiation shield and shall require each individual who administers a radiopharmaceutical by injection to use a syringe radiation shield unless the use of the shield is contraindicated for that injection.

§ 35.61 Vial shields.

A licensee shall require each individual preparing or handling a vial that contains a radiopharmaceutical to keep the vial in a vial radiation shield.

§ 35.62 Syringe labels.

A licensee shall conspicuously label each syringe, or syringe radiation shield that contains a syringe with a radiopharmaceutical, with the radiopharmaceutical's abbreviation or with the type of diagnostic study or therapy procedure to be performed.

§ 35.63 Vial shield labels.

A licensee shall conspicuously label each vial radiation shield that contains a vial of a radiopharmaceutical with the radiopharmaceutical name or its abbreviation.

§ 35.70 Surveys for contamination and ambient radiation exposure rate.

(a) A licensee shall survey with a low range survey meter at the end of each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered.

(b) A licensee shall survey with a low range survey meter at least once each week all areas where radiopharmaceuticals or radiopharmaceutical waste is stored.

(c) A licensee shall conduct the surveys required by paragraphs (a) and (b) of this section so as to be able to measure exposure rates as low as 0.1 milliroentgen per hour.

(d) A licensee shall establish radiation exposure rate action levels for the surveys required by paragraphs (a) and (b) of this section and shall require that the individual performing the survey immediately notify the Radiation Safety Officer if an exposure rate exceeds an action level.

(e) A licensee shall survey for removable contamination once each week all areas where radiopharmaceuticals are routinely prepared for use, administered, or stored.

(f) A licensee shall conduct the surveys required by paragraph (e) of this section so as to be able to detect contamination on each wipe sample of 200 disintegrations per minute.

(g) A licensee shall establish removable contamination action levels for the surveys required by paragraph (e) of this section and shall require that the individual performing the survey immediately notify the Radiation Safety Officer if contamination exceeds the action level.

(h) A licensee shall retain a record of each survey for two years. The record must include the date of the survey, a plan of each area surveyed, the action level established for each area, the measured exposure rate at several points in each area expressed in millirem per hour or disintegrations per minute, the model number of the instrument used to make the survey or analyze the samples, and the initials of the individual who performed the survey.

§ 35.75 Release of patients containing radiopharmaceuticals or permanent implants.

(a) A licensee may not authorize release from confinement for medical care any patient administered a radiopharmaceutical until either:

(1) The exposure rate from the patient is less than 6 milliroentgens per hour at a distance of one meter; or

(2) the activity in the patient is less than 30 millicuries.

(b) A licensee may not authorize release from confinement for medical care of any patient administered a permanent implant until the exposure rate from the patient is less than 6 milliroentgens per hour at a distance of one meter.

§ 35.80 Mobile nuclear medicine service technical requirements.

A licensee providing mobile nuclear medicine service shall:

(a) Transport to each location of use only syringes or vials containing prepared radiopharmaceuticals;

(b) Bring into each location of use all byproduct material to be used and, before leaving, remove all unused byproduct material and all associated waste;

(c) Secure or keep under constant surveillance and immediate control all byproduct material when in transit or at a location of use;

(d) Check survey instruments and dose calibrators as described in §§ 35.50 and 35.51, and check all other transported equipment for proper function before medical use at each location of use;

(e) Carry a calibrated survey meter in each vehicle that is being used to transport byproduct material, and, before leaving a client location of use, survey all radiopharmaceutical areas of use with a low range survey meter to ensure that all radiopharmaceuticals and all associated waste have been removed;

(f) Retain a record of each survey required in paragraph (e) of this section for two years. The record must include the date of the survey, a plan of each area that was surveyed, the measured exposure rate at several points in each area of use expressed in millirem per hour, the model number of the instrument used to make the survey, and the initials of the individual who performed the survey.

§ 35.90 Storage of volatiles and gases.

A licensee shall store volatile radiopharmaceuticals and radioactive gases in a fume hood or in a container with two barriers against release.

§ 35.92 Decay-in-storage.

(a) A licensee may hold byproduct material with a physical half-life of less than 65 days for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of § 20.301 of this chapter if it:

(1) Holds byproduct material for decay a minimum of ten half-lives;

(2) Monitors byproduct material at the

instructions regarding physical form,

pharmaceutical containing byproduct

that are at negative pressure compared

instruction must describe the licensee's

in its possession a portable low level

VOL 50 ISS 144 JL 26 1985 UMI

(2) Monitors byproduct material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with a low range survey meter set on its most sesitive scale and with no interposed shielding;

(3) Removes or obliterates all radiation labels; and

(4) Separates and monitors each generator column individually with all radiation shielding removed to ensure that it has decayed to background radiation level before disposal.

(b) For paragraph (a) of this section, the licensee shall retain a record of each disposal for two years. The record must include the date of the disposal, the date on which the byproduct material was placed in storage, the model number of the survey instrument used, the background radiation exposure rate, the radiation exposure rate measured at the surface of each waste container, and the name of the individual who performed the disposal.

Subpart D—Uptake, Dilution, and Excretion

§ 35.100 Use of radiopharmaceuticals for uptake, dilution and excretion studies.

(a) A licensee may use the following prepared radiopharmaceuticals for diagnostic studies involving the measurement of uptake, dilution, or excretion:

(1) Iodine-131 as sodium iodide, iodinated human serum albumin (IHSA), labeled rose bengal, or sodium iodohippurate;

(2) Iodine-125 as sodium iodide or iodinated human serum albumin (IHSA);

(3) Cobalt-58 as labeled cyanocobalamin;

(4) Cobalt-60 as labeled cyanocobalamin;

(5) Chromium-51 as sodium chromate or labeled human serum albumin:

(6) Iron-59 as citrate;

(7) Technetium-99m as pertechnetate;

(8) Any byproduct material in a radiopharmaceutical and for a diagnostic use involving measurements of uptake, dilution, or excretion for which the Food and Drug Administration (FDA) has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA).

(b) A licensee using a radiopharmaceutical listed in paragraph (a) of this section for a clinical procedure other than one specified in the product label or package insert instructions for use shall comply with the product label or package insert instructions regarding physical form, route of administration and dosage range.

§ 35.120 Possession of survey instrument.

A licensee authorized to use byproduct material for uptake, dilution, and excretion studies shall have in its possession a portable low level radiation survey instrument whose most sensitive scale has a full-scale deflection of not more than 1 milliroentgen per hour.

Subpart E—Imaging and Localization

§ 35.200 Use of radiopharmaceuticals, generators, and reagent kits for imaging and localization studies.

(a) A licensee may use the following radiopharmaceuticals, generators, and reagent kits for imaging and localization studies:

(1) Molybdenum-99/technetium-99m generators for the elution or extraction of technetium-99m as pertechnetate;

(2) Technetium-99m as pertechnetate;

(3) Prepared radiopharmaceuticals and reagent kits for the preparation of the following technetium-99m labeled radiopharmaceuticals:

(i) Sulfur colloid;

(ii) Pentetate sodium;

(iii) Human serum albumin microspheres;

(iv) Polyphosphate;

(v) Macroaggregated human serum albumin;

(vi) Etidronate sodium;

(vii) Stannous pyrophosphate;

(viii) Human serum albumin;

(ix) Medronate sodium;

(x) Gluceptate sodium;

(xi) Oxidronate sodium;

(xii) Disofenin; and

(xiii) Succimer.

(4) Iodine-131 as sodium iodide, iodinated human serum albumin, macroaggregated iodinated human serum albumin, colloidal (microaggregated) iodinated human serum albumin, rose bengal, or sodium iodohippurate;

(5) Iodine-125 as sodium iodide or fibrinogen;

(6) Chromium-51 as human serum albumin;

(7) Gold-198 in colloidal form;

(8) Mercury-197 as chlormerodrin;

(9) Selenium-75 as selenomethionine;

(10) Strontium-85 as nitrate;

(11) Ytterbium-169 as pentetate sodium;

(12) Xenon-133 as a gas or saline solution;

(13) Any byproduct material in a diagnostic radiopharmaceutical or any generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing byproduct material for which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA).

(b) A licensee using the radiopharmaceuticals listed in paragraph (a) of this section for clinical procedures other than those specified in the product label or package insert shall comply with the product label or package insert regarding physical form, route of administration, and dosage range.

(c) A licensee shall elute generators and prepare reagent kits in accordance with the manufacturer's instructions.

(d) The following radiopharmaceuticals, when used for the listed clinical procedures, are not subject to the restrictions in paragraph (b) of this section:

(1) Technetium-99m pentetate as an aerosol for lung function studies.

§ 35.204 Permissible molybdenum-99 concentration.

(a) A licensee may not administer to humans a radiopharmaceutical containing more than 0.15 microcurie of molybdenum-99 per millicurie of technetium-99m.

(b) A licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall measure the molybdenum-99 concentration in each eluate or extract.

(c) A licensee who must measure molybdenum concentration shall retain a record of each measurement for two years. The record must include, for each elution or extraction of technetium-99m, the measured activity of the technetium expressed in millicuries, the measured activity of the molybdenum expressed in microcuries, the ratio of the measures expressed as microcuries of molybdenum per millicurie of technetium, the date of the test, and the initials of the individual who performed the test.

§ 35.205 Control of aerosols and gases.

(a) A licensee who administers radioactive aerosols or gases shall do so with a system that will keep airborne concentrations within the limits prescribed by §§ 20.103 and 20.106 of this chapter.

(b) The system must either be directly vented to the atmosphere through an air exhaust or provide for collection and decay or disposal of the aerosol or gas in a shielded container.

(c) A licensee shall only administer radioactive aerosols and gases in rooms that are at negative pressure compared to surrounding rooms.

(d) Before receiving, using, or storing a radioactive gas, the licensee shall calculate the amount of time needed after a spill to reduce the concentration in the area of use to the occupational limit listed in Appendix B to Part 20 of this chapter. The calculation must be based on the highest activity of gas handled in a single container and the measured available air exhaust rate.

(e) A licensee shall post the calculated time at the area of use and require that, in case of a gas spill, individuals evacuate the room until the posted time has elapsed.

(f) A licensee shall check the operation of collection and ventilation systems each six months.

§ 35.220 Possession of survey instruments.

A licensee authorized to use byproduct material for imaging and localization studies shall have in its possession a portable low level radiation survey instrument whose most sensitive scale has a full-scale deflection of not more than 1 milliroentgen per hour and a portable ion chamber radiation survey instrument that has a scale with a full-scale deflection of 1 roentgen per hour.

Subpart F—Radiopharmaceuticals for Therapy

§ 35.300 Use of radiopharmaceuticals for therapy.

A licensee may use the following prepared radiopharmaceuticals:

(a) Iodine-131 as iodide for treatment of hyperthyroidism, cardiac dysfunction, and thyroid carcinoma;

(b) Phosphorus-32 as soluble phosphate for treatment of polycythemia vera, leukemia, and bone metastases;

(c) Phosphorus-32 as colloidal chromic phosphate for intracavitary treatment of malignant effusions;

(d) Gold-198 as colloid for intracavitary treatment of malignant effusions;

(e) Any byproduct material in a radiopharmaceutical and for a therapeutic use for which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND), or approved a "New Drug Application" (NDA).

§ 35.310 Safety instruction.

(a) A licensee shall provide oral and written radiation safety instruction for all personnel caring for the patient undergoing radiopharmaceutical therapy. To satisfy this requirement, the instruction must describe the licensee's procedures for:

(1) Patient control;

(2) Visitor control;

(3) Contamination control;

(4) Waste control; and

(5) Notification of the Radiation Safety Officer in case of the patient's death or medical emergency.

(b) A licensee shall keep for two years a list of individuals receiving instruction required by paragraph (a) of this section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction.

§ 35.315 Safety precautions.

(a) A licensee shall provide each individual hospitalized for radiopharmaceutical therapy a private room with a private sanitary facility.

(b) A licensee shall notify the Radiation Safety Officer immediately if the patient dies or has a medical emergency.

(c) A licensee shall post the patient's door with a "Radioactive Materials" sign and note in the patient's chart where and how long visitors may stay in the patient's room.

(d) The authorized user and Radiation Safety Officer must specifically authorize visits by individuals under age 18 on a case-by-case basis.

(e) The licensee shall either monitor material and items removed from the patient's room to determine that their radioactivity cannot be distinguished from the natural background radiation level with a low range survey meter set on its most sensitive scale and with no interposed shielding, or handle them as radioactive waste.

(f) The licensee shall survey the patient's room and private sanitary facility for removable contamination before assigning another patient to the room. The room must not be reassigned until removable contamination is less than 200 disintegrations per minute per 100 square centimeters.

(g) Within three days after administering a therapeutic dosage of iodine-131, the licensee shall measure the thyroid burden of each individual who helped prepare or administer the dosage, and retain for the period required by § 20.401(c)(1) a record of each thyroid burden measurement, its date, the name of the individual whose thyroid burden was measured, and the initials of the individual who made the measurements.

§ 35.320 Possession of survey instruments.

A licensee authorized to use byproduct material for radiopharmaceutical therapy shall have in its possession a portable low level radiation survey instrument whose most sensitive scale has a full-scale deflection of not more than 1 milliroentgen per hour and a portable ion chamber radiation survey instrument that has a scale with a full scale deflection of 1 Roentgen per hour.

Subpart G—Sources for Brachytherapy

§ 35.400 Use of sources for brachytherapy.

A licensee shall use the following sources in accordance with the manufacturer's radiation safety and handling instructions:

(a) Cesium-137 as a sealed source in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(b) Cobalt-60 as a sealed source in needles and applicator cells for topical, interstitial, and intracavitary treatment of cancer;

(c) Gold-198 as a sealed source in seeds for interstitial treatment of cancer;

(d) Iridium-192 as seeds encased in nylon ribbon for interstitial treatment of cancer;

(e) Strontium-90 as a sealed source in an applicator for treatment of superficial eye conditions; and

(f) Iodine-125 as a sealed source in seeds for interstitial treatment of cancer.

§ 35.404 Release of patients treated with temporary implants.

(a) Immediately after removing the last temporary implant source from a patient, the licensee shall make a radiation survey of the patient to confirm that all sources have been removed. The licensee may not release from confinement for medical care a patient treated by temporary implant until all sources have been removed.

(b) A licensee shall retain a record of patient surveys for two years. Each record must include the date of the survey, the name of the patient, the exposure rate from the patient expressed as millirem per hour and measured within one meter of the patient, and the initials of the individual who made the survey.

§ 35.406 Brachytherapy sources inventory.

(a) Each time brachytherapy sources are returned to an area of storage from an area of use, the licensee shall immediately count the number returned to ensure that all sources taken from the storage area have been returned.

(b) A licensee shall make a record of brachytherapy source use which must include:

(1) The names of the individuals permitted to handle the sources,

(2) The number and activity of sources

(2) Turn the primary beam of radiation off immediately when an entrance door

(g) A licensee shall promptly repair or

(c) The licensee shall retain a record

(1) The names of the individuals permitted to handle the sources,

(2) The number and activity of sources removed from storage, the room number of use or patient's name, the time and date they were removed from storage, the number and activity of the sources in storage after the removal, and the initials of the individual who removed the sources from storage;

(3) The number and activity of sources returned to storage, the room number of use or patient's name, the time and date they were returned to storage, the number and activity of sources in storage after the return, and the initials of the individual who returned the sources to storage.

(c) Immediately after implanting sources in a patient the licensee shall make a radiation survey of the patient and the area of use to confirm that no sources have been misplaced. The licensee shall make a record of each survey.

(d) A licensee shall retain the records required in paragraphs (b) and (c) of this section for two years.

§ 35.410 Safety instruction.

(a) The licensee shall provide oral and written radiation safety instruction to all personnel caring for the patient undergoing implant therapy. To satisfy this requirement, the instruction must describe:

(1) Size and appearance of the brachytherapy sources;

(2) Safe handling and shielding instructions in case of a dislodged source;

(3) Procedures for patient control;

(4) Procedures for visitor control; and

(5) Procedures for notification of the Radiation Safety Officer if the patient dies or has a medical emergency.

(b) A licensee shall retain for two years a record of individuals receiving instruction required by paragraph (a) of this section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction.

§ 35.415 Safety precautions.

(a) The licensee shall provide a private room to each individual hositalized for implant thereapy.

(b) The licensee shall notify the Radiation Safety Officer immediately if the patient dies or has a medical emergency.

(c) A licensee shall post the patient's door with a "Radioactive Materials" sign and note in the patient's chart where and how long visitors may stay in the patient's room.

(d) The authorized user and Radiation Safety Officer must specifically authorize visits by individuals under age 18 on a case-by-case basis.

§ 35.420 Possession of survey instrument.

A licensee authorized to use byproduct material for implant therapy shall have in its possession a portable ion chamber radiation survey instrument that has a scale with a full scale deflection of 1 Roentgen per hour.

Subpart H—Sealed Sources for Diagnosis

§ 35.500 Use of sealed sources for diagnosis.

A licensee shall use the following sealed sources in accordance with the manufacturer's radiation safety and handling instructions:

(a) Iodine-125 as a sealed source in a device for bone mineral analysis;

(b) Americium-241 as a sealed source in a device for bone mineral analysis; and

(c) Iodine-125 as a sealed source in a portable device for imaging.

§ 35.520 Availability of survey instrument.

A licensee authorized to use byproduct material as a sealed source for diagnostic purposes shall have available for use a portable low level radiation survey instrument whose most sensitive scale has a full-scale deflection of not more than 1 milliroentgen per hour or a portable ion chamber radiation survey instrument that has a scale with a full scale deflection of 1 Roentgen per hour. The instrument must have been calibrated in accordance with § 35.51 of this part.

Subpart I—Teletherapy

§ 35.600 Use of a sealed source in a teletherapy unit.

The regulations and provisions of this subpart govern the use of teletherapy units for medical use that contain the following sources.

(a) Cobalt-60 as a sealed source; and

(b) Cesium-137 as a sealed source.

§ 35.605 Maintenance and repair restrictions.

Only a person specifically licensed by the Commission or an Agreement State to perform teletherapy unit maintenance and repair shall install, relocate, or remove a teletherapy sealed source or a teletherapy unit that contains a sealed source or maintain, adjust, or repair the source drawer, the shutter or other mechanism of a teletherapy unit that could expose the source, reduce the shielding around the source, or result in increased radiation levels.

§ 35.606 Amendments.

A licensee shall apply for and must receive a license amendment before:

(a) Making any change in the treatment room shielding;

(b) Making any change in the location of the teletherapy unit within the treatment room;

(c) Using the teletherapy unit in a manner that could result in increased radiation levels in areas outside the teletherapy treatment room;

(d) Relocating the teletherapy unit; or

(e) Allowing and individual not listed on the licensee's license to perform the duties of the qualified teletherapy calibration expert.

§ 35.610 Safety instruction.

(a) A licensee shall post written instructions at the teletherapy unit console. To satisfy this requirement, these instructions must inform the operator of:

(1) The procedure to be followed to ensure that only the patient is in the treatment room before turning the primary beam of radiation on to begin a treatment or after a door interlock interruption;

(2) The procedure to be followed if:

(i) The operator is unable to turn the primary beam of radiation off with controls outside the treatment room or any other abnormal operation occurs; and

(ii) The names and telephone numbers of the authorized users and Radiation Safety Officer to be immediately contacted if the teletherapy unit or console operates abnormally.

(b) A licensee shall provide instruction in the topics identified in paragraph (a) of this section to all individuals who operate a teletherapy unit.

(c) A licensee shall retain for two years a record of individuals receiving instruction required by paragraph (b) of this section, a description of the instruction, the date of instruction, and the name of the individual who gave the instruction.

§ 35.615 Doors, interlocks, and warning systems.

(a) A licensee shall control access to the teletherapy room by a door at each entrance.

(b) A licensee shall equip each entrance to the teletherapy room with an electrical interlock system that will:

(1) Prevent the operator from turning the primary beam of radiation on unless each treatment room entrance door is closed;

(2) Turn the primary beam of radiation off immediately when an entrance door is opened; and

(3) Prevent the primary beam of radiation from being turned on following an interlock interruption until all treatment room entrance doors are closed and the beam on-off control is reset at the console.

(c) A licensee shall equip each entrance to the teletherapy room with a beam condition indicator light.

§ 35.620 Possession of survey instrument.

A licensee authorized to use byproduct material in a teletherapy unit shall have in its possession either a portable low level radiation survey instrument whose most sensitive scale has a full-scale deflection of not more than 1 milliroentgen per hour or a portable ion chamber radiation survey instrument that has a scale with a full scale deflection of 1 Roentgen per hour.

§ 35.621 Radiation monitoring device.

(a) A licensee shall install in each teletherapy room a permanent radiation monitor capable of continuously monitoring beam status.

(b) Each radiation monitor must be capable of providing visible notice of a teletherapy unit malfunction that results in an exposed or partially exposed source. The visible indicator of high radiation levels must be observable by an individual entering the teletherapy room.

(c) Each radiation monitor must be equipped with an emergency power supply separate from the power supply to the teletherapy unit. This emergency power supply may be a battery system.

(d) Each radiation monitor must be checked for proper operation each day before the teletherapy unit is used for treatment of patients.

(e) A licensee shall maintain a record of the check required by paragraph (d) of this section for two years. The record must include the date of the check, notation that the monitor indicates when the source is and is not exposed, and the initials of the individual who performed the check.

(f) If a radiation monitor is inoperable for any reason, the licensee shall require any individual entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism that may result in an exposed or partially exposed source. The instrument or dosimeter must be checked for proper operation at the beginning of each day of use.

(g) A licensee shall promptly repair or replace the radiation monitor if it is inoperable.

§ 35.622 Viewing system.

A licensee shall construct or equip each teletherapy room to permit continuous observation of the patient from the teletherapy unit console during irradiation.

§ 35.630 Dosimetry equipment.

(a) A licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions must be met.

(1) The system must have been calibrated by the National Bureau of Standards or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration must have been performed within the previous two years and after any servicing that may have affected system calibration; or

(2) The system must have been calibrated within the previous four years; eighteen to thirty months after that calibration, the system must have been intercompared at an intercomparison meeting with another dosimetry system that was calibrated within the past twenty-four months by the National Bureau of Standards or by a calibration laboratory accredited by the AAPM. The intercomparison meeting must be sanctioned by a calibration laboratory or radiologic physics center accredited by the AAPM. The results of the intercomparison meeting must have indicated that the calibration factor of the licensee's system had not changed by more than 2 percent. The licensee may not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating cobalt-60 teletherapy units, the licensee shall use a teletherapy unit with a cobalt-60 source. When intercomparing dosimetry systems to be used for calibrating cesium-137 teletherapy units, the licensee shall use a teletherapy unit with a cesium-137 source.

(b) The licensee shall have available for use a dosimetry system for spot-check measurements. To satisfy this requirement, the system may be compared with a system that has been calibrated in accordance with paragraph (a) of this section. This comparison must have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in paragraph (a) of this section.

(c) The licensee shall retain a record of each calibration, intercomparison, and comparison for the duration of the license. For each calibration, intercomparison, or comparison, the record must include the date, the model numbers and serial numbers of the instruments that were calibrated, intercompared, or compared as required by paragraphs (a) and (b) of this section, the correction factors that were deduced, the names of the individuals who performed the calibration, intercomparison, or comparison, and evidence that the intercomparison meeting was sanctioned by a calibration laboratory or radiologic physics center accredited by AAPM.

§ 35.632 Full calibration measurements.

(a) A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:

(1) Before the first medical use of the unit; and

(2) Before medical use under the following conditions:

(i) Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(ii) Following replacement of the source or following reinstallation of the teletherapy unit in a new location;

(iii) Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(3) At intervals not exceeding one year.

(b) To satisfy the requirement of paragraph (a) of this section, full calibration measurements must include determination of:

(1) The output within ±3 percent for the range of field sizes and for the distance or range of distances used for medical use;

(2) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(3) The uniformity of the radiation field and its dependence on the orientation of the useful beam;

(4) Timer accuracy;

(5) On-off error; and

(6) The accuracy of all distance measuring and localization devices in medical use.

(c) A licensee shall use the dosimetry system described in § 35.630(a) to measure the output for one set of exposure conditions. The remaining radiation measurements required in

paragraph (b)(1) of this section may then be made using dosimetry system that

perform spot-checks on each teletherapy unit once in each calendar month.

(h) A licensee shall lock the control

treatment room do not exceed the limits specified in § 20.105(b) of this chapter.

§ 35.643 Modification of teletherapy unit or room before beginning a treatment.

requirement of paragraph (a) of this

paragraph (b)(1) of this section may then be made using dosimetry system that indicates relative dose rates.

(d) A licensee shall make full calibration measurements required by paragraph (a) of this section in accordance with either the procedures recommended by the Scientific Committee on Radiation Dosimetry of the American Association of Physicists in Medicine that are described in *Physics in Medicine and Biology* Vol. 16, No. 3, 1971, pp. 379–396, or by Task Group 21 of the Radiation Therapy Committee of the American Association of Physicists in Medicine that are described in *Medical Physics* Vol. 10, No. 6, 1983, pp. 741–771. Both of these references have been approved for incorporation by reference by the Director of the Federal Register. Copies of the documents are available for inspection or may be obtained from the U.S. Nuclear Regulatory Commission, Public Document Room, 1717 H Street NW., Washington, DC 20555. Copies of the documents are also on file at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC. A notice of any change in the material will be published in the Federal Register.

(e) A licensee shall correct mathematically the outputs determined in paragraph (b)(1) of this section for physical decay for intervals not exceeding one month.

(f) Full calibration measurements required by paragraph (a) of this section and physical decay corrections required by paragraph (e) of this section must be performed by a qualified teletherapy calibration expert.

(g) A licensee shall retain a record of each calibration for the duration of the license. The record must include the date of the calibration, the manufacturer's name, model number, and serial number for both the teletherapy unit and the source, the model numbers and serial numbers of the instruments used to calibrate the teletherapy unit, tables that describe the output of the unit over the range of field sizes and for the range of distances used in radiation therapy, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-off error, the estimated accuracy of each distance measuring or localization device, and the signature of the qualified teletherapy calibration expert.

§ 35.633 Periodic spot-checks.

(a) A licensee authorized to use teletherapy units for medical use shall perform spot-checks on each teletherapy unit once in each calendar month.

(b) To satisfy the requirement of paragraph (a) of this section, measurements must include determination of:

(1) Timer accuracy;

(2) On-off error;

(3) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(4) The accuracy of all distance measuring and localization devices used for medical use;

(5) The output for one typical set of operating conditions; and

(6) The difference between the measurement made in paragraph (b)(5) of this section and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay).

(c) A licensee shall use the dosimetry system decribed in § 35.630(b) to make the measurement required in paragraph (b)(5) of this section.

(d) A licensee shall perform measurements required by paragraph (a) of this section in accordance with procedures established by the qualified teletherapy calibration expert. That individual need not actually perform the spot-check measurements.

(e) A licensee shall have the qualified teletherapy calibration expert review the results of each spot-check within 15 days. The qualified teletherapy calibration expert shall promptly notify the licensee in writing of the results of each spot-check. The licensee shall keep a copy of each written notification for two years.

(f) A licensee authorized to use a teletherapy unit for medical use shall perform spot-checks of each teletherapy facility once in each calendar month.

(g) To satisfy the requirement of paragraph (f) of this section, checks must assure proper operation of:

(1) Electrical interlocks at each teletherapy room entrance;

(2) Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation (restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism);

(3) Beam condition indicator lights on the teletherapy unit, on the control console, and in the facility;

(4) Viewing systems;

(5) Treatment room doors from inside and outside the treatment room; and

(6) Electrically assisted treatment room doors with the teletherapy unit electrical power turned off.

(h) A licensee shall lock the control console in the off position if any door interlock malfunctions. The licensee may not use the unit until the interlock system is repaired.

(i) A licensee shall promptly repair any system identified in paragraph (g) of this section that is not operating properly.

(j) A licensee shall retain a record of each spot-check required by paragraphs (a) and (f) of this section for two years. The record must include the date of the spot-check, the manufacturer's names, model number, and serial number for both the teletherapy unit and source, the manufacturer's name, model number and serial number of the instrument used to measure the output of the teletherapy unit, the measured timer accuracy, the calculated on-off error, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-off error, the estimated accuracy of each distance measuring or localization device, the difference between the anticipated output and the measured output, notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors, and the signature of the individual who performed the periodic spot-check.

§ 35.641 Radiation surveys for teletherapy facilities.

(a) Before medical use, after each installation of a teletherapy source, and after making any change for which an amendment is required by § 35.606(a)–(d), the licensee shall perform radiation surveys to verify that:

(1) The maximum and average radiation levels at one meter from the teletherapy source with the source in the off position and the collimators set for a normal treatment field do not exceed 10 milliroentgens per hour and 2 milliroentgens per hour, respectively; and

(2) With the teletherapy source in the on position with the largest clinically available treatment field and with a scattering phantom in the primary beam of radiation, that:

(i) Radiation quantities in restricted areas adjacent to the treatment room are not likely to cause personnel exposures in excess of the limits specified in § 20.101 of this chapter; and

(ii) Radiation quantities in unrestricted areas adjacent to the

treatment room do not exceed the limits specified in § 20.105(b) of this chapter.

(b) If the results of the surveys required in paragraph (a) of this section indicate any radiation quantity in excess of the respective limit specified in that paragraph, the licensee shall lock the control in the off position and not use the unit:

(1) Except as may be necessary to repair, replace, or test the teletherapy unit shielding or the treatment room shielding; or

(2) Until the licensee has received a specific exemption pursuant to § 20.501 of this chapter.

(c) A licensee shall retain a record of the radiation measurements made following installation of a source for the duration of the license. The record must include the date of the measurements, the reason the survey is required, the manufacturer's name, model number and serial number of the teletherapy unit, the source, and the instrument used to measure radiation levels, each dose rate measured around the teletherapy source while in the off position and the average of all measurements, a plan of the areas surrounding the treatment room that were surveyed, the measured dose rate at several points in each area expressed in millirem per hour, the calculated maximum quantity of radiation over a period of one week for each restricted and unrestricted area, and the signature of the Radiation Safety Officer.

§ 35.642 Safety checks for teletherapy facilities.

(a) A licensee shall promptly check all systems listed in § 35.633(g) for proper function after each installation of a teletherapy source and after making any change for which an amendment is required by § 35.606(a)–(d).

(b) If the results of the checks required in paragraph (a) of this section indicate the malfunction of any system specified in § 35.633(g), the licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(c) A licensee shall retain for two years a record of the facility checks following installation of a source. The record must include notations indicating the operability of each entrance door interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system, and doors, and the signature of the Radiation Safety Officer.

§ 35.643 Modification of teletherapy unit or room before beginning a treatment program.

If the survey required by § 35.641 indicates that an individual in an unrestricted area may be exposed to levels of radiation greater than those permitted by § 20.105(b) of this chapter, before beginning the treatment program the licensee shall:

(a) Either equip the unit with stops or add additional radiation shielding to ensure compliance with § 20.105(b);

(b) Perform the survey required by § 35.641 again; and

(c) Include in the report required by § 35.644 the results of the initial survey, a description of the modification made to comply with paragraph (a) of this section, and the results of the second survey; or

(d) Request and receive a license amendment under § 20.105(a) of this part that authorizes radiation levels in unrestricted areas greater than those permitted by § 20.105(b).

§ 35.644 Reports of teletherapy surveys, checks, tests, and measurements.

A licensee shall mail an original and a copy of the records required in §§ 35.641, 35.642, 35.643, and the output from the teletherapy source expressed as Roentgens per hour at a distance of one meter from the source and determined during the full calibration required in § 35.632, to the appropriate Commission Regional Office listed in § 35.16 of this part within thirty days following completion of the action that initiated the record requirement.

§ 35.645 Five-year inspection.

(a) A licensee shall have each teletherapy unit fully inspected and serviced during teletherapy source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.

(b) This inspection and servicing may only be performed by persons specifically licensed to do so by the Commission or an Agreement State.

(c) A licensee shall keep a record of the inspection and servicing for the duration of the license. The record must contain the inspector's name, the inspector's license number, the date of inspection, the manufacturer's name and model number and serial number for both the teletherapy unit and source, a list of components inspected, a list of components serviced and the type of service, a list of components replaced, and the signature of the inspector.

(d) Amendment to teletherapy licenses that extended the time interval for the inspection and servicing requirement of paragraph (a) of this section that were in effect on March 4, 1983 remain in effect and are not rescinded by this section.

Subpart J—Training and Experience Requirements

§ 35.900 Radiation Safety Officer.

Except as provided in § 35.901, the licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in § 35.32 to:

(a) Be certified by:

(1) American Board of Health Physics in Comprehensive Health Physics;

(2) American Board of Radiology in Radiological Physics, Therapeutic Radiological Physics, or Medical Nuclear Physics; or

(3) American Board of Nuclear Medicine Science in Nuclear Medicine Science; or

(b) Have had 200 hours of classroom and laboratory training and one year of experience as follows:

(1) 100 hours of radiation physics and instrumentation;

(2) 30 hours of radiation protection;

(3) 20 hours of mathematics pertaining to the use and measurement of radioactivity;

(4) 20 hours of radiation biology;

(5) 30 hours of radiopharmaceutical chemistry; and

(6) One year of full time experience in radiation safety at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on a Commission or Agreement State license that authorizes the medical use of byproduct material; or

(c) Be an authorized user for those byproduct material uses that come within the Radiation Safety Officer's responsibilities.

§ 35.901 Training for experienced Radiation Safety Officer.

An individual identified as a Radiation Safety Officer on a Commission or Agreement State license on [*insert effective date of final rule*] who oversees only the use of byproduct material for which the licensee was authorized on that date need not comply with the training requirements of § 35.900.

§ 35.910 Training for uptake, dilution, and excretion studies.

Except as provided in §§ 35.970 and 35.971, the licensee shall require the authorized user of a radiopharmaceutical listed in § 35.100(a) to be a physician who:

(a) Is certified in:

(1) Nuclear medicine by the American Board of Nuclear Medicine;

(2) Diagnostic radiology with special

(iv) Collaborating with the authorized

(a) Is certified in:

brachytherapy treatment, and any

(3) Diagnostic radiology or radiology

VOL 50 ISS 144 JL 26 1985 UMI

(1) Nuclear medicine by the American Board of Nuclear Medicine;

(2) Diagnostic radiology with special competence in nuclear radiology by the American Board of Radiology; or

(3) Diagnostic radiology or radiology within the previous five years by the American Osteopathic Board of Radiology; or

(b) Has completed 80 hours of instruction in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals, and 40 hours of supervised clinical experience.

(1) To satisfy the basic instruction requirement, the classroom and laboratory instruction must include:

(i) 25 hours of radiation physics and instrumentation;

(ii) 25 hours of radiation protection;

(iii) 10 hours of mathematics pertaining to the use and measurement of radioactivity;

(iv) 10 hours of radiation biology; and

(v) 10 hours of radiopharmaceutical chemistry.

(2) To satisfy the requirement for supervised clinical experience, training must be under the supervision of an authorized user at a medical institution and must include:

(i) Examining patients and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations, or contraindications;

(ii) Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(iii) Administering dosages to patients and using syringe radiation shields;

(iv) Collaborating with the authorized user in the interpretation of radioisotope test results; and

(v) Patient followup; or

(c) Has successfully completed a six-month training program in nuclear medicine as part of a training program that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience, and supervised clinical experience in all the topics identified in paragraph (b) of this section.

§ 35.920 Training for imaging and localization studies.

Except as provided in § 35.970 or 35.971, the licensee shall require the authorized user of a radiopharmaceutical, generator, or reagent kit listed in § 35.200(a) to be a physician who:

(a) Is certified in:

(1) Nuclear medicine by the American Board of Nuclear Medicine;

(2) Diagnostic radiology with special competence in nuclear radiology by the American Board of Radiology; or

(3) Diagnostic radiology or radiology within the previous five years by the American Osteopathic Board of Radiology; or

(b) Has completed 200 hours of instruction in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals, generators, and reagent kits, 500 hours of supervised work experience and 500 hours of supervised clinical experience.

(1) To satisfy the basic instruction requirement, the classroom and laboratory training must include:

(i) 100 hours of radiation physics and instrumentation;

(ii) 30 hours of radiation protection;

(iii) 20 hours of mathematics pertaining to the use and measurement of radioactivity;

(iv) 30 hours of radiopharmaceutical chemistry; and

(v) 20 hours of radiation biology.

(2) To satisfy the requirement for supervised work experience, training must be under the supervision of an authorized user at a medical institution and must include:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Calibrating dose calibrators and diagnostic instruments and performing checks for proper operation of survey meters;

(iii) Calculating and safely preparing patient dosages;

(iv) Using administrative controls to prevent the misadministration of byproduct material;

(v) Using emergency procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(vi) Eluting technetium-99m from generator systems, assaying and testing the eluate for molybdenum-99 and alumina contamination, and processing the eluate with reagent kits to prepare technetium-99m labeled radiopharmaceuticals.

(3) To satisfy the requirement for supervised clinical experience, training must be under the supervision of an authorized user at a medical institution and must include:

(i) Examining patients and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations, or contraindications;

(ii) Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(iii) Administering dosages to patients and using syringe radiation shields;

(iv) Collaborating with the authorized user in the interpretation of radioisotope test results; and

(v) Patient followup; or

(c) Has successfully completed a six-month training program in nuclear medicine that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience, and supervised clinical experience in all the topics identified in paragraph (b) of this section.

§ 35.930 Training for therapeutic use of radiopharmaceuticals.

Except as provided in § 35.970, the licensee shall require the authorized user of a radiopharmaceutical listed in § 35.300 for therapy to be a physician who:

(a) Is certified in nuclear medicine by the American Board of Nuclear Medicine; or

(b) Has completed 80 hours of instruction in basic radioisotope handling techniques applicable to the use of therapeutic radiopharmaceuticals, and has had supervised clinical experience.

(1) To satisfy the requirement for instruction, the classroom and laboratory training must include:

(i)

(i) 25 hours of radiation physics and instrumentation;

(ii) 25 hours of radiation protection;

(iii) 10 hours of mathematics pertaining to the use and measurement of radioactivity; and

(iv) 20 hours of radiation biology;

(2) To satisfy the requirement for supervised clinical experience, training must be under the supervision of an authorized user at a medical institution and must include:

(i) Use of iodine-131 for diagnosis of thyroid function and the treatment of hyperthyroidism or cardiac dysfunction in 10 individuals;

(ii) Use of soluble phosphorus-32 for the treatment of polycythemia vera, leukemia, or bone metastases in 3 individuals;

(iii) Use of iodine-131 for treatment of thyroid carcinoma in 3 individuals; and

(iv) Use of colloidal chromic phosphorus-32 or of colloidal gold-198 for intracavitary treatment of malignant effusions in 3 individuals.

§ 35.940 Training for therapeutic use of brachytherapy sources.

Except as provided in § 35.970, the licensee shall require the authorized user using a brachytherapy source listed in § 35.400 for therapy to be a physician who:

(a) Is certified in:

(1) Radiology or therapeutic radiology by the American Board of Radiology;

(2) Radiation oncology by the American Osteopathic Board of Radiology;

(3) Radiology, with a specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(4) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(b) Is in the active practice of therapeutic radiology, has completed 200 hours of instruction in basic radioisotope handling techniques applicable to the therapeutic use of brachytherapy sources and 500 hours of supervised work experience and a minimum of three years of supervised clinical experience.

(1) To satisfy the requirement for instruction, the classroom and laboratory training must include:

(i) 110 hours of radiation physics and instrumentation;

(ii) 40 hours of radiation protection;

(iii) 25 hours of mathematics pertaining to the use and measurement of radioactivity; and

(iv) 25 hours of radiation biology.

(2) To satisfy the requirement for supervised work experience, training must be under the supervision of an authorized user at an institution and must include:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Checking survey meters for proper operation;

(iii) Preparing, implanting, and removing sealed sources;

(iv) Using administrative controls to prevent the misadministration of byproduct material; and

(v) Using emergency procedures to control byproduct material.

(3) To satisfy the requirement for a period of supervised clinical experience, training must include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association, and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience must include:

(i) Examining individuals and reviewing their case histories to determine their suitability for brachytherapy treatment, and any limitations or contraindications;

(ii) Selecting the proper brachytherapy sources and dose and method of administration;

(iii) Calculating the dose; and

(iv) Post-administration followup and review of case histories in collaboration with the authorized user.

§ 35.941 Training for ophthalmic use of strontium-90.

Except as provided in § 35.970, the licensee shall require the authorized user using only strontium-90 ophthalmic radiotherapy to be a physician who:

(a) Is certified in radiology or therapeutic radiology by the American Board of Radiology; or

(b) Is in the active practice of therapeutic radiology or ophthalmology, and has completed 24 hours of instruction in basic radioisotope handling techniques applicable to the use of strontium-90 for ophthalmic radiotherapy, and a period of supervised clinical training in ophthalmic radiotherapy.

(1) To satisfy the requirement for instruction, the classroom and laboratory training must include:

(i) 6 hours of radiation physics and instrumentation;

(ii) 6 hours of radiation protection;

(iii) 4 hours of mathematics pertaining to the use and measurement of radioactivity; and

(iv) 8 hours of radiation biology.

(2) To satisfy the requirement for a period of supervised clinical training in ophthalmic radiotherapy, training must be under the supervision of an authorized user at a medical institution and must include the use of strontium-90 for the ophthalmic treatment of five individuals that includes

(i) Examination of each individual to be treated;

(ii) Calculation of the dose to be administered;

(iii) Administration of the dose; and

(iv) Followup and review of each individual's case history.

§ 35.950 Training for use of sealed sources for diagnosis.

Except as provided in § 35.970, the licensee shall require the authorized user using a sealed source in a device listed in § 35.500 to be a physician, dentist, or podiatrist who:

(a) Is certified in

(1) Radiology, diagnostic radiology with special competence in nuclear radiology, or therapeutic radiology by the American Board of Radiology;

(2) Nuclear medicine by the American Board of Nuclear Medicine; or

(3) Diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or

(b) Has completed 8 hours of instruction in basic radioisotope handling techniques specifically applicable to the use of the device. To satisfy the requirement for instruction, the training must include:

(1) 3 hours of radiation physics, mathematics pertaining to the use and measurement of radioactivity, and instrumentation;

(2) 3 hours of radiation biology; and

(3) 2 hours of radiation protection and training in the use of the device for the purposes authorized by the license.

§ 35.960 Training for teletherapy.

Except as provided in § 35.970, the licensee shall require the authorized user using a sealed source listed in § 35.600 in a teletherapy unit to be a physician who:

(a) Is certified in:

(1) Radiology or therapeutic radiology by the American Board of Radiology;

(2) Radiation oncology by the American Osteopathic Board of Radiology;

(3) Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(4) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(b) Is in the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic radioisotope techniques applicable to the use of a sealed source in a teletherapy unit, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.

(1) To satisfy the requirement for instruction, the classroom and laboratory training must include:

(i) 110 hours of radiation physics and instrumentation;

(ii) 40 hours of radiation protection;

(iii) 25 hours of mathematics pertaining to the use and measurement of radioactivity; and

(iv) 25 hours of radiation biology.

(2) To satisfy the requirement for supervised work experience, training must be under the supervision of an authorized user at an institution and must include:

(i) Review of the full calibration measurements and periodic spot checks;

(ii) Preparing treatment plans and calculating treatment times;

(iii) Using administrative controls to prevent misadministrations;

(iv) Implementing emergency procedures to be followed in the event

§ 35.970 Training for experienced authorized users.

161, and cited in the authority citation at the beginning of this part for the

only with technetium-99m that contains less than 0.15 microcuries of molyb-

Authority: Sec. 161, as amended (42 U.S.C. 2201); sec. 201, as amended (42 U.S.C. 5841)

§ 32.74 Manufacture and distribution of sources or devices containing byproduct

(iv) Implementing emergency procedures to be followed in the event of the abnormal operation of a teletherapy unit or console; and

(v) Checking and using survey meters.

(3) To satisfy the requirement for a period of supervised clinical experience, training must include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience must include:

(i) Examining individuals and reviewing their case histories to determine their suitability for teletherapy treatment, and any limitations or contraindications;

(ii) Selecting the proper dose and how it is to be administered;

(iii) Calculating the teletherapy doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses as warranted by patients' reaction to radiation; and

(iv) Post-administration followup and review of case histories.

§ 35.961 Training for qualified teletherapy calibration expert.

The licensee shall require the qualified teletherapy calibration expert to:

(a) Be certified by the American Board of Radiology in:

(1) Therapeutic radiological physics;

(2) Roentgen ray and gamma ray physics;

(3) X-ray and radium physics; or

(4) Radiological physics; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, or health physics, and have completed one year of full time training in therapeutic radiological physics and also one year of full time work experience under the supervision of a qualified teletherapy calibration expert at a medical institution. To satisfy this requirements, the neophyte qualified teletherapy calibration expert must have performed the tasks listed in §§ 35.59, 35.632, 35.633, and 35.641 of this part under the supervision of a qualified teletherapy calibration expert during the year of work experience.

§ 35.970 Training for experienced authorized users.

Physicians, dentists, or podiatrists identified as authorized users for the human use of byproduct material on a Commission or Agreement State license on [*insert effective date of final rule*] who perform only those methods of use for which they were authorized on that date need not comply with the training requirements of Subpart J.

§ 35.971 Physician training in a three month program.

A physician who, before July 1, 1984, began a three month nuclear medicine training program approved by the Accreditation Council for Graduate Medical Education and has successfully completed the program need not comply with requirements of §§ 35.910 or 35.920.

§ 35.972 Recentness of training.

The training and experience specified in this subpart must have been obtained within the five years preceding the date of application or the individual must have had continuing experience since the required training and experience was completed.

Subpart K—Enforcement

§ 35.990 Violations.

(a) An injunction or other court order may be obtained to prohibit a violation of any provision of:

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) Any rule, regulation, or order issued under these Acts.

(b) A court order may be obtained for the payment of a civil penalty imposed for violation of:

(1) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 under section 234 of the Atomic Energy Act of 1954;

(2) Section 206 of the Energy Reorganization Act of 1974;

(3) Any rule regulation, or order issued under these Acts;

(4) Any term condition, or limitation of any license issued under these Acts; or

(5) Any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954.

(c) Any person who willfully violates any provision of the Atomic Energy Act of 1954, as amended, or any rule, regulation, or order issued under the Act may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both as provided by law. Regulations issued under the Act include regulations issued under section 161, and cited in the authority citation at the beginning of this part for the purposes of section 223.

§ 35.999 Resolution of conflicting requirements during transition period.

If the rules in this part conflict with the licensee's radiation safety program as identified in its license, and if that license was approved by the Commission before [*insert effective date of final rule*] and has not been renewed, then the requirements in the license will apply.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

2. The authority citation for Part 30 continues to read as follows:

Authority: Sec. 161, as amended (42 U.S.C. 2201); sec. 201, as amended (42 U.S.C. 5481).

3. Section 30.4 is amended by revising paragraphs (h) and (l) to read as follows and by adding new paragraphs (y) and (z) as follows:

§ 30.4 Definitions.

* * * * *

(h) "Medical use" means the intentional internal or external administration of byproduct material, or the radiation therefrom, to human beings in the practice of medicine in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico in the practice of medicine.

* * * * *

(l) "Physician" means a medical doctor or doctor of osteopathy licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine;

* * * * *

(y) "Dentist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry on humans.

(z) "Podiatrist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry on humans.

4. Section 30.34 is amended by revising paragraph (g) to read as follows:

§ 30.34 Terms and conditions of licenses.

* * * * *

(g) A licensee may prepare technetium-99m radiopharmaceuticals only with technetium-99m that contains less than 0.15 microcuries of molybdenum-99 per millicurie of technetium-99m. The licensee shall perform tests and maintain the records required by § 35.204.

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

5. The authority citation for Part 31 continues to read as follows:

Authority: Sec. 161, as amended (42 U.S.C. 2201); sec. 201, as amended (42 U.S.C. 5481).

6. Section 31.11 is amended by revising paragraph (b) to read as follows:

§ 31.11 General license for use of byproduct material for certain in vitro clinical or laboratory testing.

* * * * *

(b) No person shall receive, acquire, possess, use, or transfer byproduct material pursuant to the general license established by paragraph (a) of this section unless that person:

(1) Has filed Form NRC–483, "Registration Certificate—In Vitro Testing with Byproduct Material Under General License," with the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and received from the Commission a validated copy of Form NRC–483 with a registration number assigned;

(2) Has a license that authorizes the medical use of byproduct material and that expires before [*insert five years after effective date of final rule*]; or

(3) Has a license that authorizes the medical use of byproduct material and also authorizes the use of byproduct material consistent with the requirements of this section.

* * * * *

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIALS

7. The authority citation for Part 32 continues to read as follows:

Authority: Sec. 161, as amended (42 U.S.C. 2201); sec. 201, as amended (42 U.S.C. 5481).

§ 32.70 [Removed]

8. Section 32.70 is removed.

9. In § 32.72 the introductory text of paragraph (a) and paragraph (a)(4)(i) are revised to read as follows:

§ 32.72 Manufacture and distribution of radiopharmaceuticals containing byproduct material for medical use under group licenses.

(a) An application for a specific license to manufacture and distribute radiopharmaceuticals containing byproduct material for use by persons authorized pursuant to Part 35 of this chapter will be approved if:

* * * * *

(4)(i) The label affixed to each package of the radiopharmaceutical contains information on the radionuclide, quantity, and date of assay, and the label, or the leaflet or brochure that accompanies each package, contains a statement that the radiopharmaceutical is licensed by the U.S. Nuclear Regulatory Commission for distribution to persons licensed to use byproduct material listed in §§ 35.100, 35.200, or 35.300, as appropriate, or under an equivalent license of an Agreement State.

* * * * *

10. In § 32.73 paragraph (a)(5)(ii) is revised to read as follows:

§ 32.73 Manufacture and distribution of generators or reagent kits for preparation of radiopharmaceuticals containing byproduct material.

(a) * * *

(5) * * *

(ii) A statement that this generator or reagent kit (as appropriate) is approved for distribution to persons licensed by the U.S. Nuclear Regulatory Commission to use byproduct material identified in § 35.200 or under an equivalent license of an Agreement State.

* * * * *

11. In § 32.74 the introductory text of paragraph (a) and paragraph (a)(3) are revised to read as follows:

§ 32.74 Manufacture and distribution of sources or devices containing byproduct material for medical use.

(a) An application for a specific license to manufacture and distribute sources and devices containing byproduct material to persons licensed pursuant to Part 35 of this chapter for use as a calibration or reference source or for the uses listed in §§ 35.400 and 35.500 of this chapter will be approved if:

* * * * *

(3) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity and date of assay, and a statement that the (name of source or device) is licensed by the U.S. Nuclear Regulatory Commission for distribution to persons licensed to use byproduct material identified in §§ 35.58, 35.400, or 35.500, as appropriate, or under an equivalent license of an Agreement State.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

12. The authority citation for Part 40 continues to read as follows:

Authority: Sec. 161, as amended (42 U.S.C. 2201); sec. 201, as amended (42 U.S.C. 5481).

13. Section 40.4 is amended by revising paragraph (g) to read as follows:

§ 40.4 Definitions.

* * * * *

(g) "Physician" means a medical doctor or doctor of osteopathy licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine;

* * * * *

Dated at Washington, D.C., this 22nd day of July 1985.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 85–17233 Filed 7–25–85; 8:45 am]

BILLING CODE 7590–01–M

VOL 50 ISS 144 JL 26 1985 UMI

VOL
50

ISS
144

JL
26

1985

UMI

federal register

Friday
July 26, 1985

Part V

Pacific Northwest Electric Power and Conservation Planning Council

Northwest Conservation and Electric Power Plan; Proposed Model Conservation Standard Amendments, Hearings, and Public Comment Period; Notice

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION

Federal Building, Room 2866, 915 Second Avenue, Seattle, Washington.

time on Monday, August 26, 1985. Comments should be submitted to the

convert to electric space heating and for existing commercial structures which

heat. Also, through development of a surcharge policy, BPA is establishing a

existing text and related appendices and replacing them with the following

VOL
50
ISS
144
JL
26
1985
UMI

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Conservation and Electric Power Plan; Proposed Model Conservation Standard Amendments, Hearings, and Public Comment Period

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council), DOE.

ACTION: Notice of proposed amendments, hearings, and opportunity to comment.

SUMMARY: On April 27, 1983, the Pacific Northwest Electric Power and Conservation Planning Council (Council) adopted a Northwest Conservation and Electric Power Plan (Plan) including model conservation standards (MCS) (48 FR 24493, June 1, 1983). The Council now proposes to amend portions of the Plan relating to the MCS. This notice describes the proposed amendments and explains how to participate in the amendment process. Because the matters being considered would affect upcoming implementation schedules, these MCS-related amendments are being considered separately from the current revision of the Plan which will be the subject of a separate hearing and comment process. Following that process, the MCS provisions adopted by the Council may be the subject of further technical and nonsubstantial amendments necessary to ensure that the format, numbering and other editorial aspects of the MCS provisions are then consistent with the revised plan. Nevertheless, those interested in commenting on the MCS should expect to do so only in the hearings on the MCS described in this notice. MCS comments will not be relevant or timely in the Council's process on the revised plan as a whole, as the Council expects to have completed its decisionmaking on the MCS in September, 1985, well in advance of its decision on the revision of the plan which is currently not scheduled until December, 1985.

DATES AND ADDRESSES: The public comment period regarding the proposed amendments to the MCS closes at 5 p.m. Pacific time on August 26, 1985. Public hearings on the proposed amendments to the MCS will be held at the following places and times:

- Spokane, Washington, 3:30 p.m. to 5:00 p.m., August 20, 1985, Spokane Convention Center, Meeting Room A, W. 334 Spokane Falls Blvd., Spokane, Washington.
- Seattle, Washington, 9:00 a.m. to 11:00 a.m., August 20, 1985, at the Federal Building, Room 2866, 915 Second Avenue, Seattle, Washington.
- Burley, Idaho, 1 p.m., August 22, 1985, at the Burley Inn, 800 N. Overland Ave., Burley, Idaho.
- Portland, Oregon, 9 a.m., August 6, 1985, at the Council's Central Office, 850 S.W. Broadway, Suite 1100, Portland Oregon.
- Missoula, Montana, 10 a.m., August 23, 1985, at the Missoula Sheraton, 200 South Pattee Street, Missoula, Montana.

The Council currently expects to take final action on proposed MCS-related amendments at its September 18–19, 1985 meeting in Portland, Oregon. The actual date on which the Council will make its final decision will be announced in accordance with applicable law and in accordance with the Council's practice of providing notice of its meeting agendas.

Guidelines for Presenting Oral Comments at Hearings

1. To reserve a time period for presenting oral comments at a hearing, contact Ruth Curtis, Information Coordinator, at the Council's central office (850 S.W. Broadway, Suite 1100, Portland, Oregon 97205 or (503) 222–5161, toll free 1–800–222–3355 in Idaho, Montana, and Washington or 1–800–452–2324 in Oregon) no later than two work days before the hearing.

2. Those who do not reserve time periods will be permitted to present oral comments as time permits.

3. Use the hearing to *summarize* written comments. The comments themselves should not be read.

4. If possible, ten (10) copies of written comments should be submitted to the Council recorder at the hearings. This person will be sitting at a table near the Council members and will be identified at the start of the hearing by the hearing chairman. When preparing these copies, refer to the instructions below for written comments.

5. Comment time may be limited on those occasions when the number of people signed up to testify is sufficiently large that it will be necessary to impose limits in order to allow all commenters a hearing. A 15-minute guideline is suggested.

6. Appearance at more than one hearing is unnecessary. At each hearing, scheduling preference will be given to individuals and groups which have not testified at other hearings.

Guidelines for Submitting Written Comments

1. All written comments must be received in the Council's central office, 850 S.W. Broadway, Suite 1100, Portland, Oregon, 97205 by 5 p.m. Pacific time on Monday, August 26, 1985. Comments should be submitted to the attention of Dulcy Mahar at this address.

2. *Comments should be clearly marked "Model Conservation Standard Comments"*

3. Written comments should be specific and concise and refer to sections or page numbers in the proposed MCS amendments.

4. If appropriate, submit a "marked up" copy of the proposed MCS (or appropriate sections) indicating suggestions and/or revisions. Suggested deletions should be lined out and placed in parentheses. Suggested new language should be underlined.

5. Please type (double-spaced) comments, if possible. Use only one side of the paper.

6. Provide ten (10) copies of all comments and supporting materials if at all possible.

FOR FURTHER INFORMATION CONTACT: Dulcy Mahar, Director of Public Information and Involvement, at the address and telephone numbers listed above.

SUPPLEMENTARY INFORMATION: As directed by the Northwest Power Act (16 U.S.C. 839 *et seq.*, "the Act"), the Council adopted a plan including MCS for new structures and for existing structures which are converted to electric space heating/conditioning. The MCS were designed to produce all electric power savings that are cost effective for the region and economically feasible for consumers. The standards for new residential structures are set forth in section 2 of the Council's current Two Year Action Plan (Chapter 10 of the Plan) and establish annual performance budgets for electric space heating for each of the Pacific Northwest's climate zones.[1] The standard for new commercial construction is described in section 6 of the current Two-Year Action Plan and is a modified version of the most recent model energy code of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), ASHRAE 90–80. The standards for existing residential structures which

[1] In January, 1985, the Council amended the MCS to correct two technical, nonsubstantial errors. These corrections changed the energy performance budgets for single family residences in climate zones 2 and 3. (50 FR 5021, Feb. 5, 1985). In August, 1984, the Council made technical, nonsubstantial amendments to the MCS, pursuant to settlement of a lawsuit filed by representatives of the natural gas industry, to clarify that the MCS applied only to residential structures using electric space heating and to commercial structures using electric space heating or space conditioning (49 FR 34118, August 28, 1984).

convert to electric space heating and for existing commercial structures which convert to electric space heating and/or conditioning are described in section 3 and 7 of the Council's current Two-Year Action Plan, respectively.

The Act also authorized the Council to recommend that the Bonneville Power Administration (BPA) impose a minimum 10 percent rate surcharge upon electric utilities for those portions of their loads within jurisdictions which do not, or upon utilities which do not, implement the MCS or achieve comparable savings. In the Plan, the Council set a January 1, 1986 deadline for adoption of all aspects of the MCS or comparable programs and recommended that BPA impose surcharges after that date. This deadline applied to the MCS for new residential and commercial structures and for existing structures converted to electric heating or space conditioning.

The Plan also called on BPA to implement various educational, technical and financial assistance programs to further adoption of the MCS. One of these programs, the Residential Standards Demonstration Program (RSDP) was designed to provide designers, builders, subcontractors, materials suppliers and building code officials with experience in the construction of residences meeting the MCS. The RSDP involves more than 400 residences across the region built to the energy efficiency requirements of the MCS, as well as a "control group" of homes built to current practice. All RSDP buildings are metered to allow comparison of the amount of electricity each consumes for space heating, water heating and other uses.

As a result of incentive efforts called for in the Plan and implemented by BPA, several jurisdictions in the region (including the City of Tacoma, Washington) have already adopted and begun to enforce the MCS. Also, largely in response to the Council's Plan, the State of Washington recently authorized its Building Code Council to promulgate for adoption a statewide energy code incorporating a number of the efficiency requirements of the MCS.

BPA also initiated a marketing program, Super Good Cents, aimed at achieving a target of 5,000 houses being built to the Council's standard during fiscal year 1986. Houses built and marketed through the Super Good Cents program will be certified as energy efficient by electric utilities. Certification is designed to encourage lenders, sellers and buyers to view the certification as adding value to the house because it is less expensive to heat. Also, through development of a surcharge policy, BPA is establishing a procedure to test the compliance of utility-designed programs in gaining savings of electricity equivalent to the MCS. Finally, BPA has a continuing program to help train and educate the building industry to construct more efficient buildings.

Based upon its review of preliminary data and builder experience resulting from the RSDP and the early-adopting jurisdictions, the Council now believes that some amendment of the Plan may be necessary to permit additional time for the regional transition from current building practice to the levels of energy efficiency called for in the MCS. At a Council meeting held on March 13, 1985, Council staff presented an issue paper ("Model Conservation Standards Review") which concluded that, while the preliminary cost data from the RSDP support the efficiency levels called for in the MCS, some delay in implementation of the MCS may be necessary to provide additional time to resolve difficulties encountered by some builders in making the transition to the energy-efficient building practices called for by the MCS.

The Council now seeks public comment on the proposed amendments described below. The Council particularly encourages submission of comments addressing the following issues:

- the MCS as "lost opportunity resources" (i.e., the value to the region of acting promptly to acquire cost-effective electric power savings that may not be available as inexpensively later, if at all);
- indoor air quality;
- achievable market share rates for the 1989 MCS for new structures, both before and after the January 1, 1989 deadline; and
- appropriate levels of incentive payments for construction of new structures to the requirements of the 1989 MCS.

Proposed Amendments

If adopted by the Council, the proposed amendments would amend Volume I, Chapter 10, Section 2 of the Plan, "Residential Sector-New Building Standard"; Section 3, "Residential Sector-Conversion Standard"; Section 6, "Commercial Sector-New Building Standard"; Section 7, "Commercial Sector-Conversion Standard"; Section 8, "Commercial Sector-Demonstration Program"; Action Item 12.1, dealing with BPA reimbursement to state and local governments for the cost of adopting the MCS; and Section 25, "Method for Calculating Surcharges," by deleting the existing text and related appendices and replacing them with the following.

Model Conservation Standards for New Electrically Heated Residential Structures and New Electrically Space Conditioned Commercial Buildings and Buildings That Are Converted to Electric Space Heating and Conditioning

The model conservation standards described below may be adopted and enforced by a state or local government or by utilities where utilities are legally authorized to do so. For those jurisdictions which choose not to adopt and enforce the applicable standards, affected electric utilities should prepare by the dates provided in Section E of this rule a description of an alternative program for achieving savings of electricity that are comparable to those achievable through the use of the standards. The alternative program may employ marketing and incentive programs, electric service requirements, rate designs, or other techniques for achieving conservation. Some pre-approved alternative plans are included here and in BPA's currently proposed surcharge policy. Failure to implement the standards or achieve comparable savings of electricity will subject utilities to the Council's surcharge provisions (see Method for Calculating Surcharges, Appendix A to this rule).

A. *Level and Timing of the Model Conservation Standards*

The proposed amendments described below do not represent a radical departure from the MCS the Council formulated in its 1983 Plan. No changes are proposed to the level of the commercial standard for new buildings, the conversion standard for existing residential and commercial buildings, or the full residential standard for new buildings required by 1989. The only change in level is the interim standard for new residential buildings required by 1987. The proposed amendments would, if adopted, change the timing of the standards. Rather than requiring that all the standards be adopted by January 1, 1986 in order to avoid the surcharge, the deadline for adoption of the full residential standards for new structures would be January 1, 1989, and an interim residential standard for new structures would be required by January 1, 1987. The deadline for adoption of the standard for new commercial buildings would be January 1, 1987. The deadline for adoption of the conversion standard for existing residential and commercial structures would be January 1, 1989. A summary of the level and timing of the standards which would result from the

proposed amendments appears in Exhibit A

TABLE 1.—ILLUSTRATIVE PRESCRIPTIVE PATH

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VOL 50 ISS 144 JL 26 1985 UMI

proposed amendments appears in Exhibit A.

Exhibit A.—Summary of Model Conservation Standards and Their Effective Dates

Effective date	New residential buildings	New commercial buildings	Residential buildings converted to electric heating	Commercial buildings converted to electric heating or air conditioning
Jan. 1, 1987	Component prescriptive standard for three climate zones. Component tradeoffs allowed via a point system similar to the one used by BPA in the Residential Standards Demonstration Program (RSDP) (see Table 1 for details).	Modified ASHRAE 90-80 with lighting budgets from the Seattle Energy Code, except for office and retail buildings which have lighting budgets of 1.5 watts per square foot. An additional allowance for spot and task lighting of 1.5–3.0 watts per square foot is provided for retail buildings less than 20,000 sq. ft.	No requirement	No requirement.
Jan. 1, 1989	Component prescriptive standard comparable to Council's 1983 standard (see Table 2 for more details).	do	Structures receiving building permits before Jan. 1, 1989 must be weatherized to the regionally cost-effective level defined in the Council's plan. Structures receiving building permits after Jan. 1, 1989 must be weatherized to the level indicated in Table 2.	Buildings receiving building permits before Jan. 1, 1987 must undergo an energy audit and meet certain efficiency standards. Commercial buildings receiving a building permit after Jan. 1, 1987 must be upgraded to the level of the commercial standard effective on Jan. 1, 1987.

1. New Residential Buildings (Single and Multifamily) [1]

New buildings present one of the most significant opportunities for achieving cost-effective conservation. The installation of measures is far less expensive at the time of construction, and many conservation measures can be incorporated at the time of construction but cannot be installed later without making structural changes to the building. With residential buildings lasting 50 years or more, it is vital to ensure that any building using electric space heating is built to efficient standards—even during periods of a surplus of electric power. Unless all cost-effective measures are installed at the time of construction, an important energy-saving resource may be lost to the region forever. The Council's model conservation standards are intended to capture these "lost opportunity" resources while they are available.

The Council's model standards for new residential buildings are specified for three climate zones [2] in the form of a generalized prescriptive path. The standard which should be in effect in each climate zone by January 1, 1987 is that level of electric energy efficiency which would be realized through the use of the illustrative prescriptive path shown in Table 1 below. The standard which should be in effect in each climate zone by January 1, 1989 is that level of electric energy efficiency which would be realized through the use of the illustrative prescriptive path shown in Table 2 below. The Council believes that designers and builders should be permitted to select any means to achieve savings of electricity comparable to those that would be realized through the use of these generalized paths. For example, a dwelling could attain the Council's standard by containing a lower level of insulation, while containing more efficient windows or a heat pump.

The Council, after carefully reviewing all of the data available to it on the MCS, has determined that these standards represent regionally cost-effective investments in electric space heating conservation in new dwellings and at the same time are economically feasible for consumers, taking into account BPA incentives available under Section C of this rule.[3] The Council has not analyzed the economic feasibility or cost-effectiveness of these standards for consumers of other space heating fuels. The Council's standards for new residential construction apply only to locally regulated structrues. They do not apply to structures regulated by the U.S. Department of Housing and Urban Development's Federal Manufactured Home Construction and Safety Standards for manufactured housing.

• To meet the model conservation standard for new residences, a state, local government or utility should:

(a) By January 1, 1987, take actions through codes, alternative programs or combinations thereof which will achieve electric power savings from new residences comparable to those savings which would be achieved if new electrically heated residences included the conservation measures described in Table 1 below. These measures have been demonstrated to be cost effective for the region because they are reliable and available within the time needed and because they reduce the electric power demand of regional consumers at a system cost which is less than the least-cost similarly reliable and available alternative resource. They have been found by the Council to be economically optimal for the average regional residential consumer of electricity, and to require no additional time to improve necessary building practices. Typical new residences could comply with the standard by including the conservation measures shown in Table 1 below.

TABLE 1.—ILLUSTRATIVE PRESCRIPTIVE PATH FOR MCS TO BE IMPLEMENTED BY JANUARY 1, 1987.

Component	Level of Efficiency	
	Climate zone 1	Climate zones 2 and 3
Ceiling:		
Attic	R-38 (U-0.032)	R-38 (U-0.032).
Vaults	R-30 (U-0.035)	R-30 (U-0.035).
Walls	R-19 (U-0.057)	R-19 (U-0.057).
Underfloor crawlspace and unheated basements.	R-19 (U-0.040)	R-30(U-0.030).
Perimeter (exterior) slab-on-grade and heated basemens. or	R-10	R-15.
Perimeter (interior) heated basement.	R-19	R-19.
Glazing	R-2.5 (U-0.40 tested at 15 mph using procedures consistent with AAMA 1503.1-80.*	
Maximum glazed area (% floor area).	15	15.
Doors	No requirement	R-7 (U-0.16).
Infiltration Control	Current Practice (Approximately 0.6 air changes per hour.	
Mechanical ventilation with heat recovery.	Current Practice	Current Practice.

* American Architectural Manufacturers Association 1503.1–1980 Voluntary Test Method for Thermal Transmittance of Windows, Doors and Glazed Wale Sections.

As an alternative, a state or local government or utility may meet this standard by implementing a program that ensures that a certain percentage of new residences meet the higher level required by the 1989 MCS described immediately below (i.e., achieve a specified minimum share of all electrically heated new residences). Assuming that the remainder of the residences in each state are built to current practice, the necessary shares per state would be as follows:

State	Market share (percent)
Washington	10
Oregon	* 25
Idaho	42
Montana	28

*Assumes adoption of current Building Code Division proposed revisions to Chapter 53 of the Oregon Building Code. If the existing code remains in effect without revisions, the minimum market share required for utilities serving consumers in Oregon would be 50%.

(b) By January 1, 1989, take actions through codes, alternative programs, or a combination thereof which will achieve electric power savings from new residences comparable to those savings that would be achieved if new electrically heated residences included the conservation measures described in Table 2 below. These measures are forecast by the Council to meet the Act's requirements that they be designed to produce all electric power savings that are cost effective for the region and economically feasible for consumers, taking BPA financial assistance into account. Typical new residences could comply with the standard by including the measures shown in Table 2 below.

Other illustrative approaches to building to this standard are described in those portions of the Council's *Model Conservation Standards Equivolent Code* dated February 1985, as may be subsequently amended or revised, which are applicable to low-rise residential buildings.

TABLE 2.—ILLUSTRATIVE PRESCRIPTIVE PATHS FOR MCS TO BE IMPLEMENTED BY JANUARY 1, 1989 [4]

Component	Climate zone		
	Zone 1	Zone 2	Zone 3
Ceiling:			
Attic	R-38(U-0.032)	R-38(U-0.032)	R-38(U-0.032).
Vaults	R-38(U-0.028)	R-38(U-0.028)	R-38(U-0.028).
Walls	R-19(U-0.057)	R-25(U-0.045)	R-31(U-0.035).
Underfloors crawlspaces and	R-19(U-0.040)	R-30(U-0.030	R-30(U-0.030).
Perimeters (exterior) slab-on-grade and heated basements. or	R-12	R-10	R-15.
Perimeters (interior) heated basement.	R-19	R-19	R-25.
Glazing	R-2.5 (U-0.40 tested at 15 mph using procedures consistent with AAMA 1503.1-80).		
Maximum glazed area (percent floor area)	15	15	15.
Exterior Doors	R-7(U-0.16	R-7(U-0.16)	R-7(U-0.16).
Infiltration Control	0.1 ach*	0.1 ach.	0.1 ach.
Mechanical ventilation w/heat recovery	0.5 ach.	0.5 ach.	0.5 ach.

*ach—air changes per hour.
[4] The electric power savings represented by inclusion of these measures are estimated to be equivalent to those which would be produced by the performance standards as set forth and as amended in the Council's 1983 energy plan.

2. New Commercial Buildings

For the same reasons described above regarding new residential construction, it is vital to ensure that commercial (i.e., nonresidential) buildings using electric space conditioning and/or lighting are built to efficient standards—even during periods of surplus. This commercial building standard was developed to ensure that new commercial buildings are built to produce savings of electricity that are cost effective for the region and economically feasible for the consumer. The level of the standard for new commercial buildings is unchanged from that in the Council's 1983 Plan. However, to allow adequate time for adoption and implementation of this standard, the Council is proposing that the standard apply to those commercial buildings that receive building permits on or after January 1, 1987.

• To meet the model conservation standard for new commerical buildings, a state, local government or utility should, by January 1, 1987, take actions through codes, alternative programs, or a combination thereof which will achieve electric energy savings from new commercial buildings comparable to that which would be achieved if new commercial buildings met the energy efficiency requirements described below in the following paragraph. Illustrative approaches for building to meet this standard are described in those portions of the Council's *Model Conservation Standards Equivalent Code* dated February 1985, as may be subsequently amended or revised, which are applicable to all buildings except low-rise residential buildings.

The Council's model conservation standard for new commerical buildings is a modified version of the most recent model energy code of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), ASHRAE 90–80, except for those sections dealing with ventilation and lighting. The ventilation requirements are those set forth in ASHRAE Standard 62–81. The lighting efficiency requirements are comparable to those now required by the City of Seattle's Energy Code, with the exception of office and retail buildings. The lighting standard for all office buildings and for those retail buildings containing over 20,000 square feet is 1.5 watts per square foot. This is equivalent to the office building lighting standard adopted by the California Energy Commission. The lighting efficiency requirements for other retail buildings are as follows:

Size	Lighting Efficiency Requirement (maximum installed wattage, including ballast)
Less than 1,000 [1]	[2] 4.5
1,000 to 6,000 [1]	[2] 3.5
6,000 to 20,000 [1]	[2] 2.5

[1] Square feet.
[2] Watts/square feet.

3. Residential and Commercial Conversions

It does little good to require that all new buildings with electric space heating/space conditioning satisfy model conservation standards if existing buildings that are not built with electric space heating/space conditioning can be converted to electricity freely. The region would be inviting consumers to circumvent the new building standards.

[1] Single family residences are defined to include duplexes. Multifamily residences include triplexes and larger structures up to and including 4-story low-rise residential structures.

[2] These climate zones, developed to reflect climatic differences within the region, are based on the number of heating degree days in a particular location. Zone 1 experiences less than 6,000 heating degree days, Zone 2 from 6,000 to 8,000 and Zone 3 more than 8,000.

[3] The Council's March 13, 1985 issue paper, "Model Conservation Standards Review," and additional materials analyzing the data are available on request.

On the other hand, it would be unreasonable to require that buildings

C. Programs To Assist MCS Implementation

to the degree of efficiency represented

i. Financial incentives for homebuyers

continue as long as enforcement of the

On the other hand, it would be unreasonable to require that buildings receiving permits prior to the effective date of the Council's standard meet the new building standard before they can be converted to electric space heating/space conditioning. To reconcile these differences, the Council has developed separate model conservation standards for buildings that are granted building permits before January 1, 1989 for residential buildings and before January 1, 1987 for commercial buildings and that are later converted to electric space heating or conditioning and for commercial and residential buildings that are granted building permits after January 1, 1987 and January 1, 1989, respectively, and are later converted to electric space heating/conditioning.

The Council's model standard for residential buildings that receive permits prior to January 1, 1989 and that later are converted to electric space heating requires that a dwelling install all conservation measures that are regionally cost effective, as described in the Council's Plan, prior to conversion. The conversion standard for commercial buildings that receive permits prior to January 1, 1987 and are later converted to electric heating/conditioning, requires that, prior to installation of electric space heating or conditioning, the building should undergo a comprehensive energy audit and install all conservation measures that are regionally cost effective and economically feasible, as described in the Council's Plan,[5] prior to conversion.

These conversion standards are at the same level as in the Council's 1983 Plan. The only change is in their timing. Commercial and residential buildings that are granted building permits after January 1, 1987 and January 1, 1989, respectively, will be required to be upgraded to Council's model energy standards for new electrically heated/space conditioned buildings if and when they are converted to electric space heat/space conditioning. These conversion standards will ensure that buildings converted to electric space heat from other fuels will meet minimum electric energy-efficiency requirements.

• To meet the model conservation standards for commercial and residential buildings that receive building permits prior to January 1, 1987 and January 1, 1989, respectively, and that convert to electric space heating (or space conditioning, in the case of commercial buildings) a state, local government or utility should, by January 1, 1989, take actions through codes, alternative programs or a combination thereof to achieve electric power savings from such buildings comparable to those savings that would be achieved by compliance with the conversion standards described above. Buildings that receive building permits after January 1, 1987 for commercial and January 1, 1989 for residential buildings must comply with standards for new buildings if they convert to electric heating/conditioning.

[5] The Council's 1983 Plan established this level to be a levelized life cycle cost of 4.0 cents per kilowatt hour (in 1983 dollars) for each measure. The Council staff's recommendation for the 1985 Plan is to revise this figure to 5.5 cents per kilowatt hour (in 1985 dollars).

B. Acceptable Alternative Programs for Achieving the Model Conservation Standards

1. Development of Alternative Programs

As alternative programs for achieving savings comparable to those which would be obtained under the MCS, state or local governments or utilities may use marketing programs, provide for financial incentives to buyers or builders of new electrically heated dwellings and/or commercial structures, or use other measures to encourage electric energy-efficient construction achieving savings comparable to those achievable through the MCS. Each alternative plan should specify at least the following:

—Thermal efficiency specifications per building.
—Target market share.
—Marketing plan (e.g. Super Good Cents, Super Good Cents with incentives, etc.).
—Contingency plans for achieving targets with alternative marketing strategy.
—Compliance certification strategy (e.g. utility inspection).

Each alternative will be evaluated by BPA to establish that its implementation will achieve savings comparable to the MCS. BPA is now developing pre-approved alternative plans under its proposed surcharge policy.

2. Time for Declaration of Alternative Programs

By January 1, 1986, utilities should submit to BPA a plan declaring how they intend to meet the 1987 MCS for new residential buildings and MCS for new commercial buildings or declaring how these standards will be met or have been met by state or local governments. By January 1, 1988, utilities should submit to BPA their plans for meeting the 1989 MCS for new residences and the MCS for residences and commercial buildings converting to electric space heat and/or space conditioning.

C. Programs To Assist MCS Implementation

Even though the benefits of building to the MCS are clear, homebuyers, builders, state and local governments and utilities need technical and financial assistance to make the transition to constructing buildings as efficiently as is required by the standards. Achieving the improved levels of building efficiency envisioned in the MCS is the goal of the Council. This goal can be achieved by a variety of ways, including new building codes, education and training, marketing programs, incentives, or any combination of the above activities.

BPA has a key leadership role in achieving the goal of constructing more efficient buildings in the region. In this role, BPA should offer technical and financial assistance to those entities that can effect a change in current building practice. In particular, BPA's assistance is important to achieve the following four fundamental objectives.

1. Improved Building Codes

BPA should provide assistance to state and local jurisdictions as they make the transition to more efficient building practice through changes in building codes. BPA has offered and should continue to offer two specific programs that will facilitate the adoption of building codes by state and local governments. The first programmatic effort by BPA has been the offering of technical and financial assistance to "early adopters" of the MCS. Communities such as Tacoma, Washington which have taken a leadership role by implementing a local building code to the level of the MCS greatly facilitate the development of the necessary market infrastructure that is ultimately needed to achieve a change in the region's building practice. The second programmatic effort by BPA is financial assistance to reimburse state and local governments for the increased costs of inspection and enforcement associated with more energy efficient buildings.

2. Utility Based Programs

Recognizing that not all jurisdictions within the region will adopt energy efficient building codes to the level of the MCS, the Council has specified other programs to bring about changes in building practice. These programs have focused on two sub-objectives: (1) To provide marketing assistance to homebuilders and buyers of new homes to facilitate consumer decisions to build more efficient housing, and (2) to provide incentives to individual homebuyers who purchase homes built

to the degree of efficiency represented by the MCS.

3. Model Conservation Standards Research and Development

BPA should continue to provide additional research and development for new building techniques that can reduce the cost to the homeowner of achieving levels of efficiency represented by the MCS and beyond. These research and development programs focus on two specific areas. First, considerable improvements can be made with respect to building techniques and practices. BPA has provided substantial assistance to builders by providing recommendations on the most cost efficient ways to achieve the MCS. Second, BPA should continue with research on technology that at least maintains indoor air quality at the level attained in houses built to current practice.

4. Provide Training and Technical Information

BPA should continue activities that will assist homebuyers, state and local governments, homebuilders, utilities, realtors, lenders, and appraisers accurately evaluate building techniques that will achieve improved levels of building efficiency. This training and technical information is fundamental to allowing all of the decisionmakers involved in purchasing new buildings to make an informed decision, one that recognizes the importance of energy efficient buildings in the total costs of owning and heating or cooling the building.

To meet the Council's overall goal and to achieve the specific objectives listed above, BPA should maintain and/or establish several programs. These programs should be developed in consultation with the Council and other interested and affected parties. As BPA gains more experience with implementing the MCS, these programs may be expanded and changed to be more responsive to achieving the Council's overall goal of moving the region to more energy efficient building practices. The BPA programs structured by the four key objectives listed above are listed below.

1. *Programs to Encourage More Efficient Building Codes.* (a) Refine the Code Adoption Demonstration Program which encourages utilities, states and local governments to achieve the 1989 MCS through adoption of equivalent codes prior to January 1, 1989. This "early adopter" program should be available throughout the region and should include the following elements:

i. Financial incentives for homebuyers sufficient to cover the incremental cost of construction between current (October 1, 1985) practice and the 1989 MCS. The Council estimates this cost will range from $1.50 to $3.00 per square foot of heated space, and will provide exact estimates to Bonneville.

Continue to provide financial incentives to commercial building owners in "early adopter" jurisdictions.

ii. Reimbursement to utilities, states and local governments for the cost of code adoption and enforcement. Reimbursement for the cost of enforcement of codes should be provided only if such enforcement activities produce at least an 85 percent code compliance rate.

iii. Systematic evaluation of construction cost, fuel share impacts, thermal performance, occupant satisfaction, indoor air quality, and overall compliance with code targets and cost for both residential and commercial buildings.

iv. Education and training programs for builders, consumers, architects, designers, energy code enforcement officials, mechanical ventilation system designers, installers and servicing contractors, realtors, lenders and appraisers, and other appropriate participants in the design, purchase, and construction of new buildings.

v. Shelter industry training which focuses on the most cost efficient means of achieving the MCS.

(b) By January 1, 1986, refine the point system used in the Residential Standards Demonstration Program. The generalized prescriptive paths shown in Table 2 should be used as a basis. At a minimum, component trade-offs should be included to account for variations in building thermal mass, heating system efficiency, solar orientation, envelope thermal efficiency and heating degree days.

(c) Establish and maintain a program to reimburse states or local governments for the costs of enforcing codes. Code enforcement reimbursement should be provided for the cost of one inspection per building for any jurisdiction that substantially improves its residential energy conservation code. This reimbursement should be provided between the time of adoption and January 1, 1989, and should be offered throughout the region.

(d) Continue with the Model Conservation Standards Implementation Program (MCSIP) to reimburse state and local governments throughout the region for the incremental costs of adopting and enforcing all model conservation standards. Reimbursement should continue as long as enforcement of the standards remains regionally cost effective.

2. *Programs With or For Utilities.* (a) Maintain an aggressive energy efficient new home marketing program (e.g. Super Good Cents). This program should include, as a condition of participation in the program, monitoring of indoor air quality and employment of specific pollutant source control measures in houses constructed under the program, and should be focused on "site-built" residential buildings.

(b) Explore the possibilities and feasibility of an aggressive energy-efficient new commercial buildings marketing program similar to the Super Good Cents program for residential buildings. If a program appears to be desirable, design and implement the program.

(c) Continue development of an implement a procedure to measure compliance with the Council's standards and to review alternative plans for achieving savings comparable to the MCS for new residential and commercial buildings. This procedure should be incorporated into Bonneville's surcharge policy scheduled for completion in January 1986.

(d) Develop and implement a procedure to measure compliance with the Council's standard and to review alternative plans to achieve savings comparable to the MCS for existing residential and commercial buildings converting to electric space heating/space conditioning. This procedure is to be available on or before January 1, 1988, and at that time should be incorporated into Bonneville's surcharge policy.

3. *Model Conservation Standards Research and Development.* (a) Continue the New Commercial Buildings Field Test Demonstration program conducted pursuant to the Council's 1983 plan. This program is designed to achieve approximately 30 new commercial buildings constructed to be about 30% more efficient than the Council's standard.

(b) Continue to collect and analyze data regarding energy use, structural specifications and operation of residences and commercial buildings through the existing End-use Load and Conservation Assessment Project (ELCAP).

(c) Collect and evaluate data on new energy efficient commercial buildings built under the "early adopter" program or elsewhere. These data should be maintained and updated as is necessary so they can be used in future planning

and be used in information brochures on efficient building techniques.

as the MCS remain regionally cost-effective.

VOL 50 ISS 144 JL 26 1985 UMI

and be used in information brochures on efficient building techniques.

(d) Expand Bonneville's existing Indoor Air Quality Research Program to:

i. Gather information on the distribution of ventilation rates in single family and multifamily dwellings constructed to existing and newly adopted codes and standards by climate zone in the region.

ii. Assess the relative effectiveness of alternative source reduction and mechanical ventilation systems and strategies for minimizing potential pollutant build up, including but not limited to spot ventilation, whole house exhaust-only ventilation, ductless heat recovery ventilation, and whole house heat recovery ventilation.

iii. Evaluate the effectiveness of natural ventilation (i.e., infiltration) compared to mechanical ventilation in maintaining clean air, given the same source strength and whole house ventilation rate.

iv. Identify any indoor pollutants that may be significantly reduced or eliminated through source reduction actions that might be effected through building codes and product standards.

(e) Establish, maintain and disseminate the results of an ongoing research and demonstration effort which focuses on the refinement of new residential and commercial building conservation technologies, construction techniques and products. This program should initially concentrate in the residential sector, identifying and/or developing more cost effective approaches to:

i. Reducing uncontrolled air leakage,

ii. Providing more reliable ventilation both with and without heat recovery, and

iii. Constructing highly insulated exterior walls.

4. *Training and Technical Assistance.* (a) Develop for commercial buildings an energy efficiency certification program focusing on lighting. This program should be available by January 1, 1987 and be designed to influence the financing terms available to developers of energy efficient commercial buildings.

(b) Continue to provide technical and financial assistance to builders, insulation contractors, architects, designers, real estate appraisers and salespersons and code officials for the implementation of a uniform, regionwide energy efficiency certification and rating system for new residential buildings designed to influence the financing terms available to homebuyers.

(c) Education and training programs for builders, consumers, architects, designers, energy code enforcement officials, mechanical ventilation system designers, installers and servicing contractors, realtors, lenders and appraisers, and other appropriate participants in the design, purchase, and construction of new buildings. This education and training program should continue beyond 1989 if necessary.

D. Public Utility Regulatory Commission Activities

The Council recommends that the region's public utility commissions consider providing appropriate rate treatment for investor-owned utility expenditures (e.g. market program costs, consumer/builder incentives) made to encourage the construction of more electrical energy efficient structures built to achieve savings comparable to those specified for the 1987 and 1989 MCS for new residences and commercial buildings.

E. Surcharge Method and Recommendation

The Act requires the Council to provide a method in the Plan which the administrator is to use in imposing surcharges. The Council's method for calculating surcharges is presented in Appendix A.

1. *Timing*—The Council recommends that BPA impose a rate surcharge upon utilities for those portions of their loads within the region that are in jurisdictions which do not, or on utilities which do not:

(a) achieve, by January 1, 1987, electric power savings comparable to 85 percent [6] of the savings which would be achieved by the 1987 MCS for new residential buildings;

(b) achieve, by January 1, 1987, electric power savings comparable to 85 percent of the savings which would be achieved by the MCS for new commercial buildings;

(c) achieve, by January 1, 1989, electric power savings comparable to 85 percent of the savings which would be achieved by the 1989 MCS for new residential buildings, unless the Council determines on or before July 1, 1988 that the 1989 MCS is not cost-effective, reliable or commercially available;

(d) achieve, by January 1, 1989, electric power savings comparable to 85 percent of the savings which would be achieved by the MCS for residential buildings which are converted to electric space heating; and

(e) achieve, by January 1, 1989, savings comparable to 85 percent of the savings which would be achieved by the MCS for existing commercial buildings which are converted to electric space heating and/or conditioning.

A utility meeting the January 1, 1986 and January 1, 1988 filing deadlines described in Section B.2 above will not be subject to surcharge until BPA completes an evaluation of compliance plans submitted by the utility.

After January 1, 1989, achievement of the MCS for new residences should be a joint responsibility of BPA, state and local governments, utilities, and homebuyers. BPA should assume responsibility for dwellings built beyond what is economically optimal for consumers but still regionally cost effective. If a jurisdiction achieves electric energy savings equivalent to what would be saved by buildings built to the consumer optimal level as identified by the Council in Table 1 above, BPA should not surcharge the utility serving that jurisdiction. Instead, BPA should pay an incentive equal to the difference in net present value cost between the consumer optimum and the 1989 MCS. If a jurisdiction does not achieve comparable savings to what would be achieved at the consumer optimum, then the utility serving that jurisdiction should be surcharged. In making its calculation, BPA should use cost data from the Residential Standards Demonstration Program and other cost data systematically collected and evaluated from jurisdictions which adopt the 1989 MCS before January 1, 1989. Such incentives should be paid on the basis of dollars per square foot of a residence's electrically heated floor area. Currently, the Council estimates this cost to be between $0.25 and $0.35 per square foot. The Council will provide to BPA an estimate of this life cycle cost difference.

2. *Exemptions*—The MCS are one of the most cost effective resources in the Council's resource portfolio, and failure to adopt them imposes upon the region the cost of ultimately building additional higher-cost generating resources. The availability of alternative programs allows a number of ways for utilities to avoid a surcharge. If BPA believes that existing conditions or hardships excuse specific utilities from achieving savings equivalent to 85 percent of savings which would be achieved by the MCS, then BPA should pay for the cost of attaining the MCS to the 85 percent level in those utilities' service areas, so long as the MCS remain regionally cost-effective.

[6] The 85 percent requirement represents the compliance rate the Council expects would result from an incentive-based marketing program.

Edward Sheets,
Executive Director.

Appendix A

Section 4(f)(2) of the Act provides for Council recommendation for surcharges on customers for those portions of their loads within the region that are within states or political subdivisions which have not, or on customers which have not, implemented conservation measures that achieve savings of electricity comparable to the model conservation standards. The Council is reponsible for drafting a "methodology" for the calculation of surcharges. The Council, in Action 25 of Chapter 10 of this Plan, has recommended to the Administrator that he impose a surcharge on customers serving jurisdictions which do not adopt the model conservation standards or achieve comparable savings. The purpose of the surcharge is twofold: (1) to recover costs imposed on the region's electric system by failure to adopt the model conservation standards or achieve comparable savings, and (2) to provide a strong incentive to utilities and state and local jurisdictions to adopt and/or enforce the standards or comparable alternatives. The following is the "methodology" for calculating surcharges:

1. The following model conservation standards must be adopted or comparable savings must be achieved in order to avoid surcharges:

- Model Standards for new residential buildings, Action 2;
- Model Standards for new commercial buildings, Action 6;
- Model Standards for conversion to electric space heat in residential buildings, Action 3; and
- Model Standards for conversion to electric space conditioning in commercial buildings, Action 7.

2. The Administrator shall identify those customers, states, or political subdivisions which have not:

a. implemented each of the model standards listed in paragraph 1; or

b. achieved comparable savings of electricity through other conservation methods, such as utility electric service requirements, incentive programs or rate designs.

3. The surcharge shall then be calculated by the Bonneville Administrator as follows:

a. If the customer is purchasing firm power from Bonneville under a Power Sales Contract and is not exchanging under a Residential Purchase and Sales Agreement, the surcharge is calculated to be 10 percent of the cost to the customer of all firm power purchased from Bonneville under the Power Sales Contract.

b.If the customer is not purchasing firm power from Bonneville under a Power Sales Contract, but is exchanging under a Residential Purchase and Sales Agreement, the surcharge is calculated to be 10 percent of the cost to the customer of the power purchased from Bonneville in the exchange.

c. If the customer is purchasing firm power from Bonneville under a Power Sales Contract and also is exchanging under a Residential Purchase and Sales Agreement, the surcharge is calculated to be (a) 10 percent of the cost to the customer of firm power purchased under the Power Sales Contract *plus*, (b) 10 percent of the cost to the customer of power purchased from Bonneville in the exchange multiplied by the fraction of the utility's exchange load that is served by the utility's own resources.

This calculation of the surcharge is designed to eliminate the possibility of surcharging a utility twice on the same load. In the calculation, the portion of a utility's exchange resource that is purchased from Bonneville and already surcharged under the power sales contract is subtracted from the exchange resources before establishing a surcharge on the exchange load.

d. If only a portion of a utility's service area has not adopted the model standards or achieved comparable savings, the surcharge calculated under a, b, or c above is to be multiplied by the non-complying jurisdiction's share of the utility's total load.

e. The surcharge shall be removed when model conservation standards have been adopted and enforced or alternative programs, estimated by the Administrator in consultation with the Council to save an equivalent amount of electricity, have been implemented.

4. A utility electric service requirement that results in construction of electrically space conditioned buildings which are the equivalent of buildings in compliance with the model conservation standards constitutes an alternative plan that achieves comparable electricity savings. The Council intends to continue analyzing alternatives to building codes to achieve the construction of energy-efficient buildings to obtain cost-effective resources for the region.

5. Any entity that chooses not to adopt a particular model conservation standard within the allotted period for adoption and wishes to avoid a surcharge must declare, before that period expires, how it intends to achieve comparable savings. In addition, that entity must indicate how it intends to demonstrate attainment of comparable savings.

To assist Bonneville in estimating comparable electricity savings from alternative plans, the entity should present its best estimate of new residential and commercial building construction in the non-complying jurisdictions within its service territory. Bonneville shall determine, in consultation with the Council, whether the alternative conservation plan of an entity will achieve comparable savings. When determining electricity savings that would have occurred had the standards been adopted, jurisdiction-specific weather data and construction estimates, where available, should be used along with the Council's residential and commercial heat loss models.

The Council recognizes that in many cases data will not be available. In these cases Bonneville should rely on average electricity savings estimated by building type and climate zone and included in the Plan. For residential buildings, Bonneville should assume the following regarding houses built to the model conservation standards: (1) Houses in climate zone 1 would save, on average, 5,130 kWh per year; (2) houses in climate zone 2 would save, on average, 8,508 kWh per year; and (3) houses in climate zone 3 would save, on average, 7,830 kWh per year. For commercial buildings and where good estimates are not available for the number of new houses, the savings should be determined by multiplying total expected regional average megawatt savings by sector from the standards, as shown in the Plan, by the utility's share of total regional load in the applicable sectors. Estimates of savings from conversion standards should be made on a case-by-case basis. The Council recognizes that these estimates will be difficult to make, but also that estimated savings from conversion standards probably will be small relative to savings from building standards. The Council will work with Bonneville on these estimates as requested.

If only a portion of a utility's service area has not adopted the standards, the lost electricity savings calculated in the above paragraph should be multiplied by the non-complying area's share of the utility's total applicable load.

If the Bonneville Administrator determines that the alternative plan will not achieve comparable savings, he shall notify the entity that its alternative plan has been judged to be not equivalent to the model conservation standards and that Bonneville will begin adding a surcharge to the entity's bill on a date certain. The surcharge will be calculated as described in Paragraph 3 of this method. If subsequent modifications to the entity's alternative plan bring it into compliance with the stated goals of the standards, then the surcharge shall be removed.

A general method of determining the electric energy savings of an alternative conservation plan shall be developed in consultation with the Council and included in Bonneville policy to implement the surcharge. Also, a method shall be included in the policy for terminating the surcharge once model standards have been adopted and enforced or comparable savings have been achieved."

[FR Doc. 85-17751 Filed 7-25-85; 8:45 am]
BILLING CODE 6000-00-M

VOL 50 ISS 144 JL 26 1985 UMI

Friday
July 26, 1985

VOL
50

ISS
144

JL
26

1985

UMI

federal register

Friday
July 26, 1985

Part VI

Department of Justice

Bureau of Justice Assistance

Criminal Justice Discretionary Grants; Final Notice

DEPARTMENT OF JUSTICE

the priorities set now will continue into fiscal year 1986. Subject to the

areas at a variety of sites. The models are based on substantial research and

prosecutors offices that effectively prosecute those accused of physically

prosecutor units which specialize in child physical and sexual abuse cases

six project awards will be made in the

VOL 50 ISS 144 JL 26 1985 UMI

DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

Criminal Justice Discretionary Grants

AGENCY: Bureau of Justice Assistance, Department of Justice.

ACTION: Final notice.

SUMMARY: The Bureau of Justice Assistance is publishing a final notice to implement the criminal justice discretionary grant program authorized by the Justice Assistance Act of 1984. This notice describes procedures and requirements for applying for and administering discretionary grant funds.

EFFECTIVE DATE: This notice is effective on July 26, 1985.

FOR FURTHER INFORMATION CONTACT: For general questions about the priorities and range of discretionary grant programs and relationship to Block Grants: Eugene Dzikiewicz, Acting Deputy Director, Bureau of Justice Assistance, 633 Indiana Avenue NW., Washington, D.C. 20531, 202/272–6838.

ADDRESS FOR APPLICATIONS: All final applications should be addressed to: Control Desk, Office of Controller, Room 948, Bureau of Justice Assistance, OJP, 633 Indiana Avenue NW., Washington, D.C. 20531.

SUPPLEMENTARY INFORMATION: The Justice Assistance Act of 1984 established the Bureau of Justice Assistance within the Office of Justice Programs. The Act authorizes the award of discretionary grants to public and nonprofit agencies. Four purposes are specified for which discretionary grants can be made: (1) Demonstration programs; (2) education and training programs for criminal justice personnel; (3) technical assistance to states and local governments; and (4) national or multistate projects.

The discretionary grant program is intended to complement and enhance the program of criminal justice Block Grants administered by the Bureau of Justice Assistance pursuant to Part D of the Act. These latter grants are designed to carry out state and local programs with a high probability of improving the criminal justice system, with emphasis on violent crime and serious offenders. Of the total amount of funds appropriated for both block and discretionary grants, 20 percent is reserved for the discretionary grant program. For fiscal year 1985, the amount available is $13.8 million. Because many program activities will begin during the latter part of fiscal year 1985 and because State supported block grant activities will be starting up during the final quarter of calendar year 1985, the priorities set now will continue into fiscal year 1986. Subject to the availability of actual appropriations (anticipated by the close of the first quarter of FY '86) the plan and priorities encompass approximately one fourth of the FY '86 projected funding. To accommodate the actual funding cycles of the States in this initial year of block grant activity, this notice establishes a range of funding for each portion of the overall discretionary funding priorities.

The Bureau published proposed discretionary grant regulations on March 18, 1985 in the **Federal Register** to provide for public comments. Comments from criminal justice agencies and organizations nationwide have been largely favorable. Respondents taking issue with the priorities have been individually answered. Overall, the comments may be characterized as suggestions for the funding of particular projects or types of projects. For example, information systems were favored, especially automated fingerprint identification systems and basic entry level training. For the present, we are not making provision for these types of projects on the practical ground of overall cost. The decision to fund any of these areas would require more funds than are available.

Criminal Justice discretionary Grants

Subpart I—Demonstration Programs
Purpose
Due Dates
Evaluation Component
Programs:
—Effective Prosecution of Child Physical and Sexual Abuse Cases
—Law Enforcement Crime Prevention
—Family Violence Intervention
Subpart II—Technical Assistance/Training Priorities
Purpose
A. Community Crime Prevention Programs
B. Corrections Related Programs
C. Adjudication Related Programs
D. Law Enforcement Related Programs
E. Victim Assistance
F. Other Statutory Purposes
G. Technical Assistance for Demonstration Programs
Subpart III—National/Multi-State Programs
Purpose
National Victims of Crime Program
National Crime Prevention Campaigns
Law Enforcement Accreditation
Support of Prison Industries Enhancement Program.
Appendix A—Technical Assistance Format and Training Format

SUBPART I—DEMONSTRATION PROGRAMS

Purpose

Demonstration programs provide a means of testing state-of-the-art knowledge in priority criminal justice areas at a variety of sites. The models are based on substantial research and program documentation. All demonstration programs will be independently evaluated. Programs that prove successful may be certified in future years for state Block Grant funding.

Demonstrations will be initiated in the following three areas:

1. Effective Prosecution of Child Sexual Abuse Cases;
2. Law Enforcement crime Prevention;
3. Family Violence Intervention.

Interested jurisdictions must submit concept papers of no more than 10 pages plus a summary budget. Concept papers will be screened by inter-Bureau panels and rated. The top candidates will be invited to submit formal applications. Estimated total funding for Demonstration Programs will range from 2.3 million to 3 million dollars.

Due Dates

Concept papers and application due dates can be summarizes as follows:

	Concept papers	Application
Demonstration site applications.	Aug. 30, 1985.....	Oct. 15, 1985.
Evaluation of Demonstrations.	Sept. 15, 1985.....	Oct. 30, 1985.

Evaluation Component

One evaluation grant in an amount of approximately $250,000 will be negotiated for all three Demonstration Programs. Nonprofit organizations or public agencies should submit general statements of intent and evaluation experience in related criminal justice fields by September 15, 1985. The proposals should also summarize the proposed staffing pattern, and an eighteen-month workplan for conducting the evaluations. BJA will negotiate a final agreement with the best rated applicant as determined by a review panel. The successful applicant will be notified by September 30th.

Note. Since there will be insufficent funding for independent data collection, each demonstration project will be required to maintain core data elements and to cooperate with the evaluator. The evaluator will assist in selecting the core data elements.

The BJA contact for additional information on this project is: Nicholas Demos, (202) 724–5974

Effective Prosecution of Child Physicol and Sexual Abuse Coses

Goal

The goal of this program is to develop a range of pilot projects located within prosecutors offices that effectively prosecute those accused of physically and sexually abusing children, while reducing the trauma to the child victims and their families.

Background

Both the President's Task Force on Victims of Crime and the Attorney General's Task Force on Family Violence strongly held that physical and sexual assault of children are very serious crimes that have a profound impact on the child victim. Both task forces also recognized that children who are victims of these crimes are different from adult victims. Children are often revictimized by the insensitivity of a criminal justice system designed for adults. Children are traumatized by having to repeat their story of victimization again and again to social workers, police, prosecutors, probation officers, defense attorneys and judges, who usually have no training in interviewing child victims.

- In many jurisdictions, children are unnecessarily required to present testimony at preliminary hearings with the defendant present. In addition the taking of evidence through depositions can be traumatic to the child if the prosecutor is not sufficiently experienced to protect the child.
- Unnecessary continuances increase the trauma, and prolong the recovery period for the child.
- Children are forced to leave the home (i.e. placed in foster care) while the abuser remains.
- Finally, the adversarial process can make the child feel guilty for his/her actions.

Physical and emotional needs of the child as well as his or her treatment needs may be inconsistent with the traditional legal requirements for prosecution.

The special legal requirements in these cases must be balanced against needs of children from the initial investigation interview through case development and prosecution, and imposition of sentence. To be successful and to reduce trauma to the child victims, prosecutions must be carried out by trained prosecutors who are sensitive to the needs of the child victims, and must be coordinated with the other agencies which have responsibility.

Program Description

A range of four to six prosecutorial pilot projects will be funded. Each project will be designed to improve the prosecution of child sexual and physical abuse cases. Emphasis will be on the development of, or expansion of, prosecutor units which specialize in child physical and sexual abuse cases. However, these units also must develop written guidelines and protocols with mental health, law enforcement and child protective services for the processing of all child abuse cases. The guidelines and protocols should cover all facets of the case from reporting to final disposition. The goal of these guidelines and protocols should be protection of the child from further abuse, reduction of trauma to the child victim caused by the criminal justice system, streamlined investigative processes and improved cooperation and coordination among all interested organizations. Each of the special units should develop and adopt policies and procedures for child victims. These could include, but are not limited to:

- Using legislative reforms that have been passed by state legislatures.
- Presenting hearsay evidence at preliminary hearings.
- Interviewing children in a non-threatening environment.
- Use by trained prosecutors of anatomically correct dolls and drawings to describe abuse.
- Use of special child advocates, to explain court processes to the child and to stay with the child during the entire judicial proceeding.

The special units are also strongly encouraged to use vertical prosecution and to experiment with various techniques such as videotaping, closed-circuit T.V., and one way mirrors to reduce the trauma of confrontation and public trials.

This program will only fund the prosecution of child abuse cases. The prevention and treatment aspects of child abuse should be coordinated with existing community resources. The Bureau of Justice Assistance will provide technical assistance to each site during the planning and implementation phases.

Applications

Applicants are requested to submit concept papers on or before August 30, 1985.

Grant Period, Award Amounts, and Eligibility Criteria

Projects will be funded for eighteen months, with the expectation that they will go through a three month organization and planning phase, and a fifteen month implementation phase. The planning phase should involve gradual build-up of staff, and coordination with other service agencies. There is a potential for an additional six–twelve months of funding in FY 1987 if funds are available. Four to six project awards will be made in the range of $75,000–$125,000 for the initial eighteen months.

Concept papers should provide detailed descriptions of how the applicant intends to meet the following criteria.

- Provides for specialized training of prosecutors in areas related to child abuse.
- Provides for development of special distinct unit to process child abuse cases.
- Utilizes vertical prosecution.
- Has or has plans for developing and utilizing, special procedures and policies for child victims.
- Has, or has plans for developing, protocols for coordinating and working with:

victim assistance providers
child protection workers
law enforcement community
social service system
mental health system
family and/or juvenile court

- Effectively utilizes its own resources in the development of this unit.

References

Many of the issues described above are discussed in the following documents.

- President's Task Force on Victims of Crime (Dec., 1982).
- Attorney General's Task Force on Family Violence (Sept., 1984).
- N.I.J. study, "When the Victim Is a Child: Issues for Judges and Prosecutors" Abt Associates, March, 1985.
- ABA Report, "Innovations in the Prosecution of Child Sexual Abuse Cases" and related reports of the National Legal Resource Center for Child Advocacy and Protection (202) 331–2250.
- For information on Treatment Prevention modules, see NIJ publication: "Exemplary Projects: Assisting Child Victims of Sexual Abuse," May, 1982. Further information on this topic can be obtained from the National Center for Child Abuse and Neglect (HHS) (202) 245–2859.

The BJA contact for additional information on this program is: James Swain, Courts and Victims Assistance Program Team, (202) 724–5974.

Law Enforcement Crime Prevention

Goal

To demonstrate the importance of crime prevention as a major policy activity of equal professional statute to patrol and investigation activities in the

country's major police and sheriffs department.

Background

Submission Deadlines: Applicants must submit a concept paper by August

prosecutors office defining how cases are to be identified, charges filed,

Insitute of Justice publications

This guideline solicits applications

VOL 50 ISS 144 JL 26 1985 UMI

country's major police and sheriffs department.

Background

Although police-managed crime prevention has not been specifically evaluated apart from community crime watch programs, there are significant studies of crime prevention activities in such cities as Seattle, Hartford, and Portland. According to a study of the Police Executive Research Forum, *"Solving Crimes,"* investigators seldom review cases with other investigators to exchange information or detect patterns that could be used for crime prevention.

Program Description

Despite the growing evidence of success by neighborhood watch activities, most law enforcement agencies devote mimimal resources to the crime prevention function, organizing their resources around patrol and investigation instead. Few command or rank and file staff specialize in crime prevention, opting instead for more traditional career paths. Those cities whose crime prevention programs are the most successful—e.g., Detroit, Seattle, Santa Ana—have defined crime prevention as a major police function for all officers. With improved citizen reporting, better crime data and analysis, crime prevention can play a major role. Police leadership in organizing crime prevention activities is crucial. The Detroit Police Department model is particularly well known. Houston has patterned its approach after that of Detroit, as has Scotland Yard in London. All of these cities are finding new ways to increase the crime control activities of police through citizen involvement.

This program is aimed at integrating crime prevention activities into routine daily operations throughout the department by a combination of command initiatives and restructuring, incentives for line officers, changed manpower allocations and special training.

Applicants are required to dicuss specific issues in their proposed approach:

- Willingness to identify crime prevention as a major area of emphasis for patrol and investigation, with case follow-up.
- The redefinition of the crime prevention unit's mission from one of service delivery solely to a new combination of program management and special case follow-up.
- Some effort at integrating crime prevention principles into major zoning, rezoning and construction applications that will have a long-term impact on crime.

Applications

Police departments could expand their crime prevention roles by a combination of the following elements: (i) Increased emphasis on developing or expanding neighborhood or block groups by trained crime prevention specialists, including the training and use of volunteers; (ii) the ongoing maintenance of these community organizations by patrol officers; (iii) extension of the present case screening/case assignment systems to include follow-up by crime prevention specialists; (iv) the use of a department's crime analysis capability to assist patrol in planning crime prevention tactics and to inform neighborhood watch organizations; and (v) expanding officer performance reporting to include efforts at citizen contact and crime prevention activities, either as part of directed patrol or officer-initiated actions.

Grant Period, Award Amounts, and Eligibility Criteria

In FY 1985, $600,000 has been allocated for demonstrations of this program over a 12 month period.

Up to four (4) programs will be awarded as a result of a review of applications from local law enforcement agencies. Interested applicant's should be familiar with the model crime prevention activities being conducted by the Seattle, Santa Ana, and Detroit, Police Departments. Each project will be awarded $150,000 to $200,000 to address the specific issues noted.

Concept papers should provide detailed descriptions on how applicant intends to meet the following criteria:

—Departmental organization plan for addressing community crime prevention needs;
—The extent to which uniformed patrol and other officers will be involved in crime prevention activities;
—The extent to which the department has established working arrangements for crime prevention activities with various civic and community groups;
—Existing and proposed reward systems within department for implementing effective crime prevention activities;
—Existing and proposed training programs for uniformed officers in crime prevention techniques.

References: "Partnerships for Neighborhood Crime Prevention," National Institute of Justice (June 1983). Available from BJA or from NCJRS through sale or under the interlibrary loan program.

Submission Deadlines: Applicants must submit a concept paper by August 30, 1985.

Final applications for jurisdictions selected are due by October 15, 1985.

The BJA contact for additional information on this program is: Ron Steger, Community Crime Prevention Program Team, (202) 724–5974.

Family Violence Intervention

Background

The Attorney General's Task Force on Family Violence found that family violence is a major problem in this country. Battery is a major cause of injury to women in America. Nearly a third of female homicide victims are killed by their husbands or boyfriends. Almost 20 percent of all murders involve family relationships. These intentional, purposeful acts of physical abuse by one family member against another must be defined and recognized by the criminal justice agencies as serious criminal offenses. A strong commitment by law enforcement officials, prosecutors, and courts in responding to family violence as a crime can aid in deterring, preventing and reducing violence within the family.

Goal

To intervene in and reduce battering in adult relationships by instituting an effective law enforcement and criminal justice intervention program in domestic violence cases. The objectives of the program are to test and demonstrate in several jurisdictions methods and techniques for implementing those recommendations of the Attorney General's Task Force on Family Violence that address domestic violence intervention.

Program Description

A total of four to five pilot projects will be funded to develop and implement a comprehensive community response to reduce the crime of domestic assault. Emphasis will be on the establishment of a multi-disciplinary approach, i.e., a cooperative effort between law enforcement, prosecutors, shelter providers, social services, and the courts. Each project should establish a model that includes written policy for law enforcement's response to domestic violence cases including reporting requirements, enforcement of restraining or no-contact orders, guidelines for determining misdemeanor vs. felony offenses, assigning a high priority to domestic violence calls by dispatchers, and a provision for training. It should include the protocols between the law enforcement agencies and the prosecutors office defining how cases are to be identified, charges filed, complaints issued, and cases assigned. The courts should note jurisdictional determinations, arraignment procedures, how no-contact orders are obtained, issued and enforced, and establish sentencing guidelines. The probation department should establish written policy on intake and supervision of domestic violence cases, presentence investigation guidelines, formulation of treatment plans, referral mechanisms, and monitoring requirements. The model should also include the types of services to victims and offenders that are available or planned, including shelter facilities, and how networking and cooperation will be achieved. The chief executive of the jurisdiction must provide a written commitment on behalf of the city or county.

Grant Period, Award Amounts, and Eligibility Criteria

Projects will initially be funded for eighteen months in two phases: a three month organization and planning phase and a fifteen month implementation phase. There is a potential for an additional six to twelve months funding in FY 1987 if funds are available. Four to five awards will be made in the range of $125,000 to $150,000 for the initial 18 months. Jurisdictions with a minimum population of 100,000 will be eligible.

Concept papers should provide detailed descriptions of how applicant intends to meet the following criteria:

- Applicant policy or proposed policy with respect to use of arrest as preferred intervention in domestic violence cases.
- Use of special prosecution unit and established policy for handling domestic violence cases.
- The availability or planned availability of a wide range of dispositional alternatives for use by judges in sentencing.
- Special advocacy for spouse abuse victims that includes coordination with other assistance units in the community especially shelters and victim compensation programs and provision for involvement in and notice of all steps in the processing of the case.
- Existence of strong leadership from appropriate political, community service and criminal justice segments, including written commitments where possible.
- Extent of the potential project scope in terms of total population served, existing domestic violence reporting levels, and projected case loads.

References

Many of the issues and programmatic components described above are discussed in forthcoming National Insitute of Justice publications describing the criminal justice system's response to spouse abuse in Seattle, Duluth, and San Francisco. In addition, the National Institute of Justice is expected to release soon a publication in its "Issues and Practice" Series entitled, "Improving the Community Response to Spouse Abuse." The final report of the Attorney General's Task Force on Family Violence is available and highly recommended.

These documents will be part of an application kit available from the Bureau of Justice Assistance.

Due Dates

Concept papers are due by August 30, 1985. Final applications for selected jurisdictions are due by October 15, 1985.

The BJA contact for additional information on this program is: James Swain, Courts and Victims Assistance Program Team, (202) 724–5974.

SUBPART II—TECHNICAL ASSISTANCE/TRAINING PRIORITIES

Purpose

Through the provisions of the Justice Assistance Act of 1984, Congress has clearly intended to fund programs that will have a profound and immediate effect on violent crime. To insure that the block grant programs mandated by Congress have every means of successful implementation, technical assistance and training support will be provided. This assistance will be extended to those projects funded under the state Block Grants, as well as those which fit within the Congressional mandate but for which no block funds can be allocated. Fortunately, many jurisdictions have their own resources to dedicate to sound programs if the experience of other communities can be brought to bear through technical assistance and training. We thus view the following programs of assistance as a key element in carrying out the Congressional purposes.

Technical assistance and training will be provided at the lowest cost possible, emphasizing the use of short-term practitioner-consultants from states, and the regional grouping of assistance whenever possible. Technical assistance and training support will involve: (1) The use of staff specialists from the Office of Justice Programs; (2) individual purchase orders for expert services; (3) expansion of current grants and contracts when cost effective to do so; and (4) cooperative agreements to engage nonprofit agencies experienced in technology transfer concepts.

This guideline solicits applications and concept papers from organizations interested in supplying the technical assistance and training in the areas noted. Application deadlines and dollar amounts are noted in the individual criminal justice segments. Estimated total funding for technical assistance and training programs will range from $6.1 million to $7.5 million. An important selection criterion will be the relative distribution of funds between delivery of technical assistance and training services on the one hand, and applicant's administrative costs on the other (i.e., fringes, indirect cost rates, etc.). Applicants with the largest proportion of their funding dedicated to the actual delivery of technical assistance will be chosen if other factors among the competitors are considered equal.

Formats for technical assistance and training activities are presented in *Appendix A*

Cooperative Agreements and grants will be at 100 percent of project costs.

Eligibility: Public agencies and private non-profit organizations are eligible to apply.

Program Area A: Community Crime Prevention Programs

Assistance is to be provided in support of programs and projects within the following legislative purpose:

—Community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime.

An approved program is the Community Crime Prevention Program, for which a BJA Program Brief is available. Technical assistance and training will be provided to Block Grant projects and a limited range of non-block grant projects through expansion of the current grant to the National Crime Prevention Council. Council staff will evaluate requests for assistance and recommend the most cost effective method of technical assistance delivery. Resources to be developed will include:

a. A resource library featuring written and media materials from existing and past crime prevention programs, to include implementation guides, brochures, pamphlets and other reproducible documents;

b. Two video tapes describing how to implement crime prevention programs, which will be available to state and local governments;

c. Documentation of four state-of-the-art crime prevention program models,

for distribution to all block grant recipients;

B–1: State and local units of government may indicate an interest in

applicants in developing automated information systems, and their

BJA staff in screening and use of

Funding: Maximum funding for

Program. Local jurisdictions will fund

for distribution to all block grant recipients;

d. A computerized listing of crime prevention projects, to be used to match existing projects with similar new efforts, and to select technical assistance sites in geographic proximity;

e. Updating and translation into Spanish of the thirteen basic crime prevention booklets (under sub-contract to Encyclopedia Britanica);

On-site technical assistance will be provided by a core group of experienced practitioners who will be trained and used as a team to assist state and local governments. All on-site assistance will be approved by the BJA monitor and implemented under established procedures by the director of the National Crime Prevention Council staff.

Two regional project "cluster" conferences will be conducted to distribute the above and other pertinent information, and to exchange experiences on implementing crime prevention projects. A cluster conference will be held for eastern states and another for western states during 1985.

Evaluation: The Council will sub-contract with an independent third party to conduct evaluations of the technical assistance and training efforts, and to recommend modifications or elimination of those elements that are not cost effective.

Funding: This effort will expand on the current capabilities of the National Crime Prevention Council, which is already heavily involved in a number of the described components. The current Council grant will be supplemented in the amount of $550,000 on October 1, 1985.

The BJA contact for additional information on this program area is: Ron Steger, Community Crime Prevention Program Team, (202) 724–5974.

Program Area B: Corrections Related Programs

Assistance is to be provided in support of programs within the following legislative purposes:

—Programs which alleviate prison overcrowding, and which identify existing state and Federal facilities suitable for prison use; and, the Federal Surplus Property Transfer Program;
—Prison industry projects designed to place inmates in a realistic working and training environment, enabling them to acquire marketable skills and make financial contributions to victims, their families, and the correctional institutions; and the Private Sector/Prison Industry Enhancement Certification Program.

B–1: State and local units of government may indicate an interest in obtaining Federal Surplus Real Property suitable for use in support of the care and rehabilitation of offenders and which may alleviate prison overcrowding. To assist state and local governments to achieve this purpose, Bureau staff will assist state and local correctional agencies:

—By disseminating information on the availability of Federal Surplus Real Property;
—By assisting in preparation of state and local correctional agency applications for transfer of federal surplus real property;
—By gathering, analyzing and reporting information data describing the effectiveness of alleviating prison crowding; and,
—By maintaining liaison with the General Service Administration, which controls Federal properties.

B–2: To assist state and local units of government to establish prison industry projects, the Bureau will accept applications for the following technical assistance services.

B–2a: Automated Information System for Prison Industries:

The Bureau will award a 12-month grant, up to $375,000, for the development/design and implementation of an Automated Information System (AIS) for the Private Sector/Prison Industry Enhancement (PS/PIE) Program which will accumulate, review, categorize, and distribute actual working materials from correctional administrators across the country. Information to be included in the AIS will be in the following areas: (1) *Correction administration*—which will include rules, procedures, administrative guidelines, personnel policies, job descriptions, information processing procedures, forms, evaluation and review criteria related to the administration of prison industries; and (2) *program description*—which will include project descriptions and other special needs for program purposes (i.e., collecting application information which involves formatting data into computer readable information; collecting performance information which involves developing questionnaire and schedule formats; developing coding formats for on-going automated data base update as new entries are received; developing automated capability to analyze the prison industry impact on the states' correctional environment, on related private industry, and on Federal agencies procurement.

Applications are due by September 30, 1985, covering the experience of applicants in developing automated information systems, and their background in working with corrections and prison industry data. Applications kits detailing specific tasks and application deadlines will be available no later than September 1, 1985.

B–2b: One cooperative agreement will be funded for technical assistance and training to support prison industry projects. The Cooperative Agreement shall provide the use of expert personnel from previously certified projects who have demonstrated skill in achieving administrative, correctional and business objectives. These experienced prison industry officials will help upgrade other project management systems, assist in resolving operational problems, and enhance communication and sharing among project participants. Depending on interest expressed by State and local governments, up to 20 on-site technical assistance visits are anticipated.

The Cooperative Agreement shall also support a series of specialized training sessions (up to six) for state and local corrections agency personnel responsible for the planning, development, operation and administration of prison industry projects. State and local project staff will pay their own per diem costs during training.

Funding: Maximum funding for this cooperative agreement will be in the range of $150,000–$175,000 for a period of 15 months.

Application Timetable: The application deadline for this cooperative agreement will be August 30, 1985. An agency review board will make award recommendations based on the quality of task performance plans, the expertise of applicant staff, and the proposed use of funds to achieve a maximum delivery of assistance. The BJA Director will announce selections in mid-September, 1985. The terms of the Cooperative Agreements will be negotiated with the winning applicants to insure a mutual understanding of responsibilities. Awards are projected for October 30, 1985.

The BJA contact for additional information on this program area is: Tom Tubbs, Correctional Services Program Team, (202) 724–5974.

The following three program areas will use a uniform format: Adjudication, Law Enforcement, and Victims. These program areas will use cooperative agreements, rather than grants or contracts. A cooperative agreement insures a distribution of responsibilities between BJA staff and the recipient agency, with substantial involvement of BJA staff in screening and use of resources. (See *Appendix A* for technical assistance and training formats.)

Program Area C: Adjudication Related Programs

Assistance is to be provided in support of programs and projects within the following legislative purposes:

—Identifying criminal cases involving persons with a history of serious criminal conduct; expediting case processing and improving court system management and sentencing practices and procedures; also implementing programs which provide assistance to jurors. Examples of approved programs include: Career Criminal Program, and Court Delay Reduction Program;
—Providing programs which alleviate jail overcrowding, and provide alternatives to pretrial detention for persons who pose no danger to the community. An example of an approved program is: Jail Overcrowding/Alternatives to Pretrial Detention.

BJA Program Briefs are available for each of the approved programs.

One cooperative agreement will be funded for technical assistance to the above programs, and one cooperative agreement will be funded for training in program techniques.

C–1: Adjudication Technical Assistance:

The major purpose of this Cooperative Agreement shall be to provide expert, consultative services to state agencies, courts, prosecutors, and related local government officials through on-site studies. It is estimated that up to 150 such studies will be undertaken. Assistance shall focus primarily upon statewide court delay reduction, expansion of career criminal prosecution projects, and relieving severe jail crowding.

Funding: Maximum funding for technical assistance for Area C–1 will be in the range of $700,000/$750,000 for a period of eighteen months. A minimum of fifty percent (50%) of the budget must be reserved for practitioner fees, travel and per diem.

C–2 Adjudication Training:

An estimated twelve—thirteen regional or state workshops will be required to assist beginning Block Grant projects in Court Delay Reduction, Jail Overcrowding, and Career Criminal programs. Each of the programs will require between three and six workshops over a period of fifteen months. State and local project staffs will pay their own travel and per diem costs.

Funding: Maximum funding for training will be in the range of $350,000 to $400,000 for a period of fifteen months.

Application Timetable: The application deadline for Adjudication programs will be August 30, 1985. An agency review board will make award recommendations based on the quality of task performance plans, the expertise of applicant staff, and the proposed use of funds to achieve a maximum delivery of assistance. The BJA Director will annouce selections early in September, 1985. The terms of the cooperative agreements will be negotiated with the winning applicants to insure a mutual understanding of responsibilities. Awards are projected for October 30, 1985.

The BJA contact for additional information on this program is: Nicholas Demos, Courts and Victims Assistance Program Team, (202) 724–5974.

Program Area D: Law Enforcement Related Programs

Assistance is to be provided in support of programs and projects within the following legislative purposes:

• Disrupting illicit commerce in stolen goods and property;
• Combatting arson;
• Effectively investigating and bringing to trial white collar crime, organized crime, public corruption crimes, and fraud against the Government;
• Improving the operational effectiveness of law enforcement by integrating and maximizing the effectiveness of police field operations and the use of crime analysis techniques; and
• Other law enforcement initiatives certified by BJA as successfully addressing critical problems of crime.

Examples of approved programs include the Property Crime (STING) Program, the Arson Prevention and Control Program, and the Integrated Criminal Apprehension Program (ICAP). Program Briefs are available for these programs.

A single cooperative agreement will be funded for combined technical assistance and training for all law enforcement related programs. It is projected that three Implementation Guides and Manuals will be required within a six month period; that up to 250 telephonic inquiries will be handled; that 100 on-site technical assistance visits will be required; and that six regional and state training sessions will be held for programs dealing with Integrated Criminal Apprehension Program, the Property Crime Program, and the Arson Prevention and Control Program. Local jurisdictions will fund their own travel and per diem costs.

Funding: Up to $1,000,000 is available for delivery of technical assistance and training to law enforcement programs over a period of 18 months.

Application Timetable: The application deadline for law enforcement technical assistance and training will be August 30, 1985. An agency review board will make award recommendations based on the quality of task performance plans, the expertise of applicant staff, and the proposed use of funds to achieve a maximum delivery of assistance. The BJA Director will announce selections early in September, 1985. The terms of the cooperative agreement will be negotiated with the selected applicant to insure a mutual understanding of responsibilities. Award is projected for October 30, 1985. Formats for technical assistance and training activities are presented in Attachment A.

The BJA contact for additional information on this program area is: Jules Tesler, Law Enforcement Services Program Team, (202) 724–5974.

Program Area E: Victim Assistance

Assistance is to be provided in support of programs and projects within the following legislative purpose:

—Development and implementing programs which provide assistance to victims of crimes;

The Victim Assistance Program is an approved program and a Program Brief is available. Technical assistance and training will be provided to block grant victims projects and a limited number of national-scope victims technical assistance activities will be conducted through a cooperative agreement.

The Recipients of this technical assistance and training will include:

—State legislative and executive branch officials engaged in law reform on victims issues;
—National, State, and local organizations addressing problems of violence within the family such as abuse of children, spouse and elderly members;
—Law enforcement officers, prosecutors, judges seeking changes in procedures that presently work against the interests and concerns of victims;
—Non-criminal justice agencies such as community based victim service organizations which are pursuing efforts to ameliorate the sufferings of crime victims:

It is estimated that approximately 100 on-site technical assistance visits will

be made in serving the above clients. Approximately eight training sessions

—Programs which address the problem of serious offenses committed by

transfers; and regional or national training sessions. The Prosecutors

Application Timetable: Applications should be submitted by August 30, 1985

interagency agreement], and law enforcement and other criminal justice

Task 2—Selection of Consultants—

be made in serving the above clients. Approximately eight training sessions clustered on a regional basis will be completed.

Funding: Maximum funding for this training and technical assistance program is $600,000 for a period of 18 months.

Application Timetable: The application deadline for this program area will be August 30, 1985.

An agency review board will make award recommendations based on the quality of task performance plans, the expertise of applicant staff, and the proposed use of funds to achieve a maximum delivery of training and technical assistance.

Selection will be announced by September 15, 1985.

The grant will be processed for award by October 30, 1985 so that technical assistance delivery can begin on November 1, 1985. Interested applicants should be familiar with the recommendations of the President's Task Force on Victims of Crime, and the Attorney General's Task Force on Family Violence. These reports may be obtained from the National Victim Resource Center at 202/724–6234, or by writing the National Victims Resource Center, Office for Victims of Crime, 633 Indiana Avenue, NW., Washington, D.C. 20531.

In addition, a $400,000 grant to the National Sheriffs' Association (NSA) will provide technical assistance to State sheriffs' associations which assist local law enforcement officials in meeting victims' needs. A $254,000 grant to the National District Attorneys Association (NDAA) will provide technical assistance to prosecutors to establish or enhance their services to victims. A $231,000 grant to the National College of District Attorney's will fund five regional workshops for prosecutorial executives and state training directors on key concepts and proven techniques to meet victims needs.

The BJA contact for additional information on this program area is: James Swain, Courts and Victims Assistance Program Team, (202) 724–5974.

Program Area F: Other Statutory Purposes

Assistance is to be provided in support of programs and projects within the following legislative purposes:

—Programs which identify and meet the needs of drug-dependent offenders;
—Operational information systems and workload management systems which improve the effectiveness of criminal justice agencies;
—Programs which address the problem of serious offenses committed by juveniles; and
—Programs addressing problems of crime committed against the elderly, and which assist State and local law enforcement in rural areas.

The certified programs in this area are: (1) Treatment Alternatives to Street Crime (TASC), which deals with screening and treatment for drug dependency; (2) Prosecution Management Support System, which deals with automated management information; and (3) the Juvenile Restitution Program, which deals with restitution as a basis for offender accountability and victim compensation. BJA Program Briefs are available for these three programs.

A series of cooperative agreements and purchase orders will be utilized to provide technical assistance and training.

F–1: Treatment Alternatives to Street Crime (TASC)—Two purchase orders in the range of $20,000–$25,000 will be awarded. One purchase order will be to the national organization of TASC directors to develop a resource catalogue which identifies experts in each TASC element. A second purchase order will be issued to a non-profit agency to develop a national data base for TASC activities, clients outcomes, statistics and performance standards. These purchase orders are expected to be awarded by September 15, 1985.

A cooperative agreement in the range of $240,000–$250,000 will be issued on a negotiated bid basis to an organization that will provide on-site technical assistance, develop an implementation manual including performance standards for critical elements, design a model training curriculum, and assess the utility of internships as a method for TASC training. General statements of intent and summaries of experience with drug-related projects should be submitted by interested agencies by August 30, 1985. A cooperative agreement award is projected by October 15, 1985.

F–2: Criminal Justice Information Systems—BJA will expand the existing SEARCH, Inc. grant to support additional transfers of criminal justice information systems. The grant extensions will be negotiated to involve other appropriate organizations and individuals to accomplish a number of purposes, including: design of additional information systems Program Briefs; design of systems manuals; priority access to software index searches; onsite assistance for systems requirements analysis and software transfers; and regional or national training sessions. The Prosecutors Management Support System will receive priority in onsite technical assistance. Approximately $300,000 will be obligated for these purposes by October 30, 1985.

F–3: Restitution for Juvenile Offenders—BJA will expand the existing technical assistance and training program of the Office of Juvenile Justice and Delinquency Prevention to support Block Grant projects. The emphasis will be on access to program documentation, technical assistance experts, host sites, and regional training activities. The grantee will also refine critical elements for successful juvenile restitution projects, and recommend performance standards. For this purpose, $150,000 will be awarded. A negotiated amendment to the current grant is projected by October 1, 1985.

F–4: Crimes Against the Elderly and Rural Law Enforcement—A cooperative agreement in the range of $200,000 is earmarked for these program areas to provide on-site technical assistance, design and training curriculum, and conduct training sessions. General statements of intent and summaries of experience with the subject area should be submitted by interested agencies by August 16, 1985. A cooperative agreement award is projected by September 30, 1985.

The BJA contact for additional information on this program area is: John Gregrich, Drug Control and Special Program Team (202) 272–6838.

Program Area G: Technical Assistance for Demonstration Programs

Three program concepts will be funded as Demonstration Programs at twelve to fourteen local sites around the country. Each site will be required to implement the new concept, test its transferability, and participate in an evaluation.

Technical assistance will be provided to each site to insure a sound start and to make necessary revisions throughout the 18 month life of the test.

The technical assistance provider will need to secure expert advice in the three program areas:

(1) Effective Prosecution of Child Physical and Sexual Abuse Cases;
(2) Law Enforcement Crime Prevention; and
(3) Intervention Strategies in Family Violence Cases.

The critical project elements for introduction of each concept and reference materials to be used by each site can be obtained by writing the Bureau of Justice Assistance.

Application Timetable: Applications should be submitted by August 30, 1985. Selections will be made on or before September 30th and awards made on or before October 30, 1985.

Funding: A technical assistance cooperative agreement will be awarded in the range of $350,000 to $400,000.

The BJA contact for additional information on this project is: Nicholas Demos, (202) 724–5974.

SUBPART III—NATIONAL/MULTI-STATE PROGRAMS

National/Multi-State programs address national priorities and initiatives that cannot be met through the state Block Grants. They reflect administration priorities or gaps in criminal justice funding that cannot be met from other sources. Many of these projects continue on-going commitments, while others support new national coalitions and support networks. While funding for national scope projects emphasizes four program areas this fiscal year, similar initiatives will be announced from time to time during the next fiscal year. The four program areas of emphasis this fiscal year are:

(a) National Victims of Crime Program
(b) National Crime Prevention Campaign
(c) Law Enforcement Accreditation, and
(d) Support of Prison Industries Enhancement Program.

The estimated range of total funding for National/Multi-state programs will be approximately 4.8 to 6.7 million dollars through the first quarter of next fiscal year.

A. National Victims of Crime Program

Several projects have been funded or will be funded to enhance the capabilities of state and local criminal justice agencies and community-based service organizations to assist crime victims. It is estimated that $3.4 million will be allocated for projects in this program area. Specific projects include: National Organization for Victim Assistance (NOVA), $761,000; American Bar Association (ABA) (supplement) $28,000; and The National Association of Attorneys General, (NAAG) (supplement) $42,000; the Illinois' Attorney General's Office $55,000. Up to $2,500,000 of the above total is earmarked for awards to be made during the next six months for various national scope victim improvement efforts. These additional projects would include activities of the National Victims Resource Center, a child sexual abuse prosecution center, medical/mental health victim protocols (Federal interagency agreement), and law enforcement and other criminal justice system efforts to improve the service for treatment of crime victims.

B. National Crime Prevention Campaigns

OJP will continue to fund the highly successful Citizens Crime Prevention Campaign ("Take a Bite out of Crime"), as well as Crime Stoppers. $621,000 is being awarded to the National Crime Prevention Council, and $83,000 is being awarded to the Crime Stoppers campaign.

The National Crime Prevention Council operates on a number of fronts, providing public education through national mass media, operating a computerized information center on crime prevention activities and resources, and producing and distributing crime prevention materials for state and local agencies. The Council works in cooperation with the Advertising Council, Inc., and the Crime Prevention Coalition.

C. Law Enforcement Accreditation

One grant of $499,000 has been awarded to continue the work of the Commission on Accreditation for Law Enforcement Agencies, which provides an assessment process and certification for law enforcement agencies which meet the standards developed by the professional law enforcement community.

D. Support of Prison Industries Enhancement Program

One grant of $211,000 is being provided to Criminal Justice Associates, Inc. to assist applicant state departments of correction to develop joint ventures with private enterprise under the terms of Sec. 319 of the Justice Assistance Act, as well as to work with previously certified projects. Upon expiration of this grant on December 30, 1985, a new cooperative agreement will be awarded on a competitive basis (See Sec. B–2b of the Corrections component, TA and Training).

The BJA contact for additional information on national scope programs is: Eugene H. Dzikiewicz, Acting Deputy Director (202) 272–6838.

Appendix A—Technical Assistance Format and Training Format

Technical Assistance Format

Task 1—Staff Organization and Orientation—Establish an operating staff of three—five persons (no more than five full-time equivalent). The operating staff will serve primarily as technical assistance brokers for individual consultants.

Task 2—Selection of Consultants—Select consultants, in consultation with the BJA Grant Monitor, from operational criminal justice agencies which have successfully implemented projects in the approved program areas.

Task 3—Handling Requests for Technical Assistance—Receive requests for technical assistance from the BJA Monitor and proceed in the following sequence:

a. Analyze the technical assistance requests to insure a clear definition of the problem and issues involved;
b. Review the proposed scope of technical assistance and the proposed consultant with the requesting agency;
c. Arrange for consultant travel to site and coordination with local agencies;
d. Review and approve consultant reports, insuring that they meet standards of quality and format;
e. Evaluate technical assistance quality and impact through questionnaires submitted to recipients; and
f. On a case by case basis, arrange for revisits by consultants or TA staff to follow-up on initial recommendations and actions required to implement the project.

Task 4—Performance of Special Tasks at BJA Direction—Perform tasks to include draft publications and analysis of BJA program activities as requested by the BJA Monitor. Such requests will not surpass ten percent of available technical assistance funding.

Periodic status reports will be required on pending and completed technical assistance assignments, usually on a monthly basis.

Training Format

Activities to be accomplished include: The development and validation of curriculum, trainer guides and trainee guides, selection of training sites, selection of trainers, and oversight of training sessions.

Task 1—Development and Validation of Training Curriculum—A training curriculum will be developed, validated and adjusted as determined by post-training evaluations.

Task 2—Development of Trainer and Trainee Guides—Guides shall include sufficient background materials and step-by-step project activities to serve as a reference tool during the implementation of local projects.

Task 3—Selection of Training Sites—Appropriate regional or state training sites will be selected to meet program needs. Model sites within a region will be utilized whenever it is cost effective.

Task 4—Trainers will be selected from experience operating staffs within

the region to the maximum extent

VOL 50 ISS 144 JL 26 1985 UMI

the region to the maximum extent possible. The grantee will be responsible for screening and orienting trainers, and for evaluating their performance.

Task 5—Oversight of the Delivery of Training—Grantee will be responsible for implementing the training, for evaluating impact, and for periodic reports to BJA.

Richard B. Abell,

Deputy Assistant Attorney General.

[FR Doc. 85-17787 Filed 7-25-85; 8:45 am]

BILLING CODE 4410-18-M

federal register

Friday
July 26, 1985

Part VII

Department of Education

34 CFR Part 668

Student Assistance General Provisions; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 668

applicant and his or her family should reasonably be expected to contribute toward his or her cost of attendance

forms used to apply for a Pell Grant. Therefore, by definition, the same

are not applicable. Although the SSIG Program is a need-based program,

Policies and Procedures (§ 668.53)

In cooperation with representatives of the financial aid community, the

VOL 50 ISS 144 JL 26 1985 UMI

DEPARTMENT OF EDUCATION

34 CFR Part 668

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Student Assistance General Provisions Regulations to implement in the 1986–87 award year an integrated system for the verification of information reported by students, their spouses, and their parents when the students apply to have their expected family contribution calculated for the Pell Grant Program, campus-based programs [National Direct Student Loan [NDSL], College Work-Study [CWS], Supplemental Educational Opportunity Grant [SEOG]), and Guaranteed Student Loan (GSL) Program. The Secretary is proposing these regulations, in part, to respond to the severe and persistent problem, identified in recent quality control studies, of high error rates in data reported by applicants in the Pell Grant Program. The same data are used in the other programs covered by these proposed regulations. The Secretary, therefore, intends that the integrated verification system assure, to the maximum extent possible, that eligible applicants receive the correct amount of student financial assistance.

DATE: Comments must be received on or before September 24, 1985.

ADDRESS: All comments concerning these proposed regulations should be addressed to Mr. Fred Sellers, Office of Student Financial Assistance, U.S. Department of Education, Room 4318, Regional Office Building 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Fred Sellers (202) 472–4300.

SUPPLEMENTARY INFORMATION:

Background

Under the Pell Grant, GSL, and campus-based programs, an applicant receives financial assistance, including interest benefits under the GSL Program, if the applicant has financial need for such assistance. In general, financial need is defined as the difference between the applicant's cost of attendance and expected family contribution (EFC). An expected family contribution is an amount that the applicant and his or her family should reasonably be expected to contribute toward his or her cost of attendance.

In order for an applicant to have his or her expected family contribution calculated, the applicant must apply to the Secretary, to an institution, or to an approved need analysis system. The Secretary, institution, or system calculates an applicant's expected family contribution based upon the information provided in the application.

While verification (validation) of student aid application information for selected applicants has been required in the Pell Grant Program since February 1979, there has been no Departmental requirement for verification of application information under the other need-based student assistance programs. In addition, even though the Student Assistance General Provisions, 34 CFR 668.16, require institutions to use information obtained during the Pell Grant verification when determining campus-based awards, the suggested GSL loan amount, and eligibility for GSL interest benefits, the Department has not required verification for applicants of campus-based or GSL aid who are not eligible for a Pell Grant. The Secretary proposes to require verification for all such applicants and requests comments on whether the verification requirement should apply to applicants for campus-based aid.

The General Accounting Office [GAO], in Report No. 79–16, dated May 1979, entitled "Inconsistencies in Awarding Financial Aid to Students Under Four Federal Programs," reported that no Departmental verification requirement existed for those applicants receiving only campus-based aid. This report recommended requiring verification of applicant- and parent-supplied data for these programs.

Since that time, the Secretary has received three quality control reports from the Office of Student Financial Assistance in 1979, 1981, and 1983 that document in the Pell Grant Program large numbers of applicants and their parents misreporting information regarding their family and financial status. This misreporting, whether intentional or not, significantly and adversely affects the amount of aid available to truly needy students and unjustifiably raises the cost of the program to Federal taxpayers. Based on a 1983 quality control study, an estimated 39 percent of the Pell Grant recipients received an inaccurate award for the 1982–83 award year because of applicant error on the application form.

The majority of applicants applying for campus-based aid or a Guaranteed Student Loan use the same forms as the forms used to apply for a Pell Grant. Therefore, by definition, the same misreporting of applicant information occurs in the campus-based and Guaranteed Student Loan programs. Consequently, this proposed rule, by extending verification to the campus-based awardees and GSL applicants, helps to assure that applicants receive the correct amount of aid under the campus-based programs and that GSLs are made only to eligible applicants.

Initially, the Secretary consulted with the postsecondary education financial aid community regarding the development of a verification system for the campus-based, GSL, and State Student Incentive Grants (SSIG) programs. The Secretary also sought involvement by requesting comments on a proposed system of verification for these programs. The Secretary has incorporated in these proposed regulations many of the comments received.

On March 15, 1985, the Secretary published final regulations for the Pell Grant Program which specified in 34 CFR 690.77 the information and documentation requirements for that program for applicants selected for verification. These proposed regulations require that selected applicants verify the same items and use similar documentation as provided for in 34 CFR 690.77. When the Secretary publishes final regulations for the integrated verification system, he will amend the Pell Grant Program regulations by deleting § 690.77.

In addition, the Secretary has reviewed other models and techniques for verification of applicant information. One model reviewed by the Secretary is the set of principles adopted by the National Association of Student Financial Aid Administrators (NASFAA) and the NASFAA monograph, "Standards for the Verification of Information to Determine Financial Aid Eligibility." The Secretary believes that these proposed regulations are in accord with most of the NASFAA principles and with many features of the NASFAA monograph. The Secretary also reviewed the verification techniques used in Federal programs of income support for applicability to the student assistance programs.

Exclusions From Verification

The Secretary is not including the PLUS and SSIG Programs under these proposed regulations. The PLUS Program does not currently require the use of need analysis to determine applicant eligibility, and, therefore, the provisions of these proposed regulations

are not applicable. Although the SSIG Program is a need-based program, institutions in many States do not know whether an applicant's State grant includes SSIG funds. In those cases where the institution knows or can be reasonably expected to know that an applicant's State grant includes SSIG funds, the provisions of § 668.16(f) of the Student Assistance General Provisions regulations are applicable, and for any such applicant selected for verification under these proposed regulations, the institution must consider the verified data to determine the applicant's SSIG.

The principal source for verification of applicant's information under these proposed regulations is the United States Individual Income Tax Return or a comparable State income tax return. Since foreign institutions participating in the GSL Program do not have the requisite knowledge of U.S. tax laws, it is unreasonable to expect those institutions to comply with the requirements in these proposed regulations. Therefore, the Secretary proposes to exclude participating institutions located outside the United States and its territories from the requirements in these proposed regulations.

Institutional Error

Although these proposed regulations are concerned with reducing the error rate in student aid application information, the Secretary is also concerned about institutional error in the administration of the Federal student assistance programs. A 1983 quality control study showed that institutions made errors in awards for a substantial number of recipients in the Pell Grant Program.

The Secretary believes that institutions should include a quality control system in their administration of the student assistance programs to reduce both institutional and student error rates. A quality control system monitors the accuracy of an institution's own administration of its student aid programs. The essential element of any quality control system is its capability to detect, prevent, and correct errors and tendencies toward errors that occur in an operational setting. In a pilot project during the 1985 calendar year, the Secretary with the participation of several institutions is testing different quality control systems and subsequently expects to propose regulations under which institutions will be required to implement a quality control system.

Policies and Procedures (§ 668.53)

The Secretary proposes that an institution shall have written policies and procedures for verifying applicant information and that these policies and procedures provide for the proper administration of the verification system used by the institution.

The Secretary is proposing to require that an institution include procedures for reporting to State or local law enforcement agencies for investigation any instance in which it has reason to believe that an applicant has applied for student assistance under false pretenses. This proposed requirement is in furtherance of the Secretary's concern for preventing fraud and abuse in the student assistance programs and is in accordance with § 668.14(g) of the notice of proposed rulemaking to amend the Student Assistance General Provisions regulations published in the Federal Register on December 12, 1984.

Selection of Applicants for Verification (§ 668.54)

The Secretary proposes that an institution verify all applications that edits select for verification. These edits are a set of preestablished factors that are used to identify student aid applications for verification based upon indications that the information contained in the application may be erroneous. The edits also select a random sample of applications for verification. The random sample provides an appropriate level of quality assurance and assures an adequate sample for evaluation.

Similar to the current Pell Grant regulations requirement in 34 CFR 690.77(c), applicants under these proposed regulations must verify all of the applicable items specified in § 668.56 if the edits select their applications for verification. In addition, the Secretary propose to continue the current requirement in 34 CFR 690.77(b) of the Pell Grant Program regulations, and extend it to the campus-based and GSL programs, that an institution must require an applicant to verify any application information that the institution believes incorrect.

The edit selection process in these proposed regulations is comparable to the current Pell validation system. With the inclusion of the campus-based and GSL programs, however, the Secretary is proposing to enter into agreements with agencies or organizations with approved need analysis systems for the campus-based programs to provide them with the edits for selecting applicants to verfiy their application information.

In cooperation with representatives of the financial aid community, the Secretary developed common edits for 1985–86 that are optional for the campus-based and GSL programs for 1985–86 and will cooperatively develop the mandatory edits for use in 1986–87. Each year the Secretary will evaluate and change the edits as necessary. The Secretary will provide these edits to the Pell Grant Program Central Processor and to any State agency, Multiple Data Entry servicer, or other organization that has a need analysis system approved by the Secretary for the award year if that agency, servicer, or organization agrees to use the edits as specified.

While the Pell Grant processing system and organizations that enter into agreements with the Secretary may use the common edits, the Pell Grant processing system may include additional edits that select applicants for verification. Thus, the Pell processing system may supplement the total number of applicants selected for verification.

Some applicants do not apply for a Pell Grant, and their applications for campus-based or GSL assistance may not be submitted to an agency or organization using the edits. The Secretary is proposing that an institution shall require all of these applicants to verify their application information. For an applicant applying *only* for a GSL, an insitution must require the applicant to verify the applicable information in accordance with § 668.57(b) if (1) the institution determines the applicant's need by using the GSL Needs Test Tables and the applicant does not apply on the student aid application form of an approved need analysis system to have his or her EFC calculated, or (2) the applicant reports an adjusted gross family income of $30,000 or less.

The Secretary proposes to exclude categories of applicants from verification. The Secretary bases his decision to exclude these applicants upon the difficulties the individuals would face in attempting to provide the documents necessary for verification. The Secretary also excludes from verification those individuals who apply for, but do not receive, assistance under the programs covered by this subpart.

Updating Information (§ 668.55)

If the applicant's household size or the number of family members in the applicant's household enrolled in postsecondary educational institutions changes between the time the applicant applied for assistance and the date that the institution verifies the information, the applicant must update this

information to reflect the change. For Pell Grant applicants not selected for

in reporting accurate information on the application, the Secretary will propose

return. The Secretary has determined that a comparable State income tax return is

independent student status if the institution determines that—

the applicant for the previous award year.

that institutions must verify veterans educational benefits. Under § 668.16(f)

VOL 50 ISS 144 JL 26 1985 UMI

information to reflect the change. For Pell Grant applicants not selected for verification, the Secretary is proposing to include in these regulations the current requirement of the Pell Grant Program contained in 34 CFR 690.14(b). Under this provision, these applicants update their household size and number of family members in postsecondary institutions as of the date the first submit their Student Aid Report (SAR) to the institution or the Secretary. Morever, the Secretary is adding a requirement that these applicants sign the statement on the SAR certifying that this information on the SAR is still accurate. In the case of applicants for campus-based aid or a GSL who are not selected for verification, the Secretary proposes to continue each program's current policy of permitting institutions to require applicants to update this information or any other application information throughout the award year.

Except for the following two exceptions, if a student's dependency status changes at any time after the student has applied for assistance, he or she must revise that status. By definition, a student's dependency status changes whenever a change in the projected dependency criteria for the first calendar year of the award year affects the student's dependency status. One exception is that if the institution has already certified a GSL for the applicant, the applicant is not required to update the dependency status on his or her GSL application. The other exception is that if a student's marital status changes after he or she has applied for assistance, the change in marital status will not be updated and, therefore, will not affect a student's dependency status.

Items To Be Verified (§ 668.56)

The Secretary's purpose in publishing these proposed regulations is to ensure that eligible students receive the correct amount of assistance. Therefore, the Secretary's objective is for all students to submit accurate data on their applications for assistance. However, for these proposed regulations, the Secretary is focusing on certain specific requirements as part of the development of a more comprehensive plan to reduce institutional and student error in the student assistance programs.

The Secretary proposes a specific set of items that institutions must verify similar to the set of items published in § 668.77 of the Pell Grant Program regulations. If the Secretary must change any of these items because of the addition or deletion if items in the tax forms, or because of an increase or decrease in the severity of the problems in reporting accurate information on the application, the Secretary will propose amendments to these regulations revising the list of items that institutions must require applicants to verify in subsequent award years.

The Secretary proposes that an applicant shall verify, if applicable, the following items:

- Adjusted gross income (AGI) and U.S. income tax paid as reported on the U.S. Individual Income Tax Return.
- Household size.
- Number in the household enrolled in postsecondary educational institutions.
- Independent student status.
- Untaxed income and benefits.

If an applicant is applying for a GSL and the applicant's adjusted gross family income is $30,000 or less, the applicant must verify that income and if an independent student, independent student status. If the applicant's income exceeds $30,000 and the institution uses the GSL Needs Test Tables, the applicant must verify the adjusted gross family income, the household size, the number in the household in postsecondary educational institutions, and if an independent student, independent student status. If the institution uses an approved system of need analysis to determine an applicant's EFC, the applicant must verify all the items listed above that were used to calculate the applicant's EFC.

Because of the differing methods and information used to determine each applicant's EFC, each applicant may not be verifying the same items.

Acceptable Documentation (§ 668.57)

The documentation that applicants must provide for the items to be verified under these proposed regulations is similar to the documentation required for those items in the Pell Grant Program regulations. The Secretary seeks comments concerning whether the proposed documentation is adequate and whether other sources of data of comparable or better quality are available that do not place undue burdens on institutions.

The Secretary proposes the U.S. income tax return or comparable State income tax return as the principal source of data for verifying most information on the application form. The Secretary also proposes the use of the IRS transcript of tax account information, that a taxpayer may request and receive from the Internal Revenue Service, as an alternative to a tax return.

Not all State income tax returns are comparable to the U.S. income tax return. The Secretary has determined that a comparable State income tax return is one that includes the amount of adjusted gross income and U.S. income tax paid as reported on the U.S. Individual Income Tax Return. However, the responsibility for assuring that the State income tax return is comparable to the U.S. Individual Income Tax Return rests with the institution.

For documenting independent student status, the Secretary proposes that institutions shall require that, except as described below, an *unmarried applicant* verify independent student status by relying on the Federal or comparable State income tax return of the applicant's parents for the calendar year preceding the first calendar year of the award year (e.g., 1985 for the 1986–87 award year) and a written statement signed by the parents concerning whether the parents will claim the applicant as an exemption on their U.S. income tax return for the first calendar year of the award year (e.g., 1986 for the 1986–87 award year) and concerning for both relevant years the amount of assistance provided to the applicant by the parents and the number of days that the applicant lived with the parents. If the applicant is *married*, the parents need to provide only a written statement regarding the income tax exemption, support, and residency in the first calender year of the award year.

If the institution has conflicting documentation with regard to any of the three factors used to determine independent student status, i.e., tax exemption, the receipt of $750 worth of support, or six weeks residence, only the documentation described above may verify an applicant's independent student status.

If the institution does not have conflicting documentation with regard to an applicant, the following rules apply:

1. For the Pell Grant Program, the institution shall not require any documentation if the applicant will be 23 or older on May 31 of the award year for which aid is requested (e.g., May 31, 1987 for the 1986–87 award year). If a *married applicant* will not be 23 or older on May 31 of the award year for which aid is requested, the institution shall consider that the applicant has verified his or her independent student status if the institution determines that the applicant's parents are unable or unwilling to provide the required statement.

If an *unmarried applicant* will not be 23 or older on May 31 of the award year for which aid is requested, the institution shall consider that the applicant has verified his or her independent student status if the institution determines that—

a. The applicant's parents are unable or unwilling to provide the required tax return and statement, and

b. The applicant had sufficient income to support himself or herself and any dependents in the calendar year preceding the first calender year of the award year.

2. For the campus-based and GSL Programs, the institution has the option of (a) requiring the applicant's parents to provide the requested tax returns and statements unless the institution determines that the parents are unable to do so, or (b) following the rules set forth for the Pell Grant Program.

If an institution needs to determine whether the applicant's parents are unable or unwilling to provide the required tax return statements, the institution shall make a reasonable effort to obtain the tax returns or statements directly from the applicant's parents. The Secretary considers that the parents are "unable" to provide the required documentation if the institution determines that circumstances identical or similar to the following apply: (1) the responsible parents are deceased; (2) it is not possible to contact the responsible parents because the parents are currently absent from the United States and inaccessible and are expected to remain absent and inaccessible beyond a reasonable period of time for completing the verification process; (3) the responsible parents' address cannot be determined; or (4) the responsible parents' physical or mental state prevents them from providing the required documentation. The Secretary considers the parents "unwilling" to provide the required documentation if the parents do not provide the documentation but are not unable to do so.

As in the 1985–86 award year, the Secretary will notify institutions on an unmarried applicant's SAR if he has conflicting documentation concerning the three factors used to determine independent student status. For example, the Secretary will notify the institution concerning whether the applicant was claimed as an exemption by his or her parents in the base year of an award year (i.e., the calender year preceding an award year, 1985 for the 1986–1987 award year). The Secretary determines if he has this information by comparing the application information filed by an applicant for an award year with the application information filed by the applicant for the previous award year.

If verification results in a change from independent student status to dependent student status, the applicant must submit a new student aid application providing parental data in order to recalculate the applicant's EFC. As a selected applicant, the applicant must verify the parental data provided on the new application.

The Secretary recognizes that the proposed documentation requirements for verifying independent student status are complex. However, the Secretary believes that the magnitude of the error in awards made on the basis of incorrect dependency status, as found in the quality control reports in the Pell Grant Program, require substantially enhanced vertification efforts in this area.

The Secretary further proposes that institutions obtain signed statements from applicants and parents, as appropriate, to verify certain items. However, for number in household, the institution need not obtain a signed statement to resolve a discrepancy between the number of exemptions claimed on the tax return and number in household on the student aid application if the institution has other documentation on file which explains the difference. For the number of family members in postsecondary educational institutions, the institution need not obtain a separate written statement if the applicant's student aid application provides the names of the household members who are or will be attending postsecondary institutions as at least half-time students, their ages, and the names of the institutions that they are planning to attend, and this information is still accurate as of the date of verification. The Secretary is proposing that institutions verify untaxed income and benefits by obtaining, in addition to a tax return, a copy of the student aid application worksheet for untaxed income and benefits which is part of an application package or comparable listing of that information and a signed statement certifying that the information on the worksheet or listing is correct. The institution need not obtain a copy of the worksheet or comparable listing if the applicant's student aid application provides a listing of this information and the applicant, and the applicant's parent in the case of a dependent student, certify that this information is still accurate as of the date of verification.

The Secretary is deleting the requirement in the Pell Grant Program that institutions must verify veterans educational benefits. Under § 668.16(f) of the Student Assistance General Provisions, institutions shall develop an adequate system to verify the consistency of the information they receive from different sources. This provision applies to all veterans at an institution who receive benefits.

If the institution determines that it has any reason to doubt the information supplied by the student for the number in postsecondary institutions or an untaxed income or benefit, a signed statement is not sufficient documentation to verify the accuracy of the data. In these cases, the institution must require additional documentation. For number in postsecondary institutions, the applicant must provide a statement from the institution the other family member is attending, indicating the individual is enrolled as at least a half-time student, unless the institution the student is attending certifies that such a statement is unavailable or not obtainable in a reasonable period of time. For untaxed income and benefits, the applicant must submit a statement from the agency supplying the untaxed benefit of the amount of the benefits provided unless the institution determines that such a statement is not available.

While the Secretary has received comments suggesting that processing agencies should verify tax return information through an identifiable tape match with the Internal Revenue Service (IRS), the Secretary has determined that this is not a viable option at this time. The Department is currently exploring this issue with the Treasury Department.

Applicable Items To Be Verified

Generally, four factors determine whether an applicant selected for verification must verify a particular item on his or her application. These factors are—

- The dependency status of the applicant;
- The need analysis system used to calculate the applicant's EFC;
- The item to be verified; and
- The documentation requirements for each item.

Based on these factors, the following charts for dependent and independent students show the applicable items if these proposed regulations applied to the 1985–86 award year:

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REQUIRED VERIFICATION ITEMS FOR DEPENDENT STUDENT

Interim Disbursements (§ 668.58)

The Secretary proposes that when corrections result in a change in the change has a negative numerical value. After making this determination for each

REQUIRED VERIFICATION ITEMS FOR DEPENDENT STUDENT

MAJOR NEED ANALYSIS SYSTEMS	PARENTS' DATA									APPLICANT'S (AND SPOUSE'S) DATA		
	BASE YEAR									BASE YEAR		
	AGI	TAX PAID	SOCIAL SECURITY BENEFITS	MARRIED COUPLE DEDUCTION	IRA DEDUCTION	KEOGH DEDUCTION	OTHER UNTAXED INCOME	HOUSEHOLD SIZE	NO. IN POSTHIGH	AGI	TAX PAID	UNTAXED INCOME
SAR SAI	X	X	X	X			X	X	X	X*	X*	X*
SPECIAL CONDITION SAR SAI OR EC								X	X	X*	X*	X*
SAR EC	X	X	X	X	X	X	X	X	X			
ACT	X	X	X	X	X	X	X	X	X			
CSS	X	X	X	X	X	X	X	X	X			
GAPSFAS	X	X	X	X	X	X	X	X	X			
PHEAA	X	X	X	X	X	X	X	X	X			
GSL: NEED TEST TABLES	X							X	X	X		
GSL: AGFI $30,000 OR LESS	X									X		

* The applicant must verify his or her (and his or her spouse's) AGI, taxes paid, and untaxed income and benefits if base year income is used to calculate his or her SAI.

REQUIRED VERIFICATION ITEMS FOR INDEPENDENT STUDENT

MAJOR NEED ANALYSIS SYSTEMS	APPLICANT'S (AND SPOUSE'S) DATA							
	BASE YEAR							APPLICANT'S INDEPENDENT STUDENT STATUS
	AGI	TAX PAID	SOCIAL SECURITY BENEFITS	MARRIED COUPLE DEDUCTION	OTHER UNTAXED INCOME	HOUSEHOLD SIZE	NO. IN POSTHIGH	
SAR SAI	X	X	X	X	X	X	X	X
SPECIAL CONDITION SAR SAI OR FC						X	X	X
SAR FC						X		X
ACT						X		X
CSS						X		X
GAPSFAS						X		X
PHEAA						X		X
GSL: NEED TEST TABLES	X					X	X	X
GSL: AGFI $30,000 OR LESS	X							X

BILLING CODE 4000-01-C

Interim Disbursements (§ 668.58)

Under 34 CFR 690.77(a)(2) of the Pell Grant Program regulations, the Secretary may require an institution to withhold payment of a student's grant until verification is completed and the institution determines that the information contained on the SAR is correct. In furtherance of this provision, the Secretary has notified institutions in the Pell Grant *Validation Handbook* to withhold payment of an applicant's Pell Grant until the applicant has provided the correct information unless the institution wishes to assume liability for any overpayment.

Under the integrated verification system, verification of applicant information will apply not only to the Pell Grant Program but also to the GSL and campus-based programs. The Secretary, therefore, is proposing that with regard to the Pell Grant and campus-based programs, an institution may, before an applicant completes the verification process, either (1) withhold all payments or (2) make one disbursement to an applicant of a Pell Grant, SEOG, and NDSL in the applicant's first payment period and employ the applicant under CWS for the summer before and for sixty (60) days after the applicant is enrolled in that first payment period. However, if the institution chooses the second approach, it will be liable for any overpayment it makes to a student that is discovered as a result of the verification process. Ever though an institution will be liable for any such overpayment, its exposure to liability will be minimal because most overpayments are small and can be adjusted during the award year. If the applicant misreports data and receives an overpayment, the institution must follow the procedures for each program described below in "Recovery of Funds" and contained in § 668.61.

With regard to the GSL Program the institution may not certify a GSL application until the selected applicant completes verification. In some instances, however, an institution may certify a GSL application and later select that applicant for verification in the course of making an award under the campus-based or Pell Grant programs. In these cases, if the GSL check is sent to the institution, the institution may not endorse the check unless verification shows that the applicant is eligible for that loan amount and related benefits. The institution may not hold the check for more than 30 days and must return it to the lender if the applicant has not yet completed the verification process.

The Secretary proposes that when corrections result in a change in the suggested GSL loan amount, an institution use the following procedures:

1. If the difference in the approved loan amount is less than $200, no adjustment is necessary.
2. If the error in the suggested loan amount is $200 or more, the institution must notify, within 30 days of its determination of the correct suggested loan amount, the borrower, the lender, and the appropriate guarantee agency of the ineligible loan amount and of the correct amount the borrower is eligible to receive and return any GSL checks in its possession to the lender.

Consequences of an Inaccurate Application (§ 668.59)

The Secretary believes that there may be many cases where the difference in the amounts reported on an application and on an income tax return and other documents will not significantly affect the amount of assistance the applicant is eligible to receive. In these cases, the reprocessing of aid applications or the re-packaging of aid awards would be burdensome to applicants, institutions, lenders, and guarantee agencies and would not result in a substantial savings to the Federal government or a major reallocation of funds to applicants. Therefore, the Secretary proposes error levels (tolerances) below which the recalculation of an applicant's EFC will not be required.

The Secretary is proposing for the Pell Grant Program that no recalculation of an applicant's EFC (Student Aid Index) will be required if the net change in the dollar items verified is less than $100. For the campus-based and GSL Programs the Secretary is proposing that no recalculation of an applicant's applicable EFC will be required if the net change in the dollar items verified is less than $600 unless the institution uses the Pell Grant Student Aid Index as the applicant's EFC. In that case, no recalculation will be required if the net change in dollar items verified is less than $100. An institution must recalculate the EFC if nonfinancial data (e.g., the number in the household or in postsecondary educational institutions) are in error.

To determine the net change in dollar items verified, the institution first determines the amount of change in each dollar item by subtracting the amount originally reported from the amount verified. If the amount verified is greater than the amount originally reported, the amount of change has a positive numerical value. If the amount verified is less than the amount originally reported, the amount of change has a negative numerical value. After making this determination for each item, the numerical value of the change in each item verified that decreases the EFC (e.g., U.S. income tax paid and the married couple deduction) is reversed from positive to negative or negative to positive as appropriate. The institution then adds all the changes in value to arrive at the net change in dollar items verified. If an applicant's net change in dollar items exceeds a positive or negatives $100 for the Pell Grant Program or a positive or negative $600 for the campus-based and GSL programs, the applicant's EFC is recalculated to determine if his or her award changes.

The following is an example of determining an applicant's net change in dollar items verified. An institution determines under the verification process that an applicant's AGI is $18,300 instead of $18,000 reported on the application, that the U.S. income tax paid is $1,100 instead of $1,000, and that the applicant's married couple deduction is $300 instead of $500. Therefore, the institution determines that the change in value of these items is respectively a positive $300 for AGI, a positive $100 for tax paid, and a negative $200 for the married couple deduction. Before adding these three amounts, the values of the changes in U.S. income tax paid and the married couple deduction are reversed to a negative $100 and a positive $200. Thus, the net change in dollar items after adding these three amounts is a positive $400, and only the applicant's Student Aid Index for the Pell Grant Program must be recalculated as described below.

The Secretary recognizes that the proposed tolerance level of $100 for the Pell Grant Program is more rigorous than the current tolerances provided for in that program. However, the quality control study in 1983 found that the current tolerances do not required the correction of all consequential errors. 72 percent of the verified applications within those tolerances would have had a Student Aid Index change if corrections had been required. Two-thirds of these Student Aid Index changes would have resulted in overpayments had corrections been required, and the total of the overpayments and underpayments would have yielded an unacceptably high net payment changes estimated to be $26 million in overpayments.

For the approved need analysis systems based on the Uniform Methodology that are used in the campus-based and GSL programs, the Secretary proposes as a tolerance $600.

This amount corresponds to a change in EFC that parallels the $200 overaward exception in the campus-based program.

submit a new student aid application providing parental data in order to

revision would assure that institutions would have sufficient information to

Invitation To Comment

Interested persons are invited to

(Catalog of Federal Domestic Assistance: No. 84.007, Supplemental Educational Opportunity Grants; No. 84.032, Higher

(c) *Foreign schools.* The Secretary exempts from the provisions of this

VOL 50 ISS 144 JL 26 1985 UMI

This amount corresponds to a change in EFC that parallels the $200 overaward exception in the campus-based program regulations, 34 CFR 674.14, 675.14, and 676.14.

When an institution determines that the application dollar errors exceed the tolerance levels or there are errors in nonfinancial data, the institution, or in the case of the Pell Grant Program the institution or Secretary, must determine whether there is any change in the applicant's assistance by recalculating the applicant's EFC. If the applicant has applied for a Pell Grant and the institution either does not recalculate the applicant's EFC (Student Aid Index) or recalculates the applicant's EFC and determines that the applicant's Pell Grant has changed, the applicant must resubmit his or her Student Air Report (SAR) for correction. The institution then adjusts the applicant's aid to reflect the new EFC. If the applicant applied for a GSL and reported an adjusted gross family income of $30,000 or less and the correction of a misreported item causes the adjusted gross family income to exceed $30,000, the institution must calculate the applicant's EFC and determine the applicant's need for a loan.

For a Pell Grant applicant whose Student Aid Index (SAI) equals zero on the SAR presented for verification, the Secretary proposes to continue to provide the "Zero SAI Charts" previously published in the Pell Grant Validation Handbook so that the applicant's SAI need not be recalculated. A school may use the charts in those cases where the SAI is zero and the SAI will remain at zero after using verified information. The Zero SAI Charts rely on a simplified version of the Pell Grant eligibility formula that compares income offsets with household size and effective family income. If after calculating the correct effective family income the institution finds that it is less than the amount corresponding to the correct household size, the student's SAI will remain zero and the amount of the scheduled award remains the same. If the student's SAI remains zero, the SAR does not need to be reprocessed. If the institution determines it cannot use the Zero SAI Charts or if the verified effective family income exceeds the effective family income for the correct household size, the school must use the net $100 tolerance. The Secretary will publish the Zero SAI Charts for each award year in a notice in the **Federal Register**.

If verification results in a change from independent student status to dependent student status, the applicant must submit a new student aid application providing parental data in order to recalculate the applicant's EFC. The applicant must verify the parental data provided on the new application.

Failure To Provide Documentation (§ 668.60)

The Secretary proposes that for the campus-based and GSL programs, an institution shall determine what a reasonable period of time is for its applicants to provide documentation for verification. The Secretary believes that this provision allows institutions the flexibility to set a time period that is appropriate for their particular circumstances. Except as described below, if an applicant fails to complete verification within the time period set by the institution, the institution must not disburse any additional assistance to that applicant or certify any GSL for that applicant for that award year, and the applicant is responsible for returning any NDSL or SEOG payments. If the applicant provides the requested documentation after the time set by the institution, the institution may consider the applicant's application for campus-based aid for GSL and the applicant need not return any funds for which he or she is eligible.

For the Pell Grant Program, the Secretary has included the provisions currently in 34 CFR 690.77 of the Pell Grant Program regulations regarding the submission of a verified SAR after deadlines established in 34 CFR 690.61 and in notices in the **Federal Register**.

The Secretary proposes that if the Secretary or an institution is aware that an applicant has not provided requested documentation to the Secretary, the institution, or another institution that the student previously attended, neither the Secretary in the case of a Pell Grant, nor the Secretary or the institution in the case of campus-based aid or a GSL, shall process for the current or any future years any other application for a Pell Grant, campus-based aid, or a GSL until the applicant provides the requested documentation or the Secretary determines that the documentation is no longer needed. This requirement already exists for the Pell Grant Program, and the Secretary is proposing to extend it to the campus-based and GSL programs.

The Secretary is requesting comments on whether he should revise the requirements for the financial aid transcript in Subpart A of these regulations to include information regarding whether an applicant failed to provide documentation for verification of an application for a Pell Grant, campus-based aid, or a GSL. This revision would assure that institutions would have sufficient information to treat applicants for campus-based or GSL assistance similarly to Pell Grant applicants.

Recovery of Funds (§ 668.61)

If an institution chooses to make a disbursement before the verification process is complete, it is liable for any overpayments. The Secretary proposes to require an institution to make a reasonable effort to recover any funds to which an applicant is not entitled either by making adjustments to subsequent disbursements in the award year or by requiring applicants to return these funds if the institution cannot make corrections later in the award year. In the latter case, if the institution is unable to recover Pell Grant, NDSL, or SEOG funds after making a reasonable effort, the institution must reimburse the appropriate program account.

The Secretary proposes that if after verifying the applicant's information for an award year, an institution determines that an applicant previously received a GSL of $200 or more in excess of the applicant's financial need for that award year, the institution must notify the lender of the change in the suggested loan amount and return any GSL check in its possession. The Secretary is publishing separately in proposed regulations for the GSL Program a description of those actions that the lender takes once notified by an institution of a change in a borrower's eligibility for a GSL.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education. Under these proposed regulations, all institutions of higher education shall require selected applicants to verify student aid application information. All institutions, including small institutions which participate in the Pell Grant Program, already verify applicant information under the Pell validation system.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Regional Office Building 3, Room 4318, 7th and D Streets, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Paperwork Reduction Act of 1980

Sections 668.53, 668.54, 668.55, 668.56 and 668.57 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, D.C. 20503; Attention: Joseph F. Lackey, Jr.

All comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education loan programs—education, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance: No. 84.007, Supplemental Educational Opportunity Grants; No. 84.032, Higher Education Act Insured Loans (Guaranteed Student Loans); No. 84.033, College Work-Study Program; No. 84.038, National Direct Student Loans; and No. 84.063, Pell Grant Program)

Dated: July 24, 1985.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1094.

2. The table of contents of Part 668 is amended by adding a new Subpart E to read as follows:

Subpart E—Verification of Student Aid Application Information

Sec.

668.51 General.
668.52 Definitions.
668.53 Policies and procedures.
668.54 Selection of applicants for verification.
668.55 Responsibilities of applicants for updating information.
668.56 Items to be verified.
668.57 Acceptable documentation.
668.58 Interim disbursements.
668.59 Consequences of an inaccurate application.
668.60 Consequences of the failure to provide documentation.
668.61 Recovery of funds.

3. Part 668 is amended by adding a new Subpart E to read as follows:

Subpart E—Verification of Student Aid Application Information

§ 668.51 General.

(a) *Scope and purpose.* (1) The regulations in this subpart govern the verification by institutions of information submitted by applicants in connection with the calculation of their expected family contributions (EFC) for the Pell Grant, the campus-based, and the Guaranteed Student Loan (GSL) programs.

(2) The regulations also cover the verification by institutions of information submitted under the GSL Program by applicants whose adjusted gross family income is $30,000 or less.

(b) *Applicant responsibility.* If the Secretary or the institution requests documents or informaton from an applicant under this subpart, the applicant must provide the specified documents or information.

(c) *Foreign schools.* The Secretary exempts from the provisions of this subpart institutions participating in the GSL Program that are not located in a State.

(20 U.S.C. 1094)

§ 668.52 Definitions.

The following definitions apply to this subpart:

"Approved need analysis system" means a need analysis system which the Secretary has approved for an award year for determining an EFC under the campus-based programs.

"Comparable State income tax return" means a State income tax return which requires the filer to provide the adjusted gross income and the amount of U.S. income tax paid as reported on the U.S. income tax return.

"Edits" means a set of preestablished factors for identifying—

(a) Student aid applications that may contain incorrect, missing, illogical, or inconsistent information; and

(b) Randomly selected student aid applications.

"Expected family contribution (EFC)" means the amount an applicant and his or her spouse and family are expected to contribute toward the applicant's cost of attendance.

"GSL Needs Test Tables" means the tables in Appendix B to 34 CFR Part 682 used to calculate a GSL applicant's EFC.

"Student aid application (application)" means the application which a person submits to have his or her EFC determined under the Pell Grant, campus-based, or GSL programs.

(20 U.S.C. 1094)

§ 668.53 Policies and procedures.

(a)(1) An institution shall establish and use written policies and procedures for verifying information contained in an application to have an EFC calculated in accordance with the provisions of this subpart. These policies and procedures must include—

(i) The time period within which the applicant shall provide the documentation;

(ii) The consequences of the failure to provide the required documentation within the specified time period;

(iii) The approved need analysis system the institution uses to recalculate an EFC;

(iv) The method by which the institution notifies the applicant of the results of verification;

(v) The procedures the institution requires an applicant to follow to correct application information; and

(vi) The procedures for referring any instance in which the institution has

reason to believe that an applicant has applied for Pell Grant, campus-based, or GSL program funds under false

(3) In addition to the applicants selected under paragraphs (a)(1) and (a)(2) of this section, if an institution

(c) Except as provided in paragraph (d) of this section, if an applicant's dependency status changes after the

submit acceptable documentation

(A) The sources of income earned

applicant selected for verification to

VOL
50
ISS
144
JL
26
1985
UMI

reason to believe that an applicant has applied for Pell Grant, campus-based, or GSL program funds under false pretenses to State or local law enforcement agencies for investigation as required under § 668.14(g) of this part.

(2) If the institution selects applications for verification in addition to those applications that the Secretary selects, the policies and procedures must include—

(i) The method the institution uses to select those applications;

(ii) The items on the student aid application that the institution requires applicants to verify; and

(iii) The documents the institution requires to verify any items.

(b) The institution's procedures must provide that it furnish, in a timely manner, to each applicant selected for verification—

(1) A clear explanation of the documentation needed to satisfy the verification requirements; and

(2) The applicant's rights and responsibilities with respect to the verification of his or her application information including the deadlines for the applicant's completion of any actions required of the applicant under this subpart and the consequences of failing to complete any required action.

(20 U.S.C. 1094)

§ 668.54 Selection of applicants for verification.

(a) *General requirements.* (1) Except as provided in paragraph (b) of this section, an institution shall require an applicant to verify all of the applicable items specified in § 668.56 if the edits specified by the Secretary select that applicant for verification. The Secretary may enter into agreements with agencies or organizations with approved need analysis systems under which the Secretary provides the edits to the agencies or organizations and the agencies and organizations indicate to institutions the applications that the edits select for verification.

(2) The institution shall require every applicant to verify the applicable items specified in § 668.56 if the applicant—

(i) Is selected by the institution to receive an award under the campus-based programs or requests the institution to certify his or her application for a GSL loan; and

(ii) Does not—

(A) Apply for a Pell Grant;

(B) Submit an "Application for Federal Student Aid" (ED Form 255); or

(C) Submit a student aid application to have an EFC calculated to an agency or organization that has an agreement with the Secretary described under paragraph (a)(1) of this section.

(3) In addition to the applicants selected under paragraphs (a)(1) and (a)(2) of this section, if an institution believes that any information on an application used to calculate an EFC is inaccurate, it shall require that the applicant verify the information that it believes is inaccurate.

(b) *Exclusions from verification.* Unless the institution has documentation that conflicts with information reported by an applicant or believes that the information reported by the applicant is incorrect, it does not have to verify applications of the following applicants:

(1) An applicant who is an independent student and who is a legal resident of the Trust Territory of the Pacific Islands (which includes the Marshall Islands and the Caroline Islands), Guam, American Samoa, or the Northern Mariana Islands.

(2) An applicant who is a dependent student and who is a legal resident of, and whose family are legal residents of, the Trust Territory of the Pacific Islands (which includes the Marshall Islands and the Caroline Islands), Guam, American Samoa, or the Northern Mariana Islands.

(3) An applicant who is incarcerated at the time of verification.

(4) An applicant who is a dependent student whose parents are citizens of, and currently reside in, a country other than the United States.

(5) An applicant who dies during the award year.

(6) An applicant who is an immigrant and who arrived in the United States during either calendar year of the award year.

(7) An applicant who does not receive assistance under the programs covered by this subpart.

(20 U.S.C. 1094)

§ 668.55 Responsibilities of applicants for updating information.

(a) If an applicant is selected for verification, the applicant shall update the information described in § 668.56(a)(3) and (4) and § 668.56(b)(2)(ii) and (iii) so that this information is accurate as of the date that the institution verifies the information.

(b)(1) If an applicant for a Pell Grant is not selected for verification, the applicant shall update the information described in § 668.56(a)(3) and (4) so that this information is accurate as of the date that the applicant submits his or her first Student Aid Report (SAR) to the institution or the Secretary.

(2) The applicant shall sign the statement, certifying that the applicable information has been updated, that is contained on the SAR.

(c) Except as provided in paragraph (d) of this section, if an applicant's dependency status changes after the applicant applies to have his or her EFC calculated for an award year, the applicant must change that status by filing a new application for that award year reflecting the applicant's new dependency status.

(d)(1) If an applicant's change in dependency status results from a change in marital status, the applicant is not required to update his or her dependency status.

(2) If the institution has previously certified a GSL loan application for an applicant, the applicant is not required to update his or her dependency status on the GSL loan application.

(20 U.S.C. 1094)

§ 668.56 Items to be verified.

(a) Except as provided in paragraph (b) of this section, an institution shall require an applicant selected for verification under § 668.54(a)(1) and (2) to submit acceptable documentation described in § 668.57 that will verify or update the following information used to determine the applicant's EFC:

(1) Adjusted gross income (AGI) for the calendar year preceding the first year of the award year.

(2) U.S. income tax paid for the calendar year preceding the first year of the award year.

(3) The number of family members in the household of the applicant and his or her spouse, or in the household of the applicant's parents if the applicant is a dependent student.

(4) The number of family members in postsecondary educational institutions as at least half-time students in the household of the applicant and his or her spouse, or in the household of the applicant's parents if the applicant is a dependent student.

(5) The factors relating to an applicant's independent student status.

(6) Untaxed income and benefits for the calendar year preceding the first year of the award year including—

(i) U.S. income tax deduction for a married couple when both work;

(ii) Social security benefits if required by a comment on the applicant's SAR;

(iii) Payment made to an individual retirement account (IRA) or Keogh account; and

(iv) Other untaxed income and benefits included on the student aid application.

(b) For the GSL Program—

(1) If a GSL applicant's adjusted gross family income is $30,000 or less, the institution shall require the applicant to

submit acceptable documentation described in § 668.57 that verifies—

(i) The adjusted gross family income; and

(ii) The factors relating to an applicant's independent student status;

(2) If a GSL applicant's adjusted gross family income exceeds $30,000 and the institution uses the GSL Needs Test Tables, the institution shall require the applicant to submit acceptable documentation described in § 668.57 that verifies—

(i) The adjusted gross family income;

(ii) The number of family members in the household of the applicant and his or her spouse, or in the household of the applicant's parents if the applicant is a dependent student;

(iii) The number of family members in postsecondary educational institutions as at least half-time students in the household of the applicant and his or her spouse, or in the household of the applicant's parents if the applicant is a dependent student; and

(iv) The factors relating to an applicant's independent student status; or

(3) If the GSL applicant's adjusted gross family income exceeds $30,000 and the institution does not use the GSL Needs Test Tables, the institution shall require the applicant to submit acceptable documentation described in § 668.57 that verifies the applicable items set forth in paragraph (a) of this section.

(20 U.S.C. 1094)

§ 668.57 Acceptable documentation.

(a) *AGI, U.S. income tax paid, and number in household.* (1) An institution shall require an applicant selected for verification to submit to it to verify adjusted gross income (AGI), U.S. income tax paid, and number in household—

(i) A copy of the U.S. income tax return or comparable State income tax return signed by the filer of the return or by one of the filers if a joint return;

(ii) The IRS listing of tax account information from the Internal Revenue Service;

(iii) If the applicant or the applicant's parents filed an income tax return with a central government outside the United States, a copy of that tax return signed by the filer; or

(iv) If no return was filed or will be filed, a statement signed by the applicant and the applicant's parent in the case of a dependent student and by the applicant in the case of an independent student certifying that no tax return was filed or will be filed and providing—

(A) The sources of income earned from work stated on the application;

(B) The amount of income from each source; and

(C) A list of the household members and their relationship in each relevant household.

(2) If the number of exemptions claimed on the U.S. or comparable State income tax return, minus any exemptions for age or blindness, differs from the number in the household on the student aid application, the institution shall require a statement signed by the applicant and the applicant's parent in the case of a dependent student, or by the applicant in the case of an independent student, which—

(i) Lists the names of the household members and their relationship; and

(ii) Explains any difference between the information included on the student aid application and the tax returns unless other information in the institution's records explains that difference.

(b) *Number in postsecondary educational institutions.* An institution shall require an applicant selected for verification to submit to it to verify the number of family members in the household in postsecondary educational institutions, the following:

(1) If the institution does not believe that the information provided is inaccurate, a statement signed by the applicant and the applicant's parent in the case of a dependent student, or by the applicant in the case of an independent student, which lists—

(i) The names of the household members who are or will be attending postsecondary institutions as at least half-time students;

(ii) Their ages; and

(iii) The names of those institutions.

(2) If the institution believes the information is inaccurate—

(i) The information listed in paragraph (b)(1) of this section; and

(ii) A statement from each institution named by the applicant in response to the requirement of paragraph (b)(1)(iii) of this section that the household member in question is or will be attending the institution on at least a half-time basis, unless the institution the student is attending determines that such a statement would not be available because the household member in question has not yet registered at the institution he or she is planning to attend.

(c) *Independent student status. (1) Unmarried applicant.* For an unmarried applicant, except as provided in paragraphs (c)(3) and (c)(4) of this section, an institution shall require an applicant selected for verification to submit to it a written statement signed by the applicant and the applicant's parent(s) certifying that—

(i) The parent(s) will not claim the applicant as an exemption on their U.S. income tax return for the first calendar year of the award year;

(ii) The parent(s) did not and will not provide the applicant with financial assistance of more than $750 in the first calendar year of the award year or the preceding calendar year; and

(iii) The applicant did not and will not live with the parent(s) for more than forty-two days in that year.

(2) *Married applicant.* For a married applicant, except as provided in paragraphs (c)(3) and (c)(4) of this section, an institution shall require an applicant selected for verification to submit to it a written statement signed by the applicant and the applicant's parent(s) certifying that—

(i) The parent(s) will not claim the applicant as an exemption on their U.S. income tax return for the first calendar year of the award year;

(ii) The parent(s) did not and will not provide the applicant with financial assistance of more than $750 in the first calendar year of an award year or the preceding calendar year; and

(iii) The applicant did not and will not live with the parent(s) for more than forty-two days in either of those years.

(3) *Pell Grant Program.* For purposes of the Pell Grant Program, if the Secretary or an institution does not have conflicting documentation regarding any of the three factors used to determine independent student status—

(i) No documentation or statements are required of an applicant who is 23 years of age or older as of May 31 of the award year for which aid is requested to verify his or her independent student status;

(ii) The institution shall consider the independent student status of a married applicant who is under 23 years of age on May 31 of the award year for which aid is requested to be verified if the institution determines that the applicant's parents are unable or unwilling to provide the required statements; or

(iii) The institution shall consider the independent student status of an applicant selected for verification to submit to it—

(i) A copy of the Federal or comparable State income tax return of the applicant's parent(s) signed by the filer, or by one of the filers if a joint return, for the calendar year preceding the first calendar year of an award year, or if the parent(s) did not file and will not file a tax return for that year, a statement to that effect signed by the parent(s); and

(ii) A statement signed by the applicant and the applicant's parent(s) certifying that—

(A) The parent(s) will not claim the applicant as an exemption on their U.S. income tax return for the first calendar year of the award year;

(B) The parent(s) will not and did not provide the applicant with financial assistance of more than $750 in the first calendar year of an award year or the preceding calendar year; and

(C) The applicant did not and will not live with the parent(s) for more than forty-two days in either of those years.

(4) *Married applicant.* For a married applicant, except as provided in paragraphs (c)(3) and (c)(4) of this section, an institution shall require an applicant selected for verification to submit to it a written statement signed by the applicant and the applicant's parent(s) certifying that—

(i) The parent(s) will not claim the applicant as an exemption on their U.S. income tax return for the first calendar year of the award year;

(ii) The parent(s) did not and will not provide the applicant with financial assistance of more than $750 in the first calendar year of an award year; and

(iii) The applicant did not and will not live with the parent(s) for more than forty-two days in that year.

(3) *Pell Grant Program.* For purposes of the Pell Grant Program, if the Secretary or an institution does not have conflicting documentation regarding any of the three factors used to determine independent student status—

(i) No documentation or statements are required of an applicant who is 23 years of age or older as of May 31 of the award year for which aid is requested to verify his or her independent student status;

(ii) The institution shall consider the independent student status of a married applicant who is under 23 years of age on May 31 of the award year for which aid is requested to be verified if the institution determines that the applicant's parents are unable or unwilling to provide the required statements; or

applicant's EFC, a net change in dollar items of less than $100

(1) If an applicant fails to provide the

paragraph (b)(1) of this section, the

(iii) The institution shall consider the independent student status of an unmarried applicant who is under 23 years of age on May 31 of the award year for which aid is requested to be verified if the institution determines that—

(A) The applicant's parents are unable or willing to provide the required tax returns or statements; and

(B) The applicant had sufficient income to support himself or herself including any dependents for the calendar year preceding the first calendar year of the award year.

(4) *Campus-based and GSL programs.* For purposes of the campus-based and GSL programs—

(i) If the Secretary or an institution does not have conflicting documentation regarding any of the three factors used to determine independent student status and the institution determines that the applicant's parents are not unable to provide the requested information and documentation, the institution may either—

(A) Require an applicant to provide to it the documents specified in paragraph (c)(1) of this section if the applicant is unmarried, or specified in paragraph (c)(2) of this section if the applicant is married, regardless of the circumstances concerning the age of the applicant or the willingness of the applicant's parents to provide the required tax return and statement; or

(B) Follow the requirements contained in paragraph (c)(3) of this section; or

(ii) If the Secretary or an institution does not have conflicting documentation regarding any of the three factors used to determine independent student status and the institution determines that the applicant's parents are unable to provide the requested information and documentation, the institution must follow the requirements contained in paragraph (c)(3) of this section.

(d) *Untaxed income and benefits.* An institution shall require an applicant selected for verification to submit to it to verify—

(1) Untaxed income and benefits described in § 668.56(a)(6)(i), (iii), and (iv)—

(i) A copy of the U.S. or comparable State income tax return signed by the filer or one of the filers if a joint return, if collected under paragraph (a) of this section, or the IRS listing of tax account information from the Internal Revenue Service if collected by the institution to verify adjusted gross income; and

(ii)(A) If the institution does not believe that the information provided is inaccurate—

(1) The worksheet for untaxed income and benefits from the student aid application, or a comparable listing of the untaxed income and benefits specified in § 668.56(a)(6)(iv) accompanied by a written statement signed by the applicant and the applicant's parent in the case of a dependent student, or by the applicant in the case of an independent student, certifying that the information on the worksheet or listing is correct; and

(2) If the applicant is a dependent student whose income for the calendar year preceding the first year of the award year is used to calculate the applicant's EFC (Student Aid Index) for the Pell Grant Program, a separate listing of the applicant's untaxed income and benefits specified in § 668.56(a)(6) for that year accompanied by a written statement signed by the applicant certifying that the information on the listing is correct; or

(B) If the institution believes that the information provided for an untaxed income or benefit is inaccurate—

(1) The documentation required in paragraph (d)(1)(ii)(A) of this section; and

(2) A statement from the agency or provider that supplied the benefits indicating the amount of those benefits, unless the institution determines that such a statement is not available.

(2) Social security benefits—

(i) If the applicant's SAR requires that the applicant verify his or her social security benefits, a document from the Social Security Administration showing the amount of benefits received in the appropriate calendar year by the applicant's parents, the applicant, and the parent's children in the case of a dependent student, or by the applicant, the applicant's spouse, and the applicant's children in the case of an independent student; or

(ii) If the applicant does not receive an SAR, the document in paragraph (d)(2)(i) of this section or, at the institution's option, a statement signed by the applicant and the applicant's parent in the case of a dependent student or by the applicant in the case of an independent student certifying that the amount listed on the applicant's aid application is correct.

(20 U.S.C. 1094)

§ 668.58 Interim disbursements.

(a) Until an applicant selected by the Secretary or the institution verifies or corrects the information on his or her application, the institution or the Secretary—

(1)(i) May withhold payment of Pell Grant and campus-based funds; or

(ii)(A) May make one disbursement of any combination of Pell Grant, NDSL, or SEOG funds for the applicant's first payment period; and

(B) May employ an eligible student under the CWS Program until sixty (60) days after the date the applicant enrolled in that award year; and

(2) Shall not certify the applicant's GSL loan application or endorse a GSL loan check for any previously certified GSL loan application.

(b) If an institution chooses to make disbursement under paragraph (a)(1)(ii) of this section, it shall be liable for any overpayment discovered as a result of the verification process.

(c) An institution may not hold any GSL check under paragraph (a)(2) of this section for more than thirty (30) days. If the applicant does not complete the verification process within the thirty (30) day period, the institution must return the check to the lender.

(20 U.S.C. 1094)

§ 668.59 Consequences of an inaccurate application.

(a)(1) Except as provided in paragraph (b) of this section, an institution shall follow the procedures set forth in paragraphs (c) and (d) of this section.

(2) For the Pell Grant Program, if the institution uses the Zero SAI Charts published by the Secretary in the **Federal Register** for an applicant who submits a SAR with a Student Aid Index (SAI) of zero and the Zero SAI Charts show that the applicant's SAI remains zero, the institution is not required to follow the procedure in paragraphs (c)(2) and (d)(1) of this section.

(b)(1) An institution need not recalculate an applicant's EFC for the Pell Grant Program or otherwise follow the procedures set forth in paragraphs (c) and (d) of this section for a Pell Grant Program applicant if, as a result of the verification process, the institution finds—

(i) No errors in nondollar items used to calculate the applicant's EFC; and

(ii) A net change in dollar items of less than $100.

(2) An institution need not recalculate an applicant's EFC for the campus-based or GSL program or otherwise follow the procedures set forth in paragraphs (c) and (d) of this section for a campus-based or GSL program applicant if, as a result of the verification process, the institution finds—

(i) No errors in nondollar items used to calculate the applicant's EFC; and

(ii)(A) A net change in dollar items of less than $600; or

(B) If the institution uses the Pell Grant Program Student Aid Index as the applicant's EFC, a net change in dollar items of less than $100.

(c)(1) For the campus-based and GSL programs, the institution shall recalculate the applicant's EFC.

(2) For the Pell Grant Program, the institution shall require the applicant to resubmit his or her SAR to the Secretary if—

(i) The institution recalculates the applicant's EFC (Student Aid Index) and determines that the applicant's Pell Grant award has changed; or

(ii) The institution does not recalculate the applicant's EFC.

(d)(1) For purposes of the Pell Grant Program, if the applicant's EFC (Student Aid Index) changes, the institution shall recalculate the applicant's Pell Grant award.

(2) For purposes of the campus-based and GSL programs, if the applicant's applicable EFC changes, the institution shall adjust the applicant's financial aid package for the campus-based and GSL aid to reflect the new EFC.

(e) If a GSL applicant reports an adjusted gross family income of less than $30,000 and verification shows that the adjusted gross family income is over $30,000, the institution shall calculate an EFC for the applicant and determine his or her financial need for a loan.

(f) If the institution selects an applicant for verification for an award year who previously received a loan under the GSL Program for that award year, and as a result of verification, the suggested loan amount is reduced by $200 or more, the institution shall comply with the procedures for notifying the borrower, lender, and appropriate guarantee agency specified in § 668.61(b).

(g) If the student has received funds based on information which may be incorrect and the institution has made a reasonable effort to resolve the alleged discrepancy, but cannot, the institution shall forward the student's name, social security number, and other relevant information to the Secretary.

(20 U.S.C. 1094)

§ 668.60 Consequences of the failure to provide documentation.

(a) For purposes of the campus-based and GSL programs—

(1) If an applicant fails to provide the requested documentation within a reasonable time period established by the institution—

(i) The institution shall not—

(A) Disburse any additional NDSL or SEOG funds to the applicant;

(B) Continue to employ the applicant under CWS;

(C) Certify the applicant's GSL application; or

(D) Endorse a GSL check to the applicant;

(ii) The institution must return to the lender any GSL check payable to the applicant; and

(iii) The applicant must repay to the institution any NDSL or SEOG payments received for that award year;

(2) If the applicant provides the requested documentation after the time period established by the institution, the institution may, at its option, award aid to the applicant notwithstanding the prescriptions listed in paragraph (a)(1)(i) of this section; and

(3) An institution may not hold any GSL check under paragraph (a)(1) of this section for more than thirty (30) days. If the applicant does not complete verification within the thirty (30) day period, the institution must return the check to the lender.

(b) For purposes of the Pell Grant Program—

(1) An applicant may submit a verified SAR to the institution after the appropriate deadline specified in 34 CFR 690.61 but within an established additional time period set by the Secretary through publication in the **Federal Register**. If a verified SAR is submitted to the institution during the period permitted by the Secretary after the appropriate deadline specified in 34 CFR 690.61, payment must be based on—

(i) The original SAR, if the student aid index on the verified SAR is lower than the student aid index on the original SAR; or

(ii) The verified SAR, if the student aid index on the verified SAR is the same or higher than the student aid index on the original SAR; and

(2) If the applicant does not provide the requested documentation, and if necessary, a reprocessed verified SAR, within the period established in paragraph (b)(1) of this section, the applicant—

(i) Forfeits the Pell Grant for the award year; and

(ii) Shall return any grant payments previously received for that award year to the Secretary.

(c) The Secretary in the case of a Pell Grant, or the Secretary or an institution in the case of campus-based aid or a GSL, shall not process any other application for a Pell Grant, campus-based aid, or a GSL for an applicant who has been requested to provide information until the applicant provides the information or the Secretary decides that there is no longer a need for the documentation.

(20 U.S.C. 1094)

§ 668.61 Recovery of funds.

(a) If an institution discovers, as a result of the verification process, that an applicant received more than he or she was eligible to receive under the Pell Grant, NDSL, or SEOG programs, the institution shall eliminate the overpayment by—

(1) Adjusting subsequent financial aid payments in the award year in which the overpayment occurred;

(2) Reimbursing the appropriate program account by—

(i) Requiring the applicant to return the overpayment to the institution if the institution cannot correct the overpayment under paragraph (a)(1) of this section; or

(ii) Making restitution from its own funds.

(b) If the institution determines as a result of verification that an applicant received for an award year a GSL of $200 or more in excess of the student's financial need for the loan, the institution shall notify the student, the lender, and the appropriate guarantee agency of the excess amount within thirty (30) days of the institution's determination that the borrower is ineligible for such amounts.

(20 U.S.C. 1094)

[FR Doc. 85-17861 Filed 7-25-85; 8:45 am]

BILLING CODE 4000-01-M

VOL
50
ISS
144
JL
26
1985
UMI

federal register

Friday
July 26, 1985

Part VIII

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 20

Financial Assistance and Social Services Program; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Social Services, Code 450, Room 312–S, 1951 Constitution Avenue, NW., Washington, D.C. 20240

"essential needs" also includes additional need items for which Bureau

to State residents. On the other hand, under a State law requiring counties to

propose that eligibility must be redetermind whenever there is an

However, these regulations do not change existing policies which do not

VOL 50 ISS 144 JL 26 1985 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 20

Financial Assistance and Social Services Program

July 22, 1985.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau is amending existing Financial Assistance and Social Services Program regulations in response to a congressional directive in "The Department of the Interior and Related Agencies Appropriations Act," Fiscal Year 1985, Pub. L. 98–473. The Act provides that:

. . . after September 30, 1985, no part of any appropriation (except trust funds) to the (BIA) may be used directly or by contract for general or other welfare assistance (except child welfare assistance) payments (1) for other than essential needs (specifically identified in regulations of the Secretary or in regulations of the State public welfare agency adopted by reference in the Secretary's regulations) which could not be reasonably expected to be met from financial resources or income (including funds held in trust) available to the recipient individual which are not exempted under law from consideration in determining eligibility for or the amount of Federal financial assistance or (2) for individuals who are eligible for general public welfare assistance available from a State except to the extent the Secretary of the Interior determines that such payments are required under sections 6(b)(2), 6(i), and 9(b) of the Maine Indian Claims Settlement Act of 1980 . . .

In order to insure that the limitations in the statutory language are applied to the Bureau's general assistance program it is necessary to amend 25 CFR Part 20 to:

—More precisely define key terms within the regulations, i.e., "need", "essential needs", "resources", and "general assistance."
—Further delineate what constitutes a general assistance program and in what circumstances the Bureau provides general assistance payments to Indian citizens.
—Further identify and support a uniform standard for the determination of assistance payments; and,
—Make additional revisions which may support any of the above and which further strengthen the management and effectiveness of the general assistance program.

DATE: Comments must be received on or before August 26, 1985.

ADDRESS: Comments may be mailed to: Bureau of Indian Affairs, Division of Social Services, Code 450, Room 312–S, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Eddie F. Brown or Larry Blair of the Bureau's Division of Social Services at: 1951 Constitution Avenue, NW., Room 312, Telephone number (202) 343–6434.

SUPPLEMENTARY INFORMATION: In proposing these amendments, the Bureau of Indian Affairs seeks to define with greater clarity its program of general assistance to Indian people. Accordingly, it is the Bureau's primary intent in publishing this proposed rule to:

(1) Identify those instances in which the Bureau will operate a general assistance program.

(2) Indentify those needs essential to the well being and support of Indian individuals and families and for which Bureau general assistance payments will be made.

(3) Provide for Bureauwide uniformity in the operation of the Bureau general assistance program.

Other amendments are proposed which support and clarify the above three goals and which enhance the Bureau's ability to make accurate payments to eligible Indian individuals and families.

In pursuit of the foregoing objectives, the following changes are proposed:

1. Section 0.1 Definitions.

The Bureau proposes to revise definitions of (m) "General Assistance," (s) "Need," (t) "Public Assistance," and (w) "Resources," and to add definitions (cc) "Essential Needs," (dd) "Household," (ee) "Tribal Work Experience Program (TWEP)," (ff) "Recipient" and (gg) "Case" to reflect changes to be made in § 20.21.

A. Paragraph 20.1(m) is amended to read, "BIA General Assistance" and makes clear that BIA general assistance is a secondary or residual source of financial assistance available to eligible Indian people. This means that BIA general assistance may be available to eligible Indian individuals and households if all other forms of financial aid are insufficient.

B. Paragraph 20.1 (cc) defines, as required by Pub. L. 98–473, those essential needs for which BIA general assistance may be paid. The regulations identify as minimum essential needs shelter, food, clothing, and utilities. These are commonly recognized as basic to individual well-being and have long been utilized by most public welfare agencies to establish maintenance costs at minimum subsistence levels. The definition of "essential needs" also includes additional need items for which Bureau payments will be made because of the alignment of BIA general assistance with payment standards established under the Aid to Families With Dependent Children Program (AFDC). Most State standards generally include other needs in addition to shelter, food, clothing and utilities, such as transportation and personal care items; other states have "flat grants" that do not identify dollar amounts for the need components of their standards. Therefore, while the Bureau shall not provide general assistance in any State having a general assistance program which meets the four essential needs identified above, in those States where the Bureau provides general assistance, payments will be made to meet the needs identified in the AFDC standard even if that standard includes needs in addition to the minimum four.

C. Paragraph 20.1 (ff) and (gg) are added to assure that data is uniformly reported.

2. Section 20.20 General.

Section 20.20(c) is revised to clarify that authorization by the Deputy Assistant Secretary for assistance to Indians, not otherwise eligible for Bureau Social Services under these regulations, refers only to emergency short term assistance.

3. Discussion of Major Provisions

A. Criteria for determining whether the Bureau will administer a general assistance program in a State. The rules propose criteria to determine whether or not the Bureau will administer a general assistance program in a State. Pub. L. 98–473 specifically precludes the Bureau from using Bureau funds to provide general assistance for "individuals who are eligible for general public welfare assistance available from a State." The Bureau interprets this to mean that there must be a State law which authorizes a statewide general assistance program and that the State must regularly appropriate funds to make payments under the State program. Therefore, the proposed rules do not recognize county or locally administered and funded general assistance as "assistance available from a State" unless there is a State law requiring all counties to have a general assistance program. The Bureau requires that State programs, as opposed to county programs, be funded with a regular appropriation because certain States' laws, while authorizing a statewide general assistance program, do not appropriate funds to administer the program or actually make payments to State residents. On the other hand, under a State law requiring counties to have a general assistance program, counties do provide some assistance even though payments may fluctuate subject to the limited availability of funds.

A second criterion used to determine whether or not the Bureau will administer a BIA general assistance program is whether the State general assistance program is one which provides financial assistance on a continuing basis to meet monthly minimum essential needs. A program which only meets emergency needs on a one-time-only basis is not considered a general assistance program which meets the needs of Indians who reside on or near a reservation. In developing these criteria, the Bureau looked to the two primary Federal income maintenance programs—namely, AFDC and Supplemental Security Income (SSI)—for fundamental characteristics that denote the mission and the limitations of effective, equitable income maintenance programming. Each of these programs provides monthly cash payments for food, shelter, clothing and utilities.

Although the Bureau will not operate a BIA general assistance program in any State that has a statewide general assistance program meeting the criteria as described above, the rules provide that where the Bureau provides general assistance on a reservation in one state and that reservation extends into a border State, the Bureau will provide general assistance to eligible members of the tribe in the bordering State.

The rules propose that the Bureau will not provide general assistance to any tribe that formally requests through final governing body action that the Bureau not operate a general assistance program. It further provides that if a Tribe seeks later to revoke such a request, it must also be done formally through final governing body action.

B. Redeterminations. The proposed rule codifies existing Bureau practice that eligibility and the amount of the payment must be determined based on the best estimate of income and circumstances which will exist in the month for which the payment is made. That estimate may be based on income and circumstances in past months if there is reasonable expectation that circumstances have not changed or based on current or future circumstances if there is new information.

The rules also propose that recipients are required to inform the Bureau within 15 days of any changes in status which may affect their eligibility or the amount of assistance. Additionally, the rules propose that eligibility must be redetermind whenever there is an indication of a change in circumstances, but not less frequently than once every six months for all households. However, this requirement does not preclude redeterminations being conducted at more frequent intervals at the discretion of local program administrators. In order to assure that all individuals who are not exempt under paragraph 20.21 are actively seeking and accepting employment, the Bureau proposes to redetermine eligibility not less frequently than every three months for this category of cases. The Bureau also proposes that a redetermination for all cases include a home visit or other personal contact at least once a year.

C. Standards of Assistance. This rule does not change but restates regulations recently published for inclusion in 25 CFR 20.1 in the **Federal Register** on March 29, 1985 (Vol. 50, No. 61, page 12527). Those regulations implemented changes in the general assistance program to bring payments into conformance with State payments in those States where the standard of need exceeds actual payments.

The rule makes clear that the Bureau adopts as its standard of assistance the AFDC payment standard in the State where the applicant or recipient lives. Thus, whenever there is reference to the Bureau's standard of assistance, it is the AFDC payment standard. The AFDC payment standard reflects the same basic and special need items that are included in the AFDC standard of assistance. In a State that meets 100 percent of the need standard, the payment standard and the need standard are the same. In a State that does not meet need in full and applies a rateable reduction to the need standard, the payment standard is the rateably reduced amount.

This proposed rule does, however, establish a standard for one adult for use in States that do not have a standard for single adult individuals. The rules provide that the Bureau standard for one adult will be the difference between its standard for one child and its standard for a household of two which includes an adult, or one-half the amount of a standard for a household of two, whichever is greater.

D. *Resources.* The rule proposes that the Bureau shall consider all income and liquid assets available for support and maintenance unless otherwise disregarded under regulation or by Federal statute. The regulations distinguish between liquid assets and other resources which include earned income and unearned income.

However, these regulations do not change existing policies which do not require that Indian individuals and families divest themselves of trust, real and personal property holdings. Trust funds, however, subject to the provisions of § 20.21(f) will be considered as part of the individuals' liquid assets.

Liquid assets are defined at § 20.1(w) as properties in the form of cash or other financial instruments which can be converted to cash, such as savings or checking accounts, promissory notes, etc. This means that the Bureau will count as income available to support an individual or household those assets which can be liquidated for that purpose.

The rules primarily codify current Bureau policy as to what constitutes income. However, two additional categories of unearned income are proposed: the Bureau will count, as income-in-kind, the value of shelter provided at no cost to the individual or household. The Bureau, therefore, will add to other income the amount included in its standard for shelter, if identifiable. If the standard is a flat standard which does not assign values to the components of the standard, the Bureau will count as income-in-kind an amount equal to 25 percent of the Bureau standard of assistance. This percentage is based on regulations of the Department of Housing and Urban Development (HUD) which specify that HUD will charge as rent for public housing, the higher of 10 percent of gross income or 30 percent of adjusted income. Adjusted income for an AFDC family with no other income is the AFDC payment less HUD disregards. The Bureau chooses to reduce the percentage applied for rent rather than apply the disregards.

The rules require that an individual or household apply for assistance from other Federal, State, county or local assistance programs for which they may be eligible concurrent with their application to the Bureau for assistance. The Bureau proposes to count as income any assistance received in determining eligibility for and the amount of the BIA general assistance payment. However, the rules propose that individuals eligible to receive or receiving AFDC or SSI are only eligible for BIA general assistance payments for the period following application and until they begin receiving payments under those programs.

Although current Bureau regulations do not address proration of income, Bureau policy requires that payments be denied to "furloughed employees"

whose annual income, when divided by 12 months, would exceed its monthly

language which requires BIA general

major rule under Executive Order 12291

(t) "Public assistance" means those

§ 20.21 General Assistance.

(1) Whenever there is an indication of

VOL 50 ISS 144 JL 26 1985

whose annual income, when divided by 12 months, would exceed its monthly standard of assistance. Furloughed employees generally work for school systems and are paid an annual salary even though they may receive that salary only during a 9 or 10 month period. It is the Bureau's position that such individuals should not be eligible for BIA general assistance solely because they do not receive that income during the summer when school is not in session. The rules, therefore, provide that the Bureau will prorate such income over a 12-month period. The monthly amount will be considered as income during the summer months unless the recipient provides evidence that the income will not continue in the future, e.g., a notice of termination of employment. The Bureau will also prorate income received by individuals employed on a contractual basis over the period of the contract, and intermittent income received quarterly, semiannually or yearly shall be prorated over the period covered by the income unless there is evidence that the income will not continue.

E. *Payments.* The proposed rule clarifies that the BIA general assistance payment will equal the difference between the Bureau standard of assistance and the individual's or household's resources limited by a maximum on the payment or limited by a percentage reduction. The rule further provides that the Bureau will round the payment down to the next lower whole dollar. This provision is adopted to conform with other assistance programs funded under the Social Security Act.

F. *Employment.* Consistent with existing Bureau policies, these proposed amendments include language requiring applicants and recipients of BIA general assistance to actively seek employment and to accept available local employment. However, § 20.21(i) of these amendments strengthen that requirement by identifying specific categories of individuals who are exempt from seeking and accepting employment as a condition of general assistance eligibility including exemption for a person for whom employment is not accessable in a commuting time that is reasonable and comparable with others in similar circumstances. The exemptions are based on Federal regulations at 45 CFR 224.20(b) which are used to exempt applicants and recipients from the requirement to register for employment as a condition of eligibility for AFDC.

In order to more effectively promote the use and coordination of available Bureau services, § 20.21(i) also contains language which requires BIA general assistance applicants and recipients to participate in Bureau-funded employment assistance services and Tribal Work Experience Program when available.

G. *Quality Assurance and Record Keeping.* The Bureau is developing a quality assurance system to provide on-going evaluation of the administration of the Bureau of Indian Affairs general assistance program in accordance with established Bureau policies and procedures. The quality assurance system will include but not be limited to: (1) The development of a sampling strategy and plan and the determination of an error rate which will measure the degree of overpayment and underpayments which were made; (2) the conduct of field investigations (including personal interviews) in accordance with the sampling strategy and plan; (3) the conduct of field investigations (including personal interviews) in response to unconfirmed perceived errors; (4) the taking of appropriate actions to remedy improper authorization or denied assistance; and (5) the taking of appropriate actions to correct the causes of improper actions. Regulatory requirements and standards for operation of the quality assurance system will be proposed by the Bureau in a future notice of proposed rulemaking.

The Bureau plans to strengthen and update its requirements in 66 BIAM pertaining to the maintenance of records necessary for the proper and efficient operation of the BIA general assistance program. Examples of the kinds of information to be retained are facts about applicants and recipients which would permit the Bureau to draw a recipient profile; date of application; length of time on assistance; number in household; status of recipient, i.e. single, married, employed, exempt from employment, etc.

Given information needs and the complexities of exisiting processes, requirements and constituents, an indepth examination of reporting and information requirements is warranted and expected to occur over the next year. Thereafter amendments to record keeping requirements will also be the subject of a proposed rulemaking.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposed rule. The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601).

The information collection requirements contained in this part have been submitted to the Office of Management and Budget for approval under 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget.

This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

The Department of the Interior has determined that this document does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1983.

The primary author of this document is Eddie F. Brown, Chief, Division of Social Services, Bureau of Indian Affairs, telephone number (202) 343–6434.

List of Subject in 25 CFR Part 20

Administrative practice and procedure, Child welfare, Indians-Social welfare, Public assistance programs.

For reasons set out in the preamble Part 20 of Subchapter D, Chapter I of Title 25, Code of Federal Regulations, is proposed to be amended as follows.

1. The authority for 25 CFR Part 20 is revised to read as follows:

Authority: 25 U.S.C. 13; § 20.21 also issued under Pub. L. 98–473.

PART 20—[AMENDED]

2. Section 20.1 is amended by revising paragraphs (m) (s), (t), and (w) and adding paragraphs (cc), (dd), (ee), (ff) and (gg) to read as follows:

§ 20.1 Definitions.

* * * * *

(m) "BIA General assistance" is a secondary, or residual source of assistance for Indian people and means financial aid payments to eligible Indian individuals and households for assistance in meeting the cost of essential needs.

* * * * *

(s) "Need" means the deficit after consideration of income and other liquid assets necessary to meet the cost of basic need items and special need items as defined by the Bureau standard of assistance for the State in which the applicant or recipient resides.

(t) "Public assistance" means those programs of assistance provided under Title IV of the Social Security Act (49 Stat. 620), as amended and includes the Aid to Families with Dependent Children (AFDC) Program provided under Title IV–A.

* * * * *

(w) "Resources" means income and other liquid assets available to an Indian person or household to meet current living costs, unless otherwise specifically excluded by Federal statute. Liquid assets are those properties in the form of cash or other financial instruments which can be converted to cash, such as savings or checking accounts, promissory notes, mortgages and similar properties.

* * * * *

(cc) "Essential needs" include at a minimum shelter, food, clothing and utilities, but do not include needs beyond those basic and special needs included in the Bureau standard of assistance for the State where the Indian individual or household lives.

(dd) "Household" means persons living together with the 'head of household' who are related to or accepted by the 'head of household' and who function as members of the family.

(ee) "Tribal Work Experience Program (TWEP)" means a program operated by tribal contract which provides eligible participants with work experience and training that promotes and preserves work habits and develops work skills.

(ff) "Recipient" means an individual to whom or for whom a BIA general assistance payment is made for the month.

(gg) "Case" includes all individuals in the household as defined in § 20.1 (dd) whose needs are included in the BIA general assistance payment made for the month.

3. Section § 20.20(c) is revised to read as follows:

§ 20.20 General.

* * * * *

(c) Upon written request of an appropriate tribal governing body, the Deputy Assistant Secretary may authorize emergency short term assistance and services to Indians, not otherwise eligible in this part, who reside on a reservation or in near reservation designated areas, when necessary to prevent hardship in accordance with fundings and exceptions published in the Federal Register.

4. Section § 20.21 is revised in its entirety to read as follows:

§ 20.21 General Assistance.

The Bureau will not provide general assistance:

(a) to those tribal members of tribes which formally request, through final governing body action, that the Bureau not operate a general assistance program. If a tribe seeks to revoke that request, it must also be done formally through final governing body action. Such request for BIA general assistance should be timed with the Bureau's next fiscal year for the General Assistance program; and,

(b) in any State having a general assistance program available to meet the needs of eligible citizens, including the needs of Indians. A State general assistance program is available if payments are:

(1) Available statewide to eligible individuals and families, including Indians on reservations; and,

(2) Authorized by State law with funds regularly appropriated to make such payments, or if State law requires all county governments or localities to make such payments; and,

(3) For the purpose of meeting monthly minimum essential needs on a continuing basis.

(c) In States where the Bureau provides general assistance, Indians, in order to be considered eligible for general assistance under this part, must meet the requirements prescribed in § 20.20(a); and the following conditions:

(1) Do not receive financial assistance from AFDC or Supplemental Security Income (SSI);

(i) Indians eligible to receive AFDC or SSI will be allowed to receive BIA general assistance once they have applied for and until they begin to receive assistance payments from AFDC or SSI.

(ii) The Bureau will not make payments for any month for which AFDC or SSI payments are made.

(2) Have insufficient resources to meet the basic and special need items defined by the Bureau standard of assistance.

(3) Must apply for assistance from other Federal, State, county, or local programs for which they may be eligible concurrent with application to the Bureau for general assistance.

(d) *Redeterminations.* The Bureau shall determine eligibility and the amount of the BIA general assistance payment based on its best estimate of income and circumstances which will exist in the month for which the Bureau is to provide assistance. Recipients are required to inform the Bureau within 15 days of any changes in status which may affect their eligibility or amount of assistance. The Bureau shall redetermine eligibility:

(1) Whenever there is an indication of a change in circumstances;

(2) Not less frequently than every three (3) months for individuals who are not exempt under paragraph 20.21(i) from seeking or accepting employment;

(3) Not less frequently than once every six (6) months for all households.

The redetermination process shall include personal contact with the recipient, preferably a home visit, not less than once a year to evaluate changes in living circumstances and household composition, and to assess the need for continued assistance.

(e) *Standards of Assistance.* (1) Where the Bureau operates a general assistance program, its standard of assistance shall be the AFDC payment standard used in the State where the applicant or recipient resides. In a State that meets 100 percent of the need standard, the Bureau standard is the need standard. In a State that does not meet need in full and applies a ratable reduction to the need standard, the Bureau standard is the ratably reduced amount. The AFDC payment standard incorporates the same basic and special need items as the AFDC standard of assistance, and is the amount from which the Bureau will subtract net income and liquid assets to determine eligibility for and the amount of the Bureau's general assistance payment.

(2) In the event the State has no standard for one adult, the Bureau standard for one adult shall be the difference between the standard for one child and the standard for a household of two which includes an adult or one half the amount of the standard for a household of two, whichever is greater.

(3) The Bureau shall uniformly apply its standard of assistance in determining eligibility for and the amount of the general assistance payment for all applicants and recipients residing in the State.

(f) *Resources.* In determining eligibility for and the amount of the general assistance payment, the Bureau shall consider all types of income and other liquid assets available for support and maintenance unless otherwise disregarded as provided at § 20.21(g) or specifically excluded by Federal statute. Resources are considered available both when actually available and when the applicant or recipient has a legal interest in a liquidated sum, as defined at 25 CFR 20.1(w), and has the ability to make such sum available for support and maintenance.

(1) "Earned income" means income in cash or in-kind earned by an individual through the receipt of wages, salary, commissions, or profit from activities in

which he is engaged as a self-employed individual or as an employee.

(i) Federal, State and local taxes;

(ii) Social Security (FICA);

general assistance. These requirements do not apply to:

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Federal Register

which he is engaged as a self-employed individual or as an employee.

(i) Earned income includes earnings over a period of time for which settlement is made at one given time, as in the instance of the sale of farm crops, livestock, etc.

(ii) With respect to self-employment, "earned income" means total profit from business enterprise, i.e., gross receipts after subtracting business expenses directly related to producing the goods or services and without which the goods or services could not be produced. Business expenses do not include items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment and payments on the principal on loans for capital assets or durable goods.

(2) "Unearned income" includes but is not limited to:

(i) Income from: interest; oil and gas and other mineral royalties; rental property; cash contributions such as child support and alimony; retirement, disability and unemployment benefits; per capita payments not excluded by Federal statute; sale of land with trust status and real or personal property; Federal and state tax refunds. All of the above shall be counted to the extent they are not disregarded by Federal statute.

(ii) Income-in-kind contributions providing shelter at no cost to the individual or household. In establishing the amount of the in-kind contribution, the Bureau shall use the amount for shelter included in the standard, if identifiable, or 25 percent of the standard unless there is evidence provided that the value of free shelter is less; and,

(iii) General assistance provided by a State, county or local agency.

(3) The Bureau shall prorate: (i) Over a 12-month period recurring annual income received by individuals, such as teachers whose regular employment does not engage them on a year-round basis; (ii) income received by individuals employed on a contractual basis over the period of the contract; and (iii) intermittent income received quarterly, semiannually or yearly over the period covered by the income. The Bureau will prorate the income unless there is evidence that the income will not continue to be received in the future.

(g) *Disregards.* (1) The Bureau shall disregard, from the gross amount of earned income, amounts deducted for:

(i) Federal, State and local taxes;

(ii) Social Security (FICA);

(iii) Health insurance;

(iv) Work related expenses, including reasonable transportation costs;

(v) Child care costs except where the other parent in the home is not working and is not disabled; and

(vi) The cost of special clothing, tools and equipment directly related to the individual's employment. All of the above, as appropriate, will be disregarded from self-employment income after deducting costs of doing business.

(2) The Bureau shall disregard as income, or other liquid assets:

(i) Any home produce from garden, livestock and poultry utilized by the applicant or recipient and his/her household for their consumption.

(ii) Resources specifically excluded by Federal statute.

(h) *Payments.* (1) The Bureau shall make assistance payments in the amount not to exceed the difference between the Bureau standard of assistance and all resources not otherwise disregarded. In the event the State in which the individual or household lives applies a rateable reduction to that difference or maintains a system of dollar maximums on the payment, the Bureau shall also apply the rateable reduction and/or the maximum to the payment.

(2) If there is more than one household living in the dwelling and the household(s) receiving general assistance contribute to shelter expenses, the Bureau shall prorate the actual shelter cost, but the amount in the payment for shelter will not exceed the amount in the Bureau standard of assistance for shelter, or if not identifiable, the prorated amount, in addition to other needs, cannot exceed the total amount in the standard for individuals or households in similar circumstances.

(3) The Bureau will round the payment down to the next lower whole dollar;

(4) In no case shall the Bureau provide retroactive payments of general assistance for any period prior to the date of application for assistance.

(i) An applicant or recipient must actively seek employment, including use of available Bureau-funded employment assistance services. The individual is also required to accept available local employment. An individual who does not comply will not be eligible for general assistance. These requirements do not apply to:

(1) A person under the age of 16 years;

(2) A full-time student under the age of 19 who is attending an elementary or secondary school or vocational or technical school equivalent to a secondary school;

(3) A person suffering from an illness, when determined on the basis of medical evidence or on another sound basis that the individual's illness or injury is serious enough to temporarily prevent entry into employment;

(4) An incapacitated person when verified that a physical or mental impairment, determined by a physician or licensed or certified psychologist, by itself or in conjunction with age, prevents the individual from engaging in employment;

(5) A person responsible for a person in the home who has a verified physical or mental impairment that requires the individual in the home on a substantially continuous basis, and there is no other appropriate household member available;

(6) A parent or other individual who personally provides full time care of a child under the age of 6;

(7) A parent of a minor living in the household if the other parent is not exempt from seeking or accepting employment;

(8) A person who is working 30 hours or more per week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than 10 work days;

(9) A person for whom employment is not accessible in a commuting time that is reasonable and comparable with others in similar circumstances.

Where the tribe administers a Tribal Work Experience Program (TWEP), the nonexempt individual shall be available to participate. However, participation does not relieve the individual from seeking or accepting employment. Individuals not exempt under one of the preceding clauses of this section must, in seeking employment, provide evidence of efforts to obtain employment.

John W. Fritz,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 85-17909 Filed 7-25-85; 8:45 am]

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Reader Aids

Federal Register

Vol. 50, No. 144

Friday, July 26, 1985

INFORMATION AND ASSISTANCE

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Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
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Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212	1
27213-27408	2
27409-27570	3
27571-27812	5
27813-27926	8
27927-28092	9
28093-28190	10
28191-28362	11
28363-28554	12
28555-28756	15
28757-28894	16
28895-29202	17
29203-29366	18
29367-29628	19
29629-29934	22
29935-30126	23
30127-30260	24
30261-30410	25
30411-30692	26

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305	28363

3 CFR

Administrative Orders:

Memorandums:

July 17, 1985	29631

Presidential Determinations:

No. 85-16 of July 12, 1985	29629

Executive Orders:

11888 (Amended by EO 12524)	27409
12470 (Revoked by EO12525)	28757
12523	26963
12524	27409
12525	28757
12526	29203

Proclamations:

5356	26961
5357	29935
5358	30127

5 CFR

630	29937
771	26965
1201	28895

Proposed Rules:

532	28583, 28584

7 CFR

Ch. IV	27927
2	29367, 30411
6	30261
52	26965, 29635
54	27571
226	26972
301	28366
400	26976
402	28367
800	30129
908	27411, 27928, 28898, 30262
910	27813, 28372, 28555, 29628
911	28373
915	28373, 28556
916	27813, 28373
917	27813, 28373
918	28373
921	27411, 28373
922	28373
923	28373
924	28373
930	27213, 28373
944	28556
967	28373
979	26976
981	30263
985	28373
991	26977, 27814
1040	27412
1136	29637
1205	30131
1421	29639
1427	26978
1435	27413
1941	27414
1944	27415
1945	27414, 27416
3015	28759

Proposed Rules:

Ch. IV	27971
Ch. X	27003
29	27288
51	27004, 30199, 30429
417	27801
800	28104, 29985
801	29689
802	29689
907	29405
908	29405
910	28105
920	27288
926	30489
944	30489
967	28210
989	30200
999	28585
1032	30203
1036	30204
1050	30203
1124	27972
1240	28404
1427	29693
1930	28782
1944	28782, 30429
1965	28782

8 CFR

238	29641
287	30133
316a	27816

Proposed Rules:

103	27289
341	28586
343a	28587

9 CFR

75	30412
78	28899
91	27929, 29205
92	27928, 28557, 30413
94	28560, 28900
166	30414
318	27573, 28374
327	30264

Proposed Rules:

94	27973

10 CFR

9	27214
50	29937

60	29641
140	30415

Proposed Rules:

4	26095
13	26981, 27578, 28374,

20 CFR

200	27222, 29957
885	28197
899	30423

31 CFR

4	29221

Proposed Rules:

3	28224
201-20	27142
201-21	27142
74	29394
76	27438, 29394

60.....29641
140.....30415

Proposed Rules:
2.....30446
30.....30616
31.....30616
32.....30616
35.....30616
40.....30616
50.....27006, 28815
440.....29620
904.....30447

11 CFR

Proposed Rules:
110.....29232

12 CFR

403.....27215
611.....27930
617.....27931
723.....27417

Proposed Rules:
561.....27290, 28588, 29985
563.....27290, 28588, 29985
571.....27290, 28588

13 CFR

121.....27418
302.....27419

Proposed Rules:
107.....29532
108.....27754

14 CFR

21.....29945
39.....26979, 27575, 27576, 27931–27933, 28093, 28094, 28561–28563, 28766, 29648–29651, 30264, 30416, 30417
71.....26980, 27934, 28564, 28565, 28900–28902, 30134, 30265, 30418
97.....27934, 29653
108.....27924, 28884
121.....29306
135.....29306

Proposed Rules:
25.....30447
39.....27009, 27012, 27601, 27602, 28815, 29694, 29988, 30448, 30449
71.....27013, 27014, 27528, 28588–28591, 28816, 28950, 29407, 30206, 30276
75.....27014
91.....28950, 30124
121.....30447

15 CFR

8a.....30418
19.....27577
90.....28767
368–399 (See EO 12525).....28757, 29205
370.....29205
376.....27420, 29205
378.....29205
385.....29205
386.....29205
399.....27420

Proposed Rules:
303.....29232
911.....28816

16 CFR

3.....28095
4.....28095
13.....26981, 27578, 28374, 28902
453.....28062, 28081
703.....27936

Proposed Rules:
13.....28592, 28951, 29696, 29699

17 CFR

1.....30135, 30140
3.....28907
200.....28385, 29368, 30266
239.....27937
240.....27937, 27940, 28385
249.....27937, 29948
270.....27937, 28930
274.....27937, 29368
275.....29206
288.....26981, 27947

Proposed Rules:
16.....30450
17.....30450
18.....30450
210.....27973, 28953, 29409
229.....29409
230.....28404
239.....29409
240.....27829, 27976, 27981, 28106, 28210, 28219, 28404, 29409
250.....27981
259.....27981
270.....27982, 29409

18 CFR

37.....29655, 30141
154.....30141
157.....27816
389.....27816

Proposed Rules:
2.....28954
35.....27604
37.....30207
154.....28954
157.....28954
161.....28954
271.....28221
284.....28954
290.....27604

19 CFR

4.....26981, 29949
10.....29949
12.....27947
19.....29949
24.....29949
103.....29949
113.....29949
134.....29949
141.....29949
142.....27816
143.....29949
145.....29949
148.....29949
152.....29949
162.....29949
171.....29949
173.....29949
178.....27947
191.....29949

Proposed Rules
6.....30455
122.....30455
162.....27829
177.....27831

20 CFR

200.....27222, 29957
401.....28565, 30144
422.....28565
626.....27818
627.....27818
628.....27818
629.....27818
630.....27818

Proposed Rules:
404.....27615, 29435
416.....27615, 29435
674.....29606

21 CFR

25.....30267
101.....26984
173.....29208
176.....29657, 30144
177.....30144–30146
178.....30147, 30148
179.....29658
182.....30149
184.....30149
436.....29209
510.....28395
520.....27818, 28768
522.....30267
524.....30152
556.....30267
558.....27421, 27422, 28768, 28931, 28932
801.....30153
812.....28932
1308.....28098, 28395

Proposed Rules:
Ch. 1, Subchapter C.....28594
2.....30210
81.....29702
109.....29233
110.....29233
146.....29702
170.....27294, 29235
201.....27016, 29702
211.....27016, 29702
225.....29233
226.....29233
357.....27552, 28595
433.....29702
449.....30478
500.....29233
509.....29233
514.....27016, 29702
559.....27016, 29702
561.....27452, 30277
610.....28595
660.....28595
680.....30211
882.....30277
1002.....27024, 29704

22 CFR

501.....27422
1502.....28932
1504.....28934

23 CFR

825.....29209
1325.....28191

24 CFR

200.....28197
201.....30154
203.....28197, 30154
234.....30154
885.....28197
899.....30423
3282.....28396

25 CFR

Proposed Rules:
20.....30688
61.....27456

26 CFR

1.....27222, 27231, 27427, 29368–29376, 29959, 30160
31.....29964
48.....29959
138.....29959
602.....27222, 27231, 29369, 29376, 29959, 29964, 30160

Proposed Rules:
1.....27297, 27456, 27457, 28409, 29435, 29436
31.....29990
51.....27621
602.....29436

27 CFR

4.....27819
9.....29967
170.....28572

Proposed Rules:
9.....28409

28 CFR

0.....28769
2.....28101
18.....28799
32.....27428

Proposed Rules:
30.....28955

29 CFR

70.....28306
1952.....27233, 28770, 29210, 29659

Proposed Rules:
33.....27298, 28956
89.....29606
1910.....27307

30 CFR

700.....28186
701.....28186
785.....28186
827.....28186
901.....29379
902.....28592
943.....28186
948.....28316, 28324

Proposed Rules:
56.....27566
57.....27566, 29437
700.....28180
701.....28180
762.....30408
785.....28180
817.....27910
827.....28180
887.....30402
913.....27025
917.....28222, 29235
926.....29235
935.....29437, 29438
936.....27461
944.....28107
948.....28343
950.....28595, 29438, 29704, 30282

31 CFR

4.....29221
51.....26987
103.....27821
500.....27435
505.....27435
515.....27435
520.....27435
535.....27435
540.....27435

32 CFR

Parts 1–39.....26987
199.....26988
642.....28573
657.....28573
706.....28398–28400
726.....28401

Proposed Rules:
806b.....30283

33 CFR

100.....27579, 28573, 29221–29223, 30268
110.....26988, 27580, 29224, 30268
117.....26989, 27582, 29670–29672, 30268, 30269
150.....26989
165.....27583, 29225
166.....26989

Proposed Rules:
110.....27622, 27623, 28596
117.....27026, 27029, 27624, 27832, 27990, 27991, 29236, 30284, 30285
322.....30479
325.....30479

34 CFR

19.....28101
75.....29328
76.....29328
304.....29328
425.....29352
426.....29352
431.....29352
432.....29352

Proposed Rules:
369.....28412
376.....28412
668.....30674

35 CFR

101.....26990
103.....26990
121.....26990

36 CFR

254.....29673
1200.....27196
1202.....27196
1228.....27951
1250.....27196

37 CFR

201.....30169
202.....30169

Proposed Rules:
1.....27030, 28596

38 CFR

1.....29226
3.....27584
21.....27825, 29674

Proposed Rules:
3.....28224
17.....29990
36.....27833

39 CFR

3.....29380
10.....27827
601.....28941
3001.....28144, 30271

Proposed Rules:
111.....27992
3001.....27306

40 CFR

51.....27892
52.....26991, 27244–27247, 28544, 29229, 29381, 29383
60.....27248
61.....27248
81.....28574
86.....27250, 29384
123.....28202
147.....28941, 28942
158.....28943
162.....28943
180.....28944–28946, 30172
260.....28702
261.....28702, 30271
262.....28702
264.....28702
265.....28702
266.....28702
270.....28702
271.....28702
280.....28702
419.....28516
600.....27172
761.....29170
763.....28530, 30423
799.....30423

Proposed Rules:
52.....27030, 27462, 28224, 28415, 28596, 28598, 28818, 29237, 29439
86.....28818
180.....27463, 28108, 28956, 28957, 30481
202.....27321
205.....27321
260.....29992
262.....29992
264.....29992
265.....29992
270.....29992
403.....29705
414.....29068
416.....29068
600.....27188
798.....30213
799.....30213

41 CFR

Chs. 1–49.....26987
101–4.....28402
101–17.....28577
101–40.....27951
101–41.....29972
101–47.....28402
105–54.....28203
105–63.....26992
201–1.....27142
201–2.....27142, 28208
201–8.....27142
201–11.....27142
201–16.....27142
201–20.....27142
201–21.....27142
201–22.....28208
201–23.....27142
201–24.....27142
201–26.....27142
201–30.....27142, 28208
201–31.....27142, 28208
201–32.....27142, 28208
201–38.....27142
201–39.....27142, 28208
201–40.....27142, 28208
201–45.....28208

Proposed Rules:
101–41.....27625, 27626

42 CFR

400.....28577
405.....27722, 30172
412.....27208, 27722, 30172
416.....28577
435.....28577

Proposed Rules:
23.....27465
405.....27469
412.....27469

43 CFR

2.....29230
5470.....28947

Public Land Orders:
5150 (Revoked in part by PLO 6607).....27827
5179 (Revoked in part by PLO 6607).....27827
5180 (Revoked in part by PLO 6607).....27827
5186 (Revoked in part by PLO 6607).....27827
6389 (Corrected by PLO 6608).....28208
6607.....27827
6608.....28208

Proposed Rules:
2800.....27322
5400.....29324
5440.....29324

44 CFR

64.....26993, 26994, 28947
67.....30173

Proposed Rules:
67.....27322, 29992
302.....27627, 28959, 30481

45 CFR

1180.....27584, 27586

Proposed Rules:
405.....27406
412.....27406
1620.....27326

46 CFR

10.....30274
153.....26996

Proposed Rules:
160.....27628
355.....29440

47 CFR

0.....27952
22.....27953
68.....27250, 29384
73.....27287, 27438, 27954, 29392, 29393, 30187
74.....29394
76.....27438, 29394
81.....27968
83.....27968, 29231

Proposed Rules:
Ch. I.....28418, 29440
15.....30213
73.....27629, 29446–29453
97.....29454

48 CFR

7.....27560
12.....27969
15.....27560, 28103
19.....27560
33.....27969
34.....27560
52.....27560, 27969
209.....28209
217.....29675
504.....26996
515.....28578
522.....28578
533.....26996
552.....27589, 28948, 29402, 30274
553.....27589
570.....27589, 30274
2801.....29796
2804.....29796
2806.....29796
2807.....29796
2808.....29796
2809.....29796
2810.....29796
2814.....29796
2815.....29796
2827.....29796
2830.....29796
2831.....29796
2834.....29796
2835.....29796
2852.....29796
6101.....27969, 29231

Proposed Rules:
208.....28227
252.....28227

49 CFR

1.....30275
571.....27451, 29676
1000.....30275
1011.....30275
1100.....30275
1101.....30275
1104.....30188
1105.....30188
1151.....30188
1152.....30188
1155.....30188
1160.....30188, 30275
1180.....30188

Proposed Rules:
Ch. X.....27031
71.....28959
171.....28820
175.....28820
531.....29912
571.....27032, 27632, 27633, 28426, 28599, 29993
1132.....27834
1241.....29706

50 CFR

17.....26999, 29336–29345, 30188, 30423

20.....30424
33.....29972
215.....27914
285.....29402

20 30424
33 29972
215 27914
285 29403
611 29681
658 28103
661 30195
663 30195
672 ..... 28580, 28581, 29681
674 ..... 28103, 30427
681 30198

Proposed Rules:
17 ..... 27637, 27992, 28821, 28870–28878, 28959, 29238, 29900, 29901
20 ..... 27636, 29706
611 ..... 28960, 29240
630 27470
642 29709
650 29240
651 29241
655 28109
662 27470
663 28960
672 30481
675 29240

LIST OF PUBLIC LAWS

Last List July 25, 1985

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.J. Res. 342/Pub. L. 99–71
Making an urgent supplemental appropriation for the fiscal year ending September 30, 1985, for the Department of Agriculture. (July 24, 1985; 99 Stat. 169)
Price: $1.00

S.J. Res. 40/Pub. L. 99–72
To designate the month of October 1985 as "National Down's Syndrome Month". (July 24, 1985; 99 Stat. 170)
Price: $1.00

VOL 50 ISS 144 JL 26 1985 UMI

VOL
50

ISS
144

JL
26

1985

UMI

VOL
50
ISS
145
JL
29
1985
UMI

7-29-85
Vol. 50 No. 145

federal register

Monday
July 29, 1985

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VOL
50
ISS
145
JL
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7-29-85
Monday
July 29, 1985

VOL
50

ISS
145

JL
29

1985

UMI

7-29-85
Vol. 50 No. 145
Pages 30693-30800

federal register

Monday
July 29, 1985

Selected Subjects

Air Pollution Control
Environmental Protection Agency
Authority Delegations (Government Agencies)
Food and Drug Administration
Aviation Safety
Federal Aviation Administration
Color Additives
Food and Drug Administration
Imports
Foreign Agricultural Service
Freedom of Information
Federal Emergency Management Agency
Government Property Management
General Services Administration
Legal Services
Legal Services Corporation
Marine Safety
Coast Guard
Medical Devices
Food and Drug Administration
Natural Gas
Federal Energy Regulatory Commission
Organization and Functions (Government Agencies)
Legal Services Corporation

CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Surface Mining
Surface Mining Reclamation and Enforcement Office
Sunshine Act
Legal Services Corporation
Trade Practices
Federal Trade Commission
Wages
Equal Employment Opportunity Commission

Contents

Federal Register
Vol. 50, No. 145
Monday, July 29, 1985

Agriculture Department
See Foreign Agricultural Service.

Army Department
NOTICES
Meetings:
30727 Historical Advisory Committee

Arts and Humanities, National Foundation
NOTICES
Grants; availability, etc.:
30768 Museum services; conservation project support program

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
30727 Procurement list, 1985; additions and deletions; correction

Centers for Disease Control
NOTICES
Committees; establishment, renewals, terminations, etc.:
30762 Mine Health Research Advisory Committee; nominations

Coast Guard
RULES
Ports and waterways safety:
30702 Safety and security zones, etc.; list of temporary rules
Regattas and marine parades:
30700 Gateway Powerboat Regatta
30701 National Sweepstakes Regatta

Commerce Department
See also International Trade Administration.
NOTICES
30726 Agency information collection activities under OMB review (2 documents)

Consumer Product Safety Commission
NOTICES
30781 Meetings; Sunshine Act

Defense Department
See Army Department.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
30768 Western Fher Laboratories, Inc.

Education Department
NOTICES
Meetings:
30727 Continuing Education National Advisory Council

Energy Department
See also Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department; Southeastern Power Administration.
NOTICES
Environmental statements; availability, etc.:
30728 Aiken, SC
Grants; availability, etc.:
30726 District heating and cooling systems

Environmental Protection Agency
RULES
Air quality planning purposes; designation of areas:
30704 New York
30704 Pennsylvania
NOTICES
30757 Agency information collection activities under OMB review
Air pollutants, hazardous; national emission standards, etc.:
30759 Kentucky; authority delegations; correction
Hazardous waste:
30758 Confidential information and data transfer to contractors
30758 Privacy Act; systems of records
Water quality criteria:
30784 Ambient water quality criteria documents; availability

Equal Employment Opportunity Commission
RULES
30699 Equal Pay Act; confidentiality policy
NOTICES
30759 Agency information collection activities under OMB review

Federal Aviation Administration
RULES
Airworthiness directives:
30693 Pilatus Aircraft Ltd. et al.
30694 Transition areas
PROPOSED RULES
National Airspace Review:
30798 Controlled international airspace designations; advance notice
NOTICES
Aircraft:
30777 Noise standards; fleet status and compliance plans, report
30776 Exemption petitions; summary and disposition
Meetings:
30776 Aeronautics Radio Technical Commission

Federal Deposit Insurance Corporation
NOTICES
30781 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
30711 Freedom of Information Act and Privacy Act; implementation

NOTICES
30759, Agency information collection activities under
30760 OMB review (4 documents)

General Services Administration
RULES

National Highway Traffic Safety Administration

Trade Representative, Office of United States

NOTICES
30759, 30760 Agency information collection activities under OMB review (4 documents)

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations:
30695 Louisiana
Natural Gas Policy Act and natural gas companies (Natural Gas Act):
30695 First sales; collection refunds owed in excess of maximum lawful prices; policy statement, etc.; rehearing
NOTICES
Electric rate and corporate regulation filings:
30730 Idaho Power Co. et al.
Hearings, etc.:
30730 Algonquin Gas Transmission Co.
30733 Gulf States Utilities Co.
30741 Oglethorpe Power Corp. et al
30734 Hydroelectric applications (Morro Bay, CA, et al.)
Natural gas certificate filings:
30732 Transcontinental Gas Pipe Line Co. et al.

Federal Home Loan Bank Board
NOTICES
30781 Meetings; Sunshine Act
Receiver appointments:
30760 Sunrise Savings & Loan Association, Boynton Beach, FL

Federal Maritime Commission
NOTICES
30760 Agreements filed, etc.

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
30761 Bank of Montreal et al.
30761 F & M National Corp.

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
30717 Service One International Corp. et al.
NOTICES
30761 Premerger notification waiting periods; early terminations

Food and Drug Administration
RULES
Color additives:
30697 D&C Blue No. 6
Medical devices:
30698 Exemption from preemption of State and local requirements for hearing aids; Hawaii
Organization and authority delegations:
30696 New drug applications and biological product licenses
NOTICES
Meetings:
30762 Consumer information exchange

Foreign Agricultural Service
PROPOSED RULES
30716 Perishable products imported from Israel; emergency relief

General Services Administration
RULES
Property management:
30705 Transportation documentationi and audit; Government bill of lading (SF 1103 et al.)
30710 Transportation documentation and audit: Government transportation request (SF 1169)

Health and Human Services Department
See Centers for Disease Control; Food and Drug Administration; National Institutes of Health.

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
30748 Cases filed
30745, 30746 Decisions and orders (2 documents)
30749 Special refund procedures; implementation and inquiry

Indian Affairs Bureau
NOTICES
Judgment funds; plans for use and distribution:
30765 Shoshone-Bannock Tribes of Fort Hall Reservation

Interior Department
See Indian Affairs Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Trade adjustment assistance determination petitions:
30726 Merritt Estate Winery, Inc., et al.

Interstate Commerce Commission
NOTICES
30781 Meetings; Sunshine Act
Rail carriers:
30767 Waybill data; release for use

Justice Department
See also Drug Enforcement Administration.
NOTICES
Pollution control; consent judgments:
30767 Carolawn Co., Inc., et al.
30767 Hygrade Food Products Corp.

Legal Services Corporation
RULES
30711 By-laws
30713 Financial assistance termination procedures; time limits
30714 Refunding denial
30714 Sunshine Act; implementation

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
30765 Gulf of Mexico OCS; oil and gas operations, proposed

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
30778 Sumitomo Rubber Industries, Ltd.

National Institutes of Health
NOTICES
Meetings:
30763 National Cancer Institute (3 documents)
30763, 30764 National Heart, Lung, and Blood Institute (2 documents)
30764 National Institute of Neurological and Communicative Disorders and Stroke
30764 Recombinant DNA Advisory Committee

National Park Service
NOTICES
Meetings:
30766 Delta Region Preservation Commission

National Science Foundation
NOTICES
Meetings:
30769 Civil and Environmental Engineering and Earthquake Hazard Mitigation Advisory Committees

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
30771 Florida Power Corp. et al.
30770 Kerr-McGee Chemical Corp.
Meetings:
30769, 30770 Reactor Safeguards Advisory Committee (2 documents)

Securities and Exchange Commission
NOTICES
Applications, etc.:
30774 ITT Financial Corp.
Self-regulatory organizations; unlisted trading privileges:
30775 Midwest Stock Exchange, Inc.

Southeastern Power Administration
NOTICES
Power rates:
30751 Kerr-Philpott System of Projects

State Department
NOTICES
Meetings:
30775 Shipping Coordinating Committee

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission:
30720 Maryland; comment period reopened and extended
30721 North Dakota
30723 Utah; comment period reopened
30724 West Virginia

Synthetic Fuels Corporation
NOTICES
30781 Meetings; Sunshine Act

Trade Representative, Office of United States
NOTICES
Import quotas and exclusions, etc.:
30775 Tobacco; investigation decision

Transportation Department
See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.
NOTICES
Aviation proceedings:
30775 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications

Veterans Administration
NOTICES
30778 Agency information collection activities under OMB review
30779 Privacy Act; computer matching program

Separate Parts in This Issue

Part II
30784 Environmental Protection Agency

Part III
30798 Department of Transportation, Federal Aviation Administration

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

Rules and Regulations

Federal Register
Vol. 50, No. 145

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
Proposed Rules:
1540.....30716

14 CFR
39.....30693
71.....30694
Proposed Rules:
71.....30798
75.....30798

16 CFR
Proposed Rules:
13.....30717

18 CFR
154.....30695
270.....30695
271.....30695
273.....30695

21 CFR
5.....30696
74.....30697
808.....30698

29 CFR
1620.....30699

30 CFR
Proposed Rules:
920.....30720
934.....30721
944.....30723
948.....30724

33 CFR
100 (3 documents).....30700–30702
165.....30702

40 CFR
81 (2 documents).....30704

41 CFR
101–41 (2 documents).....30705, 30710

44 CFR
5.....30711
6.....30711

45 CFR
1601.....30711
1606.....30713
1622.....30714
1625.....30714

Rules and Regulations

Federal Register
Vol. 50, No. 145
Monday, July 29, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-14-AD; Amdt. 39-5107]

Airworthiness Directives; Pilatus Aircraft Ltd., and Fairchild-Hiller Model PC-6 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Pilatus Aircraft Ltd., Model PC-6 Porter and Turbo-Porter (up to and including Serial Number 844) and Fairchild-Hiller Model PC-6 (Serial Numbers 2001 up to and including 2092) airplanes which requires inspection for cracks in the areas adjacent to the vertical stabilizer rudder hinge attachment points, horizontal stabilizer elevator bearing bracket attachment points and the horizontal stabilizer front spar rectangular cutout. Pilatus Aircraft Ltd. has received reports of cracks being found in those areas. Inspection of these areas on the vertical and horizontal stabilizers will insure the contained control system integrity and thus prevent the possible loss of airplane control.

EFFECTIVE DATE: August 31, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Pilatus Aircraft Ltd. Service Bulletins (S/B) No. 142 dated December, 1984, S/B No. 143 dated December, 1984, and S/B No. 144 dated December, 1984, applicable to this AD may be obtained from Pilatus Aircraft Ltd., CH6370-Stans, Switzerland. Fairchild-Republic (formerly Fairchild-Hiller) Service Letters PC6–55–2, dated April 9, 1985, PC6–55–3, dated April 9, 1985, and PC6–55–4, dated April 9, 1985, applicable to this AD may be obtained from Fairchild-Republic Corporation, Showalter Road, Hagerstown, Maryland 21740. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. H. Chimerine, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA c/o American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30; or Mr. H.C. Belderok, Foreign FAR 23 Section, Federal Aviation Administration, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection for: (a) Cracked Left Hand (LH) and Right Hand (RH) cap angles adjacent to the rudder hinge attachment points on the vertical stabilizer; (b) cracked upper and lower cap angles adjacent to the elevator bearing bracket attachment points of the horizonal stabilizer; and (c) cracks propagating from the corners, in particular the upper corners, of the rectangular cutout in the front spar of the horizontal stabilizer adjacent to the elevator control cables pulley assembly on certain Model PC–6 airplanes was published in the **Federal Register** on May 16, 1985 (50 FR 20430). The proposal resulted because both Pilatus Aircraft Ltd. and Fairchild-Republic (formerly Fairchild-Hiller) who manufactured PC–6 model airplanes under license from Pilatus, has received reports of cracks in the above described areas. Inspection of these areas on the vertical and horizontal stabilizers will insure the continued control system integrity and thus prevent the possible loss of airplane control.

The Swiss Federal Office of Civil Aviation (FOA), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Switzerland, classified these Service Bulletins and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under Swiss registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of the FOA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of S/B Nos. 142, 143 and 144 all dated December, 1984 (Fairchild-Republic Service Letters PC6–55–2, PC6–55–3 and PC6–55–4 are the U.S. equivalent) and the mandatory classification of these Service Bulletins by the FOA and concluded that the condition addressed by these Service Bulletins is an unsafe one that may exist on other airplanes of this type certificated for operation in the United States. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject. Interested persons have been afforded an opportunity to comment on the proposal.

No comments of objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation involves 22 (11 Swiss and 11 U.S.) airplanes at an approximate fleet cost of $4,235 ($192.50 per airplane based upon 5.5 manhours for the inspection @ $35/manhour for each airplane). This cost is so small that compliance with the directive will not have a significant financial impact on any small entities owning affected airplanes. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Pilatus Aircraft, Ltd., and Fairchild-Hiller: Applies to Model(s) PC-6 (S/N 1 to and including 844, and S/N 2001 to and including 2092) airplanes certificated in any category.

Note.—Service Bulletin (S/B Numbers (No.) 142, 143, and 144 all dated December, 1984, are applicable to Pilatus Aircraft Ltd., built airplanes which are identified by Serial Numbers (S/N) below 1000, and Service Letters (S/L) PC6-55-2, PC6-55-3 and PC6-55-4 all dated April 9, 1985, are applicable to Fairchild-Hiller built airplanes which are identified by S/N's above 2000.

COMPLIANCE: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent a possible loss of airplane control, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective effectie date of this AD:

(1) On airplanes S/N 1 to and including 826 and 2001 to and including 2092 (except 524, 676, 707, 710 and 816), perform the required inspection and corrective action if needed in accordance with paragraph (b), (c) and (d) of this AD, and

(2) On airplanes S/N 827 to and including 844 perform the required inspection and corrective action if needed in accordance with paragraph (d) of this AD.

(b) Using a dye penetrant test method, inspect the Left Hand and Right Hand cap angles adjacent to the rudder hinge attachment points on the vertical stabilizer for cracks, in accordance with S/B No. 142 Section 2, "ACCOMPLISHMENT INSTRUCTIONS", PARAGRAPH (para.) A "INSPECTION" OR S/L PC6-55-2.

If cracks are found, prior to further flight replace the defective cap angle and modify the vertical stabilizer in accordance with S/B No. 142, Section 2, "ACCOMPLISHMENT INSTRUCTIONS" para. B "MODIFICATION", or S/L PC6-55-2.

(c) Using a dye penetrant test method inspect the upper and lower cap angles adjacent to the elevator bearing bracket attachment points on the horizontal stabilizer in accordance with S/B No. 143, Section 2 "ACCOMPLISHMENT INSTRUCTIONS", para. A "INSPECTION", or S/L PC6-55-3.

(1) If cracks are found, prior to farther flight, repair in accordance with the repair scheme of S/B No. 143 or S/L PC6-55-3, and in addition;

(2) If the bolt hole is less than 0.120 inches (in.) (3mm) from the edge of the cap angle, modify the horizontal stabilizer prior to further flight in accordance with S/B No. 143, Section 2 "ACCOMPLISHMENT INSTRUCTIONS", para. B "MODIFICATION" or S/L PC6-55-3.

(d) Visually inspect the area around the rectangular cutout located in the front spar of the horizontal stabilizer, adjacent to the elevator control cables pulley assembly, in accordance with S/B No. 144, Section 2 "ACCOMPLISHMENT OF INSTRUCTIONS", para. B "CRACK INSPECTION", or S/B PC6-55-4. If cracks are found and;

(1) If no crack is longer than 0.20 inches (5mm) install within the next 50 hours TIS standard repair plate [P/N 113.45.06.027] in accordance with S/B No. 144, Section 2 "ACCOMPLISHMENT INSTRUCTIONS", para. D "INSTALLATION OF STANDARD REPAIR PLATE" or S/L PC6-55-4.

(2) If any crack is longer than 0.20 inches (5mm) but less than 0.60 inches (20mm), prior to further flight install standard repair plate (P/N 113.45.06.027) in accordance with para. (d)(1) of this AD.

(3) If any crack is longer than 0.60 inches (20mm), prior to further flight repair the horizontal stabilizer in accordance with S/B No. 144, Section 2 "ACCOMPLISHMENT INSTRUCTIONS", para. C "SPECIAL PROCEDURES" or S/L PC6-55-4.

(e) Each 100 hours TIS after the initial inspection:

(1) On airplanes S/N 1 to and including 826 and 2001 to and including 2092 (except 524, 676, 707, 710 and 816) repeat the inspection required by para. (b) of this AD, until the modification described in S/B No. 142, para. 2.B "MODIFICATION" or S/L PC6-55-2 is complied with, at which time this repetitive inspection is no longer required.

(2) On airplanes S/N 1 to and including 844 and S/N 2001 to and including 2092, repeat the inspection required by para. (d) of this AD.

(f) The intervals between the repetitive 100 hours TIS inspections required by para. (e) of this AD may be adjusted up to 10 per cent of the specified interval to allow accomplishment of these inspections concurrent with other scheduled maintenance of the airplane.

(g) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(h) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Pilatus Aircraft, Ltd., CH6370-Stans, Switzerland, or Fairchild-Republic Corp., Showalter Road, Hagerstown, Maryland 21740, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on August 31, 1985.

Issued in Kansas City, Missouri, on July 17, 1985.

William H. Pollard,
Acting Director, Central Region.

[FR Doc. 85-17933 Filed 7-26-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AWP-7]

Amendment to the Santa Barbara, California, Transition Area Description

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: An amendment to the existing description of the Santa Barbara Municipal Airport (lat. 34°25'35" N., long. 119°50'20" W.) Transition Area is necessary to provide a correction in the legal description. This action will provide only editorial amendments to reference points used in the description to provide a contiguous border with Restricted Area R2517.

EFFECTIVE DATE: 0901 G.m.t., September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Hawthorne, California 90261; telephone number (213) 536-6649.

History

On April 3, 1985, the Federal Aviation Administration published an amendment to §71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) which revised the description of the Santa Barbara, California, Transition Area. (50 FR 13186). An error in that description has since been identified, in that coordinates along the contiguous border with Restricted Area R2517 were not the same as those used in the description of R2517. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) will correct the coordinates of the legal description to provide a border consistent with the eastern edge of Restricted Area R2517.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Santa Barbara, California

Transition Area—[Revised]

"That airspace extending upward from 700 feet above the surface within 2 miles each side of the Santa Barbara ILS localizer west course, extending from a point lat. 34°25'31" N., long. 119°57'29" W. to 2 miles west of that point, between the arcs of a 5-mile radius circle and 8.5-mile radius circle centered on the Santa Barbara Municipal Airport (lat. 34°25'35" N., long. 119°50'20" W.), extending clockwise from a line 2 miles north of the 089° bearing from the Santa Barbara LMM to a line 2.5 miles south of the 115° bearing from the LMM; and within 2 miles east and 7 miles west of the Santa Barbara VORTAC 196° radial, extending from a 5-mile radius circle centered on the Santa Barbara Municipal Airport to 15.5 miles south of the VORTAC; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 35°35'00" N., long. 120°05'00" W.; to lat. 35°05'00" N., long. 120°05'00" W.; to lat. 35°05'00" N., long. 119°30'00" W.; to lat. 34°20'00" N., long. 119°30'00" W.; to lat. 34°20'00" N., long. 120°00'00" W.; to lat. 34°08'00" N., long. 120°00'00" W.; to lat. 34°08'00" N., long. 120°26'00" W.; to lat. 34°08'15" N., long. 120°30'00" W.; to lat. 34°24'00" N., long. 120°30'00" W.; to lat. 34°25'00" N., long. 120°27'00" W.; to lat. 34°35'00" N., long. 120°32'00" W.; to lat. 34°38'35" N., long. 120°31'20" W.; to lat. 34°42'00" N., long. 120°30'00" W.; to lat. 34°46'00" N., long. 120°27'00" W.; to 34°50'00" N., long. 120°32'00" W.; to lat. 35°00'00" N., long. 120°42'00" W.; to lat. 35°10'00" N., long. 120°56'00" W.; to lat. 35°21'00" N., long. 121°03'00" W.; to lat 35°33'00" W., to lat 121°08'00" W.; to lat. 35°33'00" N., long. 120°40'30" W.; to lat. 35°22'25" N., long. 120°31'30" W.; to lat. 35°31'40" N., long. 120°15'00" W.; to lat. 35°35'35" N., long. 120°18'10" W.; thence to the point of beginning."

Issued in Los Angeles, California on July 12, 1985.

H.C. McClure,
Director, Western-Pacific Region.

[FR Doc. 85-17934 Filed 7-26-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 270, and 273

[Docket No. RM83-53-001]

Obligations of Sellers and Purchasers of First-Sale Natural Gas for Refunds Owed for Collections in Excess of Maximum Lawful Prices Under the Natural Gas Policy Act of 1978

Issued July 24, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Granting Rehearing for Purposes of Further Consideration.

SUMMARY: On May 30, 1985, the Federal Energy Regulatory Commission issued a final rule which, among other things, permits the use of billing adjustments to recover interim collection refunds under 18 CFR 273.302 (1984). In this order, the Commission grants rehearing of its decision solely for the purpose of further consideration.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357-8308.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

In the matter of Obligations of Sellers and Purchasers of First-Sale Natural Gas for Refunds Owed for Collections in Excess of Maximum Lawful Prices Under the Natural Gas Policy Act of 1978, Docket No. RM83-53-001.

Issued July 24, 1985.

On May 30, 1985, the Commission issued its Order No. 423, 50 FR 23669 (June 5, 1985), amending its regulations to permit purchasers to use billing adjustments to recover interim collection refunds under 18 CFR 273.302 (1984). On June 27, 1985, Tennessee Gas Pipeline Company filed a request for rehearing of that order.

In order to afford additional time for consideration of the issues raised in the request for rehearing, the Commission grants rehearing of Order No. 423 for the limited purpose of further consideration.

This Order is effective on the date of issuance. This action does not constitute a grant or denial of the petition on its merits, either in whole or part. As provided in Rule 713(d) of the Commission's Rules of Practice and Procedure, no answers to the request for rehearing are permitted because this order does not grant rehearing on any substantive issue.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-17907 Filed 7-26-85; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-221 (Louisiana—6 Addition) Order No. 424]

High-Cost Gas Produced From Tight Formations; Louisiana

Issued July 24, 1985.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1984)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This order adopts the recommendation of the State of Louisiana Office of Conservation that an additional area of the Smackover "C" Zone in the East Dykesville Field in Webster Parish, Louisiana, be designated as a tight formation.

EFFECTIVE DATE: This rule is effective August 23, 1985.

FOR FURTHER INFORMATION CONTACT: W. Thomas Rosemond, Jr., Office of the

General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

(68) *Smackover C Zone in Louisiana.* RM79-76-221 (Louisiana 5 and 5 Addition)

(CDB): FDA is revising § 5.31 *Petitions under Part 10* (21 CFR 5.31) and § 5.80

for those drug products listed in § 314.440(b), are authorized to issue responses to citizen petitions submitted

uses already approved for the marketed product(s):

ACTION: Final rule.

SUMMARY: The Food and Drug

General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-9118.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

Final Rule

The Commission hereby amends § 271.703(d) of its regulations to include an additional area of the Smackover "C" Zone in the East Dykesville Field in Webster Parish, Louisiana, as a designated tight formation eligible for incentive pricing under 18 CFR 271.703. The amendment is based on a recommendation of the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission on November 9, 1983. Notice of the proposal was published in the **Federal Register** on January 5, 1984 (49 FR 644). No comments were filed in response to the notice and no public hearing was requested.

Evidence submitted by Louisiana supports the assertion that the additional area of the Smackover "C" Zone in the East Dykesville Field in Webster Parish, Louisiana, meets the guidelines contained in § 271.703(c)(2) of the Commission's regulations. Accordingly, the Commission adopts Louisiana's recommendation.

This amendment shall become effective August 23, 1985.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedures Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(68) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(68) *Smackover C Zone in Louisiana.* RM79–76–221 (Louisiana 5 and 5 Addition).

(i) *Delineation of formation.* The Smackover C Zone is found within the East Dykesville Field in Clairborne and Webster Parishes, Louisiana, in the area of Township 22 North, Range 8 West, Sections 3–10, 15–18; Township 22 North, Range 9 West, Sections 1–18; Township 23 North, Range 8 West, Sections 30–34; and Township 23 North, Range 9 West, Sections 25–36.

(ii) *Depth.* The Smackover C Zone occurs between the measured depths of 11,290 feet and 11,340 feet on the induction electrical log of the Wheless Industries—Pelto Oil—Guy Lewis *et al.* No. 1 well and between 11,534 feet and 11,568 on the electric log of the Cities Service Oil and Gas Corporation—Hearn No. 1 well.

[FR Doc. 85-17908 Filed 7-26-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; New Drug Applications and Biological Product Licenses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to new drug applications (NDA's) and petitions according to the NDA regulations. In addition, FDA is amending the regulations to redelegate authority to issue notices of opportunity for a hearing on proposals to deny issuance of or to revoke licenses for biological products and to issue certain notices of revocation of licenses.

EFFECTIVE DATE: July 29, 1985.

FOR FURTHER INFORMATION CONTACT: Melissa M. Moncavage, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 22, 1985 (50 FR 7452), FDA issued revised regulations for NDA submissions. Under the new regulations, new drug applications and abbreviated new drug applications for drugs listed in § 314.440(b) shall be submitted directly to the Office of Biologics Research and Review, Center for Drugs and Biologics (CDB). FDA is revising § 5.31 *Petitions under Part 10* (21 CFR 5.31) and § 5.80 *Approval of new drug applications and their supplements* (21 CFR 5.80) to clarify who has authority to act on related matters concerning drugs listed in § 314.440(b).

Because the new drug regulations were recently revised, FDA is also correcting the citations to the NDA regulations in § 5.82 *Issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and their supplements* (21 CFR 5.82).

Additionally, FDA is adding new § 5.67 *Issuance of notices of opportunity for a hearing on proposals for denial of approval of applications for licenses or revocation of licenses, and certain notices of revocation of licenses* to redelegate to the Director and Deputy Director, CDB, authority to issue notices of opportunity for a hearing under Part 12 on proposals to deny issuance of, or revoke, licenses for biological products issued by FDA under section 351 of the Public Health Service Act (42 U.S.C. 262). Authority has also been redelegated to the Director and Deputy Director, CDB, to issue notices of revocation of licenses when manufacturers have requested such revocation.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR Part 5 continues to read as follows:

Authority: Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)); 21 CFR 5.10.

2. In § 5.31 by revising paragraph (f)(2) and adding new paragraph (f)(3), to read as follows:

§ 5.31 Petitions under Part 10.

* * * * *

(f) * * *

(2) The Director and Deputy Director, Office of Drug Standards, CDB, except for those drug products listed in § 314.440(b), are authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter seeking a determination of the suitability of an abbreviated new drug application for a drug product.

(3) The Director and Deputy Director, Office of Biologics Research and Review, CDB, for those drug products listed in § 314.440(b), are authorized to issue responses to citizens petitions submitted under § 10.30 of this chapter seeking a determination of the suitability of an abbreviated new drug application for a drug product.

3. By adding new § 5.67, to read as follows:

§ 5.67 Issuance of notices of opportunity for a hearing on proposals for denial of approval of applications for licenses or revocation of licenses and certain notices of revocation of licenses.

The Director and Deputy Director, Center for Drugs and Biologics, are authorized to issue:

(a) Notices of opportunity for a hearing on proposals to deny approval or filing of applications for establishment or product licenses under § 601.4(b) of this chapter.

(b) Notices of opportunity for a hearing on proposals to revoke establishment or product licenses under § 601.5(b) of this chapter.

(c) Notices of revocation, at the manufacturer's request, of establishment or product licenses under §§ 601.5(a) and 601.8 of this chapter.

4. In § 5.80 by revising the introductory text of paragraph (b) and by revising paragraphs (c) (1) and (2), to read as follows:

§ 5.80 Approval of new drug applications and their supplements.

* * * * *

(b) The following officials, for drugs under their jurisdiction, are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of supplemental applications to approved new drug applications for drugs for human use that have been submitted under § 314.70 of this chapter and new drug applications for drug products that contain the identical active drug ingredient (e.g., the same salt of the same therapeutic moiety), or identical combination of active drug ingredients in the same dosage form and strength, of an approved drug product already marketed in the United States by another firm, and that has, in its labeling, at least some of the therapeutic uses already approved for the marketed product(s):

* * * * *

(c) The following officials are authorized to perform all of the functions of the Commissioner of Food and Drugs with regard to approval of abbreviated new drug applications and supplements thereto for drugs for human use and new drug applications for drugs with a 5C classification whose clinical safety and efficacy may be supported by appropriate literature citations in view of submission of data from original proprietary studies:

(1) For drugs submitted under §§ 314.50, 314.55, and 314.70 of this chapter, except for those drug products listed in § 314.440(b):

(i) The Director and Deputy Director, Office of Drug Standards, CDB.

(ii) The Director and Deputy Director, Division of Generic Drugs, Office of Drug Standards, CDB.

(2)(i) For drug products listed in § 314.440(b) and submitted under §§ 314.50, 314.55, and 314.70 of this chapter:

(ii) The Director and Deputy Director, Office of Biologics Research and Review, CDB.

* * * * *

5. By revising § 5.82, to read as follows:

§ 5.82 Issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and their supplements.

The Director and Deputy Director, Center for Drugs and Biologics, are authorized to issue notices of an opportunity for a hearing on proposals to refuse approval or to withdraw approval of new drug applications and abbreviated new drug applications and supplements thereto on drugs for human use that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act and Subpart B of Part 314 of this chapter, and to issue notices refusing approval or withdrawing approval when opportunity for hearing has been waived.

Dated: July 22, 1985.

Mervia H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17888 Filed 7-26-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 74

[Docket No. 84N-0083]

Color Additives; D&C Blue No. 6

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations by removing the provision that bars the migration of D&C Blue No. 6 from sutures to the surrounding tissues under conditions of use. FDA is taking this action because the restriction is not necessary to assure the safety or suitability of the use of D&C Blue No. 6 in sutures.

DATES: Effective August 29, 1985, except as to any provisions that may be stayed by the filing of proper objections; objections by August 28, 1985.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 25, 1984 (49 FR 29970), FDA proposed that 21 CFR Part 74 be amended in § 74.3106 *D&C Blue No. 6* by removing paragraph (c)(3). That paragraph contains the provision that bars the migration of D&C Blue No. 6 from a suture to the surrounding tissues under conditions of use. FDA is taking this action because the restriction is not necessary to assure the safety or suitability of the use of D&C Blue No. 6 in sutures. Also, the restriction is ambiguous when referring to absorbable sutures.

In the proposed rule, FDA gave interested persons until September 24, 1984, to file comments. The agency did not receive any comments on the proposed rule. Therefore, FDA is publishing the final rule without change.

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (July 25, 1984; 49 FR 29970). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potentiel effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small

entities would derive from this action. FDA has not received any new information or comments that would

21 CFR Part 808

[Docket No. 83P-0125]

nationwide regulatory policy would be more effective and would better serve the needs of the hearing impaired than

possible benefit to children from such a requirement outweighs the possible

in effect while preempting other parts of that regulation.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

Any person who will be adversely affected by this regulation may at any time on or before August 28, 1985, file with the Dockets Management Branch (address above) written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and should be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Notice of the filing of objections or lack thereof will be given by publication in the Federal Register.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 74 is amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

§ 74.3106 [Amended]

2. In § 74.3106 *D&C Blue No. 6* by removing paragraph (c)(3).

Dated: July 22, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–17889 Filed 7–26–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 808

[Docket No. 83P–0125]

Medical Devices; Application for Exemption From Federal Preemption of State and Local Hearing Aid Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is granting exemption from Federal preemption for certain of Hawaii's hearing aid device requirements and denying exemption for other of its requirements. This action responds to an application from the government of Hawaii.

EFFECTIVE DATE: August 28, 1985.

FOR FURTHER INFORMATION CONTACT: Les Weinstein, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 1, 1984 (49 FR 38646), FDA published a proposed rule responding to an application from Hawaii for exemption from Federal preemption of certain of Hawaii's hearing aid device requirements. Interested persons were given until November 30, 1984, to submit written comments on the proposal. In the same issue of that Federal Register (49 FR 38645), FDA issued a notice providing an opportunity for interested persons to request an oral hearing.

Although FDA received two written comments on the proposal, the agency did not receive any requests for an oral hearing.

As noted in the preamble to the October 1, 1984 proposal, the agency published a final rule in the Federal Register of October 10, 1980 (45 FR 67326), responding to applications from 18 other States and the District of Columbia for exemption from preemption of their hearing aid requirements. Some of the issues raised in that proceeding are similar to the issues raised in the comments received on this rule. The agency therefore refers interested persons to the preamble to the Octobr 10, 1980 final rule for a more detailed discussion of these issues, and incorporates that discussion by reference herein.

1. Both comments received on the October 1, 1984 proposal stated that the current Federal hearing aid device requirements are satisfactory and that exemptions from the current requirements should not be granted to Hawaii or to any other State. Both comments also stated that a uniform nationwide regulatory policy would be more effective and would better serve the needs of the hearing impaired than would various State policies.

FDA disagrees with these commments. The agency does not believe that the effectiveness of the Federal requirements will be compromised by granting exemptions from preemption of State and local hearing aid requirements. Furthermore, the agency does not believe that the needs of the hearing impaired will be compromised by granting States selected exemptions from preemption of State and local hearing aid requirements.

2. One comment specifically supported FDA's proposal to deny exemption from preemption of the provision in §14.1, subsection (a) of chapter 451A of the Hawaii Revised Statutes, requiring medical evaluation without providing for a waiver of that requirement by the user.

Although FDA believes that, before purchasing a hearing aid, all prospective hearing aid users should obtain a medical evaluation to ensure that the organic causes of hearing loss are diagnosed and treated properly, the agency believes that any informed adult who objects to medical evaluation for personal reasons should be permitted to waive the medical evaluation requirement. Therefore, FDA denies exemption from preemption of the Hawaii provision failing to permit waiver of the medical evaluation.

3. One comment objected to FDA's proposal to grant exemption from preemption of that portion of § 14.1, subsection (a) of chapter 451A of the Hawaii Revised Statutes which prohibits the sale of a hearing aid to a child under the age of 10 who does not have written authorization from an otorhinolaryngologist. The comment argued that requiring authorization from an otorhinolaryngologist would: (a) Create a burdensome and expensive impediment to the receipt of proper and timely hearing health care by certain minors residing in Hawaii, and (2) irrationally divide minors within the State into two distinct groups and subject them to different requirements in connection with the sale of a hearing aid.

FDA disagrees with the comment. As noted in the preamble to the October 10, 1980 final rule, FDA believes that hearing loss in children can be treated medically or surgically more often than in adults and that otorhinolaryngologists are more knowledgeable about such treatment than are other physicians. FDA continues to believe that the possible benefit to children from such a requirement outweighs the possible burden and expense of locating an otorhinolaryngologist. FDA notes that the comment did not provide any data to substantiate its arguments not did it include any basis for FDA to change its belief that mandatory audiological evaluation of a minor will serve an important public health purpose (45 FR 67330).

4. One comment specifically supported FDA's proposal to deny exemption from preemption for the Hawaii provision requiring that medical authorization be signed within 90 days prior to the sale of a hearing aid.

Section 801.421 of FDA's regulation provides that the medical evaluation shall have taken place within the preceding 6 months. FDA concludes that the 3-month time limit specified in § 14.1, subsection (b) of chapter 451A of the Hawaii Revised Statutes should not be exempted from preemption for the reasons stated in the preamble to the proposed rule. See 49 FR 38647, October 1, 1984.

5. One comment objected to FDA's proposal to grant exemption from preemption for § 14.1, subsection (c) of chapter 451A of the Hawaii Revised Statutes, which requires hearing aid dispensers to keep the physician's written authorization on file for 5 years. The comment argued that this extended recordkeeping is unjustified.

FDA disagrees with the comment and is exempting subsection (c) from preemption. Hawaii's requirement is more stringent than the provisions in § 801.421(d) of FDA's regulations governing conditions for sale of hearing aid devices (21 CFR 801.421(d)). Section 801.421(d) requires dispensers to maintain copies of medical clearance statements for only 3 years. FDA concludes that the more stringent requirement will assist Hawaii in enforcing its statute.

Executive Order 12291

FDA has carefully reviewed the final rule under Executive Order 12291 and concludes that it does not meet any of the criteria of a major regulation. Therefore, a regulatory impact analysis is not required. The rule merely applies Part 808 of the regulations to an application from the government of Hawaii. The rule does not impose any new Federal requirements on any person. Similarly, no new requirements are established at the State level because the rule allows part of an existing Hawaiian regulation to remain in effect while preempting other parts of that regulation.

Regulatory Flexibility Act

FDA certifies that the final rule will not have a significant economic impact on a substantial number of small entities because it does not impose any new requirements on any person. Therefore, a regulatory flexibility anaylsis, as provided in the Regulatory Flexibility Act, is not required.

List of Subjects in 21 CFR Part 808

Exemption of specific State requirements, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 808 is amended as follows:

PART 808—EXEMPTIONS FROM FEDERAL PREEMPTION OF STATE AND LOCAL MEDICAL DEVICE REQUIREMENTS

1. The authority citation for Part 808 is revised to read as follows:

Authority: Secs. 521, 701, 52 Stat. 1055–1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371); 21 CFR 5.10.

2. In Subpart C by adding new § 808.61, to read as follows:

§ 808.61 Hawaii.

(a) The following Hawaii medical device requirements are enforceable notwithstanding section 521 of the act, because the Food and Drug Administration has exempted them from preemption under section 521(b) of the act: Hawaii Revised Statutes, chapter 451A, § 14.1(a) with respect to medical examination of a child 10 years of age or under, and subsection (c).

(b) The following Hawaii medical device requirements are preempted by section 521(a) of the act, and the Food and Drug Administration has denied them exemption from preemption: Hawaii Revised Statues, chapter 451A, § 14.1(a) to the extent that it requires a written authorization by a physician and does not allow adults to waive this requirement for personal, as well as religious reasons, and subsection (b).

Dated: June 26, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–17891 Filed 7–26–85; 8:45 am]

BILLING CODE 4160–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1620

Investigations and Compliance Assistance

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final Rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission hereby amends 29 CFR 1620.19(c) to insert the words, "in confidence," following the phrase, ". . . persons giving information . . ." The purpose of the amendment is to make confidentiality policy under the Equal Pay Act (EPA) (29 U.S.C. 206(d)) consistent with the policy utilized by the Commission under Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.), and the Age Discrimination in Employment Act (29 U.S.C. 621, et seq). The amendment changes the Commission's confidentiality policy under the EPA from one where witnesses and complainants are *automotically* granted confidentiality to one where complainants and witnesses may *elect* to keep their identity and identifying details confidential.

EFFECTIVE DATE: July 29, 1985.

FOR FURTHER INFORMATION CONTACT: Frederick W. Ford, Staff Attorney, Office of Legal Counsel, Legal Services, EEOC, 2401 E Street, NW., Washington, D.C. 20507; telephone: (202) 634–6690.

SUPPLEMENTARY INFORMATION: At its meeting of June 4, 1985, the Commission voted to adopt a single consistent policy regarding the scope of confidentiality that the Commission will grant to charging parties, complainants, and witnesses during its investigation of charges and complaints filed under the three statutes that the Commission enforces, i.e., Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., The Age Discrimination in Employment Act (ADEA), 29 U.S.C. 621 et seq., and the Equal Pay Act (EPA), 29 U.S.C. 206(d). The new policy is to notify charging parties, complainants and third party witnesses under all three statutes that they will be granted confidentiality upon request and, where confidentiality is requested, to provide a statement explaining the precise scope of that confidentiality.

Until adoption of the new policy, the Commission had utilized a policy of "selective," or "elective," confidentiality for charging parties and witnesses under Title VII and the ADEA. *See* 29 CFR 1601.7(a) and 29 CFR 1626.4 and

1626.15(b). That is, the Commission would not disclose the identity or

For the Commission.

Clarence Thomas,

State of Connecticut would not allow this event to be held. It was learned that

1. The authority citation for Part 100

(ii) $500 for the owner of a vessel

notice of this annual powerboat race by

VOL 50 ISS 145 JL 29 1985 UMI

1626.15(b). That is, the Commission would not disclose the identity or identifying details of persons providing information *in confidence* as to violations of the respective acts unless necessary in a court proceeding. Under Title VII and ADEA, the Commission provides confidentiality where it is requested or where it is necessary to secure information from a person. However, the Commission does not promise confidentiality automatically to all witnesses.

When the Commission published its Final Recordkeeping and Administrative Regulations under the Equal Pay Act, 29, CFR Part 1620 46 FR 4888 (January 19, 1981), following the transfer of EPA enforcement authority from the Department of Labor in 1979 [Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978) and E.O. 12144, 44 FR 37193 (June 26, 1979)], it adopted the confidentiality policy followed by the Department of Labor in equal pay cases. [See also, 44 FR 38671 (July 2, 1979)]. That policy *automatically* granted confidentiality to any person giving information on an EPA violation regardless of whether the person requested confidentiality or not. See 29 CFR 800.164.

The inconsistency between the EPA policy and the Title VII and ADEA policy has created difficulties for the Commission in investigating charges under the three statutes, especially in mixed cases containing charges under both the EPA and either Title VII or ADEA, resulting in confusion for both Commission investigators and witnesses regarding the application of confidential treatment. The amendment provides consistency between the three statutes by amending the EPA regulations to make clear that a charging party or witness' identity will be protected when that person gives information "in confidence," i.e., when the person requests confidentiality.

The Commission has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12291.

List of Subjects in 29 CFR Part 1620

Equal employment opportunity, Investigations, Penalities, Reporting and recordkeeping requirements, Sex discrimination, Wages.

Accordingly, § 1620.19(c) of Part 1620 of Title 29, Code of Federal Regulations is amended as set forth below.

Signed at Washington, D.C., this 12th day of July, 1985.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

PART 1620—THE EQUAL PAY ACT

1. The authority citation for Part 1620 continues to read as follows:

Authority: Sec. 1–19, 52 Stat. 1060, as amended; Sec. 10, 61 Stat. 84; Pub. L. 88–38, 77 Stat. 56 [29 U.S.C. 201 et seq.]; sec. 1, Reorg. Plan. No. 1 of 1978, 43 FR 19807; Pub. L. 98–532; Executive Order No. 12144, 44 FR 37193.

2. 29 CFR Part 1620 is amended by revising § 1620.19(c) to read as follows:

§1620.19 Investigations and compliance assistance.

* * * * *

(c) The identity or identifying details of persons giving information in confidence as to violations of the Act shall not be disclosed unless necessary in a court proceeding.

[FR Doc. 85–17591 Filed 7–26–85; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 85–28]

Special Local Regulations; Gateway Powerboat Regatta, Long Island Sound

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Gateway Powerboat Regatta. This powerboat race is sponsored by the Gateway Powerboat Association. The event will be held on August 3, 1985, on Long Island Sound, off Greenwich, Connecticut. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

EFFECTIVE DATES: This regulation becomes effective on August 3, 1985 from 11:00 a.m. to 2:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mary J. Robinson, (212) 668–7974.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making has not been published for this regulation and it is being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The application to hold this event was not received until May 3, 1985. There was some concern that the State of Connecticut would not allow this event to be held. It was learned that the State law limiting noise levels is not applicable on Long Island Sound. There was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LT D.R. Cilley, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Gateway Powerboat Regatta is sponsored by the Gateway Powerboat Association of Greenwich, Connecticut. This powerboat race will be held on Long Island Sound in an area south of Greenwich, Connecticut. This event has been held for the past nine years and is consequently well known to boaters and residents in the area. This is the first year in which a special local regulation has been issued for this event. Approximately 40 powerboats ranging from 20 to 50 feet in length will race 6 laps around a 11 mile rectangular course at speeds between 75-110 miles per hour (mph). This National Power Boat Association (NPBA) sanctioned race will start at 12:00 noon. Race headquarters is located at the Showboat Inn in Greenwich Harbor. The race participants will transit to the race course area under Coast Guard escort at approximately 20 m.p.h. The race course area will be marked by sponsor provided patrol craft displaying orange day glow flags. Spectator vessels will be kept outside of the regulated area and a buffer zone will be maintained by the sponsor's 20+ patrol vessels. Coast Guard and local authority patrol vessels will also be on scene to help control this event. The Coast Guard will issue a safety voice broadcast to notify boaters of this event. The Coast Guard recommends that all vessels transiting the Sound use extreme caution and pass to the south of the regulated area. In order to provide for the safety of life and property on navigable waters, the Coast Guard will regulate the movement of vessels in this area during this event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

PART 100—[AMENDED]

2. Part 100 is amended by adding a temporary § 100.35–317 to read as follows:

§ 100.35–317 Gateway Powerboat Regatta, Long Island Sound.

(a) *Regulated Area:* Long Island Sound, off Greenwich, Connecticut in the rectangular area described by the following points:

Latitude: 40 degrees, 56 minutes, 33 seconds North
Longitude: 73 degrees, 37 minutes, 48 seconds West
Latitude: 40 degrees, 58 minutes, 08 seconds North
Longitude: 73 degrees, 32 minutes, 50 seconds West
Latitude: 40 degrees, 59 minutes, 45 seconds North
Longitude: 73 degrees, 33 minutes, 28 seconds West
Latitude: 40 degrees, 57 minutes, 35 seconds North
Longitude: 73 degrees, 38 minutes, 00 seconds West

(b) *Effective Period:* This regulation will be effective from 11:00 a.m. to 2:30 p.m. on August 3, 1985.

(c) *Special Local Regulations:*

(1) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(2) The regulated area is closed to all spectators during the effective period.

(3) Race participants shall not exceed 20 mph when transiting between race headquarters and the regulated area.

(4) All spectator vessels shall remain at least 50 yards from the participants when they are transiting to or from the regulated area and the race headquarters.

(5) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(6) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: July 18, 1985.

P. A. Yost,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 85–17899 Filed 7–26–85; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD3 85–31]

REGATTA: National Sweepstakes Regatta, Redbank, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the National Sweepstakes Reggata. The purpose of this regulation is to provide for the safety of participants and spectators on navigable waters during the event.

EFFECTIVE DATE: This regulation becomes effective on August 17, 1985.

FOR FURTHER INFORMATION CONTACT: Mary J. Robinson, (212) 668–7974.

SUPPLEMENTARY INFORMATION: On June 13, 1985, the Coast Guard published a notice of proposed rule making in the **Federal Register**. for this regulation (50 FR 24783). Interested persons were requested to submit comments, and no comments were received. The regulation is being made effective in less than 30 days from the date of publication. There was no sufficient time remaining in advance of the event to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LT D.R. Cilley, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The annual National Sweepstakes Regatta is a powerboat race event to be held on the Navesink River. The event is sponsored by the National Sweepstakes Regatta Association of Red Bank, N.J. This two day event is traditionally held each year on the third weekend (Saturday and Sunday) in August. Because of the annual nature of this event, the Coast Guard has decided to promulgate a permanent amendment to Part 100 of Title 33, Code of Federal Regulations. Each year the Coast Guard will provide the public full and adequate notice of this annual powerboat race by publication in the Third District Local Notice to Mariners. It is sanctioned by the American Powerboat Association and is well known to the boaters and residents of this area. The race track oval will be approximately 1.25 miles in length. Races will be held on both days on a section of the Navesink River just east of the N.J. Route 35 Bridge. Race heats will run both days from approximately 10:00 a.m. to 6:00 p.m. with up to 100 inboard/hydroplane powerboats participating each day. The sponsor will place several temporary buoys on the river to mark both the race course and spectator areas. There will be 2 race committee boats anchored within the oval course, one on each end with turn judges and press onboard. The U.S. Coast Guard will assist the sponsor and local authorities in providing a safety patrol during this event. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement and establish spectator areas prior to and during the races. Vessels desiring to transit the area will be given an opportunity to do so several times during each day in between race heats as directed by the Coast Guard Patrol Commander.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the races. This should have a favorable impact of commercial facilities providing services to the spectators. This area is used primarily by recreational boaters; any impact on commercial traffic in the area will be negligible. The Coast Guard shall ensure that the regulated area is opened periodically to allow transiting vessels to pass through without undue delay.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant ecnomic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water)

VOL 50 ISS 145 JL 29 1985 UMI

PART 100—[AMENDED]

Final Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by addding § 100.307 to read as follows:

§ 100.307 National Sweepstakes Regatta, Redbank, N.J.

(a) *Regulated Area:* That portion of the Navesink River in Redbank, N.J. between the N.J. Route 35 Bridge and a line running across the Navesink River connecting Guyon and Lewis Points.

(b) *Effective Period:* This regulation will be effective from 8:00 a.m. to 6:00 p.m. on both August 17 and 18, 1985, and thereafter annually on the third weekend (Saturday and Sunday) in August unless otherwise specified in the Third District Local Notice to Mariners and in a **Federal Register** notice.

(c) *Special Local Regulations:*

(1) The regulated area shall be intermittently closed to all vessel traffic during the effective period, except as may be allowed by the Coast Guard Patrol Commander.

(2) No person or vessel shall enter or remain in the regulated area while it is closed unless participating in or authorized by the event sponsor or Coast Guard patrol personnel.

(3) Vessels awaiting passage through the regulated area shall be held in unmarked anchorages in the area to the east of the N.J. Route 35 Bridge and in the vicinity of Lewis Point.

(4) No transiting vessels shall be allowed out onto or across the regulated area without Coast Guard escort.

(5) All persons or vessles not registered with the sponsor as participants or not part of the regatta patrol are considered spectators. Spectator vessels must be at anchor within a designated spectator area or moored to a waterfront facility in a way that will not interfere with the progress of the event. The following are established as spectator areas:

(i) Spectator vessels shall be held behind (north of) a line of buoys provided by the sponsor running approximately west to east starting .25 mile east of the N.J. Route 35 Bridge.

(ii) A second spectator area shall be marked by a curved line of sponsor provided buoys centered on a line drawn approximately due south from Jones Point, running through Can Buoy #21. All spectator craft shall stay to the east of this string of buoys.

(6) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(7) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: July 18, 1985.

P.A. Yost,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 85-17898 Filed 7-26-85; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 100 and 165

[CGD 85-055]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of Temporary Rules Issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and special local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety Zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Security zones are temporarily established in response to a risk to national security present in a particular area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between April 1, 1985 and June 30, 1985 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the last published list.

ADDRESS: The complete text of any temporary regulations may be examined at, and is available on request from, Executive Secretary, Marine Safety Council (G-CMC), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Deputy Executive Secretary, Marine Safety Council at (202) 426-1477.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since Marine events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulations, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary special local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones, special local regulations, and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period April 1, 1985 through June 30, 1985 unless otherwise indicated:

Docket No.	Location	Type	Date
1-85-IR	Marina Bay, MA	Safety Zone	June 29, 1985.
COTP Rhode Island—85-03	Rhode Island Sound	do	May 17, 1985.
COTP Rhode Island—85-02	Rhode Island Sound	do	Apr. 17, 1985.
COTP Rhode Island—85-T04	Rhode Island Sound	do	June 17, 1985.
COTP St. Louis, MO—85-01	Illinois River, Mile 0 and 231	do	Mar. 29, 1985.
2-85-13	Tennessee River, Mile 463.5 to 464.4	Special Local Regulation	June 23, 1985.
COTP Nashville, TN—85-01	Tennessee River, Mile 255 to 256.5	Safety Zone	June 29, 1985.
2-85-19	Illinois River, Mile 71.5 to 72.5	Special Local Regulation	June 9, 1985.
COTP Louisville, KY—85-04	Green River, Mile 20 to 39	Safety Zone	May 2, 1985.
COTP Louisville, KY—85-03	Green River, Mile 31 to 35.5	do	May 2, 1985.
COTP Memphis, TN—85-02	Arkansas River, Mile 69 to 71	do	May 18, 1985.
COTP Memphis, TN—85-04	Mississippi River, Mile 734.7 to 737.7	do	June 2, 1985.
COTP Memphis, TN—85-03	Arkansas River, Mile 137 to 139	do	Apr. 23, 1985.
2-85-19	Ohio River, Mile 88.3 to 90.5	Special Local Regulation	July 14, 1985.
2-85-11	Illinois Waterway, Mile 162.3 to 162.7	do	June 18, 1985.
3-85-44	Long Island, NY	Safety Zone	June 18, 1985.
3-85-45	Liberty Island, NY	do	June 28, 1985.
3-85-43	Liberty Island, NY	do	June 22, 1985.
3-85-30	East River, NY	do	June 15, 1985.
3-85-39	Newtown Creek, NY	do	June 11, 1985.
3-85-39	Lower East River, NY	do	June 17, 1985.
3-85-30	East River, NY	do	June 15, 1985.
3-85-32	Burlington, VT	do	May 28, 1985.
3-85-25	Manasquan Inlet, NJ	do	May 13, 1985.
3-85-22	Riverhead, Long Island, NY	do	May 2, 1985.
3-85-13	Lower East River, NY	do	May 6, 1985.
3-85-11	Riverhead, Long Island, NY	do	Apr. 5, 1985.
COTP Baltimore, MD—85-07	Baltimore, MD	Security Zone	June 14, 1985.
COTP Baltimore, MD—85-05	Annapolis, MD	Safety Zone	May 10, 1985.
COTP Wilmington, NC—85-04	Southport, NC to Wilmington, NC	do	May 12, 1985.
COTP Hampton Roads, VA—85-07	Cape Henry, VA	do	May 2, 1985.
COTP Hampton Roads, VA—85-05	Hampton Roads, VA	do	Apr. 27, 1985.
COTP Hampton Roads, VA—85-06	Cape Henry, VA	do	May 2, 1985.
COTP Hampton Roads, VA—85-09	do	do	May 3, 1985.
COTP Hampton Roads, VA—85-10	do	do	May 3, 1985.
COTP Baltimore, MD—85-04	Salisbury, MD	do	May 4, 1985.
COTP Hampton Roads, VA—85-02	Norfolk, VA	do	Apr. 29, 1985.
COTP Hampton Roads, VA—85-03	do	do	Apr. 21, 1985.
COTP Hampton Roads, VA—85-04	Hampton Roads, VA	do	Apr. 21, 1985.
COTP Louisville, KY—85-02	Ohio River, Mile 560.3	do	Apr. 5, 1985.
COTP Louisville, KY—85-05	Ohio River, Mile 603 to 604.3	do	June 30, 1985.
COTP Louisville, KY—85-06	Ohio River, Mile 602 to 604.3	do	June 28, 1985.
COTP Louisville, KY—85-07	Ohio River, Mile 792 to 793	do	June 30, 1985.
COTP Huntington, WV—85-01	Great Kanawha River, Mile 57.9 to 58.9	do	June 16, 1985.
COTP Hampton Roads, VA—85-01	Norfolk, VA	do	Apr. 4, 1985.
COTP Wilmington, NC—85-03	New Bern, NC	do	June 22, 1985.
COTP Baltimore, MD—85-03	Baltimore, MD	do	Apr. 28, 1985.
7-85-27	Boca Raton, FL	Special Local Regulation	June 23, 1985.
COTP Jacksonville, FL—85-19	Jacksonville, FL	Safety Zone	May 11, 1985.
COTP San Juan, PR—85-17	San Juan, PR	do	May 10, 1985.
COTP Jacksonville, FL—85-21	Jacksonville, FL	do	May 10, 1985.
COTP Jacksonville, FL—85-18	do	do	May 7, 1985.
COTP Jacksonville, FL—85-20	do	do	May 18, 1985.
7-85-16	Key West, FL	do	Apr. 20, 1985.
COTP New Orleans, LA—85-13	Barataria Waterway	do	Apr. 2, 1985.
COTP New Orleans, LA—85-09	Tiger Pass Light 16	do	Feb. 8, 1985.
COTP New Orleans, LA—85-12	Gulf Intracoastal Waterway	do	May 13, 1985.
COTP New Orleans, LA—85-10	Gulf Intracoastal Waterway, Mile 89.5	do	Apr. 8, 1985.
COTP New Orleans, LA—85-11	Mississippi River, Mile 0.0	do	Apr. 17, 1985.
COTP Mobile, AL—85-07	Biloxi, MS	do	May 18, 1985.
COTP Port Arthur, TX—85-04	Mermentau River	do	May 18, 1985.
COTP Port Arthur, TX—85-03	Beaumont, TX	Security Zone	May 1, 1985.
COTP New Orleans, LA—85-08	Gulf Intracoastal Waterway, Mile 35	Safety Zone	Mar. 8, 1985.
COTP New Orleans, LA—85-07	Mile 9 Algiers Alternate Route (ICW)	do	Feb. 28, 1985.
COTP New Orleans, LA—85-06	Harvey Locks, Mile 35 (ICW)	do	Feb. 19, 1985.
COTP Mobile, AL—85-02	Panama City Safety Fairway	do	Mar. 12, 1985.
COTP Mobile, AL—85-03	Ft. Walton Beach, FL	do	Mar. 18, 1985.
COTP Mobile, AL—85-04	do	do	Mar. 26, 1985.
COTP Port Arthur, TX—85-02	Beaumont, TX	Security Zone	Mar. 19, 1985.
9-85-04	Maumee River	Special Local Regulation	May 25, 1985.
COTP San Diego, CA—85-09	San Diego Bay, CA	Security Zone	June 13, 1985.
COTP LA/LB—85-07	Los Angeles Harbor	Safety Zone	May 27, 1985.
11-85-09	Parker, AZ	Special Local Regulation	June 22, 1985.
COTP San Diego, CA—85-08	San Diego Bay & Coronado Reads, CA	Security Zone	June 14, 1985.
COTP LA/LB—85-06	Los Angeles/Long Beach Harbor	do	Apr. 10, 1985.
11-85-04	Laughlin, NV	Special Local Regulation	May 4, 1985.
11-85-01	Newport, CA	do	Apr. 27, 1985.
COTP San Diego, CA—85-07	San Diego Bay, CA	Security Zone	Apr. 15, 1985.
COTP San Francisco, CA—85-01	San Francisco Bay	Safety Zone	May 28, 1985.
COTP Portland, OR—85-01	Columbia River	do	May 29, 1985.
13-85-11	Seattle, WA	Special Local Regulation	May 18, 1985.

Dated: July 24, 1985.

C.M. Holland,

Captain, U.S. Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 85-17897 Filed 7-26-85; 8:45 am]

BILLING CODE 4910-14-M

VOL 50 ISS 145 JL 29 1985 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Region II Docket No. 54 A-2-FRL-2870-4]

Designation of Areas for Air Quality Planning Purposes; Revision to Section 107 Attainment Status Designations for New York State

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Environmental Protection Agency's approval of a request from New York State to revise the air quality designation of the Town of Waterford in the Hudson Valley Air Quality Control Region from "does not meet national standards" to "better than national standards" with regard to the carbon monoxide national ambient air quality standards. Such designations are required by section 107(d) of the Clean Air Act and may be revised at the request of a state. This action will mean that air quality in all of New York State, except the New York City Metropolitan Area, and a small protion of Syracuse, will be designated as being "better than" the carbon monoxide standards.

EFFECTIVE DATE: This action becomes effective July 29, 1985.

ADDRESSES: Copies of the proposal submitted by New York State are available for public inspection during normal business hours at the following addresses:

Environmental Protection Agency, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York, 12233

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agenoy, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of national ambient air quality standard attainment status designations for all areas within the state. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 8962). As authorized by the Clean Air Act, these designations have been revised from time to time at a state's request.

On August 13, 1984, the New York State Department of Environmental Conservation submitted a request to revise the air quality designation of the Town of Waterford in the Hudson Valley Air Quality Control Region from "does not meet national standards" to "better than national standards" with regard to attainment of the carbon monoxide national ambient air quality standards.

In the February 25, 1985 issue of the **Federal Register** (50 FR 7620) EPA advised the public that, based on its review of the technical material submitted by the State, it was proposing to approve the requested redesignation. The reader is referred to this February 25, 1985 notice for a detailed description of the State's submittal and EPA's criteria for review. No comments were received by EPA during its comment period, which ended on March 27, 1985.

EPA is today approving the redesignation request submitted by New York State. The request has been found to meet the requirements of sections 107 and 301 of the Clean Air Act and applicable EPA guidelines.

Today's action is being made effective immediately because a redesignation to attainment imposes no new or additional regulatory requirements and delay would serve no useful purpose.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within sixty days of today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: July 22, 1985.

Lee M. Thomas,

Administrator, Environmental Protection Agency.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Title 40, Chapter I, Subchapter C, Part 81, Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 is revised to read as set forth below and the authority citations following all the sections in Part 81 are removed:

Authority: 42 U.S.C. 7401-7642.

2. Section 81.333 is amended by revising the carbon monoxide attainment status designation table as follows:

In the table labeled "New York—CO" revise the entire entry for the Hudson Valley AQCR as follows:

NEW YORK—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Hudson Valley AQCR.	.....	X

[FR Doc. 85-17876 Filed 7-26-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-3-FRL-2870-6]

Designation of Areas for Air Quality Planning Purposes; Commonwealth of Pennsylvania; Section 107 Redesignation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing the approval of a request from the Commonwealth of Pennsylvania to redesignate Allegheny County from "Cannot Be Classified" to a "Better than National Standards" status with respect to the National Ambient Air Quality Standards (NAAQS) for nitrogen dioxide (NO_2). This change is based upon eight consecutive quarters of air quality monitoring data showing attainment.

EFFECTIVE DATE: This rule will become effective August 28, 1985.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Denis M. Lohman

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, 18th Floor Fulton Building, Harrisburg, PA 17120, Attn: Gary L. Triplett

Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, PA 15201, Attn: Roger C. Westman

FOR FURTHER INFORMATION CONTACT: Denis Lohman (3AM11) at the EPA, Region III address above or telephone (215) 597-8375.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act, the Administrator of EPA has promulgated the NAAQS attainment status for all areas within each state (see, 43 FR 8962 (March 3, 1978)). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

Background

Allegheny County is presently designated as "Cannot Be Classified" for NO_2. This designation was promulgated because there were no NO_2 monitors in the County upon which an attainment designation could be based. The Allegheny County Bureau of Air Pollution Control (BAPC) installed and operated two monitors at locations approved by EPA. One location (Downtown) selected was the central business district of Pittsburgh. The second location (Lawrenceville) was an area of mixed residential, commercial and industrial character outside of and downwind of the central business district.

By the end of the third quarter of 1984 eight consecutive quarters of data, meeting the EPA completeness criteria, had been collected at Lawrenceville. At the Downtown site the latest five quarters of data met the completeness criteria. The remaining data were slightly less complete than required. The data at both sites were consistent with all quarterly averages were well below the NAAQS for NO_2.

On December 24, 1984, the Pennsylvania Department of Environmental Resources submitted a request to redesignate Allegheny County to "Better Than National Standards" with respect to NO_2. Also submitted for consideration was the fact that emissions of nitrogen oxides, from mobile sources, were expected to decrease with implementation of the Federal Motor Vehicle Control Program. In addition, there were no known plans for expansion or construction of major NO_2 emission sources.

EPA, on March 28, 1985, published a Proposed Rulemaking Notice at 50 FR 12341 approving the redesignation request and soliciting public comment. No comment for or against the proposed redesignation have been received.

Conclusion

EPA has determined that the requirements for redesignation under section 107 have been satisfied. Therefore, EPA is today approving Pennsylvania's request to redesignate Allegheny County to "Better Than National Standards" status for NO_2 (40 CFR 81.339). All other section 107 redesignations for the Commonwealth of Pennsylvania remain intact.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas, Intergovernmental relations.

Authority: See 107, Clean Air Act (42 U.S.C. 7407).

Dated: July 22, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85-17877 Filed 7-26-85; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Amdt. G-73]

Transportation Documentation and Audit: Revision of Government Bill of Lading Forms

AGENCY: Office of the Comptroller, GSA.

ACTION: Final rule.

SUMMARY: This rulemaking adopts changes to the U.S. Government Bill of Lading (GBL). Three changes are made to Standard Form (SF) 1103, two changes to SF 1109, and one change is made to SF 1203.

Regarding the revised content and format of SF 1103 and SF 1109, there have been many changes in transportation practices and data collection procedures since thes forms were last revised (March 1977). The new GBL eliminates obsolete information blocks, adds new information blocks, and revises format to provide Federal agencies with a form which will be more useful both as a transportation document and as a computer source document.

Regarding the changed sequence of Memorandum Copies in the GBL set and SF 1109 set, fiscal and administrative officers have informed the General Services Administration (GSA) that memorandum copies (SF 1103-A and SF 1109-A) are illegible and unsuitable for photo copying and microfilming. One copy of SF 1103-A and SF 1109-A have been moved to the third position, to permit clearer copies that will yield more legible photo copies and microfilm images.

Regarding the Revised Terms and Conditions section of SF 1103 and SF 1203, the Terms and Conditions section of SF 1103 and SF 1203 are amended by adding a statement that interest on overcharges will accrue from the voucher payment date.

EFFECTIVE DATE: July 29, 1985.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures and Review Branch, Office of Transportation Audits, (202) 786-3014 or (FTS) 786-3014.

SUPPLEMENTARY INFORMATION:

Background

A Notice of Proposed Rulemaking (NPRM) to change the content and format of SF 1103, SF 1109, and SF 1131 was published in the **Federal Register** (FR) of August 24, 1981 (46 FR 42886). Subsequent to that date, GSA proposed cancelling SF 1131 because of low usage by Federal agencies. A NPRM was published on October 13, 1983 (48 FR 46554), and absent negative comments, a final rule was published on April 10, 1984 (49 FR 14105), cancelling SF 1131 effective the same date. A NPRM to change the order of forms in the GBL set by moving the last SF 1103-A, Memorandum Copy, to the third position in the set was pubished on April 22, 1983 (48 FR 17360). SF 1109 is a continuation form (§ 101-41.302-2(d)), used for listing information when there is no room left on the SF 1103. It was inadvertentiy omitted from the NPRM and is included in this regulation change.

A NPRM to amend the Terms and Conditions section of SF 1103 by adding

a statement that interest on overcharges will accrue from the voucher payment (block 26B's intended purpose). Since associations questioned the propriety of

payment, reducing the probability of post payment claims. However, section 322 of the Transportation Act of 1940, as

from the regulations pertaining to SF 1103 (Revised 3-77), SF 1109 (Revised 3-

(1) SF 1103 (original), which refers to Subpart 101-41.3 for the terms and

VOL 50 ISS 145 JL 29 1985 UMI

a statement that interest on overcharges will accrue from the voucher payment date was published on April 10, 1984 (49 FR 14147). The NPRM did not mention SF 1203 which is often substituted for the SF 1103 in the movement of privately owned personal property. It, too, has been included in this regulation change.

Amendment G–68 to 41 CFR 101–41 cancelled SF 1172, Certificate in Lieu of Lost U.S. Government Transportation Request in Section 101–41.202. This amendment deletes an SF 1172 listing which had been inadvertently retained.

The General Services Administration has determined that this rule is not a major rule for the purposes of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Discussion of Major Comments. The following summarizes major comments, suggestions, and our determinations and actions taken.

Four responses were received from Federal agencies, and one response was received from a carriers' association concerning the NPRM changing the format of SF 1103. One agency response asked that the GBL be revised to permit consignees to certify carrier performance of special services. Both the current and proposed SF 1103's already instruct the carrier to annotate if special services are ordered and not performed. In addition, carrier self certification of delivery, a practice which has been in effect for many years, removes the consignee from the certification process. This, in our opinion, makes the suggester's proposal impractical, and it has not been adopted. Another agency response asked that several terms used on the front of the GBL be defined on the back of that form. Because of limited space on the GBL, we will publish these definitions in an updated instruction manual after this final rule becomes effective. A third agency response asked that we change the caption of block 26B from "PER" to "PCS" because carriers sometimes use this block to indicate the number of pieces in a shipment instead of entering the carrier agent's initials (block 26B's intended purpose). Since the agent's initials are useful in establishing legal custody of the shipment, this suggestion has not been adopted. The fourth response from Federal agencies suggested enlarging various data blocks to accommodate more information. We have adopted this suggestion. The carriers' association proposed numerous changes to the size and location of data blocks. We have adopted all of the carriers' association's proposed changes except for those concerning blocks 22, 23, and 24. The association asked that these three blocks be kept in the same location as on the current GBL so as not to confuse carrier employees familiar with the standard layout of current GBL's and commercial bills. GSA has resdesigned the GBL so that transportation management data can be processed by Government agencies in a more orderly and efficient manner. The layout of information on the proposed GBL corresponds to the order in which that information is to be entered into DOD's automated data management system. For that reason, DOD (the largest user of GBL's) opposes moving blocks 22, 23, and 24 back to their original location. DOD believes carrier employees will adapt to the new GBL format without causing any significant delays or misroutings of Government shipments. We believe there will be sufficient time between adoption of this rule and the printing and distribution of the revised SF 1103 for carriers to train their employees on how to handle the revised GBL, and that relocating the three blocks in question to their former positions is not in the best interest of the Government.

No responses were received to that portion of our NPRM changing the format of SF 1109, and we are adopting that change as proposed.

We received no responses to our NPRM changing the sequence of Memorandum Copies in SF 1103. We are adopting that change as proposed and are making a similar change to SF 1109.

We received five timely comments to our NPRM adding interest assessment provisions to the Terms and Conditions section of SF 1103/1203: three carriers' associations (associations), one household goods carrier (carrier), and one Federal agency..

One association objected to GSA assessing interest on overcharges, arguing that the Debt Collection Act of 1982 (the Act), Pub. L. 97–365, *et seq.*, provides for a waiver of interest payment if the claim is paid by the debtor within (30) days after the date from which interest accrues (Paragraph 5 of Section 11 of the Act). All three associations questioned the propriety of assessing interest from the voucher payment date. They contended that GSA has misapplied the Act by assessing interest from the voucher payment date instead of the date of the notice of overcharge (claim) is mailed to the carrier (Paragraph 5 of Section 11 of the Act (96 Stat. 1755–56), (31 U.S.C. 3717(b)(2)). GSA's position is that under the contract terms of the revised GBL form, as provided in accordance with Paragraph 3 of Section 11 of the Act, the contract terms of the revised GBL form and not Paragraph 5 of Section 11 of the Act will apply as to interest on overcharges on transportation services whenever the revised GBL form is used. However, the provisions of Paragraph 5 of Section 11 will apply when the old GBL form is used. Since the GBL, as revised in this rulemaking, explicitly fixes assessment of interest charges, it is specifically excepted from the interest and penalty provisions of the Act. See 31 U.S.C. 3717(g)(1).

One association further alleged that our proposal exceeds GSA's identified statutory authority under the terms of Administrative Procedure Act (5 U.S.C. 553), does not comply with the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), and does not establish which interest rate published by the Secretary of the Treasury will apply. GSA believes this rulemaking is clearly within its identified statutory authority and that arguments to the contrary, based on the Administrative Procedure Act (5 U.S.C. 553), have no merit because of the exemption for government contract matters in that Act (5 U.S.C. 553(a)(2)). Similarly this rulemaking is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 603 (a)) since its applicability is subject to the contract exception provisions of 5 U.S.C. 553(a)(2).

A question may exist as to when interest accrues under the Terms and Conditions statement specified in our NPRM. To make the interst dates specific, we have revised the statement by adding:

> Interest shall accrue from the voucher payment date on overcharges made hereunder and shall be paid at the same rate *in effect on thot date as* published by the Secretary of the Treasury pursuant to the Debt Collection Act of 1982.

Two associations argued that a combination of interest from voucher payment date plus GSA's backlog of unaudited documents would work an economic hardship on the transportation industry. Normal commercial business practices permit disbursing offices to examine and amend bills before

payment, reducing the probability of post payment claims. However, section 322 of the Transportation Act of 1940, as amended, 31 U.S.C. 3726, requires Government finance offices to pay bills for the transportation of persons or property upon presentation and prior to audit or settlement. This unique provision enables carriers to receive immediate payment for transportation services. Therefore, the delay in auditing, cited by the associations as an argument against assessing interest from voucher payment date, presently works in the carrier's favor by permitting them the use of amounts collected through overcharges without financial penalty, from the voucher payment date, until such time as the Government presents a claim.

The household goods carrier recommended that refunds (negative currency adjustments) not be subject to interest assessment until 90 days after the effective date of applicable tariff charges. This, it was argued, would allow carriers time to receive currency adjusted tariffs issued by the Government and post audit billing documents. The carrier also asked that reweigh and negative currency adjustments recognized by the carrier in supplemental billings or payments not be subject to interest charges. The carrier's concern that it be assessed interest on the adjusted amount rather than the original amount billed is beyond the scope of this rulemaking. GSA matches supplemental bills with original paid bills during its audit and bases its overcharge claims on the adjusted amounts. Any questions the carrier may have on specific overcharges will be handled directly with the carrier, separate from this rulemaking. Finally, the carrier expressed the opinion that any funds withheld based upon erroneous set-off action taken by the Government against a carrier should be returned to the carrier with interest. Consideration of that suggestion is beyond the scope of this rulemaking. There is no provision of law which permits payment of interest under such circumstances.

The Federal agency, in endorsing the proposed rulemaking, noted that the rule would protect the Government from situations where, as a result of overcharges, carriers have free use of the Government's money for considerable periods of time.

Exception to regulations. 41 CFR 101–11.806 states that any exception or deviation granted to a Standard Form is voided when that Standard Form is revised. Therefore, agencies that have been granted an exception to deviate from the regulations pertaining to SF 1103 (Revised 3–77), SF 1109 (Revised 3–77), and SF 1203 (7–79) must refile for an exception with GSA (BWC), if they wish to continue their exception with these new revisions of SF 1103, SF 1109, and SF 1203.

List of Subjects in 41 CFR Part 101–41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Moving of household goods, Railroads, Transportation.

Title 41, Part 101–41 of the Code of Federal Regulations is amended as follows:

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The authority citation for Part 101–41 continues to read as follows:

> **Authority:** 31 U.S.C. 3726, and 40 U.S.C. 486(c).

2. The table of contents for Part 101–41 is amended by revising the entries for §§ 101–41.302–2 and 101–41.302–5 as follows:

Sec.
101–41.302–2 Description and distribution of Government bills of lading.
101–41.302–5 Pickup and delivery services.

Subpart 101–41.2—Passenger Transportation Services Furnished for the Account of the United States.

3. Section 101–41.202 is amended by revising the introductory and paragraph and removing paragraph (h) as follows:

§ 101–41.202 Standard Forms related to passenger transportation.

The Standard Forms listed in paragraphs (a) through (g) of this section are prescribed for use in connection with the procurement of passenger transportation services for the account of the United States.

* * * * *

Subpart 101–41.3—Freight Transportation Services Furnished for the Account of the United States

4. Section 101–41.302–2 is revised as follows:

§ 101–41.302–2 Description and distribution of Government bills of lading.

(a) The U.S. Government bill of lading (GBL) consists of six basic forms and is available in sets of seven or nine parts, depending on the number of memorandum copies needed. The sets are carbon-interleaved for simultaneous preparation. The GBL set is arranged in the following order.

(1) SF 1103 (original), which refers to Subpart 101–41.3 for the terms and conditions of the contract of transportation and contains both the description of the articles comprising the shipment and the certificate of delivery is given to the carrier upon tender of shipment for use as supporting documentation with the voucher covering the transportation charges involved.

(2) SF 1104 (shipping order) is retained by the carrier's agent at the shipping point.

(3) SF 1103–A (memorandum copy) for use by the shipper for fiscal or administrative purposes.

(4) SF 1105 (freight waybill (original)) accompanies the shipment or is otherwise sent to destination in compliance with origin carrier's instructions. It also serves as the substitute billing document when the original GBL is lost.

(5) SF 1106 (freight waybill (carrier's copy)) is for disposition by the carrier.

(6) SF 1103–A (memorandum copy), of which there are two or four copies, is for use by the shipper for fiscal and administrative purposes.

(7) SF 1103–B (memorandum copy-consignee) is sent to the consignee immediately after surrender of the original to the initial carrier.

(b) [Reserved]

(c) The U.S. Government bill of lading, privately owned personal property, is a nine-part form available in either snapout or computer pinfeed formats. This set (SF 1203 through SF 1206) is arranged in the same order as the GBL set, except that the first of the SF 1203–A's (memorandum copies) is in the fifth position rather than the third position of the set. Distribution of the individual parts of SF 1203 is the same as that for SF 1103, except for the memorandum copy-consignee (property owner) which is furnished to the consignee (property owner) by the origin carrier or its agent at the time of pickup of the shipment.

(d) The GBL continuation sheets (SF 1109 through 1112) are also available in seven- or nine-part sets and are arranged in order corresponding to the GBL sets. The continuation sheets are for use with the regular GBL and the personal property GBL.

(e) Separate sheets of the memorandum copy (SF 1203–A) are available to Government agencies for addition to the nine-part SF 1203 set.

5. Section 101–41.302–4 is amended by revising paragraph (c)(1) as follows:

§ 101–41.302–4 General instructions for the preparation of GBL's and common problem areas.

§ 101–41.303–2 Conversion of commercial bills of lading.

(a) * * *

concerned with a check for any amount due the United States.

10. Section 101–41.306 is amended by

Billing" section on the face of SF 1103 or SF 1203.

§ 101–41.4901–1103–B Standard Form 1103–B, U.S. Government Bill of Lading

§ 101–41.4901–1112 Standard Form 1112, U.S. Government Freight Waybill

§ 101–41.302–4 General instructions for the preparation of GBL's and common problem areas.

* * * * *

(c) *Common problem areas.* (1) The "For Use of Billing Carrier Only" section is reserved for recording certain data by the accounting officer of the billing carrier and must not be covered by marks or writing by others handling the GBL. This boxed section on the memorandum copies of the GBL form is available to the issuing officer for showing estimated transportation charges and such accounting classifications as may be required.

* * * * *

6. Section 101–41.302–5 is revised as follows:

§ 101–41.302–5 Pickup and delivery services.

(a) Pertinent sections on the GBL indicating that the carrier furnished pickup service at origin shall be completed and initialed by the shipper or shipper's agent. In certain instances the tariff covering this service provides charges that are in addition to the line-haul rate or charges.

(b) When a shipper or consignee so requests and if the carrier furnishes delivery service at destination in connection with a less-than-carload or an any-quantity rail shipment or on shipments by other modes of transportation, the carrier shall check the appropriate box in the "Certificate of Carrier Billing" section on the GBL.

7. Section 101–41.302–6 is amended by revising paragraph (a) as follows:

§ 101–41.302–6 Special services.

(a) Additional information or facts necessary to support higher charges resulting from accessorial or special services ordered and furnished incident to the line-haul transportation shall be inscribed on the face of the GBL in the section designated "Marks and Annotations" or on the reverse side of the GBL beneath the caption "Special Services Ordered." The inscription shall contain the name of the carrier upon whom the request was made and the kind and scope of services ordered and shall be signed by or for the person ordering the services. If such an inscription is impractical, a statement containing the information and bearing the number of the covering GBL and signed by or for the person who ordered the services will be acceptable.

* * * * *

8. Section 101–41.303–2 is amended by revising paragraph (a)(1) and (a)(2) as follows:

§ 101–41.303–2 Conversion of commercial bills of lading.

(a) * * *

(1) When the origin carrier requires the original commercial document, the shipper shall surrender it to the initial carrier's agent for his certification as follows:

INITIAL CARRIER'S AGENT, BY SIGNATURE BELOW, CERTIFIES THAT HE RECEIVED THE ORIGINAL OF THIS DOCUMENT

The certification shall be written on the original and all copies of the commercial bill of lading or commercial express receipt, and a memorandum copy thereof shall be returned to the shipper for forwarding to the authorizing agency. The authorizing agency receiving the properly certified memorandum copy of the commercial bill of lading or commercial express receipt shall issue or cause to be issued a GBL, forward the GBL promptly to the origin carrier for transmittal to the billing carrier, and retain the memorandum copy of the commercial document. The billing carrier, having received both the original commercial document and the GBL from the origin carrier, shall execute the "Certificate of Carrier Billing" on the GBL, cross-reference both original documents, securely attach them together, and use the documents to support its billing.

(2) When the origin carrier does not require the original commercial document, the shipper shall obtain the signature of the origin carrier's agent on the original and all copies and immediately forward the original to the agency that authorized the shipment. The authorizing agency shall issue or cause to be issued a GBL for the shipment involved. The original commercial document and the issued GBL, properly cross-referenced and securely attached together, shall then be forwarded to the origin carrier for transmittal to the billing carrier for execution of the "Certificate of Carrier Billing" and preparation of the SF 1113.

* * * * *

9. Section 101–41.305–3 is revised to read as follows:

§ 101–41.305–3 GBL's covering free or surrendered transit.

A GBL covering free or surrendered transit is issued for use with an outbound shipment from the transit installation where the line-haul charge to the transit installation equals or exceeds the through transportation charge plus the transit charge. After completing the "Certificate of Carrier Billing" section of the GBL covering free transit, the billing carrier shall attach the GBL to an SF 1113 bearing the carrier's bill number and submit both forms to the paying office of the agency concerned with a check for any amount due the United States.

10. Section 101–41.306 is amended by revising paragraphs (a) and (c) as follows:

§ 101–41.306 Disposition of GBL forms upon delivery of property to carrier for shipment.

(a) The shipper (issuing officer or contractor) shall surrender the original GBL, shipping order, freight waybill (original), freight waybill (carrier's copy), and comparable copies from continuation sheets, if any, to the initial carrier's agent at the time the shipment is tendered. The carrier's agent shall acknowledge receipt of the shipment and of the original GBL and copies by inserting in the designated spaces on the lower left side of the original GBL and on all copies of the GBL the pickup date and his signature. The initials of the agent's representative shall be entered under the "Per" heading if appropriate.

* * * * *

(c) On local or single-line movements, the carrier shall retain the original GBL for use as support for billing of charges after properly executing the "Certificate of Carrier Billing." On interline or intermodal movements, except those falling under the procedures in § 101–41.312, the origin and the interline carriers shall transmit the original GBL to the last line-haul carrier authorized to bill the charges for execution of the "Certificate of Carrier Billing" on the basis of the delivery documents and for billing of the charges. Carriers must not delay movement or delivery of Government shipments because they have not received the original GBL from the origin or interline carriers.

11. Sections 101–41.307–1 and 101–41.307–2 are revised as follows:

§ 101–41.307–1 Substitute document.

When the original GBL (SF 1103) or original personal property GBL (SF 1203) is lost or destroyed, the billing carrier must use the freight waybill (original) (SF 1105 or SF 1205), properly certified by the carrier, as a substitute document for billing charges. Execution of the "Certification of Carrier Billing" on the substitute document is not required for charges billed under the exception procedures in § 101–41.312.

§ 101–41.307–2 Certification of substitute document.

The billing carrier shall enter on the reverse side of the substitute document a properly executed certificate of delivery showing all information required in the "Certificate of Carrier Billing" section on the face of SF 1103 or SF 1203.

12. Section 101–41.313–1 is amended by revising paragraph (a) as follows:

§ 101–41.313–1 GBL forms.

(a) Agencies may obtain supplies of the individual snapout GBL sets by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. Agencies having facilities for computer preparation of GBL's may order them in continous fanfold format with pinfeed strips attached to the sides, but such forms must conform to all other specifications on the GBL, including overall size, wording, arrangement, color, construction, and grade of paper. Minor adjustments in spacing to accommodate differences in alignment of computer line printing are permissible, but all copies in the GBL sets must register from part to part. Agency orders for continuous fanfold GBL's shall be executed and processed in accordance with § 101–26.302 of this chapter. The National Capital Region, regional office of Federal Supply and Services, Supply Division (WFSI) Washington, D.C. 20407 of GSA maintains records of the serial numbers of all GBL and personal property GBL sets furnished and the names and mailing addresses of the receiving agencies.

* * * * *

13. Section 101–41.401 is amended by revising paragraph (d)(1) as follows:

§ 101–41.401 Payment upon presentation of bills.

* * * * *

(d) * * *

(1) For freight transportation (other than that excepted under § 101–41.312 of this part), the "Certificate of Carrier Billing" on the GBL has been properly executed by the carrier; and

* * * * *

14. Sections 101–41.4901–1103 through 101–41.4901–1112 are revised as follows:

§ 101–41.4901–1103 Standard Form 1103, U.S. Government Bill of Lading (Original).

(a) Page 1 of Standard Form 1103.

(b) Page 2 of Standard Form 1103.

Note.—The form illustrated in this § 101–41.4901–1103 is filed with the original document and does not appear in this volume.

§ 101–41.4901–1103–A Standard Form 1103–A, U.S. Government Bill of Lading (Memorandum Copy).

Note.—The form illustrated in this § 101–41.4901–1103–A is filed with the original document and does not appear in this volume.

§ 101–41.4901–1103–B Standard Form 1103–B, U.S. Government Bill of Lading (Memorandum Copy—Consignee).

(a) Page 1 of Standard Form 1103–B.

(b) Page 2 of Standard Form 1103–B.

Note.—The form illustrated in this § 101–41.4901–1103–B is filed with the original document and does not appear in this volume.

§ 101–41.4901–1104 Standard Form 1104, U.S. Government Bill of Lading (Shipping Order).

Note.—The form illustrated in this § 101–41.4901–1104 is filed with the original document and does not appear in this volume.

§ 101–41.4901–1105 Standard Form 1105, U.S. Government Freight Waybill (Original).

Note.—The form illustrated in this § 101–41.4901–1105 is filed with the original document and does not appear in this volume.

§ 101–41.4901–1106 Standard Form 1106, U.S. Government Freight Waybill (Carrier's Copy).

Note.—The form illustrated in this § 101–41.4901–1106, is filed with the original document and does not appear in this volume.

§ 101–41.4901–1109 Standard Form 1109, U.S. Government Bill of Lading Continuation Sheet (Original).

Note.—The form illustrated in this § 101–41.4901–1109 is filed with the original document and does not appear in this volume.

§ 101–41.4901–1109–A Standard Form 1109–A, U.S. Government Bill of Lading Continuation Sheet (Memorandum Copy).

Note.—The form illustrated in this § 101–41.4901–1109–A is filed with the original document and does not appear in this volume.

§ 101–41.4901–1109–B Standard Form 1109–B, U.S. Government Bill of Lading Continuation Sheet (Memorandum Copy-Consignee).

Note.—The form illustrated in this § 101–41.4901–1109–B is filed with the original document and does not appear in this volume.

§ 101–41.4901–1110 Standard Form 1110, U.S. Government Bill of Lading Continuation Sheet (Shipping Order).

Note.—The form illustrated in this § 101–41.4901–1110 is filed with the original document and does not appear in this volume.

§ 101–41.4901–1111 Standard Form 1111, U.S. Government Freight Waybill Continuation Sheet (Original).

Note.—The form illustrated in this § 101–41.4901–1111 is filed with the original document and does not appear in this volume.

§ 101–41.4901–1112 Standard Form 1112, U.S. Government Freight Waybill Continuation Sheet (Carrier's Copy).

Note.—The form illustrated in this § 101–41.4901–1112 is filed with the original document and does not appear in this volume.

15. Sections 101–41.4901–1203 through 101–41.4901–1206 are revised as follows:

§ 101–41.4901–1203 Standard Form 1203, U.S. Government Bill of Lading—Privately Owned Personal Property (Original).

(a) Page 1 of Standard Form 1203.

(b) Page 2 of Standard Form 1203.

Note.—The form illustrated in this § 101–41.4901–1203 is filed with the original document and does not appear in this volume.

§ 101–41.4901–1203–A Standard Form 1203–A, U.S. Government Bill of Lading—Privately Owned Personal Property (Memorandum Copy).

Note.—The form illustrated in this § 101–41.4901–1203–A is filed with the original document and does not appear in this volume.

§ 101–41.4901–1203–B Standard Form 1203–B, U.S. Government Bill of Lading—Privately Owned Personal Property (Memorandum Copy-Consignee).

(a) Page 1 of Standard Form 1203–B.

(b) Page 2 of Standard Form 1203–B.

Note.—The form illustrated in this § 101–41.4901–1203–B is filed with the original document and does not appear in this volume.

§ 101–41.4901–1204 Standard Form 1204, U.S. Government Bill of Lading—Privately Owned Personal Property (Shipping Order).

Note.—The form illustrated in this § 101–41.4901–1204 is filed with the original document and does not appear in this volume.

§ 101–41.4901–1205 Standard Form 1205, U.S. Government Freight Waybill—Privately Owned Personal Property (Original).

Note.—The form illustrated in this § 101–41.4901–1205 is filed with the original document and does not appear in this volume.

§ 101–41.4901–1206 Standard Form 1206, U.S. Government Freight Waybill—Privately Owned Personal Property (Carrier's Copy).

Note.—The form illustrated in this § 101–41.4901–1206 is filed with the original document and does not appear in this volume.

May 8, 1985.

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85–17590 Filed 7–26–85; 8:45 am]

BILLING CODE 6820–AM–M

41 CFR Part 101–41

[FPMR Amdt. G–74]

Transportation Documentation and Audit: Revision of Standard Form 1169, U.S. Government Transportation Request

AGENCY: Office of the Comptroller, GSA.

ACTION: Final rule.

SUMMARY: This rulemaking amends the Federal Property Management Regulations (FPMR) Part 101–41 by changing the "CONDITIONS" section on the back of the Standard Form (SF) 1169, U.S. Government Transportation Request (GTR) (Original): (1) To incorporate a reference to the Code of Federal Regulations (CFR) as part of the contract of carriage, (2) to delete the non-discrimination clause reference to "Executive Order 11375" as the amending authority and substitute "as amended," and (3) to add a provision to advise the carrier industry that interest will be assessed on overcharges issued by the Office of Transportation Audits in connection with GTR procured travel. Incorporation of the CFR reference is to make clear that the CFR governs the use of the GTR. Specific reference to Executive Order 11375 is considered unnecessary because the basic document has been amended many times and the term "as amended" is considered sufficient for legal purposes. This revision incorporates interest assessment provisions on the GTR.

EFFECTIVE DATE: July 29, 1985.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Review Branch, Office of Transportation Audits (202) 786–3014 or (FTS) 786–3014.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in: an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society. This amendment expressly incorporates a reference (which was previously implied) to Title 41 of the Code of Federal Regulations (CFR) on the GTR. The regulation will now become a part of the contract of carriage which results when the GTR is utilized.

Background

A Notice of Proposed Rulemaking (NPRM) to revise the "Conditions" section of SF 1169 (GTR) was published in the **Federal Register** (FR) of April 10, 1984 (49 FR 14147).

Discussion of Major Comments

The following summarizes major comments, suggestions, and our determination and action taken.

No comments were received concerning the incorporation of a reference to the CFR and the deletion of the reference to "Executive Order 11375."

We received three timely comments to that portion of our NPRM adding interest assessment provisions to the Terms and Conditions section of SF 1169, two from carriers' associations (associations) and one from a Federal agency.

One association objected to GSA assessing interest on overcharges, arguing that the Debt Collection Act of 1982 (the Act), 31 U.S.C. 3716, et seq., provides for a waiver of interest payment, if the claim is paid by the debtor within thirty (30) days after the date from which interest accrues (31 U.S.C. 3717(d)). Both associations questioned the propriety of assessing interest from the voucher payment date. They contended that GSA has misapplied the Act by assessing interest from the voucher payment date instead of the date the notice of overcharge (claim) is mailed to the carrier (31 U.S.C. 3717(b)(2)). GSA's position is that under the contract terms of the revised GTR form, as provided in accordance with 31 U.S.C. 3717(g)(1), the contract terms of the revised GTR form and not 31 U.S.C. 3717(d) will apply as to interest on overcharges on transportation services whenever the revised GTR form is used. However, the provisions of 31 U.S.C. 3717(d) will apply when the old GTR form is used. Since the GTR, as revised in this rulemaking, explicitly fixes assessment of interest charges, it is specifically excepted from the interest and penalty provisions of the Act. See 31 U.S.C. 3717(g)(1). One association further alleged that our proposal violates the Administrative Procedure Act (5 U.S.C. 553), and does not comply with the Regulatory Flexibility Act (5 U.S.C. 601, et seq.). GSA believes this rulemaking does not contravene the Administrative Procedure Act (5 U.S.C. 553), because of the exemption for Government contract matters in that Act (5 U.S.C. 553(a)(2)). Similarly this rulemaking is exempt from the requirements of the Regulatory Flexibility Act (5 U.S.C. 603(a)) since its applicability is subject to the contract exception provisions of 5 U.S.C. 553(a)(2).

The Federal agency, in endorsing the proposed rulemaking, noted that the rule would protect the Government when it is overcharged, because carriers now have free use of the Government's money for considerable periods of time.

We believe a question may exist as to the rate of interest intended to apply to specific overcharges under the Terms and Conditions statement specified in our NPRM. To make the interest rates intended specific, we have revised the interest statement by adding the italicized words. The interest statement will now read:

"Interest shall accrue from the voucher payment date on overcharges made hereunder and shall be paid at the same rate *in effect on that date as* published by the Secretary of the Treasury pursuant to the Debt Collection Act of 1982."

Exception to regulations. 41 CFR 101–11.806–1(a) states that any exception or deviation granted to a Standard form is voided when that Standard form is revised. Therefore, agencies that have been granted an exception to deviate from the regulations pertaining to SF 1169 (Revised 3–77) must refile for an exception with GSA (BWC), if they wish to continue their exception with this new revision of SF 1169.

List of Subjects in 41 CFR Part 101–41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

Title 41, Part 101–41 of the Code of Federal Regulations is amended as follows:

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The authority citation for part 101–41 continues to read as follows:

Authority: 31 U.S.C. 3726, and 40 U.S.C. 486(c).

Subpart 101–41.49—Illustrations of Forms

2. Section 101–41.4901–1169 is revised and a new § 101–41.4901–1169–A is added to read as follows:

§ 101–41.4901–1169 Standard Form 1169, U.S. Government Transportation Request (Original).

(a) Page 1 of Standard Form 1169.
(b) Page 2 of Standard Form 1169.

§ 101–41.4901–1169–A Standard Form 1169–A, U.S. Government Transportation Request (Memorandum Copy).

(a) Page 1 of Standard Form 1169–A.
(b) Page 2 of Standard Form 1169–A.

Note.—The forms illustrated in §§ 101–41.4901–1169 and 101–41.4901–1169–A are filed with the original document and do not appear in this volume.

Dated: June 26, 1985.

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85–17568 Filed 7–26–85; 8:45 am]

BILLING CODE 6820–AB–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 5 and 6

Freedom of Information Act and Privacy Act Fee Schedules

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) is amending its fee schedules for processing Freedom of Information Act and Privacy Act requests.

EFFECTIVE DATE: August 28, 1985.

FOR FURTHER INFORMATION CONTACT: Linda Keener, FOIA/Privacy Specialist, (202) 646–3961.

SUPPLEMENTARY INFORMATION: A proposed rule to revise the fee schedule for processing Freedom of Information Act and Privacy Act requests was published on May 9, 1985, at 50 FR 19551. No comments were received. There is no change in this document from that published in the notice of proposed rulemaking.

This document is not a major rule within the term of Executive Order 12291, nor does it have a significant economic impact on a substantial number of small entities. Hence, no regulatory analyses have been prepared. It deals with administrative matters and has no impact on the environment, and is within categorical exemptions to the preparation of environmental documents required under 44 CFR Part 10. This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 44 CFR Parts 5 and 6

Freedom of Imformation Act, Privacy Act.

Accordingly, 44 CFR Chapter 1, Subchapter A, is amended as set forth below:

PART 5—PRODUCTION OR DISCLOSURE OF INFORMATION

1. The authority citation for Part 5 is revised to read as follows:

Authority: 5 U.S.C. 552, Reorganization Plan No. 3 of 1978; and E.O. 12127.

2. In § 5.46, paragraphs (a)(1), (b)(1) and (b)(2) are amended by revising them to read as follows:

§ 5.46 Fee Schedule.

* * * * *

(a) *Reproduction Fees.* (1) For copies of documents reproduced on a standard office copying machine in sizes up to 8½" × 14", the charge will be $.15 per page. Preprinted materials will be made available at a charge of $.03 per page.

* * * * *

(b) *Search Fee.* (1) The standard search fee for searches spent by employees in the GS–1 to GS–8 grade levels shall be $9.00 per hour or fraction thereof. No search fee will be applicable if the employee spends less than one hour locating relevant records.

(2) When professional staff must be used to search for the requested records because clerical staff would be unable to locate relevant records, the search fee for employees in the GS–9 to GS/GM–14 grade levels shall be $17.00 per hour or fraction thereof and the search fee for employees in the GS/GM–15 and above grade levels shall be $30.00 per hour or fraction thereof. No search fee will be applicable if the employee spends less than one hour locating relevant records.

* * * * *

PART 6—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

3. The authority citation for Part 6 is revised to read as follows:

Authority: 5 U.S.C. 552a, Reorganization Plan No. 3 of 1978; and E.O. 12127.

4. In § 6.85, paragraph (a) is amended by revising it to read as follows:

§ 6.85 Reproduction fees.

(a) For copies of documents reproduced on a standard office copying machine in sizes 8½" × 14", the charge will be $.15 per page. Preprinted materials will be made available at a charge of $.03 per page.

* * * * *

Dated: July 16, 1985.

Louis O. Giuffrida,

Director, Federal Emergency Management Agency.

[FR Doc. 85–17840 Filed 7–26–85; 8:45 am]

BILLING CODE 6718–01–M

LEGAL SERVICES CORPORATION

45 CFR Part 1601

By-Laws of the Legal Services Corporation

AGENCY: Legal Services Corporation.

ACTION: Final Rule; amendment.

SUMMARY: On March 22, 1985, the Legal Services Corporation published, for comment, the proposed amendments to its By-Laws. The comment period ended on April 22, 1985. No comments were received. On May 24, 1985, the Corporation's Board of Directors unanimously voted to adopt, as final, the proposed amendments. The amendments make two major changes to the By-Laws and six minor or technical changes to the By-Laws. The major changes regard the scheduling of meetings, the use of telephonic participation in meetings and special meetings, and emergency proceedings. Six minor changes have been made, including the term of Directors, compensation of Directors and the President of the Corporation, general notice of meetings, executive sessions, and public participation in meetings of the Board.

EFFECTIVE DATE: August 28, 1985.

FOR FURTHER INFORMATION CONTACT: Richard N. Bagenstos, Acting General Counsel, (202) 272–4010.

SUPPLEMENTARY INFORMATION: Due to comments received by the Legal Services Corporation since September, 1984, the Board of Directors, after due deliberation, decided to republish the Corporation's By-Laws that had become effective on May 19, 1984. The By-Laws were republished for comment on January 4, 1985, at 50 FR 495. Comments were received and considered. On March 8, 1985, the Board, acting upon recommendations of its Operations and Regulations Committee, approved proposed amendments of the By-Laws. The proposed amendments were published for comment on March 22, 1985, 50 FR 11518. No comments were received. On May 24, 1985, the Corporation's Board of Directors voted, unanimously, to adopt, as final, the proposed amendments. The exact amendments are noted below on a section-by-section basis.

Section 1601.8(c)

The expiration date of Directors'

addition, the first sentence of § 1601.16 is no longer necessary.

letter and the spirit of the Government in the Sunshine Act

notice shall specify the place, date, and hour of the rescheduled meeting," after

§ 1601.38 [Amended]

13. Section 1601.38 is amended by

final decision within thirty days after completion of the hearing.

VOL 50 ISS 145 JL 29 1985 UMI

Section 1601.8(c)

The expiration date of Directors' terms has been amended. The date July 13, 1984, following the words "the terms of six Directors of the Board shall expire" is changed to July 13, 1987. This change is technical in nature. It recognizes that the date July 13, 1984, has passed and that Directors were not confirmed to fill vacant seats.

Section 1601.14 Compensation

The proposed amendment adds language that recognizes the fact that, presently, compensation of Directors is restricted by language in the appropriations acts under which the Corporation has been funded in recent years. The amendment further recognizes that future appropriations acts or authorizing acts may also contain restrictions on compensation of Directors not contained in the Legal Services Corporation Act of 1974, as amended.

Section 1601.15 Meetings

Three additions have been made, one technical and two substantive.

The technical addition adds the letter "s" to the word "agree" in the first sentence. This change reflects the proper English form of verbs following singular subjects.

Two new sentences have been added to § 1601.15(b). These sentences allow the Board, by majority vote, to reschedule a meeting in advance of the scheduled date of the meeting notice. Notice of such a change must be mailed to each Director at least twenty-one days before the rescheduled date or telegraphed at least fifteen days before such rescheduled date. The notice must specify the place, date, and hour of the rescheduled meeting.

A new paragraph (c) has been added to § 1601.15. This new paragraph allows Directors to participate in meetings by way of conference telephone if a quorum of the Directors are physically present at the meeting. Participation under this section must be by telephone conference call or by any means of communication by which all members of the board may hear one another and by which interested members of the public are able to hear and identify all persons participating in the meeting.

This section allows telephonic participation in all meetings. However, the safeguard of a physically present quorum is added to prevent possible abuse.

Section 1601.16 Special Meetings

The first sentence of this section has been deleted. The deletion reflects the addition of § 1601.15(c). Because of that addition, the first sentence of § 1601.16 is no longer necessary.

Section 1601.19(c)

The amendment provides that general notice of meetings must also be sent to program directors. This addition reflects the Corporation's present practice and is in response to comments received. It ensures that programs will receive timely notice of meetings.

Section 1601.22 Public Meetings; Executive Sessions

The words "to close a meeting or any portion of a meeting" in the first sentence has been replaced with the words "that consideration of a specific matter should be closed". This change is made in response to previous comments received by the Corporation regarding executive sessions. The change clarifies that consideration of specific matters may be closed under the Government in the Sunshine Act.

Section 1601.23 Public Participation

Two additions have been made. The sentence "The Board welcomes written and other communications from members of the public." has been added to the beginning of the section. The word "Other" has been added to the beginning of the last sentence of the section. Both changes respond to previous comments received and reflect the Board's desire to have public input at its meetings. The second change recognizes the Chairman's ability to allow members of the public to address the Board even if they have not been able to request to do so in writing.

Section 1601.24 Emergency Proceedings

This section has been entirely rewritten. Previous comments received expressed the opinion that the section, as originally passed, violated the Government in the Sunshine Act. Several commentators recommended the removal of disrupting members of the public if the disruption prevents the Board from conducting its business. The proposed amendment is the result of a combination of alternatives offered to the Board. The revised section allows the Board, by majority vote, to give the Chairman or presiding officer the authority to have disrupting members of the public removed from the meeting if in the opinion of the Chairman, the Directors are rendered incapable of conducting a meeting by the acts or conduct of such members of the public present.

This proposed amendment give the Board the ability to conduct its business free of disruption while still obeying the letter and the spirit of the Government in the Sunshine Act.

Section 1601.38 Compensation

The words "Except as otherwise provided by Pub. L. 98–166 or subsequent legislation," have been added to the beginning of the section. This addition recognizes the additional restrictions on compensation of the President of the Corporation placed by the appropriations acts under which the Corporation has been operating and that future legislation may contain further restrictions not contained in the Legal Services Corporation Act of 1974, as amended.

List of Subjects in 45 CFR Part 1601

Administrative practice and procedure, Organization and functions (government agencies), Seals and insignias.

PART 1601—[AMENDED]

For the reasons set out above, 45 CFR Part 1601 is amended as follows:

1. The Authority citation for Part 1601 reads as follows:

Authority: Sec. 1006(e), 88 Stat. 387 (42 U.S.C. 2996g(e)).

§ 1601.8 [Amended]

2. Paragraph (c) of § 1601.8 is amended by removing the numeral "1984" after "the terms of six Directors of the Board shall expire on July 13," and inserting in its place the numeral "1987."

§ 1601.14 [Amended]

3. Section 1601.14 is amended by inserting the words "Except to the extent Legal Services Corporation is restricted by Pub. L. 98–166 and 98–411 or subsequent appropriation or authorizing acts," at the beginning of the section before the words "Directors shall be entitled".

§ 1601.15 [Amended]

4. Paragraph (b) of § 1601.15 is amended by adding the letter "s" to the word "agree" following the words "Directors of the Board" in the first sentence.

5. Paragraph (b) of § 1601.15 is further amended by inserting the sentences "In the event a majority of the members of the Board agrees to reschedule a meeting to a date in advance of the scheduled date for such meeting, notice of such rescheduling shall be mailed to each Director at least twenty-one days before the rescheduled date for such meeting or shall be telegraphed or delivered at least fifteen days before such rescheduled date. Every such notice shall specify the place, date, and hour of the rescheduled meeting." after the last sentence of paragraph (b).

6. Section 1601.15 is further amended by adding a new paragraph (c) which reads as follows:

* * * * *

(c) If a quorum of the Directors are physically present at a meeting of the Board, other Directors may participate in a meeting of the Board by means of conference telephone or by any means of communication by which all persons participating in the meeting are able to hear one another and by which interested members of the public are able to hear and identify all persons participating in the meetings.

§ 1601.16 [Amended]

7. Section 1601.16 is amended by removing in its entirety the first sentence of the section.

§ 1601.19 [Amended]

8. Paragraph (c) of § 1601.19 is amended by inserting the words "and the program director" before the words "of every recipient." in the second sentence.

§ 1601.22 [Amended]

9. Section 1601.22 is amended by removing the words "to close a meeting or any portion of a meeting" before the words "to public observation" in the first sentence and inserting in their place the words "that consideration of a specific matter should be closed".

§ 1601.23 [Amended]

10. Section 1601.23 is amended by inserting the sentence "The Board welcomes written and other communication from members of the public." at the beginning of the section.

11. Section 1601.23 is further amended by inserting the word "Other" before the word "Members" in the last sentence of the section and by replacing the capital "M" in "Member" with a lower case "m".

12. Section 1601.24 is revised to read as follows:

§ 1601.24 Emergency proceedings

If, in the opinion of the Chairman, the Directors are rendered incapable of conducting a meeting by the acts or conduct of any members of the public present at the meeting, the Directors may thereupon determine by a recorded vote of the majority of the number of Directors present at the meeting that the Chairman or presiding officer of the Board shall have the authority to have such members of the public who are responsible for such acts or conduct removed from the meeting.

§ 1601.38 [Amended]

13. Section 1601.38 is amended by replacing the initial capital "T" with a lower case "t" and inserting the words "Except as otherwise provided by Pub. L. 98–166, 98–411 or subsequent legislation," at the beginning of the section.

Dated: July 25, 1985.

Richard N. Bagenstos,

Acting General Counsel.

[FR Doc. 85–17831 Filed 7–28–85; 8:45 am]

BILLING CODE 6820–35–M

45 CFR Part 1606

Procedures Governing Termination of Financial Assistance

AGENCY: Legal Services Corporation.

ACTION: Amendment of rule.

SUMMARY: The Corporation's regulation governing termination of financial assistance is amended to conform to the requirements of Pub. L. 98–411, the appropriations bill under which the Corporation is presently funded. The amendments change the time limits in the current rule to conform to the time limits mandated by the appropriations bill. The amendments are technical in nature. Because the amendments are mandated by an act of Congress, the changes merely bring the regulations into conformity with current law, and no comments are required. Therefore, the amendments shall become effective thirty days from publication.

EFFECTIVE DATE: August 28, 1985.

FOR FURTHER INFORMATION CONTACT: Richard N. Bagenstos, Acting General Counsel, (202) 272–4010.

SUPPLEMENTARY INFORMATION: Pub. L. 98–411, which appropriates the Corporation's funding for 1985, incorporated language from Pub. L. 98–166, which set new requirements for termination of financial assistance proceedings. The Corporation has been following the time limits established by Congress in practice. These technical amendments are adopted to conform the language of the rule to the mandate of Congress, and to the practice of the Corporation.

The appropriations bill requires that a request for a hearing shall be made within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding or suspend financial assistance and that the hearing shall be conducted within thirty days after receipt of such request for a hearing. The appropriations bill also requires that the Corporation make its final decision within thirty days after completion of the hearing.

These Congressional mandated require three changes in the existing regulation. The first amendment occurs in § 1606.4(b). The recipient is given thirty days within which to request a hearing after receiving the preliminary determination to defund. The second amendment occurs in § 1606.9(a). The time limit for setting the hearing is reduced from forty-five days to thirty days after the notice required by § 1601.6. Finally, § 1606.13(c) is amended to require the President to make his final decision within thirty days of the completion of the hearing.

Because these amendments are mandated by Congress, the Corporation has no discretion in amending its rules. Publishing the amendments in proposed form and soliciting comments thereon would be a meaningless exercise. Therefore, the technical amendments are being published in final form to become effective thirty days from date of publication.

List of Subjects in 45 CFR Part 1606

Administrative practice and procedure, Legal Services.

For the reasons set forth in the preamble, 45 CFR Part 1606 is amended as follows:

PART 1606—[AMENDED]

1. The Authority citation for Part 1606 continues to read as follows:

Authority: Sec. 1006(b) (1) and (3), 1007(a)(1), 1007(a)(3), 1007(a)(9), 1007(d), 1006(e), 1011 Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996e(b) (1) and (3), 2996f(a) (1), (3), and (9), 2996f(d), 2996g(e), 2996j); and Pub. L. 98–411.

§ 1606.4 [Amended]

2. Section 1606.4(b) introductory text is amended by removing the numeral "10" and inserting in its place the numeral "30" before the words "days of receipt of the preliminary determination".

§ 1606.9 [Amended]

3. Section 1606.9(a) is amended by removing the numeral "45" and inserting in its place the numeral "30" before the words "days after the notice required by § 1606.16".

§ 1606.13 [Amended]

4. Section 1606.13(c) is amended by removing the words "and normally within 30 days" and inserting in their place the words "but not later than 30

days after the completion of the hearing."

Dated: July 24, 1985.

Richard N. Bagenstos,

Acting General Counsel.

[FR Doc. 85–17832 Filed 7–28–85; 8:45 am]

BILLING CODE 6820–35–M

45 CFR Part 1625

Denial of Refunding

AGENCY: Legal Services Corporation.

ACTION: Amendment of rule.

SUMMARY: The Corporation's regulation governing the denial of refunding is

shall be conducted within thirty days after receipt of such request for a

For the reasons set forth in the preamble, 45 CFR Part 1625 is amended

VOL
50
ISS
145
JL
29
1985
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days after the completion of the hearing."

Dated: July 24, 1985.

Richard N. Bagenstos,

Acting General Counsel.

[FR Doc. 85-17930 Filed 7-26-85; 8:45 am]

BILLING CODE 6820-35-M

45 CFR Part 1622

Public Access to Meetings Under the Government in the Sunshine Act

AGENCY: Legal Services Corporation.

ACTION: Final rule; amendment.

SUMMARY: On March 25, 1985, the Legal Services Corporation published proposed amendments to Part 1622 of its regulations for public comment. The comment period ended on April 24, 1985. No comments were received. On May 24, 1985, the Board of Directors unanimously voted to adopt the proposed amendments as final. Four amendments are made. Of these amendments only one, a revision of the section providing for emergency proceedings, makes a major, substantive change. The other three amendments are of a technical nature. The minor amendments provide for sending notice of meetings to program directors, deletion of the word "all" from the first sentence of paragraph (b) of § 1622.6, and reference to specific exemptions and a statement of reasons why specific discussions closed to public observation come within the cited exemption.

EFFECTIVE DATE: August 28, 1985.

FOR FURTHER INFORMATION CONTACT: Richard N. Bagenstos, Acting General Counsel (202) 272-4010.

SUPPLEMENTARY INFORMATION: On March 25, 1985, the Legal Services Corporation published proposed amendments to Part 1622 of its regulations for public comment. (50 FR 11740). No comments were received. On May 24, 1985, the Corporation's Board of Directors unanimously voted to adopt, as final, the proposed amendments to Part 1622 of the Regulations. The specific amendments are discussed on a section-by-section basis, below.

Section 1622.3 Open Meetings.

The amendment effects paragraph (c) of § 1622.3. The words "and the program director" are to be inserted after the words "governing body" in the two places these words appear in paragraph (c). This addition reflects the Corporation's present practice and is in response to previous comments received that expressed concern that unless notice was provided to the programs, the programs would not receive timely notice of meetings. This amendment ensures that timely notice is sent to programs.

Section 1622.6 Procedure for Closing Discussion or Withholding Information.

In paragraph (b) of § 1622.6 the word "all" has been removed after the words "A separate vote of". The deletion of the word "all" in the paragraph does not change the requirement that action closing a meeting or withholding information requires a recorded vote of a majority of all of the Directors of the Corporation. Here, the word "all" is removed to avoid a misinterpretation that a vote to close a meeting or withhold information may be defeated if one Director is unable to participate in the vote. Such an interpretation could result in an absudity. The amendment avoids the possible absudity. However, it does not relieve the Board of the responsibility of seeking the vote of every Director on the question.

In paragraph (e)(2) of § 1622.6, the words "together with" following the words "or series of meetings," has been replaced with the words "with reference to the specific exemption listed in § 1622.5, including a statement of reasons as to why the specific discussion comes within the cited exemption and". This change clarifies what information must be included in the full written explanation of the action closing the meeting. However, the new language does not add any additional requirement. The existing language is from the Government in the Sunshine Act. The legislative history of the Government in the Sunshine Act indicates that the written explanation requires references to specific exemptions, including a statement of reasons why the specific discussion comes within the cited exemption. Therefore, the change merely clarifies that which is already required.

Section 1622.9 Emergency Proceedings

This section has been completely revised. Previous comments received expressed the opinion the existing emergency proceedings provision violated the Government in the Sunshine Act. Many commentators stated that the disruptive members of the audience should be removed. The revised section allows the Board, by recorded vote of the majority of the Directors present, to authorize the Chairman or presiding officer of the meeting to cause disruptive members of the public to be removed from the meeting. This new provision enables the Board to conduct its meeting free from disruption, yet also follows the letter and spirit of the Government in the Sunshine Act.

List of Subjects in 45 CFR Part 1622

Legal services, Sunshine Act.

PART 1622—[AMENDED]

For the reasons set out in the preamble, 45 CFR Part 1622 is amended as follows:

1. The authority citation for Part 1622 continues to read as follows:

Authority: Sec. 1004(g), Pub. L. 95-222, 91 Stat. 1619. (42 U.S.C. 2996c(g)).

§ 1622.4 [Amended]

2. Paragraph (c) of § 1622.4 is amended by inserting the words "and the program director" after the words "counsel and the governing body" and after the words "meeting to the governing body".

§ 1622.6 [Amended]

3. Paragraph (b) of § 1622.6 is amended by removing the word "all" after the words "A separate vote of".

4. Paragraph (e)(2) of § 1622.6 is amended by removing the words "together with" following the words "or a series of meetings," and inserting in their place the words "with reference to the specific exemptions listed in § 1622.5, including a statement of reasons as to why the specific discussion comes within the cited exemption and".

5. Section 1622.9 is revised to read as follows:

§ 1622.9 Emergency Procedures.

If, in the opinion of the Chairman, the Directors are rendered incapable of conducting a meeting by the acts or conduct of any members of the public present at the meeting, the Directors may thereupon determine by a recorded vote of the majority of the number of Directors present at the meeting that the Chairman or presiding officer of the Board shall have the authority to have such members of the public who are responsible for such acts or conduct removed from the meeting.

Dated: July 24, 1985.

Richard N. Bagenstos,

Acting Deputy General Counsel.

[FR Doc. 85-17929 Filed 7-26-85; 8:45 am]

BILLING CODE 6820-35-M

45 CFR Part 1625

Denial of Refunding

AGENCY: Legal Services Corporation.

ACTION: Amendment of rule.

SUMMARY: The Corporation's regulation governing the denial of refunding is amended to conform with the requirements of Pub. L. 98-411, the appropriations bill under which the Corporation is presently funded. The amendments change the time limits in the current rule and shift the burden of proof in the proceedings to conform with the mandates of the appropriations bill. Because the amendments are mandated by an Act of Congress, the changes merely bring the regulations into conformity with current law, and no comments are required. Therefore, the amendments shall become effective thirty days from publication.

EFFECTIVE DATE: August 28, 1985.

FOR FURTHER INFORMATION CONTACT: Richard N. Bagenstos, Acting General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION: Pub. L. 98-411, which appropriates the Corporation's funding for 1985, incorporated language from Pub. L. 98-166, which set new requirements for denial of refunding proceedings. The Corporation has been following the time limits established by Congress in practice. These amendments are adopted to conform the language of the rule with the mandate of Congress, and the practice of the Corporation.

The appropriations bill requires that a request for a hearing shall be made within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding or suspend financial assistance and that the hearing shall be conducted within thirty days after receipt of such request for a hearing. The appropriations bill also requires that the Corporation make its final decision within thirty days after completion of the hearing.

The appropriations bill also mandates that the recipient bear the burden of proof in the hearing to show cause why refunding should not be denied.

These Congressional mandates require three changes in the existing regulation. The first amendment occurs in § 1625.4(b). The recipient is given thirty days within which to request a hearing after receiving the preliminary determination not to refund. The second amendment occurs in § 1625.9. This section is revised to place the burden of proof on the recipient as mandated by Congress. Finally, § 1625.11(c) is amended to require the President to make his final decision within thirty days of the completion of the hearing.

Because these amendments are mandated by Congress, the Corporation has no discretion in amending its rules. Publishing the amendments in proposed form and soliciting comments thereon would be a meaningless exercise. Therefore, these amendments are being published in final form to become effective thirty days from date of publication.

List of Subjects in 45 CFR Part 1625

Administrative practice and procedure, Legal Services.

For the reasons set forth in the preamble, 45 CFR Part 1625 is amended as follows:

PART 1625—[AMENDED]

1. The Authority citation for Part 1625 is revised to read as follows:

Authority: Sec. 1006(b) (1) and (3), 1007(a)(1), 1007(a)(3), 1007(a)(9), 1007(d), 1006(e), 1011 Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996e(b) (1) and (3), 2996f(a) (1), (3), and (9), 2996f(d), 2996g(e), 2996j, and Pub. L. 98-411.

§ 1125.4 [Amended]

2. Section 1625.4(b) is amended by removing the numeral "10" and inserting in its place the numeral "30" before the words "days of receipt of the preliminary determination."

3. Section 1625.9 is revised as follows:

§ 1625.9 Burden of proof.

The recipient shall have the burden of showing cause why the Corporation's proposed action to deny refunding should not be taken.

§ 1625.11 [Amended]

4. Section 1625.11(c) is amended by removing the words "and normally within 10 days" and inserting in their place the words "but not later than 30 days after the completion of the hearing."

Dated: July 24, 1985.

Richard N. Bagenstos,

Acting General Counsel.

[FR Doc. 85-17928 Filed 7-26-85; 8:45 am]

BILLING CODE 6820-35-M

VOL 50 ISS 145 JL 29 1985 UMI

Proposed Rules

Federal Register
Vol. 50, No. 145
Monday, July 29, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 1540

Emergency Relief From Certain Perishable Products Imported From Israel

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes the procedure by which an entity representative of a U.S. industry producing perishable products can submit a request to the Department of Agriculture for emergency relief from increased, injurious imports of certain perishable products from Israel if such products are entering the United States at a reduced rate of duty or duty-free pursuant to a trade agreement between the United States and Israel entered into under section 102(b) of the Trade Act of 1974, as amended by Section 401 of the Trade and Tariff Act of 1984.

DATE: Comments must be received on or before August 28, 1985.

ADDRESS: Mail comments to Director, Asia, Africa & Eastern Europe Division, Foreign Agricultural Service, USDA, Room 5546–S, 14th and Independence Ave., SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Lyle Sebranek, Director, Asia, Africa & Eastern Europe Division, International Trade Policy, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, Tel: (202) 382–1289.

SUPPLEMENTARY INFORMATION: Section 401 of the Trade and Tariff Act of 1984, Pub. L. 98–573 (98 Stat. 3016) ("1984 Trade Act") amended the Trade Act of 1974 to authorize the President to negotiate a trade agreement with Israel to provide for the reduction or elimination of duties on imports between the two countries. Pursuant to that authority, the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel was entered into on April 29, 1985. The Agreement was subsequently approved and implemented by the United States-Israel Free Trade Area Implementation Act of 1985, Pub. L. 99–47, June 11, 1985.

Section 404 of the 1984 Trade Act, as amended (19 U.S.C. 2112 note), provides, in part, that if a petition is filed with the U.S. International Trade Commission under the provisions of Section 201 of the Trade Act of 1974, as amended, alleging injury from imports from Israel of certain perishable products which are subject to any reduction or elimination of a duty imposed by the United States under a trade agreement entered into with Israel under section 102(b) of the Trade Act of 1974, as amended by section 401 of the 1984 Trade Act, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted by the President.

Under the proposed rule, a U.S. entity seeking emergency relief from imports of perishable products from Israel would submit a request to the Administrator, Foreign Agricultural Service, of the Department of Agriculture providing such information as is necessary to permit the Secretary of Agriculture to make a determination as to whether a recommendation should be made to the President that emergency action should be taken. The request should provide identification of the perishable product concerned, evidence that the product was imported from Israel, evidence that increased imports of such perishable product are the substantial cause of serious injury or threat of serious injury to a U.S. industry producing a perishable product like or directly competitive with the imported product, and a statement indicating why emergency action would be warranted.

Section 404(e)(6) of the 1984 Trade Act, as amended, defines a "perishable product" for the purposes of the emergency relief provisions of section 404 to include concentrated citrus fruit juice provided for in items 165.25 and 165.35 of the Tariff Schedules of the United States (the "TSUS"). However, section 117 of that act reclassified the articles previously assigned TSUS item number 165.35 by splitting those articles into two categories and assigning them TSUS item numbers 165.29 and 165.36. The definition of a perishable product in § 1540.21(6) of the proposed rule reflects this change in classification.

The public is invited to submit comments and suggestions regarding the proposed rule to the above address. Each person submitting comments and suggestions regarding the proposed rule should include his/her name and address and should give reasons for suggested changes. Copies of all communications received will be available for examination by interested persons in Room 5546 South Building, USDA, during regular business hours.

This proposed rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major" since the proposed rule, if made final, would not have any of the effects specified in those documents.

The Administrator, Foreign Agricultural Service certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The public is invited to comment on the impact of this proposed rule on small entities.

An assessment of the impact of this rule on the environment was made and, based on this evaluation, this action is not a major federal action and will have no foreseeable significant effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this proposed rule. The environmental assessment is available for review in Room 5546, South Building, USDA during normal business hours.

The paperwork requirements imposed by this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 and assigned number 0551–0023.

List of Subjects in 7 CFR Part 1540

International agricultural trade, Israel, Perishable products.

PART 1540—[AMENDED]

In accordance with the above, it is proposed to amend 7 CFR Part 1540 by adding the following new Subpart B—Emergency Relief from Certain Perishable Products Imported from Israel:

Subpart B—Emergency Relief From Certain Perishable Products Imported From Israel

Sec.
1540.20 Applicability of subpart.
1540.21 Definition.
1540.22 Who may file request.
1540.23 Contents of request.
1540.24 Determination of the Secretary of Agriculture.
1540.25 Information.

Authority: Sec. 404, Pub. L. 98–573, 98 Stat. 3016, as amended (19 U.S.C. 2112 note); 5 U.S.C. 301.

Cross Reference: For U.S. International Trade Commission regulations concerning investigations of import injury and the rules pertaining to the filing of a Section 201 petition, see 19 CFR Part 206.

Subpart B—Emergency Relief From Certain Perishable Products Imported From Israel

§ 1540.20 Applicability of subpart.

This subpart applies to requests filed with the Department of Agriculture under section 404 of the Trade and Tariff Act of 1984, Pub. L. 98–573, for emergency relief from imports of certain perishable products from Israel entering the United States at a reduced rate of duty or duty-free pursuant to a trade agreement between the United States and Israel entered into under section 102(b)(1) of the Trade Act of 1974, as amended.

§ 1540.21 Definition.

"Perishable product" means:

(a) Live plants provided for in subpart A of part 6 of schedule 1 of the 1985 Tariff Schedules of the United States (the "TSUS");

(b) Fresh or chilled vegetables provided for in items 135.03 through 138.46 of the TSUS;

(c) Fresh mushrooms provided for in item 144.10 of the TSUS;

(d) Fresh fruit provided for in items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.44, 147.50 through 149.21 and 149.50 of the TSUS:

(e) Fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

(f) Concentrated citrus fruit juices provided for in items 165.25, 165.29 and 165.36 of the TSUS.

§ 1540.22 Who may file request.

A request under this subpart may be filed by an entity, including a firm, or group of workers, trade association, or certified or recognized union which is representative of a domestic industry producing a perishable product like or directly competitive with a perishable product that such entity claims is being imported from Israel into the United States at a reduced duty or duty-free under the provisions of a trade agreement between the United States and Israel entered into under section 102(b)(1) of the Trade Act of 1974, as amended, in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to such domestic industry.

§ 1540.23 Contents of request.

A request for emergency action under section 404 of the Trade and Tariff Act of 1984 shall be submitted in duplicate to the Administrator, Foreign Agricultural Service, United States Department of Agriculture, Washington, D.C. 20250. Such request shall be supported by appropriate information and data and shall to the extent possible: A description of the imported perishable product(s) allegedly causing, or threatening to cause, serious injury; data showing that the perishable product allegedly causing, or threatening to cause, serious injury is being imported from Israel in increased quantities as compared with imports of the same product from Israel during a previous representative period of time (including a statement of why the period selected by the petitioner should be considered to be representative); evidence of serious injury or threat thereof to the domestic industry substantially caused by the increased quantities of imports of the product from Israel; and a statement indicating why emergency action would be warranted under section 404 (including all available evidence that the injury caused by the increased quantities of imports from Israel would be relieved by the withdrawal of the reduction of the duty or elimination of the duty-free treatment provided to the product under the trade agreement). A copy of the petition and the supporting evidence filed with the United States International Trade Commission under section 201 of the Trade Act of 1974, as amended, must be provided with the request for emergency action.

§ 1540.24 Determination of the Secretary of Agriculture.

If the Secretary of Agriculture has reason to believe that the perishable product(s) which is the subject of a petition under this subpart is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported perishable product and that emergency action is warranted, the Secretary, within 14 days after the filing of the petition under § 1540.23 shall recommend to the President that the President take emergency action. If the Secretary determines not to recommend the imposition of emergency action, the Secretary, within 14 days after the filing of the petition, will publish in the Federal Register a notice of such determination and will so advise the petitioner.

§ 1540.25 Information.

Person desiring information from the Department of Agriculture regarding the Department's implementation of section 404 of the Trade and Tariff Act of 1984 should address such inquiries to the Administrator, Foreign Agricultural Service, United States Department of Agriculture, Washington, D.C. 20250.

Issued at Washington, D.C., this 8th day of July 1985.

Richard A. Smith,
Administrator, FAS.

[FR Doc. 85–17836 Filed 7–26–85; 8:45 am]
BILLING CODE 3410–10–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 832 3138]

Service One International Corp., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Chatsworth, Calif. credit counseling service and two corporate officers, among other things, to cease misrepresenting that they will obtain credit or credit cards for applicants; have developed working relationships with any creditors; or will provide a full or partial refund of any fees paid by consumers seeking credit or credit cards. Additionally, respondent woud be prohibited from misrepresenting the likelihood of any consumer obtaining credit or credit cards; the extent to which it can help consumers seeking credit or credit cards; or the conditions under which it will furnish refunds. Further, respondent would be required to send to all customers who paid for the service and did not receive a credit card, a notice that gives them the option of

receiving a full refund within 30 days or participating in respondent's new credit-counseling service without additional

attorney, and counsel for the Federal Trade Commission that:

may, without further notice to proposed respondents, (1) issue its complaint

(b) Have developed any working or other relationship with any credit card

face type: "First Credit Services—Refund Offer."

III

It is further ordered that respondents

VOL
50
ISS
145
JL
29
1985
UMI

receiving a full refund within 30 days or participating in respondent's new credit-counseling service without additional charge.

DATE: Comments must be received on or before September 27, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: John F. Lefevre, FTC/I–500, Washington, D.C. 20580. (202) 724–1185.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Consumer credit, Credit cards, Trade practices.

Service One International Corporation, a corporation, also trading and doing business as Service One Corporation and First Credit Services, and Reza Fayazi and Ali Fayazi, individually and as officers of said corporation.

[File No. 832–3138, Agreement Containing Consent Order To Cease and Desist]

The Federal Trade Commission having initiated an investigation of certain acts and practices of Service One International Corporation, a corporation, also trading and doing business as Service One Corporation and First Credit Services, and Reza Fayazi and Ali Fayazi, individually and as officers of said corporation, and it now appearing that Service One International Corporation, a corporation, and Reza Fayazi and Ali Fayazi individually and as officers of said corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Service One International Corporation, by its duly authorized officer, and Reza Fayazi and Ali Fayazi, individually and as officers of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed Respondent Service One International Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 21032 Devonshire Street, Suite 215, Chatsworth, California 91311. Service One International Corporation trades and does business as Service One Corporation and First Credit Services.

Proposed respondents Reza Fayazi and Ali Fayazi have been officers of said corporation. They have formulated, directed and controlled the policies, acts and practices of said corporation and their address is the same as that of Service One International Corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to settle or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim they may have under the Equal Access to Justice Act, 5 U.S.C. 50 *et seq.*

4. This agreement shall not become part of the public record of the proceedings unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully compiled with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is hereby ordered that respondents Service One International Corporation, a corporation, its successors and assigns, and its officers, and Reza Fayazi and Ali Fayazi individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale and distribution of any service or material purporting to secure, or to assist in securing, credit or a credit card for any consumer(s) or to assist any consumer(s) in obtaining credit or a credit card, do forthwith cease and desist from:

1. Representing directly or by implication, in any manner, contrary to fact, that they:

(a) Will obtain credit or a credit card for, or will send a credit card to, any member of the public;

(b) Have developed any working or other relationship with any credit card issuer or other creditor that issues or will issue credit cards or grants or will grant credit;

(c) Will provide a full or partial refund of any fee paid to secure or obtain credit or a credit card.

2. Misrepresenting in any manner:

(a) The conditions under which any consumer can secure or obtain credit or a credit card or the likelihood that any consumer will secure or obtain credit or a credit card, including, but not limited to, the percentage or number of credit applicants who receive credit and whether bankruptcy, no credit history or a prior, adverse credit history make it more difficult to secure or obtain credit or a credit card;

(b) The extent to which help will be given any consumer to secure or obtain credit or a credit card;

(c) The conditions under which any refund will be furnished to any consumer.

II

It is further ordered that respondent Service One International Corporation shall:

1. Within twelve months after the date of service of this Order, send by first class mail in the manner described below, a copy of the notice that is affixed hereto as Attachment A, to each person who between February 1, 1982, and the date of service of this Order paid money to First Credit Services in connection with its credit card program and has not received a refund of the full amount paid. If ninety percent or more of the customers to whom the notice is sent within the first three months after the date of service of this Order return the notice within six months after the date of service of this Order, the words "twelve months" in the first line of subparagraph 1 are changed to "eighteen months." The notice shall appear by itself in not less than 12 point bold face type, on one side of a sheet of paper not less than 8½ inches by 11 inches. The print shall be black and the color of the paper shall be yellow. The notice shall be accompanied by a postage-prepaid, addressed return envelope. The notice may be accompanied by not more than 3 other pieces of paper, none of which shall be larger than the notice or the same color as the notice. The notice shall be mailed to the customer at the last known address shown in respondent's records for said customer. The face of the envelope in which the notice is mailed to the customer shall contain the following phrase printed in 12 point bold face type: "First Credit Services—Refund Offer."

2. Send by first class mail a refund check to each customer who returns the notice with Option 1 checked. Service One International Corporation shall also mail a refund check to each such customer who requests a refund by any other method. In each case the refund check shall be made payable to the customer for the total amount the customer paid, less any refund previously provided the customer and be mailed within 30 days of receipt of the notice or other request to the address the customer provides. If the customer does not provide an address, the check shall be mailed to the address to which the notice described in II(1) was mailed or to the customer's last known address, whichever is most recent.

3. Within thirty days of receipt of the notice, send by first class mail to each customer who returns the notice with Option 2 checked, to the address the customer provides:

(a) (1) A letter stating that the customer has been approved for a Visa or MasterCard credit card together with the name and address of the institution to which the customer should send the $250 to serve as a minimum balance for the savings account; and

(2) A postage prepaid envelope made out to that name and address; or

(b)(1) A letter stating that the customer has not been approved for a Visa or MasterCard credit card (which letter shall be in addition to the adverse action notice required by the Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq.*, and § 202.9 of Regulation B, 12 CFR Part 202); and

(2) A refund check payable to that customer for the total amount the customer paid, less any refund previously provided the customer.

If the customer does not provide an address, the items shall be mailed to the address to which the notice described in Paragraph 1 of Section II was mailed or to the customer's last known address, whichever is most recent.

4. Within thrity days after receipt of $250 by the card issuing institution on behalf of each customer described in Subparagraph 3(a), above, send such customer by first class mail a Visa or MasterCard credit card in that customer's name, which that customer may use in connection with a credit card account opened in his or her name. The address to which the card shall be sent shall be determined in the manner described in Paragraph 3, above.

III

It is further ordered that respondents shall maintain for at least three (3) years and, upon request, make available to the Federal Trade Commission for inspection and copying:

1. Copies of all advertising and promotional materials concerning any service or material offered to help secure or obtain credit or a credit card.

2. Copies of all advertising and promotional materials concerning any offer of a refund.

3. Copies of all requests made for a refund and of all correspondence and other records relating to such requests, as well as evidence of what refunds are made.

IV

It is further ordered that respondents shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed changes such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporate structure of respondents that may affect compliance obligations arising out of this Order.

V

It is further ordered that respondents shall deliver a copy of this Order to each present and future employee engaged in preparing or making any oral or written representations to consumers concerning the securing or obtaining of credit or a credit card or the making of any refund offer or engaged in the granting or denying of refund requests and obtain from such person a signed statement acknowledging receipt of a copy of this Order.

VI

It is further ordered that respondents herein shall within sixty (60) days after the date of service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Previous Subscribers of First Credit Services

Note This Refund Offer

If you previously paid money to First Credit Services to get a credit card, you may choose either Option 1, or Option 2, as part of an agreement with the Federal Trade Commission.

Option 1. If you decide not to participate in Service One Corporation's new credit offer outlined below, Service One will refund to you the money you

VOL 50 ISS 145 JL 29 1985 UMI

paid to First Credit Services, if you so request.

Option 2. You may apply for a Visa/Mastercard credit card through Service One Corporation, using the enclosed application, and you pay *no processing fee.* To obtain a card, from us you must establish and maintain a savings account with a minimum balance of $250 with the card issuer and you will be billed for a $35 annual card fee. If your application is rejected, we will automatically refund in full any fee you paid to First Credit Services when you previously applied to First Credit Services for credit.

Check the Appropriate Box, Fill in your Name and Address, and Return This Form In the Enclosed Business Reply Envelope

Option 1 ( ) Please refund the money I paid to First Credit Services.

Option 2 ( ) Please accept my enclosed application for a Visa or Mastercard credit card with no procesaing fee.

Name———————
Street———————
City————, State————
Zip——

For refund assistance or more information, you may write or call us: Service One Corporation, Consumer Affairs Department, 21032 Devonshire Street, Chatsworth, California 91311. Phone (818) 709–2072.
Attachment A

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Service One International Corporation, also trading and doing business as Service One Corporation and First Credit Services, and Reza Fayazi and Ali Fayazi, individually and as officers of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposd order.

The proposed complaint alleges that respondents violated section 5 of the Federal Trade Commission Act, 15 U.S.C. sec. 45, by:

• Misrepresenting that they will obtain credit cards for consumers for a fee.

• Misrepresenting that they have working relationships with banks that will issue credit cards to consumers regardless of past credit experience.

• Misrepresenting that consumers who have paid a fee to respondents to obtain a credit card but do not receive a credit card will obtain a full refund of the fee paid.

The proposed order prohibits respondents from misrepresenting:

• That they will obtain credit or credit cards for, or send them to, consumers.

• That they have developed relationships with credit card issuers or other creditors that issue credit cards or grant credit.

• The conditions under which consumers can secure credit or credit cards or the likelihood that consumers will secure credit or credit cards.

• The conditions under which refunds will be furnished to consumers.

The proposed order also requires respondents to offer restitution to their prior customers whose fees have not been refunded. Such customers are to be given the option of receiving a refund or receiving approval for a Visa or MasterCard credit card account. The account would require payment of a $35 annual card fee and maintenance of a minimum balance of $250 in a saving account with the card issuer.

The purpose of this anaysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,
Secretary.

[FR Doc. 17837 Filed 7–26–85; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Amendment to the Maryland Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening and extension of the public comment period.

SUMMARY: OSM is reopening and extending the comment period for 15 days on Maryland's program amendment as a modification to its permanent regulatory program which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Maryland amendment consists of proposed regulation changes to the State requirements governing the use of explosives. The submissionn is intended to satisfy a required amendment to the State's program and also makes certain additional changes to the State's proposed regulations approved by the Director on January 22, 1985.

OSM published a notice in the **Federal Register** on March 11, 1985, announcing receipt of the amendment and inviting public comment on its adequacy (50 FR 9679). The public comment period ended April 10, 1985. During its review of Marlands' proposed provisions, OSM identified a provision which was inconsistent with the Federal regulations. OSM notified Maryland of its concern, and in a letter dated July 10, 1985, Maryland responded by submitting revised provision to the proposed amendment amendment (Administrative Record MD–317).

OSM is reopening and extending the comment period for 15 days to provide the public an opportunity to reconsider the adequacy of Maryland's proposed amendment in light of the additional information.

This notice sets forth the times and locations that the Maryland proposed amendment are available for public inspection, and the comment period during which interested persons may submit written comments on the proposed amendment.

DATE: Written comment must be received on or before 4:00 p.m., on August 13, 1985 to be considered. Comments received after August 13, 1985, will not necessarily be considered in the Director's decision to approve or disappove the proposed program modifications.

ADDRESSES: Written comments should be mailed or hand delivered to:

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Attention: Maryland Administrative Record, Telephone: (304) 347–7158

Copies of the Maryland program, the proposed amendment, and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State regulatory authority listed below,

Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment from OSM's Charleston Field Office listed below.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5124, Washington, D.C. 20240, Telephone: (202) 343–7896

Maryland Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136

FOR FURTHER INFORMATION CONTACT: Mr. James Blankenship, Field Office Director, Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301; Telephone (304) 347–7158.

SUPPLEMENTARY INFORMATION: The Maryland program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430–79451). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Maryland program can be found in the December 1, 1980 **Federal Register.** On February 18, 1982, following submission of program amendments to satisfy the conditions of program approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217).

On May 28, 1984, Maryland submitted statute and regulations and other material which would establish requirements for the training, examination and certification of blasters working in surface mining operations and revise the State's performance standards for the use of explosives. Addtional information was submitted on June 13, 1984. These materials were later supplemented by additional information submitted by the State on October 5, 1984. These proposed modifications were approved by the Director on January 22, 1985 (50 FR 2782–2785). The Director's approval required that one provision of the proposed requirements for the use of explosives be revised and submitted as a program amendment by March 25, 1985. The required amendment related to the provisions of 30 CFR 816.62(a) which requires information on how to request a preblasting survey to be provided to residents or owners of dwellings or other structures within ½ mile of the permit area at least 30 days prior to blasting. The proposed regulations which are currently being considered are intended to address this required amendment and make other revisions as desired by the State. Most of the revisions are editorial in nature and have no effect on the requirements approved by the Director on January 22, 1985. All of the changes are identified in the January 30 submission.

On March 11, 1985, OSM announced procedures for a public comment period and hearing on the proposed amendment submitted by the State of Maryland. During its review of Maryland's proposed amendment, OSM identified the following concern:

Maryland's proposed rules at COMAR 08.13.09.25C(2) requires that copies of the blasting schedule must be distributed to local governments, public utilities, and residents or owners of dwellings or other structures within ½ mile of the permit area. Certain portions of the permit area—haul roads, coal preparation and loading facilities, and transportation facilities were excluded. This would be inconsistent with current Federal regulations located at 30 CFR 816.64(b)(2).

OSM notified Maryland of the concern and Maryland responded in a letter dated July 10, 1985, informing OSM that it would revise its regulations by deleting the sentence at its regulation .25C(2) which had excluded haul or access roads, coal preparation and loading facilities, and other transportation facilities from the meaning of permit area.

The full text of the proposed amendment and additional material are available for review at the locations listed above under **"ADDRESSES".** Accordingly, OSM is seeking public comments on the adequacy of the State's submission. The public comment period is extended to August 13, 1985. All comments should be submitted to the location shown above under **"ADDRESSES"** in order to be considered by the Director in his decision on the program amendments.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 22, 1985.

Carl C. Close,
Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 17850 Filed 7–26–85; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 934

Public Comment and Opportunity for Public Hearing on Modified Portions of the North Dakota Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the adequacy of proposed amendments to the North Dakota permanent regulatory program which was approved by the Secretary of the Interior pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments submitted by North Dakota for the Secretary's approval include modifications to the State statute and regulations intended to satisfy the remaining three program conditions concerning the following: (1) Revised definition of "valid existing right"; (2) requirement that permit applicants shall identify all outstanding violations of SMCRA and any other State law or rule; (3) compensation to landowners for damage to structures or facilities that occurs as result of subsidence. North Dakota also submitted, as part of the amendment package, several revisions to the statute and regulations unrelated to the program conditions.

DATE: Written comments not received on or before 4:00 p.m. August 28, 1985 will not necessarily be considered.

A public hearing on the proposal will be held, if requested on August 23, 1985 at the address listed below under **"ADDRESSES."** Any person interested in making an oral or written presentation at the hearing should contact Mr. William Thomas at the address listed below by August 19, 1985. If no person has contacted Mr. Thomas by this date to express an interest in the hearing, the hearing will not be held. If only one person has so contacted Mr. Thomas, a public meeting rather than a public hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held at the North Dakota Capitol Building, Bismarck, North Dakota 58505.

Written comments should be mailed or hand-delivered to Mr. William Thomas, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

See **"SUPPLEMENTARY INFORMATION"** for address where copies of the North

VOL 50 ISS 145 JL 29 1985 UMI

Dakota program amendment and administrative record on the North Dakota program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Casper Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82466; Telephone: (307) 261–5824.

SUPPLEMENTARY INFORMATION: Copies of the North Dakota program amendment, the North Dakota program and the administrative record on the North Dakota program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240.

Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82466.

North Dakota Public Service Commission, Reclamation Division, Capitol Building, Bismarck, North Dakota 58505 Wyoming 82644.

Background

The North Dakota program was approved by the Secretary of the Interior on December 15, 1980, conditioned on the correction of 13 minor deficiencies. Information pertinent to the general background, revisions modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and detailed explanation of the conditions of approval of the North Dakota program can be found in the December 15, 1980 **Federal Register** (45 FR 82214), February 9, 1983 **Federal Register** (48 FR 8902), November 9, 1983 **Federal Register** (48 FR 51458), July 19, 1984 **Federal Register** (49 FR 29214), and January 3, 1985 **Federal Register** (50 FR 260).

The three remaining conditions on the Secretary's approval of the North Dakota program are as follows:

(e) The Secretary requires North Dakota to amend its program by adopting provisions which prohibit the issuance of a permit to an applicant with outstanding violations in any State in a manner no less stringent than sections 507 and 510 of SMCRA;

(m) The Secretary requires North Dakota to enact provisions revising the date for establishment of valid existing rights to be consistent with section 552(e) of SMCRA; and

(n) The Secretary requires North Dakota to amend its program to address compensation to an owner of a structure or facility damaged by subsidence in manner which is no less effective than the compensation provided by 30 CFR 819.17 and 817.121.

Proposed Amendments

On June 18, 1985, the State of North Dakota submitted to OSM amendments to its permanent regulatory program. The amendment package is intended primarily to address the three remaining conditions of approval by the Secretary of the Interior on the North Dakota program.

The State revised its statute at sections 38–14.1–14 and 38–14.1–21 and regulations at sections 69–05.2–10–03 and 69–05.2–06–02 to require all applicants for a permit to identify all permits held by the applicant within the last five years in any State. The revised provisions also requires applicants to identify all outstanding violations in all States prior to permit issuance. This revision is intended to satisfy condition (e).

The State has revised its definition of "valid existing rights" at section 38–14.1–07 of the North Dakota Century Code and section 69–05.2114 of the North Dakota Administrative Code by reflecting August 3, 1977 as the date by which the regulatory authority will evaluate and make valid existing rights determinations. This satutory and rule change is intended to satisfy condition (m).

The State also submitted material intended to address condition (n). The proposed language at section 69–05.2–13–12(4) of the North Dakota Administrative Code provides for compensation to owners of structures or facilities damaged by underground mine subsidence.

In addition to the above revisions, North Dakota submitted to OSM the following proposed program amendments not associated with program conditions (e), (m), or (n): (1) Repeal of all language concerning cultural resources from sections 69–05.2–08–03 and 69–05.2–09–08 of the North Dakota rules and consolidation of all cultural resources provisions in the North Dakota Century Code at sections 38–14.1–10, 38–14.1–14.1. u. and q., 38–14.1–21. and 38–14.1–30.1.; (2) revision to North Dakota Century Code at section 38–14.1–14.1. r., and the implementing regulations at section 69–05.2–09–02 allowing qualified registered land surveyors to prepare and certify maps, cross-sections and plans. This proposed revision is in response to similar changes made to section 507(b)(4) of SMCRA: (3) minor revision to sections 38–14.1–04.2 and 38–14.1–04.3 of the North Dakota statute concerning responsibilities of the North Dakota reclamation advisory committee; and (4) revision to language at section 69–05.2–16–09 of the rules concerning sedimentation pond certification requirements. This change is proposed in light of similar revisions to 30 CFR 816.46(b)(3).

OSM is seeking comment on whether North Dakota's proposed revisions to its statute and regulations are no less stringent than SMCRA and no less effective than the requirements of the revised Federal regulations and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the proposed program modifications submitted by North Dakota for OSM's consideration is available for public review at the addresses listed under **"SUPPLEMENTARY INFORMATION."**

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

Paperwork Reduction Act: This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 23, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85–17852 Filed 7–26–85; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 944

Consideration of Amendments to the Utah Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for public comment on the adequacy of proposed amendments to the Utah Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On August 13, 1984, Utah submitted proposed program amendments for OSM's approval pertaining to the definition of "affected area," enforcement and penalty requirements and bonding and insurance requirements (Administrative Record UT–336). The public was invited to comment on these provisions for 30 days (49 FR 40421, October 16, 1984.) In a letter to the State dated January 28, 1985, OSM informed Utah of deficiencies in its proposed program amendments (Administrative Record UT–353). On March 6, 1985, Utah submitted additional materials to address the deficiencies identified by OSM. (Administrative Record No. UT–355). The public was invited to comment on these revised provisions for 15 days (50 FR 12834, April 1, 1985). In a letter to the State dated May 6, 1985, OSM informed Utah of additional deficiencies in its proposed amendments. On July 5, 1985, Utah submitted additional material to address the conerns identified by OSM.

OSM is reopening the period for 15 days to provide the public an opportunity to comment on additional material submitted by the State on July 5, 1985.

DATES: Written comments not received by 4:30 p.m. on August 13, 1985, will not necessarily by considered in the Director's decision on whether the proposed amendments satisfy the criteria for approval.

ADDRESSES: Written comments should be sent to Mr. Robert Hagen, Field Office Director, Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

Copies of the Utah program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and the OSM Headquarters office and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one single copy of the amendments by contacting the OSM Albuquerque Field Office listed above.

Utah Division of Oil, Gas and Mining, Department of Natural Resources, 4241 State Office Building, Salt Lake City, Utah 84114

Office of Surface Mining, 1100 "L" Street, NW., Room 5124, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTRACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program under SMCRA for the regulation of the surface coal mining operations in the State (46 FR 5899–5915).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899–5915).

On August 13, 1984, the Utah Division of Oil, Gas and Mining (DOGM) submitted proposed program amendments for OSM's approval (Administrative Record No. UT–336). The amendments include changes pertaining to the definition of "affected area", enforcement and penalty requirements, and bonding and insurance requirements.

On October 16, 1984, OSM sought public comment on whether the proposed modifications to the Utah permanent program listed above satisfy the criteria for approval of State program amendments set forth at 30 CFR 732.15 and 732.17 (49 FR 40421). In a letter to the State dated January 28, 1985, OSM informed the State of deficiencies identified in the proposed program amendments (Administrative Record No. UT–353). On March 6, 1985, Utah submitted additional material to respond to the concerns raised by OSM in its January 28, 1985 letter (Administrative Record No. UT–355).

On April 1, 1985 OSM reopened the comment period for 15 days on these revised provisions (50 FR 12834). Following the close of the comment period, OSM identified four additional concerns related to the proposed amendments and notified the State of these concerns in a letter dated May 6, 1985. On July 5, 1985 Utah submitted additional revised material to respond to the concerns raised by OSM.

Therefore, OSM is reopening the public comment period on the proposed amendments to provide the public an opportunity to review and comment on the material submitted by the State on July 5, 1985.

To approve the proposed provisions, OSM must find that the amendments are no less stringent than SMCRA and no less effective than the Federal regulations in meeting the purposes of SMCRA. With respect to Utah's penalty provisions OSM must find that the State program, as proposed to be amended, incorporates penalties no less stringent than those set forth under the Federal requirements and contains the same or similar procedural requirements. With respect to Utah's enforcement provisions, OSM must find that the State program, as proposed to be amended, incorporates sanctions no less stringent than those set forth in the Federal requirements and contains the same or similar procedural requirements. If the Director determines the proposed modifications meet the criteria, the amendments will be approved, and 30 CFR Part 944 modified accordingly. The Director's, approval of the amendments would be contingent on the State's adoption of the amendments in the identical form they were reviewed by OSM and the public.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 22, 1985.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 85–17851 Filed 7–26–85; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 948

Office of Surface Mining Reclamation

rulemaking process within 60 days. To

the Office of Management and Budget

VOL 50 ISS 145 JL 29 1985 UMI

30 CFR Part 948

Permanent State Regulatory Program of West Virginia

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period on its proposal to extend the deadline for the State of West Virginia to submit a required amendment to its permanent regulatory program (hereinafter referred to as the West Virginia program), which the Secretary of the Interior conditionally approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On April 23, 1985, OSM amended 30 CFR 948.16 to require that, no later than June 24, 1985, West Virginia amend its program to require that all persons responsible for the use of explosives be certifed (50 FR 15889–15891). By letter dated June 24, 1985, West Virginia notified OSM that, within 60 days, the State would begin formal rulemaking to provide that all surface blasting (including those operations using less than five pounds and those involving surface disturbance at underground mines) must be done in accordance with section 4C of the West Virginia surface mining regulations (Administrative Record No. WV 661). Therefore, OSM is proposing to extend the deadline for submission of the required amendment for 120 days.

This notice sets forth the times and locations that the West Virginia program and deadline extension request will be available for public inspection and establishes the comment period during which interested persons may submit written comments.

DATES: Written comments from the public not received by 4:00 p.m. on August 28, 1985 will not necessarily be considered in the decision process.

ADDRESSES: Written comments should be mailed or hand delivered to: Office of Surface Mining Reclamation and Enforcement, Charleston Field Office. Attn: West Virginia Administrative Record, 603 Morris Street, Charleston, West Virginia 25301.

Copies of the extension request, the West Virginia program and the administrative record on the West Virginia program are available for public review and copying at the OSM offices and the State regulatory authority office listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347–7158

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, NW., Room 5124, Washington, D.C. 20240. Telephone: (202) 343–4855

West Virginia Department of Energy, 1615 Washington Street, East Charleston, West Virginia 25305. Telephone: (304) 348–3267.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 630 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION: On March 3, 1980, West Virginia submitted its proposed permanent regulatory program to the Secretary of the Interior. On October 22, 1980, following a review of the proposed program in accordance with 30 CFR Part 732, the Secretary approved it in part and disapproved it in part (45 FR 69249–69271).

West Virginia resubmitted its proposed program on December 19, 1980, which the Secretary conditionally approved on January 21, 1981. Information concerning the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and an explanation of the initial conditions of approval of the West Virginia program, can be found in the January 21, 1981 **Federal Register** (46 FR 5915–5956).

Since then the program has been amended several times, including a September 20, 1984 amendment containing West Virginia's blaster training, examination and certification program. The Director approved this amendment, but required correction of three minor deficiencies (49 FR 36837–36840). On November 20, 1984, West Virginia submitted proposed regulations and a policy statement to resolve these deficiencies. The Director approved this amendment on April 23, 1985, but required the State, no later than June 24, 1985, to submit an Attorney General's opinion that the policy statement could legally override a conflicting regulation (50 FR 15889–15891).

By letter dated June 24, 1985, West Virginia notified OSM that it had decided to resolve the conflict by formal rulemaking through the legislative process instead of seeking the Attorney General's opinion (Administrative Record No. WV 661). The letter committed the State to begin the rulemaking process within 60 days. To allow the State sufficient time to complete the initial Procedural stages of formal rulemaking, the Director is proposing to extend the deadline for amendment submission to November 26, 1985. He is now seeking comment on this proposed extension.

The issue involves section 4C.01 of the State's approved surface mining regulations which inappropriatedly relates blasting plan requirements to blasts using more than five pounds of explosives. Since section 3.01(A) of the State's blasting regulations requires certification only of blasting personnel who use explosives in accordance with the blasting plan, certain blasting operations would be exempt from the requirement of section 4C.01 that a certified blaster be responsible for all blasting operations. In addition, since section 4C.02 provides that only surface mining operations need to prepare blasting plans, surface blasting at underground mines would not be covered. Both of these provisions are less effective than the Federal regulations at 30 CFR 816.61(c) and 817.61(c) which require that all surface blasting operations be conducted under the direction of a certified blaster.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no enviromental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Excutive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior had determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Poperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: July 23, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85–17853 Filed 7–26–85; 8:45 am]

BILLING CODE 4310–05–M

VOL 50 ISS 145 JL 29 1985 UMI

Notices

Federal Register
Vol. 50, No. 145
Monday, July 29, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Agency From Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration (EDA)
Title: Quarterly Report on Guaranteed Loans
Form Number: Agency—ED–700; OMB—0610–0010
Type of Request: Revision of a currently approved collection
Burden: 90 respondents; 119 reporting hours
Needs and Uses: EDA uses the Quarterly Report on Guaranteed Loans to collect information from lenders that have made EDA-quaranteed loan in order to determine EDA's contingent liability for these loans
Affected Public: Businesses or other for-profit institutions
Frequency: Quarterly
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Buiding, Washington, D.C. 20503.

Edward Michals
Departmental Clearance Officer.

Date: July 23, 1985.

[FR Doc. 85–17915 Filed 7–26–85; 8:45 am]
BILLING CODE 3510-CM-M

Agency From Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Bureau of Standards
Title: Survey of Electronic Measurement Needs
From Number: Agency—NBS–1215; OMB–N/A
Type of Request: New collection
Burden: 1,000 respondents; 500 reporting hours
Needs and uses: The information will be used for the planning and development of research and development programs, measurement methods, or calibration services to meet the measurement needs of NBS' clients in the electronics industry. The clients include manufacturers; government agencies, universities, national laboratories, standards laboratories, and related organizations
Affected public: State of local governments; businesses or other for profit institutions; federal institutions, and small businesses or organizations
Frequency: One-time only
Respondent's obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395–3785

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Date: July 19,1985.

Edward Michals,
Departmental Clearance Officer.

[FR Doc. 85–17916 Filed 7–26–85; 8:45 am]
BILLING CODE 3510-13-M

International Trade Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance; Merritt Estate Winery, Inc., et al.

Petitions have been accepted for filing on the dates indicated from the following firms: (1) Merritt Estate Winery, Inc., 2264 King Road, Forrestville, New York 14062, producer of grapes and wine (July 1, 1985); (2) Dentek, Inc., 155 Great Arrow, Buffalo, New York 14207, producer of dental equipment (July 1, 1985); (3) Fabrications, Inc., 529 Cooke Street, Honolulu, Hawaii 96813, producer of women's dresses, skirts, slacks and tops (July 1, 1985); (4) Metaltec Corporation, Aerosystems Industrial Park, Cork Hill Road, Franklin, New Jersey 07416, producer of metal tubes for writing instruments and cosmetics (July 2, 1985); (5) Tranoco, Inc., P.O. Box 267, Travelers Rest, South Carolina 29690, producer of wood golf club heads, textile machinery parts, logs and lumber (July 2, 1985); (6) Pratt-Read Corporation, Main Street, Invoryton, Connecticut 06442, producer of pianos, electronic keyboards and synthesizers, piano and organ components, turned and shaped wood products, timing devices, hand tools, metal pins and stampings, motors, coils and transformers (July 3, 1985); (7) Volpi & Son Machine Corporation, 2043 Wellwood Avenue, Farmingdale, New York 11735, producer of oriental noodle and fabric ribbon processing machinery (July 3, 1985); (8) Century Manufacturing Company, Inc., P.O. box C, Aurora, Nebraska 68818, producer of hospital and nursing home equipment (July 5, 1985); (9) Capitol Tackle, Inc., 4809 Fruit Valley Road, Vancouver, Washington 98660, producer of fishing tackle and automotive wheel weights (July 5, 1985); (10) Crockford Enterprises, 716 NW. 68th Street, Vancouver, Washington 98665, producer of fishing rods and components (July 5, 1985); (11) Wink Corporation, P.O. Box J, Lynnwood, Washington 98046, producer of automotive accessories (July 5, 1985); (12) Sand Manufacturing Corporation, 8775 Production Avenue, San Diego, California 92121, producer of caps and visors (July 8, 1985); (13) Relational Memory Systems, Inc., 1650-Building B, Berryessa Road, San Jose, California 95113, producer of computer hardware and software (July 8, 1985); (14) Lion Leather Products, Inc., 1831 Starr Street, Ridgewood, New York 11385 producer of briefcases and attache' cases (July 8, 1985); (15) Auburn Gear, Inc., Auburn Drive, Auburn, Indiana 46706, producer of automotive gears, shafts, and assemblies (July 10, 1985); (16) Louis Gordon Company, 129 Chestnut Street, Warwick, Rhode Island 02888, producer of jewelry (July 10, 1985); (17) Lucky Childrens Wear Manufacturing Company, Inc., 55 South 11th Street, Brooklyn, New York 11211, producer of men's and boy's jeans (July 10, 1985); (18) Ray Carr Tires, Inc., Box 48, Harrisonburg, Virginia 22081, producer of automotive tires (July 11, 1985); (19) Milton Shoe Manufacturing Company, Inc., 700 Hepburn Street, Milton, Pennsylvania 17847, producer of women's footwear (July 11, 1985); (20) Prestige Sportswear, Inc., 493 C Street, South Boston, Massachusetts 02210, producer of women's blazers, slacks, blouses, skirts, shorts and dresses (July 11, 1985); (21) Setlowear, Inc., Indian River Road, Orange, Connecticut 06477, producer of men and women's pants, jackets shirts, dresses and smocks (July 11, 1985); (22) Magic Sportswear, Inc., 1359 Broadway, New York, New York 10018, producer of women's skirts, blouses and pants (July 11, 1985); (23) Scott Foot Appliance Company, 2412 Saint Mary's Avenue, Omaha, Nebraska 68105, producer of foot care and shoe repair articles (July 11, 1985); (24) Hazlitt 1852 Vineyard, P.O. Box 53, Hector, New York 14841, producer of grapes and apples (July 15, 1985); (25) Don J. Wickham, Inc., Route 414, Hector, New York 14841, producer of grapes and wine (July 15, 1985); (26) Beckhorn Vineyards, 6110 Beckhorn Road, Valois, New York 14888, producer of grapes (July 15, 1985); (27) W.R.M.J. Johnson Fruit Farms, Inc., Route 414, Valois, New York 14888, producer of grapes, peaches, apples and cherries (July 15, 1985); (28) Beattie Hill Farm, Route 4145, Hector, New York 14841, producer of grapes, cattle and grain (July 15, 1985) and (29) Buttonwood Creek Vineyard Corporation, P.O. Box 87, Rock Stream, New York 14878, producer of grapes (July 15, 1985).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, Room 4015A, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,
Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 85–17898 Filed 7–26–85; 8:45 am]
BILLING CODE 3510-DR-M

COMMITTEE FOR THE PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1985 Correction of Additions

In FR Doc. 85–17216 appearing on page 29469 in the issue of Friday, July 19, 1985, make the following correction:

In the first column, the effective date for the additions to the Procurement List should read July 19, 1985.

C.W. Fletcher,
Executive Director.

[FR Doc. 85–17901 Filed 7–26–85; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Department of the Army Historical Advisory Committee; Meeting

1. In accordance with section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Department of the Army Historical Advisory Committee.
Date: 20 September 1985.
Place: Conference Room, National Guard Association Building 1, Massachusetts Avenue, NW, Washington, D.C.
Time: 0845–1230, 1400–1630
Proposed Agenda:
0845–1230—Review of historical activities
1400–1630—Discussion of activities and executive session of the committee

Purpose of meeting: The committee will review the past year's historical activities based on reports and manuscripts received throughout the year and formulate recommendations through the Chief of Military History of the Chief of Staff, U.S. Army and the Secretary of the Army for advancing the purpose of the Army Historical Program.

2. Meetings of the Advisory Committee are open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing, at least five days prior to the meeting of their intention to attend the 20 September meeting.

3. Any members of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory Committee should be addressed to LTC William G. McAninch, Executive Officer, U.S. Army Center of Military History, Washington, D.C. 20314–0200.

Dated July 12, 1985.
William G. McAninch
LTC, FA, Executive Officer.

[FR Doc. 85–17910 Filed 7–26–85; 8:45 am]
BILLING CODE 3710-92-M

DEPARTMENT OF EDUCATION

National Advisory Council on Continuing Education; Meeting

AGENCY: Education.

ACTION: National Advisory Council on Continuing Education, notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of and

Education, 2000 L Street NW., Suite 500, Washington, D.C.,

Cooling Water Systems for the C- and K-Reactors and the D-Area Power

comments has the opportunty to do so, five minutes will be allotted to

Four Mile Creek and Pen Branch, respectively. The onsite coal-fired

evaluate the potential environmental consequences of constructing and

VOL
50
ISS
145
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SUMMARY: This notice sets forth the schedule and proposed agenda of and Executive Committee meeting of the National Advisory Council on Continuing Education. It also describes the functions of the Council. Notice of meetings is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: August 1 and 2, 1985.

ADDRESS: The Sheraton Grand Hotel, 525 New Jersey Avenue NW., Washington, D.C. 2001–1527.

FOR FURTHER INFORMATION CONTACT: Dr. William G. Shannon, Executive Director, National Advisory Council on Continuing Education, 2000 L Street NW., Suite 500, Washington, D.C. 20036. Telephone: (202) 634–6077.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Continuing Education is established under section 117 of the Higher Education Act (20 U.S.C. 1109), as amended. The Council is established to advise the President, the Congress, and the Secretary of the Department of Education on the following subjects:

(a) An examination of all federally supported continuing education and training programs, and recommendations to eliminate duplication and encourage coordination among these programs;

(b) the preparation of general regulations and the development of policies and procedures related to the administration of Title I of the Higher Education Act; and

(c) activities that will lead to changes in the legislative provisions of this title and othe federal laws affecting federal continuing education and training programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending are asked to call the Council's office beforehand.

The public is being given less than fifteen days notice of this meeting because of last minute negotiations with OECD with regard to conference.

The Executive Committee will meet from 9:00 a.m. to 4:30 p.m. on August 1 and from 8:30 a.m. to 1:00 p.m. on August 2.

The proposed agenda includes:

—OECD Conference Plans
—Annual Report
—Budget and other matters

Records are kept of all Council proceedings and are available for public inspection at the office of the National Advisory Council on Continuing Education, 2000 L Street NW., Suite 500, Washington, D.C.,

Signed at Washington, D.C. on July 24, 1985.

William G. Shannon,

Executive Director.

[FR Doc. 85–17978 Filed 7–26–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Intent To Issue a Program Solicitation; District Heating and Cooling Research and Development

The Department of Energy will soon be inviting firms, universities, organizations, and individuals to submit proposals for the performance of research aimed at reducing costs and improving the efficiency of district heating and cooling (DHC) systems. The Department is interested in research relating to DHC components and systems, and to the rehabilitation of older district heat systems.

The Program Solicitation will solicit research in any of the following phases of development: basic and applied research; exploratory development; technology development; or engineering development. Topical areas may include, for example: systems development (district cooling, low density DHC, simultaneous heating and cooling); component development (piping, metering, controls, building conversion equipment); local resources use (reject heat, water resources); and rehabilitation of steam district heat systems.

Multiple awards for research are expected to be made in 1986. Subject to the availability of funds, up to $800,000 has been programmed for these awards. Of this amount, $300,000 will be specifically earmarked for research relating to the rehabilitation of older district heat systems.

It is anticipated that a formal solicitation will be issued in the fall of 1985. Requests for copies of this solicitation may be addressed to: Ms. Wanda Simpson—Contracting Officer, MA–453.2, Reference: DE–PS01–86CE26534, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, DC on July 23, 1985.

David G. Newman,

Director, Office of Procurement Operations.

[FR Doc. 85–17862 Filed 7–26–85; 8:45 am]

BILLING CODE 6450–01–M

Cooling Water Systems for the C- and K-Reactors and the D-Area Power Plant at the Savannah River Plant, Aiken, SC; Intent To Prepare an Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) and conduct a public scoping meeting on cooling water systems for C- and K-Reactors and the D-Area coal-fired power plant at the Savannah River Plant (SRP) near Aiken, South Carolina.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS to provide input into the selection of cooling water systems for thermal discharges from the C- and K-Reactors, and from a coal-fired power plant in the D-Area. The need to implement cooling water systems for these facilities is based on compliance with the Clean Water Act and a Consent Order, dated January 3, 1984, between DOE and the State of South Carolina's Department of Health and Environemntal Control (SCDHEC). This EIS will address the potential environmental consequences of constructing and operating alternative cooling water systems.

Scoping

DOE invites interested agencies, orgnizations, and the general public to submit comments or suggestions for consideration in the preparation of the EIS. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS are requested by August 31, 1985. Written comments should be submitted to Mr. R. P. Whitfield at the address below. Written comments postmarked after August 31, 1985 will be considered to the degree practicable. The DOE will also hold a public scoping meeting at the location and times indicated below:

Aiken, South Carolina, on August 19, 1985 at 10:00 a.m. and at 6:00 p.m. at the Odell Weeks Activity Center, 1700 Whiskey Road, Aiken, South Carolina 29801.

Individuals desiring to make oral presentations at this meeting should notify Mr. Whitfield at the address listed below as soon as possible after the appearance of this notice in the **Federal Register** so that DOE may arrange a schedule for the presentations. Persons who have not submitted a request to speak in advance may register to speak at the meeting before the meeting commences. They will be called on to present their comments as time permits. In order to assure that everyone who wishes to present oral comments has the opportunty to do so, five minutes will be allotted to individuals, and ten minutes will be allotted to individuals representing groups. Comments received at this scoping meeting will be considered in the preparation of the draft EIS. Transcripts of the scoping meeting will be prepared by DOE and made available for review at the DOE Public Reading Room located at the University of South Carolina, Aiken Campus, University Library, 2nd Floor, University Parkway, Aiken, South Carolina, and the Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C.

Those interesed parties who do not wish to submit comments or suggestions at this time but would like to receive a copy of the draft EIS for review and comment should notify Mr. Whitfield at the address below.

ADDRESS: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meeting may be submitted to: Mr. R. P. Whitfield, Director, Environmental Division, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, (803) 725–3957.

Envelopes should be marked "Scoping for SRP Cooling Water Systems EIS."

For general information on the DOE EIS process, please contact: Office of the Assistant Secretary for Environment, Safety, and Health, U.S. Department of Energy, Attn: Ms. Carol M. Borgstrom (EH–152), Room 3G–092 Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–4600.

Background Information

The SRP is a controlled-access, major DOE installation established in the early 1950s for the protection of nuclear materials for national defense. Plant facilities, which may be characterized as heavy industry, consist of five production reactors (three operational, one being readied for restart, and one in standby status), electrical and steam generating plants, two chemical separations facilities, fuel and target fabrication facilities, waste management facilities, a heavy-water production facility (in standby status), research laboratories, repair shops, warehouses, and administrative facilities.

The major sources of thermal effluent discharges at the SRP consist of cooling water discharges from the production reactors and an onsite coal-fired power plant. Two of the currently operating production reactors, C- and K-Reactors, discharge their cooling water directly to Four Mile Creek and Pen Branch, respectively. The onsite coal-fired power plant in the D-Area normally discharges cooling water through a small mechanical cooling tower prior to discharge to Beaver Dam Creek.

The thermal effluent from the other currently operating reactor, P-Reactor, is cooled by an onsite 2500 acre cooling lake, Par Pond. Continued use of the recirculating cooling system for P-Reactor is anticipated based on section 316(a) and 316(b) studies, being conducted by DOE. These studies, to be submitted to SCDHEC, are expected to demonstrate the existence of a balanced indigenous biological community in Par Pond. L-Reactor, which is presently being readied for restart, will discharge cooling water to a cooling lake currently under construction. The restart of L-Reactor and the cooling lake are extensively discussed in the "Environmental Impact Statement, L-Reactor Operation, Savannah River Plant" (DOE/ EIS–0108).

On January 1, 1984, SCDHEC issued a National Pollutant Discharge Elimination System (NPDES) permit for the SRP. In this permit, the cooling water discharge limitation included an instream temperature limitation on thermal discharges rather than in the Savannah River. To achieve compliance with these limitations, DOE and SCDHE entered into a Consent Order on January 3, 1984, that temporarily superseded the temperature requirements in the NPDES permit and identified a process for attaining compliance. Major elements of this process included DOE agreement to complete a comprehensive study of the thermal effects of major SRP thermal discharges, the submittal of a thermal mitigation study, and the selection and implementation of cooling water system.

On October 3, 1984, DOE submitted a "Thermal Mitigation Study" to SCDHEC describing the cooling water systems that could be implemented for the C- and K-Reactors and the D-Area coal-fired power plant to achieve compliance with Federal and State water quality standards.

On March 4, 1985, SCDHEC informed DOE that it was in agreement with the preferred cooling water systems of once-through cooling towers for C- and K-Reactors and increased pumping to the raw water basin with basin water overflow discharge to a nearby outfall for the D-Area power plant. SCDHEC also stated that recriculating cooling towers for C- and K-Reactors would also be an adequate choice and that both once-through and recirculating cooling towers would satisfy State standards.

In compliance with the National Environmental Policy Act, DOE will evaluate the potential environmental consequences of constructing and operating cooling water systems for the C- and K-Reactors and the D-Area coal-fired power plant prior to a decision on implementation.

Alternatives

The "Thermal Mitigation Study" (DOE/SR–5003) submitted by DOE to the SCDHEC identified a total of 22 possible cooling water alternatives which would meet the Class B water quality standards of the State of South Carolina for C- and K-Reactors and four possible alternatives for the D-Area coal-fired power plant. Based on a structured evaluation process, five reasonable compliance alternatives were then identified for the C- and K-Reactors, and two reasonable compliance alternatives were identified for the D-area coal-fired power plant. For the C- and K-Reactors, the alternatives identified as reasonable compliance alternatives were a once-through cooling tower with a holding pond, a recirculating cooling tower with a holding pond, a once-through cooling lake, a once-through cooling tower followed by a cooling lake, and a cooling lake followed by a once-through cooling tower. For the D-Area coal-fired power plant, the alternatives identified as reasonable compliance alternatives were direct discharge to the Savannah River and increased pumping to the raw water basin with discharge of basin overflow to a nearby outfall.

Due to unfavorable topographic features in the area around C- and K-Reactors and the resulting high capital costs for construction of large cooling lakes in such area, DOE believes that these alternatives are unreasonable for purposes of this EIS despite their ability to meet State water quality standards. Accordingly, it is proposed that detailed evaluations will only be performed for the once-through and recirculating cooling towers with holding ponds. Further, because of its higher capital costs, the longer schedule for implementation, and the potential reduction in habitat for endangered and threatened species caused by the reduced flow to Beaver Dam Creek, the alternative for direct discharge to the Savannah River of D-Area coal-fired power plant cooling water may not be reasonable. Consequently, the DOE proposed not to perform a detailed evaluation of this alternative. The public is invited to comment on this preliminary determination of reasonable alternative during the scoping process.

The cooling water systems proposed to be considered in detail in this EIS

therefore, are once-through cooling towers with 100-acre offstream holding ponds and recirculating cooling towers with 100-acre offstream holding ponds for C- and K-Reactors, and increased pumping to the raw water basin with discharge of basin overflow to a nearby outfall for the D-Area coal-fired power plant. As required by the Council on Environmental Quality regulations for implementing the National Environmental Policy Act, the EIS will also consider "no action".

Identification of Environmental Issues

The following issues will be analyzed during preparation of the EIS. This list is not intended to be all inclusive, nor is it s predetermination of potential impacts. Additions or deletions may occur as the result of the scoping process.

1. *Socioeconomic:* Economic and community infrastructure effects as a result of the construction and operation of cooling water systems.

2. Wildlife and Endangered Species: Biological evaluations of the effects on endangered species and the status of any required consultation process in accordance with section 7 of the Endangered Species Act. The effects of cooling water systems (impacts during construction and benefits during operation) on other wildlife species and habitats.

3. *Fisheries:* Impingement and entrainment of fish, and fish eggs and larvae due to withdrawal of cooling water; and maintenance of a zone of passage for anadromous fish and other aquatic organisms.

4. *Wetlands:* Wetlands to be impacted by construction and operation of cooling water systems, and the recovery of wetlands due to reduced rates of cooling water discharge and downstream temperatures.

5. *Radiological effects:* Changes in dose commitments resulting from operation of cooling water systems.

6. *Radionuclide remobilization:* Changes in stream flow rates resulting in a remobilization of previously deposited radionuclides and effects on downstream drinking water.

7. *Water use and quality:* Discharge temperature and flow rate variations that would occur after cooling water systems are implemented, chemical characteristics of cooling water discharges, erosion and sedimentation resulting from construction and operation, and water use requirements.

8. *Atmospheric releases:* Cooling tower fogging, drift, and deposition.

9. *Cumulative thermal effects:* Cumulative effects of cooling water discharges to the Savannah River from C-, K-, and L-Reactors, the D-Area coal-fired power plant, the Vogtle Power Plant, and the Urquhart Steam Generating Plant.

10. *Cumulative radiological effects:* Changes in cumulative radiological dose commitments from radioactive releases from implementation of cooling water systems and existing and planned SRP and neighboring facilities.

References

Major documents related to the proposed EIS include the following:

- DOE/EIS–0108, "Final Environmental Impact Statement—L-Reactor Operation, Savannah River Plant, Aiken, South Carolina," May, 1984.
- DOE/SR–5003, "Thermal Mitigation Study," October, 1984.
- DP–1697 (draft), "Comprehensive Cooling Water Study, Annual Report."

Copies of these documents together with the January 1, 1984, NPDES permit as issued by SCDHEC and the January 3, 1984, Consent Order between DOE and SCDHEC have been placed for public review in the DOE Public Reading Room located at the University of South Carolina, Aiken Campus, University Library, 2nd Floor, University Parkway, Aiken, South Carolina, and the Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C.

Upon completion of the draft EIS, its availability will be announced in the **Federal Register** and local news media, and comments will be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

Dated in Washington, D.C., this 22nd day of July, 1985, for the United States Department of Energy.

William A. Vaughan,

Assistant Secretary, Environment, Safety, and Health.

[FR Doc. 85–17938 Filed 7–26–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TA85–13–20–000 & 001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

July 23, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on July 18, 1985, tendered for filing Second Revised Sheet No. 204 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Second Revised Sheet No. 204 is being filed to reflect in Algonquin Gas' Rate Schedule F–3 revised rates in National Fuel Gas Supply Corporation's ("National Fuel") underlying Rate Schedule RQ.

Algonquin Gas requests that the Commission accept such tariff sheet, to be effective August 1, 1985, to coincide with the proposed effective date of National Fuel's rate change.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 30, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17912 Filed 7–26–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER85–629–000, et al.]

Idaho Power Co., et al.; Electric rate and corporate regulation filings

July 23, 1985.

Take notice that the following filings have been made with the Commission:

1. Idaho Power Company

[Docket No. ER85–629–000]

Take notice that on July 15, 1985, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's order or October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during May 1985, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company, Supplement 43
Sierra Pacific Power Company, Supplement 39
Montana Power Company, Supplement 35
Portland General Electric Company, Supplement 35
Southern California Edison Company, Supplement 29
San Diego Gas & Electric Company, Supplement 24
Pacific Power & Light Company, Supplement 15
Washington Water Power Company, Supplement 29
Los Angeles Water & Power Company, Supplement 26
Puget Sound Power & Light Company, Supplement 16
Pacific Gas & Light Electric Company, Supplement 10

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. New York State Electric & Gas Corporation

[Docket No. ER85–633–000]

Take notice that on July 15, 1985, New York State Electric and Gas Corporation (NYSEG) submitted for filing an original and a conformed copy of a Notice of Cancellation of its Rate Schedule FPC No. 23, made effective on August 16, 1964.

The change in the status of this Rate Schedule was discovered during an overall review of NYSEG's rate schedules which culminated in its filing with the Commission in Docket No. ER85–426–000. Further review of Rate Schedule FPC No. 23 revealed that it has been inoperative since January 30, 1985. NYSEG, therefore, requests waiver of the requirement of thirty days notice in accordance with § 35.15 of 18 CFR.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of Indiana, Inc.

[Docket No. ER85–630–000]

Take notice that Public Service Company of Indiana, Inc. on July 15, 1985 tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. (Service Company) and Southern Indiana Gas and Electric Company (Southern Company), a Ninth Supplemental Agreement, to become effective September 10, 1985.

Said Supplemental Agreement provides for the following:

(1) Amends the existing Agreement to update those points of interconnection between Service Company and Southern Company.

(2) Amends Article 6, Billing and Payment, by deleting Article 6.01 and inserting a new Article 6.01.

(3) Inserts a new Service Schedule A—Emergency Service, Service Schedule C—Interchange Power, Service Schedule D—Short Term Power, Service Schedule E—Coordination of Scheduled Maintenance of Generating Facilities, and deletes those existing said service schedules, as amended.

Copies of the filing were served upon Southern Indiana Gas and Electric Company and the Public Service Commission of Indiana.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Mexico

[Docket No. ER85–631–000]

Take notice that on July 15, 1985, Public Service Company of New Mexico (PNM) tendered for filing Service Schedule E (Block Energy Sale) to the Interconnection Agreement (Rate Schedule FERC No. 37) between PNM and Nevada Power Company (NPC).

PNM states that the service to be provided to NPC under Service Schedule E is for sale of approximately 61,000 megawatt hours of block energy at a rate of delivery of 33 megawatts per hour. The proposed service commences on July 1, 1985, and terminates at midnight on September 15, 1985. The rates are specifically negotiated rates based upon on-peak and off-peak hour deliveries, and taking into consideration present competitive market factors.

PNM requests waiver of the Commission's notice requirements so that NPC may avoid generation of more expensive gas-and-oil fired energy and requests the application be accepted allowing commencement of service on July 1, 1985.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. South Carolina Electric & Gas Company

[Docket No. ER85–627–000]

Take notice that South Carolina Electric & Gas Company on July 15, 1985 tendered for filing a proposed cancellation of F.P.C. schedule Nos. T1.S2 and T1.S2.1 dated August 27, 1973, agreement between South Carolina Electric & Gas Company and Broad River Electric Power Cooperative, Inc.

The cancellation is proposed to be effective 60 days after filing. South Carolina Electric & Gas Company has sent copies of the filing to Board River Electric Cooperative, Inc.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. South Carolina Electric & Gas Company

[Docket No. ER85–628–000]

Take notice that South Carolina Electric & Gas Company on July 15, 1985 tendered for filing a proposed cancellation of F.P.C. schedule Nos. T1.S3 and T1.S3.1 dated June 26, 1973, agreement between South Carolina Electric & Gas Company and Central Electric Power Cooperative, Inc.

The cancellation is proposed to be effective 60 days after filing. South Carolina Electric & Gas Company has sent copies of the filing to Central Electric Power Cooperative, Inc.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. The Washington Water Power Company

[Docket No. ER85–632–000]

Take notice that on July 15, 1985, The Washington Water Power Company (WWP) tendered for filing copies of a five-year Agreement dated March 8, 1985, with City of Seattle, Department of lighting (Seattle) for replacement energy for Seattle's Lake Union Steam Plant. Washington states that this Agreement is for February 1 through June 30 period for each of the 1985–86 through 1989–90 operating years and supersedes Washington's FERC Rate Schedule No. 143, a similar Agreement which ended June 30, 1985.

Washington requests that the requirements of prior notice be waived and the effective date be March 8, 1985.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17905 Filed 7–26–85; 8:45 am]

BILLING CODE 6717–01–M

VOL 50 ISS 145 JL 29 1985 UMI

VOL 50 ISS 145 JL 29 1985 UMI

[Docket Nos. CP85-676-000, et al.]

Transcontinental Gas Pipe Line Co., et al.; Natural Gas Certificate Filings

July 22, 1985.

Take notice that the following filings have been made with the Commission:

1. Transcontinental Gas Pipe Line Company

[Docket No. CP85-676-000]

Take notice that on July 5, 1985, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1296, Houston, Texas 77251, filed in Docket No. CP85-676-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport end-user gas on behalf of Mannington, a Division of Mannington Mills, Inc. (Mannington), under the authorization issued in Docket No. CP82-426-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco proposes to transport on a peak day 2,000 Mcf; on an average day 1,200 Mcf; and on an annual basis 250,000 Mcf of gas for use at Mannington's Salem plant in New Jersey (Salem plant), for a term expiring October 31, 1985. It is stated that the natural gas to be transported would be purchased from GHR Energy Corporation (GHR), and would be used for process fuel and boiler fuel. It is stated that Transco would receive the gas at (1) the existing interconnection with GHR at Agua Dulce, Nueces County, Texas, (2) the existing interconnection with Valero Transmission Company in LaSalle County, Texas, (3) the existing interconnection with GHR at Miranda Prospect, Duval County, Texas and (4) the tailgate of the Katy Exxon gas plant in Waller County, Texas, and would redeliver on an interruptible basis, equivalent quantities of gas (less quantities retained for compressor fuel and line loss make-up) to existing points of delivery with South Jersey Gas Company (South Jersey). In turn, South Jersey would redeliver such gas to the Salem plant.

Transco states that it would charge Mannington the currently applicable transportation rate in accordance with its Rate Schedule T-II, FERC Gas Tariff, Second Revised Volume No. 1. In addition,Transco states that it would apply its current transportation policy to the subject transportation which, among other things, requires that Mannington periodically provide Transco with affidavits which state that the subject transportation is not displacing sales which Transco would otherwise make under any of its firm sales rate schedules.

Transco states that Mannington is considering alternatives in the sources of supply of natural gas for delivery to the Salem plant. Transco further states that such modifications may involve different suppliers and/or changes in receipt/delivery points, but would not involve any increase in peak day, average day or annual volumes to be transported by Transco. Transco also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Transco will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to consititute the transportation quantities herein and not to increase those quantities.

Transco asserts that any changes made pursuant to such flexible authority would be on behalf of the same end user, Mannington, for use at the same end-use locations and would remain within daily and annual volume levels proposed herein.

Comment date: September 5, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Transcontinental Gas Pipe Line Corporation

[Docket No. CP85-678-000]

Take notice that on July 5, 1985, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1296, Houston, Texas 77251, filed in Docket No. CP85-678-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport end-user gas on behalf of Coastal Eagle Point Oil Company (Coastal) under the authorization issued in Docket No. CP82-426-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco proposes to transport on a peak day 28,000 Mcf; on an average day 10,000 Mcf; and on an annual basis 3,650,000 Mcf of gas for use at Coastal's Eagle Point refinery (Eagle Point refinery) in Gloucester County, New Jersey for a term expiring October 31, 1985. It is stated that the natural gas to be transported would be purchased from Coastal Oil and Gas Company from the Feffress Field, Hidalgo County, Texas, and would be used for boiler fuel in refining crude oil into products. It is stated that Transco would receive the gas at existing interconnections with Valero Transmission Company in LaSalle County, Texas, and would redeliver such gas, less quantities retained for compressor fuel and line loss make-up, to the existing point of interconnection with Coastal at the Eagle Point refinery.

Transco states that it would charge Coastal the currently applicable transportation rate in accordance with its Rate Schedule T-II, FERC Gas Tariff, Second Revised Volume No. 1. In addition, Transco states that it would apply its current transportation policy to the subject transportation which, among other things, requires that Coastal periodically provide Transco with affidavits which state that the subject transportation is not displacing sales which Transco would otherwise make under any of its firm sales rate schedules.

Transco states that Coastal is considering alternatives in the sources of supply of natural gas for delivery to the Eagle Point refinery. Transco further states that such modifications may involve different suppliers and/or changes in receipt/delivery points, but would not involve any increase in peak day, average day or annual volumes to be transported by Transco. Transco also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Transco will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Transco asserts that any changes made pursuant to such flexible authority would be on behalf of the same end user, Coastal, for use at the same end-use locations and would remain within daily and annual volume levels proposed herein.

Comment date: September 5, 1985, in accordance with Standard Paragraph G at the end of this notice.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17908 Filed 7-26-85; 8:45 am]

BILLING CODE 6717-01-M

Gulf States Utilities Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Ordering Summary Disposition, Granting Waiver of Notice Requirements, Denying Expedited Hearing, and Establishing Hearing Procedures

[Docket No. ER85-538-000]

Issued July 23, 1985

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

On May 24, 1985, Gulf States Utilities Company (GSU) tendered for filing a two-step increase in its rates for transmission service to eight wholesale customers.[1] The proposed "interim rates" would increase revenues by approximately $13.1 million (82.9%) over the twelve months ending December 31, 1985. The proposed "full rates" would increase revenues by an additional $3.3 million, or a total increase of approximately $16.4 million (103.7%) over the same period. Approximately $516,759 (3.2%) of the increase is supported by the inclusion of construction work in progress (CWIP) pursuant to § 35.26(c)(3) of the regulations. For all customers other than the Sam Rayburn Dam Electric Cooperative, Inc. (SRDEC), GSU requests an effective date of July 24, 1985, for both sets of rates. GSU further requests waiver of the notice requirements so that the proposed rates will not take effect as to SRDEC until June 1, 1986, in accordance with the terms of GCU's agreement with SRDEC.[2] If it is determined that the proposed full rates should be suspended for more than one day,GSU asks that the alternate interim rates be put into effect with no more than a one-day suspension. If, however, the proposed full rates and the interim rates would be suspended for the same period, GSU requests that the interim rates be deemed withdrawn.

Notice of the company's filing was published in the **Federal Register**[3] with comments due on or before June 26, 1985. Timely motions to intervene were filed by Stauffer Chemical Co. (Stauffer) and the Attorney General of Louisiana which raise no particular substantive issues. Additionally, timely motions to intervene were filed by the City of Lafayette, Louisiana (Lafayette); jointly by the Sam Rayburn Municipal Power Agency (SRMPA) and SRDEC: Sam Rayburn G&T, Inc. (SRGT); the Louisiana Energy and Power Authority (LEPA); and Cajun Electric Power Cooperative, Inc. (Cajun). The motions to intervene filed by SRMPA, SRDEC, SRGT, LEPA, & Cajun all raise a variety of cost of service and rate issues[4] and request a five-month suspension.

On July 8, 1985, GSU filed an answer to the interventions of Lafayette, SRMPA and SRDEC, SRGT, LEPA, and Cajun. While not opposing any of the motions to intervene, the company denies that either a five-month suspension or an expedited hearing is warranted. With repect to transmission costs, however, GSU states that it inadvertently included two facilities charges, totalling $4.4 million, which are not allocable to transmission service. GSU states that it does not object to summary disposition as to this $4.4 million amount.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make the Attorney General of Louisiana, Stauffer, Lafayette, SRMPA, SRDEC, SRGT, LEPA and Cajun parties to this proceeding.

As GSU notes, the $4.4 million of the transmission facilities charges representing payments by GSU to SRMPA and SRGT in connection with the Nelson Unit 6 power plant are related more closely to production than to the transmission function. Accordingly, we shall order summary disposition with respect to this issue. Because the revenue impact of this decision is substantial, we shall require GSU to refile its "full" cost of service and rates to reflect the exclusion of the $4.4 million.

Our revieiw of the company's filing and the pleadings indicates that the rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶61, 189 (1982), we explained that were our preliminary review indicates that proposed rates may be unjust and unreasonable and may yield substantially excessive revenues, as defined in *West Texas*, we will generally suspend the rates for a period of five months. Our preliminary review of the proposed full rates indicates that those rates as modified by summary disposition, above, may not produce substantially excessive revenues. Accordingly, we shall suspend the full rates for one day, to become effective, as modified, on July 25, 1985, subject to refund, for all customers other than SRDEC. Because of the terms in SRDEC's contract, these rates will not become effective until June 2, 1986, subject to refund. We shall deem the interim rates for all customers to have been withdrawn.

LEPA has alleged that GSU's practices in the offering of transmission services are unreasonably restrictive and discriminatory and has requested an expedited hearing on those issues. We are not persuaded that LEPA has presented an adequate basis for ordering a separate, formally expedited hearing on the questions of GSU's alleged practices in the offering of transmission services, and we shall deny their request at this time[5]

The Commission orders:

(A) Summary disposition is hereby ordered, as noted in the body of this order, with respect to GSU's transmission charges. Within thirty (30) days of the date of this order, GSU shall

[1] *See* Attachment for rate schedule designations and affected customers.

[2] GSU's present contract with SRDEC provides that the company may file a change in rate prior to June 1, 1986, but that such change may not become effective prior to June 1, 1986. This provision was part of the overall bargain under which the Sam Rayburn entities purchased an interest in GSU's Nelson 6 generating unit. According to GSU, the requested waiver will allow the moratorium agreement to to be carried out.

[3] 50 FR 25314 (1985).

[4] The issues raised include:
(1) The claimed rate of return on equity;
(2) The allowance for cash working capital included in rate base;
(3) The classification of primary distribution lines;
(4) The determination of billing demand units;
(5) The allocation of purchased power costs to transmission service customers.

[5] However, pursuant to Ordering paragraph (G) below, the presiding judge designated in this proceeding will have the discretion to establish any appropriate procedural dates.

VOL 50 ISS 145 JL 29 1985 UMI

refile its rates and supporting cost data to reflect this determination.

(B) GSU's request for waiver of the notice requirements is hereby granted for good cause shown.

(C) GSU's proposed and rates are hereby accepted for filing, as modified by summary disposition, and are suspended for one day, to become effective on July 25, 1985, subject to refund, for all customers except SRDEC; as to SRDEC, the proposed full rates are suspended for one day, to become effective on June 2, 1986, subject to refund, pursuant to the agreement between GSU and SRDEC. The interim rates for all customers are deemed to have been withdrawn.

(D) LEPA's request for an expedited hearing on certain issues is hereby denied.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chpater I), a public hearing shall be held concerning the justness and reasonableness of GSU's proposed rate schedule changes.

(F) Subdocket—000 in Docket No. ER85–538–000 is hereby terminated. The evidentiary proceeding ordered herein shall be assigned Docket No. ER85–538–001.

(G) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conferece in this proceeding, to be held within approximately fifteen (15) days after service of top sheets, a in hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure (18 CFR Part 385).

(I) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.
Kenneth F. Plumb,
Secretary.

Rate Schedule Designations

Designations—Other Party and Description
Supplement No. 6 to Supplement No. 6 to Rate Schedule FPC No. 109 (Supersedes Supplement No. 5 to Supplement No. 6), City of Plaquemine Rate Schedule—LTS.
Supplement No. 7 to Supplement No. 6 to Rate Schedule FPC No. 109, City of Plaquemine—LTS.
Supplement No. 23 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 19), Cajun Electric Power Cooperative, Inc. Rate Schedule—CTS.
Supplement No. 2 to Supplement No. 6 to Rate Schedule FERC No. 128, Cajun Electric—Amendment to Service Schedule—CTS.
Supplement No. 24 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 18), Cajun Electric Power Cooperative Inc. Rate Schedule—CSTS.
Supplement No. 25 to Rate Schedule FERC No. 128 (Supersedes Supplement No. 20), Cajun Electric Power Cooperative, Inc. Rate Schedule—CITS.
Supplement No. 2 to Supplement No. 2 to Rate Schedule FERC No. 131 (Supersedes Supplement No. 1 to Supplement No. 2), Sam Rayburn Dam Electric Cooperative, Inc., Sam Rayburn G&T, Inc., Sam Rayburn Municipal Power Agency Rate Schedule—SRTS.
Supplement No. 3 to Supplement No. 2 to Rate Schedule FERC No. 131, Sam Rayburn—Amendment to Service Schedule—SRTS.
Supplement No. 3 to Supplement No. 1 to Rate Schedule FERC No. 131 (Supersedes Supplement No. 1 to Supplement No. 1), Sam Rayburn—Service Schedule—SRSTS.
Supplement No. 1 to Supplement No. 1 to Rate Schedule FERC No. 137, Town of New Roads Rate Schedule—LTS.
Supplement No. 2 to Supplement No. 1 to Rate Schedule FERC No. 137, Town of New Roads—Amendment to Service Schedule—LTS.
Supplement No. 2 to Supplement No. 1 to Rate Schedule—FERC No. 140 (Supersedes Supplement No. 1 to Supplement No. 1), City of Lafayette Rate Schedule—LTS.
Supplement No. 2 to Supplement No. 2 to Rate Schedule FERC No. 140 (Supersedes Supplement No. 1 to Supplement No. 2), City of Lafayette Rate Schedule—LITS.
Supplement No. 2 to Supplement No. 1 to Rate Schedule FERC No. 141 ⅓ (Supersedes Supplement No. 1 to Supplement No. 1), City of Martinville Rate Schedule—PDS.
Supplement No. 1 to Supplement No. 3 to Rate Schedule FERC No. 138, Louisiana Energy and Power Authority Rate Schedule—LETS.
Supplement No. 2 to Supplement No. 3 to Rate Schedule FERC No. 138, Louisiana Energy—Amendment to Service Schedule—LETS.
Supplement No. 1 to Supplement No. 1 to Rate Schedule FERC No. 138, Louisiana Energy and Power Authority Rate Schedule—LESTS.
Supplement No. 1 to Supplement No. 2 to Rate Schedule FERC No. 138, Louisiana Energy and Power Authority Rate Schedule—LEITS.
Supplement No. 9 to Rate Schedule FERC No. 135 (Supersedes Supplement No. 6), Southern Companies Rate Schedule—GITS.
Supplement No. 1 to Supplement No. 5 to Rate Schedule FERC No. 135, Southern Companies—Amendment to Service Schedule—GITS.

[FR Doc. 85–17913 Filed 7–26–85; 8:45 am]
BILLING CODE 6717–01–M

[Project No. 8957–000, et al.]

Hydroelectric Applications (City of Morro Bay, et al.,); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Preliminary Permit.
b. Project No.: 7856–000.
c. Date Filed: February 14, 1985.
d. Applicant: City of Morro Bay.
e. Name of Project: San Bernardo Creek Hydroelectric Project.
f. Location: On San Bernardo Creek, near City of Morro Bay, in San Luis Obispo County, California.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. David A. Norton, Water Engineer, Department of Public Works, 695 Harbor Street, Morro Bay, CA 93442.
i. Comment Date: September 8, 1985.
j. Description of Project: The proposed project would consist of: (1) A 178-foot-high, 1,200-foot-long diversion dam at elevation 310 feet; (2) a 24-inch-diameter, 14,000-foot-long steel penstock; (3) a powerhouse with a total installed capacity of 865 kW operating under a head of 410 feet; and (4) a 1-mile-long, 12.5-kV transmission line from the powerhouse to an existing Pacific

Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 1.5 million KWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $135,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

2 a. Type of Application: Preliminary Permit.
b. Project No.: 9097–000.
c. Date Filed: April 8, 1985.
d. Applicant: Mutual Energy Partnership.
e. Name of Project: Old Highway Hydroelectric.
f. Location: On Big Wood River near the town of Shoshone in Lincoln County, Idaho.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Bart M. O'Keeffe, Mutual Energy Partnership, 3451 Longview Drive, Suite 130, North Highlands, CA 95660.
i. Comment Date: September 16, 1985.
j. Description of Project: The proposed project would consist of: (1) A 12-foot-high, 50-foot-long diversion dam; (2) an intake structure; (3) a 1,000-foot-long, 18-foot-wide power canal; (4) a 10-foot-diameter, 500-foot-long penstock; (4) a powerhouse containing two generating units with a total combined capacity of 2,000 kW; (5) a tailrace; (6) a 600-foot-long transmission line; and (7) a 1,500-foot-long gravel service road. Applicant estimates the average annual energy production to be 12,260 MWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare a license application at a cost of $125,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The proposed power generation is to be sold to a local privately owned utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

3 a. Type of Application: Preliminary Permit.
b. Project No.: 9213–000.
c. Date Filed: May 21, 1985.
d. Applicant: Aero Construction, Inc.
e. Name of Project: Canal Section Lock A Hydro Project.
f. Location: On the Tennessee-Tombigbee Waterway Canal Section near Monroe, Amory County, Mississippi.
g. Filed Pursuant to: Federal Power Act; 16 U.S.C. 791(a)–825(r).
h. Contact Person: Ralph L. Laukhuff, Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, LA 70896.
i. Comment Date: September 11, 1985
j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Tennessee-Tombigbee Waterway Canal Section at Lock A; a 1100-foot-long and 20-foot-wide diversion channel; and would consist of: (1) A new powerhouse located on the west side of the lock in the diversion channel housing two 900–kW generators for a total installed capacity of 1,800 kW; (2) a proposed 12.47-kV transmission line approximately 200 feet long; and (3) appurtenant facilities. The Applicant estimates that the average annnal generation would be 12.6 GWh. All project energy would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $20,000.

4 a. Type of Application: Preliminary Permit.
b. Project No. 9228–000.
c. Date Filed: May 24, 1985.
d. Applicant: Rockingham Hydro Associates.
e. Name of Project: McGaheysville.
f. Location: South Fork of the Shenandoah River in Rockingham County, Virginia.
g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Thomas Forbes, P.O. Box 421, Mercer Island, WA 98040.
i. Comment Date: September 9, 1985.
j. Description of Project: The proposed project would consist of: (1) An existing concrete dam about 750 feet long and 15 feet high; (2) an existing reservoir with a storage capacity of about 103 acre-feet and normal maximum water surface elevation of 1,000 feet, m.s.l.; (3) an existing power channel, 100 feet long and 200 feet wide; (4) two existing penstocks, 10 feet in diameter and 15 feet long; (5) a proposed powerhouse, 100 feet by 50 feet, which will house two turbine/generator units, each rated at 750kW for a total installed capacity of 1.5MW, (6) an existing 50 feet wide by 10 feet long tailrace; (7) a proposed 0.25-mile-long transmission line at 14.4 kV; and (8) appurtenant facilities. Applicant estimates that the average annual energy generation would be 6.3 GWh. Owner of the dam is the City of Harrisonburg, Virginia

k. Purpose of Project: Applicant intends to sell the project energy to the Cities of McGaheysville, Elkton, and Harrisonburg, Virginia.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2

m. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would perpare studies of the hydrualic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant estimates the cost of the studies under the permit would be $125,000.

5 a. Type of Application: Preliminary Permit.
b. Project No. 9278–000.
c. Date Filed: June 7, 1985.
d. Applicant: Cedar Falls Development Ltd.
e. Name of Project: Cedar Falls Dam Project.
f. Location: On the Cedar River near Cedar Falls, Black Hawk County, Iowa.
g. Filed Pursuant to: Federal Power Act 16 U.S.C., 791(a)–825(r).
h. Contact Person: Mr. Kenneth Lever, Pierce Building, 18305 Minnetonka Boulevard, Wayzata, MN 55391.
i. Comment Date: September 9, 1985.
j. Description of Project: The proposed project would consist of: (1) An existing concrete dam approximately 10 feet high and 248 feet long; (2) a small reservoir with a surface area of 21 acres at a normal pool elevation of 853.5 feet m.s.l.; (3) a powerhouse housing a 770-kW generator; (4) a 12.5-kV transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual generation would be 4,425 MWh. The City of Cedar Falls, Iowa is the owner of the dam and appurtenant facilities. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A5, A7,

c. Date Filed: March 1, 1985.
d. Applicant: Arkansas Department of

j. Competing Application: Project No. 8686–000; Date Filed: October 24, 1984.

k. Purpose of Project: Project power

g. Filed Pursuant to: Federal Power

f. Location: On St. Vrain Creek, In

VOL 50 ISS 145 JL 29 1985 UMI

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $50,000.

6 a. Type of Application: Preliminary Permit.

b. Project No. 9284–000.

c. Date Filed: June 10, 1985.

d. Applicant: Rainbow Water Company.

e. Name of Project: Rainbow Lake.

f. Location: On Cottonwood Creek and Hoover Tunnel, near Ono, in Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jack Schreder, Rainbow Water Company, 1327 "O" Street, Suite 12, Sacramento, CA 95814, (916) 441–0986

Raymond, Vail and Associates, 1410 Ethan Way, Sacramento, CA 95825, (916) 929–3323.

i. Comment Date: September 9, 1985.

j. Description of Project: The proposed project would consist of: (1) Rainbow Water Company's existing Misselbeck Dam and Rainbow Lake; (2) a 36-inch-diameter, 4,000-footlong pipeline; (3) the existing 7,000-foot-long Hoover Tunnel; (4) a 32-inch-diameter, 1,050-foot-long penstock; (5) a powerhouse containing a single Pelton turbine-generator unit with a rated capacity of 930 kW and producing an estimated average annual generation of 3.27 GWh; (6) a tailrace discharging to Ducket Creek; and (7) a tap 12.5–kV transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) line. Project power would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $50,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

7 a. Type of Application: 5MW Exemption.

b. Project No. 7160–001.

c. Date Filed: March 1, 1985.

d. Applicant: Arkansas Department of Parks and Tourism, State Parks Division.

e. Name of Project: Mammoth Spring Hydroelectric Facility.

f. Location: On the Spring River in Fulton County, Arkansas.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708, *as amended*).

h. Contact Person: Mr. Richard Davies, Director, Arkansas State Parks, One Capitol Mall, Little Rock, AR 72201.

i. Comment Date: August 28, 1985.

j. Description of Project: The proposed project would consist of: (1) A proposed impoundment with a water surface area of 9.8 acres at normal maximum surface elevation of 503.8 feet, m.s.l.; (2) an existing dam about 110 feet long and presently 13.3 feet high. Repairs and reconstruction to the dam will involve the addition of a concrete cap 1.3 feet high on top of the dam, giving a proposed dam height of 14.6 feet high; (3) an existing intake structure; (4) an existing powerhouse 25 feet square, contiguous with the dam, which will house one renovated generating unit with an installed capacity of 550 kW; (5) an existing tailrace; (6) approximately 600 feet of new underground transmission line at 5kV; and appurtenant facilities. Applicant estimates that the average annual energy generation would be 1,700,000 kWh. The Applicant is the Permittee for Project No. 7160–000.

k. Purpose of Project: Project energy will be sold to the Arkansas Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a

m. *Purpose of Exemption*—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

8 a. Type of Application: Minor License.

b. Project No. 8422–001.

c. Date Filed: December 3, 1984.

d. Applicant: Pine Island Pond Hydro.

e. Name of Project: Pine Island Pond Project.

f. Location: On the Cohas Brook in Hillsborough County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Anne L. Warner, Pine Island Pond Hydro, 6–10 Pendleton Lane, Londonderry, New Hampshire 03053.

i. Comment Date: August 30, 1985.

j. Competing Application: Project No. 8686–000; Date Filed: October 24, 1984.

k. Description of Project: The proposed project would consists of: (1) An existing 17-foot-high, 80-foot-long stone masonry dam with; (2) 2.5-foot-high wood flashboards; (3) a reservoir with a surface area of 37 acres, a storage capacity of 240 acre-feet, and a normal water surface elevation of 151.1 feet msl; (4) a new intake structure; (5) a new concrete and wood powerhouse containing one generating unit with a capacity of 35 kW and one generating unit with a capacity of 170 kW for a total installed capacity of 205 kW; (6) a new 20-foot-wide, 6-foot-deep tailrace; (7) a new transmission line, 300 feet long; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 718,000 kWh. The existing dam is owned by Edward J. Socha, Manchester, New Hampshire.

l. Purpose of Project: All project energy produced would be sold to the Public Service Company of New Hampshire.

m. This notice also consists of the following standard paragraphs: A4, B, C, and D1.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 8776–000.

c. Date Filed: December 5, 1984.

d. Applicant: Kittitas Reclamation District.

e. Name of Project: Cle Elum Dam.

f. Location: At the Bureau of Reclamation's Cle Elum Dam, on the Yakima River, in Kittitas Country, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Stan Powers, Kittitas Reclamation District, P.O. Box 276, Ellensburg, WA 98926.

i. Comment Date: August 28, 1985.

j. Description of Project: The proposed project would utilize the Bureau of Reclamation's Cle Elum Dam and Reservoir and would consist of: (1) A 3,000-foot-long, 14-foot-diameter concrete lined tunnel (2) a powerhouse containing two generating units with a total capacity of 10 MW and an average annual generation of 42,700 MWh; and (3) a 2 ¼-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $70,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to a utility company.

l. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9191–000.

c. Date Filed: May 13, 1985.

d. Applicant: Streamline Hydro, Inc.

e. Name of Project: Hansen Canal.

f. Location: On Charles Hansen Canal, near Laporte, in Larimer County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Robert E. Stout, Streamline Hydro, Inc., 6565 South Dayton Street, Suite 1100, Englewood, CA 80111, (303) 792–2028.

i. Comment Date: August 28, 1985.

j. Description of Project: The proposed project would utilize an existing overflow drop chute located at elevation 5,246 feet msl on the U.S. Bureau of Reclamation's Charles Hansen Canal and would consist of: (1) A 48-inch-diameter, 50-foot-long penstock; (2) a powerhouse containing a single turbine-generator unit with an installed capacity of 300–kW and producing an estimated average annual generation of 1.3 MWh; (3) a 10-foot-long tailrace discharging water to the Poudre River; and (4) a 700-foot-long, 13.7–kV tap transmission line interconnecting the project to an existing Public Service Company of Colorado (PSCC) line. Applicant intends to sell the project power to PSCC).

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under the permit would be $5,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

11 a. Type of Application: Transfer of License.

b. Project No.: 3671–004.

c. Date Filed: May 8, 1985.

d. Applicant: The Borough of Central City, Mitex, Inc., and Allegheny Hydro Partners.

e. Name of Project: Allegheny Lock and Dam No. 5.

f. Location: At the U.S. Army Corps of Engineers' Allegheny Lock and Dam No. 5 on the Allegheny River in Armstrong County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Bruce J. Wrobel, 91 Newbury Street, Boston, Massachusetts 02116.

i. Comment Date: August 30, 1985.

j. Description of Proposed Transfer: On October 15, 1984, a major license was issued to the Borough of Central City and Mitex, Inc. to construct, operate, and maintain the Allegheny Lock and Dam No. 5 Project No. 3671. It is proposed to transfer the license to the Borough of Central City and Allegheny Hydro Partners, a Pennsylvania limited partnership of which Mitex, Inc. is the general partner. Applicants state that the transfer is necessary to facilitate the financing of the project.

k. This notice also consists of the following standard paragraphs: B and C.

12 a. Type of Application: Surrender of License.

b. Project No.: 5702–002.

c. Date Filed: April 24, 1985.

d. Applicant: Barnet Hydro Company.

e. Name of Project: Barnet.

f. Location: Stevens River in Barnet Village, Caledonia County, Vermont.

g. Filed pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. L. Macrae Rood, Box 142, Warren, Vermont 05674.

i. Comment Date: August 30, 1985.

j. Description of Proposed Surrender: The proposed project would have consisted of: (1) A new 1-to 5-foot-high, 60-foot-long concrete gravity spillway/diversion dam; (2) a pond with no storage capacity at elevation 537.0 feet m.s.l.; (3) a new forebay at the west dam abutment; (4) a 42-inch-diameter, 450-foot-long, buried steel penstock; (5) a new rated capacity of 530 kW; (6) a transmission line; and (7) appurtenant facilities. The proposed run-of-the-river project would have generated up to 2,342,000 kWh annually. Energy produced at the project would have been sold to the local utility.

The Licensee states that due to the current lack of economic viability of the project since the buy-back rate for electricity in Vermont was reduced, and its inability to comply with the timetable for construction, it wishes to surrender its license.

k. This notice also consists of the following standard paragraphs: B, C & D2.

13 a. Type of Application: Preliminary Permit.

b. Project No.: 8919–000.

c. Date Filed: February 1, 1985.

d. Applicant: St. Vrain & Left Hand Water Conservancy District (SVLHWCD).

e. Name of Project: Coffintop Reservoir Pumped Storage.

f. Location: On St. Vrain Creek, in Sections 23 through 27, T3N, R71W, of the 6th P.M., near Laporte, in Larimer County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ms. Barb Poquette, Executive Director, SVLHWCD, 500 Coffman Street, Suite 106, Longmont, CO 80501.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would utilize the existing Price Reservoir (impounded by Button Rock Dam which is owned by City of Longmont, Colorado) as the forebay for a pumped storage hydroelectric project. The reservoir to be created by the proposed Coffintop Dam, would be utilized as the project's afterbay. Button Rock Dam, an earth and rockfill dam 925 feet long with a maximum height of 215 feet, impounds Price Reservoir with a surface area of 248 acres and a storage capacity of 16,000 acre-feet at maximum surface elevation 6,400 feet m.s.l. The proposed Coffintop Dam would be an earth and rockfill or a roller compacted concrete dam 2,350 feet long and 350 feet high (if concrete) or 385 feet high (if earthfill), impounding a reservoir with a surface area of 800 acres and storage capacity of 115,000 acre-feet at maximum surface elevation 5,740 feet m.s.l. Additional new project works would consist of: (1) A 15-foot-diameter concrete-lined tunnel/penstock 17,600 feet long; connecting to (2) a 15-foot-diameter steel-lined tunnel/penstock 2,350 feet long; leading to (3) a powerhouse with an installed capacity of 156 MW containing 3 pump-turbines rated at 52 MW each; (4) a surge chamber, 5,950 feet upstream of the powerhouse; (5) a 1,550-foot-long, 15-foot-diameter, concrete-lined tunnel loading from the powerhouse to (6) a tailrace; and (7) a 2.5-mile-long, 115-kV primary transmission line. Applicant estimates that the average annual energy production would be 573,955,000 kWh. Project energy would be sold to area utility systems including the Public Service Company of Colorado, Tri-State Generation and Transmission Association, and the Platte River Power Authority. The project would be partially located on U.S. Bureau of Reclamation lands.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the

outcome of the studies, the Applicant would decide whether to proceed with

kWh. Existing facilities are owned by Homestead Woolen Mills, Inc.

the cost of the studies under permit would be $125,000.

kW; (6) a proposed 100-foot-long tailrace; (7) a proposed 220-foot-long,

VOL
50
ISS
145
JL
29
1985
UMI

outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under the permit would be $50,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 9143–000.

c. Date Filed: May 1, 1985.

d. Applicant: Guthrie Associates.

e. Name of Project: Monroe Dam.

f. Location: On the Salt Creek in Monroe County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Thomas Forbes, Guthrie Associates, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: August 30, 1985.

j. Competing Application: Project No. 9076–000; Date Filed: April 1, 1985.

k. Description of Project: The Applicant would utilize an existing dam under the administration of the U.S. Army Corps of Engineers (Corps). The proposed project would consist of: (1) A proposed bifurcated penstock, which would be connected to the Corps' existing 12-foot-diameter outlet conduit; (2) a proposed powerhouse containing two generating units with a total installed capacity of 3,500 kW; (3) a proposed tailrace which would divert the outflow from the powerhouse to the existing outlet channel of the existing Corps flood control project; (4) a proposed transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the proposed project is 9,100,000 kWh.

l. This notice also consists of the following standard paragraphs: A6, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $125,000.

15 a. Type of Application: Perliminary Permit.

b. Project No.: 9145–000.

c. Date Filed: May 1, 1985.

d. Applicant: Lagro Associates.

e. Name of Project: Salamonie Dam.

f. Location: On the Salamonie River in Wabash County, Indiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Thomas Forbes. P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: August 30, 1985.

j. Competing Application: Project No. 9077–000; Date Filed: April 1, 1985.

k Description of Project: The proposed project would utilize the exsiting U.S. Army Corps of Engineers' Salamonie Dam and would consist of: (1) A proposed penstock approximately 65 feet long with a wye connection into: (2) a proposed powerhouse which will contain units with an installed generated capacity of 7,700 kW; (3) a proposed channel tailrace approximately 80 feet long; (4) a proposed transmission line; and (5) appurtenant facilities. The estimated average annual energy produced by the project would be 20,100,000 kWh operating under a net hydraulic head of 69 feet. Project power would be sold to the Towns of Marion and Huntington, Indiana.

l. This notice also consists of the following standard paragraphs: A8, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $125,000.

16 a. Type of Application: Preliminary Permit.

b. Project No: 9172–000.

c. Date Filed: May 6, 1985.

d. Applicant: Logan Associates.

e. Name of Project: Utah State Dam Hydro Project.

f. Location: On Logan River in Cache County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Mike Graham, President, Great Western Power & Light, Inc., 484 East 300 North, Manti, UT 84642.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would utilize an abandoned site owned by the State of Utah and would consist of: (1) A concrete and earthfill dam, about 70 feet high and 700 feet long; (2) a reservoir having a storage capacity of about 500 acre-feet; (3) two new 30-inch-diameter penstocks, about 60 feet long; (4) a new powerhouse to contain turbine-generator units rated at 500 kW and 1,500 KW for a total rated capacity of 2,000 kW; (5) a tailrace returning flow to the river near the toe of the dam; (6) a new transmission line, about 2,000 feet long, connecting to an existing line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 6,936,000kWh.

k. Purpose of Project: Project energy would be sold to local municipalities or to the local power company.

L. this notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Application seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $33,000.

17 a. Type of Application: Preliminary Permit.

b. Project No: 9205–000

c. Date Filed: May 20, 1985.

d. Applicant: Millstream Hydro.

e. Name of Project: Dickinson Dam.

f. Location: On the Ashuelot River, in Cheshire County, New Hamsphire.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Douglas H. Bonner, Box 287, Bradford, NH 03221.

i. Comment Date: August 30, 1985.

j. Competing Application: Project No. 9118–000, Date Filed: April 19, 1985.

k. Description of Project: The proposed project run-of-river project would consist of: (1) The existing 175-foot-long, and 10-foot-high timber crib/rock fill Dickinson Dam with a spillway crest elevation of 456.2 feet mean sea level; (2) new 12-inch-high flashboards; (3) a reservoir with a surface area of 50 acres and storage capacity of 400 acre-feet; (4) a new intake structure and powerhouse at the east end of the dam with an installed capacity of 440 kW; (5) a 460-foot-long tailrace; (6) a new short transmission line and (7) other appurtenances. Applicant estimates an average annual generation of 2,300,000 kWh. Existing facilities are owned by Homestead Woolen Mills, Inc.

l. This notice also consists of the following standard paragraphs: A8, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $9,500.

18 a. Type of Application: Preliminary Permit.

b. Project No: 9227–000

c. Date Filed: May 24, 1985.

d. Applicant: Erie Associates.

e. Name of Project: Union City Dam Project.

f. Location: On the French Creek near the Town of Leboeuf Garden, Erie County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Thomas Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Union City Dam and Reservoir and would consist of: (1) A proposed 200-foot-long, 10-foot-diameter steel penstock; (2) a proposed powerhouse containing two generating units having a total installed capacity of 5,490 KW; (3) a proposed 70-foot-long, 8-foot-wide, and 4-foot-deep tailrace; (4) a proposed 900-foot-long 69-kV transmission line; and (5) appurtenant facilities. The Applicant estimates the average annual generation would be 21.8 GWh.

k. Purpose of Project: All project power generated would be sold to the Pennsylvania Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $125,000.

19 a. Type of Application: Preliminary permit.

b. Project No.: 9230–000.

c. Date Filed: May 24, 1985.

d. Applicant: Jewett City electric Light Plant

e. Name of Project: Jewett City Project.

f. Location: On the Pachaug River in the Borough of Jewett City, New London County, Connecticut.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Joseph M. Dudek, Jewett City Electric Light Plant, 29 Park Square, Jewett City, Connecticut 06351.

i. Comment Date:

j. Description of Project: September 20, 1985. The proposed project would consist of the following 2 developments.

A. The Ashland Pond Dam Development consisting of: (1) The existing 450-foot-long, 25-foot-high, earth embankment dam with a masonry spillway; (2) a reservoir having a surface area of 83 acres, a storage capacity of 502 acre-feet, and a water surface elevation of 127 feet msl; (3) a proposed intake structure; (4) a proposed 120-foot-long, 5-foot-diameter steel penstock; (5) a proposed powerhouse containing one generating unit with an installed capacity of 185 kW; (6) a proposed 50-foot-long tailrace; (7) a proposed 200-foot-long, 4.16 kV transmission line; and (8) appurtenant facilities

B. The Slater Dam development consisting of the following two alternatives:

Alternative 1

(1) The existing 170-foot-long, 18-foot-high masonry Slater Dam; (2) a reservoir having a surface area of 3 acres, a storage capacity of 6 acres-feet, and a normal water surface elevation of 108 feet msl; (3) a proposed intake structure; (4) a proposed 180-long, 5-foot-diameter steel penstock; (5) a proposed powerhouse containing one generating unit having an installed capacity of 205 kW; (6) a proposed 80-foot-long tailrace; (7) a proposed 70-foot-long, 4.16-kV transmission line; and (8) appurtenant facilities.

Alternative 2

(1) The existing 170-foot-long, 18-foot-high masonry Slater Dam; (2) a reservoir having a surface area of 3 acres, a storage capacity of 6 acre-feet, and a normal water surface elevation of 108 feet msl; (3) a proposed intake structure; (4) a proposed 360-foot-long, 5-foot-diameter steel penstock; (5) a proposed powerhouse containing one generating unit having an installed capacity of 280 kW; (6) a proposed 100-foot-long tailrace; (7) a proposed 220-foot-long, 4.16-kV transmission line; and (8) appurtenant facilities.

The Applicant estimates the average generation would be 1,695,000 kWh for the Ashland Pond development and alternative 1 of the Slater Dam development, and 2,026,000 kWh for the Ashland Pond development and alternative 2 of the Slater Dam development. The Existing Ashland Pond Dam and Slater Dam are owned by the State of Connecticut.

l. Purpose of Project: All project energy generated would be utilized by the Applicant for distrubution to its customers.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

n. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $40,000.

20 a. Type of Application: Preliminary Permit.

b. Project No.: 9234–000

c. Date Filed: May 28, 1985

d. Applicant: Adirondack Hydro

e. Name of Project: Wilmington project.

f. Location On the Ausable River on the Town of Wilmington, Essex County, New York.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Christopher McGill, P.O. Box 145, Wilmington, New York 12997.

i. Comment Date: September 20, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 227-foot-long, 19-foot-high concrete gravity dam; (2) a reservoir having a surface area of 25 acres, with negligible storage and a normal water surface elevation of between 986 feet msl and 988 feet msl; (3) a proposed 15-foot-long, 7-foot-diameter steel penstock; (4) an existing powerhouse containing one new generating unit with an installed capacity of 250kW; (5) an existing 50-foot-long tailrace; (6) a proposed 275-foot-long, 13kV transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 1,500,000 kWh. The existing

dam and project facilities are owned by the Town of Wilmington and the New York State Electric and Gas

competing preliminary permit application no later than 30 days after

protests, or motions to intervene must be received on or before the specified

be sent to the Applicant's representatives.

Dated: July 24, 1985.

Kenneth F. Plumb,

of power to QFs. The petition notes that under § 292.303 (a) and (b) of the

VOL
50
ISS
145
JL
29
1985
UMI

dam and project facilities are owned by the Town of Wilmington and the New York State Electric and Gas Corporation.

k. Purpose of Project: All project power generated would be sold to the New York State Electric and Gas Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $25,000.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time sent for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicants representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilites. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: July 24, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–17911 Filed 7–26–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RE 81–56–000]

Oglethorpe Power Corp. et al.; Electric Rates: Purpa; Qualifying Facilities; Waiver; Interventions

Issued: July 23, 1985.

Oglethorpe Power Corporation; Altamaha EMC; Amicalola EMC; Canoochee EMC; Carroll EMC; Central Georgia EMC; Coastal EMC; Cobb EMC; Colquitt EMC; Coweta Fayette EMC; Douglas County EMC; Excelsior EMC; Flint EMC; Grady County EMC; Habersham EMC; Hart County EMC; Irwin County EMC; Jackson EMC; Jefferson EMC; Lamar EMC; Little Ocmulgee EMC; Middle Georgia EMC; Mitchell EMC; Ocmulgee EMC; Oconee EMC; Okefenoke Rural EMC; Patsula EMC; Planters EMC; Rayle EMC; Satilla Rural EMC; Sawnee EMC; Slash Pine EMC; Snapping Shoals EMC; Sumter EMC; Three Notch EMC; Tri-County EMC; Troup County EMC; Upson County EMC; Walton EMC; and Washington EMC; Docket No. RE81–56–000. Order granting and denying motions, granting in part and denying in part petition for waivers and terminating docket.

On January 22, 1981, as amended on March 23, 1984, Oglethorpe Power Corporation (Oglethorpe) and its 39 member retail distribution cooperatives (EMCs) (collectively, the petitioners) filed a petition for waiver of certain of the Commission's regulations implementing section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) pursuant to § 292.403 of the Commission's regulations. Specifically, petitioners seek waiver of Oglethorpe's obligation under § 292.303(b) of the regulations to sell power to qualifying facilities (QFs) and of the EMCs' obligation under § 292.303(a) to purchase power directly from QFs.[1]

The petition was filed in connection with Oglethorpe's and the EMCs' joint program to implement the Commission's regulations promulgated pursuant to PURPA section 210, as required by § 292.401 of the regulations. Their implementation program consists of an "Interconnection Policy" which coordinates purchases from and sales to QFs. Under the Interconneciton Policy, Oglethorpe would make all purchases from QFs and the EMCs make all sales of power to QFs. The petition notes that under § 292.303 (a) and (b) of the regulations, the purchase and sale obligations apply to "each" electric utility. Thus, in order to secure approval of the Interconnection Policy, petitioners request the above mentioned waivers. In brief, petitioners contend that the requested waivers are appropriate because strict compliance with the regulations is not necessary to encourage cogeneration and small power production and compliance will be unduly burdensome and may cause substantial financial harm to Oglethorpe.

A timely intervention was filed by Mr. Gaynor L. Bracewell, the owner of a small hydroelectric facility. Mr. Bracewell did not object to the waiver, but criticized Oglethorpe's rates for purchases and sales. Petitioners answered in opposition.

On January 16, 1984, an untimely motion to intervene and protest was filed by Greensboro Lumber Company (Greensboro).[2] Greensboro contends the Commission lacks authority to grant the waiver, that requiring Oglethorpe to sell power to QFs is necessary to encourage cogeneration and small power productions; and that if the Commmission does have authority to grant the waiver, a hearing is necessary before it rules on the issue.

On March 23, 1984, petitioners filed the above-mentioned amendments to the petition, in which they provided supplementary arguments for the requested relief. Notice of the amendment was issued March 30, 1984. The comment date was extended to May 14, 1984.[3]

Mr. Bracewell filed a timely pleading in which he objected to the waiver.[4] Timely motions to intervene were also filed by Georgia Power Company (GPC), from which Oglethorpe purchases substantial amounts of power; Mr. Herschel L. Webster, the owner of a shall hydroelectric project from which Oglethorpe purchases power; and the National Rural Electric Cooperative Association (NRECA). GPC, Mr. Webster and NRECA all support the petition. In addition, Mr. Webster requests that a hearing be convened if the Commission does not grant the

[1] Oglethorpe is a generation and transmission cooperative owned by the 39 member EMCs. Oglethorpe acts as the generation and transmission agent for the EMCs, which purchase substantially all of their power and energy requirements from Oglethorpe. Oglethorpe has no service territory and no customers other than the EMCs.

[2] Greensboro owns a 7.5 MW qualifying small power production facility in Georgia. Greensboro has a contract with Oglethorpe and Rayle EMC executed pursuant to the Interconnection Policy, under which Greensboro sells energy and capacity to Oglethorpe and purchases power from Rayle.

[3] Notice issued April 27, 1984 in Docket No RE81–56–000.

[4] The Commission contrues this document as an amendment to Mr. Bracewell's intervention.

VOL 50 ISS 145 JL 29 1985 UMI

petition in the first instance. Greensboro filed timely comments in opposition to the petition as amended.[5]

In succeeding months, the parties exchanged numerous pleadings. These will be identified below, as necessary.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), their timely notices and motions to intervene serve to make Mr. Bracewell, Greensboro, Mr. Webster, GPC and NRECA parties to this proceeding.

(a) *Commission authority to waive the purchase and sale obligations.*

The threshold issue in this proceeding is whether the Commission has authority to grant waivers of the purchase and sale obligations and, if so, under what circumstances? The Commission concludes that it has authority to waive these obligations where a State commission, with respect to a particular utility or utilities, or a nonregulated utility, can demonstrate that strict compliance is not necessary to encourage cogeneration and small power production.

Section 210(a) makes no explicit provision for waiver of purchase or sale obligations. Rather, it requires the Commission to prescribe "such rules as it detemines necessary" to encourage cogeneration and small power production, which rules "shall require electric utilities to offer to" purchase from and sell power to qualifying facilities. The legislative history is also silent on the question of waiving these obligations. Petitioners, however, contend that the phrase "such rules as it determines necessary," indicates that Congress intended to permit the Commission to grant waivers. They also state that nothing in the legislative history indicates Congress intended that these obligations must apply to every utility vis-a-vis every QF. In support, they claim that the Commission has already construed section 210(a) to permit waivers, noting the exceptions to the purchase obligation during "light loading" periods [6] and to the purchase and sale obligations during system emergencies.[7] In addition, petitioners point to the "wheeling in lieu of purchase provision (§ 292.303(d)) and construe this as a waiver of the wheeling utility's obligation to purchase.[8] Moreover, they note that § 292.403(b) of the regulations contains a generally applicable provisions for waivers upon application.[9]

Finally, petitioners seek to distinguish a proceeding in which the Commission denied a petition by Colorado-Ute Electric Association for an amendment to § 292.303 to require QFs to by-pass local distribution utilities and sell power directly to those utilities's wholesale suppliers.[10] In that proceeding, the Commission terminated 15 rulemaking dockets, among them Colorado-Ute's petition. The Commission denied the petition, stating that "the obligation to purchase is a statutory requirement" and "[s]ince Colorado-Ute's petition does not indicate how the statute can be construed differently, the Commission is not convinced it should modify § 292.303." [11] Petitioners allege Colorado-Ute should not be read as holding that the purchase requirement cannot be waived because such a reading would contradict Order No. 69's provision for exceptions to the general rule and because Colorado-Ute did not show any specific hardships that local distribution utilities might suffer [12] or that the general obligation is not necessary to encourage cogeneration and small power production.[13]

Greensboro offers several arguments in rebuttal. First, it notes that one purpose of PURPA was to cure the problem of utility refusal to deal with congenerators and small power producers.[14] Thus, it argues, there is no waiver provision in section 210(a) because Congress intended to ensure that the Commission would not frustrate that intent. Greensboro also notes that PURPA gives the Commission explicit discretion in section 210(e)(1) to grant exemptions from certain Federal laws.[15] The absence of such a provision in section 210(a) must, therefore, indicate that no waivers from the general purchase and sale requirements were intended to be allowed. Greensboro next notes that § 292.403(b) permits waivers of the regulations only if compliance is not necessary to encourage cogeneration and small power production "and is not otherwise required under section 210 of PURPA." Greensboro alleges that this limitation is intended to apply to the purchase and sale requirements. Greensboro avers that the wheeling in lieu of purchase provisions is not a waiver because of QF must give its consent. Thus, that provision is designed to give the QF flexibility to go beyond the utility to which it is connected if there is a price advantage. Greensboro contends *Colorado-Ute* is indistinguishable because the fact that Colorado-Ute was seeking a broad exemption with no showing of special hardship was not a consideration in the Commission's decision, which rested solely on a finding that purchase obligation could not be waived.

Notwithstanding Greensboro's arguments, the Commission concludes that it does have implicit authority to waive the purchase and sale obligations under its regulations where strict compliance would not serve to advance the Congressional purpose of encouraging QFs. Greensboro interprets the Commission's order in *Colorado-Ute* too broadly. *Colorado-Ute* held, perhaps unclearly, that Colorado-Ute did not provide support for Commission authority to waive the purchase obligation for the entire class of local distribution utilities. The provisions for waiver in the regulations (§§ 292.305(b)(2) and 292.403(b)) permit waivers only with respect to individual utilities based on a showing by the applicant that designated standards have been met. Waivers en masse, without any showing that compliance is not necessary to encourage QFs, was clearly not contemplated by Congress.

Greensboro's other major contention is that where Congress intended to permit waivers of statutory requirements, it explicity so stated, in section 210(e)(1). However, we conclude that the Congressional directive to the Commission to prescribe "such rules as it determines necessary to encourage cogeneration and small power production" indicates sufficient flexibility was intended to accommodate a limited authority to waive the purchase and sale obligations where strict compliance would serve no purpose. In this connection, it is notable that section 210(e)(1) concerns exemptions from the provisions of statutes other than PURPA and refers specifically to exemptions for QFs, not utilities. Thus, that section is irrelevant to waivers of utility obligations under PURPA.

Further, the phrase "not otherwise required under section 210 of PURPA" does not, in our view, mean that § 292.403(b) can never be applied to the purchase and sale obligations. As noted above, we have concluded that section 210 does not require that each and every utility offer to both purchase and sell at all times and under all conditions. Rather, in the context of purchases and sales, this phrase refers to the requirement of section 210 that the Commission's regulations generally require utilities to purchase and sell and that no qualifying facility be deprived of an opportunity to deal with a utility.

Waiver of the purchase or sale obligations under these circumstances is not inconsistent with the Congressional intent to force utilities to deal with cogenerators and small power producers. Waiver would only be inconsistent with this intent if it frustrated the purpose of encouraging these entities. The Commission's waiver provisions are designed to ensure that this purpose is not frustrated. At a minimum, a State commission or nonregulated utility must demonstrate that compliance with the purchase obligation is not necessary to encourage cogeneration and small power production. Under the Commission's regulations, waivers of the sale obligation are subject to a higher standard, a showing that the affected utility's ability to serve its customers will be impaired or that it will otherwise suffer an undue burden if required to sell power to QFs.

Finally, Greensboro is correct that the wheeling in lieu of purchase provision is not a waiver of the purchase obligation. The QF has the discretion determine whether it will sell to the directly or indirectly connected utility. However, the fact that this provision is not a waiver provision is not dispositive of the issue of whether the Commission can grant waivers.

For these reasons, the Commission concludes that section 210 does not require the purchase and sale obligations to be applied inflexibly. So long as the provision waived is not, in the particular circumstances presented, necessary to encourage cogeneration and small power production, section 210 is satisfied. We turn now to the merits of the petition.

(b) *Whether to grant the requested waivers.*

(i) Waiver of the EMCs' purchase obligation

The Commission concludes that petitioners have shown that requiring the EMCs to purchase from QFs is not necessary to encourage qualifying facilities. Thus, this portion of the waiver petition will be granted.

Petitioners contend that waiver of the EMCs' purchase obligation is warranted because: (1) Central coordination of power purchases is essential to Oglethorpe's role as power supplier to the EMCs, (2) Oglethorpe has an administrative and engineering staff in place for purchasing power; the EMCs do not and it would be costly and inefficient for them to have to develop that capability, (3) Oglethorpe could make purchases via connection with the ITS in cases where the QF produces more power than the EMC can use or has physical capability to handle, and (4) purchases by the EMCs are not necessary to encourage QFs because the rates paid by Oglethorpe will always be as high or higher than those of an EMC. In the latter connection, petitioners' note that under the EMCs' contracts with Oglethorpe, any adverse cost impact on Oglethorpe resulting from an EMC purchase from a QF (*e.g.*, a reduction in Oglethorpe's purchases from GPC, resulting in unavoided demand charges) would be allocated to the EMC, which would have to recover that cost from the QF.[16] They also state that an EMC's purchase rate would be lower because the entire administrative cost of having a QF purchase program would be allocated only to the QFs in the EMC's service territory, rather than spread over all of Oglethorpe's customers. Finally, the EMCs state that under Oglethorpe's contracts with GPC, Oglethorpe receives a capacity credit for purchases from QFs, which may not be applicable if an EMC purchases instead.

Greensboro responds that (1) it is improper for Oglethorpe to allocate unavoided fixed costs to the EMC purchasing QF power, because Order No. 69 provides that such allocations to an EMC are only permissible in excess capacity situations, (2) Oglethorpe's avoided capacity cost of purchases from GPC may at times be less than an EMC's avoided cost of purchasing power from Oglethorpe; thus, the QF would rather sell to the EMC, (3) an EMC may choose not to calculate avoided cost the same way as Oglethorpe and thus provide a higher rate, (4) EMCs may be more friendly to the industrial operations that give rise to QF power and (presumably) provide a better rate than Oglethorpe, (5) other contractual terms, such as levelized payments, may be just as important as price, and (6) forcing QFs to deal with Oglethorpe is anti-competitive because it removes 39 potential purchasers from the market.

Greensboro's objections are not persuasive. As set forth in Order No. 69, which established the Commission's regulations implementing section 210, the Commission concluded that a utility's rates are sufficient to encourage QFs if they are based on the utility's full avoided cost. Oglethorpe contends that its rates are based on full avoided cost, a contention Greensboro has not disputed in this proceeding. Thus, the rates are, on their face, in compliance with the regulations thus are sufficient to encourage QFs.[17] Greensboro, however, contends that in order to show that EMC purchases are not necessary to encourage QFs, petitioners should be required to show that Oglethorpe's rates and terms and conditions of service will, in every possible circumstance, equal or exceed the EMCs'.[18] We believe that

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[5] The Commission construes Greensboro's pleading as a timely filed intervention, in response to the notice of March 30, 1984. Thus, Greensboro's original untimeliness is cured.

[6] 18 CFR 292.304(f). "Light loading" refers to a situation where a utility would incur greater costs as a result of purchasing electricity from a QF than it would have had it not purchased the power; in short, it would have a negative avoided cost. This would have to be paid for by the QF if it continued to deliver power during these periods. See FERC Stats. and Reg., Regulations Preambles 1977–1981, ¶30,128 at 30,886 (Hereafter "FERC Preambles") (45 FR 12,214 at 12,227 (May 25, 1980)).

[7] 18 CFR 292.307(b)(1) (purchases) and 292.307(b)(2) (sales).

[8] Section 292.303(d) provides generally that if a QF agrees, "an electric utility which would otherwise be obligated to purchase energy or capacity from [a QF] may transmit the energy or capacity to any other electric utility." When this occurs, the utility to which the power is transmitted is required to purchase the QF's power as if it were directly connected to the QF.

[9] Section 292.305(b)(2) provides that a State regulatory Commission or this Commission (with respect to nonregulated utilities) may waive the obligation to provide any of the back-up power services upon a finding that compliance will:

(i) Impair the electric utility's ability to render adequate services to its customers; or

(ii) Place an undue burden on the electric utility.

[10] "Termination of Rulemaking Docket; Certification of Compliance With Coastal Zone Management Act, *et al.*," IV FERC Statutes and Regulations ¶ 32,344, 32,767–768, Docket No. RM82–7–000, Colorado-Ute Electric Association (Hereafter, *Colorado-Ute*).

[11] IV FERC Stats. and Regs. at 32,768.

[12] Petitioners argue that they will suffer specific hardship if they are not granted a waiver. These arguments will be considered below.

[13] NRECA also filed comments supporting the waiver in its motion to intervene and in its answer to Greensboro's Motion for Summary Disposition. NRECA's arguments are variations on those made by petitioners. Thus, both parties' arguments will be considered jointly.

[14] *See FERC v. Mississippi*, 456 U.S. 742, 750–51 (1982).

[15] Section 210(e) refers to the Federal Power Act, the Public Utility Holding Company Act and State laws and regulations regarding rates and financial regulations of electric utilities.

[16] Petitioners claim that allocation of any such costs to QFs is sanctioned in Order No. 69. *See* FERC Preambles at 30,870 (45 FR at 12,219).

[17] If Greensboro contends that Oglethorpe's avoided cost methodology is improper, that contention should, as the Commission has repeatedly stated, be pursued in a State forum of competent jurisdiction. *See* "Policy Statement Regard the Commission's Enforcement Role Under Section 210 of the Public Utility Regulatory Policies Act of 1978," 23 FERC ¶ 61,304 at 61,645 (1983); *Southern Company Services, Inc.*, 27 FERC ¶ 61,443, *reh. den.* 28 FERC ¶ 61,340 (1984); *Roche Products, Inc., et al.*, 29 FERC ¶ 61,098 (1984).

[18] In its petition to intervene, Greensboro acknowledges that Oglethorpe's rates will generally equal the EMCs', but states that waiver of the purchase obligation should be granted only if petitioners can "guarantee that in all possible cases QFs will come out in at least as good a position selling to [Oglethorpe] as to an EMC. . . ." Petition to Intervene, pp. 10–11.

section 210 requires no such result. The intent of Congress was to ensure that

power is the directly connected utility or, if that utility is willing to wheel

Oglethorpe are not necessary to encourage cogeneration and small

hardships is not well supported.[22] As to the first contention, Oglethorpe merely

not be regulated by the Georgia Commission in any event, it is unlikely

otherwise be required to purchase, and that no qualifying facility shall be

VOL 50 ISS 145 JL 29 1985 UMI

section 210 requires no such result. The intent of Congress was to ensure that QFs have a market for their power under reasonable terms, and it granted the Commission broad power to construct a regulatory framework to achieve that end. In this instance, where Oglethorpe is ready and willing to stand in the shoes of the EMCs, waiving the EMCs' purchase obligation will not frustrate Congress' intent, because no QF will be deprived of a market for its power and each will receive a rate established as sufficient to encourage QFs. Thus, assuming that Greensboro's contention that there may be periods during which an EMC's avoided cost would exceed Oglethorpe's is correct, we still conclude that requiring EMC purchases is not necessary to encourage QFs.

While it is not necessary to our decision in this case, we also think it worthwhile to point out that Greensboro's other arguments are flawed. One of Greensboro's primary contentions in support of the argument that the EMCs' avoided costs may exceed Oglethorpe's that it is improper for Oglethorpe to allocate to an EMC unavoided fixed costs that result from that EMC purchasing from a QF unless Oglethorpe is in an excess capacity situation. We disagree. The excess capacity situation discussed in Order No. 69 merely illustrates the principle that a purchasing utility should be in the same financial position it would have been had it not purchased from the QF.

Further, Greensboro's assertion that an EMC may choose not to calculate avoided cost on the same basis as Oglethorpe and provide a higher rate to QFs is entitled to little weight. It is not logical to suppose that an EMC would choose an avoided cost methodology that not only would result in it paying more for power than it has to, but which might also cause it to incur a penalty by way of compensation to Oglethorpe for any unavoided costs incurred by Oglethorpe as a result of the EMC's purchase. Such an occurrence is particularly unlikely given that the EMC's clearly prefer to have Oglethorpe power on their behalf. To offer a better rate than Oglethorpe would undercut that goal. For the same reason, it is highly unlikely that an EMC would offer better terms and conditions than Oglethorpe.

Finally, the allegation that requiring QFs to sell to Oglethorpe would remove 39 potential purchasers from the market for QF power reveals a misunderstanding of the nature of the purchase obligation. Under our regulations, the "market" for a QF's power is the directly connected utility or, if that utility is willing to wheel power to other utilities, indirectly connected utilities. 18 CFR § 292.303 (a) and (d). A QF in an EMC's service territory would be directly connected either to the local EMC or to Oglethorpe. Unless Oglethorpe voluntarily offered to wheel power to other EMCs, the indirectly connected EMCs would not be required to purchase the QF's power. It seems quite unlikely that Oglethorpe would willingly offer to wheel to another EMC for this purpose, because that would be inconsistent with Oglethorpe's preference that it make all purchases of QF power.[19]

While the Commission concludes that a waiver is appropriate in this instance, that waiver will be granted subject to certain conditions to ensure that QFs selling to Oglethorpe will receive the same encouragement as other qualifying facilities. First, we note that Greensboro is directly connected to Oglethorpe, not Rayle. Oglethorpe has, appropriately, imposed only one set of interconnection charges. Similiarly, if a QF was directly connected to an EMC, it could be required to pay only for interconnection costs related to the connection with the EMC. It could not be required to pay twice under the theory that it is selling power to an indirectly connected utility. Also, if a QF were directly connected to Oglethorpe, Oglethorpe would have to deliver back-up power from its facilities. The QF could not be forced to make a second interconnection with the local EMC to receive back-up power and to pay additional interconnection charges.

In addition, we note that under the existing agreements, Greensboro pays no wheeling charge in connection with Oglethorpe's purchase. This may be a coincidence related to the fact that Greensboro is directly connected to Oglethorpe. In any event, no wheeling charge would be permissible even if the affected QF were directly connected to an EMC. The theory underlying the waiver is that Oglethorpe acts as purchasing agent on behalf of all the EMCs. Therefore, once the power enters an EMC's system, it has been delivered to the purchaser.

(ii) Waiver of Oglethorpe's sale obligation.

Petitioners' argument for waiver of Oglethorpe's sale obligation rests on the assertions that sales to QFs by Oglethorpe are not necessary to encourage congeneration and small power production and that such sales would be unduly burdensome. The argument is as follows: (1) The back-up power needs of QFs can be met by other utilities, (2) Oglethorpe would be required to develop a retail rate division, which would result in financial and administrative burdens, on the off-chance that a QF might choose to purchase directly from it, (3) Oglethorpe "could well" become subject to regulation by the Georgia Public Service Commission, in particular, regulation of Oglethorpe's future financial dealings,[20] and, (4) becoming subject to State regulation could adversely affect tax benefits which are asserted to depend on Oglethorpe not being subject to Georgia Commission jurisdiction. The tax benefits relate to "safe harbor" leasing transactions and sale of tax benefits, accelerated depreciation and energy tax credits.[21]

The applicable section of the Commission's regulation's (§ 292.305(b)(2)) permits waivers upon a showing of impaired service to the utility's customers or undue burden to the utility. Petitioners' arguments do not go to the former basis. Thus, the question in whether Oglethorpe would be unduly burdened by compliance with the sale obligation. In the Commission's view, petitioners have not made such a showing.

First, even if the power needs of QFs could be met by other utilities, that has nothing to do with whether Oglethorpe would be burdened by such sales. Second, developing retail rates for QFs should not be burdensome for Oglethorpe. It now has a staff which develops rates for purchases from QFs and its wholesale rates to the EMCs. This staff should certainly have the expertise to develop retail rates. Moreover, Oglethorpe had only entered into contracts with only a few QFs since the Commission's regulations were promulgated in 1980. Petitioners' assertion that a whole new retail rate division is necessary to serve a handful of back-up power customers is not persuasive.

Petitioners' argument that Oglethorpe may be subject to State regulation if it makes any retail sales and that such regulations will cause financial

[19] Greensboro contends in *Greensboro Lumber Company v. Georgio Power Company, et al.*, (No. 84-2022A) (N.D. Ga., Atlanta Division, Filed February 26, 1985), that Oglethorpe refuses to wheel Greensboro's power to other utilities and that this is a violation of the antitrust laws. Our comments here refer only to Oglethorpe's obligations under our rules implementing section 210 of PURPA.

[20] But not its rates.

[21] The tax benefits rest on an Internal Revenue Service (IRS) ruling that Oglethorpe's property is not "public utility property" within the meaning of the Internal Revenue Code of 1954. 26 U.S.C. 1, *et seq.* (Tax Code).

hardships is not well supported.[22] As to the first contention, Oglethorpe merely states that such a sale "could well" bring Oglethorpe under State commission jurisdiction.[23] Petitioners cite section 46-3-2 of the Georgia Territorial Act in support of this supposition. However, that section simply states that EMCs and municipalities which furnish retail service are subject to Commission regulation except as to their rates (this includes review of financings: Section 46-2-28). "Electric Membership Corporation" is defined in section 46-2-171(3) of that Act as an EMC organized under Chapter 3, Article 4. Nowhere does Oglethorpe state that it is an EMC or that any sale of back-up power would make it a *de facto* EMC. Moreover, the Georgia Territorial Act may permit Oglethorpe to make retail sales in an EMC's service area if the EMC consents and the Georgia Commission approves section 46-3-8(c)(2)). The jurisdictional consequences of such a sale are not clear on the face of the Georgia Territorial Act.

Even if such sales did render Oglethorpe subject to the jurisdiction of the Georgia Commission, that Commission exercises no control over EMC rates (section 46-3-12). Oglethorpe, however, asserts that Georgia Commission authority to approve Oglethorpe's financings "would . . . hinder its ability to move quickly in volatile financial markets." This possibility does not appear to involve any undue hardship, as it would put Oglethorpe on the same footing as virtually every regulated utility and many nonregulated utilities, including the EMCs.

Finally, it is not at all clear that jurisdiction by the Georgia Commission over Oglethorpe's financings would void Oglethorpe's letter ruling from the IRS that its property is not "public utility property" within the meaning of the Tax Code. The Tax Code defines that term as property used in the business of selling electricity:

> If the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

26 U.S.C. 167(1)(3)(A). Because Oglethorpe's rates for retail sales would not be regulated by the Georgia Commission in any event, it is unlikely that Oglethorpe's ruling from the IRS would be voided by virtue of making sales to QFs.[24]

In any event, the Commission believes it should not grant waivers of the purchase or sale obligations based on speculation as to how the Georia Commission and the IRS might interpret the Georgia Territorial Act and the Tax Code, respectively, if Oglethorpe sold back-up power to a QF. Section 292.305(b)(2) requires a showing that compliance "will" be unduly burdensome. Moreover, there is no apparent reason why Oglethorpe could not seek definitive opinions from each to these agencies rather than ask this Commission to act on speculation or interpret laws concerning which it has no expertise. Finally, the Commission notes that several implementation plans have been filed by G&T Cooperatives and their members which specifically provide for the G&T cooperative to sell back-up power.[25] To the Commission's knowledge, none of these G&T cooperatives has lost tax benefits as a result. For all of the reasons stated above, the Commission finds that petitioners have not shown that Oglethorpe would be unduly burdened by making sales to QFs.

The Commission orders:

(A) All motions for extensions of time to respond to pleadings of other parties are hereby granted.

(B) All motions not specifically granted are hereby denied.

(C) Oglethorpe's and the EMC's petition for waiver of the EMCs' purchase obligation is hereby granted, subject to the conditions that Oglethorpe continue to be ready and willing to purchase power from qualifying facilities from which the EMCs would otherwise be required to purchase, and that no qualifying facility shall be subject to duplicate interconnection charges or charges for wheeling power to Oglethorpe across EMC transmission lines.

(D) Oglethorpe's and the EMCs' petition for waiver of Oglethorpe's sale obligation is hereby denied.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-17914 Filed 7-26-85; 8:45 am]

BILLING CODE 6717-01-M

[22] It is worth noting that Oglethorpe seeks a waiver even if it would not become subject to Georgia Commission jurisdiction as a result of sales to QFs. Petition, p. 6.

[23] *See* Amendment to Petition, p. 11.

[24] Petitioners have not explained how Oglethorpe obtained a ruling from the IRS that its facilities are not "public utility property" within the meaning of section 167(1)(3)(A) of the Tax Code. The Rural Electification Administration (REA) must approve the rates and rate structures of its borrowers (including Oglethorpe). Thus, Oglethorpe's facilities seem to fit squarely within the definition in section 167(1)(3)(A). However, Petitioners' "Motion to Strike Factual Misstatements" appears to indicate that the IRS regards as "public utility property" only property belonging to utilities whose rates are regulated on a rate of return basis. If that is the case, it is highly unlikely that the letter ruling would be voided by sales of back-up power, because Oglethorpe's rates are not regulated on a rate of return basis.

[25] Central Electric Power Cooperative, Northeast Missouri Electric Power Cooperative, Northwest Electric Power Cooperative, Lincoln County Power District No. 1, Basin Electric Power Cooperative, Minkota Power Cooperative, Kamro Electric Cooperative, Western Farmers Electric Cooperative, Missouri Basin Municipal Power Agency, Deseret Generation and Transmission Cooperative.

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of June 10 through June 14, 1985

During the week of June 14 through June 14, 1985, the decisions and orders summarized below were issued with respect to apeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

W.F. Lawless, 6/12/85, HFA-0287

W.F. Lawless filed an Appeal from the Savannah River Operations Office's partial denial of his Freedom of Information Act (FOIA) request. The OHA upheld Savannah River's determination that the documents which were not released could be withheld pursuant to Exemption 5 of the FOIA. The OHA found, however, that Savannah River's determination was incomplete since it did not make any decision regarding the release of three documents which originated in another government agency. Important issues that were considered were (i) whether drafts, comments to drafts, cover memos accompanying drafts, and documents containing their authors' personal opinions were properly withheld pursuant to Exemption 5; (ii) whether the agency's release of the documents to Congress waived its FOIA privilege to withhold the documents; and (iii) whether the FOIA required a publicly available non-government journal to be released.

Remedial Orders

Marathon Petroleum Company, Marathon Oil Company, 6/13/85, BRO-1295

Marathon Petroleum Company and Marathon Oil Company (Marathon) objected to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the firm on July 23, 1980. In the PRO, the ERA alleged that during the period August 1973 through October 1978,

Marathon overstated the increased costs of natural gas liquids and natural gas liquid

approved were incorrectly calculated. In this Decision the correct refund amounts were

accrued interest, which equals a share of the consent order fund allocated to Engelhard on

as stripper wells and the misclassification of oil produced from other properties as new

Implementation of Special Refund Procedures

Allied Materials Corporation and Excel

firm's allocable share was well below the presumption of injury level of $5,000.

VOL 50 ISS 145 JL 29 1985 UMI

Marathon overstated the increased costs of natural gas liquids and natural gas liquid products that it was permitted to include in its selling prices under applicable regulations. In considering the PRO, the DOE initially granted a motion by the ERA to withdraw those portions of the PRO concerning the period August 1973 through December 1974. Regarding the remaining period, the DOE found that Marathon had conceded many of the cost overstatements specified in the PRO, and determined that Marathon's challenges to the PRO should be rejected. The DOE therefore concluded that the PRO should be issued as a final Remedial Order. The Remedial Order requires Marathon to file with the ERA revised cost calculation reports and supporting data, as adjusted to reflect the adjudicated cost overstatements, covering the period January 1975 through October 1978. The important issues discussed in the Decision and Order include (i) whether a "sale" of residue gas is required in order to claim increased shrinkage costs, and (ii) whether cost "offsets" may properly form a defense to a PRO that alleges no actual overcharges but seeks only a refiling of cost statements.

Motion for Discovery

Tootle Petroleum Inc., 6/13/85, HRD–0241, *HRH–0241*

Tootle Petroleum, Inc. (Tootle) filed Motions for Discovery and for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order (PRO) that was issued to the firm and to Iron R. Tootle. In its motions, Tootle sought discovery of information pertaining to various rulemakings applicable to crude oil resellers and to the DOE's contemporaneous construction of portions of the crude oil reseller regulations. The DOE found that Tootle's Motion for Discovery should be denied since the firm had failed to show that the regulations were sufficiently ambiguous or that other specific circumstances existed which would warrant discovery.

The DOE also found that the Motion for Evidentiary Hearing should be denied since Tootle had failed to make the requisite showing that there were any material factual issues in dispute. However, the DOE granted Tootle a 20-day period of time in which to submit affidavits or other documentation in support of its positions in the underlying enforcement proceeding.

Implementation of Special Refund Procedures

Ayers Oil Company 6/11/85, HEF–0223

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund from the settlement funds obtained under a consent order with Ayers Oil Company. The funds will be available to customers who purchased covered petroleum products from Ayers during the period August 1973 to January 1981.

Refund Applications

The Hertz Corps./TRW, Inc., RF76–157; Ford Motor Co., RF76–158; Chesebrough-Pond's Inc., RF76–159; General Electric Co., 6/13/85, RF76–160

DOE Decisions and Orders had been issued to four firms in which the refunds approved were incorrectly calculated. In this Decision the correct refund amounts were calculated and refunds approved from the Hertz Corporation consent order fund. TRW, Inc. and Ford Motor Company were granted supplemental refunds in addition to the refunds approved in the original Decisions. Chesebrough-Pond's, Inc. and General Electric Company were granted full refunds on the original volumes claimed in their applications. The refunds granted in this Decision and Order total $29,000.

Mapco, Inc./Delta Propone Co., Inc., 6/13/85, RF108–3

In this proceeding Delta Propane Co., Inc. sought a refund based on its purchase of 999,020 gallons of refined products from Mapco, Inc. during the period covered by the Mapco consent order. Delta's claims was for less than the $5,000 threshold level for small claimants. The DOE therefore granted Delta a refund of $1,798.24 plus accured interest, which equals a share of the consent order fund allocated to Delta on the basis of the volume of the products the firm purchased.

OKC Corp./McCall Sevice, Stations, Inc. et al., RF13–6, RF13–18, RF13–24, RF13–27

The DOE issued a Decision and Order concerning four Applications for refund filed by certain purchasers of refined petroleum products from OKC Corporation. The DOE denied one of the applications on the grounds that the applicant was a spot purchaser which failed to rebut the presumption that spot purchasers were not injured by OKC Corporation's pricing practices. *Office of Enforcment: In the Matter of OKC Corporation*, 9 DOE ¶ 82,551 (1982) (OKC). The DOE granted the other three applications under standards established in *OKC*. The refunds granted in this proceeding total $48,091.

OKC Corp./Rainey Oil Company, 6/13/85, *RF13–36*

The DOE issued a Decision and Order concerning an Application for Refund filed by Rainey Oil Company. Rainey sought a portion of the settlement fund obtained by the DOE through a consent order entered into with OKC Corporation. Rainey is an independent reseller of petroleum products which purchased motor gasoline and middle distillates from OKC during the period covered by the consent order. The DOE granted Rainey's refund application based upon standards established in *Office of Enforcement: In the Matter of OKC Corporation*, 9 DOE ¶ 82,551 (1982). The refund granted Rainey totaled $2,658.

Seminole Refining, Inc./Engelhard Corp., 6/13/85, *RF111–7*

This Decision and Order relates to a distribution of a escrow account fund remitted by Seminole Refining, Inc. pursuant to a consent order that Seminole entered into with the DOE. Engelhard Corporation sought a refund on the basis of its purchases of 13,686,759 gallons of refined products from Seminole during the consent order period. The DOE found that Engelhard consumed the products in a business which was not subject to DOE regulations, and therefore the firm made a satisfactory showing of injury and should receive a refund. The DOE therefore granted Engelhard a refund of $85,679.11 plus accrued interest, which equals a share of the consent order fund allocated to Engelhard on the basis of the volume of the products the firm purchased.

Dismissals

The following submissions were dismissed:

Nome and *Case No.*

Chillum Gulf, RF40–2333
Croasdaile Gulf, RF40–2889
Holly Corp., HRR–0102

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: July 16, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85–17941 Filed 7–26–85; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of June 17 Through June 21, 1985

During the week of June 17 through June 21, 1985, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Donold Lee Espenshade, 6/18/85; *HFA–0289*

Donald Lee Espenshade filed an Appeal from a denial by the Manager of the Nevada Operations Office (NOO) of a Request for Information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the documents responsive to Mr. Espenshade's request did not exist in the NOO. In addition, the appellant had requested a "confidential" hearing, apparently to disclose material which he was unwilling to present in a public forum. The DOE stated, however, that it was not in a position to grant such a request. The Appeal was therefore denied.

Remedial Order

Otis Ainsworth, 6/17/85; *BRO–0552*

Otis Ainsworth (Ainsworth) objected to a Proposed Remedial Order (PRO) issued to him on November 15, 1979. In the PRO the Economic Regulatory Administration alleged crude oil overcharges stemming from improper classification of certain properties as stripper wells and the misclassification of oil produced from other properties as new crude oil. Ainsworth advanced various objections including: (1) The historical down time pattern was ignored in calculating average daily production; (2) production from separate reservoirs qualified the reservoirs as new properties; (3) ignorance of the regulatory requirements must be given equitable consideration; (4) the petitioner relied on a statement of a DOE official in the reworking of one of the wells. In considering the Ainsworth's objections, the DOE found that he had improperly classified crude oil produced from seven properties as stripper well crude oil and as a result sold the production at prices in excess of those allowed by 10 CFR 212.73. In addition, the DOE found that Ainsworth had not established that the lengthy and unexplained periods of non-production could be counted as historical down time with a reasonable assurance that the result would still be a fair estimate or average daily production of the properties in question. The DOE also rejected the remainder of Ainsworth's arguments. The DOE therefore concluded that the PRO as amended should be issued as a Final Remedial Order.

Request for Temporary Exception

Bock Water Heaters, Inc., 6/18/85; *HEL–0126*

Bock Water Heaters, Inc. filed an Application for Exception from the provisions of 10 CFR Part 430, Subpart B, Appendix E in which the firm sought temporary exception relief from the water heater energy efficiency test procedures. In considering the request, the DOE found that partial temporary exception relief was necessary to insure that the public had access to comparable energy efficiency data, and to prevent Bock from suffering an immediate serious hardship.

Interlocutory Order

Texaco Inc./Economic Regulatory Administration, 6/20/85; HRZ–0251

The Office of Hearings and Appeals issued an interlocutory order to Texaco Inc. and the Economic Regulatory Administration (ERA) concerning the Evidentiary Appendix filed by Texaco on July 14 and 15, 1981, in support of its Statement of Factual Objections to a Proposed Remedial Order issued to Texaco by ERA on May 1, 1979. The OHA accepted as part of the record in the enforcement proceedings against Texaco materials submitted by Texaco on January 8 and 18, February 11, and March 13, 1985, after a review of portions of the Evidentiary Appendix. The OHA denied Texaco's request for an expedited review of other portions of the Evidentiary Appendix.

Supplemental Order

Coline Gasoline Corp., 6/17/85; HEF–0122

The Department of Energy issued a Decision and Order revising the Appendix issued in *Coline Gasoline Corp.*, Case No. HQF–0504. The new Appendix set forth corrected amounts to be distributed to the States in connection with the second-stage disbursement of $167,804, a portion of the total available second-stage consent order funds.

Implementation of Special Refund Procedures

Allied Materials Corporation and Excel Corporation, 6/20/85; HEF–2000

The DOE issued a Decision and Order setting forth procedures to be used for distributing $848,232.46 plus accrued interest, received under a consent order with Allied Materials Corporation and Excel Corporation. The consent order settled all disputes regarding the firms' application of the DOE petroleum price and allocation regulations. The funds will be available to customers who purchased covered petroleum products from Allied or Excel during the period from September 1, 1973 through January 28, 1981, excluding certain ultimate consumers who have already received refunds pursuant to the consent order. The Decision outlines specific information to be included in refund applications.

The Boswell Oil Company, 6/17/85; HEF–0040

The DOE issued a Decision and Order establishing procedures for the distribution of $148,250 obtained as the result of a consent order which the DOE entered into with The Boswell Oil Company. The funds will be available to Boswell's customers who purchased motor gasoline, Nos. 2 and 6 fuel oils, and other refined petroleum products during the consent order period, November 1, 1973 through April 30, 1974. The Decision sets forth the specific information to be included in refund applications.

Eugene Endicott, HEF–0069, Field Oil Co., HEF–0071, F.O. Fletcher, Inc., HEF–0074, Glaser Gas Inc., HEF–0080, Ideal Gas, Inc., HEF–0093, Inland U.S.A., Inc., 6/17/85; HEF–0096

On June 17, 1985, the Office of Hearings and Appeals of the Department of Energy issued a Final Decision and Order establishing procedures for the disbursement of $765,207.76 (plus accrued Interest) obtained as a result of Consent Orders entered into by the DOE and the following parties: Eugene Endicott, Field Oil Company, F.O. FLetcher, Inc., Glaser Gas, Inc., Ideal Gas, Inc., and Inland U.S.A., Inc. The funds will be available to customers who purchased certain refined petroleum products from one of the consent order firms during the relevant consent order period. End-users and reseller applicants requesting refunds of $5,000 or less will not be required to provide any additional evidence of injury in order to receive a refund. Successful applicants will receive refunds proportionate to the amount they were allegedly overcharged by one of the consent order firms.

Refund Applications

Little Americo Refining Company/A.M. Marshall Company, 6/19/85; RF112–4

A.M. Marshall Company filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into by the agency and Little America Refining Company (Larco). In considering the request the DOE found that Marshall purchased a relatively small amount of Larco motor gasoline. Using the volumetric allocation methodology, the DOE determined that the firm's allocable share was well below the presumption of injury level of $5,000. Therefore, the DOE decided that Marshall would receive a refund equal to its allocable share of $367. In addition, the firm received accrued interest which brought the total refund amount to $491.

Mapco, Inc./Farmland Industries, Inc., 6/19/85; RF108–5

This Decision and Order relates to a distribution of an escrow account fund remitted by Mapco, Inc. pursuant to a consent order that Mapco entered into with the DOE. Farmland Industries, Inc. sought a refund on the basis of its purchases of 60,850,734 gallons of refined products from Mapco during the consent order period. The DOE granted Farmland and refund of $108,531.32 plus accrued interest, which equals a share of the consent order fund allocated to Farmland on the basis of the volume of the products the firm purchased. This refund was conditioned upon Farmland's distribution of the refund received to member cooperatives who purchased the products from Farmland and used them in their agricultural activities. The DOE stated in this Decision that a refund in this fashion to Farmland would achieve the same results as refunds to end-users.

Mapco, Inc./Small's LP Gas Co., 6/17/85; RF108–4

This Decision and Order relates to a distribution of an escrow account fund remitted by Mapco, Inc. Pursuant to a consent order that Mapco entered into with the DOE. Small's LP Gas Co. sought a refund on the basis of its purchases of 1,033,446 gallons of refined products from Mapco during the consent order period. Since Small's claim is less than the $5,000 threshold level, the DOE granted Small a refund of $1,860.20 plus accrued interest, which equals a share of the consent order fund allocated to Small on the basis of the volume of the products the firm purchased.

Mitchell Energy Corporation/Swanee Petroleum Company, 6/20/85; RF50–1

The DOE issued a Decision and Order concerning an Application for Refund filed by Swanee Petroleum Company, a reseller of Mitchell natural gas liquid products. Although the firm's purchases of Mitchell natural gas liquid products during the consent order period exceeded the threshold level established in *Texas Oil & Gas Corp.*, 12 DOE ¶85,089 (1984) (TOGCO), Swanee elected to file its refund application in accordance with the presumption of injury and procedures for filing small claims outlined in the *TOGCO* decision. After examining the evidence and supporting data sumbitted by the firm, the DOE concluded that Swanee should receive a refund of $6,807 based on its purchases of natural gas liquid products from Mitchell.

Stondord Oil Company (Indiana)/ Middlebrook Oil Company, 6/17/85; RF21–12398

The DOE issued a Decision and Order concerning duplicate refunds applied for and received by a wholesaler of Amoco motor gasoline in the Amoco special refund proceeding. Middlebrook Oil Company received two refund but was entitled only to

VOL 50 ISS 145 JL 29 1985 UMI

one. The DOE decided that the owner of Middlebrook must return the second refund amount in addition to accurued interest, and also must submit a written explanation of why he submitted duplicate application and did not inform the DOE of his receipt of duplicate refunds. The DOE stated that failure to provided this additional information would result in the total rescission of Middlebrook's refund.

Stinnes Interoil, Inc./Texaco Refining & Marketing, Inc., 6/21/85; RF125–3

Texaco Refining & Marketing, Inc. filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into by the agency and Stinnes Interoil, Inc. In considering the request the DOE found that Texaco purchased a relatively small amount of stinnes motor gasoline. Using the volumetric allocation methodology, the DOE detemined that the firm's allocable share was well below the presumption of injury level of $5,000. Rather than requiring the firm to make a showing if injury, therefore, the DOE decided that Texaco would receive a refund equal to its allocable share of $1,452. In addition, the firm received accured interest which brought the total refund amount to $2,031.

Tenneco Oil Co./H.V. Johnson & Son, Inc., 6/19/85; RF7–129

On May 23, 1985, the DOE approved a refund of $3,179 from the Tenneco consent order fund for H.V. Johnson & Son, Inc. *Tenneco Oil Co./H. V. Johnson & Son, Inc.*, 13 DOE ¶ , No. RF7–116 (May 23, 1985). Subsequent to the issuance of the May 23 Decision, it was discovered that, due to a clerical error, H.V. Johnson & Son, Inc. did not receive the full refund to which it was entitled. The DOE therefore issued a Supplemental Order approving an additional refund of $55 to the firm.

U.S. Oil Company/Gramco, Ltd., 6/21/85; RF110–1

Gramco, Ltd. filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into by the agency and U.S. Oil Company. In considering the request the DOE found that Gramco purchased a relatively small amount of U.S. Oil gasoline. Using the volumetric allocation methodology, the DOE determined that the firm's allocable share was well below the presumption of injury level of $5,000. Rather than requiring the firm to make a showing of injury, therefor, the DOE decided that Gramco would receive a refund equal to its allocable share of $143. In addition, the firm received accrued interest which brought the total refund amount to $211.

Witco Chemical Corporation/Fortmeyer's, Inc., 6/21/85; RF115–1

Fortmeyer's, Inc. filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into by the agency and Witco Chemical Corporation. In considering the request the DOE found that Fortmeyer's purchased a relatively small amount of Witco product. Using the volumetric allocation methodology, the DOE determined that the firm's allocable share was well below the presumption of injury level of $5,000. Rather than requiring the firm to make a showing of injury, therefore, the DOE decided that Fortmeyer's would receive a refund equal to its allocable share of $433. In addition, the firm received accrued interest which brought the total refund amount to $661.

Dismissals

The following submissions were dismissed:

Name and Case No.

Dick and Hoppy's Gulf; RF40–2273
Farmland Industries, Inc.; RF105–1
Union Oil Co. of Calif.; HRO–0256

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: July 16, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85–17942 Filed 7–26–85; 8:45 am]

BILLING CODE 6450–01–M

Cases filed the Week of June 14 through June 21, 1985

During the Week of June 14 through June 21, 1985, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Date: July 16, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

(Week of June 14 through June 21, 1985)

Date	Name and Location of Applicant	Case No.	Type of Submission
June 17, 1985	Elk Trading Company, Inc. and Neal Davis, Washington, DC.	HRD-0281, HRH-0281	Motion for discovery and request for evidentiary hearing.If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Elk Trading Company & Neal Davis in response to the Proposed Remedial Order (Case No. HRO-0266).
June 18, 1985	Amoco/Mississippi, Jackson, MI	RM21-7	Request for modification/rescission. If granted: The June 26, 1984 Decision and Order (Case No. RQ21-84) issued to Mississippi would be modified regarding the state's restitutionary plan submitted in the Amoco second-stage refund proceeding.
Do	Economic Regulatory Administration, Washington, DC	HRZ-0256	Motion to strike. If granted: The Office of Hearings and Appeals would strike from the record in Texaco Inc. (Case No. DRO-0199) certain documents submitted by Texaco Inc.
Do	Texaco, Inc., Washington, DC	HRD-0282	Motion for discovery. If granted: Discovery would be granted to Texaco Inc. in connection with the Statement of Objections submitted in response to the May 1, 1979 Proposed Remedial Order (Case No. DRO-0199).
June 19, 1985	Gene Dannen, Corvallis, OR	HFA-0296	Appeal of a fee waiver denial. If granted: The June 12, 1985 Denial issued by the Albuquerque Operations Office would be rescinded and Gene Dannen would receive a waiver of fees for a document concerning radiological poisons.
Do	Lucky Stores, Inc., Tampa, FL	HEZ-0258	Request for issuance of subpoenas. If granted: The Office of Hearings and Appeals would issue subpoenas to certain designated witnesses to compel their attendance at an evidentiary hearing.
Do	Navajo Refining Company, Houston, TX	HED-0263	Motion for discovery. If granted: Discovery would be granted in connection with the Statement of Objections submitted by Navajo Refining Company in response to a Proposed Decison & Order (Case No. HEE-0083).

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of June 14 through June 21, 1985]

Date	Name and Location of Applicant	Case No.	Type of Submission
Do	Oasis Petroleum Corporation, Los Angeles, CA	HER-0105	Request for modification/rescission. If granted: The April 18, 1985 Decision and Order issued to Oasis Petroleum Corporation, Research Fuels, Inc. & Lucky Stores, Inc. (Case Nos. HEX-0118, HER-0101 & HEZ-0234) would be modified insofar as it pertains to the bifurcated evidentiary hearing.
Do	do	HEX-0123	Supplemental order. If granted: The Office of Hearings and Appeals will evaluate the supplemental witness list submitted by Oasis Petroleum Corp. pursuant to a Decison and Order issued by Office of Hearings and Appeals on April 18, 1985, and designate those witnesses whose testimony will be presented at the evidentiary hearing.
Do	do	HEZ-0257	Request for issuance of subpoenas. If granted: The Office of Hearings and Appeals would issue subpoenas to certain designated witnesses to compel their attendance at an evidentiary hearing.
Do	Stnrey Oil Company, Inc., Grand Junction, CO	HRR-0103	Request for modification/rescission. If Granted: The May 17, 1985 Decision and Order (Case Nos. HRD-0215 & HRH-0215) issued to Stanley Oil Co., Inc. would be modified regarding Stanley Oil Company's request for evidentiary hearing.
Do	Oasis Petroleum Corporation, Los Angeles, CA	HER-0104	Request for modification/rescission. If granted: The February 12, 1985 Decision and Order issued to Oasis Petroleum/Research Fuels (Case No. HEX-0110) would be modified as to require Lucky Stores, Inc. to furnish the Office of Hearings and Appeals with a copy of the deposition of Richard Heinzelmann.
Do	Ted's Truck Center Quartsize, AZ	HEE-0156	Exception to the reporting requirements. If granted: Ted's Treck Center would not be required to filed Form EIA-782B, "Reseller/Retailers' Monthly Petroleum Products Sales Report."
June 20, 1985	Farmers Union Co-op Oil Association, Lincoln, NE	HEE-0157	Exception to the reporting requirements. If granted: Farmer's Union Co-op Oil Association would not be required to file Form EIA-782B "Reseller/Retailers' Monthly Petroleum Products Sales Report."

REFUND APPLICATIONS RECEIVED

[Week of June 14 To June 21, 1985]

Date received	Name of refund proceeding/name of refund applicant	Case number
6/17/85	Tenneco/H.V. Johnson, Inc	RF7-129
6/17/85	ARKLA Chemical/Casey Grocery & Station.	RF153-12
6/17/85	McCarty/Auglaize Landmark, Inc	RF143-9
6/17/85	Bayou State/Ida/Freeman Enterprises.	RF117-11
6/17/85	Bayou State/Ida/F-Z Mart Stores, Inc.	RF117-10
6/18/85	Aminoil/Cities Service Oil & Gas Corporation.	RF139-10
6/14/85	Hertz/Adolph Coors Company	RF76-161
6/14/85	Collins/Ackley Brothers	RF168-1
6/19/85	Warren Holding/Johnson's Garage.	RF168-1
6/20/85	ARKLA Chemical/Marion Young	RF153-14
6/20/85	ARKLA Chemical/Perkins Automotive Sprinkler Company.	RF153-13
6/17/85	Gulf/Atlantic Gas Corporation	RF40-3034
6/19/85	Gulf/C&D Service Center	RF40-3035
6/19/85	Gulf/R.B. Newman Fuel Corporation.	RF40-3036

[FR Doc. 85–17939 Filed 7–26–85; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $9,719 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Blaylock Oil Company, Inc., a reseller-retailer of motor gasoline located in Homestead, Florida.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF–0037.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision relates to a consent order entered into by Blaylock Oil Company, Inc. (Blaylock), which settled alleged pricing violations in the firm's sales of motor gasoline to wholesale and retail customers during the October 1, 1979 through December 31, 1979 audit period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively forumulated to distribute the contents of an escrow account funded by Blaylock pursuant to the consent order. The DOE has tentatively established procedures under which purchasers of Blaylock motor gasoline during the audit period may file claims for refunds from the consent order fund. Applications for Refund should not be filed at this time. Appropriate pubic notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Comments submitted in response to the Proposed Decisions previously issued in this proceeding on Febuary 7, 1984 and July 12, 1984 need not be refiled.

Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: July 17, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

July 17, 1985.

Name and Firm: Blaylock Oil Company, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF–0037.

The procedural regulations of the Deparment of Energy (DOE) provide that the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals (OHA) to

implement special refund procedures for the purpose of providing restitution to persons who were injured by alleged or

II. Proposed Refund Procedures

We have considered the ERA's

205.282(e) of those regulations states that:

be considerable expenses involved in gathering the types of data needed to

petroleum goods and services would be beyond the scope of a special refund

be distributed in accordance with the foregoing Decision.

VOL 50 ISS 145 JL 29 1985 UMI

implement special refund procedures for the purpose of providing restitution to persons who were injured by alleged or adjudicated violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who were injured by such alleged or adjudicated violations or to ascertain readily the amounts of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 8 DOE ¶82,597 (1981) (*Vickers*).

I. Background

On October 13, 1983, the ERA filed a petition requesting that the OHA establish a refund proceeding in order to distribute funds received pursuant to a Consent Order entered into by the DOE and Blaylock Oil Company, Inc. (Blaylock). Blaylock is a "reseller-retailer" of refined petroleum products as that term was defined at 10 CFR 212.31, and is located in Homestead, Florida. The firm was subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Supart F until January 28, 1981, when motor gasoline and other refined petroleum products were exempted from price and allocation controls. Exec. Order No. 12287, 46 FR 9909 (January 30, 1981). A DOE audit of Blaylock's records revealed possible regulatory violations with respect to the firm's pricing of motor gasoline during the period October 1, 1979 through December 31, 1979 (the audit period). In order to settle all claims and disputes between Blaylock and the DOE regarding the firm's sales of motor gasoline during that three month period, Blaylock and the DOE entered into a Consent Order on October 15, 1981, in which Blaylock agreed to remit to the DOE $9,719 to be deposited into an interest-bearing escrow account for ultimate distribution "in a just and equitable manner in accordance with applicable laws and regulations." Consent Order ¶ 5. By its terms, the Blaylock Consent Order does not constitute an admission by Blaylock or a finding by the DOE that Blaylock violated the price regulations during the audit period. This Proposed Decision concerns the distribution of the $9,719 consent order amount, which is currently held in a DOE escrow account, plus accrued interest.[1]

[1] On February 7, 1984, the OHA issued a Proposed Decision and Order (PDO) tentatively establishing procedures for the distribution of the escrowed Blaylock consent order funds. However, on June 5, 1984, a United States District Court granted in part an Application for Preliminary Injunction filed by Blaylock and directed the DOE not to proceed with this special refund proceeding until such time as the language in the PDO was modified in accordance with the court's decision. *Blaylock Oil Co. v. DOE*, Fed. Energy Guidelines, Court Decisions 1981–1984, ¶26,500 (N.D. GA. 1984). A second PDO was issued on July 12, 1984, but was rescinded on July 26, 1984. On April 30, 1985, Blaylock and the DOE entered into a settlement of the pending court case, resulting in its dismissal. Under the terms of that settlement, the DOE may proceed with the implementation of Subpart V procedures to distribute the Blaylock consent order funds.

II. Proposed Refund Procedures

We have considered the ERA's Petition for the Implementation of Special Refund Procedures and have determined that it is appropriate to establish such procedures with respect to the funds remitted by Blaylock. As we have stated in previous Decisions, refunding moneys obtained through DOE enforcement proceedings to parties who were injured by alleged or adjudicated violations is the focus of Subpart V proceedings. *See generally Vickers.*

Based upon our experience with Subpart V cases, we propose that the distribution of refunds in the present case should take place in two stages. In the first stage, we will attempt to refund moneys to customers who were injured by Blaylock's alleged overcharges during the consent order period. After meritorious claims are paid in the first stage, a second-stage refund procedure may become necessary.

Potential claimants in this proceeding will fall into the following categories: (i) Resellers (including retailers) of Blaylock motor gasoline, and (ii) firms, individuals, or organizations that were consumers of Blaylock motor gasoline. The motor gasoline will have been purchased either directly from Blaylock or in a chain of distribution leading back to Blaylock. As explained below, we propose that the consent order funds be distributed to eligible claimants who demonstrate that they have been injured by Blaylock's alleged overcharges.

As in many prior special refund cases, we will adopt certain presumptions in order that refunds may be distributed efficiently and equitably. First, we propose to adopt a presumption that the alleged overcharges were dispersed equally in all of Blaylock's sales during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we intend to adopt a presumption of injury with respect to small claims.

Presumptions in refund cases as specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we are proposing to adopt in this case are used to permit claimants to participate in the Blaylock refund proceeding without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The volumeteric refund presumption which we propose to establish in this proceeding assumes that alleged overcharges were spread equally over all gallons of motor gasoline sold by Blaylock during the consent order period. To determine the per gallon volumetric factor in the instant proceeding, the $9,719 consent order amount will be divided by the total volume of motor gasoline which Blaylock sold during the consent order period. Using the information available to us at the present time, the volumetric amount in this proceeding will be $0.00459 per gallon ($9,719 divided by 2,116,189 gallons of motor gasoline). Refunds will be calculated by multiplying the volumetric factor by the total amount of motor gasoline that an applicant purchased from Blaylock. The interest which has accrued on the money in the escrow account will be distributed to each successful claimant in proportion to its refund amount.

The second presumption we propose to establish involves small claims made by resellers. In general, resellers who file refund claims in Subpart V proceedings are required to establish that they absorbed the alleged overcharges. To make this showing, they must demonstrate that, at the time they purchased refined petroleum products from a consent order firm, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. However, in this case, as in prior special refund proceedings, we will adopt a presumption that reseller claimants for small refunds bore the injury associated with Blaylock's alleged overcharges. *See Midwest Industrial Fuels, Inc.*, 12 DOE ¶85,131 (1984). As we have stated in many prior refund Decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information and the cost to the OHA of analyzing it may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain refunds. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and therefore to use its limited resources more efficiently.

Under the small claims presumption we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes unless its volumetric refund exceeds $5,000.[2] *See Aztex Energy Co.*, 12 DOE ¶ 85, 116 (1984), and cases cited therein. In light of the fact that the escrow amount in this proceeding is relatively small, we find it extremely likely that all reseller claimants will fall under the threshold level.

In addition to the presumptions we intend to adopt in this proceeding, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled by the Blaylock Consent Order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the increased cost of motor gasoline on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *See also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984), and cases cited therein. We have therefore concluded that end-users of motor gasoline covered by the Blaylock Consent Order need only document their purchase volumes from Blaylock in order to make a sufficient showing that they were injured by the alleged overcharges.

We further propose to establish a minimum amount of $75 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those cases. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225; *see also* 10 CFR 205.286(b).

Refund applications in this proceeding should not be filed until a final Decision and Order is issued.[3] Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing copies of the proposed and final Decisions in the **Federal Register**, we will provide copies to potential claimants and to several petroleum marketing organizations.

In the event that money remains after all first-stage claims have been disposed of, those funds could be distributed in various ways. We will not be in a position to decide what should be done with any remaining funds until the first-stage refund procedure is completed.

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Blaylock Oil Company, Inc. pursuant to the Consent Order executed on October 15, 1981 will be distributed in accordance with the foregoing Decision.

[2] Resellers that were spot purchasers from Blaylock will be ineligible to receive any refunds, even refunds below the threshold level, unless they make a showing that rebuts the presumption that they were not injured. As we have previously noted, spot purchasers would not have made spot market purchases of a firm's product at increased prices unless they were able to pass through to their customers the full amount of the firm's selling price. *See Vickers*, 8 DOE at 85,396–97. In order to overcome the rebuttable presumption that it was not injured, a spot purchaser must show that it absorbed the alleged overcharges and should submit additional evidence to establish that it would be inappropriate to presume that it had discretion as to where and when to make the purchase(s) upon which the refund claim is based.

[3] Comments submitted in response to either of the first two Proposed Decisions issued in this proceeding need not be resubmitted. We will consider the comments we have received when we formulate a final Decision and Order. The comments filed by Blaylock in response to the February 7, 1984 Proposed Decision primarily set forth Blaylock's opposition to our exercise of jurisdiction in this case. In the April 30, 1985 settlement with the DOE, Blaylock explicitly waived that opposition (*see* footnote 1). Moreover, in another proceeding, we have recently considered and rejected contentions similar to those advanced by Blaylock, and we see no benefit to restating that discussion in the final Decision and Order to be issued in this proceeding. *See E.M. Bailey Distribution Co., Inc.*, 13 DOE ¶ 85,049 (1985).

[FR Doc. 85-7940 Filed 7-26-85; 8:45 am]
BILLING CODE 6450-01-M

Southeastern Power Administration

Power Marketing Policy; Kerr-Philpott System of Projects

AGENCY: Southeastern Power Administration (SEPA), DOE.

ACTION: Notice of issuance of Final Power Marketing Policy, Kerr-Philpott System of Projects.

SUMMARY: The Administrator has adopted the attached final power marketing policy for SEPA's Kerr-Philpott System of Projects. It will be effective upon publication in the Federal Register and will be applicable to the sale of system power in respective utility areas. The policy was developed in accordance with Procedure for Public Participation in the Formulation of Marketing Policy published in the Federal Register on July 6, 1978, 43 FR 29188.

Following a decision by the Administrator that a new written marketing policy for the Kerr-Philpott System of Projects was needed, a Notice of Intent to Formulate Power Marketing Policy was published in the Federal Register on October 31, 1979, 44 FR 62588. The notice, among other things, solicited proposals and recommendations for consideration by SEPA.

On July 3, 1980, a Proposed Power Marketing Policy for the Kerr-Philpott System of Projects was published in the Federal Register, 45 FR 45349, and the availability of a draft Environmental Assessment was announced and comments on both documents were solicited. Forty-nine (49) comments were received relative to the Notice of Intent and proposed policy, either during a public comment forum held in South Hill, Virginia, on November 18, 1980, in consultations with representatives of interested entities or groups of entities, or during the written comment period which ended December 19, 1980. No comments were received on the Environmental Assessment. Thereafter, the Administrator appointed a Staff Committee to prepare a Staff Evaluation of all oral and written comments and responses received by SEPA and to make appropriate recommendations.

The Committee determined that the proposed policy embodying the concept of sales of capacity without energy to new preference customers could not be

implemented and that other major problems existed regarding implementation, marketing area, and proposed allocations of power. The Committee recommended that a revised proposed policy seeking to address these problems be issued and further public comment be sought to assist in formulating a viable final policy. The Committee also recommended issuance and implementation of an interim policy pursuant to section 11 of SEPA's procedure for public participation (43 FR 29186, July 6, 1978) that would eliminate sales of capacity without energy to nonpreference customers and, to the extent feasible and practical, allocate to existing preference customers all capacity and energy pursuant to new contracts that would remain in effect only so long as needed to secure replacement contracts under a long-term policy. See 47 FR 27600, June 25, 1982. A public comment forum was held on November 18, 1982, regarding the revised proposed policy and the comment and consultation period extended through April 18, 1983. Six interested parties presented oral comments, 21 written comments were received, and a number of consultations were held during the comment period. SEPA, unfortunately, was unable to commit sufficient resources and time to the formulation of the long-term policy due to the issuance of its Final Cumberland Power Marketing Policy (48 FR 11148, March 16, 1983), and the need to implement, as soon as possible, the Cumberland Policy as a result of litigation brought by the Greenwood (Mississippi) Utility Commission. Implementation of the Final Cumberland Policy by the execution of new contracts was completed in June 1984. During this same period of time, SEPA had also instituted negotiations to implement its Final Georgia-Alabama Power Marketing Policy (Western portion) and was engaged in complex negotiations with the four operating companies of the Southern Company (Georgia, Alabama, Mississippi, and Gulf Power Companies) when suit was instituted in July 1984, in the Eastern District of North Carolina by various municipalities (*ElectriCities of North Carolina, Inc., et al. v. SEPA, et al.* Civil Action No. 84–625–CIV–5) seeking, among other things, an order requiring SEPA to issue within 30 days a final marketing policy for the Kerr-Philpott System. Negotiations and contracts for the Western portion were completed in January 1985, and shortly thereafter SEPA initiated preliminary discussions with Duke Power Company, South Carolina Electric & Gas Company, and South Carolina Public Service Authority to implement the Georgia-Alabama Final Marketing Policy in its Eastern portion and to insure that appropriate contractual arrangements were in place to transmit and dispose of new project power from the Richard B. Russell Project which was then anticipated to be on line during the early summer of 1985. On June 18, 1985, the district court ordered SEPA to issue its policy within 30 days and the final policy issued herein is in compliance with that order. The Staff Evaluation Committee, within the time allowed, reviewed and evaluated the written and oral comments, memoranda of consultations, and other pertinent data accumulated at each step of these proceedings as well as the revised proposed long-term policy and made its recommendations to the Administrator on July 15, 1985.

Following receipt of the Staff Evaluation, the Administrator decided to accept the staff recommendations with regard to the revised proposed long-term power marketing policy published in the **Federal Register** on June 25, 1982, and to adopt the recommended policy as the Final Power Marketing Policy for the Kerr-Philpott System of Projects.

SUPPLEMENTARY INFORMATION: The Final Marketing Policy constitutes the guidelines which SEPA will follow in the future disposition of power from the John H. Kerr and Philpott System of Projects. The policy establishes the marketing area for system power and deals with the utilization of area utility systems for essential purposes. The Policy also deals with wholesale rates, resale rates, and conservation measures.

Based on the Environmental Assessment of the proposed marketing policy, SEPA and DOE concluded that the revised proposed long-term policy would not have a significant effect upon the quality of the human environment. The final marketing policy is not modified sufficiently to alter this finding.

A recitation of the primary objections to the proposed marketing policy, brief explanations for rejecting those objections, and specific changes in the proposed marketing policy approved by the Administrator, precede the text of the final policy as adopted.

Issued at Elberton, Georgia, July 18, 1985.

Harry C. Geisinger,

Administrator.

Final Power Marketing Policy, Kerr-Philpott System of Projects

Introduction

The final marketing policy for SEPA's Kerr-Philpott System of Projects is the culmination of efforts which began on October 31, 1979. Twice SEPA has followed the step by step requirements of its Procedure for Public Participation in Formulation of Marketing Policy published in the Federal Register on July 6, 1978, 43 FR 29186, to seek the best advice and assistance available to fashion a viable policy for an energy limited system. Extensive public comment has twice been received and has been given appropriate consideration. This public input, offered in an orderly and timely fashion, has significantly contributed to the content of the final policy.

Purpose and Legal Authority

The purpose of the Policy is to establish with public input written guidlines which SEPA will follow in the future to reasonably and equitably carry out the statutory requirements contained in Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s. SEPA's authority to formulate the policy and perform these functions is derived from Section 5 of the Flood Control Act of 1944, Section 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7152, and delegations pursuant thereto.

Reasons For Marketing Policy

Since its establishment in 1950, SEPA has utilized an ad hoc approach to power marketing. Resulting policy has been reflected in negotiated contractual documents. However, sometime before passage of the DOE Organization Act, SEPA recognized the need for a more formal power marketing policy. Factors contributing to this need were major changes within the electric power industry, the steep rise in energy prices, and the growing and increasing widespread interest in SEPA's limited resources. Additionally, contracts for portions of SEPA power were expiring and both existing and potential customers needed to know what SEPA planned to do with its power so that orderly power supply plans could be made. Furthermore, advice had been given that SEPA would reconsider certain entities' interests in SEPA power upon the expiration of existing contracts and the availability of additional sources of power.

Primary Objections and Responses.

A number of objections (or suggestions for change) wee made in response to the Notice of Intent to formulate a power marketing policy, the proposed power marketing policy and the revised long-term power marketing policy. SEPA responses to the objections or sugestions follow:

1. *Objection.* Rather than maintaining four separate systems, SEPA should integrate its projects into one system with a marketing area covering the 10-state area in which SEPA is authorized to market power. It is contended that: (1) Combining the systems would minimize inequities caused by the fact that the geographical distribution of preference customer loads differs from the geographical distribution of SEPA's generating capacity, (2) combining SEPA's four systems would increase opportunities for firming its hydro capacity be coordinating the operation of SEPA's hydro capacity with the thermal capability of preference customers, (3) combining the systems would enable each system to provide redundancy or reserves for the others, and (4) combining the systems would provide a mutual support or synergism with respect to adverse water periods and surplus water periods.

Response. This same concept was suggested in connection with both the Georgia-Alabama System and the Cumberland System and was dealt with in both the staff evaluation and Final Power Marketing Policy for each of these respective systems. Discussion on this idea or concept contained in the Final Power Marketing Policy for the Georgia-Alabama System of Projects and the Final Power Marketing Policy for the Cumberland System of Projects remains pertinent and is by reference incorporated herein and made a part hereof. SEPA is in the business of disposing of a relatively small amount of hydro power pursuant to the principles set forth in Section 5 of the Flood Control Act of 1944. SEPA has no transmission facilities, no control center, and a Congressionally authorized staff of 40 people. The task of hydraulically and electrically combining the widely separated systems in order to theoretically increase the dependable capacity, reduce the need for reserves, or the other "conceptual" benefits of such a synergism is still considered to be impractical and uneconomical as well as an unmanageable concept. The dependable capacity of the respective systems is already very substantially in excess of the nameplate rating of the machines and already very near the machine limits which the Corps of Engineers will allow for sustained generation. The critical year or adverse period utilized in establishing the marketabie dependable capacity and firm energy for the two major energy producing systems, the Georgia-Alabama System and the Cumberland System, is the same period for both systems. Thus, energy from one system would not be available to supplement the other system during the adverse period. The conceptual benefits through the integration of these two so called "energy-rich" systems would be negligible. SEPA believes the overall economic benefits to the preference customers, under a one-system concept, would be diminished by increased transmission costs in delivering power across multiple transmission systems. The varying marketing issues in the respective system areas negate a single operating system as well as a single marketing system. Furthermore, it is improbable that all of the area utilities in each of the respective systems would willingly cooperate in the accomplishment of such an integration, and SEPA is not certain that statutory or legal authority to compel such cooperation exists at this time. As stated in previous staff evaluations and final power marketing policies of SEPA with respect to the Georgia-Alabama System and the Cumberland System, SEPA has taken advantage of changes in the electric power industry through the years and its program has evolved and expanded; however, the one-system concept has been considered and remains beyond practicability.

2. *Objection.* SEPA should adopt a marketing policy that makes SEPA power available on a proportional basis to all preference entities in the SEPA area.

Response. Comments to this effect have been submitted previously on the Final Power Marketing Policy for the Georgia-Alabama System of Projects and basically reflect the consistent views of entities urging the elimination of the existing four-system arrangement from which SEPA presently operates and markets the available power. The further purpose of this comment is to have SEPA market power available from the proposed single system pro rata to preference entities located throughout the 10-state SEPA marketing area without regard to the past or present SEPA policies or any other considerations. This objection fails to recognize that SEPA's projects were planned, authorized, and constructed to serve the power requirements of specific power supply areas and that as a result of the construction of the SEPA projects, the necessity to construct other generating facilities to meet area power requirements were adjusted downward to reflect the SEPA projects. The value of SEPA power is only fully realized when it is incorporated into the planning for the power supply area. Discussion on this comment or idea contained in the Final Power Marketing Policy for the Georgia-Alabama System of Projects remains pertinent and is by reference incorporated herein and made a part hereof. In the Final Power Marketing Policy for the Kerr-Philpott System of Projects, SEPA has sought to include all eligible preference entities within the selected marketing area with an equitable allocation of capacity and energy to make the capacity viable. In SEPA's judgment, the final Policy deals equitably with existing and potential customers with respect to existing available power.

3. *Objection.* The proposed marketing area and allocation processes do not comply with the "widespread use" provision of the Flood Control Act of 1944.

Response. Several comments received contend the proposed policy is violative of the Act in not encouraging ". . . the most widespread use . . ." of the preference power SEPA proposes to market in the Kerr-Philpott System. But Congress has described the manner by which SEPA must transmit and dispose of this power as consisting of not one but several interrelated broad terms such as ". . . to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles . . .". Therefore, SEPA cannot address a single phrase to the exclusion of all others. Rather, the manner or method proposed should, if possible, consider and reconcile these several conflicting and competing terms. Since Congress did not delineate specific guidelines, it clearly intended to allow the Secretary, or the Power Marketing Administrator as his designated agent, wide discretion to resolve the general but conflicting terms of the Act. This discretion has been affirmed in a number of legal opinions. The comments presented with respect to the proposed Policy demonstrate such conflict when those who seek inclusion in SEPA's proposed marketing area or who advocate expansion of the area to include more of their constituents emphasize only "widespread use", while existing preference customers and their supporters contend further expansion violates the ". . . sound business principles . . ." and ". . . lowest possible rate(s) . . ." features of the statute. SEPA's goal is therefore to develop and implement a marketing policy for its limited resource that, to the degree possible, moderates, harmonizes, and reconciles these diverse terms. SEPA believes the Final Power Marketing Policy for the Kerr-Philpott System of Projects reasonably obtains that goal.

4. *Objection.* SEPA should abandon the radius limitations utilized to

Response. One comment stated that the preference customers who are

to all eligible customers and will withdraw only the amount of energy

proposed Policy issued June 25, 1982, set the goal of selling all available SEPA

depending upon the allocation of capacity and energy to the new

selected in the final Policy effectively accomplish this goal.

VOL 50 ISS 145 JL 29 1985 UMI

4. *Objection.* SEPA should abandon the radius limitations utilized to delineate the selected marketing area so that all preference entities within the Carolina Power & Light Company (CP&L) and Virginia Electric and Power Company (VEPCO) service areas will receive SEPA power.

Response. This comment is consistent with the position taken by certain potential preference entities who allege that the "most widespread use" language of Section 5 of the 1944 Flood Control Act requires that SEPA sell power to all interested preference entities or throughout an entire utility area. Again, this assertion has been made in comments with respect to the Final Power Marketing Policy for the Georgia-Alabama System of Projects and dealt with at length. Discussion on this idea or concept contained in the Final Power Marketing Policy for the Georgia-Alabama System of Projects remains pertinent and is by reference incorporated herein and made a part hereof. Congress did not choose to delineate geographical areas or utility service areas as the marketing area for the power from Federal projects. Rather, Congress chose to have a designated Power Marketing Administrator select the geographical marketing area in accordance with the language set forth in Section 5 of the Flood Control Act of 1944, including among other things the "most widespread use". Under this language some factors to be considered in the selection of an appropriate geographical marketing area include, but are not limited to, reasonable distance from projects; utility service areas; number, location, and demand of preference customers; type and amount of power available for marketing; and various other matters involved in scheduling, transmission, utilization, and disposition of the power. While these factors are considered important, there is also the matter of harmonizing the "most widespread use" language with other statutory language. Expansion of the area to include the entire VEPCO and CP&L areas would result in too great a dilution of SEPA's Kerr-Philpott resources. The selected marketing area appears, when all factors are considered, to be the most reasonable area within which to market the power available from the Kerr-Philpott System of Projects.

5. *Objection.* SEPA existing preference customers should be entitled to continue to receive only as much power as they have been receiving in the past until such time as new customers are on a par with the existing customers.

Response. One comment stated that the preference customers who are presently receiving benefits from Federal power should be held at the formerly existing level until the preference customers who have not received any power in the past have received an equal allocation according to the present loads. The comment developed a methodology which would allocate the capacity using load percentages after assuring that existing customers retain their existing contract allocations. In addition, if their load ratio share justified it, the existing customers would receive more power.

The only power that is available is the capacity formerly sold to VEPCO and CP&L. Because of the problems in finding a viable arrangement to allocate capacity without energy as discussed in the response to Objection 8, SEPA has proposed the withdrawal of a limited amount of energy from the presently served preference customers. This amount of energy provides a means whereby the capacity can be useable by the new preference customers. If more capacity is allocated to the new customers, then more energy would need to be withdrawn from the presently served preference customers. As discussed in the response to Objection 9, presently served preference customers feel very strongly that they should be allowed to retain their present capacity and energy and share in any additional capacity available.

In addition, SEPA has considered the philosophical issue as to whether the new preference customers should be in a higher priority position because they have not received Federal power in the past, or whether all preference customers (both existing and new) should be in an equal position for any new resources, or whether the existing customers should be in a higher priority position because of their long-term involvement in the Federal hydropower program. SEPA believes that good arguments can be made for all three positions. SEPA in the past has chosen to treat all eligible preference customers equally when allocating new resources. In light of the fact that existing customer's allocations constitute a decreasing percentage of their load due to the overall load growth, and the fact that they have relied on their SEPA allocations in their power planning, it is appropriate to permit them to share in the newly-available capacity, especially since some energy is being withdrawn from them. SEPA can see no reason to adopt the suggestion based on the present circumstances. Therefore, SEPA will allocate the available new capacity to all eligible customers and will withdraw only the amount of energy from existing customers necessary to make the capacity viable.

6. *Objection.* SEPA should not dilute the power by such widespread use as to be inconsistent with sound business principles. Some of the comments stated that the power should not be diluted to the point where the power is no longer a significant portion of the system's power supply.

Response. SEPA has considered whether the dilution being considered makes Kerr-Philpott power so insignificant in relation to the total power used by the customers that it no longer provides a meaningful contribution to the customers' systems. Unfortunately, because of a very limited and finite resource, SEPA is able to serve only a small portion of the capacity of the existing customers and an even smaller portion of the load of the new customers. These portions will almost certainly decrease as loads grow unless construction of more Federal hydro resources are initiated. SEPA feels that any additional increase beyond the proposed marketing area would dilute the available power to the point where the value of the power would approach insignificance.

7. *Objection.* SEPA should consider 20 years as an appropriate contract term in that the long lead time to plan new power plants and transmission capabilities would make a 20-year term more consistent with today's generation market.

Response. Although power supply arrangements are by nature long term, SEPA's experience has been that changing conditions dictate that all parties to the contract be given an opportunity to make necessary changes after a reasonable period of time. Contracts can always be extended if acceptable by the parties. For the Final Power Marketing Policy for the Kerr-Philpott System of Projects, SEPA considers the 10-year term to be appropriate.

8. *Objection.* SEPA should reconsider its determination not to market capacity without energy.

Response. In the past, for a number and variety of reasons, it was not possible to develop arrangements whereby preference customers could physically and economically utilize all of SEPA's peaking capacity, resulting in the sale of a portion of the capacity, essentially without energy, to some of the private utilities. Because of changed or changing circumstances in the power industry, SEPA's proposed Policy issued July 3, 1980, and SEPA's revised proposed Policy issued June 25, 1982, set the goal of selling all available SEPA power to preference entities. This goal was accomplished and is currently being carried out with the contracts implementing the interim policy. Under the proposed Policy issued July 3, 1980, only capacity without energy would have been available to new preference customers. Because of SEPA's concern that whatever Policy was to be the final Policy should be one that could be reasonably assure of being implemented through subsequent contractual arrangements, SEPA sought on several occasions to determine the implementation feasibility of this Policy. Based upon conferences with representatives of both VEPCO and CP&L, as well as information received from Appalachian Power Company (APCO), SEPA concluded that the capacity without energy concept could not be contractually implemented. Furthermore, the Final Policy is based upon the premise that the preference customers will receive credit for the power as generated at the projects to fit the peak load conditions of the preference customers systems. SEPA preference customers now will experience the variation in energy availability as dictated by water conditions. However, the dependable capacity of the system, less reserves and losses, will be credited to the preference customers each month regardless of the energy available. The concept of capacity without energy is not, in SEPA's opinion, a viable concept where only a peaking resource is involved and therefore is not included in the Final Power Marketing Policy for the Kerr-Philpott System of Projects.

9. *Objection.* Allocations of capacity and energy to existing preference customers should not be reduced, and existing preference customers should have an equitable share with new customers of the capacity previously sold to nonpreference customers.

Response. The existing preference customers in the Kerr-Philpott marketing area were the only preference entities who elected to purchase power from the Kerr-Philpott System of Projects at the time power first became available. These preference customers are understandably concerned about the proposed withdrawal of certain quantities of energy to be utilized in supporting capacity allocations to new preference customers in the new customers' share of the capacity previously sold to the companies. They contend that the proposed allocations will adversely impact them, both product and benefitwise, the extent depending upon the allocation of capacity and energy to the new preference customers. In the Final Power Marketing Policy for the Kerr-Philpott System of Projects, with respect to the capacity sold to the existing preference customers prior to contracts executed to implement the interim policy, each existing preference customer within the VEPCO service area will be allowed to retain its individual share of the 65 megawatts of delivered capacity, and each existing preference customer within the CP&L service area will be allowed to retain its individual share of the 30 megawatts of delivered capacity.

Both new and existing preference customers within the VEPCO and APCO service areas and those within the CP&L service area will be eligible to share equitably in the available capacity remaining after reductions for reserves, losses and capacity retained by the existing customers; provided that preference customers in the APCO area will be limited to the available capacity output of the Philpott Project, less reserves and losses. Allocations of capacity to a particular preference customer within a particular utility service area will be based on the relationship of such customer's maximum 1980 demand to the sum of the 1980 maximum demands of all preference customers in a given utility service area sharing such power.

Capacity allocated to serve new preference customers will be accompanied by energy equal to the firm energy available from the projects (approximately 650 kilowatt-hours per kilowatt per year). The remainder of the energy available from the projects shall be allocated to existing preference customers in the respective service areas based on their capacity allocations. The benefits from the new capacity allocation which the existing customers will receive under the Final Power Marketing Policy will to a degree offset the diminution of benefits related to the energy withdrawals.

Therefore, a carefully selected withdrawal of energy, offset by increased capacity allocations, is appropriate under the circumstances for the Final Power Marketing Policy. SEPA believes the inclusion of new preference customers in the marketing area furthers the "widespread use" provision to the degree that the limited resource allows within the intent of the Flood Control Act. A carefully balanced overall Policy carrying out in a responsible manner SEPA's marketing responsibilities is the goal being sought. The allocations selected in the final Policy effectively accomplish this goal.

10. *Objection.* Preference customers want to be assured that SEPA will establish procedures to enable full preference customer input in SEPA's negotiations with area generation and transmission systems.

Response. SEPA's proposed Policy provides for such input. The concern is that vital decisions by SEPA might be made before preference customers are actually involved, foreclosing proper consideration of preference customer positions. To make SEPA's intent clear that the timely, meaningful input of preference customers is desired, the Final Marketing Policy contains language to the effect that individual preferred entities directly affected by the negotiations shall stand in an advisory role to SEPA and shall be kept currently advised as to the status and progress and negotiations. The opportunity for the preference customers to consult and offer advice to SEPA throughout the negotiations is the intent of the Policy.

11. *Objection.* Virginia Polytechnic Institute (VPI) is an agency of the Commonwealth of Virginia and thus is a public body and a preference agency.

Response. In the written comments of January 17, 1983, on behalf of VPI and the APCO area municipalities it is stated: "VPI . . . is the only university in the United States that operates its own utility system and distributes power to retail customers, in this case the City of Blacksburg, Virginia, and various departments of the University pursuant to approved tariffs." SEPA has consistently denied an allocation of power to universities, municipalities, and state or Federal governmental agencies sought substantially for the purpose of consumptive use. Additionally, since VPI markets power in the City of Blacksburg pursuant to approved tariffs, it appears that VPI is a seller for profit of power in the City of Blacksburg with the profit being for the University rather than for the citizens of Blacksburg. Since VPI is primarily: (1) A consumer of electricity and (2) a seller for profit of electric power, SEPA, in view of its limited power resource, has determined that better utilization of the power could be made in the selected marketing area and has therefore omitted VPI as a potential recipient of power from the Kerr-Philpott System of Projects.

12. *Objection.* SEPA should reallocate existing preference customers existing capacity based upon load growth.

Response. One of the comments stated that the capacity and energy that

VOL 50 ISS 145 JL 29 1985 UMI

the existing customers have received should be reallocated according to current loads because some of the existing preference customers loads have grown and therefore more power is needed. As stated in response to Objection 5, there are good arguments for using many different allocation methods. If SEPA were to reallocate existing preference customers' capacity, it would be taking capacity from some existing preference customers and giving it to other existing preference customers. In like respect, potential new customers would and have presented the view that all capacity should be reallocated according to current load levels.

SEPA believes that the most equitable solution is to allow existing prference customers to retain their pre-1963 capacity allocations while providing a viable arrangement for both new and existing preference customers to share in any additonal capacity available for marketing. Therefore, SEPA will not reallocate capacity which was formerly sold to existing preference customers.

13. *Objection:* SEPA's proposed policy should remove the adverse competitive impact caused by uneven allocations of power to cooperative preference entities and municipal preference entities.

Response: This contention is, in itself, supportive of the proposition to reallocate all power available to SEPA proportionately among all preference entities within a given marketing area or the entire SEPA marketing area. SEPA is aware that because of circumstances influencing the evolution of its marketing programs, an uneven distribution of power among preference entities has resulted. With respect to the power from the Kerr-Philpott System of Projects, an uneven distribution of power to preference entities arises due to the fact that a number of municipalities in the APCO, CP&L, and VEPCO service areas elected not to purchase SEPA power previously offered to them. It goes without saying, however, that preference entity participation at any point in time was voluntary and beyond SEPA's control. Additionally, because geographical limits to marketing areas resulted from the decision process, preference entities immediately beyond the peripheries were affected.

Nevertheless, within selected marketing areas, evenhanded treatment has always been afforded partricipating preference entities as power became available. Toward that goal, the Final Power Marketing Policy for the Kerr-Philpott System of Projects states that preference entities not now served in the designated marketing area will be eligible to share equitably in the additional capacity available to preference entities accompanied by energy equal to the firm energy available from the projects.

SEPA's responsibility is to dispose of surplus hydropower from designated Corps of Engineers reservoir projects in accordance with statutory authority, and it has no utility responsibility respecting any customer within the 10-state area or other specified area in which it is authorized to market power. The impact of SEPA power is something of which SEPA is conscious, but the impacts are a natural consequence of its marketing program. The Congress has not required SEPA to specifically take this matter into consideration as it has required of certain other agencies of a regulatory nature. Furthermore, SEPA does not believe that the relatively small percentage of SEPA power which goes to its preference customers would constitute such an advantage as to be the determining factor in attracting customers to particular systems.

Changes or Revisions in the Revised Proposed Marketing Policy

The changes or revisions in the Revised Proposed Marketing Policy are very minor clarification changes resulting in no significant or substantive changes to the Final Power Marketing Policy for the Kerr-Philpott System of Projects.

Final Power Marketing Policy Kerr-Philpott System of Projects

General. The projects and power subject to this policy are:

Projects	Capacity (kw) (name-plate)	Energy (mwh) (average annual)
John H. Kerr	204,000	440,000
Philpott	14,000	25,000

The Final Marketing Policy for the Kerr-Philpott System of Projects will replace the interim policy and will be implemented as soon as contracts negotiated pursuant to the interim policy can be replaced.

The Final Marketing Policy will be implemented through negotiated contracts for terms not to exceed 10 years.

Transmission facilities owned by Virginia Electric and Power Company (VEPCO), Carolina Power & Light Company (CP&L) and Appalachian Power Company (APCO) will be used for all necessary purposes including transmitting power to load centers. Deliveries may be made at the projects, at utility interconnections or at customer substations, as determined by SEPA. The projects will be hydraulically, electrically and financially intergrated and will be operated to make maximum contribution to the respective utility areas. Preference in the sale of the power will be given to public bodies and cooperatives.

Marketing Area. The SEPA marketing are shall be a combination of the following areas: (1) That area within the VEPCO service area in both Virginia and North Carolina within a radius of 150 miles of the Kerr Project; (2) that area within the CP&L service area in North Carolina and South Carolina within a radius of 165 miles of a point on the Virginia-North Carolinia state line where CP&L's Kerr Dam-Henderson line interconnects with the VEPCO System; and (3) that area within the APCO service area within a radius of 100 miles of the Philpott Project. The combined SEPA marketing area of approximately 65,000 square miles contains 89 eligible public bodies and cooperatives, as listed on Appendix A attached hereto.

Allocations of Power. Approximately the output of the Philpott Project and approximately two-thirds of the output of the Kerr Project will be allocated on a long-term basis to customers located in the SEPA served portion (Virginia and North Carolina) of the VEPCO service area and to customers located in the SEPA served portion of the APCO service area and the remainder of the output of the Kerr Project will be allocated to customers located in the SEPA served portion of the CP&L area. Except where duplication of allocation would result, each public body and cooperative within the marketing area as shown on Appendix A will be eligible for an allocation of power as hereinafter provided.

It is SEPA's goal to allocate all available and usable system power (that power remaining after provision for reserves and losses) to preference customers including capacity which, prior to the interim policy, was sold to VEPCO and CP&L.

As to the capacity sold to the existing preference customers prior to contracts executed to implement the interim policy, each existing preference customer within the VEPCO service area will be allowed to retain its individual share of the 85 megawatts of delivered capacity, and each existing preference customer within the CP&L service area will be allowed to retain its individual share of the 30 megawatts of delivered capacity.

Both new and existing preference customers within the VEPCO and APCO service areas and those within the CP&L service area will be eligible to share equitably in the available capacity remaining after reductions for reserves, losses and capacity retained by the existing customers; provided that preference customers in the APCO area will be limited to the available capacity output of the Philpott Project, less reserves and losses. Allocations of capacity to a particular preference customer within a particular utility services area will be based on the relationship of such customer's maximum 1980 demand to the sum of the 1980 maximum demands of all preference customers in a given utility service are a sharing such power. SEPA recognizes that Washington and Greenville, North Carolina, which were previously served by the VEPCO system are now served by the CP&L system; however, for allocation purposes, they will be treated as if served through the VEPCO system.

Capacity allocated to serve new preference customers will be accompanied by energy equal to the firm energy available from the projects (approximately 650 kilowatt-hours per kilowatt per year). The remainder of the energy available from the projects shall be allocated to existing preference customers in the respective service areas based on their capacity allocations.

Utilization of Utility Systems. In the absence of transmission facilities of its own, SEPA will use area generation and transmission systems to integrate the Government's projects, provide firming, wheeling, exchange and backup service and such other functions as may be necessary to dispose of system power under reasonable and acceptable marketing arrangements. Utility systems providing such services shall be entitled to adequate compensation. Specific terms and conditions of such arrangements shall be the subject of negotiations between SEPA and the generation and transmission utilities providing the services. Individual preference agencies directly affected by the negotiations shall stand in an advisory role to SEPA and shall be kept currently advised as to the status and progress of negotiations.

Wholesale Rates. Rate schedules shall be drawn so as to recover all costs associated with producing and transmitting the power in accordance with then current repayment criteria. Production costs will be determined on a system basis and rate schedules will be related to the integrated output of the projects. Rates schedules may be revised periodically.

Resale Rates. Resale rate provisions requiring the benefits of SEPA power to be passed on to the ultimate consumer will be included in each SEPA customer contract which provides for SEPA to supply more than 25 percent of the customers' total power requirements during the term of the contract.

Conservation Measures. Each customer purchasing SEPA power shall agree to take reasonable measures to encourage the conservation of energy by ultimate consumers.

Appendix A—Preference Agencies in the Kerr-Philpott System Area

Preference agencies served by CP&L:

North Carolina

Brunswick EMC*	Pee Dee EMC*
Carteret-Craven EMC*	Piedmont EMC*
Central EMC*	Pitt & Greene EMC*
Four County EMC*	Randolph EMC*
Halifax EMC*	South River EMC*
Harker's Island EMC	Tideland EMC*
Jones-Onslow EMC*	Tri-County EMC*
Lumbee River EMC*	Wake EMC*
Apex	Louisburg*
Ayden	Lumberton
Benson	New Bern
Clayton	Pikeville
Farmville	Red Springs
Fayetteville	Rocky Mount
Fremont	Selma
Hookerton	Smithfield
Kinston	Wake Forest
LaGrange	Wilson
Laurinburg	

South Carolina

Bennettsville

Preference agencies served by VEPCO:

North Carolina

Albemarle EMC*	Halifax EMC*
Edgecombe-Martin County EMC*	Roanoke EMC*
	Tideland EMC*
Belhaven	Hobgood
Edenton	Robersonville
Elizabeth City	Scotland Neck
Enfield	Tarboro
Greenville	Washington
Hamilton	Windsor
Hertford	

Virginia

B-A-R-C EC*	Prince George EC*
Central Virginia EC*	Prince William EC*
Community EC*	Rappahannock EC*
Craig-Botetourt EC*	Shenandoah Valley EC*
Mecklenburg EC*	Southside EC*
Northern Neck EC*	
Blackstone	Harrisonburg
Culpeper	Iron Gate
Elkton	Wakefield
Franklin	

Preference agencies served by utilities other than CP&L or VEPCO:

City	*Served by*
Black Creek	Wilson
Fountain	Wilson
Lucama	Wilson
Macclesfield	Wilson
Oak City	Edgecombe-Martin County EMC
Pinetops	Wilson

*Existing Customers

Princeville	Tarboro
Sharpsburg	Rocky Mt.
Stantonsburg	Wilson
Walstonburg	Wilson
Winterville	Greenville

Preference agencies served by APCO:

Bedford	Radford
Danville	Richlands
Martinsville	Salem

[FR Doc. 85-17863 Filed 7-26-85; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-2869-6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the Federal Register a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, 202-382-2741 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Office of Research and Development

• Title: Milk Cow and Population Survey (EPA #1221). (This is an extension of an existing collection.)

Abstract: The information collected provides a directory of the location of farms and ranches around the Nevada Test Site where milk is produced for local use or commercial distribution. The directory is used to identify sources of samples to assess radiological contamination from the Nevada Test Site. Information is updated alternate summers.

Respondents: Owners of milk cows and/or goats in eastern California, all of Nevada, southern Idaho, and western Utah.

Office of Air and Radiation

• Title: Compliance Demonstation by Importers of Non-Complying Motor Vehicles and Engines (EPA #0010). (This is an extension of an existing collection.)

Abstract: Commercial importers and individuals who import vehicles must comply with the emissions requirements of the Clean Air Act. Documents showing either that the vehicle has passed a laboratory emissions test or that the vehicle has been modified according to manufacturer's instructions are submitted for EPA approval.

Respondents: Commercial importers and individuals who import vehicles.

Agency PRA Clearance Request Completed by OMB

EPA #1119, Administrative Controls for Blending and Burning of Hazardous Waste and Used Oil Fuels, was approved 7/3/85 (OMB #2050-0047: expires 7/13/88).

Comments on all parts of this notice may be sent to:

Nanette Liepman (PM-23), Office of Standards and Regulations, Regulation and Information Management Division, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D C 20460

and

Rick Otis (ICR #1221) or Wayne Leiss (ICR #0010), Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office, Building (Room 3228), 726 Jackson Place NW., Washington, D.C. 20503

Dated: July 22, 1985.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 85-17763 Filed 7-26-85; 8:45 am]

BILLING CODE 6560-50-M

[AS-FRL-2871-3]

Privacy Act of 1974, Notification of Deletion of System of Records

SUMMARY: The Environmental Protection Agency is deleting a system of records, Statements of Known Financial Interests (EPA-12), that is no longer in use.

DATE: Effective July 29, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Donnell Nantkes, Grants, Contracts, and General Law Division, Office of General Counsel (LE-132G), Washington, D.C. 20460, telephone (202) 382-4550.

SUPPLEMENTARY INFORMATION: On September 8, 1978, and pursuant to the provisions of the Privacy Act of 1974, there was published in the **Federal Register** (43 FR 40057) a notice of the system of records, Statements of Known Financial Interests (EPA-12). Section 207(c) of the Ethics in Government Act (Pub. L. 95-521) superseded the requirement for this report. Accordingly, this notice formally deletes this system of records.

Dated: July 22, 1985.

Seymour D. Greenstone,

Acting Assistant Administrator for Administration and Resources Management.

[FR Doc. 85-17786 Filed 7-26-85; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL 2870-5]

Transfer of Data To Contractor

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractor, Development Planning & Research Association (DPRA) of Manhattan, KS, information which has been, or will be, submitted to EPA under section 3007 of the Resource Conservation and Recovery Act (RCRA). Some of the information may have a claim of business confidentiality. This firm is conducting economic analyses associated with the promulgation of hazardous waste listings for the petroleum refining, inorganic chemicals, coke by-products, wood preserving, pesticides, and plastics manufacturing industries, and will need access to this information.

DATE: The transfer of the confidential data submitted to EPA will occur no sooner than August 5, 1985.

ADDRESSES: Comments should be sent to the Document Control Officer, Office of Solid Waste, Characterization and Assessment Division (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Dina Villari, Document Control Officer, Characterization and Assessment Division (WH-562B), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 475-8551. For technical information contact Mr. Robert Scarberry, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-4761.

SUPPLEMENTARY INFORMATION:

I. Transfer of Data

The U.S. Environmental Protection Agency is conducting a program to characterize waste and assess waste management practices within the petroleum refining, inorganic chemicals, coke by-products, wood preserving, pesticides, and plastics manufacturing industries. The Agency will use the results to identify and list hazardous waste under authority of section 3001 of the Resource Conservation and Recovery Act (RCRA), and to develop appropriate waste management standards under section 3004.

Under EPA Contract No. 68-01-3565, DPRA, of Manhattan, KS, will assist the Waste Identification Branch of the Office of Solid Waste in conducting economic analyses associated with the petroleum refining, inorganic chemicals, coke by-products, wood preserving, pesticides, and plastics manufacturing industries.

The information being transferred to DPRA was previously, or is currently being, collected by other agency contractors, who conducted, or are currently conducting, waste characterization studies within these industries. Some of the information may have a claim of business confidentiality.

In accordance with 40 CFR 2.305(h), EPA has determined that DPRA employees may require access to confidential business information (CBI) submitted to EPA under section 3007 of RCRA to perform work satisfactorily under the above-noted contract. EPA is issuing this notice to inform all submitters of information under section 3007 of RCRA that EPA may transfer to this firm, on a need-to-know basis, confidential business information specific to the petroleum refining, inorganic chemicals, coke by-products, wood preserving, pesticides, and plastics manufacturing industries. Upon completing their review of materials submitted for these industries, DPRA will return all such materials to EPA "Contractors Requirements for the Control and Security of RCRA

DPRA has been authorized to have access to RCRA CBI under the EPA "Confidential Business Information" security manual. EPA has approved the security plan of its contractors and will inspect the facility and approve it prior to RCRA CBI being transmitted to the contractors. Personnel from this firm will be required to sign a non-disclosure agreement and be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "RCRA Confidential business Information Security Manual" and the Contract Requirements Manual.

II. List of Subjects in 40 CFR Part 2

Administrative practice and procedure, Freedom of information, Confidential Business information.

Dated: July 16, 1985.

Jack W. McGraw,

Acting Assistant Administrator.

[FR Doc. 85-17878 Filed 7-26-85; 8:45 am]

BILLING CODE 6560-50-M

[A-4-FRL-2864-6]

Standards of Performance for New Stationary Sources; National Emission Standards for Hazardous Air Pollutants Delegation of Additional Standards to Kentucky

Correction

In FR Doc. 85-16846 beginning on page 28840 in the issue of Tuesday, July 16, 1985, make the following correction:

1. On page 28841, second column, in the thirtieth line, "not" should read "now".

BILLING CODE 1505-01-M

EQUAL EMPLOYMENT OPPORTUNTIY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATE: Comments must be received on or before September 12, 1985. If you anticipate commenting on a report form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Liaison Officer of your intent as early as possible.

ADDRESS: Copies of the proposed report form, the request for clearance, (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Liaison Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT: EEOC Agency Liaison Officer: Margaret P. Ulmer, Financial and Resource Management Services, Room 386, 2401 E. Street, NW, Washington, DC, 20507; Telephone (202) 634-1932.

OMB Reviewer: James Mason, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC, 20503; Telephone (202) 395-6880.

Type of Request: Extension (No change)
Title: Employer Information Report EEO-1
Form Number: Standard Form 100
Frequency of Report: Annually
Type of Respondent: Private employers with 100 or more employees and certain Federal government contractors with 50 or more employees
Standard Industrial Classification (SIC) Code: Multiple
Description of Affected Public: IND/HHID and Farms adn Business/INST
Responses: 126,700
Reporting Hours: 633,500
Federal Cost: $476,000
Applicable under Section 3504(h) of Public Law 96-511: Not applicable
Number of Forms: 1

Abstract-Needs/Users: EEO-1 data are used by EEOC to investigate charges of discrimination against employers in private industry. Data are shared with several Federal government agencies, particularly the Office of Federal Contact Compliance Programs (OFCCP), U.S. Department of Labor. Under section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO-1 data are also shared with approximately 127 State and local FEPC agencies.

Dated: July 19, 1985.

For the Commission.

John Seal,

Management Director, Equal Employment Opportunity Commission.

[FR Doc. 85-17904 Filed 7-26-85; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0139.
Title: Flooded Property Purchase Program.
Abstract: Data collectors will perform on-site surveys of potential reconstitution sites in order to confirm, upgrade, or expand information now stored in FEMA's data base on Federal Regional Reconstitution Areas.
Type of Respondents: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions.
Number of Respondents: 2,500.
Burden Hours: 2,500.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C. Street, SW., Washington, DC 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 22, 1985.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 85-17841 Filed 7-26-85; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New.
Title: Radiological Instrumentation, Maintenance and Calibration.
Abstract: Maintenance of a radiological instrument inventory data base is required to assist Federal and State Government to maintain the existing FEMA radiological instrument inventory of 4.3 million instruments, granted and dispersed to Federal, State, and local users. The inventory is maintained and calibrated by FEMA supported State radiological instrument maintenance facilities.
Type of Respondents: State or Local Governments.
Number of Respondents: 50.
Burden Hours: 100.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C. Street, SW., Washington, DC 20472.

Comments should be directed to Mike Weinstein, Desk Office for FEMA, Office of Information and Regulatory

Office of Management and Budget the following information collection

FEDERAL MARITIME COMMISSION

The Federal Maritime Commission

By Order of the Federal Maritime Commission.

Mary F. Whitmore,

municipal bond index products. This application may be inspected at the Federal Reserve Bank of Chicago. These

Board of Governors of the Federal Reserve System, July 23, 1985.

James McAfee,

VOL 50 ISS 145 JL 29 1985 UMI

Comments should be directed to Mike Weinstein, Desk Office for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 22, 1985.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 85–17842 Filed 7–26–85; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Collection in Use Without An OMB Control Number.

Title: Community Volunteer Fire Prevention Program—Partnerships Against Fire.

Abstract: A grant program with 3 grants in 20 states awarded to assist communities develop their own fire prevention programs. Grantees must complete a budget form and narrative of program plans. Program is managed by National Governors Association who receive applications submitted through the Governors offices of the participating states.

Type of Respondents: State or Local Governments, Non-Profit Institutions.

Number of Respondents: 100.

Burden Hours: 200.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 22, 1985.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 85–17843 Filed 7–26–85; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067–0103.

Title: FEMA Nuclear Power Plant Alerting and Notification System: Public Telephone Survey.

Abstract: FEMA with its technical support contractor, International Energy Associates Limited, shall randomly telephone survey the residents within the Emergency Planning Zone of 40 nuclear power plants as stipulated in Appendix 3 of NUREG–0654/FEMA–REP–1, Rev. 1. From an approximate sample of 2,500 housholds, between 250 and 385 residences will be voluntarily surveyed.

Type of Respondents: Individuals or Households.

Number of Respondents: 12,200.

Burden Hours: 586.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 22, 1985.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 85–17844 Filed 7–26–85; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

Sunrise Savings and Loan Association; Boynton Beach, FL; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Sunrise Savings and Loan Association, Boynton Beach, Florida, on July 18, 1985.

Dated: July 24, 1985.

Jeff Sconyers,

Secretary.

[FR Doc. 85–17903 Filed 7–26–85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

The Federal Maritime Commission hereby gives notice of the filing of the agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 204–010064–007

Title: U.S. Gulf/Colombia Equal Access Agreement

Parties: Lykes Bros. Steamship Co., Inc., Flota Mercante Grancolombiana, S.A., Coordinated Caribbean Transport, CTMT, Inc.

Synopsis: The proposed amendment would add CTMT, Inc., as a party to the agreement.

Agreement No.: 204–010066–007

Title: U.S. Atlantic and Pacific/Colombia Trade Equal Access Agreement

Parties: Flota Mercante Grancolombiana, S.A., United States Lines, Inc., Coordinated Caribbean Transport, Inc., CTMT, Inc.

Synopsis: The proposed amendment would add CTMT, Inc., as a party to the agreement.

Agreement No.: 207–010737–001

Title: Italia/Transatlantica Joint Service Agreement

Parties: "Italia" Di Navigazione, S.p.A., Compania Trasatlantic Espanola, S.A.

Synopsis: The proposed amendment would modify the agreement to: (1) Adjust the shares for the distribution of profits and losses to the parties; (2) authorize the parties to establish management commitees; (3) provide for the admission of additional parties to the agreement only upon unanimous agreement of the existing parties; and (4) make certain changes to amend the semantics of the agreement to provide for the possibility of more than two parties and to specify that the agreement shall continue in force for so long as it has a minimum of two participants.

Dated: July 24, 1985.

By Order of the Federal Maritime Commission.

Mary F. Whitmore,

Assistant to the Secretary.

[FR Doc. 85–17920 Filed 7–26–85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank of Montreal, et al.; Application To Engage de Novo in Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be acompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 22, 1985.

A. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Bank of Montreal*, Montreal, Canada, and *Harris Bankcorp*, Chicago, Illinois: to engage through their wholly owned subsidiary, Harris Futures Corporation, Chicago, Illinois, in the execution and clearance on futures contracts of stock index futures and municipal bond index products. This application may be inspected at the Federal Reserve Bank of Chicago. These activities have been approved by Board Order as permissible for bank holding companies. *J.P. Morgan & Company, Inc.*, 68 Federal Reserve Bulletin 514 (1982); *Bankers Trust New York Corporation*, 68 Federal Reserve Bulletin 651 (1982).

Board of Governors of the Federal Reserve System, July 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–17846 Filed 7–26–85; 8:45 am]

BILLING CODE 6210-01-M

F&M National Corp.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and §225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 19, 1985.

A. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *F & M National Corporation*, Winchester, Virginia: to acquire 100 percent of the voting shares of Albemarle Bank and Trust Company, Charlottesville, Virginia.

Board of Governors of the Federal Reserve System, July 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–17847 Filed 7–26–85; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Collins Foods International, Inc., et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 85–0717—Collins Foods International, Inc.'s proposed acquisition of voting securities of Tenly Enterprises, Inc.	July 2, 1985.
(2) 85–0726—Allied Stores Corporation's proposed acquisition of assets of The Power Dry Goods Company Division (Associated Dry Goods Corporation, UPE).	July 3, 1985.
(3) 85–0732—Price Communications Corporation's proposed acquisition of assets of New York Law Publishing Company (Warburg, Pincus Company, UPE).	Do.
(4) 85–0745—David Barclay's proposed acquisition of voting securities of Gulf Resources and Chemical Corporation.	Do.
(5) 85–0746—Frederick Barclay's proposed acquisition of voting securities of Gulf Resources and Chemical Corporation.	Do.
(6) 85–0748—Universal Foods Corporation's proposed acquisition of voting securities of Idaho Frozen Foods Corporation (Sara Lee Corporation, UPE).	Do.
(7) 85–0749—Wetterau Incorporated's proposed acquisition of voting securities of Cressey Dockham & Company, Inc.	Do.

Transaction	Waiting period terminated effective

Transaction	Waiting period terminated effective

program are considered by the Committee.

Dated: July 23, 1985.

Mervin H. Shumate,

National Cancer Institute; Cancer Center Support Review Committee;

National Institutes of Health, September 26–27, 1985, Building 31C, Conference

Transaction	Waiting period terminated effective
(8) 85-0760—Chariot Holdings, Ltd.'s (Richard E. Gray, UPE) proposed acquisition of assets of Eastmet Industrial Products Group (Eastmet Corporation, UPE).	Do.
(9) 85-0767—Bell Canada Enterprises, Inc.'s proposed acquisition of assets of Great Lakes Press Corporation, (Clifford N. Lovenheim, UPE).	Do.
(10) 85-0768—Bell Canada Enterprises, Inc.'s proposed acquisition of assets of Great Lakes Press Corporation (Andrew S. Lovenheim, UPE).	Do.
(11) 85-0773—The Rouse Company's proposed acquisition of voting securities of Howard Research and Development Company (CIGNA Corporation, UPE).	Do.
(12) 85-0764—Sandgate Corporation's proposed acquisition of voting securities of Anglo American Auto Auction, Inc. (The British Car Auction Group, PLC, UPE).	July 8, 1985.
(13) 85-0765—The British Car Auction Group PLC's proposed acquisition of voting securities of Sandgate Corporation.	Do.
(14) 85-0801—Societe Generale de Surveillance Holding S.A.'s proposed acquisition of voting securities of GAB Business Services, Inc. (UAL, Inc., UPE).	July 9, 1985.
(15) 85-0744—Akzo N.V.'s proposed acquisition of assets of Warner Lambert's diagnostics products business (Warner Lambert Company, UPE).	July 10, 1985.
(16) 85-0783—Carter-Wallace, Inc.'s (Mr. & Mrs. Henry H. Hoyt, Sr., UPE) of assets of John C. MacFarlane and assets of the Young Companies.	Do.
(17) 85-0789—The Burmah Oil plc's proposed acquisition of voting securities of Advance Process Supply Company.	Do.
(18) 85-0794—Murphy Oil Corporation's proposed acquisition of assets of Salen Energy AB.	Do.
(19) 85-0796—McDonnell Douglas' proposed acquisition of voting securities of Republic Health Corporation.	Do.
(20) 85-0797—McDonnell Douglas' proposed acquisition of voting securities of Republic Health Corporation.	Do.
(21) 85-0809—The New York Times Company's (The Ochs Trust, UPE) proposed acquisition of assets of Santa Barbara (CA) News-Press and Palos Verdes (News-Press Publishing Company) (Estate of Robert McLean, UPE).	Do.
(22) 85-0753—Ryder System, Inc.'s proposed acquisition of voting securities of Fleet Transportation Services, Inc. (F.C. Equipment Leasing Corp.) (Ralph J. MacDonald, UPE).	July 11, 1985.
(23) 85-0766—Allied Corporation's proposed acquisition of voting securities of Baron-Blakeslee, Inc., (Purex Industries, Inc., UPE).	Do.
(24) 85-0723—Akzo N.V.'s proposed acquisition of voting securities of Litton Industries, Inc.	July 12, 1985.
(25) 85-0743—Super Valu Stores, Inc.'s proposed acquisition of voting securities of West Coast Grocery Company.	Do.
(26) 85-0772—Sun Company, Inc.'s proposed acquisition of assets of CalMat Co.	Do.
(27) 85-0774—Harris Wholesale Company, (Seth B. Harris, UPE) proposed acquisition of voting securities of Providence Wholesale Drug Company.	Do.
(28) 85-0775—Metropolitan Life Insurance Company's proposed acquisition of voting securities of Crossland Capital Corp., Crossland Property Management, Inc. and Crossland Insurance Agency, Inc. (Crossland Savings, FSB, UPE).	Do.
(29) 85-0811—Kysor Industrial Corporation's proposed acquisition of Westran Corporation.	Do.
(30) 85-0819—Apache Petroleum Company's proposed acquisition of assets of Davis Oil Company.	Do.
(31) 85-0822—Tenneco, Inc.'s proposed acquisition of assets of Crown Central Petroleum Corporation.	Do.
(32) 85-0742—Procordia AB's proposed acquisition of voting securities of The Pinkerton Tobacco Company (Grand Metropolitan PLC, UPE).	July 15, 1985.
(33) 85-0805—Leonard N. Stern's proposed acquisition of assets of The Village Voice (The News Corporation, Limited, UPE).	Do.
(34) 85-0804—The Penn Central Corporation's proposed acquisition of voting securities of Holden Energy Corporation (Harold H. Holden, UPE).	Do.
(35) 85-0805—Harold H. Holden's proposed acquisition of voting securities of Gulf Energy Producing Company (The Penn Central Corporation, UPE).	Do.
(36) 85-0820—Sara Lee Corporation's proposed acquisition of assets of Coach Leatherware Company (Miles and Lilian Cahn, UPE's).	Do.
(37) 85-0824—Wickes Companies, Inc.'s proposed acquisition of voting securities of Consumer and Industrial Products Group (Gulf & Western Industries, UPE).	Do.
(38) 85-0825—Robert J. Tomsich's proposed acquisition of assets of White Consolidated Industries, Inc. and voting securities of five subsidiaries of White Consolidated Industries, Inc.	Do.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 85-17838 Filed 7-26-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Request for Nominations of Candidates To Serve on the Mine Health Research Advisory Committee

The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), is soliciting nominations for membership on the Mine Health Research Advisory Committee (MHRAC). On December 24, 1985, three vacancies will occur. The MHRAC, which is authorized by the Federal Mine Safety and Health Act of 1977, advises the Department of Health and Human Services on matters related to intramural and extramural health research for the nation's miners. The direction, scope, and scientific quality of the NIOSH mine health research program are considered by the Committee.

A range of disciplines is represented on the Committee, including occupational medicine, industrial hygiene, pulmonary medicine, radiology, pathology, epidemiology, biostatistics, and public health. Mining experience is desirable, but it is not necessary for every position on the Committee. Emphasis is placed on scientific credentials.

The following information is requested: name, affiliation, address, telephone number, and a recent curriculum vital. Nominations should be sent by August 16, 1985, to: Mr. Robert E. Glenn, Executive Secretary, MHRAC, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505-2888, Telephones: FTS: 923-4474, Commercial: 304/291-4474.

Dated: July 22, 1985.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 85-17892 Filed 7-26-85; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting:

Minneapolis District Office, chaired by John Feldman, District Director. The topics to be discussed are Color Additives in Foods, Health Claims for Food, and Nonnutritive Sweeteners.

DATE: Tuesday, August 6, 1985, 1:30 p.m. to 3:30 p.m.

ADDRESS: United Way of Dane County, 2059 Atwood Ave., Madison, WI.

FOR FURTHER INFORMATION CONTACT: Donald W. Aird, Jr., Public Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-349-3906.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 23, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-17890 Filed 7-26-85; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Cancer Institute; Board of Scientific Counselors, Division of Cancer Etiology; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on October 17-18, 1985, Building 31, C Wing, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. The meeting will be open to the public from 1:00 p.m. to recess on October 17, and from 9:00 a.m. to adjournment on October 18, for discussion and review of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

The Board of Scientific Counselors meeting will be closed to the public from 9:00 a.m. to approximately 1:00 p.m. on October 17, 1985, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. These programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, Room 11A06, National Institutes of Health, Bethesda Maryland 20205 (301/496-6927) will furnish substantive program information.

Dated: July 18, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-17855 Filed 7-26-85; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Cancer Center Support Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Support Review Committee, National Cancer Institute, National Institutes of Health, August 1-2, 1985, Holiday Inn Crown Plaza, 1750 Rockville Pike, Rockville, Maryland 20852. This meeting will be open to the public on August 1, from 8:30 a.m. to 9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on August 1 from approximately 9:30 a.m. to recess; and on August 2 from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. John Abrell, Executive Secretary, Cancer Center Support Review Committee, National Cancer Institute, Westwood Building, Room 826, National Institutes of Health, Bethesda, Maryland 20205 (301/496-9767) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting because of the difficulty of coordinating the attendance of the members due to their conflicting commitments.

Dated: July 17, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-17850 Filed 7-26-85; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Cancer Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, National Institutes of Health, September 26-27, 1985, Building 31C, Conference Room 8, Bethesda, Maryland 20205. This meeting will be open to the public on September 26, from 8:30 a.m. to 9:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on September 26 from approximately 9:00 a.m. to recess; and on September 27 from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Leon J. Niemiec, Executive Secretary, Cancer Research Manpower Review Committee, National Cancer Institute, Westwood Building, Room 832 National Institutes of Health, Bethesda, Maryland 20205 (301/496-7978) will furnish substantive program information.

Dated: July 17, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-17858 Filed 7-26-85; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Application National Heart, Lung, and Blood Institute, National Institutes of Health, October 2-3, 1985. The meeting will be held in Conference Room B119, Federa Building, 7550 Wisconsin Avenue, Bethesda, Maryland 20205.

This meeting will be open to the public on October 2 from 9:00 a.m. to recess and from 8:30 a.m. to

adjournment on October 3 to discuss new initiatives, program policies and issues. Attendance by the public is

phone (301) 496-4236, will provide a summary of the meeting and a roster of

Maryland, 20205, telephone (301) 496-4297.

Federal Domestic Assistance are affected.

Plan

For the Use and Distribution of Funds

None of the funds distributed per capita or made available under this plan

VOL 50 ISS 145 JL 29 1985 UMI

adjournment on October 3 to discuss new initiatives, program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request. Dr. William Friedewald, Executive Secretary of the Committee Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: July 23, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85–17854 Filed 7–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health on November 3–4, 1985, at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on November 3, 1985, from 8:00 p.m. until recess, to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 4, 1985, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Fred P. Heydrick, Executive Secretary, NHLBI, Westwood Building, Room 548, Bethesda, Maryland 20205, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Reserch; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: July 17, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85–17857 Filed 7–26–85; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological and Communicative Disorders and Stroke; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, on October 16–18, 1985, Conference Room 1B–07, Building 36, Bethesda, Maryland

This meeting will be open to the public from (9:00 A.M. to 5:00 P.M. on October 17 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 7:00 P.M. until 10:00 P.M. on October 16 and from 9:00 A.M. to adjournment on October 18 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performances, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Mr. Edward M. Donohue, Federal Building, Room 1004, 7550 Wisconsin Avenue, Bethesda, Maryland, 20205, telephone (301) 496–9231, will furnish a summary of the meeting and roster of committee members upon request.

The Executive Secretary from whom substantive program information may be obtained is Dr. Irwin J. Kopin, Director, Intramural Research Program, NINCDS, Building 10, Room 5N214, NIH, Bethesda, Maryland, 20205, telephone (301) 496–4297.

(Catalog of Federal Domestic Assistance Program No. 13.854, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: July 18, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–17856 Filed 7–26–85; 8:45 am]

BILLING CODE 4140–01–M

Recombinant DNA Advisory Committee Working Group on Toxins; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee Working Group on Toxins at the National Institutes of Health, Building 31A, Conference Room 4, 9000 Rockville Pike, Bethesda, Maryland 20205, on August 16, 1985, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. to discuss serveral proposals involving the cloning of genes coding for toxins. This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information may be obtained from Dr. Elizabeth Milewski, Executive Secretary, Recombinant DNA Advisory Committee Working Group on Toxins, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland, telephone (301) 496–6051.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require sereral additional pages. In addtion, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guildelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: July 22, 1985.

Betty J. Beveridge,

Committee Mangement Officer, NIH.

[FR Doc. 85–17860 Filed 7–26–85; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Plan for the Use and Distribution of the Shoshone-Bannock Tribes of Fort Hall Reservation Indians Judgment Funds in Docket 326–C–2 Before the United States Claims Court

July 16, 1985.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian Tribe. Funds were appropriated on July 19, 1984, in satisfaction of the award granted to the Shoshone-Bannock Tribes of Fort Hall Reservation before the United States Claims Court in Docket 326–C–2. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated February 15, 1985 and was received (as recorded in the *Congressional Record*) by the Senate on February 27, 1985, and by the House of Representatives on February 26, 1985. The plan became effective on May 19, 1985 as provided by the 1973 Act, as amended by Pub. L. 97–458 since a joint resolution disapproving it was not enacted. The plan reads as follows:

Plan

For the Use and Distribution of Funds Awarded to the Shoshone-Bannock Tribes of Fort Hall Reservation in Docket 326–C–2 Before the United States Claims Court

The funds appropriated July 19, 1984, in satisfaction of the judgment granted in Docket 326–C–2 to the Shoshone-Bannock Tribes before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.

Per Capita Aspect

Eighty (80) percent of the funds shall be distributed in the form of per capita payments, in sums as equal as possible, to all tribal members born on or prior to and living on the effective date of this plan.

Programing Aspect

Twenty (20) percent of the funds, and any amounts remaining from the per capita payment provided above, shall be invested by the Secretary of the Interior, and the principal and interest and investment income accrued shall be utilized by the tribal governing body on a budgetary basis, subject to the approval of the Secretary, for a tribal land acquisition program and water rights litigation.

General Provisions

The per capita shares of living, competent adults shall be paid directly to them by the Shoshone-Bannock Tribes in accordance with the Act of August 2, 1983, 97 Stat. 365.

The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, 96 Stat. 2512.

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs.

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85–17865 Filed 7–26–85; 8:45 am]

BILLING CODE 4310–02–M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for OCS Mineral Exploration and Production Proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments (EAs) and Findings of No Significant Impact (FONSIs), prepared by the MMS for the following oil and gas exploration and production activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which FONSIs were prepared by the Gulf of Mexico OCS in the three month period preceding this Notice.

Activity/operator	Location	Date
Shell Offshore Inc., revised exploratory well, OCS–G 6417; SEA No. R–1390	Destin Dome Block 160; 55 miles southwest of Panama City, Florida	Apr. 23, 1985.
Texaco U.S.A. six exploratory wells, OCS–G 6429; SEA No. N–2041	Destin Dome Block 285; 48 miles south-southeast of Fort Walton Beach, Florida	Apr. 11, 1985.
Conoco Inc., three exploratory wells, OCS–G 6432 and 6436; SEA No. N–2074	Destin Dome Blocks 375 and 419; 57 miles southwest of Panama City, Florida	May 1, 1985.
Mobil Oil Exploration & Producing Southeast Inc., three exploratory wells, OCS–G 6418; SEA No. N–2082.	Destin Dome Block 161; 54 miles southwest of Panama City, Florida	May 3, 1985.
Amoco Production Company, two exploratory wells, OCS–G–6423; SEA No. N–2084.	Destin Dome Block 160; 55 miles southwest of Panama City, Florida	May 8, 1985.
Amoco Production Company, revised exploratory well, OCS–G 6422; SEA No. R–1392.	Destin Dome Block 204; 56 miles southwest of Panama City, Florida	Mar. 28, 1985.
Fairfield Industries, Geophysical Exploration for Mineral Resources; SEA No. L85–68.	Mississippi River Delta area, Offshore Louisiana contiguous with the Federal/State Three Geographic Mile Boundary.	Apr 25, 1985.
Southland Royalty Company, 4.34 miles of 6-inch pipeline; SEA No. P–7563	Vermilion Blocks 75, 76 and 88; Offshore Louisiana	Apr. 17, 1985.
Kerr-McGee Pipeline Corporation, 3.45 miles of 8-inch pipeline; SEA No. P–7573	Vermilion Blocks 114 and 129; Offshore Louisiana	Apr. 23, 1985.
ARCO Oil and Gas Company, 0.27 mile of 8-inch Pipeline; SEA No. P–7577	Main Pass Block 151; Offshore Louisiana	Apr. 25, 1985.
Shell Pipe Line Corporation, 2.49 miles of 6-inch pipeline; SEA No. P–7582	Grand Isle Block 33 to Grand Isle Block 30; Offshore Louisiana	Do.
Texas Gas Transmission Corporation, 7.41 miles of 8-inch pipeline; SEA No. P–7568.	High Island Area, East Addition, Blocks A–247, A–242, A–243, and A–244; Offshore Texas.	May 2, 1985.

Activity/operator	Location	Date
Walter Oil and GAs Corporation, 0.755 mile and 0.622 mile of 8-inch and 4-inch pipeline, respectively; SEA No. P–7579.	Eugene Island Blocks 44 and 51; Offshore Louisiana	Do.
Natural Gas Pipeline Company of America, 1.73 miles of 10-inch pipeline; SEA No. P–7567.	West Cameron Blocks 170, 169, and 148; Offshore Louisiana	May 9, 1985.
Tennessee Gas Pipeline Company, 1.3 miles of 3.5-inch pipeline; SEA No. P–7587	West Delta Blocks 61 and 62; Offshore Louisiana	May 28, 1985.
Texaco U.S.A., 2.3 miles of 6-inch pipeline; SEA No. P–7565	West Cameron Blocks 201 and 202; Offshore Louisiana	May 31, 1985.
Mark Producing, 3.9 miles of 10-inch pipeline; SEA No. P–7570	High Island Area, South Addition, Blocks A–487, A–476, A–475, and A–462; Offshore Texas.	Do.
InterNorth, Inc., 6.9 miles of 8-inch pipeline; SEA No. P–7574	High Island Blocks 172, 171, 199, and 200; Offshore Texas	June 21, 1985.
Tennessee Gas Pipeline Company, 1.3 miles of 10-inch pipeline; SEA No. P–7575	East Cameron Block 65 and West Cameron Block 177; Offshore Louisiana	May 16, 1985.
Tennessee Gas Pipeline Company, 0.43 mile of 10-inch pipeline; SEA No. P–7576	Ship Shoal Block 198; Offshore Louisiana	May 31, 1985.
ANR Pipeline Company, 2.74 miles of 8-inch pipeline; SEA No. P–7584	Eugene Island Blocks 207 and 208; Offshore Louisiana	June 12, 1985.
ANR Pipeline Company, 7.6 miles of 6-inch pipeline; SEA No. P–7585	Eugene Island Blocks 42, 41, 40, 33, and 34; Offshore Louisiana	July 12, 1985.
Seagull Interstate Corporation, 5.62 miles of 16-inch pipeline; SEA No. P–7583	Matagorda Island Blocks 526, 527, 556, and 555; Offshore Texas	July 10, 1985.
Seagull Interstate Corporation, 3.08 miles of 6-inch pipeline; SEA No. P–7586	Galveston Blocks 213 and 214; Offshore Texas	May 31, 1985.
Tenneco Oil Exploration and Production, 7.41 miles of 6-inch pipeline; SEA No. P–7561.	Galveston Blocks 424, 389, 390, and 391; Offshore Texas	May 10, 1985.
TXP Operating Company; 3.92 miles of 20-inch pipeline; SEA No. P–7588	West Cameron Area, South Addition Block 556 and East Cameron Area, South Addition, Blocks 298 and 281; Offshore Louisiana.	July 10, 1985.
Chandeleur Pipe Line Company, 11.32 miles of 12-inch pipeline; SEA No. P–7586	Mobile Block 961 to Mobile Block 902; Offshore Mississippi	June 14, 1985.
TXP Operating Company, 8.1 miles of 30-inch pipeline; SEA No. P–7589	West Cameron Area, South Addition Blocks 556, 533, 534, 531, and 510; Offshore Louisiana.	July 9, 1985.
Chevron U.S.A. Inc., 2.55 miles of 6-inch pipeline; SEA No. P–7592	Grand Isle Block 86 to South Timbalier Block 130; Offshore Louisiana	June 21, 1985
Chevron U.S.A. Inc., 2.55 miles of 4-inch pipeline; SEA No. P–7593	Grand Isle Block 86 to South Timbalier Block 130; Offshore Louisiana	June 25, 1985.
Trunkline Gas Company, 1.72 miles of 4-inch pipeline; SEA No. P–8039	Ship Shoal Blocks 165 to 162; Offshore Louisiana	July 12, 1985.
Marathon Oil Company, Geophysical Exploration for Mineral Resources; SEA No. L85–95.	South Pass Blocks 88 and 89; 14 miles southeast of Plaquemine Parish, Louisiana	May 30, 1985.
Mobil Oil Exploration & Producing Southeast Inc., 2.20 miles of 4-inch pipeline; SEA No. P–7591.	Grand Isle Block 20 Field, Blocks 20, 19, and 18; Offshore Louisiana	June 17, 1985.
Mobil Oil Exploration & Producing Southeast Inc., 4.34 miles of 4-inch pipeline; SEA No. P–7590.	Grand Isle Block 20 Field, Blocks 20, 21, 18 and 17; Offshore Louisiana;	June 14, 1985.
Transcontinental Pipe Line Corporation, 6.47 miles of 24-inch pipeline; SEA No. P–8040.	Ship Shoal Area, South Addition, Block 332 to South Timbalier Area, South Addition, Blocks 315 and 300..	July 10, 1985.
Tennessee Gas Pipeline, 1.29 miles of 16-inch pipeline; SEA No. P–8047	East Cameron Block 33; Offshore Louisiana	Do.
CNG Producing Company, 2.03 miles of 6-inch pipeline; SEA No. P–7594	Eugene Island Area, South Addition, Block 314; Offshore Louisiana	July 9, 1985.
Trunkline Gas Company, 1.33 miles of 6-inch pipeline; SEA No. P–8041	South Timbalier Area, Blocks 100 and 111; Offshore Louisiana	July 12, 1985.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Leasing and Environment (LE), Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Telephone (504) 838–0755.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relates to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: July 19, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–17874 Filed 7–26–85; 8:45 am]

BILLING CODE 4310–MR–M

U.S DEPARTMENT OF THE INTERIOR

National Park Service

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7:30 p.m., CST, on September 12, 1985, at the Jefferson Parish East Bank Council Chamber, 3330 North Causeway Boulevard, Metairie, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95–265, section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the development and implementation of a general plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—Big Oak Island Cooperative Agreement
—Acadian Culture Center
—Surface Water Management
—Barataria Unit
—Status of Development
—Status of Planning

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, U.S. Customs House, 423 Canal Street, Room 206, New Orleans, Louisiana 70130, telephone 504/589–3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: July 16, 1985.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 85–17943 Filed 7–26–85; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Release of Waybill Data for Use by IIT Research Institute

The Commission has received a request from IIT Research Institute (IITRI) on behalf of its client, Commonwealth Edison, for permission to use the 1974 to 1984 Carload Waybill Sample to update its prior study on the probability of a munition's train exploding near the Braidwood Nuclear Power Plant located south of Joliet, Illinois. Commonwealth Edison, which is now applying to the Nuclear Regulatory Commission for an operating license, has requested that IITRI update the 1974 probability study to reflect current traffic conditions.

Specifically, IITRI seeks waybill data which will enable them to estimate the number of trains carrying explosives, the type of explosives (e.g., bulk or finished product), the train-miles of explosives shipped, and any other waybill information which would be helpful in determining the probability of an accident occurring.

The Commission requires rail carriers to file waybill sample information if in any of the past three years, they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use Waybill File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of properietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifially, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Certain requirements designed to protect the data's confidentiality are agreed to by the requesting party and (2) public notice is provided so affected parties have an opportunity to object. (48 FR 40328, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Commission's Director of the Office of Transportation Analysis will consider these ogjections in determining whether to release the requested waybill data. Any parties who filed objections will be timely notified of the Director's decision.

Contact: Elaine K. Kaiser, (202) 275–0907.

James H. Bayne,

Secretary.

[FR Doc. 85–17895 Filed 7–26–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Proposed Consent Decree Pursuant to the Clean Air Act; Hygrade Food Products Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on June 21, 1985, a proposed consent decree in *United States* v. *Hygrade Food Products Corporation*, Civil Action C85–551T, was lodged with the United States District Court for the Western District of Washington.

The complaint filed by the United States alleged violations of the Clean Air Act by Hygrade Food Products Corporation at its Tacoma, Washington prepared meats plant. The complaint sought injunctive relief requiring defendant to comply with the Clean Air Act and civil penalties for past violations. The proposed consent decree requires defendant to pay a $5,300 civil penalty for past violations and to make certain process modifications, according to a schedule specified in the decree, designed to eliminate the possibility of future violations. Pursuant to the decree, the process modifications are to have been completed by June 22, 1985.

The Department of Justice will receive for a period of thirty (30) days following the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Hygrade Food Products Corporation*, DJ Ref. 90–5–2–1–796.

The proposed consent decree may be examined at the Office of the United States Attorney, 3600 Sea-First 5th Avenue Plaza, 800 5th Avenue, Seattle, Washington 98104; and at the Environmental Enforcement Section, land and Natural Resources Division of the Department of Justice, Room 1515, 9th Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the case and decree and enclose a check for the amount of $2.40 (10 per page reproduction costs) payable to the Treasurer of the United Staates.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85–17872 Filed 7–26–85; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Partial Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act; Carolawn Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is bereby given that on July 1, 1985, a proposed Partial Consent Decree in *United States v. Carolawn Co., Inc., et al.*, Civil Action No. 83–2162–0, was lodged with the United States District Court for the District of South Carolina. The amended complaint file conetmporaneously by the United States alleges that the defendants are liable under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.* The amended complaint named owners and operators of a hazardous waste site located near Fort Lawn, South Carolina, as well as generators of hazardous substances shipped to that site. The government sought to recover money expended by the federal government to clean up the site as well as implementation of groundwater studies and other appropriate remedial action. The Partial Consent Decree provides that certain of the defendants will fund and perform a Remedial Investigation Feasibility Study ("FI/FS") at the Fort Lawn site to determine the nature and extent of groundwater contamination, if any.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United Stotes v. Carolawn Co.*, D.J. Ref. 90–11–3–5.

The proposed Partial Consent Decree may be examined at the Office of the United States Attorney, 1100 Laurel Street, Columbia, S.C. 29202 and at the Regional IV Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the Patial Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of

Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW.,

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Building, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

The amendments make technical and other changes in the eligibility conditions and other terms for the

10:15 a.m.—Coffee Break
10:45 a.m.—Biotechnology, Jerome S. Schultz
11:30 a.m.—Environmental Engineering,

1:00 P.M.—2:00 P.M.: NRC Long Range Plan (Open)—The Committee will hear the report of its subcommittee on

VOL 50 ISS 145 JL 29 1985 UMI

Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Partial Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $4.00 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-17873 Filed 7-26-85; 8:45 am]
BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Western Fher Laboratories, Inc., Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 12, 1985, Western Fher Laboratories, Inc., Carretera 132, KM. 25.3, P.O. Box 7468, Ponce, Puerto Rico 00732, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Phenmetrazine (1631).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than August 28, 1985.

Dated: July 17, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-17893 Filed 7-26-85; 8:45 am]
BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services; General Operating Support Program

AGENCY: Institute of Museum Services, NFAH.

ACTION: Grant Application Notice for Fiscal Year 1986.

This grant application announcement applies only to the General Operating Support Program (GOS).

Applications are invited by the Institute of Museum Services (IMS) for General Operating Support (GOS) awards under 45 CFR Part 1180 for Fiscal Year 1986.

Nature of Program

IMS makes awards under the GOS Program to museums to maintain, increase, or improve museum services. The purpose of these awards is to ease the financial burden bone by museums as a result of their increased use by the public and to help them carry out their educational role, as well as other functions. Section 206 of the Museum Services Act, Title II of Pub. L. 94-462, as amended, contains authority for this program. (20 U.S.C. 965)

Deadline Date for Transmittal of Applications

An application for a new grant must be mailed or hand-delivered by November 15, 1985.

Applications Delivered by Mail

An application sent by mail must be addressed to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director of IMS.

If any application is mailed thorugh the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not date-canceled by the U.S. Postal Service.

Application Delivered by Hand

An application that is hand-delivered must be taken to the Institute of Museum Services, Old Post Office Building, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

IMS will accept a hand-delivered application between 9:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the deadline date.

Program Information

Program information is contained in the following: final regulations published on June 17, 1983 in Federal Register Vol. 48, No. 118, pages 27727-27734; amendments published on April 10, 1984 Federal Register Vol. 49, No. 70, pages 14108-14111; on June 15, 1984 Federal Register Vol. 49, No. 117, pages 24731-24733; and on July 5, 1985 Federal Register Vol. 50, No. 129, pages 27586-27589; and in the application forms and accompanying instructions in the Application Package. See paragraph on *Application Form.*

Available Funds

It is anticipated that no museum will receive more than $75,000 under the Act for Fiscal Year 1986 and that most museums which are funded will receive a smaller amount (45 CFR 1180.9). In addition, IMS normally does not make grants for more than 10 percent of a museum's most recently completed fiscal year's actual non-federal operating income.

(see 45 CFR 1180.16(b))

This program is subject to the availability of appropriations.

Application Forms

IMS is mailing application forms and program information in an Application Packet to museums that have previously applied to IMS and other institutions on its mailing list. Applicants may obtain Application Packets by writing to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506.

Applicable Regulations

Final regulations for the General Operating Support grant program were published in the Federal Register on June 17, 1983 FR Vol. 48, No. 118, pages 27727-27734. Amendments to these regulations were published in the Federal Register on April 10, 1984 FR Vol. 49, No. 70, pages 14108-14111; on June 15, 1984 FR Vol. 49, No. 117 pages 24731-24733; and on July 5, 1985 FR Vol. 50, No. 129 pages 27586-27589.

The regulations as amended implement the Museum Services Act. The amendments make technical and other changes in the eligibility conditions and other terms for the administration of the General Operating Support and Museum Assessment programs for museums and remove unneeded provisions. As revised, the regulations published on June 17, 1983 will apply to the award of grants for Fiscal Year 1986.

Further Information

For further information contact Kristine K. Ramaekers, Museum Program Officer, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, D.C. 20506. Telephone: (202) 786-0539.

(Catalog of Federal Domestic Assistance No. 45.301 Institute of Museum Services)

Dated: July 25, 1985.

Susan E. Phillips,

Director, Institute of Museum Services.

[FR Doc. 85-17925- Filed 7-26-85; 8:45 am]
BILLING CODE 7036-01-M

NATIONAL SCIENCE FOUNDATION

Joint Meeting of the Advisory Committees for Civil and Environmental Engineering and Earthquake Hazard Mitigation; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committees for Civil and Environmental Engineering and Earthquake Hazard Mitigation.

Place: Rooms 540, 1242-A, 1242-B, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Date: August 13, 1985—8:00 a.m. to 5:00 p.m.; August 14, 1985—9:00 a.m. to 12:00 Noon.

Type of Meeting: Open.

Contact Person: Dr. Arthur A. Ezra, Director, Division of Fundamental Research for Emerging and Critical Engineering Systems, The National Science Foundation, Room 1132, 1800 G Street, NW., Washington, D.C. 20550. Telephone: 202/357-9545.

Purpose of Meeting: To provide advice and recommendations concerning fundamental research in emerging and critical engineering systems.

Summary Minutes: May be obtained from the contact person at the above stated address.

Agenda

Tuesday, August 13, Room 540

9:00 a.m.—Welcome and Introduction, Nam P. Suh
9:15 a.m.—Overview, Arthur A. Ezra
9:30 a.m.—Earthquake Engineering, Michael P. Gaus
10:15 a.m.—Coffee Break
10:45 a.m.—Biotechnology, Jerome S. Schultz
11:30 a.m.—Environmental Engineering, Edward H. Bryan
12:15 p.m.—Lunch
1:30 p.m.—Lightwave Technology, T.K. Gustafon
2:15 p.m.—Bioengineering and research to aid the Handicapped, William Freedman
3:00 p.m. Coffee Break
3:30 p.m.—Systems Engineering for Large Structures, John B. Scalzi
4:15 p.m.—Natural and Man-Made Hazard Mitigation, Michael P. Gaus
5:00 p.m.—Adjourn

Wednesday, August 14, Rooms 1242-A and 1242-B

9:00 a.m.-12 Noon—Emerging Engineering Systems Committee Room 1242-A
9:00 a.m.-12 Noon—Critical Engineering Systems Committee, Room 1241-B
12 Noon—Lunch
1:30 p.m.—Continuation of Morning Discussions
5:00 p.m.—Adjourn

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 85-17835 Field 7-26-85; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on August 8-10, 1985, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the Federal Register on July 23, 1985.

The agenda for the subject meeting will be as follows:

Thursday, August 8, 1985

8:30 A.M.—8:45 A.M.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.—12:00 Noon: General Electric Standard Safety Analysis Report (GESSAR II) (Open/Closed)—Members of the Committee will hear and discuss the report of the cognizant ACRS Subcommittee regarding the review of this project for a FDA. Members of the NRC Staff and representatives of the applicant will make presentations and participate in the discussion.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this project and detailed information regarding security provisions for this type of nuclear steam supply system.

1:00 P.M.—2:00 P.M.: NRC Long Range Plan (Open)—The Committee will hear the report of its subcommittee on proposed ACRS comments regarding a long range plan for NRC regulatory activities. Members of the NRC Staff and invited experts will participate as appropriate.

2:00 P.M.—5:00 P.M.: Seismic Qualification of Equipment in Operating Nuclear Power Plants (Open)—The Committee members will hear and discuss the report of its subcommittee regarding proposed methodology for seismic qualification of equipment in nuclear power plants. Representatives of the NRC Staff and the nuclear industry will participate as appropriate.

5:00 P.M.—6:00 P.M.: NRC Maintenance and Surveillance Program Plan (Open)—The members will hear the report of its subcommittee regarding the proposed NRC program plan for maintenance and surveillance of nuclear power plants. Members of the NRC Staff will participate as appropriate.

6:00 P.M.—6:30 P.M.: Future ACRS Activities (Open)—The members of the Committee will discuss anticipated ACRS Subcommittee activity and items proposed for consideration by the full Committee.

Friday, August 9, 1985

8:30 A.M.—11:30 A.M.: San Onofre Nuclear Plant Unit 1 (Open)—The members will hear and discuss the report of its subcommittee on the SEP review of this nuclear plant. Representatives of the NRC Staff and the licensee will make presentations and participate in the discussion.

11:30 A.M.—12:30 P.M.: Indian Point Nuclear Power Station (Open)—The members of the Committee will discuss proposed ACRS comments regarding implementation of the results of the PRA of the Indian Point Nuclear Station.

1:30 P.M.—2:30 P.M.: Management and Disposal of Radioactive Wastes (Open)—The members of the Committee will hear the report of its subcommittee regarding proposed ACRS activities in support of the NRC regulatory program for handling and disposal of radioactive wastes. Representatives of the NRC Staff and the Department of Energy will participate as appropriate.

2:30 P.M.—6:30 P.M.: Alvin W. Vogtle Nuclear Plant, Units 1 and 2 (Open/Closed)—The members will hear and discuss the report of its subcommittee regarding the request for an operating license for this nuclear plant. Members of the NRC Staff and representatives of the applicant will make presentations and participate in the discussion as appropriate.

VOL 50 ISS 145 JL 29 1985 UMI

Portions of this session will be closed as necessary to discuss Proprietary Information and detailed security arrangements for this plant.

Saturday, August 10, 1985

8:30 A.M.—12:00 Noon: ACRS Reports to NRC (Open/Closed)—This portion of the meeting will be to discuss proposed ACRS reports to the NRC regarding items considered during this meeting.

Portions of this session will be closed to discuss Proprietary Information applicable to the matters being considered and detailed security arrangements for the projects being reviewed.

1:00 P.M.—3:00 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss the reports of designated subcommittees regarding ongoing activities including ECC systems evaluation, ACRS procedures and practices, scram system reliability, the radiation protection program of INPO, and the source term used in accident evaluation.

3:00 P.M.—3:30 P.M.: Activities of ACRS Members (Open/Closed)—The Committee will discuss proposed activities of individual ACRS members as nongovernment employees.

Portions of this session will be closed as necessary to discuss information the release of which would represent an unwarranted invasion of personal privacy.

Procedures for the conduct of a participation in ACRS meetings were published in the **Federal Register** on October 3, 1984 (49 FR 193). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)], detailed security information [5 U.S.C. 552b(c)(3)], to discuss information that will be involved in an adjudicatory proceeding [5 U.S.C. 552b(c)(10)], and to discuss information the release of which would represent an unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)]

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated July 24, 1985.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 85–17923 Filed 7–26–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittees on Waste Management and Procedures and Administration; Revised Agenda

The **Federal Register** published on Monday, July 22, 1985 (50 FR 29775) contained notice of a joint meeting of the ARCS Subcommittees on Waste Management, and Procedures and Administration to be held on Tuesday, July 30, 1985, 8:30 a.m., Room 1046, 1717 H Street, NW., Washington, DC. In addition to the ACRS Role in the Civilain High-Level Radioactive Waste Management Program, the following items have been added to the agenda:

(1) ACRS Annual Report to Congress on the NRC Safety Research Program and Budget—discuss scope and detail of this report.

(2) Appointment of ACRS Subcommittee to consider risk perspective in regulatory requirements.

(3) ACRS consideration of proposed changes in NRC Standard Review Plan—discuss applicable procedures.

(4) Testing of NRC Operator Candidates—procedures for ACRS consideration of natural ability testing.

(5) ACRS activities—discuss ACRS action regarding items carried over from earlier ACRS assignments.

The meeting will, for the most part, be open to public attendance. However, portions of the meeting may be closed for the discussion of individuals as potential consultants to the Waste Management Subcommittee. All other items remain the same as previously announced.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen S. Merrill (telephone 202/634–1414) or Mr. R.F. Fraley (202/634–3265) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated July 23, 1985.

John C. McKinley,

Chief, Project Review Branch No. 1.

[FR Doc. 85–17922 Filed 7–26–85; 8:45 am]

BILLING CODE 7590–01–M

Kerr-McGee Chemical Corp; Hearing

July 23, 1985.

Before Administrative Judges: John H Frye, III, Chairman, Dr. James H. Carpenter, Dr. Peter A. Morris.

In the Matter of Kerr-McGee Chemical Corporation (West Chicago Rare Earths Facility) Docket No. 40–2061–ML, ASLBP No. 83–495–01–ML; and Kerr-McGee Chemical Corporation (Kress Creek Decontamination) Docket No. 40–2061–SC, ASLBP No. 84–502–01–SC.

Please take notice that prehearing conferences in these proceedings will be held on September 11 and 12, 1985, at the NRC hearing room, fifth floor, 4350 East-West Highway, Bethesda, Maryland. The conference in the West Chicago proceeding will begin at 9:30 A.M. on September 11 and will be followed by the conference in the Kress Creek proceeding.

The purpose of the conferences is to hear argument of the parties regarding discovery disputes.

John H Frye III,

Chairman, Administrative Judge.

July 23, 1985.

[FR Doc. 85–17921 Filed 7–26–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corp., et al. (Crystal River Unit No. 3 Nuclear Generating Plant); Exemption

I

The Florida Power Corporation (the licensee) and eleven other co-owners are the holders of Facility Operating License No. DPR–72 which authorizes operation of Crystal River Unit No. 3 Nuclear Generating Plant (the facility) at steady state reactor power levels not in excess of 2544 megawatts thermal. The facility comprises one pressurized water reactor at the licensee's site located in Citrus County, Florida. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R became effective on February 17, 1981. Section III. of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III. G., which requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage, is the subject of this exemption.

The specific areas in which exemptions from the requirements of Section III.G. have been requested are as follows.

Fire exemption requests concern separation of redundant equipment within a fire area:

1. Intermediate Building Redundant Emergency Feedwater System Pumps and Valves (Fire Area IB–95–200);

2. Auxiliary Building Seawater Pump Room (Fire Area AB–95–3);

3. Auxiliary Building Redundant Makeup Pumps (Fire Area AB–95–3);

4. Auxiliary Building Redundant Makeup System Valves (Fire Area AB–95–3);

5. Reactor Building Penetration Assemblies (Fire Area IB–119–201).

One exemption request concerns the fixed suppression system for a fire area:

1. Control Complex HVAC Equipment Room (Fire Area CC–164–121)

Six additional exemption requests concern fire area boundaries, the acceptance criteria for which are called out in Appendix A to Branch Technical Position (BTP) APCSB 9.5–1. Deviations from these fire area boundary guidelines do not require exemption and are accordingly not addressed herein.

III

By letters dated September 24, 1984 and October 5, 1984, and superseded by letter dated December 11, 1984, the licensee requested an exemption from requirements specified in Section III.G of Appendix R of 10 CFR Part 50. The specific requests and the acceptability of the exemption are addressed below.

(A) Exemptions From Section III.G.2

Subsection III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistence equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits or redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

The licensee requests exemption from Section III.G.2 of Appendix R to the extent that it requires separation of redundant safe shutdown components by 3-hour fire rated barriers for fire areas as follows:

(1) Redundant Emergency Feedwater System Pumps and Volves (Fire Area IB–95–200)

This fire area is located on the 95 foot elevation of the Intermediate Building. It is bounded by 3-hour fire rated walls on all sides. The ceiling and floor are reinforced concrete.

This area contains the A-train motor driven and the B-train turbine driven emergency feedwater system pumps. One of the pumps is required for safe shutdown.

The pumps are separated by a partial height concrete wall. Pipes and conduits traverse the open areas above and beyond the end of the wall and an open trench passes under the wall.

Two A-train valves and cables for an A-train valve located in another fire area are exposed by the B-train pump. One of the exposed valves has a redundant valve located in another fire area.

The fuel load of oil, grease, and cable insulation corresponds to an equivalent fire severity of approximately 25 minutes.

Existing fire protection includes an area-wide ionization detection system, portable extinguishers, and one hose station.

The licensee proposes: (1) To rotate the exposed A-train valve so that its motor operator will be located behind the partial height wall with respect to the turbine driven pump; (2) to enclose the valve within a 1-hour fire rated enclosure; (3) to install automatic sprinklers throughout the fire area, except in the tendon access gallery; (3) to protect one train of redundant cables with 1-hour fire rated barriers; (4) to modify all cables traversing the space between the pumps to eliminate them as intervening combustibles; and (5) to install a steel plate across the drain trench to prevent flame propagation through the trench.

The technical requirements of Section III.G.2 are not met because redundant shutdown components are not separated by 3-hour fire rated barriers.

The concern was that a fire would damage both emergency feedwater systems. However, the area-wide detection system provides reasonable assurance that a fire anywhere in the fire area would be detected in its early stages and extinguished by the plant fire brigade before damage to redundant safe shutdown equipment occurs.

If rapid fire growth occurs prior to brigade arrival, the automatic sprinklers would operate and control or extinguish the fire.

The partial height wall separating the pumps, the valve enclosure, and the cable protection would provide passive protection and would prevent damage to these systems by flame impingement and radiant heat energy until the fire brigade arrives or the sprinkler system operates. Therefore, we have reasonable assurance that one emergency feedwater system train will be available for safe shutdown after a fire in this area.

The tendon access gallery contains negligible combustibles. Therefore, sprinkler protection is not required in

rated cable protection will provide passive protection and provide

However, because the fuel load is low, we do not expect a fire of significant

low, we do not expect a fire of significant magnitude or duration to

before significant flame propagation or temperature rise occurs, and the 1-hour

water spray systems for the charcoal filter banks.

The tendon access gallery contains negligible combustibles. Therefore, sprinkler protection is not required in this area.

Based on our evaluation, we conclude that the existing fire protection with the proposed modifications provides reasonable assurance that one train of the emergency feedwater system will be available for safe shutdown after a fire. Therefore, the exemption in Fire Area IB–95–200 is granted.

(2) Auxiliary Building Seawater Pump Room (Fire Area AB–95–3)

This fire area is located on the 95 foot elevation of the Auxiliary Building. The Seawater Pump Room is located within this fire area. The room is bounded by reinforced concrete walls, floor, and ceiling. The room has open doorways to the reactor coolant pump seal injection filter room and the nuclear service booster pump room.

Redundant shutdown equipment in the room includes the emergency nuclear services and decay heat closed cycle cooling water system pumps, the emergency nuclear services and decay heat service seawater pumps, and their associated circuits. The minimum separation distance between redundant pumps is approximately 10 feet.

Combustible materials consists of oil, grease, cable insulation, and a negligible amount of ordinary combustibles. The estimated fire severity is less than 12 minutes.

Existing fire protection consists of an ionization detection system, portable extinguishers, and one hose station.

The licensee proposes to install sprinkler protection throughout the room, except in the heat exchanger area, and to enclose one train of redundant cables in 1-hour fire rated barriers.

The technical requirements of Section III.G.2 are not met because redundant safe shutdown equipment is not separated by 3-hour fire rated barriers.

The concern was that a fire would damage redundant safe shutdown components resulting in loss of safe shutdown capability.

The detection system provides reasonable assurance that a fire in the fire area would be detected before significant flame propagation or temperature rise occurs. The fire brigade would then extinguish the fire using available equipment before redundant equipment in the Seawater Pump Room is damaged.

If fire brigade response is delayed or rapid fire growth occurs, the automatic sprinkler system would operate, resulting in fire control, reduced room temperatures, and protection of redundant equipment. The 1-hour fire rated cable protection will provide passive protection and provide reasonable assurance that one train of redundant ciruits will be maintained free of damage until the fire is extinguished.

The combustible loading in the heat exchanger area is negligible. Therefore, the absence of automatic sprinklers in this area is acceptable.

Based on our evaluation, we conclude that the existing fire protection with the proposed modifications provides reasonable assurance that one train of safe shutdown components located in the Seawater Pump Room will be available following a fire. Therefore, the licensee's request for exemption in the Seawater Pump Room is granted.

(3) Auxiliary Building Redundant Makeup Pumps (Fire Area AB–95–3)

This fire area is located on the 95 foot elevation of the Auxiliary Building. The makeup pump area is located in this area and is enclosed by reinforced concrete walls with offset open doorways at the northeast to southeast corners. The pump area is divided into three cubicles by two reinforced concete walls. The cubicles are connected by an open 3-foot wide corridor. There are ventilation exhaust ducts in the dividing walls. One cable tray traverses all three cubicles.

The ceiling in each end cubicle is 3-hour fire rated. The ceiling in the center cubicle is reinforced concrete with penetrations to the floor above.

Each cubicle contains one makeup pump and its supporting lube oil and gear oil pumps. One end pump is powered and controlled by A-train circuits, the other end pump by B-train circuits and the center pump by either A-or B-train circuits.

The equivalent fire severity per cubicle is approximately 5 minutes.

Existing fire protection consists of hose stations and portable extinguishers located adjacent to the cubicles.

The licensee propose: (1) To install ionization detectors in the makeup pump area; (2) to install automatic sprinklers in the corridor that connects the pump cubicles; (3) to seal all ceiling penetrations; (4) to install 3-hour fire rated dampers in the exhaust ducts in the dividing walls; and (5) to seal the cable tray penetrations in the dividing walls.

The technical reqirements of Section III.G.2 are not met because redundant safe shutdown components are not separated by 3-hour fire rated barriers.

We were concerned that a fire originating either outside of or within the makeup pump area would result in loss of safe shutdown capability. However, because the fuel load is low, we do not expect a fire of significant magnitude or duration to occur in the makeup area. If a fire occurs anywhere in the fire area, it would be detected by the ionization detectors and extinguished by the plant fire brigade before spreading into the makeup pump area or from the cubicle of origin.

If rapid fire growth occurs in the fire area, the cubicle walls, penetration seals, duct dampers, and corridor sprinklers provide reasonable assurance that fire damage would be limited to no more than one cubicle.

In our opinion, under these conditions, any fire would, at most, cause damage to one shutdown system, but would not propagate horizontally and damage either of the two adjacent pumps before self-extinguishing or being extinguished by the plant fire brigade.

Based on our evaluation, we conclude that the existing fire protection with the proposed modifications provides an equivalent level of safety to that achieved by compliance with Section III.G. Therefore, the licensee's request for exemption in the makeup pump cubicles is granted.

(4) Auxiliary Building Redundant Makeup System Valves (Fire Area AB–95–3)

This fire area is located on the 95 foot evaluation of the Auxiliary Building. Three redundant makeup system block valves are located in a hallway in this area. The hallway is bounded on the west by the Reactor Building and on the east by a reinforced concrete wall. There are open doorways to the north, northeast, and south. The floor and ceiling are reinforced concrete. Two small penetrations to the 119 foot elevation will be sealed.

One A-train makeup system block valve is located between and within 20 feet of two B-train valves. The fuel load in the hallway corresponds to an eqivalent fire severity of less than 2 minutes.

Existing fire protection consists of one hose station adjacent to the hallway and two portable extinguishers in the hallway.

The licensee proposes to install ionization detectors and automatic sprinklers in the hallway and to protect the A-train valve cables with 1-hour fire rated barriers.

The technical reqirements of Section III.G.2. are not met because redundant shutdown equipment is not separated by 3-hour fire rated barriers.

Our concern was that a fire would damage the redundant makeup system block valves. Because the fuel load is low, we do not expect a fire of significant magnitude or duration to occur. If a fire does occur, it would be detected by the ionization detectors and extinguished by the plant fire brigade before damaging the redundant valves. If rapid fire growth occurs, the sprinkler system will operate and control or extinguish the fire. Moreover, the 1-hour fire rated cable protection will protect the A-train valve cables until the fire brigade arrived or the sprinkler system operates. Therefore, we have reasonable assurance that loss of shutdown capability would not occur.

Based on our evaluation, we conclude that the existing fire protection with the proposed modifications provides a level of protection equivalent to the requirements of Section III.G. Therefore, the exemption for the hallway containing the makeup system valves is granted.

(5) Reactor Building Penetration Assemblies (Quadrants I and IV) (Fire Area IB–119–201)

This fire area is the 119 foot elevation of the Intermediate Building. It is bounded on all sides by 3-hour fire rated walls. The ceiling is formed by the building roof and has open vents to the outside. The floor is partially basemat and is partially over Fire Area IB–95–200.

The fire area contains Reactor Building penetration assemblies in Quadrant I that are redundant to penetration assemblies in Quadrant IV. The penetration assemblies are separated by less than 20 feet with intervening combustible cable insulation between them.

The fuel load consists of approximately 70,000 pounds of cable insulation, 3,000 pounds of Class A combustibles, and 600 pounds of plastic. This corresponds to an equivalent fire severity of approximately 60 minutes.

Existing fire protection includes area-wide ionization detectors, two hose stations, and portable extinguishers.

The licensee proposes: (1) To install automatic sprinklers throughout the fire area; (2) to enclose one train of redundant cables in the fire area in 1-hour fire rated barriers where redundant assemblies exist within the same quadrant.

The technical requirements of Section III.G.2 are not met because redundant safe shutdown equipment is not separated by 3-hour fire rated barriers.

We were concerned that an undetected, unsuppressed fire in this fire area would result in damage to redundant safe shutdown components. However, we expect he ionization detectors to detect any potential fire before significant flame propagation or temperature rise occurs, and the 1-hour fire rated barriers to provide passive protection until the fire brigade extinguishes the fire.

If rapid fire growth occurs prior to fire brigade arrival, we expect the automatic sprinklers to operate, control fire spread, and prevent damage to redundant systems.

We also expect smoke and hot gases to vent through the large open roof vents, further reducing the potential for damage to more than one shutdown division.

Based on our evaluation, we conclude that the existing fire protection with the proposed modifications provides reasonable assurance that loss of shutdown capability will not occur. Therefore, the licensee's request for exemption for the Reactor Building Penetration Assemblies, Quadrants I and IV is granted.

(B) Exemptions from Section III.G.3

If the requirements of Section III.G.2 are not met, Section III.G.3 requires that there be an alternative shutdown capability independent of the fire area of concern. It also requires that a fixed suppression system be installed in the fire area of concern if it contains a large concentration of cables or other combustibles.

(1) The Licensee Requests Exemption From Section III.G.3 of Appendix R to the Extent That it Requires the Installation of a Fixed Fire Suppression System in the Control Complex HVAC Equipment Room (Fire Area CC–164–121)

This fire area is located in the 164 foot (upper) elevation of the Control Complex. The HVAC Equipment Room is located in this fire area and is bounded by 3-hour fire rated or exterior walls. The floor is 3-hour fire rated. There is no safe shutdown equipment on the roof.

The fire area contains the HVAC equipment required to maintain the air temperature in the control room, cable spreading room, essential switchgear rooms, battery rooms, and inverter rooms within acceptable limits for safe plant shutdown.

Cumbustible materials consist primarily of charcoal in the charcoal filters. There are minor quantities of cable insulation, oil, and miscellaneous combustibles. The total fuel load of approximately 80,000 BTU/ft^2 yields an equivalent fire severity of 1 hour.

Existing fire protection includes an area-wide ionization detection system, portable extinguishers, and automatic water spray systems for the charcoal filter banks.

To ensure that the areas within the Control Complex containing safe shutdown equipment will be cooled adequately if this existing HVAC system is disabled by fire, a separate dedicated system is being provided. This system will be located in another fire area.

The technical requirements of Section III.G.3 are not met in this fire area because of the lack of a complete fixed fire suppression system.

We were concerned that a fire would disable the HVAC system, resulting in loss of cooling to safe shutdown equipment in the Control Complex such that safe shutdown could not be achieved and maintained.

The principal fire hazards are the charcoal filters. Each filter bank is protected by an automatic water spray system consistent with the requirements of Regulatory Guide 1.52. Therefore, we expect any fire in the filters to be controlled by these systems. The water flow alarm will initiate fire brigade response resulting in extinguishment before the fire spreads from the filter involved.

We also expect any fire originating outside of the filters to be detected during its early stages by the area-wide detection system and extinguished by the fire brigade before damage to redundant equipment occurs.

If any fire disables the Control Complex HVAC system, the alternate ventilation cooling system will be used to cool the safe shutdown equipment located in the Control Complex that is required to achieve and maintain safe shutdown.

Based on our evaluation, we conclude that the existing fire protection with the proposed modifications provides an equivalent level of safety to that achieved by compliance with Section III.G. Therefore, the licensee's request for exemption in the Control Complex HVAC Room is granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Sections III.G.2 and III.G.3 of Appendix R to 10 CFR Part 50 to the extent discussed in Section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no

significant impact on the environment (50 FR 29005).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for

with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a

Indenture are wholly unsecured, and rank *pari passu inter se;*

(6) The Company's obligation to

maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of

no further action regarding the Section 22 investigation of tobacco imports.

VOL 50 ISS 145 JL 29 1985 UMI

significant impact on the environment (50 FR 29005).

Dated at Bethesda, Maryland this 18th day of July 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing Office of Nuclear Reactor Regulation.

[FR Doc. 85-17824-Filed 7-28-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-13458]

Application and Opportunity for Hearing; ITT Financial Corp.

July 23, 1985

Notice is Hereby Given that ITT Financial Corporation (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of BankAmerican Trust Company of New York under an Indenture of the Company dated as of July 1, 1983, which was heretofore qualified under the Act, relating to debt securities to be issued thereunder by the Company from time to time, and a supplement thereto dated November 15, 1984 (as supplemented, the "Shelf Indenture"), under which the Company issued its 11-⅜% Senior Notes due November 15, 1987 (the "Notes"), and Indenture dated as of June 15, 1976 between the Company and Manufacturers Hanover Trust Company ("MHT"), which was heretofore qualified under the Act, relating to the Company's 9-⅝% Senior Debentures Due June 15, 1996 (the "Debentures") for which BATNY accepted the successor trusteeship from MHT on December 28, 1983 ("1976 Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify BATNY from acting as Trustee under the Shelf Indenture and the 1976 Indenture (collectively, the "Indentures").

Section 310(b) of the Act, the provisions of which are among the provisions of the Indentures, provides in part if a trustee under an indenture qualified under the Act has or shall acquire any conflicing interest (as defined in such section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is a trustee under another indenture under which any other securities, or certificates of interest, or participation in any other securities of the same issuer are outstanding. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or other indentures under which other securities of such obligor are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures.

The effect of the proviso contained in clause (ii) of section 310(b)(1) of the Act on the matter of the present application is such that the Shelf Indenture may be excluded from the operation of Section 310(b)(1) of the Act with respect to the 1976 Indenture if the Company shall have sustained the burden of proving by application of the Commission and after opportunity for hearing thereon, that the trusteeship of BATNY under the Shelf Indenture and under the 1976 indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest of for the protection of investors to disqualify BATNY from acting as trustee thereunder.

The Company alleges that:

(1) As of October 31, 1984, the Company had outstanding $43,719,000 aggregate principal amount of Debentures. The Debentures were registered under the Securities Act of 1933 (Registration No. 2-56275) and the indenture was qualified under the Trust Indenture Act of 1939 with MHT as trustee.

(2) Effective December 28, 1983, MHT resigned as trustee under the 1976 Indenture and BATNY became trustee;

(3) To date, no debt securities other than the Notes have been issued under the Shelf Indenture;

(4) The Notes and other debt securities issued or to be issued from time to time under the Shelf Indenture were registered under the Securities Act of 1933 (Registration No. 2-85022) and the Shelf Indenture was qualified under the Trust Indenture Act of 1939;

(5) The Shelf Indenture and the 1976 Indenture are wholly unsecured, and rank *pari passu inter se*;

(6) The Company's obligation to make payments on the Notes and other debt securities issued or issuable under the Shelf Indenture is not or will not be superior or inferior in right of payment to the Company's obligation to make payments on the Debentures;

(7) The Company is not in default under the Shelf Indenture or the Notes;

(8) The Company is not indefault under 1976 Indenture or the Debentures; and;

(9) Such differences as exist between the Shelf Indenture and the 1976 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify BATNY from acting as trustee thereunder.

The Company waives notice of hearing and waives hearing and waives any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22-13458, which is on file in the offices of the Commission's Public Reference Section, 450 5th Street NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than August 19, 1985, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by the application which he desires to controvert or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: John Wheeler, Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest, or in the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17926 Filed 7-26-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

July 23, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Monarch Capital Corporation
Common Stock, $1.00 Par Value (File No. 7-8517)
Intelogic Trace, Inc.
Common Stock, No Par Value (File No. 7-8518)
Castle Industries, Inc.
Common Stock, $0.10 Par Value (File No. 7-8519)
Direct Action Marketing
Common Stock, $0.01 Par Value (File No. 7-8520)
Superior Surgical Manufacturing Company
Common Stock $1.00 Par Value (File No. 7-8521)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 14, 1985, written data, views and agruments concerning the above-referenced applications. Persons desiring to make written comments should file three copies therefor with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretory.

[FR Doc. 85-17927 Filed 7-26-85; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Section 22 Tobacco Investigation Decision

On February 15, 1985, the International Trade Commission (USITC) submitted a report to the President on its investigation of certain tobacco under section 22 of the Agricultural Adjustment Act of 1933, as amended. The USITC found that tobacco imports did not materially interfere with the price support and production adjustment assistance programs of the U.S. Department of Agriculture (USDA). Therefore, the USITC report does not provide a basis for finding that import restrictions should be imposed under section 22 of the Agricultural Adjustment Act.

The USITC tobacco investigation was instituted on September 10, 1984, to determine whether flue-, fire-, and dark air-cured tobacco, in unmanufactured form, provided for in items 170.20, 170.25, 170.32, 170.35, 170.40, 170.45, 170.50, 170.60, and 170.80 of the Tariff Schedules of the United States, are practically certain to be imported under such conditions and in such quantities as to materially interfere with the tobacco price support and production adjustment programs administered by the USDA.

In view of the investigation and report by USITC, the Administration will take no further action regarding the Section 22 investigation of tobacco imports.

C. Michael Hathaway,

Deputy General Counsel.

[FR Doc. 85-17830 Filed 7-26-85; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF STATE

[CM-8-870]

Shipping Coordinating Committee; Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Tuesday, August 13, 1985, in room 2409 (Mall) Waterside Mall, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

The purpose of the meeting is to review and discuss the agenda and related U.S. positions for the Ninth Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matter (London Dumping Convention), to be held in London on September 23-27, 1985.

For further information contact Ms. Norma Hughes, Executive Secretary, Committee on Ocean Dumping (WH-556M), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-2927.

The Chairman will entertain comments from the public as time permits.

Samuel V. Smith,

Executive Secretary Shipping Coordinating Committee.

July 25, 1985.

[FR Doc. 85-18018 Filed 7-26-85; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits (See, 14 CFR 302.1701 et. seq.) Week Ended July 19, 1985

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period dot may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further procedings.

Date filed	Docket No.	Description

PETITIONS FOR EXEMPTION—Continued

VOL 50 ISS 145 JL 29 1985 UMI

Date filed	Docket No.	Description
July 17, 1985	43283	P.T. Garuda Indonesian Airways, c/o Peter M. Kreindler, Hughes Hubbard & Reed, 1201 Pennsylvania Avenue, NW., Washington, DC 2004. Application of P.T. Garuda Indonesian Airways pursuant to Section 402 of the Act and Subpart Q of the Regulations applies for a foreign air carrier permit authorizing it to conduct scheduled air transportation of passengers, cargo and mail between Denpasar (bali), Indonesia and Guam. Answers may be filed by August 14, 1985.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 85-17917 Filed 7-26-85; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 157—User-Selectable Navigational Data Base; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 157 on User-Selectable Navigational Data Base to be held On August 14-16, 1985 in the RTCA Conference Room, One McPherson Square, 1425, K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks: (2) Approval of Minutes of Meeting Held on March 19-21, 1985; (3) Review Draft Report of Working Group on Processing and Documentation; (4) Review Draft Report of Working Group on Source Enhancements: (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on July 17, 1985.

Karl F. Bierach,
Designated Officer.

[FR Doc. 85-17932 Filed 7-26-85; 8:45 am]
BILLING CODE 4910-13-M

[Summary Notice No. PE-85-19]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: August 19, 1985.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 22, 1985.

John H. Cassady,
Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24644	Federal Express Corporation	14 CFR 121.523 and 121.643	To allow petitioner to operate under domestic air carrier rules regarding alternate airport requirements and fuel reserves.
24658	Midstate Airlines	14 CFR 135.293 and 135.297	To allow petitioner to use an approved Line Oriented Flight Training Program, instead of the specified Part 135 requirements.
21397	Flight Safety International	14 CFR 135.303 and 135.337(a)(3)	To allow petitioner to use approved petitioner's motion base visual simulators instead of aircraft to evaluate the check pilot status described.
24662	Albuquerque International Balloon Fiesta, Inc.	14 CFR 61.3 and 91.27	To allow certain pilots and foreign balloons to participate in the 14th Annual Albuquerque International Balloon Fiesta during the period of October 5-13, 1985, without complying with the pilot certification and airworthiness requirement of these sections.
12638	Air Transport Association of America	14 CFR 121.99 and 121.351(a)	Renewal of exemption to allow petitioner, Eastern Airlines and Pan American World Airways to dispatch, with single HF, on certain oceanic routes between the northeastern United States and the San Juan, P.R., ARTCC.
24708	Avco Lycoming, Williamsport Division	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24691	Hilton Hotels Corp.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24698	Warner-Lambert Co.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
23644	Dow Chemical U.S.A.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24682	Consolidated Gas Transmission Corp.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24649	Interstate Airlines	14 CFR 121.407(c)(1)	To allow petitioner to use a Simulator Training, Inc. Lockheed Electra (L-188) training device for certain training and checking maneuvers and procedures allowed under the Non-Visual Simulator Classification of Appendices "E" and "F".
24647	Basler Flight Service, Inc.	14 CFR 121.9	To allow petitioner to operate under, SFAR 38-2 and Part 121 of the FAR, certain DC-3 non-transport category airplanes having a maximum payload capacity of 7,500 pounds or less.
22416	Empire Airlines, Inc.	14 CFR 121.371(a) and 121.378	Renewal of exemption to allow Braathens S.A.F.E. to perform maintenance and alterations outside of the U.S. on petitioner's aircraft.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
24145-1	Dominicana de Aviaction C. POR A.	14 CFR 91.303	To allow petitioner to operate one Stage 1 Boeing 707-300 aircraft until hush kits are installed. *Granted 7/3/85.*
24579	Dallah AVCO Trans Arabia	14 CFR 91.303	To allow petitioner to operate a Stage 1 Boeing 707-123B aircraft for a brief time of no more than four weeks duration sometime during the period June through September 1985. *Denied 7/1/85.*
24333-1	ZAS Airline of Egypt	14 CFR 91.303	To allow petitioner to operate one Stage one Boeing 707-300 aircraft at U.S. airports. *Denied 7/1/85.*
24580	Balair AG	14 CFR 91.303	To allow petitioner to operate a Stage 1 DC-8-63 aircraft at Stewart International Airport for a flight on or about November 1, 1985, and December 6, 1985. *Denied 7/1/85.*
24248-1	Transbrasil S.A. Linhas Aereas	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. *denied 7/1/85.*
23883	Florida Express, Inc.	14 CFR 91.307	To amend Exemption No. 3116b to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988 BAC 1-11: N1543, N1544, N1545, N1549, N1548, N1135J, N1136J. *Granted 6/21/85.*
24326-1	Hawaiian Airlines	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. *Partial Grant 6/28/85.*
23996-1	Zantop	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. *Granted 7/8/85.*
24421-1	Samoa Airlines	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise compliance date. *Denied 7/11/85.*
24372-1	Lan-Chile	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. *Denied 7/19/85.*

[FRDoc. 85-17936 Filed 7-26-85; 8:45 am]
BILLING CODE 4910-13-M

Updated Report of the Fleet Status and Compliance Plans of U.S. Domestic Aircraft Operators

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The table below summarizes the U.S. fleet noise compliance status as of January 1, 1977 approximately the date the noise compliance regulation was issued), the status as of April 1, 1980, January 1, 1981, January 1, 1982, January 1, 1983 and July 1, 1985. When the regulation was issued, slightly over 20 percent of the U.S. fleet met the FAA noise standards. As of July 1, 1985, 88.7 percent of the fleet complies.

Discussion: In December 1976, the FAA issued Subpart E of Part 91 of the Federal Aviation Regulations (14 CFR Part 91) which prescribes noise limits for U.S. registered, civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates. These requirements prohibit domestic operation in the United States of affected airplanes after specified dates, with full compliance required by January 1, 1985.

In November 1980, the FAA issued a final rule (adopting Title III of the Aviation Safety and Noise Abatement Act of 1979) to extend these same noise compliance requirements to all operators of affected aircraft in the United States, whether U.S. or foreign registered. This rule also provided for exemptions to extend the compliance deadline for two-engine airplanes (DC-9, Boeing 737, BAC 1-11 and SE-210) to January 1, 1985 (for over 100 seats) or to January 1, 1988 (for 100 or fewer seats) as protection for small community service.

To ensure that all domestic operators took appropriate steps to meet the noise compliance requirements, the FAA amended 14 CFR Part 91 in December 1979 to require the operators of affected turbojet airplanes to provide the current status of their fleets and their plans for achieving timely and continuing compliance. The first summary report on Fleet Noise Compliance was published on July 17, 1980 (45 FR 48011), the second on August 8, 1981 (46 FR 40126), the third on July 8, 1982 (47 FR 29754), and the fourth on May 12, 1983 (48 FR 21408). This report is an update to that publication.

Since January 1, 1985, non-noise compliant airplanes in the U.S. are operating under one of the following exemptions. As of July 1, 1985, small community service exemptions for 278 U.S. registered two-engine airplanes are in effect. The small communities exemptions for two-engine airplanes extend the compliance date to January 1, 1988. Under the Aviation Safety and Noise Abatement Act of 1979, general exemptions have been issued to operators, both foreign and U.S., that meet certain criteria. Also, section 124 of Pub. L. 96-473 exempts certain operators to operate on international flights out of Miami International and Bangor International Airports. Both of these types of exemptions are also time limited and have certain other restrictions placed on them, such as

number of aircraft and number of operations. The exempted aircraft are specified by registration and serial number and their exemptions expire on the scheduled date of "hush kit" installation.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Manager, Noise Policy and Regulatory Branch, AEE-110, Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 755-9027.

Issued in Washington, D.C., on July 22, 1985.

John E. Wesler,

Director of Environment and Energy.

U.S. FLEET NOISE COMPLIANCE STATUS

Airplane type	Jan. 1, 1977		Apr. 1, 1980		Jan. 1, 1981		Jan. 1, 1982		Jan. 1, 1983		July 1, 1985	
	Total airplanes	Number comply	Total airplanes	Number comply	Total airplanes	Number comply	Total airplanes	Number comply	Total airplanes	Number comply	Total airplanes	Number comply
A300	0	0	14	14	19	19	25	25	30	30	36	36
BAC 1-11	33	0	44	0	44	0	57	0	51	0	48	6
B707	277	0	190	0	147	0	84	0	80	0	23	2
B720	21	0	12	0	11	0	9	0	6	0	2	0
B727	842	186	1,082	540	1,076	648	1,138	764	1,073	1,067	1,172	1,172
B737	150	7	224	71	229	82	247	109	281	140	394	384
B747	112	35	141	121	146	132	151	150	148	148	146	146
Convair	25	0	8	0	6	0	6	0	4	0	1	0
DC-8	224	0	164	0	161	0	149	2	133	21	100	72
DC-9	367	32	400	74	405	83	476	111	509	186	596	373
DC-10	124	124	146	146	152	152	162	162	165	165	190	190
L1011	81	81	91	91	93	93	110	110	117	117	104	104
SE210	0	0	6	0	6	0	4	0	2	0	1	0
B757	0	0	0	0	0	0	0	0	2	2	23	23
B767	0	0	0	0	0	0	0	0	19	19	54	54
BA146	0	0	0	0	0	0	0	0	0	0	19	19
Total	2,256	465	2,522	1,057	2,497	1,209	2,614	1,433	2,619	1,895	2,913	2,583
Percent	20.6		41.9		48.4		54.8		72.4		88.7	

[FR Doc. 85-17935 Filed 7-26-85; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP85-12; Notice 1]

Sumitomo Rubber Industries, Ltd.; Receipt of Petition for Determination of Inconsequential Noncompliance

Sumitomo Rubber Industries, Ltd., of Kobe, Japan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires—Passenger Cars." The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph § 4.3(e) of Standard No. 109 requires that the sidewall of each tire be labeled with the actual number of plies in the sidewall and the actual number of plies in the tread area, if different. Sumitomo produced 6,821 SC675 White Slim Line passenger car tires, size designation P215/75R14, where the actual number of plies in the tread area was mistakenly labeled as "4" plies instead of "6" plies. The incorrect labeling indicates "TREAD 4 PLIES 2 POLYESTER +2 STEEL +2 NYLON" whereas the correct labeling should indicate "TREAD 6 PLIES 2 POLYESTER +2 STEEL +2 NYLON". The tires were manufactured during the period from October 16, 1983 through June 9, 1985.

Sumitomo has impounded 509 of the tires in its possession and all recovered tires were rebranded with the correct information of "6 PLIES". Of the remaining tires, 5,860 were shipped to the United States, 216 to Puerto Rico, and 236 to Canada. Therefore, this petition affects 6,076 passenger car tires shipped to jurisdictions covered by the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*).

Sumitomo argues that the noncompliance is inconsequential because the failure to label properly has no impact on motor vehicle safety and the tires otherwise comply with Standard No. 109.

Interested persons are invited to submit written data, views and arguments on the petition of Sumitomo Rubber Industries, Ltd., described above. Comments should refer to the docket number and be submitted to Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Art Casanova and Taylor Vinson, respectively.

Comment closing date: August 28, 1985.

(Section 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on July 24, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-17918 Filed 7-26-85; 8:45 am]

BILLING CODE 4910-59-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35). This document contains a revision and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 17, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Revision

1. Department of Veterans Benefits.
2. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only).
3. VA Form 26-8629.
4. On occasion.
5. Individuals or households; Businesses or other for-profit.
6. 3,450 respones.
7. 1,150 hours.
8. Not applicable.

[FR Doc. 85-17864 Filed 7-26-85; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Report of New Matching Program

AGENCY: Veterans Administration.

ACTION: Notice of Matching Program—Veterans Administration Records of Physicians and Dentists/Federal, State, Local and Private Income and Payment Records.

SUMMARY: The Veterans Administration (VA) is providing notice that the Office of Inspector General (OIG) will conduct a series of computer matches of VA records of physicians and dentists with Federal, State, local and private income and payment records.

The goal of these matches is to identify full-time physicians and dentists who may have engaged in unauthorized outside professional activities, or received unreported remuneration for their outside professional activities.

DATES: It is anticipated the matches will commence in July 1985.

ADDRESS: Interested individuals may comment on the proposed matches by writing to the Assistant Inspector General for Policy, Planning and Resources (53) Veterans Administration, 810 Vermont Avenue NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Mr. Jack H. Kroll, Assistant Inspector General for Policy, Planning and Resources (53), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-5297.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: July 19, 1985.

By Direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Report of Matching Program

Veterans Administration Records of Physicians and Dentists/Federal, State, Local and Private Income and Payment Records.

a. Authority

The Inspector General Act of 1978, Public Law 95-452.

b. Program Description

(1) *Purpose:* Title 38, United States Code, section 4108, restricts the outside professional activities of physicians and dentists employed full-time by the Veterans Administration (VA). These employees are required to obtain VA approval before assuming responsibility for the care of non-VA patients, teaching or providing consultative or professional service to communities. It is VA policy that remuneration for permitted outside professional activities must be reported annually. (Department of Medicine and Surgery Supplement to VA Manual MP-5, Part II, Chapter 13.)

(2) *Procedures:* The VA Office of Inspector General (OIG) plans to match the social security number of physicians and dentists who are employed full-time by the VA, with the records of the following:

(i) Payment records of the Office of Civilian Health and Medical Programs of the Unified Services (CHAMPUS), Department of Defense.

(ii) State and local employment security, wage or tax records.

(iii) Payment records of independent insurance carriers (private, commercial organizations processing medical claims).

It is planned that the OIG will initially match VA records with the employment security (unemployment compensation), wage or tax records of the States of Pennsylvania and Maryland. Subsequent matches with other States or local agencies will be conducted as resources and approval by the agencies concerned permit. For the purpose of this matching program, the term "State" also includes the District of Columbia and the Commonwealth of Puerto Rico.

If the match with CHAMPUS records demonstrates the effectiveness of matching VA records with other Federal programs to detect unauthorized activities, the Inspector General may direct that additional matches with other Federal agencies be conducted under this program.

These matches will be performed by the VA OIG and may be cyclical or may be repeated periodically. In certain instances when the laws of a particular jurisdiction preclude an organization from providing automated records to the OIG for matching purposes, the OIG will provide a copy of VA records containing only social security numbers to the organization concerned to conduct the match.

In the event of a "hit", i.e., the determination through a computer match that an organization may have information that indicates a full-time VA physician or dentist has engaged in outside professional activities or has received remuneration for outside professional activities, the identity of the individual will be confirmed and the OIG may request further information. When necessary for this purpose, the OIG may release additional identifying data from VA records to the organization holding the matching records. This additional identifying data may consist of name, date of birth, place of birth, sex, etc. The OIG will confirm the identity of individuals whom the matches indicate have engaged in unauthorized outside professional activities or have accepted

remuneration which has not been reported. Information from the matches

d. Period of Match

files previously agreed to; that it will not

Sunshine Act Meetings

VOL 50 ISS 145 JL 29 1985 UMI

remuneration which has not been reported. Information from the matches which has been verified will be reported to the Chief Medical Director of the VA for consideration of follow-up action. Where there are reasonable grounds to believe there has been a violation of criminal law, the matter will be investigated and referred for prosecutive consideration.

c. Records to be Matched

Lists extracted from the following system of records will be matched with Federal, State, local and private income and payment records:

Personnel and Accounting Pay System—VA (27VA047) (Private Act Issuances, 1982/83 Comp., Vol. V, pp. 1150–1160).

The disclosure of information from this system of records for the purpose of computer matching programs is permitted by a published routine use.

d. Period of Match

Intermittently from approximately July 1985.

e. Safeguards

Records used in the matches and data generated as a result, will be safeguarded from unauthorized disclosure. Access will be limited to those persons who have a need for the information in order to conduct the matches or follow-up actions. All of the material will be stored in locked containers when not in use. Prior to releasing any information from the VA system of records to a State or local agency or to an independent insurance carrier, the OIG will obtain a written agreement from the matching organization specifying that the matching file will remain the property of the VA and will be returned to the OIG or destroyed upon completion of the match, as appropriate; that it will be used and accessed only to match the files previously agreed to; that it will not be used to extract information concerning "non-hit" individuals for any purpose; and that it will not be duplicated or disseminated within or outside the matching organization unless authorized by the VA OIG.

f. Retention and Disposition

Records not resulting in "hits" will be destroyed by burning, shredding or electronic erasing within 6 months of the completion of the individual match. Records resulting in "hits" will be retained by either the OIG or the Department of Medicine and Surgery until the completion of any necessary administrative or legal action and will then be disposed of in accordance with approved records control schedules and/or approved disposition authority from the Archivist of the United States.

[FR Doc. 85–17900 Filed 7–26–85; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 145
Monday, July 29, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1
Federal Deposit Insurance Corporation	2
Federal Home Loan Bank Board	3
Synthetic Fuels Corporation	4
Interstate Commerce Commission	5

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, July 31, 1985.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, D.C.

STATUS:

MATTERS TO BE CONSIDERED:

Open to the Public

1. Fire Toxicity: Status

The staff will brief the Commission on the status of the priority project on Fire Combustion Toxicity.

Closed to the Public

2. Enforcement Matter OS# 4665

The Commission and staff will discuss Enforcement Matter OS# 4665.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: (301) 492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, (301) 492–6800.

Sheldon D. Butts,
Deputy Secretary.
July 25, 1985.

[FR Doc. 85–17991 Filed 7–25–85; 12:38 pm]
BILLING CODE 6355–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given at 7:00 p.m. on Tuesday, July 23, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in the First National Bank of Onaga, Onaga, Kansas, which was closed by the Acting Comptroller of the Currency on Tuesday, July 23, 1985; (2) accept the bid for the transaction submitted by First National Bank of Onaga, Onaga, Kansas, a *de nova* bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in First National Bank of Glenrock, Glenrock, Wyoming, which was closed by the Acting Comptroller of the Currency on Tuesday, July 23, 1985; (2) accept the bid for the transaction submitted by National Bank of Glenrock, Glenrock, Wyoming, a *de nova* bank; (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 24, 1985.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 85–17975 Filed 7–25–85; 10:56 am]
BILLING CODE 6714–01–M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol No. 50, Page No.—29794. Date Published—Monday, July 22, 1985.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202–377–6679).

CHANGES IN THE MEETING: The meeting scheduled for Thursday, July 25, 1985, at 2:00 p.m. has been cancelled.

Jeff Sconyers,
Secretary.

No. 18, July 25, 1985.

[FR Doc. 85–18006 Filed 7–25–85; 2:38 pm]
BILLING CODE 6720–01–M

4

SYNTHETIC FUELS CORPORATION

Board of Directors

SUMMARY: Interested members of the public are advised that a meeting of the Board of Directors of the United States Synthetic Fuels Corporation will be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of section 116(f)(1) of the Energy Security Act (94 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1)) and Section 4 of the Corporation's Statement of Policy on Public Access to Board meetings.

MATTERS TO BE CONSIDERED:

Open Session

I. Call to Order
II. Board Minutes
III. Consideration of Award of Financial Assistance to the Great Plains Project

TIME AND DATE: 3:15 p.m., July 30, 1985.

PLACE: 2121 K Street, NW. Room 503 Washington, D.C. 20586.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Ms. Karen Hutchison, Director-Media Relations, at (202) 822–6455.

United States Synthetic Fuels Corporation.
March Coleman,
Assistant General Counsel Corporate & Litigation.
July 25, 1985.

[FR Doc. 85–17982 Filed 7–25–85; 12:49 pm]
BILLING CODE 6820–69–M

5

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: Time time of the conference has been changeg from 2:00 p.m., to 10:00 a.m., the date will remain the same, Wednesday, July 31, 1985.

PLACE: Hearing Room A, Interstate Commerce Commission 12th & Constitution Avenue, NW., Washington, D.C.

MATTERS TO BE DISCUSSED: Ex Parte 320 (Sub-No. 3)—Product and Geographic

of Public Affairs, Telephone: (202) 275–7252.

Monday July 29, 1985

VOL
50
ISS
145
JL
29
1985
UMI

PLACE: Hearing Room A, Interstate Commerce Commission 12th & Constitution Avenue, NW. Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: Ex Parte 320 (Sub-No. 3)—Product and Geographic Competition.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275–7252.

James H. Bayne,
Secretary.

[FR Doc. 85–18071 Filed 7–26–85; 8:45 am]
BILLING CODE 7035-01-M

federal register

Monday
July 29, 1985

Part II

Environmental Protection Agency

Water Quality Criteria; Availability of Documents; Notice

VOL 50 ISS 145 JL 29 1985 UMI

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-2871-6]

Water Quality Criteria; Availability of Documents

AGENCY: Environmental Protection Agency.

ACTION: Notice of final ambient water quality criteria documents.

SUMMARY: EPA announces the availability and provides summaries of nine ambient water quality criteria documents and national guidelines for criteria development. These criteria are published pursuant to section 304(a)(1) of the Clean Water Act. These water quality criteria may form the basis for enforceable standards.

Availability of documents: This notice contains: (1) Summaries of nine documents containing final ambient water quality criteria for the protection of aquatic organisms and their uses, (2) a summary of changes in the document entitled "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" (which is an updated and revised version of the Guidelines previously published at 45 FR 79341; November 28, 1980), and (3) responses to public comments on the Guidelines. Copies of the complete criteria documents and the revised Guidelines may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (phone number [(703) 487-4650). A list of the NTIS publication order numbers for all 10 documents is published below. These documents are also available for public inspection and copying during normal business hours at: Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M Street SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of these documents are also available for review in the EPA Regional Office libraries. Copies of the documents are *not* available from the EPA office listed below. Requests sent to that office will be forwarded to NTIS or returned to the sender.

1. Ambient Water Quality Criteria for Ammonia—EPA 440/5-84-001; NTIS Number PB85-227114
2. Ambient Water Quality Criteria for Arsenic—EPA 440/5-84-033; NTIS Number PB85-227445
3. Ambient Water Quality Criteria for Cadmium—EPA 440/5-84-032; NTIS Number PB85-227031
4. Ambient Water Quality Criteria for Chlorine—EPA 440/5-84-030; NTIS Number PB85-227429
5. Ambient Water Quality Criteria for Chromium—EPA 440/5-84-029; NTIS Number PB85-227478
6. Ambient Water Quality Criteria for Copper—EPA 440/5-84-031; NTIS Number PB85-227023
7. Ambient Water Quality Criteria for Cyanide—EPA 440/5-84-028; NTIS Number PB85-227460
8. Ambient Water Quality Criteria for Lead—EPA 440/5-84-027; NTIS Number PB85-227437
9. Ambient Water Quality Criteria for Mercury—EPA 440/5-84-026; NTIS Number PB85-227452
10. Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses. NTIS Number PB85-227049.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Criteria and Standards Division (WH-585), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 245-3030.

SUPPLEMENTARY INFORMATION:

Background

Section 304(a)(1) of the Clean Water Act (33 U.S.C. 1314(a)(1)) requires EPA to publish and periodically update ambient water quality criteria. These criteria are to reflect the latest scientific knowledge on the identifiable effects of pollutants on public health and welfare, aquatic life, and recreation.

EPA has periodically issued ambient water quality criteria, beginning in 1973 with publication of the "Blue Book" (Water Quality Criteria 1972). In 1976, the "Red Book" (Quality Criteria for Water) was published. On November 28, 1980 (45 FR 79318) and February 15, 1984 (49 FR 5831), EPA announced the publication of 65 individual ambient water quality criteria documents for pollutants listed as toxic under section 307(a)(1) of the Clean Water Act.

Today EPA is announcing the availability of nine individual water quality criteria documents which update and revise certain criteria previously published in the "Red Book" and in the 1980 ambient water quality criteria documents. The criteria documents for ammonia and chlorine replace criteria previously published in the 1976 "Red Book." The criteria documents for arsenic, cadmium, chromium, copper, cyanide, lead, and mercury replace the aquatic life criteria previously published in the 1980 ambient water quality criteria documents. Draft criteria documents were made available for public comment on February 7, 1984 (49 FR 4551). These final criteria have been derived after consideration of all comments received.

Dated: July 19, 1985.

Edwin C. Johnson,

Acting Assistant Administrator for Water.

Appendix A—Summary of Water Quality Criteria

1. Ammonia

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of ammonia does not exceed the recommended criterion more than once every three years on the average and if the one-hour average concentration does not exceed the recommended criterion more than once every three years on the average.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to ammonia exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

To protect freshwater aquatic life, the criteria for ammonia (in mg/liter un-ionized NH_3) are based upon ambient water temperature and pH with one-hour and four-day average concentrations provided. Criterion concentratons for the pH range 6.5 to 9.0 and the temperature range 0 °C to 30 °C are provided in the following tables. Total ammonia concentrations equivalent to each un-ionized ammonia concentration are also provided in these tables. There is limited data on the effect of temperature on chronic toxicity. EPA will be conducting additional research on the effects of temperature on ammonia toxicity in order to fill perceived data gaps. Because of this uncertainty, additional site-specific information should be developed before these criteria are used in wasteload allocation modelling. For example, the chronic criteria tabulated for non-salmonids at temperatures much below 20 °C are less certain than those tabulated at temperatures near 20 °C. Where the treatment levels needed to meet these criteria below 20 °C may be substantial, use of site-specific criteria is strongly suggested. Development of such criteria should be based upon site-specific toxicity tests.

(1) One-Hour Average Concentrations for Ammonia*

pH	0 C	5 C	10 C	15 C	20 C	25 C	30 C
A. Salmonids or Other Sensitive Coldwater Species Present							
Un-ionized Ammonia (mg/liter NH_3)							
6.50	0.0089	0.0126	0.0182	0.026	0.036	0.036	0.036
6.75	0.0149	0.021	0.030	0.042	0.059	0.059	0.059
7.00	0.023	0.033	0.048	0.066	0.093	0.093	0.093
7.25	0.034	0.048	0.068	0.095	0.135	0.135	0.135
7.50	0.045	0.064	0.091	0.128	0.181	0.181	0.181
7.75	0.056	0.080	0.113	0.159	0.22	0.22	0.22
8.00	0.065	0.092	0.130	0.184	0.26	0.26	0.26
8.25	0.065	0.092	0.130	0.184	0.26	0.26	0.26
8.50	0.065	0.092	0.130	0.184	0.26	0.26	0.26
8.75	0.065	0.092	0.130	0.184	0.26	0.26	0.26
9.00	0.065	0.092	0.130	0.184	0.26	0.26	0.26
Total Ammonia (mg/liter NH_3)							
6.50	36	33	31	30	28	20	14.3
6.75	32	30	28	27	27	18.6	13.2
7.00	28	26	25	24	23	16.4	11.6
7.25	23	22	20	19.7	19.2	13.4	9.5
7.50	17.4	16.3	15.5	14.9	14.6	10.2	7.3
7.75	12.2	11.4	10.9	10.5	10.3	7.2	5.2
8.00	8.0	7.5	7.1	6.9	6.8	4.8	3.5
8.25	4.5	4.2	4.1	4.0	3.9	2.8	2.1
8.50	2.6	2.4	2.3	2.3	2.3	1.71	1.29
8.75	1.47	1.40	1.37	1.38	1.42	1.07	0.83
9.00	0.86	0.83	0.83	0.86	0.91	0.72	0.58
B. Salmonids and Other Sensitive Coldwater Species Absent							
Un-ionized Ammonia (mg/liter NH_3)							
6.50	0.0091	0.0129	0.0182	0.026	0.036	0.051	0.051
6.75	0.0149	0.021	0.030	0.042	0.059	0.084	0.084
7.00	0.023	0.033	0.048	0.066	0.093	0.131	0.131
7.25	0.034	0.048	0.068	0.095	0.135	0.190	0.190
7.50	0.045	0.064	0.091	0.128	0.181	0.26	0.26
7.75	0.056	0.080	0.113	0.159	0.22	0.32	0.32
8.00	0.065	0.092	0.130	0.184	0.26	0.37	0.37
8.25	0.065	0.092	0.130	0.184	0.26	0.37	0.37
8.50	0.065	0.092	0.130	0.184	0.26	0.37	0.37
8.75	0.065	0.092	0.130	0.184	0.26	0.37	0.37
9.00	0.065	0.092	0.130	0.184	0.26	0.37	0.37
Total Ammonia (mg/liter NH_3)							
6.50	35	33	31	30	29	29	20
6.75	32	30	28	27	27	26	18.6
7.00	28	26	25	24	23	23	16.4
7.25	23	22	20	19.7	19.2	19.0	13.5
7.50	17.4	16.3	15.5	14.9	14.6	14.5	10.3
7.75	12.2	11.4	10.9	10.5	10.3	10.2	7.3
8.00	8.0	7.5	7.1	6.9	6.8	6.8	4.9
8.25	4.5	4.2	4.1	4.0	3.9	4.0	2.9
8.50	2.6	2.4	2.3	2.3	2.3	2.4	1.91
8.75	1.47	1.40	1.37	1.38	1.42	1.52	1.18
9.00	0.86	0.83	0.83	0.86	0.91	1.01	0.82

*To convert these values to mg/liter N, multiply by 0.822.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the critierion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. The Agency acknowledges that the CCC stream flow averaging period used for steady-state wasteload allocation modelling may be as long a 30 days in situations involving POTWs designed to remove ammonia where limited variability of effluent pollutant concentration and resultant concentrations in receiving waters can be demonstrated.

In cases where low variability can be demonstrated, longer averaging periods for the ammonia CCC (e.g., 30-day averaging periods) would be acceptable because the magnitude and duration of exceedences above the CCC would be sufficiently limited. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

(2) 4-Day Average Concentrations for Ammonia [1]

pH	0 C	5 C	10 C	15 C	20 C	25 C	30 C
A. Salmonids or Other Sensitive Coldwater Species Present							
Un-ionized Ammonia (mg/liter NH_3)							
6.50	0.0035	0.0050	0.0070	0.010	0.014	0.014	0.014
6.75	0.0056	0.0080	0.012	0.016	0.023	0.023	0.023
7.00	0.0090	0.013	0.018	0.026	0.036	0.036	0.036
7.25	0.014	0.020	0.028	0.039	0.055	0.055	0.055
7.50	0.022	0.031	0.044	0.062	0.087	0.087	0.087
7.75	0.034	0.048	0.068	0.096	0.135	0.135	0.135
8.00	0.052	0.074	0.104	0.147	0.207	0.207	0.207
8.25	0.080	0.113	0.159	0.224	0.316	0.316	0.316
8.50	0.120	0.169	0.239	0.337	0.476	0.476	0.476
8.75	0.176	0.249	0.351	0.496	0.700	0.700	0.700
9.00	0.249	0.351	0.496	0.700	0.989	0.989	0.989
Total Ammonia (mg/liter NH_3)							
6.50	17.6	16.6	15.6	14.7	13.9	9.8	6.9
6.75	15.6	14.7	13.8	13.0	12.3	8.7	6.1
7.00	13.8	13.0	12.2	11.5	10.9	7.7	5.4
7.25	12.2	11.5	10.8	10.2	9.6	6.8	4.8
7.50	10.8	10.2	9.6	9.0	8.5	6.0	4.2
7.75	9.6	9.0	8.5	8.0	7.5	5.3	3.7
8.00	8.5	8.0	7.5	7.1	6.7	4.7	3.3
8.25	7.5	7.1	6.7	6.3	5.9	4.2	2.9
8.50	6.7	6.3	5.9	5.6	5.3	3.7	2.6
8.75	5.9	5.6	5.3	5.0	4.7	3.3	2.3
9.00	5.3	5.0	4.7	4.4	4.2	2.9	2.1
B. Salmonids and Other Sensitive Coldwater Species Absent							
Un-ionized Ammonia (mg/liter NH_3)							
6.50	0.0035	0.0050	0.0070	0.010	0.014	0.020	0.020
6.75	0.0056	0.0080	0.012	0.016	0.023	0.032	0.032
7.00	0.0090	0.013	0.018	0.026	0.036	0.051	0.051
7.25	0.014	0.020	0.028	0.039	0.055	0.077	0.077
7.50	0.022	0.031	0.044	0.062	0.087	0.123	0.123
7.75	0.034	0.048	0.068	0.096	0.135	0.191	0.191
8.00	0.052	0.074	0.104	0.147	0.207	0.293	0.293
8.25	0.080	0.113	0.159	0.224	0.316	0.446	0.446
8.50	0.120	0.169	0.239	0.337	0.476	0.671	0.671
8.75	0.176	0.249	0.351	0.496	0.700	0.989	0.989
9.00	0.249	0.351	0.496	0.700	0.989	1.40	1.40
Total Ammonia (mg/liter NH_3)							
6.50	16.9	15.9	15.0	14.1	13.3	9.4	6.6
6.75	15.0	14.1	13.2	12.5	11.8	8.3	5.9
7.00	13.2	12.5	11.7	11.0	10.4	7.4	5.2
7.25	11.7	11.0	10.4	9.8	9.2	6.5	4.6
7.50	10.4	9.8	9.2	8.7	8.2	5.8	4.1
7.75	9.2	8.7	8.2	7.7	7.2	5.1	3.6
8.00	8.2	7.7	7.2	6.8	6.4	4.5	3.2
8.25	7.2	6.8	6.4	6.0	5.7	4.0	2.8
8.50	6.4	6.0	5.7	5.4	5.1	3.6	2.5
8.75	5.7	5.4	5.1	4.8	4.5	3.2	2.2
9.00	5.1	4.8	4.5	4.2	4.0	2.8	2.0

[1] To convert these values to mg/liter N, multiply by 0.822.

The recommended exceedence frequency of three years in the Agency's

VOL 50 ISS 145 JL 29 1985 UMI

(2) 4-Day Average Concentrations for Ammonia [1]

pH	0 C	5 C	10 C	15 C	20 C	25 C	30 C
A. Salmonids or Other Sensitive Coldwater Species Present							
Un-ionized Ammonia (mg/liter NH_3)							
6.50	0.0007	0.0009	0.0013	0.0019	0.0019	0.0019	0.0019
6.75	0.0012	0.0017	0.0023	0.0033	0.0033	0.0033	0.0033
7.00	0.0021	0.0029	0.0042	0.0059	0.0059	0.0059	0.0059
7.25	0.0037	0.0052	0.0074	0.0105	0.0105	0.0105	0.0105
7.50	0.0066	0.0093	0.0132	0.0186	0.0186	0.0186	0.0186
7.75	0.0109	0.0153	0.022	0.031	0.031	0.031	0.031
8.00	0.0126	0.0177	0.025	0.035	0.033	0.035	0.035
8.25	0.0126	0.0177	0.025	0.035	0.035	0.035	0.035
8.50	0.0126	0.0177	0.025	0.035	0.035	0.035	0.035
8.75	0.0126	0.0177	0.025	0.035	0.035	0.035	0.035
9.00	0.0126	0.0177	0.025	0.035	0.035	0.035	0.035
Total Ammonia (mg/liter NH_3)							
6.50	2.5	2.4	2.2	2.2	1.49	1.04	0.73
6.75	2.5	2.4	2.2	2.2	1.49	1.04	0.73
7.00	2.5	2.4	2.2	2.2	1.49	1.04	0.74
7.25	2.5	2.4	2.2	2.2	1.50	1.04	0.74
7.50	2.5	2.4	2.2	2.2	1.50	1.05	0.74
7.75	2.3	2.2	2.1	2.0	1.40	0.99	0.71
8.00	1.53	1.44	1.37	1.33	0.93	0.86	0.47
8.25	0.87	0.82	0.78	0.76	0.54	0.39	0.28
8.50	0.49	0.47	0.45	0.44	0.32	0.23	0.17
8.75	0.28	0.27	0.26	0.27	0.19	0.15	0.11
9.00	0.16	0.16	0.16	0.16	0.13	0.10	0.06
B. Salmonds and Other Sensitive Coldwater Species Absent							
Un-ionized Ammonia (mg/liter NH_3)							
6.50	0.0007	0.0009	0.0013	0.0019	0.0026	0.0026	0.0026
6.75	0.0012	0.0017	0.0023	0.0033	0.0047	0.0047	0.0047
7.00	0.0021	0.0029	0.0042	0.0059	0.0083	0.0083	0.0083
7.25	0.0037	0.0052	0.0074	0.0105	0.0148	0.0148	0.0148
7.50	0.0066	0.0093	0.0132	0.0186	0.026	0.026	0.026
7.75	0.0109	0.0153	0.022	0.031	0.043	0.043	0.043
8.00	0.0126	0.0177	0.025	0.035	0.050	0.050	0.050
8.25	0.0126	0.0177	0.025	0.035	0.050	0.050	0.050
8.50	0.0126	0.0177	0.025	0.035	0.050	0.050	0.050
8.75	0.0126	0.0177	0.025	0.035	0.050	0.050	0.050
9.00	0.0126	0.0177	0.025	0.035	0.050	0.050	0.050
Total Ammonia (mg/liter NH_3)							
6.50	2.5	2.4	2.2	2.2	2.1	1.46	1.03
6.75	2.5	2.4	2.2	2.2	2.1	1.47	1.04
7.00	2.5	2.4	2.2	2.2	2.1	1.47	1.04
7.25	2.5	2.4	2.2	2.2	2.1	1.48	1.05
7.50	2.5	2.4	2.2	2.2	2.1	1.49	1.06
7.75	2.3	2.2	2.1	2.0	1.98	1.39	1.00
8.00	1.53	1.44	1.37	1.33	1.31	0.93	0.67
8.25	0.87	0.82	0.78	0.76	0.76	0.54	0.40
8.50	0.49	0.47	0.45	0.44	0.45	0.33	0.25
8.75	0.28	0.27	0.26	0.27	0.27	0.21	0.16
9.00	0.16	0.16	0.16	0.16	0.17	0.14	0.11

[1] To convert these values to mg/liter N, multiply by 0.822.
[2] Site-specific criteria development is strongly suggested at temperatures above 20°C because of the limited data available to generate the criteria recommendation, and at temperatures below 20°C because of the limited data and because small changes in the criteria may have significant impact on the level of treatment required in meeting the recommended criteria.

Saltwater Aquatic Life

Data available for saltwater species are insufficient to derive a criterion for saltwater.

2. Arsenic

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of arsenic(III) does not exceed 190 $\mu g/1$ more than once every three years on the average and if the one-hour average concentration does not exceed 360 $\mu g/1$ more than once every three years on the average.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to arsenic(III) exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

Not enough data are available to allow derivation of numerical national water quality criteria for freshwater aquatic life for inorganic arsenic(V) or any organic arsenic compound. Inorganic arsenic(V) is acutely toxic to freshwater aquatic animals at concentrations as low as 850 $\mu g/1$, and an acute-chronic ratio of 28 was obtained with the fathead minnow. Arsenic(V) affected freshwater aquatic plants at concentrations as low as 48 $\mu g/1$. Monosodium methanearsenate (MSMA) is acutely toxic to aquatic animals at concentrations as low as 1,900 $\mu g/1$ but no data are available concerning chronic toxicity to animals or toxicity to plants.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 ro 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of arsenic(III) does not exceed 36 $\mu g/1$ more than once every three years on the average and if the one-hour average concentration does not exceed 69 $\mu g/1$ more than once every three years on the average.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to arsenic(III) exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

Very few data are available concerning the toxicity of any form of arsenic other than inorganic arsenic(III) to saltwater aquatic life. The available data do show that inorganic arsenic(V) is acutely toxic to saltwater animals at concentrations as low as 2,319 $\mu g/1$ and affected some saltwater plants at 13 to 56 $\mu g/1$. No data are available concerning the chronic toxicity of any form of arsenic other than inorganic arsenic(III) to saltwater aquatic life.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steadystate models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

3. Cadmium

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration (in $\mu g/l$) of cadmium does not exceed the numerical value given by $e^{(0.7852[\ln(\text{hardness})]-2.490)}$ more than once every three years on the average and if the one-hour average concentration in ($\mu g/l$) does not exceed the numerical value given by $e^{(1.128[\ln(\text{hardness})]-3.828)}$ more than once every three years on the average. For example, at hardnesses of 50, 100 and 200 mg/l as $CaCo_3$ the four-day average concentrations of cadmium are 0.66, 1.1 and 2.0 $\mu g/l$, respectively, and the one-hour average concentrations are 1.8, 3.9 and 8.6 $\mu g/l$. If brook trout, brown trout, and striped bass are as sensitive as some of the data indicate they might not be protected by this criterion.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to cadmium exceeds the criteria. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Based Toxics Control (U.S. EPA, 1985).

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of cadmium does not exceed 9.3 $\mu g/L$ more than once every three years on the average and if the one-hour average concentration does not exceed 43 $\mu g/L$ more than once every three years on the average. The little information that is available concerning the sensitivity of the American lobster to cadmium indicates that this important species might not be protected by this criterion.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a

VOL 50 ISS 145 JL 29 1985 UMI

measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to cadmium exceeds the criteria. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxic Control (U.S. EPA, 1985).

4. Chlorine

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of total residual chlorine does not exceed 11 μg/1 more than once every three years on the average and if the one-hour average concentration does not exceed 19 μg/1 more than once every three years on the average.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to chlorine exceeds the criteria. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of chlorine-produced oxidants does not exceed 7.5 μg/1 more than once every three years on the average and if the one-hour average concentration does not exceed 13 μg/1 more than once every three years on the average.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to chlorine exceeds the criteria. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

5. Chromium

Freshwater Aquatic Life

Chromium (III). The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly when a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration (in μg/l) of chromium (III) does not exceed the numerical value given by $e^{(0.8190\ [\ln(\text{hardness})]+1.561)}$ more than once every three years on the average and if the one-hour average concentration (in μg/l) does not exceed the numerical value given by $e^{(0.8190\ [\ln(\text{hardness})]+3.688)}$ more than once every three years on the average. For example, at hardnesses of 50, 100, and 200 mg/1 as $CaCo_3$ the four-day average concentrations of chromium(III) are 120, 210, and 370 μg/l and the one-hour average concentrations are 980, 1,700, and 3,100 μg/l.

Chromium(VI). The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species in very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of chromium(VI) does not exceed 11 μg/l more than once every three years on the average and if the one-hour average concentration does not exceed 16 μg/l more than once every three years on the average.

EPA believes that the measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to chromium exceeds the criteria. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

Saltwater Aquatic Life

Chromium(III). No saltwater criterion can be derived for chromium(III), but 10,300 μg/l is the EC50 for eastern oyster embryos, whereas 50,400 μg/l did not affect a polychaete worm in a life-cycle test.

Chromium(VI). The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms should not be affected unacceptably if the four-day average concentration of chromium(VI) does not exceed 50 μg/L more than once every three years on the average, and if the one-hour average concentration does not exceed 1,100 μg/L more than once every three years on the average. Data suggest that the acute toxicity of chromium[VI] is salinity dependent; therefore, the one-hour average concentration may be underprotective at low salinities.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to chromium exceeds the criteria. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

6. Copper

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possible where a locally important species in very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration (in μg/l) of copper does not exceed the numerical value given by $e^{(0.8545[\ln(\text{hardness})]-1.465)}$ more than once every three years on the average and if the one-hour average concentration (in μg/l) does not exceed the numerical value given by $e^{(0.8422[\ln(\text{hardness})]-1.464)}$ than once every three years on the average. For example, at hardness of 50, 100, and 200 mg/l as $CaCO_3$ the four-day average concentrations of copper are 6.5, 12, and 21 μg/l respectively, and the one-hour average concentrations are 9.2, 18 and 34 μg/L.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to copper exceeds the criteria. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload

allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the one-hour average concentration of copper does not exceed 2.9 μg/l more than once every three years on the average.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to copper exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

7. Cyanide

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of cyanide does not exceed 5.2 μg/l more than once every three years on the average and if the one-hour average concentration does not exceed 22 μg/l more than once every three years on the average.

EPA believes that a measure such a free cyanide would provide a more scientifically correct basis upon which to establish criteria for cyanide. The criteria were developed on this basis. However, at this time, no EPA approved methods for free cyanide are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for free cyanide. Until available, however, EPA recommends applying the criteria using the total cyanide method. These criteria may be overly protective when based on the total cyanide method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which cyanide exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the one-hour average concentration of cyanide does not exceed 1.0 μg/L more than once three years on the average.

EPA believes that a measurement such as free cyanide would provide a more scientifically correct basis upon which to establish criteria for cyanide. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a method are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as free cyanide. Until available, however, EPA recommends applying the criteria using the total cyanide method. These criteria may be overly protective when based on the total cyanide method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to cyanide exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

8. Lead

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration (in μg/l) of lead does not exceed the numerical value given by $e^{(1.26[\ln(\text{hardness})]-4.661)}$ more than once every three years on the average and if the one-hour average concentration (in μg/l) does not exceed the numerical value given by $e^{(1.26[\ln(\text{hardness})]-1.41)}$ more than once every three years on the average. For example, at hardnesses of 50, 100, and 200 mg/l as $CaCO_3$ the 4-day average concentrations of lead are 1.3, 3.2, and 7.7 μg/l, respectively, and the one-hour average concentrations are 34, 83, and 200 μg/l.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as acid-soluble. Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method cannot distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to lead exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of lead does not exceed 5.6 μg/l more than once every three years on the average and if the one-hour average concentration does not exceed 140 μg/l more than once every three years on the average.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as acid-soluble. Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to lead exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

9. Mercury

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of mercury does not exceed 0.012 μg/l more than once every three years on the average and if the one-year average concentration does not exceed 2.4 μg/l more than once every three years on the average. If the four-day average concentration exceeds 0.012 μg/l more than once in a three year period, the edible portion of consumed species should be analyzed to determine whether the concentration of

methylmercury exceeds the FDA action level.

fifth percentile or 50 percent of a

toxicological data concerning the

toxicity based (whole effluent) approach

methylmercury exceeds the FDA action level.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to mercury exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of mercury does not exceed 0.025 µg/l more than once every three years on the average and if the one-hour average concentration does not exceed 2.1 µg/l more than once every three years on the average. If the four-day average concentration exceeds 0.025 µg/l more than once in a three-year period, the edible portion of consumed species should be analyzed to determine whether the concentration of methylmercury exceeds the FDA action level.

EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved methods for such a measurement are available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method does not distinguish between individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

The recommended exceedence frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed system to recover from a pollution event in which exposure to mercury exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resilience of ecosystems and their ability to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

The use of criteria in designing waste treatment facilities requires the selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other factors may make their use impractical, in which case one should rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for criterion maximum concentration (CMC) design flow and 7Q5 or 7Q10 for the criterion continuous concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality Based Toxics Control (U.S. EPA, 1985).

10. Summary of Revisions to "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses"

This revised version of the National Guidelines provides clarifications, additional details, technical and editorial changes from the guidelines published at 45 FR 79341–79347, November 28, 1980. These modifications are the result of comments received on the previous Guidelines and also reflect advances in aquatic toxicology and related fields. The major technical changes are:

1. The acute data required for freshwater animals has been changed to include more tests with invertebrate species.

2. The Final Acute Value is now defined in terms of Genus Mean Acute Values rather than Species Mean Acute Values previously defined. A Genus Mean Acute Value is the geometric mean of all the Species Mean Acute Values available for species in the genus. On the average, species within a genus are toxicologically much more similar than species in different genera, and so the use of Genus Mean Acute Values will prevent data sets from being biased by an overabundance of species in one or a few genera.

3. The Final Acute Value is now calculated using a method that is not subject to the bias encountered with the previous method.

4. The criterion now consists of two numbers—The criterion continuous concentration (CCC) and the criterion maximum concentration (CMC).

a. The criterion continuous concentration is now used as a four-day average, rather than as a 24-hour average.

b. The criterion maximum concentration is now used as a one hour average, rather than a "not-to-be-exceeded" value.

c. Neither of these values should be exceeded more than once every three years on the average.

d. Instead of being equal to the Final Acute Value, the criterion maximum concentration is now obtained by dividing the Final Acute Value by 2. The Final Acute Value is intended to protect 95 percent of a group of diverse species, unless an important species is more sensitive. However, a concentration that would severely harm 50 percent of the fifth percentile or 50 percent of a sensitive important species cannot be considered to be protective of that percentile or that species. Dividing the Final Acute Value by 2 is intended to result in a concentration that will not severely adversely affect too many of the organisms.

5. When available, 96-hour EC50, based on the percentage of organisms immobilized plus the percentage of organisms killed are used instead of 96-hour LC50, for fish; comparable EC50 values are used instead of LC50, for other species.

6. The requirements for using the results of tests with aquatic plants have been made more stringent.

Two appendices (Appendix 1 and 2) were added as part of the guidance. Appendix 1 was added to aid in determining whether a species should be considered resident in North America and its taxonomic classification. Appendix 2 provides guidance for calculating a Final Acute Value.

Appendix B—Response to Comments on "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses"

Introduction—Most "Comments" Listed Below Are Summaries of Individual Comments Which Expressed Similar Points of View

1. Comment—Criteria should only apply outside the mixing zone, not at the end of the pipe or within the mixing zone.

Response—EPA is issuing guidance on mixing zones in the Technical Support Document for Water Quality-based Toxics Control (Office of Water, 1985), hereafter referred to as the TSD. Because one of the two concentrations in each criterion is based on acute toxicity, it might be appropriate to use this concentration from a national or a site-specific criterion when establishing mixing zone standards.

2. Comment—Derivation of water quality criteria for the protection of aquatic organisms and their uses should adequately take into account such things as the precision and accuracy of available methods for measuring concentrations of pollutants, economic and social considerations, etc.

Response—These criteria are intended to be the best scientific judgment of exposures that can be tolerated by aquatic organisms and their uses. Other considerations can be used in the establishment of standards, permits, etc., where permitted by law. The criteria themselves must be based solely on biological, ecological, and toxicological data concerning the sensitivities of the organisms and their uses. Technological and economic feasibility are not considered in derivation of water quality criteria.

3. Comment—Laboratory data cannot replace experience in the real world.

Response—EPA certainly agrees. Unfortunately few field data are good enough to be useful in deriving national water quality criteria. It is more likely that field data can be used on a site-specific basis to demonstrate whether a criterion, standard, or permit is underprotective. However, in order for field data to be useful, the studies must be designed and executed appropriately. Too many field studies have limited utility because one or more important aspects were not dealt with in a manner that was appropriate to the specific situation of concern.

4. Comment—These Guidelines are incomplete because they do not include protection of human health.

Response—Water quality criteria can be derived to protect a variety of uses and subuses. These Guidelines are only intended to deal with protection of aquatic organisms and their uses. The Guidelines are intended to ensure that the use of aquatic organisms is not subject to restrictions because of exceedence of FDA action levels. Protection of human health is the subject of "Guidelines and Methodology Used in the Preparation of Health Effect Assessment Chapters of the Consent Decree Water Criteria Documents" (U.S. EPA, FR 45: 79347–79357, November 28, 1980).

5. Comment—EPA should provide implementation guidance concerning such things as mixing zones, wasteload allocation, and compliance monitoring.

Response—EPA is providing such guidance in the TSD.

6. Comment—The criteria do not adequately deal with fluctuating concentrations.

Response—EPA has examined the question of fluctuating concentrations and has revised the expression of the criteria to take into account the data that are available concerning relative effects caused by constant and fluctuating concentrations.

7. Comment—The Guidelines do not deal with simultaneous exposure to more than one pollutant.

Response—This is true and is because (a) few useful data are available, (b) the data that are available do not allow the development of useful principles, and (c) there are so many possible combinations of two or more pollutants and each can be present at a variety of concentrations. To deal with such situations, EPA has developed the toxicity based (whole effluent) approach described in the TSD.

8. Comment—EPA should develop warmwater and coldwater criteria, regional criteria, etc.

Response—EPA knows of no way to geographically subdivide aquatic species so that derivation of criteria for special circumstances would be worth the effort. Community composition changes gradually from area to area. Also, the distinction between warmwater and coldwater species is only reasonably useful because of all the coolwater species. Even the distinction between fresh water and salt water is vague because the waters and their respective fauna mix in upper estuaries. EPA does allow the derivation of site-specific criteria so that pertinent differences between waters, ecosystems, etc., can be appropriately taken into account.

9. Comment—All criteria issued in 1980 should be revised using the new Guidelines.

Response—EPA is selecting pollutants for which criteria should be derived using the new Guidelines. All the pollutants included in the Red Book and in the 1980 criteria documents, as well as other pollutants, are being considered. How many new or revised criteria are derived will depend on the availability of data and resources.

10. Comment—The criteria do not deal with the effects of pH, dissolved oxygen, dissolved solids, temperature, etc., on toxicity and bioaccumulation.

Response—If data are available to demonstrate that a criterion can be quantitatively related to such a factor, then the criterion should be related to that factor. Thus criteria for some metals are hardness-dependent and the criterion for ammonia is both pH and temperature-dependent. All criteria are subject to site-specific modification so that as many factors as desired can be appropriately taken into account.

11. Comment—Criteria do not deal with uptake from food.

Response—This is a potential weakness for all pollutants, but it is particularly of concern for those that are or could be limited by FDA action levels or effects on wildlife predators. When this is a potential problem for an existing discharge, the most pertinent information can be obtained by analyzing edible tissue of appropriate exposed species for the pollutant of concern.

12. Comment—EPA should make available its rationale for selecting pollutants for which criteria are to be derived.

Response—EPA is developing a

the effect was not considered to be a

for a new species will lower, rather than

particular distribution and allow the

33. Comment—Explain "socially

periods. Because of the way permit

VOL 50 ISS 145 JL 29 1985 UMI

Response—EPA is developing a process that appropriately takes into account factors relating to both exposure and effects in the selection of chemicals.

13. Comment—The available data are biased to a few families and toward northern and eastern species.

Response—Although EPA desires more data from tests with southern and western species, EPA knows of no reason to believe that such species would be more or less sensitive to specific pollutants or to pollutants in general. Some of the species for which data are available are widely distributed. The requirement that acute values be available for aquatic animals in at least eight different families ensures that there is a reasonable amount of diversity in the data set.

14. Comment—Use of Family Mean Acute Values will lower criteria.

Response—When EPA calculated the Final Acute Value (FAV) from Species Mean Acute Values, some commentors felt that EPA was allowing the criteria to be unfairly influenced because data were available for numerous species in some sensitive families. When EPA proposed to use Family Mean Acute Values, some commentors felt that EPA was inappropriately causing the criteria to be higher by reducing the number of MAVs available. EPA has decided to calculate the FAV from Genus Mean Acute Values because species within a genus appear to be toxicologically indistinguishable. This decision also reduces the impact of having data available for numerous species in the same family, but does not reduce the number of MAVs as much as would the use of Famly Mean Acute Values.

15. Comment—Alternative methods of calculating the FAV should be examined.

Response—EPA did consider all the potentially useful methods, and then studied in detail the methods that appeared promising. The method selected has several desirable properties, such as (1) the FAV generally rises as the number of MAVs increases, and (2) the FAV is rarely very far below the lowest MAV even when only eight or nine MAVs are available. The most serious defect is that calculation of confidence limits does not seem possible. On the other hand, methods that would allow calculation of the FAV and confidence limits have worse defects.

16. Comment—Elimination of some nonlethal endpoints from acute toxicity data was good.

Response—The oyster shell deposition test was eliminated because the effect was not considered to be a severe adverse effect.

17. Comment—Eight MAVs only provide a rough estimate of the fifth percentile.

Response—EPA certainly prefers more MAVs, but it was decided that the additional confidence in the FAV did not necessarily justify the additional cost, especially in the derivation of site-specific criteria. EPA's focus was on kinds of species as well as numbers, and eight is not enough if the breadth requirements are not satisfied.

18. Comment—Many productive streams in Colorado, Oregon, and Pennsylvania contain natural background concentrations above criteria for at least one metal.

Response—The productivity of some pristine bodies of water might be depressed if the background concentrations of some materials are too high. Assuming, however, that this is not the case for these streams in Colorado, Oregon, and Pennsylvania, it is likely that the reported metal concentrations are for total metal, which measures some forms of metals which are not toxic and are not likely to become toxic under natural conditions. EPA is interested in use of a measurement such as "acid-soluble" which should give a more accurate measurement of toxicologically available forms of metals.

19. Comment—EPA should define what it means by "fishable".

Response—EPA has expanded its explanation in the Introduction to the Guidelines of the concept of protection of aquatic organisms and their uses.

20. Comment—The preferred duration of acute tests with daphnids and midges should be 48 hours.

Response—EPA has changed its preference from 96 hours, which would require feeding during acute tests with most, if not all, daphnids and midges, to 48 hours with no feeding of the animals during the test.

21. Comment—The FAV is too dependent on the number of MAVs in the data set.

Response—EPA considers the general relationship between the FAV and the number of MAVs in the data set to be a positive feature of the procedure used to calculate the FAV. As more is known about the sensitivities of aquatic animals to the pollutant of concern, the FAV should be more often determined by interpolation rather than extrapolation. This is a property of the definition of the FAV as corresponding to the fifth percentile; any method used to estimate the concentration corresponding to the fifth percentile will have the same feature. An acute value for a new species will lower, rather than raise, the FAV if the new species is sensitive enough.

22. Comment—The FAV is biased because most tests are with sensitive species.

Response—The range of values available for some materials indicates that at least some tests are conducted with resistant species. In addition, occasionally a species that is usually considered sensitive is found to be resistant to a test material. Usually when more than twenty MAVs are available, the FAV is higher than the lowest MAV. On the other hand, the lowest MAV is sometimes for an important species such as the rainbow trout.

23. Comment—Use of Family Mean Acute Values increases the chances that some species will not be protected.

Response—The same comment applies to the use of Genus Mean Acute Values, but national criteria are not intended to protect all species. Even though Genus Mean Acute Values are used, the FAV is lowered to protect important species when necessary.

24. Comment—Only lethality should be accepted as an acute effect.

Response—Any severe adverse effect on fifty percent of the individuals in a population should be considered unacceptable to the species.

25. Comment—A statistically acceptable test for identifying outliers is needed.

Response—A very sensitive or very resistant species might be a statistical outlier, but not a toxicological outlier. Statistics can only identify data that are statistically inconsistent, based on the statistical test used, with the bulk of the data. Even samplying from a prepared normally distributed set of values will occasionally select a very extreme value. Statistical and toxicological comparisons can identify values that should be examined closely and possibly retested, but only rarely should a value be discarded just because it is a statistical outlier.

26. Comment—The FAV should be calculated using a method that properly weights all data points.

Response—The method used to calculate the FAV does use all of the data in the calculation of the cumulative probabilities. The four lowest MAVs and their cumulative probabilities are then used to estimate the FAV by interpolation or extrapolation because these MAVs provide the best information about the location of the fifth percentile. Parametric methods using all the MAVs make the FAV too dependent on the assumption of a particular distribution and allow the data for resistant species to have too much effect on the prediction on the location of the fifth percentile.

27. Comment—The factor of 2 should be justified.

Response—It is not reasonable to consider a genus at the fith percentile to be adequately protected if fifty percent of the individuals of that genus are killed or otherwise severely adversely affected. It is also unacceptable to consider that an important species is adequately protected if fifty percent of that species are killed or otherwise severely affected. Division of the FAV by a factor of two is intended to ensure that substantially less than fifty percent of the individuals are affected.

28. Comment—Data from static acute tests should not be used.

Response—Although data from flow-through tests in which the concentrations of test material were measured are preferable for all test materials and might be necessary for some highly volatile or rapidly hydrolyzed materials, static acute tests do provide useful data on many materials.

29. Comment—A species cannot be considered protected if its most sensitive life stage is not protected.

Response—EPA agrees and now specifies that when available data for a species indicate that one or more life stages are more sensitive than another life stage, only data for the sensitive life stage(s) should be used in the calculation of the Species of Mean Acute Value.

30. Comment—Ecologically important species should be specifically protected.

Response—EPA does not feel that the concept of "ecologically important species" has been well enough defined or supported for it to be used in the derivation of national water quality criteria. On a site-specific basis, it might be appropriate to use a broader concept of important species than what is used in the derivation of national criteria.

31. Comment—National criteria should not be lowered to protect important species.

Response—EPA feels that some species are so commercially or recreationally important that most people would want these species protected in most bodies of water in which they exist.

32. Comment—If a criterion is lowered to protect an important species, more data should be required on that species.

Response—Criteria are not usually lowered to protect an important species unless the tests with that species were flow-through and the concentrations of test materials were measured.

33. Comment—Explain "socially important species".

Response—This concept has been deleted from the Guidelines, but it was used to cover such things as rare and endangered species.

34. Comment—The chronic data should be divided into four categories (reproduction, growth, mortality, and other) and the most sensitive used to derive the criterion.

Response—A life-cycle test covers effects on all life stages. In addition, different effects might be most sensitive for different species.

35. Comment—The interchanging of acute-chronic ratios (ACRs) between fresh and salt water should be justified.

Response—If the data themselves do not justify it, the ACRs are not used together.

36. Comment—Use of an acute-chronic ratio to calculate a Final Chronic Equation was not mentioned.

Response—Division of a Final Acute Equation by an acute-chronic ratio will automatically result in a Final Chronic Equation. This has been added to the Guidelines.

37. Comment—Chronic tests with daphnids should not have to last at least 21 days.

Response—EPA does not feel that the available data justify the acceptance of shorter tests for all test materials.

38. Comment—The Final Acute-Chronic Ratio should never be arbitrarily set at 2.0.

Response—EPA feels that it is appropriate in two situations to set the Final Acute-Chronic Ratio equal to the same number that is used to obtain the Criterion Maximum Concentration from the Final Acute Value. At present this number is 2. EPA feels that in both of these situations it is appropriate for the Final Chronic Value to be equal to the Criterion Maximum Concentration, and setting the Final Acute-Chronic Ratio equal to 2 is a convenient way to achieve this.

39. Comment—Acute-chronic ratios should not be applied to acute data obtained with larval invertebrates.

Response—This is one of the situations in which EPA feels it is appropriate to use an acute-chronic ratio of 2. The EC50 certainly cannot be considered an acceptable concentration for the species, but use of a ratio greater than 2 is probably not appropriate when the lower acute values were from tests with larval invertebrates.

40. Comment—A 30-day averaging period is more compatible with NPDES permits and the duration of chronic tests than a 24-hour averaging period.

Response—EPA has reexamined the issue of the durations of the averaging periods. Because of the way permit limits are derived, the duration of the averaging period in criteria is totally independent of any duration in a permit. And because organisms are usually exposed to nearly constant concentrations in laboratory tests and to fluctuating concentrations in the real world, the duration of the averaging period in criteria should be shorter than the duration of the test. The rationale for the selection of averaging periods for criteria is presented in the Introduction to the Guidelines. An explanation of the use of criteria in wasteload allocation, etc., is presented in the TSD.

41. Comment—Only published data should be used.

Response—EPA feels that all available data that are acceptable and pertinent should be used. On the other hand, EPA feels that it has a responsibility to make available all data that are used, and so it will not use any "privileged" data.

42. Comment—Is the percent lipid value being changed from 3 to 10 or 11?

Response—The value of 3 was used in the human health sections of the 1980 criteria documents, but was not used to derive water quality criteria for aquatic life. The values of 10 and 11 percent are based on newer data and are now used in place of the previous values of 15 and 16 percent in deriving water quality criteria for the protection of aquatic organisms and their uses.

43. Comment—"Other data" should only be used for deriving site-specific criteria.

Response—EPA feels that "other data" can be used in deriving national criteria under the circumstances specified.

44. Comment—More allowance should be made for deviations from the Guidelines when deriving criteria.

Response—The purpose of developing the Guidelines will be defeated if they are too flexible. EPA has presented as many options as it feels are desirable in the Guidelines. Further, it is stated in the Guidelines that, if the derived criterion is not consistent with sound scientific evidence, either a higher or a lower criterion should be derived using appropriate modifications of the Guidelines.

45. Comment—Better use should be made of field data.

Response—The Guidelines do allow the use of field data, but EPA does not know what guidance can be given concerning their use, nor does EPA see the need for such guidance.

46. Comment—Criteria should be based on the form of the chemical that is biologically available.

VOL 50 ISS 145 JL 29 1985 UMI

Response—This concept is certainly appealing, but the practical difficulties are substantial. For some pollutants such as cooper and mercury, it appears that more than one form is toxic and either the toxic forms have different toxicities or the toxic forms have different net accumulation rates. In addition, it is probably important to measure not only what is immediately biologically available, but also what can be readily converted from an unavailable to an available form. This is especially important because the measurement used to specify the criterion might also be used to measure the pollutant in effluents.

47. Comment—The Guidelines do not provide justification for many items.

Response—More explanatory material has been added, especially in the Introduction. However, a thorough justification of each item would require a consideration of nearly all aspects of aquatic toxicology. As a compromise, EPA has assumed that most users of the Guidelines have a reasonable background in aquatic toxicology.

48. Comment—Why is covariance analysis better for calculating a hardness slope?

Response—Covariance analysis weights the data for each species according to the data that are available for that species. The approximate manual procedure was only given to aid those people who do not have access to computerized statistical procedures. It has been found, however, that the results produced by the two methods sometimes do not agree very well, and that the manual version of covariance analysis is not too difficult for small data sets. Thus the approximate manual procedure has now been replaced by the manual version of covariance analysis. It is instructive to work through the manual version once in order to understand how covariance analysis handles the data in this situation.

49. Comment—The steady-state BCF should not be replaced by a higher value.

Response—This has been eliminated from the Guidelines because (a) it will probably be rarely observed in bioconcentration tests and if it is there will probably not be enough data available to determine whether it is real or is experimental error, and (b) the most likely cause is induced degradation or depuration, and organisms in the field will usually be exposed often enough that such induction will usually have taken place.

50. Comment—Derivation of criteria is too subjective.

Response—EPA has made the Guidelines as "cookbookish" as is technically acceptable. Unfortunately, aquatic toxicology is too complicated to allow simplistic answers to very many problems. The ranges of pollutants, species, and waters are so great that detailed instructions are often not valid for all situations.

51. Comment—Very few bodies of water are monitored more than once a month.

Response—Because of the way criteria are used, the important time to monitor bodies of water is during the critical condition that is the basis for the permit. The most common type of monitoring is compliance monitoring of an effluent, which is based directly on wasteland allocation considerations, and only indirectly on water quality criteria.

52. Comment—Protection of ninety-five percent of the species might not be enough.

Response—This is why EPA sometimes lowers criteria to protect important species.

53. Comment—EPA should not use whatever data are available if acceptable data are not available.

Response—EPA does not feel that the Guidelines allow the use of any unacceptable data.

54. Comment—The Guidelines are so conservative that national criteria will be met almost nowhere and site-specific criteria will have to be developed.

Response—As explained in the Introduction to the Guidelines, EPA feels that national criteria must be derived using a rationale that is reasonably conservative. The Guidelines do not try to protect all species at all times and places. If national criteria were derived to be less protective, any given site-specific criterion would have, for example, a 50–50 chance of being higher or lower, which is not really very useful information.

55. Comment—The Guidelines should not allow saltwater criteria for metals to be higher than the concentrations in the oceans.

Response—EPA feels that increasing the concentrations of metals above background concentrations will not necessarily cause unacceptable effects. On the other hand, in some places background concentrations might be high enough to cause unacceptable effects.

56. Comment—Only EPA analytical methods should be used in the specification of criteria.

Response—It would certainly be desirable to be able to deal with all problems in a timely manner so that EPA would not have to face the question of "Which should come first—the criteria or the EPA analytical method?" Those who establish EPA analytical methods need to know what methods are needed and how sensitive the methods should be. On the other hand, those who derive criteria are often told that the existing EPA methods do not measure the right forms or are not sensitive enough. Because criteria are meant to be based on the best available information and are not themselves enforceable, it does not seem necessary for water quality criteria to be restricted to the use of EPA analytical methods.

Specifically concerning metals, EPA believes that a measurement such as "acid-soluble" would provide a more scientifically correct basis upon which to establish criteria for metals. The criteria were developed on this basis. However, at this time, no EPA approved method for such a measurement is available to implement the criteria through the regulatory programs of the Agency and the States. The Agency is considering development and approval of methods for a measurement such as "acid-soluble". Until available, however, EPA recommends applying the criteria using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be analyzed directly because the total recoverable method cannot distinguish individual oxidation states, and (2) these criteria may be overly protective when based on the total recoverable method.

57. Comment—The Guidelines lack a consideration of the differences between the laboratory and natural environments.

Response—Some people argue that organisms are more sensitive in the laboratory than in the field and some argue the opposite. In spite of these and other arguments that criteria derived using these Guidelines are either always overprotective or always underprotective or sometimes one and sometimes the other, few direct data are available. The studies that have been conducted seem to indicate that the Guidelines are generally appropriate.

[FR Doc. 85–17886 Filed 7–26–85; 8:45 am]
BILLING CODE 6560–50–M

federal register

Monday
July 29, 1985

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 71 and 75

Controlled Airspace Designations in International Airspace; Advance Notice of Proposed Rulemaking

VOL 50 ISS 145 JL 29 1985 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 75

[Docket No. 24732, Notice No. 85-15]

Controlled Airspace Designations in International Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This announces the FAA's intentions to consider adopting certain recommendations of the National Airspace Review (NAR) which are designed to: (1) Establish a uniform base altitude for FAA designations of controlled airspace in international airspace; (2) create a new designator for FAA airspace designations in international airspace; and (3) limit the naming of international airspace designations to proper names that can be readily identified on aeronautical charts and easily understood by pilots. The FAA also has issued an ANPRM (Notice No. 85-5) which addresses the classification of all airspace designations and which, if adopted, would impact these recommendations.

DATE: Comments must be received on or before October 28, 1985.

ADDRESSES: Comments may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 24732, 800 Indpendence Avenue SW., Washington, D.C., 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Davis, Airspace and Air Traffic Rules Branch, Air Traffic Operations Service, Office of the Associate Administrator for Air Traffic, Federal Aviation Administration, 800 Indpendence Avenue SW., Washington, D.C. 20591, telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION

Comments Invited

This ANPRM is being issued in accordance with the FAA's policy of encouraging the early public participation in rulemaking proceedings. An ANPRM is issued when FAA finds there is a need to consider rulemaking but the resources of the FAA and reasonable outside inquiry do not yield a sufficient basis to propose a specific course of action. It would be helpful, therefore, to invite public participation in identifying and selecting a course of action before a Notice of Proposed Rulemaking (NPRM) is developed and issued.

Interested persons are invited to participate in these preliminary rulemaking procedures by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice, must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 24732." The postcard will be date/time stamped and returned to the commenter. The proposals contained in this noticed may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. If it is determined to be in the public interest to proceed with further rulemaking after considering the available data and comments received in response to this advance notice, and NPRM will be issued.

Availability of ANPRM's

Any person may obtain a copy of this ANPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Background

On April 22, 1982, the NAR plan was published in the **Federal Register** (47 FR 17448). The plan encompasses a review of airspace use and the procedural aspects of the air traffic control (ATC) system. Organizations participating in the NAR task group include:

Federal Aviation Administration
Department of Defense
Air Line Pilots Association
Air Transport Association
National Business Aircraft Association
National Association of State Aviation Officials
Regional Airline Association
Aircraft Owners and Pilots Association
Experimental Aircraft Association
Helicopter Association International.

The three main objectives of the NAR are:

(1) To develop and incorporate into the air traffic system a more efficient relationship between traffic flows, airspace allocation, and system capacity. This will involve the use of improved air traffic flow management to maximize system capacity and improved airspace management.

(2) To review and eliminate, wherever possible, governmental restraints to system efficiency levied by Federal Aviation Regulations (FAR) and FAA directives—reducing complexity and simplifying the ATC system.

(3) To revalidate ATC services within the National Airspace System with respect to state-of-the-art and future technological improvements.

In concert with these objectives, Task Group 3-2.1 was assigned to examine the "offshore" airspace designation process and FAA procedures for such designations to determine if these processes could be simplified and made more understandable to the public.

The Current Situation

The FAA, through Order 7110.83, defines "offshore" airspace as that airspace between the U.S. territorial limits (3 miles from the shoreline) and an oceanic Flight Information Region/Control Area (CTA/FIR) boundary. Offshore airspace, and airspace within a CTA/FIR, is airspace for which a contracting state (nation) has accepted responsibility to provide ATC services through regional air navigational agreements approved by the Council of the International Civil Aviation Organization (ICAO). The type and extent of air traffic separation services provided within these airspace areas is predicated on the availability of, or lack of, accurate ground-based navigational aids and/or radar coverage. Theoretically, as technology advances, creating improved and expanded radar or ground-based navigational aid coverage, the FIR/CTA inner boundary would be moved outward resulting in an increase in the volume of offshore airspace.

Air traffic separation service provided by the U.S. in offshore controlled airspace is the same as that provided within the territorial limits of the U.S. (these services are called domestic procedures). This is provided for under Annex 11 to the Convention On International Civil Aviation; and facilitated by the existence of ground-based accurate navigational aid and/or radar coverage. Air traffic separation service provided by the U.S. within an Oceanic FIR/CTA (these services are called oceanic procedures) does not utilize airspace as efficiently as that provided in domestic or offshore airspace because of the absence of adequate ground-based navigational aids or radar coverage.

Since the U.S. provides domestic ATC services only within designated controlled airspace, the FAA must establish controlled airspace by regulation in offshore airspace in order to extend domestic ATC services offshore. Controlled airspace within offshore airspace is established in several ways. For example, the proximity of an airport, for which a terminal control area, control zone, or transition area is desired, can create a situation in which that area may penetrate offshore airspace. To facilitate continuity in airway navigation in offshore airspace, Federal airways, area high routes, area low routes, or jet routes are established. Where radar coverage is adequate and where ATC can facilitate random route navigation in offshore airspace, additional control areas are established. All of the above airspace designations are accomplished under the provisions of Part 71 or Part 75. Control area extensions may also be established in offshore airspace, under Part 71; at this time, however, none are in existence.

Task Group 3-2.1 Recommendations.

The task group sustained the need for the current airspace system, but with reservations. With regard to the methodology and terminology associated with offshore airspace establishment, the group was of the opinion that much confusion prevailed. They said that the designation of routes and areas of controlled airspace under the same generic name, regardless of whether in domestic or international airspace is especially confusing. To some degree, the FAA recognizes the potential for confusion in the airspace designators "control area" and "additional control area." FAA, in its procedures for handling airspace matters (Order 7400.2, Procedures for Handling Airspace Matters), uses the term "offshore control areas" to differentiate between domestic and international airspace designations.

The group believes that the term "offshore" has evolved as applicable to international airspace within the inner CTA/FIR boundary and that it should be formally adopted in both the regulatory and procedural aspects of this subject. The group also believes that for the purposes of simplification and standardization, a uniform base to offshore control areas should be adopted. This conclusion is based on the existence of more than 50 additional control areas with base altitudes ranging from 700 feet above ground level to altitudes above 10,000 feet mean sea level. The following recommendations summarize the task group's efforts to standardize and simplify airspace designation activity in international airspace:

NAR 3-2.1.1 Offshore Airspace Nomenclature

NAR Task Group 3-2.1 recommends that FAR 71, FAAH 7400.2, and the appropriate regulations and publications, be amended to adopt the term "Offshore Control Areas" to apply to that controlled airspace between the U.S. territorial limits (3 NM) and the CTA/FIR boundary which is not designated under any of the various terminal airspace designations, i.e., control zone, transition area, terminal control area, etc. This airspace is currently designated as "Additional Control Areas."

NAR 3-2.1.2 Offshore Control Area Uniform Base

NAR Task Group 3-2.1 recommends that "Offshore Control Areas" have a uniform base of 1200 feet AGL unless otherwise designated.

NAR 3-2.1.3 Offshore Control Area Identification

NAR Task Group 3-2.1 recommends that "Offshore Control Areas" be identified only as named areas, such as the current North Atlantic, Santa Barbara, Gulf of Alaska, etc., and that the current numbered areas such as Control 1142, Control 1154, Control 1217, etc., be included under the named designations if necessary to retain their airspace and otherwise provide for their function as a route.

NAR 3-2.1.4 Offshore Airspace Classification

NAR Task Group 3-2.1 recommends that the airspace classification (A, B, C, D, etc.) specified in the recommendations to TG 1-7 be applied as appropriate to "Offshore Control Areas"."

Discussion of the NAR Recommendations of the Proposal

The FAA believes there is merit in the task group's recommendations concerning airspace designations in international airspace and is providing advance notice proposing those recommendations. Recognizing the effects on existing rules, aeronautical charts, publications, and other material relating to aviation, the FAA solicits comments from all interested parties, on all aspects of the proposal. Any comments received will be given full consideration prior to any future action on this proposal.

The FAA's proposed actions, with regard to the task group's recommendations, are set forth below.

1. There would be no change in the regulation or process of designating Federal airways, area low routes, control zones, transition areas, and terminal control areas.

2. Part 71, Subpart E, presently entitled, "Control Areas and Control Area Extensions," would be modified and retitled, "Domestic Control Areas." Revised Subpart E would provide only for designating additional control areas over the U.S. The provisions for designating control area extensions and control areas associated with jet routes outside the continental control area would be deleted.

3. The provisions in Part 75, Subpart A, for designating control areas for area high routes in international airspace (Section 75.13(b)) would be deleted.

4. A new Subpart L would be added to Part 71, entitled, "Offshore Control Areas." The new subpart would provide specifically for the designation of the East Coast, West Coast, Gulf Coast, Alaskan, Caribbean, and Hawaiian Offshore Control Areas, and also would provide for the designation of offshore control areas which would include the areas now classified as additional control areas, control areas associated with jet routes outside the continental control area, and control area extentions.

5. Part 71, Subpart A, would be amended to include the definition of an offshore control area as follows:

The offshore control areas listed in Subpart L consist of controlled airspace outside the continental control area, excluding any airspace designated as an Oceanic Control Area under the provisions of the International Civil Aviation Organization (ICAO), extending upward from 1,200 feet or more above the surface of the earth, and within which the United States has accepted responsibility, under ICAO regional agreements, for applying air traffic control in the manner that is applied in the United States.

Economic Concerns and Questions

An important consideration in the FAA regulatory process is the

VOL 50 ISS 145 JL 29 1985 UMI

examination of the benefits and costs of rulemaking actions.

The FAA is unable to assess fully the costs and benefits of this proposal on the basis of existing information to the extent necessary to complete a regulatory evaluation. However, any regulatory proposal will be accompanied by an evaluation which will qualify or quantify, to the extent possible, the benefits and costs of such proposals. Therefore, it is essential that comments for or against the proposals discussed here are accompanied by statements of the economic impacts perceived by the commenter.

FAA specifically solicits comments from individuals, corporate entities, and organizations on the economic benefits and costs of the proposed regulations.

With this in mind, the FAA poses several questions:

1. What are the benefits associated with simplified and standard airspace terms and designations?

2. What are the incremental costs imposed on aviation training facilities, fixed-based operators, publishers of aviation textbooks and navigation charts?

3. What are the cost impacts on pilots and other aviation-related personnel who must reeducate themselves with the new airspace terms and designations?

4. Is the proposed rule believed to have a significant negative economic impact on small business, nonprofit organizations, or governmental jurisdictions? If so, what are the types and sizes of the entities affected? Also, what is the nature and magnitude of the negative economic impact?

5. How should these recommendations, if adopted, be reflected on aeronautical charts?

Responses to these questions should fully address the nature of the impact and the groups or types of operators, businesses, or entities that are impacted. Commenters should describe and quantify the specific benefits and costs supported by factual data to the extent possible, or explain why costs are not quantifiable. Commenters should also provide the rationale for their opinions, which might include information pertaining to type of operation and typical aviation practices, or publication practices. The FAA will examine separately the costs imposed on the Federal Government (e.g. reeducation and training).

The benefit and cost questions outlined above cover the broad areas of the ANPRM. The FAA desires comments pertaining to these areas of impact and other areas which the commenter feels may be of impact. The FAA invites particularly interested groups to gather the preferences, ideas, and comments of their group members, through such devices as articles in membership publications and polls of their membership.

The FAA has determined that this proposal is considered nonsignificant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A full regulatory evaluation will be prepared with the assistance of comments received as a result of this advance notice, if necessary, in conjunction with any notice of proposed rulemaking that may be issued on this subject.

List of Subjects

14 CFR Part 71

Control zones, Transition areas, Terminal control areas, VOR Federal airways, Colored federal airways, Control areas, Continental control areas, Area low routes, Area high routes.

14 CFR Part 75

Jet routes.

(49 U.S.C. 1348, 1353, and 1421); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Issued in Washington, D.C., on May 15, 1985.

Daniel F. Creedon,

Acting Director, Air Traffic Operations Service.

[FR Doc. 85-17937 Filed 7-26-85; 8:45 am]

BILLING CODE 4910-13-M

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Federal Register

Vol. 50, No. 145

Monday, July 29, 1985

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General information, index, and finding aids	523-5227
Public inspection desk	523-5215
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Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

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Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
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United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212	1
27213-27408	2
27409-27570	3
27571-27812	5
27813-27926	8
27927-28092	9
28093-28190	10
28191-28362	11
28363-28554	12
28555-28756	15
28757-28894	16
28895-29202	17
29203-29366	18
29367-29628	19
29629-29934	22
29935-30126	23
30127-30260	24
30261-30410	25
30411-30692	26
30693-30800	29

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305 28363

3 CFR

Administrative Orders:

Memorandums:

July 17, 1985 29631

Presidential Determinations:

No. 85-16 of July 12, 1985 29629

Executive Orders:

11888 (Amended by EO 12524) 27409

12470 (Revoked by EO12525) 28757

12523 26963

12524 27409

12525 28757

12526 29203

Proclamations:

5356 26961

5357 29935

5358 30127

5 CFR

630 29937

771 26965

1201 28895

Proposed Rules:

532 ..... 28583, 28584

7 CFR

Ch. IV 27927

2 ..... 29367, 30411

6 30261

52 ..... 26965, 29635

54 27571

226 26972

301 28366

400 26976

402 28367

800 30129

908 ..... 27411, 27928, 28898, 30262

910 ..... 27813, 28372, 28555, 29628

911 28373

915 ..... 28373, 28556

916 ..... 27813, 28373

917 ..... 27813, 28373

918 28373

921 ..... 27411, 28373

922 28373

923 28373

924 28373

930 ..... 27213, 28373

944 28556

967 28373

979 26976

981 30263

985 28373

991 ..... 26977, 27814

1040 27412

1136 29637

1205 30131

1421 29639

1427 28978

1435 27413

1941 27414

1944 27415

1945 ..... 27414, 27416

3015 28759

Proposed Rules:

Ch. IV 27971

Ch. X 27003

29 27288

51 ..... 27004, 30199, 30429

417 27601

800 ..... 28104, 29985

801 29989

802 29989

907 29405

908 29405

910 28105

920 27288

926 30489

944 30489

967 28210

989 30200

999 28585

1032 30203

1036 30204

1050 30203

1124 27972

1240 28404

1427 29993

1540 30716

1930 28782

1944 ..... 28782, 30429

1965 28782

8 CFR

238 29641

287 30133

316a 27816

Proposed Rules:

103 27289

341 28586

343a 28587

9 CFR

75 30412

78 29989

91 ..... 27928, 29205

92 ..... 27926, 28557, 30413

94 ..... 28560, 29990

166 30414

318 ..... 27573, 28374

327 30264

Proposed Rules:

94 27973

10 CFR

9 27214

50.....29937
60.....29641
140.....30415
Proposed Rules:
2.....30446
30.....30616
31.....30616
32.....30616
35.....30616
40.....30616
50.....27006, 28815
440.....29620
904.....30447

11 CFR
Proposed Rules:
110.....29232

12 CFR
403.....27215
611.....27930
617.....27931
723.....27417
Proposed Rules:
561.....27290, 28588, 29985
563.....27290, 28588, 29985
571.....27290, 28588

13 CFR
121.....27418
302.....27419
Proposed Rules:
107.....29532
108.....27754

14 CFR
21.....29945
39.....26979, 27575, 27576, 27931–27933, 28093, 28094, 28561–28563, 28766, 29648–29651, 30264, 30418, 30417, 30693
71.....26980, 27934, 28564, 28565, 28900–28902, 30134, 30265, 30418, 30694
97.....27934, 29653
108.....27924, 28884
121.....29306
135.....29306
Proposed Rules:
25.....30447
39.....27009, 27012, 27601, 27602, 28815, 29694, 29988, 30448, 30449
71.....27013, 27014, 27528, 28588–28591, 28816, 28950, 29407, 30206, 30276, 30798
75.....27014, 30798
91.....28950, 30124
121.....30447

15 CFR
8a.....30418
19.....27577
90.....28767
368–399 (See EO 12525).....28757, 29205
370.....29205
378.....27420, 29205
378.....29205
385.....29205
386.....29205
399.....27420
Proposed Rules:
303.....29232
911.....28816

16 CFR
3.....26095
4.....26095
13.....26981, 27578, 28374, 28902
453.....28062, 28081
703.....27936
Proposed Rules:
13.....28592, 28951, 29696, 29699, 30717

17 CFR
1.....30135, 30140
3.....28907
200.....28385, 29368, 30266
239.....27937
240.....27937, 27940, 28385
249.....27937, 29948
270.....27937, 28930
274.....27937, 29368
275.....29206
288.....26981, 27947
Proposed Rules:
16.....30450
17.....30450
18.....30450
210.....27973, 28953, 29409
229.....29409
230.....28404
239.....29409
240.....27829, 27976, 27981, 28106, 28210, 28219, 28404, 29409
250.....27981
259.....27981
270.....27982, 29409

18 CFR
37.....29655, 30141
154.....30141, 30695
157.....27818
270.....30695
271.....30695
273.....30695
389.....27818
Proposed Rules:
2.....28954
35.....27604
37.....30207
154.....28954
157.....28954
161.....28954
271.....28221
284.....28954
290.....27604

19 CFR
4.....26981, 29949
10.....29949
12.....27947
19.....29949
24.....29949
103.....29949
113.....29949
134.....29949
141.....29949
142.....27816
143.....29949
145.....29949
148.....29949
152.....29949
162.....29949
171.....29949
173.....29949
178.....27947
191.....29949
Proposed Rules
6.....30455
122.....30455
162.....27829
177.....27831

20 CFR
200.....27222, 29957
401.....28565, 30144
422.....28565
626.....27818
627.....27818
628.....27818
629.....27818
630.....27818
Proposed Rules:
404.....27615, 29435
416.....27615, 29435
674.....29606

21 CFR
5.....30696
25.....30267
74.....30697
101.....26984
173.....29208
176.....29657, 30144
177.....30144–30146
178.....30147, 30148
179.....29656
182.....30149
184.....30149
436.....29209
510.....28395
520.....27818, 28768
522.....30267
524.....30152
556.....30267
558.....27421, 27422, 28768, 28931, 28932
801.....30153
808.....30698
812.....28932
1308.....28098, 28395
Proposed Rules:
Ch. 1, Subchapter C.....28594
2.....30210
81.....29702
109.....29233
110.....29233
146.....29702
170.....27294, 29235
201.....27016, 29702
211.....27016, 29702
225.....29233
226.....29233
357.....27552, 28595
433.....29702
449.....30478
500.....29233
509.....29233
514.....27016, 29702
559.....27016, 29702
561.....27452, 30277
610.....28595
660.....28595
680.....30211
882.....30277
1002.....27024, 29704

22 CFR
501.....27422
1502.....28932
1504.....28934

23 CFR
825.....29209
1325.....28191

24 CFR
200.....28197
201.....30154
203.....28197, 30154
234.....30154
885.....28197
899.....30423
3282.....28396

25 CFR
Proposed Rules:
20.....30688
61.....27456

26 CFR
1.....27222, 27231, 27427, 29369–29378, 29959, 30160
31.....29964
48.....29959
138.....29959
602.....27222, 27231, 29369, 29378, 29959, 29964, 30160
Proposed Rules:
1.....27297, 27456, 27457, 28409, 29435, 29436
31.....29990
51.....27621
602.....29436

27 CFR
4.....27819
9.....29967
170.....28572
Proposed Rules:
9.....28409

28 CFR
0.....28769
2.....28101
18.....28199
32.....27428
Proposed Rules:
30.....28955

29 CFR
70.....28306
1620.....30699
1952.....27233, 28770, 29210, 29659
Proposed Rules:
33.....27296, 28956
89.....29606
1910.....27307

30 CFR
700.....28186
701.....28186
785.....28186
827.....28186
901.....29379
902.....28592
943.....28186
948.....28316, 28324
Proposed Rules:
56.....27566
57.....27566, 29437
700.....28180
701.....28180
762.....30408
785.....28180
817.....27910
827.....28180
887.....30402

913.....27025
917.....28222, 29235
920.....30720
926.....29235
934.....30721
935.....29437, 29438
936.....27461
944.....28107, 30723
948.....26343, 30724
950.....28595, 29438, 29704, 30282

31 CFR
4.....29221
51.....26987
103.....27821
500.....27435
505.....27435
515.....27435
520.....27435
535.....27435
540.....27435

32 CFR
Parts 1–39.....26987
199.....26988
642.....28573
657.....28573
706.....28398–28400
726.....28401
Proposed Rules:
806b.....30283

33 CFR
100.....27579, 28573, 29221–29223, 30268, 30700–30702
110.....26988, 27580, 29224, 30268
117.....26989, 27582, 29670–29672, 30268, 30269
150.....26989
165.....27583, 29225, 30702
166.....26989
Proposed Rules:
110.....27622, 27623, 28596
117.....27026, 27029, 27624, 27832, 27990, 27991, 29236, 30284, 30285
322.....30479
325.....30479

34 CFR
19.....28101
75.....29328
76.....29328
304.....29328
425.....29352
426.....29352
431.....29352
432.....29352
Proposed Rules:
369.....28412
376.....28412
668.....30674

35 CFR
101.....26990
103.....26990
121.....26990

36 CFR
254.....29673
1200.....27196
1202.....27196
1228.....27951
1250.....27196

37 CFR
201.....30169
202.....30169
Proposed Rules:
1.....27030, 28596

38 CFR
1.....29226
3.....27584
21.....27825, 29674
Proposed Rules:
3.....28224
17.....29990
36.....27833

39 CFR
3.....29380
10.....27827
601.....28941
3001.....28144, 30271
Proposed Rules:
111.....27992
3001.....27308

40 CFR
51.....27892
52.....26991, 27244–27247, 28544, 29229, 29381, 29383
60.....27248
61.....27248
81.....28574, 30704
88.....27250, 29384
123.....28202
147.....28941, 28942
158.....28943
162.....28943
180.....28944–28946, 30172
260.....28702
261.....28702, 30271
262.....28702
264.....28702
265.....28702
266.....28702
270.....28702
271.....28702
280.....28702
419.....28518
600.....27172
761.....29170
763.....28530, 30423
799.....30423
Proposed Rules:
52.....27030, 27462, 28224, 28415, 28596, 28598, 28818, 29237, 29439
86.....28818
180.....27463, 28106, 28956, 28957, 30481
202.....27321
205.....27321
260.....29992
262.....29992
264.....29992
265.....29992
270.....29992
403.....29705
414.....29068
416.....29068
600.....27188
798.....30213
799.....30213

41 CFR
Chs. 1–49.....26987
101–4.....28402
101–17.....28577
101–40.....27951
101–41.....30705, 30710
101–47.....28402
105–54.....28203
105–63.....26992
201–1.....27142
201–2.....27142, 28208
201–8.....27142
201–11.....27142
201–16.....27142
201–20.....27142
201–21.....27142
201–22.....28208
201–23.....27142
201–24.....27142
201–28.....27142
201–30.....27142, 28208
201–31.....27142, 28208
201–32.....27142, 28208
201–38.....27142
201–39.....27142, 28208
201–40.....27142, 28208
201–45.....28208
Proposed Rules:
101–41.....27625, 27626

42 CFR
400.....28577
405.....27722, 30172
412.....27208, 27722, 30172
416.....28577
435.....28577
Proposed Rules:
23.....27465
405.....27469
412.....27469

43 CFR
2.....29230
5470.....28947
Public Land Orders:
5150 (Revoked in part by PLO 6607).....27827
5179 (Revoked in part by PLO 6607).....27827
5180 (Revoked in part by PLO 6607).....27827
5186 (Revoked in part by PLO 6607).....27827
6389 (Corrected by PLO 6608).....28208
6607.....27827
6608.....28208
Proposed Rules:
2800.....27322
5400.....29324
5440.....29324

44 CFR
5.....30711
6.....30711
64.....26993, 26994, 28947
67.....30173
Proposed Rules:
67.....27322, 29992
302.....27627, 28959, 30481

45 CFR
1180.....27584, 27586
1601.....30711
1606.....30713
1622.....30714
1625.....30714
Proposed Rules:
405.....27406
412.....27406
1620.....27326

46 CFR
10.....30274
153.....26996
Proposed Rules:
160.....27628
355.....29440

47 CFR
0.....27952
22.....27953
68.....27250, 29384
73.....27287, 27438, 27954, 29392, 29393, 30187
74.....29394
76.....27438, 29394
81.....27968
83.....27968, 29231
Proposed Rules:
Ch. I.....28418, 29440
15.....30213
73.....27629, 29446–29453
97.....29454

48 CFR
7.....27560
12.....27969
15.....27560, 28103
19.....27560
33.....27969
34.....27560
52.....27560, 27969
209.....28209
217.....29675
504.....26996
515.....28578
522.....28578
533.....26996
552.....27589, 28948, 29402, 30274
553.....27589
570.....27589, 30274
2801.....29796
2804.....29796
2806.....29796
2807.....29796
2808.....29796
2809.....29796
2810.....29796
2814.....29796
2815.....29796
2827.....29796
2830.....29796
2831.....29796
2834.....29796
2835.....29796
2852.....29796
6101.....27969, 29231
Proposed Rules:
208.....28227
252.....28227

49 CFR
1.....30275
571.....27451, 29676
1000.....30275
1011.....30275
1100.....30275
1101.....30275
1104.....30188
1105.....30188
1151.....30188
1152.....30188
1155.....30188

1160.....30188, 30275
1180.....30188
Proposed Rules:

CFR CHECKLIST

This checklist appears [illegible] Federal Register

Title	Price	Revision Date
400–End	12.00 *	Jan. 1, 1985

1160	30188, 30275
1180	30188
Proposed Rules:	
Ch. X	27031
71	28959
171	28820
175	28820
531	29912
571	27032, 27632, 27633, 28426, 28599, 29993
1132	27834
1241	29706

50 CFR

17	26999, 29338–29345, 30188, 30423
20	30424
33	29972
215	27914
285	29403
611	29681
658	28103
661	30195
663	30195
672	28580, 28581, 29681
674	28103, 30427
681	30198
Proposed Rules:	
17	27637, 27992, 28821, 28870–28878, 28959, 29238, 29900, 29901
20	27638, 29706
611	28960, 29240
630	27470
642	29709
650	29240
651	29241
655	28109
662	27470
663	28960
672	30481
675	29240

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List July 26, 1985

CFR CHECKLIST

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Title	Price	Revision Date
1, 2 (2 Reserved)	$5.50	Apr. 1, 1985
3 (1984 Compilation and Parts 100 and 101)	7.50	Jan. 1, 1985
4	12.00	Jan. 1, 1985
5 Parts:		
1–1199	13.00	Jan. 1, 1984
1–1199 (Special Supplement)	None	Jan. 1, 1984
		Jan. 1, 1985
52	14.00	Jan. 1, 1985
53–209	14.00	Jan. 1, 1985
210–299	13.00	Jan. 1, 1985
300–399	8.00	Jan. 1, 1985
400–699	12.00	Jan. 1, 1985
700–899	14.00	Jan. 1, 1985
900–999	14.00	Jan. 1, 1985
1000–1059	12.00	Jan. 1, 1985
1060–1119	9.50	Jan. 1, 1985
1120–1199	8.00	Jan. 1, 1985
1200–1499	13.00	Jan. 1, 1985
1500–1899	7.50	Jan. 1, 1985
1900–1944	12.00	Jan. 1, 1985
1945–End	13.00	Jan. 1, 1985
8	7.50	Jan. 1, 1985
9 Parts:		
1–199	13.00	Jan. 1, 1985
200–End	9.50	Jan. 1, 1985
10 Parts:		
0–199	17.00	Jan. 1, 1985
200–399	9.50	Jan. 1, 1985
400–499	12.00	Jan. 1, 1985
500–End	14.00	Jan. 1, 1985
11	7.50	Jan. 1, 1985
12 Parts:		
1–199	8.00	Jan. 1, 1985
200–299	14.00	Jan. 1, 1985
300–499	9.50	Jan. 1, 1985
500–End	14.00	Jan. 1, 1985
13	13.00	Jan. 1, 1985
14 Parts:		
1–59	16.00	Jan. 1, 1985
60–139	13.00	Jan. 1, 1985
140–199	7.50	Jan. 1, 1985
200–1199	15.00	Jan. 1, 1985
1200–End	8.00	Jan. 1, 1985
15 Parts:		
0–299	6.50	Jan. 1, 1985
300–399	13.00	Jan. 1, 1985
400–End	12.00 *	Jan. 1, 1985
16 Parts:		
0–149	9.00	Jan. 1, 1985
150–999	10.00	Jan. 1, 1985
1000–End	13.00	Jan. 1, 1985
17 Parts:		
1–239	20.00	Apr. 1, 1985
*240–End	14.00	Apr. 1, 1985
18 Parts:		
1–149	12.00	Apr. 1, 1985
*150–399	19.00	Apr. 1, 1985
400–End	7.00	Apr. 1, 1985
19	21.00	Apr. 1, 1985
20 Parts:		
1–399	8.00	Apr. 1, 1985
400–499	16.00	Apr. 1, 1985
500–End	18.00	Apr. 1, 1985
21 Parts:		
1–99	9.00	Apr. 1, 1985
100–169	11.00	Apr. 1, 1985
170–199	13.00	Apr. 1, 1985
200–299	4.25	Apr. 1, 1985
300–499	20.00	Apr. 1, 1985
500–599	16.00	Apr. 1, 1985
600–799	6.50	Apr. 1, 1985
800–1299	10.00	Apr. 1, 1985
1300–End	5.50	Apr. 1, 1985
22	21.00	Apr. 1, 1985
23	14.00	Apr. 1, 1985
24 Parts:		
0–199	11.00	Apr. 1, 1985
200–499	19.00	Apr. 1, 1985
500–699	6.50	Apr. 1, 1985
700–1699	13.00	Apr. 1, 1985
1700–End	9.00	Apr. 1, 1985
25	18.00	Apr. 1, 1985
26 Parts:		
§§ 1.0–1.169	21.00	Apr. 1, 1985
§§ 1.170–1.300	12.00	Apr. 1, 1985
§§ 1.301–1.400	7.50	Apr. 1, 1985
§§ 1.401–1.500	15.00	Apr. 1, 1985
§§ 1.501–1.640	12.00	[2] Apr. 1, 1984
§§ 1.641–1.850	11.00	Apr. 1, 1985
§§ 1.851–1.1200	22.00	Apr. 1, 1985
§§ 1.1201–End	22.00	Apr. 1, 1985
2–29	15.00	Apr. 1, 1985
30–39	9.50	Apr. 1, 1985
40–299	18.00	Apr. 1, 1985
300–499	11.00	Apr. 1, 1985
500–599	8.00	[1] Apr. 1, 1980
600–End	4.75	Apr. 1, 1985
27 Parts:		
1–199	18.00	Apr. 1, 1985
*200–End	13.00	Apr. 1, 1985
28	13.00	July 1, 1984
29 Parts:		
0–99	14.00	July 1, 1984
100–499	6.50	July 1, 1984
500–899	14.00	July 1, 1984
900–1899	7.50	July 1, 1984
1900–1910	15.00	July 1, 1984
1911–1919	5.50	July 1, 1984
1920–End	14.00	July 1, 1984
30 Parts:		
0–199	13.00	July 1, 1984
200–699	5.50	July 1, 1984
700–End	13.00	July 1, 1984
31 Parts:		
0–199	8.00	July 1, 1984
200–End	9.50	July 1, 1984

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	July 1, 1984
1–39, Vol. II	19.00	July 1, 1984
1–39, Vol. III	18.00	July 1, 1984
40–189	14.00	July 1, 1984
190–399	19.00	July 1, 1984
400–629	15.00	July 1, 1984
630–699	13.00	July 1, 1984
700–799	15.00	July 1, 1984
800–999	17.00	July 1, 1984
1000–1399	19.00	July 1, 1984
1400–End	10.00	July 1, 1984
33 Parts:		
1–199	27.00	July 1, 1984
200–End	19.00	July 1, 1984
34 Parts:		
1–299	22.00	July 1, 1984
300–399	11.00	July 1, 1984
400–End	22.00	July 1, 1984
35	9.50	July 1, 1984
36 Parts:		
1–199	12.00	July 1, 1984
200–End	13.00	July 1, 1984
37	13.00	July 1, 1984
38 Parts:		
0–17	15.00	July 1, 1984
18–End	19.00	July 1, 1984
39	13.00	July 1, 1984
40 Parts:		
1–51	13.00	July 1, 1984
52	15.00	July 1, 1984
53–60	18.00	July 1, 1984
61–80	7.50	July 1, 1984
81–99	13.00	July 1, 1984
100–149	17.00	July 1, 1984
150–189	15.00	July 1, 1984
190–399	19.00	July 1, 1984
400–424	15.00	July 1, 1984
425–699	17.00	July 1, 1984
700–End	13.00	July 1, 1984
41 Parts:		
1–100	13.00	July 1, 1984
101	12.00	July 1, 1984
102–200	11.00	July 1, 1984
201–End	8.00	July 1, 1984
42 Parts:		
1–60	15.00	Oct. 1, 1984
61–399	5.50	Oct. 1, 1984
400–429	17.00	Oct. 1, 1984
430–End	15.00	Oct. 1, 1984
43 Parts:		
1–999	9.50	Oct. 1, 1984
1000–3999	19.00	Oct. 1, 1984
4000–End	9.50	Oct. 1, 1984
44	18.00	Oct. 1, 1984
45 Parts:		
1–199	11.00	Oct. 1, 1984
200–499	6.50	Oct. 1, 1984
500–1199	13.00	Oct. 1, 1984
1200–End	13.00	Oct. 1, 1984
46 Parts:		
1–40	13.00	Oct. 1, 1984
41–69	13.00	Oct. 1, 1984
70–89	5.50	Oct. 1, 1984
90–139	11.00	Oct. 1, 1984
140–155	11.00	Oct. 1, 1984
156–165	12.00	Oct. 1, 1984
166–199	13.00	Oct. 1, 1984
200–499	11.00	Oct. 1, 1984
500–End	8.50	Oct. 1, 1984
47 Parts:		
0–19	13.00	Oct. 1, 1984
20–39	13.00	Oct. 1, 1984
40–69	9.50	Oct. 1, 1984
70–79	13.00	Oct. 1, 1984
80–End	15.00	Oct. 1, 1984
48 Parts:		
1–51	19.00	Oct. 1, 1984
52–99	9.50	Oct. 1, 1984
100–199	15.00	Oct. 1, 1984
200–299	13.00	Oct. 1, 1984
300–399	11.00	Oct. 1, 1984
400–499	15.00	Oct. 1, 1984
500–599	13.00	Oct. 1, 1984
600–699	11.00	Oct. 1, 1984
700–799	13.00	Oct. 1, 1984
800–End	11.00	Oct. 1, 1984
49 Parts:		
1–99	11.00	Oct. 1, 1984
100–177	17.00	Oct. 1, 1984
178–199	15.00	Oct. 1, 1984
200–399	17.00	Oct. 1, 1984
400–999	19.00	Oct. 1, 1984
1000–1199	11.00	Oct. 1, 1984
1200–End	13.00	Oct. 1, 1984
50 Parts:		
1–199	13.00	Oct. 1, 1984
200–End	13.00	Oct. 1, 1984

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	July 1, 1984
1–39, Vol. II	19.00	July 1, 1984
1–39, Vol. III	18.00	July 1, 1984
40–189	13.00	July 1, 1984
190–399	13.00	July 1, 1984
400–629	13.00	July 1, 1984
630–699	12.00	July 1, 1984
700–799	13.00	July 1, 1984
800–999	9.50	July 1, 1984
1000–End	6.00	July 1, 1984
33 Parts:		
1–199	14.00	July 1, 1984
200–End	13.00	July 1, 1984
34 Parts:		
1–299	14.00	July 1, 1984
300–399	8.50	July 1, 1984
400–End	14.00	July 1, 1984
35	7.50	July 1, 1984
36 Parts:		
1–199	9.00	July 1, 1984
200–End	12.00	July 1, 1984
37	8.00	July 1, 1984
38 Parts:		
0–17	14.00	July 1, 1984
18–End	9.50	July 1, 1984
39	8.00	July 1, 1984
40 Parts:		
1–51	13.00	July 1, 1984
52	14.00	July 1, 1984
53–80	18.00	July 1, 1984
81–99	14.00	July 1, 1984
100–149	9.50	July 1, 1984
150–189	13.00	July 1, 1984
190–399	13.00	July 1, 1984
400–424	13.00	July 1, 1984
425–End	14.00	July 1, 1984
41 Chapters:		
1, 1–1 to 1–10	13.00	July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	July 1, 1984
3–6	14.00	July 1, 1984
7	6.00	July 1, 1984
8	4.50	July 1, 1984
9	13.00	July 1, 1984
10–17	9.50	July 1, 1984
18, Vol. I, Parts 1–5	13.00	July 1, 1984
18, Vol. II, Parts 6–19	13.00	July 1, 1984
18, Vol. III, Parts 20–52	13.00	July 1, 1984
19–100	13.00	July 1, 1984
101	15.00	July 1, 1984
102–End	9.50	July 1, 1984
42 Parts:		
1–60	12.00	Oct. 1, 1984
61–399	8.00	Oct. 1, 1984
400–End	18.00	Oct. 1, 1984

Title	Price	Revision Date
43 Parts:		
1–999	9.50	Oct. 1, 1984
1000–3999	14.00	Oct. 1, 1984
4000–End	8.00	Oct. 1, 1984
44	13.00	Oct. 1, 1984
45 Parts:		
1–199	9.50	Oct. 1, 1984
200–499	6.50	Oct. 1, 1984
500–1199	13.00	Oct. 1, 1984
1200–End	9.50	Oct. 1, 1984
46 Parts:		
1–40	9.50	Oct. 1, 1984
41–69	9.50	Oct. 1, 1984
70–89	6.00	Oct. 1, 1984
90–139	9.00	Oct. 1, 1984
140–155	9.50	Oct. 1, 1984
156–165	10.00	Oct. 1, 1984
166–199	9.00	Oct. 1, 1984
200–499	13.00	Oct. 1, 1984
500–End	7.50	Dec. 31, 1984
47 Parts:		
0–19	13.00	Oct. 1, 1984
20–69	14.00	Oct. 1, 1984
70–79	13.00	Oct. 1, 1984
80–End	14.00	Oct. 1, 1984
48 Chapters:		
1 (Parts 1–51)	13.00	Oct. 1, 1984
1 (Parts 52–99)	13.00	Oct. 1, 1984
2	13.00	Oct. 1, 1984
3–6	12.00	Oct. 1, 1984
7–14	14.00	Oct. 1, 1984
15–End	12.00	Oct. 1, 1984
49 Parts:		
1–99	7.50	Oct. 1, 1984
100–177	14.00	Nov. 1, 1984
178–199	13.00	Nov. 1, 1984
200–399	13.00	Oct. 1, 1984
400–999	13.00	Oct. 1, 1984
1000–1199	13.00	Oct. 1, 1984
1200–1299	13.00	Oct. 1, 1984
1300–End	3.75	Oct. 1, 1984
50 Parts:		
1–199	9.50	Oct. 1, 1984
200–End	14.00	Oct. 1, 1984
CFR Index and Findings Aids	18.00	Jan. 1, 1985
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Complete set (one-time mailing)	155.00	1983
Complete set (one-time mailing)	125.00	1984
Subscription (mailed as issued)	185.00	1985
Individual copies	3.75	1985

[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

VOL 50 ISS 145 JL 29 1985 UMI

VOL
50

ISS
145

JL
29

1985

UMI

VOL
50
ISS
146
JL
30
1985
1985
UMI

7-30-85
Vol. 50 No. 146

federal register

Tuesday
July 30, 1985

United States
Government
Printing Office
SUPERINTENDENT
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SECOND CLASS NEWSPAPER
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7-30-85
Tuesday
July 30, 1985

VOL
50

ISS
146

JL
30

1985

UMI

7-30-85
Vol. 50 No. 146
Pages 30801-30924

federal register

Tuesday
July 30, 1985

Selected Subjects

Aviation Safety
Federal Aviation Administration
Fisheries
National Oceanic and Atmospheric Administration
Hazardous Waste
Environmental Protection Agency
Hunting
Fish and Wildlife Service
Income Taxes
Internal Revenue Service
Marketing Agreements
Agricultural Marketing Service
Medicaid
Health Care Financing Administration
Natural Gas
Federal Energy Regulatory Commission
Occupational Safety and Health
Occupational Safety and Health Administration
Organization and Functions (Government Agencies)
Securities and Exchange Commission
Postal Service
Postal Service
Space Transportation and Exploration
National Aeronautics and Space Administration

CONTINUED INSIDE

Selected Subjects

Aviation Safety
Federal Aviation Administration
Fisheries
National Oceanic and Atmospheric Administration
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Environmental Protection Agency
Hunting
Fish and Wildlife Service
Income Taxes
Internal Revenue Service
Marketing Agreements
Agricultural Marketing Service
Medicaid
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Natural Gas
Federal Energy Regulatory Commission
Occupational Safety and Health
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Securities and Exchange Commission
Postal Service
Postal Service
Space Transportation and Exploration
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Contents

Federal Register

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Selected Subjects

Surface Mining
Surface Mining Reclamation and Enforcement Office

Wine
Alcohol, Tobacco and Firearms Bureau

Contents

Federal Register
Vol. 50, No. 146
Tuesday, July 30, 1985

Agency for International Development
NOTICES
Authority delegations:
30888 Italy, Lebanon and Portugal; Representatives
30886 Jordan, Morocco, Tunisia and Yemen; Mission Directors
30887 Oman, Representative

Agricultural Marketing Service
RULES
30801 Oranges (Valencia) grown in Arizona and California
PROPOSED RULES
30855 Nectarines, pears, pluma and peaches grown in California

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service.

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol; viticultural area designations:
30818 North Yuba, CA
Alcoholic beverages:
30821 Still manufacturers; occupational and commodity taxes; correction

Animal and Plant Health Inspection Service
PROPOSED RULES
Exportation and importation of animals and animal products:
30857 African swine fever; import restriction exemptions; extension of time

Arts and the Humanities National Foundation
NOTICES
Meetings:
30890 Museum Advisory Panel

Bonneville Power Administration
NOTICES
Wholesale power rates:
30875 Industrial incentive rate for direct-service industrial customers; inquiry

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
30865 Colorado
30865 Hawaii
30865 Nevada
30865 New York
30865 Wisconsin

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Defense Department
NOTICES
Meetings:
30869 DIA Scientific Advisory Committee
30869 Science Board task forces (2 documents)

Education Department
NOTICES
Grants; availability, etc.:
30869 Indian education programs; discretionary grant programs

Employment and Training Administration
NOTICES
Adjustment assistance:
30890 Philadelphia Steel & Wire Corp.
30890 Smith-Corona
Unemployment compensation program; extended benefit periods:
30889 Idaho

Energy Department
See Bonneville Power Administration; Federal Energy Regulatory Commission.

Environmental Protection Agency
PROPOSED RULES
Hazardous waste:
30908 Identification and listing; spent solvents, etc.

Federal Aviation Administration
RULES
Airworthiness directives:
30802 Boeing
30803 Gates Learjet
30804, 30805 McDonnell Douglas (2 documents)
30806 McDonnell Douglas et al.
NOTICES
Meetings:
30900 Research, engineering and development conference

Federal Communications Commission
NOTICES
30905 Meetings; Sunshine Act

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
30814 Ceiling prices; maximum lawful prices and inflation adjustment factors
30815 Incremental pricing; acquisition cost thresholds
PROPOSED RULES
Natural Gas Policy Act:
30859 Ceiling prices; stripper gas well filing requirements; temporary pressure build-up determinations
NOTICES
Electric rate and corporate regulation filings:
30876 Altech Energy III et al.

Federal Home Loan Bank Board
NOTICES
30905 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES

30894 Consumers Power Co.

International Development Cooperation Agency

United States Information Agency

Federal Maritime Commission
NOTICES
30877, 30878 Agreements filed, etc. (2 documents)

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
30878 Commerce & Energy Bank Holding Co. et al.
30879 Financial Trust Corp. et al.
30879 First Railroad & Banking Co.
30905 Meetings; Sunshine Act

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
30903 Aetna Fire Underwriters Insurance Co.
30903 Aetna Insurance Co.
30904 Canadian Indemnity Co.
30903 Covenant Insurance Co.
30903 Florida Farm Bureau Mutual Insurance Co.
30904 Northern Insurance Co. of New York

Fish and Wildlife Service
RULES
Migratory bird hunting:
30849 Waterfowl hunting; nontoxic shot zones; minimum criteria guidelines

Food and Drug Administration
NOTICES
Food for human consumption:
30879–30882 Green beans, canned; identity standard deviation; market testing permits (6 documents)

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; Public Health Service.

Health Care Financing Administration
RULES
Medicaid:
30838 Medicaid Management Information Systems; conditions of approval and reapproval and reduction of Federal financial participation procedures

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
30882 Graduate training in family medicine

Indian Affairs Bureau
NOTICES
Liquor and tobacco sale or distribution ordinance:
30883 Confederated Tribes of Goshute Reservation, UT and NV

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
30816 Congressional candidates; designation of principal campaign committee

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Antidumping:
30866 Oil country tubular goods from Spain
30866 Stainless clad steel plate from Japan
30867 Television receiving sets, monochrome and color, from Japan

Interstate Commerce Commission
NOTICES
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
30889 Burlington Northern, Inc.

Labor Department
See Employment and Training Administration; Occupational Safety and Health Administration.

Land Management Bureau
NOTICES
Alaska native claims selection:
30884 Salamatof Native Association, Inc.; correction
Meetings:
30884 Coeur d'Alene District Advisory Council
Recreation management restrictions, etc.:
30884 Butte District, MT

Maritime Administration
NOTICES
30900 National Environmental Policy Act; implementation

Merit Systems Protection Board
RULES
Practice and procedure:
30801 Filing of petitions for review, etc.; correction

National Aeronautics and Space Administration
RULES
Space transportation system:
30807 Spacelab services, reimbursement; interim

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
30853 Atlantic surf clam and ocean quahog
30853 Tuna, Atlantic fisheries
NOTICES
Permits:
30868 Foreign fishing

National Park Service
NOTICES
Historic Places National Register; pending nominations:
30884 Arizona et al.

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
30892, 30893 Arkansas Power & Light Co. (2 documents)

30894 Consumers Power Co.
30891 General Public Utilities Nuclear Corp.
Meetings:
30890 Reactor Safeguards Advisory Committee
Operating licenses, amendments; no significant hazards considerations:
30894 Bi-weekly notices; correction

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
30821 Minnesota

Postal Service
RULES
Domestic Mail Manual:
30834 Addressing procedures
30833 Miscellaneous amendments

Public Health Service
NOTICES
Grant and cooperative agreements awards:
30882 Boys Clubs of America

Securities and Exchange Commission
PROPOSED RULES
Organization, functions and authority delegations:
30858 Regional offices; public reference facilities
NOTICES
Applications, etc.:
30896 Arkansas Power & Light Co.
30894 Citicorp
30899 Jersey Central Power & Light Co. et al.
Self-regulatory organizations; proposed rule changes:
30899 National Association of Securities Dealers, Inc.
30897 Options Clearing Corp. (2 documents)
30898 Pacific Stock Exchange, Inc.

Surface Mining Reclamation and Enforcement Office
RULES
30916 Federal/State cooperative agreements: Alabama
PROPOSED RULES
Permanent program submission:
30862 Illinois
30863 Ohio

Tennessee Valley Authority
NOTICES
30902 Agency information collection activities under OMB review

Textile Agreements Implementation Committee
NOTICES
Export visa requirements; certification, etc.:
30869 Romania
Textile consultation; review of trade:
30869 Portugal

Transportation Department
See Federal Aviation Administration; Maritime Administration.

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Fiscal Service; Internal Revenue Service.

United States Information Agency
NOTICES
Art objects, importation for exhibition:
30904 Ramses the Great

Separate Parts in this Issue

Part II
30908 Environmental Protection Agency

Part III
30916 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue

VOL 50 ISS 146 JL 30 1985 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
1201 30801

7 CFR
908 30801
Proposed Rules:
916 30855
917 30855

9 CFR
Proposed Rules:
92 30857

14 CFR
39 (5 documents) 30802–30806
1214 30807

17 CFR
Proposed Rules:
200 30858

18 CFR
271 30814
282 30815
Proposed Rules:
271 30859

26 CFR
1 30816
602 30816

27 CFR
9 30818
170 30821

29 CFR
1952 30821

30 CFR
901 30916
Proposed Rules:
913 30862
935 30863

39 CFR
111 (2 documents) 30833, 30834

40 CFR
Proposed Rules:
261 30908
271 30908

42 CFR
400 30838
433 30838

50 CFR
20 30849
285 30853
652 30853

Rules and Regulations

Federal Register
Vol. 50, No. 146
Tuesday, July 30, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures; Correction

AGENCY: Merit System Protection Board.

ACTION: Final rule; Correction.

SUMMARY: In the issue of Wednesday, July 17, 1985, in the document appearing at pages 28895 to 28898, which revised 5 CFR 1201.114, two sentences were inadvertently omitted. The corrections are listed below.

FOR FURTHER INFORMATION CONTACT: Joseph Ellis, Deputy Clerk of the Board, Merit Systems Protection Board, (202) 653–7262.

1. At 50 FR 28896, the following should be added as the final paragraph of the Supplementary Information on paragraph (h): For purposes of clarity, the Board added a sentence which establishes the date of service as the date of filing, as set forth in paragraph (d) of this section.

2. At 50 FR 28898, in § 1201.114, paragraph (h) is corrected by adding the following sentence at the beginning of the paragraph:

§ 1201.114 Filing of petition and cross-petition for review.

* * * * *

(h) *Service.* For purposes of § 1201.114, service occurs upon filing, as determined under paragraph (d) of this section. * * *

* * * * *

Dated: July 25, 1985.

Herbert E. Ellingwood,
Chairman.

[FR Doc. 85–17990 Filed 7–29–85; 8:45 am]
BILLING CODE 7400–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 354, Amdt. 1; Valencia Orange Regulation 355]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Amendment 1 of Regulation 354 increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period July 26–August 1, 1985. Regulation 355 establishes the quantity of such fruit that may be shipped to market during the period August 2–8, 1985. The amendment and regulation are needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: Regulation 354, Amendment 1 (§ 908.654) is effective for the period July 26–August 1, 1985. Regulation 355 (§ 908.655) is effective for the period August 2–8, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* These rules have been reviewed under USDA procedures and Executive Order 12291 and have been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

The amendment and the regulation are issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions are based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

The amendment and the regulation are consistent with the marketing policy for 1984–85. The committee met publicly on July 23, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges for the specified weeks. The committee reports the demand for Valencia oranges has improved, and prices are stable.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which these regulations are based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment and the regulation at an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the amendment and regulation and their effective dates.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. The authority citation for 7 CFR Part 908 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

2. Section 908.654 is added to read as follows:

§ 908.654 Valencia Orange Regulation 354.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 26, 1985, through August 1, 1985, are established as follows:

(a) District 1: 312,000 cartons;
(b) District 2: 488,000 cartons;
(c) District 3: Unlimited cartons.

3. Section 908.655 is added to read as follows:

§ 908.655 Valencia Orange Regulation 355.

The quantities of Valencia oranges

installation of placards on Boeing Model 727 and 737 airplanes, and divider

List of Subjects in CFR Part 39

14 CFR Part 39

The first commenter stated that there are no requirements in the proposal for

recalibration of the airspeed indicators and Mach overspeed warning switch,

§ 908.655 Valencia Orange Regulation 355.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 2, 1985, through August 8, 1985, are established as follows:

(a) District 1: 312,000 cartons;
(b) District 2: 488,000 cartons;
(c) District 3: Unlimited cartons.

Dated: July 25, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85-18030 Filed 7-29-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-28-AD; Amdt. 39-5111]

Airworthiness Directives; Boeing Model 727 and 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which improves fire safety in lavatories on Boeing Model 727 and Model 737 airplanes. This AD requires installation of divider panels on Model 727 airplanes to isolate the lavatory waste enclosure, and "No Stowage" placards in areas not suitable for storing combustible materials on both the Model 727 and Model 737 airplanes. Stowage of combustible materials in these areas could result in a fire if a component overheats or otherwise fails.

DATE: Effective September 6, 1985.

ADDRESSES: The service information cited in this AD may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Aerospace Engineer, Airframe Branch, ANM-120S; telephone (206) 431-2932. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring installation of placards on Boeing Model 727 and 737 airplanes, and divider panels on Model 727 airplanes lavatories, was published in the Federal Register on April 30, 1985 (50 FR 18269). These modifications will improve fire safety in the affected airplanes by preventing stowage of combustible materials in areas not designed for such stowage and by better isolating the waste enclosure on certain airplanes.

The comment period closed on June 21, 1985. Interested persons have been afforded an opportunity to comment on the proposed AD. Due consideration has been given to all comments received.

Two comments were received in response to the Notice of Proposed Rulemaking. Neither commenter objected to the need for the modification.

One commenter stated his intentions for incorporating the requirements of the AD within the proposed compliance time.

Another commenter requested that the compliance time be extended to two years because at least one operator's fleet size will make it difficult to accomplish the modifications within one year. The FAA does not concur with the request. Since the AD would require only the installation of a placard on Model 727 and 737 airplanes, and the installation of a divider panel (on one lavatory) on Model 727 airplanes, the FAA considers one year sufficient time for compliance.

After careful review of all available data, including all of the comments received the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 1500 planes of U.S. registry will be affected by this AD. Approximately 4 manhours at an average cost of $40 per manhour are required to modify each airplane. The cost of parts is estimated at $100 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $390,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model 727 and 737 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 727 and Model 737 series airplanes as specified in Boeing Service Bulletins 727-25-277 dated February 23, 1984, and 737-25-1171 dated August 10, 1984, respectively, certificated in any category. To assure adequate lavatory fire protection, accomplish the following within one year after the effective date of this amendment, unless previously accomplished:

A. For Boeing Model 727 airplanes, modify lavatories in accordance with Boeing Service Bulletin 727-25-277 dated February 23, 1984, or later FAA approved revisions.

B. For Boeing Model 737 airplanes, install lavatory placards in accordance with Boeing Service Bulletin 737-25-1171 dated August 10, 1984, or later FAA approved revisions.

C. An alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received Boeing Service Bulletins 727-25-277 and 737-25-1171 may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

This Amendment becomes effective September 6, 1985.

Issued in Seattle, Washington, on July 23, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-18012 Filed 7-29-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-16-AD; Amdt. 39-5110]

Airworthiness Directives; Gates Learjet Model 35 and Model 36 Airplanes Modified by Raisbeck STC SA766NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Gates Learjet Model 35 and 36 airplanes modified in accordance with Raisbeck Supplemental Type Certificate (STC) SA766NW, which would reduce the maximum operating limit speed on affected airplanes to prevent encountering certain potentially hazardous conditions. This action is the result of several reported incidents of aileron buffet or buzz experienced during high speed cruise. The aileron buffet or buzz can result in deterioration of the aircraft lateral control system characteristics to an unacceptable level.

DATE: Effective September 6, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request from the Jet Air Corporation, P.O. Box 245, Bellevue, Washington 98009. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Les Berven, Flight Test Branch, ANM-160S, telephone (206) 431-2889; or Mr. Stanton Wood, Airframe Branch, ANM-120S telephone (206) 431-2924. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive that would require the operators of certain Gates Learjet Models 35 and 36 to permanently reduce the maximum operating Mach limit (M_{MO}) in order to reduce the probability of encountering aileron buffet or buzz was published in the Federal Register on April 8, 1985. The comment period for the proposal closed on May 21, 1985.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Three commenters responded to the proposal.

The first commenter stated that there are no requirements in the proposal for reidentification of the airspeed indicators and the Mach overspeed warning switch after the modifications required in accordance with the AD, and that this could lead to confusion between the modified and unmodified parts. The FAA concurs and the AD is revised to require reidentification of the modified parts.

The commenter also suggested that the criteria for issuance of an exemption, which was discussed in the preamble to the proposal, should be better defined and very closely monitored. The commenter further states that the number of flights accomplished at high weight, high altitude, and high speed for a specified airplane does not necessarily provide justification for granting an exemption. While some of the considerations for exemption requests were discussed in the preamble to the notice, this is not a proper subject for the rule itself. The FAA notes the factors suggested by the commenter and will consider these and all pertinent information furnished in any petition for exemption which may be received.

Finally, the commenter stated that aileron rigging affects the onset of aileron buffet or buzz, and any re-rigging of the ailerons could cause new incidents of aileron buffet or buzz. The FAA has determined that if the rigging is maintained in accordance with the Raisbeck Aileron Balance Tab Rigging Procedures, Report Number REI-81-3, and the airplane does not currently experience the problem, then it should not experience the problem in the future.

The second commenter stated that the AD was unjustified because he had never experienced the problem. He suggested that the problem is caused by poor maintenance and poor training. The FAA recognizes that the problem may not affect all airplanes modified by STC SA766NW. However, the FAA has found little evidence that this problem is caused merely by poor maintenance or poor training, and maintains that the actions required by the proposed AD are necessary in order to provide an acceptable level of safety.

The final commenter agreed with the AD as proposed.

The FAA has reviewed the available data, including all of the comments received, and has determined that air safety and the public interest require the adoption of the rule with the changes previously noted.

There are 29 U.S. registered airplanes that will be affected by this AD. It will take approximately 5 hours to accomplish the removal and recalibration of the airspeed indicators and Mach overspeed warning switch, and to revise the FAA approved Airplane Flight Manual Supplement. Average labor costs are estimated to be $40 per man-hour. It is estimated that it will cost $950 per airplane to reset the airspeed indicators and Mach overspeed warning switch. Based on these figures, the total cost impact of this AD is estimated to be $33,350.

For the reasons discussed above, the FAA has determined that this regulation in not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Learjet Model 35/36 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Gates Learjet: Applies to Model 35, 35A, 36, and 36A series airplanes modified by Raisbeck Group Supplemental Type Certificate (STC) SA766NW, certificated in any category. The affected airplane serial numbers are: 35-023, 35-034, 35-042, 35-044, 35-047, 35A-088, 35A-073, 35A-075, 35A-076, 35A-086, 35A-092, 35A-093, 35A-095, 35A-118, 35A-127, 35A-132, 35A-135, 35A-145, 35A-172, 35A-185, 35A-192, 35A-203, 36A-206, 35A-207, 35A-209, 35A-228, 35A-231, 35A-244, 35A-245, 36-003, 36-004, 36-017, 36A-028, 36A-029, 36A-031, 36A-036, 36A-043, and 36A-044.

To prevent deterioration of the airplane lateral control characteristics as a result of aileron buffet or buzz accomplish the following, unless previously accomplished.

A. Within the next 200 hours time in service or six months after the effective date of this AD, whichever comes first, accomplish either paragraph 1. or 2., as follows:

1. Reduce M_{MO} by accomplishing the following:

a. Submit the FAA approved STC SA766NW Airplane Flight Manual Supplement to the Manager, Flight Test Branch, ANM-160S, Seattle Aircraft

Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

b. Accomplish the following:

(1) Remove the airspeed indicators and Mach overspeed warning switch.

(2) Recalibrate the airspeed indicators and Mach overspeed warning switch.

(3) Reidentify the airspeed indicators and Mach overspeed warning switch.

(4) Revise the FAA approved Airplane Flight Manual Supplement.

c. Reset the airspeed indicators and Mach overspeed warning switch.

2. Accomplish the following:

a. Submit the FAA approved STC SA766NW Airplane Flight Manual Supplement to the Manager, Flight Test Branch, ANM-160S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

b. Accomplish the following:

(1) Remove the airspeed indicators and Mach overspeed warning switch.

(2) Reidentify the airspeed indicators and Mach overspeed warning switch.

(3) Revise the FAA approved Airplane Flight Manual Supplement.

c. Reset the airspeed indicators and Mach overspeed warning switch.

B. Within the next 200 hours time in service or six months after the effective date of this AD, whichever comes first, accomplish the following:

1. Remove the airspeed indicators and Mach overspeed warning switch.

2. Recalibrate the airspeed indicators and Mach overspeed warning switch.

3. Reidentify the airspeed indicators and Mach overspeed warning switch.

4. Revise the FAA approved Airplane Flight Manual Supplement.

5. Reset the airspeed indicators and Mach overspeed warning switch.

C. Airplanes may be flown in accordance with FAR 21.197 and 21.199 to a base where the AD can be accomplished.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the Raisbeck Supplemental Type Certificate SA766NW Airplane Flight Manual Supplement may obtain copies upon request to Raisbeck Group, 2901 Third Avenue, Seattle, Washington 98121. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 6, 1985.

Issued in Seattle, Washington, on July 23, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-18013 Filed 7-29-85; 8:45 am]

BILLING CODE 4910-13-M

total cost impact of this AD on U.S. operators is estimated to be $205,800.

Accumulated landings (on effective date of this AD)	Inspection

from the manufacturer may obtain copies upon request to McDonnell Douglas

Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, to change the limit Mach number from .83 to .80;

b. Remove the "Mach Overspeed Warning Switch" and have it reset from Mach .83 to .80. Contact the manufacturer PRECISION SENSOR, P.O. Box 509, Milford, Connecticut 06460, telephone number (203) 877–2795, to have the instrument recalibrated. Reidentify the Mach overspeed warning switch by ink stamping "Mach limit .80" adjacent to the part number. Reinstall the "Mach Overspeed Warning Switch" after it has been calibrated; and

c. Remove pilot's and copilot's airspeed indicators and have them modified by changing the "Barber Pole" from Mach number .83 to .80. The instrument must be recalibrated by the instrument manufacturer or a certified repair station. Reidentify the airspeed indicators by ink stamping "Mach limit .80" adjacent to the part number. Reinstall the pilot's and copilot's airspeed indicators after they have been recalibrated.

2. Remove the modifications installed by Raisbeck Group STC SA766NM, and return the aircraft to the original type design configuration or to the Gates Learjet "Softflight" configuration.

B. Airplanes may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Jet Air Corporation, P.O. Box 245, Bellevue, Washington 98009. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 9010 East Marginal Way South, Seattle, Washington.

This Amendment becomes effective September 6, 1985.

Issued in Seattle, Washington, on July 23, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–18011 Filed 7–29–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–35–AD; Amdt. 39–5109]

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, –50, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that supersedes an existing airworthiness directive (AD) which requires visual/borescope inspection (NDI) and replacement, as necessary, of the aft pressure bulkhead tee cap on McDonnell Douglas Model DC–9–10, –20, –30, –40, –50, and C–9 (Military) series airplanes with 60,000 or more landings. This amendment requires the inspection and/or repair of the tee cap of airplanes with 35,000 or more landings and, in addition, requires repetitive inspection of all affected airplanes. This action is prompted by reports of cracks in the aft pressure bulkhead tee caps, the failure of which could result in rapid depressurization and severe structural damage to the aircraft.

DATE: Effective September 6, 1985.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Company, P.O. Box 1771, Long Beach, California 90801, Attention: Publications Department, C1–L65, Mail Code: (54–60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South C–68966, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548–2826.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) to require inspection and repair, as necessary, of the aft pressure bulkhead tee cap on certain McDonnell Douglas DC–9 series airplanes was published in the **Federal Register** on May 3, 1985 (50 FR 18871). The comment period for the proposal closed May 23, 1985.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the five comments received. Two commenters have suggested that the FAA review the NPRM requirements in view of the results of recent strain gaged flight testing and results of an eddy current inspection program from the forward side of the tee cap. The FAA has reviewed the recent developments of flight testing and has determined that the resultant data cannot support the delay in the issuance of this AD or any changes in the repetitive inspection intervals. The FAA has been apprised by the manufacturer of an eddy current inspection procedure currently being developed for use from the forward side of the subject tee cap; however, this procedure has not yet been formally submitted to the FAA for review. Should an eddy current inspection program be approved by the FAA, further rulemaking may be considered to revise the AD to incorporate this program, or accomplishment of this inspection program may be submitted to FAA for acceptance as an alternate means of compliance under paragraph D. of this AD.

The third commenter suggested that the proposed compliance threshold of 1,500 landings be extended to 2,000 landings. Based on the anticipated effective date of the final rule, the cause and nature of cracking, and the prediction of crack locations, the FAA considers a compliance threshold of 1,500 landings appropriate. The final rule remains unchanged in this regard.

The fourth commenter made two suggestions. The first was to extend the initial inspection time to allow the inspection to be accomplished at a long down time maintenance visit. The FAA considers the problem too critical to extend the initial inspection time beyond those proposed in the NPRM. The second suggestion was to incorporate an inspection program in which the areas of the tee cap where cracks have been detected are inspected first (between longerons 6 and 18 on both left and right sides of the airplane), with the entire tee cap inspected within 4,000 landings. The FAA concurs with the concept of the second suggestion which merely reduces the scope of the initial inspection to the sides of the aft pressure bulkhead tee cap, between longerons 6 and 18. Subsequent inspections, however, will include the entire bulkhead periphery as proposed.

The fifth commenter (the manufacturer) suggested that various editorial changes be made for clarification and consistency. The FAA has noted these editorial changes in the final rule. In addition, the manufacturer advised the FAA that an eddy current inspection procedure from the forward side of the tee cap will be incorporated into McDonnell Douglas DC–9 Service Bulletin 53–191. However, as of yet, this procedure has not yet been submitted to the FAA for review as an acceptable alternate inspection program.

It is estimated that 514 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required inspections, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $205,600.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously noted.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model DC–9 and C–9 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulation by superseding AD 85–06–03, Amendment 39–5014 (50 FR 10936), with the following new airworthiness directive:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–9–10, –20, –30, –40, –50 and C–9 (Military) series aircraft, certificated in any category, with 35,000 or more landings. Compliance required as indicated unless previously accomplished within the last 3500 landings.

To detect cracks which could result in structural failure of the fuselage aft pressure bulkhead, accomplish the following:

A. Inspect from aft side of the bulkhead tee cap, between longerons 6 and 18 of the fuselage (ventral bulkhead P/N 5910130–53/–54 (LH and RH) or non-ventral bulkhead P/N 5910163–61/–62 (LH and RH)), in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A53–191, dated March 13, 1985 (hereinafter referred to as ASB A53–191), or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. The inspections must be performed in accordance with the compliance schedule shown in the following tabulation:

Accumulated landings (on effective date of this AD)	Inspection
35,000 to 49,999	1,500
50,000 to 59,999	1,000
60,000 or more	300

[1] Initial inspection from effective date of AD (landings).

For airplanes with less than 35,000 landings on the effective date of this AD, conduct the initial inspection before the accumulation of 36,500 landings.

Note.—The specific areas of concern include the forward end/or aft face of the upstanding leg of the tee, starting at the outboard edge of the bulkhead web. The area extends outboard to approximately the inboard point of tangency for the .166-inch tee fillet radius on the upstanding leg.

B. If no cracks are found, accomplish repetitive inspections in accordance with section 2., Accomplishment Instructions, of ASB A53–191, at intervals not to exceed 3,500 landings from the initial inspection in accordance with this AD.

C. If cracks are found, before further flight, accomplish one of the following:

1. Repair by replacing cracked tee cap with a new part, in accordance with McDonnell Douglas Service Rework Drawing SR09530001 (originally identified as MDC–J080305), dated February 15 1985, or later FAA approved revision; or

2. Repair by splicing in a section of tee cap, in accordance with McDonnell Douglas Service Rework Drawing SR09530001, dated February 15, 1985, or later FAA approved revision.

After repair, resume repetitive inspection in accordance with paragraph B., above.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Compliance with paragraph 1.D. of ASB A53–191, (with the exception of the noted initial inspection compliance period) constitutes an acceptable alternate means of complying with this AD.

E. Upon request of an operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the adjustment for that operator.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplanes unpressurized to a base to comply with the requirements of this AD.

G. For the purposes of complying with this AD, existing records of landings will be used subject to acceptance of the assigned FAA Maintenance Inspector. In the absence of such records, the number of landings may be determined by dividing each airplane's time in service by the operator's fleet average time per flight for the DC–9 airplanes with the approval of the assigned FAA Maintenance Inspector.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective September 6, 1985.

Issued in Seattle, Washington, on July 23, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–18014 Filed 7–29–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–69–AD; Amdt. 39–5108]

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and replacement of parts, as necessary, of lower galley hot entree cart wiring installations on certain McDonnell Douglas DC–10 airplanes. This action is prompted by a fire on the ground which began in the area of the lower galley tunnel, and resulted in substantial damage to the airplane. This action is necessary to prevent a recurrence in other airplanes.

DATE: Effective August 19, 1985.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Huettner, Aerospace Engineer, Systems & Equipment Branch, ANM–130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548–2831.

SUPPLEMENTARY INFORMATION: On July 13, 1985, one operator reported a fire on the ground in the lower galley right-hand

1. The authority citation for Part 39 continues to read as follows:

SUMMARY: This amendment adds a new airworthiness directive (AD) which

assemblies in $652 per tube (one tube per engine). Based on these figures, the

assembly P/N–ASL0538–503 in accordance with McDonnell Douglas DC–10 Alert Service

FOR FURTHER INFORMATION CONTACT: Stanley Nichols, 202–453–1904

VOL 50 ISS 146 JL 30 1985 UMI

SUPPLEMENTARY INFORMATION: On July 13, 1985, one operator reported a fire on the ground in the lower galley right-hand tunnel area between fuselage stations 675 and 750, which caused substantial damage to the airplane. There is evidence to believe that this fire was the result of misting hydraulic fluid combined with electrical arcing from wiring associated with the lower galley hot entree carts. Evidence indicates that some hot entree cart wiring installations may not conform to Douglas drawings in that clamping of the wiring conduit to hydraulic lines may be missing or the wiring incorrectly routed. Douglas DC–10 Alert Service Bulletin A24–131, dated July 17, 1985, has been released which prescribes inspection of the lower galley hot entree cart wiring installation for conformity to Douglas drawings, and correction, if necessary.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspection of the lower galley hot entree cart wiring installation for conformity to Douglas drawings, and correction, if necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10 series airplanes, certificated in any category, which are listed in McDonnell Douglas Alert Service Bulletin A24–131, dated July 17, 1985. Compliance required within 15 days after the effective date of this AD, unless previously accomplished.

To prevent hydraulic line damage and/or arcing of the electrical wiring installation associated with the lower galley hot entree cart, accomplish the following:

A. Inspect the lower galley electrically heated hot entree cart wiring and conduit installation in accordance with Douglas Alert Service Bulletin A24–131, dated July 17, 1985, or later FAA approved revision, Accomplishment Instructions A and B. Install or replace parts as necessary.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective August 19, 1985.

Issued in Seattle, Washington, on July 23, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–18013 Filed 7–29–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–24–AD; Amdt. 39–5112]

Airworthiness Directives; McDonnell Douglas Model DC–10–15, –30, and KC–10A (Military) Series Airplanes; and CF6–50C–Powered Airbus Industrie Model A–300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires installation of modified fuel flowmeter tube assemblies. This action is prompted by reports of failures of the fuel flowmeter tube assembly. This condition, if not corrected, could result in fuel being pumped into the nacelle and lead to engine flameout in flight.

DATE: Effective September 6, 1985.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) to require installation of modified fuel flowmeter tube assemblies was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on March 26, 1985 (50 FR 11894). The comment period for the proposal closed on May 20, 1985.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Two comments were received. Both commenters had no objections to the issuance of the proposed AD. The foreign aircraft manufacturer requested that a reference to its appropriate service bulletin be added to the final rule; the FAA concurs with this suggestion and a reference to the service bulletin has been added in paragraph A. of the amendment.

It is estimated that 39 DC–10 airplanes (3 engines per airplane) of U.S. registry, and 35 A–300 airplanes (2 engines per airplane) of U.S. registry will be affected by this AD. It is estimated that it will require approximately 7.7 manhours per airplane to accomplish the inspection, and 4.7 manhours per airplane to accomplish the required installation. The average labor cost is $40 per manhour. The cost of the new tube assemblies in $652 per tube (one tube per engine). Based on these figures, the total cost impact of this AD to U.S. registered owners is estimated to be $158,628 (based on a single inspection).

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule.

For the reasons discussed above, the FAA had determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC–10 or KC–10A, or CF6–50C–powered A300 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

McDonnell Douglas and Airbus Industrie: Applies to McDonnell Douglas Model DC–10–15, –30, and KC–10A (Military) series airplanes, and CF6–50C powered Airbus Industrie Model A–300 series airplanes. Compliance is required as indicated.

To prevent failure of the fuel flowmeter tube assembly, accomplish the following, unless already accomplished:

A. Within the next 1000 flight hours after the effective date of this AD, inspect the fuel flowmeter tube assemblies in accordance with McDonnell Douglas Alert Service Bulletin A73–20, dated January 7, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region; or Airbus Industrie Service Bulletin A300–73–007 (associated with modification 5912), as appropriate. Perform the inspection every 1000 flight hours until paragraph B., below, is accomplished. If any cracks are found, accomplish the requirements of paragraph B. before any further revenue flight.

B. Within one year after the effective date of this AD, install the fuel flowmeter tube assembly P/N–ASL0538–503 in accordance with McDonnell Douglas DC–10 Alert Service Bulletin A73–20, dated January 7, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective September 6, 1985.

Issued in Seattle, Washington, on July 23, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–18010 Filed 7–29–85; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

Space Transportation System; Reimbursement for Spacelab Services

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim final rule with request for public comment.

SUMMARY: This interim final rule, in conjunction with Subparts 1214.1 and 1214.2, provides an equitable basis for reimbursement for Spacelab services provided in conjuction with a Shuttle flight.

DATE: This interim final rule is effective on July 30, 1985. This action is subject to revision following a comment period of 60 days from the date of publication.

ADDRESS: Written comments should be submitted to the Office of Space Flight, Code MC, National Aeronautics and Space Administration, Washington, D.C. 20546. All written comments will be available for public inspection in Room 421M, FB–10B, 600 Independence Avenue, SW., Washington, D.C. during regular working hours.

FOR FURTHER INFORMATION CONTACT: Stanley Nichols, 202–453–1904.

SUPPLEMENTARY INFORMATION: On September 25, 1980, NASA published a proposed rule in the **Federal Register** (45 FR 63506–63512) concerning reimbursement for Spacelab services. Interested parties were given until November 24, 1980, to submit written comments or objections.

Full and careful consideration was given to all comments received. A number of comments received were related to the basic Shuttle policies, launch services agreements, or quantitative aspects of setting prices. Replies to such comments were sent directly to the commenters and are not included herein. Based on the comments received, as well as actual operational experience, several basic issues were re-examined and some substantive and editorial changes have been made to the proposed rule. The disposition of those comments regarding the proposed rule are discussed herein and a second comment period on this interim final rule is provided. Establishment of this interim final rule will not affect obligations incurred prior to its publication.

Except as otherwise noted, paragraph numbers referenced in this discussion below are as shown in the interim final rule.

Applicable Time Period

The proposed rule was developed to cover the entire STS operational era. As defined in § 1214.600, this interim final rule only applies to the second phase of STS operations. (U.S. government fiscal years 1986, 1987, and 1988). NASA will define policies for subsequent periods when more experience is gained with Spacelab operations.

FMDM/MPESS Offer

Since publication of the proposed rule, NASA has developed the flexible multiplexer-demultiplexer/multipurpose experiment support structure (FMDM/MPESS) as an adjunct to the ESA-developed Spacelab hardware. This interim final rule offers the services of the FMDM/MPESS on a dedicated-element basis [§ 1214.600(c)].

Mandatory Use of Dedicated Flights

Certain Spacelab configurations effectively preclude the manifesting of other payloads. In § 1214.604(a), these configurations are defined as requiring the customers to contract for a dedicated flight. Provisions are made, however, to provide some financial relief to the customer if a sharee can be found and manifested on the same flight.

Postponement and Termination

Since publication of the proposed rule,

Flight Crews and Payload Operations

Two mission-specialist

Options

The

who provide their own Spacelab

New assumed flight configurations

procurement, Security measures, Space

Postponement and Termination

Since publication of the proposed rule, experience in Spacelab operations has indicated that the charges for postponement and termination should be separated into Spacelab operations charges and Shuttle transportation charges. Therefore, § 1214.804(c) has been modified accordingly. The adjusted values shall be used as the basis for computing charge factors and prorating services.

Payload Removal Cutoff Date

Because it is not always practical to remove a Spacelab payload near the launch date, § 1214.804(c)(5) requires the establishment of a payload removal cutoff date. This date will be set by NASA and will be based on the nature of individual payloads. It is NASA's intention to be as flexible as practical in accommodating late removals. Note that the customer may still exercise the postponement/termination provisions even though the payload is not removed from the flight.

Minor Delay

The minor delay provisions of the Shuttle policy were not offered to shared-element customers under the proposed rule. In § 1214.804(d), these provisions are extended to all customers whose payload has a Shuttle load factor equal to or greater than 0.05. This puts Spacelab payloads on an equal footing with other Shuttle payloads.

Standard Days on Orbit

Some commenters questioned the use of 1 day of on-orbit operations as the basis for the standard price for dedicated-Shuttle Spacelab flights [§ 1214.804(e)(2)(ii)] and dedicated pallet flights [§ 1214.804(f)(2)(iii)] when 7 days of on-orbit operations forms the basis for the standard flight price for complete-element [§ 1214.804(g)(2)(ii)] and shared-element [§ 1214.804(h)(2)(iv)] flights. NASA realizes that few, if any, Spacelab flights will involve 1-day missions. The pricing structure gives the customer the opportunity to reduce costs on those occasions when the customer's mission can be accomplished in less than 7 days. By basing the standard flight price for complete-pallet and shared-element customers on a 7-day mission, NASA can offer these customers the opportunity to fly on a 7-day mission while paying only a pro rata share of the extra-days-on-orbit charge. For these reasons no changes were made in the number of days used as the basis for standard services.

Flight Crews and Payload Operations

Two mission specialists now are assigned to all STS flights, and their available payload operation time now constitutes the standard service in this area [§ 1214.812(d)].

Responding to comments on the desirability of two-shift operation for Spacelab payloads, NASA has modified § 1214.804(g)(2)(ii) and § 1214.804(h)(2)(iv) to incorporate two-shift operation as a standard service for complete-pallet and shared-element missions. Because dedicated-pallet and dedicated FMDM/MPESS payloads may not require two-shift operation and are designed to fly as mixed cargo on standard Shuttle flights, one-shift operation remains the standard for service and price for these elements. Using single-shift operation as a standard for dedicated flights provides minimum cost to any customers who may not need two-shift service. Customers may contract for two-shift operation, if required, as an optional service.

One commenter felt that § 1214.804(g)(2)(ii) should be modified to allow the customer's payload to continue to operate so long as it did not use more than its share of resources and did not interfere with other operations. It is essential to establish the maximum amount of service to which a customer is entitled for the standard flight price, and § 1214.804(g)(2)(ii) does this. NASA will likely permit continued operation of the customer's payload at no extra cost if and when this is practical. However, it appears inappropriate to encourage customers to plan on obtaining operating time in excess of their pro rata share. Therefore, no change is made in § 1214.804(g)(2)(ii).

Rules regulating the use of customer-selected payload specialists are defined in § 1214.812. One commenter requested details on criteria for selection of customer-selected payload specialists. These criteria will be established in other NASA documents.

Dedicated-Element Standard Orbit

Experience to date indicates that the offer to fly dedicated elements (and other Shuttle payloads as well) to the 57° inclination on a standard shared-flight basis poses excessive financial risk to NASA because there are too few potential sharees to permit cost-effective missions. The only standard orbit for dedicated elements and dedicated FMDM/MPESS payloads is thus defined to be 28.5°, 160 nautical miles (nmi) in § 1214.804(f)(2)(iv).

Options

The launch options offered under the proposed rule have been withdrawn by § 1214.804(k). There has been no customer interest in these options and it is planned that they will be deleted from the Shuttle policy in an upcoming revision.

Premature Termination of Spacelab Flights

Some commenters felt that § 1214.806 as stated in the proposed rule was unduly discriminatory against Spacelab. NASA has deleted this distinction. Because dedicated-Shuttle, dedicated-pallet, and dedicated FMDM/MPESS customers pay for all extra days on orbit as optional services, and because NASA's practice is to refund charges for unused or undamaged optional services, affected customers automatically would be entitled to a refund in case of premature termination. For complete-pallet and shared-element flights, NASA previously established a standard 7-day-on-orbit mission to accommodate the needs of all customers. This standard mission duration is included in the standard flight price. NASA normally provides no refunds for unused standard services; however, NASA will give refunds of a pro rata share of extra-days-on-orbit charges to complete-pallet and shared-element customers whose missions are, in NASA's judgment, adversely affected by the premature termination.

Standby Spacelab Flights

Some customers felt that the standby provisions of the Shuttle policy should be extended to Spacelab customers. Because (1) NASA has a limited supply of Spacelab hardware and cannot permit it to be tied up for extended periods, and (2) it is essential that standby payloads be capable of being manifested on relatively short notice and, with a wide variety of other payloads, the standby provisions are not offered to Spacelab customers requiring NASA-furnished Spacelab hardware [§ 1214.808]. Customers who supply their own Spacelab hardware and require only Level I integration may fly under the standby provisions of the Shuttle policy.

Charges for Customer-Furnished Spacelab Hardware

Some commenters noted that there is little difference between the charges for NASA-furnished and customer-furnished hardware. The differences in cost for Level III/II integration are in fact relatively minor. NASA has modified § 1214.810 such that customers who provide their own Spacelab hardware and do not require Level III/II integration are not charged for these services as a part of their standard services price.

Reflight Guarantees

Based on a number of comments as well as experience to date, a major revision of § 1214.811 was made. It is planned that most of the principles stated therein will be incorporated in § 1214.1 and § 1214.2 in upcoming revisions.

Consistent with current Shuttle practice for the second phase of STS operations, there is now no reflight premium for Spacelab shared-flight payloads to the 28.5°, 160 nmi standard orbit or for any dedicated-flight Spacelab mission [§ 1214.811(a)].

Provisions are made in § 1214.811(b) to negotiate reflight guarantees for nonstandard missions. NASA will negotiate any such guarantees on a case-by-case basis.

Because it is not practical to refly parts of payloads, § 1214.811(c) requires that reflight guarantees, if provided, must cover a customer's entire payload.

Several commenters felt that the Spacelab reflight guarantees did not provide adequate coverage. After lengthy deliberation, § 1214.811(d) was modified to guarantee that selected Spacelab systems would be within nominal limits, at the normal monitoring points for such systems, at the time of first turn-on of each customer's payload. In this context, the term "payload" encompasses all experiments covered by a single Launch Services Agreement. It is not NASA's intent to guarantee that Spacelab systems will be operational at the initiation of each individual experiment within a payload. In NASA's opinion, attempting to assess fault in case of subsequent Spacelab and/or Shuttle failures would prove unmanageable. NASA believes that providing this clear demarcation line, well beyond the achievement of orbit, is a reasonable compromise between the customers' desires and the realities of negotiating Launch Services Agreements and reflight guarantees.

Pricing Algorithms

A number of comments prompted a fundamental re-examination of the basic pricing algorithms. As a result, the sharing algorithms for all but shared-module flights are now based on the Shuttle length-or-upweight algorithms. Prices for shared modules are still based on the long module configuration because that provides the lowest cost to the customer consistent with cost recovery.

New assumed flight configurations and new data on element capacities have been factored into the computational procedures defined in § 1214.813. Under these conditions, the Shuttle load factors for dedicated and complete pallets are always length-limited. Fixed values for load factor, charge factor, and capacity are thus defined for these offers.

Adjustments of Load Factors

Some commenters felt that the provisions of § 1214.813(a)(5) negated the other computational procedures defined in § 1214.813. NASA did rather substantial analyses of the alternatives available for establishing standards for load factors. It was concluded that no simple algorithms could be established which would meet every conceivable need. Instead, a procedure was developed which permits a customer with a geometrically regular payload with nominal requirements for services to estimate a price rather exactly. Provision is then made for NASA, at the time of Launch Services Agreement signing, to adjust the load factor up or down for payloads which depart significantly from the nominal case. NASA still believes that this is the best approach, and no changes are made except to delete the provision which dealt with up-weight vs. down-weight.

Reduction in Minimum Price for Shared-Element Users

Some commenters felt that the price for minimum-sized shared-element payloads was too high and would discourage preliminary experimentation. NASA's justification for establishing the minimum prices is based on the fact that there are certain costs inherent in dealing with a payload covered by its own Launch Services Agreement, regardless of the size of the payload. NASA has, however, responded to the commenters' concerns by modifying § 1214.813(g) such that the minimum payload charges are substantially reduced.

The National Aeronautics and Space Administration has determined:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1214

Payload Specialist, Mission Manager, NASA-related payload, Mission Specialist, Investigator Working Group, Government employees, Government procurement, Security measures, Space transportation and exploration, SSUS procurement, Small self-contained payloads, Reimbursement for shuttle services, Authority of Space Transportation Systems (STS) Commander, Articles authorized to be carried on space transportation system flights, Space Transportation System Personnel Reliability Program, Nonscientific payloads, Space flight participants.

PART 1214—SPACE TRANSPORTATION SYSTEM

14 CFR Part 1214 is amended by adding Subpart 1214.8 to read as follows:

Subpart 1214.8—Reimbursement for Spacelab Services

Sec.

1214.800 Scope.
1214.801 Definitions.
1214.802 Relationship to Shuttle policy.
1214.803 Reimbursement policy.
1214.804 Services, pricing basis, and other considerations.
1214.805 Unforeseen customer delay.
1214.806 Premature termination of Spacelab flights.
1214.807 Exceptional payloads.
1214.808 Standby payloads.
1214.809 Short-term call-up and accelerated launch.
1214.810 Integration of payloads.
1214.811 Reflight guarantee.
1214.812 Payload specialists.
1214.813 Computation of sharing and pricing parameters.

Authority: Sec. 203, Pub. L. 85–568, 72 Stat. 429, amended (42 U.S.C. 2473).

Subpart 1214.8—Reimbursement for Spacelab Services

§ 1214.800 Scope.

This Subpart 1214.8 establishes the special reimbursement policy for Spacelab services provided to Space Transportation System (STS) customers governed by the provisions of Subpart 1214.1 or Subpart 1214.2. It applies to flights occurring in the second phase of STS operations (U.S. Government fiscal years 1986, 1987, and 1988). The following five types of Spacelab flights are available to accommodate payload requirements:

(a) Dedicated-Shuttle Spacelab flight [Ref. § 1214.804(e)].

(b) Dedicated-pallet flight [Ref. § 1214.804(f)].

(c) Dedicated-FMDM/MPESS (flexible multiplexer-demultiplexer/multipurpose experiment support structure) flight [Ref. § 1214.804(f)].

(d) Complete-pallet flight [Ref. § 1214.804(g)].

(e) Shared-element flight [Ref. § 1214.804(h)].

§ 1214.803 Reimbursement policy.

(a) *Reimbursement basis.* (1) This

(as defined in the Shuttle policy) from sharees actually flown.

(5) At the time of signing of the Launch Services Agreement, NASA

MPESS) and form the basis for establishing the standard flight price

(iv) Assignment, with the customer's

VOL 50 ISS 146 JL 30 1985 UMI

(e) Shared-element flight [Ref. § 1214.804(h)].

§ 1214.801 Definitions.

(a) *Shuttle policy.* The appropriate Subpart (1214.1 or 1214.2) governing use of the Shuttle. Determinaltion of the appropriate Subpart for each customer shall be made by reference to § 1214.101 and § 1214.201.

(b) *Spacelab elements.* Pallets (3-meter segments), pressurized modules (long or short), and the FMDM/MPESS (1-meter cross-bay structure), all as maintained in the NASA-approved Space lab configuration.

(c) *Standard flight price.* The price for standard Shuttle and standard Spacelab services provided. If a customer elects not to use a portion of the standard services, the standard flight price shall not be affected.

(d) *Shuttle load factor.* The parameter used to compute the customer's pro rata share of Shuttle services and used to compute the Shuttle charge factor. Means of computing this parameter are defined in § 1214.813.

(e) *Spacelab load fraction.* The parameter used to compute the customer's pro rata share of each element's services and used to compute the element charge factor. Means of computing this parameter are defined in § 1214.813.

(f) *Shuttle charge factor and element charge factor.* Parameters used in computation of the customer's flight price. Means of computing these parameters are defined in § 1214.813.

(g) *Dedicated flight price for Spacelab missions.* (1) The single-shift operation dedicated flight price for Spacelab missions is identical to the Shuttle dedicated flight price as defined in the Shuttle policy.

(2) The two-shift operation dedicated flight price for Spacelab missions is the sum of:

(i) The Shuttle dedicated flight price as defined in the Shuttle policy.

(ii) The standard price for additional services required to support a second shift of on-orbit operations.

§ 1214.802 Relationship to Shuttle policy.

Except as specifically noted, the provisions of the Shuttle policy also apply to Spacelab payloads. Although some language in the Shuttle policy is Shuttle-specific, it is the intent of this Subpart 1214.8 that the Shuttle policy be applied to Spacelab also, including the policy on patent and data rights. However, in the event of any inconsistencies in the policies, the Spacelab policy will govern with respect to Spacelab services.

§ 1214.803 Reimbursement policy.

(a) *Reimbursement basis.* (1) This policy is established for the second phase of STS operations (U.S. Government fiscal years 1986, 1987, and 1988).

(2) *Standard flight price.* During this phase, customers covered by Subpart 1214.1 or Subpart 1214.2 shall reimburse NASA for standard Spacelab services an amount which is a pro rata share of:

(i) The appropriate dedicated flight price for the customer's Spacelab mission.

(ii) The standard price for use of the selected Spacelab elements during the second phase of STS operations.

(3) The price shall be held constant for flights during this phase of STS operations.

(4) Reimbursement policies for subsequent phases of STS operations will be developed after NASA has obtained more operational experience.

(b) *Escalation.* Payments shall be escalated in accordance with the Shuttle policy.

(c) Customers shall reimburse NASA an amount which is the sum of the customer's standard flight price and the price for all optional services provided.

(d) *Earnest money.* For those customers required to pay earnest money by the Shuttle policy, the total earnest money payment per payload for Spacelab payloads (including Shuttle services) shall be the lesser of $150,000 or 10% of the customer's estimated standard flight price. Earnest money will be applied to the first payment for standard services made for each payload by the customer or will be retained by NASA if a Launch Services Agreement is not signed.

§ 1214.804 Services, pricing basis, and other considerations.

(a) *Mandatory use of dedicated-Shuttle Spacelab flight.*

(1) Customers shall be required to fly under the provisions of paragraph (e) of this section if the customer requires exclusive use of any of the following:

(i) Pressurized module (long or short).

(ii) Three pallets in the "1+1+1" configuration.

(iii) Four pallets in the "2+2" configuration.

(2) In the cases cited in paragraph (a)(1) of this section, if the customer requests, NASA will attempt to find compatible sharees to fly with the customer's payload. If NASA is successful, the customer's Shuttle standard flight price shall be the greater of:

(i) The appropriate dedicated flight price for the customer's Spacelab mission less adjusted reimbursements (as defined in the Shuttle policy) from sharees actually flown.

(ii) The computed shared-flight Spacelab flight price for the customer's payload.

(b) *Apportionment and assignment of services.* Subject to NASA approval, a customer contracting for a Spacelab flight shall be permitted to apportion and assign services under the provisions of the Shuttle policy.

(c) *Postponement and termination.* (1) A customer may postpone the flight of a Spacelab payload one time with no additional charge if postponement occurs more than 18 months before the scheduled launch date.

(2) Postponement or termination fees for Spacelab payloads shall consist of the sum of:

(i) A fee for Shuttle transporation.

(ii) A fee for use of the Spacelab elements.

(3) *Shuttle transportation fee.* Customers shall be governed by the provisions of the Shuttle policy with the following exception. When computing occupancy fees for shared-element payloads, the "adjusted reimbursements from other customers" shall be defined as the adjusted reimbursements from those customers who subsequently contract for the use of the element being shared.

(4) *Spacelab use fee.* The postponement and termination fees for use of the Spacelab elements are computed as a percentage of the customer's price for use of the Spacelab elements and shall be based on the table below. When postponement or termination occurs less than 18 months before launch, the fees shall be computed by linear interpolation using the points provided.

Time when postponement or termination occurs, months before scheduled launch date	Fee for use of Spacelab element(s), percent of price for use of element(s)	
	Post-ponement	Termi-nation
Dedicated Flights, Dedicated Elements, and Dedicated FMOM/MPESS		
0	75	100
3	60	85
12	14	20
18	5	10
More than 18	5	10
Complete Pallets and Shared Elements		
Less than 8	95	100
8	95	100
9	32	95
12	18	80
18	5	10
More than 18	5	10

(5) At the time of signing of the Launch Services Agreement, NASA shall define a payload removal cutoff date (relative to the launch date) for each Spacelab payload to be flown on a shared flight. A customer may still postpone or terminate a flight after the payload's cutoff date; however, NASA shall not be required to remove the payload before flight.

(d) *Minor delays.* The minor delay provisions of the Shuttle policy shall apply only to those Spacelab payloads whose Shuttle load factor is equal to or greater than 0.05.

(e) *Dedicated-Shuttle Spacelab flight.* (1) A dedicated-Shuttle Spacelab flight is a Shuttle flight sold to a single customer who is entitled to select the Spacelab elements used on the flight.

(2) In addition to the standard services listed in paragraph (i) of this section, the following standard services are provided to customers of dedicated-Shuttle Spacelab flights and form the basis for the standard flight price:

(i) Use of the full standard services of the Shuttle and the Spacelab elements selected.

(ii) One day of one-shift on-orbit operations.

(iii) Standard mission destinations as defined in the Shuttle policy.

(iv) Launch within a prenegotiated 90-day period in accordance with the dedicated flight scheduling provisions of the Shuttle policy.

(v) The available payload operations time of two NASA-furnished mission specialists.

(3) Customers contracting for a dedicated-Shuttle Spacelab flight shall reimburse NASA an amount which is the sum of:

(i) The one-shift operation dedicated flight price for a 1-day Spacelab mission.

(ii) The price for the use of all Spacelab elements used (including all necessary mission-independent Spacelab equipment).

(iii) The price for all optional services provided.

(f) *Dedicated 3-meter pallets and dedicated FMDM/MPESS.* (1) A dedicated pallet (or a dedicated FMDM/MPESS) is one which is sold to a single customer and which includes all Spacelab hardware necessary to permit it to be flown on any shared Shuttle flight as an autonomous payload (e.g., a dedicated 3-meter pallets may either be supplied with its own exclusive igloo or may fly without an igloo if it requires only standard Shuttle services).

(2) In addition to a pro rata share of the standard service listed in paragraph (i) of this section, the following standard services are provided to customers of dedicated pallets (or dedicated FMDM/MPESS) and form the basis for establishing the standard flight price:

(i) A pro rata share of the Shuttle services normally provided, where the basis for proration is the customer's Shuttle load factor as defined in § 1214.813(d)(1) for dedicated pallets and in § 1214.813(e)(2) for dedicated FMDM/MPESS.

(ii) The exclusive services of the pallet (or FMDM/MPESS) and all Spacelab hardware provided to support the pallet (or FMDM/MPESS).

(iii) One day of one-shift on-orbit operations.

(iv) Launch to the standard mission destination of 160 nmi, 28.5° as defined in the Shuttle policy.

(v) Launch within a prenegotiated 90-day period in accordance with the shared-flight scheduling provisions of the Shuttle policy.

(vi) A pro rata share of the on-orbit payload operations time of two NASA-furnished mission specialists, where the basis of proration shall be the customer's Shuttle load factor.

(3) Customers contracting for a dedicated pallet (or FMDM/MPESS) flight shall reimburse NASA an amount which is the sum of:

(i) The product of the customer's Shuttle charge factor and the one-shift-operation dedicated flight price of a 1-day Spacelab mission.

(ii) The price for the use of the pallet (or FMDM/MPESS) selected (including all necessary mission-independent Spacelab equipment).

(iii) The price for all optional services provided.

(g) *Complete pallet.* (1) A complete Spacelab pallet is one which is sold to a single customer but flies with other Spacelab elements on a NASA or NASA-designated Spacelab flight and shares the common standard Spacelab services, e.g., shares an igloo with other pallets.

(2) In addition to a pro rata share of the standard services listed in paragraph (i) of this section, the following standard services are provided to customers of complete pallets and form the basis for the standard flight price.

(i) The pallet's pro rata share of standard Shuttle services, where the basis of proration shall be the customer's Shuttle load factor as defined in § 1214.813(f)(1).

(ii) A pro rata share of 7 days of two-shift on-orbit operations, where the basis of proration shall be the customer's Shuttle load factor.

(iii) Mission destination selected by NASA in consultation with the customer.

(iv) Assignment, with the customer's concurrence, to a Spacelab flight designated by NASA.

(v) Launch date established by NASA.

(vi) A pro rata share of the on-orbit payload operations time of two NASA-furnished mission specialists, where the basis of proration shall be the customer's Shuttle load factor.

(vii) Use of the entire volume above a pallet.

(3) Users contracting for complete pallet flights shall reimburse NASA an amount which is the sum of:

(i) The product of the customer's Shuttle charge factor and the two-shift-operation dedicated flight price of a 7-day Spacelab mission. The dedicated flight price for a 7-day complete-pallet mission is the sum of the dedicated flight price for a 1-day two-shift mission and the charge for 6 extra days of two-shift on-obit operation.

(ii) The price for the use of a complete pallet, including all necessary mission-independent Spacelab equipment.

(iii) The price for all optional services provided.

(h) *Shared element.* (1) A shared element is a Spacelab pallet or module which:

(i) Is shared by two or more customers on a NASA-designated Spacelab flight.

(ii) Shares common standard Spacelab services with other Spacelab elements on the same flight.

(2) In aditional to a pro rata share of the standard services listed in paragraph (i) of this section, the following standard services are provided to customers of shared elements and form the basis for the standard flight price:

(i) For shared pallets, a pro rata share of the standard services provided by a pallet. The basis of proration shall be the customer's Spacelab load fraction as defined in § 1214.813(g)(1)(i).

(ii) For shared modules, a pro rata share of the standard services provided by a long module flown on a dedicated-Shuttle Spacelab flight. The basis of proration shall be the customer's Spacelab load fraction as defined in § 1214.813(g)(1)(ii). The type of pressurized module actually used to meet a customer's requirement for a shared module shall be determined by NASA subsequent to contract negotiations.

(iii) A pro rata share of the element's share of standard Shuttle services, where the basis for proration shall be the customer's Spacelab load fraction.

(iv) A pro rata share of 7 days of two-shift on-orbit operations, where the basis of proration shall be the

customer's Shuttle load factor as defined in § 1214.813(g)(1)

(12) Use of NASA-furnished standard payload monitoring and control

requested by the customer, make all

(b) All physical integration (and de-integration) of payloads into stacks and

with no charge for standard Spacelab

procedure contained in the Shuttle

customer's Shuttle load factor as defined in § 1214.613(g)(1).

(v) Mission destination selected by NASA in consultation with the customer.

(vi) Assignment, with the customer's concurrence, to a Spacelab flight designated by NASA.

(vii) Launch date established by NASA.

(viii) A pro rata share of the on-orbit operations time of two NASA-furnished mission specialists, where the basis of proration shall be the customer's Shuttle load factor.

(3) Customers contracting for shared-element flight shall reimburse NASA an amount which is the sum of:

(i) The product of the customer's Shuttle charge factor and the two-shift operation dedicated flight price of a 7-day Spacelab mission. The dedicated flight price for a 7-day shared-element mission is the sum of the dedicated flight price for a 1-day two-shift-mission and the charge for 6 extra days of two-shift on-orbit operations.

(ii) The product of the customer's element charge factor and the price for the use of the Spacelab element being used, including all necessary mission-independent Spacelab equipment.

(iii) The price for all optional services provided.

(i) *Common standard Spacelab services.* The following standard Spacelab services are common to all Spacelab flights:

(1) Use of Shuttle [1] and Spacelab hardware.

(2) Spacelab interface analysis.

(3) Kennedy Space Center (KSC) launch.[1]

(4) A five-person NASA flight crew consisting of commander, two pilots, and two mission specialists.

(5) Accommodations for a five-person flight crew.

(6) Prelaunch integration and interface verification of preassembled racks and pallets (Levels III, II, and I for NASA-furnished Spacelab hardware; Level I only for customer-furnished Spacelab hardware).

(7) Shuttle [1] and Spacelab flight planning.

(8) Payload electrical power.

(9) Payload environmental control.

(10) On-board data acquisition and processing services.

(11) Transmission of data to a NASA-designed monitoring and control facility via the basic STS Operational Instrumentation (OI) telemetry system.

(12) Use of NASA-furnished standard payload monitoring and control facilities.

(13) Voice communications between personnel operating the customer's payload and a NASA-designated payload monitoring and control facility.

(14) NASA payload safety review.[1]

(15) NASA support of payload design reviews.[1]

(j) *Typical optional Spacelab services.* The following are typical optional Spacelab services:

(1) Use of special payload support equipment, e.g., instrument pointing system.

(2) Vandenberg Air Force Base (VAFB) launch.

(3) Nonstandard mission destination.

(4) Additional time on orbit.

(5) Mission-independent training, use of, and accommodations for all flight personnel in excess of five.

(6) Mission-dependent training of all NASA-furnished personnel and backups.

(7) Analytical and/or hands-on integration (and de-integration) of the customer's payload into racks and/or onto pallets.

(8) Unique integration or testing requirements.

(9) Additional resources beyond the customer's pro rata share.

(10) Additional experiment time or crew time beyond the customer's pro rata share.

(11) Special access to and/or operation of payloads.

(12) Customer unique requirements for: software development for the Command and Data Management Subsystem (CDMS) onboard computer, configuration of the Payload Operations Control Center (POCC), and/or CDMS utilized during KSC ground processing.

(13) Extravehicular Activity (EVA) services.

(14) Payload flight planning services.

(15) Transmission of Spacelab data contained in the STS OI telemetry link to a location other than a NASA-designated monitoring and control facility.

(16) Transmission of Spacelab data not contained in the STS OI telemetry link.

(17) Level III and/or Level II integration of customer-furnished Spacelab hardware.

(k) *Options.* The provisions of § 1214.102(e) and § 1214.202(e) do not apply to Spacelab payloads.

§ 1214.805 Unforeseen customer delay.

Should an unforeseen customer payload problem pose a threat of delay to the Shuttle launch schedule or critical off-line activities, NASA shall, if requested by the customer, make all reasonable efforts to prevent a delay, contingent on the availability of facilities, equipment, and personnel. In requesting NASA to make such special efforts, the customer shall agree to reimburse NASA the estimated additional cost incurred.

§ 1214.806 Premature termination of Spacelab flights.

If a dedicated-Shuttle Spacelab flight, a dedicated-pallet flight, or dedicated-FMDM/MPESS flight is prematurely terminated, NASA shall refund the optional services charges for planned, but unused, extra days on orbit. If a complete-pallet or shared-element flight is prematurely terminated, NASA shall refund a pro rata share of the charges for planned, but unused, extra days on orbit to customers whose payload operations are, in NASA's judgment, adversely affected by such premature termination. The basis for proration shall be the customers' Shuttle load factor.

§ 1214.807 Exceptional payloads.

Customers whose payloads qualify under the NASA Exceptional Program Selection Process shall reimburse NASA for Spacelab and Shuttle services on the basis indicated in the Shuttle policy.

§ 1214.808 Standby payloads.

The standby payload provisions of the Shuttle policy do not apply to Spacelab flights.

§ 1214.809 Short-term call-up and accelerated launch.

The short-term call-up and accelerated launch provisions of the Shuttle policy normally are not offered to Spacelab customers. NASA will negotiate any such customer requirements on an individual basis.

§ 1214.810 Integration of payloads.

(a) The customer shall bear the cost of performing the following typical Spacelab-payload mission management functions:

(1) Analytical design of the mission.

(2) Generation of mission requirements and their documentation in the Payload Integration Plan (PIP).

(3) Provision of mission unique training and payload specialists (if appropriate).

(4) Physical integration of experiments into racks and/or onto pallets.

(5) Provision of payload unique software for use during ground processing, on orbit, or in POCC operations.

(6) Supporting operations.

(7) Assuring the mission is safe.

(b) All physical integration (and de-integration) of payloads into racks and/or onto pallets will normally be performed at KSC by NASA. When the customer provides Spacelab elements, these physical integration activities may be done by the customer at a location chosen by the customer.

(c) With the exception of the restrictions noted in paragraph (b) of this section, customers contracting for dedicated-Shuttle and dedicated-pallet flights may perform the Spacelab-payload mission management functions defined in paragraph (a) of this section. NASA will assist customers in the performance of these functions, if requested. Charges for this service will be based on estimated actual costs, or actual costs where appropriate, and will be in addition to the price for standard services.

(d) For complete pallets or shared elements, NASA will normally perform the Spacelab-payload mission management functions listed in paragraph (a) of this section. Charges for this service will be based on estimated actual costs, or actual costs where appropriate, and will be in addition to the price for standard services.

(e) Integration of payload entities mentioned in paragraphs (b)–(d) of this section with NAS-furnished Spacelab support systems and with the Shuttle shall be performed by NASA as a standard service for all payloads flown on customer-furnished Spacelab elements. Customers shall be available to participate as required by NASA in these levels of integration. Customer equipment shall be operated only to the extent necessary for interface verification. Customers requiring additional payload operation after delivery of the payload to NASA shall negotiate such operation as an optional service.

§ 1214.811 Reflight guarantee.

(a) During the second phase of STS operations, there is no additional reflight premium for those shared-flight Spacelab payloads which can be accommodated on a standard Shuttle launch to 160 nmi, 28.5° as defined in the Shuttle policy and all dedicated-flight Spacelab payloads.

(b) NASA and the customer may negotiate appropriate reflight provisions (e.g., scheduling, reflight premiums) for payloads not covered by paragraph (a) of this section. Otherwise, no reflight services shall be provided.

(c) Reflight guarantees, if provided, must cover the customer's entire payload.

(d) Payloads covered by reflight guarantees shall be entitled to a reflight with no charge for standard Spacelab and Shuttle services if both the following occur:

(1) Through no fault of the customer or defect in the customer's payload, Spacelab systems (i.e., data, power, and cooling) are not within nominal specifications, as measured by NASA at normal Spacelab monitoring points, at the time of first turn-on of the customer's payload, all as defined in the Launch Services Agreement.

(2) The customer's mission objective is not achieved solely as a direct result of the occurrence, at the time of first turn-on of the customer's payload, of events described in paragraph (d)(1) of this section.

(e) If more than one reflight is required, no additional reflight premium shall be charged.

(f) If a payload being reflown was not initially covered by a reflight guarantee, the reimbursements for the reflight shall be the same as for a newly-scheduled launch.

§ 1214.812 Payload specialists.

(a) The use of customer-furnished payload specialists shall be subject to the approval of the NASA Administrator or the Administrator's designee.

(b) Customers with payloads whose Shuttle load factor is equal to or greater than 0.5 are entitled to request that a customer-selected payload specialist be flown with the customer's payload. Dedicated-flight customers are entitled to request the flight of two customer-selected payload specialists.

(c) NASA may approve the flight of a customer-selected payload specialist with payloads whose Shuttle load factor is less than 0.5 if, in NASA's judgment, there is sufficient scientific need to warrant such a flight.

(d) The standard Spacelab flight price is based on operation of the customer's payload by two NASA-furnished mission specialists. Accommodations for, and mission-independent training of, any payload specialists and backups required for the customer's mission shall be provided as optional services and shall be paid for by the customer. The price for this service shall be the same for both customer-furnished and NASA-furnished payload specialists.

§ 1214.813 Computation of sharing and pricing parameters.

(a) *General.* (1) Computational procedures as contained in the following subparagraphs of this paragraph of this section shall be applied as indicated. The procedure for computing Shuttle load factor, charge factor, and flight price for Spacelab payloads replaces the procedure contained in the Shuttle policy.

(2) Shuttle charge factors as derived herein apply to the standard mission destination of 160 nmi altitude, 28.5° inclination. Customers shall reimburse NASA an optional services fee for flights to nonstandard destinations.

(3) The customer's total Shuttle charge factor shall be the sum of the Shuttle charge factors for the customer's individual (dedicated, complete, or shared) elements, with the limitation that the customer's Shuttle charge factor shall not exceed 1.0.

(4) Customers contracting for pallet-only payloads are entitled to locate minimal controls as agreed to by NASA in a pressurized area to be designated by NASA. There is no additional charge for this service.

(5) NASA shall, at its discretion, adjust up or down the load factors and load fractions calculated according to the procedures defined in this section. Adjustments shall be made for special space or weight requirements which include, but are not limited to:

(i) Sight clearances, orientation, or placement limits.

(ii) Clearances for movable payloads.

(iii) Unusual access clearance requirements.

(iv) Clearances extending beyond the bounds of the normal element envelope.

(v) Extraordinary shapes.

The adjusted values shall be used as the basis for computing charge factors and prorating services.

(b) *Definitions used in computations.*

(1) L_C=Chargeable payload length, m. The total length in the cargo bay occupied by the customer's experiment and the Spacelab element(s) used to carry it.

(2) W_C=The weight of the customer's payload and the customer's pro rata share of the weight of NASA mission-peculiar equipment carried to meet the customer's needs, kg.

(c) *Dedicated-Shuttle Spacelab flight (1-day mission).* The total reimbursement is as defined in § 1214.804(e)(3).

(d) *Dedicated-pallet flight (1-day mission).* (1) The Shuttle load factors and charge factors for dedicated-pallet flights are shown in Table 1. Subject to other STS Spacelab structural limits, customers are entitled to utilize the payload weight capability of the pallets as indicated in Table 1. Payload weights in excess of those shown are subject to NASA approval and may entail optional services charges.

[1] Typical standard Shuttle services repeated for clarity

TABLE 1.—SHUTTLE LOAD FACTORS, CHARGE FACTORS, AND NOMINAL CAPACITIES FOR DEDICATED PALLETS

Number of pallets	Load factor		Charge factor		Nominal payload capacity, kg	
	With Igloo	FMDM configuration	With Igloo	FMDM configuration	With Igloo	FMDM configuration
1	0.228	0.189	0.305	0.252	2,325	2,950
2	0.392	NA	0.523	NA	4,470	NA
3-pallet train [1]	0.556	NA	0.742	NA	4,435	NA
2+1 configuration	0.594	NA	0.792	NA	7,750	NA

[1] Three pallets requiring the "1+1+1" configuration shall be flown on a dedicated flight basis (See § 1214.804(a)).

(2) *Total reimbursement.* The customer's total reimbursement is as defined in § 1214.804(f)(3).

(e) *Dedicated FMDM/MPESS flight (1-day mission).*

(1) *Shuttle charge factor.* The computed charge factor for dedicated FMDM/MPESS flights is defined as:

$$\frac{\text{Shuttle Load Factor}}{0.75}$$

(2) *Shuttle load factor.* (i) The Shuttle load factor is defined as the maximum of:

$$\frac{L_C}{18.29} \text{ or } \frac{W_C+767}{29,478}$$

(ii) The minimum value of L_C is based on the element length, plus clearances, and is 1.18 m.

(3) *Total reimbursement.* The customer's total reimbursement is as defined in § 1214.804(f)(3).

(f) *Complete pallets (7-day mission).*

(1) The Shuttle load factor and charge factor for a complete pallet are 0.198 and 0.228, respectively, and its payload weight capability is 2,583 kg. Subject to other STS or Spacelab structural limits, customers are entitled to utilize this payload weight capability. Payload weight in excess of 2,583 kg is subject to NASA approval and may entail optional service charges.

(2) *Total reimbursement.* The customer's total reimbursement is as defined in § 1214.804(g)(3).

(g) *Shared elements (7-day mission).*

(1) *Spacelab load fractions and Shuttle load factors.*

(i) *Pallet.* Spacelab load fraction is the greater of:

$$\frac{W_C}{2,583} \text{ or } \frac{\text{Payload volume, m}^3}{15}$$

Shuttle load factor is the greatest of:

$$\frac{W_C}{13,045} \text{ or } \frac{\text{Payload volume, m}^3}{76}$$

(ii) *Pressurized module.* Spacelab load fraction and Shuttle load factor are identical and are the greater of:

$$\frac{W_C}{4,319} \text{ or } \frac{2\times(\text{Experiment volume})+\text{Storage volume, m}^3}{40}$$

(2) *Shuttle charge factors and element charge factors for pressurized modules.* Shuttle charge factors and element charge factors are identical and are defined as follows:

If the Spacelab load fraction (and Shuttle load factor) is—	The element charge factor and Shuttle charge factor shall be—
Less than 0.00435	.005.
0.00435 to 0.87	Spacelab load fraction divided by 0.87.
Greater than 0.87	1.0.

(3) *Element charge factors for shared pallets.*

If the Spacelab load fraction is—	The element charge factor shall be—
Less than 0.0189	0.0218.
0.0189 to 0.87	Spacelab load fraction divided by 0.87.
Greater than 0.87	1.0.

(4) *Shuttle charge factors for shared pallets.*

If the Shuttle load factor is—	The Shuttle charge factor shall be—
Less than 0.00375	0.005.
0.00375 to 0.75	Shuttle load factor divided by 0.75.
Greater than 0.75	1.0.

(5) *Total reimbursement.* (i) The customer's total reimbursement is as defined in § 1214.804(h)(3).

(ii) If a customer contracts for portions of more than one element, the charges for the use of the elements shall apply individually to each element used.

(6) Experiment volume in the pressurized module is defined to be the sum of the customer's payload volume in racks and in the center aisle.

(i) Rack volume is defined relative to basic Air Transportation Rack (ATR) configurations. The customer's rack volume shall be defined as the volume of one or more rectangular parallelepipeds (rectangular-sided box) which totally enclosed the customer's payload. Width dimensions shall be either 45.1 or 94.0 centimeters. Height dimensions shall be integral multiples of 4.45 centimeters. Depth dimensions shall be 61.2 or 40.2 centimeters.

(ii) Center aisle space volume is defined as the volume of a rectangular parallelepiped which totally encloses the customer's payload. No edge of the parallelepiped shall be less than 30 centimeters in length.

(7) Storage volume in the pressurized module is defined as the volume of one or more rectangular parallelepipeds enclosing the customer's stowed payload. No edge of the parallepiped(s) shall be less than 30 centimeters in length.

(8) Volume of the customer's pallet-mounted payload is defined as the volume of a rectangular parallelepiped enclosing the pallet payload and customer-dictated mounting hardware. No edge of the parallelepiped shall be less than 30 centimeters in length.

James M. Beggs,

Administrator.

April 30, 1985.

[FR Doc. 85-17965 Filed 7-29-85; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-53]

Natural GW Policy Act; Ceiling Prices; Maximum Lawful Prices and Inflation Adjustment Factors

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 357.307(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of August, September and October, 1985. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Director, OPPR, (202) 357-8500.

In the matter of, Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978; Docket No. RM80-53.

Order of the Director, OPPR

Issued: July 24, 1985.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(l) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of August, September and October, 1985 are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1)(2), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to August 1985 are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

§ 271.101 [Amended]

1. Section 271.101(a) is amended by inserting the maximum lawful prices for August, September and October, 1985 in Tables I and II and inserting footnote numbers one and three in the text of Table I.

§ 271.102 [Amended]

2. Section 271.102(c) is amended by inserting the inflation adjustment for the months of August, September and October, 1985 in Table III.

TABLE I.—NATURAL GAS CEILING PRICES

[Other than NGPA sections 104 and 106(a)]

Subpart of Part 271	NGPA section and category of gas	Maximum lawful price per MMBtu for deliveries in—		
		Aug. 1985	Sept. 1985	Oct. 1985
B	102: New natural gas, certain OCS gas.[4]	$4.045	$4.068	$4.091
C	103(b)(1): New onshore production wells.[5]	3.024	3.031	3.038
	103(b)(2): New onshore production wells.[5]	3.535	3.550	3.565
E	105(b)(3): Intrastate existing contracts.	4.023	4.043	4.063
F	106(b)(1)(B): Alternative maximum lawful price for certain intrastate rollover gas.[1]	1.731	1.735	1.739
G	107(c)(5): Gas produced from tight formations.[2]	6.046	6.062	6.076
H	108 Stripper gas	4.330	4.354	4.379
I	109 Not otherwise covered.	2.506	2.512	2.518

[1] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas is deregulated. (See Part 272 of the Commission's regulations.)

[2] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See § 271.703 and § 271.704.)

[4] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) is deregulated. (See Part 272 of the Commission's regulations.)

[5] Commencing January 1, 1985, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 is deregulated. (See Part 272 of the Commission's regulations.)

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a)

[Subpart D, Part 271]

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries made in—		
	Aug. 1985	Sept. 1985	Oct. 1985
Post-1974 gas: All producers	$2.506	$2.512	$2.518
1973-1974 Biennium gas:			
Small producer	2.119	2.124	2.129
Large producer	1.616	1.620	1.624
Interstate rollover gas: All producers	.930	.932	.934
Replacement contract gas or recompletion gas:			
Small producer	1.190	1.193	1.196
Large producer	.911	.913	.915
Flowing gas:			
Small producer	.603	.604	.605
Large producer	.509	.510	.511
Certain Permian Basin gas:			
Small producer	.708	.710	.712
Large producer	.627	.629	.631
Certain Rocky Mountain gas:			
Small producer	.708	.710	.712
Large producer	.603	.604	.605
Certain Appalachian Basin gas:			
North subarea contracts dated after Oct. 7, 1969	.572	.573	.574
Other contracts	.527	.528	.529
Minimum rate gas:[1] All producers	.311	.312	.313

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

TABLE III.—INFLATION ADJUSTMENT

Month of delivery, 1985—	Factor [1]
August	1.00247
September	1.00247
October	1.00247

[1] By which price in preceding month is multiplied.

[FR Doc. 85-17973 Filed 7-29-85; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 282

[Docket No. RM79-14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8500.

Order of the Director, OPPR

In the matter of Publication of Prescribed Incremental Pricing Acquisition Cost Threshold of the NGPA of 1978; Docket No. RM79-14.

Issued: July 24, 1985.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(l) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of August 1985 is issued by the publication of a price table for the applicable month. The incremental pricing acquisition cost threshold prices for months prior to August 1985 are found in the tables in § 282.304.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar year 1984:												
Incremental pricing threshold	$2.283	$2.291	$2.299	$2.307	$2.315	$2.323	$2.331	$2.338	$2.345	$2.352	$2.359	$2.366
NGPA Section 102 threshold	3.586	3.609	3.632	3.656	3.680	3.705	3.730	3.752	3.774	3.797	3.821	3.845
NGPA Section 109 threshold	2.359	2.367	2.375	2.383	2.391	2.399	2.407	2.414	2.421	2.428	2.436	2.444
13% of No. 2 fuel oil in New York City Threshold	7.730	7.570	7.570	8.550	8.590	7.670	7.930	7.740	7.650	7.230	7.040	7.290
Calendar year 1985:												
Incremental pricing threshold	2.373	2.378	2.383	2.388	2.399	2.410	2.421	2.427				
NGPA Section 102 threshold	3.869	3.890	3.911	3.932	3.962	3.992	4.022	4.045				
NGPA Section 109 threshold	2.452	2.457	2.462	2.467	2.478	2.489	2.500	2.506				
130% of No. 2 fuel oil in New York City threshold	7.170	7.310	7.090	6.920	7.210	7.120	7.400	7.000				

[FR Doc. 85-17974 Filed 7-29-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8041]

Income Tax; Designation of Principal Campaign Committee

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the designation of a principal campaign committee by a candidate for Congress. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981 and the Tax Reform Act of 1984. These regulations provide candidates for Congress and their principal campaign committees with the guidance needed to comply with these Acts.

DATES: The amendments to the regulations apply to taxable years beginning after December 31, 1981 and are effective July 30, 1985.

FOR FURTHER INFORMATION CONTACT: Susan Thompson Baker of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC: LR: T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

On April 20, 1983, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 527 of the Internal Revenue Code of 1954 (48 FR 16911). The amendments were proposed to conform the regulations to section 128 of the Economic Recovery Tax Act of 1981 (95 Stat. 172, 203). No written comments responding to this notice were received, and no public hearing was requested or held. This Treasury decision adopts these amendments as proposed, with certain clarifying changes, and conforms the regulations to a change made by section 722 (c) of the Tax Reform Act of 1984 (98 Stat. 973).

Explanation of Provisions

Section 128 of the Economic Recovery Tax Act of 1981 adds new section 527(h) to the Internal Revenue Code of 1954. That section provides that the political organization taxable income of a "principal campaign committee" of a candidate for Congress shall be taxed at the appropriate corporate rate specified in section 11 (b) of the Code rather than at the highest rate specified in that section. The highest corporate rate of tax is the rate of tax applicable to other political organizations.

In order to qualify for the more favorable rate of tax, a committee must be designated in writing as a "principal campaign committee" by a candidate for Congress. A copy of this written designation, which may be made on Federal Election Commission Form 2 or or equivalent document, must be appended to the Form 1120-POL filed by the principal campaign committee for each taxable year for which the designation is effective. Only a candidate for Congress, and not a candidate for other Federal or State office, may make a designation of a principal campaign committee. A candidate for Congress may have only one designation under 527(h) in effect at any time. If, however, a candidate for Congress has only one campaign committee, no designation is required.

Non-Application of Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Regulatory Flexibility Act

Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in these regulations has been submitted to the Office of Management and Budget (OMB) in accordance with the requirement of Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of this regulation is Susan Thompson Baker of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in developing the regulation, both substantively and stylistically.

List of Subjects

26 CFR 1.501(a)-1—1.528-10

Income taxes, Exempt organizations, Foundations, Non-profit organizations, Cooperatives, Political organizations, Homeowners associations.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Part 1 and Part 602 are adopted as proposed, with certain clarifying changes. The amendments read as follows:

PART 1—[AMENDED]

26 CFR Part 1 is amended as follows:

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Sec. 1.527-9 also issued under 26 U.S.C. 527(h)(2)(B)(i).

Par. 2. Section 1.527-1 is revised to read as follows:

§ 1.527-1 Political organizations; Generally.

Section 527 provides that a political organization is considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes. A political organization is subject to tax only to the extent provided in section 527. In general, a political organization is an organization that is organized and operated primarily for an exempt function as defined in § 1.527-2(c). Section 527 provides that a political organization is taxed on its political organization taxable income (see § 1.527-4) which, in general, does not include the exempt function income (see § 1.527-3) of the political organization. Furthermore, section 527 provides that an exempt organization, other than a political organization, may be subject to tax under section 527 when it expends an amount for an exempt function, see § 1.527-6. The taxation of newsletter funds is provided under section 527(g) and § 1.527-7. A special rule for principal campaign committees is provided under section 527(h) and § 1.527-9.

Par. 3. Section 1.527-2 is amended by adding a new paragraph (e) immediately following paragraph (d). New paragraph (e) reads as follows:

§ 1.527-2 Definitions.

* * * * *

(e) *Principal campaign committee.* A "principal campaign committee" is the political committee designated by a candidate for Congress as his or her principal campaign committee for purposes of section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. section 432(e)), as amended, and section 527(h) and § 1.527-9.

Par. 4. Section 1.527-6(d) is revised to read as follows:

§ 1.527-6 Effective date; filing requirements; and miscellaneous provisions.

* * * * *

(d) *Effective date.* Except as provided in paragraph (b)(2) of § 1.527-6 and in paragraph (a) of § 1.527-9, the regulations under section 527 apply to taxable years beginning after December 31, 1974.

Par. 5. A new § 1.527-9 is added immediately following § 1.527-8. New § 1.527-9 reads as follows:

§ 1.527-9 Special rule for principal campaign committees.

(a) *In general.* Effective with respect to taxable years beginning after December 31, 1981, the tax imposed by section 527(b) on the political organization taxable income of a principal campaign committee shall be computed by multiplying the political organization taxable income by the appropriate rates of tax specified in section 11(b). The political organization taxable income of a campaign committee not a principal campaign committee is taxed at the highest rate of tax specified in section 11(b). A candidate for Congress may designate one political committee to serve as his or her principal campaign committee for purposes of section 527(h)(1). If a designation is made, it shall be made in accordance with the requirements of paragraph (b) of this section. A candidate for Congress may have only one designation in effect at any time. Under 11 CFR 102.12, no political committee may be designated as the principal campaign committee of more than one candidate for Congress. Further, no political committee that supports or has supported more than one candidate for Congress may be designated as a principal campaign committee. No designation need be made where there is only one political campaign committee with respect to a candidate.

(b) *Manner of designation.* If a candidate for Congress elects to make a designation under section 527(h) and this section, he or she shall designate his or her principal campaign committee by appending a copy of his or her Statement of Candidacy (that is, the Federal Election Commission Form 2, or equivalent statement that the candidate filed with the Federal Election Commission under 11 CFR 101.1(a)), to the Form 1120-POL filed by the principal campaign committee for each taxable year for which the designation is effective. This designation may also be made by appending to the Form 1120-POL statement containing the following information: The name and address of the candidate for Congress; his or her taxpayer identification number; his or her party affiliation and the office sought; the district and State in which the office is sought; and the name and address of the principal campaign comittee. This designation shall be made on or before the due date (as extended) for filing Form 1120-POL. Only a candidate for Congress may make a designation in accordance with this paragraph.

(c) *Manner of revoking designation.* A designation of a principal campaign committee that has been filed in accordance with this section may be revoked only with the consent of the Commissioner. In general, the Commissioner will grant such consent in every case where the candidate for Congress has revoked his or her designation in compliance with the requirements of the Federal Election Commission by filing an amended Statement of Organization or its equivalent pursuant to 11 CFR 102.2(a)(2). In the case of the revocation of the designation of a principal campaign committee by a candidate followed by the designation of another principal campaign committee by such candidate, for purposes of determining the appropriate rate of tax under section 11(b) for a taxable year, the political organization taxable income of the first principal campaign committee shall be treated as that of the subsequent principal campaign committee. In a case where consent to revoke a designation of a principal campaign committee is granted and a new designation is filed, the Commissioner may condition his

VOL 50 ISS 146 JL 30 1985 UMI

consent upon the agreement of the candidate for Congress to insure compliance with the preceding sentence.

PART 602—[AMENDED]

Par. 6. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 7. Section 602.101(c) is amended by inserting in the appropriate places in the table "§ 1.527–9 . . . . 1545–0129".

Approved: June 17, 1985.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Ronald A. Pearlman,
Assistant Secretary of the Treasury.

[FR Doc. 85–17834 Filed 7–29–85; 8:45 am]
BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–211; Notice No. 560]

North Yuba Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is establishing in Yuba County, California, an American viticultural area known by the appellation "North Yuba." This final rule results from a petition filed by Karl Werner and James R. Bryant, officers of Renaissance Vineyard and Winery, Inc., located near Oregon House, California.

The establishment of this viticultural area and the use of the name as an appellation of origin in the labeling and advertising of wine allows the proprietor of a winery to designate the area as the locale in which grapes used in the production of a wine are grown and enables the consumer to identify and to differentiate between that wine and other wines offered at retail.

EFFECTIVE DATE: This final rule is effective August 30, 1985.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Coordinator, FAA, Wine and Beer Branch, Room 6237, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in Title 27, Code of Federal Regulations, Part 4. These regulations allow the establishment of definite American viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in the labeling and advertising of wine. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added to Title 27 a new Part 9 providing for the listing of approved American viticultural areas.

Section 4.25a(e)(1) defines an American viticultural area as a delimited grape growing region distinguishable by geographical features. Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition shall include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundary of the proposed viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and,

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundary prominently marked.

Petition

On November 13, 1984, ATF received the petition for the establishment of the "North Yuba" viticultural area in the middle and upper foothills in north-central Yuba County, California. Upon completing a review of the data furnished with the petition, ATF consulted with the petitioner regarding expansion of the petitioned boundary to include areas of land of the same soil associations as are common to the area covered by the petition. ATF published the proposed boundary in Notice No. 560 (50 FR 12038) dated March 27, 1985.

Comments

ATF received one comment in response to the proposal to establish the "North Yuba" viticultural area. The commenter, the executive officer of the Board of Forestry for the State of California, favors the establishment of the viticultural area as proposed.

Name

The name "North Yuba" is well documented in the petition. Yuba County is named after the Yuba River which took its name from the Indian tribe which populated the area. "North Yuba" is the name used locally to designate the area in north central Yuba County in which are located the towns of Dobbins and Oregon House. This is the name used by Pacific Bell Telephone to designate the area. Included with the petition are letters from the county sheriff and the local chamber of commerce attesting to local usage and acceptance of the name "North Yuba" to designate the area.

Historically, viticulture came to Yuba County in the 1950's. Documents show the planting of wine grapes and the establishment of a winery in 1855. By 1860, Yuba County had five wineries and 800 acres were devoted to wine grape cultivation. By 1930, there were 1,000 acres devoted to wine grape cultivation. However, as a consequence of National Prohibition, the vineyards were replaced by orchards of peaches and prunes and the wineries closed.

Today, however, there are 360 acres of vineyards and one winery operating in the "North Yuba" viticultural area.

Geography

The North Yuba viticultural area consists of the middle and upper foothills in Yuba County immediately west of the Sierra Nevadas and north of the Yuba River. The 2,000-foot contour line of the Sierra Nevada Mountains forms the eastern and northern portions of the boundary of the proposed viticultural area and the 1,000-foot contour line north of the Yuba River canyon forms the southern portion of the boundary. The eastern bank of Woods Creek forms part of the western portion of the boundary. The area is approximately 7 miles in length from north to south and 3 to 6 miles in width from west to east.

The principal streams which drain the area are Dobbins Creek and the upper portions of Dry Creek. Both streams flow into the Yuba River. The land drained by these streams shares similar geological history, topographical features, soils, and climatic conditions. The portions of the area which are currently devoted to viticulture consist of foothill slopes between 1,000 and 2,000 feet above sea level.

Distinguishing Characteristics

The viticultural area is not only distinguished historically from surrounding areas but geographically by its topography, elevation, geology, soils, temperature, and rainfall.

Topography and Elevation

The topography of the viticultural area ranges from gently rolling hills to steeper slopes at the base of the Sierra Nevadas and generally ranges in elevation from 1,000 feet to 2,000 feet above sea level. Lying between the high Sierras to the east and the lowlands of the Sacramento Valley to the west, the boundary of the viticultural area defines a region well suited for viticulture. The topography of the area ensures adequate ventilation for viticulture. The area escapes both the early frosts and snow of higher elevations in the Sierra Nevadas and the heat, humidity and fog common to the lowlands in the Sacramento Valley.

Geology

The area is an example of a middle foothill to lower mountain landscape that has been formed during a long period of geologic time. The area is underlain by igneous rocks and granitic rocks that extend along the base of the Sierra Nevadas. It is geologically well defined by the Sierra Nevadas to the north and east, by greenstone rock to the west, and by the Yuba River canyon to the south.

Soil Characteristics

The three major physiographic units in Yuba County are the valley lands of the Sacramento Valley, the Sierra Nevadas to the east of the valley, and the foothills region which lies between the valley and the mountains. There are nine soil associations common to the valley lands, three common to the foothills region, and six common to the mountainous terrain. Of the 18 soil associations found in Yuba County, basically three distinguish the soils of the viticultural area from the soils in surrounding areas of the county and the adjoining counties of Butte and Nevada in California.

The soil associations common to the proposed area are Sierra-Auberry, Englebright-Rescue, and Dobbins. These soils are typical of those developed from granitic and igneous rocks. The soils are shallow to very deep, rocky, cobbly and rocky, or noncobbly and rocky and are generally well drained.

"Soils of the Yuba County, California", a 1969 soil survey published jointly by the Department of Soils and Plant Nutrition of the University of California at Davis and by the County of Yuba, California, contains a color coded general soil map which clearly shows a pattern of these three soil associations in the middle and upper foothills region of Yuba County between the predominant soil association of the lower foothills, Auburn-Sobrante-Las Posas, and the predominant soil association of the mountains, Challenge-Tish Tang. The boundary includes small areas of Auburn-Sobrante-Las Posas, Challenge-Tish Tang and Rackerby-Dobbins, a mountain soil association.

Data from the soil survey of Yuba County and the
1975 soil survey of Nevada County, which lies south of Yuba County, strongly support the boundary established in this final rule.

Climatological Characteristics

Generally, Yuba County has an interior "Mediterranean" type climate. However, the location of the "North Yuba" viticultural area in the middle to upper foothills region approaching the mountainous terrain of the Sierra Nevadas allows a subtle distinction in climatological characteristics from the rest of the county in that the area escapes both the heat and fog common to the lowlands of the Sacramento Valley and the early frosts and snow of the higher elevations of the Sierra Nevadas.

The lands of the Sacramento Valley in Yuba County range from 30 to 250 feet above sea level and the mean average rainfall is 20 to 25 inches. The valley lands are an extensive area of floodplains, terraces, alluvial fans and basins.

The mountains of Yuba County are part of the western slope of the Sierra Nevadas. This is a region of gently rounded ridges, moderately steep rolling hillsides, and rugged, steep canyon slopes, that is deeply entrenched by the Yuba River and its tributaries. Basic metavolcanic rocks are dominant in this area. Elevations range from 1,600 feet to more than 4,800 feet above sea level. Rain increases with elevation and ranges from 45 inches to more than 80 inches, much of which falls as snow at higher elevations.

The middle to upper foothills in which the viticultural area lies occupy the lower western slope of the Sierra Nevadas between the valley lands and the mountainous uplands of the county. This is an area of rolling to steep hills with conspicuous ridges and peaks. Rock outcroppings are common. The central foothills region ranges in elevation from 250 feet to 2,700 feet above sea level. However, the viticultural area generally ranges in elevation from 1,000 to 2,000 feet above sea level and can be distinguished from surrounding areas by rainfall. The rainfall within the area increases gradually with elevation from 25 to 50 inches. For example, the mean annual precipitation at the Dobbins-Colgate weather station is 40.4 inches compared to 61.9 inches at the Camptonville station to the east of the area and 20.7 inches at Marysville to the west of the area.

Such statistics are corroborated by a map adapted from the State of California Department of Water Resources Seasonal Isohyetal Map (1905 to 1955) to show mean annual precipitation for Yuba County. The map distinguishes by rainfall the central foothills region from the areas to the west and to the east.

The growing season of the viticultural area is distinctly cooler than the neighboring Sacramento Valley to the west and warmer than the mountainous area to the east. The climate of the area is characterized by cool summer night temperatures, often dropping to 30 degrees below daytime highs and allowing the grapes to retain sufficient acidity to balance the high sugar levels induced by daytime sunshine.

Foothill winds are an additional cooling factor in summer, contributing further to the development of proper acidity in the area's grapes. These cooling winds are distinguished from those of the valley. At the higher foothill elevations, the winds conform more closely with the free-flowing westerly winds over northern California rather than the southwesterly winds which come up from the Straits of Carquinez into the lowland area of Yuba County.

Climatological data from three weather stations of the U.S. Department of Commerce National Oceanographic and Atmospheric Administration document the climatological differences between "North Yuba" and adjoining areas. The data from these stations when compared with data compiled over the 10-year period 1975 to 1984 from vineyards in the vicinity of Oregon House show the following differences in climate between "North Yuba" and surrounding areas:

Location	Elevation (feet)	Mean annual	Rainfall (inches)	Growing season (days)
Marysville	60	62.9 °F	20.7	273.
Dobbins-Colgate	600	62.6 °F	40.4	267.

Location	Elevation (feet)	Mean annual	Rainfall (inches)	Growing season (days)
Oregon House	1,500	59.0 °F	35 to 40	215 to 225.
Camptonville	2,755	57.5 °F	61.9	185.

Boundary

The boundary of the North Yuba viticultural area is found on four United States Geological Survey maps of the 7.5 minute series, scale 1:24,000. The boundary is described in § 9.106.

The boundary of the proposed viticultural area encompasses approximately 35 square miles or 22,400 acres. Within the area there are approximately 360 acres devoted to the cultivation of wine grapes and one bonded winery.

Compliance with Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

PART 9—[AMENDED]

27 CFR Part 9—American Viticultural Areas is amended as follows:

Par. 1. The authority citation for 27 CFR Part 9 continues to read as follows:

Authority: August 29, 1935, Chapter 814, sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205), unless otherwise noted.

Par. 2. The Table of Sections in 27 CFR Part 9 is amended by adding § 9.106 to Subpart C to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.106 North Yuba.

* * * * *

Par. 3. Subpart C is amended by adding § 9.106 which reads as follows:

§ 9.106 North Yuba.

(a) *Name.* The name of the viticultural area described in this section is "North Yuba."

(b) *Approved maps.* The appropriate maps for determining the boundary of North Yuba viticultural area are the following four U.S.G.S. topographical maps of the 7.5 minute series:

(1) "Oregon House Quadrangle," edition of 1948, photo-revised 1969.

(2) "Rackerby Quadrangle," edition of 1948, photo-revised 1969.

(3) "Challenge Quadrangle," edition of 1948 photo-revised 1969.

(4) "French Corral Quadrangle," edition of 1948, photo-revised 1969.

(c) *Boundary.* The North Yuba viticultural area is located in Yuba County in the State of California. The boundary is as follows:

(1) Beginning on the "Oregon House Quadrangle" map at the point where the Browns Valley Ditch crosses Woods Creek in the southwest corner of section 25, T. 17 N., R. 6 E., the boundary proceeds northeasterly in a meandering line approximately 1.5 miles along the east bank of Woods Creek to the point near Richards Ranch where the paved light duty road crosses said creek;

(2) Then west and north, approximately 0.33 mile to the point where the paved light duty road meets the unimproved dirt road accessing Dixon Hill and Texas Hill;

(3) Then northwest continuing along the paved light duty road approximately 2.75 miles to the intersection at Oregon House of said light duty road with the medium duty road which travels east and west between Virginia Ranch Reservoir of Dry Creek and the Yuba County Forestry Headquarters near Dobbins;

(4) Then northeasterly, 0.7 mile, along same light duty road to its intersection with the unimproved dirt road to Lake Mildred, located in the northwest corner of section 2, T. 17 N., R. 6 E.;

(5) Then northwesterly, 1.0 miles, along the unimproved dirt road to the end of said road at the shoreline of Lake Mildred;

(6) Then southwest along the shoreline of Lake Mildred to the Los Verjeles Dam at the westernmost end of said lake;

(7) Then across the face of said dam and continuing northeast along the shoreline of Lake Mildred to the point where the stream running through Smokey Ravine flows into Lake Mildred;

(8) Then north and west along said stream to the point where the stream crosses the 1,900-foot contour line in the northeast corner of section 27, T. 18 N., R. 6 E.;

(9) Then southwest in a meandering line along the 1,900-foot contour line of Lamb Hill;

(10) Then northwest along the 1,900-foot contour line of High Spring Ridge to the point where the medium duty paved road running north and south along Willow Glen Creek crosses the 1,900-foot contour line, approximately 0.75 mile north of Finley Ranch;

(11) Then north along said road, approximately 1 mile, to its intersection at Willow Glen Ranch near the west boundary line of section 15, T. 18 N., R. 6 E., with the light duty road which crosses Critterden Ridge;

(12) Then in a generally easterly direction along said road, approximately 2.0 miles, to its point of intersection with the light duty paved road named Frenchtown Road which runs north and south between Brownsville and Frenchtown;

(13) Then south along the Frenchtown Road to the point where the road crosses the 1,600-foot contour line in the northwest corner of section 24, T. 18 N., R. 6 E.;

(14) Then east along the 1,600-foot contour line to the point where Dry Creek crosses the 1,600-foot contour line near the south boundary line of section 13, T. 18 N., R. 6 E.;

(15) Then south along Dry Creek, approximately 0.16 mile, to the confluence of Indiana Creek with Dry Creek;

(16) Then in a generally easterly direction, approximately 1 mile, along Indiana Creek to the confluence of Keystone Creek with Indiana Creek;

(17) Then north along indiana Creek, approximately 0.87 mile, to the point where Indiana Creek meets the 2,000-foot contour line of Oregon Hills;

(18) Then in a generally southeasterly direction along the 2,000-foot contour line of Oregon Hills, approximately 6 miles, to the point near the east boundary line of section 9, T. 17 N., R. 7 E., where the power transmission line on Red Bluff crosses the 2,000-foot contour line;

(19) Then southwest along the right of way of said power transmission line to the point near the south boundary of section 9, T. 17 N., R. 7 E., where it meets the power transmission line running northwest and southeast between Dobbins and the Colgate Power House;

(20) Then southeast along the power transmission line between Dobbins and Colgate Power House to the Colgate Power House;

(21) Then in a generally westerly direction from the Colgate Power House along the power transmission line which crosses over Dobbins Creek to the point west of Dobbins Creek where the power transmission line intersects the 1,000-foot contour line;

(22) Then in a generally southwesterly direction along the 1,000-foot contour line above the north bank of the Yuba River and Harry L. Englebright lake of the Yuba River to the intersection of the 1,000-foot contour line with Woods Creek in the northeast corner of section 36, T. 17 N., R. 6 E.;

(23) Then east and north along the east bank of Woods Creek, approximately 0.5 miles, to the point of beginning.

Signed: June 28, 1985

Stephen E. Higgins,

Director.

Approved: July 15, 1985.

Edward T. Stevenson,

Deputy Assistant Secretary (Operations).

[FR Doc. 85–17985 Filed 7–29–85; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 170

[T.D. ATF–207; Correction]

Stills; Miscellaneous Provisions; Correction

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule (Treasury decision); correction.

SUMMARY: This document corrects an error made in FR Doc. 85–16774, which contained miscellaneous provisions regarding stills. FR Doc. 85–16774 was published in the **Federal Register** on July 15, 1985 at 50 FR 28572.

FOR FURTHER INFORMATION CONTACT: J.R. Whitley, ATF Tax Specialist, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, (202) 566–7531.

SUPPLEMENTARY INFORMATION:

Par. 1. In the middle column of page 28572, in § 170.55, remove the words "Reporting and Recordkeeping requirements in paragraph (a)" from the beginning of the parenthetical paragraph containing the OMB control number. As corrected the parenthetical paragraph should read as follows:

(Approved by the Office of Management and Budget under control number 1512–0341)

Signed: July 22, 1985.

W.T. Drake,

Acting Director.

[FR Doc. 85–17971 Filed 7–29–85; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T–011]

Minnesota State Plan; Approval of Revised Compliance Staffing Benchmarks and Final Approval Determination

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Approval of Revised Compliance Staffing Benchmarks and Final State Plan Approval.

SUMMARY: This document amends Subpart N of 29 CFR Part 1952 to reflect the Assistant Secretary's decision approving revised compliance staffing requirements and granting final approval to the Minnesota State Plan. As a result of this affirmative determination under section 18(e) of the Occupational Safety and Health Act of 1970, Federal OSHA standards and enforcement authority no longer apply to occupational safety and health issues covered by the Minnesota plan, and authority for Federal concurrent jurisdiction is relinquished. Federal enforcement jurisdiction is retained over offshore maritime employment in the private sector. Federal jurisdiction remains in effect with respect to Federal government employers and employees and employment at the Twin Cities Army Ammunition Plant.

EFFECTIVE DATE: July 30, 1985.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue NW., Washington, D.C. 20210. Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Introduction

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards may do so by submitting, and obtaining Federal approval of, a State plan. Procedures for State plan submission and approval are set forth in regulations at 29 CFR Part 1902. If the Assistant Secretary, applying the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3 and 1902.4, finds that the plan provides or will provide for State standards and enforcement which are "at least as effective" as Federal standards and enforcement, initial approval is granted.

A State may commence operations under its plan after this determination is made, but the Assistant Secretary retains discretionary Federal enforcement authority during the initial approval period as provided by section 18(e) of the Act. A State plan may receive initial approval even though, upon submission, it does not fully meet the criteria set forth in 29 CFR 1902.3 and .4 if it includes satisfactory assurances by the State that it will take the necessary "developmental steps" to meet the criteria within a 3-year period. 29 CFR 1902.2(b). The Assistant Secretary publishes a notice of "certification of completion of developmental steps" when all of a State's developmental commitments have been satisfactorily met. 29 CFR 1902.34.

When a State plan that has been granted initial approval is developed

opportunity to submit data, views and

Employees are likewise required to

developmental steps, the State

(compliance staffing benchmarks)

A copy of the October 1982–March

VOL 50 ISS 146 JL 30 1985 UMI

When a State plan that has been granted initial approval is developed sufficiently to warrant a suspension of concurrent Federal enforcement activity, it becomes eligible to enter into an "operational status agreement" with OSHA. 29 CFR 1954.3(f). A State must have enacted its enabling legislation, promulgated State standards, achieved an adequate level of qualified personnel, and established a system for review of contested enforcement actions. Under these voluntary agreements, concurrent Federal enforcement will not be initiated with regard to Federal occupational safety and health standards in those issues covered by the State plan, where the State program is providing an acceptable level of protection.

Following the initial approval of a complete plan, or the certification of a developmental plan, the Assistant Secretary must monitor and evaluate actual operations under the plan for a period of at least one year to determine, on the basis of actual operations under the plan, whether the criteria set forth in section 18(c) of the Act and 29 CFR 1902.3, 1902.4 and 1902.37 are being applied. An affirmative determination under section 18(e) of the Act (usually referred to as "final approval" of the State plan) results in the relinquishment of authority for Federal concurrent jurisdiction in the State with respect to occupational safety and health issues covered by the plan. 29 U.S.C. 667(e).

An additional requirement for final approval consideration is that a State must meet the compliance staffing levels, or benchmarks, for safety and health compliance officers established by OSHA for that State. This requirement stems from a 1976 Court Order by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406), pursuant to a U.S. Court of Appeals decision, that directed the Assistant Secretary to calculate for each State plan State the number of enforcement personnel needed to assure a "fully effective" enforcement program.

History of the Minnesota Plan and Its Compliance Staffing Benchmarks

Minnesota Plan

On August 22, 1972, Minnesota submitted an occupational safety and health plan in accordance with section 18(b) of the Act and 29 CFR Part 1902, Subpart C, and on November 25, 1972, a notice was published in the **Federal Register** (37 FR 25083) concerning submission of the plan, announcing that initial Federal approval was at issue and offering interested persons an opportunity to submit data, views and arguments concerning the plan. Comments were received from: The American Federation of Labor and Congress of Industrial Organizations (AFL–CIO); United States Steel Corporation; Porter Inc.; Honeywell, Inc.; Abrams and Spector, P.A.; Northwestern Bell Co.; Naegele Outdoor Advertising Co.; Inc.; International Brotherhood of Electrical Workers; United Auto Workers; Minnesota Association of Commerce and Industry; Winona Area Chamber of Commerce; and Patrick Lee Reagan. The Winona Area Chamber of Commerce and Patrick Lee Reagan requested a hearing. In response to these comments, as well as to OSHA's review of the plan submission, the State made changes in its plan which were discussed in the notice of initial approval. Because the comments did not indicate that the plan failed in any material way to meet the criteria for acceptability as set forth in section 18(c) of the Act and 29 CFR Part 1902, no hearing was held.

On June 6, 1973, the Assistant Secretary published a notice granting initial approval of the Minnesota plan as a developmental plan under section 18(b) of the act (38 FR 15076). The State's program began operating on August 1, 1973. The plan provides for a program patterned in most respects after that of the Federal Occupational Safety and Health Administration.

The Minnesota Department of Labor and Industry is designated as having responsibility for administering the plan throughout the State. The day-to-day administration of the plan is directed by the Assistant Commissioner of Labor and Industry and the Director of the Minnesota Occupational Safety and Health Division. Health inspections are conducted by the Minnesota Department of Health, Division of Environmental Health, under contract. Health inspection findings are forwarded to the Department of Labor and Industry for action. The Department of Health also provides laboratory services in support of the plan.

The plan provides for the adoption by Minnesota of standards which are at least as effective as Federal occupational safety and health standards, including emergency temporary standards.

The plan requires employers to furnish employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm and to comply with all occupational safety and health standards promulgated by the agency. Employees are likewise required to comply with standards applicable to their conduct. The plan contains provisions similar to Federal procedures for, among others, imminent danger proceedings, variances, safeguards to protect trade secrets, and employer and employee rights to participate in inspection and review proceedings. Appeals of citations, penalties and abatement periods are heard by the Minnesota Occupational Safety and Health Review Board. Decisions of the Review Board may be appealed to the appropriate State District Court.

The notice of initial approval noted a few distinctions between the Federal and Minnesota programs. In addition to adopting all Federal occupational safety and health standards, the State promulgates standards for which there are no corresponding Federal standards. The plan includes prohibition of denial of pay to an employee for participating in an inspection as part of its provision prohibiting discrimination against employees for exercising their rights under the law. State law also provides that standards requiring personal protective equipment mandate that such equipment be made available by or at the cost of the employer. In addition, in 1983 Minnesota enacted its Employee Right-to-Know Law which requires employers to provide information and training to employees concerning hazardous substances in their workplaces. (This law was subsequently amended in 1985 to conform with the provisions of the OSHA Hazard Communication Standard.)

The Assistant Secretary's initial approval of the Minnesota developmental plan, a general description of the plan, a schedule of required developmental steps and a provision for discretionary concurrent Federal enforcement during the period of initial approval were codified in the Code of Federal Regulations (29 CFR Part 1952, Subpart N; 38 FR 15076 (June 8, 1973)).

In accordance with the State's developmental schedule, all major structural components of the plan were put in place and appropriate documentation submitted for OSHA approval during the three-year period ending June 30, 1976. These "developmental steps" included: amendments to the Minnesota Occupational Safety and Health Act; promulgation of State Occupational Safety and Health Act; promulgation of State occupational safety and health standards and program regulations, and revision of the State's Field Compliance Manual. In completing these

developmental steps, the State developed and submitted for Federal approval all components of its enforcement program including, among other things, a merit staffing and a safety and health poster for private and public employees.

These submissions were carefully reviewed by OSHA; after opportunity for public comment and modification of State submissions where appropriate, the major plan elements were approved by the Assistant Secretary as meeting the criteria of section 18 of the Act and 29 CFR 1902.3 and 1902.4. The Subpart of 29 CFR Part 1952 designated as relating to Minnesota was amended to reflect each of these approval determinations (see 29 CFR 1952.204).

On September 28, 1976, in accordance with procedures at 29 CFR 1902.34 and 1902.35, the Assistant Secretary certified that Minnesota had satisfactorily completed all developmental steps (41 FR 42659). In certifying the plan, the Assistant Secretary found the structural features of the program—the statute, standards, regulations, and written procedures for administering the plan—to be at least as effective as corresponding Federal provisions. Certification does not entail findings or conclusions by OSHA concerning adequacy of actual plan performance. As has already been noted, OSHA regulations provide that certification initiates a period of evaluation and monitoring of State activity to determine, in accordance with section 18(e) of the Act, whether the statutory and regulatory criteria for State plans are being applied in actual operations under the plan and whether final approval should be granted.

Although Minnesota had not sought previously to enter into an operational status agreement, in 1981 OSHA determined that such agreements should be concluded with all qualified States. Thus, a **Federal Register** notice was published on June 11, 1982 (47 FR 25325), announcing that an operational status agreement had been signed on October 9, 1981, for Minnesota. Under the terms of that agreement, OSHA voluntarily suspended the application of concurrent Federal enforcement authority with regard to Federal occupational safety and health standards in all issues covered by the Minnesota plan.

Minnesota Benchmarks

In 1978, the Assistant Secretary was directed by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406), pursuant to a U.S. Court of Appeals decision, to calculate for each State plan state the number of enforcement personnel (compliance staffing benchmarks) needed to assure a "fully effective" enforcement program. In 1980, OSHA submitted a Report to the Court containing the benchmarks and requiring Minnesota to allocate 56 safety compliance officers and 74 industrial hygienists to conduct inspections under the plan.

In September 1984 the Minnesota State designee in conjunction with OSHA completed a review of the components and requirements of the 1980 compliance staffing benchmarks established for Minnesota. Pursuant to an initiative begun in August 1983 by the State plan designees as a group with OSHA and in accord with the formula and general principles established by that group for individual State revision of the benchmarks, Minnesota reassessed the staffing necessary for a "fully effective" occupational safety and health program in the State. This reassessment resulted in a proposal to OSHA contained in comprehensive documents of revised compliance staffing benchmarks of 31 safety and 12 health compliance officers.

History of the Present Proceedings

Procedures for final approval of State plans are set forth at 29 CFR Part 1902, Subpart D. On January 16, 1985, the Occupational Safety and Health Administration published notice of its proposal to approve revised compliance staffing benchmarks for Minnesota and the resultant eligibility of the Minnesota State plan for determination under section 18(e) of the Act as to whether final approval of the plan should be granted (50 FR 2467). The determination of eligibility was based on monitoring of State operations for at least one year following certification, State participation in the Federal-State Unified Management Information System, and staffing which meets the proposed revised State staffing benchmarks.

The January 16 **Federal Register** notice set forth a general description of the Minnesota plan and summarized the results of Federal OSHA monitoring of State operations during the period from October 1982 through March 1984. In addition to the information set forth in the notice itself, OSHA submitted, as part of the record in this rulemaking proceeding, extensive and detailed exhibits documenting the plan, including copies of the State legislation, administrative regulations and procedural manuals under which Minnesota operates its plan, and copies of all previous **Federal Register** notices regarding the plan.

A copy of the October 1982–March 1984 Evaluation Report of the Minnesota plan ("18(e) Evaluation Report"), which was extensively summarized in the January 16 proposal and which provided the principal factual basis for the proposed 18(e) determination, was included in the Record (Ex. 3–13). Copies of all OSHA evaluation reports on the plan since its certification as having completed all development steps were made part of the record.

The January 16 **Federal Register** also contained notice of the Occupational Safety and Health Administration's proposed approval of revised compliance staffing benchmarks for Minnesota. A detailed description of the methodology and State-specific information used to develop the revised compliance staffing benchmarks for Minnesota was included in the notice. In addition, OSHA submitted, as a part of the record (Docket No. T–011), Minnesota's detailed submission containing both a narrative explanation and supporting data (Ex. 2–10). A summary of the benchmark revision process was likewise set forth in a separate **Federal Register** notice on January 16, 1985, concerning the Wyoming State plan (50 FR 2491). An informational record was established in a separate docket (No. T–018) and contained background information relevant to the benchmark issue in general and the current benchmark revision process.

To assist and encourage public participation in the benchmark revision process and 18(e) determination, copies of the complete record were maintained in the OSHA Docket Office in Washington, D.C., in the OSHA Region V Office in Chicago, Illinois, and the office of the Minnesota Department of Labor and Industry in St. Paul, Minnesota. A summary of the January 16 proposal, with an invitation for public comments, was published in Minnesota on January 28, 1985 (Ex. 5).

The January 16 proposal invited interested persons to submit, by February 20 (subsequently extended to March 22, 1985, 50 FR 6956, in response to a request from James N. Ellenberger, Department of Occupational Safety, Health and Social Security, AFL–CIO), written comments and views regarding the Minnesota plan, whether the proposed revised compliance staffing benchmarks should be approved, and whether final approval should be granted. Opportunity to request an informal public hearing on the issue of final approval was likewise provided. Twelve letters of comment were received in response to these notices:

four from local, State and national labor organizations; one from an employer; four from non-governmental

United Steelworkers of America, Mary Win O'Brien, Assistant General Counsel

investigators. These reviews have shown the reports to present a complete

vigorously for employees' safety and health and by maintaining good

reflected, for the most part, the commenters' concerns regarding the

added 530 small establishments with an

VOL 50 ISS 146 JL 30 1985 UMI

four from local, State and national labor organizations; one from an employer; four from non-governmental organizations, other than management or labor groups, concerned with occupational safety and health issues; one from a firm of attorneys; one from a group of physicians; and one from a 12-member body within the State government, composed of representatives of labor, management, the occupational safety and health professions, and the general public, appointed to provide advice on occupational safety and health matters. No requests for an informal hearing were received.

Summary and Evaluation of Comments Received

During this proposed rulemaking OSHA has encouraged interested members of the public to provide information and views regarding operations under the Minnesota plan, to supplement the information already gathered during OSHA monitoring and evaluation of plan administration, and regarding the proposed revised compliance staffing benchmarks for Minnesota.

In response to the January 16 Federal Register notice, OSHA received comments from: Minnesota Safety Council, Inc., Robert L. Anderson, President (Ex. 4–2); Apprenticeship Coordinators Association of Minnesota, James H. Gustafson, President (Ex. 4–3); Northern States Power Company, E.I. Malone, General Manager, Industrial Relations, Safety and Workers' Compensation, and J.J. Pineault, Manager, Occupational Safety and Health (Ex. 4–4); State of Minnesota Occupational Safety and Health Advisory Council, Edwin Conrad, Chairman (Ex. 4–5); Minnesota State Building and Construction Trades Council, William R. Peterson, President (Ex. 4–6); Koll and McCoy, Attorneys at Law, Laurence F. Koll, Attorney at Law (Ex. 4–7); Midwest Center for Occupational Health and Safety, Ruth K. McIntyre, Director, Continuing Education (Ex. 4–8); Occupational Health Services, Paul B. Johnson, M.D. *et al.* (Ex. 4–9); International Brotherhood of Electrical Workers, Local Union No. 160, Robert M. Sable, Safety Chairman, and David C. Ring, Business Manager (Ex. 4–10); American Industrial Hygiene Association (AIHA), James R. Thill, President, Midwest Section (Ex. 4–11); American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), Margaret Seminario, Association Director, Department of Occupational Safety, Health and Social Security (Ex. 4–12); United Steelworkers of America, Mary Win O'Brien, Assistant General Counsel (Ex. 4–13). Ivan Russell, Director, Occupational Safety and Health Division, Minnesota Department of Labor and Industry, responded to the public comments (Ex. 4–14).

The Minnesota Safety Council's response was supportive of the Minnesota plan (Ex. 4–2). The Council has been associated with the program since its inception, having participated in the drafting of the plan, and has closely observed State activities since the program became operational. Thus, Council President Robert L. Anderson felt that there was a firm basis for its favorable appraisal of the State's enforcement effort and the level of compliance obtained.

A similarly supportive position was taken by the Apprenticeship Coordinators Association of Minnesota (Ex. 4–3). The Association's President, James H. Gustafson, expressed the view that the State's performance had been skilled and professional.

Messrs. Malone and Pineault, representing the Northen States Power Company, had both been administrators of the State plan (Ex. 4–4). On the basis of this dual perspective as employers and former program officials, they asserted that the State was protective of employees' rights to a safe and healthful workplace and employers' rights to an equitable review of disputed State actions. It was felt that the final approval of the Minnesota plan would be a significant advance for the employees of Minnesota.

Edwin Conrad, Chairman of the State of Minnesota's Occupational Safety and Health Advisory Council, noted a decline in the total injury and illness incidence rate and the reduction in the total number of work-related fatalities as ultimate evidence of the Minnesota program's effectiveness (Ex. 4–5). The 12 members of the Council, representing management, labor, the occupational safety and health professions and the general public, have observed the development of a working relationship between the State and employers and employees which has contributed to this achievement.

The competence of State personnel was commended by Lawrence F. Koll of Koll and McCoy, Attorneys at Law (Ex. 4–7). Mr. Koll had been a former Minnesota Workers' Compensation Commissioner and is currently a member of the Workers Compensation Advisory Council, and thus has had an opportunity to examine accident investigation reports of Division of Occupational Safety and Health field investigators. These reviews have shown the reports to present a complete and cogent analysis of the accidents in question.

The Midwest Center for Occupational Health and Safety has gone on record as affirming its support of the Minnesota program (Ex. 4–8). Ruth K. McIntyre, Director of Continuing Education for the Center, noted the strong administration and management of the program, resulting in a stringent enforcement of standards and, consequently, greater protection for employees. She also views the revised staffing benchmarks favorably.

On the basis of their experiences with the State plan, Paul B. Johnson, M.D., and four other physicians associated with Occupational Health Services, a program of St. Paul-Ramsey Medical Center, have asserted their belief in the plan's value (Ex. 4–9). They claim that the knowledge and effectiveness of State personnel have been frequently demonstrated and advocate final approval.

James R. Thill, President, Midwest Section of the American Industrial Hygiene Association, wrote on behalf of the board and officers of the Association to urge final approval of the Minnesota plan and approval of the State's revised staffing benchmarks (Ex. 4–11). Speaking from personal experience gained in assisting the State in its development of the Minnesota Employee Right-to-Know Law, serving as an expert witness in workers' compensation cases, and advising cited employers, Mr. Thill gave a positive appraisal of the State's program. He had been favorably impressed with the technical competence of the staff, their cooperative attitude, and their practical and realistic approach to solving problems affecting the health of workers.

Two State affiliates of the AFL–CIO expressed their support of the Minnesota program and its proposed final approval. William R. Peterson of the Minnesota State Building and Construction Trades Council (AFL–CIO) noted, as an indication of the State's effectiveness, that compliance with the State's housekeeping standards has resulted in a 50% reduction in minor injuries at one construction site in Becker, Minnesota (Ex. 4–6).

Presenting the position of the International Brotherhood of Electrical Workers, Local Union No. 160 (AFL–CIO), Robert M. Sable, Safety Chairman, and David C. Ring, Business Manager, have endorsed a determination in favor of Minnesota's final approval (Ex. 4–10). They maintain that by working vigorously for employees' safety and health and by maintaining good relations with both labor and management, the State has established and continues to operate a program which exceeds the requirement that it be "at least as effective" as OSHA.

The March 22 comments submitted by Margaret Seminario, Associate Director, Department of Occupational Safety, Health and Social Security of the AFL–CIO, contained a number of criticisms, which fall into three broad categories relating to State plans and the evaluation thereof: OSHA's data-based State monitoring system; Minnesota plan performance discussed in the 18(e) Evaluation Report for the period October 1, 1982 through March 31, 1984; and OSHA's revised compliance staffing benchmarks both in general terms and as they relate specifically to Minnesota (Ex. 4–12). Regarding the first area of concern, a brief description of OSHA's State plan monitoring and evaluation system is appropriate.

The evaluation of the Minnesota plan was conducted in accordance with OSHA's new State plan monitoring and evaluation system. This system uses statistical data to compare Federal and State performance on a number of criteria, or measures. Significant differences between the two are evaluated to determine whether these differences, viewed within the framework of overall State plan administration, detract from the State's effectiveness and potentially render it less effective than the Federal program.

The AFL–CIO expressed concern that Federal OSHA's monitoring system with its reliance on statistical indicators fails to accurately reflect the overall conduct of the State program and tries to limit those areas of State performance which exceed OSHA's enforcement efforts in several areas. However, OSHA never intended that superior performance would result in any negative conclusion. Statistical outliers display differences, not necessarily deficiencies. If further review related to an outlier determines stronger State performance, clearly no negative determination will be made.

The AFL–CIO's comments on specific State performance issues are addressed in the appropriate sections of the Findings and Conclusions portion of this notice. Ivan Russell, the Director of the Minnesota Occupational Safety and Health Division, responded in detail to the issues raised by the AFL–CIO on both the benchmarks and State-specific issues (Ex. 4–14).

Comments by both the AFL–CIO and the United States Steelworkers of America addressing the proposed revised benchmarks for Minnesota reflected, for the most part, the commenters' concerns regarding the benchmark revision process generally. Thus, the comments question whether the benchmark's formula as applied in Minnesota should have assumed a need for routine, general schedule inspections at all covered workplaces; question whether the proposed staffing levels will be sufficient to respond to new hazards or future standards; and question the appropriateness of the inclusion or exclusion of various industry groups in Minnesota's general inspection universe unless corresponding industries are treated identically in other States. As was specifically discussed in the Federal Register notice of June 13, 1985, dealing with approval of revised benchmarks for the Kentucky State plan (50 FR 24884), the concept of universal general schedule coverage has been replaced by more sophisticated targeting systems which deploy enforcement resources where they are most needed, and universal coverage is as inappropriate a concept for benchmarks formulation as it is for inspection scheduling. The possible effect of new hazards or future standards cannot be ascertained with any precision, and in any case both OSHA and the States have generally been able to effectively enforce new standards with no additions to staff for that purpose. As to the need for "uniformity," OSHA believes the greatest strength of the current formula is that it takes into account actual State program needs as shown by State data and experience. OSHA has found that the formula used to derive benchmarks for Minnesota and other States involved in the 1984 revision process employs the best information and techniques currently available; properly takes into account each of the factors set forth in the District Court Order in *AFL–CIO* v. *Marshall* and is an appropriate means of establishing fully effective benchmarks which provide proper program coverage in the context of each State's specific program needs. A more detailed discussion of the general concerns raised by the AFL–CIO and the Steelworkers can be found in the June 13, 1985, Federal Register notice on Kentucky (50 FR 24884).

The comments filed by the AFL–CIO also addressed several specific issues relating to calculation of the benchmarks for Minnesota. The union indicated that although Minnesota had added many industries and establishments to its general schedule safety inspection universe, no workplaces with ten or fewer employees in high hazard industries were added. This comment is in error. Minnesota added 530 small establishments with an experience of above-average Workers' Compensation Insurance premiums in industries with high injury rates to its safety universe. Moreover, in all industry groups and workplaces covered by the Minnesota plan, the State provides coverage by responding to employee complaints of unsafe or unhealthful conditions and to accidents.

The AFL–CIO also commented that although Minnesota added some high hazard non-manufacturing establishments to its initial health inspection universe, the State did not allocate general schedule resources to certain industries with serious health hazards, including bottled and canned soft drinks, wood products, auto repair shops, and hospitals. Minnesota responded that many of the industries about which the AFL–CIO expressed concern are already included in the State's safety inspection universe and would receive inspection coverage by safety compliance personnel cross-trained in the recognition of health hazards. In many instances the safety personnel make referrals to the Minnesota Department of Health for referral inspections to be conducted by industrial hygienists. Of course, these industries would also be subject to inspections under the State's employee complaint and accident investigation provisions. OSHA concurs that inclusion of these industries in the initial health universe is not required for proper program coverage. (It should also be remembered that assumptions made in determining a State's theoretical workload for benchmark purposes are not binding upon the State in determining specific employers for general schedule enforcement visits. The initial universe is not in itself a targeting system but rather a method for determining a reasonable estimate of workplaces with industrial exposures likely to produce hazards.)

The AFL–CIO asserted that Minnesota's allocation of enforcement resources to health inspections in the public sector and the construction industry, which the State based on past experience, is inadequate. Minnesota responded that 17% of its covered workforce is in the public sector, with only a very small percentage of those employees engaged in "high-risk" occupations. The State also noted that health hazards in the construction industry are most often cited by cross-trained safety compliance officers, or as the result of referral or health complaint inspections. Minnesota further responded that health hazards warranting special State attention,

VOL 50 ISS 146 JL 30 1985 UMI

either in construction or the public sector, will be addressed through special emphasis programs without any negative impact upon the State's overall enforcement program.

Finally, both the AFL-CIO and the Steelworkers allege that the number of enforcement personnel now found appropriate for a fully effective program in Minnesota and other States is lower than the staffing levels allocated by the States in 1980 or projected in the benchmarks issued by OSHA during its first effort to implement the *AFL-CIO* v. *Marshall* Court Order in 1980. However, the District Court Order on which the revision process has been based does not assume or require that revised benchmarks must provide a comparative increase over past levels. The adequacy of the revised benchmarks cannot be determined by whether they are greater or smaller than the 1980 benchmarks or earlier enforcement levels. Such direct numerical comparison of staffing levels is no more valid than was direct comparison of State to Federal staffing levels under the "at least as effective" test rejected by the Court of Appeals in 1978. The objective assigned to OSHA by the Court of Appeals decision and District Court Order was, in sum, to measure the workload assumed by each State under its plan and to determine, using the best available information and techniques, but avoiding direct numerical comparisons, the staffing levels needed for fully effective coverage. This is precisely what has been done in the present revision process. The review of each State's illness and injury data, industrial mix, demographics and enforcement history has been far more detailed than was the case when benchmarks were first issued in 1980. As discussed above, the concept of universal routine inspection has been replaced by far more sophisticated targeting, devoting resources to the relative minority of industries where the majority of enforcement-preventable injuries occur. These factors have resulted in the more realistic enforcement staffing requirements embodied in the revised benchmarks for Minnesota.

For these reasons, and in light of other comments by groups and individuals directly affected and knowledgeable about safety and health enforcement needs in Minnesota, OSHA believes application of the current benchmark formula for Minnesota has resulted in staffing levels which result in fully effective enforcement in the State of Minnesota.

Findings and Conclusions

Minnesota Benchmarks

As provided in the 1978 Court Order in *AFL-CIO* v. *Marshall*, Minnesota, in conjunction with OSHA, has undertaken to revise the compliance staffing benchmarks originally established in 1980 for Minnesota. OSHA has reviewed the State's proposed revised benchmarks and supporting documentation and has carefully considered the public comments received with regard to this proposal, and has determined that compliance staffing levels of 31 safety and 12 health compliance officers meet the requirements of the Court and provide staff sufficient to ensure a fully effective enforcement program.

Minnesota Final Approval

As required by 29 CFR 1902.41, in considering the granting of final approval to a State plan, OSHA has carefully and thoroughly reviewed all information available to it on the actual operation of the Minnesota State plan. This information has included all previous evaluation findings since certification of completion of the State plan's developmental steps, especially data for the period of October 1982 through March 1984 and information presented in written submissions. Findings and conclusions in each of the areas of performance are as follows:

(1) *Standards.* Section 18(c)(2) of the Act requires State plans to provide for occupational safety and health standards which are at least as effective as Federal standards. Such standards where not identical to the Federal must be promulgated through a procedure allowing for consideration of all pertinent factual information and participation of all interested persons (29 CFR 1902.4(b)(2)(iii)); must, where dealing with toxic materials or harmful physical agents, assure employee protection throughout his or her working life (29 CFR 1902.4(b)(2)(i)); must provide for furnishing employees appropriate information regarding hazards in the workplace through labels, posting, medical examinations, etc. (29 CFR 1902.4(b)(2)(vi)); must require suitable protective equipment, technological control, monitoring, etc. (29 CFR 1902.4(b)(2)(vii)); and where applicable to a product must be required by compelling local conditions and not pose an undue burden on interstate commerce (29 CFR 1902.3(c)(2)).

As documented in the approved Minnesota State plan and OSHA's evaluation findings made a part of the record in this 18(e) determination proceeding, and as discussed in the January 16 notice, the Minnesota plan provides for the adoption of standards and amendments thereto which are identical to, or at least as effective as, Federal standards. The State's law and regulations, previously approved by OSHA and made a part of the record in this proceeding (Exs. 2–2 and 2–3), include provisions addressing all of the structural requirements for State standards set out in 29 CFR Part 1902.

In order to qualify for final State approval, a State program must be found to have adhered to its approved procedures (29 CFR 1902.37(b)(2)); to have timely adopted identical or at least as effective standards, including emergency temporary standards and standards amendments (29 CFR 1902.37(b)(3)); to have interpreted its standards in a manner consistent with Federal interpretations and thus to demonstrate that in actual operation State standards are at least as effective as the Federal (29 CFR 1902.37(b)(4)); and to correct any deficiencies resulting from administrative or judicial challenge of State standards (29 CFR 1902.37(b)(5)).

During the evaluation period, the State experienced some difficulty in complying with the six-month time frame for adopting Federal standards changes. The average lapse time for adoption of standards was 6.9 months. This appears to be due to the State's past practice of publishing notices of adoption of standards semi-annually. A recent change in State procedures now provides for quarterly adoption of standards (18(e) Evaluation Report, p. 14).

When a State adopts Federal standards, the State's interpretation and application of such standards must ensure consistency with Federal interpretation and application. The State has generally adopted standards interpretations, which are at least as effective as the Federal, in a timely fashion. OSHA's monitoring has found that the State's application of its standards is comparable to Federal standards application. No challenges to standards have occurred in Minnesota.

Therefore, in accordance with section 18(c)(2) of the Act and the pertinent provisions of 29 CFR 1902.3, 1902.4 and 1902.37, OSHA finds the Minnesota program in actual operation to provide for standards adoption, correction when found deficient, interpretation and application, in a manner at least as effective as the Federal program.

(2) *Variances.* A State plan is expected to have the authority and procedures for the granting of variances comparable to those in the Federal program (29 CFR 1902.4(b)(2)(iv)). The Minnesota State plan contains such provisions in both law and regulations which have been previously approved by OSHA. In order to qualify for final State plan approval permanent variances granted must assure employment equally as safe and healthful as would be provided by compliance with the standard (29 CFR 1902.37(b)(6)); temporary variances granted must assure compliance as early as possible and provide appropriate interim employee protection (29 CFR 1902.37(b)(7)). The twelve permanent variances granted during the evaluation period were granted in a timely manner in accordance with approved State procedures and were deemed to provide equivalent protection (18(e) Evaluation Report, p. 17). The three temporary variances granted by Minnesota during the period met the established criteria (18(e) Evaluation Report, p. 18).

Accordingly, OSHA finds that the Minnesota program effectively grants variances from its occupational safety and health standards.

(3) *Enforcement.* Section 18(c)(2) of the Act and 29 CFR 1902.3(d)(1) require a State program to provide a program for enforcement of State standards which is and will continue to be at least as effective in providing safe and healthful employment and places of employment as the Federal program. The State must require employer and employee compliance with all applicable standards, rules and orders (29 CFR 1902.3(d)(2)) and must have the legal authority for standards enforcement including compulsory process (29 CFR 1902.4(c)(2)).

The Minnesota Occupational Safety and Health Act of 1973, as amended, and implementing regulations previously approved by OSHA, establish employer and employee compliance responsibility and contain legal authority for standards enforcement in terms substantially identical to those in the Federal Act. In order to be qualified for final approval, the State must have adhered to all approved procedures adopted to ensure an at least as effectivce compliance program (29 CFR 1902.37(b)(2)). The 18(e) Evaluation Report data show no lack of adherence to such procedures.

(a) *Inspections.* A plan must provide for inspection of covered workplaces, including in response to complaints, where there are reasonable grounds to believe a hazard exists (29 CFR 1902.4(c)(2)(i)). As noted in the January 16, 1985 Federal Register notice, Minnesota attempts to formalize all complaints submitted and responds to all written employee complaints by inspection. The State has a procedure similar to OSHA's for handling non-formal complaints by a letter to the employer. During the evaluation period, however, this procedure was not in effect, and 81.4% of complaints received by the State were responded to by inspection. Complaint response was timely (18(e) Evaluation Report, pp. 40–42).

In order to qualify for final approval, the State program, as implemented, must allocate sufficient resources toward high-hazard workplaces while providing adequate attention to other covered workplaces (29 CFR 1902.37(b)(8)). Minnesota's safety targeting plan is based upon the Federal system, supplemented by a special emphasis program which targets inspections in individual facilities in relation to their safety performance and history. The State's health inspection targeting system is comparable to the Federal system. Data contained in the 18(e) evaluation indicate that 95.4% of State programmed safety inspections and 91.0% of State programmed health inspections were conducted in high-hazard industries, which are comparable to the Federal data (18(e) Evaluation Report, p. 37).

The AFL-CIO criticized the State's adoption of the Federal system of recognizing records reviews as inspections (Ex. 4–12). Under State procedures, similar to those used Federally, employers eligible for a general schedule safety inspection may qualify for a "records review" inspection if their lost workday injury (LWDI) rate is less than the national average for all industries. OSHA believes that this is an efficient use of resources. In addition, the State points out in its response that a partial walk-through inspection is attempted or conducted if the investigator observes a serious hazard or imminent danger during the opening conference, if a safety complaint is filed during the opening conference, or if the review of injury and illness records reveals an unusual number or type of injury occurring in a particular area of the facility. Employers who qualify for a "records review" inspection must still post a notice to employees notifying them that such an inspection has occurred and providing the name, address and phone number of the nearest Minnesota Area Office (Ex. 4–14).

(b) *Employee Notice and Participation in Inspections.* In conducting inspections the State plan must provide an opportunity for employees and their respresentatives to point out possible violations through such means as employee accompaniment or interviews with employees (29 CFR 1902.4(c)(2)(ii)). The State's procedures require compliance officers to provide this opportunity. During the evaluation period employees elected to exercise their right to accompany the inspector on the walkaround in 13.3% of initial inspections (18(e) Evaluation Report, p. 50). Minnesota's statutory requirement that employers pay employees for the time spent participating in inspections was praised by the AFL-CIO in its comments (Ex. 4–12).

In addition, the State plan must provide that employees be informed of their protections and obligations under the Act by such means as the posting of notices (29 CFR 1902.4(c)(2)(iv)) and provide that employees have access to information on their exposure to regulated agents and access to records of the monitoring of their exposure to such agents (29 CFR 1902.4(c)(vi)).

To inform employees and employers of their protections and obligations, Minnesota requires that a poster, which was previously approved by OSHA (40 FR 13211), be displayed in all covered workplaces. Requirements for the posting of the poster and other notices such as citations, contests, hearings and variance applications, are set forth in the previously approved State law and regulations which are substantially identical to Federal requirements. Information on employee exposure to regulated agents and access to medical and monitoring records is provided through State standards, including the Access to Employee Exposure and Medical Records standard. Federal OSHA's evaluation concludes that the State performance is satisfactory.

(c) *Nondiscrimination.* A State is expected to provide appropriate protection to employees against discharge or discrimination for exercising their rights under the State's program including provision for employer sanctions and employee confidentiality (29 CFR 1902.4(c)(2)(v)). The Minnesota Act and regulations provide for discrimination protection which is at least as effective as the Federal. The State investigated 15 complaints out of 16 complaints received. The State settled administratively all three complaints initially found meritorious. Average lapse time between receipt of a complaint and the notification to the complainant of the investigation results for the State is 44 days, which compares favorably to the Federal lapse time (18(e) Evaluation Report, p. 68).

(d) *Restraint of Imminent Danger; Protection of Trade Secrets.* A State

plan is required to provide for the prompt restraint of imminent danger situations (29 CFR 1902.4(c)(2)(vii) and to provide adequate safeguards for the protection of trade secrets (29 CFR 1902.4(c)(2)(viii)). The State has provisions concerning imminent danger and protection of trade secrets in its law, regulations and Field Compliance Manual which are similar to the Federal. The 18(e) Evaluation Report indicates that there were no imminent danger situations identified during the period. In the 10-year history of the Minnesota program, there have been no instances of complaints about the protection of trade secrets (18(e) Evaluation Report, p. 50).

(e) *Right of Entry: Advance Notice.* A State program is expected to have authority for right of entry to inspect and compulsory process to enforce such right equivalent to the Federal program (section 18(c)(3) of the Act and 29 CFR 1902.3(e)). Likewise, a State is expected to prohibit advance notice of inspection, allowing exception thereto no broader than in the Federal program (29 CFR 1902.3(f)). Section 182.659 of the Minnesota Occupational Safety and Health Act authorizes the Commissioner to enter and inspect all covered workplaces in terms substantially identical to those in the Federal Act. State law allows the Attorney General to obtain a warrant from the State District Court if gaining entry is impeded by the employer. State procedures differ from the Federal in that, at several stages, attempts are made to persuade the employer to permit entry. The Minnesota law likewise prohibits advance notice, and implementing procedures for exceptions to this prohibition are substantially identical to the Federal.

In order to be found qualified for final approval, a State is expected to take action to enforce its right of entry when denied (29 CFR 1902.37(b)(9)) and to adhere to its advance notice procedures. Of the 42 denials of entry during the evaluation period, the State was able to gain warrantless entry, or otherwise resolve the issue, in 19 cases and successfully obtained warrants in 15 cases (18(e) Evaluation Report, p. 48). The evaluation report did not note any improper use of advance notice.

The AFL–CIO alleged that the State's practice of negotiating with employers who had denied entry violated the prohibition against advance notice (Ex. 4–12). OSHA's monitoring of this aspect of the State's program has shown that Minnesota does not negotiate with employers in lieu of seeking a warrant, but performs both operations concurrently. Upon denial of entry, the legal process for obtaining a warrant is initiated while, simultaneously, dialogue with the employer continues as repeated attempts are made to obtain entry. The State believes that this procedure has been proven more effective in expediting entry, a conclusion supported by OSHA's monitoring which has revealed that an average of 27.3 days elapsed from the date of the warrant application to the date of entry, while normally negotiation required no more than a few days. As the State notes in its response to the AFL–CIO's comments, the time needed for negotiating with an employer is minimal when compared with the time needed to seek and obtain a warrant through the Court system. Whether entry is negotiated or obtained through a warrant, the employer is not notified of the date on which the inspection will be conducted (Ex. 4–14).

(f) *Citations, Penalties, and Abatement.* A State plan is expected to have authority and procedures for promptly notifying employers and employees of violations identified during inspection, for the proposal of effective first-instance sanctions against employers found in violation of standards and for prompt employer notification of such penalties (29 CFR 1902.4(c)(2) (x) and (xi)). The Minnesota plan through its law, regulations and Field Compliance Manual, which have all been previously approved by OSHA, has established a system similar to the Federal for prompt issuance of citations to employers delineating violations and establishing reasonable abatement periods, requiring posting of such citations for employee information and proposing penalties.

In order to be qualified for final approval, the State, in actual operation, must be found to conduct competent inspections in accordance with approved procedures and to obtain adequate information to support resulting citations (29 CFR 1902.37(b)(10)), to issue citations, proposed penalties and failure-to-abate notifications in a timely manner (29 CFR 1902.37(b)(11)), to propose penalties for first instance violations that are at least as effective as those under the Federal program (29 CFR 1902.37(b)(12)), and to ensure abatement of hazards including issuance of failure-to-abate notices and appropriate penalties (29 CFR 1902.37(b)(13)).

The Minnesota Field Compliance Manual has been updated through the issuance of Division Policies (internal memoranda to State staff), and thus the State follows inspection procedures, including documentation procedures, which are similar to the Federal.

Minnesota's provisions governing classification of violations differ in some respects from the Federal. However, both the number of violations cited per initial inspection (2.2) and the percentage of violations which are considered serious (21.5%) are comparable to Federal statistics. In addition, the State percentage of programmed inspections found not-in-compliance (safety—60.7%; health—39.8%) is comparable to the Federal percentage.

Minnesota's lapse time from inspection to issuance of citation is comparable to the Federal for safety (10 days) but longer for health (30 days). The AFL–CIO in its comments criticized the health citation lapse time and suggested that it is related to an insufficient number of health inspectors (Ex. 4–12). However, as the State points out in its response, it appears that this discrepancy is due to the larger percentage of apparent violations requiring analysis of samples found on State health inspections, Minnesota's former policy of delaying issuance of citations for all violations found on inspections until laboratory analysis is completed, and clerical staffing shortages in the Minnesota Health Department (Ex. 4–14). As noted in the 18(e) Evaluation Report, a recently instituted State policy of issuing citations for which laboratory analysis is not needed without awaiting sampling results for other potential violations, as well as decreased clerical time since implementation of the new Integrated Management Information System, should reduce the health citation lapse time (18(e) Evaluation Report, pp. 72–73). The size of the State's health compliance staff is totally unrelated to this issue.

Neither the data nor any comments suggest that the State has a problem in adequately documenting inspections to support citations. Further, Lawrence Koll, of the law firm of Koll and McCoy, commented that he has found the investigative files of accidents which he has reviewed to be thorough and conclusive (Ex. 4–7).

The 18(e) Evaluation Report indicates that the State of Minnesota's average proposed penalty for serious violations was somewhat lower than the Federal ($150 for safety and $198 for health) (18(e) Evaluation Report, p. 59). Analysis has shown the State's penalty average to have been acceptable.

Minnesota conducts follow-up inspections on all serious, willful and repeat violations, and therefore the State conducts a proportionately greater number of follow-up inspections (16.4% of not-in-compliance inspections) than does Federal OSHA (18(e) Evaluation Report, p. 55).

During the report period the State conducted 21 follow-up inspections that resulted in failure-to-correct citations out of 242 follow-up inspections (18(e) Evaluation Report, p. 56).

State abatement periods are somewhat longer than those set Federally (12.6 days for safety and 37 days for health). The State grants Petitions for the Modification of Abatement (PMA's) only when appropriate and reasonable. (PMA's were granted in 1.6% of total violations cited (18(e) Evaluation Report, pp. 56–57)).

(g) *Contested Cases.* In order to be considered for initial approval and certification, a State plan must have authority and procedures for employer contest of citations, penalties and abatement requirements at full administrative or judicial hearings. Employees must also have the right to contest abatement periods and the opportuntity to participate as parties in all proceedings resulting from an employer's contest (29 CFR 1902.4(c)(2)(xii)). Minnesota's procedures for employer contest of citations, penalties and abatement requirements and for ensuring employee rights are contained in the law, regulations and Field Compliance Manual made a part of the record in this proceeding and are substantially identical to the Federal procedures. Appeals of citations, penalties and abatement periods are heard by the Occupational Safety and Health Review Board and may be further appealed to the appropriate State District Court.

During the 18(e) evaluation period, 125 cases, representing 8.4% of inspections with citation, resulted in contests. Although this percentage is higher than the percentage of formal contests Federally, most contested cases in Minnesota are settled without a hearing. The report concludes that the State's contest results are generally the same as those in the Federal program, with no additional resources used and the rights of all parties respected (18(e) Evaluation Report, p. 65).

To qualify for final approval, the State must seek review of any adverse adjudications and take action to correct any enforcement program deficiencies resulting from adverse administrative or judicial determinations (29 CFR 1902.37(b)(14)). The State had no adverse decisions which would require review or corrective action. Accordingly, OHSA finds that the Minnesota plan effectively reviews contested cases.

(h) *Enforcement Conclusion.* In summary, the Assistant Secretary finds that enforcement operations provided under the Minnesota plan are competently planned and conducted, and are overall at least as effective as Federal OSHA enforcement.

(4) *Public Employee Program.* Section 18(c)(6) of the Act requires that a State which has an approved plan must maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program must be as effective as the standards contained in an approved plan. 29 CFR 1902.3(j) requires that a State's progam for public employees be as effective as the State's program for private employees covered by the plan.

Minnesota's plan provides a program in the public sector which is identical to that in the private sector, including the proposal of penalties. During the evaluation period, the State conducted 337 inspections in the public sector and cited 1064 violations. Penalties proposed for safety violations (serious—$172; other than serious—$83) were similar to those in the private sector. No health violations were penalized in the public sector. Injury and illness rates for State and local government employment for 1982 (all case rate 7.0; lost workday case rate 2.9) are somewhat lower than those for the private sector (18(e) Evaluation Report, pp. 28–29).

Because the State treats the public sector in the same manner as the private sector, as evidenced by its written procedures, which are applicable to all covered employees, public or private, and since monitoring indicates similar performance in the public and private sectors, OSHA concludes that the Minnesota program meets the criterion in 29 CFR 1902.3(j).

(5) *Staffing and Resources.* Section 18(c)(4) of the Act requires State plans to provide the qualified personnel necessary for the enforcement of standards. In accordance with 29 CFR 1902.37(b)(1), one factor which OSHA must consider in evaluating a plan for final approval is whether the State has a sufficient number of adequately trained and competent personnel to discharge its responsibilities under the plan.

Minnesota has committed itself to funding the State share of salaries for 31 safety inspectors and 12 health enforcement officers as evidenced by the FY 1984 Application for Federal Assistance (Ex. 2–6) as well as its subsequent FY 1985 application. These compliance staffing levels meet the revised benchmarks proposed for Minnesota.

As noted in the Federal Register notice announcing certification of the completion of developmental steps for Minnesota (41 FR 42659) all personnel under the plan meet civil service requirements under the State merit system, which was found to be in substantial conformity with the Standards for a Merit System of Personnel Administration by the U.S. Civil Service Commission.

The State provides continuing training for its staff. During the evaluation period, compliance officers received an average of 89 hours of formal training (18(e) Evaluation Report, p. 25). The comments from the Midwest Section of the American Industrial Hygiene Association and from Occupational Health Services, a group of physicians, both praised the training and competence of State personnel (Exs. 4–9, 4–11).

Because Minnesota has allocated sufficient enforcement staff to meet the revised benchmarks for that State, and personnel are trained and competent, the requirements for final approval set forth in 29 CFR 1902.37(b)(1), and in the 1978 Court Order in *AFL–CIO* v. *Marshall, supra,* are being met by the Minnesota plan.

Section 18(c)(5) of the Act requires that the State devote adequate funds to administration and enforcement of its standards. The Minnesota plan was funded at $3,262,488 in FY 1984. (50% of the funds were provided by Federal OSHA and 50% were provided by the State.)

As noted in the Evaluation Report, Minnesota's funding appears sufficient in absolute terms; moreover, the State manages its resources in a cost effective manner (18(e) Evaluation Report, pp. 79–81). On this basis, OSHA finds that Minnesota has provided sufficient funding for the various activities carried out under the plan.

(6) *Records and Reports.* State plans must assure that employers in the State submit reports to the Secretary in the same manner as if the plan were not in effect (section 18(c)(7) of the Act and 29 CFR 1902.3(k)). The plan must also provide assurances that the designated agency will make such reports to the Secretary in such form and containing such information as he may from time to time require (section 18(c)(8) of the Act and 29 CFR 1902.3(l)).

Minnesota's employer recordkeeping requirements are substantially identical to those of Federal OSHA, except that Minnesota has elected not to adopt the Federal recordkeeping exemption for

certain low-hazard industry groups, and the State participates in the BLS Annual Survey of Occupational Illnesses and Injuries. Minnesota's lost workday injury and illness all case rate for Minnesota workers was reduced from 11.0 in 1973 to 7.3 in 1983 (Ex. 4–5). This is

workplaces. This requirement includes submitting all required reports to the Assistant Secretary as well as

retains his authority under section 11(c) of the Act with regard to complaints

operations under the Federal program, or if the State does not submit program

Regulatory Flexibility Act

VOL
50
ISS
146
JL
30
1985
UMI

certain low-hazard industry groups, and the State participates in the BLS Annual Survey of Occupational Illnesses and Injuries. As noted in the January 16 proposal, the State participates and has assured its continuing participation with OSHA in the Federal-State Unified Management Information System as a means of providing reports on its activities to OSHA.

For the foregoing reasons, OSHA finds that Minnesota has met the requirements of sections 18(c) (7) and (8) of the Act on employer and State reports to the Secretary.

(7) *Voluntary Complionce Program.* A State plan is required to undertake programs to encourage voluntary compliance by employers by such means as conducting training and consultation with employers and employees (29 CFR 1902.4(c)(2)(xiii)).

The State conducts a training and education program covering the private and public sectors. During the 18(e) evaluation period, Minnesota provided training to 2,587 employers and supervisors and 659 employees (18(e) Evaluation Report, p. 22).

In the private sector, Minnesota provides on-site consultative services to employers under a cooperative agreement with OSHA made pursuant to section 7(c)(1) of the Act and 29 CFR Part 1908.

In addition, as discussed in the 18(e) Evaluation Report (p. 19), Minnesota has indicated its intention to establish a public sector on-site consultation program in FY 1985. (That program has now been initiated.)

Accordingly, OSHA finds that Minnesota has established and is administering an effective voluntary compliance program.

(8) *Injury and Illness Statistics.* As a factor in its 18(e) determination, OSHA must consider the Bureau of Labor Statistics annual occupational safety and health survey and other available Federal and State measurements of program impact on worker safety and health (29 CFR 1902.37(b)(15)).

The 1981 and 1982 Bureau of Labor Statistics injury and illness rates for Minnesota (private sector all case rate for 1981, 8.2; 1982, 7.7; lost workday case rate for 1981, 3.7; 1982, 3.4) were similar to rates in States where Federal OSHA provides enforcement coverage. In 1982, the lost workday case rates for the private sector, manufacturing and construction, experienced a greater decline in Minnesota than in States with Federal enforcement jurisdiction (18(e) Evaluation Report, pp. 82–83). Comments from the Minnesota Occupational Safety and Health Advisory Council noted that the injury and illness all case rate for Minnesota workers was reduced from 11.0 in 1973 to 7.3 in 1983 (Ex. 4–5). This is comparable to the reduction in the Federal rate. In addition, comments from both the Advisory Council and the Occupational Safety and Health Division pointed out that work-related fatalities in Minnesota declined from 85 in 1973 to 25 in 1984 (Exs. 4–5, 4–14).

Comments from the AFL–CIO expressed concern that Minnesota's all case rates for the private sector, manufacturing and construction, and the lost workday case rate for construction for 1982 exceeded the Federal rates (Ex. 4–12). However, the State rates were only slightly higher than the Federal rates and were within the prescribed limits. OSHA does not view these differences as significant, especially when considered within the context of changes in the rates.

Therefore, OSHA finds that the trends in injury and illness statistics in Minnesota compare favorably with those in States with Federal enforcement.

Decision

OSHA has carefully reviewed the record developed during the above described proceedings, including all comments received thereon. The present **Federal Register** document sets forth the findings and conclusions resulting from this review.

In light of all the facts presented on the record, the Assistant Secretary has determined that (1) the revised compliance staffing levels proposed for Minnesota meet the requirements of the 1978 Court Order in *AFL–CIO* v. *Marshall* in providing the number of safety and health compliance officers necessary for a "fully effective" enforcement program, and (2) the Minnesota State plan for occupational safety and health in actual operation, which has been monitored for at least one year subsequent to certification, is at least as effective as the Federal program and meets the statutory criteria for State plans in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. Therefore, the revised compliance staffing benchmarks of 31 safety and 12 health are approved, and the Minnesota State plan is hereby granted final approval under section 18(e) of the Act and implementing regulations at 29 CFR Part 1902, effective July 30, 1985.

Under this 18(e) determination, Minnesota will be expected to maintain a State program which will continue to be at least as effective as operations under the Federal program in providing employee safety and health at covered workplaces. This requirement includes submitting all required reports to the Assistant Secretary as well as submitting plan supplements documenting State initiated program changes, changes required in response to adverse evaluation findings, and responses to mandatory Federal program changes. In addition, Minnesota must continue to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the Department of Labor, or any revision to those benchmarks.

Effect of Decision

The determination that the criteria set forth in section 18(c) of the Act and 29 CFR Part 1902 are being applied in actual operations under the Minnesota plan terminates OSHA authority for Federal enforcement of its standards in Minnesota, in accordance with section 18(e) of the Act, in those issues covered under the State plan. Section 18(e) provides that upon making this determination "the provisions of sections 5(a)(2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination."

Accordingly, Federal authority to issue citations for violation of OSHA standards (sections 5(a) (2) and 9); to conduct inspections (except those necessary to conduct evaluations of the plan under section 18(f), and other inspections, investigations or proceedings necessary to carry out Federal responsibilities which are not specifically preempted by section 18(e)) (section 8); to conduct enforcement proceedings in contested cases (section 10); to institute proceedings to correct imminent dangers (section 13); and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act (section 17) is relinquished as of the effective date of this determination. (Because of the effectiveness of the Minnesota plan, there has been no exercise of concurrent Federal enforcement authority in issues covered by the plan since the signing of the Operational Status Agreement in October 1981.)

Federal authority under provisions of the Act not listed in section 18(e) are unaffected by this determination. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act although such complaints may be initially referred to the State for investigation. Jurisdiction over any proceeding initiated by OSHA under sections 9 and 10 of the Act prior to the date of this final determination remains a Federal responsibility. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination. In the event that a State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in the State.

In accordance with section 18(e), this determination relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Minnesota plan, and OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, for example, Federal OSHA retains its authority to enforce all provisions of the Act, and all Federal standards, rules or orders which relate to safety or health in offshore private sector maritime employment and at the Twin Cities Army Ammunition Plant. In addition Federal OSHA may subsequently initiate the exercise of jurisdiction over any issue (hazard, industry, geographical area, operation or facility) for which the State is unable to provide effective coverage for reasons not related to the required performance or structure of the State plan.

As provided by section 18(f) of the Act, the Assistant Secretary will continue to evalute the manner in which the State is carrying out its plan. Section 18(f) and regulations at 29 CFR Part 1955 provide procedures for the withdrawal of Federal approval should the Assistant Secretary find that the State has substantially failed to comply with any provision or assurance contained in the plan. Additionally, the Assistant Secretary is required to initiate proceedings to revoke an 18(e) determination and reinstate concurrent Federal authority under procedures set forth in 29 CFR 1902.47 *et seq.*, if his evaluations show that the State has substantially failed to maintain a program which is at least as effective as operations under the Federal program, or if the State does not submit program change supplements to the Assistant Secretary as required by 29 CFR Part 1953.

Explanation of Changes to 29 CFR Part 1952

29 CFR Part 1952 contains, for each State having an approved plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. 29 CFR 1902.43(a)(3) requires that notices of affirmative 18(e) determinations be accompanied by changes to Part 1952 reflecting the final approval decision. This notice makes several changes to Subpart N of Part 1952 to reflect the final approval of the Minnesota plan.

A new § 1952.203, Compliance staffing benchmarks, has been added to reflect the approval of the 1984 revised benchmarks for Minnesota.

A new § 1952.204, Final approval determination, has been added to reflect the determination granting final approval of the plan. The new paragraph contains a more accurate description of the scope of the plan than the one contained in the initial approval decision.

Newly redesignated § 1952.205, Level of Federal Enforcement, has been added to reflect the State's 18(e) status. The new paragraph replaces former § 1952.202, which described the relationship of State and Federal enforcement under an Operational Status Agreement which was entered into on October 9, 1981. Federal concurrent enforcement authority has been relinquished as part of the present 18(e) determination for Minnesota, and the Operational Status Agreement is no longer in effect. § 1952.205 describes the issues where Federal authority has been terminated and the issues where it has been retained in accordance with the discussion of the effects of the 18(e) determination set forth earlier in the present **Federal Register** notice.

While most of the existing Subpart N has been retained, paragraphs within the subpart have been rearranged and renumbered so that the major steps in the development of the plan (initial approval, developmental steps, certification of completion of developmental steps and final plan approval) are set forth in chronological order. Related editorial changes to the subpart include modification of the heading of § 1952.200, to clearly identify the 1973 initial plan approval decision to which it relates. The addresses of locations where State plan documents may be inspected have been updated and are found in § 1952.206.

Regulatory Flexibility Act

OSHA certifies pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, *et seq.*) that this rulemaking will not have a significant economic impact on a substantial number of small entities. Final approval will not place small employers in Minnesota under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan. Certification to this effect was previously forwarded to the Chief Counsel for Advocacy, Small Business Administration.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736))

Signed at Washington, D.C., this 30 day of July 1985.

Patrick R. Tyson,

Acting Assistant Secretary.

PART 1952—[AMENDED]

Accordingly, Subpart N of 29 CFR Part 1952 is hereby amended as follows:

1. The authority citation for Part 1952 continues to read:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9–83 (48 FR 35736).

2. Section 1952.200 is amended by revising the heading to read: *§ 1952.200 Description of the plan as initially approved.*

§ 1952.201, 1952.202, and 1952.203, and 1952.204 [Redesignated as 1952.206, 1952.205, 1952.201, and 1952.202 respectively]

3. Section 1952.201 Redesignated as § 1952.206.

4. Section 1952.202 Redesignated as § 1952.205.

5. Section 1952.203 Redesignated as § 1952.201.

6. Section 1952.204 Redesignated as § 1952.202.

7. The Table of Contents for Part 1952, Subpart N is revised to read as follows:

Subpart N—Minnesota

Sec.

1952.200 Description of the plan as initially approved.
1952.201 Developmental schedule.
1952.202 Completion of developmental steps and certification.
1952.203 Compliance staffing benchmarks.
1952.204 Final approval determination.
1952.205 Level of Federal enforcement.
1952.206 Where the plan may be inspected.

8. New §§ 1952.203 and 1952.204 are added to read as follows:

§ 1952.206 Where the plan may be inspected.

Note.—Issue 19 contains all DMM revisions published between February 28, 1985, and June 6, 1985 (Postal Bulletins 21502 through

detached labels used with second- and third-class mail to include on the face of

VOL 50 ISS 146 JL 30 1985 UMI

8. New §§ 1952.203 and 1952.204 are added to read as follows:

§ 1952.203 Compliance Staffing Benchmarks.

Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall*, compliance staffing levels (benchmarks) necessary for a "fully effective" enforcement program were required to be established for each State operating an approved State plan. In September 1984 Minnesota, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 31 safety and 12 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on July 30, 1985.

§ 1952.204 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR Part 1902, and after determination that the State met the "fully effective" compliance staffing benchmarks as revised in 1984 in response to a Court Order in *AFL–CIO* v. *Marshall* (CA 74–406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Minnesota State plan for a period of at least one year following certification of completion of developmental steps (41 FR 42659). Based on the 18(e) Evaluation Report for the period of October 1982 through March 1984, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Minnesota's occupational safety and health program is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final State plan approval in section 18(e) of the Act and implementing regulations at 29 CFR Part 1902. Accordingly, the Minnesota plan was granted final approval, and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective July 30, 1985.

(b) The plan which has received final approval covers all activities of employers and all places of employment in Minnesota except for private sector offshore maritime employment and employment at the Twin Cities Army Ammunition Plant.

(c) Minnesota is required to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR Part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

9. Newly designated §§ 1952.205 and 1952.206 are revised to read as follows:

§ 1952.205 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Minnesota plan under section 18(e) of the Act, effective July 30, 1985, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Minnesota plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violations of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(f) and other inspections, investigations, or proceedings necessary to carry out Federal responsiblilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary retains jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Minnesota plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector offshore maritime activities and will continue to enforce offshore all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry standards (29 CFR Part 1910) appropriate to hazards found in these employments. Federal jurisdiction is also retained at the Twin Cities Army Ammunition Plant, and with respect to Federal government employers and employees.

In addition, any hazard, industry, geographical area, operation or facility over which the State is unable to effectively exercise jurisdiction for reasons not related to the required performance or structure of the plan shall be deemed to be an issue not covered by the plan which has received final approval and shall be subject to Federal enforcement. Where enforcement jurisdiction is shared between Federal and State authorities for a particular area, project, or facility, in the interest or administrative practicability Federal jurisdiction may be assumed over the entire project or facility. In either of the two aforementioned circumstances, Federal enforcement may be exercised immediately upon agreement between Federal OSHA and the State designated agency.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Minnesota State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under section 18(e), resumption of Federal enforcement, and/or proceedings for withdrawal of plan approval.

§ 1952.206 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3476, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 230 S. Dearborn, 32nd Floor, Chicago, Illinois 60604; and the Minnesota Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

[FR Doc. 85–17902 Filed 7–29–85; 8:45 am]
BILLING CODE 4510–26–M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 19 of the Domestic Mail Manual (DMM), which is incorporated by reference in the Code of Federal Regulations, 39 CFR 111.1.

Most of the revisions are minor, editorial or clarifying. Substantive changes, such as the revised regulations on merchandise return service and the payment of the annual fee by bulk third-class mailers, have previously been published in the Federal Register.

EFFECTIVE DATE: June 7, 1985.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245–4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1) has been amended by the publication of a transmittal letter for issue 19, dated June 7, 1985. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for issue 19 covers the minor changes not previously described in interim or final rules published in the Federal Register.

Note.—Issue 19 contains all DMM revisions published between February 28, 1985, and June 6, 1985 (Postal Bulletins 21503 through 21517).

Summary of Changes

Major Revisions

* * * * *

Other Revisions

1. Exhibit 122.63e is revised to reflect changes in the Optional Area Distribution Center (ADC) labeling list (PB 21516, 5–30–85).

2. Section 123.44b is revised to make mail of foreign origin containing matter determined by a court of competent jurisdiction or by the International Trade Commission to violate a mask work owner's exclusive statutory right is nonmailable matter (PB 21505, 3–14–85).

3. Exhibit 125.2 is revised to update the conditions applicable to mail addressed to military post offices overseas (PB 21506, 3–21–85).

4. Section 137.252 is revised to update agency names, sampling numbers and permit imprint numbers (PB 21514, 5–16–85).

5. Sections 153, 159, 224 and 291 are revised to (1) establish policy on redelivery of Express Mail Next Day Service items undeliverable on the first attempt; and (2) clarify procedures on holding Express Mail; and (3) emphasize the necessity of providing directory service for Express Mail (PB 21503, 2–28–85).

6. Section 159.225 is revised to reflect changes in the forwarding of second-class publications for servicemen. The Department of Defense now pays for the fowarding of second-class publications for a period not to exceed sixty days when a serviceman moves due to permanent change of station orders (PB 21511, 4–25–85).

7. Section 159.334b is amended to enhance Postal Service response to customer inquiries regarding the delivery of Express Mail (PB 21510, 4–18–85).

8. Sections 159.42, 159.43, 159.45, 159.52 through 159.54 are revised to: (1) establish $5 or more as the cutoff for filing of dead letters; (2) eliminate the registry fee for reforwarding of registered dead letters; and (3) provide for the deduction of the money order fee from cash amounts of $10 or more returned by money orders and miscellaneous editorial changes (PB 21514, 5–16–85).

9. * * *

10. Section 369.3 is revised to reflect the correct optional endorsement lines and formats that First-Class Presort mailers may use (PB 21510, 4–18–85).

11. Sections 452.41, 661.331 and 664.23 are amended to permit mailers of detached labels used with second- and third-class mail to include on the face of the labels pictures and information on missing children provided by the National Center for Missing and Exploited Children (PB 21514, 5–16–85).

12. Sections 467.222, 667.622 and 767.521 are revised to reduce the minimum weight requirements of packages prepared for palletized mailings (PB 21516, 5–30–85).

13. Section 622.12a is amended to include a provision that 50 pieces or 10 pounds of mail for a 5-digit destination will qualify for the bulk third-class, 5-digit presort level rate when prepared in packages and bundles presented on pallets in accordance with section 667.6 (PB 21509, 4–11–85).

14. * * *

15. Section 767.411 is revised to require the owner or the mailing agent to submit the application to the Regional Postmaster General of the region when the mailing is to be made. Section 767.423 is revised to require mailers to use a nonstandard facing slip to label bedloaded carrier route and carrier route bundles (PB 21505, 3–14–85).

16. Section 917.343 is revised to reflect the current rates for Business Reply Mail returned through a postage due account or through a business reply account (PB 21508, 4–4–85).

17. Section 917.352 is amended to clarify refund procedures for business reply mail bearing stamps (PB 21507, 3–28–85).

18. Minor editorial and typographical changes have been made in 132, Exhibit 137.275d(1), Exhibit 137.275d(2), 143.421b, 143.422b, 144.13, 146.122, 148.2, 149.251e(4), 159.42, 367.221, 367.313b(5), 421.3, 422.3, 423.132b(1), 423.14b, 425.3c, 482.1, 667.3b(5), 667.92, Exhibit 667b, Exhibit 722.1, 724.1a, 767.811, 767.812, 767.82, 767.822, 911.521b(3), 932.1, 932.32, 932.34, 933.1, 933.42, 942.241, 944.3, Exhibit 945.32g.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408, 3001–3011, 3201–3219, 3403–3405, 3601, 3621, 42 U.S.C. 1973cc–13, 1973cc–14.

2. In consideration of the foregoing 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendment to the Domestic Mail Manual.

Transmittal letter for issue	Dated	"Federal Register" Publication
19	June 7, 1985	50 FR

W. Allen Sanders,
Associate General Counsel, Office of General Law and Administration.

[FR Doc. 85-17989 Filed 7-29-85; 8:45 am]
BILLING CODE 7710-12-M

39 CFR Part 111

Addressing Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule changes the postal regulations which govern the addressing of mail matter in order to promote a clearer understanding of proper addressing procedures. Formerly, addressing regulations provided some guidelines but did not clearly differentiate between requirements, restrictions, and recommendations. Thus, some post offices attempted to enforce addressing recomendations as requirements. To solve this problem we have revised the regulations to use the word "must" when requirements or restrictions are imposed; when recommendations are intended the regulations use the word "should." The Postal Service believes that if customers will follow the changed regulations, whether required to do so or not, the Postal Service will be able to operate at a more efficient and less costly level, and customers will, at the same time, increase the likelihood that their own mail will be delivered more expeditiously.

EFFECTIVE DATE: August 29, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. George E. Thomas, (202) 245-4512.

SUPPLEMENTARY INFORMATION: On February 13, 1985, the Postal Service published for comment in the **Federal Register** (50 FR 6007) proposed changes in certain sections of the Domestic Mail Manual relating to addressing. Interested persons were invited to submit comments on the proposed changes by March 15, 1985.

Written views were received from ten commenters, none of whom were opposed to adoption of the proposed regulations. However, some questions were raised and suggestions were made for further clarification.

For example, one commenter suggested that section 129 of the rule should be amended to make it clear that in window envelopes, the window may be the "standard" ½ inch from the bottom edge of the envelope, but that ⅝ inch is preferred. We amended the rule as suggested.

Two commenters suggested that the name or identification of the intended recipient should not be required, but only recommended. The Postal Service declines to make the suggested change because of its negative effect on our ability to deliver mail to the person intended by the sender. Moreover, previous regulations were not ambiguous on this point. The proposed regulation was merely carrying forward existing long-standing regulations.

One commenter suggested that proposed 122.12 and 122.33 of the DMM imply that an address with the ZIP Code as the bottom line is an acceptable address format. The commenter said there ought to be an illustration of this format if it is acceptable. We refer the commenter to existing 122.642 of the DMM, which shows such an illustration. The same commenter also suggested that an address which contains the name of the addressee plus the house number and the street name need not contain the city and State so long as the ZIP Code is contained in the address. Theoretically, mail that lacks the city and State but has the correct ZIP Code will be delivered to the intended addressee. However, in the absence of city and State information mail might well be undeliverable should one or more digits of the ZIP Code be incorrect. Accordingly, in the interest of more consistent delivery, the Postal Service continues to require the city and State to be part of the address.

Another commenter said that it would be very beneficial for direct mail efforts if the same information would be available about post office boxholders as is available about the rural routes. Under new 122.43c postmasters will furnish without charge information on the route numbers and the number of families on each rural route. However, information about post office boxholders does not specify whether the box is used by a family or a business. We are not adopting this suggestion at the present time, but are referring it to the appropriate division for further study.

Another commenter said that the second line of an address, the line that follows the name or identification of the intended receipient, may not always be available and gave an example of mail addressed to Postmaster, Englewood, New Jersey 07631-9998 which would supposedly not be mailable under the terms of proposed section 122.12(b). Perhaps the commenter has not noticed that the street number and street name etc., must be used "if necessary". The requirement is not absolute.

Another commenter appears to be confused over the requirement to use in the address the name of the post office, which is actually the city and State where the post office is located. The commenter seems to believe that putting the branch, the station, the community post office or the place name might conflict with the requirement to use the name of the parent post office. Since the branch or station is merely a part of the parent post office, the city and State is the proper address to use.

One commenter thought the placement of the postage stamp should be optional and not required to be placed in the upper right corner of a letter size envelope, or in the upper right corner of the address area on other mail. Cancellation of stamps on letter mail, which is done mostly by machines, and other practical considerations make it necessary that stamps be in a particular place and not any place the mailer decides, so we cannot change this requirement.

We have also made the following minor changes, some at the request of commenters, and some at our own instigation. We changed some of the examples in 122.16 to show current endorsements. The illustration in 122.22 has been changed to add the post office station or branch name after the post office box number as a preferred address format.

Former sections 122.23, 122.24 and 122.25, which were inadvertently omitted from the proposed rule, have been renumbered 122.37, 122.37a and 122.37b and adopted as renumbered without change.

New 122.38 has been added, dealing with enclosing inside a parcel the address of the sender and the addressee. While this has not been a requirement, and is not here, it seems prudent to follow this practice in view of the possibility of obliteration or defacing of the outside address. This recommendation also appears at 121.41a of the DMM.

A new 122.39 has also been added, recommending that the address be parallel or nearly parallel to the longest edge of the mailing piece. This puts into the regulations the "normal" or "usual" way of addressing mail.

We eliminated the proposed revision of 122.635, dealing with directory assistance, since that subject is being handled in another, later proposed rule on correct ZIP Codes that was published in the **Federal Register** on March 19, 1985 (50 FR 10991).

Certain erroneous typographical references have also been corrected, and minor textual changes have been adopted or illustrations added to improve clarity in the following DMM sections: 122.12b; 122.12d; 122.12d(7); 122.12d(9); 122.12d(10); 122.13; 122.14; 122.15; 122.16; 122.17; 122.31; 122.33; 122.641; 127c; 129.3b; 352.21c; 452.1f; and 651.212c.

Finally, a commenter observed that bulk third-class mail, other than carrier route rated, is not exempt from the address placement restriction in 651.2. The commenter's observation is accurate. However, bulk third-class mail is not subject to a nonstandard surcharge. Thus, as a practical matter, address placement on bulk third-class mail can only affect its ability to meet minimum size standards governing mailability.

Upon consideration of all the comments, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service, Incorporation by reference.

PART 111—[AMENDED]

The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408, 3001-3011, 3201-3219, 3403-3405, 3601, 3621; 42 U.S.C. 1973 cc-13, 1973 cc-14.

PART 122—ADDRESSES

Revise 122 to read DELIVERY ADDRESS.

Revise 122.1 thru 122.3 to read as follows:

122.1 Requirements.

The purpose of an address is to indicate the specific delivery location of a mailing piece.

.11 Mail must bear the legible address of the intended recipient on one side only. See 124.63a(13) for exception on live-day-old poultry.

.12 At a minimum, an address must consist of the following elements and appear in the following order (except simplified address mail as prescribed in 122.51):

a. Name or identification of the intended recipient;

b. Street and number, or box number, or general delivery, or rural or highway contract route designation and box number, if necessary;

c. City and state. The "city" is the name of the post office serving the intended recipient (the delivery post office), and

d. ZIP Code (5-digit or ZIP+4 codes) where required. ZIP Codes (5-digit or ZIP+4 codes) are required on:

(1) Presort First-Class Mail (361.3);

(2) ZIP+4 First-Class Mail (361.4);

(3) Postal cards and post cards, not mailed as presorted First-Class Mail, which are mailed under 322.31h, i, or j (322.32);

(4) Second-class mail (452 and 455.2f);

(5) Bulk third-class mail (661.2); and

(6) Fourth-class (761.1);

(7) Business Reply mail (917.525);

(8) Merchandise Return (919.43, 919.531 and 919.532);

(9) Mail sent to Military Addresses within the United States (122.82);

(10) Penalty mail (137.263a(3));

(11) Printed stamped envelopes (141.242);

(12) Return addresses of mail on which postage is paid by stamps precanceled by bars only (143.421a);

(13) The sender's return address where return service is requested on second-class mail (493).

122.13 Placement of Address.

.131 Letter-Size Mail. See section 322.3 regarding address placement on post cards. The placement of the address on letter-size mail determines which dimensions constitute the height and length, and may subject the mail to a surcharge or render it nonmailable (see sections 127, 324, 352.21, 353, 651.212 and 652).

.132 Other Mail Processing Categories. See Exhibit 452.6 regarding address placement on second-class publications. A clear space must be provided on other mail for the address, stamps, postmarks, and postal endorsements.

.14 Return Address. The return address contains elements corresponding to those for the destination address in 122.12. The mail listed below must bear, in legible form, the return address of the actual sender:

a. Mail of any class, when its return, and/or address correction service is desired —122.16;

b. Penalty mail—137.27 and 137.285;

c. Mail matter on which postage is paid by stamps precanceled by bars only—143.421

d. Matter bearing company permit imprints—145.44;

e. Priority mail—361.2;

f. Second-class mail in envelopes or wrappers—453.2a;

g. Fourth-class mail—761.12;

h. Registered mail—911.31;

i. Insured mail—913.13e;

j. COD mail—914.131.

.15 Special Addressing Instructions. The following mail items must be addressed in accordance with the sections listed below:

a. Overseas military mail—122.8;

b. Department of State mail—126.2;

c. Window envelope mail—129.3;

d. International mail—International Mail Manual.

.16 A mailer's specific instructions for forwarding mail (see 159.2), as well as requests for address correction service or return (see 159.3) must appear below the sender's return address. A full return address must be used with these endorsements. On letter-size mail, the information must appear in the upper left corner of the address side of the piece; on other mail, the information must appear in the upper left corner of the address area. The endorsements must be clearly visible.

EXAMPLES:

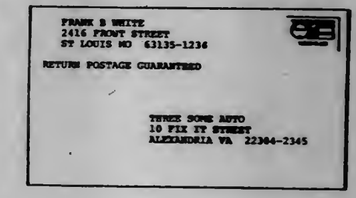
a. FRANK B WHITE
2416 FRONT STREET
ST LOUIS MO 63135-1234
RETURN POSTAGE GUARANTEED

b. FRANK B WHITE
2416 FRONT STREET
ST LOUIS MO 63135-1234
FORWARDING & RETURN POSTAGE GUARANTEED

c. FRANK B WHITE
2416 FRONT STREET
ST LOUIS MO 63135-1234
ADDRESS CORRECTION REQUESTED

d. FRANK B WHITE
2416 FRONT STREET
ST LOUIS MO 63135-1234
FORWARDING & RETURN POSTAGE GUARANTEED
ADDRESS CORRECTION REQUESTED

e. FRANK B WHITE
2416 FRONT STREET
ST LOUIS MO 63135-1234
FORWARDING & ADDRESS CORRECTION REQUESTED



.17 At the sender's request the delivery post office will retain mail, other than registered, insured, and certified, for not less than 3 days or more than 30 days. To request a specific retention time, the sender in his return address must request that mail be held. Requests to lengthen or shorten retention periods to not less than 3 nor more than 30 days will be honored only at the sender's request. See 159.333 for registered, insured, and certified mail retention periods.

Examples:

a. Return in 3 days to:

to the address element appearing on the line immediately above the city and

.33 The Postal Service also requests that mailers follow certain addressing

.36 Addresses should not be inverted (upside down).

postmasters will furnish, without charge, information as follows:

c. The provisions in Part 122 governing addressing also apply to window

Examples:

a. Return in 3 days to:
Frank B. White,
2416 Front Street,
St. Louis, MO 63135-2134

b. Return in 30 days to:
Frank B. White,
2416 Front Street,
St. Louis, MO 63135-2134
RETURN POSTAGE GUARANTEED

122.2 Restrictions.

.21 Mail bearing both a street address and a post office box number on different address lines will be delivered

EXAMPLES:

PREFERRED ADDRESS FORMAT

Mail will be delivered here → GRAND PRODUCTS INC
100 MAJOR STREET
P O BOX 200 MORGAN STATION
NEW YORK N Y 10001-0200

Mail will be delivered here → GRAND PRODUCTS INC
P O BOX 200 MORGAN STATION
100 MAJOR STREET
NEW YORK N Y 10045-2345

NOT RECOMMENDED

Mail will be delivered to P. O. Box → GRAND PRODUCTS INC
P O BOX 200 100 MAJOR ST
NEW YORK N Y 10001-0200

Mail will be delivered to P. O. Box → GRAND PRODUCTS INC
100 MAJOR ST P O BOX 200
NEW YORK N Y 10001-0200

.23 Mail bearing the name of more than one post office in either the address or return address is not acceptable for mailing.

.24 An endorsement directing return to point of mailing (postmark) will not be honored.

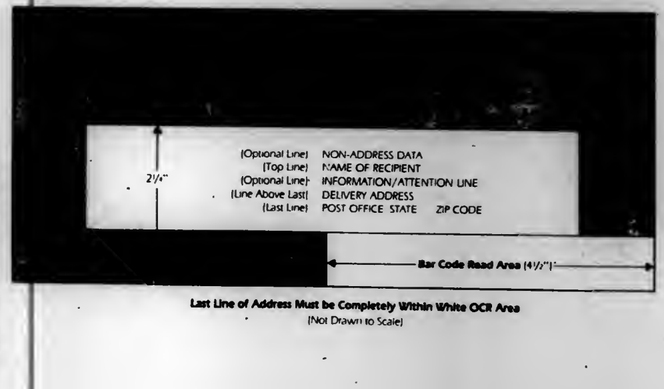
.25 Postage (stamps, meter stamps, or permit imprints) must be placed in the upper right corner of the address side for letter size mail (see 128.2). All other processing categories (see 128.1) must have the postage in the upper right corner of the address area (see 122.132).

122.3 Recommendations.

.31 The return address should be included on all mail. The return address on letter-size mail (see 128.2) should be located in the upper left corner of the address side. Other processing categories (see 128.1) should have the return address in the upper left corner of the address area (see 122.132). The return address should not be placed below the delivery address. It should not appear on any but the address side.

.32 The use of ZIP Codes is recommended on all mail because they enable the Postal Service to achieve greater reliability and efficiency in dispatch and delivery. Although its use is voluntary, except where a ZIP + 4 discount is claimed, use of the ZIP + 4 Code is preferred over the 5-digit ZIP Code to the address element appearing on the line immediately above the city and state. If a ZIP Code (ZIP + 4 or 5-digit code) is used, it must correspond with the address element immediately above the city and state. These restrictions also apply to return addresses on mail matter.

.22 Mail bearing both a street address and a post office box number on the same address line will be delivered to the post office box. If a ZIP Code (ZIP + 4 or 5-digit code) is used, it must correspond with the post office box number in the address. This type of addressing is not recommended.



Last Line of Address Must be Completely Within White OCR Area
(Not Drawn to Scale)

.33 The Postal Service also requests that mailers follow certain addressing guidelines which permit the efficient processing of letter-size mail on automated optical character readers (OCRs) and bar code sorters (BCSs). The address, or at a minimum, the city, state, and ZIP Code line(s) of the address, on letter-size mail should be located within an imaginary rectangle (the OCR read area) on the front of the mail piece formed by the following boundaries:

a. At least 1 inch from the left edge;
b. At least 1 inch from the right edge;
c. At least ⅝ inch from the bottom edge (bottom line of rectangle);
d. No more than 2¼ inches from the bottom edge (top line of rectangle.)

Note. See OCR Read Area and Bar Code Read Area Illustration.

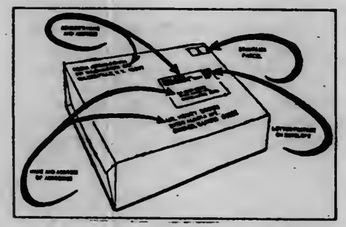
.34 Nonaddress printing, computer punch holes, etc., should not be placed within the OCR read area, alongside or below the city, state, and ZIP Code line(s) of the address.

.35 Unit, apartment, mail receptacle, office, or suite number should be included in the address. Place that information at the end of the delivery address line. If there is not enough space on this line, place it on the line immediately above the delivery address. Special service endorsements should be placed on the right side below the postage and above the address.

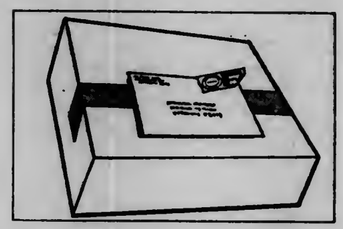
.36 Addresses should not be inverted (upside down).

.37 Addresses on Parcels

Illustration of how to affix a first-class letter on a parcel:



a. Parcels which bear address labels shall have the regular or postage meter stamps affixed by accepting postal employees so that the stamps overlap the upper right corner of the label, as shown in the following illustration:



b. Postmasters should seek the cooperation of business mailers by asking them to affix postage in this manner. Parcels bearing address labels covering any portion of the postage or showing other significant evidence of overlabeling shall be withheld from dispatch or delivery and must be immediately reported to the nearest postal inspector or postal inspector in charge.

.38 A slip should be attached to articles enclosed in parcels showing the address of the sender and addressee.

.39 On all mail processing categories the address should be parallel or nearly parallel to the longest edge of the mailing piece. (See the requirement for letter-size mail in 122.131.)

122.4 Simplified Address.

Revise 122.43 to read as follows:

.43 Number of Customers. Delivery statistics for all carrier routes and post office box sections are included in the CRIS Scheme. See 622.11(e) for CRIS ordering information. On request, postmasters will furnish, without charge, information as follows:

a. Number of post office boxholders;
b. Route number and number of boxholders on each rural and highway contract route;
c. Route numbers and number of families on each rural route;
d. Number of families served or number of business places served within the total delivery area or on particular carrier routes.

122.6 ZIP Code System.

Revise 122.61 to correct typographical error on the penultimate line "routine" is changed to read "route." Revise 122.632 to correct typographical error on line 5 "signed" is changed to the read "assigned."

Revise 122.641 and 642 to omit punctuation marks in the examples.

Revise the text of 122.641 to delete the words "A space not less than 5/10 of an inch nor more than 9/10 of an inch", and insert the words "From one to two character spaces."

122.8 Military Mail.

All examples appearing in this section are revised to omit punctuation marks.

127 Minimum Sizes.

Omit the "Note" following 127b and insert new 127c reading as follows:

c. Address placement can subject First-Class Mail and single piece third-class mail to a nonstandard surcharge or render it incompatible with the above minimum size standards. Mailing pieces which do not meet the minimum size standard are prohibited from the mails.

Note.—With the exception of mail sent at third-class carrier route rates, the placement of the address establishes which dimensions are the height and length.

129 Envelopes and Cards.

Revise 129.3 a, b and c to read as follows:

a. The address window on all lettersize envelopes should be located within the area described in 122.33. The window can be placed ½ inch from the bottom of the envelope, but ⅝ inch is preferred. See 122.131 regarding address position. The address window must be parallel with any edge of the envelope on flat-size mail (see 128.3). See 122.38 for recommendation. See 127 for size standards.

b. The window must be of sufficient size and transparency so that each character in the address and optional endorsement line (if used) is visible throughout an insert's movement within its envelope. Mail which does not conform to this standard may be rejected or returned.

c. The provisions in Part 122 governing addressing also apply to window envelopes. Nonaddress printing, computer punch holes, or other extraneous information should not be placed alongside or below the city, state, or ZIP Code line of the address.

159.3 Address Correction Service and Return.

Revise 159.332b to change reference 122.32 to read 122.17.

322.3 Restrictions on the Use of Double and Single Postal and Post Cards.

Revise 322.32b to read as follows:

b. The addresses on the cards must include either the ZIP + 4 code or the 5-digit ZIP Code and must be placed in accordance with 122.131.

323 Presorted First-Class Mail.

Revise 323.2 to insert the word CRIS after Postal Service and before scheme on line 19.

352.2 Shape, Ratio, and Sealing.

Omit the "Note" following 352.21b and insert new 352.21c reading as follows:

c. Address placement can subject First-Class Mail to a nonstandard surcharge or render it incompatible with the above minimum size standards. First-Class Mail which does not meet these minimum standards is prohibited from the mails.

Note.—The placement of the address establishes which dimensions are the height and length of First-Class Mail.

452 Addressing.

Revise 452.1f to read as follows:

See 122.131 and 127 regarding address placement and minimum size standards on letter-size pieces. On unenveloped and unwrapped flat size pieces (see 128.3) it is suggested the address be placed so that when the bound (or folded) edge is grasped in the right hand, the address should be along the bound edge or the top edge near the bound edge as illustrated in Exhibit 452.6.

651.2 Size, Shape, and Ratio.

Omit the "Note" following 651.212b(3) and add new 651.212c reading as follows:

c. Address placement can render third-class mail incompatible with the minimum size standards above or subject single piece rated third-class mail to a nonstandard surcharge. Third-class mailing pieces other than keys and identification devices which do not meet these minimum size standards are prohibited from the mails.

Note.—With the exception of mail sent at third-class carrier route rates, the placement

of the address establishes which dimensions are the height and length.

951 Post Office Box (P.O. Box) Service.

Revise 951.86 to change reference 122.32 to 122.17.

952 Caller Service.

Revise 952.46 to change reference 122.32 to 122.17.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 85-17970 Filed 7-29-85; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400 and 433

[BPO-11-F]

Medicaid Program; Medicaid Management Information Systems; Conditions of Approval and Reapproval and Procedures for Reduction of Federal Financial Participation

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule provides the additional requirements to the conditions and procedures for initial approval and reapproval of Medicaid Management Information Systems (MMIS) that were added by section 1903(r) of the Social Security Act (as amended by section 901 of the Mental Health Systems Act of 1980, Pub. L. 96-398). These provisions are intended to improve States' MMIS, ensure efficient system operations, and make the procedures for detection of fraud, waste, and abuse more effective. In addition, this final rule specifies the procedures we follow in reducing the level of Federal financial participation in State administrative expenditures if a State fails to meet the conditions for initial operation, initial approval, or reapproval of an MMIS.

EFFECTIVE DATE: These regulations are effective August 29, 1985. Paragraphs (e) and (g) of 42 CFR 433.116 contain information collection requirements with which the public is not required to comply until the office of Management and Budget approves these requirements. (See Section VI for this preamble for a discussion of information collection.)

FOR FURTHER INFORMATION CONTACT: Guy Harriman, (301) 594-4880

SUPPLEMENTARY INFORMATION:

I. Background

A. Medicaid Management Information Systems

An MMIS is a mechanized system of claims processing and information retrieval used in State Medicaid programs under title XIX of the Social Security Act (the Act). The system is used to process Medicaid claims and to retrieve and produce utilization data and management information about recipients and services. Under section 1903(a)(3)(A) of the Act and regulations at 42 CFR 433.112, Federal financial participation (FFP) is available at a rate of 90 percent in State expenditures for design, development, installation or improvement of the systems. (As with all Medicaid FFP rates for fiscal years (FY) 1982-1984, the rates presented in this preamble and in the regulations are subject to any adjustment that occurs under sections 1903 (s) and (t) of the Act.) Under section 1903(a)(3)(B) of the Act and § 433.116, FFP is available at 75 percent for operation of an approved MMIS. These rates are higher than the normal matching rate of 50 percent under section 1903(a)(7) of the Act for general administrative operations of the State agency.

B. Title IX of the Mentol Health Systems Act of 1980

Title IX of Pub. L. 96-398, the Mental Health Systems Act of 1980, added a new paragraph (r) to section 1903 of the Social Security Act (42 U.S.C. 1396b(r)). That legislation requires each State with a Medicaid program, with certain exceptions, to have an approved operating MMIS before established deadlines and, if the State fails to do so, prescribes FFP reductions by increments in the funding available under sections 1903(a) (2) and (7) of the Act. (Those sections provide 75 percent FFP for compensation and training of skilled medical, professional and support staff, and 50 percent FFP for general administrative expenditures.) The legislation also imposes new conditions for approval and reapproval of systems and prescribes FFP reductions by increments for failure to meet the conditions. However, the law requires us to waive the FFP reductions and modify deadlines if we determine that a State has good cause for being unable to comply or the State cannot comply due to circumstances beyond its control. We are required to report to Congress all waivers of FFP reductions, the bases for the determinations, and modifications of deadlines.

Because the basic requirements of section 1903(r) of the Act were sufficiently complete and clear to take effect without regulations, we have already put into effect the portions of that section for which we had to act by specific dates. We notified the States of the statutory requirements well before the deadlines.

C. Overview of the Notice of Proposed Rulemaking

On March 3, 1983, we published in the **Federal Register** at 48 FR 9039 a notice of proposed rulemaking (NPRM) to solicit comments on our proposed changes to the regulations that govern MMIS. That NPRM included additional requirements added by section 1903(r) of the Act (as amended by section 901 of the Mental Health Systems Act of 1980, Pub. L. 96-398) and specified procedures for reducing the level of FFP in a State's administrative expenditures when a State fails to meet the conditions for initial operation, initial approval, or reapproval of an MMIS. In addition, we proposed procedures for waivers of the conditions of approval and reapproval and appeals of adverse decisions.

As part of the process for development of the performance standards for reapproval to be used during fiscal year 1984, we also solicited comments on Part 11 of the State Medicaid Manual (SMM), which contains both the performance standards (including their factors and elements) for reapproval and system requirements for initial approval and reapproval. After consideration of the public comments concerning the NPRM and Part 11 of the SMM, we have decided to adopt the proposed rule without substantial modification as a final rule. (Changes included in this final rule that were not included in the NPRM are explained in section IV. Summary of Changes, below.) The reader is referred to the NPRM for a more complete discussion of the provisions of these regulations. However, for the convenience of the reader, we have briefly summarized the major provisions, below.

II. Major Provisions of These Regulations

The provisions of these regulations revise 42 CFR Part 433, Subpart C, Mechanized Claims Processing and Information Retrieval Systems.

A. Advance Planning Document

We have clarified § 433.112 of the regulations to state more clearly that FFP is available at the 90 percent rate in State expenditures for the design, development, installation, or improvement of mechanized claims processing and information retrieval system only if the advance planning document (APD) is approved by HCFA prior to the State's expenditure of funds for these purposes. (An APD is a written plan of action to acquire the initial system or a replacement system.) This means that a State expenditure may qualify for the 90 percent rate only if the expenditure is made after HCFA approves the APD.

Section 433.112 is required by section 1903(a)(3)(A) of the Act, which provides for FFP at the 90 percent rate in State expenditures for the design, development, and installation of mechanized claims processing and information retrieval systems "which the Secretary determines are likely to provide more efficient, economical and effective administration of the plan. . . ." (The Secretary has delegated the approval of mechanized claims processing systems for Medicaid to HCFA.) We believe that section 1903(a)(3)(A) of the Act requires HCFA to approve the APD before the State's expenditure of funds, for FFP to be provided at the 90 percent rate, because it is important that HCFA know at the outset, that is, before the system is developed, about the system the State is proposing. The APD provides HCFA with this information.

Regulations at 45 CFR Part 95, Subpart F prescribe the conditions under which the Department will approve FFP at applicable rates for costs of automatic data processing incurred under an approved Medicaid State plan and may appear to conflict with the regulations at 42 CFR 433.112. However, unless the Secretary makes the determination that the system is likely to satisfy the section 1903(a)(3)(A) requirements, the applicable rate of FFP would be 50 percent. 45 CFR Part 95 restricts us in imposing prior approval requirements at the 50 percent rate, since the statute does not require an advance determination in order for a State to receive this percentage rate. However, since the Secretary must make this prospective determination in order for the State expenditures to qualify for the 90 percent rate, the prior approval demanded by the MMIS regulations (§ 433.112) is to obtain the enhanced rate and is not a condition limiting State procurements, which would be precluded by 45 CFR Part 95. Therefore, there is no conflict between 45 CFR Part 95, which limits our authority to require prior approval, and the requirements of § 433.112.

The § 433.112 requirement that the APD be approved before a State's expenditure of FFP for design, development, installation, or improvement of a system for receipt of the 90 percent rate of FFP applies to both an initial system and a replacement system. Section 433.113 contains other rules for obtaining approval of a State's original system. Section 433.117 contains the rules for approval of a replacement system and incorporates rules contained in § 433.113.

B. Initial Operation

Section 433.113(a) provides that a State (unless a waiver was obtained) must have in operation an MMIS that the State detailed in an advance planning document (APD) that was approved by HCFA. Under § 433.113(a), the system must have been in operation by the earlier of—(1) September 30, 1982; or (2) the last day of the sixth month following the date specified for operation of the system in the State's most recently approved APD submitted before October 7, 1980 (the date of enactment of Pub. L. 96-398). This means that a State that submitted an APD after October 7, 1980 had to have its system operating by September 30, 1982. If the State submitted an APD before October 7, 1980 that was approved by HCFA and that contained an operating date before March 1, 1982, the system must have been operating by the last day of the sixth month following the specified operating date. These deadlines were delayed only if HCFA determined under § 433.131 that the State was unable to comply for good cause or for circumstances beyond its control (see sections II-M and II-N below).

When system operation begins, the State receives 50 percent FFP in its expenditures for system operation until the system is approved. Under § 433.116, FFP in State expenditures for system operation increases to 75 percent, effective with the first day of the calendar quarter after the system was determined to be operating safisfactorily. Section 1903(r)(3) (A) of the Act provides for the 75 percent rate if we determine the system to have been operational for an entire calendar quarter before the quarter in which the system received its initial approval.

If a system had not been in operation by the specified deadline, under § 433.113(b), we would have reduced the rate of FFP in both State expenditures for skilled medical personnel and staff (section 1903(a)(2)) and general administrative expenses (section 1903(a)(7)) by 5 percentage points for every two-quarter period of non-operation beyond the deadline described above. (The rate of FFP under section 1903(a) (2) and (7) would not have been reduced more than 25 percentage points for each type of FFP.)

C. Initial Approval of an Operating System

Section 433.113(a)(3) provides that a State must have an operating system initially approved by HCFA by the last day of the fourth quarter that begins after the date on which HCFA establishes that the system became operational or be subject to reductions in FFP, described below.

Retroactive funding at the 75 percent rate is provided under § 433.116 for operation of an approved system from the first quarter beginning after the system became operational. If a system is operating but not approved by the specified deadline, under § 433.113, we reduce FFP in State expenditures under section 1903(a) (2) and (7) by 5 percentage points each for every two-quarter period for which the system is operating but not approved beyond that deadline. Again, the rate of FFP may not be reduced more than 25 percentage points for each type of FFP.

If the State is subject to a reduction of FFP because it did not meet the deadline for initial approval, § 433.113(c) requires that the State be subject to reductions in the retroactive FFP otherwise available for operating an approved system at the rate of five percentage points for every two-quarter period beyond the deadline for initial approval. Funding of the system for the quarters following the the quarter in which the system is initially approved is at the 75 percent rate.

To determine whether a system qualifies for initial approval, HCFA needs information retrieved from six months of system operation. Since FFP reductions could occur if there is a delay in the approval process, we encourage States to contact us to request initial approval of the system, when the State's system has been in operation between three and six months. At that time, we will review and evaluate State-furnished information developed by the system.

A State that is now without an operating system or that wishes to replace a currently approved system must submit its request for approval with the supporting documentation within three months after the system begins operating to allow us the needed

time to complete our evaluation within the first year of system operation.

reapproved. Section 1903(r)(4)(A) of the

disallowed; i.e., the State will not be

American Samoa, and the Northern

time to complete our evaluation within the first year of system operation.

D. Appeals of Initial Operations and Approval Decisions

A State may appeal reductions in FFP resulting from the denial of initial approval and reductions in FFP for expenses of the system for initial operations under the procedures of the Departmental Grant Appeals Board contained in 45 CFR Part 16 (governing reconsiderations of disallowances of claims for FFP under section 1903 of the Act). The appeal may be filed only when a claim (or a portion of a claim) made by the State for FFP in these expenditures has been disallowed.

E. Replacement Systems

Rules for initial approval of replacement systems are located at § 433.117. Replacement systems have to be approved by us in accordance with the initial approval conditions, and the APD, which the State files for a new system, must include: (1) The date the new system will become operational; and (2) a plan that assures an orderly transition from the system being replaced.

FFP is available at 90 percent in expenditures for the design, development and installation of the replacement system if the State owns the software. While the replacement system is being prepared to become operational, we will continue to fund, at 75 percent, the already approved operating system. (If the current system has been disapproved, it would be funded at a reduced rate under § 433.120, the regulation governing FFP in expenditures for disapproved systems.) When a replacement system becomes operational, FFP is available at 50 percent of expenditures for operation of the replacement system until we approve it. At that time, FFP is increased to 75 percent of expenditures for operation of the approved replacement system, retroactively to the date HCFA determines the replacement system met all conditions for initial approval. However, although a State may be operating both systems for a limited period of time, FFP is available at 75 percent of expenditures for operation of only one system at any time. (FFP is available at 50 percent of expenditures for the other operating system.)

F. Replacement of System Operators

A State may replace the operator of an approved MMIS. FFP continues to be available at 75 percent for an approved operating system regardless of who operates it. The following Departmental requirements apply also; 45 CFR Part 74, Administration of Grants, and 45 CFR Part 95, which prescribes the conditions under which the Department will provide FFP for the costs of automated data processing.

G. Conditions of Approval and Reapproval

In order to receive 75 percent FFP for operation of an MMIS, States must meet these new requirements of 42 CFR 433.116:

1. The State must provide that information on probable fraud or abuse obtained from, or developed by, the system, is made available to the State's Medicaid fraud control unit (if any) certified under section 1903(q) of the Act.

2. The system must meet all performance standards and other conditions for initial approval that we develop and about which we notify the States.

Except for the requirements in 1 and 2 above, there are no changes in the existing conditions in the regulations for initial approval in redesignated § 433.116 (c) through (g). In addition, no changes have been made in the conditions for initial approval in Part 11 of the SMM on which we solicited public comments in the NPRM. For yearly reapproval under § 433.119, States are required to meet the first requirement above, and also, performance standards and other conditions for reapproval. These include the system requirements in Part 11 of the SMM. The initial list of performance standards that must be met for reapproval has also been published in the **Federal Register** (see 46 FR 33653—June 30, 1981 and 48 FR 24204—May 31, 1983) and Part 11 of the SMM. For purposes of clarity, we publish separate notices in the **Federal Register** to specify conditions for initial approval and conditions for reapproval.

H. Reapproval: Basis for and Amount of Reduction

Section 1903(r)(4)(B) of the Act requires us to reduce FFP to no more than 70 percent, but not less than 50 percent, for an MMIS that fails to meet the conditions of reapproval. We may not reduce FFP by more than 10 percentage points in any four-quarter period. That is, a State whose system fails to meet the conditions of reapproval three years in a row and that is subject to the maximum potential reduction each year will receive 65 percent FFP the first year, 55 percent FFP the second year, and 50 percent the third year. In such a case, only 50 percent FFP will be available to the State until it meets the conditions of reapproval in a subsequent yearly review period.

Under § 433.120, we will reduce FFP by increments from 75 percent to 50 percent of State expenditures, in accordance with the statutory provisions, if successive yearly reviews of a State's MMIS operations show that the system no longer meets the requirements for reapproval specified in § 433.119 (performance standards, system requirements, and other conditions of reapproval). To avoid a further reduction in FFP because of the requirements, the State must demonstrate that the system meets all the current requirements during the next annual review.

I. Reapproval: Notice of Results of Review

During each yearly review, we evaluate performance for each State's MMIS over a period of at least six months. We are continuing to provide technical assistance, as in the past, to aid States in correcting system deficiencies. As early as possible in the first quarter after the end of the fiscal year under review, we notify each State whether its system has met the conditions of reapproval. If the system failed to meet these conditions, the notice includes—

1. A statement that the State's FFP for systems operation will be reduced, and the percentage to which it is reduced, for the four quarters immediately following the quarter in which the notice is issued;

2. The findings of fact on which we made our determination; and

3. A statement that State claims in excess of the reduced FFP rate will be disallowed and that any such disallowance will be appealable to the Grant Appeals Board.

J. Reapproval: Timing, Duration and Restoration of the FFP Reduction

By law (section 1903(r)(6)(C) of the Act), the first review that could have resulted in a reduction of FFP to a State could not begin before Federal fiscal year 1982 (October 1, 1981 to September 30, 1982). Under § 433.119, review periods continue to coincide with Federal fiscal years and any reduction of FFP begins in the January following the end of the fiscal year.

We interpret section 1903(r) of the Act to establish the mechanism under which States that have had their MMIS disapproved will have their FFP reduced for at least four quarters after the quarter in which the disapproval is made and up to the first quarter beginning after the system is

reapproved. Section 1903(r)(4)(A) of the Act requires us to review at least once each fiscal year; we are conducting reviews and making review determinations only once each fiscal year. We conduct the required regular yearly reviews in all MMIS States to determine whether systems receiving reduced funding subsequently meet the conditions of reapproval, and whether systems receiving full funding continue to meet those conditions.

As we make regular review determinations once each calendar year, we do not resume full FFP for a system receiving reduced funding until we complete the next regular yearly review that results in a favorable determination. Yearly review determinations actually take effect after the end of the calendar year (i.e., we resume 75 percent FFP for MMIS operation, or reduce it if applicable, effective the following January).

Under § 433.122, a State that receives reduced FFP because of deficiencies found during the review process could receive the withheld amount retroactively, if the next yearly review determination shows that the system then meets all conditions of reapproval. The restoring of withheld FFP is also subject to our judgment that return of the funds would improve the effective administration of the State's plan. This provision for retroactive adjustment is intended as an incentive for States to correct the system deficiencies as soon as possible.

Our decision whether to restore one, two, three, four or five quarters of FFP is discretionary and, therefore, not subject to appeal to the Grant Appeals Board. In making this decision we will consider any relevant information, including the amount of improvement shown as a result of the latest yearly review.

Because section 1903(r)(4)(C) of the Act precludes restoration of the withheld FFP for more than four quarters immediately prior to the quarter in which the system is approved, the withheld FFP will be lost permanently for the first three quarters of the calendar year in question if the subsequent yearly review shows the system still failing to meet any condition of reapproval. Thus, the Secretary has the discretion to retroactively restore the enhanced FFP that was reduced because of a disapproval of a system, but only for a maximum period of five quarters—the quarter in which the system is reapproved plus the immediately preceding four quarters.

During the period in which a State receives FFP for MMIS operation at a reduced rate, claims by the State for FFP at any higher level for MMIS will be disallowed; i.e., the State will not be eligible to receive 75 percent FFP for MMIS funding.

K. Reconsideration by the Departmental Grant Appeals Board

States have the opportunity to request a reconsideration from the Board of the disallowance of claims for FFP. Where FFP in State expenditures for operating an MMIS is reduced or FFP under section 1903 (a)(2) and (a)(7) is reduced because of the State's failure to meet the requirements of section 1903(r) of the Act, the State could request Grant Appeals Board review of the resulting disallowance by filing a written request with the Board. Procedures for consideration of such requests were described in the preamble of the NPRM and are detailed in § 433.121.

L. Notification to States of Changes in Conditions of Approval and Reapproval

We announce the changes in conditions of approval and reapproval once a year by publishing a notice in the **Federal Register** describing the proposed revisions and inviting public comment. We then respond in the **Federal Register** to comments on revisions making substantive changes.

Also, we publish changes in performance standards, system requirements, and other conditions for reapproval in the SMM after first publishing a notice in the **Federal Register** advising the public of the changes and inviting comment, and after responding to the comments received, if any, in a subsequent **Federal Register** notice. Under section 1903(r) of the Act, we are required to inform the States of conditions of reapproval at least three months before the beginning of the review period in which the procedures, standards and other conditions will be used.

M. Waiver of Conditions for Initial Operation and Approval

We will continue to waive the requirements for initial approval and for operating an MMIS for States with small populations if a State has demonstrated to HCFA's satisfaction that an MMIS will not significantly improve the efficiency of the administration of the State plan.

Section 1903(r)(7)(A)(ii) also directs the Secretary to waive these requirements for the Commonwealths, territories, and possessions of the United States under the same conditions as described above for States with small populations. Therefore, without necessity for a further showing, we granted waivers of MMIS requirements to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

N. Waiver of Reductions for Good Cause

Under §433.131(a), we will waive the FFP reductions for failure to gain initial approval or reapproval for not more than two quarters if we determine that a State is unable to comply with a requirement of these regulations for good cause. We interpret the two-quarter waiver to apply to FFP reductions arising from two quarters of inadequate performance of a State's system.

This means that absent significantly poor performance for more than two quarters, we have the discretion to completely waive the reductions in FFP in State expenditures for operation of the State's system if good cause exists to do so. For example, in the first two quarters of a fiscal year, a State fails to produce its reports timely or accurately; however, in the next two quarters, the State's reports are both timely and accurate. Because the FFP reductions result from State performance in the first two quarters only, and we found good cause for the State's poor performance (for example, because of the lack of experience with a new requirement), HCFA would apply the good cause waiver and not reduce FFP during the next fiscal year even though this State system has not been reapproved. (Since passage of section 1903(r) of the Act in 1980, we have granted a number of good cause waivers for State inability to comply with several provisions in section 1903(a) of the Act.)

O. Waiver of Reductions Due to Circumstances Beyond the Control of the State

We will waive the FFP reductions for a period during which a State is unable to comply due to circumstances beyond its control, as provided in § 433.131(b). This situation will exist when a State or the contractor responsible for the MMIS is without fault in being unable to comply; e.g., a natural disaster occurred or a delay was caused by us. We will also defer all remaining deadlines for the initial approval process for the same length of time.

III. Analysis and Response to Public Comments

We received seven letters concerning the proposed regulations, all from State agencies. These State agencies express concern that the proposed regulations will be applied too stringently and that the concerns of State agencies will not continue to be taken into account.

Reapproval Requirements That Measure Performance Not Within the

reapproval review package and subsequent reviews. We will also retain

requested, we will provide technical assistance so that a State can take

Of course, as provided in § 433.122(b), HCFA may restore the reduced FFP if

Grant Appeals Board, the State has 30 days to file a notice of appeal (the notice

Postponement of FFP Reductions

Reapproval Requirements That Measure Performance Not Within the Scope of the MMIS

Comment: One State agency, while agreeing that the proposal reflects the provisions of section 1903(r) of the Act, requests that we apply the FFP reduction provisions only to MMIS items on which there is wide agreement. For example, the commenter urges us not to apply these funding provisions to any items not included in present rules or in the MMIS General System Design documents (explained in § 11300 of Part 11 of the SMM). The commenter says that this comment is consistent with the position taken by State members of the Systems Technical Advisory Group, who object to including items in the MMIS reapproval requirements that measure functions outside the scope of the system itself.

Response: An MMIS is described both in sections 1903(a)(3) and 1903(r) as a system that the Secretary determines is likely to provide more efficient, economical, and effective administration of the State plan for medical assistance. To this end, Congress has authorized enhanced FFP for design, development, installation, and operation of a system that meets this objective. In turn, the Secretary has determined that a system is not likely to provide more efficient, economical, and effective administration of the plan unless it is provided with quality data. Thus, in making the statutory determination of what qualifies a system for enhanced FFP, the Secretary has decided not to look at MMIS in a vacuum. Instead she has decided to look at it in the context of the Medicaid program as a whole. In complying with the mandate of section 1903(r), which requires her to adopt performance standards, the Secretary opted to measure the performance of an MMIS by reference to the quality of the data that is put into the system as well as the quality of the system that manipulates that data. Since adopting the commenter's proposal could result in enhanced funding for a system that merely processes worthless data (that is, garbage in; garbage out), we have chosen to reject the commenter's suggestion.

We have worked with and will continue to work with States through the Systems Technical Advisory Group to identify items to be included in reapproval reviews. In addition, through the MMIS Relook Project, we are reviewing the relationship between system operations funding and system evaluation. Based on these efforts, some revision may be made in the FY 1985 reapproval review package and subsequent reviews. We will also retain the perspective of approving systems operations which contribute to efficient, economical and effective administration of the State plan, as required by sections 1903(a)(3) and 1903(r) of the Act. We will continue to seek consensus with States on the best means of applying the law through system reviews.

Frequency of Review

Comment: One State agency recommends that a complete reapproval procedure take place once every three years, rather than on an annual basis as we proposed. This commenter suggests that only system functions requiring frequent monitoring be reviewed annually.

Response: This comment would require a legislative change. Section 1903(r)(4)(A) of the Act requires the Secretary to review all approved systems and to reapprove or disapprove such systems not less often than once each fiscal year. The statute does not allow exceptions so that certain areas of the MMIS will be subject to review on a less frequent basis. We make annual changes to our reapproval requirements to reflect changes in State performance, new conditions of approval, and Medicaid needs. These changes are applied uniformly to all systems.

Failure To Comply With Reapproval Standards

One commenter requests that we provide technical assistance, instead of fiscal sanctions, to resolve State agency dificiencies, suggesting that it is contradictory to impose fiscal sanctions at a time when a State needs funds to eliminate deficiencies.

Response: Section 1903(r)(4)(B) of the Act requires that the Secretary impose FFP reductions if an MMIS is disapproved.

Since the inception of the annual MMIS reapproval process, it has been our policy to make technical assistance available to States upon request in an effort to assist in improving their MMIS operations and avoiding FFP reductions. This technical assistance is provided principally by HCFA regional offices. In addition, since FY 1982, an early warning system has been in place to alert any State as early as possible to actual or potential failure of the reapproval requirements. The early warning system requires reviews to be conducted during the first two quarters of each fiscal year of elements and standards failed by any State during the preceding reapproval review cycle. This aids a State in avoiding final failure by alerting it to needed remedial actions. If requested, we will provide technical assistance so that a State can take actions to avoid system disapproval and FFP reductions. Furthermore, if deficiencies are rectified promptly, the reductions of FFP for operating a disapproved system may be restored retroactively.

Reduction of FFP for a Disapproved MMIS

The proposed rules indicated that upon disapproving an MMIS, we would reduce FFP by increments of up to 10 percentage points beginning with the next calendar quarter and continuing until the "next yearly review." This implies that the reduction always will be applied for a minimum of four full quarters regardless of when the State modified its system to conform to the MMIS standards. One State agency suggests that a State be allowed to request a review when the State has made the necessary changes in order to reduce the potential loss of funds. The commenter claims that this type of request is allowable in the law but the proposed rules refer to yearly reviews only, with no other options available.

Response: Section 1903(r)(4)(A) of the Act indicates that the Secretary shall reapprove or disapprove an MMIS and notify the State not later than the end of the first quarter following the review period. We have established the review period as the Federal fiscal year; that is, four quarters. There will not be another notification or reapproval determination until after the next yearly review.

As noted above, we have established an early warning system to alert States to operational problems in certain key functions and in areas where the States experienced difficulties during the previous reapproval review cycle. This early warning affords States an opportunity to adjust system operations and avoid failure of performance standards and other conditions of reapproval.

It is simply not administratively feasible for us to be on call for follow-up reviews. The staffing and paperwork burdens inherent in the State's proposal are unmanageable. Indeed, our recent experience with reapproving two previously disapproved State systems prior to the end of the fiscal year demonstrated that we do not have the capacity to handle follow-up reviews if they become a widespread practice. This is one reason why we have established the review cycle on a fiscal year basis. We do not have the resources to staff more frequent reviews.

Of course, as provided in § 433.122(b), HCFA may restore the reduced FFP if the system meets all conditions of reapproval in the next yearly review and if HCFA determines that restoring the reduced FFP could improve the administration of the State Medicaid plan.

Time period for an appeal to the Grant Appeals Board

Comment: One State agency claimed that there was an inconsistency between the preamble and the proposed regulations text concerning when we will notify the State agency of disapproval of a system and the time period for the State agency to appeal to the Grant Appeals Board. The commenter claimed that the proposed rule stated that an appeal must be filed within 30 days from the date of the letter notifying the State of the disapproval. The preamble indicates that the States would not be able to challenge the disallowance until after the end of the first quarter in which FFP is reduced. The commenter suggested that an appeal be allowed as soon as the written notice is received, with a reasonable amount of time provided in which to file the appeal, such as sixty days.

Response: We do not believe that there is a conflict between the preamble and the regulations text of the NPRM. The commenter apparently confused the notice of disapproval (which does not confer an immediate right to appeal) with the notice of disallowance (which does confer an immediate right to appeal).

The Act provides a mechanism by which a State is able to contest a reduction in FFP. Specifically, section 1116(d) of the Act provides for a reconsideration by the Secretary (which the Secretary has delegated to the Departmental Grants Appeal Board) of a determination concerning any item for which FFP is claimed and disallowed. Because there is no disallowance until a State submits a claim for FFP and a letter of disallowance is sent to the State, the Grant Appeals Board does not have the authority to take any action on the earlier notice of disapproval. If we were to provide a predisallowance appeal right, a State could relitigate the issue at a later time by claiming enhanced FFP that had been denied in the predisallowance appeal and then, by contesting the resulting predisallowance before the Board under section 1116(d) of the Act. We do not believe it would be appropriate to provide for duplicative appeals.

Under 42 CFR 433.121(a) and 45 CFR Part 16, Procedures of the Departmental Grant Appeals Board, the State has 30 days to file a notice of appeal (the notice can be very brief) from the date it receives a letter of disallowance. Under 45 CFR 16.8, the State will also have an additional 30 days to prepare its argument after the Grant Appeals Board acknowledges the notice of appeal.

Decisions That May Not Be Appealed to the Grant Appeals Board

Comment: One State agency objects to the provisions of proposed § 433.121 that decisions concerning the following issues are not subject to appeal to the Grant Appeals Board—

(1) The amount of the percentage reduction of FFP (if within the range set by title XIX of the Act);

(2) Whether to restore FFP retroactively; and

(3) The number of quarters restored.

The commenter's objection is based on the absence of these exclusions in title XIX of the Act.

Response: We have determined that these issues are not subject to appeal. Section 1903(r)(4)(C) indicates that decisions involving the restoration of FFP are within the Secretary's discretion. In addition, section 1903(r)(4)(B) of the Act explicitly covers the authorized range for the Secretary's reducing FFP. Therefore, such decisions are not subject to review or appeal to the Grant Appeals Board unless they exceed the range authorized by law or unless the Secretary delegates review of this exercise of discretionary authority to the Board. For the reasons presented below, we concluded that it would be unwise to delegate review of this discretionary authority.

The law explicitly authorized the Secretary the discretion to establish the appropriate reduction within certain statutory limits upon a finding of disapproval, we believe that the Board's proper role should be limited to questions of fact; that is, whether the performance of the MMIS failed to meet the standards, requirements, or other conditions of reapproval. The amount of actual reduction must, out of necessity, be based on multiple operational and administrative issues that do not readily admit to quasi-judicial review. As for the decisions for restoration and the number of quarters to be restored, the statute does not establish restoration as a State right. Even were a State to meet all criteria for restoration, no obligation to grant such restoration is imposed upon the Secretary. Therefore, to allow a reconsideration review by a third party is not desirable.

Postponement of FFP Reductions

Comment: One State agency, believing that section 1903(r) of the Act does not require immediate reductions in FFP, urges us to modify § 433.121(c) to allow postponement of FFP reductions for failure to meet the conditions of reapproval until completion of all administrative appeals. If the disallowance is upheld, this commenter suggests that the State would pay interest from the date of the disallowance.

Response: This recommendation is not compatible with section 1903(r) of the Act, and therefore, a legislative change would be required to delay the reduction of funding until a final decision by the Grant Appeals Board. Section 1903(r)(4)(A) of the Act requires us to reapprove or disapprove a State's MMIS and to notify the State by the end of the first quarter following the yearly review period. This requirement is the basis for § 433.119(b).

In the event HCFA disapproves a State's MMIS, HCFA is required to reduce the State's FFP in accordance with the range specified in section 1903(r)(4)(B) of the Act. That section of the statute also requires us to implement the reduction for the four quarters beginning after the determination of disapproval. Should the State request a reconsideration, such request does not delay implementation of the reduction in FFP because, once the disapproval notice is issued, the State is no longer eligible for full enhanced funding for MMIS operations.

Section 1903(d) of the Act provides for interim payments to the State based upon an estimate of what its quarterly expenditures will be for the upcoming quarter. Therefore, since section 1903(r)(4)(B) requires FFP to be reduced if the system is not reapproved (and since section 1904(r)(4)(C) contemplates retroactive waivers of the reduction if the system is reapproved in the next review and certain other conditions are met), we believe delaying the reduction until all administrative appeals are exhausted would frustrate the Congressionally-enacted scheme of reduction of FFP for disapproved systems with a possibility for retroactive restoration of FFP.

Moreover, specific statutory authority would be necessary to permit a State to receive the full enchanced matching after its system is disapproved and then compel the State to pay interest from the date of the disallowance on the increment of FFP that could have been reduced. However, section 1903(d)(5) of the Act provides a mechanism under

which a State may keep FFP that has been overpaid pending a final

Also, whenever HCFA proposes to modify the performance standards,

Length of Time Period Allowed for Compliance With New Conditions of

quarter before the review period to which the new or modified standards or

section 1903(r) of the Act do not apply to American Samoa.

geographic regions, or otherwise meet the thresholds of the Executive Order.

VOL
50
ISS
146
JL
30
1985
UMI

which a State may keep FFP that has been overpaid pending a final determination on the disallowance. If a State keeps the disallowed funds during this period, section 1903(d)(5) of the Act requires the State to repay the amount plus interest if the disallowance is upheld. However, this provision applies only when the State has been overpaid and does not apply in the context of an MMIS reduction under section 1903(r) of the Act because section 1903(r) of the Act requires that the FFP be reduced prospectively, thereby eliminating the possibility of an overpayment. Since section 1903(d)(5) of the Act provides the exclusive authority for a State to keep disallowed funds and then repay them with interest at the end of the appeals process if the State does not prevail, and since it does not apply to the reductions under section 1903(r) of the Act, we could not adopt the comment without a legislative change.

Use of Published Summaries of Changes to MMIS Performance Standards, System Requirements, and Other Conditions of Reapproval

Comment: One State agency is concerned that our proposal to publish for comment a summary of proposed changes rather than the changes themselves will not provide sufficient opportunity for the States to interpret the proposed changes. The commenter recommends that either the content of the entire change be published or the comment period be extended so that the States can obtain the details of the proposed changes and assess them thoroughly.

Response: States will be notified of the detailed text for the MMIS performance standards, system requirements, and other conditions of reapproval concurrent with or prior to the publication of the summary of those conditions of reapproval in the **Federal Register.** This has in fact been our practice over the past few years.

As was indicated in the preamble to the proposed rule, section 1903(r)(6)(E) of the Act requires us to inform the States of the conditions of reapproval at least three months before the beginning of the review period in which the procedures, standards, or other conditions will be used. For example, in addition to HCFA's publishing a notice in the **Federal Register** that summarizes any changes, the States will have the detailed text of any change at least one quarter before the date of expected implementation. This will also enable the States to have sufficient time to comment on the summary or to obtain more detailed information and comment on all the changes.

Also, whenever HCFA proposes to modify the performance standards, system requirements or other conditions of approval or reapproval, these proposals will be published in a notice in the **Federal Register,** and there will be opportunity for comment (at least 30 days) on these proposals. HCFA will respond in a subsequent **Federal Register** notice to any comments that were received and will announce any changes.

State Participation in the Development of Performance Standards and System Requirements

Comment: One State agency suggests that we develop new performance standards, system requirements or other conditions of reapproval with State agency participation because—

- State participation worked well in the original MMIS development.
- The use of the notice and comment procedure by itself is not adequate for changes that will have great impact upon State funding.

Response: In the future, we will make greater use of both the State Medicaid Directors Group and the Systems Technical Advisory Group, which is composed of State agency representatives, whenever possible in developing the new standards and systems requirements. In addition, since 1980 whenever we have modified system requirements and other conditions for initial approval or annual reapproval, we have first published the proposal in the **Federal Register** to provide an opportunity for States and members of the public to comment on the proposals.

Reducing the Approval Procedure Burden for New System Requirements

Comment: One State agency suggests that the approval procedure for new system requirements be streamlined to reduce the inappropriate burden on the States.

Response: In a further effort to foster State participation, approval of enhanced FFP (at the 90 percent rate) for improvements made to a system in order to meet new system requirements has been moved to the regional offices. The requirements for approval for improvements to existing approved systems have been added to the language of the regulation at § 433.112(b). The procedure to be followed to obtain prior approval is detailed in Part 11 of the SMM. At any time, a State may submit recommendations about how the process may be further streamlined.

Length of Time Period Allowed for Compliance With New Conditions of Reapproval

Comment: One State agency is worried that the "appropriate period" allowed for the States to comply with new MMIS conditions of reapproval will not be long enough for the many States whose legislatures appropriate funds on a two-year basis.

Response: The time period for implementing new conditions of reapproval is set forth in each proposed rule or notice with a comment period that proposes new conditions of reapproval. During the notice and comment period, a State that needs additional time to implement the new requirements should write to us explaining just how much time the State needs. Then, we will take that into account when issuing the effective date in the final rule or notice. So far this procedure has worked well, and, to our knowledge, all States have had enough time to comply with any new conditions of reapproval.

In addition, § 433.123 requires that HCFA provide at least one calendar quarter before the review period to which the new or modified performance standards and other conditions for reapproval apply.

Time Period To Dispute a Finding of Disapproval

Comment: One State agency suggest that a State would need more time than we propose to allow to dispute a finding that the State has not met a condition of reapproval.

Response: The State actually has a great deal of time to present its case. In addition to responding to the regional office findings, the State may submit evidence of satisfactory performance at any time prior to receipt of the notice of disapproval. The State may then continue to prepare its case for use before the Grant Appeals Board should it intend to contest the disallowance.

Notification of Proposed Changes to Performance Standards and System Requirements

Comment: Two State agencies quoted section 1903(r)(6)(E) of the Act, which requires the Secretary to "notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which such procedures, standards, and other requirements will be used for conducting reviews for reapproval." The commenters questioned whether the statute's time frame coincided with our proposal in § 433.123(c) that we will notify agencies at least one calendar

quarter before the review period to which the new or modified standards or conditions apply. The State agencies recommended that we allow the maximum time to respond to changes and provide for State participation in developing new performance standards, system requirements or other conditions of approval or reapproval.

Response: The reapproval review package containing the required standards of performance for reapproval of a State's MMIS is issued by the end of June each year to all State Medicaid directors. The actual review is conducted on the Federal fiscal year basis. This means the period to be reviewed is from October through September annually. This time frame, as reflected in this final regulation, corresponds to the statutory requirements. We do discuss proposed changes with States and have postponed adding requirements, based on the concerns of States. Implementation of proposed claims processing review requirements has been delayed and is being revised as a result of the notice and comment process.

Comments Concerning the Claims Processing Assessment System (CPAS)

A number of comments addressed a statement in the Supplementary Information portion of the NPRM that we intended to include a quality control component as a condition of MMIS approval and reapproval. Subsequent to publication of this NPRM, we published a notice and NPRM (August 9, 1983, 48 FR 36151) dealing with a new claims processing assessment system (CPAS), which we proposed as a new condition for MMIS approval and reapproval.

Comments relating to the quality control component were considered and responded to in the final rule concerning CPAS, which is entitled Medicaid Program: Claims Processing Assessment System (CPAS), BQC–18–F. That final rule was published on May 29, 1985 (40 FR 21839).

IV. Summary of Changes

42 CFR 400.310 has been amended to include the currently valid OMB control numbers for the information collection requirements in 42 CFR 433.112 and 433.117 (see section VI. Reporting Requirements, below, for additional information). In addition, although these final regulations contain the same substantive rules that were proposed in the NPRM, the following sections of the regulations have been changed solely for clarity:

(1) Section 433.110 has been revised to indicate that the requirements under section 1903(r) of the Act do not apply to American Samoa.

(2) In § 433.112, FFP for design, development, installation or improvement of mechanized claims processing and information retrieval systems, paragraph (b) has been changed to indicate that HCFA will approve the APD (rather than the system) if the several listed conditions are met. For purposes of obtaining 90 percent FFP in expenditures for design, development, or installation of a system, it may not be appropriate to refer to "approving the system".

This is because the "system" may not exist in the developmental stage. Therefore, we have changed the reference to "approval of the system" to approval of the APD. Approval of the APD prior to the expenditure of funds is a prerequisite to receipt of 90 percent FFP. This approval must be received prior to the award of the enhanced FFP.

(3) Section 433.112(b)(4) now refers to peer review organizations; that term currently includes Professional Standards Review Organizations and Utilization and Quality Control Peer Review Organizations, rather than Professional Standards Review Organizations only.

(4) Section 433.113(c) has been amended to provide that the amount of FFP that would be available retroactively for operating a system that later receives initial approval will be reduced by HCFA by the same percentage points for the same periods of time as the reduction in FFP in expenditures for compensation and training of skilled medical personnel and support staff and for general administration until the system is approved.

(5) Section 433.120(b) has been amended to explain that HCFA—

(a) Will not reduce FFP by more than 10 percentage points (rather than 10 percent) in any four-quarter period; and

(b) Will also consider the actual and potential program impact attributable to the unsatisfactory conditions in determining the amount of the FFP percentage reduction.

V. Regulatory Impact Analyses

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291, that this final rule does not constitute a major rule because it will not have an annual impact on the economy of $100 million or more, result in a major increase in costs or prices for consumers, any industries, any governmental agencies or any geographic regions, or otherwise meet the thresholds of the Executive Order.

We believe that this final rule will not result in any significant economic impact. The final regulations implement statutory provisions for which the estimated annual impact will be no more than $34 million in FY 1985. The difference between the NPRM estimate of $25 million in FFP reductions and the current $34 million figure is the impact of inflation between FY 1982 and FY 1985. As in the NPRM, our FY 1985 figure is based on a "worst case" estimate in which ten percent in FFP for system operations would be reduced if all currently approved systems were found deficient during the next yearly review. However, based on program experience, we do not expect the actual impact of this rule to be anywhere close to $34 million in FY 1985 or meet any of the other threshold criteria of the Executive Order. Therefore, this rule does not constitute a major rule.

Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this final rule will not have a significant economic impact on a substantial number of small entities. As defined by the Regulatory Flexibility Act, a "small entity" includes the term "small governmental jurisdiction", which means "governments of cities, counties, towns, townships, villages, school districts or special districts, with a population of less than fifty thousand". No State or the District of Columbia meets this definition, and, as these regulations only affect States and the District of Columbia, a regulatory flexibility analysis is not required.

VI. Reporting Requirements

The system requirements in 42 CFR 433.112 (a) and (b)(2), 433.116 (e) and (g), and 433.117(b) of this final rule contain information collection requirements. As required by section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its approval of these information collection requirements. OMB approved the information collection requirements in §§ 433.112(a) and 433.117(b) under control number 0990–0058, and the information collection requirements in § 433.112(b)(2) under control number 0938–0247. When we obtain OMB approval of the information collection requirements in paragraphs (e) and (g) of § 433.116, we will publish the control number in the **Federal Register.**

Comments on the information collection requirements in this final rule should be sent directly to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C., 20503; Attn: Fay Iudicello.

List of Subjects

42 CFR Part 400

OMB control numbers, Reporting and recordkeeping requirements.

42 CFR Part 433

Administrative practice and procedure, Assignment of rights, Claims, Contracts (agreements), Cost allocation, Federal Financial participation (FFP), Federal matching provision, Grant-in-Aid program—health, Mechanized Claims Processing and Information Retrieval Systems (MMIS), Medicaid, State fiscal administration, Third party liability.

42 CFR Chapter IV is amended as set forth below:

I. Part 400 is amended as follows:

PART 400—INTRODUCTION; DEFINITIONS

The authority citation for Part 400 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

Subpart C—OMB Control Numbers for Approved Collection of Information

42 CFR 400.310 is amended by reprinting the title of the table for the convenience of the reader and adding the following in section numerical order as follows:

§ 400.310 Display of currently valid OMB control numbers.

Sections in 42 CFR that contain collections of information	Current OMB control number
• • • • •	
433.112(a)	0990–0058
• • • • •	
433.112(b)(2)	0938–0247
• • • • •	
433.117(b)	0990–0058
• • • • •	

II Part 433, Subpart C is amended to read as follows:

1. In the Table of Contents to Part 433, Subpart C is revised by redesignating § 433.113 as § 433.116, § 433.114, as § 433.127, § 433.115 as § 433.123, and revising the title; and by adding new §§ 433.113, 433.114, 433.117, 433.119, 433.120, 433.121, 433.122, 433.130, and 433.131. The authority citation for Part 433 is also revised.

PART 433—STATE FISCAL ADMINISTRATION

• • • • • •

Subpart C—Mechanized Claims Processing and Information Retrieval Systems

Sec.
433.110 Basis, purpose, and applicability.
433.111 Definitions.
433.112 FFP for design, development, installation, or improvement of mechanized claims processing and information retrieval systems.
433.113 Reduction of FFP for failure to operate a system and obtain initial approval.
433.114 Procedures for obtaining initial approval; notice of decision.
433.116 FFP for operation of mechanized claims processing and information retrieval systems.
433.117 Initial approval of replacement systems.
433.119 Conditions for yearly reapproval; notice of decision.
433.120 Procedures for reduction of FFP after yearly reapproval review.
433.121 Reconsideration of the decision to reduce FFP after the yearly review.
433.122 Reapproval of a disapproved system.
433.123 Notification of changes in system requirements, performance standards or other conditions for approval or reapproval.
433.127 Termination of FFP for failure to provide access to claims processing and information retrieval systems.
433.130 Waiver of conditions of initial operation and approval.
433.131 Waiver for noncompliance with conditions of approval and reapproval.

• • • • • •

Authority: Secs. 1102, 1902(a)(4), 1902(a)(25), 1903(a)(3), 1903(d)(2), 1903(d)(5), 1903(o), 1903(p), 1903(r), and 1912 of the Social Security Act; 42 U.S.C. 1302, 1396a(a)(4), 1396a(a)(25), 1396b(a)(3), 1396b(d)(2), 1396b(d)(5), 1396b(o), 1396b(p), 1396b(r) and 1396k, unless otherwise noted.

2. Section 433.110 is revised to read as follows:

§ 433.110 Basis, purpose, and applicability.

(a) This subpart implements the following sections of the Act:

(1) Section 1903(a)(3) of the Act, which provides for FFP in State expenditures for the design, development, or installation of mechanized claims processing and information retrieval systems and for the operation of certain systems. Additional HHS regulations and HCFA procedures for implementing these regulations are in 45 CFR Part 74, 45 CFR Part 95, Subpart F, and Part 11, State Medicaid Manual; and

(2) Section 1903(r) of the Act, which—

(i) Requires reductions in FFP otherwise due a State under section 1903(a) if a State fails to meet certain deadlines for operating a mechanized claims processing and information retrieval system or if the system fails to meet certain conditions of approval or conditions of reapproval;

(ii) Requires at least an annual Federal performance review of the mechanized claims processing and information retrieval systems; and

(iii) Allows waivers of conditions of approval, conditions of reapproval, and FFP reductions under certain circumstances.

(b) The requirements under section 1903(r) of the Act do not apply to Puerto Rico, Guam, the Virgin Islands, American Somoa and the Northern Mariana Islands.

3. Section 433.111 is amended by reprinting the introductory text of the section for the convenience of the reader and revising the first definition to read as follows:

§ 433.111 Definitions.

For purposes of this section:

"Advance Planning Document (APD)" means a written plan of action to acquire the proposed system. Content requirements for the APD are in 45 CFR Part 95, Subpart F, and in Part 7–71–00 of the Medical Assistance Manual.

• • • • • •

4. Section 433.112 is amended by changing the words "the Administrator" to "HCFA" wherever they appear, and by revising paragraph (a), the introductory text of paragraph (b) and paragrahs (b) (2), (4), and (7) to read as follows:

§ 433.112 FFP for design, development, installation or improvement of mechanized claims processing and information retrieval systems.

(a) FFP is available at the 90 percent rate in State expenditures for the design, development, installation, or improvement of a mechanized claims processing and information retrieval system only if the APD is approved by HCFA prior to the State's expenditure of funds for these purposes.

(b) HCFA will approve the system described in the APD if the following conditions are met:

• • • • • •

(2) The system meets the system requirements and performance standards in Part 11 of the State Medicaid Manual, as periodically amended.

• • • • • •

(4) The system supports the data requirements of peer review organizations established under Part B of title XI of the Act.

• • • • • •

(7) The costs of the system are determined in accordance with 45 CFR 74.171.

§ 433.113 [Redesignated from § 433.116]

5. Section 433.113 is redesignated as § 433.116.

6. A new § 433.113 is added to read as follows:

§ 433.113 Reduction of FFP for failure to operate a system and obtain initial approval.

(a) Except as waived under § 433.130 or 433.131, FFP will be reduced as specified in paragraph (b) of this section unless the Medicaid agency has in continuous operation a mechanized claims processing and information retrieval system that meets the following conditions:

(1) The APD for the system was approved by HCFA;

(2) The system is operational by the earlier of—

(i) September 30, 1982; or

(ii) The last day of the sixth month following the date specified for operation in the State's most recently approved APD that was submitted before October 7, 1980; and

(3) The system is initially approved by the last day of the fourth quarter that begins after the date the system became operational as determined by HCFA.

(b) HCFA will reduce FFP in expenditures for compensation and training of skilled professional medical personnel and support staff under section 1903(a)(2) of the Act, and for general administration under section 1903(a)(7) of the Act, by the following increments applied separately to those two categories of expenditures:

(1) Five percentage points for the first two quarters beginning after a deadline in paragraph (a) of this section;

(2) An additional five percentage points during each additional two-quarter period, through the quarter in which the State achieves compliance with the conditions for initial operation or initial approval of an operating system. FEP reductions will not exceed 25 percentage points for each type of reduction.

(c) The amount of FFP (determined under section 1903(a)(3)(B)) that would be available retroactively for operating a system that later receives initial approval will be reduced by HCFA by the same percentage points for the identical periods of time described in subparagraph (b)(1) of this section, until the system is initially approved. No reduction will be made after the first quarter during which the system is initially approved.

§ 433.114 [Redesignated as § 433.127]

7. Section 433.114 is redesignated as §433.127.

8. A new § 433.114 is added to read as follows:

§ 433.114 Procedures for obtaining initial approval; notice of decision.

(a) To obtain initial approval, the Medicaid agency must inform HCFA in writing that the system meets the conditions specified in § 433.116(c) through (h).

(b) If HCFA disapproves the system, or determines that the system met requirements for initial approval on a date later than the date required under § 433.113(a)(3), the notice will include—

(1) The findings of fact upon which the determination was made; and

(2) The procedures for appeal of the determination in the context of a reconsideration of the resulting disallowance, to the Departmental Grant Appeals Board.

§ 433.115 [Redesignated as § 433.123]

9. Section 433.115 is redesignated as § 433.123.

10. The redesignated § 433.116 is amended by revising paragraphs (a), (b), (c), and (h) to read as follows:

§ 433.116 FFP for operation of mechanized claims processing and information retrieval systems.

(a) Subject to § 433.113(c), FFP is available at 75 percent of expenditures for operation of a mechanized claims processing and information retrieval system approved by HCFA, from the first day of the calendar quarter after the date the system met the conditions of initial approval, as established by HCFA (including a retroactive adjustment of FFP if necessary to provide the 75 percent rate beginning on the first day of that calendar quarter).

(b) HCFA will approve the system operation if the conditions specified in paragraphs (c) through (h) of this section are met.

(c) The conditions of § 433.112(b) (1) through (4) and (7) through (9), as periodically modified under § 433.112(b)(2), must be met.

• • • • • •

(h) If the State has a Medicaid fraud control unit certified under section 1903(q) of the Act and § 455.300 of this chapter, the Medicaid agency must have procedures to assure that information on probable fraud or abuse that is obtained from, or developed by, the system is made available to that unit. (See § 455.21 of this chapter for State plan requirements.)

11. New §§ 433.117, 433.119, 433.120, 433.121, 433.122 are added to read as follows:

§ 433.117 Initial approval of replacement systems.

(a) A replacement system must meet all conditions of initial approval of a mechanized claims processing and information retrieval system.

(b) The agency must submit a APD that includes—

(1) The date the replacement system will be in operation; and

(2) A plan for orderly transition from the system being replaced to the replacement system.

(c) FFP is available at—

(1) 90 percent in expenditures for design, development, and installation in accordance with the provisions of § 433.112; and

(2) 75 percent in expenditures for operation of an approved replacement system in accordance with the provisions of § 433.16(b) through (h), from the date that the system met the conditions of initial approval, as established by HCFA.

(d) FFP is available at 75 percent in expenditures for the operation of an approved system that is being replaced (or at a reduced rate determined under § 433.120 of this subpart for a system that has been disapproved) until the replacement system is in operation and approved.

§ 433.119 Conditions for yearly reapproval; notice of decision.

(a) HCFA will review yearly each system operation initially approved under § 433.114 and reapprove it for FFP at 75 percent of expenditures if the following conditions are met:

(1) The system meets the conditions of § 433.112(b) (1), (3), (4), and (7) through (9).

(2) The system meets the conditions of § 433.116 (d) through (h).

(3) The system meets the performance standards for reapproval and the system requirements in Part 11 of the State Medicaid Manual as periodically amended,

(b) HCFA will issue to each Medicaid agency, by the end of the first quarter after the fiscal year of the review, a written notice informing the agency whether its system is reapproved or disapproved. If the system is disapproved, the notice will also include—

(1) HCFA's decision to reduce FFP for system operations, and the percentage

to which it is reduced, beginning with the next calendar quarter;

(c) An agency's request for a reconsideration before the Board under

one calendar quarter before the review period to which the new or modified

beyond its control. When HCFA grants the waiver, HCFA will also defer all

SUPPLEMENTARY INFORMATION: The FWS is seeking to reduce losses of waterfowl

As stated in the FWS proposal of January 16, 1985 (50 FR 2298–2301) the

VOL 50 ISS 146 JL 30 1985 UMI

to which it is reduced, beginning with the next calendar quarter;

(2) The findings of fact upon which the determination was made; and

(3) A statement that State claims in excess of the reduced FFP rate will be disallowed and that any such disallowance will be appealable to the Grant Appeals Board.

§ 433.120 Procedures for reduction of FFP after yearly reapproval review.

(a) If HCFA determines after the yearly review that the system no longer meets the conditions of reapproval in § 433.119, HCFA will reduce FFP for system operations for at least four quarters. However, no system will be subject to reduction of FFP for at least the first four quarters after the quarter in which the system is initially approved as eligible for 75 percent FFP.

(b) HCFA will reduce FFP in expenditures for system operations from 75 percent to no more than 70 percent and no less than 50 percent; however, HCFA will not reduce FFP by more than 10 percentage points in any four-quarter period. The percentage to which the FFP is reduced will depend primarily on the following criteria:

(1) The number of conditions judged unsatisfactory;

(2) The extent to which conditions were not met;

(3) The significance of the unsatisfactory conditions in overall mechanized claims processing and information retrieval system operations; and

(4) The actual and potential program impact attributable to the unsatisfactory conditions.

§ 433.121 Reconsideration of the decision to reduce FFP after the yearly review.

(a) The agency may appeal to the Departmental Grant Appeals Board, under 45 CFR Part 16, a disallowance concerning a reduction in FFP claimed for system operation caused by a disapproval of the State's MMIS. If the Board finds such a disallowance to be appropriate, the discretionary determination to reduce FFP by a particular percentage amount (instead of by a lesser percentage) is not subject to review by the Board unless the percentage reduction exceeds the range authorized by section 1903(r)(4)(B) of the Act.

(b) The decisions concerning whether to restore any FFP retroactively and the actual number of quarters for which FFP will be restored under § 433.122 of this subpart are not subject to administrative appeal to the Grant Appeals Board under 45 CFR part 16.

(c) An agency's request for a reconsideration before the Board under paragraph (a) of this section does not delay implementation of the reduction in FFP. However, any reduction is subject to retroactive adjustment if required by the Board's determination on reconsideration.

§ 433.122 Reapproval of a disapproved system.

When FFP has been reduced under § 433.120(a), and HCFA determines upon subsequent yearly review that the system meets all current performance standards, system requirements and other conditions of reapproval, the following provisions apply:

(a) HCFA will resume FFP in expenditures for system operations at the 75 percent level beginning with the quarter following the yearly review determination that the system again meets the conditions of reapproval.

(b) HCFA may retroactively waive a reduction of FFP in expenditures for system operations if HCFA determines that the waiver could improve the administration of the State Medicaid plan. However, HCFA cannot waive this reduction for any quarter before the fourth quarter immediately preceding the quarter in which HCFA issues the determination (as part of the yearly review process) stating that the system is reapproved.

12. The redesignated § 433.123 is revised to read as follows:

§ 433.123 Notification of changes in system requirements, performance standards or other conditions for approval or reapproval.

(a) Whenever HCFA modifies system requirements or other conditions for approval under § 433.112 or § 433.116, or performance standards or other conditions of reapproval under § 433.119, HCFA will—

(1) Publish a notice in the **Federal Register** making available the proposed changes for public comment;

(2) Respond in a subsequent **Federal Register** notice to comments received; and

(3) Issue the new or modified standards or conditions in the State Medicaid Manual.

(b) For changes in system requirements or other conditions for approval, HCFA will allow an appropriate period for Medicaid agencies to meet the requirement determining this period on the basis of the requirement's complexity and other relevant factors.

(c) For performance standards and other conditions for reapproval, HCFA will notify Medicaid agencies at least one calendar quarter before the review period to which the new or modified standards or conditions apply.

§ 433.127 [Amended]

13. The redesignated § 433.127 is amended by changing the words "The Administrator" to "HCFA" wherever they appear.

14. New §§ 433.130 and 433.131 are added to read as follows:

§ 433.130 Waiver of conditions of initial operation and approval.

(a) HCFA will waive requirements for initial operation and approval of systems under § 433.113 for a State meeting the requirements of paragraph (b) of this section and that had a 1976 population of less than one million and made total Federal and State Medicaid expenditures of less than $100 million in fiscal year 1976. Population figures are those reported by the Bureau of the Census. Expenditures for fiscal year 1976 are those reported by the State for that year.

(b) To be eligible for this waiver, the agency must submit its reasons to HCFA in writing and demonstrate to HCFA's satisfaction that an MMIS will not significantly improve the efficiency of the administration of the State plan.

(c) If HCFA denies the waiver request, the notice of denial will include—

(1) The findings of fact upon which the denial was made; and

(2) The procedures for appeal of the denial.

(d) If HCFA determines, after granting a waiver, that an MMIS would significantly improve the administration of the State Medicaid program, HCFA may withdraw the waiver and require that a State obtain initial approval of an MMIS within two years of the date of waiver withdrawal.

433.131 Waiver for noncompliance with conditions of approval and reapproval.

If a State is unable to comply with the conditions of approval or of reapproval and the noncompliance will cause a percentum reduction in FFP, HCFA will waive the FFP reduction in the following circumstances:

(a) *Good Cause.* If HCFA determines that good cause existed, HCFA will waive the FFP reduction attributable to those items for which the good cause existed. A waiver of FFP consequences of the failure to meet the conditions of approval or reapproval based upon good cause will not extend beyond two consecutive quarters.

(b) *Circumstances beyond the control of a State.* The State must satisfactorily explain the circumstances that are beyond its control. When HCFA grants the waiver, HCFA will also defer all other MMIS deadlines for the same length of time that the waiver applies.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: March 25, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration

Approved: May 6, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 85-17875 Filed 7-29-85; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Guidelines on Minimum Criteria for Identification of Nontoxic Shot Zones for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Final Guidelines.

SUMMARY: This final notice contains guidelines for determining areas where sickness and/or death of waterfowl from lead poisoning due to ingestion of spent lead shotshell pellets is considered to be a significant problem and where nontoxic shot should be used by waterfowl hunters. When waterfowl eat spent lead shotshell pellets during the course of feeding, and when these pellets are retained in the digestive tract, the birds receive a hightly concentrated dosage of lead. Sickness and death may result. The use of nontoxic shot has been found to reduce lead poisoning sickness and mortality from this source of lead. The only nontoxic shot currently available on the market is steel shot. These criteria have been developed on the basis of extensive consultation with state wildlife agencies, conservation organizations, and other interested groups. The Fish and Wildlife Service believes that they represent a practical, scientific way to identify areas that should be considered as nontoxic shot zones.

EFFECTIVE DATE: July 30, 1985.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Managment, Fish and Widlife Service, Department of the Interior, Washington, D.C. 20240 (telephone 202-254-3207).

SUPPLEMENTARY INFORMATION: The FWS is seeking to reduce losses of waterfowl from preventable causes such as disease and lead poisoning. When waterfowl eat spent lead shotshell pellets, the birds may become sick or die. The ingested pellets provide a highly concentrated and intensive dosage of lead in a rather short period of time.

In dealing with the lead problem, the FWS initiated several actions in recent months of which this criteria proposal is one of the most important. Other actions include: implementation of a lead monitoring program; preparation of a technicial supplement to the 1976 Final Environmental Impact Statement on the Use of Steel Shot for Waterfowl Hunting; in-depth analysis of the nature and extent of lead poisoning in bald eagles and other species; implementation of nontoxic shot zones to minimize the threat of lead poisoning in bald eagels; analysis of research needs relevants to the issue; analysis of past and on-going efforts to develop nontoxic shot substitutes as well as identifying opportunities for expediting such development work; and development of an information plan to ensure delivery of objective scientific information to waterfowl hunters and other concerned groups and individuals.

The reason that the criteria are important is that they provide a scientifically sound and practical way to identify and designate nontoxic shot zones on a reasonably uniform basis throughout each waterfowl flyway within the United States. Since 1976, the manner in which these zones were established has varied by region and state. Because of this, the method of zone selection has been controversial. By having developed these criteria in an open manner, with full public input, the FWS believes that the criteria represent a general consensus of the states, conservation organizations, waterfowl hunters and other interested groups.

Further, this public input has been an important supplement to the FWS's data and analysis.

As indicated in 50 CFR 20.21(j) and 50 CFR 20.108, nontoxic shot is required for hunting waterfowl in certain designated zones. Since 1978, no nontoxic shot zone could be implemented or enforced by the FWS without approval of the appropriate authorities in each state affected. The restriction on use of funds by FWS has been contained in the Interior Department Appropriations Bill each year since 1978. As a consequence, the FWS has proposed additions and deletions to the designated nontoxic shot zones for hunting waterfowl only with the approval of state authorities.

As stated in the FWS proposal of January 16, 1985 (50 FR 2296-2301) the Department's policies on lead poisoning are designed to focus designation of nontoxic shot zones on problem areas, in a partnership basis with the states. Futher, the Department's efforts in this regard apply only to hunting of ducks, geese, swans, and coots (*Fulica americana*).

Officials of the Department have heard from many interested organizations, states, and individuals concerning the nature, extent, and significance of lead poisoning of waterfowl. Through these discussions it has become clear that states, flyway councils, private organizations, and individuals want greater participation from the FWS in dealing with this problem. The FWS has responded to these requests by implementing the various actions outlined above. Specific actions leading to these final guidelines are described below.

On Spetember 25, 1984, the FWS published in the **Federal Register** a Notice of Intent (49 FR 37672). The notice solicited comments and recommendations from interested parties as to the specific criteria that should be used in proposing and selecting nontoxic shot zones within the four administrative flyways used in managing the waterfowl resource. Comments were received until October 30, 1984.

On January 16, 1985, the FWS published in the **Federal Register** (50 FR 2298-2301) a notice of draft guidelines. These guidelines contained two proposals that would provide guidance in making decisions on the use of nontoxic shot. One was recommended by representatives of the flyway councils, the other FWS. Both proposals would have established two levels of criteria: triggering criteria and decision criteria.

Triggering criteria identify counties or other designated waterfowl habitat areas as having a potential for a significant lead poisoning problem. Desiganted areas may be specific units of waterfowl habitat within a county or within several counties, as identified by the state.

Under the FMS proposal a county or designated area would have been triggered for further monitoring if it had a 3-year average annual harvest of 10 waterfowl per square mile or if 3 or more birds were diagnosed to have died from lead poisoning. Under the council representatives' proposal, the triggering would have been a harvest of 5 waterfowl per square mile or one dead bird.

VOL
50
ISS
146
JL
30
1985
UMI

Decision criteria would have been used to determine whether or not a significant lead poisoning problem exists in areas meeting either of the triggering criteria.

Under the FWS proposal, three decision criteria were specified. Under the proposal of the flyway council representatives, three of the four flyways would also use three criteria. A county or area identified by either one of the triggering criteria would then have been monitored for at least two of the decision criteria.

Under the council representatives' proposal, the Pacific flyway decision criteria would have been based essentially upon the number of dead birds diagnosed as having died from lead poisoning.

On January 27, 1985, the Pacific Flyway Council approved decision criteria that were procedurally similar but somewhat quantitatively different from the other three flyways and the FWS proposal. Specifically, a harvest level of 20 birds per square mile or a mortality of 5 dead birds would be used as the triggering criteria. This action represented a positive and constructive move by the Pacific flyway states toward consensus agreement on the criteria.

On May 7, 1985, the FWS published in the **Federal Register** (50 FR 19268–19277) modified criteria based upon public comment received on the January 16, 1985, proposal. This proposal specified a phased-in approach to implementation as recommended by the International Association of Fish and Wildlife Agencies, the ammunition companies, and certain others. Other changes included: the addition of protoporphryin as a decision criterion; a provision to allow states to use existing monitoring data that they considered current; a provision to enable states to consider bottom firmness as a means to establish priorities for monitoring; and adjustments in the criteria based upon the Pacific Flyway Council's action referenced above.

Summary of Public Comment

The comments received on the modified guidelines published on May 7, 1985, are summarized below. Many of the concerns raised were repeats of comments generated by the proposed guidelines published on January 16, 1985, and to which the FWS responded in the May 7, 1985, publication. Therefore, only those concerns that have not previously surfaced are addressed in a comprehensive way herein. FWS responses in the May 7, 1985, proposal remain as published as no respondent submitted scientific, technical or other such information or data to warrant any changes.

Comments of State Wildlife Agencies

Eleven state wildlife agencies sent letters in response to the modified guidelines published on May 7, 1985. Indiana stated its disappointment that the FWS requires three confirmed lead poisoning deaths for the triggering criteria since three of the four flyways selected one bird and that conversion to nontoxic shot zones is delayed by these criteria until 1987. South Dakota supported the modified proposal, but urged FWS to abandon the decision criteria and use only the triggering criteria as the basis for designation of nontoxic shot zones. Oregon generally approved the FWS modified guidelines, but did express concern about the cost involved with monitoring and suggested that the FWS pay the cost of liver analysis. Oregon also stated its preference that counties with less than five birds harvested per square mile be exempt from the monitoring program except in instances where the death of birds from lead poisoning or other factors dictate the need for monitoring. Finally, they felt that the criteria should address only lead shot found in gizzards and not steel. Missouri stated its concerns that included opposition to the sampling period requirement; ensuring that soft tissue samples be required only when necessary to supplement gizzard data or when proposing zone rejection; ensuring that counties with harvest levels of less than five birds per square mile be included; and that the use of existing monitoring data (gizzard samples) should be sufficient to establish a nontoxic shot zone. Arizona, Massachusetts, and Mississippi generally supported the FWS modified criteria but each state had some concerns. Arizona felt that one confirmed lead poisoned duck or goose was sufficient for the triggering criteria, and that ample time be given to allow for an orderly conversion of an area to nontoxic shot. Massachusetts opposed the late sampling period requirement. Mississippi questioned the precision of the county harvest data and opposed the collection of soft tissue data as being repetitious. Maine opposed the FWS proposal based on their doubts that nontoxic shot zones will be effective in achieving the desired acceptance of steel shot by waterfowl hunters. Florida expressed concern over the minimum lead measures proposed for liver and blood and questioned the value of liver lead content as an indicator of lead toxicosis. Their basic problem with the FWS proposal is that they see no need for the decision criteria and that the triggering criteria are adequate for establishment of nontoxic shot zones. Wisconsin commented that the modified guidelines were an improvement over previous proposals and urged the FWS to be aggressive in assuring that the guidelines are applied uniformly in all states. Wisconsin also questioned the requirement to sample 100 ducks and felt that this is unneeded and an unnecessary expense. Michigan basically supported the guidelines and felt that such guidelines were the only fair and equitable way to implement nontoxic shot regulations. Michigan also requested a review of FWS harvest data for certain Michigan counties and indicated that it may wish to pursue these and certain other counties with FWS at a future date. Michigan also commented that FWS should list the species known to be susceptible to lead poisoning, and that would cooperate fully in implementing the new guidelines.

Comments from Organizations

Comments were received from nine organizations. Two of the organizations, including the Wildlife Management Institute, favored the approach proposed by the FWS. One organization supported the FWS plan but would go further to totally ban lead shot for waterfowl hunting. One organization supported the proposal if it would help increase the number of ducks. Another organization, the National Wildlife Federation (NWF), endorsed the proposal but reiterated several of their concerns expressed on the January 16, 1985, proposal, including: any of the decision criteria alone are adequate to demonstrate a lead poisoning problem; the proposal still lacks regulatory authority; and the final criteria should be a regulation having the force of law in their view. In addition, the Federation also commented: that a protocol be developed for measuring protoporphyrin; that the final criteria will render the "Stevens Amendment" inoperative; and that a requirement be included that areas identified as having lead poisoning problems should not be opened to waterfowl hunting in non-consenting states.

Four organizations opposed the FWS proposal. Each reiterated some of the same concerns submitted in response to the January 16, 1985, proposal. These concerns included: increased crippling losses with steel shot; unsubstantiated losses due to lead poisoning; unscientific approach to the lead poisoning problem; low minimum thresholds in the FWS proposal; and the relatively minor contribution of lead pollution to the environment by hunters when compared to the total lead pollution from all sources.

The National Rifle Association (NRA), in addition to its prior stated concerns in response to the January 16, 1985, proposal, objected on the grounds that, "there is no correlation between the proposed criteria and lead shot ingestion in the determination of a hot spot."

Comments from Individuals

Comments were received from 24 individuals. Eleven of the respondents favored the phased-in approach proposed by the FWS and 13 were in opposition. The respondents opposing the FWS proposal gave as their reasons such things as: Higher crippling losses for steel shot; unsubstantiated lead poisoning deaths; need for an alternative to steel shot, and that the amount of lead deposited in the environment annually in the form of lead shot is insignificant compared to the total deposited from all sources.

FWS Response to Comments

Most of the comments received in response to the May 7, 1985, modified proposal were essentially repetitive of concerns expressed on the January 16, 1985, proposal. For such comments FWS responses contained in the May 7, 1985, proposal still apply and will not be repeated herein. With respect to the NRA comment that "there is no correlation between the proposed criteria and lead shot ingestion in the determination of a hot spot," the FWS would like to clarify the situation. The FWS feels that there is clearly a direct correlation between the criteria and lead shot ingestion. The facts are that for any area to qualify for consideration as a nontoxic shot zone, it must meet the gizzard criterion PLUS either one of the other three decision criterion.

In addition, the FWS would like to supplement its comments to concern No. 10 as published in the May 7, 1985, proposal that pertains to environmental lead. NRA and certain others commented that lead pollution from spent shot shell pellets was relatively minor when compared with other lead sources. In a nationwide sense, the FWS would agree. Unfortunately, such lead is not evenly distributed. What respondents may have overlooked is that the continued use of lead shot shells can result in a concentrated source of lead in many of the areas where waterfowl feed. Because of this concentrated source of lead, and because of the concentrated intensive dosage that lead pellets provide to the birds, it is a far more dangerous and insidious form of pollution than is lead entering the environment from atmospheric or other sources. Although it is clear that lead from sources other than spent shot shell pellets can be picked up within the food chain, there is no evidence to show that foods containing such lead, when eaten by waterfowl or birds of prey, result in any clinical signs of lead poisoning within the birds. The FWS believes that the scientific evidence is clear, that the birds must be exposed to a highly concentrated form of lead, such as a lead shotshell pellet, fishing sinker, or other such lead object, in order for clinical signs of lead poisoning to appear.

As to the concern of Mississippi and Michigan about the precision of the county harvest data, the FWS will continue to work with the states to improve the quality of this data for this and other uses.

As to the monitoring of counties with a harvest level of less than 5 birds per square mile, the FWS believes that monitoring at this level should be left to the discretion of the states due to the extensive workload already imposed by the higher harvest levels. The FWS will, of course, continue to cooperate in any such monitoring programs to the extent practical.

The FWS firmly believes that both gizzards and soft tissue must be monitored. Gizzard ingestion data outlines the extent of exposure to spent lead shot shell pellets while soft tissue data substantiates the extent that lead has been assimilated into the body tissues, as well as the degree of sickness from lead. As outlined in the guidelines that follow, the FWS does recognize the authority of the various states to designate nontoxic shot zones based on less evidence than these guidelines require.

One state requested that FWS identify susceptible species for monitoring. The FWS would prefer that where any questions arise on the part of the states as to which species are to be monitored, this can be determined on a site-by-site basis, based upon consultation between the states and the FWS.

The FWS fully recognizes and concurs in the need for sufficient lead time to provide adequate notification to waterfowl hunters and others affected by nontoxic shot proposals. The FWS believes that it is incumbent upon all cooperators and interested groups to work in a positive and constructive manner to ensure such awareness and understanding on the part of waterfowl hunters. The adequate notification of waterfowl hunters, along with the lead time needed by ammunition manufacturers, are the principal reasons for the phased-in approach to implementation.

The NWF suggested that a rigid protocol for handling protoprophyrin samples be developed and distributed. The FWS will explore the need for this. If such a need is found to exist, such procedures will be developed and distributed as suggested.

The NWF also insists that the final guidelines constitute a regulation that carries the force of law. The FWS does not concur with this interpretation and stands by the explanation provided in response to concern No. 18 as contained in the proposal published on May 7, 1985.

The NWF believes that publication of the final guidelines will satisfy the 1985 Appropriations Act Conference Report language and that the restrictive language in the Interior Appropriations Act will be rendered inoperative. The FWS believes that the language of the statute contains a clear bar to action. The report, in an ambiguous explanation, states that this provides a continued bar "until" specific baseline criteria are promulgated. The explanation can be reconciled with the face of the statute only if it is understood as a statement of Congressional intent to drop the amendment if such criteria are created. The explanation would conflict with the face of the statute if it were read to explain a self-executing termination of the appropriations limitation . . . a termination Congress did not place in the statute. In the event of such conflict, the FWS is bound by the clear language of the statute itself.

The NWF further recommended that language be inserted in the guidelines that would keep qualifying areas closed to waterfowl hunting until such time that nontoxic shot is required on the area. The FWS believes that this is unnecessary as the states are already fully aware of the FWS authority to do this. Further, inclusion of such language in these guidelines would serve no useful purpose, especially since the guidelines do not constitute a regulation.

Final Guidelines for Identification and Establishment of Nontoxic Shot Zones

The criteria and procedures specified below are the guidelines to be followed in the identification and establishment of nontoxic shot zones to minimize lead poisoning in waterfowl.

Triggering Criteria

A county or waterfowl habitat area within one or a combination of adjoining counties, as identified by the state, will

be triggered for monitoring of the decision criteria if it meets either of the two criterion below.

Harvest per square mile. The waterfowl harvest level specified below will be used as this criterion. The specified numbers are outlined in the implementation schedule below.

Harvest level (birds per square mile)	Hunting season that monitoring is to begin	Hunting season in which nontoxic shot is to be required in qualifying areas
20	1985–86	1987–88
15	1986–87	1988–89
10	1987–88	1989–90
5	1988–89	1990–91

A state may monitor areas with a harvest level of less than 5 per square mile, if it feels there is a need to do so. Monitoring would automatically be required if the three dead bird triggering criterion is met. Otherwise, monitoring at harvest levels below 5 per square mile is purely at the discretion of the respective state.

The number of birds determined to be harvested in a county or other designated area will be based upon periodic reports issued by the FWS or upon other reliable data for the counties or designated areas in question.

Obviously, if a state has no counties or designated areas meeting the 20 bird harvest criterion, then it should proceed to monitor the 15 or 10 bird level, whichever is applicable. On the other hand, a few states have so many counties at the 20 and 15 bird harvest levels that it may not be possible to adhere to this schedule. In such cases, the states and the FWS must negotiate an appropriate schedule and any cooperative monitoring work. This will be achieved as follows: Within 90 days of determining that a triggering criterion has been met, the state(s) must make a commitment to monitor and that such monitoring will begin within one year. Such commitment and a proposed schedule for monitoring will be submitted to FWS for approval by the Director. This is the preliminary step to negotiating an acceptable cooperative approach to the monitoring and tissue analysis workload.

Number of dead waterfowl diagnosed as having died from lead poisoning during the year. This criterion is three dead waterfowl. The FWS feels, as indicated in previous proposals, that this number is more likely to be representative of a significant problem in a given location, since it is likely that the birds picked up the lead in the area where they died. Not only will this help focus monitoring efforts on areas where problems are most likely to exist, it will significantly reduce the initial costs associated with monitoring as required under decision criteria discussed below.

Decision Criteria

An area identified by either triggering criterion will be monitored for ingested shot, and at least one of the other three decision criterion. A sample size of at least 100 birds is required.

One or more ingested shot in five percent or more of the gizzards examined, PLUS 2ppm lead (wet weight), in a minimum of five percent of the liver tissues sampled OR 0.2ppm lead in five percent of the blood samples drawn from hunter-killed or live-trapped waterfowl, OR a protoporphyrin level of 40μg/dl in five percent of the blood samples would serve as the decision criterion.

Gizzard samples are a required part of the monitoring process. Shot in the gizzards reflects the degree of exposure to lead shot. Lead in the liver or blood reveals that either lead pellets or some other type of lead has been assimilated in tissues. Lead in the liver or blood, when analyzed in combination with the incidence of shot in gizzards, provides basic scientific data for making decisions on the source and extent of lead poisoning within a given area.

Use of existing monitoring data. States are free to use existing monitoring data on triggered areas, provided the data is recent. Many states have already completed extensive monitoring for some areas. If the state feels that the data are current and can be realistically defended, then no additional monitoring would be necessary or required. This approach would further reduce the financial requirements imposed by these criteria.

Recognition of state authority. The FWS recognizes that state wildlife agencies have the authority to require nontoxic shot on any additional areas where they determine that a problem exists by means other than these criteria. The FWS in no way implies to the states that areas not meeting these criteria should be excluded from nontoxic shot. Individual states may therefore determine for their own management purposes, that the use of lead shot in waterfowl feeding areas in any degree should be prohibited. The FWS will continue to honor States' requests to establish nontoxic shot zones in areas not meeting established minimum Federal criteria. It is the responsibility of the individual states to justify and defend any such actions they take in this regard.

Action upon completion of monitoring. If the results of monitoring are *positive* for the gizzard criterion PLUS either the liver, blood or protoporphyrin criterion, the county or designated area will be proposed as a nontoxic shot zone during the next scheduled update of the Federal regulations for nontoxic shot zones for waterfowl. If the results of monitoring are *negative*, the area will be considered not to have a lead poisoning problem unless, at a subsequent date, three or more dead waterfowl confirmed as lead poisoned are reported from the area. In that event, monitoring will be reinstituted. The state may, however, decide to remonitor the county or area for a second successive year or to reschedule it for monitoring at some point in the future when all other counties or areas that have met a triggering criterion have been checked. This additional effort is purely at the option of the state.

If an area is designated as a nontoxic shot zone and then is remonitored and found not to meet the decision criteria, it should remain as a nontoxic shot zone because this is strong evidence that lead poisoning is being reduced. Should, however, the state decide to revert back to the use of lead on such areas, it would be necessary to remonitor the area at a later date to determine if the area should remain in lead for an additional period. Once any such converted area has been found to have a reoccurrence of the lead poisoning problem, it should not in the future be converted back to a lead area.

Use of bottom data. The FWS recognizes that some specific areas where waterfowl are hunted may have bottoms that are very oozy and are so soft that they resemble whipped cream in firmness. Thus, spent lead shotshell pellets may soon sink out of reach of feeding waterfowl. In such areas identified by the state, the state may delay monitoring to focus initial monitoring efforts on what it considers to be higher priority areas.

Dated: July 10, 1985.

Robert A. Jantzen,

Director.

TABLE 1.—FWS FINAL MINIMUM CRITERIA OR GUIDELINES FOR ESTABLISHING NONTOXIC SHOT ZONES

Harvest level	Monitoring begins	Qualifying areas converted
I. Triggering Criteria [1]		
Harvest per sq. mi. (by county, or other designated areas as jointly agreed by State and FWS; harvest estimate based on most recent FWS or State data):		
20 or more	1985–86	1987
15 or more	1986–87	1988
10 or more	1987–88	1989

TABLE 1.—FWS FINAL MINIMUM CRITERIA OR GUIDELINES FOR ESTABLISHING NONTOXIC SHOT ZONES—Continued

Harvest level	Monitoring begins	Qualifying areas converted
5 or more	1988–89	1990
Dead waterfowl (individual specimens confirmed as lead poisoned during the year).	3.	
II. Decision Criteria [4]		
Gizzard (ingested shot) [5]	1 or more shot in 5%	
Liver (lead content)	2 ppm wet weight in 5%.	
Blood (lead content)	0.2 ppm in 5%.	
Protoporphyrin [6]	40 μg/dl in 5%.	
III. Other Conditions		
Sample size (species known to be susceptible to lead poisoning.[6]	100 (hunter killed or trapped).	
Sampling procedures [6]	Most susceptible species only.	

[1] In areas where one or more of the triggering criteria are met, a state must monitor the gizzard criterion and any one of the other three decision criteria. Within 90 days of making a determination that any triggering criterion has been met, the state must provide the FWS with either a commitment to monitor the area within 1 year or submit a proposed schedule for monitoring to begin within 1 year for approval by the Director.

[2] Any area meeting the gizzard criterion plus 1 of the other decision criterion will be proposed for nontoxic shot.

[3] X-ray examination of gizzards is preferred.

[4] Sample techniques and procedures must be approved by FWS so as to ensure the proper sampling and processing techniques are followed. The FWS also reserves the right to subsample up to 10 percent of the samples for lead concentration.

[5] Applies only to decision criteria.

[6] Specimens can be collected by shooting or trapping. No more than 25% of a hunter-killed sample should occur in the first week of the hunting season. At least 50% of a sample of hunter-killed birds should occur in the last half of the waterfowl season.

[FR Doc. 85–18004 Filed 7–29–85; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012–199]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA issues this notice to increase the Harpoon Boat category quota of giant Atlantic bluefin tuna from 60 short tons (st) to 75 st and to decrease the inseason adjustment amount from 104 st to 89 st accordingly. The increase is necessary to prevent an early closure of this segment of the fishery.

EFFECTIVE DATE: July 29, 1985.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617–281–3600, extension 325; or David S. Crestin, 617–281–3600, extension 253. The address for both individuals is National Marine Fisheries Service, Northeast Region, Management Division, State Fish Pier, Gloucester, Massachusetts 01930–3097.

SUPPLEMENTARY INFORMATION: Final regulations governing the Atlantic bluefin tuna fishery were published on June 17, 1983 (48 FR 27745). Section 285.22(g) provides that the Regional Director may allocate during the fishing season any portion (from zero to 100 percent) of the inseason adjustment amount (104 st) to any segment of the fishery. The Regional Director is required to publish a notice of allocation in the **Federal Register** before such allocation becomes effective. Consistent with § 285.22(g), the Regional Director has considered the following factors:

(1) The usefulness of information obtained from catches of the particular gear segment of the fishery for biological sampling and monitoring the status of the stock;

(2) The catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made;

(3) The projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season; and

(4) The estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

The Regional Director has determined that a 15 st allocation to the Harpoon Boat category is appropriate based on these factors.

Current landing reports indicate that the Harpoon Boat quota of 60 short tons of giant Atlantic bluefin tuna will be taken by July 29, 1985. Without an allocation from the inseason adjustment amount, fishing for giant Atlantic bluefin tuna by vessels permitted in the Harpoon Boat category will cease for the remainder of 1985. A significant increase in the number of vessels permitted in the Harpoon Boat category has occurred from 1980 to the present (30 to 226). This increase in the number of vessels actively engaged in this fishery has occurred at the same time as a substantial reduction in the quota (150 st to 60 st). There is little doubt that, with the increased number of vessels permitted in the Harpoon Boat category and landings to date, a 15 st increase in the quota could be taken prior to the end of the 1985 fishing season.

An allocation of 15 st from the inseason adjustment amount would leave 89 st available for potential allocation to other gear categories later in the fishing season. Based on current landings data for all gear categories in the Atlantic bluefin tuna fishery, the 89 st remaining in the inseason adjustment amount should be more than sufficient to provide for potential shortages in other gear segments.

The Regional Director, therefore, increases the Harpoon Boat quota in § 285.22(b) from 60 st to 75 st and decreases the inseason adjustment amount in § 285.22(g) from 104 st to 89 st. When the adjusted Harpoon Boat quota is reached, the further taking and retention of Atlantic bluefin tuna by vessels permitted in this category will be prohibited for the remainder of 1985.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.22, and is taken in compliance with Executive Order 12291.

(16 U.S.C. 971 *et seq.*)

Dated: July 25, 1985.

William G. Gordon,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 85–18040 Filed 7–25–85; 4:31 pm]

BILLING CODE 3510–22–M

50 CFR Part 652

[Docket No. 50575–5075]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of Georges Bank area closure.

SUMMARY: NOAA issues this notice closing the Georges Bank surf clam fishery. The action is necessary because harvest from the fishery will reach the allocation for the third quarter of the fishing year on or about July 25, 1985. The intended effect of the closure is to prevent harvests from exceeding the annual quota for the fishery.

EFFECTIVE DATE: 0001 hours Eastern daylight time (E.d.t.) July 26, 1985, through 2400 hours E.d.t. September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Monique Rutledge, 617–281–3600, ext. 351.

SUPPLEMENTARY INFORMATION: Emergency regulations implementing portions of proposed Amendment 6 to the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) were published May 30,

1985 (50 FR 23014). The regulations provide at § 652.22(h)(2) that if the Regional Director determines, based on the Georges Bank Area and set the maximum annual quota at 300,000 bushels with the following quarterly regulations currently in effect are extended, or Amendment 6 to the FMP is

Proposed Rules

Federal Register
Vol. 50, No. 146

VOL 50 ISS 146 JL 30 1985 UMI

1985 (50 FR 23014). The regulations provide at § 652.22(h)(2) that if the Regional Director determines, based on logbook reports, processor's reports, vessel inspections, or other information, that the quarterly allocation for surf clams will be exceeded, the Secretary will publish a notice in the **Federal Register** stating the determination and stating a date and time for closure of the fishery.

Dense beds of surf clams were discovered on Georges Bank in mid-1984. Subsequent research resulted in a stock assessment by the NMFS Northeast Fisheries Center supporting an optimum yield range of 25,000–300,000 bushels. Management measures for the Georges Bank fishery were incorporated into Amendment 6, which is currently under Secretarial review. Emergency regulations implementing portions of Amendment 6 established the Georges Bank Area and set the maximum annual quota at 300,000 bushels with the following quarterly allocations: 30,000 bushels in the first quarter; 120,000 bushels in the second quarter; 120,000 bushels in the third quarter; and 30,000 bushels in the fourth quarter.

As of July 12, 1985, approximately 225,000 bushels of surf clams had been harvested on Georges Bank. The cumulative allocation for the first three quarters of 1985 is 270,000 bushels. The Regional Director has reviewed the landing data and information which indicate that this allocation will be reached by July 25, 1985. The Regional Director has determined, therefore, that the fishery will close at the end of the fishing day on July 25, 1985. It is expected that the fishery will reopen on October 1, 1985 with the fourth quarter allocation, if either the emergency regulations currently in effect are extended, or Amendment 6 to the FMP is approved by the Secretary of Commerce (review in progress).

Other Matters

This action is taken under the authority of 50 CFR Part 652 and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: July 25, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[FR Doc. 85-18039 Filed 7-25-85; 4:31 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 146
Tuesday, July 30, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

Nectarines, Pears, Plums and Peaches Grown in California; Proposed Amendment of Container and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the container and pack regulations for nectarines, peaches, and plums grown in California. The principal changes would add labeling requirements for consumer packages and a new metric container, the No. 22G standard lug box used in shipping. This action would be in accordance with the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Orders 916 and 917. These actions were unanimously recommended by the commodity committees established under these orders.

DATE: Comments are due by August 14, 1985.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2069–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

This proposed rule is issued under the marketing agreements, as amended, and Marketing Orders 916 and 917, as amended (7 CFR Parts 916 and 917), regulating the handling of nectarines, pears, plums, and peaches grown in California. The agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Shipments of these California fruits are regulated by container and pack under Nectarine Regulation 8 (7 CFR Part 916), Peach Regulation 8 (7 CFR Part 917), and Plum Regulation 17 (7 CFR Part 917). Because these regulations do not change substantially from season to season, they were issued on a continuing basis subject to amendment, modification or suspension as may be recommended by the applicable committee and approved by the Secretary. This proposed rule is based upon recommendations and information submitted by the committees and other available information.

The proposed marking requirements for master containers of consumer packages of nectarines, peaches and plums are designed to prevent misrepresentation of the pack, size and net weight of the specific fruits and promote buyer confidence. The proposal would also require marking requirements for individual consumer packages of fruit. Since consumer packages are removed from master containers, they should also be marked to inform the buyer of the contents of the package. The proposal would also specify marking requirements for a new metric container (No. 22G standard lug box) for plums and nectarines and experimental containers for peaches to assure that fruit packed in these containers is appropriately represented to the trade.

This proposed rule would exempt master containers of consumer packages of nectarines and peaches and individual consumer packages of such fruit from the requirements of standard pack except that nectarines shall be fairly uniform in size. A similar size uniformity requirement is currently in effect for peaches and plums. Other standard pack requirements are generally applicable to fruit packed in boxes and not consumer packages, e.g. polybags. The proposal would require that master containers of consumer packages of nectarines, peaches and plums be marked with the number of individual consumer packages and the net weight of each individual consumer package within the master container, minimum size of the fruit (e.g. 80 size), and name and address of the shipper. Individual consumer packages of the specified fruits would have to be marked with the net weight and name and address of the shipper. Currently only the regulation for plums requires that master containers of consumer packages and individual consumer packages be marked with the net weight.

This proposed rule would also require the new metric container, the No. 22G standard lug box, of nectarines and plums and experimental containers of peaches packed in molded forms to be marked with the number of fruit in each container such as "80 count", "88 count", etc. and to be marked with the size corresponding to the number of such fruit when packed in molded forms in the No. 22D standard lug box. The proposal would require each No. 22G standard lug box of loose-filled nectarines to be marked with the words "25 pounds net weight". This is the same requirement in effect for loose-filled nectarines in the No. 22D standard lug box.

This proposed rule provides a 15-day comment period. A longer comment period would be contrary to the public interest and would serve no useful purpose since fresh shipments of California nectarines, peaches, and plums are currently underway.

List of Subjects

7 CFR Part 916

Marking agreements and orders, Nectarines, California.

7 CFR Part 917

Marketing agreements and Orders, Pears, Plums, Peaches, California.

1. The authority citations for 7 CFR Parts 916 and 917 continue to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

2. Section 916.350 is revised to read as follows:

§ 916.350 Nectarine Regulation 8.

(a) No handler shall ship any package or container of nectarines unless such nectarines meet the requirements of paragraphs (b) and (c) of this section and unless each such package or container is marked on at least one outside panel, in plain sight and in plain letters, the following information:

(i) **The size of peaches packed in molded forms (tray-packs) in No. 22D**

(9) Each individual consumer package shall bear the name and address of the

lugs and of wrapped plums packed in No. 12B fruit (peach) boxes shall be

Dated: July 25, 1985.

Thomas R. Clark,

VOL 50 ISS 146 JL 30 1985 UMI

§ 916.350 Nectarine Regulation 8.

(a) No handler shall ship any package or container of any variety of nectarines except in accordance with the following terms and conditions:

(1) Such nectarines, when packed in any closed package, or container, except master containers of consumer packages and individual consumer packages therein, shall conform to the requirements of standard pack: *Provided*, That nectarines in any container shall be fairly uniform in size.

(2) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the name "nectarines" and except for consumer packages in master containers the name of the variety, if known or, when the variety is not known, the words "unknown variety."

(3) Each package or container of nectarines shall bear, on one outside end in plain sight and in plain letters, the following count and/or size description of the nectarines as applicable:

(i) The size of nectarines packed in molded forms (tray-packs) in No. 22D standard lug boxes, No. 22G standard lug boxes, cartons, No. 12B fruit (peach) boxes or flats and the size of wrapped nectarines packed in rows in No. 12B fruit (peach) boxes shall be indicated in accordance with the number of nectarines in each container, such as "80 count," "88 count," etc.

(ii) The size of nectarines in molded forms (tray packs) in No. 22G standard lug boxes shall be indicated according to the number of such nectarines when packed in molded forms in the No. 22D standard lug box in accordance with the requirements of standard pack, such as "80 size," "88 size," etc. along with count requirements in paragraph (a)(3)(i).

(iii) The size of nectarines loose-filled or tight-filled in any container shall be indicated according to the number of such nectarines when packed in molded forms in the No. 22D standard lug box in accordance with the requirements of standard pack, such as "80 size," "88 size," etc.

(4) Each No. 22D standard lug box and No. 22G standard lug box of loose-filled nectarines shall bear on one outside end, in plain sight and in plain letters, the words "25 pounds net weight."

(5) Each No. 22E standard lug box of loose-filled nectarines shall bear on one outside end, in plain sight and in plain letters, the words "35 pounds net weight."

(6) Each bulk bin container of loose-filled nectarines shall contain not less than 400 pounds net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

(i) The name and address (including zip code) of the shipper.

(ii) The net weight.

(7) Each master container when filled with nectarines packed in consumer packages shall bear on one outside end in plain sight and in plain letters the following information:

(i) The number of individual consumer packages, the net weight of each consumer package, and the size description of the contents.

(ii) The name and address (including zip code) of the shipper.

(8) Each individual consumer package shall bear the name and address of the shipper and the net weight.

(b) As used herein, "standard pack" and "fairly uniform in size" shall have the same meaning as set forth in U.S. Standards for Grades of Nectarines (§§ 51.3145 to 51.3160) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. "No. 12B standard fruit box" measures 2⅜ to 7⅛ x 11½ x 16⅛ inches, "No. 22D standard lug box" measures 2⅞ to 7⅛ x 13½ x 16⅛ inches, "No. 22E standard lug box" measures 8¾ x 13½ x 16⅛ inches, "No. 22G standard lug box" measures 7⅜ to 7½ x 13¼ x 15 ⅞ inches. All dimensions are given in depth (inside dimension) by width by length (outside dimension).

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

3. Section 917.442 is revised to read as follows:

§ 917.442 Peach Regulation 8.

(a) No handler shall ship any package or container of any variety of peaches except in accordance with the following terms and conditions:

(1) Such peaches, when packed in any closed package or container, except master containers of consumer packages and individual consumer packages therein, shall conform to the requirements of standard pack.

(2) Each package or container of peaches shall bear, on one outside end in plain sight and in plain letters the name "peaches" and except for consumer packages in master containers the name of the variety, if known or, when the variety is not known, the words "unknown variety."

(3) Each package or container of peaches shall bear, on one outside end, in plain sight and in plain letters, the following count and/or size description of the peaches as applicable:

(i) The size of peaches packed in molded forms (tray-packs) in No. 22D standard lug boxes, experimental containers, cartons, No. 12B fruit (peach boxes, or flats and the size of wrapped peaches packed in rows in No. 12B fruit (peach) boxes shall be indicated in accordance with the number of peaches in the container, such as "80 count, "88 count," etc.

(ii) The size of peaches in molded forms in experimental containers shall be indicated according to the number of such peaches when packed in molded forms in the No. 22D standard lug box in accordance with the requirements of standard pack, such as "80 size," "88 size," etc, along with count requirements in paragraph (a)(3)(i).

(iii) The size of peaches loose-filled or tight-filled in any container shall be indicated according to the number of such peaches when packed in molded forms in the No. 22D standard lug boxes, in accordance with the requirements of standard pack, such as "80 size," "88 size," etc.

(4) The variation in diameter between the smallest and largest peach in any individual container shall not exceed one-fourth (¼) inch for size 80 and smaller and three-eight (⅜) inch for peaches larger than size 80: *Provided*, That not more than five (5) percent, by count, of the peaches in any individual container may fail to meet the diameter requirements of this paragaph.

(5) Each No. 22D standard lug box of loose-filled peaches shall bear on one outside end, in plain sight and in plain letters, the words "25 pounds net weight."

(6) Each No. 22E standard lug box of loose-filled peaches shall bear on one outside end, in plain sight and in plain letters, the words "35 pounds net weight."

(7) Each bulk bin container of loose-filled peaches shall contain not less than 400 pounds net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

(i) The name and address (including zip code) of the shipper.

(ii) The net weight.

(8) Each master container when filled with peaches packed in consumer packages shall bear on one outside end in plain sight and in plain letters the following information:

(i) The number of indiv idual consumer packages, the net weight of each consumer package, and the size description of the contents.

(ii) The name and address (including zip code) of the shipper.

(9) Each individual consumer package shall bear the name and address of the shipper and the net weight.

(b) As used herein, "standard pack" shall have the same meaning as set forth in U.S. Standards for Grades of Peaches (§§ 51.1210 to 51.1223) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. "No. 12B standard fruit box" measures 2⅜ to 7⅛ x 11½ x 16⅛ inches, "No. 22D standard lug box" measures 2⅞ to 7⅛ x 13½ x 16⅛ inches. "No. 22E standard lug box" measures 8¾ x 13½ x 16⅛ inches. All dimensions are given in depth (inside dimensions) by width by length (outside dimension).

4. Section 917.454 is amended by revising paragraphs (a) and (d) to read as follows:

§ 917.454 Plum Regulation 17.

(a) No handler shall ship any package or container of any variety of plums except in accordance with the following terms and conditions:

(1) Such plums, when shipped in closed packages or containers, except master containers of consumer packages and individual consumer packages therein, shall conform to the requirements of standard pack:

(2) The diameters of the smallest and largest plums in any individual package or container shall not vary more than one-fourth (¼) inch: *Provided*, That a total of not more than five (5) percent, by count, of the plums in any package or container may fail to meet this requirement.

(3) Each package or container of plums shall bear on one outside end, in plain sight and in plain letters, the name "plums" and except for consumer packages in master containers the name of variety if known or, when the variety is not known, the words "unknown variety".

(4) Each package or container of plums shall bear on one outside end, in plain sight and in plain letters, the size description of the contents which description shall conform to the following as applicable:

(i) The size of plums in four-basket crates shall be indicated in accordance with the arragnement of the plums in the top layer of the baskets, such as "4 x 4 size," "4 x 5 size," etc.

(ii) The size of plums loose-filled or tight-filled in standard lug boxes, cartons, or other packages or containers shall be indicated in accordance with the equivalent size designation for such plums when packed in four-basket crates, such as "4 x 4 size," etc.

(iii) The size of plums packed in molded forms (tray-packs) in carton or lugs and of wrapped plums packed in No. 12B fruit (peach) boxes shall be indicated in accordance with the number of plums in the container, such as "88 count," "108 count, " etc.

(iv) The size of plums packed in molded forms (tray-packs) in No. 22G standard lug boxes shall be indicated according to the number of such plums when packed in molded forms in the No. 22D standard lug box in accordance with the requirements of standard pack, such as "80 size," "88 size," etc., along with count requirements in paragraph (a)(4)(iii).

(5) Each package or container of loose-filled or tight-filled plums other than bulk bin containers, master containers of consumer packages, and individual consumer packages in master containers shall bear on one outside end, in plain sight and in plain letters, the words "28 pounds net weight."

(6) Each bulk bin container of loose-filled plums shall contain not less than 400 pounds net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

(i) The name and address (including zip code) of the shipper.

(ii) The net weight.

(7) Each master container when filled with plums packed in consumer packages shall bear on one outside end in plain sight and in plain letters the following information:

(i) The number of individual consumer packages, the net weight of each consumer package, and the size description of the contents.

(ii) The name and address (including zip code) of the shipper.

(8) Each individual consumer package shall bear the name and address of the shipper and the net weight.

(b) * * *

(c) * * *

(d) When used herein "standard pack" and "diameter" shall have the same meanings as set forth in the U.S. Standards for Grades of Fresh Plums and Prunes (§§ 51.1520 to 51.1536) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. "No. 12B standard fruit box" measures 2⅜ to 7⅛ x 11½ x 16⅛ inches, "No. 22D standard lug box" measures 2⅞ to 7⅛ x 13½ x 16⅛ inches and "No. 22G standard lug box" measures 7⅜ to 7½ x 13¼ x 15⅞ inches. All dimensions are given in depth (inside dimensions) by width by length (outside dimensions).

Dated: July 25, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85-17977 Filed 7-29-85; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 85-081]

African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Exension of comment period for proposed rule.

SUMMARY: A document published in the **Federal Register** on June 28, 1985, proposed to amend the regulations to provide a mechanism to allow, under certain conditions, pork and pork products originating in a country believed to be free of African swine fever (ASF) to be imported into the United States after being processed in a country where ASF exists or is reasonably believed to exist. This document extends the comment period for this proposed rule for an additional 30 days. The extension of the comment period is needed to allow industry representatives and other interested persons adequate time in which to prepare comments.

DATE: Written comments must be received on or before August 29, 1985.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 85-034. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION: On June 28, 1985, the Department published in the **Federal Register** (50 FR 26782-26785) a document which proposed to amend the regulations to provide a mechanism to allow, under certain conditions, pork and pork products originating in a

country believed to be free of African swine fever (ASF) to be imported into

Information Services, Securities and Exchange Commission, 450 5th Street

amendment affect the availability of records through the Commission's Public

§ 200.80 Commission records and information.

DEPARTMENT OF ENERGY

to permit producers to obtain a one-time determination that a stripper gas well is

VOL 50 ISS 146 JL 30 1985 UMI

country believed to be free of African swine fever (ASF) to be imported into the United States after being processed in a country where ASF exists or is reasonably believed to exist.

The proposed rule provided for receipt of comments on or before July 29, 1985. An industry representative has requested additional time to allow several industry committees an opportunity to review the proposal and offer comments. It has been determined that additional time is needed to provide industry representatives and other interested persons an adequate opportunity to provide meaningful comments. Therefore, the comment period is extended for an additional 30 days. Accordingly, any additional written comments must be received on or before August 29, 1985.

Done at Washington, DC, this 25th day of July 1985.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85-18031 Filed 7-29-85; 8:45 am]

BILLING CODE 3410-34-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-22243; S7-37-85]

Public Reference Facilities in Regional Offices of the Commission

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment of rule.

SUMMARY: The Commission proposes to revise the rule which requires certain categories of records to be maintained on file for reference by members of the public in regional offices other than New York and Chicago. Because of the increasing availability of information through private sector services, Commission resource limitations and changes in the needs of the public for information, certain corporate filings will no longer be maintained for public use in these offices. Various reference materials generated by the agency concerning Commission activities will continue to be available.

DATE: Comments must be received by August 29, 1985.

ADDRESS: Interested persons should submit three copies of their comments to John Wheeler, Secretary, SEC, Washington, D.C. 20549. Reference should be made to File No. S7-37-85.

FOR FURTHER INFORMATION CONTACT: Jonathan G. Katz (202) 272-7440, Director, Office of Consumer Affairs and Information Services, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing for public amendments to rule 80(c)(1)(ii) of the Commission's regulations regarding information and requests (17 CFR 200.80(c)(1)(ii), by which regional offices other than those in New York and Chicago would no longer be required to maintain certain regional firm information. The Commission's regional offices in New York and Chicago have public references facilities containing microform records of all public filings made with the Commission. Present Commission regulations (See 17 CFR 200.80(c)(1)(ii) also require regional offices to maintain certain documents on file and available for public reference, principally the public filings of all registered companies headquartered in the Region, broker/dealer and investment adviser applications and Regulation A filings by firms within each respective region.

Most regional offices other than New York and Chicago do not have 302.019 adequate staff resources or facilities to accommodate public access to these records. Some of the items are no longer available in all regional offices or are maintained for very limited periods of time. There is not significant public interest in reference facilities which specialize only in information on companies headquartered in a given region.

For these reasons, Regional offices other than those in New York and Chicago will no longer be required to maintain for public access the reports by entities headquartered in the region. Such records will be available through the Commission's Public Reference Branch in Washington, D.C., or through any of a number of private firms offering such information to the public. The Commission believes that these changes will have no significant impact on any substantial number of small entities. It seems that there is little or no utilization of those services proposed to be eliminated. However, the Commission requests in particular comments specifically addressing the issue of public utilization of the *SEC Docket* and the *SEC News Digest*. Availability of other reference materials in the regional offices will be left to the discretion of each Regional Administrator.

The proposed amendment does not affect the maintenance of microform records at the New York and Chicago regional offices which will continue to make available copies of all filing with the Commission, nor does the amendment affect the availability of records through the Commission's Public Reference Branch in Washington, D.C. The Commission will simultaneously update its regulations at §§ 200.80(c)(1), 200.80(c)(1)(iii), and 200.90e, to reflect the closing of public reference facilities at the Los Angeles Regional Office.

Regulatory Flexibility Certification

Pursuant to section 605(b) of the Regulatory flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission has certified that the proposed amendments to Rule 80(c)(1)(ii) of the Commission's regulations regarding information and requests [17 CFR 200.80(c)(1)(ii)] will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy Securities.

Statutory Basis and Text of Proposed Amendment

Pursuant to the Securities Exchange Act of and particularly Section 23(a) thereof, 15 U.S.C. 78w(a), the Commission proposes to amend § 200.80 of Title 17, Chapter II, of the Code of Federal Regulations to read as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS: AND INFORMATION AND REQUEST

1. The authority citation for Part 200, Subpart D is amended by adding a citation for § 200.80 as follows:

Authority: 80 Stat. 383, as amended, 31 Stat. 54, secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 5 U.S.C. 552, 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11, Section 200.80 also issued under 5 U.S.C. 552b; Pub. L. 87-592, 76 Stat. 394, 15 U.S.C. 78d-1 78d-2; Pub. L. 93-502; Pub. L. 93-579; 15 U.S.C. 78a et seq., as amended by Pub. L. 84-29 and by secs. 11a, 15, 19 anmd 23 of Pub. L. 98-38 (15 U.S.C. 78k-1, 78o, 78s and 78w); 11 U.S.C. 901, 1109(a). * * *

2. In § 200.80 by revising the second sentence of paragraph (c)(1) introductory text, and paragraph (c)(1)(ii), and by amending paragraph (c)(1)(iii) introductory text, by revising the phrase, "In the New York, Chicago and Los Angeles regional offices," to read "In the New York and Chicago regional offices."

§ 200.80 Commission records and information.

(c)(1) * * * Coin-operated machines, which are available to requesters on a self-service basis, can be used to make immediate copies up to 8½ by 14 inches in size of materials that are available for inspection in the Washington, D.C., New York and Chicago offices.

* * * * *

(ii) All regional Offices of the Commission have available for public examination the materials set forth in paragraph (a)(2) of this section and the *SEC Docket, SEC News Digest* and other SEC publications. Blank forms as well as other general information about the operations of the Commission described in paragraph (a)(1) of this section may also be available at particular regional offices.

* * * * *

3. In § 200.80e by revising the first sentence in the paragraph captioned *"Public reference copying facilities"* to read as follows:

§ 200.80e Appendix E—Schedule of fees for records services.

* * * * *

Public reference copying facilities. In addition to the demand-order facsimile copying services described above, the service contractor maintains customer operated paper-to-paper and fiche-to-paper copiers in the public reference rooms of the Commission in Washington, D.C., New York City and Chicago. * * *

* * * * *

By the Commission.

John Wheeler,

Secretory.

July 15, 1985.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendments to 17 CFR 200.80 pertaining to material maintained for public reference in regional offices other than New York and Chicago published in Release No. 34-22243 [July 16, 1985) will not, if promulgated, have a significant economic impact on a substantial number of small entities. There is no evidence of significant utilization of public reference facilities in the affected regional offices by a substantial number of issuers, broker/dealers, transfer agents, investment companies or other small entities.

John S.R. Shad,

Chairman.

July 16, 1985.

[FR Doc. 85-17813 Filed 7-29-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM85-7-000]

Revised Procedures for Stripper Gas Well Category Determinations Under the NGPA; Proposed Rulemaking

July 25, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is proposing to amend its stripper gas well regulations to eliminate certain burdensome filing requirements. The proposed rule would eliminate the requirement in 18 CFR 271.804(c) (1984) that new applications for temporary pressure build-up determinations be filed each time a well overproduces as a result of temporary pressure build-up. Instead, the producer could obtain a one-time pressure build-up determination which would permit continued qualification for stripper gas well prices so long as total production during any 90-day production period did not exceed 5400 Mcf. The Commission is also proposing to eliminate the requirement that producers file subsequent notices of disqualification for stripper gas wells determined to be subject to pressure build-up, unless total production for a 90-day period exceeds 5400 Mcf.

DATE: Comments on the proposed rule are due on September 30, 1985. Any requests for public hearing must be received by Augusrt 26, 1985.

ADDRESS: Comments and requests for hearing must be addressed to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should refer to Docket No. RM85-7-000. An original and fourteen copies should be filed.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8308.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission is proposing to amend its stripper gas well regulation [1] to permit producers to obtain a one-time determination that a stripper gas well is subject to temporary overproduction caused by pressure build-up during shut-in (a pressure build-up determination).[2] Such a determination will permit the well to continue to qualify for stripper gas well prices after all future shut-ins, as long as production does not exceed 5400 Mcf during a 90-day production period, without requiring the producer to file new applications for temporary pressure build-up determinations. The Commission is also proposing to eliminate the requirement that producers file subsequent notices of disqualification for stripper gas wells determined to be subject to pressure build-up, unless total production for a 90-day period exceeds 5400 Mcf.

II. Background

Section 108 of the Natural Gas Policy Act of 1978 (NGPA)[3] defines a stripper gas well generally as a well producing non-associated natural gas at a rate not exceeding an average of 60 Mcf per production day for a 90-day production period. A production day includes days during which gas is produced or production is prohibited by State law or state-approved conservation practice.[4] A 90-day production period is any period of 90 consecutive days, including days in which gas is not produced as a result of voluntary action by the operator by excluding other days of non-production.[5] A producer must file an application with the appropriate jurisdictional agency for a determination that a well qualifies as a stripper well.[6]

When a producer temporarily shuts in a well, for example to permit maintenance or repair work, pressure builds up in the well bore. This cause greater than normal production for a period after the well is reopened. Such shut-in days are included in a 90-day production period. However, unless required by state law or state-approved conservation practice, the shut-in days are not production days for purposes of determining the well's average rate of

[1] 18 CFR Part 271, Subpart H (1984).

[2] A well is considered to be "shut-in" when a producer stops production from it.

[3] 15 U.S.C. 3318 (1982).

[4] 18 CFR 271.803(d) (1984).

[5] 18 CFR 271.803(c)(2) (1984). In order to avoid the necessity of bringing additional days into a 90-day production period when some are excluded pursuant to the above definition, the Commission has provided that, where records for a 90-consecutive-calendar-day period indicate that the well produced 60 Mcf or less per production day during that period, a rebuttable presumption is created that the well produced 60 Mcf or less during the statutory 90-day production period. 18 CFR 271.803(c)(2) (1984).

[6] 15 U.S.C. 3413 (1982) (section 503 of the NGPA).

VOL 50 ISS 146 JL 30 1985 UMI

production during the 90-day period. Therefore, if a temporary pressure build-up causes average production from a previously qualified well to exceed 60 Mcf per day for the actual production days in any 90-day period during part of which the well had been shut in, the well would be disqualified as a stripper gas well.[7]

The Commission has determined that short-term overproduction resulting from temporary pressure build-up should not disqualify a stripper well. It issued an interim rule,[8] later finalized,[9] permitting a previously-qualifying stripper well which produces an average of more than 60 Mcf per production day during a 90-day period to continue to qualify, if the producer obtains a determination from the jurisdiction agency that: (1) Average production exceeded 60 Mcf because of a pressure build-up resulting from a temporary shut-in, (2) total production for the relevant 90-day period did not exceed 5400 Mcf, and (3) the well would likely have produced at no more than an average of 60 Mcf per production day during the 90-day period but for the shut-in.[10] Under the rule, the producer must obtain a new temporary pressure build-up determination for each 90-day period the well overproduces after a shut-in in order to avoid disqualification during the period of temporary overproduction. Also, the operator of the well and any purchaser must give notice to one another and the Commission that production has averaged more than 60 Mcf per day for a 90-day period even though the well eventually receives a temporary pressure build-up determination.[11]

III. Discussion

The Commission continues to believe that stripper gas wells should not be disqualified if their overproduction is caused by temporary pressure build-up. The Commission has tentatively determined that the present regulations permitting such continued qualification impose unduly burdensome filing requirements on producers and purchasers. Accordingly, it is proposing reductions in those filing requirements.

A. Pressure Build-Up Determinations

Reduced market demand in recent years has required an increasing number of producers to shut in their wells periodically. This has caused many stripper gas wells to regularly overproduce when reopened, as a result of temporary pressure build-up. Currently, the Commission's regulations require new applications for pressure build-up determinations each time a well overproduces; thus, many producers must file such applications for the same well as often as once a month. The Commission believes that its regulations maybe unduly burdensome since the producer must repeatedly compile the necessary supporting data, pay state filing fees, if applicable, and a $25 fee for Commission review. The financial burden is particularly significant, since most stripper gas wells are of marginal profitability.

Additionally, the increase in applications for pressure build-up determinations has significantly increased the workload of the Commission and the jurisdictional agencies. Requests for the Commission to review pressure build-up determinations have increased dramatically, from 266 in fiscal year 1982 to 3,463 in fiscal year 1984. The Commission believes that this burden may not be justified.

In order to reduce this burden on producers, jurisdictional agencies, and the Commission, the Commission proposes to eliminate the requirement that new applications for pressure build-up determinations be filed each time a well overproduces after a shut-in. Instead, the Commission proposes to permit a stripper gas well which has received one such determination to retain its stripper status during all future periods of temporary overproduction due to shut-in without filing new applications, provided that total production during the relevant 90-day period does not exceed 5400 Mcf.[12]

Eliminating the requirement for new applications should not adversely affect compliance with the NGPA. Applications for pressure build-up determinations are usually routine. To obtain a determination, a producer generally need only show that a qualifying well was shut in and thereafter temporarily overproduced.[13] Since these facts can be verified by reviewing a producer's or a pipeline's records, there is generally no dispute whether a well qualifies for a pressure build-up determination. In fact, the Commission has never reversed any of the 5,097 pressure build-up determinations it has reviewed.[14] In addition, the risk that a producer could violate NGPA ceiling prices by charging stripper prices for an overproducing well based on temporary pressure build-up, when not entitled to do so, is small since purchasers and pipelines know current market requirements and almost always know the production histories of the wells.[15]

Furthermore, under the proposed rule, the producer will still have to obtain (1) an original determination that the well is a stripper gas well and (2) an initial pressure build-up determination before the well can retain its stripper status during a future period of temporary overproduction without a pressure build-up determination. Also, the 5400 Mcf limit on production during a 90-day period will remain in effect.

Finally, elimination of the requirement for more than the initial pressure build-up determination is consistent with the Commission's decision in Order No. 336 to permit stripper gas wells which have desqualified altogether to requalify once production returns to appropriate levels without a new jurisdictional agency determination. The Commission stated that this would alleviate the burden on producers of filing new applications for stripper gas well determinations, but not undermine compliance with the NGPA.[16]

[7] For example, if a producer shut in a well for the first 45 days of a 90-day period and then reopened it and that well then produced 3150 Mcf during the remaining 45 days of the period, average daily production for the 90-day period would be 70 Mcf (total production of 3150 divided by 45 production days equals 70). Therefore, even though total production for the 90-day period was well below 5400 Mcf, the well would be disqualified because average production per production day exceeded 60 Mcf.

[8] Interim Rule under Section 108 of the NGPA Concerning Temporary Pressure Buildup in Qualifying Stripper Wells, 46 FR 6901 (Jan. 22, 1981).

[9] Reduction in Filing Requirements for Well Category Applications under sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978; Regulations for Temporary Pressure Buildup Determinations Under section 108 of the Natural Gas Policy Act, 48 FR 44 508 (Sept. 29, 1983) (Order No. 336), *reh'g denied*, 49 FR 566 (Jan. 5, 1984) (Order No. 336–A).

[10] 18 CFR 271.804(e) (1984).

[11] 18 CFR 271.805(d) (1984).

[12] If production from a well did exceed 5400 Mcf during a 90-day period, the producer could not again charge stripper well prices until production decreased to a level not exceeding an average of 60 Mcf per production day for a new 90-day period. 19 CFR 271.805(c) (1984). However, once that well did requalify pursuant to § 271.805(c), if it subsequently overproduced as a result of temporary pressure build-up, it could continue to qualify for stripper prices based on a temporary pressure build-up determination obtained before the first disqualification so long as it otherwise met the requirements of the temporaty pressure build-up rule.

[13] *See* 18 CFR 274.206(e)(6) (1984).

[14] The applicant or the jurisdictional agency has withdrawn eight of those determinations in response to Commission leiters requesting further information.

[15] In many cases, the purchaser is the one who keeps the production records and determines the price to which the producer is entitled.

[16] Reduction in Filing Requirements for Well Category Applications Under sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978; Regulations for Temporary Pressure Buildup Determinations Under Section 108 of the Natural Gas Policy Act, 48 FR 44,508 (Sept. 29, 1983) (Order No. 336), *reh'g denied*, 49 FR 566 (Jan. 5, 1984) (Order No. 336–A).

This has proven to be the case. The Commission is not aware that Order No. 336 has resulted in any significant increase in producers' charging stripper well prices when not entitled to do so. There appears no reason why the same should not be true with respect to the elimination of new applications for pressure build-up determinations.[17]

B. Notices of Disqualification

The Commission's regulations now require that the operator and any purchaser of gas give written notice when a stripper gas well produces an average of more than 60 Mcf per production day during any 90-day period.[18] These notices must be filed even if the well eventually receives a pressure build-up determination permitting stripper gas well prices to be charged despite the overproduction. The Commission proposes to remove this requirement for wells which would retain their stripper status by virtue of an earlier pressure build-up determination. Since such wells will continue to qualify for stripper prices without any action by jurisdictional agencies or the Commission, notices that overproduction has occurred are unnecessary. Elimination of the notice requirement will reduce filing burdens on the industry and lessen the Commission's workload by substantially reducing the number of notices of disqualification which the Commission must review.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [19] requires certain statements, descriptions, and analyses of rules that will have "a significant economic impact on a substantial number of small entities." [20] The Commission is not required to make an RFA analysis if it certifies that a rule will not have a "significant economic impact on a substantial number of small entities."[21]

There are approximately 10,000 natural gas producers in the United States, many of which would be classified as small entities under the appropriate RFA definition.[22] This proposed rule could affect most of these entities by eliminating filing requirements that are unnecessary. In addition, this proposal does not impose any additional regulatory burdens. Thus, while this proposal has a beneficial impact on small entities, the Commission believes that this impact will not be "significant," within the meaning of the RFA. Accordingly, the Commission certifies that this proposal will not have a "significant economic impact on a substantial number of small entities."

V. Paperwork Reduction Act

The information collection provisions in this final rule are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and OMB's regulations, 5 CFR 1320.13 (1985). Inquiries relating to the information collection provisions in this rule can be made to Richard Howe, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426 (202) 357–8308. Comments on these information collection provisions should be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Written Comment Procedure

The Commission invites all interested persons to submit written data, views and other information concerning the matters set out in this Notice. All comments in response to this Notice should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW, Washington, D.C. 20426, and should refer to Docket No. RM85–7–000. An original and 14 copies should be filed. All comments received before 4:30 p.m. EST, on September 30, 1985, will be considered by the Commission.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection during regular business hours in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NW., Washington, D.C. 20426.

In addition, an opportunity for a public hearing to receive oral comments will be afforded, if requested, in accordance with section 502(b) of the NGPA. Any person requesting an opportunity to appear to give oral comments must file with the Secretary a request to do so by August 26, 1985.

List of Subjects in 18 CFR Part 271

Ceiling prices, continental shelf, natural gas, price controls, reporting and recordkeeping requirements.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

In consideration of the foregoing, the Commission proposes to amend Part 271, Title 18, Code of Federal Regulations, as set forth below.

1. The authority citation for Part 271 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order No. 12,009, 3 CFR 142 (1978); Natural Gas Act, 15 U.S.C. 717–717w (1982); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982), unless otherwise noted.

2. Section 271.804(e) is amended by adding new paragraphs (3) and (4) to read as follows:

§ 271.804 Special rule.

* * * * *

(e) *Temporary pressure build-up in previously qualified stripper wells.*

* * * * *

(3) If a jurisdictional agency has made an affirmative determination for a well pursuant to paragraph (e)(1) and that well subsequently produces in excess of an average of 60 Mcf per production day for a 90-day period because of pressure build-up occurring during a temporary shut-in, a new determination pursuant to paragraph (e)(1) need not be obtained to avoid disqualification of the well so long as production does not exceed 5400 Mcf for a 90-day production period. If a well is disqualified as a stripper well after an affirmative determination pursuant to paragraph (e)(1) but requalifies before subsequent 90-day production period in which a temporary pressure build-up occurs, it will continue to qualify pursuant to this paragraph based on the prior affirmative determination.

(4) If a well which produces in excess of 60 Mcf per production day continues to qualify for stripper well prices under paragraph (e)(3), the operator of such well and the purchaser of production from such well are exempt from the

[17] Until the effective date of a final rule in this docket, the producer must continue to obtain new pressure build-up determinations for each 90-day period the well overproduces in order to continue to collect stripper prices under the temporary pressure build-up rule as now in effect. If a final rule is promulgated, however, after the effective date of the rule, a stripper gas well may retain its stripper status based on a temporary pressure build-up determination obtained before the rule's effective date so long as all other conditions of the pressure build-up rule are satisfied.

[18] 18 CFR 271.805(d) (1984).

[19] 5 U.S.C. 601–612 (1982).

[20] *Id.* at section 603(a).

[21] *Id.* at section 605(b).

[22] ID. at section 601(3) *citing* section 3 of the Small Business Act, 15 U.S.C. 632 (1982). Section 3 of the Small Business Act defines "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

filing requirements of § 271.805 for subsequent periods.

* * * * *

Procedural Matters

Act of 1977 (SMCRA). The amendments

FOR FURTHER INFORMATION CONTACT:

filing requirements of § 271.805 for subsequent periods.

* * * * *

§ 271.805 [Amended]

3. Section 271.805(d)(1) is amended by removing the words "Unless exempt under § 271.804(d)(3)" and replacing them with the words "Unless exempt under §§ 271.804(d)(3) or 271.804(e)(4)".

[FR Doc. 85-18042 Filed 7-29-85; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Permanent State Regulatory Program of Illinois; Consideration of Modification of Deadline for Conditions of Approval

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is considering modifying the deadline until July 31, 1986, for Illinois to meet two conditions of the Secretary of the Interior's approval of its State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Condition (b) concerns covering the pit floor and highest coal seam with water and condition (c) concerns sedimentation ponds.

DATE: Written comments not received on or before 4:00 p.m. August 29, 1985 will not necessarily be considered in the Director's decision.

ADDRESSES: Written comments must be mailed or hand-delivered to the Office of Surface Mining, Springfield Field Office, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701.

FOR FURTHER INFORMATION CONTACT: Mr. James Fulton, Field Office Director, Springfield Field Office, Office of Surface Mining, 600 East Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982. Information pertinent to the general background, revisions, modifications and amendments to the proposed program submission, as well as the Secretary's findings, the disposition of comments, and detailed explanation of the conditions of approval can be found in the June 1, 1982 **Federal Register** (47 FR 23858).

Under 30 CFR 732.13(j), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, according to a schedule set forth in the notice of conditional approval. The Schedule is established in consultation with the State based on the time required for changes to be adopted under State procedures or legislative schedules.

In accepting the Secretary's conditional approval, Illinois agreed to satisfy conditions (a), (d), and (e) by December 1, 1982 and conditions (b) and (c) by June 1, 1983. Conditions (a), (d), and (e) have been removed (48 FR 23412, May 25, 1983, and 48 FR 51619, November 10, 1983).

On May 23, 1983, Illinois requested a six-month extension of the June 1, 1983 deadline to satisfy conditions (b) and (c). On August 19, 1983, OSM announced the decision to extend the deadline to December 1, 1983 (48 FR 37625).

On December 1, 1983, Illinois requested a further extension of the deadline for satisfying conditions (b) and (c), until June 1, 1984. In its request, the State pointed to certain developments in the litigation on the approval of the Illinois program. The State noted that the United States District Court for the Central District of Illinois had granted, on November 30, 1983, the Secretary's motion to remand the *Illinois South Project* v. *Watt*, (Civ. No. 82-2229) case to the Secretary for review in light of legal developments that have occured since the approval date. Conditions (b) and (c) concern subjects that are directly at issue in the litigation and which may be affected by the Secretary's review on remand. In order to avoid rulemaking proceedings which may prove to be unnecessary, the State requested a six-month extension of the December 1, 1983 deadline. On February 22, 1984, OSM announced the decision to extend the deadline to June 1, 1984 (49 FR 6467).

On May 31, 1984, Illinois requested a further extension of the deadline, until November 30, 1984. The State noted that the conditions are directly affected by two cases which are still unresolved—*Illinois South Project* v. *Watt* and *Illinois Department of Mines and Minerals* v. *Watt*. The State indicated that it had hoped that the cases would have been resolved by June 1, 1984, but as they have not been, Illinois requested that possibly unnecessary rulemaking proceedings be delayed for six months. In the interim, Illinois stated that it would continue to enforce its regulations in accordance with the Federal regulations. On August 24, 1984, OSM announced the decision to extend the deadline to November 30, 1984 (49 FR 33645).

On November 28, 1984, Illinois requested a further extension of the deadline until May 30, 1985. The State noted that the remaining conditions were and remain directly affected by two cases which are still unresolved: *Illinois South Project et al.* v. *Watt* and the Federal District Court Case of the *Illinois Department of Mines and Minerals* v. *Watt*. On March 11, 1985, OSM granted an extension to Illinois to May 30, 1985. (50 FR 9621).

Condition (b) stipulates that Illinois must amend its program to require a cover of the pit floor and highest coal seam with a minimum of ten meters (33 feet) of water, and that pending completion of the above, Illinois may not use its authority to approve covering with less than 10 meters of water or the approval will terminate. Condition (c) stipulates that Illinois must amend its program to demonstrate that Illinois understands that at the present time the best technology currently available for sediment control is sedimentation ponds and should Illinois wish to approve any other technology, the State will first send the proposal to OSM for review and approval as either an experimental practice or a program amendment. Furthermore, pending completion of the above Illinois may not use its authority to approve siltation structures other than sedimentation ponds or the approval will terminate.

Proposal to Extend Deadline

Illinois has informed OSM that the litigation affecting these two conditions is ongoing. The State is preparing for oral arguments in the case in October and cannot estimate when a decision would be made by the Court. Therefore, Illinois is requesting that the deadline to submit material for the removal of these conditions be extended to July 31, 1986. It is hoped that this extension will be sufficient for the court to render a decision and the State to propose program amendments which would enable the Secretary to remove the conditions on program approval.

Therefore, OSM is seeking comment on the State's request to extend the deadline until July 31, 1986, for Illinois to submit material to satisfy the two conditions of approval.

Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3,4,7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 24, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-18017 Filed 7-29-85; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modification to the Ohio Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments consist of proposed revisions to Ohio's Reclamation Board of Review's (RBR) rules of procedures.

This notice sets forth the times and locations that the Ohio program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public not received by 4:30 p.m., August 29, 1985 will not necessarily be considered in the decision on whether the proposed amendment should be approved and incorporated into the Ohio regulatory program. The public hearing on the proposed amendment has been scheduled for August 26, 1985. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by August 14, 1985. If no person has contacted Ms. Hatfield by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing is scheduled for 1:00 p.m., in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43227.

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866-0578.

Copies of the Ohio program, the proposed modifications to the program, a list of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSM Columbus Field Office.

Office of Surface Mining, Room 5124, 1100 L Street, NW., Washington, D.C. 20240

Ohio Division of Reclamation, Building B-3, Fountain Square, Columbus, Ohio 43224

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION: The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register**.

On May 23, 1985, OSM approved several amendments submitted by Ohio on February 27, 1985, revising rules 1513-13-01 through 1513-3-22 which establish the Reclamation Board of Review's (RBR) rules of procedures (50 FR 21256). On July 3, 1985, Ohio requested that OSM consider an informal submittal of amendments dated May 20, 1985, as a formal request for a program amendment. OSM is responding to that request with this announcement of a public comment period on the RBR proposed amendments.

The proposed amendments include revisions or modifications of Ohio rules 1513-3-01—definitions, 1513-3-02—internal regulations, 1513-3-0—appearances and practices before the board, 1513-3-04—appeals to the RBR, 1413-3-06—computation on and extension of time, 1513-3-06—temporary relief, 1513-3-10—discovery, 1513-3-11—motions, 1513-3-12—pre-hearing procedures, 1513-3-13—notice of hearings and continuance of hearing, 1513-3-14—site views and location of hearings, 15-3-16—conduct of evidentiary hearings, 1513-3-17—voluntary dismissal and settlement, 1513-3-18—reports and recommendations of the hearing officer, and 1513-3-20—costs. The revisions made to 1513-3-19—decisions of the board and 1513-3-21—awards of costs and expenses, were approved by OSM on May 23, 1985 (50 FR 21256).

The full text of the proposed program amendments submitted by Ohio is available for public inspection at the addresses listed above. Upon request to OSM's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendments. The Director now seeks

public comment on whether the

Notices

VOL 50 ISS 146 JL 30 1985 UMI

public comment on whether the proposed amendments are no less stringent than SMCRA and no less effective than the Federal regulations. If approved the amendments will become part of the Ohio permanent regulatory program.

Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Managment and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 24, 1985.

Jed D. Christensen,

Director, Office of Surface Mining.

[FR Doc. 85-18018 Filed 7-29-85; 8:45 am]

BILLING CODE 4310-05-M

Notices

Federal Register

Vol. 50, No. 146

Tuesday, July 30, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Colorado Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rule and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:30 p.m. on August 26, 1985, at the Executive Tower Building, 1405 Curtis Street, Denver, Colorado. The purpose of the meeting is to view presentations by Federal and State civil rights enforcement personnel and plan programs for coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Maxine Kurtz or William Muldrow, Director of the Rocky Mountain Regional Office at (303) 844-2211.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 24, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-17948 Filed 7-29-85; 8:45 am]

BILLING CODE 6335-01-M

Hawaii Advisory Committee; Agenda for Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Hawaii Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:00 noon on August 19, 1985, at the State Capitol Building, 415 South Beratania Street, Conference Room #3, Honolulu, Hawaii. The purpose of the meeting is to conduct orientation activities for new members and discuss program planning for fiscal year 1986.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Andre Tatibouet or Philip Montez, Director of the Western Regional Office at (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 23, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-17944 Filed 7-29-85; 8:45 am]

BILLING CODE 6335-01-M

Nevada Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:00 noon on August 3, 1985, at the Dunes Hotel, 3650 Las Vegas Boulevard, South, Las Vegas, Nevada. The purpose of the meeting is to discuss current projects and engage in further program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Elizabeth Nozero or Philip Montez, Director of the Western Regional Office, at (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 23, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-17945 Filed 7-29-85; 8:45 am]

BILLING CODE 6335-01-M

New York Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on September 12, 1985, at the Buffalo Hilton, Church and Terrace, Buffalo, New York. The purpose of the meetings is to discuss civil rights concerns in the city of Buffalo.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Archer Puddington or Ruth Cubero, Director of the Eastern Regional Office at (212) 264-0400.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., July 23, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-17947 Filed 7-29-85; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on August 14, 1985, at the Pfister Hotel, 424 E. Wisconsin Avenue, Milwaukee, Wisconsin. The purpose of the meeting is to discuss future program plans.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Kwame S. Salter or Clark Roberts, Director of the Midwestern Regional Office, at (312) 353-7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 23, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-17946 Filed 7-29-85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

610.3219, 610.3233, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, Circumstances Administrative Review and Tentative Determination to Revoke

Steel Company's affirmative statement of no interest in continuation of the

[A-588-015]

VOL 50 ISS 146 JL 30 1985 UMI

DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-405]

Oil Country Tubular Goods From Spain; Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Final Results of Changed Circumstances Administrative Review and Revocation of Antidumping Duty Order.

SUMMARY: On June 10, 1985, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on oil country tubular goods from Spain and announced its tentative determination to revoke the order. The review covers the period from October 16, 1984.

We gave interested parties an opportunity to coment. We received no comments. We determine that domestic interested parties are no longer interested in continuation of the order. Therefore, we will revoke the order. In accordance with petitioners' notification the revocation will apply to all oil country tubular goods entered, or withdrawn from warehouse, for consumption on or after October 18, 1984.

EFFECTIVE DATE: October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Chip Hayes or G. Leon McNeill, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-5255/3601.

SUPPLEMENTARY INFORMATION:

Background

On June 10, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 24277) the preliminary results of its changed circumstances administrative review of the antidumping duty order on oil country tubular goods from Spain (50 FR 21479, May 24, 1985). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Spanish oil country tubular goods. Such merchandise is currently classifiable under items 610.3216, 610.3219, 610.3233, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244 of the Tariff Schedules of the United States Annotated. The review covers the period from October 18, 1984.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the antidumping duty order on oil country tubular goods from Spain and that the order should be revoked on this basis.

Therefore, we are revoking the order on oil country tubular goods from Spain effective October 18, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 18, 1984, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries.

This administrative review, revocation and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c) and sections 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: July 23, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-18000 Filed 7-29-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-003]

Stainless Clad Steel Plate From Japan; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Intention to review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Antidumping Duty Order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the antidumping duty order on stainless clad steel plate from Japan. The review covers the period from October 1, 1984. The petitioner to this proceeding has notified the Department that it is no longer interested in the antidumping duty order. This affirmative statement of no interest provides a reasonable basis for the Department to revoke the order. Therefore, we tentatively determine to revoke the order. In accordance with the petitioner's notification, the revocation will apply to all stainless clad steel plate entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interest parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Chip Hayes or G. Leon McNeill, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 34178-79), an antidumping duty order on stainless clad steel plate from Japan.

In a letter dated June 25, 1985, Lukens Steel Company, the petitioner in this proceeding, informed the Department that it was no longer interested in the order and stated its support for revocation of the order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke an antidumping duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of stainless clad steel plate currently classifiable under item 607.9400 of the Tariff Schedules of the United States Annotated. The review covers that period from October 1, 1984.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that Lukens Steel Company's affirmative statement of no interest in continuation of the antidumping duty order on stainless clad steel plate from Japan provides a reasonable basis for revocation of the order. In light of the October 1, 1984, effective date for revocation requested by the petitioner, there is good cause (as required by section 751(b)(2) of the Tariff Act) to conduct this review at this time.

Therefore, we tentatively determine to revoke the order on stainless clad steel plate from Japan effective October 1, 1984. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to antidumping duties and to refund any estimated antidumping duties collected with respect to those entries. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries of stainless clad steel plate from Japan which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice, and may request a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 23, 1985.

[FR Doc. 85-17999 Filed 7-29-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-015]

Television Receiving Sets, Monochrome and Color, From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration; Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On September 12, 1984, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on television receiving sets, monochrome and color, from Japan. The review covers television receiving sets manufactured by Orion Electric Co., Ltd., exported to the United States by Otake Trading Co., Ltd., and the period of review from April 1, 1981, through March 31, 1982.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results and tentative determination to revoke in part. We received no comments on the preliminary results or the tentative determination to revoke.

EFFECTIVE DATE: July 30, 1985.

FOR FURTHER INFORMATION CONTACT: Michael A. Hudak or Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202)-377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 35821), the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on television receiving sets, monochrome and color, from Japan (36 FR 4597, March 10, 1971). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of television receiving sets, monochrome and color, from Japan. Television receiving sets include, but are not limited to, units known as projection televisions, receiver monitors, and kits (containing all the parts necessary to receive a broadcast television signal and produce a video image). Not included are certain monitors not capable of receiving a broadcast signal, certain combination units (combinations of television receivers with other electrical entertainment components such as tape recorders, radio receivers, etc.), and certain sub-assemblies not containing the components essential for receiving a broadcast television signal and producing a video image.

The review covers television receiving sets manufactured by Orion Electric Co., Ltd., exported to the United States by Otake Trading Co., Ltd., and the period April 1, 1981 through March 31, 1982.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results and the tentative determination to revoke in part. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review and we determine that no margins exist for the period April 1, 1981 through March 31, 1982.

As provided for in § 353.48(b) of the Commerce Regulations, no cash deposit of estimated antidumping duties shall be required on entries of television receiving sets, manufactured in Japan by Orion Electric Co., Ltd., and exported to the United States by Otake Trading Co., Ltd. A cash deposit of 0.86 percent shall be required on future entries of this merchandise for any shipment from a new exporter not covered in this or prior reviews whose first shipment occurred after March 31, 1981. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible.

We will examine exports by Otake Trading Co., Ltd., made during the period April 1, 1982 through September 12, 1984, the date of our tentative determination to revoke in part, in our next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

July 16, 1985.

[FR Doc. 85-18001 Filed 7-29-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Department of State effective November 29, 1983, issues the notice on behalf of

Nation, vessel name, vessel type	Application No.	Fishery	Activity

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE

of women's girls', and infants' cotton knit shirts in Category 339 and men's

they affect the perceived needs of the Department of Defense. At this meeting

VOL 50 ISS 146 JL 30 1985 UMI

National Oceanic and Atmospheric Administration

Permits; Foreign Fishing

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*)

Send comments on applications to: Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce. Washington, D.C. 20235

or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director. New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231–0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council. Federal Building, Room 2115, 300 South New Street, Dover, DE 19901. 302/674–2331

David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407. 803/571–1366

Omar Munoz-Roure, Executive Director. Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00818, 809/753–6910

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228–2815

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council. 526 S.W. Mill Street, Portland, OR 97201. 503/221–6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, 411 W. Fourth Avenue, Suite 2D, Anchorage, AK 99510. 907/271–4060

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 164 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523–1368.

For further information contact John D. Kelly (Fees, Permits, and Regulations Division, 202–634–7432).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the Federal Register. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1943, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1985 have been received between June 1, 1985, and July 16, 1985, from the Government(s), shown below.

Dated: July 25, 1985.

William G. Gordon,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

Fishery codes designation of Regional Fishery Management Councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional fishery management councils
ABS	Atlantic Billfishes and Sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Groundfish.	North Pacific.
GOA	Gulf of Alaska	Do.
NWA	Northwest Atlantic Ocean	New England, Mid-Atlantic.
SMT	Seamount Groundfish	Western Pacific.
SNA	Squids (Bering Sea)	North Pacific.
WOC	Pacific Groundfish (Washington, Oregon and California).	Pacific.
PBS	Pacific Billfishes and Sharks.	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing and other support.
2	Processing and other support only.
3	Other support only.
4	"Joint venture" in support of U.S. vessels.

Nation, vessel name, vessel type	Application No.	Fishery	Activity
The Government of the Federal Republic of Germany			
Alaska, cargo transport.	GE–85–0017	BSA, GOA, WOC	3
The Government of Greece			
Oceanie Freezer, cargo transport.	GR–85–0004	BSA, GOA, WOC	3
The Government of Japan			
Tasman Rex, cargo transport.	JA–85–0077	BSA, GOA, WOC	3
Tokachi Maru, cargo transport.	JA–85–0359	BSA, GOA, NWA, SNA	3
The Government of the Polish People's Republic			
Plock, cargo transport.	PL–85–0109	BSA, GOA, WOC	3
The Government of the Federal Republic of Korea			
Bum Sin Ho, cargo transport.	KS–85–0138	BSA, GOA	3
The Government of Spain			
Ria Deponteveda, medium stern trawler.	SP–85–0076	NWA	2(4)
Beiramar Dos, small stern trawler.	SP–85–0179	NWA	2(4)
Moradina, small stern trawler.	SP–85–0180	NWA	2(4)
The Government of the Union of the Soviet Socialist Republics			
Okhotskoe More, cargo transport	UR–85–0252	BSA, GOA	3
Ostrov Karaginskiy, cargo transport.	UR–85–0255	BSA, GOA, WOC	3
Mys Babushkini, largo stern trawler.	UR–85–0780	BSA, GOA, WOC	3
Vysokogorny, cargo transport.	UR–85–0781	BSA, GOA, WOC	3

Joint Venture

Spain—The Spanish vessels, *Ria Deponteveda, Beiramar Dos,* and the *Isla Montana Clara* will replace the vessels, *Pescapuerta Tercero, Pescapuerta Segundo,* and *Campa De Torres,* in the joint venture operation published February 15, 1985, at 50 FR 6374 in the Nortwest Atlantic Ocean fishery. The vessels being replaced received a permit May 8, 1985, authorizing them for joint venture as well as directed fishing. Although the *Moradina* was originally included in this application, it was withdrawn, and the vessel will not be used in this operation. Notification of receipt of the permit application for the *Isla Montana Clara* was published December 3, 1984, at 49 FR 47317. The American partner is Stonavar Trading, Inc., Bristol, Rhode Island.

For the Information of the Reader

USSR—The Soviet vessel, *Mys Babushkini,* is a large stern trawler; however, its intended use is for other support activities only.

[FR Doc. 85–18038 Filed 7–29–85; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Officials of the Government of the Socialist Republic of Romania Authorized To Issue Export Visas

July 25, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 31, 1985. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

The Government of the Socialist Republic of Romania has notified the United States Government that changes have been made in the officials authorized to issue export visas for textile and apparel products under the terms of the Bilateral Cotton Textile Agreement of January 28, and March 31, 1983, and the Bilateral Wool and Man-Made Fiber Textile Agreement of September 2 and November 3, 1980, as amended. A complete list of currently authorized officials follows this notice.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Official Authorized by the Government of the Socialist Republic of Romania To Issue Visas for Textile and Apparel Products Exported to the United States

Atanasiu Bodan
Petre Boldisor
Stefan Ciobanescu
Petruta Cretu
Vladimir Doru Gabor
Adrian Marinescu
Magdalena Strimbu
Petre Tomulescu

[FR Doc. 85–17993 Filed 7–29–85; 8:45 am]

BILLING CODE 3510–DR–M

Requesting Public Comment on Bilateral Textile Consultations With Portugal on Categories 339 and 340; Correction

July 25, 1985.

On July 11, 1985 a notice was published in the Federal Register (50 FR 28243) which announced that, on June 26, 1985, the Government of the United States had requested the Government of Portugal to enter into consultations concerning exports to the United States of women's girls', and infants' cotton knit shirts in Category 339 and men's and boy's cotton shirts in Category 340, producted or manufactured in Portugal.

The level noted for Category 340 in the final line of paragraph 2 of the notice document should have been 133,773 dozen, instead of 133,733 dozen.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–17994 Filed 7–29–85; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATE: 21–23 August 1985, 9:00 a.m. to 5:00 p.m.

ADDRESS: 21 August—The DIAC, Washington, D.C. 22–23 August—Pentagon, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on nuclear test yield determination.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 25, 1985.

[FR Doc. 85–17989 Filed 7–29–85; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Small ICBMs; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Small ICBMs will meet in closed session on 20 September 1985 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will receive classified briefings on Small ICBMs.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 25, 1985.

[FR Doc. 85–17988 Filed 7–29–85; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Special Operations; Change in Date of Advisory Committee Meeting

SUMMARY: The meeting place for the Defense Science Board Task Force on Special Operations scheduled for 9 September 1985 in the Pentagon, Washington, D.C. as published in the Federal Register (Vol. 50, No. 87, Monday, May 6, 1985, FR Doc. 85–10953) has been changed to 28–29 August 1985. In all other respects the original notice remains unchanged.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 25, 1985.

[FR Doc. 85–17987 Filed 7–29–85; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Discretionary Grant Programs Under the Indian Education Act of 1972, as Amended; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1986 Applications

AGENCY: Department of Education.

ACTION: Application notice for new awards under the Indian Education Act of 1972, as amended.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new projects under certain programs administered by the Department of Education under the Indian Education Act, Title IV of Pub. 92–318, as amended.

Organization of Notice

This notice contains three parts. Part I

Applications that are hand delivered will not be accepted by the Application

notice, the single point of contact for each State and follow the procedures

PART III—INDIVIDUAL

These estimates do not bind the U.S.

1985. These my be obtained by writing

VOL 50 ISS 146 JL 30 1985 UMI

Organization of Notice

This notice contains three parts. Part I includes general information on mailing and delivering instructions. Part II includes the list of all application closing dates for new awards covered by this notice. Part III consists of individual application announcement for each program.

PART I—INSTRUCTIONS FOR TRANSMITTAL OF APPLICATIONS

Applicants should note specifically the instructions for the transmittal of applications included below:

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered on or befor ethe closing date given in the individual application announcements included in this document.

Applications delivered by mail: Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (insert appropriate CFDA Number), 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping lable, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretry of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: Applications that are hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted by the Application Control Center after 4:00 p.m. on the closing date.

Intergovernmental review: All programs in this notice are subject to the requirements of the Executive Order 12372 and the regulations in 34 CFR Part 79 except 84.072A, Indian-Controlled Schools—Enrichment and 84.061F, Education Personnel Development. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected these programs for review:

State		
Alabama	Missouri	Oregon
Arizona	Montana	Pennsylvania
Arkansas	Nebraska	South Carolina
California	Nevada	Texas
Connecticut	New Jersey	South Dakota
Deleware	New Mexico	Utah
Florida	New York	Vermont
Hawaii	North Dakota	Virginia
Indiana	Northern Mariana Islands	Washington
Kansas	Ohio	Wisconsin
Louisiana	Oklahoma	Wyoming
Maine		Guam
Michigan		

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single points of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application packages for these programs.

In States that have not established a process or chosen these programs for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by November 19, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4161 (Insert appropriate CFDA No.), 400 Maryland Avenue SW., Washington, D.C. 20202.

Proof of mailing will be determined on the same basis as applications.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT MUST SUBMIT ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

APPLICATION FORMS: Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intened to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

PART II—PROGRAMS

CFDA No.	Program	Closing date
84.072A	Indian-Controlled Schools—Enrichment.	Sept. 20, 1985.
84.061A	Educational Services for Indian Children.	Do.
84.061C	Planning Projects for Indian Children.	Do.
84.061D	Pilot Projects for Indian Children.	Do.
84.061E	Demonstration Projects for Indian Children.	Do.
84.061F	Educational Personnel Development.	Do.
84.062A	Educational Services for Indian Adults.	Do.
84.062C	Planning Projects for Indian Adults.	Do.
84.062D	Pilot Projects for Indian Adults.	Do.
84.062E	Demonstration Projects for Indian Adults.	Do.

PART III—INDIVIDUAL ANNOUNCEMENTS FOR PROGRAMS LISTED IN PART II

84.072A—Indian Education Act—Part A—Indian-Controlled Schools—Enrichment

Closing date: September 20, 1985.

Applications are invited for new grants under the Indian Education Act—Indian Controlled Schools—Enrichment Projects.

Authority for this program is contained in section 303(b) of Part A of the Act, as amended.

(20 U.S.C. 241bb(b)).

The purpose of the enrichment grants is to provide financial assistance for educational enrichment projects designed to meet the special educational and culturally related academic needs of Indian children in Indian-controlled elementary and secondary schools or local educational agencies that are located on or geographically near one or more reservations. The requirement that a school be on or near a reservation does not apply to schools serving Indian children in California, Oklahoma, or Alaska.

Grants for enrichment projects may be to Indian tribes, Indian organizations, and local educational agencies that have been in existence not more than three years.

Program information: In Fiscal Year (FY) 1985, 35 enrichment projects were awarded grants totaling $4,410,000. The average grant amount was $126,000.

Applicotion forms: Application forms and program information packages are expected to be available by August 8, 1985. These may be obtained by writing to Indian Education Programs, U.S. Department of Education 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202.

(Approved by the Office of Management and Budget under control number 1810–0021)

Available funds: The President's budget request for FY 1986 was for $4,410,000 for this program. The Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the request amount, it is estimated that the awards would range from $79,000 to $289,000. The estimated average grant would be $147,000 and approximately 30 projects would be supported. Projects supported under this program would be for a period of one year.

These estimates do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program:

(a) The regulations governing the Indian Education Programs in 34 CFR Part 250 and 253, published in the **Federal Register** on June 7, 1984 at 49 FR 23761 and 23767, and as amended, published in the **Federal Register** on March 18, 1985 at 50 FR 10925.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

Furtner information: For further information contact: Elsie Janifer, Indian Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202. Telephone: (202) 732–1916.

(20 U.S.C. 241bb(b))

84.061A—Indian Education Act—Part B—Educational Services for Indian Children

Closing date: September 20, 1985.

Applications are invited for new grants under the Educational Services for Indian Children program.

Authority for this program is contained in section 1005(a) and (c) of the Act, as amended.

(20 U.S.C. 3385 (a), (c))

This program provides financial assistance for:

(1) Projects designed to improve educational opportunities for Indian children by providing educational services that are not available in sufficient quantity or quanity to those children; and

(2) Enrichment projects that introduce innovative and exemplary approaches, methods, and techniques into the education of Indian children in elementary and secondary schools.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, and Indian institutions.

Program information: In Fiscal Year (FY) 1985, 33 projects were awarded service grants totaling $3,430,000. The average grant award amount was $103,939.

Application forms: Application forms and program information packages are expected to be available by August 8, 1985. These my be obtained by writing to Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202.

(Approved by the Office of Management and Budget under control number 1810–0021).

Available funds: The President's budget request for FY 1986 was for $3,430,000 for this program. The Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the requested amount, it is estimated that the awards would range from $43,000 to $300,000. The estimated average grant would be $100,882 and approximately 34 projects would be supported. Projects supported under this program would be for a period of one year.

These estimates do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program:

(a) The regulations governing the Indian Education Program in 34 CFR Parts 250 and 254, published in the **Federal Register** on June 7, 1984 at 49 FR 23761 and 23769.

(b) The Educational Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78 and 79.

Further information: For further information contact Elise Janifer, Indian Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2177, FOB–6, Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 3385(a), (c))

84.061C—Indian Education Act—Part B—Planning Projects for Indian Children

Closing date: September 20, 1985.

Applications are invited for new planning projects under the Planning, Pilot, and Demonstration Projects for Indian Children program.

Authority for this program is contained in section 1005(a)(1) and (b) of the Act, as amended.

(20 U.S.C. 3385(a)(1), (b))

This program provides financial assistance for projects designed to create programs for improving educational opportunities for Indian children.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian

organizations, Indian institutions, and federally supported elementary and

(20 U.S.C. 3385(a)(1), (b))

84.061E—Indian Education Act—Part B—Demonstration Projects for Indian

(EDGAR), 34 CFR Parts 74, 75, 77, 78.

Available funds: The President's

organizations, Indian institutions, and federally supported elementary and secondary schools for Indian children.

Program information: In Fiscal Year (FY) 1985, eight projects were awarded planning grants totaling $531,180. The average grant amount was $66,398.

Application forms: Application forms and program information packages are expected to be available by August 8, 1985. These may be obtained by writing to Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2177, FOB–6, Washington, D.C. 20202.

(Approved by the office of Management and Budget under control number 1810–0021)

Available funds: Under the President's budget request for FY 1986 about $532,180 would be alocated to this program. The Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the requested amount, it is estimated that the awards would range from $28,000 to $115,000. The average grant would be $66,398 and approximately eight projects would be supported. Projected supported under this program would be for a period of one year.

These estimates do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program:

(a) The regulations governing the Indian Education Programs in 34 CFR Parts 250 and 255, published in the **Federal Register** on June 7, 1984 at 49 FR 23761 and 23770.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, Office of Elementary and Secondary Education. U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 3385(a)(1), (b))

84.061D—Indian Education Act—Part B—Pilot Projects for Indian Children

Closing date: September 20, 1985.

Applications are invited for new pilot projects under the Planning, Pilot, and Demonstration Projects for Indian Children program.

Authority for this program is contained in section 1005 (a)(1) and (b) of the Act, as amended.

(20 U.S.C. 3385(a)(1), (b))

This program provides financial assistance for projects designed to test the effectiveness of programs for improving educational opportunities for Indian children.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, Indian institutions, and federally supported elementary and secondary schools for Indian children.

Program information: In Fiscal Year (FY) 1985, four projects were awarded pilot grants totaling $613,569. The average grant amount was $153,392.

Application forms: Application forms and program information packages are expected to be available by August 8, 1985. These may be obtained by writing to Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202.

(Approved by the Office of Management and Budget under control number 1810–0021)

Available funds: Under the President's budget request for FY 1986 about $613,569 would be allocated to this program. The Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the requested amount, it is estimated that the awards would range from $32,000 to $153,000. The average grant would be $102,094 and approximately six projects would be supported. Projects supported under this program would be for a period of one year.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program: (a) The regulations governing Indian Education Programs in 34 CFR Parts 250 and 255, published in the **Federal Register** on June 7, 1984 at 49 FR 23761 and 23770.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 3385(a)(1), (b))

84.061E—Indian Education Act—Part B—Demonstration Projects for Indian Children

Closing date: September 20, 1985.

Applications are invited for new demonstration projects under the Planning, Pilot, and Demonstration Projects for Indian children program.

Authority for this program is contained in section 1005 (a)(1) and (b) of the Act, as amended.

(20 U.S.C. 3385(a)(1), (b))

This program provides financial assistance for projects designed to demonstrate the effectiveness of programs for improving educational opportunities for Indian children.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, Indian institutions, and federally-supported elementary and secondary schools for Indian children.

Program information: In Fiscal Year (FY) 1985, ten projects were awarded demonstration grants totaling $1,304,251. The average grant amount was $130,425.

Application forms: Application forms and program information packages are expected to be available by August 8, 1985. These may be obtained by writing to Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202.

(Approved by the Office of Management and Budget under control number 1810–0021)

Available funds: Under the President's budget request for FY 1986 about $1,304,251 would be allocated for this program. The Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the requested amount, the awards would range from $42,000 to $253,000. The estimated average grant would be $130,425 and approximately ten projects would be supported. Projects supported under this program would be for a period of one year.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program:

(a) The regulations governing Indian Education Programs in 34 CFR Parts 250 and 255, published in the **Federal Register** on June 7, 1984 at 49 FR 23761 and 23770.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 3385 (a)(1), (b))

84.061F—Indian Education Act—Part B—Educational Personnel Development

Closing date: September 20, 1985.

Applications are invited for new grants under the Educational Personnel Development program.

Authority for the Educational Personnel Development program is contained in section 1005(d) and section 422 of the Indian Education Act, as amended.

(20 U.S.C. 3385(d), 3385a)

This program provides financial assistance to projects designed to (1) prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and (2) improve the qualifications of persons serving Indian students in such capacities.

Under the section 1005(d) program, grants may be made to institutions of higher education, and to State educational agencies and local educational agencies in combination with those institutions.

Under the section 422 program, grants may be made to institutions of higher education, Indian tribes, and Indian organizations.

The estimated maximum stipend for participants in projects in Fiscal Year (FY) 1986 will be $600 per month at the graduate level and $375 per month at the undergraduate level. An estimated maximum allowance of $90 per month will be allowed for each dependent.

Program information: In Fiscal Year (FY) 1985, six grants were awarded under section 1005(d) totaling $1,176,000. The average grant amount was $196.000. Under section 422, nine grants were awarded totaling $980,000. The average grant amount was $108,889.

Application forms: Application forms and program information packages are expected to be available by August 8, 1985. These may be obtained by writing to Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202.

(Approved by the Office of Management and Budget under control number 1810–0021)

Available funds: The President's budget request for FY 1986 was for $1,176,000 for section 1005 and $980,000 for section 422. The Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the requested amount, it is estimated that the awards for section 1005 would range from $162,000 to $265,000 and awards for section 422 will range from $84,000 to $216,000. The estimated average grant would be $168,000 for section 1005 and $108,889 for section 422. It is estimated that approximately seven projects would be supported under section 1005, and nine under section 422. Projects supported under this program would be for a period of one year.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program:

(a) The regulations governing Indian Education Programs in 34 CFR Parts 250 and 256, published in the **Federal Register** on June 7, 1984 at 49 FR 23761 and 23774.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further information: For further information contact Elsie Janifer, Indian Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2177, FOB–6, Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 3385(d), 3385a)

84.062A—Indian Education Act—Part C—Educational Services for Indian Adults

Closing date: September 20, 1985.

Applications are invited for new projects under the Educational Services for Indian Adults program.

Authority for this program is contained in section 315(b) of Part C of the Act, as amended.

(20 U.S.C. 1211a(b))

This program issues awards to Indian tribes, Indian organizations, and Indian institutions for educational service projects.

The purpose of the projects is to improve educational opportunities for Indian adults.

Program information: In Fiscal Year (FY) 1985, thirteen projects were awarded grants under this program totaling $1,176,000. The average grant amount was $90,462.

Application forms: Application forms and program information packages are expected to be available by August 8, 1985. These may be obtained by writing to Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202. (Approved by the Office of Management and Budget under control number 1810–0021).

Available funds: The President's budget request for FY 1986 was for $1,176,000 for this program. The Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the requested amount, it is estimated that the award would range from $10,000 to $300,000. The estimated average grant would be $98,000 and approximately twelve projects would be supported. Projects supported under this program would be for a period of one year.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program:

(a) The regulations governing Indian Education Programs in 34 CFR Parts 250 and 257, published in the **Federal Register** on June 7, 1984 at 49 FR 23761 and 23776.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 1211a(b))

84.062C—Indian Education Act—Part C—Planning Projects for Indian Adults

Closing date: September 20, 1985.

Applications are invited for new planning projects under the Planning, Pilot, and Demonstration Projects for Indian Adults program.

Authority for this program is contained in section 315(a)(1), (2) of Part C of the Act, as amended.

(20 U.S.C. 1211a(a)(1), (2))

This program provides financial assistance for projects designed to create effective programs for improving

employment and educational

Further information: For further

estimated that the awards would range

a private organization, local educational agency, State agency, or the Bureau of

DEPARTMENT OF ENERGY

Headquarters Building located at 1002 NE. Holladay, Portland, Oregon,

employment and educational opportunities for Indian adults.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, and Indian institutions.

Program information: In Fiscal Year (FY) 1985, three planning projects were awarded grants under this program totaling $332,379. The average grant amount was $110,793.

Program priorities: Under 34 CFR 75.105(c)(1), "Annual Priorities," the Secretary invites applicants to submit applications that address the special needs of Indian adults who reside in rural or isolated areas where adult educational services are not provided by a private organization, local educational agency, State agency, or the Bureau of Indian Affairs, Department of the Interior.

This priority, however, is not weighted. An application that meets this priority receives no competitive or absolute preference over applications that do not meet the priority.

Application forms: Application forms and program information packages are expected to be available by August 8, 1985. These may be obtained by writing to Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202.

(Approved by the Office of Management and Budget under control number 1810–0021)

Available funds: Under the President's budget request for FY 1986 about $332,379 would be allocated to this program. The Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the requested amount, it is estimated that the awards would range from $78,688 to $162,000. The estimated average grant would be $110,793 and approximately three projects would be supported. Projects supported under this program would be for a period of one year.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program:

(a) The regulations governing Indian Education Programs in 34 CFR Parts 250 and 258, published in the Federal Register on June 7, 1984 at 49 FR 23761 and 23777.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB–6, 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 1211a(a)(1), (2))

84.062D—Indian Education Act—Part C—Pilot Projects for Indian Adults

Closing date: September 20, 1985.

Applications are invited for new pilot porjects under the Planning, Pilot, and Demonstration Projects for Indian Adults program.

Authority for this program is contained in section 315(a)(1), (2) of Part C of the Act, as amended.

(20 U.S.C. 1211a(a)(1), (2))

This program provides financial assistance for projects designed to test the effectiveness of programs for improving employment and educational opportunities for Indian adults.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, and Indian institutions.

Program information: In Fiscal Year (FY) 1985, six pilot projects were awarded grants totaling $621,661. The average grant amount was $103,610.

Program priorities: Under 34 CFR 75.105(c)(1), "Annual Priorities," the Secretary invites applicants to submit applications that address the special needs of Indian adults who reside in rural or isolated areas where adult educational services are not provided by a private organization, local educational agency, State agency, or the Bureau of Indian Affairs, Department of the Interior.

This priority, however, is not weighted. An application that meets this priority receives no competitive or absolute preference over applications that do not meet the priority.

Application forms: Application forms and program information packages are expected to be available by August 8, 1985. These may be obtained by writing to Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., Room 2177, FOB–6, Washington, D.C. 20202.

(Approved by the Office of Management and Budget under control number 1810–0021)

Available funds: Under the President's budget request for FY 1986 about $621,661 would be allocated to this program. The Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the requested amount, it is estimated that the awards would range from $92,000 to $123,000. The estimated average grant would be $103,610 and approximately six projects would be supported. Projects supported under this program would be for a period of one year.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program:

(a) The regulations governing Indian Education Programs in 34 CFR Parts 250 and 258, published in the Federal Register on June 7, 1984 at 49 FR 23761 and 23777.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB–6, 400 Maryland Avenue SW., Washington, DC. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 1211a(a)(1), (2))

84.062E—Indian Education Act—Part C—Demonstration Projects for Indian Adults

Closing date: September 20, 1985.

Applications are invited for new demonstration projects under the Planning, Pilot, and Demonstration Projects for Indian Adults program.

Authority for this program is contained in section 315(a)(1), (2) of Part C of the Act, as amended.

(20 U.S.C. 1211a(a)(1), (2))

This program provides financial assistance for projects designed to demonstrate the effectiveness of programs for improving employment and educational opportunities for Indian adults.

Grants may be made to State educational agencies, local educational agencies, Indian tribes, Indian organizations, and Indian institutions.

Program Information: In Fiscal Year (FY) 1985, seven demonstration projects were awarded grants totaling $809,960. The average grant amount was $115,709.

Program priorities: Under 34 CFR 75.105(c)(1), "Annual Priorities," the Secretary invites applicants to submit applications that address the special needs of Indian adults who reside in rural or isolated areas where adult educational services are not provided by a private organization, local educational agency, State agency, or the Bureau of Indian Affairs, Department of the Interior.

This priority, however, is not weighted. An application that meets this priority receives no competitive or absolute preference over applications that do not meet this priority.

Application forms: Application forms and program information packages are expected to be available by August 8, 1985. These may be obtained by writing to Indian Education Programs, U.S. Department of Education, Room 2177, FOB 6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

(Approved by the Office of Management and Budget under control number 1810–0021)

Available funds: Under the President's budget request for FY 1986 about $809,960 would be allocated to this program. the Congress has not passed the FY 1986 appropriation act covering this program. If the Congress appropriates the requested amount, it is estimated that the awards would range from $30,000 to $165,000. The estimated average grant would be $115,709 and approximately seven projects would be supported. Projects supported under this program would be for a period of one year.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Applicable regulations: The following regulations apply to this program:

(a) The regulations governing Indian Education Programs in 34 CFR Parts 250 and 258, published in the Federal Register on June 7, 1984 at 49 FR 23761 and 23777.

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further information: For further information contact Elsie Janifer, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB–6, 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 732–1918.

(20 U.S.C. 1211a(a)(1), (2))

Dated: July 24, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85–18005 Filed 7–29–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposal To Implement the Industrial Incentive Rate for the Direct-Service Industrial Customers of the Bonneville Power Administration

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice and request for comments. *BPA File No:* INCENT–3.

SUMMARY: On July 19, 1985, BPA proposed implementation of the Industrial Incentive Rate for BPA's direct-service industrial customers (DSIs) as provided in BPA's 1985 Wholesale Power Rate Schedules. The market price for aluminum is at an historically low level in real terms. At this time, the U.S. Market price is approximately 47 cents per pound. Several DSIs are expected to curtail production from current levels beginning in September 1985 when BPA's industrial rate increases as a result of the winter energy charge taking effect.

In an effort to maintain as much of the existing load as possible, BPA has investigated whether BPA's revenues would increase as a result of implementing an Industrial Incentive Rate. Based on the results of this study, BPA proposes adopting an Incentive Rate. The rate would include a demand charge equal to that included in the Standard Industrial Rate and an energy charge which has been reduced by 5 mills per kilowatthour. If adopted, the Industrial Incentive Rate would become effective for a 9-month period beginning September 1, 1985, and would be applied on a take-or-pay basis to the committed loads of those DSIs who elect to purchase under this arrangement. Additional power could be purchased by the DSIs at either the Standard or Premium Industrial Rate. BPA proposes to implement the Industrial Incentive Rate only if, in the aggregate, the DSIs committed to purchasing approximately 1900 megawatts or more of Industrial Firm Power. BPA has provided notice of this proposed action to its customers as required by BPA's General Rate Schedule Provisions (GRSPs).

Responsible Official: Janet W. McLennan, Assistant Power Manager for Natural Resources and Public Services, is the official responsible for implementation of the Industrial Incentive Rate.

DATE: A Public Information and Comment Forum on this proposal will be held from 9 a.m.—12 noon, Tuesday, August 6, in Room 464 of the BPA Headquarters Building located at 1002 NE. Holladay, Portland, Oregon.

ADDRESS: Address comments to the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. Written comments must be received by 5 p.m. on August 12, 1985, in order to be considered in determining the appropriateness of implementing the Industrial Incentive Rate.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Baker, Public Involvement Office, at the address listed above. Telephone numbers, voice/TTY for the Public Involvement Office are: 503–230–3478 in Portland; toll-free 800–452–8429 for Oregon outside of Portland; 800–547–6048 for Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379

Mr. Reginald Kaiser, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4131

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–434–6226, extension 701

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9137.

SUPPLEMENTARY INFORMATION:

I. Background

The Industrial Incentive Rate is a reduced rate designed to increase BPA's revenues during periods of adverse market conditions for the aluminum industry over those revenues which would otherwise be expected to result from application of BPA's Standard Industrial Rate. The rate is also intended

to stimulate industrial production and maintain employment in the Pacific

BPA Public Involvement office listed under ADDRESSEES.

Comment date: August 5, 1985, in accordance with Standard Paragraph E

Agreement and related Billing Format will be applicable to sales of capacity

Firm Power Other Than State Allocated Power" dated October 2, 1962 and

385.214). All such motions or protests should be filed on or before

VOL 50 ISS 146 JL 30 1985 UMI

to stimulate industrial production and maintain employment in the Pacific Northwest. Under the terms of the CRSPs, the Industrial Incentive Rate can be offered to the DSIs only if BPA can demonstrate that the net result of implementing the rate would be to increase total BPA revenues. The proposed Incentive Rate would take effect in September, the first month that BPA's winter energy charge applies to power sales. The rate would remain in effect for a 9-month period, ending May 31, 1986. Although BPA has not yet implemented the Incentive Rate pursuant to the 1985 wholesale power rate schedules, this Incentive Rate will, if implemented, be the third such rate to be adopted by BPA.

For the week ending July 12, 1985, the U.S. market price for aluminum was approximately 47 cents per pound as contrasted to the January 1984 price of slightly more than 77 cents per pound. In response to reduced prices for their products and high worldwide inventories, several of BPA's industrial customers are expected to curtail production on September 1, 1985, when BPA's winter energy charges first apply. BPA is concerned about the effect of such curtailments on its revenues and believes that implementation of another Industrial Incentive Rate may prevent serious erosion of BPA's revenues.

BPA has conducted a feasibility study which concludes that it is appropriate to propose implementing another Industrial Incentive Rate effective in September. In conducting this study, BPA used various computer programs to determine whether total BPA revenues would be greater under the Standard Industrial Rate or under an Incentive Rate.

II. Proposal

BPA is proposing to adopt an Industrial Incentive Rate which would result in a 5 mill per kilowatthour discount from the Standard Industrial Rate for the months of September 1985 through May 1986. This discount would result in an average DSI rate of 19.08 mills per kilowatthour for the Incentive Rate period.

BPA's proposal stipulates that any offer of the Industrial Incentive Rate be conditioned on a total DSI take-or-pay commitment level averaging approximately 1900 megawatts over the 9-month period. If the rate were adopted, BPA would expect to earn $1.3 million more over the Incentive Rate period than would be earned were the Standard Industrial Rate to remain in effect.

Copies of the feasibility study and draft contract are available from the BPA Public Involvement office listed under ADDRESSEES.

III. Receipt of Comments

BPA is now accepting public comments on its proposed implementation of the Industrial Incentive Rate. BPA will accept both oral and written comment at the Public Information and Comment Forum listed under DATES. BPA will accept written comment received by 5 p.m. on August 12, 1985, at the address listed above. Comments received by the Public Involvement Manager or presented at the Public Information and Comment Forum will be considered in determining the appropriateness of BPA's implementation of the Industrial Incentive Rate. Should BPA adopt an Incentive Rate for the period September 1, 1985, through May 31, 1986, BPA will publish a notice of its final action on this matter in the Federal Register after September 1, 1985.

Issued in Portland, Oregon, on July 19, 1985.

James J. Jura,

Acting Administrator.

[FR Doc. 85-17983 Filed 7-29-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER85-625-000, et al.]

Electric Rate and Corporate Regulation Filings; Altech Energy III, et al.

July 25, 1985.

Take notice that the following filings have been made with the Commission:

1. Altech Energy III

[Docket No. ER85-625-000]

Take notice that on July 12, 1985, Altech Energy III (Altech), a California limited partnership, submitted for filing a long term contract for the sale of power to Southern California Edison Company (Edison). The power will be made available from some 390 wind powered turbine generators now under construction in Riverside County, California. The anticipated capacity of the generators is 36,121 kw. the generators will comprise a small power production facility. The rates for the power and energy will be based on Edison's avoided costs as approved by the California Public Service Commission.

Altech has a requested waiver of the cost support requirements of the Commission's Regulations and has requested an effective date of October 1, 1985.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Centel Corporation

[Docket No. ER85-622-000]

Take notice that on July 9, 1985, Centel Corporation (Centel) tendered for filing revised Rate Schedule 85-D for Off-Peak service to generating and distribution municipals (the Firm Municipals).

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Cliffs Electric Service Company

[Docket No. ER85-624-000]

Take notice that on July 12, 1985, Cliffs Electric Service Company (Service Company) tendered for filing an unexecuted wheeling agreement which provides the rate at which Upper Peninsula Power Company will be entitled to use Service Company's Plains Forsyth transmission line for non-firm transmission services. Service Company proposes a rate of 2.49 mills/kwh.

Service Company requests an effective date 60 days from the date of the filing.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Middle South Energy, Inc.

[Docket No. ER82-616-004]

Take notice that on June 28, 1985, Middle South Energy, Inc. (MSE) tendered for filing pursuant to Ordering Paragraph (L) of FERC Opinion No. 234, 31 FERC ¶ 61,305 (1985), six copies of the Unit Power Sales agreement dated June 10, 1982 between MSE, as seller, and Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company and New Orleans Public Service Inc., as purchasers, (MSE Rate Schedule FERC No. 1) and related Billing Format (Exhibit A thereto) which have been revised as required by Opinion No. 234.

The Unit Power Sales Agreement establishes rates, terms and conditions of service for the sale of capacity and energy available to MSE from Unit 1 of the Grand Gulf Nuclear Electric Station which MSE has constructed near Port Gibson, Miss. In Opinion No. 234, the Commission ordered certain modifications in the Agreement and related Billing Format applicable to sales of such capacity and energy.

As the FERC has previously been advised, Grand Gulf Unit 1 will commence commercial operation on July 1, 1985. The revised Unit Power Sales Agreement and related Billing Format will be applicable to sales of capacity and energy from Grand Gulf Unit 1 Unit made thereafter by MSE to the purchasers.

Comment date: August 6, 1985, in accordance with Standard Paragraph H at the end of this notice.

5. Mississippi Power Company

[Docket No. ER85-620-000]

Take notice that on July 11, 1985, Mississippi Power Company tendered for filing an Amendment to the Contract between Mississippi Power Company and Singing River Electric Power Association providing for an additional delivery point.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Orange and Rockland Utilities, Inc.

[Docket No. ER85-634-000]

Take notice that on July 16, 1985, Orange and Rockland Utilities, Inc. (O&R) tendered for filing as an initial rate schedule a contract dated July 12, 1985 between O&R and the County of Orange, New York, through its agent, the Orange County Municipal Distribution Agency (MDA).

O&R states that the contract is for the purpose of delivery of "Preference Power" made available to the MDA by the New York Power Authority.

O&R requests an effective date of July 15, 1985, and therefore requests waiver of the Commission's notice requirements.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Southwestern Public Service Company

[Docket No. ER84-604-005]

Take notice that on June 19, 1985, Southwestern Public Service Company submitted for filing six (6) copies of its revised rates and revised cost of service statements in compliance with the Commission's order which was issued May 20, 1985.

Comment date: August 6, 1985, in accordance with Standard Paragraph H at the end of this notice.

8. Vermont Electric Power Company, Inc.

[Docket No. ER85-604-000

Take notice that Vermont Electric Power Company, Inc. ("VELCO") on July 5, 1985 filed a notice of cancellation of its FERC Rate Schedule No. 9, entitled "Agreement re Charges for Additional Facilities Constructed by VELCO for Transmission for Central Vermont of Firm Power Other Than State Allocated Power" dated October 2, 1962 and amended November 18, 1965 (Supplement No. 1), August 2 1966 (Supplement No. 2) and August 1, 1967 (Supplement No. 3). This notice of cancellation is requested to be permitted to become effective as of end-of-day June 30, 1985, when the agreement terminates by its terms. Waiver of the Commission's notice requirements is requested to allow the June 30, 1985 effective date. If waiver is not granted, the notice of cancellation is requested to be permitted to become effective on September 3, 1985, sixty days after filing.

Comment date: August 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Bonneville Power Administration

[Docket No. ER85-2021-002]

Take notice that on July 16, 1985, Bonneville Power Administration (BPA) submitted for filing a request for approval of its impact aid methodology, which was promulgated pursuant to section 7(m) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act). 16 U.S.C. § 839e(m). Section 7(m) provides that the Administrator may make annual impact aid payments to local governments within the region with respect to major transmission facilities which are located within the boundaries of such governments, and which are determined to have a substantial impact on such governments. Section 7(m)(2) states: "Such rule shall become effective on its approval, after considering its effect on rates established pursuant to this section, by the Federal Energy Regulatory Commission."

BPA requests approval of the methodology at the earliest possible date, for a period extending through June 30, 1990 the end of the rate period for which BPA has requested approval of the power and transmission rates filed in this docket. BPA requests that approval of the methodology not be delayed pending final confirmation and approval of the rates.

Comment date: August 5, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18041 Filed 7-29-85; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 15 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010789.
Title: Israel Westbound Conference.
Parties:
Farrell Lines, Inc.
Lykes Bros. Steamship Co., Inc.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed agreement would establish a port-to-port and intermodal rate-making arrangement between the parties in the trade from Mediterranean ports of Israel to U.S. Atlantic, Great Lakes, Gulf and Pacific ports.

Agreement No.: 202-010790.
Title: Israel Eastbound Conference.
Parties:
Transport, Inc.
United States Lines (S.A.) Inc.

holding company. The factors that are considered in acting on the applications

State Bank of Texas, Duncanville, Texas.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice

Reserve Bank indicated. Once the application has been accepted for

Agreement No.: 202–010790.
Title: Israel Eastbound Conference.
Parties:
Farrell Lines, Inc.
Lykes Bros. Steamship Co., Inc.
Zim Israel Navigation Co., Ltd.
Synopsis: The proposed agreement would establish a port-to-port and intermodal rate-making arrangement between the parties in the trade from U.S. Atlantic, Gulf, Great Lakes and Pacific ports to Mediterranean ports of Israel.
Agreement No.: 202–010791.
Title: Wallenius/Transroll Joint Service Agreement.
Parties:
Rederi AB Soya
Transroll Navegacao S.A.
Synopsis: The proposed agreement would establish a joint service arrangement between the parties to participate jointly in the carriage of vehicles and other cargoes in the trade between Brazil and the United States, and to share the profits and losses of the service. It would permit the parties to publish a joint tariff, to charter vessels or space owned or chartered by each other and form one or more corporations to build, buy, operate or charter tonnage.

Dated: July 25, 1985.
By Order of the Federal Maritime Commission.
Bruce A. Dombrowski,
Acting Secretary.
[FR Doc. 85–18007 Filed 7–29–85; 8:45 am]
BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–006190–046.
Title: United States Atlantic and Gulf/Venezuela Freight Association.
Parties:
Compania Anonima Venezolana de Navigacion Coordinated Caribbean Transport, Inc.
United States Lines (S.A.) Inc.
Synopsis: The proposed amendment would reduce the amount of the required security deposit from $50,000 to $25,000. The parties have requested a shortened review period.
Agreement No.: 203–007970–006.
Title: Pacific Coast Committee of Inward Trans-Pacific Steamship Lines.
Parties:
Barber Blue Sea Line
Hapag-Lloyd AG
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines Ltd.
Nippon Yusen Kaisha
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.
American President Lines, Ltd.
Synopsis: The proposed amendment would add American President Lines, Ltd. as a party to the agreement. The parties have requested a shortened review period.
Agreement No.: 202–008900–029.
Title: The "8900" Lines Agreement.
Parties:
Barber Blue Sea
A.P. Moller-Maersk Line
The National Shipping Company of Saudi Arabia
Nedlloyd Lijnen, B.V.
Sea-Land Service, Inc.
United Arab Shipping Co. (S.A.G.)
Waterman Steamship Corp.
Synopsis: The proposed amendment would enlarge the scope of the agreement to include Tampa, Florida, and would allow each party to have two receiving locations at each bill of lading port instead of one.

Dated: July 25, 1985.
By Order of the Federal Maritime Commission.
Bruce A. Dombrowski,
Acting Secretary.
[FR Doc. 85–18008 Filed 7–29–85; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Commerce & Energy Bank Holding Co., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the office of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 21, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Commerce & Energy Bank Holding Company*, Lafayette, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Commerce & Energy Bank of Lafayette, Lafayette, Louisiana.

2. *First Polk Bankshares, Inc.*, Cedartown, Georgia; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Polk County, Cedartown, Georgia.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Citizens Fidelity Corporation*, Louisville, Kentucky; to acquire 100 percent of the voting shares of Central Kentucky Bancorp, Inc., Elizabethtown, Kentucky, thereby indirectly acquiring First Hardin National Bank & Trust, Elizabethtown, Kentucky.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *St. Charles Bancshares, Inc.*, St. Charles, Minnesota; to acquire 99.5 percent of the voting shares of First National Bank of Blooming Prairie, Blooming Prairie, Minnesota.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Duncanville Bancshares, Inc.*, Duncanville, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Texas, Duncanville, Texas.

2. *Valley Bancorp, Inc.*, El Paso, Texas; to acquire 80 percent of the voting shares of Montwood Bancshares, Inc., El Paso, Texas, thereby indirectly acquiring Montwood National Bank, El Paso, Texas.

Board of Governors of the Federal Reserve System, July 24, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85–17964 Filed 7–29–85; 8:45 am]
BILLING CODE 6210–01–M

Financial Trust Corp et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 19, 1985.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Financial Trust Corp* (formerly Financial Trans Corp), Carlisle, Pennsylvania; to engage through its subsidiary, Financial Trust Life Insurance Company, Phoenix, Arizona, in acting as underwriter with respect to insurance limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death of disability of the debtor, pursuant to section 4(c)(8)(A) of the Act. These activities will be conducted in Cumberland, Franklin, and Perry Counties in the State of Pennsylvania.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Landmark Banking Corporation of Florida*, Ft. Lauderdale, Florida, and *Citizens and Southern Georgia Corporation*, Atlanta, Georgia; to engage *de novo* through their subsidiary, Capital Group Leasing, Inc., Ft. Lauderdale, Florida, in leasing personal property, acting as agent with respect to insurance limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death or disability of the debtor, pursuant to section 4(c)(8)(A) of the Act.

Board of Governors of the Federal Reserve System, July 24, 1985
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85–17963 Filed 7–29–85; 8:45 am]
BILLING CODE 6210–01–M

First Railroad and Banking Co.; Applications To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under 225.23(a)(1) of the Board's Regulation Y (12 CFR § 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 15, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company*, Augusta, Georgia: To engage *de novo* directly in the activity of consumer financing.

Board of Governors of the Federal Reserve System, July 24, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85–17962 Filed 7–29–85; 8:45 am]
BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85P–0314]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to The Larsen Co., and Continental Can Co., Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

[Docket No. 85P–0319]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Market Testing

The principal display panel of the label states the product name as "Cut Green Beans" and each of the

CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride (a ne

facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under

to allow the applicant to measure consumer acceptance of the food.

VOL 50 ISS 146 JL 30 1985 UMI

temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than October 28, 1985.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under seciton 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to The Larsen Co., 529 North Broadway, P.O. Box 19027, Green Bay, WI 54307–9027, and Continental Can Co., Inc., 51 Harbor Plaza, Box Number 10004, Stamford, CT 06904–2004.

The permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride in an amount reasonably necessary to retain the green color of the product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 210,000 cases of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of the test product will be distributed in the continental United States. The test product is to be manufactured at The Larsen Co. plant in Cambria, WI.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than October 28, 1985.

Dated: July 19, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17960 Filed 7–29–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85P–0319]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Marketing Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to the Green Gaint Co., a subsidiary of the Pillsbury Co., and Continental Can Co., Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than October 28, 1985.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to the Green Gaint Co., a subsidiary of the Pillsbury Co., Pillsbury Center, Minneapolis, MN 55402, and Continental Can Co., Inc., 51 Harbor Plaza, Box Number 10004, Stamford, CT 06904–2004.

The permit covers limitied interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride in an amount reasonably necessary to retain the green color of the product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 210,000 cases of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of the test product will be dstributed in the continental United States. The test product is to be manufactured at the Green Gaint Co. plant located in Beaver Dam, WI.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is state on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but not later than October 28, 1985.

Dated: July 19, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17961 Filed 7–29–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85P–0315]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Comstock Foods, a division of Curtice-Burns, Inc., and Continental Can Co., Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but not later than October 28, 1985.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of indentity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Comstock Foods, a division of Curtice-Burns, Inc., P.O. Box 670, Rochester, NY 14602, and Continental Can Co., Inc., 51 Harbor Plaza, Box No. 10004, Stamford, CT 06904–2004.

This permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride in an amount reasonably necessary to retain the green color of the product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 210,000 cases of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of the test product will be distributed in the continental United States. The test product is to be manufactured at the Comstock Foods plants located in South Dayton, NY, and Leicester, NY.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but not later than October 28, 1985.

Dated: July 19, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17959 Filed 7–29–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85P–0316]

Canned Green Beans Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Agripac, Inc., and Continental Can Co., Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than October 28, 1985.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Agripac, Inc., P.O. Box 5346, Salem, OR 97304, and Continental Can Co., Inc., 51 Harbor Plaza, Box Number 10004, Stamford, CT 06904–2004.

The permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride in an amount reasonably necessary to retain the green color of the product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 210,000 cases of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of the test product will be distributed in the continental United States. The test product is to be manufactured at the Agripac, Inc., plant in Salem, OR.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than October 28, 1985.

Dated: July 19, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17958 Filed 7–29–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85P–0317]

Canned Green Beans Deviating From Identity Standards; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Stokely USA, Inc., and Continental Can Co., Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than October 28, 1985.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Stokely USA, Inc., P.O. Box 248, Oconomowoc, WI 53066, and Continental Can Co., Inc., 51 Harbor Plaza, Box Number 10004, Stamford, CT 06904–2004.

The permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride in an amount reasonably necessary to retain the green color of the product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 210,000 case of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of the test product will be distributed in the continental United States. The test production is to be manufactured at the Stokely USA, Inc., plant located in Scottsville, MI.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than October 28, 1985.

Dated: July 19, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–17957 Filed 7–29–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85P–0318]

Canned Green Beans Deviating From Identity Standard; Temporary Permit

ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for

Officer (D–15), Bureau of Health Professions, Health Resources and Service Administration, 5600 Fishers

The Boys Clubs will undertake a

DEPARTMENT OF THE INTERIOR

vehicle when such vehicle is being driven.

[Docket No. 85P-0318]

Canned Green Beans Deviating From Identity Standard: Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a termporary permit has been issued to Furman Foods, Inc., and Continental Can Co., Inc., to market test experimental packs of canned green beans containing added zinc chloride. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than October 28, 1985.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of a standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Furman Foods, Inc., R.D. No. 2, Northumberland, PA 17857, and Continental Can Co., Inc., 51 Harbor Plaza, Box Number 10004, Stamford, CT 06904-2004.

The permit covers limited interstate marketing tests of experimental packs of canned green beans. The test product deviates from the standard of identity for canned green beans prescribed in 21 CFR 155.120 (canned green beans and canned wax beans) in that it will contain added zinc chloride in an amount reasonably necessary to retain the green color of the product (up to 75 parts per million of zinc in the finished food). The test product meets all requirements of § 155.120, with the exception of the variation.

The permit provides for the temporary marketing of 210,000 cases of number 303 cans and 190,000 cases of number 10 cans of the test product. The experimental packs of test product will be distributed in the continental United States. The test product is to be manufactured at the Furman Foods, Inc., plant located in Northumberland, PA.

The principal display panel of the label states the product name as "Cut Green Beans" and each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101. The permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later the October 28, 1985.

Dated: July 19, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-17956 Filed 7-29-85; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Application Announcement for Grants for Graduate Training in Family Medicine

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1986 Grants for Graduate Training in Family Medicine are being accepted under the authority of section 786(a) of the Public Health Service Act, as amended.

Section 786(a) authorizes the Secretary to make grants to public or nonprofit private hospitals, accredited schools of medicine or ostreopathy, and other public or private nonprofit entities to assist in meeting the cost of planning, developing and operating or participating in approved graduate training programs in the field of family medicine. In addition, section 786(a) authorizes assistance in meeting the cost of supporting trainees in such programs who plan to specialize or work in the practice of family medicine.

To receive support, programs must meet the requirements of regulations as set forth in 42 CFR Part 57, Subpart Q.

In the funding of approved applications, preference will be given to projects in which:

1. Substantial training experience is in settings which exemplify interdependent utilization of physicians and physician assistants and/or nurse practioners; and/or

2. Substantial portions of the training program are conducted in a primary medical manpower shortage area which is part of a health manpower shortage area(s) designated under section 332 of the Public Health Service Act or in an Area Health Education Center, funded at least in part, under section 781 of the Act.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D-15), Bureau of Health Professions, Health Resources and Service Administration, 5600 Fishers Lane, Rm. 8C-22, Rockville, Maryland 20857. Telephone: (301) 443-6960.

If additional programmatic information is needed, please contact: Primary Care Graduate, Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Rm. 4C-04, Rockville, Maryland. Telephone: (301) 443-6820.

The deadline date for receipt of applications is September 27, 1985. Applications shall be considered as meeting the deadline date if they are either:

(1) *Received* on or before the deadline date, or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applicants should be advised that the application announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year.

This program is listed at 13.379 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs of 45 CFR Part 100.

Dated: July 24, 1985.

John H. Kelso,

Acting Administration.

[FR Doc. 85-17955 Filed 7-29-85; 8:45 am]

BILLING CODE 4160-16-M

Public Health Service

Cooperative Agreement Award to the Boys Clubs of America for a National Prevention Initiative

This notice is to provide information to the public concerning a planned cooperative agreement award by the Office of Disease Prevention and Health Promotion (ODPHP) to the Boys Clubs of America. This award will be made in response to an unsolicited proposal from this organization.

The Boys Clubs will undertake a national prevention demonstration and utilization project to test our strategies for preventing alcohol and drug abuse among its members. Prevention programs, involving Boys Clubs members and their parents, will be established at multiple demonstration sites across the country, and the results of these programs will be compared with control sites where there are regular Boys Clubs programs. The demonstration programs will emphasize the prevention techniques and life skills which prepare young people to understand and resist the social influences that promote alcohol use, drug use, and related behaviors. This project will be supported under a cooperative agreement award for a three-year period.

The cooperative agreement mechanism is being used because it has been determined that a substantial Federal role in the performance of the project will help to ensure results consistent with the Federal goal of developing models for national disease prevention and health promotion approaches. This award mechanism will also facilitate the involvement of a variety of Federal Government organizations with programs relevant to the proposed Boys Clubs program. The Office of Disease Prevention and Health Promotion, which will administer this award, will coordinate the involvement of staff from the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, as well as staff from other relevant programs within and outside HHS. Federal staff will assist in developing curricula, detailed evaluation plans, materials for use in the project and broader dissemination.

Because of their direct involvement with a national network of community programs, the Boys Clubs of America is in a unique position to carry out this proposed program with its affiliate organizations.

Supplemental information about this project may be obtained from: James A. Harrell, Deputy Director, Office of Disease Prevention and Health Promotion, 330 C Street, SW., Room 2132, Washington, D.C. 20201.

Dated: July 22, 1985.

J. Michael McGinnis,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion).

[FR Doc. 85-17925 Filed 7-29-85; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Confederated Tribes of the Goshute Reservation Ordinance Providing for the Introduction, Use, Possession, and Consumption of Alcohol

July 16, 1985.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the Goshute Business Council has duly adopted Ordinance No. 85-G-04 on April 12, 1985. The ordinance provides for the introduction, possession, use and consumption of alcohol within the areas of Indian country under the jurisdiction of the Confederated Tribe of Goshute in Utah and Nevada. The ordinance reads as follows:

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

Ordinance No. 85-G-04

Now, Therefore, be it enacted by the Confederated Tribes of the Goshute Reservation, that pursuant to the authority vested in it by Article VII, Section 1(f) of the Constitution of the Confederated Tribes of the Goshute Reservation that the introduction, possession, use and consumption of alcoholic beverages shall be lawful within the exterior boundaries of those lands in the State of Nevada and Utah under the territorial jurisdiction of the Confederated Tribes of the Goshute Reservation, provided that such introduction, possession, use and comsumption shall be in conformity both with the laws of the State in which such act or transaction occurs and in accordance with the following:

Section 1

It shall be unlawful to sell alcoholic beverages by the bottle, drink, can or other package within the exterior boundaries of those lands of the States of Nevada and Utah, under the territorial jurisdiction of the Confederated Tribes of the Goshute Reservation.

Section 2

It shall be unlawful for any person to use or consume any alcoholic beverages while operating a motor vehicle.

Section 3

It shall be unlawful to open any container of alcoholic beverages in the passenger compartment of a motor vehicle when such vehicle is being driven.

Section 4

It shall be unlawful for any person[s] to manifestly consume alcoholic beverages, while under the influence of alcoholic beverages to the degree that he/she may endanger himself/herself or other persons or property.

Section 5

It shall be unlawful to consume, use, possess any alcoholic beverages within the restricted premises of the Goshute Tribal Building, Goshute Enterprise Welding Shop, and the Goshute Farming Enterprises (former Halstead Ranches), and at any other [sic] designated by the Goshute Business Council by the adoption of a tribal resolution.

Section 6

It shall be unlawful for any person to furnish any alcoholic beverages to any person under the age of twenty-one (21) years or to leave or to deposit any alcoholic beverages with the intent that the alcoholic beverages shall be procured by any person under the age of twenty-one (21 years).

Section 7

It shall be unlawful for any person under the age of twenty-one (21) years of age to introduce, possess, use or consume alcoholic beverages.

Section 8

Any Indian who violates any of the provisions of this ordinance shall be deemed guilty of an offense and upon conviction thereof, shall be punished by a fine of not more than $150 or by imprisonment of not more than thirty (30) days or both such fine and imprisonment: Provided, however, that any person under the age of eighteen (18) years may, in the discretion of the judge, be treated as a juvenile and have the charge(s) disposed of pursuant to applicable juvenile law and procedures.

Section 9

When any provisions of this ordinance is [sic] violated by a non-Indian, he or she will be referred to State, County, and/or Federal authorities for prosecution under applicable law.

Section 10

All ordinances, resolutions or acts that have previously been enacted by the Business Council of the Confederated Tribes of the Goshute Reservation which are in conflict with any provision[s] of this ordinance are hereby repealed.

Certification

circumstances and upon request, the

The meeting is open to the public.

Nogales, *Harrison, Sen. James A., House (Nogales MRA)*, 449 Morley

Lewiston, *Lisbon Block-College Block (Lisbon Street MRA)*, 248-274 Lisbon St.

Traverse County

Certification

I, the undersigned, as Vice-Chairman of the Business Council of the Confederated Tribes of the Goshute Reservation, do hereby certify that the Business Council of the Confederated Tribes of the Goshute Reservation, is composed of 5 members, of whom 4 constituting a quorum were present at a duly held meeting on the 12th day of April 1985 and that the foregoing ordinance was adopted and approved at such meeting by the affirmative vote of 3 FOR; 0 ABSTENTIONS; pursuant to the authority contained under Article VII, Section 1(f) of the Constitution of the Confederated Tribes of the Goshute Reservation, approved November 25, 1940.

Dated: April 15, 1985.

Henry Pete,

Vice-Chairman, Goshute Business Council.

Recommended Approval:

Steven D. Tibbetts,

Superintendent, Eastern Nevada Agency.

Ordinance No. 85–G–04.

[FR Doc. 85–17984 Filed 7–29–85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6698-B]

Alaska Native Claims Selection

Correction

In the FR Doc. 85–17447 appearing on page 30018 in the issue of Tuesday, July 23, 1985, make the following correction: In the third column, in the heading, the docket number should have read as set forth above.

BILLING CODE 1505–01–M

Camping Stay Limit on Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of camping stay limit for public lands administered by the BLM in the Butte District, Montana. Persons may occupy any one site or miltiple sites within a 5 mile radius on public lands not closed or otherwise restricted to camping within the Butte District for a total period of not more than fourteen days during any 28-day period. Following the fourteen day period persons may not relocate within a distance of five (5) miles of the site that was just previously occupied until completion of the 28-day period. The fourteen day limit may be reached either through a number of separate visits or through a period of continuous occupations of a site. Under special circumstances and upon request, the authorized officer may give written permission for extension to the fourteen day limit.

Additionally, no person may leave personal property unattended in designated campgrounds, recreation developments or elsewhere on public lands within the Butte District for a period of more than 24 hours without written permission from the authorized officer.

SUPPLEMENTARY INFORMATION: This camping stay limit is being established in order to assist the Bureau in reducing the incidence of long-term occupancy trespass being conducted under the guise of camping on public lands within the Butte District. Of equal importance is the problem of long-term camping, which precludes equal opportunities for other members of the public to camp in the same area, which creates user conflicts.

DATE: This camping stay limit will be effective immediately upon publication in the **Federal Register.**

FOR MORE INFORMATION CONTACT: Jack McIntosh, District Manager, Butte District Office, 106 North Parkmont, P.O. Box 3388, Butte, Montana 59702, telephone (406) 494–5059.

Authority for this stay limit is contained in CFR Title 43, Chapter II Part 8365, subparts 8365.1–2 and 8365.2–3.

Jack A. McIntosh,

District Manager Butte District.

[FR Doc. 85–17968 Filed 7–29–85; 8:45 am]

BILLING CODE 4310-84-M

Coeur d'Alene District; Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: District Advisory Council Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 940579 and 43 CFR Part 1780, that a meeting of the Coeur d'Alene District Advisory Council will be held on Tuesday, August 27, 1985 at 10:00 a.m., at the Bureau of Land Management Office, 1808 North Third, Coeur d'Alene, ID 83814.

Agenda for the meeting will include:

1. Discussion of potential land actions;
2. Update on BLM/USFS Interchange;
3. Briefing on hazardous waste activities;
4. Update on Lower Salmon River withdrawal;
5. Discussion of nominations for expiring Council terms;
6. Arrangement for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 noon, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by August 23, 1985.

Depending on the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: July 19, 1985.

Wayne Zinne,

District Manager.

[FR Doc. 85–17982 Filed 7–29–85; 8:45 am]

BILLING CODE 4310-GG-M

National Park Service

National Register of Historic Places; Arizona et al.; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 20, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by August 14, 1985.

Carol D. Shull,

Chief of Registration, Notional Register.

ARIZONA

Santa Cruz County

Nogales, *10 Cottages on Short Street (Nogales MRA)*, 117–126 Short
Nogales, *Arizona-Sonora Manufacturing Company Machine Shop (Nogales MRA)*, Grand Ave. at Arroyo Blvd.
Nogales, *Bowman Hotel (Nogales MRA)*, 314–316 Grand Ave.
Nogales, *Bowman, W.C., House (Nogales MRA)*, 112 Sierra
Nogales, *Burton Building (Nogales MRA)*, 322–324
Nogales, *Cranz, Frank F., House (Nogales MRA)*,408 Arroyo
Nogales, *Crawford Hill Historic Residential District (Nogales MRA)*, Roughly bounded by Oak St., Terrace Ave., Compound St., & Interstate 19 & Grindell
Nogales, *Dunbar, George, House (Nogales MRA)*, 118 Sierra
Nogales, *Harrison, Sen. James A., House (Nogales MRA)*, 449 Morley
Nogales, *Hotel Blanca (Nogales MRA)*, 701 Morley
Nogales, *House at 220 Walnut Street (Nogales MRA)*, 220 Walnut St.
Nogales, *House at 334—338 Walnut Street (Nogales MRA)*, 334—338 Walnut St.
Nogales, *House at 665 Morley Avenue (Nogales MRA)*, 665 Morley Ave.
Nogales, *Kress, S.H., & Co., Building (Nogales MRA)*, 119—121 Morley
Nogales, *Las Dos Naciones Cigar Factory (Nogales MRA)*, 331 Morley
Nogales, *Marsh Heights Historic Residential District (Nogales MRA)*, Roughly bounded by Court St., Summit Ave., S. Court St. and Morley Ave.
Nogales, *Marsh, George B., Building (Nogales MRA)*, 213—225 Grand
Nogales, *Mediterranean Style House (Nogales MRA)*, 124 Walnut
Nogales, *Mediterranean Style House (Nogales MRA)*, 116 Walnut
Nogales, *Miller, Hugo, House (Nogales MRA)*, 750 Petrero
Nogales, *Montezuma Hotel (Nogales MRA)*, 217 Morley
Nogales, *Nogales Electric Light, Ice & Water Company Power House (Nogales MRA)*, 498 Grand
Nogales, *Nogales High School (Nogales MRA)*, 209 Plum
Nogales, *Nogales Steam Laundry Building (Nogales MRA)*, 223—219 East
Nogales, *Noon, A.S., Building (Nogales MRA)*, 246 Grande
Nogales, *Piscorski, Jose, Building (Nogales MRA)*, 315 Morley
Nogales, *Three Mediterranean Cottages on Parjarito Street (Nogales MRA)*, 102—104 Parjarito
Nogales, *Wise, J.E., Building (Nogales MRA)*, 134 Grande

CALIFORNIA

Los Angeles County

Avalon, *Wrigley, William, Jr., Summer Cottage*, 76 Wrigley Rd.

San Francisco County

San Francisco, *Kratoszyner, Dr. Martin M., Medical Offices and House*, 995—999 Sutter St.

GEORGIA

Chatham County

Savannah, *Ardsley Park-Chatham Crescent Historic District*, Roughly bounded by Ardsley Pk., Chatham Crescent, Bull St., Baldwin Pk. and Ardmore

MAINE

Androscoggin County

Lewiston, *Peck's Department Store (Lisbon Street MRA)*, 184 Main St.
Lewiston, *Bergin Block (Lisbon Street MRA)*, 330 Lisbon St.
Lewiston, *Block at 379 Lisbon Street (Lisbon Street MRA)*, 379 Lisbon St.
Lewiston, *Callahan Building #2 (Lisbon Street MRA)*, 282 Lisbon St.
Lewiston, *Callahan Building (Lisbon Street MRA)*, 278 Lisbon St.
Lewiston, *Lewiston Trust & Sale Deposit Co. (Lisbon Street MRA)*, 46 Lisbon St.
Lewiston, *Lisbon Block-College Block (Lisbon Street MRA)*, 248–274 Lisbon St.
Lewiston, *Lyceum Hall (Lisbon Street MRA)*, 49 Lisbon St.
Lewiston, *Maine Supply Company Building (Lisbon Street MRA)*, 415–417 Lisbon St.
Lewiston, *Manufacturer's National Bank (Lisbon Street MRA)*, 145 Lisbon St.
Lewiston, *McGillicuddy Block (Lisbon Street MRA)*, 133 Lisbon St.
Lewiston, *Odd Fellows Block (Lisbon Street MRA)*, 182—190 Lisbon St.
Lewiston, *Osgood Building (Lisbon Street MRA)*, 129 Lisbon St.
Lewiston, *Union Block (Lisbon Street MRA)*, 21–29 Lisbon St.

MINNESOTA

Big Stone County

Artichoke Township, *District 13 School*, CR 25
Graceville, *Shannon Hotel*, Studdart Ave. & Second St.
Ortonville, *Big Stone County Courthouse*, 20 S.E. Second St.
Ortonville, *Columbian Hotel*, 305 N.W. Second St.
Ortonville, *Ortonville Commercial Historic District*, Madison & Monroe Aves. & Second St. between Jefferson & Jackson Aves.
Ortonville, *Ortonville Free Library*, 412 N.W. Second St.

Carlton County

Cloquet, *Cloquet City Hall*, Ave. B & Arch St.

Douglas County

Alexandria, *Cowing, John B., House*, 415 7th Ave. E.
Alexandria, *Great Northern Passenger Depot*, N. Broadway & Agnes Blvd.

Fillmore County

Chatfield, *Dickson, Samuel Thompson, House*, 225 Southwest Third St.

Jackson County

Heron Lake, *Heron Lake Public School*, Sixth Ave. & Tenth St.

Lac qui Parle County

Dawson, *Dawson Carnegie Library*, 677 Pine St.
Madison, *Lac qui Parle County Courthouse*, 600 Sixth St.

McLeod County

Hutchinson, *Goodnow, Merton S., House*, 446 S. Main St.

Roseau County

Rosean, *Roseau County Courthouse, 216 Center St. W.*

Swift County

Benson, *Christ Church, 310 13th St. N.*
Benson, *Church of St. Francis Xavier, 13th St N. & Montana Ave.*
DeGraff, *Church of St. Bridget*, Third St. & Ireland Ave
Murdock, *Murdock, Sabin S., House, Clara Ave.*

Traverse County

Browns Valley, *Browns Valley Carnegie Public Library*, Broadway Ave. & Second St.
Lake Valley Township, *Larson's Hunters Resort-Larsen, Andrew and Bertha, Farm, CR 78*

OHIO

Champaign County

Mechanicsburg, *Baker, Major John C., House (Mechanicsburg MRA)*, 202 W. Main St.
Mechanicsburg, *Barr House (Mechanicsburg MRA)*, Locust & Sandusky Sts.
Mechanicsburg, *Burnham, Henry, House, (Mechanicsburg MRA)*, N. Main St. & Rt. 559
Mechanicsburg, *Church of our Savior (Mechanicsburg MRA)*, S. Main St.
Mechanicsburg, *Clark, Dr., House (Mechanicsburg MRA)*, 21 N. Main St.
Mechanicsburg, *Culbertson, William, House (Mechanicsburg MRA)*, 103 Race St.
Mechanicsburg, *Demand-Gest House (Mechanicsburg MRA)*, 37 N. Main St.
Mechanicsburg, *Hamer's General Store (Mechanicsburg MRA)*, 88 S. Main St.
Mechanicsburg, *Hunter, Norvall, Farm (Mechanicsburg MRA)*, S. Main St.
Mechanicsburg, *Kimball House (Mechanicsburg MRA)*, 115 N. Main St
Mechanicsburg, *Lowler's Tavern (Mechanicsburg MRA)*, N. Main St.
Mechanicsburg, *Magruder Building (Mechanicsburg MRA)*, 16 S. Main St.
Mechanicsburg, *Masonic Temple (Mechanicsburg MRA)*, N. Main St.
Mechanicsburg, *Mechanicsburg Baptist Church (Mechanicsburg MRA)*, Walnut & Sandusky Sts.
Mechanicsburg, *Mechanicsburg Commercial Historic District (Mechanicsburg MRA)*, 1—11 S. Main St.
Mechanicsburg, *Ninchelser, Dr., (Mechanicsburg MRA)*, 28 N. Main St.
Mechanicsburg, *Rathburn, Levi, House (Mechanicsburg MRA)*, Locust & Sandusky Sts.
Mechanicsburg, *Second Baptist Church (Mechanicsburg MRA)*, Sandusky St.
Mechanicsburg, *St. Michael Catholic Church (Mechanicsburg MRA)*, 40 Walnut St.
Mechanicsburg, *United Methodist Church, (Mechanicsburg MRA)*, N. Main & Race Sts.
Mechanicsburg, *Village Hobby Shop (Mechanicsburg MRA)*, N. Main St.

VIRGINIA

Fairfax County

Clifton, *Clifton Historic District*, Roughly bounded by Popes Head Creek, Water St., Dell Ave., Chestnut & Chapel Rds..

[FR Doc. 85–18043 Filed 7–29–85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

AID/Washington, if such waivers are required, that they have been approved prior to

foreign policy objectives and objectives of the foreign assistance program";

other official guidance as modified from time to time. Each officer exercising this

authority to exercise any of the functions herein redelegated:

Geographic Code 941 (Selected Free World) and the cooperating country

VOL
50
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INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

A.I.D. Mission Directors in Jordan, Morocco, Tunisia and Yemen; Redelegation of Authority No. 113.9

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated June 21, 1977 (42 FR 31511), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grant Agreements; No. 40 dated December 29, 1981 (47 FR 1049) with respect to Source, Origin and Nationality for Procurement; No. 113, dated October 15, 1975, and No. 133 dated December 11, 1981, I hereby redelegate to the Directors of the A.I.D. Missions in Jordan, Morocco, Tunisia and Yemen authority to exercise any of the following functions assigned to me for the country to which such official is assigned, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. The authority to approve project identification documents (PIDs) and program assistance initial proposals (PAIPs) for non-project assistance if such PIDs or PAIPs:

(a) Do not have an anticipated life of project funding of more than $2.5 million;

(b) Have been included in the Mission's annual action plan approved by AID/W; and

(c) Do not have a life of project in excess of ten years.

2. Authority to authorize a project or activity if such project or activity:

(a) Does not exceed $20 million over the approved life of the project (except as provided in paragraph 3 below);

(b) Does not present significant policy issues;

(c) Does not require waivers which may only be approved in AID/W or, if such waivers are required, that they have been approved prior to such authorization; and

(d) Does not have a life of project in excess of ten years and that such life of project has been approved in the PID review;

3. Authority to amend project or non-project assistance authorizations executed by any A.I.D. official, if the amendment:

(a) Does not result in a total life of project funding of more than $30 million;

(b) Does not present significant policy issues; and

(c) Does not require issuance of waivers which may only be approved in AID/W or, if such waivers are required, that they have been approved prior to such authorization.

4. Authority to negotiate, execute and implement trust fund agreements, project and non-project assistance agreements (both loan and grant) and amendment thereto duly authorized under the Foreign Assistance Act of 1961, as amended, in accordance with regulations, policies and procedures now or hereafter established or modified and promulgated within A.I.D. This authority shall include, without limitation, the following:

(a) Authority to prepare, negotiate, and execute letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(c) Authority to negotiate, execute and implement all documents ancillary to such agreements.

5. Authority to sign or approve Project Implementation Orders.

6. Authority to review and approve the terms of country contracts, contractors, amendments and modifications to such contracts, and invitations for bids and request for proposals with respect thereto.

7. Authority to waive, in accordance with the criteria prescribed in Supplement B of A.I.D. Handbook 1:

(a) U.S. source, origin, and nationality requirements to permit A.I.D. financing of procurement of goods and services, other than transportation services, in countries included in A.I.D. Geographic Code 941 (Selected Free World) and the cooperating country when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); and

(b) U.S. or Code 941 source, origin, and nationality requirements for specific transactions to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in any country included in A.I.D. Geographic Code 899 (Free World) or A.I.D. Geographic Code 935 (Special Free World) when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); provided, however:

(1) That all waivers of source, origin, and nationality for procurement of goods authorized pursuant to section 6(b) shall contain a certification by the approving official that "Exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program";

(2) That all waivers of the nationality requirements for services, other than ocean transportation services, authorized pursuant to section 6(b) shall contain a certification by the approving official that "The interests of the United States are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941"; and

(3) That authority to waive source and origin requirements under 6 (a) or (b) above for motor vehicles shall be limited to $50,000 per transaction (exclusive of transportation costs).

8. Authority to waive competition in the procurement of goods and services for country contracts and approve single-source negotiated contracts therefor if the estimated value of the procurement does not exceed $1,000,000 (exclusive of transportation costs); provided, however that the Mission's non-competitive review board finds such waiver justified in accordance with Handbook 11.

9. Authority to waive advertising in the Commerce Business Daily and A.I.D. Bulletin for project funded transactions up $500,000 for professional and technical services, construction services and commodities (excluding transportation costs); provided, however that such waivers shall be granted only where required to avoid serious delay in project implementation. Efforts shall be made, in any event, to secure proposals from a reasonable number of potential contractors.

10. Authority to extend terminal dates for signing such agreements, and meeting initial and additional conditions precedent for a cumulative period of not to exceed 180 days for each, and to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates and Project Assistance Completion Dates (PACDs) for a cumulative period of not to exceed 730 days for each. Provided that such authority shall not be exercised if the result of doing so would:

(a) Cause the total life of the project (e.g. from point of initial obligation and revised PACD) to be in excess of 10 years.

(b) Require additional funding for the project unless the project authorization is formally amended to provide the additional funds; and

(c) Cause a significant change in project purpose.

11. The authorities herein redelegated shall be exercised in accordance with agency handbooks, regulations and other official guidance as modified from time to time. Each officer exercising this authority must obtain necessary engineering, economic, financial, legal and other technical clearances calling on regional or AID/W offices and personnel as appropriate.

12. The authorities herein redelegated shall be exercised by an officer serving in an "Acting" capacity and may also be redelegated by the Director to his or her principal deputy. The authorities contained in section 5 and 6 above may be further redelegated under the general supervision of the Mission Director. This redelegation shall be effective immediately and shall remain in effect until modified or revoked with application to the principal officer in each of the affected countries notwithstanding any change in the name of the A.I.D. office or the title of its principal officer.

13. The signature of the Mission Director or other A.I.D. officer as appropriate under this Redelegation is required for all project or non-project assistance agreements and amendments thereto. The Ambassador or Charge d'Affairs may also sign such project and non-project assistance agreements as have been signed by the Mission Director.

14. The following Redelegation of Authority is hereby revoked: No. 113.3A dated March 10, 1982 in its entirety.

15. This Redelegation shall be effective immediately and shall remain in effect until modified or revoked.

Dated: April 4, 1985.

W. Antoinette Ford,

Assistant Administrator Bureau for Near East.

[FR Doc. 85-17978 Filed 7-29-85; 8:45 am]

BILLING CODE 6116-01-M

A.I.D. Representative in Oman; Redelegation of Authority No. 113.11

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated June 21, 1977 (42 FR 31511), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grant Agreements; No. 40 dated December 29, 1981 (47 FR 1049) with respect to Source, Origin and Nationality for Procurement; No. 113, dated October 15, 1975, and No. 133 dated December 11, 1981, I hereby redelegate to the A.I.D. Representative in Oman authority to exercise any of the following functions assigned to me for the country to which such official is assigned, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to authorize a project or activity if such project or activity:

(a) Does not exceed $10 million over the approved life of the project (except as provided in paragraph 2 below);

(b) Does not present significant policy issues;

(c) Does not require waivers which may only be approved in AID/W or, if such waivers are required, that they have been approved prior to such authorization; and

(d) Does not have a life of project in excess of ten years and that such life of project has been approved in the PID review;

2. Authority to amend project or non-project assistance authorizations executed by any A.I.D. official, if the amendment:

(a) Does not result in a total life of project funding of more than $20 million.

(b) Does not present significant policy issues; and

(c) Does not require waiver which may only be approved in AID/W or, if such waiver are required, that they have been approved prior to such authorization.

3. Authority to negotiate, excute and implement trust agreements, project and non-project assistance agreements (both loan and grant) and amendments thereto duly authorized under the Foreign Assistance Act of 1961, as amended, in accordance with regulations, policies and procedures now or hereafter established or modified and promulgated within A.I.D. This authority shall include, without limitation, the following:

(a) Authority to prepare, negotiate, and excute letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(c) Authority to negotiate, execute and implement all documents ancillary to such agrements.

4. Authority to sign or approve Project Implementation Orders.

5. Authority to review and approve the terms of country contracts, contractors, amendments and modifications to such contracts, and invitations for bids and requests for proposals with respect thereto.

6. Authority to waive, in accordance with the criteria prescribed in Supplement B of A.I.D. Handbook 1:

(a) U.S. source, origin, and nationality requirements to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in countries included in A.I.D. Geographic Code 941 (Selected Free World) and the cooperating country when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); and

(b) U.S. or Code 941 source, origin, and nationality requirements for specific transactions to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in any country included in A.I.D. Geographic Code 899 (Free World) or A.I.D. Geographic Code 935 (Special Free World) when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); provided, however:

(1) That all waivers of source, origin, and nationality for procurement of goods authorized pursuant to section 6(b) shall contain a certification by the approving official that "Exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. Foreign policy objectives and objectives of the foreign assistance program",

(2) That all waivers of the nationality requirements for services, other than ocean transportation services, authorized pursuant to section 6(b) shall contain a certification by the approving official that "The interests of the United States are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941", and

(3) That authority to waive source and origin requirements for motor vehicles shall be limited to $50,000 per transaction (exclusive of transportation costs).

7. Authority to waive competition in the procurement of goods and services for country contracts and approve single-source negotiated contracts therefore if the estimated value of the procurement does not exceed $1,000,000 (exclusive of transportation); provided however that the Mission's non/competitive review board finds such waiver justified in accordance with Handbook 11.

8. Authority to waive advertising in the Commerce Business Daily and A.I.D. Bulletin for project funded transactions up to $500,000 for professional and technical services, construction services and commodities (excluding transportation costs); provided however that such waivers shall be granted only where required to avoid serious delay in project implementation. Efforts shall be made, in any event, to secure proposals

30888 Federal Register / Vol. 50, No. 146 / Tuesday, July 30, 1985 / Notices

from a reasonable number of potential contractors.

9. Authority to extend terminal dates

Dated: April 4, 1985.
W. Antoinette Ford,
Assistant Administrator Bureau for Near East.

services, in countries included in A.I.D. Geographic Code 941 (Selected Free World) and the cooperating country when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); and

(b) U.S. or Code 941 source, origin, and nationality requirements for specific transactions to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in any country included in A.I.D. Geographic Code 899 (Free World) or A.I.D. Geographic Code 935 (Special Free World) when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); provided, however:

(1) That all waivers of source, origin, and nationality for procurement of goods authorized pursuant to section 6(b) shall contain a certification by the approving official that "Exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program";

(2) That all waivers of the nationality requirements for services, other than ocean transportation services, authorized pursuant to section 6(b) shall contain a certification by the approving official that "The interests of the United States are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941"; and

(3) That authority to waive source and origin requirements for motor vehicles shall be limited to $50,000 per transaction (exclusive of transportation costs).

8. Authority to waive competition in the procurement of goods and services for country contracts and approve single-source negotiated contracts therefor if the estimated value of the procurement does not exceed $1,000,000 (exclusive of transportation); provided however that the Mission's non/competitive review board finds such waiver justified in accordance with Handbook 11.

9. Authority to waive advertising in the Commerce Business Daily and A.I.D. Bulletin for project funded transactions up to $500,000 for professional and technical services, construction services and commodities (excluding transportation costs); provided however that such waivers shall be granted only where required to avoid serious delay in project implementation. Efforts shall be made, in any event, to secure proposals from a reasonable number of potential contractors.

10. Authority to extend terminal dates for signing such agreements, and meeting initial and additional conditions precedent for a cumulative period of not to exceed 180 days for each, and to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates and Project Assistance Completion Dates (PACDs) for a cumulative period of not to exceed 730 days for each. Provided that such authority shall not be exercised if the result of doing so would:

(a) Cause the total life of the project (e.g. from point of initial obligation and revised PACD) to be in excess of 10 years.

(b) Require additional funding for the project unless the project authorization is formally amended to provide the additional funds; and

(c) Cause a significant change in project purpose.

11. The authorities herein redelegated shall be exercised in accordance with agency handbooks, regulations and other official guidance as modified from time to time. Each officer exercising this authority must obtain necessary engineering, economic, financial, legal and other technical clearances calling on regional or AID/W offices and personnel as appropriate.

12. The authorities herein redelegated shall be exercised by an officer serving in an "Acting" capacity and may also be redelegated by the Director to his or her principal deputy. The authorities contained in section 5 and 6 above may be further redelegated under the general supervision of the Mission Director. This redelegation shall be effective immediately and shall remain in effect until modified or revoked with application to the principal officer in each of the affected countries notwithstanding any change in the name of the A.I.D. office or the title of its principal officer.

13. The signature of the Mission Director or other A.I.D. officer as appropriate under this Redelegation is required for all project or non-project assistance agreements and amendments thereto. The Ambassador or Charge d'Affairs may also sign such project and non-project assistance agreements as have been signed by the Mission Director.

14. The following Redelegation of Authority is hereby revoked: No. 113.3A dated March 10, 1982 in its entirety.

15. This Redelegation shall be effective immediately and shall remain in effect until modified or revoked.

Dated: April 4, 1985.
W. Antoinette Ford,
Assistant Administrator Bureau for Near East.

[FR Doc. 85-17979 Filed 7-29-85; 8:45 am]
BILLING CODE 6116-01-M

A.I.D. Representative in Oman; Redelegation of Authority No. 113.11

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated June 21, 1977 (42 FR 31511), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grant Agreements; No. 40 dated December 29, 1981 (47 FR 1049) with respect to Source, Origin and Nationality for Procurement; No. 113, dated October 15, 1975, and No. 133 dated December 11, 1981, I hereby redelegate to the A.I.D. Representative in Oman authority to exercise any of the following functions assigned to me for the country to which such official is assigned, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to authorize a project or activity if such project or activity:

(a) Does not exceed $10 million over the approved life of the project (except as provided in paragraph 2 below);

(b) Does not present significant policy issues;

(c) Does not require waivers which may only be approved in AID/W or, if such waivers are required, that they have been approved prior to such authorization; and

(d) Does not have a life of project in excess of ten years and that such life of project has been approved in the PID review;

2. Authority to amend project or non-project assistance authorizations executed by any A.I.D. official, if the amendment:

(a) Does not result in a total life of project funding of more than $20 million.

(b) Does not present significant policy issues; and

(c) Does not require waiver which may only be approved in AID/W or, if such waiver are required, that they have been approved prior to such authorization.

3. Authority to negotiate, excute and implement trust agreements, project and non-project assistance agreements (both loan and grant) and amendments thereto duly authorized under the Foreign Assistance Act of 1961, as amended, in accordance with regulations, policies and procedures now or hereafter established or modified and promulgated within A.I.D. This authority shall include, without limitation, the following:

(a) Authority to prepare, negotiate, and excute letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(c) Authority to negotiate, execute and implement all documents ancillary to such agrements.

4. Authority to sign or approve Project Implementation Orders.

5. Authority to review and approve the terms of country contracts, contractors, amendments and modifications to such contracts, and invitations for bids and requests for proposals with respect thereto.

6. Authority to waive, in accordance with the criteria prescribed in Supplement B of A.I.D. Handbook 1:

(a) U.S. source, origin, and nationality requirements to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in countries included in A.I.D. Geographic Code 941 (Selected Free World) and the cooperating country when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); and

(b) U.S. or Code 941 source, origin, and nationality requirements for specific transactions to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in any country included in A.I.D. Geographic Code 899 (Free World) or A.I.D. Geographic Code 935 (Special Free World) when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); provided, however:

(1) That all waivers of source, origin, and nationality for procurement of goods authorized pursuant to section 6(b) shall contain a certification by the approving official that "Exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. Foreign policy objectives and objectives of the foreign assistance program",

(2) That all waivers of the nationality requirements for services, other than ocean transportation services, authorized pursuant to section 6(b) shall contain a certification by the approving official that "The interests of the United States are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941", and

(3) That authority to waive source and origin requirements for motor vehicles shall be limited to $50,000 per transaction (exclusive of transportation costs).

7. Authority to waive competition in the procurement of goods and services for country contracts and approve single-source negotiated contracts therefore if the estimated value of the procurement does not exceed $1,000,000 (exclusive of transportation); provided however that the Mission's non/competitive review board finds such waiver justified in accordance with Handbook 11.

8. Authority to waive advertising in the Commerce Business Daily and A.I.D. Bulletin for project funded transactions up to $500,000 for professional and technical services, construction services and commodities (excluding transportation costs); provided however that such waivers shall be granted only where required to avoid serious delay in project implementation. Efforts shall be made, in any event, to secure proposals

Dated: April 4, 1985.
W. Antoinette Ford,

Background

The Federal-State Extended

VOL 50 ISS 146 JL 30 1985 UMI

from a reasonable number of potential contractors.

9. Authority to extend terminal dates for signing such agreements and meeting initial and additional conditions precedent for a cumulative period of not to exceed 180 days for each, and to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates and Project Assistance Completion Dates (PACDs) for a cumulative period of not to exceed 730 days for each. Provided that such authority shall not be exercised if the result of doing so would:

(a) Cause the total life of the project (e.g. from point of initial obligation to revised PACD) to be in excess of 10 years;

(b) Require additional funding for the project, unless the project authorization is formally amended to provide the additional funds; and

(c) Cause a significant change in project purpose.

10. The authorities herein redelegated shall be exercised in accordance with agency handbooks, regulations and other official guidance as modified from time to time. Each officer exercising this authority must obtain necessary engineering, economic, financial, legal and other technical clearances calling on regional or AID/W offices and personnel as appropriate.

11. The authorities herein redelegated may be exercised by an officer serving in an "Acting" capacity and may also be redelegated by the Director to his or her principal deputy. The authorities contained in sections 4 and 5 above may be further redelegated under the general supervision of the Mission Director. The redelegation shall be effective immediately and shall remain in effect until modified or revoked, with application to the principal officer in each of the affected countries notwithstanding any change in the name of the A.I.D. office of the title of its principal officer.

12. The signature of the Mission Director or other A.I.D. officer as appropriate under this Redelegation is required for all project and non-project assistance agreements and amendments thereto. The Ambassador or Charge d'Affairs may also sign such project and non-project assistance agreement as has been signed by the Mission Director.

13. The following Redelegations of Authority are hereby revoked:

(a) No. 113.3B dated March 10, 1982 as it affects the subject mission

Dated: April 4, 1985.

W. Antoinette Ford,

Assistant Administrator Bureau of Near East.

[FR Doc. 85-17979 Filed 7-29-85; 8:45 am]

BILLING CODE 6116-01-M

A.I.D. Representatives in Italy, Lebanon and Portugal; Redelegation of Authority No. 113.10

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated June 21, 1977 (42 FR 31511), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grant Agreements; No. 40 dated December 29, 1961 (47 FR 1049) with respect to Source, Origin and Nationality for Procurement; No. 113, dated October 15, 1975, and No. 133 dated December 11, 1961, I hereby redelegate to the A.I.D. Representatives in Italy, Lebanon and Portugal authority to exercise any of the following functions assigned to me for the country to which such official is assigned, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate, execute and implement trust fund agreements, and project and non-project assistance agreements (both loan and grant) and amendments thereto duly authorized under the Foreign Assistance Act of 1961, as amended, in accordance with regulations, policies and procedures now or hereafter established or modified and promulgated within A.I.D. This authority shall include, without limitation, the following:

(a) Authority to prepare, negotiate, and execute letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(c) Authority to negotiate, execute and implement all documents ancillary to such agreements.

2. Authority to sign or approve Project Implementation Orders.

3. Authority to review and approve the terms of country contracts, contractors, amendments and modifications to such contracts, and invitations for bids and requests for proposals with respect thereto.

4. Authority to waive, in accordance with the criteria prescribed in Supplement B of A.I.D. Handbook 1:

(a) U.S. source, origin, and nationality requirements to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in countries included in A.I.D. Geographic Code 941 (Selected Free World) and the cooperating country when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); and

(b) U.S. or Code 941 source, origin, and nationality requirements for specific transactions to permit A.I.D. financing of the procurement of goods and services, other than transportation services, in any country included in A.I.D. Geographic Code 899 (Free World or A.I.D. Geographic Code 935 (Special Free World) when the cost of the goods and services does not exceed $5,000,000 per transaction (exclusive of transportation costs); provided, however:

(1) That all waivers of source, origin, and nationality for procurement of goods authorized pursuant to this section 4(b) shall contain a certification by the approving official that "Exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program";

(2) That all waivers of the nationality requirements for services, other than ocean transportation services, authorized pursuant to section 4(b) shall contain a certification by the approving official that "The interests of the United States are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941"; and

(3) That authority to waive source and origin requirements for motor vehicles shall be limited to $50,000 per transaction (exclusive of transportation costs).

5. Authority to waive competition in the procurement of goods and services for country contracts and approve single-source negotiated contracts therefor if the estimated value of the procurement does not exceed $1,000,000 (exclusive of transportation costs); provided, however, that the field post's non-competitive review board finds such waiver justified in accordance with Handbook 11.

6. Authority to waive advertising in the Commerce Business Daily and A.I.D. Bulletin for project funded transactions up to $500,000 for professional and technical services, construction services and commodities (excluding transportation costs); provided however that such waivers shall be granted only where required to avoid serious delay in project implementation. Efforts shall be made, in any event, to secure proposals from a reasonable number of potential contractors.

7. Authority to extend terminal dates for signing such agreements, and meeting initial and additional conditions precedent for a cumulative period of not to exceed 180 days for each, and to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates and Project Assistance Completion Dates (PACDs) for a cumulative period of not to exceed 730 days for each. Provided that such authority shall not be exercised if the result of doing so would:

(a) Cause the total life of the project (e.g. from point of initial obligation to revised PACD) to be in excess of 10 years;

(b) Require additional funding for the project unless the project authorization is formally amended to provide the additional funds; and

(c) Cause a significant change in project purpose.

8. The authorities herein redelegated shall be exercised in accordance with agency handbooks, regulations and other official guidance as modified from time to time. Each officer exercising this authority must obtain necessary engineering, economic, financial, legal and other technical clearances calling on regional or AID/W offices and personnel as appropriate.

9. The authorities herein redelegated may be exercised by an officer serving in an "Acting" capacity. The authorities contained in sections 4 and 5 above may be further redelegated under the general supervision of the respective principal officer in each of the affected countries. this redelegation shall be effective immediately and shall remain in effect until modified or revoked, with application to the principal officer in each of the affected countries notwithstanding any change in the name of the A.I.D. office or the title of its principal officer.

10. The signature of the A.I.D. Representative, or other A.I.D. officer as appropriate under this Redelegation is required for all project or non-project assistance agreements and amendments thereto. The Ambassador or Charge d' Affairs may also sign such project and non-project assistance agreement as has been signed by the A.I.D. Representative.

11. The following Redelegations of Authority are hereby revoked: (a) Nos. 113.B, dated March 10, 1982 in its entirety.

Dated: April 4, 1985.

W. Antoinette Ford,

Assistant Administrator, Bureau for Near East.

[FR Doc. 85-17980 Filed 7-29-85; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-16248]

Burlington Northern, Inc.—Control Exemption-Victory Freightway System, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 1143(e). the Commission exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the acquisition of control by Burlington Northern, Inc., and Burlington Northern Motor Carriers, Inc. of Victory Freightway System, Inc.

DATE: This exemption will be effective on July 26, 1985.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to: T.S. InfoSystems, Room 2229, Interstate Commerce Commission Building, Washington, D.C. 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: July 11, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Chairman Taylor and Commissioner Simmons dissented in part with separate expressions. Commissioner Lamboley dissented with a separate expression.

James E. Bayne,

Secretary.

[FR Doc. 85-17986 Filed 7-29-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of Idaho

This notice announces the ending of the Extended Benefit Period in the State of Idaho, effective on June 29, 1985.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. Under the Extended Benefit Program, individuals who have exhausted their rights to regular unemployment benefits (UI) under permanent State (and Federal) unemployment compensation laws may be eligible, during an extended benefit period, to receive up to 13 weeks of extended unemployment benefits, at the same weekly rate of benefits as previously received under the State law. The Federal-State Extended Unemployment Compensation Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period, individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Idaho on March 31, 1985, and has now triggered off.

Determination of an "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on June 8, 1985, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending June 29, 1985.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for

Extended Benefits of the ending of the Extended Benefit Period and its effect on the individual's right to Extended

Conclusion

After reconsideration, I affirm the original denial of eligibility to apply for

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements

control room design modification, and specific information to be submitted.

On December 17, 1982, a letter

(estimated date July 1986, depending on the time of restart).

Extended Benefits of the ending of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office in their locality.

Signed at Washington, D.C., on July 23, 1985.

Robert T. Jones,

Acting Deputy Assistant Secretary of Labor.

[FR Doc. 85-18028 Filed 7-29-85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,061]

Philadelphia Steel and Wire Corp., Philadelphia, PA; Negative Determination on Reconsideration

On August 1, 1984, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers producing lockwashers at the Philadelphia Steel and Wire Corporation, Philadelphia, Pennsylvania. This determination was published in the **Federal Register** on August 19, 1984 (49 FR 32919).

A company official in his application for reconsideration claims that the Department's denial was based on imports of washers in general and not specifically on lockwashers. It is also claimed that Philadelphia Steel and Wire's customers may not have been aware of the extent of their imported lockwasher usage.

The Department's denial notice was based on the facts that not only did U.S. imports of washers decrease absolutely in the first nine months of 1983 compared to the same period in 1982 but that customers of Philadelphia Steel and Wire, in general, do not import lockwashers. The survey revealed that the customers which increased purchases of imported washers while decreasing purchases from the subject firm in 1982 compared to 1981 and in 1983 compared to 1982 did not represent a significant proportion of Philadelphia Steel and Wire's sales decline during the relevant period.

On reconsideration, the Department found that U.S. imports of lockwashers decreased, in quantity and value, in the first nine months of 1983 compared to the same period in 1982.

Findings in the Department's survey do not show that Philadelphia Steel and Wire's customers were purchasing imported lockwashers through their domestic suppliers.

Conclusion

After reconsideration, I affirm the original denial of eligibility to apply for adjustment assistance to former workers producing lockwashers at Philadelphia Steel and Wire Corporation, Philadelphia, Pennsylvania.

Signed at Washington, D.C., this 22nd day of July 1985.

Robert A. Schaerfl,

Director, Office of Program Management, UIS.

[FR Doc. 85-18029 Filed 7-29-85; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,782; TA-W-15,782A and TA-W-15,782B]

Smith-Corona, Cortland, NY, Syracuse, NY, New Canaan, CT; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 20, 1985 applicable to all workers of the Cortland, New York plant of Smith-Corona. The Notice of Certification was published in the **Federal Register** on June 4, 1985. (50 FR 23539).

Information and data furnished to the Department show that workers separated at Smith-Corona's Syracuse, New York and New Canaan, Connecticut provided support services to the Cortland production facility and that the decline in production of portable electronic typewriters which was related to increased imports of like or directly competitive articles, reduced the demand for their services. Therefore, the certification is being amended to include workers at the Syracuse and New Canaan facilities.

The certification applicable to TA-W-15,782 is hereby amended and issued as follows:

All workers of Smith-Corona, Cortland, New York, Syracuse, New York, and New Canaan, Connecticut who became totally or partially separated from employment on or after February 11, 1984 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of July 1985.

Robert A. Schaerfl,

Director, Office of Program Management, UIS.

[FR Doc. 85-18027 Filed 7-29-85; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Catalogue/Utilization Section) to the National Council on the Arts will be held on August 20-22, 1985, from 9:00 a.m.-5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC.

This meeting is for the purpose of Panel Review, discussion, evaluation, and recommendation on application for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 23, 1985.

[FR Doc. 85-17966 Filed 7-29-85; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Long Range Plan for NRC; Revised

The **Federal Register** published on Friday, July 19, 1985 (50 FR 29497) contained notice of a meeting of the ACRS Subcommittee on Long Range Plan for NRC to be held on Wednesday, August 7, 1985, 8:30 a.m., Room 1046, 1717 H Street, NW., Washington, DC. To the extent practical the meeting will be open to public attendance. However, portions of the meeting may be closed to discuss predecisional information provided by the NRC Staff. All other items regarding this meeting remain the same as previously announced.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 25, 1985.

John C. McKinley,

Chief, Project Review Branch No. 1.

[FR Doc. 85-18025 Filed 7-29-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

General Public Utilities Nuclear Corp. (Three Mile Island, Unit 1); Order Modifying License To Confirm Additional Licensee Commitments on Emergency Response Capability

I

The General Public Utilities Nuclear Corporation (GPUN) (the licensee) is the holder of Facility Operating License No. DPR-50 which authorizes the operation of the Three Mile Island, Unit 1 (TMI-1) (the facility) at steady-state power levels not in excess of 2535 megawatts thermal. The facility is a pressurized water reactor (PWR) located in Dauphin County, Pennsylvania.

II

Following the accident at Three Mile Island, Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

GPUN responded to Generic Letter 82-33 by letter dated April 15, 1983. By letters dated July 12 and September 1, 1983, GPUN modified several dates as a result of negotiations with the NRC staff. In these submittals, GPUN made commitments to complete the basic requirements. GPUN's commitments included (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. The staff found that these dates were reasonable and achievable dates for meeting the Commission requirements and concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On June 14, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed GPUN's commitments.

IV

The June 14, 1984, Order stated that for those requirements for which GPUN committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the June 14, 1984 Order, GPUN's letters dated October 1 and November 9, 1984, provided completion schedules for the Regulatory Guide 1.97 requirements (Items 3a. and 3b. of the Table attached to the June 14, 1984 Order). All upgrade modifications required to meet Regulatory Guide 1.97 requirements are scheduled to be completed by the second refueling after restart, designated Refueling Outage 7 (estimated date July 1988, depending on the time of restart).

The NRC staff finds that Refueling Outage 7 is a reasonable and achievable date for meeting the Commission requirements for Regulatory Guide 1.97. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of GPUN's commitments is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

V

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, effective immediately, that License No. DPR-50 is modified to provide that the licensee shall:

Implement the specific requirements of Regulatory Guide 1.97 as described in the Licensee's submittals dated October 1 and November 9, 1984, no later than the completion of Refueling Outage 7.

Extension of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

VI

The licensee or any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in section V of this Order.

Dated in Bethesda, Maryland this 18th day of July 1985.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Deputy Director, Division of

ARKANSAS NUCLEAR ONE, UNIT NO. 1; LICENS-

VOL 50 ISS 146 JL 30 1985 UMI

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85-18021 Filed 7-29-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-313]

Arkansas Power and Light Co. (Arkansas Nuclear One, Unit No. 1); Order Modifying License Confirming Additional Licensee Commitment on Emergency Response Capability

I

Arkansas Power and Light Company (AP&L or the licensee) is the holder of Facility Operating License No. DPR-51 which authorizes the operation of Arkansas Nuclear One, Unit No. 1 (the facility) at steady-state power levels not in excess of 2568 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Pope County, Arkansas.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following informtion, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

AP&L responded to Generic Letter 82-33 by letter dated April 15, 1983. In this submittal, AP&L made commitments to complete the basic requirements. AP&L's commitments included (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements.

The NRC staff reviewed AP&L's April 15, 1983 letter and entered into discussions with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG-0737. As a result of these discussions, the NRC staff found that these dates were reasonable and achievable dates for meeting the Commission requirements. The NRC staff concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On June 14, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed AP&L's commitments.

IV

The June 14, 1984, Order stated that for those requirements for which AP&L committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by subsequent order. In conformance with the milestones in the June 14, 1984 Order, AP&L's letter dated June 25, 1984, provided a completion schedule for the following requirement:

3. Regulatory Guide 1.97—Application to Emergency Response Facilities.

3b. Implement (installation or upgrade) requirements.

The attached Table summarizing AP&L's schedular commitment for the above item was developed by the NRC staff from the information provided by AP&L. The staff reviewed AP&L's June 25, 1984 letter and discussed the implementation date with the licensee.

As a result of this discussion, the NRC staff finds that the implementation date is a reasonable and achievable date for meeting the Commission requirements. The NRG staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of AP&L's commitments is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

Accordingly, pursuant to Sections 103, 161i, 161o, and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby ordered, effective immediately, that License DPR-51 is modified to provide that the licensee shall:

Implement the specific item described in the Attachment to this Order in the manner described in AP&L's submittal noted in Section IV herein no later than the date in the Attachment.

Extension of time for completing this item may be granted by the Director, Division of Licensing, for good cause shown.

VI

The licensee or any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Excutive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the license should comply with the requirements set forth in section V of this Order

Dated in Bethesda, Maryland, this 19th day of July 1985.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Frank Miraglia,

Deputy Director, Division of Licensing, Office of Nuclear Reoctor Regulation.

ARKANSAS NUCLEAR ONE, UNIT NO. 1; LICENSEE'S ADDITIONAL COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirements	Licensee's completion schedule (or status)
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3b. Implement (installation or upgrade) requirements.	During the seventh refueling outage (estimated to end March 1986).

[FR Doc. 85-18023 Filed 7-29-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-368]

Arkansas Power and Light Co. (Arkansas Nuclear One, Unit No. 2); Order Modifying License Confirming Additional Licensee Commitment on Emergency Response Capability

I

Arkansas Power and Light Company (AP&L or the licensee) is the holder of Facility Operating License No. NPF-6 which authorizes the operation of Arkansas Nuclear One, Unit No. 2 (the facility), at steady-state power levels not in excess of 2815 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Pope County, Arkansas.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "requirements for Emergency Response Requirements Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter, operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

AP&L responded to Generic Letter 82-33 by letter dated April 15, 1983. In this submittal, AP&L made commitments to complete the basic requirements. AP&L's commitments included (1) dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements.

The NRC staff reviewed AP&L's April 15, 1983 letter and entered into discussions with the licensee regarding schedules for meeting the requirements of Supplement 1 to NUREG-0737. As a result of these discussions, the NRC staff found that the proposed dates were reasonable and achievable dates for meeting the Commission requirements. The NRC staff concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On June 14, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Response Capability" which confirmed AP&L's commitments.

IV

The June 14, 1984, Order stated that, for those requirements for which AP&L committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the June 14, 1984 Order, AP&L's letter dated April 13, 1984 and as supplemented by letter dated November 9, 1984 provided a completion schedule for the following requirement:

3. Regulatory Guide 1.97—Application to Emergency Response Facilities.

3b. Implement (installation or upgrade) requirements.

The attached Table summarizing AP&L's schedular commitment for the above item was developed by the NRC staff from the information provided by AP&L. The staff reviewed AP&L's April 13 and November 9, 1984 letters and discussed the implementation date with the licensee.

As a result of this discussion, the NRC staff finds that the implementation date is a reasonable and achievable date for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of AP&L's commitment is required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

V

Accordingly, pursuant to sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, it is hereby Ordered, effective immediately, that License NPF-6 is modified to provide that the licensee shall:

Implement the specific item described in the Attachment to this Order in the manner described in AP&L's submittals noted in Section IV herein no later than the date in the Attachment.

Extension of time for completing this item may be granted by the Director, Division of Licensing, for good cause shown.

VI

The licensee or any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this Order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee

should comply with the requirements set forth in section V of this Order.

Dated in Bethesda, Maryland, this 19th day of July 1985.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Frank Miraglia,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

III

By letter dated July 20, 1984 the

protection inside containment. Therefore, the exemption request should

trusteeship of United States Trust Company of New York (the "Trust Company") under four existing

Indenture Act of 1939. Said four Indentures are hereinafter called the Indentures and the securities issued

and Citicorp Homeowners, Inc., under which there were issued on May 31, 1985 Mortgage Pass-Through Certificates,

VOL 50 ISS 146 JL 30 1985 UMI

should comply with the requirements set forth in section V of this Order.

Dated in Bethesda, Maryland, this 19th day of July 1985.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Frank Miraglia,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

ARKANSAS NUCLEAR ONE, UNIT NO. 2; LICENSEE'S ADDITIONAL COMMITMENTS ON SUPPLEMENT 1 TO NUREG–0737

Title	Requirements	Licensee's completion schedule (or status)
3. Regulatory Guide 1.97—Application to Emergency Response Facilities.	3b. Implement (installation or upgrade) requirements.	During the sixth refueling outage (estimated to end August 1986).

[FR Doc. 85–18024 Filed 7–29–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–255]

Consumers Power Co. (Palisades Plant); Exemption

I

The Consumers Powers Company (CPC, the licensee) is the holder of Provisional Operating License No. DPR–20 which authorizes operations of the Palisades Plant. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises one pressurized water reactor at the licensee's site located in Van Buren County, Michigan.

II

On November 19, 1980, the Commission published a revised § 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these subsections, III.G., is the subject of the licensee's exemption request. Section III.G.2.d. requires separation of cable and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards.

III

By letter dated July 20, 1984 the licensee requested an exemption from section III.G.2.d. of Appendix R inside of containment. The exemption was requested from the requirement to separate redundant trains with no intervening combustibles.

Inside of containment left and right channel cable trays containing redundant instrumentation circuitry are routed such that they enter containment in separate penetration areas and then pass through containment with at least 35 feet of horizontal separation. At one location inside containment two cable trays containing intervening combustibles (i.e., cables) connect the two redundant sets of trays. To prevent a fire from propagating from one redundant cable tray to the other via the intervening combustibles, fire stops have been installed in the intervening cable trays. The design of the fire stops was reviewed and approved by the staff in a supplement to the Appendix A Fire Protection Safety Evaluation dated March 11, 1980. The intervening combustibles and other in-situ combustibles in the area of the redundant cable tray compile a light fuel load. Strict administrative controls limit transient combustibles being brought into containment during operation. Administrative controls also require removal of all transient combustibles from the containment prior to startup. There are no ignition sources in the area of the redundant cable trays. Fire protection inside containment consists of early warning fire detectors installed in areas of cable concentrations, hose reels and portable fire extinguishers.

Due to the light fuel load, separation of the redundant cable trays and the fire stops installed in the intervening cable trays, the staff has reasonable assurance that one train of instrumentation circuits will be free on fire damage for anticipated fires inside containment. The early warning fire detectors will provide rapid detection of fires inside containment. The light fuel load and strict administrative controls on transient combustibles assure that anticipated fires will be limited in size and duration. The separation of the redundant cable trays and the fire stops installed in the intervening cable trays provide adequate passive protection for the redundant circuits prior to the arrival of the fire brigade and their effective extinguishment of the fire. Based on the above evaluation, the staff concludes that the removal of the intervening combustibles between the redundant cable trays would not significantly increase the level of fire protection inside containment. Therefore, the exemption request should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the requested exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby grants an exemption from the requirements of section III.G.2.d. of Appendix R to 10 CFR Part 50 to the extent it requires separation of cables and equipment and associated non-safety circuits of redundant trains with no intervening cumbustibles installed between the redundant cable trays identified in section III above.

Pursuant to 10 CFR 51.32, the Commission had determined that the granting of this exemption will have no significant impact on the environment (July 5, 1985, 50 FR 27707).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 23th day of July 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85–18022 Filed 7–29–85; 8:45 am]

BILLING CODE 7590–01–M

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

Correction

In FR Doc. 85–16988 beginning on page 29006 in the issue of Wednesday, July 17, 1985, make the following correction: On page 29025, in the second column, under Northeast Nuclear Energy Company, in the seventeenth line under the heading, "*Amendment No. 03*" should read "*Amendment No. 103*".

BILLING CODE 1505–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–14003]

Application and Opportunity For Hearing; Citicorp

July 24, 1985.

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the

trusteeship of United States Trust Company of New York (the "Trust Company") under four existing indentures, and two Pooling and Servicing Agreements dated as of May 1, 1985 under which certificates evidencing interests in a pool of mortgage loans have been issued, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trust Company from acting as Trustee under either of such indentures or the Agreements.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

(1) The Trust Company currently is acting as Trustee under four indentures in which the Applicant is the obligor. The indenture dated as of February 15, 1972 involved the issuance of Floating Rate Notes due 1989, the Indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated Notes, the Indentures dated as of August 25, 1977 involved the issuance of Rising-Rate Notes, Series A and the Indenture dated as of April 21, 1980 involved the issuance of various series of unsecured subordinated Notes. Said Indentures were filed as, respectively, Exhibits 4(a), 2(b), 2(b), and 2(a) to Applicant's respective Registration Statements Nos. 2–42915, 2–58355, 2–59396 and 2–64862 filed under the Securities Act of 1933, and have been qualified under the Trust Indenture Act of 1939. Said four Indentures are hereinafter called the Indentures and the securities issued pursuant to the Indentures are hereinafter called the Notes.

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On May 28, 1985, the Trust Company entered into a Pooling and Servicing Agreement dated as of May 1, 1985 (the "1985-D Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on April 25, 1985 Mortgage Pass-Through Certificates, Series 1985–D 12.25% Pass-Through Rate (the "Series 1985–D Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1985–D Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $103,383,637.40 at the close of business on May 1, 1985, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1985–D Certificates. On May 28, 1985, Applicant, the parent of Citibank, N.A., entered into a Guaranty of even date (the "1985–D Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1985–D Certificates, to be liable for 8% of the initial aggregate principal balance of the 1985–D Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1985–D Guaranty. The 1985 Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1985–D Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1985–D Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S–1 and S–3, File No. 2–96656) as part of a delayed or continuous offering of $350,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1985–D Certificates were offered by a Prospectus Supplement dated May 15, 1985, supplemental to a Prospectus dated March 26, 1985. The 1985–D Agreement has not been qualified under the Trust Indenture Act of 1939.

(4) On May 31, 1985, the Trust Company entered into a Pooling and Servicing Agreement dated as of May 1, 1985 (the "1985–E Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on May 31, 1985 Mortgage Pass-Through Certificates, Series 1985–E, 11.50% Pass-Through Rate (the "Series 1985–E Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1985–E Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $52,180,446.40 at the close of business on May 1, 1985, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1985–E Certificates. On May 31, 1985, Applicant entered into a Guaranty of even date (the "1985–E Guaranty") pursuant to which applicant agreed, for the benefit of the holders of the Series 1985–E Certificates, to be liable for 10% of the initial aggregate principal balance of the 1985–E Mortgage Pool and for lesser amounts in later years pursuant to the provisions for the 1985–E Guaranty. The 1985–E Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1985–E Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1985–E Certificates were registered under the Securities Act of 1933 (Registration Statements on Form S–11 and S–3, File Nos. 2–96656 and 2–80415) as part of a delayed or continuous offering of $500,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1985–E Certificates were offered by a Prospectus Supplement dated May 24, 1985, supplemental to a Prospectus dated May 15, 1985. The 1985–E Agreement has not been qualified under the Trust Indenture Act of 1939.

The 1985–D Agreement and the 1985–E Agreement are hereinafter called the 1985 Agreements, and the 1985–D Guaranty and the 1985–E Guaranty are hereinafter called the 1985 Guarantees, and the 1985–D Certificates and the 1985–E Certificates are hereinafter called the 1985 Certificates.

(5) The obligations of Applicant under the Indentures and the 1985 Guarantees are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1985 Guarantees are unlikely to cause any conflict of interest among the trusteeship of the Trust Company under the Indentures and the 1985 Agreements.

(6) Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission

The proceeds of the sale of the Bonds, net of any underwriters' discount or other expenses payable from proceeds,

Tender Agent, if appointed to facilitate the transfer of Bonds delivered by holders exercising their right to tender.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

withheld under 5 U.S.C. 552, are available for inspection and copying at the Commission's Public Reference

The Commission is publishing this notice to solicit public comment on the proposal.

VOL 50 ISS 146 JL 30 1985 UMI

(6) Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22-14003, which is a public document on file in the Office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C.

Notice is Further given that any interested person may, not later than August 22, 1985, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-18037 Filed 7-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Rel. 35-23772; 70-7127]

Arkansas Power & Light Co.; Notice of Proposal To Enter Into Pollution Control Financing

July 23, 1985.

Arkansas Power & Light Company ("AP&L"), a wholly owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application-declaration subject to sections 6(a), 7, 9(a), 10, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 50(a)(2) and 50(a)(5) thereunder.

AP&L proposes to enter into one or more installment sale agreements ("Agreement") with Pope County, Arkansas ("County") which contemplate the issuance by the County of one or more series of its pollution control revenue bonds ("Bonds") in an aggregate principal amount not to exceed $150 million with a maturity of from 5 to 30 years.

The proceeds of the sale of the Bonds, net of any underwriters' discount or other expenses payable from proceeds, will be deposited by the County with the indenture trustee ("Trustee"). The net proceeds will be applied to permanently finance the costs of that portion of the Pollution Control Facilities ("Facilities") at Arkansas Nuclear One Generating Station, Pope County, Arkansas ("Station") not previously financed by pollution control revenue bonds and additional costs of construction of the Facilities.

Under the Agreement, AP&L is to sell the Facilities to the County for cash, and is to simultaneously repurchase the Pollution Control Facilities from the County for a purchase price, payable on an installment payment basis over a period of years, sufficient (together with any other moneys held by the Indenture Trustee under the Indenture and available for the purpose for the particular series of Bonds involved) to pay the principal or purchase price of, the premium, if any and the interest on such series of Bonds as the same due and payable. Such installment payments are to be made directly to the Trustee pursuant to an assignment and pledge thereof by the County to the Trustee as set forth in the Indenture. Under the Agreement the Company will also be obligated to pay certain fees incurred in the transactions.

Upon the occurrence of certain events relating to the construction or operation of the Station or the Facilities, the Bonds will be redeemable by the County, at the direction of AP&L. Any series of the Bonds may be subject to a mandatory cash sinking fund and they may be subject to mandatory redemption in other cases. The payment by AP&L in such circumstances shall be sufficient to pay the principal of all the Control Bonds, the premium, if any, together with interest accrued or to accrue to the redemption date. The indenture may provide for the application of such of the proceeds of the Bonds which, after completion of the Facilities, may remain unused for the redemption or purchase of the Bonds at the direction of AP&L. The Agreement and the Indenture may provide for an adjustment interest rate for one or more series of the Bonds. The Agreement and the Indenture would also provide that holders of the Bonds would have the right to tender their Bonds for purchase at a price equal to the principal amount plus accured and unpaid interest thereon. Under the Agreement, AP&L would be obligated to pay amounts equal to the amounts to be paid by the Remarketing Agent or the Tender Agent, if appointed to facilitate the transfer of Bonds delivered by holders exercising their right to tender.

In order to obtain a favorable rating on any series of the Bonds to improve their marketability, AP&L may arrange for an irrevocable letter of credit from a bank or banks ("Banks") in favor of the Trustee. In such event, payments with respect to principal, premium, if any, interest and purchase obligations in connection with such series of the Bonds would be secured by, or payable from, funds drawn under the letter of credit. In order to induce the Bank to issue such letter of credit, AP&L would enter into a reimbursement agreement ("Reimbursement Agreement") with the Bank pursuant to which AP&L would agree to reimburse the Bank for all amounts drawn under its letter of credit. As an alternative to securing the Bonds with a letter of credit, AP&L may arrange to have such Bonds secured by a commercial bond insurance company or, in order to obtain security accorded to holders of first mortgage bonds outstanding, AP&L may seek to obtain the authentication of one or more new series of first mortgage bonds. The first mortgage bonds would be issued on the basis of unfunded net property additions and/or previously-retired first mortgage bonds. AP&L requests an exception from the competitive bidding requirements of Rule 50 pursuant Rule 50(a)(5) with respect to the issuance and pledge of the first mortgage bonds insofar as competitive bidding would be inappropriate under the circumstances.

The application-declaration and any amendments thereto is available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 16, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-18034 Filed 7-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-22268; File No. SR-OCC-85-12]

Self-Regulatory Organizations; Options Clearing Corp. Notice of Proposed Rule Change

The Options Clearing Corporation ("OCC") on July 15, 1985 submitted a proposed rule change to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). OCC's proposal would give OCC's Chairman express authority to designate a substitute to perform the Chairman's functions at meetings of OCC's Securities Committee. The Commission is publishing this notice to solicit public comment on the proposal.

OCC's Securities Committee meets on an *ad hoc* basis to determine the appropriateness of adjustments to the terms of outstanding options. Under OCC By-Law Article VI, Section 11, the Committee is comprised of two designated representatives from each exchange on which the subject options are traded, plus the Chairman of OCC.[1] OCC states in its filing that it believes that the Chairman already has implied power under OCC By-Laws to designate a substitute when it is impractical or impossible for the Chairman to participate personally. Nevertheless, to clarify the Chairman's authority in this regard, OCC proposes to give OCC's Chairman express authority to designate any OCC officer [2] to take the Chairman's place at Securities Committee meetings.

OCC believes the proposal will ensure that OCC can continue to react quickly to events affecting outstanding OCC options and therefore to act fairly to all holders and writers of those options in determining the appropriateness of adjustments. OCC therefore believes that the proposal is consistent with section 17A of the Act.

Copies of all documents relating to the propsal, except those that may be withheld under 5 U.S.C. 552, are available for inspection and copying at the Commission's Public Reference Room 450 Fifth Street, NW., Washington, D.C., and at OCC's principal office.

OCC's proposal has become effective under section (19)(b)(3)(A) of the Act. Nevertheless, at any time within 60 days of the filing of the proposal the Commission may summarily abrogate the proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. To assist the Commission in making this determination, the Commission is soliciting comment on the proposal. Please refer to File No. SR-OCC-85-12 and send six copies of comments to the Secretary of the Commission, Securities and Exchange Commission 450 Fifth Street, NW, Washington, D.C. 20549. Comments are invited until August 20, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 24, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-18035 Filed 7-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-22267; File No. SR-OCC-85-11]

Self-Regulatory Organizations; Options Clearing Corp.; Notice of Proposed Rule Change

The Options Clearing Corporation ("OCC") on July 9, 1985 submitted a proposed rule change to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). OCC's proposal would amend OCC By-Laws and Rules to enable OCC to issue, clear and settle European style options on foreign currencies.[1] In addition, OCC's proposal would amend OCC Rule 1606A to broaden the availability of OCC's alternative settlement procedure for large foreign currency option exercises and would amend OCC Rule 1804 to reflect current price intervals for automatic exercise of index options.[2] The Commission is publishing this notice to solicit public comment on the proposal.

OCC states in its filing that European style foreign currency options will be processed similarly to American style (conventional) options. Specifically, OCC states that clearance and settlement of opening and closing trades in European style foreign currency options will be identical to clearance and settlement of trades in American style foreign currency options. Exercises of European style foreign currency options on their expiration date will be processed under the same rules and procedures that currently apply to exercise of American style foreign curency options at expiration. No exercise of European style foreign currency options will be permitted before their expiration date, however. Since OCC expiration dates always fall on Saturdays, the proposal would amend OCC Rule 1605 to clarify that European style options can be exercised on Saturdays rather than a business day. Procedures for assignment of exercise notices to clearing members with open short positions in European style foreign currency options will be identical to procedures for assignment of American style foreign currency option exercise notices.

In OCC By-Law Article XV, Section 1, the definiton of "class of options" with respect to foreign currency options would be amended to include the style of option and the unit of trading for the option. OCC states that it is including the unit of trading within the definition of class of options because the units of trading for foreign currency options proposed by the Chicago Board Options Exchange ("CBOE") are different than those proposed by the Philadelphia Stock Exchange ("PHLX").[3] Consequently, a short foreign currency contract traded on one of the exchanges cannot be paired with a long foreign currency contract traded on the other exchange for purposes of calculating OCC margin.

OCC's proposal also would amend By-Law Article XV, Section 2, to distinguish the rights of holders of European style foreign currency options from those of holders of American style foreign currency options. The only difference in rights is that European style foreign currency options cannot be exercised before their expiration date.

[1] Under OCC By-Law Article VI, Section 11, the Securities Committee acts by majority vote, with the OCC Chairman voting only in the case of a tie. The Committee may transact its business over the telephone. OCC represented to Commission staff that to date OCC's Chairman has not had to vote in a Committee meeting.

[2] OCC has represented to Commission staff that while the Chairman normally would choose a substitute from OCC's legal department, any OCC Assistant Vice President or higher officer would be eligible for designation.

[1] European style options are options that can be exercised only on their expiration date. In a related filing, OCC has proposed By-Law and Rule amendments to enable it to issue, clear and settle European style options. *See* File No. SR-OCC-85-9. Neither filing includes the issuance, clearance or settlement of European style stock options.

[2] The proposal also would correct typographical errors in OCC's By-Laws and Rules.

[3] For convenience, OCC is including "Interpretations and Policies" to By-Law Article XV, Section 1, to enumerate the units of trading proposed by the two exchanges. CBOE units of trading are twice those of the PHLX.

OCC Rule 1601 would be amended to clarify that foreign currency cannot be deposited with OCC in lieu of margin on a permanent basis, would reduce clearing members' financing costs by allowing them to submit a bank

Pilot Program was amended in 1982, and is scheduled to terminate on June 30,

(B) Self-Regulatory Organization's Statement on Burden on Competition

number in the caption above and should be submitted by August 20, 1985.

It is now proposed that the GPU Companies amend the New Credit

VOL 50 ISS 146 JL 30 1985 UMI

OCC Rule 1601 would be amended to clarify that foreign currency cannot be deposited with OCC in lieu of margin on foreign currency options positions. OCC will continue to allow the deposit of underlying securities in lieu of margin on short call option positions, and the deposit of Treasury bills in lieu of margin on short put option positions, for options other than foreign currency options.

OCC Rule 1605 would be amended to accommodate different foreign currency option units of trading in the exercise settlement procedures. Specifically, subparagraph (a)(2) would be amended to permit discharge of a clearing member's settlement obligations prior to the exercise settlement date where the obligations result from netted exercised options of identical terms. Netting of obligations in respect of exercised options whose terms are not identical also discharges a clearing member's settlement obligations, but only on the exercise settlement date and only after the clearing member has paid any remaining required settlement amount.

OCC Rule 1606A would be amended to allow all OCC clearing members obligated to deliver or receive foreign currency on an exercise settlement date to use OCC's alternative settlement procedures for any amount of foreign currency. Those procedures were implemented on a pilot basis in September 1984, and were limited to clearing members receiving more than 100 units of trading of a foreign currency.[4] The proposal would establish the alternative settlement procedure permanently.

Unrelated to foreign currency options, the proposal would amend OCC Rule 1804 to codify price intervals previously established for automatic exercise of index options. Current Rule 1804 allows the OCC Board of Directors to establish such intervals, but does not contain the actual intervals already established and in effect ($25 for customer accounts and $1 for all other accounts). OCC's Board of Directors would continue to have discretion to set different intervals on 30 days notice to all index options clearing members.

OCC believes that its proposal facilitates the prompt and accurate clearance and settlement of European style foreign currency options by applying to those options substantially the same clearing system and rules currently used for American style foreign currency options. OCC believes that expansion of the alternative foreign currency options settlement procedure, on a permanent basis, would reduce clearing members' financing costs by allowing them to submit a bank guarantee two days in advance of settlement date rather than making actual payment two days in advance. OCC therefore believes that the proposal is consistent with Section 17A of the Act.

Copies of all documents relating to the proposal, except those that may be withheld under 5 U.S.C. 522, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C., and at OCC's principal office.

To assist the Commission in determining whether to approve the proposal or to institute disapproval proceedings, the Commission is soliciting public comment on the proposal. Please refer to File No. SR-OCC-85-11 and send six copies of comments to the Secretary of the Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comments are invited until August 20, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 24, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-18036 Filed 7-29-85; 8:45 am]

BILLING CODE 8010-01-M

[4] *See* Securities Exchange Act Release No. 21359 (September 27, 1984), 49 FR 39138 (October 3, 1984).

[Rel. No. 34-22263; File No. SR-PSE-85-18]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange Inc. Relating to Pilot Program for the Appointment and Evaluation of Specialists and the Creation of New Specialist Posts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 8, 1985, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from the interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE filed its Pilot Program for the Appointment and Evaluation of Specialists and the Creation of New Specialist Posts ("Pilot Program") with the Commission on May 4, 1981. The Pilot Program was amended in 1982, and is scheduled to terminate on June 30, 1985. The Exchange is currently preparing proposed amendments to the Pilot Program for review by its Board of Governors. To permit the Exchange to finalize these revisions and submit them to the Commission, the PSE is requesting that the term of the Pilot Program be extended for a period of three months, through September 30, 1985.

In connection with the proposed extension of the Pilot Program, the PSE proposes to amend sections 1(l) and 11 (t) of Rule II of the Rules of the Board of Governors of the PSE, which currently reflect the Pilot Program's scheduled expiration date of June 30, 1985.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Pilot Program was initially filed with the Commission on May 4, 1981, and approved for a period of one year on May 27, 1981. The term of the Pilot Program was subsequently extended several times by the Commission. In December 1982, the Pilot Program was amended. It is currently scheduled to terminate on June 30, 1985.

The PSE's Board of Governors and the Equity Allocation Committee have reviewed certain proposed modifications to the Pilot Program. To permit the Exchange to finalize these proposed modifications and to submit appropriate filings to the Commission, the PSE is requesting a three-month extension of the Pilot Program, to and including September 30, 1985.

The PSE believes that the proposed rule change is consistent with section 6(b) of the Act in general, and in particular section 6(b)(5) and (6)(b)(7).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, participants or Others*

Comments on the proposed rule change were neither solicited nor received by the Exchange.

III. Date of Effectiveness of the Proposed Rule Change and Time Period for Commission Action

To permit the Pilot Program to remain in effect without interruption, the PSE has requested that this filing be approved on an accelerated basis, effective July 1, 1985.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that it will provide the Exchange with the additional time necessary to complete its review of proposed amendments to the Pilot Program and to submit appropriate filings to the Commission, while permitting the Pilot Program to remain in effect without interruption.

I. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission. 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submnisison, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, wil be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 20, 1985.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 23, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-18033 Filed 7-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23769; 70-7060]

Jersey Central Power & Light Company et al., Notice of Proposal To Amend Credit Agreement

July 23, 1985.

Jersey Central Power & Light Company ("JCP&L"), Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Mahlenburg Township, Berks County, Pennsylvania 19605, and Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsyvania 15907, wholly owned subsidiaries of General Public Utilities Corporation ("GPU"), a registered holding company, have filed a post-effective amendment to their declaration in this proceeding subject to secions 6(a), and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 50(a)(2) thereunder.

By order dated March 27, 1985 (HCAR No. 23644), the Commission authorized GPU, JCP&L, Met-Ed and Penelec (collectively "GPU Companies") to enter into a New Credit Agreement dated March 31, 1985 with a group of commercial banks for whom Citibank, N.A. is acting as agent and Chemical Bank is acting as co-agent. The New Credit Agreement provides, among other things, for borrowing by the GPU Companies thereunder, up to a maximum aggregate amount of $150 million, subject to certain conditions, with sublimits applicable to borrowings by GPU and Met-Ed.

The agent and co-agent have previously advised the GPU companies that changes in governmental regulations affecting the determination of the DMM-Bid Rate may, under certain circumstances, increase the cost to the bank, or certain of them, in making advances under the New Credit Agreement bearing interest at the DMM-Bid Rate. Provisions for such a contingency were not provided in the New Credit Agreement.

It is now proposed that the GPU Companies amend the New Credit Agreement to provide for the reimbursement to the banks for the increased cost incurred by the banks in making, funding or maintaining DMM-Bid Rate borrowings under the New Credit Agreement which result from any change in law or governmental regulation or the compliance therewith by any bank. In all other respects, the authorization heretofore granted by the Commission would remain unchanged.

The declaration and any amendments thereto is available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 16, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or oder issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-17998 Filed 7-29-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22264; (SR-NASD-85-11)]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

July 23, 1985.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, submitted on May 24, 1985, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend Schedule D of its By-Laws. Specifically, the proposal provides that data pertaining to the value of mutual funds and yields of money market funds will be collected and disseminated through the National Association of Securities Dealers Automated Quotation System's central computers under the Mutual Fund Quotation Program.

Notice of the proposed rule change together with the terms of substance of

Type of Affected Public: Individuals or households
Small Businesses or Organizations

Washington, DC 20591, telephone (202) 426-3280. Copies of the draft plan may

of environmental impacts in decisionmaking on proposed MARAD

National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); sections 303

Section 3. Responsibilities:

3.01 The *Associate Administrator for*

VOL 50 ISS 146 JL 30 1985 UMI

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22161, June 21, 1985) and by publication in the **Federal Register** (50 FR 26650, June 27, 1985). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

John Wheeler,

Secretary.

[FR Doc. 85-17987 Filed 7-29-85; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980 Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2524, FTS 858-2524.

Type of Request: Regular Submission

Title of Information Collection: Norris Tailwater Landowner Survey

Frequency of Use: Non-recurring

Type of Affected Public: Individuals or households

Small Businesses or Organizations Affected: No

Federal Budget Functional Category Code: 452

Estimated Number of Annual Responses: 80

Estimated Total Annual Burden Hours: 20

Need For and Use of Information: TVA's efforts to improve water quality and flows below Norris Dam have created an improved fishery and a subsequent increase in the number of fishermen using the Clinch River. This questionnaire will provide information which will be used to identify the need for a detailed assessment of perceived benefits or conflicts that may be related to improving water quality in the Norris tailwater.

Dated: July 22, 1985.

John W. Thompson,

Manager of Corporate Services, Senior Agency Official.

[FR Doc. 85-17981 Filed 7-29-85; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development Conference

The Department of Transportation hereby announces a Federal Aviation Administration (FAA) Research, Engineering and Development (R,E&D) Conference. This 2-day conference will commence at 8:30 a.m. on August 14, 1985, in the FAA Auditorium, 3rd floor, FOB-10A, 800 Independence Avenue, SW., Washington, DC.

The purpose of the conference is to present the FAA R,E&D Plan to the aviation community in draft form and to discuss the draft plan with conference attendees. This discussion is expected to solicit the views of individuals on R,E&D needs in general and the draft plan in particular. These individual views will provide guidance in completing the plan.

Copies of the draft plan will be distributed at the conference. In addition to views expressed during conference discussions, written comments on the draft plan will be accepted through September 10, 1985. Comments should be mailed to the address below.

Further information concerning the conference may be obtained from the Systems Studies and Advanced Concepts Division, AES-302, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 426-3280. Copies of the draft plan may be obtained from this address after August 14, 1985.

Issued in Washington, DC, on July 24, 1985.

Jerry W. Bradley,

Acting Manager, Systems Studies/Advanced Concepts Division.

[FR Doc. 85-18009 Filed 7-29-85; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

Final Procedures for Considering Environmental Impacts

AGENCY: Maritime Administration (MARAD), (DOT).

ACTION: Notice—Publication of Final MARAD Procedures for Considering Environmental Impacts, MAO 600-1.

SUMMARY: The Maritime Administration announces its final procedures for considering environmental impacts under the National Environmental Policy Act and implementing regulations of the Council of Environmental Quality and the Department of Transportation. The procedures are issued as Maritime Administrative Order (MAO) 600-1, "Procedures for Considering Environmental Impacts."

EFFECTIVE DATE: These procedures are effective July 30, 1985.

FOR FURTHER INFORMATION CONTACT: Michael E. Myrtle, U.S. Department of Transportation, Maritime Administration, MAR-318, Room 7225, 400 Seventh Street, SW., Washington, D.C.; telephone (202) 426-5816.

SUPPLEMENTARY INFORMATION: The Council on Environmental Quality (CEQ) published regulations (40 CFR Parts 1500-1508, 43 FR 55978, November 29, 1978) establishing uniform procedures for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.). Under part 1507 of the CEQ regulations, Federal agencies must adopt any necessary implementing procedures after publishing them for public comment and submitting them to CEQ for review. The final MAO 600-1 is issued in accordance with that requirement.

The proposed MAO 600-1 was prepared in response to the CEQ regulations and Department of Transportation Order 5610. 1C, "Procedures for Considering Environmental Impacts," to provide in a single document the basic MARAD policies and procdures for consideration of environmental impacts in decisionmaking on proposed MARAD actions. The order was reviewed within the Department of Transportation and by the CEQ. It was then published for public comment in the **Federal Register** March 22, 1985 (50 FR 11606) with a correction April 1, 1985 (50 FR 12887). The comment period closed April 22, 1985. Comments were received only from the United States Environmental Protection Agency (EPA) and the National Trust for Historic Preservation (NTHP).

The EPA, by letter dated April 22, 1985, suggested minor editorial changes to clarify that: (1) Actions other than those listed in appendix 1 require National Environmental Policy Act documentation, i.e., preparation of an environmental assessment, and finding of no significant impact or environmental impact statement; and (2) appendix 2 is onlyt to be used for actions specifically listed in appendix 1, i.e., categorical exclusions. We have revised the language in section 4.05 and appendix 2 of the final MAO 600-1 to accommodate that suggested changes.

The NTHP, by letter dated April 16, 1985, and signed by its President, commented that actions qualifying under nearly all ten of the proposed categorical exclusions could affect National Register of Historic Places properties. Accordingly, the NTHP recommended that rather than providing qualifying language in each of the ten exclusions, as was propcsed for two of them, a qualifying paragraph applicable to all exclusions should be inserted just before the exclusion list. We have added such qualifying language to the second sentence of the introductory paragraph of appendix 1 of the final MAO 600-1. Also, since this added language adequately qualifies all exclusions, we have deleted the previously proposed qualification language from exclusions 6 and 9.

The final order has been reviewed within the Department of Transportation and in consideration of the comments received and their accomodation in the final order, no further review is deemed necessary for issuance of the order.

Accordingly, MARAD publishes the following final MAO 600-1 entitled "Procedures for Considering Environmental Impacts." (National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.); the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.); sections 176 and 309 of the Clean Air Act, as amended (42 U.S.C. 7401 et seq.); section 4(F), Department of Transportation Act of 1966, as amended (49 U.S.C. 1653(f)); section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); sections 303 and 307 of the Coastal Zone Management Act of 1972 (43 U.S.C. 1241); section 2 of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.); section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531 et seq.); the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.); Executive Order 11514, dated March 4, 1970, as amended by Executive Order 11991, dated May 24, 1977; Executive Order 12114, dated January 4, 1979; 40 CFR Parts 1500-1508; DOT Order 5610.1C, as amended (44 FR 56420, October 1, 1979)).

By Order of the Maritime Administrator.

Dated: July 25, 1985.

Georgia P. Stamas,

Secretary, Maritime Administration.

Maritime Administrative Order 600-1—Procedures for Considering Environmental Impacts

Section 1. Purpose:

This order prescribes the policies and procedures for consideration of environmental impacts in decisionmaking on proposed Maritime Administration actions. This order supplements Department of Transporation Order DOT 5610.1C, "Procedures for Considering Environmental Impacts," which is the basic reference document.

Section 2. Background:

2.01 The National Environmental Policy Act (NEPA) established certain policies and goals concerning the environment and requires that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with those policies and goals. Section 102 of NEPA is designed to insure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government.

2.02 The Council on Environmental Quality (CEQ) has issued regulations for implementation of the procedural provisions of NEPA (40 CFR Parts 1500-1508). These regulations apply uniformly to and are binding upon all Federal agencies, and direct each agency to adopt implementing procedures which relate the CEQ regulations to the specific needs of that agency's programs and operating procedures.

2.03 This order implements within the Maritime Administration the mandate of NEPA, as defined and elaborated upon by CEQ's regulations, and by DOT 5610.1C. These directives provide that information on environmental impacts of proposed actions will be made available to public officials and citizens through environmental documents (namely, environmental assessments, findings of no significant impact, and environmental impact statements).

Section 3. Responsibilities:

3.01 The *Associate Administrator for Shipbuilding, Operations, and Research* is the Coordinator of Environmental Activities for the Maritime Administration (Coordinator); and as such, shall direct the functions required of the Maritime Administration to implement the provisions of NEPA, CEQ regulations, and DOT 5610.1C. This includes serving as a focal point where interested persons can get information or status reports on environmental documents and other elements of the NEPA process.

3.02 The *Chief Counsel* shall:

1 Act as legal advisor to the Coordinator with respect to all environmental matters;

2 Upon request, review and comment upon any tentative determination by the Coordinator that a proposed action by the Maritime Administration requires the initiation of an environmental assessment or environmental impact statement; and;

3 Perform a legal review of all proposed final environmental assessments, draft and final environmental impact statements, and final findings of no significant impact.

3.03 *Associate Administrators, Independent Office Directors, and Other Officials* shall, at the earliest possible time, inform the Coordinator through proper channels of all proposed actions (including actions proposed by nonfederal applicants) under their jurisdiction which may have an impact on the environment. They shall assist the Coordinator in the review of such actions and in the preparation of environmental documents, as applicable, and shall assure implementation of mitigation measures identified in these documents.

3.04 *All Maritime Administration personnel* engaged in programs and projects which may have an environmental impact shall become thoroughly familiar and comply with this order, DOT 5610.1C, and the CEQ regulations.

Section 4. Procedures—Maritime Administration Actions:

4.01 The Coordinator, or designated representative, shall conduct a preliminary analysis of any proposed action received pursuant to this order to determine whether the preparation of an environmental document (see section 2.03, above) is required.

1 If preparation of an environmental document is not required on the part of the Maritime Administration, i.e., the proposed action is a categorical exclusion (see section 4.05, below), the Coordinator shall so notify the referring official.

2 If the preparation of an environmental document is required on the part of the Maritime Administration, the Coordinator shall direct the preparation of either an environmental assessment or an environmental impact statement (if it is obvious that an impact statement is required), obtaining the assistance and clearance of cognizant officials as necessary.

3 Based on the results of the environmental assessment, the Coordinator shall direct preparation of either an environmental impact statement or a finding of no significant impact.

4.02 In preparing and processing draft and final environmental assessments, findings of no significant impact, and environmental impact statements, the Coordinator shall consult with Associate Administrators and other officials and prepare a coordinated Maritime Administration response to the request. The Coordinator shall also assure that the views of the Maritime Administration are made available to the referring official.

4.03 The Coordinator shall assure that the Maritime Administration complies with the time limits established by CEQ regulations and DOT 5610.1C.

4.04 The Coordinator shall assure that the Maritime Administration complies with the requirements of CEQ regulations and DOT 5610.1C for publication of notices of intent to prepare environmental impact statements, notices of availability of draft and final environmental impact statements, and notices of availability of findings of no significant impact.

4.05 Actions Normally Requiring Neither an Environmental Assessment nor an Environmental Impact Statement. Maritime Administration actions normally requiring neither an environmental assessment nor an environmental impact statement are listed in appendix 1 to this order. However, the Coordinator shall require an environmental assessment or environmental impact statement if the proposed action is a type listed in appendix 1 but may cause significant environmental impacts.

4.06 Actions Normally Requiring an Environmental Impact Statement. Maritime Administration actions normally requiring an environmental impact statement are listed in appendix 2 to this order. However, the Coordinator may find that the proposed action is a type listed in appendix 2 but will not cause significant environmental impacts.

4.07 Environmental Assessments. Environmental assessments shall be prepared in accordance with section 1508.9 of CEQ regulations and section 4.02 of DOT 5610.1C.

4.08 Findings of No Significant Impact. Findings of no significant impact shall be prepared in accordance with section 1508.13 of CEQ regulations and section 4.03 of DOT 5610.1C.

4.09 Environmental Impact Statements. Environmental impact statements shall be prepared in accordance with sections 1502.1 through 1502.18 of CEQ regulations and section 4.04 of DOT 5610.1C.

4.10 Mitigation. Mitigation measures shall be considered, developed, and assessed in accordance with CEQ regulations and DOT 5610.1C. Measures determined to be necessary shall be monitored when appropriate.

Section 5. Procedures—Applicant Actions:

5.01 Applicants shall submit sufficient information to the Coordinator to enable the Maritime Administration to prepare an environmental assessment or environmental impact statement. Applicants may be required to submit environmental data, analyses, or studies.

5.02 Applicants shall submit sufficient information to the Coordinator to enable the Maritime Administration to determine whether the proposed action is a categorical exclusion, or is likely to require an environmental assessment or environmental impact statement.

5.03 Applicants shall submit sufficient information to the Coordinator to enable the Maritime Administration to prepare a finding of no significant impact.

5.04 Applicants shall submit sufficient information to the Coordinator to enable the Maritime Administration to prepare an environmental impact statement.

5.05 Applicants shall submit sufficient information to the Coordinator to enable the Maritime Administration to prepare a mitigation plan.

5.06 Applicants shall submit sufficient information to the Coordinator to enable the Maritime Administration to prepare a monitoring plan.

Section 6. Definitions:

6.01 Definitions of terms used in this order are contained in section 1508 of CEQ regulations and section 6 of DOT 5610.1C.

Section 7. Appendixes:

7.01 Appendix 1 lists Maritime Administration actions normally requiring neither an environmental assessment nor an environmental impact statement.

7.02 Appendix 2 lists Maritime Administration actions normally requiring an environmental impact statement.

Appendix 1—Maritime Administration Actions Normally Requiring Neither an Environmental Assessment nor an Environmental Impact Statement

1. Routine personnel actions.

2. This action would have significant effect on wildlife resources or would affect unique geographical features such as:

on Federal bonds in hereby terminated effective June 30, 1985.

[Dept. Circ. 570, 1984 Rev., Supp. No. 27]

4.02 In preparing and processing draft and final environmental assessments, findings of no significant impact, and environmental impact statements, the Coordinator and all other officials involved shall comply with the applicable procedures set forth in DOT 5610.1C and this order.

4.03 When programmatic and legal clearances have been obtained for a final environmental assessment, draft or final finding of no significant impact, or *draft* environmental impact statement, the Coordinator may approve the document(s). The Coordinator shall submit all *final* environmental impact statements to the Maritime Adminstrator for approval.

4.04 An environmental impact statement shall be prepared for any proposed Maritime Administration action which could significantly affect the environment. Environmental impact statements have been prepared for such major Maritime Administration programs as: (1) Tanker Construction Program, (2) Tank Vessels Engaged in Domestic Trade, (3) Bulk Chemical Carrier Program, (4) Vessels Engaged in Offshore Oil and Gas Drilling Operations, and (5) Chemical Waste Incinerator Ship Program.

4.05 Categorical exclusions are Maritime Administration actions or groups of actions that do not have a significant effect on the quality of the human environment, individually or cumulatively. Categorical exclusions do not require preparation of environmental documents. Appendix 1 of this order describes the Maritime Administration's categorical exclusions. Appendix 2 provides a means for determining whether specific circumstances exist in exceptional cases which render the exclusion in Appendix 1 inoperative. The Coordinator's determination that an action qualifies under a categorical exclusion shall be final.

Section 5. Procedures—Requests for Comments Relative to Actions of Other Agencies:

5.01 The Coordinator shall be the Maritime Administration's receiving official for all requests from the Department for comments on environmental assessments and environmental impact statements of other agencies both within and outside the Department. Such requests are normally received from the Environmental Division, Office of Transportation Regulatory Affairs (OST). If a Maritime Administration official receives a request for comments from other than the Coordinator, the request shall be forwarded promptly to the Coordinator. All requests shall be reviewed by the Coordinator to determine whether the Maritime Administration can provide useful and constructive comments concerning the action involved. This review and comment process shall be coordinated with Associate Administrators and other officials, as required. All Associate Administrators and other cognizant officials shall cooperate with the Coordinator in providing comments on a timely basis so that the Coordinator may respond to the Department or requesting agency in a similar manner (see paragraph 9., DOT 5610.1C).

5.02 The Coordinator shall assess the comments received from Associate Administrators and other officials and prepare a coordinated Maritime Administration response to the request. When considered appropriate, such response shall be forwarded to the Chief Counsel and to Associate Administrators and other officials involved for concurrence prior to its being forwarded to the Department. If the response is direct to the requesting agency, the Coordinator shall provide a copy of the response to the Assistant Secretary for Policy and International Affairs (OST).

Section 6. International Actions:

Due to the international character of merchant shipping, program officials should take special note of the provisions of paragraph 10., DOT 5610.1C.

Garrett E. Brown, Jr.,

Acting Deputy Maritime Administrator.

Appendix 1—Maritime Administration Actions Which Are Not Normally Major Actions Significantly Affecting the Environment (i.e., Categorical Exclusions)

Actions that do not individually or cumulatively have a significant effect on the environment are categorically excluded and thus do not require an environmental assessment or an environmental impact statement. The below listed actions are categorical exclusions for the Maritime Administration, except actions having an effect on properties on or eligible for listing on the National Register of Historic Places and in specific cases where there is or may be a significant environmental impact. In such exceptional cases, appendix 2 should be used to determine if preparation of an environmental assessment or impact statement is required.

1. Administrative procurements (e.g., general supplies), contracts for personal services, personnel actions, project amendments which do not significantly alter the environmental impact of an action; and operating or maintenance subsidies, ship financing guarantees, deferred tax programs, etc., not resulting in a change in the effect on the environment.

2. Research studies and activities, including those at the Computer-Aided Operations Research Facility, which do not involve the direct construction of facilities.

3. Internal orders and procedures not required to be published in the Federal Register, promulgation of rules, regulations, directives, and amendments thereto which do not require a regulatory impact analysis under section 3 of Executive Order 12291 or do not have a potential to cause a significant effect on the environment; routine enforcement of statutes, rules, and safety and environmental standards and requirements, e.g., enforcement of statutes and rules regarding transfer of certain U.S.-flag vessels to any person not a citizen of the United States (sections 9, 37 when operative, and 41, Shipping Act, 1916, as amended) and enforcement of requirements for admission to the United States Merchant Marine Academy (section 1303, Merchant Marine Act, 1936, as amended and 46 CFR Part 310, Subpart C); and hearings, meetings and public affairs activities.

4. Reconstruction, modification, modernization, replacement, repair, and maintenance (including emergency replacement, repair, or maintenance) of equipment, facilities, or structures which do not change substantially the existing character of the equipment/facility/structure.

5. Purchase, installation, or replacement of operating or maintenance equipment to be located within a Maritime Administration facility and with no significant physical impacts off the site.

6. Acquisition of land in which the property will not be modified, its use will not be changed, and displacements will not occur.

7. Project or program actions for which applicable environmental documentation has been prepared previously and environmental circumstances have not subsequently changed.

8. Excessing and disposing of Maritime Administration personal or real property to the General Services Administration or otherwise; use of space in Maritime Administration-owned buildings or buildings which are constructed for or controlled by the General Services Administration; lease of existing buildings; lease of space for a term of one year or less; and renewal of existing leases that do not involve significant changes in use of the property.

9. Demolition and removal of buildings and other structures; water, sewage, electrical, gas, or other utility extensions of temporary duration; new gardening or landscaping, or the maintenance of existing landscape; filling of earth into previously excavated land with material compatible with the natural features of the site; minor trenching and backfilling where the surface is restored and excavated material is protected against wash and runoffs; grading on land with a slope of less than 10 percent; removal of obstructions on Maritime Administration property; and erosion control actions with no off-Maritime Administration property impact.

10. Construction on Maritime Administration installations of small (30,000 square feet or less) structures such as storage buildings, garages, small parking areas, foot or bicycle path; installation of signs, fences, and security lighting; minor expansion of facilities which require no additional land; and where expansion is due to remodeling of space in current quarters or existing buildings.

Appendix 2.—Categorical Exclusion Checklist

Project(s): _____

Date: _____

Nature of Action(s): _____

Exclusion Category: No. _____ _____

Topic _____

Instructions: For the above action(s) under the subject project or group of homogeneous projects, check the appropriate answer to each of the questions below. If all the answers on this list are checked "No," then the action(s) meet the criteria for categorical exclusion. If any answer is checked "Yes" or "Uncertain," then an environmental assessment will be prepared unless there is no doubt that an environmental impact statement is required.

1. This action would have significant effect on public health or safety.
No ____ Uncertain ____ Yes ____
2. This action would have significant effect on wildlife resources or would affect unique geographical features such as: wetlands, wild or scenic rivers, refuges, floodplains, etc., or lands protected by section 4(f) of the DOT Act.
No ____ Uncertain ____ Yes ____
3. This action will have highly controversial environmental effects.
No ____ Uncertain ____ Yes ____
4. This will have highly uncertain environmental effects or involve unique or unknown environmental risk.
No ____ Uncertain ____ Yes ____
5. This action will establish a precedent for future actions.
No ____ Uncertain ____ Yes ____
6. This action is related to other actions with individually insignificant but cumulatively significant effects.
No ____ Uncertain ____ Yes ____
7. This action will affect properties listed or eligible for listing in the National Register of Historic Places, or otherwise protecterd by section 106 of the National Historic Preservation Act.
No ____ Uncertain ____ Yes ____
8. This action will affect a species listed or proposed to be listed as Endangered or Threatened.
No ____ Uncertain ____ Yes ____
9. This action is inconsistent with Federal, State, local or tribal law or requirements imposed for protection of the environment.
No ____ Uncertain ____ Yes ____
10. This action or group of actions would involve unresolved conflicts concerning alternative uses of available resources.
No ____ Uncertain ____ Yes ____

Conclusion:
NEPA Action-Categorical Exclusion _____
EA Required _____
EIS Required _____
Explanation and/or Remarks: _____
Preparer's Name and Title: _____
Concur: _____
Date: _____
(Signature, Name, and Title of Program Official)
Concur: _____
Date: _____
(Signature, Name, and Title of Environmental Activities Coordinator)

[FR Doc. 85-18019 Filed 7-29-85; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1984 Rev., Supp. No. 29]

Aetna Fire Underwriters Insurance Co.; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Aetna Fire Underwriters Insurance Company, under sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1985.

The company was last listed as an acceptable surety on Federal bonds at 49 FR 27248, July 2, 1984.

With respect to any bonds currently in force with Aetna Insurance Company, bond-approving officers for the Government may let bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634-2349.

Dated: July 19, 1985.

W. E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 85-17951 Filed 7-29-85; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1984 Rev., Supp. No. 30]

Aetna Insurance Co. Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Aetna Insurance Company, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1985.

The company was last listed as an acceptable surety on Federal bonds at 49 FR 27248, July 2, 1984.

With respect to any bonds currently in force with Aetna Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634-2349.

Dated: July 19, 1985.

W.E. Douglas,

Commissioner, Financial Monogement Service.

[FR Doc. 85-17952 Filed 7-29-85; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1984 Rev., Supp. No. 27]

Covenant Insurance Co.; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Covenant Insurance Company, under sections 9304 to 9306 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds was terminated effective June 30, 1985.

The Company was last listed as an acceptable surety on Federal bonds at 49 FR 27252, July 2, 1984.

With respect to any bonds currently in force with Covenant Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, now bonds should be accepted from the Company.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634-2349.

Dated: July 19, 1985.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 85-17954 Filed 7-29-85; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1984 Rev., Supp. No. 31]

Florida Farm Bureau Mutual Insurance Co.; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Florida Farm Bureau Mutual Insurance Company, of Gainesville, Florida, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1985.

The company was last listed as an acceptable surety on Federal bonds at 49 FR 27253, July 2, 1984.

With respect to any bonds currently in force with Florida Farm Bureau Mutual Insurace Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the

Treasury, Washington, D.C. 20226, telephone (202) 634-2319.

[Dept. Circ. 570, 1984 Rev., Supp. No. 28]

The Canadian Indemnity Co.; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to The Canadian Indemnity Company, under sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1985.

The company was last listed as an acceptable surety on Federal bonds at 49 FR 27252, July 2, 1984.

With respect to any bonds currently in force with The Canadian Indemnity Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634-2349.

Dated: July 19, 1985.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 85-17953 Filed 7-29-85; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

VOL 50 ISS 146 JL 30 1985 UMI

Treasury, Washington, D.C. 20226, telephone (202) 634–2319.

Dated: July 19, 1985.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 85–17949 Filed 7–29–85; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1984 Rev., Supp. No. 32]

Northern Insurance Company of New York; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Northern Insurance Company of New York, of Baltimore, Maryland, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective June 30, 1985.

The company was last listed as an acceptable surety on Federal bonds at 49 FR 27258, July 2, 1984.

With respect to any bonds currently in force with Northen Insurance Company of New York bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634–2319.

Dated: July 19, 1985.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 85–17950 Filed 7–29–85; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1984 Rev., Supp. No. 28]

The Canadian Indemnity Co.; Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to The Canadian Indemnity Company, under Sections 9304 to 9308 of Title 31 of the United States Code, to qualify as an acceptable surety on Federal bonds was terminated effective May 31, 1985.

The company was last listed as an acceptable surety on Federal bonds at 49 FR 27263 July 2, 1984.

With respect to any bonds currently in force with The Canadian Indemnity Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, D.C. 20226, telephone (202) 634–2349.

W.E. Douglas,

Commissioner, Financial Management Service.

Dated: July 19, 1985.

[FR Doc. 85–17953 Filed 7–29–85; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit entitled, "Ramses the Great" or "Ramses II: The Pharaoh and His Time" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the Egyptian Antiquities Organization and the participating United States cities and organizations. I also determine that the temporary exhibition or display of the listed exhibit objects at the Brigham Young University, Provo, Utah, beginning on or about October 25, 1985, to on or about April 8, 1986; by the Jacksonville Art Museum in Jacksonville, Florida, beginning on or about November 15, 1986, to on or about March 15, 1987; and in the City of Memphis, Tennessee, beginning on or about April 15, 1987, to on or about August 31, 1987, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: July 24, 1985.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 85–17967 Filed 7–29–85; 8:45 am]

BILLING CODE 6230–01–M

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[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 50, No. 146
Tuesday, July 30, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Communications Commission	1
Federal Home Loan Bank Board	2
Federal Reserve System	3

1

FEDERAL COMMUNICATIONS COMMISSION

July 25, 1985.

The Federal Communications Commission considered an additional item on the subject listed below at the Open Meeting scheduled for 9:30 a.m. Thursday, July 25, 1985, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—8—Title: Applications for authority to construct, launch and/or operate space stations in the domestic Fixed-Satellite Service filed by Alascom, Inc., American Satellite Company, American Telephone and Telegraph Company, Cablesat General Corporation, Columbia Communications Corporation, COMSAT General Corporation, Digital Telesat, Inc., Equatorial Communication Services, Federal Express Corporation, Ford Aerospace Satellite Services Corporation, GTE Satellite Corporation, GTE Spacenet Corporation, Hughes Communications Galaxy, Inc., Martin Marietta Communications Systems, Inc., National Exchange, Inc., Rainbow Satellite, Inc., RCA American Communications, Inc., Satellite Business Systems, Systematics General Corporation, United States Satellite Systems, Inc., and The Western Union Telegraph Company. Summary: The Commission will consider the appropriate actions to be taken on the pending space station applications filed by the companies listed above.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission July 25, 1985: Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this additional item.

Additional information concerning this item may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–18044 Filed 7–26–85; 9:18 am]

BILLING CODE 6712–01–M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10:00 a.m., Thursday, August 1, 1985.

PLACE: Board Room, 6th Floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Martha Gravlee.

MATTERS TO BE CONSIDERED: ARM Booklet Distribution.

Jeff Scooyers,

Secretary.

[FR Doc. 85–18134 Filed 7–26–85; 3:50 pm]

BILLING CODE 6720–01–M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, August 5, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Building renovation proposals regarding the Federal Reserve Bank of Cleveland.
2. Proposed purchase of computers within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 26, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–18152 Filed 7–26–85; 4:20 pm]

BILLING CODE 6210–01–M

VOL 50 ISS 146 JL 30 1985 UMI

Tuesday

VOL
50

ISS
146

JL
30

1985

UMI

federal register

Tuesday
July 30, 1985

Part II

Environmental Protection Agency

40 CFR Parts 261 and 271
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Rule

VOL 50 ISS 146 JL 30 1985 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 271

[SWN-FRL 2835-4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to amend its regulations under the Resource Conservation and Recovery Act (RCRA) by adding four spent solvents and distillation bottoms from the recovery of these solvents to the current hazardous waste listings. The Agency also is proposing to amend the list of commercial chemical products which are hazardous wastes when discarded by adding one of these solvents, as well as adding two of these solvents to the list of hazardous constituents in Appendix VIII of Part 261. The effect of this proposed regulation, if promulgated, would be to subject these wastes to the hazardous waste management standards contained in 40 CFR Parts 262–266, Part 124, and the permitting requirements of Parts 270 and 271.

DATES: EPA will accept public comments on this proposed rule until September 13, 1985. Any person may request a hearing on this amendment by filing a request with Eileen B. Claussen, whose address appears below, by August 14, 1985.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should identify the regulatory docket "Listing Four Spent Solvents and Still Bottoms from the Recovery of These Solvents." Requests for a hearing should be addressed to Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460.

The public docket for this amendment is located in Room S-212E, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Mr. Robert Scarberry, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-4761.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published a list of hazardous wastes generated from non-specific sources. This list has been amended several times, and is published in 40 CFR 261.31. It includes 27 commonly used organic solvents. These solvents are identified as EPA Hazardous Wastes Nos. F001, F002, F003, F004, and F005.

Today EPA is proposing to add spent 1,1,2-trichloroethane and the still bottoms from the recovery of this spent solvent to the generic F002 listing, and benzene, 2-ethoxyethanol, and 2-nitropropane, as well as still bottoms from the recovery of these spent solvents to the generic F005 listing. These wastes are described below and in the listing background document.[1] The hazardous constituents in these wastes are the solvents themselves, which are known to cause either carcinogenic, teratogenic, adverse reproductive, or other chronic toxic effects in laboratory animals. Also, benzene has been determined to cause leukemia in humans.

These solvents typically are present at concentrations ranging from 1 to 95 percent in the wastes, are moderately to highly mobile in air and water, are expected to be persistent in ground water, and can reach environmental receptors in harmful concentrations if these wastes are mismanaged. In addition, these solvents tend to degrade liners and thus may leach from land disposal facilities into ground or surface water, or form solutions of other hazardous substances, thereby rendering those compounds more mobile in the environment. Furthermore, three of these solvents (benzene, 2-ethoxyethanol, and 2-nitropropane) are also ignitable in their pure form and it is expected that the corresponding spent solvent will also exhibit the characteristic of ignitability as these wastes typically contain significant concentrations (*i.e.*, between 50 and 95 percent) of the solvent. The data collected by the Agency show that the still bottoms from the recovery of the subject solvents typically contain between 1 to 20 percent of these toxic solvents; in general, these recovery still bottoms are not expected to be ignitable.

EPA has evaluated these wastes against the criteria for listing hazardous wastes provided in 40 CFR 261.11(a)(3), and has determined that these wastes are hazardous because they are capable of posing a substantial present or potential threat to human health and the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Also, it should be noted that section 222 of the Hazardous and Solid Waste Amendments of 1984 requires the Agency to determine whether or not to list wastes from a number of industrial sectors and operations, including the use of solvents. This proposal responds to Congress' request to consider listing additional solvents.

These proposed spent solvent listings will apply to wastes which result from the use of individual solvents identifiable as any technical grades of the solvents that are produced or marketed. These solvents are considered "spent" and are regulated under Subtitle C of RCRA when they no longer meet the specifications for which the solvent was originally used because they have become contaminated with physical or chemical impurities and are no longer fit for use without being regenerated, reclaimed, or otherwise reprocessed. This proposed listing does not cover manufacturing process wastes which are contaminated with solvents. Such wastes, if determined to be hazardous, would be listed individually.

The Agency realizes that a major regulatory loophole exists which allows wastes which result from the use of solvent mixtures containing one or more of the spent solvents to remain unregulated. In another regulatory action, however, the Agency proposed to consolidate the F001 through F005 listings into F001 and to amend the subsequent F001 listing by establishing a quantity and volume "cut-off" for solvent mixtures. See 50 FR 18378, April 30, 1985. Specifically, the Agency is proposing to expand the universe of wastes considered "spent solvents" to include any solvent mixture or blend which contains, in total, 10 percent or more of one or more listed solvents. The Agency intends to incorporate the four solvents which are the subject of this **Federal Register** notice under the consolidated F001 listing when this solvent mixture rule is promulgated.

[1] The listing background document is available in the public docket at the address cited above.

II. Summary of the Regulation

A. List of Wastes

This proposed regulation would list as hazardous the following wastes generated in conjunction with the use of four solvents:

F002—
- Spent 1,1,2-trichloroethane (T) and still bottoms from its recovery (T).

F005—
- Spent 2-ethoxyethanol (I,T) and still bottoms from its recovery (T),
- Spent benzene (I,T) and still bottoms from its recovery (T), and
- Spent 2-nitropropane (I,T) and still bottoms from its recovery (T).

The total quantities of the organic residual wastes from the use of these four solvents are estimated to be as follows:

Solvent	Spent solvent generation (kkg/yr)	Recovery still bottoms (kkg/yr)
Benzene	7,720	2,320
1,1,2-trichloroethane	9,470	2,840
2-nitropropane	2,330	1,110
2-ethoxyethanol	3,420	2,500

The listing background document and the sources cited there describe the sources of the wastes in more detail. The Agency has waste characterization data which show that typical spent solvent wastes contain between 50 and 95 percent solvent and the still bottoms from spent solvent recovery have a solvent content of between 1 and 20 percent. Table I lists the constituents of concern for the subject wastes along with their toxic effects of concern, concentrations, exposure pathways of concern, mobility in soil, solubility in water, and estimated persistence in ground water.

1. Effects of Concern. There is sufficient evidence from available studies on the toxicological properties of the subject solvents to list the spent solvents and the still bottoms which result from their recovery as hazardous. Specifically, these solvents have been demonstrated to cause either carcinogenic, teratogenic, adverse reproductive, or other chronic health effects in laboratory animals. In addition, benzene has been determined to cause leukemia in humans.

TABLE I.—CONSTITUENTS OF CONCERN IN THE SPENT SOLVENTS AND STILL BOTTOMS

Waste/constituent of concern	Concentration range (percent)	Effects of concern	Exposure pathway of concern	Mobility in soil	Log K_{oc}[1]	Persistence (ground water)	Solubility in water
F002:							
Spent 1,1,2-trichloroethane	50–95	Carcinogenic	Ground water	Moderate	2.5	High	High.
Still bottoms	1–20	Chronic					
F005:							
Spent benzene	50–95	Carcinogenic	Ground water	Moderate	2.15	Moderate	High.
Still bottoms	1–20						
F005:							
Spent 2-ethoxyethanol	50–95	Teratogenic	Ground water	High	−0.54	Moderate	High.
Still bottoms	1–20	Reproductive					
F005:							
Spent 2-nitropropane	50–95	Carcinogenic	Ground water	High	0.65	Moderate	High.
Still bottoms	1–20	Chronic					

[1] Leo, *et al.*, 1971. Calculated by the regression equation of Briggs, *et al.*, 1973 (log K_{oc}=0.524 (log K_{ow})+0.616).

These four constituents are present in the wastes at levels of regulatory concern. Ambient Water Quality Criteria (AWQC) have been established (see 45 FR 79318, November 28, 1980) for benzene and 1,1,2-trichlorethane. The AWQC developed for these substances to protect against health risks to humans resulting from the consumption of water and aquatic organisms are 0.66 μg/L and 0.6 μg/L, respectively. (These AWQC correspond to the 10^{-6} excess lifetime cancer risk levels.) As seen above, benzene and 1,1,2-trichloroethane are present in the wastes at concentrations millions of times greater than their AWQC values. Although no health-based standards have been developed yet for 2-ethoxyethanol and 2-nitropropane, the Agency believes that the levels expected in the wastes also are significant. In particular, since the concentrations of the solvents in the waste streams can be as high as 50 to 95 percent, and considering the toxicity of these two solvents, we believe that 2-ethoxyethanol and 2-nitropropane would reach human receptors at levels of regulatory concern.

Benzene and 1,1,2-trichloroethane are recognized by the Agency's Carcinogen Assessment Group as substances which present a significant potential for human carcinogenesis (USEPA, 1980a). In the case of benezene, there is epidemiological evidence that benzene causes leukemia in humans (Vigliani and Saita, 1964; Cavignaux 1962; and Ishimaru *et al.*, 1971). 1,1,2-trichloroethane has been shown to be carcinogenic in mice, causing hepatocellular carcinomas and adrenal pheochromocytomas (NCI, 1978; Parker, *et al.*, 1979).

2-nitropropane also is recognized by the International Agency for Research on Cancer as having exhibited significant evidence of carcinogenicity in laboratory animals; in particular, the compound has been shown to cause hepatocellular carcinomas and hepatic adenomas in rats (IARC, 1982). The American Conference of Governmental Industrial Hygienists also has designated 2-nitropropane [2] as an industrial substance suspected of having carcinogenic potential in man (ACGIH, 1981).

2-ethoxyethanol is known to be teratogenic in animals by oral, inhalation, and dermal routes, causing skeletal variants and cardiovascular malformations (Hardin *et al.*, 1981; Hardin *et al.*, 1982). As a reproductive toxin, 2-ethoxyethanol has been shown to cause testicular atrophy in rats (Morris *et al.*, 1942) and in dogs (Stenger *et al.*, 1971), as well as declining sperm counts and aberrant sperm morphology in rats (Zenick *el al.*, 1984). Therefore, these compounds exhibit toxicological properties of regulatory concern. Additional information on the toxicity of these solvents is provided in the Health and Environmental Effects Profiles (HEEPs) which are available in the public docket at the address noted above.

2. Mobility of the Constituents of Concern. The water solubility of a given hazardous constituent is indicative of its mobility potential (*i.e.*, the likelihood

[2] 2-nitropropane has already been included in the list of commercial chemical products which are hazardous wastes when discarded (§ 261.33(f)) due to its ignitability. Today's proposal would amend our basis for defining this compound as hazardous, namely, that it is both toxic and ignitable.

that it will be released from a management site and become dissolved

Bunger, 1970), it does not spontaneously react with oxygen at ordinary

hydrolysis, and the relatively low level of biological activity in ground water.

1.96 g O_2/g. In a 5-day BOD test with unacclimated cultures, the oxygen

could lead to a substantial threat to human health and the environment

subsequent mass spectrometric (MS) or flame ionization detection (FID)

that it will be released from a management site and become dissolved in a water resource of concern). The exposure pathway of principal concern is leaching to ground water. Leaching is a concern because these compounds are soluble in water and so could leach out of the wastes, potentially contaminating ground water.

The water solubilities of benzene and 1,1,2-trichloroethane are significant as they are millions of times greater than their corresponding AWQC values. Benzene is soluble to 1800 mg/L (2.7 million times the AWQC) and 1,1,2-trichloroethane is soluble to 4500 mg/L (7.5 million times the AWQC). Although there are no health-based values for 2-nitropropane and 2-ethoxyethanol, their solubilities are much higher than benzene and 1,1,2-trichloroethane (2-nitropropane is soluble to 17,200 mg/L, and 2-ethoxyethanol is completely miscible with water); thus they are capable of existing at significant concentrations in water.

Another factor which can provide an indication of the mobility of the subject solvents is their log octanol/water partition coefficient. The log octanol/water partition coefficients for benzene, 2-ethoxyethanol, 2-nitropropane, and 1,1,2-trichloroethane are 2.15, –0.54, 0.65, and 2.5, respectively (Leo *et al.*, 1971). According to Briggs (1983), these values mean that the subject solvents have a moderate to high affinity for water (see Table I) and are not expected to be immobilized to a significant degree by sorption to soil or sediments with a high organic content. Thus, the solvents are expected to leach with the water phase, and tend not to adsorb to soils.

Soil attenuation factors, such as soil binding, biodegradation, and other environmental degradative processes are expected to decrease the amount of the constituents available for migration. Even so, these solvents are expected to present a substantial hazard because they are present in the wastes in such high concentrations that only a small fraction need migrate from the wastes and reach environmental receptors to pose a potential for substantial harm.

3. Persistence of the Constituents of Concern. Persistence in the environment is an important criterion which the Agency considers when determining whether a waste has the potential to create a hazard. The chemical reactivity of the subject solvents indicate that they are persistent and thus pose a significant potential to human health and the environment.

Benzene does not react with water in the pH range of 2 through 14. Although benzene will readily burn if ignited (flash point = −11°C; Riddick and Bunger, 1970), it does not spontaneously react with oxygen at ordinary temperatures and pressures. Benzene does not absorb visible light; therefore, it will not be directly photolyzed in the lower atmosphere (troposphere) or surface water. Benzene can be attacked by hydroxyl radicals in the atmosphere (Hansen *et al.*, 1975), but event in bright sunlight, under optimal conditions for photooxidation, it will have a half-life of several hours (Darnall *et al.*, 1976).

Benzene is subject to biodegradation in aerobic soil and water (Gibson, 1968). Bacteria convert benzene to catechol using a dioxygenase enzyme in the first step of oxidation (Axcell and Geary, 1975). Also, there is evidence of some anaerobic degradation, but the mode in which it occurs is not clear.

Although benzene is expected to degrade through hydroxyl radical oxidation in the atomosphere and biodegradation in surface waters, it is expected to be moderately persistent in ground water due to its relatively high solubility in water and the relatively low level of biological activity in ground water. This has been demonstrated in that benzene has been found in ground water at a number of sites.

2-Nitropropane will readily burn if ignited (flash point-39°C; Riddick and Bunger, 1970), but it does not spontaneously react with oxygen at ordinary temperatures and pressures. 2-Nitropropane does not absorb visible light and will not directly photolyze in the lower atmosphere (troposphere) or surface water. 2-Nitropropane can be attacked by hydroxyl radicals in the atmosphere; an EPA reactivity classification ranks 2-nitropropane in a group that is not particularly reactive (Darnall *et al.*, 1976). Thus, 2-nitropropane should have a half-life of several hours even in bright sunlight under optimal conditions for photo-oxidation by hydroxyl radicals.

Little is known about the possible biodegradation of 2-nitropropane. It seems likely that it could be metabolized by microorganisms both in aerobic and anaerobic environments, but its half-life in typical unacclimated environmental ecosystems is probably long enough for significant movement to take place.

Although 2-nitropropane is expected to degrade through hydroxyl radical oxidation in the atmosphere and biodegradation in water, these processes probably are not fast enough, even under optimal conditions, to prevent migration of 2-nitropropane in the environment. 2-Nitropropane is expected to be moderately persistent in ground water because of its relatively high solubility in water, its resistance to hydrolysis, and the relatively low level of biological activity in ground water.

1,1,2-Trichloroethane does not react with water under ambient conditions. At high temperatures in the presence of a strong base, elimination of HCl would occur, yielding a dichloroethene, but this is not a significant process in the environment. 1,1,2-Trichloroethane does not absorb visible light and therefore, it will not be directly photolyzed in the lower atmosphere (troposphere) or surface water. 1,1,2-Trichloroethane can be attacked by hydroxyl radicals in the atmosphere. Drilling *et al.* (1976) studied the degradation of 1,1,2-trichloroethane under simulated atmospheric conditions, and their data allow the estimation of the half-life of this compound to be 41 hours under conditions of bright sunlight.

1,1,2-Trichloroethane resists biodegradation in surface water. Jensen and Rosenberg (1975) found that the half-life of 1,1,2-trichloroethane in sea water was much more than 200 hours. Volatilization was more important than biodegradation under these conditions. Bouwer and McCarty (1983) found that 1,1,2,2-tetrachloroethane was dehalogenated to 1,1,2-trichloroethane under anaerobic conditions. It is possible that 1,1,2-trichloroethane also is dehalogenated under these conditions.

1,1,2-Trichloroethane is expected to persist in the atmosphere, surface water, and ground water for long periods of time. It would move freely in the environment, and would be particularly difficult to control in ground water, where it would persist indefinitely.

2-Ethoxyethanol does not react with water in the pH range of 2 to 14. Although 2-ethoxyethanol is ignitable (flash point=44.4°C), it does not spontaneously react with oxygen under ambient conditions. 2-Ethoxyethanol also does not absorb visible light and will not be directly photolyzed in the lower atmosphere (troposphere) or surface water. However, 2-ethoxyethanol belongs to the structural class of ethers, and ethers are rapidly attacked by hydroxyl radicals in the atmosphere. Experiments by Dilling *et al.* (1976) on compounds like trioxane, dioxane and 1-methoxy-2-propanol, which have some structural similarity to 2-ethoxyethanol, indicate that these compounds would have half-lives on the order of about 10 hours in bright sunlight due to photooxidation by hydroxyl radicals.

Although 2-ethoxyethanol is fairly easily biodegraded under aerobic conditions in water, anaerobic degradation is expected to be quite slow. Its theoretical oxygen demand is 1.96 g O_2/g. In a 5-day BOD test with unacclimated cultures, the oxygen demand was 1.03 g O_2/g (53%); with acclimated cultures the BOD_5 was 1.27 g O_2/g (65%) (Verschueren, 1977).

2-Ethoxyethanol is expected to degrade through hydroxyl radical oxidation in the atmosphere and biodegradation in surface water; however, the processes are not fast enough to prevent the migration of 2-ethoxyethanol in the environment. 2-Ethoxyethanol is expected to be moderately persistent in ground water because of its miscibility with water, its low affinity for soil, its resistance to hydrolysis, and the relatively low level of biological activity in ground water.

4. Other Characteristics of the Wastes. Three of the solvents addressed in today's proposed rule also exhibit the characteristic of ignitability as their flash points are below 60 °C (see 40 CFR 261.21). Benzene, 2-ethoxyethanol, and 2-nitropropane are liquids that have flash points of −11 °C, 39 °C, and 44.4 °C, respectively. As spent solvents, these wastes would contain 50 to 95 percent of these solvents and thus, many of the spent solvents are expected to also exhibit the characteristic of ignitability. Still bottoms from the recovery of spent solvents have a lower concentration of solvent (1 to 20 percent); generally, the still bottoms are not expected to be ignitable.

Therefore, due to the high concentrations of the hazardous constitutents in these wastes, the toxic effects of these constituents, their moderate to high mobility (via leaching and volatilization), and the expected persistence in ground water in the environment, EPA concludes that these wastes have the capability to pose a substantial present or potential hazard to human health and the environment when improperly stored, transported, disposed of, or otherwise managed. The Agency, therefore, is proposing to add these spent solvents as well as the still bottoms from their recovery to the hazardous waste list in 40 CFR 261.31.

B. Addition of 2-Ethoxyethanol to § 261.33(f)

Section 261.33(f) is a list of commercial chemical products or manufacturing intermediates which are identified as hazardous wastes when discarded. The Agency has determined that 2-ethoxyethanol satisfies the criteria for hazardous waste listing contained in 40 CFR 261.11(a)(3). When sold as a commercial product, this substance is more than 85% pure (technical grade). The unsupervised disposal of such high concentrations of a toxic, mobile, and persistent chemical could lead to a substantial threat to human health and the environment. Accordingly, the Agency proposes to add 2-ethoxyethanol to the list of commercial chemical products that are hazardous when discarded.

C. Toxicants Added to Appendix VIII

This action also proposes to add 2-nitropropane and 2-ethoxyethanol to Appendix VIII based on the toxic effects these chemicals have on humans or other life forms (see 40 CFR 261.11(a)(3)). By adding these new compounds, the Agency also is increasing the number of hazardous constituents for which land disposal facilities must monitor ground water under compliance monitoring programs (see 40 CFR 264.99). Land disposal permittees also may be required to monitor for these constituents under ground-water detection monitoring programs (see 40 CFR 264.98).

D. Test Methods for Compounds Added to Appendices VII and VIII

The addition of compounds to Appendices VII and VIII requires that the Agency promulgate test methods for use in detecting specified substances by applicants who wish to conduct waste evaluations in support of delisting petitions and by owners or operators of hazardous waste management facilities who must conduct ground-water monitoring (see 40 CFR 264.99) or incinerator monitoring (see 40 CFR 264.341). In 40 CFR Part 261, Appendix III, the Agency has already established test methods for benzene (Method Numbers 8020 and 8240) and 1,1,2-trichloroethane (Method Numbers 8010 and 8240).

The Agency has performed a literature search and evaluated the currently established EPA test methods [3] with the objective of determining the suitability of these analytical methods for 2-ethoxyethanol and 2-nitropropane. This evaluation involved a review of methods historically used for the quantification of 2-ethoxyethanol and 2-nitropropane as well as a comparison of Appendix III methods already established for compounds with chemical structures similar to 2-ethoxyethanol and 2-nitropropane. Based on this evaluation, we have determined that these solvents may be separated by gas chromatographic (GC) methods with subsequent mass spectrometric (MS) or flame ionization detection (FID).

Gas chromatography is appropriate because these organic compounds exhibit characteristic retention times and subsequently are well separated in the GC column and easily identified. When combusted by the FID, 2-ethoxyethanol and 2-nitropropane will produce ionic intermediates that can be detected with excellent sensitivity. The mass spectrometer also is an appropriate detector for these compounds as they have a unique mass spectrum that allows for definitive identification and quantification. Therefore, the Agency is proposing Method Number 8030, which involves the use of a gas chromatograph with a flame ionization detector (GC/FID), and Method Number 8240, which involves the use of a gas chromatograph with mass spectrometric detection (GC/MS) for 2-ethoxyethanol and 2-nitropropane.

The Agency notes that Method Numbers 8010, 8020, 8030, and 8240 require that the concentration of the constituent in the sample be below 0.01 percent. The subject wastes are expected to have concentrations of the constituents in excess of 1 percent; therefore, the sample introduction method for the previously mentioned gas chromatographic methods are restricted to direct injection or dilution of the sample in the appropriate solvent followed by direct injection.

The Agency is inviting the public to comment on these proposed methods if they have industrial experience with the determination of these compounds in environmental media.

[3] See "Test Methods for Evaluating Solid Waste: Physical/Chemical Methods", SW-846, 2nd edition, July 1982, as amended; copies of this document are available from: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, (202) 783-3238, Document number: 055-002-81001-2.

III. CERCLA Impacts

All hazardous wastes designated by today's proposed rule will, upon the effective date of promulgation, automatically become hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). (See CERCLA section 101(14).) CERCLA requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities (RQs) immediately notify the National Response Center (at (800) 424-8802 or (202) 426-2675) of the release. (See CERCLA section 103 and 50 FR 13456-13522, April 4, 1985.)

RQs have already been designated for three of the four solvents addressed in today's proposed listing: benzene has an RQ of 1000 pounds; while 1,1,2-trichloroethane and 2-nitropropane have

RQs of 1 pound.[4] According to CERCLA section 102(b), the RQ for any hazardous

applies in authorized States in the interim.

their efforts to implement their programs, rather than take separate

The addition of the new hazardous constituents to Appendix VIII also will

transportation, Hazardous waste, Indian lands, Intergovernmental relations,

other compounds. *Environ. Sci. Technol.* *10(4)*, 351-356.

VOL 50 ISS 146 JL 30 1985 UMI

RQs of 1 pound.[4] According to CERCLA section 102(b), the RQ for any hazardous substance as defined in Section 101(14) (including those listed pursuant to RCRA section 3001) will be one pound or the RQ established pursuant to section 311 of the Clean Water Act, unless and until superseded by regulations establishing an RQ under section 102(a). With respect to 2-ethoxyethanol, an RQ has not yet been set. Thus, upon the effective date of promulgation of this proposal, 2-ethoxyethanol will be added to 40 CFR § 261.33(f), and pursuant to CERCLA section 101, automatically will have an RQ of one pound, unless and until adjusted by regulation under CERCLA.

IV. State Authority

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 7003, and 3013 of RCRA, although authorized States have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA) amending RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the Federal program. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in the State which the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under newly enacted section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain authorization, the HSWA applies in authorized States in the interim.

Today's rule would be added to Table 1 in § 271.1(j) which identifies the Federal program requirements that are promulgated pursuant to HSWA. The Agency believes that it is extremely important to clearly specify which regulations implement HSWA since these requirements are immediately effective in authorized States. States may apply for either interim or final authorization for the HSWA provisions identified in Table 1 as discussed in the following section of this preamble.

B. Effect on State Authorizations

Today's announcement proposes regulations that would be effective in all States since the requirements are imposed pursuant to section 222 of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6921(e)(2). Thus, EPA will implement the regulations in nonauthorized States, and in authorized States until they revise their programs to adopt these rules and the revision is approved by EPA.

A State may apply to receive either interim or final authorization under section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State adoption of these regulations is described in 40 CFR 271.21. See 49 FR 21678 (May 22, 1984).

Applying § 271.21(e)(2), States that have final authorization must revise their programs within a year of promulgation of EPA's regulations if only regulatory changes are necessary, or within two years of promulgation if statutory changes are necessary. These deadlines can be extended in exceptional cases (40 CFR 271.21(e)(3)).

States with authorized RCRA programs may have listings similar to those in today's rule. These State regulations have not been assessed against the Federal regulations being proposed today to determine whether they meet the tests for authorization. Thus, a State is not authorized to carry out these listings in lieu of EPA until the State program is approved. As a result, the standards proposed today, if promulgated, will apply in all States, including States with listings similar to those in today's rule. States with existing listings may continue to administer and enforce their standards as a matter of State law.

In implementing the Federal program, EPA will work with States under cooperative agreements to minimize duplication of efforts. In many cases EPA will be able to defer to the States in their efforts to implement their programs, rather than take separate actions under Federal authority.

States that submit official applications for final authorization less than 12 months after promulgation of EPA's regulations may be approved without including standards equivalent to those promulgated. However, once authorized, a State must revise its program to include standards substantially equivalent or equivalent to EPA's within the time period discussed above.

V. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This proposed rule is not a major rule because it is not expected to result in an effect on the economy of $100 million or more. Although some generators may be newly regulated, data from the RCRA notification data base indicate that many solvent generators also generate other RCRA hazardous wastes. The Agency believes that many of the generators of the spent solvents proposed for listing in today's notice already manage these wastes in compliance with RCRA. The Agency expects that the proposed rule will minimize the competitive advantage experienced by those facilities that presently are not managing these solvent wastes as hazardous.

The Agency has completed a preliminary screening impact analysis of the potential impacts of today's proposal.[5] The analysis indicates that the total impact from this proposed rule, if promulgated, will be less than $7.5 million. This cost will be borne by approximately 1200 manufacturers of paint and coatings, inks, and organic chemicals. The analysis considered each of these industrial segments separately and found that the proposed listings will not result in either a significant increase in prices or a significant decrease in profits.

A worst case scenario was used to provide a conservative cost estimate of the economic impact. The analysis included the costs associated with the following: establishment of a manifest system, the maintenance of an on-site hazardous waste storage area, off-site incineration and transportation of the waste 250 miles to an incinerator, and initial costs of conducting chemical waste analysis and rewriting waste analysis plans.

[4] See Reportable Quantity Final Rule, 50 FR 13456–13522, April 4, 1985.

[5] A copy of the screening impact analysis is available in the public docket at the address cited above.

The addition of the new hazardous constituents to Appendix VIII also will not result in any significant increased burden in groundwater monitoring or incineration monitoring requirements because the analytical techniques currently employed to test for the presence and concentration of other Appendix VIII constituents also would detect and quantify these additional compounds.

The cost of adding 2-ethoxyethanol to 40 CFR 261.33(f), the list of commercial chemical products which are hazardous wastes when discarded, also will be minimal, because these commercial chemical products are rarely discarded due to their inherent value.

In addition, the Agency does not expect that there will be an adverse impact on the ability of the U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This proposal is not a major regulation; therefore, no Regulatory Impact Analysis is being conducted.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available to the public, a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant impact on small entities.

Although some generators will be newly regulated and some will experience an increased regulatory burden, this amendment is not expected to have a significant economic impact on a substantial number of small entities. The largest costs are more likely to be borne by generators with large quantities of difficult to manage wastes (*i.e.*, wastes not suitable for land disposal or recycling). Accordingly, I hereby certify that this proposed regulation would not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis. (See 5 U.S.C. 603.)

VII. List of Subjects

40 CFR Part 261

Hazardous waste, Recycling.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: July 22, 1985.

Lee M. Thomas,

Administrator.

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Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as

Appendix VII—Basis for Listing

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For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In § 261.31, revise the entries for F002 and F005 in the subgroup 'Generic' to read as follows:

§ 261.31 Hazardous wastes from non-specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
Generic:		
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane, and 1,1,2-trichloroethane; and still bottoms from the recovery of these solvents (T)	(T).
F005	The following spent non-halogenated solvents (I,T): toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; and the still bottoms from the recovery of these solvents (T)	(I,T).

§ 261.33 [Amended]

3. In § 261.33(f), add the following entry in alphabetical order:

Hazardous waste No.	Substance
U359	2-Ethoxyethanol (ethylene glycol monethyl ether).

4. In § 261.33(f) change both entries for Hazardous Waste No. U171 "2-Nitropropane (I)" and "Propane, 2-nitro- (I)" to read "2-Nitropropane (I,T)" and "Propane, 2-nitro- (I,T)", respectively.

5. Add the following hazardous constituents in alphabetical order to Table 1 of Appendix III of Part 261:

Compound	First edition methods	Second edition methods
2-Ethoxyethanol		8030, 8240
2-Nitropropane		8030, 8240

6. Revise the following entries in Appendix VII of Part 261 to read as follows:

Appendix VII—Basis for Listing Hazardous Waste

EPA hazardous waste No.	Hazardous constituents for which listed
F002	Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane.
F005	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, 2-ethoxyethanol, benzene, 2-nitropropane.

7. Add the following hazardous constituents (with CAS Numbers) in alphabetical order to Appendix VIII of Part 261:

Appendix VIII—Hazardous Constituents

* * * * *

Ethylene glycol monoethyl ether (Ethanol, 2-ethoxy) (CAS No. 110–80–5)

* * * * *

2-Nitropropane (Propane, 2-nitro) (CAS No. 79–46–9)

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

8. The authority citation for Part 271 continues to read as follows:

Authority: Sec. 1006, 2002(a), and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6926).

9. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication:

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Data	Title of regulation	"Federal Register" reference
[insert date of Federal Register publication].	Hazardous Waste Management System: Identification and listing of hazardous waste—Listing of four spent solvents and the still bottoms from their recovery.	50 FR [insert "Federal Register" page number]

[FR Doc. 85–17885 Filed 7–29–85; 8:45 am]
BILLING CODE 6560–50–M

federal register

Tuesday
July 30, 1985

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Surface Coal Mining and Reclamation Operations Under the Permanent Federal Lands Program; State-Federal Cooperative Agreements; Alabama; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

regulation of surface coal mining and reclamation operations on Federal lands within the State of Alabama pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Agreement provides for State implementation of a Federal lands program under which the State will regulate surface coal mining and reclamation operations on Federal lands in accordance with the requirements of SMCRA and the Federal lands program regulations. The Agreement will eliminate duplicative Federal and State regulation of surface coal mining and reclamation operations on Federal lands within the State of Alabama.

DATES: Effective date: July 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hagen, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, Room 230, Jim Nesbitt Building, P.O. Box 10638, Birmingham, Alabama 35202; Telephone: (205) 254–1087.

SUPPLEMENTARY INFORMATION:

I. Background

II. Discussion of the Agreement

III. Public Comments

IV. Procedural Matters

I. Background

On January 21, 1981, the Secretary of the Interior promulgated a Federal lands program for surface coal mining and reclamation operations on Federal lands (30 CFR Chapter VII, Subchapter B). The Federal lands program regulations provide that a State may assume jurisdiction over surface coal mining and reclamation operations on Federal lands within the State pursuant to a cooperative agreement with the Secretary (30 CFR 745.11). The Federal lands program regulations also provide that the Secretary may enter into a cooperative agreement with a State only if the Secretary finds that the State has the capability to carry out the terms of the agreement and to regulate surface coal mining and reclamation operations on Federal lands in accordance with the requirements of SMCRA and the Federal lands program regulations (30 CFR 745.12(a)). Finally, the Federal lands program regulations provide that a cooperative agreement may be entered into only if the Secretary finds that the agreement will be consistent with SMCRA and the Federal lands program regulations (30 CFR 745.12(b)).

On March 1, 1984, the Alabama Surface Mining Commission submitted a proposed cooperative agreement to the Secretary. The proposed agreement was published in the March 30, 1984, Federal Register (49 FR 12756) and was made available for public comment. A public hearing was scheduled for May 1, 1984, but because no one requested an opportunity to testify at the hearing, it was cancelled as provided in the January 23, 1985, notice.

consistency between applicable regulations and the Agreement. Where there are conflicts in definitions, there

surface coal mining and reclamation operations on Federal lands within the

and Reclamation Act of 1981, Section 880–X–8B–.07 of the State regulations,

VOL 50 ISS 146 JL 30 1985 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Surface Coal Mining and Reclamation Operations Under the Permanent Federal Lands Program; State-Federal Cooperative Agreements; Alabama

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) adopts a cooperative agreement between the Department of the Interior and the State of Alabama for the regulation of surface coal mining and reclamation operations on lands subject to the Federal lands program in Alabama under the permanent regulatory program. Such a cooperative agreement is provided for by the Surface Mining Control and Reclamation Act of 1977. This notice provides the terms of the cooperative agreement and additional information on other issues. The Agreement is consistent with the July 1984, district court decision specifying various parameters for the Federal lands program.

EFFECTIVE DATE: August 29, 1985.

FOR FURTHER INFORMATION CONTACT: Murray Newton, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone (202) 343–5866.

SUPPLEMENTARY INFORMATION: This preamble is divided into three parts as follows:

I. Background
II. Summary of Cooperative Agreement and Responses to Public Comments
III. Procedural Matters

I. Background

Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745 allow a State and the Secretary of the Interior to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands. Permanent program cooperative agreements are authorized by the first sentence of section 523(c), which provides that "[a]ny State with an approved State program may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordance with the provision of this Act." 30 U.S.C. 1273(c).

On July 20, 1984, Alabama submitted a proposed amendment program cooperative agreement between the Department of the Interior and the State of Alabama to make Alabama the regulatory authority for the regulation of surface coal mining and reclamation operations on Federal lands in that State. OSM proposed, and solicited comment on, that cooperative agreement in the **Federal Register** of January 23, 1985 (50 FR 2988). Public comments received, and OSM's disposition of each, are described below.

The requirements for the development, approval and administration of permanent program cooperative agreements under section 523(c) of the Act are found in 30 CFR Part 745. For recent amendments of this Part, see 48 FR 6912 (February 16, 1983). Sections 745.11 (b) and (f) of 30 CFR require a State to submit a request for a permanent program cooperative agreement, along with certain information relating to the State's ability to administer an agreement in accordance with the Act, except to the extent the information previously has been included in the approved State Program.

Alabama satisfied the requirements of 30 CFR 745.11(f)(1) when it obtained full program approval of its State Program on July 5, 1984 (49 FR 27500). The information required by 30 CFR 745.11(b)(1) and 30 CFR 745.11(f)(2) was included in Alabama's request for approval of its State Program, and in subsequent requests for administrative and enforcement funding under 30 CFR Part 735. The information relating to Alabama's authority to enter into a cooperative agreement was provided in a letter dated September 10, 1984, in which the Attorney General stated that there exists no statutory, regulatory, or legal constraint within the State of Alabama which would preclude the Alabama regulatory authority from fully carrying out the provisions of the cooperative agreement.

OSM proposed the Alabama cooperative agreement in a notice published in the **Federal Register** on January 23, 1985 (50 FR 2988). That notice announced that the public comment period would close on February 22, 1985, and tentatively scheduled a public hearing for February 18, 1985. Because no one asked to testify at the hearing, it was cancelled as provided in the January 23, 1985, notice. Three written comments were received during the comment period. They are described below, along with the terms of the Alabama cooperative agreement adopted here today.

The nature and extent of the Secretary's ability to delegate authority for surface coal mining operations on Federal lands to States through cooperative agreements was a subject of a recent Federal District Court opinion in *In Re: Permanent Surface Mining Regulation Litigation II*, Civil Action No. 79–1144 (D.D.C., July 6, 1984). The Alabama cooperative agreement adopted here is consistent with that opinion and delegates the Secretary's authority under the Surface Mining Act which is required to be covered under the Federal lands program and retains the Secretary's non-delegable responsibilities under the Mineral Leasing Act.

Although OSM has not yet amended the scope of the Federal lands program, 30 CFR Part 740, to be consistent with the District Court decision, this Agreement encompasses the salient features of that decision. If changes to the Federal lands program are adopted which are not covered by this Agreement, OSM and the Secretary will promptly initiate the steps necessary to conform the Agreement.

II. Summary of Cooperative Agreement and Responses to Public Comments

Article I: Introduction, Purpose, and Responsible Agencies

Article I sets forth the legal authority for the Alabama Cooperative Agreement (the Agreement), which is provided by section 523(c) of the Act. The purposes of the Agreement and the responsible administrative agencies of the Department and of the State are also specified in Article I.

Article II: Effective Date

Article II provides that after it has been signed by the Secretary and the Governor, the Agreement becomes effective 30 days after publication as a final rule in the **Federal Register**. It will remain in effect until terminated as provided in Articles XI.

Article III: Definitions

Article III provides that any terms and phrases used in the Agreement have the same meaning as set forth in the Federal and States Acts, regulations promulgated pursuant to those Acts, 30 CFR Parts 700, 701, and 740, and the approved State Program. Defining terms and phrases in this manner ensures consistency between applicable regulations and the Agreement. Where there are conflicts in definitions, those included in the approved State Program will apply, except where the term being defined relates to those responsibilities of the Secretary that cannot be assumed by the State under the Agreement.

Article IV: Applicability

Article IV states that the laws, regulations, terms, and conditions of Alabama's approved State Program are applicable to surface coal mining and reclamation operations subject to the Federal lands program in Alabama except as otherwise stated in the Agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations. Thus, this provision is consistent with the Federal lands programs, which adopted the Alabama State Program as substantive Federal law on all Federal lands in Alabama and made it enforceable by the State and the United States. Because the applicability of this Agreement is keyed to the scope of the Federal lands program, when the Federal lands program is amended to conform with the district court decision, this Agreement will be so amended automatically. The reference to the Alabama State Program is intended to encompass the State's Program as approved on July 5, 1984 (49 FR 27500), and any amendments thereto which are approved in accordance with 30 CFR 732.17. Excluded from the scope of the Agreement are the authorities and responsibilities reserved to the Secretary pursuant to the Act and 30 CFR 745.13.

Article V: General Requirements

Article V mutually binds the Governor and the Secretary to comply with the provisions of the Agreement.

Paragraph A of Article V requires that the Alabama Surface Mining Commission (the agency designated by the Governor to administer the Agreement) continue to have authority under State law to carry out the Agreement.

Paragraph B of Article V provides that upon application for funds the State shall be reimbursed by OSM pursuant to section 705(c) of the Act if the necessary funds have been appropriated to OSM by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal government would otherwise have expended to regulate surface coal mining and reclamation operations on Federal lands within the State. See 30 U.S.C. 1285(c). The reference in section 705(c) to section 523(d) is obviously a typographical error; the correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26.

If, when requested by the State, adequate funds have not been appropriated, OSM and the Alabama Surface Mining Commission are to meet and decide on appropriate measures to ensure that mining operations are regulated in accordance with the approved State Program. Either party may terminate the Agreement if agreement cannot be achieved. Any funds granted to the State pursuant to the Agreement would be reduced by the amount of any fees collected by the State that are attributable to the Federal lands covered by the Agreement, in accordance with Office of Management and Budget (OMB) Circular A–102 (Uniform Requirements for Assistance to State and Local Governments), Attachment E (Program Income).

Paragraph V.B. as adopted differs from proposed paragraph V.B. Proposed paragraph V.B. described in detail a method of calculating the amount of the grant by comparing certain Federal/non-Federal ratios. The ASMC commented that the Agreement should instead use the more general phrasing in the State's initial submission, as later revised. OSM agrees and has modified final paragraph V.B. accordingly.

Paragraph C of Article V requires the State to make annual reports to OSM with respect to compliance with this Agreement. Paragraph C also provides for a general exchange of information developed under the Agreement, unless such an exchange is prohibited by Federal law. Final evaluation reports prepared by OSM on State administration and enforcement of this Agreement will be provided to ASMC.

Paragraph D of Article V requires ASMC to maintain the necessary personnel to fully implement this Agreement.

Paragraph E of Article V requires that ASMC avail itself of the facilities necessary to carry out the requirements of the Agreement. This provision ensures that the State will have access to and utilize any resources necessary to conduct inspections, investigations, studies, tests, and analyses required to fulfill the requirements of this Agreement.

Paragraph F of Article V concerns permit application fees. Fees will be determined according to section 15 of the Alabama Surface Mining Control and Reclamation Act of 1981, Section 880–X–8B–.07 of the State regulations, and the State Program or Federal law. The State will retain all permit application fees and civil penalties resulting from operations on Federal lands and deposit them in the Alabama Surface Mining Fund. The State will report the amount of these fees in the financial status report required under 30 CFR 735.26. State funding (under paragraph B of Article V) will be reduced by the amount collected from mining on Federal lands.

The ASMC commented that proposed paragraph V. F. contained an inaccurate citation to a State regulation which had been superseded by Section 880–X–8B–.07 of the State Regulations. Final paragraph V. F. has been corrected accordingly.

Readers should be aware that OSM has recently proposed rules governing the collection of fees for certain activities related to the review of permits and mining plans. (50 FR 7522; February 22, 1985). As proposed, the permit fee rule would involve recovery by the Department of costs incurred by the Department; it would not affect fees charged by the State. Should the final permit fees rule require modification of any cooperative agreement, OSM will propose appropriate changes in the Federal Register.

Article VI: Review of Permit Application Package

Paragraphs A through C of Article VI describe the procedures the State would follow in the review and analysis of a permit application package (PAP) for operations subject to the Federal lands program. "Permit application package" is a term adopted by OSM in revising the Federal lands program (48 FR 6912; February 16, 1983). It is the material submitted by an applicant proposing to mine on Federal lands, including permit revision and renewals.

OSM adopted the term because there are requirements for mining on Federal lands in addition to those required by a permit application under the approved State Program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal land management agency under Federal laws other than the Act. The package concept allows such information to be included with the permit application required by the approved State Program. See the definition of "permit application package" under 30 CFR 740.5.

The cooperative agreement identifies ASMC as having the primary responsibility for the analysis, review,

and approval or disapproval of the permit application component of the PAP's. Although reference to the

1985), the Secretary will also perform VER determinations for proposed

bypassed these requirements under some circumstances, the FWS originally

eliminate this potential gap in section 7

Mineral Leasing Act (MLA) and the National Environmental Policy Act

review process. The State will review the PAP to ensure compliance with the

and approval or disapproval of the permit application component of the PAP in Alabama for operations subject to the Federal lands program. In assuming primary responsibility for review, analysis, and approval or disapproval of permit applications, ASMC also becomes responsible for coordinating the review of a PAP where leased Federal coal is not involved with Federal agencies other than OSM affected by the proposed surface coal mining and reclamation operations to ensure compliance with Federal laws other than the Act and regulations other than those implementing SMCRA. if requested by the State, OSM would assist in identifying Federal agencies which may be affected by the proposed mining operation. Under Paragraph A, an operator on Federal lands will be required by ASMC and the Secretary to submit a PAP in an appropriate number of copies to ASMC. ASMC will provide to OSM an appropriate number of copies of the PAP.

At a minimum, a PAP must include the uniform necessary for ASMC to make a determination of compliance with the approved State Program and for appropriate Federal agency to make determinations of compliance with applicable requirements of other Federal laws and regulations for which it is responsible.

Paragraph B.1. assigns to ASMC the primary responsibility for analysis, review, and approval or disapproval of the permit application component of the PAP. ASMC will be the principal contact for the applicant on issues concerned with the development, review and approval of the PAP for mining on Federal lands in Alabama, and will be responsible for informing applicants of determinations.

Under Paragraph B.2., ASMC will send a copy of the PAP to the Federal land management agency with a request for review and will be responsible for obtaining the views of other Federal agencies that would be affected by the PAP. ASMC also will forward information to OSM to assist OSM in determining whether the proposed mining operation is limited or prohibited under section 522(e) (1) or (2) of the Federal Act. Under 30 CFR 740.4(a)(4), the Secretary remains responsible for determining valid existing rights (VER) for surface coal mining operations on Federal lands within the boundaries of any area specified under section 522(e)(1) or (e)(2) of the Act. In accordance with the July 6, 1984, and March 22, 1985, opinions in *In Re Permanent Surface Mining Regulations Litigation*, No. 79–1144 (D.D.C. 1984 and 1985), the Secretary will also perform VER determinations for proposed surface coal mining operations within section 522(e)(1) areas affecting the Federal interest within such areas.

Under Paragraph B.3., ASMC will receive, upon request, assistance from OSM. OSM will be responsible for forwarding information from applicants to ASMC. Any information in ASMC files concerning mines on Federal lands will be available to OSM.

Paragraph B.4. requires ASMC to review the PAP for compliance with the Program.

The U.S. Fish and Wildlife Service (FWS) commented that the proposed Agreement might bypass compliance with section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1536, for some surface coal mining and reclamation operations on Federal lands in Alabama. In response to this comment, a new paragraph B.5. has been added to Article VI of the Agreement.

New paragraph B.5. will ensure that section 7 of the ESA is complied with prior to the commencement of any operations covered by the Agreement. Where the Secretary must take a related action that is concurrent with a State permitting decision, the Secretary will comply with section 7 without involving the State. Where there would be no other concurrent Secretarial action, paragraph VI.B.5. will require the State to obtain the written concurrence of OSM regarding the effect the proposed operations would have on threatened and endangered species and critical habitat in the area affected by the proposed operations. It also will require the State to include in any permit that is issued for such operations any terms or conditions which OSM may require to avoid the likelihood of activities which would jeopardize the continued existence of any such species or result in the destruction or adverse modification of its critical habitat.

Section 7(a)(2) of the ESA, 16 U.S.C. 1536(a)(2), requires that "[e]ach Federal agency shall, in consultation with and with the assistance of the [FWS], insure that any action authorized, funded, or carried out by such agency * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species * * *." This requirement applies only to Federal agencies.

The promulgation of the Agreement in itself is an action which triggers the requirements of section 7. Because the proposed Agreement might have bypassed these requirements under some circumstances, the FWS originally requested formal consultation under section 7. After OSM and the State agreed to add new paragraph B.5. to the Agreement, however, the FWS withdrew this request.

The FWS was concerned that the proposed Agreement would bypass the requiements of section 7 in some circumstances by eliminating all of the Federal actions that would trigger compliance. In the absence of a Federal-State cooperative agreement, OSM must comply with section 7 before issuing a permit for operations on Federal lands. Under the Agreement, however, the State regulatory authority will issue the permit, and there will be no OSM permitting action to trigger section 7.

Where there were no other concurrent Federal action this delegation to the State would bypass entirely the requirements of section 7, which was the cause of the FWS concern.

The proposed Agreement would have had no effect on section 7 compliance where a concurrent action by the Secretary was required prior to the commencement of operations on Federal lands. This is because the Secretary would have to comply with section 7 notwithstanding the delegation of permitting authority to the State. A concurrent Secretarial action could result from various non-delegable responsibilities the Secretary has for most operations on Federal lands. For example, where Federal coal is to be mined the Secretary is required to approve a mining plan under the Mineral Leasing Act prior to commencement of mining. Also, operations on national forest lands may be conducted only where the Secretary has made certain determinations required by section 522(e) of the Surface Mining Control and Reclamation Act, 30 U.S.C. 1272(e). For any of these concurrent actions, compliance with section 7 would be required.

The proposed Agreement would have bypassed section 7 for any State permitting decision for which there was no concurrent Federal action. Since the Secretary must comply with section 7 for operations that propose to mine Federal coal, this result would not occur for State permits issued under Article VI.C. of the Agreement, which specifies the review procedures that apply where Federal coal is involved. However, this result could occur for State permits issued under Article VI.B., which specifies the review procedures that apply where only Federal surface is involved. New paragraph VI.B.5. has been added to the Agreement to eliminate this potential gap in section 7 compliance, and thus avoid the need for section 7 consultation with the FWS on the Agreement itself.

Paragraph VI.B.5. will apply to any State decision on a PAP for which there is no other concurrent Secretarial action that would trigger compliance with section 7 for the proposed surface coal mining and reclamation operation on Federal lands. Prior to making any such decision, the State must obtain the written concurrence of OSM regarding the effect the proposed operations would have on threatened and endangered species and critical habitat in the area affected by the proposed operations. The State may not make a decision on the PAP until written concurrence is received from OSM.

Under this concurrence procedure, the State must forward to OSM the PAP for the operations, including the information on threatened and endangered species and their critical habitats specified in 30 CFR 740.13(b)(3)(iii)(H). OSM will review the PAP to determine whether any listed species or critical habitat may be present in the area that would be affected. If either may be present, OSM will confer with the FWS on the need for formal consultation under section 7 of the ESA, 30 U.S.C. 1536.

If consultation is required, OSM will not make a decision on concurrence until it receives an FWS biological opinion. As a condition of concurrence, OSM may require, and the State must include in the permit, any terms or conditions that would avoid the likelihood of jeopardizing the continued existence of any threatened and endangered species that may be affected, or resulting in the destruction or adverse modification of its critical habitat. Where it is not otherwise possible for OSM to comply with section 7, OSM may withhold concurrence and the State shall not issue the permit.

Paragraph B.6. requires ASMC to include in a permit any terms or conditions imposed by the Federal land management agency. ASMC will send written notice to the Federal land management agency, the applicant, and OSM of its findings on the PAP and a copy of the permit.

Article VI.C. discusses review procedures where leased Federally-owned coal is involved and, consequently, where the Secretary must make a decision on a mining plan. Under paragraph C.1., ASMC has lead responsibility for analysis and review of the permit application component of the PAP for mining such coal. The Department retains those responsibilities that cannot be delegated to the State, including those under the Mineral Leasing Act (MLA) and the National Environmental Policy Act (NEPA). Working agreements between OSM and ASMC will specify those responsibilities that ASMC would assume. An industry commenter suggested that ASMC and OSM (rather than the Bureau of Land Management) review and approve permits "that meet all BLM's criteria" in order to save duplicate reviews.

Approval of a mining plan is a responsibility of the Secretary which may not be delegated to a State. Consequently, there must be a Federal review where leased Federal coal is involved. OSM has lead responsibility within the Department for such reviews and will coordinate with other Federal agencies to avoid or minimize unnecessary duplication.

Paragraph C.2. designates ASMC as the primary liaison for operators in matters regarding the PAP. As such, ASMC will inform the applicant of all joint State-Federal determinations. ASMC will provide OSM with any information affecting decisions on mining plans, and OSM will provide ASMC with information affecting decisions on PAPs. OSM will not ordinarily contact the applicant regarding the PAP, although there is no prohibition against doing so.

Under paragraph C.3., the responsibilities of OSM and ASMC are as follows:

1. ASMC will take on the responsibilities in 30 CFR 740.4(c) (1), (2), (4), (5), and (6).
2. OSM will retain the responsibilities in 30 CFR 740.4(c)(3) and (7).
3. OSM will assist the State by coordinating the review of the PAP between those Federal agencies involved. OSM will request that the involved Federal agencies submit their findings to OSM within 45 days of their receiving the PAP. OSM will then provide ASMC with these findings.
4. OSM will further assist the State by resolving conflicts of the involved Federal agencies and by helping to schedule meetings between the agencies and the State.
5. OSM will exercise its responsibilities in a timely manner and will provide ASMC with a work product within 45 days of receiving the State's request for assistance in reviewing the permit application.
6. OSM will be solely responsible for Federal lessee protection bond requirements.

Paragraph C.4. describes the procedures that OSM and the State will follow in reviewing the PAP. OSM and ASMC will coordinate their activities and exchange information during the review process. The State will review the PAP to ensure compliance with the Program, while OSM would review the PAP to ensure compliance with other Federal laws and regulations. Review of the MLA mining plan will include review of the operations and reclamation plan component of the SMCRA permit application. OSM and the State will plan and schedule PAP review and each will choose a project leader, with the OSM project leader designated as the primary point of contact between OSM and ASMC during the review process. OSM will provide the State with its preliminary findings within 50 days of receiving the PAP.

The State will provide OSM with its technical analysis of the PAP and its finding that the PAP complies with the Program. ASMC could then issue the permit before Secretarial approval. However, ASMC would have to advise the operator that it shall not conduct surface coal mining operations on Federal lands before the mining plan had been approved by the Secretary.

Paragraph C.5. assigns to ASMC sole authority to approve permit revisions not constituting modifications of a mining plan. However, OSM retains the responsibility to determine which revisions are mining plan modifications. ASMC will consult with OSM on whether any permit revisions constitute mining plan modifications. OSM must inform ASMC of its determination within 30 days. OSM may develop guidelines to determine which permit revisions are definitely not mining plan modifications.

Article VII: Inspections

Article VII specifies that ASMC must conduct inspections on lands covered by this agreement and prepare and file State inspection reports in accordance with its approved Program.

Article VII.C. designates ASMC as the point of contact and primary inspection authority in dealing with the operator. However, the Department retains the right to conduct inspections of surface coal mining and reclamation operations covered by the Federal lands program without prior notice to ASMC for the purpose of evaluating the manner in which the cooperative agreement is being carried out and ensuring that performance and reclamation standards are being met. OSM will ordinarily give ASMC reasonable notice before conducting an inspection so that State inspectors can join in the inspection. Under extraordinary circumstances, such as the threat of imminent harm to the public or the environment, OSM will

notify ASMC at least 24 hours prior to a Federal inspection, unless this proves impracticable.

regulatory impact analysis under

2. Section 901.30 is added to read as

Act, 30 CFR 745.13, or other applicable laws or regulations.

VOL 50 ISS 146 JL 30 1985 UMI

notify ASMC at least 24 hours prior to a Federal inspection, unless this proves impracticable.

This Article preserves OSM's obligation and authority to conduct inspections pursuant to 30 CFR Parts 842 and 843. The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement is not affected.

Article VIII: Enforcement

Article VIII sets forth the enforcement obligations and authorities of OSM and ASMC.

Under paragraph A, ASMC has primary enforcement authority on lands covered by the Federal lands program in accordance with the requirements of the cooperative agreement and the approved State Program.

Under paragraph B, ASMC has primary responsibility for enforcement during joint inspections with OSM. Paragraph B also includes a requirement that ASMC notify OSM prior to suspending or revoking a permit.

Paragraph C preserves OSM's authority to take enforcement action to comply with 30 CFR Parts 843 and 845 where OSM conducted an inspection or where, during a joint inspection with ASMC, the two could not agree on the appropriateness of a particular enforcement action. Such action would be based upon the Act or the substantive provisions contained in the approved State Program, but would use the Federal procedures and penalty system.

Paragraph D provides that OSM and ASMC will notify each other of all violations of applicable regulations and all actions taken on the violations. Paragraph E provides that personnel of the State and the Department are to be mutually available to serve as witnesses in enforcement actions taken by either party. Finally, paragraph F specifies that this agreement does not limit the Department's authority to enforce Federal laws other than the Act.

Article IX: Bonds

Under paragraph A, ASMC and the Secretary must require each operator covered by the Federal lands program to submit a single performance bond payable to both the State and the United States. All applicable State and Federal requirements must be fulfilled prior to releasing an operator from any obligation covered by the performance bond. If the cooperative agreement is terminated, paragraph A requires that the bond revert to being payable solely to the United States to the extent that lands covered by the Federal lands program are involved. ASMC will advise OSM of annual adjustments to the bond and release a bond only after OSM concurrence. Departmental concurrence will include coordination with other Federal agencies having jurisdiction over the lands involved.

Article IX.C. clarifies that the performance bond does not meet the requirement for a Federal lease bond under 43 CFR Part 3474, or for the lessee protection bond required in certain circumstances by section 715 of the Act.

Article X: Designating Land Areas Unsuitable For All or Certain Types of Surface Coal Mining Operations

Article X assigns to ASMC authority to designate State and private lands as unsuitable for surface coal mining, while reserving to the Secretary such authority over Federal lands. ASMC and OSM will each notify the other of any petition to designate lands as unsuitable, exchange information when either agency receives a petition that could impact surrounding Federal and non-Federal lands, and solicit and consider each other's views on a petition.

Article XI: Termination of Cooperative Agreement

Article XI specifies that this cooperative agreement may be terminated as specified under 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

Article XII provides that, if terminated, the cooperative agreement may be reinstated under 30 CFR 745.15. That provision allows for reinstatement of a cooperative agreement upon application by a State after remedying the defects for which the Agreement was terminated and the submission of evidence to the Secretary that the State can and will comply with all of the provisions of the Agreement.

Article XIII: Amendment of Cooperative Agreement

Article XIII provides that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards

Paragraph A of Article XIV recognizes that the Department or the State may, from time to time, promulgate new or revised performance or reclamation requirements, or enforcement and administration procedures. If it is determined to be necessary to keep the Agreement in force, the State will request necessary legislative action and either the State or OSM will change or revise its regulations or promulgate new regulations, as applicable. Such changes will be made in accordance with 30 CFR Part 732 for changes to the approved State Program and section 501 of the Act for changes to the permanent regulatory program or to the Federal lands program.

Paragraph B requires the State and OSM to provide each other with copies of changes in their respective laws and regulations.

Article XV: Changes in Personnel and Organization

Article XV requires the State and the Department to advise each other of substantial changes in organization, funding, staff, or other changes which could affect administration or enforcement of the cooperative agreement.

Article XVI: Reservation of Rights

Article XVI recognizes that the Act, 30 CFR 745.13, and other legal authorities prohibit the Secretary from delegating certain responsibilities to the State. Article XVI states that this agreement does not delegate nor shall it be construed to delegate any responsibility that the Secretary has under 30 CFR 745.13, or under laws other than the Act, including those listed in Appendix A of this cooperative agreement.

III. Procedural Matters

1. E.O. 12291 and Regulatory Flexibility Act

In a "Determination of Significance" document prepared on December 31, 1979, and approved by the Assistant Secretary, Energy and Minerals, on January 7, 1980, the Department determined that the "promulgation of proposed or final rules for entering into a cooperative agreement with a State pursuant to 30 U.S.C. 1273 for State regulation of surface coal mining and reclamation operations on Federal lands was not a significant action and would not require a regulatory analysis." A copy of this determination was filed with the Department's Office of Policy Analysis and the Division of General Law in accordance with Departmental procedures.

The Department has reviewed this determination in light of Executive Order 12291, February 17, 1981; the Regulatory Flexibility Act (Pub. L. 96-354); and the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Having conducted this review, the Department has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. The document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This determination was made by the Director, OSM and approved by the then Assistant Secretary, Energy and Minerals. A copy is on file in the OSM Administrative Record Room, room 5315, 1100 L Street NW., Washington, D.C. 20005.

2. Recordkeeping and Reporting Requirements

There are recordkeeping and reporting requirements in the Alabama Cooperative Agreement which are the same as and required by the permanent program regulations. Those regulations received clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article VI.A. (Required by 30 CFR Part 773)	1029-0041
Article VII.A. (Required by 30 CFR Part 840)	1029-0051
Article IX.A. (Required by 30 CFR Part 800)	1029-0043

3. National Environmental Policy Act

Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are exempt under section 702(d) of the Act from the requirement to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Indexing Requirements

List of Subjects in 30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

Dated: July 17, 1985.

J. Steven Griles,

Deputy Assistant Secretary for Land and Minerals Management.

PART 901—[AMENDED]

For the reasons set forth herein, 30 CFR Part 901 is amended as follows:

1. The Authority citation for Part 901 is revised to read as follows:

Authority: Pub. L. 95-87; 30 U.S.C. 1201 *et seq.*

2. Section 901.30 is added to read as follows:

§ 901.30 State-Federal cooperative agreement.

The Governor of the State of Alabama and the Secretary of the Department of the Interior (Secretary) enter into a Cooperative Agreement (Agreement) to read as follows:

Article I: Introduction, Purpose and Responsible Agencies

A. *Authority:* This agreement is authorized by sectoin 523(c) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved by the Secretary under 30 U.S.C. 1253, to elect to enter into an Agreement for State regulation of surface coal mining and reclamation operations on Federal lands. This Agreement provides for State regulation of surface coal mining and reclamation operations in Alabama subject to the Federal lands program (30 CFR Parts 740-746), consistent with State and Federal Acts governing such activities, and the Alabama State Program (Program).

B. *Purpose:* The purposes of this Agreement are to (a) foster Federal-State cooperation in the regulation of surface coal mining and reclamation operations; (b) minimize intergovernmental overlap and duplication; and (c) provide uniform and effective application of the Program on all lands in Alabama in accordance with the Act, the Program, and this Agreement.

C. *Responsible Administrative Agencies:* The Alabama Surface Mining Commission (ASMC) shall be responsible for administering this Agreement on behalf of the Governor. The Office of Surface Mining (OSM) shall administer this Agreement on behalf of the Secretary.

Article II: Effective Date

After it has been signed by the Secretary and the Governor, this Agreement shall be effective 30 days after publication in the Federal Register as a final rule. This Agreement shall remain in effect until terminated as provided in Article XI.

Article III: Definitions

The terms and phrases used in this Agreement which are defined in the Act, 30 CFR 700, 701, and 740, the approved State Program and the State Act, and in the rules and regulations promulgated pursuant to those Acts, shall be given the meanings set forth in said definitions. Where there is a conflict between the above referenced State and Federal definitions, the definitions used in the approved State Program will apply, except in the case of a term which defines the Secretary's continuing responsibilities under the Act and other laws.

Article IV: Applicability

In accordance with the Federal lands program in 30 CFR Part 745, the laws, regulations, terms and conditions of the Program are applicable to lands in Alabama subject to the Federal lands program except as otherwise stated in this Agreement, the Act, 30 CFR 745.13, or other applicable laws or regulations.

Article V: General Requirements

The Governor and the Secretary affirm that they will comply with all the provisions of this Agreement.

A. *Authority of State Agency:* ASMC has and shall continue to have the authority under State law to carry out this Agreement.

B. *Funds:* Upon application by ASMC and subject to appropriations, OSM shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in section 705(c) of the Act and 30 CFR 735.16. Such funds shall cover the full cost of carrying out these responsibilities provided that such cost does not exceed the estimated cost the Federal government would have expended in regulating surface coal mining operations on Federal lands in Alabama in the absence of an agreement. If the State requests funds and sufficient funds have not been appropriated to OSM, OSM and the ASMC shall promptly meet to decide on appropriate measures that will insure that mining operations are regulated in accordance with the Program. If agreement cannot be reached, then either party may terminate the Agreement in accordance with 30 CFR 745.15. Funds provided to the State under this Agreement shall be adjusted in accordance with Office of Management and Budget Circular A-102, Attachment E.

C. *Reports and Records:* ASMC shall make annual reports to OSM containing information with respect to compliance with the terms of this Agreement, pursuant to 30 CFR 745.12(d). Upon request, ASMC and OSM shall exchange information developed under this Agreement, except where prohibited by Federal law.

OSM shall provide ASMC with a copy of any final evaluation report prepared concerning State administration and enforcement of this Agreement.

D. *Personnel:* ASMC shall have the necessary personnel to fully implement this agreement in accordance with the provisions of the Act and the approved State Program.

E. *Equipment and Laboratories:* ASMC will assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed which are necessary to carry out the requirements of the Agreement.

F. *Permit Application Fees and Civil Penalties:* The amount of the fee accompanying an application for a permit shall be determined in accordance with Section 15 of the Alabama Surface Mining Control and Reclamation Act of 1981, Section 880-X-8B-.07 of the State regulations, and the applicable provisions of the State Program and Federal law. All permit fees and civil penalties collected from operations on Federal lands will be retained by the State and shall be deposited with the State Treasurer in the Alabama Surface Mining Fund. The financial status report submitted pursuant to 30 CFR 735.26 shall include the amount of fees collected during the prior State fiscal year.

Article VI: Review of Permit Application Package

A. *Submission of Permit Application Package (PAP):* ASMC shall provide OSM with a complete PAP for all surface coal mining and reclamation operations proposed to be conducted on Federal lands. ASMC shall provide OSM with a complete PAP for all surface coal mining and reclamation operations proposed to be conducted on non-Federal lands within the boundaries of Federal lands. ASMC shall provide OSM with a complete PAP for all surface coal mining and reclamation operations proposed to be conducted on non-Federal lands adjacent to Federal lands where the operation may have an impact on Federal lands. ASMC shall provide OSM with a complete PAP for all surface coal mining and reclamation operations proposed to be conducted on non-Federal lands adjacent to Federal lands where the operation may have an impact on Federal lands.

B. *Review of PAP:* ASMC shall review the PAP for compliance with the Program.

C. *Consultation:* Prior to making a decision on a PAP for

the primary point of contact between OSM and ASMC throughout the review process. Not later than 30 days after receipt of the

resources, pursuant to 30 CFR 842.11(b)(1)(ii)(C), it will contact ASMC no less than 24 hours prior to the Federal

obtain the concurrence of OSM. The ASMC shall also advise OSM of annual adjustment to the performance bond, pursuant to the

VOL 50 ISS 146 JL 30 1985 UMI

Article VI: Review of Permit Application Package

A. *Submission of Permit Application Package:* ASMC and the Secretary shall require an operator proposing to conduct surface coal mining operations on Federal lands covered by this Agreement to submit a permit application package (PAP) in an appropriate number of copies to ASMC. ASMC shall furnish OSM with an appropriate number of copies of the PAP. The PAP shall be in the form required by ASMC and include any supplemental information required by OSM or the Federal land management agency. At a minimum, the PAP shall include the information necessary for ASMC to make a determination of compliance with the State Program and for the appropriate Federal agency to make a determination of compliance with applicable requirements of Federal laws and regulations for which it is responsible.

B. *Review Procedures Where Leased Federally-Owned Coal Is Not Involved:*

1. ASMC shall assume primary responsibility for the analysis, review and approval or disapproval of the permit application component of the PAP required by 30 CFR 740.13 for surface coal mining and reclamation operations under the Federal lands program in Alabama not requiring a mining plan under 30 CFR 746.11. ASMC shall be the primary point of contact for operators regarding decisions on the PAP and will be responsible for informing the applicant of determinations.

2. Upon receipt of a PAP that involves surface coal mining and reclamation operations on Federal lands not containing leased Federal coal, ASMC shall (1) transmit a copy of the complete PAP to the Federal land management agency with a request for review pursuant to 30 CFR 740.13(c)(4), and (2) provide OSM with a complete copy of the PAP and any additional information necessary to allow OSM to determine whether the operations are prohibited or limited by the requirements of section 522(e) (1) or (2) of the Federal Act (30 U.S.C. 1272(e)) and 30 CFR Part 761 with respect to areas designated therein by Congress as unsuitable for mining. Except as specified by paragraph 5 of this article, ASMC shall be responsible for obtaining, in a timely manner, the views and determinations of any other Federal agencies with jurisdiction or responsibility over Federal lands affected by a PAP in Alabama.

3. OSM will provide technical assistance to ASMC when requested if available resources allow and will process requests for determinations of compatibility and valid existing rights under 30 CFR Part 761 relating to areas designated by Congress under section 522(e)(1) or (2) as unsuitable for mining. OSM will be responsible for ensuring that any information OSM receives from an applicant is promptly sent to ASMC. OSM shall have access to ASMC files concerning mines on Federal lands. The Secretary reserves the right to act independently of ASMC to carry out his responsibilities under laws other than the Federal Act. A copy of all resulting correspondence with the applicant that may have a bearing on decisions regarding the PAP shall be sent to the State.

4. ASMC shall review the PAP for compliance with the Program.

5. Prior to making a decision on a PAP for proposed surface coal mining and reclamation operations for which there is no other concurrent Secretarial action that would trigger compliance with Section 7 of the Endangered Species Act, 16 U.S.C. 1536, ASMC shall obtain the written concurrence of OSM regarding the effect the proposed operations would have on threatened and endangered species and critical habitat in the area affected by the proposed operations, and shall include in any permit that is issued for such operations any terms or conditions which OSM may require to avoid the likelihood of actions which would jeopardize the continued existence of any such species or result in the destruction or adverse modification of its critical habitat.

6. The permit issued by ASMC shall incorporate any terms or conditions imposed by the Federal land management agency, including conditions relating to post-mining land use, and shall condition the initiation of surface coal mining and reclamation operations on compliance with the requirements of the Federal land management agency. After issuing the decision on the PAP, ASMC shall send a notice to the applicant, the Federal land management agency, and OSM with a copy of the permit and written findings.

C. *Review Procedures Where Leased Federally-Owned Coal is Involved:*

1. ASMC shall assume primary responsibility for the analysis, review and approval or disapproval of the permit application component of the PAP for surface coal mining and reclamation operations on Federal lands in Alabama where a mining plan is required by 30 CFR 746.11. OSM, as requested, shall assist the State in this analysis and review. The Department of the Interior (Department) shall concurrently carry out its responsibilities under the Mineral Leasing Act (MLA), the National Environmental Policy Act (NEPA), and other applicable Federal laws that cannot be delegated to the State. The Department shall carry out these responsibilities in accordance with the Federal lands program and this Agreement in a timely manner so as to avoid, to the extent possible, duplication of the responsibilities of the State as set forth in this Agreement and the Program. Responsibilities and decisions which can be delegated to the State under other applicable Federal laws may be specified in working agreements between OSM and the State without amendment to this Agreement. The Secretary will consider the information in the PAP and, where appropriate, make decisions required by the Federal Act, MLA, NEPA, and other Federal laws.

2. ASMC will be the primary point of contact for operators regarding the review of the PAP, except on matters concerned exclusively with 43 CFR Parts 3480–3487, administered by the Bureau of Land Management (BLM). ASMC will be responsible for informing the applicant of all joint State-Federal determinations. The Secretary may act independently of the State to carry out responsibilities under laws other than the Federal Act or provisions of the Act not covered by the Program, and in instances of disagreement over the Act and the Federal lands program. ASMC shall send to OSM, copies of any correspondence with the applicant and any information received from the applicant regarding the mining plan including the operation and reclamation plan portion of the permit application. OSM shall send to ASMC copies of all independent correspondence with the applicant which may have a bearing on the PAP. As a matter of practice, OSM will not independently initiate contacts with applicants regarding completeness or deficiencies of the PAP with respect to matters covered by the Program.

3. ASMC shall assume the responsibilities listed in 30 CFR 740.4(c) (1), (2), (4), (5), and (6). OSM shall retain the responsibilities listed in 30 CFR 740.4(c)(3) and the exceptions specified in (c)(7) (i) through (vii). OSM shall assist the State in carrying out its responsibilities by:

(a) Distributing copies of the PAP to, and coordinating the review of the PAP among, all Federal agencies which have responsibilities relating to decisions on the PAP. This shall be done in a manner which ensures timely identification, communication and resolution of issues relating to those Federal agencies' statutory requirements. OSM shall request that such other Federal agencies furnish their findings and any requests for additonal data to OSM within 45 calendar days of their receipt of the PAP.

(b) Providing ASMC with the analyses and conclusions of other Federal agencies.

(c) Addressing conflicts and difficulties of the other Federal agencies in a timely manner.

(d) Assisting in scheduling joint meetings as necessary between State and Federal agencies.

(e) Where OSM is assisting ASMC in reviewing the permit application, furnish the State with the work product within 45 calendar days of receipt of the State's request for such assistance, or earlier if mutually agreed upon by OSM and the State.

(f) Exercising its responsibilities in a timely manner as set forth in a mutually agreed upon schedule, governed to the extent possible by the deadlines established in the Program.

(g) Assuming all responsibility for ensuring compliance with any Federal lessee protection bond requirement.

4. Review of the PAP:

(a) OSM and ASMC shall coordinate with each other during the review process as needed. ASMC shall keep OSM informed of findings during the review process which bear on the responsibilities of other Federal agencies. OSM shall ensure that any information OSM receives which has a bearing on decisions regarding the PAP is promptly sent to ASMC.

(b) The State shall review the PAP for compliance with the Program.

(c) OSM shall review the PAP for compliance with the Act and the requirements of other Federal laws and regulations. OSM and ASMC shall develop a work plan and schedule for PAP review and each shall identify a person as the project leader. The OSM project leader shall serve as the primary point of contact between OSM and ASMC throughout the review process. Not later than 50 days after receipt of the PAP, OSM shall furnish ASMC with its preliminary findings on the PAP and specify any requirements for additional data. To the extent practicable, the State shall provide OSM all available information that may aid OSM in preparing any findings.

(d) ASMC shall provide to OSM written findings indicating whether the PAP is in compliance with the Program, and a technical analysis of the PAP.

(e) ASMC may proceed to issue a permit in accordance with the Program prior to the necessary Secretarial decision on the mining plan, provided that ASMC advises the operator in the permit that Secretarial approval of a mining plan must be obtained before the operator may conduct surface coal mining operations on Federal lands. ASMC shall reserve the right to amend or rescind any requirements of the approved permit to conform with any terms or conditions imposed by the Secretary in his approval of the mining plan.

5. Prior to acting on a permit revision or renewal, ASMC shall consult with OSM on whether such revision or renewal constitutes a mining plan modification under 30 CFR 746.18. OSM shall inform the State within 30 days of receiving notice of a proposed revision or renewal, whether any permit revision or renewal constitutes a mining plan modification. Permit revisions which do not constitute mining plan modifications shall be approved solely by the State.

OSM may establish criteria consistent with 30 CFR 746.18 to determine which permit revisions and renewals clearly do not constitute mining plan modifications. If such criteria are promulgated, revisions or renewals which do not constitute mining plan modifications in accordance with the criteria may be approved by ASMC before it submits copies of the revision or renewal to OSM.

Article VII: Inspections

A. ASMC shall conduct inspections on Federal lands and prepare and file inspection reports in accordance with the Program.

B. ASMC shall, subsequent to conducting any inspection, and on a timely basis, file with OSM a legible copy of the completed State inspection report.

C. ASMC shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by the Agreement, except as described hereinafter. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement. The Department may conduct any inspections necessary to comply with 30 CFR Parts 842 and 843 and its obligations under laws other than the Act.

D. OSM shall ordinarily give the ASMC reasonable notice of its intent to conduct an inspection under 30 CFR 842.11 in order to provide State inspectors with an opportunity to join in the inspection. When OSM is responding to a citizen complaint of an imminent danger to the public health and safety, or of significant, imminent environmental harm to land, air or water resources, pursuant to 30 CFR 842.11(b)(1)(ii)(C), it will contact ASMC no less than 24 hours prior to the Federal inspection, if practicable, to facilitate a joint Federal/State inspection. All citizen complaints which do not involve an imminent danger or significant imminent environmental harm shall be referred to ASMC for action. The Secretary reserves the right to conduct inspections without prior notice to ASMC to carry out his responsibilities under the Federal Act.

Article VIII: Enforcement

A. ASMC shall have primary enforcement authority under the Act concerning compliance with the requirements of this Agreement and the Program. Enforcement authority given to the Secretary under other laws and orders, including but not limited to those listed in Appendix A, is reserved to the Secretary.

B. During any joint inspection by OSM and ASMC, ASMC shall have primary responsibility for enforcement procedures, including issuance of orders of cessation, notices of violation, and assessment of penalties. The ASMC shall inform OSM prior to issuance of any decision to suspend or revoke a permit.

C. During any inspection made solely by OSM or any joint inspection where the ASMC and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement actions shall be based on the standards in the approved Program, the Act, or both, and shall be taken using the procedures and penalty system contained in 30 CFR Parts 843 and 845.

D. The ASMC and the Department shall promptly notify each other of all violations of applicable laws, regulations, orders, or approved mining permits subject to this Agreement, and of all actions taken with respect to such violations.

E. Personnel of the State and representatives of the Department shall be mutually available to serve as witnesses in enforcement actions taken by either party.

F. This Agreement does not limit the Department's authority to enforce violations of Federal law which establish standards and requirements which are authorized by laws other than the Act.

Article IX: Bonds

A. ASMC and the Secretary shall require each operator covered by the Federal lands program to submit a single performance bond payable to Alabama and the United States to cover the operator's responsibilities under the Federal Act and the Program. Such performance bond shall be conditioned upon compliance with all requirements of the Federal Act, the Program and any other requirements imposed by the Department or the Federal land management agency. Such bond shall provide that if this Agreement is terminated, the bond shall be payable only to the United States to the extent that lands covered by the Federal lands program are involved.

B. Prior to releasing the operator from any obligation under such bond, the ASMC shall obtain the concurrence of OSM. The ASMC shall also advise OSM of annual adjustment to the performance bond, pursuant to the Program. Departmental concurrence shall include coordination with other Federal agencies having authority over the lands involved.

Such bond shall be subject to forfeiture with the consent of OSM, in accordance with the procedures and requirements of the Program.

C. Submission of a performance bond does not satisfy the requirements for a Federal lease bond required by 30 CFR Subpart 3474 or lessee protection bond required in addition to a performance bond, in certain circumstances, by Section 715 of the Act.

Article X: Designating Land Areas Unsuitable for All or Certain Types of Surface Coal Mining Operations

A. When either ASMC or OSM receives a petition to designate lands areas unsuitable for all or certain types of surface coal mining operations that could impact adjacent Federal and non-Federal lands, the agency receiving the petition shall (1) notify the other of receipt and the anticipated schedule for reaching a decision; and (2) request and fully consider data, information and views of the other.

B. Authority to designate State and private lands as unsuitable for mining is reserved to the State. Authority to designate Federal lands as unsuitable for mining is reserved to the Secretary.

Article XI: Termination of Cooperative Agreement

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XII: Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or in part it may be reinstated under the provisions of 30 CFR 745.16.

Article XIII: Amendment of Cooperative Agreement

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards

A. The Department or the State may from time to time promulgate new or revised performance or reclamation requirements or enforcement and administration procedures. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the State Program and under the procedures of Section 501 of the Act for changes to the Federal lands program.

B. ASMC and the Department shall provide each other with copies of any changes to their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Agreement.

Article XV: Changes in Personnel and Organization

Each party to this Agreement shall notify

Reader Aids

Federal Register
Vol. 50, No. 146

VOL 50 ISS 146 JL 30 1985 UMI

Article XV: Changes in Personnel and Organization

Each party to this Agreement shall notify the other, when necessary, of any changes in personnel, organization and funding or other changes that will affect the implementation of this Agreement to ensure coordination of responsibilities and facilitate cooperation.

Article XVI: Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or Secretary may have under other laws or regulations, including but not limited to those listed in Appendix A.

Dated: July 16, 1985.

Signed:

George C. Wallace,

Governor of Alabama.

Dated: June 28, 1985.

Signed:

Ann McLaughlin,

Under Secretary of the Interior.

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations including 43 CFR Parts 3480–3487.
3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR Part 1500.
4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR Part 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR Part 800.
6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.
7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.
8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.
9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*
10. Executive Order 1593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.
11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protection.
12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.
13. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 *et seq.*
14. The Constitution of the United States.
15. The Constitution of the State and State Law.

[FR Doc. 85–18015 File 7–29–85; 8:45 am]

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Federal Register

Vol. 50, No. 146

Tuesday, July 30, 1985

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PUBLICATIONS AND SERVICES

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Code of Federal Regulations

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Printing schedules and pricing information	523–3419

Laws

Indexes	523–5282
Law numbers and dates	523–5282
	523–5266

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the President	523–5230
Weekly Compilation of Presidential Documents	523–5230

United States Government Manual 523–5230

Other Services

Library	523–4986
Privacy Act Compilation	523–4534
TDD for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961–27212	1
27213–27408	2
27409–27570	3
27571–27812	5
27813–27926	8
27927–28092	9
28093–28190	10
28191–28362	11
28363–28554	12
28555–28756	15
28757–28894	16
28895–29202	17
29203–29366	18
29367–29628	19
29629–29834	22
29835–30126	23
30127–30260	24
30261–30410	25
30411–30692	26
30693–30800	29
30801–30924	30

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305	28363

3 CFR

Administrative Orders:

Memorandums:

July 17, 1985	29631

Presidential Determinations:

No. 85–16 of July 12, 1985	29629

Executive Orders:

11688 (Amended by EO 12524)	27409
12470 (Revoked by EO12525)	28757
12523	26968
12524	27409
12525	28757
12526	29203

Proclamations:

5356	26961
5357	29935
5358	30127

5 CFR

630	29937
771	26965
1201	28895, 30801

Proposed Rules:

532	28583, 28584

7 CFR

Ch. IV	27927
2	29367, 30411
6	30261
52	26965, 29635
54	27571
226	26972
301	28366
400	26976
402	28367
800	30129
908	27411, 27926, 28696, 30262, 30801
910	27813, 28372, 28555, 29626
911	28373
915	28373, 28556
916	27813, 28373
917	27813, 28373
918	28373
921	27411, 28373
922	28373
923	28373
924	28373
930	27213, 28373
944	28556
967	28373
979	26976
981	30263
985	28373
991	26977, 27814
1040	27412
1136	29637
1205	30131
1421	29639
1427	28576
1435	27413
1941	27414
1944	27415
1945	27414, 27416
3015	28759

Proposed Rules:

Ch. IV	27971
Ch. X	27983
29	27288
51	27804, 30199, 30429
417	27681
800	28104, 29985
801	29689
802	29689
907	29405
908	29405
910	28185
916	30855
917	30855
920	27288
926	30489
944	30489
967	28210
989	30280
999	28285
1032	30203
1036	30204
1050	30263
1124	27972
1240	28404
1427	29683
1540	30716
1930	28782
1944	28782, 30429
1965	28782

8 CFR

238	28641
287	30133
316a	27816

Proposed Rules:

103	27289
341	28586
343a	28587

9 CFR

75	30412
78	28899
91	27929, 29205
92	27928, 28557, 30413
94	28560, 28900
166	30414
318	27573, 28374
327	30264

Proposed Rules:

92	30857
94	27973

10 CFR

9 ... 27214
50 ... 29937
60 ... 29641
140 ... 30415

Proposed Rules:

2 ... 30446
30 ... 30616
31 ... 30616
32 ... 30616
35 ... 30616
40 ... 30616
50 ... 27006, 28815
440 ... 29620
904 ... 30447

11 CFR

Proposed Rules:

110 ... 29232

12 CFR

403 ... 27215
611 ... 27930
617 ... 27931
723 ... 27417

Proposed Rules:

561 ... 27290, 28588, 29985
563 ... 27290, 28588, 29985
571 ... 27290, 28588

13 CFR

121 ... 27418
302 ... 27419

Proposed Rules:

107 ... 29532
108 ... 27754

14 CFR

21 ... 29945
39 ... 26979, 27575, 27576, 27931-27933, 28093, 28094, 28561-28563, 28766, 29648-29651, 30264, 30416, 30417, 30693, 30802-30806
71 ... 26980, 27934, 28564, 28565, 28900-28902, 30134, 30265, 30418, 30694
97 ... 27934, 29653
108 ... 27924, 28884
121 ... 29306
135 ... 29306
1214 ... 30807

Proposed Rules:

25 ... 30447
39 ... 27009, 27012, 27601, 27602, 28815, 29694, 29988, 30448, 30449, 00
71 ... 27013, 27014, 27528, 28588-28591, 28816, 28950, 29407, 30206, 30276, 30798
75 ... 27014, 30798
91 ... 28950, 30124
121 ... 30447

15 CFR

8a ... 30418
19 ... 27577
90 ... 28767
368-399 (See EO 12525) ... 28757, 29205
370 ... 29205
376 ... 27420, 29205
378 ... 29205
385 ... 29205
386 ... 29205
399 ... 27420

Proposed Rules:

303 ... 29232
911 ... 28816

16 CFR

3 ... 28095
4 ... 28095
13 ... 26981, 27578, 28374, 28902
453 ... 28062, 28081
703 ... 27936

Proposed Rules:

13 ... 28592, 28951, 29698, 29699, 30717

17 CFR

1 ... 30135, 30140
3 ... 28907
200 ... 28385, 29368, 30266
239 ... 27937
240 ... 27937, 27940, 28385
249 ... 27937, 29948
270 ... 27937, 28930
274 ... 27937, 29368
275 ... 29206
288 ... 26981, 27947

Proposed Rules:

16 ... 30450
17 ... 30450
18 ... 30450
200 ... 30858
210 ... 27973, 28953, 29409
229 ... 29409
230 ... 28404
239 ... 29409
240 ... 27829, 27976, 27981, 28106, 28210, 28219, 28404, 29409
250 ... 27981
259 ... 27981
270 ... 27982, 29409

18 CFR

37 ... 29655, 30141
154 ... 30141, 30695
157 ... 27816
270 ... 30695
271 ... 30695, 30814
273 ... 30695
282 ... 30815
389 ... 27816

Proposed Rules:

2 ... 28954
35 ... 27604
37 ... 30207
154 ... 28954
157 ... 28954
161 ... 28954
271 ... 28221, 30859
284 ... 28954
290 ... 27604

19 CFR

4 ... 26981, 29949
10 ... 29949
12 ... 27947
19 ... 29949
24 ... 29949
103 ... 29949
113 ... 29949
134 ... 29949
141 ... 29949
142 ... 27818
143 ... 29949
145 ... 29949
148 ... 29949
152 ... 29949
162 ... 29949
171 ... 29949
173 ... 29949
178 ... 27847
191 ... 29949

Proposed Rules

6 ... 30455
122 ... 30455
162 ... 27829
177 ... 27831

20 CFR

200 ... 27222, 29957
401 ... 28565, 30144
422 ... 28565
626 ... 27818
627 ... 27818
628 ... 27818
629 ... 27818
630 ... 27818

Proposed Rules:

404 ... 27615, 29435
416 ... 27615, 29435
674 ... 29606

21 CFR

5 ... 30696
25 ... 30267
74 ... 30697
101 ... 26984
173 ... 29208
176 ... 29657, 30144
177 ... 30144-30146
178 ... 30147, 30148
179 ... 29658
182 ... 30149
184 ... 30149
436 ... 29209
510 ... 28395
520 ... 27818, 28768
522 ... 30267
524 ... 30152
556 ... 30267
558 ... 27421, 27422, 28768, 28931, 28932
801 ... 30153
808 ... 30698
812 ... 28932
1308 ... 28098, 28395

Proposed Rules:

Ch. 1, Subchapter C ... 28594
2 ... 30210
81 ... 29702
109 ... 29233
110 ... 29233
146 ... 29702
170 ... 27294, 29235
201 ... 27016, 29702
211 ... 27016, 29702
225 ... 29233
226 ... 29233
357 ... 27552, 28595
433 ... 29702
449 ... 30478
500 ... 29233
509 ... 29233
514 ... 27016, 29702
559 ... 27016, 29702
561 ... 27452, 30277
610 ... 28595
660 ... 28595
680 ... 30211
882 ... 30277
1002 ... 27024, 29704

22 CFR

501 ... 27422
1502 ... 28932
1504 ... 28934

23 CFR

825 ... 29209
1325 ... 28191

24 CFR

200 ... 28197
201 ... 30154
203 ... 28197, 30154
234 ... 30154
885 ... 28197
899 ... 30423
3282 ... 28396

25 CFR

Proposed Rules:

20 ... 30688
61 ... 27456

26 CFR

1 ... 27222, 27231, 27427, 29369-29376, 29959, 30160, 30816
31 ... 29964
48 ... 29959
138 ... 29959
602 ... 27222, 27231, 29369, 29376, 29959, 29964, 30160, 30816

Proposed Rules:

1 ... 27297, 27456, 27457, 28409, 29435, 29436
31 ... 29990
51 ... 27621
602 ... 29436

27 CFR

4 ... 27819
9 ... 29967, 30818
170 ... 28572, 30821

Proposed Rules:

9 ... 28409

28 CFR

0 ... 28769
2 ... 28101
18 ... 28199
32 ... 27428

Proposed Rules:

30 ... 28955

29 CFR

70 ... 28306
1620 ... 30699
1952 ... 27233, 28770, 29210, 29659, 30821

Proposed Rules:

33 ... 27298, 28956
89 ... 29606
1910 ... 27307

30 CFR

700 ... 28186
701 ... 28186
785 ... 28186
827 ... 28186
901 ... 29379, 30916
902 ... 28592
943 ... 28186
948 ... 28316, 28324

Proposed Rules:

56 ... 27566

57 ... 27566, 29437
700 ... 28180
701 ... 28180
762 ... 30408
785 ... 28180
817 ... 27910
827 ... 28180
887 ... 30402
913 ... 27025, 30862
917 ... 28222, 29235
920 ... 30720
926 ... 29235
934 ... 30721
935 ... 29437, 29438, 30863
936 ... 27461
944 ... 28107, 30723
948 ... 28343, 30724
950 ... 28595, 29438, 29704, 30282

31 CFR

4 ... 29221
51 ... 26987
103 ... 27821
500 ... 27435
505 ... 27435
515 ... 27435
520 ... 27435
535 ... 27435
540 ... 27435

32 CFR

Parts 1-39 ... 26987
199 ... 26988
642 ... 28573
657 ... 28573
706 ... 28398-28400
726 ... 28401

Proposed Rules:

806b ... 30283

33 CFR

100 ... 27579, 28573, 29221-29223, 30268, 30700-30702
110 ... 26988, 27580, 29224, 30268
117 ... 26989, 27582, 29670-29672, 30268, 30269
150 ... 26989
165 ... 27583, 29225, 30702
166 ... 26989

Proposed Rules:

110 ... 27622, 27623, 28596
117 ... 27026, 27029, 27624, 27832, 27990, 27991, 29236, 30284, 30285
322 ... 30479
325 ... 30479

34 CFR

19 ... 28101
75 ... 29328
76 ... 29328
304 ... 29328
425 ... 29352
426 ... 29352
431 ... 29352
432 ... 29352

Proposed Rules:

369 ... 28412
376 ... 28412
668 ... 30674

35 CFR

101 ... 26990
103 ... 26990
121 ... 26990

36 CFR

254 ... 29673
1200 ... 27196
1202 ... 27196
1228 ... 27951
1250 ... 27196

37 CFR

201 ... 30169
202 ... 30169

Proposed Rules:

1 ... 27030, 28596

38 CFR

1 ... 29226
3 ... 27584
21 ... 27825, 29674

Proposed Rules:

3 ... 28224
17 ... 29990
36 ... 27833

39 CFR

3 ... 29380
10 ... 27827
111 ... 30833, 30834
601 ... 28941
3001 ... 28144, 30271

Proposed Rules:

111 ... 27992
3001 ... 27308

40 CFR

51 ... 27892
52 ... 26991, 27244-27247, 28544, 29229, 29381, 29383
60 ... 27248
61 ... 27248
81 ... 28574, 30704
86 ... 27250, 29384
123 ... 28202
147 ... 28941, 28942
158 ... 28943
162 ... 28943
180 ... 28944-28946, 30172
260 ... 28702
261 ... 28702, 30271
262 ... 28702
264 ... 28702
265 ... 28702
266 ... 28702
270 ... 28702
271 ... 28702
280 ... 28702
419 ... 28516
600 ... 27172
761 ... 29170
763 ... 28530, 30423
799 ... 30423

Proposed Rules:

52 ... 27030, 27462, 28224, 28415, 28596, 28598, 28818, 29237, 29439
86 ... 28818
180 ... 27463, 28108, 28956, 28957, 30481
202 ... 27321
205 ... 27321
260 ... 29992
261 ... 30908
262 ... 29992
264 ... 29992
265 ... 29992
270 ... 29992
271 ... 30908
403 ... 29705
414 ... 29068
416 ... 29068
600 ... 27188
798 ... 30213
799 ... 30213

41 CFR

Chs. 1-49 ... 26987
101-4 ... 28402
101-17 ... 28577
101-40 ... 27951
101-41 ... 30705, 30710
101-47 ... 28402
105-54 ... 28203
105-63 ... 26992
201-1 ... 27142
201-2 ... 27142, 28208
201-8 ... 27142
201-11 ... 27142
201-16 ... 27142
201-20 ... 27142
201-21 ... 27142
201-22 ... 28208
201-23 ... 27142
201-24 ... 27142
201-26 ... 27142
201-30 ... 27142, 28208
201-31 ... 27142, 28208
201-32 ... 27142, 28208
201-38 ... 27142
201-39 ... 27142, 28208
201-40 ... 27142, 28208
201-45 ... 28208

Proposed Rules:

101-41 ... 27625, 27626

42 CFR

400 ... 28577, 30838
405 ... 27722, 30172
412 ... 27208, 27722, 30172
416 ... 28577
433 ... 30838
435 ... 28577

Proposed Rules:

23 ... 27465
405 ... 27469
412 ... 27469

43 CFR

2 ... 29230
5470 ... 28947

Public Land Orders:

5150 (Revoked in part by PLO 6607) ... 27827
5179 (Revoked in part by PLO 6607) ... 27827
5180 (Revoked in part by PLO 6607) ... 27827
5186 (Revoked in part by PLO 6607) ... 27827
6389 (Corrected by PLO 6608) ... 28208
6607 ... 27827
6608 ... 28208

Proposed Rules:

2800 ... 27322
5400 ... 29324
5440 ... 29324

44 CFR

5 ... 30711
6 ... 30711
64 ... 26993, 26994, 28947
67 ... 30173

Proposed Rules:

67 ... 27322, 29662
302 ... 27627, 28958, 30481

45 CFR

1180 ... 27584, 27585
1801 ... 30711
1806 ... 30713
1822 ... 30714
1825 ... 30714

Proposed Rules:

405 ... 27466
412 ... 27466
1620 ... 27226

46 CFR

10 ... 30274
153 ... 28696

Proposed Rules:

160 ... 27688
355 ... 29440

47 CFR

0 ... 27952
22 ... 27688
68 ... 27250, 29384
73 ... 27287, 27438, 27954, 29392, 29393, 30187
74 ... 29384
76 ... 27436, 29384
81 ... 27688
83 ... 27968, 29234

Proposed Rules:

Ch. I ... 28418, 29440
15 ... 30213
73 ... 27629, 29446-29453
97 ... 29454

48 CFR

7 ... 27560
12 ... 27969
15 ... 27560, 29103
19 ... 27560
33 ... 27969
34 ... 27560
52 ... 27560, 27969
209 ... 28209
217 ... 29675
504 ... 26996
515 ... 28578
522 ... 28578
533 ... 26996
552 ... 27589, 28948, 29402, 30274
553 ... 27589
570 ... 27589, 30274
2801 ... 29798
2804 ... 29798
2806 ... 29798
2807 ... 29798
2808 ... 29798
2809 ... 29798
2810 ... 29798
2814 ... 29798
2815 ... 29798
2827 ... 29798
2830 ... 29798
2831 ... 29798
2834 ... 29798
2835 ... 29798
2852 ... 29798
6101 ... 27969, 29231

Proposed Rules:

208 ... 28227
252 ... 28227

49 CFR

1 ... 30275

49 CFR

1.....30275
571.....27451, 29676
1000.....30275
1011.....30275
1100.....30275
1101.....30275
1104.....30188
1105.....30188
1151.....30188
1152.....30188
1155.....30188
1160.....30188, 30275
1180.....30188

Proposed Rules:

Ch. X.....27031
71.....28959
171.....28820
175.....28820
531.....29912
571.....27032, 27632, 27633, 28426, 28599, 29993
1132.....27834
1241.....29706

50 CFR

17.....26999, 29338–29345, 30188, 30423
20.....30424, 30849
33.....29972
215.....27914
285.....29403, 30853
611.....29681
652.....30853
658.....28103
661.....30195
663.....30195
672.....28580, 28581, 29681
674.....28103, 30427
681.....30198

Proposed Rules:

17.....27637, 27992, 28821, 28870–28878, 28959, 29238, 29900, 29901
20.....27638, 29706
611.....28960, 29240
630.....27470
642.....29709
650.....29240
651.....29241
655.....28109
662.....27470
663.....28960
672.....30481
675.....29240

LIST OF PUBLIC LAWS

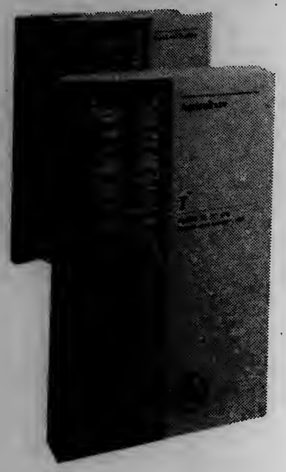
Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 26, 1985

VOL 50 ISS 146 JL 30 1985 UMI

Just Released

VOL
50
ISS
146
JL
30
1985
UMI



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VOL
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JL
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VOL
50
ISS
147
JL
31
1985
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7-31-85
Vol. 50 No. 147

federal register

Wednesday
July 31, 1985

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7-31-85
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VOL
50
ISS
147
JL
31
1985
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7-31-85
Vol. 50 No. 147
Pages 30925-31150

federal register

Wednesday
July 31, 1985

Selected Subjects

Air Pollution Control
Environmental Protection Agency
Air Transportation
Transportation Department
Animal Drugs
Food and Drug Administration
Conflict of Interests
Personnel Management Office
Fisheries
National Oceanic and Atmospheric Administration
Forests and Forest Products
Forest Service
Grants Administration
Veterans Administration
Hazardous Waste
Environmental Protection Agency
Intergovernmental Relations
Education Department
Loan Programs—Agriculture
Commodity Credit Corporation
Motor Carriers
Interstate Commerce Commission
Radio Broadcasting
Federal Communications Commission

CONTINUED INSIDE

Selected Subjects

Air Pollution Control
Environmental Protection Agency
Air Transportation
Transportation Department
Animal Drugs
Food and Drug Administration
Conflict of Interests
Personnel Management Office
Fisheries
National Oceanic and Atmospheric Administration
Forests and Forest Products
Forest Service
Grants Administration
Veterans Administration
Hazardous Waste
Environmental Protection Agency
Intergovernmental Relations
Education Department
Loan Programs—Agriculture
Commodity Credit Corporation
Motor Carriers
Interstate Commerce Commission
Radio Broadcasting
Federal Communications Commission

Contents

Federal Register

VOL 50 ISS 147 JL 31 1985 UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Selected Subjects

Reporting and Recordkeeping Requirements
Federal Communications Commission

Securities
Federal Reserve System

Security Measures
Energy Department

Surface Mining
Surface Mining Reclamation and Enforcement Office

Television Broadcasting
Federal Communications Commission

Truth in Lending
Federal Reserve System

Vessels
Federal Communications Commission

Contents

Federal Register
Vol. 50, No. 147
Wednesday, July 31, 1985

ACTION
NOTICES
30982 VISTA program guidelines

Agriculture Department
See also Commodity Credit Corporation; Federal Grain Inspection Service; Forest Service.
NOTICES
30985 Agency information collection activities under OMB review

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
RULES
Loan and purchase programs:
30925 Grain; special producer storage loan program

Defense Department
NOTICES
Meetings:
30992 Defense Management, President's Blue Ribbon Commission

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
31057 McNeilab Inc.
31058 MD Pharmaceutical, Inc.
31058 Penick Corp.
31058 Syncates Associates Inc.

Education Department
PROPOSED RULES
30959 Intergovernmental review of agency programs and activities
NOTICES
Grants; availability, etc.:
30992 Discretionary grant programs
31000 Educational media research, production, distribution, and training program; funding priority
31001 Excellence in education program

Energy Department
See also Hearings and Appeals Office, Energy Department.
RULES
Defense programs:
30926 Protective force officers; arrest authority, etc.
NOTICES
31003 Cesium-137; leasing
Trespassing on Department property:
31004 Pantex Plant, TX

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
30941 California
PROPOSED RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
30961 Missouri
Air quality implementation plans; approval and promulgation; various States:
30960 Indiana
Air quality planning purposes; designation of areas:
30962 Kansas
Hazardous waste program authorizations:
30967 Kansas
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
30963 *n*-Butanol
30965 Permethrin
30966 Sulfur
NOTICES
Meetings:
31025 Air Pollution Control Techniques National Advisory Committee
31026 SFIREG Applicator Certification and Training Task Force
Pesticide, food, and feed additive petitions:
31026 Rhone-Poulenc Inc. et al.
Pesticide applicator certification; Federal and State plans:
31011 Fort Berthold Indian Reservation, ND
Pesticide programs:
31027 Confidential information and data transfer to contractors (Lawrence Johnson & Associates)
31025 Confidential information and data transfer to Forest Service
31010 Pesticide assessment guidelines; data reporting addenda; inquiry
31012 Sodium fluoroacetate (compound 1080); special review

Equal Employment Opportunity Commission
NOTICES
31090 Meetings; Sunshine Act

Federal Communications Commission
RULES
Radio and television broadcasting:
30949 Network affiliation and transcription contracts filing
Radio broadcasting:
30944 AM stations; temporary and emergency operation, etc.
Radio services, special:
30952 Maritime services; ship radar reliability test requirements removed
Television stations; table of assignments:
30951 Alabama and Tennessee
PROPOSED RULES
Radio broadcasting:
30968 AM technical rules; conformance with international agreements
Radio stations; table of assignments:
30971 Michigan
30973 Oklahoma

30974 Vermont
30975, Washington (2 documents)
30976

Television broadcasting:
30979 Experimental broadcast stations and instructional television fixed service; technical and operational requirements review
Television stations; table of assignments:
30971 Arizona
30975 Nevada
30978 West Virginia
NOTICES
Hearings, etc.:
31029 Castle Rock Communications, Ltd., et al.
31030 Elim Broadcasting, Inc., et al.
31034 Kilgore Broadcasting et al.
31032 Suntime Radio, Inc., et al.
31027 Townes, Jack, et al.

Federal Deposit Insurance Corporation
NOTICES
31090, Meetings; Sunshine Act (3 documents)
31091

Federal Grain Inspection Service
PROPOSED RULES
30955 Weighing and inspection equipment; performance and procedural requirements; correction

Federal Reserve System
RULES
30931 Securities credit transactions; OTC margin stocks list (Regulations G, T, U, and X)
PROPOSED RULES
Truth in lending (Regulation Z):
30955 Variable rate disclosure; extension of time
NOTICES
31036 Agency information collection activities under OMB review
Bank holding company applications, etc.:
31036 Colpatria-Sociedad Columbiana de Capitalizacion, S.A.
31036 First Sarasota Bancorporation et al.
31037 Mercantile Bankshares Corp. et al.
31037 Security State Agency of Aitkin, Inc.

Fish and Wildlife Service
NOTICES
Comprehensive conservation plan/environmental statements, availability, etc.:
31046 Alaska Peninsula National Wildlife Refuge, AK
National fishery programs:
31047 Artificially propagated fish, report to Congress; availability and inquiry

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
30934 Tylosin

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
30986 New York
30987 Washington

Forest Service
RULES
Timber sales, national forest:
30934 Alaska; emergency stumpage rate redeterminations
NOTICES
Public rangeland improvement; experimental stewardship program report; draft availability; extension of comment period (Editorial Note: For a document on this subject see Land Management Bureau)

Health and Human Services Department
See also Food and Drug Administration; Health Care Financing Administration.
NOTICES
31038 Hospital discharge data set, uniform; revision

Health Care Financing Administration
RULES
Medicare:
30944 Hospital inpatient services, prospective payment amount and administrative review; interim rules removed
NOTICES
Medicaid:
31042 State plan amendments, reconsideration hearings; Pennsylvania
Medicare:
31040 Inpatient hospital rehabilitation services criteria for medicare coverage

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
31005 Cases filed
31006 Special refund procedures; implementation and inquiry

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
PROPOSED RULES
Income taxes:
30955 Cash in excess of $10,000 received in trade or business; reporting requirements; hearing

International Trade Administration
NOTICES
Countervailing duties:
30987 Carbon steel products from Korea
30988 Cold-rolled carbon steel flat-rolled products from Korea
30990 Oil country tubular goods from Mexico
30989 Oil country tubular goods from Spain

International Trade Commission
NOTICES
Import investigations:
31049 Automatic bowling machine printed circuit control boards
31050 Carbon steel products from Romania and Venezuela
31050 Cellular mobile telephones and subassemblies from Japan
31051 Cellulose acetate hollow fiber artificial kidneys

31052 Compound action metal cutting snips and components
31052, Convertible rowing exercisers (3 documents)
31053
31049 Dot matrix line printers and components
31053 Double-sided floppy drives and components
31053 Nylon impression fabric from Japan
31054 Oil country tubular goods from Argentina, Canada, and Taiwan
31055 Photo albums and filler pages from Hong Kong and Korea
31048 Red raspberries from Canada
31056 Stainless steel plate from Sweden
31057 Steel wire nails from China, Poland, and Yugoslavia
31057 Telephone base housing and related packaging and printed materials
Senior Executive Service:
31049 Performance Review Boards; membership

Interstate Commerce Commission
PROPOSED RULES
Motor carriers:
30981 Commercial zones; Cameron, Hidalgo, Starr, and Willacy Counties, TX

Justice Department
See Drug Enforcement Administration.

Land Management Bureau
NOTICES
Alaska native claims selection:
31043 Beaver Kwit'chin Corp.
31044 Doyon, Ltd.
31044 Eklutna, Inc. (3 documents)
31045 Kuitsarak, Inc.
31045 Tulkisarmute, Inc.
Environmental statements; availability, etc.:
31043 Jackpile-Paguate uranium mine reclamation project, NM
31045 Public rangeland improvement; experimental stewardship program report; draft availability; extension of comment period
Withdrawal and reservation of lands:
31045 Utah

Legal Services Corporation
NOTICES
31091 Meetings; Sunshine Act

Minerals Management Service
NOTICES
Outer Continental Shelf operations:
31047 Geological and geophysical permit requirements

National Aeronautics and Space Administration
NOTICES
31058 Agency information collection activities under OMB review
31059 Inventions, Government-owned; availability for licensing
Patent licenses, exclusive:
31059 Celanese Corp.

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
30981 Air and hydraulic brake systems; comment period reopened; correction

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
30954 Ocean salmon off coasts of Washington, Oregon, and California
NOTICES
Meetings:
30990 North Pacific Fishery Management Council; date change
30990 Pacific Fishery Management Council

National Park Service
NOTICES
31048 Agency information collection activities under OMB review

National Science Foundation
NOTICES
31060 Agency information collection activities under OMB review

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
31060 Columbia University
31060 Northeast Nuclear Energy Co. et al.
31091 Meetings; Sunshine Act
Operating licenses, amendments; no significant hazards considerations:
31061 Bi-weekly notices
Reports; availability, etc.:
31060 Nuclear power plant safety analysis report review

Pension Benefit Guaranty Corporation
NOTICES
31084 Agency information collection activities under OMB review

Personnel Management Office
RULES
Conflict of interest:
31096 Post employment; senior employee designations, etc.

Securities and Exchange Commission
NOTICES
Applications, etc.:
31085 Franklin Lakeshore Ltd. Partnership
31086 Prudential-Bache Securities Inc.

Small Business Administration
NOTICES
Applications, etc.:
31087, Brentwood Capital Corp. (5 documents)
31088
Disaster loan areas:
31086 Michigan
Meetings; regional advisory councils:
31086 New York
Small business investment companies:
31086 Maximum annual cost of money; Federal Financing Bank rate

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission:
30956 Iowa
30957 Missouri
30958 Utah; comment period reopened

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
30991 Philippines
30991 Singapore

Transportation Department
See also National Highway Traffic Safety Administration.
RULES
Aviation proceedings; procedural regulations:
31134 Antitrust authority transfer

Treasury Department
See also Internal Revenue Service.
NOTICES
Notes, Treasury:
31088 X–1987 series

Veterans Administration
RULES
30937 Auditing requirements
NOTICES
31088 Privacy Act; computer matching program

Separate Parts in This Issue

Part II
31096 Office of Personnel Management

Part III
31134 Department of Transportation, Office of the Secretary

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
737.....31096

7 CFR
1421.....30925
Proposed Rules:
801.....30955

10 CFR
1047.....30926

12 CFR
207.....30931
220.....30931
221.....30931
224.....30931
Proposed Rules:
226.....30955

14 CFR
251.....31134
261.....31134
287.....31134
291.....31134
296.....31134
298.....31134
299.....31134
303.....31134
380.....31134

21 CFR
558.....30934

26 CFR
Proposed Rules:
1.....30955

30 CFR
Proposed Rules:
915.....30956
925.....30957
944.....30958

34 CFR
Proposed Rules:
79.....30959

36 CFR
223.....30934

38 CFR
41.....30937

40 CFR
52.....30941
Proposed Rules:
52.....30960
62.....30961
81.....30962
180 (3 documents).....30963, 30965, 30966
271.....30967

42 CFR
412.....30944

47 CFR
73 (3 documents).....30944, 30949, 30951
83.....30952
Proposed Rules:
73 (9 documents).....30968, 30971–30978
74.....30979

49 CFR
Proposed Rules:
571.....30981
1048.....30981

50 CFR
661.....30954

VOL
50
ISS
147
JL
31
1985
UMI

Rules and Regulations

Federal Register
Vol. 50, No. 147
Wednesday, July 31, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

Special Producer Storage Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The interim rule governing the Special Producer Storage Loan Program, published in the Federal Register on April 25, 1985 (50 FR 16221) is hereby adopted as a final rule without change. Under the program, a producer may pledge as collateral for such loans that collateral which is presently securing a matured Commodity Credit Corporation (CCC) farmer-owned grain reserve loan.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone: (202) 447–8480.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 1421) have been approved by the Office of Management and Budget in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Number 0560–0087.

This final rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1512–1 and Executive Order 12291 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Commodity Loans and Purchases; Number–10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule.

An Environmental Evaluation with respect to the Special Producer Storage Loan Program has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Statutory Authority

The program will be conducted pursuant to the Commodity Credit Corporation Charter Act, as amended (the "Charter Act"). The Charter Act gives the Corporation broad authority to support the price of agricultural commodities through loans, purchases, or other operations, stabilize agricultural commodity markets and remove and dispose of surplus agricultural commodities.

Interim Rule

An interim rule setting forth the terms and conditions of the Special Producer Storage Loan Program was published in the **Federal Register** on April 25, 1985, at 50 FR 16221. The interim rule provided for a 30-day comment period.

General Summary of Comments

The Department received one comment with respect to the interim rule from a state Attorney General. The comment received is on file and available for public inspection in Room 3627-South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20013.

The comment received discussed several issues on the theory that the provisions of the Special Producer Storage Loan Program should be similar to those of the Farmer-Owned Grain Reserve Program. The Farmer-Owned Grain Reserve Program is authorized by section 110 of the Agricultural Act of 1949, as amended (the "1949 Act"). The Special Producer Storage Loan Program is carried out under the broader authority of the Charter Act. Accordingly, there is no requirement that the terms and conditions which are specified for the Farmer-Owned Grain Reserve Program by section 110 of the 1949 Act also be made applicable to the Special Producer Storage Loan Program. The following is a summary of the comment and issues raised with respect to the Special Producer Storage Loan Program established by the interim rule:

Comment on Major Program Provisions

I. Length of Special Producer Storage Loon Agreement

Provisions of the Interim Rule. The interim rule provided that loan agreements shall be for a 12-month period. The interim rule further provided that loan agreements may be extended for an additional 12-month period if authorized and announced by the Secretary.

Comment. The respondent argued that this provision represents a reduction in the length of agreements entered into under the Farmer-Owned Grain Reserve Program. It was suggested that the new program provide for a two-year loan period in order to be consistent with extensions granted under the reserve program.

Discussion and conclusion. The purpose of the Special Producer Program is to permit producers to maintain control of their grain which had been pledged as loan collateral under the

VOL 50 ISS 147 JL 31 1985 UMI

Farmer-Owned Grain Reserve Program instead of being required upon maturity of the loans to immediately repay their loans or to forfeit the pledged grain to CCC. Since the Special Producer Storage Loan Program is not an extension of the Farmer-Owned Grain Reserve Program, the new loan is available to those producers who may have matured reserve agreements, some of which may have reached the statutory maximum period of five years. While the loan period under the Special Producer Storage Loan Program is for 12 months, the Secretary may offer an additional 12 month extension if market conditions indicate the need. This program provides the Secretary with needed flexibility to address future market needs or circumstances. Accordingly, the provisions of the interim rule have been retained.

II. Interest Rates

Provisions of the interim rule. The interim rule provided that each special producer storage loan shall bear interest during the loan period at the rate applicable to CCC price support loans in effect on the first day of the loan period, adjusted in accordance with any subsequent increase or decrease in the rate of interest to be charged on CCC price support loans as determined and announced by the Secretary.

Comment. The respondent suggested the interest requirement be eliminated to conform with the practice of not charging interest on extended Farmer-Owned Grain Reserve Program loans.

Discussion and conclusion. The waiving of interest on extended Farmer-Owned Grain Reserve Program loans was specifically authorized by Section 110 of the 1949 Act. Charging interest for loans made under the Special Producer Storage Loan Program is consistent with CCC's long-standing policy of charging interest with respect to loans which are made under other CCC programs. Accordingly, the provisions of the interim rule have been retained.

Acceleration of Loan Maturity Date

Provisions of the interim rule. The interim rule provided that the Secretary may accelerate the maturity date of special producer storage loans if the Secretary determines that conditions exist which require that the commodity which is serving as collateral for the loan be made available in the market to meet domestic or international needs.

Comment. The respondent suggested that the acceleration provision be modified to make it consistent with provisions governing the Farmer-Owned Grain Reserve Program.

Discussion and conclusion. Since this provision would only be used under unusual circumstances and after reviewing supply and demand conditions existing at that time, it is not considered to be prudent to limit the Secretary's authority to specific conditions or actions. Accordingly, the provisions of the interim rule have been retained.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Price support programs, Warehouses.

Final Rule

Accordingly, the interim rule published at 50 FR 16221 on April 25, 1985, which added 7 CFR 1421.900–1421.917, is hereby adopted as a final rule without change.

Signed at Washington, D.C., on July 26, 1985.

John R. Block,

Secretary.

[FR Doc. 85–18086 Filed 7–30–85; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

10 CFR Part 1047

Defense Programs; Limited Arrest Authority and Use of Force by Protective Force Officers

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is adopting regulations which set forth its policy concerning arrests and associated use of force by all DOE and DOE contractor employees engaged in nuclear security duties. Under section 161.k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201.k.), certain DOE and DOE contractor protective force personnel are authorized to carry firearms and to make arrests without warrant for any offense against the United States committed in their presence or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing the felony. However, this arrest authority is specifically limited by the statute to enforcement of: (1) Laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission (NRC) or a contractor of the DOE or NRC; or (2) any provision of the Atomic Energy Act that may subject an offender to a fine, imprisonment, or both. The purpose of these rules is to insure that protective force personnel at DOE facilities exercise such arrest authority, including the use of force to effect an arrest or apprehend a suspect, in a manner consistent with both DOE's security objectives and recognized legal standards.

EFFECTIVE DATE: August 30, 1985.

FOR FURTHER INFORMATION CONTACT: Martin J. Dowd, Department of Energy, Defense Programs, DP–343, Germantown, Washington, D.C. 20585, (301) 353–4642; Jo Ann Williams, Department of Energy, Office of General Counsel, Room 6B–256, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252–6975.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
III. Discussion of Comments
IV. Additional Revisions
V. Administrative Procedures

I. Background

The nationwide nuclear program administered by the Secretary of Energy is conducted principally at nuclear facilities and sites owned by the federal government. Most of these facilities and sites, however, are operated under contracts with private industry. The increasing threat of terrorist activities at these facilities and sites where classified information, nuclear materials and nuclear weapons are located presents a real and present danger. DOE's armed security force, comprised of DOE and DOE contractor employees, is the first line of human defense against terrorist or other assaults. The effectiveness of its protective force officers is a key factor in DOE's program to provide a high degree of physical security to each of its nuclear activities.

On July 31, 1984, DOE issued a notice of proposed rulemaking (49 FR 30638) setting forth its proposed policy on the making of arrests and associated use of force by all DOE and DOE contractor employees engaged in nuclear security duties. DOE held five hearings in various parts of the country and accepted written comments on the proposed rule until September 7, 1984. In addition, to ensure that all interested parties had an opportunity to participate in the rulemaking process, DOE issued press releases and contacted guard unions and various federal, state, and local law enforcement agencies to solicit their comments and to invite their participation in the rulemaking process.

II. Discussion

Based on DOE's assessment of its security capabilities and the increasing threat of terrorist, paramilitary, criminal and other threatening activities, DOE has determined that formalization of a uniform policy on arrest and associated use of force by protective personnel armed pursuant to section 161.k. of the Atomic Energy Act will enhance the common defense and security. Section 161.k. of the Atomic Energy Act of 1954 authorizes DOE and DOE contractor security personnel to make arrests without warrant for: (1) Laws regarding the property of the United States in the custody of the DOE, NRC, or a contractor of the DOE or NRC; or (2) any provision of the Atomic Energy Act that may subject an offender to a fine or imprisonment, or both. This Final Rule specifies those provisions of the Atomic Energy Act and Title 18, United States Code, that DOE has determined should be enforced by its protective force personnel.

Eight offenses from Chapter 16 "Enforcement" of the Atomic Energy Act are enumerated. These five felonies and three misdemeanors pertain to the unlawful dissemination of Restricted Data (classified atomic energy information) and to criminal acts against facilities, equipment, materials, and other property of the DOE. Nineteen offenses from Title 18, United States Code, have been identified. These fourteen felonies and five misdemeanors prohibit criminal acts such as theft, arson, and sabotage against federal property, including DOE property.

This Final Rule also sets out procedures that protective force personnel are to follow in making arrests. A protective force officer is authorized to make an arrest for any of the felonies enumerated in the rule if the offense is committed in his or her presence or if he or she has reasonable grounds to believe that the individual to be arrested has committed or is committing the felony. In the case of a misdemeanor, the officer may only make an arrest if the offense is committed in his or her presence. This Final Rule also provides guidance on arrest techniques, including questioning of arrested persons and searches and seizure of evidence.

DOE is concerned that its protective force personnel only use the degree of force that is necessary and justified in making an arrest. This Final Rule establishes those circumstances under which the use of physical force is authorized and restrictions applicable to its use.

A protective force officer is authorized to use deadly force under conditions of extreme necessity and as a last resort only under the following five circumstances:

(1) To protect himself or herself from imminent danger of death or serious bodily harm; (2) to prevent serious offenses against other persons; (3) to prevent the theft, sabotage, or unauthorized control of a nuclear weapon or nuclear explosive device; (4) to prevent the theft, sabotage or unauthorized control of special nuclear material or (5) to apprehend or prevent the escape of a person who has committed an offense specified in (1) through (4); or who is escaping by use of a weapon or explosive or who otherwise indicates that he or she poses a significant threat of death or serious bodily harm to the protective force officer or other unless apprehended without delay.

III. Discussion of Comments

DOE held hearings in Washington, D.C., Denver, San Francisco, Pittsburgh, and Atlanta and requested written comments on these rules (49 FR 30638, July 31, 1984). Three (3) interested parties testified at the hearings and two (2) written comments were received during the thirty-day comment period. Each person testifying or submitting written comments represented either a DOE contractor or a guard union.

One commenter expressed concern that proposed §§ 1047.4(e), 1047.5(e) and 1047.6(b) compel an "unnecessary and perhaps unwarranted" reliance by protective force officers on the advice of local DOE legal counsel. These proposed sections state that guidance on the Assimilative Crimes Act; search and seizure of evidence; and physical force in making arrests, respectively, shall be obtained from the local DOE Office of Chief Counsel. DOE accepts the suggestion that coordination with contractor legal counsel, as appropriate, be provided for in each subpart directing consultation with DOE legal counsel. However, we do not view obtaining guidance from contractor counsel without coordination with DOE counsel as a viable option since these regulations establish federal standards.

A number of comments recommended reconsideration of certain requirements related to the exercise of arrest authority on the basis that they were not legally required and unreasonably impeded protective force officers in the safe and effective performance of their duties. DOE agrees with these comments and has revised this Final Rule accordingly. First, the requirement that a protective force officer announce the offense committed in making an arrest has been deleted. Secondly, an arresting officer is authorized pursuant to these regulations to search any arrested person at the time and place of arrest for weapons and criminal evidence and the area into which the arrested person might reach for a weapon or to destroy evidence. The proposed regulations only authorized a "frisk" if the arrested person was suspected of carrying weapons or other dangerous articles. We agreed with the commenter that a more extensive search is legally permissible and necessary for the safety of protective force officers and others.

The greatest number of comments received suggested refinements in the provisions relating to the use of deadly force in making an arrest. One commenter expressed the view that the requirement to give an order to halt before a shot is fired is appropriate where there is a pursuit in progress, but inappropriate and dangerous in other situations; e.g., where a nuclear weapon is under hostile armed attack. DOE agrees and has limited the requirement to give warning to situations where it is feasible. This standard is consistent with the language of the United States Supreme Court in *Tennessee v. Garner*, 105 S. Ct. 1694, 1701 (1985). Secondly, the requirement to shoot to disable has been deleted at the recommendation of a number of commenters who correctly point out that the requirement is too onerous since normal police practice is to shoot to stop. We agree with the commenter that it is unreasonable to require a protective force officer when the use of deadly force is authorized to attempt to wound a person rather than to fire at the center mass of the body.

The regulations have also been changed to reflect comments regarding the five circumstances under which deadly force may be used. One commenter suggested that the provision in the regulations addressing the right of a protective force officer to use deadly force "in the event of serious offenses against persons involving violence and threatening death or serious bodily harm" be modified to emphasize that an imminent threat is required. This modification has been made. Deadly force is authorized in the Final Rule to "prevent the commission of a serious offense against a person(s) in circumstances presenting an *imminent danger* of death or serious bodily harm." As requested, DOE has also reworded § 1047.7(a)(1)—(5) to clarify that the use of deadly force in each of the five circumstances authorized is based on the reasonable belief of the protective force officer that the circumstance

VOL
50
ISS
147
JL
31
1985
UMI

requiring the use of deadly force exists. For example, proposed § 1047.7(a)(3) stated that deadly force is authorized "to prevent the theft, sabotage, or unauthorized control of a nuclear weapon or nuclear explosive devices." It has been modified to state that such use is authorized "when deadly force reasonably appears necessary to prevent the theft, sabotage, or unauthorized control of a nuclear weapon or nuclear explosive device." As reworded, the provisions state the standard that DOE intended and that has been applied by the courts to law enforcment officers in cases involving the use of deadly force.

DOE has adopted in part and rejected in part recommendations to modify the provision concerning use of deadly force to protect special nuclear material and other inherently dangerous property. The concept of inherently dangerous property, criticized in several comments as being vague and unnecessary, has been removed from the regulations. We agree with the commenters that the provisions authorizing the use of deadly force to protect nuclear weapons, nuclear explosive devices, and special nuclear material adequately cover property that would have been covered by the "inherently dangerous property" category. In addition, the provision has been modified to authorize a protective force officer to use deadly force to prevent the theft, sabotage, or unauthorized control of special nuclear material "from an area of a fixed site or from a shipment where Category II or greater quantities are known or are reasonably believed to be present." This accommodates the concerns of those commenters who expressed the view that the proposed rule set forth an impractical standard requiring a protective force officer in an emergency situation to determine the exact cagegory (i.e., Category II or greater quantities) of special nuclear material involved.

DOE rejected the recommendation that its policy governing deadly force not be implemented to protect special nuclear material because of alleged inconsistencies between the policy and some state laws. Specifically, the commenter expressed the view that the DOE policy would be inconsistent with the laws of those states that do not permit the use of deadly force merely to protect property absent other circumstances involving an immediate threat to human life. DOE does not agree that there are inherent inconsistencies between the two. Because of its possible use as a radiological contaminant or in an explosive device, special nuclear material differs quantitatively from ordinary property and its theft, sabotage, or unauthorized control is tantamount to a "dangerous felony" within the meaning of those state laws that require commission of a "dangerous felony" to justify the use of deadly force. Moreover, as federal law enforcement officers, DOE's protective force is not properly limited by state laws on the use of deadly force in performing their official federal duties. This legal principle was established by the United States Supreme Court in the landmark decision *In Re Neagle*, 135 U.S. 1 (1890), that has been widely followed. With respect to constitutional standards, DOE's policy as expressed in this Final Rule is consistent with the decision of the United States Supreme Court in *Tennessee* v. *Garner*, 105 S. Ct. 1694 (1985). The Court held that law enforcemrnt officers cannot resort to deadly force unless they have probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others if not apprehended without delay.

A substantial portion of the provision in the proposed rules specifying additional considerations involving firearms has been deleted as suggested by a commenter. DOE agrees with his statemnt that some of the guidance provided in the provision is more appropriate for an internal agency directive or training manual.

From several comments received, it is clear to DOE that the provision regarding legal defense and reimbursement of protective personnel was not clearly understood by all readers. Upon further reflection, DOE has decided to accomplish the objectives of the provision by a contract-by-contract approach rather than by regulation. The specifics regarding legal defense and reimbursement of protective force officers will be set forth in a written agreement between DOE and each contractor employing protective force officers. Each protective force officer will be fully advised of and receive a copy of such agreement.

IV. Additional Revisions

Upon further reflection, DOE has decided to make a few revisions other than those suggested by commenters. Section 2114 of Title 18, United States Code, has been removed from the list of federal statutes to be enforced by DOE protective force officers because case law limits its application to property of the Postal Service. (See *United States* v. *Rivera*, 513 F.2d 519 (2nd Cir. 1975) and *United States* v. *Fernondez*, 497 F.2d 730 (9th Cir. 1974).)

The certification requirement for individual officers has been removed because it poses an undue administrative burden on DOE field operations.

V. Administrative Procedures

A. Review Under Executive Order 12291

This Final Rule was reviewed under Executive Order 12291 (48 FR 13193, Feb. 19, 1981). DOE has concluded that the rule is not a "major rule" under the Executive Order. It will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, State, Federal, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to section 3(c)(3) of Executive Order 12291, this Final Rule was submitted to the Director of OMB for a 10-day review. The Director has concluded this review under that Executive Order.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 601 *et seq.*), requires, in part, that an agency prepare a regulatory flexibility analysis for any final rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the **Federal Register**. This Final Rule deals with the arrest authority of DOE protective personnel. The economic impact on small businesses is negligible. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, DOE certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities.

C. Environmental Review

DOE has determined that this Final Rule is not a major Federal action with significant environmental impact, and therefore does not require preparation of an environmental assessement or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

D. Paperwork Reduction Act

These regulations do not impose a collection of information requirement; therefore, it is not necessary to submit them to the Office of Management and Budget for review under the Paperwork Reduction Act, 44 U.S.C. 3501 through 3520.

Lists of Subjects in 10 CFR Part 1047

Security measures, Government contracts, Arrest authority and use of force.

In consideration of the foregoing, DOE hereby adds a new Part to Chapter X, Title 10 of the Code of Federal Regulations.

Issued in Washington, D.C., this 25th day of July, 1985.

William W. Hoover,

Assistant Secretary for Defense Programs.

Part 1047 is added to 10 CFR Chapter X to read as follows:

PART 1047—LIMITED ARREST AUTHORITY AND USE OF FORCE BY PROTECTIVE FORCE OFFICERS

General Provisions

Sec.

1047.1 Purpose.
1047.2 Scope.
1047.3 Definitions.
1047.4 Arrest authority.
1047.5 Exercise of arrest authority—general guidelines.
1047.6 Use of physical force when making an arrest.
1047.7 Use of deadly force.

Authority: Sec. 2201, Pub. L. 83-703, 68 Stat. 919 (42 U.S.C. 2011 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*).

General Provisions

§ 1047.1 Purpose.

The purpose of this part is to set forth Department of Energy (hereinafter "DOE") policy and procedures on the exercise of arrest authority and use of force by protective force personnel.

§ 1047.2 Scope.

This part applies to DOE and DOE contractor protective force personnel armed pursuant to section 161.k. of the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*) to protect nuclear weapons, special nuclear material, clasified matter, nuclear facilities, and related property.

§ 1047.3 Definitions.

(a) "Act" means section 161.k. of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2201.k.).

(b) "Arrest" means any act, including taking, seizing or detaining of a person, that indicates an intention to take a person into custody and that subjects the person to the control of the person making the arrest.

(c) "Citizen's Arrest" means that type of arrest which can be made by citizens in general and which is defin ed in the statutory and case law of each state.

(d) "Contractor" means contractors and subcontractors at all tiers.

(e) "LLEA" means local law enforcement agencies: city, county; and state.

(f) "Offender"means the person to be arrested.

(g) "Protective Force Officer" means any person authorized by DOE to carry firearms under section 161.k. of the Atomic Energy Act of 1954.

(h) "Special Nuclear Material" (SNM) means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which DOE, pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

§ 1047.4 Arrest authority.

(a) Under the Act, the authority of a DOE protective force officer to arrest without warrant is limited to the performance of official duties and should be exercised only in the enforcement of:

(1) The following laws only if property of the United States which is in the custody of the DOE or its contractors is involved:

(i) *Felonies:*

(A) Arson—18 U.S.C. 81—(only applicable to "special maritime and territorial jurisdiction of the United States" as defined by 18 U.S.C. 7).

(B) Building or property within special maritime and territorial jurisdiction—18 U.S.C. 1363—(only applicable to "special maritime and territorial jurisdiction of United States" as defined by 18 U.S.C. 7).

(C) Civil disorder—18 U.S.C. 231.

(D) Communication lines, stations or systems—18 U.S.C. 1362.

(E) Concealment, removal or mutilation generally—18 U.S.C. 2071.

(F) Conspiracy—18 U.S.C. 371—(violation of this section is a felony if the offense which is the object of the conspiracy is a felony).

(G) Destruction of motor vehicles or motor vehicle facilities—18 U.S.C. 33.

(H) Explosives—18 U.S.C. 844(f).

(I) Government property or contracts—18 U.S.C. 1361—(violation of section is a felony if property damage exceeds $100).

(J) Military, naval or official passes—18 U.S.C. 499—(pertains to forging or altering official passes).

(K) Personal property of the United States—18 U.S.C. 2112.

(L) Public money, property, or records—18 U.S.C. 641—(violation of section is a felony if the property value exceeds $100).

(M) Sabotage—18 U.S.C. 2151, 2153-2156.

(N) Violation under Physical Security Convention—18 U.S.C. 831.

(ii) *Misdemeanors:*

(A) Conspiracy—18 U.S.C. 371—(violation of section is a misdemeanor if the offense which is the object of the conspiracy is a misdemeanor).

(B) Explosives—18 U.S.C. 844(g).

(C) Government property or contracts—18 U.S.C. 1361—(violation of section is a misdemeanor if the property damage does not exceed $100).

(D) Official badges, identification cards, other insignia—18 U.S.C. 701—(prtains to the manufacture, sale, and possession of official insignia).

(E) Public money, property or records—18 U.S.C. 641—(violation of section is a misdemeanor if the property value does not exceed $100).

(2) The following criminal provisions of the Atomic Energy Act:

(i) *Felonies:*

(A) Section 222. Violation of Specific Sections—42 U.S.C. 2272.

(B) Section 223. Violation of Sections Generally. 42 U.S.C. 2273.

(C) Section 224. Communication of Restricted Data—42 U.S.C. 2274.

(D) Section 225. Receipt of Restricted Data—42 U.S.C. 2275.

(E) Section 226. Tampering with Restricted Data—42 U.S.C. 2276.

(ii) *Misdemeanors:*

(A) Section 227. Disclosure of Restricted Data—42 U.S.C. 2277.

(B) Section 229. Trespass Upon Commission (DOE) Installations—42 U.S.C. 2278.

(C) Section 230. Photographing, etc., of Commission (DOE) Installations—42 U.S.C. 2278.b.

(b) *Felony Arrests.* A protective force officer is authorized to make an arrest for any felony listed in paragraph (a)(1)(i) or (a)(2)(i) of this section if the offense is committed *in the presence* of the protective force officer or if he or she has *reasonable grounds to believe* that the individual to be arrested has committed or is committing the felony.

(1) "*In the presence of*" means that the criminal act must have taken place in the physical presence of (under the observation of) the protective force officer. Knowledge of the existence of a criminal violation obtained in any other way (e.g., information from other persons) is not sufficient to permit an arrest under this part of the Act.

VOL
50
ISS
147
JL
31
1985
UMI

(2) "*Reasonable grounds to believe*" means that, at the moment of arrest, either the facts and circumstances within the knowledge of the protective force officer, or of which the protective force officer had reasonably trustworthy information, were sufficient to cause a prudent person to believe that the suspect had committed or was committing the offense.

(c) *Misdemeanor Arrest:* A protective force officer is authorized to make an arrest for any misdemeanor listed in paragraph (a)(1)(ii) or (a)(2)(ii) of this section if the offense is committed in the presence of the protective force officer.

(d) *Other Authority.* The Act does not provide authority to arrest for violations of state criminal statutes or for violations of federal criminal statutes other than those listed in paragraph (a) of this section. Therefore, arrests for violations of such other criminal statutes shall be made by other peace officers (e.g., U.S. Marshals or Federal Bureau of Investigation (FBI) agents for federal offenses; LLEA officers for state or local offenses) unless:

(1) The protective force officer can make a citizen's arrest for the criminal offense under the law of the state,

(2) The protective force officer is an authorized state peace officer or otherwise deputized by the particular state to make arrests for state criminal offenses, or

(3) The protective force officer has been deputized by the U.S. Marshals Service or other federal law enforcement agency to make arrests for the criminal offense.

(e) In those locations which are within the "special maritime and territorial jurisdiction of the United States," as defined in 18 U.S.C. 7, the Assimilative Crimes Act (18 U.S.C. 13) adopts the law of the state for any crime under state law not specifically prohibited by Federal statute and provides for federal enforcement of that state law. The local DOE Office of Chief Counsel, in coordination with contractor legal counsel, as appropriate, shall provide guidance in this matter.

§ 1047.5 Exercise of arrest authority—General Guidelines.

(a) In making an arrest, the protective force officer should announce his or her authority (e.g., "Security Officer") and that the person is under arrest prior to taking the person into custody. If the circumstances are such that making such announcements would be useless or dangerous to the officer or others, the protective force officer may dispense with these announcements.

(b) The protective force officer at the time and place of arrest may search any arrested person for weapons and criminal evidence and the area into which the arrested person might reach for a weapon or to destroy evidence. Guidance on the proper conduct and limitations in scope of search and seizure of evidence shall be obtained from the local DOE Office of Chief Counsel, in coordination with contractor legal counsel, as appropriate.

(c) After the arrest is effected, the arrested person shall be advised of his or her constitutional right against self-incrimination (Miranda warnings). If the circumstances are such that making such advisement is dangerous to the officer or others, this requirement may be postponed until the immediate danger has passed.

(d) Custody of the person arrested should be transferred to other federal law enforcement personnel (i.e., U.S. Marshals or FBI agents) or to LLEA personnel, as appropriate, as soon as practicable. The arrested person should not be questioned or required to sign written statements unless:

(1) Questioning is necessary for security or safety reasons (e.g., questioning to locate a bomb), or

(2) Questioning is authorized by other federal law enforcement personnel or LLEA officers responsible for investigating the crime.

§ 1047.6 Use of physical force when making an arrest.

(a) When a protective force officer has the right to make an arrest as discussed above, the protective force officer may use only that physical force which is reasonable and necessary to apprehend and arrest the offender; to prevent the escape of the offender; or to defend himself or herself or a third person from what the protective force officer believes to be the use or threat of imminent use of physical force by the offender. It should be noted that verbal abuse alone by the offender cannot be the basis under any circumstances for use of physical force by a protective force officer.

(b) Protective force officers shall consult the local DOE Office of Chief Counsel and contractor legal counsel, as appropriate, for additional guidance on use of physical force in making arrests.

§ 1047.7 Use of deadly force.

(a) Deadly force means that force which a reasonable person would consider likely to cause death or serious bodily harm. Its use may be justified only under conditions of extreme necessity, when all lesser means have failed or cannot reasonably be employed. A protective force officer is authorized to use deadly force only when one or more of the following circumstances exists:

(1) *Self-Defense.* When deadly force reasonably appears to be necessary to protect a protective force officer who reasonably believes himself or herself to be in imminent danger of death or serious bodily harm.

(2) *Serious offenses against persons.* When deadly force reasonably appears to be necessary to prevent the commission of a serious offense against a person(s) in circumstances presenting an imminent danger of death or serious bodily harm (e.g. sabotage of an occupied facility by explosives).

(3) *Nuclear weapons or nuclear explosive devices.* When deadly force reasonably appears to be necessary to prevent the theft, sabotage, or unauthorized control of a nuclear weapon or nuclear explosive device.

(4) *Special nuclear material.* When deadly force reasonably appears to be necessary to prevent the theft, sabotage, or unauthorized control of special nuclear material from an area of a fixed site or from a shipment where Category II or greater quantities are known or reasonably believed to be present.

(5) *Apprehension.* When deadly force reasonably appears to be necessary to apprehend or prevent the escape of a person reasonably believed to: (i) have committed an offense of the nature specified in paragraph (a)(1)—(a)(4)[1] of this section; or (ii) be escaping by use of a weapon or explosive or who otherwise indicates that he or she poses a significant threat of death or serious bodily harm to the protective force officer or others unless apprehended without delay.

(b) *Additional Considerations Involving Firearms.* If it becomes necessary to use a firearm, the following precautions shall be observed:

(1) A warning, e.g. an order to halt, shall be given, if feasible, before a shot is fired.

(2) Warning shots shall not be fired.

[FR Doc. 85-18074 Filed 7-30-85; 8:45 am]

BILLING CODE 6450-01-M

[1] These offenses are considered by the Department of Energy to pose a significant threat of death or serious bodily harm.

FEDERAL RESERVE SYSTEM

[Regs. G, T, U and X]

12 CFR Parts 207, 220, 221, and 224

Securities Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective May 14, 1985 and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: August 13, 1985.

FOR FURTHER INFORMATION CONTACT: Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781, or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) (202) 452-3244.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. A copy of the complete List incorporating these additions and deletions was filed with the original of this document. This List supersedes the last complete List which was effective May 14, 1985 (50 FR 18230, April 30, 1985). The List includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U, and X (12 CFR 207, 220, 221, and 224, respectively). It also includes, as a result of an amendment to the margin regulations (49 FR 35756, September 12, 1984), any stock designated under a SEC rule as qualified for trading in a national market system (NMS Security). The List of Marginable OTC Stocks, as it is now called, is a composite of the List of OTC Margin Stocks and all NMS securities. Additional OTC securities may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their designation. The names of these securities are available at the Board and the Securities and Exchange Commission and will be subsequently incorporated into the Board's next quarterly List. Copies of the current List may be obtained from any Federal Reserve Bank.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6(a) and (b), 220.17 (a) and (b), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR 207

Banks, banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting requirements, Securities.

12 CFR Part 220

Banks, banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting requirements, Securities.

12 CFR Part 221

Banks, banking, Credit Federal Reserve System, Margin, Margin requirements, Securities, National Market System (NMS Security), Reporting requirements.

12 CFR Part 224

Banks, banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with § 270.2(k) and 6(c) of Regulation G, § 220.2(s) and 17(c) of Regulation T, and § 2212.2(j) and 7(c) of Regulation U, there is set for forth below a listing of additions to and deletions from the Board's List:

Additions to the List

Acmat Corporation
No par common
Advanced Computer Techniques Corporation
$.10 par common
Advanced Tobacco Products, Inc.
$.01 par common
Air Cargo Equipment Corporation
$1.00 par common
Allied Research Associates, Inc.
$.10 par common
Ameribanc, Inc.
$5.00 par common
American Businessphones, Inc.
No par common
American Medcenters, Inc.
$.001 par common
Apeco Corporation
$.01 par common
Atkinson, Guy F., Company of California
No par common
Atlantic Permanent Federal Savings & Loan Association (Virginia)
$1.00 par common
BTR Realty, Inc.
$1.00 par common
Bancoklahoma Corporation
Series A, $2.50 convertible preferred
Battle Mountain Gold Company
$.10 par common
Bay Pacific Health Corporation
$.01 par common
Bayou Resources, Inc.
$.01 par common
Birdview Satellite Communications, Inc.
$.01 par common
Bradley Real Estate Trust
$1.00 par capital
Bruce, Robert Industries Inc.
Class A, $.01 par common
Catalyst Energy Development Corporation
$.10 par common
Centrafarm Group N.V.
No par common
Certified Collateral Corporation
$.01 par common
Chiron Corporation
No par common
Citizen's Financial Group, Inc.
$1.00 par common
Coast R.V., Inc.
No par common
Cobanco, Inc.
No par common
Comcoa, Inc.
No par common
Commercial Federal Corporation
$.01 par common
Commercial National Corporation
$5.00 par common
Congress Street Properties, Inc.

$.10 par common
Consolidated Capital Income Opportunity Trust
No par shares of beneficial interest
Continental General Insurance Company
$1.00 par common
Continental Steel Corporation
$1.00 par common
Cooper Lasersonics, Inc.
$.10 par common
Crestek, Inc.
$.01 par common
Cyprus Minerals Company
No par common
Danners, Inc.
No par common
Data Architects, Inc.
$.01 par common
Daxor Corporation
$.01 par common
Detroit & Northern Savings, F.A.
$.01 par common
Di Giorgio Corporation
12% convertible subordinated debentures
Dionics, Inc.
$.01 par common
Divi Hotels, N.V.
$1.00 par common
Drew Industries Incorporated
$.01 par common
Dumagami Mines Limited
$1.00 par common
Electro-Sensors, Inc.
$.10 par common
Endotronics, Inc.
No par common
Environmental Processing, Inc.
$.01 par common
Environmental Testing & Certification Corporation
$.10 par common
Fidelity Federal Savings & Loan Association (Pennsylvania)
$.01 par common
First American Federal Savings & Loan Association (Alabama)
$.01 par common
First Colonial Bankshares Corporation
Class A, $1.25 par common
First Federal Bank, FSB (New Hampshire)
$1.00 par common
First Federal Savings & Loan Association of Brooksville
$.01 par common
First Federal Savings & Loan Association of Kalamazoo
$.01 par common
First Federal Savings, F.A. (Connecticut)
$.01 par common
First United Financial Services, Inc.
$5.00 par common
Florida Public Utilities Company
$1.50 par common
Fort Wayne National Corporation
No par common
Great American Corporation
$2.50 par common
Great American Partners Limited Partnership Units
Grubb & Ellis Realty Income Trust
No par common
Guardian Packaging Corporation
$.34 par common
Hanover Companies, Incorporated
$.01 par common
Healthamerica Corporation
Warrants (expire 04–15–89)
Healthgroup International, Inc.
No par common
High Plains Oil Corporation
$.10 par common
Highland Superstores, Inc.
$.01 par common
Highlands-National, Inc.
$1.00 par common
IDC Services, Inc.
$.01 par common
Indiana National Corporation
No par depository preferred
Innovex, Inc.
$.04 par common
Insituform of North America, Inc.
Class A, $.01 par common
Warrants (expire 08–28–86)
Institute of Clinical Pharmacology PLC
American Depository Receipts for ordinary shares (nominal value 4 Irish pence)
Instrumentarium Corporation
American Depository Receipts for non-restricted B shares (nominal value FIM 20)
Integrated Barter International, Inc.
$.04 par common
Intel Corporation
Warrants (expire 05–15–95)
International Technology Corporation
Warrants (expire 12–14–87)
Interprovincial Pipe Line Limited
No par common
Investors GNMA Mortgage-Backed Securities Trust, Inc.
$1.00 par common
Kappa Networks, Inc.
No par common
Karcher, Carl Enterprises, Inc.
9½% convertible subordinated debentures
King World Productions, Inc.
$.01 par common
LCS Industries, Inc.
$.01 par common
LSI Lighting Systems, Inc.
$.01 par common
Laser Corporation
$.01 par common
Lieberman Enterprises Incorporated
No par common
Loan America Financial Corporation
$.10 par common
Lone Star Steel Company
$1.00 par common
Louis Vuitton S. A.
American Depository Receipts for ordinary shares (par value FF 10)
M/A/R/C Inc.
$1.00 par common
Medalist Industries, Inc.
$1.00 par common
Medco Containment Services, Inc.
$.01 par common
Mellon Participating Mortgage Trust
No par shares of beneficial interest
Michaels Stores, Inc.
$.10 par common
Micros Systems, Inc.
$.025 par common
Microwave Filter Company, Inc.
$.10 par common
Miltope Group, Inc.
$.01 par common
Moniterm Corporation
$.025 par common
Nanometrics Incorporated
No par common
Napa Valley Bancorp
No par common
Nathan's Famous, Inc.
$.10 par common
National Business Systems Inc.
No par common
National HMO Corporation
$.001 par common
Nestor, Inc.
$.01 par common
New Frontier Petroleum Corporation
No par common
Newport Electronics, Inc.
$.01 par common
Novell, Inc.
$.10 par common
Nuvision Inc.
$.50 par common
OTF Equities, Inc.
$.01 par common
Oce-Van Der Grinten N. V.
American Depository Receipts for ordinary shares (nominal value Dfl .20)
Optical Specialties, Inc.
No par common
PDA Engineering
No par common
PT Components, Inc.
$.01 par common
Pace Membership Warehouse, Inc.
$.01 par common
Pasadena Technology Corporation
No par common
People Express Airlines, Inc.
Series A, $2.64 convertible preferred
Series B, $2.50 cumulative convertible preferred
Perle Systems Limited
No par common
Phone-A-Gram System, Inc.
$.01 par common
Pioneer Savings Bank (Florida)
$1.00 par common
Popular Bancshares Corporation
$1.00 par common
Pullman Company, The
Warrants (expire 02–24–88)

Questech, Inc.
$.05 par common
Resources Pension Shares, Inc.
Shares of beneficial interest #1
Shares of beneficial interest #2
Shares of beneficial interest #3
River Forest Bancorp
$.10 par common
Roanoke Electric Steel Corporation
No par common
Ropak Corporation
No par common
Ross Industries, Inc.
$1.00 par common
SPI Pharmaceuticals, Inc.
$.01 par common
St. Joseph Bancorporation, Inc.
No par common
Saxon Oil Company
$.01 par common
Silver State Mining Corporation
$.01 par common
Stansbury Mining Corporation
$.03 par common
Star Technologies, Inc.
$.01 par common
Summcorp
No par common
Surgical Care Affiliates, Inc.
$.25 par common
Systems & Computer Technology Corporation
$.01 par common
Toys Plus, Inc.
$.01 par common
Travelers Real Estate Investment Trust
No par shares of beneficial interest
Trio-Tech International
No par common
US Bancorp, Inc.
$2.50 par common
USPCI, Inc.
$.10 par common
United Counties Bancorporation
No par common, $1.00 stated value
United Healthcare Corporation
$.01 par common
U.S. Precious Metals, Inc.
No par common
University National Bank & Trust Company (California)
$5.00 par capital
Vermont Federal Bank, FSB
$.01 par common
Video Display Corporation
No par common
Wall to Wall Sound and Video, Inc.
$.01 par common
Western Commercial
No par common
Westport Bancorp, Inc.
$2.50 par common
XL/Datacomp, Inc.
$.01 par common
Zygo Corporation
$.10 par common

Deletions From List

Stocks Removed for Failing Continued Listing Requirements

Air One, Inc.
$.01 par common
American Guaranty Financial Corp.
No par common, $1.00 stated value
American Nuclear Corporation
$.04 par common
Anderson Industries, Inc.
$1.00 par common
Applied Solar Energy Corporation
Warrants (expire 08–08–85)
Arrays Inc.
No par common
Astrosystems, Inc.
Warrants (expire 01–19–86)
BFI Communications Systems, Inc.
$.01 par common
Bank of Montana Systems
No par common
Basic Earth Science Systems, Inc.
$.10 par common
Bedford Computer Systems
No par common
Bell National Corporation
No par common
Benihana National Corp.
Warrants (expire 05–11–87)
Beverly Hills Savings and Loan
No par common
Bonray Drilling Corporation
$.10 par common
Compucorp
No par common
Computer Transceiver Systems
$.01 par common
Conductron Corporation
$.01 par common
Danker Laboratories, Inc.
$.01 par common
Delta Queen Steamboat, The
$.25 par common
General Automation, Inc.
$.10 par common
Genetic Systems Corp.
Warrants, Class B (expire 06–05–85)
Geokinetics Inc.
$.20 par common
Key Image Systems, Inc.
Class A, no par common
Koss Corporation
$.01 par common
Land Resources Corporation
$.10 par common
Lin Broadcasting Corporation
No par convertible subordinated debentures
Magic Circle Energy Corporation
$.10 par common
Maui Land & Pineapple Company
No par common
Miller Technology & Communications
No par common
Minden Oil and Gas Inc.
$.05 par common
National Computer Systems
9.25% convertible subordinated debentures
Nautilus Fund
No par common
O.I. Corporation
$.10 par common
Petroleum Development Corporation
$.01 par common
S.S. Pierce Company, Inc.
$1.00 par common
Plasma-Therm, Inc.
$.01 par common
Royal Business Group Inc.
$1.00 par common
Scientific Radio Systems
$.01 par common
Southwest Leasing Corporation
$.10 par common
Teeco Properties L.P.
Units of Limited Partnership interest
Unimet Corporation
$1.00 par common
Vail Associates, Inc.
No par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

Acme General Corporation
No par common
Aid Auto Stores, Inc.
$.01 par common
Alaska Pacific Bancorporation
No par common
Armel, Inc.
$.001 par common
Avalon Energy Corporation
$1.00 par common
Brokers Mortgage Service, Inc.
No par common
CBT Corporation
$10.00 par common
Carhart Photo, Inc.
Class A, $.10 par common
Claire's Stores, Inc.
$.05 par common
Clow Corporation
$6.25 par common
Colonial Bancorp, Inc.
$10.00 par common
Compucare, Inc.
$.025 par common
Compushop Incorporated
$.01 par common
Computer Synergy, Inc.
$.001 par common
Eikonix Corporation
$.05 par common
Ellman's Inc.
$1.00 par common
First Federal Savings & Loan Association of Winter Haven
$.01 par common
Foxmeyer Corporation
$.10 par common
Green Tree Acceptance, Inc.
$.01 par common
Glendale Federal Savings and Loan Association

$1.00 par common
Greate Bay Casino Corporation
Class A, $.25 par common
Healthamerica Corporation
$.01 par common
Heritage Bancorporation
No par common, $2.50 stated value
Hook Drugs, Inc.
No par common
Independence Health Plan, Inc.
$.01 par common
Intertherm, Inc.
$1.00 par common
MacGregor Sporting Goods, Inc.
$.10 par common
National Shores, Inc.
$1.00 par common
New Yorker Magazine, Inc., The
$5.00 par common
Optel Corporation
$.01 par common
Pabst Brewing Company
No par common
Pay'n Save Corporation
No par common
Plasmine Corporation, The
$.10 par common
Rockcor, Inc.
No par common
Sorg Printing Company, Inc.
$1.00 par common
Sterns Manufacturing Company
$.01 par common
Textone, Inc.
$.20 par common
Trust Company of Georgia
$5.00 par common
Universal Development Corporation
$.01 par common
Universal Telephone, Inc.
$1.00 par common
Western Casualty and Surety Company
$1.25 par capital
Wiener Enterprises, Inc.
$1.00 par common
Wilson, H.J. Co., Inc.
No par common
10½% convertible subordinated debentures

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), July 29, 1985.

William W. Wiles,
Secretary of the Board.

[FR Doc. 85-18073 Filed 7-30-85; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Golden Sun Feeds, Inc., providing for the manufacture of 5-, 10-, and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Golden Sun Feeds, Inc., 111 South Fifth St., Estherville, IA 51334, is the sponsor of a supplement to NADA 97-567 submitted on its behalf by Elanco Products, Co. The supplement provides for the manufacture of new 5- and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The use of the currently approved 10-gram-per-pound premix is revised to include additional uses in swine, and use in beef cattle and chickens. Golden Sun previously had also received approval for 0.8- and 40-gram-per-pound tylosin premixes. The conditions of use for these premixes are unchanged. The supplement is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.625 is amended by revising paragraph (b)(17) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(17) To 021780: 0.8 gram per pound, paragraph (f)(1)(vi)(*c*) of this section; 5, 10, 20, and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Dated: July 23, 1985.

Marvin A. Norcross,
Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-18072 Filed 7-30-85; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Emergency Stumpage Rate Redeterminations for National Forest Timber Sales in Alaska

AGENCY: Forest Service, USDA.
ACTION: Final rule.

SUMMARY: This rule implements section 4 of the Federal Timber Contract Payment Modification Act (98 Stat. 2213; 16 U.S.C. 619) which provides for emergency stumpage rate redeterminations of certain National Forest System timber sales in Alaska. The intended effect of this section of the Act and this rule is to enable purchasers of short-term timber sale contracts in Alaska to be more competitive with other purchasers of national forest timber in Alaska. This final rule adopts parts of the proposed rule, which was published on February 5, 1985, at 50 FR 4992, and modifies and clarifies others as explained in the analysis of public comments which follows.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: David M. Spores, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, (202) 447-4051.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Federal Timber Contract Payment Modification Act provides that emergency stumpage rate redeterminations shall be made upon the written application of a purchaser of national forest timber in Alaska. The new Act establishes four prerequisites for the rate redeterminations. They are:

(1) The purchaser must make written application for rate redetermination;

(2) The contract has to have been bid after January 1, 1974;

(3) The rates only apply to timber that has been or will be scaled between January 1, 1981, and October 15, 1989; and,

(4) The contract must be held by a purchaser other than a holder of a 50-year timber sale contract in Alaska.

Public Comment on Proposed Rule

On February 5, 1985, the Forest Service published a proposed rule (50 FR 4992) which would implement section 4 of the Federal Timber Contract Payment Modification Act, which provides for emergency stumpage rate redeterminations of certain National Forest System timber sales in Alaska. On March 1, 1985, corrections of two minor typographical errors made in the printing of the proposed rule were published, (50 FR 8344). On March 7, 1985, the period of public comment was extended from March 7 to March 18, 1985, (50 FR 9302).

There were 13 responses to the proposed rule. Comments came from Members of Congress, timber producers, timber trade associations, a Forest Service official, a State official, and a mineral producer.

The major comments are explained below in the same order as the provisions were presented in the proposed rule.

Deadline for Application (paragraph a of proposed rule). It was suggested that there was no basis in the Act for requiring eligible purchasers to submit their applications within 90 days of publication of the final rule. It is agreed that this requirement is not spelled out in the Act, but was intended to have purchasers submit their applications so that the emergency rate redeterminations can be completed in a timely manner. It is unlikely that the purchasers will delay their requests for relief. Accordingly, this requirement has been removed.

Eligible Contracts (paragraph b of proposed rule). A number of respondents objected to the rule applying to only those contracts open or existing on October 16, 1984, the date of enactment. Further review indicates the Act was intended to apply to closed sales as well as current sales. Many small sale purchasers for which the legislation was designed to assist have completed sales after January 1, 1981, which were closed prior to October 16, 1984. To prevent exclusion of these purchasers, the rule has been modified to make closed sales eligible for emergency rate redetermination.

There were also respondents who expressed the view that the Act did not exclude future sales from qualifying for emergency rate redeterminations under the Act. The language of the Act applies to "the holder of a contract", and authorizes the modification of "existing contract terms". This language covers purchasers that have held or currently hold contracts and clearly limits relief to existing or prior contract holders. If a bidder is able to request a rate redetermination as soon as the contract is awarded, no matter how high the bid, it would render the competitive bidding process meaningless. In order to provide purchasers of future short term contracts the same level of protection against market fluctuations as available to the purchasers of long-term sales timber contracts advertised after the effective date of this rule through October 15, 1989, will provide for emergency rate redeterminations under standard Forest Service procedures.

It was suggested that sales made under the authority of 36 CFR 223.12, commonly known as timber settlement sales, should be included as eligible contracts. In settlements the purchaser is required to purchase the timber as a condition of a special use permit. The government has the authority to grant permission to cut trees on National Forest System land without advertisement when necessary for the occupancy of a right-of-way or other authorized use of the land, and require payment for timber of merchantable size and quality at its appraised value. The intent of this section of the act is to make holders of certain contracts more competitive. The objective of timber settlement is to account for timber cut on National Forests in connection with the occupancy of land under permit or easement. Timber in a settlement is not sold competitively. Competitive concerns are irrelevant since the primary objective of the settlement is to further another authorized use. Section 4 of the act applies to certain sales that were bid after January 1, 1974. Purchasers do not bid on timber settlements.

Based on the legal nature of timber settlements and the explicit statutory language in Section 4 that an eligible contract be bid, the final rule excludes timber settlement contracts from emergency rate redetermination eligibility.

Modification of Existing Contracts (paragraph c of the proposed rule). Two respondents asserted that the modification of existing contracts terms should also include the modification of required road standards, manipulation of cutting area boundaries, and the changing of various contractual requirements. These respondents assert that modifications of these existing contract provisions are important means of providing relief and making the sale holders competitive with other purchasers of national forest timber. Section 4(b) of the Act does provide for discretionary modification of existing contract terms; however, such modifications are limted to those relating to rates to be paid for timber. The Alaska Region has been reviewing conditions and terms of existing contracts due to the serious economic conditions affecting timber harvesting operations. Contracts are being modified, where feasible, to reduce operating costs while complying with applicable laws and plans.

Another respondent suggested that this paragraph be revised to make it clear that the rates established are intended to improve a purchaser's competitive position with other purchasers of national forest timber in Alaska. The direction of the Act to provide emergency rate redetermination for "the purchaser of national forest timber in Alaska", indicates the competitive position desired will be in relation to other Alaska purchasers of national forest timber. The common market and competitive structure of the Alaska industry supports the focus for the comparison to the Alaska area. Accordingly, the addition of the words "in Alaska" to the final rule is made to clarify the standard to which purchasers should be made competitive.

Effective Date of New Rates (paragraph d of proposed rule). Paragraph (d) of the proposed rule stated that redetermined stumpage rates would be effective for *timber scaled* from January 1, 1981, through October

VOL 50 ISS 147 JL 31 1985 UMI

15, 1989 (emphasis added). One respondent suggested that the provision be expanded to include tree measurement sales on which the volume is released for cutting but not scaled. This is an imporotant clarification that recognizes that tree measurement sales are eligible for rate redetermination under this section and the final rule incorporates this suggestion.

The same respondent also recommended that the rule allow extension of the effective date for the redetermined rates, if, under existing contract provisions, the term of the contract is adjusted for the time lost during the normal operating season due to reasons beyond the purchasers control. Contract term adjustment for such uncontrollable lost time is a standard provision of timber sale contracts. When a purchaser receives a contract term adjustment, the timber removed and scaled during the extended period is paid for at the rates in effect during the period in which time was lost. The Act, however, establishes a specific time period for the application of rates established as a result of the emergency rate redetermination, which a contract term adjustment cannot alter. Therefore, additional time to harvest the timber may be granted by contract term adjustments, but the rates established as a result of the emergency rate redetermination shall be effective only for timber scaled or released for cutting on tree measurement sales between January 1, 1981, and October 15, 1989.

In addition to the changes made in response to public comment, whenever possible, the text of the proposed rule has been rewritten in active, rather than passive, voice to achieve greater clarity. Also, paragraphs (a) and (b) of the proposed rule have been reversed in the final rule to provide a more logical flow of the ideas and thus improve clarity of the rule.

The timber sales to be affected are ongoing operations, or in the case of closed sales, were ongoing operations. The emergency rate redeterminations will not alter existing on-the-ground conditions, but will enable purchasers of short-term timber sales in Alaska to receive stumpage rate reductions reflective of current depressed timber product markets. Timely implementation of this rule is necessary if purchasers are to be assisted this logging season. Further, pursuant to the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that making the effective date of this rule 30 days after publication in the **Federal Register** is contrary to the public interest; and good cause is found for making this final rule effective upon publication.

The final procedures for emergency rate redeterminations for National Forest System timber sales in Alaska are to be codified in a new Section 223.183 of 36 CFR Part 223. Additional direction to guide Forest Service personnel in implementing these procedures will be issued through amendment to Chapter 2400—Timber Management of the Forest Service Manual.

Regulatory Impact

This action has been reviewed pursuant to Executive Order 12291; it has been determined that this final rule is not a major rule. It implements the requirements of the Federal Timber Contract Payment Modification Act which provides for emergency rate redeterminations for certain national forest timber sales in Alaska.

The discretion available to the Secretary is in selecting administrative procedures to implement the emergency rate redetermination authorized by the Federal Timber Contract Payment Modification Act. In and of itself, this rule will not have an annual effect on the economy of $100 million or more and will not result in a major increase in costs for consumers, individual industries, federal, state, or local government agencies, or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, and the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this final rule would not have significant economic impact on a substantial number of small entities. Implementing this section of the Act will strengthen some small businesses in Alaska because many of the sales eligible for emergency rate redeterminations are held by small business timber operators.

This final rule will not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. Furthermore, the final rule will not result in additional procedures or paperwork not already required by law. Therefore, the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) are not applicable. The final rule to be implemented has substantial support in the agency record, viewed as a whole, and full attention has been given to the comments of persons directly affected by the policy in particular.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting and recordkeeping requirements, Timber.

PART 223—[Amended]

For the reasons set forth above, Part 223 of Chapter II of Title 36 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 223 of Chapter II, Title 36 is revised to read as follows:

Authority: 16 U.S.C. 472a, 16 U.S.C. 619.

2. Add a new § 223.183 of a new Subpart E to read as follows:

Subpart E—Federal Timber Contract Payment Modification

§ 223.183 Emergency Rate Redeterminations in Alaska.

(a) *Eligible contracts.* Holders of 50-year timber sale contracts in Alaska are not eligible for emergency rate redeterminations under the provisions of this section. All other holders of closed and current timber sale contracts in Alaska bid between January 1, 1974, and July 31, 1985, excluding timber settlement contracts, are eligible for emergency rate redeterminations under this section.

(b) *Application.* Purchasers must make written application for emergency rate redeterminations to the Contracting Officer. The Contracting Officer will make emergency stumpage rate redetermination on eligible contracts. Existing contract provisions will apply except as they may be modified pursuant to paragraph (c) of this section.

(c) *Modification of existing contracts.* If necessary, to provide for rates that are competitive with other purchasers of national forest timber in Alaska, the Forest Service may modify existing payment terms of contracts eligible under paragraph (a), including reduction of bid premiums and the reduction of established base rates.

(d) *Effective date of new rates.* Rates established for stumpage as a result of emergency rate redeterminations on qualifying timber sale contracts shall be effective for timber scaled, or, in the case of tree measurement sales, timber released for cutting, from January 1, 1981, through October 15, 1989.

(e) *Refunds.* If the Contracting Officer determines that, as a result of an emergency rate redetermination, the credit balance of a timber sale account exceeds the charges for timber estimated to be cut in the next 60 calendar days, the Forest Service upon the purchaser's request, may refund the cash portion of such excess that is attributable to the redetermined contract rates.

(f) *Future Sales.* Timber sales in Alaska advertised after July 31, 1985 shall provide for an emergency rate redetermination in accordance with standard Forest Service timber sale contract procedures, except that completion of a scheduled rate redetermination shall not be required as a prerequisite for the emergency rate redetermination.

Dated: June 12, 1985.

Peter C. Myers,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 85-17786 Filed 7-30-85; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 41

Single Audit Act of 1984; Auditing Requirements

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration), in implementing the provisions of Pub. L. 98-502, the Single Audit Act of 1984, is amending its regulations to establish uniform requirements for audit of Federal financial assistance provided to State and local governments, and to promote the efficient and effective use of audit resources.

EFFECTIVE DATE: October 18, 1984.

FOR FURTHER INFORMATION CONTACT: David A. Cole, Associate Deputy Administrator for Congressional and Intergovernmental Affairs (002), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-2482.

SUPPLEMENTARY INFORMATION: This new Part 41 adopts the provisions of Pub. L. 98-502 in the Veterans Administration to establish uniform requirements for audit of Federal financial assistance provided to State and local governments, and to promote the efficient and effective use of audit resources. To effect the implementation of Pub. L. 98-502 in the Veterans Administration, OMB Circular A-128 has been adopted in its entirety in regulation format

These new regulations conform the Veterans Administration to the requirements of Pub. L. 98-502. Since these regulations have no effect independent of the statute, the VA is not seeking public participation in promulgating these regulations. This is done in accordance with 5 U.S.C. 553(b)(3)(B) and § 1.12 of title 38, Code of Federal Regulations. These new regulations implement a statutory change over which there are no discretionary interpretations. Because a proposed notice is not necessary and will not be published, these changes do not come within the definition of the term "rule" (5 U.S.C. 601(2)) under the Regulatory Flexibility Act and are not subject to the requirements of that Act. The regulations have been reviewed under Executive Order 12291, entitled "Federal Regulations," and not considered major as defined in the Executive Order. The regulations will not impact on the public or private sectors as a major rule. They will not have an annual effect on the economy of $100 million or more, cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance Program Numbers involved are 64.005, 64.014, 64.015, 64.016, 64.111, 64.117, 64.120 and 64.203.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 35) approval for the information collection requirements in this regulation will be obtained by OMB.

List of Subjects in 38 CFR Part 41

Audits, State programs, Veterans Administration.

These regulations are adopted under authority granted to the Administrator by section 210(c) of title 38, United States Code, and the enabling legislation.

Approved: June 13, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Title 38, Code of Federal Regulations is amended by adding a new Part 41—AUDITING REQUIREMENTS, to read as follows:

PART 41—AUDITING REQUIREMENTS

Sec.

41.1 Purpose.
41.2-41.4 [Reserved.]
41.5 Definitions.
41.6 Scope of audit.
41.7 Frequency of audit.
41.8 Internal control and compliance reviews.
41.9 Subrecipients.
41.10 Relation to other audit requirements.
41.11 Cognizant agency responsibilities.
41.12 Illegal acts or irregularities.
41.13 Audit reports.
41.14 Audit resolution.
41.15 Audit workpapers and reports.
41.16 Audit costs.
41.17 Sanctions.
41.18 Auditor selection.
41.19 Small and minority audit firms.
41.20 Reporting.

Authority: Pub. L. 98-502, 31 U.S.C. ch. 75; 38 U.S.C. 210(c).

§ 41.1 Purpose.

These regulations (38 CFR 41.1 through 41.20) are issued pursuant to the Single Audit Act of 1984, Pub. L. 98-502. The act establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements. The Single Audit act requires the following:

(a) State or local governments that receive $100,000 or more a year in Federal financial assistance shall have an audit made in accordance with these regulations.

(b) State or local governments that receive between $25,000 and $100,000 a year shall have an audit made in accordance with these regulations, or in accordance with Federal laws and regulations governing the programs they participate in.

(c) State or local governments that receive less than $25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.

(d) Nothing in this secion exempts State or local governments from maintaining records of Federal financial assistance or from providing access to such records to Federal agencies, as provided for in Federal law or in Circular A-102, "Uniform requirements for grants to State or local governments." (Pub. L. 98-502)

§§ 41.2-41.4 [Reserved]

§ 41.5 Definitions.

For the purposes of these regulations, the following definitions from the Single Audit Act apply:

(a) "Cognizant agency" means the Federal agency assigned by the OMB (Office of Management and Budget) to carry out the responsibilities described in § 41.11.

(b) "Federal financial assistance" means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal casah assistance to individuals. It includes awards received directly from Federal agencies, or indirectly through other units of State and local governments.

(c) "Federal agency" has the same meaning as the term 'agency' in section 551(1) of Title 5, United States Code.

(d) "Generally accepted accounting principles" has the meaning specified in the generally accepted government auditing standards.

(e) "Generally accepted government auditing standards" means the *Standards For Audit of Government Organizations, Programs, Activities, and Functions*, developed by the Comptroller General, dated February 27, 1981.

(f) "Independent auditor" means:

(1) A State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or

(2) A public accountant who meets such independence standards.

(g) "Internal controls" means the plan of organization and methods and procedures adopted by management to ensure that:

(1) Resource use is consistent with laws, regulations, and policies;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data are obtained, maintained, and fairly disclosed in reports.

(h) "Indian tribe" means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(i) "Local government" means any unit of local government within a State, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governements, and any other instrumentality of local government.

(j) "Major Federal Assistance Program," for State and local governments having Federal assistance expenditures between $100,000 and $100,000,000, means any program for which Federal expenditures during the applicable year exceed the larger of $300,000, or 3 percent of such total expenditures. Where total expenditures of Federal assistance exceed $100,000,000, the following criteria apply:

Total Expenditures of Federal Financial Assistance of all Programs		Major Federal Assistance Program Means Any Program That Exceeds
More Than	But Less Than	
$100 million	1 billion	$ 3 million
1 billion	2 billion	4 million
2 billion	3 billion	7 million
3 billion	4 billion	10 million
4 billion	5 billion	13 million
5 billion	6 billion	16 million
6 billion	7 billion	19 million
over 7 billion		20 million

(k) "Public accountants" means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

(l) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-State, regional or interstate entity that has governmental functions and any Indian tribe.

(m) "Subrecipient" means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of Federal financial assistance.

(Pub. L. 98–502)

§ 41.6 Scope of audit.

The Single Audit Act provides that:

(a) The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

(b) The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives $25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

(c) Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this Circular. However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of Circular A–110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

(d) The auditor shall determine whether:

(1) The financial statements of the government, department, agency or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(3) The organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program.

(Pub. L. 98–502)

§ 41.7 Frequency of audit.

Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987.

(Pub. L. 98–502)

§ 41.8 Internal control and compliance reviews.

The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations.

(a) *Internal control review.* In order to provide this assurance the auditor must make a study and evaluation of internal control systems used in administering Federal assistance programs. The study and evaluation must be made whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the recipient's systems for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

(b) *Compliance review.* The law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major Federal assistance program.

(1) In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.

(2) The review must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(i) In making the test of transactions, the auditor shall determine whether:

(A) The amounts reported as expenditures were for allowable services, and

(B) The records show that those who received services or benefits were eligible to receive them.

(ii) In addition to transaction testing, the auditor shall determine whether:

(A) Matching requirements, levels of effort and earmarking limitations were met,

(B) Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and

(C) Amounts claimed or used for matching were determined in accordance with OMB Circular A–87, "Cost principles for State and local governments," and Attachment F of Circular A–102, "Uniform requirements for grants to State and local governments."

(iii) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the *Compliance Supplement for Single Audits of State and Local Governments*, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

(Pub. L. 98–502)

§ 41.9 Subrecipients.

State or local governments that receive Federal financial assistance and provide $25,000 or more of it in a fiscal year to a subrecipient shall:

(a) Determine whether State or local subrecipients have met the audit requirements of these regulations and whether subrecipients covered by Circular A–110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations," have met that requirement;

(b) Determine whether the subrecipient spent Federal assistance funds in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with these regulations, Circular A–110, or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

(c) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of non-compliance with Federal laws and regulations;

(d) Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

(e) Require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with these regulations.

(Pub. L. 98–502)

§ 41.10 Relation to other audit requirements.

The Single Audit Act provides that an audit made in accordance with these regulations shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication.

(a) The provisions of these regulations do not limit the authority of Federal agencies to make, or contract for audits and evaluations of Federal financial assistance programs, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.

(b) The provisions of these regulations do not authorize any State or local government or subrecipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits.

(c) A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to these regulations shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

(Pub. L. 98–502)

§ 41.11 Cognizant agency responsibilities.

The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of OMB Circular A–128:

(a) The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local governments and their subdivisions. Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

(b) A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of these regulations.

(2) Provide technical advice and liaison to State and local governments and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in these regulations. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to these regulations; so that the additional audits build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

(Pub. L. 98–502)

§ 41.12 Illegal acts or irregularities.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also § 41.13(a)(3) for the auditor's reporting responsibilities.) The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

(Pub. L. 98–502)

§ 41.13 Audit Reports.

Audit reports must be prepared at the completion of the audit. Reports serve many needs of State and local governments as well as meeting the requirements of the Single Audit Act.

(a) The audit report shall state that the audit was made in accordance with the provisions of these regulations. The report shall be made up of at least:

(1) The auditor's report on financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance, showing the total expenditures for each Federal assistance program as identified in the *Catalog of Federal Domestic Assistance*. Federal programs or grants that have not been assigned a catalog number shall be identified under the caption "other Federal assistance."

(2) The auditor's report on the study and evaluation of internal control systems must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) The auditor's report on compliance containing:

(i) A statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

(ii) Negative assurance on those items not tested;

(iii) A summary of all instances of noncompliance; and

(iv) An identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

(b) The three parts of the audit report may be bound into a single report, or presented at the same time as separate documents.

(c) All fraud, abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with § 41.13(f).

(d) In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

(e) The reports shall be made available by the State or local government for public inspection within 30 days after the completion of the audit.

(f) In accordance with generally accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Subrecipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent with 30 days after the completion of the audit, but not later than one year after the end of the audit period unles a longer period is agreed to with the cognizant agency.

(g) Recipients of more than $100,000 Federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.

(h) Recipients shall keep audit reports on file for three years from their issuance.

(Pub. L. 98–502)

§ 41.14 Audit resolution.

As provided in § 41.11, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangement may be made on a case-by-case basis by agreement among the agencies concerned. Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

(Pub. L. 98–502)

§ 41.15 Audit workpapers and reports.

Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office, at the completion of the audit.

(Pub. L. 98–502)

§ 41.16 Audit costs.

The cost of audits made in accordance with the provisions of these regulations are allowable charges to Federal assistance programs.

(a) The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provision of Circular A–87, "Cost principles for State and local governments."

(b) Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceeded, however, if appropriate documentation demonstrates higher actual cost.

(Pub. L. 98–502)

§ 41.17 Sanctions.

The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with these regulations. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropriate sanctions including:

(a) Withholding a percentage of assistance payments until the audit is completed satisfactorily,

(b) Withholding or disallowing overhead costs, and

(c) Suspending the Federal assistance agreement until the audit is made.

(Pub. L. 98–502)

§ 41.18 Auditor selection.

In arranging for audit services State and local governments shall follow the procurement standards prescribed by Attachment O of Circular A–102, "Uniform requirements for grants to State and local governments." The standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence. (Pub. L. 98–502)

§ 41.19 Small and minority audit firms.

Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of these regulations. Recipients of Federal assistance shall take the following steps to further this goal:

(a) Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

(b) Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

(c) Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

(d) Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

(e) Encourage contracting with consortiums of small audit firms as described in paragraph (a) of this section when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

(f) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

(Pub. L. 98–502)

§ 41.20 Reporting.

Each Federal agency will report to the Director of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments in carrying out the provisions of these regulations. The report must identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with these regulations.

(Pub. L. 98–502)

[FR Doc. 85–18121 Filed 7–30–85; 8:45 am]
BILLING CODE 6320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL–2858–3]

Approval and Promulgation of Implementation Plans; North Coast Air Basin Air Pollution Control Regulations, State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: This notice approves PSD rules for the three Districts which make up the North Coast Air Basin in California. The Districts in the North Coast Air Basin (NCAB) adopted Prevention of Significant Deterioration (PSD) regulations in late 1981 and early 1982. The regulations were submitted as a SIP revision on August 6, 1982, and EPA proposed approval on June 21, 1983. The Districts revised their rules in 1983 and 1984 in response to the problems cited in EPA's proposed rulemaking. In this notice, EPA is approving the revised rules because they remedy the concerns defined in the Notice of Proposed Rulemaking.

EFFECTIVE DATE: August 30, 1985.

Copies of the rules are available for public inspection during normal business hours at the EPA Region IX office at the address below and at the following locations:

EPA Library, Public Information Reference Unit, 401 "M" Street, SW., Washington, D.C. 20460
Office of Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C.
California State Air Resources Board, Technical Support Division, 1131 "S" Street, Sacramento, CA 95814
Mendocino County Air Pollution Control District, Courthouse, 890 North Bush, Ukiah, CA 95482
Northern Sonoma County Air Pollution Control District, 134 A North Street, Healdsburg, CA 95448

FOR FURTHER INFORMATION CONTACT: Mark C. Brucker, Air Management Division, Environmental Protection Agency, Region IX, (415) 974–7657, FTS 454–7657

SUPPLEMENTARY INFORMATION: This portion of the notice has five sections: Background, Supplemenary Revisions (which discusses new submittals from the District), Public Comments, EPA Actions, and the Regulatory Process.

Background

sources which would violate air quality

higher than 65 meters or which plan to

clarification of EPA's Evaluation Report.

(B) New or amended rules 210 and

stationary sources or major

VOL 50 ISS 147 JL 31 1985 UMI

Background

The Clean Air Act stipulates that each State Implementation Plan (SIP) shall include a PSD program. The North Coast Districts revised their rules in 1981 and 1982 to follow EPA's PSD requirements. On June 21, 1983 (48 FR 28290), EPA proposed to approve the NCAB rules. The proposal was based on the assumption that the Districts would modify the rules to clarify certain points and to address the problems EPA identified. The Districts did so in 1983 and 1984.

The entire North Coast is designated either attainment of unclassified for all criteria pollutants. The Basin includes the North Coast Unified Air Quality Management District, which covers Humboldt, Del Norte and Trinity Counties, and the separate Districts in Mendocino County and Northern Sonoma County.

EPA's regulations for PSD programs are contained in 40 CFR 51.24, "Prevention of Significant Deterioration of Air Quality." EPA has been administering the PSD program in the NCAB under the federal PSD permitting regulation, 40 CFR 52.21.

In the Notice of Proposed Rulemaking, EPA identified several problems. Four of those problems were described in the notice and three others were identified. The problems are stated in this section of the notice and the actions taken to remedy them are described in the Supplementary Revisions section.

The minor concerns that were identified in the NPR were the source definition, stack heights, and the division of responsibility between the Districts and EPA.

The problems that were described in detail are as follows:

(1) There were several areas where the emission calculation procedures seemed to conflict with EPA requirements or were unclear. They did not clearly require limitations and emission reductions to be federally enforceable and there was uncertainty about how emission baselines are set.

(2) EPA regulations require notification of either EPA or federal officials responsible for Class I areas when sources may affect these areas. The Rules did not clearly address how Class I notification would be handled.

(3) The provisions for public notice were incomplete. EPA requires that more information be made available to the public than the Rules provided for and the Rules allow for a public hearing, if required.

(4) State law, not the local rules, allows permitting of cogeneration sources which would violate air quality increments.

One additional issue arose after the 1983 notice. Two court decisions concerning stack heights led EPA to impose new restrictions on approval of PSD rules. In response to EPA's resulting policy the Districts have cooperated by revising their Rules to prohibit credit for stacks which exceed "good engineering practice" heights. EPA and the Districts have also agreed that EPA will retain PSD permitting authority for sources which are major under EPA's regulation and which would either have stacks higher than 65 meters or which plan to use dispersion techniques. When EPA issues its final stack height regulations the Districts can adopt requirements to satisfy the regulations and EPA would then be able to drop its permitting of those sources.

Copies of EPA's detailed evaluation of the rules are available at EPA's Region IX office listed earlier in this notice.

Supplementary Revisions

These rules have been revised several times. The submittals that EPA is approving are as follows:

Submittal date	Rule	Title
Mendocino County		
Dec. 3, 1984	130 (b2, m1,p3, s7)	Definitions.
	Chapter II	Permits.
	220 (a)(2), (b)	New source review.
	(3,4,6,8,9)	Standards.
Apr. 19, 1984	130	Definitions.
	200	Permit requirements.
	220 (a)(1&3), (b)	New Source review.
	(1,2,5,7,),(c)	
	260	Exclusions.
Aug. 6, 1982	130(b1,m1,p5,s2)	Definitions.
	210	Environmental assessment.
	230	Action on applications.
North Coast Unified		
July 10, 1984	130(b2,m1,p3,s7)	Definitions.
	200(c)(3–6)	Permit requirements.
	Chapter II	Permits.
	220 a,b	New source review.
Mar. 14, 1984	130	Definitions.
	130(b1,m2,n1,p5,s2)	Definitions.
	200 (a),(b),(c)(1–2),(d)	Permit requirements.
	220(c)	New source review.
	260	Exclusions.
Aug. 6, 1982	210	Environmental assessment.
(Del Norte, Humboldt and Trinity Counties)	230	Action on applications.
Northern Sonoma County		
June 21, 1985	220 (a)	New source review.
Oct. 19, 1984	130 (b2,m1,s7,p3a,p3)	Definitions.
	Chapter II	Permits.
	220(b)	New source review.
Aug. 6, 1982	130	Definitions.
	130(b1,n1,p5,s2)	Definitions.
	200	Permit requirments.
	210	Environmental assessment.
	220(c)	New source review.
	230	Action on applications.
	260	Exclusions.

With respect to the four major problems cited in the 1983 notice and described above, the following actions were taken:

(1) The Districts revised several parts of their rules to clarify emission calculation procedures and to ensure that they fully meet all of EPA's requirements.

(2) The Districts agreed to take responsibility for informing officials responsible for Class I areas of any projects that may effect those areas. They revised their rules accordingly.

(3) The APCD's expanded the public notice section of the rules to include all of the provisions that EPA requested.

(4) Districts agreed to have EPA retain permitting authority for those PSD sources that would cause increment problems because of state law, since the Districts do not have any power to correct the problems by themselves. The Districts also pointed out that many sources which claim to be cogeneration sources do not in fact meet the definition provided by state law and are not exempted from any of the District's requirements.

Public Comments

EPA received two comment letters, one from North Coast Unified AQMD and one from Pacific Gas and Electric (PG&E). The District's letter and subsequent discussions clarified some aspects of cogeneration source permitting and have been reflected in clarification of EPA's Evaluation Report. The PG&E letter addressed issues which primarily concern EPA's PSD regulations, rather than whether or not EPA should approve these rules.

EPA Actions

In this notice, EPA is taking two actions:

1. EPA is approving the North Coast rules under Section 110 of the Clean Air Act and Part C, Subpart 1, (PDS) and is incorporating them into the California State Implementation Plan (SIP).

2. EPA is rescinding 40 CFR 52.270, except for (a) major cogeneration sources and modification which would cause increment violations, (b) sources subject to stack height credit restrictions, (c) sources of Indian lands, and (d) sources for which EPA has issued PSD permits.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control agency, Incorporation by reference, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon, monoxide, Hydrocarbons, Intergovernmental relations.

Dated: May 14, 1985.

Lee M. Thomas,

Administator.

PART 52 —[AMENDED]

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.220 is amended by adding (c)(124)(vi)(B), (c)(vii)(B), (c)(viii)(B), (c)(ix)(B), and (c)(x)(B), (c)(153)(ii)(B), (c)(154)(i)(B), (c)(155)(v)(B), (c)(156(vi), (c)(158)(i)(B), and (c)(162) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(124) * * *

(vi) * * *

(B) New or amended rules 210 and 230.

(vii) * * *

(B) New or amended rules 130 (b1, m1, p5, s2), 210, and 230.

(ix) * * *

(B) New or amended rules 130, 130 (b1, n1, p5, and 200, s2), 210, 220(c), and 260.

(x) * * *

(B) New or amended rules 210 and 230.

* * * * * * *

(153) * * *

(ii) * * *

(B) New or amended rules, 130, 130 (b1, m2, n1, p5, s2), 200 (a), (b), (c)(1–2), and (d), 220(c), and 260.

* * * * * * *

(154) * * *

(i) * * *

(B) New or amended rules, 130, 200, 220(a)(1&3), (b)(1, 2, 5, and 7), (c), and 260.

* * * * * * *

(155) * * *

(v) * * *

(B) New or amended rules 130 (b2, m1, p3, and s7), Chapter II, 200 (c)(3–6) and 220 (a) and (b).

* * * * * * *

(156) * * *

(vi) Northern Sonoma County APCD.

(A) New or amended rules 130 (b2, m1, p3, p3a, and s7), Chapter II, 220(B).

* * * * * * *

(158) * * *

(i) * * *

(B) New or amended rules 130 (b2, m1, p3, s7), Chapter II, 220 (a)(2) and (b)(3, 4, 6, 8 and 9).

* * * * * * *

(162) Revised regulations for the following APCD were submitted on June 21, 1985 by the Governor's designee.

(i) Northern Sonoma County APCD.

(A) Amended rule 220 (a).

* * * * * * *

3. Section 52.270 is amended by adding paragraphs (b)(2) through (b)(4) to read as follows:

§ 52.270 Significant deterioration of air quality.

(b) * * *

(2) The PSD rules for the North Coast Unified Air Quality Management District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21 (b) through (w) are therefore incorporated and made a part of the state plan for California for the North Coast Unified Air Quality Management District for:

(i) Those cogeneration and resource recovery projects which are major stationary sources or major modifications under § 52.21 and which would cause violations of PSD increments.

(ii) Those projects which are major stationary sources of major modifications under § 52.21 and which would either have stacks taller than 65 meters or would use "dispersion techniques" as defined in § 51.1.

(iii) Sources for which EPA has issued permits under § 52.21, including the following permits and any others for which applications are received by July 31, 1985;

(A) Arcata Lumber Co. (NC 78–01; November 8, 1979),

(B) Northcoast Paving (NC 79–03; July 5, 1979),

(C) PG&E Buhne Pt. (NC 77–05).

(3) The PSD rules for the Mendocino County Air Pollution Control District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21 (b) through (w) are therefore incorporated and made a part of the state plan for California for the Mendocino County Air Pollution Control District for:

(i) Those cogeneration and resource recovery projects which are major stationary sources or major modifications under § 52.21 and which would cause violations of PSD increments.

(ii) Those projects which are major stationary sources or major modifications under § 52.21 and which would either have stacks taller than 65 meters or would use "dispersion techniques" as defined in § 51.1.

(iii) Any sources for which EPA has issued permits under § 52.21, including any permits for which applications are received by July 31, 1985.

(4) The PSD rules for the Northern Sonoma County Air Pollution Control District are approved under Part C, Subpart 1, of the Clean Air Act. However, EPA is retaining authority to apply § 52.21 in certain cases. The provisions of § 52.21 (b) through (w) are therefore incorporated and made a part of the state plan for California for the Northern Sonoma County Air Pollution Control District for:

(i) Those cogeneration and resource recovery projects which are major stationary sources or major modifications under § 52.21 and which would cause violations of PSD increments.

(ii) Those projects which are major stationary sources or major modifications under § 52.21 and which would either have stacks taller than 65

meters or would use "dispersion techniques" as defined in § 51.1.

(iii) Any sources for which EPA has issued permits under § 52.21, including any permits for which applications are received by July 31, 1985.

[FR Doc. 85-15922 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412

Medicare Program; Court Ordered Regulations Regarding, Prospective Payment Amounts and Administrative Review Will Not Become Effective

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice that regulations will not take effect; removal of regulations.

SUMMARY: Interim rules providing for certain adjustments to Medicare propective payment rates and modifications to the provider appeal process were published on July 1, 1985 solely in response to an order of the United States District Court for the Northern District of California in *Redbud Hospital District* v. *Heckler*, No. C-84-4382 MHP dated June 14, 1985. That portion of the district court order requiring the Secretary to promulgate nationwide regulations was recently stayed by United States Supreme Court Justice Rehnquist, pending the determination of the Secretary's appeal of the case to the United States Court of Appeals for Ninth Circuit. *Heckler* v. *Redbud Hospital District*, No. A-32. (Rehnquist, Circuit Justice, July 24, 1985). This document is to notify the public that the interim final rules have, by operation of that decision, been automatically revoked. They will not become effective on August 1, 1985.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: Linda Magno, 301-594-9343.

SUPPLEMENTARY INFORMATION: The interim final rules published in the **Federal Register** on July 1, 1985, 50 FR 27208 (**Federal Register** Document Number: 85-15816), would have modified the process for determining the Medicare prospective payment rate for inpatient hospital services to take into account extraordinary and unusual costs incurred after the base year; the special needs of hospital serving disproportionate numbers of Medicare and low-income patients; and the special needs of sole community hospitals. In addition, they would have modified the requirements for administrative review of the hospital-specific portion of a hospital's PPS rate.

In issuing those regulations, the Department indicated that it was doing so solely in response to the court order in *Redbud Hospital District* v. *Heckler*, No. C-84-4382 MHP, June 14, 1985. Since the Department did not agree with the court's conclusion that the regulations were required under the Medicare Act, it specified that the regulations would not become effective and would be automatically invalidated if the court's order was stayed, vacated or otherwise rendered ineffective.

On July 24, 1985, United States Supreme Court Justice Rehnquist, as Circuit Justice, stayed the order of the district court insofar as it required the Secretary to promulgate and apply nationwide regulations. *Heckler* v. *Redbud Hospital District*, No. A-32 (Rehnquist, Circuit Justice, July 24, 1985). As indicated in the July 1, 1985 publication, this stay automatically invalidated the interim rules issued on that date, and had the effect of revoking those regulations before their effective date. This document serves as notice to the public that the interim final rules, published on July 1, 1985, to be included at 42 CFR Part 412, Subpart H are, by their own terms, revoked and will not become effective on August 1, 1985.

List of Subjects in 42 CFR Part 412

Cancer hospitals, Christian Science sanatoria, Discharges and transfers, Inpatient hospital services, Medicare, Outlier cases, Prospective payment, Referral centers, Renal transplantation centers, Sole community hospitals.

PART 412—PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for Part 412 reads as follows:

Authority: Secs. 1102, 1871, and 1886 of the Social Security Act as amended (42 U.S.C. 1302, 1395hh, and 1395ww).

Subpart H (§§ 412.200—412.204)—[Removed]

2. For the reasons set out in the preamble, 42 CFR Part 412, Subpart H (§§ 412.200 through 412.204) published July 1, 1985, is hereby removed.

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance Program)

Dated: July 29, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85-18243 Filed 7-30-85; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Oversight of the Broadcast Rules in Regard to Temporary and Emergency Operation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends certain sections of Part 73 of the Commission's rules.

This action is taken by the Commission in its continuing effort to eliminate unnecessary requirements placed upon licensees of broadcast radio stations. Specifically, it eliminates the requirement, in certain circumstances, that permittees and licensees of AM radio stations must request a Special Temporary Authorization (STA) before undertaking certain modes of temporary operation. Instead, it institutes a procedure whereby various modes of temporary operation may be commenced automatically upon the permittee's or licensee's notification to the Commission that such operation is being undertaken in accordance with the revised rules. In addition, certain rules have been editorially restructured and cross-referenced to make their use easier for the public.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Gary R. Thayer, Mass Media Bureau, (202) 632-7010.

SUPPLEMENTARY INFORMATION:

List or Subjects in 47 CFR Part 73

Radio broadcasting.

Order

In the Matter of Oversight of the Broadcast Rules in Regard to Temporary and Emergency Operations.

Adopted: July 11, 1985.
Released: July 18, 1985.

By the Chief, Mass Media Bureau.

1. This *Order* is part of our continuing effort to review and update our broadcast rules. In this *Order*, we are focusing on the rules pertaining to Special Temporary Authorizations (STA's) and emergency authorizations. We are, in some cases, eliminating the requirement that prior authority be obtained for certain categories of STA's. In other cases, we are adding clarifying language and cross-references to related or pertinent rules.

Directional Antenna System Tolerances

2. Section 73.62 of the Rules provides that an AM station utilizing a directional antenna may operate with the antenna base currents, monitor currents, and relative antenna phase currents at variance from the tolerances specified in this section for a maximum of 10 consecutive days, without authority form the FCC, during periods of inclement weather or severe climatic conditions. If normal operations is not resumed within the 10-day period, special temporary authority (STA) to operate with parameters at variance from these tolerances must be requested from the FCC. We are adding language to this rule to cross-reference such a request to § 73.1635 of the Rules—the rule which outlines the procedures for obtaining an STA. Moreover, we are also adding language to clearly state that in situations where the variance is not necessitated by inclement weather or severe climatic conditions, an STA must *first* be obtained in accordance with § 73.1635 of the Rules.

Antenna Testing During Daytime

3. Section 73.157 of the Rules allows the licensee of an *AM station* using a directional antenna during nighttime hours to request a special antenna test authorization to operate with the nighttime facilities during the daytime when taking monitoring point field strength measurements or when conducting an antenna proof of performance. Because it is often desirable to conduct a nondirectional proof of performance contemporaneously with a directional proof of performance, we believe the scope of this rule should be expanded to allow a station which uses directional facilities during daytime to also operate in a *nondirectional* mode during daytime hours in order to conduct a nondirectional proof of performance. The revised rule will specify that the operating power for such nondirectional operation shall be adjusted to the same power as was utilized for the most recent nondirectional proof of performance covering the licensed facilities.

In addition, we believe that no significant regulatory purpose is served by requiring a licensee to specifically request authority for such routine antenna measurements. Therefore, we are eliminating the requirement that the licensee of an AM station seek specific authority to conduct either a directional or nondirectional proof of performance during daytime hours. Under the revised rule, such operation may be undertaken without further FCC authority, subject to the conditions and guidelines set forth in the revised rule.

Because we are eliminating the need for a special antenna test authorization in these circumstances, the rule is being retitled "Antenna Testing During Daytime".

Broadcasting Emergency Information

4. Section 73.1250 of the Rules provides for the broadcasting of emergeny information during certain situations such as severe weather, widespread power failures, industrial explosions, civil disorders, school closings or activation of the Emergency Broadcast System. Stations may broadcast this information without further authority from the FCC so long as the particulat requirements regarding such operation and follow-up reports to the FCC specified in this section are followed. We are adding a specific cross-reference to § 73.3542 of the Rules which pertains to emergencies not within the ambit of § 73.1250 for which *prior* emergency operation authority must be obtained.

Equipment Tests

5. Section 73.1610 of the Rules allows a *permittee* to conduct equipment test during the construction of *new* broadcast facilities upon notification to the FCC. Under the present rule, permittees of new FM and TV facilities may conduct such tests at any time during the day or night. Permittees of new AM facilities, however, must conduct such tests during the experimental period, midnight to local sunrise. If the AM permittee desires to conduct equipment tests during other periods (e.g., during daytime hours), specific authority must first be requested and obtained from the FCC. In practice, virtually all affected AM permittees request and are routinely granted authority to conduct equipment tests during *daytime hours* because of the difficulty in performing such tests during the experimental period when skywave interference is present.

Because such requests are freely granted and because equipment tests are routinely required of AM permittees, we believe that no significant regulatory purpose is served by requiring AM permittee to request specific authority to conduct such tests. Therefore, we are eliminating the requirement that the permittees of a new AM facility must request authority to conduct equipment tests during daytime hours. Under the revised rule, the permittee of a *new* AM station may, after notifying the FCC in Washington, D.C., and without further authority, conduct required equipment tests during *daytime hours* provided, however, that the antenna system is first *substantially tuned during the experimental period.*

Operation During Modification of Facilities

6. Section 73.1615 of the Rules concerns the operation of a *licensed* station while it is undergoing modification of existing facilities. Under the present rule, licensees of all FM, TV and *nondirectional* AM stations holding a construction permit for modification of existing facilities may operate with temporary facilities, upon notification to the FCC, for 30 days without specific FCC authority. Only those licensees of AM stations holding a construction permit which involves *directional* facilities are presently excluded from taking advantage of this convenience and must request and obtain specific authority *before* using temporary facilities.

Upon careful examination, we have concluded that such an exclusion is, in most cases, no longer necessary and serves no regulatory purpose. Our concern in the past has been that the complexity of constructing and testing an AM directional array is such that an AM licensee might, inadvertently, undertake modes of operation which are inappropriate and could result in harmful interference to other stations. This concern was based on the fact that the present rules provide no guidance as to what modes of temporary operation are permissible. We believe that simply spelling out the permissible modes of operation in the rule itself will suffice to obviate this concern. Generally, these modes of operation include operating nondirectionally and/or with the authorized construction permit pattern(s) to continue service while the modified facilities are under construction or while taking required proof of performance measurements.

The scope of the revised rule, therefore, will be expanded to give most AM licensees holding a construction permit for directional facilities a similar degree of flexibility as is presently enjoyed by FM, TV and nondirectional AM licensees. In particular, the revised rule will allow the licensee of an AM station holding a construction permit which involves directional facilities *and* which does *not* involve a change in operating frequency to utilize the

VOL 50 ISS 147 JL 31 1985 UMI

temporary facilities and modes of operation specified in the revised rule, upon notification to the FCC in Washington, D.C., and without specific FCC authority, for a period of 30 days in order to continue service and to facilitate taking required proof of performance measurements. Any extension of this authority must be requested in writing. We are not extending the revised rule to cover the particular situation which involves a change in operating frequency because our experience has shown that the various modes and sequences of temporary operation often must be tailored to suit each specific situation. Therefore, AM licensees holding a construction permit which involves directional facilities *and* a change in operating frequency must, as under the present rule, continue to request and obtain a special temporary authority (STA) *before* using any temporary facilities or modes of operation.

Special Temporary Authorizations (STA)

7. Section 73.1635 of the Rules defines a Special Temporary Authority (STA) and provides cross-references to other rules which permit temporary operation without prior authorization. The procedures for obtaining an STA are specified in § 73.3542(a) of the Rules. We believe that the basic definitions and requirements pertaining to STA's should be consolidated in one rule. Accordingly, we are deleting paragraph (a) from § 73.3542 as revised herein, and are transferring it, in substance, to § 73.1635. We are also including additional cross-references to other relevant rules (e.g. § 73.62 Directional Antenna System Tolerances; § 73.157 Antenna Testing During Daytime; § 73.1250 Broadcasting Emergency Information; § 73.1560 Operating Power Tolerance; and § 73.1680 Emergency Antennas.)

Emergency Antennas

8. Section 73.1680 of the Rules addresses the use of emergency antennas in situations where the main and auxiliary antennas are damaged and cannot be used. In effect, this rule permits a licensee to use an emergency antenna to restore program service for 24 hours before a requesting authority from the FCC for any period beyond the initial 24 hours. In regard to *AM Stations*, subsection (b)(1) provides that an AM licensee may use a horizontal or vertical wire or a nondirectional element of a directional antenna as an emergency antenna. We feel that clarifying language is necessary to prevent the possible abuse of an emergency nondirectional antenna. Accordingly, the revised rule will clearly state that the licensee must reduce operating power to 25% or less of the nominal licensed power, *or*, alternatively, a higher power, but not exceeding licensed power, while insuring that the radiated field strength does not exceed that authorized at any given azimuth or null in the licensed pattern. This latter provision should mitigate the potential for objectionable interference resulting from the use of such an emergency antenna. In any event, the licensee must request authority from the FCC to continue use of an emergency antenna beyond the initial 24 hour period specified in this section.

Application for Emergency Authorization

9. Section 73.3542 is currently titled "Application for temporary or emergency authorization." Paragraph (a) refers to the basic requirements for obtaining an STA. In essence, the provisions of paragraph (a) are being transferred to § 73.1635, Special Temporary Authorizations (STA), as revised herein. As a result we are deleting paragraph (a) from this section as unnecessary. Therefore, § 73.3542 is being limited to what is now contained in subsection (b) which sets forth informal application procedures for certain specific emergency conditions. Finally, the revised rule will make cross-references to § 73.1250, Broadcasting Emergency Information, for situations in which emergency operation may be conducted without prior authority, and § 73.1635, Special Temporary Authorization (STA), for temporary authorizations necessitated by circumstances not within the ambit of this section.

10. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

11. These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act. See 5 U.S.C. 553(b)(3)(B).

12. Since a general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

13. Therefore, it is ordered, that pursuant to section 4(i), 5(c)(1) and 303(r) of the Communications Act of 1934, as amended, and §§0.61 and 0.283 of the Commission's Rules, Part 73 of the Rules is amended as set forth in the attached Appendix, effective on the date of publication in the **Federal Register**.

14. For further information on this *Order*, contact Gary Thayer (202) 632-7010.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. 47 CFR 73.62 is revised in its entirety to read as follows:

§ 73.62 Directional antenna system tolerances.

(a) Each AM station operating a directional antenna must maintain the indicated relative amplitudes of the antenna base currents and antenna monitor currents within 5% of the values specified on the instrument of authorization, unless other tolerances are specified therein. Directional antenna relative phase currents must be maintained to within ±3° of the values specified on the instrument of authorization, unless other tolerances are specified therein.

(b) When periods of inclement weather or severe climatic conditions make it impossible to maintain the operating parameters within the tolerances specified in paragraph (a) of this section, a licensee may operate with parameters at variance from such tolerances for a period up to 10 consecutive days, providing the monitoring point values specified in the station authorization are maintained within authorized limits. If, at the end of this 10 day period, normal operation is not restored, the licensee must request from the FCC in Washington, D.C., special temporary authority (STA) to continue operation of the station at variance from the provisions of this section. Any request for such authority shall be made in accordance with § 73.1635 Special Temporary Authorizations (STA), except that the prior notice requirement of § 73.1635(a)(1) is waived. Instead, such a request shall be made immediately at the end of the 10 day period of operation allowed by this paragraph.

(c) All other requests for authority to operate with parameters at variance not necessitated by inclement weather or severe climatic conditions must be made in accordance with § 73.1635.

3. 47 CFR 73.157 is revised in its entirety to read as follows:

§ 73.157 Antenna testing during daytime.

(a) The licensee of a station using a directional antenna during daytime or nighttime hours may, without further authority, operate during daytime hours with the licensed nighttime directional facilities or with a nondirectional antenna when conducting monitoring point field strength measurements or antenna proof of performance measurements.

(b) Operation pursuant to this section is subject to the following conditions:

(1) No harmful interference will be caused to any other station.

(2) The FCC may notify the licensee to modify or cease such operation to resolve interference complaints or when such action may appear to be in the public interest, convenience and necessity.

(3) Such operation shall be undertaken only for the purpose of taking monitoring point field strength measurements or antenna proof of performance measurements, and shall be restricted to the minimum time required to accomplish the measurements.

(4) Operating power in the nondirectional mode shall be adjusted to the same power as was utilized for the most recent nondirectional proof of performance covering the licensed facilities.

4. 47 CFR 73.1250 is amended by revising paragraph (a) to read as follows:

§ 73.1250 Broadcasting emergency information.

(a) Emergency situations in which the broadcasting of information is considered as furthering the safety of life and property include, but are not limited to the following: Tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gasses, widspread power failures, industrial explosions, civil disorders and school closing and changes in school bus schedules resulting from such conditions. See also § 73.3542, Application for Emergency Authorization, for requirements involving emergency situations not covered by this section for which prior operating authority must be requested.

* * * * *

5. 47 CFR 73.1610 is amended by revising paragraphs (a) and (b) to read as follows:

§ 73.1610 Equipment tests.

(a) During the process of construction of a new broadcast station, the permittee, after notifying the FCC in Washington, D.C. may, without further authority from the FCC, conduct equipment tests for the purpose of making such adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit, the technical provisions of the application therefore, the rules and regulations and the applicable engineering standards. For AM stations, equipment tests, including either a directional or nondirectional proof of performance required by the construction permit, may be conducted during daytime hours provided that the antenna system is first substantially tuned during the experimental period. The nondirectional proof shall be conducted with power adjusted to 25% of that specified in the permit for the authorized directional facilities or, if applicable, to such higher power as is specified in the same permit for authorized nondirectional facilities. For licensed stations, see § 73.1615, Operation During Modification of Facilities; and § 73.157, Antenna Testing During Daytime.

(b) The FCC may notify the permittee not to conduct equipment tests or may modify, cancel, suspend, or change the modes of testing or the dates and times for such tests in order to resolve interference complaints or when such action may appear to be in the public interest, convenience, and necessity.

* * * * *

6. 47 CFR 73.1615 is revised in its entirety to read as follows:

§ 73.1615 Operation during modification of facilities.

When the licensee of an existing AM, FM or TV station is in the process of modifying existing facilities as authorized by a construction permit and determines it is necessary to either discontinue operation or to operate with temporary facilities to continue program service, the following procedures apply:

(a) Licensees holding a construction permit for modification of directional or nondirectional FM and TV or nondirectional AM station facilities may, without specific FCC authority, for a period not exceeding 30 days:

(1) Discontinue operation, or

(2) Operate with temporary facilities to maintain, as nearly as possible, but not exceed, the size of the presently licensed coverage area.

(b) Licensees of an AM station holding a construction permit which involves directional facilities and which does not involve a change in operating frequency may, without specific FCC authority, for a period not exceeding 30 days:

(1) Discontinue operation, or

(2) Operate with reduced power or with parameters at variance from licensed tolerances while maintaining monitoring point field strengths within licensed limits during the period subsequent to the commencement of modifications authorized by the construction permit, or

(3) Operate in a nondirectional mode during the presently licensed hours of directional operation with power reduced to 25% or less of the nominal licensed power, or whatever higher power, not exceeding licensed power, will insure that the radiated field strength specified by the license is not exceeded at any given asimuth for the corresponding hours of directional operation, or

(4) Operate in a nondirectional mode during daytime hours, if not already so licensed, only as necessary to conduct a required nondirectional proof of performance with a power not to exceed 25% of the maximum power authorized by the construction permit for directional operation, or

(5) Operate during daytime hours with either the daytime or nighttime directional pattern and with the power authorized by the construction permit only as necessary to take proof of performance measurements. Operating power shall be promptly reduced to presently licensed level during any significant period of time that these measurements are not being taken. No daytime operation of construction permit directional patterns authorized by this paragraph shall be conducted before such patterns have been substantially tuned during the experimental period.

(6) In the event the directional pattern authorized by the construction permit replaces a licensed directional pattern, the licensee may operate with the substantially adjusted construction permit pattern during the corresponding licensed hours of directional operation with power not exceeding that specified for the licensed pattern.

(c) Such operation or discontinuance of operation in accordance with the provisions of paragraph (a) or (b) of this

VOL 50 ISS 147 JL 31 1985 UMI

section may begin upon notification to the FCC in Washington, D.C.

(1) Should it be necessary to continue the procedures in either paragraph (a) or (b) of this section beyond 30 days, an informal letter request signed by the licensee or the licensee's representative must be sent to the FCC in Washington, D.C. prior to the 30th day.

(d) Licensees of an AM station holding a construction permit which authorizes both a change in frequency and directional facilities must request and obtain authority from the FCC in Washington, D.C. prior to using any new installation authorized by the permit, or using temporary facilities.

(1) The request is to be made at least 10 days prior to the date on which the temporary operation is to commence. The request is to be made by letter which shall describe the operating modes and facilities to be used. Such letter requests shall be signed by the licensee or the licensee's representative.

(2) Discontinuance of operation is permitted upon notification to the FCC in Washington, D.C. Should it be necessary to discontinue operation longer than 30 days, an informal letter request, signed by the licensee or the licensee's representatives, must be sent to the FCC in Washington, D.C. prior to the 30th day.

(e) The FCC may modify or cancel the temporary operation permitted under the provisions of paragraph (a), (b), (c) or (d) of this section without prior notice or right to hearing.

7. 47 CFR 73.1635 is revised in its entirety to read as follows:

§ 73.1635 Special temporary authorizations (STA).

(a) A special temporary authorization (STA) is the authority granted to a permittee or licensee to permit the operation of a broadcast facility for a limited period at a specified variance from the terms of the station authorization or requirements of the FCC rules applicable to the particular class of station.

(1) A request for a STA should be filed with FCC in Washington, D.C. at least 10 days prior to the date of the proposed operation.

(2) The request is to be made by letter and shall fully describe the proposed operation and the necessity for the requested STA. Such letter requests shall be signed by the licensee or the licensee's representative.

(3) A request for a STA necessitated by unforeseen equipment damage or failure may be made without regard to the procedural requirements of this section (e.g. via telegram or telephone). Any request made pursuant to this paragraph shall be followed by a written confirmation request conforming to the requirements of paragraph (a)(2) of this section. Confirmation requests shall be submitted within 24 hours. (See also § 73.1680 Emergency Antennas).

(4) An STA may be granted for an initial period not to exceed 180 days. A limited number of extensions of such authorizations may be granted for additional periods not exceeding 180 days per extension. An STA necessitated by technical or equipment problems, however, may, in practice, be granted for an initial period not to exceed 90 days with a limited number of extensions not to exceed 90 days per extension. The permittee or licensee must demonstrate that any further extensions requested are necessary and that all steps to resume normal operation are being undertaken an in expeditious and timely fashion.

(5) Certain rules permit temporary operation at variance without prior authorization from the FCC when notification is filed as prescribed in the particular rules. See § 73.62, Directional Antenna System Tolerances; § 73.157, Antenna Testing During Daytime: § 73.1250, Broadcasting Emergency Information; § 73.1615, Operation During Modification of Facilities; and § 73.1680, Emergency Antennas.

(b) An STA may be modified or cancelled by the FCC without prior notice or right to hearing.

(c) No request by an AM station for temporary authority to extend its hours of operation beyond those authorized by its regular authorization will be accepted or granted by the FCC except in emergency situations conforming with the requirements of § 73.3542, Application for Emergency Authorization. See also § 73.1250, Broadcasting Emergency Information.

8. 47 CFR 73.1680 is amended by revising paragraph (b)(1) to read as follows:

§ 73.1680 Emergency antennas.

* * * * *

(b) * * *

(1) *AM stations.* AM stations may use a horizontal or vertical wire or a nondirectional vertical element of a directional antenna as an emergency antenna. AM stations using an emergency nondirectional antenna or a horizontal or vertical wire pursuant to this section, in lieu or authorized directional facilities, shall operate with power reduced to 25% or less of the nominal licensed power, or, a higher power, not exceeding licensed power, while insuring that the radiated filed strength does not exceed that authorized in any given azimuth for the corresponding hours of directional operation.

* * * * *

9. 47 CFR 73.3542 is revised to read as follows:

§ 73.3542 Application for emergency authorization.

(a) Authority may be granted, on a temporary basis, in extraordinary circumstances requiring emergency operation to serve the public interest. such situations include: emergencies involving danger to life and property; a national emergency proclaimed by the President or the Congress of the U.S.A and; the continuance of any war in which the United States is engaged, and where such action is necessary for the national defense or security or otherwise in furtherance of the war effort.

(1) An informal application may be used. The FCC may grant such construction permits, station licenses, modifications or renewals thereof, without the filing of a formal application.

(2) No authorization so granted shall continue to be effective beyond the period of the emergency or war requiring it.

(3) Each individual request submitted under the provisions of this paragraph shall contain, as a minimum requirement, the following information:

(i) Name and address of applicant.

(ii) Location of proposed installation or operation.

(iii) Official call letters of any valid station authorization already held by applicant and the station location.

(iv) Type of service desired (not required for renewal or modification unless class of station is to be modified).

(v) Frequency assignment, authorized transmitter power(s), authorized class(es) of emission desired (not required for renewal; required for modification only to the extent such information may be involved).

(vi) Equipment to be used, specifying the manufacturer and type or model number (not required for renewal; required for modification only to the extent such information may be involved).

(vii) Statements to the extent necessary for the FCC to determine whether or not the granting of the desired authorization will be in accordance with the citizenship eligibility requirements of section 310 of the Communications Act.

(viii) Statement of facts which, in the opinion of the applicant, constitute an emergency to be found by the FCC for the purpose of this section. This statement must also include the estimated duration of the emergency and if during an emergency or war declared by the President or Congress, why such action, without formal application, is necessary for the national defense or security or in furtherance of the war effort.

(b) Emergency operating authority issued under this section may be cancelled or modified by the FCC without prior notice or right to hearing. See also § 73.1250, Broadcasting Emergency Information, for situations in which emergency operation may be conducted without prior authorization, and § 73.1635, Special Temporary Authorization (STA), for temporary operating authorizations necessitated by circumstances not within the ambit of its section.

[FR Doc. 85-18063 Filed 7-30-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-5; FCC 85-370]

Filing of Network Affiliation and Transcription Contracts

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action eliminates § 73.3613 (a)(2) of the Commission's Rules. This section required that radio licensees file network affiliation contracts with the Commission. However, television licensees will continue to be required to file national network affiliation contracts with the Commission.

In taking this action, the Commission felt that with over 100 radio networks available, no one program source could have significant market power over any individual radio station. Therefore, continued filing of radio network affiliation agreements is unnecessary. The Commission chose to keep the filing requirement for television licensees who affiliate national networks. The Commission stated that closer scrutiny of national television network/affiliate relations is warranted given that there are only a few major national networks at this time.

This action reduces the amount of information radio licensees and certain television licensees have to submit as well as FCC work hours devoted to filing the data.

EFFECTIVE DATE: July 22, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Scott Roberts, Policy and Rules Division, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Filing of reports and contracts, Radio broadcasting.

Report and Orders (Proceeding Terminated)

In the matter of amendment of Part 73 of the Commission's rules concerning the filing of network affiliation and transcription contracts, MM Docket No. 85-5.

Adopted: July 12, 1985.

Released: July 22, 1985.

By the Commission: Commissioner Rivera concurring in part.

1. By this *Report and Order*, we are eliminating the requirement that radio stations and certain television stations file network affiliation and transcription contracts with the Commission. We are, however, retaining the filing requirement for television stations that are affiliated with national networks. In addition, we are terminating this proceeding.

Background

2. Section 73.3613(a) of the Commission's rules requires that each licensee or permittee of commercial or non-commercial AM, FM, TV or international broadcast station file all network affiliation contracts, agreements or understandings with the Commission.[1] In addition, any cancellation or change in the status of such contracts must be filed. Transcription contracts that specify an option time are also required to be submitted to the Commission.

3. On January 7, 1985, the Commission adopted a *Notice of Proposed Rule Making (Notice)* proposing to eliminate § 73.3613(a) of the rules.[2] In the *Notice*, the Commission stated that the costs and burdens of filing the affiliation contracts now appear to outweigh the benefits of having this information at hand. The Commission indicated that over 3800 licensees presently file copies of their contracts with the Commission each year and that this filing requirement places a paperwork burden of approximately 2500 workhours on the industry. The Commission noted that the contracts have become relatively standard in nature and that it has not made significant use of this information in its recent deliberations. In this regard, the Commission stated that the public interest might be better served by conducting special *ad hoc* studies of network affiliation matters, as needed, rather than require the continued filing of this information. The *notice*, therefore, requested comment on the general proposal to eliminate the filing of this information.

4. Nevertheless, the Commission did recognize that there may be substantial benefits in having this information available for public inspection. The Commission sought comment on alternative approaches that would permit public scrutiny of this information. The Commission indicated that one such approach would be to require that the affiliation and transcription contracts be available at the broadcast station as part of the public inspection file.

5. Five comments and four reply comments were filed in response to the *Notice*.[3]

Discussion

6. Most commenters favor retention of the filing requirement in some form. The National Radio Broadcasters Association (NRBA) states that the contracts contain essential information as to rates and other matters relating to the activity in the marketplace. Without this information, broadcasters would be at a competitive disadvantage when facing networks in negotiations, according to NRBA. The ABC Affiliates Association (ABC Affiliates) and Westinghouse Broadcasting and Cable, Inc. (Group W) contend that the contract information enhances competition between the networks and affiliates and that this was the primary reason for allowing public inspection of the contracts in 1969.[4] The ABC Affiliates further state that the existence and availability of accurate information is necessary in order for the market to function at its highest level of efficiency. ABC Affiliates directed their comments only to television affiliation contracts. They took no position on radio affiliation contracts but recognized that an analysis of the regulatory costs and

[1] The rules require the filing of all network affiliation contracts, agreements and understandings between TV broadcast or low power TV stations and a national, regional or other network. For commercial AM and FM stations, this information need be filed only where the network normally furnished programming to affiliated stations at least 5 days each week during 8 months or more of the year.

[2] 50 FR 2596 [Published January 17, 1985].

[3] National Public Radio, National Radio Broadcasters Association, Storer Communications, Inc. and ABC Television Affiliates Association filed comments in this docket. ABC Television Affiliates Association, Media Access Project, Westinghouse Broadcasting and Cable, Inc. and Fisher Broadcasting, Inc. filed reply comments. WATH, Inc. filed late but their comments were accepted.

[4] *See Report and Order*, Docket No. 14710 [34 FR 5947] May 1, 1969.

VOL
50
ISS
147
JL
31
1985
UMI

benefits of the rule as applied to radio could yield a different conclusion than for television. The Media Access Project (Media) favors retention of the filing requirement to insure that network practices do not adversely affect the ablility of licensees to operate in the public interest. Media states that the cost of complying with this regulation is *de minimus* since it only requires the filing of copies of documents already in existence. Media also believes that the Commission should require that the affiliation contracts be required to be made part of the station's public file to permit local listeners and organizations to inspect this information.

7. Storer Communications, Inc. (Storer) claims that the continued filing of the affiliation contracts is not unduly burdensome on the Commission or its licensees. Storer states that the Commission is the only central source of this information and that the burden of this regulation is minimal compared to the costs that would be incurred to travel from city to city to inspect individual files. Fisher Broadcasting Inc. (Fisher), states that keeping the contract filing requirement is more cost effective than Commission *ad hoc* studies. Fisher did, however, support eliminating the requirement for filing transcription contracts.

8. WATH, Inc. (WATH) supports deletion of the filing requirement. WATH states that elimination of this requirement would cut costs for licensees and the Commission. With less "paperwork" requirements, WATH feels that they could put more time into service to their listening area. Further, WATH suggests that the public has no use for such documents and that the Commission has other means and resources that could provide more meaningful and accurate information.

9. After reviewing the record in this proceeding, we concur with the majority of the commenters that the information provided by the network affiliation and transcription contracts may be valuable to affiliates in their negotiations and that the public availability of this information may potentially serve to enhance competition. However, as we stated in the Notice, the Paperwork Reduction Act and the Regulatory Flexibility Act impose substantial responsibilities on the Commission to ensure that the benefits of continued governmental regulation outweigh the costs associated with such regulation.[5] In this regard, we believe that the contract filing requirement for radio station licensees is no longer justified. There are presently over 3400 radio stations that are affiliated with one or more of the over 100 radio network organizations. Radio stations, therefore, have a significant number of program sources and choices in addition to local origination of programming. Given this fact, we find that it is unlikely that any one program source could exercise undue influence over any particular radio station. Accordingly, we believe that the requirement for filing network affiliation and transcription contracts by radio broadcast licensees is unnecessary.

10. With respect to television licensees, we believe that the requirement to file national network affiliation contracts should be retained at this time for stations affiliated with national networks. The number of national network organizations and program sources is still more limited for television than for radio. More importantly, the amount of national network programming carried by each individual television station is, in general, considerably more than that carried by a network affiliated radio station. Therefore, we believe that there can be significantly more dependence of the television station on the national network for programming and that closer scrutiny of national network/affiliate relationships is warranted at this time.[6] Accordingly, we will retain the requirement that national network affiliation contracts be filed with the Commission.[7]

11. For non-national television networks, we believe that the situation more closely parallels that of radio and that the filing requirement can be eliminated. In general, regional and other non-national networks do not provide the same quantity of programming to individual television stations as is the case with stations associated with the national networks. Therefore, we conclude that the filing requirement can be eliminated. Similarly, we see no need to retain the filing requirements for transcription contracts and contracts for the supplying of videotape recordings which specify an option time (§ 73.3613(a)(5) and (a)(6)) and will eliminate these provisions of our rules.

12. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

I. Need for and Purpose of the Rules

The Commission has decided to retain the requirement that television licensees file national network affiliation contracts with the Commission, but has eliminated this requirement for radio station licensees. The number of national network organizations and program outlets is more limited for television than for radio. Moreover, the amount of network programming carried by individual TV stations is greater than that carried by network affiliated radio stations. Therefore, the potential for any one network organization to exercise undue influence over an affiliate is greater for a television station than for a radio station. The Commission believes that continued scrutiny of the television national network/affiliate relationship is therefore warranted.

II. Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. *Issues Raised.* No issues or concerns were raised specifically in response to the initial regulatory flexibility analysis. However, by retaining the filing requirement for television stations, approximately 600 network affiliates will continue to file copies of their national affiliation agreements with the Commission. Approximately 3400 radio stations affiliated with networks will no longer have to file their contracts with the Commission.

B. *Assessment.* None required.

C. *Changes made as a result of such comments.* None.

III. Significant Alternatives Considered and Rejected

The Commission considered requiring that licensees insert copies of their affiliation contracts in their public files in lieu of filing copies with the Commission. Since the Commission is retaining the requirement that television licensees file their national affiliation contracts with the Commission and that radio licensees will no longer have to file at all, the Commission rejected that alternative.

13. Authority for amending the rules is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

14. Accordingly, it is ordered, that Part 73 of the Commission's Rules are amended as set forth in Appendix A, effective July 22, 1985.

15. It is further ordered, that the Secretary shall cause a copy of the *Report and Order*, including the regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*) (1980).

16. It is further ordered, that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 73—RADIO BROADCAST SERVICES

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended; 47 U.S.C. 154, 303. Interpret or apply Secs. 301, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

2. Section 73.3613, is amended by revising paragraph (a)(1), removing paragraphs (a)(2), (a)(5) and (a)(6); and marking them reserved to read as follows:

§ 73.3613 Filing of contracts.

* * * * *

(a) * * *

(1) All network affiliation contracts, agreements, or understandings between a TV broadcast or low power TV station and a national network. For the purposes of this paragraph the term network means any person, entity, or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity, or corporation controlling, controlled by, or under common control with such person, entity, or corporation.

(2) [Reserved].

* * * * *

(5) [Reserved].

(6) [Reserved].

* * * * *

[FR Doc. 85-18047 Filed 7-30-85; 8:45 am]

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47 CFR Part 73

[MM Docket No. 85-46; RM-4891]

TV Broadcast Stations in Tuscumbia and Selma, AL and Fayetteville, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes UHF Channel 52 for 47 at Tuscumbia, Alabama, in response to a joint petition filed by Kadd Communications Corporation, permittee of Station WGEI(TV), Tuscumbia, and American Valley Broadcasting Company, licensee of Station WAFF(TV), Huntsville, Alabama, and modifies the permit of Station WGEI(TV) to reflect the change. Additionally, Channel *29 is substituted for vacant Channel *52 at Fayetteville, Tennessee, to accommodate the Tuscumbia substitution, and the permit of ACB, Inc. for Station WOTC(TV), Channel 29, Selma, Alabama, is modified to reflect a change in its carrier offset to accommodate the Fayetteville substitution.

EFFECTIVE DATE: August 26, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Tuscumbia and Selma, Alabama; and Fayetteville, Tennessee). MM Docket No. 85-46; RM-4891.

Adopted: July 1, 1985.

Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making and Order to Show Cause*, 50 FR 9072, published March 6, 1985, issued in response to a joint petition filed by Kadd Communications Corporation ("Kadd"), permittee of UHF television Station WGEI (Channel 47), Tuscumbia, Alabama, and American Valley Broadcasting Company ("AVBC"), licensee of Station WAFF(TV) (Channel 48), Huntsville, Alabama, proposing the substitution of UHF television Channel 52 for Channel 47 at Tuscumbia, and modification of the WEGI(TV) construction permit to specify operation on the new channel. The proposal is intended to prevent mutual adjacent channel interference problems between the two stations. To effectuate the change requested, Channel *29 was proposed as a substitute for vacant Channel *52 at Fayetteville, Tennessee, with a site restriction 6.1 miles south of the community to avoid short-spacing to Station WKSO(TV) (Channel *29), Somerset, Kentucky. Further, ACB, Inc., permittee of Station WOTC(TV) (Channel 29), Selma Alabama, was requested to show cause why its permit should not be modified to change its carrier offset from "minus" to "zero" to accommodate the Fayetteville proposal. Joint comments in support were filed by petitioners.

2. As the *Notice* herein indicated, even though Stations WGEI (TV) and WAFF(TV) meet our mileage separation requirements, petitioners content that if WGEI begins operation on Channel 47 with even minimal facilities, considerable interference to mutual service areas of the two stations would result in the Huntsville-Decatur-Florence ADI market. Therefore, petitioners assert the requested substitution of Channel 52 at Tuscumbia and modification of the WGEI(TV) construction permit would prevent the potential market interference, and preserve WGEI's future ability to serve the populous areas of Decatur (population 42,002) [1] and the Huntsville-Florence market to the east. Concurrently, the proposal would permit WAFF to retain service to its off-the-air viewing audience in the western portion of the ADI, including Tuscumbia, as well as the surrounding counties of Colbert,

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[5] 44 U.S.C. Section 3501 *et seq.* and 50 U.S.C. Section 601 *et seq.*

[6] *See Review of Commission Rules and Regulatory Policies Concerning Network Broadcasting by AM and FM Broadcast Stations*, 63 FCC 2d 674, 690 (1977), where the Commission explained that its rules governing network-affiliate relations were based on its concern that a licensee has an affirmative duty to choose independently all programming for broadcast and, thus, the networks should not place unreasonable restraints on the licensee's ability to select programming.

[7] For the purposes of this filing requirement, we will use the definition of a national network contained in § 73.658(j)(4). Under this definition, the term network means any person, entity, or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states.

[1] Population figure was extracted from the 1980 U.S. Census.

VOL 50 ISS 147 JL 31 1985 UMI

Lauderdale and Franklin, containing approximately 61,000 television households.

3. Although ACB, Inc. did not respond to the *Order to Show Cause*, petitioners advise they have reached an agreement with it whereby it is willing to change the carrier offset of Station WOTC(TV), Selma, Alabama, provided it is reimbursed for the reasonable costs incurred in the change.

4. As indicated earlier, the Selma carrier offset substitution will permit the replacement of Channel *29 for vacant Channel *52 at Fayetteville, Tennessee, with a site restriction 6.1 miles south of the community to avoid short-spacing to Station WKSO(TV) (Channel *29), Somerset, Kentucky. The Fayetteville substitution will, in turn, allow Channel 52 to be substituted for Channel 47 at WGEI–TV's present transmitter site.

5. We believe the petitioners' proposal is in the public interest since it could prevent the mutual adjacent channel interference between WGEI(TV) and WAFF(TV) in their respective markets. Moreover, the proposal will retain off-the-air service to WAFF's viewers and will preserve WGEI's ability to improve its transmitting facilities, thus enabling it to serve the eastern portion of its market.

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective August 26, 1985, the TV Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the communities listed below, as follows:

City	Channel No.
Selma, AL	8, 29
Tuscumbia, AL	52+
Fayetteville, TN	*29–

7. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the permit of Kadd Communications Corporation for UHF television Station WGEI, Tuscumbia, Alabama, is modified effective August 26, 1985, to specify operation on Channel 52 in lieu of Channel 47, subject to the following conditions:

(a) The licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

8. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the permit of ACB, Inc. for UHF television Station WOTC(TV), Selma, Alabama, is modified effective August 26, 1985, to specify operation on Channel 29 with a zero offset, in lieu of its present operation on that channel with a minus offset, with the condition it will be reimbursed for the reasonable costs incurred in switching frequencies from the petitioners herein. Station WOTC(TV) may continue to operate on Channel 29 at Selma, Alabama, for one year from the effective date of this action, or until Station WGEI(TV) is ready to operate on Channel 52+, at Tuscumbia, Alabama, whichever is earlier, unles the Commission sooner directs. Additionally, Station WOTC (TV) shall comply with the following conditions:

(a) The licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

9. It is further ordered, that the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to Kadd Communications Corporation, P.O. Box 585, Tuscumbia, Alabama, 35674, and to its attorney, Howard Weiss, Esq. of Mullin, Rhyne, Emmons and Topel, P.C. 1000 Connecticut Avenue, NW., Suite 500, Washington, D.C. 20036; and to ACB, Inc., 1004 Crystal Court, Lexington, Kentucky 40515.

10. It is further ordered, that this proceeding is terminated.

11. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–18060 Filed 7–30–85; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 83

[PR Docket No. 85–8, RM–4779; FCC 85–353]

Ship Radar Reliability Tests

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document deletes the requirement for manufacturers of radar for large oceangoing ships to perform reliability tests. This action was requested by the Sperry Corporation. The intended effect is to remove an unnecessary and burdensome requirement from the rules.

EFFECTIVE DATE: August 23, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, Washington, D.C. 20554, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 83

Radar, Vessels, Communications equipment, Marine safety, Radio.

Report and Order (proceeding terminated)

In the matter of amendment of Part 83 of the rules to remove the requirement for reliability tests of ship radar, PR Docket No. 85–8, RM–4779.

Adopted: July 9, 1985.
Released: July 17, 1985.

By the Commission.

1. In this Report and Order we are amending the rules to eliminate the requirement for manufacturers of shipboard radar to perform reliability tests.

Background

2. In Gen. Docket No. 80–108 [1] the Commission adopted the specifications for ship radar stations contained in the Final Report of Special Committee 65 (Ship Radar) of the Radio Technical Commission for Maritime Services (RTCM).[2] Among the specifications were requirements for extensive reliability tests by manufacturers of radar used on large oceangoing ships.

3. Sperry Corporation (Sperry), a manufacturer and distributor of marine radar equipment, filed a petition for rulemaking to permit manufacturers to certify the reliability of shipboard radar equipment in lieu of performing the extensive and expensive reliability tests specified by the rules. Typically these tests require multiple sets of radar equipment to be operated in temperature controlled chambers for two to three months with performance tests conducted twice each day. Sperry argued that this has become unnecessary and burdensome. Sperry stated that reliability is built into such radar systems during the design stage, assessed in prototypes, and tested under actual operating conditions. Competition among manufacturers of marine radar is sufficient incentive to assure the quality according to Sperry. Further, Sperry noted that no other marine electronic or navigational equipment is subject to such reliability testing.

4. Radar Devices, Inc. (RDI) filed comments supporting Sperrys petition. RTCM referred the issue to its Special Committee 103 (SC–103) which is charged with studying radar matters. SC–103 also recommended eliminating the requirement for reliability tests. The RTCM Board of Directors in concurring with SC–103 commented that in the six years since RTCM originally recommended reliability testing, experience demonstrated the purposes of the tests can be accomplished just as effectively by marketplace competition among manufacturers.

5. In response to the petition and supporting comments we proposed to eliminate the reliability tests for cumpulsory marine radar.[3] Amoco Transport Company (Amoco) and the Radio Officers Union, District 3 of the National Marine Engineers' Beneficial Association (ROU) filed comments opposing the proposal. The Sperry Corporation (Sperry) filed comments and reply comments supporting the proposed rule amendment.

6. Both Amoco and ROU argue that radar reliability tests are necessary and should be retained. They believe that marketplace forces cannot be relied on regarding safety related equipment, and to do so would abrogate the Commission's responsibility to promote the safety of life and property through the use of radar. They view the requirement for redundant radar systems on large oceangoing ships as evidence of the importance of radar and the need for reliability. Although the ROU agrees that solid state and digital techniques have made radar more reliable, it argues that radar units have also become more complex and thus not so reliable as to justify deleting tests. ROU submits that radar is not treated substantially differently than other compulsory radio equipment. It points out that radar may be required to be repaired before a ship is permitted to leave certain ports and a ship with inoperable radar may be required to wait for assistance or good weather conditions before entering a port. Amoco and ROU are concerned that the adoption of the proposed amendment would lower the present standards for marine radar equipment to the detriment of ship operators and crew.

7. Sperry agrees that radar is an important aid for the safe navigation of ships. However, Sperry argues that the reliability tests are burdensome, costly, and long ago overtaken by events. It states that improvements in the reliability of electronic components and competition in the marine radar market rather than the mandated reliability tests are responsible for quality radar products. Sperry maintains that the competition is too great for any manufacturer to allow its product to deteriorate. Further, Sperry believes that the concerns expressed by Amoco and ROU are groundless. It emphasizes that all is proposed in the NPRM is the elimination of reliability tests. The radar installation requirements, specifications and performance standards set forth in the rules would continue in effect. Since reliability testing is not required for other marine compulsory radio equipment its elimination would not constitute any abdication of the Commission's responsibility to foster the safety of life and property. Sperry urges that the rule be removed as proposed.

8. We conclude that the reliability tests currently specified for compulsory marine radar are unnecessary. We agree with Amoco and ROU that radar is an important aid to navigation similar to other compulsory equipment. However, the elimination of the requirement for radar reliability testing contained in § 83.465(b)(4) will in fact be consistent with the rules applicable to other compulsory equipment. No other compulsory marine radio equipment is subject to reliability testing requirements.[4] Further, as Sperry points out, the installation requirements, specifications and performance standards currently contained in the rules remain unchanged. Only an outdated and burdensome test procedure is being removed.

9. In the NPRM we specifically asked for comments on whether a statement from the manufacturer that the equipment has been built to perform reliably should be required in lieu of the subject tests. No requirement for a statement from manufacturers was included in the proposed rules. The ROU reiterated its position that the existing rule should be retained and that such a statement should not be acceptable. Sperry stated that a statement is not necessary and supported the proposed amendment. We believe that no regulatory purpose would be served by requiring such a statement. Accordingly, we are amending the rules to remove § 83.465(b)(4) as proposed.

10. Pursuant to section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), we certify that this rule will not have a significant impact on a substantial number of small entities. This rule will relieve a burden for manufacturers of radar used on large vessels. Elimination of reliability tests will be more convenient and may slightly reduce equipment costs, and no substantial economic impact on any entity expected.

11. The proposals continued herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; they will not increase or decrease burden hours imposed on the public.

12. Accordingly, it is ordered, That under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Commission's rules are amended as set forth in the attached Appendix, effective August 23, 1985.

13. It Is Further Ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

14. It Is Further Ordered, That this proceeding is terminated.

15. Regarding questions on this matter contact Nicholas G. Bagnato, 202/632–7175.

Federal Communications Commission.

William J. Tricarico.

Secretary.

[1] *Report and Order*, FCC 8197, released March 23, 1981, 46 FR 18984.

[2] RTCM was then a Federal Advisory Committee. It has since reorganized and become a private maritime industry association. The Sperry Corporation was represented on the RTCM Special Committee 65.

[3] *Notice of Proposed Rule Making*, PR Docket 85–8, FCC 85–6, released January 8, 1985, 50 FR 3578.

[4] In its comments ROU cites § 83.554, regarding radiotelegraph auto alarms as an example of equipment requiring extensive testing analagous to that required for radar. However, the extensive test procedures contained in § 83.554 were eliminated in the *Report and Order* in PR Docket No. 84–29, released November 29, 1984, FR 46187.

Appendix

the area south of Cape Falcon will be

species except coho through October 31,

Proposed Rules

VOL 50 ISS 147 JL 31 1985 UMI

Appendix

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 83 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

§ 83.465 [Amended]

2. Section 83.465 is amended by removing paragraph (b)(4).

[FR Doc. 85–18049 Filed 7–30–85; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 50458–5048]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the commercial salmon fishery for all salmon species in the fishery conservation zone (FCZ) between Cape Falcon, Oregon, and Cape Blanco, Oregon, at midnight, July 26, 1985, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Oregon Department of Fish and Wildlife (ODFW) that the commercial fishery harvest quota of 45,000 coho salmon for the area south of Cape Falcon will be reached by midnight, July 26. The intended effect is to ensure conservation of coho salmon.

EFFECTIVE DATE: Closure of the FCZ between Cape Falcon, Oregon, and Cape Blanco, Oregon, to commercial fishing for all species of salmon is effective at 2400 hours Pacific Daylight Time (PDT), July 26, 1985. At 0001 hours PDT, July 27, 1985, the FCZ between Cape Falcon and Cape Blanco is open to commercial fishing for all salmon species except coho.

ADDRESSES: Information relevant to this notice has been compiled in aggregate form and is available for public review at the Northwest Region, NMFS, 7600 Sand Point Way N.E., Building 1, Seattle, Washington, from 8:00 a.m. to 4:30 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Director, Northwest Region, NMFS), 206–526–6150.

SUPPLEMENTARY INFORMATION: The regulations implementing the framework amendment to the ocean salmon management plan (49 FR 43679, October 31, 1984) specify at § 661.21(a)(1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species during any period open to fishing in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register**, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Under the provisions of the framework amendment, the 1985 management measures were published on May 2, 1985 (50 FR 18672). The commercial season for the non-Indian commercial fishery for all salmon species in the FCZ between Cape Falcon, Oregon, and Cape Blanco, Oregon, was established as July 1, 1985, until the quota of 45,000 coho are landed from the area south of Cape Falcon, followed immediately by a season for all species except coho through October 31, 1985. Based on the most recent catch and effort information supplied by ODFW, the commercial fishery catch in the area south of Cape Falcon is projected to reach the 45,000 coho salmon quota by midnight, July 26, 1985. The Secretary therefore issues this notice to close the commercial fishery to further harvest of coho salmon in the FCZ between Cape Falcon, Oregon, and Cape Blanco, Oregon, effective midnight, July 26, 185. Immediately following this closure, the commercial salmon fishery in the FCZ between Cape Falcon and Cape Blanco will reopen for all species except coho.

The Regional Director consulted with the Director of ODFW regarding this closure. The Director of ODFW has confirmed that Oregon will close the commercial fishery to the further harvest of coho salmon in State waters adjacent to this area of the FCZ effective midnight, July 26, 1985. Further landings of coho salmon will be prohibited after a grace period of 24 hours (midnight, Saturday, July 27).

This notice does not apply to the regularly-scheduled commercial fishery for all salmon species in the FCZ between Point Delgada, California, and the U.S.-Mexico border because this area is not affected by the attainment of the coho quota for the area south of Cape Falcon.

Other Matters

This action is taken under the authority of §§ 661.21 and 661.23 and is in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Dated: July 26, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 85–18133 Filed 7–26–85; 3:56 pm]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 50, No. 147
Wednesday, July 31, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 801

Official Performance and Procedural Requirements for Grain Weighing and Inspection Equipment and Related Grain Handling Systems

Correction

In FR Doc. 85–17296, beginning on page 29689, in the issue of Monday, July 22, 1985, make the following correction:

On page 29691, second column, in the table in § 801.3, in the "Tolerance" column, third line, "±17" should read "±7".

BILLING CODE 1505–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R–0545]

Truth in Lending; Variable Rate Disclosure; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; extension of comment period.

SUMMARY: By notice published on May 15, 1985 (50 FR 20221), the Board of Governors requested comment on a proposed amendment to Regulation Z (Truth in Lending) to provide more information to consumers about the variable rate feature of adjustable rate mortgages than is currently required. The proposal would also eliminate a provision of Regulation Z that currently permits creditors to substitute the disclosures required by other federal regulations for the variable rate disclosures required by Regulation Z. Comment was requested on the proposal by July 12, 1985. In order to provide interested parties additional time in which to present their views, the Board is extending the comment period.

DATE: The comment period has been extended through August 30, 1985.

FOR FURTHER INFORMATION CONTACT: Ellen Maland, Section Chief, or Susan M. Wethan, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202)452–3867; or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) at (202)452–3244.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

By order of the Board of Governors, acting through its Secretary under delegated authority, July 25, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85–17879 Filed 7–30–85; 8:45 am]
BILLING CODE 6210–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–262–84]

Returns Relating to Cash Payments in Excess of $10,000 Received in a Trade or Business; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the requirement of reporting cash in excess of $10,000 received in a trade or business.

DATES: The public hearing will be held on Thursday, September 19, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, September 5, 1985.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR–262–84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 or telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6050I of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Thursday, May 23, 1985 (50 FR 21308).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR 601) shall apply with respect to the public hearing. Persons who have submitted comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Thursday, September 5, 1985, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85–18129 Filed 7–30–85; 8:45 am]
BILLING CODE 4830–01–M

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modification to the Iowa Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Iowa to remove a condition of the Secretary of the Interior's approval of the State's permanent regulatory program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments consist of proposed changes to the Iowa regulations revising the procedures for the assessment of penalties under the laws regulating coal mining. This notice sets forth the times and locations that the Iowa program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments not received by 4:30 p.m., August 30, 1985, will not necessarily be considered in the decision on whether the proposed amendments should be approved and incorporated into the Iowa program.

A public hearing on the proposed amendments has been scheduled for August 26, 1985. Any person interested in speaking at the hearing should contact Mr. Richard Rieke at the address or telephone number listed below by August 15, 1985. If no person has contacted Mr. Rieke by that date to express an interest in the hearing, the hearing will not be held. If only one person requests the opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing is scheduled for 1:00 p.m. at the Kansas City Field Office, Professional Building, Room 502, 1103 Grand Avenue, Kansas City, Missouri 65106.

Written comments and requests for a hearing should be directed to Mr. Richard Rieke, Director, Kansas City Field Office, Professional Building, Room 502, 1103 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

Copies of the Iowa program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendments by contacting the Kansas City Field Office.

Office of Surface Mining, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240.

Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, Professional Building, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION:

I. Background

The Iowa program was conditionally approved by the Secretary of the Interior on January 21, 1981. The approval was made effective April 10, 1981. Information pertinent to the general background, revisions, modifications, and amendments to the Iowa program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981 **Federal Register** (46 FR 5885).

The proposed amendments are submitted by Iowa to remove a condition placed on the Iowa program approval on November 8, 1983 (see November 9, 1983 **Federal Register**, 48 FR 51457). The condition of approval was placed on Iowa's program because it did not include a prepayment requirement comparable to that contained in section 516(c) of SMCRA and 30 CFR 845.19. The proposed amendment to section 83.15, subsection 4, Code 1985, establishes a prepayment requirement. In the November 5, 1984 **Federal Register** (49 CFR 44206) the Director of OSM extended the deadline for Iowa to meet the condition of its program to June 30, 1985. By letter dated June 28, 1985, Iowa submitted proposed amendments to remove the condition.

II. Submission of Revisions

By letter dated June 28, 1985, Iowa submitted proposed program amendments consisting of:

1. An amendment to Iowa Code section 83.10 which the Iowa Department of Soil Conservation (the department) to expend the funds it collects in bond forfeitures and the interest these funds accrue to conduct reclamation activities on any areas disturbed by coal mining not subject to a presently valid permit to conduct surface mining.

2. A new subsection has been added to section 83.14, Code 1985. This subsection states that when the director has reasonable cause to believe that the operator is unable to complete all or a portion of his required reclamation, the director shall issue a show cause order as to why all or a portion of the performance bond should not be forfeited.

3. An amendment to the Iowa program, section 83.14, subsection 4, which sets forth the appeal procedures for committee decisions made in bond forfeiture show cause hearings.

4. An amendment to section 83.14, subsection 8, Code 1985, which states that injunction relief may be requested to enforce a cessation order.

5. Amendments to section 83.15, subsections 1, 2, 3, 4, and 5, Code 1985. Subsection 1 establishes a civil penalty not to exceed $5,000 per day for each day of violation. If a cessation order is issued, the amount of the penalty shall take into consideration the operator's history of previous violations, the seriousness of the violation, whether the operator was negligent, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of the violation. Operators who fail to correct violations within the period allowed for correction shall pay a civil penalty of $750 for each day the violations continue. Subsection 2 allows the assessing of penalties in accordance with a schedule established by rule. It sets forth procedures for reassessing a penalty and provides that a violation that results in a cessation order shall be assessed a penalty. Subsection 3 provides for a contested case hearing if requested by the person to whom a penalty was issued. Subsection 4 provides that a judicial review will not be permitted unless the petitioner has posted a bond equal to the amount of the assessed penalty in the district court or has placed the proposed penalty amount in an interest bearing escrow fund approved by the department. Subsection 5 provides that the attorney general, at the department's request, shall institute a civil action for injunctive relief. An appeal bond shall be required for an appeal of judgement assessing a civil penalty.

The full text of the proposed amendments is available for review at the addresses listed above. Upon request to OSM's Field Office Director, each person may receive, free of charge, one single copy of the proposed program amendments. The Director now seeks public comment on whether the proposed amendments are consistent with the Federal provisions. If approved, the amendments will become part of the Iowa program.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM and exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 915

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 23, 1985.

Jed Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85–18144 Filed 7–30–85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 925

Public Comment and Opportunity for Public Hearing on Modification to the Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the adequacy of proposed amendments to the Missouri permanent regulatory program which was approved by the Secretary of the Interior pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments submitted by Missouri include modifications to the State regulations on revegetation requirements, regulatory program inspection and enforcement, and penalty assessment, including informal assessment conferences. In addition, Missouri has submitted proposed rules for training, examination and certification of blasters.

DATE: Written comments not received on or before 4:00 p.m. August 30, 1985 will not necessarily be considered.

A public hearing on the proposal will be held, if requested on August 26, 1985 at the address listed below under **"ADDRESSES"**. Any person interested in making oral or written presentation at the hearing should contact Mr. Richard Rieke at the address listed below by August 20, 1985. If no person has contacted Mr. Rieke by this date to express an interest in the hearing, the hearing will not be held. If only one person has so contacted Mr. Rieke, a public meeting rather than a public hearing may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held at the Federal Building, 601 E. 12th, Kansas City, Missouri.

Written comments should be mailed or hand-delivered to Mr. Richard Rieke, Office of Surface Mining, Kansas City Field Office, 1103 Grand Avenue, Professional Building, Room 502, Kansas City, Missouri 64106.

See **"SUPPLEMENTARY INFORMATION"** for address where copies of the Missouri program amendment and administrative record on the Missouri program are available. Each requestor may receive, free of charge, one single copy of the proposed program amendment by contacting the OSM Kansas City Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Office of Surface Mining Kansas City Field Office, 1103 Grand Avenue, Professional Building, Room 502, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION: Copies of the Missouri proposed amendments, the Missouri program and the administrative record on the Missouri program are available for public review and copying at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m. excluding holidays.

Office of Surface Mining, Administrative Record, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240.

Office of Surface Mining, Kansas City Field Office, 1103 Grand Avenue, Professional Building, Room 502, Kansas City, Missouri 64106.

Missouri Department of Natural Resources, Land Reclamation Commission, P.O. Box 176, Jefferson City, Missouri 65102.

Background

On February 1, 1980, OSM received a proposed regulatory program for the State of Missouri. On November 14, 1980, the Secretary approved the program subject to the corrections of minor deficiencies. The approval was effective on November 21, 1980 (45 FR 77017–77028).

On June 18, 1985, Missouri submitted to OSM proposed new rules for training, examination and certification of blasters; and proposed amendments on revegetation requirements, penalty assessments and regulatory program inspection and enforcement activities (aerial inspections, enforcement of notices of violations, informal public hearings).

The proposed revisions to the Missouri rules are as follows:

10 CSR 40–2.090 Revegetation Requirements

The amendment would update interim regulations by incorporating permanent program standards for measuring revegetation success.

10 CSR 40–3.160 Training, Examination and Certification of Blasters

The amendment would establish requirements and procedures that will

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be follow for training, examination and certification of persons engaging in or directly responsible for the use of explosives in surface coal mining operations.

10 CSR 40–8.030 Permanent Program Inspection and Enforcement

The amendment would clarify, revise and set forth requirements for permanent program inspection and enforcement. Specifically, the amendment concerns the state requirements for conducting partial inspections of each inactive surface coal mining and reclamation operation; would allow aerial inspections to be conducted in the inspection of surface coal mining and reclamation sites; allow for the extension of the abatement period beyond 90 days under certain circumstances; and would allow the waiving of informal public hearing when certain requirements are met.

10 CSR 40–8.040 Penalty Assessment

The amendment would clarify, revise and set forth the method of assessment of penalties for violation of the regulatory program. Specifically, the amendment revises procedures for assessing civil penalties and establishes procedures for conducting informal assessment conferences.

OSM is seeking comment on whether Missouri's proposed rules are as stringent as SMCRA and whether the State's proposed regulation modifications are no less effective than the requirements of the revised Federal regulations and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the proposed program modifications submitted by Missouri for OSM's consideration is available for public review at the address listed under "SUPPLEMENTARY INFORMATION".

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulotory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 25, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85–18093 Filed 7–30–85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 944

Consideration of Amendments to the Utah Permanent Program Under the Surface Mining Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for public comment on the adequacy of proposed amendments to the Utah Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On February 6, 1984, Utah submitted proposed program amendments for OSM's approval pertaining to water quality and effluent limitations, inspections, notices of violations and suspension or revocation of permits. On August 29, 1984, the Director, OSM approved the amendments, with certain exceptions concerning suspension or revocation of permits (49 FR 34210–34212). Subsequently, in a letter to OSM dated September 25, 1984, the State responded by making certain revisions to its regulations and by including position papers from the Assistant Attorney General for Utah concerning the State provisions for suspension or revocation of permits.

This notice sets forth the times and locations that the Utah program and proposed amendments are available for public inspection and the comment period during which interested persons may submit written comments on the proposed program elements.

DATES: Written comments not received by August 30, 1985, will not necessarily be considered in the Director's decision on whether the proposed amendments satisfy the criteria for approval.

ADDRESSES: Written comments should be sent to Mr. Robert Hagen, Field Office Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

Copies of the Utah program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and the OSM Headquarters office and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one single copy of the amendments by contacting the OSM Albuquerque Field Office listed above.

Utah Division of Oil, Gas and Mining, Department of Natural Resources, 4241 State Office Building, Salt Lake City, Utah 84114

Office of Surface Mining, 1100 "L" Street, NW., Room 5124, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program under SMCRA for the regulation of the surface coal mining operations in the State (46 FR 5899–5915).

Information pertinent to the general backgrounds, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 Federal Register (46 FR 5899–5915).

On February 6, 1984, the Utah Division of Oil, Gas and Mining (DOGM) submitted proposed program amendments for OSM's approval. The amendments included proposed changes to sections of the Utah regulations concerning water quality and effluent limitations, inspections, notice of violations and suspension or revocation of permits. On April 30, 1984, OSM announced receipt of these amendments and scheduled a public hearing and comment period on the proposed modifications (49 FR 18315). The public comment period closed May 30, 1984.

On June 29, 1984, OSM advised Utah by letter that the proposed provisions satisfied the criteria for approval of State program amendments set forth under 30 CFR 732.15 and 732.17 with certain exceptions in section UMC/SMC 843.13 of the proposed regulations. This section pertains to the suspension or revocation of permits (See Utah Administrative Record No. 335).

OSM informed the State that it was prepared to delay its final rulemaking on the amendments for one month to allow the State an opportunity to submit draft proposed rule changes or other evidence that the State amendments are consistent with the Federal standards.

Utah did not submit to OSM any additional materials to address the deficiencies identified by OSM in the State's proposed amendments during the one month period granted for this purpose. Therefore, OSM proceeded with the publication of a final rule to announce the Director's decision on the amendments as submitted to OSM on February 6, 1984. The Director's decision was to approve the amendments, with certain exceptions concerning suspension or revocation of permits (August 29, 1984, 49 FR 34210–34212).

Subsequently, in a letter dated September 25, 1984, the State responded by making certain revisions to its regulations and by including position papers from the Assistant Attorney General for Utah concerning provisions for suspension or revocation of permits.

Therefore, OSM is reopening the public comment period on the proposed amendments submitted Febraury 6, 1984, as revised and clarified by the State on September 25, 1984. The material being considered pertains only to the provisions made by Utah to its regulations at UMC/SMC 843.13. If the proposed amendment provisions are found no less stringent than those of SMCRA and contain the same or similar procedural requirements to those of the Federal regulations, the amendments will be approved and incorporated as part of the Utah permanent regulatory program.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 25, 1985.

Charles B. Kenehan,

Acting Assistance Director, Program Operations and Inspection.

[FR Doc. 85–18143 Filed –30–85; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF EDUCATION

34 CFR Part 79

Intergovernmental Review of Department of Education Programs and Activities

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations entitled Intergovernmental Review of Department of Education Programs and Activities. These amendments are necessary to implement a number of procedural changes that will improve the intergovernmental review process required by Executive Order 12372.

DATES: Coments must be received on or before September 16, 1985.

ADDRESSES: Comments should be addressed to F. LeRoy Walser, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Room 2083 FOB–6, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHUR INFORMATION CONTACT: F. LeRoy Walser, Telephone (202) 447–7501.

SUPPLEMENTARY INFORMATION: On June 24, 1983, the Secretary published in the Federal Register final regulations for 34 CFR Part 79 (48 FR 29158–29168) implementing Executive Order 12372, Intergovernmental Review of Federal Programs. The regulations were effective on September 30, 1983. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for coordination and review of proposed Federal financial assistance and direct development.

The Executive Order—

(1) Allows States, after consultation with local officials, to establish their own process for review and comment on postposed Federal financial assistance;

(2) Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why these views will not be accommodated; and

(3) Revoke OMB Circular A–95.

As a result of guidance issued by the Executive Office of the President on March 14, 1985 the OMB criteria previously used to determine program coverage are rescinded.

In order to make the regulations consistent with the Executive Order and revised OMB guidance, the following amendments to the regulation at 34 CFR Part 79 are proposed:

The proposed regulations remove references to rescinded OMB criteria and enumerate the criteria for exclusion of programs from Executive Order 12372 coverage. The regulations also clarify the date by which comments and State process recommendations are due to the Department, and provide that State process recommendations should be clearly identified as such.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. These regulations primarily affect the Department of Education and States and State agencies and will not have a significant impact on a substantial number of small entites. These regulations cover programs and activities of the Department that are subject to intergovernmental review requirements and procedures for commenting on proposed Federal financial assistance. State participation in the intergovernmental review process is voluntary. The Department of Education and States and State agencies are not small entities under the Regulatory Flexibility Act.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All coments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2083, 400 Maryland Avenue, SW., Washington, D.C., between the hours of 8:30 a.m and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is

invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 79

Grant programs—education, Grants administration, Intergovernmental relations, State-administered programs.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance does not apply)

Dated: July 26, 1985.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by amending Part 79 as follows:

PART—79 INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAM AND ACTIVITIES

1. The authority citation for Part 79 continues to read as follows:

Authority: E.O. 12372, July 14, 1982 (47 FR 30959), as amended, April 8, 1983 (48 FR 15887); sec. 401 of the Intergovernmental Cooperation Act of 1968, as amended (31 U.S.C. 6506); sec. 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334).

2. In § 79.3, paragraphs (a) and (b) are revised and new paragraphs (c) and (d) are added to read as follows:

§ 79.3 What programs and activities of the Department are subject to these regulations?

(a) The Secretary publishes in the **Federal Register** a list of the Department's programs and activities that are subject to these regulations and identifies which of these are subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act.

(b) If a program or activity of the Department that provides Federal financial assistance does not have implementing regulations, the regulations in this part apply to that program or activity.

(c) The following programs and activities are excluded from coverage under this part:

(1) Proposed legislation.

(2) Regulation and budget formulation.

(3) National security matters.

(4) Procurement.

(5) Direct payments to individuals.

(6) Financial transfers for which the Department has no funding discretion or direct authority to approve specific sites or projects (e.g., block grants under Chapter 2 of the Education Consolidation and Improvement Act of 1981).

(7) Research and development national in scope.

(8) Assistance to federally recognized Indian tribes.

(d) In addition to the programs and activities excluded in paragraph (c) of this section, the Secretary may only exclude a Federal financial assistance program or activity from coverage under this part if the program or activity does not directly affect State or local governments.

(E.O. 12372)

3. In § 79.8, paragraphs (a), (a)(1), and (a)(2) are revised, a new paragraph (b) is added, and the current paragraphs (b) and (c) are redesignated as (c) and (d) respectively, to read as follows:

§ 79.8 How does the Secretary provide States an opportunity to comment on proposed Federal financial assistance?

(a) Except in unusual circumstances, the Secretary gives State processes or directly affected State, areawide, regional, and local officials and entities—

(1) At least 30 days to comment on proposed Federal financial assistance in the form of noncompeting continuation awards; and

(2) At lease 60 days to comment on proposed Federal financial assistance other than noncompeting continuation awards.

(b) The Secretary establishes in the program application notice published in the **Federal Register** the date by which comments under paragraph (a) of this section must be transmitted to the Department.

* * * * *

4. In § 79.9, paragraph (a)(2) is revised to read as follows:

§ 79.9 How does the Secretary receive and respond to comments?

(a) * * *

(2) That office or official transmits a State process recommendation, and identifies it as such, for a program selected under § 79.6.

* * * * *

[FR Doc. 85-18151 Filed 7-30-85; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2872-4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA proposes to approve as a revision to the Indiana State Implementation Plan (SIP), Indiana Regulation 325 IAC 13-2, Motor Vehicle Tampering and Fuel Switching. USEPA anticipates that compliance with this rule will lead to reduced ambient levels of carbon monoxide (CO), hydrocarbons, and oxides of nitrogen (NO_x). USEPA is proposing to approve it as being consistent with Federal law and at the State's request.

DATE: Comments on this revision and on the proposed USEPA action must be received by September 30, 1985.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Anne E. Tenner, at (312) 886-6036, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886-6036.

SUPPLEMENTARY INFORMATION: On November 13, 1984, the State of Indiana submitted to USEPA Rule 325 IAC 13-2, Motor Vehicle Tampering and Fuel Switching, which prohibits any person from knowingly tampering with any emission control device installed in any motor vehicle which is designed for unleaded gasoline only.

Section 3(a) of 325 IAC 13-2, Tampering of Pollution Control Devices on Motor Vehicles, prohibits any person (1) from knowingly renting, leasing, offering for sale, or otherwise transferring ownership of a motor vehicle which has undergone tampering with any emission control system, (2) from knowingly operating such a vehicle, (3) from knowingly offering for sale or advertising for sale any add-on part or device which interferes with the operation of any emission control device, and (4) from removing, disconnecting, disabling or allowing to lapse into disrepair any emission control system installed by the manufacturer. Vehicles which have been tampered with in violation of this rule are subject to suspension of registration. These vehicles are not eligible for re-registration until they have been properly repaired or otherwise restored to compliance. The maximum civil penalty for each violation of the tampering provisions in this rule is $2,500.

Section 3(b) of 325 IAC 13-2, Fuel Switching, prohibits any person (1) from selling, dispensing, or offering for sale gasoline represented to be unleaded unless it meets the requirements of unleaded gasoline, i.e., it contains no more than 0.05 grams of lead per gallon, (2) from knowingly introducing leaded gasoline into any vehicle originally designed for unleaded gaosline, and (3) from modifying the dispensing nozzle of a gasoline pump containing leaded gasoline such that the nozzle can dispense gasoline into a vehicle designed for unleaded gasoline only. Section 3(b) of 325 IAC 13-2 also requires all gasoline dispensing facilities to display permanent signs distinguishing leaded and unleaded gasoline pumps and informing the public that State and Federal law prohibit the introduction of leaded gasoline into a vehicle designed by the manufacturer for unleaded gasoline only. Any person found in violation of 325 IAC 13-2-3(b) is subject to civil penalties of not more than $10,000 per violation.

USEPA has reviewed these requirements in relation to the applicable portions of the Clean Air Act and has found that the Indiana anti-tampering provisions are consistent with sections 203(a)(3) (A) and (B) of the Act. Additionally, the Indiana fuel-switching provisions are consistent with section 211 of the Act and 40 CFR Part 80, Subpart B. USEPA is therefore proposing to approve 325 IAC 13-2 as an addition to the Indiana SIP.

USEPA notes that Indiana submitted the regulation without requesting specific emission reduction credits in its air quality attainment and maintenance plans due to implementation of this rule. Although it is not Agency policy to assign specific credits for this activity, USEPA believes that enforcement of this rule is an important part of the effort to reduce the incidence of vehicle tampering and fuel switching and the related emissions of CO, hydrocarbons and NO_x.

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Authority: 42 U.S.C. 7401-7642.

Dated: June 13, 1985.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 85-18109 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 62

[EPA Action MO 1730; A-1-FRL 2872-3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Missouri; Section 111(d) Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The State of Missouri has submmited plans for the control of fluoride emissions from phosphate fertilizer plants and from primary aluminum reduction plants and also a plan for the control of sulfuric acid mist from sulfuric acid production plants. These plans were submitted in response to section 111(d) of the Clean Air Act, which requires state plans to establish emission controls for existing sources which would be subject to EPA's new source performance standards if these sources were new sources. This notice advises the public that EPA proposes to approve the State's section 111(d) plans.

DATE: Public comments must be received submitted by August 30, 1985.

ADDRESSES: Comments should be sent to Mr. Larry A. Hacker, Environmental Protection Agency, 726 Minnesota Avenue, Kansas city, Kansas 66101. The State submittal is available for inspection during normal business hours at the above address, and at the Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (816) 374-3791, or FTS 758-3791.

SUPPLEMENTARY INFORMATION:

I. Plan Requirements

Section 111 of the Clean Air Act provides authority for EPA to establish standards of performance for new stationary sources of air pollution. Section 111(d) and 40 CFR Part 60, Subpart B, require that each state adopt and submit a plan for the control of designated pollutants from existing facilities. Designated pollutants do not include those for which air quality criteria have been established or which are already listed under section 108(a), relating to development of air quality criteria for certain pollutants, or section 112(b)(1)(A) Hazardous Air Pollutants. After promulgation of a standard of performance for a designated pollutant from an affected facility, EPA publishes an applicable emission control guideline document, and then publishes a notice in the **Federal Register** as to its availability. The state must submit its Section 111(d) plan within nine months after the final guideline notice of availability. If there are no such designated facilities located within a state, the state is required to submit a letter of certification to that effect. The State of Missouri submitted a negative declaration for kraft pulp mills on May 14, 1982 (49 FR 7233).

The requirements for section 111(d) plans are contained in 40 CFR 60.23 through 60.26. The state is required to give proper notification and conduct at least one public hearing. The plan must contain emission standards and compliance schedules. The emission standards must be at least as stringent as those required by the federal standard with certain case-by-case exemptions. The plan must also incude an inventory of all designated facilities, including emissions data for the designated pollutants. The State must demonstrate that it has adequate legal authority to carry out the plan unless previously approved under section 111(d) or section 110 of the Act. For a complete description of the plan requirements, the reader is referred to the above-mentioned sections of the Code of Federal Regulations. Part 62 of the CFR Provides the procedural framework for the submission of these plans.

II. Review of the Submittal

On January 3, 1985, the State of Missouri submitted a plan for the control of: (1) fluoride emissions from phosphate fertilizer plants; (2) Fluoride emissions from primary aluminum reduction plants; and (3) sulfuric acid

EPA has reviewed the State's regulations and finds the emission limits

satisfies the requirements of 40 CFR

and evidence of an applied control strategy.

sanctions for a nonattainment area if no

nonattainment. EPA also proposes to

emissions from primary aluminum reduction plants; and (3) sulfuric acid mist emissions from sulfuric acid production plants. This submittal supersedes a previous submittal of September 22, 1981, which did not fully address the plan requirements of Section 111(d) of the Act. State plans for the control of fluoride emissions from existing phosphate fertilizer plants were due on December 1, 1977, and those for primary aluminum reduction plants were due on January 19, 1981. State plans for the control of sulfuric acid mist emissions from sulfuric acid production plants were due on July 18, 1978. Missouri's January 3, 1985, submittal is intended to satisfy the requirements for these plans.

On September 22, 1981, the State of Missouri submitted regulations for the control of fluoride emissions from phosphate fertilizer plants and from aluminum reduction plants. The sumbittal includes Rule 10 CSR 10–3.160, Restriction of Emissions of Fluorides from Diammonium Phosphate Fertilizer Production; Rule 10 CSR 10–6.090, Restriction of Emission of Fluorides from Primary Aluminum Reduction Installations; and revisions to Rule 10 CSR 10–6.020, Definitions. These rules were adopted by the Missouri Air Conservation Commission on June 17 and June 21, 1981, after adequate notice and public hearing. The State submittal includes the public hearing records on these rulemakings; thus the public participation requirements of 40 CFR 60.23 are met regarding these rules.

On March 12, 1979, the State submitted Rules 10 CSR 10–3.100 and 5.150, which restrict the emissions of certain sulfur compounds, including sulfuric acid mist. The emission limits on sulfuric acid mist were contained in prior versions of these rules adopted in 1967 and 1971 after proper notice and public hearings. The most recent public hearing concerning these rules was held on October 25, 1978. In addition, the emission limits contained in these rules are at least as stringent as the applicable federal standard; thus the public participation requirements of 40 CFR 60.23 are satisfied regarding these rules.

In a prior action, EPA approved portions of Rules 10 CSR 10–3.100 and 5.150 which pertained to emissions of sulfur dioxide from lead smelters. EPA took no actions on these rules with respect to the requirements of section 111(d). Today, EPA is proposing to approve these rules insofar as they meet the requirements for the control of sulfuric acid mist from existing sulfuric acid production plants.

EPA has reviewed the State's regulations and finds the emission limits are at least as stringent as those specified in the applicable federally promulgated guideline documents. The State has adopted, by reference, EPA's compliance test methods for fluorides and sulfuric acid mist emissions as specified in 40 CFR Part 60, Appendix A. All designated facilities are in compliance with the applicable emission limits for the designated pollutants; therefore, the State's plan does not include compliance schedules. However, the State has demonstrated that it has the legal authority to implement compliance schedules for designated facilities when necessary. As discussed above, the State's plan meets the requirements for emission standards and compliance schedules as specified in 40 CFR 60.24.

The State's plan includes an inventory of all designated facilities, including emission data for the designated pollutants. Additional inventory data is maintained on EPA's National Emissions Data System (NEDS), which is updated periodically. The emission inventory data meet the requirements of 40 CFR Part 60, Appendix D. The State's section 111(d) emission inventory meets the requirements of 40 CFR 60.25.

On April 29, 1985, the State of Missouri submitted Rule 10 CSR 10–6.110, Submission of Emission Data and Process Information, which was adopted by the Missouri Air Conservation Commission on September 27, 1984, after proper notice and public hearing. This rule satisfies the reporting and recordkeeping requirements of 40 CFR 60.25. In addition, the State submittal includes the public hearing record on this rule to satisfy the public participation requirements of 40 CFR 60.23.

Rule 10 CSR 10–6.110 was submitted to satisfy the requirements of both sections 110 and 111(d) of the Act. Today's notice proposes to approve this rule insofar as it pertains to the requirements of section 111(d). This notice does not propose any action on this rule with respect to section 110.

The State's submittal includes a demonstration of adequate legal authority to carry out the plan. Missouri Air Conservation Law, Chapter 203, RSMO, provides the State with authority to: (1) Adopt emission standards and compliance schedules; (2) enforce applicable laws and regulations; (3) require source testing and reporting; and (4) require sources to use emission monitoring equipment. The State's demonstration of legal authority satisfies the requirements of 40 CFR 60.26.

III. EPA Action

Today's notice proposes to approve the State of Missouri's Section 111(d) plan for the control of: (1) Fluoride emissions from phosphate fertilizer plants; (2) fluoride emissions from primary aluminum reduction plants; and (3) sulfuric acid mist emissions from sulfuric acid production plants.

Under 5 U.S.C. 605(b), I hereby certify that these section 111(d) plans will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 62

Air Pollution Control, Fluoride, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Phosphate, Aluminum, Fertilizers, Paper and paper products industry, Sulfuric oxides, Sulfuric acid plants.

Authority: 42 U.S.C. 7401–7642.

Dated: June 17, 1985.

Morris Kay,

Regional Administrator.

[FR Doc. 85–18110 Filed 7–30–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[EPA No. KS 1588; A–7–FRL 2872–2]

Designation of Areas for Air Quality Planning Purposes; Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Section 107(d) of the Clean Air Act, as amended, provides for the designation of areas as either attainment, nonattainment or unclassified with respect to the National Ambient Air Quality Standards (NAAQS). Today, EPA proposes to redesignate a portion of Wyandotte County, Kansas (Kansas City, Kansas) from secondary nonattainment for total suspended particulate matter (TSP) to attainment. EPA also proposes to redesignate a portion of Kansas City, Kansas, from primary nonattainment with respect to TSP to secondary nonattainment. This redesignation proposal is based upon a request from the Kansas Department of Health and Environment (KDHE). This request is supported by air quality monitoring data and evidence of an applied control strategy.

DATE: Public comments should be received by August 30, 1985.

ADDRESSES: Comments should be sent to Robert J. Chanslor, Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101. The State submission is available for public inspection during normal business hours at the above address and at the Kansas Department of Health and Environment, Forbes Field, Topeka, Kansas 66620.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (816) 374–3791 or FTS 758–3791.

SUPPLEMENTARY INFORMATION: In response to section 107(d) of the Clean Air Act, as amended, EPA and the State of Kansas have designated all areas of the State as attaining the NAAQS, not attaining the NAAQS, or having insufficient data upon which to make a determination (unclassified). A nonattainment area is one in which the air quality is worse than a standard. An unclassified area is one for which there is insufficient data to determine whether an area is attainment or nonattainment. The areas of the State which are nonattainment for one or more pollutants are identified at 40 CFR Part 81, Subpart C.

EPA's current redesignation policy, under section 107 of the Act is summarized in an April 21, 1983, memorandum from Sheldon Meyers. Generally, eight consecutive quarters (two years) of monitoring data showing no violations are required to support redesignation requests for areas having an approved Part D control strategy. However, the most recent four quarters of monitoring data may be used if dispersion modeling shows that the SIP strategy is sound, and if actual enforceable emissions reductions have occurred.

On March 3, 1978 (43 FR 8964), EPA designated portions of Wyandotte County, Kansas, nonattainment with respect to the primary and secondary TSP standard. The remainder was classified as attainment with respect to the TSP standards. The primary standard for TSP is an annual geometric mean value of 75 $\mu g/m^3$ not to be exceeded and a 24-hour value of 260 $\mu g/m^3$ not to be exceeded more than once per year. The secondary NAAQS for TSP is a 24-hour value of 150 $\mu g/m^3$ not to be exceeded more than once per year. Under the requirements of Part D of the Act, states were required to develop and submit plans to attain air standards in those areas where the NAAQS were violated. The Act requires growth sanctions for a nonattainment area if no plan is submitted.

The State of Kansas submitted a plan to control TSP emissions in Wyandotte County on March 10, 1980. This plan was approved on April 3, 1981 (46 FR 20170).

The attainment status of Wyandotte County (Kansas City), Kansas is found at 40 CFR 81.317. The primary TSP nonattainment area is described as most of the area between I–635 and the Missouri state line. The secondary TSP nonattainment area is the area extending about three miles west of I–635.

By letter of June 22, 1984, the KDHE requests that EPA redesignate that part of Wyandotte County currently designated secondary nonattainment with respect to TSP to attainment and that area designated nonattainment with respect to the primary TSP standard to secondary nonattainment. Included with the request was a reasonable further progress report showing TSP emissions reductions since enforcement of the Part D plan revision. Air quality data for 1982 and 1983 (eight quarters) showed no violation of the primary TSP NAAQS in the designated primary TSP nonattainment area and no violations of the secondary TSP NAAQS in the designated secondary TSP nonattainment area. However, TSP data for the first six months of 1984 had a geometric mean value of approximately 100 $\mu g/m^3$ at one monitor site in the primary nonattainment area.

EPA advised the State of its concern over the high six month mean value in 1984. The State was further advised that action on its redesignation request for Wyandotte County would be delayed until all 1984 data are available for analysis. On March 21, 1985, the KDHE provided TSP air quality data for Wyandotte County for 1982, 1983 and 1984. These data show no violations of the primary TSP NAAQS in the primary nonattainment area and no violation of the secondary TSP NAAQS in the designated secondary nonattainment area. Thus, the KDHE provided data for three years (12 quarters) showing that the primary TSP NAAQS have not been violated in the primary nonattainment area and that there have been no secondary TSP NAAQS violations in the designated secondary TSP nonattainment area,

EPA believes the State of Kansas evidence meets the redesignation criteria outlined in the April 21, 1983, memorandum from Sheldon Meyers. ACTION: EPA proposes to redesignate that portion of Wyandotte County presently designated primary nonattainment for TSP as secondary nonattainment. EPA also proposes to redesignate that portion of Wyandotte County presently designated secondary nonattainment for TSP NAAQS to attainment. EPA solicits public comments on this proposed rule.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 4709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7442.

Dated: May 1, 1985.

Morris Kay,

Regional Administrator.

[FR Doc. 85–18111 Filed 7–30–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[OPP–300136; FRL–2870–8]

N-Butanol; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that *n*-butanol be exempted from the requirement of a tolerance when used as an inert ingredient solvent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. This proposed regulation was requested by the Amway Corp.

DATE: Written comments, identified by the document control number [OPP–300136], must be received on or before August 30, 1985.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS–767), Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be

VOL 50 ISS 147 JL 31 1985 UMI

disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A,CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–7700.

SUPPLEMENTARY INFORMATION: At the request of the Amway Corp., the Administrator proposes to amend 40 CFR 180.1001 by establishing an example exemption from the requirement of a tolerance for *n*-butanol when used as an inert ingredient solvent in pesticide formulations applied ot growing crops or to raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c) and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Nome of inert ingredient. *n*-Butanol.

Nome and address of requester. Amway Corp., Ada, MI 49355.

Boses for approvol. 1. *n*-Butyl alcohol is cleared under 40 CFR 180.1001(d) as a solvent, cosolvent for use in pesticide formulations applied to growing crops only.

2. *n*-Butanol is cleared under 40 CFR 180.100(e) as a solvent for blended emulsifiers for use in pesticide formulations applied to animals. (the entry appears incorrectly in the CFR because of a typographical error; "alpha-Butanol" should read "*n*-Butanol.")

3. *n*-Butanol is cleared under 21 CFR 172.515 for use as a synthetic flavoring substance and adjuvant.

4. *n*-Butanol is cleared under 21 CFR 172.560 as a solvent with a 50-ppm tolerance in modified hop extract.

5. *n*-Butanol is cleared under 21 CFR 175.105 as an indirect food additive as a component of adhesives.

6. *n*-Butyl alcohol is cleared under 21 CFR 176.200 as a defoaming agent for use in coatings.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains this inert ingredient any request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments of the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP–300136]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 19, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for 40 CFR Part 180 continues to reads as set forth below:

Authority: 21 U.S.C. 346a.

2. Section 180.1001 is amended by adding and alphabetically inserting the inert ingredient *n*-Butanol to the table in paragraph (c), removing *n*-Butyl alcohol from the table in paragraph (d), and correcting the entry alpha-Butanol in paragraph (e) to *n*-Butanol, as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert Ingredients	Limits	Uses
* * * * *		
n-Butanol (CAS Reg. No. 71–36–3).	.....	Solvent, cosolvent.
* * * * *		

(d) * * *

Inert Ingredients	Limits	Uses.
* * * * *		
n-Butyl alcohol [Removed]	.....	Solvent, cosolvent [Removed]
* * * * *		

(e) * * *

Inert Ingredients	Limits	Uses
* * * * *		
n-Butanol (CAS Reg. No. 71–36–3)	.....	Solvent for blended emulsifiers
* * * * *		

[FR Doc. 85–17882 Filed 7–30–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 4E3113/P371; FRL–2871–1]

Pesticide Tolerance for Permethrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the insecticide permethrin and the sum total of its metabolites in or on the raw agricultural commodity watercress. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number (PP 4E3113/P371), must be received on or before August 15, 1985.

ADDRESS: Written comments by mail to: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street., SW., Washington, D.C. 20460.

In person, bring comments to: Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Room 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M Street., SW., Washington, D.C. 20460.

Office location and telephone number: Rm 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–7700).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 4E3113 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, purusant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the insecticide permethrin [(3-phenoxyphenyl)methyl 3–(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] and its metabolites 3-(2,2-dichloroethenyl)-2,2-Dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl)methanol (3-PBA), calculated as parent, in or on the raw agricultural commodity watercress at 5.0 ppm. The Agency has determined that the tolerance expression for permethrin in 40 CFR 180.378 (b) and (c) should reflect the sum of permethrin and its metabolites, not permethrin and its metabolites calculated as permethrin.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were discussed in a final rule document (PP 8F2099. . . ./R422), published in the **Federal Register** of October 13, 1982 (47 FR 45008). Tolerances for residues of the insecticide on various raw agricultural commodities have been previously established ranging from 0.05 to 60.0 ppm.

The acceptable daily intake (ADI), based on the 2-year rat chronic feeding/oncogenicity study (NOEL of 5.0 mg/kg or 100 ppm/day) and using a 100-fold safety factor, is calculated to be 0.05 mg/kg/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 1.18723 mg/day; the current action will increase the TMRC by 0.00225 mg/day (0.19 percent). Published tolerances utilize 39.57 percent of the ADI; the current action will utilize an additional 0.08 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography with an electron capture detector, is available for enforcement purposes. No secondary residues in meat, milk, poultry or eggs are anticipated since watercress is not considered a livestock feed commodity. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.378 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. As provided for in the Administrative Procedures Act (5 U.S.C. 553(d)(3)), the comment period time is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of insects infesting watercress.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 4E3113/P371]. All written comments filed in response to this petition will be available in the Information Services Section at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 3, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 19, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for 40 CFR Part 180 continues to reads as set forth below:

Authority: 21 U.S.C. 346a.

2. Section 180.1001 is amended by adding and alphabetically inserting the inert ingredient *n*-Butanol to the table in paragraph (c), removing *n*-Butyl alcohol from the table in paragraph (d), and correcting the entry alpha-Butanol in paragraph (e) to *n*-Butanol, as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert Ingredients	Limits	Uses
* * * * *		
n-Butanol (CAS Reg. No. 71–36–3).	.....	Solvent, cosolvent.
* * * * *		

(d) * * *

Inert Ingredients	Limits	Uses.
* * * * *		
n-Butyl alcohol [Removed]	.....	Solvent, cosolvent [Removed]
* * * * *		

(e) * * *

Inert Ingredients	Limits	Uses
* * * * *		
n-Butanol (CAS Reg. No. 71–36–3)	.....	Solvent for blended emulsifiers
* * * * *		

[FR Doc. 85–17882 Filed 7–30–85; 8:45 am]

BILLING CODE 6560–50–M

The Office of Management and Budget has exempted this rule from the

Resource Conservation and Recovery Act (RCRA). The Environmental

p.m. Monday through Friday, at the following addresses for inspection and

VOL 50 ISS 147 JL 31 1985 UMI

Dated: July 19, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180 [AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.378 is amended by revising the introductory text of paragraphs (b) and (c) and adding and alphabetically inserting the raw agricultural commodity watercress in (b), to read as follows:

§ 180.378 Permethrin; tolerances for residues.

* * * * *

(b) Tolerances are established for residues of the insecticide permethrin [(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] and the sum of its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl)methanol (3-PBA) in or on the following raw agricultural commodities:

Commodities	Parts per million
Watercress	5.0

(c) Tolerances are established for residues of permethrin and the sum total of its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl) methanol (3-PBA) and 3-phenoxybenzoic acid in or on the following animal commodities.

* * * * *

[FR Doc. 85-17881 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300137; FRL-2870-7]

Sulfur; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that sulfur be exempted from the requirement of a tolerance when used as an inert ingredient stabilizer in pesticide formulations applied to animals. This proposed regulation was requested by the Ralston Purina Co.

DATE: Written comments, identified by the document control number [OPP-300137], must be received on or before August 30, 1985.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-7700.

SUPPLEMENTARY INFORMATION: At the request of the Ralston Purina Co., the Administrator proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for sulfur when used as a stabilizer in pesticide formulations applied to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Sulfur.

Name and address of requestor. Ralston Purina Co., St. Louis, MO 63164.

Bases for approval. 1. Sulfur is cleared under 21 CFR 175.105 as an adhesive.

2. Sulfur is cleared under 21 CFR 177.1210 for use in closure-sealing gaskets for food containers.

3. Sulfur, ground is cleared under 21 CFR 177.2600 as a vulcanization agent in rubber articles intended for repeated use.

4. Sulfur is cleared under 40 CFR 180.2 as a pesticide chemical generally recognized as safe (GRAS).

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended that contains this inert ingredient may request within 30 Days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP-300137]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Firday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. a certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultrual commodities, Pesticides and pests.

Dated: July 19, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for 40 CFR 180 continues to read as set forth below:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
Sulfur (CAS Reg. No. 7704-34-9).		Stabilizer

[FR Doc. 85-17884 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-7-FRL-2872-8]

Kansas; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination on Application of Kansas for Final Authorization, Public Hearing and Public Comment Period.

SUMMARY: In July 1984, Kansas applied for final authorization under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) reviewed Kansas' application and made the tentative decision that Kansas' hazardous waste program satisfied all of the requirements necessary to qualify for final authorization as stated in the **Federal Register** notice of October 24, 1984. However, on reviewing the State's application in light of the public comments received at the November 27, 1984 public hearing, clarification was sought on selected topics. The State submitted the requested clarifications in its June 11, 1985 addendum to the application.

The addendum also contains other program modifications: A statutory amendment, regulatory revisions and a revised Memorandum of Agreement. The EPA has reviewed the addendum and finds Kansas' revised hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. In our review of the program modifications we conclude that the modifications do not alter the Kansas waste management program as presented in the July application in such a way as to change our October 24, 1984 tentative determination. Thus, the EPA intends to grant final authorization to the State to operate in lieu of the Federal program.

The State's application for final authorization as amended on June 11, 1985, is available for public review. The EPA solicits comments on the State's addendum and our review of it during a 30 day public comment period and at a public hearing.

DATES: The public comment period closes on September 3, 1985. A public hearing is scheduled for September 3, 1985. Kansas will participate in the public hearing held by EPA on this subject. All comments on Kansas' addendum and our review of it must be received by the close of business on September 3, 1985. The Regional Administrator may cancel the public hearing if sufficient public interest is not expressed by August 26, 1985. Information concerning the public hearing may be obtained by calling 913-236-2828.

Written comments should be sent to Morris Kay, Regional Administrator, U.S. EPA Region VII, 726 Minnesota Avenus, Kansas City, Kansas 66101. The EPA will hold a public hearing at 1:00 p.m. on September 3, 1985, at Shawnee County Health Department, 1615 West 8th Street, Topeka, Kansas.

ADDRESSES: Copies of the Kansas final authorization application are available during business hours, 8:00 a.m. to 4:30 p.m. Monday through Friday, at the following addresses for inspection and copying: Kansas Department of Health and Environment, Building 740, Forbes Field, Topeka, Kansas 66620; U.S. EPA Headquarters Library, 401 M Street, S.W., Room M2804, Washington, D.C. 20460, Phone: 202-382-5926; U.S. EPA Region VII Library, 726 Minnesota Avenue, Kansas City, Kansas 66101, Phone 913-236-2828.

FOR FURTHER INFORMATION CONTACT: Michael Sanderson (913) 236-2800.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the RCRA allows EPA to authorize a State hazardous waste program to operate in the State in lieu of the Federal hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Act Amendments of 1984 (Pub. L. 98-616, Nov. 8, 1984). Authorization is granted by EPA if the Agency finds that the State's program meets the following criteria: (1) It is "equivalent" to the Federal program, (2) it is "consistent" with the Federal program and other State programs, and (3) it provides for adequate enforcement (Section 3006(b) 42 U.S.C. 6226(b)). The Agency's implementing regulations at Title 40 Code of Federal Regulations (40 CFR) 271.5 and 271.20 establish procedures for reviewing a State's application and any subsequent addendum to it.

Under 40 CFR 271.5(c), the review period including public participation shall begin again upon receipt of a revised submission which materially changes the State's application. Under 40 CFR 271.20(d) the Regional Administrator must give notice of the State's addendum and the Agency's evaluation of it in the **Federal Register** for the public to consider and comment on during a 30 day period. A public hearing may also be held if sufficient public interest is expressed. The Regional Administrator may announce in the notice on the public comment period the date and place for the pubic hearing. The notice may specify that the Regional Administrator may cancel the public hearing if sufficient public interest in a hearing is not expressed.

B. Kansas

Kansas submitted its application for final authorization in July 1984. However, on reviewing the State's application in light of public comments received at the November 27, 1984 public hearing, EPA decided additional clarification was needed on the State's authority in the areas of imposing criminal fines per day in the case of a

VOL
50
ISS
147
JL
31
1985
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continuing violation and providing citizens the right to intervene in all civil actions initiated by the Secretary as well as by a county or district attorney.

Kansas submitted the clarification requested on June 11, 1985. The State revised its statute to clarify its authority in these two areas. These statutory amendments ensure that the Kansas program meets the Federal requirements for approval of a State's program under section 3006 of the RCRA.

During the time taken to obtain the statutory clarifications, the State further amended its program as follows:

(1) Kansas has enacted a statutory amendment which prohibits the underground burial of hazardous waste. Such prohibition does not include mound landfill, above ground storage, land treatment or underground injection of hazardous waste. On a case by case determination, the Secretary of the Kansas Department of Health and Environment may approve land burial of hazardous waste if a petitioner demonstrates to the Secretary that, except for underground burial, no economically reasonable or technologically feasible methodology exists for the disposal of a particular hazardous waste. The statute contains procedures, including public participation, for obtaining an exception to the prohibition against underground burial of hazardous waste.

(2) The State also revised its program to adopt regulatory revisions in the Federal program as required under 40 CFR 271.21. The State has adopted by reference Federal regulations in effect as of July 15, 1985. The regulatory revisions include, but are not limited to, the adoption of the uniform manifest, the identification of additional wastes, and the change in the definition of solid waste. Final authorization is also being granted for the dioxin waste standards currently in effect under the Hazardous and Solid Amendments of 1984 (HSWA).

(3) The State revised the Memorandum of Agreement as necessary to ensure the implementation of HSWA, particularly in the area of issuing a permit to a facility which treats, stores or disposes of hazardous waste.

We have reviewed the State's addendum to its final authorization application in terms of the Kansas waste management program meeting the Federal criteria for authorizing a State program. We conclude the Agency's tentative decision as discussed in the **Federal Register** notice of October 24, 1984, to approve the State's application for final authorization remains in effect. For this reason, the EPA intends to grant final authorization to Kansas to operate its program in lieu of the Federal program.

In accordance with Section 3006 of RCRA and 40 CFR 271.20(d), the Agency will hold a public hearing on the addendum to the State's application for final authorization, our review of the addendum, and our conclusion regarding the tentative determination to approve the State's application. Comments are requested on (1) the addendum and (2) whether the program modifications allow the State's program to achieve the Federal criteria for authorizing a State to operate its program in lieu of the Federal program.

The public hearing will be held at 1:00 p.m. on September 3, 1985, at Shawnee County Health Department, 1615 West 8th Street, Topeka, Kansas. Persons wishing to present testimony at the public hearing must file a written request for a hearing with the Regional Administrator on or before August 26, 1985. The Regional Administrator will cancel the public hearing if sufficient public interest in a hearing is not received by August 26, 1985. The public may also submit written comments on the State's addendum and on EPA's review of it until the close of public comment period, September 3, 1985. A copy of Kansas' application and the addendum are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

The EPA will consider comments received at the hearing or during the public comment period. Issues raised by those comments will be considered in making a final determination on Kansas' final authorization application. The EPA expects to make a final decision on whether or not to approve Kansas' program by September 30, 1985 and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens in small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority:

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b). EPA Delegations 7.

Dated: July 9, 1985.

Morris Kay,

Regional Administrator.

[FR Doc. 85-18105 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-752; FCC 85-371]

Changes in AM Technical Rules To Reflect New International Agreements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC proposes three amendments to its technical rules that will (1) increase the power of Class IV stations in Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands; (2) eliminate the distinctions between Class III–A and Class III–B stations; (3) change the provisions affecting the use of Figure 1a of § 73.190(r) of the FCC Rules for locations less than 100 km from the transmitter; and (4) permit the use of sychronous AM transmitter systems. The amendments are in conformity with recent changes in international AM agreements.

DATES: Comments must be submitted no later than September 16, 1985 and reply comments no later than October 11, 1985.

ADDRESS: Federal Communications Commission Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Mass Media Bureau, FCC (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of changes in AM technical rules to reflect new international agreements; MM Docket No. 84-752.

Adopted: July 12, 1985.

Released: July 19, 1985.

By the Commission.

1. Comments are invited on proposed additional changes to the AM Technical rules to conform them with new international AM broadcasting agreements.[1] They supplement changes adopted in the *Report and Order* of March 28, 1985 in this proceeding, FCC 85-150, 50 FR 18818, which was partially stayed by *Order* dated May 30, 1985.

2. *Higher Power for Stations in Alaska, Hawaii, Puerto Rico and the Virgin Islands Presently Classified as Class IV Stations.* When rule amendments raising the power ceiling on Class III stations in the areas listed were adopted, we deferred action on power increases for the fever than 10 Class IV stations in each of these areas. It is now our view that higher station power in Puerto Rico and the Virgin Islands would help to mitigate the effects of interference from neighboring countries. Higher power would also provide opportunities to improve service in Hawaii and in Alaska. We propose to accomplish this by reallocating the Local Channels in Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands (i.e., 1230, 1240, 1340, 1400, 1450 and 1490 kHz) as Regional (Class III) Channels. As such, they would become subject to rules limiting nighttime interference among Class III stations in those four designated places, rather than the Class IV rules which make nighttime protection dependent upon the daytime separation between stations. They would also achieve the greater flexibility available to Class III stations in the application of directional antennas, during both daytime and nighttime hours. Stations on those channels would also be automatically reclassified as Class III stations.

3. We further propose that the reclassified Class III stations be required to protect Class IV stations in the coterminous United States by application of the RSS procedure and the 50% exclusion rule contained § 73.182(o) of the Rules. No loss of service would result from the use of increased power by such reclassified stations. We propose that reclassified stations would continue to have the benefit of the lower antenna efficiency requirements currently applicable to them as Class IV stations. Present and future Class IV stations in the coterminous United States would be permitted to treat the reclassified stations as if they were Class IV stations during nighttime hours. Otherwise, the reclassified stations and furture stations on the reclassified channels would be afforded the same protection as other Class III stations. New Class IV stations in the coterminous United States, in calculating interference received from stations assigned now or in the future to the reclassified channels, would be required to base their calculations on the facilities actually used by the stations in question. We invite comments on this reclassification plan.

4. *Elimination of distinctions between Class III–A and Class III–B AM Stations.* At this stage of AM service's development, we believe that no useful purpose would be served by maintaining the distinctions between Class III–A and Class III–B stations. The assignment of new Class III stations and modifications to existing ones can be satisfactorily handled by applying common requirements. We therefore propose to merge Class III–A and Class III–B statios into a single class: Class III. Thereafter, a Class III station on a Regional Channel in the coterminous United States would operate with a power not less than 0.5 kW and not more than 5 kW. It is also proposed that a Class III station on a Regional Channel be protected to its 0.5 mV/m contour day time, and nighttime to its 2.5 mV/m contour, or to its interference-limited contour, whichever is greater. Under this proposal, existing Class III–B stations would continue to be protected to their current nighttime limits even if the y are less than 4 mV/m. The conditions for protection to Class III stations would apply as well to the Class IV stations in Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands when they are reclassified as Class III stations, except that they will be treated as Class IV stations in the coterminous United States.

5. *Classification of AM Stations and Channels.* The present, longstanding system of classification of AM *stations* as Class I, II, III and IV, with certain subclassifications of these basic classes, was developed in conformity with earlier international agreements to which the United States was a party. Our Rules also classify *channels*, as Clear, Regional and Local, and prescribe the classes of stations that may be assigned on each class of channel.

6. The Final Acts of the Rio Conference, the 1984 AM Agreement between Canada and the United States, and the draft AM Agreement under negotiation between the United States and Mexico all contain new AM *station* classifications that differ from those used heretofore by the United States and neighboring countries. The new international system prescribes three classes of AM station-Class A, Class B, and Class C. These differ according to the nature and extent of the service intended to be rendered. Only Class A stations, those designed to provide wide area service, are entitled under the new international agreements to protection for their nighttime skywave service areas. Class B stations provide protected groundwave service to a moderately extensive region, while Class C stations provide interference-free groundwave service to particular communities and, in some cases, to smaller neighboring service areas. Under the new multilateral and bilateral international agreements Class A, B, and C stations are not limited to channels prescribed for each, as under the FCC rules, but are permitted internationally to be placed on any of the channels allocated for AM broadcasting, so long as they provide requisite protection to other cochannel and adjacent-channel assignments.

7. We believe that it would unduly disrupt the long-established system of domestic AM allocations to abandon the traditional classification of stations and channels. We accordingly propose to retain the long established *station* classifications provide for in § 73.21 of the AM rules (except for the proposal, to eliminate difference between class III-A and Class III-B stations). We propose, also, to retain the classification of AM *channels* in the same rule as Clear, Regional and Local, and to continue to prescribe the classes of stations that may be assigned in the United States each class of channel.

8. We believe, however, that orderly conformity with the new international agreements will be facilitated by placing in the Rules the following table, which designates the international station classes to which the established domestic classes of stations correspond, and the classes of channels on which they may be assigned in the United States:

[1] The Final Acts of the Administrative Radio Conference on Medium Frequency (AM) Radio Broadcasting in Region 2 (Rio de Janeiro, 1981); the 1984 bilateral AM Broadcasting Agreement between the United States and Canada, and the bilateral agreement between the United States and Mexico now under negotiation.

VOL 50 ISS 147 JL 31 1985 UMI

INTERNATIONAL AND DOMESTIC CLASSIFICATIONS OF STATIONS AND CHANNELS

International Classes of AM stations	Corresponding U.S. classes of Am stations	Classes of channels available in U.S. for each class of station
Class A	I-A	Clear channels.
	I-B	Do.
	I-B	Do.
Class B	II	Do.
	II-A	Do.
	II-B	Do.
	II-C	Do.
	II-D	Do.
	II-S	Do.
	III	Regional channels.
Class C	IV	Local channels.

9. *Figure 1a, § 73.190 of the Rules.* This figure is a curve depicting skywave field strengths at varying distances from a station's transmitter; however, Figure 1a does not extend to distances less that 100 km. In the relatively few cases that may be expected to arise where there would be any occasion to calculate skywave field strengths at distances less than 100 km from the transmitter, it is anticipated that the pertinent locations would seldom be substantially less than 100 km. Further the values at such locations may not be expected to vary significantly, for purposes of interference calculations, from that at 100 km. In those circumstances, we propose to permit the use of the skywave field factors depicted at 100 km for shorter distances.

10. *Synchronous Transmitter Systems.* Finally, comments are invited on the desirability of permitting synchronous transmitter systems in the United States and on the technical standards to be employed.[2] Synchronous transmitter systems involve the use of two or more broadcasting stations on the same frequency to broadcast the same program material. In this way it is possible to provide more extensive coverage than a single station could offer. Such systems have been successfully used in Europe where they have been used to extend service without causing excesive frequency demand. Although conditions in the United States differ, there may well be a need for such operations here as well.

11. Successful operation of these systems requires fully synchronization of the atations involved. Fortunately, recent technological improvements appear to have solved the practical difficulties involved in such synchronization. This is accomplished by requiring close alignment of the carrier frequencies while limiting the modulation delay between stations Under our proposal, transmitters forming part of a synchronous system would be considered as a group and could not be operated separately or be transferred to other persons for operation as separate stations. Comments are invited on the specific provisions we have proposed for synchronous transmitters, as well as on any other aspect of their authorization and operation that interested parties may wish us to consider.

12. *Other Matters.* In additon to commenting on any of the foregoing matters, parties are invited to submit proposals relating to any other rule amendments or alternative methods that they consider would be desirable in view of the changes introduced in the new AM international agreements.

13. *Paperwork Reduction.* The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Regulatory Flexibility Analysis

I. Reason for Action

Intervening changes in international agreements necessitate corresponding changes in the rules governing AM radio allocations in the United States.

II. Objective

To conform pertinent rules with changed international agreements.

III. Legal Bosis

Section 303 of the Cummunications Act of 1934, as amended, empowers the Commission to foster the more efficient use of radio in the public interest.

IV. Description, Potential Impact and Number of Smoll Entities Affected

The affected group consists of licensees and applicants for AM radio broadcasting stations. The proposed changes will beneficially augment the power some of them will be permitted to use, and improve the methods for making technical calculations called for by international agreements and domestic requirements.

V. Recording, Record Keeping and Other Compliance Requirements

No new requirements would be added by the proposed action.

VI. Federal rules Which Overlap, Duplicate or Conflict With the Proposed Rules

None.

VII. Any Significant Alternative Minimizing Impact on Small Entities Consistent With Stated Objectives

No adverse impact on small entities is expected.

14. Accordingly, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, IT IS PROPOSED that Part 73 of the Commission's Rules be amended as set forth herein.

15. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before September 16, 1985, and reply comments on or before October 11, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

16. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interet by participating informally may do so by submitting 1 copy. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at headquarters, Room 239, 1919 M Street, NW., Washington, DC. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632-7000.

17. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or proceeding. Any person who submits a written *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and Commission consideration or court review, *ex porte* contacts in this proceeding which affect individual license rights, will not be permitted. An *ex parte* contact is a message (spoken or written) concerning the merits of pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at is headquarters, 1919 M Street, NW ., Washington, DC., For further information on this matter contract Larry Olson (202) 632-632-6955 or Louis C. Stephens (202) 632-7792.

Federal Communication Commission.

William J. Tricarico,

[FR Doc. 85-18048 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

[2] Internationally, standards for synchronous transmitting systems already exist and are included in the Region 2 AM Agreement (Rio, 1981) as well as in the U.S.—Canadian Bilateral AM Agreement (Ottawa, 1984). Tentatively, we propose to apply the same standards domestically, including to the one existing synchronous system not in operation.

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47 CFR Part 73

[MM Docket No. 84-723; RM-4748]

TV Broadcast Station in Cortaro, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Denial of petition.

SUMMARY: Denial of a petition for rule making to assign UHF television Channel 49 to Cortaro, Arizona. The petitioner, Saul Dresner, failed to supply required information to demonstrate that Cortaro qualified as a community for assignment purposes.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Allotments, TV Broadcast Stations, (Cortaro, Arizona) NM Docket No. 84-723; RM-4748.

Adopted: July 1, 1985.
Released: July 17, 1985.
By the Chief, Policy and Rules Division:

1. Before the Commission for consideration is its *Notice of Proposed Rule Making*, 49 FR 32237, published August 13, 1984, proposing the assignment of UHF television Channel 49 to Cortaro, Arizona, as that community's first television assignment. The *Notice* was adopted in response to a petition filed by Saul Dresner ("petitioner"). Petitioner has filed comments stating his intention to apply for the channel, if assigned. Opposition comments were filed by Channel Four Television Company ("Channel Four") to which petitioner did not respond.

2. Initially, the *Notice* indicated that, based on the information submitted by petitioner, the Commission could not determine Cortaro's community status. Accordingly, the petitioner was requested to provide the Commission with sufficient information to demonstrate that Cortaro had the social, economic or cultural indicia to qualify as a "community" for assignment purposes citing *Ansley, Alabama*, 46 FR 58688, published December 3, 1981; *Cascade-Village, Colorado*, 48 FR 19917, published May 3, 1983; and Gayles, Louisiana, 48 FR 28495, published June 22, 1983, and cases cited therein. Petitioner failed to provide the required information.

3. In opposition, Channel Four argues that Cortaro "does not qualify" as a community for assignment purposes. In support, it asserts that "Cortaro is not recognized as a community by the U.S. Census: It lacks the social, economic and cultural indicia normally associated with a community." Further, "Cortaro has no elected local government officials nor does it have recognizable boundaries. . . . Moreover, Cortaro lacks the municipal and social services traditionally associated with a community."

4. In view of the above and petitioner's failure to supply the requested information, we find that petitioner has failed to demonstrate that Cortaro qualifies as a "community" for assignment purposes.

6. Accordingly, it is hereby Ordered, that the petition is denied.

7. It is further Ordered, that this proceeding is terminated.

8. For further information contact D. David Weston, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-18062 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-224; RM-4763]

FM Boradcast Station in Iron Mountain, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 272A to Iron Mountain, Michigan, in response to a petition filed by Edward J. and Alice Mae Slater. This allotment could provide a third FM service for the community.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Katheen Scheuerle, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Iron Mountain, Michigan), MM Docket No. 85-224 RM-4763.

Adopted: July 1, 1985.
Released: July 19, 1985.
By the Chief, Policy and Rules Divison.

1. A petiton for rule making has been filed by Edward J. and Alice Mae Slater ("Petitioner"), seeking the allotment of FM Channel 272A at Iron Mountain, Michigan, as that community's third FM service. Petitioner submitted information in support of the proposal and stated that it would apply for the channel, if allotted.

2. Channel 272A can be allotted to Iron Mountain, Michigan, consistent with the minimum distance separation

VOL
50
ISS
147
JL
31
1985
UMI

requirements, provided there is a site restriction 5.6 miles north of the community. The site restriction will prevent a short spacing to Station WRVM, Channel 274, Suring, Wisconsin.[1] However, this allotment would limit the 16 kilometer buffer zone for the Suring station.[2]

3. Since the assignement of Channel 272A to Iron Mountain, Michigan, is within 320 kilometers (200 miles) of the common U.S.-Canadian border, the concurrence of the Canadian government is required.

4. In veiw of the fact that the proposed assignment could provide a third FM broadcast service to Iron Mountain, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community.

City	Channel No.	
	Present	Proposed
Iron Mountain, MI	226,268	226, 268, and 272A.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Russell C. Powell, Southmayd, Powell, Taylor and Brown, 1764 Church Street, N.W., Washington, D.C. 20036, (Counsel for the petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Prodedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Wshington, D.C.

[FR Doc. 85–18054 Filed 7–30–85; 8:45 am]

BILLING CODE 6712–01–M

[1] Channel 274 is allocated to Shawano, Wisconsin, but authorized for use at Suring, by the previously deleted "10 mile" rule.

[2] Existing Class C stations operating with less than a 300 meter antenna height are now permitted a buffer zone. However, this requirement does not apply to petitions such as the instant one which were filed before March 1, 1984. See BC Docket 80–90, *recons.* 97 F.C.C. 2d 279 (1984). Nevertheless potential applicants should attempt to select a transmitter site which protects the buffer zone.

47 CFR Part 73

[MM Docket No. 85–222; RM–4977]

FM Broadcast Station in Spencer, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 289A to Spencer, Oklahoma, as that community's first local FM service, at the request of Lift Him Up Outreach Ministries, Inc.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), table of allotments, FM broadcast stations. (Spencer, Oklahoma) (MM Docket No. 85–222; RM–4977)

Adopted: July 1, 1985.

Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Lift Him Up Outreach Ministries, Inc. ("petitioner") requesting the allocation of Channel 289A to Spencer, Oklahoma, as that community's first local FM service. Petitioner states that it will apply for the channel, if allocated. Channel 289A can be allocated in compliance with the Commission's minimum distance separation requirements if the transmitter site is restricted to an area at least 1.1 kilometers (0.7 miles) north of Spencer in order to avoid a short-spacing to Station KGOU, Channel 292A, at Norman, Oklahoma.

2. We believe the public interest would be served by proposing the channel allocation, as it could provide Spencer with its first local FM service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Rules, with respect to the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Spencer, OK		289A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragaph 2 of the Appendix before a channel will be allocated.

4. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Mr. Billy G. Mason, Sr., Lift Him Up Outreach Ministries, Inc., P.O. Box 285, Spencer, Oklahoma 73084 (Petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allocations. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considerd in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-of-Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §-1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four

copies of all comments, reply comments, pleadings, briefs, or other documents shall be

pleadings. It should also restate its present intention to apply for the

at its headquarters, 1919 M Street, NW., Washington, D.C.

4. It is further ordered, that this proceeding is terminated.

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copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-18056 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-223; RM-5034]

FM Broadcast Station in Barre, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Radio Barre, Inc., proposes the substitution of Channel 284C2 for Channel 296A at Barre, Vermont, in order to provide that community with its first wide coverage FM station.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Barre, Vermont) MM Docket No. 85-223; RM-5034.

Adopted: July 1, 1985.
Released: July 19, 1985.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the petition for rule making filed by Radio Barre, Inc. ("petitioner"), licensee of Station WORK(FM), Channel 296A, Barre, Vermont, seeking the allocation of Channel 284C2 as a substitute for Channel 296A and the modification of its license for Station WORK to specify operation of Channel 284C2. The request was originally filed as a counterproposal in MM Docket No. 84-231 to the *Further Notice of Proposed Rule Making*, 50 FR 2835, published January 22, 1985. However, the counterproposal is unacceptable because it does not conflict with the proposal to allot Channel 294C2 to Vergennes, Vermont.

2. Petitioner submitted information in support of the proposal and states the upgrade of its facilities will allow it to provide first and second aural services to residents of east central Vermont and west central New Hampshire.

3. We believe the petitioner's proposal warrants consideration. The substitution can be made in compliance with the Commission's minimum distance separation requirements, with a site restriction 26.8 kilometers (16.7 miles) west of the city to avoid short spacings to Canadian Station CFNI-FM, Channel 283A, Coaticook, Quebec and a proposal to allot Channel 287C2 at Killington, Vermont (MM Docket No. 83-357).

4. Since Barre is located within 320 kilometers (200 miles) of the U.S.-Canadian border, the proposal requires concurrence by the Canadian government.

5. In accordance with our established policy, we shall propose to modify the license of Station WORK to specify operation on Channel 284C2. However, if another party should indicate an interst in the Class C2 allotment, the modification cannot be implemented unless an additional equivalent channel is allotted. See, *Modification of FM and TV Station Licenses*, MM Docket No. 83-1148, 49 FR 34007, published August 28, 1984.

6. Accordingly, in order to provide Barre with its first wide coverage FM Station, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Rules, with the regard to the following community:

City	Channel No.	
	Present	Proposed
Barre, Vermont	296A	284C2

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

8. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel, or consultant, as follows: Todd D. Gray, Dow, Lohnes & Albertson, 1255 23rd Street, N.W., Washington, D.C. 20037.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes and *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed comment, to which the reply is directed, constitutes and *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in section 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filing made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-18055 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-1046; RM-4815]

TV Broadcast Station in Winchester, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule, Dismissal of petition.

SUMMARY: Action taken herein dismisses a petition filed by Brown Resources, Inc. to assign UHF Television Channel 27 to Winchester, Nevada. The petition is dismissed because no expression of interest has been filed by the petitioner or any other party.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

Report and Order (Proceeding Terminated)

In the matter of § 73.606(b), Table of Assignments, TV Broadcast Stations (Winchester, Nevada), MM Docket No. 84-1046; RM-4815.

Adopted: July 1, 1985.
Released: July 17, 1985.

By the Chief, Policy and Rules Division:

1. Before the Commission is the *Notice of Proposed Rule Making*, 49 FR 46446, published November 26, 1984, proposing the assignment of UHF Television Channel 27 to Winchester, Nevada, as its first television broadcast service. The *Notice* was issued in response to a petition filed by Brown Resources, Inc. ("petitioner").

2. H & W Communications filed comments supporting the assignment and stated its intention to apply for the channel, if assigned. On February 7, 1985, H & W Communications withdrew its comments since it no longer intended to apply for the proposed allocation. The original petitioner did not file comments. Consistent with the policy and procedures set forth in the Appendix to the *Notice*, we shall dismiss the petition to assign a TV channel to Winchester at this time.

3. In view of the foregoing, it is ordered, that the petition of Brown Resources, Inc. proposing the assignment of UHF Television Channel 27 to Winchester, Nevada, is hereby dismissed.

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-18061 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-220; RM-4928]

FM Broadcast Station in Davenport, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Wheat Waves, Inc., proposes the allotment of Channel 273A to Davenport, Washington, as that community's first FM service.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the Matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Davenport, Washington) (MM Docket No. 85-220, RM-4928)

Adopted: July 1, 1985.
Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by Wheat Waves, Inc. ("Petitioner"), seeking the allocation of Channel 273A to Davenport, Washington, as that community's first FM service. Petitioner has expressed an intention to apply for the channel. The channel can be allotted in compliance with the Commission's minimum distance separation requirements.

2. Since Davenport is located within 320 kilometers (199 miles) of the U.S.-Canadian border, the proposal requires concurrence by the Canadian government.

3. In view of the fact that the proposed allotment could provide a first FM service to Davenport, Washington, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Davenport, Washington		273A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel, or consultant, as follows: Kathryn Riley Dole, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, D.C. 20036–2679 (Counsel to petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schot,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Comunications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself wil be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §§ 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85–18058 Filed 7–30–85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85–219; RM–4911]

FM Broadcast Station in Toppenish, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Radio Broadcasters, Inc., proposes the substitution of Channel 225C2 for Channel 224A at Toppenish, Washington, in order to provide that community with its first wide coverage FM station.

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Toppenish, Washington) (MM Docket No. 85–219, RM–4911)

Adopted: July 1, 1985.
Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Radio Broadcaster, Inc., licensee of Station KZHR, Channel 224A, Toppenish, Washington ("petitioner"), seeking to substitute Class C2 Channel 225 for Channel 224A and to modify its license for Station KZHR to specify operation on Channel 225C2.

2. Petitioner submitted information in support of the proposal and states the upgrade of its facilities is necessary in order to better provide services to communities surrounding Toppenish.

3. We believe the petitioner's proposal warrants consideration. The substitution can be made in compliance with the Commission's minimum distance separation requirements.

4. In accordance with our established policy, we shall propose to modify the license of Station KZHR to specify operation on Channel 225C2. However, if another party should indicate an interest in the Class C2 allotment, the modification may not be implemented, unless an additional equivalent channel is alloted. See, *Modification of FM and TV Station Licenses*, MM Docket No. 83–1148, 49 FR 34007, published August 28, 1984.

5. Accordingly, in order to provide Toppenish with its first wide coverage FM station, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Rules, with regard to the community listed below, as follows:

City	Channe' No.	
	Present	Proposed
Toppenish, Washington	224A	225C2

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted

7. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Michael H. Bader, James E. Dunstan, Haley, Bader & Potts, 2000 M Street, NW, Washington, D.C. 20036 (Counsel for petitioner).

8. The Commission has determine that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time of Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such a this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner consituties an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filing in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice of this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comment and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comment shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission's Rules).

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc. 85–18059 Filed 7–30–85; 8:45 am]

BILLING CODE 6712-01-M

VOL 50 ISS 147 JL 31 1985 UMI

47 CFR Part 73

[MM Docket No. 85-221; RM-4893]

TV Broadcast Station in Keyser, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Contemporary Communications, Inc., proposes the substitution of noncommercial education UHF TV Channel *30 for Channel *48 at Keyser, West Virginia. The proposal would enable Contemporary, permittee of Channel 52, Cumberland, Maryland, to locate its transmitter site at an "antenna farm".

DATES: Comments must be filed on or before September 9, 1985, and reply comments on or before September 24, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Proposed Rule Making

In the Matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Keyser, West Virginia). MM Docket No. 85-221 RM-4893.

Adopted: July 1, 1985.
Released: July 19, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is the petition for rule making filed by Contemporary Communications, Inc., ("Contemporary") requesting the substitution of noncommercial educational UHF TV Channel *30 for Channel *48 at Keyser, West Virginia. Channel *48 is currently unoccupied and unapplied for.

2. Contemporary, permittee of a new television station on Channel 52 at Cumberland, Maryland, seeks to utilize an "antenna farm" for its transmitter site, in order to better serve its community. However, the site is short-spaced to Channel *48 at Keyser. Channel *30 can be substituted at Keyser in compliance with the Commission's minimum distance separation, with a site restriction of 5.7 miles west of the community to avoid short spacing to unused Channel *44 at Martinsburg, West Virginia.

3. Since the proposed assignment of Channel *30 to Keyser, West Virginia, is within 250 miles of the common U.S.-Canadian border, Canadian concurrence is required.

4. We believe the public interest would be served by proposing to substitute the noncommercial educational channel at Keyser, West Virginia which could permit an eariler inauguration of service to Cumberland, Maryland on Channel 52. Accordingly, we propose to amend the Television Table of Assignments § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Keyser, West Virginia	*48+	*30+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 9, 1985, and reply comments on or before September 24, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Larry G. Fuss, Sr., President, Contemporary Communications, Inc., P.O. Box 3976, Jackson, GA 30233-0976.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communication Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85-18057 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 74

[MM Docket No. 85-225; FCC 85-85-357]

Television Broadcasting; Posting of License Requirements, ITFS Remote Control Rules and ITFS Unattended Operation

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes rule changes to relax: (1) Posting of license requirements; (2) ITFS remote control rules; and (3) ITFS unattended operation.

The proposed Rule changes are intended to provide experimental broadcast licenses and Instructional Television Fixed Service licensees more flexibility in operating auxiliary systems to promote spectrum efficiency.

DATES: Comments due by September 16, 1985, and Reply Comments due by October 16, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Hank Van Deursen, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 74

Television broadcasting.

The collection of information requirement contained in this proposed rule has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Federal Communications Commission.

Proposed Rule Making

In the Matter of Review of Technical and Operational Requirements: Part 74-A Experimental Broadcast Stations; and Part 74-I Instructional Television Fixed Service; MM Docket No. 85-225.

Adopted: July 9, 1985.
Released: July 16, 1985.

By the Commission.

1. The Commission, on its own motion, proposes to revise the rules covering technical and certain operational requirements for experimental broadcast stations and the Instructional Television Fixed Service (ITFS). Experimental broadcast stations are licensed to conduct research and experimentation for the advancement of technologies used by the broadcast industry. ITFS stations are operated by educational organizations and used primarily for the transmission of visual and aural instructional, cultural, and other types of educational material to one or more fixed receiving locations. Comments are invited on the proposed actions described in the remainder of this document which would allow licensees in these services more flexibility in the operation of their stations.

Issue 1: Posting of Licenses

2. The current rules require that station licenses be posted in the room in which the transmitter is located or at the control point. The proposed revision would allow a clearly legible photocopy of the license to be available at each transmitter site. Additionally, the rule requiring operator licensing for ITFS stations was previously deleted from the Rules. Therefore, the removal of the ITFS operator license posting requirements is appropriate.

Issue 2: ITFS Remote Control

3. The current rule contains detailed equipment and operational provisions for ITFS remote control operations. Docket 84-110 relaxed the detailed equipment remote control requirements for AM, FM, and TV broadcast transmitter remote control operations. We believe that relaxation can be extended to ITFS stations at this time. Therefore, we propose to eliminate all ITFS remote control implementation specifications.

Issue 3: Unattended Operations of ITFS Stations

4. The current rules authorized unattended operations only for ITFS *response* and *relay* stations. Because of technological advances and the availability of stable transmitting equipment, we propose to allow unattended operations for all ITFS stations. Further, § 74.934(a)(2) specifies particular technical criteria that stations must meet when relaying signals. These rules relate to quality of service only and their elimination would not increase interference potential. Therefore, we propose elimination of the specified technical criteria. The above proposals would leave the determination of station operation and system selection to the judgment of the licensee.

Other Considerations

5. We additionally propose to make some non-substantive revisions to certain rule sections, as outlined in the appendix, by employing more concise language. These sections include: 74.937 *Antennas;* 74.939 *Special rules governing ITFS response stations;* 74.952 *Acceptability of equipment for licensing;* and 74.962 *Frequency monitors and measurements.* Comments are invited on these changes.

6. Initial Regulatory Flexibility Analysis.

I. *Reason for action:* This review is necessary to determine the relevance of current rules and to consider whether revision of some portions is warranted.

II. *The Objective:* The Commission's proposals are designed to provide licensees more flexibility in the operation of their stations.

III. *Legal basis:* Action is proposed in accordance with sections 4(i), 303 (g) and (r) of the Communications Act of 1934, as amended, which charge the Commission to encourage the most

effective use of radio in the public interest.

public inspection during regular business hours in the Dockets Reference

Authority: 47 U.S.C. 74.

measurement data required for type acceptance under Subpart J of Part 2 of

INTERSTATE COMMERCE COMMISSION

transportation of property only; however, the Commission solicits

VOL
50
ISS
147
JL
31
1985
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effective use of radio in the public interest.

IV. *Description, potential impact, and number of small entities affected:* The proposed Rule changes are permissive in nature and should favorably affect licensees.

V. *Recording, recordkeeping, and other compliance requirements:* None.

VI. *Federal Rules which overlap, duplicate, or conflict with this Rule:* None.

VII. *Any significant alternative minimizing impact on small entities and consistent with the stated objective:* None.

Paperwork Reduction Act

7. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Actions

8. The Secretary shall cause a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*)

9. Accordingly, it is proposed to amend Part 74 of the Commission's Rules as set forth in the attached Appendix. Authority for the action taken herein is contained in sections 4(i), 303 (g) and (r) of the Communications Act of 1934, as amended.

10. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules and Regulations, interested parties may file comments on or before September 16, 1985, and reply comments on or before October 16, 1985. All relevant and timely comments shall be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

11. For purposes of this nonrestrictive Notice and comment Rule Making proceeding, members of the pubic are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Propsed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments on the proceeding must prepare a written summary of that presentation; and, on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commision official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

12. Further information on this proceeding may be obtained by contacting Hank Van Deursen, Polcy and Rules Division, Mass Media Bureau, (202) 632–9660.

Federal Communications Commission.

William J. Tricarico,
Secretary.

PART 74—[AMENDED]

Appendix

It is proposed to amend Title 47, Part 74 of the Code of Federal Regulations as follows:

1. The authority citation for Part 74 would continue to read as follows:

Authority: 47 U.S.C. 74.

2. Section 74.165, *Station and operator licenses; posting of,* would be revised in its entirety to read as follows:

§ 74.165 Posting of station and operator licenses.

(a) The instrument of authorization of a clearly legible photocopy thereof, shall be available at the transmitter.

(b) Operators of an experimental broadcast transmitter must have their operators' licenses or permits available at their duty locations.

3. Section 74.933 would be revised in its entirety to read as follows:

§ 74.933 Remote control operation.

A station may be operated by remote control without further authority.

4. Section 74.934 would be revised in its entirety to read as follows:

§ 74.934 Unattended operation.

Unattended operation of ITFS stations is permitted without further authority.

5. Section 74.937 *Antennas* would be amended by removing paragraph (c); and redesignating paragraphs (d) as (c), (e) as (d), and (f) as (e).

6. Section 74.939 would be amended by removing paragraphs (j), (m), and (n); redesignating paragraph (i) as (j); and revising paragraph (f) to read as follows:

§ 74.939 Special rules governing ITFS response stations.

* * * * *

(f) An ITFS response channel is 125 kHz wide and is centered at the assigned frequency. Either amplitude or frequency modulation can be employed. If amplitude modulation is used, the carrier shall not be modulated in excess of 100%. If frequency modulation is used, the deviation shall not exceed ±25 kHz. Any emissions outside the channel including harmonics shall be attenuated at least 60 dB below peak output power. Greater attenuation may be required if interference is caused by out-of-band emissions.

* * * * * *

7. Section 74.952 would be revised in its entirety to read as follows:

§ 74.952 Acceptability of equipment for licensing.

Each authorization for a station in this service requires the use of type accepted equipment. Requirements for obtaining a grant of equipment authorization are contained in Subpart J of Part 2 of the Rules.

(a) An application specifying a transmitter, translator, or booster not type accepted, may be filed by the applicant if the information and measurement data required for type acceptance under Subpart J of Part 2 of the Rules is submitted with the application. However, if that data has been filed with the Commission in connection with a request for type acceptance, it need not be submitted and may be referred to as "on file."

8. Section 74.962 would be revised in its entirety to read as follows:

§ 74.962 Frequency monitors and measurements.

Suitable measurements shall be made as often as necessary to ensure that the operating frequencies of the station are within the prescribed tolerances.

9. Section 74.965, *Posting of station and operating licenses,* would be revised in its entirety to read as follows:

§ 74.965 Posting of licenses.

(a) The instrument of authorization of a clearly legible photocopy thereof, shall be available at each transmitter.

(b) If a station is operated unattended, the call sign and name of the licensee shall be displayed such that it may be read within the vicinity of the transmitter enclosure or antenna structure.

[FR Doc. 85–18046 Filed 7–30–85; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 70–27; Notice 28 and Docket 83–07; Notice 3]

Federal Motor Vehicle Safety Standards

Correction

In FR Doc. 85–17393 appearing on page 29993 in the issue of Tuesday, July 23, 1985, make the following correction: In the second column in the **DATES** paragraph, first line, "Docket No. 70–72" should read "Docket No. 70–27".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1048

[Ex Parte No. MC–37 (Sub-No. 38)]

Petition To Establish a Commercial Zone of Cameron, Hidalog, Starr, and Willacy Counties, TX

AGENCY: Interestate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition, the Commission is instituting a proceeding to consider amending its regulations at 49 CFR Part 1048 *et seq.*, to define specifically a commercial zone embracing the four southernmost Texas counties of Cameron, Hidalog, Starr, and Willacy.

The proposal entails integration and expansion of what are now distinct commercial zones of municipalities in the involved area, identified by applying the population-mileage formula of 49 CFR 1048.101. Accordingly, recognition of the proposed commercial zone would increase the territory with which interstate motor carrier operations are exempt from economic regulation by the Interstate Commerce Commission.

Any interested person may file comments addressing the proposal.

DATE: Comments are due on August 30, 1985.

ADDRESS: Send an original and 15 copies of comments to: Ex Parte No. MC–37 (Sub-No. 38), Office of the Secretary, Case Control Branch, Interestate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Suzanne Higgins, (202) 275–7161
or
Howell I. Sporn, (202) 275–7691

SUPPLEMENTARY INFORMATION: The Rio Grande Valley Chamber of Commerce and the RGV Trucking Coalition request amendment of the Commission's regulations at 49 CFR Part 1048 to provide for a commercial zone embracing the four southernmost Texas counties of Cameron, Hidalgo, Starr, and Willacy (Rio Grande Valley commercial zone). Petitioners limit their request to creation of the commercial zone for the transportation of property only; however, the Commission solicits comments on and will consider the proposed commercial zone expansion with respect to all motor vehicle transportation.

The proposed special determination of the Rio Grande Valley commercial zone would intergrate and expand the commercial zones of municipalities within the involved four-county area, now define by application of the population-mileage formula prescribed at 49 CFR 1048.101, and, accordingly, would expand the zone within which interstate motor carrier operations are exempt from economic regulation by the Interstate Commerce Commission under 49 U.S.C. 10526(b). This action also would expand the border commercial zones within which foreign motor carriers issued certificates of registration purusant to 49 U.S.C. 10530 (section 226 of the Motor Carrier Safety Act of 1984, Pub. L. 98–554, 98 stat. 2832, effective May 1, 1985) could operate.

The Commission certifies that this proposal will not have significant economic impact on a substantial number of small entities. Its main purpose is to maintain the *status quo* for local cross-border operations by Mexican motor carriers. Otherwise, an expanded zone should not enable regulated interstate motor carriers to conduct expanded point-to-point service.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to Office of the Secretary, 12th and Constitution Avenue, N.W., Room 2215, Washington, D.C. 20423, or call (202) 275–7428.

List of Subjects in 49 CFR Part 1048

Motor carriers, Commercial zones.

This decision is issued pursuant to 49 U.S.C. 10321, 10526, and 5 U.S.C. 553.

Dated: July 22, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Commissioner Lamboley concurred with a separate expression.

James H. Bayne,
Secretary.

[FR Doc. 85–18098 Filed 7–30–85; 8:45 am]

BILLING CODE 7035–01–M

VOL 50 ISS 147 JL 31 1985 UMI

Notices

Federal Register
Vol. 50, No. 147
Wednesday, July 31, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

VISTA Guidelines; Final Notice

AGENCY: Action.

ACTION: Final Notice of VISTA Guidelines.

SUMMARY: This Notice outlines the Guidelines under which the VISTA program will operate. Part I sets forth the overall programmatic direction of the VISTA program; Part II discusses criteria for selection of VISTA sponsors and projects; and Part III describes VISTA project approval procedures. The Guidelines incorporate certain changes made to Title I, Part A of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113), by the amendments of 1984 (Pub. L. 98–288). Certain revision have been made in response to comments and suggestions received from members of the public.

DATE: The VISTA Guidelines shall take effect September 16, 1985.

FOR FURTHER INFORMATION CONTACT: Suzanne Gibson Wise, Director of VISTA, Action, 806 Connecticut Avenue, NW., Washington, D.C. 20525. (202) 634–9445.

SUPPLEMENTARY INFORMATION: Section 420 of the Domestic Volunteer Service of 1973, as amended (42 U.S.C. 5060), defines the term regulation and describes the procedures to be followed in prescribing regulations. Though its broad definition of a regulation, the section requires that "any rule, regulation, guideline interpretation, order, or requirement of general applicability" issued by the Director of ACTION must be published with a 30–day comment period. These Guidelines, although not regulations under the Administrative Procedure Act (5 U.S.C. 551 et seq.) may, in whole or in part, be required by our Act to be published in proposed form for public comment.

The VISTA Guidelines were published in proposed form in the **Federal Register** for comment on April 23, 1985 (50 FR 15944—15947).

Discussion of Comments and Response

A total of 15 comments were received from current VISTA sponsors, members of the general public and members of Congress in response to the proposed Guidelines. Each recommendation has been duly considered. The following is the Agency response to the substantive comments, and the resulting modifications.

Part II—Criteria for Selection of VISTA Sponsors and Projects

One comment recommended that the legal requirement of VISTA to generate private sector resources and encourage volunteer service at the local level be added as a project selection criterion. This criterion has been added to Part II, Section A.

Some VISTA sponsors recommended deleting the prohibition against VISTA Volunteers holding outside employment while in VISTA service. Section 104(a) of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113) states that "Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty . . . and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave." Since VISTA legislation does not permit any activities which interfere with full-time service, this suggestion was not adopted.

Part III—VISTA Project Approval Process

Several comments were received recommending the ACTION provide organizations applying for new VISTA projets with reasons for disapproval if the applications are turned down. This suggestion has been adopted in Part III, Section A and Part III, Section B2.

Other comments concerned the length of time required for final decisions on new VISTA project applications. The timeframe within which the Director of VISTA must render a final decision on new project applications has been reduced from 60 to 45 days in response to the comments. Additionally, since second and third year project renewals will be decided by ACTION Regional Directors, the number of remaining projects which require Director of VISTA approval will be greatly reduced, thereby expediting the decision-making process.

For purpose of clarity and consistency, the term "renewal" is used throughout the guidelines whereas the terms "renewal" and "continuation" were used interchangeably in the proposed guidelines.

Questions were raised concerning the apparent lack of a requirement by ACTION to provide existing projects with reasons for tentative denial of refunding. The requirement to provide such reasons in contained in section 412 of the Domestic Volunteer Service Act of 1973, as amended, and 45 CFR Part 1206, Subpart B. For purposes of clarification, the requirement had been restated in the VISTA Guidelines under Part III, Section B.

The requirement that existing projects seeking certain increases in volunteer levels must be approved by the Director of VISTA has been simplified in response to several comments received. Only projects seeking an increase of 5 or more volunteers, regardless of the level previously approved, require final approval by the Director of VISTA. All other increases in volunteer levels will be approved by the ACTION Regional Director.

Other comments were received concerning the treatment of project applications from existing sponsors requesting VISTA Volunteers for new program emphasis areas of for substantially different activities. The Guidelines treat such applications in the same manner as all other *new* project applications. New project applications, if denied, are not subject to the denial of refunding procedures contained in section 412 of the Domestic Volunteer Service Act and 45 CFR Part 1206, Subpart B. Those procedures relate only to *refunding* of existing projects or grants.

New VISTA project proposals, whether submitted by existing or new sponsoring organizations, will be treated on an equal basis in order to provide all potential sponsors with equal access to the scarce VISTA volunteer resource in a certain programmatic area. If the existing VISTA sponsor can most effectively manage a VISTA project in a new programmatic area, that organization will be selected as the project sponsor. The will not be regarded, however, as *renewal* of the organizations's previous project, but

rather as a totally new effort. If however, another organization is selected, the existing VISTA sponsor will be provided with reasons for the disapproval of the new project.

Part I—Program Directions

Volunteers in Service to America (VISTA) is authorized under Title I, Part A, of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113) ("the Act"). The statutory mandate of the VISTA program is "to eliminate and alleviate poverty and poverty-related problems in the United States by encouraging and enabling persons from all walks of life, all geographical areas, and all age groups, including low-income individuals, and elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. In addition the objective of [VISTA] is to generate the commitment of private sector resources and to encourage volunteer service at the local level to carry out the purposes [of the program]" (42 U.S.C.4951).

VISTA provides full-time volunteers to local public and private non-profit organizations which have goals in accord with the VISTA mission. VISTA carries out its legislative mandate by assigning Volunteers to sponsoring organizations to work on projects determined and defined by the sponsoring organization and by the low-income individuals to be served by the VISTA Volunteers.

The VISTA program can most effectively serve the poor by encouraging projects which enable low-income communities and individuals to develop the skills and resources necessary to survive and prosper in the private sector, and by making the private sector aware of the basic needs of low-income people. Organizations which have a demonstrable pattern of approaching people and problems in a constructive, collaborative way have the best chance of fulfilling the goals of the Act and of the particular project. VISTA project sponsors must actively elicit the support and/or participation of local public and private sector elements in order to enhance the chances of a project's success; as well as institutionalize the VISTA activities when ACTION/VISTA no longer provides Volunteers.

The VISTA Volunteer's role in addressing the problems of poverty in a particular community should be focused on mobilizing community resources and increasing the capacity of the low-income community to solve its own problems. While VISTA Volunteers may serve as important links between the project sponsor and the people being served, it is crucial to the concept of achieving self-sufficiency among the low-income community that sponsoring organizations plan for the eventual phase-out of VISTA Volunteers and for the absorption of the Volunteers' functions by other facets of the community.

(42 U.S.C. 4951; 4952)

Part II—Criteria for Selection of VISTA Sponsors and Projects

A. Criteria

The following criteria will be employed by ACTION staff in the selection of VISTA sponsors and in the approval of new and renewal VISTA projects. All of the stated elements below must be found in the applicant's proposal. The project must:

1. Be poverty-related in scope and otherwise comply with the provisions of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.*) applicable to VISTA and all applicable published regulations, guidelines and ACTION policies.

2. Comply with applicable financial and fiscal requirements established by ACTION or other elements of the Federal Government.

3. Show that the goals, objectives and volunteer tasks are attainable within the time frame during which the volunteers will be working on the project and will produce a measurable or verifiable result.

4. Provide for reasonable efforts to recruit and involve low-income community residents in the planning, development and implementation of the VISTA project.

5. Have evidence of local public and private sector support.

6. Be designed to generate private sector resources and encourage local, part-time volunteer service.

7. Provide for frequent and effective supervision of the volunteers.

8. Identify resources needed and make them available for volunteers to perform their tasks.

9. Have the management and technical capability to implement the project successfully.

B. Additional Factors

ACTION staff will use the following additional tests in choosing among applicants who meet all of the minimum criteria specified above:

1. How important is the proposed project to the low-income community? Who will benefit from the project?

2. Does the project show evidence of skillful and careful planning to attain project goals?

3. Did the sponsor answer project applications questions with specificity or somewhat vaguely?

4. Is there any local opposition to the proposed project from a segment of the community which could seriously hamper the project's success?

5. Are there plans for the continuation of VISTA activities in the community after the volunteers are withdrawn?

6. Sponsoring Organization.

(a) Does the sponsoring organization have adequate experience in dealing with the problem(s) identified in the project application?

(b) Are plans for volunteer supervision and sponsor-provided training adequate for the volunteer assignments?

(c) Are transportation arrangements outlined in the project application adequate for the volunteers to carry out their assignments?

(d) Are the procedures for staff accountability adequate for the VISTA project?

7. VISTA Volunteers

(a) Is the number of volunteers being requested appropriate for project goals and objectives as states? Is a proposal requesting one VISTA Volunteer of such worth as to make development worthwhile?

(b) Are the roles of the volunteers designed to increase self-sufficiency in the low-income community?

(c) Are the volunteer skills/qualifications described in the application appropriate for the assignment(s)?

(d) Are the volunteer assignments designed to utilize the full-time volunteers' time to the maximum extent?

C. Prohibited Activities

Applicant and current sponsoring organizations must ensure that the following prohibitions on volunteer and sponsor activity are observed:

1. VISTA Volunteers are prohibited by law from participating in:

(a) Partisan and nonpartisan political activities, including voter registration activities and transporting voters to the polls.

(b) Direct or indirect attempts to influence legislation, or proposals by initiative petition.

(c) Labor and anti-labor organization and related activities.

(d) Any outside employment while in VISTA service.

2. VISTA sponsors are prohibited by law from:

(1) Project application should be submitted to the ACTION State Office

programmatic emphasis(es) or substantially change the scope of

45 CFR Part 1233. ACTION State Offices

2. VISTA sponsors are prohibited by law from:

(a) Carrying out projects resulting in the identification of such projects with partisan and nonpartisan political activities, including voter registration activities and providing voters with transportation to the polls.

(b) Assigning volunteers to activities which would supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(c) Requesting or receiving any compensation for the services of volunteers.

3. VISTA Volunteers are prohibited from engaging in any religious activities as part of their duties. VISTA sponsors are prohibited from conducting any religious instruction, worship, proselytization or other religious activity as part of a VISTA project.

Part III—VISTA Project Approval Process

A. Project Approval Process for New Sponsors

In order to assure all potential sponsors equal consideration, the VISTA project approval process for new projects described below is to be followed.

1. When a potential sponsor contacts an ACTION State Office to apply for VISTA resources the State Office will send the sponsor a Preliminary Inquiry Form or a VISTA Project Application Form. State Offices will provide applicants with technical assistance and additional instructions necessary to plan proposed project activities.

(2) Completed VISTA Project Application forms will be reviewed by the State Director as they are received.

(a) Potential projects which the State Director determines to be out of compliance with VISTA legislation and guidelines will be disapproved with the applicant agency/organization notified in writing of the reasons for disapproval.

(b) Potential projects that meet minimum VISTA requirements will be assessed by the State Director in terms of the Additional Factors noted in Section II B above, evidence of local support, the overall quality of the project application, the State programming strategy (e.g. rural/urban program focus, etc.), and the availability of VISTA resources within the State.

3. At least 80 days prior to the planned projects' start dates, the State Director will forward to the ACTION Regional Office all VISTA project applications recommended for placement of VISTA Volunteers.

4. The Regional Director will review the State Director's recommendations and transmit to the Director of VISTA, at least 45 days prior to the planned projects' start dates, all project application packages deemed suitable for VISTA Volunteer placements along with recommendation memos from the State and Regional Offices.

Project applications not transmitted to the VISTA Director by the Regional Director will be returned to the State Director who will, in turn, notify the applicant organization(s) of the reasons for the projects' non-selection.

5. The Director of VISTA will notify the Regional and State Directors of final decisions on new VISTA project applications within 45 days of receipt. Formal action necessary to implement the decisions will be taken by the State Director after all approved VISTA Project Application forms and necessary auxiliary documents (e.g., Memorandum of Agreement, Memoranda of Understanding) have been reviewed for compliance by the Regional Director.

6. The Regional Office will forward a copy of the complete project document file to VISTA Headquarters. Official project document files will be retained in the Regional Office.

B. Project Approval Process for Existing VISTA Sponsors

All VISTA projects will be reviewed at the time of their renewal request to determine the extent to which the projects are mobilizing support from the community and planning for community continuance of the volunteers' activities.

1. The project approval process outlined below is to be followed for all VISTA sponsors seeking renewal for a *second* or *third* year of operation of their existing VISTA project.

a. Project applications from existing sponsoring organizations which desire renewal of their present VISTA projects, i.e. continuation of the VISTA volunteer activities and/or program issue area(s) previously approved, for a second or third year of operation should be submitted to the ACTION State Office at least 115 days prior the end of the current project period.

b. The State Director will review the renewal project application, as well as quarterly VISTA Project Progress Reports which have been submitted during the current project period. The State Director will transmit the complete project renewal package to the Regional Director, along with a recommendation for continuance or non-continuance of the VISTA project, at least 80 days prior to the end of the current project period.

c. If the Regional Director approves the renewal project application, the project will be continued for one year subject to the availability of funds. Formal action necessary to implement the approval decision will be taken by the State Director after all approved VISTA project application forms and auxiliary documents (e.g. Memorandum of Agreement, Memoranda of Understanding) have been reviewed for compliance by the Regional Director.

d. The Regional Office will forward a copy of the complete project document file to VISTA Headquarters. Official project document files will be retained in the Regional Office.

e. If the Regional Director disapproves the renewal project application, the sponsoring organization will be notified by the Regional Director at least 75 days in advance of the end of the current project period that ACTION intends to deny the application for renewal. The sponsor will be given reasons for the tentative decision and an opportunity to show cause why the application should not be denied in accordance with section 412 of the Domestic Volunteer Service Act of 1973, as amended, and 45 CFR, Part 1206, Subpart B.

f. If the current sponsor participates in an informal meeting, the information presented by the sponsor at that meeting, as well as a report of the meeting and recommendations of the Regional Director, will be forwarded within five (5) working days of the meeting to the Director of VISTA for a final decision on the project's renewal application. The project will be continued at its existing level of volunteer and project support pending a final decision by the Director of VISTA.

g. Where a final decision denies project renewal, VISTA volunteers whose terms of service extended beyond the project's expiration date are covered by the provisions of 45 CFR Part 1210.3–2.

2. The project approval process outlined below is to be followed for:

a. All existing VISTA projects seeking continuation for a *fourth* year or longer of the previously approved VISTA volunteer activities and/or program issue area(s); or

b. All existing VISTA projects seeking an increase of 5 or more volunteers from their previously approved level of volunteers; or

c. All existing VISTA sponsors seeking to *change* the programmatic emphasis(es) of the VISTA project and/or substantially *change* the scope of the activities and duties performed by the volunteers (e.g. from literacy to job development, or from agricultural production activities to development of food buying clubs).

(1) Project application should be submitted to the ACTION State Office at least 115 days prior to the beginning of the proposed project period. The State Director will review the project application, as well as quarterly VISTA Project Progress Reports for the current project period and evidence of local support for the proposed project's activities.

(2) At least 80 days prior to the beginning of the project period, the State Director will transmit the complete project package to the Regional Director, along with a specific justification for the continuance of the current project beyond a third year, or a recommendation regarding the sponsor's revised programmatic emphasis or volunteer activities.

(3) The Regional Director will review the project package and State Director's recommendations and transmit to the Director of VISTA, at least 45 days prior to the start of the project period, any application package deemed suitable for VISTA volunteer placements along with recommendation memos from the State and Regional Offices. The Director of VISTA will render the final decision on the project applications package within 45 days. The ACTION State and Regional offices will take formal action to implement the VISTA Director's decision.

(4) If the project application requesting renewal of a current VISTA project for a fourth year or longer, as defined in Part III B2 above, is disapproved at the State, regional or national level, the sponsoring organization will be notified at least 75 days in advance of the end of the current project period that ACTION intends to deny the application for renewal. The sponsor will be given reasons for the tentative decision and an opportunity to show cause why the application should not be denied in accordance with section 412 of the Domestic Volunteer Service Act of 1973, as amended, (enacted May 21, 1984), and 45 CFR, Part 1206, Subpart B, (effective March 25, 1982).

(5) If the sponsor participates in an informal meeting, the information presented by the sponsor at that meeting, as well as a report of the meeting and recommendations of the Regional Director will be forwarded within five (5) working days of the meeting to the Director of VISTA for a final decision on the project's renewal application. The project will be continued at its existing level of volunteer and project support pending a final decision by the Director of VISTA.

(6) Project applications from current VISTA sponsors proposing to change the programmatic emphasis(es) or substantially change the scope of activities and duties performed by the volunteers from those previously approved are not subject to the denial of refunding procedures contained in section 42 of the Domestic Volunteer Service Act of 1973, as amended, and 45 CFR Part 1206, Subpart B. Such applications will be treated as new project applications in accordance with the procedures outlined in III A (2) above.

C. Extensions of Current VISTA Projects

In limited circumstances, current VISTA sponsors may wish to extend previously approved projects for up to six months in order to allow already-assigned VISTA volunteers to complete their term of service, and/or to conclude activities designed to institutionalize the efforts of VISTA Volunteers when ACTION/VISTA no longer provides Volunteers.

In such instances, the VISTA sponsors will send to the ACTION State Office, at least 60 days prior to the end of the current project period, a detailed justification, along with Section III of the VISTA Project Application form, describing the activities to be performed during the extension period.

The State Director will review the project extension request and transmit it, along with a recommendation memo, to the ACTION Regional Director at least 45 days prior to the end of the current project period.

The ACTION Regional Director will render a final decision on the project extension request within 20 days.

If the request is approved, the ACTION State and Regional Offices will take formal action to implement the decision including extension of the current Memorandum of Agreement.

The Regional Office will forward copies of all project extension documents to VISTA Headquarters. Official project document files will be retained in the Regional Office.

Denial of project extension requests of six months or less are not subject to the denial of refunding procedures contained in section 412 of the Domestic Volunteer Service Act of 1973 as amended (enacted May 21, 1984), as 45 CFR Part 1206, Subpart B (effective March 25, 1982).

D. Intergovernmental Review of VISTA Projects

Agencies and organization submitting new or renewal VISTA project applications must comply with the provisions of Executive Order 12372, the "Intergovernmental Review of Federal Programs and Activities" as set forth in 45 CFR Part 1233. ACTION State Offices will provide applicant organizations with technical assistance regarding this requirement.

E. Governor's Approval of VISTA Projects

No volunteers may be assigned in any State until the Governor or other Chief Executive Officer of the jurisdiction concerned has been given 45 days within which to disapprove the proposed project's submission.

Governor's approval must be sought by the ACTION Regional Director (or designee) for all new VISTA projects, as well as for ongoing projects which are requesting an increase in their volunteer numbers or substantially changing their volunteer activities.

F. Freedom of Information Act Requests Related to VISTA Project Reviews.

All Freedom of Information Act (FOIA) requests generated by the project review process shall be directed to the FOIA Officer in ACTION Headquarters for reply (even if initially addressed to the State or Regional Office).

(42 U.S.C. 4951, 4952, and 4953)

Dated in Washington, D.C. on July 26, 1985.

Daniel F. Bonner,

Acting Director, Action.

[FR Doc. 85–18100 Filed 7–30–85; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 26, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency

Resolution and Order

at Washington, D.C. this 16th day of July 1985, pursuant to Order of the Board

and maintenance of foreign-trade zones in ports of entry of the United States to

of said zone, and in no event shall the

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Marketing Service
Washington—Oregon Prunes Marketing Order 924
On occasion; Biennially
Farms; Businesses or other for-profit; 91 responses; 22 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Agricultural Marketing Service
Papayas Grown in Hawaii—Marketing Order 928
On occasion; Weekly; Monthly; Annually
Farms; Businesses or other for-profit; Small businesses or organizations; 1,219 responses; 1,059 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Agricultural Marketing Service
Fresh Peaches Grown in Georgia—Marketing Order No. 918
On occasion
Farms; Businesses or other for-profit; 68 responses; 17 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975.

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 85–18138 Filed 7–30–85; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 307]

Resolution and Order Approving the Application of the Captial District Regional Planning Commission for a Foreign-Trade Zone in the Albany, New York Area

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Capital District Regional Planning Commission, a New York public corporation, filed with the Foreign-Trade Zones Board (the Board) on December 6, 1984, and amended on January 23, 1985, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at sites in the Albany, New York, Customs port of entry area, including the manufacture of specialty trucks and dermatological soaps, the Board, finding that the requirments of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone other than those mentioned above. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in the Albany, New York Area

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 USC 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Capital District Regional Planning Commission (the Grantee), a New York public corporation, has made application (filed December 6, 1984, Docket No. 53–84, 49 FR 48584, amended 1/23/85, 50 FR 3946) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at sites in Albany, Schenectady and Rensselaer Counties, New York, adjacent to the Albany Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the rquirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 121 at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issue thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone other than those involving the manufacture of specialty trucks and dermatological soaps as described in the application record.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 16th day of July 1985, pursuant to Order of the Board.

Foreign-Trade Zones Board.
Malcolm Baldrige,
Chairman and Executive Officer.

Attest:

Dennis Puccinelli,
Acting Executive Secretary.

[FR Doc. 85–18175 Filed 7–30–85 8:45 a.m]
BILLING CODE 3510–DS–M

[Order No. 306]

Resolution and Order Approving the Application of the Cowlitz Economic Development Council for a Foreign-Trade Zone in Cowlitz County, WA

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Cowlitz Economic Development Council, a Washington non-profit corporation, filed with the Foreign-Trade Zones Board (the Board) on July 10, 1984, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Cowlitz County, Washington, within the Longview Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the applicaiton.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in Cowlitz County, WA

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 USC 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Cowlitz Economic Development Council (the Grantee), a Washington non-profit corporation, has made application (filed July 10, 1984, Docket No. 34–84, 49 FR 29116) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at sites in Cowlitz County, Washington, within the Longview Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 120 at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 16th day of July 1985, pursuant to Order of the Board.

Foreign-Trade Zones Board,
Malcolm Baldrige,
Chairman and Executive Officer.

Attest:

Dennis Puccinelli,
Acting Executive Secretary.

[FR Doc. 85–18174 Filed 7–30–85; 8:45 am]
BILLING CODE 3510–DS–M

International Trade Administration

[C–580–013]

Certain Carbon Steel Products From Korea; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to revoke countervailing duty order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on certain carbon steel products from Korea. The review covers the period from October 1, 1984. The petitioner and other domestic interested parties to this proceeding have notified the Department that they are no longer interested in the countervailing duty order. These affirmative statements of no interest from domestic interested parties provide a reasonable basis for the Department to revoke the order. Therefore, we tentatively determine to revoke the order. In accordance with the petitioner's notification, the revocation will apply to all certain carbon steel

products entered, or withdrawn from warehouse, for consumption on or after

instruct the Customs Service to proceed with liquidation of all unliquidated

and tentative determination to revoke

Scope of the Review

This intention to review,

(50 FR 5287, February 7, 1985). The

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products entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 7241) a countervailing duty order on certain carbon steel products from Korea.

In a letter dated June 19, 1985, United States Steel Corporation, the petitioner in this proceeding, informed the Department that it was not longer interested in the order and stated its support of revocation of the order. The Department received similar letters from the other domestic interested parties to the proceeding, Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Incorporated, National Steel Corporation, Cyclops Corporation and Laclede Steel Company. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke a countervailing duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of Korean certain carbon steel products. Such merchandise is currently classifiable under items 607.6610, 607.6615, 607.6710, 607.6740, 607.8320, 607.8342, 607.8350, 607.9400, 607.0710, 608.0730, 608.1100, 608.1310, and 608.1330 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statements of no interest in continuation of the countervailing duty order on certain carbon steel products from Korea provide a reasonable basis for revocation of the order.

Therefore, we tentatively determine to revoke the order on this product effective October 1, 1984. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect of those entries. The current requirement for a cash deposit of estimated countervailing duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries of certain carbon steel products from Korea which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984, and which were not covered in prior administrative review. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice, and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 335.41, 355.42).

Dated: July 24, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 85–18095 Filed 7–30–85; 8:45 am]

BILLING CODE 3510-DS-M

[C-580-403]

Cold-Rolled Carbon Steel Flat-Rolled Products From Korea; Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of intention to review and preliminary results of changed circumstances administrative review and tentative determination to revoke countervailing duty Order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on cold-rolled carbon steel flat-rolled products from Korea. The review covers the period from October 1, 1984. The petitioner and other domestic interested parties to this proceeding have notified the Department that they are no longer interested in the countervailing duty order. These affirmative statements of no interest provide a reasonable basis for the Department to revoke the order. Therefore, we intend to revoke the order. In accordance with the petitioner's notification, the revocation will apply to all cold-rolled carbon steel flat-rolled products entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 11, 1985, the Department of Commerce ("The Department") published in the **Federal Register** (50 FR 5653) a countervailing duty order on cold-rolled carbon steel flat-rolled products from Korea.

In a letter dated June 19, 1985, United States Steel Corporation, the petitioner in this proceeding, informed the Department that it was no longer interested in the order and stated its support of revocation of the order. The Department received similar letters from the other domestic interested parties to the proceeding, Bethlehem Steel Corporation, Republic Steel Corporation, Inland Steel Company, Jones § Laughlin Steel Incorporated, National Steel Corporation, Cyclops Corporation and Laclede Steel Company. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke a countervailing duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of Korean cold-rolled carbon steel flat-rollled products. Such merchandise is currently classifiable under items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statements of no interest in continuation of the countervailing duty order on cold-rolled carbon steel flat-rolled products from Korea provide a reasonable basis for revocation of the order. In light of the October 1, 1984, effective date for revocation requested by the domestic parties, there is good cause (as required by section 751(b)(2) of the Tariff Act) to conduct this review at this time.

Therefore, we tentatively determine to revoke the order on this product effective October 1, 1984. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries. The current requirement for a cash deposit of estimated countervailing duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries of cold-rolled carbon steel flat-rolled products from Korea which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984, and which were not covered in a prior administrative review. The Department will cover any such entries in a separate review. if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice, and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication of this notice or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: July 24, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 85–18097 Filed 7–30–85; 8:45 am]

BILLING CODE 3510-DS-M

[C-469-406]

Oil Country Tubular Goods From Spain; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of changed circumstances administrative review and revocation of countervailing duty order.

SUMMARY: On June 19, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on oil country tubular goods from Spain and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment. We received no comments. We determine that domestic interested parties are no longer interested in continuation of the order. Therefore, we will revoke the order. In accordance with petitioners' notifications, the revocation will apply to all oil country tubular goods entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On June 19, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 25439) the preliminary results of its changed circumstances administrative review of the countervailing duty order on oil country tubular goods from Spain (50 FR 5287, February 7, 1985). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Spanish oil country tubular goods. Such merchandise is currently classifiable under items 610.3216, 610.3219, 610.3233, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5234, 610.5240, 610.4242, 610.5243, and 610.5244 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Final Reslts of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the countervailing duty order on oil country tubular goods from Spain and that the order should be revoked on this basis.

Therefore, we are revoking the order on oil country tubular goods from Spain effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of oil country tubular goods from Spain which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and entered, or withdrawn from warehouse, for consumption before October 1, 1984, in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: July 23, 1985.

Scope of the Review

Dated: July 24, 1985.

Port of Ilwaco Office, Ilwaco, WA;

December 13, 1982 (47 FR 55709), as

Increasing Import Level for Certain

Dated: July 23, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 85-18094 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-DS-M

C-201-404]

Oil Country Tubular Goods From Mexico; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of changed circumstances administrative review and revocation of countervailing duty order.

SUMMARY: On June 13, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on oil country tubular goods from Mexico and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment. We received no comments. We determine that cosmetic interested parties are no longer interested in continuation of the order. Therfore, we will revoke the order. In accordance with petitioners' notifications, the revocation will apply to all oil country tubular goods entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 24793) the preliminary results of its changed circumstances administrative review of the countervailing duty order on oil country tubular goods from Mexico (49 FR 47054, November 30, 1984). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Mexican oil country tubular goods. Such merchandise is currently classifiable under items 610.3216, 610.3219, 610.3233, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244 of the Tariff Schedules of the United States Annotated.

The review covers the period from October 1, 1984.

Final Results of the Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the countervailing duty order on oil country tubular goods from Mexico and that the order should be revoked on this basis.

Therefore, we are revoking the order on oil country tubular goods from Mexico effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of oil country tubular goods from Mexico which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and entered, or withdrawn from warehouse, for consumption before October 1, 1984, in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: July 24, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 85-18096 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Amended Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The date cited in the agenda (published July 15, 1985, at 50 FR 28604) for the public meeting, August 15-16, 1985, of the North Pacific Fishery Management Council's Permit Review Committee has been changed. The Committee will convene its public meeting on August 14, at 2 p.m., instead of August 15. All other information remains unchanged. For further information contact Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274-4563.

Dated: July 26, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

[FR Doc. 85-18177 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

An emergency teleconference meeting of the Pacific Fishery Management Council is scheduled for 11 a.m., July 31, 1985, for consideration of what management actions might be required by the over-quota coho salmon harvest in the July 15-16 troll salmon season between Leadbetter Point and Cape Alava, WA. Depending on the total harvest and its impact on key choco stocks, the Council may have to revise or reduce the two remaining troll salmon fisheries north of Cape Falcon scheduled to open in August.

Members of the public desiring to participate in the meeting may do so at the following locations:

1. Oregon Department of Fish and Wildlife, Commission Meeting Room, 506 S.W. Mill Street, Portland, OR;

2. Oregon Department of Fish and Wildlife, Astoria Office, 53 Portway Street, Astoria, OR;

Port of Ilwaco Office, Ilwaco, WA; and,

Washington, Department of Fisheries, 115 General Administration Building, Olympia, WA.

For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR, 97201; telephone: (503) 221-6352.

Dated: July 26, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

[FR Doc. 85-18176 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of the Philippines

July 25, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 26, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated December 21, 1984 (49 FR 50231) established limits for certain categories of cotton, wool, and man-made fiber textile products, including man-made fiber coats in Categories 635 T and 635 NT, produced or manufactured in the Phillipines and exported during the agreement year which began on January 1, 1985. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines, and at the request of the Government of the Republic of the Philippines, the 1985 limit for Category 635 T is being increased by the addition of special swing to 154,126 dozen. The limit for Category 635 NT is being reduced to 126,978 dozen to account for the special swing applied to Category 635 T.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 25, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1984 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines and exported during 1985.[1]

Effective on July 26, 1985, Paragraph 1 of the directive of December 21, 1984 is hereby further amended to include adjusted restraint limits for the following categories:

Category	Adjusted 12-mo restraint limit (dozen)[1]
635 T	154,126
635 NT	126,978

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1984.

The Committee for the Implementation of Textile Agreements has detrermined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-18099 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-DR-M

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[1] The agreement provides, in part, that: (1) specific limits maybe exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Increasing Import Level for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Singapore

July 26, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 31, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textile Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore, provides consultation levels for certain categories, such as Category 636 (man-made fiber dresses), which may be adjusted upon agreement between the two governments. The Governments of the United States and the Republic of Singapore have agreed to further amend their bilateral agreement to convert this consultation level to a designated consultation level at 40,000 dozen for the 1985 agreement year. The letter to the Commissioner of Customs which follows this notice implements the agreed increase for goods in Category 636 produced or manufactured in Singapore and exported during 1985.

A description of the texile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 26, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1984 which directed

VOL 50 ISS 147 JL 31 1985 UMI

you to prohibit entry of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore and exported during 1985.

Effective on July 31, 1985, the directive of December 21, 1984 is hereby further amended to increase the restraint level previously established for textile products in Category 636 to 40,000 dozen.[1]

The Committee for the Implementation of Textile Agreements has determined that this actions falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-18098 Filed 7-30-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

President's Blue Ribbon Commission on Defense Management; Meeting

The President's Blue Ribbon Commission on Defense Management will meet August 15 to August 16, 1985 at 736 Jackson Place, NW., Washington, D.C.

Agenda: August 15 to August 16 (0900-1700): Presentations and discussions with the Commissioners on organizational and administrative issues. Any additional information concerning the meeting may be obtained from Robert T. Marlow, Administrative Officer, 202-395-7365, President's Blue Ribbon Commission on Defense Management, 736 Jackson Place NW., Washington, D.C. 20503.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

July 26, 1985.

[FR Doc. 85-18092 Filed 7-30-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Discretionary Grant Programs; Applications Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1986 New Grant Applications

AGENCY: Department of Education.

ACTION: Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1986 New Grant Applications.

SUMMARY: The purpose of these applications notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of new grant applications for certain programs administered by the Department of Education under the Office of Special Education and Rehabilitative Services.

Organization of Notice

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates for new grant applications covered by this notice. Part II contains the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of applications: Applications for new awards must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: (*insert appropriate CFDA number*), 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S Postal Services.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered application between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Available funds: An estimate of available funds is included in each application notice, under the paragraph on availability of funds. These estimates of funding levels do not bind the Department to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled: "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

Some of the following programs in this notice are subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

Included in each application announcement in this notice is a current list of States that have established a process, designated a single point of contact, and have selected that program for review. Also included in each announcement is the date by which comments and recommendations from the single point of contact review are due to the Department.

The Executive Order for Intergovernmental Review will apply to the following programs:

84.025—Services for Deaf-Blind Children and Youth
84.024—Handicapped Children's Early Education Program
84.078—Postsecondary Education Programs for Handicapped Persons
84.158—Secondary Education and Transitional Services for Handicapped Youth

PART I—LIST OF PROGRAM APPLICATION ANNOUNCEMENTS PUBLISHED IN THIS NOTICE

CFDA No.	Program	Closing date
84.023C	Research in Education of the Handicapped. Research in Education of the Handicapped—Field-Initiated Research Projects.	10-4-85
84.023T	Research in Education of the Handicapped—Extant Data Base Projects. Postsecondary Education Programs for Handicapped Persons.	12-13-85
84.078C	Postsecondary Education Programs for Handicapped Persons—Postsecondary Demonstration Projects. Services for Deaf-Blind Children and Youth.	12-16-85
84.025A	Services for Deaf-Blind Children and Youth—State and Multi-State Projects. Handicapped Children's Early Education Program.	01-03-86
84.024C	Handicapped Children's Early Education Program—Outreach Projects. Research in Education of the Handicapped.	01-06-86
84.023F	Research in Education of the Handicapped—Increasing Teaching/Learning Efficiency Projects. Secondary Education and Transitional Services for Handicapped Youth.	01-13-86
84.158C	Secondary Education and Transitional Services for Handicapped Youth—Cooperative Models for Planning and Developing Transitional Services. Research in Education of the Handicapped.	01-20-86
84.023B	Research in Education of the Handicapped—Student-Initiated Research Projects. Handicapped Children's Early Education Program.	03-14-86
84.024E	Handicapped Children's Early Education Program—Early Childhood State Plan Projects.	05-23-86

Part II—Application Notice

84.023 Research in Education of the Handicapped

Applications are invited for new projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641-644 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441-1444)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth, including physical education and recreation.

84.023C—Research in Education of the Handicapped—Field-Initiated Research Projects

Closing date:

Program information: This priority supports a broad range of field-initiated research projects focusing on the education of handicapped children and youth. The appropriate areas of interest for projects are limited only by the mission of the research program—support of applied research relating to the education of handicapped children and youth.

84.023T—Research in Education of the Handicapped—Extant Data Base Projects

Closing Date: December 13, 1985.

Program information: This priority supports projects related to the education of handicapped children that use, build on, or expand existing data files or records and information as the data source of research focusing on issues related to the education of handicapped children.

Available funds: It is estimated that approximately $1,800,000 will be available for support of 20 new grants for Field-Initiated Research projects to be awarded in Fiscal Year 1986.

It is estimated that approximately $503,000 will be available for support of seven new grants for Extant Data Base projects to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be mailed on August 12, 1985 to all applicants to the Research in Education of the Handicapped program during 1985. Other interested parties may obtain these materials by writing to: Research Projects Branch, Special Education Programs, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included information is only intended to aid applicants in applying for assistance. Nothing on the program information package is intended to impose any paperwork, application content, reporting, or grantee requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges the applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable Regulations: Regulation applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the **Federal Register** on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, and 78).

For Further Information Contact: Dr. Nancy Safer or Dr. James Johnson, Division of Education Services, Special Education Programs, Department of Education, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511 M/S 2313). Washington, D.C. 20202. Telephone: (202) 732-1064.

(20 U.S.C. 1441-1444)

[1] The level has not been adjusted to reflect any imports exported after December 31, 1984

84.078—Postsecondary Education Programs for Handicapped Persons

Applications are invited for projects under the Postsecondary Education Programs for Handicapped Persons.

Authority for this program is contained in section 625 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424a)

Awards are made under this program to State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies.

The purppose of this program is to provide assistance for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

84.078C—Postsecondary Education Programs for Handicapped Persons—Postsecondary Demonstrations

Closing Date: December 16, 1985.

Program information: (a) In accordance with 34 CFR 338.30(b), the Secretary will award Fiscal Year 1986 grants for model projects of supportive services to individuals with handicapped conditions other than deafness that focus on specially adapted or designed education programs that coordinate, facilitate, and encourage education of handicapped students with their nonhandicapped peers, as described in § 338.10(a)(2)(i). An application that does not address this priority will not be considered. If an application addresses both the priority and a non-priority area, the Secretary will consider only that portion that addresses the priority.

(b) Within this priority, the Secretary especially urges the submission of applications for projects that develop models of postsecondary services which focus on individuals with specific learning disabilities, particularly in regular and in vocational education settings. (*See* 34 CFR 300.5(b)(9) for the definition of "specific learning disability"). Projects in vocational-technical schools and institutions, and at community colleges and other two-year institutions are especially invited. These projects should produce information and practices which will facilitate their replication in other agencies and improve work opportunities for persons with specific learning disabilities who are served in postsecondary settings. However, applications that meet the invitational priority described in this paragraph will not receive a competitive preference over other applications that meet the absolute priority described in paragraph (a).

Intergovernmental Review: The information on Intergovernal Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Mexico
Arizona	New York
Arkansas	Northern Mariana Islands
California	Ohio
Colorado	Oklahoma
Connecticut	Oregon
Delaware	Pennsylvania
Florida	Puerto Rico
Guam	Rhode Island
Hawaii	South Carolina
Indiana	South Dakota
Kentucky	Texas
Louisiana	Trust Territory
Maine	Utah
Massachusetts	Vermont
Michigan	Virgin Islands
Missouri	Virginia
Montana	Washington
Nebraska	Wisconsin
Nevada	Wyoming
New Hampshire	
New Jersey	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by February 13, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4161 (84.078), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applications).

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available Funds: It is estimated that approximately $800,000 will be available for support of 12 new demonstration projects to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be available for mailing on November 1, 1985.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only information that is requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Postsecondary Education Programs for Handicapped Persons program (34 CFR Part 338).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, 78, and 79).

For Further Information Contact: Dr. Joseph Rosenstein, Postsecondary Education Programs, Captioning and Adaptation Branch, Division of Innovation and Development, Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1176.

(20 U.S.C. 1424a)

84.025—Services for Deaf-Blind Children and Youth

Applications are invited for new projects under the Services for Deaf-Blind Children and Youth program.

Authority for this program is contained in section 622 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1422)

Awards are made under this program to public or nonprofit private agencies, institutions, or organizations.

The purpose of this program is to support projects that enhance services to deaf-blind children and youth, particularly by providing technical assistance to State educational agencies and others who are involved in the education of deaf-blind children and youth.

84.025A—Services for Deaf-Blind Children and Youth—State and Multi-State Projects

Closing date: January 3, 1986.

Program information: This priority supports cooperative agreements with the Secretary to conduct projects that enhance services to deaf-blind children and youth. The projects supported under this program provide:

(a)(1) Special education and related services, as well as vocational and transitional services, to deaf-blind children and youth to whom States are not obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act and to whom the State is not providing those services under some other authority.

(2) Technical assistance to State educational agencies so that they may more effectively—

(i) Provide special education and related services, as well as vocational and transitional services, to those deaf-blind children and youth to whom they are obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act or some other authority;

(ii) Provide preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind children or youth;

(iii) Replicate successful, innovative approaches to providing educational or related services to deaf-blind children and youth;

(iv) Facilitate parental involvement in the education of their deaf-blind children and youth; and

(v) Provide consultative and counseling services for professionals, paraprofessionals, parents, and others who play a direct role in the lives of deaf-blind children and youth, to enable them to understand the special problems of those children and youth, and to assist in the provision of appropriate services to those children and youth.

(3) The services described in paragraph (a)(1) to deaf-blind children and youth to whom a State is obligated to make available a free appropriate public education under Part B of the Education of the Handicapped Act and to whom the State is providing those services under some other authority.

Under 34 CFR 307.11 projects assisted under this program must be designed to:

(i) Give first priority in the use of project funds to the provision of services described in paragraph (a)(1); and

(ii) Give second priority in the use of project funds to the provision of technical assistance to State educational agencies, as described in paragraph (a)(2).

Any remaining funds may be used by the grantee, upon request of the State educational agency, for the services described in paragraph (a)(3).

The regulations for this program (*see* §§ 307.11(e) and 307.20(a)(1)) permit any State to choose to receive services independently from other States.

This announcement provides the opportunity for a State presently participating in a multi-State project for deaf-blind children and youth to withdraw from that project and apply for a single State project.

Multi-State projects including participating States:

Alabama	Nevada
American Samoa	New Hampshire
Arizona	New Mexico
Arkansas	North Dakota
Connecticut	Northern Marina Islands
Delaware	Ohio
Florida	Oklahoma
Georgia	Pennsylvania
Hawaii	Puerto Rico
Idaho	South Carolina
Illinois	South Dakota
Indiana	Trust Territory
Iowa	Vermont
Maine	Virgin Islands
Massachusetts	Washington
Minnesota	Wisconsin
Nebraska	

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review.

Alabama	Montana
Arizona	Nebraska
Arkansas	Nevada
California	New Hampshire
Connecticut	New Jersey
Delaware	New Mexico
Florida	New York
Guam	Northern Mariana Islands
Hawaii	North Dakota
Indiana	Ohio
Iowa	Oklahoma
Kansas	Oregon
Kentucky	Pennsylvania
Louisiana	South Carolina
Maine	South Dakota
Massachusetts	Tennessee
Michigan	Texas
Missouri	Trust Territory
Utah	Virginia
Vermont	Washington
Virgin Islands	West Virginia
	Wyoming

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, or local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 4, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4161 (84.025), 400 Maryland Avenue, SW., Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applictions).

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $598,000 will be available for support for an estimated seven new single-State cooperative agreements to be awarded in Fiscal Year 1986. Awards will be for a period of up to three years. Funding for awards will be based on the extent to which applicants address the two priorities described under *Program Information.* However, it is not anticipated that Fiscal Year 1986 funds will be available to support the services described in 34 CFR 307.11(a)(3). A total of $4,935,000 is expected to be made available for awards for multi-State and single State projects for Fiscal Year 1986. Of this amount, $4,337,000 is anticipated to be awarded under this competition for new awards. It is expected that funds available for continuation awards will be increased to the extent that funds are not awarded under the new competition.

Application forms: Application forms and program information packages will be mailed on October 28, 1985 to grantees who are eligible to apply for new cooperative agreement support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only information that is requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Services for Deaf-Blind Children and Youth program (34 CFR part 307) pubished at 49 FR 28360 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR parts 74, 75, 76, 77, 78, and 79).

For Further Information Contact: Charles Freeman, Special Needs Section, Special Education Programs, Department of Education, 330 C Street, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone (202) 732–1165.

(20 U.S.C. 1422)

84.024—Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in Section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private non-profit organizations to develop and implement experimental preschool and early education programs for handicapped children from birth through eight years which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, devloping, an implementing a comprehensive delivery system that provides education and related services to handicapped children from birth through five years and their families. One grant may be awarded to each State.

84.024C—Handicapped Children's Early Education Program—Outreach Projects

Closing date: January 6, 1986.

Program information: The purpose of this program is to support experimental preschool and early education programs for handicapped children. These programs are intended to promote a comprehensive service delivery system to meet the special needs of handicapped children from birth through eight years of age. Outreach projects support the replication of established practices to assist other agencies and organizations in expanding and improving services to handicapped children.

Applications may be submitted by public or nonprofit private agencies, organizations, or institutions that—

(1) Have completed demonstration projects assisted under the Handicapped children's Early Education program, or projects assisted with other Federal, State, local, private, or nonprofit funding sources that have achieved effective results with children; and

(2) Have continued the demonstration project program model with local, State, or other funding than under 34 CFR Part 309.

Priority for assistance under this program will be given to projects that—

[11](a) Assist other agencies and organizations in the development and implementation of comprehensive delivery systems for handicapped children that may be incorporated into Early Childhood State Plans under Subpart F of 34 CFR Part 309;

(b) Provide quality training and other assistance and general support services to regions, States, and geographical areas where handicapped children from birth through five years of age are unserved or underserved, especially projects that serve ethnic and linguistic minority group handicapped children, economically disadvantaged, and migrant handicapped children;

(c) Stimulate the provision of services, and provide training in rural areas; or

(d) Stimulate the provision of services and provide training based upon recent research findings and information from fields of special education, child development, pediatrics, and other areas appropriate to early childhood education. (*See* 34 CFR 309.32).

Applications that do not address one or more of the priorities will not be considered. The Secretary especially urges the submission of applications for outreach projects that—(1) within each of the priorities listed in (a) thorugh (d), address the needs of unserved and underserved preschool children who are severely and multiply handicapped; and (2) attempt to improve skills for use in the family, home, community, or day care centers by parents and personnel participating in the projects. However, applications that meet the invitational priorities described in this paragraph will not receive a competitive preference over other applications that meet the priorities described in paragraphs (a) through (d).

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Mexico
Arizona	New York
Arkansas	Northern Mariana Islands
California	North Dakota
Connecticut	Ohio
Delaware	Oklahoma
Florida	Oregon
Guam	Pennsylvania
Hawaii	Puerto Rico
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Trust Territory
Maine	Utah
Massachusetts	Vermont
Michigan	Virgin Islands
Missouri	Virginia
Montana	Washington
Nebraska	West Virginia
Nevada	Wisconsin
New Hampshire	
New Jersey	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, or local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 7, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.024), 400 Maryland Avenue, SW., Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applications)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $3,900,000 will be available for support of 30 new outreach projects (84.024C) in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be available for mailing on November 4, 1985.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only information that is requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, 78 and 79).

For Further Information Contact: Dr. Thomas Finch, Chief, Early Childhood Programs, Special Education Programs, Department of Education, 330 C Street, SW., (Switzer Building, Room 3511– M/S 2313) Washington, D.C. 20202. Telephone: (202) 732–1084.

(20 U.S.C. 1423)

84.023—Research in Education of the Handicapped

Applications are invited for new projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641–644 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441–1444)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, demonstrations relating to the education of handicapped children and youth. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education related practices and services for handicapped children and youth, including physical education and recreation.

84.023F—Research in Education of the Handicapped—Increasing Teaching Learning Efficiency Projects

Closing date: January 13, 1986.

Program information: This priority supports projects that focus on teacher and school variables associated with improved performance of handicapped students as shown by a variety of educational outcome measures.

Available funds: It is estimated that approximately $800,000 will be available for support of eight new grants for Increasing Teaching/Learning Efficiency projects to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be mailed August 12, 1985 to all applicants to the Research in Education of the Handicapped program during 1985. Other interested parties may obtain these materials by writing to: Research Projects Branch, Special Education Programs, 400 Maryland Avenue, SW., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing is the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form; regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the Federal Register on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 78, 77, and 78).

For Further Information Contact: Dr. Nancy Safer or Dr. James Johnson, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202. Telephone: (202) 732–1064.

(20 U.S.C. 1441—1444)

84.158—Secondary Education and Transitional Services for Handicapped Youth

Applications are invited for projects under the Secondary Education and Transitional Services for Handicapped Youth program.

Authority for this program is contained in Section 626 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1425)

Awards are made under this program to institutions of higher education, State

educational agencies, local educational agencies, and other public and private nonprofit institutions or agencies.

The purpose of this program is to provide support for research, development, demonstration, evaluation, and other types of projects that improve secondary special education and other services for handicapped youth in order to assist them in the transition from secondary school to postsecondary environments such as competitive or supported employment.

84.158C—Secondary Education and Transitional Services for Handicapped Youth—Cooperative Models for Planning and Developing Transitional Services

Closing date: January 20, 1986.

Program information: This priority supports projects designed to plan and develop cooperative models for activities among State or local educational agencies, developmental disabilities councils, and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and private employers, which will facilitate effective planning for services to meet the employment needs of handicapped youth as they leave school.

Intergovernmental Review: The information on Intergovernmental review of Federal Programs, as required under Executive Order 12372, is included in the preamble of this notice.

The Secondary Education and Transitional Services for Handicapped Youth program is a new program, and most States have not made a determination as to whether it will be included or excluded from review under the State review process. New Jersey, however, has selected this program for review.

In those states which have not selected this program for review under the State process, immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, should contact the appropriate State single point of contact to see if this assistance will be included under its review process and to comply with the State's process under Executive Order 12372.

A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by March 21, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.158), 400 Maryland Avenue, SW., Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applications).

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is expected that approximately $880,000 will be available for support of eight new grants for Cooperative Models for Planning and Developing Transitional Services to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages will be mailed on November 18, 1985 to grantees who are eligible to apply for grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of this package not exceed 20 pages in length. The Secretary further urges that the applicant submits only information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Secondary Education and Transitional Services for Handicapped Youth Program (34 CFR Part 326) published at 49 FR 28380 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, 78, and 79).

For Further Information Contact: Dr. Thomas R. Behrens, Director, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3511- M/S 2313), Washington, D.C. 20202. Telephone: (202) 732-1154.

(20 U.S.C. 1425)

84.023—Research in Education of the Handicapped

Applications are invited for new projects under the Research in Education of the Handicapped program.

Authority for this program is contained in Sections 641-644 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441-1444)

Awards are made under this program to State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

The purpose of this program is to provide support for research, surveys, demonstration projects, and other activities relating to the education of handicapped children and youth. Under this program, the Secretary makes awards to eligible parties for research and related activities to assist special educational personnel related services personnel and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth, including physical education and recreation.

84.023B—Research in Education of the Handicapped—Student-Initiated Research Projects

Closing date: March 14, 1986.

Program information: This priority supports post-secondary students to initiate and direct a broad range of research and related projects focusing on the education of handicapped children. Content of the research projects is limited only by the mission of the research program—the support of the applied research relating to the education of handicapped children and youth.

Available funds: It is estimated that approximately $150,000 will be available for support of 20 new grants for Student-Initiated Research projects to be awarded in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be mailed on August 12, 1985 to all applicants to the Research in Education of the Handicapped program during 1985. Other interested parties may obtain these materials by writing to: Research Projects Branch, Special Education Programs, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511—M/S 2313), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the programs information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing the Research in Education of the Handicapped program (proposed for codification in 34 CFR Part 324). The proposed regulations for this program were published in the FEDERAL REGISTER on March 20, 1985 (50 FR 11356). Applicants should prepare their applications based on the proposed regulations. If there are any substantive changes made in the regulations when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, and 78).

For Further Information Contact: Dr. Nancy Safer or Dr. James Johnson, Division of Educational Services, Special Education Programs, Department of Education, 400 Maryland Avenue, S.W., (Switzer Building, Room 3511-M/S 2313), Washington, D.C. 20202. Telephone (202) 732-1064.

20 U.S.C. 1441-1444)

84.024—Handicapped Children's Early Education Program

Applications are invited for projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in section 623 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1423)

Awards are made under this program to appropriate public agencies and private nonprofit organizations to develop and implement experimental preschool and early education programs for handicapped children from birth through eight years which show promise of promoting a comprehensive and strengthened approach to the special problems of young handicapped children. Awards are also provided to assist States in planning, developing, and implementing a comprehensive delivery system that provides education and related services to handicapped children from birth through five years and their families. One grant may be awarded to each State.

8384.024E—Handicapped Children's Early Education Program—Early Childhood State Plan Projects

Closing date: May 23, 1986.

Program information: The purpose of this program is to assist eligible States in planning, developing, or implementing an Early Childhood State Plan for a comprehensive delivery system of special education and related services to handicapped children from birth through five years of age.

The Secretary makes one of the grants described in 34 CFR 309.51-309.53 to any State which submits an application that meets the requirements of Subpart F of 34 CFR Part 309. States funded in Fiscal Year 1985, and therefore ineligible to apply under this announcement, are:

Arizona
California
Colorado
Connecticut
Delaware
Florida
Georgia
Guam
Hawaii
Iowa
Louisiana
Maine
Maryland
Montana
Michigan
Nebraska
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
South Dakota
Tennessee
Trust Territories
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

In accordance with section 623(c)(2) of the Act, the Secretary will issue grants in three categories: planning, development, and implementation.

Technical assistance (by telephone or mail) is available to applicants for this competition through START (State Technical Assistance Resource Team), Suite 500, NCB Plaza, Chapel Hill, North Carolina 27514. Telephone: Pat Trohanis (919) 962-2001.

Intergovernmental Review: The information on Intergovernmental Review of Federal Programs, as required under Executive Order 12372, is included in the preamble to this notice.

The following is a current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama
Arizona
Arkansas
California
Connecticut
Delaware
Florida
Guam
Hawaii
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Massachusetts
Michigan
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
Northern Mariana Islands
Nort Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
South Carolina
South Dakota
Tennessee
Texas
Trust Territory
Utah
Vermont
Virgin Islands
Virginia
Washington
West Virginia
Wisconsin

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by July 23, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.024), 400 Maryland Avenue, S.W. Washington, D.C. 20202.

(Proof of mailing will be determined on the same basis as applications).

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available funds: It is estimated that approximately $3,300,000 will be available for suppport of 27 new Early Childhood State Plan projects (84.024E) in Fiscal Year 1986.

Application forms: Application forms and program information packages are expected to be available for mailing on March 24, 1986.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Noting in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that the applicant submit only information that is requested.

(Approved by the Office of Management and Budget under control number 1820–0028)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309) published at 49 FR 28350 on July 11, 1984.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 76, 77, 78, and 79).

For Further Information Contact: Dr. Thomas Finch, Chief, Early Childhood Programs, Special Education Programs, Department of Education, 330 C Street, S.W., (Switzer Building, Room 3511–M/S 2313) Washington, D.C. 20202. Telephone: (202) 732–1084.

(20 U.S.C. 1423)

(Catalog of Federal Domestic Assistance Numbers 84.023—Research in Education of the Handicapped; 84.025—Services for Deaf-Blind Children and Youth; 84.024—Handicapped Children's Early Education Program; 84.078—Postsecondary Education Programs for Handicapped Persons; 84.158—Secondary Education and Transitional Services for Handicapped Youth)

Dated: July 26, 1985.

Wiliam J. Bennett,

Secretary of Education.

[FR Doc. 18169 Filed 7–30–85; 8:45 am]

BILLING CODE 4000-01-M

Educational Media Research, Production, Distribution and Training

AGENCY: Department of Education.

ACTION: Notice of Proposed Annual Funding Priority for Fiscal Year 1986.

SUMMARY: The Secretary proposes an annual fundng priority for the Educational Media Research, Production, Distribution and Training program. This priority for Fiscal Year 1986 is for projects that are designed to provide information on the impact and use of captioned materials with hearing impaired individuals and those with handicapping conditions other than hearing impairment.

DATE: Comments must be received on or before August 30, 1985.

ADDRESS: Comments should be addressed to: Dr. Malcolm J. Norwood, Division of Innovation and Development, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511–M/S 2313), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Malcolm J. Norwood. (202) 732–1172.

SUPPLEMENTARY INFORMATION: The Educational Media, Research, Production, Distribution, and Training program, authorized by sections 651 and 652 of Part F of the Education of the Handicapped Act, provides financial assistance to profit and non-profit public and private agencies, organizations, and institutions for the purpose of: (a) Conducting research on the use of educational media for handicapped persons; (b) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of handicapped persons; and (c) training persons in the use of educational media for the instruction of handicapped persons.

The Department has, since 1959, provided captioned films for deaf children and adults, and, more recently, has provided for the closed captioning of many television programs. While the provision of captions was initially and primarily intended for hearing impaired persons, the Department is aware of increasing reports of potential and actual benefits received by persons with handicapping conditions other than deafness. Pilot information on classroom use of captioned materials with hearing children who have reading difficulties shows improvements related to such skills as sight vocabulary, prediction skills, locating skills, and comprehension/oral fluency. The simultaneous presentation of visual and auditory information afforded by captioned films and video materials for the learning disabled population has been identified as being of potential benefit, but actual demonstrations and evaluations have not as yet been subjected to analyses, nor has the field opted to undertake such studies under existing discretionary research funding authority.

This proposed priority reflects the recognition of the potential for enhanced learning and educational growth among children who are hearing impaired and those with other handicapping conditions who are systematically exposed to captioned materials, and the need to document the nature and extent of such growth among these populations.

Priority

In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), and subject to available funds, the Secretary proposes to give an absolute preference to each applicant which provides satisfactory assurance that the recipient will use funds made available for these projects to conduct any of the following activities: (a) Determination of the impact of captioned materials for specific subject matter areas that are used in instructional programs with persons who are hearing impaired and with persons who have handicapping conditions other than deafness; (b) studies that provide information on the nature and extent of incidential learning that occurs as a result of exposure to captioned materials in hearing impaired child and adult audiences; (c) identification of the effect of exposure to captioned materials on changes in reading and language comprehension scores in children with various handicapping conditions; or (d) clarification of the extent to which captions provide for or assist in the learning of social and cultural concepts by hearing impaired children in both school and home environments.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (46 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document provides early notification of the Department's plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priority.

All comments submitted in response to this proposed priority will be available for public inspection, during

and after the comment period, in Room 4088, Switzer Building, 330 C Street, SW., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1451–1452)

(Catalog of Federal Domestic Assistance No. 84.026; Educational Media Research, Production, Distribution, and Training)

Dated: July 26, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85–18168 Filed 7–30–85; 8:45 am]

BILLING CODE 4000-01-M

Office of the Secretary

Excellence in Education Program; New Awards

AGENCY: Department of Education.

ACTION: Application notice for new awards under the Excellence in Education Program.

SUMMARY: The Secretary of Education (the Secretary), under the Excellence in Education Program, announces a new grant program and invites applications for projects in individual public schools designed to achieve excellence in education. Applications will be considered in two categories: school excellence grants and special school grants.

Closing Date for Transmittal of Applications From Chief State School Officers and Chief Educational Officers

Applications nominated for grants must be mailed or hand delivered to the Department on or before October 15, 1985. In accordance with §§ 750.20 and 750.21 of the final regulations, a chief State school officer or chief educational officer submits applications directly to the Secretary. A local educational agency (LEA) desiring to participate in this program must comply with the procedures and deadlines established by the chief State school officer or chief educational officer of its State. Any application submitted directly to the Secretary by an LEA or an individual public school will not be considered and will be returned.

Applications Delivered by Mail (Applies only to chief State school officers and chief educational officers)

Applications sent by mail must be addressed to the U.S. Department of Education, Office of Educational Research and Improvement Proposal Clearinghouse, Attention: Lee Black, Room 619F, Brown Building, 1200 19th Street, NW., Washington, D.C. 20208.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal, Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand (Applies only to chief State school officers and chief educational officers)

An application delivered by hand must be taken to the U.S. Department of Education, Office of Educational Research and Improvement Proposal Clearinghouse, Room 619F, Brown Building, 1200 19th Street, NW., Washington, D.C.

The Proposal Clearinghouse will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted by the Proposal Clearinghouse after 4:00 p.m. on the closing date.

Program Information

The Excellence in Education Act (EEA) was enacted as Title VI of the Education for Economic Security Act (EESA), Pub. L. 98–377 (20 U.S.C. 4031 *et seq.*).

The Excellence in Education Program provides assistance to local educational agencies to carry out projects of excellence in individual public schools through activities that: (1) Demonstrate successful techniques for improving the quality of education, (2) can be disseminated and replicated, and (3) are conducted with the participation of school principals, school teachers, parents, and business concerns in the locality of the school.

Two types of awards are made under this program: (1) School excellence grants, and (2) special school grants. Both types of awards support school improvement activities. Special school grants, however, require the assurance of contributions of funds from the private sector for the proposed activities.

Funding Priorities

Section 605(c)(2) of the EEA requires that the Secretary give priority to proposals that have the highest potential for successfully demonstrating techniques to improve the quality of education and that can be disseminated and replicated. Further, the Secretary may establish additional priorities, as described in § 750.11(b) of the regulations. In accordance with 34 CFR 75.105 of the Education Department General Administrative Regulations (EDGAR), the Secretary has selected priorities as described in detail below.

(a) *Absolute preference.* The Secretary has selected the following seven priorities for both the school excellence grants and the special school grants. Only those applicants that have as their purposes one or more (or combinations) of the following will be considered under this program—

(1) Modernization and improvement of secondary school curricula to improve student achievement in academic or vocational subjects, or both, and competency in basic functional skills;

(2) Elimination of excessive electives and the establishment of increased graduation requirements in basic subjects;

(3) Improvement in student attendance and discipline through the demonstration of innovative student motivation techniques and attendance policies with clear sanctions to reduce student absenteeism and tardiness;

(4) Demonstrations to increase learning time for students;

(5) Experimentation providing incentives to teachers and teams of teachers for outstanding performance, including financial rewards, administrative relief such as the removal of paperwork and extra duties, and professionl development;

(6) Demonstrations to increase student motivation and achievement through creative combinations of independent study, team teaching, laboratory experience, technology utilization, and improved career guidance and counseling; or

(7) Demonstrations of new and promising models of school-community and school-to-school relationships including the use of nonschool personnel to alleviate shortages in areas such as mathematics, science and foreign

language instruction, as well as other partnerships between business and education, including the use of equipment.

In addressing one or more of the above priorities, the Secretary especially encourages proposals that:

—increase the involvement of parents in improving the quality of elementary and secondary education; or

—observe the bicentennial of the U.S. Constitution by increasing students' knowledge of the early history of the American republic; the significance of the Constitution, Declaration of Independence, Bill of Rights, and other primary documents; and the origins and development of the American form of government and political institutions.

(b) *Competitive preference.* The Secretary will award up to 10 extra points, in addition to the 100 possible points under § 750.31, for those proposals that have the highest potential for successfully demonstrating techniques to improve the quality of education, and that can be disseminated and replicated.

The Secretary encourages applicants to conduct activities with the participation of school principals, school teachers, parents, and local business concerns, as appropriate. The Secretary also encourages applications that enhance reform efforts initiated at the State and district level.

Eligible Applicants

Under § 750.2(a) of the regulations, only a local educational agency is eligible to receive a grant under this program. A local educational agency may not receive more than one grant under this program for any individual school of that LEA.

Cost Sharing

Cost sharing is required only for grantees that receive special school grants. Under § 750.40 of the regulations, the Federal share for each year of the grant may not be less than 67⅔ percent nor more than 90 percent of the total cost of the project. The Secretary is required to set the Federal share for each competition established for special school grants.

For the purpose of this competition, the Secretary has set the Federal share at 70 percent of the total cost of the project.

Application Procedures

In accordance with § 750.20 of the regulations, a local educational agency desiring to participate in this program must submit to the chief State school officer or chief educational officer of its State an application for each school for which the local educational agency is applying for a grant.

Under § 750.21 of the regulations, the chief State school officer of each State selects from those up to 25 applications for submission to the Secretary. In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the chief educational officer selects up to five applications for submission to the Secretary.

The chief State school officer or chief educational officer is responsible for establishing the process and procedures for soliciting, receiving, reviewing, and selecting nominations for both the school excellence grants and the special school grants.

In selecting those schools to nominate to the Secretary, the chief State school officer or chief educational officer, in accordance with § 750.21(b) of the regulations, must assure a fair and equitable distribution of schools within the State after considering—

(1) All categories of public elementary and secondary schools within the State, including, but not limited to, elementary schools, junior high schools, secondary schools, vocational-technical schools, or any combination of two or more schools;

(2) Socioeconomic conditions of the State;

(3) Geographic distribution within the State;

(4) School size;

(5) The size and location of the community in which the school is located;

(6) The local governmental arrangements between the government and the local educational agency submitting the application;

(7) The potential for the proposed project to demonstrate successfully techniques for improving the quality of education in ways that can be disseminated and replicated; and

(8) Other relevant information provided by the local educational agency in its application.

Selection Criteria

(a) In evaluating applications, the Secretary uses the selection criteria contained in § 750.31 of the regulations. The maximum possible number of points for all the criteria is 65, and the value assigned for each criterion is as follows:

(1) Plan of operation. (20 points)

(2) Quality of key personnel. (15 points)

(3) Budget and cost effectiveness. (5 points)

(4) Evaluation plan. (5 points)

(5) Adequacy of resoruces. (5 points)

(6) Improving elementary or secondary education. (15 points)

(7) National significance. (15 points)

(8) Applicant's commitment and capacity. (5 points)

(b) Furthermore, the regulations authorize the Secretary to distribute an additional 15 points among the criteria to bring the total to a maximum of 100 points. The Secretary will distribute these additional points as follows:

Improving elementary or secondary educotion. Five (5) additonal points will be added to this criterion for a possible total of 20 points.

National Significance. Ten (10) additional points will be added to this criterion for a possible total of 25 points.

Length of Awards

Section 606(b) of the EEA authorizes a two-year grant program. Applicants may apply for funding for a project not to exceed 24 months. However, for the purposes of this notice, funding will be provided only for a twelve-month period. Support for a second year will be subject to the availability of funds and the requirements contained in 34 CFR 75.253.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

The Excellence in Education Program is a new program, and States have not make a determination as to whether it will be included or excluded from review under the State review process. Therefore, immediately upon receipt of this notice, an applicant should contact the appropriate State single point of contact to see if this assistance will be included under its State's review process under Executive Order 12372. A list containing the single point of contact for each State will be included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by September 30, 1985 to the following address: The Secretary, U.S. Department of Education, Room 4181 (CFDA No. 84.171), 400 Maryland Avenue, SW., Washington, D.C. 20202. Proof of mailing will be determined on the same basis as applications.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available Funds

The Congress has appropriated $5 million to implement this program. Four million dollars are available for school improvement activities. Of this amount, $1 million is available for the school excellence grant competition, and $3 million is available for the special school grant competition. The remaining $1 million is reserved for research, evaluation, and dissemination activities.

Section 750.33 of the regulations requires the Secretary to base the amount of a grant award to an individual school on the size of the school, the number of students enrolled in the school, and the number of teachers teaching in the school.

For *school excellence grants,* schools with fewer than 1,000 students and teachers combined are eligible to receive up to $15,000 for a one-year project or up to $30,000 for a two-year project. Schools with 1,000 or more students and teachers combined are eligible to received up to $20,000 for a one-year project or up to $35,000 for a two-year project.

For *special school grants,* schools with fewer than 1,000 students and teachers combined are eligible to receive up to $20,000 for a one-year project or up to $35,000 for a two-year project. Schools with 1,000 or more students and teachers combined are eligible to receive up to $25,000 for a one-year project or up to $40,000 for a two-year project.

It is anticipated that 250 or fewer grants will be awarded under this program. These estimates do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Restriction on Use of Funds

Under § 750.41 of the regulations, the Secretary may restrict the amount of grant funds used under this program to purchase equipment. For the purposes of the competitions described in this notice, the Secretary expects to restrict to no more than 10 percent the amount of grant funds that may be used to purchase equipment.

Application Forms

The chief State school officer or chief educational officer of each State is responsible for establishing the process and procedures for receiving applications from LEAs.

Application forms and program information must be obtained through the chief State school officer or chief educational officer at each State eductional agency. Further inquiries regarding this process should be directed to that office in each State.

Applicable Regulations

The following regulations apply to this program:

(a) The regulations for the Excellence in Education Program which are codified in 34 CFR Part 750. (Final regulations were published June 24, 1985 at 50 FR 25962.)

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information contact Patricia Alexander, U.S. Department of Education, Office of the Secretary, 400 Maryland Avenue SW., Room 4010, Washington, D.C. 20202. Telephone (202) 472-1762.

(20 U.S.C. 4031 *et seq.*)

(Catalog of Federal Domestic Assistance Number 84.171, Excellence in Education Program)

Dated: July 26,1985.

William J. Bennett,

Secretary of Education.

FR Doc. 85-18139 Filed 7-30-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Leasing of Cesium-137

AGENCY: Office of Defense Waste and Byproducts Mangement, DOE.

ACTION: Notice.

SUMMARY: The Department of Energy (DOE) has a limited supply of the byproduct radioisotope cesium-137 in the form of cesium chloride compound contained in sealed metal containers. These cesium capsules have been offered for sale to licensed users for many years through the Oak Ridge National Laboratory (ORNL) Isotopes, Products and Services Catalogue. Market response had been very modest until 1984, when a sharp increase of interest in use of cesium capsules occurred. The DOE has received requests for the capsules which exceed the limited supply and must make allocations based upon its obligations under provisions of the Atomic Energy Act of 1954 as amended, and other authorizing legislation, as those provisions apply to the management of byproduct nuclear materials. The Department has determined that the appropriate means of making these capsules available for use is through lease arrangements.

Through this notice, the DOE seeks to inform the community of qualified users of these facts and to request information which will assist it in making appropriate allocations. Responses should be in the form of signed Isotope and Technical Service Order Forms (DOE Form ER-391 amended for this purpose by the ORNL) supplemented by attached brief narratives describing the specific purpose(s) for which the cesium-137 would be used, the location proposed for its end use, and other information described below under the discussion of qualified users.

DATE: Responses are due within 45 days of the date of this Notice.

ADDRESSES: Responses and requests for further information should be addressed to the Oak Ridge National Laboratory, Isotope Distribution Office, P.O. Box X, Oak Ridge, Tennessee 37831 (Telephone 615-574-6984).

SUPPLEMENTARY INFORMATION: Each sealed metal container contains approximately 50,000 curies of cesium. The current stocks were produced under the Atomic Energy Commission waste management program at the Waste Encapsulation and Storage Facility (WESF) at the Hanford site near Richland, Washington. Additional material in this from may not be available in the future; however, a reserve will be retained by DOE for future fabrication of special-purpose cesium sources under custom order. The DOE will also retain a reserve of WESF capsules for its current and projected programmatic needs.

Respondents will be considered for an allocation only if they can demonstrate

themselves to be qualified users.

In addition, the DOE will give

County, Texas, described by metes end

Thence N 00°14'02"W, 4938.51 Ft. to a 3¼ inch aluminum cap, stamped T&I,

Ft. to a 3¼ inch metal cap set in concrete stamped T&I, X=8289.319, Y=27,322.709

listed in the Appendix to this Notice

themselves to be qualified users.
Qualified Users must:

1. Provide a completed DOE Form ER–391 and reasonably complete supplemental information to support a DOE determination whether or not the respondent is a qualified user and, perhaps, a preferred user.
2. Possess a valid materials license or evidence of a license application under active consideration (at minimum, receipt for payment of any license fee and a valid docket number) by the U.S. Nuclear Regulatory Commission or an agreement State, for utilization of cesium WESF capsules, or present proof that the proposed use would be exempt from licensing under provisions of applicable Federal statutes.
3. Demonstrate to DOE's satisfaction that the material will be put to beneficial use within 90 days of delivery, rather than held for some contengency.
4. Demonstrate to DOE's satisfaction that the user is financially capable of pre-payment of the first year's use charge (currently 0.828 cents per curie) plus all charges resulting from DOE's costs of handling, loading, and other activities preparatory to shipment from Hanford to the user (currently estimated to the $3500 per capsule for large orders).
5. Provide a statement that such user is prepared to agree to the general terms and conditions of the lease agreement.
6. Commit to accept delivery at the Hanford site within 1 year of this notice.
7. Provide a credible plan for taking custody and transporting the leased capsules to the end-use location.

Copies of DOE Form ER–391 (Order Form) and the terms and conditions of the lease agreement can be obtained for respondent's use in complying with qualification requirements 1 and 5 by contacting the ORNL Isotope Distribution Office at the address given above.

Deliveries have already begun under the interim allocations to qualified users who have achieved a full license for possession and use of the cesium WESF capsules. If the qualified users responding to this notice should cumulatively request more than the existing supply, allocations will be made with priority to preferred users. *Preferred Users* will have proposed end usage related to one or more of the following:

1. National security and defense;
2. Accomplishment of existing DOE programmatic objectives;
3. Medical therapy;
4. Research and developmetn; and
5. Cesium-specific irradiation objectives.

In addition, the DOE will give preference to domestic U.S. companies and to end use within the U.S. (over foreign use), and will give consideration to its statutory obligation to strengthen free competition in private enterprise. The DOE reserves the right to select whatever mix of users and their fractional allocations that the DOE determines, in its discretion, will best serve the public purpose. The allocation decision will be made by the DOE Oak Ridge Operations Office.

All qualified users will be notified of their allocation.

The DOE makes no representation that these capsules are licensable for any specific application.

Issued in Washington, D.C., July 25, 1985.

William W. Hoover,

Assistant Secretary for Defense Programs.

[FR Doc. 85–18102 Filed 7–30–85; 8:45 am]

BILLING CODE 6450–01–M

Trespassing on Department of Energy Property; Pantex Plant, TX

The Department of Energy, successor agency to the Atomic Energy Commission, is authorized pursuant to section 229 of the Atomic Energy Act of 1954, as amended; section 104 of the Energy Reorganization Act of 1974 as implemented by 10 CFR Part 860; and section 301 of the Department of Energy Organization Act, to prohibit unauthorized entry and the unauthorized introduction of weapons or dangerous materials into and upon its nuclear sites. By Notice dated October 12, 1965, appearing at pages 13287–13288 of the Federal Register of October 19, 1965, the Atomic Energy Commission prohibited unauthorized entry into and upon certain portions of the Pantex Plant site located in the State of Texas. This Notice amends the site description of the Pantex Plant site to add 3,068 acres, more or less, to the 9,100 acres to which unauthorized access was prohibited by the 1965 Notice. Notices stating the pertinent prohibition of 10 CFR Part 860.5 will be posted at all entrances of said tract and at intervals along its perimeters as provided in 10 CFR Part 860.6.

The site description of the Pantex Plant site is hereby amended to read as follows:

A 12,168.8187 acre tract of land situated north of the A.T.&S.F. R.R., west of FM Hwy. 2373, east of FM Hwy. 683 and south of FM Hwy. 293, being a portion of Sections 30, 40, 41, 46 and 56, and all of Sections 31, 32, 33, 34, 36, 37, 38, 39, 40, 47, 48, 49, 50, 51, 54 and 55, Block M4, J.H. Gibson Survey, the north portion of Lyman Brewer Survey No. 6½ and all of M.F. Wright Survey No. 7, all in Carson County, Texas, described by metes and bounds to-wit:

Beginning at a 3¼ inch metal cap set in concrete and stamped T&I, X=30,834.134, Y=27,514.383, said point being in the west R.O.W line of FM Hwy. 2373 (50 Ft. west of center line) and in the south R.O.W. Line of FM Hwy. 293 (150 Ft. south of center line), marking the most easterly northeast corner of this tract, whence a 2 inch iron pipe found marking the northeast corner of Section 34, Block M4, J.H. Gibson Survey bears N 89°15'36"E, 69.29 Ft. and N 00° 08'30"W, 150.58 Ft;

Thence S 00°08'30"E, along the west R.O.W. Line of FM Hwy. 2373, 5099.45 Ft to a 3¼ inch metal cap set in concrete, stamped T&I, X=30,846.744, Y=22,414.949;

Thence S 00°21'37"E, along the west R.O.W. line of FM Hwy. 2373, 10,502.18 Ft to a 3¼ inch metal cap set in concrete stamped T&I, X=30,912.779, Y=11,912.972;

Thence S 00°16'09"E, along the west R.O.W. line of FM Hwy. 2373, 2731.95 Ft. to a 3¼ inch metal cap set in concrete stamped T&I, X=30, 927.200, Y=9181.060;

Thence S 00°14'25"E, along the west R.O.W. line of FM Hwy. 2373, 2833.84 Ft. to a concrete R.O.W. monument in the west R.O.W. line of FM Hwy. 2373;

Thence S 00°06'53"E, along the west R.O.W. line, 3091.06 Ft. to a 3¼ inch aluminum cap stamped T&I, X=30,944.429, Y=3456.180, marking the southeast corner of this tract, said point being the inersection of said west R.O.W. line of FM Hwy. 2373 and the northwesterly R.O.W. line of the A.T.&S.F. R.R.;

Thence S 60°23'W, along said railroad R.O.W. line, 1519.64 Ft. to a railroad R.O.W. monument (railroad rail set vertical);

Thence N 29°37'W, 25.00 Ft. to a similar railroad R.O.W. monument;

Thence S 60°23'W, along said railroad R.O.W. line, 1232.00 Ft. to a similar railroad monument;

Thence S 29°37'E, 20.00 Ft. to a similar railroad R.O.W. monument;

Thence S 60°23'W, along said railroad R.O.W. line, 3793.60 Ft. to a ½ inch iron rod marking a point of intersection in said railroad R.O.W. line;

Thence N 89°15'E, 14.71 Ft. to a ½ inch iron rod marking a point of intersection in said railroad R.O.W. line;

Thence S 60°23'W, along said railroad R.O.W. line, 6088.24 Ft. to a ½ inch iron rod marking a point of intersection in said railroad right-of-way line;

Thence S 29°37'E, 25.00 Ft. to a ½ inch iron rod marking a point of intersection in said railroad R.O.W. line;

Thence S 60°23'W, along said railroad right-of-way line, 4249.65 Ft. to a 3¼ inch aluminum cap stamped T&I, X=15,164.294, Y=2507.131 marking the intersection of said railroad R.O.W. line and the west line of said Section 46;

Thence N 00°17'35"W, along the west lines of said Sections 46, 47 and 48, 10,261.44 Ft. to a 3¼ inch aluminum cap, set at the base of a steel post, stamped T&I, X=15,111.806, Y=7754.177;

Thence N 00°14'02"W, 4938.51 Ft. to a 3¼ inch aluminum cap, stamped T&I, X=15,091.644, Y=12,692.601;

Thence N 89°31'40"W, 4134.37 Ft. to a 3¼ inch aluminum cap, stamped T&I, X=10,957.414, Y=12,726.675, set at the base of a steel post;

Thence N 89°31'48"W, 2935.04 Ft. to a 3¼ inch metal cap set in concrete stamped T&I, X=8022.476, Y=12,750.750, set in the east R.O.W. line of FM Hwy. 683 marking the most westerly southwest corner of this tract;

Thence N 00°06'05"W along the east R.O.W. line of FM Hwy. 683, 4063.51 Ft. to a 3¼ inch metal cap set in concrete stamped T&I, X=8012.920, Y=16,814.249.

Thence N 89°51'55"E, 30.00 Ft. to a 3¼ inch metal cap set in concrete stamped T&I, X=8042.920, Y=16,814.319, said point being in the east R.O.W. line of FM Hwy. 293;

Thence N 00°04'28"E, along the east R.O.W. line of FM Hwy. 293, 10,272.63 Ft. to a 3¼ inch metal cap set in concrete stamped T&I, X=8056.278, Y=27,086.936, said point marks the beginning of a curve whose radius point bears S 89°55'32"E, 236.09 Ft.;

Thence northeasterly along said R.O.W. curve in a clockwise direction thru a central angle of 89°11'06", an arc distance of 367.49 Ft. to a 3¼ inch metal cap set in concrete stamped T&I, X=8289.319, Y=27,322.700, said point marks a point of tangency;

Thence N 89°15'36"E, along the south R.O.W. line of FM Hwy. 293, 22,448.99 Ft. to a 3¼ inch metal cap set in concrete stamped T&I, X=30,734.436, Y=27,612.565, said point marks the most northerly northeast corner of this tract;

Thence S 45°26'25"E, along the south R.O.W. line of FM Hwy. 293, 139.93 Ft. to the place of beginning and containing 12,168.8187 acres of land more or less.

Dated at Washington, D.C. this 23 day of July, 1985.

John L. Gilbert,

Executive Assistant Office of the Assistant Secretary for Defense Programs.

[FR Doc. 85–18077 Filed 7–30–85; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals Cases Filed; Week of May 31 Through June 7, 1985

During the Week of May 31 through June 7, 1985, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: July 19, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of May 31 through June 7, 1985]

Date	Name and location of applicant	Case No.	Type of submission
May 31, 1985	State of Texas, Austin, TX	HRR–0102	Request for modification/rescission. If granted: The Mar. 29, 1985 remedial order issued to Holly Corp. (Case No. HRO–0215) would be modified to provide for disposition of refunds pursuant to provisions of 10 CFR part 205, subpart V.
June 3, 1985	Barrier Oil Corp., Tarrytown, NY	HEE–0153	Exception to the reporting requirements. If granted: Barrier Oil Corp. would not be required to file form EIA–782B, "Resellers/Retailers' Monthly Petroleum Product Sales Report."
Do	Plumbers and Steamfitters Local Union 647, Burlingame, CA	HFA–0292	Appeal of an information request denial. If granted: The May 17, 1985 freedom of information request denial issued by the San Francisco Operations Office would be recinded, and the Plumbers & Steamfitters Local Union 657 would receive access to certain payroll records regarding contracts between several contractors and Dan Fiveblller.
Do	Reuben & Proctor, Chicago, IL	HFA–0293	Appeal of an information request denial. If granted: Reuben & Proctor would receive access to (1) reports concerning the production of alcohol and gasohol; (2) forecasts for demand prices for gasohol during 1988 through 1988; (3) copies of EIA's Petroleum Supply Annual from 1979 through 1982, and (4) EIA's Monthly Energy Review from 1979 through 1983.
June 4, 1985	David Rodrigues Soler, Cranberry, NJ	HFA–0294	Appeal of an information request denial. If granted: The May 8, 1985 freedom of information request denial issued by the Princeton area office would be rescinded, and David Soler would receive access to certain employee records.
Do	Ferrell Companies, Inc., Washington, D.C.	HEF–0587	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement special refund procedures pursuant to 10 CFR part 205, subpart V, in connection with the Dec. 12, 1984 consent order between Ferrell Companies, Inc. and the DOE.
Do	Leonard E. Belcher, Washington, D.C.	HEF–0586	Implementation of special refund procedures. If granted: the office of Hearings and Appeals would implement special refund procedures pursuant to 10 CFR part 205 subpart V, in connection with the Nov. 21, 1983 final agreement signed by the litigants and the U.S. District Court for the District of Massachusetts (Civil Action No. 77–2975–G) with respect to Leonard E. Belcher.

Notices of Objection Received

[Week of May 31, 1985 to June 7, 1985]

Date	Name and location of applicant	Case No.
June 4, 1985	Bale Oil Co., Horse Cave, KY	HEE–0149

Refund Applications Received

Date received	Name of refund proceeding/name of refund applicant	Case No.
May 31, 1985	JOC/Tenneco Oil Co.	RF108–1
Do	A. Tarricone/Tenneco Oil Co.	RF155–1
Do	A. Tarpicone/Consolidated Edison Co. of New York	RF155–2
June 3, 1985	Franks-Tesoro Petroleum Corp.	RF156–1
Do	Aminoil/Mobil Oil Corp.	RF157–1
June 5, 1985	APCO/Lucas Oil Co.	RF83–133

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund applicant	Case No.
Do.	APCO/Tony's Gas House	RF83-132
Do.	APCO/Two States Petroleum Co., Inc.	RF83-131
Do.	APCO/Rakies Oil Co.	RF83-130
Do.	APCO/Eldon Spencer Co.	RF83-129
Do.	Stinnes Interoil/Lucky Stores, Inc.	RF125-6
June 3, 1985	Vickers/Arkansas	RQ1-200
June 4, 1985	Swifty/Orbit Oil Co.	RF159-1
June 3, 1985	Northwest Pipeline/Enterprise Products Co.	RF116-3
Do.	Arkla Chemical/Sisk Motor Freight Line, Inc.	RF153-4
Do.	Stinnes Interoil/Texaco Petroleum Corp.	RF125-5
June 4, 1985	Northwest Pipeline/Delgado Oil Co., Inc.	RF116-4
Do.	Arkla Chemical/Norsel Equipment Co.	RF153-5
Do.	Arkla Chemical/Wallace, Inc.	RF153-6
June 3, 1985	Seminole/Sellers Oil Co., Inc.	RF111-13
Do.	US Oil/Herbst Oil, Inc.	RF110-2
Do.	US Oil/Southeast Petroleum Corp.	RF110-3
Do.	Witco-Campbell Oil Co., Inc.	RF115-4
June 4, 1985	Arkla Chemicals/M&S Lumber Co.	RF153-7
Do.	Seminole/Autry Petroleum Co.	RF111-14
Do.	Seminole/Oil Dri Corp. of Georgia	RF111-15
Do.	Aminoil/Millers' LP Gas, Inc.	RF139-6
Do.	Aminoil/Domex, Inc.	RF139-7
Do.	Stinnes Interoil/Scallop Corp.	RF125-7
Do.	Stinnes Interoil/Exxon Co., USA	RF125-8
June 3, 1985	JOC/Consolidated Edison Co. of New York	RF109-2
June 6, 1985	JOC/Amerada Hess	RF109-3
June 4, 1985	Hertz/Chesebrough-Ponds, Inc.	RF76-159
June 6, 1985	Aminoil/Chevron, USA	RF157-2
Do.	Northwest Pipeline/Chevron, USA	RF116-5
Do.	Stinnes Interoil/Northville Industries Corp.	RF125-10
Do.	Stinnes Interoil/Chevron, USA	RF125-9
May 31, 1985	Enterprise/Osceola Refining Co.	RF158-1
June 5, 1985	C.C. Dillion/Green Park Texaco	RF148-2
June 6, 1985	Warrior Asphalt/Chevron, USA	RF160-1
Do.	Husky/Cavalry Petroleum Co.	RF161-1
June 7, 1985	Arkla Chemical/Perry Mingo	RF153-8
Do.	McCarty/Hancock Landmark, Inc.	RF143-8
Do.	Franks/Kerr-McGee Corp.	RF156-2
Do.	Bayou State/Ida/Tate Oil Products	RF117-9
June 5, 1985	Gulf-Biddle Gulf Service	RF40-3031
June 7, 1985	Gulf/Lansdowne Ice & Coal Co.	RF40-3032
Do.	Gulf/James Halligas & Son	RF40-3033
Do.	Gulf/Atlantic Gas Corp.	RF40-3034
June 3, 1985 thru June 7, 1985	Largo refund applications	RF112-37 thru RF112-157

[FR Doc. 85-18075 Filed 7-30-85; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of a total of $144,730.81 (plus accrued interest) obtained as a result of two consent orders which the DOE entered into with Champlain Oil Company of South Burlington, Vermont (Case No. HEF-0048) and Cibro Gasoline Corporation of Bronx, New York (Case No. HEF-0049). The funds will be available to customers who purchased motor gasoline from either Champlain or Cibro during the relevant consent order periods.

DATE AND ADDRESS: Applications for refund of a portion of the consent order funds must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to either the Champlain Oil Company Proceeding or the Cibro Gasoline Corporation Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All applications should conspicuously display a reference to the appropriate case number.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to two consent orders entered into by the DOE and Champlain Oil Company of South Burlington, Vermont and Cibro Gasoline Corporation of Bronx, New York. The consent orders settled possible pricing violations with respect to the firms' sales of motor gasoline to customers during the respective consent order periods, November 1, 1973 through June 30, 1974 (Champlain) and June 6, 1979 through December 30, 1979 (Cibro).

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order funds. The Proposed Decision and Order discusssing the distribution of the consent order funds was issued on October 5, 1984. 49 FR 42825 (October 23, 1984).

As the Decision and Order indicates, applications for refunds from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Applications will be accepted from customers who purchased motor gasoline from either Champlain or Cibro during the relevant consent order periods. The specified information

required in an application for refund is set forth in the Decision and Order. The Decision and Order reseves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: July 19, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

July 19, 1985.

Decision and Order

Special Refund Procedures

Names of Firms: Champlain Oil Company and Cibro Gasoline Corporation.

Date of Filing: October 13, 1983.

Case Numbers: HEF-0048 and HEF-0049:

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petitions request that the OHA formulate and implement procedures for the distribution of funds received pursuant to Consent Orders entered into by the DOE and the following parties: Champlain Oil Company (Champlain) of South Burlington, Vermont and Cibro Gasoline corporation (Cibro) of Bronx, New York (hereinafter collectively referred to as the consent order firms).

I. Background

Each of the consent order firms is a "reseller-retailer" of motor gasoline, as this term was defined in 10 CFR 212.31. ERA's audits of the consent order firms revealed possible violations of the Mandatory Petroleum Price Regulations. Subsequently, each of these firms entered into a separate Consent Order with the DOE in order to settle its disputes with the DOE concerning certain sales of motor gasoline. Each Consent Order refers to the ERA's allegations of overcharges, but notes that no findings of violations were made. In addition, each Consent Order states that the consent order firm does not admit that it committed any such violations.

Pursuant to these Consent Orders, the firms agreed to pay to the DOE specified amounts in settlement of their potential liability for alleged overcharges in sales of motor gasoline to their respective customers during the consent order periods. The firms' payments are currently being held by the DOE in separate interest-bearing escrow accounts pending distribution by the DOE. The names and locations of the firms, the settlement amounts, and the dates of the consent order periods are set forth in Appendix A to this Decision and Order.

On October 5, 1984, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order funds. 49 FR 42625 (October 23, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of any alleged overcharges made by one of the consent order firms during the relevant consent order period.

A copy of the PD&O was published in the **Federal Register** on October 23, 1984 and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to those purchasers whose names and addresses were listed in the ERA audit files (*see* Appendices B-1 and B-2). While none of the consent order firms' customers filed comments on the proposed procedures, comments were filed on behalf of the States of California, New Mexico, Arkansas, Delaware, Kansas, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia. Most of these comments, however, discuss the distribution of any residual funds that might remain after refunds have been made to first stage claimants. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the present refund proceeding. This Decision sets forth the information that a purchaser of motor gasoline from a consent order firm should submit in an Application for Refund in order to establish eligibility for a portion of the consent order fund. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by the States' comments concerning the disposition of any funds remaining after all the meritorious first stage claims have been paid.[1]

[1] It is not clear, however, that any of these States have a direct interest in this proceeding because none of the motor gasoline sales involved took place in these states.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, Subpart V. It is DOE policy to use the Subpart V process in order to distribute such funds. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office Enforcement, 8 DOE ¶ 82,597 (1981) (hereinafer cited as Vickers)* As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the two consent order funds. We will therefore grant the ERA's petitions and assume jurisdiction over these funds.

III. Determination of Injury and Refund Amounts

In the PD&O we proposed that reseller claimants be required to demonstrate that they did not pass on to their customers the price increases implemented by the consent order firms. *See, e.g., Vickers.* We have recevied no comments objecting to our proposal. Accordingly, in order to qualify for a refund, resellers of a consent order firm's motor gasoline must show that during the consent order period, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers must show that they maintained a "bank" of unrecovered costs in order to demonstrate that they did not subsequently recover these costs by increasing their prices.[2]

As we noted in the PD&O, however, the maintenance of a bank will not automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co. (Indiana)*, 10 DOE ¶ 85,036 (1982); *Vickers Energy*

[2] In the PD&O, we noted that most of the Cibro consent order period occurred subsequent to the amendment of the retailer price rule that eliminated the banking provision for retailers. *See* 10 CFR 212.93(a)(2), 44 FR 42542 (July 19,1979) (effective July 15, 1979). We therefore proposed that retailers who purchased from Cibro not be required to submit bank information. We have received no comments objecting to this proposal, and will adopt it in the Cibro proceeding.

Corp./Koch Industries, Inc., 10 DOE ¶ 85,038 (1982).

We have received no comments objecting to our proposed use of the

desirable from an administrative standpoint because it allows the OHA

applicants seeking relatively small refunds. *See Texas Oil & Gas Corp.*, 12

$15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil*

under a continuing obligation to keep the OHA informed of any change in

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Corp./Koch Industries, Inc., 10 DOE ¶ 85,038 (1982).

In the PD&O, we also proposed to adopt certain presumtions which have been used in many prior refund cases. First, we set forth a presumption that the alleged overcharges were dispersed equally in all sales of motor gasoline made by the consent order firms during the relevant consent order period. The OHA has referred to this presumption in the past as a volumetric refund amount. Second, we proposed to establish a presumtion of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions proposed in the PD&O, and being adopted here, will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The volumetric refund presumtion assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

In the PD&O, we stated that the information available in the ERA audit files is insufficient to base refunds on the amount each individual applicant was allegedly overcharged. While the ERA audit files identify a number of customers who purchased motor gasoline directly from the consent order firms during the relevant audit periods, they do not set forth any specific alleged overcharge amounts for these customers.[3]

We have received no comments objecting to our proposed use of the volumetric refund presumtion. Accordingly, we will use the volumetric method to allocate the consent order funds.[4] The volumetric refund amounts, determined by dividing each consent order fund by the estimated total volume of motor gasoline sold by the consent order firm during the relevant consent order period, are set forth in Appendix A.[5] In each case, a successful applicant will receive a voumetric refund amount for each gallon of gasoline which it purchased from the consent order firm. The interest which has accrued on the money in each escrow account will be added to the refund of each successful applicant in proportion to the size of its refund.

The presumption that reseller claimants seeking smaller refunds were injured by the pricing practices settled in each Consent Order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information, and the cost to the OHA of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions for small claims is also desirable from an administrative standpoint because it allows the OHA to process a large number of refund claims quickly and use its limited resources more efficiently. Finally, we know that these smaller claimants purchased motor gasoline from one of the consent order firms and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The small claims presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions proposed in the PD&O, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level.[6] The PD&O expressed the threshold in terms of ceilings on purchases from the consent order firm. In its comments, the State of California noted that the threshold volume of 25,000 gallons a month proposed in the case of Cibro would allow resellers and retailers refunds of over $10,000 without requiring a showing of injury. California suggested that the threshold be reduced to a level that would produce a maximum refund "closer to the usual $5,000 presumption amount." *See* Comments filed by Kenneth Cory, Controller, State of California.

California's comments have merit. Because a threshold based on a ceiling on purchases is not directly linked to the size of the applicants potential refund, describing the threshold in terms of a dollar amount rather than a purchase volume figure could better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984). We will therefore follow that approach in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In the present case, where the time periods of the audits are fairly distant, and, in the case of Champlain, the volumetric refund amount fairly low, we believe that the establishment of a presumption of injury for all claims of $5,000 or less is reasonable.[7] *See Texas Oil & Gas Corp., Marion Corp.*, 12 DOE ¶ 85,014 (1984).

In the PD&O, we made a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the consent orders.[8] Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and thus were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We have received no comments objecting to this finding. We will therefore adopt our proposal that end-users of motor gasoline purchased from one of the consent order firms need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges.

We shall also adopt our proposal to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b).

IV. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the two consent order funds. Accordingly, we shall now accept applications for refunds from customers who purchased motor gasoline from one of the consent order firms during the relevant consent order period.

In order to receive a refund, each claimant will be required to report the monthly volume of motor gasoline purchased from one of the consent order firms for which it is claiming a refund. It must also state how it used the motor gasoline, i.e., whether it was a reseller or an ultimate consumer. Retailers and resellers who request refunds in excess of the $5,000 threshold amount must submit evidence to establish that they did not pass on the alleged overcharges to their customers. In addition, each applicant must state whether there has been a change in ownership of the firm since the relevant audit period and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Applicants should also report any past or present involvement as a party in DOE enforcement proceedings. If these proceedings have terminated, the applicant should furnish a copy of the final Order issued in the matter and indicate the status of any remedial action required by the Order. If the proceeding is ongoing, the applicant should briefly describe the proceeding and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its refund application is pending. *See* 10 CFR 205.9(d).

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. Each application must be in writing, signed by the applicant, and specify that it pertains to either the Champlain Consent Order Fund, Case No. HEF-0048, or the Cibro Consent Order Fund, Case No. HEF-0049. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by the consent order firms listed in Appendix A to this Decision and Order may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: July 19, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A

Name of firm	Consent order period	Consent order amount	Product covered	Volumetric amount
Champlain Oil Co., P.O. Box 216, So. Burlington, VT 05401	11/1/73–6/30/74	[1] $60,966.81	Motor gasoline.	$0.008271
Cibro Oil Co., 1066 Zerega Ave., Bronx, NY 10462	6/6/79–12/30/79	$83,764.00	do	0.04177

[1] Includes principal of $56,997 and interest of $3,969.81 which accrued prior to payment.

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[3] One of the firms listed in Appendix B–1, Champlain Islands, appears to be affiliated with Champlain. As we proposed in the PD&O and in past cases, we will adopt a rebuttable presumtion that affiliates of a consent order firm experienced no injury as a result of the consent order firm's pricing practices. *See Aztec Energy Co.*, 12 DOE ¶ 85,116 (1984). Champlain Islands is therefore ineligible to receive a refund in this proceeding.

[4] We recognize, however, that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser will therefore be allowed to file a refund application based on a claim that it suffered a disproportionate injury as a result of the pricing practices of one of the consent order firms during the relevant audit period. A refund application for an amount greater than the amount calculated using the volumetric presumption must document the disproportionate impact of the alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984).

[5] In the Cibro PD&O, we tentatively established a per gallon volumetric refund amount of $0.07112 based upon our estimate of total motor gasoline sales to resellers. Subsequent to the issuance of the PD&O, we reviewed the audit files and contacted Cibro regarding its motor gasoline sales to resellers. Based upon the more accurate information we now have available regarding the volume of motor gasoline sold by Cibro to resellers, we have recalculated the volumetric refund amount. That amount is $0.04177 as shown in Appendix A.

[6] Resellers who made only spot purchases from the consent order firms will be presumed to have suffered no injury. They will therefore be ineligible for any refund, even a refund at or below the threshold level. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of those resellers claiming more than the threshold amount, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise considerable discretion as to where and when they made the purchase(s) on which their refund claims are based.

[7] As in prior refund cases, resellers whose potential refund exceeds the threshold amount may elect to apply for a refund based on the threshold amount.

[8] Under the terms of the Cibro Consent Order, Cibro was required to refund $335,055 directly to its end-user customers. The $83,764 Cibro escrow account discussed in this proceeding is therefore primarily intended for distribution to the firm's reseller and retailer customers. Accordingly, Cibro's end-user customers will be ineligible for a refund in this proceeding unless they did not receive a direct refund from Cibro.

Appendix B-1.—Customers Identified in the Champlain Audit File

A. Addresses Known

*B&F Service	Wayne Kingsland
Baird's Citgo	*Leroy Lacroes
Ken Bannister	*Lake Shore Citgo
Walter Benoure	Carroll Larcoque
*Roy Benway	Wayne Larrow
*Millard Benoit	Jerry Latouche
Bill's Citgo	Frank Leffler
Velma Billado	Roy Lemare
Blain's Auto Service	Lemery's Citgo
Bradford Auto Service	*The Market
*Oliver Broughton	N.C. McCullock, Agent
*Dave Brunelle	*Larry Mobbs
*Henry Brunelle	Chleele Morrill
*Lewis Burns	*Harold Murray
*Glen Bushey	North End Citgo (J. Steven)
*Champlain Islands	Nothern Sales
Karl Chanski	*Orleans Body Shop
Dick Chase	Alex Parent
Ronald Colton	*Parker's Auto Service
Robert Cota	George Perry
Wendell Creighton	Maurice Pion
*Arthur Cutler	Dick Ryan
James L. Decato	*Seth Reynolds
Laurent Desjardins	Sam's Citgo
Doc's Garage	Howard Sanborn
Robert Dostic	Severance Service Station
*Robert Dupaw	Gene Smith
*Chet Fassett	*Sportwest Inc.
Walt & Ethel Gallup	*Eustace Thomas
*Milton Grout	*Janice Torrey
*Lawrence Haskins	*Walt's Citgo
L.B. Hatch	Bruce Ward
*Heydt's Citgo	George Gary Watkina
*William Humphrey	Robert West
*Jarvis Citgo	Wolcott Garage
*Joseph Keith	
Kennedy's Citgo	

* Copies of the PD&O were sent to these firms at the addresses indicated above but were returned to this Office unclaimed. Accordingly, we will not send these firms copies of the final Decision and Order, but (with the exception of Champlain Islands) they may still submit an application for refund in the present proceeding.

B. Addresses Unknown

Louis Bates	Laigle Car Wash
Ed Blanchard	Perlie Lemery
Richard Booska	Richard Lemery
William Hood	Richard Lockerby
Art Howath	Jasper Rushford
J&M County Outlet	Michele
A. Laigle	Vermont Truck Lease

Appendix B-2.—Customers Identified in the Cibro Audit File

A. Addresses Known

*A.A. Fuel Service	C&S Fuel
*Adelfi Fuel	Choice Oil Co.
*Adelphi Fuel Co.	Columbia Utilities
Advance Oil	Combined Oil Co.
Allegheny Petroleum	Consolidated Fuel
Aloha Oil	Conval Oil Co.
Ambassador Fuel	*Crater Fuels
Arcade Fuel Co.	Cypress Fuel Oil
*J. Barr Service Station	Sel-jen Motor Services
*Bandolene Fuels	Gino Oil Inc.
*Barrier Oil Corp.	Erie Fuel
Barrow Oil Corp.	*Lao Fuel Oil
*Baurley Fuel	Lawrence Heat & Power
Beaty Coal	Ledwith Oil Co.
Beato Fuel	*Leigh Oil Chem.
Besson Oil Inc.	JP Leonard Oil
Blue Diamond Fuel	*Long Island Oil
Bridge Oil Co.	Martimucci Oil Co.
Brusco Fuel Oil Co.	Morea Fuel
*Burns/Preferred	Morrow Fuel
Bronx Coastal Oil Heating	*Erie Fuel Oil
	Fairmont Fuel
Fazio Brothers Fuel	Nn. Way Fuel Oil
*Federal Oil Co.	Nulite Utilities
Filtered Petroleum	Old Hudson River Fuel
Fordham Fuel Oil	Dan Paul
Fort Schuyler Fuel	Patchogue Oil Tex.
Grassland Fuel Corp.	*V. Mazzarella Auto
*H&L Service Station	*Merit Oil Heating
*Hartsdale Coal & Oil	Midtown Heating
Hasko Utilities	PModern Oil Supply
Herbert Fuel	*Modroe Fuel
*Highland Oil Service	*Monarch Fuel
*Highway Essex Fuel	Montebello Coal & Fuel
Hillcrest Fuel	Morania Oil
*Four Brothers Auto Service	Pel-Town Petroleum
Frank's Fuel	Perrillo Brothers Fuel
Fulweight Fuel Service	Pilgrim Oil
Gassman Coal & Oil	Public Fuel Service
George Oil Corp.	Radisch Brother
*Gerard Fuel	Relite Fuel
Globe Fuel Oil	T & C Fuel Co.
Goetlel Fuel	*Tamara S. Fuel
Hillside Service	Torch Fuel Co.
Isoldi Service Station	Trico Fuel Corp.
J&j Fuel	Tru Fuel Oil
Jed Fuel Service	Shoreline Motor Fuel
Joe's Service Station	Sibrizzi Fuel
Kavanagh Oil Corp.	Skyview Fuel
*Kings County Trans.	VS Smyth Fuel Service
Kleen Heet Oil Co.	Stallone Fuel
LaForgia Fuel	Starlight Fuel Corp.
Rivoli Fuel Oil	Stuyvesant Fuel Oil
Rockway Fuel	Super Fuel Corp.
Ron-Son Heating	Tullo Oil
Ruggiero Bros.	Vijax Fuel Corp.
Sallustio & Sons Oil	West End Fuel Oil
Sal S. Garage	Westchester Hudson
*F.M. Schildwachter	*WHAM Petroleum
Schneider Fuel Oil	Whaleco Fuel Oil
*Sure Fire Corp.	Re-gal Fuel
New Utrecht Fuel	Rex Oil Co.

*Copies of the PD&O were sent to these firms at the addresses indicated above but were returned to this Office unclaimed. Accordingly, we will not send these firms copies of the final Decision and Order, but they may still submit an application for refund in the present proceeding.

B. Addresses Unknown

F&B Fuel Five M

[FR Doc. 85-18179 Filed 7-30-85; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30096; FRL-2873-1]

Addenda on Data Reporting to Pesticide Assessment Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Comments.

SUMMARY: The Environmental Protection Agency announces that a proposed addendum to the following series in the Pesticide Assessment Guidelines is now available for public comment: Avian acute oral, avian acute dietary, and avian reproduction studies, teratology studies, rotational crop studies, storage stability studies, reporting of analytical method and supporting data, and crop field trials. The addenda will supersede paragraphs in the Guidelines on data reporting and will provide a format for the preparation; of study reports by those submitting data to EPA. This will increase the efficiency of pesticide registration and other regulatory activities. Copies of the proposed addenda are available at the address listed below.

DATE: Comments, identified by the document control number [OPP-30096], must be received on or before September 30, 1985.

ADDRESS: Submit three copies of written comments, identified with the document control number "OPP-30096," by mail to:

Information Service Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, Va.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Copies of the draft guidelines are also available at this address.

FOR FURTHER INFORMATION CONTACT:

Elizabeth M.K. Leovey, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 807, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-0576).

SUPPLEMENTARY INFORMATION: 40 CFR 158.115, published in the **Federal Register** of October 24, 1984 (49 FR 42856) describes the organization of the pesticide guidelines and their relationship to data requirements and includes the necessary information to order Guidelines from the National Technical Information Service. The specific subdivision and series to be amended are: Avian studies; acute oral

LD_{50}, acute dietary LC_{50}, and reproduction (Subdivision E, 71-1, 71-2 and 71-4 respectively), teratology (Subdivision F, Series 83-3), field accumulation studies on rotational crops (Subdivision N, 165-2), and storage stability, analytical method(s), and magnitude of the residue-crop field trials (Subdivision O, 171-4). Comments on this initial series of reporting formats will be used in their revision and in the development of formats for other studies contained in the Guidelines. Once completed, these data reporting guidelines will also be published by the National Technical Information Service. Drafts have been sent to a number of organizations and a list is available from the public record.

Dated: July 16, 1985.

John W. Melone,

Director, Hazard Evaluation Division, Office of Pesticide Programs.

[FR Doc. 85-18103 Filed 7-30-85; 8:45 am]
BILLING CODE 6560-50-M

[OPP-42061; FRL-2872-9]

Intent To Approve Fort Berthold Indian Reservation Plan for Certification of Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Approve a State Plan.

SUMMARY: The Tribal Chairman for the Fort Berthold Indian Reservation in the State of North Dakota has submitted to EPA, through the Department of the Interior (DOI), a plan for the certification of applicators of restricted use pesticides for approval. Notice is given of the intention of the Regional Administrator, EPA, Region VIII, to approve this plan. Approval of this plan constitutes delegation of this authority. A summary of the plan appears below. Interested persons are invited to comment.

DATE: Comments should be submitted on or before August 30, 1985.

ADDRESS: Address comments, identified by the control number OPP-42061 to: Edward L. Stearns, Air and Toxics Division (8AT-TS), Region VIII, Environmental Protection Agency, 999 18th Street, Suite 1300, Denver, CO 80202-2413. See **SUPPLEMENTARY INFORMATION** for addresses where the plan and comments are available for public inspection.

FOR FURTHER INFORMATION CONTACT: Edward Stearns (303.293-1745).

SUPPLEMENTARY INFORMATION: In accordance with the provisions of section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136b) and 40 CFR Part 171, Alyce Spotted Bear, Chairman, Three Affiliated Tribes, Fort Berthold, Resevation, North Dakota, has submitted a State Plan for the Certification of Commercial and Private Applicators of Restricted Use Pesticides to EPA for approval.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region VIII, to approve this plan.

Summary of State Plan

The Natural Resources Department of the Fort Berthold Tribe has been designated the lead agency for the administration of the pesticide applicator and enforcement program.

Cooperating agencies include the North Dakota Department of Agriculture and North Dakota Cooperative Extension Service. The North Dakota Department of Agriculture is the lead agency for the Pesticide Applicator Certification Plan for the State of North Dakota. North Dakota certification provides the basis for certification on the Reservation. The North Dakota Cooperative Extension Service conducts the training necessary for private applicators and the training and testing necessary for commercial applicators to be certified by the State. The Extension Service will be responsible for any training needed on the Reservation.

Legal authority for the program is contained in the Fort Berthold Reservation Pesticide Code. A copy of this code is attached to the State Plan.

The plan lists the personnel available within the Natural Resources Department that will carry out the certification and enforcement. Because of the small size of the program only one part-time person will be needed. The funding for this program comes primarily from grants from EPA. The Tribe does have the authority to levy taxes should Federal funding stop. The current annual cost of the program is $25,333.00.

The Natural Resources Department will submit an annual report to EPA by October 1 of each year and other reports as requested by the Administrator of EPA.

The Tribe estimates that approximately 100 applicators will need to be certified. Both certified commercial and private applicators will be issued a certification credential indicating the category or limitations. The certification credential is to be pesented to the pesticide dealer at the time a restricted use pesticide is purchased.

The certification plan for Fort Berthold requires that applicators be certified by the State of North Dakota or by the DOI as a prerequisite to Tribal certification. Both the State of North Dakota and the DOI have certification plans previously approved by EPA. The DOI Plan does not have provisions for certification of private applicators. The Tribe will not recognize certification in the Forest Pest Control category as meeting the prerequisite for certification since there is no forest pest control work on the Reservation. The applicator categories and standards of competency in the North Dakota and DOI plans are basically the same as those listed in 40 CFR Part 171. The Tribe will not require any additional demonstration of competency by the applicator. Certifications issued by the Tribe will be valid until the expiration date on their current certificate from the State of North Dakota or the DOI. Both the State of North Dakota and the DOI provide a 3-year certification for commercial applicators and the State provides a 5-year certification for private applicators. The Tribe will not allow certification for a period longer than that allowed by these two agencies.

The Fort Berthold Indian Reservation has entered into a Cooperative Agreement with the North Dakota Department of Agriculture to share enforcement information on pesticide applicators and work cooperatively to avoid questions of jurisdiction.

Other pesticide regulatory activities and authorities include a regular program of applicator inspection, product sampling, and investigations of accidents and complaints.

Public Comment

Copies of the plan and the Tribal code are available for review at the following locations during normal business hours:

1. Three Affiliated Tribes, Department of Natural Resources, Tribal Office Building, New Town, ND 58763, (701-627-3627).
2. Region VIII, Environmental Protection Agency, Toxic Substances Branch, Rm. 2456, 999 18th St., Denver, CO 80295, (303-293-1730).
3. Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (202-557-3262).

Interested persons are invited to submit written comments on the proposed State Plan.

Dated: July 19, 1985.

FOR FURTHER INFORMATION CONTACT:

All other products containing 1080 used for rodent control are "intrastate

preliminary determinations concerning

additional data to evaluate further the

unreasonable risk to man or the

VOL 50 ISS 147 JL 31 1985 UMI

Dated: July 19, 1985.

John G. Welles,
Regional Administrator, Region VIII.

[FR Doc. 85-18104 Filed 7-30-85; 8:45 am]
BILLING CODE 6560-50-M

[OPP-30000/8D FRL 2873-3]

Intent To Cancel Registration of Certain Pesticide Products Containing Sodium Fluoroacetate ("1080"); Availability of Position Document 4

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final notice of determination concluding the Special Review/ Rebuttable Presumption Against Registration Review of Sodium Fluoroacetate; notice of intent to cancel registration.

SUMMARY: This Notice concludes the Agency's Special Review, formerly called Rebuttable Presumption Against Registration (RPAR), of products containing sodium fluoroacetate (commonly called "1080") used for control of rodents and describes EPA's final determinations regarding the risks and benefits associated with the uses of these pesticide products. EPA has concluded that the current use of 1080 to control field rodents may be having adverse effects on nontarget wildlife, and that these risks can be reduced by modifying the labeling of the products and, in certain cases, reducing the concentration of 1080 on these rodenticide baits. With such changes, the Agency has determined that the benefits of using 1080 appear to outweight the risks. The information available to assess the risks to nontarget species, particularly threatened and endangered species, is very limited, however. Accordingly, the Agency has decided to condition any future use of 1080 rodenticides both on the submission of additional data and on the immediate adoption of certain risk reduction measures.

DATE: Requests for a hearing by a registrant or other adversely affected party must be received on or before August 30, 1985, or for a registrant, within 30 days after receipt by mail of this notice, whichever is the later applicable deadline.

ADDRESS: Hearing Clerk, (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Walter Waldrop, Special Review Branch, Registrant Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703 557-7400).

SUPPLEMENTARY INFORMATION: This Notice is organized into five units. Unit I is the introduction. Unit II, entitled "Legal Background," provides a general discussion of the regulatory frame work within which this action is taken. Unit III sets forth a summary of the Agency's determinations regarding the risks and benefits of using 1080 rodenticides, and Unit IV describes the Agency's regulatory actions. Unit V contains the comments of the Scientific Advisory Panel and the Secretary of Agriculture and the Agency's responses to those comments. Finally, Unit VI, entitled "Procedural Matters," provides a brief discussion of the procedures which will be followed in implementing the regulatory actions announced in this notice.

I. Introduction

Pesticide products containing the active ingredient sodium fluoroacetate (commonly called "1080") have been used for rodent control in the United States since the 1940's. Compound 1080 is usually formulated in baits of grain, rolled oats, or chopped greens at concentrations ranging between .02 percent and .12 percent. These baits are applied aerially or by hand for control of field rodents such as ground squirrels, prairie dogs, meadow mice, and pocket gophers. Compound 1080 is also mixed with water and placed inside tamper resistant bait boxes serviced by pest control operators to control commensal rodents (mice and rats).

A technical grade formulation of 1080 (90 percent-pure), which bears label directions for end-use to control commensal rodents but which can also be used to formulate other end-use products, is federally registered by Tull Chemical Co. Compound 1080 is not imported, and Tull is the sole U.S. producer of 1080. In addition to Tull, Klamath County in Oregon holds a Federal registration for a 1080 product used to control ground squirrels. This product, which was registered under the authority of section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), was approved to meet a "special local need" in Klamath County in Oregon.

All other products containing 1080 used for rodent control are "intrastate products." As explained more fully in Unit II.B, intrastate products are State-registered pesticides that were not subject to regulation under FIFRA prior to 1972 because they were produced and used within a single State. In 1972, when it amended FIFRA, Congress gave the Agency authority to regulate intrastate products for the first time. Pursuant to regulations promulgated in 1975, the Agency allowed the continued production and use of these products, subject to certain regulatory restrictions, until the Agency required the submission of applications for Federal registration.

When the Special Review for 1080 rodenticides was initiated, there were 46 intrastate products in California, three in Nevada, and one in Colorado. In 1977, California accounted for approximately 83 percent of 1080 rodenticide use, Colorado 12 percent, and Nevada and Oregon about 5 percent. It was estimated that approximately 610,000 pounds of 1080-treated bait (containing about 600 lbs of active ingredient) were applied in 1977. Recent comments from California stated that only about 100 pounds of 1080 active ingredient were used, indicating a significant decline in the amount used. Of the total 1080 used, about 75 percent is applied for ground squirrel control, and about 7 percent is for prairie dog control. The remaining uses are for control of meadow mice, deer mice, wood rats, cotton rats, chipmunks, and several other rodent species.

Notice of EPA's Rebuttable Presumption Against Registration, now called Special Review, for the rodenticidal use of pesticide products containing 1080 was published in the **Federal Register** of December 1, 1976. (41 FR 52792). Issuance of the Special Review Notice initiated the Agency's public review of the risks and benefits of Compound 1080. The rebuttable presumption was issued on the basis of (1) the acute toxicity of 1080 to mammals and birds, (2) a risk of a significant reduction in populations of nontarget organisms and fatalities to members of endangered species, and (3) the lack of emergency treatment for 1080 poisoning. The reasons for the Agency's determinations were explained in detail in a supporting technical document referred to as Position Document 1 (PD 1). The Agency requested comment on the grounds for issuing the Special Review Notice and on the risks and benefits of 1080 rodenticides.

After reviewing all available information, EPA issued a notice of its preliminary determinations concerning the risks and benefits of the use of 1080 rodenticides and of the Agency proposed regulatory actions, as published in the **Federal Register** of November 4, 1983. (48 FR 40935). This notice and the supporting Position Document (PD 2/3) set forth the Agency's determination that 1080 rodenticides continued to exceed the risk criteria which provided the basis for the Special Review. The Agency determined, however, that the risks posed by 1080 to nontarget wildlife and to humans could be reduced through changes in the label directions and in some cases, by reducing the concentration of 1080 in the rodenticide baits. The Notice and PD 2/3 also contained a discussion of and responses to the comments received and a detailed analysis of the risks and benefits of each use of 1080.

With respect to many uses of 1080, including the two major uses on ground squirrels and prairie dogs, EPA concluded that modification of the terms and conditions of use would reduce the risks to the point where they would exceed the benefits of use, and therefore EPA proposed to allow such uses to continue provided the prescribed changes were made. In some instances, however, EPA determined that risks could not be reduced sufficiently to warrant continued use, and accordingly EPA proposed to deny applications for registration. (Denial, rather than cancellation, was appropriate because the products were intrastate products and were not federally registered.)

The Agency's preliminary determinations were submitted to the FIFRA Scientific Advisory Panel (SAP) and the U.S. Department of Agriculture (USDA) for review pursuant to sections 6(b) and 25(d) of FIFRA. Comments were also solicited from the registrants and other interested persons. The comments which were received by the Agency were carefully considered in the development of this final determination, and certain changes were made in the final decision based on the comments. The comments received by the Agency in response to the PD 2/3 and changes made in the final decision based on those comments are discussed in detail in the Agency's supporting Position Document (PD 4).

As explained more fully below, this Notice initiates actions to require modification of the terms and conditions of use of most 1080 rodenticide products in accordance with the requirements set forth in this notice. This notice also describes the related regulatory actions which EPA is taking to acquire additional data to evaluate further the risks of 1080 rodenticides.

II. Legal Authority

FIFRA requires generally that every pesticide sold or distributed in commerce must be federally registered. Two 1080 rodenticide products, a ground squirrel control product used only in Oregon and a commensal rodenticide, are federally registered; the remaining 50 rodenticides containing 1080 are "intrastate products" which, as explained below, have never been subjected to Federal registration requirements.

Prior to 1972, pesticides produced and distributed solely in intrastate commerce were not subject to registration or any other requirements of FIFRA. The National Environmental Pesticide Control Act of 1972 (Pub. L. 92-516) extensively amended FIFRA and for the first time, it became a violation of Federal law to sell or distribute unregistered intrastate pesticide products. EPA issued registration regulations under 40 CFR Part 162 implementing the 1972 amendments which, among other things, required immediate registration of all intrastate products unless the products were currently registered by a state and the producer submitted a notice of application for Federal registration to the Agency under 40 CFR 162.17. Under this regulation, notices of application were filed for numerous 1080 reodenticide products which comprise the vast majority of products reviewed in this Special Review proceeding. The regulation further provided that producers could continue to sell and distribute their products solely in intrastate commerce without obtaining Federal registration, so long as they complied with certain provisions of FIFRA. Moreover, EPA's regulations provided that, before taking any enforcement action against any unregistered intrastate product complying with 40 CFR 162.17, the Agency would notify the producer of the product that he was required to submit a complete application for Federal registration, and the Agency would review and rule on the application.

IN order to obtain a registration for a pesticide under FIFRA, an applicant for registration must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires, among others things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment," as stated in FIFRA sec. 3(c)(5). The term "unreasonable adverse effects on the environment" is defined in FIFRA sec. 2(bb) as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide." This standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in compliance with the terms and conditions of registration or in accordance with commonly recognized practice. If an applicant's product does not meet the standard for registration, EPA may deny the application under FIFRA sec. 3(c)(6).

The burden of proving that a pesticide satisfies the standard for registration is on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or require modification of the terms and conditions or registration whenever it is determined that the pesticide causes unreasonable adverse effects on the environment.

The Agency created the Special Review process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide an informal procedure to gather and evaluate information about the risks and benefits of these uses.

The regulations governing the Special Review process provide that a rebuttable presumption against new or continued registration shall arise if a pesticide meets or exceeds risk criteria set out in the regulations under 40 CFR 162.11. Revised Special Review criteria and procedures were published in the **Federal Register** for comment on March 27, 1985. (50 FR 12188). The Agency announces that a Special Review has arisen by issuing a notice for publication in the **Federal Register**. Registrants and other interested persons are invited to review the data upon which the Special Review is based and to submit data and information to rebut the presumption by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant risk to humans or the environment. In addition to submitting evidence to rebut the risk presumption, comments may include evidence as to whether the economic, social , and environmental benefits of the use of the pesticide outweigh the risks of use. Unless all presumptions of risk are rebutted, or the benefits of use outweigh the risks, the Special Review is concluded by issuance of a Notice of Intent to Cancel and/or a Notice of Denial, as appropriate.

VOL
50
ISS
147
JL
31
1985
UMI

In determining whether the use of a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risks, and the impacts of such modification on the benefits of use. If the Agency determines that such changes could reduce risks to the level where the benefits would outweigh the risks, it may require that such changes be made in the terms and conditions of the registrations. Alternatively, the Agency may determine that no change in the terms and conditions of a registration will adequately assure that use of the pesticide will not pose an unreasonable adverse effect. In either case, the Agency will issue a Notice of Intent to Cancel the registration. Cancellation may be avoided by making the specified corrections set forth in the Notice, if possible. Adversely affected persons may request a hearing on the cancellation of a specified registration and use, and, if they do so in a legally effective manner, that registration and use will be maintained pending a decision at the close of an administrative hearing.

III. Summary of Determinations of Risks and Benefits

The Agency has considered the available information concerning the risks of using 1080 rodenticides, as well as the economic and other benefits associated with the use of these products. Detailed discussion of the risk and benefit information considered by the Agency is found in the PD 2/3 and the PD 4. These documents fully set forth the Agency's reasons for concluding the Special Review on 1080 rodenticides. Copies of PD 2/3 and PD 4 are available from the contact person listed at the beginning of this document.

A. Determinations Concerning Risk

In general terms, the 1080 rodenticide Special Review was based on the Agency concerns in three broad areas: (1) The risks to humans, in view of the extremely toxic properties of 1080 and the absence of any antidote for 1080 poisoning; (2) the risk to threatened and endangered species feeding directly on 1080 bait (primary poisoning) or scavenging 1080-poisoned animals (secondary poisoning); and (3) the risk to other nontarget species, particularly wildlife. As numerous comments emphasized and EPA acknowledged in its notice of preliminary determination and supporting PD 2/3, only very limited information is available to assess the risks of using 1080 rodenticides. For that reason, the Agency decided that one of the most important regulatory actions it could take was to require submission of additional data needed to evaluate better the effects of using 1080 rodenticides. See Unit IV.F.

1. *Risks to humans.* Compound 1080 is an extremely toxic substance, which has no proven antidote. The early use history of 1080 includes several incidents in which humans were poisoned, some fatally. Most of these incidents involved use of 1080 for control of commensal rodents in and around buildings, rather than in field rodent control programs.

Over the last 25 years, the number of incidents involving 1080 poisoning of humans is significantly lower. The decline in poisoning incidents appears to have resulted from the prohibition of use in occupied buildings, a requirement to place bait in tamper resistant bait boxes, the imposition of other regulatory restrictions by both the Federal Government (*e.g.*, classification for restricted use) and State governments, and clarification of the directions for use. The Agency has determined that these measures appear adequate to reduce the risk of human poisoining from accidental exposure to acceptable levels.

2. *Risks to threatened and endangered species.* Based on its own review of the available information, as well as the biological opinion of the Office of Endangered Species in the U.S. Department of the Interior, EPA concluded that the use of 1080 to control field rodents could pose a risk to threatened and endangered species. In estimating the risk to threatened and endangered species, the Agency relied primarily on acute toxicity data on related species. Because EPA generally lacks data on the relative sensitivity to 1080 of threatened and endangered species compared with species on which acute toxicity studies have been performed, the Agency determined that it was appropriate to use a "margin of safety" approach. In other words, to evaluate whether threatened or endangered species would be adversely affected, EPA compared the estimated exposure with the dose causing adverse effects in a related species, and assumed that adverse effects were possible if the margin between the two levels was not adequate.

EPA concluded that application of 1080 to control ground squirrels could pose a risk to California condors. This conclusion was based on information showing that condors scavenge dead ground squirrels and field data estimating that a potentially toxic amount of 1080-treated grain could remain in the cheek pouches of poisoned squirrels. Using the golden eagle as a surrogate species and taking into account the variability observed in tests involving related species, EPA estimated that ingestion of only a few 1080-poisoned ground squirrels could be fatal to a condor. This concern is strengthened by data showing the presence of 1080 residues in a dead California condor, although the source of the 1080 could not be determined.

Although the reliability of EPA's conclusions about the risk posed by use of 1080 rodenticides to condors has been questioned on a number of grounds, no public comments have demonstrated that such use is substantially free from risk to the endangered condor. In view of the risk and the critically low number of condors—some current population estimates are fewer than 10 to a few dozen—the Agency thinks that even a small risk must be a basis of substantial concern.

In addition to these concerns, the Office of Endangered Species (OES) recently submitted a biological opinion to the Agency stating that the use of the 1080 livestock protection collar would jeopardize the continued existence of the condor. Although there are substantial differences in potential 1080 exposure from the collar and rodent baits, the precarious status of the condor will necessitate further discussions with OES on the use of 1080 rodenticides in the condor's range. The Agency considers the condor's range to be those counties in California identified by OES in their biological opinion on the livestock protection collar. They are the counties of: Fresno, Kern, King, Los Angeles, Monterey, San Benito, San Luis Obispo, Santa Barbara, Tulare, and Ventura.

The Agency anticipates a decision prior to January 1, 1986, on whether 1080 baits may continue to be used in the range of the condor. Beginning in 1986, use in the range of the California condor, if permitted, will be at a maximum bait concentration of .02 percent until bait efficacy data are submitted establishing the lowest efficacious bait concentration. If the .02 percent bait is found to be ineffective, the Agency will consider changes in the bait concentration, provided data are submitted showing that the higher concentration is effective and will not adversely affect the condor.

The Agency also determined that use of 1080 rodenticides would pose some risk to the endangered San Joaquin kit fox. Based on acute toxicity studies using a subspecies of kit fox that was not endangered, EPA estimated that the LD50 dose at 0.22 mg/kg of 1080. This dose suggests that kit foxes are very sensitive to 1080 and could be poisoned by scavenging on 1080-poisoned rodents.

Although there is no hard evidence, i.e. confirmatory laboratory analysis, that any San Joaquin kit fox has been killed with 1080, there is convincing evidence that indicates a potential for kit fox loss from 1080 baiting programs. This evidence includes the feeding habits of the kit fox, LD50 values of surrogate species and the California ground squirrel, old field reports (Spencer, 1946) indicating that kit foxes died following ground squirrel control programs, and a field study of a ground squirrel control project in which researchers observed substantial mortality of coyotes, another scavenger species which is only slightly more sensitive to 1080 (LD50 = 0.1 mg/kg) than kit foxes.

The Agency further determined that the use of 1080 to control prairie dogs posed a risk to the endangered black-footed ferret, a species which inhabits prairie dog colonies and preys primarily as prairie dogs. Using LD50 values for related species (mink and European ferrets), EPA estimated that prairie dogs poisoned by feeding on 1080 bait could contain an amount of 1080 lethal to black-footed ferrets. The extent of this risk would depend on many factors including the amount of 1080 grain bait ingested by a prairie dog, the extent of metabolic detoxification of the 1080 residues, the feeding behavior of the ferret, and the amount of 1080-tainted tissue consumed. Because the data available to evaluate these factors are limited, there is considerable uncertainty about the extent of this risk.

The Agency determined that three other endangered species were at risk from direct ingestion of 1080 rodenticides, the Morro Bay kangaroo rat, the salt marsh harvest mouse, and the Aleutian Canada goose. Both the kangaroo rat and the harvest mouse are found in California and could be killed by a control program directed at other rodent species in their habitat. The Aleutian Canada goose migrates through California and is known to feed on the dikes of rice fields, where 1080 is used to control ground squirrels. Since geese might feed on 1080-treated bait, and geese are somewhat sensitive to 1080, it is possible that geese could be killed from feeding on the dikes of rice fields. Although it found that 1080 rodenticide jeopardized the Morro Bay kangaroo rat and the salt marsh harvest mouse, the Office of Endangered Species concluded that use of 1080 in rice fields would not jeopardize the continued existence of the Aleutian Canada goose.

3. *Impacts on nontarget wildlife.* In addition to its concerns about endangered and threatened species, the Agency also concluded that 1080 rodenticide baits might have significant impacts on the levels of local populations of nontarget wildlife. This conclusion rested on a variety of information including acute LD50 studies on numerous species, field reports, and a field study performed by Hegdal *et al.* on the impacts of ground squirrel control on nontarget wildlife. The Hegdal study, in particular, provided data indicating that coyotes and bobcats could be killed by feeding on poisoned ground squirrels. Prior to application of 1080 bait, researchers placed radio-transmitters on 6 coyotes and 10 bobcats. Five of the coyotes and three of the bobcats were found dead following baiting. In addition, three dead striped skunks were recovered, one of which contained residues of 1080. Although these data fall short of providing a precise quantitative measurement of the impacts on the local populations of coyotes, skunks, and bobcats, EPA concludes that the data do indicate that there is a risk of secondary poisoning not only of these species but also other nontarget wildlife. Because of the difficulty of extrapolating from limited data on field kills to population effects, EPA recognizes that there is considerable uncertainty in quantifying this risk.

B. Determination of Benefits

As with its risk assessment, the Agency faced severe data limitations in its analysis of the benefits of 1080 rodenticides. Therefore, the Agency had to use considerable judgment in evaluating the potential economic consequences of cancelling the uses of 1080. The analysis often provided qualitative estimates of impact due to the lack of sufficient usage or comparative efficacy data to support precise quantitative estimates. Although PD 3/3 and PD 4 contain specific numerical estimates, they represent rough predictions of 1080 bait distribution and economic impact. The Agency used reasonable assumptions in its estimates of the general economic consequences of cancelling 1080 usage.

In general, the economic impacts of cancelling the uses of 1080 would not significantly affect U.S. production or prices of major commodities or services. Impacts on agricultural productivity and production costs would generally be limited to users in Western States. Regional or local impacts on users were estimated where registered alternatives are more costly, impractical, or ineffective, or where no registered alternatives exist.

If eventually 1080 is federally registered, it would become available for field rodent control programs in States where no intrastate product is currently available. At the individual producer level, control costs in States where rodenticides are currently unavailable are somewhat higher than in States where 1080 is available. If States where 1080 is not currently available decided to sponsor control programs in a manner similar to States with existing 1080 control programs, individual producers would benefit through reduced control costs. The extent of the cost reduction will depend on several factors.

Where prebaiting—the application of toxicant-free bait to condition the target species to consume the bait—is practiced prior to using either strychnine or zinc phosphide, the new 1080 programs will be somewhat less expensive because 1080 control programs generally do not require prebaiting. Thus, the individual producer would save the cost of prebaiting where 1080 replaces either strychnine or zinc phosphide. Where prebaiting is not practiced with either strychnine or zinc phosphide, the cost of a 1080 program would be very similar to the current cost of using either zinc phosphide or strychnine. Producers would gain a somewhat more effective poison where 1080 would replace either strychnine or zinc phosphide. While the Agency recognizes that individual users in States without a 1080 registration could benefit from the use of 1080, the extent to which benefits would accrue in these areas cannot be quantified with available data.

In addition to simple changes in producer level control costs, States would incur some administrative costs if they choose to implement a 1080 control program. To the extent that new resources are required at the State level to coordinate and monitor a new State-sponsored program, these costs would somewhat offset the producer level benefit (in terms of lower control cost). The net effect of these distributional impacts cannot be quantified with available data.

The uses of 1080 which are subject to this Special Review were grouped into three categories: (1) Rodents on rangelands and pastures, (2) rodents on croplands, and (3) rodents on nonagricultural sites.

1. *Rodents on rangelands and postures.* Compound 1080 is available primarily as an intrastate product when used for the control of ground squirrels,

VOL
50
ISS
147
JL
31
1985
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prairie dogs, deer mice, meadow mice, cotton rats, kangaroo rats, chipmunks and pocket gophers on rangelands and pastures. (One product is registered in Oregon for ground squirrel control under sec. 24(c) of FIFRA.) Federally registered alternatives for ground squirrels include strychnine, gas cartridges, carbon disulfide, paradichlorobenzene, and carbon tetrachloride. Anticoagulants, methyl bromide, and zinc phosphide are also available in some States for ground squirrel control. Zinc phosphide is federally registered for the control of prairie dogs, cotton rats, kangaroo rats, and field and meadow mice. Strychnine is federally registered for the control of prairie dogs, chipmunks, cotton rats, kangaroo rats, deer mice and pocket gophers, although the Agency is currently conducting a proceeding to cancel the prairie dog use. Several anticoagulants are available in California for the control of field rats and mice.

The use of 1080 bait to control rodents on rangelands accounts for nearly three-fourths of the annual use, with the majority used for the control of ground squirrels. The unavailability of 1080 for the control of rodents on rangelands could increase the costs for ground squirrel control by approximately several million dollars annually, depending on the alternative used and the continued registration of strychnine. The cost of prairie dog control could increase by approximately several hundred thousand dollars annually. No estimates are available for other rodents since these account for less than 1 percent of the total 1080 use.

2. *Rodents on croplands.* Compound 1080 is available in intrastate products used for the control of ground squirrels, prairie dogs, Norway rats, cotton rats, wood rats, meadow mice, and pocket gophers on croplands. Registered alternatives for this category are the same as those for rangelands. For the Norway rats, zinc phosphide, three anticoagulants, and four fumigants are federally registered. The use of 1080 to control rodents on croplands accounts for approximately one fifth of the annual use of 1080, with the majority used for the control of meadow mice.

The unavailability of 1080 for the control of ground squirrels on croplands could result in an increase in annual control costs of approximately $200,000 to $1.2 million, depending on the alternative used. The unavailability of 1080 for prairie dog control could result in an increase in annual control costs of approximately $20,000. The unavailability of 1080 for meadow mouse control could result in an increase in annual control cost of approximately $28,000. No estimates are available for other rodents on croplands.

3. *Rodents on nonagricultural sites.* Compound 1080 is available in intrastate products used for the control of ground squirrels, cotton rats, kangaroo rats, deer mice, meadow mice, wood rats, chipmunks, roof rats, Norway rats, and pocket gophers on nonagricultural sites. It is federally registered for the control of Norway rats, roof rats, and house mice in and around structures. For this analysis, nonagricultural sites are defined as areas which are not involved in the direct production of crops or livestock. These include structures, premises, embankments, nonagricultural turf area, and private forest areas.

Federally registered alternatives for the field rodents are the same as mentioned for rangeland, pasture, and cropland rodent control. For commensal rodent control, zinc, phosphide is federally registered as are several anticoagulants and fumigants. The use of 1080 for this category accounts for approximately 5 percent of the annual 1080 use. Limited data are available to estimate benefits. The unavailability of 1080, assuming alternatives are not used, would result in an increase in embankment failures. Each incident can cost in excess of $10,000 to repair. Also, although the benefits of controlling commensal rodents cannot be quantified, 1080 is generally used as a last resort.

IV. Regulatory Position

Based on its review of the risks and benefits of using 1080 rodenticides, EPA has determined that the risks appear to outweigh the benefits of use of 1080 for control of rodent species. The Agency has further determined that those risks can be reduced, to a point at which the benefits appear to exceed the risks, by: (1) Changing the directions for use; (2) requiring that 1080-treated bait be colored; and (3) in certain cases, lowering the concentration of 1080 in bait. The regulatory position of the Agency on the different uses of 1080 rodenticides is set forth below.

A. Ground Squirrels: Rangeland, Cropland, and Non-Agricultural Sites

Use of 1080 to control ground squirrels may continue provided that:

1. *Bait concentration.* If 1080 is permitted to be used in the range of the California condor, the label of any product used in California to control ground squirrels must contain the following statement:

Baits at concentrations greater than .02 percent may not be used in the range of the California condor.

2. *Hand-baiting and post-baiting procedures.* The label of any product used to control ground squirrels and applied by hand must contain the following label statements:

i. Baiting should not be done unless tests indicate satisfactory bait acceptance will occur in areas to be treated.

ii. Do not expose baits in a manner which presents a likely hazard to pets, poultry, or livestock.

iii. Clean up all accidentally spilled bait immediately.

iv. Do not place bait in piles.

v. Where possible, pick up and burn or bury deeply all visible carcasses of animals killed by 1080.

vi. Do not use within ¼ mile of a dwelling without first notifying the occupants.

3. *Aerial baiting and post-baiting procedures.* The label of any product used in California to control ground squirrels and containing directions for aerial application must contain the following label statements:

i. Use in accordance with the Guidelines for Applying Rodent Baits by Aircraft for Control of Ground Squirrels in the California Verbebrate Pest Control Handbook.

ii. Where possible, pick up and burn or bury deeply all visible carcasses of animals killed by 1080.

Guidelines for aerial application of 1080 in States other than California must be submitted with applications for Federal registration. These guidelines will be reviewed and, following approval, must be referenced on appropriate product labels.

4. *Endangered species protection.* The label of any product used to control ground squirrels in California must contain the following statements:

Notice: The killing of a member of an endangered species during compound 1080 baiting operations may result in a fine and/or imprisonment under the Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office for specific information on endangered species. Do not use compound 1080 baits in the geographic ranges of the following species except under programs and procedures approved by the USEPA: California condor, San Joaquin kit fox, Aleutian Canada goose, Morro Bay kangaroo rat, and salt marsh harvest mouse.

The label of any product used to control ground squirrels in other States must contain the following statement:

Notice: The killing of a member of an endangered species during compound 1080 baiting operations may result in a fine and/or imprisonment under the Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office or the Regional Office of the Fish and Wildlife Service for specific information on endangered species.

The label of any product used to control ground squirrels within 5 miles of a prairie dog colony must contain the following statement:

Do not use for ground squirrel control within 200 yards of prairie dog colonies unless a precontrol survey for the black-footed ferret has been performed prior to control and the use of such a survey produces no evidence that a black-footed ferret is present in the survey area. Do not use within five miles of a prairie dog colony where a black-footed ferret has been confirmed to be present.

5. *Nontarget species protection.* The label of any product used to control ground squirrels must contain the following statement:

This product is very highly toxic to wildlife. Birds and mammals feeding on target organisms or treated bait may be killed. Keep out of any body of water. Apply this product only as specified on this label.

6. *Bait dyes.* Any bait containing directions for use to control ground squirrels must be dyed yellow. The label of any 1080 product that contains directions for formulating end-use baits or that may be used for that purpose must contain the following statement:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow.

7. *Restricted use classification.* The label of any product used to control ground squirrels must contain the following statement:

RESTRICTED USE PESTICIDE FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS OR PERSONS UNDER THEIR DIRECT SUPERVISION AND ONLY FOR THOSE USES COVERED BY THE CERTIFIED APPLICATOR'S CERTIFICATION.

Modifications in the above statement will be permitted to reflect State requirements limiting sale, distribution and possession of 1080.

Every product covered by Unit IV.A of this notice that is sold, used, distributed, or released for shipment after December 31, 1985, must conform to restrictions 1 through 7. Existing products may be sold, used, distributed, or released for shipment after December 31, 1985, provided they are relabeled and conform to the conditions indicated in items 1 through 7. Compliance with these restrictions does not negate the necessity of maintaining other limitations on supervision, use, possession, storage, and disposal of 1080 required on current product labels.

B. Prairie Dogs: Rangeland and Cropland

Use of 1080 to control prairie dogs may continue provided that:

1. *Bait concentration.* The label of any product used to control prairie dogs must contain the following statement:

Baits at concentrations greater than .02 percent may not be used for the control of prairie dogs.

2. *Hand-baiting and post-baiting procedures.* The label of any product used to control prairie dogs and applied by hand must contain the following statement:

i. Baiting should not be done unless tests indicate satisfactory bait acceptance will occur in areas to be treated.

ii. Do not expose baits in a manner which presents a likely hazard to pets, poultry, or livestock.

iii. Clean up all accidentally spilled bait immediately.

iv. Do not place bait in piles.

v. Where possible, pick up and burn or bury deeply all visible carcasses of animals killed by 1080.

vi. Do not use within ¼ mile of a dwelling without first notifying the occupants.

3. *Use only by government employees.* The label of any product used to control prairie dogs must contain the statement:

The use of 1080 for prairie dog control is restricted to governmental agencies or persons under the direct supervision of members of governmental agencies.

4. *Endangered species protection.* The label of any product used to control prairie dogs must contain the following statement:

Notice: The killing of a member of an endangered species during compound 1080 baiting operations may result in a fine and/or imprisonment under the Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office or the Regional Office of the Fish and Wildlife Service for specific information on endangered species.

5. *Nontarget species protection.* The label of any product used to control prairie dogs must contain the following statement:

This product is very highly toxic to wildlife. Birds and mammals feeding on target organisms or treated bait may be killed. Keep out of any body of water. Apply this product only as specified on this label.

6. *Pre-control survey for black-footed ferrets.* The label of any product used to control prairie dogs must contain the following statement:

Compound 1080 can be used for the control of prairie dogs only if an EPA-approved survey for the black-footed ferret has been performed prior to control and the use of such a survey produces no evidence that a black-footed ferret is present in the survey area.

7. *Bait dyes.* Any bait containing directions for use to control prairie dogs must be dyed yellow. The label of any 1080 product that contains directions for formulating end-use baits or that may be used for that purpose must contain the following statement:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow.

8. *Restricted use classification.* The label of any product used to control prairie dogs must contain the following statement:

RESTRICTED USE PESTICIDE FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS OR PERSONS UNDER THEIR DIRECT SUPERVISION AND ONLY FOR THOSE USES COVERED BY THE CERTIFIED APPLICATOR'S CERTIFICATION.

Modifications in the above statement will be permitted to reflect State requirements limiting sale, distribution and possession of 1080.

Every product covered by Unit IV.B of this notice that is sold, used, distributed, or released for shipment after December 31, 1985, must conform to restrictions 1 through 8. Existing products may be sold, used, distributed, or released for shipment after December 31, 1985, provided they are relabeled and conform to the conditions indicated in items 1 through 8. Compliance with these restrictions does not negate the necessity of maintaining other limitations on supervision, use, possession, storage, and disposal of 1080 required on current product labels.

C. Other Rodents: Rangeland, Cropland and Non-Agricultural Sites Except Around Ships and Buildings

The requirements of this unit apply to 1080 products labeled with directions to control the following rodents:

Rangeland: chipmunks, cotton rats, deer mice, kangaroo rats and meadow mice.

Cropland: meadow mice, Norway rats, cotton rats, and wood rats.

Non-Agricultural Sites: chipmunks, cotton rats, Norway rats, kangaroo rats, wood rats, deer mice, and meadow mice.

1. *Bait concentration.* If 1080 is permitted to be used in the range of the California condor, the label of any product used in California to control the rodents listed above must contain the following statement:

Baits at concentrations greater than .02 percent may not be used in the range of the California condor.

2. *Hand-baiting and post-baiting procedures.* The label of any product used to control the rodent species on the sites listed above and applied by hand must contain the following label statements:

i. Baiting should not be done unless tests indicate satisfactory bait acceptance will occur in areas to be treated.

ii. Do not expose baits in a manner which presents a likely hazard to pets, poultry, or livestock.

iii. Clean up all accidentally spilled bait immediately.

iv. Do not place bait in piles.

v. Where possible, pick up and burn or bury deeply all visable cacasses of animals killed by 1080.

vi. Do not use within ¼ mile of a dwelling without first notifying the occupants.

3. *Aerial baiting and post-baiting procedures.* The label of any product used to control the rodents listed above in California and containing directions for aerial application must contain the following label statements:

i. Use in accordance with the Guidelines for Applying Rodent Baits by Aircraft for Control of Ground Squirrels in the California Vertebrate Pest Control Handbook.

ii. Where possible, pick up and burn or bury deeply all visible carcasses of animals killed by 1080.

Guidelines for aerial application of 1080 in States other than California must be submitted with applications for Federal registration. These guidelines will be reviewed and, following approval, must be referenced on appropriate product labels.

4. *Endangered species protection.* The label of any product used to control the rodents listed in this unit in California must contain the following statements:

Notice: The killing of a member of an endangered species during compound 1080 baiting operations may result in a fine and/or imprisonment under the Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office for specific information on endangered species. Do not use compound 1080 baits in the geographic ranges of the following species except under programs and procedures approved by the USEPA: California condor, San Joaquin kit fox, Aleutian Canada goose, Morro Bay kangaroo rat, and salt marsh harvest mouse.

The label of any product used in Colorado or Nevada to control the rodents listed in this section must contain the following statement:

Notice: The killing of a member of an endangered species during compond 1080 baiting operations may result in a fine and/or imprisonment under the Endangered Species Act. Before baiting, the user must contact the local Fish and Game Office or the Regional Office of the Fish and Wildlife Service for specific information on endangered species.

5. *Nontarget species protection.* The label of any product used to control the rodents listed in this section must contain the following statement:

This product is very highly toxic to wildlife. Birds and mammals feeding on target organisms or treated bait may be killed. Keep out of any body of water. Apply this product only as specified on this table.

6. *Bait dyes.* Any bait containing directions for use to control the rodents listed in this section must be dyed yellow. The label of any 1080 product that contains directions for formulating end-use baits or that may be used for that purpose must contain the following statement:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow.

7. *Restricted use classification.* The label of any product used to control the rodents listed in this section must contain the following statement:

RESTRICTED USE PESTICIDE FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS OR PERSONS UNDER THEIR DIRECT SUPERVISION AND ONLY FOR THOSE USES COVERED BY THE CERTIFIED APPLICATOR'S CERTIFICATION.

Modifications in the above statement will be permitted to reflect State requirements limiting sale, distribution and possession of 1080.

Every product covered by Unit IV.C of this notice that is sold, used, distributed, or released for shipment after December 31, 1985, must conform to restrictions 1 through 7. Existing products may be sold, used, distributed, or released for shipment after December 31, 1985 provided they are relabeled and conform to the conditions indicated in items 1 though 7. Compliance with these restrictions does not negate the necessity of maintaining other limitations on supervision, use, possession, storage, and disposal of 1080 required on current product labels.

D. Pocket Gophers

Use of 1080 to control pocket gophers may continue provided that:

1. *Bait dyes.* Any bait containing directions for use to control pocket gophers must be dyed yellow. The label of any 1080 product that contains directions for formulating end-use baits or that may be used for that purpose must contain the following statement:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow.

2. *Restricted use classification.* The label of any product used to control the rodents listed in this unit must contain the following statement:

RESTRICTED USE PESTICIDE FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS OR PERSONS UNDER THEIR DIRECT SUPERVISION AND ONLY FOR THOSE USES COVERED BY THE CERTIFIED APPLICATOR'S CERTIFICATION.

Modifications in the above statement will be permitted to reflect State requirements limiting sale, distribution, and possession of 1080.

Every product covered by Unit IV.D of this notice that is sold, used, distributed, or released for shipment after December 31, 1985, must conform to restrictions 1 and 2. Existing products may be sold, used, distributed, or released for shipment after December 31, 1985, provided they are relabeled and conform to the conditions indicated in items 1 and 2. Compliance with these restrictions does not negate the necessity of maintaining other limitations on supervision, use, possession, storage, and disposal of 1080 required on current product labels.

E. Compound 1080 Technical Product

All products consisting of the technical grade of the active ingredient 1080, released for shipment after December 31, 1985, must bear the following label statement relating to the dyeing of baits:

Formulators must ensure that all compound 1080 grain baits used for field rodent control are dyed yellow. Compound 1080 grain baits used for commensal rodent control must be dyed in accordance with USDA regulations.

F. All 108 Uses—Additional Data Requirements and Submission Schedule

EPA will require that additional data be submitted to support the continued use of 1080 rodenticides. The following tables list these data requirements under 40 CFR 158.120, 158.125, 158.130, 158.135, and 158.45, and the time allowed to submit study results to the Agency:

Table I—Product Chemistry Data Requirements

	Guideline reference	Time allowed to submit study results to EPA
Product identity:		
Identity of ingredients	61–1	6 mo.
Statement of composition	61–2	1 yr.
Discussion of formation of ingredients.	61–3	Do.
Analysis and certification of product ingredients:		
Certification of limits	62–2	6 mo.
Analytical method of enforcement of limits.	62–3	1 yr.
Physical and chemical properties:		
Color	63–2	Do.
Physical state	63–3	Do.
Odor	63–4	Do.
Melting point	63–5	Do.
Boiling point	63–6	Do.
Density, bulk density, or specific gravity.	63–7	Do.
Solubility	63–8	Do.
Vapor pressure	63–9	Do.
Dissociation constant	63–10	Do.
Octanol/water partition coefficient.	63–11	Do.
pH	63–12	Do.
Stability	63–13	Do.
Oxidizing or reducing action	63–14	Do.
Flammability	63–15	Do.
Explodability	63–16	Do.
Storage stability	63–17	Do.
Viscosity	63–18	Do.
Miscibility	63–19	Do.
Corrosion characteristics	63–20	Do.
Dielectric breakdown voltage	63–21	Do.

Table II.—Residue Chemistry Data Requirements

Registrants and producers must submit a detailed description of each of the cropland and rangeland uses of 1080 appearing on their product labels. This information will be used by the Agency to determine if a particular use is a food or non-food use. The information needed for each use site includes:

1. How the bait is applied, e.g., bait box, broadcast ground application, aerial application.
2. Rate of application.
3. The number or freqency of applications.
4. The minimum interval between applications.

If EPA determines that a particualr use is a food use, applicants will be notified of which data requirements listed below will be applicable.

	Guideline reference	Time allowed to submit study results to EPA
Chemical identity	171–2	1 yr.
Directions for use	171–3	Do.
Nature of residue:		
Plants	171–4	3 yr.
Livestock	171–4	2 yr.
Residue analytical method and magnitude of the residue:		
Crop field trials	171–4	Do.
Processed food/feed	171–4	Do.
Meat-milk/poultry/eggs	171–4	Do.
Potable water	171–4	Do.
Reduction of residue	171–5	Do.
Proposed tolerance (includes $40,000 filing fee).	171–6	Do.
Reasonable grounds in support of petition.	171–7	Do.
Submittal of analytical reference standards.	171–13	1 yr.

Note.—Time allowed begins following determination of food use.

Table III.—Environmental Fate Data Requirements

	Guideline reference	Time allowed to submit study results to EPA
Degradation studies (lab):		
Hydrolysis	161–1	1 yr.
Photodegradation: On soil	161–3	Do.
Metabolism studies (lab):		
Aerobic soil	161–1	3 yr.
Anaerobic aquatic	162–3	Do.
Mobility studies:		
Leaching (absorption/desorption).	163–1	1 yr.

Table IV.—Toxicology Data Requirements

	Guideline reference	Time allowed to submit study results to EPA
Acute testing:		
Dermal LD50—Rabbit (preferred species).	81–2	1 yr.
Primary eye irritation—Rabbit	81–4	Do.
Primary dermal irritation—Rabbit.	81–5	Do.
Dermal sensitization—Guinea pig.	81–6	Do.

The following tests will be necessary if 1080 tolerances are required.

Subchronic Testing:

	Guideline reference	Time allowed to submit study results to EPA
90-day Feeding:		
Rodent	82–1	9 mo.
Non-Rodent (Dog)	82–1	15 mo.
21-day dermal—Rabbit	82–2	6 mo.
90-day dermal	82–3	9 mo.
90-day inhalation	82–4	Do.
90-day neurotoxicity—Hen, mammal.	82–5	Do.
Chronic testing:		
Chronic feeding: 2 spp. rodent and nonrodent (dog).	83–1	4 yr.
Oncogenicity study: 2 spp. rat and mouse (preferred).	83–2	Do.
Teratogenicity (2 species)—Rat, mouse, hamster, rabbit.	83–3	9 mo.
Reproduction (2-generation) rat or other species.	83–4	2½ yr.
Mutagenicity testing:		
Gene mutation (Ames test)	84–2	6 mo.
Chromosomal aberration	84–2	Do.
Other mechanisms of mutagenicity.	84–4	Do.
Special testing:		
General metabolism—Rat	85–1	1 yr.
Dermal penetration	85–2	6 mo.
Special requirement: Domestic animal safety.	88–1	(1)

[1] Variable depending on species and type of study.

Table V.—Wildlife and Aquatic Organism Data Requirements

	Guideline reference	Time allowed to submit study results to EPA
Avian and mammalian testing:		
Field efficacy data to establish the lowest effective bait concentration.		1 yr.
Avian and mammalian testing:		
Protocol for ferret survey study.		4 mo.
Ferret survey study		1 yr.
Ferret mortality study		Do.
Avian oral LD50	71–1	Do.
Avian dietary LC50	71–2	Do.
Avian reproduction	71–4	3 yr.
Avian and mammalian secondary hazard studies.		1 yr.
Simulated and actual field testing—Mammals and birds.[1]	71–5	1.5–3 yr.[2]
Aquatic organism testing:		
Freshwater fish LC50	72–1	1 yr.
Acute LC50 freshwater invertebrates.	72–2	Do.
Fish early life stage and aquatic invertebrate lifecycle.[1]		Do.
Fish—Lifecycle[1]	72–5	1.5 yr.
Aquatic organism accumulation.[1]	72–6	9 mo.
Simulated or actual field testing—Aquatic organisms.[1]	72–7	1.5–3 yr.[2]

[1] Reserved—depends on results of above tests.
[2] Depends upon number of years to be examined.
[3] Depends upon number of years.

Agency review of these data may require the development of additional safety data or benefits data. The specific data requirements that apply to basic producers and end users will be identified in the Notice of "Calling In" intrastate products for registration and in the "data call in notice" sent to Federal registrants under FIFRA sec. 3(c)(2)(B). Some of the data required for registration may have already been submitted to the Agency in conjunction with the registration of the livestock protection collar. If the basic producers do not agree to generate the required data, end users must agree to submit such data.

V. Statutory Review

1080 presents a serious hazard to non-target species, including endangered or threatened

determine the parameters of 1080 and strychnine doses needed to control ground

like the one currently being conducted on black-tailed prairie dogs can be done rapidly at reasonable costs.

2. *Rangeland Rodents—Prairie Dogs.* For this use the Agency's proposed modifications

canceled for use on these species. If strychnine and 1080 are canceled for use on

V. Statutory Review

Sections 25(d) and 6(b) of FIFRA require that, prior to issuing a notice of intent to cancel the registration of any pesticide product, EPA shall notify the Scientific Advisory Panel and the U.S. Department of Agriculture of the proposed action. The Panel and USDA have 30 days within which to file comments. The Agency transmitted its preliminary determinations to the Panel and USDA on July 8, 1983, and subsequently received comments from the Panel on July 2, 1984, and from USDA on November 8, 1983. As required by FIFRA, these comments, together with EPA's responses, are set forth below:

A. Comments of the Scientific Advisory Panel

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Review of Preliminary Notice of Determination Concluding the Rebuttable Presumption Against the Registration (RPAR) of Pesticide Products Containing Sodium Monofluoracetate (Compound 1080)

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) has completed its review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on pesticide products containing sodium monofluoroacetate (Compound 1080) under the provisions of section 6(b)(1) of FIFRA as amended. The review was initially conducted in an open meeting in Sacramento, California, on November 29–30, 1983, and subsequently in an open meeting held in Arlington, Virginia, on June 12, 1984.

All members of the SAP were present for the June 1984 meeting. Dr. David Davis, a specialist in wildlife biology, had participated in the Panel's November 1983 deliberations on an ad hoc basis.

Public notice of the June meeting was published in the Federal Register on Thursday, May 10, 1984.

Oral and written statements were received from a number of sources at the Sacramento meeting, but were not encouraged for the June 1984 meeting.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency and other parties, the Panel unanimously submits the following report:

Final Report of SAP Recommendations Compound 1080

The FIFRA Scientific Advisory Panel (SAP) refers to its December 20, 1983, report of findings on Compound 1080, and wishes to reiterate the views it expressed originally in its December 1983 report as follows:

The lapse of more than six months since the November 1983 meeting in Sacramento has not resulted in the submission of significant new information from any source which would cause the Panel to change the views it expressed in its December 1983 report. There is still very little definitive data to support the contention that Compound 1080 presents a serious hazard to non-target species, including endangered or threatened species. The Panel continues to find that the rationale for the actions proposed in Position Document ⅔, especially the reduction of the bait concentration to 0.02 percent and reduction of the rate of application to 4 lbs/acre is not adequately explained or justified. Furthermore, the Panel still believes that the specific actions proposed in PD ⅔ are not in general, well supported. It should be noted parenthetically than the above findings relate to the rodenticide uses only of Compound 1080.

For the Chairman:

Certified as an accurate report of Findings:

Philip H. Gray, Jr.,

Executive Secretary, FIFRA Scientific Advisory Panel.

Date: July 3, 1984.

B. Comments of the U.S. Department of Agriculture

Nov. 8, 1983.

Mr. Edwin L. Johnson,

Director, Office of Pesticide Programs (TS–766C), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Dear Mr. Johnson: This is the response of the Department pursuant to section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to your July 8 letter, forwarding to us the proposed Position Document 2/3 for sodium monofluoroacetate (Compound 1080). We appreciate the agreement by your staff that comments will be received from the Department at any time during the public comment period and published in the Federal Register with the proposed final action.

Our staff, in reviewing the PD 2/3, found frequent inconsistencies in interpretation of the available scientific evidence. A number of conclusions appear to be drawn from conjecture rather than from analysis of the scientific evidence. In additional, the PD 2/3 does not draw upon the previously submitted agriculture research and benefit/use documents.

We are attaching a few specific comments relating to Part V, Section D—Proposed Actions and Section E—Summary of Part V, Risk/Benefit Analysis and Regulatory Options, which exemplify our points about the inconsistencies.

We are currently cooperating with the USDI Fish and Wildlife Service, South Dakota State University, and Colorado State University, in a number of studies concerning the management of prairie dogs. These studies address many of the data gaps identified in the PD 2/3. For example, one study is directed at evaluating the efficacy of reduced dosages of 1080 to determine the optimum concentration on a grain bait needed to adequately control black-tailed prairie dogs. Acute toxicity and secondary hazard to nontarget animals will also be investigated. Results from this study should enhance the data on which to base a proposed reduction in standard bait concentration for control of black-tailed prairie dogs. Two other studies involving the University of California are designed to determine the parameters of 1080 and strychnine doses needed to control pocket gophers, the environmental fate of the baits, and the secondary poisoning hazard to raptors and coyotes. All of these studies are designed to provide critical information to the land manager on environmental impacts, efficacies, and costs so that rodents can be controlled safely and effectively. These studies are targeted to be completed in 1984. We have received a request from the Secretary of Agriculture for the State of South Dakota (attached) urging us to request EPA to refrain from making a final decision on the rodenticide uses of Compound 1080 as well as strychnine for at least one year to allow adequate review of the document EPA has proposed. We further request that the comments provided on June 6, 1983, by the California Department of Food and Agriculture, be given serious consideration.

In light of the above, we suggest that further action on 1080 be delayed pending receipt and review of the research results and State comments. At that time an evaluation of all information may be made and, if appropriate, the PD 2/3 rewritten and reissued for public comment.

Sincerely,

Orville G. Bently,

Assistant Secretary, Science and Education.

Technical Staff Response to EPA's Position Document 2/3 on Compound 1080

This document attempts to respond to the following pertinent sections of the EPA Position Document 2/3: Part V, Section D—Proposed Actions; and Section E—Summary of Part V, Risk/Benefit Analysis and Regulatory Options.

Section D

1. *Rangeland Rodents—Ground Squirrels.* The Agency proposes adoption of the modification of the terms and conditions of registration option. These are:

a. "Standardize bait concentrations at a maximum of 0.02 percent active ingredient (a.i.) and use at the following rates—hand application, 1 teaspoon/burrow; broadcast application, 4 pounds/acre; 5–10 pounds/acre for broadcast of green bait."

To standardize bait concentration for 1080 to less than the percentage which has proven effective over the past 30 to 40 years is not acceptable. Any reduction of a.i. not based on efficacy data, may significantly reduce efficacy which not only would render the bait ineffective for achieving control of the target animal, but would be cost prohibitive because any control achieved would be so reduced that it would require multiple applications at not necessarily optimum times, thus potentially affording more hazard to nontarget species. Regardless of the concentration, if the target animal does not ingest enough bait to cause death, the control is ineffective and future control may become more difficult. The recommendations contained in the PD 2/3 concerning risk and changes in dosage rates appear to be based on conjecture rather than analysis of scientific evidence. Thus, we recommend any standardization in bait concentration and dose be based on scientific studies. Studies like the one currently being conducted on black-tailed prairie dogs can be done rapidly at reasonable costs.

b. "Standardize hand baiting and post-baiting procedures—"

The requirement to "keep pets and domestic animals away from treated areas" is not practical on rangeland since domestic animals cannot be kept out of these areas without special fencing. A more feasible modification would be "Do not expose baits in a manner which presents a likely hazard to domestic animals." Also, the requirement to "Pick up and burn or bury deeply all visible carcasses of animals killed by compound 1080" is not practical under range conditions because the risk of plague or parasite infestations to those humans responsible for disposal. An additional problem on the range is that soil conditions may prohibit burying and fire hazards prohibit burning of carcasses. As noted in the PD, most of these carcasses would not be visible, and at the presently recommended dosages, no significant hazard has been proven to domestic livestock or pets.

c. Standardize aerial baiting and post-baiting procedures—"

The guidelines in the California Handbook may not be applicable in other states and such guidelines are subject to change. Also, the recommendation to pick up and dispose of carcasses is not feasible on portions of most rangeland as mentioned above.

d. "Reducing the concentration of a.i. in the bait—to reduce the risk to the California Condor" (page 92).

As stated in the very next sentence, "The risk analysis was based on a number of assumptions.—". These restrictions are based on conjecture, with no scientific facts. Since the Agency has already prohibited the use of strychnine for ground squirrels in the range of the California condor consistent with current California policy and since the risk analogy was based on assumptions, we recommend that the Agency take no action on 1080 except that consistent with California policy and regulations.

c. "The risk of secondary poisoning of the San Joaquin kit fox can be mitigated—"

The EPA, in regard to the kit fox, has chosen to ignore the data of Swick (1973) and Morrell (1975), page 14, but chooses to draw assumptions based on LD_{50} studies on another species, the coyote, page 34. The Agency admits they are unaware of any reports verifying that kit foxes (or even other fox species) have been killed by Compound 1080 used to control ground squirrels and other rodents. We recommend that the EPA concur with the current California policy/regulations for protection of the San Joaquin kit fox as written.

f., g. For the protection of the Morro Bay kangaroo rat and the Saltwater (sic) Harvest mouse, EPA proposed to prohibit application in the ranges of these species. Scientific justification for this proposal is not provided. PD 2/3 does not contain discussion of the potential impact such action could have. We suggest EPA define the impact such action would cause as well as the scientific justification for its proposed action. California State officials indicate that rodenticide use has never adversely affected these species.

2. *Rangeland Rodents—Prairie Dogs.* For this use the Agency's proposed modifications are:

a. "Standardize bait concentration at a maximum of 0.02 percent a.i. at a dosage of one teaspoon per burrow spread over a three square foot area."

The proposed reduction in bait concentration is not supported by scientific data. As stated on page 86, "The Agency has no direct data to specify an active ingredient concentration of less than 0.11 percent." Therefore, we recommend that the bait concentration of 1080 prairie dogs remain at 0.11 percent a.i. until the studies being conducted by the Fish and Wildlife Service are completed.

b. "Standardize baiting and post-baiting procedures in the same manner as proposed for Rangeland Rodents—Ground Squirrels."

The same objections that we provided to these modifications for ground squirrels apply here, except that in the case of prairie dogs, it appears that the primary hazard to nontarget species is to the black-footed ferret, even though few, if any, black-footed ferrets are known to exist in Colorado.

c. "Restrict use to governmental agencies or persons under the direct supervision of members of governmental agencies."

We recommend that certified pesticide applicators be allowed to use 1080 as registered. We do not agree that its use be restricted to just governmental agencies or persons under their supervision. There is no justification provided for this restriction and the impact would be to add significant additional costs with no evidence of increased efficacy or reduced risk. This is because no government agency has sufficient trained people to carry out a large program without the assistance of the private landowner.

d. "Allow the use of compound 1080 in a prairie dog town only if a pre-control survey, conducted in accordance with a protocol approved by EPA, in consultation with USFWS, does not indicate the presence or possible absence of a black-footed ferret."

We recommend that the Colorado Division of Wildlife or appropriate States be consulted and their historical records of black-footed ferret presence or absence be considered. We do not support the need for a costly and needless survey when there is no sign nor record of the species in the area for the last 20 to 30 years. We further recommend that informal consultation or even Section 7 consultation involving the States would suffice rather than such costly or restrictive modifications being put into place.

3. *Rangeland Rodents—Other Rodents.* "The Agency proposes the cancellation of the registrations and denials of applications for the control of chipmunks, cotton rats, deer mice, kangaroo rats, and meadow mice on rangelands."

Since EPA is also proposing cancellation of the registration for use of strychnine on these rodents and as stated on page 77 no risk to nontarget animals has been substantiated, we question the logic of such a proposal. Since less than one percent of the total usage of 1080 is for use on these species, logic dictates that potential nontarget impacts must be minimal. We recommend that 1080 not be canceled for use on these species. If strychnine and 1080 are canceled for use on these species we will be denied yet another effective tool for animal damage control when needed.

4. The proposed action for this is the same as for ground squirrels on rangeland; that is, modification of the terms and conditions of registration. Our same recommendations apply to these species on cropland as on rangeland. Furthermore, we suggest that EPA not propose any additional restrictions other than those recommended by the California Department of Agriculture and the California Fish and Game Commission or as is recommended in the California Vertebrate Control Handbook.

5. *Cropland Rodents—Prairie Dogs.* "Proposed action same as for prairie dogs on rangeland . . ."

We suggest the same action as we proposed for prairie dogs on rangeland.

6. *Cropland Rodents—Other Rodents.* "The Agency proposes cancellation of the registration and denial of applications for control of Norway rats, cotton rats, and wood rats on croplands."

If as stated on page 96, "The amount of Compound 1080 used to control these three rodents is not quantifiable . . .", only minor amounts are being used for these species on croplands with no significant risks delineated in this document. We question the removal of this tool when as stated on page 73, "Producers would gain a somewhat more effective poison where Compound 1080 would replace either strychnine or zinc phosphide." Also, as noted on page 28, "Except for an incident in which high mortality in geese was associated with the use of both Compound 1080 and zinc phosphide to control meadow voles (Hegdal et al., 1979), there appears to be no direct evidence regarding risk to nontarget species from the use of Compound 1080 to control prairie dogs, chipmunks, cotton rats, kangaroo rats, wood rats, deer mice, and meadow mice (voles)." When as noted on page 59, "In general, the Preliminary Benefit Analysis concluded that Compound 1080 is the most efficacious and cost-effective single-dose rodenticide available for control of field and commercial rodents." We recommend that use of this material be maintained since it is primarily being used only to control highly irruptive population of rodents that have proven difficult to control in some situations with alternative rodenticides.

7. *Rodents on Nonagricultural Sites.* "The EPA proposes cancellation of 1080 for control of chipmunks, cotton rats, kangaroo rats, wood rats, Norway rats and deer mice on nonagricultural sites, because these uses potentially endanger nontarget animals and safer alternatives are available."

We fail to understand how the potential risks are any greater for use on non agricultural sites than for use in and around buildings and ships. Such risks were not demonstrated via scientific evidence in this document. As it pertains to use of 1080 to control ground squirrels on ditch banks, levees, canals and earthen dams—the modifications of the terms and conditions suggested by the EPA are not acceptable.

Salmon and Lickliter (1962) have shown that standard bait concentrations cannot be controlled, because control materials and

D. EPA Response to USDA Comments

The Agency also agrees that the proposed requirement to bury or burn all records of black-footed ferret presence

Applications must be submitted to:

Salmon and Lickliter (1982) have shown that standard bait concentrations cannot be applied across species. Our concern about the baiting and post-baiting procedures are the same as those express under "Rangeland Rodents—Ground Squirrels." Regarding modification number 2, if this is in accord with the recommendations of the concerned California governmental agencies regarding this species, we concur.

Conclusion

As wildlife managers, we have a sincere and abiding interest in the stewardship of all wildlife species. This commitment to wise stewardship obviously includes the protection of threatened or endangered wildlife, as well as the perpetuation, protection, and use of other wildlife species. However, we are equaly concerned about the habitat and its management on which all wildlife species are produced. With these considerations in mind, we must examine the reasonable alternatives open to a landowner/manager if, when faced with a significant vertebrate pest problem, he has no efficacious, cost effective, and law-abiding means of controlling this species. In this case (which realistically exists already), there are several choices, e.g.:

(1) Take a chance and hope the amount of damage will not put them out of business and will not occur again.

(2) Use other alternatives if available and not too cost prohibitive and hope that some population reduction via use of these alternatives will not increase the species fecundity for the next year.

(3) Change crops, or means of livelihood, or in some cases, quit farming or ranching, move to town or sell the land to a real estate developer, or other equally undesirable choices.

(4) Attempt IPM measures, one of the most important of which is to use efficacious, available tools and techniques registered at the most effective times of the year, except the tools and techniques available or registered for some species have been so reduced that control may not be achieved.

(5) And finally, if all efficacious, cost-effective, and safe tools and techniques are eliminated and the farmer or rancher wants to stay in business, the last alternative left at his disposal is to "eliminate the remaining available habitat that harbours not only the pest species, but the desirable wildlife species also." This is happening daily across the Nation because tools to control problem species have been eliminated. If one wants examples, they are easy to find, e.g., (1) Roosting sites used by blackbirds in agricultural areas where habitat for wildlife species is already extremely limited because we have no tools to control these populations and the damage they cause; (2) ditchbanks or levees cleared of vegetation with herbicides or burning because no cost-effective means for controlling rodent damage or damage caused by other pest species is available; (3) brush, trees, and cover eliminated from rangelands to reduce pest species; (4) fencerows, shelterbelts and other habitat in agricultural areas cleared up or eliminated in many cases because of vertebrate pest problems that cannot otherwise be feasibly controlled, because control materials and tools have been cancelled from registration or otherwise eliminated. There are many other examples that can be used; however, the point is "We can, through ignorance, apathy, or overzealous elimination of effective tools without reasonable and proven risk reduce the famers, ranchers or other land managers effectiveness to control vertebrate pests, but we cannot regulate their ability to eliminate wildlife from their lands if this is the only alternative they are left with to control damaging vertebrate species."

We certainly concur that we should be concerned, monitor and restrict the use of materials and techniques which present a real and significant to: humans, domestic animals, and to any nontarget wildlife species.

However, we do not believe that we can afford to eliminate or regulate to an ineffective status, those needed, efficacious, cost effective control tools based on assumptions, presumptions, conjecture or noncomparative analogies and a lack of sufficient field data as has been presented in the Position Document 2/3 on Compound 1080. We suggest that no final decision to further restrict or limit the use of 1080 be rendered until and unless signficant risks are demonstrated. This may require serveral months or a few years to obtain; however, if we weigh the potential benefits against the potential risks as responded to herein and elsewhere, we believe it would prove to be wise stewardship in the long run.

C. EPA Response to SAP Comments

The Agency agrees with the Panel's comments that there are data gaps with 1080, but also believes there are enough data available to provide a basis for concern about potential risks to nontarget wildlife, especially endangered species. The Agency also notes that the responsibility for establishing the safety of a pesticide rests with the proponent of use and not EPA.

The Agency concludes that the risks from the use of 1080 can likely be reduced by the measures required by this Notice and that most 1080 field rodent control uses may continue at current rate levels while additonal data are generated.

The exceptions to use at current bait concentrations is in the range of the California condor and use in Colorado to control prairie dogs. As explained earlier in this notice, use in the range of the condor, if permitted, and for prairie dog control will be at a maximum bait concentration of .02 percent beginning in 1986. A recent biological opinion from the Office of Endangered Species (OES) on the use of the 1080 livestock protection collar requires the Agency to pursue further discussions with OES on the use of 1080 rodenticides in the range of the condor.

D. EPA Response to USDA Comments

Concerning the proposal to reduce and standardize bait concentrations and application rates, the Agency agrees that any reduction to levels that are ineffective could have adverse consequences. The Agency also agrees that the soundest way to determine the optimum bait concentration and application rate is with valid test data and agrees with USDA's comment that such tests could be performed quickly and at reasonable cost. However, no data have been submitted to EPA during the RPAR or in the last year since the issuance of PD 2/3. The Agency has modified its position to permit use at current bait concentrations and application rates until data for registration are submitted except in the range of the condor and to control prairie dogs.

A recent biological opinion submitted to the Agency by the Office of Endangered Species (OES) on the use of the 1080 livestock protection collar necessitates further evaluation of the use of 1080 baits in the range of the condor. OES stated that the use of the collar would jeopardize the continued existence of the condor. In 1985 EPA will permit the continued use of baits containing currently accepted concentrations. Beginning in 1986, however, the use of 1080 in the condor's range if permitted at all, will be at a maximum bait concentration of .02 percent until field efficacy data are generated. If the .02 percent level is not effective, the level will be changed when data establishing the lowest effective bait concentration are submitted as well as data showing that this level will not adversely impact on the condor.

The Agency anticipates that efficacy data will soon be available from an ongoing U.S. Forest Service study on prairie dog control that will indicate the lowest effective bait concentration for this use. However, the Agency is not prepared to permit the continued use of 1080 at the current bait concentration of .11 percent for prairie dog control beyond 1985, because of the potential risk to the endangered black-footed ferret.

Concerning the standardization of hand baiting and post-baiting procedures, the Agency agrees that the requirement to keep pets and domestic animals away is overly restrictive, and would, as a practical matter, prohibit use since there are very few places where free-roaming pets and livestock do not occasionally occur. The requirement has been revised.

The Agency also agrees that the proposed requirement to bury or burn all visible carcasses cannot be reasonably implemented in some situations. This requirement too has been revised.

The Agency agrees that the guidelines in the California Vertebrate Pest Control Handbook concerning aerial application may not be applicable in other states and has modified this requirement. Registrants of 1080 products whose labels permit aerial application will have to submit guidelines governing such application for EPA review when they apply to EPA for Federal registrations.

The Agency has withdrawn the proposed seasonal and geographic restrictions for the San Joaquin kit fox, Aleutian Canada goose, Morro Bay kangaroo rat, and the salt marsh harvest mouse in favor of the oversight provided by the California Department of Food and Agriculture, the California Department of Fish and Game, and the California Agricultural Commissioners Association as specified in the joint Policy statement regarding rare and endangered species signed by these agencies.

EPA will require that specific programs developed for endangered species by California officials be submitted to the Agency for review and approval prior to 1080 use in the range of the California condor and kit fox. Existing programs for the Canada goose, Morro Bay Kangaroo rat, and salt marsh harvest mouse are now acceptable. Any subsequent program changes must also be submitted to EPA for review. As part of EPA's review the Office of Endangered Species, USDI, will be consulted.

The Agency believes that because of the endangered status and rarity of the black-footed ferret, relying solely on training provided as part of the applicator certification requirements is not sufficient to provide an adequate level of protection. The Agency's intent in PD 2/3 was to allow use by farmers and ranchers under the direct supervision of governmental agency personnel. A final decision regarding the distribution and possession of 1080 for prairie dog control will depend on an assessment of the data being required to support Federal registration of 1080 for prairie dog control, as well as the Colorado program for the protection of the black-footed ferret. Clarification of these and other issues, such as the type of training for surveyors and what constitutes "direct supervision," etc. will be addressed following approval by EPA of a precontrol survey.

The Agency disagrees with USDA's suggestion to rely only on historical records of black-footed ferret presence or absence and that consultation with State wildlife agencies be relied upon in reaching decisions on whether 1080 treatment for prairie dogs should proceed. The range of the black-footed ferret currently is not known, and the ferret is very rarely spotted even in areas it is believed to inhabit. In fact, the one known viable population of black-footed ferrets, the group in the Meteetsee Mountains of Wyoming, was discovered outside what was then considered the range of the species. This argues for the continued use of a precontrol survey in areas of potential black-footed ferret habitat.

The Agency has modified its proposal to deny the use of 1080 to control several rodent species. The Agency maintains that these uses pose some risk to nontarget species, that they have very low benefits, and alternative pesticides are available. However, the Agency is concerned about the control of irruptive populations of rodents and the possibility of increased risk to avian species from use of alternative chemicals. Therefore, the Agency will allow the continued use of 1080 to control all of the rodent species proposed for denial in PD 2/3, provided that registrants agree to generate the data necessary for Federal registration and make certain use modifications and labeling changes.

VI. Procedural Matters

This unit of the notice describes the different procedures by which the Agency will implement the regulatory positions described in Unit IV for intrastate products (Unit VI.A) and products which are currently registered under FIFRA (Unit VI.B).

A. Intrastate Products

This unit of the notice explains the procedures that must be followed to file an application for Federal registration of an intrastate product. It also describes the obligation to provide data to support the application. Finally, it explains the consequences of a failure to file a proper application in a timely manner or to provide data required to support an application according to the schedule established by EPA.

1. *Procedure for filing for Federal registration of an intrastate product.* Producers of intrastate products containing 1080 will be permitted to continue to sell and distribute their products if they file a timely, proper application for Federal registration. This application must be filed within 30 days of receipt of this notice, or within 30 days of publication of this notice, whichever occurs later.

Applications must be submitted to:

By mail: William E. Miller, Product Manager 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW. Washington, DC 20460.

Office location and telephone number: Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–577–2600).

An application for registration of an intrastate product must comply with the requirements set forth in Unit IV of this notice. The applicant must also promise to satisfy the applicable data requirements in Unit IV.F of this notice, according to the schedule specified by the Agency.

In addition, intrastate products sold, used, distributed or released for shipment after December 31, 1985, must comply with the applicable requirements in Unit IV.A through E of this notice regarding bait concentration, labeling, and dyeing of baits. Compliance with these requirements does not eliminate the requirement to maintain any restrictions on the purchase, possession, supervision, use or disposal on the current label of the product.

2. *Consequence of filing or failing to file a proper, timely application and consequences of submitting or failing to submit required data in a timely manner.* Producers of intrastate products are required to submit applications for Federal registration when so instructed by EPA. 40 CFR 162.17. As long as a producer submits a timely application, provides the required data in a timely manner, and complies with the other requirements in 40 CFR 162.17, he may continue to produce, sell, and distribute, his product in intrastate commerce. If a producer fails to submit a timely application, the Agency may take appropriate enforcement action against the producer for selling and distributing an unregistered pesticide under FIFRA sec. 12(a)(1)(A).

If the application submitted for Federal registration of an intrastate product containing 1080 does not comply with the provisions of this notice, EPA may deny the application. Similarily, failure to submit required data on the schedule established by the Agency would also serve as a basis for denial of the products. If EPA finally denies an application for Federal registration of an intrastate product, sale or distribution of that product would be a violation of FIFRA and subject to possible enforcement actions.

Finally, if an applicant fails to

approved statements. In addition, the

sec. 6 (40 CFR Part 164). The hearing will

section 3(c)(2)(B) of FIFRA, the Agency

should contact Ms. Mary Jane Clark at

Office location and telephone number:

Finally, if an applicant fails to implement the changes specified in Unit IV.A through E of this notice for products sold, used, distributed, or released for shipment after December 31, 1985, the Agency may regard the product as misbranded and subject to enforcement action under FIFRA sec. 12(a)(1)(E).

B. Federally Registered Products

This unit of the notice applies only to the two federally registered pesticides containing 1080, the Oregon special local needs product used for ground squirrel control and the technical grade product used for commensal rodent control and for formulating other end-use products. This unit of the notice announces the Agency's intent to cancel the registrations of these products unless the change(s) required by Unit IV of the notice are made. Under section 6(b)(1) of FIFRA, registrants and certain other adversely affected parties may also request a hearing on the cancellation action that this notice initiates. Unless the registrant makes the required change or a hearing is properly requested with regard to a particular registration, the registration will be cancelled by operation of law.

This unit of the notice explains how such persons may request a hearing (and the consequences of requesting or failing to request a hearing in accordance with the procedures specified in this notice) and how a registrant may amend its registrations as required by this notice.

1. *Procedure for amending the terms and conditions of registration to avoid cancellation.* The registrants may avoid cancellation by filing an application for an amended registration which complies with the requirements detailed in Unit IV.A and Unit IV.E of this notice, as appropriate. Such an application must be filed within 30 days of receipt of this notice, or within 30 days from publication of this notice, whichever occurs later.

The Application must be submitted to Mr. William E. Miller at the address given under Unit VI.A.1.

If Klamath County, Oregon, does not request a hearing but applies to amend its registered product to conform to the requirements in Unit IV.A, it must comply with those requirements by December 31, 1985. Thus, after December 31, 1985, this product may be sold, used, distributed, or released for shipment only if it bears conforming labels and has properly dyed bait. The labels may be either a final printed label conforming to that approved by the Agency or a "supplemental label," *i.e.*, an adhesive sticker containing the approved statements. In addition, the registrant must use final labels on all quantities of the product released for shipment more than 6 months after EPA approves the application for amended registration.

If the registrant of the 1080 technical product does not request a hearing but applies to amend its registered product to conform to those requirements in Unit IV.E., it must comply with those requirements by December 31, 1985. Thus, by December 31, 1985, any technical product released for shipment by the registrant must bear conforming labels. The labels may be either a final printed label conforming to that approved by the Agency or a "supplemental label," *i.e.*, an adhesive sticker containing the approved statements. In addition, the registrant must use final labels on all quantities of the product released for shipment more than six months after EPA approves the application for amended registration.

2. *Procedure for requesting a hearing.* To contest the cancellation action set forth by this notice, federal registrants may request a hearing within 30 days of receipt of this notice, or within 30 days from publication of this notice, whichever occurs later. Any other person adversely affected by the action described in this notice, may request a hearing within 30 days of publication of this notice in the **Federal Register.**

A registrant or other adversely affected party who requests a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings under 40 CFR Part 164. These procedures require, among other things, that all requests must identify the specific pesticide product(s) by registration number(s) and the specific use(s) for which a hearing is requested, and that all requests must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing. Requests for a hearing should also be accompanied by objections that are specific for each use of each pesticide product for which a hearing is requested.

Requests for a hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Consequences of filing or failing to file a hearing request*—a. *Consequences of filing a timely and effective hearing request.* If a hearing on the action initiated by this notice is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice for hearings under FIFRA sec. 6 (40 CFR Part 164). The hearing will be limited to the specific uses and specific product registrations for which the hearing is requested.

In the event of a hearing, the specific use or uses of the specific registered product which is the subject of the hearing will not be cancelled except pursuant to an order of the Administrator at the conclusion of the hearing, or pursuant to an Accelerated Decision issued under 40, CFR 164.91.

b. *Consequences of failure to file in a timely and effective manner.* If a hearing concerning the registration of a specific pesticide product subject to this notice is not requested by the end of the applicable 30-day period, registration of that product will be cancelled, unless the registrant files a request for an amended label within the statutory period provided herein.

If the registration of a product is cancelled by operation of law, no quantity of a that product produced after the effective date of cancellation may be sold or distributed in commerce. Any quantity of a cancelled pesticide already in channels of trade on the effective date of this notice may be sold or distributed with its existing labeling for no more than 6 months after this notice becomes effective.

4. *Separation of functions.* The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives.

Accordingly, the following Agency offices, and the staffs thereof, are designated as the judicial staff to perform the judicial function of the Agency in any administrative hearing on this Notice of Intent to Cancel: the office of the Administrative Law Judge, the Office of the Judicial Officer, the Administrator, and the members of the staff in the immediate office of the Administrator. None of the persons designated as the judicial staff may have any *ex parte* communication with the trial staff or any other interested person not employed by EPA, on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

5. *Additional data.* As explained in Unit IV.F of this notice, EPA will require registrants to provide additional data to support continued registration of 1080 rodenticides. Using the authority in section 3(c)(2)(B) of FIFRA, the Agency will send a letter, separate from this notice, to the registrants identifying the required data, and directing them to provide the data by a specified date. Failure to comply with the requirements of the letter may be the basis for suspending the registration of the product.

Dated: July 24, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85–18136 Filed 7–30–85; 8:45 am]

BILLING CODE 6560–50–M

[AD–FRL–2872–7]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held on September 17 and 18, 1985, at the Sheraton University Center, Greenbriar Ballroom (2nd Floor), 2800 Middleton Avenue at Morreene Road and 15–501, Durham, North Carolina 27705. The commercial telephone number is (919) 383–8575.

The tentative agenda for the meeting is as follows:

Septembr 17 (Tuesday)—9:00 a.m.

SULFURIC ACID PLANTS, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act)

CALCINERS AND DRYERS IN MINERAL INDUSTRIES, New Source Performance Standards (Section 111 of the Clean Air Act)

ASPHALT CONCRETE PLANTS, Review of Standards of Performance for New Stationary Sources (Section 111 of the Clean Air Act)

RESIDENTIAL WOOD COMBUSTION UNITS, Status Report to the Committee on Regulatory Development

September 18 (Wednesday)—9:00 a.m.

CONTINUATION OF SEPTEMBER 17—AS REQUIRED

VOLATILE ORGANIC COMPOUND EMISSIONS FROM STATIONARY SOURCES, Control Techniques Document (Section 108 of the Clean Air Act)

POLYMERIC COATING OF SUPPORTING SUBSTRATES, New Source Performance Standards (Section 111 of the Clean Air Act)

All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Caroline 27711, by September 9, 1985. The commercial telphone number is (919) 541–5571, and the FTS number is 629–5571.

The dockets containing material relevant to sulfuric acid plants (A–85–20), calciners and dryers in mineral industries (A—82–39), asphalt concrete plants (A–83–26), residential wood combustion (A–84–49), and polymeric coating of supporting substrates (A–83–42) are located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby-Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: July 23, 1985.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 85–18107 Filed 7–30–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–100025; FRL–2873–7]

Transfer of Data to Forest Service, U.S. Department of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer selected information from health and safety studies submitted under sections 3 and 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to the Forest Service of the U.S. Department of Agriculture. The Forest Service has requested this information to help evaluate the toxicity and environmental fate of pesticides used in forestry and forest nurseries. Some of the information that will be made available to the Forest Service may have been claimed by the submitters to be confidential business information (CBI). This transfer is being made in accordance with 40 CFR 2.209(c) and this notice serves to notify affected persons.

DATE: This transfer of information will take place no sooner than August 12, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William C. Grosse, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703–557–2613)

SUPPLEMENTARY INFORMATION: The Forest Service is preparing risk assessments on the selected pesticides listed below that are used in forestry and forest nursery applications. The Forest Service is requesting information to help make its risk assessments as accurate as possible. The Forest Service has requested primarily EPA-developed reviews of submitted studies and does not foresee a need for access to the studies themselves. EPA reviews of submitted studies normally contain selected information from the studies, often including information claimed to be CBI—hence the requirement for this notice. The Forest Service intends to make its risk assessments available for unrestricted release to the public: therefore, the Forest Service will limit references to information supplied by EPA to non-CBI summaries and excerpts that fall safely within EPA criteria for avoidance of unauthorized release under FIFRA section 10(g). Information provided by EPA that falls within the definitions contained in FIFRA section 10(d)(1)(A) through (C) and (2) will not be included in the Forest Service's risk assessments. The subject chemicals are:

Acephate
Amitrole
Amilizine
Atrizine
Bacillus thuringiensis
Benomyl
Bifenox
Cacodylic acid
Captan
Carbaryl
Carbofuran
Chloropicrin
Chlorothalonil
Chlorpyrifos
2,4-D
Dacthal
Dalapon
Dazomet
Diazinon
2,6–dichloro–4–nitroaniline
1,3–dichloropropene
Diflubenzuron
Dimethoate
Diphenamid
2,4-DP
Fenvalerate
Ferbam
Fosamine ammonium
Glyphosate
Hexazinone
Lindane
Malathion
Maneb

Methyl bromide
Napropamide
Norflurazon
Oryzalin
Oxadiazon
Oxyfluorfen
Paraquat
Pendimethalin
Permethrin
Phosmet
Piperonyl butoxide
Prometon
Pronamide
Propachlor
Propanil
Propargite
Resmethrin
Simazine
Sulfometuron methyl
Terbacil
Thiram
Triclopyr
Trifluralin

Requests for data sets should be made as early as possible to allow for review of the data and for the Forest Service to contact the submitters of the data for permission to release the data to the Forest Service. Upon receipt of the data sets, the Forest Service will request permission from the submitters to release the data to the public. If the submitter objects to release, the Forest Service will not release the data to the public. Any information obtained by the Forest Service under FIFRA section 10(d) may be disclosed to an authorized contractor when such

SUPPLEMENTARY INFORMATION: The Task Force will prepare a final report on its

II. Amended Petition

1. The Commission, by the Chief Video Services Division, acting pursuant

Methyl bromide
Napropamide
Oxydemeton methyl
Oxyfluorfen
Picloram
Sethoxydim
Simazine
Strychnine
Tebuthiuron
Thiram
Triadimefon
Trichlorfon
Triclopyr
Zinc phosphide
Zineb

The Forest Service has requested this transfer in writing, including an explanation of the official purpose for requesting the information. EPA has obtained from the Forest Service a signed agreement not to disclose confidential business information to any third party. The Forest Service will maintain the information in conformance to EPA requirements for protecting CBI from unauthorized release and will return all documents to EPA when it is finished with them.

Under 40 CFR 2.209(c) information that is considered by the submitter to be CBI (described by FIFRA section 10(d) as trade secret or commercial or financial information) may be disclosed to another Federal Agency under specific conditions. The transfer of information described in this notice meets the necessary conditions.

Dated: July 25, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-18264 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

[PF-416; FRL-2871-2]

Certain Companies; Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-416] and the petition number, attention Product Manager (PM) named in each petition, at the following adress:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

In person, bring comments to:

Information Services Section (TS-757C), Environmental Protection Agency, Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m., to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in each petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460

In person: Contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone No.	Address
PM-17: Timothy A. Gardner.	Rm. 207, CM#2 (703-557-2690).	EPA, 1921 Jefferson Davis Hwy, Arlington, VA 22202.
PM-21: Henry Jacoby	Rm. 229, CM#2 (703-557-1900).	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and food additive petitions (FAP) relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filing

PP 5F3267. Rhone-Poulenc Inc., P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852. Proposes amending 40 CFR 180.415 by establishing a tolerance for residues of the fungicide aluminum tris (*O*-ethylphosphonate) in or on the commodity citrus at 0.1 part per million (ppm). (PM-21)

II. Amended Petition

FAP 5H5457. Roussel Uclaf, 163 Avenue Gambetta, 75020 Paris, France. EPA issued a notice, published in the **Federal Register** of April 1, 1985 (50 FR 12869), which announced that Roussel Uclaf had submitted FAP 5H5457 to the Agency proposing to amend 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide tralomethrin: (1*R*,3*S*)3[(1'*RS*)(1',2',2',2'-tetrabromoethyl)]-2,2-dimethylcyclopropneecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester and its major metabolites, deltamethrin: (1*R*,3*R*)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester and *trans*-deltamethrin: (1*S*,3*R*)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester in or on the commodity cottonseed oil (crude and refined) at 0.16 ppm.

Roussel Uclaf has amended the petition by increasing the tolerance level from 016 ppm to 0.2 ppm. (PM-17)

Authority: 21 U.S.C. 346 and 346a.

Dated: July 19, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-17880 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00210; FRL-2870-8]

SFIREG Applicator Certification and Training Task Force; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA State FIFRA Issues Research and Evaluation Group (SFIREG) Applicator Certification and Training Task Force will hold a public meeting. There will be a limited opportunity for public participation.

DATE: Tuesday, August 20, 1985, beginning at 8:30 a.m. and ending when the Task Force concludes its deliberations.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Crystal Mall Building #2, Room. 1112, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Betty L. Winter, Office of Pesticides and Toxic Substances (TS-788), Environmental Protection Agency, Room. E-639A, 401 M Street SW., Washington, D.C. 20460, (202-382-2916).

SUPPLEMENTARY INFORMATION: The Task Force will prepare a final report on its recommendations for improving the pesticide applicator certification and training programs and the Agency's implementation of the restricted use classification.

Dated: July 22, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substance.

[FR Doc. 85-17883 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100026; FRL-2871-8]

Transfer of Data to Lawrence Johnson and Associates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under sections 3, 6, and 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Lawrence Johnson and Associates under Contract No. 68-02-4219. This contractor shall perform services for the Office of Pesticide Programs (OPP) of EPA. Some of the information that will be made available to the contractor has been claimed to be confidential business information (CBI). Information will be made available to the contractor consistent with the requirements of 40 CFR 2.301(h). This action will enable the contractor to fulfill the obligations of the contract, and this notice serves to notify affected persons.

DATE: Lawrence Johnson and Associates will be given access to these documents no sooner than Monday, August 5, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William C. Grosse, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 222, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703-557-2613).

SUPPLEMENTARY INFORMATION: Under this contract, Lawrence Johnson and Associates will support the processing of claims for indemnification and requests for Federal disposal of EDB products, and may review chemical data, including CBI, submitted to EPA under FIFRA.

Section 10(e) of FIFRA provides that information that is considered by the submitter to be trade secret or commercial or financial as described by FIFRA section 10(d) may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such information as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA sections 3, 6, and 7.

Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning the contract with Lawrence Johnson and Associates.

FIFRA section 10(f) provides a criminal penalty for wrongful disclosure of confidential business information, whether such disclosure is made by an EPA employee or an EPA contractor.

The contract with Lawrence Johnson and Associates, specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and personnel of this contractor will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: July 23, 1985

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-18003 Filed 7-30-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Burwood Broadcasting of Memphis; Ltd, et al.; Hearing Designation Order

In re Applications of:

Jack Townes	MM Docket No. 85-205, file No. BPCT-841022KG.
Burwood Broadcasting of Memphis, Ltd.	File No. BPCT-841127KF.
Dwain J. Kyles and Gwendolyn H. Kyles, d/b/a Kyles Broadcasting, Ltd.	File No. BPCT-850108KF.
Wesley Godfrey and Harriet Pruitt, d/b/a Wolf River Broadcasting.	File No. BPCT-850108KG.
George S. Flinn, Jr. and Ernest W. Williamson, d/b/a Channel 50 of Memphis.	File No. BPCT-850108KH.
Dorothy B. Evans	File No. BPCT-850108KI.
EAM Broadcasting Co. of Memphis.	File No. BPCT-850108KZ.

For Construction Permit for New Television Station Memphis, Tennessee.

Adopted: June 20, 1985.

Released: July 17, 1985.

By the Chief, Video Services Division,

1. The Commission, by the Chief Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television station on Channel 50, Memphis, Tennessee.

2. No determination has been reached that the tower heights and locations proposed by Burwood Broadcasting Corp. (Burwood), Wolf River Broadcasting (Wolf), Dorothy B. Evans and EAM Broadcasting Co. of Memphis would not each constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. Kyles Broadcasting (Kyles) proposes to side mount its antenna on the existing tower of Station WKNO(TV), Memphis, Tennessee. Kyles's application shows the WKNO(TV) tower to be 1115 feet above ground level (AGL), but the Commission's records show the height of the tower to be 1114 feet AGL. Channel 50 of Memphis also proposes to side mount its antenna on the WKNO(TV) tower, but the coordinates specified in the application and the tower height AGL do not agree with the Commission's records. Both applicants will be required, therefore, within 20 days of the date of release of this Order, to amend their applications to correct these discrepancies.

4. Burwood's proposed tower is to be located 1.81 miles from the directional tower of AM station WLVS, Memphis, Tennessee. Because of the proximity of the proposed tower to WLVS, grant of a construction permit to Burwood will be conditioned to ensure that WLVS's radiation pattern is not adversely affected by the construction of the proposed station.

5. Wolf's proposed tower is to be located 1.99 miles from the directional tower of AM station WMC, Memphis, Tennessee, and 0.97 miles from the directional tower of AM station WXSS, Memphis, Tennessee. Because of the proximity of the proposed tower to WMC and WXSS, grant of a construction permit to Wolf will be conditioned to ensure that WMC's and WXSS' radiation patterns are not adversely affected by the construction of the proposed station.

6. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. While Channel 50 of Memphis proposes to use a directional antenna, its tabulation is not sufficient

VOL 50 ISS 147 JL 31 1985 UMI

because it has not supplied relative field values. Accordingly, the applicant will be required to submit an amendment with the appropriate information to the presiding Administrative Law Judge and a copy each to the Chief, Television Branch, and Chief, Hearing Branch, Mass Media Bureau, within 20 days after the release of this Order.

7. Section 73.3555(a)(3) of the Commission's Rules states that no license for a television station shall be granted to any party if such party directly or indirectly owns, operates, or controls one or more TV broadcast stations and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed TV stations, computed in accordance with § 73.684 of the Rules. Note 4 to this rule provides, *inter alia*, that applications for UHF television facilities ". . . . will be handled on a case-by-case basis in order to determine whether common ownership, operation or control of the stations in question would be in the public interest." George S. Flinn is a general partner with a 90% equity interest in Channel 50 of Memphis. He is also a minority shareholder of Station WMKW–TV, Memphis, Tennessee. However, Mr. Flinn states that he will divest himself of all interest in WMKW–TV, prior to the commencement of operation on Channel 50, Memphis, Tennessee, if Channel 50 of Memphis is the successful applicant. Accordingly, any grant of a construction permit to Channel 50 Memphis will be conditioned upon Mr. Flinn's divestiture of all interest in Station WMKW–TV.

8. In Section III, Items 1 and 2, FCC Form 301, Dorothy B. Evans indicated that at some future date she "will certify to financial qualifications after completing the necessary documentation." Ms. Evans has not updated her financial qualifications since the initial filing of her application. Accordingly, the applicant will be given 20 days from the release date of this Order to review her financial proposal in light of the Commission's requirements, to make any changes that may be necessary, and if appropriate, to submit a certification to the presiding Administrative Law Judge in the manner called for in Section III, FCC Form 301, as to her financial qualifications. If the applicant cannot make the certification, she shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82–378 (released July 15, 1982).

9. Section II, Item 5(b), FCC Form 301, asks whether the applicant or any party to the application, owns or has any interest in a daily newspaper or cable television system. An affirmative response requires an explanation in the form of an exhibit. Ms. Evans responded affirmatively, but she did not submit the required explanation. Ms. Evans will be required to submit the exhibit in the form of an amendment to the presiding Administrative Law Judge, within 20 days after the release of this Order.

10. Section II, Item 9, FCC Form 301, inquires whether there are any documents, instruments, contracts or understandings relating to ownership or future ownership rights including, but not limited to, non-voting stock interest, beneficial stock ownership interests, options, warrants, or debentures. A positive response to this question must be accompanied by particulars as exhibits. EAM has answered affirmatively to Item 9; however, it did not submit the required exhibits. EAM will be required to submit its exhibits in the form of an amendment to the presiding Administrative Law Judge, within 20 days after the release of this Order.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues.

1. To determine with respect to Burwood Broadcasting Corp., Wolf River Broadcasting, Dorothy B. Evans and EAM Broadcasting Co., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, that, Kyles Broadcasting, Ltd. shall submit an amendment correcting the discrepancies in its tower height to the presiding Administrative Law Judge within 20 days after the order is released.

14. It is further ordered, that, in the event of a grant of the application of Burwood Broadcasting of Memphis Ltd., the construction permit shall be conditioned as follow:

Prior to construction of the tower authorized herein, permittee shall notify AM Station WLVS, Memphis, Tennessee, so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

15. It is further ordered, that, in the event of a grant of the application of Wolf River Broadcasting, the construction permit shall be conditioned as follows:

Prior to constuction of the tower authorized herein, permittee shall notify AM Stations WXSS and WMC, Memphis, Tennessee, so that, if necessary, the AM stations may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation patterns of the AM stations. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM arrays have not been adversely affected and, prior to or simultaneous with the filing of the applications for license to cover this permit, the results submitted to the Commission.

16. It is further ordered, that, Channel 50 of Memphis shall submit an amendment correcting the discrepancies in the coordinates and height of its tower to the presiding Administrative Law Judge within 20 days after this Order is released.

17. It if futher ordered, that, Channel 50 of Memphis shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules to the presiding Administrative Law Judge and a copy each to the Cheif, Television Branch, and Chief, Hearing Branch, Mass Media Bureau, within 20 days after the release of this Order.

18. It is further ordered, that in the event of a grant of Channel 50 of Memphis' application, it will be conditioned as follows:

Prior to the commencement of operation of the television station authorized herein, permittee shall certify to the Commission that George Flinn has severed all interest in and connection with the licensee of Station WMKW–TV, Memphis, Tennessee.

19. It is further ordered, that, Dorothy B. Evans shall, within 20 days after the release of this Order, submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

20. It if further ordered, that Dorothy B. Evans shall submit her explanation for the affirmative response to Section II, Item 5(b), FCC Form 301, to the presiding Administrative Law Judge within 20 days after the release of this Order.

21. It is further ordered, that EAM Broadcasting CO. of Memphis shall submit its explanation for its affirmative answer to Section II, Item 9, FCC Form 301, to the presiding Administrative Law Judge within 20 days after the lease of the Order.

22. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

23. It is further Ordered, that to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

24. It is further Orderd, that the applicants herein shall, pursuant to section 311(a)(2) of the Commissions Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85–18085 Filed 7–30–85; 8:45 am]

BILLING CODE 6712–01–M

Castle Rock Communications, Ltd. et al.; Hearing Designation Order

In re Applications:

Castle Rock Communications, Ltd.	MM Docket No. 85–206, File No. BPCT–841221LA.
Virginia Cordova Kelso and Daniel Cordova, a General Partnership.	File No. BPCT–850214KF.
Non-Profit Television Concepts.	File No. BPCT–850214KH.
Dorothy O. Schulze	File No. BPCT–850215KG.
Christal Anne Phillips	File No. BPCT–850215KH.
Castle Rock TV Associates	File No. BPCT–850215KK.
R & D Partners	File No. BPCT–850215LS.

For Construction Permit Castle Rock, Colorado;

Adopted: June 21, 1985.
Released: July 17, 1985.

By the Chief, Video Services Division:

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Castle Rock Communications, Ltd. (Communications), Virginia Cordova Kelso and Daniel Cordova, a General Partnership (Kelso), Non-Profit Television Concepts (Non-Profit), Dorothy O. Schulze (Schulze), Christal Anne Phillips (Phillips), Castle Rock TV Associates (Associates) and R & D Partnerships for authority to construct a new commercial television station on Channel 53, Castle Rock, Colorado.

2. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Phillips has made the required certification but noted that, although she believes that she is financially qualified, she does not yet possess the required documents. Accordingly, the applicant will be given 20 days from the date of release of this Order to review her financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in Section III, Form 301, as to her financial qualifications. If the Applicant cannot make the required certification, she shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

3. Section 73.2080(c) of the Commission's Rules requires applicants employing at least five persons full-time to file with the Commission programs designed to provide equal employment opportunities. Phillips indicates that she will employ five or more full-time employees. However, Phillips has not submitted an EEO program. Accordingly, Phillips will be required to submit a copy of her EEO program to the presiding Administrative Law Judge, within 20 days after this Order is released.

4. Section V-C, item 10, FCC Form 301, requires an applicant to submit figures for the area and population within its predicted Grade B contour. Schulze has not submitted these figures. In addition, Associates has not submitted figures for the population. Consequently, we are unable to determine whether there would be a significant difference in the size of the area and population that each applicant proposes to serve. Schulze and Associate will each be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

5. No determination has been reached that the tower height and location proposed by any of the applicants would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

6. The vertical tower sketch submitted by Associates is patently incorrect (all three dimensions are labeled incorrectly) and does not agree with the figures appearing in Section V-C, item 5, FCC Form 301. Associates will be required to submit a new vertical tower sketch showing the correct heights to the Administrative Law Judge within 20 days after this Order is released.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, that pursuant to section 309(e) of the

Communications Act of 1934, as amended, the applications are

of the Commission's Rules give notice of the hearing within the time and in the

For Construciton Permit Orlando, Florida.
Adopted: June 28, 1985.

Broadcasting) did not specify the population within its Grade B contour

information as to them would have to be

interest in and connection with the

Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each of the applicants would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

10. It is further ordered, that within 20 days of the release of this Order, Christal Anne Phillips shall submit a financial certification in the form required by Section III, FCC F orm 301, or advise the Administrative Law Judge that the required certification cannot be made.

11. It is further order, that Christal Anne Phillips shall file her Equal Employment Opportunity Program with the presiding Administrative Law Judge within 20 days after this Order is released.

12. It is further ordered, that Dorothy O. Schulze and Castle Rock TV Associates shall each submit an amendment providing the information required by Section V-C, item 10, FCC Form 301 to the presiding Administrative Law Judge within 20 days after this order is released.

13. It is further ordered, that Castle Rock TV Associates shall submit a new vertical tower sketch showing the correct height as required by Section V-C, items 5, FCC Form 301, to the presiding Administrative Law Judge within 20 days after this Order is released.

14. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

15. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-18064 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

Elim Broadcasting, Inc., et al.; Hearing Designation Order

In the re Applications of:

Elim Broadcasting, Inc.	MM Docket No. 85-216, File No. BPCT-850130KJ.
Emily Laforett	File No. BPCT-850214KE.
Marlin Broadcasting of Central Florida, Inc.	File No. BPCT-850319KF.
Mary L. Demetree, Barbara C. Roper, et. al., d/b/a Orlando Television Partners.	File No. BPCT-850320KK.
Sanford Seminole Television Network.	File No. BPCT-850320KL.
Second Millenium Group	File No. BPCT-850320KN.
Spanish American Broadcasting, Inc.	File No. BPCT-850320KO.
Reece Associates Limited	File No. BPCT-850320KR.
Orlando Telecasting Company Inc.[1].	File No. BPCT-850320KS.
RCTV, Inc	File No. BPCT-850320KT.
Magic City Broadcasting, Inc.	File No. BPCT-85020KU.
Marylynn J. Craig	File No. BPCT-850320KV.
Orlando 27, Inc	File No. BPCT-850320KX.
Suburban Broadcasting, Ltd.	File No. BPCT-850320KY.
U.S. Communications, Inc.[2]	File No. BPCT-850320KZ.
Highland Communications, Ltd.	File No. BPCT-850320LA.
Matthews D. Wiggins	File No. BPCT-850320LB.
Central Florida Television, Ltd..	File No. BPCT-850320LD.
Westlake Television, Ltd	File No. BPCT-850320LH.
Orlando TV Partners, Inc.	File No. BPCT-850320LI.
Florida Television Company.	File No. BPCT-850320LM.

[1] The deadline for filing amendments to the above-captioned applications was May 6, 1985 "B" cut-off date). On June 10, 1985, Orlando Telecasting Company, Inc. filed an amendment to its application pursuant to Section 1.65 of the Commission's Rules. Accordingly, the amendment will be accepted for Section 1.65 purposes only.

[2] U.S. Comunications, Inc. filed an amendment to its application on May 6, 1985, (the "B" cut-off date) with a facsimile signature. An original signature page was submitted on May 22, 1985. In view of the fact that all parties were put on timely notice concerning the contents of the amendment, none were prejudiced. The amendment was timely filed; only the original signature was missing. These circumstances are governed by a long-standing Commission policy which dictates that the amendment and signature be accepted *nunc pro tunc. Bocanegra/Gerold Broadcasting Group*, Mimeo No. 1470, released December 22, 1982; *Communications Gaithersburg, Inc.*, 60 FCC 2d 537 (1976); *B.J. Hart*, 44 FCC 2068 (1960). Accordingly, the signature page will be accepted *nunc pro tunc.*

For Construction Permit Orlando, Florida.

Adopted: June 28, 1985.

Released: July 19, 1985.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 27, Orlando, Florida; a petition to dismiss the application of Magic City Broadcasting, Inc. filed by Orlando Television Partners, a competing applicant;[1] and related pleadings.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by each applicant indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been reached that the tower height and location proposed by each applicant would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Section V-C, item 10(e), FCC Form 301, requires the applicant to specify the area and population within its proposed Grade B contour. Marlin Broadcasting of Central Florida, Inc. (Marlin

[1] On May 6, 1985, (the "B" cut-off date) Fausto Sanchez filed an amendment to his application to change the applicant from a sole proprietorship to a corporation and to change the name of the applicant to Magic City Broadcasting, Inc. On June 5, 1985, Orlando Television Partners filed a petition to dismiss the Sanchez application on the grounds that the amendment was a major change under the provisions of § 73.3572(b) of the Commission's Rules. In changing from a sole proprietorship to a corporation, Sanchez retained 50% of the corporation's voting stock and three new parties held the remaining 50%. Under normal circumstances, this would be a major change because Sanchez would have lost positive control. The corporation's by-laws, however, provide that in the case of a tie vote of the stockholders, " . . . the single holder of 50% of the voting shares shall be entitled to cast the deciding vote." Under this provision, it is clear that Sanchez retained positive control and the amendment was, therefore, a minor amendment. Accordingly, the petition to dismiss will be denied. Additionally, on May 24, and June 12, 1985, Magic City submitted amendments to its application, which were not accompanied by petitions for leave to amend. We have reviewed the amendments and determined that good cause exist for accepting them; however, no comparative advantage will accrue to Magic City because of our action herein.

Broadcasting) did not specify the population within its Grade B contour. Accordingly, Marlin Broadcasting will be required to submit an amendment which states the population within its Grade B contour, to the presiding Administrative Law Judge within 20 days after this Order is released.

5. Reece Associates Limited, RCTV, Inc., U.S. Communications, Inc. and Florida Television Company each failed to certify its financial qualifications, but each applicant has indicated that certification would be forthcoming. Each of these applicants will be given 20 days from the release date of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in Section III, FCC Form 301, as to its financial qualifications. If an applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378 (released July 15, 1982).

6. Marilynn J. Craig indicates that the applicant is a limited partnership. The general partner has been identified; however, the applicant indicates that the limited partners are to be determined. Section 73.3514(a) of the Commission's Rules requires an applicant to provide all information called for by FCC forms, unless the information is inapplicable. However, in *Attribution of Ownership Interests*, 97 FCC 2d 997 (1984), *recon. granted in part*, FCC 85-252, released June 24, 1985, the Commission stated that henceforth limited partnership interests were not attributable for the purposes of the multiple ownership rules, if the applicant certifies that the limited partners will "not be involved in any material respect in the management or operation of" the proposed station, 97 FCC 2d at 1023. The Commission defined the degree of noninvolvement in paragraphs 48-50 of the June 24 decision on reconsideration. Further, the Commission directed that Form 301, among others, abe amended to conform to the new attribution standards, 97 FCC 2d at 1034. Although changes in the form have not yet been made, there is now no need to provide information as to the limited partners if Ms. Craig can submit the necessary certification and showing that limited partnership interests will be sold only to individuals or entities that are sufficiently insulated. If the certification or showing is not appropriate, of course, the necessary information as to them would have to be filed as an amendment. Further, the Commission retained the cross-interest policy as to other attributable media interests in the same area. *Id.* at 1030. Accordingly, Ms. Craig, upon determining the limited partners, will be required either to state that the limited partners have or will have no other media interests subject to the cross-interest policy or identify the limited partners with such interests, identify the other local media and state the nature or extent of the ownership interest.

7. Jeanette S. Austin, general partner of Orlando Television Partners, is currently employed as news director of Station WMFE-FM, Orlando Florida. Rebecca Randall, secretary, director and owner of 20 percent of the voting stock of Orlando 27, Inc., is presently employed as news director, news anchor and co-host of "Newsline" a Station WDBO(AM), Orlando, Florida. The present employment of each of these individuals may be inconsistent with the Commission's cross-interest policy. Accordingly, an issue will be specified to determine if the proposals of Orlando Television Partners and Orlando 27, Inc. are each consistent with the Commission's cross-interests policy and, if not, whether grant of either application would be consistent with the public interest.

8. Barbara C. Roper, general partner and 20 percent owner of Orlando Television Partners, is presently director and .99 percent stockholder of Comco, Inc., licensee of Station WKIQ(AM), Inverness, Florida. Her husband, Bert Roper, is also a director of Comco, Inc. and is the beneficiary of a trust which holds a 3.96 percent stockholder interest in Comco, Inc.[2] Section 73.3555 of the Commission's Rules states that no license for a Television broadcast station shall be granted to any party if such party directly or indirectly owns, operates or controls an AM broadcast station and the grant of such license will result in the Grade A contour of the television station encompassing the entire community of license of the AM station. Inverness, Florida, is within the applicant's proposed Grade A contour. However, Orlando Television Partners has represented to the Commission that, if it is the successful applicant for Channel 27, Ms. Roper and her husband will divest themselves of all interest in Comco, Inc. Accordingly, any grant of a construction permit to Orlando Television Partners will be conditioned upon the Ropers' divestiture of all interest in and connection with the licensee of Station WKIQ.

[2] The media interests of spouses are presumed attributable to one another.

9. Section 73.3555 of the Commission's Rules states that no license for a broadcast station shall be granted to any party if such party directly or indirectly owns, operates or controls one or more broadcast stations in the same service and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed stations. Robert A. Bednarek, a 40 percent non-voting shareholder in Orlando TV Partners, Inc., is a 50 percent non-voting shareholder in Gainesville Television Group, Inc., applicant for a new commercial UHF television station in Gainesville, Florida. The Grade B contours of the proposed stations overlap. Although Mr. Bednarek is a non-voting shareholder in both applicants, we do not have sufficient information before us to determine whether Mr. Bednarek is insulated and will not be involved in the management and operation of the proposed stations. Accordingly, Mr. Bednarek's interests in both Orlando TV Partners, Inc. and Gainesville Television Group, Inc., may violate Section 73.3555 of the Rules. However, Orlando TV Partners, Inc. has represented that, in the event that Gainesville Television Group, Inc. is the the successful applicant in the Gainesville proceeding, Mr. Bednarek will divest himself of all interest in, and connection with Orland TV Partners, Inc. Accordingly, any grant of a construction permit to Orlando TV Partners, Inc. will be conditioned upon such divestiture.

10. Section II, Item 10, FCC Form 301, inquires whether documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310(d)) will be obtained. A negative response to this question must be accompanied by an explanation. Orlando TV Partners, Inc. answered negatively to item 10; however, it did not submit the required explanation. Orlando TV Partners, Inc. will be required to submit its response in the form of an amendment, to the presiding Administrative Law Judge, within 20 days after this Order is released.

Except as indicated by the issues specified below, the applicants are

qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is specifies the population within its proposed Grade B contour, to the presiding Administrative Law Judge

section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice

Commission's Rules and the Jerry J. Collins statement does not contain a

any other station. We will deny the petition to dismiss

place to be specified in a subsequent Order, upon the following issues:

qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is ordered, that purusant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to each of the applicants, whether the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determined, with respect to Orlando Television Partners, whether its application is consistent with the Commission's cross-interests policy and, if not, whether grant of the application would be consistent with the public interest.

3. To determine, with respect to Orlando 27, Inc., whether its application is consistent with the Commission's cross-interests policy and, if not, whether grant of the application would be consistent with the public interest.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, that the petition to dismiss the application of Magic City Broadcasting, Inc., filed by Orlando Television Partners, is denied.

14. It is further ordered, that the amendments filed by Magic City Broadcasting, Inc. on May 24 and June 12, 1985, are accepted for § 1.65 purposes only.

15. It is further ordered, that, the amendment filed by Orlando Telecasting Company, Inc., on June 10, 1985, is accepted for § 1.65 purposes only.

16. It is further ordered, that the Federal Aviation Administration IS MADE A PARTY RESPONDENT with respect to issue 1.

17. It is further ordered, that the signature page filed by U.S. Communications, Inc., on May 22, 1985, is accepted *nunc pro tunc.*

18. It is further ordered, that Marlin Broadcasting of Central Florida, Inc. shall submit an amendment which specifies the population within its proposed Grade B contour, to the presiding Administrative Law Judge, within 20 days after this Order is released.

19. It is further ordered, that Reece Associates Limited, RCTV, Inc., U.S. Communications, and Florida Television Company shall each submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate, within 20 days after this Order is released.

20. It is further ordered, that Marilynn J. Craig shall submit the certification, statement and/or information required by paragraph 6, *supra*, to the presiding Administratie Law Judge, within 20 days after this Order is released.

21. It is further ordered, that, in the event of a grant of the application of Orlando Television Partners, the construction permit shall be conditioned as follows:

Prior to the commencement of the operation of the television station authorized herein, permittee must certify to the Commission that Barbara and Best Roper have divested themselves of all interest in and connection with the licensee of Station WKIQ (AM), Inverness, Florida.

22. It is further orderd, that, in the event that Orlando TV Partners, Inc. is the successful applicant for Channel 27, and Gainesville Television Group, Inc. is granted a construction permit for Gainesville, Florida, the construction permit in this proceeding will be conditioned as follows:

Prior to the commence of the operation of the television station authorized herein, permittee must certify to the Commission that Robert Bednarek has divested himself of all interest in, and connection with the permittee.

23. It is further ordered, that Orlando TV Partners, Inc. shall submit its explanation for its negative answer to Section II, item 10, FCC Form 301, to the presiding Administrative Law Judge within 20 days after this Order is released.

24. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

25. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-18045 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

Suntime Radio, Inc., et al.; Hearing Designation Order

In re Applicants of:

Suntime Radio Inc., WREM, Pine Castle-Sky Lake, Florida.	MM Docket No. 85-195, file No. BP-830613AD.
Has: 1190 kHz, 1 kW, D	
Req: 1190 kHz, 5 kW, D	
Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr. d/b/a Treasure Coast Broadcasting, Port Saint Lucie, Florida.	File No. BP-831031AM
Req: 1190 kHz, 2.5 kW, DA-D	
Richard H. Rowland, Silver Springs, Florida.	File No. BP-831031AN
Req: 1190 kHz, 1 kW, DA-D	
Jerry J. Collins, Royal Palm Beach, Florida.	File No. BP-831031AS
Req: 1190 kHz, 1 kW, DA-N, U	

For Construction Permit

Adopted: June 10, 1985.

Released: July 17, 1985.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, had under consideration: (a) The above-captioned applications for new AM broadcast stations and for changes in the facilities of an existing AM broadcast station, which are lined to each other either directly or indirectly through the presence of intervening interlocking proposals; [1] (b) a petition to dismiss the Suntime Radio, Inc., proposal filed by Nationwide Communications, Inc.; and (c) relevant pleadings.[2]

2. *Environmental Matters:* The application of Treasure Coast Broadcasting and Richard H. Rowland do not contain environmental narrative statements as required by § 1.1311 of the Commission's Rules and the Jerry J. Collins statement does not contain a complete description of the site in that information concerning access road, power lines and surrounding land use was omitted. Accordingly these applicants will be required to comply with the rules and file the required environmental narrative statement information with the presiding Administrative Law Judge within thirty days of the release of this Order. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of § 1.1313(b). Section 1.1317 of the Rules will be waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 F.C.C. 2d 229 (1979), *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 F.C.C. 2d 337 (198).

3. *Site Photographs:* The applications of Treasure Coast Broadcasting and Richard H. Rowland do not contain photograhs of the proposed antenna sites as required by Section V-A, question 8 of the application form (FCC Form 301). These applicants must, therefore, amend their applications and file the required site photographs with the presiding Administrative Law Judge within thirty days of the release of this Order.

4. *Suntime Radio, Inc.:* Nationwide Communications, Inc., (Nationwide) licensee of AM broadcast Station WCOT, Orlando, Florida, filed a petition to dismiss [3] alleging that the proposal will cause prohibited overlap to third adjacent channel Station WMJK, Kissimmee, Florida. Suntime has conceded petitioner's allegations and has amended its application; it now proposes 5 kW power instead of the originally proposed 25 kW. Petitioner argues, however, that § 73.37(a) of the Rules requires that the application be dismissed because, according to petitioner, it would be improper to "retain the concededly defective application on file since it did not meet the standards for acceptance."

5. It has long been Commission practice to permit minor ameliorative amendments to substantially complete applications. See *James River Broadcasting Corp.*, v. *FCC*, 399 F. 2d 581 (D.C. Cir. 1968). The Suntime application was substantially complete when filed and the amended proposal will not cause prohibited overlap with any other station. We will deny the petition to dismiss.

6. Section 73.3580 of the Commission's Rules requires applicants to give local public notice of the filing of their applications. Suntime has not answered question 1 of section VII of the application form (FCC Form 301) and we cannot determine if the applicant has complied or will comply with the rule. Suntime must therefore file the required certification of its compliance or its intent to comply with the rule with the presiding Administrative Law Judge within thirty days of the release of this Order.

7. *Treasure Coast Broadcasting:* The Commission has not yet received Federal Aviation Administration clearance for the antenna towers proposed by this applicant. Accordingly, an appropriate issue will be specified.

8. *Jerry J. Collins:* This applicant's proposed nighttime operation will raise the RSS limits to Station HIAG, Santiago, Dominican Republic, in contravention of the North American Regional Broadcasting Agreement (NARBA). Jerry J. Collins must therefore amend its application to protect Station HIAG's 2.5 mV/m nighttime interference-free contour if the Dominican Republic has not agreed to apply the terms of the Region 2 Agreement in lieu of NARBA.

9. Except as indicated by the issues specified below the applicants are qualified to construct and operate as proposed.[4] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. As the proposals are for different communities, we will specify issues to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which proposal (or combination of proposals) would best provide a fair, efficient and equitable distribution of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.

10. Accordingly, it is Ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for Hearing in a consolidated Proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the heights and locations of the antenna towers proposed by Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting.

2. If a final environmental impact statement is issued with respect to the proposal of Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting, Richard H. Rowland or Jerry J. Collins which concludes that the proposed facility is likely to have an adverse effect on the quality of the environment, to determine:

a. Whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301-1319 of the Commission's Rules; and,

b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed

3. To determine: (a) The areas and populations which would gain or lose primary aural service from the proposal of Suntime Radio, Inc., and the availability of other primary service to such areas and populations, (b) the areas and populations which would receive primary aural service from the remaining proposals and the availability of other primary service to such areas and populations, and (c) in light thereof and pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine in light of the evidence adduced pursuant to the foregoing issues, which the applications, if any, should be granted.

11. It is further Ordered, that the Federal Aviation Administration is made a party to these proceedings.

12. It is further Ordered, that the petition to dismiss filed by Nationwide Communications, Inc., is denied.

13. It is further Ordered, that § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within thirty (30) days of the release of this Order Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting.

[1] Groups of this nature commonly termed "daisy chains".

[2] These include requests for extensions of time in which to respond to various pleadings filed by Suntime Radio, Inc. The requests are unopposed and are hereby granted.

[3] Nationwide Communications, Inc., has standing as an economic competitor. *Sanders Brothers Radio Station* v. *FCC*, 309 U.S. 570 (1940).

[4] The facilities specified by Jerry J. Collins herein are subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janerio 1981, and to bilateral and other multilateral agreements between the United States and other countries.

Richard H. Rowland and Jerry J. Collins shall submit environmental narrative statements as required by § 1.1311 of the Commission's Rules and file the required site photographs with the presiding Administrative Law Judge, within 30 days after this Order is released.

26. It is further ordered, that the petition to dismiss filed by Nationwide Communications, Inc., is denied.

27. It is further ordered, that § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within thirty (30) days of the release of this Order Suntime Radio, Inc., Richard H. Rowland and Jerry J. Collins shall submit environmental narrative statements as required by § 1.1311 of the Commission's Rules and file the required site photographs with the presiding Administrative Law Judge, within 30 days after this Order is released.

28. It is further ordered, that the Secretary shall cause to be published in the Federal Register a summary of this Order.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-18046 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

Suntime Radio, Inc., et al.; Hearing Designation Order

In re Applicants of:

[MM Docket No. 85-207]

Suntime Radio, Inc., WREM, Pine Castle-Sky Lake, Florida.	File No. BP-830613AD.
Has: 1190 kHz, 1 kW, D	
Req: 1190 kHz, 5 kW, D	
Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr. d/b/a Treasure Coast Broadcasting, Port Saint Lucie, Florida.	File No. BP-831031AM
Req: 1190 kHz, 2.5 kW, DA-D	
Richard H. Rowland, Silver Springs, Florida.	File No. BP-831031AN
Req: 1190 kHz, 1 kW, DA-D	
Jerry J. Collins, Royal Palm Beach, Florida.	File No. BP-831031AS
Req: 1190 kHz, 1 kW, DA-N, U	

For Construction Permit

Adopted: June 10, 1985.

Released: July 17, 1985.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, had under consideration: (a) The above-captioned applications for new AM broadcast stations and for changes in the facilities of an existing AM broadcast station, which are lined to each other either directly or indirectly through the presence of intervening interlocking proposals; [1] (b) a petition to dismiss the Suntime Radio, Inc., proposal filed by Nationwide Communications, Inc.; and (c) relevant pleadings.[2]

2. *Environmental Matters:* The application of Treasure Coast Broadcasting and Richard H. Rowland do not contain environmental narrative statements as required by § 1.1311 of the Commission's Rules and the Jerry J. Collins statement does not contain a complete description of the site in that information concerning access road, power lines and surrounding land use was omitted. Accordingly these applicants will be required to comply with the rules and file the required environmental narrative statement information with the presiding Administrative Law Judge within thirty days of the release of this Order. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of § 1.1313(b). Section 1.1317 of the Rules will be waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 F.C.C. 2d 229 (1979), *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 F.C.C. 2d 337 (198).

3. *Site Photographs:* The applications of Treasure Coast Broadcasting and Richard H. Rowland do not contain photograhs of the proposed antenna sites as required by Section V-A, question 8 of the application form (FCC Form 301). These applicants must, therefore, amend their applications and file the required site photographs with the presiding Administrative Law Judge within thirty days of the release of this Order.

4. *Suntime Radio, Inc.:* Nationwide Communications, Inc., (Nationwide) licensee of AM broadcast Station WCOT, Orlando, Florida, filed a petition to dismiss [3] alleging that the proposal will cause prohibited overlap to third adjacent channel Station WMJK, Kissimmee, Florida. Suntime has conceded petitioner's allegations and has amended its application; it now proposes 5 kW power instead of the originally proposed 25 kW. Petitioner argues, however, that § 73.37(a) of the Rules requires that the application be dismissed because, according to petitioner, it would be improper to "retain the concededly defective application on file since it did not meet the standards for acceptance."

5. It has long been Commission practice to permit minor ameliorative amendments to substantially complete applications. See *James River Broadcasting Corp.*, v. *FCC*, 399 F. 2d 581 (D.C. Cir. 1968). The Suntime application was substantially complete when filed and the amended proposal will not cause prohibited overlap with any other station. We will deny the petition to dismiss.

6. Section 73.3580 of the Commission's Rules requires applicants to give local public notice of the filing of their applications. Suntime has not answered question 1 of section VII of the application form (FCC Form 301) and we cannot determine if the applicant has complied or will comply with the rule. Suntime must therefore file the required certification of its compliance or its intent to comply with the rule with the presiding Administrative Law Judge within thirty days of the release of this Order.

7. *Treasure Coast Broadcasting:* The Commission has not yet received Federal Aviation Administration clearance for the antenna towers proposed by this applicant. Accordingly, an appropriate issue will be specified.

8. *Jerry J. Collins:* This applicant's proposed nighttime operation will raise the RSS limits to Station HIAG, Santiago, Dominican Republic, in contravention of the North American Regional Broadcasting Agreement (NARBA). Jerry J. Collins must therefore amend its application to protect Station HIAG's 2.5 mV/m nighttime interference-free contour if the Dominican Republic has not agreed to apply the terms of the Region 2 Agreement in lieu of NARBA.

9. Except as indicated by the issues specified below the applicants are qualified to construct and operate as proposed.[4] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. As the proposals are for different communities, we will specify issues to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which proposal (or combination of proposals) would best provide a fair, efficient and equitable distribution of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.

10. Accordingly, it is Ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for Hearing in a consolidated Proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the heights and locations of the antenna towers proposed by Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting.

2. If a final environmental impact statement is issued with respect to the proposal of Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting, Richard H. Rowland or Jerry J. Collins which concludes that the proposed facility is likely to have an adverse effect on the quality of the environment, to determine:

a. Whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301-1319 of the Commission's Rules; and,

b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed

3. To determine: (a) The areas and populations which would gain or lose primary aural service from the proposal of Suntime Radio, Inc., and the availability of other primary service to such areas and populations, (b) the areas and populations which would receive primary aural service from the remaining proposals and the availability of other primary service to such areas and populations, and (c) in light thereof and pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine in light of the evidence adduced pursuant to the foregoing issues, which the applications, if any, should be granted.

11. It is further Ordered, that the Federal Aviation Administration is made a party to these proceedings.

12. It is further Ordered, that the petition to dismiss filed by Nationwide Communications, Inc., is denied.

13. It is further Ordered, that § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within thirty (30) days of the release of this Order Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting.

[1] Groups of this nature commonly termed "daisy chains".

[2] These include requests for extensions of time in which to respond to various pleadings filed by Suntime Radio, Inc. The requests are unopposed and are hereby granted.

[3] Nationwide Communications, Inc., has standing as an economic competitor. *Sanders Brothers Radio Station* v. *FCC*, 309 U.S. 570 (1940).

[4] The facilities specified by Jerry J. Collins herein are subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janerio 1981, and to bilateral and other multilateral agreements between the United States and other countries.

Richard H. Rowland and Jerry J. Collins shall submit environmental narrative statements containing the information (as set out in paragraph 2, *supra*) required by § 1.1311 of the Commission's Rules to the presiding Administrative Law Judge, with a copy to the Chief, Audio Services Division.

14. It is further Ordered, that Valree Ann Peralta, Douglas Leo Peralta, Robert Thomas Rowland, Jr., d/b/a Treasure Coast Broadcasting and Richard H. Rowland file the required antenna site photographs with the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

15. It is further Ordered, that Suntime Radio, Inc., comply with the local notice requirements of § 73.3580 of the Commission's Rules, if it has not done so, and submit the required certification with the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

16. It is further Ordered, that Jerry J. Collins amend its proposal to conform with international agreements as set out in paragraph eight (8), *supra*.

17. It is further Ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919, NW., Washington, D.C. 20554.

18. It is further Ordered, that to avail themselves of tha opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the parties shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

19. It is further Ordered, that pursuant to section 311(e) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 85-18066 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 85-207]

Zeather Willis, et al. d/b/a Kilgore Broadcasting, et al.; For Construction Permit Oklahoma City, OK; Hearing Designation Order

Adopted: June 25, 1985.
Released: July 19, 1985.
By the Chief, Video Services Division:

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 62, Oklahoma City, Oklahoma.

2. Non-profit Television Concepts (Non-Profit) proposes to mount its antenna on the existing tower of Station KKNG(FM), Oklahoma City, Oklahoma, which is jointly owned by Swanson Broadcasting, Inc. (Swanson), licensee of Station KKNG(FM), and Clear Channel Communications, Inc., licensee of Station KTOK, Oklahoma City. On May 7, 1985, each of these licensees, as co-owners of the tower, wrote to the Commission advising that they had given no assurance to any television applicant that the tower would be available; that, in fact, the tower was not available; and that neither licensee had been contacted by any television applicant. In view of the above, a question is raised as to whether Non-Profit had reasonable assurance of the availability of its specified transmitter site. The Commission has held that although an applicant need not have a binding agreement or absolute assurance of the availability of its proposed site, an applicant must show that it has obtained reasonable assurance that its proposed site is available, *Alabama Citizens for Responsive Television, Inc.*, 59 FCC 2d 1, 2–3 (1976). Some indication by the property owner that he is favorably disposed toward making an arrangement is necessary. A mere possibility that the site will be available will not suffice. *William F. Wallace and Anne K. Wallace*, 49 FCC 2d 1424 (Rev. Bd. 1974). Accordingly, an appropriate issue will be specified.

3. The specification of a site is an implied representation that an applicant has obtained reasonable assurance that the site will be available. A failure to inquire as to the availability of a site until after the application is filed in inconsistent with such a representation and, therefore, warrants a character qualifications issue. See *William K. Wallace, supra*. Accordingly, a misrepresentation issue will be specified.

4. Kilgore Broadcasting (Kilgore) originally proposed to mount its antenna on the KKNG(FM) tower. However, on April 30, 1985, Kilgore submitted a motion for leave to amend and an accompanying amendment [1] to specify a new transmitter site, which is at the same coordinates as the original site. Kilgore now proposes to mount its antenna on an existing tower adjacent to that of KKNG(FM). Since the Commission's records show only the KKNG(FM) tower at the coordinates specified by Kilgore, the application raises a question as to whether Kilgore has a site. Accordingly, a site availability issue will be specified. Moreover, for the reasons set forth in paragraph 3, *supra*, a misrepresentation issue will also be specified against Kilgore.

5. No determination has been made that the tower height and location proposed by Kilgore and Richard Mendoza each would not constitute a hazard to air navigation. Since a question exists as to whether Kilgore has a site available to it, it would be futile to specify the conventional air hazard issue as to Kilgore. Therefore, a contingent air hazard issue will be specified as to Kilgore which will require trial only if it is established that the applicant has a site available. The conventional air hazard issue will be specified with respect to the application of Richard Mendoza.

6. Non-Profit states that the overall height above ground level (AGL) of the KKNG–FM tower is 375 feet. Commission records show the KKNG–FM tower to be 1,003 feet AGL. If Non-Profit establishes the availablity of its proposed site, it will be required to submit an amendment showing the proper tower height AGL, to the presiding Administrative Law Judge.

7. The vertical tower sketches submitted by Kilgore and Non-Profit are not properly labelled. Section V–G, item 6, FCC Form 301, requires each applicant to submit a vertical plan sketch for the proposed total structure (including supporting building, if any) giving heights above ground in feet for all significant features. The sketch must clearly indicate existing portions, noting lighting and distinguish between the sketch or other main supporting structure and the antenna elements. Accordingly, Kilgore and Non-Profit will each be required to submit a vertical tower sketch which complies with section V–G, item 6, to the presiding

[1] Kilgore's motion for leave to amend and the accompanying amendment have been reviewed and good cause exists for accepting the amendment.

Administrative Law Judge, within 20 days after this Order is released, assuming that each establishes the availability of its specified site.

8. Kilgore and Non-Profit each proposes a site that is 1.37 miles from AM Station WKY, Oklahoma City, Oklahoma. Richard Mendoza proposes a site that is 1.08 miles from Station WKY. Accordingly, grant of a construction permit to any of the applicants will be conditioned to ensure that States WKY's radiation pattern will not be adversely affected.

9. Section V–C, item 10(e), FCC Form 301, requires an applicant to submit the area and population within its proposed Grade B contour. Kilgore submitted this information in its original application but not in its April 30, 1985, amendment. However, the changes in the contour require that the information in item 10(e) also be amended. Accordingly, Kilgore will be required to submit an amendment with its response to item 10(e) to the presiding Administrative Law Judge, within 20 days after this Order is released.

10. Since Kilgore did not give the area and population within its proposed Grade B contour, we are not able to determine if there would be a signifiant difference in the size of the area and population that each proposes to serve. The presiding Administrative Law Judge will consider any significant difference in the areas and populations served under the standard comparative issue.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is Ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for Hearing in a Consolidated Proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to the application of Kilgore Broadcasting:

(a) Whether the applicant has reasonable assurance that its specified site will be available to it;

(b) Whether the applicant had reasonable assurance at the time it filed its application that the site it originally specified would be available to it;

(c) Whether, in the light of the evidence adduced pursuant to the foregoing issues, the applicant misrepresented to the Commission the availability of its present or originally specified site;

(d) If issue (1c), above, is resolved in the affirmative, the effect thereof on the applicant's comparative or basic qualifications;

2. To determine, with respect to the application of Non-Profit Television Concepts:

(a) Whether the applicant has reasonable assurance that its specified site will be available to it;

(b) Whether, in the light of the evidence adduced pursuant to the foregoing issue, the applicant misrepresented to the Commission the availability of its specified site;

(c) If issue (2b), above, is resolved in the affirmative, the effect thereof on the applicant's comparative or basic qualifications;

3. In the event that it is determined, pursuant to the foregoing issues, that Kilgore has reasonable assurance that its specified site will be available whether the tower height and location proposed by Kilgore would constitute a hazard to air navigation;

4. To determine, with respect to the application of Richard Mendoza, whether the tower height and location proposed would constitute a hazard to air navigation.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, that the Federal Aviation Administration is made a party respondent with respect to issues 3 and 4.

14. It is further ordered, that the motion for leave to amend submitted by Kilgore Broadcasting is granted and the accompanying amendment is accepted.

15. It is further ordered, that, in the event that it is determined that Non-profit Television Concepts, has reasonable assurance that its specified tower site will be available, the applicant shall submit an amendment to the presiding Administrative Law Judge, correcting the overall tower height AGL.

16. It is further ordered, that, in the event that it is shown that Kilgore Broadcasting and Non-Profit Television Concepts each has reasonable assurance of the availability of its transmitter site, each shall submit a vertical tower sketch that is in accordance with Section V–G, item 6, FCC Form 301, to the presiding Administrative Law Judge.

17. It is further ordered, that, any construction permit granted in this proceeding shall be conditioned as follows:

Prior to construction of the tower authorized herein, permittee shall notify AM Station WKY, Oklahoma City, Oklahoma, so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by Section 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

18. It is further ordered, that Kilgore Broadcasting shall submit an amendment with its response to section V–C, item 10(e), FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

19. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

20. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division Mass Media Bureau.

[FR Doc. 85-18067 Filed 7-30-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

agency clearance officer, whose name

lieu of a hearing, identifying specifically

Marietta Street N.W., Atlanta, Georgia 30303.

Delaware, Wilmington, Delaware, a *de*

engage *de novo* through its subsidiary,

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

July 25, 1985.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received on or before August 14, 1985.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, D.C. 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3822)

Proposal to approve under OMB delegated authority the extension with revision of the following report:

1. Report title: Weekly Report of Assets and Liabilities for Large U.S. Branches and Agencies of Foreign Banks
Agency form number: FR 2069
OMB Docket number: 7100–0030
Frequency: Weekly
Reporters: U.S. Branches and Agencies of Foreign Banks
Small businesses are not affected
General description of report: This information collection is voluntary (12 U.S.C. 3105) and is given confidential treatment (5 U.S.C. 552(b)(4) and b(8)).

This report provides current information on credit developments and sources of funds at U.S. branches and agencies of foreign banks. These data are used to estimate bank credit and nondeposit funds and for analyzing banking and monetary conditions.

Board of Governors of the Federal Reserve System, July 25, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85–18087 Filed 7–30–85; 8:45 am]
BILLING CODE 6210–01–M

Colpatria-Sociedad Columbiana de Capitalizacion, S.A.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 22, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Colpatria-Sociedad Columbiana de Capitalizacion, S.A.*, Bogata, Columbia, and its subsidiary Banco Colpatria, S.A., Bogata, Columbia (parent of Banpatria U.S.A., Inc., Miami, Florida), have applied to become bank holding companies by acquiring 99 percent of the voting shares of Metropolitan National Bank, Miami, Florida, a *de novo* bank.

Board of Governors of the Federal Reserve System, July 25, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85–18089 Filed 7–30–85; 8:45 am]
BILLING CODE 6210–01–M

First Sarasota Bancorp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 22, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street N.W., Atlanta, Georgia 30303.

1. *First Sarasota Bancorporation*, Tampa, Flordia; to become a bank holding company by acquiring 50.5 percent of the voting shares of City Commercial Bank, Sarasota Florida.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Centra Financial, Inc.*, West Allis, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of Central Bank, West Allis, Wisconsin.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust State, St. Louis, Missiouri 63166:

1. *Aviston Bancorp, Inc.*, Aviston, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Aviston, Aviston, Illinois.

2. *F & M Bancshares, Inc.*, Trezevant, Tennessee; to become a bank holding company by acquiring 90 percent of the voting shares of Farmers & Merchants Bank, Trezevant, Tennessee.

3. *Marked Tree Bancshares, Inc.*, Marked Tree, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Marked Tree Bank, Marked Tree, Arkansas.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Hillsboro Financial Corporation*, Wichita, Kansas; to become a bank holding company by acquiring 93.7 percent of the voting shares of The First National Bank of Hillsboro, Hillsboro, Kansas.

2. *Regency Bancorporation*, Pueblo, Colorado; to become a bank holding company by acquiring 97 percent of the voting shares of Pueblo Boulevard Bank, Pueblo, Colorado.

E. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Dallas Bancshares, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares of Americanbanc Corporation, Plano, Texas, thereby indirectly acquiring American National Bank of Plano, Plano, Texas.

2. *First Caprock Bancshares, Inc.*, Claude, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Claude, Claude, Texas.

3. *RepublicBank Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares of RepublicBank Delaware, Wilmington, Delaware, a *de novo* bank.

Board of Governors of the Federal Reserve System, July 25, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85–18090 Filed 7–30–85; 8:45 am]
BILLING CODE 6210–01–M

Mercantile Bankshares Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 20, 1985.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mercantile Bankshares Corporation*, Baltimore, Maryland; to engage *de novo* through its subsidiary, Mercantile Mortgage Corporation, Baltimore, Maryland, in the activities of making, acquiring or servicing loans or other extensions of credit for its own account and for the account of others, such as would be made by a mortgage company; and acting as agent with respect to insurance limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death or disability of the debtor, pursuant to section 4(c)(8)(A) of the Act.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *J.E. Coonley Company*, Dows, Iowa; to engage *de novo* directly in providing data processing facilities, through a lease relationship, to Sheffield Savings Bank, Sheffield, Iowa.

Board of Governors of the Federal Reserve System, July 25, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85–18091 Filed 7–30–85; 8:45 am]
BILLING CODE 6210–01–M

Security State Agency of Alldin, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition,

conflicts of interests, or unsound banking practices." Any request for a

DATES: The 1984 Revision of the UHDDS will become effective on January 1, 1986.

Council consulted both with the National Committee on Vital and Health

5. *Residence.* Zip Code. Code for foreign residence.

several procedures is principal, the following criteria apply:

performed under general anesthesia carries anesthetic risk, as do procedures

conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 22, 1985.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security State Agency of Aitkin, Inc.*, Aitkin, Minnesota; to acquire John F. Solien Agency, Aitkin, Minnesota, thereby engaging in general insurance agency activities in a place with a population not exceeding 5,000, pursuant to section 4(c)(8)(C)(i) of the Act. These activities would be conducted in the Aitkin, Minnesota, trade area.

Board of Governors of the Federal Reserve System, July 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-18068 Filed 7-30-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Health Information Policy Council; 1984 Revision of the Uniform Hospital Discharge Data Set

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the 1984 Revision of the Uniform Hospital Discharge Data Set (UHDDS) which has been approved by the Secretary for use within the Department of Health and Human Services (DHHS). The purposes of the 1984 revision are to update and improve the original version of the UHDDS which was promulgated by the Secretary in 1974 as a minimum, common core of data for use in programs of the Department which require data on individual hospital discharges on a continuing basis. Revisions to definitions and categories have been developed to update certain items and to improve their accuracy.

DATES: The 1984 Revision of the UHDDS will become effective on January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Cooloo S. Wunderlich, Division of Data Policy, Office of the Assistant Secretary for Health, Room 717-H, Hubert H. Humphrey Building, 200 Independent Avenue, SW., Washington, D.C. 20201. Commercial Phone: (202) 245-2100.

SUPPLEMENTARY INFORMATION

Background

A Uniform Hospital Discharge Data Set was promulgated by the Secretary of the U.S. Department of Health, Education, and Welfare in 1974 as a minimum, common core of data on individual hospital discharges in the Medicare and Medicaid programs. Its purpose was to improve the uniformity and comparability of hospital discharge data. Promulgation of the UHDDS was the culmination of a number of developmental activities involving both the public and private sectors.

In the eleven years since its promulgation, the UHDDS has achieved fairly widespread use as a minimum, common core of data within the Department in programs which require data on individual hospital discharges on a continuing basis. The data set is also used within other Federal Agencies and has gained acceptance and use as a standard in the non-Federal public and private sectors, such as in the operations of hospital discharge abstracting services.

The purposes of the 1984 Revision of the UHDDS are to update and improve the original version in the light of current needs and developments. Revisions to definitions and categories have been developed to update certain items and to improve their accuracy. In keeping with the original UHDDS concept, it is emphasized that the UHDDS is a minimum, common core of data on individual hospital discharges and is not intended to serve the entire data needs of a data program or activity. Individual programs and data collectors may obtain additional data elements beyond those in the UHDDS as necessary, and may obtain additional detail within the UHDDS items, provided that the detail can be aggregated to the UHDDS items, definitions, and categories.

The 1984 Revision of the UHDDS was developed by the Health Information Policy Council of the U.S. Department of Health and Human Services. The Council is the principal internal advisory body to the Secretary on departmentwide health data policy. In developing the 1984 Revision, the Council consulted both with the National Committee on Vital and Health Statistics, the principal public advisory body to the Secretary on health statistical matters, and with a departmentwide interagency task force comprised of representatives of programs which would be affected by the revision. The Secretary has approved the revision with an effective date of implementation of January 1, 1986.

1984 Revision of the UHDDS

The 1984 Revision of the Uniform Hospital Discharge Data Set consists of the following items:

Number and item

1.—Personal Identification
2.—Date of Birth
3.—Sex
4.—Race and Ethnicity
5.—Residence
6.—Hospital Identification
7-8.—Admission and Discharge Dates
9-10.—Physician Identification: Attending and Operating
11.—Diagnoses
12.—Procedures and Dates
13.—Disposition of Patient
14.—Expected Payer for Most of This Bill (Anticipated Financial Guarantor for Services)

The following list contains an identification, definition, or subcategorization of each UHDDS element, and if appropriate, comments are given.

1. *Personal Identification.*[a] The unique number assigned to each patient within a hospital that distinguishes the patient and his or her hospital record from all others in that institution.

2. *Date of Birth.* Month, day, and year of birth.

Comment: It is recommended that the year of birth be reported in four digits rather than usually accepted two digits. This will make the data element more accurate if dealing with persons over 100 years old.

3. *Sex.*[a] Male or female.

4a. *Race.* White, Black, Asian or Pacific Islander, American Indian/Eskimo/Aleut, Other.

b. *Ethnicity.* Spanish origin/Hispanic. Non-Spanish origin/Non-Hispanic.

Comment: "Race" and "Ethnicity" have been separated for clarification purposes.

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[a] Indicates no definitional change from the UHDDS recommended to the Secretary by the National Committee on Vital and Health Statistics in 1979, viz., National Committee on Vital and Health Statistics. *Uniform Hospital Discharge Data: Minimum Data Set.* DHEW Publication No. (PHS) 80-1157. U.S. Department of Health, Education and Welfare. Washington. April 1980.

5. *Residence.* Zip Code. Code for foreign residence.

Comment: A code (to be determined) has been added for foreign residence to include residences throughout the world.

6. *Hospital Identification.*[a] A unique institutional number within a data collection system.

7-8. *Admission and Discharge Dates.*[a] Month, day, and year of both admission and discharge. An inpatient admission begins with the formal acceptance by a hospital of a patient who is to receive physician, dentist, or allied services while receiving room, board, and continuous nursing service. An inpatient discharge occurs with the termination of the room, board, and continuous nursing services, and the formal release of an inpatient by the hospital.

9-10. *Physician Identification.*[a] Each physician must have a unique identification number within the hospital. The attending physician and the operating physician (if applicable) are to be identified.

9. *Attending Physician.* The clinician who is primarily and largely responsible for the care of the patient from the beginning of the hospital episode.

10. *Operating Physician.* The clinician who performed the principal procedure (see item 12 for definition of a principal procedure).

11. *Diagnoses.*[a] All diagnoses that affect the current hospital stay.

a. *PRINCIPAL DIAGNOSIS* is designated and defined as: the condition established after study to be chiefly responsible for occasioning the admission of the patient to the hospital for care.

b. *OTHER DIAGNOSES* are designated and defined as: all conditions that coexist at the time of admission, that develop subsequently, or that affect the treatment received and/or the length of stay. Diagnoses that relate to an earlier episode which have no bearing on the current hospital stay are to be excluded.

12. *Procedures and Date.* All significant procedures are to be reported.

a. A significant procedure is one that is:

(1) Surgical in nature, or
(2) Carries a procedural risk, or
(3) Carries an anesthetic risk, or
(4) Requires specialized training.

b. For significant procedures, the identity (by unique number within the hospital) of the person performing the procedure and the date must be reported.

c. When more than one procedure is reported, the principal procedure is to be designated. In determining which of several procedures is principal, the following criteria apply:

The principal procedure is one that was performed for definitive treatment rather than one performed for diagnostic or exploratory purposes, or was necessary to take care of a complication. If there appear to be two procedures that are principal, then the one most related to the principal diagnosis should be selected as the principal procedure.

For reporting purposes, the following definitions and guidelines should be used:

(1) *Surgery* includes incision, excision, amputation, introduction, endoscopy repair, destruction, suture and manipulation.

(2) *Procedural risk.*—This term refers to a professionally recognized risk that a given procedure may induce some functional impairment, injury, morbidity, or even death. This risk may arise from direct trauma, physiologic disturbances, interference with natural defense mechanisms, or exposure of the body to infection or other harmful agents.

Traumatic procedures are those that are invasive, including nonsurgical procedures that utilize cutdowns, that cause tissue damage (e.g., irradiation), or introduce some toxic or noxious substance (e.g., caustic test reagents).

Physiologic risk is associated with the use of virtually any pharmacologic or physical agent that can affect homeostasis (e.g., those that alter fluid distribution, electrolyte balance, blood pressure levels, and stress or tolerance tests).

Any procedure in which it is obligatory (or usual) to utilize pre- or postmedications that are associated with physiologic or pharmacologic risk should be considered as having a "procedural risk," for example, those that require heavy sedation or drugs selected for their systemic effects such as alteration of metabolism, blood pressure or cardiac function.

Some of the procedures that include harmful exposures are those that can introduce bacteria into the blood stream (e.g., cardiac catheterization), those capable of suppressing the immune system, those that can precipitate idiosyncratic reactions such as anaphylaxia after the use of contrast materials, and those involving substances with known systemic toxicity.

Long-life radioisotopes pose a special kind of exposure risk to other persons as well as to the patient. Thus, these substances require special precautionary measures and the procedures using them carry procedural risk.

(3) *Anesthetic risk.*—Any procedure that either requires or is regularly performed under general anesthesia carries anesthetic risk, as do procedures under local, regional, or other forms of anesthesia that induce sufficient functional impairment necessitating special precautions to protect the patient from harm.

(4) *Specialized training.*—This criterion is important for procedures that are exclusively or appropriately performed by specialized professionals, qualified technicians, or clinical teams that are either specifically trained for this purpose or whose services are principally dedicated to carrying them out. Whenever specially trained staff resources are necessary or are customarily employed in the performance of a procedure, it is considered significant.

Comment: The categorization of procedures into classes has been eliminated. This will remove the difficulty currently being experienced in selecting the proper classification. It will also allow new procedures to be properly reported. "Special facilities" and "special equipment" have been removed as requirements for a significant procedure". It is believed that the other defined significant procedures encompass these two categories.

13. *Disposition of Patient.*

a. Discharged to home (routine discharge).

b. Left against medical advice.

c. Discharged to another short-term hospital.

d. Discharged to a long-term care institution.

e. Died.

f. Other.

Comment: "Other" has been added to this definition to make "disposition of patient" all inclusive.

14. *Expected Payer for Most of This Bill.* (Anticipated Financial Guarantor for Services).

Single major source that the patient expects will pay for his or her bill.

a. Blue Cross.

b. Other insurance companies.

c. Medicare.

d. Medicaid

e. Workers' compensation.

f. Other government payers.

g. Self-pay.

h. No charge (free, charity, special research or teaching).

i. Other.

Comment: This definition has been updated and a clarifying statement has been added.

VOL 50 ISS 147 JL 31 1985 UMI

Dated: July 25, 1985.

James O. Mason,

Acting Agency Secretary for Health, and Chairperson, DHHS Health Information Policy Council.

[FR Doc. 85-18132 Filed 7-30-85; 8:45 am]

BILLING CODE 4120-04-M

Health Care Financing Administration

[BERC-347-NR]

Medicare Program; Criteria for Medicare Coverage of Inpatient Hospital Rehabilitation Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of HCFA ruling.

SUMMARY: This notice announces a HCFA ruling that restates HCFA's longstanding criteria for Medicare coverage of inpatient hospital rehabilitation services.

FOR FURTHER INFORMATION CONTACT: Tom Hoyer, (301) 594-9446.

SUPPLEMENTARY INFORMATION: We plan to compile and publish all HCFA Rulings in the "Health Care Financing Administration Rulings" booklet which will be indexed for citation purposes. When this Ruling is republished in the booklet, it will be known as HCFAR 85-2. The text of the HCFA ruling is as follows:

MEDICARE COVERAGE OF INPATIENT HOSPITAL REHABILITATION SERVICES—HCFAR 85-2

Purpose

This Ruling provides further public notice of HCFA's criteria for Medicare coverage of inpatient hospital rehabilitation services.

Citations

Sections 1812, 1814, 1861 and 1862 of the Social Security Act (the Act) (42 U.S.C. 1395d, 1395f, and 1395x, and 1395y).

Petinent History

Under the Medicare program, there has always, been a statutory exclusion of payment for services that" . . . are not reasonable and necessary for the diagonsis or treatment of illness or injury. . . ." (section 1862 of the Act). It is this authority, taken in conjunction with the descriptions of the various benefits, that the program uses to deny payment when services required by a patient could have been appropriately provided in inpatient setting which is less intensive than the hospital setting or in an outpatient setting. (See also section 1154 of the Act.)

Rehabilitation care is furnished in a variety of settings ranging from the inpatient hospital setting, through the skilled nursing facility setting, to various outpatient settings such as, for example, home health care, and outpatient physical therapy. To determine whether inpatient hospital care is necessary for the provision of rehabilitation services, it is first necessary to determine what rehabilitation services the patient requires and then to determine whether they need to be provided in the inpatient hospital setting.

Typically, a preadmission screening is done before a patient is admitted to a rehabilitation hospital. This screening is a preliminary review of the patient's condition and previous medical record to determine if the patient is likely to benefit significantly from an intensive hospital program or extensive inpatient assessment. Further inpatient assessment of a patient's potential for rehabilitation my be done if it is reasonable and necesary to perform the assessment in the hospital.

We developed criteria early in the program to assist medical review entities in applying the basic "reasonable and necessary" test to inpatient rehabilitation services under Part A. These criteria are used to help a medical review entity determine whether rehabilitative care in a hospital, rather than in a SNF or on an outpatient basis, is reasonable and necessary. The criteria have been revised from time to time to respond to new questions of interpretation which have arisen. Section 3101.11 of the Intermediary Manual contains the current version of these criteria. The HCFA Ruling published in this notices restates the criteria set forth in that manual.

Ruling

Criteria for Medicare Coverage of Inpatient Hospital Rehabilitation Services

A. *General*—Physicians generally agree on the circumstances that justify a medical or surgical patient's hospitalization, and, in some cases, an admission to a rehabilitation hospital or to the rehabilitation service of a short-term hospital can be justified on essentially the same medical or surgical grounds. In other cases, however, a patient's medical or surgical needs alone may not warrant inpatient hospital care, but hospitalization may nevertheless be necessary because of the patient's need for rehabilitative services.

A hospital level of care is required by a patient needing rehabilitative services if that patient needs a relatively intense rehabilitation program that requires a multidisciplinary coordinated team approach to upgrade his ability to function. There are two basic requirements which must be met for inpatient hospital stays for rehabilitation care to be covered:

1. The services must be reasonable and necessary (in terms of efficacy, duration, frequency, and amount) for the treatment of the patient's condition; and

2. It must be reasonable and necessary to furnish the care on the inpatient hospital basis, rather than in a less intensive facility, such as a SNF, or on an outpatient basis.

B. *Preadmission Screening*—Before a patient is admitted to a rehabilitation hospital for treatment, a preadmission screening is normally done. This screening is a preliminary review of the patient's condition and previous medical record to determine if the patient is likely to benefit significantly from an intensive hospital program or extensive inpatient assessment.

While preadmission screening is a standard practice in most rehabilitation hospitals and may provide useful information for claims review purposes, the absence of a preadmission screening in a particular case should not be the sole reason for denying a claim. However, in a case where an inpatient assessment showed a patient clearly was not a good candidate for an inpatient hospital program, then the presence or absence of preadmission screening information would be important in determining whether the inpatient assessment itself was reasonable and necessary. If preadmission screening information indicated that the patient had the potential for benefiting from an inpatient hospital program, a period of inpatient assessment could be covered, up to the point where it was determined that inpatient hospital rehabilitation was not appropriate, since preadmission screening cannot be expected to eliminate all unsuitable candidates.

C. *Inpatient Assessment of Individual's Status and Potential for Rehabilitation* 1. *General*—Coverage is available for inpatient assessment of a patient's potential for benefiting from an intensive coordinated rehabilitation program only if it was reasonable and necessary to perform the assessment in the hospital. This determination should be made on the basis of information available in the patients's medical record. It is important to note that the assessment process is not merely a paperwork review, but rather an onsite professional review of the patient's

condition by the necessary disciplines. Inpatient assessments conducted by a rehabilitation team through examination of the patient usually require between 3 to 10 calendar days, but on occasion may require more. This 3–10 day period is often one where the patient is receiving therapies rather than simple screening assessments. Where more than 10 days are required, the case should be carefully reviewed to ensure that such additional time was necessary. An inpatient assessment may be covered even if the assessment subsequently indicates that a patient is not suitable for an intensive inpatient hospital rehabilitation program, if the patient's condition on admission was such that an extensive inpatient assessment was considered reasonable and necessary for a final decision to be made on a patient's actual rehabilitation potential. Where the initial assessment has resulted in a conclusion that the individual is a poor candidate for rehabilitation care, coverage for further inpatient hospital care is limited to a reasonable number of days needed to permit appropriate placement of the patient.

The fact that an individual received therapy prior to admission to a hospital for a rehabilitation program would not necessarily mean that the initial assessment period was not reasonable and necessary. However, if during a previous hospital stay an individual completed such a program for essentially the same condition for which inpatient hospital care is now being provided, the assessment period could be covered only if:

(1) Some intervening circumstance rendered such an assessment reasonable and necessary; or

(2) The subsequent admission is to an institution utilizing techniques or technology not previously available or not available in the first institution.

2. *Specific examples:*

a. After an inpatient hospital stay for rehabilitation care which resulted in little improvement in the patient's condition, an individual who undergoes surgery for severe contractures as a result of arthritis may require a reassessment of his rehabilitation potential in light of the surgery.

b. The fact that an individual has some degree of mental impairment would not per se be a basis for concluding that a multidisciplinary team evaluation is not warranted. Many individuals who have had CVAs suffer both mental and physical impairments. The mental impairment often results in a limited attention span and reduced comprehension with a resultant problem in communication. With an intensive rehabilitation program, it is sometimes possible to correct or significantly alleviate both the mental and physical problems.

c. Absent other complicating medical problems, the type of rehabilitation program normally required by a patient with a fractured hip during or after the nonweightbearing period or a patient with a healed ankle fracture would not require an inpatient hospital stay for rehabilitation care. Accordingly, an inpatient assessment would not be warranted in such cases. On the other hand, an individual who has had a CVA which has left the individual significantly dependent in the activities of daily living (even after physical therapy in a different setting) might be a good candidate for a more extensive inpatient assessment if the patient has potential for rehabilitation and his needs are not primarily of a custodial nature.

D. *Inpatient Rehabilitation Hospital Care*—Rehabilitative care in a hospital, rather than in a SNF or on an outpatient basis, is reasonable and necessary for a patient who requires a more coordinated, intensive program of multiple services than is generally found out of a hospital. A patient who has one or more conditions requiring intensive and multidisciplinary rehabilitation care, or who has a medical complication in addition to his primary condition, so that the continuing availability of a physician is required to ensure safe and effective treatment, would probably require a hospital level of rehabilitation care. A patient in need of rehabilitation on an inpatient hospital basis requires all of the following.

1. *Close medical supervision by a physician with specialized training or experience in rehabilitation*—A patient's condition must require the 24-hour availability of a physician with special training or experience in the field of rehabilitation. This need should be verifiable by entries in the patient's medical record that reflect frequent and direct and medically necessary physician involvement in the patient's care; i.e., at least every 2-3 days during the patient's stay. This degree of physician involvement, which is greater than would normally be rendered to a patient in a SNF, is an indicator of a patient's need for services generally available only in a hospital setting. A SNF patient's care would usually require only the general supervision of a physician, rather than the close supervision which hospital patients need.

2. *Twenty-four-hour rehabilitation nursing.*—The patient requires the 24-hour availability of a registered nurse with specialized training or experience in rehabilitation. This degree of availability represents a higher level of care than would normally be found in a SNF. While a SNF patient may require nursing care, specialized rehabilitation nursing is generally not as readily available in such a facitily.

3. *A relatively intense level of physical therapy or occupational therapy and, if needed, speech therapy, social services, psychological services, or prosthetic-orthotic services.*—The patient must require at least 3 hours a day of physical and/or occupational therapy, in addition to any other required therapies or services. In exceptional cases, an inpatient hospital stay for rehabilitation care can be covered even though the patient has a secondary diagnosis or medical complication that prevents him from participating in programs of physical or occupational therapy to the extent outlined above. Inpatient hospital care in these cases may be the only reasonable means by which even a low intensity rehabilitation program can be safely carried out. Documentation must be secured of the existance and extent of complicating conditions affecting the carrying out of a rehabilitation program to ensure that inpatient hospital care for less than intensive rehabilitation care is actually needed.

4. *A multidisciplinary team approach to the delivery of the program.*—A multidisciplinary team usually includes a physician, rehabilitation nurse, social worker and/or psychologist, and those therapists involved in the patient's care. At a minimum, a team must include a physician, rehabilitation nurse and one therapist.

5. *A coordinated program of care.*—The patient's records must reflect evidence of a coordinated program, i.e., documentation that periodic team conferences were held with a regularity of at least every *2 weeks* to: (1) Assess the individual's progress or the problems impeding progress; (2) consider possible resolutions to such problems; and (3) reassess the validity of the rehabilitation goals initially established. A team conference may be formal or informal; however, a review by the various team members of each other's notes would not constitute a team conference. The decisions made during such conferences, such as those concerning discharge planning and the need for any adjustment in goals or in the prescribed treatment program, must be recorded in the clinical record.

6. *Significant practical improvement.*—Hospitalization after the initial assessment is covered only in

those cases where the initial assessment results in a conclusion by the rehabilitation team that a significant practical improvement can be necessary that there be an expectation of complete independence in the activities of daily living, but there must be a reasonable expectation of improvement that will be of practical value to the patient, measured against his condition at the start of the rehabilitation program. For example, a multiple sclerosis patient's condition may have deteriorated as a result of a secondary illness. To be restored to a level of function before the secondary illness, the patient may require an intensive inpatient hospital rehabilitation program. While such a program would not restore the level of function before multiple sclerosis developed, a return to pre-secondary illness level would be considered to be a "significant practical improvement" in the condition.

7. *Realistic goals.*—While there may be instances where an intense rehabilitation program may enable a Medicare patient to return to the labor market, vocational rehabilitation is generally not considered a realistic goal for most aged or severely disabled individuals. The most realistic rehabilitation goal for most Medicare beneficiaries is self-care or independence in the activities of daily living; i.e., self-sufficiency in bathing, ambulation, eating, dressing, homemaking, etc., or sufficient improvement to allow a patient to live at home with family assistance rather than in an institution. Thus, the aim of the treatment should be achieving the maximum level of function possible.

8. *Length of Rehabilitation Program.*—Coverage should stop when further progress toward the established rehabilitation goal is unlikely or it can be achieved in a less intensive setting. In deciding whether further care can be carried out in a less intensive setting, both the degree of improvement which has occurred and the type of program required to achieve further improvement must be considered. In some cases an individual may be expected to continue to improve under an outpatient program. There are other situations where further improvement in the individual's ability to function relatively independently in the activities of daily living can be expected only if a multidisciplinary team effort is continued.

While occasional home visits and other trips into the community are factors in determining whether continued stay in the hospital is necessary, such excursions would not alone be a basis for concluding that further hospital care is not required. Planned home visits and trips to the community are frequently used to test the individual's ability to function outside the institutional setting and to assist in discharge planning for the individual.

It is also important to consider how close the patient may be to the planned end of his rehabilitation hospital stay when further progress becomes unlikely. If a patient is within a few days of discharge, it would usually not be appropriate to transfer him to a less intensive setting in another facility even though further progress in the hospital setting is unlikely. However, it could be appropriate to utilize a "swing bed" arrangement, if it exists in the same facility, for rendering necessary services to the patient pending dicharge.

When discharge or transfer to another facility is appropriate, the cut-off point for coverage should not be the last day on which improvement actually occurred. Rather coverage should continue through the time it would have been reasonable for the physician, in consultation with the rehabilitation team, to have concluded that further improvement would not occur and to have initiated the patient's discharge.

Since discharge planning is an integral part of any rehabilitation program and should begin upon the patient's admittance to the facility, an extended period of time for discharge action would not be reasonable after established goals have been reached, or after a determination has been made that further progress is unlikely or that care in a less intensive setting would be appropriate.

(Secs. 1812, 1814, 1861 and 1862 of the Social Security Act, 42 U.S.C. 1395d, 1395f, 1395x, and 1395y)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: July 25, 1985.

Carolyne K. Davis,

Administrator.

[FR Doc. 85-18145 Filed 7-29-85; 10:13 am]

BILLING CODE 4120-03-M

Medicaid Program; Hearings; Reconsideration of Disapproval of the Effective Date of a Pennsylvania State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on August 29, 1985 in Philadelphia, Pennsylvania to reconsider our decision to disapprove the effective date of Pennsylvania State Plan Amendment 84-9.

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk (on or before August 15 1985.)

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove the effective date of a Pennsylvania State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must position the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1)

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Pennsylvania's request to establish an effective date of July 1, 1984 for State Plan Amendment 84-9 violates Federal regulations at 42 CFR 447.253 and 42 CFR 447.205.

The plan amendment defines facility location by Metropolitan Statistical Area (MSA) levels and combines certain MSA levels for purposes of computing payment ceilings in order to avoid establishing ceilings based on a relatively small number of facilities. The amenement was appoved except for the proposed effective date.

Federal regulations at 45 CFR 205.5(a) require a State plan to be amended to reflect new or revised Federal statutes or regulations or material change in any phase of State law, organization, policy, or State agency operations. However, in accordance with Federal regulations at 42 CFR 447.253(f), the Medicaid agency must comply with the public notice requirements in § 447.205 when it is proposing significant changes to its methods and standards for setting rates for long-term care services. Section 447.205(d)(1) requires that the notice be published before the proposed effective date of the change. Section 447.205 (c) and (d) set forth additional requirements regarding the content of the notice.

The plan amendment was submitted by the Commonwealth on August 15, 1984, together with assurances and relateded rate information. Additional assurances and related information were submitted by the Commonwealth on January 7, 1985, following a request by the regional office. Additional information was submitted by the Commonwealth on March 18, 1985, concerning public notice.

The Commonwealth published a public notice which met all the requirements of § 447.205 on August 25, 1984. Accordingly, HCFA has determined that the effective date for the amendment cannot be July 1, 1984 because the requirements of regulations at 42 CFR 447.253 and 42 CFR 447.205 were not met until August 25, 1984.

Therefore, HCFA approved the plan amendment with an effective date of August 26, 1984, the day following publication of the Commonwealth's notice.

The notice to Pennsylvania announcing an administrative hearing to reconsider our disapproval of the effective date of its State plan amendment reads as follows:

Mr. Brian T. Baxter,
Executive Deputy Secretary, Pennsylvania Department of Public Welfare, 515 Health and Welfare Building, Harrisburg, Pennsylvania 17120

Dear Mr. Baxter: This is to advise you that your request for reconsideration of the decision to disapprove the effective date of Pennsylvania State Plan Amendment 84-9 was received on June 27, 1985. Pennsylvania State Plan Amendment 84-9 defines facility location by MSA/non-MSA and combines certain MSA levels for purposes of computing payment ceilings in order to avoid establishing ceilings based on a relatively small number of facilities. You have requested a reconsideration of the disapproval of the proposed effective date of the amendment.

I am scheduling a hearing on your request to be held on August 29, 1985 at 10 a.m., in Room 3020, 3535 Market Street, Philadelphia, Pennsylvania. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding offical. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely yours,

Carolyne K. Davis, Ph.D.

Dated: July 25, 1985.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85-18153 Filed 7-30-85; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Draft Environmental Impact Statement for the Jackpile-Paguate Uranium Mine Reclamation Project; Public Hearings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearings.

SUMMARY: Public hearings on the Jackpile-Paguate Uranium Mine Reclamation Draft Environmental Impact Statement (DEIS) will be held on:

Tuesday, September 10, 1985, 1:00 pm (afternoon session) and 7:00 pm (evening session) at the Albuquerque Convention Center (Acoma-Zuni Rooms) Albuquerque, NM; and,

Wednesday, September 11, 1985, 1:00 pm (afternoon session) and 7:00 pm (evening session) at the Community Hall, Village of Old Laguna, Laguna, NM.

The purpose of the hearings is to receive public comment on the merits of the mine reclamation alternatives and the technical adequacy of the DEIS. The hearings are not intended to serve as a form for public debate or cross-questioning between participants. Persons wishing to give testimony will be limited to ten (10) minutes. Participants may also submit written statements at the hearing sessions which will be given the same consideration as oral statements. The presiding officer will provide additional details on how the hearings will be conducted at the beginning of each session.

DATE: All comments regarding the DEIS will be accepted up to and including October 4, 1985.

ADDRESS: Written comments from those unable to attend the hearings should be addressed to: Mike Pool (EIS) Team Leader), USDI—Bureau of Land Management, 3550 Pan American Freeway NE., P.O. Box 6770, Albuquerque, NM 87197-6770.

FOR FURTHER INFORMATION CONTACT: Mike Pool, Rio Puerco Resource Area (505) 766-3114.

Dated: July 29, 1985.

L. Paul Applegate,

District Manager, Bureau of Land Management.

[FR Doc. 85-18178 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-FB-M

[F-14837-A2; F-14837-C2]

Alaska Native Claims Selection; Beaver Kwit'chin Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a) will be issued to Beaver Kwit'chin Corporation for approximately 44,565 acres. The lands involved are in the vicinity of Beaver, Alaska.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 16 N., R. 1 W.
T. 20 N., R. 3 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18123 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-8103-2]

Alaska Native Claims Selection; Doyon, Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Doyon, Limited, notice of which was published in the Federal Register, 44 FR 25937 to 25939, on May 3, 1979, is modified by limiting the season of use on one easement and deleting another easement in accordance with the U.S. Office of Hearings and Appeals' Order of Dismissal and Remand, dated February 19, 1985.

A notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copeis of the modified DIC may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given May 3, 1979, is final.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18122 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6661-C]

Alaska Native Claims Selection; Eklutna, Inc.

In accordance with Departmental regulation 43 CFR 2650.7 (d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613 (1976), will be issued to Eklutna, Inc. for approximately 228 acres. The lands involved are located in T. 16 N., R. 1 E., Seward Meridian, Alaska, in the vicinity of Eklutna.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18124 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6661-B]

Alaska Native Claims Selection; Eklutna, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Eklutna, Inc., for 4.67 acres. The lands involved are lots 82 and 83, section 11, T. 14 N., R. 2 W., Seward Meridian, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18125 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

Alaska Native Claims Selection; Eklutna, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613 (1976) will be issued to Eklutna, Inc. The lands involved are in the vicinity of Eklutna.

SEWARD MERIDIAN, ALASKA

Serial No.	Land description	Approximate acreage (acres)
AA-6661-B	T. 16 N., R. 1 W. Surveyed	55
AA-6661-C	T. 15 N., R. 1 W. Surveyed	187
	T. 16 N., R. 1 W. Surveyed	56
	T. 15 N., R. 2 W. Surveyed	1,644
Total		1,942

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decisions shall have until August 30, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Olivia Short,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18126 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

[F-14862-A]

Alaska Native Claims Selection; Kuitsarak, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Kuitsarak, Inc. for approximately 4.0 acres. The lands involved are in the vicinity of Goodnews Bay.

Seward Meridian, Alaska

T. 12 S., R. 73 W. (Unsurveyed)
A portion of Sec. 21.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Tundra Drums. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal. However, parties receiving service by ceritfied mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18127 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

Public Review Draft Experimental Stewardship Program Report; Extension of Time for Public Comment

AGENCY: Bureau of Land Management, Interior; Forest Service, Agriculture.

ACTION: Notice of extension of the public comment period to August 9, 1985.

SUMMARY: The Bureau of Land Management and the Forest Service have jointly completed a public review draft of a report on the Experimental Stewardship Program authorized by the Public Rangelands Improvement Act of 1978. The comment period on the report has been extended to August 9, 1985, to facilitate public comment.

DATES: Comments received by August 9, 1985, will be considered in developing the Secretaries' report to Congress on the program.

ADDRESSES: Requests for a copy of the report and comments on the report should be sent to:

Experimental Stewardship Program, Director (221), Bureau of Land Management, 18th and C Street, N.W., Washington, D.C. 20240

or

Experimental Stewardship Program, Director, Range Management, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013

ADDITIONAL INFORMATION: Individuals desiring additional information may contact:

Bob Alexander (220) 653-9210, Bureau of Land Management

Daied: July 24, 1985.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 85-18140 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-84-M

[F-14949-A]

Alaska Native Claims Selection; Tulkisarmute, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Tulkisarmute, Incorporated, for approximately 2.66 acres. The lands involved are in the vicinity of Tuluksak.

Seward Meridian, Alaska

T. 12 N., R. 66 W. (Surveyed)
Two tracts of land located within Secs. 26 and 27, also identified as being within unapproved U.S. Survey No. 4435, lot 1.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Tundra Drums. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until August 30, 1985 to file an appeal. However, parties receiving service by ceritfied mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18127 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-JA-M

[U-31368]

Utah; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a land withdrawal for the Stateline Dam and Reservoir, Lyman Project, continue until December 31, 2082. The lands remain closed to surface entry and mining location. The lands have been and will remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Lillie Hikida, BLM Utah State Office, 324 South State, Suite 301, Salt Lake City, Utah 84111-2303, 801-524-3074.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that the existing withdrawal made by Public Land Order 5609 dated November 17, 1976, be continued until December 31, 2082, pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land involved is located on the east fork of Smiths Fork approximately 28 miles south of Fort Bridger, Wyoming and contains 710 acres in Summit County.

The purpose of the withdrawal is to protect the Stateline Dam and Reservoir. The withdrawal segregates the land from the operation of the public land laws, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential

VOL 50 ISS 147 JL 31 1985 UMI

demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: July 22, 1985.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-18070 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-DQ-M

Fish and Wildlife Service

Alaska Peninsula National Wildlife Refuge Comprehensive Conservation Plan/Environmental Impact Statement and Wilderness Review, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service has prepared, for public review, a final Comprehensive Conservation Plan, Environmental Impact Statement (CCP/EIS), and Wilderness Review for the Alaska Peninsula National Wildlife Refuge, Alaska, pursuant to sections 304(g)(1) and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA); section 3(d) of the Wilderness Act of 1964; and section 102(2)(C) of the National Environmental Policy Act of 1969. The final CCP/EIS describes five strategies for long-term management of the 4.3 million-acre refuge. Lands suitable for wilderness designation are identified in four of the alternatives. Each one identifies lands that would be suitable for addition to the National Wilderness Preservation System.

DATES: Remarks on the final CCP/EIS must be submitted on or before September 9, 1985 to receive consideration by the Regional Director.

ADDRESS: Remarks should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 (Attn: William Knauer).

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3399.

A final CCP/EIS has been prepared for general distribution. Copies of it will be sent to all persons, organizations, and agencies which participated in the public review process (either scoping meetings, alternative workshops, and/or public meetings/hearing). In addition, copies will be sent to all persons who have requested them. Those wishing to review the final document may obtain a copy by contacting Mr. Knauer.

Copies of the final CCP/EIS are available for public review at the office of the Regional Director, at the above address; at the Alaska Peninsula/Becharof National Wildlife Refuges Office, King Salmon, Alaska; at the Izembek National Wildlife Refuge Office, Cold Bay, Alaska; and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, U.S. Department of the Interior Bldg., 18th and C Streets, NW, Washington, DC 20240
U.S. Fish and Wildlife Service, Wildlife Resources, 500 Gold Avenue SW, Room 1306, Albuquerque, NM 87103
U.S. Fish and Wildlife Service, Wildlife Resources, Federal Building, Fort Snelling, Twin Cities, MN 55111
U.S. Fish and Wildlife Service, Wildlife Resources, Richard B. Russell Federal Bldg., 75 Spring Street, Atlanta, GA 30303
U.S. Fish and Wildlife Service, Wildlife Resources, One Gateway Center, Suite 700, Newton Corner, MA 02158
U.S. Fish and Wildlife Service, Wildlife Resources, 134 Union Blvd., Lakewood, CO 80225

SUPPLEMENTARY INFORMATION: The final CCP/EIS for the Alaska Peninsula National Wildlife Refuge was developed by the U.S. Fish and Wildlife Service, Department of the Interior, to fulfill the requirements of section 304 of ANILCA relating to preparation of comprehensive conservation plans. In addition, the final CCP/EIS and Wilderness Review also describe the general wilderness suitability of various acreages of non-wilderness refuge lands, under each of the management alternatives, in order to comply with the requirements of section 1317(a) of ANILCA. This requires the Secretary of the Interior to review, in accordance with section 3(d) of the Wilderness Act, all non-wilderness refuge lands in Alaska as to their suitability for preservation as wilderness and report his/her recommendations to the President by 1987.

Issues addressed by the plan focus on fish and wildlife management; problems with intensive human use in subarctic, sensitive fish and wildlife habitats; potential conflicts between off-refuge commercial, sport, and subsistence harvest of adult salmon and its affect on the Refuge; lack of resource data; potential oil and gas exploration/development; development and use of adjacent State and private lands; and management of refuge inholdings. Overall goal of the plan is to afford maintenance of fish and wildlife populations in their present state whole creating opportunities for hunting, fishing, and other recreation uses, plus retention of historical subsistence use of the area.

This plan describes five strategies for management of the Refuge; the process pursued in their development; and the environmental consequences of implementing each alternative. The alternatives cover a broad spectrum of management emphasis, from Alternative A, the current situation which would maintain the Refuge in an undeveloped state, to one allowing for oil and gas leasing (Alternative E). Three alternatives, including the Fish and Wildlife Service's preferred proposal (Alternative B), occupy intermediate positions within that range. By ensuring the Refuge's natural diversity, Alternative B would support maintenance of key fish and wildlife populations and habitats by minimizing potential impacts from development. Furthermore, Alternative B will provide for maintenance of traditional access and for continued subsistence use of the Refuge's resources, while affording additional opportunities for public use and motorized access near the community of Cold Bay. The alternative preferred by the Service would furnish a future opportunity for development of a trans-peninsula transportation corridor, subject to the provisions of Title XI of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

The final plan also describes the general wilderness suitability of differing acreages of non-wilderness refuge lands under each management alternative. This complies with section 1317(a) of ANILCA which requires the Secretary of the Interior to review, in accordance with section 3(d) of the Wilderness Act, all non-wilderness refuge lands in Alaska as to their suitability for preservation as wilderness and report his/her recommendations to the President by 1987. Currently, no part of the Refuge's 4.3 million acres is designated as wilderness. A range of recommendations is included in the plan's five alternative management strategies. Two alternatives (B and C) call for the same amount of acreage in designated wilderness while in one alternative (E) none is recommended; another (A) suggests as much as 3.4 million acres be considered for the National Wilderness Preservation System.

The Notice of Intent to prepare the draft CCP/EIS was published in the October 29, 1981, **Federal Register.** Other government agencies and the general public contributed to the development of this final CCP/EIS and Wilderness Review. After dissemination of the draft version eleven public meetings were held during September and November, 1984, in Pilot Point; Port Heiden; Chignik Bay; Chignik Lake; Ivanoff Bay; Perryville; Cold Bay; False Pass; King Cove; Nelson Lagoon; and Sand Point. A public hearing was held in Anchorage, on October 31, 1984.

The U.S. Fish and Wildlife Service will issue a Record of Decision on this CCP/EIS after September 9, 1985.

Dated: July 24, 1985.

Robert E. Gilmore,

Regional Director.

[FR Doc. 85-18069 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-55-M

Report to Congress on Artifically Propagated Fish for National Fishery Programs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability and Request for Comments.

SUMMARY: This notice is to inform interested parties that the U.S. Fish and Wildlife Service is prepared to distribute for public comment a report mandated by Congress in the Department of the Interior and Related Agencies Appropriations Act, 1985 (Pub. L. 98-473). The report analyzes future Federal fish production needs, compares the cost of buying fish to the cost of producing fish, and discusses other related matters.

DATE: Comments must be received by August 30, 1985.

CONTACT: Copies of the report may be obtained by contacting: Mr. John T. Brown, Chief, Division of Program Operations—Fisheries, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (202/653-8746).

SUPPLEMENTARY INFORMATION: The Congress directed the U.S. Fish and Wildlife Service to "* * * prepare a report on additional fish rearing plans and include in that report a comparative analysis of the costs of Service production to private or commercial production. In addition, the report should provide a list of potential new hatchery sites including an evaluation of the Nisqually Tribe hatchery, plans for the future production outputs from the Makah National Fish Hatchery (NFH), and an analysis of the effect of the Boldt case decisions, and the Salmon and Steelhead Enhancement Act on those hatcheries. In addition, the study should address other fishery issues including Atlantic salmon and striped bass recovery including the appropriate Federal role. That report should reflect public comment and be provided to the Committees in time for the fiscal year 1986 appropriations hearing."

The Service notified the public in the **Federal Register** of Februray 12, 1985, (50 FR 29) that this report was under development. Displayed below is the current Table of Contents of the report.

Artifically Propagated Fish for National Fishery Programs—An Analysis of Source, Cost, Purpose, and Need

1. Introduction
2. Survey of Propagation Capability
—The National Fish Hatchery System
—National Marine Fisheries Service
—Tribal Hatcheries
—State Hatcheries
—Private Sector or Commercial Operations
3. Comparison of Production Costs
—Introduction
—Methodology
—Federal/Service vs. State and Tribal Costs
—Federal/Service va. Private Sector or Commercial Costs
4. Review of Product Use
—Restoration of Depleted Resources
—Mitigation of Resource Impairment
—Settlement of User Conflict
5. Evaluation of Future Product Use
—Projected Needs
—Production and Enhancement Plans
6. Summary of Findings
7. Synthesis of Public Comments
8. Introduction of References and Appendices
9. References, Appendices

Dated: July 26, 1985.

F. Eugene Hester,

Acting Director, Fish and Wildlife Service.

[FR Doc. 85-18135 Filed 7-30-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Requirements for Geological and Geophysical Permits

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of permit requirements.

SUMMARY: Geological and geophysical (G&G) exploration for mineral resources on the Outer Continental Shelf (OCS) as claimed by the United States requires an approved permit from the Department of the Interior (DOI)—Minerals Management Service (MMS) before exploration activities may be conducted.

FOR FURTHER INFORMATION CONTACT: George Tirey, Minerals Management Service, Mail Stop 643, 12203 Sunrise Valley Drive, Reston Virginia 22091 or telephone (703) 860-7571.

SUPPLEMENTARY INFORMATION: Title 30 Code of Federal Regulations 251.4 provides as follows:

Section 251.4 Geological and geophysical activities requiring notices or permits.

Section 251.4-1 Geological and geophysical exploration for mineral resources.

Geological and geophysical exploration for mineral resources may not be conducted on the Outer Continental shelf (OCS) without an approved permit unless such activities are being conducted pursuant to a lease issued or maintained under the Act. Separate permits must be obtained for geological exploration for mineral resources and for geophysical exploration for mineral resources. If the Director disapproves an application, the statement of rejection shall state the reasons for the denial, and shall advise the applicant of those changes needed to obtain approval.

This notice reaffirms that the G&G exploration for mineral resources may not be conducted on the OCS without a permit unless such activities are being conducted pursuant to a lease (Title 30 Code of Federal Regulations § 251.4-1). The "Outer Continental Shelf" means all submerged lands which lie seaward and outside the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control. Submerged lands for which a permit is required under § 251.4 prior to conducting exploration for mineral resources include all lands seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and are claimed by the United States as its OCS and subject to its jurisdiction and control.

Specific questions concerning these areas may be addressed to the Regional Director for the region in which the work is planned. These offices are at the following locations:

A. For the OCS off the State of Alaska
Minerals Management Service, Alaska Region, 949 E. 36th Avenue, P.O. Box 101159, Anchorage, Alaska 99510, Telephone: (907) 261-4000
B. For the OCS off the Atlantic Coast and Straits of Florida
Minerals Management Service, Atlantic Region, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, Telephone: (703) 285-2165
C. For the OCS in the Gulf of Mexico
Minerals Management Service, Gulf of Mexico Region, Imperial Office Building, 3301 North Causeway Boulevard, P.O. Box 7944, Metairie,

VOL 50 ISS 147 JL 31 1985 UMI

Louisiana 70010, Telephone: (504) 837–4720

D. For the OCS off the States of California, Oregon, and Washington Minerals Management Service, Pacific Region, 1340 West Sixth Street, Los Angles, California 90017, Telephone: (213) 688–2850

Dated: July 18, 1985.

Richard B. Krahl,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 85–18114 Filed 7–30–85; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202–395–7340.

Title: 1985 National Recreation Survey (update)

Abstract: The survey requests information from the American public about types of outdoor recreation activities pursued, volume of activity and trends. The information is used for planning and management documents to ensure adequate resources and opportunities for outdoor recreation.

Bureau Form Number: NRS–1

Frequency: On occasion, at least every 5 years

Description of Respondenta: Random sample of the general public

Annual Responses: 1,600

Annual Burden Hours: 128

Bureau clearance officer: Russell K. Olsen 202–523–5133

Russell K. Olsen,

Bureau Clearance Officer.

[FR Doc. 85–18137 Filed 7–30–85; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–254 (Preliminary)]

Certain Red Raspberries From Canada

AGENCY: International Trade Commission:

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701–TA–254 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of fresh and frozen red raspberries in containers of a gross weight of over 20 pounds, provided for in items 146.54, 146.56, and 146.74 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Canada. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by September 3, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 18, 1985.

FOR FURTHER INFORMATION CONTACT: Stephen A. Vastagh (202–523–0283), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on July 18, 1985, by the Washington Raspberry Commission, Olympia, WA, the Oregon Caneberry Commission, Salem, OR, the Red Raspberry Committee of the Northwest Food Processors Association, Portland, OR, the Red Raspberry Member Group of the American Frozen Food Institute, McLean, VA, Rader Farms, Orting, WA, Ron Roberts, Gresham, OR, and Shuksan Frozen Foods, Inc., Lynden, WA, which represent approximately 20 packers and the majority of growers of red raspberries in the United States.

On June 17, 1985, the Commission completed Inv. No. 731–TA–196 (Final), Certain Red Raspberries from Canada, USITC Publication 1707, June 1985. The record of Inv. No. 731–TA–196 (Final) will be incorporated into the record of this investigation.

Participation in the investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list) and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on August 14, 1985, in Room 117 of the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Stephen A. Vastagh (202–523–0283) not later than August 13, 1985 to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before August 16, 1985, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: July 25, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18160 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–154]

Certain Dot Matrix Line Printers and Components Thereof; Issuance of Action and Order Denying Joint Motion To Withdraw Motion for Modification of Consent Order Agreement and To Maintain the Underlying Settlement Agreement as Confidential Business Information

AGENCY: International Trade Commission.

ACTION: Issuance of the Action and Order denying joint motion for withdrawal of "motion for modification of consent order agreement and declassification of information under protective order" and to maintain the underlying settlement agreement as confidential business information.

SUMMARY: The Commission has denied the joint motion of the parties in the above-captioned investigation to withdraw complainant's "motion for modification of consent order agreement and declassification of information under protective order" and to maintain the underlying settlement agreement as confidential business information. Further, the parties were instructed that they may file a new joint motion seeking modification of the consent order on the basis of a new agreement among the parties, in accordance with the procedure contained in § 211.57 of the Commission's Rules of Practice and Procedure (19 CFR 211.57) and the instructions contained in the Action and Order.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

SUPPLEMENTARY INFORMATION: The above-captioned investigation was terminated in March 1984 on the basis of a consent order incorporating a consent order agreement. On February 13, 1985, complainant Printronix, Inc. filed a motion, pursuant to §§ 210.44(e) and 211.57(a) of the Commission's rules, seeking to modify the consent order so that the quantities of printers and the dates for permissible importation and sales could made public and to permit complainant to publicize "to whatever extent necessary the true terms and conditions of the agreement." The Commission provisionally accepted Printronix's motion, pursuant to § 211.57 of the Commission's rules, and referred the motion to the Chief Administrative Law Judge (ALJ) with instructions that a recommended determination (RD) be certified to the Commission as soon as practicable.

Subsequently, Printronix and the four respondents involved in this matter filed a joint motion (Motion No. 154–31) to withdraw the originally filed motion for modification of the consent order agreement, on the basis of a new settlement agreement among the parties, and to maintain that settlement agreement as confidential business information. On April 19, 1985, the ALJ issued an RD recommending that the joint motion be granted. By Action and Order, the Commission determined that the motion should be denied.

Issued: July 23, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18161 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

Appointment of Individuals To Serve as Members of Performance Review Boards

AGENCY: International Trade Commission.

ACTION: Appointment of Individuals To Serve as Members of Performance Review Boards.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Terry P. McGowan, Director of Personnel, U.S. International Trade Commission, (202) 523–0182.

SUPPLEMENTARY INFORMATION: The Chairwoman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB).

Chairman of PRB—Susan W. Liebeler, Vice Chairman
Member—Commissioner Alfred E. Eckes, Jr.
Member—Commissioner Seeley G. Lodwick
Member—Commissioner David B. Rohr
Member—Charles W. Ervin
Member—E. William Fry
Member—Lorin L Goodrich
Member—Erland H. Heginbotham
Member—Eugene A. Rosengarden
Member—Lyn M. Schlitt
Member—John W. Suomela

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting out TDD terminal on (202) 724–0002.

By order of the Chairwoman.

Issued: July 24, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18154 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–218]

Certain Automatic Bowling Machine Printed Circuit Control Boards; Commission Decision To Review Initial Determination Terminating Respondent and to Reverse

AGENCY: International Trade Commission.

ACTION: The Commission has determined to review and reverse the initial determination (ID) (Order No. 5) terminating respondent United Bowling Mechanics (UBM) as a respondent in the above-captioned investigation.

SUMMARY: The Commission has determined to review and reverse the

certain carbon steel products from Venezuela and its antidumping

SUMMARY: The Commission hereby announces the rescheduling of the

desiring to appear at the hearing and make oral presentations should file

Authority

Scope of Investigation

SUMMARY: The Commission has determined to review and reverse the presiding administrative law judge's ID granting the Commission's investigative attorney's motion (Motion No. 218–2) to terminate this investigation as to respondent UBM. The grounds for the termination were that UBM cannot be located and has been declared a bankrupt company in the Netherlands.

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

SUPPLEMENTARY INFORMATION:

On June 5, 1985, the Commission investigative attorney moved for termination of this investigation as to respondent UBM. Complainant OMEGA–TEK filed an opposition to the motion. On June 20, 1985, the presiding administrative law judge issued an ID terminating respondent UBM, but she did not make a finding that UBM is not in violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). No petitions for review or Government agency comments were received.

Authority for the Commission's action is contained in Commission rules 210.55 and 210.56 (19 CFR 210.55 and 210.56).

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

By order of the Commission.

Issued: July 23, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18157 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–226, 229, and 232 (Final) and 731–TA–217, 222, 223, 228, and 229 (Final)]

Certain Carbon Steel Products From Romania and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Termination of investigations.

SUMMARY: On July 16, 1985, the Commission received letters from the U.S. Department of Commerce stating that, having received letters from petitioner in the subject investigations (United States Steel Corp.) withdrawing its petitions, Commerce was terminating its countervailing duty investigations on certain carbon steel products from Venezuela and its antidumping investigations on certain carbon steel products from both Romania and Venezuela. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the following investigations are terminated:

Countervailing duty investigations:

Carbon Steel Plates Whether or not in Coils From Venezuela (investigaton No. 701–TA–226 (Final));

Hot-Rolled Carbon Steel Sheets From Venezuela (investigaton No. 701–TA–229 (Final)); and

Cold-Rolled Carbon Steel Plates and Sheets From Venezuela (investigation No. 701–TA–232 (Final)); and

Antidumping investigations:

Carbon Steel Plates Whether or not in Coils From Venezuela (investigatoin No. 731–TA–217 (Final));

Hot-Rolled Carbon Steel Sheets From—

Romania (investigation No. 731–TA–222 (Final)); and

Venezuela (investigation No. 731–TA–223 (Final)); and

Cold-Rolled Carbon Steel Plates and Sheets From—

Romania (investigation No. 731–TA–228 (Final)); and

Venezuela (investigation No. 731–TA–229 (Final)).

EFFECTIVE DATE: July 19, 1985.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202–523–1369), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-imparied individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

Authority: These investigations are being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

By order of the Commission.

Issued: July 25, 1985.

Kenneth R. Mason.

Secretary.

[FR Doc. 85–18149 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–207 (Final)]

Cellular Mobile Telephones and Subassemblies Thereof From Japan

AGENCY: United States International Trade Commission.

ACTION: Rescheduling of the hearing to be held in connection with the subject investigation.

SUMMARY: The Commission hereby announces the rescheduling of the hearing to be held in connection with the subject investigation from 10:00 a.m. on September 5, 1985 to 10:00 a.m. on October 30, 1985.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: July 23, 1985.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–523–0296), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 1985 the Commission instituted the subject investigation and scheduled a hearing to be held in connection therewith for September 5, 1985 to (50 FR 27496, July 3, 1985). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from August 19, 1985 to October 24, 1985. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule. As provided in section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must make its final determination in antidumping investigations within 45 days of Commerce's final determination, or in this case by December 9, 1985.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on October 15, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on October 30, 1985 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 15, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on October 21, 1985 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 25, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearings should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 6, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 6, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

By order of the Commission.

Issued: July 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18150 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–224]

Cellulose Acetate Hollow Fiber Artificial Kidneys; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 24, 1985, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of CD Medical, Inc., 14600 N.W. 60th Avenue, P.O. Box 9308, Miami Lakes, Florida 33014–9308. A supplement to the complaint was filed on July 8, 1985. The complaint as supplemented alleges unfair methods of competition and unfair acts in the importation into the United States of certain cellulose acetate hollow fiber artificial kidneys, or in their sale, by reason of alleged direct, contributory and induced infringement of at least claims 1 and 2 of U.S. Letters Patent 4,276,173. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., or Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–523–1272 or 202–523–1273, respectively.

SUPPLEMENTARY INFORMATION:

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on July 19, 1985, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation into the United States of certain cellulose acetate hollow fiber artificial kidneys, or in their sale, by reason of alleged direct, contributory and induced infringement of claims 1 and 2 of U.S. Letters Patent 4,276,173, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: CD Medical, Inc., 14600 N.W. 60th Avenue, P.O. Box 9308, Miami Lakes, Florida 33014–9308.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Nissho Corporation, Ltd., 3–9–3, Honjo-nishi, Oyodo-ku, Osaka, Japan

Nippon Medical Industries, Ltd., 8–7, Hanukiyachi, Niida, Ohdate-shi, Akita, Japan

Toyobo Company Ltd., 2–8, 2-chome, Dojima Hama, Kita-ku, Osaka, Japan

Baxter Travenol Laboratories, Inc., One Baxter Parkway, Deerfield, Illinois 60015

(c) Juan Cockburn, Esq., and Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorneys, party to this investigation; and

(3) For the investigations so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefore is shown.

Failure of a respondent to file a timely response to each allegation in the

complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

By order of the Commission.

Issued: July 22, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18163 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–197]

Compound Action Metal Cutting Snips and Components Thereof; Issuance of General Exclusion Order and Cease and Desist Orders

AGENCY: International Trade Commission.

ACTION: Issuance of Commission general exclusion order and cease and desist orders.

SUMMARY: Having determined that the issues of remedy, the public interest, and bonding are properly before the Commission. The Commission has determined that a general exclusion order and cease and desist orders directed to respondents J & C Wholesale and Coast Freight Salvage, pursuant to sections 337(d) and (f) of the Tariff Act of 1930 (19 U.S.C. 1337 (d) and (f)) are the appropriate remedies for the section 337 violations found to exist; that the public interest considerations enumerated in sections 337(d) and (f) do not preclude such relief; and that the amount of the bond during the Presidential review period under section 337(g) shall be 170 percent of the entered value of the imported articles.

FOR FURTHER INFORMATION CONTACT: Charles H. Nalls, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1626.

SUPPLEMENTARY INFORMATION: On April 18, 1985, the presiding administrative law judge issued an initial determination (ID) that there is a violation of section 337 in the importation and sale of the compound action metal cutting snips subject to this investigation. On June 6, 1985, the Commission determined not to review the ID, which thereupon become the Commission's determination on violation of section 337. 50 FR 24712 (June 12, 1985). The Commission requested written submissions on the issues of remedy, the public interest, and bonding. Complainant Cooper Industries, Inc. and the Commission investigative attorney have submitted briefs on the issues of remedy, the public interest, and bonding. The Commission received no submissions from any respondent, Government agency, or the public.

Copies of the Commission's Action and Order, the Commission Opinion in support thereof, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

By order of the Commission.

Issued: July 19, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18166 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–212]

Certain Convertible Rowing Exercisers; Commission Decision Not To Review Initial Determination Amended Complaint and Notice of Investigation by Deleting U.S. Letters Patent 4,488,719

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) amending the complaint and notice of investigation by deleting all references to U.S. Letters Patent 4,488,719 (the '719 patent).

SUMMARY: Notice is hereby given that the Commission has determined not to review an ID of the presiding administrative law judge (ALJ) to amend the complaint and notice of investigation by deleting all references to the '719 patent.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

SUPPLEMENTARY INFORMATION: Complainant Diversified Products (DP) moved to amend the complaint and notice of investigation to delete all references to the '719 patent on the ground that prior art cited by respondent Weslo Design International raises substantial questions regarding the patent's patentability. DP, Weslo, and the Commission investigative attorney than stipulated to delete the '719 patent from the investigation on condition that (1) DP serve all papers regarding the reexamination on Weslo and the Commission, (2) DP not seek to reassert a reexamined or reissued version of the '719 patent in this investigation, and (3) Weslo may assert equitable defenses (but not legal defenses) to the '719 paten in this case. The ALJ issued an ID (Order No. 30) granting the motion. No party has petitioned for review of the ID and no comments regarding the ID have been received from any Government agency.

By order of the Commission.

Issued: July 24, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18156 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–212]

Convertible Rowing Exercisers; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement:

Shinn Fu Company of America, Inc.; Ever Young Industries Co., Seasonal Merchandise Davelopment Co., Ltd.; Sunstar International, Inc.; and National Sporting Goods Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the intitial determination. The initial determination in this matter was served upon the parties on July 23, 1985.

Copies of the intitial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: July 23, 1984

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18165 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–212]

Certain Convertible Rowing Exercisers; Commission Determination Not To Review Initial Determination Finding Respondent in Default and Imposing Procedural Sanctions

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) finding a respondent in default and imposing procedural sanctions.

SUMMARY: Notice is hereby given that the Commission has determined not to review an ID of the presiding administrative law judge (ALJ) that finds respondent H.C. Enterprise in default and imposes procedural sanctions.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493

SUPPLEMENTARY INFORMATION: By Orders Nos. 5 and 11, March 25 and April 9, 1985, respectively, H.C. Enterprise had been ordered to show cause why it should not be held in default. H.C. did not respond to either order. On June 25, 1985, the ALJ issued an ID (Order No. 29) finding H.C. in default. The ALJ also ordered that: (1) H.C. has waived its right to appear in the investigation, (2) no party is required to serve documents on H.C., and (3) H.C. has waived the right to contest the allegations at issue. No petition for review was filed. No comments on the ID were received from any Government agency.

By order of the Commission.

Issued: July 24, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18155 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–215]

Double-Sided Floppy Drives and Components Therefore; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Sony Corp. and Sony Corp. of America.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on July 22, 1985.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: July 22, 1985.

Kenneth R. Mason,

Secretary

[FR Doc. 85–18162 Filed 7–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–269 (Preliminary)]

Nylon Impression Fabric From Japan

Determination

On the basis of the record [1] developed in investigation No. 731–TA–269 (Preliminary), the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Japan of nylon impression fabric, provided for in items 338.50 and 347.60 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).[2]

Background

On June 10, 1985, counsel for Bomont Industries and Burlington Industries, Inc. filed a petition with the Commission and

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioners Eckes and Lodwick determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

the Department of Commerce alleging

A signed original and fourteen (14)

(LTFV). Unless the

VOL 50 ISS 147 JL 31 1985 UMI

the Department of Commerce alleging that imports of nylon impression fabric from Japan are being sold in the United States at LTFV, and that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of such merchandise. Accordingly, effective June 10, 1985, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 19, 1985 (50 FR 25478). The conference was held in Washington, DC, on July 2, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 25, 1985. The views of the Commission are contained in USITC Publication 1726 (July 1985), entitled "Nylon Impression Fabric from Japan: Determinations of the Commission in Investigation No. 731–TA–269 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: July 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18147 Filed 7–30–85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701–TA–255 and 256 (Preliminary) and 731–TA–275, 276 and 277 (Preliminary)]

Oil Country Tubular Goods From Argentina, Canada and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigations Nos. 701–TA–255 and 256 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada and Taiwan of oil country tubular goods,[1] which are alleged to be subsidized by the Governments of Canada and Taiwan. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in these cases by September 5, 1985.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–275, 276 and 277 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina, Canada and Taiwan of oil country tubular goods,[1] which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in these cases by September 5, 1985.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth (202–523–0289) or Bruce Cates (202–523–0369), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on July 22, 1985, on behalf of Lone Star Steel Company, Dallas, TX, and CF&I Steel Corporation, Pueblo, CO.

Participation in the investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 207.3 of the rules (19 CFR 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on August 9, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Vera Libeau (202–523–0368), not later than August 7, 1985, to arrange for their appearance. Parties in support of the imposition of antidumping and/or countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before August 13, 1985, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15).

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules. All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules.

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commision's rules (19 CFR 207.12).

By order of the Commission.

Issued: July 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–18146 Filed 7–30–85; 8:45 am]

BILLING CODE 7020-02-M

[1] For purposes of these investigations the term "oil country tubular goods" includes drill pipe, casing and tubing for drilling oil or gas wells, of carbon or alloy steel, whether such articles are welded or seamless, whether finished or unfinished, and whether or not meeting American Petroleum Institute (API) specifications, provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States.

[Investigations Nos. 731–TA–240 and 241 (Final)]

Photo Albums and Photo Album Filler Pages From Hong Kong and the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731–TA–240 and 241 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Hong Kong and the Republic of Korea of photo albums and photo album filler pages, as provided for in items 256.60 (albums) and 256.87, 256.90, and 774.55 (filler pages) of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States of less than fair value (LTFV). Unless the investigation are extended, Commerce will make its final LTFV determinations on or before September 23, 1985, and the Commission will make its final injury determination by November 12, 1985 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rule of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: July 16, 1985.

FOR FURTHER INFORMATION CONTACT: Maria Papadakis (202–523–0439), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of photo albums and photo album filler pages from Hong Kong and the Republic of Korea are being sold in the United States at LTFV within the meaning of section 731 of the act (19 U.S.C. 1673). The investigations were requested in a petition filed on January 30, 1985, by Esselte Pendaflex, Inc., Garden City, NY; The Holson Co., Wilton, CT; Kleer-Vu Plastics Corp., Brownsville, TN; and SPM Manufacturing Corp., Holyoke, MA. In response to that petition the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of these investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 12092, March 27, 1985).

Participation in the Investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepared a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in these investigations will be placed in the public record on September 17, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m. on October 2, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 12, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on September 17, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is September 27, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the

VOL 50 ISS 147 JL 31 1985 UMI

Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written Submissions

All legal arguments, economic analysis, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 8, 1985. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigation on or before October 8, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued July 24, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18148 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

Stainless Steel Plate From Sweden; Request for Comments Concerning the Institution of a Section 751(b) Review Investigation

AGENCY: International Trade Commission.

ACTION: Request for comments regarding the institution of a section 751(b) review investigation concerning the Commission's affirmative determination in investigation No. AA1921-114, Stainless Steel Plate from Sweden.

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist which warrant the institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) to review the Commission's affirmative determination in investigation No. AA1921-114 regarding stainless steel plate from Sweden. The purpose of the proposed section 751(b) review investigation, if instituted, would be to determine whether an industry in the United States would be materially injured, would be threatened with material injury, or the establishment of an industry would be materially retarded, by reason of imports of stainless steel plate from Sweden if the antidumping order is modified or revoked with respect to such merchandise, provided for in items 607.75 and 607.90 of the Tariff Schedules of the United States.

SUPPLEMENTARY INFORMATION: On May 1, 1973, the Commission determined that an industry in the United States was injured within the meaning of the Antidumping Act of 1921 by reason of imports of stainless steel plate from Sweden determined by the Secretary of Treasury to be sold or likely to be sold at less than fair value (LTFV).

On June 5, 1973, the Department of the Treasury issued a finding of dumping and published notice of the dumping finding in the **Federal Register** (38 FR 15079).

On July 8, 1985, the Commission received a request to review its affirmative determination in investigation No. AA1921-114. The request was filed pursuant to section 751(b) of the Tariff Act of 1930 by Freeman, Wasserman & Schneider on behalf of Avesta AB, the sole Swedish producer and exporter of stainless steel plate, and its affiliated company, Avesta Stainless Inc., a U.S. producer of stainless steel plate.

Written Comments Requested

Pursuant to § 207.45(b)(2) of the Commission's Rules of Practice and Procedure (19 CFR 207.45(b)(2)), the Commission requests public comments concerning whether the following alleged changed circumstances are sufficient to warrant institution of a review investigation: (1) Imports of Swedish plate into the United States are commercially insignificant and statistically *de minimis*, representing less than one percent of apparent U.S. consumption of plate in every year but one since 1976; (2) The number of companies producing stainless steel plate in Sweden has fallen from four producers with four mills in 1972 to one producer with two mills in 1985; (3) In 1976, a predecessor of Sweden's sole remaining producer of stainless steel plate acquired Borg Warner Corporation's Ingersoll Division mill at New Castle, IN, and by 1984 this mill's share of apparent U.S. consumption of stainless steel plate had greatly increased; and (4) In 1972, Sweden and the European Community (EC) entered into a bilateral trade agreement which allowed Swedish plate duty-free trade into the EC; today, Swedish exports to the EC are almost 20 times the quantity exported to the United States.

Additional Information

Under § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), the signed original and 14 true copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street NW., Washington, DC 20436. All comments must be filed no later than 30 days after the date of publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984). Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top "Confidential Business Data." The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Copies of the request for review of the injury determination and any other public documents in this matter are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436; telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Cynthia Wilson, Office of Investigations, U.S. International Trade Commission (202-523-0291).

By order of the Commission.

Issued: July 23, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18159 Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-266 Through 268 (Preliminary)]

Certain Steel Wire Nails From the People's Republic of China, Poland, and Yugoslavia

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the People's Republic of China (China), Poland, and Yugoslavia of one-piece steel wire nails made of round steel wire, provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States (TSUS), and similar steel nails of one-piece construction whether over or under 0.065 inch in diameter, provided for in item 646.30 of the TSUS; two-piece steel wire nails, provided for in item 646.32 of the TSUS; and steel wire nails with lead heads, provided for in item 646.36 of the TSUS, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On June 5, 1985, a petition was filed with the Commission and the Department of Commerce by Atlantic Steel Co., Atlas Steel & Wire Corp., Continental Steel Corp., Davis-Walker Corp., Dickson Weatherproof Nail Co., Florida Wire & Nail Co., Keystone Steel & Wire Co., Northwestern Steel & Wire Co., Virginia Wire & Fabric Co., and Wire Products Co., alleging that an industry in the United States is materially injured and is threatened with material injury by reason of LTFV imports of certain steel wire nails from China, Poland, and Yugoslavia. Accordingly, effective June 5, 1985, the Commission instituted preliminary antidumping investigations Nos. 731-TA-266 through 268 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 13, 1985 (50 FR 24845). The conference was held in Washington, DC, on June 26, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on July 22, 1985. The views of the Commission are contained in USITC Publication 1730 (July 1985), entitled "Certain Steel Wire Nails from the People's Republic of China, Poland, and Yugoslavia: Determinations of the Commission in Investigations Nos. 731-TA-266 through 268 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: July 23, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18167, Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairwoman Stern and Vice Chairman Liebeler dissenting.

[Investigation No. 337-TA-202]

Telephone Base Housing and Related Packaging and Printed Materials; Decision Not To Review Initial Determination Terminating Investigation on the Basis of Consent Order; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Termination of investigation on the basis of a consent order.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) terminating respondent Keytronics, Inc. in the above-captioned investigation on the basis of a consent order. As Keytronics is the only respondent, its termination terminates the investigation.

SUPPLEMENTARY INFORMATION: On December 7, 1984, complaintant GTE Communications Systems, Corp., respondent Keytronics, and the Commission investigative attorney jointly mored (Motion No. 202-1) to terminate this investigation on the basis of a proposed consent order. On January 3, 1985, the presiding administrative law judge issued an ID terminating the investigation with respect to respondent Keytronics on the basis of the consent order. No petitions for review of the ID or comments from Government agencies or the public were received.

Termination of the investigation on the basis of the consent order furthers the public interest by conserving commission resources and those of the parties involved.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51(c) and 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of Secretary, U.S. International Trade Commission, 701 E. Street, NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0311.

By order of the Commission.

Issued: July 22, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-18164, Filed 7-30-85; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importers of Controlled Substances; McNeilab Inc.; Registration

By Notice dated May 28, 1985, and published in the **Federal Register** on June 4, 1985, (50 FR 23537), McNeilab Inc., DBA First State Chemical Company Inc., 803 East Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670)	II

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import, and Export Act and in accordance with Title 21, Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of basic classes of controlled substances listed above.

Dated: July 24, 1966.

Gene R. Haislip,

Deputy Assistant Administrotor, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-18117 Filed 7-30-85; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; MD Pharmaceutical, Inc.; Withdrawal

On May 16, 1985, the Drug Enforcement Administration published a Notice of Application in the **Federal Register** (Vol 50, No. 95, pg. 20509) stating that MD Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, had submitted an application for registration as a importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Diphenoxylate (9170)	II

On April 25, 1985, the Drug Enforcement Administration was advised that MD Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, wished to withdraw its application for registration as a importer of Methylphenidate (1724) and Diphenoxylate (9170).

The application having been withdrawn, any proceedings relating to the application have been terminated and the publication withdrawn.

Dated: July 24, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc: 85-18118 Filed 7-30-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Penick Corp.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 15, 1985, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Pholcodine (9314)	I
Alphacetylmethadol (9603)	I
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Pethidine (meperidine) (9230)	II
Methadone (9250)	II
Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane (9254).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium Extracts (9610)	II
Opium Fluid Extracts (9620)	II
Tincture of Opium (9630)	II
Powdered Opium (9639)	II
Granulated Opium (9640)	II
Mixed Alkaloids of Opium (9648)	II
Concentrate of Poppy Straw (9670)	II
Phenazocine (9715)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than August 30, 1985.

Dated: July 24, 1985.

Gene R. Haislip,

Deputy Assistant Administrotor, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-18119 Filed 7-30-85; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Syncates Associates Inc.; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 9, 1985, Syncates Associates Inc., 9307-M Harwin, Houston, Texas 77038, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substances Pentobarbital (2270).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representatives (Room 1112), and must be filed no later than August 30, 1985.

Dated: July 24, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-18120 Filed 7-30-85; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-48]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 45), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by August 12, 1985. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Carl Steinmetz, NASA Agency Clearance Officer, Code NIM, NASA Headquarters, Washington, DC 20546; Mike Weinstein, Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl Steinmetz, NASA Agency Clearance Officer (202) 453-2941.

Reports

Title: Application for Volunteer Program, NASA, Goddard Space Flight Center, Greenbelt, MD.
Type of Request: New.
Frequency of Report: As Required.
Type of Respondent: Individuals or households.
Annual Burden Hours: 58.
Abstract-Need/Uses: The primary use of the data is to determine eligible candidates for the Goddard Space Flight Center Application for Volunteer Program.

L.W. Vogel,

Director, Logistics Management ond Informotion Programs Division.

FR Doc. 85-18051 Filed 7-30-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-49]

Intent To Grant Exclusive Field of Use License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent To Grant an Exclusive Field of Use Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Celanese Corporation of New York, New York, an exclusive, field of use, royalty-bearing, revocable license to practice the inventions as described in U.S. Patent No. 4,065,345 for "Polyimide Adhesives," issued December 27, 1977; U.S. Patent No. 4,094,862 for a "Process for Preparing Thermoplastic Aromatic Polyimides," issued June 13, 1978; U.S. Patent No. 4,398,021 for a "Solvent Resistant Thermoplastic Aromatic Poly (imidesulfone) and Process for Preparing Same," issued August 9, 1983; and U.S. Patent No. 4,489,027 for a "Solvent Resistant, Thermoplastic Aromatic Poly (imidesulfone) and Process for Preparing Same," issued December 18, 1984. The proposed exclusive field of use license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written response to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by September 30, 1985.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453-2430.

Dated: July 24, 1985.

John E. O'Brien.

Deputy General Counsel.

FR Doc. 85-18052 Filed 7-30-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-50]

Government-Owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161, for $6.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mannix, Director of Patent Licensing, Code GP, Washington, D.C. 20546, telephone (202) 453-2430.

Patent Application 655,601: A Method and Apparatus for Operating on Companded PCM Voice Data; filed September 28, 1984.
Patent Application 686,959: Combined Riblet and Lebu Drag Reduction System; filed December 27, 1984.
Patent Application 732,321: Apparatus for Mounting a Field Emission Cathode; filed May 9, 1985.
Patent Application 719,796: High Performance Mixed Bisimide Resins and Composites Based Thereon; filed April 4, 1985.
Patent Application 727,035: Temperature Sensitive Oscillator; filed April 25, 1985.
Patent Application 729,767: Lightweight Piston; filed May 2, 1985.
Patent Application 727,034: Vibration-Free Raman Doppler Velocimeter; filed April 25, 1985.
Patent Application 711,551: Oscillating Pressure Device for Dynamic Calibration of Pressure Transducers; filed March 11, 1985.
Patent Application 719,797: Flow Thru Bacteria Detection System; filed April 4, 1985.
Patent Application 719,798: Ribbon Growing Method and Apparatus; filed April 4, 1985.
Patent Application 719,794: Fluidic Angular Velocity Sensor; filed April 4, 1985.
Patent Application 719,799: Improved Fluid Flow Meter for Measuring the Rate of Fluid Flow in a Conduit; filed April 4, 1985.
Patent Application 729,766: Double Window Viewing Chamber Assembly; filed May 2, 1985.
Patent Application 706,565: Laser Schlieren Crystal Monitor; filed February 28, 1985.
Patent Application 701,486: Ten Degree Kelvin Hydride Refrigerator; filed February 14, 1985.
Patent Application 703,847: Double Photon Excitation of High-Rydberg Atoms as a Longlive Submillimeter Detector; filed February 21, 1985.
Patent Application 739,792: Electro-Expulsive Separation System; filed May 31, 1985.
Patent Application 692,875: Damping Seal for Turbo Machinery; filed January 18, 1985.
Patent Application 727,931: Magnetically Switched Power Supply Systems for Lasers; filed April 29, 1985.
Patent Application 739,789: Jet Pump-Drive System for Heat Removal; filed May 31, 1985.
Patent Application 729,704: Fully Redundant Mechanical Release Actuator; filed May 2, 1985.
Patent Application 709,255: Remotely Operable Peristalic Pump; filed March 7, 1985.
Patent Application 725,714: LDV Multiplexer Interface; filed April 22, 1985.
Patent Application 706,682: Light Weight Fire Resistant Graphite Composites; filed February 2, 1985.
Patent Application 692,802: Improvements in Tank Tread Assemblies; filed January 18, 1985.
Patent Application 706,564: Method for Growing Low Defect, High Purity Crystalline Layers; filed February 28, 1985.
Patent Application 729,768: Generation of Intense Negative Ion Beams; filed May 2, 1985.
Patent Application 729,719: Tone Calibrated Digital Radio Communication System; filed May 2, 1985.

Patent Application 725,726: Method for Ultrasonic Bonding to Soft Microelectronic Substrates; filed April 22, 1985.
Patent Application 739,788: Alignment and Assembly Tool for Very Large Diameter; filed May 31, 1985.
Patent Application 725,689: Non-Backdriveable Free Wheeling Coupling; filed April 22, 1985.

Dated: July 24, 1985.

John E. O'Brien,

Deputy General Counsel.

[FR Doc. 85-18053 Filed 7-30-85; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357-9421
OMB Desk Officer: Carlos Tellez, (202) 395-7340
Title: Request for Proposals (RFP)
Affected Public: Individuals, State or local governments, Business or other for-profit, Non-profit institutions, Small businesses or organizations.
Number of Responses: 380 responses; total of 45,600 hours
Abstract: Requests for Proposals used to competitively solicit proposals in response to NSF need for services. Impact will be on those individuals or organizations who elect to submit proposals in response to the RFP. Information gathered will be evaluated in light of NSF procurement requirements to determine who will be awarded a contract.

Dated: July 26, 1985.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 85-18101 Filed 7-30-85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-208]

Columbia University; Order Terminating Facility License

By application dated January 14, 1985, as supplemented March 27, 1985. Columbia University (the licensee) requested the Nuclear Regulatory Commission (the Commission or NRC) to terminate Facility Operating License No. R-128. A "Notice of Proposed Issuance of Order Terminating Facility License," was published in the **Federal Register** on May 6, 1985, at 50 FR 19098. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The licensee has never operated the facility and fuel was never obtained or installed in the reactor. The licensee modified certain systems to render the reactor inoperable. The area is available for unrestricted access. Therefore, pursuant to the application filed by Columbia University in the City of New York, Facility License No. R-128 is terminated as of the date of this Order.

For further details with respect to this action see: (1) The application for termination of facility license, dated January 14, 1985, as supplemented March 27, 1985, (2) the Commission's Safety Evaluation related to the termination of the license, and (3) the Notice of Proposed Issuance of Order Terminating Facility License, published in the **Federal Register** on May 6, 1985 (50 FR 19098). Each of these items is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of July 1985.

Hugh L. Thompson, Jr.,

Director, Division of Licensing.

[FR Doc. 85-18170 Filed 7-30-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423]

Northeast Nuclear Energy Company, et al.;[1] Issuance of Amendment to Construction Permit

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Construction Permit No. CPPR-113 for Millstone Nuclear Power Station, Unit 3. The amendment modifies the construction permit to reflect issuance, by the Commission, of an Exemption dated June 5, 1985. The amendment is effective as of the date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which is set forth in the amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to the action, see: (1) The application for amendment dated March 1, 1985, (2) Amendment No. 12 to Construction Permit CPPR-113, (3) the Commission's related Safety Evaluation, (4) the Exemption dated June 5, 1985, and (5) the Notice of Environmental Assessment and Finding of No Significant Impact dated May 29, 1985. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Local Public Document Room at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. In addition a copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 24th day of July 1985.

For the Nuclear Regulatory Commission.

B.J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 85-18171 Filed 7-30-85; 8:45 am]

BILLING CODE 7590-01-M

[NUREG-0800]

Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants; Issuance and Availability, Revised SRP Section 13.5.2 and Appendix A to SRP Section 13.5.2

The U.S. Nuclear Regulatory Commission (NRC) has published a revision to section 13.5.2, "Operating and Maintenance Procedures," and Appendix A to SRP section 13.5.2, "Review Procedures for the Evaluation of Procedures Generation Packages" of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," LWR Edition (SRP).

The revison consists of SRP section 13.5.2, Rev. 1, and an appendix to section 13.5.2, Appendix A, Rev. O. The revised SRP Section incorporates the resolution of TMI Action Plan item I.C.1, "Short-Term Accident Analysis and Procedure Revision" and the partial resolution of item I.C.9, "Long-Term Program Plan for Upgrading Procedures" of Supplement 1 to NUREG-0737—"Requirements for Emergency Response Capability" (Generic Letter 82-3). The acceptance criteria and guidelines incorporated into SRP section 13.5.2 and Appendix A to this Section are a formalization of criteria that were previously approved and issued in Supplement 1 of NUREG-0737 as Generic Letter 82-33 dated December 17, 1982. Appendix A to section 13.5.2 was formerly Draft NUREG-0799, "Draft Criteria for Preparation of Emergency Operating Procedures, Draft Report for Comment," and NUREG-0899, "Guidelines for the Preparation of Emergency Operating Procedures, Final Report." A notice of availability and request for public and industry comments on NUREG-0799 was published in the **Federal Register** on July 2, 1981 (46 FR 34735). The notice of availability for NUREG-0899 was published in the **Federal Register** on September 16, 1982 (47 FR 40958).

The revised SRP section is effective immediately. A copy is expected to be available in the NRC Public Document Room within two weeks. Copies of the revised SRP Section or the complete Standard Review Plan, NUREG-0800, Accession No. PD-81-920199, is available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; telephone (703) 487-4650.

Dated at Bethesda, Maryland, this 17th day of July 1985.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-18172 Filed 7-30-85; 8:45 am]

BILLING CODE 7590-01-M

[1] The following are the holders of construction Permit No. CPPR-113: Central Maine Power Company, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, Connecticut Municipal Electric Energy Cooperative, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, Northeast Nuclear Energy Company, Public Service Company of New Hampshire, The United Illuminating Company, Vermont Electric Cooperative, Inc., The Village of Lyndonville Electric Generation and Transmission Cooperative, Inc.

Bi-Weekly Notice of Applications and Amendments To Operating licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Pub. L. (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immeditaly effective any amendment to an operating license upon a determinaton by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on July 17, 1985 (50 FR 29006), through July 22, 1985.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING AND LICENSE PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possiblity of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reducation in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By August 30, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject mater of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifiteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such as amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a peitioner shall file a supplement to the petition to intevene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A

petitioner who fails to file such a supplement which satisfies these

observed concrete locations, the Calvert Cliffs program incorporates a

with this proposed change, increasing the size of the load to be periodically

side is dedicated to its respective unit. To provide clarification, the fire detector

VOL 50 ISS 147 JL 31 1985 UMI

petitioner who fails to file such a supplement which satisfies these requirements with respect to at last one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceedings, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice is issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: April 26, 1985.

Description of amendment request: The proposed amendments would change the Unit 1 and Unit 2 Technical Specifications (TS) to: (1) reflect a clarification of surveillance requirements of TS 4.6.1.6.2, "Containment Structural Integrity", concerning containment tendon end anchorages and adjacent concrete surfaces; (2) relfect an increase in the required diesel generator test load specified in TS 4.8.1.1.2.c.2, "A.C. Sources"; (3) delete TS 3/4 3.3.8, "Radioactive Gaseous Effluent Monitoring Instrumentation" and incorporate these requirements in TS Tables 3.3–6 and 4.3–3, "Radiation Monitoring Instrumentation"; (4) provide simplification, additions and clarifications concerning the fire protection instrumentation in TS Table 3.3–11, "Fire Detection Instruments"; (5) revise limiting conditions and surveillance requirements for the hydrogen analyzers, TS 3/4.6.5, "Combustible Gas Control-Hydrogen Analyzers"; and (6) revise limiting conditions and surveillance requirements for the auxiliary feedwater system (TS 3/4.7.1.2).

Basis for proposed no significont hazards consideration determination: The licensee has requested a change to TS 4.6.1.6.2 in order to provide clarification regarding inspection of containment tendon end anchorages and adjacent concrete surfaces. The wording of TS 4.6.1.6.2 would seem to indicate that all anchorages and adjacent concrete surfaces should be inspected. The licensee's requested change would provide for an inspection of a random sample of end anchorages and adjacent concrete surfaces consistent with the sample of tendons selected for surveillance.

As indicated in the TS Bases for TS 4.6.1.6.2, the inspection of the containment post-tensioning system (tendon, anchors, and related equipment and structures) is based upon Regulatory Guide (RG) 1.35, "Inservice Surveillance of Ungrouted Tendons in Prestressed Concrete Structures," January 1976. A review of Section C.3 of the subject RG clearly indicates that a random sample of tendon end anchorages and adjacent concrete surfaces (corresponding to the random selection of tendons to be tested) should be selected for testing. Thus, the proposed TS change for selection of tendon end anchorages and adjacent concrete surfaces is consistent with the provisions of R.G. 1.35.

Finally, with regard to observation of concrete surfaces during the containment "Type A" test, TS 4.6.1.6.2 requires observation of crack patters in concrete adjacent to the end anchorages. The licensee proposes to continue the use of a program developed in cooperation with the Architect/Engineer for Calvert Cliffs, Bechtel Power Corporation, as described in BG&E's letter dated June 19, 1985. The program involves the observation of 11 preselected areas for each containment during the Type A test; each area is 50 to 100 square feet in size. A total of over 50, representative, end anchorages per containment are thus observed. This program has been used at Calvert Cliffs to date. While the RG 1.35 program would incorporate a smaller, random, observation of concrete surfaces (approximately a 1% sample of all tendon-adjacent surfaces), the Calvert Cliffs program involves a larger, fixed, tendon sample (approximately 6% of all tendon-adjacent surfaces per Calvert Cliffs containment). Although the random system of observation might eventually result in a greater range of observed concrete locations, the Calvert Cliffs program incorporates a sufficiently diverse sample to be representative of overall containment concrete conditions.

Based upon the above, the licensee's proposed changes to TS 406.1.6.2 and associated Bases, to establish the use of random inspection of tendon end anchorages and adjacent concrete surfaces and the observation of preselected areas during Type A tests, is in accordance with RG 1.35, January 1976.

On April 6, 1983, the NRC published guidance in the **Federal Register** (48 FR 14870) concerning examples of amendments that are not likely to involve a significant hazards consideration. One such example, (iv), involves "a change which either may result in some increase to the probility or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. . . ." The proposed changes in end anchorage and concrete surveillance are in accordance with RG 1.35 which is an acceptance criteria in Standard Review Plan 3.6.1, "Concrete Containment". Accordingly, the Commission proposes to determine that the proposed changes to TS 4.6.1.6.2 involve no significant hazards considerations.

The licensee has requested a chang to TS 4.8.1.1.2c.2 to increase the diesel generator load rejection test load from 450 to 500 hp. The purpose of the load rejection test is to assure that the diesel generator will not trip, due to load rejection, in the event that the electrical load with the highest horse power rating should trip.

The existing test load specified in TS 4.6.1.1.2c.2 is 450 hp. Since completion of modifications to the auxiliary feedwater system which added one motor operated pump per unit, the new maximum load is 500 hp. Accordingly, the test load specified in TS 4.8.1.1.2c.2 should be increased to 500 hp to assure that the load rejection test is conducted with the limiting (largest) electrical load.

The proposed change would increase the size of the load that must be periodically rejected by the diesel generator by about 10%. This would provide greater assurance of the generator's capability to respond to the loss of the single largest load. Therefore, the probability or consequences of previously analyzed accidents would not be affected and the margin of safety would not be reduced. In addition, since no physical modification is associated with this proposed change, increasing the size of the load to be periodically rejected by surveillance testing would not create the possibility of a new or different accident. Accordingly, the Commission proposes ot determine that the proposed change to TS 4.8.1.1.2c.2 involves no significant hazards considerations.

The licensee has proposed to delete TS 3/4.3.3.8 which contains limiting conditions for operation and surveillance requirements for adioactive gaseous effluent monitoring instrumentation. The licensee has further proposed that the requirements of TS 3/4.3.3.8 be incorporated in TS Tables 3.3–6 and 4.3–3 where requirements for similar equipment are located.

The licensee's proposal to relocate the requirements of TS 3/4.3.3.8 is appropriate since locating requirements for similar equipment in common areas within the TS will facilitate compliance. Since the proposed changes do not affect plant design, operating or safety analyses, the proposed changes do not reduce any safety margins, do not increase the probability or consequences of any accidents previously analyzed or create the possibility of a new or different type of accident. Accordingly, the Commission proposes to determine that the proposed changes to TS 3/4.3.3.8 and TS Tables 3.3–6 and 4.3–3, involve no significant hazards considerations.

The licensee has proposed changes to the fire detection instrumentation descriptions contained in TS Table 3.3–11. These instruments are required to be operable and to undergo surveillance in accordance with TS 3/4.3.3.7, "Fire Detection Instrumentation". The proposed changes are of several types as follows:

- One heat detector was replaced with a smoke detector and three more smoke detectors were added as a result of structural modifications to the 69 level access control area. The area includes a laboratory where a smoke detector would be more suitable for fire detection.
- Several duplicate entries occur in TS Table 3.3–11. Both the North South Corridor Room 410 and North South Corridor Room 308 were listed twice. The number of fire detectors in these areas has not been reduced, only the duplicate listings should be eleminated.
- Additional clarification has been proposed as follows: The room numbers and room names should be changed to reflect their proper names. The Intake Structure has been listed as a common structure. Although the Intake Structure is a single room, the equipment in each side is dedicated to its respective unit. To provide clarification, the fire detector instrumentation serving the Unit 1 side of Intake Structure should be exclsively listed in the Unit 1 Technical Specification and similarly for Unit 2.
- The last clarification concerns the Protecto Wire Instrumentation. The existing entries in TS Table 3.3–11 list this instrument location as the Southwest and Northeast Containment Electrical Penetration Rooms. Actually, the instrument meters are located in these rooms, but the Protecto Wires monitor cable trays rather than the rooms themselves. The Protecto Wires are also not conventional heat detectors. If a fire occurs in the cable tray, the insulation between the wire melts and the wires short. The new electrical resistance corresponds to a wire length which can then be used to determine the location of the fire. A footnote is proposed for TS Table 3.3–11 to clarify the special nature of these detectors.

As noted above, the modification to the first detection instrument deployment strategy on the 69' level access control area provides a superior degree of fire detection capability; thus the safety margin associated with fire detection will not be reduced. The remaining proposed changes to TS Table 3.3–11 do not in any way impact existing fire detection capability. Thus, we conclude that the overall ability to detect and suppress fires has not been decreased; therefore, the probability or consequences of accidents involving fires will not be increased. In addition, no new or different kind of fire-related accidents are expected to occur. Accordingly, the Commission proposes to determine that the proposed changes to TS Table 3.3–11 involve no significant hazards considerations.

The licensee has proposed changes to TS 3/4.6.5 in response to NRC's Generic Letter (GL) 83–37, "NUREG–0737 Technical Specifications", dated November 1, 1983. The hydrogen monitors are required to determine post-LOCA, containment, hydrogen concentrations.

The purpose of GL 83–37 was to provide model TS associated with system/procedural improvements deemed necessary following the accident at Three Mile Island, Unit 2 (TMI–2). The proposed TS change clarifies the Limiting Condition for Operation (LCO) by providing an appropriate remedial action when two hydrogen monitors become inoperable. Although the LCO requires two hydrogen monitors to be operable, the required remedial action is only applicable when one hydrogen monitor

is inoperable. The existing LCO allows a single hydrogen monitor to be inoperable for up to 30 days after which the reactor must be shut down within 6 hours. The proposed LCO would require that, when both hydrogen monitors become inoperable, one monitor must be made operable within 72 hours or the reactor must be shut down within 6 hours.

Based upon our review, we conclude that the proposed remedial action, when two hydrogen monitors are inoperable, is consistent with the importance of the subject equipment.

The licensee has also proposed a change to the surveillance requirements for the hydrogen monitors. The proposed change would add periodic test to the existing calibration requiremnts of TS 4.6.5.1. The periodic test involves a biweekly demonstration of operability of which is performed by drawing and analyzing gas from the waste decay tank. The additional proposed surveillance requirement does provide a valid test of system operability at an appropriate frequency. Although the model TS also suggest a more frequent "check" of instrument operability, this type of qualitative observation is meaningless since the hydrogen monitors are maintained in a de-powered state until required.

The proposed changes to TS 3/4.6.5.1 result in increased reliabilty of the hydrogen monitors in accordance with GL 83–37. Since reliability of these monitors is improved, the probability or consequences of accidents involving hydrogen generation will not be increased and no new or different type of accident will result. Since no changes in equipment design or operation are involved, no reduction in safety margins will result. Accordingly, the Commission proposes to determine that the proposed changes involve no significant hazards considerations.

Finally, the licensee has proposed changes to the limiting conditions for operation and surveillance requirements for the Auxiliary Feedwater System (AFW) as specified in TS 3/4.7.1.2. At the present time, the Unit 1 TS 3.7.1.2a.1.(b) would allow up to 14 days for a motor-driven AFW pump to be inoperable. In addition TS 3.7.1.2a.2.(b) allows up to 30 days for a steam-turbine-driven AFW pump to be inoperable. The licensee has proposed that the maximum period of inoperability for either motor-driven or steam-turbine-driven AFW pumps be reduced to 7 days. This proposed change is consistent with the Unit 2 TS.

The proposed change to Unit 1 TS 3.7.1.2 would improve the availability of the Unit 1 AFW pumps by substantially reducing the allowable out-of-service times. Since overall AFW reliability improvement would result, neither the probability of accidents resulting from AFW failure would increase nor would the consequences of accidents requiring AFW mitigation be more severe. No new or different type of accident would be created since there are no changes proposed in AFW operating modes. Finally, since the avilability of AFW would improve, safety margins would increase for accidents that require AFW mitigation. Accordingly, the Commission proposes to determine that the proposed change to Unit 1 TS 3.7.1.2 involves no significant hazards considerations.

The licensee has also proposed a change to Unit 2 TS 3.7.1.2c which specifies remedial action to be taken when AFW components are inoperable for the purpose of testing. The wording of TS 3.7.1.2c would be changed to allow more than one AFW pump to be inoperable for the purpose of logic testing. For example, testing of the AFW automatic actuation system requires that two of three AFW pumps be momentarily made inoperable. This proposed change is consistent with the Unit 1 TS.

The proposed change to Unit 2 TS 3.7.1.2c would only insignificantly decrease the availabilty of the AFW system. Moreover, the existing TS 3.7.1.2c requires a dedicated operator to be stationed at the AFW pumps (with direct communication to the control room) to promptly restore full AFW capabilty in the event of an accident. For this reason, we conclude that neither the probability of accidents resulting from AFW failure would increase nor would the consequences of accidents requiring AFW mitigation be more severe. No new or different type of accident would be created since there are no changes proposed in AFW operating modes. Finally, since the availability of AFW would not be significantly reduced, safety margins would not be reduced for accidents requiring AFW mitigation. Accordingly, the Commission proposes to determine that the proposed changes to Unit 2 TS 3.7.1.2c involve no significant hazards considerations.

The licensee has proposed the following changes to the Unit 1 and Unit 2 TS 3/4.7.1.2:

- Delete the note addressing Unit 1, Cycle 7, system inoperability. This note is no longer applicable.
- Correct the spelling of "standby" in a note in the Unit 2 TS. This change would correct a typographical error.
- Correct the spelling of "characteristics" in the Unit 1 TS. This change would correct a typographical error.
- Add the word "and" to a Unit 1 surveillance requirement. This change would correct a clerical error.
- Add a close parenthesis to a Unite 2 surveillance requirement. This change would correct a clerical error.

These proposed changes are minor in nature and do not affect the AFW system or related analyses and are administrative in nature. One example provided in 48 FR 14870 of amendments not likely to involve significant hazards considerations is example (i) which provides for "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature," These minor changes to the AFW TS are consistent with this example. Accordingly, the Commission proposes to determine that these changes to TS 3/4.7.1.2 involve no significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: December 10, 1984, as supplemented June 28, 1985.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) to accomplish the following:

(1) Make changes to properly reflect the direct current (DC) system design at the Brunswick (BSEP) facilities. The DC system designed at BSEP consists of four 125 Vdc batterries and chargers per unit. Each of the 125 Vdc batteries and its associated charger provide 125 Vdc control and instrumentation power for various safety-related and balance of plant (BOP) loads. Two of the batteries and their associated chargers are connected to form the Division I 250 Vdc power supply. The other two form the Division II 250 Vdc power supply. Therefore, an inoperable battery and/or an inoperable charger renders the 250V division inoperable. BSEP has been analyzed for the loss of one DC division. Results from this analysis reflect that sufficient emergency core cooling system (ECCS) equipment is maintained to mitigate the postulated events.

Because the system has been analyzed for a complete loss of one division, the 7-day limiting condition for operation (LCO) is applicable regardless of the number of inoperable batteries and/or chargers in the one division.

(2) Provide for an orderly shutdown upon loss of both DC divisions. Loss of more than one division of DC power per unit could result in less than the minimum ECCS requirements. Therefore, an orderly shutdown of the unit is warranted with both DC divisions declared inoperable. When one or more batteries and/or its associated charger in both divisions is declared inoperable, the action statement requiring hot shutdown is applicable.

(3) Provide a means to verify that not more than two 37.5 KVA power conversion modules are aligned to the "B" division bus. The "B" Division Batteries provide the normal feed to the Lighting and Communication Inverter for its respective unit. It also provides the alternate feed to the Plant uninterruptable power supply (UPS) (normally fed from "A" Division) and the opposite unit reflects that the resultant value of all three of the 37.5 KVA power conversion modules aligned to the "B" Division Batteries during the design basis accident (DBA) would exceed the 916 ampere value. Therefore, a restriction will be placed to allow a maximum of two inverters (one Plant UPS and one Lighting and Communications Inverter) or (Both Lighting and Communications Inverters) to be fed from the "B" Division Batteries at the same time.

(4) Update the operability surveillance requirements. The present surveillance requirements to determine the battery's operability status are not as conservative as those specified in the Standard Technical Specifications. Because the present Technical Specifications are not within the battery manufacturer's recommended limits, adoption of the Standard Technical Specification surveillance requirements 4.8.2.3.2.a and 4.8.2.3.2.b is warranted. These surveillance requirements are within the battery manufacturer's recommended limits.

(5) Revise the test values and test duration based on the new DC load study. Carolina Power & Light Company (CP&L) has performed a detailed DC system load study. The study reflects that the 1-minute loading values are less than the 916 ampere maximum value. The first 1-minute duty cycle profiles were formulated in accordance with the IEEE–485–1983, IEEE–308–1971 and other BSEP-committed design codes and standards. Therefore, the recommended test values of 916 amperes for the first 60 seconds of the profile test, adequaely demonstrate the battery's capability to supply the worst case ampacities if required. By design, the Class 1E chargers will supply the DC load after the diesel generators reenegerizes the AC buses, approximately 10 seconds after the loss of off-site power. However, the battery's ability to supply the ampacities, without charger support will be demonstrated. This testing serves as an early warning of degradation between the required 60-month discharge capacity testing. The recommended test values for the remainder of the first 30 minutes and the remainder of the 4-hour test are greater than duty cycle profile ampere values. The total test time of 4 hours was selected as an adequate time to notice any signs of degradation. The 18-month test is to demonstrate the battery's ability to handle the duty cycle, profile discharge rates, rather than the ampere-hour capacity of the battery. Revisions made to the 30-minute and 4-hour test capacities are more restrictive.

(6) Allow performance of the 60-month discharge test to supersede the battery service test to be consistent with the Standard Technical Specifications (NUREG–0123).

(7) Provide a new table for the parameters to which the surveillance requirements of Section 4.8.2.3.2 must be performed.

(8) Provide limiting conditions for operation and surveillance requirements for distribution. The present TS treat the 125/250 Vdc system as a unitized system. The 250 Vdc divisions are not shared, while certain circuits of the 125 Vdc divisions are.

The 125 Vdc divisions are shared between units, because they provide 125 Vdc control power for the on-site Class 1E AC Power Distribution System. The on-site Class 1E AC Power Distribution System is shared between units in that three of the four AC divisions between the two units are required to maintain the minimum ECCS requirements. When the DC control power for diesel generators, 4160V emergency buses, 480V emergency buses, or electronic switching system (ESS) logic cabinets is transferred to its alternate source, a single failure to the DC system could make two of the four AC divisons inoperable.

The LCOs placed on both units when a transfer has been affected limits the amount of time the units are allowed to operate with the transfer in place. The surveillance requirements on these circuits will provide control of the transfers and provide added assurance of DC power availability.

(9) To include associated administrative changes, such as update the index, change format, renumber certain items and renumber certain pages.

Basis for proposed no significant hazards consideration determination: Item 1 reflects the DC system design of BSEP which has been analyzed for the complete loss of one division, i.e., at least one battery plus the associated chargers. The proposed change is within this analyzed loss and is more restrictive.

Item 2 requires an orderly shutdown with no delay time if a battery and charger in each division is inoperable. Formerly, there was a delay time of 3 days to restore operability before shutdown was required. This is a more restrictive condition.

Item 3 permits only two 37.5 KVA power conversion modules to be aligned to the "B" Division Batteries rather than three. This is a more restrictive condition.

Item 4, the present surveillance requirements, are revised to conform to the Standard Technical Specifications (NUREG–0123). Tis is a more restrictive condition.

Item 5 represents some more restrictive requirements but also includes a less restrictive surveillance requirement because the 60-second load profile test has been reduced from values ranging from 1040 amps for some batteries to 1212 amps for the top value of battery 1A2, to a constant value of 916 amps for all batteries and the 8-hour load profile test has been reduced to 4 hours. However, based on the detailed load study, the first 1-minute loading values are less than the 916 amp maxmum value and can supply the worst core ampacities.

Item 6 permits the 60-month discharge test to supersede the battery service test. The 60-month test is a more restrictive test.

Item 7 provides new parameters to which the surveillance test in TS 4.8.2.3.2 must be performed. These parameters are more restrictive than before and are also consistent with the Standard Technical Specifications (NUREG–0123).

Item 8 provides control and limits the time the unit is allowed to operate when the DC control power is transferred to its alternate source. This is a more restrictive limiting condition for operation.

Item 9 includes the remaining items which are administrative in nature.

VOL 50 ISS 147 JL 31 1985 UMI

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (i), relates to purely administrative changes to the Technical Specifications, for example to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. Another of the examples of actions involving no significant hazards considerations, i.e., example (ii), relates to a change that constitutes an additional limitation, restriction or control not presently in the Technical Specifications.

Item 9 is in the category of example (i). Items 1, 2, 3, 4, part of 5, 6, 7 and 8 are in category (ii).

Item 5 also contains some limits that are less restrictive. Based on the above discussion of Item 5, the staff concludes that this item will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because, although the limits are less restrictive, the profiles were in accord with IEEE–485–1983, IEEE–308–1971 and other BSEP-committed design codes. In addition, the Class 1E chargers will supply the DC load from the diesel generators about 10 seconds after a loss of off-site power.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation and no physical modifications are required to be performed to the plant.

(3) Involve a significant reduction in a margin of safety. It is anticipated that any reduction in the margin of safety would be insignificant for the same reason given in (1) above.

Based on the above evaluation, the staff finds that the criteria for a no significant hazards consideration determination, as set forth in 10 CFR 50.92(c), are met. The staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: June 14, 1985.

Description of amendment request: The proposed amendments would change Technical Specification (TS) Table 3.3.5.8–1 by 1) deleting the requirements for radioativity monitors on the individual branches of the Reactor Building Component Cooling Water (RBCCW) (Service Water) System and 2) revising applicability condition note "**" to reflect the correct plant configuration. Both of these changes represent limiting conditions for operation (LCO) for equipment which was included in the TS on the basis of future plans for modifications. The modifications were part of the radiological environmental effluent review of the facilities and the current version of these TS was included as part of Amendment Nos. 62 and 68, dated December 27, 1983. The main service water effluent monitor is operable and is controlled by the TS. The monitor on the individual branches of the service water system has not been installed and change 1) above represents the licensee proposal not to install it. The stabilization pond effluent sampler and effluent flow measuring device have both been installed and change 2) and above represents the fact that they are now operable.

The stabilization pond effluent sampler and the stablization pond effluent flow measuring device, both of which were part of the radiological environmental effluent review approved by our Safety Evaluation dated December 27, 1983, are now installed and operational. The related limiting condition of operation would be incorporated into the TS and this represents an additional limitation not currently in the TS.

The Service Water System provides cooling for Residual Heat Removal (RHR) Heat Exchangers A and B, Reactor Building Component Cooling Water Heat Exchangers, and RHR Division I and II Pump Seal Coolers. Table 3.3.5.8–1 of the TS indicates that effluent radiation monitors will be located on each of the components identified above. The purpose of this license amendment is to delete the reference to these five monitors.

The basis for the conclusion that these radioactivity monitors are not necessary is demonstrated by the following:

(1) Potential radioactivity level in the service water effluent is detected by the main service water effluent monitors. These instruments are equipped with alarm setpoints, which are calculated in accordance with the Offsite Dose Calculation Manual (ODCM), to ensure the alarm will occur prior to exceeding limits set forth in 10 CFR 20. The operability and use of this instrumentation is consistent with General Design Criteria 60, 63 and 64 of Appendix A to 10 CFR 50.

(2) Procedures have been developed such that, if the main service water effluent monitor alarms, the source of contamination can be located by grab sampling at each component.

(3) As required by TS 3.3.5.8, during periods that the service water effluent radioactivity monitor is inoperable, service water samples are taken once per 12 hours and anlayzed using gamma spectroscopy.

These service water radiation monitors were included in the Brunswick Technical Specifications as part of the Radiological Effluent Technical Specifications contained in NUREG–0473. The intent of NUREG–0473 specification 3.3.7.11 is to ensure compliance to 10 CFR 20 liquid effluent radioactivity limits. For the above reasons, the existing main service water effluent radioactivity monitors meet this intent. In addition, the installation of the service water monitor on each of the above-mentioned components is not cost-effective.

Basis for proposed no significant hazards consideration determination: The NRC staff has reviewed this request and determined that the proposed amendments do not increase the probability or consequences of an accident previously evaluated, or create the possibility of a new accident as no physical alteration of plant configuration or changes to setpoints or operating parameters is involved. This change deletes the reference to radiation monitors that were to be added to the radioactive liquid effluent monitoring system. Because the RBCCW service water effluent is adequately monitored with the existing main service water effluent monitor, no reduction in a margin of safety is involved. This change also involves an increased control of effluents by adding a new limiting condition of operation for the stabilization pond. Based on the above reasoning, the staff has determined that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Therefore, the staff proposes that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County, Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: July 1, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to change the surveillance requirements for the Reactor Protection System Instrumentation and the Control Rod Withdrawal Block Instrumentation as given in Table 4.3.1–1 and 4.3.4–1 of the Brunswick-1 and Brunswick-2 TS.

At specified intervals and/or prior to each reactor startup, the monitors associated with the Control Rod Withdrawal Block and the Reactor Protection System are required to have channel functional tests performed. However, when the Reactor Mode Switch (RMS) is in the shutdown position, existing circuitry in the RMS prohibits testing of some of these instruments. In order to perform the channel functional test on these instruments without excessive circuit jumping, this TS change would allow the RMS to be temporarily placed in a position other than that corresponding to the actual plant Operational Condition (OC). It should be noted that no change in the actual plant operation condition, will occur, only a change in the position of the RMS. Instruments affected by these proposed changes are identified as Items 2.a and 2.b of TS Table 4.3.1–1 and Items 1.b, 1.d, and 4.a of TS Table 4.3.4–1.

A similar conditions exists for other instruments associated with the Control Rod Block and Reactor Protection System when the plant is in OC 1 (Run). Section 4.0.4 of the TS prohibits entry into an operational condition unless all Surveillance Requirements associated with the Limiting Conditions for Operation (LCO) applicable to the OC to be entered have been performed within the applicable surveillance interval or as otherwise specified. Therefore, in order to enter OC 2 (Startup/Hot Standby) from OC 1, the surveillance tests required for OC 2 must be performed. However, the channel functional test circuitry of some instrumentation is bypassed when the RMS is in the RUN position, thereby prohbiting performance of the channel functional test. The proposed TS change would allow for performance of the required surveillance test to be completed within 12 hours of entering OC 2 from OC 1 for the affected instruments. Instruments affected by this change are identified as Items 1.a and 1.b of TS Table 4.3.1–1 and Items 1.d, 3.a, 3.c, and 3.d of TS Table 4.3.4–1.

In addition to the changes described above, a weekly channel functional test is added to the Neutron Flux-High trip function of the Intermediate Range Monitors (IRM) during OC 2 (Item 1.a, Table 4.3.1–1). This ensures that the trip function is periodically tested during extended unit operation in OC 2 (greater than 7 days). This surveillance requirement is currently in effect for the IRM inoperative trip function and is consistent with the Standard Technical Specification (NUREG–0123).

Basis for proposed no significant hazards consideration determination: We have reviewed this request and determined that the proposed amendment does not increase the probability or consequences of an accident previously evaluated as there is no physical alternation of the plant configuration or changes to setpoints or operating parameters. The operational condition of the plant is based on RMS position and average reactor coolant temperature. The RMS position controls only the logic circuitry of the plant; none of the other parameter dictating an OC will be varied when performing the required channel functional test.

Our review also verified that the proposed amendment does not create the possibility of a new kind of accident because the control rods will be fully inserted and remain so until all LCOs are met for the performance of required surveillance during Startup/Hot Standby, Shutdown or Refueling modes. Also, performing a channel functional test in the actual logic configuration in which the components will be required during the surveillance addresed by this request is preferable to the extensive use of jumpers currently employed to accomplish the channel functional test.

The addition of footnote (d) to Items 1.a and 1.b of Table 4.3.1–1 and to Items 1.d, 3.a, 3.b, 3.c, and 3.d of Table 4.3.4–1 allows for performance of the required surveillance within 12 hours of entering OC 2 from OC 1. This change is consistent with existing allowances for the APRMs and IRMs in the respective tables and does not constitute a significant change in a margin of safety.

Based on our review of the amendment request and the above discussion, the Commission proposes to determine that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Therefore, this request involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Units 1 and 2, Ogle County, Illinois

Date of application for amendment: June 28, 1985.

Description of amendment request: The amendment would revise the Technical Specification Section 6.12.2. The proposed change would allow personnel to enter areas with radiation levels greater than 1000 mR/h during certain emergencies without an approved Radiation Work Permit (RWP). During emergency situations involving personnel injury or potential damage to major equipment, the proposed change wold allow for continuous surveillance and readiation monitoring of the area by a qualified individual in lieu of an approved RWP.

Basis for Proposed No Significant Hazards Consideration Determination: Based on the three criteria in 10 CFR 50.92 for defining a significant hazards consideration, operation of Byron Station, Units 1 and 2, in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The probability of an accident previously evaluated remains unchanged since the proposed change only involves an administrative control associated with radiation protection or workers. The consequences of an accident previously evaluated also remain unchanged since the offsite doses that have been

VOL 50 ISS 147 JL 31 1985 UMI

prediced for previously evaluated accidents will remain unchanged.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because radiation protection for workers will still be in effect. The proposed change allows for an alternate means of providing radiation protection for workers during certain emergencies.

(3) Involve a significant reduction in a margin of safety because the administrative radiation exposure limits for workers are not affected by this change.

Therefore, the staff proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Attorney for licensee: Michael Miller, Isham, Lincoln & Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Branch Chief: B.J. Youngblood.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Benton County, Illinois

Date of application for amendments: June 28, 1985.

Description of amendments request: These amendments would modify Sections 3.22, 4.22, and 6.5.B of the Technical Specifications. These changes are being submitted in order to convert these Sections to the Standardized Technical Specification's content. In all categories, with the exception of hydraulic snubber visual inspection and functional testing, the proposed Technical Specifications will impose additional restrictions that are not included in the present Technical Specifications.

While the proposed programs for hydraulic snubber visual inspections and functional testing have not been significantly altered, the acceptance criteria for these activities have been more closely defined. Thus, these constraints also constitute an additonal control not included in the present Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission's examples of actions involving no significant hazards consideration (48 FR 14870) include: (ii) a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

The above changes to Sections 3.22, 4.22 and 6.5.B all involve additional restrictions or controls that are not included in the present Technical Specifications, and fit example (ii).

The staff therefore proposes that these amendments do not involve significant hazards consideration.

Local Public Document Room location: Zion-Benton Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Attorney to licensee: P. Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Branch Chief: Steven A. Varga.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: December 12, 1984, as supplemented June 27, 1985

Description of amendment request: Regarding the request for amendment dated December 12, 1984, the Commission has issued a proposed no significant hazards determination on February 27, 1985 (50 FR 7986). The June 1985 request, however, expands the scope of the December 1984 request as follows:

The expanded scope of the proposed amendment would revise applicable specifications to allow the use of the Low Head Safety Injection (LHSI) pumps with an open Reactor Collant System (RCS) vent of 3.14 square inches in place of a charging pump when in Modes 5 and 6. Applicable surveillance requirements would be added to require demonstration of LHSI pump operability and verification of an open vent when used in place of the charging pump. The Mode 5 and 6 Action statement would also be revised to specify action to be taken when no charging pump or LHSI pump is operable. The Bases would be revised to provide justification for using a LHSI pump in place of a charging pump.

The use of the LHSI pumps in conjunction with an open RCS vent in lieu of a charging pump when in Modes 5 and 6 will allow the removal of the latter from service for inspection, modification or maintenance.

Basis for proposed no significant hazards consideration determination: Modes 5 and 6 refer to cold shut down refueling, respectively. The requested amendment would permit use of either the charging pump or the LHSI pumps during these modes. Therefore, the plant would continue to have the capability to provide reactivity control and coolant makeup, via use of either type of pumps. On such basis, we conclude that the proposed amendment, as described in the June 27, 1985 submittal, would not involve any signifcant increase in the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident previously analyzed, and would involve no reduction in the margin of safety. We, therefore, propose to characterize the proposed amendment as involving no significant hazards consideration.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 26, 1985, as supplemented May 5, and June 14, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) in the following areas: (1) Standby Gas Treatment System (SGTS) and Control Room Ventilation System flow and operability requirements; (2) Reactor Vessel Water Level trip settings; (3) clarification of Refueling Interlock requirements; (4) deletion of Equipment Qualification (EQ) program deadline date; and (5) correction of typographical errors and other editorial changes.

(1) *SGTS and Control Room Ventilation System.* The proposed changes to the SGTS and control room ventilation system TS would revise the limiting conditions for operation (LCO) for each system to specify the numerical values for design flow rate for filter bypass limits, flow velocity for filter effectiveness limits, and system fan capacities. At present, the numerical values for these parameters are not provided in the system LCOs. The proposed change would also add the numerical value of reactor building pressure that must be obtained from SGTS operation. The current SGTS LCO does not address this requirement. In addition to the above, wording changes are proposed to clarify the Bases section for both the SGTS and the control room ventilation systems.

(2) *Reaction Vessel Water Level Trip.* The proposed amendment would change the containment isolation trip setting for the reactor water sample valves from reactor low-low water level (greater than or equal to −37 in.) to reactor low-low-low water level (greater than −145.5 in.). This change is reflected in the Notes to Table 3.2.A, "Primary Containment and Reactor Vessel Isolation Instrumentation." This change is proposed to permit closure of the reactor water sample valves on the same signal that is used to close the main steam isolation valves (MSIV). The use of the reactor low-low-low water level trip for MSIV closure was previously found to be acceptable in the NRC letter dated March 4, 1983 which issued Amendment No. 83 to the Cooper Nuclear Station Facility Operating License.

In conjunction with the above proposed change, the licensee also proposes to delete the entry for reactor low-low water level instruments from Table 3.2.A. With the change of trip setting for the reactor water sample valves from the low-low level to the low-low-low level, the low-low level instrumentation would not be used for any containment or reactor vessel isolation function and can be deleted from the table. In addition to the above, changes are proposed to clarify the Bases section for the primary containment isolation functions.

(3) *Refueling Interlock Requirements.* This proposed change would revise an LCO for refueling interlocks during core alteration operations. The objective of core alteration LCOs is to ensure that core reactivity is within the capability of the control rods and to prevent criticality refueling.

The current TS permit any number of control rods to be withdrawn or removed from the reactor when the reactor mode switch is locked in the "refuel" position and certain conditions are satisfied. That is, the refueling interlock, which prevents more than one control rod from being withdrawn, may be bypassed with one control rod withdrawn provided: (a) The fuel assemblies in the cell controlled by that control rod have been removed from the core and (b) all other refueling interlocks are operable. The proposed amendment would revise the latter condition to state that all other refueling interlocks shall be operable when fuel is present in the reactor vessel. The current requirement is for all other refueling interlocks to be operable whether fuel is present in the core or not. The intent of the proposed change is to bring this section of the TS into conformance with the Standard Technical Specifications for Boiling Water Reactors.

(4) Equipment Qualification Progam Deadline. The administrative controls section of the current TS specifies a deadline of June 30, 1982 for the environmental qualification of all safety-related electrical equipment at Cooper Nuclear Station (CNS). However, this deadline is no longer applicable and has been removed by the NRC from the final rule governing equipment qualification, 10 CFR 50.49. Effective November 19, 1984, 10 CFR 50.49(g) was revised (49 FR 45571) to include the following statement: "The schedule in this paragraph supersedes the June 30, 1982 deadline, or any other previously imposed date, for environmental qualification of a electric equipment contained in certain nuclear power operating licenses." Therefore, since the equipment qualification program at CNS is subject to the schedule in 10 CFR 50.49, the licensee proposes to delete the June 30, 1982 date from the TS.

(5) *Correction of Typographical Errors and Other Editorial Changes.* The proposed amendment would correct typographical errors in the TS sections related to the standby liquid control system (Section 4.4) and the reactor core isolation colling system (Table 4.2.B). In addition, the licensee proposes to modify the administrative section of the TS to improve readability and understanding. These changes involve a condensation of the material to delete gaps in the administrative section pages. The content of the material woud remain completely unchanged, e.g., there would be no deletions, wording modifications, syntax or sequence changes.

Basis for proposed no significant hazards consideration determination: (1) SGTS and Control Room Ventilation System. The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considertions, i.e., example (ii), related to a change that constitutes an additional limitation, restriction or control not presently in the Technical Specifications. The proposed change, by adding absolute numerical values for design flow rates and flow velocities and by specifying a value for reactor building pressure, results in more restrictive LCOs for the SGTS and control room ventilation system. The proposed change is therefore, similar to example (ii) above. The Commission therefore proposes to determine that this action involves no significant hazards considerations.

(2) *Reactor Vessel Water Level Trip.* The licensee submittal of June 14, 1985 provided an evaluation of the proposed action and a basis for a proposed no significant hazards consideration. The licensee's proposed determination is based on a previously-submitted accident analysis discussed below.

The accident of concern for the proposed change is radiation release through the reactor water sample lines for a break in the line outside primary containment. Lowering the setpoint for isolation of this line has the potential for an increased inventory loss through the line and increase in the off-site radiation dose. This accident was analyzed to support lowering the trip setpoint to −145.5 inches for closure of the MSIVs. General Electric (GE) Company report DEDE-22223 was submitted by licensee letter dated December 17, 1982 to support the TS change to lower the MSIV trip setting. The analysis showed that the ¾-inch reactor water sample valves represent 0.04 percent ofthe flow area for the main steam lines. Consequently, the analysis demonstrated that the increase in the amount of inventory loss through the reactor water sample lines at the lower trip setpoint would be insignificant and would not affect the calculated radiation doses.

Based on he above, the licensee concluded that the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because an analysis shows no increase in calculated radiation dose compared to the existing trip setting of −37 inches. This appears to be a reasonable result in view of the small size of the reactor water sample lines.

(2) Create the possibility for a new or different kind of accident from any accident previously evaluated because the calculated radiation does is not affected and previous accident analyses remain bounding.

(3) Involve a significant reduction in the margin of safety because the increased inventory loss is insignificant compared with that from a main steam line break outside containment which has been repviously evaluated and approved by the NRC. The calculated radiation dose is shown by the licensee's analysis to be unaffected by the proposed change.

Based on the above evaluation, the staff finds that the criteria for a no significant hazards consideration as set forth in 10 CFR 50.92(c) are met. The staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

(3) *Refueling Interlock Requirements.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing

certain examples (48 FR 14870). One of the examples of actions involving no

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone

Pennsylvania Power & Light Company, Docket No. 50-387, Susquehanna Steam

the licensee either in support of requested license amendments or in support of

Specifications is not complete. The licensee has proposed to change the

"*APPLICABILITY:* MODE 4 when the

VOL 50 ISS 147 JL 31 1985 UMI

certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (vi), relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP). The proposed change, by specifying conditions for removal of refueling interlocks could, in some way, result in a reduction of a safety margin. However, the revised requirements would be consistent with NUREG–0123, the Standard Technical Specifications (STS). Since the STS serve as the basis for assessing conformance to SRP Chapter 16 and the change is consistent with the STS, this change is encompassed by example (vi). The Commission therefore proposes to determine that this action involves no significant hazards consideration.

(4) *Equipment Qualification Program Deadline and*

(5) *Correction of Typographical Errors and Other Editorial Changes.* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations, i.e., example (i), relates to purely administrative changes to the Technical Specifications, for example to achieve consistency throughout the Technical Specifications, correction of an error or a change in nomenclature. The proposed deletion of the equipment qualification program deadline date represents a correction to the TS. This date has been superseded by the revised schedule in 10 CFR 50.49(g). This change is a purely administrative change as are the correction of typographical errors and other editorial changes of this proposed amendment. These proposed revisions are therefore encompassed by example (i) cited above. On this basis, the Commission proposes to determine that these changes involve no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Branch Chief: Domenic B. Vassallo.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit 2, New London County, Connecticut

Date of amendment request: June 11, 1985.

Description of amendment request: The proposed change to the Technical Specifications (TS) would eliminate the 18-month battery service test during every 60th month, since the more stringent performance discharge test is performed at that time. The present TS requires a performance discharge test once every 60 months to demonstrate battery capacity. The performance discharge test is performed subsequent to satisfactory completion of the required 18-month battery service test. The proposed change would eliminate the battery service test when the 60-month battery discharge test is performed. The battery discharge test is sufficient to demonstrate that the battery meets design requirements. The elimination of the battery service test when the discharge test is performed reduces unnecessary testing and will contribute to the battery life expectancy. The proposed change also conforms to Revision 4 of Westinghouse PWR Standard Technical Specifications (NUREG–0452, Revision 4, Section 4.8.2.1.e).

Basis for proposed no significant hazards consideration determination: Based on the above information, we conclude that the proposed Technical Specification change allows the more stringent performance discharge test to be used in lieu of the 18-month battery service test, thus eliminating unnecessary testing that would result in reduced battery life expectancy. Therefore the proposed change would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Accordingly, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Edward J. Butcher, Acting.

Pennsylvania Power & Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: November 26, 1984.

Description of amendment request: In the November 26, 1984 submittal the licensee requested a change to License Conditions 2.A and 2.B(2) of NPF–14.

These License Conditions presently read:

2.A. This license applies to the Susquehanna Steam Electric Station, Unit 1, a boiling water nuclear reactor and associated equipment (the facility), owned by the licensee. The facility is located in Luzerne County, Pennsylvania, and is described in the licensee's Final Safety Analysis Report as supplemented and amended through Amendment 48, and the licensee's Environmental Report as supplemented and amended through Amendment 48.

2.B.(2) PP&L, pursuant to the Act and 10 CFR Part 70, to receive, possess, and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor-operation, as described in the Final Safety Analysis Report, as supplemented and amended through Amendment 48.

The licensee has proposed to modify this wording such that the specific amendment number of the Final Safety Analysis Report (FSAR) and Environmental Report (ER) not be included in the License Conditions. For example: 2.A would read:

in the licensee's Final Safety Analysis Report as supplemented and amended, and the licensee's Environmental Report as supplemented and amended.

Basis for Proposed No Significant Hazards Consideration Determination: At the time of issuance of the Susquehanna Unit 1 license, it was determined that in order for the licensee to be explicitly committed to the FSAR and ER accepted at the time of licensing the spcific amendment numbers to FSAR and ER ought to be reflected in the License Conditions. Subsequently the staff has found that this initial determination causes an unnecessary restriction or the licensee without any contribution to overall safety. The licensee's proposal for Unit 1 is consistent with the as issued license conditions contained in the Unit 2 license. The basis for the licensee's proposal is 10 CFR 50.71(e) which states:

the updated FSAR shall be revised to include the effects of: all changes made in the facility or procedures as described in the FSAR; all safety evaluations performed by

the licensee either in support of requested license amendments or in support of conclusions that changes did not involve an unreviewed safety question; and all analyses of new safety issues performed by or on behalf of the licensee at Commission request.

This regulation provides assurance that any FSAR change will be reviewed by the utility via the safety evaluation process and that any changes that result in a safety question not previously reviewed and approved by the satff shall be submitted at that time to the staff for review and approval. In addition 10 CFR 50.59(b) requires the licensee to maintain records that shall include a written safety evaluation which provides the bases for the determination that the change, test or experiment does not involve an unreviewed safety question. Additionally the staff finds the inclusion of the specific amendment number for the ER to be unnecessary as the licensee is not required and does not update the ER subsequent to licensing but is accountable for and abides by the plant specific Environmental Protection Plan.

In view of the present requirements, incorporation of specific FSAR and ER amendment numbers in License Conditions 2.A and 2.B(2) serves no useful purpose. Deletion of these FSAR and ER amendment numbers from these License Conditions thus would not: (1) Significantly increase the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) significantly reduce a margin of safety. On this basis, the staff proposes to determine that this license amendment does not involve significant hazards considerations.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for Licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C.

NRC Branch Chief: Walter R. Butler.

Pennsylvania Power & Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 & 2, Luzerne County, Pennsylvania

Date of amendment request: June 24, 1985.

Description of amendment request: The NRC staff in NUREG 0737 Item III.D.1.1 required the establishment of the leakage reduction program outlined in Technical Specification 6.8.4a. The present listing in the Technical Specifications is not complete. The licensee has proposed to change the Technical Specifications to add the Residual Heat Removal and Post Accident Sampling Systems to the listing of "Primary Coolant Sources Outside Containment" in Technical Specification 6.8.4a in order the complete the listing and accurately reflect that contained in the FSAR Section 18.1.69.

Basis for Proposed No Significant Hazards Consideration Determination: The licensee in his letter dated June 24, 1985, stated that the proposed change does not; (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new and different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in margin of safety. The NRC staff agrees with the licensee's evaluation in this regard and proposes to find the proposed change to not involve a significant hazards consideration.

The Commission has provided guidance concerning the application of the no significant hazards consideration standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration, example (ii), is a change that constitutes an additional limitation, restrictions, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. Since the licensee has proposed to add systems subject to controls and requirements to the Technical Specifications, the staff proposes to find that this change does not involve a significant hazards consideration as it is encompassed by the example (ii).

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: W. Butler.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendments request: October 15, 1984.

Description of amendments request: The amendments request would change the *APPLICABILITY* Section of Technical Specification 3.4.1.2 for Unit No. 1, and 3.4.2 for Unit 2, Safety Valves to read as follows:

"*APPLICABILITY:* MODE 4 when the temperature of all RCS cold legs is greater than 312°F."

Remove the reference to the Overpressurization Protection System from the Safety Value Technical Specification Bases for Unit No. 2.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions which involve no significant hazards consideration include changes which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (Example vi).

Technical Specification 3.4.9.3 requires that an Overpressure Protection System shall be OPERABLE when the temperature of one or more of the RCS cold legs is less than or equal to 312 °F. except when the vessel head is removed. As stated in the Technical Specification Bases, the OPERABILITY of this system ensures that the RCS will be protected from pressure transients which could exceed the limits of Appendix G to 10 CFR Part 50. Previously submitted analyses of the most limiting heat input and mass input transients indicate that the RCS pressure will not exceed the Appendix G curve limit of *460 psig* with RCS temperatures above 100 °F When the Overpressure Protection System is OPERABLE. Based on the results of these analyses, we have determined that the need does not exist for the OPERABILITY of a Pressurizer Code Safety Valve with a lift setting of *2485 psig* ± 1% when RCS cold leg temperature is less than or equal to 312° F. The results of the change will remain within acceptable criteria with respect to Overpressure Protection Systems specified in Standard Review Plan 5.2.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08708.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Steven A. Varga.

South Carolina Electric & Gas Company, South Carolina Public Service Authority,

penetration must be operable). This condition does not permit maintenance

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah

request to eliminate 3-loop operational provisions does match example (i)

setpoint specified in the Technical Specifications and reflected in plant

does not involve significant hazards

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station Unit 1, Fairfield County, South Carolina.

Date of amendment request: March 15, 1985.

Description of amendment request: The amendment would make administrative changes to Technical Specifications. These administrative changes include a change in a position title, adding listings to the Index for a previously approved amendment, adding clarification to better identify monitoring instruments listed in the surveillance tables, and correcting the design negative pressure differential of the reactor building listed in Technical Specification bases to be in accordance with the Final Safety Analysis Report, which is also a more conservative value.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples (i) relates to administrative changes to Technical Specifications such as a change to achieve consistency throughout Technical Specifications, correction of an error, or a change in nomenclature. The amendment involved here is similar in that it corrects errors in Technical Specifications, updates the Index, and changes and clarifies titles in the Technical Specifications. Accordingly, the Commission proposes to determine that this change does not invlolve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia 29218.

NRC Branch Chief: Elinor G. Adensam.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: June 26, 1985.

Description of amendment request: The amendments would modify the Technical Specifications (TS) to revise the definition of "secondary containment integrity". Under the current definition, secondary containment integrity does not exist when any pentration is isolated by only a single valve which is closed and deactivated. (The other valve in the penetration must be operable). This condition does not permit maintenance on an automatic isolation valve when secondary containment integrity is required. Under the proposed amendment, a secondary containment penetration would be considered to have integrity if one of the two isolation valves serving a penetration is closed and deenergized. This will permit maintenance on the other valve.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include: (vi) A change which either may result in some increase to the probability of consequence of a previously-analyzed accident or reduce in some way a safety margin, but where the result of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP): for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

If one of two valves in a penetration is made inoperable (for example, to perform maintenance), deactivating the other in the closed position provides integrity for that penetration. The revised definition would be consistent with Section 1.30.a.2 of the BWR Standard Technical Specifications (NUREG-0123) which serves as the basis for assessing technical specification conformance to the SRP. The proposed change is therefore encompassed by example (vi).

Since the application for amendment involves proposed changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forest, Athens, Alabama 35611.

Attorney for licensee: H.S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: (1) May 6, 1985. (2) May 21, 1985.

Description of amendment request: (1) Acoustic Monitoring System. Accident monitoring instrumentation is installed at Sequoyah to ensure that sufficient information is available to the operator on selected plant parameters to monitor and assess these variables following an accident. Sequoyah has four separate methods of determining safety valve positions, any two of which are required to be operable at all times. On method is acoustic flow monitors mounted on each safety valve line. The proposed change requires that one of the two required operable indications at all times must be the acoustic monitor system instead of any two of the other available methods. (2) Three loop plant operation. Sequoyah is a four loop plant operation; however, the Technical Specifications were originally issued with provisions for future 3-loop operations. The licensee requests deletion of this aspect fo the Technical Specifications because TVA has no plans to pursue approval for this mode of operation. Deletion of this type of operation will eliminate the possibility of a Technical Specifications provision from being inappropriately applied.

Basis for proposed no significant hazards considerotion determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The first request does not match any of those examples. However,the staff has reviewed the licensee's request and has determined that identifying the acoustic monitor as one of the two required operable indications of system parameters will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possiblility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. Rather, the requirement for maintaining the acoustic monitor system operable at all times will increase the margin of safety for plant operations. Significant leakage rates from the safety or relief valves are more readily detected from acoustic devices than from water level indications. The combination of position and leakage flow indications from the valves will enable the operator to more accurately assess plant conditions. The second

request to eliminate 3-loop operational provisions does match example (i) namely, this proposed change is purely an administrative change to the technical specifications because the current provisions are not utilized in the operation of the facility. The Commission proposes to determine that the changes identified in this notice do not involve a significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11 B33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor Adensam.

Virginia Electric and Power Company and Old Dominion Electric Cooperative, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of amendment request: October 15, 1984 and February 14, 1985.

Description of amendment request: The proposed Technical Specification (TS) changes would revise the nominal Intermediate Range (IR) Neuton flux trip setpoint from a presently specified "equivalent to less than or equal to 4×10^{-4} (0.0004) amperes." The maximum allowable setpoint for the proposed IR setpoint of 0.0004 amperes would be 0.0005 amperes which is equivalent to 70 percent of rated thermal power. Because the IR flux detectors are located outside the core, the IR signal has been shown historically to be sensitive to the core loading pattern in use. For example, the high-burnup, low leakage patterns currently in use at North Anna give a different IR detector response that the more traditional type of pattern used for the initial core loadings. In addition, because the detectors do not cover the full core length as do the power range channels, the detector response is also sensitive to the core axial flux distribution. As a result, such effects as varying core burnups or control rod positions also can have a significant impact on the IR channel response. The variability in the channel response has made it difficult to maintain the channels in proper calibration. As a result of these difficulties, the licensee performed a safety evaluatino which justifies a change to the Technical Specifications to allow the IR trip setpoint to be specified in terms of a fixed IR current. Upon implementation of this change, the IR trip will be consistent with all of the other reactor trips in that the trip setpoint specified in the Technical Specifications and reflected in plant operating documents will be expressed in the same units as the channel's indicated output.

A review of the accident analysis provided in Chapter 15 of the North Anna Final Safety Analysis Report (FSAR) confirms that none of the accident analyses take credit for the IR high flux trips for protection or mitigation of accidents. Those accidents which are initiated from powers below permissive P-10 (where the IR trip would be unblocked) include the Hot Zero Power (HZP) rod ejection event, the uncontrolled rod withdrawal from subcritical, inadvertent boron dilution from hot, cold or refueling shutdown, and excessive heat removal at no load conditions. The review showed that the results and conclusions as stated in the FSAR with respect to these accidents are not impacted in any way by the Intermediate Range channels.

In addition sensitivities studies were performed to assess the effects of varying assumed high power trip setpoints on the analysis of rod withdrawal from subcritical and rod ejection accidents (low power reactivity addition events). In this way a measure of the impact of the proposed IR setpoint on the effectiveness of the redundant protection afforded by the high power trip channels could be made. The results of these studies indicated energy release was increased by a fraction of a percent and peak fuel and clad temperatures increased by only a few degrees.

The significance of these results is that the potential increase in effective flux trip setpoint resulting from the proposed change will have no impact on its contribution to the overall reliability and effectiveness of the reactor protection system.

Bassis for proposed no significant hazards considerotion determination: The Commission has provided guidance concerning the no significant hazards consideration by providing certain examples (48 FR 14879). Example (vi) of a no significant hazards consideration involves a change which may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system as specified in the Standard Review Plan. The proposed change as dicussed above falls within the scope of example (vi). The changes have been reviewed with respect to the accident analyses in the North Anna FSAR which are in accordance with the acceptance criteria of Standard Review Plan 7.2. Therefore, the staff proposes to determine that the proposed amendment does not involve significant hazards considerations.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: February 7, 1985.

Description of amendment request: The proposed change would allow NA-1&2 to operate at less than 70 percent of full power with a small, positive Moderator Temperature Coefficient (MTC). The present TS do not allow NA1&2 to be brought critical unless the moderator coefficient is negative, except during physics testing. The proposed change would allow a small positive MTC below 70 percent power and would change to a zero (0) MTC at 70 percent power and above. A power dependent MTC was chosen to minimize the effect of the MTC upon accidents initiated from high power levels. Also, normal core physical phenomena result in the MTC becoming more negative as the power level increases. The proposed change would provide a reasonable degree of flexibility in core design and plant operation for future cycles. The proposed change is similar to NRC approved TS for other facilities.

To assess the effect on accident analysis for plant operation with a slightly positive MTC, a safety analysis of transients sensitive to a zero or positive MTC was performed. These transients included control rod assembly withdrawal from subcritical, control rod assembly withdrawal at power, loss of reactor coolant flow, loss of external load, locked rotor, and control rod ejection. The analysis employed a constant moderator temperature coefficient independent of power level. The results of the analysis are therefore conservative, since a positive MTC is precluded by the proposed change for power operations at 70 percent of power and above. Analyses of the transients in Section 15 of the NA-1&2 Updated Final Safety Analysis Report (UFSAR) that are affected by a positive MTC indicated that the analyses meet the

appropriate transient acceptance criteria. In some cases the results showed a small incremental decrease in safety margins. However, in all cases the small increase was enveloped by appropriate safety margins specified in the NA–1&2 UFSAR.

Bosis for proposed no significant hazards consideration determination: One of the Commission's examples (48 FR 14870) involving no significant hazards relates to a requested change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The proposed change as described above falls within the scope of the Commission's example as stated above. Therefore, the Commission proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: March 29, 1985 and July 1, 1985.

Description of amendment request: The proposed change would extend the time period that one of the redundant Service Water System (SWS) headers could be out of service. The NA–1&2 Technical Specification (TS) 3.7.4.1 currently limits the time period that one of the SWS headers can be inoperable to 72 hours. The proposed change would extend the allowable time that one header could be out of service from 72 hours to 168 hours provided 3 out of 4 service water pumps and 1 out of 2 auxiliary service water pumps are operable during the 168 hour Limiting Condition of Operation (LCO). In addition, the proposed change is specified as being applicable only for the period of time that the currently planned SWS mechanical and chemical cleaning of pipe and installation of new discharge headers and spray arrays and refurbishment of the SWS is in progress.

The (SWS) is a common system to both NA–1&2 and is designed for the removal of heat resulting from the simultaneous operation of various systems and components of the two reactor units. There are two independent sources of water that provide the ultimate heat sink for the NA units. These are the Service Water Reservoir and the North Anna Reservoir. The SWS is designed with redundant supply and return headers which are supplied by four service water pumps and two auxiliary service water pumps. Two pumps are required to provide adequate flow for both units during normal operation and design basis accident conditions as specified in the NA–1&2 Updated Final Safety Analysis Report (UFSAR).

In order to evaluate the impact on plant safety resulting from operation of the SWS in an extended 168 hour LCO condition, a probabilistic safety assessment was performed by the licensee. The analysis included: (1) A reliability study of the SWS in normal operation (two main headers operable); (2) a reliability study of the SWS in a 72 hour LCO; and (3) a reliability study of the SWS in the extended 168 hour LCO; and (4) sensitivity studies to investigate the reliability of systems supported by SW and potential changes in system operation or maintenance to enhance SWS reliability.

The analysis was based upon a qualitative and quantitative probabilistic evaluation of the reliability of the SWS. The qualitative system evaluation included the performance of a failure modes and effects analysis which identified potential failure mechanisms and evaluated their consequences in terms of system performance. The quantitative system evaluation consisted of a fault tree analysis of the SWS and applicable support system. The fault tree was analyzed assigning probabilities to the basic events contained in the tree. These were derived from system and component failure data and human error data and models. Industry data sources and NA–1&2 plant-specific operating experience were reviewed to develop the data base for the analysis.

The results of the quantitative analysis of the SWS (pumps and major headers) indicate that the system failure probability increases from 3.2×10^{-5} to 4.0×10^{-5} when the time period for the LCO is extended from 72 hours to 168 hours. This small increase in failure probability of the SWS due to extension of the LCO condition would result in a negligible increase in overall plant risk. The results of sensitivity cases for investigating the reliability of service water flow to selected systems supported by service water also indicated an increase in failure probability due to extension of the LCO conditions. This increase in failure probability was also judged to be insignificant.

Based on the results of the reliability study, a significant contributor to SWS failures was determined to be pump unavailability due to maintenance. A sensitivity study was therefore performed to evaluate the impact of reducing the maintenance activity on the service water pumps during the extended LCO condition. This pre-condition would limit maintenance activities such that 3 out of 4 service water pumps and 1 out of 2 auxiliary service water pumps are available at the beginning of the extended LCO condition. The result of this action reduces the SWS failure probability for the extended LCO case from 4.0×10^{-5} to 2.0×10^{-5}. The failure probability of the selected systems supported by service water was also investigated for the reduced maintenance case. The result was that the failure probability for service water flow to the supported systems was also reduced for the extended LCO condition.

Based on the results of the probabilistic safety assessment, it was concluded that extension of the LCO time period would result in a negligible increase in risk. The probability of a service water system failure increases from 3.2×10^{-5} to 4.0×10^{-5} when the time period for the LCO is extended from 72 hours to 168 hours. However, since the proposed revision to the TS requires that 3 out of 4 service water pumps and 1 out of 2 auxiliary service water pumps be operable during the extended header outage, the failure probability will be reduced from 4.0×10^{-5} to 2.0×10^{-5}. Therefore, the reliability of the Service Water System for the 168 hour extended LCO condition will be by a small margin increased over that of the 72 hour LCO condition as governed by the current NA–1&2 TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Based on the probabilistic safety assessment as described above, it was concluded there will be no increase in the probability or consequences of any accident previously analyzed. The reliability of the SWS for the extended 168 hour LCO condition will be increased over that of the 72 hour LCO condition as allowed by the current NA–1&2 TS. In addition, the operation of the nuclear units under the extended LCO does not create the possibility of a new or different kind of accident not previously analyzed. The units are licensed to operate with only one heater operable under current LCO restrictions. This does not change as a result of extending the time period.

Finally, the margin of safety as defined in the bases to any technical specification will not be reduced. The probability of failure of the SWS during the extended LCO has not been increased under the proposed change to the TS.

Therefore, based on the above, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously considered, will not create the possibility of a new different accident from any evaluated previously, and will not significantly reduce a safety margin. On this basis, the NRC staff proposes to determine that the standards for determining that a license amendment involves no significant hazards consideration are met, and that operation of the facility in accordance with the proposed amendment would not involve a significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22001.

Attorney for licensee: Michael W. Maupin, Esq., Huton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendments request: April 12, 1985.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) by adding Limiting Conditions for Operation (LCOs) and Surveillance Requirements (SRs) for the reactor trip bypass breakers, undervoltage trip logic and shunt trip logic. The proposed changes are in accordance with the NRC Generic Letter 83–28 dated July 24, 1984 which addressed Auto Shunt Trip Modifications and the need for additional testing of Ractor Trip Breakers and associated equipment. To meet the requirements specified in Generic Letter 83–28, the proposed changes to the TS would add LCOs and SRs for reactor trip breakers, undervoltage trip logic and shunt trip logic. Revised LCO's SR's have been added to require reactor trip bypass breaker testing prior to the routine testing of the reactor trip breakers to provide added assurance for the operability of the bypass breaker during the testing of the main breaker. In addition, LCO's and SR's are being added which require operability and surveillance of both the undervoltage and shunt trip logic features.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, Example (ii), is explicitly considered not likely to involve significant hazards. The proposed changes add LCO's, action statements and surveillance requirements for reactor trip bypass breaker, undervoltage trip logic and shunt trip logic as required by the NRC Generic Letter 83–28. Therefore, the proposed change is enveloped by example (ii). Accordingly, the Commission proposes to determine that the changes involve no significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esquire, Hunton, Williams, Gay and Gibson P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: April 30, 1985.

Description of amendment request: The proposed changes to the Technical Specifications (TS) would revise the pressure temperature limit curves and accompanying changes to the reactor heatup rate limits and the low temperature overpressure protection Power Operated Relief Valve (PORV) setpoints.

In accordance with TS Section 3/4.4.9 and 10 CFR Part 50, Appendices G and H, pressure-temperature limit curves have been updated to be applied during heatup and cooldown. The updated curves, which are valid through 10 Effective Full Power Years (EFPY), are based on conservative extrapolated vessel irradiation levels which reflect the results of evaluations of the first surveillance capsules removed as part of the Reactor vessel materials surveillance programs for the two units. Measured Cycle 1 flux data derived from these capsules were combined with an analytical study of predicted core power distributions for all cycles up to and including the current operating cycles to project 10 EFPY neutorn fluence values. These projected neutorn fluences were used to predict the irradiation-induced reference transition temperature (RTndt) increases at 10 EFPY. The increases were calculated on the methodology of Regulatory Guide 1.99, Revision 1, (Effects of Residual Elements on Predicted Radiation Damage to Reactor Vessel Materials). The updated RTndt values are compared to the values currently shown in the Technical Specifications in Table 1. The updated RTndt values were then used to develop revised heatup and cooldown pressure-temperature limits in accordance with the methods of 10 CFR Part 50, Appendix G. The assumptions used to develop the curves are consistent with the currently specified curves with the exception of the reactor coolant heatup rate limit, which was reduced from the current value of 100°F/hr to 60°F/hr. The heatup rate limit specified in TS 3.4.9.1. has been reduced accordingly. The limits include corrections for temperature and pressure measurement uncertainties as well as for the pressure drop from the reactor vessel beltline to the point of pressure

VOL 50 ISS 147 JL 31 1985 UMI

measurement. Updated PROV setpoints for overpressure protection at low reactor coolant temperatures have been developed based on the revised heatup and cooldown limits.

Section 3.4.9.3 of the Unit 1 TS has also been amended to reflect the fact that overpressure protection can also be provided by a pressurizer steam bubble when the temperature of the Reactor Coolant System cold legs is between 320 °F. and 375 °F. A maximum water volume of at least 457 cu. ft. has been selected in such a case to provide at least 10 minutes for operator response in the event of a mulfunction resulting in maximum flow from one charging pump.

In summary, revised heatup and cooldown limits and the associated PORV setpoints have been developed to conservatively reflect the effects of irraidation on the North Anna Units 1 and 2 pressure vessel mechanical characteristics through 10 EFPY of operation. The evaluation indicates that all of the acceptance criteria for transient analysis specified in the Updated Final Safety Analysis Report (UFSAR) are met and appropriate safety margins maintained.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

As discussed above, none of the accidents evaluated in the UFSAR will be impacted by the proposed update, neither the probability of their occurrence nor the severity of the consequences will increase. In addition, since the proposed changes only serve to restrict the plant operating envelope, no new accident types or equipment malfunction scenarios are introduced. Finally, while the applicability of the pressure-temperature limit curves has been extended to 10 EFPY, the safety margins have been preserved by reductions in the limits and in the associated low-temperature overpressure protection setpoints.

Therefore, based on the above, the proposed amendments will not result in a significant increase in the probability or consequences of an accident previously considered, will not create the possibility of a new or different accident from any evaluated previously, and will not significantly reduce a safety margin. Therefore, the NRC staff proposes to determine that the standards for determining that the proposed changes involves no significant hazards consideration are met, and that operation of the facility in accordance with the proposed changes would not involve a significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manotowoc County, Wisconsin

Date of amendment request: June 4, 1976 as modified January 28, 1980, October 7, 1983, December 20, 1984 and April 12, 1985

Description of amendment request: The proposed amendments would permit operation after approval of changes to the plant's Technical Specifications (TS) that would assure continued compliance with Appendix I, 10 CFR Part 50, and 10 CFR 50.36a. and 50.34a. These proposed TS are intended to ensure that releases of radioactive material to unrestricted areas during normal operation remain as low as is reasonably achieveable. Specifically, the proposed TS define limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring. Additional environmental sampling locations have been added to the present sampling locations. Additional managerial review responsibilities and reporting requirements would be added relating to radioactive releases.

The NRC staff has issued previously its proposed determination that the earlier versions of these amendment requests did not involve a significant hazards consideration (48 FR 38382 at 38430, August 23, 1983, 48 FR 52804 at 52840, November 22, 1983; and 50 FR 7979 at 8011, February 27, 1985).

This newest version of the proposed amendments addresses NRC staff comments on previous submittals. The newest version of these proposed amendments adds definitions for gaseous and liquid radioactive effluent treatment systems for clarification purposes, modifies Tables 15.7.7–2 and 15.7.7–3 for lower limit of detection and notification levels for I–131 in accordance with staff guidance, and modifies certain operability requirements which have been identified as unnecessary based on the revised cost benefit analysis contained in the Apil 12, 1985 submittal.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to additional limitations, restrictions or controls not presently included in the technical specification (ii). In the cae of the proposed technical specifications, they constitute an additional requirement for monitoring and control of radioactive effluents not presently in the technical specifications and are intended to meet the intent of the Commission's regulations (10 CFR Part 50 Appendix I, 10 CFR 50.34a, and 10 CFR 50.36a) and related staff guidance NUREG–0472). Therefore, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, 1515 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Maitowoc County, Wisconsin

Date of amendment request: April 10, 1985.

Description of amendment request: The proposed amendments provide Technical Specification (TS) changes revising the limiting conditions for operation (LCOS) for reactor coolant pumps. Specifically, they require that at least one reactor coolant pump shall be operating when the reactor is critical; above 10 percent power, both reactor coolant pumps shall be operating; if one reactor coolant pump ceases operating, power shall immediately be reduced below 10 percent; if both reactor coolant pumps cease operating, the reactor shall be shut down and reactor trip breakers opened within 1 hour. Further, additional limitations have also been provided for reactor coolant pumps with regard to subcritical operation.

Administrative renumbering of several TS was also proposed.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples is example (ii), a change that constitutes an additional limitation, restriction or control not presently in the technical specifications. Another example is example (i), a purely administrative change to the technical specifications.

The licensee's proposed changes involve additional limitations and restrictions relating to reactor coolant pumps required for critical and subcritical operation and administrative renumbering of technical specifications. Therefore, they meet the Commission's examples of actions likely to involve no significant hazards considerations.

Based upon the above, the staff proposes to determine that the amendments involve no significant hazards considerations.

Local Public Document Room location: Joseph P. Mann Public Library, 1515 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: April 26, 1985.

Description of amendment request: The proposed amendments would revise the Technical Specifications to remove the restrictions on movement of loads over the spent fuel pool following crane modification to meet the single failure criteria of NUREG–0612. Surveillance requirements for the auxiliary building crane have also been revised to reflect crane upgrades to meet single failure criteria and to delete limit switch inspection criteria previously in the Technical Sepcifications. Limit switches to restrict movement over the spent fuel pool were removed following the NUREG–0612 crane upgrades.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance by providing examples of actions likely to involve no significant hazards considerations (48 FR 14870). One of the examples of actions likely to involve no significant hazards considerations is example (iv), a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated.

License amendments No. 35 to DPR–24 and 41 to DPR–27 were issued imposing interim restrictions on operations involving movement of heavy loads over the spent fuel pool because of delays in the installation of a single failure proof crane. Further interim restrictions were requested as a result of the NRC staff's evaluation on heavy load handling on auxiliary building crane movement and loading. These were incorporated on April 28, 1985 into licenses DPR–24 and 27 by amendments 91 and 95, respectively.

The licensee plans to complete single failure proof crane modifications and testing by August 1, 1985. Upon completion of these modifications, the interim restrictions on movement of loads over the spent fuel pool imposed by the license amendments 41, 45, 91 and 95 would no longer be necessary. Therefore, the staff has determined that the licensee's proposed amendments meet the Commission's example (iv) of actions likely to involve no significant hazards considerations.

Based on the above, the staff proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room location: Joseph P. Mann Public Library, 1515 16th Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: June 17, 1985.

Description of amendment request: The amendments would revise the Technical Specifications (TS) by changing the Reactor Vessel Surveillance capsule Removal Schedule for Point Beach Units 1 and 2 contained in Tables 15.3.1–1 and 15.3.1–2 and the associated bases in the T.S.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning which actions are likely to involve no significant hazards considerations (48 FR 14870). One of the examples of actions likely to involve no significant hazards considerations is example (vii), "a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

The proposed changes to the capsule surveillance schedule were prompted by changes to 10 CFR 50 Appendix H which were made in May 1983. The new Appendix H deleted the surveillance capsule withdrawal schedules previously prescribed therein, and incorpated by reference ASTM E185–82 "Standard Practice for Conducting Surveillance Tests for Light-Water Cooled Nuclear Power Reactor Vessels." ASTM E185–82 states that:

> The withdrawal schedule of the final two capsules is adjusted by the lead factor so the exposure of the second to last capsule does not exceed the peak end-of-life (EOL) fluence on the inside surface of the vessel, and so the exposure of the final capsule does not exceed twice the EOL vessel inside surface peak fluence. The decision on when to test speciments from the final capsule need not be made until the results from the preceding capsules are known.

The proposed changes would extend the approximate removal dates for the final capsule in Unit 1 to a period corresponding to 110% of the peak EOL fluence on the inside surface of the vessel. The change would extend the approximate removal dates for the last two capsules in Unit 2 to the periods corresponding to 90% and 110% of the peak EOL fluence on the inside of the vessel.

The licensee's proposed changes agree with the guidance in ASTM E185–82 which has been incorporated by reference in 10 CFR 50 Appendix H. Therefore, the staff finds that the licensee's proposed changes meet the Commission's example (vii) of actions likely not to involve a significant hazards consideration.

Based on the above, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

VOL
50
ISS
147
JL
31
1985
UMI

Yankee Atomic Power Company, Docket No. 50-29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: March 18, 1985, as supplemented May 9, 1985 and May 30, 1985.

Description of amendment request: The proposed changed would modify the pressurizer code safety value setpoint tolerance in the Technical Specifications (TS) Limiting Conditions for Operation and Surveillance Requirements for the Main Coolant system.

Basis for proposed no significant hazards consideration determination: As discussed in Licensee Event Report (LER) 84-11, the replacement pressurizer code safety values were set by the manufacturer to the ASME Boiler and Pressure Vessel Code Section III tolerance of ±1%. One of the new safety values was found to be out of the existing TS tolerance of +0, −3%. This is not in conformance with the existing TS tolerance. The existing tolerance is based on the ASME Boiler and Pressure Vessel Code Section VIII (which allowed a setpoint of ±3%), and additional analysis, used as the design basis for the Yankee plant. The proposed changed expands the existing tolerance to allow for a positive setpoint error, and provides the Overpressurization Protection Report as required by ASME Section III. Since the Yankee plant was designed to ASME Section VIII, the proposed change falls within the design code used for the design basis for the reactor vessel, pressurizer, and steam generators, and the Overpressurization Protection Report is intended to demonstrate the design basis for the Yankee plant remains acceptable with the new tolerance. The proposed change would, therefore: (1) Not involve any significant increase in the probability or consequences of an accident previously evaluated; (2) not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) not involve a significant reduction in a margin of safety. Based on this discussion, the staff proposes to determine that the requested action would not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: John A. Zwolinski.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: February 28, 1985, as supplemented July 5, 1985.

Brief description of amendment: The amendment would revise the Technical Specifications to reflect revised pressure temperatures limitations for reactor coolant system heat up, cooldown and hydrostatic test through fifteen effective full power years.

Date of publication of individual notice in **Federal Register:** April 23, 1985 (50 FR 16002) and reissued July 10, 1985 (50 FR 28131).

Expiration date of individual notice: July 22, 1985, 5:00 p.m.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: February 14, 1985, as revised June 19, 1985.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TSs) to revise the Reactor Coolant System presure/temperature curves in TS 3.4.9.1 to take into consideration the analysis of the previously removed Reactor Vessel Surveillance Capsule B and changes in the licensee's fuel management philosophy. These revisions will extend the applicability of the curves from 5 effective full power years (EFPY) to 8 EFPY and will assure compliance with 10 CFR 50, Appendix G. In addition, the proposed amendment would delete the Criticality Limit Curve on Figure 3.4-2 and remove from TS 4.4.9.1.2 the Reactor Vessel Material Irradiation Surveillance Schedule (Table 4.4.5).

Date of publication of individual notice in **Federal Register:** June 26, 1985 (50 FR 26420).

Expiration date of individual notice: July 26, 1985.

Local Public Document Room location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Florida Power Corporation, et al., Docket No. 50-302. Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: May 1, 1985, as revised June 14, 1985.

Brief description of amendment: The proposed amendment would modify the Technical Specification (TSs) related to the High Pressure Injection (HPI) Flow Balance Testing, HPI Pump and Valve Test, and the Emergency Diesel Generator (EDG) Load Test to allow testing during appropriate operating modes. Specifically, the proposed amendment is needed to provide clarification and resolve conflicts between current TSs and commitments made to the Commission involving low temperature over-pressurization protection, as follows:

1. TS 4.5.2.g currently requires HPI flow balance testing of pump and discharge lines during shutdown. However, pressure-temperature considerations prevent testing during Modes 4, 5, or 6. Thus, Mode 3 is the most appropriate time to perform the test.

2. TS 4.5.2.f currently requires that the HPI valve manual actuation be performed during shutdown (Modes 4 and 5), which conflicts with low temperature overpressure commitments which require "racking out" of these valves in these modes. The TS amendment would allow actuation of valves during Mode 6.

3. TS 4.8.1.1.2.c. presently requires that tests be performed during shutdown (Modes 4 or 5) which, for TS 4.8.1.1.2.c.3 and 5, conflict with low temperature over pressurization protection commitments. The amendment would permit those tests to be performed in Mode 3. In addition, the 18-month frequency requirement would also be changed for this cycle only to permit performance of these tests during the startup for Cycle 6. The specification would be changed to permit other tests

in this section to be performed in Mode 6.

Date of publication of individual notice in **Federal Register:** June 21, 1985 (50 FR 25802).

Expiration date of individual notice: July 22, 1985.

Local Public Document Room location: Crystal River Public Library, 66 NW. First Avenue, Crystal River, Florida.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluation and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Director, Division of Licensing.

Arkansas Power and Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of application for amendment: January 23, 1984.

Brief description of amendment: The amendment added a license condition pertaining to the IAEA safeguards inspection program at ANO-2.

Date of issuance: July 16, 1985.

Effective date: July 16, 1985.

Amendment No.: 67.

Facility Operating License No. NPF-6. Amendment added a license condition.

Date of initial notice in **Federal Register:** April 25, 1984 (49 FR 17850 at 17853 and 17854).

The Commission's related evaluation of the amendment is contained in a letter dated July 16, 1985.

No significant hazards consideration comments received. No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

DAte of application for amendment: March 6, 1985.

Brief description of amendment: The amendments change the Technical Specifications (TS) for Unit 1 with regard to Tables 3.3.5.3-1 and 4.3.5.3-1 (Accident Monitoring Instrumentation) and Section 3/4.6.2.1 (Suppression Chamber) to incorporate the inclusion of a suppression pool temperature monitoring system (SPTMS) which meets the acceptance criteria of NUREG-0661, Appendix A. The channel check for items 4.3.5.3-1.4 is being changed from monthly to daily to provide consistency with TS 4.6.2.1.d.1 for Unit 1 and Unit 2. In addition, TS sections 3/4.6.2.1 and 3/4.6.4.1 (Drywell-Suppression Chamber Vacuum Breakers) have been modified to more closely conform to the guidance of the BWR-4 Standard Technical Specifications (STS), NUREG-0123. The other Unit 2 change is made to eliminate redundancy in Surveillance Requirement 4.6.2.1.b.2.b.

Date of issuance: July 8, 1985.

Effective date: July 8, 1985.

Amendment Nos.: 85 and 111.

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1985 (50 FR 15999).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Duke Power Company, Dockets Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units Nos. 1, 2 and 3 Oconee County, South Carolina

Date of application for amendment: March 19, 1985, as supplemented May 1, 1985.

Brief description of amendments: These amendments revise the Station's common Technical Specifications to allow a one-time extension of the allowable period of inoperability from 24 hours to 10 days per battery for the installation of new batteries and battery racks used to start the two Keowee Hydro Station power units, which units serve as the on-site emergency power source for the Oconee Nuclear Station.

Date of issuance: July 17, 1985.

Effective date: July 17, 1985.

Amendments Nos.: 141, 141 and 138.

Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 4, 1985 (50 FR 23547).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: March 21, 1985.

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 as follows: (1) Section 3.5.5, "Refueling Water Stordge Tank", is deleted and the same requirements are incorporated into Section 3.1.2.8.b, "Borated Water Sources", (2) Table 4.12-1 is revised to correct an editorial error, and (3) Section 6.13, "Environmental Qualification", is deleted to comply with the Commission's final rule for removal of the June 30, 1982 deadline for qualification of all safety-related electrical equipment.

Date of issuance: July 10, 1985.

Brief description of amendment: The

supplement confirmed that the new

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric

Northern States Power Company,

Philadelphia Electric Company, Public

Date of issuance: July 10, 1985.
Effective date: July 10, 1985.
Amendment No. 95.
Facility Operating License No. DPR–66. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20976).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: August 30, 1984, as supplemented June 17, 1985.
Brief description of amendment: This amendment revises the location of several remote shutdown monitoring instruments from the ES Switchgear Room to the Remote Shutdown Panel. Incorporation of the new Remote Shutdown System into the Technical Specifications will be completed in a separate action.
Date on issuance: July 3, 1985.
Effective date: July 3, 1985.
Amendment No.: 75.
Facility Operating License No. DPR–72. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 21, 1984 (49 FR 45949).
Since the initial notice, the licensee requested the Commission, by letter dated June 17, 1985, to consider at this time only that portion of the August 30, 1984 request dealing with revising the location of remote shutdown instrumentation. This change is encompassed by the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: January 23, 1985, as supplemented June 6 and 28, 1985.
Brief description of amendment: The amendment changes the Technical Specifications (TSs) to include requirements for the upgraded Emergency Feedwater System (EFW). The new specifications provide operability and surveillance requirements for EFW manual initiation and automatic actuation logic and are in conformance with the B&W Standard Technical Specifications.
Date of issuance: July 16, 1985.
Effective date: July 16, 1985.
Amendment No.: 78.
Facility Operating License No. DPR–72. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 21, 1985, 50 FR 20979.
Since the initial notice, the licensee informed the Commission by letters dated June 6 and June 28, 1985, of proposed corrections to TS Table 3.3–5 and deletes the previously proposed change in the main feedwater isolation time in Table 3.3–5. The Commission's staff found that these changes only corrected administrative errors in the January 23, 1985, submittal and did not affect the scope of the amendment referenced in the initial notice. The response time change deletion returned the requirement to that of the existing TS and therefore reduced the scope of the amendment. Accordingly, these changes did not warrant renoticing.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: February 27, 1985, as supplemented June 25, 1985.
Brief description of amendment: This amendment allows for the replacement of six manual valves with eight remote-manual valves to provide capability to install a hydrogen recombiner.
Date of issuance: July 3, 1985.
Effective date: July 3, 1985.
Amendment No.: 76
Facility Operating License No. DPR–72. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20979).
Since the initial notice, by letter dated June 25, 1985, the licensee supplemented the February 27, 1985 application. This supplement confirmed that the new valves meet or exceed the design and performance requirements of the original valves. In addition, the type of valve operator was corrected from solenoid to remote-manual when the licensee discovered a documentation error. Although the original notice identified the replacement valves as solenoid-operated, the purpose of the requested amendment was to add valves to provide the capability to install a hydrogen recombiner should that become necessary at some future time. The type of operator has little significance as long as containment isolation design and performance requirements are met. The number of valves and configuration of piping necessary to provide the capability to install a hydrogen recombiner have not changed from the original amendment request. Since the provision of that capability is the essential matter in this amendment request, and not the type of valve operators, it was determined that renoticing was not warranted.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: April 25, 1985.
Brief description of amendment: This amendment revises the Technical Specifications to support the operation of Crystal River Unit No. 3 at full rated power during Cycle 6 operation.
Date of issuance: July 16, 1985.
Effective date: July 16, 1985.
Amendment No.: 77.
Facility Operating License No. DPR–72. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** June 13, 1985 (50 FR 24849).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of application for amendment: February 5, 1981.
Brief description of amendment: The amendment revised the TSs for Hatch Unit 2 to clarify the definition of the term Operable and to specify certain conditions under which a system, subsystem, train, component or device may be considered operable when the normal or emergency power source providing power to the system, subsystem, etc. is Inoperable.
Date of issuance: July 16, 1985.
Effective date: July 16, 1985.
Amendment No.: 49.
Facility Operating License No. NPF–5. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49586).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Appling County Public Library, 301 Hall Drive, Baxley, Georgia.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: February 20, 1985.
Brief description of amendment: The amendment revises the DAEC operating license, extending the effectiveness of the licensee's Integrated Scheduling Plan for plant modifications from the current expiration date of May 3, 1985 to May 3, 1987.
Date of issuance: July 9, 1985.
Effective date: July 9, 1985.
Amendment No.: 125.
Facility Operating License No. DPR–49. Amendment revised the license.
Date of initial notice in **Federal Register:** April 23, 1985 (50 FR 16006).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendment: April 5, 1985.
Brief description of amendment: The amendment changed the Technical Specifications by including the operability and surveillance requirements associated with the automatic actuation of the shunt trip attachment and the manual reactor trip circuits.
Date of issuance: June 26, 1985.
Effective date: Unit 1, June 28, 1985. Unit 2—Cycle 10 startup scheduled for November 1985.
Amendment No.: 75 and 68.
Facility Operating License Nos. DPR–42 and DPR–60. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20967).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 26, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room Location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Pacific Gas and Electric Company, Docket No. 50–133, Humboldt Bay Power Plant, Unit No. 3, Humboldt, California

Date of Application for amendment: July 30, 1984.
Brief description of amendment: This amendment modifies Facility Operating License No. DPR–7 to possess-but-not-operate status. Action on the balance of the above application will be taken at a later date.
Date of issuance: July 16, 1985.
Effective date: July 16, 1985.
Amendment No.: 19.
Facility Operating License No. DPR–7. This amendment revised the license.
Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12152).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 16, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: Eureka-Humboldt County Library, 421 I Street (County Courthouse), Eureka, California 95501.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: January 4, 1985.
Brief description of amendments: These amendments make the reporting requirements in the Technical Specifications (TSs) consistent with 10 CFR 50.72 and 50.73. These changes: (1) Add the definition of Reportable Events to the Definition Section 1.0, (2) delete the prompt and 30-day reporting specifications because these requirements have been superseded by 10 CFR 50.72 and 50.73, (3) revise specific nomenclature to conform with 10 CFR 50.73 and (4) delete from the TSs the reporting requirement for failures of a safety or relieve valve because 10 CFR 50.73 now requires reporting such failures.
Date of issuance: July 17, 1985.
Effective date: July 17, 1985.
Amendments Nos.: 110 and 113.
Facility Operating Licenses Nos. DPR–44 and DPR–56. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 7999).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Units Nos. 1 and 2, Salem County, New Jersey

Date of application for amendment: February 8, 1985.
Brief description of amendments: The amendments provide four additional modifications to the Technical Specifications previously issued as part of the Radiological Effluent Technical Specifications in Amendment Nos. 59 and 28 for Salem Units 1 and 2, respectively.
Date of issuance: May 28, 1985.
Effective date: May 28, 1985.
Amendments Nos.: 63 and 65.
Facility Operating Licenses Nos. DPR–70 and DPR–75: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12161).

Local Public Document Room location: Sacramento City-County

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR

Date of intital notice in **Federal Register:** June 4, 1985 (50 FR 23557)
The Commission's related evaluation

Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the

A copy of items (2) and (3) may be obtained upon request adressed to the

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Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12161).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: February 25, 1985.

Brief description of amendment: The amendment changes the Technical Specifications to reflect an updated management organization by illustrating those changes in an updated management organization chart.

Date of issuance: July 10, 1985.

Effective date: July 10, 1985.

Amendment No.: 7.

Facility Operating License No. DPR-18. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1985 (50 FR 20987).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: October 27, 1980, as supplemented May 30, 1984.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate requirements for redundant decay heat removal capability during all modes of facility operation.

Date of issuance: July 3, 1985.

Effective date: July 3, 1985.

Amendment No.: 71.

Facility Operating License No. DPR-54. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 21, 1983 (48 FR 56509); and January 23, 1985 (50 FR 3054).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: December 21, 1984.

Brief description of amendments: The amendments change the Technical Specifications to correct typographical errors and clarify mechanical vacuum pump requirements. The proposed amendments relating to shift overtime limitations will be addressed separately in future correspondence and have not been included.

Date of Issuance: July 8, 1985.

Effective date: Within 90 days of the date of issuance.

Amendment Nos.: 119, 114 and 90.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 8009).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: March 16, 1979, as revised by letters dated December 23, 1982, July 13, 1983, August 18, 1983, March 15, 1984, and November 1, 1984.

Brief description of amendment: The amendment revises the Technical Specifications (TSs) to ensure compliance with 10 CFR 50.36a. The amendment updates those portions of the TSs addressing radioactive effluent management including monitoring, reporting and environmental surveillance. This amendment deletes Appendix B, Part I, TSs relating to these matters and adds appropriate Limiting Conditions for Operation, Surveillance Requirements, reporting requirements and environmental monitoring requirements to Appendix A.

Date of issuance: July 2, 1985.

Effective date: October 30, 1985.

Amendent No. 86.

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52836); May 23, 1984 (49 FR 21847); and February 27, 1985 (50 FR 8009).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 2, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: May 20, 1983, as revised February 7, 1984, and superseded October 22, 1984, and supplemented November 6, 1984.

Brief description of amendment: The amendment revises the Technical Specifications pertaining to safety-related shock suppressors.

Date of issuance: July 9, 1985.

Effective date: July 9, 1985.

Amendment No.: 89.

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38426), April 25, 1984 (49 FR 17876) and January 23, 1985 (50 FR 3056).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: April 19, 1985.

Brief description of amendment request: This amendment revises the WNP-2 license by modifying the Technical Specifications Drywell Average Air Temperature, Surveillance Requirements, 4.6.1.7, to provide a description of the locations of the thermocouples used to measure the drywell average temperature instead of the specific elevations and azimuths currently employed.

Date of issuance: July 18, 1985.

Effective date: July 18, 1985.

Amendment No.: 15.

Facility Operating License No. NPF-21: Amendment revised the Technical Specifications.

Date of intital notice in **Federal Register:** June 4, 1985 (50 FR 23557)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 18, 1985.

No significant hazards consideration comments received: None.

Local Public Document Room Location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: February 29, 1984 as modified June 7, 1984.

Brief description of amendments: The amendments incorporate Limiting Conditions for Operation and surveillance requirements for accident monitoring instrumentation installed in response to NUREG-0737 "Clarification of TMI Action Plan Requirements".

Date of issuance: July 18, 1985.

Effective date: 20 days from the effective date.

Amendment Nos.: 92 and 96.

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25350 at 25381). Renoticed September 28, 1984 (49 FR 38390 at 38413).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 18, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commisison's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request adressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By August 30, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to interevene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of

the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Carolina Power & Light Company, Docket No. 50–324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: July 12, 1985.

Brief description of amendment: The amendment changes the Technical Specifications by revising the allowed maximum average temperature of the primary containment air from 135 °F to 140 °F for a period of 30 days from the effective date of this amendment.

Date of issuance: July 12, 1985.

Effective date: July 12, 1985.

Amendment No.: 112.

Facility Operating License No. DPR–62. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are considered in a Safety Evaluation dated July 12, 1985.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

Dated at Bethesda, Maryland this 25th day of July 1985.

For the Nuclear Regulatory Commission.

Edward J. Butcher,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85–18173 Filed 7–30–85; 8:45 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Public Information Collection Request Submitted for OMB Review

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of information request submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act and its implementing regulations, agencies are required to submit information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public of such submission. The effect of this notice is to advise the public that the PBGC has requested OMB approval of a collection of information from plan sponsors of multiemployer plans terminated by mass withdrawal and certain ongoing multiemployer plans from which substantially all employers have withdrawn.

ADDRESSEE: All written comments should be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3201 New Executive Office Building; Washington, D.C. 20503. The proposed information collection request will be available for public inspection in the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, DC. 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ellan Hamilton Spring, Corporate Policy and Regulations Department (611), 2020 K Street, NW., Washington, D.C. 20006; telephone 202–254–6138 (202–254–8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) establishes policies and procedures for controlling the paperwork burdens imposed by Federal agencies on the public. The Act vests the Office of Management and Budget ("OMB") with regulatory responsibility over these burdens, and OMB has promulgated rules on the clearance of information requests by Federal agencies.

The PBGC has sought approval by OMB of the information collection request contained in a proposed regulation on "Redetermination of Withdrawal Liability upon Mass Withdrawal," (49 CFR 45018 (November 14, 1984)). The rule prescribes rules for computing employer's liabilities after a multiemployer plan experiences a mass withdrawal or terminates by mass withdrawal. It also establishes procedures for the issuance to employers and the PBGC of notices of mass withdrawal and of computation of the attendant liabilities.

Issued at Washington, D.C., on this 25th day of July, 1985.

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

FR Doc. 85–18130 Filed 7–30–85; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–14648; File No. 812–6145]

Franklin Lakeshore Limited Partnership; Application and Opportunity for Hearing

July 25, 1985.

Notice is hereby given that Franklin Lakeshore Limited Partnership (the "Partnership"), One Post Office Square, Suite 1400, Boston, Massachusetts 02109, a Massachusetts limited partnership formed to invest in 445 East Ohio Partnership (the "Operating Partnership"), an Illinois limited partnership which will own and operate an apartment project in Chicago, Illinois (the "Project"), and Milk Street Residential Limited Partnership IV, the Partnership's general partner (the "General Partner") (together with the Partnership, "Applicants"), filed an application on July 1, 1985, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), to exempt the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, a summary of which is set forth below, and to the Act and rules thereunder for the provisions thereof which are relevant to a consideration of the application.

Applicants state that the Partnership was formed as a vehicle for private investment in government-assisted rental housing in accordance with the express determination of Title IX of the Housing and Urban Development Act of 1968. Applicants further state that the Partnership will operate as a "two-tier" entity, i.e., the Partnership, as limited partner, will hold a 99% interest in the Operating Partnership which, in turn, will acquire, develop, construct, own and operate the Project, as residential, commercial and retail project consisting of 567 units of rental housing for low and moderate income persons as well as approximately 54,400 square feet of commercial and retail space, and 254 parking spaces, all of which. Applicants contend, will be in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974). According to the application, the Operating Partnership is begin assisted by mortgage financing provided by the Illinois Housing Development Authority.

Applicants represent that the Partnership will offer 100 units of limited partnership interest in the Partnership (the "Units"), pursuant to section 4(2) of the Securities Act of 1933 ("1933 Act") and Regulation D thereunder, to investors meeting certain suitability standards. According to the application, the Units are being offered only to "Accredited Investors" as defined in Regulation D and to a limited number of "Non-Accredited Investors". Applicants represent that the Units will not be sold to any person unless such person or his duly authorized representative shall have signed certain representations to the Partnership that (a) the prospective purchaser has (i) a net worth (i.e., total assets in excess of total liabilities) of at least $250,000 per unit purchased exclusive of home, furnishings and automobiles or (ii) a net worth of at least $200,000 per Unit purchased, exclusive of home, furnishings and automobiles, and an annual income of at least $100,000 per Unit purchased; (b) the prospective purchaser's overall commitment to investments which are not readily marketable is not disproportionate to his net worth, and his investment in this Units will not cause such overall commitment to become excessive; (c) the prospective purchaser has adequate means of providing for his current needs and personal contingencies and has no need for liquidity in his investment in the Units; (d) the prospective purchaser is an "Accredited Investor" or, if not an Accredited Investor, either alone or with his Purchaser Representative(s), as defined in Regulation D, has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of an investment in the Units and has consulted his own tax or other professional advisor in making his investment decision; (e) the marginal Federal income tax bracket of the prospective purchaser, after taking into account losses, if any, likely to be incurred as a result of his investment in the Units, is not less than 42%, and he expects to remain in that bracket, or higher, for several years; and (f) he is purchasing Units for his own account, for investment, and not with a view to resale.

The application summarizes the form and recipients of compensation to be paid to the General Partner and its affiliates. It states that all such compensation is believed to be fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with independent third parties. It further states that the Partnership believes that such compensation meets all applicable guidelines to the extent necessary to permit the Units to be offered and sold in various states which prescribe such guidelines, including the statement of policy adopted by the North American Securities Administrators Association, Inc.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from all the provisions of the Act. In support of this request, Applicants assert that such exemption is both necessary and appropriate in the public interest and would be consistent with the protection of investors and the purposes and policies underlying the Act. Applicants assert that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership structure. Applicants state that a limited partnership would be unable to function in the manner contemplated by the Partnership if it is deemed to be an investment company under the Act. In addition, it is maintained that application of the Act would discourage two-tier limited partnership arrangements and thus eliminate the best available means of attracting private equity capital into government-assisted housing and frustrate national policy.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 19, 1985, at 5:30 p.m., do so my submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

FR Doc. 85–18116 Filed 7–30–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14647; 812–6128]

investment companies designated by the

For the Commission, by the Division of

incorporates the term "FFB Rate", which

written comments on the propose

Dated: July 22, 1985.

VOL 50 ISS 147 JL 31 1985 UMI

[Release No. IC-14647; 812-6128]

Prudential-Bache Securities Inc.; Application for Order Permitting Waiver of a Contingent Deferred Sales Load

July 25, 1985.

Notice is hereby given that Prudential-Bache Securities Inc. ("Applicant"), One Seaport Plaza, New York, NY 10292, filed an application on June 5, 1985, and an amendment thereto on July 11, 1985, for a Commission order, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting any existing or future Prudential-Bache Mutual Fund of which Applicant is distributor and manager or administrator and which imposes or may impose a contingent deferred sales load ("CDSL Funds"), from the provisions of section 22(d) of the Act to permit the waiver of the contingent deferred sales load on redemptions of shares of such CDSL Funds by the Bache Group Inc. Voluntary Employee Retirement Savings Account Plan ("Plan"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicant states that it is the distributor for and either the manager or administrator of each CDSL Fund as well as several additional investment companies constituting the Prudential-Bache Mutual Funds. Pursuant to an order of the Commission dated July 1, 1985 (Investment Company Release No. 14615), the CDSL Funds may impose a contingent deferred sales load ("CDSL") on redemptions of their shares, and may waive or reduce the CDSL with respect to the following redemptions: (i) Redemptions following the death or disability, as defined in section 72(m)(7) of the Code, of a stockholder, and (ii) redemptions in connection with certain distributions from qualified retirement plans. Applicant represents that the amount of the CDSL which it may receive under such exemptive order will vary depending on how long the shares being redeemed have been held.

According to Applicant, the Plan is a qualified retirement plan under section 401 of the Internal Revenue Code of 1954, and covers substantially all employees of the Bache Group Inc. Applicant states that the Plan provides for voluntary employee contributions with matching employer contributions and that contributions to the Plan are invested, at the option of the contributing employee, in one or more investment companies designated by the Plan's Administrative Committee as eligible Plan investments. Applicant also states that no CDSL Funds are currently designated as eligible Plan investments because a Prohibited Transaction Class Exemption issued by the Department of Labor would prohibit Applicant's receipt of the proceeds of the CDSL. In order that one or more CDSL Funds may be designated an eligible Plan investment, Applicant requests an exemption from section 22(d) of the Act to permit the proposed waiver of the CDSL on redemptions by the Plan of shares of the CDSL Funds.

Applicant asserts that such an exemption is appropriate and in the public interest, and is consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the Act. In support thereof, Applicant submits that it is in the best interests of the CDSL Funds and the Plan that the Administrative Committee of the Plan have the flexibility to designate any CDSL Fund as an eligible Plan investment if such designation is deemed appropriate in light of the objectives of the Plan. Furthermore, since Applicant carries on no selling efforts and therefore incurs no sales costs in connection with purchases of shares by the Plan, Applicant believes it is fair and equitable that such cost savings be passed on to the Plan. In addition, Applicant asserts that the proposed waiver of the CDSL for redemptions of CDSL Fund shares by the Plan does not unfairly discriminate among stockholders or purchasers. Finally, Applicant represents that it and the CDSL Funds will comply in every respect with the provisions of Rule 22d-1 under the Act in connection with the proposed waiver of CDSL.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 19, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of this interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-18115 Filed 7-30-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region II Advisory Council; Meeting

The U.S. Small Business Region II Advisory Council, located in the geographical area of New York, will hold a public meeting at 9:00 a.m., on Wednesday, August 7, 1985, at the Jacob K. Javits Federal Building, 26 Federal Plaza, Room 3108 (31st Floor), New York, New York, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Bert X. Haggerty, District Director, U.S. Small Business Administration, 26 Federal Plaza, New York, New York 10278 (212) 264-1318.

Jean M. Nowak,

Director, Office of Advisory Councils.

July 23, 1985.

[FR Doc. 85-18078 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2188) Amdt. #1

Disaster Loan Area; Michigan

The above declaration (50 FR 18757) is amended to extend the application filing period for economic injury loans to "January 26, 1986. All other information remains the same. The economic injury declaration number is 629900.

"This time period is subject to change in accordance with requirements of the Federal budget.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 22, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-18084 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

Maximum Annual Cost of Money to Small Business Concerns

13 CFR § 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR § 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective August 1, 1985, and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 10.585% per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: July 25, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-18085 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0239]

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide fund to George W. Moody (U.S.), Inc. for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associates IV, an associate of Brentwood, owns greater than 10 percent of George W. Moody (U.S.), Inc. and therefore George W. Moody (U.S.), Inc. is considered Associate of Brentwood Capital Corporation as defined by § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Torrance, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 22, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-18079 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0239]

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide funds to Ordain, Inc. for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associates IV, an associate of Brentwood, owns greater than 10 percent of Ordain, Inc. and therefore Ordain, Inc. is considered Associate of Brentwood Capital Corporation as defined by § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Broken Arrow, Oklahoma area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 22, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-18080 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0239]

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide funds to DMA Systems Corporation for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associations III, an associate of Brentwood, owns greater than 10 percent of DMA Systems Corporation and therefore DMA Systems Corporation is considered Associate of Brentwood Capital Corporation as defined by § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington D.C. 20416.

A Copy of this Notice will be published in a newspaper of general circulation in the Goleta, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 22, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-18081 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0239]

governing small business investment

ACTION: Notice of matching program.

(Department of Labor) or SSA (Social Security Administration) to identify VA

been a violation of criminal laws, the matter will be investigated and referred

match the files previously agreed to; it will not be used to extract information

VOL
50
ISS
147
JL
31
1985
UMI

[License No. 09/09-0239]

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide funds to Protype Corporation for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associates IV, an associate of Brentwood, owns greater than 10 percent of Protype Corporation and therefore Protype Corporation is considered Associate of Brentwood Capital Corporation as defined in § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in the Sun Valley, California area.

Dated: July 22, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-18082 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

Brentwood Capital Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

[License No. 09/09-0239]

Notice is hereby given that Brentwood Capital Corporation (Brentwood), 11661 San Vicente Boulevard, Los Angeles, California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) (1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Brentwood Capital Corporation proposes to provide funds to Multiplex Technology, Inc. (Multiplex) for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Brentwood Associates IV, an associate of Brentwood, owns greater than 10 percent of Multiplex, and therefore Multiplex is considered Associate of Brentwood Capital Corporation as defined in § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in the Fullerton, California area.

Dated: July 22, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-18083 Filed 7-30-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 22-85]

Treasury Notes, Series X-1987

Washington, July 25, 1985.

The Secretary announced on July 24, 1985, that the interest rate on the notes designated Series X-1987, described in Department Circular—Public Debt Series—No. 22-85 dated July 18, 1985, will be 8⅞ percent. Interest on the notes will be payable at the rate of 8⅞ percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-18142 Filed 7-30-85; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Report of New Matching Program

AGENCY: Veterans Administration.

ACTION: Notice of matching program.

SUMMARY: Notice is hereby given that the VA (Veterans Administration) intends to conduct a recurring computer matching program matching DOL (Department of Labor) and SSA (Social Security Administration) records of Black Lung benefit receipients with VA pension and parent's dependency and indemnity compensation records.

The goal of these matches is to identify VA benefit recipients who are also receiving Black Lung benefits payments reportable to VA as countable income. For the information of all concerned, the text of the VA matching program report, describing the computer match follows. In accordance with the OMB guidelines for conducting matching programs, dated May 11, 1982, copies of this report are being sent to OMB and both houses of Congress.

DATE: It is anticipated the matches will commence in July 1985.

ADDRESS: Interested individuals may comment on the proposed matches by writing to the Director, Compensation and Pension Service (21), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Lawrence Nicholson (213A), (202) 389-3062.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: July 26, 1985.

Harry H. Walters,

Administrator.

Report of Matching Program: Veterans Administration Pension and Dependency and Indemnity Records with Department of Labor and Social Security Administration Black Lung benefit payment records.

a. *Authority:* Title 38 United States Code, section 3006.

b. *Program Description:* (1) Purpose: The VA (Veterans Administration) plans to match records of veterans and surviving spouses and children who receive pension and parents who receive DIC (dependency and indemnity compensation) from the VA with records of Black Lung benefit requirements maintained by DOL (Department of Labor) or SSA (Social Security Administration) to identify VA benefit recipients of pension and DIC who are also receiving Black Lung benefits reportable to VA as countable income. Currently, information about a VA beneficiary's receipt of Black Lung benefits is obtained from reporting by the beneficiary. The proposed matching program will enable the VA to ensure accurate reporting of Black Lung benefits.

(2) Procedure: The VA will prepare an extract file of beneficiaries receiving income dependent benefits whose VA records contain a valid social security number. The VA extract file will be matched against Black Lung benefit files from DOL and SSA. If a record and a Black Lung benefit record matches on social security number and name, the VA will update its master record with the amount of the Black Lung benefit. No information from the VA extract file will be accessed or obtained by DOL or SSA as a result of this matching program.

In the event of a "hit", i.e., the identification of a person in receipt of VA income dependent benefits and in receipt of Black Lung benefits, the case will be referred for field station development to assure the validity of the "hit" and to make any required award adjustment. Where there are reasonable grounds to believe there has been a violation of criminal laws, the matter will be investigated and referred for prosecutive consideration in accordance with existing VA policies.

c. *Records to be Matched:* The DOL and SSA as "source agencies" will provide Black Lung benefit payment information from the systems of records designated respectively as Office of Workers' Compensation Programs, Black Lung Benefit Payments DOL/ESA-7 (47 FR 30378, July 13, 1982), and Black Lung Payment System HHS/SSA/OURV (47 FR 45610, Oct. 13, 1982) which will be matched against the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (47 FR 372, January 5, 1982).

d. *Period of Match:* The initial data exchange will occur during July 1985 and will occur annually thereafter following a legislative increase in Black Lung benefits.

e. *Safeguards:* The VA will maintain all administrative, technical and physical security safeguards for the DOL and SSA files while in the possession of the VA as it does for its own files. Records are maintained in areas not accessible to the public and are not permitted to be removed from VA offices. All magnetic tapes in use or in storage are maintained in areas to which access is restricted. The matching file will be used and accessed only to match the files previously agreed to; it will not be used to extract information concerning "non-hit" individuals for any purpose; it will not be duplicated or disseminated within or outside the VA, the matching agency; and access will be limited to those persons who have a need for the information in order to conduct the matches or to perform follow-up actions. Specific information obtained from DOL or SSA as to the amount of DOL or SSA Black Lung benefits may be maintained in a matched individual's VA automated record and in the claims folder subject to release only under the Privacy Act of 1974 and 38 U.S.C. 3301 and 4132.

f. *Disposition of Source Records:* The DOL and SSA Black Lung benefit files will remain the property of the respective source agency and all records, including those not matched, will be returned to the agency which furnished the file within 30 days after each match is completed. Information extracted from DOL or SSA files on confirmed matched records will be incorporated into the VA Privacy Act system of records, Compensation, Pension, Education and Rehabilitation Records, and wil be disposed of according to established record retention schedules for such records.

[FR Doc. 85-18076 Filed 7-30-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 147

to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) [illegible]

Secretary of the Corporation, at (202) 389-4425.

Discussion of DOE High Level Waste Management Program (Public Meeting)

VOL
50
ISS
147
JL
31
1985
UMI

Sunshine Act Meetings

Federal Register
Vol. 50, No. 147
Wednesday, July 31, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Equal Employment Opportunity Commission	1
Federal Deposit Insurance Corporation	2–4
Legal Services Corporation	5
Nuclear Regulatory Commission	6

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m. (eastern time), Tuesday 30, 1985.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50–141–30043.

CHANGE IN THE MEETING: The following matters were added to the agenda for the closed portion of the meeting:

Proposed Contracts for Expert Services in Connection With a Court Case

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of the change:
Clarence Thomas, Chairman
Tony E. Gallegos, Commissioner
William A. Webb, Commissioner
Fred Alvarez, Commissioner
Ricky Silberman, Commissioner

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, at (202) 634–6748.

Date: July 29, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This notice Issued July 29, 1985.

[FR Doc. 85–18272 Filed 7–29–85; 3:31 pm]

BILLING CODE 6750–06–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:12 p.m. on Thursday, July 25, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Citizens State Bank of El Dorado, El Dorado, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, July 25, 1985; (2) accept the bid for the transaction submitted by National Bank of El Dorado, El Dorado, Kansas, a newly-chartered national bank; and (3) Provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B)(1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Kansas American Bank, Overland Park, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, July 25, 1985; (2) accept the bid for the transaction submitted by MidAmerican Bank and Trust Company of Overland Park, Overland Park, Kansas, a newly-chartered State nonmember bank; (3) approve the applications of MidAmerican Bank and Trust Company of Overland Park, Overland Park, Kansas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in Kansas American Bank, Overland Park, Kansas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 26, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85–18223 Filed 7–29–85; 12:02 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 5, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(6), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 29, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85–18287 Filed 7–29–85; 3:58 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 5, 1985, to consider the following matter:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of Bank Supervision and the various Regional Directors pursuant to the Division of authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 500 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: July 29, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85–18288 Filed 7–29–85; 3:58 pm]

BILLING CODE 6714–01–M

5

LEGAL SERVICES CORPORATION

Board of Directors Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published July 19, 1985, 50 FR 29510.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Wednesday, July 31, 1985, 8:00 p.m.

CHANGE IN TIME OF MEETING: The Executive Session Meeting of the Board of Directors of the Legal Services Corporation scheduled for 8:00 p.m. on July 31, 1985 will be held at 9:00 p.m. on July 31, 1985.

EXPLANATION OF CHANGE: The meeting is to be delayed one hour in order to permit the attendance of the Vice Chairman for whom earlier airline connections were not available.

CONTACT PERSON FOR MORE INFORMATION: Dennis Daugherty, Executive Office, (202) 272–4040.

Date issued: July 26, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85–18182 Filed 7–29–85; 10:46 am]

BILLING CODE 6820–35–M

6

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of July 29, August 5, 12, and 19, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of July 29

Monday, July 29

2:00 p.m.

Discussion of DOE High Level Waste Management Program (Public Meeting)

Tuesday, July 30

10:00 a.m.

Continuation of 5/15 Briefing on Proposed Revision of Part 20 (Public Meeting)

Wednesday, July 31

2:30 p.m.

Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, August 1

10:00 a.m.

Discussion/Possible Vote on Full Power Operating License for Diablo Canyon-2 (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Final Backfit Rule (tentative)

Week of August 5—Tentative

Thursday, August 8

2:00 p.m.

Affirmation Meeting (Public Meeting) (if needed)

Week of August 12—Tentative

Thursday, August 15

11:00 a.m.

Affirmation Meeting (Public Meeting) (if needed)

Week of August 19—Tentative

No Commission Meetings

ADDITIONAL INFORMATION: Affirmation of "Applicant's Request for Exemption from 10 CFR Part 50, Appendix E (IV)(F)(1)" (Public Meeting) was held July 24. Affirmation of "Policy Statement on Confidentiality" scheduled for July 24, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634–1410.

Julia Corrado,

Office of the Secretary.

July 25, 1985.

[FR Doc. 85–18158 Filed 7–26–85; 4:30 pm]

BILLING CODE 7590–01–M

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Wednesday
July 31, 1985

Part II

Office of Personnel Management

5 CFR Part 737
Post Employment Conflict of Interest;
Final Regulation

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 737

Post Employment Conflict of Interest

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: The Office of Personnel Management is issuing a final regulation under the Ethics in Government Act of 1978 which (1) designates certain positions subject to the post employment conflict of interest regulations applicable to "Senior Employees," and (2) designates certain statutory and non-statutory agencies/bureaus for the purpose of limiting the application of 18 U.S.C. 207(c).

EFFECTIVE DATE: July 31, 1985.

ADDRESS: Office of Government Ethics, P.O. Box 14108, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Gary Davis or Robert Flynn at (202) 632-7642.

SUPPLEMENTARY INFORMATION:

Subsection 207(d)(1)(C) of title 18 U.S.C., contained in Title V of the Ethics in Government Act of 1978, as amended, ("the Act"), (Pub. L. 95-521), gives the Director of the Office of Government Ethics ("OGE") authority to designate (1) certain employee positions for purposes of the restrictions of 18 U.S.C. subsections 207(b)(ii) and 207(c), and (2) agencies and bureaus, within a parent department or agency, having separate and distinct subject matter jurisdiction; i.e., "separate non-statutory agencies/bureaus." Regulations implementing this authority were published on February 1, 1980 (45 FR 7402). Those regulations designated as "Senior Employees" all employees in a position in any pay system for which the basic rate of pay is equal to or greater than that for GS-17 of the General Schedule, as prescribed by 5 U.S.C. 5332, or positions which are estabished within the Senior Executive Service (SES) pursuant to the Civil Service Reform Act of 1978, subject to specific exemptions to be made by OGE. The regulations also set forth those separate statutory (18 U.S.C. 207(e)) agencies and bureaus and those separate non-statutory agencies/bureaus (18 U.S.C. 207(d)(1)(C)) as determined by the Director, OGE, to be qualified for designation at the time of publication.

Regarding "Senior Employee" designations, upon review of agency recommendations, made pursuant to the requirement set forth in 5 CFR 737.25(b)(1), the Director, OGE, determined that only those non-exempted positions, i.e., those subject to the prohibitions of 18 U.S.C. 207(b)(ii) and (c), would be published in the **Federal Register**. A partial list of such "designated" positions was contained in the February 1, 1980 **Federal Register** publication (45 FR 7402). That list was followed by another partial list which was published on February 8, 1980 (45 FR 8544). Annual amendments to the list were published on November 14, 1980 (45 FR 75500); March 5, 1982 (47 FR 9694) and February 25, 1983 (48 FR 8188). The combined lists represented all 18 U.S.C. 207(d)(1)(C) positions which were not exempted by the Director, OGE. This regulation consolidates and amends the previously published lists and is based upon a review of agency annual submissions made pursuant to 5 CFR 737.25(b)(1). All positions designated pursuant to 5 U.S.C. 207(d)(1)(C) not previously designated are marked by an asterisk. In accordance with 5 CFR 737.25(d), designation of such positions shall not become effective until the last day of the fifth full calendar month after this publication.

Section 737.25 of the final regulations sets forth the standards and procedures to be applied in determining which positions shall be designated. OGE also issued a memorandum to heads of departments, independent agencies, commissions and Government corporations/designated agency ethics officials dated April 26, 1979, giving additional information and guidance on this subject. Section 737.11 sets forth the standards and procedures to be applied in determining which separate statutory and non-statutory agencies and bureaus shall be designated.

The Director, OGE, in consultation with each department and agency concerned, has determined that the positions set forth below qualify for designation as "Senior Employee" positions. 5 CFR 737.33 is hereby amended accordingly. The Director has further determined, in consultation with each department or agency concerned, the separate statutory and non-statutory agencies/bureaus set forth below qualify for such designation.

The "Senior Employee" positions listed constitute all such positions designated under the provisions of subsection 207(d)(1)(C) of title 18 U.S.C. for the departments and agencies listed. In accordance with 5 CFR 737.25(d), subsequent designation of positions within the department or agencies listed shall not be effective until the last day of the fifth full calendar month after the first publication of a notice by the Director, OGE, of intention to so designate. Such fair notice shall not apply to subsequent designations made under the rule concerning positions shifting set forth in 5 CFR 737.25(i).

In several cases, a position in one agency has been designated while a position of similar title in another has not. OGE has, in the exercise of its discretion, accorded some deference to the decision of a department or agency to designate a position where that decision was in favor of designation above minimum OGE standards. As OGE conducted the review necessary for these designations, it became apparent that, because of the subject matter of a department's or agency's business, the gravity of the "revolving door" problems varied significantly from agency to agency. Moreover, positions which were ostensibly similarly titled and described nevertheless had different roles from agency to agency. Also, OGE believes it desirable that the balance between postemployment restrictions and impact on recruiting and retention be adjudged on an agency level, as long as minimum standards are met.

Positions automatically designated by 18 U.S.C. 207(d)(1) (A) and (B) are not included in this publication.

This is a final not a proposed regulaiton. The Director of the Office of Government Ethics, acting pursuant to 5 U.S.C. 553(b)(3)(A), has found good cause for waiving the general notice of proposed rulemaking and the 30 day delay in effectiveness. This regulation is interpretive in nature, exempt from 5 U.S.C. 553.

E.O. 12291, Federal Regulation

OGE has determined that this is not a major rule as defined under section 1(B) of E.O. 12291.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, because it only affects federal employees.

List of Subjects in 5 CFR Part 737

Conflict of interests, Government employees.

Office of Personnel Management.

David H. Martin,

Director, Office of Government Ethics.

Accordingly, the Office of Personnel Management is amending 5 CFR Part 737 as follows:

1. The authority citation for Part 737 continues to read as follows:

Authority: Titles II and IV of Pub. L. 95-521 (October 26, 1978), as amended by Pub. L. 96-19 (June 13, 1979), 5 U.S.C. Appendix; Pub. L. 96-150 (November 11, 1983); 18 U.S.C. 207.

2. Section 737.31 is revised to read as follows:

§ 737.31 Separate statutory agencies: Designations.

In accordance with the provisions of 18 U.S.C. 207(e) and 737.13, each of the following departments or agencies is determined, for purposes of 18 U.S.C. 207(c), to have within it separate statutory agencies or bureaus as set forth below:

Parent Agency: EXECUTIVE OFFICE OF THE PRESIDENT
Separate Statutory Components
- Office of Management and Budget
- Council of Economic Advisers
- National Security Council
- United States Trade Representation
- Council for Environment Quality
- Office of Science and Technology Policy
- Office of Administration
- White House Office and the Office of Policy Development
- Office of the Vice President

Parent Agency: DEPARTMENT OF THE TREASURY
Separate Statutory Components:
- Bureau of Alcohol, Tobacco and Firearms
- Bureau of Engraving and Printing
- Bureau of the Mint
- Comptroller of the Curfency
- Internal Revenue Service
- United States Customs Service
- United States Secret Service

Parent Agency: FEDERAL EMERGENCY MANAGEMENT AGENCY
Separate Statutory Components: United States Fire Administration
Parent Agency: OFFICE OF PERSONNEL MANAGEMENT
Separate Statutory Components: Office of Government Ethics
Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Statutory Components:
- Food and Drug Administration
- Public Health Service
- Social Security Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Statutory Components:
- Federal Aviation Administration
- Federal Highway Administration
- Federal Railroad Administration
- Maritime Commission
- National Highway Traffic Safety Administration
- Saint Lawrence Seaway Development Corporation
- United States Coast Guard
- Urban Mass Transportation Administration

Parent Agency: DEPARTMENT OF LABOR
Separate Statutory Components:
- Bureau of Labor Statistics
- Mine Safety and Health Administration
- Occupational Safety and Health Administration

Parent Agency: DEPARTMENT OF JUSTICE
Separate Statutory Components:
- Bureau of Prisons (including Federal Prison Industries, Inc.)
- Community Relations Service
- Drug Enforcement Administration
- Federal Bureau of Investigation
- Foreign Claims Settlement Commission
- *National Institute of Justice
- *Bureau of Justice Statistics
- *Office of Justice Assistance, Research and Statistics
- Immigration and Naturalization Service
- Independent Counsel
- United States Parole Commission

Parent Agency: DEPARTMENT OF DEFENSE
Separate Statutory Components:
- Department of the Army
- Department of the Navy
- Department of the Air Force
- Defense Mapping Agency

Parent Agency: DEPARTMENT OF ENERGY
Separate Statutory Components:
- Federal Energy Regulatory Commission

Parent Agency: DEPARTMENT OF COMMERCE
Separate Statutory Components:
- Economic Development Administration
- Patent and Trademark Office
- National Oceanic and Atmospheric Administration
- Bureau of the Census

Parent Agency: NATIONAL CREDIT UNION ADMINISTRATION
Separate Statutory Component:
- Central Liquidity Facility

Parent Agency: NATIONAL CREDIT UNION ADMINISTRATION
Separate Statutory Component:
- Central Liquidity Facility

3. Section 737.32 is revised to read as follows:

§ 737.32 Separate components of agencies or bureaus; designations.

In accordance with the provisions of 18 U.S.C. 207(d)(1)(C) and § 737.14, each of the component agencies or bureaus as set forth below is determined, for purposes of 18 U.S.C. 207(d) and this Part 737, to be separate from the remaining agencies and bureaus of its parent agency (except such agencies and bureaus as specified):

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Components:
- Health Care Financing Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Components:
- Alaska Railroad

Parent Agency: DEPARTMENT OF LABOR
Separate Components:
- Employment and Training Administration
- Employment Standards Administration
- Labor-Management Services Administration

Parent Agency: DEPARTMENT OF DEFENSE
Separate Components:
- Defense Communications Agency
- Defense Intelligence Agency
- Defense Nuclear Agency
- National Security Agency
- Defense Logistics Agency

Parent Agency: DEPARTMENT OF STATE
Separate Components:
- Foreign Service Grievance Board
- International Joint Commission, United States and Canada (American Section)

Parent Agency: DEPARTMENT OF JUSTICE
Separate Statutory Components:
- Office of the United States Attorney (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Marshall for the same judicial district.
- Office of United States Marshall (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Attorney for the same judicial district.
- Antitrust Division
- Civil Rights Division
- Land and Natural Resources Division
- Tax Division
- Criminal Division
- Office for Improvements in the Administration of Justice

Parent Agency: DEPARTMENT OF COMMERCE
Separate Components:
- International Trade Administration
- Minority Business Development Administration
- National Telecommunication and Information Administration
- Bureau of Industrial Economics

* These three components shall not, for purposes of 18 U.S.C. 207(c), be considered separate from one another but only from other separate components of the Department of Justice.

4. Section 737.33 is revised to read as follows:

§ 737.33 "Senior Employee" designations.

In accordance with § 737.25(b)(1), the following employee positions have been designated as "Senior Employee" positions for purposes of subsections 207(b)(ii) and (c) of title 18, U.S.C, as amended.[1]

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF ADMINSTRATION)

Positions:

AD Director, Automated Systems Division

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (COUNCIL OF ECONOMIC ADVISERS)

Positions: No section 207(d)(1)(C) designations.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (COUNCIL ON ENVIRONMENTAL QUALITY)

Positions: No section 207(d)(1)(C) designations.

[1] All positions designated pursuant to section 207(d)(1)(C) not previously designated are marked by an asterisk (*). Those positions marked by a double asterisk (**) are former Executive level positions which were converted to SES positions. Positions automatically designated by section 207(d)(1)(A) and (B) are not shown.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (PRESIDENT'S

SES Deputy Associate Director for Natural Resources
SES Chairman, TPSC
SES Deputy Assistant U.S. Trade

OFFICE OF PERSONNEL
SES Director

COOPERATIVE STATE RESEARCH SERVICE
SES Deputy Administrator, Administrative

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE)

Positions:

GS–17 Executive Director.

AGENCY: EXECUTIVE OFFICE OF THE PRISIDENT, (OFFICE OF MANAGEMENT AND BUDGET)

Positions:

SES Executive Associate Director for Budget and Legislation
SES Associate Director
SES Counsel to the Director for Policy Analysis and Law
SES General Counsel
SES Deputy General Counsel
SES Assistant Director for Public Affairs
SES Assistant Director for Legislative Affairs (House)
SES Assistant Director for Legislative Affairs (Senate)
SES Associate Director for Economic Policy
SES* Deputy Associate Director for Economic Policy
SES Assistant Director for Legislative Reference
SES Deputy Assistant Director for Legislative Reference
SES* Assistant Director for Special Projects
SES Deputy Associate Director for Administration
SES Assistant Director for Budget Review
SES Deputy Assistant Director for Budget Review
SES Administrator, Office of Information and Regulatory Affairs
SES Deputy Administrator for Information and Regulatory Management
SES Deputy Administrator for Regulatory and Statistical Analysis
SES Associate Director for Management
SES Assistant Director for Federal Personnel Policy
SES Deputy Associate Director for Managment Reform
SES Deputy Associate Director for Finance and Accounting
SES* Deputy Associate Director for Interagency Activities
SES Associate Director for National Security and International Affairs
SES Deputy Associate Director for Special Studies, National Security and International Affairs
SES Deputy Associate Director for National Security
SES Deputy Associate Director for International Affairs
SES Associate Director for Human Resources, Veterans, and Labor
SES Deputy Associate Director for Special Studies, Human Resources, Veterans and Labor
SES Deputy Associate Director for Health and Income Maintenance
SES Deputy Associate Director for Labor, Veterans and Education
SES Associate Director for Natural Resources, Energy and Science
SES Deputy Associate Director for Special Studies, Natural Resources, Energy and Science
SES Deputy Associate Director for Natural Resources
SES Deputy Associate Director for Energy and Science
SES Deputy Chief, Energy & Science Division
SES Associate Director for Economics and Government
SES Deputy Associate Director for Special Studies, Economics and Government
SES Deputy Associate Director for Transportation, Commerce and Housing
SES Deputy Associate Director for Justice, Treasury and Personnel

OFFICE OF FEDERAL PROCUREMENT POLICY

SES Principal Associate Administrator for Procurement

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (NATIONAL SECURITY COUNCIL)

Positions:

GS–18 Special Assistant to the President (7)
SES 2 Senior Staff Member
SES 4 Senior Staff Member (2)
SES 5 Senior Staff Member (2)
ES 5 Senior Staff Member
FSO 1 Senior Staff Member (2)
GS–17 Staff Member (2)
0–8 Military Assistant to the Assistant to the President for National Security Affairs

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF SCIENCE AND TECHNOLOGY POLICY)

Positions:

SES* Executive Director
SES* Assistant Director for Defense Technology and Systems
SES* Assistant Director for Energy, Natural Resources, and International Affairs
SES* Assistant Director for General Science
SES* Assistant Director for Institutional Relations
SES* Assistant Director for Life Sciences
SES* Assistant Director for Space Science and Technology

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE)

Positions:

SES Assistant U.S. Trade Representative for Administration
SES General Counsel
SES Deputy General Counsel
SES Chief Textile Negotiator (Ambassador)
SES Director, Computer Services
SES Assistant U.S. Trade Representative—Services
SES Deputy Assistant U.S. Trade Representative—Services
SES Assistant U.S. Trade Representative—Industrial
SES Assistant U.S. Trade Representative—Investment Services
SES Deputy Assistant U.S. Trade Representative—Investment Services
SES Assistant U.S. Trade Representative—Agriculture
SES Chairman, TPSC
SES Deputy Assistant U.S. Trade Representative—Agriculture
SES Assistant U.S. Trade Representative—GATT Affairs
SES Assistant U.S. Trade Representative—The Americas
SES Assistant U.S. Trade Representative—Japan
SES Assistant U.S. Trade Representative—East Asia and Pacific
SES Deputy Assistant U.S. Trade Representative—East Asia and Pacific
SES Deputy Assistant U.S. Trade Representative—GATT Affairs

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES)

Positions:

AD Chief of Staff

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (THE WHITE HOUSE OFFICE)

Positions: No section 207(d)(1)(C) designations.

AGENCY: DEPARTMENT OF AGRICULTURE

Positions:

OFFICE OF THE SECRETARY

SES Deputy Assistant Secretary for Administration
SES Executive Assistant to the Secretary
SES Deputy Assistant Secretary for Food and Consumer Services
SES Deputy Assistant Secretary for Natural Resources and Environment (2)
SES Deputy Under Secretary for Small Community and Rural Development
SES Deputy Under Secretary for International Affairs and Commodity Programs
SES Deputy Assistant Secretary for Marketing and Inspection Services
SES Deputy Assistant Secretary for Economics
SES Deputy Assistant Secretary, Science and Education
SES Deputy Assistant Secretary for Governmental and Public Affairs

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General
SES Assistant Inspector General for Audit
SES Assistant Inspector General for Investigations
SES Assistant Inspector General for Analysis and Evaluation
SES Deputy Assistant Inspector General for Audit
SES Deputy Assistant Inspector General for Investigations
SES Assistant Inspector General for Security and Special Operations

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel

Office of Administrative Law Judges

No section 207(d)(1)(C) designations.

OFFICE OF PERSONNEL

SES Director
SES Deputy Director

OFFICE OF EQUAL OPPORTUNITY

SES Director

OFFICE OF FINANCE AND MANAGEMENT

SES Director
SES Deputy Director
SES Director, National Finance Center (NFC)
SES Deputy Director, NFC

OFFICE OF INFORMATION RESOURCES MANAGEMENT

SES Director
SES Deputy Director

OFFICE OF OPERATIONS

SES Director

OFFICE OF BUDGET, AND PROGRAM ANALYSIS

SES Director

WORLD FOOD AND AGRICULTURAL OUTLOOK

SES Chairperson
SES* Deputy Chairperson

ECONOMICS RESEARCH SERVICE

SES Administrator
SES Deputy Administrator, ERS

STATISTICAL REPORTING SERVICE

SES Administrator
SES Deputy Administrator

ECONOMIC MANAGEMENT STAFF

SES Director

ECONOMIC ANALYSIS STAFF

SES Director

AGRICULTURAL COOPERATIVES SERVICE

SES Administrator

RURAL ELECTRIFICATION ADMINISTRATION

SES Deputy Administrator

FARMERS HOME ADMINISTRATION

SES Associate Administrator
SES Deputy Administrator, Financial and Administrative Operations
SES Deputy Administrator Program Operations

AGRICULTURAL RESEARCH SERVICE

SES Deputy Administrator, National Program Staff
SES Associate Deputy Administrator, National Program Staff
SES Deputy Associate Administrator, National Program Staff
SES Deputy Administrator for Administrative Management
SES Administrator, Agricultural Research Service
SES Associate Administrator, Agricultural Research Service

EXTENSION SERVICE

SES Administrator
SES Associate Administrator

COOPERATIVE STATE RESEARCH SERVICE

SES Administrator
SES Associate Administrator

OFFICE OF GRANTS AND PROGRAM SYSTEMS

SES Director, Grants and Program Systems

SOIL CONSERVATION SERVICE

SES Chief
SES Associate Chief
SES Deputy Chief for Administration
SES Deputy Chief for Assessment and Planning
SES Deputy Chief for Technology
SES Deputy Chief for Programs

FOREST SERVICE

SES Chief
SES Associate Chief
SES Deputy Chief for Administration
SES Deputy Chief for Research
SES Associate Deputy Chief for Research (2)
SES Deputy Chief, National Forest System
SES Associate Deputy Chiefs, National Forest System (2)
SES Deputy Chief, State and Private Forestry
SES Associate Deputy Chief, State and Private Forestry
SES Deputy Chief for Programs and Legislation
SES Associate Deputy Chief for Programs and Legislation

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, State and County Operations
SES Deputy Administrator, Management
SES Deputy Administrator for Program Planning and Development
SES Deputy Administrator, Commodity Operations

FEDERAL CROP INSURANCE CORPORATION

SES Manager
SES Deputy Manager
SES Assistant Manager for Administration
SES Director of Operations

FOREIGN AGRICULTURAL SERVICE

SES Administrator
SES Associate Administrator
SES Associate Administrator and General Sales Manager

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT ADMINISTRATOR

SES Administrator
SES Associate Administrator

FOOD SAFETY AND INSPECTION SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, Meat and Poultry Inspection Operations
SES Deputy Administrator, Meat and Poultry Technical Services
SES Deputy Administrator, Administrative Management
SES Deputy Administrator, Science
SES Deputy Administrator, International Programs

FOOD AND NUTRITION SERVICE

SES Administrator
SES Associate Administrator

HUMAN NUTRITION INFORMATION SERVICE

SES Administrator

AGRICULTURAL MARKETING SERVICE

SES Administrator
SES Deputy Administrator for Marketing Program Operations
SES* Deputy Administrator for Commodity Service
SES Assistant to Deputy Administrator, Marketing Program Operations
SES* Associate Deputy Administrator for Compliance

PACKERS AND STOCKYARDS

SES Administrator
SES Deputy Administrator

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, Veterinary Services
SES Deputy Administrator, Plant Protection and Quarantine
SES Deputy Administrator for Management

FEDERAL GRAIN INSPECTION SERVICE

SES Deputy Administrator, Program Operations

OFFICE OF TRANSPORTATION

SES* Director

AGENCY: DEPARTMENT OF COMMERCE

Positions:

OFFICE OF THE SECRETARY

SES Executive Assistant to the Secretary
SES Special Assistants to the Secretary

Office of the Associate Deputy Secretary

SES Director, Office of Business Liaison
SES Associate Deputy Secretary
SES Associate Deputy Secretary for Strategic Policy and Planning

Office of Congressional Affairs

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Intergovernmental Affairs

Office of Public Affairs

SES Director

Office of General Counsel

SES Deputy General Counsel

Office of Under Secretary for Travel and Tourism

SES Deputy Under Secretary
SES Assistant Secretary for Tourism Marketing

Office of Inspector General

SES Deputy Assistant Secretary, Finance

Institute for Computer Sciences and

AGENCY: DEPARTMENT OF DEFENSE

0–8* Deputy Assistant Secretary of Defense (Near Eastern, African, and South Asian

SES* Assistant Deputy Under Secretary of Defense (Offensive and Space Systems)

Office of Inspector General
SES Deputy Inspector General

Minority Business Development Agency
SES Director
SES Deputy Director

Office of Assistant Secretary for Administration
SES Deputy Assistant Secretary for Administration
SES Director for Planning, Budget, and Evaluation
SES Director, Office of Budget
SES* Director for Procurement and Federal Assistance

Office of the Under Secretary for Economic Affairs
SES Chief Economist
SES Deputy Assistant Secretary for Automotive Industry Affairs
SES Director, Office of Productivity, Technology and Innovation
SES* Deputy Assistant Secretary for Productivity, Technology, and Innovation
SES Director, Office of Strategic Resources

Bureau of Economic Analysis
SES Director
SES Deputy Director

National Technical Information Service
SES Director
SES Deputy Director

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
SES Deputy Assistant Secretary

Office of Planning and Policy Coordination
SES Chief Counsel

Office of Federal Systems and Spectrum Management
SES Associate Administrator
SES Deputy Associate Administrator

Office of Policy Analysis and Development
SES Associate Administrator

Office of Telecommunications Applications
SES Associate Administrator

Institute for Telecommunications Sciences
SES Associate Administrator

BUREAU OF THE CENSUS
SES Deputy Director

Demographic Fields
SES Associate Director

Management Services
SES Associate Director

Statistical Standards and Methodology
SES Associate Director

Field Operations
SES Associate Director

Economic Fields
SES Associate Director

ECONOMIC DEVELOPMENT ADMINISTRATION
SES Deputy Assistant Secretary
SES Deputy Assistant Secretary, Finance Directorate
SES Deputy Assistant Secretary, Operations Directorate

Office of Chief Counsel
SES Chief Counsel

INTERNATIONAL TRADE ADMINISTRATION
SES Deputy Under Secretary
SES Deputy Assistant Secretary for Commercial Services

Office of the Assistant Secretary for International Economic Policy
SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Europe
SEC Deputy Assistant Secretary for Western Hemisphere
SES Deputy Assistant Secretary for East Asia
SES Deputy Assistant Secretary for Africa, Near East, South Asia

Office of the Assistant Secretary for Trade Administration
SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Import Administration
SES Deputy to the Deputy for Import Administration (2)
SES Deputy Assistant Secretary for Export Administration
SES Deputy to the Deputy for Export Administration
SES Deputy Assistant Secretary for Export Enforcement

Office of the Assistant Secretary for Trade Development
SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Export Development
SES Deputy Assistant Secretary for Industry Projects
SES* Deputy to the Deputy Assistant Secretary for Industry Projects
SES* Deputy Assistant Secretary for Aerospace
SES Deputy Assistant Secretary for Trade Information and Analysis
SES Deputy Assistant Secretary for Trade Adjustment Assistance
SES* Director, Office of World Fairs and International Expositions

NATIONAL BUREAU OF STANDARDS
SES Deputy Director

Office of Associate Director for Programs, Budget and Finance
SES Associate Director for Programs, Budget and Finance
SES Director, Planning Office

National Measurement Laboratory
SES Director
SES Deputy Director for Resources and Operations
SES Deputy Director for Programs

National Engineering Laboratory
SES Director
SES Deputy Director
SES Deputy Director for Programs

Institute for Computer Sciences and Technology
SES Director
SES* Deputy Director

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Office of the General Counsel
SES General Counsel

Office of Policy and Planning
SES Director

National Marine Fisheries Service
SES Assistant Administrator for Fisheries
SES Deputy Assistant Administrator for Fisheries
SES* Deputy Assistant Administrator for Fisheries Resource Management
SES* Deputy Assistant Administrator for Science and Technology

Office of Oceanic and Atmospheric Research
SES Assistant Administrator for Oceanic and Atmospheric Research
SES Deputy Assistant Administrator

National Weather Service
SES Assistant Administrator for Weather Services
SES Deputy Assistant Administrator

National Ocean Service
SES Assistant Administrator for Ocean Services and Coastal Zone Management
SES Deputy Assistant Administrator for Ocean Services

National Environmental Satellite Data and Information Service
SES Assistant Administrator
SES Deputy Assistant Administrator for Satellites
SES Deputy Assistant Administrator for Information Services

NOAA CORPS
07–08 Director

PATENT AND TRADEMARK OFFICE
GS–18 Deputy Assistant Secretary and Deputy Commissioner

Office of Assistant Commissioner for Patents
GS–18 Assistant Commissioner
SES Deputy Assistant Commissioner

Office of Assistant Commissioner for Trademarks
GS–17 Assistant Commissioner

Office of Assistant Commissioner for External Affairs
SES Assistant Commissioner

Office of Assistant Commissioner for Finance and Planning
SES Assistant Commissioner

Office of Assistant Commissioner for Administration
SES* Assistant Commissioner

Office of the Solicitor
SES Solicitor
SES Deputy Solicitor

AGENCY: DEPARTMENT OF DEFENSE

Positions:

Office of the Secretary of Defense
SES Assistant to the Secretary of Defense (Intelligence Oversight)
SES Assistant to the Secretary and Deputy Secretary of Defense
SES Director, Small and Disadvantaged Business Utilization
SES Director of Small Business and Economic Utilization Policy
SES* Director, Disadvantaged Business Utilization

Office of the Deputy Under Secretary of Defense (Policy)
SES Deputy Under Secretary of Defense (Policy)
SES Assistant Deputy Under Secretary of Defense (Policy)
SES Director, Counterintelligence & Security Programs
SES Director, Information Security
SES Director for Security Plans and Programs
SES Director, Counterintelligence and Investigative Programs
SES Director, Special Advisory Staff
SES Director, Command and Control Policy
0–8* Director, Intelligence and Space Policy
SES* Director, Public Diplomacy

Office of the Assistant Secretary of Defense (International Security Policy)
SES Principal Deputy Assistant Secretary of Defense (International Security Policy)
SES* Deputy Assistant Secretary of Defense (Negotiations Policy)
SES* Director, Strategic Forces Policy
SES Deputy Assistant Secretary of Defense (Strategic and Theater Nulear Forces Policy)
SES Director for Theater Nuclear Policy
SES Director, Strategic Arms Control Policy
SES Deputy Assistant Secretary of Defense (European and NATO Affairs)
SES Director, Southern European Affairs
SES Deputy Director, European and NATO Affairs
SES Director, European Policy
SES Deputy Assistant Secretary of Defense (International Economics, Trade, and Security Policy)
SES Principal Director, International Economics, Trade and Security Policy
0–7* Principal Director, European and NATO Policy

Office of the Assistant Secretary of Defense (International Security Affairs)
SES Principal Deputy Assistant Secretary of Defense (International Security Affairs)
SES Deputy Assistant Secretary of Defense (East Asia and Pacific Affairs)
SES Director, Africa Region
SES Deputy Assistant Secretary of Defense (Inter-American Affairs)
SES Deputy Assistant Secretary of Defense (Policy Analysis)
SES Director, Policy Planning
SES Director, Foreign Military Rights Affairs
SES Director, Security Assistance Plans
0–8* Deputy Assistant Secretary of Defense (Near Eastern, African, and South Asian Affairs)
0–8 Director, Inter-American Region
0–7 Director, East Asia & Pacific Region

Defense Security Assistance Agency
SES Deputy Director, Defense Security Assistance Agency
SES Director, Security Assistance Operations
SES Comptroller, Defense Security Assistance Agency
SES Deputy Comptroller, Defense Security Assistance Agency
SES Director, Joint Financial Management Office

Office of the Under Secretary of Defense (Research and Engineering)
SES Principal Deputy Under Secretary of Defense for Research and Engineering
SES Chairman, Military Liaison Committee/ Assistant to the Secretary of Defense (Atomic Energy)
SES Deputy Assistant to the Secretary of Defense (Chemical Matters)
SES* Assistant Under Secretary of Defense (Plans and Development)
SES Assistant Under Secretary of Defense Conventional Initiatives and Director, Conventional Initiatives Program Coordination
SES Deputy Under Secretary of Defense (Acquisition Management)
SES Assistant Deputy Under Secretary of Defense (Acquisition)
SES Director, Contract Administration
SES Director, Contract Policy
SES Director, Cost, Pricing and Finance
SES* Deputy Director Policy, Resources, and External Affairs (OT&E)
SES* Assistant Deputy Director, Tactical and Electronic Warfare Systems (OT&E)
SES* Assistant Deputy Director, Strategic, Space and C31 Systems (OT&E)
SES* Director, Industrial Productivity
SES* Director, Industrial Resources
SES Director, Defense Acquisition Regulatory System
SES* Assistant Deputy Under Secretary of Defense (Technology Programs)
SES Director, Major Systems Acquisition
SES Assistant Deputy Under Secretary of Defense (Production Policy)
SES Director, Standardization and Acquisition Support
SES Deputy Under Secretary of Defense (Research and Advanced Technology)
SES Assistant Deputy Under Secretary of Defense (Research & Advanced Technology)
SES Director, Very High Speed Integrated Circuits and Electron Devices
SES Director, Engineering Technology
SES Director, Directed Energy Programs
SES Director, Research and Technical Information
SES Deputy Under Secretary of Defense (Strategic and Theater Nuclear Forces)
SES Deputy Under Secretary of Defense (Tactical Warfare Programs)
SES Director, Mobility and Special Projects
SES* Director, Computer Software and Systems
SES* Assistant Deputy Under Secretary of Defense (Defensive Systems)
SES* Assistant Deputy Under Secretary of Defense (Offensive and Space Systems)
SES* Assistant Deputy Under Secretary of Defense (Strategic Aeronautical and Theater Nuclear Systems)
SES* Assistant Deputy Under Secretary of Defense (START and Arms Control Office)
SES Director, Defense Test and Evaluation
SES Deputy Under Secretary of Defense (International Programs and Technology)
SES Assistant Deputy Under Secretary of Defense (International Programs)
SES Director, NATO Affairs
SES Director, Far East and Southern Hemisphere Affairs
SES Deputy Under Secretary of Defense (C3I)
SES Assistant Deputy Under Secretary of Defense (Communications, Command, and Control)
SES Director, Strategic and Theater Nuclear Forces C3
SES Director, Theater and Tactical C3
SES Director, Electronic Warfare and C3 Countermeasures
SES Director, Information Systems
SES Assistant Deputy Under Secretary of Defense (Intelligence)
SES Director, National Intelligence Systems
SES Director, Office of Munitions
SES Director, Tactical Intelligence Systems
SES Assistant Deputy Under Secretary of Defense (Systems Integration)
SES Director, Systems Architecture and Analysis
SES Director, Long-Range Planning and Systems Evaluation
SES Director, C3 Resources Management
0–7* Deputy Director (Defense Test and Evaluation) and Deputy Director Tactical Air and Land Warfare Systems
0–8 Deputy and Assistant for Directed Energy Weapons
SES Assistant Deputy Under Secretary of Defense (Land Warfare)
SES Assistant Deputy Under Secretary of Defense (Naval Warfare and Mobility)
0–7* Assistant Deputy Under Secretary of Defense (Strategic and Theater Nuclear Forces)
SES Assistant Deputy Under Secretary of Defense (Air Warfare)
SES Director, Joint Tactical Communications Office (TRI–TAC), Ft. Monmouth, NJ

Defense Advanced Research Projects Agency
SES Director, Defense Advanced Research Projects Agency
SES Deputy Director for Research
SES Deputy Director for Technology
SES Director, Directed Energy Office
SES Director, Information Processing Techniques Office
SES* Principal Research Manager (IPTO)
SES Director, Tactical Technology Office
SES Director, Program Management Office
SES* Director, International Command and Control
SES Director, Defense Sciences Office
SES Director, Strategic Technology Office

Office of The Assistant Secretary of Defense (Manpower, Installations, and Logistics)

SES Principal Deputy Assistant Secretary of Defense (Manpower, Installations, and Logistics)
SES Deputy Assistant Secretary of Defense (Equal Opportunity and Safety Policy)
SES Director for Civilian Equal Opportunity Programs
SES* Director, Communications and Community Liaison
SES Director for Safety and Occupational Health Policy
SES Deputy Assistant Secretary of Defense (Logistics & Materiel Management)
SES Principal Director, Office of the Deputy Assistant Secretary of Defense (Logistics and Materiel Management)
SES Director for Supply Management Policy
SES* Deputy Director, Office of Economic Adjustment
SES* Deputy Assistant Director for Mobilization Planning
SES Director for Maintenance Policy
SES* Assistant Director for Resource Management
SES Director, Weapon Support
SES Deputy Assistant Secretary of Defense (Civilian Personnel Policy and Requirements)
SES Director, Personnel Management
SES Director, Civilian Requirements and Analysis
SES Director, Overseas and Nonappropriated Fund Personnel Management
SES Deputy Director for Labor-Management Relations
SES Director, Management Studies
SES Deputy Assistant Secretary of Defense (Program Integration)
SES Principal Director, Office of the Deputy Assistant Secretary of Defense (Program Integration)
SES Director, Automated Systems
SES Director, Force Readiness and Sustainability Requirements and Analysis
SES Director, International Logistics
SES* Director, Energy and Transportation Policy
SES Director, Manpower Management
SES Deputy Assistant Secretary of Defense (Program Management)
SES Principal Director, Office of the Deputy Assistant Secretary of Defense (Facilities, Environment, and Economic Adjustment)
SES Director, Base Operations
SES Director, Facility Requirements and Resources
SES Director, NATO Programs and Foreign Construction
SES* Director, Logistics Planning and Analysis
SES Assistant Director for Installations Programs
SES Director, Installation Planning
SES Director, Office of Economic Adjustment
SES Director, Manpower Planning and Analysis
SES Director, Accession Policy
0–8 Military Executive Officer, Reserve Forces Policy Board
0–7 Director, Construction Operations & Facilities Management
0–8 Staff Director, 5TH QRMC

DOD Dependents Schools

SES Director, DOD Dependents Schools

Office of Economic Adjustment

SES Economic Advisor

Office of the Assistant Secretary of Defense (Legislative Affairs)

SES Deputy Assistant Secretary of Defense (Senate Affairs)
SES Deputy Assistant Secretary of Defense (House Affairs)

Office of the Assistant Secretary of Defense (Comptroller)

SES Principal Deputy Assistant Secretary of Defense (Comptroller)
SES Deputy Assistant Secretary of Defense (Management Systems)
SES Principal Assistant to the Deputy Assistant Secretary of Defense (Management Systems)
SES Director for Accounting Policy
SES Director for Cost Accounting Policy
SES Director, Financial Accounting Policy
SES Director, Policy Promulgation Division
SES Director for Information Resources Management Systems
SES Director for Banking, International Finance and Professional Development
SES Deputy Assistant Secretary of Defense (Cost and Audit)
SES Director for Acquisition and Cost Management
SES Deputy Comptroller for Audit Policy
SES Deputy Assistant Secretary of Defense (Administration)/Director, Washington Headquarters Services
SES Director for Organizational and Management Planning
SES Deputy Assistant Secretary of Defense (Program/Budget)
SES Deputy Comptroller (Program/Budget)
SES Director for Research and Development
SES Director for Construction
SES Director for Operations
SES Director for Procurement
SES Director for Military Personnel
SES Director for Program and Financial Control
SES* Director for Planning, Review, and Analysis
SES* Director for Management Improvement
SES* Director for Plans and Systems

Office of the Assistant Secretary of Defense (Health Affairs)

SES* Deputy Assistant Secretary of Defense (Health Promotion)
SES Deputy Assistant Secretary of Defense (Information Systems and Strategic Planning)
SES Deputy Assistant Secretary of Defense (Health Program Evaluation)
SES Director, Office of the Civilian Health and Medical Program of the Uniformed Services
0–7* Deputy Assistant Secretary of Defense (Medical Readiness)

Office of the Director, Program Analysis and Evaluation

SES Director, Program Analysis and Evaluation
SES Director, European Forces Division
SES* Director, Projection Forces and Analytical Support Division
SES Deputy Director (Strategic Programs)
SES Director, Strategic Defensive and Theater Nuclear Forces Division
SES Director, Strategic Offensive Forces Division
SES Deputy Director (General Purpose Programs)
SES Director, Tactical Air Division
SES Director, Land Forces Division
SES Director, Naval Forces Division
SES Deputy Director (Resource Analysis)
SES Director, Economic Analysis Division
SES Director, Cost Analysis Division
SES* Principal Deputy Director, Program Analysis and Evaluation
SES Director, Contingency Forces Division
SES Deputy Director (Theater Assessments and Planning)

Office of the Assistant Secretary of Defense (Public Affairs)

SES Principal Deputy Assistant Secretary of Defense (Public Affairs)
SES Director, Freedom of Information and Security Review
SES Director, Defense Audio-Visual Agency
SES Director, American Forces Information Service

Office of the General Counsel

SES Deputy General Counsel

Office of the Inspector General

SES* Deputy Inspector General

US Mission to the North Atlantic Treaty Organization

SES Defense Advisor, US Mission to NATO
SES Deputy Defense Advisor for Research, Engineering and Acquisition
SES Director, Defense Plans Division
SES Director, Infrastructure and Logistics Division
SES Director, Communications and Electronic Division

International Military Activities Staff

SES Director of Logistics (International Staff)
SES Director of Logistics (NAMSA)
SES Director of Finance, Central European Operating Agency (NATO Support Group)
SES Director, Nuclear Planning (International Staff)

Organization of the Joint Chiefs of Staff

SES* Deputy Joint Requirements Integration Manager
0–8* Vice Director, Joint Staff
0–8* Deputy Director, Logistics (Strategic Mobility)
0–7* Deputy Director, Logistics (Planning and Resources)
0–8* Vice Director, Plans and Policy Director
0–7* Deputy U.S. Commissioner, US-Soviet Standing Consultative Commission
0–8* Deputy Director, Force Development and Strategic Plans
0–8* Assistant Deputy Director, Force Development and Strategic Plans
0–7* Deputy Director, Politico-Military Affairs

0–7* Assistant Deputy Director, Politico-Military Affairs
0–7* Deputy Director, International Negotiations
0–7* Assistant Deputy Director, International Negotiations
0–7* Joint Chiefs of Staff Representative for Intermediate Range Nuclear Forces
0–8* Joint Chiefs of Staff Representative for START
0–8* Deputy Director, Unified and Specified Command C3 Support
0–7* Deputy Director, Defense-wide Command, Control, and Communications Connectivity and Evaluation

Office of the Assistant Secretary of Defense (Reserve Affairs)

SES Principal Director, Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)

AGENCY: DEPARTMENT OF THE AIR FORCE

Positions:

Civilian

OFFICE OF THE SECRETARY OF THE AIR FORCE

Under Secretary of the Air Force

SES Deputy Under Secretary of the Air Force (Space Systems)

Assistant Secretary of the Air Force (Financial Management)

SES Principal Deputy Assistant Secretary of the Air Force (Financial Management)
SES Deputy Assistant Secretary, Programs and Budget
SES Deputy Assistant Secretary for Information Systems Management
SES Deputy for Aerospace Economic Analysis
SES The Auditor General

Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations)

SES Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations)
SES Deputy Assistant Secretary (Installations, Environment and Safety)
SES Deputy Assistant Secretary (Manpower Resources and Military Personnel)
SES Deputy Assistant Secretary (Reserve Affairs)

Assistant Secretary of the Air Force (Research, Development and Logistics)

SES Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics)
SES Deputy Assistant Secretary (Logistics and Communications)
SES Deputy Assistant Secretary (Acquisitions Management)
SES Deputy for Acquisition
SES Deputy for Programs and Production
SES Deputy for Supply and Maintenance
SES Deputy for Transportation and Civil Aviation

Administrative Assistant to the Secretary of the Air Force

SES Administrative Assistant to the Secretary of the Air Force

General Counsel

SES The General Counsel
SES Deputy General Counsel
SES Assistant General Counsel, Procurement

Directorate of Administration

SES Chief, Publishing Division

COMPTROLLER OF THE AIR FORCE

SES Deputy Comptroller of the Air Force
SES Deputy Director, Budget
SES Chief, Budget Management Division
SES Deputy Director, Air Force Accounting and Finance Center

DEPUTY CHIEF OF STAFF, LOGISTICS AND ENGINEERING

SES Associate Director, Engineering and Services
SES Associate Director, Logistics Plans and Programs
SES Deputy to the Commander, Air Force Commissary Service

DEPUTY CHIEF OF STAFF, MANPOWER AND PERSONNEL

SES Deputy Assistant Secretary (Civilian Personnel Policy and Equal Employment Opportunity); and Director of Civilian Personnel

DEPUTY CHIEF OF STAFF, RESEARCH, DEVELOPMENT AND ACQUISITION

SES Director, Office of Small and Disadvantaged Business Utilization
SES Associate Director, Contracting and Manufacturing

AIR FORCE LOGISTICS COMMAND

SES Chairperson, Air Force Logistics Command Procurement Committee
SES Assistant Deputy Chief of Staff, Logistics Management Systems
SES Assistant Deputy Chief of Staff, Materiel Management
SES Assistant Deputy Chief of Staff, Maintenance
SES Assistant Deputy Chief of Staff, Plans and Programs
SES* Deputy for Logistics Force Structure, Development and Acquisition, Air Force Acquisition Logistics Center
SES Assistant Deputy Chief of Staff, Contracting and Manufacturing
SES Deputy for Contracting and Manufacturing, Air Force Acquisition Logistics Center
SES Deputy Director, Materiel Management, Ogden Air Logistics Center
SES Deputy Director, Materiel Management, Oklahoma City Air Logistics Center
SES Deputy Director, Materiel Management, Sacramento Air Logistics Center
SES Deputy Director, Materiel Management, San Antonio Air Logistics Center
SES Deputy Director, Materiel Management, Warner Robins Air Logistics Center

AIR FORCE SYSTEMS COMMAND (AFSC)

Headquarters AFSC

SES Principal Assistant Deputy Chief of Staff, Contracting and Manufacturing
SES Chairperson, Contract Review Committee
SES Director of Manufacturing

Air Force Office of Scientific Research

SES Director, Aerospace Sciences
SES Director, Chemical Sciences
SES Director, Electronics and Materiel Sciences
SES Director, Life Sciences
SES Director, Mathematical and Information Sciences

Aeronautical Systems Division

SES Assistant Deputy for Procurement and Manufacturing
SES Deputy for Reconnaissance and Electronic Warfare Systems

Air Force Wright Aeronautical Laboratories

Air Force Materials Laboratory

SES Research and Development Executive (Director, AFML)
SES Director, Manufacturing Technology Division

Electronic Systems Division

SES Assistant Deputy for Contracting and Manufacturing
SES Assistant Deputy for Strategic Systems
SES Assistant Deputy for Tactical Systems
SES Deputy (Technical Operations and Product Assurance)

Space division

SES Assistant Deputy for Contracting and Manufacturing

ORGANIZATION OF THE JOINT CHIEFS OF STAFF

Joint Program Management Office, Worldwide Military Command and Control System (WWMCCS) Information Systems

SES Chief, WWMCCS Information Systems Office
SES Technical director

NATIONAL SECURITY COUNCIL

SES* Director, Crisis Management Planning Staff

Military

OFFICE OF THE SECRETARY OF THE AIR FORCE

0–7/0–8 Commander, Air Force Audit Agency; and Deputy Auditor General
0–7/0–8 Director, Office of Space Systems
0–7/0–8 Director of Special Projects; and Assistant Vice Commander, Space Division (AFSC)

OFFICE OF AIR FORCE RESERVE

0–7/0–8 Chief of Air Force Reserve; and Commander, Air Force Reserve

NATIONAL GUARD BUREAU

0–7/0–8 Director, Air National Guard

ASSISTANT CHIEF OF STAFF, INFORMATION SYSTEMS

0-7/0-8 Assistant Chief of Staff, Information Systems
0-7/0-8* Deputy Assistant Chief of Staff, Information Systems

ASSISTANT CHIEF OF STAFF, STUDIES AND ANALYSES

0-7/0-8 Assistant Chief of Staff, Studies and Analyses

OFFICE OF THE JUDGE ADVOCATE GENERAL

0-7/0-8 The Judge Advocate General; and Commander, Air Force Legal Services Center
0-7/0-8 Deputy Judge Advocate General

THE INSPECTOR GENERAL

0-7/0-8 Commander, Air Force Office of Special Investigations

COMPTROLLER OF THE AIR FORCE

0-7/0-8 Director, Budget
0-7/0-8 Deputy Director, Budget (Operations)
0-7/0-8 Commander, Air Force Accounting and Finance Center; Assistant Comptroller for Accounting and Finance; and Assistant Director, Security Assistance Accounting, Defense Security Assistance Agency

DEPUTY CHIEF OF STAFF, LOGISTICS AND ENGINEERING

0-7/0-8 Director, Logistics Plans and Programs
0-7/0-8 Deputy Director, Logistics Plans and Programs
0-7/0-8 Director, Engineering and Services
0-7/0-8 Director, Transportation
0-7/0-8 Commander, Air Force Commissary Service

DEPUTY CHIEF OF STAFF, PROGRAMS AND RESOURCES

0-7/0-8 Assistant Deputy Chief of Staff, Programs and Resources
0-7/0-8 Director, Programs and Evaluation
0-7/0-8 Director, International Programs

DEPUTY CHIEF OF STAFF, RESEARCH, DEVELOPMENT AND ACQUISITION

0-7/0-8 Assistant Deputy Chief of Staff, Research, Development and Acquisition
0-7/0-8 Director, Space Systems and Command, Control, Communications
0-7/0-8 Director, Contracting and Manufacturing Policy
0-7/0-8 Director, Development and Production
0-7/0-8* Deputy for Strategic Forces
0-7/0-8 Special Assistant for ICBM Modernization
0-7/0-8* Special Assistant for Tactical Modernization
0-7/0-8 Joint Program Manager, Worldwide Military Command and Control System (WWMCCS) Information Systems; and Assistant for WWMCCS Information Systems

DEPUTY CHIEF OF STAFF, PLANS AND OPERATIONS

0-7/0-8 Director, Plans

AIR FORCE COMMUNICATIONS COMMAND

0-7/0-8 Commander, Air Force Communications Command

AIR FORCE LOGISTIC COMMAND

0-7/0-8 Chief of Staff
0-7/0-8 Deputy Chief of Staff, Contracting and Manufacturing
0-7/0-8 Deputy Chief of Staff, Logistics
0-7/0-8 Deputy Chief of Staff, Maintenance
0-7/0-8 Deputy Chief of Staff, Plans and Programs
0-7/0-8 Staff Judge Advocate
0-8/0-9 Commander, Air Force Acquisition Logistics Center
0-7/0-8 Commander, Air Force Logistics Command International Logistics Center; and Assistant for International Logistics
0-7/0-8* Commander, Air Force Logistics Command Logistics Management Systems Center; & Deputy Chief of Staff, Logistics Management Systems
0-7/0-8 Commander, Ogden Air Logistics Center
0-7/0-8 Commander, Oklahoma City Air Logistics Center
0-7/0-8 Commander, Sacramento Air Logistics Center
0-7/0-8 Commander, San Antonio Air Logistics Center
0-7/0-8 Commander, Warner Robins Air Logistics Center

AIR FORCE SYSTEMS COMMAND

0-7/0-8 Deputy Chief of Staff, Contracting and Manufacturing
0-7/0-8 Deputy Chief of Staff, Systems
0-7/0-8 Deputy Chief of Staff, Test and Evaluation
0-7/0-8 Deputy Chief of Staff, Acquisition Logistics
0-7/0-8 Director, Laboratories
0-7/0-8 Staff Judge Advocate
0-7/0-8 Vice Commander, Aeronautical Systems Division (ASD)
0-7/0-8 Deputy for Airlift and Trainer Systems; and C-17 System Program Director, ASD
0-7/0-8 Deputy for B-1B, ASD
0-7/0-8 Deputy for F-16, ASD
0-7/0-8 Vice Commander, Electronic Systems Division (ESD)
0-7/0-8 Deputy for Airborne Warning and Control Systems, ESD
0-7/0-8 Deputy for Strategic Systems, ESD
0-7/0-8 Vice Commander, Space Division
0-7/0-8 Deputy for Space Launch and Control Systems; and System Program Director, Space Transportation System (Space Shuttle), Space Division
0-7/0-8 Commander, Armament Division
0-7/0-8* Vice Commander, Armament Division
0-7/0-8 Deputy Commander, Development and Acquisition, Armament Division
0-7/0-8 Commander, Air Force Contract Management Division
0-7/0-8 Commander, Ballistic Missile Office; and Program Director for Peacekeeper
0-7/0-8* Program Manager, Small Missile Systems Program Office

SPACE COMMAND

0-7/0-8* Deputy Chief of Staff, Systems Integration

ARMY AND AIR FORCE EXCHANGE SERVICE

0-7/0-8 Commander, Army and Air Force Exchange Service

MILITARY TRAFFIC MANAGEMENT COMMAND

0-7/0-8 Vice Commander, Military Traffic Management Command

AGENCY: DEPARTMENT OF THE ARMY

Positions:

Office, Secretary of the Army

SES Administrative Assistant to the Secretary of the Army
SES Deputy Administrative Assistant
SES* Special Assistant to the Assistant Secretary of the Army (RDA)

Office of the General Counsel

SES General Counsel
SES Principal Deputy General Counsel and Chief of Legal Services

Office of the Under Secretary

SES Deputy Under Secretary of the Army
SES Deputy Under Secretary of the Army (Operations Res)

Office, Assistant Secretary of the Army (Installations, Logistics & Financial Management)

SES Principal Deputy ASA (FM)
SES Principal Deputy ASA (IL)
SES Deputy for Installations & Housing
SES Deputy for Logistics
SES Deputy for Cost Analysis
SES Deputy for Financial Systems
SES Deputy for Resource Analysis
SES Deputy for Information Resource Management
SES Assistant Deputy for Resource Analysis
SES Deputy for Environmental Safety & Occupational Health

Office, Assistant Secretary of the Army (Manpower & Reserve Affairs)

SES Principal Deputy ASA (MRA)
SES* Deputy Assistant Secretary of the Army (Review Boards & Personnel Security)
SES* Deputy Assistant Secretary of the Army (Readiness, Force Management & Training)

Office, Small & Disadvantaged Business Utilization

SES Director, Small & Disadvantaged Business Utilization

Office, Assistant Secretary of the Army (Civil Works)

SES Principal Deputy ASA (CW)
SES Deputy for Program Planning, Review and Evaluation (CW)
SES Deputy for Management and Budget (CW)
SES* Deputy for Policy, Planning & Legislative Affairs (CW)

Office, Assistant Secretary of the Army (Research, Development & Acquisition)

SES Principal Deputy ASA (RDA) and Deputy ASA (R&D)
SES Deputy ASA (Acquisition)
SES Deputy for Science & Technology
SES Deputy for Materiel Acquisition Management
SES Deputy for Procurement Policy
SES Deputy for Management & Programs
SES Assistant Deputy for Management & Programs
SES Deputy for Air & Missile Defense
SES Deputy for Communications & Target Acquisition
SES Director Acquisition Management & Review Agency

Defense Supply Service—Washington

SES Director, Defense Supply Service—Washington

OFFICE OF THE CHIEF OF STAFF

Ballistic Missile Defense Program Office (Washington)

SES Deputy BMD Program Manager
SES Director, Technology Directorate
SES Chief, Scientist
SES Director, Programs & Systems Analysis Directorate

Ballistic Missile Defense Systems Command (Huntsville)

SES Chief, Contracts Office
SES Director, Systems Technology Project Office
SES* Director, Sentry Project Office

Ballistic Missile Defense Advance Technology Center (Huntsville)

SES Director, BMD Advance Technical Center
SES Director, Study Program Management Office

US Army Operational Test and Evaluation Agency (OCSA)

SES Scientific Advisor

Deputy Chief of Staff for Operations and Plans

SES Deputy Assistant Chief of Staff for Auto & Commo
SES Director, USA Management Systems Spt Agency
SES* Director, US Army Center for Military History
SES Director, US Army Computer Systems Selection Acquisition Agency

US Army Concepts Analysis Agency

SES Director

Deputy Chief of Staff for Logistics

SES Special Assistant to the DCSLOG/ Chief Aviation Logistics
SES* Assistant Director for Energy & Troop Support
SES* Assistant Director for Transportation

Program Analysis and Evaluation Directorate (OCSA)

SES Deputy Director, Program Analysis Evaluation

Comptroller of the Army

SES Deputy Comptroller
SES* Director, Resource Management
SES* Assistant Comptroller for Economic Policy

Army Audit Agency (OSA)

SES The Auditor General (OCSA)
SES Deputy Auditor General (OSA)
SES Director, Personnel and Force Management Audits (OSA)
SES Director, Audit Policy, Plans, & Resources (OSA)
SES Director, Logistical and Financial Audits (OSA)
SES Director, Acquisition and Systems Audits (OSA)
SES* Regional Auditor General (European Region)

Office of the Judge Advocate General

SES Special Assistant for Comm, Trans & Utilities

U.S. Army Materiel Development & Readiness Command (DARCOM) Headquarters

SES Deputy Comptroller
SES Command Counsel
SES Deputy Command Counsel
SES Chief, Patent Law Division
SES Director, Management Information Systems
SES Director of Product Assurance and Test
SES Principal Assistant Deputy for Research, Development and Acquisition
SES Assistant Deputy for Resources and Management
SES Assistant Deputy for Science & Technology
SES Assistant Deputy for International Research, Development and Standardization
SES Director of Program Analysis and Evaluation
SES Director of Manufacturing Technology
SES Deputy Director of Development Engineering and Acquisition
SES Deputy for Weapon Systems Management
SES Assistant Deputy for Materiel Readiness
SES Deputy Director of Supply, Maintenance and Transportation
SES Chief, Procurement Policy and Analysis Division
SES Deputy Director of Security Assistance
SES Deputy Director of Procurement & Production
SES Deputy Director, Product Assurance & Test
SES Deputy Executive Director, TMDE

Nuclear Munitions Project Office

SES Deputy Project Manager

Project Office (PATRIOT)

SES Deputy Project Manager

US Army Materiel Systems Analysis Agency (AMSAA)

SES Director, Army Materiel Systems Analysis Agency

U.S. Army Materials and Mechanics Research Center (AMMRC)

SES Director

Army Research Office (ARO) Durham

SES Director
SES Technical Director
SES Director, Electronics Division
SES Director, Metallurgy & Materiels Science
SES Director, Physics Division
SES Director, Mathematics Division
SES Director, Engineering Sciences Division
SES Director, Chemical & Biological Sciences Division

US Army Armament Materiel Readiness Command (ARRCOM)

SES Deputy for Procurement and Production
SES Chief Counsel

US Army Armament Research & Development Command (ARRADCOM) Headquarters

SES Technical Director
SES Chief Counsel
SES Director, Product Assurance

Ballistic Research Laboratory

SES Director, Ballistic Research Laboratory

Chemical Systems Lab

SES Deputy Director

Large Caliber Weapon Systems Laboratory

SES Deputy Director

Fire Control & Small Caliber Weapon Systems Lab

SES Deputy Director

US Army Aviation Systems Command (AVSCOM)

SES Technical Director
SES Director, Aeromechanics Lab
SES Director of Procurement and Production
SES Director, Structures Lab
SES Director, Propulsion Lab
SES Director, Research & Technology Lab

US Army Communication—Electronics Command (CECOM)

SES Chief Counsel
SES Technical Director
SES Director, Product Assurance and Test
SES Director, Communications System Center
SES Director, Tactical Computer Systems Center
SES Director, Sytems Engineering and Integration Center
SES Director, Procurement & Production
SES Technical Director (SATCOMA)

US Army Depot Systems Command (DESCOM)

SES Deputy for Command Operations

US Army Electronics R&D Command (ERADCOM) Headquarters

SES Technical Director
SES Chief Counsel
SES Director, Night Vision & Electronic Optics Lab
SES Deputy Director, Night Vision & Electronic Optics Lab
SES Director, Signals Warfare Lab
SES Director, Electronic Warfare Lab

VOL 50 ISS 147 JL 31 1985 UMI

SES Director, Electronics Technology & Devices Lab
SES Deputy Director, Combat Surveillance & Target Acquisition Lab
SES Technical Director, Harry Diamond Lab

US Army Missile Command (MICOM)

SES Technical Director and Director, Army Missile Lab
SES Director for Procurement and Production
SES Chief Counsel
SES Director, Missile Logistics Center
SES Deputy Project Manager, Roland
SES Director, Product Assurance
SES Assistant Deputy for Readiness
SES Deputy Director, Missile Intelligence Agency

U.S. Army Troop Support Command (TROSCOM)

SES Technical Director, Belvoir Research and Development Center
SES Technical Director, Natick Research and Development Center
SES Director, Individual Protection Lab
SES Director, Science and Advanced Technology Lab
SES Director, Food Engineering Lab

Project Managers ABRAMS Tank System

SES Chief Engineer/Chief Systems Engineering Division

Office of the Project Manager, Bradley Fighting Vehicle Systems (FVS)

SES Deputy Project Manager

U.S. Army Tank-Automotive Command (TACOM)

SES* Technical Director
SES* Director, Procurement and Production
SES Chief Counsel
SES Director, Product Assurance

U.S. Army Human Engineering Laboratory (HEL)

SES* Director

Program Manager, Joint Tactical Fusion Program

SES* Deputy Program Manager

U.S. Army Toxic and Hazardous Materials Agency (THAMA)

SES* Technical Director

U.S. Army Foreign Science & Technology Center (FSTC)

SES Deputy Director

U.S. Army Test & Evaluation Command (TECOM)

SES Technical Director
SES Technical Director and Chief, Scientists, WSMR
SES Scientific Director
SES Technical Director, EPG
SES Technical Director, National Range Operations
SES Associate Director, Materiel Test
SES Director for Analysis

U.S. Army Communications Command (USACC)

SES* Comptroller

TRADOC OPERATIONS RESEARCH ACTIVITY

SES Director, TRADOC Operations Research Activity (TORA)
SES* Director, U.S. Army Combat Dev. Exp. Activity
SES* Director, TRASANA

CORPS OF ENGINEERS

Directorate of Engineering & Construction (E&C)

SES* Deputy Director, Engineering & Construction
SES* Chief, Engineering Division
SES* Deputy Chief, Engineering Division
SES* Chief, Construction Division
SES* Deputy Chief, Construction Division

Directorate of Civil Works (CW)

SES* Chief, Operations & Readiness Division
SES* Special Assistant for Emergency Water Planning

Office of the Assistant Chief of Engineers (ACE)

SES* Deputy Assistant Chief of Engineers for Planning, Programming & Congressional Affairs

Coastal Engineering Research Center (CERC)

SES* Chief, Coastal Engineering Research Center

US Army Engineer Topographic Laboratories (ETL)

SES* Technical Director

Directorate of Resource Management (DRM)

SES* Deputy Director, Resource Management

MRC and Lower Mississippi Valley (MRC/LMV)

SES* Chief, Construction-Operations Division

US Army Engineer Division, Europe (EUR)

SES* Chief, Construction Division

US ARMY FORCES COMMAND

SES* Deputy Comptroller

THE ARMY STAFF

0–8 Director, Management
0–8 Chief, Army Force Modernization Coordination Office
0–8 Director, Program Analysis and Evaluation
0–8 Assistant Deputy Chief of Staff for Personnel
0–8 Assistant Deputy Chief of Staff for Operations and Plans
0–8 Director, Strategic Plans & Policy
0–8 Assistant Deputy Chief of Staff for Logistics
0–8 ADCSRDA
0–8 Director of Army Budget
0–8 Chief, Army Reserve
0–7 Deputy Chief, Army Reserve
0–8 Director, Army National Guard
0–8 Assistant Chief of Staff for Operations & Plans (C4)/Director, Command and Control, Communications and Computers
0–7 Deputy Directors, C4 (2)
0–8 Assistant Chief of Staff for Intelligence
0–7 Deputy Assistants Chief of Staff for Intelligence for Intelligence Systems and Automation
0–7 Deputy Assistant Chief of Staff for Intelligence
0–8 The Adjutant General/CG, TAGCEN
0–7 Deputy TAG/DCG, TAGCEN
0–8 Chief of Chaplains
0–8 The Judge Advocate General
0–8 The Assistant Judge Advocate General
0–8 The Deputy Surgeon General
0–7/0–8 Assistant Surgeon General (Research & Development)
0–8 Deputy Chief of Engineers and Chairman, Board of Engineers for Rivers and Harbors

ARMY STAFF FIELD OPERATING AGENCIES

Office, Chief of Staff

0–7 Commanding General, Ballistic Missile Defense Systems Command, Huntsville, Alabama
0–8 Commanding General, US Army Operational Test and Evaluation Agency, Falls Church, Virginia

Office, Deputy Chief of Staff for Personnel

0–8 Commanding General, USA Military Personnel Center, Alexandria, Virginia
0–8 Commanding General, USA Recruiting Command, Fort Sheridan, Illinois
0–7 Deputy Commanding General, East USA Recruiting Command, Fort Sheridan, Illinois
0–7 Deputy Commanding General, West USA Recruiting Command, Fort Sheridan, Illinois

Office, Deputy Chief of Staff for Logistics

0–7 Commanding General, US Army Troop Support Agency, Fort Lee, Virginia

Office, Deputy Chief of Staff for Operations and Plans

0–8 Commanding General, US Army Computer Systems Command, Fort Belvoir, Virginia

Office, The Deputy Chief of Staff for Personnel

0–7 Commanding General, US Army Reserve Components Personnel and Administration Center, St. Louis, Missouri

Office, The Judge Advocate General

0–7 Commanding General, Chief Judge, US Army Legal Services Agency/United States Court of Military Review, Falls Church, Virginia

OFFICE OF THE SURGEON GENERAL

0–7/0–8 Commanding General, US Army Medical Research and Development Command, Fort Detrick, Maryland

US Army Research Institute for Infectious Diseases (USA MRIID)

SES* Special Advisor for Biotechnology

US Army Training and Doctrine Command—FORT MONROE, VIRGINIA

0–8 Chief of Staff
0–8 Deputy Chief of Staff, Combat Developments

0–8 Commanding General, TRADOC Combined Arms Test Activity, Fort Hood, Texas

US Army Materiel Development and Readiness Command, Alexandria, Virginia

0–8 Deputy Commander, Resources and Management
0–7/0–8 Director, Development, Engineering & Acquisition
0–8 Director, Procurement & Production
0–7 Director, Supply, Maintenance and Transportation
0–7/0–8 Director, Security Assistance/CDR, USA Security Assistance Center
0–8 Comptroller
0–8 Commanding General, US Army Tank-Automotive Command, Warren, Michigan
0–7 Deputy Commanding General for Research & Development, US Army Tank-Automotive Command, Warren, Michigan
0–8 Commanding General, US Army Aviation Research and Development Command, St. Louis, Missouri
0–8 Commanding General, US Army Troop Support and Aviation Materiel Readiness Command—St. Louis, Missiouri
0–7 Deputy Commanding General, US Army Troop Support and Aviation Materiel Readiness Command—St. Louis, Missiouri
0–8 Commanding General, US Army Armament Munitions & Chemical Command—Rock Island, Illinois
0–7 Deputy Commanding General for Procurement and Readiness, US Army Armament Munitions & Chemical Command—Rock Island, Illinois
0–8 Commanding General, US Army Armament Research and Development Center—Picatinny Arsenal, New Jersey
0–7 Commanding General, USA Chemical Research & Development Center—Picatinny Arsenal, New Jersey
0–7* Commanding General, US Army Armament Research and Development Center—Picatinny Arsenal, New Jersey
0–8 Commander, US Army Missile Command—Redstone Arsenal, Alabama
0–7 Deputy Commanding General for Procurement & Readiness, US Army Missile Command—Redstone Arsenal, Alabama
0–7 Deputy Commanding General for Research and Development, US Army Missile Command—Redstone Arsenal, Alabama
0–8 Commanding General, US Army Communications & Electronics Command
0–7 Deputy Commanding General for Procurement and Readiness, US Army Communications & Electronics Command
0–8 Commanding General, US Army Electronics Research & Development Command—Adelphi, Maryland
0–8 Commanding General, US Army Test & Evaluation Command—Aberdeen Proving Ground, Maryland
0–7 Commanding General, White Sands Missile Range—White Sands, New Mexico
0–7 Commanding General, US Army Depot System Command—Chambersburg, Pennsylvania
0–8 Project Manager, M–1 Tank—Warren, Michigan
0–8 Project Manager, Patriot—Redstone Arsenal, Alabama
0–7 Project Manager, Fighting Vehicle Systems—Warren, Michigan
0–7 Program Manager, Advanced Attack Helicopter Program—St. Louis, Missouri
0–7 Project Manager, Saudi Arabian National Guard Modernization—Saudi Arabia

U.S. Army Communications Command

0–7 Commanding General, US Army Communications Systems Agency, Fort Monmouth, New Jersey

Other Commands

0–8 Commander, Military Traffic Management Command, Washington, D.C.
0–8 Commanding General, US Army Intelligence and Security Command, Arlington, Virginia
0–8 Commanding General, US Army Military District of Washington, Washington, D.C.
0–8 Commanding General, US Army Criminal Investigation Command, Falls Church, Virginia
0–8 Commanding General, US Army Health Services Command, Fort Sam Houston, Texas

MAJOR OVERSEAS COMMANDS

US Army, Europe and Seventh Army

0–8 Chief of Staff
0–8 Deputy Chief of Staff, Engineer
SES* Assistant Deputy Chief of Staff, Engineer (Engineering & Housing)
0–8 Commanding General, US Army Southern European Task Force

U.S. Army Japan/IX Corps

0–7/0–8 Chief of Staff

Speciol Activities

Army and Air Force Exchange Service

0–8 Commander, Army and Air Force Exchange Service—Dallas, TX

AGENCY: DEPARTMENT OF THE NAVY

Positions:

Office of the Assistant Secretary of the Navy (Manpower and Reserve Affairs)

SES Principal Deputy Assistant Secretary of the Navy (Manpower and Reserve Affairs)
SES Deputy Assistant Secretary of the Navy (Manpower)
SES Deputy Assistant Secretary of the Navy (Reserve Affairs)
SES Deputy Assistant Secretary of the Navy (CPP/EEO)

Office of the Assistant Secretary of the Navy (Shipbuilding and Logistics)

SES Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics)
SES Director, Office of Small and Disadvantaged Business Utilization
SES Director of Resources & Policy Evaluation
SES Deputy Assistant Secretary of the Navy (Installations and Facilities)
SES Deputy Assistant Secretary of the Navy (Sealift & Maritime Affairs)
SES* Director, Acquisition Regulations

Office of the Assistant Secretary of the Navy (Research, Engineering and Systems)

SES Deputy Assistant Secretary of the Navy (Research & Applied Science)
SES Associate Deputy Assistant Secretary of the Navy (Systems Engineering)
SES Principal Deputy Assistant Secretary of the Navy (Research, Engin, and Systems)
SES Deputy Assistant Secretary of the Navy (Command, Control, Communications & Intelligence)

Office of the Under Secretary of the Navy

SES* Deputy Under Secretary of the Navy (Policy)

Office of the Assistant Secretary of the Navy (Financial Management)

SES Special Assistant for Data Automation

Office of the Auditor General of the Navy

SES Auditor General of the Navy

Office of the Comptroller of the Navy

SES Executive Assistant Comptroller for Banking Cash Management Contract Financing & Compensation Systems

Office of the General Counsel

SES General Counsel of the Navy
SES Principal Deputy General Counsel
SES Deputy General Counsel (Logistics)

Office of the Chief of Naval Operations

SES Asst. Dep. Chief of Naval Operations (Civ. Pers/EEO)

Naval Data Automation Command

SES Technical Director

Military Sealift Command

SES Deputy Executive Director

Office of the Chief of Naval Education and Training

SES Principal Advisor for Education & Training/Deputy CNET for Ed. Development & R&D

US Marine Corps Headquarters

SES Fiscal Director of the Marine Corps
SES Assistant Deputy Chief of Staff for Installations and Logistics
SES Director, Contracts Division

Office of Naval Research

SES Director, Acquisition

Naval Material Command Headquarters

SES Executive Director for Contracts and Business Management
SES Assistant Deputy Chief of Naval Material (Operations and Logistics)
SES Deputy Chief of Naval Material for Reliability, and Engineering
SES Director, Procurement Control & Clearance Division
SES Deputy Chief of Naval Material

Strategic Systems Project Office

SES Director, Plans and Program Division

Joint Cruise Missile Project Office

SES Technical Director Joint Cruise Missilea Project

Naval Air Systems Command HQ

SES* Deputy Commander
SES Executive Director for Procurement Management

Naval Electronic Systems Command

SES Executive Director, Contracts

Naval Facilities Engineering Command Headquarters

SES Assistant Commander for Contracts

Naval Sea Systems Command HQ

SES Assistant Deputy Commander for Contracts

Naval Supply Systems Command Headquarters

SES Assistant Deputy Commander, Plans, Policy and Systems Design

Military

0-7 Assistant Deputy Commander for Surface Ships Logistics Management, NAVSEASYSCOM
0-7 Deputy Commander for Surface Ships, NAVSEASYSCOM
0-8 Vice Commander, Naval Air Systems Command
0-7/0-8 Deputy Commander for Plans and Programs, Naval Air Systems Command
0-7 Assistant Commander for Contracts, Naval Air Systems Command
0-8 Assistant Commander for Logistic and Fleet Support, Naval Air Systems Command
0-8 Assistant Commander for Systems and Engineering, Naval Air Systems Command
0-7 Assistant Commander for Test and Evaluation, Naval Air Systems Command
0-7 Commander, Naval Aviation Logistics Center, Naval Air Systems Command
0-7 Deputy Chief of Naval Material for Logistics, Plans & Programs Chief HDQTRS NAVMATCOMD
0-7/0-8 Deputy Chief of Naval Material for Acquisition, Plans & Programs Chief HDQTRS NAVMATCOMD
0-7/0-8 Project Manager, TRIDENT System, Project Office, Naval Material Command
0-7 Major Project Manager, LAMPS, NAVAIRSYSCOM
0-7 Project Manager, Saudi Naval Expansion Program, NAVMAT
0-7 Director, Joint Cruise Missile Project, Joint Cruise Missiles Project Office (JPM-3) NAVMAT
0-7/0-8 Director, Technical Division Strategic Systems Projects, SSPO
0-7 Program Manager, ASW Systems Project Office Anti-Submarine Warfare Systems Project Office ADDU: Deputy Director OP-92
0-8 Vice Commander, Naval Sea Systems Command and Chief of Staff
0-7 Deputy Commander for Contracts NAVSEASYSCOM
0-7/0-8 NAVSEA Deputy Commander for Acquisition, Logistics NAVSEASYSCOM
0-7/0-8 Deputy Commander for Combat, Systems, NAVSEASYSCOM ADDU: to OP-03X
0-7 Assistant Deputy Commander for AntiSubmarine Warfare and Underwater Systems, NAVSEASYSCOM
0-7/0-8 Project Manager, AEGIS Shipbuilding Project, NAVSEASYSCOM
0-7/0-8 Deputy Commander for Industrial and Facility Management, NAVSEASYSCOM
0-7/0-8 Deputy Commander for Submarines, NAVSEASYSCOM
0-7 Supervisor for Shipbuilding, Conversion & Repair, Newport News Shipbuilding & Drydock Co., USN
0-7/0-8 Deputy Commander for Command, Control, Communications and Intelligence Systems and Technology, Naval Electronic Systems Command
0-7/0-8 Deputy Commander for Ship Design and Integration, Naval Sea Systems Command
0-8 Commander, Naval Supply Systems Command and Chief of Supply Corps
0-7/0-8 Vice Commander, Naval Supply Systems Command
0-7/0-8 Commanding Officer, Navy Ships Parts Control Center, Mechanicsburg, PA
0-7 Supervisor of Shipbuilding Commanding Officer, Shore Activity, Pascagoula, MS
0-7/0-8 Commander, Navy Resale and Services Support Office, Staten Island
0-7/0-8 Commanding Officer, Navy Aviation Supply Office, Philadelphia, PA
0-8 Commander, Naval Electronics Systems Command
0-8 Vice Commander, Naval Electronics Systems Command
0-7/0-8 Commander, Naval Oceanography Command
0-8 Commander, Naval Telecommunications Command
0-8 Commander, Naval Facilities Engineering Command/Chief of Civil Engineering of the Navy
0-7/0-8 Vice Commander, Naval Facilities Engineering Command
0-7 Deputy Commander for Planning, Naval Facilities Engineering Command ADDU: to OP-04E
0-7/0-8 Commanding Officer, Shore Activity, Atlantic Division, Naval Facilities Engineering Command ADDU: ACOS Facilities Engineer CIN CLANTFLT
0-7/0-8 Deputy Commander for Life Cycle Engineering and Platform Integration, NELEXOP
0-8 Director, Strategic System Project Office, NAVMAT
0-8 Deputy Commander, Military Sealift Command
0-7/0-8 Commanding Officer Shore Activity, Pacific Division, Naval Facilities Engineering Command, ADDU: Fleet Civil Engineer CIN CPACFLT
0-7 Commanding Officer Shore Activity, Northern Division, Naval Facilities Engineering Command, Philadelphia
0-7 Commanding Officer Shore Activity, Western Division, Naval Facilities Engineering Command, San Bruno
0-7/0-8 Director, Multilateral Support Force, Amphibious, Mine and Advanced Naval Vehicles Ships Division, CNO
0-7/0-8 Director, Logistics Plans Division, CNO
0-7/0-8 Director, Material Division, CNO
0-7/0-8 Director, Ships Maintenance and Modernization Division, CNO
0-7/0-8 Director, Shore Activities Planning and Programming Division, CNO

Office of the Comptroller of the Navy

0-7/0-8 Deputy Comptroller of the Navy
0-7/0-8 Director of Budget and Reports/Fiscal Management Division, Office of the Navy Comptroller
0-7/0-8 Assistant Comptroller, Financial Management Systems/Commander, Navy Accounting and Finance Center
0-7 Deputy Chief for Contracts and Business Management, NAVMAT
0-7 Supervisor of Shipbuilding, Conversion and Repair, Groton, CT

Other Officers

0-7/0-8 Commanding General, Marine Corps Development and Education Command, Quantico, Virginia
0-7/0-8 Deputy Chief of Staff for Research Development and Studies, HQMC
0-7/0-8 Deputy Chief of Staff for Requirements and Programs HQMC
0-7/0-8 Director, Personnel Procurement, HQMC
0-7/0-8 Director of Material Division, HQMC
0-7/0-8 Director, Facilities and Services Division, HQMC
0-7/0-8 Director, Command, Control, Communications and Computer Systems Division, HQMC
0-7/0-8 Commanding General Marine Corps Logistics Base, Albany, Georgia
0-7/0-8 Commanding General Marine Corps Logistics Base, Barstow, California
0-7/0-8* Director of the Development Center, Marine Corps Development and Education Command, Quantico, Virginia
0-8* Assistant Deputy Chief of Naval Operations (Logistics)
0-8* Deputy Commander for Plans, Comptroller, NAVSEASYSCOM
0-8* Assistant Commander, Inventory & Systems Integrity, NAVSUPSYSCOM
0-8* Competition Advocate General of the Navy
0-7/0-8* Project Manager, Navy Space Project Office
0-7* Project Manager, REWSON Systems Project
0-7* Deputy Commander, Financial Management/Comptroller NAVSUPSYSCOM
0-8* Commander, Naval Medical Command
0-7* Commander, Readiness & Logistics, NAVMEDCOM
0-7* Deputy Auditor General, Naval Auditor Services Command
0-7* Commander, Naval Space Command
0-7* Commander, Fuel Supply Center, Alexandria, Virginia

AGENCY: DEFENSE COMMUNICATIONS AGENCY

Positions:

0-7 Director, Defense Communications System Organization (DCSO)
0-7 Commander, White House Communications Agency
0-7 Director, Command & Control Technical Center (CCTC)
SES Deputy Director, WWMCCS ADP Technical Support, CCTC
SES Comptroller, DCA
SES Director, Planning & Systems Integration Center (PSIC)
0-8 Vice Director, Defense Communications Agency
SES Principal Deputy Director, DCEC
SES Deputy Director, CCTC

SES Associate Director for Integration Systems Design, DCEC
SES Deputy Manager, National Communications System, DCA
SES Chief, Strategic Connectivity Engineering Division, CCTC
SES Deputy for Communications Architecture, PSIC
SES Assistant Deputy Director, Plans & Programs, DCSO
SES Deputy Director, Switched Systems, DCS
SES General Counsel, DCA
SES* Deputy Director for C³ Architecture and Mission Analysis, PSIC
SES Deputy Director, Military Satellite Communications Systems, PSI
SES Deputy Director for C² Engineering, CCTC
SES Deputy Director, DCSO
SES* Deputy Director, Switched Network Engineering Division, DCEC

AGENCY: DEFENSE CONTRACT AUDIT AGENCY

Postions

SES Director
SES Deputy Director
SES General Counsel
SES Assistant Director, Operations and Professional Development
SES Assistant Director, Policy and Plans
SES Assistant Director, Resources
SES Director, Field Detachment
SES Regional Director, Atlanta
SES Regional Director, Boston
SES Regional Director, Chicago
SES Regional Director, Los Angels
SES Regional Director, Philadelphia
SES Regional Director, San Francisco

AGENCY: DEFENSE INTELLIGENCE AGENCY

Positions:

DISES Deputy Director for Intelligence and External Affairs
DISES* Deputy Director for Resources and Systems
DISES* Assistant Deputy Director for Defense Intelligence Systems
DISES Assistant Deputy Director for Plans and Policy
DISES GDIP Staff Director
DISES* Staff Director, Intelligence Communications Architecture Project Office
0-8 Deputy Director, Defense Intelligence Agency
0-8* Deputy Director for Management and Operetions

AGENCY: DEFENSE INVESTIGATIVE SERVICE

Positions:

SES* Director
SES* Deputy Director (Industrial Security)
SES* Deputy Director (Investigations)

AGENCY: DEFENSE LOGISTICS AGENCY

Positions:

0-8 Deputy Director
0-8 Deputy Director (Acquisition Management)
0-7 Executive Director, Supply Operations
0-7/0-8 Executive Director, Office of Telecommunications and Information Systems
0-7/0-8 Executive Director, Quality Assurance
0-8 Commander, Defense Construction Supply Center
0-7 Commander, Defense Electronics Supply Center
0-8 Commander, Defense Fuel Supply Center
0-7 Commander, Defense General Supply Center
0-7 Commander, Defense Industrial Supply Center
0-8 Commander, Defense Personnel Support Center
0-7 Commander, Defense Contract Administration Services Region, Los Angeles

Headquarters

SES Comptroller, DLA
SES General Counsel, DLA
SES Executive Director, Technical and Logistics Services
SES Executive Director, Contracting
SES Deputy Executive Director, Supply Operations
SES Executive Director, Contract Management
SES Associate General Counsel, DLA
SES Chief, Logistics Programs Division, Directorate of Supply Operations
SES Chief, Contracts Division, Directorate of Contracting
SES Deputy Assistant Director, Office of Telecommunications and Information Systems
SES Deputy Executive Director, Quality Assurance
SES Staff Director, Small and Disadvantaged Business Utilization
SES Chief, Accounting and Finance Division, Office of Comptroller
SES Financial Manager, Defense Personnel Support Center
SES* Deputy Comptroller, Office of Comptroller
SES* Chief, AIS Development and Control Division, Office of Telecommunications and Information Systems
SES* Chief, ADP and Telecommunications Technology Division, Office of Telecommunications and Information Systems

AGENCY: DEFENSE MAPPING AGENCY

Positions:

SES Deputy Director, Management & Technology
SES Deputy Director, for Programs, Production/Operations
SES Deputy Director for Systems and Techniques
SES Comptroller
0-8 Director, Defense Mapping Agency
0-7 Deputy Director, Defense Mapping Agency
0-7 Deputy Director for Plans and Requirements
SES Director of Personnel
SES Assistant Deputy Director for Programming
SES Assistant Deputy Director for Production and Distribution
SES Chief, Advanced Technology Division
SES Chief, Acquisitions Systems Development Division
SES Director, Special Program Office for Exploitation Modernization

AGENCY: DEFENSE NUCLEAR AGENCY

Positions:

AD Deputy Director, Science and Technology
AD Scientific Assistant to the deputy Director, Science and Technology
AD Assistant to the Deputy Director (Science and Technology) for Theoretical Research
AD Assistant to the Deputy Director (Science and Technology) for Experimental Research
AD Assistant to the Deputy Director (Science and Technology) for Testing
AD Scientific Advisor to the Director, Armed Forces Radiobiology Research Institute
0-8 Deputy Director (Operations and Administration)
0-7 Commander, Field Command
SES Director, Acquisition Management
SES Comptroller

AGENCY: NATIONAL SECURITY AGENCY

Positions:

Military Positions

0-8 Assistant Deputy Director, NSA
0-7 Chief of the Office of Support to Military Operations

AGENCY: DEPARTMENT OF EDUCATION

Positions:

Office of the Secretary

SES Counselor/Executive Assistant to the Secretary
SES Executive Secretary to the Secretary

Office of the Under Secretary

SES Director of Regional Liaison

Deputy Under Secretary for Management

SES Comptroller
SES Administrator for Management Services

Deputy Under Secretary for Planning, Budget and Evaluation

SES Director of Budget Services
SES Director of Planning and Evaluation Services

Deputy Under Secretary for Intergovernmental and Interagency Affairs

SES Director, Intergovernmental Affairs

Assistant Secretary for Legislation and Public Affairs

SES Deputy Assistant Secretary for Legislation
SES Deputy Assistant Secretary for Public Affairs

General Counsel
SES Deputy General Counsel for Department Services
SES* Assistant to the Secretary for Regulatory Reform and Deputy General Counsel for Regulations and Legislation
SES Associate General Counsel for Programs

Inspector General
SES Deputy Inspector General
SES Assistant Inspector General for Investigation
SES Assistant Inspector General for Policy, Planning and Management
SES Assistant Inspector General for Audit

Office of Civil Rights
SES Deputy Assistant Secretary for Civil Rights (Operations)
SES Director of Policy and Enforcement Service

Office of Bilingual Education and Minority Language Affairs
SES Director Office of Bilingual Education and Minority Language Affairs
SES Deputy Director Office of Bilingual Education and Minority Language Affairs

Office of Special Education and Rehabilitative Services
SES Deputy Assistant Secretary
SES Deputy Director, National Institute of Handicapped Research
SES Director, Office of Special Education Programs
SES Executive Administrator

Office of Postsecondary Education
SES Deputy Assistant Secretary for Student Financial Assistance
SES Deputy Assistant Secretary for Higher Education Programs

Office of Vocational and Adult Education
SES Deputy Assistant Secretary for Vocational and Adult Education
SES Director of Policy Analysis and Legislation

Office of Elementary and Secondary Education
SES Deputy Assistant Secretary for Programs and Administration
SES Deputy Assistant Secretary for Dissemination and Special Initiatives

Office of Education Research and Improvement
SES Deputy Assistant Secretary for Educational Research and Improvement
SES Deputy Director, National Institute of Education
SES Administrator, National Center for Education Statistics
SES Director, Center for Libraries and Education Improvement

AGENCY: DEPARTMENT OF ENERGY

Positions:

Office of the Secretary
SES Executive Assistant to the Deputy Secretary
SES Special Assistant to the Secretary for Programs and Policies
SES* Special Assistant to the Secretary for Outreach Programs
SES Manager, Albuquerque Operations Office
SES Deputy Manager, Albuquerque Operations Office
SES Regional Representative of the Secretary/Manager, Chicago Operations Office
SES Deputy Manager, Chicago Operations Office
SES Manager, Idaho Operations Office
SES Deputy Manager, Idaho Operations Office
SES Manager, Nevada Operations Office
SES Deputy Manager, Nevada Operations Office
SES Manager, Oak Ridge Operations Office
SES Deputy Manager, Oak Ridge Operations Office
SES Manager, Richland Operations Office
SES Deputy Manager, Richland Operations Office
SES* Executive Assistant to the Under Secretary
SES* Executive Assistant to the Secretary
SES* Associate Director of Storage and Systems Development
SES* Special Assistant to the Secretary for Nuclear Reactor Safety
SES* Principal Deputy Assistant Secretary for Defense Programs and Manager, Savannah River Operations Office
SES Manager, San Francisco Operations Office
SES Deputy Manager, San Francisco Operations Office
SES Deputy Manager, Savannah River Operations Office

Office of the Inspector General
SES Assistant Inspector General for Audits
SES Assistant Inspector General for Inspections
SES Assistant Inspector General for Investigations

Office of the General Counsel
SES Deputy General Counsel
SES Deputy General Counsel for Regulations
SES Deputy General Counsel for Enforcement and Litigation
SES Deputy General Counsel for Programs
SES Deputy General Counsel for Legal Services

Economic Regulatory Administration
SES Deputy Administrator, Office of the Administrator
SES Special Counsel for Compliance, Office of Special Counsel
SES Deputy Special Counsel for Compliance, Office of Special Counsel
SES Solicitor, Office of the Solicitor
SES Director, Office of Fuels Programs, Office of Fuels Programs
SES Deputy Director, Office of Fuels Programs, Office of Fuels Programs

Energy Information Administration
SES Deputy Administrator, Energy Information Administration
SES Director, Office of Oil and Gas
SES Director, Office of Energy Markets and End Use
SES Director, Office of Statistical Standards

Assistant Secretary for Conservation and Renewable Energy
SES Principal Deputy Assistant Secretary for Conservation and Renewable Energy
SES Administrator, Alaska Power Administration
SES Administrator, Bonneville Power Administration
SES Assistant Administrator for Engineering and Construction, Bonneville Power Administration
SES Assistant Administrator for Power Management, Bonneville Power Administration
SES Deputy Administrator, Bonneville Power Administration
SES Assistant Administrator for Conservation and Direct Application—Renewable Resource, Bonneville Power Administration
SES Administrator, Southeastern Power Administration
SES Administrator, Southwestern Power Administration
SES Deputy Administrator, Southwestern Power Administration
SES Deputy Assistant Secretary for Conservation
SES Deputy Assistant Secretary for Renewable Energy

Assistant Secretary for Policy, Safety and Environment
SES Director, Office of Environmental Compliance, Deputy Assistant Secretary for Environment, Safety and Health
SES Deputy Assistant Secretary for Environment, Safety and Health
SES Deputy Director, Office of Policy, Planning and Analysis

Assistant Secretary for Defense Programs
SES Principal Deputy Assistant Secretary for Defense Programs
SES Deputy Assistant Secretary for Security Affairs
SES Deputy Director, Office of Military Applications, Deputy Assistant Secretary for Military Applications
SES Deputy Director, Office of Inertial Fusion
SES Director, Office of Inertial of Fusion
SES Director, Office of International Security Affairs
SES Deputy Director, Office of International Security Affairs
SES Director, Office of Classification
SES Deputy Director, Office of Classification
SES Deputy Director, Office of Safeguards and Securities
SES Director, Office of Nuclear Materials Production, Deputy Assistant Secretary for Nuclear Materials Production
SES Deputy Director, Office of Nuclear Materials Production, Deputy Assistant Secretary for Nuclear Materials Production
SES Deputy Assistant Secretary for Nuclear Materials
SES Director, Office of Defense Waste and Byproducts Management, Deputy Assistant Secretary for Nuclear Materials
SES* Deputy Director, Office of Defense Waste and Byproducts Management,

Deputy Assistant Secretary for Nuclear Materials
SES* Deputy Assistant Secretary for Intelligence
08 Deputy Assistant Secretary for Military Applications/Director of Military Applications

Assistant Secretary for International Affairs and Energy Emergencies
SES Deputy Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness
SES Principal Deputy Assistant Secretary for International Affairs
SES Deputy Assistant Secretary for Energy Emergencies
SES Deputy Director, Office of Technical Cooperation

Office of Energy Research
SES Deputy Director, Office of Energy Research
SES Associate Director, Office of Health and Environmental Research
SES Deputy Associate Director, Office of Health and Environmental Research
SES Associate Director, Office of Fusion Energy
SES Deputy Associate Director, Office of Fusion Energy
SES Director, Office of Field Operations Management
SES Director, Office of Program Analysis
SES Associate Director, Office of Basic Energy Sciences
SES Deputy Associate Director for Basic Energy Sciences, Office of Basic Energy Sciences
SES Associate Director of High Energy and Nuclear Physics

Assistant Secretary for Fossil Energy
SES Principal Deputy Assistant Secretary for Fossil Energy
SES Deputy Assistant Secretary for Strategic Petroleum Reserve
SES Deputy Assistant Secretary for Management, Planning and Technical Coordination
SES Deputy Assistant Secretary for Coal Utilization, Advanced Conversions and Gasification
SES Deputy Assistant Secretary for Oil, Shale and Coal Liquids

Assistant Secretary for Nuclear Energy
SES Principal Deputy Assistant Secretary for Nuclear Energy
SES Deputy Director for Naval Reactors, Deputy Assistant Secretary for Naval Reactors
SES Deputy Assistant Secretary for Uranium Enrichment
SES Deputy Assistant Secretary for Breeder Reactor Programs

Assistant Secretary, Management and Administration
SES Director, Office of Equal Opportunity
SES* Deputy Director, Office of Equal Opportunity
SES Deputy Director, Office of Administrative Services
SES Director of Administration
SES Deputy Director of Administration
SES Director, Office of Personnel
SES Director, Office of Organization and Management Systems
SES Deputy Director, Office of Organization and Management Systems
SES Deputy Director Of Project and Facilities Management
SES Director, Office of Project and Facilities Management
SES Director, Office of Administrative Services
SES Director, Office of ADP Management
SES Deputy Director, Office of ADP Management
SES Director, Office of Computer Services and Telecommunications Management
SES Deputy Director, Office of Computer Services and Telecommunications Management
SES Director, Office of Industrial Relations
SES Director, Office of Small and Disadvantaged Business Utilization
SES Director, Office of Policy
SES* Assistant Controller, Budget Policy and Compliance
SES* Assistant Controller, Financial Systems and Accounting
SES Director, Office of Procurement Support,
SES Director, Office of Procurement Review, Office of Procurement Review
SES Director, Office of Procurement Operations
SES Deputy Director, Office of Procurement Operations
SES Controller
SES Director, Office of Budget
SES Director, Procurement and Contract Management
SES* Deputy Director, Office of Budget
SES Deputy Director, Procurement and Contract Management

Assistant Secretary, Congressional, Intergovernmental and Public Affairs
SES Deputy Assistant Secretary for House Liaison
SES Principal Deputy Assistant Secretary for Congressional, Intergovernmental and Public Affairs

AGENCY: DEPARTMENT OF HEALTH AND HUMAN SERVICES

Positions:

Office of the Secretary

Immediate Office of the Secretary
SES Chief of Staff
SES Executive Assistant to the Secretary
SES Executive Secretary
SES Deputy Executive Secretaries to the Department (2)
SES* Executive Administrative Assistant
SES* Senior Advisor to the Secretary/Executive Officer
SES* Senior Advisor to the Secretary
SES* Special Assistant to the Secretary (3)

Immediate Office of the Under Secretary
SES Counselor to the Under Secretary
SES Deputy Under Secretary/Intergovernmental Affairs
SES Principal Regional Official—Region I
SES Principal Regional Official—Region II
SES Principal Regional Official—Region III
SES Principal Regional Official—Region IV
SES Principal Regional Official—Region V
SES Principal Regional Official—Region VI
SES Principal Regional Official—Region VII
SES Principal Regional Official—Region VIII
SES Principal Regional Official—Region IX
SES Principal Regional Official—Region X
SES Chairman, Departmental Grant Appeals Board

Office of Planning and Evaluation
SES Assistant Secretary for Planning and Evaluation
SES Principal Deputy Assistant Secretary for Planning and Evaluation
SES Deputy Assistant Secretary for Income Security Policy
SES Deputy Assistant Secretary for Health Policy
SES Deputy Assistant Secretary for Program Systems
SES Deputy Assistant Secretary for Social Services Policy
SES Deputy Assistant Secretary for Evaluation and Technical Analysis

Office of Inspector General
SES Assistant Inspector General for Audit
SES Deputy Assistant Inspector General for Audit
SES Senior Assistant Inspector General for Auditing and Systems
SES Assistant Inspector General for Health Care and Systems Review
SES Assistant Inspector General for Investigations
SES Deputy Assistant Inspector General for Investigations
SES Executive Assistant Inspector General
SES Associate Director, Division of University and Non-Profit Audits, Inspector General
SES Associate Director, Division of Social Security Audit, Inspector General
SES Deputy Assistant Inspector General Social Security Program Integrity Division, Office of Investigation
SES Deputy Assistant Inspector General Criminal Investigations Division, Office of Investigations
SES Assistant Inspector General for Health Financing Integrity
SES Director, Health Care Financing Audit Division, Office of Audit

Office of Management and Budget
SES Assistant Secretary for Management and Budget
SES Deputy Assistant Secretary for Budget
SES Deputy Assistant Secretary for Finance
SES Deputy Assistant Secretary, Management Analysis and Systems
SES Deputy Assistant Secretary, Procurement, Assistance and Logistics
SES Director, Program Coordination
SES Director, Division of Health Budget Analysis, Office of Budget, Office of Management and Budget
SES Director, Division of Welfare Budget Analysis, Office of Budget, Office of Management and Budget
SES Director, Office of Procurement, and Assistance Policy, Office of Procurement, Assistance, Logistics, Office of Management and Budget
SES Director, Office of Procurement and Assistance Financial Management, Office

of Procurement, Assistance and Logistics, Office of Management and Budget
SES Assistant General Counsel, Civil Rights Division
SES Director, Bureau of Support Services
SES Director, Office of Public Affairs

SES Deputy Director, Bureau of Health Care Delivery and Assistance
0-8 Director, National Institute of Allergy and Infectious Diseases
SES Director, Division of Food Technology
SES* Director of Mathematics

VOL
50
ISS
147
JL
31
1985
UMI

of Procurement, Assistance and Logistics, Office of Management and Budget
SES Director, Office of Facilities and Management Services, Office of Management and Budget
SES Director, Office of Facilities Engineering, Office of Facilities and Management Services, Office of Management and Budget
SES Director, Office of Computer and Information Systems, Office of Management Analysis and Systems, Office of Management and Budget

Legislation

SES Deputy Assistant Secretary for Legislation
SES Deputy Assistant Secretary for Legislation (Health)
SES Deputy Assistant Secretary for Legislation (Human Services)
SES Director of Program Coordination
SES Deputy Assistant Secretary for Legislation (Special Projects)
SES Deputy Assistant Secretary for Legislation (Congressional Liaison)

Office for Civil Rights

SES Special Assistant to the Secretary for Civil Rights, Director, Office for Civil Rights
SES Deputy Director for Program Operations, OCR
SES Associate Deputy Director for Program Operations, OCR
SES Deputy Director for Management and Policy, OCR

Office for Personnel Administration

SES Assistant Secretary for Personnel Administration
SES Deputy Assistant Secretary, Personnel
SES Director, Office of Personnel Systems Integrity
SES Deputy Assistant Secretary, Equal Employment Opportunity

Office of Public Affairs

SES Deputy Assistant Secretary for Operations Management
SES Deputy Assistant Secretary for Communication Planning
SES Special Assistant to Assistant Secretary for Public Affairs
SES Deputy Assistant Secretary for Public Affairs (Public Liaison)
SES* Deputy Assistant Secretary for Planning and Initiative

Office of the General Counsel

SES Deputy General Counsel, Program Review
SES Deputy General Counsel, Regulations
SES Deputy General Counsel, Litigation
SES Legal Counsel
SES Associate General Counsel for Enforcement
SES Assistant General Counsel, Legislation Division
SES Assistant General Counsel, Public Health Division
SES Assistant General Counsel, Social Security
SES Assistant General Counsel, Food and Drug Administration
SES Assistant General Counsel, Health Care Financing and Human Development
SES Assistant General Counsel, Civil Rights Division
SES Assistant General Counsel, Business and Administrative Law Division
SES Assistant General Counsel, Inspector General Division
SES Associate General Counsel

Office of Consumer Affairs

SES Deputy Director, Office of Consumer Affairs

Office of Human Development Services

SES Deputy Commissioner, Administration on Aging
SES Deputy Assistant Secretary, Human Development Services
GS–18 Commissioner, Administration for Children, Youth and Families
SES Deputy Commissioner, Administration for Children, Youth and Families
SES Commissioner, Administration for Native Americans
SES Commissioner, Administration on Developmental Disabilities
SES Director, Office of Program Coordination and Review
SES Director, Office of Policy Development
SES Deputy Director, Office of Policy Development
SES Deputy Director, Office of Program Coordination and Review
SES* Associate Commissioner for Program Development, Administration on Aging
SES* Director, Office of Management Services
SES* Associate Director for Program Operations, Administration on Aging

Health Care Financing Administration

SES Administrator, Health Care Financing Administration
SES Deputy Administrator, Health Care Financing Administration
SES Director, Bureau of Program Operations
SES Director, Health Standards and Quality Bureau
SES Director, Office of Management and Budget
SES Director, Office of Research and Demonstrations
SES Associate Administrator for Management and Support Services
SES Associate Administrator for Policy
SES Associate Administrator for Operations
SES Deputy Associate Administrator for Operations (Field)
SES Associate Administrator for External Affairs
SES Director, Office of Executive Operations
SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES Regional Administrator, Region X
SES Director, Bureau of Eligibility Reimbursement and coverage
SES Director, Bureau of Quality Control
SES Director, Office of Legislation and Policy
SES Director, Bureau of Support Services
SES Director, Office of Public Affairs
SES Director, Bureau of Data Management and Strategy

Public Health Service

Office of the Assistant Secretary for Health

SES Deputy Assistant Secretary, Health Operations
SES Deputy Assistant Secretary, Planning and Evaluation
SES Deputy Assistant Secretary, Population Affairs
SES/0–7/0–8 Regional Health Administrators—Regions I–X
SES Executive Director, President's Council on Physical Fitness and Sports
SES Director, National Center for Health Statistics
SES Deputy Director, National Center for Health Statistics
SES Director, National Center for Health Services Research
0–8 Deputy Surgeon General and Chief Nurse Officer, Public Health Service
0–8 Senior Advisor for Environmental Affairs
0–7 Deputy Assistant Secretary for Health, for Disease Prevention and Health Promotion

Center for Disease Control

0–8 Director, Centers for Disease Control
SES Deputy Director, Centers for Disease Control
0–7 Assistant Director for International Health
SES Directors, Office of Program Support, Centers for Disease Control
SES Director, Licensure and Proficiency Testing Division, Laboratory Program Office
0–7 Program Manager, Expanded Program on Immunization, World Health Organization, International Health Program Office
SES Director, Clinical Chemistry Division, Center for Environmental Health
SES Assistant to Director, Center for Environmental Health
SES Director, Center for Infectious Diseases
SES* Assistant Director for Management, CDC
SES* Special Assistant for Policy Development, CDC
SES Assistant Director for Laboratory Science, Center for Infectious Diseases
SES Director, Center for Professional Development and Training
SES Director, Center for Health Promotion and Education
SES Director, National Institute for Occupational Safety and Health
0–8 Deputy Director, National Institute for Occupational Safety and Health
SES Assistant Director for Laboratory Science, Division of Parasitic Diseases, CID

Health Resources and Services Administration

0–8 Administrator, Health Resources and Services Administration
SES Deputy Administrator
0–8 Director, Bureau of Health Care Delivery and Assistance

SES Deputy Director, Bureau of Health Care Delivery and Assistance
SES Director, Bureau of Health Professions
SES Deputy Director, Bureau of Health Professions
0–8 Director, Indian Health Service
SES Deputy Director, Indian Health Service
0–8 Director, Bureau of Health Maintenance Organizations and Resources Development
SES Deputy Director, Bureau of Health Maintenance Organizations and Resources Development

Alcohol, Drug Abuse, and Mental Health Administration

SES Deputy Administrator, ADAMHA
SES Associate Administrator for Extramural Programs, ADAMHA
SES Associate Administrator for Program Planning and Coordination, ADAMHA
SES Director, National Institute on Alcohol Abuse and Alcoholism
SES Deputy Director, National Institute on Alcohol Abuse and Alcoholism
0–8 Director, National Institute of Mental Health
SES Deputy Director, National Institute of Mental Health
0–8 Director, National Institute on Drug Abuse
SES Deputy Director, National Institute on Drug Abuse

National Institutes of Health

SES* Director, NIH
SES Deputy Director, NIH
SES Deputy Director for Intramural Research
SES Deputy Director for Extramural Research and Training
SES Associate Director for Program Planning and Evaluation
SES Associate Director for Administration
SES Associate Director for Communications
SES Associate Director for Research Services
SES Associate Director for Clinical Care, NIH and Director of Clinical Center
SES* Associate Director for Intramural Affairs
SES* Associate Commissioner for Extramural Affairs
SES* Associate Director for Medical Applications of Research
SES* Associate Director for International Research and Director, Fogarty International Center
SES Director, Division of Computer Research and Technology
SES Director, Division of Research Grants
SES Deputy Director, Division of Research Grants
0–8 Director, National Cancer Institute
SES Deputy Director, National Cancer Institute
SES Director, Division of Research Resources
SES Deputy Director, Division of Research Resources
SES Director, Division of Research Services
SES Director, National Eye Institute
SES Deputy Director, National Eye Institute
SES Director, National Heart, Lung, and Blood Institute
0–7 Deputy Director, National Heart, Lung, and Blood Institute
0–8 Director, National Institute of Allergy and Infectious Diseases
SES Deputy Director, National Institute of Allergy and Infectious Diseases
SES Director, National Institute of Arthritis, Metabolism and Digestive Diseases
0–7 Deputy Director, National Institute of Arthritis, Metabolism and Digestive Diseases
0–7 Director, National Institute on Aging
SES Deputy Director, National Institute on Aging
SES Director, National Institute of Child Health and Human Development
SES Deputy Director, National Institute of Child Health and Human Development
SES Director, National Institute of Dental Research
0–8 Director, National Institute of Environmental Health Sciences
SES Deputy Director, National Institute of Environmental Health Sciences
SES Director, National Institute of General Medical Sciences
0–7 Director, National Institute of Neurological and Communicative Disorders and Stroke
SES Deputy Director, National Institute of Neurological and Communicative Disorders and Stroke
SES Director, National Library of Medicine
SES Deputy Director, National Library of Medicine

Food and Drug Administration

0–8 Commissioner of Food and Drugs
SES Deputy Commissioner for Food and Drugs
SES Associate Commissioner for Consumer Affairs
SES Associate Commissioner for Legislation and Information
SES Associate Commissioner for Health Affairs
SES Associate Commissioner for Planning and Evaluation
SES* Associate Commissioner for Science
SES Associate Commissioner for Regulatory Affairs
SES Director, Enforcement Policy Staff
SES Director, Parklawn Computer Center
SES Director, Orphan Products Development
SES Deputy Associate Commissioner for Regulatory Affairs
SES Associate Commissioner for Management and Operations

Center for Food Safety and Applied Nutrition

SES Director, Center for Food Safety and Applied Nutrition
SES Deputy Director, Center for Food Safety and Applied Nutrition
SES Associate Director for Toxicological Sciences
SES Director, Division of Toxicology
SES Associate Director for Laboratory Investigations
SES Director, Division of Chemistry and Physics
SES Director, Division of Microbiology
SES Associate Director for Compliance
SES Associate Director for Physical Sciences
SES Deputy Associate Director for Physical Sciences
SES Director, Division of Food Technology
SES* Director of Mathematics
SES* Director, Division of Food and Color Additives
SES Director, Division of Chemical Technology
SES Associate Director for Nutrition and Food Sciences
SES Director, Division of Regulatory Guidance
SES Associate Director for Planning and Operations
SES Deputy Associate Director for Nutrition and Food Sciences
SES Director, Division of Nutrition

Center for Drugs and Biologics

0–8 Director, Center for Drugs and Biologics
SES Deputy Director, Center for Drugs and Biologics
0–7 Director, Office of Biologics Research and Review
SES Deputy Director, Office of Biologics Research and Review
SES Director, Office of Compliance
SES Director, Office of Drug Research and Review
SES Deputy Director for Program Management
SES Director, Division of Oncology and Radiopharmaceutical Drugs Products Research
SES Director, Division of Scientific Investigations Staff
SES Director, Division of Anti-infective Drug Products
SES Director, Division of Metabolism and Endocrine Drug Products
SES Director, Division of Surgical-Dental Drug Products
SES* Director, Office of Management
SES* Director, Division of Cardio-Renal Drug Products
SES* Deputy Director for Medical Activities
SES* Director, Division of Biochemistry and Biophysics
SES* Director, Division of OTC Drug Evaluation
SES Director, Division of Neuropharmacological Drugs Products
SES Director, Division of Drug Biology
SES Director, Division of Drug Chemistry
SES Director, Division of Product Quality Control
SES Director, Division of Blood and Blood Products
SES Director, Division of Biologics Evaluation
SES Director, Office of Epidemiology and Biostatistics
SES Deputy Director, Division of Epidemiology and Biostatistics
SES Director, Division of Biometrics
SES Director, Division of Drug and Biological Experience Products
SES Director, Division of Biopharmaceutics

Center for Veterinary Medicine

SES Director, Center for Veterinary Medicine
SES Deputy Director, Center for Veterinary Medicine
SES Associate, Center for Veterinary Medicine
SES Deputy Director for Scientific Evaluation

VOL
50
ISS
147
JL
31
1985
UMI

SES Director, Division of Therapeutic Drugs for Non-Food Animals
SES Associate Director for Human Food Safety
SES Associate Director for Surveillance and Compliance
SES Associate Director for Research
SES Director, Division of Veterinary Medical Research
SES Associate Director for Voluntary Compliance and Operations
SES Director, Division of Biometrics and Production Drugs
SES Director, Division of Therapeutic Drugs for Food Animals
SES Director, Division of Drug Manufacturing and Controls

Center for Devices and Radiological Health

SES Director, Office of Device Evaluation
SES Associate Director for Standards
SES Associate Director for Compliance
0-6 Director, Center for Devices and Radiological Health
SES Deputy Director, Center for Devices and Radiological Health

National Center for Toxicological Research

SES Director, National Center for Toxicological Research
SES Director, Division of Biometry
SES Associate Director for Research
SES Deputy Director, National Center for Toxicological Research

Executive Director of Regional Operations

SES Executive Director of Regional Operations
SES Deputy Executive Director of Regional Operations
SES Associate Director for Field Support
SES Regional Food and Drug Director, Region I
SES Regional Food and Drug Director, Region II
SES Regional Food and Drug Director, Region III
SES Regional Food and Drug Director, Region IV
SES Regional Food and Drug Director, Region V
SES Regional Food and Drug Director, Region VI
SES Regional Food and Drug Director, Region VII
SES Regional Food and Drug Director, Region VIII
SES Regional Food and Drug Director, Region IX
SES Regional Food and Drug Director, Region X

Social Security Administration

SES Deputy Commissioner, Operations
SES Deputy Commissioner, Programs and Policy
SES Deputy to Deputy Commissioner, Programs and Policy
SES Associate Commissioner, Policy
SES Associate Commissioner, Assessment
SES Deputy Associate Commissioner, Assessment
SES Deputy Commissioner, Systems
SES Associate Commissioner, Family Assistance
SES Deputy Associate Commissioner, Family Assistance
SES Associate Commissioner, Central Operations
SES Deputy Associate Commissioner, Centers Operations
SES Associate Commissioner, Hearings and Appeals
SES Deputy Associate Commissioner, Hearings and Appeals (Appeals)
SES Deputy Commissioner, Management Support and Assessment
SES Deputy Director, Office of Child Support Enforcement
SES* Associate Deputy Director, OCSE
SES Regional Commissioner, Boston—Region I
SES Regional Commissioner, New York—Region II
SES Regional Commissioner, Philadelphia—Region III
SES Regional Commissioner, Atlanta—Region IV
SES Regional Commissioner, Chicago—Region V
SES Regional Commissioner, Dallas—Region VI
SES Regional Commissioner, Kansas City—Region VII
SES Regional Commissioner, Denver—Region VIII
SES Regional Commissioner, San Francisco—Region IX
SES Regional Commissioner, Seattle—Region X
SES Senior Executive Officer
SES Associate Commissioner, Field Operations
SES Deputy Associate Commissioner for Field Operations
SES Chief Actuary
SES Associate Commissioner, Management, Budget and Personnel
SES Deputy Associate Commissioner, Management, Budget and Personnel
SES Associate Commissioner, System Operation
SES Associate Commissioner, System Integration
SES Director, Office of Refugee Resettlement
SES Associate Commissioner, Governmental Affairs
SES Associate Commissioner for System Requirement
SES Deputy Associate Commissioner for Systems Operations
SES Deputy Associate Commissioner, System Requirements
SES Deputy Associate Commissioner for System Integration
SES* Associate Commissioner, Disability
SES* Deputy Associate Commissioner, Disability
SES* Associate Commissioner, Supplemental Security Income
SES* Deputy Associate Commissioner, Supplemental Security Income
SES* Special Assistant to Deputy Commissioner, Programs and Policy
SES* Associate Commissioner, Retirement and Survivors Insurance
SES* Deputy Commissioner, Systems
SES* Deputy Associate Commissioner, Hearings and Appeals (Management)

AGENCY: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Positions:

OFFICE OF THE SECRETARY

SES Deputy Undersecretary for Intergovernmental Relations
SES General Deputy Assistant Secretary for Public Affairs
SES Executive Assistant to the Secretary
SES Executive Assistant to the Under Secretary
SES Deputy Under Secretary for Field Coordination
SES Assistant to the Secretary for International Affairs
SES Assistant to the Secretary for Labor Relations

OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING

SES Deputy Assistant Secretary for Multifamily Housing Programs
SES Deputy Assistant Secretary for Single-Family Housing and Mortgagee Activities
SES* General Deputy Assistant Secretary for Public and Indian Housing
SES Deputy Assistant Secretary for Policy and Financial Management, and Administration
SES General Deputy Assistant Secretary for Housing/Deputy Federal Housing Commissioner

OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT

SES Deputy Assistant Secretary for Program Policy Development and Evaluation
SES Director, Office of Urban Development Action Grants
SES General Deputy Assistant Secretary for Community Planning and Development
SES Deputy Assistant Secretary for Program Management
SES Deputy Assistant Secretary for Field Operations and Environment/Energy

OFFICE OF THE ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY

SES Deputy Assistant Secretary for Operations and Management
SES General Deputy Assistant Secretary for Fair Housing and Equal Opportunity
SES Deputy Assistant Secretary for Enforcement and Compliance

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH

SES Deputy Assistant Secretary for Housing Studies
SES Deputy Assistant Secretary for Policy Development
SES Deputy Assistant Secretary for Economic Affairs
SES Deputy Assistant Secretary for Urban and Community Studies

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel
SES Deputy General Counsel (Operations)

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary for Administration

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL RELATIONS

SES Deputy Assistant Secretary for Legislation
SES Deputy Assistant Secretary for Congressional Relations

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SES Vice President, (Mortgage Finance)
SES Vice President, (Mortgage Backed Securities)
SES Executive Vice President

Solar Energy and Energy Conservation Bank

SES* Manager

FIELD OFFICES

Region I

SES Regional Administrator
SES Deputy Regional Administrator

Region II

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Newark Area Office

Region III

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, Pittsburgh Office

Region IV

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, Jacksonville Office

Region V

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, Detroit Office
SES Manager, Columbus Office
SES Manager, Minneapolis/St. Paul Office
SES Manager, Indianapolis Office

Region VI

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, New Orleans Office
SES Manager, Oklahoma City Office

Region VII

SES Regional Administrator
SES Deputy Regional Administrator

Region VIII

SES Regional Administrator
SES Deputy Regional Administrator

Region IX

SES Regional Administrator
SES Deputy Regional Administrator
SES Manager, Los Angeles Office

Region X

SES Regional Administrator
SES Deputy Regional Administrator

AGENCY: DEPARTMENT OF THE INTERIOR

Positions:

Office of the Secretary

SES Principal Deputy Secretary
SES Deputy Under Secretary
SES Deputy Under Secretary
SES Counselor to the Secretary
SES Executive Assistant to the Secretary
SES Special Assistant to the Secretary
SES Assistant to the Secretary/Director of Public Affairs
SES Assistant to the Secretary and Director, Office of Congressional Affairs
SES Deputy Director—Senate
SES Deputy Director—House
SES Director, Office of Small and Disadvantaged Business Utilization
SES Director, Office of Historically Black College and University Programs
SES Director, Office of Youth Programs
SES Assistant to the Secretary
SES Legislative Counsel
SES Special Assistant (Field Representative-San Francisco)
SES Special Assistant (Field Representative-Sacramento)
SES Special Assistant (Field Representative-Denver)
SES Director, Office of Equal Opportunity
SES Assistant Director, Federal Employment Programs
SES Assistant Director, Title VI
AD Commissioner, Delaware River Basin Commission
AD Commissioner, Susquehanna River Basin Commission
AD Federal Co-Chairman, Alaska Land Use Council

Office of Hearings and Appeals

SES Director, Office of Hearings and Appeals
SES Member, Board of Surface Mining & Reclamation Appeals
SES Chief, Hearings Division (Indian Probate)
GS-18 Chairman, Board of Contract Appeals
GS-17 Vice Chairman, Board of Contract Appeals

Office of Territorial and International Affairs

SES Deputy Assistant Secretary
SES Director, Office of Technical Assistance
GS-18 High Commissioner of the Trust Territories

Office of Inspector General

SES Assistant Inspector General—Audit
SES Assistant Inspector General—Investigations

Office of the Solicitor

SES Deputy Solicitor
SES Special Assistant to the Solicitor
SES Associate Solicitor—Audit and Investigation
SES Associate Solicitor—Energy & Resources
SES Associate Solicitor—General Law
SES Associate Solicitor—Conservation & Wildlife
SES Associate Solicitor—Indian Affairs
SES Associate Solicitor—Surface Mining
SES Regional Solicitor—Portland
SES Regional Solicitor—Anchorage
SES Regional Solicitor—Denver
SES Regional Solicitor—Sacramento
SES Regional Solicitor—Boston
SES Regional Solicitor—Tulsa
SES Regional Solicitor—Atlanta

Office of the Assistant Secretary for Fish and Wildlife and Parks

SES Deputy Assistant Secretary
SES Special Assistant to the Assistant Secretary—FWP (Alaska)
SES Staff Assistant

U.S. Fish and Wildlife Service

SES Deputy Director
SES Associate Director, Wildlife Resources
SES Associate Director, Habitat Resources
SES Associate Director, Research and Development
SES Associate Director, Federal Assistance
SES Associate Director, Fishery Resources
SES Assistant Director for Administration
SES Assistant Director, Planning and Budget
SES Regional Director, Portland
SES Regional Director, Twin Cities
SES Regional Director, Atlanta
SES Regional Director, Boston
SES Regional Director, Anchorage
SES Regional Director, Denver
SES Regional Director, Albuquerque

National Park Service

SES Director
SES Deputy Director
SES Assistant Director—Legislative and Congressional Affairs
SES Associate Director—Natural Resource
SES Associate Director—Park Operations
SES Associate Director—Cultural Resources
SES Associate Director—Planning and Development
SES Senior Scientist
SES Director, National Capital Region
SES Regional Director, Seattle
SES Regional Director, Atlanta
SES Regional Director, Philadelphia
SES Regional Director, Omaha
SES Regional Director, Alaska
SES Regional Director, Boston
SES Regional Director, Santa Fe
SES Regional Director, San Francisco
SES Regional Director, Denver

Office of the Assistant Secretary for Water and Science

SES Deputy Assistant Secretary
SES Staff Assistant to Assistant Secretary
SES Deputy Assistant Secretary
SES Staff Assistant—Economics

Bureau of Reclamation

SES Special Assistant to the Commissioner
SES Assistant Commissioner, Planning and Operations
SES Assistant Commissioner, Administration
SES Chief, Office of Power
SES Special Assistant to Commissioner
SES Assistant Commissioner, Engineering
SES Regional Director, Lower Colorado (Boulder City)

VOL 50 ISS 147 JL 31 1985 UMI

SES Regional Director, Mid-Pacific (Sacramento)
SES Regional Director, Pacific Northwest (Boise)
SES Regional Director, Lower Missouri (Denver)
SES Regional Director, Upper Colorado (Salt Lake City)
SES Regional Director, Southwest (Amarillo)
SES Regional Director, Upper Missouri (Billings)

Bureau of Mines

SES Deputy Director
SES Chief Staff Officer
SES Assistant Director, Mining Research
SES Assistant Director, Minerals Information
SES Assistant Director, Planning and Budget
SES Assistant Director, Management Services
SES Assistant Director, Minerals Data Analysis
SES Assistant Director, Minerals and Materials Research

U.S. Geological Survey

SES Associate Director
SES Assistant Director, Research
SES Assistant Director, Engineering Geology
SES Assistant Director for Information Systems
SES Assistant Director, Administration
SES Assistant Director for Programs
SES Assistant Director, Intergovernmental Affairs

Office of the Assistant Secretary for Land and Minerals Management

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary
SES Staff Assistant to the Assistant Secretary

Minerals Management Service

SES Director
SES Associate Director for Royalty Management
SES Associate Director for Offshore Minerals
SES Assistant Director for Administration
SES Assistant Director for Program Review
SES Assistant to the Director for Offshore Rules & Regulations
SES Regional Manager, Gulf of Mexico
SES Regional Manager, Pacific OCS Region
SES Regional Manager, Atlantic OCS Region
SES Regional Manager, Alaska

Office of Surface Mining

SES Deputy Director
SES Assistant Director for Technical Standards & Research
SES Assistant Director for Program Operations and Inspection
SES Assistant Director for Budget and Administration

Bureau of Land Management

SES Associate Director
SES Deputy Director—Energy and Mineral Resources
SES Assistant to the Deputy Director—Energy and Mineral Resources
SES Deputy Director—Lands and Renewable Resources
SES Deputy Director Management Services
SES Assistant Director for Administration
SES Assistant Director—Technical Services
SES Assistant Director—Renewable Resources
SES Assistant Director—Land Resources
SES Assistant Director—Solid Leasable Minerals
SES Chief, Planning & Environmental Coordination
SES Assistant Director—Fluid Leasable Minerals
SES Associate Deputy Director—Energy & Mineral Resources/Assistant Director—Resources/Minerals Law
SES State Director—Eastern States
SES State Director—Utah
SES State Director—Wyoming
SES State Director—Montana
SES State Director—Colorado
SES State Director—California
SES State Director—Alaska
SES State Director—Oregon
SES State Director—Arizona
SES State Director—New Mexico
SES State Director—Idaho
SES State Director—Nevada
SES Director, Denver Service Center (2)

Office of the Assistant Secretary for Policy, Budget and Administration

SES Deputy Assistant Secretary (3)
SES Director, Office of Aircraft Services
SES Special Assistant to the Assistant Secretary
SES Director, Office of Acquisition and Property Management
SES Chief, Division of Acquisition and Grants
SES Director, Office of Information Resources Management
SES Deputy Director, Office of Information Resources Management
SES Director, Office of Environmental Project Review
SES Director, Office of Administrative Services
SES Director, Office of Budget
SES Deputy Director, Office of Budget
SES Chief, Division of Budget Operations (A)
SES Chief, Division of Budget Operations (B)
SES Director, Office of Policy Analysis
SES Deputy Director, Office of Policy Analysis
SES Assistant Director for Economics
SES Assistant Director for Studies
SES Director Office of Personnel
SES Deputy, Director, Office of Personnel
SES Director, Office of Financial Management
SES Deputy Director, Office of Financial Management

Bureau of Indian Affairs

SES Deputy Assistant Secretary (Operations)
SES Director—Indian Services
SES Director of Trust Responsibilities
SES Executive Management Officer
SES Director of Indian Education Programs
SES Director, Office of Data System
SES Deputy Director of Indian Education Programs (Comptroller)
SES Assistant Director of Administration (Financial Management)
SES Area Director, Muskogee
SES Area Director, Anadarko
SES Area Director, Navajo
SES Area Director, Albuquerque
SES Area Director, Portland
SES Area Director, Juneau
SES Area Director, Minneapolis
SES Area Director, Eastern Area
SES Area Director, Phoenix
SES Area Director, Aberdeen
SES Area Director, Billings
SES Area Director, Sacramento

AGENCY: DEPARTMENT OF JUSTICE

Positions:

Office of the Attorney General

SES Counselor to the Attorney General
SES Special Counsel to the Attorney General (Vacant)

Office of the Deputy Attorney General

SES All Associate Deputy Attorneys General (4) (2 Vacant)

Office of the Associate Attorney General

SES All Deputy Associate Attorneys General (4)
SES* Assistant Associate Attorney General

Office of the Solicitor General

SES All Deputy Solicitors General (5)

Legal Divisions: Antitrust, Civil, Civil Rights, Criminal, Land and Natural Resources, and Tax

SES All Deputy Assistant Attorneys General in Legal Divisions (21)
SES Special Counsel to the Asst. Attorney General, Tax Division
SES Director of Operations, Antitrust Division
SES Director, Economic Policy, Antitrust Division
SES Chief, Organized Crime and Racketeering Section, Criminal Division

Office of Legal Counsel

SES All Deputy Assistant Attorneys General (3)

Office of Legislative and Intergovernmental Affairs

No section 207(d)(1)(C) designations.

Justice Management Division

SES Assistant Attorney General for Administration
SES All Deputy Assistant Attorneys General (4)
SES Senior Management Counsel
SES Staff Directors (10)
SES Deputy Director, Audit Staff

Office of Public Affairs

SES Director

Office of the Pardon Attorney

No section 207(d)(1)(C) designations.

United States Parole Commission

GS–18 All Commissioners (9)

United States Marshals Service

SES Director
SES Deputy Director
SES Assistant Director for Operations
SES Assistant Director for Administration

United States Attorneys

SES All United States Attorneys (89)

Drug Enforcement Administration

GS–18 All Assistant Administrators (3)
GS–17 All Deputy Assistant Administrators (8)

Federal Bureau of Investigation

GS–18 Executive Assistant Directors (3) (1 Vacant)
GS–18 All Assistant Directors (12)
GS–17 All Inspectors/Deputy Assistant Directors (18)
GS–18 or GS–17 All Special Agents in Charge of Field Offices above GS–16 (25)
GS–17 Special Assistant to the Director

Immigration and Naturalization Service

SES Deputy Commissioner
SES All Associate Commissioners (4)
SES All Regional Commissioners (4)
SES General Counsel
SES* Executive Associate Commissioner

Bureau of Prisons

SES All Assistant Directors (2)
SES All Regional Directors (5)
SES Associate Commissioner for Prison Industries
SES Wardens (13)
SES Deputy Associate Commissioner/ Secretary for Prison Industries
SES Deputy Associate Commissioner for Prison Industries
SES General Counsel
SES Director, National Institute of Corrections

Community Relations Service

Office of Justice Assistance, Research, and Statistics

SES Comptroller
SES General Counsel

National Institute of Justice

SES Assistant Director, Office of Development Testing and Dissemination
SES Assistant Director, Office of Research Programs

Office of Juvenile and Delinquency Prevention

SES Deputy Administrator

Bureau of Justice Statistics

SES Deputy Director

Office of Legal Policy

SES Deputy Assistant Attorneys General (3)

Office of Intelligence Policy Review

SES Counsel for Intelligence Policy
SES Deputy Counsel for Intelligence Policy
SES Deputy Counsel for Intelligence Operations

Foreign Claims Settlement Commission

SES General Counsel

AGENCY: DEPARTMENT OF LABOR

Positions:

Office of the Inspector General (OIG)

SES Deputy Inspector General
SES Assistant Inspector General for Investigations
SES Assistant Inspector General for Audit
SES Deputy Assistant Inspector General for Audit
SES Assistant Inspector General for Resource Management and Legislative Assessment

Women's Bureau

GS–17 Director
SES Deputy Director

Office of the Assistant Secretary for Legislative Affairs

No section 207 (d)(1)(C).

Office of the Assistant Secretary, Administration and Management

SES Deputy Assistant Secretary
SES Director, Office of Procurement and Grants Management
SES Comptroller for the Department
SES Deputy Comptroller

Office of Administrative Law Judges (ALJ)

No section 207(d)(1)(C) designations.

Office of the Assistant Secretary for Labor-Management Relations (LMSA)

SES Deputy Assistant Secretary for Management and Services
SES Deputy Assistant Secretary for Program Operations
SES Administrator for Pension and Welfare Benefit Programs (PWBP)
SES Deputy Administrator for Pension and Welfare Benefit Programs (PWBP)
SES Director, Office of Labor-Management Standards Enforcement (LMSE)

Office of the Assistant Secretary for Occupational Safety and Health Administration (OSHA)

SES Deputy Assistant Secretary for Occupational Safety and Health Administration
SES Director, Policy Analysis, Integration and Evaluation
SES Director, Federal Compliance and State Programs
SES Director, Safety Standards Programs
SES Director, Health Standards Programs
SES Director, Technical Support, TECFAP

Office of the Assistant Secretary for Mine Safety and Health Administration (MSHA)

SES Deputy Assistant Secretary for Mine Safety and Health Administration
SES Administrator for Metal and Nonmetal Mine Safety and Health
SES Deputy Administrator for Metal and Nonmetal Mine Safety and Health
SES Administrator for Coal Mine Safety and Health
SES Deputy Administrator for Coal
SES Director of Technical Support
SES Director of Educational Policy and Development
SES Chief, Standards, Regulations and Variances

Office of the Deputy Under Secretary for Employment Standards Administration (ESA)

SES Deputy Under Secretary for Employment Standards
SES Associate Deputy Under Secretary for Employment Standards
SES Director, Office of Federal Contract Compliance Programs (OFCCP)
SES Deputy Director, OFCCP
SES Deputy Administrator, Wage and Hour Division (WH)
SES Director, Office of Workers' Compensation Programs (OWCP)
SES Deputy Director, OWCP for Operations

Bureau of Labor Statistics (BLS)

SES Deputy Commissioner For Administration and Internal Operations

Office of the Solicitor of Labor

SES Deputy Solicitor
SES Deputy Solicitor for Regional Operations

Office of the Assistant Secretary Employment and Training Administration (ETA)

SES Associate Assistant Secretary, ETA
SES Administrator, Office of Strategic Planning and Policy Development (OSPPD)
SES Deputy Administrator, Office of Strategic Planning and Policy Development (OSPPD)
SES Director, Office of Research and Evaluation, (OSPPD)
SES Administrator, Office of Employment Security (OES)
SES Administrator, Office of Comprehensive Employment and Training (OCET)
SES Deputy Administrator, Office of Comprehensive Employment and Training (OCET)
SES Administrator, Office of Financial Control and Management Systems (OFCMS)

Office of the Deputy Under Secretary International Labor Affairs (ILAB)

SES Deputy Under Secretary for International Labor Affairs
SES Associate Deputy Under Secretary for International Affairs

Office of the Assistant Secretary for Policy (ASP)

SES Deputy Assistant Secretary for Policy, Evaluation and Research
SES Deputy Assistant Secretary for Economic Policy and Research

National Commission for Employment Policy (NCEP)

GS–18 Director

President's Committee on Employment of the Handicapped (PCEH)

SES Executive Director
SES Deputy Executive Director

Office of the Assistant Secretary for Veteran's Employment

SES Deputy Assistant Secretary

VOL 50 ISS 147 JL 31 1985 UMI

AGENCY: DEPARTMENT OF STATE

Positions:

FEMC Executive Asst to Secretary, S
FEMC* Sa to Sec & Coord Int'l Lab Aff, S
FEMC* Sa to Sec. & Exec Sec of Dept., S/S
FEMC* Mem, Foreign Policy Plan Council, S/P
FEMC Exec Asst to Deputy Secretary, D
FEMC Office Director, M/CT
FEMC* Deputy to the Under Secretary, P
FEMC* Deputy Coordinator, T/CIP
FEMC* Deputy Under Secretary for Economic Affairs, E
FEMC* Executive Assistant, M
FEMC Dir of Management Operations, M/MO
FEMC Dep Dir of Mgmt Operations, M/MC
FEMC* Dep Dir of Mgmt Operations, M/MO
FEMC Dep Dir of Mgmt Operations, M/MO
FEMC* Program Director, M/OFM
FEMC Deputy Inspector General, S/IG
FEMC Deputy Inspector General, S/IG
FEMC Director Political Military, PM/OD
FEMC United States Representative, PM/START
FEMC* United States Representative, PM/CDE
FEMC* Deputy Assistant Secretary, PM/AS
FEMC Medical Director, M/MED
FEMC Deputy Assistant Secretary, INM
FEMC* Deputy Assistant Secretary, RP/MGT
FEMC Deputy Assistant Secretary, EB
FEMC Deputy Assistant Secretary, EB/TDC
FEMC Deputy Assistant Secretary, EB/IFD
FEMC Deputy Assistant Secretary, EB/IEP
FEMC Deputy Assistant Secretary, INR
FEMC* Deputy Assistant Secretary, INR/CA
FEMC Deputy Assistant Secretary, INR/C
FEMC Deputy Assistant Secretary, H
FEMC Deputy Assistant Secretary, PA
FEMC Deputy Assistant Secretary, ARA
FEMC Deputy Assistant Secretary, ARA
FEMC* Deputy Assistant Secretary, ARA
FEMC Dep US Representative, ARA/USOAS
FEMC Deputy Assistant Secretary, EUR
FEMC Deputy Assistant Secretary, EUR
FEMC Deputy Assistant Secretary, EUR
FEMC Deputy Assistant Secretary, EUR
FEMC Deputy Assistant Secretary, EAP
FEMC Deputy Assistant Secretary, EAP
FEMC Deputy Assistant Secretary, EAP
FEMC Deputy Assistant Secretary, EAP
FEMC Deputy Assistant Secretary, NEA
FEMC Deputy Assistant Secretary, NEA
FEMC Deputy Assistant Secretary, NEA
FEMC Deputy Assistant Secretary, NEA
FEMC Deputy Assistant Secretary, AF
FEMC Deputy Assistant Secretary, AF
FEMC Deputy Assistant Secretary, AF
AD00* United States Representative, USUN
AD00* Deputy U.S. Representative, USUN
AD00* United States Representative USUN
AD00* Alternate Representative of USA Spec Pol Aff UN, USUN
AD00* United States Representative, USUN
AD00* United States Representative, USUN
AD00* United States Representative, USUN
AD07* United States Representative, USUN
FEMC Dep US Representative, USUN
FEMC Deputy Assistant Secretary IO
FEMC Deputy Assistant Secretary IO
FEMC Deputy Assistant Secretary, A/CDC
FEMC* Deputy Assistant Secretary, A/FBO
FEMC Director Assistant Secretary, DGP/PER
FEMC Deputy Assistant Secretary, DGP/PER
FEMC* Deputy Assistant Secretary, DGP/PER
FEMC Deputy Assistant Secretary, A/OPR
FEMC Deputy Assistant Secretary, A/SY
FEMC Director Foreign Service Inst, M/FSI
FEMC Deputy Assistant Secretary, A/OC
FEMC Deputy Assistant Secretary, CA
FEMC Deputy Assistant Secretary, CA/PPT
FEMC* Deputy Assistant Secretary, CA/VO
FEMC Deputy Assistant Secretary, CA/OCS
FEMC Deputy Chief of Mission, Buenos Aires
FEMC principal Officer, Rio De Janeiro
FEMC Principal Officer, Sao Paulo
FEMC Deputy Chief of Mission, Bogota
FEMC Principal Officer, Havana
FEMC* Charge d'Affaires, St. Georges
FEMC* Deputy Chief of Mission, Kingston
FEMC Deputy Chief of Mission, Mexico D.F
FEMC Deputy Chief of Mission, Panama
FEMC Deputy Chief of Mission, Lima
FEMC Deputy Chief of Mission, Caracas
FEMC Deputy Chief of Mission, Vienna
FEMC Dep US Representative, UNVIE Vienna
FEMC United States Representative, MBFR Vienna
FEMC Dep US Representative, MBFR Vienna
FEMC Deputy Chief of Mission, Brussels
FEMC Deputy Chief of Mission, Brussels-EC
FEMC Deputy Chief of Mission, Brussels NTO
FEMC United States Representative, Brussels NTO
FEMC Deputy Chief of Mission, Athens
FEMC United States Representative, Montreal
FEMC Deputy Chief of Mission, Ottawa
FEMC Principal Officer, Montreal
FEMC Principal Officer, Toronto
FEMC Deputy Chief of Mission, London
FEMC Deputy Chief of Mission, Paris
FEMC Deputy Chief of Mission, OECD Paris
FEMC United States Representative, OECD Paris
FEMC United States Representative, UNESCO PRS
FEMC Deputy Chief of Mission, Bonn
FEMC* Assistant Chief of Mission, Berlin
FEMC Principal Officer, Frankfurt
FEMC Principal Officer, Munich
FEMC Deputy Chief of Mission, Rome
FEMC Principal Officer, Milan
FEMC Principal Officer, Naples
FEMC* United States Representative, USM FAO Rome
FEMC* Deputy U.S. Representative, USM FAO Rome
FEMC* Charge d'Affaires, Warsaw
FEMC Deputy Chief of Mission, Madrid
FEMC Deputy Chief of Mission, Stockholm
FEMC United States Representative, (TNF) Geneva
FEMC Dep US Representative, US MIS GEN
FEMC United States Representative, US MIS GEN
FEMC Deputy Chief of Mission, Ankara
FEMC Principal Officer, Istanbul
FEMC Deputy Chief of Mission, Moscow
FEMC Principal Officer, Hong Kong
FEMC Deputy Principal Officer, Hong Kong
FEMC Deputy Chief of Mission, Beijing
FEMC* Principal Officer, Guangzhou
FEMC Deputy Chief of Mission, Jakarta
FEMC Deputy Chief of Mission, Canberra
FEMC Principal Officer, Melbourne
FEMC Principal Officer, Sydney
FEMC Deputy Chief of Mission, Tokyo
FEMC Deputy Chief of Mission, Seoul
FEMC Deputy Chief of Mission, Vientiane
FEMC Deputy Chief of Mission, Manila
FEMC* Director, Asian Develop Bank, ASIAN DEV BK
FEMC Deputy Chief of Mission, Bangkok
FEMC Deputy Chief of Mission, Cairo
FEMC Deputy Chief of Mission, New Delhi
FEMC Principal Officer, Bombay
FEMC* Principal Officer, Baghdad
FEMC Deputy Chief of Mission, Tel Aviv
FEMC Principal Officer, Jerusalem
FEMC Deputy Chief of Mission, Beirut
FEMC Deputy Chief of Mission, Islamabad
FEMC Deputy Chief of Mission, Jidda
FEMC* Chief of Mission, Riyadh—USLO
FEMC Deputy Chief of Mission, Kinshasa
FEMC* Charge d'Affaires, Addis, Ababa
FEMC Deputy Chief of Mission, Nairobi
FEMC Deputy Chief of Mission, Lagos
ADOO Commissioner, IJC
SROO Commissioner Intl Joint Comm, IJC

AGENCY: DEPARTMENT OF TRANSPORTATION

Positions:

OFFICE OF THE SECRETARY OF TRANSPORTATION

SES Deputy General Counsel
SES Deputy Assistant Secretary for Planning and Policy Analysis
SES Deputy Assistant Secretary for Policy and Program Development
SES Deputy Assistant Secretary for Budget and Programs
SES Deputy Assistant Secretary for Governmental Affairs
SES Assistant Secretary for Administration
SES Deputy Assistant Secretary for Administration
SES Director, Office of Civil Rights

OFFICE OF THE INSPECTOR GENERAL

SES Assistant Inspector General for Auditing, Office of the Secretary
SES* Deputy Assistant Inspector General for Auditing
SES* Director, Office of Surface Transportation Programs, Office of the Assistant Inspector General for Auditing
SES* Director, Office Aviation, Marine and Research Programs, Office of the Inspector General for Auditing
SES Director, Office of DOT-Wide Programs, Office of the Secretary
SES Assistant Inspector General for Investigations, Office of the Secretary
SES Assistant Inspector General for Policy, Planning and Resources, Office of the Secretary

UNITED STATES COAST GUARD

0-7/0-8 Chief Counsel (Rear Admiral)

SES Deputy Chief Counsel
0-7/0-8 Chief of Staff (Rear Admiral)
0-7/0-8 Chief, Office of Boating, Public and Consumer Affairs (Rear Admiral)
0-7/0-8 Comptroller (Rear Admiral)
0-7/0-8 Chief, Office of Engineering (Rear Admiral)
0-7/0-8 Chief, Office of Marine Environment and Systems (Rear Admiral)
0-7/0-8 Chief, Office of Merchant Marine Safety (Rear Admiral)
0-7/0-8 Chief, Office of Navigation (Rear Admiral)
0-7/0-8 Chief, Office of Command, Control and Communication (Rear Admiral)
0-7/0-8 Chief, Office of Operations (Rear Admiral)
0-7/0-8 Chief, Office of Research and Development (Rear Admiral)
0-7/0-8 District Commanders (Rear Admirals) (10)

FEDERAL AVIATION ADMINISTRATION

SES Associate Administrator for Administration
SES Deputy Associate Administrator for Administration
SES Associate Administrator for Airports
SES* Associate Administrator for Development and Logistics
SES* Deputy Associate Administrators for Development and Logistics (2)
SES Associate Administrator for Aviation Standards
SES Deputy Associate Administrator for Aviation Standards
SES Associate Administrator for Policy and International Aviation
SES Federal Air Surgeon
SES Deputy Federal Air Surgeon
SES Chief Counsel
SES Deputy Chief Counsel
SES Director, Eastern Region (New York)
SES Deputy Director, Eastern Region (New York)
SES Deputy Director, New England Region (Boston)
SES Director, New England Region (Boston)
SES Director, Southern Region (Atlanta)
SES Deputy Director, Southern Region (Atlanta)
SES Director, Southwest Region (Fort Worth)
SES Deputy Director, Southwest Region (Fort Worth)
SES Director, Central Region (Kansas City)
SES Deputy Director, Central Region (Kansas City)
SES Director, Great Lakes Region (Chicago)
SES Deputy Director, Great Lakes Region (Chicago)
SES Director, Western-Pacific Region (Los Angeles)
SES Deputy Director, Western-Pacific Region (Los Angeles)
SES Director, Northwest Mountain Region (Seattle)
SES Deputy Director, Northwest Mountain Region (Seattle)
SES Director, Alaska Region (Anchorage)
SES Deputy Director, Alaska Region (Anchorage)
SES Director, Europe-Africa-Middle East Office

FEDERAL HIGHWAY ADMINISTRATION

SES Deputy Administrator
SES Associate Administrator for Planning and Policy Development
SES Associate Administrator for Research Development and Technology
SES Associate Administrator for Right-Of-Way and Environment
SES Associate Administrator for Engineering and Operations
SES Associate Administrator for Safety, Traffic Engineering and Motor Carriers
SES Associate Administrator for Administration
SES Chief Counsel
SES Regional Federal Highway Administrators (9)
SES Deputy Administrator
SES Executive Director

FEDERAL RAILROAD ADMINISTRATION

SES Deputy Administrator
SES Associate Administrator for Administration
SES Chief Counsel
SES Associate Administrator for Federal Assistance
SES Deputy Associate Administrator for Federal Assistance
SES Associate Administrator for Intercity Programs
SES Deputy Associate Administrator for Intercity Programs
SES Associate Administrator for Research and Development
SES Associate Administrator for Policy
SES Associate Administrator for Safety
SES Deputy Associate Administrator for Safety
SES General Manager, Alaska Railroad
SES* Attorney-Advisor

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

SES Deputy Administrator
SES Chief Counsel
SES Associate Administrator for Rulemaking
SES Deputy Associate Administrator for Rulemaking
SES Associate Administrator for Plans and Programs
SES Associate Administrator for Traffic Safety Programs
SES* Deputy Associate Administrator for Traffic Safety Programs
SES Associate Administrator for Research and Development
SES Associate Administrator for Enforcement
SES Associate Administrator for Administration

URBAN MASS TRANSPORTATION ADMINISTRATION

SES Deputy Administrator
SES Executive Director
SES Associate Administrator for Administration
SES Chief Counsel
SES Director, Office of Financial Management
SES Associate Administrator for Technical Assistance
SES Associate Administrator for Budget and Policy
SES Associate Administrator for Grants Management

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SES General Counsel
SES Associate Administrator for Resident Manager

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

SES Administrator
SES Chief Counsel
SES Director, Materials Transportation Bureau
SES Director, Transportation Systems Center
SES Deputy Director, Transportation Systems Center

MARITIME ADMINISTRATION

SES Deputy Administrator
SES Deputy Administrator for Inland Waterways and Great Lakes
SES Chief Counsel
SES Deputy Chief Counsel
SES Associate Administrator for Policy and Administration
SES Associate Administrator for Maritime Aids
SES Deputy Associate Administrator for Maritime Aids (Trade), Office of the Associate Administrator for Maritime Aids
SES Deputy Associate Administrator for Maritime Aids (Finance), Office of the Associate Administrator for Maritime Aids
SES Associate Administrator for Shipbuilding and Ship Operations
SES Director, Office of Ship Construction, Office of the Associate Administrator for Shipbuilding and Ship Operations
SES Director, Office of Shipbuilding Costs, Office of the Associate Administrator for Shipbuilding and Ship Operations
SES Director, Office of Ship Operations, Office of the Associate Administrator for Shipbuilding and Ship Operations
SES Associate Administrator for Marketing and Domestic Enterprise
SES Associate Administrator for Research and Development
SES Superintendent, Merchant Marine Academy

AGENCY: DEPARTMENT OF THE TREASURY

Positions:

OFFICE OF THE ASSISTANT SECRETARY FOR DOMESTIC FINANCE

SES Deputy Assistant Secretary, State and Local Finance
SES Deputy Assistant Secretary, Federal Finance

OFFICE OF THE ASSISTANT SECRETARY FOR INTERNATIONAL MONETARY AFFAIRS

SES Deputy Assistant Secretary for International Monetary Affairs
SES Deputy Assistant Secretary for Developing Nations Finance
SES Deputy Assistant Secretary, Trade and Investment Policy

OFFICE OF THE ASSISTANT SECRETARY FOR TAX POLICY

SES Deputy Assistant Secretary, Tax Policy

VOL 50 ISS 147 JUL 31 1985 UMI

SES Deputy Assistant Secretary, Tax Policy and Director, Office of Tax Analysis

OFFICE OF THE FISCAL ASSISTANT SECRETARY

SES Assistant Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR ELECTRONIC SYSTEMS AND INFORMATION TECHNOLOGY

SES Assistant Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR CONSUMER LIAISON AND BUSINESS AFFAIRS

SES Assistant Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Assistant Secretary
SES* Deputy Assistant Secretary for Operations

TREASURER OF THE UNITED STATES

GS-18 Treasurer and National Savings Bond Director, Office of the Secretary
SES Deputy Treasurer

OFFICE OF REVENUE SHARING

SES Director

COMPTROLLER OF THE CURRENCY

SES Senior Advisor to the Comptroller
SES Deputy Comptroller, Bank Organization and Structure
SES Deputy Comptroller, Industry and Public Affairs
SES Senior Deputy Comptroller for National Operations
SES Senior Deputy Comptroller for Policy and Planning
SES Senior Deputy Comptroller for Bank Supervision

CUSTOMS SERVICE

SES Commissioner
SES Deputy Commissioner
SES Deputy Commissioner, International Affairs
SES Assistant Commissioner, Enforcement
SES Deputy Assistant Commissioner, Enforcement
SES Director, Office of Investigations
SES Assistant Commissioner, Commercial Operations
SES Deputy Assistant Commissioner, Inspection and Control
SES Assistant Commissioner, Inspection and Control
SES Comptroller
SES* Assistant Commissioner, Internal Affairs

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SES Commissioner
SES Deputy Commissioner

INTERNAL REVENUE SERVICE

SES Deputy Commissioner
SES Associate Commissioner (Data Processing)
SES Associate Commissioner (Operations)
SES Associate Commissioner (Policy and Management)
SES Assistant Commissioner, (Inspection)
SES Regional Commissioner, (C)
SES Regional Commissioner, (MA)
SES Regional Commissioner, (MW)
SES Regional Commissioner, (NA)
SES Regional Commissioner, (SE)
SES Regional Commissioner, (SW)
SES Regional Commissioner, (W)

LEGAL DIVISION

SES Deputy General Counsel, Office of the General Counsel
SES Assistant General Counsel and Director, Tax Legislative Counsel, Office of the General Counsel
SES International Tax Counsel and Director, Office of International Tax Counsel, Office of the General Counsel
SES Chief Counsel, U.S Customs Service
SES Deputy Chief Counsel, U.S. Customs Service
SES Chief Counsel, Comptroller of the Currency
SES Deputy Chief Counsel, Comptroller of the Currency
SES Chief Counsel, Bureau of Alcohol, Tobacco and Firearms
SES Deputy Chief Counsel, Bureau of Alcohol, Tobacco and Firearms
SES Deputy Chief Counsel, Internal Revenue Service

U.S. MINT

GS-18 Director
SES Deputy Director of the Mint
SES Associate Director for Policy and Management
SES Associate Director for Operations

U.S. SAVINGS BONDS DIVISION

No section 207(d)(1)(C) designations.

U.S. SECRET SERVICE

SES Director
SES Deputy Director

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SES Director
SES Deputy Director/Associate Director (Compliance Operations)
SES Deputy Director/Associate Director (Law Enforcement)
SES Assistant Director, Internal Affairs

BUREAU OF THE PUBLIC DEBT

SES Commissioner of Public Debt

OFFICE OF REVENUE SHARING

SES Director

FEDERAL LAW ENFORCEMENT TRAINING CENTER

No section 207(d)(1)(C) designations.

BUREAU OF ENGRAVING AND PRINTING

SES Director
SES Deputy Director
SES Assistant Director (Administration)
SES Assistant Director (Operations)
SES Assistant Director (Research and Engineering)

AGENCY: ACTION

Positions:

SES Executive Officer
SES Deputy Associate Director for Older Americans Volunteer Program (OAVP)
SES Assistant Director for Administration
SES Deputy Assistant Director for Administration
SES General Counsel
SES Deputy Assistant Director for Volunteer Liaison
SES Assistant Director for Financial Management
SES Deputy Associate Director for VISTA/Service Learning Programs
SES Director, Vietnam Veterans Leadership Program
SES Inspector General
SES Executive Assistant
SES* Deputy General Counsel

AGENCY: ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Positions:

SES General Counsel
SES Executive Director
SES Research Director

AGENCY: ADVISORY COUNCIL ON HISTORIC PRESERVATION

Positions:

SES Executive Director
SES General Counsel

AGENCY: AMERICAN BATTLE MONUMENTS COMMISSION

Positions:

0-8 Secretary

AGENCY: APPALACHIAN REGIONAL COMMISSION

Positions: No section 207(d)(1)(C) designations.

AGENCY: BOARD FOR INTERNATIONAL BROADCASTING

Positions:

SES Executive Director

AGENCY: CENTRAL INTELLIGENCE AGENCY

Positions:

AD Executive Director
AD All Deputy Directors and Associate Deputy Directors of Directorates
AD All Heads of Independent Offices

AGENCY: CIVIL AERONAUTICS BOARD

Positions:

SES Managing Director, Office of Managing Director
SES Director, Office of Congressional, Community & Consumer Affairs
SES Director, Bureau of Domestic Aviation
SES Deputy Director/Associate Director, Legal, Bureau of Domestic Aviation
SES General Counsel, Office of the General Counsel
SES Deputy General Counsel, Office of the General Counsel
SES* Director, Bureau of International Aviation
SES Deputy Director, Bureau of International Aviation

AGENCY: COMMISSION ON CIVIL RIGHTS

Positions:

SES Solicitor
SES Assistant Staff Director for Regional Programs
SES Assistant Staff Director for Administration
SES Assistant Staff Director for Program Planning and Evaluation
SES Acting Assistant Staff Director for Program and Policy Review
SES Assistant Staff Director for Civil Rights Evaluation
SES Assistant Staff Director for Congressional and Public Affairs
SES Deputy Staff Director
SES General Counsel

AGENCY: COMMISSION OF FINE ARTS

Positions: No section 207(d)(1)(C) designations.

AGENCY: COMMODITY FUTURES TRADING COMMISSION

Positions:

SES Executive Director
SES Deputy Executive Director (1)
SES Director, Division of Enforcement
SES Deputy Director, Division of Enforcement (3)
SES Chief Economist, Division of Economic Analysis
SES Deputy Chief Economist, Division of Economic Analysis (1)
SES Director, Division of Trading and Markets
SES Deputy Director, Division of Trading and Markets (1)
SES Deputy General Counsel, Office of General Counsel (3)
SES Associate Director for Market Analysis, Division of Economic Analysis
SES General Counsel
SES Associate General Counsel for Opinions and Review, Office of General Counsel
SES* Associate Director for Surveillance, Division of Economic Analysis
SES* Chief Counsel, Division of Trading and Markets

AGENCY: CONSUMER PRODUCT SAFETY COMMISSION

Positions:

SES General Counsel
SES Deputy General Counsel
SES Executive Director
SES Deputy Executive Director
SES Associate Executive Director for Engineering Sciences
SES Associate Executive Director for Compliance and Administration
SES Associate Executive Director for Administrative Litigation
SES Associate Executive Director for Health Sciences
SES Associate Executive Director for Epidemiology
SES Director, Office of Program Management
SES Director, Office of Budget, Program Planning and Evaluation
SES Senior Staff Officer

AGENCY: COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Positions: No section 207(d)(1)(C) designations.

AGENCY: DISTRICT OF COLUMBIA GOVERNMENT

Positions:

AD Superintendent of Schools
AD President, University of the District of Columbia
AD General Manager, Convention Center

AGENCY: ENVIRONMENTAL PROTECTION AGENCY

Positions:

SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES Regional Administrator, Region X
SES Director, Office of Radiation Programs, OAR
SES Director, Office of Water Program Operations, OW
SES Director, Office of Water Regulations and Standards, OW
SES Director, Office of Solid Waste, SWER
SES Director, Office of Drinking Water, OW
SES Director, Office of Pesticides Programs, OPTS
SES Director, Office of Monitoring Systems and Quality Assurance, ORD
SES Director, Office of Environmental Processes and Effects Research, ORD
SES Director, Office of Environmental Engineering and Technology, ORD
SES Director, Office of Toxic Substances, OPTS
SES Deputy General Counsel, OGC
SES Director, Office of Federal Activities, OEA
SES Director, Office of Mobile Sources, OAR
SES Director, Office of Emergency and Remedial Response, SWER
SES Deputy Inspector General, OIA
SES Deputy Inspector General for Investigations, OIG
SES* Deputy Assistant Administrator for Administration and Resource Management, OARM
SES* Senior Enforcement Counsel, OECM
SES* Deputy Assistant Administrator for Policy, Planning and Evaluation, OPPE
SES* Director, Office of Policy Analysis, OPPE
SES* Director, Office of Standards and Regulations, OPPE
SES* Deputy Assistant Administrator for External Affairs, OEA
SES* Director, Office of Congressional Liaison, OEA
SES* Director, Office of Legislative Analysis
SES* Assistant Inspector General for Audits, OIG
SES* Deputy Assistant Administrator for Water, OW
SES* Director, Office of Marine and Estaurine Protection, OW
SES* Director, Office of Ground Water Protection, OW
SES* Director, Office of Water Enforcement and Permits, OW
SES* Deputy Assistant Administrator for Solid Waste and Emergency Response, SWER
SES* Director, Office of Waste Programs Enforcement, SWER
SES* Deputy Assistant Administrator for Air and Radiation, OAR
SES* Director, Office of Air Quality Planning and Standards, OAR
SES* Deputy Assistant Administrator for Pesticides and Toxic Substances, OPTS
SES* Deputy Assistant Administrator for Research and Development, ORD
SES* Deputy Regional Administrator Region I
SES* Director, Office of Health Research, ORD
SES* Deputy Regional Administrator, Region II
SES* Deputy Regional Administrator, Region III
SES* Deput, Regional Administrator, Region IV
SES* Deputy Regional Administrator, Region V
SES* Deputy Regional Administrator, Region VI
SES* Deputy Regional Administrator, Region VII
SES* Deputy Regional Administrator, Region VIII
SES* Deputy Regional Administrator, Region IX
SES* Deputy Regional Administrator, Region X

AGENCY: EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Positions:

SES Deputy General Counsel
SES Associate General Counsel for Trial Services
SES Legal Counsel
SES Director, Office of Program Operations

AGENCY: EXPORT-IMPORT BANK OF THE UNITED STATES

Positions:

GS-18 General Counsel
GS-17 Senior Vice President, Exporter Credits, Guarantees and Insurance
GS-17 Senior Vice President, Direct Credits and Financial Guarantees
GS-17 Special Assistant to the President and Chairman

AGENCY: FARM CREDIT ADMINISTRATION

Positions:

SES Senior Deputy Governor
SES Chief of Staff to the Senior Deputy Governor
SES General Counsel
SES Deputy Governor, Office of Supervision

SES Associate Deputy Governor, Office of Supervision
SES Assistant Deputy Governor, Office of Supervision
SES Deputy Governor and Chief Examiner
SES Associate Deputy Governor, Office of Examination
SES Deputy Governor, Office of Administration
SES* Associate Deputy Governor and Chief Economist, Office Administration
SES Director, Administrative Division
SES Director, Congressional and Public Affairs Division
GS–18 Members of the Federal Farm Credit Board (13)

AGENCY: FEDERAL COMMUNICATIONS COMMISSION

Positions:

SES Managing Director
SES General Counsel
SES Chief Scientist
SES Chief, Mass Media Bureau
SES Chief, Common Carrier Bureau
SES Chief, Private Radio Bureau
SES Chief, Field Operations Bureau
SES Chief, Office of Plans and Policy
SES Deputy Managing Director
SES Deputy General Counsel
SES Deputy Chief, Scientist (Policy)
SES Deputy Chief, Scientist (Operations)
SES Deputy Chief, Mass Media Bureau (Operations)
SES Deputy Chief, Mass Media Bureau (Policy)
SES Deputy Chief, Common Carrier Bureau (Policy)
SES Deputy Chief, Common Carrier Bureau (Operations)
SES Deputy Chief, Private Radio Bureau
SES Deputy Chief, Field Operations Bureau
SES* Deputy Chief, Office of Plans and Policy

AGENCY: FEDERAL DEPOSIT INSURANCE CORPORATION

Positions:

AD–18 Deputy to the Chairman
AD–18 Deputy to the Director
AD–18 General Counsel
AD–18 Director, Division of Bank Supervision
AD–18 Director, Division of Liquidation
AD–18 Director, Division of Research and Strategic Planning
AD–18 Director, Division of Accounting and Corporate Services
AD–17 Associate Director, Division of Bank Supervision, Administration and Corporate Applications
AD–17 Deputy General Counsel, Open Bank Regulation and Supervision, Legal Division
AD–17 Deputy General Counsel, Closed Bank Litigation and Liquidation, Legal Division
AD–17 Associate Director, Division of Bank Supervision, Enforcement and Surveillance
AD–17 Associate Director, Division of Bank Supervision, Planning and Program Development
AD–17 Deputy Director, Regional Offices Coordination, Division of Bank Supervision
AD–17 Regional Director, Atlanta Region, Division of Bank Supervision
AD–17 Regional Director, Boston Region, Division of Bank Supervision
AD–17 Regional Director, Chicago Region, Division of Bank Supervision
AD–17 Regional Director, Columbus Region, Division of Bank Supervision
AD–17 Regional Director, Dallas Region, Division of Bank Supervision
AD–17 Regional Director, Kansas City Region, Division of Bank Supervision
AD–16–(17) Regional Director, Madison Region, Division of Bank Supervision
AD–17 Regional Director, Memphis Region, Division of Bank Supervision
AD–17 Regional Director, Minneapolis Region, Division of Bank Supervision
AD–17 Regional Director, New York Region, Division of Bank Supervision
AD–17 Regional Director, Omaha Region, Division of Bank Supervision
AD–17 Regional Director, Philadelphia Region, Division of Bank Supervision
AD–17 Regional Director, San Francisco Region, Division of Bank Supervision
AD–17 Associate Director, Division of Accounting and Corporate Services, Financial Services
AD–17 Associate Director, Division of Accounting and Corporate Services, Management Information Services
AD–17 Associate Director, Division of Liquidation (Operations)
AD–17 Associate Director, Division of Liquidation (Credit)
AD–16–17 Associate Director, Division of Liquidation (Administration)
AD–17 Assistant Director, Division of Accounting and Corporate Services
AD–16–(17) Director (Liquidation), Southeast Area, Liquidation Office, Division of Liquidation
AD–16–17 Director (Liquidation), Southwest Area Liquidation Office, Division of Liquidation
AD–16–17 Director (Liquidation), Northeast Areal Liquidation Office, Division of Liquidation
AD–15–17 Director (Liquidation), Western Area Liquidation Office, Division of Liquidation
AD–17 Director (Liquidation), Midwest Area Liquidation Office, Division of Liquidation
AD–17* Associate Director, Division of Research and Strategic Planning

AGENCY: FEDERAL ELECTION COMMISSION

Positions:

GS–17 Deputy General Counsel

AGENCY: FEDERAL EMERGENCY MANAGEMENT AGENCY

Positions:

SES* Regional Director, FEMA, Region I, Boston, Massachusetts
SES* Regional Director, FEMA, Region II, New York, New York
SES* Regional Director, FEMA, Region III, Philadelphia, Pennsylvania
SES* Regional Director, FEMA, Region IV, Atlanta, Georgia
SES* Regional Director, FEMA, Region V, Chicago, Illinois
SES* Regional Director, FEMA, Region VI, Denton, Texas
SES* Regional Director, FEMA, Region VII, Kansas City, Missouri
SES* Regional Director, FEMA, Region VIII, Denver, Colorado
SES* Regional Director, FEMA, Region IX, San Francisco, California
SES* Regional Director, FEMA, Region X, Bothell, Washington
SES* Assistant for Special Plans
SES* Deputy Executive Secretary (EMPB)

Office of Executive Administration

SES Director, Public Affairs
SES Executive Deputy Director
SES General Counsel
SES Inspector General
SES Director of Personnel

Federal Insurance Administration

SES* Deputy Administrator

Resource Management and Administration Directorate

SES* Deputy Associate Director
SES Comptroller
SES Director of Personnel

Training And Education

SES Superintendent of National Fire Academy
SES Superintendent, Emergency Management Institute

National Preparedness Programs Directorate

SES Deputy Associate Director
SES Assistant Associate for Resources Preparedness
SES Assistant Associate for Government Preparedness
SES Assistant Associate for Mobilization Preparedness

State and Local Programs and Support Directorate

SES Deputy Associate Director

State and Local Programs and Support Directorate

SES Assistant Associate Director, Natural & Technological Hazards
SES Assistant Associate Director, Emergency Management Programs
SES Assistant Associate Director, Disaster Assistance Programs
SES Assistant Associate Director, Emergency Operations and Coordination

AGENCY: FEDERAL ENERGY REGULATORY COMMISSION

Positions:

SES Executive Director, Office of the Executive Director
SES Deputy Executive Director, Office of the Executive Director
SES Director, Office of Electric Power Regulation
SES Deputy Director, Office of Electric Power Regulation
SES Director, Office of Pipeline and Producer Regulation
SES Deputy Director, Office of Pipeline and Producer Regulation

SES General Counsel, Office of General Counsel
SES Deputy General Counsel, Office of General Counsel
SES Director, Office of Regulatory Analysis
SES Deputy Director, Office of Regulatory Analysis
SES Chief Accountant, Office of Chief Accountant
SES Deputy Chief Accountant, Office of Chief Accountant
SES Director, Office of Opinions and Review
SES Deputy Director, Office of Opinions and Review

AGENCY: FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Positions:

GS–18 Executive Secretary

AGENCY: FEDERAL HOME LOAN BANK BOARD

Positions:

SES General Counsel
SES Director, Office of District Banks
SES Director, Office of Policy and Economic Research
SES Director, Federal Savings and Loan Insurance Corporation
SES Executive Staff Director
SES Director, Office of Examinations and Supervision
SES Director, Internal Evaluation and Compliance Office
SES* Chief Accountant

AGENCY: FEDERAL HOME LOAN MORTGAGE CORPORATION

Positions:

AD President—Chief Executive Officer
AD Executive Vice President—Chief Financial Officer
AD Executive Vice President—Marketing and Mortgage Operations
AD Senior Vice President—Corporate Information Resources
AD Senior Vice President—Public Affairs
AD Senior Vice President—Regional Operations
AD Vice President and General Counsel
AD Vice President—Controller
AD Treasurer

AGENCY: FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Positions:

SES Deputy Federal Inspector (Washington)
SES Deputy Federal Inspector (Alaska)
SES General Counsel
SES Director, Environment
SES Director, Engineering
SES Director of Administration
SES Director, Construction
SES* Director of Regulatory Affairs

AGENCY: FEDERAL LABOR RELATIONS AUTHORITY

Positions:

GS–18 Chairman, Federal Service Impasses Panel
GS–18 Members of the Federal Service Impasses Panel (6)
GS–18 Member, Foreign Service Labor Relations Board
GS–17 Chief Administrative Law Judge
SES Executive Director/Administrator
SES Solicitor
SES Director, Case Management
SES Chief Counsel
SES Assistant Chief Counsel, Negotiability
SES Assistant Chief Counsel, Representation and Unfair Labor Practices
SES Assistant Chief Counsel, Operations and Arbitration
SES Associate General Counsel
SES Assistant General Counsel for Field Management
SES Assistant General Counsel for Field Management/Legal Policy
SES Assistant General Counsel, Appeals
SES Regional Director, Boston
SES Regional Director, New York
SES Regional Director, Washington
SES Regional Director, Atlanta
SES Regional Director, Chicago
SES Regional Director, Dallas
SES Regional Director, Denver
SES Regional Director, Los Angeles
SES Regional Director, San Francisco
SES Executive Director, Federal Service Impasses Panel

AGENCY: FEDERAL MARITIME COMMISSION

Positions:

SES General Counsel
SES Managing Director
SES Director, Bureau of Tariffs
SES Director, Bureau of Agreements and Trade Monitoring
SES Deputy General Counsel
SES Director, Bureau of Hearing Counsel
SES Secretary
SES Director of Programs
SES Director, Office of Policy Planning and International Affairs
SES Director, Bureau of Investigations
SES* Counsel to the Chairman

AGENCY: FEDERAL MEDIATION AND CONCILIATION SERVICE

Positions:

SES Deputy Director
SES Executive Director
SES Regional Directors(4)

AGENCY: FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Positions:

SES Executive Director
SES General Counsel

AGENCY: FEDERAL RESERVE SYSTEM

Positions:

FRO–I Staff Director for Monetary and Financial Policy
FRO–I Staff Director for Federal Reserve Bank Activities
FRO–I Staff Director for Management
FRO–I General Counsel
FRO–I Director, Division of Research and Statistics
FRO–I Director, Division of International Finance
FRO–I Director, Division of Supervision and Regulation
FRO–II Special Assistant to the Chairman
FRO–II Secretary of the Board
FRO–II Director, Division of Federal Reserve Bank Operations
FRO–II Director, Division of Consumer and Community Affairs
FRO–II Director, Division of Personnel
FRO–II Director, Division of Data Processing
FRO–II Assistant to the Board (for Public Affairs)
FRO–II Assistant to the Board (for Congressional Liaison)
FRO–II Deputy Staff Director (for Monetary and Financial Policy)
FRO–II Deputy Director, Division of Research and Statistics
FRO–II Deputy Director, Division of Data Processing
FRO–II Deputy Director, Division of Banking Supervision and Regulation
FRO–III Senior Associate Director, Division of International Finance
FRO–III* Staff Advisor, Division of Internatinal Finance
FRO–III* Associate General Counsel (2)
FRO–III* Assistant to the Board (for Monetary and Financial Policy)
FRO–III Associate Director Division of Research and Statistics
FRO–II* Deputy Associate Director, Division of Research and Statistics
FRO–III* Associate Director, Division of International Finance
FRO–III* Associate Director, Division of International Finance
FRO–III* Associate General Counsel
FRO–III* Associate General Counsel
FRO–III* Assistant to the Board (for Monetary and Financial Policy)

AGENCY: FEDERAL TRADE COMMISSION

Positions:

SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Competition
SES Deputy Directors, Bureau of Competition
SES Director, Bureau of Consumer Protection
SES Deputy Directors, Bureau of Consumer Protection
SES Director, Bureau of Economics
SES Deputy Directors, Bureau of Economics
SES Executive Director
SES Executive Assistant to the Chairman
SES Director, Office of Congressional Relations

AGENCY: GENERAL ACCOUNTING OFFICE

Positions:

SES Deputy Director for Planning and Reporting (RCED)
SES Director, Resources, Community and Economic Development Division (RCED)
SES Deputy Director for Operations (RCED)
SES Director, Accounting and Financial Management Division (AFMD)

VOL 50 ISS 147 JL 31 1985 UMI

SES Deputy Director, (AFMD)
SES Director, General Government Division (GGD)
SES* Deputy Director for Planning and Reporting (GGD)
SES* Deputy Director for Operations (GGD)
SES Director, Human Resources Division
SES Deputy General Counsel
SES Director, Office of Internal Evaluation
SES* Director, European Branch
SES* Director, Far East Branch
SES Director, Office of Policy
SES Director of Personnel
SES Director, General Services and Controller
SES Deputy Director of Personnel
SES Deputy Director, General Services and Controller
SES Director, Office of Organization and Human Development
SES* Director, Program Evaluation and Methodology Division
SES* Deputy Director, Program Evaluation and Methodology Division
SES Director, Civil Rights Office
SES General Counsel
SES Assistant Comptroller General for Program Evaluation
SES* Assistant Comptroller General
SES Assistant Comptroller General for Planning and Reporting
SES Assistant Comptroller General For Operations
SES Assistant Comptroller General for Huiman Resources
SES Director, Office of Quality Assurance
SES* Special Assistant to the Assistant Comptroller General for Operations (2)
SES* Assistant to the Comptroller General for Retirement Matters
SES* Director, Personnel Systems Development Project
SES* Chief Economist
SES* Deputy Director (OCE)
SES* Director, National Security and International Affairs (NSIAD)
SES* Deputy Director for Planning and Reporting (NSIAD)
SES* Deputy Director for Operations (NSIAD)
SES* Director for Planning (NSIAD)
SES* Director, Information Management and Technology Division (IMTEC)
SES* Deputy Director for Operations (IMTEC)
SES Regional Manager, Los Angeles
SES Regional Manager, Dallas
SES Regional Manager, Philadelphia
SES Regional Manager, Atlanta
SES Regional Manager, Boston
SES Regional Manager, San Francisco
SES Regional Manager, Washington
SES Regional Manager, Denver
SES Regional Manager, New York
SES Regional Manager, Detroit
SES Regional Manager, Cincinnati
SES Regional Manager, Kanas City
SES Regional Manager, Seattle
SES Regional Manager, Chicago
SES Regional Manager, Norfolk

AGENCY: GENERAL SERVICES ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

SES Deputy Administrator
SES Association Administrator for Administration
SES* Deputy Associate Administrator for Administration
SES Associate Administrator for Operations
SES Deputy Associate Administrator for Operations
SES Associate Administrator for Policy and Management
SES Deputy Associate Administrator for Policy and Management
SES Director, Office of Small and Disadvantaged Business Utilization
SES* Executive Assistant to the Administrator

OFFICE OF INFORMATION SECURITY OVERSIGHT

SES Director of Information Oversight

OFFICE OF ACQUISITION POLICY

SES Assistant Administrator for Acquisition Policy
SES Deputy Assistant Administrator for Acquisition Policy
SES Director of Acquisition Management and Contract Clearance
SES* Policy Advisor to the Assistant Administrator

OFFICE OF THE COMPTROLLER

SES Comptroller
SES Director of Finance
SES Director of Budget
SES Director of Transportation Audits

OFFICE OF INFORMATION RESOURCES MANAGEMENT (OIRM)

SES Assistant Administrator for Information Resources Management
SES Deputy Assistant Administrator for Information Resources Management
SES Deputy Assistant Administrator for Central Information Services
SES Director of Information Resources Management Policy
SES Director of Information Resources Procurement
SES Director of Network Services
SES Executive Director
SES Director of Regional Information Services
SES Director of Advance Planning
SES Director of GSA Information Systems
SES Director of Office of Information Systems
SES Director of Systems and Technology Assessment
SES* Program Manager, Washington Interagency Telecommunications System

FEDERAL PROPERTY RESOURCES SERVICE (FPRS)

SES Commissioner, Federal Property Resources Service
SES Assistant Comissioner for Real Property
SES Assistant Commissioner for Stockpile Management
SES Assistant Commissioner for Stockpile Transactions

OFFICE OF FEDERAL SUPPLY AND SERVICES (FSS)

SES Assistant Administrator for Federal Supply and Services
SES Deputy Assistant Administrator for Federal Supply and Services
SES Director of Management
SES Director of Policy and Agency Assistance
SES Director of Procurement
SES Director of Contract Management
SES Director of Property Management
SES Director of Transportation

NATIONAL ARCHIVES AND RECORDS SERVICE (NARS)

SES Archivist of the United States
SES Deputy Archivists of the United States
SES Associate Archivist for Managment

PUBLIC BUILDINGS SERVICE (PBS)

SES Commissioner, Public Buildings Service
SES* Assistant Commissioner for Space Management
SES Assistant Commissioner for Buildings Management
SES Assistant Commissioner for Federal Protective Service
SES Assistant Commissioner for Policy and Program Support
SES Assistant Commissioner for Public Utilities
SES* Assistant Commissioner for Design and Construction

OFFICE OF GENERAL COUNSEL (OGC)

SES General Counsel
SES Deputy General Counsel

GSA BOARD OF CONTRACT APPEALS

GSA-18 Chairman of Chief Administrative Judge of Board of Contract Appeals
GS-17 Vice Chairman, Board of Contract Appeals

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General
SES Assistant Inspector General for Policy, Plans and Management Systems
SES Assistant Inspector General for Auditing
SES Deputy Assistant Inspector General for Auditing
SES Assistant Inspector General for Investigations

OFFICE OF THE ASSOCIATE ADMINISTRATOR FOR POLICY AND MANAGEMENT SYSTEMS

SES Director of Oversight
SES Director, Office of Administration Services

REGIONAL OFFICES

SES Regional Administrator, Region 1 (Boston)
SES Deputy Regional Administrator, Region 1 (Boston)
SES* Assistant Regional Administrator for Public Buildings and Real Property, Region 1 (Boston)
SES Regional Administrator, Region 2 (New York)
SES Deputy Regional Administrator, Region 2 (New York)
SES Regional Controller, Region 2 (New York)
SES Assistant Regional Administrator for Public Buildings and Real Property, Region 2 (New York)

SES Assistant Regional Administrator for Federal Supply and Services, Region 2 (New York)
SES Regional Administrator, Region 3 (Philadelphia)
SES Deputy Regional Administrator, Region 3 (Phidadelphia)
SES Assistant Regional Administrator for Public Buildings and Real Property, Region 3 (Philadelphia)
SES Regional Administrator, Region 4 (Atlanta)
SES* Deputy Regional Administrator, Region 4 (Atlanta)
SES Assistant Regional Administrator for Public Buildings and Real Property, Region 4 (Atlanta)
SES Assistant Regional Administrator for Federal Supply and Services, Region 4 (Atlanta)
SES Regional Administrator, Region 5 (Chicago)
SES Deputy Regional Administrator, Region 5 (Chicago)
SES Regional Controller, Region 5 (Chicago)
SES Assistant Regional Administrator for Federal Supply and Services, Region 5 (Chicago)
SES Regional Administrator, Region 6 (Kansas City)
SES Deputy Regional Administrator, Region 6 (Kansas City)
SES Regional Controller, Region 6 (Kansas City)
SES Assistant Regional Administrator for Public Buildings and Real Property, Region 6 (Kansas City)
SES Assistant Regional Administrator for Information Resources Management, Region 6 (Kansas City)
SES Regional Administrator, Region 7 (Fort Worth)
SES Deputy Regional Administrator, Region 7 (Fort Worth)
SES Assistant Regional Administrator for Public Buildings and Real Property, Region 7 (Fort Worth)
SES Assistant Regional Administrator for Federal Supply and Services, Region 7 (Fort Worth)
SES Assistant Regional Administrator for Information Resources Management, Region 7 (Fort Worth)
SES Regional Administrator, Region 8 (Denver)
SES Deputy Regional Administrator, Region 8 (Denver)
SES Assistant Regional Administrator for Public Buildings and Real Property, Region 8 (Denver)
SES Regional Administrator, Region 9 (San Francisco)
SES Deputy Administrator, Region 9 (San Francisco)
SES Assistant Region Administrator for Public Buildings and Real Property, Region 9 (San Francisco)
SES Assistant Regional Administrator for Federal Supply and Services, Region 9 (San Francisco)
SES Assistant Regional Administrator for Information Resources Management, Region 9 (San Francisco)
SES Regional Administrator, Region 10 (Auburn)
SES Deputy Regional Administrator, Region 10 (Auburn)
SES Assistant Regional Administrator for Public Buildings and Real Property, Region 10 (Auburn)
SES Regional Administrator, National Capital Region (Washington, D.C.)
SES Deputy Regional Administrator, National Capital Region (Washington, D.C.)
SES Regional Controller (National Capital Region)
SES Assistant Regional Administrator for Public Buildings and Real Property (National Capital Region)
SES Assistant Regional Administrator for Federal Supply and Services (National Capital Region)
SES Assistant Regional Administrator for Information Resources Management (National Captial Region)

AGENCY: INTER-AMERICAN FOUNDATION

Positions: No section 207(d)(1)(C) designations.

AGENCY: INTERNATIONAL TRADE COMMISSION

Positions:

SES Director, Office of Operations
SES General Counsel
SES Director, Office of Industries
SES Director, Office of Investigations
SES Director, Office of Economics
SES Director, Office of Administration
SES Director, Office of Tariff Affairs and Trade Agreements

AGENCY: INTERSTATE COMMERCE COMMISSION

Positions:

SES Managing Director
SES General Counsel
SES Director, Bureau of Traffic
SES Director, Bureau of Accounts
SES Director, Office of Proceedings
SES Director, Office of Transportation Analysis (OTA)
SES Assistant Managing Director
SES Deputy General Counsel
SES Associate Director, Office of Proceedings
SES Associate Director, Office of Transportation Analysis (OTA)
SES Director, Office Compliance and Consumer Assistance—OCCA
SES Associate Director, Office of Compliance and Consumer Assistance—OCCA
SES Chief of Staff
SES Legislative Counsel
SES* Deputy Director, Bureau of Accounts
SES* Assistant Director, Bureau of Traffic

AGENCY: JAPAN-UNITED STATES FRIENDSHIP COMMISSION

Postions:

SES Executive Director

AGENCY: MERIT SYSTEMS PROTECTION BOARD

Positions:

SES* Executive Assistant to the Chairman
SES* Managing Director
SES* Assistant Managing Director for Management
SES* Associate Assistant Managing Director for Management
SES* Assistant Managing Director for Regional Operations
SES* General Counsel
SES* Deputy General Counsel
SES* Associate General Counsel for Litigation
SES* Legislative Counsel
SES* Director, Office of Appeals Counsel
SES* Associate Director, Office of Appeals Counsel
SES Director, Office of Merit Systems Review and Studies
SES Regional Director, Atlanta
SES Regional Director, Chicago
SES Regional Director, Dallas
SES Regional Director, New York
SES Regional Director, Philadelphia
SES Regional Director, San Francisco
SES Regional Director, Washington, D.C.

AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

SES Associate Deputy Administrator

OFFICE OF THE COMPTROLLER

SES Deputy Comptroller, NASA
SES Comptroller, NASA

OFFICE OF LEGISLATIVE AFFAIRS

SES Assistant Administrator for Legislative Affairs
SES Deputy Assistant Administrator for Legislative Affairs

OFFICE OF THE CHIEF ENGINEER

SES Chief Engineer, NASA
SES Deputy Chief Engineer, NASA

OFFICE OF SPACE SCIENCE AND APPLICATIONS

SES Associate Administrator for Space Science and Applications
SES Deputy Associate Administrator for Space Science and Applications

OFFICE OF GENERAL COUNSEL

SES General Counsel
SES Deputy General Counsel, NASA

OFFICE OF PROCUREMENT

SES Assistant Administrator for Procurement
SES Deputy Assistant Administrator for Procurement

OFFICE OF EXTERNAL RELATIONS

SES Associate Administrator for External Relations
SES Deputy Associate Administrator for External Relations

OFFICE OF SPACE FLIGHT

SES Associate Administrator for Space Flight

VOL 50 ISS 147 JL 31 1985 UMI

SES Deputy Associate Administrator for Space Flight

OFFICE OF MANAGEMENT

SES Associate Administrator for Management
SES Deputy Associate Administrator for Management

OFFICE OF AERONAUTICS AND SPACE TECHNOLOGY

SES Associate Administrator for Aeronautics and Space Technology
SES Deputy Associate Administrator for Aeronautics and Space Technology

OFFICE OF POLICY

SES Associate Administrator for Policy

OFFICE OF CHIEF SCIENTIST

SES Chief Scientist

OFFICE OF SPACE TRACKING AND DATA SYSTEMS

SES Associate Administrator for Space Tracking and Data Systems
SES Deputy Associate Administrator for Space Tracking and Data Systems

OFFICE OF EQUAL OPPORTUNITY PROGRAMS

SES Assistant Administrator for Equal Opportunity Programs
SES Deputy Assistant Administrator for Equal Opportunity Programs

INSPECTOR GENERAL

SES Deputy Inspector General

AMES RESEARCH CENTER

SES Director, NASA Ames Research Center
SES Deputy Director, NASA Ames Research Center

GODDARD SPACE FLIGHT CENTER

SES Director, NASA Goddard Space Flight Center
SES Deputy Director, NASA Goddard Space Flight Center

JOHNSON SPACE CENTER

SES Director, NASA Johnson Space Center
SES Deputy Director, NASA Johnson Space Center

KENNEDY SPACE CENTER

SES Director, NASA Kennedy Space Center
SES Deputy Director, NASA Kennedy Space Center

LANGLEY RESEARCH CENTER

SES Director, NASA Langley Research Center
SES Deputy Director, NASA Langley Research Center

LEWIS RESEARCH CENTER

SES Director, NASA Lewis Research Center
SES Deputy Director, NASA Lewis Research Center

MARSHALL SPACE FLIGHT CENTER

SES Director, NASA Marshall Space Flight Center
SES Deputy Director, NASA Marshall Space Flight Center

NATIONAL SPACE TECHNOLOGY LABORATORIES

SES Manager, National Space Technology Laboratories
SES Deputy Manager, National Space Technology Laboratories

AGENCY: NATIONAL CAPITAL PLANNING COMMISSION

Positions:

SES Executive Director
SES Associate Executive Director for Regional Affairs
SES Associate Executive Director for District of Columbia Affairs
SES General Counsel
SES Assistant Executive Director for Operations

AGENCY: NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Positions:

SES 0-4 Executive Director

AGENCY: NATIONAL CREDIT UNION ADMINISTRATION

Positions:

SES General Counsel
SES Internal Auditor (Director, Internal Audit and Investigation)
SES Regional Directors(6)
SES Deputy General Counsel
SES Director, Division of Information Systems
SES Director, Office of Programs
SES Director, Office of Services

AGENCY: NATIONAL ENDOWMENT FOR THE ARTS

Positions:

SES* Executive Director for Partnership
SES* Deputy Chairman for the Federal Council on the Arts and Humanities
SES* Deputy Chairman for Policy and Planning
SES* Director of Program Coordination
SES* Director of Public Affairs

AGENCY: NATIONAL ENDOWMENT FOR THE HUMANITIES

Positions:

SES Deputy Chairman
SES Assistant Chairman for Institutional Relations
SES Director, Office of Planning and Policy Studies
SES Director, Division of Education Programs
SES* Director of Administration

AGENCY: NATIONAL LABOR RELATIONS BOARD

Positions:

SES Solicitor
SES Executive Secretary
SES Deputy General Counsel
SES Associate General Counsel, Division of Enforcement Litigation

AGENCY: NATIONAL MEDIATION BOARD

Positions:

SES* Executive Secretary

AGENCY: NATIONAL SCIENCE FOUNDATION

Positions:

SES Staff Director, National Science Foundation
SES* Executive Officer, National Science Board
SES Director, Office of Audit and Oversight
SES* Director, Office of Legislative and Public Affairs
SES* Controller, National Science Foundation
SES General Counsel
SES Director, Office of Small Business Research and Development
SES Director, Office of Advanced Scientific Computing
SES Assistant Director for Engineering
SES Assistant Director for Science and Engineering Education
SES Assistant Director for Scientific, Technological and International Affairs
SES Assistant Director for Administration
SES Deputy Assistant Director for Astronomical, Atmospheric, Earth and Ocean Sciences
SES Deputy Assistant Director for Biological, Behavioral and Social Sciences
SES Deputy Assistant Director for Engineering
SES Deputy Assistant Director for Mathematical and Physical Sciences
SES Deputy Assistant Director for Science and Engineering Education
SES Deputy Assistant Director for Scientific, Technological and International Affairs
SES Deputy Assistant Director for Administration

AGENCY: NATIONAL TRANSPORTATION SAFETY BOARD

Positions:

SES Managing Director
SES Deputy Managing Director
SES General Counsel
SES Director, Bureau of Accident Investigation
SES Director, Bureau of Technology
SES Director, Bureau of Administration
SES Director, Bureau of Safety Programs
SES* Director, Bureau of Field Operations

AGENCY: NUCLEAR REGULATORY COMMISSION

Positions:

Office of the Commission

GG-16 Executive Assistant to the Chairman

Advisory Committee on Reactor Safeguards

SES Executive Director, ACRS
SES Deputy Executive Director, ACRS
SES Assistant Executive Director for Project Review, ACRS

Office of Administration

SES Director, Office of Administration

SES Deputy Director, Office of Administration
SES Director, Division of Organization & Personnel
SES Director, Division of Contracts
SES Director, Division of Tech Information & Document Control

Office of Resource Management

SES Controller and Director
SES Deputy Controller and Deputy Director

Office of the Secretary

SES Secretary of the Commission
SES Assistant Secretary of the Commission

Office of Inspector and Auditor

SES Director, OIA
SES Deputy Director and Assistant for Audits

Office of State Programs

SES Director, State Programs

Office of Investigations

SES Director, Office of Investigations
SES Deputy Director of Investigations

Atomic Safety and Licensing Board Panel

SES Chief Administrative Judge
SES Deputy Chief Administrative Judge (Executive)
GG-17 Deputy Chief Administrative Judge (Technical)

Atomic Safety and Licensing Appeal Panel

SES Chairman, ASLAP
SES Vice Chairman, ASLAP
GG-17 Administrative Judge (Legal) ASLAP (3)
GG-17 Administrative Judge (Technical) (2)

Office of the General Counsel

SES General Counsel
SES Solicitor, OGC
SES Deputy General Counsel for Dom Lic & Reg
SES Assistant General Counsel for International and Legislative Affairs
SES Assistant General Counsel for Administration and Adjudication

Office of Public Affairs

SES Director, Office of Public Affairs
SES Deputy Director, Office of Public Affairs

Office of Congressional Affairs

SES Director, Office of Congressional Affairs

Office of Policy Evaluation

SES Director, Office of Policy Evaluation
SES A/D for Technical Review, OPE
SES Deputy Director for Special Projects, OPE

Executive Director for Operations

SES Executive Director for Operations
SES Deputy Executive Director for Operations
SES Assistant for Operations
SES Deputy Executive Director for Regional Operations and Generic Requirements
SES Director, Regional Operations and Generic Requirements Staff

Office of the Executive Legal Director

SES Executive Legal Director
SES Deputy Executive Legal Director
SES Director & Chief Counsel Regulations Division
GG-17 Special Assistant to the Executive Legal Director
GG-17* Special Assistant for International Affairs
SES Director/Chief Counsel, Operations and Administration Division
SES Director & Chief Counsel, Hearing Division
SES Assistant Chiefs, Hearing Counsel (4)
SES Deputy Chief, Hearing Counsel, Deputy Director, Hearing Division
SES Director & Chief Counsel, Regional Operations and Enforcement Division

Office of International Programs

SES Director, Office of International Programs
SES A/D for International Cooperation
SES A/D for Export/Import & International Safeguards

Office of Nuclear Reactor Regulation

SES Director, NRR
SES Deputy Director, Office of Nuclear Reactor Regulation
SES Program Director, TMI Program Office
SES Deputy Program Director, TMI Program Office
SES Director, Planning & Program Analysis Staff
SES Director, Division of Licensing
SES Deputy Director, Division of Licensing
SES Assistant Director for Operating Reactors
SES Chief, Operating Reactors Branch 1
SES Chief, Operating Reactors Branch 2
SES Chief, Operating Reactors Branch 3
SES Chief, Operating Reactors Branch 4
SES Assistant Director for Licensing
SES Chief, Licensing Branch 1
SES Chief, Licensing Branch 2
SES Chief, Licensing Branch 3
SES Chief, Licensing Branch 4
SES Chief, Standardization and Special Projects Branch
SES Assistant Director for Safety Assessment
SES Chief, Operating Reactors Branch 5
SES Chief, Systematic Evaluation Program Branch
SES Chief, Operating Reactors Assessment Branch
SES Director, Division of Engineering
SES Assistant Director for Components & Structures Engineering
SES Chief, Mechanical Engineering Branch
SES Chief, Geosciences Branch
SES Chief, Structural and Geotechnical Engineering Branch
SES Assistant Director for Materials, Chemical & Environmental Technology
SES Technical Advisor
SES Chief, Materials Engineering Branch
SES Chief, Chemical Engineering Branch
SES Chief, Equipment Qualification Branch
SES Chief, Environmental and Hydrologic Engineering Branch
SES Chief, Site Analysis Branch
SES Director, Division of Systems Integration
SES Special Assistant for Policy Development
SES Assistant Director for Core and Plant Systems
SES Chief, Instrumentation & Control Systems Branch
SES Chief, Power Systems Branch
SES Chief, Containment Systems Branch
SES Chief, Auxiliary Systems Branch
SES Assistant Director for Radiation Protection
SES Chief, Accident Evaluation Branch
SES Chief, Radiological Assessment Branch
SES Chief, Meteorology and Effluent Branch
SES Assistant Director for Reactor Safety
SES Chief, Reactor Systems Branch
SES Chief, Core Performance Branch
SES Director, Division of Human Factors Safety
SES Deputy Director, Division of Human Factors Safety
STS* Technical Advisor to the Director
SES Chief, Human Factors Engineering Branch
SES Chief, Operator Licensing Branch
SES Chief, Licensee Qualifications Branch
SES Chief, Procedures & Test Review Branch
SES Director, Division of Safety Technology
SES Assistant Director for Generic Projects
SES Chief, Generic Issues Branch
SES Chief, Research & Standards Coordination Branch
SES Assistant to the Director for Technology
SES Chief, Safety Program Evaluation Branch
SES Chief, Reliability and Risk Assessment Branch

Office of Nuclear Regulatory Research

SES Director, Nuclear Regulatory Research
SES Deputy Director, Nuclear Regulatory Research

Office of Nuclear Material Safety and Safeguards

SES Director, NMSS
SES Deputy Director, NMSS
SES Director, Division of Safeguards
SES Deputy Director, Division of Safeguards
SES Chief, Licensing Policy and Program Branch
SES Chief, Power Reactor Safeguards Licensing Branch
SES Chief, Fuel Facilities Safeguards Licensing Branch
SES Chief, Material Transfer Safeguards Licensing Branch
SES Deputy Director, Division of Fuel Cycle & Material Safety
SES Director, Division of Fuel Cycle & Material Safety
SES Chief, Adv & Spent Fuel Licensing Branch
SES Chief, Uranium Fuel Licensing Branch
SES Chief, Transportation and Certification Branch
SES Chief, Materials Certification and Procedures Branch
SES Chief, Licensing Proc and Integration Branch
SES Chief, Hi-Level Waste and Technical Development Branch
SES Deputy Director, Division Waste Management
SES Director, Division of Waste Management

VOL 50 ISS 147 JUL 31 1985 UMI

VOL 50 ISS 147 JL 31 1985 UMI

SES* Chief, Engineering Branch
SES* Chief, Geotechnical Branch
SES* Chief, Low-Level and Uranium Recovery Projects Branch

Office of Inspection and Enforcement

SES Director, Inspection and Enforcement
SES Deputy Director, Office Inspection and Enforcement
SES* Director, Program Support and Analysis Staff
SES Director, Enforcement Staff
SES Director, Division of Emergency Preparedness
SES Deputy Director, Division of Emergency Preparedness
SES Chief, Emergency Preparedness Licensing Branch
SES Chief, Operating Reactors Programs Branch
SES Chief, Reactor Construction Programs Branch
SES* Director, Division of Quality Assurance, Safeguards and Inspection Programs
SES* Deputy Director, Division of Quality Assurance, Safeguards and Inspection Programs
SES Chief, Engineering and Technical Support Branch
SES Chief, Quality Assurance Branch
SES Deputy Branch Chief, Quality Assurance Branch
SES Chief, Events Analysis Branch
SES Chief, Incident Response and Development Branch
SES* Chief, Safeguards and Materials Programs Branch

Regional Offices

SES Regional Administrator, Region I
SES Deputy Regional Administrator, Region I
SES Director, Division of Project and Resident Programs, Region I
SES Director, Division of Engineering and Technical Programs, Region I
SES Regional Administrator, Region II
SES Deputy Regional Administrator, Region II
SES Director, Division of Engineering and Technical Programs, Region II
SES Director, Division of Project and Resident Programs, Region II
SES Regional Administrator, Region III
SES Deputy Regional Administrator, Region III
SES Director, Division of Project and Resident Programs, Region III
SES Director, Division of Engineering and Technical Programs, Region III
SES Regional Administrator, Region IV
SES Director, Uranium Recovery Field Office, Region IV
SES Deputy Regional Administrator, Region IV
SES* Director, Division of Resident, Reactor Project and Engineering Programs, Region IV
SES Director, Division of Vendor and Technical Programs, Region IV
SES Regional Administrator, Region V
SES Deputy Regional Administrator, Region V
SES Director, Division of Resident, Reactor Project and Engineering Programs Region V
SES Director, Division of Radiological and Safeguards Programs, Safety Region V

Office for Analysis and Evaluation of Operational Data

SES Director, Office for Analysis and Evaluation of Operational Data
SES Deputy Director, Office for Analysis and Evaluation of Operational Data
SES Chief, Reactor Operations Branch
SES* Chief, Program Technology Branch

Office of Small and Disadvantaged Business Utilization and Civil Rights

SES Director, Office of Small and Disadvantaged Business Utilization and Civil Rights

AGENCY: OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Positions:

SES Executive Director
SES General Counsel

AGENCY: OFFICE OF PERSONNEL MANAGEMENT

Positions:

SES General Counsel, Office of the General Counsel
SES Associate Director, Administration Group
SES Associate Director, Compensation Group
SES Associate Director, Compliance and Investigations Group
SES Associate Director, Staffing Group
SES Associate Director, Work Force Effectiveness and Development Group
SES Executive Assistant Director, Office of Policy and Communications
SES* Assistant Director, Office of Congressional Relations
SES Assistant Director, Office of Executive Administration
SES* Assistant Director, Office of Public Affairs
SES* Inspector General, Office of the Inspector General
SES Chairman, Federal Prevailing Rate Advisory Committee
SES Deputy Director and Chief Counsel, Office of Government Ethics
SES Deputy General Counsel, Office of the General Counsel
SES Deputy Associate Director, Administration Group
SES Deputy Associate Director, Compensation Group
SES* Deputy Associate Director, Compliance and Investigations Group
SES Deputy Associate Director, Staffing Group
SES Deputy Associate Director, Workforce Effectiveness and Development Group
SES Associate General Counsel, Office of the General Counsel
SES* Assistant Director for Finance and Administrative Services, Administration Group
SES Assistant Director for Information Management, Administration Group
SES Assistant Director for Management, Administration Group
SES* Assistant Director for Personnel and EEO, Administration Group
SES* Assistant Director for Compensation Programs Development, Compensation Group
SES* Assistant Director for Financial Control and Management, Compensation Group
SES Assistant Director for Insurance Programs, Compensation Group
SES* Assistant Director for Pay and Benefits Policy, Compensation Group
SES* Assistant Director of Pay Programs, Compensation Group
SES Assistant Director for Retirement Programs, Compensation Group
SES Assistant Director for Agency Compliance and Evaluation, Compliance and Investigations Group
SES Assistant Director for Personnel Investigations, Compliance and Investigations Group
SES* Assistant Director for Work Force Information, Compliance and Investigations Group
SES Assistant Director for Administrative Law Judges, Staffing Group
SES Assistant Director for Staffing Operations, Staffing Group
SES Assistant Director for Staffing Policy, Staffing Group
SES Assistant Director for Standards Development, Staffing Group
SES* Assistant Director for Affirmative Employment Programs, Workforce Effectiveness and Development Group
SES* Assistant Director for Performance, Workforce Effectiveness and Development Group
SES* Assistant Director for Training and Development, Workforce Effectiveness and Development Group
SES Assistant Director for Employee, Labor, and Agency Relations, Office of Policy and Communications
SES Assistant Director for Regional Operations, Office of the Director
SES Regional Director, Atlanta Region
SES Regional Director, Boston Region
SES Regional Director, Chicago Region
SES Regional Director, Dallas Region
SES Regional Director, Denver Region
SES Regional Director, New York Region
SES Regional Director, Philadelphia Region
SES Regional Director, St. Louis Region
SES Regional Director, San Francisco Region
SES Regional Director, Seattle Region
SES* Chief Actuary, Compensation Group
SES Chief, Medical Policy and Programs Division, Staffing Group
SES Dean, Federal Executive Institute, Workforce Effectiveness and Development Group
SES Deputy Regional Director, Atlanta Region
SES Deputy Regional Director, Chicago Region
SES Deputy Regional Director, Dallas Region
SES Deputy Regional Director, Philadelphia Region
SES Deputy Regional Director, San Francisco Region

AGENCY: OFFICE OF SPECIAL COUNSEL (MSPB)

Positions:

SES Deputy Special Counsel
SES Associate Special Counsel for Investigation
SES Associate Special Counsel for Prosecution
SES Deputy Associate Special Counsel for Investigation
SES* Deputy Associate Special Counsel for Prosecution

AGENCY: OVERSEAS PRIVATE INVESTMENT CORPORATION

Positions: No section 207(d)(1)(C) designations.

AGENCY: PANAMA CANAL COMMISSION

Positions:

AD Administrator (18 U.S.C. 207(d)(1)(A) comparable)
CX Deputy Administrator

AGENCY: PEACE CORPS

Positions:

FE–2 General Counsel, Peace Corps
FE–2 Associate Director, International Operations, Peace Corps
FE–2* Executive Assistant to the Director, Peace Corps
FE–2* Associate Director, Marketing, Recruitment, Placement and Staging, Peace Corps
FE–2* Associate Director, Management, Peace Corps

AGENCY: PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Positions:

AD Executive Director of the Corporation
AD Assistant Director–Legal
AD Assistant Director–Development
AD All members of the Board of Directors (23)

AGENCY: PENSION BENEFIT GUARANTY CORPORATION

Positions:

GS–17 Deputy Executive Director for Insurance Programs
GS–17 General Counsel
GS–17* Director, Insurance Operations Department
GS–17* Director, Financial Operations Department

AGENCY: POSTAL RATE COMMISSION

Positions:

AD–18 General Counsel of the Commission
AD–18 Director of the Office of Technical Analysis and Planning
AD–18 Director of Office of Consumer Advocate

AGENCY: RAILROAD RETIREMENT BOARD

Positions:

SES Executive Director
SES* Associate Executive Director for Legal and Administrative Services/General Counsel
SES* Associate Executive Director for Financial, Data and Planning Operations
SES* Associate Executive Director for Field Service
SES Associate Executive Director for Retirement Claims
SES Associate Executive Director for Unemployment and Sickness Insurance
SES Chief Actuary and Director of Research
SES Director of Data Processing
SES Director of Fiscal and Planning Operations

AGENCY: SECURITIES AND EXCHANGE COMMISSION

Positions:

SES General Counsel
SES Director, Division of Corporation Finance
SES Director, Division of Corporate Regulation
SES Director, Division of Enforcement
SES Director, Division of Investment Management
SES Director, Division of Market Regulation
SES Chief Accountant of the Commission
SES Deputy Chief Accountant
SES Executive Director
SES Regional Administrator, New York
SES Regional Administrator, Chicago
SES Regional Administrator, Los Angeles
SES Deputy Regional Administrator, New York

AGENCY: SELECTIVE SERVICE SYSTEM

Positions:

SES Deputy Director of the Agency
SES Associate Director, Administration
SES Associate Director, Planning and Operations
SES Associate Director, Management Information Systems
SES Associate Director, Policy Development and Administrative Legal Systems

AGENCY: SMALL BUSINESS ADMINISTRATION

Positions:

SES Deputy Administrator
SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES Regional Administrator, Region X
SES Director, Equal Employment Opportunity and Compliance
SES General Counsel
SES Deputy General Counsel
SES Associate Administrator for Procurement and Technology Assistance
SES Associate Administrator for Management Assistance
SES Associate Administrator for Minority Small Business & Capital Ownership Development
SES Associate Administrator of Finance and Investment
SES Assistant Administrator for Administration
SES Director of Personnel
SES Associate Deputy Administrator for Management and Administration
SES Associate Deputy Administrator for Special Programs
SES Assistant Administrator for Hearings and Appeals
SES Comptroller
SES* Director of Program Analysis and Review

AGENCY: TENNESSEE VALLEY AUTHORITY

Positions: No section 207(d)(1)(C) designations.

AGENCY: UNITED STATES ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Positions: No section 207(d)(1)(C) designations.

AGENCY: UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Positions:

SES* Counselor
0–7/0–8 Senior Military Adviser, D
SES Special Representative for INF
SFS U.S. Representative to CD
SES Administrative Director
SES General Counsel
SES* Director, Office of Public Affairs
SES Deputy Assistant Director, SP
SFS Deputy Assistant Director, NWC
IPA Deputy Assistant Director, VI
SES Deputy Assistant Director, MA

AGENCY: UNITED STATES INFORMATION AGENCY

Positions:

SES Director, Office of Public Liaison
SES General Counsel
SES Deputy General Counsel

Office of Inspector General

SES Inspector General

Office of Inspections

SFS Chief of Inspections

The Bureau of Educational and Cultural Affairs

SFS Director of Cultural Centers and Resources
SES Director, Office of Academic Programs
SES Director, Office of International Visitors
SES Director, Office of Private Sector Programs

The Voice of America

SFS Deputy Director (Modernization)
SES Deputy Director (Programs)
SES Director, Office of Administration
SES Director for News and English Broadcasts

SFS Director for Regional Language Broadcasts
SES Assistant Inspector General for Security

Office of Program, Policy and Evaluation (PPE)

Office of Agriculture

SES Director

Bureau for Latin American and Caribbean (LAC)

SFS–C Regional Food for Peace Officer, FAO Affairs, Rome

SFS Director for Regional Language Broadcasts
SFS Director of Engineering and Technical Operations
SES Director, Office of Personnel
SES Director, Radio Marti
SES Director of Broadcast Operations

The Bureau of Management

SFS Deputy Associate Director
SES Director, Office of Administration and Technology
SES Director, Office of Comptroller
SES Director, Office of Personnel
SFS Director, Office of Equal Employment Opportunity and Civil Rights
SES Director, Office of Contracts
SES Director, Office of Security

The Bureau of Programs

SES Director of Exhibits Service
SFS Director of Press and Publication Services
SES Deputy Associate Director
SES Executive Officer
SES Director, Office of Program Coordination and Development
SFS Director, Foreign Press Centers
SES Director, Office of Research

Television and Film Service

SES Director of Television and Film Service
SES Deputy Director
SES International Marketing Manager
SES Facilities Manager
SES News and Current Events Manager

Area Offices

SFS Director of African Affairs
SFS Deputy Director, African Affairs
SFS Director of European Affairs
SFS Deputy Directors of European Affairs (2)
SFS Director of East Asian and Pacific Affairs
SFS Deputy Director of East Asian and Pacific Affairs
SFS Director of American Republics Affairs
SFS Deputy Director of American Republics Affairs
SFS Director of North African, Near Eastern and South Asian Affairs
SFS Deputy Director of North African and Near Eastern and South Asian Affairs
SFS Public Affairs Officers of Class 1 Posts (22)

AGENCY: U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Positions:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Office of the Administrator

SFS–M Counselor to the Agency

Office of the General Counsel

SES General Counsel
SES Senior Deputy General Counsel

Office of the Inspector General

SES Inspector General
SES Assistant Inspector General for Investigations and Inspection
SES Assistant Inspector General for Security
SES* Assistant Inspector General for Audit

Office of the Legislative Affairs (LEG)

SES Director

Bureau for External Affairs (XA)

SES Assistant to the Administrator for External Affairs

Board for International Food and Agricultural Development Support Staff (BIFAD/S)

Office of the Executive Director

SES Executive Director
SFS–MD Deputy Director

Office of the U.S. Foreign Disaster Assistance (OFDA)

SES Coordinator, Foreign Disaster Relief

Bureau for Management

Office of the Assistant to the Administration for Management (AA/M)

SES Assistant to the Administrator for Management
SES Deputy Assistant to the Administrator for Management

Office of Financial Management (M/FM)

SES Controller
SES Deputy Controller

Office of Personnel Management (M/PM)

SFS–MC Director
SES Deputy Director

Directorate for Program and Management Services (M/SER)

Office of the Associate Assistant to the Administrator

SES Associate Assistant to the Administrator for Management (M/AAA/SER)

Office of Information Resources Management (M/SER/IRM)

SES Director
SES Deputy Director

Office of Management Operations (M/SER/MO)

SES Director
SES Deputy Director

Office of Contract Management (M/SER/CM)

SES Director
SES Deputy Director

Office of Commodity Management (M/SER/COM)

SES Director
SFS–C Deputy Director

Executive and Overseas Management Service

Office of the Director

SFS–C Director

Office of Equal Opportunity Programs (EOP)

SES Director

Bureau of Food for Peace and Voluntary Assistance (FVA)

Office of the Assistant Administrator (AA/FVA)

SFS–MC Deputy Assistant Administrator

Office of Program, Policy and Evaluation (PPE)

SFS–C Director, Program Policy and Evaluation

Office of Private and Voluntary Cooperation (PVC)

SES Director, Private and Voluntary Cooperation

Office of Food for Peace (FFP)

SES Coordinator, Food for Peace

Bureau for Private Enterprise (PRE)

Office of the Assistant Administrator (AA/PRE)

SFS–MC Deputy Assistant Administrator for Policy and Investment
SES Deputy Assistant Administrator for Housing & Urban Programs

Office of Policy and Program Review (PPR)

SES Director

Office of Housing & Urban Programs (H)

SES Director
SFS–MC Deputy Director
SFS–C Assistant Director for Urban Programs

President's Task Force for International Private Enterprise (TF/PRE)

SFS–C Executive Director
SFS–C Deputy Executive Director

Bureau for Program and Policy Coordination

Office of the Assistant Administrator (AA/PPC)

SFS–CM Deputy Assistant Administrator

Office of Policy Development and Program Review (PPC/PDPR)

SES Associate Assistant Administrator

Office of Planning and Budgeting (PPC/PB)

SFS–MC Associate Assistant Administrator

Office of Economic Affairs

SES Associate Assistant Administrator

Office of Evaluation

SFS–C Associate Assistant Administrator

Bureau for Science and Technology (S & T)

Office of the Senior Assistant Administrator

SFS–MC Deputy Assistant Administrator for Research
SFS–MC Deputy Assistant Administrator for Technical Cooperation

Office of Technical Review and Information

AD–18 Director

University Relations and Research Coordination

AD–18 Coordinator for University Relations and Research Support

Office of Program

SFS–MC Director

Agency Directorate for Food and Agriculture

SES Agency Director for Food and Agriculture

Office of Agriculture

SES Director

Office of Nutrition

SES Director

Agency Directorate for Energy and Natural Resources

SES Agency Director for Energy and Natural Resources

Office of Forestry, Environment and Natural Resources

SES Director

Office of Energy

SES Director

Agency Directorate for Human Resources

SES Agency Director for Human Resources

Office of Multisectoral Development

SFS–C Director

Office of Education

SFS–C Director

Office of International Training

SES Director
SFS–C Deputy Director

Agency Directorate for Health and Population

SES Agency Director for Health and Population
SFS–C Deputy Agency Director for Health and Population

Office of Health

SES Director

Office of Population

SES Director
SES Deputy Director

Bureau of Africa (AFR)

SFS—CM Deputy Assistant Administrator
SFS—CM Deputy Assistant Administrator
SFS—CM Deputy Assistant Administrator for East and Southern Africa
SFS—CM Deputy Assistant Administrator for West and Central Africa

Office of Development Planning (AFR/DP)

SFS–MC Director

Office of Program Management Resources (AFR/PMR)

SFS–MC Director

Office of Technical Resources (AFR/TR)

SFS–MC Director

Office of Project Development (AFR/PD)

SFS–C Director

Bureau of Asia (AA/ASIA)

Office of the Assistant Administrator (AA/ASIA)

SFS–MC Deputy Assistant Administrator

Office of Development Planning (ASIA/DP)

SFS–MC Director

Office of Technical Resources (ASIA/TR)

SFS–MC Director

Bureau for Latin American and Caribbean (LAC)

Office of the Assistant Administrator (AA/LAC)

SES Deputy Assisant Administrator
AD–18 Special Assistant

Office of Development Programs (LAC/DR)

SFS–MC Director

Office of Development Resources (LAC/DR)

SFS–MC Director

Bureau for Near East (NE)

Office of the Assistant Administrator (AA/NE)

SES Deputy Assistant Administrator

Office of Development Planning (NE/DP)

SFS–MC Director

Office of Project Development (NE/DP)

SFS–MC Director

Office of Technical Support (NE/TECH)

SFS–MC Director

MISSIONS

Africa

SFS–MC Director, Botswana
SFS–C* AID Representative, Burundi
SFS–MC Director, Cameroon
SFS–C AID Representative, Chad
SFS–C* AID Representative, Djibouti
SFS–MC AID Representative, Gambia
SFS–MC Director, Ghana
SFS–MC Director, Kenya
SFS–MC Director, Lesotho
SFS–MC AID Representative, Malawi
SFS–MC Director, Mali
SFS–MC Director, Mauritania
SFS–MC Director, Niger
SFS–C AID Representative, Rwanda
SFS–MC Director, Senegal
SFS–MC Director, Somolia
SFS–MC Director, Sudan
SFS–MC Director, Swaziland
SFS–MC Director, Tanzania
SFS–C AID Representative, Togo
SFS–MC Director, Uganda
SFS–MC Director, Upper Volta
SFS–MC AID Representative, Zambia
SFS–MC Director, Zimbabwe
SFS–C Controller, Regional Financial Management Center (Kenya)
SFS–MC Director, Regional Economic Development Services Office, West Africa
SFS–MC Director, Regional Economic Development Services Office, East Africa
SFS–C Regional Development Officer, Guinea-Bissau/Cape Verde
SFS–C Regional Housing Officer, West Africa
SFS–C Regional Housing Officer, East Africa

Asia

SFS–C AID Representative, Burma
SCS–C Regional Development Officer, Fiji
SFS–MC Director, Nepal
SFS–MC Director, Sri-Lanka
SFS–MC Director, Thailand

Europe

SFS–C AID Coordinator, Geneva
SFS–C Regional Food for Peace Officer, FAO Affairs, Rome

Latin America and the Caribbean

SFS–C AID Representative, Belize
SFS–MC Director, Bolivia
SFS–MC Director, Regional Development Office, Caribbean
SFS–MC Director, Costa Rica
SFS–MC Director, Equador
SFS–MC Director, El Salvador
SFS–MC Director, Guatemala
SFS–MC Director, Guyana
SFS–MC Director, Regional Office for Central American Programs, (ROCAP)
SFS–MC Director, Haiti
SFS–MC Director, Honduras
SFS–MC Director, Jamaica
SFS–MC Director, Nicaragua
SFS–MC Director, Panama
SFS–MC Director, Paraguay
SFS–C Regional Housing Officer, Latin America
SFS–C* AID Representative, Mexico

Near East

SFS–MC Director, Lebanon
SFS–MC Director, Morocco
SFS–C AID Representative, Oman
SFS–MC AID Representative, Portugal
SFS–MC Director, Tunisia
SFS–MC Director, Yemen
SFS–C Regional Housing Officer, Tunisia

TRADE AND DEVELOPMENT PROGRAM

SES Director

AGENCY: U.S. POSTAL SERVICE

Positions:

AD–17 Associate Judicial Officer

AGENCY: UNITED STATES RAILWAY ASSOCIATION

Positions:

AD President
AD Executive Vice President
AD Vice President—(1)

AGENCY: UNITED STATES SOLDIERS' & AIRMEN'S HOME

Positions: No section 207(d)(1)(C) designations.

AGENCY: VETERANS ADMINISTRATION

Positions:

Office of the Administrator

SES* Associate Deputy Administrator for Congressional and Intergovernmental Affairs
SES Associate Deputy Administrator for Logistics
SES Associate Deputy Administrator for Information Resources Management
SES* Associate Deputy Administrator for Public and Consumer Affairs

Office of Inspector General

SES Deputy Inspector General

Office of the General Counsel

SES General Counsel
SES Deputy General Counsel

VOL
50
ISS
147
JL
31
1985
UMI

Office of Program Planning and Evaluation
SES Director

Office of Budget & Finance
SES Director

Office of Construction
SES Director
SES Deputy Director

Department of Memorial Affairs
SES Chief Memorial Affairs Director
SES Deputy Chief Memorial Affairs Director

Department of Veterans' Benefits
SES Chief Benefits Director
SES Deputy Chief Benefits Director

Department of Medicine and Surgery
AD Deputy Associate Deputy Chief Medical Director

Office of Personnel & Labor Relations
SES Director
SES Deputy Director

Office of Data Management and Telecommunications
SES Director

Office of Procurement & Supply
SES Director
SES Deputy Director

Office of Information Management & Statistics
SES Director

[FR Doc. 85-17972 Filed 7-30-85; 8:45 Am]
BILLING CODE 6325-01-M

federal register

Wednesday
July 31, 1985

Part III

Department of Transportation

Office of the Secretary

14 CFR Part 251 et al.
Implementation of the Civil Aeronautics Board Sunset Act of 1984; Transfer of Antitrust Authority; Final Rule

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 251, 261, 287, 291, 296, 298, 299, 303 and 380

[Dockets No. 42825 and 42802; Amdt. Nos. 303-1, 251-2, 261-2, 287-15, 291-18, 296-3, 298-31, 299-7, 380-19]

Implementation of the Civil Aeronautics Board Sunset Act of 1984: Transfer of Antitrust Authority Under Sections 408, 409, 412 and 414 of the Federal Aviation Act of 1958 From the Civil Aeronautics Board to the Department of Transportation

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: On January 1, 1985, the Civil Aeronautics Board's (CAB) authority to approve and grant antitrust immunity to certain aviation-related agreements, mergers, consolidations, acquisitions of control and interlocking relationships transferred to the Department of Transportation (DOT or Department). On February 6, 1985, DOT issued a Notice of Proposed Rulemaking (NPRM) (50 FR 5214) that sought to consolidate and restructure into Part 303 of the Department's Aviation Proceedings Regulations, 14 CFR Part 303, former CAB regulations governing applications submitted under sections 408, 409, 412, and 414, and exemptions under section 416 from those sections, of the Federal Aviation Act of 1958. This action makes those proposed rules final, with a number of changes made in response to comments and upon further consideration by the Department. In general, the regulations (1) specify the information that must be submitted when Department approval is sought; (2) set out the procedures to be followed when an application for approval has been filed; and (3) exempt certain transactions and relationships from the requirement to obtain Department approval. The final regulation is, in most respects, very similar to former CAB regulations on the same subject matter. The NPRM was drafted in cooperation with the Antitrust Division, Department of Justice.

EFFECTIVE DATE: August 30, 1985.

FOR FURTHER INFORMATION CONTACT: George S. Baranko, Office of the Assistant General Counsel for International Law at (202) 426-2972, or Samuel E. Whitehorn, Office of the Assistant General Counsel for Regulations and Enforcement at (202) 472-5577, Department of Transportation, 400 Seventh Street, SW., Washington. D.C. 20590.

SUPPLEMENTARY INFORMATION:

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act of 1980

This action has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions. Furthermore, this rule will not adversely affect competition, employment, investment, productivity innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These regulations primarily adopt former CAB regulations, in accordance with the authority to enforce certain laws that was transferred from the CAB to the Department of Transportation. In many instances, regulatory procedures will be more efficient and the extent of regulation will be reduced by these rules. Accordingly, a regulatory impact analysis is not required.

This regulation is significant under the Department's Regulatory Policies and Procedures, dated February 26, 1979, because it involves important Departmental policies. Its economic impact should be minimal and a full regulatory evaluation is not required.

This action will not have an adverse economic impact on small entities. I certify that this rule will not have a significant economic impact on a substantial number of small entities. It will continue a former CAB exemption for the most common form of small entity in the airline industry—air taxi operators.

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. The relevant collection of information requirements in this final rule have been submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980. (Approval numbers 2105-0003, 2138-0009, and 2106-0006.)

Background

On February 6, 1985, DOT issued an NPRM that proposed to restructure former CAB regulations regarding mergers, agreements, interlocking relationships, and antitrust immunity. In general, the proposed new regulation did not change the former CAB regulations. Comments were initially due on March 8, 1985. However, in response to a request from the Air Transport Association (ATA), the comment period was extended until March 18. (50 FR 8341, March 1, 1985). In addition, a petition for rulemaking filed by the Electronic Shippers on January 25 (Docket 42802), is being consolidated in this rulemaking proceeding.

The Airline Deregulation Act (Pub. L. No. 95-504, October 24, 1978) ("ADA") as amended by the Civil Aeronautics Board Sunset Act of 1984 (Pub. L. No. 98-443, October 4, 1984 ["Sunset Act"]), provides *inter alia*, that the authority of the CAB under sections 408, 409, 412 and 414 transfer to the Department on January 1, 1985. Section 408 prohibits airline consolidations, mergers, and acquisitions of control absent prior approval of the transactions by the Department. (Hereinafter, the term "mergers" includes all transactions covered by section 408.) Similarly, Section 409 prohibits certain interlocking relationships without prior Department approval. Section 412 sets out standards for approval of inter-carrier agreements. Under Section 414, the Department may grant antitrust immunity to an approved section 408, 409 or 412 transaction. Under the provisions of the Sunset Act, this authority will lapse on January 1, 1989, with the exception of the authority under sections 412 and 414 as they apply to foreign air transportation.

The Secretary has delegated by regulation (49 CFR Part 1, 49 FR 50994, December 31, 1984) the responsibility for most of the transferring CAB functions, including the antitrust authority implemented by this final rule, to the Assistant Secretary for Policy and International Affairs. Consistent with well-established management principles of the Department and the specific terms of that delegation, the Secretary may exercise this authority in lieu of the Assistant Secretary. Accordingly, the Secretary may take any action which the Assistant Secretary is authorized to take under the provisions of Part 303, whenever the Secretary deems it appropriate.

Amendment to DOT Order 5610.1C

Existing DOT orders will be amended to continue CAB practice by establishing that action on an application under section 408, 409, 412 or 414 is normally an action that does not require any environmental review.

Discussion of Changes to Former CAB Regulations

In order to implement the Department's responsibilities under these statutory provisions, Part 303, of Title 14 of the Code of Federal Regulations, 14 CFR Part 303, and Parts 291, 196, 298 and 380, 14 CFR Parts 291, 296, 298 and 380, will be revised. Parts 251 and 287 (Interlocking Relationships), 261 (Agreements), and 299 (Aircraft of Title 14 will be deleted. Former CAB regulations Parts 302, Subparts L and P (agreements), and 315 (mergers) were temporarily recodified in Part 303 (50 FR 2374, January 16, 1985), pending finalization of this rulemaking. Individual provisions of other parts are also affected. The specific provisions of Part 303 are explained in detail below. The changes replace, in its entirety, the Part 303 issued at 50 FR 2374, January 16, 1985.

Comments on 14 CFR Part 303 (New)

Eight comments were received in response to the NPRM. The issues raised in each are addressed below following a general discussion of each subpart.

Subpart A

This subpart sets forth general provisions, such as the purpose of the regulation and definitions. It also sets forth the basic requirement that an application must be filed, and specifies general requirements governing all types of applications. It defines hearing to include either a show cause proceeding or a full evidentiary hearing, whichever the Assistant Secretary for Policy and International Affairs (Assistant Secretary) determines to be appropriate in a particular case.

One commenter, the International Air Transport Association ((IATA), asserts that the application of part 303 to its Traffic Conference agreements would be unnecessary and burdensome. It states that its current practice of transmitting Traffic Conference agreements by letter complies with the spirit, if not the letter of § 303.04(c), which specifies documentation formalities.

In fact, IATA's current practices are, for the most part, consistent with the provisions of proposed §303.04(c). The required information is being supplied to the Department, albeit in a different form. The Department, therefore, sees no hardship by requiring that the information be submitted as a part of an application. Consequently, insofar as IATA is requesting a modification of proposed § 303.04(c) for its Traffic Conference agreements, that request is denied.

Proposed § 303.04(i) provided that all applications must be served on the Department of Justice. That section is modified in this rule, as American Airlines suggests, to make it clear that this obligation rests with the person submitting the application to the Department. DOT is not, however, excluding IATA Traffic Conference agreements from this requirement as requested. Given the nature of IATA's activities, the Department of Justice should have a complete record of the group's activities.

DOT also is making an editorial change to proposed § 303.04(j). The first sentence of the section requires that an application be served on intervening parties. The second requires that an application be served on any interested person that requests it. American suggests that the first sentence is superfluous. The Department agrees and the first sentence, is deleted.

American also requests that proposed § 303.04(j) be revised to require that a notice of all applications under this Part be served on all certificated carriers. American contends that competitors are seriously affected by such transactions and must receive actual notice of their existence. The Department has altered the notice provision, as discussed below, to provide American with some of the information it desires. However, all interested persons must monitor filings with the Department on their own to learn of items of interest. Automatic service or notice to all certificated carriers simply is not necessary and would be overly burdensome. Carriers, therefore, will be responsible for protecting their interests, just as other persons must.

Section 303.04(k) also requires that, unless otherwise provided, all applications must conform to the requirements of 14 CFR Part 302, Subpart A (50 FR 2374, January 16, 1985). IATA again argues that this section imposes needless technical requirements for its filing. However, IATA again has failed to demonstrate how imposition of procedural requirements imposed upon other parties, creates special problems for it or its members. Those sections merely specify how documents should be prepared, explain filing requirements, and establish procedures. IATA's real objective appears to be a return to the days when it did not file Traffic Conference agreements directly in public dockets, but with the Chief, International Fares and Rates Division, at the Board. But this procedure, while convenient for IATA, resulted in poor public notice of filings and generally impaired interested persons' ability to comment. Docketing assures a more complete record and better public notice. The Department desires to improve this situation significantly by regularizing the procedures to which Traffic Conference agreements are subject, as discussed below.

We note, however, that some confusion has arisen over the fees to be assessed IATA for its numerous filings. In the future, amendments to its Provisions for Operation of the Traffic Conference and to its Articles of Association shall be assessed fees applicable to docketed agreements. Consistent with CAB practice, the fee charged for agreements reached at the Traffic Conferences, including the Air Traffic Conference, will be those generally assessed comparable agreements at the CAB.

As in the case of all final orders issued by the Secretary (and formerly by the CAB), under the provisions of the Federal Aviation Act, orders issued pursuant to this Part are subject to judicial review in the manner provided in section 1006 of the Act (49 USC 1486).

Section 303.05(a) requires applicants who seek antitrust immunity to include in their applications a statement of justification for granting such immunity. It further specifies that applications for antitrust immunity must indicate whether the applications seek full immunity or only immunity from private treble damage actions, and, in most cases, specify the duration of the requested immunity. In commenting on the proposed section, IATA maintains that it is unfair to require it to repeat that it requests immunity and the justification hundreds of times. It indicates that the basis for the conferral of immunity is in CAB orders and that it should not be obligated to summarize these justifications in its applications for approval.

DOT will not create an exception from § 303.05 for IATA. Section 303.05(a) merely sets forth the statutory standard for the grant of antitrust immunity and it is incumbent upon the applicant to demonstrate compliance in each case. While all Traffic Conference agreements must be filed for approval, the request for antitrust immunity in each case is optional. The justification will not be identical for all IATA agreements, or even for all fare and rate agreements. The possibility of some duplication does not outweigh the need for an explanation of IATA's reasons for seeking immunity in each case.

In its comments, the Air Transport Association (ATA) states that the basis for granting only partial immunity was not sufficiently developed in the proposal. It suggests that this matter needs clearer explanation and an

additional opportunity for public comment.

that an existing conferral of immunity was unnecessary or unjustified) by filing

immunity shall bear the burden of justifying continued immunity under the

information can expedite the review process, provide a historical perspective

matters are covered elsewhere in the Department's regulations. Finally,

applicable to cargo tariff agreements,

additional opportunity for public comment.

The rule is intended to afford maximum flexibility in dealing with requests for immunity. There can be little doubt that DOT has the power to limit immunity in this way. First, it is well-established that the conferral of the discretion to exercise a greater power—*i.e.*, the conferral of complete immunity from the operation of the antitrust laws—includes the power to exercise a lesser power. *Frontier Airlines* v. *CAB*, 621 F. 2d 369, 372 (10th Cir. 1980).

Second, section 414 itself provides that immunity is only to be conferred "to the extent necessary for the transaction to go forward." This language provides for an analysis of the extent to which immunity is necessary. Granting partial immunity based on the Department's assessment of the parties' needs is simply one type of limitation on the grant of immunity. It is analagous to the CAB's practice of limiting the duration of immunity in accordance with the parties needs. This practice was recently sustained in *Republic Airlines, Inc.* v. *CAB*, Nos. 83–1656 *et al.* (8th Cir. March 12, 1985). We need not determine here the circumstances in which limited immunity will be granted.

DOT' own review of proposed § 303.05 has isolated a problem not raised in the comments. Specifically, the proposed section should have indicated that a subsequent request for renewal of any immunity granted does not extend, under the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*), the period of immunity conferred until the renewal application is addressed.

Under section 558(c) the filing of an application to renew a license operates to extend the license until final disposition of the renewal application. In some cases, the CAB applied this provisions to requests under section 414, as well as section 412. *See e.g.* CAB Order 81–10–152. In the future, section 412 agreements that are immunized will have a specific termination date. Requests to extend that immunity will be treated as a new request, and will not extend immunity previously granted.

As noted in the NPRM and below, the Department intends to review outstanding conferrals of immunity on domestic agreements in order to provide an orderly transition toward the expiration of its immunity authority. Allowing the automatic extension provisions of section 558 of the APA to operate in immunity renewal proceedings may impede the orderly transition contemplated. For example, a party could undermine a decision to remove immunity as of a specific date (after the Department had determined that an existing conferral of immunity was unnecessary or unjustified) by filing an application for continued immunity and relying on the provisions of section 558. In addition, allowing the provisions of section 558 to operate in immunity cases is contrary to the strong national policy favoring competition. Whenever possible, we should construe the operation of laws against persons seeking the benefits of exemptions from the antitrust laws. Therefore, requests to extend antitrust immunity will not continue the grant automatically until the issues raised in the request are addressed.

Proposed § 303.05(c) of the regulation reserved the right of the Assistant Secretary to revoke any antitrust immunity that was procured through a material misrepresentation of fact. ATA requests that immunity withdrawn as a result of alleged material misrepresentations of fact, under § 303.05(c), be subject to notice and an opportunity for a hearing before immunity is withdrawn. The Department does not agree. Persons requesting approval and antitrust immunity have the burden of submitting sufficient material to the Department for it to decide whether immunity is justified. If the facts submitted are false, or the applicant mispresents material facts, that party has little to complain of should the immunity be withdrawn since it was obtained under false pretenses. Obviously, certain questions may arise regarding alleged misrepresentation of material facts that may require additional procedures. Those situations will be dealt with on a case-by-case basis.

The regulation also authorizes the Assistant Secretary after notice and hearing to withdraw prospectively any immunity that is no longer justified under the provisions of section 414. (ATA is correct in its understanding that the Department will only withdraw immunity for future, not from past, conduct.) It is anticipated that the Department will review outstanding CAB orders granting antitrust immunity to determine whether to withdraw such antitrust immunity entirely or confer immunity from private treble damage actions only. This will provide an orderly transition towards the expiration of the Department's section 414 authority for domestic air transportation. The Department may proceed to review a previously conferred immunity either by show cause proceedings, under § 303.44 or hearing proceedings, under § 303.45, but ordinarily will initiate these proceedings by an order to show cause. In any such proceeding, the proponents of such immunity shall bear the burden of justifying continued immunity under the standards of section 414 of the Act, as in the case of a new application.

Finally, Subpart A sets forth a transition rule whereby an application pending at the time that interim Part 303 was revised will be considered by the Department under the revised Part 303.

Subpart B

This subpart specifies the information that must be filed when a party seeks approval of a merger or similar transaction under section 408. Currently, 14 CFR Part 303 sets forth the information that the Department requires with section 408 applications. As noted, the current Part 303 recodified the CAB's regulations contained in Part 315. The NPRM initially proposed to adopt the former CAB regulation with three modifications. Each will be adopted. The modifications require, first, that a current airline schedule and a current tariff or price list be submitted. Both are needed to analyze competition, particularly at airport "hubs", and the production of this information will not burden applicants. *See* §§ 303.13 (e) and (f). No comments were filed opposing submissions of this material, although ATA noted that the pertinence of the material will vary for each transaction. Second, the requirement to produce documents relating to any potential adverse impact of the merger caused by an increase in operating costs or a decrease in the quantity or quality of air service has been deleted because it is not needed in most merger proceedings. We will not second guess carrier management decisions regarding the down-side risk of a transaction and thus the information will not be requested as part of the initial application. However, if such information becomes relevant to the approval of a proposed merger, it could be obtained through other means when necessary. *See* § 303.16. Third, the Department will not adopt current 14 CFR 303.33(e) (50 FR 2374, January 16, 1985) because it is largely duplicative of other information required to be produced.

A number of commenters suggest changes to this subpart. ATA, USAir, and Southwest Airlines assert that material submitted under §§ 303.11 and 303.13 should only be required for a one year period, rather than the proposed two and three year time frames. ATA and Southwest also made a similar request for § 303.10. Each claims that the proposed material requests are burdensome. The Department disagrees. While the sections do require a substantial amount of material, the

information can expedite the review process, provide a historical perspective of the companies' activities, and demonstrate whether competitive harm could result from a proposed transaction. This information also was extremely useful in these cases at the CAB. Furthermore, the statutory time period for processing section 408 applications can be met only if this information is before the agency. In addition, the requirement ensures that we base our decision on a full and adequate record. In any event, applicants are always free to request an exemption from the requirements. Therefore, we will adopt the two and three year provisions originally proposed.

USAir also asks that § 303.13(b) be limited to include only information regarding overlapping markets of the merger partners. The provision attempts to obtain a limited number of documents that indicate the competitive plans of the merger partners. These documents often reveal the markets that carriers might enter, or why a market cannot be entered. This information can be extremely useful in assessing the competitive ramifications of a proposed transaction. Therefore, the provision is adopted as proposed.

Finally, insofar as ATA suggests that it be made clear that these rules do not alter the attorney-client privileges, or the attorney-work product rules, we do so. Of course, the validity of the assertion of privilege depends upon the facts of each case. Generally, these privileges may be asserted with respect to documents drafted in preparation for litigation with the Department. It is not available, though, as a general shield against Department requests for documents.

Subpart C

This subpart sets forth the information that must be submitted when a party requests approval for an interlocking relationship under section 409. The regulations on section 409 applications previously were set forth at 14 CFR Part 251. The Department is adopting those regulations with the modifications proposed in the NPRM.

First, a portion of the regulations concerning reports filed under section 407 of the Act, 49 U.S.C. 1377, are being deleted, since certain provisions concerning domestic aviation were repealed on January 1, 1983, and those applicable to foreign aviation were repealed on January 1, 1985. Second, those portions of the regulations concerning the format of section 409 applications and the general conditions applicable are being deleted, since these matters are covered elsewhere in the Department's regulations. Finally, a provision of the regulations relating to applications filed prior to March 10, 1942, is being deleted as being no longer current.

The only comments concerning this subpart addressed notice of the transactions. The issue is discussed in conjunction with Subpart E.

Subpart D

This subpart describes the type of information that must be included in an application for approval of an inter-carrier agreement under section 412. The regulations on section 412 applications previously were set out in 14 CFR Part 261 (concerning agreements already in effect) and 14 CFR Part 303 Subparts A and B (concerning agreements submitted for approval prior to implementation). The Department's new regulations on section 412 applications are similar to those adopted by the CAB, but differ in some respects. First, Part 261 and Subpart A and B of Part 303 are combined in a single subpart. Second, the provisions of the former CAB regulations concerning the authentication of contracts and agreements are reworded and condensed. Third, language has been added to include requests for authority to discuss possible cooperative working arrangements within the scope of the regulations. Fourth, the requirements for serving copies of section 412 applications are changed to reflect the sunset of the CAB and the new responsibilities of the Department of Transportation. Finally, certain procedural provisions are deleted because they are covered in 14 CFR Part 302.

IATA requests that the proposed provisions governing the form and content of section 412 applications be changed to reflect traditional procedures with respect to Traffic Conference agreements. (The term "Traffic Conference Agreements" refers to the products of the passenger agency and services conferences, the cargo agency and service conferences, and the several fare and rate conferences.) In addition, it would exclude IATA Traffic Conference agreements from the proposed requirements, in § 303.31, that agreement applications explain the nature and purpose of the agreement, explain any changes it makes, and set forth all necessary factual matter, documentation, and argument in support of the application. IATA contends that Traffic Conference agreements are already subject to specific justification requirements set forth in various CAB orders and rules, such as those applicable to cargo tariff agreements, and that, therefore, the imposition of general requirements can only lead to confusion.

The Electronic Shippers group argues that existing requirements for the explanation and justification of IATA fare and rate agreements are inadequate to ensure that DOT and interested consumer parties can evaluate their economic merits. In particular, it contends that carrier economic justifications frequently ignore CAB requirements for the provision of full explanatory details, including data sources and allocation methods. It suggests that the new rules make clear that pricing agreements will not be approved without such information. In addition, it suggests that the new procedures require disclosure of all potentially conflicting economic forecasts (*e.g.* stockholder reports) prepared by each carrier within the preceding year. It also requests that DOT require regular reports from IATA carriers on the financial results of their systems' all-cargo operations, similar to the CAB's Form 242 reports which were recently terminated. And finally, it requests that DOT make it a regular practice to check carrier forecasts against actual results to test the reliability of such projections.

The Department rejects both the revisions to this subpart proposed by IATA and the additional requirements requested by the Electronic Shippers. With respect to IATA's requests, permitting it and other air carrier associations to file agreements in "alternative formats," meeting the intent of each paragraph would make compliance with the documentation requirements largely a matter of subjective judgment. Moreover, IATA has not really explained how the proposed requirements would interfere with technical association matters.

Similarly, proposed § 303.31 merely sets forth a general requirement that each application contain all necessary explanatory material and economic justification under the substantive standards of the Act. What is necessary is indeed specified in various CAB and DOT orders. However, there is no inherent inconsistency between the general requirements in proposed § 303.31 and the various substantive standards which normally must be addressed on a case-by-case basis. The Shippers have raised criticisms of IATA fare and rate submissions, which generally are difficult to translate into specific procedural rules. However, DOT adopts their suggestion that economic justifications must include full

explanatory details, including data sources and allocation methods, and is extensive supporting documentation; that the CAB's procedures have to serve a brief summary of the scope and nature of each agreement;

accepted applications and further procedural dates on an individual basis in a full evidentiary hearing, the Assistant Secretary may satisfy the layer of review, as requested by ATA, would make it difficult, if not

VOL 50 ISS 147 JL 31 1985 UMI

explanatory details, including data sources and allocation methods, and is adding an appropriate provision to proposed § 303.31. This requirement should make public comments more responsive. The Shippers' suggestion that economic justifications also disclose all potentially conflicting economic forecasts made within the previous year is intriguing, but forecasts are rarely, if ever, identical. Requiring extensive information in all cases would appear to be of little analytical value. The Department has considerable background information on each air carrier, and if questions of inconsistency do arise, an explanation can easily be requested. Similarly, the DOT staff does check carrier forecasts against actual results, as well as against pleadings in other dockets. Finally, the request that DOT require all cargo financial and operating data on a regular basis, such as the recently terminated Form 242 reports, is factually unsupported. Numerous CAB reporting requirements were abolished because the burden of collection and review did not justify the limited use of the data, and the Department will not reconsider those determinations without a persuasive showing of changed circumstances.

The Electronic Shippers also request that proposed § 303.32 be revised to require that IATA serve copies of agreements increasing cargo rates on all persons who have demonstrated a *bona fide* interest in the matters covered by the agreements and who have requested service on them. It suggests this could be accomplished by deleting the proposed exclusion of "IATA rate conference" agreements from the service requirement imposed on other air carrier association agreements in that section. It argues that the CAB's reliance on weekly summaries of filed agreements, mailed to all persons requesting them, was misplaced, because processing and mailing delays averaging four to five weeks often rendered effective participation in the Board's decisional process impossible.

IATA, however, takes the position that all of its Traffic Conference agreements should be excluded from the service obligation in proposed § 303.32, not just rate agreements. It notes correctly, that all IATA Traffic Conference agreements (*i.e.* fare and rate coordination, passenger agency and service matters and cargo agency and service matters) were exempt from a service requirement under CAB procedures. It emphasizes that Traffic Conference agreements constituted some 95 percent of all agreement filings with the CAB; that many contained extensive supporting documentation; that the CAB's procedures have recognized the special nature of these filings by establishing separate, less burdensome, filing and processing requirements; and that neither the CAB's rules in 14 CFR Part 302, Subparts L and P, nor the rules adopted on an interim basis by the Department in 14 CFR Part 303, imposed a service requirement on Traffic Conference agreements. It specifically opposes any rule change that would require service of cargo rate agreements on shippers. It cites, in support of its position, the Board's rejection of such a request in Order 83–10–32 on the grounds that the Board's weekly list of filings, coupled with the ability of shippers to subscribe directly to IATA publications, strikes an acceptable balance between consumer and carrier interests.

The Department is persuaded that some sort of prior service requirement is necessary for Traffic Conference agreements. Ninety percent of IATA filings have a direct impact on what airline consumers, both passengers and shippers, pay. It is particularly important that a means be provided to afford interested consumers a timely opportunity to review and to respond to such agreements. Yet, it is apparent that the notice relied upon by the CAB in recent years has often not met this fundamental test. The Shippers have made a persuasive case that, despite, the efforts of the CAB to expedite the processing and mailing of its weekly list of agreements, receipt in their case was delayed an average of 28 days. In some cases, the CAB had taken action on an agreement before notice of it was received. Delays even approaching this magnitude are not acceptable, particularly given the trend toward a significantly greater volume of Traffic Conference filings and the efforts of both the Board and the Department to expedite the processing of pricing agreements as much as possible. While the Department will strive to provide public notice of accepted filings with considerably less delay than that experienced by the shippers, we cannot at this point rely solely on subsequent notice.

However, requiring IATA to serve its applications on persons who have expressed a prior interest could be unduly burdensome on IATA, for the reasons it suggests. Many Traffic Conference agreement filings are indeed voluminous, and complete service might be unnecessary in many cases. A better balancing of carrier and consumer interests and responsibilities can be achieved, we believe, by requiring IATA to serve a brief summary of the scope and nature of each agreement on persons who have expressed a prior interest. Only upon further request would IATA be required to provide a complete copy of the agreement and any subsequent pleadings. While the initial burden will fall on IATA to prepare and distribute these summary notices, persons affected by the agreements will need to monitor them and take responsibility for pursuing subsequent procedural steps in cases affecting their particular interests. In addition, the Department is adopting this procedure for all IATA Traffic Conference agreements rather than attempt to differentiate among the various subcategories in terms of consumer and/or carrier importance. The minimum information required in each summary notice is specified in the new § 303.32(b).

Subpart E

This subpart sets forth the procedures that must be followed after an application has been filed under section 408, 409 or 412.

Within ten days after an application is filed, the Assistant Secretary will determine whether the application is in substantial compliance with the requirements of § 303.05. If the application is sufficient, the Department will give the public notice that an application has been filed and afford interested persons the opportunity to comment on the application. Under the proposed rules, if the application concerns a section 408 transaction, the notice will be published in the **Federal Register.** Notice of applications under section 409 and 412 would ordinarily be posted in the Department's Documentary Services Division, and, in important cases, will also be published in the **Federal Register.**

Two commenters request that proposed § 303.41 be amended to provide that all section 409 and 412 applications, like section 408 applications, be published in the **Federal Register.** They contend that the proposed posting of such applications, with optional **Federal Register** publication in cases of broad public significance, is inadequate to assure all interested persons an opportunity to respond. One commenter also suggests that the section provide for a minimum fifteen day comment period following publication.

The Department has reviewed the proposed § 303.41 notice procedures and has decided to make certain modifications. The agency has concluded that providing notice of accepted applications and further procedural dates on an individual basis will be an unduly cumbersome process. Rather, we will compile a list of all 408, 409, and 412 applications on a weekly basis which will be posted in the Documentary Services Division, and submitted for publication in the **Federal Register.** The efficiency of the list format for the average agreement will result inconsiderable savings in staff time, mailing cost and publication expense, while at the same time provide three alternative means of public notice for all docketed section 408, 409 and 412, applications. Specifically, notice will be provided by (1) service on persons who have expressed an interest in an application or petition; (2) posting of individual applications and a weekly list of filings in the Documentary Services Division; and (3) publishing the weekly list in the **Federal Register.**

A standard 21-day comment period, which runs from the date of filing, will provide an adequate response time for most agreements notwithstanding some additional processing delay for agreements filed early in the week. For the applications not subject to prior service, the effective comment period may be less than 21 days in some cases, but nonetheless should provide more than ample time for persons to comment. The comment period for significant applications, which may be published separately in the **Federal Register,** may be different.

Following the receipt of comments, the regulations provide a variety of options to the Assistant Secretary. In the case of applications filed under sections 409 and 412, there is no statutory requirement for a hearing. Accordingly, after expiration of the comment period on such applications, the regulations authorize the Assistant Secretary either to approve or disapprove an application without further inquiry. The regulations, however, also give the Assistant Secretary the option of either ordering that an evidentiary hearing be held or issuing an order to show cause why an application should not be summarily approved or disapproved.

Section 408 directs that a hearing be held before deciding whether to approve or disapprove most section 408 applications. Section 408, however, does not specify the particular type of hearing (formal or informal) that is required. Therefore, under the rules, hearings may be conducted by a variety of procedures, ranging from a formal full evidentiary hearing to a less formal show cause procedure. For example, when a section 408 application does not appear to raise factual issues that need to be resolved in a full evidentiary hearing, the Assistant Secretary may satisfy the hearing requirement by issuing an order to show cause. The order will give both opponents and proponents of the application an opportunity to file written comments on the tentative decision. Show cause orders will be issued after receipt of initial comments on an application. The proposed option of issuing show cause orders at the time of the initial publication of notice of the application has been deleted since it is impractical and unnecessary. The NPRM proposal also provided that, in appropriate cases, the Assistant Secretary could exercise his or her authority under section 408(b)(2) either to approve or disapprove, without a hearing, section 408 applications that do not affect the control of air carriers directly involved in the operation of aircraft. These matters, however, will now be exempt under the exemption provisions of this rule. *See* § 303.50 *et seq.* Therefore, we are deleting that provision as superfluous.

This subpart also sets out the procedures to be followed when the Assistant Secretary determines that a full evidentiary hearing is necessary. By order, which sets out the issues to be considered and the time frame for a decision, the Chief Administrative Law Judge will be notified that a case has been instituted. He or she will then promptly assign an administrative law judge (ALJ) to the particular case. The Department originally allowed the Chief ALJ 10 days to assign a case to an ALJ, but in light of the strict time limitations usually involved in these cases, and the fact that such assignments are normally made within one or two days, this appeared to be an inordinate period for this task.

ATA asks that the Department adopt the same review procedures used for international route cases, which provide for a senior career official to review ALJ decisions. 14 CFR 302.22a. The Assistant Secretary then can review the decision of the Senior Career Official. After review, the Assistant Secretary is limited to approving the decision or remanding it for further consideration. There are advantages to such a system where there are multiple applications for limited licenses, and where the determination of national transportation policy may or may not result in the selection of a particular applicant. However, merger applications do not present these circumstances. In addition, merger applications are subject to a six month statutory deadline for Department action. 49 U.S.C. 1490. Providing an additional layer of review, as requested by ATA, would make it difficult, if not impossible, for the Department to meet those deadlines.

With respect to the timetable for completion of hearing cases, § 303.45(d) indicates that the timetable for ALJ decisions will be established in an instituting order. Particularly in merger cases, where there is a very short time period for a final agency decision, this period will necessarily be brief. In the usual merger case, probably no more than 120 days will be available for the hearing and the issuance of the ALJ's recommendations. The instituting order also may outline hybrid procedures, such as the assignment to an ALJ for formulation of the decisional record and a certification of that record to the Assistant Secretary or other persons for a tentative or final decision.

ATA also asks that the Department indicate whether it intends to adhere to CAB precedent when it renders decisions in antitrust-related proceedings. The Department, in fact, intends to do so. Where DOT concludes that a change to existing policy is necessary, ATA requests that that change only be made through means that permit all interested persons, not just parties to proceedings, to comment publically. It asks that proposed § 303.46 be revised accordingly. In this area, the Department will follow CAB practices. Important policy decisions are often made in individual cases. DOT will rely principally, as the CAB did, on the parties to proceedings to raise arguments with respect to policy alternatives. This will not preclude any interested person from commenting because of the procedural rules provide a wide basis for intervention. *See* §§ 302.14 and 302.15.

Finally, in their rulemaking petition, the Electronic Shippers ask that procedures be reformed, particularly in IATA rate cases. They suggest that oral argument or hearings be held in major rate cases. The Department believes the changes made in the procedures applicable to IATA resolve the Electronic Shippers' legitimate concerns. Section 303.42 now provides the Shippers and other interested persons the opportunity to comment on the substance of agreement filings and allows them to argue for a hearing. Where a matter of substantial interest arises, it will be incumbent upon the Shippers to suggest the procedures that they believe will be necessary to reach a reasoned decision.

VOL
50
ISS
147
JL
31
3 1
1985
UMI

Subpart F

Generally, this part sets out exemptions from the prior approval requirements of sections 408 and 409. The Department's intent was merely to continue existing exemptions for air taxi operators, domestic cargo air carriers, charter operators and acquisitions of aircraft and to make relatively minor changes in four respects. These changes are adopted. However, the comments have convinced the Department to revise the proposed subpart substantially. Before discussing the change to the proposal, the changes from CAB practice are summarized below.

First, the CAB rules exempting air taxi operators and charter operators from section 408 (14 CFR Parts 298 and 380) tied the exemptions to the requirements of the underlying rules, which included many restrictions that are unrelated to antitrust considerations. The Department concludes that the merger exemptions for air taxi operators and charter operators need not be contingent on these factors. Therefore, the Department exempts from section 408 any charter operator, and any air taxi operator that does not operate large aircraft as defined in Part 298.

Second, the CAB rule exempting all-cargo carriers from section 408 (14 CFR Part 291) did not exempt acquisitions involving foreign air carriers. This distinction is not necessary. There is no justification for treating acquisitions involving foreign firms differently from acquisitions involving domestic firms, other than concerns pertaining to air carrier compliance with the citizenship requirements of the Act. Therefore, the Department expands the carrier exemption to encompass such transactions as well. Air carriers are cautioned, however, that a transaction to which section 408 applies may affect their U.S. citizenship under the Act (and hence their certificate to engage in air transportation) and/or continuing fitness requirements and may require a filing under 14 CFR 204.4.

Third, the exemption for interlocking relationships has been broadened. Section 303.53 creates an exemption from section 409 for all persons. Most interlocking relationships within the scope of section 409 raise no competitive concerns and do not warrant close government supervision. If a particular interlocking relationship exempted under this regulation does present a competitive problem, it would be subject to the antitrust laws. In such a case, however, the parties to the transaction still have the option of filing their section 409 agreement with the Department under proposed Subpart C of these regulations for the purpose of obtaining antitrust immunity.

Finally, a rule has been added that permits any person to apply for an exemption from any of the requirements relating to section 408. Under that rule, the Assistant Secretary may grant an exemption, if he or she determines that an exemption is consistent with the public interest. He or she may attach conditions to an exemption. The Department contemplates that petitions for exemptions will be filed when there is plainly no anticompetitive effect from the proposed transaction or when there are other circumstances that would warrant an exemption. Antitrust immunity will not be granted with an exemption under the rule.

Flying Tiger Line claims that the proposed exemptions narrow those formerly provided by the CAB under 14 CFR 291.31. Under its interpretation, the only transactions not exempt under that rule were those involving two or more air carriers holding authority to operate passenger service. It argues that DOT's conclusion, that the rules merely continue existing CAB exemptions, was incorrect.

While it is not clear that the CAB actually applied the Part 291 exemption as broadly as Flying Tiger suggests, the proposed § 303.51 does appear to be more restrictive than the previous exemption. By its terms the former CAB rule exempted, for example, a transaction between two carriers holding only cargo authority or between a passenger carrier and one holding only cargo authority. *See* 14 CFR 291.31. Such transactions were, however, subject to a notification requirement. See 14 CFR 291.33. In addition, under 14 CFR 291.32 transactions between persons substantially engaged in the business of aeronautics and any carrier appear to have been exempt from the prior approval requirements of the Act.

These exemptions reflect a broad policy to allow mergers and acquisitions in the airline industry to occur in the same manner as they do in unregulated industries except in those few circumstances where there is a high probability of a significant competitive impact. The Department believes this is a wise policy and will adopt it. In fact, because the Civil Aeronautics Board Sunset Act provides for the termination of the Department's section 408 authority of January 1, 1989, it is all the more appropriate. By limiting the transactions subject to prior approval, DOT will facilitate the transition to the environment where merger oversight is the province of the Department of Justice and private parties.

Consequently, proposed Subpart F is being revised to include the exemptions currently provided in 14 CFR 291.31(b) and 291.32(a). These two provisions are now consolidated in a General Exemption section under § 303.50. That section provides, in essence, that all transactions, except those involving two or more air carriers each providing passenger air service, are exempt from the prior approval requirements of section 408, provided that notice is sent to the Department's Assistant General Counsel for Litigation and to the Director, Office of Economics. The notice requirement is maintained for transactions that fall within the exemption so that the Department may be alerted to transactions which may raise competitive or public interest concerns. The notice requirement will not be a burden on the parties but will allow the Department, in appropriate cases, to begin proceedings when necessary.

Two changes are being made to the Board's rules that should be noted. First, the direct carrier exemption no longer focuses on whether the carriers hold authority to provide passenger service. Rather, both carriers must be providing passenger service in order for the exemption not to apply. This change is being made because many carriers are holding certificate authority, but do not operate passenger service. These are generally carriers whose merger or consolidation is unlikely to raise competitive concerns. In addition, a "transaction", such as the creation of a subsidiary by a parent company that operates or controls a company that operates passenger service, also will be exempt. These transactions do not affect competition adversely. DOT also has authority to review these transactions when necessary. Second, the Department is expanding the notice requirement, set out in proposed § 303.57, to include transactions involving certificated carriers and persons substantially engaged in the business of aeronautics. This change is being made because some transactions of this kind, such as the purchase of a major parts or aircraft manufacturer by an air carrier, might raise antitrust concerns.

The rules also exempt two types of transactions between carriers providing passenger service. The long-standing exemption for air taxis is renumbered as § 303.51 and titled air taxis to more appropriately state its effects—Exemption for air taxis/small aircraft operations. In addition, the exemption

from section 408(a)(2) and (a)(3) for transactions between carriers operating passenger service is continued so long as they involve only the purchase, lease, or lease with purchase option of aircraft.

Reformulating the exemptions in the manner discussed above also resolves many of the comments we received. The changes reinstate the broader rules, as Flying Tiger suggests, and eliminate the ambiguity in the definition of cargo air transportation with which it was also concerned. In addition, the information moots the request of ATA and USAir that the air taxi exemption be expanded to include air taxi operators or other activities falling within the rubric of being "substantially engaged in the business of aeronautics."

Finally, § 303.55 specifies that an exemption does not confer any immunity under the antitrust laws. We have also revised the proposed section to make it clear that an exemption does not relieve any person of Hart-Scott-Rodino Act preacquisition notification requirements.

The Air Line Pilots Association (ALPA) asks that persons who would otherwise have an automatic exemption from section 408 under Subpart F or under the former CAB rules nevertheless be required to provide notice and information concerning the status of labor protective provisions (LPP's). It suggests that DOT impose an information requirement on such persons similar to that set out in § 303.17.

The Department sees little reason to impose this type of burden on persons otherwise exempt from prior approval requirements. The Department also recognizes that in reviewing individual exemption requests, it must consider the effects of the transaction on the public interest. ALPA notes that the "public interest" standard also includes matters affecting employees. However, section 408 exemptions normally are used only for transactions that do not legitimately involve LP matters, just as the CAB employed these exemptions before passage of the deregulation act and prior to its demise. Therefore, there is no reason to burden the parties with such a requirement. Of course, in particular cases where a legitimate LPP issue arises, ALPA or any other interested party is free to raise the issue with the Department.

ALPA claims that the generic exemptions as proposed expand the former CAB exemptions. These changes, it argues, could leave airline employees unprotected for these transactions. It is largely incorrect since only the foreign all-cargo carrier exemption is new. The others only continue those employed by the CAB. The Department's rationale for expanding the exemption to foreign all-cargo carriers is explained above.

Of course, the decision to reinstate the general exemption for transactions other than those involving two carriers providing passenger service does operate to exempt more transactions than we originally proposed. The major change of the exemption, however, is to eliminate the obligation to obtain prior approval of a transaction where only one party is an air carrier. Such transactions do not raise the kind of issues LPP's address, particularly the intergration of work forces. *See* 77 CAB 295 (1978).

Under § 303.54 persons involved in non-exempt transactions may request an exemption for their particular merger. ATA and Southwest request that the Department establish a procedural schedule for such exemption petitions to ensure that such matters are expedited. The Department does not agree. The purpose of this section is to facilitate transactions that should be free of controversy. It is not a device to shorten the statutory time in complex cases. DOT, however, will endeavor to handle them as expeditiously as possible.

American asks that proposed § 305.54(c) be expanded to require service of notice of an exemption application. For the reasons set forth above, in the general discussion of service of applications, American's request is denied. It also requests that persons filing exemption applications be required to make copies available to requesting parties. DOT believes such a requirement would facilitate public comment on exemption applications. Consequently, language has been added to the proposed section to ensure that an interested person can obtain the materials filed under subpart F.

American further suggests that the proposed § 303.56, "Termination of exemption" provision, be revised to make it clear that the provision was designed to deal with blanket exemptions and not individual exemptions granted pursuant to § 303.54. It reasons that, if the section is applied to individula exemptions, the Department would be foregoing its discretion to terminate an individual exemption without a comment. The intent of the provision is that both individually granted and general exemptions be terminable under this section. The Civil Aeronautics Board's policy was that individual exemptions, generally, could be terminated without notice and hearing. However, it normally indicated in orders granting exemptions that it reserved that right. The Department believes this was a sound practice. Where DOT wishes to reserve the right to revoke an individual exemption without notice and hearing, it will do so in the order granting the exemption. In other cases, notice and hearing are appropriate. Therefore, the proposed provision remains unchanged.

Miscellaneous Issues

In their comments on recommended DOT procedures, the Electronic Shippers request (1) that notice of Special Tariff Permission (STP) applications be given to interested parties, and (2) that the rules governing *ex parte* communications be clarified with regard to the processing of agreement applications.

With respect to notice of STP applications, the Civil Aeronautics Board specifically addressed this issue in 1983, after receiving similar comments from the Electronic Shippers in connection with the establishment of the Standard Foreign Rate Level (SFRL) and the CAB's International Cargo Rate Flexibility Policy (PS–109, Docket 37444, effective February 27, 1983). After reviewing the public notice provisions for STP applications governing international cargo rates, the Board concluded in PS–109 that requiring notice of all STP applications for all interested parties would impose an unwarranted burden on the carriers. "It would be more efficient," the Board found, "to maintain a public file of STP applications in our offices, which interested parties can monitor. This will not create an undue burden on those parties, since professional tariff-watchers already make a business of monitoring newly filed tariff applications daily, and can easily monitor STP applications, if there is a demand for that service." (PS–109, at 20.) We concur with the Board's resolution of this issue, particularly in light of the volume of STP applications received and the very large number of shippers who may be considered "interested parties" for any given cargo rate STP application. The DOT Tariffs Division has maintained the public file on STP applications since CAB Sunset, and will continue to do so.

In PS–109, the CAB also noted that current regulations already provide for notification of "readily identifiable representatives of affected shippers" when STP approval is sought for "obviously controversial filings," under 14 CFR 221.191 (e) and (f). (See ER–1322, effective February 27, 1983.) The vast majority of STP applications are not controversial and thus do not trigger this notification mechanism. In particular, with respect to international cargo rates.

VOL
50
ISS
147
JL
31
1985
UMI

we find that the following categories of STP applications are *prima facie*, non-controversial: (1) STP applications filed to implement previously approved IATA rate agreements; (2) STP applications filed to implement cargo rates within the zones of flexibility established by PS–109, or otherwise exempt from economic justification requirements pursuant to 14 CFR 221.165(d); and (3) STP applications filed to implement cargo rates in markets governed by bilateral aviation treaties that include liberal pricing and entry provisions.

In setting forth these general categories, we are following the established practice of the Board; we see no basis for imposing a sweeping notification requirement for non-controversial STP applications. The procedures we have established provide for direct service of summaries of proposed IATA agreements, public posting weekly of a list of agreements received, a 21-day review and comment period, maintenance of a readily accessible public file of STP applications received, and special notification provisions for controversial STP applications. We believe that these procedures are fully adequate to meet the needs of the Electronic Shippers and other interested parties, and the Shippers have made no persuasive showing to the contrary. Under these circumstances, we see no reason to institute an additional regulation that imposes a blanket requirement for notification of every STP application filed, and we will therefore deny the Shippers' request.

With respect to the ex parte issue, major deficiencies in the documentation or economic justification submitted in connection with agreements have been dealt with in the past by issuance, under delegated authority, of an order formally requesting the requisite information. In some cases, this problem results in delay in processing the entire agreement, while, in other cases, action is deferred on that portion of the agreement requiring supplementation. However, for the Department to discharge its agreement responsibilities in a timely manner, it is also necessary, from time to time, for the staff to make oral requests for clarification of agreements and/or their supporting material. Procedurally, therefore, certain section 412 applications are closely analogous to tariff filings. In such cases, substantive communications between the Department and any interested party are not prohibited, unless and until the Department orders an investigation or a complaint is filed or docketed. But all such communications must be memorialized for the record and filed in the dockets under § 300.3(a)(3). The Department will continue to follow these procedures in processing requests for approval of agreements. They permit the compilation of an adequate record in all cases in the most efficient manner possible, while also insuring that all interested parties have full access to that record. Whenever feasible, responses to Department requests for additional information will be expected to be provided in written form, with copies mailed to any parties who have filed a formal response to the application. In all cases, the questions and responses will be summarized immediately by the Tariffs Section for inspection in the public docket.

List of Subjects

14 CFR Parts 291 and 303

Air carriers, Antitrust, Administrative practices and procedures, Reporting and recordkeeping requirements

14 CFR Part 296

Air carriers, Freight forwarder

14 CFR Part 298

Air taxis, Insurance, Reporting, and recordkeeping requirements

14 CFR Part 380

Charter flights, Reporting and recordkeeping requirements, Surety bonds

PARTS 251, 261, 287, AND 299—[REMOVED]

1. Parts 251, 261, 287, and 299 are removed.

PART 291—[AMENDED]

2. The authority citation for Part 291 continues to read as follows:

Authority: Secs. 101, 102, 204, 401, 407, 408, 416, 418, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 766, 767; 49 U.S.C. 1301, 1302, 1324, 1371, 1377, 1378, 1386, 1388, unless otherwise noted.

§ 291.31 [Amended]

3. Section 291.31 is amended by removing and reserving paragraphs (a)(5) and (b).

§ 291.32 [Amended]

4. Section 291.32 is amended by removing and reserving paragraphs (a) and (b).

§§ 291.33 and 291.35 [Removed and Reserved]

5. Sections 291.33 and 291.35 are removed and reserved.

PART 296—[AMENDED]

6. The authority citation for Part 296 continues to read as follows:

Authority: Secs. 101, 102, 204, 408, 409, and 416, Pub. L. 85–726, as amended, 72 Stat. 737, 740, 743, 767, 768, 771, 49 U.S.C. 1301, 1302, 1324, 1378, 1379, 1386.

§ 296.10 [Amended]

7. Section 296.10 is amended by removing and reserving paragraphs (b) and (c).

§ 296.11 [Removed and Reserved]

8. Section 296.11 is removed and reserved.

PART 298—[AMENDED]

9. The authority citation for Part 298 continues to read as follows:

Authority: Secs. 101(3), 204, 401, 404, 407, 416, 418, 419, Pub. L. 85–726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732; 49 U.S.C. 1301, 1324, 1371, 1374, 1377, 1386, 1388, 1389.

§ 298.11 [Amended]

10. Section 298.11 is amended by removing and reserving paragraph (g).

§§ 298.12, 298.14 and 298.92 [Removed and Reserved]

11. Sections 298.12, 298.14 and 298.92 are removed and reserved.

PART 380—[AMENDED]

2. The authority citation for Part 380 continues to read as follows:

Authority: Secs. 101(3), 204, 401, 402, 407, 416, and 1102, Pub. L. 85–726, as amended, 72 Stat. 737, 743, 754, 757, 766, 771, 797 (49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, 1502), unless otherwise noted.

§ 380.20 [Amended]

13. Section 380.20 is amended by removing and reserving paragraph (b).

§§ 380.21, 380.22 and 380.44 [Removed and Reserved]

14. Sections 380.21, 380.22 and 380.44 are removed and reserved.

15. Part 303 is revised to read as follows:

PART 303—REVIEW OF AIR CARRIER AGREEMENTS, MERGERS, ACQUISITIONS OF CONTROL, CONSOLIDATIONS AND INTERLOCKING RELATIONSHIPS

Subpart A—General Provisions

Sec.
303.01 Purpose.
303.02 Definitions.
303.03 Requirement to file application.
303.04 General rules governing application content, procedure, and conditions of approval.

Sec.
303.05 Applications requesting antitrust immunity.
303.06 Review of antitrust immunity.
303.07 Transitional rule.

Subpart B—Section 408 Applications

303.10 General provisions concerning contents of applications.
303.11 Financial information.
303.12 Equipment and facilities information.
303.13 Competitive information.
303.14 Availability of resources.
303.15 Potential public benefits of the proposed transaction.
303.16 Potential impact of the proposed transaction.
303.17 Labor relations.
303.18 Fuel consumption.
303.19 Notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Subpart C—Section 409 Applications

303.20 General provisions concerning contents of applications.
303.21 Approval of systems of affiliated and subsidiary companies.
303.22 Uninterrupted tenure; no new applications required.
303.23 Notice of changes in positions.
303.24 Extent of authorization to hold position.

Subpart D—Section 412 Applications

303.30 General provisions concerning contents of applications.
303.31 Justification for the application.
303.32 Service of the application.
303.33 Modifications and cancellations.

Subpart E—Procedures Upon Application or Review

303.40 Determination of compliance.
303.41 Notice.
303.42 Comments on application.
303.43 Action following the comment period.
303.44 Show cause proceedings.
303.45 Evidentiary hearings.
303.46 Decision by the Assistant Secretary.

Subpart F—Exemptions

303.50 General exemptions.
303.51 Exemption for airtaxis/small aircraft operators.
303.52 Exemption for aircraft acquisitions.
303.53 Exemption for interlocking relationships.
303.54 Application for exemption for section 408 transactions.
303.55 Effects of exemption on antitrust laws.
303.56 Termination of exemption.
303.57 Notification requirement for certain transactions.

Authority: 49 U.S.C. Subtitle I, sections 1301, 1302, 1303, 1324, 1371, 1377, 1378, 1379, 1382, 1383, 1384, 1386, 1388 and 1551.

Subpart A—General Provision

§ 303.01 Purpose.

These regulations set forth the procedures by which applications may be made to the Department of Transportation under sections 408, 409, 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1378, 1379, 1382 and 1384) and procedures governing proceedings to enforce these provisions. These regulations also grant exemptions from sections 408 and 409 for certain types of transactions.

§ 303.02 Definitions.

(a) The term "Act" refers to the Federal Aviation Act of 1958, as amended. (49 U.S.C. 1301 *et seq.*)

(b) The term "Assistant Secretary" means the Assistant Secretary for Policy and International Affairs, or as delegated. As provided in 49 CFR 1.43, the Secretary or Deputy Secretary may exercise any authority in lieu of the Assistant Secretary under the provisions of this Part.

(c) The term "documents" means (1) all written, recorded, transcribed or graphic matter including letters, telegrams, memoranda, reports, studies, forecasts, lists, directives, tabulations, logs, or minutes and records of meetings, conferences, telephone or other conversations or communications; and (2) all information contained in data processing equipment or materials. The term does not include daily or weekly statistical reports in whose place an annual or monthly summary is submitted.

(d) The term "Documentary Services Division" means the Documentary Services Division of the Office of the Assistant General Counsel for Regulation and Enforcement.

(e) The term "hearing" means either a show cause proceeding as provided in § 303.44 of this part or a full evidentiary hearing as provided in § 303.45 of this part, whichever is determined by the Assistant Secretary to be appropriate.

(f) The term "section 408 transaction" means any transaction or relationship made unlawful by section 408(a) of the Act if not approved under section 408(b) of the Act. (49 U.S.C. § 1378 (a) and (b))

(g) The term "section 409 transaction" means any transaction or relationship made unlawful by section 409 of the Act if not approved under that section. (49 U.S.C. 1379).

(h) The term "section 412 transaction" means any contract, agreement or discussion of a cooperative working arrangement within the scope of section 412 of the Act. (49 U.S.C. 1382).

(i) The term "standard labor protection provisions" means the labor protection provisions imposed by the Civil Aeronautics Board in the *Pan-American—Acquisition of Control of and Merger with National Case*, CAB Order 79–12–163/164/165 (October 24, 1979).

§ 303.03 Requirement to file application.

A person who seeks approval of a section 408, 409 or 412 transaction must file with the Documentary Services Division and application that conforms to the requirements set forth in § 303.04 and § 303.05 of this part.

§ 303.04 General rules governing application content, procedure and conditions of approval.

(a) Unless specifically exempted by these regulations or by an order of the Assistant Secretary, a person filing an application pursuant to § 303.03 of this part shall prepare and file the application in the manner specified in this section. The application shall also contain the information required by the subpart of this part applicable to the type of transaction for which approval is requested. The subparts applicable to each type of transaction are as follows:

(1) Section 408 transactions: Subpart B;

(2) Section 409 transactions: Subpart C; and

(3) Section 412 transactions: Subpart D.

An application may be deemed incomplete if it is not in substantial compliance with these requirements.

(b) The parties to the transaction may file either separate applications or one joint application so long as all the information required herein is submitted for each party to the transaction; except, in the case of non-consensual section 408 transactions, the applicant shall be required to provide the information required herein for its target company only to the extent that such information is available to it. The Assistant Secretary or Administrative Law Judge, if the matter has been assigned to a Judge, upon his or her initiative or upon application, may order the target company or other persons to submit some or all of the information required by this subpart, or other information under 14 CFR 302.19.

(c) The application shall be indexed to correspond to the individual subsections of the applicable subpart. Each page of the application and each document submitted with the application shall be marked with the name, initials, or some other identifying symbol of the applicant. The application shall also indicate the date of preparation and the name and corporate position of the preparer. In addition, for section 408 applications, the intended recipient of each document submitted must be identified.

(d) Where the required information is in data processing equipment, on microfilm, or is otherwise not eye-

readable, the applicant shall provide such information in eye-readable form

applicant believes immunity is in the

corporation or by the other corporation's

(a) The following reports filed with the United States Securities and

tiers, service to foreign points or any other geographical area):

§ 303.15 Potential public benefits of the proposed transaction.

VOL
50
ISS
147
JL
31
1985
UMI

readable, the applicant shall provide such information in eye-readable form.

(e) The information provided by the applicant shall be updated in a timely fashion throughout the period of consideration of the application.

(f) If any information or documents required by the applicable subpart are not available, the applicants shall file an affidavit executed by the individual responsible for the search explaining why they cannot be produced.

(g) The Assistant Secretary or the Administrative Law Judge may order any applicant to submit information in addition to that required by the applicable subpart.

(h) An applicant may withhold a document required by this part on the grounds that it is privileged, but each document so withheld shall be identified and the applicant shall supply a brief description of the nature of the document, a written statement indicating the basis of the privilege claimed, and the names of the preparers and recipients of the document. If any interested party contests the assertion of privilege, the document shall be promptly submitted to the Assistant Secretary, or the Administrative Law Judge, if the matter has been assigned to a Judge. Where appropriate, an in camera inspection may be ordered.

(i) The person submitting the application to the Department shall send a complete copy of the application to the Chief, Transportation Section, Antitrust Division of the Department of Justice, at the same time as it is filed with the Documentary Services Division.

(j) The applicant shall, if requested, be responsible for expeditiously providing the application to any interested person, whether or not a party.

(k) Unless otherwise specified in this subpart, all applications shall conform generally to the requirements set forth in 14 CFR Part 302, Subpart A.

(l) In exceptional circumstances, the Assistant Secretary may waive or alter the procedural requirements of this part to permit a transaction to proceed on an expedited basis.

§ 303.05 Applications requesting antitrust immunity.

(a) Each application must state explicitly whether or not the applicant seeks antitrust immunity under the provisions of section 414 of the Act. If antitrust immunity is requested, the application should specify whether the applicant seeks full immunity or immunity only from the provisions of sections 4, 4a and 4c of the Clayton Act, 15 U.S.C. 15, 15a, 15c. Each application seeking antitrust immunity shall contain a statement explaining why the applicant believes immunity is in the public interest and necessary in order for the transaction to proceed.

(b) Any application for antitrust immunity filed in connection with an application under section 412 (relating to interstate and overseas air transportation) shall specify the duration of such requested immunity, but in no event shall it extend beyond January 1, 1989.

(c) Any material misrepresentation of fact in such an application shall be grounds for rescission *nunc pro tunc* of any antitrust immunity granted as a result of the misrepresentation.

(d) A request for renewal of any immunity granted does not operate under section 558 of Administrative Procedure Act, 5 U.S.C. 558(c), to extend the period of immunity conferred.

§ 303.06 Review of antitrust immunity.

The Assistant Secretary may initiate a proceeding to review any antitrust immunity previously conferred by the CAB or the Department in any section 408, 409 or 412 transaction. The Assistant Secretary may terminate or modify such immunity if the Assistant Secretary finds after notice and hearing that the previously conferred immunity is not consistent with the provisions of section 414. In any proceeding to review such immunity the proponents of the immunity will have the burden of justifying the continuation of previously conferred immunity under the provisions of section 414.

§303.07 Transitional rule.

If a section 408, 409, or 412 application or a request for antitrust immunity under section 414 is pending on the date this part is amended, such application or request shall be deemed made pursuant to the provisons of this part, as amended.

Subpart B—Section 408 Applications

§ 303.10 General provisions concerning contents of applications.

A Section 408 Application shall contain the following general information:

(a) The names and mailing addresses of the parties to the transaction and the names, titles, and duties of the officers and directors of each corporation.

(b) A description of the transaction, including the exchange ratio, the terms of any tender offer, and the form of financing.

(c) A copy of the final or most recent draft agreement between the parties relating to the transaction.

(d) The percentage of the outstanding voting securities of either corporation that is owned or controlled by the other corporation or by the other corporation's officers or directors. The application shall also set forth the consideration paid for these securities, the date and method of their purchase, and the form of payment.

(e) A list of all officers and directorships held in any other corporation which is a common carrier or is substantially engaged in the business of aeronautics by officers or directors of any party to the transaction.

(f) A list of all other financial relationships between the parties to the transaction, or between their officers, directors or major shareholders.

(g) All studies, reports and analyses regarding the proposed transaction or the other party to the transaction made by or for an applicant within three years preceding the application. These materials shall include, but not be limited to, any discussion of the proposed transaction or other party to the proposed transaction with respect to—

(1) Competition, markets, market shares, actual competitors or potential entrants;

(2) Potential for sales growth or expansion into new markets;

(3) Efficiencies or costs of the proposed transaction; or

(4) The financial condition or operating strengths or weaknesses of the proposed partner or target company.

(h) If the applicant is relying for approval of the proposed transaction on a claim that that transaction would meet significant transportation needs of the public and that these needs may not be satisfied by a reasonably available alternative having materially less anticompetitive effects, all studies, reports and analyses made within two years preceding the filing of the application regarding other possible mergers, consolidations, or acquisitions that it had considered.

(i) Any other evidence that applicants wish the Department to consider in addition to that required by this subpart shall also be filed with the application. This evidence shall include all exhibits, data, and testimony on which the applicant intends to base its direct case and the names and addresses of all witnesses whom it will seek to call in the event that an oral evidentiary hearing is held. An applicant is not precluded from later filing answers, replies, or rebuttal exhibits or testimony.

§ 303.11 Financial information.

A section 408 application shall contain the following financial information:

(a) The following reports filed with the United States Securities and Exhange Commission within three years prior to the date of the application:

(1) All reports filed on Form 10K;

(2) All registration statements and all reports filed on Forms 10Q and 8K;

(3) All proxy statements; and

(4) All Schedules 14 D–1 with all amendments.

(b) Annual reports to shareholders for the three years preceding the application.

§ 303.12 Equipment and facilities information.

A section 408 application shall include the following equipment information:

(a) A list of aircraft owned or leased by the applicant by aircraft type and age.

(b) If the aircraft is leased from others, the owner of the aircraft and the terms of the lease; if the applicant leases aircraft to others, the lessee and the terms of the lease.

(c) A detailed description of all plans and orders for the acquistion, lease or major modifications of flight equipment, including the price and projected delivery date of any aircraft.

(d) A detailed description of all plans and agreements for the sale or lease of aircraft.

(e) A list and description of airport terminal and landing facilities, including terms of tenure.

§ 303.13 Competitive information.

A section 408 application shall contain the following competitive information:

(a) Separate lists of all non-stop city-pairs (1) that are served by the applicant, (2) that are served by the other party to the proposed transaction, and (3) into which the applicant or the other party to the proposed transaction is considering entry, at the time of the application.

(b) All studies, reports, and analyses that were submitted to the applicant's chief executive, financial, marketing, or operating officers, its Board of Directors, its executive committee, or any financial institution, within two years prior to the filing of the application, that discuss route development, internal expansion, service expansion or the marketing plans or strategies of the applicant.

(c) All documents prepared by or for the company within two years prior to the filing of the application that discuss any of the following subjects in relation to any area served by both parties (whether the area discussed in the document is one or more cities, airports, city-pairs, routes, hubs, regions, states, tiers, service to foreign points or any other geographical area):

(1) Competition;

(2) The possibility of new entry;

(3) Profitability or yield;

(4) Fare levels or availability of discount fares;

(5) Capacity or scheduling;

(6) Load factors or break-even levels;

(7) Identity of potential entrants; or

(8) Possible responses to new entry or to changes in a competitor's fares, scheduling, capacity or number of discount seats offered.

(d) All documents prepared by or for the company within two years prior to the filing of the application that discuss any of the topics listed in § 303.13(c) in relation to any area served by the other party to the proposed transaction (whether the area discussed in the document is one or more cities, airports, city-pairs, routes, hubs, regions, states, tiers, service to foreign points or any other geographical area).

(e) A copy of the company's flight schedule effective at the time of the application.

(f) A copy of the company's tariffs or list of applicable fares as of the time of the application.

§ 303.14 Availability of resources.

A section 408 application shall contain a detailed description of the following for each airport served by both parties to the proposed transaction:

(a) The availability of fuel and the policy of fuel suppliers as to the supply and price of fuel to new entrants.

(b) The availability of landing slots at any of the airports that have access allocated by the FAA or are otherwise restricted.

(c) The environmental constraints on each airport that limit or regulate additional service, whether of new entrants to the airport or of expanded service by incumbents. The report on environmental constraints shall include a description of any regulation that afects airport use, including but not limited to noise, air, and surface pollution.

(d) Airport constraints as to the size or type of aircraft that can be operated at the airport, including, but not limited to, such considerations as runway length, availability of ramp space, and safety considerations.

(e) Any constraints with respect to terminal facilities, including but not limited to counter or ticketing space, gate space, baggage or cargo consolidation space, and ramp space.

§ 303.15 Potential public benefits of the proposed transaction.

(a) If a section 408 applicant intends to rely on public benefits to justify approval of its proposed transaction, the applicant shall describe those benefits in detail and include all documents submitted to its chief executive, financial, marketing, or operating officer, its Board of Directors, its executive committee, or any financial institution, that discuss these benefits or the following subjects:

(1) Any decrease in operating costs or increase in operating efficiencies. This should include an estimate of when the savings will be realized;

(2) Service benefits and proposed changes in price/quality options;

(3) Any enhancement of competition and the regions where that enhancement will occur; or

(4) Any changes in employment opportunities.

(b) The applicant shall provide all data, and set forth the method of calculation, upon which its claims of benefits rely.

(c) In describing the public benefits, the applicant shall distinguish between a one-time cost saving or benefit resulting from the transaction and continuing operational efficiencies or benefits.

§ 303.16 Potential impact of the proposed transaction.

A section 408 application shall include all documents that were submitted to the applicant's chief executive, financial, marketing, or operating officer, its Board of Directors, its executive committee, or any financial institution, that discuss the following in relation to the proposed transaction:

(a) Any lessening of competition as a result of the proposed merger.

(b) Any costs that would result from labor protective provisions that are necessary to complete the transaction.

§ 303.17 Labor relations.

A section 408 application shall provide the following labor relations information:

(a) Whether the surviving carrier will accept standard labor protective provisions as a condition of approval of the transaction, and the estimated costs of those provisions.

(b) The number of employees, by each class or craft, employed by each party to the transaction, and the number of employees by class or craft in their employ but on furlough. With respect to those employees on furlough, applicants shall indicate the reasons for such

furlough and the order of recall (and the basis thereof) of these employees.

(c) Whether any plans exist for the dismissal, displacement, transfer, reduction of flying time or furlough of any employees in any class or craft as a result of operating changes which would flow from the proposed transaction. If so, applicants shall list for each such class or craft the number of employees affected, the type of action (*e.g.*, dismissal, transfer, furlough, etc.) anticipated, and the manner in which the plans would be implemented.

(d) Applicants' position with respect to the survivability of existing collective bargaining agreements when the merger becomes effective.

(e) Copies of the collective bargaining agreements applicants have with the different classes of employees.

§ 303.18 Fuel consumption.

(a) A section 408 application shall estimate the amount of fuel that would be consumed by—

(1) The consolidated or commonly controlled entities during the next calendar year following approval; and

(2) Each carrier individually during the next calendar year following disapproval.

(b) With both estimates in paragraph (a), the applicant shall include a statement as to the availability of the required fuel.

§ 303.19 Notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Whenever a proposed section 408 transaction is subject to the premerger notification requirements of Title II of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, 15 U.S.C. 18a, a complete copy of such application shall also be filed with the Attorney General and the Federal Trade Commission pursuant to the requirements of 15 U.S.C. 18a(c)(6) and the regulations promulgated thereunder.

Subpart C—Section 409 Applications

§ 303.20 General provisions concerning contents of applications.

(a) All transactions within the scope of section 409 of the Act are exempted from the requirements of that provision by § 303.53, but are not granted antitrust immunity. Persons seeking approval of a transaction under section 409 for purposes of obtaining antitrust immunity under section 414 of the Act must file an application containing the following information:

(1) The full name, place of residence, and citizenship of the individual applicant;

(2) The name and address of the major business or professional activity of the individual applicant;

(3) A complete description of the interlocking relationship for which approval is sought, as well as a description of any other interlocking relationship involving the individual applicant which has been approved or exempted by the Civil Aeronautics Board or the Department of Transportation. This description shall include the date and manner of the individual applicant's election or appointment to the position or positions which he or she occupies or seeks to occupy, and shall state the name or names of the persons primarily responsible, directly or indirectly, for his or her election or appointment. It shall also include a statement of his or her present or contemplated duties in connection with the interlocking relationship for which approval is sought and the approximate amount of time devoted or expected to be devoted thereto;

(4) The name of the person or persons, if any, whom the individual applicant represents or will represent on the board of directors of each air carrier applicant, together with a statement as to any financial interest held by such person or persons in any air carrier, foreign air carrier, common carrier, person substantially engaged in the business of aeronautics other than as an air carrier, or person whose principal business, in purpose or in fact, is the holding of stock in, or control of any other person substantially engaged in the business of aeronautics;

(5) The name and address of each business (including but not limited to corporations, partnerships, trusts, etc.) of which the individual applicant is an officer, director, partner, trustee, receiver, manager, attorney, agent, or controlling stockholder or employee, the general character of each such business and a description of the individual applicant's financial interest therein.

(6) A complete description of any benefit and of the amount of, and basis for, any money or thing of value (i) received by the individual applicant during the last year from each air carrier applicant and from any person with whom the individual applicant has or seeks to have an interlocking relationship, whether for service, reimbursement of expenses or otherwise, and (ii) which the applicant contemplates receiving from any such person during the continuance of the interlocking relationship;

(7) The names and titles of all officers and directors of each air carrier applicant, and of each person with whom the individual applicant has or seeks to have an interlocking relationship;

(8) The names (i) of the largest stockholders, not exceeding 20, who hold one percent or more of the voting capital stock of any air carrier applicant and (ii) of the largest stockholders, not exceeding 20, who hold one percent or more of the voting capital stock of any person with whom an interlocking relationship is sought by such application to be approved, together with the number of shares of each class of stock held by each of such stockholders and the percentage which such shares bear to the total number of shares of the same class authorized and outstanding. (If all or any part of such shares are held for the account of any person other than the holder, the names of such persons shall be disclosed. If the applicant, after making all reasonable efforts, is unable to obtain disclosure of such information with respect to any of the persons classified under paragraph (a)(8)(ii) of this section, the application shall state specifically the efforts made to obtain such information and the reasons why such efforts were unsuccessful);

(9) A description of the shares of stock or other interests held by each air carrier applicant or for its account in persons other than itself; and

(10) Except in the case of interlocking relationships described in § 303.21, a full description of any professional, financial or other business transactions or arrangements which have been entered into within one year prior to the date of the filing of the application by each air carrier applicant with the individual applicant and by each air carrier applicant or individual applicant with any person with whom the individual applicant has or seeks to have an interlocking relationship, together with a full statement as to any such transactions or arrangements which it is contemplated may be entered into while such interlocking relationship continues.

(b) Each application shall state fully such further facts as the applicants respectively deem desirable in order to show that the public interest will not be adversely affected by the approval of the interlocking relationship.

§ 303.21 Approval of systems of affiliated and subsidiary companies.

(a) In the event that an individual occupies or seeks to occupy an interlocking relationship falling within the purview of section 409(a) of the Act which involves only the holding by him or her of the position of officer or

director in two or more companies within the same system of affiliated and subsidiary companies (as defined in paragraph (b) of this section), an application for approval of such relationships need not comply with the requirements of § 303.20(a)(10) but shall comply with all other requirements of that section. Such application shall also include—

(1) Such information as is necessary to disclose the fact that the companies in which the individual applicant occupies or seeks to occupy the interlocking relationships are members of the system of affiliated and subsidiary companies as defined in this section; and

(2) A statement that the individual applicant does not occupy or seek to occupy any interlocking relationship falling within the purview of section 409(a) of the Act other than those within the same system of affiliated and subsidiary companies.

(b) The individual applicant may include in any application made by him or her pursuant to this part a request for an order authorizing him or her to hold generally, in addition to the positions so specifically requested, directorships of offices within the same system of affiliated and subsidiary companies, and it shall not be necessary to file a separate application with respect to each such relationship. Any applicant assuming a directorship or office pursuant to such authorization shall, not later than 15 days after assuming such directorship or office, make or cause to be made a full and complete report thereof to the Assistant Secretary. As used in this part, the term "system of affiliated and subsidiary companies" shall include only a specified company and those companies of which it, directly or indirectly through one or more intermediate companies, owns 50 percent or more of the voting capital stock issued by such companies.

§ 303.22 Uninterrupted tenure; no new applications required.

After the individual applicant has been authorized by the Assistant Secretary to hold a particular position, further application in connection with each successive term will not be required so long as the individual continues in uninterrupted tenure of such position, unless otherwise ordered by the Assistant Secretary.

§ 303.23 Notice of changes in positions.

In the event of the individual applicant's resignation, withdrawal, or failure of reelection or reappointment with respect to any of the positions for which approval has been granted, or in the event of any other material or substantial change therein, the individual and each air carrier applicant shall promptly and not more that 30 days after any such change occurs give notice thereof to the Assistant Secretary, setting forth fully the details of any such change.

§ 303.24 Extent of authorization to hold position.

An order by the Assistant Secretary authorizing an individual applicant to hold the position of director of a company will be construed as sufficient to authorize the individual applicant to serve also as chairman of the board of directors or as a member of chairman of any committee or committees of such board.

Subpart D—Section 412 Applications

§ 303.30 General provisions concerning contents of applications.

A section 412 application shall contain the following general information:

(a) The name, mailing address and primary line of business of each party to the contract, agreement or request for authority to discuss a possible cooperative working arrangement.

(b) If the contract or agreement for which approval is sought is not evidenced by a resolution of an air carrier association, the application shall contain a copy of the contract or agreement that is certified to be true and complete by each party to the contract of agreement. If the contract or agreement is set forth in an exchange of correspondence, copies of all such correspondence must be submitted and must be certified as true and complete by all parties to the contract or agreement. If the contract or agreement is oral, a memorandum fully describing the agreement must be submitted and must be certified as true and complete by all parties to the contract or agreement. If approval is sought for a request for authority to discuss a possible cooperative working arrangement, the application shall contain a complete description of the possible cooperative working arrangement and all matters to be discussed. The description shall be certified to be true and complete by each party to the proposed discussion.

(c) If the contract, agreement or request for authority to discuss a cooperative working arrangement is evidenced by a resolution or other action of an air carrier association, the application shall contain the resolution or other action and a certification by an authorized employee of the association that the resolution or other action was duly adopted on a certain date. The authorized employee shall also specify in such certification the name of each air carrier that concurred in such resolution or other action and the name of each air carrier member that did not concur. Contracts, agreements and requests for authority to discuss cooperative working arrangements may be filed in this manner only if the Association has complied with 14 CFR Part 263.

§ 303.31 Justification for the application.

A section 412 application shall explain the nature and purpose of the contract, agreement or request to discuss a cooperative working arrangement and describe how it changes any price, rule or practice existing under a previously-approved application. The application also, consistent with Department of Tsshall contain factual material, documentation and argument in support of the application. Economic analyses, when required, shall include full explanatory details, including data sources and allocation methods. If the applicants intend to rely on public benefits to justify approval they shall describe these benefits, including foreign policy and comity considerations.

§ 303.32 Service of the application.

(a) Except as provided in pargraph (b), below, a section 412 application desiribed in § 303.30(c) of this subpart and any related pleadings shall be served on any person or organization that has previously advised the air carrier association of its desire for service of such agreements. Each application shall contain the names and addresses of all persons served and a notice that any party in interest may within 21 days of the date of the application file comments with the Assistant Secretary in support or opposition to the application.

(b) Service of IATA Traffic Conference agreements and amendments thereto upon any person or organization that previously has advised IATA of its desire for service of agreements may be accomplished by sending a summary notice specifying the filing date; the IATA memorandum number; the particular Conferences involved; the subject matter (*e.g.* cargo/passenger, tariffs/agency matters/procedures); the proposed effective date(s); the markets or Conference areas affected; the names of the carriers participating in the agreement; the names of all persons served; and a

notice that any party in interest may within 21 days of the date of filing of the

(b) Comments supporting or opposing an application or proposing conditions

full evidentiary hearing, he or she shall

Assistant Secretary's final decision shall be served on all parties.

§ 303.53 Exemption for interlocking relationships.

relationship may be requested as provided in these regulations.

VOL
50
ISS
147
JL
31
1985
UMI

notice that any party in interest may within 21 days of the date of filing of the application file comments with the Assistant Secretary in support of or opposition to the application. A request for a complete copy of the application can be made under the provisions of § 303.04(j).

§ 303.33 Modifications and cancellations.

This subpart also applies to all modifications or cancellations of contracts or agreements or requests for authority to discuss a possible cooperative working arrangement.

Subpart E—Procedures upon Application of Review

§ 303.40 Determination of compliance.

(a) Within 10 days after an application is filed pursuant to § 303.03, the Assistant Secretary will determine whether the application complies with the requirements of §§ 303.04 and 303.05.

(b) If the Assistant Secretary determines that the application is incomplete, he or she may issue a notice dismissing the application without prejudice. If the application is dismissed, and statutory time period for completion of proceedings will not begin to run until a completed application is filed.

§ 303.41 Notice.

(a) The Documentary Service Division shall compile a weekly list of all applications filed under §§ 303.04 and 303.05. The list shall include a description of the application, the docket number, date of filing, state that it may be reviewed in the Documentary Services Division, and indicate that interested parties may comment on the application or request a hearing within 21 days of the date of filling or other period as specified. The weekly list will normally be prepared on the following Monday, or as soon as possible, and will be posted on a public bulletin board in the Documentary Services Division. The list also shall be submitted for publication in the **Federal Register**.

(b) In appropriate case, particularly when an application concerns a matter of broad public significance, the Assistant Secretary may cause a notice of an application and request for public comment to be published separately in the **Federal Register**.

§ 303.42 Comments on application.

(a) Unless a different comment period is specified in the weekly list, or in a notice of filing published in the **Federal Register**, any person may file comments, responses to the application, and/or a request for a hearing within 21 days of the filing of an application.

(b) Comments supporting or opposing an application or proposing conditions and responses thereto shall state with particularity the factual basis on which the person commenting relies, and provide affidavits or other material in support of the factual basis, if appropriate.

(c) Requests for a formal oral evidentiary hearing must set out with specificity the material issues of fact in dispute that cannot be resolved without such a hearing. Vague, unsupported allegations will not suffice.

§ 303.43 Action following the comment period.

(a) *Section 408 applications.* After the period for which comments or requests for a hearing are due, the Assistant Secretary may issue an order to show cause, or an order requesting further information or justification, or an order instituting a full evidentiary hearing, or other further procedural orders.

(b) *Section 409 and 412 applications.* After the period for which comments, requests for a hearing or responses to an order to show cause are due concerning a section 409 or 412 application, the Assistant Secretary may proceed by order requesting further information or justification or by order of approval or disapproval or, in appropriate causes, may proceed by order to show cause or by order instituting a full evidentiary hearing.

(c) Notice to the public of any full evidentiary hearing or order to show cause concerning an application shall be made by publication in the **Federal Register**.

§ 303.44 Show cause proceedings.

If the Assistant Secretary determines that an application, or review of a previously granted application, will be considered in a show cause proceeding, a tentative decision shall be issued inviting interested persons to show cause why the tentative decision should not be made final. Interested persons may respond to the order within the time specified in the order. Replies to such responses shall be permitted within the time specified in the order. Persons wishing to introduce additional facts into the record should incorporate such information in their responses or replies by affidavit. In the case of applications, show cause orders may be issued after the receipt of initial comments on the application.

§ 303.45 Evidentiary hearings.

(a) If the Assistant Secretary determines that an application, or review of a previous granted application, should be the subject of a full evidentiary hearing, he or she shall issue an order so stating. The term "full evidentiary hearing" includes any hybrid format set out in the instituting order. This order shall set forth the issues that are to be considered in such hearing.

(b) After the issuance of an order for a full evidentiary hearing, the Chief Administrative Law Judge shall promptly appoint an Administrative Law Judge to conduct such hearing in accordance with section 7 of the Administrative Procedure Act, 5 U.S.C. 556, and the Rules of Practice in Part 302 of this chapter.

(c) The applicants and the Assistant General Counsel for Aviation Enforcement and Proceedings shall be parties in any full evidentiary hearing held under these regulations. The Assistant Attorney General, Antitrust, shall be a party upon notice filed with the Administrative Law Judge. Other persons may intervene as parties as provided by § 302.15 of this chapter.

(d) Within the time specified in the order instituting the full evidentiary hearing, the Administrative Law Judge shall recommend to the Assistant Secretary that the application be approved or denied or that the previously granted exemption approval or immunity should be terminated or continued in accordance with the standards of the Act. The recommendation shall be in writing, shall be based solely on the hearing record, and shall include a statement of the Administrative Law Judge's findings and conclusions, and the reasons or basis therefore, or all material issues of fact, law or discretion presented on the record. Copies of the recommendation shall be served on each party.

(e) Within 10 days after the date the Administrative Law Judge serves his or her recommendation, any party may file written exceptions to the recommendation for consideration by the Assistant Secretary. Within 21 days after the service date of the judge's recommendation, any party may file a brief in support of or in opposition to any exceptions. This period may be altered by order of the Assistant Secretary, who may also authorize the filing of reply briefs.

§ 303.46 Decision by the Assistant Secretary.

The Assistant Secretary shall decide, on the basis of the record and in accordance with the procedures prescribed in Part 302 of this chapter, whether to grant or deny, in whole or in part, the application. A copy of the Assistant Secretary's final decision shall be served on all parties.

Subpart F—Exemptions

§ 303.50 Exemptions.

(a) Each direct air carrier providing air transportation of passengers or property is exempted from section 408(a) of the Act, except that the exemption in this paragraph:

(1) Does not apply to transactions that involve two or more direct air carriers each providing passenger air service, and

(2) Is subject to the notification requirement of § 303.57

(b) Indirect air carriers, common carriers that are not air carriers, and persons substantially engaged in the business of aeronautics other than as air carriers, are exempted from section 408(a) of the Act for all transactions that do not involve two or more direct air carriers each providing passenger air service.

(c) This exemption does not affect the requirements of 14 CFR Part 204 for transactions involving foreign air carriers or other foreign citizens or affect continuing fitness requirements under that section.

§ 303.51 Exemption for air taxis/small aircraft operators.

(a) *Definition.* "Air taxi operator" means an air carrier that directly engages in the air transportation of persons but that does not operate any aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

(b) *Exemption.* Parties to a transaction to which section 408 applies only by reason of the involvement of one or more air taxi operators are exempted from the operation of section 408.

§ 303.52 Exemption for aircraft acquisitions.

(a) *Definitions.* For the purposes of this section "Aircraft" means any aircraft, as defined in the Act, together with spare parts and accessories maintained for installation or use on it.

(b) *Exemption.* All persons are hereby exempted from section 408 (a)(2) and (a)(3) of the Act for any transaction that involves only the purchase, lease, or lease with purchase option of aircraft.

§ 303.53 Exemption for interlocking relationships.

Air carriers, other common carriers, persons substantially engaged in the business of aeronautics, and their respective officers, members, stockholders and directors are exempt from the operation of section 409 of the Act.

§ 303.54 Application for exemption for section 408 transactions.

(a) Any person may file with the Department of Transportation an application for an exemption from the operation of section 408 of the Act.

(b) An application for exemption shall contain the following:

(1) A brief, clear description of the transaction or relationship for which an exemption is sought, including, if relevant, a copy of any agreement memorializing such transaction or relationship;

(2) An identification of the parties involved in the transaction or relationship; and

(3) An explanation of why an exemption is in the public interest, including (i) why it is needed, (ii) why it is appropriate, and (iii) a description of any effects on competition from the transaction or relationship (In providing this description, parties should consider the information required in a section 408 application, as set forth in §§ 303.10 through 303.19 of this part, and determine whether any portion of that information should be supplied).

(c) A notice of any application for exemption shall be published in the **Federal Register**, together with notice of any hearing which the Assistant Secretary determines to be appropriate.

(d) Upon request, the complete application shall immediately be made available by the applicant to any interested person. Any person may comment on any application for exemption within fifteen days from the date of filing or such other time as is specified in the **Federal Register** notice.

(e) The Assistant Secretary shall issue a decision on an exemption petition after any comments have been received, granting the exemption if found to be in the public interest, with conditions if he or she finds certain conditions appropriate, or denying the petition.

(f) If a petition for exemption is denied, approval for the transaction or relationship may be requested as provided in these regulations.

(g) A grant of exemption under this section does not confer any immunity from the antitrust laws, nor does it reflect the enforcement intentions of the Department of Justice under the antitrust laws with respect to the transaction.

§ 303.55 Effects of exemption on antitrust laws.

The exemptions granted under §§ 303.50 through 303.54 only operate to exempt persons from sections 408 and 409 of the Federal Aviation Act. Such exemptions do not constitute orders, within the meaning of section 414 of the Act, and confer no immunity or relief from the "antitrust" laws or any other statute. These exemptions do not relieve any person from the preacquisition notification requirements of the Clayton Act, 15 U.S.C. 18a, which apply to certain transactions involving firms with annual sales or assets of $10 million or more.

§ 303.56 Termination of exemption.

The Assistant Secretary may terminate any exemptions provided under this subpart with respect to any transation the Assistant Secretary determines, after notice and comment, to be inconsistent with the provisions of the Act or the public interest.

§ 303.57 Notification requirement for certain transactions.

(a) The exemption in § 303.50(a) is subject to the following condition:

(1) Notice of any acquisition or other control transaction between (i) a section 401 certificated carrier and a carrier certificated under either section 401 or 418 of the Act, or (ii) a person substantially engaged in the business of aeronautics and a carrier certificated under either section 401 or 418 of the Act, shall be filed with the Department's Assistant General Counsel for Litigation not later than 45 days before the effective date of the transaction. The Department may invoke any of the powers and procedures described in section 408(b)(3) of the Act within 45 days after notice is filed.

Issued in Washington, D.C., on July 23, 1985.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR doc. 85-17996 filed 7-30-85; 8:45 am]
BILLING CODE 4910-62-M

Reader Aids

Federal Register

VOL
50
ISS
147
JL
31
1985
UMI

Reader Aids

Federal Register
Vol. 50, No. 147
Wednesday, July 31, 1985

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PUBLICATIONS AND SERVICES

Daily Federal Register	
General information, index, and finding aids	523-5227
Public inspection desk	523-5215
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Code of Federal Regulations	
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Laws	
Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Presidential Documents	
Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230
United States Government Manual	523-5230
Other Services	
Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212	1
27213-27408	2
27409-27570	3
27571-27812	5
27813-27926	8
27927-28092	9
28093-28190	10
28191-28362	11
28363-28554	12
28555-28756	15
28757-28894	16
28895-29202	17
29203-29366	18
29367-29628	19
29629-29934	22
29935-30126	23
30127-30260	24
30261-30410	25
30411-30692	26
30693-30800	29
30801-30924	30
30925-31150	31

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
305 ... 28363

3 CFR
Administrative Orders:
Memorandums:
July 17, 1985 ... 29631
Presidential Determinations:
No. 85-16 of July 12, 1985 ... 29629
Executive Orders:
11888 (Amended by EO 12524) ... 27409
12470 (Revoked by EO12525) ... 28757
12523 ... 26963
12524 ... 27409
12525 ... 28757
12526 ... 29203
Proclamations:
5356 ... 26961
5357 ... 29935
5358 ... 30127

5 CFR
630 ... 29937
737 ... 31096
771 ... 26965
1201 ... 28895, 30801
Proposed Rules:
532 ... 28583, 28584

7 CFR
Ch. IV ... 27927
2 ... 29367, 30411
6 ... 30261
52 ... 26965, 29635
54 ... 27571
226 ... 26972
301 ... 28366
400 ... 26976
402 ... 28367
800 ... 30129
908 ... 27411, 27928, 28898, 30262, 30801
910 ... 27813, 28372, 28555, 29626
911 ... 28373
915 ... 28373, 28556
916 ... 27813, 28373
917 ... 27813, 28373
918 ... 28373
921 ... 27411, 28373
922 ... 28373
923 ... 28373
924 ... 28373
930 ... 27213, 28373
944 ... 28556
967 ... 28373
979 ... 26976
981 ... 30263
985 ... 28373
991 ... 26977, 27814
1040 ... 27412
1136 ... 29637
1205 ... 30131
1421 ... 29639, 30925
1427 ... 26978
1435 ... 27413
1941 ... 27414
1944 ... 27415
1945 ... 27414, 27416
3015 ... 28758
Proposed Rules:
Ch. IV ... 27971
Ch. X ... 27003
29 ... 27288
51 ... 27004, 30198, 30429
417 ... 27601
800 ... 28104, 29985
801 ... 29689, 30855
802 ... 29689
907 ... 29405
908 ... 29405
910 ... 28105
916 ... 30855
917 ... 30855
920 ... 27288
926 ... 30489
944 ... 30489
967 ... 28210
989 ... 30200
999 ... 28585
1032 ... 30203
1036 ... 30204
1050 ... 30203
1124 ... 27972
1240 ... 28404
1427 ... 29693
1540 ... 30716
1930 ... 28782
1944 ... 28782, 30429
1965 ... 28782

8 CFR
238 ... 29641
287 ... 30133
316a ... 27816
Proposed Rules:
103 ... 27289
341 ... 28586
343a ... 28587

9 CFR
75 ... 30412
78 ... 28899
91 ... 27929, 29205
92 ... 27928, 28557, 30413
94 ... 28560, 28900
166 ... 30414
318 ... 27573, 28374
327 ... 30264
Proposed Rules:
92 ... 30657

VOL 50 ISS 147 JL 31 1985 UMI

94.....27973

10 CFR

9.....27214
50.....29937
60.....29641
140.....30415
1047.....30926

Proposed Rules:

2.....30446
30.....30616
31.....30616
32.....30616
35.....30616
40.....30616
50.....27006, 28815
440.....29620
904.....30447

11 CFR

Proposed Rules:

110.....29232

12 CFR

207.....30931
220.....30931
221.....30931
224.....30931
403.....27215
611.....27930
617.....27931
723.....27417

Proposed Rules:

226.....30955
561.....27290, 28588, 29985
563.....27290, 28588, 29985
571.....27290, 28588

13 CFR

121.....27418
302.....27419

Proposed Rules:

107.....29532
108.....27754

14 CFR

21.....29945
39.....26979, 27575, 27576, 27931–27933, 28093, 28094, 28561–28563, 28756, 29648–29651, 30264, 30416, 30417, 30693, 30802–30806
71.....26980, 27934, 28564, 28565, 28900–28902, 30134, 30265, 30418, 30694
97.....27934, 29653
106.....27924, 28884
121.....29306
135.....29306
251.....31134
261.....31134
287.....31134
291.....31134
296.....31134
298.....31134
299.....31134
303.....31134
380.....31134
1214.....30807

Proposed Rules:

25.....30447
39.....27009, 27012, 27601, 27602, 28815, 29694, 29988, 30448, 30449, 00
71.....27013, 27014, 27528, 28588–28591, 28816, 28950, 29407, 30204, 30276, 30798
75.....27014, 30798
91.....28950, 30124
121.....30447

15 CFR

8a.....30418
19.....27577
90.....28767
368–399 (See ED 12525).....28757, 29205
370.....29205
376.....27420, 29205
378.....29205
385.....29205
386.....29205
399.....27420

Proposed Rules:

303.....29232
911.....28816

16 CFR

3.....28095
4.....28095
13.....26981, 27578, 28374, 28902
453.....28062, 28081
703.....27936

Proposed Rules:

13.....28592, 28951, 29696, 29699, 30717

17 CFR

1.....30135, 30140
3.....28907
200.....28385, 29368, 30266
239.....27937
240.....27937, 27940, 28385
249.....27937, 29948
270.....27937, 28930
274.....27937, 29368
275.....29206
288.....26981, 27947

Proposed Rules:

16.....30450
17.....30450
18.....30450
200.....30858
210.....27973, 28953, 29409
229.....29409
230.....28404
239.....29409
240.....27829, 27978, 27981, 28106, 28210, 28219, 28404, 29409
250.....27981
259.....27981
270.....27982, 29409

18 CFR

37.....29655, 30141
154.....30141, 30695
157.....27816
270.....30695
271.....30695, 30814
273.....30695
282.....30815
389.....27816

Proposed Rules:

2.....28954
35.....27604
37.....30207
154.....28954
157.....28954
161.....28954
271.....28221, 30859
284.....28954
290.....27604

19 CFR

4.....26981, 29949
10.....29949
12.....27947
19.....29949
24.....29949
103.....29949
113.....29949
134.....29949
141.....29949
142.....27816
143.....29949
145.....29949
148.....29949
152.....29949
162.....29949
171.....29949
173.....29949
178.....27947
191.....29949

Proposed Rules

6.....30455
122.....30455
162.....27829
177.....27831

20 CFR

200.....27222, 29957
401.....28565, 30144
422.....28565
626.....27818
627.....27818
628.....27818
629.....27818
630.....27818

Proposed Rules:

404.....27615, 29435
416.....27615, 29435
674.....29606

21 CFR

5.....30696
25.....30267
74.....30697
101.....26984
173.....29208
176.....29657, 30144
177.....30144–30146
178.....30147, 30148
179.....29658
182.....30149
184.....30149
436.....29209
510.....28395
520.....27818, 28768
522.....30267
524.....30152
556.....30267
558.....27421, 27422, 28768, 28931, 28932, 30934
801.....30153
808.....30698
812.....28932
1308.....28098, 28395

Proposed Rules:

Ch. 1, Subchapter C.....28594
2.....30210
81.....29702
109.....29233
110.....29233
146.....29702
170.....27294, 29235
201.....27016, 29702
211.....27016, 29702
225.....29233
226.....29233
357.....27552, 28595
433.....29702
449.....30478
500.....29233
509.....29233
514.....27016, 29702
559.....27016, 29702
581.....27452, 30277
610.....28595
660.....28595
680.....30211
882.....30277
1002.....27024, 29704

22 CFR

501.....27422
1502.....28932
1504.....28934

23 CFR

825.....29209
1325.....28191

24 CFR

200.....28197
201.....30154
203.....28197, 30154
234.....30154
885.....28197
899.....30423
3282.....28396

25 CFR

Proposed Rules:

20.....30688
61.....27456

26 CFR

1.....27222, 27231, 27427, 29369–29378, 29959, 30160, 30816
31.....29964
48.....29959
138.....29959
602.....27222, 27231, 29369, 29376, 29959, 29964, 30160, 30816

Proposed Rules:

1.....27297, 27456, 27457, 28409, 29435, 29436, 30955
31.....29990
51.....27621
602.....29436

27 CFR

4.....27819
9.....29967, 30818
170.....28572, 30821

Proposed Rules:

9.....28409

28 CFR

0.....28769
2.....28101
18.....28199
32.....27428

Proposed Rules:

30.....28955

29 CFR

70.....28306
1620.....30699
1952.....27233, 28770, 29210, 29659, 30821

Proposed Rules:

33.....27298, 28956
89.....29606
1910.....27307

30 CFR

700.....28186
701.....28186
785.....28186
827.....28186
901.....29379, 30916
902.....28592
943.....28186
948.....28316, 28324

Proposed Rules:

56.....27566
57.....27566, 29437
700.....28180
701.....28180
762.....30408
785.....28180
817.....27910
827.....28180
887.....30402
913.....27025, 30862
915.....30956
917.....28222, 29235
920.....30720
925.....30957
926.....29235
934.....30721
935.....29437, 29438, 30863
936.....27461
944.....28107, 30723, 30958
948.....28343, 30724
950.....28595, 29438, 29704, 30282

31 CFR

4.....29221
51.....26987
103.....27821
500.....27435
505.....27435
515.....27435
520.....27435
535.....27435
540.....27435

32 CFR

Parts 1–39.....26987
199.....26988
642.....28573
657.....28573
706.....28398–28400
726.....28401

Proposed Rules:

806b.....30283

33 CFR

100.....27579, 28573, 29221–29223, 30268, 30700–30702
110.....26988, 27580, 29224, 30268
117.....26989, 27582, 29670–29672, 30268, 30269
150.....26989
165.....27583, 29225, 30702
166.....26989

Proposed Rules:

110.....27622, 27623, 28596
117.....27028, 27029, 27624, 27832, 27990, 27991, 29236, 30284, 30285
322.....30479
325.....30479

34 CFR

19.....28101
75.....29328
76.....29328
304.....29328
425.....29352
426.....29352
431.....29352
432.....29352

Proposed Rules:

79.....30959
369.....28412
376.....28412
668.....30674

35 CFR

101.....26990
103.....26990
121.....26990

36 CFR

223.....30934
254.....29673
1200.....27196
1202.....27196
1228.....27951
1250.....27196

37 CFR

201.....30169
202.....30169

Proposed Rules:

1.....27030, 28596

38 CFR

1.....29226
3.....27584
21.....27825, 29674
41.....30937

Proposed Rules:

3.....28224
17.....29990
36.....27833

39 CFR

3.....29380
10.....27827
111.....30833, 30834
601.....28941
3001.....28144, 30271

Proposed Rules:

111.....27992
3001.....27308

40 CFR

51.....27892
52.....26991, 27244–27247, 28544, 29229, 29381, 29383, 30941
60.....27248
61.....27248
81.....28574, 30704
86.....27250, 29384
123.....28202
147.....28941, 28942
158.....28943
162.....28943
180.....28944–28946, 30172
260.....28702
261.....28702, 30271
262.....28702
264.....28702
265.....28702
266.....28702
270.....28702
271.....28702
280.....28702
419.....28516
600.....27172
761.....29170
763.....28530, 30423
799.....30423

Proposed Rules:

52.....27030, 27462, 28224, 28415, 28596, 28598, 28816, 29237, 29439, 30960
62.....30961
81.....30962
86.....28818
180.....27463, 28106, 28956, 28957, 30481, 30963, 30965, 30966
202.....27321
205.....27321
260.....29992
261.....30908
262.....29992
264.....29992
265.....29992
270.....29992
271.....30908, 30967
403.....29705
414.....29068
416.....29068
600.....27188
798.....30213
799.....30213

41 CFR

Chs. 1–49.....26987
101–4.....28402
101–17.....28577
101–40.....27951
101–41.....30705, 30710
101–47.....28402
105–54.....28203
105–63.....28992
201–1.....27142
201–2.....27142, 28208
201–8.....27142
201–11.....27142
201–16.....27142
201–20.....27142
201–21.....27142
201–22.....28208
201–23.....27142
201–24.....27142
201–26.....27142
201–30.....27142, 28208
201–31.....27142, 28208
201–32.....27142, 28208
201–38.....27142
201–39.....27142, 28208
201–40.....27142, 28208
201–45.....28208

Proposed Rules:

101–41.....27625, 27626

42 CFR

400.....28577, 30838
405.....27722, 30172
412.....27208, 27722, 30172, 30944
416.....28577
433.....30838
435.....28577

Proposed Rules:

23.....27465
405.....27469
412.....27469

43 CFR

2.....29230
5470.....28947

Public Land Orders:

5150 (Revoked in part by PLO 6607).....27827
5179 (Revoked in part by PLO 6607).....27827
5180 (Revoked in part by PLO 6607).....27827
5186 (Revoked in part by PLO 6607).....27827
6389 (Corrected by PLO 6606).....28208
6607.....27827
6606.....28208

Proposed Rules:

2800.....27322
5400.....29324
5440.....29324

44 CFR

5.....30711
6.....30711
64.....26993, 26994, 28947
67.....30173

Proposed Rules:

67.....27322, 29992
302.....27627, 28958, 30481

45 CFR

1180.....27584, 27586
1601.....30711
1606.....30713
1622.....30714
1625.....30714

Proposed Rules:

405.....27406
412.....27406
1620.....27326

46 CFR

10.....30274
153.....28996

Proposed Rules:

160.....27628
355.....29440

47 CFR

0.....27952
22.....27953
68.....27250, 29384
73.....27287, 27436, 27954, 29392, 29393, 30167, 30944, 30949, 30951
74.....29394
76.....27438, 29394
81.....27968
83.....27968, 29231, 30952

Proposed Rules:

Ch. I.....28418, 29440
15.....30213
73.....27629, 29446–29453, 30968, 30971–30976
74.....30979
97.....29454

48 CFR

7.....27560
12.....27969
15.....27560, 28103
19.....27560
33.....27969

34.....27560
52.....27560, 27969
20.....29900, 29901
27638, 29706

VOL
50
ISS
147
JL
31
1985
UMI

34.....27560
52.....27560, 27969
209.....28209
217.....29675
504.....26996
515.....28578
522.....28578
533.....26998
552.....27589, 28948, 29402, 30274
553.....27589
570.....27589, 30274
2801.....29798
2804.....29798
2806.....29798
2807.....29798
2808.....29798
2809.....29798
2810.....29798
2814.....29798
2815.....29798
2827.....29798
2830.....29798
2831.....29798
2834.....29798
2835.....29798
2852.....29798
6101.....27969, 29231

Proposed Rules:
208.....28227
252.....28227

49 CFR

1.....30275
571.....27451, 29676
1000.....30275
1011.....30275
1100.....30275
1101.....30275
1104.....30188
1105.....30188
1151.....30188
1152.....30188
1155.....30188
1160.....30188, 30275
1180.....30188

Proposed Rules:
Ch. X.....27031
71.....28959
171.....28820
175.....28820
531.....29912
571.....27032, 27632, 27633, 28426, 28599, 29993, 30981
1048.....30981
1132.....27834
1241.....29706

50 CFR

17.....26999, 29338–29345, 30188, 30423
20.....30424, 30849
33.....29972
215.....27914
285.....29403, 30853
611.....29681
652.....30853
658.....28103
661.....30195, 30954
663.....30195
672.....28580, 28581, 29681
674.....28103, 30427
681.....30198

Proposed Rules:
17.....27637, 27992, 28821, 28870–28878, 28959, 29238, 29900, 29901
20.....27638, 29706
611.....28960, 29240
630.....27470
642.....29709
650.....29240
651.....29241
655.....28109
662.....27470
663.....28960
672.....30481
675.....29240

LIST OF PUBLIC LAWS

Last List July 24, 1985.
This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.R. 1617 / Pub. L. 99–73
National Bureau of Standards Authorization Act for Fiscal Year 1986. (July 29, 1985; 99 Stat. 171) Price: $1.00

S.J. Res. 86 / Pub. L. 99–74
To designate the week of July 25, 1985, through July 31, 1985, as "National Disability in Entertainment Week". (July 29, 1985; 99 Stat. 175) Price: $1.00

S.J. Res. 144 / Pub. L. 99–75
To authorize the printing and binding of a revised edition of Senate Procedure and providing the same shall be subject to copyright by the author. (July 29, 1985; 99 Stat. 176) Price: $1.00

VOL
50

ISS
147

JL
31

1985

UMI

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VOL
50
ISS
147
JL
31
1985
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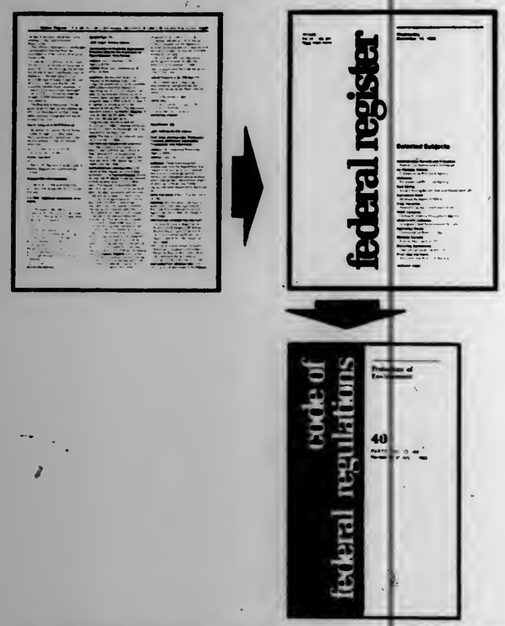

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justification for treating acquisitions involving foreign firms differently from acquisitions involving domestic firms, other than concerns pertaining to air carrier compliance with the citizenship requirements of the Act. Therefore, the Department expands the carrier

rule exempted, for example, a transaction between two carriers holding only cargo authority or between a passenger carrier and one holding only cargo authority. *See* 14 CFR 291.31. Such transactions were, however, subject to a

operate passenger service. These are generally carriers whose merger or consolidation is unlikely to raise competitive concerns. In addition, a "transaction", such as the creation of a subsidiary by a parent company that

§ 303.17.

The Department sees little reason to impose this type of burden on persons otherwise exempt from prior approval requirements. The Department also recognizes that in reviewing individual

persons filing exemption applications be required to make copies available to requesting parties. DOT believes such a requirement would facilitate public comment on exemption applications. Consequently, language has been added

applications in our offices, which interested parties can monitor. This will not create an undue burden on those parties, since professional tariff-watchers already make a business of monitoring newly filed tariff

justification for treating acquisitions involving foreign firms differently from acquisitions involving domestic firms, other than concerns pertaining to air carrier compliance with the citizenship requirements of the Act. Therefore, the Department expands the carrier exemption to encompass such transactions as well. Air carriers are cautioned, however, that a transaction to which section 408 applies may affect their U.S. citizenship under the Act (and hence their certificate to engage in air transportation) and/or continuing fitness requirements and may require a filing under 14 CFR 204.4.

Third, the exemption for interlocking relationships has been broadened. Section 303.53 creates an exemption from section 409 for all persons. Most interlocking relationships within the scope of section 409 raise no competitive concerns and do not warrant close government supervision. If a particular interlocking relationship exempted under this regulation does present a competitive problem, it would be subject to the antitrust laws. In such a case, however, the parties to the transaction still have the option of filing their section 409 agreement with the

[illegible] rule exempted, for example, a transaction between two carriers holding only cargo authority or between a passenger carrier and one holding only cargo authority. *See* 14 CFR 291.31. Such transactions were, however, subject to a notification requirement. See 14 CFR 291.33. In addition, under 14 CFR 291.32 transactions between persons substantially engaged in the business of aeronautics and any carrier appear to have been exempt from the prior approval requirements of the Act.

These exemptions reflect a broad policy to allow mergers and acquisitions in the airline industry to occur in the same manner as they do in unregulated industries except in those few circumstances where there is a high probability of a significant competitive impact. The Department believes this is a wise policy and will adopt it. In fact, because the Civil Aeronautics Board Sunset Act provides for the termination of the Department's section 408 authority of January 1, 1989, it is all the more appropriate. By limiting the transactions subject to prior approval, DOT will facilitate the transition to the environment where merger oversight is

operate passenger service. These are generally carriers whose merger or consolidation is unlikely to raise competitive concerns. In addition, a "transaction", such as the creation of a subsidiary by a parent company that operates or controls a company that operates passenger service, also will be exempt. These transactions do not affect competition adversely. DOT also has authority to review these transactions when necessary. Second, the Department is expanding the notice requirement, set out in proposed § 303.57, to include transactions involving certificated carriers and persons substantially engaged in the business of aeronautics. This change is being made because some transactions of this kind, such as the purchase of a major parts or aircraft manufacturer by an air carrier, might raise antitrust concerns.

The rules also exempt two types of transactions between carriers providing passenger service. The long-standing exemption for air taxis is renumbered as § 303.51 and titled air taxis to more appropriately state its effects—Exemption for air taxis/small aircraft operations. In addition, the exemption

§ 303.17.

The Department sees little reason to impose this type of burden on persons otherwise exempt from prior approval requirements. The Department also recognizes that in reviewing individual exemption requests, it must consider the effects of the transaction on the public interest. ALPA notes that the "public interest" standard also includes matters affecting employees. However, section 408 exemptions normally are used only for transactions that do not legitimately involve LP matters, just as the CAB employed these exemptions before passage of the deregulation act and prior to its demise. Therefore, there is no reason to burden the parties with such a requirement. Of course, in particular cases where a legitimate LPP issue arises, ALPA or any other interested party is free to raise the issue with the Department.

ALPA claims that the generic exemptions as proposed expand the former CAB exemptions. These changes, it argues, could leave airline employees unprotected for these transactions. It is largely incorrect since only the foreign all-cargo carrier exemption is new. The others only continue those employed by

[illegible] request is denied. It also requests that persons filing exemption applications be required to make copies available to requesting parties. DOT believes such a requirement would facilitate public comment on exemption applications. Consequently, language has been added to the proposed section to ensure that an interested person can obtain the materials filed under subpart F.

American further suggests that the proposed § 303.56, "Termination of exemption" provision, be revised to make it clear that the provision was designed to deal with blanket exemptions and not individual exemptions granted pursuant to § 303.54. It reasons that, if the section is applied to individula exemptions, the Department would be foregoing its discretion to terminate an individual exemption without a comment. The intent of the provision is that both individually granted and general exemptions be terminable under this section. The Civil Aeronautics Board's policy was that individual exemptions, generally, could be terminated without notice and hearing. However, it normally indicated in orders granting exemptions that it reserved that right. The Department believes this was a

applications in our offices, which interested parties can monitor. This will not create an undue burden on those parties, since professional tariff-watchers already make a business of monitoring newly filed tariff applications daily, and can easily monitor STP applications, if there is a demand for that service." (PS–109, at 20.) We concur with the Board's resolution of this issue, particularly in light of the volume of STP applications received and the very large number of shippers who may be considered "interested parties" for any given cargo rate STP application. The DOT Tariffs Division has maintained the public file on STP applications since CAB Sunset, and will continue to do so.

In PS–109, the CAB also noted that current regulations already provide for notification of "readily identifiable representatives of affected shippers" when STP approval is sought for "obviously controversial filings," under 14 CFR 221.191 (e) and (f). (See ER–1322, effective February 27, 1983.) The vast majority of STP applications are not controversial and thus do not trigger this notification mechanism. In particular, with respect to international cargo rates,

we find that the following categories of

memorialized for the record and filed in

PART 296—[AMENDED]

Sec.
303.05 Applications requesting antitrust immunity

412 and 414 of the Federal Aviation Act, as amended [49 U.S.C. 1378, 1379, 1382

§ 303.03 Requirement to file application.

A person who seeks approval of a

VOL 50 ISS 147 JL 31 1985 UMI

we find that the following categories of STP applications are *prima facie*, non-controversial: (1) STP applications filed to implement previously approved IATA rate agreements; (2) STP applications filed to implement cargo rates within the zones of flexibility established by PS-109, or otherwise exempt from economic justification requirements pursuant to 14 CFR 221.165(d); and (3) STP applications filed to implement cargo rates in markets governed by bilateral aviation treaties that include liberal pricing and entry provisions.

In setting forth these general categories, we are following the established practice of the Board; we see no basis for imposing a sweeping notification requirement for non-controversial STP applications. The procedures we have established provide for direct service of summaries of proposed IATA agreements, public posting weekly of a list of agreements received, a 21-day review and comment period, maintenance of a readily accessible public file of STP applications received, and special notification provisions for controversial STP applications. We believe that these procedures are fully adequate to meet the needs of the Electronic Shippers and other interested parties, and the Shippers have made no persuasive showing to the contrary. Under these circumstances, we see no reason to institute an additional regulation that imposes a blanket requirement for notification of every STP application filed, and we will therefore deny the Shippers' request.

With respect to the ex parte issue, major deficiencies in the documentation or economic justification submitted in connection with agreements have been dealt with in the past by issuance, under delegated authority, of an order formally requesting the requisite information. In some cases, this problem results in delay in processing the entire agreement, while, in other cases, action is deferred on that portion of the agreement requiring supplementation. However, for the Department to discharge its agreement responsibilities in a timely manner, it is also necessary, from time to time, for the staff to make oral requests for clarification of agreements and/or their supporting material. Procedurally, therefore, certain section 412 applications are closely analogous to tariff filings. In such cases, substantive communications between the Department and any interested party are not prohibited, unless and until the Department orders an investigation or a complaint is filed or docketed. But all such communications must be memorialized for the record and filed in the dockets under § 300.3(a)(3). The Department will continue to follow these procedures in processing requests for approval of agreements. They permit the compilation of an adequate record in all cases in the most efficient manner possible, while also insuring that all interested parties have full access to that record. Whenever feasible, responses to Department requests for additional information will be expected to be provided in written form, with copies mailed to any parties who have filed a formal response to the application. In all cases, the questions and responses will be summarized immediately by the Tariffs Section for inspection in the public docket.

List of Subjects

14 CFR Parts 291 and 303

Air carriers, Antitrust, Administrative practices and procedures, Reporting and recordkeeping requirements

14 CFR Part 296

Air carriers, Freight forwarder

14 CFR Part 298

Air taxis, Insurance, Reporting, and recordkeeping requirements

14 CFR Part 380

Charter flights, Reporting and recordkeeping requirements, Surety bonds

PARTS 251, 261, 287, AND 299—[REMOVED]

1. Parts 251, 261, 287, and 299 are removed.

PART 291—[AMENDED]

2. The authority citation for Part 291 continues to read as follows:

Authority: Secs. 101, 102, 204, 401, 407, 408, 416, 418, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 766, 767; 49 U.S.C. 1301, 1302, 1324, 1371, 1377, 1378, 1386, 1388, unless otherwise noted.

§ 291.31 [Amended]

3. Section 291.31 is amended by removing and reserving paragraphs (a)(5) and (b).

§ 291.32 [Amended]

4. Section 291.32 is amended by removing and reserving paragraphs (a) and (b).

§§ 291.33 and 291.35 [Removed and Reserved]

5. Sections 291.33 and 291.35 are removed and reserved.

PART 296—[AMENDED]

6. The authority citation for Part 296 continues to read as follows:

Authority: Secs. 101, 102, 204, 408, 409, and 416, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 767, 768, 771, 49 U.S.C. 1301, 1302, 1324, 1378, 1379, 1386.

§ 296.10 [Amended]

7. Section 296.10 is amended by removing and reserving paragraphs (b) and (c).

§ 296.11 [Removed and Reserved]

8. Section 296.11 is removed and reserved.

PART 298—[AMENDED]

9. The authority citation for Part 298 continues to read as follows:

Authority: Secs. 101(3), 204, 401, 404, 407, 416, 418, 419, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732; 49 U.S.C. 1301, 1324, 1371, 1374, 1377, 1386, 1388, 1389.

§ 298.11 [Amended]

10. Section 298.11 is amended by removing and reserving paragraph (g).

§§ 298.12, 298.14 and 298.92 [Removed and Reserved]

11. Sections 298.12, 298.14 and 298.92 are removed and reserved.

PART 380—[AMENDED]

2. The authority citation for Part 380 continues to read as follows:

Authority: Secs. 101(3), 204, 401, 402, 407, 416, and 1102, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 757, 768, 771, 797 (49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, 1502), unless otherwise noted.

§ 380.20 [Amended]

13. Section 380.20 is amended by removing and reserving paragraph (b).

§§ 380.21, 380.22 and 380.44 [Removed and Reserved]

14. Sections 380.21, 380.22 and 380.44 are removed and reserved.

15. Part 303 is revised to read as follows:

PART 303—REVIEW OF AIR CARRIER AGREEMENTS, MERGERS, ACQUISITIONS OF CONTROL, CONSOLIDATIONS AND INTERLOCKING RELATIONSHIPS

Subpart A—General Provisions

Sec.

303.01 Purpose.
303.02 Definitions.
303.03 Requirement to file application.
303.04 General rules governing application content, procedure, and conditions of approval.
303.05 Applications requesting antitrust immunity.
303.06 Review of antitrust immunity.
303.07 Transitional rule.

Subpart B—Section 408 Applications

303.10 General provisions concerning contents of applications.
303.11 Financial information.
303.12 Equipment and facilities information.
303.13 Competitive information.
303.14 Availability of resources.
303.15 Potential public benefits of the proposed transaction.
303.16 Potential impact of the proposed transaction.
303.17 Labor relations.
303.18 Fuel consumption.
303.19 Notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Subpart C—Section 409 Applications

303.20 General provisions concerning contents of applications.
303.21 Approval of systems of affiliated and subsidiary companies.
303.22 Uninterrupted tenure; no new applications required.
303.23 Notice of changes in positions.
303.24 Extent of authorization to hold position.

Subpart D—Section 412 Applications

303.30 General provisions concerning contents of applications.
303.31 Justification for the application.
303.32 Service of the application.
303.33 Modifications and cancellations.

Subpart E—Procedures Upon Application or Review

303.40 Determination of compliance.
303.41 Notice.
303.42 Comments on application.
303.43 Action following the comment period.
303.44 Show cause proceedings.
303.45 Evidentiary hearings.
303.46 Decision by the Assistant Secretary.

Subpart F—Exemptions

303.50 General exemptions.
303.51 Exemption for airtaxis/small aircraft operators.
303.52 Exemption for aircraft acquisitions.
303.53 Exemption for interlocking relationships.
303.54 Application for exemption for section 408 transactions.
303.55 Effects of exemption on antitrust laws.
303.56 Termination of exemption.
303.57 Notification requirement for certain transactions.

Authority: 49 U.S.C. Subtitle I, sections 1301, 1302, 1303, 1324, 1371, 1377, 1378, 1379, 1382, 1383, 1384, 1386, 1388 and 1551.

Subpart A—General Provision

§ 303.01 Purpose.

These regulations set forth the procedures by which applications may be made to the Department of Transportation under sections 408, 409, 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1378, 1379, 1382 and 1384) and procedures governing proceedings to enforce these provisions. These regulations also grant exemptions from sections 408 and 409 for certain types of transactions.

§ 303.02 Definitions.

(a) The term "Act" refers to the Federal Aviation Act of 1958, as amended. (49 U.S.C. 1301 *et seq.*)

(b) The term "Assistant Secretary" means the Assistant Secretary for Policy and International Affairs, or as delegated. As provided in 49 CFR 1.43, the Secretary or Deputy Secretary may exercise any authority in lieu of the Assistant Secretary under the provisions of this Part.

(c) The term "documents" means (1) all written, recorded, transcribed or graphic matter including letters, telegrams, memoranda, reports, studies, forecasts, lists, directives, tabulations, logs, or minutes and records of meetings, conferences, telephone or other conversations or communications; and (2) all information contained in data processing equipment or materials. The term does not include daily or weekly statistical reports in whose place an annual or monthly summary is submitted.

(d) The term "Documentary Services Division" means the Documentary Services Division of the Office of the Assistant General Counsel for Regulation and Enforcement.

(e) The term "hearing" means either a show cause proceeding as provided in § 303.44 of this part or a full evidentiary hearing as provided in § 303.45 of this part, whichever is determined by the Assistant Secretary to be appropriate.

(f) The term "section 408 transaction" means any transaction or relationship made unlawful by section 408(a) of the Act if not approved under section 408(b) of the Act. (49 U.S.C. § 1376 (a) and (b))

(g) The term "section 409 transaction" means any transaction or relationship made unlawful by section 409 of the Act if not approved under that section. (49 U.S.C. 1379).

(h) The term "section 412 transaction" means any contract, agreement or discussion of a cooperative working arrangement within the scope of section 412 of the Act. (49 U.S.C. 1382).

(i) The term "standard labor protection provisions" means the labor protection provisions imposed by the Civil Aeronautics Board in the *Pan-American—Acquisition of Control of and Merger with National Case*, CAB Order 79-12-163/164/165 (October 24, 1979).

§ 303.03 Requirement to file application.

A person who seeks approval of a section 408, 409 or 412 transaction must file with the Documentary Services Division and application that conforms to the requirements set forth in § 303.04 and § 303.05 of this part.

§ 303.04 General rules governing application content, procedure and conditions of approval.

(a) Unless specifically exempted by these regulations or by an order of the Assistant Secretary, a person filing an application pursuant to § 303.03 of this part shall prepare and file the application in the manner specified in this section. The application shall also contain the information required by the subpart of this part applicable to the type of transaction for which approval is requested. The subparts applicable to each type of transaction are as follows:

(1) Section 408 transactions: Subpart B;

(2) Section 409 transactions: Subpart C; and

(3) Section 412 transactions: Subpart D.

An application may be deemed incomplete if it is not in substantial compliance with these requirements.

(b) The parties to the transaction may file either separate applications or one joint application so long as all the information required herein is submitted for each party to the transaction; except, in the case of non-consensual section 408 transactions, the applicant shall be required to provide the information required herein for its target company only to the extent that such information is available to it. The Assistant Secretary or Administrative Law Judge, if the matter has been assigned to a Judge, upon his or her initiative or upon application, may order the target company or other persons to submit some or all of the information required by this subpart, or other information under 14 CFR 302.19.

(c) The application shall be indexed to correspond to the individual subsections of the applicable subpart. Each page of the application and each document submitted with the application shall be marked with the name, initials, or some other identifying symbol of the applicant. The application shall also indicate the date of preparation and the name and corporate position of the preparer. In addition, for section 408 applications, the intended recipient of each document submitted must be identified.

(d) Where the required information is in data processing equipment, on microfilm, or is otherwise not eye-

VOL
50
ISS
147
JL
31
1985
UMI

readable, the applicant shall provide such information in eye-readable form.

(e) The information provided by the applicant shall be updated in a timely fashion throughout the period of consideration of the application.

(f) If any information or documents required by the applicable subpart are not available, the applicants shall file an affidavit executed by the individual responsible for the search explaining why they cannot be produced.

(g) The Assistant Secretary or the Administrative Law Judge may order any applicant to submit information in addition to that required by the applicable subpart.

(h) An applicant may withhold a document required by this part on the grounds that it is privileged, but each document so withheld shall be identified and the applicant shall supply a brief description of the nature of the document, a written statement indicating the basis of the privilege claimed, and the names of the preparers and recipients of the document. If any interested party contests the assertion of privilege, the document shall be promptly submitted to the Assistant Secretary, or the Administrative Law Judge, if the matter has been assigned to a Judge. Where appropriate, an in camera inspection may be ordered.

(i) The person submitting the application to the Department shall send a complete copy of the application to the Chief, Transportation Section, Antitrust Division of the Department of Justice, at the same time as it is filed with the Documentary Services Division.

(j) The applicant shall, if requested, be responsible for expeditiously providing the application to any interested person, whether or not a party.

(k) Unless otherwise specified in this subpart, all applications shall conform generally to the requirements set forth in 14 CFR Part 302, Subpart A.

(l) In exceptional circumstances, the Assistant Secretary may waive or alter the procedural requirements of this part to permit a transaction to proceed on an expedited basis.

§ 303.05 Applications requesting antitrust immunity.

(a) Each application must state explicitly whether or not the applicant seeks antitrust immunity under the provisions of section 414 of the Act. If antitrust immunity is requested, the application should specify whether the applicant seeks full immunity or immunity only from the provisions of sections 4, 4a and 4c of the Clayton Act, 15 U.S.C. 15, 15a, 15c. Each application seeking antitrust immunity shall contain a statement explaining why the applicant believes immunity is in the public interest and necessary in order for the transaction to proceed.

(b) Any application for antitrust immunity filed in connection with an application under section 412 (relating to interstate and overseas air transportation) shall specify the duration of such requested immunity, but in no event shall it extend beyond January 1, 1989.

(c) Any material misrepresentation of fact in such an application shall be grounds for rescission *nunc pro tunc* of any antitrust immunity granted as a result of the misrepresentation.

(d) A request for renewal of any immunity granted does not operate under section 558 of Administrative Procedure Act, 5 U.S.C. 558(c), to extend the period of immunity conferred.

§ 303.06 Review of antitrust immunity.

The Assistant Secretary may initiate a proceeding to review any antitrust immunity previously conferred by the CAB or the Department in any section 408, 409 or 412 transaction. The Assistant Secretary may terminate or modify such immunity if the Assistant Secretary finds after notice and hearing that the previously conferred immunity is not consistent with the provisions of section 414. In any proceeding to review such immunity the proponents of the immunity will have the burden of justifying the continuation of previously conferred immunity under the provisions of section 414.

§ 303.07 Transitional rule.

If a section 408, 409, or 412 application or a request for antitrust immunity under section 414 is pending on the date this part is amended, such application or request shall be deemed made pursuant to the provisons of this part, as amended.

Subpart B—Section 408 Applications

§ 303.10 General provisions concerning contents of applications.

A Section 408 Application shall contain the following general information:

(a) The names and mailing addresses of the parties to the transaction and the names, titles, and duties of the officers and directors of each corporation.

(b) A description of the transaction, including the exchange ratio, the terms of any tender offer, and the form of financing.

(c) A copy of the final or most recent draft agreement between the parties relating to the transaction.

(d) The percentage of the outstanding voting securities of either corporation that is owned or controlled by the other corporation or by the other corporation's officers or directors. The application shall also set forth the consideration paid for these securities, the date and method of their purchase, and the form of payment.

(e) A list of all officers and directorships held in any other corporation which is a common carrier or is substantially engaged in the business of aeronautics by officers or directors of any party to the transaction.

(f) A list of all other financial relationships between the parties to the transaction, or between their officers, directors or major shareholders.

(g) All studies, reports and analyses regarding the proposed transaction or the other party to the transaction made by or for an applicant within three years preceding the application. These materials shall include, but not be limited to, any discussion of the proposed transaction or other party to the proposed transaction with respect to—

(1) Competition, markets, market shares, actual competitors or potential entrants;

(2) Potential for sales growth or expansion into new markets;

(3) Efficiencies or costs of the proposed transaction; or

(4) The financial condition or operating strengths or weaknesses of the proposed partner or target company.

(h) If the applicant is relying for approval of the proposed transaction on a claim that that transaction would meet significant transportation needs of the public and that these needs may not be satisfied by a reasonably available alternative having materially less anticompetitive effects, all studies, reports and analyses made within two years preceding the filing of the application regarding other possible mergers, consolidations, or acquisitions that it had considered.

(i) Any other evidence that applicants wish the Department to consider in addition to that required by this subpart shall also be filed with the application. This evidence shall include all exhibits, data, and testimony on which the applicant intends to base its direct case and the names and addresses of all witnesses whom it will seek to call in the event that an oral evidentiary hearing is held. An applicant is not precluded from later filing answers, replies, or rebuttal exhibits or testimony.

§ 303.11 Financial information.

A section 408 application shall contain the following financial information:

(a) The following reports filed with the United States Securities and Exhange Commission within three years prior to the date of the application:

(1) All reports filed on Form 10K;

(2) All registration statements and all reports filed on Forms 10Q and 8K;

(3) All proxy statements; and

(4) All Schedules 14 D–1 with all amendments.

(b) Annual reports to shareholders for the three years preceding the application.

§ 303.12 Equipment and facilities information.

A section 408 application shall include the following equipment information:

(a) A list of aircraft owned or leased by the applicant by aircraft type and age.

(b) If the aircraft is leased from others, the owner of the aircraft and the terms of the lease; if the applicant leases aircraft to others, the lessee and the terms of the lease.

(c) A detailed description of all plans and orders for the acquistion, lease or major modifications of flight equipment, including the price and projected delivery date of any aircraft.

(d) A detailed description of all plans and agreements for the sale or lease of aircraft.

(e) A list and description of airport terminal and landing facilities, including terms of tenure.

§ 303.13 Competitive information.

A section 408 application shall contain the following competitive information:

(a) Separate lists of all non-stop city-pairs (1) that are served by the applicant, (2) that are served by the other party to the proposed transaction, and (3) into which the applicant or the other party to the proposed transaction is considering entry, at the time of the application.

(b) All studies, reports, and analyses that were submitted to the applicant's chief executive, financial, marketing, or operating officers, its Board of Directors, its executive committee, or any financial institution, within two years prior to the filing of the application, that discuss route development, internal expansion, service expansion or the marketing plans or strategies of the applicant.

(c) All documents prepared by or for the company within two years prior to the filing of the application that discuss any of the following subjects in relation to any area served by both parties (whether the area discussed in the document is one or more cities, airports, city-pairs, routes, hubs, regions, states, tiers, service to foreign points or any other geographical area):

(1) Competition;

(2) The possibility of new entry;

(3) Profitability or yield;

(4) Fare levels or availability of discount fares;

(5) Capacity or scheduling;

(6) Load factors or break-even levels;

(7) Identity of potential entrants; or

(8) Possible responses to new entry or to changes in a competitor's fares, scheduling, capacity or number of discount seats offered.

(d) All documents prepared by or for the company within two years prior to the filing of the application that discuss any of the topics listed in § 303.13(c) in relation to any area served by the other party to the proposed transaction (whether the area discussed in the document is one or more cities, airports, city-pairs, routes, hubs, regions, states, tiers, service to foreign points or any other geographical area).

(e) A copy of the company's flight schedule effective at the time of the application.

(f) A copy of the company's tariffs or list of applicable fares as of the time of the application.

§ 303.14 Availability of resources.

A section 408 application shall contain a detailed description of the following for each airport served by both parties to the proposed transaction:

(a) The availability of fuel and the policy of fuel suppliers as to the supply and price of fuel to new entrants.

(b) The availability of landing slots at any of the airports that have access allocated by the FAA or are otherwise restricted.

(c) The environmental constraints on each airport that limit or regulate additional service, whether of new entrants to the airport or of expanded service by incumbents. The report on environmental constraints shall include a description of any regulation that afects airport use, including but not limited to noise, air, and surface pollution.

(d) Airport constraints as to the size or type of aircraft that can be operated at the airport, including, but not limited to, such considerations as runway length, availability of ramp space, and safety considerations.

(e) Any constraints with respect to terminal facilities, including but not limited to counter or ticketing space, gate space, baggage or cargo consolidation space, and ramp space.

§ 303.15 Potential public benefits of the proposed transaction.

(a) If a section 408 applicant intends to rely on public benefits to justify approval of its proposed transaction, the applicant shall describe those benefits in detail and include all documents submitted to its chief executive, financial, marketing, or operating officer, its Board of Directors, its executive committee, or any financial institution, that discuss these benefits or the following subjects:

(1) Any decrease in operating costs or increase in operating efficiencies. This should include an estimate of when the savings will be realized;

(2) Service benefits and proposed changes in price/quality options;

(3) Any enhancement of competition and the regions where that enhancement will occur; or

(4) Any changes in employment opportunities.

(b) The applicant shall provide all data, and set forth the method of calculation, upon which its claims of benefits rely.

(c) In describing the public benefits, the applicant shall distinguish between a one-time cost saving or benefit resulting from the transaction and continuing operational efficiencies or benefits.

§ 303.16 Potential impact of the proposed transaction.

A section 408 application shall include all documents that were submitted to the applicant's chief executive, financial, marketing, or operating officer, its Board of Directors, its executive committee, or any financial institution, that discuss the following in relation to the proposed transaction:

(a) Any lessening of competition as a result of the proposed merger.

(b) Any costs that would result from labor protective provisions that are necessary to complete the transaction.

§ 303.17 Labor relations.

A section 408 application shall provide the following labor relations information:

(a) Whether the surviving carrier will accept standard labor protective provisions as a condition of approval of the transaction, and the estimated costs of those provisions.

(b) The number of employees, by each class or craft, employed by each party to the transaction, and the number of employees by class or craft in their employ but on furlough. With respect to those employees on furlough, applicants shall indicate the reasons for such

VOL
50
ISS
147
JL
31
1985
UMI

furlough and the order of recall (and the basis thereof) of these employees.

(c) Whether any plans exist for the dismissal, displacement, transfer, reduction of flying time or furlough of any employees in any class or craft as a result of operating changes which would flow from the proposed transaction. If so, applicants shall list for each such class or craft the number of employees affected, the type of action (*e.g.*, dismissal, transfer, furlough, etc.) anticipated, and the manner in which the plans would be implemented.

(d) Applicants' position with respect to the survivability of existing collective bargaining agreements when the merger becomes effective.

(e) Copies of the collective bargaining agreements applicants have with the different classes of employees.

§ 303.18 Fuel consumption.

(a) A section 408 application shall estimate the amount of fuel that would be consumed by—

(1) The consolidated or commonly controlled entities during the next calendar year following approval; and

(2) Each carrier individually during the next calendar year following disapproval.

(b) With both estimates in paragraph (a), the applicant shall include a statement as to the availability of the required fuel.

§ 303.19 Notification under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Whenever a proposed section 408 transaction is subject to the premerger notification requirements of Title II of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, 15 U.S.C. 18a, a complete copy of such application shall also be filed with the Attorney General and the Federal Trade Commission pursuant to the requirements of 15 U.S.C. 18a(c)(6) and the regulations promulgated thereunder.

Subpart C—Section 409 Applications

§ 303.20 General provisions concerning contents of applications.

(a) All transactions within the scope of section 409 of the Act are exempted from the requirements of that provision by § 303.53, but are not granted antitrust immunity. Persons seeking approval of a transaction under section 409 for purposes of obtaining antitrust immunity under section 414 of the Act must file an application containing the following information:

(1) The full name, place of residence, and citizenship of the individual applicant;

(2) The name and address of the major business or professional activity of the individual applicant;

(3) A complete description of the interlocking relationship for which approval is sought, as well as a description of any other interlocking relationship involving the individual applicant which has been approved or exempted by the Civil Aeronautics Board or the Department of Transportation. This description shall include the date and manner of the individual applicant's election or appointment to the position or positions which he or she occupies or seeks to occupy, and shall state the name or names of the persons primarily responsible, directly or indirectly, for his or her election or appointment. It shall also include a statement of his or her present or contemplated duties in connection with the interlocking relationship for which approval is sought and the approximate amount of time devoted or expected to be devoted thereto;

(4) The name of the person or persons, if any, whom the individual applicant represents or will represent on the board of directors of each air carrier applicant, together with a statement as to any financial interest held by such person or persons in any air carrier, foreign air carrier, common carrier, person substantially engaged in the business of aeronautics other than as an air carrier, or person whose principal business, in purpose or in fact, is the holding of stock in, or control of any other person substantially engaged in the business of aeronautics;

(5) The name and address of each business (including but not limited to corporations, partnerships, trusts, etc.) of which the individual applicant is an officer, director, partner, trustee, receiver, manager, attorney, agent, or controlling stockholder or employee, the general character of each such business and a description of the individual applicant's financial interest therein.

(6) A complete description of any benefit and of the amount of, and basis for, any money or thing of value (i) received by the individual applicant during the last year from each air carrier applicant and from any person with whom the individual applicant has or seeks to have an interlocking relationship, whether for service, reimbursement of expenses or otherwise, and (ii) which the applicant contemplates receiving from any such person during the continuance of the interlocking relationship;

(7) The names and titles of all officers and directors of each air carrier applicant, and of each person with whom the individual applicant has or seeks to have an interlocking relationship;

(8) The names (i) of the largest stockholders, not exceeding 20, who hold one percent or more of the voting capital stock of any air carrier applicant and (ii) of the largest stockholders, not exceeding 20, who hold one percent or more of the voting capital stock of any person with whom an interlocking relationship is sought by such application to be approved, together with the number of shares of each class of stock held by each of such stockholders and the percentage which such shares bear to the total number of shares of the same class authorized and outstanding. (If all or any part of such shares are held for the account of any person other than the holder, the names of such persons shall be disclosed. If the applicant, after making all reasonable efforts, is unable to obtain disclosure of such information with respect to any of the persons classified under paragraph (a)(8)(ii) of this section, the application shall state specifically the efforts made to obtain such information and the reasons why such efforts were unsuccessful);

(9) A description of the shares of stock or other interests held by each air carrier applicant or for its account in persons other than itself; and

(10) Except in the case of interlocking relationships described in § 303.21, a full description of any professional, financial or other business transactions or arrangements which have been entered into within one year prior to the date of the filing of the application by each air carrier applicant with the individual applicant and by each air carrier applicant or individual applicant with any person with whom the individual applicant has or seeks to have an interlocking relationship, together with a full statement as to any such transactions or arrangements which it is contemplated may be entered into while such interlocking relationship continues.

(b) Each application shall state fully such further facts as the applicants respectively deem desirable in order to show that the public interest will not be adversely affected by the approval of the interlocking relationship.

§ 303.21 Approval of systems of affiliated and subsidiary companies.

(a) In the event that an individual occupies or seeks to occupy an interlocking relationship falling within the purview of section 409(a) of the Act which involves only the holding by him or her of the position of officer or director in two or more companies within the same system of affiliated and subsidiary companies (as defined in paragraph (b) of this section), an application for approval of such relationships need not comply with the requirements of § 303.20(a)(10) but shall comply with all other requirements of that section. Such application shall also include—

(1) Such information as is necessary to disclose the fact that the companies in which the individual applicant occupies or seeks to occupy the interlocking relationships are members of the system of affiliated and subsidiary companies as defined in this section; and

(2) A statement that the individual applicant does not occupy or seek to occupy any interlocking relationship falling within the purview of section 409(a) of the Act other than those within the same system of affiliated and subsidiary companies.

(b) The individual applicant may include in any application made by him or her pursuant to this part a request for an order authorizing him or her to hold generally, in addition to the positions so specifically requested, directorships of offices within the same system of affiliated and subsidiary companies, and it shall not be necessary to file a separate application with respect to each such relationship. Any applicant assuming a directorship or office pursuant to such authorization shall, not later than 15 days after assuming such directorship or office, make or cause to be made a full and complete report thereof to the Assistant Secretary. As used in this part, the term "system of affiliated and subsidiary companies" shall include only a specified company and those companies of which it, directly or indirectly through one or more intermediate companies, owns 50 percent or more of the voting capital stock issued by such companies.

§ 303.22 Uninterrupted tenure; no new applications required.

After the individual applicant has been authorized by the Assistant Secretary to hold a particular position, further application in connection with each successive term will not be required so long as the individual continues in uninterrupted tenure of such position, unless otherwise ordered by the Assistant Secretary.

§ 303.23 Notice of changes in positions.

In the event of the individual applicant's resignation, withdrawal, or failure of reelection or reappointment with respect to any of the positions for which approval has been granted, or in the event of any other material or substantial change therein, the individual and each air carrier applicant shall promptly and not more that 30 days after any such change occurs give notice thereof to the Assistant Secretary, setting forth fully the details of any such change.

§ 303.24 Extent of authorization to hold position.

An order by the Assistant Secretary authorizing an individual applicant to hold the position of director of a company will be construed as sufficient to authorize the individual applicant to serve also as chairman of the board of directors or as a member of chairman of any committee or committees of such board.

Subpart D—Section 412 Applications

§ 303.30 General provisions concerning contents of applications.

A section 412 application shall contain the following general information:

(a) The name, mailing address and primary line of business of each party to the contract, agreement or request for authority to discuss a possible cooperative working arrangement.

(b) If the contract or agreement for which approval is sought is not evidenced by a resolution of an air carrier association, the application shall contain a copy of the contract or agreement that is certified to be true and complete by each party to the contract of agreement. If the contract or agreement is set forth in an exchange of correspondence, copies of all such correspondence must be submitted and must be certified as true and complete by all parties to the contract or agreement. If the contract or agreement is oral, a memorandum fully describing the agreement must be submitted and must be certified as true and complete by all parties to the contract or agreement. If approval is sought for a request for authority to discuss a possible cooperative working arrangement, the application shall contain a complete description of the possible cooperative working arrangement and all matters to be discussed. The description shall be certified to be true and complete by each party to the proposed discussion.

(c) If the contract, agreement or request for authority to discuss a cooperative working arrangement is evidenced by a resolution or other action of an air carrier association, the application shall contain the resolution or other action and a certification by an authorized employee of the association that the resolution or other action was duly adopted on a certain date. The authorized employee shall also specify in such certification the name of each air carrier that concurred in such resolution or other action and the name of each air carrier member that did not concur. Contracts, agreements and requests for authority to discuss cooperative working arrangements may be filed in this manner only if the Association has complied with 14 CFR Part 263.

§ 303.31 Justification for the application.

A section 412 application shall explain the nature and purpose of the contract, agreement or request to discuss a cooperative working arrangement and describe how it changes any price, rule or practice existing under a previously-approved application. The application also, consistent with Department of Tsshall contain factual material, documentation and argument in support of the application. Economic analyses, when required, shall include full explanatory details, including data sources and allocation methods. If the applicants intend to rely on public benefits to justify approval they shall describe these benefits, including foreign policy and comity considerations.

§ 303.32 Service of the application.

(a) Except as provided in pargraph (b), below, a section 412 application desiribed in § 303.30(c) of this subpart and any related pleadings shall be served on any person or organization that has previously advised the air carrier association of its desire for service of such agreements. Each application shall contain the names and addresses of all persons served and a notice that any party in interest may within 21 days of the date of the application file comments with the Assistant Secretary in support or opposition to the application.

(b) Service of IATA Traffic Conference agreements and amendments thereto upon any person or organization that previously has advised IATA of its desire for service of agreements may be accomplished by sending a summary notice specifying the filing date; the IATA memorandum number; the particular Conferences involved; the subject matter (*e.g.* cargo/passenger, tariffs/agency matters/procedures); the proposed effective date(s); the markets or Conference areas affected; the names of the carriers participating in the agreement; the names of all persons served; and a

VOL
50
ISS
147
JUL
31
1985
UMI

notice that any party in interest may within 21 days of the date of filing of the application file comments with the Assistant Secretary in support of or opposition to the application. A request for a complete copy of the application can be made under the provisions of § 303.04(j).

§ 303.33 Modifications and cancellations.

This subpart also applies to all modifications or cancellations of contracts or agreements or requests for authority to discuss a possible cooperative working arrangement.

Subpart E—Procedures upon Application of Review

§ 303.40 Determination of compliance.

(a) Within 10 days after an application is filed pursuant to § 303.03, the Assistant Secretary will determine whether the application complies with the requirements of §§ 303.04 and 303.05.

(b) If the Assistant Secretary determines that the application is incomplete, he or she may issue a notice dismissing the application without prejudice. If the application is dismissed, and statutory time period for completion of proceedings will not begin to run until a completed application is filed.

§ 303.41 Notice.

(a) The Documentary Service Division shall compile a weekly list of all applications filed under §§ 303.04 and 303.05. The list shall include a description of the application, the docket number, date of filing, state that it may be reviewed in the Documentary Services Division, and indicate that interested parties may comment on the application or request a hearing within 21 days of the date of filling or other period as specified. The weekly list will normally be prepared on the following Monday, or as soon as possible, and will be posted on a public bulletin board in the Documentary Services Division. The list also shall be submitted for publication in the **Federal Register**.

(b) In appropriate case, particularly when an application concerns a matter of broad public significance, the Assistant Secretary may cause a notice of an application and request for public comment to be published separately in the **Federal Register**.

§ 303.42 Comments on application.

(a) Unless a different comment period is specified in the weekly list, or in a notice of filing published in the **Federal Register**, any person may file comments, responses to the application, and/or a request for a hearing within 21 days of the filing of an application.

(b) Comments supporting or opposing an application or proposing conditions and responses thereto shall state with particularity the factual basis on which the person commenting relies, and provide affidavits or other material in support of the factual basis, if appropriate.

(c) Requests for a formal oral evidentiary hearing must set out with specificity the material issues of fact in dispute that cannot be resolved without such a hearing. Vague, unsupported allegations will not suffice.

§ 303.43 Action following the comment period.

(a) *Section 408 applications.* After the period for which comments or requests for a hearing are due, the Assistant Secretary may issue an order to show cause, or an order requesting further information or justification, or an order instituting a full evidentiary hearing, or other further procedural orders.

(b) *Section 409 and 412 applications.* After the period for which comments, requests for a hearing or responses to an order to show cause are due concerning a section 409 or 412 application, the Assistant Secretary may proceed by order requesting further information or justification or by order of approval or disapproval or, in appropriate causes, may proceed by order to show cause or by order instituting a full evidentiary hearing.

(c) Notice to the public of any full evidentiary hearing or order to show cause concerning an application shall be made by publication in the **Federal Register**.

§ 303.44 Show cause proceedings.

If the Assistant Secretary determines that an application, or review of a previously granted application, will be considered in a show cause proceeding, a tentative decision shall be issued inviting interested persons to show cause why the tentative decision should not be made final. Interested persons may respond to the order within the time specified in the order. Replies to such responses shall be permitted within the time specified in the order. Persons wishing to introduce additional facts into the record should incorporate such information in their responses or replies by affidavit. In the case of applications, show cause orders may be issued after the receipt of initial comments on the application.

§ 303.45 Evidentiary hearings.

(a) If the Assistant Secretary determines that an application, or review of a previous granted application, should be the subject of a full evidentiary hearing, he or she shall issue an order so stating. The term "full evidentiary hearing" includes any hybrid format set out in the instituting order. This order shall set forth the issues that are to be considered in such hearing.

(b) After the issuance of an order for a full evidentiary hearing, the Chief Administrative Law Judge shall promptly appoint an Administrative Law Judge to conduct such hearing in accordance with section 7 of the Administrative Procedure Act, 5 U.S.C. 556, and the Rules of Practice in Part 302 of this chapter.

(c) The applicants and the Assistant General Counsel for Aviation Enforcement and Proceedings shall be parties in any full evidentiary hearing held under these regulations. The Assistant Attorney General, Antitrust, shall be a party upon notice filed with the Administrative Law Judge. Other persons may intervene as parties as provided by § 302.15 of this chapter.

(d) Within the time specified in the order instituting the full evidentiary hearing, the Administrative Law Judge shall recommend to the Assistant Secretary that the application be approved or denied or that the previously granted exemption approval or immunity should be terminated or continued in accordance with the standards of the Act. The recommendation shall be in writing, shall be based solely on the hearing record, and shall include a statement of the Administrative Law Judge's findings and conclusions, and the reasons or basis therefore, or all material issues of fact, law or discretion presented on the record. Copies of the recommendation shall be served on each party.

(e) Within 10 days after the date the Administrative Law Judge serves his or her recommendation, any party may file written exceptions to the recommendation for consideration by the Assistant Secretary. Within 21 days after the service date of the judge's recommendation, any party may file a brief in support of or in opposition to any exceptions. This period may be altered by order of the Assistant Secretary, who may also authorize the filing of reply briefs.

§ 303.46 Decision by the Assistant Secretary.

The Assistant Secretary shall decide, on the basis of the record and in accordance with the procedures prescribed in Part 302 of this chapter, whether to grant or deny, in whole or in part, the application. A copy of the Assistant Secretary's final decision shall be served on all parties.

Subpart F—Exemptions

§ 303.50 Exemptions.

(a) Each direct air carrier providing air transportation of passengers or property is exempted from section 408(a) of the Act, except that the exemption in this paragraph:

(1) Does not apply to transactions that involve two or more direct air carriers each providing passenger air service, and

(2) Is subject to the notification requirement of § 303.57

(b) Indirect air carriers, common carriers that are not air carriers, and persons substantially engaged in the business of aeronautics other than as air carriers, are exempted from section 408(a) of the Act for all transactions that do not involve two or more direct air carriers each providing passenger air service.

(c) This exemption does not affect the requirements of 14 CFR Part 204 for transactions involving foreign air carriers or other foreign citizens or affect continuing fitness requirements under that section.

§ 303.51 Exemption for air taxis/small aircraft operators.

(a) *Definition.* "Air taxi operator" means an air carrier that directly engages in the air transportation of persons but that does not operate any aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

(b) *Exemption.* Parties to a transaction to which section 408 applies only by reason of the involvement of one or more air taxi operators are exempted from the operation of section 408.

§ 303.52 Exemption for aircraft acquisitions.

(a) *Definitions.* For the purposes of this section "Aircraft" means any aircraft, as defined in the Act, together with spare parts and accessories maintained for installation or use on it.

(b) *Exemption.* All persons are hereby exempted from section 408 (a)(2) and (a)(3) of the Act for any transaction that involves only the purchase, lease, or lease with purchase option of aircraft.

§ 303.53 Exemption for interlocking relationships.

Air carriers, other common carriers, persons substantially engaged in the business of aeronautics, and their respective officers, members, stockholders and directors are exempt from the operation of section 409 of the Act.

§ 303.54 Application for exemption for section 408 transactions.

(a) Any person may file with the Department of Transportation an application for an exemption from the operation of section 408 of the Act.

(b) An application for exemption shall contain the following:

(1) A brief, clear description of the transaction or relationship for which an exemption is sought, including, if relevant, a copy of any agreement memorializing such transaction or relationship;

(2) An identification of the parties involved in the transaction or relationship; and

(3) An explanation of why an exemption is in the public interest, including (i) why it is needed, (ii) why it is appropriate, and (iii) a description of any effects on competition from the transaction or relationship (In providing this description, parties should consider the information required in a section 408 application, as set forth in §§ 303.10 through 303.19 of this part, and determine whether any portion of that information should be supplied).

(c) A notice of any application for exemption shall be published in the **Federal Register**, together with notice of any hearing which the Assistant Secretary determines to be appropriate.

(d) Upon request, the complete application shall immediately be made available by the applicant to any interested person. Any person may comment on any application for exemption within fifteen days from the date of filing or such other time as is specified in the **Federal Register** notice.

(e) The Assistant Secretary shall issue a decision on an exemption petition after any comments have been received, granting the exemption if found to be in the public interest, with conditions if he or she finds certain conditions appropriate, or denying the petition.

(f) If a petition for exemption is denied, approval for the transaction or relationship may be requested as provided in these regulations.

(g) A grant of exemption under this section does not confer any immunity from the antitrust laws, nor does it reflect the enforcement intentions of the Department of Justice under the antitrust laws with respect to the transaction.

§ 303.55 Effects of exemption on antitrust laws.

The exemptions granted under §§ 303.50 through 303.54 only operate to exempt persons from sections 408 and 409 of the Federal Aviation Act. Such exemptions do not constitute orders, within the meaning of section 414 of the Act, and confer no immunity or relief from the "antitrust" laws or any other statute. These exemptions do not relieve any person from the preacquisition notification requirements of the Clayton Act, 15 U.S.C. 18a, which apply to certain transactions involving firms with annual sales or assets of $10 million or more.

§ 303.56 Termination of exemption.

The Assistant Secretary may terminate any exemptions provided under this subpart with respect to any transation the Assistant Secretary determines, after notice and comment, to be inconsistent with the provisions of the Act or the public interest.

§ 303.57 Notification requirement for certain transactions.

(a) The exemption in § 303.50(a) is subject to the following condition:

(1) Notice of any acquisition or other control transaction between (i) a section 401 certificated carrier and a carrier certificated under either section 401 or 418 of the Act, or (ii) a person substantially engaged in the business of aeronautics and a carrier certificated under either section 401 or 418 of the Act, shall be filed with the Department's Assistant General Counsel for Litigation not later than 45 days before the effective date of the transaction. The Department may invoke any of the powers and procedures described in section 408(b)(3) of the Act within 45 days after notice is filed.

Issued in Washington, D.C., on July 23, 1985.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR doc. 85-17996 filed 7-30-85; 8:45 am]
BILLING CODE 4910-62-M

VOL

Reader Aids

Federal Register

VOL
50
ISS
147
JL
31
1985
UMI

Reader Aids

Federal Register
Vol. 50, No. 147
Wednesday, July 31, 1985

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Law numbers and dates	523-5282
	523-5266

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Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

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Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212	1
27213-27408	2
27409-27570	3
27571-27812	5
27813-27926	8
27927-28092	9
28093-28190	10
28191-28362	11
28363-28554	12
28555-28756	15
28757-28894	16
28895-29202	17
29203-29366	18
29367-29628	19
29629-29934	22
29935-30126	23
30127-30260	24
30261-30410	25
30411-30692	26
30693-30800	29
30801-30924	30
30925-31150	31

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305	28363

3 CFR

Administrative Orders:

Memorandums:

July 17, 1985	29631

Presidential Determinations:

No. 85-16 of July 12, 1985	29629

Executive Orders:

11888 (Amended by EO 12524)	27409
12470 (Revoked by EO12525)	28757
12523	26963
12524	27409
12525	28757
12526	29203

Proclamations:

5356	26961
5357	29935
5358	30127

5 CFR

630	29937
737	31096
771	26965
1201	28895, 30801

Proposed Rules:

532	28583, 28584

7 CFR

Ch. IV	27927
2	29367, 30411
6	30261
52	26965, 29635
54	27571
226	26972
301	28366
400	26976
402	28367
800	30129
908	27411, 27928, 28898, 30262, 30801
910	27813, 28372, 28555, 29628
911	28373
915	28373, 28556
916	27813, 28373
917	27813, 28373
918	28373
921	27411, 28373
922	28373
923	28373
924	28373
930	27213, 28373
944	28556
967	28373
979	26976
981	30263
985	28373
991	26977, 27814
1040	27412
1136	29637
1205	30131
1421	29639, 30925
1427	26978
1435	27413
1941	27414
1944	27415
1945	27414, 27416
3015	28759

Proposed Rules:

Ch. IV	27971
Ch. X	27003
29	27288
51	27004, 30199, 30429
417	27601
800	28104, 29985
801	29689, 30955
802	29689
907	29405
908	29405
910	28105
916	30855
917	30855
920	27288
926	30489
944	30489
967	28210
989	30200
999	28585
1032	30203
1036	30204
1050	30203
1124	27972
1240	28404
1427	29883
1540	30716
1930	28782
1944	28782, 30429
1965	28782

8 CFR

238	29641
287	30133
316a	27816

Proposed Rules:

103	27289
341	28586
343a	28587

9 CFR

75	30412
78	28899
91	27929, 29205
92	27928, 28557, 30413
94	28560, 28900
166	30414
318	27573, 28374
327	30264

Proposed Rules:

92	30857

VOL 50 ISS 147 JL 31 1985 UMI

94 27973

10 CFR

9 27214
50 29937
60 29641
140 30415
1047 30926

Proposed Rules:

2 30446
30 30616
31 30616
32 30616
35 30616
40 30616
50 ..... 27006, 28815
440 29620
904 30447

11 CFR

Proposed Rules:

110 29232

12 CFR

207 30931
220 30931
221 30931
224 30931
403 27215
611 27930
617 27931
723 27417

Proposed Rules:

226 30955
561 ..... 27290, 28588, 29985
563 ..... 27290, 28588, 29985
571 ..... 27290, 28588

13 CFR

121 27418
302 27419

Proposed Rules:

107 29532
108 27754

14 CFR

21 29945
39 ..... 26979, 27575, 27576, 27931–27933, 28093, 28094, 28561–28563, 28768, 29648–29651, 30264, 30416, 30417, 30693, 30802–30806
71 ..... 26980, 27934, 28564, 28565, 28900–28902, 30134, 30265, 30418, 30694
97 ..... 27934, 29653
108 ..... 27924, 28884
121 29306
135 29306
251 31134
261 31134
287 31134
291 31134
296 31134
298 31134
299 31134
303 31134
380 31134
1214 30807

Proposed Rules:

25 30447
39 ..... 27009, 27012, 27601, 27602, 28815, 29694, 29988, 30448, 30449, 00
71 ..... 27013, 27014, 27528, 28588–28591, 28816, 28950, 29407, 30206, 30276, 30798
75 ..... 27014, 30798
91 ..... 28950, 30124
121 30447

15 CFR

8a 30418
19 27577
90 28767
368–399 (See ED 12525) 28757, 29205
370 29205
376 ..... 27420, 29205
378 29205
385 29205
386 29205
399 27420

Proposed Rules:

303 29232
911 28816

16 CFR

3 28095
4 28095
13 ..... 26981, 27578, 28374, 28902
453 ..... 28062, 28081
703 27936

Proposed Rules:

13 ..... 28592, 28951, 29696, 29699, 30717

17 CFR

1 ..... 30135, 30140
3 28907
200 ..... 28385, 29368, 30268
239 27937
240 ..... 27937, 27940, 28385
249 ..... 27937, 29948
270 ..... 27937, 28930
274 ..... 27837, 29368
275 29206
288 ..... 26981, 27947

Proposed Rules:

16 30450
17 30450
18 30450
200 30858
210 ..... 27973, 28953, 29409
229 29409
230 28404
239 29409
240 ..... 27829, 27976, 27981, 28106, 28210, 28219, 28404, 29409
250 27981
259 27981
270 ..... 27982, 29409

18 CFR

37 ..... 29655, 30141
154 ..... 30141, 30695
157 27818
270 30695
271 ..... 30695, 30814
273 30695
282 30815
389 27816

Proposed Rules:

2 28954
35 27604
37 30207
154 28954
157 28954
161 28954
271 ..... 28221, 30859
284 28954
290 27604

19 CFR

4 ..... 26981, 29949
10 29949
12 27947
19 29949
24 29949
103 29949
113 29949
134 29949
141 29949
142 27816
143 29949
145 29949
148 29949
152 29949
162 29949
171 29949
173 29949
178 27947
191 29949

Proposed Rules

6 30455
122 30455
162 27829
177 27831

20 CFR

200 ..... 27222, 29957
401 ..... 28565, 30144
422 28565
626 27818
627 27818
628 27818
629 27818
630 27818

Proposed Rules:

404 ..... 27615, 29435
416 ..... 27615, 29435
674 29606

21 CFR

5 30696
25 30267
74 30697
101 26984
173 29208
176 ..... 29657, 30144
177 30144–30146
178 ..... 30147, 30148
179 29658
182 30149
184 30149
436 29209
510 28395
520 ..... 27818, 28768
522 30267
524 30152
556 30267
558 ..... 27421, 27422, 28768, 28931, 28932, 30934
801 30153
808 30698
812 28932
1308 ..... 28098, 28395

Proposed Rules:

Ch. 1, Subchapter C 28594
2 30210
81 29702
109 29233
110 29233
146 29702
170 ..... 27294, 29235
201 ..... 27016, 29702
211 ..... 27016, 29702
225 29233
226 29233
357 ..... 27552, 28595
433 29702
449 30478
500 29233
509 29233
514 ..... 27016, 29702
559 ..... 27016, 29702
561 ..... 27452, 30277
610 28595
660 28595
680 30211
882 30277
1002 ..... 27024, 29704

22 CFR

501 27422
1502 28932
1504 28934

23 CFR

825 29209
1325 28191

24 CFR

200 28197
201 30154
203 ..... 28197, 30154
234 30154
885 28197
899 30423
3282 28396

25 CFR

Proposed Rules:

20 30688
61 27456

26 CFR

1 ..... 27222, 27231, 27427, 29369–29376, 29959, 30160, 30816
31 29964
48 29959
138 29959
602 ..... 27222, 27231, 29369, 29376, 29959, 29964, 30160, 30816

Proposed Rules:

1 ..... 27297, 27456, 27457, 28409, 29435, 29436, 30955
31 29990
51 27621
602 29436

27 CFR

4 27819
9 ..... 29967, 30818
170 ..... 28572, 30821

Proposed Rules:

9 28409

28 CFR

0 28769
2 28101
18 28199
32 27428

Proposed Rules:

30 28955

29 CFR

70 28306
1620 30699
1952 ..... 27233, 28770, 29210, 29659, 30821

Proposed Rules:

33 ..... 27298, 28956
89 29606
1910 27307

30 CFR

700 28186
701 28186
785 28186
827 28186
901 ..... 29379, 30916
902 28592
943 28186
948 ..... 28316, 28324

Proposed Rules:

56 27566
57 ..... 27566, 29437
700 28180
701 28180
762 30408
785 28180
817 27910
827 28180
887 30402
913 ..... 27025, 30862
915 30956
917 ..... 28222, 29235
920 30720
925 30957
926 29235
934 30721
935 ..... 29437, 29438, 30863
936 27461
944 ..... 28107, 30723, 30958
948 ..... 28343, 30724
950 ..... 28595, 29438, 29704, 30282

31 CFR

4 29221
51 26987
103 27821
500 27435
505 27435
515 27435
520 27435
535 27435
540 27435

32 CFR

Parts 1–39 26987
199 26988
642 28573
657 28573
706 28398–28400
726 28401

Proposed Rules:

806b 30283

33 CFR

100 ..... 27579, 28573, 29221–29223, 30268, 30700–30702
110 ..... 26988, 27580, 29224, 30268
117 ..... 26989, 27582, 29670–29672, 30268, 30269
150 26989
165 ..... 27583, 29225, 30702
166 26989

Proposed Rules:

110 ..... 27622, 27623, 28596
117 ..... 27026, 27029, 27624, 27832, 27990, 27991, 29236, 30284, 30285
322 30479
325 30479

34 CFR

19 28101
75 29328
76 29328
304 29328
425 29352
426 29352
431 29352
432 29352

Proposed Rules:

79 30959
369 28412
376 28412
668 30674

35 CFR

101 26990
103 26990
121 26990

36 CFR

223 30934
254 29673
1200 27196
1202 27196
1228 27951
1250 27196

37 CFR

201 30169
202 30169

Proposed Rules:

1 ..... 27030, 28596

38 CFR

1 29226
3 27584
21 ..... 27825, 29674
41 30937

Proposed Rules:

3 28224
17 29990
36 27833

39 CFR

3 29380
10 27827
111 ..... 30833, 30834
601 28941
3001 ..... 28144, 30271

Proposed Rules:

111 27992
3001 27308

40 CFR

51 27892
52 ..... 26991, 27244–27247, 28544, 29229, 29381, 29383, 30941
60 27248
61 27248
81 ..... 28574, 30704
86 ..... 27250, 29384
123 28202
147 ..... 28941, 28942
158 28943
162 28943
180 ..... 28944–28948, 30172
260 28702
261 ..... 28702, 30271
262 28702
264 28702
265 28702
266 28702
270 28702
271 28702
280 28702
419 28516
600 27172
761 29170
763 ..... 28530, 30423
799 30423

Proposed Rules:

52 ..... 27030, 27462, 28224, 28415, 28596, 28598, 28816, 29237, 29439, 30980
62 30981
81 30962
86 28816
180 ..... 27463, 28108, 28956, 28957, 30481, 30963, 30965, 30966
202 27321
205 27321
260 29992
261 30908
262 29992
264 29992
265 29992
270 29992
271 ..... 30908, 30967
403 29705
414 29068
416 29068
600 27188
798 30213
799 30213

41 CFR

Chs. 1–49 26987
101–4 28402
101–17 28577
101–40 27951
101–41 ..... 30705, 30710
101–47 28402
105–54 28203
105–63 26992
201–1 27142
201–2 ..... 27142, 28208
201–8 27142
201–11 27142
201–16 27142
201–20 27142
201–21 27142
201–22 28208
201–23 27142
201–24 27142
201–26 27142
201–30 ..... 27142, 28208
201–31 ..... 27142, 28208
201–32 ..... 27142, 28208
201–38 27142
201–39 ..... 27142, 28208
201–40 ..... 27142, 28208
201–45 28208

Proposed Rules:

101–41 ..... 27625, 27626

42 CFR

400 ..... 28577, 30838
405 ..... 27722, 30172
412 ..... 27208, 27722, 30172, 30944
416 28577
433 30838
435 28577

Proposed Rules:

23 27465
405 27469
412 27469

43 CFR

2 29230
5470 28947

Public Land Orders:

5150 (Revoked in part by PLO 6607) 27827
5179 (Revoked in part by PLO 6607) 27827
5180 (Revoked in part by PLO 6607) 27827
5186 (Revoked in part by PLO 6607) 27827
6389 (Corrected by PLO 6606) 28206
6607 27827
6606 28206

Proposed Rules:

2800 27322
5400 29324
5440 29324

44 CFR

5 30711
6 30711
64 ..... 26993, 26994, 28947
67 30173

Proposed Rules:

67 ..... 27322, 29992
302 ..... 27627, 28959, 30481

45 CFR

1180 ..... 27584, 27586
1601 30711
1606 30713
1622 30714
1625 30714

Proposed Rules:

405 27406
412 27406
1620 27326

46 CFR

10 30274
153 26998

Proposed Rules:

160 27628
355 29440

47 CFR

0 27952
22 27953
68 ..... 27250, 29384
73 ..... 27267, 27438, 27954, 29392, 29393, 30187, 30944, 30949, 30951
74 29384
76 ..... 27438, 29384
81 27968
83 ..... 27968, 29231, 30952

Proposed Rules:

Ch. I 28418, 29440
15 30213
73 ..... 27629, 29446–29453, 30968, 30971–30978
74 30979
97 29454

48 CFR

7 27560
12 27969
15 ..... 27560, 28103
19 27560
33 27969

34.....27560
52.....27560, 27969
209.....28209
217.....29675
504.....26996
515.....28578
522.....28578
533.....26998
552.....27589, 28948, 29402, 30274
553.....27589
570.....27589, 30274
2801.....29798
2804.....29798
2806.....29798
2807.....29798
2808.....29798
2809.....29798
2810.....29798
2814.....29798
2815.....29798
2827.....29798
2830.....29798
2831.....29798
2834.....29798
2835.....29798
2852.....29798
6101.....27969, 29231

Proposed Rules:
208.....28227
252.....28227

49 CFR
1.....30275
571.....27451, 29676
1000.....30275
1011.....30275
1100.....30275
1101.....30275
1104.....30188
1105.....30188
1151.....30188
1152.....30188
1155.....30188
1160.....30188, 30275
1180.....30188

Proposed Rules:
Ch. X.....27031
71.....28959
171.....28820
175.....28820
531.....29912
571.....27032, 27632, 27633, 28426, 28599, 29993, 30981
1048.....30981
1132.....27834
1241.....29706

50 CFR
17.....26999, 29338–29345, 30188, 30423
20.....30424, 30849
33.....29972
215.....27914
285.....29403, 30853
611.....29681
652.....30853
658.....28103
661.....30195, 30954
663.....30195
672.....28580, 28581, 29681
674.....28103, 30427
681.....30198

Proposed Rules:
17.....27637, 27992, 28821, 28870–28878, 28959, 29238, 29900, 29901
20.....27638, 29706
611.....28960, 29240
630.....27470
642.....29709
650.....29240
651.....29241
655.....28109
662.....27470
663.....28960
672.....30481
675.....29240

LIST OF PUBLIC LAWS

Last List July 24, 1985.
This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

H.R. 1617 / Pub. L. 99–73
National Bureau of Standards Authorization Act for Fiscal Year 1986. (July 29, 1985; 99 Stat. 171) Price: $1.00

S.J. Res. 86 / Pub. L. 99–74
To designate the week of July 25, 1985, through July 31, 1985, as "National Disability in Entertainment Week". (July 29, 1985; 99 Stat. 175) Price: $1.00

S.J. Res. 144 / Pub. L. 99–75
To authorize the printing and binding of a revised edition of Senate Procedure and providing the same shall be subject to copyright by the author. (July 29, 1985; 99 Stat. 176) Price: $1.00

VOL
50

ISS
147

JL
31

1985

UMI

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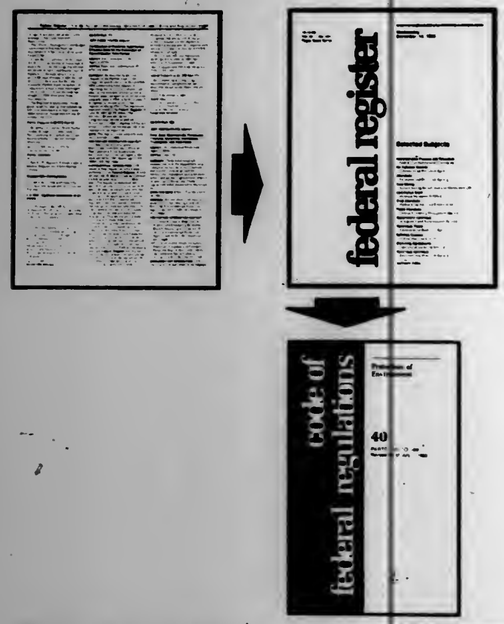

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